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II

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *98th* CONGRESS, SECOND SESSION

SENATE—*Wednesday, February 22, 1984*

(Legislative day of Monday, February 20, 1984)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Be still—and know that I am God.—Psalm 46: 10.

Patient Father in Heaven, we live so much of our lives in a busy, superficial, noisy environment. We are inundated with an avalanche of words, information, ideas, requests, complaints and suggestions. Teach us the wisdom of contemplation—the luxury of silence—the sheer necessity of withdrawing for quiet reflection. The prophet Isaiah declared, "* * * in quietness and confidence is thy strength." (Isaiah 30: 15). May we heed his counsel. Help us to distinguish between business and mere busyness, that we may approach our heavy responsibilities with sanity and objectivity. We ask this in the name of Him who never neglected people, yet always took time to pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

SENATE SCHEDULE

Mr. BAKER. Mr. President, after the two leaders are recognized under the standing order today, there will be six special orders, not to exceed 15 minutes each, in favor of Senators JEPSEN, PROXMIRE, BAUCUS, ABDNOR, EXON, and HART.

If all that time is used, it will be close to 12 o'clock before we can get on with the unfinished business. If any time remains before 12 o'clock, I ask unanimous consent that that time be devoted to the transaction of routine morning business, in which Senators may speak for not more than 2 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, that means that if we have not finished the special orders and the leader time before 12 o'clock, there will be no time under that order for the transaction of routine morning business, and the leadership on this side will make an effort to provide for an additional period for routine morning business later in the day. But if we do finish, and I expect that we can, and if time remains before 12 noon, that period will be for the transaction of routine morning business.

At 12 noon or after the execution of the special orders, whichever is the later, the Senate will proceed to the consideration of S. 1765, which is the unfinished business, the death penalty bill, pursuant to the provisions of rule XXII and the postcloture situation. There is a time agreement for a vote at 2:30 p.m. today on final passage.

Mr. President, the time between the time we begin consideration of the bill and 2:30 will be divided on the basis of three-fifths to the minority and two-fifths to the majority, as contemplated by that order.

After we finish the death penalty bill, it is the intention of the leadership on this side to ask the Senate to proceed to the consideration of the career criminal bill, S. 52. I do not know how long that will take, but I do anticipate that it will take the remainder of the day and that there will be votes on that measure, as well as on final passage of the death penalty bill.

Mr. President, I will confer with the minority leader about the schedule of the Senate after that. I am not prepared at this moment to make an announcement, except to say that I do expect the Senate to be in session every day this week through Friday and that we will have business to transact.

Mr. President, I offer my remaining time under the standing order to the distinguished minority leader, if he has need for it.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. JEPSEN). The minority leader is recognized.

Mr. BYRD. I thank the distinguished majority leader.

Mr. President, there is nothing I wish to add at the moment, and I have no Senator who seeks time.

I ask unanimous consent that should I have a statement today, if I should wish it to appear at this point in the RECORD, it so be placed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Mr. THURMOND assumed the chair.)

RECOGNITION OF SENATOR JEPSEN

Mr. BAKER. Mr. President, I observe that the Senator from Iowa, who has the first special order, is prepared to proceed.

The PRESIDENT pro tempore. Under the previous order, the Senator from Iowa (Mr. JEPSEN) is recognized for not to exceed 15 minutes.

DOMESTIC CONTENT LEGISLATION AND JAPANESE BEEF IMPORTS LINKAGE

Mr. JEPSEN. Mr. President, I am alarmed over attempts to link domestic content legislation and Japanese beef imports. Such a linkage would be devastating to American agriculture.

Domestic content legislation would create an endangered agricultural export list, affecting not only my Iowa farmers but all American farmers and allied agribusiness in the United States of America.

Linkage of the legislation to Japanese beef imports would hasten that

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

process—the process of endangering all our agricultural products to Japan.

Domestic content, Mr. President, may play well in the union halls of Detroit, Mich., but it does not play well in Iowa. The possibility of domestic content legislation passing could be devastating to the economy of my State of Iowa and to the agriculture economy across this country.

Mr. President, as I have made very clear in the past, I support efforts to expand our export markets, in particular where Japan is concerned.

I have not hesitated in the past to criticize Japan for erecting barriers to our agricultural products, including beef which plays such a vital role in the economy of my State.

I think we can and should do more to pull down those barriers. I do not like nor appreciate that Japan imposes not only a quota but a 25-percent import tariff on American beef.

We must do everything possible to get the Japanese to eliminate these barriers, and we have been working overtime to get that done.

I do not like nor appreciate that while American pork is not subject to quota, it is kept at an uncompetitive price with Japanese pork through a variable levy.

We must do everything possible to get the Japanese to do away with this barrier.

But linkage of domestic content legislation with open access for U.S. meat in Japan is a dangerous and unnecessary gamble. It could be counterproductive for beef and all our exports.

This type of Russian roulette is far from a responsible approach to the goal of increased exports.

Our trade negotiators must continue the strongest possible efforts to open these restricted markets, consistent with our international trading obligations and with the vast market in Japan for soybeans, corn and other U.S. farm products.

But while we must increase export volumes of our processed and value-added agricultural products, we greatly value our relationship with Japan as the biggest buyer of our U.S. farm exports.

Our efforts on behalf of the meat industry must not be conducted in such a way as to jeopardize those markets.

The domestic content legislation would represent just such a danger in terms of major potential damage to both our current farm export markets and our efforts toward an eventual open market for U.S. meat and other products in Japan.

I, for one, am not about to vote for creation of an endangered farm export list, which is the very thrust of the domestic content legislation.

Domestic content laws will have the same effect as embargoes and we all know the devastating impact the Carter-imposed Soviet grain embargo had on American agriculture. Our farm economy is still suffering from that embargo.

When the embargo was put in place the brakes were put all the way to the floor on American agriculture. At the same time, the throttle was put all the way to the wall by our competitors around the world in increasing their production.

And our reputation as a reliable supplier in the eyes of all of our potential customers all around the world was shattered. Domestic content will have the same effect.

We are talking about not only billions of dollars of money in the pockets of our farmers but also the potential loss of 423,000 jobs throughout our economy if domestic content is permitted to pass.

Domestic content not only will lead other nations to retaliate but, like the Carter embargo, they will go elsewhere for farm commodities.

And linkage of that bill with Japanese beef imports will hurt American agriculture. Just remember that Japan is by far our largest growth market.

Let me cite a few figures just to make my point:

> In 1982, the value of all U.S. agricultural exports to Japan was $5.7 billion.
>
> In 1983, this had gone up to $5.9 billion. This year, it is estimated that the total value will be $6.7 billion.

That $6.7 billion represents 17.2 percent of total U.S. agricultural exports.

Put another way, 17.2 cents out of every export dollar earned by U.S. farmers comes from one single place and that is Japan.

I would like to employ another illustration: In 1982 Japan imported almost 500 million bushels of our corn, and therefore directly affected the livelihood for 7,500 average corn farmers.

I am not about ready to trade 7,500 of my corn farmers for a questionable number of automobiles.

Nor am I willing to jeopardize the $238 million of our beef and veal we sent to Japan at this time. While that is small by comparison with the more than $1 billion of corn we ship to Japan, it still represents 64 percent of the share of the U.S. beef export market. We can do better, yes—but not through domestic content.

I urge my colleagues in the strongest possible terms to reject any notion that linking domestic content with meat exports will do us any good. It will only create an agricultural endangered export list—and I am not willing to do that. Nor, for that matter, do I feel that any of my colleagues, when they fully understand the potential harm here, will be willing to go that route either.

Mr. President, I ask unanimous consent to have printed in the Record a table which I have entitled the Domestic Content Endangered Export List.

There being no objection, the table was ordered to be printed in the Record, as follows:

DOMESTIC CONTENT, ENDANGERED EXPORT LIST—MAJOR U.S. AGRICULTURAL EXPORTS AND SHARE OF JAPAN (1982)

	Quantity (1,000 metric tons)			Value (U.S. dollars in million)		
	Total	To Japan	Share of Japan (percent)	Total	To Japan	Share of Japan (percent)
Feed grains	56 196	13 544	24	6 444	1 511	23
Corn [1]	48 789	11 435	23	5 582	1 275	23
Wheat	40 780	3 345	8	6 676	564	8
Soybeans	25 475	4 068	16	6 218	970	16
Cotton [2]	1 392	339	24	1 955	501	26
Tobacco [3]	259	50	19	1 547	310	20
Grain sorghums [1]	6 015	1 870	31	692	205	30
Chickens [4]	237	53	22	245	65	27
Beef and veal [5]	86	53	62	373	238	64
Pork [5]	69	31	45	188	114	61
Oranges and tangerines [6]	353	83	24	196	51	26
Grapefruits [6]	261	140	54	98	47	48
Lemons and limes [6]	135	107	79	84	69	82

[1] Excluding seed
[2] Excluding linters
[3] Unmanufactured
[4] Fresh and frozen
[5] Excluding offals
[6] Fresh

Source: U.S. Department of Agriculture

Mr. JEPSEN. Mr. President, I shall close by simply pointing out that the commodities on this endangered export list include feed grains, corn, wheat, soybean, cotton, tobacco, grain sorghum, chicken, beef and veal, pork, oranges and tangerines, grapefruits, lemons and limes, a list that this country and the agriculture community of this country must keep healthy and alive.

I thank you, Mr. President.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. Proxmire) is recognized for not to exceed 15 minutes.

Mr. PROXMIRE. Thank you, Mr. President.

THE PEOPLE WAY AHEAD OF THE CONGRESS ON NUCLEAR WAR

Mr. PROXMIRE. Mr. President, the Sunday, February 19, Washington Post carried a story by Barry Sussman showing the deep concern of people in the Washington area over the prospect of nuclear war. Adults placed the nuclear arms buildup first by a decisive margin. They were asked to choose 2 from among 10 leading problems facing the United States today, 43 percent of the adults and 65 percent of the youngsters selected the nuclear arms buildup as one of the Nation's two most important problems.

So, nearly half of the adults indicated that they felt that the nuclear arms buildup was more important than all of the other issues that they were asked about and two out of three young people made that judgment.

Why was the response impressive? To make the nuclear arms buildup the Nation's most important problem was a remarkable response in view of the relatively limited treatment the nuclear arms buildup receives in the press compared to the other nine problems listed in the Post poll. For several months now I have searched leading Wisconsin papers and the Washington Post and the New York Times for stories about the nuclear arms race, nuclear arms negotiations, or some aspect of the nuclear arms story. On many days there is not a single story in any of these papers about the nuclear arms problem: no column, no editorial, no article. Normally, I will find from one to three articles, editorials, or columns a week on this issue in each paper. Occasionally, when the President speaks out on nuclear arms negotiations, the tempo steps up. By comparison the other issues suggested in the Washington Post poll are carried far more frequently.

In the order these problems rated behind the nuclear buildup, they were crime, education, the economy—and, of course, that includes inflation and unemployment—national defense, quality of Government leadership, equal opportunity for women and minorities, the environment, health care, and energy. How about television and radio, where many get their news and their impression of world problems? Certainly there have been some spectacular documentaries on the nuclear arms race such as "The Day After." But there have been far more stories on television on the nine other problems listed in the Post poll. On radio, the nine other problems have virtually excluded discussion of the nuclear arms buildup.

Certainly if we considered time devoted in the Senate and the House to debate and discussions and hearings, as well to the number of bills and resolutions we have introduced, the nuclear arms buildup would place a distant 10 among the 10 problems listed in the poll. Late last year we had one short debate followed by a vote in the Senate that defeated the nuclear freeze. We also had one or two debates on amendments designed to limit nuclear proliferation.

This latest Post poll discloses that in the Washington area 8 out of 10, both among teenagers and adults, favor the nuclear freeze. The figure is similar to nationwide poll findings.

Why these differences between public opinion and Senate action, Mr. President? Is it because Members of this body are better informed than the general public about the consequences of the nuclear arms buildup? After all, we are exposed to more hearings, more debate, pro and con. We have a responsibility to act on these matters. That is our job. And in the process of acting we study the threat of nuclear war and what policies will be most likely to prevent it. This is not the job of most Americans so, presumably, they study the problem less thoroughly.

That is one explanation. But I do not buy it. I have found that almost without exception the best informed scientists, the best informed military experts, including admirals and generals, and the best informed experts on the Soviet Union overwhelmingly warn of the absolutely catastrophic effects of a nuclear war and plead for comprehensive nuclear arms negotiations stopping the arms race cold—including testing. Is the failure of this body—the U.S. Senate—to make the end of the nuclear arms buildup our No. 1 priority because we are too old to care? That is a shocking thought. But the Post poll suggests there may be something to it.

That poll found that teenagers, by a 53-percent majority, felt that a nuclear war was either fairly likely or very likely by the year 2000. That means that most of these youngsters do not expect to live beyond the age of 30, and expect they will probably die in a nuclear war. The Post found that many of these young people worry frequently and have nightmares about nuclear war.

In contrast, among those over 60 only 4 percent worried much about a nuclear war. By the year 2000 many of us now in the Senate will be dead anyway of natural causes. So our Senate age may partly explain our outlook, but only partly. Is our smaller concern about nuclear war caused by the old habits of thinking about conventional war as a way of defending our freedom at a terrible but still acceptable cost?

Have we failed to adjust our thinking to the fact that a nuclear war is an entirely different catastrophe a final catastrophe for our country, surely destroying our freedom and perhaps the human race?

The people of this country, and especially the young people, may not have the detailed information we have on megatonnage, throw-weight, MIRV'd missiles and triads, but they have common sense and a desire to live. They understand what every expert tells us: that most Americans would die in a nuclear war, that we do not stop a nuclear war by simply building more nuclear weapons, and that it therefore makes elemental sense to do everything within our power to negotiate a mutual, verifiable end to the arms race, now.

Mr. President, I ask unanimous consent that the article from the Sunday, February 19, Washington Post to which I have referred by Barry Sussman be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 19, 1984]

YOUNG PEOPLE IN AREA FEAR A NUCLEAR WAR

(By Barry Sussman)

For many young people in the Washington area, perhaps a majority of them, the question about nuclear war seems to be not whether there will be one, but when. Not a week goes by but that most of them don't find themselves thinking about the future holocaust or talking to friends and family about it. Large numbers of them have taken their fears to sleep, dreaming about the bomb. Most think few people will survive after it falls.

Young people feel the urgency of the nuclear peril far more than their parents. It is not that adults don't share the nightmare; they do. But not to the same extent.

We are talking about adolescents here, ages 13 to 17, junior and senior high school students, boys and girls who usually, no doubt, have their minds on more everyday matters like schoolwork or learning to deal with the opposite sex, or pocket money. It would be wrong to visualize them as transfixed by the bomb. But nevertheless, according to the findings of an areawide Washington Post poll, nuclear war intrudes on their thoughts far more than it does on those of older people.

They are young people like Mark Ein, 17, of Bethesda, who has decided that if the Russians don't drop a bomb, then someone else will by the time he is 30 or so. "Eventually nuclear weapons will proliferate to the point where a madman will have one," Ein says, and that will be that.

Or Lottie Siegrist, 13, of Bowie, who says that "the past repeats itself. People never learn from the mistakes of war, and I believe the next war will involve the use of nuclear weapons."

Or James Carter, 17, of the District of Columbia, who feels that "something small, like an assassination attempt, could cause a chain reaction."

Or one 15-year-old Arlington girl, for whom the arithmetic is simple: "the United States and the Soviet Union keep on making more bombs, and sooner or later they will drop them."

We are talking about a generation without much confidence in what their president or their military leaders or even the clergy tell them on this subject, looking mostly to scientists or to parents and school-teachers for answers and not finding much to be optimistic about.

Many are youngsters who don't know their history. Fewer than half are even aware that the United States dropped two atomic bombs on Japan in World War II. But history is the past, and hence not what they are worried about. These young people are worried about the bomb now.

That is how it is with American teen-agers these days, if those in the Washington area are in any way typical. There are many, to be sure, who think nuclear war is unlikely, many who trust their president, many for whom the teen-age joys and sorrows are no different than they were for earlier, safer generations. But they seem to be in the minority.

For most, the nuclear threat, which they have lived with all their lives, is very real. It drives some of them to morbid thoughts and causes others, when asked about such things, to draw some different conclusions than adults do about who is to blame for this danger and what should be done now.

These findings come from a survery of 519 young people and 771 adults in the D.C. area, conducted during January.

It may be that the results are slightly different from those that would come out of Denver or Birmingham or Minneapolis. Past surveys have shown adults in the Washington area to be slightly more liberal politically than other Americans; perhaps the young people have a slightly different point of view as well.

It may be that some of these teen-agers will change their views as they get older, the way people sometimes "grow out of" asthma or other childhood illnesses. But that is not known.

There are few big differences in the thinking of adults and young people interviewed by The Post, but those differences show up on some of the most significant matters.

"How likely do you think the United States is to get into a nuclear war within this century," one question asked, "very likely, fairly likely, fairly unlikely or very unlikely?"

Among adults, the response from a 58 percent majority is that nuclear war in that time frame is on the unlikely side. Among young people, the result comes out the other way: A majority of 53 percent say it is either fairly or very likely.

By sex, not quite half the boys but fully two-thirds of the girls interviewed feel nuclear bombs are likely to fall by the year 2000.

For the young, convinced as they are that few would survive a nuclear war, a literal interpretation of those figures means that most of them don't expect to like beyond age 30.

On first look, that seems a rash over-statement of the level of concern. But more than 1 in 4 of the young people interviewed—27 percent—say that fear of nuclear war causes them to "worry frequently about death."

By contrast, among those 18 years old or older, only 7 percent—say that. The fact is, the older a person is, the closer to dying of natural causes, the less likely it is for concern of nuclear war to bring on thoughts of dying.

Among people age 60 or older, only 4 percent say fear of the bomb has led them to frequent worries about death, the lowest figure for any age group.

Along the same lines, 1 in every 4 young people—24 percent—says he or she has had dreams about nuclear war, with most of those dreams being nightmares. Only 12 percent of adults say they have dreamt about nuclear war, and a smaller proportion of adults say those dreams were nightmares.

Few have had such dreams often. For young people the average is four times, for adults, three times.

But a number of young people say they had such dreams at least 10 times, and among the adults interviewed, two say they must have dreamt of nuclear devastation 100 times or more.

A majority of the young people also said that they thought or talked about nuclear war at least one or more times a week.

The televised movie, "The Day After," so controversial before it was shown last November, provides another indication of how concern over nuclear war exerts a greater grip on the young.

After widespread discussion, some parents, heeding warnings about the possible damaging effects of the movie, would not let their children watch it.

Nevertheless, according to The Post's survey, 82 percent of those between the ages of 13 and 17 did watch, compared to 64 percent of the adults.

We are dealing with young minds not with people who have given adult thought to who is responsible for world problems and what should be done about them.

So on the one hand, since they are their parents' children, it is not surprising that on most issues these teen-agers pretty much echo adult opinions.

Young people and adults in the Post poll have just about the same views on President Reagan, on whether the nation is headed in the right direction or off on the wrong track (right direction among both groups, by 50 to 37 percent), on which national problems are the most serious, on how they might vote in a Reagan-Walter F. Mondale election (for Mondale, barely), and on many other matters as well.

There is little or no difference on some of the main issues dealing with nuclear peril, either.

Seven in 10 among both young and old believe that no future circumstances could justify the United States being the first to drop a nuclear bomb on another country.

Seven in 10 among both groups also believe that Washington is particularly vulnerable, that in event of nuclear war this area will be hit first.

Just over 8 in 10 teen-agers and adults favor a nuclear freeze in which the United States and the Soviet Union both "halt the testing, production and installation of additional nuclear weapons." That is the same level of support as found in most recent national surveys among adults only.

But on the other hand, the young people not always echo the adults. For one thing, they differ significantly on attitudes toward the Soviet Union. Among adults, 37 percent blame Moscow exclusively and 58 percent blame Moscow and Washington both for the failure to come up with an arms control agreement in the last four years. Among the teen-agers, 30 percent blame the Russians alone and 65 percent blame both nations.

Adults are split 5 to 4 on whether compromise is possible with the Soviet Union, with 53 percent saying it is, but 42 percent taking the view that the Russians "are basically so untrustworthy that it will probably be impossible to work out any solutions."

By 2 to 1, the young are optimistic on negotiating with the Soviets; 65 percent say compromise is possible, compared to 32 percent who say it is not.

Similarly, among adults, 21 percent favor unilateral, gradual dismantling of the American nuclear arsenal in advance of any international agreement; that figure rises to 35 percent among young people.

Reagan has maintained that increasing America's nuclear capability will make a holocaust less likely in that it will make for a stronger deterrent.

Neither a majority of adults nor young people agree with that, but again, there are sharp differences between the two. Adults are narrowly divided, with 44 percent saying the building of more nuclear weapons will increase the chances of nuclear war and 36 percent taking Reagan's view. Among the young people, 62 percent say more A-weapons mean a greater chance of nuclear war and 30 percent see in them a deterrent.

And so it goes. In some areas the differences in outlook are small, some are middle-sized and some large. Almost always, however, they are consistent. They show the young to be more frustrated about the way things are, fearing nuclear war more personally, more anxious to take the first step—any step—toward a solution.

Perhaps the differences may be summed up in the response to one of the poll questions. Agree or disagree: "There's not much hope for the future unless there are some radical changes."

Adults are divided about evenly on that, with 50 percent disagreeing and 47 percent agreeing. Young people are not divided evenly. By 59 percent to 39 percent, they say that there is not much hope without radical change.

IRAN'S GENOCIDE IN TARGETING THE BAHA'I FAITHFUL

Mr. PROXMIRE. Mr. President, the Baha'is persecution by the Iranian Government is receiving more and more media attention.

A February 6, 1984, front-page article in USA Today cites the State Department's 160-nation report on global human rights practices in 1983. The report lists Iran as one of the chief violators of international civility because of its continued jailing and executions without trial of the Baha'i faithful, who number about 350,000 in Iran.

Firuz Kazemzadeh, chairman of Middle Eastern studies at Yale University and the leader of the Baha'is in the United States, states in this newspaper article that:

> Because the Baha'is today abstain from terrorism or revolution against Khomeini, they see with their own eyes that the Baha'is are victims of Khomeini . . . The American Baha'i community knows of more than 160 Baha'is—most of them elected religious officials—who have been executed since Khomeini came to power 4 years ago. Another 300 have been jailed and many more are missing . . . There is no longer any doubt that this is genocide.

Mr. President, the Baha'i faithful is now a worldwide religion with communities in about 100 nations. The Baha'is are a very peace-loving group who believe in equality of sexes, universal education, and the elimination of racial prejudice.

We, as U.S. citizens and lawmakers, committed to universal human rights, can no longer close our eyes to the documented evidence and testimony before us. Let us reaffirm our constitutional commitment to human rights and condemn the senseless actions of the Iranian Government toward the Baha'i faithful by ratifying the Genocide Convention.

The Baha'is and numerous other persecuted groups are crying out to us for help. Let us not allow these cries to fall on deaf ears a moment longer.

POWDER RIVER BASIN COAL LEASE SALE

Mr. PROXMIRE. Mr. President, on February 17, the Commission on Fair Market Value Policy for Federal Coal Leasing released its report which concluded that the Interior Department has mismanaged the Federal coal leasing program. This is hardly a surprise. The General Accounting Office and the House Appropriations Committee reached similar conclusions last year. Three different investigations have now determined that the Department of the Interior sold the public's coal for less than fair market value, which is a violation of the Federal Coal Leasing Amendments Act of 1976.

But we still have not gotten to the bottom of this issue, which is why I have asked the Attorney-General to determine if the law was broken. That the Department of the Interior has not been willing to investigate and eliminate waste and fraud from within its own ranks is self-evident.

We have known about a leak of proprietary information in the Powder River sale since May 1982, but the Department's Inspector-General did not open an investigation until the following year. On May 11, 1983, he issued a widely released report which said that there had been no leak and that the allegations that the Department had slashed its minimum bids before the sale in response to industry pressure were based on nothing more than a rumor. But 2 months later, the Inspector General revised his report, concluding that proprietary information had in fact been released to coal company executives. That information was kept secret. Despite the Congress active interest in the matter, and despite the ongoing Linowes commission's investigation, the reports were not made available. Somebody obviously had something to hide.

When President Reagan came into office, the first thing he said he was going to do was eliminate waste in Government. He also vowed to crack down on corruption. To do so, he said he was going to rely on tough inspector generals. I am afraid that, as evidenced by its handling of the investigation of the Powder River Basin coal lease sale over a 2-year period, the Office of the Inspector General at the Department of the Interior has lost its credibility.

I therefore believe that an investigation by the Justice Department is required. Mr. Linowes, in effect, agrees, as he has noted in his letter to me of February 9, 1984.

I must say that I disagree with Secretary Clark, who has written me that he believes, if further information is needed, that the General Accounting Office be called upon to do a second study of the Powder River sale. The GAO has neither the resources nor the mandate to carry out a criminal investigation, which is what is required at this point.

To restore public confidence, not only in the Department of the Interior's federal leasing programs, but also in Government generally, it is time that we finally get to the bottom of this matter. The resources of the Justice Department should be called upon.

What we have seen in the administration's coal leasing program, as in so many of its other programs, is an abdication of Government's responsibility to protect the public's interest and to enforce the laws that do so. It is time we ended the practice—and indeed the admitted philosophy—of Government which caters only to the special interests.

Mr. President, I ask unanimous consent that copies of my correspondence with Secretary Clark, Attorney General Smith, and Mr. Linowes be printed in the Record.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

Congress of the United States,
Joint Economic Committee,
Washington, D.C., February 1, 1984.

Hon. William Clark,
Secretary of the Interior, Department of the Interior, Washington, D.C.

Dear Mr. Secretary: Last week we learned that the Inspector General of the Department of the Interior has concluded that the Powder River Basin coal lease sale, the subject of Congressional scrutiny for almost two years, was compromised after all. The Inspector General of the Department of the Interior acknowledges that a high level Interior official leaked proprietary data to a coal company lawyer just before the Department of the Interior slashed minimum bids in half for the public's coal, a decision which, according to the General Accounting Office, may have cost the government millions of dollars.

We have known about improprieties in the Power River sale since May 1982, although the Inspector General did not issue a report on the subject until amost a year later, after first refusing to investigate the matter. According to a press release from the Office of the Secretary of the Interior, dated May 12, 1983, the Inspector General concluded that there was no evidence of a leak in the Powder River sale. Two months later, the Office of the Inspector General issued two supplemental reports which concluded that proprietary information had in fact been released to coal company executives. That information was not made available to the Congress or the Linowes Commission until last week, though clearly should have been.

When President Reagan came into office, the first thing he said he was going to do was eliminate waste-in-government. He also vowed to crack down on corruption. To do so, he said he was going to rely on tough inspector generals. I am afraid that, as evidenced by its handling of the investigation of the Powder River Basin coal lease sale over a two-year period, the Office of Inspector General at the Department of the Interior has lost its credibility.

I think, therefore, that the matter should be turned over to the Department of Justice for investigation of possible wrongdoing. Not only may the Federal Coal Leasing Amendments of 1976 have been violated if the public did not get fair market value for its coal, as the Government Accounting Office has concluded, but also evidence indicates that the Department's regulations and code of ethics were not followed when proprietary information was made available to private industry. At stake is not only the government's coal leasing program, but also public confidence in the integrity of government and your ability to prevent private firms from unjustly enriching themselves at the taxpayers' expense.

Sincerely yours,
William Proxmire,
U.S. Senator.

Congress of the United States,
Joint Economic Committee,
Washington, D.C., February 1, 1984.

Hon. William French Smith,
Attorney General of the United States,
U.S. Department of Justice,
Washington, D.C.

Dear Mr. Attorney General: As you know, there have been alleged improprieties in the Powder River Basin coal lease sale which the Department of the Interior conducted in April 1982. Both the General Accounting Office and the House Appropriations Committee have concluded that the government received less than fair market value for the public's coal, which is a violation of the Federal Coal Leasing Amendments Act of 1976.

In addition, last week we learned that the Inspector General of the Department of the Interior has concluded, belatedly and reluctantly, that the Powder River Basin coal lease sale was compromised after all. After declaring last May that there had been no leak, the Inspector General acknowledged in July that a high-level Interior official gave confidential government data to a coal company lawyer just before the Department of the Interior cut minimum bids for the public's coal in half. This leak—and possible subsequent industry pressure—may have influenced that decision. For unknown reasons, the Department did not make the Inspector General's reports available to either the Congress or the Linowes Commission, which has been investigating the Powder River Basin sale.

Although Gerald McDowell, Chief of the Public Integrity Section, Criminal Division, concluded on November 28, 1983, from what appears to have been a narrow review of the facts of the case, that there were no grounds for criminal prosecution, I believe the new revelations show that there are grounds for a broader and more thorough investigation by the Justice Department. At stake is not only the government's coal leasing program, upon which Congress has placed a moratorium pending conclusion of the Linowes Commission's investigation, but also public confidence in the integrity of government.

Sincerely yours,
William Proxmire,
U.S. Senator.

Congress of the United States,
Joint Economic Committee,
Washington, D.C., February 2, 1984.

Mr. David F. Linowes,
Chairman, Commission on Fair Market Value, Policy for Federal Coal Leasing, Washington, D.C.

Dear Mr. Linowes: I look forward to reviewing your report on the Administration's coal leasing program. As you know, many of us in Congress are extremely concerned about its wisdom and management.

From what I have read about the Powder River Basin coal-lease sale, I have concluded that there are grounds for a criminal investigation by the Justice Department. In particular. I am disturbed that the Department of the Interior Inspector General's reports, which found that the sale was compromised, were not made available either to you or the Congress until last week. To bring this matter to a conclusion which leaves no unanswered questions, I urge you to join me in calling for such an investigation. Good government, as well as the future of federal leasing, requires nothing less.

I have enclosed, for your information, copies of the letters I have written to the Secretary of the Interior and the Attorney General.

Sincerely,

William Proxmire,
U.S. Senator.

Enclosures.

The Secretary of the Interior,
Washington, D.C., February 4, 1984.
Hon. William Proxmire,
U.S. Senate,
Washington, D.C.

Dear Senator Proxmire: Thank you for your letter of February 1, 1984. I share your questions respecting the events surrounding the Powder River Basin coal lease sale. I am currently obtaining a chronology of the events leading to the sale. However, a key part of our review must be the report of the Commission on Fair Market Value Policy for Federal Coal Leasing which has not yet been submitted. Our latest information is that we may expect the report no later than February 17. I am allotted thirty (30) days to review and assess that report and, I understand, both the report and my assessment will be reviewed by the Congress during the following sixty (60) days.

If further investigation and review of events leading to the Powder River Basin coal lease sale are deemed appropriate, I propose to call upon the General Accounting Office (GAO). It is my understanding from a general discussion of GAO functions with Comptroller General Bowsher that, if a GAO review reveals possible criminal activity, the matter would be referred to the Justice Department.

I appreciate both your concern and that of your colleagues on this or any other issue that may relate to the Department's integrity.

Sincerely,

William Clark.

Commission on Fair
Market Value,
Policy for Federal Coal Leasing,
Washington, D.C., February 9, 1984.
Hon. William Proxmire,
U.S. Senator, Joint Economic Committee,
Washington, D.C.

Dear Senator Proxmire: Thank you for your letter dated February 2, 1984 (which was received in this office on February 8, 1984) with which you enclosed copies of your letters to The Honorable William French Smith and The Honorable William Clark, each dated February 1, 1984. I appreciate your sending this material to us.

With reference to the Powder River Basin coal lease sale and the subject Inspector General's reports, the final report of the Commission in Chapter 9 reads as follows:

"The Commission was extremely disturbed that these reports became available only through the efforts of Representative Edward S. Markey. The Commission believes that the Secretary of the Interior should conduct a review to determine why the Commission and the public were not informed of the results of the supplemental investigation in a timely manner. In addition, the Commission finds that the IG's reports do not fully resolve the questions and allegations raised. The Commission concludes that the Secretary, and perhaps the Justice Department, should reexamine the disclosure of the pre-sale appraisals and the subsequent dissemination and use of the information."

The action of the Commission, as stated above, I believe supports your position on this matter.

The printed report will be available for distribution on February 16, 1984. As I mentioned to Mary Muska of your staff, we expect to have the typed report available tomorrow and I shall arrange for an advance copy to be delivered to your office at that time. Meanwhile, I am taking the liberty of enclosing a copy for Chapter 10, Summary of the Report which will be part of the final 550 page report. In this Chapter we print verbatim the relevant part of each Chapter. The material quoted above appears on the bottom on page 532 and continues to the top of 533.

If at any time you would like to discuss all or any part of our report, before or after the printed report is presented to the Congress and the Secretary of the Interior, I would be pleased to make arrangements to meet with you at your convenience.

Sincerely,

David F. Linowes,
Chairman.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WISCONSIN STUDENTS SPEAK OUT ON EDUCATION REFORM

Mr. KASTEN. Mr. President, one of our Nation's most valuable resources for building a better future is education. It is the foundation of our free society and it has insured this country's strength from one generation to the next.

We have all heard the warnings of the National Commission on Excellence in Education—our education system has been steadily declining over the past decade and is in need of reform.

The Commission's blunt assessment has sparked a renewed national interest in education and a myriad of legislative proposals to remedy the problems. And there has been no shortage of experts offering their advice on how we should improve education.

But up until now, one group has been largely excluded from the education debate. Washington has for the most part ignored the largest education constituency—the students.

We have seen recommendations from and heard the testimony of teachers, principals, business people, college professors, Government officials and other experts, but we have not given due consideration to the views of those individuals who have the greatest stake in educational reform.

Last month, I distributed education surveys to over 3,000 students at six different schools in Wisconsin. Then I visited these students at public and private schools across the State to learn more about their opinions on the recommendations of the National Commission on Excellence in Education and to hear more on what they think about the education they are receiving.

I was inspired by the students' interest in making the system better. They were optimistic and eager to express their opinions and to offer their suggestions for improving education.

There are innovative things taking place in our schools. I saw students engrossed in robotics, math, and science projects. I saw student-programed computers at work. But we need to acknowledge, as the students did, that there is still room for improvement.

Mr. President, the results of my survey and the student forums are in no way scientific. But the responses from school to school are remarkably consistent and they bring to light some important points which I think warrant our attention here in the Senate.

The unanimous message from students was this. If we want to improve education, the key is to improve students' motivation: 64.6 percent of the students surveyed said that tougher graduation requirements would not improve their education. And two-thirds said that the most critical factor is improving students' motivation to learn.

During my first meeting at Aquinas High, a private school in La Crosse, one student remarked that many students are apathetic toward learning, saying that, "We're here to learn something. We've got to develop our minds better." According to Father Robert Altmann, principal of Aquinas, 90 percent of Aquinas students go on to college and nearly two-thirds meet or exceed the increased graduation requirements proposed by the National Commission on Excellence in Education. Yet they still see room for improvement in education and think that motivation is the key ingredient to success.

The students at the other private school I visited, Premontre High in Green Bay, shared the "motivation" concern and those thoughts were echoed in the public schools. Most students felt that the primary challenge lies with the students, not the teachers; 65.4 percent rated their teachers as good and 13.4 percent rated them as excellent.

At Chippewa Falls High School, one student put it this way: "If students want a good education, they can try harder in classes, and that is the bottom line. The best teachers in the country are of no use if a student doesn't want to try his or her best to learn." David Lindahl, principal of Chippewa Falls High, pointed out that his students have already demonstrated a great degree of motivation and the results are paying off—his students have outperformed students statewide and nationwide on the ACT tests, where Wisconsin already rates No. 1 in the Nation.

Nearly 76 percent of the students said that they did not feel that lengthening the amount of time in school would do much to improve education.

A student at Middleton High School made this point: "I think that you should improve the quality of time which is already spent in school—quality not quantity." Principal Dr. Brad Allison and student council president and forum moderator, Dan Feller, noted that students already have an 8-hour day.

Two students at Cudahy High put it this way: "Lengthening the school day or year cannot make up for a lack of student enthusiasm." Then, "If school stays boring and uninteresting, raising the standards or amount of time will only worsen the problem stated by the Commission." As we discussed the Cudahy curriculum, principal Harold Lorenz made it clear he shares his students' no-nonsense philosophy.

Students repeatedly emphasized that we must start educational improvements at the elementary and secondary level, focusing some of our attention on the most impressionable students.

A student from D.C. Everest High School in Schofield said, "I personally think that the major problem starts in the grade schools * * * students slip behind and are pushed through * * * then when they reach high school, they're not prepared." D.C. Everest is well known throughout the State for its strong curriculum, as Principal Roger Dodd noted. Student council president, Mike Mundy, exemplified the students' pride in their school, but acknowledged that even they could be better. Another Everest student noted, "The problems do not start in 10th or 11th grade but evolve from the early years."

Overwhelmingly, students rated their education as adequate; 65.7 percent rated it as good; 22.7 percent rated it as excellent; and 64.5 percent rated it as superior to the education their parents received. Students emphasize that while the quality of education may be slipping, our expectations also may be higher than they were in the past. An Aquinas student remarked, "I've always wanted my parents to sit down and help me with homework. But it hasn't happened because the degree of difficulty has gone up so much since my parents have gone to school."

Over two-thirds of the students felt that some of the school day was wasted but over 70 percent said that discipline was not much of a problem. But one Chippewa Falls student noted, "I feel that when my parents were in school, there was more respect and discipline."

Mike Hermes, student council president of Premontre High, an all boys parochial school, shared with principal Father Gary Neville's view that discipline is not a problem in their school. The parochial school students felt strongly about this: 81 percent said discipline was not a problem compared to 66 percent who said the same in the public schools.

Although the responses from private schools were generally the same as those from public schools, there were two other areas where they differed significantly: 38.4 percent of parochial school students rated their education as excellent compared to 15.2 percent in the public schools, but 70.1 percent of public school students still felt that their education was good; 56.7 percent of the private school students rated their education as good.

There were many students and teachers at each school who provided invaluable assistance in calculating the survey results. Although time and space prevents me from mentioning every name. I would like to thank and commend these individuals for the fine job that they did. Principals Father Robert Altmann, Dr. Brad Allison, Roger Dodd, David Lindahl, Harold Lorenz, and Assistant Principal Father Gary Neville also deserve applause for their instrumental role in organizing the forums. Finally, I have nothing but praise for the students who came forth with tough questions and candid comments on the surveys and during our meetings to make this venture the success that it was.

Mr. President, as Members of Congress, we have an obligation to consider the views of all of our constituents. When it comes to education, we should give serious thought to what the students have to say.

Recently, I was appointed chairman of the Senate Republican Task Force on initiatives to strengthen schools. I think my experiences in the schools and the students' comments will be valuable to the task force as we develop education initiatives.

I have learned a lot from the students in Wisconsin. Having the opportunity to discuss education reform with students provided me with new insights that would be impossible to obtain here in Washington. These forums have reaffirmed my belief that productive exchanges between students and the Government can and should take place.

We must give tomorrow's leaders a chance to express their ideas on the education problem so they can contribute to an effective agenda for the future. I think more hearings of this nature will serve to reinforce Congress commitment to providing leadership in education.

I plan to hold more hearings in my State, and I strongly urge that my colleagues also seek out students' opinions on this critical national issue.

Mr. President, I ask unanimous consent that the results of my Wisconsin student surveys be printed in the RECORD at this point.

There being no objection, the results were ordered to be printed in the RECORD, as follows:

U.S. SENATOR BOB KASTEN'S 1984 EDUCATION QUESTIONNAIRE FOR HIGH SCHOOL STUDENTS

	All students	Public	Private	Seniors
1. Overall, how would you rate the high school education you are receiving?				
Excellent	22.7	15.2	38.4	19.4
Good	65.7	70.1	56.7	62.0
Fair	10.6	13.5	4.3	17.0
Poor	1.0	1.2	6	1.6
2. How would you compare your high school education to what your parents received?				
Superior to	64.5	64.4	64.6	65.1
About the same	28.5	28.0	29.5	26.2
Inferior to	7.0	7.6	5.8	8.7
3. Do you find that good grades are				
Easier to get than they really should be	9.8	11.3	6.8	18.6
About the way they should be	79.2	77.5	82.8	75.9
Too difficult to get	11.0	11.2	10.4	5.5
4. Do you feel that any of your school day is wasted?				
Much is wasted	9.1	9.9	7.4	12.4
Some is wasted	60.1	60.3	59.7	60.0
None is wasted	30.8	29.8	32.9	27.6
5. Do you feel you would get more out of your courses if homework assignments were increased?				
Yes	18.6	21.9	11.6	19.5
No	81.4	78.1	88.4	80.5
6. Do you feel that you would receive a better education if graduation requirements at your school were strengthened?				
Yes	35.4	37.0	32.0	32.8
No	64.6	63.0	68.0	67.2
7. The National Commission on Education has recommended lengthening the schoolday by 1 hr and the school year by 1 mo. Which do you think would improve education?				
Longer day	14.4	16.0	12.0	12.0
Longer school year	7.0	7.0	7.0	8
Both	3.0	3.0	3.0	7
Neither	75.6	74.0	78.0	72.5
8. Overall, how would you rate the quality of your teachers?				
Outstanding	13.4	10.0	21.0	10.3
Good	65.4	64.0	66.0	62.9
Fair	19.3	23.0	12.0	25.7
Poor	1.9	3.0	1.0	2
9. Is it your impression that most of your teachers:				
Are very happy doing what they are doing	30.1	25.0	40.0	27.0
Enjoy their jobs, at least to some extent	66.0	70.0	58.0	67.0
Are frustrated and unhappy and unhappy in their positions	3.9	5.0	2.0	6.0
10. A lack of discipline in a classroom can detract from a learning environment. How much of a problem is discipline in your classes?				
Not much of a problem	71.2	66.0	81.0	73.0
Somewhat of a problem	25.6	30.0	16.0	26.2
A serious problem	3.2	4.0	3.0	3
11. What is your impression of teachers' salaries?				
Too high	4.4	4.0	5.0	6.0

U.S. SENATOR BOB KASTEN'S 1984 EDUCATION QUESTIONNAIRE FOR HIGH SCHOOL STUDENTS—Continued

	All students	Public	Private	Seniors
About right	32.5	35.2	26.9	33.0
A little too low	44.9	43.2	48.3	41.0
Much too low	18.2	17.6	19.8	20.0
12. With regard to the level of funding your high school receives:				
Too much money is spent at the school	5.3	5.7	3.7	6.0
About the right amount of money is spent	64.0	68.4	47.2	60.0
Our school is being shortchanged	30.7	25.8	49.1	34.0
13. What is your level of confidence that you will be able to either gain admission and succeed in college, or find the type of job you want:				
Certain I will be successful	47.3	43.7	54.9	50.0
Not sure	45.0	47.1	40.6	42.0
Am worried	7.6	9.1	4.4	8.0
14. What do you think is the most critical factor to improving education?				
Improving the quality of teachers	14.4	14.8	13.6	18.0
Improving the curriculum	19.3	20.0	17.7	17.0
Improving students' motivation to learn	66.2	65.1	68.6	65.0
15. How interested are your parents in your education?				
Very interested	69.1	64.8	78.2	68.0
Somewhat interested	27.9	31.3	20.6	28.0
Not at all interested	3.0	3.9	1.1	4.0

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR BAUCUS

The PRESIDING OFFICER (Mr. KASTEN). Under the previous order, the Senator from Montana (Mr. BAUCUS) is recognized for not to exceed 15 minutes.

JAPANESE BEEF

AMERICA'S BEEF WITH JAPAN

Mr. BAUCUS. Mr. President, last week our trade negotiators sat down again with their Japanese counterparts to discuss Japan's barriers against imports of U.S. beef. Some progress occurred, but not very much. The main issues remain unresolved. And time is running out.

So today, with several of my colleagues, I must reemphasize that I have a beef with Japan.

GENERAL BACKGROUND

The Commerce Department just announed the U.S. trade deficit for 1983: $70 billion. The largest component of this deficit was an astonishing $19 billion trade deficit with Japan.

One way Japan has achieved this significant trade advantage over the United States has been by maintaining a system of quotas, tariffs, and other barriers to imports of American products.

The Office of the U.S. Trade Representative has noted that:

> A widespread perception persists among Japan's trading partners . . . and not incorrectly, that the Japanese market remains relatively less open to foreign suppliers when compared to access for Japanese goods and services to their markets.

JAPANESE BEEF IMPORT BARRIERS

Some of the most imposing barriers block imports of one of America's most competitive products: beef. These barriers take two general forms.

The most straightforward barrier is the beef quota system. All beef imports are subject to this system. Designed to protect the Japanese cattle industry, the quota now permits only 30,800 tons of high quality beef imports per year. America is the world's leading producer of high quality beef, and our exports to Japan under this quota represent the equivalent of one good ten ounce American steak, per year, for each Japanese consumer.

The second barrier is a web of additional tariff and nontariff restrictions. Besides the quota, our high quality beef is subject to a 25-percent tariff, an artificial pricing system, procurement by an exclusive importing agent, and a web of complex licensing requirements. By the time our steak hits the Japanese retail market, the same pound of boneless American sirloin that costs a Montana consumer $3.50 costs the Japanese consumer $14.15.

THE UNITED STATES-JAPANESE BEEF AGREEMENT

During the Tokyo round of multilateral trade negotiations that concluded in 1979, the United States and Japan signed a 5-year bilateral agreement with specific provisions governing our high-quality beef exports to Japan. Under this agreement, Japan agreed to gradually increase the quota for high quality beef from about 16,000 tons to 30,000 tons. Japan further pledged to negotiate on ways to further expand the importation of high quality beef in 1984 and thereafter to the mutual benefit of both countries.

In return, the United States agreed not to invoke remedies under United States and international trade laws.

This bilateral agreement was hailed by both sides as fair and as a good step toward a more mature United States-Japan trade relationship.

The 5-year agreement expires this March 31. Negotiations to replace it, with a more liberal agreement are underway. Unfortunately, the Japanese Government has now hidden behind the recent electoral setback, for the ruling Liberal Democratic Party, to explain its reluctance to offer more than a token increase in the quota. In addition, Japan has flatly rejected any changes in its procurement and pricing policies and has flatly refused to bind the 25-percent tariff.

THE SENATE'S CONCERN

Mr. President, the Senate already has indicated its concern about these issues.

On July 14, 1983, I and 51 other Senators sent a letter to Japanese Prime Minister Nakasone. This letter said that Japan's barriers to imports of U.S. beef remain one of our most important bilateral issues. It concluded by asking the Japanese to join us in the spirit of free trade "in reaching a new agreement liberalizing the treatment of American beef."

And on October 31, 1983, we approved by a vote of 92 to 6, my resolution expressing the sense of the Senate that "the U.S. negotiators should insist that Japan dismantle all nontariff barriers to imports of beef" and that "if negotiations do not result in satisfactory progress toward the dismantling of all nontariff barriers the U.S. trade representatives should seek appropriate relief under United States and international trade law."

But, still, despite passage of that resolution, Japan's negotiators refuse to offer reasonable concessions.

A QUESTION OF FAIRNESS

Mr. President, America accords near-free access to the products Japan produces competitively. We are proud of our free trade record, and our consumers have benefited greatly from this policy.

Given our established record of free trade policies, and given the massive bilateral trade surplus Japan has accumulated because of these policies, I am dismayed by Japan's refusal to give us a fair chance to sell them American beef. They deny U.S. cattlemen the same treatment America routinely accords Japanese manufacturers.

The issue before us today is essentially one of fairness. We cannot permit the Japanese to exploit our trade policies for their exclusive benefit. We want the Japanese to affirm their own commitment to basic principles of free trade.

To encourage this, we must show the Japanese that we mean business. After witnessing long, frustrating, and unproductive negotiations, I have reluctantly concluded that, unless a satisfactory new agreement is reached, we must retaliate. Specifically, I have announced that I will link my vote on the so-called domestic content legislation to the achievement of a satisfactory new beef agreement. And I have urged other Senators from agricultural States to do the same.

By linking these two issues, I hope to make one point clear: To sustain broad international support, a free trade system must be reciprocal. Eventually, the Japanese must acknowledge this point. The beef negotiations give them an excellent opportunity to do so.

CONCLUSION

I stand here today as a good friend of the Japanese people. I want to strengthen American-Japanese relations, not weaken them. I want our countries to move closer to a mature trading relationship, not slide toward a mutually destructive trade war.

We can achieve these goals. But the Japanese must do their part. They must demonstrate that trade is a two-way street.

Therefore, I respectfully call on the Government of Japan to dismantle its protectionist barriers. Then American cattlemen can change their slogan from "We have a beef with Japan" to "We have beef for Japan."

CORRECTING MISCONCEPTIONS ON THE JAPANESE BEEF ISSUE

Mr. President, as the beef negotiations enter the critical final stage, I believe it is essential that we correct the misconceptions and misleading arguments that critics of our efforts to liberalize the Japanese beef import quota have made. I believe a question-and-answer format is the best way to refute these arguments.

Therefore, I would now like to describe a series of questions which often have been asked about our efforts, and then answer those questions.

QUESTION

Why make such a fuss over the beef issue? After all, the potential market in Japan for American beef is negligible compared to our massive trade deficit with Japan.

ANSWER

Estimates made by various analysts indicate that elimination of the Japanese beef quota could lead to additional U.S. beef exports of perhaps as much as $500 million; $500 million may not mean much to the ivory tower economists who use decimal points when they talk about anything less than a billion dollars. In Montana, we think half a billion dollars is worth fighting for. To show how strong they feel about this issue, 25 Montanans came to Washington to attend a Montana beef luncheon I hosted earlier this month. The Japanese Ambassador was our guest of honor, and 20 other Japanese officials and business leaders joined us. Luncheon sponsors included the National Cattlemen's Association, the National Meat Association, and the American Meat Institute. These organizations know full well the significance of a market increase of half a billion dollars to the U.S. cattle industry.

We must also acknowledge that there is no accurate way to gage Japanese consumer demand if the Japanese market is opened up and pricing made more reasonable. The only time in Japanese history when they opened their markets fully to beef imports—in the mid-1950's—beef came into the market at such a rate that the Japanese soon thereafter closed the door. It has never been fully reopened since. I, for one, question the validity of any figure that is used for market potential for beef in view of Japan's traditional closed-door policies.

QUESTION

But would not more beef exports hurt our grain industry which already exports considerable quantities of cattle feed to Japan?

ANSWER

Not at all. Keep in mind that our grain exporters are paid in dollars. It is irrelevant to them whether these dollars come from grain sold to feed Japanese cattle or grain sold to American cattlemen who will send their grain-fed beef to Japan.

In addition, an opening of the Japanese market to imports coupled with a more consumer-oriented Japanese pricing policy will stimulate competitive Japanese beef production as well as demand for imports.

QUESTION

The Japanese people historically have not included meat in their diet. What makes you think they would start doing it now?

ANSWER

Meat indeed has not been a fixture in the Japanese diet. In fact, meat was subject to an unwritten taboo under Buddhist influence until the Meiji restoration. Meat consumption did not increase much after that period because of generalized poverty, the insular nature of the Japanese society, and a slow breakdown in the longstanding taboo.

The post-World War II era has wrought many changes in Japan, and diet is one of them. As Japanese income rose, the diet diversified. Demand for red meat rose, and was met for the most part during the fifties and sixties by slaughtering the large herd of increasingly redundant draught animals.

Japan, however, had no established beef industry as such, and Government policy began to steer consumers deliberately toward the more efficient chicken and pork industries.

Between 1960 and 1980, Japanese meat consumption rose more than fourfold, from 5 to 22.5 kilograms per capita per year. Chicken consumption rose fortyfold during this period, pork tenfold. Beef consumption tripled, a remarkable rise considering the prohibitive pricing on beef.

These figures clearly show that the Japanese want more meat. They have been prevented from consuming more red meat because of their inefficient beef industry and the barriers they have maintained against beef imports.

QUESTION

The Japanese do not like our type of beef. They are used to the highly marbled Kobe beef. What makes you think they will change their habits?

ANSWER

So-called Kobe beef, the highly marbled beef from Wagyu cattle, is truly a product for a very limited clientele. It can cost up to $120 per pound, and is well out of reach to all but a few Japanese. The Japanese have increasingly adopted lower quality Japanese and imported beef to their tastes in cooking. According to John Longworth, who wrote the benchmark study, Beef in Japan:

> It seems that many sections of the Japanese meat trade now regard the best cuts from the United States as comparable in quality not only to the best dairy steer but also to all except supergrade Wagyu meat.

Longworth went on to say that:

> * * * some hotels and restaurants now serve imported high quality beef Wagyu which, of course, further enhances it acceptability.

I have no accurate way of determining how the Japanese consumer would respond to our beef. I only ask that we be given the chance to serve them our beef. We will cut it any way they like it.

QUESTION

Will free access for imported beef destroy the Japanese beef industry?

ANSWER

No. It will make it more competitive. The 25-percent tariff and shipping costs give a substantial built-in pricing advantage for the domestic Japanese cattle industry. By any standard, these are generous protectionist tools. Removing the quota will end the guaranteed market of domestic producers and force them to be more competitive.

An article in the September 1983 issue of Challenge took this argument even further:

> Protection from imports and support of prices not only maintain the existing structure of Japanese agriculture, they also cause high land prices. Consequently, a strong case can be made that greater imports and lower prices would speed up—not slow down—the process of structural adjustment.

QUESTION

The rural Japanese electorate is of critical importance to the ruling Liberal Democratic Party. The LDP, and other Japanese parties, appear committed to maintaining the livelihood of these rural constituents. How can you make this policy compatible with increased beef imports and lower prices?

ANSWER

Economists in both the United States and Japan have argued that direct payments to Japanese cattlemen affected by beef imports could maintain their income levels while bringing important benefits to Japanese consumers. These same economists believe that the advantages to Japan of increased imports, lower consumer prices, and payments to Japanese farmers far outweigh the benefits—financial or otherwise—of maintaining the current protectionist policies.

For example, let me quote from a recent policy statement by the Keidanren, the Japanese Federation of Economic Organizations.

> Japan's agricultural policy is geared toward protecting farmers, while it ignores industrial users and individual consumers of farm products. In fiscal 1982 farm subsidies totaled 2.3 trillion yen, or about 4.6 percent of the Government's general account budget. But agricultural productivity has not increased in proportion to the huge amounts of Government assistance, and farm product prices remain high. This situation not only makes the people's lives more difficult but also hinders Japan's food industry from becoming as competitive as its foreign counterparts.
>
> Demands from abroad that Japan liberalize its agricultural trade are becoming increasingly strident. It is imperative that the nation establish an agricultural policy benefitting an open economy and obtain a stable food supply that will meet the people's needs.

In addition, Yoshiaki Iwao, a respected journalist with the Japanese newspaper SanKei Shimbum, and a critic of U.S. efforts to eliminate the beef quota, recently wrote in a letter to the JAMA Forum:

> We should not forget that without the export of automobiles and steel, we cannot maintain our agriculture. It is also true that Japanese agriculture, in large part, has lost its competitiveness because of the heavy subsidies and this situation has forced an unreasonable burden on the Japanese consumer.

Quoting further from the same reporter:

> The Japanese farmers and consumers should realize that Japan will have to remain a trading nation and should take the cool and realistic attitude that the demand for liberalization from the U.S. will bring with it the advantage of compelling Japanese agriculture to modernize.

QUESTION

Is the U.S. call for Japan to break down its meat import barriers inconsistent with U.S. policy that also restricts meat imports?

ANSWER

The U.S. Meat Import Act of 1979 is not relevant to the issue of Japan removing its beef import barriers. Japan exports no beef to the United States and is not likely to do so in the future.

Japan does not consider the Meat Import Act a barrier to their trade. The United States does consider Japanese restrictions important barriers to our trade. It must be mentioned also that the United States is a major importer of beef. We would feel no need for a quota if we could freely sell our beef abroad.

QUESTION

Can the United States be trusted as a supplier? Look at the 1973 U.S. embargo on soybean exports.

ANSWER

I believe that the soybean embargo has been seriously distorted by the Japanese media and analysts. You must remember that the U.S. administration in 1973 quickly realized that the embargo was a mistake. The embargo lasted only 3 weeks, and Japan imported more soybeans in 1973 than any other year.

I support legislative changes—such as those in the Export Administration Act that Congress now is considering—that would make agricultural embargoes much less likely in the future.

What is more, Japan's beef is fed mainly by U.S. feed grains. Thus, its beef industry already depends on U.S. sources.

QUESTION

Japan has legitimate needs for food security. Must not the beef industry, a young industry be protected if it is to grow?

ANSWER

This is faulty reasoning. Dropping import restrictions will increase competition and lead to a better allocation of resources in the agricultural sector. This will better serve Japan's long-term food security needs and will lower prices to the consumer.

QUESTION

Japan already imports 30 percent of the beef it consumes. This is the highest of any industrialized country. Why should Japan be asked to do more when it is already doing more than others?

ANSWER

It is a matter of fairness. The United States accords near-free access to the goods Japan produces competitively, and Japan should do the same for the products we produce competitively. Our agricultural products should be allowed to compete fairly for the Japanese market.

QUESTION

How can you invoke free trade principles when the United States has invoked protectionist remedies against Japanese steel, motorcycles, and textiles?

ANSWER

I never claimed that the United States was 100 percent pure on trade. I did say that the United States accords broad access to many competitive Japanese products. Our $19 billion trade deficit with Japan attests to this.

QUESTION

Does international law recognize a distinction between agricultural trade and other trade?

ANSWER

It does indeed, but one not relevant to this case. The subsidies code distinguishes between subsidies for agricultural products and for other products. And agricultural quotas are permitted in certain limited situations. But neither of these distinctions applies here.

QUESTION

Is it inconsistent to claim Japan violates GATT when the United States got a GATT waiver for many of its agricultural programs?

ANSWER

No. The 1950's GATT waiver was obtained entirely consistent with international trade law. If Japan believes it deserves a similar waiver, it can apply for one.

QUESTION

The Japanese are already the largest purchaser of American agricultural products. Should not this entitle them to the privilege of picking the mix of products they wish to buy?

ANSWER

This is like suggesting that the United States, the largest purchaser of Japanese manufactured goods, be accorded the privilege of buying cars but barring radios, importing TV's but no calculators. It is totally inconsistent with the principles of free and fair trade.

QUESTION

Why have you chosen to link your vote on domestic content legislation to the beef talks rather than be satisfied with the standard procedure of retaliating under section 301 of the Trade Act?

ANSWER

I see no other way to convince Japan how serious the beef issue is.

As we all know, the Japanese have argued that America benefits from competition with Japanese imports, because it leads to structural adjustments favoring our most competitive industries. We generally have accepted this argument—and our automobile, steel, and electronic workers have suffered the pains of adjustment. But when we play the same argument back to the Japanese, they object. They say that domestic political considerations prevent them from opening up their beef market. They invoke the political power of the rural Japanese electorate.

Apparently the Japanese think it is wrong to protect American workers, but not Japanese farmers. And apparently they assume that Senators from agricultural States—the leaders of the old free trade coalition—will automatically support free trade, regardless of whether Japan maintains its barriers against imports of U.S. beef and other products.

We must show Japan that these assumptions are false. If the current negotiations fail, we certainly should pursue a section 301 trade complaint with the GATT in Geneva. But that may not be enough. Therefore, I have reluctantly concluded that, unless a satisfactory new agreement is reached, we must do even more. That is why I have decided to link my vote on domestic content to the achievement of a satisfactory new beef agreement.

I do this even though I am philosophically opposed to domestic content legislation. It tends to be restrictive and counterproductive, and it tends to force up prices unnecessarily. But I strongly believe that the only way we can knock some sense into Japan on this issue is for us in the United States—including Members of Congress and the administration—to stand a little taller for American trade.

Mr. President, I see Senator SYMMS, of Idaho, and Senator HEFLIN, of Alabama, on the floor. If Senator SYMMS wants to speak at this time, I would be glad to yield to him and then to Senator HEFLIN.

Mr. SYMMS. I thank the distinguished Senator from Montana, Mr. President. I am pleased to join with him in the discussion today concerning the ability of American meat producers to market their products in Japan. Historically, Japan has been the No. 1 export market for U.S. beef and pork. It is now the No. 2 export market for U.S. variety meats. The demand for U.S. high quality meats in Japan is strong, and this evidenced by America's increased share of the Japanese beef market over the last 4 years.

Nevertheless, gaining access to the Japanese market has been difficult at best. The Government of Japan openly restricts meat imports with quotas, Government buying programs, and domestic pricing mechanisms designed to make imported meats less price competitive.

Japan monitors beef imports, for example, through a quota system. Each year, the Government of Japan issues a general beef quota which states the amount of beef Japan will import from all sources. The private sector is allocated about 10 percent of this quota, with Japan's Livestock Industry Promotion Corp., a quasi-governmental group, controlling 90 percent of the general quota.

Under the general quota, Japan has agreed to import an annual allotment of high-quality, grain-fed beef. Recently, the Government of Japan announced an additional beef import allocation of 29,000 metric tons (MT) for the second half of Japan's 1983 fiscal year March 1983–April 1984. When combined with a previously announced quota of 40,000 MT, this new allocation brings Japan's second half beef quota to 69,000 MT.

Also, the Government of Japan issued a 72,000 MT beef import quota for the first half of Japan's 1983 fiscal year, bringing the total fiscal year import allocation to 141,000 MT, a 4,000 MT increase over Japan's 1982 fiscal year.

In addition to the general quota, the Government of Japan issues a special quota. This quota has four categories: hotel, school, lunch, Okinawa, and boiled beef.

Added to its quota system, the Government of Japan assesses a 25-percent CIF import duty on U.S. beef products.

I repeat, Mr. President, 25 percent. The average ad valorem duty on Japanese products entering the United States, however, is not 25 percent, it is not 15 percent, it is not 10 percent. It is 2.5 percent, Mr. President. Some difference between that and the 25 percent assessed against our products.

By the time the Government of Japan assesses its import duty and U.S. beef travels through Japan's complicated distribution system, products can cost three to five times the delivered price.

While I am pleased that Japan has recently announced and increased its quotas, I do not believe their actions address the major trade issue we have with Japan, which is reciprocal market access. It would be unrealistic to believe that agricultural exports alone could correct our multibillion-dollar trade deficit with Japan. However, the Japanese should be asked to grant the same type of access to their domestic market that other trading nations, including the United States, grant to their products.

Mr. President, I think the Senator from Montana is making a good contribution today. He knows, as we all do, that the problem, of course, in Japan from a political standpoint is that a downtown Tokyo member of the Japanese Diet represents 2 million people. The farmer representative from North Hokkaido represents 20,000 people. They have the control of the Diet based on the geographical distribution of the votes. I appeal to those people from industries, from the banking industry and so forth, in Japan who do have the political clout to appeal to their own colleagues and countrymen that if they fail to open up beef and other agriculture markets for American products they are only asking for retaliation from the United States. It would be, indeed, tragic and unfortunate if that were to come about, but I think from a realistic standpoint the drumbeat of retaliation is beckoning closer and closer all the time. I for one would not like to see it. However, I think from a realistic standpoint the Japanese must understand, if they want to continue to have the large share of the American automobile market and the American electronics market that they now enjoy, they are going to have to give ground and accept some American agriculture products; it would be in the best interests of the Japanese consumer.

The Senator from Montana is absolutely correct. Our high-quality, grain-fed beef can compete very, very well with Japanese Kobe beef, and it does compete well when given the opportunity. With any kind of fair treatment with respect to the pricing, we could have a big market in that country. We need that market in order to continue to trade with our friends in Japan.

Mr. President, I yield the floor to the Senator from Alabama.

Mr. ZORINSKY. Mr. President, I have a beef with Japan.

Our friends in the Orient do so many things very well, from electronics and cars to high-quality manufactured products, but they cannot produce beef in volume as economically or of such high quality as we do in America.

My State of Nebraska, Mr. President, is known as the "Beef State." We had an official commemorative postage stamp issued attesting to that fact just a few years ago. We rank second in the country in cattle production and would like to export more of our high quality beef to Japan where it has already been well accepted by the Japanese citizens.

The primary problem for our beef producers is access to the Japanese market. The current high-quality quota of 30,000 metric tons is insignificant compared to consumer demand in Japan. This quota must be substantially liberalized by the Japanese no later than April 1, 1984.

The role of the Japanese Livestock Industry Promotion Corp. (LIPC) must be altered so that our Nation's beef packers may deal more directly with private Japanese buyers.

The United States must obtain, in addition to any short-term agreements now being negotiated, a commitment to, first, further liberalize the Japanese market, and, second, a timetable to obtain this goal.

The Nebraska Livestock Feeders Association has sent me the resolution unanimously approved at the recent meeting of the National Cattleman's Association in New Orleans. I ask unanimous consent that their resolution be printed at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

TRADE WITH JAPAN

Whereas, for the past decade and a half the United States has made a concerted effort to persuade Japan to open the Japanese economy to foreign goods, services and investments; and

Whereas, a widespread perception persists among Japan's trading partners, including the U.S., the E.C., and others, and not incorrectly, that the Japanese market remains relatively less open to foreign suppliers when compared to access for Japanese goods and services in their markets; and

Whereas, in the face of mounting trade surpluses with the U.S. the Japanese refuse to eliminate quotas on 22 agricultural and marine products which the U.S. views as being illegal and in violation of Japan's obligations under the "GATT"; Therefore, be it

Resolved, That the U.S. negotiators seek liberalization to the Japanese market for beef. This liberalization should begin no later than April 1, 1984. In addition to liberalization any such agreement with Japan on beef should include both the binding of the Japanese tariff on beef at a nominal amount and the staged reduction of the Japanese Livestock Industry Promotion Corporation's involvement in controlling imported beef; (be it further

Resolved, That should the Japanese refuse to meet their obligation under the "GATT" the President be encouraged to take action, as provided by the Trade Act of 1974 to correct this large persistent trade deficit.); and be it further

Resolved, That should the Japanese refuse to begin meaningful liberalization of their market for beef no later than April 1, 1984, NCA contact President Reagan, the Office of the Special Trade Representative, and/or Members of both Houses of Congress to utilize whatever means available and necessary to impose an import surcharge on all Japanese imports sufficient to overcome the present trade imbalance.

The **PRESIDING OFFICER**. The Senator from Alabama is recognized.

Mr. **HEFLIN**. Mr. President, I rise to address the issue of Japanese quotas on beef imports. I should like first to pay my respects and congratulations to the distinguished Senator from Montana (Mr. BAUCUS) for taking the leadership on this issue and bringing to the attention of the American people through the forum of the U.S. Senate this very important matter. Senator BAUCUS has let it be known to his colleagues who represent States where there is beef production that this day would be set aside for discussion of the problem dealing with Japanese beef imports. I congratulate Senator BAUCUS on his leadership in this regard.

Over the past 2 years, America's trade deficit with Japan has surpassed $35 billion. Commerce Department figures for 1983 show that the U.S. trade deficit with Japan increased $3 billion over the previous year. It is evident that the continued use of Japanese trade barriers, that restrict American exports, are primarily responsible for this growing figure.

Barriers directed against U.S. beef imports are of major concern. These protectionist barriers, in the form of import quotas and artificial pricing systems are designed to protect Japanese cattle producers. American beef exports to Japan are limited to 30,000 tons under existing bilateral agreements. This same beef is then artificially priced upward to discourage Japanese consumption.

While the American cattlemen are refused a large segment of the Japanese market, Japan continues to sell billions of dollars of automobiles and high technological equipment in U.S. markets. The persistence of this double standard suppresses United States-Japan relations and hampers economic growth in our own Nation.

An increase of $1 in agricultural exports, such as beef, stimulates economic activity in the United States by $2.23 and increases Federal tax revenues by 3 cents. Each billion dollar increase in exports also creates 30,000 additional jobs for Americans. These statistics point out that the impact of Japan's current trade policy is not limited to the U.S. beef industry.

Mr. President, given this situation, I believe we in the Senate must express our concern to the Japanese and to our people present at the ongoing bilateral trade negotiations. The U.S. negotiators should insist that Japan dismantle all nontariff barriers to imports of beef. If these negotiations prove unsuccessful, the U.S. Trade Representative should seek relief, under United States and international trade law.

The **PRESIDING OFFICER**. The Senator from Montana is recognized.

Mr. **BAUCUS**. Mr. President, I thank the Senator from Alabama (Mr. HEFLIN) for his help. He is one of the most persistent and effective Senators, and has worked hard on this issue and on the full range of issues important to his State and his Nation.

I also thank the Senator from Idaho. As Senators from neighboring States, we share many of the same interests. These interests include trade issues affecting beef, timber, and other important Western products. Again, I thank the Senator for his efforts.

Mr. President, I see that the Senator from Nebraska is on the floor, and I ask if he wishes to proceed at this time. If not, I will proceed.

The **PRESIDING OFFICER**. The Senator from Nebraska is recognized.

Mr. **EXON**. I thank the Senator from Montana.

Mr. President, at this time I should like to make some appropriate remarks on the matter before us.

Mr. President, the State of Nebraska is well known for producing some of the best beef in the world. It is, therefore, with great frustration that I view the barriers erected by the Japanese Government on imported beef, as Japan could be an excellent market for Nebraska beef. This Senator, as the record will show, has previously addressed this problem of restraint of trade by the Japanese, we are about to become involved in a great debate with fundamental free trade overtones through the domestic content legislation. Since the end of the Second World War, the United States and Japan have both enjoyed an important and close commercial relationship. In many respects we are each other's best customer.

The American market has long been open to Japanese products. In fact, I would not be surprised if an "average American" were to awaken each morning to the sound of a Panasonic clock radio, cook breakfast in a Toshiba microwave oven and drive to work in a Toyota automobile while listening to a Sanyo car stereo. This "average American" might even work in a building partially constructed with Mitsubishi steel where he or she operates an Amoda machine tool. On the way home from work, he or she might also stop at a drugstore to buy a roll of Fuji film while the children at home listen to the JVC stereo. At the end of the day, this "average American" could easily relax by watching "Shogun" on a Sony television set.

Unfortunately, the Japanese market has not been nearly as open to American products as the U.S. market is open to Japanese products. In 1983, the Japanese had the benefit of $19.3 billion bilateral trade surplus with the United States. That is up from $15.8 billion in 1982. One of the major reasons for the widening trade gap between the two nations is the existence of Japanese import barriers.

While, by nature, I am a "free trader," I believe that there must not only be free trade, there must be fair trade. One of the most blatant examples of the violations on the principles of free and fair trade is the Japanese restrictions on imported beef.

In addition to a price support system which guarantees high prices for Japanese cattlemen, the Japanese Government limits, through the use of quotas, the amount of imported beef. Under an agreement due to expire in days, the quota for high quality imported American beef is set at 30,800 tons per year. That amount is about 10 ounces of beef per consumer per year.

The Japanese Government also levies a 25-percent ad valorem tariff on all imports of fresh, frozen, chilled, and boiled beef. When the imported price falls below the domestic price, another surcharge is levied against the imported beef.

Finally, the Japanese Government imposes an unreasonable licensing system and unreasonable quarantine requirements for live cattle.

The Japanese market offers a tremendous opportunity for the United States to narrow its trade deficit with Japan, as I have said previously on GATT, we appreciate our agriculture trade with them. But trade with them has become seriously imbalanced and we must do something. The Japanese people have become very fond of high quality beef. In fact, it has been reported that Japanese consumers have been known to pay more than $35 per pound for certain cuts of beef. Even lower quality meat sells for $10 or more per pound.

In addition, the Japanese market could grow tremendously. In 1979, the Japanese ate an average of 7 pounds of beef per person per year. In the United States, we consumed 81 pounds or beef per person per year.

Given this country's ability to produce the finest quality beef at the most reasonable prices, and the strong demand for beef among Japanese consumers, it is a shame that the American cattlemen have not been given a fair chance to enter this market.

Mr. President, as I mentioned, the current agreement with the Japanese regarding beef imports is due to expire soon. I would like to send a clear signal to the Japanese Government, that the Congress of the United States will no longer tolerate the persistently lopsided trade relationship our country has with Japan.

The Japanese must liberalize their beef quota system or risk serious actions by the United States under its trade laws and international trade law.

Mr. President, in September 1982, an excellent article written by Robert Dorr appeared in the Omaha World Herald.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Like Its Cattle, Japan Pampers Beef Raisers."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Omaha World-Herald, Sept. 6, 1982]

LIKE ITS CATTLE, JAPAN PAMPERS BEEF RAISERS

(By Robert Dorr)

AYAMA, JAPAN.—Takeo Fujita poured a bottle of Kirin Lager Beer down the throat of one of his high-quality beef cows, then told a visiting reporter that he is worried he will not be able to keep doing the work he loves.

What concerns him, he said, is the possibility that Japan may allow more beef imports to enter the country. If that happens, Fujita and many other Japanese beef producers could quickly be put out of business.

"This cannot be allowed to happen," Fujita said as he showed a World-Herald reporter his cattle-feeding operation in the mountains southwest of Tokyo.

Japan's overall trade surplus over the United States soared to $15.8 billion last year. To reduce that imbalance, the U.S. government is pressuring Japan to allow more American farm goods to enter the country.

The U.S. argument: Unimpeded until recently by quotas, Japan captured 25 percent of the American car market—one reason 200,000 U.S. autoworkers are laid off.

At the same time, Japan's tight quotas on some farm goods have kept the United States from reaping the benefits of its most efficient type of production. Considering the big Japanese trade surplus, many Americans feel that isn't fair.

Japan isn't the only nation that props up its agriculture with quotas and subsidies. France and the Netherlands pay egg producers a subsidy of $4 for each case of eggs exported.

As a result, U.S. egg exports have dropped 90 percent since March, "even though we can produce eggs cheaper than any other country in the world," said Buddy Yeiser of Decatur, Ga., an industry spokesman.

A major Nebraska producer, the Milton G. Waldbaum Co. of Wakefield, is among the U.S. producers that have lost large contracts in the Middle East and elsewhere.

The 10-nation European Community (EC), which includes France and the Netherlands, puts high duties on imports, then uses that revenue to subsidize agricultural sales, said Richard Smith, administrator of the U.S. Department of Agriculture's Foreign Agricultural Service. He added, "We're competing with the European treasury."

A Common Market official responded that the export subsidies are designed to compensate for the difference between farm prices in Common Market nations and the lower world market prices—not to undercut world market prices.

"The EC has a $12 billion trade deficit with the U.S. alone, $7 billion of which is in agricultural trade," said Ulrich Knuppel of Washington, EC agricultural official in the United States.

The U.S. farmer gets government assistance, too, but is not subsidized as much as farmers in the Common Market, said Under Secretary of Agriculture Seeley Lodwick in Washington.

Despite obstacles, U.S. farm exports increased sixfold since 1970 to $43.8 billion last year. This year, exports have declined, dealing a serious blow to farm prices.

CATTLE GET RUBDOWN

The small and feisty Fujita, 58, started his cattle-feeding business in Japan with one animal 20 years ago. He kept it in an addition to his house.

Now, he has 80 head of black-haired Wagyu cattle. That makes his operation larger than most in Japan, but small by U.S. cattle-feeding standards.

Fujita massages his cattle with a curry brush "to scatter the fat evenly throughout the meat." The massaging improves an animal's blood circulation and makes it feel better, he said.

Occasionally, he gives an animal a bottle of beer. "That aids the digestion."

Each animal has a document with the names of its parents and grandparents. Its nose print is stamped on the certificate.

The result—the famed kobe beef—justifies all the effort, Fjuita said. When cut into thin slices and dipped first into boiling water and then into soy sauce, it is indeed tasty.

It also is very expensive. At Tokyo's Okura Hotel, a kobe beef dinner cost $54.

Even lower quality beef does not come cheap. A Tokyo grocery store was selling cuts of beef recently for $7.53 to $10.75 a pound; hamburger was $2.33 to $5.38 a pound.

The average price of all beef consumed in Japan last year was $5.86 a pound, or $3.47 more than the U.S. average.

FREE TRADE FEARS

"If we had the chance, we could whip the tar out of those guys with their kobe beef," said Paul Johnston of Lincoln, executive vice president of the Nebraska Livestock Feeders Association.

That is not disputed in Japan. If there were free trade, said Iwao Yamaguchi, senior managing director of the Japanese Central Union of Agricultural Co-operatives, "Japanese agriculture would be in a bankrupt situation."

Japanese agricultural officials say they must protect their remaining agriculture because the nation already is too dependent on outside food suppliers.

The two areas Japan is trying hardest to protect, beef and oranges, are the ones the United States believes offer the greatest potential to this country.

Fujita and other Japanese cattlemen are resisting expanded beef imports; Japanese mandarin orange producers fear the effects of opening the gates to U.S. oranges.

BOOM POSSIBLE

U.S. beef industry officials consider Japan a prime prospect because incomes in that nation are high and, they believe, there is a lot of room for the Japanese to eat more meat. The average Japanese ate 7 pounds of beef in 1979 compared with 81 pounds by the average American.

If the price dropped substantially, demand for beef would boom, Americans believe.

Sen. Edward Zorinsky, D-Neb., member of the Senate Agricultural Committee, said he visited a supermarket while in Tokyo and noted that high-quality kobe beef sold for $36 a pound. Later, he said, he was told by Japanese officials that lowering the quotas would not boost U.S. beef sales much.

"They told me, 'We don't sell a lot of beef anyway. We eat fish,' " Zorinsky said.

The senator said he replied: "At these prices, I'm surprised you sell any beef."

GRAIN SALES COULD SAG

If Japan lowered its beef barriers, the results might backfire on the United States, said Tadashi Yamauchi of Tokyo, a grain and feed manager for the Zen-Noh agricultural cooperative.

A weakened Japanese cattle-feeding industry would need less corn and soybeans, virtually all of which now come from the United States. In addition, most of the new beef sales might be won by Australian and New Zealand cattle producers, instead of American cattlemen, he said.

American beef industry spokesmen reply that the United States would not be beaten in selling high-quality, grainfed beef that, they believe, represents the market of the future in affluent Japan.

The Japanese are quick to point out that the United States is not above protecting its own agriculture and industry.

One instance: In 1964, this country's beef industry was confronted with large quantities of cheap grass-fed beef imported from Australia for hamburger, sausage and sauce mixes. A law was passed giving the government power to set quotas on imported beef. The law remains on the books, although no restraints actually are in effect now.

Another example: The U.S. government has persuaded Japan to voluntarily hold the number of cars exported to America to a maximum of 1.68 million a year.

Even so, Reagan administration remains committed to free trade and will continue its efforts to persuade other nations to reduce barriers, Under Secretary of Agriculture Lodwick said. "We won't let up on that."

The Japanese have made some concessions. "But we're getting there in nickels and dimes when we need bold liberalizations," said Bill Coyle, Japan specialist for the USDA's Economic Research Service.

QUOTA CUT SOUGHT

The United States is pressing for the removal of 22 quotas, including those on beef and oranges, and talks are to start in October.

Repeatedly, a World-Herald reporter was told by Japanese government officials and industry spokesmen that Japan doesn't want to alienate the United States.

"We would like Americans to understand that Japan is a very big importing nation (of U.S. farm products)," said Sakue Matsu-

> moto, vice minister of agriculture. "Friendly relations should be maintained."
>
> Still, Japan doesn't want to sacrifice its farmers.

Mr. EXON. Mr. President, I wish to quote briefly from that article to which I have just referred to kind of give you a picture of why beef is so high in Japan and how well their beef producers are protected.

> The small and feisty Fujita, 58 started his cattle-feeding business in Japan with one animal 20 years ago. He kept it in an addition to his house.
>
> Now, he has 80 head of black-haired Wagyu cattle. That makes his operation larger than most in Japan, but small by U.S. cattle-feeding standards.
>
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> The result—the famed kobe beef—justifies all the effort, Fujita said. When cut into thin slices and dipped first into boiling water then into soy sauce, it is indeed tasty.
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> Even lower quality beef does not come cheap. A Tokyo grocery store was selling cuts of beef recently for $7.53 to $10.75 a pound; hamburger was $2.33 to $5.38 a pound.
>
> The average price of all beef consumed in Japan last year was $5.86 a pound, or $3.47 more than the U.S. average.

Mr. President, it seems clear to me that we have to send a signal, a strong message, if you will, to the Japanese on the overall problem that we have with the balance of trade.

With the great abundance that we have in agriculture and our ability to produce food, we should take advantage of this. They should understand our problems if we are going to continue the free trade route that most of us enthusiastically have supported.

Mr. President, I thank my friend from Montana for bringing up this critical subject.

I hope that our colleagues in the Senate not as familiar with the barriers to selling agricultural products to the Japanese and others about the world, will listen very carefully to the remarks that have been made by those of us from the agricultural States who are standing up today to say we simply are not being treated fairly, and that is all we ask.

Mr. President, I yield back the remainder of my time to the Senator from Montana.

Mr. BAUCUS. Mr. President, I thank the Senator from Nebraska for his initiative in this matter.

Mr. President, in addition to those who have spoken before this morning, I have statements from other Senators who join us in our efforts to encourage Japan to open up its borders to American beef, Senators McClure, Abdnor, Bentsen, Burdick, and Boren.

I ask that they be inserted at this point in the Record.

● Mr. McCLURE. Mr. President, I recently joined Senator Baucus in sponsoring Senate Concurrent Resolution 87, a resolution which would instruct U.S. trade representatives to dismantle nontariff trade barriers by the Japanese on beef imports. These restrictions are unfair and place American beef producers at a disadvantage when competing on the Japanese market.

Japan presently holds a $16 billion trade surplus with the United States but still has strong barriers against beef imports. In addition to these import quotas, the Japanese can manipulate the prices of our beef through controls imposed by the Livestock Industry Promotion Corp. While it is true that Japan is the single largest importer of U.S. agricultural products, this is no reason for them to expect that restrictions on our agricultural commodities are acceptable.

In the past, the United States has been limited to 30,800 metric tons of beef exported to Japan. We have only recently reached that quota. The current agreement with Japan concerning beef imports expires on April 1, 1984, and the United States is now in the process of renegotiating a trade agreement with Japan.

Congress must move aggressively in reevaluating the role of our agricultural commodities in foreign markets. A balance of trade must be considered when U.S. representatives sit down to negotiate new trade agreements, but this balance of trade has gotten out of hand. We must right this wrong that has been forced on American producers. I urge my colleagues to support this resolution.●

● Mr. ABDNOR. Mr President, today I am pleased to join my other colleagues in this special order in regard to Japanese beef imports.

As my colleagues are aware, Japan maintains strict barriers against U.S. beef imports. One of the major barriers limits imports of high quality beef—most of which is produced in the United States. This barrier now permits imports of only 30,800 tons of high-quality beef a year. This meager amount allows Japanese consumers only one good American steak per year. In addition, a sirloin steak in Tokyo sells for over $14 per pound while a sirloin in my home State of South Dakota sells for under $3 per pound.

On March 31, 1984, only 38 days from now, our current 5-year bilateral agreement with Japan relating to beef imports expires. It is my hope that we in Congress can send a strong message to the Japanese Government. That message should be that America and America's cattlemen demand greater liberalization of the Japanese beef market.

According to figures released by the Commerce Department, the United States suffered a $19.3 billion trade deficit with Japan in 1983. Tariff and nontariff trade barriers erected by Japan are a major contributing factor to this deficit.

But, while our trade representatives are trying to open up Japan's markets and while our negotiators continue to press for liberalization of Japan's beef imports, the Japanese Government continues to be as intransigent as ever. It is time that we in the Senate send a clear message to the Government of Japan. It is time that Japan realize that the United States no longer will sit idly while Japan exports more and more of their products to us and while, at the same time, Japan restricts access of our products to their markets. I can think of no better time to start than now and no better issue to use than beef imports.

It is no secret that our Nation's beef producers have weathered some terrible storms in recent years—storms known as high interest rates, drought, low prices, PIK, and most recently the dairy diversion program. These occurrences and programs have left stock growers beleaguered and in frightful financial condition.

We now have the opportunity to assist these cattlemen, not through Government handouts or artificial prices, but rather by allowing their product to trade more freely in the Japanese market. If we in the Senate are serious about assisting cattlemen and saving the family farm or ranch, let our actions and votes speak louder than our words.

On January 24, 1984, Senator Baucus introduced, and I was pleased to cosponsor, Senate Concurrent Resolution 87 which demands that Japan dismantle its barriers to American beef. It further states that if the negotiations with Japan do not result in satisfactory progress toward the dismantling of all Japanese nontariff barriers to beef by the time our current agreement expires, the U.S. Trade Representative should seek appropriate relief under United States and international trade law.

I urge my colleagues to support Senate Concurrent Resolution 87 and to press for liberalization of the Japanese beef market. Thankfully, we are not to the point where the Federal Government has added beef to its long list of commodities which it supports in order to maintain farmers' incomes. I fear, however, that if we do not take actions to liberalize markets for our beef producers, beef may be added to the list. Even worse yet, I fear that beef may become a rare component of the American diet since we did not have the foresight to aid an ailing industry in a pure, free trade fashion. That would be a unforgivable blunder.

Instead, let the Senate go on record as being in support of the American cattlemen and in support of the free trade of his product.●

JAPANESE BEEF IMPORT RESTRICTIONS

● Mr. BENTSEN. Mr. President, I join today with several of my colleagues, including the distinguished Senator from Montana (Mr. BAUCUS) who has initiated this colloquy, to discuss the unfair trade restrictions which the Government of Japan applies to U.S. meat exports. I commend the Senator on the outstanding job that he has done in carrying the case for the cattlemen of Montana on this issue. Action is long overdue to open up the Japanese market to U.S. meat exports, just as the U.S. market has been open for many years to Japanese exports of manufactured goods.

Mr. President, I have been working on this issue for many years, both in the initial openings of the Japanese market that occurred through the negotiations culminating in the Trade Act of 1979 and in subsequent efforts to further open the Japanese market.

I will not reprint the statements in the CONGRESSIONAL RECORD, but I would note that I made a major floor speech on this issue on March 10, 1982. In addition, a Senate resolution which I authored calling for an opening of the Japanese market to U.S. beef and citrus passed the Senate unanimously on September 30, 1982. A similar resolution introduced by the distinguished Senator from Montana (Mr. BAUCUS) passed the Senate last year, and I was a cosponsor of that resolution.

In looking back on the statements I made on those occasions, I see that nothing has changed. The Japanese are still refusing to negotiate seriously about opening their markets to U.S. agricultural products. The concern and the pressure that we have sought to generate has helped to hold firm the U.S. negotiators' demands for concessions, but so far there has been no progress.

However, time is rapidly running out. As part of the 1979 agreement the United States agreed not to file formal complaints under the General Agreement on Trade and Tariffs (GATT) against these unfair Japanese import restrictions for the 5-year duration of the agreement. That agreement expires April 1, 1984.

We are fast coming to a decision point, and if concessions are not forthcoming from the Japanese, as we were led to expect during the negotiations in 1979, then I will strongly urge the administration to seek relief under international trade law. Very serious consideration will also be given to other options, including congressional action on some of the many trade issues involved here.

The Japanese are masterful bargainers. They talk and talk and ship and ship. Every delay means more Japanese goods coming over here and longer before we have similar access to Japanese markets for U.S. beef, citrus, and other agricultural products.

This show cannot run forever. We must make clear that trade is a two-way street. Trade benefits both parties when it is fair and equitable. U.S. consumers have benefited from the tremendous flow of Japanese goods, and Japanese companies have achieved sales growth far beyond anything possible in their small domestic market because of open access to this huge country. However, Japanese consumers are still paying very high prices for limited supplies of high-quality U.S. beef, and U.S. ranchers are still denied the opportunity to produce for a potentially lucrative market.

As the ranking Democrat on the International Trade Subcommittee, I have been a proponent of an open world trading system. I have pointed out that fair trade benefits all people. But what we have now with Japan is neither free trade nor fair trade. That trade is free to them and closed to us.

The expiration of this trade agreement must be the occasion for a total reassessment of our trade relationship. Frankly, I do not at all like many of the things I now see in our current relationship. I do not like the existing barriers to U.S. agricultural products such as beef and citrus. I see a growing trend of protectionism in Japan for their high-technology industries. I see a familiar pattern developing. First early protection of fledgling Japanese industries. Then attempts to buy or even steal basic U.S. technology and Government funding to improve that technology. Finally we will get low-cost imports from Japanese companies that do not have to pay the R&D bills for the basic research that made their products possible.

I do not like that pattern, and I think the Japanese would do well to consider the meaning of the children's story of the little red hen. If the United States is denied the right to sell high-technology products, or agricultural products like beef and citrus, in Japan then why should Japanese companies later expect to be able to sell high-technology products in the United States?

Both countries will be poorer from such refusals, but the Japanese negotiating posture is convincing more and more Americans that extreme measures may be necessary to get our point across. There are massive forces within this country seeking to change our trade relationship, and I believe the question is not whether a change will occur but when and how. The change can be negotiated smoothly. If there are no substantive negotiations by the Japanese the change may be abrupt and unpleasant.

Being from a farm background myself, I remember the story of the farmer with the balky mule. He solved the problem by whacking the mule between the ears with a big stick. When asked why he did that, he pointed out that the mule was a little unsteady for a moment, but that he had been able to resume his plowing once he had gotten the mule's attention. It would be a shame to forsake all our modern communications devices and to deal with trade problems in this high-tech era with methods more appropriate to a Missouri mule.

I fervently hope that a speedy and satisfactory resolution of these issues can be worked out. Texas is the largest cattle-producing State in the Nation, and the heart of the world's cattle-feeding industry is in the Texas panhandle. We produce high-quality steaks that Japanese consumers want to buy. We also produce citrus, including the finest quality grapefruit and grapefruit juice in the world. Texas ranchers and farmers want no more than equal access to the Japanese market for their products, and I will continue to work to see that they get no less than that.●

● Mr. BURDICK. Mr. President, American agriculture has been in the forefront of the movement to maintain freer trade and preserve open markets. Senators and Congressmen from agricultural States have done their best to resist protectionist pressures because we know, and our constituents know, that U.S. agriculture thrives in a freer trade market. We welcome international competition; we ask only that it be fair.

Unfortunately, we are now faced with a particularly glaring example of unfair competition—Japan's restrictions on imports of U.S. beef. American beef exporters are denied fuller access to the Japanese market by a quota system, and a number of tariff and nontariff restrictions. The quota limits U.S. exports of beef to only 10 ounces of beef per consumer per year. The tariff and nontariff restrictions mean that U.S. beef is twice as expensive when it is sold in Tokyo.

The issue of beef exports has long been a matter of concern to U.S. trade negotiators. Back in 1979, the United States and Japan were able to come to some agreement on this question when the two countries signed a 5-year bilateral agreement. According to the terms of this agreement, the United States would not invoke remedies under United States and international trade laws. Japan would gradually increase the quota for high-quality beef and would negotiate on ways to further expand the importation of high-quality beef in 1984 and thereafter to the mutual benefit of both countries.

Although the 1979 agreement expires on March 31, the Japanese have not yet made good on their pledge to negotiate "to the mutual benefit of both countries." We have patiently tried to nudge the Japanese along in the negotiations. We have repeatedly assured them that we are not trying to destroy Japanese agriculture or make Japanese cattlemen suffer. We have pointed out that the Japanese market can absorb greater imports of high quality beef without disrupting domestic agriculture. To quote from a letter Ambassador Mike Mansfield sent to Senator Baucus, "We want and need a viable Japanese agriculture. Academic studies seem to indicate that Japan could open its market without great harm to cattle growers."

Our efforts to resolve this difficult issue fairly and amicably have not borne fruit. Our negotiators have gone round and round with the Japanese on the beef issue, but the only Japanese response has been an offer to provide a token increase in the quota.

Japanese intransigence on this question is troubling for the future of trade relations between our two nations. Americans know that the U.S. trade deficit with Japan was $19.3 billion in 1983. They know that the U.S. market is open to Japanese exports of automobiles, electronics, and such. Americans and their Representatives in Congress can only conclude that Japan's reluctance to open up its market to U.S. agriculture is unfair, and a violation of the spirit of freer trade.

Today, my colleagues and I would like to serve notice to the Japanese Government that its action—or inaction—on the beef issue is making it difficult for U.S. Representatives from agricultural States to continue to champion the cause of freer trade in an increasingly hostile environment. It will become even more difficult for us to resist protectionist pressures unless Japan can loosen its protectionist mantle. Freer trade is the proverbial two-way street, and right now, we need some help from the Japanese if we are to preserve a system that has traditionally benefited both our economies.●

● Mr. BOREN. Mr. President, I compliment my colleague from Montana for his efforts in focusing our attention on this gross injustice in America's trading relationship with Japan and his persistence in contributing to a fair resolution of the problem.

I am a cosponsor and strong supporter of Senate Concurrent Resolution 87. Examples of these unfair practices are legion. Essentially, the Japanese have contrived an elaborate system of import duties, health standards, and assorted other charges which limit U.S. access to their market. Any U.S. beef that is sold in Japan ends up costing from three to five times its price in the United States. The quota on imports of high quality U.S. beef is so small that the total comes out to an average of one-half pound of such beef for each Japanese citizen in 1 year.

These absurdly low quotas must be expanded through the negotiations that have been going on in view of the March 31 expiration of the quota on high quality U.S. beef. While deliberating over an expansion of this quota, I urge the Japanese negotiators to consider the fact that Japanese consumers have demonstrated a desire to see these quotas eased. The U.S. Meat Export Federation presented evidence of this point in their newsletter some time back. The fact that only 11.8 percent of those questioned urged the Government to continue its present system of restrictions should serve as a dramatic signal to the Japanese Government to import more U.S. beef.

An increase in exports of high quality U.S. beef to Japan would benefit Japanese consumers while also contributing significantly to U.S. farm income and strengthen America's trade balance. I strongly urge my colleagues to approve Senate Concurrent Resolution 87 quickly so that we can send a strong message to the Japanese that their unfair trade practices must end.

I ask unanimous consent that the copy of the article on Japanese public opinion be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Japanese Divided on the Decontrol of Beef Imports

While the Japanese people are about equally divided on the advisability of decontrolling beef and citrus imports, most criticize the present import quota system for maintaining a high price on beef products, according to the results of a nationwide poll conducted by the Yomiuri Shimbun, a Japanese daily newspaper.

The newspaper sent surveys to 3,000 people throughout Japan using a stratified, multi-staged random sampling method. Answers were obtained from 2,137 people for a recovery rate of 71 percent.

When asked their views on the issue of liberalization beef imports, 33.2 percent said imports should be increased in stages, but that a certain degree of import restrictions should always be enforced; 24.5 percent said imports should be increased in stages and imports should be completely liberalized eventually; 15.2 percent said restrictions on imports should be removed as quickly as possible and imports completely liberalized; 11.8 percent said import restrictions should continue as present.

When asked if the consumption of beef would increase with the liberalization of imports and lower beef prices, 43.7 percent said their frequency of beef consumption would not change; 37.6 percent said their frequency of consumption would increase a little; 15.4 percent said it would increase rather greatly.

As for Japan's current system for beef imports, 52 percent said it results in higher beef prices; 35.2 percent said it was helpful in the protection of the livestock industry; 32.9 percent said it caused economic friction with overseas trading partners; 23.1 percent said it creates an unreasonable distribution structure; 13.9 percent said it raises the self-sufficiency rate of agricultural products.●

Mr. BAUCUS. Mr. President, I thank the Senators who have spoken and submitted statements today.

Our beef agreement with Japan expires March 31. This is going to be a lively issue during these remaining weeks and the country of Japan will hear again from us in many ways and in many different forums.

I thank the Chair.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR HART

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado is recognized for not to exceed 15 minutes.

Mr. HART. Mr. President, I thank the Chair.

S. 2320—U.S. MILITARY FORCES IN CENTRAL AMERICA

Mr. HART. Mr. President, 6 months ago, Senator Kennedy and I introduced legislation to freeze the number of U.S. combat troops in Central America. That troop freeze bill would have prevented the long provocative round of U.S. military maneuvers in Central America, but, unfortunately that measure was never acted upon.

Today, in Lebanon, we see American forces being withdrawn—the penalty of blind intervention in a civil war. American lives have been sacrificed on the altar of unwise policy in that country and over 250 young Americans have paid, in my judgment, vainly—the ultimate price.

Today, I am introducing legislation that is intended to draw the obvious conclusions from the U.S. experience in Lebanon and, through it, place some political discipline on an administration now unchecked in its headlong flight toward a similar disaster in Central America.

Mr. President, it is no longer enough to simply freeze the current levels of U.S. troops in Central America as we attempted to do 6 months ago. We must also now withdraw the hundreds of U.S. troops sent to Honduras since the originally proposed troop freeze last August. I am introducing legislation today to do exactly that. My bill will require the withdrawal of all U.S. troops introduced into Central America on or after August 1, 1983, unless, first, Congress specifically authorized their continued presence; or second, the presence of such forces is necessary to respond to a clear and present danger to U.S. citizens or to the national security interests of the United States itself.

The withdrawal of U.S. forces from Honduras and the other nations of Central America is a necessary step in reversing the escalating U.S. military involvement that threatens to inevitably draw the United States into a regional military conflict. In February 1983, the administration embarked upon a series of military maneuvers in Honduras and the Caribbean with the intention of intimidating Nicaragua and other nations in the region. Not content with the results of this muscle-flexing, the administration began planning yet another set of military exercises.

The President misleadingly described these maneuvers, known as Big Pine II, as nothing out of the ordinary. Big Pine II, however, has been unprecedented in both scope and duration, including more than 5,000 U.S. troops and continuing from August 1983 to February 1984. It was in January 1984, in the course of Big Pine II that a U.S. helicopter pilot was killed by Nicaraguan troops after allegedly flying over Nicaraguan territory—a meaningless and unnecessary death.

Even with the consequences of an ever-expanding U.S. military presence clearly in view, the administration has reportedly been planning the third set of major military exercises in Honduras in just 2 years. Through these successive military maneuvers, Honduras is being turned into a permanent U.S. military outpost, complete with American-built airfields, communication facilities, and naval centers. Hardly after the ink on the Kissinger Commission's report was dry, the administration was evidently interpreting it as a blank check for increased U.S. military involvement in Central America.

The administration's vain search for military solutions fails to recognize that the primary enemy in Central America is not communism, but poverty. Additionally, the administration has yet to realize that successfully addressing the political problems of the region will require not more marines, but more diplomacy.

Mr. President, Senator KENNEDY and I called for the withdrawal of U.S. troops from Central America months ago. In the wake of our current tragedy in Lebanon, this incident, the risks and consequences of a continuing U.S. military presence in Central America are even more tragically apparent. An American military presence in Honduras only serves to aggravate this volatile region. By withdrawing U.S. troops from Central America, we could reassess our policy in the region free from the risk that increased U.S. military activities would further inflame tensions. The administration's decision to increase the American military presence in Central America is unwise and could turn out to be, before or after the next national election, provocative in the extreme. America is once again being viewed, because of the President's actions, as a bully looking for a fight. No clear, present, or urgent national security rationale for increasing our military presence or continuing our presence in Central America exists. It is clear from past experience in the area that U.S. troops have not brought regional stability, but in fact have now cost American lives that never should have been lost—and will cost even more if this involvement is not ended.

We need more diplomatic maneuvers and fewer military maneuvers in this region of violence and conflicting political interests. The administration views Central America as a breeding ground for communism. I view it as a breeding ground for democracy. The people of Central America will either become our best allies, or our worst enemies. The administration's provocative actions over the last 3 years suggest that the administration instead of hoping for the former, seems to be guaranteeing the latter.

We have in this legislation the means of reversing our slide toward military confrontation in Central America. In deciding upon this bill, we will be deciding on a question of congressional authority as well as a question of policy. Congress must choose whether it will act now to prevent American involvement or act later under War Powers Act legislation to resolve an involvement precipitated by brinkmanship and bluff.

Mr. President, this country can do better than just deploying its military forces. We can address the real human needs. We can do so without enormous investment of American dollars. We can share with the people of this depressed region the technical knowledge and progress that we have available to us to help elevate their standard of living and to deny those who would capitalize upon indigenous revolution the opportunity to foist off their own political ideologies.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States should withdraw military forces introduced into Costa Rica, El Salvador, Guatemala, Honduras, or Nicaragua for training exercises or any other purpose on or after August 1, 1983. Such withdrawal must be completed by April 22, 1984.

Be it further enacted, that no forces of the Armed Forces of the United States may be sent into the territory, airspace, or waters of Costa Rica, El Salvador, Guatemala, or Honduras for training exercises or any other purpose until—

(1) Congress has authorized in advance the presence of such forces in such areas by a joint resolution signed by the President of the United States; or

(2) the presence of such forces is necessary to provide for the immediate evacuation of United States citizens, or to respond to a clear and present danger of military attack on the United States.

In either case described in paragraph (2), the President should advise and, to the extent possible, consult in advance with the Congress

Mr. HART. Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 12 noon.

SENATOR BRADLEY, A TEAM PLAYER

Mr. BYRD. Mr. President, in yesterday's Washington Post, there appears an article on our colleague, the senior Senator from New Jersey (Mr. BRADLEY). Though the article concerns Senator BRADLEY's career as a professional basketball player, it touches on those qualities which have made Senator BRADLEY a successful Senator as well. These include his everready willingness to work as a team player and his disciplined dedication to the task at hand, whether it be perfecting his basketball skill or mastering the many duties which make up a Senator's day.

I congratulate the distinguished Senator on the tribute he received last Saturday night in New York—that being the highest athletic honor—having his uniform retired. If other Senators have not noticed it, I call attention to the article entitled "Bradley: Team Player Gets Singular Honor."

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BRADLEY: TEAM PLAYER GETS SINGULAR HONOR

(By Tony Kornheiser)

NEW YORK.—No. 24 belongs to the ages now. It hangs high above the Madison Square Garden Floor, with No. 19, No. 22 and No. 10. Up there for generations to remember with affection. Four jerseys from the greatest team I ever saw, the New York Knickerbockers of 1969 to 1973: Reed's, DeBusschere's, Frazier's and now Bradley's. Camelot's team. A team of truth and beauty, a team of all for one and one for all, a team whose whole was always greater than the sum of its parts.

On Saturday night, a man who has spent his adult life in public view, a man of discipline and accomplishment, a fine and good man in rare position to become a great man, warmed himself in the brilliant sun of gratitude. As 19,591 fans—including former teammates like Dave DeBusschere, Earl

Monroe, Jerry Lucas, Phil Jackson, Cazzie Russell, Dick Barnett and Dave Stallworth—cheered lustily, Bill Bradley, once a small forward and now a U.S. senator from New Jersey, was awarded the ultimate athletic honor, having his uniform retired.

"I remember years ago," Bradley told the crowd, "after a game in Chicago, a man coming up to me and asking me, "Do you really like playing ball?"

"Yes, Yes, I do," I told him.

" 'I think I know what you mean,' he said. 'I used to play the trumpet in a band. We were good. So good that we got offers to tour, the others wanted to do it, but I didn't.'

" 'Why not?' I asked him.

" 'I guess because it didn't fit in my life's plan. It didn't seem secure. So I went to law school instead.'

" 'And do you like the law?' I asked him.

" 'Yes,' he said. 'But not like playing the trumpet.' "

A week before the ceremony, Bradley sat in his Senate office and spoke about the honor about to come. "I first heard about it last summer," he said. "I kind of felt like, well, okay." He waved his arms in an embarrassed manner. "I'd had some second thoughts about it. Part of me said, 'I don't think I should have it retired until after Monroe, maybe even Barnett.' Part of me asked the question: 'Do you deserve this?'

"But ultimately, I said that's for others to judge, whether I do or I don't. Do I feel like I was a contributing member of that group? Yes. Do I feel like I played a significant role? Yes. So the more I thought about it, the more I felt very sentimental about it, the more I liked it.

"But was I great?" Bradley considered the question fully; he never averaged more than 16 points per game in 10 pro seasons, his career average was under 13 points per game. "No, I don't think I was great—not if you define great through points. But if you define it in different terms it becomes more complex. In the pros I really had to sense what my role was; I had to be much more subtle than in college."

He smiled at the sense of what he'd done, how he'd changed, who he was. "That's why this means so much to me. Because it's done within the concept of the team. There was an element of truth to that team.

"It wasn't that we won, but how we won. We did it in a way that energized everybody. The crowd was a part of it, and we were a part of it individually and as a whole. We were all breathing in at the same moment, all exhaling at the same moment. Maybe in one game, or a two-of-three, we might be overpowered. But if the series lasted long enough, we'd have found a way to win."

If he chose, Bradley could paper the walls of this office with photos that give testimony to his athletic prowess. Instead, he has hung only two. One was taken at the buzzer ending the dramatic seventh game of the 1970 championship series against Los Angeles, in which Bradley's clenched fists are halfway to heaven. And the other, taken seconds after the Knicks' 1973 championship clincher against those same Lakers, in which Bradley has jumped into Reed's arms, basketball's version of the famous Don Larsen-Yogi Berra moment of ecstasy.

It is instructive that Bradley, not given to public passion, should declare these photos his personal favorites.

"The elation, the emotional release, the sense of accomplishment, the sense of joy," Bradley said smiling as much at what they say to him as what they say about him. "I guess those are the peak moments."

He seemed slightly embarrassed at his uncharacteristic emotional expansiveness, but the lesson outweighed the risk. "What kept me playing," he said, "were the experience of those peaks, the wanting to have them again, and those moments when things worked together correctly—the backdoor play; the pass that leads to the pass that leads to the basket; the sense that somehow or other things were right, the group meshed."

All for one, one for all.

"Those moments," Bradley said, satisfied that indeed the Knicks had managed to catch the wind, "those moments have an inexorable rightness to them."

When he left professional basketball in 1977, Bradley left for good. Unlike so many athletes who suffer withdrawal pains and cannot adjust to a life beyond the playing fields, Bradley never looked back in longing. Not since then has he played a game of basketball. No full court. No half court. Not even one-on-one. What's done is done.

And yet there was a time last summer. Well, better to let him tell it:

"I had turned 40," Bradley said, "and for a present somebody had given me a tape of the seventh game of the 1970 championship. I took it home and played it for my 5-year-old daughter; it was the first time she'd ever seen me playing basketball. She knows Willis and Dave, and when she saw the tape she said, 'There's Mr. Reed.' I said, 'That's right. And there's Mr. DeBusschere.' She looked at the man I was pointing to and said, 'That's not Mr. DeBusschere. Mr. DeBusschere has gray hair.' "

Bradley chuckled. Age, you unrelenting thief, you.

"Anyway," Bradley said, "after I watched it, I really kind of got the itch. So I went down to a playground near the house and started shooting around. I went through my warm-up routine, the one I'd done since I was 14 years old. Only I didn't spend my usual three hours doing it, just 40 minutes. The first 10 minutes were just range finding. I went from spot to spot, trying to hit 13 or 15 in a row. I didn't do much jumping; I couldn't. But I found that you never really lose your shot, you just lose the ability to get your shot. You lose the ability to move and the ability to last. Tell you the truth, after I found my range, it felt terrific. The only problem was the next day."

Bradley's laugh was as rich as hot fudge. "The next day my knees were aching."

Bradley went down to the court a few times after that. Once there were some kids shooting around, and they said to him, "Let's play." He was convinced they didn't know him. "How could they? I was just some older man shooting baskets in a playground."

Bradley declined the game. It wasn't part of his life's plan any more.

The trumpet stays in a case now, its lovely notes stilled. Perhaps forever. The song is gone, but the melody lingers on.

THE MOBILIAN OF THE YEAR: DR. WILLIAM K. WEAVER, JR.

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Dr. William K. Weaver, Jr., who was recently recognized by the Civitan Club of Mobile, Ala., as "Mobilian of the Year," for 1983.

Dr. Weaver, the president of Mobile College, was selected by delegates representing more than 120 civic organizations. Last year, he acted as chairman of the 1983 Mobile Area United Way campaign, which collected more than $4 million in charitable contributions, its largest total ever.

Among Dr. Weaver's other civic activities are serving as board member of the Mobile Area Chamber of Commerce, president of the Community Chest and Council, and as member of the local library and museum boards. In addition, he has served as president of the Mobile Rotary Club and as a district governor of Rotary International.

A former pastor of the First Baptist Church of Sylacauga, Dr. Weaver has been president of Mobile College since the school was chartered in 1961. He has led the school through some outstanding years and, under his leadership, I am sure it has an even brighter future.

Bill Weaver is a great guy, a warm compassionate friend and a joy to be around.

Dr. Weaver is certainly an outstanding Mobilian, and I congratulate him on this recognition.

Mr. President, I ask unanimous consent that an article from the Mobile Register be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CIVITANS PICK WEAVER AS TOP '83 MOBILIAN

(By Brightman Brock)

The Civitan Club of Mobile on Thursday named Dr. William K. Weaver, Jr., president of Mobile College, as Mobilian of the Year for 1983.

Weaver's selection marked the 36th presentation of the award.

Runners-up in the selection were: U.S. Rep. Jack Edwards, R-Ala.; Alfred F. Delchamps, Jr., president and chief executive officer of Delchamps Food Stores; Sister M. Romana Statz, director of Mobile Catholic Social Services; and Lillian R. Jackson, coordinator of March Against Crime.

Delegates from more than 120 civic organizations voted on the nominees.

Active in numerous civic affairs, Weaver in October acted as chairman of the 1983 Mobile Area United Way Campaign. The United Way surpassed its largest campaign goal ever. He led the more than 600 community leaders in the drive which gained $4,011,085 in contributions.

"I'm just overwhelmed by the whole thing," Weaver said Thursday. "It's a tremendous honor and one that must be shared by hundreds of people that have worked with me on so many wonderful projects."

The college president said he was informed of the honor Thursday morning when a delegation from the Civitan Club came out to Mobile College "and shocked me with it."

His accomplishments include serving as a member of the board of directors of the Mobile Area Chamber of Commerce, president of the Community Chest and Council, as well as being a member of the museum and library boards of Mobile.

He has also served as president of the Rotary Club of Mobile and as governor of district 688 of Rotary International.

At one time pastor of the First Baptist Church in Sylacauga, Ala., Weaver has also held positions with the Baptist denomination in Kentucky as well as Alabama.

He was a chaplain in the U.S. Army and at the Southern Baptist Convention level, Weaver was a member of the Baptist Sunday School Board, chairman of the Education Commission and is currently a member of the Board of Trustees of the Southern Baptist Theological Seminary in Louisville, Ky.

The Oxford, Ala., native graduated from Talladega High School in Talladega, and continued his education at Samford University in Birmingham, where he received his B.A. degree. He received his master's degree in theology from Southern Baptist Theological Seminary.

Weaver, who has been president of Mobile College since it was chartered in 1961, said he looks forward to a bright future at the school which is situated approximately 10 miles from downtown Mobile on 685 acres of land. Although he has accomplished many goals in his position at the school's helm, Weaver says he looks forward to many more.

THE STUDENT LOAN CONSOLIDATION AND TECHNICAL AMENDMENTS ACT OF 1983

Mr. HATCH. Mr. President, today I wish to address the recently adopted procedures by which the Department of Education is implementing the requirements of Public Law 98-79, the Student Loan Consolidation and Technical Amendments Act of 1983. I am concerned that the Department has crafted its own version of legislative intent, by imposing a preclearance requirement for the issuance of tax-exempt securities by State student loan authorities based on a statement by Representative William Ford inserted into the Congressional Record of August 1, 1983.

Section 7(a) (paragraph "(d)(1)(G)") of Public Law 98-79 indicates that "the authority will not issue obligations for amounts in excess of the reasonable needs of student loan credit in that area." This provision was viewed by both Houses of Congress as so unexceptional that it was not mentioned in any committee report. Representative Ford's statement comprises the entire extent of written comment devoted to this issue. In the absence of significant legislative history, the Department of Education saw fit to issue bulletin 83 No. 1-81E, "New Legislative Requirements Applicable to Student Loan Authorities Issuing Tax-Exempt Obligations," outlining a preclearance requirement that, in my opinion, goes far beyond anything stated or implied in the statutory language.

As chairman of the Committee on Labor and Human Resources, I am distressed to see such an interpretation adopted in a bulletin without public comment, rather than proposed through normal regulatory procedures. The chairman of the Senate Subcommittee on Education, Mr. Stafford, shares my concerns.

Paragraph (d)(1)(G) would have most certainly generated considerable controversy had provisions for prescreening all bond issues been explicitly mandated. In fact, they were not, explaining why no discussion was aroused during the legislative crafting. A reasonable reading of Congress intent, in fact, suggests monitoring these issues through normal after-the-fact auditing. Not only was the Ford provision not a floor amendment, but it had been part of the committee draft of the bill for some time and represented as anything but a requirement for prescreening.

You will remember, Mr. President, that Congress was operating under significant time constraints during the passage of this bill, on the eve of the August recess. House and Senate negotiators had crafted a bill to suit both Houses of Congress. The involved parties were anxious to see legislation passed before recess that would extend Sallie Mae's consolidation authority through November 1, and that would rectify disclosure requirements for terms of federally insured student loans. The bill was held at the Senate desk to expedite its passage on August 2, the same day that the August 1 Congressional Record, containing Mr. Ford's comments, was issued. Whatever Congressman Ford's actual intent by his comments, in the unlikely event that they were considered in fact by the Members of either House, they were not interpreted to require preclearance of bond issues, certainly not in the Senate.

I am pleased with the portion of Public Law 98-79 that requires the inclusion in an authority's "plan for doing business" provisions designed to assure (but not prove) that "the authority will not issue obligations for amounts in excess of the reasonable needs for student loan credit * * *." Indeed, State agencies should be encouraged to take a hard look at all possible sources of private loan capital, and be sure that such resources have been adequately utilized before Federal moneys are involved. However, requirements for assurances are found throughout the Federal education laws, and they are typically satisfied by an appropriate assurance of compliance in the application. I question the fairness of establishing Sallie Mae as the only resource left for agencies who have exhausted other sources of private capital. Borrowing from Sallie Mae is a costly venture for State agencies—one that renders them unnecessarily vulnerable to Sallie Mae and the resulting interest payments which are difficult to predict.

The yearly audit outlined in section 438(d)(1)(E) provides the assistance needed for the Department to exercise control over the amount of bond issues. If the audit reveals that more funds have been borrowed than are reasonable in light of the circumstances, then the Department should work with the agency to adjust its procedures for estimating the amount required, and should monitor more closely that agency's implementation of those procedures for a time. If the agency refuses or neglects to comply in a subsequent offering, the Department has ample means of imposing discipline.

Mr. President, it is my hope that the Department of Education will review its position, and solicit the guidance of both Houses of Congress in determining the true legislative intent of section 438(d)(1)(G). It is through such collaboration that the correct implementation of our Nation's laws has been and will continue to be successfully achieved. If the Department or any other agency of the executive branch ever has trouble interpreting legislative intent, it is up to the legislative branch to give any additional clarity or redefinition. It is the Congress which makes the law, as clearly enunciated in article 1. The laws we make are not options or suggestions to be accepted or rejected with impunity.

I am deeply concerned that quality education be available to all those who seek it. I believe that without placing an unnecessary strain on the Federal budget, we can make flexible repayment schedules available to responsible students facing education debts through the loan consolidation agency that will best meet their needs.

THE NATIONAL PRAYER BREAKFAST

Mr. HATFIELD. Mr. President, it was my privilege to chair the Annual National Prayer Breakfast on February 2 at the Washington Hilton Hotel. There were 3,700 people from across this land and around the world in attendance. And by all accounts it was one of the most stirring and challenging national prayer breakfasts in years. It was indeed an honor to participate in the event with many of our colleagues and friends.

For me one of the most inspirational moments was when our former Senate colleague Jacob Javits read the scriptures and led us in prayer. His bout with debilitating illness made his presence with us a matter of some considerable sacrifice and struggle. The immeasureable benefit of his participation cannot be fully appreciated by merely reading his words.

I want to express gratitude to all of the committee members from both the Senate and the House who planned the event, and in particular to Senator Bill Armstrong and his office staff who tended to the organizational details. Also a special thanks must be extended to the countless volunteers who gave hundreds of hours to the meeting of the diverse needs of the thousands of guests.

Mr. President, I ask unanimous consent that the entire transcript of the February 2, 1984, National Prayer Breakfast be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

NATIONAL PRAYER BREAKFAST

(Thursday, February 2, 1984, International Ballroom, Washington Hilton Hotel, Washington, D.C.)

[Opening song by the Johnston County Choral Society, Smithfield, North Carolina]

Senator HATFIELD. Ladies and gentleman, would you all please stand for the opening prayer. The opening prayer will be given this morning by the Vice President of the United States, George Bush.

The VICE PRESIDENT. May we bow our heads.

Lord, we come to You today as people of many faiths, but one faith, that which affirms Your love and mercy. We come as a people of many traditions, but one tradition, that which celebrates Your glory. We come as proclaimers of many principles, but one principle, to love You with all our hearts and to love our neighbors as ourselves.

We ask for Your blessing on President Reagan, Mrs. Reagan and all the Members of the Congress, and on all those who give themselves to serve their country, and we ask especially that You bless our men and women in uniform, keep them well and safe.

Bless those who heal the sick and help the poor, help us affirm the power of prayer and face each other and the world, with faith, hope and love. All this we pray in Thy name. Amen.

Senator HATFIELD. Good morning. Welcome to this celebration of a worldwide fellowship of believers in the Lord Master of Creation.

The Psalmist exclaims, "Be exalted, O Lord, in Thy strength, we will sing and praise Thy power." All of us gathered here today have an individual understanding of power and the proper exercise of power. In His wisdom, God grants to certain members of the human family the responsibility to govern, to exercise political power.

Each year we gather in this room as people representative of the leadership of the land and we acknowledge that political power and spiritual power must not be confused. St. Paul instructs us with these words: "For in Him were all things created, in Heaven and on earth, visible and invisible, whether thrones or dominions or principalities or authorities, all things were created through and for Him."

Undoubtedly, the power of the spirit of God transcends all power exercised by humans, be it political power or institutional power. Superficially, the world may see us as an assemblage of greater and lesser lights, but we know deep in our heart that all of us share a common denominator. We stand here today together as sinners before a loving and forgiving God, a God of righteousness.

The word "righteousness" has taken on a meaning of personal piety in our contemporary society. But in both the Hebrew and Greek languages, "righteousness" is synonymous with the word "justice." And this God of justice, through the teachers and the prophets of the Old Testament, and in the life and ministry of Jesus Christ in the New Testament, most frequently measures our faithfulness as His followers on the basis of our relationship to the poor, the downtrodden and the outcast.

Indeed, our very spiritual destiny is intimately linked with those powerless ones who may live on the margins of society but who rest in the knowledge of a concerned and compassionate God. Therefore, this morning let us affirm our love for God by living and serving one another with the recognition that life is not lived in vast ballrooms but instead in the poverty where God calls us to serve rather than to be served.

May we assert through our lives the truth that while political power can corrupt, spiritual power can bring repentance and renewal to our souls and the soul of the Nation.

At this time I am delighted to present to you the caring and the beautiful First Lady of our Nation, Nancy Reagan.

[Applause.]

Now may I present the terrific and devoted Barbara Bush.

[Applause.]

A most remarkable achiever, Marian Javits.

[Applause.]

The dynamic First Lady of the Navy, Shiela Watkins.

[Applause.]

My very best friend, Antoinette Hatfield.

[Applause.]

We will now have a message from the Prayer Group of the House of Representatives, given by the Chairman of that group, the Honorable Charles D. Whitley.

[Applause.]

Mr. WHITLEY. It is a rare and distinct pleasure for me to bring you greetings from the men and women of the House of Representatives and particularly from our House Prayer Breakfast Group.

I want to read just a very brief passage of scripture from the Old Testament, I Kings. The situation was that the little kingdom of Israel was in very bad shape under the reign of a bad King Ahab, and Prophet Elijah felt this very keenly. He had suffered a great deal of disappointment and frustration in his own life. And he had gone out by himself and was in a cave near the holy mountain called Mt. Horeb or Sinai in search for God. And God directed him to come out and stand at the mouth of the cave, and He said go forth and stand upon the mount before the Lord, and behold the Lord passed by and a great and strong wind rent the mountains and broke in pieces the rocks before the Lord, but the Lord was not in the wind. And after the wind, an earthquake, but the Lord was not in the earthquake. And after the earthquake, a fire, but the Lord was not in the fire. And after the fire, a still, small voice, and it was in that still, small voice that Elijah found the Lord.

This past Wednesday evening, many of you, many of us who are here this morning were in the Chamber of the House for the State of the Union Address by the President. That is always an occasion of great ceremony and considerable gravity. It is a time when we observe protocol and formality. As the President stands upon that podium delivering his message, just below him on the floor of the House sits the Chief Justice and the Associate Justices of the Supreme Court representing the Judicial Branch of our government. The President, of course, represents the Executive Branch. Just behind him sit the Vice President and the Speaker of the House, representing the Legislative Branch. And behind all of that hangs the flag which is the symbol of the union of our fifty states.

But above all of these is inscribed on the wall of the House Chamber, our national motto, "In God We Trust." But we don't always find God, we as individuals in ceremonial events of that type, and we in the House of Representatives don't always find God in the hurly-burly of legislative debate on the floor of the House and in our committees. And we don't always find God in the hectic and frantic time that we often spend in our offices with the telephones ringing and staff members scurrying back and forth and looking at important letters and signing others and returning telephone calls. And we don't always find God in a very tight and hectic schedule that we often follow when we go back to our districts.

But we can and we do find God in that still small voice that is there when we meet in small groups for fellowship, for prayer and meditation, such as our regular Thursday morning Prayer Breakfast Group and other groups, and there are a number of them that meet regularly in the House of Representatives for the specific and primary purposes of meditation and prayer and seeking God and His will for us in our lives.

And so all of us welcome you, knowing that you share this kind of search for God, that many of you belong to similar small fellowship groups throughout this land and throughout the world. So we welcome you here this morning in that spirit. We enjoy your fellowship. We earnestly and sincerely covert your prayers.

Thank you.

[Applause.]

Senator HATFIELD. Since the founding of the Republic, few have reached or earned the title of truly great who have served the United States Senate, but we have one such person here this morning who will give us selections from the Old Testament, former Senator Jacob Javits of New York.

[Applause.]

Senator JAVITS. Thank you very much, Senator Hatfield, and thank you very much for my wife and partner, Marian and Lee, for this great honor and great pleasure of joining in prayer with the President of the United States and Mrs. Reagan and the Vice President, a dear old friend, and Mrs. Bush, and great proportion of my former colleagues in the House and especially in the Senate and, having been to these breakfasts before, the great representation of the diplomatic corps and the clergy and many distinguished fellow Americans.

It is a great honor too to repeat verses from the Old Testament which I have cherished and my family has cherished for so many decades. I shall take the liberty of reading just a few which we love and especially sharing with you the common humility which opens minds and hearts of the most cherished dreams and aspirations in prayer.

First, from the Book of Micah, Chapter 6, Verse 8: What is good, and what doth the Lord require of thee? But to do justly and to love mercy and to walk humbly with Thy God.

And now my favorite Psalm and Mark Hatfield told me it is his, too, the 23rd Psalm: The Lord is my shepherd, I shall not want. He maketh me lie down in green pastures. He leadeth me beside the still waters; He restoreth my soul. He leadeth me in the path of righteousness for His name sake.

Yea, though I walk through the valley of the shadow of death, I will fear no evil; for Thou art with me. Thy rod and Thy staff, they comfort me. Thou preparest a table before me in the presence of mine enemies; Thou anointest my head with oil, my cup runneth over. Surely, goodness, and mercy shall follow me all the days of my life; and I will dwell in the House of the Lord forever.

And now, with your indulgence, my own prayer: May we be capable of respectful consideration of the views of our adversaries, and may we be active and resolute in pursuit of the passion for liberty and justice which we inherit from our civilization and our ages, for it can save us from the dread peril of extinction from weapons of destruction of our own invention, the threat of which hangs like a pall over us all.

May this passion for liberty and justice which still prevails in our land endure forever, and may it permeate the thinking and the feelings of all peoples as time goes on, whatever their form of government and whatever their social order. Amen.

Senator Hatfield. Willa Dorsey will now sing for us.

[Solo.]

[Applause.]

Senator Hatfield. It may break tradition, but I don't think it will break the dignity of this gathering if you want to say "amen."

At this time we are happy to call on the Honorable Jennings Randolph to offer a message of greeting from the Senate Prayer Group.

[Applause.]

Senator Randolph. President and Mrs. Reagan, Vice President and Mrs. Bush, and Antoinette and Mark, what a wonderful team. Let's cheer them. Would you do it for me?

[Applause.]

You know, those in public office and officials of government are often prone to exaggerate. I wanted to disabuse you at the very outset and say that I have checked the figures carefully. There are 3,200 worshipers in what is called the Ballroom International Center—3,200. There are 500 gathered in the Jefferson Room. I believe that comes out to 3,700, and that is probably the largest number of individual persons, worshipers that have been at any of the prayer breakfasts since 1953.

Back across the years, of course, comes the memory to me and others who are here of Frank Carlson of Kansas, the Senator is still living. It was Frank who brought our Senate Prayer Breakfast Group into being, and that was in 1942. And so the Prayer Breakfast Group has been around for another 42 years and now we are in the year of 1984.

The first day of the Second Session of the 98th Congress was, of course, on a Monday. We heard you on Wednesday, and then between Monday and Wednesday we were having the Prayer Breakfast in the Senate. And there were some 25 Senators from across this land who came together and who worshiped that morning in the Vandenberg Room of the United States Capitol.

I have thought so very often of people who are joined together in one place or another in worship. I naturally think of that church, the Washington Cathedral, atop the highest point in the District of Columbia, Mount St. Albens, and 5,000 worshipers can come together there.

And then being a man from the hill country, I can recall and do so very often the little church called Jobe's Temple. It seats 30 in the rural section of Gilmer County, in our state. It was constructed before the War between the States. It seats people on benches, but there are no backs so, you see, one could not go to sleep without falling over the bench and attracting attention to himself.

But when I think of these gatherings of people, I think, of course, of the little table, the breakfast table there in our home in Salem, a place of peace—that's the meaning of the word. And grandpa would come in, grandma sometimes. But we sat together.

And I hope you will understand—and I think you will—that we never could begin to eat, Ernestine and I could not begin to eat, not even look longingly at what was upon the plate until the prayer had been spoken, often by papa, sometimes by mama, but very often by grandpa who had come in rather quietly to sit with us.

I do feel that there is the place of meeting which is important, but I feel more strongly that it is the personal ministry of each one of you here today and across the world and around the globe, the personal ministry, after you have left the doors, whatever the doors may be, in which you have worshipped and go out to join your brothers and sisters, believing in many places, of course, formal religions but knowing that you are healed physically, you are healed mentally, you are healed spiritually by our God.

And so this morning I hope you will let me tell you that I trust you will join your hands just now, all of you who are sitting at the tables here and in the Jefferson Room because, as Mark knows, we never go out from our Prayer Breakfast Group, where some twenty are always there—40 or 50 of the Senators are active—we stand and we hold our hands together because there is something valuable in the clasp of hands as the closing prayer is said.

Thanks for allowing the Senate Prayer Breakfast Group through me to greet you this morning.

[Applause.]

Senator Hatfield. At this time we will have readings from the New Testament by the Secretary of Transportation, the Honorable Elizabeth Dole.

[Applause.]

Secretary Dole. Mr. President, Mrs. Reagan, Vice President Bush, Mrs. Bush, distinguished guests at the head table and in the audience: Each of us is faced with enormous challenges, pressures and demands on our time and energies. What a joy that in times of stress we as fellow believers can turn to the Lord, realizing that through our faith we have a source of strength, wisdom and courage far beyond our own. But this kind of reliance often isn't easy.

How many times I have struggled singlehandedly with a problem, only to recall belatedly that I don't have to deal with it alone. Serving God means trusting in His strength, yielding to His guidance and His will.

Through gatherings such as this, weekly bible studies and prayer breakfasts, and through the witness of our individual lives, we impart our faith to one another and we grow stronger in the Lord. Each of us is thus a blessing to the other as we face our individual challenges.

Because the words of Hebrews, Chapters 11 and 12, have meant so much to me in my spiritual journey, I would like to share some selected passages with you this morning.

And what is faith? Faith gives substance to our hopes and makes us certain of realities we do not see. By faith, Enoch was carried away to another life without passing through death. He was not to be found because God had taken him. For it is the testimony of scripture that before he was taken he had pleased God, and without faith it is impossible to please Him, for anyone who comes to God must believe that He exists and that He rewards those who search for him.

By faith, Noah divinely warned about the unseen future, took good heed and built an ark to save his household. By faith, Abraham obeyed the call to go out to a land destined for himself and his heirs and left home without knowing where he was to go. By faith, he settled as an alien in the land promised him, living in tents as did Isaac and Jacob, who were heirs of the same promise, for he was looking forward to the city with firm foundations, whose architect and builder is God.

By faith, even Sarah herself received strength to conceive, though she was past the age. By faith, Abraham when the test came, offered by Isaac. He had received the promises and yet he was on the point of offering his only son, for he reckoned that God had power even to raise from the dead.

By faith, when Moses was born, his parents hid him for three months. They were not afraid of the King's edict. By faith, Moses, when he grew up, refused to be called the son of Pharaoh's daughter, preferring to suffer hardship for the people of God, rather than enjoy the transient pleasures of sin. He considered the stigma that rests on God's annointed, greater wealth than the treasures of Egypt, for his eyes were fixed upon the coming day of recompense. By faith, he left Egypt and not because he feared the King's anger, for he was resolute as one who saw the invisible God.

Need I say more? Time is too short for me to tell the stories of Gideon, Barak, Samson, and Jephthah, of David and Samuel and the prophets. Through faith, they overthrew kingdoms, established justice, saw God's promises fulfilled. They muzzled ravening lions, clenched the fury of fire, escaped death by the sword. Their weakness was turned to strength. These, one and all, are commemorated for their faith.

And what of ourselves? Of all these witnesses to faith around us like the cloud, we must throw off every encumbrance, every sin to which we cling and run with resolution the race for which we are entered, our eyes fixed on the Lord, on whom faith depends from start to finish.

[Applause.]

Senator Hatfield. Would you please remain seated while I invite the Mayor of the City of Indianapolis, the Honorable William Hudnut, to offer a prayer for the national leadership.

[Applause.]

Mr. Hudnut. Thank you. President and Mrs. Reagan, Vice President and Mrs. Bush, distinguished guests: In the spirit of Abraham Lincoln who once remarked, it is the duty of nations as well as of men to own their dependence on the overruling power of God, to confess their sins and transgressions in humble sorrow, yet with assured hope that genuine repentance will lead to mercy and pardon, and to recognize the sublime truth announced in the Holy Scriptures and proven by all of history, that only those nations are blessed whose God is the Lord.

Let us Pray: Eternal God, source of all good, the ground of all being, Lord of Lords, light of lights, God of truth, God of life, God of love, God of Abraham, Isaac and Jacob, God of Ruth and Naome and Mary, God the Father of our Lord Jesus Christ, from whom to be turned is to fall, to whom to be turned is to rise, and in whom to abide is to stand fast forever. You are great and greatly to be praised. Be present, we pray, as we meet together in this 32nd Annual National Prayer Breakfast. Rule over us and in us and so imbue us with your spirit, that in faith and hope and love we may worship You this morning with reverence and gratitude and come to a clear understanding of your will for our lives and your power in time of need. As we vow to make ours a nation under God, help us to understand the difference between this and making a god of our nation, between looking upon You as the Lord of all nations and regarding You as the ally of one, between affirming my country for God and boasting God for my country, between praying humbly that we might be on your side and self-righteously asserting that You are on ours, help us to understand that You are on the side of those things that promote peace and freedom and justice, that build up rather than tear down, and draw together rather than drive apart, that contribute to the enhancement of human dignity and fulfillment and to the improvement of the quality of life, and help us to be on that side, too, O God, wisely, bravely, and sensitively. We believe You are a God of mercy as well as justice, so aware that all too often we fail to live up to the better angels in our nature. We ask for your forgiveness, pardon us for our mistakes and shortcomings, we pray, and grant that we may learn from them and become better persons, better leaders, better servants thereby. Almighty God, in your providential care for all your children, we believe you have plans for each one of us and power to make them happen. Give legislators, executives, judges, and government workers a knowledge of your will for them, for the world. Let us remember that we serve a public trust beyond personal gain or glory. May we see that our nation does not live for itself alone, but is responsible to You for peace and justice and freedom and for the well-being of all your children. And to You, Great God, be the praise and the glory now and forever, world without end. Amen.

Senator HATFIELD. We are privileged to have with us Barbara Jordan, former Congresswoman from the 18th District of the State of Texas.

Since leaving the Congress in 1978, she has held the Lyndon B. Johnson Chair of National Policy at the University of Texas, and she has done so with great distinction.

A wise sage once observed that no person has a right to be a teacher unless he or she possesses a singular teaching. Congresswoman Jordan has made clear through her advocacy for voting rights while she was a Member of Congress and in her subsequent professorship that indeed she does possess a teaching rooted in spiritual realities of her own. We are grateful to have her this morning to share with us her very special gift. Barbara.

[Applause.]

Ms. JORDAN. Thank you very much, Mr. President, Mrs. Reagan, Vice President Bush and Barbara Bush, and there are so many others, Members and officials and people of high office that I cannot acknowledge any further.

I am delighted to be here to deliver the message for this National Prayer Breakfast. I haven't given my remarks a subject, a title, but I will tell you what I am going to talk about. I am going to talk about the necessity for using, merging the inner life and the outer life, the inner self and the outer self.

When I told my colleagues at the University of Texas that that is what I was going to talk about, they said I hope there are no politicians where you're going. [Laughter.]

And I said why do you say that, sir? He says, well, people who are in politics have been stripped of their inner lives, they don't have any, they are empty inside, they are slow, they are plastic.

I told him he was not telling the truth. [Laughter.]

So let us begin. Knowing that here on earth God's work must truly be our own—knowing that here on earth God's work must truly be our own. Now, you will recognize those as the closing words of John Kennedy's Inaugural Address.

Would we behave as we do behave in word, thought and deed if we truly believed that we are God's stewards on this earth? Would our policy decisions be the same that they are if we were always consciously aware of our trusteeship role on this earth? Would our oversight responsibilities be sharper, more incisive if we believed that we are God's caretakers?

Our responses to these questions will reflect, will define how we relate our humanity to God. Your responses will also reflect the character and quality of your innate nature.

Shakespeare asks in one of his sonnets, what is your substance, whereof are you made. That's a big question. What is your substance? Whereof are you made? The answer to that question is not very simple.

Most of us would quickly retire to the Old Testament and say we are made in the image of God, and we would intone those words. But that response leaves too much unexplained. If we are made in the image of God, what is the source of our love of money? What is the source of our love of power? Profit? Wherein does greed and avarice and bitterness lie if you are made in the image of God? How do you explain your despoliation of the earth and propensity to rule over other men? How do we explain if indeed we are made in the image of God our capacity to extinguish mankind?

We are very complex beings and we seem to be bifurcated between an outer self and an inner self. In my opinion—underscore "in my opinion"—the innate nature of man is good, basically good. For me, our inner self seems to be in touch with God and communicating with Him regularly. This inner self is likeable, caring, compassionate. The instincts of the inner are right ordered, well ordered. The outer self appears to be dominant and the outer self seems extraordinarily willing to negotiate those basic fundamental principles which arise from within. The outer self is our sophist to the world. Inner, outer self, each experience some victories, some defeats.

Tension between an inner and outer self is both wearing and worrying. The problem is that this tension does not have to be inner, outer, can be one, should be one. They should be in such close relationship with each other that you can't tell where one leaves off and the other begins. They should be congruent. Our demonstrable actions reflect our inner reality.

Now, this point is made very well by Jonathan Shell who is writing a series of articles in The New Yorker on nuclear arms. This one statement I take from one of those articles: If the inner landscape of the soul does not change, the outer landscape of the world does not change either. And once the choice is made, it must, like every profound moral and spiritual decision, be continually refreshed and renewed. The inner self, notwithstanding its nature, is not static. It needs improvement. The fusion of inner and outer self should result in a whole person fully aware that God's work is truly our own. This awareness should be presaged by a personal view from each of us about the innate nature of man.

Now, I gave you my personal opinion. For centuries, the issue of the innate nature of man has been discussed: Are we good, are we evil, basically? The ancient Chinese philosopher Mencius taught this: Humans are inherently good and fall into evil ways by forgetting or losing their original capacity for goodness.

In direct opposition to that point of view, another Chinese philosopher Hun Su taught: Man is by nature evil and goodness is the result of conscious activity. And then there is the biblical view of human nature: Man was created in the image of God and fell from grace through his own act of rebellion.

Whatever your view about the nature of man, there is no precedent, historical or contemporary, for man to be two people in one. There is no precedent for that. This is a duality which we have contrived for our convenience. We can talk about this and explain our aberrant behavior without saying much more.

As a people with merged, with fused inner and outer selves, we eliminate the distinction between image and reality. We cease projecting shadows where substance is required. That person who is whole has a non-negotiable set of values, a non-negotiable set of principles. Core beliefs, they are advanced boldly. These core beliefs of this whole person includes—well, it includes several things, but I want to just mention two.

The first, justice. Justice is the flagship principle. Justice is the overarching principle. Justice is fairness. Justice is proportionality. Justice is rectification. Justice is equity. Justice.

It was Reinhold Niebuhr who said that justice is the highest ideal of society. A belief in justice is very simple: Everyone is treated fairly by everyone else. There is nothing very complicated about that belief, but the whole person has it.

This entitlement, entitled to be treated fairly by everyone else, this entitlement is so simple because it is right. It is just right that everybody is entitled to be treated as fairly as everybody else, and you need nothing sophisticated, no deep insight to recognize that basic right.

Justice should be followed by just acts. This is a belief that justice should pervade our personal and our institutional relationships.

Another ingredient, the second one that I will include in this four set of beliefs of this whole person, selflessness. Oh, that is hard. It is very difficult to attain selflessness. Why is it difficult? Well, it is just natural for self-preservation to be paramount for us. But if self-preservation is paramount, you are failing to actualize the spirit of Christ. There is no doubt about that. Self-denial feels very alien on a landscape of acquisitiveness, profits, competition, progress. Self-denial—yes, we ought to have it.

God's work is for the many, not the few. We can deny ourselves some things. If sacrifice is a requirement for the common good, let's sacrifice. That's required of us. It is so much easier to pay lipservice to sacrifice than to really do it. Oh, how we like to beat our breasts and say how we are suffering and what we are giving up. But we can sacrifice. God's strengthening of us and our knowledge of God's requirements of us, which were read by Senator Javits from Micah, what does the Lord require of thee, God's strengthening of us and acknowledgement of his requirements of us will help us sacrifice.

To what end has this merger of inner and outer self occurred? What difference does it make that we have this fusion of inner and outer self? Well, if we are whole people, there are some very old words which will be used to define us, words like truth, virtue, honesty. Our political and policy decisions will be released once we are old. Our political and policy decisions will be released, can be released for ethical analysis and hold up wonderful, with a good conscience our only sure reward, with history, the final judge or our needs.

Let us go forth and lead the land we love, asking His blessing and His help, but knowing that here on earth God's work must truly be our own.

Thank you.

[Applause.]

Senator HATFIELD. Thank you very much, Barbara.

Ladies and gentlemen, the President of the United States.

[Applause.]

The PRESIDENT. Thank you very much. Thank you, Mark, and thank all of you, ladies and gentlemen. Before I tell you what I was planning to say this morning, Senator Javits, you concluded your reading with a prayer so, of course, I know and understood that all of us are customed not to applauding prayer. But I can't help but think that all of us here have a hunger within us to applaud you for your presence here and what you have meant to this gathering.

[Applause.]

Barbara, I had a terrible fear there for a few moments that you were going to make anything I had to say redundant, but I think that maybe the two fit together.

We all in this room I know—and we know many millions more everywhere—turn to God in prayer, believe in the power and the spirit of prayer, and yet so often we direct our prayers to those problems that are immediate to us, knowing that He has promised His help to us when we turn to Him. And yet in a world today that is so torn with strife, where the divisions seems to be increasing, not people coming together within countries, divisions within the people themselves, I wonder if we have ever thought about the greatest tool that we have, that power of prayer and God's help.

If you could add together the power of prayer of the people just in this room, what would be its megatonnage, and have we maybe been neglecting this and not thinking in terms of a broader basis in which we pray to be forgiven for the animus we feel towards someone in perhaps a legitimate dispute and at the same time recognize that while the dispute will go on we have to realize that that other individual is a child of God even as we are and is loved by God as we like to feel that we are.

This power of prayer can be illustrated by a story that goes back to the Fourth Century. An Asian monk living in a little remote village, spending most of his time in prayer or attending the garden from which he obtained his sustenance—I hesitate to say the name because I am not sure I know the pronunciation, but let me take a chance—it was Telamachus, back in the Fourth Century. And then one day he thought he heard the voice of God telling him to go to Rome and, believing that he had heard, he set out and weeks and weeks later he arrived there, having traveled most of the way on foot. And it was at a time of festival in Rome, they were celebrating a triumph over the gods and he followed a crowd into the Colosseum and then there in the midst of this great crowd he saw the Gladiators come forth and stand before the emperor and say, "We who are about to die salute you," and he realized they were going to fight to the death for the entertainment of the crowds and he cried out, "In the name of Christ, stop," and his voice was lost in the tumult there in the great Colosseum. And as the games began, he made his way down through the crowd and climbed over the wall and dropped to the floor of the arena, and suddenly the crowd saw this scrawny little figure making his way out to the Gladiators and saying over and over again, "In the name of Christ, stop," and they thought it was part of the entertainment and at first they were amused. But then when they realized that it wasn't, they grew belligerent and angry and as he was pleading with the Gladiators, "In the name of Christ, stop," one of them plunged his sword into his body and, as he fell to the sand of the arena in death, his last words were, "In the name of Christ, stop."

And suddenly a strange thing happened: The Gladiators stood looking at this tiny form lying in the sand, a silence fell over the Colosseum, and then some place up in the upper tiers an individual made his way to an exit and left and others began to follow and in a dead silence everyone left the Colosseum. That was the last battle to the death between Gladiators in the Roman Colosseum. Never again did anyone kill or did men kill each other for the entertainment of the crowd. One tiny voice that could hardly be heard above the tumult, "In the name of Christ, stop." It is something we could be saying to each other throughout the world today.

Now, several days ago while I was very concerned about what I was going to say here today and trying to think of something to say, I received through diplomatic channels a message from far out across the Pacific. Some time ago, our ambassador presented to General Romulo of the Philippines the American Medal of Freedom. Not only had he been a great friend of the United States in our time of war, but then he had spent 17 years as an ambassador here in Washington from his country to ours. And for whatever reason, he sent this message of thanks to me for the medal that had been given, and then included the fairwell statement that he has made when he left Washington, left this country after those 17 years. And I had to confess, I had never been aware that there had been such a farewell message and I am quite sure that many of you hadn't, and so I am going to share it with you. I think it fits what we are talking about today.

He said: I am going home, America. For 17 years I have enjoyed your hospitality, visited every one of your fifty states. I can say I know you well. I adore and love America. It is my second home. What I have to say now in parting is both tribute and warning. Never forget, Americans, that yours is a spiritual country. Yes, I know you are a practical people. Like others, I've marveled at your factories, your skyscrapers and your arsenals. But underlying everything else is the fact that America began as a God-loving, God-fearing, God-worshiping people, knowing that there is a spark of the Divine in each one of us. It is this respect for the dignity of the human spirit which keeps America invincible. May you always endure and, as I say again in parting, thank you, America, and farewell. May God keep you always and may you always keep God.

Thank you.

[Applause.]

Senator HATFIELD. Will you please remain standing. We will now call upon our colleague from the House of Representatives, the Honorable Daniel Akaka, to lead us in the singing of a closing hymn and then we will have a closing prayer.

Mr. AKAKA. Mr. President, Mrs. Reagan, Mr. Vice President and Mrs. Bush, distinguished friends, let us join together in singing this great classic and universal hymn, "How Great Thou Art."

[Closing song.]

Senator HATFIELD. And now to give us the closing prayer, I would like to call on the Chief of Naval Operations, Admiral James D. Watkins.

Admiral WATKINS. Would you please join me in the closing prayer: Most gracious God, our Creator, King of the Universe, Eternal Father, strong to save. This gathering has been a blessing for all of us. Our bodies have been nourished with daily bread. Our souls have been nurtured with scripture. Our minds have been inspired with wise exhortation. Therefore, Lord God, let us now go forth to our labors in the attitude of prayer, confessing that all authority in Heaven and on Earth has been given to You, conscious that we, like the centurian of old, are men and women under authority, responsible to seek and do Your will, committed to the protection of freedom, the goals of peace, the doing of justice and the love of kindness and called in strength of faith to walk forward into tomorrow and tomorrow's tomorrow, humbly in Your Holy Name. Amen.

Senator HATFIELD. May we request that each of you please remain in your positions until the President and Mrs. Reagan have been escorted from the platform, and the Vice President and Mrs. Bush have been escorted from the platform.

Thank you again, Mr. President and Mrs. Reagan, for being with us this morning.

[Applause.]

DOMESTIC CONTENT: A DISASTER IN THE MAKING

Mr. CHAFEE. Mr. President, there is no softer way to say it, so let us not mince words:

Domestic content legislation would be a disaster for the United States.

Study after study has shown that it would raise the price of every new automobile sold in the United States by a thousand dollars or more; that it would cost a net loss of up to 100,000 American jobs; and that it would lead inevitably to foreign retaliation.

The sponsors of this legislation cannot refute these studies, so they fall back on rhetoric: let us get tough with the Japanese and pass this bill to show we mean business about forcing Tokyo to relax its own trade restrictions on American produce, goods, and services.

I am not here today to defend the Japanese. Heaven knows they impose many unfair trade barriers to American products.

But starting a trade war in which we have far more to lose than we do to gain is hardly the way to solve the problem of unfair trade practices imposed by the Japanese.

If it were to become law, domestic content would almost certainly invite retaliation from the Japanese against American exports. Far from encouraging the Japanese to agree to our pressing demands that they open their markets to more American products, domestic content would likely make the Japanese even more intransigent than they have been in the past.

Mr. President, in December I wrote a lengthy article on the subject of domestic content for the San Diego Union. I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the San Diego Union, Dec. 18, 1983]

Auto Content Bill Bound To Backfire

(By John H. Chafee)

By the end of this year, American automakers will have built 7 million cars, up from 5.8 million in 1982—a 20 percent increase.

Detroit is profitable again:

General Motors has netted more than $2.4 billion through September, including $737 million in the third quarter—the highest quarterly profit in its history.

Ford posted a net profit of nearly $1.1 billion for the first nine months of the year.

Even Chrysler—an economic basket case only a couple of years ago—has reported net earnings of more than $580 million for the first three quarters, a figure that is higher than that reported in any full year in the company's history.

Meanwhile, more than 105,000 auto workers have returned to the assembly lines since January, and more are expected to be called back. Some dealers are even complaining that there is a shortage of American automobiles, and that they could sell more if they could get them.

So why is it, against this success story of a revitalized U.S. auto industry, that the House of Representatives has just passed a bill that would raise the cost of every automobile sold in the United States by a thousand dollars or more, and which would cost the jobs of more than 60,000 hard-working men and women?

The answer lies in the fact that protectionism, fueled by an urge to "get tough" with the Japanese, is back in vogue.

The legislation in question is the so-called "domestic content" bill. Approved by the House on Nov. 3 by a vote of 219 to 199, its objective is to force the Japanese to build a major percentage of their cars in the United States, thus shutting off their exports to this country.

This bill is bad public policy, both in terms of our own economy and in terms of our trade relations with others.

Domestically, it would impose a new and unwelcome burden on American consumers and workers. The President's Council of Economic Advisers has estimated it would increase the cost of every automobile sold in the United States by an average of $1,000, and some estimates have placed that figure as high as $3,000. Meanwhile, the Congressional Budget Office estimates the bill would cause a net loss of 66,000 American jobs by 1990, and that figure is likely conservative.

But it is from the perspective of our trade policy that the greatest damage would be done.

If it becomes law, domestic content would almost certainly invite retaliation from the Japanese against American exports. Far from encouraging the Japanese to agree to our pressing demands that they open their markets to more American products, domestic content would likely make the Japanese even more intransigent than they have been in the past.

The growing importance of trade to our economy is often overlooked by Americans, but the facts speak for themselves.

The produce of one out of every three acres cultivated in the United States is shipped abroad, providing over a million U.S. jobs in the agricultural sector of our economy. Japan alone buys more than $6 billion worth of farm commodities each year.

One out of every six American manufacturing jobs is dependent upon exports. More telling, between 1977 and the onset of the recession in 1981, four out of every five new jobs in manufacturing in the United States were the result of American products destined for foreign markets.

In 1970, exports accounted for 4 percent of the U.S. gross national product; by 1980, that figure had doubled to 8 percent.

As the world economy recovers from the global recession of 1981 and 1982, trade will continue to provide a growing share of jobs for American workers and profits for American companies. But those jobs will not materialize if the world's major industrial nations begin erecting new trade barriers to stem the freer flow of goods and services throughout the world market.

That is why domestic content is a dangerous development, for it symbolizes a growing restlessness in the United States with the snail's pace of negotiations to knock down foreign trade barriers—especially those of the Japanese. Furthermore, the bill is a sign of the increasing political appeal of protectionist measures to shut out foreign goods from the American market.

No one these days admits to being a protectionist; the word remains taboo in the lexicon of politics, and most politicians continue to pay lip service, at least, to "free trade."

The fact remains, however, that Congress and the administration have beeen confronted in recent months with a spate of proposals to restrict foreign imports. These include not only domestic content, but also any number of import quota proposals, so-called "buy American" schemes, and tit-for-tat "reciprocity" legislation to impose tough and inflexible American restrictions in retaliation for foreign trade barriers.

These proposals have different constituencies; some are pushed by labor, some by industry. But, taken together, they constitute a "neoprotectionist" agenda with growing lists of adherents.

Efforts to protect American goods from foreign competition are nothing new. Beef, textiles and other commodities and goods have long been singled out for protection; recently we've added others, ranging from motorcycles to clothespins. But by and large, Congress throughout the post-war period has tended to resist more egregious protectionist proposals because Democrats and Republicans agreed that our national interest can best be served by promoting generally freer trade throughout the world.

What has changed is that most of the recent proposals on the neoprotectionist agenda are far more sweeping in nature than those of the past. Domestic content, for example, is aimed at Japanese automakers, but precisely because the auto industry is such a major portion of the industrial base of both Japan and the United States, the bill would affect the manufacture and assembly of a host of products, ranging from machine tools to glass, from electronics to steel.

Furthermore, the current complaints about foreign competition are often accompanied by a shrill rhetoric that borders on near-hysteria, especially when it concerns the Japanese. One Democratic senator, for example, complained with more fervor than historical accuracy that the Japanese reluctance to extend existing "voluntary" quotas on their auto exports to the United States amounts to "another Pearl Harbor."

Ironically, the more vocal supporters of these neoprotectionist schemes have tended to be Democrats and representatives of labor. Both of these groups have long pointed with justifiable pride to their commitment to free and unfettered trade. Meanwhile, Republicans historically have tended to stand in opposition to free trade. Oddly enough, now the roles have been reversed.

There are many examples of this new political polarization over trade policy.

Last Dec. 15, for example, both the Senate and the House of Representatives voted on two elements of the neoprotectionist agenda. On that day, the House passed an earlier version of the domestic content bill at the same time that the Senate was rejecting an amendment to the gas tax bill to require that 100 percent of steel and cement used in road and bridge construction come from American mills.

In both the Senate and House votes of last December, 75 percent of the Democrats voted for the neoprotectionist position, while 75 percent of the Republicans stood in support of continued free trade. In the Nov. 3 vote, these percentages remained virtually the same.

The two leading candidates for the Democratic presidential nomination—former vice president Walter Mondale and Sen. John Glenn—have both endorsed the domestic content bill. Indeed, it is no coincidence that Mondale, whose candidacy has been endorsed by the AFL-CIO, has been the most strident and outspoken advocate of domestic content among the Democratic presidential candidates.

Meanwhile, President Reagan has been a steadfast opponent of the bill, and would veto it if it should ever reach his desk.

Where does this leave us?

For starters, I believe that House passage of the domestic content bill in the face of a revitalized auto industry indicates that pressure to give final approval to this and other elements of the neoprotectionist agenda will continue to mount. Beyond this, I think it is likely we will see an acceleration of the political polarization of trade, with Democrats seeking to make it a major issue in the 1984 campaign.

Those who support freer trade—especially Republicans—should not flinch from such a development, as the administration did when it sought an extension of Japanese auto import quotas last month. Instead, Republicans should welcome a wide-ranging debate over trade. It is a golden opportunity to broaden the party's appeal and to win new votes from consumers, farmers and workers.

There is potent political ammunition in free trade.

First, protectionism is blatantly against the interests of consumers. In virtually every case, import restrictions lead to both higher prices and a restricted selection of consumer goods. From the standpoint of the consumer, the "voluntary" quotas on Japanese auto imports have been bad; domestic content would be disastrous. Free traders should take the offensive and demand that the neoprotectionists justify the higher costs they want to impose upon millions of Americans.

Second, major portions of the farm community are well aware of the vulnerability of American agriculture to foreign retaliation if we begin erecting new trade barriers. With over a million U.S. jobs dependent upon exports of billions of dollars worth of agricultural commodities, the major farm organizations have been in the forefront of opposition to domestic content and will likely oppose other protectionist moves. Ronald Reagan and Republicans in general were the beneficiaries in 1980 of farm discontent over the Carter administration's Russian grain embargo. In 1984, Republicans can again ask why Democrats want to imperil farm exports.

Third, protectionism will inevitably mean a net loss of American jobs which stem from trade, both imports and exports. For every job "saved" by protectionism, many others will be lost. Let the protectionists justify such actions to destroy American jobs.

No one maintains that we do not face serious problems in our trade relations with others, especially with Japan. Japanese trade barriers are both unfair and frustrating to Americans. The question is whether we give in to the frustration by enacting laws which merely aggravate the problem, or whether we will persevere in the slow and tedious process that is needed to overcome Japanese resistance to the opening of their markets to more American goods and services.

In 1984, there will be many who campaign by taking a hard line against Japanese. Shrill rhetoric may well sway voters; that would be nothing new in American politics.

But I am convinced there are more votes to be gained by those who appeal to the proven benefits that have always stemmed from trade as free and unfettered as we can make it: good jobs for America's industrial workers in growing numbers; agricultural prosperity, based in large part on exports; and stable or lower prices for consumers resulting from tough competition in the marketplace.

If trade is thus to be one of the major political issues in 1984, let's go to it. It's an issue on which the Republican Party is on the side of the angels—and the voters.

An historical example, a half-century old, is relevant today.

In 1930, a Republican Senate and House passed the Smoot-Hawley Tariff Act, the most restrictive trade law in our history.

One of the officially stated purposes of Smoot-Hawley was "to protect American labor" from unemployment allegedly caused by imports of foreign goods.

In an impassioned speech remarkably similar to those of latter-day protectionists who champion the domestic content bill, the Republican co-author of the 1930 law—Rep. W. C. Hawley of Oregon—thundered to the applause of his colleagues that "a government would be remiss in its duty that did not, so far as legislation may, protect the people in obtaining employment necessary for their subsistence, comfort and betterment."

For all the cheering, however, the consequences were inevitable: Within months, retaliatory laws had been passed by virtually all of America's industrial trading partners; world trade plummeted by 60 percent in two years; a depression gave way to the Great Depression.

Hawley's words did not help put Americans back to work; rather, they paved the way for higher unemployment, as will domestic content today if it becomes law.

A 13-term congressman, Hawley was defeated in his bid for re-election in 1932, denied even the nomination of his own party in the wake of the economic chaos his efforts had done so much to create.

LITHUANIANS STILL STRUGGLE FOR FREEDOM

Mr. PRESSLER. Mr. President, February 16 marked the 66th anniversary of the Declaration of Lithuanian Independence. We presently have approximately 1 million people of Lithuanian descent residing in the United States. Let us pay tribute to these proud people who continue their struggle to regain a free and independent Lithuania.

Russia and Soviet domination of Lithuania has been prevalent since 1794, except for a brief period of freedom between 1920 and 1940. In 1940, with Hitler's concurrence, the Soviet Union invaded the Baltic States of Estonia, Latvia, and Lithuania, and established them as military bases. Mass deportations followed and Lithuanians were cruelly treated by the Soviet invaders.

Though Soviet dominance continues to this day, the Lithuanian people are to be commended for their fierce independence and strong national identity. The Catholic Church is an important part of Lithuanian culture and human rights protests are not uncommon. It is remarkable that after almost 200 years of suffering, these brave people are able to continue their spirited fight for human decency and personal freedom.

Mr. President, the following is an excerpt taken from "The Violations of Human Rights in Soviet Occupied Lithuania." It is a good indication of the effects of Russian occupation on the Lithuanian people:

1. The rulers in the Kremlin understand very well that sooner or later an end will come to the Russian empire as well. On the basis of the interests of Russia alone, already today in appropriate ruling circles there is preparation to construct a new state on the basis of a more convincing ideology when the communist empire disintegrates. Therefore, it is sought to gradually increase the number of Russians in Lithuania (as in Latvia) so that they would comprise half of the inhabitants. Then this part of the population would have the formal right to demand a voice in deciding the fate of Lithuania, that is, to "merge" it again with Russia when Russia allegedly has chosen the democratic course.

2. It is hoped that a Lithuanian, psychologically brainwashed and persuaded by the advantage of union, could bring upon himself voluntarily a new Russian yoke. The colonists are indispensable in this process of "softening". It has been noted that the Russian mode of thought, Russian traditions are forced upon the collectives where the Lithuanians today comprise a minority. With the aid of Russian colonists an atmosphere of loyalty to the occupational regime is being created.

3. The Russian colonists, averse to anything Lithuanian, do not study our language and, besides, compel others to speak only Russian in various offices. After the Tashkent Conference plans were developed to reduce the rights of the Lithuanian language and to enhance the role of Russian as means of interpersonal relations. The executors of this plan are the Russian colonists. They will teach Russian, disseminate the Russian literature from the kindergarten to the auditoriums of higher schools.

4. The Russians alone are allowed to enjoy the constitutional right of teaching their children in their native language. Some 200,000 Lithuanians in East Prussia (the so-called Kaliningrad region), Latvia, and Siberia do not have a single Lithuanian school at their disposal. But whenever Russians settle in the Lithuanian countryside, their first demand is for Russian schools to educate their children. Special Russian classes are being established in many Lithuanian schools. In this way the interaction with Russians and later mixed marriages are encouraged. Although the children of such families most likely will speak Lithuanian, nevertheless they acquire a Russian mode of thought and remain completely indifferent in respect to the Lithuanian nation.

5. The Russian colonists are weakening the physical potential of the Lithuanian nation. Demobilized Russian soldiers and officers are the first to be provided with apartments. The same privilege is enjoyed by "highly qualified specialists" who come from Russia. Their children have easier access to universities. Because of the housing shortage and insufficient kindergartens, Lithuanian newly-weds are compelled to limit the number of children. This has led to the decline of the natural birth rate, something about which even the Lithuanian Soviet demographers are alarmed.

6. Although we do not consider our nation superior to the Russian nation, under the present conditions certain segments of the Russian colonists demoralize our nation. The immigrants are as a rule people of a low moral profile, motivated by material gain, not excluding the criminal element.

7. The Russian colonists, many of whom come from the Siberian vastness, bring a lack of respect for nature. The devastated woods of our suburbs is their handiwork. Once they get into the leading position, the colonists recklessly decimate Lithuania's forests, pollute the waters, etc.

8. Russian immigrants occupy the so-called "command positions" in Lithuania. They have taken almost complete control of the railroads, of the war industry, and of the system of communications. Under the pretext of job shortage, Lithuanian specialists are sent to work (and to become denationalized) to the "fraternal republics".

9. The raw materials brought from Russia to Lithuania are processed by Russian colonists. (Most of the industrial workers in the Vilnius region are Russians). The processed goods make their way back to Russia. The economic damage is obvious. But it is compensated by political profit—an idea is being nurtured in Lithuanian minds that if Lithuania became independent, all Lithuanian industries would stop without Russian raw materials.

Mr. President, the tragic consequences of Soviet ethnic policies are all too apparent. Let us again pledge our solidarity with and support for the efforts being made by the Lithuanian people to achieve independence and to preserve their national identity.

ESTONIANS RESIST YOKE OF OPPRESSION

Mr. PRESSLER. Mr. President, the people of Estonia ask that we join them in observance of the 66th anniversary of their Declaration of Independence on February 24. Though the Estonians have long suffered from Soviet domination, their spirit remains high. Their dedication to independence remains great. They are truly worthy of our highest respect as they struggle to keep the light of freedom burning.

In 1940, an agreement between Stalin and Hitler preceded a massive Soviet invasion of Estonia, Lithuania, and Latvia. Estonia and her sister Baltic States were turned into massive military bases. Today, their national territory is the site of Soviet submarine, warship, missile, airfield and heavy armor military installations. At the end of 1983, the 1½ million people of Estonia were under the domination of 122,000 Soviet troops.

The Estonians have not accepted the occupation without resistance. Freedom and human rights protests are conducted at the risk of harsh retaliation by Soviet authorities. A 1981 petition calling for a Baltic nuclear-free zone and signed by a group of Estonian, Lithuanian, and Latvian peace activists resulted in massive arrests and labor camp internments.

Mr. President, as Estonians commemorate the 66th anniversary of the Declaration of Independence of the Republic of Estonia, let us again unite in support for their cause. They certainly deserve a better fate than that which has befallen them. We must not rest until their goal of a democratic and free state is realized in its entirety.

SENATE PASSAGE OF THE YELLOW RAIN RESOLUTION—SENATE RESOLUTION 201

Mr. PRESSLER. Mr. President, without fanfare, the Senate took an extremely important step on February 9. On that day, the Senate formally took a stand on the continuing use and/or provision of chemical and toxin warfare agents by the Soviet Union in Southeast Asia and Afghanistan.

Since I introduced this important resolution (S. Res. 201) on August 4, 1983, a total of 36 Senators joined me in cosponsoring this resolution. The use of chemical and toxin weapons is outlawed by two agreements to which the Soviet Union is a signatory. The victims of these atrocities are not exclusively combatants. Indeed, the overwhelming majority are civilians, unfortunate enough to find themselves in the middle of wars that are not of their making. Of the civilian victims, the weakest have suffered most. These include children and the elderly.

Several issues are tied into this heinous form of warfare. The use of chemical and toxin agents raises questions about Soviet compliance with signed and ratified accords. This cannot but have a chilling effect on current efforts to reach arms control agreements. Moreover, the use of this deadly form of warfare represents a violation of the most basic form of human rights. There can be no hope of improved quality of life when the right to life and to live in peace are denied.

There are those who have urged that until we find a "smoking gun" for yellow rain, that the Senate and the U.S. Government remain silent. I cannot but disagree most strongly with this logic. We may not have a smoking gun, but the quantity and quality of evidence is overwhelming. There is a compelling case demonstrating that this deadly and outlawed form of warfare has occurred and continues to occur.

The failure to obtain a smoking gun must be placed at the Kremlin's doorstep. The Soviets have refused to cooperate with all nations and organizations that have sought to investigate the many instances of suspected chemical and toxin warfare. Even an impartial international team created by the United Nations has been met by Soviet refusal to provide access to areas where incidents have occurred. Nevertheless, the United Nations has produced an interim report that adds weight to the charges first raised by the United States. Let us note, that this issue is not one for partisan politics. The original presentation to the United Nations was made by the Carter administration. Under President Reagan's leadership the U.S. investigation has continued. The result was the compilation of two massive reports presenting strong evidence of the atrocities being committed by the Soviets and/or their agents in Afganistan and Southeast Asia.

Fortunately, the United States is no longer alone in pressing these charges. In addition to the U.N. findings, the governments of Canada and France have conducted independent inquiries and have also concluded that chemical and toxin agents are being used. We have been told that other governments have also looked into the case of yellow rain and have come to the same conclusion. It would be invaluable if these governments made their findings public.

As for other governments, Senate Resolution 201 urges that they carefully examine the evidence on yellow rain. Should they remain skeptical, the Senate urges that they conduct independent investigations. Such activities are vitally important if world opinion is to bring an end to this unacceptable situation. Moreover, the weight of international condemnation is a most powerful tool for assuring that arms control agreements will not be violated. Yellow rain is an important litmus test of the international community's responsibility in arms control. Silence serves no nation's interest, especially in the Third World.

It is the Third World that has provided the arena for chemical and toxin warfare. Unless these nations speak out and speak out forcefully, they should not expect help should they become the new testing ground or battle field for yellow rain. Indeed, it is important to note that the U.S. Ambassador to the United Nations yesterday transmitted additional evidence on the situation involving the use of chemical and toxin agents. This report notes an ominous new situation of chemical weapons use in the Middle East war between Iraq and Iran. It is evident from this new report that chemical and toxin warfare is not only an East-West issue, but threatens the security and safety of the entire global community. Therefore, yellow rain must be of concern to all nations. For this reason, I agree strongly with the administration that chemical, toxin, and biological warfare issues must be addressed multilaterally in the Committee on Disarmament in Geneva. If bilateral talks between the United States and the Soviet Union begin, they must be a complement and not a substitute for multilateral discussions. To repeat, chemical and toxin warfare is a global issue. The Third World is most threatened by chemical and toxin warfare.

For this reason, Senate Resolution 201 urges that the Committee on Disarmament focus its attention on the issues raised by yellow rain. It is evident to the Senate that a key failing of current chemical, toxin, and biological accords is their lack of an effective verification system. It is clear that the Soviets and their allies are exploiting the verification loopholes to prevent a thorough investigation which might find the smoking gun. Moreover, Senate Resolution 201 urges that the administration work closely with the

United Nations to obtain unhindered access for its investigators to areas of suspected chemical and toxin warfare. The Soviets have a responsibility to cooperate under the spirit of the current accords. Their failure to assist the United Nations and other investigators cannot but lend support to the view that Moscow has something to hide.

As I have stated, the Senate has now made its position known on this unacceptable situation. I wish to thank the 36 Senators who joined me in cosponsoring Senate Resolution 201. The broad base of cosponsorship makes it clear that the Senate's deep concern for yellow rain is not based upon party or philosophical lines. Credit for passage of Senate Resolution 201 must go to Senator PERCY, the principal cosponsor, who expedited action on this measure in the Foreign Relations Committee. The other cosponsors also assured quick action for Senate Resolution 201 on the Senate floor.

Mr. President, I ask unanimous consent that Senate Resolution 201 together with the list of cosponsors be printed in the RECORD at the conclusion of my remarks.

Mr. President, passage of Senate Resolution 201 did not go entirely unnoticed. It was the subject of a lead editorial in the Wall Street Journal on February 15, 1984. But as that editorial makes clear the debate on yellow rain is far from concluded. It is important to remember that silence is an unacceptable action while people's lives and the future of arms control are at stake. By noting that the evidence on yellow rain is compelling, the Senate has done an important service. I ask unanimous consent that the Wall Street Journal editorial be printed in the RECORD at the conclusion of my remarks.

As I have already noted, Ambassador Jeane J. Kirkpatrick has transmitted a new report on chemical and toxin warfare to the U.N. Secretary General. This report gives further weight to the case pointing to Soviet use and/or provision of these heinous warfare agents.

Mr. President, I ask that Ambassador Kirkpatrick's report to the United Nations be printed in the RECORD, along with Senate Resolution 201 and the Wall Street Journal editorial.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. RES. 201

Whereas the accumulated evidence indicates that the Soviet Union is engaged in the use and/or provision of chemical warfare agents in Southeast Asia and Afghanistan;

Whereas this finding is based upon investigations conducted by the United States Government and by other governments and international organizations such as the United Nations and the Governments of Canada and France; and

Whereas such activities are in contravention of arms control agreements signed and ratified by the Union of Soviet Socialist Repubics: Now, therefore, be it

Resolved. That it is the sense of the Senate that the United States should immediately seek to—

(a) urge that other governments carefully assess the evidence and, where possible, conduct their own independent investigations of suspected chemical warfare;

(b) assist the United Nations to gain unhindered access for United Nations investigators to areas where chemical and toxin weapons use is suspected; and

(c) negotiate with the Soviet Union and other nations the strengthening of existing agreements on chemical, biological, and toxin weapons so as to provide effective mechanisms for assuring compliance, to include provision for on-demand, onsite inspection when necessary.

[From Wall Street Journal, Feb. 15, 1984]

SCIENCE AND WINDMILLS

Among men of affairs the "yellow rain" debate is closed. Last Thursday, for example, the U.S. Senate took up a resolution declaring that the Soviet Union and its allies have been waging chemical warfare in Southeast Asia and Afghanistan and violating arms-control agreements. The resolution was offered by 37 co-sponsors from all over the partisan and ideological spectrum, and passed by voice vote without a single dissent.

In the scientific community, however, Harvard biochemist Matthew Meselson and a few allies have managed to keep dissent alive. Indeed, his views have recently received their most extensive airing to date. Chemical and Engineering News, the weekly publication of the American Chemical Society, devoted 27 pages of its Jan. 9 edition to an article by staff writer Lois R. Ember making the brief for Prof. Meselson's doubts.

"The U.S. simply has not proved that toxin warfare has take or is taking place," Ms. Ember concludes. Most if not all yellow-rain samples contain not only the trichothecene toxins the government has identified as the active ingredient of yellow rain, but also pollen, which Prof. Meselson says may be bee feces. From this Ms. Ember concludes that "The government may have unearthed, quite by accident, a very serious public health problem in Southeast Asia."

Ms. Ember's commendably exhaustive research certainly identifies the weak points in the government's case. The number of samples testing positive for trichothecenes is small—five environmental samples from leaves or water and 20 biological samples from blood and tissue of people who said they were attacked. Many other samples were not tested immediately but were saved pending the development of an Army in-house laboratory, which has come up with negative tests of all samples including one that tested positively before. We would be the first to agree-indeed we have been saying from the first-that the government should have been more careful and more energetic in its efforts to investigate.

Still, the conclusion that yellow rain is not only real but a toxin weapon is supported by an impressive web of evidence. Refugees' reports from Laos, Cambodia and Thailand, collected by both the U.S. and the United Nations and sometimes corroborated by intelligence about military activities, tell of chemical attacks, frequently with yellow smoke and most typically causing bleeding, blistering and other bizarre symptoms. These symptoms suggest trichothecene poisoning, the best-known outbreak of which was in the Orenburg district of the Soviet Union during World War II. Trichothecenes were found in sample collected from attack sites, as well as from a Soviet-made gas mask from Afghanistan. Trichothecenes or their metabolites were found in the blood of people who said they were attack victims. The obvious and consistent explanation is biochemical warfare.

Against this Prof. Meselson and Ms. Ember put up an alternative thesis consisting of a series of ad hoc conjectures: that the various refugees were confused or lying. And that the yellow spots collectd in samples were deposits of bee feces. And that trichothecene-producing fusarium molds grow naturally on bee feces. And that the Soviet gas mask was a forgery or accidentally contaminated in U.S. lab. And that the people who said they were attack victims and had trichothecenes in their blood had eaten food contaminated with trichothence-producing molds.

For this last hypothesis, there is no evidence whatever. None. No trichothecens have been found anywhere in Southeast Asia except from yellow-rain attack sites. No bee feces sample has ever been found colonized by trichothecene-producing fusarium. No scientific literature describes a history of trichothecene poisoning in Southeast Asia prior to the yellow-rain attacks. No one has ever reported getting ill after being hit by bee droppings, in Southeast Asia or elsewhere. No trichothecenes have been found in the blood of Southeast Asians except from people who say they were attacked by yellow rain.

How then, does the mantle of "science" get bestowed on the public health problem speculation? Fundamentally by applying the double standards. The U.S. government's charges of toxin warfare aren't credible because the positive samples, collected under wartime conditions and in the face of an ever-present prospect of deliberate disinformation, are not sufficient in number and rigorous enough in methodology to withstand the scrutiny of a disertation committee. Prof. Meselson's bee theory, by contrast, is credible because the government has not offered evidence sufficient to disprove it.

This double standard is repeated in ways great and small. Ms. Ember refers, for example, to "the enigmatic Amos Townsend," and notes that he "has been on the State Department payroll for more than a year." Dr. Townsend is a retired Air Force surgeon who first got involved with yellow rain as a physician in refugee camps for the International Rescue Committee, and was belatedly given some U.S. government financing. He is also a critic of the bee-feces thesis, among other things making the point that the "primitive hill tribes" are likely to be the best observers of "their own natural phenomena." Ms. Ember dismisses his report because it is "vague," and because he didn't consult the right Thai bee experts.

By contrast, Prof. Meselson is identified as a "biochemist who has counseled the White House, the departments of State and Defense and the Arms Control and Disarmament Agency on biological and chemical warfare issues for the past 20 years." Yet there is no mention of Prof. Meselson's real, if in many ways commendable, personal and intellectual stake in the issue. He has spent these years campaigning to head off biological weapons, and has been recognized as the intellectual godfather of the 1972 biological weapons convention. Princeton physicist and science philosopher Freeman Dyson has written that biologists, unlike nuclear scientists, have succeeded in restricting the application of their science in warfare; he specifically cited Prof. Meselson as "the man who did more than any other single person to rid the world of biological weapons." But if the Soviets are violating the treaty, the world is not rid of biological weapons, and such heady praise turns to mockery. Prof. Meselson's lifetime crusade starts to look—at best—like an exercise in windmill tilting.

The double standard is even more evident in Ms. Ember's treatment of the refugee testimony. This she seeks to discredit because the interviews in which it was collected do not meet the methodological standards of anthropology or sociology—sort of second cousins to science. In particular, she relies on the work of Grant Evans, who formerly taught at La Trobe University in Melbourne, Australia, and is author of the book "The Yellow Rainmakers: Are Chemical Weapons Being Used in Southeast Asia?"

Ms. Ember's exhausted research failed to discover that Mr. Evans was also a frequent contributor to the Tribune, the newspaper of the Australian Communist Party. According to B. A. Santamaria, president of the National Civic Council, Australia's leading anticommunist labor organization, Mr. Evans has a history of association with extreme left causes and publications reaching back to his student days. In 1982, the Laotian government allowed Mr. Evans into the country for five weeks to research his book—while refusing to accept an investigative team from the U.N. Not surprisingly, he found "no basis in fact" for the yellow-rain charges and concluded that the eyewitness stories are "fabrications." Even Prof. Meselson dismisses the Evans book as "too political for my tastes and too polemic." Yet Ms. Ember's scientific and journalistic standards allow "sociologist Evans" to question the motives of U.S. officials in the yellow-rain affair.

The yellow-rain issue does indeed raise questions about the role of science in public policy. Scientists are not all on one side. Chester Mirocha, the leading authority on trichothecenes, is steadfast for the government. As reported nearby, a Belgian toxicologist has confirmed the yellow-rain conclusions and even offers an independent set of samples showing trichothecenes. It's always useful to have skeptics to make the other case, of course. To our minds, the Chemical and Engineering News article serves to show how much anyone has to strain in any attempt to explain the evidence in any way except biological warfare.

It is quite another thing, though, to lay some sort of exclusive claim to the authority of "science." The byways of science can sometimes serve those who seek to ward off unwelcome conclusions. There is always some new standard of evidence to demand, some new hypothesis yet untested, as the Tobacco Institute has so ably demonstrated. This is an abuse of science against which scientists should guard, or men of affairs will start to wonder whether science can help us when we have to decide important questions of public policy.

U.S. Submission to the U.N. Secretary General on the Use of Chemical and Toxin Weapons in Afghanistan and Southeast Asia, February 21, 1984

The Permanent Representative of the United States of America presents her compliments to the Secertary-General of the United Nations and has the honor to provide further information pertaining to the use of chemical and toxin weapons in the continuing conflicts in Afghanistan, Kampuchea and Laos. The United States is sharing its new preliminary findings for 1983 in accordance with its policy of keeping the international community and the public routinely informed in a timely manner about chemical and toxin weapons use in these areas. In view of the concerns of members of the United Nations, as expressed in General Assembly Resolutions 35/144 C of 12 December 1980, 36/96 C of 9 December 1981, 37/98 D and E of 13 December 1982, and 38/187 C of 20 December 1983, I request that this submission be circulated at an early date as an official document of the General Assembly under the agenda item entitled "Chemical and Bacteriological (Biological) Weapons."

The United States of America has long been concerned about the use of chemical and toxin weapons in Afghanistan and Southeast Asia, in violation of the Geneva Protocol of 1925, related rules of customary international law, and the 1972 Biological and Toxin Weapons Convention. The United States has thus carefully monitored the situation in these regions to obtain information about chemical and toxin weapon attacks and has shared the information and evidence with the United Nations and its Member States. The United States has also co-operated fully with the Secretary-General and his Group of Experts in the United Nations' investigations of this problem and in other international efforts to bring a halt to the use of these terrifying weapons.

The United States of America, over the past three years, has submitted a series of reports presenting the evidence of toxic weapons use and relevant technical information in detail. In this context, two major reports were submitted, entitled "Chemical Warfare in Southeast Asia and Afghanistan", dated 22 March 1982 (A/37/157), and "Chemical Warfare in Southeast Asia and Afghanistan: An Update," dated 29 November 1982 (A/C.1/37/10). Most recently, on August 4, 1983, the United States submitted a report (A/38/326) on evidence obtained from victims of toxic warfare attacks which had occurred earlier in Laos and Kampuchea.

Since the submission of the last report, the United States has continued to analyze and review the information and evidence available to it on the use of chemical and toxin weapons in Afghanistan and Southeast Asia. As with the previous submissions, the United States has considered reports of toxic attacks as valid only if they were confirmed from two or more types of sources. These kinds of sources include national technical means, intelligence means, medical and sample data, and direct evidence from a person, other than a victim or refugee, known to have access to a particular attack site. Therefore, while we never discount per se any report or second hand information, our evidence must satisfy those tests of consistency and multiple sources to be considered valid before it is included in our final body of data.

Toxic weapons attacks, deaths and incapacitation continue to be reported. At this point in our analysis, however, the 1983 information shows some differences from that of previous years. Specifically, there appears to have been a diminution of attacks in Afghanistan, and a decrease in the lethality of attacks in Laos and Kampuchea. At the same time, however, there is evidence of continuing use in Laos and Kampuchea of an as yet unidentified, non-lethal agent or agents.

Since December 1980, the international community, the United Nations and private individuals and organizations have been calling attention to chemical and toxin weapons use and bringing substantial international pressure to bear on the users to cease such activities. Although current evidence indicates a decrease in the use of toxic weapons, the international community must persevere in its efforts to bring about a full and permanent cessation. Permanently ending the use of these weapons in Afghanistan and Southeast Asia, however, is only one of our goals. In addition, the Government of the United States will continue to press for strengthening relevant international conventions and for achieving a complete and verifiable ban on all chemical weapons through the Conference on Disarmament in Geneva.

Secretary of State Shultz expressed the concerns of the United States in his letter of submission for our November 1982 report:

"The use of chemical and toxin weapons must be stopped. Respect for existing agreements must be restored and the agreements themselves strengthened. Failure to achieve these goals can only have serious implications for the security of the world community, particularly for the security of smaller nations, like those whose people are being attacked."

Accordingly, the United States will continue to monitor the situation and share with the United Nations what further relevant information it may acquire on prohibited use of toxic weapons. In this connection, the United States will not neglect to monitor other areas in the world where prohibited use of chemical weapons has been alleged. The United States notes with deep concern reports that chemical weapons have been used in the unfortunate ongoing conflict between Iraq and Iran—both parties to the 1925 Geneva Protocol. Such use of chemical weapons would constitute yet another serious breach of the Protocol, and related rules of customary international law, requiring the urgent attention of the world community.

ANNEX

Afghanistan.—The United States has received several reports of Soviet chemical attacks occurring in 1983 but, contrary to previous years, we have not yet been able to confirm these reports as valid, in accordance with our above mentioned standards. For 1982, on the other hand, the United States had strong evidence of several dozen chemical attacks in Afghanistan, resulting in over 300 agent-related deaths.

Laos.—The number of reported toxic attacks in 1983 on which the United States has data is roughly the same as in previous years. While our analysis of these reports has not been completed, our preliminary judgment is that use of toxic agents has actually declined in 1983. Additionally, the number of agent-related deaths and cases of illness resulting from these 1983 attacks appears to be approximately one-third that for 1982. Some deaths associated with toxic attacks occurring in 1983 resulted from secondary effects, such as from eating contaminated animal products after an attack. In some cases, deaths occurred only among the infirm, perhaps caused by exposure to normally non-lethal agents or lethal agents in low concentrations. Additionally, descriptions of the 1983 incidents and medical effects, by victims, doctors and eyewitnesses, differ from those of previous years. Fewer describe the rapid onset of nausea and vomiting, small blisters; severe irritation of the skin, severe bleeding syndromes, including protracted diarrhea; or vomiting of blood which were common in reports from earlier years. These symptoms, in the past, were associated with exposure to trichothecene toxins, as confirmed by sample analysis and examination of victims by doctors. Methods of delivery of the agents, however, were as reported in previous submissions, with aerial spray occurring most often.

Kampuchea.—The number of reports of toxic attacks in 1983 is close to fifty percent greater than the number in 1982. Based on analysis of these reports to date, however, it appears that the level of use of toxic weapons has not increased, but remained essentially the same as in 1982. We believe that the increase in reports is due in part to better monitoring of the Kampuchea-Thailand border area where most of these attacks occurred. The number of agent-related deaths resulting from attacks in 1983 also appears to have decreased significantly from 1982 levels. On the other hand, victims did experience more short-term, incapacitating effects from which they recovered in hours or days. This may be indicative of the use of non-lethal incapacitating or riot control agents. As with Laos, 1983 reports for Kampuchea contain far fewer descriptions of trichothecene toxin type effects than reports from 1982 and earlier years. Methods of delivery of the agents were as previously reported.

General note.—With regard to environmental and physical samples from Afghanistan, Laos and Kampuchea, the United States has received and analyzed in 1983 one biological sample which was confirmed positive for trichothecene toxins. This was a sample from a March 1983 attack in Kampuchea, reported in the August 4, 1983 U.S. submission. Confirmatory analysis for trichothecene toxins is pending on several other biological samples from early 1983 reported toxic attacks. The United States also has a number of 1983 samples under analysis which contain man-made toxic chemicals and assorted substances other than trichothecene toxins and known conventional chemical agents. The precise composition of these substances has not yet been fully characterized. In keeping with our past practice, the United States will report its results and conclusions when these analyses are completed. Similarly, the United States will report any changes in our overall judgments and findings for 1983 as analysis of the data further progresses.

ALCOHOL ABUSE

Mr. HATCH. Mr. President, private sector initiatives directed at reducing societal tragedies should be recognized and commended. Today, I am pleased to share with you an industry's successful effort in educating our Nation's citizens about the problems of alcohol abuse.

The Distilled Spirits Council of the United States recently corresponded with our First Lady, Mrs. Nancy Reagan. In their letter, they describe their concerns about substance abuse in our country, and their efforts to solve this problem. I would like to share this letter with you. Highlighted are efforts aimed at driving and drinking. Outlined also are their initiatives cautioning youth about alcohol abuse. Their efforts, coupled with public sector support, and the leadership of America's parents comprise an educational movement to warn our citizens not to drink and drive, not to use alcohol during pregnancy, and not to keep the truth about alcohol abuse from reaching our children.

More can be done. More must be done as we calculate the billions of dollars lost to our country because of alcohol abuse. The losses are not just financial. They are also emotionally draining on our country's citizens and their livelihood.

I applaud DISCUS' initiatives, and at this time ask unanimous consent that the full text of their letter to Mrs. Reagan be included in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Distilled Spirits Council
of the United States, Inc.,
Washington, D.C., January 6, 1984.

Mrs. Ronald Reagan,
The White House,
Washington, D.C.

Dear Mrs. Reagan: As the new year begins, the distilled spirits industry wants you to know of our deep concern about alcohol (liquor, beer, and wine) abuse in our society and about the many programs we sponsor and support to reduce this problem. As president of the Distilled Spirits Council of the United States, Inc. (DISCUS), the trade association for distillers and marketers of distilled spirits, I want you to know of the tremendous efforts the industry is making in dealing with the problems of alcohol abuse, particularly drunk driving and our young people. In 1984 our industry intends to redouble its efforts to promote the responsible use of beverage alcohol.

Social responsibility for the use of our product is taken seriously by the distilled spirits industry. I would like to briefly outline the major activities of the industry during this past year and those planned for 1984 in education, research, and public service as we attempt to reach and educate our population.

EDUCATION

In 1983, DISCUS co-sponsored the first national drunk driving conference held in 10 years with the Department of Transportation (DOT) and other leading traffic agencies. DOT plans to hold another national "Lifesavers Conference" on drunk driving in 1984 and DISCUS, as before, will be a pre-eminent supporter of the conference.

Through the National Association of State Boards of Education (NASBE), DISCUS is supporting the Alcohol Education Guidelines Project. The Guidelines advocate responsible decision-making about alcohol and will be promoted by the NASBE's professional staff and the individual State Boards of Education. The alcohol responsible guidelines project hopes to establish factual, sound treatment of alcohol use and abuse issues within the public school systems.

The Alcohol and Drug Problems Association of North America (ADPA) is proposing a national education conference be held in 1984 to emphasize responsible decision-making as the basis for preventive education on alcohol abuse. ADPA members include state alcoholism directors, educators and treatment agencies. DISCUS will be financially supporting the ADPA Conference.

As on ongoing project, DISCUS has sponsored through the years independent development of objective source materials for alcohol education in the schools. "Learning About Alcohol" is one of the major source books developed by the National Education Association (NEA) under a series of DISCUS grants.

DISCUS is a continuing major supporter of the BACCHUS (Boost Alcohol Consciousness Concerning the Health of University Students) program and SADD (Students Against Drunk Driving). BACCHUS offers a comprehensive approach to prevention of alcohol abuse on campuses and is in place in over 120 colleges. DISCUS is a co-sponsor of SADD which is recognized nationally as a group dedicated to education on drunk driving. The SADD approach generates affirmative peer pressure among high school students who in turn urge their parents and other elders to avoid drinking before driving. DISCUS is proud to have been instrumental in making BACCHUS a national organization and proud to be a major supporter of SADD.

RESEARCH

Under the auspices of an independent, multi-disciplinary Scientific Advisory Council (SAC) millions of dollars of grants have been provided by DISCUS through the years for alcohol research. To date, over 300 individual research projects on alcohol abuse problems have been funded through the SAC grants. DISCUS considers the financial resources given to the SAC for unsolicited research grants to be one of its most important ongoing activities.

For many years, DISCUS has provided funding and supported various institutions and groups working in the alcoholism field. In 1984, DISCUS will be working with the following major groups:

Rutgers Center of Alcohol Studies, Alcohol and Drug Problems Association of North America, North Conway Institute, Harvard Medical School, American Council on Alcoholism, National Coalition for Adequate Alcoholism Programs, Health Education Foundation, Salvation Army, National Association of Alcoholism Treatment Programs, Boston University of School of Medicine, Pennsylvania State University, Research Society on Alcoholism, Indiana University, and the Cottage Program, Utah.

It is important to note that our research and other grants have "no strings" attached.

PUBLIC SERVICE

Since the mid-1970's DISCUS has co-sponsored public advertisements with the National Football League (NFL). During the 1983–84 season, NFL stars Joe Theismann and Drew Person donated their services to tell parents about a booklet "Straight Talk About Alcohol" via 60 and 30-second public service messages during NFL games. Over 200,000 parents and others concerned about teenage drinking have received "Straight Talk."

"The Contract for Life," a document which both parents and teenagers sign agreeing that either may call home for help at any time they or their driver has had too much to drink to drive safely, is a public service program of the NFL, DISCUS, and SADD. The Contract is rapidly becoming a cornerstone document for parents and young people in the fight against drunk driving. Both parents and teenagers sign the Contract which then becomes an important family document—a pledge of mutual support and understanding. The Contract is being offered in a series of TV, radio, and magazine ads developed for the program by DISCUS with more than 200 TV and 1,000 radio stations being asked to schedule the public service messages. This is one of the most successful and most satisfying of our programs aimed at young people.

On the New York Times Square electronic billboard in New York City just recently on New Year's Eve, and on last New Year's Eve, the distilled spirits industry sponsored a 15-second public service message "If you're drinking, let someone else drive tonight." Copies of the message, like last year were distributed to hundreds of TV stations across the nation as a 30-second public service advertisement.

A "moderation poster" was recently distributed to 40,000 bars and liquor stores by DISCUS and cooperating retail organizations.

"Know Your Limits" is a perennial campaign sponsored by DISCUS. "Know Your Limits" (KYL) urges people to know and stay within their own personal safe drinking and driving limits. The KYL card shows how the number of drinks a person has, individual body weight, and the time factor relate to driving risks. KYL campaigns are sponsored by local industry associations in cooperation with government traffic safety agencies. More than 10 million KYL cards have been distributed to the public since the program began.

DISCUS also sponsors a cooperative, nationwide campaign of public service advertising. Each year DISCUS has a major ad message on drinking and driving. The educational theme is "If you choose to drink, drink responsibly." These award-winning messages appear in national magazines such as Business Week, Industry Week, Washingtonian, Changing Times and in over 120 newspapers. They are placed in mass transit vehicles and have been reprinted by government and other agencies at their expense.

In 1979, ten national beverage alcohol associations, including DISCUS, formed the Licensed Beverage Information Council (LBIC) to undertake a public and medical education campaign on drinking and pregnancy in cooperation with the U.S. Treasury. During 1983-84, LBIC is co-sponsoring with the Department of Health and Human Services (HHS) the "Healthy Mothers, Healthy Babies" public education campaign aimed at expectant mothers. Tens of thousands of posters and educational materials—in both English and Spanish—have been distributed in clinics around the country. The program's success is evidenced by recent polls showing that some 90% of expectant mothers are aware of the need for moderation in alcohol use and physician consultation on the matter during pregnancy.

In 1982-83, the LBIC in conjunction with the Outdoor Advertising Association of America (OAAA) initiated during the 1982 holiday season (which ran to early May 1983) a "Friends Don't Let Friends Drive Drunk" billboard and radio public service campaign. Another extensive billboard campaign was kicked off during the past 1983 holiday season and will continue through 1984. In 1983, more than 3,000 billboards were posted in 44 states. The same message aired over radio as a public service announcement by 1,800 stations. The 1983 campaign was kicked off on Capitol Hill and attended by Representatives James Howard, Michael Barnes, Jim Wright, Senator Gordon Humphrey and the Honorable John Volpe (chairman of the President's Commission on Drunk Driving). In 1984 the billboard campaign was kicked off at the Department of Transportation with an endorsement by Secretary of Transportation, Elizabeth Hanford Dole.

President Reagan, in his radio address on Saturday, December 17, 1983, noted the joint effort of the LBIC, the OAAA, and Secretary Dole in unveiling the "Friends Don't Let Friends Drive Drunk" campaign. The President applauded the effort as "an excellent example of the private sector and government working together to attack a serious problem."

In 1983, I was honored to serve on the President's Commission on Drunk Driving chaired by John Volpe. The President has just received a copy of the Commission's report. I believe it is basically a balanced report recognizing that there is no one solution to the problem but rather a need for a balanced program of education and enforcement. I have been asked to serve on the Board of Trustees of the private sector drunk driving council which would continue the Commission's work and maintain high visibility on the drunk driving problem.

Lastly, I would like to comment on the recent public concern about liquor advertising. Since 1936—right after Repeal—our industry has voluntarily restricted its advertising of spirits. We avoid advertising to minors. We do not advertise on TV, radio, cable TV, in movie theaters, on the comic pages or in magazines intended for readers too young to legally drink. Althought there is no legal binding document that prevents us from advertising on TV, radio and wherever we want, the industry's own code has stood for almost 50 years and has never been broken by a DISCUS member company.

While we have made great efforts to inform the American people about the need for moderation and about our industry's social responsibility programs we hope that, through your good offices, our programs can reach even more Americans. We would appreciate an opportunity to discuss these programs with you and to help you to highlight them.

For example, we have a DISCUS film "Spirit of Responsibility" (15 minutes) which addresses the subjects of alcohol use and abuse in American society. Its theme is that four proven principles—research, education, moderation, and responsibility—are key to the establishment of a positive, healthy approach to drinking. The content is informative; but the style is highly entertaining. The film is appropriate for a variety of audiences: civic groups, educators, parents, business groups, government officials—nearly everyone interested in learning more about the products we serve and effective approaches to fostering their responsible use. We would like to arrange a viewing for you and any other persons or groups you may want.

We would like to assist you in any way at any time with your own efforts on alcohol abuse so that all individuals, regardless of age, will be educated to the responsible use of alcohol.

Thank you very much.

Sincerely,

F. A. Meister,
President.

DRI REPORT ON U.S. MANUFACTURING INDUSTRIES

Mr. BAKER. Mr. President, much of the recent debate on national economic policy has focused on the economy's transition from an industrial to a service or high technology base.

This transition has been heralded as equal in importance with the earlier transition from a predominantly agricultural to a predominantly industrial economy.

But it is essential that in the course of this debate we do not narrow our economic options to a choice between industry and service. Our future economic growth must depend on the growth of both these sectors—and on a strong agriculture as well.

An excellent new study by Data Resources Inc., under the direction of the distinguished economist Otto Eckstein, offers a timely reminder of the enduring importance of the manufacturing sector of the American economy. It concludes that there is great danger in assuming that the difference between an industrial and a service economy is the difference between the past and the future, or between decay and growth.

Indeed, the central finding of this study is that without a well-advancing manufacturing industry, the U.S. economy is not likely to maintain its progress in the decades ahead.

I believe this study makes an important contribution to the national debate on our economic future, and I ask unanimous consent that a summary of the study be inserted in the Record at this time for the consideration of my colleagues.

There being no objection, the summary was ordered to be printed in the Record, as follows:

[From Data Resources, Inc.]

Highlights From the DRI Report on U.S. Manufacturing Industries

INTRODUCTION AND SUMMARY

The recent recession has accelerated the relative decline of the U.S. manufacturing industry and established it as a generally recognized public issue. Production and employment in some industries has shrunk one-third from earlier levels. Resultant unemployment has created profound economic problems for families and communities. A regional disparity in economic opportunities not seen in four decades has developed.

This decline of U.S. manufacturing industries is a major development in our history. Beginning with our industrial revolution shortly before the Civil War, manufacturing industry growth has been the principal vehicle of U.S. economic growth. Increasing productivity of goods production facilitated by a capable labor force, innovative management, an exceptionally favorable supply of natural resources and rapidly advancing technology created a growth of total output not previously seen anywhere else in the world. A century-long industrial development process raised U.S. living standards manyfold, made U.S. gross national product nearly 40 percent of world output, and enabled the U.S. to become the political leader and military protector of the western world while concurrently fulfilling societal needs of its own population.

By the early 1980s, signs had become unmistakable that manufacturing industries of other nations were surpassing many of our own industries. The U.S.'s traditional role in the world economy was much diminished. Japan has become the principal challenger to our leadership. And other nations—in Europe, Asia and Latin America—are rapidly closing the gap between their manufacturing performance and our own.

Because these trends have not been well understood, nine U.S. corporations commissioned a study by Data Resources, Inc. (DRI) to identify the scope and causes of decline in competitiveness of U.S. manufacturing industries. They are American Telephone & Telegraph Co., Bethlehem Steel Corp., Burlington Industries, Inc., Deere & Company, E.I. du Pont de Nemours & Co., Eastman Kodak Company, Ford Motor Company, The Goodyear Tire & Rubber Co. and Texaco Inc. These corporations represent a broad spectrum, from traditional manufacturing, on which our historical growth was based, to high technology, on which we are betting for the future.

ROLE OF ECONOMIC POLICIES

This study yielded a theory accounting for the relative decline of U.S. manufacturing. This theory does not rely on any particular human failing of U.S. business or political leadership, although these were contributing factors to the dynamics of the decline. Nor does the theory suggest that the speed and pervasiveness of our manufacturing decline was somehow inevitable simply because of the rapid growth of the service sector.

Rather, the principal causes of our industrial malaise lie in fundamental policymaking at the national level. As a nation, we focused our national and international policies on political, fiscal and monentary objectives without consideration of their impact on our industrial sector. Rather than fostering manufacturing competitiveness, we have hampered it through a variety of actions. Specifically:

Domestic tax and regulatory policies and incentives have diverted the nation's saving from productive industrial investment. Capital costs have been high, limiting ability to invest. Seven times in the last three decades damaging credit restraints have disrupted the process of capital formation. At the policy-making level, national economic policy has failed to consider the need for manufacturing industries in critical decisions affecting budget deficits, interest rates and exchange rates.

U.S. manufacturing has been adversely affected by policies aiding development of economies of our free world allies and of newcomers to the industrial scene. For much of the post-war period, U.S. industry has been a victim of an overvalued currency. While other nations aggressively promoted development of their industries, the U.S. made no serious effort to assure that this worldwide industrial development thrust would occur in an environment of fair trade and competition. Although tariff rates declined, non-tariff barriers became more widespread. Serious action has not been taken against persistent protectionism of Japan, which has steadily minimized manufactured imports while seeking to take over many of the world's markets for manufactured products. In international trade policies, the U.S. government placed economic interests second to political goals.

Partly because of this unfavorable environment of economic and financial instability and damaging trade policies, reinforced by the high cost of capital, several critical U.S. manufacturing industries could not develop and execute competitive strategies to keep them in the forefront of technology, product design and international marketing. In many instances, if not most, management has taken a short-term perspective to reflect the political and economic environment.

IMPORTANCE OF MANUFACTURING SECTOR

Without a well advancing manufacturing industry, the U.S. economy is not likely to maintain its progress in the decades ahead. A service economy lacks sufficient opportunities for technological progress and economies-of-scale to sustain the historical growth and political leadership which the U.S. must achieve. To bet the future of our economic system on a service economy is a high-risk gamble not likely to prove successful. The industrial sector must be strong, competitive and productive. The nation's economic health depends on it.

As a part of this study, DRI evaluated two scenarios of future economic performances. One was based on a continuation of present policies which do not foster a strong industrial sector. The other was based on adjustments in national policies that include a more favorable exchange rate, lower interest rates, a more assertive trade policy and greater economic stability. Results were revealing: by actively considering the health of the industrial sector in economic policy, an additional 3.2 million jobs would be created by 1995. GNP would be 7 percent higher, with a substantial improvement in the trade deficit. Regionally, certain areas of the country—particularly the Midwest and the Southwest—would experience significantly healthier regional economies.

POLICY RECOMMENDATIONS

Steps must be taken to promote a healthier development of U.S. manufacturing in the years ahead that would both improve the present general economic environment and encourage a more farsighted approach in business decision-making.

These steps are:

Reduce cost of industrial capital.

Bring about lower interest rates by controlling Federal budget deficits; eliminate or reduce preferential financing of non-industrial investments; provide easier access to long-term debt capital for investment. These measures would improve the climate for industrial investment.

Lower the exchange rate of the dollar to a level more consistent with relative cost positions.

Lower interest rates made possible by a smaller budget deficit would go far to achieve this goal. Greater freedom of movement for capital to other industrial countries, particularly Japan, would also reduce the value of the dollar by reducing the volume of foreign capital seeking investment outlets in the U.S.

Strengthen U.S. international trade policies both in their formulation and in their execution.

Stronger trade policies are needed to open world markets to U.S. goods, particularly in Japan and in newly industrialized countries. Where trade is governed by formal or informal agreements, the U.S. government must be more aggressive in negotiating more equitable trade agreements. The federal government should put a greater emphasis on economic as opposed to political goals.

Establish monetary and fiscal policies to achieve a more stable and sustainable pattern of economic growth.

Effective capital formation and a sufficiently long-range point of view in investment decisions require a greater stability of market growth than government policies have provided.

Preserve U.S. lead in high technology industries.

Public policy must promote a sufficient supply of scientific and technical manpower and adequate support of basic research. Industries should be permitted to engage in joint research projects where world competition makes them necessary. We should insist on full reciprocity in exchange of technical information with trade partners.

To assure continuing development of U.S. manufacturing industries, we must inject an industrial viewpoint into major economic policy decisions. Monetary policy is a major determinant in the cost of industrial capital, the development of domestic markets, and the foreign exchange rate. Budget policy determines the tax burden on industry and affects development of domestic markets. Industrial development should be added to the list of explicit objectives of economic policy.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUMPHREY). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEATH PENALTY

The PRESIDING OFFICER. The clerk will state the unfinished business.

The bill clerk read as follows:

A bill (S. 1765) to establish constitutional procedures for the imposition of the sentence of death and for other purposes.

The Senate resumed consideration of the bill.

Mr. BAKER. Mr. President, I have consulted with the minority leader on how we should proceed at this point. It is now almost 12:20 p.m. Under the order, the time between now and 2:30 p.m. will be divided two-fifths and three-fifths—two-fifths to the minority and three-fifths to the majority, on that ratio. The chairman of the Judiciary Committee (Mr. THURMOND), who has been designated to control the time on this side, is not present, but he has authorized me to yield on his behalf 15 minutes to the distinguished Senator from Oregon (Mr. HATFIELD). I now do that.

Mr. BYRD. Mr. President, will the majority leader yield to me?

Mr. **BAKER**. Yes, I yield.

Mr. **BYRD**. Mr. President, I yield, for the present time, control of the time on this side to Mr. MITCHELL and later to Mr. DECONCINI, who is the manager of the bill on this side.

I thank the majority leader.

The **PRESIDING OFFICER**. The Senator from Oregon.

Mr. **HATFIELD**. Mr. President, I have spoken on this subject before, and I am not going to delay the Senate by repeating the arguments that I have used in opposing the death penalty. I have indicated that it does, by the very record of executions, discriminate against minorities and that it resembles little more than a lottery system of justice.

I have indicated that I think there is evidence, too—ample evidence—to indicate that we have executed innocent people. That is a sentencing decision that cannot be retrieved once it is made.

I have indicated that it is my view that the death penalty is, most of all, immoral and that it perpetuates a circle of violence, of bloodletting, of killing.

I have compared it to my views about abortion and about war.

I also have indicated that it is my view that if we impose life imprisonment upon those who have committed heinous crimes and have meant it to be life imprisonment, we would probably have greater success in protecting society than using the so-called death penalty.

Mr. President, throughout the debate it appears the main argument made by those who are the proponents of the death penalty is that it represents the best way to protect the public against heinous crimes. It is argued that once we have the death penalty installed in all the States and under Federal crimes, for this bill would provide an expansion in the list of Federal crimes, that would then do precisely what the public is demanding, that is, provide better protection.

Well, now, Mr. President, if this is accurate and if this argument that is used by the proponents really is valid, then I have an amendment. I would have offered this amendment had the Senator from Michigan called up his amendment in the first degree because it would have been an amendment in the second degree. Senator LEVIN, for purposes of strategy, has not called up his amendment. Therefore, I am reticent to offer this amendment at this time but let me describe it.

If the argument is valid that capital punishment is the finest and the best possible deterrent to criminal action, then this amendment would have provided that the U.S. marshal be given the mandate to provide radio and television access to the executions, provided the State law does not forbid this kind of action. In other words, for those who argue that the death penalty is a deterrent, then we ought to maximize the deterrent value of executions. We cannot have it both ways—and we are getting a lot of doubletalk on this whole argument—we cannot have it both ways, supporting executions but requiring them to be conducted in virtual secrecy.

Having been a Governor and having had to face this problem, I know in my State how they conduct executions at midnight in secrecy. I had a special telephone put in my home directly contacting the execution chamber itself where I could telephone at the last second and give a reprieve in case the circumstances warranted. There is a very macabre kind of activity that surrounds the whole activity of execution. But if Senators really believe there is a deterrent inherent in executions, then my amendment would have provided the authorization to increase this deterrent effect.

I think by televising the executions we would then permit the citizens of this country to witness firsthand the horror of governmentally sanctioned murder which I believe will lead to swift repeal of this grizzly practice. If the public actually saw the ceremony in which we execute prisoners and the ghastly nature of these premeditated exterminations, I believe they would urge the United States to join the rest of the North American and Western Europe in abolishing the death penalty. I will not go through that description again of a recent execution where they had to shoot three bolts of electricity through a convict's body before they could pronounce him dead and by that time smoke was coming out of his ears and everything else that I prefer not to even recall.

Mr. President, this amendment is a repulsive amendment because the matter of legalized executions is repulsive. But I do really believe that the Senate cannot, like Pilate, wash its hands so easily from the passage of this barbaric legislation. We cannot continue to maintain our innocence of what we are saying or doing by passing S. 1765. If we want to execute people, then we should do it in the open. We should maximize the deterrent value if there is such deterrence.

Now, Mr. President, the death penalty is not a deterrent. It is a specious argument—the statistics, the record proves otherwise—that capital punishment really is a deterrent. Let me quote again the Congressional Research Service study which shows that the average murder rate per 100,000 people is almost twice as great in States with the death penalty as in States without the death penalty.

Now, that is the fact of the case. In 1982, the average murder rate in 37 States with the death penalty was 9.80. The average murder rate in 13 States without the death penalty was 5.04.

Hawaii recently did away with the death penalty and its homicide rate did not change. Michigan, which does not have the death penalty, has the same homicide rate as Ohio and Indiana which do have the death penalty.

A prison sentence or a death sentence is not the deterrent. A criminal fears being caught. Let us be mindful that today almost 30 percent of the murders reported each year do not even result in an arrest. This is the risk being assumed by the murderer who calculates his crime; 3 out of 10 that he will not be caught. And for those persons who are ruled by impulse and do not calculate the implications of what they do, neither the fear of arrest nor sentence will deter them.

This is an age-old argument, Mr. President. Let me just close my remarks by denying the deterrent value that is expressed so frequently in this debate by going back to Elizabethan England. In Elizabethan England they had public executions that I would have suggested in my amendment. They executed people for pickpocketing. The greatest field day that pickpockets had in Elizabethan England was at the public executions for pickpocketing. More people got their pockets picked at those public executions for pickpocketing than any other place in England at that time. So I think from that period on it has been proven, time and time again, that public executions or capital punishment or whatever it is called does not have the deterrent value that the proponents claim it to have.

Mr. President, I am a realist and I know the votes are not here to halt this kind of barbaric legislation, but I at least must speak out my conscience and my mind one last time before we take action on this grizzly matter.

Mr. **MITCHELL** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Maine is recognized.

Mr. **MITCHELL**. Mr. President, I yield myself time from the three-fifths of the time that has been allocated to the control of the minority leader.

Mr. President, in 1972, in the case of Furman against Georgia the Supreme Court held that because the death penalty is a punishment different in kind, not just severity, its application must be strictly defined by constitutional standards so as to avoid arbitrariness and caprice in its use. In subsequent cases, the Court has refined the limits within which the penalty can be applied.

Mandatory sentencing schemes, such as the ones in the 1974 antihijacking law, have been found unconstitutional. The death penalty for crimes in which death does not result has been rendered constitutionally suspect. And other recent rulings, including those which upheld some State statutes, have all carefully sought to define the procedural protections that must be followed for any death penalty to be constitutionally imposed.

Despite these rulings, the outcome of sentencing practices in the real world leads to the conclusion that it is only a matter of time before the Supreme Court, although perhaps not this one, will conclude that no statutory sentencing scheme can avoid the arbitrary and capricious nature of the old invalidated statutes.

In 1958, in the case of Trop against Dulles, the Court said:

> The basic concept underlying [the Cruel and Unusual Punishment Clause] is nothing less than the dignity of man. While the State has the power to punish, the [Clause] stands to assure that this power be exercised within the limits of civilized standards.

Standards by which punishment is imposed have evolved substantially since the late 18th century. We no longer consider physical mutilation to be an acceptable form of punishment. We no longer demand that prisoners serve their terms in chains. We no longer tolerate the death penalty for children.

These practices were accepted and known to the Founders of our Nation, along with public hangings. The mindset of the times can be best illustrated by the words used then. During the debate over the Bill of Rights in the First Congress, one Member said:

> * * * It is sometimes necessary to hang a man, villains often deserve whipping and perhaps having their ears cut off; but are we in future to be prevented from inflicting these punishments because they are cruel?

Is this the basis on which the constitutionality of punishments should still be contemplated? Public opinion, which has been used to justify the imposition of the death penalty in this debate, would truly be aroused at such a return to 18th century views of appropriate punishments.

So the constitutional underpinnings of the death penalty are no more sacred than the constitutional basis of limited suffrage.

The fact that death is an unusual punishment is statistically demonstrable. Of the 33,000-odd convicted murderers on our Nation's jails, barely more than 1,000 are currently considered worth executing. There is nothing usual about the imposition of the death penalty.

Whether or not it is cruel in a constitutional sense, in my judgment has not been determined with finality. In Woodson against North Carolina, a 1976 case following the Furman decision, the Court specifically found that death is "qualitatively different from a sentence of imprisonment, however long." And in its decision, the Court said:

> Because of that qualitiative difference, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.

The Court has said that even though a death penalty statute may not be invalid on the face of it, if it were so vague that jury sentencing decisions resulted in the same arbitrary and capricious sentencing which Furman found unconstitutional, then that outcome itself could render them subject to challenge.

And there are very serious grounds for finding that the post-Furman outcome is as violative of reliability as was the prior situation.

A Northeastern University study in 1980 reported:

> In the first five years after the Furman decision, racial differences in the administration of capital statues have been extreme in magnitude, similar across states and under different statutory forms, pervasive over successive stages of the judicial process and uncorrected by appellate review * * * differential treatment by race of offender and victim has been shown to persist post-Furman to a degree comparable in magnitude and pattern to the pre-Furman period.

When the killer of a white victim is 18 times as likely to receive the death penalty in Texas as the killer of a black victim; and when the murderers of whites in Georgia receive the death penalty 10 times as often as the murderers of blacks, there is legitimate cause for concern.

The 1980 decision of the Massachusetts State Supreme Court to overturn a State penalty statute rested on certain fundamental facts.

Those facts are clear, and every Member of the Senate ought to recognize them. Under statutes which may meet the most recent Supreme Court standards, the 1976 Gregg against Georgia standards, the outcomes are no more rationally balanced than before. From 1976 to 1980, in Florida, 286 blacks killed whites; 111 whites killed blacks; 48 blacks got the death sentence. No whites did.

In Texas, 344 blacks killed whites; 27 were sentenced to death; 143 whites killed blacks. None of them were sentenced to death.

In Ohio, 173 blacks killed whites and 37 of them were sentenced to death. Of the 47 whites who killed blacks, none received the death penalty.

Thus, in just these three States of Florida, Texas, and Ohio, 112 of the 803 blacks who killed whites received the death penalty, while not a single one of the 301 whites who killed blacks did.

Every Member of the Senate ought to consider these figures as they vote upon this bill.

It is immaterial whether this kind of outcome stems from unconscious bias or not. It is the outcome that counts.

The bill before us requires that the jury be instructed not to consider race, color, national origin, creed, or sex in its deliberations. That is a very minimal standard which all judges invoke when they caution that prejudice not affect jury deliberations.

Jurors in voir dire proceedings are routinely asked if they harbor racial prejudice when the defendant is nonwhite. Those who have observed the operation of the courts, as I have, know that jurors rarely admit such bias.

The bill before us will require jurors to certify that bias against classes or races did not affect their judgment. That is a precaution about whose value individuals may disagree. But there can be no disagreement with factual outcomes, and the factual outcomes today becoming apparent all indicate that the best intentioned sentencing scheme does not eliminate the bias which bias which results in discriminatory and arbitrary use of the death penalty.

I believe that it cannot.

One reason for that is obvious. Neither the judge nor the jury can review the discretionary decision of the prosecutor as to whether to prosecute a case as a capital offense or not.

The Supreme Court has already ruled that mandatory capital sentencing laws are not constitutional. Neither the Congress nor the State legislatures may mandate death as the only punishment for a given offense. So the ability of legislatures to construct acceptable limits or definitions for imposing the death penalty is curtailed. Indeed, the legislatures are virtually forced to develop procedures which cannot eliminate arbitrariness or bias in operation.

Given that fact, the discretion of prosecutors is the basis on which each case is pursued. A case which in one prosecutor's judgment calls for capital punishment may, in another's, not warrant more than a long jail sentence. By virtue of that fact, the random infliction of the death penalty is not a potential problem; it is practically guaranteed from the outset.

When disparate prosecution of like crimes affects noncapital cases, it results in a degree of disparity for which our system has some adjustments and whose aggregate effect our society can tolerate. But when that disparity affects life and death, the Supreme Court has ruled that this is the kind of punishment that cannot be arbitrarily inflicted.

The reality of prosecutorial discretion is fundamental to the arbitrary outcomes we see in capital cases. And no legislative enactment, either Federal or State, can eradicate that factor.

That is one of the reasons why I believe that the final judgment on the death penalty in this country will inevitably be the one that virtually all the industrialized nations have rendered: That it is a barbaric, inappropriate and ineffective penalty for the State to impose.

It is ironic that our Nation shares with the Soviet Union, South Africa, and Japan the distinction of being among the few modern industrial states which still claims the moral authority to execute some of its citizens.

The inclusion in this bill of the death penalty for nonhomicidal crimes has been addressed by others. I would like only to highlight the sheer illogic of the so-called deterrent effect in that connection.

In the Coker case, the Court ruled that the death penalty was unconstitutional when it:

> Makes no measurable contribution to acceptable goals of punishment and hence is nothing more than the purposeless and needless imposition of pain and suffering.

One of those goals is deterrence. And one of the crimes for which this bill authorizes death is an attempt to assassinate the President and other officials.

Can anyone imagine that a John Hinckley, with his bizarre affection for a movie actress, or Arthur Bremer, with his stalking of the President before he shot Governor Wallace, could have been deterred by any conceivable statute? In fact, Hinckley himself explicitly stated that he expected to die in his attempt. No one can credibly claim any deterrent effect in adding the death penalty for these attempted assassinations.

Attempted assassination is a serious offense and should be seriously dealt with. We have already amended the insanity defense to prevent its abuse by assassins and others. Federal law already carries a life sentence for an attempt on the life of a President or his staff. The death penalty will add no deterrence.

In fact, the theory of deterrence which has been advanced for the reimposition of a Federal death penalty is untenable for virtually all the kinds of murders to which it is specifically addressed.

The bill provides, for example that an individual convicted of an arson, a burglary, a robbery, a kidnapping, a rape, an airplane hijacking, a train wrecking, or the mailing of dangerous articles can be sentenced to death if anyone dies, whether that was an intentional outcome or not.

Obviously, all these are serious crimes which demand the swiftest and surest imposition of punishment. But the Supreme Court has said that a penalty is unconstitutional if it makes no measurable contribution to acceptable goals of punishment. Obviously, you cannot deter someone from doing something he did not intend to do in the first place.

The principle of intentional action is the principle that underlie negligent manslaughter statutes. Through them, society recognizes that the intent to kill is a vital component of the crime of murder. Conduct which results in unintentional death—even criminal conduct—has not been equated with deliberate, intentional murder by our system. Yet this bill does just that.

The bill before us also contains serious procedural shortcomings which render it constitutionally suspect.

It eliminates a unanimous jury agreement in the sentencing phase of the trial by allowing all jurors to find different aggravating circumstances without necessarily agreeing on even one.

In Bullington against Missouri (1981) the court said that "in all relevant respects" a capital sentencing hearing is "like the immediately preceding trial on the issue of guilt or innocence." Yet the sentencing procedures in this bill do not provide for jury unanimity on what constitutes the particular aggravating circumstance. The bill specifically invites jurors to consider aggravating circumstances, which are not listed in the statute and which need not be identified. And it does not require evidence of aggravating circumstances to be subject to the same evidentiary rules that govern the trial itself.

The Court held, in Godfrey against Georgia (1980), that the standards guiding sentencers must be such as to "make rationally reviewable the process for imposing the sentence of death."

But where you have aggravating factors that are not identifiable in the statute but which the jury may take into account, and where neither the nature nor the weight given those factors need even be identified, there can surely be no rational basis for appellate review and certainly not any rational basis.

Additionally, a factor in Gregg which the Court specifically identified as making that statute valid was the automatic review by the State supreme court which requires that the court compare similar crimes and the penalties imposed on them to assure that the death penalty is being proportionately applied. Such a requirement is entirely absent from the bill before us.

I want to make clear that I do not believe that the correction of any of these procedural defects would make the bill acceptable.

I continue to believe that death is an unconstitutional penalty.

The complete absence of any demonstrable deterrent effect has been decisively demonstrated by statistics in this and other nations. The death penalty neither causes more crime nor does it reduce crime. And because of the kinds of crimes to which it is addressed, it must logically fail in any deterrent effect. More of the kinds of individuals who commit most of the kinds of crimes punishable by death do so for the kinds of reasons that no rational deterrent could ever hope to reach.

The testimony of experienced law officers is clear: The worst killers—the kinds of crimes we are presumably trying to deter—are not lucid thinkers. They do not make a cost-benefit calculation and conclude that murder is too risky. The kind of murders to which this bill does not go—the true crimes of passion—are virtually undeterrable by definition. An individual so enraged as to kill is not deterred by the existence of a death penalty whose provisions, under this bill and by Supreme Court rulings, will not apply to him in any event.

The testimony of convicted murderers who faced the death penalty, as well as those who did not, simply reinforces what logic can demonstrate: We cannot stop deranged killers with rational deterrents. We cannot induce murderously angry individuals to fear a penalty that does not apply to them. We cannot hope to affect the thinking of any drunken or drugged individual.

The Supreme Court, in Gregg, said of deterrence theories that:

> There is no convincing empirical evidence either supporting or refuting this view. * * * The value of capital punishment as a deterrent of crime is a complex factual issue the resolution of which properly rests with the legislatures * * *.

No member of this legislative body has offered a single piece of evidence, other than personal opinion, that a Federal death penalty would reduce the number of murders, either at the Federal level, where roughly 75 occur each year, or at the State level, from which most of the descriptions of repulsive crimes have been drawn.

The Court has identified retribution as a valid goal of punishments. Since the legislative judgment we are exercising does not go to public policy in crime control, we are clearly engaged in making social policy, not public policy.

Are we proposing to put certain criminals to death because that will make other members of society recognize that crime is wrong? If that is the purpose, the death penalty is excessive for that purpose.

Or are we considering the death penalty purely to respond to popular discontent with the failures of our criminal justice system? If so, then this would be a form of human sacrifice, where, because we are unwilling to provide the resources needed to control crimes of various kinds, we will offer up to the collective public anger the heads of several individuals each year.

But the appropriate outlet for the expression of public discontent and anger in our Nation is the political process, not the system of criminal justice. We do not further justice or public order or any other social goal by executing a few particularly violent murderers to make up for the failure to apprehend and punish other violent criminals.

The only other basis for this legislation is vengeance.

These has been a startling claim made over and over again throughout this debate that some individuals have forfeited their right to live. Leaving aside the moral arrogance of any human being to make that judgment of another, the basis of both our public and our private morality in this Nation has always been grounded in the idea of individual regeneration and renewal. Our religious faiths all hold out the possibility of redemption through personal will. And our public institutions are based on controlling the mistakes, not extolling the perfection, of human beings.

Moreover, the fact remains that we cannot give to government a moral right which we do not have ourselves. We, as individuals, may not morally kill, except in self-defense. And when we individuals form ourselves into a community, we cannot grant that community a moral authority we cannot claim for ourselves. We can and do ask members of our community to kill and risk life in our joint defense. But just as we have no individual right to exact vengeance, so also can we not give such a grant of authority to the state we have constructed in our own behalf.

I would like to comment on a more mundane side to this debate over crime and its control from Washington.

It must be very clear to every member of the Senate that Federal laws affect the most minimal number of violent criminals. Yet all this anticrime legislation has been characterized by the President, just this past Saturday, as a rejection of the idea of "coddling criminals."

The political purpose of such exaggerated rhetoric is too obvious to need comment. The purpose of this exercise has been to permit a certain amount of righteousness over who is the more anticrime.

I feel no need to make an impassioned public claim that I personally do not approve of coddling criminals. No responsible person approves of coddling criminals.

I do not feel called upon to ardently assure our people that "nothing in our Constitution gives dangerous criminals a right to prey on innocent law-abiding people." As if anyone ever suggested that it did.

Like other Members of the Senate, I agree with some of the provisions of these anticrime bills, and I disagree with others. But I deeply resent the clear and intentional implication that any disagreement on these bills is based upon a desire to coddle criminals.

According to both the New York Times and the Washington Post, last Saturday President Reagan described the issue of crime as "a prolonged partisan struggle." Of all the false and outrageous statements made by this President or any of his predecessors, this is one of the worst. Crime is not now a partisan struggle. It has never been a partisan struggle.

Fourteen years ago another President tried to label one political party as being soft on crime. This is not a new political tactic. And it has not become a better tactic with time. It continues to be one of the most intentionally divisive ways of preying on legitimate public concerns. And it is cynically recognized as such by most of the Members of this Senate.

I have devoted a good portion of my life to the criminal justice system in this country, and I can tell you without hesitation that both Republicans and Democrats throughout the system of justice, in our political life, and in our Nation share an abhorrence of crime and a dedication to reducing it in our Nation.

There is not a Republican kind of criminal justice and a Democratic kind of criminal justice. Nor should there be. What the American people want is an American kind of criminal justice and one that works.

It does no service to the debate over the constitutional ways our community can control crime to inject a baseless and mischievous inference that political affiliation plays some sort of role in determining how many murders will be committed in America next year.

It is a disservice to the goal of reducing violent crime—which is a mutual goal, shared by people of all political persuasions—to suggest that one or another political party can somehow be blamed for the problems faced by our overworked police forces and our understaffed court systems.

Crime indicators have been moving down, and responsible expert opinion says that is the result of demographic factors, not political ones.

Republican Presidents in the 1920's did not create the wave of lawlessness in Roaring Twenties. And Democratic Presidents in the 1930's did not stop it. Nothing has changed. It is a serious abuse of the truth for anyone to suggest that crime is a partisan issue.

The death penalty does not work as a deterrent. It does not promote more equal justice. And it has no moral foundation. This bill should be defeated.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time in this quorum call be equally divided between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I can understand the feeling of Christian people to hesitate to put another person to death. On the other hand, some cases cry out as a matter of justice for the most severe penalty possible. I have a few cases which I want to call to the attention of the Senate. When I mention these matters, it is not with any intention of inflaming Senators but with the intention of informing them of some of the brutal crimes which I think justify capital punishment.

For instance, on a night in July 1966, Richard Speck broke into a townhouse which served as a dormitory for student nurses. He crept upstairs to the bedroom of Corazon Amurao, a 22-year-old Philippine exchange student and awakened her. He was carrying a small black pistol in one hand and a butcher knife in the other. According to Miss Amurao's account, Speck made her go down the hall to the next bedroom, where he awakened the three girls there. The four were then herded into the back bedroom where two more girls were sleeping. Speck told the girls that he would not hurt them and only wanted money.

While Speck was tying up the girls, the three remaining nurses returned home. They, too, were forced to join the others and were bound and gagged. Then, one-by-one, Speck began leading the girls out of the bedroom and returning alone. None of the girls uttered more than a little scream. While he was gone on one trip, Miss Amurao managed to roll under one of the beds and hide. It was in this way that she escaped death. After spending hours under the bed terrified, Miss Amurao finally managed to free herself and summon help. The picture the police found was one of horror:

Gloria Davy lay nude and face down on a divan, strangled and mutilated;

Sue Farris was stabbed nine times and strangled;

Mary Ann Jordan was stabbed five times, including one thrust in the left eye and one in the heart;

Pat Matusek was strangled;

Pam Wilkening was stabbed in the heart;

Nina Schmale was stabbed four times in the neck and strangled;

Merlita Gargullo was dead of a 6-inch-deep thrust in the side of her neck;

Valentina Pasion was knifed four times and strangled.

Aided by Miss Amurao's description, Speck was caught shortly after the murders. He is now serving a life term.

Mr. President, here is a man who went into the home. This did not happen on the street. This did not happen on the highway. It did not happen in some desolate place. It happened in the home of these young women, eight of them. I repeat: Eight young women, studying nursing, were killed by this brute.

How do their parents feel about this? How would a Senator feel if his or her daughter was killed in such a fashion? Does this deserve capital punishment? Mr. President, maybe something has to happen to people in public life and their families before the magnitude of this type of crime comes home to them.

I suggest that Senators consider the death of those eight nurses and whether or not a man who committed such a heinous and barbaric crime should be allowed to continue in society, rather than be punished in an appropriate manner.

Mr. President, I have here information on a crime committed by Robert Allen Bailey.

On the night of October 9, 1973, David Doyle and Debra Hawley, who were high school sweethearts and both age 16, went to a pizza parlor after attending a hockey game at the Roanoke Civic Center. Before the young couple got out of their car, Bailey and two companions, reportedly members of a motorcycle gang, forced them at gunpoint to drive to a secluded and heavily wooded area outside the city limits. There Bailey raped the girl in the back seat of the boy's car and forced her to commit sodomy while her date watched. Bailey took the boy's wallet and then shot him once in the head with a pistol, while one of Bailey's companions was forcing Debra to commit sodomy again.

When Debra saw David shot, she tried to escape. She didn't get very far. Bailey caught up with her and fired two bullets into her head at point blank range. He then returned to the car to find the Doyle boy writhing in pain. Bailey's pistol jammed when he tried to shoot the youth again, so he took out a straight razor and slit the boy's throat and cut his whole body.

Bailey was found guilty of the above offenses on January 24, 1974.

Mr. President, this is another horrible crime. Murder. Took everything they had. When he took their life, he took it all. Yet, he did not receive the punishment he deserved.

Another case: Lawrence Sigmond Bittaker, and Roy Lewis Norris.

Lawrence Sigmond Bittaker and Roy Lewis Norris began the planning of some of the most gruesome murders ever to hit California while prisoners at the California Men's Colony in San Luis Obispo. They put the scheme into motion on June 24, 1979.

The first victim was 16-year-old Lucinda Schaefer, who was walking home from church. Bittaker and Norris kidnaped her in their van they called the Murder Mack. They took her to an old mountain fire road they had previously planned on. Upon reaching the road, they stripped her of her clothing and took turns raping her repeatedly, then talked for more than an hour about killing her. Miss Schaefer pleaded with the two to be allowed to pray before they killed her. She was denied this, and they proceeded to strangle her with their hands, finishing the job with a coat hanger.

Andrea Hall, 18, was one of the next. She was killed in the same mountain area by having an icepick driven into her brain through both ears. She was also strangled.

Jacqueline Gilliam, 15, also had an icepick driven into her brain, and was raped and strangled like the others. Jacqueline Leah Lamp, 13, was also raped and strangled.

The last of the known murders involved Miss Shirley Lynette Ledford, 16, whose story was placed in the RECORD sometime ago by Senator HATCH. At trial, a tape was played with the recording of Bittaker and Norris raping, torturing, and sodomizing Miss Ledford. Bittaker twisted her breasts and nipples with pliers while his accomplice, Roy Norris, smashed her elbows and other joints with a sledgehammer "to get her to scream."

After being arrested Bittaker bragged of the murders to fellow inmates at the county jail and signed autographs for them as "Pliers Bittaker." While being held in the Los Angeles County Jail, Bittaker bragged to fellow inmates of murders of other girls—as many as 19.

Testimony during the trial revealed that Bittaker took instant developing pictures of his victims and showed them to friends. Bittaker supposedly has buried tapes and photographs of the victims at a local cemetery, but he refuses to state where.

Further testimony at the trial showed that Bittaker planned to use acid on his next victim and that acid was found in his hotel room after he was arrested.

Bittaker was given the death penalty. He now awaits appeal. Norris was given 45 years to life instead of death in exchange for a guilty plea and testimony against Bittaker.

Mr. President, that was taken from the Los Angeles Times of January 20, 1981, between then and March 25, 1981.

Mr. President, how can society countenance such cruel, barbaric conduct on the part of people?

This 16-year-old girl was taken out in a van they called "The Murder Mack," stripped of her clothing, and the defendants took turns raping her and then talked for more than an hour before killing her.

They strangled her and took a coat hanger, a coat hanger, a piece of wire, and chocked her to death. This was a 16-year-old girl.

Suppose that was your daughter or your neighbor's daughter. Is there no sympathy for humanity toward humanity?

These are not people. They are more like animals. And when you have individuals in society more like animals than humans, they have to be dealt with in the most severe manner.

This 18-year-old girl had an ice pick driven into her brain through both ears. Just imagine this—a sister, a daughter, or a wife—having an ice pick driven into her.

And this 16-year-old Bedford girl who was tortured, raped, and sodomized. Her breasts were twisted. They took a pair of pliers, and pulled her nipples and twisted them.

Mr. President, is death too harsh for people like that? I do not think so.

Now, Mr. President, there was Pamela Carpenter, sister of Mark Moseley. You know who Mark Moseley is. He is a well-known member of the Washington Redskins. What happened to his sister? Mark Moseley, the great football kicker, the star of the Redskins—listen to this. This is Mr. Moseley testifying May 19, 1983, before the Subcommittee on Criminal Law.

> Our only sister in the family was brutally raped and murdered in October of 1979. The person who committed this crime was a man who, at the age of 23, had served many years of his life in prison for various other crimes, the last being of rape of three other women for which he had been sentenced to 5 years and then served 2 years of that sentence and had been paroled. He had been let out on the streets only a month and a half, when he perpetrated and raped my sister and brutally murdered her.
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> * * * * *
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> She was married and she had no children, but they were hoping to have children shortly. The person who instigated the rape and murder had been out on parole only a month and a half and had been around the city, around Livingston, a small community of only about 2,500 people, had been around trying to find a job and was working for a company delivering some appliances on just a day-to-day basis, and had delivered a refrigerator to my sister's home only 2 weeks earlier and, at that time, decided he liked my sister and plotted and had been seen for the last week and a half prior to my sister's rape, had been seen riding his bicycle around the block early in the mornings, scoping out and planning his attack. And on the morning of the rape, she was there alone in the home, had been working on some Halloween costumes for my two daughters who lived there, and when he came to the door saying that he was there to check the appliance, kicked in the door

> when she said that she had not called about it.
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> * * * * *
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> She was at the time working on the Halloween costumes and she had a pair of scissors, and they were sitting on the kitchen table. And as soon as he broke in, she ran and grabbed the scissors and he took them away from her and stabbed her with them. And then she actually died from the beating that she took from him. He had evidently been wearing boots and kicked her repeatedly and did so much damage to her that she died only an hour and a half later.

Mr. President, it can happen to anybody. Mark Moseley, a big strong athlete, could protect himself against most anybody, but his helpless sister in her own home had this scoundrel break in, take a pair of scissors, and rape and killed her.

Mr. President, is capital punishment too bad for a man like that? We have always been told that our home is our castle. The criminals today do not respect that anymore. It is dangerous to even be in your own home, as this young woman was. Mark Moseley's sister was in her own home. Yet, she was attacked. She had scissors rammed in her body. She was killed by this brute. What other penalty than death does this person deserve?

In S. 1765, we are trying to give the Federal Government a constitutional procedure for imposition of capital punishment in heinous Federal crimes. It would permit a jury to say that this crime was so barbaric, it was so cruel, it was so heinous, that the defendant deserves capital punishment.

Are we going to deny the jurors at the Federal level that opportunity to exercise that judgment?

They could, of course, give life if they want to; but if the crime is so bad that they feel the death penalty is justified under the criteria in the bill, then the jury should not be denied the right to do that.

Now, Mr. President, here is another case that happened not far from Washington only 2 years ago. The name of the young lady was Stephanie Roper. Her mother, Roberta Roper, has been waging a campaign for better sentencing laws because of her daughter being killed in such a horrible way.

According to the Washington Post of October 15, 1982:

> The murder occurred during the early morning hours of April 3 after Jones and codefendant Jerry Lee Beatty, 17, who will be tried separately, happened upon Roper in her disabled car on a rural Prince Georges County road. Instead of dropping her off at a friend's home as promised, they drove her to an abandoned house in St. Marys County, where she was raped, hit over the head with a chain, shot in the head and set afire.

Mr. President, on May 19, 1983, the mother of this murdered young woman who, incidentally was a talented 22-year-old Frostburg State College art honor student, testified before the Subcommittee on Criminal Law. Mrs. Roper described the crime as follows:

> On April 3, 1982, our daughter Stephanie became a victim in Maryland, a State that ranks fourth in this Nation in violent crime. She was kidnaped, brutally and repeatedly raped. She was tortured, she was shot to death. Her body was burned and mutilated to prevent identification. Her murderers were convicted of first degree murder, felony murder, first degree rape and kidnaping. They were given sentences that make them eligible for parole in less than 12 years.

Mr. President, she was kidnaped, brutally and repeatedly raped. She was tortured, she was shot to death. Her body was burned and mutilated to prevent identification.

Now what did they do to those people who did that? They were given sentences that make them eligible for parole in only 12 years.

Mr. President, Senator KENNEDY was conducting that hearing on the question of sentencing and parole. And I will just quote his words from the RECORD:

> I certainly do not want to relive that extraordinary terrible evening, but this kind of tragedy which happened to your daughter where she was raped and then, was chased through the woods and then beaten with a chain and her body was burned, is a horrendous crime. And the perpetrators of this crime, as I understand what happened to them in terms of the sentencing, they were given two concurrent life sentences, which made them eligible for parole in only 12 years.

And the campaign Mrs. Roper is waging is a campaign to try to get something done about sentences in crimes of this kind.

Mr. President, if these two people get out in 12 years, what other young women are they going to rape? What other young women are they going to terrorize, torture, and kill?

Mr. President can anyone feel that this crime does not deserve capital punishment? I realize some people just say you should not execute anybody for any purpose. Well, when a person becomes so depraved and so barbaric in his conduct and so cruel to his fellow man, I think it is a different story.

Last week I recited here about two men who had been detected recently who have killed 78 people. And they have evidence, they think, of many other murders they have committed. And yet, Mr. President, if you do not have capital punishment at the Federal level, which we do not have now, they could not get the death penalty for such crimes committed within Federal jurisdiction.

A few years ago we had constitutional capital punishment in the Federal law. Then the Supreme Court required new procedures. Congress enacted such procedures for one crime in 1974—plane hijacking resulting in death. A broader bill similar to S. 1765 also passed the Senate in 1974, but the House failed to act.

Most States have remedied the constitutional defects in their capital punishment procedures. My State has remedied them. Thirty-nine States now have effective capital punishment statutes. But the Federal level does not. This legislation would finally provide the necessary procedures to impose the death penalty in the Federal system for the most heinous crimes.

And that is what we are trying to do here, to give the Federal Government the right to impose capital punishment if a jury—a jury composed of one's fellow citizens—concludes that the defendant deserves it.

Mr. President, some years ago, a good many people had qualms about capital punishment. I believe the polls showed then that the majority of the people of this country did not favor it. But sentiment has now changed. In view of violent crime today that has spread over this country, a lot of people now have changed their minds. And now the polls show a substantial majority in favor of capital punishment.

Mr. President, I want to again just remind the Senate that a violent crime is committed in this country every 25 seconds; a murder is committed every 25 minutes; a forcible rape every 7 minutes; a robbery every 59 seconds.

The PRESIDING OFFICER. All the time for the Senator from South Carolina has expired. The remaining time goes to the Senator from Arizona.

Mr. THURMOND. Will the Senator yield me about 10 minutes?

Mr. DECONCINI. Yes. First, I yield 1 minute to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I join those who oppose S. 1765. The reasons for my opposition mirror the arguments already presented on this floor: the absence of evidence regarding the penalty's deterrent effect; the possibility of error in identifying the guilty; and the probability that the application of this form of punishment will reflect our society's prejudices and fears. It is to this last point which I would like to briefly speak.

It is the requirement of law and conscience that a societally-sanctioned killing be based on cold reason and objective circumstance. The death penalty formulation before us takes great pains to attempt to satisfy this mandate and isolate the decision of life or death from prejudice, hysteria or discrimination. The bill provides that the sanctioning jury is to be instructed that race, color, creed, national origin and sex are not to be considered in determining whether a sentence of death is appropriate. Aggravating circumstances identifying each case as extraordinary must be found and enumerated mitigating circumstances must be considered. By these requirements and admonitions the decision of life and death is ostensibly to be rationally determined.

But can it seriously be expected that this decision will truly be made in a rational and objective fashion? Will these requirements genuinely insure that juries will not naturally tend to favor or forgive those most like themselves and condemn those most different and therefore threatening? Will this formula guarantee that angry citizens ignore their prejudices in valuing the life of a man they may fear or hate? I think not.

Mr. President, my faith in man's rationality and objectivity is tempered by the lessons of history. Rarely, to my knowledge, have men demonstrated the ability to put aside our prejudices and passions in circumstances as powerful as those accompanying capital crimes. On the contrary, it is precisely at such times that the darkest of human emotions control. Nary a culture or people armed with the right of societally sanctioned death has avoided the temptation of wielding it against those who are most hated or feared. And, as every people seem tempted to do, America has in its history formally executed disproportionate numbers of racial minorities, foreigners, and political dissidents. I fear that we will contine to do so.

I do not believe that we, individually or as a people, are beyond this potential. Indeed, studies presented before us clearly suggest that the race or ethnic origin of the perpetrator and victim have a demonstrable effect on the decision to impose the death penalty in those States which already possess constitutionally acceptable formulas. And if the application of the penalty becomes sufficiently acceptable, who here is prepared to guarantee that this same trend will not be reflected in the cases of Communists, homosexuals, or other racial, social, or political minorities who bear the residue of society's fear or scorn?

Mr. President, no genuine need to take up this flawed and dangerous weapon has been demonstrated. In the absence of proof of a compelling need for the Federal Government to again sanction the taking on the basis of the necessarily flawed and impassioned judgment of men, I believe that the risk to our own promise and humanity is simply too great to take.

Mr. DECONCINI. Mr. President, I also yield 1 minute to the Senator from Rhode Island.

Mr. CHAFEE. I thank the Senator from Arizona very much.

Mr. President, I oppose S. 1765. As a constitutional matter, as a practical matter, and most importantly as a public policy matter, I believe this legislation is wrong.

I will not prolong debate on this bill with a lengthy discussion of the constitutional concerns surrounding it, as its possible constitutional defects were set forth earlier in detail by several of my colleagues.

Let me say simply that in its effort to constitutionalize the application of the death penalty in existing Federal law, the Judiciary Committee raises many additional constitutional issues.

The constitutionality of the bill's provision for imposition of the death penalty even when all of the jury cannot agree on the existence of a specific aggravating factor, its provision for capital punishment for certain nonhomicidal crimes, and its appellate review procedures are seriously in doubt.

As a practical matter, capital punishment is not necessary as a deterrent to violent crime. Indeed, there is no clear evidence that the death penalty has a greater deterrent effect than other forms of punishment. States that do not impose the death penalty, including my own State of Rhode Island, do not have higher rates of homicide than those that provide for capital punishment.

Mr. President, I firmly believe that we must act immediately to address the alarming, indeed appalling, rate of violent crime in our Nation. But while the death penalty may have a cathartic appeal for some and it may provide a satisfying sense of "getting tough" on crime, it provides no real crime reducing advantage. I believe it is greater certainty rather than severity of punishment that will provide enhanced deterrent effect. The likelihood of an actual life sentence will do more to deter a homicide than the remote possibility of capital punishment.

I believe some of the Criminal Code reforms passed by the Senate just prior to the recess will contribute to this goal. I think legislation banning handguns would be another major contribution toward reduction of homicides.

Mr. President, my greatest objection to the death penalty lies in its absolute irrevocability.

Rhode Island does not provide for capital punishment for homicides generally. Why? Largely because in 1844 the State executed the wrong man for the murder of Amasa Sprague, a prominent Cranston, R.I., citizen.

The wrong man, Mr. President. But there was nothing to do about it—except to make certain such a tragedy could not occur again.

The error committed in Rhode Island is unfortunately not unique. Indeed, my colleagues have detailed a number of cases in which the wrong person was convicted, even on the basis of eye-witness accounts. Some argue that an occasional mistake is the price we must pay for deterrence. But even if we were willing to accept such a price for the sake of deterrence, the fact remains that capital punishment offers no demonstrable deterrent advantage over other punishments. I ask, how then can we even contemplate the death penalty.

For these reasons, Mr. President, I will vote against S. 1765, and I urge my colleagues to join with me in opposing the bill.

Mr. DECONCINI Mr. President, I intend to yield some time to the distinguished President pro tempore. I did want to see if anybody here on the opposition wanted some more time so they would have notice that we have approximately 30 minutes and all of that, I believe, is reserved for the opponents of the bill managing that time.

I am glad to yield 10 minutes to the Senator from South Carolina.

The PRESIDING OFFICER (Mr. EVANS). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Arizona.

Mr. President, as I stated, sentiment in this country has changed on this question. Now the great majority of the people, according to the polls, do favor capital punishment if a jury so finds.

One writer for the Washington Post, a very able writer, George F. Will, is one of those who has changed his mind on this subject.

On March 12, 1981, he wrote an article on this subject which I want to present to the Senate. Mr. Will said:

> According to his lawyer, Steven Judy was intelligent, witty and kind in conversation but had "this thing about beating up women." The story of how Judy did his thing should stir doubts in those opponents of capital punishment whose minds are not closed as tight as eggs.
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> Judy, who was executed March 9 by Indiana, committed his first rape when he was 13. Pretending to be selling Boy Scout raffle tickets, he forced his way into a woman's house, raped her, stabbed her more than 40 times (hard enough to break his knife), smashed her on the head several times with a hatchet and cut off her thumb. Miraculously, she survived.
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> Such is the criminal incompetence of America's criminal justice system, Judy was on parole in Illinois (he had served just 20 months for viciously beating a stranger—a woman) and was free on bond in Indiana (the offense was armed robbery; the bond was just $750, in spite of his lurid record) when he committed what he says was his 13th rape. It certainly was his last.
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> Pretending that his car was disabled, he got a passing motorist to stop. He raped her, killed her, then drowned her three small children in a creek. He never expressed remorse, and advised the jury to impose the death sentence, lest he someday be released and kill again.
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> Until recently I opposed capital punishment, categorically, in writing and actions. (I initiated the campaign that culminated in Connecticut's first commutation of a death sentence.) However, the categorical nature of my position—I believed that evidence was irrelevant—certainly was wrong. And I may have been wrong on the issue itself.

This is George F. Will speaking, Mr. President:

One of two serious arguments for capital punishment is that it almost certainly can be a significant deterrent of significant crimes. If that is so, then refusing to execute killers in certain kinds of cases amounts to refusing to prevent the deaths of innocent persons, and is clearly immoral.

There now is sophisticated research that strongly suggests a deterrent effect. Furthermore, the principal argument against the deterrent effect is weak. The argument is that in most jurisdictions where capital punishment has been abolished there has been no immediate, sharp increase in what had been capital crimes. But in those jurisdictions, the actual act of abolition was an insignificant event because for years the death penalty had been imposed rarely, if at all. Common sense—which deserves deference until it is refuted—suggests that the fear of death can deter some premeditated crimes, including some murders.

The second powerful argument for capital punishment concerns a need for moral symmetry between crime and punishment. A society practices self-indulgent humanitarianism when it spares the likes of Judy in order to spare itself the unpleasantness of contemplating and administering capital punishment. The visceral reaction most humane people have against capital punishment actually is relevant to the case for that punishment.

Capital punishment is indeed horrible. That is why it can deter, and why, deterrence aside, it is a proper expression of virtuous sentiments. In his book, "For Capital Punishment," Walter Berns argues that the purpose of punishment and dramatic poetry can be similar:

"Capital punishment, like Shakespeare's dramatic and Lincoln's political poetry . . . serves to remind us of the majesty of the moral order that is embodied in our law and of the terrible consequences of its breach . . . The criminal law must be made awful by which I mean awe-inspiring, or commanding 'profound respect or reverential fear.' It must remind us of the moral order by which alone we can live as human beings, and in our day the only punishment that can do this is capital punishment."

Whether the authority to impose the ultimate punishment serves the expressive and teaching function that Berns correctly assigns to the law suggests an empirical question. But his position is plausible. And in a society suffering an epidemic of murder and other serious crime, the burden of proof is on opponents of capital punishment.

Rather than dispatch that burden with evidence and argument, many opponents simply assert the impropriety of the sentiments that Berns wants the law to teach by expressing. Part of the program of liberalism involves making people feel ashamed of sentiments essential for a decent society—sentiments such as anger about crime, and the desire for vengeance against criminals. Those are virtuous sentiments when grounded in a sense that the important laws express more than calculations of social utility. Those laws express a natural, life-enhancing moral order.

Mr. President, here is a man, George F. Will, one of the ablest writers in this country, who a few years ago opposed capital punishment and now has shifted his thinking and now favors capital punishment. This article eloquently tells us why.

Mr. President, I hope the Senate will think carefully about this matter. There is so much crime today. So many people are being killed. So many people are being injured in various ways. I feel that the time has come when we should reinstate capital punishment in the Federal law as we had it a few years ago by curing the procedural defects found to exist by the Supreme Court over the past 12 years.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, does the Senator from Maryland want some time in opposition?

Mr. MATHIAS. Mr. President, will the Senator yield 2 minutes?

Mr. DECONCINI. Mr. President, I yield 2 minutes to the Senator from Maryland.

Mr. MATHIAS. Mr. President, over the past few days that the Senate has been in session, we have witnessed an unusual debate. The pages of the CONGRESSIONAL RECORD are filled with graphic descriptions of sickening crimes. They also ring with the moral outrage of Senators, directed both toward the crimes themselves, and toward the ultimate punishment which some suggest ought to be applied.

These issues have long occupied the attention of many of our civilization's best minds. Historians, sociologists, philosophers, and theologians have debated them. We all know that debate will continue, no matter what action we take on S. 1765.

With no disrespect to the eloquent speakers on both sides of this issue, I suggest that much of the debate in which we have been engaged is beside the point. Our job here is not merely to debate the abstract question of whether capital punishment is morally right or morally wrong; it is to decide the very practical question whether or not to revive those provisions of the United States Code—unused since the 1972 Supreme Court decision in Furman against Georgia—that provide for imposition of the death penalty. We are not here to determine how best to punish the most heinous crimes that the annals of our recent history present to us; we are here to determine whether or not death is an appropriate punishment for the narrow class of crimes that prior Congresses have ranked as the most serious offenses against the United States. If we answer that question in the affirmative, we must then determine whether this bill provides appropriate means for the imposition of that punishment.

In our Federal courts, such cases arise relatively rarely. For example, in the year ending June 30, 1981, a total of 119 persons were convicted of homicide in the U.S. district courts. Only 45 of these convictions were for first-degree murder. By contrast, during calendar year 1981, a total of 22,520 murders were reported to police throughout the United States.

It is important to remember that the commission of murder itself is not enough to constitute a "Federal crime." It is prosecutable in the Federal courts only if accompanied by some element of Federal jurisdiction; if, for example, the crime took place on a Federal reservation, or the victim was engaged in the duties of a specified Federal office. In light of our limited jurisdiction, and of the fact that only about one-half of 1 percent of homicides are prosecuted in the Federal courts, it may not be very useful to focus our attention on the particulars of the more gruesome murders of recent years. Few, if any, of them were prosecuted in Federal courts; consequently, S. 1765 would have no effect whatever on the punishment meted out in these shocking cases.

It may be helpful, too, to disabuse ourselves of the notion that the action of the Congress in this area will set an example, good or bad, for the States to follow. The majority of the States have not waited for Congress to act. The legislatures in most States have already completed the same kind of task that is before us today: to consider whether death is an appropriate punishment for the most serious of crimes within their jurisdiction. Most States have answered that question in the affirmative; a sizable minority have answered it the other way. But nearly all of them have already answered it in a way that only the people of the several States have the power to change.

The task before us is a relatively limited one. With one notable exception—the attempted assassination of the President—S. 1765 contains no new authorization to impose the death penalty as punishment for a Federal crime. Previous Congresses have already determined certain Federal offenses to merit the ultimate punishment. We must assure that the procedures provided by this bill for the imposition of this punishment conform to constitutional standards, as elucidated by the Supreme Court of the United States. And we should, out of a decent respect for world opinion, examine the experience of other, comparable jurisdictions—other sovereign states—when faced with the same questions.

Mr. President, I have considered S. 1765 from this perspective, and I have concluded that it should not be enacted. I leave to one side some of the more philosophical questions that have occupied my colleagues during the debate on S. 1765. I accept, for these purposes, the bounds within which our predecessors have seen fit to prescribe capital punishment for crimes against the United States. But I have concluded that, despite the sincere efforts of its proponents, this bill fails to establish procedures for death penalty cases which can pass constitutional muster. Furthermore, a comparison with the situation of other countries reveals that, with few exceptions, the death penalty is shunned by democracies and embraced by dictatorships. This fact reinforces my antipathy to bringing the death penalty back to life in the Federal courts.

I. DO THE PROCEDURES ESTABLISHED BY S. 1765 PASS CONSTITUTIONAL MUSTER?

Mr. President, the constitutional protections surrounding the imposition of the death penalty are complex and comprehensive. The elaboration of these standards has been the intention of the Supreme Court in dozens of cases decided over the past decade. The matrix of protections which have resulted demonstrates an extraordinary concern for human life, and an extraordinary effort to purge any taint of unfairness from the system by which the decision to take a life is made. The restrictions include not only the prohibition against cruel and unusual punishment, contained in the eighth amendment, but also a panoply of protections derived from other provisions of the Bill of Rights, including the guarantees of a fair trial by jury, effective assistance of counsel, and due process of law. If we are not satisfied that S. 1765 provides these protections in every relevant particular, then we must conclude that the bill is unconstitutional and should not be enacted.

I know that the proponents of S. 1765 have made a sincere and concerted effort to conform to these constitutional standards. But I seriously doubt that they have succeeded in doing so. I believe that there are at least three serious constitutional flaws in this bill, any one of which provides a powerful argument against its enactment.

First, S. 1765 explicitly authorizes the death penalty for at least three crimes which do not necessarily result in the death of another human being. For two of these crimes—espionage and treason—the defining provision of the United States Code already authorizes capital punishment. The third such crime marks the sole instance in which S. 1765 creates a new capital offense: Attempted assassination of the President, if the attempt "results in bodily injury to the President or comes dangerously close to causing the death of the President." In my view, espionage and treason can be the justification for capital punishment only if death results. Attempted assassination, in which, by definition, no death occurs, is an offense for which the death penalty would constitute cruel and unusual punishment.

My conclusion is based upon the 1977 Supreme Court decision in Coker against Georgia. Coker held the death penalty unconstitutional as a punishment for nonhomicidal rape. Justice White's opinion for the Court expressed the "abiding conviction" that death "is an excessive penalty for the rapist who . . . does not take human life." The Coker decision does not lay down an explicit rule that capital punishment may not be imposed for a crime from which death does not result, but the whole tenor of the opinion supports that conclusion. That, certainly, was the reading given it by Chief Justice Burger, who, in his dissent, noted that it "casts serious doubt upon the constitutional validity" of a statute such as S. 1765 which would authorize the Government to take the life of one who has taken no life.

This conclusion in no way discounts the seriousness of the crimes of espionage, treason, or attempted assassination of the President, any more than the Court's opinion in Coker discounted the seriousness of rape. These offenses are among the most grievous known to Federal law, and persons guilty of them ought to receive severe punishment. But the eighth amendment sets a limit on how severe that punishment may be, at least in a case in which there is no causal link between an act of espionage or treason and the death of a human being.

This bill's addition of attempted assassination as a capital offense is particularly troubling. The motivation behind this provision is one we all share. An assault on the Chief Executive tears the fabric of our society to a degree unmatched by any other nonhomicidal violent crime. Yet the authorization of the death penalty for such an act flies in the face of the Coker decision. It also would set a disturbing precedent that we would, I predict, find it difficult to limit. The history of 18 U.S.C. 1114 may be instructive. This provision makes it a Federal offense to assault or kill specified Federal officers engaged in the performance of official duties. Originally, the list of federally protected officials was quite short, but in recent years, the addition of further titles to the list has become an annual legislative exercise. It is hard to believe that a similar phenomenon could be avoided in the jurisdiction covered by this bill. Once the door is opened to capital punishment for attempted assassination, each step expanding the exception will become easier to take. Certainly it is a depressing reality that there will probably be, in the not too distant future, attempts on the lives of other high-ranking officials, which will speed the process on its way.

The second and third constitutional infirmities of S. 1765 concern the application of the aggravating factors which must be found if a conviction of any capital offense is to result in a death sentence. These aggravating factors are listed in some detail for the various categories of relevant offenses. What troubles me is the phrase which appears at the end of each such list, authorizing the trier of fact to "consider whether any other aggravating factor exists." This grants the jury in each case the power to determine whether a factor not listed in the statute justifies the death penalty.

The authority to base a death sentence on a nonstatutory aggravating factor runs counter to the entire thrust of eighth amendment jurisprudence, which focuses on limiting the jury's discretion in order to avoid arbitrary and capricious results. In a capital case, the existence of an aggravating factor is analogous to the existence of an element of the underlying offense. Either fact must be found to exist beyond a reasonable doubt. I have great faith in the jury system, but it is as great an abuse of the jury function to permit it to define for itself the aggravating factors as it would be to permit it to define for itself the elements of the offense. In neither case should the trier of fact be permitted to extemporize the rules.

The Supreme Court may never have explicitly held that the use of nonstatutory aggravating factors violates the Constitution. But in my view, to hand such a blank check to the trier of fact, when a life hangs in the balance, is at least highly suspect, and certainly unwise.

Finally, S. 1765 permits a nonunanimous jury finding on the existence of an aggravating factor—whether or not listed in the statute. Every juror must agree that some aggravating factor exists, but only a simple majority need to agree on what that factor is. This is another invitation to arbitrary and capricious decisionmaking. The Constitution permits nonunanimous jury verdicts in some instances, but it is impossible to believe that the finding of facts on which to base a sentence of death is one of them.

When the ultimate penalty is at stake, it is not too much to demand that the Government convince each member of the jury beyond a reasonable doubt of the existence of a specific aggravating factor; it is not enough simply to direct the jury to a menu of possible choices and convince each of them to pick at least one. Here again, the Supreme Court has never been confronted with precisely the system proposed by S. 1765; but, when such a system is before the Court, I have serious doubts that it will be upheld as consistent with the extraordinary requirements imposed in previous death penalty cases.

II. HOW OTHER NATIONS VIEW THE DEATH PENALTY

Mr. President, the document which announced our Nation's birth professed a "decent respect for the opinion of mankind." As the Senate considers whether or not to reinstate the death penalty for Federal crimes, it is worth our while to consider the actions of other sovereign nations in this field. I suggest this, not, of course, because the United States should slavishly imitate the policies of other nations, but because we may have something to learn from such a survey of "the opinion of mankind." I do not think that the results of this inquiry can give much comfort to the proponents of S. 1765.

The French Minister of Justice, Robert Badinter, summarizes the findings in an arresting image. The map of freedom in the world, he has said, fits almost exactly together with the map of abolition of the death penalty. The map of nations which retain the death penalty nearly coincides with the map of tyranny. The most glaring exception to this general principle is the United States.

Ours is the only non-Communist industrialized country, except for Turkey, in which the ultimate penalty is imposed. Even those democracies which confront the most severe problems of terrorism—for example, West Germany, Italy, Israel—abstain from the death penalty as punishment for violation of their laws.

Nor is there any indication of much interest within the Western democracies in a change of course on this issue. In recent years, two of our allies have debated a change in policy on capital punishment. In 1981, the French National Assembly voted to abolish the death penalty, which previously had been applicable to a wide range of offenses under the French penal code. Only last year, the United Kingdom, where no one has been sentenced to death for many years, considered whether or not to reinstate capital punishment. The proposal to do so was decisively defeated in the House of Commons.

A look at the other side of the coin ought to make us decidedly uncomfortable. About 30 other nations around the world now authorize capital punishment. Heading that list are the Soviet Union, South Africa, Iran, and the Peoples' Republic of China. M. Badinter does not exaggerate when he states that "everywhere that dictatorship and contempt for human rights prevail, the death penalty exists in the law and is practiced in fact."

The French Minister of Justice goes one step further, arguing that "even when it is utilized in a democratic county, capital punishment implies a totalitarian conception of justice." I reject that viewpoint. Although our system of justice shares with totalitarian systems the option of capital punishment, it stands alone in its dedication to due process and equal justice. But the prevalence of the death penalty in our country does, it seems to me, undermine our ability to condemn its use in countries where it is applied indiscriminately or arbitrarily. At the very least, we ought to think long and hard about any policy which appears to place us in such unsavory company.

Mr. President, I urge my colleagues to consider these arguments against the bill before us. Of course, S. 1765 raises many other important issues as well. Our votes may be based on those issues, as well as on the strongly held moral beliefs that motivate many Senators on the question of capital punishment. But in my view, the constitutional infirmities of S. 1765, along with my reluctance to add the United States to the list of nations which have approved capital punishment on the national level, are persuasive. This bill should not be enacted.

Mr. DECONCINI. Mr. President, I would like to inquire if there is anyone else present who wishes to speak in opposition to the capital punishment bill.

Mr. President, may I ask the Chair approximately how much time remains?

The PRESIDING OFFICER. Is there any Senator who wishes to speak in opposition to the current bill?

Mr. DECONCINI. May I ask the Chair how much is left?

The PRESIDING OFFICER. Ten minutes remain.

Mr. DECONCINI. And no time left for the proponents?

The PRESIDING OFFICER. That is correct.

Mr. DECONCINI. In that case, if there is no one in opposition, I am glad to yield 5 minutes to my friend, the distinguished Senator from Pennsylvania (Mr. SPECTER).

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished Senator.

I take the floor today in support of S. 1765. I note preliminarily that I spoke on the subject at some length when the matter was before this body on February 8, 1984, but I believe it appropriate to make a few additional comments as we near time for a vote on this measure.

In my judgment, Mr. President, it is appropriate for the Congress of the United States to reinstate the death penalty under the carefully selected standards of S. 1765. It is my view that this legislation will have substantial significance as a model for the 50 States. Many of the States have not reinstated the death penalty and some did not have the death penalty prior to the case of Furman against Georgia and the Supreme Court decisions which have followed.

In supporting the death penalty, Mr. President, I do so based upon some 14 years of experience as a prosecuting attorney, including 8 years as district attorney of Philadelphia, on my experience as a defense attorney, and from the hearings which have been held before the Committee on the Judiciary. The essential reason that I support the death penalty is that, in my judgment, it is a deterrent against murder and a deterrent against crimes such as burglary, robbery, rape, and arson, which are likely to result in murder.

My experience as a district attorney has placed me in contact with many cases which illustrate the deterrent effect of capital punishment. I have known of many professional burglars and robbers who have stated that they will not take a weapon along in the course of a robbery or burglary for fear that someone will die and that they might face the death penalty.

One case which is the best illustration of this deterrent effect was a murder prosecution in Philadelphia, Pa., involving three young defendants—Williams, Cater, and Rivers, aged 19, 18, and 17. Williams was the ringleader and had a gun. When he brandished his gun shortly before the three young men set out to undertake a robbery, Cater and Rivers, 18 and 17 respectively and with marginal IQ's, said they would not go if a revolver were to be taken because of their fear of facing the death penalty. These facts were set forth in confessions by Williams, Cater, and Rivers, and were clearly established on the record. Williams then said he would not take the revolver and slammed it shut into a drawer. The three then began to leave the room when Williams, unbeknownst to Cater and Rivers, slipped the gun out of the drawer, put it in his pocket, and set out on the robbery.

In the course of the robbery, the victim resisted, and Williams shot and killed the victim. All three were charged with robbery and murder.

All three were sentenced to death in the electric chair under Pennsylvania law. Williams was, in fact, executed in the early sixties. Cater and Rivers ultimately received reprieves, although technically guilty, because they were not equally culpable as Williams. As coconspirators in the crime who did not themselves commit murder, they received reprieves from the death penalty and had their sentences reduced to life imprisonment.

I cite the Williams, Rivers, and Cater case because of its illustrative value. I realize full well there are statistics on these decisions which go in all directions. It is my own legal judgment that the statistics are inconclusive.

It is my further legal judgment that the death penalty is in fact a deterrent to murder, and to robbery, rape, arson, and burglary offenses which may lead in the course of their commission to murder.

The statistics for murder rates are set forth in the CONGRESSIONAL RECORD on page 2220: in each of the years 1982, 1981, 1980, and 1979, the number of murders in the United States exceeded 20,000, with a high point in 1980 of 23,044 murders. It is my thought that there are many victims who would not have been murdered had the death penalty been in effect and had the deterrent quality of the death penalty been in effect. It is obviously not subject to any precise mathematical determination how many fewer people would have been murdered had the death penalty been in effect, but it is my view, my opinion, and my legal judgment that there would have been substantially fewer people murdered had the death penalty been in effect and carried out with reasonable promptness.

A concern that I have, and it has been eloquently articulated by those in opposition to the death penalty, is the problem of mistake. My thought is that with the refinements in the imposition of the death penalty and with the split verdict procedure now in effect, the chance of mistake is greatly diminished. It used to be that a defendant's prior record was submitted to the jury at the same time that the jury considered innocence or guilt. The instruction to the jury not to consider the prior record until the jury had decided innocence or guilt was obviously impossible for jurors to follow, and the unitary trial procedure has been abolished. There is now a verdict as to guilt and then there is a separate proceeding as to prior record and other aggravating or mitigating circumstances; this has substantially refined the procedures for the determination of guilt and the imposition of the penalty.

With the extensive safeguards now available to criminal defendants, including identification through the use of the lineup, we have gone a substantial distance toward eliminating the possibility of error. But I do not believe it can be said with assurance that it is ever possible in any judicial proceeding, however careful we may be and however meticulous the procedural safeguards may be, to eliminate all possibilities of error. But I do think that the errors are few and that, on balance, when considering the desirability of a public policy and legislation on this subject, the balance stands in favor of protecting the numerous innocent victims of murders whose lives would be saved were this deterrent procedure in effect.

I note the elaboration on mitigating factors or aggravating factors which is encompassed in S. 1765 in response to the decision of the Supreme Court of the United States in Furman against Georgia. I believe that, on balance, it is desirable that the Congress of the United States reinstate the death penalty at the Federal level as a signal to those who would murder or those who would rob, rape, burgle, or commit arson, or other serious offenses which might lead to murder. It will place those violent criminals on clear notice that, in the cases involving aggravating circumstances of horrendous crimes, the death penalty is in effect. Its deterrent capability, therefore, ought to be substantial.

I thank the distinguished Senator from Arizona for yielding me the time. I thank the Chair.

I yield the floor.

Mr. DECONCINI. Mr. President, once again I appeal to anyone who wants to speak in opposition to the present legislation. The vote will be at 2:30. If not, at this time I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays on the pending legislation.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. I thank the Chair.

Mr. President, during the course of debate on the capital punishment bill, we have heard comment suggesting that many of the mainline churches in America oppose the death penalty on moral grounds. I certainly do not question the deep felt beliefs and the study that may have led some theologians to conclude that the Judeo-Christian tradition forbids any taking of life. However, there is another point of view held by other theologians of these same faiths who feel that the death penalty is not necessarily precluded by the principles of their faith.

Recently, I received a letter from the Reverend James Leonard of the United Methodist Church in which he outlined his reasons for support of the death penalty and in which he outlined the Biblical underpinnings for his reasoning.

I ask unanimous consent, Mr. President, that in the RECORD at this place appear following my statement the Reverend James Leonard's letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CAPITAL PUNISHMENT: THE WIDER HORIZON

(The Reverend F. James Leonard)

In the Washington Post article "Killing Enigmas" (February 20, 1984), criminology professor Marc Riedel said "the greater degree of randomness entering violent crimes" suggests that "our social order is coming unglued" especially in our inner cities. He added "There's an implicit message of urban disintegration and terror which should be quite disquieting." I am a United Methodist clergyman who is deeply concerned about the social disintegration now afflicting our common life. One indicator of the spreading chaos is the fear of many Americans that they will become victims of violent crime. There is growing concern that the government is unwilling or incapable of protecting them from it. Because a political system can retain its justification only to the extent it protects the lives of its citizens and distributes justice, the issue of capital punishment touches our most fundamental social bonds. Senate Resolution No. 114 represents a significant strengthening of our social framework and it accords well with the basic tenets of our Judaeo-Christian heritage.

The Bible offers a powerful testimony to the sacredness of human life. As human beings we were created by God to be stewards of the natural world, and we are supremely destined to be guided by his perfect and invincible will. God's will is manifested in the cultic and ethical laws of the Old Testament, as well as in the dramatic record of his continuing intervention on behalf of his people. The Psalms speak eloquently of God as the protector of life and the guarantor of justice, and it is clear from the historical record that capital punishment was a common practice in ancient Israel. Chapter 20 of the Book of Leviticus provides a detailed list of capital crimes. More interesting still is the 35th chapter of Numbers, which is a series of legal definitions of homicide, each one ending in the injunction "the murderer shall be put to death." The passage, remarkable for its succinctness, also distinguishes between crimes of passion, premeditation and manslaughter.

The central event of the New Testament is of course the life, death and resurrection of Jesus Christ. There God demonstrated for all time his loving concern for us as his children by becoming one of our own kind. Christian thought has always understood the cross to represent God's compassionate sharing of human suffering. It is this same compassion which led Jesus to suffer the most fearful fate any person can endure—a painful and violent death brought on by premeditated malice. Thus the Bible discloses a God who is forever allied with the victims of this world. From his faithful attention to struggling Israel, to the life and teachings of Jesus Christ, God's tender regard is forever extended to the most vulnerable members of society; the very feeble, the young and the neglected. These are people that the world sees as expendable, but in the eyes of God are supremely worthwhile.

In the modern age, it is the murder victim who is most often viewed as expendable. She has no one to speak on her behalf, with the exception of grieving relatives and friends. There was a time when she walked this earth like the rest of us, feeling the sun on her skin and air in her lungs. Fine and perfectly formed as any child of God, she was placed here to love, to work and to share in the fulness of life. Now, suddenly she is here no more, her life snuffed out by a brutal action.

The significant point here is that while we might be momentarily touched by the facts of murder, there are overwhelming odds that we will experience it only vicariously through TV news and newspaper accounts. The chances are exceedingly small that it will be your wife, your husband or child that is a murder victim. Thus from the standpoint of crude self-interest, which is—like it or not—a strong motivating factor, when we speak of murder victims we are referring to a group of people who matter very little to us. Our civilized impulses move us to deplore their fate, but the censure carries no weight of personal involvement. Add to this the fact that most who serve in public life are well protected by relatively quiet neighborhoods, secure working environments and safe schools for their children. The implications of capital punishment are qualitatively unlike other laws such as the tax code because they affect only a very few.

One of the ethical principles which is common to all great religions is the golden rule—do unto others as you would have them do unto you. Suppose for a moment that it was your loved one that was found bludgeoned and raped—now of course the situation is different. Who but the most ardent pacifist would fail to cry out for swift and certain justice? My intention here is not to appeal to the viscera but to suggest that it is simple human nature to desire retribution when our kith and kin have been brutalized. This has always been a universal aspect of our emotional structure as men and women, and any political entity must take this into account if it is to retain its legitimacy. One of the most basic components of the social contract is the responsibility of the state to protect the lives of its citizens. Along with the capture of territory, the killing of citizens by an alien government is universally understood to be an act of war. Any nation which fails to protect its people from the fury of war whether inside or outside its borders will soon find its laws and its social order disintegrated. It is therefore the responsibility of government to protect its people and to take decisive retributive action when those lives are violated. It is the willingness to meet this responsibility that ensures the commonweal.

I am aware that the United Methodist Church has declared itself opposed to capital punishment in its Social Principles. But I am also aware that my denomination prides itself on its pluralism and willingness to tolerate various points of view, and that these same Social Principles have never been treated as dogma binding for all United Methodists. My own experience of rank and file Methodists suggests that many have a deep ambivalence about this and other aspects of the Social Principles. They are not, in my view, an accurate reflection of the sentiments of the people who sit in the pews on Sunday mornings.

One of the most imponderable aspects of our existence is the end of life. Death is something that our thinking faculties cannot process. Thought cannot encompass the annihilation of thought. We shrink back from it instinctively—it is a primordial movement away from the darkness and toward the light. It simply goes against our better nature to wish death upon another human being regardless of what they have done. But it is equally against our nature to allow our minds to dwell upon the savage actions which earned a death sentence for a murderer. Dismemberment and brutal killing are too painful to hold in our imagination for any period of time. How much more decent and hopeful it seems to think of the future and give the killer a second chance! In so doing we follow those life-affirming impulses which our religion teaches us to pursue.

While the bulk of our productive energies as a race are directed toward the flourishing and uplifting of life, murder thrusts us into a circumstance where these positive energies have no place to go. In every other instance of wrongdoing, we seek to replace what was lost with something of equal value. A single human life cannot be replaced, however. It is a gift of God, given once and never to be given again. To maliciously deny this creative work of God is to declare oneself at war with all of human life and creation. With such an individual there is only one course of action which will properly honor what has been lost, and that is to end the life of the murderer.

For this reason I believe that arguments about deterrence or rehabilitation of the offender are inherently spurious. Even if it could be shown that capital punishment can never deter murder and that every murderer could be rehabilitated, there remains the broken body of the victim which can never be rehabilitated. It can only be mourned. The death penalty is not indicative of a disregard for human life. It is an expression of outrage at the tremendous loss which we all sustain when a brother or sister is wantonly cut down.

Mr. DECONCINI. Mr. President, ultimately, the conclusion in favor of the implementation of capital punishment has its basis in the belief that the primary responsibility of society is the protection of its members so that they might live out their lives in peace and safety. Where the safety of its citizenry can no longer be guaranteed, society's basic reason for being disappears. In providing its members protection, society must do what is necessary to deter those who would break its laws and punish those who do so in an appropriate manner.

I would like to briefly discuss the issues presented by this bill and the justification for its use in sentencing persons convicted of capital crimes under Federal criminal code.

The question of the deterrent effect of capital punishment has probably been the one point most debated by those favoring the abolition of the penalty and those desiring its retention. I discussed the question of the deterrent value of capital punishment at length on the floor yesterday. Without repeating that discussion, let me just say that in the absence of conclusive proof as to whether the death penalty does deter violent crime, I believe we should decide the question on the side of the innocent victim, not the violent criminal.

That those who take lives of others in an unjustified manner may be subject to the extreme sanction of capital punishment reflects a social consensus that places great sanctity on the value of human life. It is a consensus that holds that individual offenders are responsible and accountable beings, having it within themselves to conduct themselves in a civilized manner. It is also a consensus that holds that there is no offense more repugnant and more heinous than the deprivation of an innocent person's life.

Murder does not simply differ in magnitude from extortion or burglary; it differs in kind. Its punishment ought to also differ in kind. It must acknowledge the inviolability and dignity of innocent human life. It must in short, be commensurate with the crime. I have concluded that, in the relatively narrow range of circumstances outlined in this bill, the penalty of death satisfies that standard.

Apart from its legitimacy as one of the purposes of punishment, questions have arisen with respect to the constitutional validity of retribution as a basis for punishment, specifically capital punishment. This question was addressed by the Supreme Court in the Gregg case:

> In part, capital punishment is an expression of society's moral outrage at particularly offensive conduct. This function may be unappealing to many, but it is essential in an ordered society that asks its citizens to rely on legal processes rather than self-help to vindicate their wrongs.
>
> The instinct for retribution is part of the nature of man, and channelling that instinct in the administration of criminal justice serves an important purpose in promoting the stability of a free society governed by law. When people begin to believe that organized society is unwilling or unable to impose upon criminal offenders the punishment they "deserve", then there are sown the seeds of anarchy—of self-help, vigilante justice, and lynch law.

It is my conclusion that it is not enough to proclaim the sanctity and importance of innocent life. This must be, and can only be secured by, a society that is willing to impose its highest penalty upon those who threaten such life.

An argument that is often asserted in favor of abolition of capital punishment concerns the dangers of executing the innocent. The argument is made that, since the cost of such a mistake is so great, the risk of permitting the death penalty to be imposed at all is unacceptable.

Upon more thorough examination, I find this argument to be unconvincing, particularly in light of the procedural safeguards for criminal defendants mandated by the Supreme Court. The Court's decisions with respect to the rights of the individual, together with the precautions taken by any court in a capital case, have all but reduced the danger of error in these cases to that of a mere theoretical possibility. Admittedly, however, due to the fallible nature of man, this possibility does continue to exist, but it is my opinion that this minimal risk is justified by the protection afforded to society by the death penalty.

The incapacitating effect of capital punishment is clear. Obviously those who suffer this penalty are unable to commit similar crimes in the future. The question then becomes one of necessity. Is the death penalty necessary to adequately protect society in the future from the possible actions of those who have already committed capital crimes? I am of the opinion that, in certain circumstances, it is.

In some cases, imprisonment is simply not a sufficient safeguard against the future actions of criminals. Some criminals are incorrigibly antisocial and will remain potentially dangerous to society for the rest of their lives. Mere imprisonment offers these people the possibility of escape or, in some cases, release on parole. Even if they are successfully imprisoned for life, prison itself is an environment presenting dangers to guards, inmates, and others. In each of these cases, society is the victim. Basically, there is no satisfactory alternative sentence for these individuals. Life imprisonment without parole, although at first appearing to be a reasonable answer, is in reality highly unsatisfactory. Such a sentence greatly increases the danger to guards and to other prisoners who come into contact with those who have been so sentenced. S. 1765 creates a new capital crime of homicide by an inmate serving a life sentence. The Judiciary Committee held hearings on this particular provision of S. 1765 late in 1983. The testimony concerning a recent incident in the maximum security institution in Marion, Ill. was particularly compelling. Two inmates seemingly in a race with one another to see who could kill the most people, committed particularly brutal murders on the same day. Even though they were housed in the most secure area in our Federal corrections system, they were able to repeatedly stab their victims. In the case of someone serving a life sentence, execution is the only sanction which could possibly serve as a deterrent. Individuals like these two, and others in similar circumstances, have little or nothing to lose by carrying out their depraved and horrible actions. We must impose the death penalty on prisoners sentenced to life who murder guards or other inmates in order to bring some semblance of security to our Federal prison system.

Regardless of whether or not the imposition of the death penalty would have deterred either of these two murderers, it must be obvious to anyone that these are two depraved individuals who will go on killing people until they die. It is our job as protectors of society at large, particularly those whom we employ to work in our Federal correctional system, that these individuals do not kill again.

It cannot be overemphasized that it is not my desire to see capital punishment utilized as an alternative to efforts at rehabilitation. This simply is not the case. We should recognize that still greater attempts must be made to enable our prison system to achieve its goal of restoring productive and useful individuals to society. We here discuss only a minute class of extremely dangerous persons.

In arriving at a decision to support the death penalty, considerable weight was given to public opinion on the acceptability of the death penalty. Contrary to the frequently asserted statement that there is growing public opposition to capital punishment, examination of public opinion polls over the last 10 years shows a remarkable rise in the number of Americans in favor of the death penalty. A fall, 1982 Gallup opinion poll revealed that public support for the death penalty for murder has reached its highest point in 30 years. Seventy-two percent—more than 2 out of every 3 Americans—favor the death penalty for persons convicted of murder. In 1971, 49 percent of the public approved of capital punishment for murder. It appears from the polls that a demand for the death penalty coincides with a greater public awareness of the crime problem.

S. 1765 is drafted to meet the constitutional requirements of guided discretion based on rational criteria. The bill would provide that, after a conviction for an offense for which a penalty of death is authorized, the court must hold a separate hearing on whether to impose the death penalty. The hearing would normally be before the same jury which sat for trial, or, if both parties agreed, before the judge. After both sides have an opportunity to present all relevant evidence, the jury would be asked to make special findings as to whether any mitigating or aggravating factors existed. The mitigating factors specifically listed in the amendment include such things as the youthfulness of the defendant, the extent of such person's involvement in the offenses, emotional problems or pressures affecting the defendant, and the unforeseen nature of a resulting death; this list of mitigating factors is not exclusive and the sentencer clearly may consider all mitigating factors. The aggravating factors would vary depending on whether the offense is one relating to treason, espionage, or murder.

The jury would be required to determine by unanimous vote whether aggravating or mitigating factors exist. If aggravating factors are found not to exist, the court would impose a sentence other than death. If one or more aggravating factors were found to exist, the jury would then determine, in light of all the evidence, whether the aggravating factors found to exist sufficiently outweigh any mitigating factors found to exist, or in the absence of mitigating factors whether the aggravating factors were, themselves, sufficient to justify a sentence of death. If the jury finds by unanimous vote that the death penalty is justified, the Court is directed to impose a sentence of death.

If the sentencing hearing is held before a jury charged with determining if the sentence of death is appropriate, the Court will be required to instruct the jury that in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury shall return to the court a certificate, signed by each juror, that they followed this instruction.

The bill further provides that the defendant shall have a right to appeal the sentence and that such review shall have priority over all other cases. In order to affirm the sentence, the appellate court must determine that the sentence of death is not imposed under the influence of passion, prejudice, or other arbitrary factor; and that the information supports the special finding of the existence of an aggravating factor or the failure to find any mitigating factor required or permitted to be considered.

The Senate, when it passed S. 1401, indicated that it believed that the death penalty was a proper punishment for certain crimes, and that a rational, constitutionally permissible criteria for its imposition was needed. The Supreme Court, in recent cases, has indicated that capital punishment is constitutionally allowable. And the American public has indicated that without it the Government does not adequately fulfill its duty to protect them.

As Dr. Ernest Van Haag has said:

> I think it is simply unjust that we guarantee murderers that what they have done to their victims will never be done to them, that the murderer is guaranteed a continuous life, the kind of life he took from his victim. That seems to me unjust, immoral and repulsive.

Mr. MOYNIHAN. Mr. President, S. 1765 establishes the death penalty for two crimes not previously punishable by death: Murder in prison by a person already serving a life sentence, and attempted assassination of the President where serious bodily harm results or where the attempt comes dangerously close to succeeding.

The bill removes rape from the list of Federal crimes punishable by death.

It also limits the scope of the availability of the death penalty for espionage or treason.

It is, in my view, a narrowly drawn and prudent statute, which addresses issues of legitimate public concern. Its effects, if any, will almost surely be minor. The committee report speaks of the inherent logic of the deterrent power of the threat of death. That may be. But there has been no statistical demonstration of any such effect. On the other hand, the statistical problems of establishing a correlation between one set of rare events—execution—and a lessened incidence of another set of rare events—certain capital crimes—are near to insuperable.

I would emphasize the rarity of the events. It has been 21 years since anyone was executed under Federal civil authority. The crime involved was kidnaping that resulted in death. Since 1930 there have been 33 executions altogether.

What we can say is that there are some crimes we deem punishable by death, and that is about all we can say, or in truth need to say.

I will accordingly vote "Aye."

Mr. DOLE. Mr. President, I take this opportunity to outline the reasons why I would vote in favor of passage of S. 1765, SENATOR THURMOND's bill to establish a constitutionally sound procedure for imposing the penalty of death for the commission of certain Federal crimes. This Senator has long advocated the restoration of the death penalty for the more serious Federal crimes of treason, espionage, premeditated murder and felony offenses resulting in death. The bill reported from the Judiciary Committee would achieve this objective, and the chairman of that committee is to be commended for taking the lead in introducing the legislation and going forward with it in this Congress.

I. CONSTITUTIONAL QUESTIONS

Mr. President, there are many arguments raised today against capital punishment on philosophical, sociological, religious, and legal grounds. Many take the position that capital punishment is cruel and unusual punishment by today's standards; that mores and values have changed and that it is no longer an appropriate penalty for the crimes specified in the bill we have reported out of committee. I believe, however, that a brief examination of the history of capital punishment in our society refutes this view. At the time of the adoption of the Bill of Rights in 1789, capital punishment was employed for a variety of crimes, including crimes which did not result in the taking of another life. In the case of *Trop* v. *Dulles*, 356 U.S. 86, the Supreme Court noted that:

> The death penalty has been employed throughout our history, and, in a day when it is still widely accepted, it cannot be said to violate the constitutional concept of cruelty.

This view has been repeatedly stated by the Court, and was restated in the landmark of Furman against Georgia, the 1972 decision which analyzed once again the circumstances under which the penalty could be imposed, and which is the impetus for this bill.

The proscription of the eighth amendment ban upon cruel and unusual punishments is toward the employment of penalties which involve unnecessary cruelty, or which are so disproportionate to the offense as to be unjust. The acceptability of the death penalty as appropriate punishment for certain crimes was implicitly approved in the language of the 14th amendment, adopted in 1868, which provides that no State shall deprive any person of life, liberty, or property except by due process of law. Of course, the question of whether or not the use of the death penalty for a given offense is disproportionate to the crime for which it is imposed is one which is constantly subject to scrutiny as the attitudes of society develop in the light of modern experience. But this Senator would affirm, Mr. President, that the crimes for which the penalty is imposed in S. 1765 are those which, in conjunction with the aggravating factors which may be considered under the bill, are regarded by all civilized societies as being of sufficient gravity to justify a sentence of death upon conviction. And, when we look at contemporary public opinion, not only in this country but in others, and indeed in my own State of Kansas, we find that it is overwhelmingly in favor of capital punishment in principle. In the United States, two-thirds of the States have reenacted capital punishment statutes designed to comply with the Court's decision in Furman, by mandating bifurcated hearings for the imposition of the the penalty. Public opinion polls have consistently shown the public majority to be in favor of capital punishment in limited circumstances. Indeed, it is only a vocal minority which has raised the charge that the penalty is, per se, cruel and unusual.

I would submit, Mr. President, that the use of the death penalty for the crimes set forth in S. 1765 is neither cruel nor unusual by today's standards of public opinion and public practice; and that the procedures set forth in the bill before this body today insure the due process of law and equal protection required by the Constitution as interpreted by the Supreme Court in Furman and subsequent decisions.

II. DETERRENT EFFECT

While the arguments against capital punishment—as contemplated in this bill—on the cruel and unusual punishment theory—seem unfounded, in my opinion, we are still left with the fundamental, more important question: Is capital punishment just and useful? Does it accomplish any purpose which benefits society, and if so, do the advantages outweigh the disadvantages?

It seems to me, Mr. President, that there are two fundamental purposes which any criminal penalty should serve if it is to be deemed just and useful: First, it should protect society from the predations of criminals; and second, it should help to reinforce social mores which deem crime to be wrong per se. Both purposes abound around the principle of deterrence. When a society ceases to believe that criminal acts will be punished adequately, the moral sanction against killing and other heinous offenses diminishes. If people see murderers repeatedly given life sentences and released on parole after 15 years or less, the absolute credibility of the malum prohibitum surrounding heinous crimes disappears. And this must have an effect upon the thinking processes of an individual who contemplates committing the most serious crimes which we punish.

Sadly, Mr. President, we have recent evidence that supports that conclusion. In hearings held before the Criminal Laws Subcommittee, of which this Senator serves as a member, representatives of the Federal Bureau of Prisons detailed certain events that transpired last year at the Federal correctional facility at Marion, Ill. Apparently, two inmates at that institution were engaged in a contest, in effect, to see who could commit the most murders. Both were serving multiple life sentences, and were thus immune to further Federal punishment of any significance. One killed a prison guard simply for the thrill of it, and the other inmate killed another guard simply to keep pace with his fellow inmate. This is shocking. It is sick. But in the absence of legislation to reinstate the Federal death penalty, there is nothing we can do to punish these individuals nor prevent them from committing similar crimes in the future. We cannot even keep them in true solitary confinement—that is, isolate them from all other individuals—because the courts have held that correctional officers must provide all inmates with opportunities for exercise, recreation, and access to library facilities. So as surely as the Sun rises tomorrow, one or both of these individuals will kill again.

There have been endless articles written concerning the statistical evidence for the deterrent consequences of capital punishment statutes, many have argued that there is no conclusive statistical evidence that capital punishment deters murder. On the other hand, many have argued the opposite. Prof. Isaac Ehrlich, for example, conducted a statistical study of the years 1933 through 1969, and concluded that "an additional execution per year * * * may have resulted on the average in seven or eight fewer murders."

The Ehrlich study is very important to our deliberations, because it refutes previous investigations, highly publicized, which did not find any deterrent statistical evidence arguing in favor of capital punishment. In the June 1977 issue of the American Economic Review, Professor Ehrlich published a new cross-sectional analysis of the data, which confirms the conclusions of his original study.

With regard to the validity of those studies which deny any correlation between capital punishment and the incidence of murder, it is important to realize that those individuals who are in fact deterred by the presence of capital punishment statutes are not actually included in the data, because there is no way to determine their number. And while the statistical evidence on the deterrent effect of capital punishment is not conclusive, the general opinion of those in law enforcement who deal with murderers on a day-to-day basis is that the death penalty does deter these crimes when consistently and fairly applied. And those opinions, some of which were brought out in committee testimony, carry considerable weight for this Senator.

There is a larger point, however, beyond the numbers of theories on deterrence of the penalty to other criminals in society, which must not be overlooked. And that is, Mr. President, that capital punishment is most certainly, and undeniably, a deterrent to that criminal who is executed. He will not be coming out on parole in 10 or 15 years to commit yet another assault on society; he will not be in a position to threaten the lives of prison personnel, or other prison inmates. He will be gone. And in light of the tragic incidence of heinous crimes committed by persons already convicted once for such a crime, who are unregenerate upon reentering society, this is perhaps the most compelling consideration. Some would say, how can we take a life to demonstrate the importance of our laws, without degrading the laws we are trying to enforce? My answer is, it is a question of societal self-defense.

No one among us would hesitate, we would presume, to kill a criminal who was attacking ourselves or our family members with intent and capability to kill. It would be necessary self-defense. Does not society have the same right and even obligation to defend itself against those who infringe upon the most fundamental right of a citizen—the right to live? If we take the logic of those who would abolish the penalty to its conclusion, then our law enforcement agencies could not act to defend a citizen whose life was threatened by riot or criminal act if that defense necessitated the killing of the persons creating the threat, because to do so would undermine the sanctity of life.

I, for one, reject that view. I believe that capital punishment is a powerful deterrent, if administered consistently and fairly. Assuming that potential assailants value their lives, it is rational to assume that they will think more than once before taking action that would lead to the electric chair.

On this psychological point, Mr. President, this Senator is aware of certain opinions of sociologists and others who contend that many murderers are really self-destructive, suicidal personalities who seek to commit murder in order to provoke the State to kill them, which is what they wish to do to themselves. While some murderers may in fact fit this description, it is far from clear that the majority do. Moreover, the existence of such individuals strengthens the argument for capital punishment, as their physical destruction is the only way of protecting society from their violence.

The psychological apologist argument against capital punishment, while warning us about suicidal psychotics, also contends that murder is frequently a crime of passion, and that no cold calculation is involved before the act, thus rendering deterrence impossible. Statistical evidence does not clearly reveal what proportion or murders are in fact crimes of passion. S. 1976 imposes capital punishment for offenses which clearly involve premeditation, however, so the argument lacks persuasiveness with regard to the legislation before us today.

III. PROVISIONS OF S. 1765

Mr. President, the bill we have reported out not only specifies the death penalty for the basic offenses, but also spells out a clear, bifurcated procedure for the judge and jury to follow after a person is convicted of a crime for which the penalty may be imposed. A separate hearing must be held to determine whether the penalty will be invoked, with all jurors—or the judge, where the case is tried to the court—finding that aggravating factors outweigh mitigating factors in the individual case.

The burden of proof on the government to establish aggravating factors is greater than that on the defendant to establish mitigating circumstances. In addition, the defendant is allowed to appeal his sentence of death. Thus, one cannot argue that the bill does not give defendants a fair chance to argue for mitigating factors which militate against capital punishment.

Mr. President, this procedure is fair, it is objective, it is just. And it meets the constitutional requirements of the law as enunciated in Furman and later decisions. It cannot be said to constitute cruel and unusual punishment, nor to give judges and juries unfettered discretion as to whether to impose the death penalty. I believe the protections it embodies are more than sufficient to eliminate the possibility that mistakes will be made in imposing the penalty.

For these reasons, I will vote in favor of the bill.

Mr. LEAHY. Mr. President, at the heart of many of today's proposals to update and reform our criminal laws is the issue of capital punishment, the intractable question of who may live and who will die. A bill to restore capital punishment for certain Federal criminal offenses is again before Congress. I oppose the bill.

My objections to capital punishment are moral and practical. The moral issue overrides all others because officially authorized killing, even of those who have taken human life, offends the deepest of our shared spiritual values. Whatever feeling of retribution or enhanced personal security we may enjoy because of the use of death as a penalty, we enjoy at a high price, the price of admitting and affirming that the ultimate power in governing our affairs is the power to kill.

But beyond personal moral concerns, the death penalty makes no practical sense. The death penalty tends to drain the resources of the entire criminal justice system, from prosecutor to the Supreme Court, and to focus what should be a massive force to combat and deter crime on relatively few cases, with inevitable costs to the efficiency of the system as a whole.

The death penalty, even with the most carefully drafted standards, is designed to kill and will remain controversial. The appellate courts will continually grapple with the enormity and irreversibility of the penalty and its implications for a nation espousing a reverence for human life. In the midst of appeals, it inevitably will be accompanied by the spectacle of shuffling human beings back and forth between death row and temporary reprive during months, and even years, of delay.

A second reason the death penalty is a futile gesture from a practical standpoint is that it will not have any noticeable effect on crime statistics or our sense of safety and well-being. Support for capital punishment is a quick, shorthand method for appearing to be tough on crime, but a simple perusal of recent criminal justice statistics and crime rates demonstrates convincingly the fallacy that capital punishment can somehow have an impact on the Nation's soaring crime rate. Even if the death penalty might deter specific persons from contemplating homicide in given instances—and I suspect it probably does—the example of officially sanctioned violence may, in the long run, actually contribute to the overall levels of violent crime.

Capital punishment does little to alleviate the fears of the American people caused by the increase in the number of robberies, muggings, burglaries, and assaults. It is these crimes that the American people fear most.

Third, it is common knowledge that those who have been sentenced to death overwhelmingly come from the poor and the minorities. As a result, the restoring of the death penalty will have the practical effect of killing a significantly higher proportion of criminals from these groups than others.

Fourth, people, and institutions run by people, make mistakes. No matter what procedures are used to determine the appropriate cases for the ultimate penalty of capital punishment, innocent people will be condemmed to die. If there had ever been a demonstration that the death penalty was required as essential to civilization, that risk might seem justifiable. But the best evidence has been to the contrary.

To the extent capital punishment deters, the question must be asked whether it is an effective deterrent. I believe that a real life sentence—life imprisonment without the possibility of parole—would be far more effective in deterring violent crime than the death penalty. A clearly constitutional sentence of life imprisonment without the possibility of parole will be a more certain means of allaying the public's fears than the death penalty.

The other goals of the death sentence, incapacitation of the defendant and retribution, are achieved very well under my proposal for a real life sentence. The prospect of life without freedom is a chilling and haunting one. It is devastating retribution.

I will be candid that as a former prosecutor, as a U.S. Senator, and as a father, I have no easy answer to the growing threat of violence in our society. But the more I ponder, the more certain I become that the answer is not to add killing to killing.

Mr. DURENBERGER. Mr. President, I rise today to speak in opposition to S. 1765, a bill to establish constitutional procedures for the imposition of the death penalty.

Let me begin by sharing with my colleagues a few paragraphs that appeared on January 24 in Time magazine.

> The chair is bolted to the floor near the back of a 12-ft. by 18-ft. room. You sit on a seat of cracked rubber secured by rows of copper tacks. Your ankles are strapped into half-moon-shaped foot cuffs lined with canvas. A 2-in.-wide greasy leather belt with 28 buckle holes and worn grooves where it has been pulled very tight many times is secured around your waist just above the hips. A cool metal cone encircles your head. You are now only moments away from death.
>
> But you still have a few seconds left. Time becomes stretched to the outermost limits. To your right, you see the mahogany floor divider that separates four brown church-type pews from the rest of the room. They look odd in this beige Zen-like chamber. There is another door at the back through which the witnesses arrive and sit in the pews. You stare up at two groups of fluorescent lights on the ceiling. They are on. The paint on the ceiling is peeling.
>
> You fit in neat and snug. Behind the chair's back leg on your right, is a cable wrapped in gray tape. It will sluice the electrical current to three other wires: Two going to each of your feet, and the third to the cone on top of your head. The room is very quiet. During your brief walk here, you looked over your shoulder and saw early morning light creeping over the Berkshire Hills. Then into this silent tomb.
>
> The air vent above your head in the ceiling begins to hum. This means the executioner has turned on the fan to suck up the the smell of burning flesh. There is little time left. On your right, you can see the waist-high, one-way mirror in the wall. Behind the mirror is the executioner, standing before a gray marble control panel with gauges, switches and a foot-long lever of wood and metal at hip level.
>
> The executioner will pull this lever four times. Each time, 2,000 volts will course through your body, making your eyeballs first bulge, then burst, and then broiling your brains. * * *

This description brings home what we are debating today. It is not neat, clean, and painless. Society putting another human being to death is messy, painful, and inhumane.

My opposition to this bill is a manifestation of my belief in the unique worth and dignity of each person from the moment of conception, a creature made in the image and likeness of God. It is particularly important that this belief be affirmed with regard to those who have failed or whose lives have been disturbed by suffering or hatred, even in the case of those who by their actions have failed to respect the dignity and rights of others. This recognition of the dignity of all human beings is a compelling factor in my decision to oppose this measure—we should be unwilling to treat as expendable the lives of even those who have taken human life.

By enacting this legislation, we would be refuting the dignity of human life and sanctioning the current trend of the State's toward increased executions. If we extend this trend to the level necessary to make the capital system viable, the execution rate would have to rise significantly above that countenanced in modern times. Before there could be any reduction of the death row population, which is now over 1,000, it would be necessary to kill 200 defendants each year just to offset the new arrivals on death row. In the decade of the 1960's, prior to the moratorium on execution, there was an average of 19.1 executions per year. The sixties were atypical, however, because of the developing moratorium and the large number of steps leading up to it. Potentially more representative are the 1950's, when the average number of executions per year was 72, or in the 1940's, when it was 128. The 1930's had the highest annual rate, with an average of 152 executions per year. During this period, from 1936-66, the public support for the death penalty fell consistently. Is it going to be different when as a nation we begin to approach 200 executions per year? No; the moral consensus of society will be an abhorrence of these executions, and today, we have a chance to be in the vanguard of public opinion and send a message to the States against capital punishment.

I regret that the vehicle to send this message is a bill that would reinstitute capital punishment. We should be debating a measure that would abolish capital punishment. As the U.S. Catholic Bishops stated:

> Abolition would send a message that we can beat the cycle of violence, that we need not take life for life, that we can envisage more humane and more hopeful and effective responses to the growth of violent crime. It is a manifestation of our freedom as moral persons striving for a just society. It is also a challenge to us as a people to find ways of dealing with criminals that manifest intelligence and compassion rather than power and vengenance. We should feel such confidence in our civic order that we use no more force against those who violate it than actually required.

Although the compelling reason I oppose this bill is my commitment to the value and dignity of human life, other grounds exist for rejecting this measure.

The first reason is the language of the bill itself. The bill is drafted so as to be unconstitutional. The bill makes it a capital crime to engage in espionage, treason, or the attempted assassination of the President. Participants in these crimes should be punished, no question about it. However, the Supreme Court has stated in the case of Coker against Georgia that the imposition of the death penalty for the rape of an adult woman where death did not result was "grossly disproportionate and excessive punishment" forbidden by the eighth amendment as cruel and unusual punishment.

The Judiciary Committee did consider the constitutionality of attempted assassination of the President. The best opinion that they could come up with that supported their position was issued by the Department of Justice and stated:

> We believe that such a statute, if drafted narrowly and with extreme care, might well be upheld by the Supreme Court.

The committee adopted, as part of the provision, language to the effect that an attempt that comes "dangerously close" to causing the death of the President but does not cause injury to the President can be punished by death. It would seem to me that the "dangerously close" language is too vague to withstand constitutional scrutiny, and was not drafted "narrowly and with extreme care."

Beyond the fact that the bill as written can be construed as unconstitutional, I oppose the bill because a compelling rationale for the death penalty does not exist. Proponents of the death penalty say that the presence of the possibility of death will deter criminals from their murderous acts. There is no solid evidence to support this contention, and commonsense should tell us that this is not the case.

We are talking about murderous criminals. People who have the capacity to kill another human being are not held by the rational constraints that bind the rest of us. Can you honestly say that a person who is about to pull the trigger will pause and say to himself that he should stop because of the remote possibility that he could be put to death? You and I know that just does not happen.

Since deterrence is not a basis for capital punishment, what about an eye for an eye or in technical terms the retribution theory? Admittedly, capital offenders should be punished for their crimes, but is one murder vindicated by committing a second murder? I think not. In fact, it has been argued that the second murder is more reprehensible because it is officially sanctioned and done with great ceremony in the name of us all. This second killing is worse than the first. Murder committed by the psycopath or the cold-blooded killer is a random event not subject to control, but a well-orchestrated modern execution is well thought out and is horrible because the Government is always in control; it knows better, but kills anyway.

The legal history of our country's struggle with the death penalty is well known. Significant progress has been made to eliminate the imposition of the death sentence in an unfair and discriminatory manner. Currently, if specific evidence of bias or discrimination in sentencing can be provided for particular cases, the higher courts will not uphold sentences of death in these cases.

But we must also reckon with a legal system which, while it does provide counsel for indigent defendants, permits those who are well off to obtain resources and the talent to present their case in as convincing a light as possible.

The legal system and the criminal justice system both work in a society which bears in its psychological, social, and economic patterns the mark of racism. These marks remain long after the demolition of segregation as a legal institution. The end result of all this is a situation in which those condemned to die are nearly always poor and are disproportionately black. Thus, 47 percent of the inmates on death row are black, whereas only 11 percent of the American population is black.

Admittedly, abolition of the death penalty will not eliminate racism and its effects, an evil which we are called to combat in many different ways. But it is a reasonable judgment that racist attitudes and the social consequences of racism have some influence in determining who is sentenced to die in our society. This I do not regard as acceptable.

In advocating my opposition to this bill, the argument about the possibility of mistake cannot be overlooked. As Senator Levin has so thoughtfully reiterated our judicial history contains examples of people sentenced who later were proven to be innocent of the crimes for which they were convicted. Carrying out the death sentence leaves no margin for error where errors have been proven to exist. Additionally, inflection of the death penalty extinguishes possibilities for reform and rehabilitation for the person executed. It cuts off the possibility of a new beginning and of moral growth in a human life which has turned away from the inherent capacity for good, which we are born with, to evil.

In concluding, I would like to reiterate my concern over the unchecked growth of violent crime in America. I am willing to work hard to check the growth of violent crime, and I believe the sentencing reforms that I cosponsored, and the Senate passed last week as part of S. 1762, will be a great aid in deterring violent crime. However, as so ably stated by the minority in the committee report on this bill, I believe that:

> Capital punishment places incredible strains on our criminal justice system, far outweighing any marginal benefit that arguably is gained. The death penalty in our society is so controversial that it inevitably will be accompanied by the spectacle of shuffling a human being back and forth between death row and temporary reprieve during months, and even years of delay while the appellate courts grapple with the enormity and irreversibility of the penalty and its implications for a nation espousing a reverence for human life. It is a divisive penalty that expends emotions and resources out of all proportion to any impact it could possibly have on the real problem of violent crime in the United States.

I vote no on S. 1765, thereby affirming my commitment to the sanctity of human life in all its stages. I do not wish to equate the situation of criminals convicted of capital offenses with the condition of the innocent unborn or of the defenseless aged or infirm, but I do believe that the defense of life is strengthened by eliminating the possibility of judicial authorization to take human life.

Mr. LEVIN. Mr. President, yesterday the floor manager, Senator Thurmond, and I engaged in what I thought was a very useful colloquy on this bill. I do not expect that my colleagues in the Senate or in the House of Representatives have had time yet to fully examine the Record of yesterday. Instead, I expect that the vote today will largely be based on the broader issues and feelings involved in the bill.

Nevertheless, when the House of Representatives and the courts look to the colloquy which the floor manager and I had yesterday, I believe it will be clear that there were serious questions raised as to the legislative consistency and constitutionality of the legislation before us now. Questions about the standard of proof, the form of notice, the requirement of intent, and the balancing of aggravating and mitigating factors revealed that this bill is flawed in its drafting and its constitutional underpinnings.

I urge our colleagues in the House to look to the Record of yesterday and weigh it carefully before passing on the merits of this bill.

Mr. LAUTENBERG. Mr. President, in a short while the Senate will decide whether to impose the death penalty on a small number of criminals who commit crimes abhorred by us all. But, the broader question before the Senate is whether or not our society finds capital punishment an effective, acceptable punishment, consistent with our moral and religious values.

There is no question that all of us here in this Chamber, and throughout the land, share a common revulsion against crime, but particularly against violent and brutal crimes, or those that strike at the heart of our Nation's political stability or national security. Crimes falling in this category are a shocking, horrifying, and all-too-common phenomenon in our country. Innocent victims and their families suffer untold pain from these crimes for which they can never be compensated or made whole.

The immediate reaction upon hearing of a particularly heinous crime is outrage; the desire to mete out the harshest possible punishment. The death penalty has been proposed as a means for society to express this outrage, as a means of seeking retribution in kind.

What we are called upon to decide today, Mr. President, is whether, after this first rush of rage, our society should take the next step and impose the death penalty. We must decide if this is consistent with the foundations of our criminal justice system. We must decide if this is the best way to exert our moral authority. We must decide if this is the only way to deter crime.

Mr. President, most other nations have viewed the death penalty as unacceptable and unnecessary. Why have other nations turned away from the death penalty? They have turned away from it for reasons of morality. They have turned away from it because of the foibles of any criminal justice system, and the possibility of a mistaken conviction. They have turned away from it because it has not been an effective deterrent to crime.

Mistakes are possible under our system of justice and indeed many have been rehearsed in recent days in this Chamber. In the course of this debate, 48 examples have been cited of people who have been found guilty of murder, sentenced to death, and later proved to be innocent. For some the truth was revealed too late; the hangman had already done his work. In the last 10 years, at least six cases have been uncovered in which people have been convicted on insufficient or perjured evidence and sentenced to death. These errors have been discovered in time for the sentences to be overturned.

These people have been wrongly convicted, often on what appeared to be the strongest evidence. If such a person is executed, there is no way to correct the error. A just society cannot allow this to happen.

The death penalty has not been shown to be an effective deterrent to criminals bent upon violent or treasonable acts. States which have the death penalty have a homicide rate which is about twice that of States without it.

As we have seen, Presidential assassins or would-be assassins are unstable people, not concerned with the repercussions of their acts. People capable of the crimes for which the death penalty would be imposed are frequently heedless of their personal safety and the rules of society. Murderers often act out of the passion of the moment. Either they believe they will not be caught, or they do not care what will happen to them.

Killing, even when sanctioned by law as a punishment for heinous crimes, is viewed throughout the developed world as barbaric. It is a perpetuation of the very violence which it is intended to counteract. In truth, one violent act cannot wipe out another.

These considerations—the possibility of a mistake, the ineffectiveness of the deterrence, and the barbaric nature of the sentence—must be weighed against our goal of preventing crime, and the alternative means which are available for achieving it. I continue to feel that the best way for society to maintain order and deter crime is to let those who break its rules know that their punishment will be swift and certain. If this knowledge could be established as a reality in this country, then we would not need to take the further step of imposing the ultimate penalty of death.

The Senate has recognized that our criminal justice system is not fully meeting the needs of our society. By passing a major revision of the Federal Criminal Code, the Senate has moved to establish the principle of swift and certain punishment. Many States have done the same. The most important changes in the Criminal Code approved by the Senate are: Provisions to keep accused criminals in jail awaiting trial if they are considered a danger to the community; the establishment of uniform guidelines for sentencing so that people who have committed similar crimes will serve similar sentences; the abolishment of parole; a shift in the burden of proof to the accused in insanity pleas; and the establishment of a mandatory sentence for the use of a firearm in a crime of violence.

A separate bill, the Armed Career Criminal Act, will be considered soon. This bill would create a new Federal crime, which could be used to prosecute people at the Federal level for armed robberies or burglaries if they have a history of prior convictions. This will be another useful tool for assuring more rapid prosecution of violent criminals and the certainty of mandatory sentences for potentially dangerous criminals.

These criminal law changes are intended to provide greater protection for society by making sentences more consistent and predictable and making it more difficult for dangerous criminals to go free on bail or to avoid punishment. They reinforce society's condemnation of antisocial, criminal actions.

Society must continually reassert its values and punish those who break its rules. Only in this way can it hope to maintain order. The Senate has taken steps to improve the criminal justice process with the passage of the Comprehensive Crime Control Act and will take further steps when it passes the Armed Career Criminal Act. We need to continue these steps to reduce the high rate of violent crime in this country. Swift and sure punishment is the most effective means to this end. The death penalty which strikes at the foundations of our moral and religious values does not need to be part of this arsenal.

Mr. President, I have received an eloquent letter from the pastor of a Catholic church in my State arguing against the death penalty bill. I ask that the text of the letter be inserted in the Record.

The letter follows:

Senator Frank Lautenberg,
U.S. Senate,
Washington, D.C.

Dear Senator Lautenberg: I write in opposition to S. 1765, a bill which would permit a federal death penalty.

We can surely agree that the level of violence has risen in the world. We see the abuse of human rights by individuals and by governments, of both the left and the right. We see revolutions and civil wars and crime in the streets.

We can also agree that we should do what we can to reduce the level of violence. Some claim that we can reduce crime and violence in the streets by imposing capital punishment on criminals convicted of certain crimes. I do not share that opinion.

I maintain that when the state puts an end to a criminal's life it undermines the very sanctity of life which it claims to protect. It is the duty of the state to treat the life of every citizen with reverence, including the life of criminals. Though they have offended the just order of the state, they do not cease to be human; their life is still sacred. Upon conviction they forfeit some of their rights, but certainly not the most basic right to life itself. It is not wise for us to give to the state the power of deciding who may live, whose life must be protected, and whose life may be taken. It is not within the competence of the state to decide that. I think that it can be fairly said that this is part of the Judaeo-Christian tradition.

There are, of course, cases of conflict, and through the centuries Christians have differed about the best way to preserve the sanctity of each human life. One branch has viewed that sanctity to be of such paramount importance that it can never be taken, under any circumstance. Another, and more dominant, branch, supports the sanctity of human life, but also recognizes that in some cases life may—sadly and reluctantly—be taken. Those Christians in the former branch—often called pacifists—must clearly oppose capital punishment. It is interesting to note, however, that more and more Christians who identify themselves with the second branch, are also coming to the same conclusion and now oppose capital punishment. They find it increasingly difficult to find a circumstance so grave that it would warrant the taking of a criminal's life. By and large the American Catholic Bishops belong to the second, more dominant, branch of the tradition, and since 1974 they have called for the abolition of the death penalty.

It is clear, of course, that society has a right to protect itself against criminal and violent behavior. It has the right to apprehend, try, convict, and incarcerate criminals: (1) in order to maintain respect for the law and just order; (2) in order to protect its citizens; and (3) in order to rehabilitate the criminal, in the interest of returning him/her to society as a better citizen. Hatred and vengeance, however, are not worthy motives for incarceration. Retribution breeds violence instead of reducing it.

I do not see how capital punishment (1) maintains respect for the law (—studies have not been able to prove its deterrent value—); (2) protects citizens better than incarceration; or (3) rehabilitates the prisoner, for the ending of his life ends all chances of reform. As far as I can see, capital punishment serves only the meanest of motives—hatred and vengeance.

Pope John Paul II recently pleaded with the State of Florida for clemency on behalf of a convicted criminal. I am sorry that the State of Florida did not heed his plea. I do not believe that the citizens of Florida now sleep more securely because of that criminal's death.

I hope, on the other hand, that you will be more sensitive to the need for the abolition of the death penalty, and that, even though it proves to be politically unpopular, you will oppose S. 1765.

Mr. President, I also insert in the Record two editorials which appeared in the New York Times and Washington Post opposing death penalty legislation.

[From the New York Times, Feb. 9, 1984]

WHO NEEDS FEDERAL DEATH?

When the Supreme Court struck down virtually all capital punishment laws in 1972, nearly 600 prisoners were spared. None were Federal prisoners, for the United States had no need for the death penalty. Only one Federal prisoner had been executed during the 1960's and only a few in the 1950's. Yet suddenly, on no new showing of need, the Senate is seriously considering a measure that would bring back death as punishment for numerous Federal crimes.

Congress has enacted a Federal death penalty for aircraft hijacking during which death results, but there's no showing even here of capital punishment's vaunted deterrent effect. Hijackings continue, and to the extent they are deterred, that has far more to do with effective airport security than a hijacker's fear of execution.

Some argue that the ultimate penalty must be available for crimes like treason, espionage, sabotage and violence against Federal officials. When in recent years would the nation have needed that extreme remedy? Was it needed in the nuclear spying case of Julius and Ethel Rosenberg? Their execution in 1953 was the first in history for Americans convicted of espionage in a Federal court. Electrocuting them, once they were convicted, added nothing to national security. Instead, it created an enduring boil of moral questions.

Some argue that a national example must be set for states concerned about crime. Right, and the Federal example should be of civilized government behavior. Even if our Constitution, as currently interpreted by the Supreme Court, permits states to execute for murder, the Federal Government need not follow the 38 states that do so. Especially should it not lead the way to capital punishment for the 12 states without it.

A vote to cut off Senate debate on a death bill is scheduled for today. A vote against cloture will be a vote to keep talking—until after a recess and until the Senate can start sifting for sense instead of rushing for blood.

[From the Washington Post, Feb. 12, 1984]

FATAL MISTAKES

Ten years ago this week, William Velten was murdered and left in a ditch near Albuquerque, N.M. He had been castrated, slashed repeatedly with a knife and shot five times. The state pathologist said the victim had been sodomized and that the cuts had been made with a heated knife. A woman testified at the trial that she had been forced by the killers to watch this torture and murder, after which she was raped and slashed with the same hot knife. Four members of a motorcycle gang were convicted of the crimes and sentenced to die. They deserved it, right? Only one problem: after they spent 18 months on death row it was discovered that the witness had lied. Someone else later confessed and was convicted of the murder.

Others have escaped the hangman more narrowly. Will Purvis, sentenced to death in Mississippi, survived hanging because the knot slipped; J. B. Brown, a Florida convict, was spared at the gallows because his execution warrant mistakenly carried the name of the jury foreman. Both men were later pardoned when someone else confessed to the crime. This week's Senate debate on a bill to restore the death penalty for some federal crimes contains almost 50 such stories of 20th century American cases in which a person was unjustly convicted of a capital crime and sentenced to death. In many cases, the sentences were carried out before the truth was uncovered.

Sen. Carl Levin (D-Mich.), who led an unsuccessful filibuster against the capital punishment bill, made a powerful case that imposing an irrevocable penalty when mistakes are a certainty is unjust. It is also ineffective. Those states that have a death penalty statute—supposedly a deterrent—on average report more homicides than states without this sanction. Why doesn't the specter of the electric chair or the gas chamber stop a killer? Because, says the former warden of San Quentin, in his personal experience of interviewing thousands of convicted murderers, not one had stopped to think of the possible punishment for his crime. Either they did not expect to get caught or the crime was committed in a fit of passion, jealousy, rage or temporary insanity.

In the end, the strongest argument to be made against government-sanctioned killing is that it is wrong. The taking of a life by collective decision is no less odious than a similar act by an individual. It is a primitive response by a supposedly advanced society, brutalizing the executioners as well as the condemned. The Senate's apparent determination to proceed with this legislation is shameful.

Mr. HELMS. Mr. President, the Senate has been debating the merits of a bill to restore the death penalty for heinous crimes under Federal law. A vote on this question will occur shortly, at 2:30. This legislation is necessitated by Supreme Court rulings and is long overdue. I am happy to join Senator THURMOND and others in cosponsoring this important bill.

Mr. President, although the infliction of the death penalty is always a personal tragedy for the convicted criminal, it is necessary in a civilized society in the interest of just punishment, deterrence of others, and protection of society from the offender himself. Without capital punishment for heinous crimes, the Government fails in its primary duty to administer justice, and in the process it endangers all law-abiding citizens.

Treason and murder for hire, for example, are two crimes for which the death penalty is the traditional punishment. They are utterly despicable acts; they are deliberate and calculated. Treason totally disregards the life of the Nation and the lives of all citizens. Murder for hire totally disregards the life of the victim.

Perpetrators of these and other traditionally capital crimes wilfully risk the forfeiture of their lives. They have shown themselves unfit, through their own deliberate and voluntary conduct, to participate in civilized society because they have, in effect, declared war on that society. Under such circumstances, the death penalty is proportionate to the crime, it fits the crime, and no other punishment would really do justice.

Mr. President, in considering the justice of the death penalty, what must not be overlooked is the fact that the guilty act by definition, is always a voluntary act. Under traditional Anglo-American law on this subject, an essential element in every capital crime is that it be a free act of the will. That is, the offender was free to do, and could have done, other than to commit the crime.

Opponents of the death penalty, however, would have us believe that capital crimes are mostly a product of one's background, upbringing, environment, childhood, and so forth. In their opinion, people who commit capital crimes are not properly educated or conditioned—or "socialized" as they say. As a result, it is really a neglectful society, not the offender himself, who is responsible for capital crimes. Naturally, given such a view, to inflict the death penalty becomes "cruel and unusual punishment" in every case.

This view represents a profound misunderstanding of human nature. It assumes that we do not act, in the most serious matters, with free will and freedom of action. It implies that we are not responsible for what we do. Indeed, it reduces the meaning of human action to a level little better than that of draft animals. Like them, we supposedly chew our cuds, do what comes naturally, and die; and that is all there is.

Fortunately, Mr. President, this view of human nature, while it may be held by some psychologists, penologists, and academics, is rejected out of hand by the overwhelming majority of Americans. They know, from ordinary experience, that they can control whether or not they murder someone else, and they know that virtually everyone else can do so as well. That is why they strongly support the death penalty and why they expect Government to use it without delay for heinous crimes.

Mr. President, in addition to serving justice, capital punishment is, in my view, a strong deterrent. It simply stands to reason that in societies where there is a swift and sure application of the death penalty for heinous crimes, there will be less heinous crimes. Life imprisonment is a fearful thing, and therefore is too is a strong deterrent, but the threat of execution has no parallel in getting the attention of the criminal element and conveying to them the inadvisability of committing a capital crime.

This Senator is not unaware of the volumes of literature debating the issue of deterrence. Some persuasive arguments are made on both sides. Suffice to say, however, that I am satisfied with the statements made on deterrence in the Judiciary Committee's report on this bill. The committee concluded that the available evidence on deterrence is inconclusive at best. For further material on this issue I refer my colleagues and the public to Walter Berns' well-reasoned book, "For Capital Punishment."

Mr. President, in addition to serving justice and deterring others, capital punishment protects society, including the prison population, from further heinous crimes by the offender. This aspect of capital punishment is self-evident, but it is important nonetheless because it is a genuine and effective safeguard by society against proven violent offenders. One example on this point should suffice.

In his book, "For Capital Punishment," Walter Berns relates the following story about one Henry Jarrette from my own State of North Carolina:

> Jarrette was a double murderer, but he was not executed. Instead, he was given a long-term prison sentence and then allowed to leave the prison in order to attend the state convention of the Junior Chamber of Commerce in Raleigh, North Carolina. He was a duly elected officer of the prison chapter of the state Jaycees, so why shouldn't he be allowed to attend the convention? While in Raleigh, he eluded his guard and escaped. Two days later he seized a sixteen-year-old black girl, bound her hands behind her back, threw her in a car he had stolen, drove off to a secluded place in the woods, raped her, threw her back in the car, and drove back to town; there he stabbed and killed a sixteen-year-old white boy who had the misfortune to be sitting at the wheel of another car to which Jarrette took a fancy. (p. 103).

Mr. President, no innocent citizen should ever be the victim of such a dangerous proven offender, and this is another compelling reason for restoring the death penalty.

Mr. President, on the overall issue of the morality and wisdom of capital punishment in our time, there has been much debate by various religious groups. Some religious spokesmen have recently even condemned capital punishment as the same kind of violation of the human person as abortion.

Nothing, however, Mr. President, could be further from the truth. As I have said on many occasions to show the fundamental distinction between capital punishment and abortion, I favor capital punishment for all unborn babies who have committed capital crimes.

The crucial point here is that unborn children are perfectly innocent of any crime, having committed no voluntary act whatsoever—much less a culpable one. On the other hand, capital punishment is only imposed when an offender has committed the most egregious crimes against innocent human life.

Reserved in this way as the ultimate punishment for ultimate crimes, the death penalty does not violate our religious and cultural value of protecting innocent human life. Indeed, it actually vindicates this value by applying the ultimate sanction for unconscionable attacks on innocent citizens.

Traditionally both Judaism and Christianity have affirmed the authority of the state to use capital punishment for heinous crimes. Without belaboring this point, I will simply add three short items. First, the Mosaic code mentions murder, kidnaping, witchcraft, idolatry, sodomy, adultery, incest, blasphemy, and several other offenses as punishable by death. Second, St. Paul said the ruler "beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil." (Romans 13:4). And third, St. Thomas Aquinas made this classic defense of the death penalty:

> If a man is a danger to the community and corrupts it through some sin or other, it is right and just that he should be put to death in order to safeguard the common good. . . . As God himself does, so should human justice put to death those who are a danger to others and reserve punishment for those who do not seriously endanger others. (Summa Theologica, II-II, 64, art. 2.)

Mr. President, I ask unanimous consent that an essay supporting capital punishment, entitled "The Humanitarian Theory of Punishment," by the eminent 20th century Christian thinker C. S. Lewis, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From "Essays on the Death Penalty," edited by T. Robert Ingram (St. Thomas Press, 1963)]

THE HUMANITARIAN THEORY OF PUNISHMENT

(By C. S. Lewis)

In England we have lately had a controversy about capital punishment. I do not know whether a murderer is more likely to repent and make a good end on the gallows a few weeks after his trial or in the prison infirmary thirty years later. I do not know whether the fear of death is an indispensable deterrent. I need not, for the purpose of this article, decide whether it is a morally permissible deterrent. Those are questions which I propose to leave untouched. My subject is not capital punishment in particular, but that theory of punishment in general which the controversy showed to be almost universal among my fellow countrymen. It may be called the humanitarian theory. Those who hold it think that it is mild and merciful. In this I believe that they are seriously mistaken. I believe that the "humanity" which it claims is a dangerous illusion and disguises the possibility of cruelty and injustice without end. I urge a return to the traditional or retributive theory not solely, not even primarily, in the interest of society, but in the interests of the criminal.

According to the humanitarian theory, to punish a man because he deserves it, and as much as he deserves, is mere revenge, and, therefore, barbarous and immoral. It is maintained that the only legitimate motives for punishing are the desire to deter others by example or to mend the criminal. When this theory is combined, as frequently happens, with the belief that all crime is more or less pathological, the idea of mending tails off into that of healing. Punishment becomes therapeutic.

Thus it appears at first sight that we have passed from the harsh and self-righteous notion of giving the wicked their deserts to the charitable and enlightened one of tending the psychologically sick. What could be more amiable? One little point which is taken for granted in this theory needs, however, to be made explicit. The things done to the criminal, even if they are called cures, will be just as compulsory as they were in the old days when we called them punishments. If a tendency to steal can be cured by psychotherapy, the thief will no doubt be forced to undergo treatment. Otherwise, society cannot continue.

My contention is that this doctrine, merciful though it appears, really means that each one of us, from the moment he breaks the law, is deprived of the rights of a human being.

The reason is this. The humanitarian theory removes from punishment the concept of desert. But the concept of desert is the only connecting link between punishment and justice. It is only as deserved or undeserved that a sentence can be just or unjust. I do not here contend that the question "Is it deserved?" is the only one we can reasonably ask about a punishment. We may very properly ask whether it is likely to deter others and to reform the criminal.

But neither of these two last questions is a question about justice. There is no sense in talking about a "just deterrent" or a "just cure." We demand of a deterrent not whether it is just but whether it succeeds. Thus when we cease to consider what will cure him or deter others, we have tacitly removed him from the sphere of justice altogether; instead of a person, a subject of rights, we now have a mere object, a patient, a "case" to be treated in a clinic.

The distinction will become clearer if we ask who will be qualified to determine sentences when sentences are no longer held to derive their propriety from the criminal's deservings. In the old view, the problem of fixing the right sentence was a moral problem. Accordingly, the judge who did it was a person trained in jurisprudence; trained, that is, in a science which deals with rights and duties, and which, in origin at least, was consciously accepting guidance from the law of nature, and from Scripture. We must admit that in the actual penal code of most countries at most times these high originals were so much modified by local custom, class interests, and utilitarian concessions, as to be very imperfectly recognizable. But the code was never in principle, and not always in fact, beyond the control of the conscience of society. And when (say, in eighteenth century England) actual punishments conflicted too violently with the moral sense of the community, juries refused to convict, and reform was finally brought about.

This was possible because, so long as we are thinking in terms of desert, the propriety of the penal code, being a moral question, is a question on which every man has the right to an opinion, not because he follows this or that profession, but because he is simply a man, rational animal enjoying the natural light. But all this is changed when we drop the concept of desert. The only two questions we may now ask about a punishment are whether it deters and whether it cures.

But these are not questions on which anyone is entitled to have an opinion simply because he is a man. He is not entitled to an opinion even if, in addition to being a man, he should happen also to be a jurist, a Christian, and a moral theologian. For they are not questions about principle but about matter of fact; and for such, culquam in sua arte credendum (to each his last). Only the expert "penologist" (let barbarous things have barbarous names), in the light of previous experiment, can tell us what is likely to deter; only the psychotherapist can tell us what is likely to cure. It will be in vain for the rest of us, speaking simply as men, to say, "But this punishment is hideously unjust, hideously disproportionate to the criminal's deserts." The experts with perfect logic will reply: "But nobody was talking about deserts. No one was talking about punishment in your archaic, vindictive sense of the word. Here are the statistics proving that this treatment deters. Here are the statistics proving that this other treatment cures. What is your trouble?"

The humanitarian theory, then, removes sentences from the hands of jurists whom the public conscience is entitled to criticize, and places them in the hands of technical experts whose special sciences do not even employ such categories as rights or justice. It might be argued that since this transference results from an abandonment of the old idea of punishment, and therefore, of all vindictive motives, it will be safe to leave our criminals in such hands. I will not pause to comment on the simple-minded view of fallen human nature which such a belief implies. Let us rather remember that the "cure" of criminals is to be compulsory; and let us then watch how the theory actually works in the mind of the humanitarian.

The immediate starting point of this article was a letter I read in one of our leftist weeklies. The author was pleading that a certain sin, now treated by our laws as a crime, should henceforward be treated as a disease. And he complained that under the present system the offender, after a term in jail, was simply let out to return to his original environment, where he would probably relapse. What he complained of was not the shutting up but the letting out. On his remedial view of punishment the offender should, of course, be detained until he was cured. And of course the official straighteners are the only people who can say when that is. The first result of the humanitarian theory is, therefore, to substitute for a definite sentence (reflecting to some extent the community's moral judgment on the degree of ill-desert involved) an indefinite sentence terminable only by the word of those experts—and they are not experts in moral theology nor even in the law of nature—who inflict it. Which of us, if he stood in the dock, would not prefer to be tried by the old system?

It may be said that by the continued use of the word punishment and the use of the verb "inflict" I am misrepresenting humanitarians. They are not punishing, not inflicting, only healing. But do not let us be deceived by a name. To be taken without consent from my home and friends; to lose my liberty; to undergo all those assaults on my personality which modern psychotherapy knows how to deliver; to be re-made after some pattern of "normality" hatched in a Viennese laboratory to which I never professed allegiance; to know that this process will never end until either my captors have succeeded or I grow wise enough to cheat them with apparent success—who cares whether this is called punishment or not? That it includes most of the elements for which any punishment is feared—shame, exile, bondage, and years eaten by the locust—is obvious. Only enormous ill-desert could justify it; but ill-desert is the very conception which the humanitarian theory has thrown overboard.

If we turn from the curative to the deterrent justification of punishment we shall find the new theory even more alarming. When you punish a man to make of him an "example" to others, you are admittedly using him as a means to an end; someone else's end. This, in itself, would be a very wicked thing to do. On the classical theory of punishment it was of course justified on the ground that the man deserved it. That was assumed to be established before any question of "making him an example" arose. You then, as the saying is, killed two birds with one stone; in the process of giving him what he deserved you set an example to others. But take away desert and the whole morality of the punishment disappears. Why, in heaven's name, am I to be sacrificed to the good society in this way—unless, of course, I deserve it?

But that is not the worst. If the justification of exemplary punishment is not to be based on desert but solely on its efficacy as a deterrent, it is not absolutely necessary that the man we punish should even have committeed the crime. The deterrent effect demands that the public should draw the moral: "If we do such an act we shall suffer like that man." The punishment of a man actually guilty whom the public think innocent will not have the desired effect; the punishment of a man actually innocent will, provided the public think him guilty. But every modern state has powers which make it easy to fake a trial. When a victim is urgently needed for exemplary purposes and a guilty victim cannot be found, all the purposes of deterrence will be equally served by the punishment (call it "cure" if you prefer) of an innocent victim, provided that the public can be cheated into thinking him guilty.

It is no use to ask me why I assume that our rulers will be so wicked. The punishment of an innocent, that is, an underserving, man is wicked only if we grant the traditional view that righteous punishment means deserved punishment. Once we have abandoned that criterion, all punishments have to be justified, if at all, on other grounds that have nothing to do with desert. Where the punishment of the innocent can be justified on those grounds (and it could in some cases be justified as a deterrent) it will be no less moral than any other punishment. Any distaste for it on the part of a humanitarian will be merely a hangover from the retributive theory.

It is, indeed, important to notice that my argument so far supposes no evil intentions on the part of the humanitarian and considers only what is involved in the logic of his position. My contention is that good men (not bad men) consistently acting upon that position would act as cruelly and unjustly as the greatest tyrants. They might in some respects act even worse. Of all tyrannies a tyranny sincerely exercised for the good of its victims may be the most oppressive. It may be better to live under robber barons than under omnipotent moral busybodies. The robber baron's cruelty may sometimes sleep, his cupidity may at some point be satiated; but those who torment us for our own good will torment us without end, for they do so with the approval of their own conscience. They may be more likely to go to heaven yet at the same time likelier to make a hell of earth. Their very kindness strings with intolerable insult. To be "cured" against one's will and cured of states which we may not regard as disease is to be put on a level with those who have not yet reached the age of reason or those who never will; to be classed with infants, imbeciles, and domestic animals. But to be punished, however severely, because we have reserved it, because we "ought to have known better," is to be treated as a human person made in God's image.

In reality, however, we must face the possibility of bad rulers armed with a humanitarian theory of punishment. A great many popular blue prints for a Christian society are merely what the Elizabethans called "eggs in moonshine" because they assume that the whole society is Christian or that the Christians are in control. This is not so in most contemporary states. Even if it were, our rulers would still be fallen men, and, therefore, neither very wise nor very good. As it is, they will usually be unbelievers. And since wisdom and virtue are not the only nor the commonest qualifications for a place in the government, they will not often be even the best unbelievers.

The practical problem of Christian politics is not that of drawing up schemes for a Christian society, but that of living as innocently as we can with unbelieving fellow-subjects under unbelieving rulers who will never be perfectly wise and good and who will sometimes be very wicked and very foolish. And when the are wicked the humanitarian theory of punishment will put in their hands a finer instrument of tyranny than wickedness ever had before. For if crime and disease are to be regarded as the same thing, it follows that any state of mind which our masters choose to call "disease" can be treated as crime; and compulsorily cured. It will be vain to plead that states of mind which displease government need not always involve moral turpitude and do not therefore always deserve forfeiture of liberty. For our masters will not be using the concepts of desert and punishment but those of disease and cure.

We know that one school of psychology already regards religion as a neurosis. When this particular neurosis becomes inconvenient to government, what is to hinder government from proceeding to "cure" it? Such "cure" will, of course, be compulsory; but under the humanitarian theory it will not be called by the shocking name of persecution. No one will blame us for being christian, no one will hate us, no one will revile us. The new Nero will approach us with the silky manners of a doctor, and though all will be in fact as compulsory as the *tunica molesta* or Smithfield or Tyburn, all will go on within the unemotional therapeutic sphere where words like "right" and "wrong" or "freedom" and "slavery" are never heard.

And thus when the command is given, every prominent Christian in the land may vanish overnight into Institutions for the Treatment of the Ideologically Unsound, and it will rest with the expert jailers to say when (if ever) they are to re-emerge. But it will not be persecution. Even if the treatment is painful, even if it is lifelong, even if it is fatal, that will be only a regrettable accident; the intention was purely therapeutic. Even as in ordinary medicine there were painful operations and fatal operations, so in this. But because they are "treatment," not punishment, they can be criticized only by fellow experts and on technical grounds, never by men as men and on grounds of justice.

That is why I think it essential to oppose the humanitarian theory of punishment, root and branch, wherever we encounter it. It carries on its front a semblance of mercy which is wholly false. That is how it can deceive men of good will. The error began, perhaps, with Shelley's statement that the distinction between mercy and justice was invented in the courts of tyrants. It sounds noble, and was indeed the error of a noble mind. But the distinction is essential. The older view was that mercy "tempered" justice, or (on the highest level of all) that mercy and justice had met and kissed. The essential act of mercy was to pardon; and pardon in its very essence involves the recognition of guilt and ill-desert in the recipient. If crime is only a disease which needs cure, it cannot be pardoned. How can you pardon a man for having a gumboil or a club foot?

But the humanitarian theory wants simply to abolish justice and substitute mercy for it. This means you start being "kind" to people before you have considered their rights, and then force upon them supposed kindnesses which they in fact had a right to refuse, and finally kindnesses which no one but you will recognize as kindnesses and which the recipient will feel as abominable cruelties. You have overshot the mark. Mercy detached from justice grows unmerciful.

That is the important paradox. As there are plants which will flourish only in mountain soil, so it appears that mercy will flower only when it grows in the crannies of the rock of justice. Transplanted to the marshlands of mere humanitarianism, it becomes a man-eating weed, all the more dangerous because it is still called by the same name as the mountain variety. But we ought long ago to have learned our lesson. We should be too old now to be deceived by those humane pretensions which have served to usher in every cruelty of the revolutionary period in which we live. These are the "precious balms" which will "break our heads."

There is a fine sentence in Bunyan: "It came burning hot into my mind, whatever he said, and however he flattered, when he got me home to his house, he would sell me for a slave." There is a fine couplet, too, in John Ball:

Be ware ere ye be woe;
Know your friend from your foe.

Mr. HELMS. Mr. President, we are debating capital punishment today because Supreme Court rulings in recent years have cast doubt upon the constitutionality of the death penalty. The Court's treatment of this issue presents a classic case of judicial usurpation of congressional and State power. Harvard Law School Prof. Raoul Berger has even written a whole book about it, portions of which I will shortly seek to place in the RECORD.

Mr. President, when the Supreme Court first announced in *Furman* v. *Georgia*, 408 U.S. 238 (1972), that certain death penalties as applied violated the cruel and unusual punishment provision of the eighth amendment, it inflicted a severe blow against both law and order and the Constitution itself. Since that time, confusion and uncertainty have become a regular feature of any prosecution in this country in which the death penalty was sought. Time after time we have seen cases drag on and on while Federal judges issue all manner of stays of execution and conflicting interpretations and refinements of the original Furman decision. In short, the Federal judiciary has made absolutely impossible a regular and predictable application of the death penalty.

Mr. President, the fact of the matter is that there is nothing in the text of the Constitution requiring the passage of this legislation before inflicting the death penalty. The death penalty provisions now in Federal law are constitutional. Their defect, however, is that they do not comply with the erroneous additional criteria established by the Supreme Court under the guise of constitutional interpretation.

Under these circumstances, Congress could remove the Supreme Court's appellate jurisdiction over capital punishment cases and then have the executive branch enforce current law in State courts. Congress could propose to the States constitutional amendments to correct the Supreme Court's misinterpretations. Congress could even consider impeachment. And there are other things Congress could do to provide a check on the Court in this matter of capital punishment.

But, Mr. President, the Senate at this juncture has decided to exercise extreme restraint and simply consider legislation to establish the procedures the Court claims are necessary. Whether it finally passes Congress or not, no one should construe this legislative action as an endorsement of the jurisprudence of Furman and subsequent cases. That jurisprudence can only stand or fall on the basis of whether it is faithful to the Constitution, and, Mr. President, the fact is it is not.

Mr. President, the injury done to our constitutional system by Furman and the other cases on the death penalty has been laid out in great detail by the distinguished constitutional scholar Raoul Berger in his book, "Death Penalties: The Supreme Court's Obstacle Course," published by Harvard University Press in 1982.

Mr. President, I ask unanimous consent that the introduction and conclusion of Professor Berger's book, including footnotes, be printed in the RECORD at the conclusion of my remarks.

Mr. President, I also ask unanimous consent that a most insightful article on the death penalty, written by Karl Spence, which appeared in the September 16, 1983, issue of National Review be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Excerpts from "Death Penalties: The Supreme Court's Obstacle Course"]

DEATH PENALTIES: THE SUPREME COURT'S OBSTACLE COURSE

(By Raoul Berger)

INTRODUCTION

(All authority that is not approved by true reason seems weak. But true reason, since it rests on its own strength, needs no reinforcement by an authority.—Johannes Scotus Erigena, A.D. 867*)

One hundred eighty-one years after the adoption of the Bill of Rights a sadly divided Supreme Court, in *Furman* v. *Georgia*, discovered that the sovereign power of the States over death penalties had been curtailed by the Eighth Amendment's "cruel and unusual punishments" clause.[1] Prior to June 1972 an unbroken string of cases, including *McGautha* v. *California*[2] only fourteen months earlier, had "unswervingly"[3] recognized the States' power. *Furman* was a case, said Justice White, in which "we strongly disagree among ourselves."[4] A plurality of three ruled against discretionary jury sentencing and was joined by Justices Brennan and Marshall, who flatly held death penalties unconstitutional. The reasons for the judgment, Justice Powell noted, "are stated in five separate opinions, expressing as many different rationales",[5] four dissenting opinions were better attuned; and the whole required 232 pages of explication. Justice Douglas, one of the *McGautha* dissenters, considered that a 5 to 4 decision "meant it barely passed muster as a constitutional procedure."[6] Still less does such a decision afford solid footing for repudiation of long-standing precedent rooted in historical fact[7] and well-nigh universal approval by the State legislatures. It is a paradox, moreover, that despite their own divided counsels and resultant uncertainty, the five should condemn the uncertainty allegedly arising from the absence of standards to govern jury sentencing.

"The immediate effect of *Furman*," wrote Hugo Bedau, a leader in the movement to abolish death penalties, "was to overturn the entire prevailing system of capital punishment in this country." Out of a total of "fifty-two criminal jurisdictions . . . only five . . . had totally abolished capital punishment for all crimes." "No death sentence had ever been voided as a violation of due process, equal protection," or "cruel and unusual punishments." "Most commentators," Bedau observed, "expressed dismay and bewilderment at the close ruling, at the inability of the majority Justices to join in any one rationale for their decision, and at the resulting uncertainty over the modes of capital punishment that might still be constitutionally imposed."[8] "Predictably," Chief Justice Burger later wrote, "the variety of opinions supporting the judgment in *Furman* engendered confusion as to what was required in order to impose the death penalty in accord with the Eighth Amendment."[9]

This constitutional earthquake resulted from the labors of a small band of dedicated abolitionists, led by a few top-flight lawyers in the service of the NAACP—fully one-half of the occupants on death row are blacks.[10] "Until fifteen years ago," Bedau wrote, "save for a few mavericks, no one gave any credence to the possibility of ending the death penalty by judicial interpretation of constitutional law." "Save for a few eccentrics and visionaries," he remarked, the death penalty was "taken for granted by all men . . . as a bulwark of the social structure."[11] The abolitionists, however, enjoyed a priceless advantage: they appealed to Justices who "abhorred" death penalties,[12] among them Justice Douglas, who was "a visible and unswerving opponent of the death penalty,"[13] joined by the no less committed Justices Brennan and Thurgood

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*Will Durant, *The Age of Faith* 477 (1950). "What makes a thing true is not who says it, but the evidence for it." Sidney Hook, *Philosophy and Public Policy* 121 (1980). Chief Justice Taney declared that the Court's "judicial authority" should "depend altogether on the force of the reasoning by which it is supported." The Passenger Cases, 48 U.S. (7 How.) 283, 470 (1849), dissenting opinion.

[1] Footnotes at end.

Marshall. The campaign had the aura of a moral crusade; opponents were not merely ill-advised, they yielded, in the words of Justice Douglas, to "deep-seated sadistic instincts."[14] He relied rather on his own "gut reactions," disclosing in a burst of autobiographical candor that "the 'gut' reaction of a judge at the level of constitutional adjudication, dealing with the vagaries of due process . . . and the like, was the main ingredient of his decision."[15] Why, one wonders, should millions of Americans prefer his "gut reactions" to their own attachment to death penalties.

When the Court, faced by an immediate "backlash against judicially imposed abolition,"[16] strayed from the abolitionist path in *Gregg v. Georgia*,[17] though undertaking to supervise the sentencing process, Bedau lamented that the Justices "have put aside their personal scruples against the death penalty in the name of federalism, judicial restraint, legislative deference,"[18] an astonishingly topsy-turvy view of the judicial role. "Federalism," basic to our constitutional structure,[19] ought to yield to the "personal scruples" of the Justices! Nevertheless, the ongoing abolitionist campaign, as past performance indicates, is not to be taken lightly. A phalanx of counsel for the NAACP and the Civil Liberties Union, who for years have served as architects of the new order and created a "death-row logjam," appear in selected death penalty cases. By one stratagem or another they have succeeded in keeping convicted murderers, guilty beyond a doubt and under State law subject to the death penalty, alive for ten years.[20] In Bedau's words, they regard *Gregg*, for example, as opening up "a virgin field of argument . . . for defense lawyers to explore in future cases . . . new possibilities that with imaginative and resourceful litigation may avoid or nullify many death penalties."[21]

The abolitionist arguments, picked up by the Court, I propose to show, are spun out of thin air; they are evangelistic and hortatory, substituting ringing condemnation of an "attitude of vengeance"[22] for constitutional analysis. What passes for analysis seeks to pour into the terms "cruel and unusual punishments" what the abolitionist would make them mean today for the defeat of capital punishment.[23] It is largely woven from disputed empirical considerations plus stray utterances from a few inapposite cases that themselves are open to question. The counterconstitutional arguments have not in my judgment been adequately explored; and that exploration needs to be placed in the larger setting of what Louis Lusky admiringly describes as the Court's "assertion of the power to revise the Constitution, bypassing the cumbersome procedure prescribed by Article V."[24] As if the Court is absolved of compliance with the Constitution because it is "cumbersome!" By that logic, a burglar may defend a break-in through a window because the door was barred. Of course there must be room for change, but the "real issue," as Willard Hurst perceived in 1954, is "who is to make the policy choices in the twentieth century: judges or the combination of legislature and electorate that makes constitutional amendments,"?[25] The veritable "stampede of state reenactments of the death penalty" on the heels of *Furman*[26] evidences with unmistakable clarity that the issue is nothing less than the right of the people to govern themselves.[27]

The Court's revision of the "cruel and unusual punishments" clause is but one more arrogation of power under the aegis of the Fourteenth Amendment, but another chapter in the tale of judicial make-believe. Back in 1937, in the midst of Franklin Roosevelt's Court-Packing Plan, Professor Felix Frankfurter wrote to him, "People have been taught to believe that when the Supreme Court speaks it is not they who speak but the Constitution, whereas, of course, in so many vital cases, it is they who speak and not the Constitution. And I verily believe that that is what the country needs most to understand."[28] It is a lesson the people have yet to learn. Thirty years later a sober scholar, Paul Kauper, wrote respecting the "stuffy and bland clinch that what the Court is doing is 'required' by the Constitution. Such statements, however, cannot obscure or conceal that these texts mean just what the Court makes them mean and that Charles Evans Hughes went to the heart of the matter when he said that . . . the Constitution is what the judges say it is."[29]

It is the purpose of this study to show that there is a wide gap between what the Justices say the "cruel and unusual punishments" clause "requires" and the limited purpose the Framers meant it to serve. Control of death penalties and of the sentencing process, it may confidently be asserted, was left by the Constitution to the States. Once the people realize that they are wrongfully being deprived of the right to decide for themselves whether or not to enact death penalties, they will not be at a loss for corrective measures.

FOOTNOTES

[1] 408 U.S. 238 (1972); hereinafter cited as Furman. "The presumption is powerful that such a far-reaching, dislocating construction . . . was not uncovered by judges, lawyers and scholars for seventy-five years because it was not there." Romero v. International Terminal Operating Co., 358 U.S. 354, 370-371 (1959), Frankfurter, J., concurring opinion.

[2] 402 U.S. 183 (1971), hereinafter cited as McGautha.

[3] Justice Powell referred to "the unswerving position that this Court has taken in opinions spanning the last hundred years. On virtually every occasion that any opinion has touched on the question . . . it has been asserted affirmatively, or tacitly assumed, that the Constitution does not prohibit the penalty." Furman 428; and see id. 417, dissenting opinion. "The several concurring opinions" in Furman, said Justice Blackmun, "acknowledge, as they must, that until today capital punishment was accepted and assumed as not unconstitutional per se under the Eighth Amendment or the Fourteenth Amendment." Id. 407, dissenting opinion. It cannot be controverted that, as Chief Justice Burger stated, "In the 181 years since the enactment of the Eighth Amendment, not a single decision of this Court has cast the slightest shadow of a doubt on the constitutionality of capital punishment." Id. 380, dissenting opinion.

[4] Furman 314. Chief Justice Burger remarked, "The widely divergent views of the Amendment expressed in today's opinions reveal the haze that surrounds this constitutional command." Id. 376.

[5] Id. 414. Justice Powell alluded to "the shattering effect this collection of views has on the root principles of stare decisis, federalism, judicial restraint and—most importantly—separation of powers." Id. 417. This was scarcely the "mighty counterthrust" that activist Hugo Bedau considered would "be required to alter the direction of those decisions." Hugo A. Bedau, "The Courts, the Constitution, and Capital Punishment," 35 (1977), hereinafter cited as Bedau.

[6] McGautha 231.

[7] "Unfortunately, the decision beclouds more than it clarifies regarding the constitutionality of capital punishment per se and the scope of the eighth amendment in general."—Malcolm Wheeler, "Toward a Theory of Limited Punishment II: The Eighth Amendment After Furman v. Georgia," 25 Stan. L. Rev. 62 (1972).

[8] Bedau 81-83. Justice Thurgood Marshall wrote in his concurring opinion that "41 States, the District of Columbia, and other federal jurisdictions authorize the death penalty for at least one crime." Furman 341. Justice Powell observed, "The capital punishment laws of no less than 39 States and the District of Columbia are nullified." Furman 417. See also Chief Justice Burger, Furman 385.

[9] Lockett v. Ohio, 438 U.S. 586, 599 (1978). "The signals from the Court," Chief Justice Burger remarked, "have not, however, been easy to decipher." Id. 602.

[10] For a résumé of this crusade, see Bedau 78-90; for black occupancy, see Furman 364, Marshall, J., concurring opinion.

[11] Bedau 118, 12.

[12] E. B. Prettyman, Jr., "Death and the Supreme Court," 308 (1961).

[13] Bedau 109.

[14] McGautha 242. This is but another of what Sidney Hook terms Douglas' "slap-dash characterizations." He instances, "We must realize that today's Establishment is the new George III," and comments on "the preposterous comparison between our democratic political system and the brutal tyranny of George III. Actually the only branch of the American government whose powers in certain respects are comparable to the despotism of the British crown is the judicial despotism." Sidney Hook, "Philosophy and Public Policy," 31, 34, 35 (1980). See also infra Chapter 4, note 48.

[15] He recounts that when he came on the bench, Chief Justice Hughes "made a statement to me which at the time was shattering but which over the years turned out to be true: 'Justice Douglas, you must remember one thing. At the constitutional level . . . ninety percent of any decision is emotional. The rational part of us supplies the reasons for supporting our predilections' . . . I knew that judges had predilections . . . But I had never been willing to admit to myself that the 'gut' reaction of a judge at the level of constitutional adjudications dealing with the vagaries of due process . . . was the main ingredient of his decision. The admission of it destroyed in my mind some of the reverence for immutable principles." W. O. Douglas, "The Court Years, 1939-1975," 8 (1981). Earlier in the century such after-the-fact rationalizations were characterized as "wishful thinking." Max Isenbergh justly comments that this passage "accounts for, if it does not explain, the intellectual nihilism of his worst opinions." Max Isenbergh, "Thoughts on William O. Douglas the Court Years: A Confession and Avoidance," 30 Amer. U. L. Rev. 415, 422 (1981). Compare Douglas' statement in Zorach v. Clauson, 343 U.S. 306 314 (1952): "Our individual preferences, however, are not the constitutional standard." Compare also Hughes' explanation with his statement quoted infra, text accompanying note 29.

Douglas erroneously attributed the "vagaries" of the Justices to due process. He knew better, see infra Chapter 4, note 46. Alexander Bickel, discussing the Court's treatment of "obscenity," adverted to "The vagaries of the subjective individual judgments that the Justices were pressing into service as the law of the Constitution." Bickel 51.

[16] Bedau 111.

[17] Gregg v. Georgia, 428 U.S. 153 (1976).

[18] Bedau 119. Bedau also stated: "Hidden beneath the veneer of constitutional argument is that the Court has proved itself arbitrary and discriminatory in its defense of the death penalty." Bedau 118. The "veneer of consitutional argument" is an unacceptable substitute for Bedau's predilections.

[19] Reflecting the views of Justice Frankfurter, Louis Henkin wrote, "federalism matters . . . because the history of this country has proved its validity as a principle of progressive government." It remains "important to render unto the states the respect and responsibility that can and ought to remain theirs." In Wallace Mendelson, ed., "Felix Frankfurter: The Judge" 70, 71 (1964).

[20] Bedau 83-84. Bedau hazarded the prediction, "we will not see another execution in this nation in this century." Id. 90. The "death row population has reached an all-time high of more than 780 convicted murderers. Resourceful defense lawyers, through protracted appeals, have so far prevented the execution of all but four of those condemned since the 1972 decision." New York Times, June 14, 1981, p. 28. Justice Rehnquist charged that the Court has "made it virtually impossible for states to enforce with reasonable promptness their constitutionally valid capital punishment statutes," that "the existence of the death penalty in this country is virtually an illusion." Coleman v. Balkcom, New York Times, April 28, 1981, p. D23, dissenting from a denial of certiorari.

[21] Bedau 116.

[22] Id. 76.

[23] Justice Blackmun concluded: "Althought personally I may rejoice at the Court's result, I find it difficult to accept or justify as a matter of history, of law, or of constitutional pronouncement . . . It has sought and achieved an end." Furman 414. Bedau states, however, that if our interest in the "'original intent of the framers' . . . is to be more than an exercise in historical scholarship," it "must take its dominant cues from the constitutional (structural, fundamental) needs of our society and our ideals and aspirations as they are understood today." Bedau 14. This is double-talk for a discard of the "original intent of the framers" in favor of "our aspirations" of "today." But, he wrote in 1976, "the public pulse, as measured by all the opinions of the last few years, indicates that the American people still want the death penalty, and that all the evidence and arguments against it . . . have not significantly changed this attitude." Bedau 102. "According to a Gallup poll published in March [1981], two-thirds of all Americans, the highest percentage in 28 years, favor the death penalty for murder." New York Times, June 14, 1981, p. 28. More significantly, the majority of the States speedily repudiated Furman by reenacting death penalties in what they thought would be acceptable terms. See infra Chapter 6, text accompanying notes 60-61. Bedau wrote in 1968 that death penalties "are not unconstitutional under the Eight Amendment because however cruel and unusual they may now be, they are more 'cruel' and not more 'unusual' than were those that prevailed in England and the colonies two or three hundred years ago. An unbroken line of interpreters has held that it was the original understanding and intent of the framers of the Eighth Amendment . . . to proscribe as 'cruel and unusual' only such modes of execution as compound the simple infliction of death with added cruelties or indignities . . . Similarly, even if the death penalty was imposed by statute for a trifling offense, it is doubtful that it would be 'cruel and unusual' according to the 'original understanding.'" Bedau 35, italics in the original. For proof of these historical conclusions, see infra Chapter 3.

[24] Louis Lusky, Book Review, 6 Hastings Con. L. Q. 403, 406 (1979).

[25] Willard Hurst, "Discussion," in Edmond Cahn, ed., "Supreme Court and Supreme Law," 75 (1954).

[26] J. H. Ely, "Democracy and Distrust," 65 (1980); Bedau 93.

[27] Justice Powell considered that "the sweeping action undertaken today reflects a basic lack of faith and confidence in the democratic process . . . impatience with the slowness, and even the unresponsiveness, of legislators is no justification for judicial intrusion upon their historic powers." Furman 465. See infra Chapter 5.

[28] Max Freedman, ed. "Roosevelt and Frankfurter: Their Correspondence, 1928-1943," 383 (1967), italics in the original. Shortly before Solicitor General Robert H. Jackson became a Justice, he wrote, "This political role [acting as a "continuing constitutional convention"] of the Court has been obscure to laymen—even to most lawyers." R. H. Jackson, "The Struggle for Judicial Supremacy" xi (1941).

[29] Paul G. Kauper, "The Supreme Court: Hybrid Organ of State," 21 S. W. L. Rev. 573, 579 (1967). My own elaborate exposition of this view, Raoul Berger, Government by Judiciary: The Transformation of the Fourteenth Amendment (1977), hereinafter cited as Berger G/J, touched off a controversy with academicians who sought to defend the Court's results, never mind the means. Some of the polemics are listed in Michael Perry, "interpretivism, Freedom of Expression and Equal Protection," 42 Ohio St. L. J. 261, 285 n. 100 (1981).

Contrast with Judge Irving R. Kaufman's naive recapitulation of "stuffy and bland cliches" as if they were Holy Writ ("Congress v. the Court," New York Times Magazine, Sept. 20, 1981, p. 44) Michael Perry's conclusion, after evaluating the ongoing debate: "There is no plausible textual or historical justification for constitutional policymaking by the judiciary—no way to avoid the conclusion that noninterpretive review, whether of state or federal action, cannot be justified by reference either to the text or to the intention of the Framers of the Constitution." Perry, supra at p. 275. See also L. A. Alexander, "Modern Equal Protection Theories: A Metatheoretical Taxonomy and Critiques," 42 Ohio St. L. J. 3, 4 (1981). For activist acknowledgment, see infra Chapter 9.

CONCLUSION

The historical evidence demonstrates that the Constitution left the States free to enact death penalties unencumbered by any measure of proportionality. For the time being, the Court, after having been rebuffed by the people who cling to death penalties, has by a vote of 7 to 2 sustained them, although leaving an escape hatch. Already it has decreed that death penalties for rape are not proportioned to the crime and are therefore unconstitutional, a decision that is without constitutional warrant.

Abolitionist reliance on the "cruel and unusual punishments" clause assumes first that the Constitution endowed the Court with power ad libitum to make selected portions of the Bill of Rights applicable to the States. That it may be confidently asserted, does violence to the intention of the Framers and violates the Tenth Amendment's command. Next, abolitionists assume that the Court may substitute its present-day reading of the clause for the meaning it had for the Framers. The Justices do not dispute that in 1787 the clause outlawed only "barbarous" punishments, not death penalties; it did not require that the punishment fit the crime, for there was no such doctrine at the adoption of the Constitution. To the contrary, there were many death penalties, such as those for forgery or robbery, that to modern eyes are grossly disproportionate to the offense. The clause, therefore, left the measure of punishment, whether it should be more or less, in the legislature's discretion, so long as it was not "barbarous." So too, the Court's insistence that a penalty must not be offensive to "human dignity" is flatly contradicted by the many punishments that had as their object ignominy, shame and disgrace.

The Court's attempt to impose and police "standards" to curb jury discretion in sentencing has even less constitutional footing and already has resulted in a quagmire of contradictions. It is not alone that there was no judicial assertion of such power prior to 1972, but that the Court has invaded the constitutional province of the jury. Early on the Founders expressed their attachment to the common law mode of trial by jury, whereunder juries could not be called upon to explain their verdicts nor were judges empowered to review verdicts. The jury, in fact, was far closer to the hearts of the founders than was the judiciary; for protection they looked to the jury rather than the judge.

It is not historicism that dictates adherence to the meaning the common law terms they used had for the Framers. Jealously rationing power, circumscribing it at every step, the Framers perforce resorted to familiar terms in order to prick out those limits. If the Court is free to substitute its own meaning for the established common law content of the constitutional terms, it obliterates those limits and revises the Constitution for the imposition of its own predilections on a people who, in the case of death penalties, lost no time in repudiating the court's reading of prevailing standards of "human decency." In turning its back on the practice that obtained at the adoption of the Constitution and persisted for 181 years thereafter, the Court assumed power to alter and amend the Constitution, a power exclusively reserved to the people themselves, a power usurped by the Court disguised in soothing double-talk.

One can respect the "reverence for life" that led Dr. Albert Schweitzer to shrink from treading on a scorpion, without scorning those who would unhesitatingly crush a tarantula or shoot off the head of a rattler. To insist that "no killer can be looked upon with anything but horror, even when that killer is the state,"[1] is to ignore that the bulk of the Americans do in fact look upon executions of murderers without horror. People like Lord Justice Denning are not to be consigned to outer darkness because they consider that "some crimes are so outrageous that society insists upon adequate punishment, because the wrong-doer deserves it."[2] Quite the contrary. As Justice Stewart said for the *Furman plurality:*

"The instinct for retribution is part of the nature of man, and channeling that instinct in the administration of criminal justice serves an important purpose in promoting the stability of a society governed by law. When people begin to believe that organized society is unwilling or unable to impose upon criminal offenders the punishment they "deserve," then there are sown the seeds of anarchy—of self-help, vigilante justice and lynch law."[3]

Sadists or no, the majority of the American people who cling to death penalties are not to be frustrated because some regard capital punishment as immoral.[4]

Who are these murderers whose extinction is regarded by abolitionists with such "horror"? Justice Marshall, foremost among the abolitionist Justices, said in Furman: "The criminal acts with which we are confronted are ugly, vicious . . . Their sheer brutality cannot and should not be minimized."[5] Justice Powell observed that "brutish and revolting murders continue to occur with disquieting frequency."[6] From time to time murderers escape from jail and commit still other murders.[7] Terror stalks the streets,[8] the streets, Justice Marshall notices, "inspire fear."[9] Referring to the "compassionate" abolitionists, "for whom the victims of crime are only incidental rather than central to the problem of crime prevention," Sidney Hook asks, "At what point do the victims enter the ethical reckoning?"[10]

While abolitionists prefer imprisonment to capital punishment, it is significant that the beneficiaries of their efforts often prefer death to continued imprisonment.[11] It is a notorious fact that prisons have become jungles where murders of fellow inmates are not uncommon, where homosexual assaults are the norm.

Then too, there are the excessive burdens assumed by the Court in painstaking review of hundreds of records, and the detailed exposition of conflicting views for setting aside this or the other conviction, which fill hundreds of pages in the reports. E. Barrett Prettyman, Jr., a one-time clerk to one of the Justices, concluded that the Court devoted "a disproportionately large amount of time" to capital cases; "they receive more attention than any other class of cases coming before the Court."[12] It was not for this—often guilt is beyond per adventure—that the Court was created,[13] but for consideration of the perplexing problems that arise out of the exigencies of our system of government. I would not suggest that these considerations are conclusive, merely that the pragmatic considerations are not all on the side of the abolitionists. Nor is my concern with the merits of death penalties, but with the right of the people to enact them. It need always to be borne in mind that "the criminal law, after all, is primarily a

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Footnotes at end.

state rather than a federal responsibility."[14] and that the Court's intrusion into this field is comparatively recent.

Whatever reservations a Justice may have had before he donned the robe as to the wisdom or judiciality of his predecessors, he entertains few doubts that he is richly qualified to impose his vision of the good on the nation. Throughout the judicial spectrum lurks the conviction that Big Brother knows best. That common postulate, which goes to the heart of the judicial function, shows how meaningless are assessments of the Justices in terms of "liberal" and "conservative." Justice Douglas disclosed that at the core of the constitutional decisionmaking process lies the "gut" reaction of the Justices, underling John Stuart Mill's caution that the universal "disposition of mankind . . . to impose their own opinions and inclinations . . . on others . . . is hardly ever kept under restraint by anything but want of power."[15] The Framers in their wisdom withheld such power from the Justices.

Finally, the track record of the Court does not inspire confidence that it is a better judge of what the people should do than the people themselves. Justice, then Solicitor General, Robert H. Jackson, wrote, "time has proved that [the Court's] judgment was wrong on most of the outstanding issues upon which it has chosen to challenge the popular branches."[16] His view was shared by distinguished scholars. The Court would do well to heed the counsel of Justice Holmes: "when the people . . . want to do something I can't find anything in the Constitution expressly forbidding them to do, I say, whether I like it or not, 'Goddamit, let 'em do it!' "[17] The "cruel and unusual punishments" clause constitutes no such prohibition. "After all," wrote Dean Charles E. Clark of Yale Law School in October 1934, "is it a sound and practical theory, as well as a robust and vigorous doctrine, suited to an independent people, to hold that control and direction of its future should be committed to an aloof judicial tribunal, however, esteemed?"[18] No such commitment was ever made by the American people. Instead, the death penalty cases represent a blatant perversion of the "cruel and unusual punishments" clause that thwarts their indubitable will.

FOOTNOTES

[1] Henry Schwarzschild, director of the American Civil Liberties Union Capital Punishment Project, said: "Killing human beings is an act so awesome, so destructive, so irremediable that no killer can be looked upon with anything but horror, even when that killer is the state." New York Times, June 14, 1981, p. 28.

[2] Quoted in Furman 453. Sir James Fitzjames Stephen wrote: "In cases which outrage the moral feeling of the community to a great degree, the feeling of indignation and the desire for revenge which is excited in the minds of decent people is, I think, deserving of legitimate satisfaction." 1 J. F. Stephen, "*History of the Criminal Law of England*." 478 (1883); see also Goodhart, infra note 3.

[3] Furman 308; see also id. 394-395, 452. A. L. Goodhart, "English Law and the Moral Law," 92-93 (1953), wrote: "There seems to be an instinctive feeling in most ordinary men that a person who has done an injury to others should be punished for it . . . without a sense of retribution we may lose our sense of wrong. Retribution in punishment is an expression of the community's disapproval of crime . . . A community which is too ready to forgive the wrongdoer may end by condoning the crime." Bedau 117 rightly emphasizes that punishment, "by its very nature, is retributive . . . imprisonment for murder, no less than the death penalty is retributive. The question, of course, is whether it is retributive enough." That is a question of policy for the legislature and the people, not removed from them by the "cruel and unusual punishments" clause.

[4] Justices Stewart, Powell, and Stevens, the plurality in Gregg v. Georgia, 428 U.S. 153, 183 (1976), stated: "In part, capital punishment is an expression of society's moral outrage at particularly offensive conduct. This function may be unappealing to many, but it is essential in an ordered society that asks it citizens to rely on legal processes rather than self-help to vindicate their wrong." This shifts the inquiry from whether the Constitution deprived the people of the right to enact death penalties, which they enjoyed in 1787, to an empirical justification which should be addressed to the people when they consider whether to abolish death penalties.

[5] Furman 315.

[6] Id. 444.

[7] A spectacular recent example was the shooting of Pope John Paul II by Mehmet Ali Agca, an escapee from a Turkish prison after conviction for murder. New York Times, May 8, 1981, A-1. Laron Williams, convicted murderer and escapee from a Memphis prison, was charged with a fresh murder. New York Times, May 18, 1981, D-13. Jack Henry Abbott, an imprisoned murderer admitted to another murder after his parole from prison. New York Times, Jan. 16, 1982, p. 27. Joseph Bowen, sentenced in 1971 for the murder of a policeman, was convicted in 1975 of the murder of a prison warden and his deputy and reportedly "laughed when he heard himself sentenced to two life terms." On October 29, 1981, he led several prison inmates in the taking of 38 hostages. New York Times, Oct. 30, 1981, A-1, A-12. These examples turned up in casual reading over a period of a few months. Walter Berns, "For Capital Punishment," 103 (1979), relates that "Henry Jarrette, convicted murderer, escaped from prison, raped and murdered a black girl." Coker v. Georgia involved a convicted murderer and rapist who escaped and committed another rape, supra Chapter 6, text accompanying note 166. Bedau 8 acknowledges that no one can claim "that life imprisonment (which, of course, does not mean 'life' at all) offers complete protection to society."

[8] Justice Blackmun, Furman 414.

[9] Id. 371.

[10] Sidney Hook, "Philosophy and Public Policy," 136 (1980). Louis Jaffe wrote that judges "Have been insensitive to the public's need for a sense of security." Jaffe, "Was Brandeis an Activist: The Search for Intermediate Premises," 80 Harv. L. Rev. 986, 1002 (1967). Justice Holmes, who for many years sat on the Supreme Judicial Court of Massachusetts, stated, "at the present time in this country there is more danger that criminals will escape justice than that they will be subjected to tyranny." Kepner v. United States, 195 U.S. 100, 134 (1904), dissenting opinion joined by Justices Edward White and McKenna.

[11] Jacques Barzun takes a bleak view of life imprisonment and "would choose death without hesitation." Hugo Bedau, "The Death Penalty in America," 161-162 (1967).

In Lenhard v. Wolff, 443 U.S. 1306 (1979), the defendant disassociated himself from efforts to secure review of a death sentence. E. B. Prettyman, "Death and the Supreme Court," 15 (1961), relates that Everett Green "would rather go to the chair than spend the rest of his life in jail." Gary Gilmore preferred execution to serving "more time behind prison bars in Utah." Bedau 121.

A number of such cases were reported in August-September, 1981. Thomas Lee Harp, a convicted slayer, told the Oklahoma court that "he wanted no further appeals." New York Times, Sept. 4, 1981, A-6. Colin Clark, convicted in Louisiana, "said he would rather die than face life in prison." New York Times, Sept. 8, 1981, B-12.

Garry Wills refers to the penitentiary as the "most disastrous survival of the enlightenment still grasping at a death-like life." Quoted in Berns, supra note 7 at 62. Berns considers "prisons are terrible places" and quotes the American Friends Service Committee: the "horror that is the American prison system." Id. 64, 74.

[12] Prettyman, supra note 11 at 305.

[13] For the Founders, "individual rights, even the basic civil liberties that we consider so crucial, possessed little of their modern theoretical relevance when set against the will of the people." Gordon Wood, "The Creation of the American Republic, 1776-1787," 63 (1969). He adds, "it was conceivable to protect the common law liberties of the people against their rulers, but hardly against the people themselves." Id. See also William Gangi, "Judicial Expansionism: An Evaluation of the Ongoing Debate," 8 Ohio Nor. U. L. Rev. 1, 64 (1981).

[14] Prettyman, supra note 11 at 311. Justice Frankfurter wrote, the Fourteenth Amendment "is not the basis of a uniform code of criminal procedure federally imposed." Wallace Mendelson, ed., "Felix Frankfurter: The Judge," 99 (1964). Justice Holmes, in one of his last dissents, counseled, "we ought to remember the great caution shown by the Constitution in limiting the powers of the States, and should be slow to construe the [due process] clause in the Fourteenth Amendment as committing to the Court, with no guide but the Court's own discretion, the validity of whatever laws the States may pass." Baldwin v. Missouri, 281 U.S. 586, 595 (1930).

[15] J. S. Mill, "On Liberty," 28 (1885).

[16] R. H. Jackson, "The Struggle for Judicial Supremacy," 37 (1941). For a similar expression by Dean Charles E. Clark, see his Introduction to Edward Corwin, "The Twilight of the Supreme Court," xviii (1934). "Nothing," wrote Alexander Bickel, the foremost constitutional scholar of his generation, "is more evident in the Supreme Court's past than that most of its prior major enterprises . . . have not worked out." Bickel 176. He averred, "I have come to doubt . . . that judicial supremacy can work and is tolerable in broad areas of social policy." Id. at 99. The Court is "too remote from conditions . . . It is not accessible to all the varied interests that are in play in any decision of great consequence . . . it is, in a vast, complex, changeable society, a most unsuitable instrument for the formulation of policy." Id. at 175. My studies have convinced me that such power was consciously withheld. For an excoriating comment on the socioeconomic record of the pre-1937 Court see H. S. Commager, "Judicial Review and Democracy," 19 Va. Q. Rev. 417, 428 (1943).

[17] Quoted in Charles P. Curtis, "Lions Under the Throne," 281 (1947).

[18] Clark, supra note 16 at xix. "Government by a self-designated elite—like that of benevolent despotism or Plato's philosopher kings—may be a good form of government for some, but it is not the American way." Myres McDougal and Asher Lans, "Treaties and Congressional-Executive or Presidential Agreements: Interchangeable Instruments of National Policy," 54 Yale L. J. 534, 578 (1945).

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CRIME AND PUNISHMENT

(By Karl Spence)

Fifteen years ago crime was, apart from the Vietnam War, our country's most divisive political problem. Crime was on the rise, but our political leaders and opinion-makers could not agree on why, or how much, or who was to blame, or what should or could be done about it. J. Edgar Hoover had started the controversy in the early 1960s with a series of warnings that rising crime threatened the well-being of the nation. Hoover's opponents in academia and elsewhere charged that he was crying wolf. There had been, they insisted, no substantial change in crime rates. As the decade wore on, however, it became apparent that a serious crime problem had developed and finally demanded attention.

Robbery increased sevenfold in two decades, and the transitive verb to mug entered the language. Mass murder became so common that multiple killings frequently were reported on the inside pages of the newspaper. In fact, the most horrifying aspect of this situation is the indifference with which it is now viewed by the nation. Skid-row drunks are tortured to death, young women are raped and strangled, whole families are murdered in their beds, while the rest of us go on about our business. By the fall of 1976, when an elderly couple in New York City were robbed and tortured twice in their own apartment and then hanged themselves, saying they didn't want "to live in fear anymore," very few people noticed. The slaughter and plunder of American citizens had become a basic part of the American way of life.

Still, there is no consensus as to the cause of this rise in violent, predatory crime, and, therefore, no consensus as to a solution. Suggestions range from eliminating poverty to making punishments more certain and more severe. Those alternatives unfortunately are regarded as being mutually exclusive, and it is widely held that of the two only the former is "enlightened" and morally acceptable. But we must learn to look for the suppression of crime, not as a result of social and economic progress, but as a precondition of it. We must also realize that eliminating poverty would eliminate crime only if a majority of criminals acted out of necessity. In fact, most commit their crimes because they choose to do so, and they must be dealt with by other than economic means.

One of the methods by which we "deal" with crime is to erect a great array of defenses, such as electronic security systems at airports and banks, neighborhood watch programs, multiple locks on apartment doors, and attempts at more comprehensive gun control. These, alas, are all stop-gap measures, aimed at symptoms only. They put the nation into a permanent state of siege and imply that the only way we can be sure that our neighbor will not attack us is to make it impossible for him to do so. This fearful distrust, so destructive to all feelings of community, is perhaps the most evil consequence of our failure to control crime.

Police across the nation have blamed the Supreme Court for the bulk of the crime increase, saying that the broadening of suspects' rights under the Warren Court hampered them to such an extent that an ensuing crime wave was inevitable. Many would dispute that, but it is clear that the governing image of the Warren reforms—that of the solitary and helpless individual overwhelmed by the vast resources of the state—is not reflected in current reality, in which it is the police and the courts that are being overwhelmed (despite the backtracking by the Burger Court in the last year or so). Yet no amount of reform making it easier to obtain convictions will be of any use if the resulting punishments are so light that, far from deterring others by their example, they do not dissuade even the convict himself from resuming his criminal career.

Deaths per year per 100,000 population

Sectarian violence, Northern Ireland, 1968-74	8.8
German bombardment, London, 1940-45	21.7
Murder, Detroit, 1972-78	42.4
Murder, United States:	
1960	5.1
1970	7.9
1980	10.2
Murder, Canada, 1980	2.1

So we arrive at the need for punishment, and since we are especially concerned with violent crime, our remedy will include capital punishment. Here is the point of greatest controversy: To a sizable minority of Americans, the death penalty is one alternative that is unacceptable to a civilized society. Many people hate the idea of executions as much as they hate those crimes for which execution has been the standard punishment. Before we pursue that course of action, then, their objections must be met.

Four basic arguments have been raised against capital punishment: (1) it is cruel and unusual and is therefore against the Constitution; (2) Christianity forbids it; (3) it is as immoral as any other reason for taking human life; and (4) it is not an effective deterrent. Let us examine each of these objections.

1. The Eighth Amendment, which forbids cruel and unusual punishments, was made part of the Constitution in 1791 by men who feared the establishment in America of certain traditional European methods of execution that were calculated to inflict maximum suffering and inspire maximum horror. Punishments such as burning, drawing and quartering, impalement, and pressing are what the phrase "cruel and unusual punishments" referred to in the minds of those who wrote, adopted, and ratified the Eighth Amendment. It obviously did not refer to executions per se: The states and the United States hanged or shot condemned men before and after the Bill of Rights was adopted.

To find that the death penalty violates the Eighth Amendment, then, is in effect to amend the Constitution by reconstruing it. James Madison held that "the sense in which the Constitution was accepted and ratified by the nation" must be "the guide in expounding it"; but the Supreme Court has not bound itself to respect Madison's views, and, in fact it is well within the Court's power to declare capital punishment cruel, unusual, and unconstitutional. The current status of the death penalty is that it may not be made mandatory for any crime, nor may it be left completely to the discretion of judge or jury. Persons opposed to capital punishment, furthermore, may not for that reason be excluded from juries in trials of capital crimes. Those standards will change as the disposition of the Court changes, however, and a binding constitutional definition is needed, to put an end to years of litigation and hesitation.

2. Many of us are aware that the Sixth Commandment is correctly translated from the Hebrew as "Thou shalt not murder." We also know that the Mosaic Law provided the death penalty for murder and for many other crimes, most of which would not be considered capital offenses today. Jesus in his preaching set aside great parts of the Law, including "an eye for an eye, a tooth for a tooth." In this, however, his target was personal vindictiveness, not the idea of legal sanctions. For while we are taught to love our enemies and return good for evil, each of us can do so only on his own behalf: We cannot possibly forgive an injury done to our neighbor. The callous man, "gifted with great fortitude to bear the evils afflicting another," imagines that he forgives what in fact he condones.

For that reason, what Christianity requires of us as a society is different from what it requires of us as individuals. The criminal who received salvation on the cross said of himself and his unrepentant comrade, "We indeed [are condemned] justly; for we are receiving the due reward of our deeds." Did he have it all wrong? Plainly, Christian forgiveness is not meant to cancel the responsibility of those in authority. St. Paul wrote that government "does not bear the sword in vain," but is appointed by God "to execute His wrath on the wrongdoer." With that in mind, Jesus' dictum "All who take the sword will perish by the sword" makes clear that the death penalty for murder still stands. "Beloved, never avenge yourselves, but leave it to the wrath of God; for it is written, 'Vengeance is mine, I will repay, says the Lord.'" So Paul tells us, and we can see that when individuals seek to avenge murders themselves, as in the vendettas of Sicily or the Hatfield-McCoy fueds of Appalachia, the community is harmed, but when murderers are punished as the law prescribes, the community is sustained.

Christian support for the death penalty is not confined to scriptural quotations. Désiré Cardinal Mercier of Belgium, whose people had been crushed and blooded by the armies of Kaiser Wilhelm II, had this to say on the subject in the cathedral of German-occupied Brussels on July 21, 1916:

"Whatever may be our sufferings, we must not wish to show hatred toward those who have inflicted them. Our national unity is joined with a feeling of universal brotherhood. But even this feeling of universal brotherhood is dominated by our respect for the unconditional justice without which no relationship is possible, either between individuals or between nations.

"And that is why, with St. Thomas Aquinas, the most authoritative teacher of Christian theology, we proclaim that public retribution is commendable.

"Crimes, violation of justice, outrage on the public peace, whether enacted by an individual or by a group, must be repressed. Men's minds are stirred up, tortured, uneasy, as long as the guilty one is not put back in his place. . . .

"Public retribution in this sense may distress the affected sentimentality of a weak nature; all the same, it is, says St. Thomas, the expression and the decree of the highest, the purest form of charity, and of the zeal which is its flame. It does not make a target of suffering, but a weapon wherewith to avenge the outrage of justice."

The British lay theologian C. S. Lewis has added his voice to the debate in 1940, at Oxford:

"We can rest contentedly in our sins and in our stupidities . . . but pain insists on being attended to. God whispers to us in our pleasures, speaks in our conscience, but shouts in our pains: It is His megaphone to rouse a deaf world. A bad man, happy, is a man without the least inkling that his actions do not 'answer,' that they are not in accord with the laws of the universe.

"A perception of this truth lies at the back of the universal human feeling that bad men ought to suffer. It is no use turning up our noses at this feeling, as if it were wholly base. . . . Some enlightened people would like to banish all conceptions of retribution or desert from their theory of punishment and place its value wholly in the deterrence of others or the reform of the criminal himself. They do not see that by doing so they render all punishment unjust. What can be more immoral than to inflict suffering on me for the sake of deterring others if I do not deserve it? And if I do deserve it, you are admitting the claims of 'retribution.' And what can be more outrageous than to catch me and submit me to a disagreeable process of moral improvement without my consent, unless (once more) I deserve it?"

Against Mercier and Lewis may be measured the assertion made by Victor H. Evjen, a knowledgeable opponent of the death penalty, in the March 1968 issue of *Lutheran Women:* "Retribution cannot be considered a legitimate goal of criminal law." That, says he, is because retribution "is repugnant to civilized man," thus claiming a unanimity of civilized opinion against the death penalty that does not exist.

3. Some believe the state may never take human life in any circumstances. Such people are called pacifists, and are accorded the status of conscientious objectors in wartime. Many others are willing to fight for their country in wartime, but still think it

immoral to execute murderers. Is their view consistent? Honest soldiers and innocent civilians are the victims of war—are their lives less valuable than that of a convicted killer? If the outrages that the murderers and rapists have inflicted on us do not justify violent countermeasures, what can? The chart on page 1142 gives a sampling of twentieth-century violence. If a foreign power did to American citizens just one-tenth of what our own criminals do to us every year, we would surely be at war. Let us therefore be at war against crime.

Some say that just as it is immoral for the murderer to kill his victim, it is also immoral for the state to kill the murderer. This ignores the principle of retribution and misunderstands the purpose and the function of the law. The law exists not only to establish what is right and wrong, but also to enable us to live together as a society. If we do not go about armed and on our guard against every stranger we meet, it is *because* we are forbidden to kill, rape, rob, cheat, or otherwise victimize our neighbors. We need to protect our society against those who defy this obligation, and that is what the law does. It works, not by setting a good example, but by retaliation—of which retribution is the justified form. If "crime does not pay," it is because the criminal pays. He breaks the law, he is caught, and in accordance with his deserts he is fined, jailed, or executed. No ethical attack on the last of those sanctions can fail to strike down the first two as well, and thus to cripple the law itself. If the law does not retaliate, it does not work; society's protection is gone, and the sufferings of the innocent multiply. And that brings us to the crux of the debate.

4. If the death penalty has no deterrent value, theoretical justifications of it may frequently be overridden by the desirability of showing mercy to the convict and attempting his rehabilitation. But if executions do have deterrent value, opposition to them becomes pernicious, dooming many more people than it saves. Predictably, opponents of capital punishment approach this question of fact and come away with conclusions to fit their preconceptions. But it is here that the argument against capital punishment is weakest.

CAPITAL PUNISHMENT

Year	Executions	Murders
1957	65	8,060
1958	49	8,220
1959	49	8,580
1960	56	9,140
1961	42	8,600
1962	47	8,400
1963	21	8,500
1964	15	9,250
1965	7	9,850
1966	1	10,920
1967	2	12,090
1968	0	13,650
1969	0	14,590
1970	0	15,810
1971	0	17,630
1972	0	18,520
1973	0	19,510
1974	0	20,600
1975	0	20,510
1976	0	18,780
1977	1	19,120
1978	0	19,560
1979	2	21,460
1980	0	23,040
1981	1	22,520

We ought to understand that the deterrence question is at present not one of proof but of possibility. Constitutional, religious, and moral standards having been met, our concern for future victims requires absolute *certainty* that crime cannot be reduced, in any degree, by executions, of whatever scope, before it will allow us to forbear proceeding *to* the proof, which is to execute murderers. Can such certainty intelligently be maintained? I suggest not.

The statistical support for the belief that executions do not deter (primarily, Thorsten Sellin's 1959 study, which covered the years 1920-1955) deals with an era in which death for murder was the exception rather than the rule, and the no-deterrence argument assumes that for humanitarian reasons such will always be the case. Declining to consider what might happen to the murder rate if executions increased, abolitionists in the mid-Sixties confidently predicted that nothing untoward would ensue if executions ceased entirely. As the chart on this page shows, their expectations were disappointed. It began to appear that even when they were a rarity, executions had served a purpose, and reassessments were forthcoming. While some abolitionists try to face down the results of their disastrous experiment, and still argue to the contrary, the most influential new study—Isaac Ehrlich's "The Deterrent Effect of Capital Punishment" (1975), which has supplanted Sellin as the central reference in the deterrence debate—concludes that a substantial deterrent effect has been observed.

Ehrlich's evidence and the Supreme Court's approval notwithstanding, authorities around the country continue to stay their hands, fearful of the "bloodbath" if the hundreds of persons under sentence of death were executed in rapid order. In the meantime, a real bloodbath goes on unabated. In six months, more Americans are murdered than have died by execution in this entire century.

The experts tell us that that's the way it is and the way it will be. But what if we *used* the death penalty, and not just for the most extremely heinous crimes, but as a standard punishment? Can we hold ourselves guiltless if we do not? By no means. Until we begin to fight crime in earnest, every person who dies at a criminal's hands is a victim of our inaction.

J. Edgar Hoover, who seized the crime wave of his day and bore it down beneath the sheer weight of his activity, once said, "Crime is a dangerous, cancerous condition which, if not curbed, will soon eat at the very vitals of the country." Today, we see the decay of our inner cities, we read of tragedy and outrage until we are numb, and many of us have felt the sickening touch of brutality in our own lives.

Society must once again assume the right and accept the duty of exacting retribution.

Mr. HELMS. Mr. President, I thank the distinguished chairman of the Judiciary Committee, Senator THURMOND, for this work on his bill, and I urge my colleagues to support it.

Mr. WEICKER. Mr. President, the following extract from the records of our English church came to my attention:

> William Jones and Henry Pittaway were executed at Oxford for the murder of James Milling, Underkeeper in the Forest of Wychwood and were both buried in the same grave. Many years later someone confessed on his deathbed that he had been responsible for the crime, so the names of Jones and Pittaway were cleared.—Extract from The Parish Records, 1824 Taynton Church, Oxfordshire, England.

The issues have not changed all that much since that time, Mr. President. Mistakes have, can and will be made in convicting people of capital crimes. Clearing their names after the fact does them little good.

I will vote to defeat S. 1765 to establish a Federal death penalty.

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 1765, a bill to establish a constitutional procedure for the imposition of the death penalty. This procedure is requried by a series of Supreme Court cases starting with Furman against Georgia in 1972. It is important to note that these cases never said that the death penalty itself is unconstitutional. They merely require legislative guidance before the death penalty can be imposed. S. 1765 satisfies this requirement.

The bill we are voting on today authorizes the death penalty for four capital offenses: treason, espionage, murder and other crimes such as armed robbery resulting in the death of another person, and the attempt to assassinate the President that either injures the President or comes dangerously close to killing the President.

This bill establishes a three-stage process. First, the Government, before the trial, must notify the defendant and the court that it intends to seek the death penalty and must set forth those aggravating factors that justify a sentence of death. Second, at the trial there must be one stage where the judge or jury can consider only the issue of guilt or innocence. Third, at a second stage in the trial, there must be a separate hearing on the question of whether the death penalty should be imposed. This hearing will normally be before the same jury which sat for the trial, or if both parties agree, before the judge. The key to this process is the statute's list of aggravating or mitigating factors.

The mitigating factors include whether the defendant is less than 18 years old, is subject to serious mental problems or pressures, had a limited involvement in the crime, or was under duress. Aggravating factors will vary depending on whether the offense is treason, espionage or murder. For example, aggravating factors in cases involving murder include: repeated serious violent crimes by the defendant; commission of the offense in an especially heinous, cruel, or depraved manner, or for hire; or commission of the crime against U.S. or foreign officials most likely to be the targets of assassination, kidnaping, and terrorism.

One of four threshold circumstances must be proven to exist in homicide cases. The bill provides that the jury must find that the defendant, one, intentionally killed the victim; two, intentionally inflicted serious bodily injury that resulted in the death of the victim; three, intentionally participated in an act that he knew, or reasonably should have known, would create a grave risk of death to a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or four, if the offense is an attempt to kill the President, engaged in conduct that resulted in bodily injury to the President or otherwise came dangerously close to causing the death of the President. If the jury determines that at least one of these factors exists, it must determine by unanimous verdict, in light of all the evidence, whether the aggravating factors found to exist sufficiently outweigh any mitigating factors, or in the absence of any mitigating factors, whether the aggravating factors are sufficient to justify a sentence of death.

The defendant shall have a right to appeal the sentence of death and this review shall have priority over all other cases. In order to affirm the sentence, the appellate court must determine that the sentence of death was not imposed under the influence of passion, prejudice, or other arbitrary factors.

Mr. President, I have taken the time to set forth these details because we must never impose the death sentence lightly. The Constitution requires no less. However, there are three arguments in favor of the death penalty that do justify its imposition. The first of these is retribution. People who commit capital offenses forfeit their right to life. As a matter of self-preservation, society has the right to impose the death penalty on those who commit the most heinous intolerable crimes, those that actually threaten the foundations of society itself. As Senator McClellan said nearly 10 years ago:

> What other punishment is "just" for a man, found to be sane, who would stab, strangle, and mutilate eight student nurses?
>
> What other punishment is "just" for a man who would invade the home of members of a rival religious sect and shoot to death men, women, and children, after forcing a mother to watch as her three young children were drowned before her eyes?
>
> What other punishment is "just" for a band of social misfits who would invade the homes of people they had never met and hack to death a woman eight and a half months pregnant and her guests?

The second argument in favor of the death penalty is that it deters murder and other capital offenses. Although people will probably debate this point forever, the Supreme Court has said in Gregg against Georgia, "there are carefully contemplated murders—such as murder for hire—where the penalty of death may well enter into a cold calculus" preceding the decision to act.

Finally, there are cases when the penalty of life imprisonment is simply inadequate because there is always the possibility that a particularly dangerous murderer will escape, or kill again in prison.

Mr. President, murder today is at an all time high. It is up dramatically from the days before the death penalty laws were struck down. There were over 21,000 murders committed in 1982 alone.

Mr. President, I would like to use this opportuntiy to call on the legislature of my own State of New York to join those 38 States which have enacted legislation restoring the death penalty and satisfying the constitutional requirements set forth by the Supreme Court. We have recently seen a kind of "open season" on police officers in New York which gives vivid proof of the need for such action by the legislature.

Only last week a 30-year-old police officer was slain with a shot to the head at a range of less than 5 feet. A 27-year-old police officer was killed in January. Another police officer was shot but not killed on Monday. We cannot tolerate these crimes. We must send a message to the criminal element that our war on crime is real and that certain actions are absolutely intolerable.

Mr. President, I urge my colleagues in the Senate to join me in voting for S. 1765.●

The **PRESIDING OFFICER.** The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The **PRESIDING OFFICER.** Under the previous order, the hour of 2:30 p.m. having arrived, the Senate will now proceed to vote. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **STEVENS.** I announce that the Senator from Alaska (Mr. MURKOWSKI) is necessarily absent.

Mr. **BYRD.** I announce that the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. TSONGAS) is absent on official business.

I further announce that, if present and voting, the Senator from Ohio (Mr. GLENN) would vote "nay."

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 32, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—63

Abdnor
Armstrong
Baker
Baucus
Boren
Bradley
Bumpers
Byrd
Chiles
Cochran
D'Amato
DeConcini
Denton
Dixon
Dole
Domenici
East
Exon
Ford
Garn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Hecht
Heflin
Heinz
Helms
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Long
Lugar
Mattingly
McClure
Moynihan
Nickles
Nunn
Packwood
Pressler
Pryor
Quayle
Randolph
Roth
Rudman
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Wilson
Zorinsky

NAYS—32

Andrews
Bentsen
Biden
Bingaman
Boschwitz
Burdick
Chafee
Cohen
Danforth
Dodd
Durenberger
Eagleton
Evans
Hart
Hatfield
Inouye
Kennedy
Lautenberg
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Pell
Percy
Proxmire
Riegle
Sarbanes
Sasser
Weicker

NOT VOTING—5

Cranston
Glenn
Hollings
Murkowski
Tsongas

So the bill (S. 1765) was passed, as follows:

S. 1765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim; or

"(3) intentionally participated in an act that he knew, or reasonably should have known, would create a grave risk of death to a person, other than one of the participants in the offense, and the victim died as a direct result of the act;

shall be sentenced to death if, after consideration of the factors set forth in section

3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified.

"§3592. Factors to be considered in determining whether a sentence of death is justified

"(a) Mitigating Factors.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) the defendant was less than eighteen years of age at the time of the offense;

"(2) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution;

"(3) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; and

"(4) the defendant was an accomplice whose participation in the offense was relatively minor.

The jury, or if there is no jury, the court, may consider whether any other mitigating factors exists.

"(b) Aggravating Factors for Espionage and Treason.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) Aggravating Factors for Homicide and for Attempted Murder of the President.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 901 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after substanial planning and premeditation to cause the death of a person or commit an act of terrorism; or

"(9) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer, next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status a public servant.

For purposes of this subparagrah, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"3593. Special hearing to determine whether a sentence of death is justified

"(a) Notice by the Government.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

(b) Hearing Before a Court or Jury.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of Rule 32(e) of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) Proof of Mitigating and Aggravating Factors.—At the hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The attorney for the government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

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"(d) Return of Special Findings.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return a special finding as to each mitigating and aggravating factor, concerning which information is presented at the hearing, required to be considered under section 3592. The jury must find the existence of a mitigating or aggravating factor by a unanimous vote, although it is unnecessary that there be a unanimous vote on any specific mitigating or aggravating factor if a majority of the jury finds the existence of such a specific factor.

"(e) Return of a Finding Concerning a Sentence of Death.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (e), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(f) Special Precaution To Assure Against Discrimination.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant was not involved in reaching the juror's individual decision.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) Appeal.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) Review.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) Decision and Disposition.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant.

"§ 3597. Use of State facilities

"A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.";

(b) by repealing sections 3566 and 3567;

(c) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death sentence..................... 3591";

and

(d) in the section analysis of chapter 227, by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.
"3567. Repealed.".

Sec. 2. Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

Sec. 3. Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

Sec. 4. Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

Sec. 5. Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

Sec. 6. Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

Sec. 7. The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

Sec. 8. Section 1116(a) of title 18 of the United States Code is amended by striking the words "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

Sec. 9. Chapter 51 of title 18 of the United States Code is amended—

(a) by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life; an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death;

"(3) 'murders' means committing first degree or second degree murder as defined by section 1111 of this title."; and

(b) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

Sec. 10. Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

Sec. 11. The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

Sec. 12. Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsction (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

Sec. 13. The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 14. Section 2031 of title 18 of the United States Code is amended by deleting the words "death, or".

SEC. 15. Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

SEC. 16. Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 17. The provisions of chapter 228 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DECONCINI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I yield to the distinguished chairman of the Judiciary Committee.

Mr. THURMOND. Mr. President, I express my deep appreciation to the able Senator from Arizona who has worked very hard on this matter. He was formerly a State prosecutor and did a fine job. He has been most helpful on this bill, and he is a cosponsor of the bill.

I thank him for his great work.

Mr. President, I also express my appreciation to the able majority leader who has been a stalwart with respect to all these crime bills. Without his help we could not have gotten them through.

I also thank the minority leader, also, for his fine cooperation.

Mr. BAKER. Mr. President, I yield to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I join my distinguished colleague from South Carolina in complimenting and thanking the majority leader and the minority leader.

This took a lot of time, pain, and suffering. I appreciate his commitment. He has always been right on the mark and he came through as he always does.

I also wish to compliment the junior Senator from Michigan, who conducted a very good effort in opposition to this bill.

Of course, without the leadership of the Senator from South Carolina, the distinguished President pro tempore, this would not be here today and we would not just have passed what I consider a major tool in the criminal justice system to move this country in the right direction.

I thank the Senator from South Carolina.

Mr. BAKER. Mr. President, I will not take but a minute.

I wish to express my appreciation and I am sure that of every Senator for the extraordinarily good job Senators have done on both sides of the management of this bill, which is a highly emotional measure and one of great sensitivity.

But I especially congratulate the chairman of the committee, the President pro tempore, Senator THURMOND, for his diligence, dedication, and successful effort at managing this matter, and the equally diligent and dedicated effort of the Senator from Arizona, who has been a stalwart in his insistence that this matter be addressed by the Senate, which the Senate has now done and expressed its view in overwhelming numbers.

Mr. President, may I say now that in a moment it will be the intention of the leadership on this side to ask the Senate to turn to the consideration of the career criminal bill. By the way, may I say that I have consulted with the minority leader who indicates that he has no objection to us proceeding to the consideration of that measure. But before I do that, may I also say that I have consulted with the minority leader on another matter which he has likewise cleared and that is for the consideration at this time of Calendar Order No. 654, which is Senate Resolution 350.

On yesterday, the distinguished senior Senator from Washington requested that the matter be taken up at that time.

Because of the leadership practice of requiring these measures to be printed on the calendar for 1 day, it was with great reluctance that I had to decline. But I am happy at this time to announce that the minority leader has cleared the resolution for action and I am prepared to proceed.

CONGRATULATING AMERICAN OLYMPIC ATHLETES

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 654, Senate Resolution 350.

I further ask unanimous consent that when the matter is reported to the Senate that no amendment be in order and that the total time for the consideration of this measure be limited to 10 minutes, equally divided.

The PRESIDING OFFICER (Mr. CHAFEE). Is there objection?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. Does the Senator object?

Mr. GORTON. Mr. President, I wish to state to the distinguished majority leader that I do have a technical amendment. We misstated the address of one of the people concerned.

Mr. BAKER. All right, Mr. President, I modify my request that only one amendment will be in order and that will be the technical amendment just identified by the distinguished senior Senator from the State of Washington.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 350) congratulating American athletes for their significant accomplishments and bearing at the 1984 winter Olympics in Sarajevo, Yugoslavia.

The Senate proceeded to consider the resolution.

Mr. GORTON. Mr. President, this resolution congratulates the eight medal winners from the United States in the winter games, a resolution which was offered yesterday and printed in the RECORD. It also mentions the other athletes who participated for the United States.

I do not find it necessary to add to the remarks I presented yesterday. I will say, while I have my friend, the Senator from Ohio, in the Chamber, he generally speaks at length on anything that I offer on this floor. I do not know whether he wishes to reserve that right on this particular resolution or not.

Mr. METZENBAUM. I will simply say "amen."

Mr. GORTON. I thank the Senator.

AMENDMENT NO. 2714

(Purpose: Technical amendment)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr. GORTON) proposes an amendment numbered 2714.

In the preamble delete the words "Wilmington, Delaware" and insert in lieu thereof "Burlington, Massachusetts".

Several Senators addressed the Chair.

The PRESIDING OFFICER. Will the Senate please suspend? It will be necessary to agree to the text of the resolution before we can agree to the amendment because the amendment is to the preamble.

The question is on agreeing to the resolution.

The resolution (S. Res. 350) was agreed to.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to compliment the Senator from Washington on this resolution, but I also would like to explain to my colleagues why it was so understandable that the first mistake was made. There were so many Olympic athletes from Wilmington, Del., this year, that it is understandable that the Senator from Washington would assume that the person named was a Delawarean and not from Massachusetts.

Mr. President, I just wanted to explain how the Senator could make that mistake. It is perfectly understandable.

Mr. GORTON. Mr. President, it is extremely fortunate that the Senator from Massachusetts, who is now on the floor, made the correction. The Senator from Delaware may not realize that the genesis of this resolution was the two Senators from Washington. Of the eight medal winners, exactly four, or one-half, were from the State of Washington.

Mr. BIDEN. We can understand that. Probably the remainder were from the State of Delaware. I compliment both Senators.

Mr. KENNEDY. Mr. President, all of us are proud of the American athletes who brought home so many medals from the winter Olympics of 1984. And in Massachusetts we were especially pleased with the performance of Peter and Kitty Carruthers, the "pride of Burlington."

Peter and Kitty Carruthers and all the Olympic athletes have devoted years of training in preparation for these Olympics. Their determination, creativity, grace and imagination, and their exceptional drive to succeed are an inspiration to all Americans in all walks of life.

I am proud, therefore, to support this resolution commemorating America's Olympic athletes. Each of them has achieved a special success at Sarajevo. Peter and Kitty Carruthers defied the odds and won a silver medal in a competition dominated by Russians and East Germans in recent years. They brought home the first silver medal in pairs skating in over 30 years. Their medal, and the seven other medals won by Americans this year, are a special gift to the Nation. In honoring them today, we honor the best in America and the best in ourselves.

I also want to take this occasion to commend the performance of five other Olympic athletes from Massachusetts, Mark and Scott Fusco, David Jensen, Bob Brokke and Mark Kumpel—all of whom were members of the U.S. hockey team. Perhaps a repetition of the miracle of 1980 was never in the cards for 1984.

Sports—and sometimes politics too—is often a contest of inches and intense emotion. Who knows? If that first Canadian shot in the first seconds of the first game had not been deflected into the American net, the whole course of the tournament could have changed, and the Senate might now be honoring our athletes for nine medals instead of eight. Now, instead, we say, "Wait until Calgary in 1988."

Mr. GORTON. Mr. President, I ask unanimous consent that Senators KENNEDY, MCCLURE, ARMSTRONG, SPECTER, BIDEN, and CHAFEE be added as cosponsors of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 2714) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the preamble, as amended.

The preamble, as amended, was agreed to.

The resolution (S. Res. 350), with its preamble, reads as follows:

S. RES. 350

Whereas the attention of millions of people around the world has been directed during the past week toward the 1984 winter Olympics in Sarajevo, Yugoslavia;

Whereas the contingent of athletes from the United States has included some of the finest young people to have represented this country in recent Olympics' competitions;

Whereas our best previous alpine record in the winter Olympics was in 1964 when four medals were won by American athletes;

Whereas this 1984 contingent of American athletes has achieved significant success for themselves and their Nation in this winter Olympics;

Whereas these American athletes have achieved eight medals in the 1984 winter Olympics competition, including four gold and four silver medals, five of which were in alpine skiing for a new American record;

Whereas these American Olympic medal winners are:

Debbie Armstrong of Seattle, Washington, who won the gold medal in the women's giant slalom competition;

Scott Hamilton of Denver, Colorado, who won the gold medal in men's figure skating;

Bill Johnson of Van Nuys, California, who won the gold medal in the men's downhill ski event;

Phil Mahre of Yakima, Washington, who won the gold medal in the men's slalom competition;

Kitty and Peter Carruthers of Burlington, Massachusetts, who won the silver medal in pairs figure skating;

Christin Cooper of Sun Valley, Idaho, who won the silver medal in the women's giant slalom;

Steve Mahre, also of Yakima, Washington, who won the silver medal in the men's slalom competition; and

Rosalynn Sumners of Edmonds, Washington, who won the silver medal in the women's figure skating competition; and

Whereas the conduct of these Olympic medal winners and that of all their team colleagues represented themselves, their families, and their Nation with extraordinary grace and courage: Now, therefore, be it

Resolved, That it is the sense of the Senate that these American athletes be exuberantly congratulated for their significant accomplishments and bearing at the 1984 winter Olympics in Sarajevo, Yugoslavia; and be it further

Resolved, That the United States Senate encourages all young American athletes to take great pride in the accomplishments of the 1984 American Olympic team and learn the qualities of commitment to excellence, grace under pressure, and good will toward other competitors that was exhibited by the 1984 American Olympic team; and be it further

Resolved, That the special congratulations of the United States Senate be extended to Phil and Holly Mahre to whom, on the day of Phil's achievement of his Olympic gold medal, was born their first son.

Mr. BAKER. Mr. President, I yield to the Senator from Washington if he desires to move to reconsider the action just taken.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the resolution, as amended, was agreed to.

Mr. BIDEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I wish to congratulate the Senators from Washington and to once again express my apology that it was not possible to do this on yesterday, as I explained.

Let me say to my friend from Delaware that he is not only always interested in guarding the interests of Delaware, but to claim whatever victories they are entitled to, plus a little bit more.

Mr. BIDEN. Mr. President, as small as we are, we always want to do that.

AWARD OF MEDAL OF FREEDOM TO SENATOR BAKER

Mr. KENNEDY. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. KENNEDY. Mr. President, since we are recognizing very special qualities of sportsmanship and leadership, and I think rightly so, and I have already presented my comments, I believe the Senate ought to understand what I think many of us who have had the opportunity to understand. That is that the majority leader has been recognized for his extraordinary public service and is to be awarded the Medal of Freedom later on in the month of March.

As we honor our country's athletes, I think all of us, whether Republican or Democrat, certainly ought to commend the choice for recognizing the great service which the majority leader has offered to this body and to his State.

Mr. BAKER. Mr. President, I am most grateful to my colleague from Massachusetts, who has been my colleague and friend for more years than we care to count. I am indeed fortunate to have him as a friend.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, as I indicated earlier, it is the intention of the leadership to ask the Senate to turn to the consideration of the career crime bill at this time. I do not anticipate the Senate will complete action on that measure today. I would hope, however, that we may lay the bill down and that we may continue negotiations for an agreed time for the final disposition and consideration of any amendments to the measure, which I would anticipate would be tomorrow.

I would also say that it may be—indeed, it is likely—that we may be able to turn to some other measure temporarily this afternoon and finish it before we resume consideration of the career crime bill tomorrow.

I have consulted with the minority leader and I believe I am correct in saying that there is no objection on his part to laying the bill down and that we will continue our efforts to reach an agreement for a time certain for passage on tomorrow.

ARMED CAREER CRIMINAL ACT

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 310, S. 52.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 52) to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment.

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Armed Career Criminal Act of 1983".

SEC. 2. Chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2118. Armed Career Criminals

"(a) Whoever carries a firearm during the commission of an offense described in subsection (c) of this section or commits such an offense with another who carries a firearm during the commission of such offense, or attempts or conspires to do so, shall be fined not more than $25,000 and imprisoned not less than fifteen years.

"(b) An offense under this section shall not be prosecuted unless the United States proves beyond a reasonable doubt that the defendant has been convicted of at least two offenses described in subsection (c) of this section.

"(c) The offense referred to in subsections (a) and (b) of this section is any robbery or burglary offense, or a conspiracy or attempt to commit such an offense, which may be prosecuted in a court of any State or of the United States and which is punishable by a term of imprisonment exceeding one year.

"(d) Notwithstanding any other provision of law—

"(1) any person charged with an offense under this section shall be treated in accordance with the provisions of section 3148 of this title;

"(2) the indictment or the information need not contain allegations pertaining to or references to subsection (b) of this section;

"(3) the issue of whether the United States has fulfilled its burden of proof beyond a reasonable doubt under subsection (b) of this section shall be heard and decided by the court before trial; and

"(4) the court shall not sentence the defendant to probation, nor suspend such sentence, and the defendant shall not be eligible for release on parole before the end of such sentence.

"(e) For purposes of this section—

"(1) 'State' means any State of the United States, any political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States;

"(2) 'firearm' has the meaning set forth in section 921 of this title;

"(3) 'robbery offense' means any offense involving the taking of the property of another from the person or presence of another by force or violence, or by threatening or placing another person in fear that any person will imminently be subjected to bodily injury; and

"(4) 'burglary' means any offense involving entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.

"(f) Except as expressly provided herein, no provision of this section shall operate to the exclusion of any other Federal or State law, nor shall any provision be construed to invalidate any other provision of Federal or State law.".

SEC. 3. The table of sections at the beginning of chapter 103 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"2118. Armed Career Criminals.".

SEC. 4. It is the intent of Congress that—

(a) the trial and appeal of any person prosecuted under section 2118 of title 18, United States Code, as added by this Act, shall be expedited in every way;

(b) this section shall not create any right enforceable at law or in equity in any person; and

(c) armed robbery and burglary offenses should ordinarily be prosecuted by the States and that prosecutions under section 2118 of title 18, United States Code, as added by this Act, should take place only where circumstances justify exceptional handling. An offense under this section shall not be prosecuted unless the appropriate State prosecuting authority requests or concurs in such prosecution and the Attorney General or his designee concurs in such prosecution.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise not to speak at this moment on the career criminal bill other than to suggest that I know Senator KENNEDY and Senator SPECTER are trying valiantly to see if we can work out some agreement. We reported a bill out of committee which I believe would have been acceptable, though there may be some changes, which they are trying to negotiate now.

At an appropriate time, and I am seeking the guidance of the majority leader, I would like to take 3 minutes to introduce another bill, just to move it for introduction. There would be no action.

Mr. BAKER. Mr. President, I thi the best way to handle that might be to provide a brief time for the transaction of routine morning business, which would interrupt the Senate's consideration of the measure now pending. The Senator could introduce his bill at that time and there may be other Senators who wish to speak. That would occur while we continue negotiations.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, to extend not past the hour of 3:30 p.m., during which Senators may speak for not more than 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE ADMINISTRATION ON AGING—MESSAGE FROM THE PRESIDENT—PM 118

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 207 of the Older Americans Act, as amended (41 U.S.C. 3018), I transmit herewith the Annual Report for Fiscal Year 1983 of the Administration on Aging of the Department of Health and Human Services. The Annual Report includes information on evaluation as required under Section 206.

RONALD REAGAN.

THE WHITE HOUSE, *February 22, 1984.*

DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 119

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Energy and Natural Resources, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report seven new deferrals of budget authority totaling $28,960,700.

The deferrals affect the Departments of the Interior, Justice, and Transportation. The details of the deferrals are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *February 22, 1984.*

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following bills and joint resolution:

February 2, 1984:

S. 1863, an act for the relief of Audun Endestad.

February 17, 1984:

S. 379, an act to cancel certain indebtedness in connection with disaster relief activities.

February 21, 1984:

S.J. Res. 146, joint resolution to designate March 23, 1984, as "National Energy Education Day."

MESSAGES FROM THE HOUSE

At 10:38 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 4336) to make certain miscellaneous changes in laws relating to the civil service.

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At 4:08 p.m., a message from the House of Representatives was delivered by Mr. Berry, one of its reading clerks, announced that the Speaker had signed the following enrolled bill:

S. 1388. An act to amend title 38, United States Code, to increase the rates of compensation for survivors; to express the sense of the Congress that increases in the rates of compensation should take effect on December 1 beginning in fiscal year 1985; and for other purposes.

The measure was subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILL PRESENTED

The Secretary reported that on today, February 22, 1984, he had presented to the President of the United States the following enrolled bill:

S. 1388. An act to amend title 38, United States Code, to increase the rates of compensation for disabled veterans and the rates of dependency and indemnity compensation for survivors; to express the sense of the Congress that increases in the rates of compensation should take effect on December 1 beginning in fiscal year 1985; and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2551. A communication from the Administrator of the National Aeronautics and Space Administration transmitting a draft of proposed legislation to authorize appropriations to NASA for research and development; to the Committee on Commerce, Science, and Transportation.

EC-2552. A communication from the Deputy Assistant Secretary of the Interior transmitting a draft of proposed legislation to establish a working capital fund in the Bureau of Reclamation; to the Committee on Energy and Natural Resources.

EC-2553. A communication from the Administrator of the Environmental Protection Agency transmitting, pursuant to law, the Agency's report on Indemnification; to the Committee on Environment and Public Works.

EC-2554. A communication from the Assistant Administrator of the Environmental Protection Agency transmitting, pursuant to law, the National Priorities List; to the Committee on Environment and Public Works.

EC-2555. A communication from the Administrator of the Environmental Protection Agency transmitting, pursuant to law, the National Water Quality Inventory Report for 1982; to the Committee on Environment and Public Works.

EC-2556. A communication from the Acting Secretary of State transmitting, pursuant to law, a report on the status of payments under loan guarantees or credit assurance agreements made to Poland; to the Committee on Foreign Relations.

EC-2557. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the United States within the previous 60 days prior to February 3, 1984; to the Committee on Foreign Relations.

EC-2558. A communication from the Chairman of the National Capital Planning Commission transmitting a copy of proposed legislation to increase the compensation of members of the Commission; to the Committee on Governmental Affairs.

EC-2559. A communication from the Special Counsel, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report on the findings and conclusions concerning certain allegations of violation of law and regulation, and abuse of authority; to the Committee on Governmental Affairs.

EC-2560. A communication from the Special Counsel, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report on allegations of abuse of authority and substantial and specific danger to public health and safety at the VA Medical Center, Miles City, Montana; to the Committee on Governmental Affairs.

EC-2561. A communication from the Assistant Attorney General for Administration transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2562. A communication from the General Counsel of the Foreign Claims Settlement Commission transmitting, pursuant to law, the Commission's 1983 report on its implementation of the Government in the Sunshine Act; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1059. A bill to provide that it shall be unlawful to deny equal access to students in public schools and public colleges who wish to meet voluntarily for religious purposes and to provide district courts with jurisdiction over violations of this Act. (Rept. No. 98-357) (Minority views filed).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HEINZ:

S. 2317. A bill to suspend for 3 years the duty on crude 8 + 5 hydoxyquinolines; to the Committee on Finance.

By Mr. HATCH (for himself and Mrs. HAWKINS):

S. 2318. A bill to provide financial assistance to States for a program of occupational training for single working parents and homemakers; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN:

S. 2319. A bill to amend the Internal Revenue Code of 1954 to disallow certain tax incentives to tax shelters, and for other purposes; to the Committee on Finance.

By Mr. HART:

S. 2320. A bill to withdraw U.S. military forces in Central America and to limit the introduction of U.S. military forces without congressional approval; to the Committee on Foreign Relations.

By Mr. PERCY (by request):

S. 2321. A bill to further amend the Peace Corps Act; to the Committee on Foreign Relations.

By Mr. BENTSEN (for himself and Mr. GRASSLEY):

S. 2322. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for retirement savings on the basis of the compensation of the spouse; to the Committee on Finance.

By Mr. CHAFEE (for himself and Mr. SIMPSON):

S. 2323. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on the receipt of golden parachute payments and to deny any deduction with respect to such payments; to the Committee on Finance.

By Mr. PACKWOOD (for himself, Mr. Hollings, Mr. Weicker, Mr. Kennedy, Mrs. Hawkins, Mr. Cranston, Mr. Lautenberg, Mr. Hart, Mr. Humphrey, Mr. Chiles, Mr. Inouye, Mr. Tsongas, Mr. Pell, Mr. Riegle, and Mr. Roth):

S. 2324. A bill to amend the Coastal Zone Management Act of 1972 regarding activities directly affecting the coastal zone; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO (for himself, Mr. Specter, and Mr. Lautenberg):

S. 2325. A bill to provide financial aid to public mass transit systems for crime prevention and security; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. D'AMATO (for himself and Mrs. Hawkins):

S. 2326. A bill entitled the "Securities Fraud Prevention Act"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BIDEN:

S. 2327. A bill to provide for real life imprisonment; to the Committee on the Judiciary.

By Mr. BOREN (for himself, Mr. Boschwitz, Mr. Baucus, Mr. Abdnor, and Mr. Hart):

S. 2328. A bill to provide for an improved program for wheat; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. NICKLES:

S. 2329. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans and to remove unnecessary barriers to employer participation in those plans for modifying the rules relating to employer withdrawal liability, asset sales, and funding, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself and Mr. Denton):

S. 2330. A bill to amend the Internal Revenue Code of 1954 to allow the deduction for certain expenses paid or incurred by an individual in connection with the adoption of a child; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. D'Amato):

S. 2331. A bill to amend section 1601(d) of Public Law 96-607 to permit the Secretary of the Interior to acquire title in fee simple to McClintock House at 16 Williams Street, Waterloo, N.Y.; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S.J. Res. 240. Joint resolution relating to the 40th anniversary of the liberation of Rome; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. Bentsen, Mr. Hollings, Mr. Dole, Mr. Cohen, Mr. Chiles, Mr. Long, Mr. Percy, Mr. Moynihan, Mr. Levin, Mr. Cranston, Mr. Dodd, Mr. Jepsen, Mr. Specter, Mr. Thurmond, Mr. Inouye, Mr. Quayle, Mr. Tsongas, Mr. Hecht, Mr. Boren, Mr. Heflin, and Mr. Metzenbaum):

S.J. Res. 241. A joint resolution to authorize and request the President to issue a proclamation designating May 6 through May 13, 1984, as "Jewish Heritage Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHILES (for himself, Mr. Inouye, Mr. Byrd, Mr. Eagleton, Mr. Baucus, Mr. Bentsen, Mr. Bingaman, Mr. Boren, Mr. Bumpers, Mr. Burdick, Mr. Dixon, Mr. Exon, Mr. Ford, Mr. Johnston, Mr. Kennedy, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Matsunaga, Mr. Metzenbaum, Mr. Pell, Mr. Proxmire, Mr. Pryor, Mr. Randolph, Mr. Riegle, Mr. Stennis, and Mr. Zorinsky):

S. Con. Res. 96. A concurrent resolution expressing the sense of Congress that the President should submit a revised budget proposal which contains provisions to reduce the Federal deficit by at least $200 billion over the next 3 years; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself and Mrs. Hawkins):

S. 2318. A bill to provide financial assistance to States for a program of occupational training for single working parents and homemakers; to the Committee on Labor and Human Resources.

SINGLE PARENTS AND HOMEMAKERS EDUCATION ASSISTANCE ACT

Mr. HATCH. Mr. President, I rise today to introduce the "Single Parents and Homemakers Education Assistance Act." This legislation is designed to enhance the opportunities of single working parents and homemakers to obtain marketable vocational skills. I propose this legislation as a means to prevent poverty among single working parents and the homemakers who have been substantially excluded from existing programs.

The Federal Government, and Congress in particular, has largely ignored the young single parents who are struggling in low-wage jobs that barely provide subsistence for themselves and their children. These parents are not on welfare. They are working, but because they are, they are excluded from eligibility for the many programs designed to help the unemployed. They deserve a chance to improve their circumstances. The number of single-parent households has grown precipitously over the past generation and we can no longer afford to ignore them if for no other reason than that the immediate welfare of their children will be fundamentally consequential to our Nation's future. The desire and determination to work should be sufficient in this country to create opportunities for parents not just to provide for themselves and their own, but to advance their skills and quality of life.

Also largely and unjustly ignored are the problems of homemakers who desire or need to obtain jobs. These persons are especially deserving of their Nation's help. As was expressed powerfully in recent hearings before the Committee on Labor and Human Resources, homemakers work. They work hard, and the fruits of their labor are of incalculable value to our society.

Many homemakers need or will need assistance in learning marketable skills. It is unreasonable to expect that all homemakers, or even most of them, will remain homemakers for their entire adult lives. One can raise a family and still have many productive years. Additionally, women are more likely to outlive their husbands requiring them to have job skills in the event of losing their spouses through death. Divorce is increasingly a cause of homemaker displacement and poverty. Finally, our economy has a need for skilled people and homemakers should be given an opportunity to contribute their efforts and abilities.

Here is what one of our witnesses, Margot Joynes, had to say about the problems of displaced homemakers before the Committee on Labor and Human Resources:

> What are our displaced homemaker clients like? They have been in the home for many years. They had planned to spend a lifetime devoted to homemaking. The displaced homemakers we serve are very vulnerable, coming from homemaking responsibilities in a period of great stress. They lack self-esteem, self-confidence. They lack awareness of themselves as worthy individuals with potential. We hear them over and over say they do not have any marketable skills. In addition to lacking knowledge about self, they lack knowledge about community resources and information about the local labor market. The stress from a major life crisis and pressure to get paid employment often leaves them with health problems. Most of them have real financial need. Many of them need legal help. They are all ages and stages in life transition.

While the language of the legislation does not specify men or women, and when they qualify, men are certainly eligible, our society still expects women primarily to care for the children. Thus, when families break up, it is primarily women who become the single parents.

These single mothers are usually at an economic disadvantage when compared with their former husbands, because usually, if the women had jobs at all, the men had better jobs. Women are also penalized for homemaking because they remain out of the labor force and thus do not gain experience or on-the-job skills. The single mothers are mostly relegated to so-called pink-collar occupations that may pay the grocery bill for a two-parent family but will rarely pay for a decent standard of living for a single-parent household.

Also, we must face the reality that, for the present, the men in question are doing very little to secure a decent

standard of living for their children and the mothers of their children. Of the 8.4 million women nationwide who had custody of their children in 1981, less than half had been awarded child support. Only 47 percent of those women who had been awarded child support received the full amount which averaged $40 a month. Twenty-eight percent of these women received nothing.

Mr. President, the legislation that I am proposing provides formula grants to the States to fund or subsidize vocational education for single working parents and homemakers and to make this education accessible and pertinent to these persons. The States are given considerable flexibility to design their programs in keeping with State economies and the wishes of local citizens. The legislation requires no new agencies at either the Federal or State levels and existing personnel can be used to administer the program. The immediate director of the program within each State will be the sex equity coordinator whose position has already been mandated by Federal regulations, and will be made statutory by this legislation.

The legislation before us addresses straightforwardly problems of two groups of Americans that deserve our attention and for whom there are few, if any, programs or initiatives to prevent their poverty. I urge my colleagues to support the expeditious passage of the Single Parents and Homemakers Education Assistance Act.

Mr. President, I ask unanimous consent that this legislation and a summary of this legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be entitled "Single Parents and Homemakers Education Assistance Act".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to make grants to States to assist—

(1) single working parents who are living with and supporting minor children, and

(2) individuals who have been primarily homemakers as adults and who therefore have fewer marketable occupational skills

to gain the education or training necessary to perform jobs or engage in businesses that will provide them with a higher standard of living than their present levels of education and training will allow them to achieve.

SINGLE PARENTS AND HOMEMAKERS EDUCATION GRANTS AUTHORIZED

SEC. 3. (a) The Secretary is authorized to make grants, in accordance with the provisions of this Act, to States to provide occupational training to single working parents and homemakers.

(b) There is authorized to be appropriated $100,000,000 for the fiscal year 1985 and for each of the succeeding fiscal years ending prior to October 1, 1987, to carry out the provisions of this Act.

DEFINITIONS

SEC. 4. For the purpose of this Act—

(1) The term "single working parent" means an individual who—

(A) is unmarried or legally separated from a spouse,

(B) has a minor child or children for which the parent has either custody or joint custody; and

(C) is working at least 20 hours a week, for an employer or in self-employment, and furnishes the preponderance of the nonpublic financial support for the household of the parent.

(2) The term "homemaker" means an individual who—

(A) has not worked full time to support himself or herself,

(B) has been a dependent for tax purposes for at least 10 years during the period beginning on the date on which the individual—

(i) was first married,

(ii) parents of a first child, or

(iii) attained 18 years of age,

and ending on the date on which the determination is made; and

(C) has been a dependent for tax purposes for most of the 10-year period immediately prior to the date on which the determination is made.

(3) The term "Secretary" means the Secretary of Education.

(4) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

STATE ALLOTMENTS

SEC. 5. (a) (1) The Secretary shall, from the amount appropriated under section 3 (b) for each fiscal year which remains after the Secretary makes the apportionment required under subsection (b) (1), allot to each State—

(A) an amount which bears the same ratio to 20 percent of such remaining amount as the population of the State aged 15 to 19, inclusive, bears to the population aged 15 to 19, inclusive, of all States; plus

(B) an amount which bears the same ratio to 80 percent of such remaining amount as the population of the State aged 20 to 65, inclusive, bears to the population aged 20 to 65, inclusive, of all States.

(2) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) (1) The Secretary shall apportion one-half of 1 percent of the amount appropriated under section 3 (b) for each fiscal year on the basis of need among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which paragraph (1) applies may receive grants under this Act upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this Act and which are consistent with the requirements of section 7.

(c) (1) If, with respect to any State, the Secretary—

(A) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this Act be made directly to such tribe or organization; and

(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide benefits under this Act;

the Secretary shall reserve from amounts which would otherwise be allotted to such State under this Act for the fiscal year the amount determined under paragraph (2).

(2) The Secretary shall reserve for the purpose of paragraph (1) from sums that would otherwise be allotted to such State not less than 100 percent of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all individuals eligible for assistance under this Act in such State.

(3) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(4) In order for an Indian tribe or tribal organization to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation.

(5) The terms "Indian tribe" and "tribal organization" mean those tribes, bands, or other organized groups of Indians recognized in the State in which they reside or considered by the Secretary of the Interior to be an Indian tribe or an Indian organization for any purpose.

USES OF FUNDS

SEC. 6. Each State may use grants made under this Act to—

(1) provide, subsidize, reimburse or pay for education and training activities, including basic literacy instruction and necessary educational materials, that will furnish single parent workers and homemakers with marketable skills; and

(2) make education and training more accessible to single parent workers and homemakers by assisting them with child care or transportation services or by organizing and scheduling the programs so that such programs are more accessible.

APPLICATIONS AND REQUIREMENTS

SEC. 7. (a) Each State desiring to receive its allotment for the fiscal year under this Act shall submit an application to the Secretary. Each such application shall be in such form as the Secretary may require. Each such application shall contain assurances by the chief executive officer of the State that the State will comply with subsection (b) and will meet the conditions enumerated in subsection (c).

(b) After the expiration of the first fiscal year in which a State received funds under this Act, no funds shall be allotted to such State for any fiscal year under this Act unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under this Act for such fiscal year.

(c) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees to—

(1) use the funds made available under this Act in accordance with section 6 and use no funds that are not directly related to the costs of materials and services furnished

for eligible single working parents and homemakers;

(2) pay from non-Federal sources all of the non-Federal administrative costs of carrying out the program for which assistance is sought;

(3) assign a full-time individual to administer this program whose duties will include reviewing all State vocational education programs to determine whether there is any bias in these programs against serving men and women who seek training for occupations that are not traditionally associated with their sex, and whose duties will also include working with these programs to eliminate such bias or to insure that such bias does not occur;

(4) provide assurances that the State will spend no less than 20 percent of the assistance furnished under this Act in any fiscal year for materials and services furnished to single working parents or to homemakers, as the case may be;

(5) furnish relevant training and educational activities to single working parents and homemakers who desire to enter occupations that are not traditionally associated with their sex;

(6) provide assurances that the State will give special attention to furnishing occupational training and education to single working parents and homemakers who—

(A) have dependents;

(B) have the greatest financial need; and

(C) have lost their spouses through death;

(7) provide assurances that the State will consult with private industry councils established under the Job Training Partnership Act and will emphasize training for occupations which the appropriate private industry councils determine are most needed or most available or provide the greatest opportunity for employment within the communities in the State;

(8) provide assurances that, whenever feasible, community-based organizations and private service providers will be used to achieve the objectives of the program for which assistance is sought, and that not less than 20 percent of the allotment of the State will be available for community-based organizations as provided in this clause;

(9) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under this Act, including procedures for monitoring the assistance provided under this Act, and provide that at least every year each State shall prepare, in accordance with subsection (f), an audit of its expenditures of amounts received under this Act and amounts transferred to carry out the purposes of this Act;

(10) use, whenever feasible, community-based organizations and private service providers to achieve the objectives of the program; and

(11) provide assurances that the State will expend funds and conduct the program in strict accordance with the provisions of this section.

The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.

(d)(1) In addition to the requirements of subsection (c), the chief executive officer of each State shall prepare and furnish to the Secretary a plan which contains provisions describing how the State will carry out the assurances contained in subsection (c). The chief executive officer of each State may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.

(2) Each plan prepared under paragraph (1) shall be made available for public inspection within the State in such a manner as will facilitate review of, and comment on, the plan.

(3) The Secretary shall approve the plan submitted under this subsection unless the Secretary determines that the plan does not comply with a reasonable interpretation of the specific provisions of this Act.

(e) No State may receive financial assistance under this Act unless the State has complied with the provisions of this section.

(f) Each audit required by subsection (c)(8) shall be conducted by an entity independent of any agency administering activities or services carried out under this Act and shall be conducted in accordance with generally accepted accounting principles. Within 30 days after the completion of each audit, the chief executive officer of the State shall submit a copy of such audit to the legislature of the State and to the Secretary.

(g) The State shall repay to the United States amounts found not to have been expended in accordance with this Act or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this Act.

(h) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of the State in accomplishing the purposes of this Act.

ADMINISTRATION

Sec. 8. The Secretary is authorized to prepare and promulgate such regulations as are essential to carry out the provisions of this Act, except that the Secretary may promulgate no regulations that define or explain the purposes of the program, the criteria for eligibility for assistance, and the contents of the format of State assurances of the State plan.

PAYMENTS TO STATES

Sec. 9. (a) From its allotment under section 5, the Secretary shall make payments to each State in accordance with section 6503(a) of title 31, United States Code, for use under this Act.

(b) Payments to a State from its allotment for any fiscal year shall be expended by the State in such fiscal year or in the succeeding fiscal year.

Summary: A Program for the Occupational Training of Single Working Parents and Homemakers

(1) Title: This bill shall be titled: "Single Parents and Homemakers Education Assistance Act".

(2) Authorization: $100 million a year for FY 85, FY 86 and FY 87.

(3) General Purpose: This program is intended to assist (a) single working parents who are living with and supporting minor children, and (b) persons who have been primarily homemakers as adults and who therefore have fewer marketable occupational skills to gain the education or training necessary to perform jobs or engage in businesses that will provide them with a higher standard of living than their present levels of education and training will allow them to achieve.

(4) Formula for distribution of funds: The appropriation shall be apportioned to the states and the territories on a population basis in accordance with the following breakdown: 20 percent will be apportioned on the basis of population 15 through 19, 80 percent on the basis of population 20 through 65. The share of any state or territory that does not seek or qualify for funds shall be divided proportionately among the other states and territories.

(5) Eligible groups—definition:

(a) Single working parents: The parent must be unmarried or legally separated from his/her spouse. The parent must have a minor child or children for which the parent has either custody or joint custody. The parent must be working a minimum of twenty hours a week at gainful employment or self employment. The parent must supply the preponderance of the non-public financial support of his/her household.

(b) Homemaker: This person must have been a homemaker who has not worked full time to support him/herself and who has also been a dependent for tax purposes for at least ten years during the time since he/she was first married or parented a first child or since he/she reached majority, and also who has not worked full time to support him/herself and has been a dependent for tax purposes for most of the prior ten years.

(6) Allowable uses of the funds:

(a) to provide, subsidize, reimburse for or to pay for education and training, including basic literacy instruction and necessary educational materials, that will supply eligible persons with marketable skills.

(b) to make this education and training more accessible to these persons by assisting them with child care or transportation or by organizing and scheduling the programs themselves so that they are more accessible.

(7) Stipulations for the states: To receive funds a state must certify the following assurances to the Secretary of Education:

(a) that it will bear all non-federal administrative costs for the program, and that all of the funds received will pay for materials and services for eligible persons.

(b) that it will expend no less than twenty percent of the funds on programs, services and materials for each eligible group (the single working parents and the homemakers).

(c) that it will assign a full-time person to administer this program whose duties will include reviewing all state vocational educational programs to determine whether there is any bias in these programs against serving men and women who seek training for occupations that are not traditionally associated with their sex, and whose duties will also include working with these programs to eliminate such bias or to insure that such bias does not occur.

(d) that it will endeavor to provide relevant training and education to eligible persons who desire to enter occupations that are not traditionally associated with their sex.

(e) that it will stress providing occupational training and education to those eligible persons who (i) have dependents, (ii) who have the greatest financial need and/or (iii) have lost their spouses through death.

(f) that it will consult with the Private Industry Councils and will stress training for occupations which they feel are the most needed or most available within their communities.

(g) that it will conduct the program and expend funds in strict accordance with its state plan, and that it will make this state plan readily available to the public.

(h) that whenever feasible, community based organizations and private providers will be used to achieve the objectives of the program, but that no less than 20 percent of program funds will be used to achieve these objectives through community based organizations.

In addition, to receive funds a state must do the following:

(a) submit to the Secretary of Education a plan that will clearly indicate how the state intends to expend program funds to comply with the required assurances and to effect the mandated purposes of the program. This plan can be revised any time during the fiscal year, but must be received by the Secretary before the state spends program funds in accordance with the revised plan. The plan must be approved by the Secretary of Education before funds are transferred to the state, but the Secretary must approve the plan unless the Secretary determines that the plan does not comply with a reasonable interpretation of the specific provisions of this act.

(b) Each year the state legislature must conduct an oversight hearing regarding the operation of the program before the state is eligible for program funding in the second and subsequent years of the program. The state must certify to the Secretary that this hearing has been conducted.

(c) Before a state is eligible for funding for the second and subsequent years of the program, it must file a report on the operation of the prior year's program in such a format and including such information as the Secretary may require. At a minimum this report shall show the average earnings and distribution of earnings of the program participants before their training. The report required prior to the third year and subsequent years of the program shall indicate the earnings gains made by the participants; the report must show the average wages and the distribution of wages of past participants three months after the conclusion of their training.

(8) Limitation on Federal Regulations: The Secretary shall promulgate no regulations that define or explain the purposes of the program, the criteria for group eligibility, the contents or format of the state plan, or the assurances that the state must make. The state can define these items for itself as long as its interpretation of the statute is reasonable.

By Mr. MOYNIHAN:

S. 2319. A bill to amend the Internal Revenue Code of 1954 to disallow certain tax incentives to tax shelters, and for other purposes; to the Committee on Finance.

TAX SHELTER REFORM ACT OF 1984

Mr. MOYNIHAN. Mr. President, I rise today on a matter of large import for the fairness and efficiency of the tax system. This is the proliferation of tax shelters, the near epidemic of investments designed to enable taxpayers to reduce their taxable incomes by more than the amounts they invest. Shelters take the form of investments—and who among us does not want to encourage investment? But these are not economic investments in a true sense. Here, investment occurs, not with the expectation of economic profit, but rather with the assurance of tax deductions, credits, and losses. The goal is not to produce a profit, but to reduce the tax liability on one's income from other sources. According to Joseph A. Pechman, Senior Fellow at the Brookings Institution, in Federal Tax Policy (1983):

> Tax shelters permit individuals to reduce drastically or even to wipe out tax liabilities on large incomes by taking advantage of preferential provisions in the tax law.

I have no argument here with tax incentives designed to promote economically and socially desirable activities. I must and will oppose tax avoidance schemes designed solely for tax advantages. I am concerned about tax loopholes which merely allow the most wealthy among us to avoid bearing their fair share of the tax burden, thereby increasing the burden on the middle and lower income Americans.

I rise then, Mr. President to introduce legislation, the Tax Shelter Reform Act of 1984, to address this problem.

This is not a minor, nor idle, matter. Tax-sheltering schemes are increasing greatly, both in number and volume. According to a report in U.S. News & World Report of June 13, 1983, Robert A. Stranger & Co., an investment adviser firm, has estimated that total investments in tax-shelter partnerships, the primary vehicles for these transactions, increased more than 100 percent from 1980 to 1983, from $5.7 billion to $12 billion, and will reach $14 billion this year. The Stranger firm also estimated that 750,000 individuals invested in tax shelters in 1982, and the numbers are rising. These shelters generally are investments designed to take advantage of a loophole, in which the investor's return mainly is based, not on economic profit, but on tax savings with respect to income from other sources.

The total cost to the Treasury, to ordinary taxpayers, are large, but hard to estimate with precision. Last year, the Internal Revenue Service examined 95,000 tax-shelter returns, involving more than $1.7 billion in disputed tax deductions and credits. At this rate, the current IRS backlog of 350,000 questionable returns with tax shelters represents more than $6.5 billion in foregone or potential revenues. As these represent only the most questionable tax shelters—about 10 percent of all sheltering activities, according to estimates by Stranger & Co.—total costs to the Treasury could reach $65 billion.

Mr. President, permit me to explain how these schemes provide a wealthy taxpayer with overly generous tax benefits. Most arrangements are quite a bit more complex, but a basic understanding of tax shelters is necessary in order to combat them.

A classic tax shelter could involve, for example, a machine leased to a farmer. The investor contributes, say, $10,000 in cash, and the tax shelter promoter arranges a $105,000 loan. Of the $115,000, the promoter takes $15,000 and $100,000 is used to buy the machine. The machine investment qualifies for the investment tax credit (ITC) of 10 percent of the entire $100,000 cost, so the investor can subtract $10,000 from his tax liability for that credit. At this point, our investor has invested $10,000 and received a $10,000 tax credit from the U.S. Treasury. But the investor is also entitled to additional tax breaks, in the form of depreciation deductions, because the machine can be written off or depreciated over 5 years. The accelerated cost recovery system (ACRS) provides for a 15-percent tax deduction, based on the machine's total cost, in the first year. In addition to the $10,000 tax credit, therefore, the investor would claim a deduction of almost $15,000 in the first year. For an investor in the 50-percent tax bracket, this deduction is worth nearly $7,500 in tax avoidance. Finally, the taxpayer can deduct any payments for interest on the $100,000 loan. This last deduction usually offsets the tax liability on any income derived by the investor from leasing the machine to the farmers. Thus, the investor who puts up $10,000 has gained immediately tax benefits of $17,500.

Our investor, moreover, continues to collect tax savings in succeeding years without any additional investment. In year 2, the interest deduction continues to offset the tax liability for the leasing income, while the depreciation deduction rises to 22 percent. This means the tax shelter investor can claim a new deduction of almost $22,000, equivalent to a tax credit of almost $11,000 if he, like the typical tax shelter investor, is in the 50-percent bracket. This return of almost $2 in tax reductions for every dollar invested, just in the first year, and about $28,000 in tax savings over 2 years for a $10,000 investment, is not unusual. Under more complex arrangements, the investor can generate even greater tax savings. The investor's depreciation deductions continue for 3 more years, moreover, and if he ever sells the property any gain will be taxed at preferential long-term capital gains rates.

For the promoter and purchaser of a tax shelter, the object of investment matters little—real estate, equipment leasing, oil and gas exploration, industrial research and development projects. These are the foci of tax shelters, because these are the kinds of investments for which Congress has provided the greatest number and breadth of tax incentives.

Tax shelter schemes have proliferated despite passage of the Tax Equity and Fiscal Responsibility Act of 1982 and its provisions curtailing shelters. According to a Washington Post report of November 6, 1983:

Congress and the Internal Revenue Service have taken a series of steps to tighten up regulation of tax shelters, but to no avail. The market in tax-based limited partnerships continues to come up with new ways to skirt the edge of the law.

Other analysts agree. For example, a Wall Street Journal article of February 15, 1984, reported that many legitimate partnership syndicators feel that many partnerships being sold today make little or no economic sense, apart from their tax deductions.

Efforts by the IRS and the U.S. Tax Court to stem abusive tax-sheltering activities have been hindered by the sheer volume of cases. At the close of 1982, 300,000 tax returns with tax-shelter arrangements were in the examination process at the IRS; 1 year later, the Service had completed examinations of 95,000 returns with tax shelters, but the backlog had reached 350,000 returns. According to the Joint Committee on Taxation, 20,000 cases involving tax shelters, representing asserted tax deficiencies of $1.4 billion, are pending now before the Tax Court.

The proliferation of tax-sheltering activity not only costs the Treasury great sums and strains the capacity of the IRS and the U.S. Tax Court, it also threatens our essentially voluntary system of tax collection. The IRS audits roughly 1.5 percent of all returns filed. As 98.5 percent of all returns are not audited, we must rely on most taxpayers to report correctly their income tax liabilities. So far this has worked because Americans are honest and because Americans believe that the Tax Code is essentially fair. The proliferation of tax shelters, designed almost exclusively to reduce the tax liability for wealthy investors, undermines these vital beliefs. A recent study by the Joint Tax Committee emphasized this point, stating:

> A major concern is that the highly visible marketing of tax shelters, and the accompanying belief that the Internal Revenue Service cannot deal with them, may erode taxpayers' confidence in the fairness and effectiveness of the tax system. Sociological research supports the proposition that taxpayers are more likely to comply with the tax laws when they perceive the system to be fair or when the costs of noncompliance are perceived as relatively high and relatively certain. The widespread use of tax shelters deprives the system of its claim to fairness and retards the administrative and judicial processes to the point that penalties seem neither certain nor costly.

In the present era of immense budget deficits, we can no longer tolerate tax expenditures with little or no economic justification, nor can we tolerate a tax system which permits the most wealthy among us to escape their fair tax liabilities. This bill would represent an important advance against abusive tax-sheltering activities.

A section-by-section analysis of my proposal and the bill follows, and I urge my colleagues to support this effort.

There being no objections the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Contents of the Bill

Sec. 101. Disallowance of certain expenses where the taxpayer uses property similar to property owned by the taxpayer.

Sec. 102. Additional tax where court determines property is significantly overvalued or undervalued.

Sec. 103. Expansion of the minimum tax.

Sec. 104. Reform tax treatment of luxury automobiles.

Sec. 105. Disallowance of interest deduction on certain short-term obligations.

Sec. 106. Tax shelters must file Securities and Exchange Commission reports with Secretary of the Treasury.

Sec. 107. Study of Tax Shelters.

Section 101. Disallowance of certain expenses where the taxpayer uses property similar to property owned by the taxpayer.

Under current law, the investment tax credit and depreciation deductions are available only for the business use of property, not for the personal use of property. Thus, if a business purchases a yacht for the business purpose of leasing it out to customers on a daily or weekly basis, the business can claim the investment tax credit and depreciate the cost of the yacht over its ACRS life. On the other hand, if a person buys a yacht for his own personal use, he is not entitled to an investment tax credit or depreciation deductions with respect to the yacht

Recently, some taxpayers have set up partnerships or other pooling arrangement to enable them to enjoy personal use of yachts or other property, while claiming the investment tax credits and depreciation deductions intended only for business uses. This abuse of the investment tax credit and depreciation deductions can be accomplished very simply under current law: person A buys a yacht and leases it to person B, and person B buys a similar or comparable yacht and leases it to person A. Person A has the personal use of the yacht owned by person B, while still being able to claim the tax credit and depreciation deductions for the yacht he owns and leases to person B. Similarly, person B uses one yacht and claims the investment tax credit and depreciation deduction for the other. The net effect: the Treasury subsidizes the yachts used by both A and B.

This abuse of the tax code could be based not only on the purchase of yachts, but of any depreciable property. If person A buys a house and leases it to person B, and B buys a comparable house and leases it to person A, then A and B can each enjoy the use of one house while depreciating the other.

Nor is the abuse limited to simple arrangements between two individuals. The swapping of yachts or other property can be accomplished with partnerships, corporations, and other pooling arrangements involving dozens of people.

However accomplished, these transactions are not the type of legitimate business investments that the Congress intended the Treasury to subsidize. They are abuses that must be stopped.

Section 101 of this legislation would deny the investment tax credit and depreciation deductions in those situations in which a taxpayer who claims them is renting similar property from a second taxpayer. Taxpayers improperly claiming such tax credits and deductions would be subject to the penalties for fraud or negligence now provided in Section 6653 of the Internal Revenue Code of 1954. The provision would be effective with respect to property rented or leased after the date of introduction of this legislation.

Section 102. Additional tax where court determines property is significantly overvalued or undervalued.

Under current law, a taxpayer who vastly overvalues or undervalues property, in order to increase his tax deductions and credits is subject to only a small penalty. He remains entitled to the tax credit and depreciation deduction based on the actual value of the asset. Given the small rate of audits, just 1.5 percent of all returns, these arrangements offer no discentives to discourage taxpayers from playing "audit roulette" by tremendously overvaluing (or undervaluing) their property.

Section 102 of this legislation would impose a larger penalty for abusive over- and undervaluations. If the value claimed by the taxpayer on his tax return is more than twice (or less than half) of the property's value as determined by a federal court in a tax proceeding, then the taxpayer's valuation will be deemed to have been abusive, and he would forfeit all deductions and credits taken with respect to the overvalued (or undervalued) property. He also would be denied a deduction for any interest required to be paid to the government for the use of the disallowed depreciation deduction and tax credits.

This provision would not apply if the taxpayer could prove that he innocently and mistakenly relied upon an incorrect appraisal by a qualified appraiser, following generally accepted appraisal practices.

The purpose of this provision is simple: discourage the abusive practice of overvaluing and undervaluing property, in order to gain greater tax deductions and credits. The provision would apply to all returns filed after the date of introduction of this legislation. The change also could reduce dramatically future backlogs of cases in the Federal District Courts, Claims Court, and the Tax Court, many of which relate to valuation questions.

Section 103. Expansion of the Minimum Tax.

This key provision would strengthen the current 20 percent minimum tax. Under current law, a taxpayer who uses tax shelter deductions and credits to drastically reduce his regular tax liability still can be liable for an alternative minimum tax of 20 percent on any income exceeding $30,000 ($40,000 for couples filing joint returns). Current law, however, enables some taxpayers to avoid this minimum tax as well as the regular tax, by claiming tax shelter losses to offset earned and investment income.

As it is, couples filing joint returns are subject to a 20 percent marginal tax rate on any taxable income over $15,000. Section 103 of this legislation would ensure that all taxpayers with high earned and investment incomes (from salaries, wages, commissions, interest, dividends, and similar sources) would pay at least this minimum rate. Under this section, a taxpayer could still claim personal itemized deductions such as medical expenses and mortgage interest, to reduce his income subject to the minimum tax. But he could not further reduce his tax base by claiming losses generated from sources other than his earned and investment income, i.e., from many tax shelters.

This provision would ensure that high income individuals, like everyone else, will be subject to some federal tax. It would also discourage tax sheltering, since any income over $40,000 ($30,000 for a single taxpayer), after personal deductions, would be subject to a minimum 20 percent tax regardless of the ingenuity of any tax shelter.

Section 104. Limit Tax Credits and Deductions for Luxury Cars.

Under current law, Section 168(d) of the Internal Revenue Code of 1954, businesses can claim an investment tax credit and depreciation deductions for automobiles used in the course of business. This is proper; transportation is a legitimate business expense. Some businesses, however, use these provisions to provide luxury and prestige to their top executives, as well as transportation, by purchasing limousines and claiming the tax credits and depreciation deductions on the entire cost of the limousine—not just on the component which represents the cost of transportation.

Section 104 of this legislation would limit the tax benefits generated by the purchase or lease of automobiles for business purposes. Under this provision a business could claim a tax credit and depreciation deductions on the value of an automobile purchased or leased for business purposes, but the base for this value would be limited to $15,000 in the year of enactment. Every year thereafter, this base would be adjusted according to the automobile component of the Consumer Price Index.

This proposal would not prevent businesses from providing their executives with luxury cars; but it would limit the subsidy for so doing to a level consonant with the costs of transportation. Quality automobiles can be purchased for $15,000 or less, yet many businesses now spend tens of thousands of dollars more for luxury automobiles. There is no justification for asking ordinary taxpayers to pay more taxes, so that some businesses can deduct the costs of providing their executives with additional luxury and prestige. I introduced this proposal previously, as S. 2232.

Section 105. Disallow interest deductions on certain short-term obligations under certain circumstances.

Under current law, taxpayers do not pay tax on interest earned on many short-term securities until they sell or case-in those short-term securities. If the same taxpayer borrows the funds to purchase these securities, he can deduct his interest payments. Together, these transactions create a "straddle"—the taxpayer defers tax on his gains, while taking deductions of his cost.

Section 105 of this legislation would provide that a taxpayer could deduct the interest paid to borrow funds to purchase short-term securities only in the year in which he declares the interest income from these short-term securities.

Section 106. Reporting Requirements.

Section 106 of this legislation would require any corporation or partnership organized for tax shelter purposes to file with the Internal Revenue Service duplicates of materials that they are now required to file with Federal and State agencies authorized to regulate offerings of securities for sale.

This provision would help the Internal Revenue Service identify abusive tax shelters, and distinguish them from legitimate investment combinations.

Section 107. Study of Tax Shelters.

Section 107 of this legislation would direct the Treasury Department to study the entire area of tax shelters and report to Congress, no later than December 1, 1984, with specific recommendations addressing the problem of stemming abusive tax sheltering activities. The Treasury would be specifically directed to examine further extensions or expansions of minimum tax requirements, the extension and revision of the "at-risk" and "recapture" rules, the impact of full basis adjustment for the investment tax credit, and proposals to limit the deductibility of artificial accounting losses.

S. 2319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) Short Title.—This Act may be cited as the "Tax Shelter Reform Act of 1984".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 101. DISALLOWANCE OF CERTAIN EXPENSES WHERE TAXPAYER USES PROPERTY SIMILAR TO PROPERTY OWNED BY THE TAXPAYER.

(a) Section 262 (relating to personal, living, and family expenses) is amended by redesignating the first sentence thereof as subsection (a) and by inserting after such new subsection (a) the following new subsection:

"(b) Disallowance of Certain Expenses Where Taxpayer Uses Property Similar to the Property Owned by the Taxpayer.—In any case in which—

"(1) a taxpayer uses property of another person for personal purposes and such other person uses similar property of the taxpayer for personal purposes, or

"(2) under regulations prescribed by the Secretary, the taxpayer is a member of a partnership, joint venture, or other entity one of the principal purposes of which is to allow members to acquire similar property and to use his property or such other person's or members' property for personal purposes, then the taxpayer shall, for the purpose of this subsection be treated as using the taxpayer's property for personal purposes during the period he is using his property or such other person's or members' property for personal purposes to the extent of the expenses attributable to such property used by the taxpayer for personal purposes. Section 6653 of the Internal Revenue Code of 1954 shall apply to taxpayer misallocations under this subsection."

(b) Effective date.—The amendment made by this section shall apply to the use of property after February 22, 1984, in years ending after such date.

SEC. 102. ADDITIONAL TAX WHERE COURT DETERMINES PROPERTY IS SIGNIFICANTLY OVERVALUED OR UNDERVALUED.

(a) In General.—Section 6659 (relating to addition to tax in case of valuation overstatements for purposes of the income tax) is amended by adding at the end thereof the following new subsection:

"(g) *Alternative Addition to Income Tax or Estate or Gift Tax Where Court Determines Valuation Overstatement or Understatement.*—

"(1) In General.—In the case of an individual or a closely held corporation or a personal service corporation, if a court of the United States (including the United States Claims Court and the Tax Court) makes a final determination that—

"(A) such individual has an underpayment of the tax imposed by chapter 1, chapter 11, or chapter 12 for any taxable year, and

"(B) such underpayment is attributable to—

"(i) in the case of the tax imposed by chapter 1, a valuation overstatement which is more than 200 percent of the correct valuation, or

"(ii) in the case of the tax imposed by chapter 11 or chapter 12, a valuation understatement which is less than 50 percent of the correct valuation.

there shall be added to the tax, for that year, in addition to any amount under subsection (a), the valuation overstatement amount, and no deduction shall be allowed for any interest paid or accrued with respect to these additions to taxes.

"(2) Valuation overstatement amounts.—For purposes of this subsection, the term 'valuation overstatement amount' means—

"(A) in the case of the tax imposed by chapter 1, the excess of—

"(i) the amount of tax imposed under chapter 1 if no deduction or credit were allowed with respect to the property for which there was a valuation overstatement, over

"(ii) the amount of tax imposed under chapter 1 if the correct valuation of such property is used; and

"(B) in the case of the tax imposed by chapter 11 or chapter 12, an amount equal to 100 percent of the underpayment of tax attributable to the valuation understatement.

"(3) Final determination.—For purposes of this subsection, a determination by a court of the United States shall be treated as final when such determination is treated as final for purposes of this title (determined without regard to this subsection).

"(4) Valuation understatement.—For purposes of this subsection, a valuation understatement shall be determined in the same manner as a valuation overstatement under subsection (c), except that 'less than 50 percent' shall be substituted for '150 percent or more' in subsection (c)(1).

"(5) This subsection shall not apply in any situation in which the taxpayer can prove that he innocently and mistakenly relied upon an incorrect appraisal of a qualified apprasier following generally accepted appraisal practices."

(b) Effective date.—The amendment made by this section shall apply to any determination of a court of the United States with respect to any return or other document filed by the taxpayer after February 23, 1984.

SEC. 103. EXPANSION OF THE MINIMUM TAX.

(a) Section 55(b) of the Internal Revenue Code of 1954 (relating to the alternative minimum for taxpayers other than corporations) is amended by adding at the end thereto the following new subsection:

"(3) Notwithstanding the above, the alternative minimum taxable income shall never be less than the alternative minimum taxable income floor as defined in subsection (f) below."

(b) Section 55(f) of the Internal Revenue Code of 1954 (relating to the alternative minimum tax for taxpayers other than corporations) is amended by adding at the end thereto the following new subsection:

"(3) Alternative minimum taxable income floor.—The alternative minimum taxable income floor for the taxable year means the taxpayer's adjusted gross income with the following three adjustments:

"(1) deductions attributable to property held for the production of rents or royalties or to a trade or business (other than a trade or business consisting of the performance of services) shall not be taken into account to the extent that the deductions from such activities exceed the gross income attributable to such activities;

"(2) adjusted gross income shall be increased by the amount in Section 57(a)(9); and

"(3) adjusted gross income shall be reduced by the taxpayer's alternative tax itemized deductions."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after February 22, 1984.

SEC. 104. REFORM TAX TREATMENT OF LUXURY AUTOMOBILES.

(a) Subsection (d) of section 168 of the Internal Revenue Code of 1954 (relating to unadjusted basis; adjustments) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION IN CASE OF LUXURY AUTOMOBILES.—

"(A) IN GENERAL.—In the case of a passenger automobile, the basis of such automobile, taken into account—

"(i) for purposes of determining the amount of the deduction allowable under this section (and any other deduction allowable for depreciation or amortization),

"(ii) for purposes of determining the amount of the credit allowable under section 38, and

"(iii) for purposes of section 179, shall not exceed $15,000, increased by the automobile price inflation adjustment (if any) for the calendar year in which the automobile is placed in service by the taxpayer.

"(B) PASSENGER AUTOMOBILE.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'passenger automobile' means any 4-wheeled vehicle—

"(I) which is manufactured primarily for use on public streets, roads, and highways, and

"(II) which is rated at 6,000 pounds gross vehicle weight or less.

"(ii) EXCEPTION FOR CERTAIN VEHICLES.—The term 'passenger automobile' shall not include—

"(I) any ambulance, hearse, or combination ambulance-hearse used by the taxpayer directly in a trade or business, and

"(II) any vehicle used by the taxpayer directly in the trade or business of transporting persons or property for compensation or hire.

"(C) AUTOMOBILE PRICE INFLATION ADJUSTMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The automobile price inflation adjustment for any calendar year is the percentage (if any) by which—

"(I) the CPI automobile component for December of the preceding calendar year, exceeds

"(II) the CPI automobile component for December of 1983.

"In the case of calendar year 1984, the automobile price inflation adjustment shall be zero.

"(i) CPI AUTOMOBILE COMPONENT.—The term 'CPI automobile component' means the automobile component of the Consumer Price Index for All Urban Consumers published by the Department of Labor.

"(D) COORDINATION WITH SECTION 1031.—In the case of an exchange described in section 1031 where the property received in the exchange is a passenger automobile, the excess of the fair market value of such property over the limitation of subparagraph (A) shall be treated as an amount received in cash for purposes of section 1031.

"(E) COORDINATION WITH SECTION 162.—For purposes of determining the amount of the deduction allowed under section 162 for rentals or other payments relating to the rental for longer than one month of a passenger automobile, the amount of the deduction allowed under section 162 shall not exceed the fair market value of a rental or other payment for an automobile costing $15,000, increased by the automobile price inflation adjustment (if any) for the calendar year in which the automobile is placed in the service by the taxpayer."

(b) The amendment made by subsection (a) shall apply to property placed in service after January 30, 1984, in taxable years ending after such date.

SEC. 105. DISALLOWANCE OF INTEREST DEDUCTION ON CERTAIN SHORT-TERM OBLIGATIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DENIAL OF DEDUCTION FOR INTEREST PAID OR INCURRED TO PURCHASE OR CARRY CERTAIN SHORT-TERM OBLIGATIONS.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection, the net direct interest expense with respect to any short-term obligation shall be allowed as a deduction for the taxable year only to the extent that such expense exceeds the sum of the daily portions of the acquisition discount for each day during the taxable year on which the taxpayer held such obligation.

"(2) SUBSECTION NOT TO APPLY IF TAXPAYER ELECTS TO INCLUDE ACQUISITION DISCOUNT IN INCOME.—Paragraph (1) shall not apply to any taxpayer with respect to any obligation who elects, with respect to all such obligations held during the taxable year, to include in gross income an amount equal to the sum of the daily portions of the acquisition discount for each day during the taxable year for which such taxpayer held such obligation.

"(3) SHORT-TERM OBLIGATION.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'short-term obligation' means any bond, debenture, note, certificate, or other evidence of indebtedness which has a fixed maturity date not exceeding 1 year from the date of issue.

"(B) EXCEPTIONS.—The term 'short-term obligation' shall not include—

"(i) NATURAL PERSONS.—Any obligation issued by a natural person.

"(ii) TAX-EXEMPT OBLIGATIONS.—Any obligation if—

"(I) the interest on such obligation is not includible in gross income under section 103, or

"(II) the interest on such obligation is exempt from tax (without regard to the identity of the holder) under any other provision of law.

"(4) ACQUISITION DISCOUNT.—For purposes of this subsection, the term 'acquisition discount' means the excess of—

"(A) the stated redemption price at maturity, over

"(B) the taxpayer's basis for the obligation.

"(5) DAILY PORTION.—For purposes of this subsection the daily portion of the acquisition discount is an amount equal to—

"(A) the amount of such discount, divided by

"(B) the number of days after the day on which the taxpayer acquired the obligation and up to (and including) the day of its maturity."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after February 22, 1984.

SEC. 106. TAX SHELTERS MUST FILE SECURITIES AND EXCHANGE COMMISSION REPORTS WITH SECRETARY OF THE TREASURY.

(a) IN GENERAL.—Each tax shelter which is required to file a statement with the Securities and Exchange Commission after December 31, 1984, shall also file such statement with the Secretary of the Treasury or his delegate as regulations prescribed by the Secretary so provide.

(b) TAX SHELTER DEFINED.—For purposes of this section, the term "tax shelter" means—

(1) any enterprise (other than a C corporation, within the meaning of section 1361(a)(2) of the Internal Revenue Code of 1954) if at any time interests in such enterprise have been offered for sale in any offering required to be registered with any Federal of State agency having the authority to regulate the offerings of securities for sale,

(2) any syndicate (within the meaning of section 1256(e)(3)(B) of such Code), or

(3) any partnership, entity, plan, or arrangement which is a tax shelter within the meaning of section 6661(b) of such Code.

SEC. 107. STUDY OF TAX SHELTERS.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of tax shelters, including an analysis of—

(1) the revenue loss from tax shelters,

(2) the impact of tax shelters on a self-assessment revenue collection system,

(3) the economic impact of tax shelters,

(4) the feasibility of implementing a system of limitations against losses with respect to tax shelter activities,

(5) the impact of the "at-risk" and "recapture" rules,

(6) the impact of non-recourse financing,

(7) the deductibility of interest incurred by limited partners,

(8) the impact of the investment tax credit and the appropriateness of full basis adjustment, and

(9) such other matters as the Secretary of the Treasury or his delegate may prescribe.

(b) SUBMISSION OF REPORT.—Not later than December 1, 1984, the Secretary of the Treasury or his delegate shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report of the results of the study and analysis conducted under subsection (a).

By Mr. PERCY (by request):

S. 2321. A bill to further amend the Peace Corps Act; to the Committee on Foreign Relations.

PEACE CORPS ACT AMENDMENTS

Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to further amend the Peace Corps Act.

This legislation has been requested by the Peace Corps and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis of the amendments and the letter from the Director of the Peace Corps to the President of the Senate dated February 16, 1984.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(b) of the Peace Corps Act (hereinafter "the Act") is amended by amending the first sentence thereof to read as follows:

"There are authorized to be appropriated to carry out the purposes of this Act not to exceed $105,800,000 for the fiscal year 1985 and such sums as may be necessary for the fiscal year 1986.".

SEC. 2. Section 7(a)(2) of the Act is amended by amending that part of the first sentence thereof which precedes clause (A) to read as follows: "The President may utilize such authority contained in the Foreign Service Act of 1980 relating to members of the Foreign Service and other United States Government officers and employees as the President deems necessary to carry out functions under this Act, except that, with respect to United States citizens—".

SEC. 3. Section 15(a) of the Act is amended by adding, at the end thereof, the following sentence: "Technical publications produced by the Peace Corps may be sold at cost in furtherance of the purpose of this Act, and the proceeds of such sales may be credited to the currently applicable appropriation of the Peace Corps, not withstanding Subsection 3302(b) of Title 31 of the United States Code.".

PEACE CORPS,
OFFICE OF THE DIRECTOR,
Washington, D.C., February 16, 1984.

Hon. GEORGE BUSH,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am pleased to transmit to you a draft bill which will enable Peace Corps to continue its efforts on behalf of world peace and friendship for the fiscal years 1985 and 1986.

The bill will authorize the appropriation of $105,800,000 for activities under the Peace Corps Act for fiscal year 1985, and such sums as may be necessary to support activities under the Peace Corps Act in fiscal year 1986. An additional authorization request for $18,200,000 for Peace Corps programs in Central America in 1985 is being transmitted as part of the Administration's response to the report of the National Bipartisan Commission on Central America.

This bill also corrects an unintended change in Peace Corps authority to employ foreign nationals abroad made by the Foreign Service Act of 1980. Prior to the passage of that Act, the Peace Corps could employ foreign nationals for indefinite periods. Under the new provisions enacted by the Foreign Service Act, they have been subjected to the five year limit on Peace Corps employment which is applicable to U.S. citizens, and the concomitant "out as long as in" rule. Foreign national employees provide necessary administrative support abroad. The Peace Corps posts will lose many of these valuable employees in the next few years unless they are exempted from these two rules.

Peace Corps technical publications contain much information which is valuable to private voluntary organizations and host-country ministries. The bill proposes an amendment to the Peace Corps Act which would facilitate dissemination of this valuable information by authorizing the Peace Corps to sell its technical publications at cost, and to credit the proceeds of such sales to its current appropriations. The Peace Corps cannot afford to provide large numbers of its publication gratis, or without being able to recoup, for its own use, the proceeds of sales. Under present law, the proceeds of such sales must be remitted to the Treasury.

The Office of Management and Budget has advised that there is no objection to the submission of this legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

LORET MILLER RUPPE,
Director.

PEACE CORPS ACT AMENDMENTS: SECTION-BY-SECTION ANALYSIS

Section 1 amends Section 3 of the Peace Corps Act (hereinafter the "Act") to authorize the appropriation of not to exceed $105,800,000 for activities under the Act for fiscal year 1985, and such sums as may be necessary for fiscal year 1986. An additional authorization request for $18,200,000 for Peace Corps programs in Central America in 1985 is being transmitted as part of the Administration's response to the report of the National Bipartisan Commission on Central America. The amendment also deletes obsolete material restricting the amount of fiscal year 1967 funds authorized for expenditure for research to $500,000.

Section 2 amends Section 7(a)(2) of the Act to exempt foreign national employees from the five year limit on Peace Corps employment, and from the requirement that former employees must be "out as long as in" before they are eligible for reemployment by the Peace Corps. Until passage of the Foreign Service Act in 1980, foreign national employees were not subject to these provisions of the Act, and they provided necessary administrative stability overseas. Inclusion of these employees within the coverage of these two provisions was an inadvertent result of the restructuring of the Foreign Service by the Foreign Service Act of 1980. Within the next few years the Peace Corps will lose many long term foreign national employees to the detriment of Peace Corps' overseas administrative operations unless this error is corrected.

Section 3 amends Section 15(a) of the Act to authorize the Peace Corps to sell its publications to the public at cost, and to authorize deposit of the proceeds of such sales to the Peace Corps' then-current appropriation. The Peace Corps produces a number of technical publications which are valuable to private voluntary organizations and to host-country governments and agencies. They are often requested in quantity. Peace Corps cannot afford to make multiple copies available gratis, although dissemination of the information they contain is a desirable extension of Peace Corps' mission. Efforts to have these publications produced through the Government Printing Office have proved too expensive, or unsuccessful. At present, Peace Corps lacks authority to reimburse its appropriation for the costs of publication of these materials from the proceeds of sales. Authorizing Peace Corps to sell its publications at cost and reimburse its current appropriation for such cost, would permit a broader dissemination of Peace Corps' technical publications than is now possible.

By Mr. BENTSEN (for himself and Mr. GRASSLEY):

S. 2322. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for retirement savings on the basis of the compensation of the spouse; to the Committee on Finance.

HOMEMAKERS EQUITY ACT

● Mr. BENTSEN. Mr. President, homemakers, like the self-employed and those whose jobs do not offer a retirement plan, deserve the opportunity to provide for financial security in old age. Acknowledging this, Mr. GRASSLEY and I are introducing the Homemakers' Equity Act. This act recognizes the important economic value of our Nation's homemakers by making nonworking spouses eligible for the full $2,000 retirement investment and deduction from taxable income that workers may receive.

Under current law, wage earners may receive a tax deferral on income they deposit in an individual retirement account up to $2,000 per year. This limit is increased to $2,250 if the wage earner sets up an IRA for his or her spouse. I do not believe this situation is fair to homemakers who have not worked outside the home or who have interrupted their careers temporarily. My bill would allow the homemaker to establish an account whether or not the wage earner has one. It would permit an annual contribution of up to $2,000 each by the homemaker and the working spouse, for a maximum contribution of $4,000.

Mr. President, financial security in retirement will become increasingly difficult to achieve in the years to come. By the turn of the century, 13 percent of our population will be over 65. Older persons are living longer, retiring earlier, and becoming increasingly dependent on retirement income programs. At the same time, the declining birth rate will mean fewer workers supporting more beneficiaries in the social security system.

In 1935, there were nine workers for every aged person. In 1977, the worker-to-aged ratio was 4 to 1, and there were three workers for every social security beneficiary. By the year 2050, there will be two workers for every one beneficiary. It is easy to see that our retirement systems cannot take that kind of overload. One way to ease the burden on the system is to enable and encourage a person to provide for his or her own retirement. It was with this idea in mind that Congress enacted the Employee Retirement Income Security Act of 1974. That legislation contained provisions which allowed individuals not participating in qualified private or governmental programs to set up their own retirement plans. It is about time that homemakers were given equal treatment under ERISA. Though they do not work for wages, the Nation's homemakers do very real work with very long hours. We must recognize the economic value of their labor. My Homemaker's Equity Act will enable this important group of individuals with no current means of providing for their retirement to do so—the 30 to 50 million American homemakers rapidly approaching retirement age without any type of retirement plan.

These individuals have devoted many years of self-sacrificing unpaid work toward the welfare of the family. These homemakers often face financial crisis when confronted with an untimely death of the working spouse before retirement age, a dissolved marriage, or old age with only minimum social security benefits for their support.

I have long argued that our present tax system is biased against savings. We need to constantly be looking for ways to encourage savings which, in turn, provide a greater source of capital for the investment needed to promote economic growth. This simple and equitable IRA extension is one such option.

In every session of Congress since 1979, I have supported legislation which would allow homemakers to establish an IRA whether or not the wage earner has one. Further, the administration has recently announced its support for this legislation. With their help and yours, I believe that the Homemakers' Equity Act can be enacted expeditiously.

Mr. President, colleagues; I respectfully request your consideration of this legislation which would encourage these individuals to take independent action to establish their own retirement funds, thus providing them with the means to live their later years with the dignity and self-respect which is rightfully theirs.●

By Mr. CHAFEE (for himself and Mr. SIMPSON):

S. 2323. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on the receipt of golden parachute payments and to deny any deduction with respect to such payments; to the Committee on Finance.

GOLDEN PARACHUTE PAYMENTS

● Mr. CHAFEE. Mr. President, one of the most serious abuses of business practice is the use of golden parachutes. Therefore I am introducing today a bill which will discourage them.

A golden parachute is a special employment agreement between a company and its chief executives that guarantees those executives usually generous—sometimes wildly extravagant—severance packages if control of the company changes. According to the Wall Street Journal, some of these employment contracts can even exceed the market value of the company, or its annual earnings. Their use seems to be increasing as an element in contests over corporate control.

Most commonly, golden parachutes are designed to provide substantial financial settlements to executives of companies subject to an unfriendly takeover. In case of such a takeover, the executives bail out and open the parachute. They can receive substantial settlements in the form of cash, stock, or property, sometimes paid as a lump sum and sometimes spread over several years in installments. These are contingent, unfunded financial commitments by a company to its executives. As such, they are open to widespread abuse which should be curtailed.

The most familiar takeover is the Bendix-Marietta battle. Finding itself pursued by Bendix Corp., Martin Marietta quickly protected top executives salaries with golden parachutes. Marietta then enlisted the aid of United Technologies, which already had its top officers outfitted with golden parachutes.

United Technologies went on the offensive and made an offer to acquire Bendix. Bendix's chief executive officer, William M. Agee, in the heat of this contest, persuaded his board of directors to protect him, and the board granted him and his top executives golden parachutes worth $16 million, which included Agee's parachute of $4 million. Bendix then called on Allied Corp. to serve as their ally. Allied agreed and acquired Bendix.

This takeover left Mr. Agee without a job, but he is doing quite well. His golden parachute gives him an annual salary of $825,000 per year through 1987.

An attempt is sometimes made to justify parachutes on the ground that they give executives an incentive to defend their company against takeover. I ask why key employees should receive extra compensation to act in the best interests of their company and its owners—the shareholders? Golden parachutes can hurt shareholders who would like to sell their stock and who might welcome a change in ownership to enhance the value of their shares. Especially when secretly negotiated and approved by boards of directors, or not shown on financial statements as contingent liabilities, such arrangements are outright destructive to shareholder interests.

Currently, a stockholder's remedy against such abuse is by means of a class action for wasting corporate assets and for breach of fiduciary duty. Such lawsuits have not slowed the profusion of golden parachute agreements. This form of redress from bad business practice is costly and time consuming. Stockholders should be better protected.

The legislation I propose would not outlaw golden parachutes. But it deliberately makes them financially unattractive both to the companies and individual executives entering such agreements.

To the executive, who can be in better financial condition if he actually loses the company, my bill would make the parachute payment subject to a 90-percent excise tax. None of the parachute payment could be offset by tax preferences or deductions. To the company paying the parachute, the bill would stipulate that such payments could not be deducted as business expenses.

I ask unanimous consent that the bill be included in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GOLDEN PARACHUTE PAYMENTS.

(a) EXCISE TAX ON GOLDEN PARACHUTE PAYMENTS.—Subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 46—GOLDEN PARACHUTE PAYMENTS

"Sec. 4999. Golden Parachute Payments.

"SEC. 1999. GOLDEN PARACHUTE PAYMENTS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any golden parachute payment an excise tax equal to 90 percent of the amount of such payment. The tax imposed by this section shall be paid by the payee.

"(b) GOLDEN PARACHUTE PAYMENT.—For purposes of this section, the term 'golden parachute payment' means any payment received by an individual from an employer corporation or a parent or subsidiary corporation of such employer corporation—

"(1) in lump sum or installments,

"(2) in cash, stock, or other property,

"(3) pursuant to a contingent, unfunded compensation agreement,

"(4) resulting from an actual or threatened change in the operating control of such corporation,

"(5) after termination of such individual's employment by such corporation, and

"(6) Without any corresponding substantive increase in job duties, responsibilities, or title if employed by any successor corporation, or parent or subsidiary corporation of such employer or successor corporation.

"(c) PAYMENT NOT INCLUDED IN GROSS INCOME.—Golden parachute payments shall not be included in gross income of the payee.".

(b) DEDUCTIONS DISALLOWED WITH RESPECT TO GOLDEN PARACHUTE PAYMENTS.—

(1) IN GENERAL.—Part IX of subchapter B of chapter 1 of such Code (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280F. GOLDEN PARACHUTE PAYMENTS.

"(a) IN GENERAL.—No deduction shall be allowed for—

"(1) the payment of any golden parachute payment, or

"(2) any expenses paid or incurred for the production or collection of any golden parachute payment or for the management, conservation, or maintenance of property held for the production of such payment.

"(b) GOLDEN PARACHUTE PAYMENT.—The term 'golden parachute payment' has the meaning given such term by section 4499 (b).".

(2) CLERICAL AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 280F. Golden parachute payments.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1983.●

By Mr. PACKWOOD (for himself, Mr. HOLLINGS, Mr. WEICKER, Mr. KENNEDY, Mrs. HAWKINS, Mr. CRANSTON, Mr. LAUTENBERG, Mr. HART, Mr. HUMPHREY, Mr. CHILES, Mr. INOUYE, Mr. TSONGAS, Mr. PELL, Mr. RIEGLE, and Mr. ROTH):

S. 2324. A bill to amend the Coastal Zone Management Act of 1972 regarding activities directly affecting the coastal zone; to the Committee on Commerce, Science, and Transportation.

COASTAL ZONE MANAGEMENT ACT AMENDMENTS

● Mr. PACKWOOD. Mr. President, today my colleagues and I are introducing a bill amending the Coastal Zone Management Act of 1972 (CZMA) to clarify the consistency provision of that act—section 307(c)(1).

The Coastal Zone Management Act of 1972—Public Law 92-583—provides grants to States to develop and administer programs for managing resources in their coastal zones. Coastal zone management was envisioned by the Congress as a cooperative partnership between States and the Federal Government, with States voluntarily working toward recognized national goals. In this manner, a rational and balanced approach to both conservation and development of coastal resources could be assured.

States whose program received Federal approval were also assured that Federal activities directly affecting the coastal zone would, to the maximum extent practicable, be consistent with that State's coastal management plan. It is this consistency provision that provides States the opportunity to plan for and respond to Federal activities that affect their coastal zone. This procedure also prevents Federal agencies from committing public resources to activities which might be found to be inconsistent.

This legislation, which is based on Oregon statute, restates the intent of Congress regarding the consistency provision by providing that Federal activities directly affecting States' coastal zones are to be conducted in a manner consistent with those States' federally approved coastal management plans.

This legislation is needed because the Supreme Court in its recent 5-to-4 decision in Secretary of the Interior against California ruled that some Federal activities directly affecting a State's coastal zone need not meet the consistency requirement provided by the Congress.

In my view, this decision violates the intent of Congress and must be rectified immediately. The exclusion of States from the initial stages of oil and gas development off their coasts is not only unwise but is not supported by legislative history. In the 94th Congress—1976—the Commerce Committee amended section 307 to insert the term "leases" wherever the phrase "licenses or permits" appeared and stated in the Committee report:

> In practical terms, this means that the Secretary of the Interior would need to seek the certification of consistency from adjacent States[s] . . . before entering into a binding lease agreement with private oil companies.

Since this language was, in the view of the Supreme Court, not sufficient to indicate the intent of Congress, an amendment to the statute is required.

The Court's decision abrogates the Federal-State partnership regarding coastal resources and violates the management scheme envisioned by the CZMA. This decision also impacts other Federal activities of far-reaching and lasting consequence, including ocean dumping activities and deep seabed mining. Indeed, plans for leasing of ocean mining tracks in the Pacific Northwest are already underway at the Department of the Interior.

I am also aware, however, that some fisheries interests are concerned that this bill may have an impact on the Magnuson Fisheries Conservation Management Act (MFCMA). The regional concept of fisheries management embodied in the MFCMA is an integral part of that act. Whether State review of fisheries management plans undermines the integrity of the regional management concept will be closely examined.

Mr. President, the legislation being introduced today does not grant States new authority, rather it simply restates these rights as provided by law in 1972. This legislation will restore the carefully balanced Federal-State partnership provided by the CZMA, and reaffirm the States' right to influence Federal activities directly affecting their coastal zone.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307(c)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(1)) is amended to read as follows:

"(c)(1)(A) Each Federal agency conducting or supporting an activity (whether within, or landward or seaward of, the coastal zone) that directly affects the coastal zone shall conduct or support that activity in a manner which is fully consistent with approved State management programs, unless the Federal activity is—

"(i) undertaken to counter the immediate effects of a declared national emergency;

"(ii) necessary for reasons of national security; or

"(iii) required by any provision of a Federal law which prevents consistency with any provision of an approved State coastal zone management program.

Any Federal activity which is not required to be fully consistent pursuant to clauses (i), (ii), or (iii) of this subparagraph must be consistent, to the maximum extent possible, with approved State coastal zone management programs.

"(B) For purposes of subparagraph (A) of this paragraph, a Federal agency activity shall be treated as one that 'directly affects the coastal zone' if the conduct or support of the activity either—

"(i) produces identifiable physical, biological, social, or economic consequences in the coastal zone; or

"(ii) initiates a chain of events likely to result in any such consequences.".●

● Mr. HOLLINGS. Mr. President, I speak as the original author of the Coastal Zone Management Act and most of its amendments through the years. And I also speak today as a principal cosponsor of a bill that is regrettably made necessary by the 5 to 4 decision of the Supreme Court, announced on January 11 of this year in Secretary of the Interior against California. This decision is one which studiously ignores the obvious meaning and intent of the Coastal Zone Management Act and the wealth of legislative history surrounding it. The Court's 5 to 4 split bears out this point of view.

Section 307(c)(1) of the Federal consistency provision in the CZMA states that Federal activities "directly affecting" the coastal zone have to be consistent, "to the maximum extent practicable" with approved State coastal zone programs. The intent of the Coastal Zone Management Act as a whole and the language of the provision itself, as well as the lengthy and repeated legislative history, make very clear what is meant. There is no trick of English language here, no hidden meaning. This provision focuses on the results of the Federal activity in question, and the probable impact that this will have on the State's coastal zone. It is not—as the majority Justices have in error perceived—focused on the mere location of that Federal activity.

With the pen strokes of the majority opinion, suddenly we are being told that a Federal-State relationship founded over 10 years ago in this legislation is not at all what the Congress and the States believed it to be. And in the place of this established partnership we now have a simple-minded description for which there is no basis in legislative history or legislative context. What the Court has done is freed the Department of Interior of its duty to review offshore oil and gas leasing plans for consistency with the CZM plans of adjacent States, while this duty is exactly what Congress intended to impose in this provision of law.

In reading the majority opinion I began to wonder if the traditional rules of statutory construction had been abandoned by our top jurists. However, the soundly reasoned dissent by Justice Stevens reassured me. The dissenters share my disbelief over the majority's analysis, with the following remarks on the two theories underlying that analysis:

> The Court's first theory is refuted by the plain language of the 1972 act, its legislative history, the basic purpose of the act and the findings of the District Court. The Court's second theory which looks at post-1972 legislative developments, is simply overwhelmed by a series of unambiguous legislative pronouncements that consistently belie the Court's interpretation of the intent of Congress.

I believe the bill we introduce today will even more clearly require offshore oil and gas leasing by the Interior Department to be consistent with approved coastal zone management programs. This amendment of the CZMA's section 307(c)(1) includes additional language to emphasize that activities landward and seaward of the coastal zone, as well as within, are covered. Further, we are more tightly defining the definition of "directly affecting." Finally, we have eliminated the troublesome phrase "consistent to the maximum extent practicable" and replaced it with the more succinct phrase "fully consistent."

The three exceptions to the consistency requirement—national security, national emergency, conflicts with Federal law—are intentionally narrow.

I am pleased with this proposed revision of the Federal consistency language, for I believe it will eliminate any perceived ambiguities once and for all. This bill is, however, only the starting point of the debate. It will, I believe, be both necessary and desirable to receive testimony on the relationship between the CZMA and the Magnuson Fishery Conservation and Management Act. The MFCMA established a unique regional system for managing U.S. fishery resources within our Nation's 200-mile zone but beyond State waters. The Magnuson Act was passed in recognition that marine fishery resources are most effectively managed throughout their migratory range, which often involves the waters adjacent to more than one coastal State. Furthermore, the Magnuson Act's regional management council system is, quite simply, a mechanism made up almost exclusively of State interests—representatives of coastal State governments and individuals nominated by Governors of those same coastal States.

Now we seem to have developed, in one part of the country in particular, a conflict between the CZMA Federal consistency requirement and the decisions of the regional management councils. It appears to me that one group of fishing interests, in fact, is using the Federal consistency requirement to defeat competing fisheries interests in a fight that has virtually nothing to do with coastal zone management and the intent of the CZMA, and everything to do with an intense conflict over the allocation of fishery resources. This matter bears serious examination and review in the context of the deliberations over the intent of Congress in the Federal consistency provision, and the new proposal put before the Congress today. In the final analysis, we want both the Magnuson Act and the CZMA to work effectively in balancing Federal and State interests.

I will in the near future offer a comprehensive statement detailing the history of the Federal consistency provision.●

● Mr. PACKWOOD. Senator CRANSTON is not present today. I am very pleased that he is joining as a cosponsor of my bill and I ask that his statement supporting the measure be inserted in the RECORD.

Mr. CRANSTON. Mr. President, I am delighted to join Senator PACKWOOD as a cosponsor of legislation to amend the Coastal Zone Management Act of 1972 and clarify the consistency provision, section 307(c)(1) of the act. Specifically the bill provides that Federal activities directly affecting coastal zones—whether within the zone itself or outside—are to be conducted in a manner consistent with States' federally approved coastal management plans.

This legislation is needed because the U.S. Supreme Court in its recent 5-to 4-decision in Secretary of the Interior against California misinterpreted—in my view—section 307(c)(1) of the Coastal Zone Management Act. The act was designed to encourage coastal State governments to develop management plans for wise and balanced use of their coastal resources. It was passed to assure that rapidly increasing demands for industrial, commercial, recreational, and conservation needs of our coastal regions would be accommodated in an orderly and farsighted manner. In return for developing federally approved management programs, States were promised through the Federal consistency provisions, section 307(c)(1), that the Federal Government would seek to the maximum extent practicable to make its own actions consistent with these State coastal plans. The U.S. Supreme Court's ruling that some Federal activities directly affecting a State's coastal zone need not meet the consistency requirement violates congressional intent.

The legislative history of the Coastal Zone Management Act clearly shows that Congress envisioned that Outer Continental Shelf (OCS) preleasing and leasing activities be reviewed for consistency with State plans. Excluding States from participating in the initial stages of the process, as the Court's decision does, is not supported by the legislative history or by the demands of effective coastal management. For example, it is during the prelease stage that decisions are made on the size and location of tracts, the timing of the sale, and the stipulations to which leases are to be subject. Each of these decisions is crucial to OCS planning decisions and the CZMA intended that States be involved in this critical stage in OCS decisionmaking. In contrast, the Court's interpretation relegates States to a defensive role of merely objecting to proposals of individual leases on a piecemeal basis, making impossible the comprehensive coastal planning envisioned by the CZMA.

Although Secretary of the Interior against California arose specifically over the application of the consistency provision to OCS lease sale 53, the Supreme Court's decision is not limited to OCS leasing. It has far reaching implications for all Federal activities that may impact coastal zones including ocean dumping and deep seabed mining, making it all the more imperative that the consistency provision as Congress intended be restored. The consistency requirement is the mechanism for avoiding litigation and promoting cooperation between affected States and the Federal Government. Indeed, it is precisely because the CZMA results in better cooperation and coordination between States and the Federal Government that it has always enjoyed strong bipartisan support.

The legislation being introduced today does not grant States new authority over Federal activities directly affecting coastal zones. Rather it restates the rights States have had since the passage of the Coastal Zone Management Act of 1972. It reaffirms that under the CZMA States have the right and opportunity to influence Federal decisions which directly affect their coasts. It does not give States any jurisdiction over Federal actions which occur outside the coastal zone and which do not affect their coastal zones. I am aware, however, that some fisheries interests are concerned about the impact of this legislation on fishery management plans developed pursuant to the Magnuson Fishery Conservation and Management Act. I believe this is a matter worthy of review during the course of congressional hearings on consistency legislation and I stand ready to work with the fisheries industry to seek an appropriate solution to this matter. My basic goal is to undo the wrong done by the U.S. Supreme Court and restore the carefully balanced Federal-State partnership established by the Coastal Zone Management Act in section 307(c)(1).●

SUPPORT FOR SENATOR PACKWOOD'S PROPOSAL TO AMEND THE COASTAL ZONE MANAGEMENT ACT OF 1972

● Mrs. HAWKINS. Mr. President, I rise today in support of Senator PACKWOOD's proposal to amend the Coastal Zone Management Act of 1972.

This proposal is necessary to reverse the effect of the U.S. Supreme Court decision of January 11, 1984. That decision could allow the exclusion of coastal State governments from any significant role in the process of determining the scope of timing of Federal OCS exploration activities. The Court based its decision on the reasoning that Federal OCS activities "do not directly affect coastal areas." I do not agree with that conclusion. This is one of those times when the legal view of things tends to stray far from reality. The coastal States have every right to play a central role in deciding how and where OCS sales should go forward.

It has been only 3 short months since I stood on this floor and engaged in discussions with my colleague from Louisiana, Senator JOHNSTON, about the wisdom of allowing the major oil companies to carry out drilling exploration activities just 10 miles off the west coast of Florida. The Senate's November action, which created a 30-mile buffer zone for our Florida coast, temporarily put my fears to rest, but there is another sale scheduled for November 1985, and many more after that.

I am glad to report that Secretary of the Interior William Clark is doing a fine job of reforming the Department's approach to Federal OCS policy—he is to be commended. But we, who represent coastal States, cannot depend entirely upon the good will and wisdom of the Interior Department to maintain optimum relations with our State governments on OCS matters in light of the recent Supreme Court decision. No—the January 11, 1984, decision makes the CZMA practically worthless, and changes must be made to make its meaning clear.

It is my understanding that there may be some objections to this proposal from commercial fishermen in the coastal States, but I am assured by my staff that there are compromise positions that should resolve these differences. I am willing to consider all reasonable arguments relating to these objections.

I urge my colleagues to consider this proposal carefully. The assertion of States' rights does have a place in our Federal-State form of government. This is one case where the concept of States' rights badly needs to be implemented.●

● Mr. LAUTENBERG. Mr. President, I am pleased to join in sponsoring this important legislation to preserve the integrity of the coastal zone management program. This program plays an important role in enabling States like mine to protect and appropriately manage our coastal resources and environment.

Few people in my State—the most densely populated in the Nation—are far from a coast that stretches from our border with New York along the Hudson, down along the Atlantic to Cape May, across the Delaware Bay, and up the Delaware River to Trenton. This is the coast that is managed under my State's coastal zone management program. It is a coast that is a base for industry and transportation, for business, and jobs. It is a coast that is home for commercial fishing that means roughly a half billion dollars in economic activity for my State. It is home for recreational fishing that also boosts our economy and provides enjoyment to many. It is a coast that has some of the nicest beaches in the country for the recreation and relaxation of our citizens and visitors. It is a coast that, still, in many areas, is preserved in its natural beauty. And, Mr. President, we want to keep it that way.

When Congress passed the Coastal Zone Management Act, it intended to give States like mine the tools to properly manage their coastal environment. Federal money was provided to assist in the development of coastal zone management activities. Coastal zone management plans were subjected to Federal review and approval. And the act insured that if later Federal actions affected the coastal zone plan, they would, to the maximum extent practicable, have to be made consistent with those plans.

It is that last element that is the focus of the legislation we are introducing today. Notwithstanding the intent of the Congress to insure the integrity of coastal zone management activities, the Department of the Interior has not listened. It has consistently followed a practice of refusing to cooperate with the States and proposing actions which violate coastal zone management plans.

In his rush to lease outer continental shelf areas for oil and energy development, Secretary Watt refused to make an effort to reconcile his efforts with existing coastal zone management activities. In my State, he refused to heed warnings that leasing in several selected tracts at deep sea canyon heads would endanger the habitat for tilefish. The tilefish is the most important food fish for commercial fishing in New Jersey, and is found only in the warm, narrow bank of water lying along the New Jersey coast. Further, Secretary Watt refused to modify leases of other tracts off New Jersey's coast to protect the environment.

Secretary Watt took the position that leasing areas in the Outer Continental Shelf did not affect the coastal zone of New Jersey. He argued that because only leasing, and not actual exploration or production, was immediately at stake, there would be no detrimental impact on New Jersey. Following this logic, he made no effort to conform his actions to New Jersey's coastal zone management plan.

Mr. President, because leasing inevitably lends to exploration, and to production if commercially warranted, and because the Department of the Interior showed no intention to work with coastal States, New Jersey took Secretary Watt to court. California and various environmental groups took Secretary Watt to court as well.

Mr. President, we are introducing legislation today because, in these cases, the courts did not uphold the intent of Congress to encourage all Federal actions to be consistent with State coastal zone managment plans. In New Jersey's case, the district court ruled that before leasing offshore tracts, the Secretary of the Interior had to consider the effects on the coastal zone likely to result not just from leasing, but from the exploration, development, and production. However, disturbingly, the court in New Jersey went on to say that harm to the habitat of fish and other sealife, and its harm to major coastal economic activity—commercial fishing—was not the kind of impact on the coastal zone that Congress had in mind. Our legislation would make it absolutely clear that protection of fisheries is just the kind of impact that must be considered by the Federal Government.

Mr. President, the case in New Jersey was overtaken by the one involving California. That case went all the way to the U.S. Supreme Court. Last month, by a vote of 5 to 4, the Court upheld former Secretary Watt's strained reading of the Coastal Zone Management Act. The Court ruled that leasing activity alone had no effect on the coastal zone. Mr. President, as the court in New Jersey at least recognized, we cannot divorce leasing activity from exploration and production facilities that follow. It is in the interest of sound coastal planning, which the Coastal Zone Management Act intends to promote, that the Federal Government consult with the States early on. When the Federal Government decides to lease a particular area for development, it is deciding about where onshore impacts will occur; it is deciding what will happen to our fisheries; it is deciding what will happen to our coastal environment that is so critical.

I should add one further point. This bill does not stop development of energy resources in the Outer Continental Shelf. Rather, it helps insure that such development occur without harm to our environment. As New Jersey's own coastal zone management plan states, exploration of offshore oil and gas reserves is encouraged so long as no long-term adverse impact results, and so long as the activities are conducted in accordance with the coastal zone management program. That is the issue. Will the agencies of the Federal Government act consistently with our States, coastal zone management efforts?

Mr. President, this legislation would clarify the Coastal Zone Management Act. It would force the Department of the Interior to pay heed to State efforts to responsibly and sensitively manage their coastal resources and protect their coastal environment. It would restore the integrity of the coastal zone management plans. It would permit orderly development of domestic energy resources, by removing the need for endless litigation and appeals to Congress over damaging actions by the Department of the Interior. It lays out a framework for development of domestic natural resources within a carefully structured set of guidelines that protects environmental, recreational, and other commercial values.

I urge my colleagues to support it.●

● Mr. CHILES. Mr. President, I am pleased to join in sponsoring legislation designed to clarify the intent of Congress with respect to the Coastal Zone Management Act of 1972. The purpose of this statute—to encourage States to formulate and administer coastal zone programs—has been seriously challenged by a recent Supreme Court decision. In this case, Secretary of the Interior against California, the Court ruled in a 5-to-4 decision that Outer Continental Shelf leasing is not subject to the consistency requirement of the Coastal Zone Management Act. This ruling, in my view, misconstrues the purpose of the statute and, if left unaddressed, will hinder future efforts to encourage cooperation between States and the Federal Government in managing coastal resources.

In 1972, Congress recognized the importance of setting up a process whereby the Federal Government and the coastal States could work together to effectively manage their coastal resources. By enacting the Coastal Zone Management Act, Public Law 92-583, Congress authorized Federal grant moneys to be distributed to coastal States to use to develop and later administer coastal management plans which conformed to certain guidelines. An important part of the Coastal Zone Management Act involved the consistency provisions of section 307(c)(1) which assured States that their management programs, once approved by the Federal Government, would not be adversely effected by Federal agencies conducting activities affecting States' coastal areas. The section states that:

> Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs.

The recent court decision focused on the Department of the Interior's plans to conduct a lease sale off the California coast near Santa Barbara. In 1980, the California Coastal Commission requested a consistency determination from the Department—a showing by the Interior Department that the lease sale would be "consistent" to the maximum extent practicable with the State coastal zone program. The Department's response was that the lease sale would not "directly affect" the California coastal zone. Despite two lower court rulings to the contrary, the Supreme Court narrowly ruled against the State of California, arguing that the Federal actions in question were to take place beyond the State's 3-mile territory. The Court has determined, therefore, that Federal activities in the Outer Continental Shelf can never fall within the consistency provisions of the statute because the activities are outside the outer boundaries of the coastal zone. This interpretation, of course, has implications beyond the oil and gas leasing situation. Future decisions with respect to ocean dumping activities and deep sea bed mining—decisions having tremendous impact on States' coastal areas—can possibly be made without reference to coastal State concerns.

Again, the purpose of the Coastal Zone Management Act was to prevent adverse affects on the coastal zone. It is difficult, if not impossible, to contemplate achieving this purpose without considering activities outside the zone itself. The legislation introduced today seeks to restate the intent of Congress to include States in the decisionmaking process on any and all Federal activities directly affecting the coastal zones. Effective management of coastal resources requires a working partnership between the Federal Government and coastal States. This partnership has been weakened and needs to be strengthened by the pending legislation if we are to achieve the goals set forth by the Coastal Zone Management Act.●

By Mr. D'AMATO (for himself, Mr. SPECTER, and Mr. LAUTENBERG):

S. 2325. A bill to provide financial aid to public mass transit systems for crime prevention and security; to the Committee on Banking, Housing, and Urban Affairs.

TRANSIT CRIME PREVENTION ACT OF 1984

● Mr. D'AMATO. Mr. President, today I am introducing legislation addressing the serious problem of transit crime currently plaguing our Nation's mass transit systems. This bill, the Transit Crime Prevention Act of 1984, will assist the Federal Government in protecting its huge investment in mass transportation and help assure its unwavering commitment to the transit needs of our metropolitan areas in the future.

Transit crime undermines the ability of government to provide reliable and safe systems of public transportation in our Nation's major urban centers. Government's primary duty is to protect the safety of its citizens and that duty is not met when our buses and subways are ravaged by muggers and thieves whose crimes go undetected and unpunished.

The Transit Crime Prevention Act will provide $200 million, over a 3-year period, to subway and bus systems for the purchase of crime prevention and security capital equipment. Funds will come from a portion of the Federal gas tax enacted last year. One penny of the nickel increase in the gas tax is already specifically designated for mass transit capital purchases.

Funds are to be available for crime prevention and security grants at the following levels: $25 million for fiscal year 1984; $75 million for fiscal year 1985; and $100 million for fiscal year 1986. In fiscal years 1984, 1985, and 1986, $1.25 billion, $1.1 billion, and $1.1 billion now are authorized, respectively, from the gas tax for distribution to transit systems. This legislation would raise the authorization ceilings in fiscal year 1985 and fiscal year 1986 to $1.175 billion and $1.2 billion, respectively, to provide the additional $75 million and $100 million in those years. It is important to note, however, that the Congressional Budget Office has projected that the one penny of the gas tax is expected to bring in $1.31 billion and $1.38 billion, respectively, in fiscal year 1985 and fiscal year 1986. Thus the funds are readily available to increase the authorization.

Taxpayers are paying the one penny of the nickel increase in the gas tax enacted last year for mass transit. They are entitled, therefore, to feel safe when they use the Nation's subways and buses. Moreover, the Federal investment in mass transit is best protected when ridership levels are high. A safe transit network will encourage increased ridership.

Under this bill, transit properties would submit applications to the Federal Department of Transportation. Funds would be distributed on a discretionary basis for such items as vandal-resistant lighting, improved communications equipment, and closed-circuit TV. Hearings held by the Senate Subcommittee on Transportation appropriations on January 18, 1984, in New York City, evoked testimony from witnesses which emphasized the great need for Federal assistance in funding capital expenditures for crime prevention equipment, both for older transit systems and new systems which now must be built with crime deterrent features and effective security as design and planning considerations.

Transit crime is a serious problem confronting metropolitan areas throughout this Nation. It is not unique to New York. Most major transit systems in this Nation experience similar problems. In 1982, for example, a total of 5,600 serious felonies were reported on transit systems in Boston, Chicago, and Philadelphia, all of which are smaller in size than New York's massive 710-mile, 460-station subway system.

Our Nation's subways and buses are fertile ground for assaults, robberies, and other felonies. As more and more subway and light rail systems commence operations, the unfortunate reality of transit crime will be felt in more and more cities.

On our mass transit systems—both subways and buses, but especially subways—the widespread public perception is that government is not fulfilling its most basic obligation to protect life and property. The perception is that we have lost control of the underground transit system. Subways are perceived to be, and in many cases are, a dangerous place. This perception is heightened by the filth and graffiti found in many systems. In New York, the Metropolitan Transit Authority spends more than $17 million a year for costs associated with graffiti and other acts of vandalism.

During the first 11 months of 1983, over 14,000 serious crimes, including robberies, assaults, drugs and weapons crimes, and jewelry snatches, were reported on New York's subways and buses, most of them occurring on the subways. On average, 40 felonies a day are reported on the subways alone. The word "reported" must be emphasized, since a good percentage of transit crime is never reported. Behind all the statistics, however, are people—people who for economic and other reasons have no other choice but to take mass transit and be subjected to the threat of assault, robbery, and other invasions of their persons and property.

Some examples of serious crimes which have been committed on the New York subways during the past 2 months are frightening.

A 59-year-old postal supervisor was stabbed to death in an attempted robbery in a stairwell darkened by vandals' chronic smashing of corridor lights. Six days earlier, a 23-year-old husband and father was also killed in a subway stabbing.

A 21-year-old female college student was sexually assaulted by two men who held a razor to her throat as she rode the train.

Around Christmas, a gang of 50 to 60 youths kicked, punched, and robbed passengers on a subway train.

On the one hand, transit crime reflects the overall crime patterns above ground and is similar in other respects to nontransit crime. And as with most crime, a relatively small percentage of criminals commit a disproportionately high number of crimes. The New York Transit Authority Police several years ago identified approximately 500 persons who were thought to be responsible for up to 30 percent of all serious crime in the subway. A large part of this is due to the revolving door justice which must be rooted out of our criminal justice system.

Transit crime, however, stands apart from other types of crime in several ways. When you walk down that stairwell into the subway station, you lose much of the control you feel above ground. One is, in essence, a captive underground. At certain stations, an atmosphere of crime is created by dark corridors and graffiti-ridden walls.

Even though the number of reported crimes during the first 11 months of 1983 show a slight improvement over 1982, no one can say that we are close to winning the war against transit crime. I believe that the Federal Government must place a higher priority on fighting transit crime. It must devote more resources toward helping localities acquire the type of capital equipment with which to fight transit crime. In addition to the legislation which I am offering today, I believe that the Department of Transportation must encourage demonstration grants in the area of preventing transit crime.

An investment to fight crime is both morally sound and fiscally prudent. Transit riders have the right to feel safe on the Nation's buses and subways. In addition, the billions of dollars which Federal, State, and local governments invest in mass transit is best protected when transit crime is minimized. In 1982, the year when transit crime was the greatest in New York, ridership on the New York subways was the lowest, falling below the 1 billion mark for the first time since statistics began to be compiled in 1940.

If we do not move to make transit safe, ridership figures will continue to plummet and governmental dollars will be wasted. Improving the safety and security of the Nation's public transit systems can be a reality if we are willing to commit ourselves to achieving this goal.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Transit Crime Prevention Act of 1984".

SEC. 2. (a) Section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964 is amended (1) by striking out "and 16(b)" and inserting in lieu thereof "16(b) and 23"; and (2) by deleting "$1,100,000,000 for fiscal year 1985, and $1,100,000,000 for fiscal year 1986" and inserting in lieu thereof "$1,175,000,000 for fiscal year 1985, and $1,200,000,000 for fiscal year 1986".

(b) Section 21(a) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

"(6) Of the funds available for obligation under paragraph (2)(B) for fiscal years 1984, 1985, and 1986, not less than the following amounts shall be available for the purposes of section 23 of this Act: for fiscal year 1984, $25,000,000, for fiscal year 1985, $75,000,000, and for fiscal year 1986, $100,000,000. Nothing in this paragraph shall be construed as prohibiting the use of additional funds, available under this subsection, for public transit crime prevention and security.".

(c) The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"SEC. 23. (a) From funds made available pursuant to section 21(a)(6) of this Act, the Secretary is authorized to make grants to public mass transit systems for crime prevention and security in connection with the operation of such systems. The Secretary is authorized to make such grants in such amounts, at such times, and subject to such conditions, as the Secretary shall by regulation prescribe. In selecting appropriate recipients of grants under this section, the Secretary shall consider, among other matters, the amount of crime on public mass transit systems.

"(b) The Secretary shall require each public mass transit system receiving a grant pursuant to this section to submit, on not less than an annual basis, a report with respect to the amount of crime on such system. Such report shall contain such information and data, and shall be submitted at such time and in such manner and cover such period, as the Secretary shall by regulation prescribe.".●

By Mr. D'AMATO (for himself and Mrs. HAWKINS):

S. 2326. A bill entitled the "Securities Fraud Prevention Act"; to the Committee on Banking, Housing, and Urban Affairs.

SECURITIES FRAUD PREVENTION ACT

● Mr. D'AMATO. Mr. President, I rise today to introduce the Securities

Fraud Prevention Act. This legislation authorizes the SEC to bar brokers from the securities markets if they have been barred from the commodities markets by the Commodities Futures Trading Commission (CFTC). This will prevent fraudulent and disreputable commodities brokers from continuing their illegal practices at the expense of those investing in the stock markets. Significantly, the 97th Congress gave the CFTC the power to bar from the commodities markets those barred by the SEC from the securities markets when it passed H.R. 5447. This legislation became Public Law 97-444, and is cited as title 7, United States Code, section 12a. The reciprocity I now propose is clearly justified.

The legislation I am submitting today originated at a hearing of the Securities Subcommittee I chaired in New York City during the New Year's recess. I had called the hearing to examine the SEC's program for stemming abuses in the so-called hot new issues market. A hot new issue is an oversubscribed initial public offering of common stock. In fiscal year 1983, the value of all initial public offerings was $57 billion, or 33 percent of all stock offerings.

Manipulations and illegalities are involved only in a small—less than 2 percent—but still significant, fraction of initial public offerings. When they cost elderly people their life savings, however, they assume a tragic dimension. These relatively few offerings deprive thousands of investors of hundreds of millions of dollars and reduce confidence in the stock markets generally.

At the hearing, I cited a number of prospectuses to illustrate how extremely speculative some of the hot issues are. In one case, the company's filing of 39 million shares at a penny a share disclosed that the principal shareholder and vice president, an unemployed 21-year old, intended to devote only 10 percent of his time to the company, which was organized to sell medical equipment. Another company's prospectus revealed that it had failed to file tax returns since 1971, did not know whether its officers would be able to devote sufficient time to the company, and might not be able to continue as a going concern.

Certainly it is true that investors owe it to themselves to read prospectuses before investing. It is equally true, however, that we must do all that we can to enforce and strengthen our securities laws to thwart the unscrupulous few who seek to exploit the unsophisticated investor. The elderly living on fixed incomes are particularly susceptible. We must act to protect them.

By barring from the stock markets commodities brokers already barred by the CFTC from the commodities markets, we will prevent their profiting at the expense of the innocent investor. We will help eradicate the use of numerous frauds and deceptions, including:

First. Tie-in arrangements, in which brokers force their clients to buy unattractive stocks in order to qualify for "promising" hot new issues;

Second. Refusals to execute, that is, delaying for an unconscionable period of time executions of sell orders;

Third. Persuading a client who has expressed the desire to sell his stock not to collect cash on the sale, but to reinvest the proceeds in a higher priced stock: by rolling over his paper profits from stock A to stock B to stock C, ad infinitum, the customer never sees any cash; and

Fourth. Fraudulently announcing new company ventures or products that do not, in fact, exist and never will.

Full disclosure and a "let the buyer beware" rule are not the answer to these problems. The Government can, and must, prevent criminals and others with a history of illegitimate activity from participating in the securities markets.

I am pleased that the Securities and Exchange Commission has endorsed my legislation. I am confident that we can enact it this year and improve the protection we provide the investing public. I ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. This Act may be cited as the "Securities Fraud Prevention Act."

SEC. 102. (a) Section (3)(a)(39) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(39)) is amended—

(1) by inserting before the semicolon at the end of subparagraph (A) the following: ", contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7), or futures association registered under section 17 of such Act (7 U.S.C. 21), or has been and is denied trading privileges on any such contract market";

(2) by inserting before the semicolon at the end of subparagraph (B) the following: ", or is subject to an order of the Commodity Futures Trading Commission denying, suspending, or revoking his registration under the Commodity Exchange Act (7 U.S.C. 1 et seq.)"; and

(3) by inserting after "municipal securities dealer," in subparagraph (C) the following: "or while associated with an entity or person required to be registered under the Commodity Exchange Act,".

(b) Section 15(b)(4) of such Act (15 U.S.C. 78o(b)(4)) is amended—

(1) by striking out "or fiduciary" in subparagraph (B)(ii) and inserting in lieu thereof "fiduciary, or any entity or person required to be registered under the Commodity Exchange Act (7 U.S.C. 1 et seq.)";

(2) in subparagraph (C)—

(A) by inserting "entity or person required to be registered under the Commodity Exchange Act," after "or municipal securities dealer"; and

(B) by inserting "entity or person required to be registered under such Act," before "or insurance company"; and

(3) by inserting "the Commodity Exchange Act," after "Investment Company Act of 1940," each place it appears in subparagraphs (D) and (E).

SEC. 103. The preceding provisions of this Act shall take effect on the date of enactment of this Act.●

By Mr. BIDEN:

S. 2327. A bill to provide for real life imprisonment; to the Committee on the Judiciary.

REAL LIFE IMPRISONMENT

Mr. BIDEN. Mr. President, 2 weeks ago I voted for cloture on the death penalty bill because I did not wish to delay any further the opportunity for the full Senate to vote on this measure.

However, I voted against passage of the bill as currently drafted because of my concern about the possibility of executing an innocent person.

There have been a number of cases, so accurately noted by Senator LEVIN during the course of this debate, in the last decade and a half in which a person, who in fact was convicted of a capital offense, was later determined, as consequence of the appearance of an additional witness, or material in the file, to be innocent of the crime.

That is the reason I am against the death penalty.

I do not have any constitutional objection, although I know some, including Senator LEVIN, do. And I do not have any objections to the death penalty on moral grounds. I have stated that position for 11 years. I do not believe it is beyond the power of the State to enforce such a statute.

Consequently, I have been attempting for the last couple of years as the ranking member of the Judiciary Committee to promote an alternative, a provision that would require for capital offenses a minumum mandatory life sentence with no probation and no parole unless proof that the person did not commit the crime came to light.

The "real life" sentence provision in the crime bill we just passed 2 weeks ago does, however, create a problem in a situation where an inmate serving a life sentence commits a murder while incarcerated.

On November 9, 1983, I attended a hearing at which Norman Carlson, Director of the Federal Bureau of Prisons, testified about the murders of two correctional officers at Marion Maximum Security Prison. Additionally, in the last 10 years, there have been nearly 2,000 violent assaults on Federal correctional employees in which 7 prison guards have been killed. There have also been—and I might add, equally important—136 inmates killed during this time by other prisoners.

Because I do not believe the death penalty is an immoral act on the part of society—because I do not have any moral objection, because I believe it is constitutionally enforceable, I believe the death penalty is justified in cases where the assaulters are aleady serving a life sentence without probation or parole and they commit a murder while in custody.

Some might argue you can easily as well err in that case; however, in a closed situation like a prison it is very doubtful. In this case, I am prepared to err on the side of imposition of the sentence where, in fact, there is no other alternative.

What does a prison official do to a person receiving life who commits a murder? Do they put him in another cell? Do they move him to another wing? What is the punishment? We do not have corporal punishment, nor should we, in the prison system. The warden does not take a ruler and slap his knuckles. There is nothing that can be done. In those cases, there is no deterrent whatsoever.

We have cases where people have testified that within 2 years, some criminals are back in the prison serving another life sentence and they commit, in some cases, more than one murder. In that case, I think there should be the death penalty.

Currently, inmates in this situation act with impunity because another life sentence means absolutely nothing to them.

I argue that my real-life sentence requirement is substantially different from what exists today. Right now, a person that gets convicted of murder, convicted of a capital offense, and we read every day where, within a matter of years, most times in 7 or 10 years, they are eligible for parole or even granted parole. Is it not outrageous, in my view, that someone like Sirhan Sirhan may be eligible to walk the streets again on parole? No wonder the American people are upset when you give them an alternative, life sentence the way the statute defines it now or the death penalty. The way life sentence is defined now, not only would they choose the death penalty, but I would choose the death penalty as an alternative to what we have now.

I believe the death penalty is justified in cases where assailants are already serving a life sentence without parole and commit another murder while in custody. Currently, inmates in this situation can act with impunity since another life sentence means absolutely nothing.

Our criminal justice personnel in correctional facilities are powerless and under a real threat in these instances, since there is no provision in the criminal code that effectively deters or punishes these prisoners from murdering again while in prison.

I believe in this circumstance, and this circumstance only, is capital punishment justified. Inmates who are convicted of a capital crime under the new sentencing guidelines—which we have already passed and hope the House will pass—and have no hope for release, must be held accountable for any further violent action. Another life sentence in this situation is meaningless and offers no punishment or deterrence.

For these reasons I am introducing a bill which will establish a minimum mandatory life sentence without probation or parole for all capital offenses for which the current penalty is death; except for those cases where an inmate already serving a mandatory sentence of life commits murder while in Federal custody. I believe in the instance where an individual commits another murder while in custody, the Government must use the ultimate sanction of death.

I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 51 of title 18 of the United States Code is amended by adding the following new section after section 1117:

"**§ 1118. Murder by Federal prisoners**

"(a) Whoever, while confined in a Federal correctional institution under sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For purposes of this section—

"(1) 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death;

"(3) 'murders' means committing first-degree murder or second-degree murder as defined by section 1111 of this title.

"(c) A person shall be subjected to the penalty of death under this section only if a hearing is held in accordance with this section.

"(d) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty under this section, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice (1) that the Government in the event of conviction will seek the sentence of death, and (2) setting forth the aggravating factor or factors which the Government will seek to prove as the basis for the death penalty. The court may permit the attorney for the Government to amend this notice for good cause shown.

"(e) HEARING BEFORE COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (d) and the defendant is found guilty of or pleads guilty to an offense under this section, the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury which determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury which determined the defendant's guilt has been discharged for good cause; or

"(D) after initial position of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the Government.

A jury impaneled pursuant to paragraph (2) of this subsection shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than twelve.

"(f) PROOF OF AGGRAVATING AND MITIGATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure when a defendant is found guilty of or pleads guilty to an offense under this section, no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (i) or (j) or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (j), information may be presented relating to any other aggravating factor.

"Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors, and as to the appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the information.

"(g) **Return of Findings.**—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings indentifying any mitigating factors, and any aggravating factors set forth in subsection (j) found to exist.

"(h) **Imposition of Sentence.**—Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"(i) **Mitigating Factors.**—In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) the defendant was less than eighteen years of age at the time of the crime;

"(2) the defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge;

"(3) the defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge;

"(4) the defendant is punishable as a principal (as defined in section 2(a) of this title) in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to the charge; and

"(5) the defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which he was convicted, would cause, or would create a grave risk of causing, death to any person.

"(j) **Aggravating Factors.**—The following aggravating factors shall be considered but are not exclusive:

"(1) the defendant committed the offense during the course of seizing, confining, inveigling, decoying, kidnaping, abducting, carrying away, holding hostage, or holding for ransom or otherwise any person;

"(2) the death or injury resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission or attempted commission of, an offense under section 751 (escape by prisoner in custody of institution or officer);

"(3) the defendant committed the offense during the course of perpetrating or attempting to perpetrate a sexual assault on any person;

"(4) the defendant committed the offense during the course of, on account of, or as a result of any transaction concerning or distribution of any controlled substance as defined by schedules I, II, III, IV, and V of section 812 of title 21;

"(5) the defendant committed the offense while armed with, or having readily available, a firearm, as defined in section 921(a)(3) of this title;

"(6) the defendant committed the offense during the course of inciting, organizing, promoting, encouraging, participating in, carrying out, or aiding or abetting any person in inciting, participating in, or carrying on a riot as defined in section 2102 of this title;

"(7) the defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(8) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person;

"(9) in the commission of the offense the defendant knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(10) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(11) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(12) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value; and

"(13) the defendant committed the offense after substantial planning and premeditation to cause the death of a person.

"(k) **Instruction to Jury on Right of the Defendant to Justice Without Discrimination.**—In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant was not involved in reaching his or her individual decision.

"(l) **Appeal From Sentence of Death.**—In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"The court shall affirm the sentence if it determines that: (1) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and (2) the information supports the special finding of the existence of any aggravating factor, or the failure to find any mitigating factors as set forth or allowed in this section. In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.".

"(m) **Implementation of a Sentence of Death.**—A person who has been sentenced to death pursuant to the provisions of this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant.

"(n) **Use of State Facilities.**—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.".

(b) The table of contents for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1118. Murder by Federal prisoners.".

Sec. 2. (a) Section 3566 of title 18 of the United States Code is amended to read as follows:

"§ 3566. Sentence of real life imprisonment

"A defendant who has been found guilty of—

"(1) an offense described in section 784 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title, if the offense constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, shall be sentenced in lieu thereof to life imprisonment without the possibility of parole if it is determined that imposition of a sentence of life imprisonment without the possibility of parole is justified.".

(b) Section 3567 of title 18, United States Code, is repealed.

(c) The items for sections 3566 and 3567 of chapter 227 of title 18, United States Code, are amended to read as follows:

"3566. Sentence of real life imprisonment.
"3567. Repealed.".

Sec. 3. Section 34 of title 18, United States Code, is amended by striking out "also to the death penalty or" and by inserting after "imprisonment for life" the following: "or imprisonment for life without the possibility for parole".

Sec. 4. Section 794(a) of title 18, United States Code, is amended by striking out "by death or" and by striking out the period at the end of the section and inserting in lieu thereof the following: ", or imprisonment for life without the possibility of parole.".

Sec. 5. Section 844(d) of title 18, United States Code, is amended by striking out "or to the death penalty" and by striking out the period at the end thereof and inserting in lieu thereof the following: "or to life imprisonment without the possibility of parole.".

Sec. 6. Section 844(f) of title 18, United States Code, is amended by striking out "or to the death penalty" and by striking out the period at the end thereof and inserting in lieu thereof "of life imprisonment without the possibility of parole.".

Sec. 7. Section 844(i) of title 18, United States Code, is amended by striking out "or to the death penalty" and by striking out the period at the end thereof and inserting in lieu thereof "or to life imprisonment without the possibility of parole.".

SEC. 8. The second paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows: "Whoever is guilty of murder in the first degree shall be punished by life imprisonment without the possibility of parole;".

SEC. 9. Section 1116(a) of title 18, United States Code, is amended by inserting after "imprisonment for life" the following: "without the possibility of parole".

SEC. 10. Section 1201 of title 18, United States Code, is amended by inserting after "or for life" in subsection (a) the following: "and, if the death of any person results, shall be punished by life imprisonment without the possibility of parole".

SEC. 11. The last paragraph of section 1716 of title 18, United States Code, is amended by striking out "also to the death penalty or" and by striking all after "imprisonment for life" and inserting in lieu thereof the following: "without the possibility of parole.".

SEC. 12. Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) shall be punished by—

"(1) imprisonment for any term of years or for life; or

"(2) by imprisonment for any term of years, for life, or for life without the possibility of parole,

if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. 13. The second to the last paragraph of section 1992 of title 18, United States Code, is amended by striking out "also to the death penalty or" and by inserting after "imprisonment for life" the following: "without the possibility of parole".

SEC. 14. Section 2031 of title 18, United States Code, is amended by striking "death, or" and by adding at the end thereof "or for life without the possibility of parole".

SEC. 15. Section 2113(e) of title 18, United States Code, is amended by striking out "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof "or if death results shall be punished by life imprisonment without the possibility of parole".

SEC. 16. Subsections (i)(1)(B) and (n)(2)(B) of section 1472 of title 49, United States Code, are amended to read as follows:

"(B) if the death of another person results from the commission or attempted commission of the offense by imprisonment for life without the possibility of parole.".

SEC. 17. Section 351(b) of title 18, United States Code, is amended by striking out "by death or" and inserting after "for life" the following: "or life without the possibility of parole".

SEC. 15. Section 1751(b) of title 18, United States Code, is amended by striking out "by death or" and inserting after "for life" the following: "or life without the possibility of parole".

SEC. 19. Section 2381 of title 18, United States Code, is amended by striking out "suffer death" and inserting in lieu thereof "be imprisoned for life without the possibility of parole".

By Mr. BOREN (for himself, Mr. BOSCHWITZ, Mr. BAUCUS, Mr. ABDNOR, and Mr. HART):

S. 2328. A bill to provide for an improved program for wheat; to the Committee on Agriculture, Nutrition, and Forestry.

WHEAT IMPROVEMENT ACT OF 1984

● Mr. BOREN. Mr. President, today I am introducing a revised version of the 1984 wheat program. I am pleased to have Senators BOSCHWITZ, BAUCUS, ABDNOR and HART joining me in this effort.

Mr. President, I had hoped that Secretary Block's announcement over the weekend would have included modifications in the wheat program. The Secretary merely announced a change in the summer fallow rules and the extension of the signup period. Neither of these will result in the level of participation we need in the wheat program. The administration's insufficient attention to the current wheat situation compels us to once again try to make changes in the wheat program. The extension of the signup period will give us time to act.

Ending stocks for the 1983 crop are estimated at 1.4 billion bushels, about twice as high as we need. If we fail to modify the wheat program, we can expect 1984 crop-ending stocks to be somewhere between 1.8 and 2 billion bushels. If this happens, the cash price of wheat will plummet to well below $3 per bushel. Mr. President, our farmers will just not be able to survive with prices that low.

There are some in the administration who feel that the solution to our surplus problem is lower prices. They claim that the lower the price is, the more we will export. But, let's look at the facts. Of the 1981 crop, we exported 1.8 billion bushels of wheat and the average farm price was $3.65. Of the 1982 crop, 1.5 billion bushels were exported and the average farm price dropped to $3.53. Exports are dropping again for the 1984 crop and the average farm price is estimated at $3.45-$3.60 per bushel; $3.45 is probably the more realistic estimate. What we see here is that the lower the wheat price for the farmer, the less we export, contrary to what some would have us believe. The solution simply does not lie in lower prices, yet, that is the road this administration is taking us down.

Mr. President, we simply must take action. For the past 3 years, the administration ignored the problem when it still could have been corrected for a reasonable price and then, at the last minute, came in, spending billions of dollars to achieve a small reduction in supply and then forgetting all about it again until the next crisis occurs. As some have said, this policy has indeed been pennywise and billion-dollar foolish.

For the past 8 months, many of us here in Congress have tried to negotiate a revised wheat program, but the administration would not agree to a compromise. Proposal after proposal has been made, but to no avail. The House acted in November by passing H.R. 4072, but we have yet to bring a wheat bill before the Senate.

Mr. President, we have only 3 weeks left to revise the wheat program. Today, along with Senators BOSCHWITZ, BAUCUS, ABDNOR and HART, I am introducing one final proposal—the Wheat Improvement Act of 1984. This bill is virtually identical to H.R. 4072. In fact, there are only two differences. First, in our bill we left out the provision for summer fallow changes as that has now been done administratively. Second, we delay the payment of advance deficiency payments until after October 1, 1984. By doing this, we achieve cost savings in each fiscal year from the current one to 1988. When scored against the fiscal year 1984 budget resolution, our bill will save $181 million this year, and a total of $3.7 billion over the next 5 years. This legislation is both fiscally responsible and prudent. If we act now, we can avoid the necessity of spending billions later.

Because of the time element involved, we are also introducing this legislation as an amendment to H.R. 3867, the Perishable Agricultural Commodities Act, which is now pending on the Senate Calendar.

Mr. President, we must act now. Time is of the essence. The future of our wheat farmers is on the line. Many in this Chamber have called for the Senate to take action. Last fall, Senator DOLE proposed a virtually identical program. Earlier this month, 13 of our colleagues joined me in sending a letter to Senator BAKER and Senator BYRD urging that floor time be provided for any agricultural measure so we could debate wheat legislation. I ask unanimous consent that copies of these letters be placed in the RECORD at the conclusion of my remarks.

It is imperative that we take advantage of the extended signup period by acting now. I urge my colleagues to join us in this effort to correct the mismanagement of the wheat program.

I ask unanimous consent that a summary and cost estimate of this legislation be placed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY: THE WHEAT IMPROVEMENT ACT OF 1984

A. The bill makes the following changes in the 1984 wheat program:

1. Provides for a 20 percent acreage reduction with no payment.

2. Provides for a 10 percent paid diversion program with payment at $2.70 per bushel.

3. Compensation for participation in the payment-in kind (PIK) program would be based on 85 percent of farm program yield.

4. Target price for the 1984 crop would be $4.38.

5. Haying and grazing would be permitted on reduced acreage.

6. Farmers would have until March 30, 1984 to sign-up to participate in the 1984 wheat program.

7. Requires that advance deficiency payments be made, but not until after October 1, 1984.

B. The bill also changes the 1985 crop target price to $4.38.

CBO cost estimates [1]

Fiscal year:	*Millions*
1984	−$261
1985	−443
1986	−945
1987	−1,082
1988	−1,013
Net savings	3,774

[1] As scored against fiscal year 1984 budget resolution.

U.S. SENATE,
Washington, D.C., February 3, 1984.

Hon. HOWARD H. BAKER, Jr.,
Majority Leader, U.S. Capitol.

DEAR MR. MAJORITY LEADER: Over the past few months, there has been much talk of higher commodity prices due to the 1983 drought. This may be true for some commodities, but it most definitely is not true for wheat. Due to the late announcement of the 1983 wheat payment-in-kind program and excellent growing conditions, the 1983 program for wheat failed to reduce ending stocks enough to increase the price. Thus, for wheat, the farm price has remained devastatingly low.

The 1984 wheat program, as announced by the Department of Agriculture, will lead to low farmer participation for the simple reason that most wheat producers will not find the program financially attractive under the existing terms and conditions. Lower participation will increase carry-over stocks which will result in a lower farm price and higher program costs.

It is, therefore, imperative that the Senate act now to establish an improved 1984 wheat program. Not only would an improved wheat program reduce federal expenditures, it would also encourage participation. Increased participation would also result in a more equitable distribution of program benefits. The Congressional Budget Office estimates that enactment of H.R. 4072, for example, will save taxpayers $3.3 billion over the next five years and result in higher wheat prices for the farmer. Three billion dollars in savings would certainly make a dent in the federal deficit.

For the past six months, there has been a bipartisan effort in the Senate to consider and pass a wheat bill. We greatly appreciate your continued patience and cooperation in this effort. Wheat producers should not suffer because of any division among the other commodity groups; nor should the budget savings that could be achieved be taken lightly.

A number of House-passed agricultural bills are currently pending on the Senate calendar or before the Senate Agriculture Committee. Any of these bills could serve as an appropriate vehicle for legislation dealing with the 1984 wheat program.

We urge you to schedule adequate floor time as soon as possible for one of these agricultural measures so that the Senate can debate legislation to establish an improved 1984 wheat program.

Sincerely,

Senators David L. Boren, Max Baucus, Quentin Burdick, Lloyd Bentsen, Daniel Inouye, Patrick J. Leahy, Nancy L. Kassebaum, Rudy Boschwitz, Walter D. Huddleston, Slade Gorton, Gary Hart, James S. Abdnor, John Glenn, Larry Pressler.

U.S. SENATE,
Washington, D.C., February 3, 1984.

Hon. ROBERT BYRD,
Democratic Leader, U.S. Capitol.

DEAR MR. LEADER: Over the past few months, there has been much talk of higher commodity prices due to the 1983 drought. This may be true for some commodities, but it most definitely is not true for wheat. Due to the late announcement of the 1983 wheat payment-in-kind program and excellent growing conditions, the 1983 program for wheat failed to reduce ending stocks enough to increase the price. Thus, for wheat, the farm price has remained devastatingly low.

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For the past six months, there has been a bipartisan effort in the Senate to consider and pass a wheat bill. We greatly appreciate your continued patience and cooperation in this effort. Wheat producers should not suffer because of any division among the other commodity groups; nor should the budget savings that could be achieved be taken lightly.

A number of House-enacted agricultural bills are currently pending on the Senate calendar or before the Senate Agriculture committee. Any of these bills could serve as an appropriate vehicle for legislation dealing with the 1984 wheat program.

We urge you to work with the Majority Leader in scheduling adequate floor time as soon as possible for one of these agricultural measures so that the Senate can debate legislation to establish an improved 1984 wheat program.

Sincerely,

Senators David L. Boren, Max Baucus, Quentin Burdick, Lloyd Bensten, Daniel Inouye, Patrick J. Leahy, Nancy L. Kassebaum, Rudy Boschwitz, Walter D. Huddleston, Slade Gorton, Gary Hart, James S. Abdnor, John Glenn, Larry Pressler.●

By Mr. NICKLES:

S. 2329. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans and to remove unnecessary barriers to employer participation in those plans by modifying the rules relating to employer withdrawal liability, asset sales, and funding, and for other purposes; to the Committee on Labor and Human Resources.

MULTIEMPLOYER LEGISLATION

Mr. NICKLES. Mr. President, today, I am introducing legislation designed to destigmatize the statutory requirement of withdrawal liability that became law when Congress passed the Multiemployer Pension Plan Amendments of 1980. The Labor Subcommittee has held 3 days of hearings on problems confronting multiemployer pension plans during the past 2 years. Witnesses representing both contributing employers and organized labor have agreed that the 1980 act has acted as a deterrent that keeps new employers from agreeing during collective bargaining to contribute to these plans. Thus, even well-funded plans—and most multiemployer plans are indeed well funded—are facing a future of declining contribution bases as those employers that do cease contributing are seldom replaced by new contributing employers. These plans need to attract new contributors in order to remain healthy.

Testimony before the subcommittee has clearly shown that time is running out for many of these plans. Very little withdrawal liability is actually recovered from withdrawn employers; new employers are setting up single-employer-defined benefit or defined contribution plans rather than agreeing to contribute to a multiemployer plan thus resulting in a burdensome future liability.

Sooner or later Congress will be forced to amend the 1980 Multiemployer Pension Plan Amendments Act to take into account the harm done to the collective bargaining process and the health of these plans. At the same time, we must address once and for all the real problem confronting many of these multiemployer plans—unfunded vested liability. As long as some plan trustees act irresponsibly—by granting benefit increases far beyond what the plan assets and/or contribution levels will support, and thus increase unfunded liability, plan beneficiaries and participants will remain subject to the complicated withdrawal liability provisions that deter employer participation. Thus, the only real answer for these underfunded plans are stricter funding standards that will diminish unfunded vested liability over a short period of time.

The bill I am introducing today has had considerable input from many of the affected parties. I doubt if anyone, however, has all the answers. Hearings have been scheduled for May 15 and 17. I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Title: Multiemployer plan—Termination Insurance Reform Act of 1984.

Section 2: Findings and Declaration of Policy.

Section 3: Special Trucking Industry Withdrawal Rule: Rewrites current special rule for trucking industry plans. Trucking employers would have withdrawal liability imposed only in circumstances similar to construction industry employers. Additional relief is granted from Withdrawal Liability for those carriers that are being liquidated under Title XI, USC—many of these cases are in court today.

Section 4: Involuntary withdrawal—this section will destigmatize all non-special rule plans (i.e. non construction, trucking, or entertainment plans) by reducing Withdrawal Liability payments to 10 percent in those instances where withdrawal is involuntary (i.e. death of a principal owner, natural disaster, loss of competitive bid-contract, etc.).

Additionally—an Involuntary Withdrawal Liability payment fund is set up in the PBGC to pay the remaining 90 percent of Withdrawal Liability of involuntarily withdrawn employers. The PBGC would assess these plans annually and pay out the 90 percent over time. Thus a true insurance system is set up to reimburse plans. This becomes essentially a risk related premium. By keeping all employers potentially on the hook for 10 percent, these employers can't take a business as usual position, they will keep pressure on the trustees to act responsibly and bring the plan assets up to liability levels.

Section 5: Makes it clear that fully funded plans cannot impose Withdrawal Liability regardless of the method of calculating UVL. Requires PBGC to issue uniform sets of actuarial procedures and assumptions so that all plans are on the same footing.

Section 6: Changes the 1980 Act so that sales of assets will be treated as sales of stock, i.e. does away with the requirement under current law that the buyer post a bond payable to the plan should he withdraw within 5 years. This provision has really had a negative impact on normal business activity in those multi industries that frequently buy and sell assets (trucking, construction, etc.).

Section 7: Requires notice be sent to each employer, if requested, concerning general condition of plan (facts, figures, plan assets, liability, etc.) so that employer can calculate his Withdrawal Liability.

Section 8: Grants PBGC greater authority than current law to grant special Withdrawal Liability rules to plans that request them.

Section 9: Requires plans to pay off 1/15 of UVL calculated annually. This is a strict funding requirement that will limit unsupported benefit increases by plans.

Section 10: Plans in reorganization would have their amortization schedules (for participants) reduced from 25 to 15 years. The 10 year schedule for those in pay states remains unchanged.

Section 11: Asset—Benefit payout ratio change. Plans with less than a 3:1 asset to benefit payout ratio would be required to change the formula for calculating their minimum contribution requirement.

Section 12: Eliminates statutory retroactive provisions of MEPPA.

Section 13: Technical amendment.

Section 14: Transitional rules.

By Mr. HATCH (for himself and Mr. DENTON):

S. 2330. A bill to amend the Internal Revenue Code of 1954 to allow the deduction for certain expenses paid or incurred by an individual in connection with the adoption of a child; to the Committee on Finance.

FAIRNESS FOR ADOPTING FAMILIES ACT OF 1984

Mr. HATCH. Mr. President, Senator DENTON joins me today in introducing the Fairness for Adopting Families Act, a bill designed to address, in a comprehensive way, the issue of tax treatment of the costs of adopting children.

In the simplest terms, this legislation is needed for two reasons. First, it recognizes that, as a Nation, we respect and wish to encourage the building of strong families through adoption. Second, it recognizes that equity of treatment in respect to the way a family is formed—whether by biology or through adoption—can only be achieved by providing assistance in defraying the costs of adopting.

I do not question the variety of tax benefits available to the couple who has a child biologically. However, in contrast, there is but one measure aimed at providing a small tax deduction for people who adopt children with special needs. There is nothing for others who adopt. This must be changed, and the premier purpose of this legislation is to do so.

Mr. President, what would this legislation do? It has three major features. First, it would provide a tax deduction for adoption expenses. Second, it would exclude from the employee's income any payments made by an employer. Third, it would treat any employer contribution to an adoption expense plan as an ordinary and necessary business expense.

Let me explain these three features in a bit more detail.

The tax deduction for adoption expenses would be available for the costs of an adoption, as long as that adoption was in accordance with State and Federal law. This deduction would be available for all adoptions meeting this condition. I recognize that there are significant differences in adoptions, depending on whether they are done within a State, whether they involve interstate placement, or whether they involve a child from a country other than the United States. Each legal adoption is socially useful and beneficial. Each adoptive family, no matter how the adoptive child came to be in that family, deserves our support. Whether that child is a healthy infant, a child with special needs or a child from another country, the adoption expenses may be deducted, as long as all Federal and State legal requirements are met.

Data provided by the National Committee for Adoption shows that the total actual costs connected with the adoption of a healthy infant today are often in excess of $10,000. Because of the voluntary spirit that is so much a part of the adoption scene, the actual fees charged are often less than the costs incurred by agencies—sometimes thousands of dollars less. The difference is made up in fund-raising drives and charitable solicitation. But not every adoption fee is subsidized. And not every adoption is of a healthy infant. The costs of cesarean delivery or premature birth can further drive up the expenses adoptive parents may have to bear.

This legislation should stimulate discussion on the various costs for adoption expenses. I encourage my colleagues on the Finance Committee to look at this proposal with an open mind. If they believe some restrictions are needed, then proposals I have heard discussed include capping the deductible possible at 80 percent of expenses or possibly limiting the deduction for a healthy infant at $5,000, and the expenses of a child with special needs at $10,000.

For those not familiar with adoptions, some of the appropriate costs which make adoptions expensive are: maternity home services, hospital and physicians' costs, attorneys' costs, and the comprehensive costs of complete adoption service incurred by an agency (including, for instance, costs such as those for advertising and outreach to tell pregnant women about their services, costs incurred to provide them with educational services, and costs for job training). However, by limiting these deductions only to those which are conducted in compliance with Federal and State laws, we are insuring that we would not be underwriting the kinds of practices that have recently come to light in my own State of Utah and other States, where people were defrauded by people attempting to act as baby brokers. The illegal adoption brings with it a price tag of $25,000 or more, most of which goes into the pockets of middlemen. Fees for arrangements would not be deductible.

We are also insuring that certain practices that are related to the resolution of infertility, including in vitro fertilization, ovum transfers and transplants, and surrogate parenting arrangements, do not qualify for favorable tax treatment under this bill. These practices are not adoption. Some of these practices are unacceptable, for medical, religious or other reasons, to many Americans. Some of these practices are, however, addressed under other portions of the tax laws. For instance, certain medical treatments aimed at treating infertility, including some of those mentioned above, may qualify for favorable tax treatment.

Two of this legislation's provisions relate to the happy development of interest by many of the Nation's employers in adoption. Thirty-seven companies now provide this benefit. Including some of the largest employers such as Control Data, IBM, Time, and Xerox. The actual benefits vary widely, with some providing both a cash payment to help defray expenses and others providing both a cash payment and paid leave. Many of these benefits are flat payments, such as the $1,200 provided by Deseret Mutual Benefit Association in Utah.

There are two problems that exist in regard to employer-provided benefits which we address in this bill. The first problem is that payments made to employees are taxable as income. This means that if a benefit of $1,200 is received, not all of the money can be applied to defraying expenses. Our bill would exclude from the employee's income those payments made by an employer.

The second problem is that currently companies may not treat their contributions to adoption expense plans as an ordinary and necessary business expense. This discourages many companies which would otherwise offer these benefits from providing them. Our bill would solve this problem and remove that barrier to more companies providing adoption benefits.

There are those who will say that we do not need this law at this time, that we cannot afford even the modest revenue loss that this would represent. I do not agree with them. Our families are our most important resource, and we must do everything in our power to be fair to families. The benefits to children and families of this legislation, and to our society as a whole, both in human and economic terms, far outweigh the dollar costs that some may wish to focus on.

At this time, I encourage my colleagues to join me in this effort. I ask unanimous consent that the complete text and summary of the bill be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fairness for Adopting Families Act of 1984".

SEC. 2. (a) Subsections (b) and (c) of section 222 of the Internal Revenue Code of 1954 (relating to adoption expenses) are amended to read as follows:

"(b) DENIAL OF DOUBLE BENEFIT.—

"(1) IN GENERAL.—No deduction shall be allowable under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter

"(2) GRANTS.—No deduction shall be allowed under subsection (a) for any expenses paid from any funds received under any Federal, State, or local program.

"(c) QUALIFIED ADOPTION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees (including agency fees), court costs, attorney fees, and other expenses which—

"(A) are directly related to the legal adoption of a child by the taxpayer but only if such adoption has been arranged—

"(i) by a State or local agency with responsibility under State or local law for child placement through adoption,

"(ii) by a non-profit, voluntary adoption agency which is authorized by State or local law to place children for adoption, or

"(iii) through a private placement, and

"(B) are not incurred in violation of State or Federal law.

"(2) ADOPTION EXPENSES NOT TO INCLUDE CERTAIN AMOUNTS.—The term 'qualified adoption expenses' shall not include any expenses in connection with—

"(A) the adoption of a child who was conceived through—

"(i) embryo transplantation,

"(ii) in vitro fertilization, or

"(iii) so-called 'surrogate parenthood', including surrogate mothers who serve voluntarily and without remuneration in jurisdictions where such practice is legal, or

"(B) travel outside the United States, unless such travel is required—

"(i) as a condition of a legal adoption by the country of the child's origin,

"(ii) to assess the health and status of the child to be adopted, or

"(iii) to escort the child to be adopted to the United States.

"(3) CHILD.—The term 'child' shall include any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act.".

(b)(1) Part III of Subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 132 as section 133 and by inserting after section 131 the following new section:

"SEC. 132. ADOPTION ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to a program described in subsection (b).

"(b) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, a program is described in this subsection if it—

"(1) is a separate written plan of an employer for the exclusive benefit of his employees to provide his employees with adoption assistance, and

"(2) meets requirements similar to the requirements of paragraphs (2), (3), (5), and (6), of section 127(b).

"(c) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 222(c).".

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 132 and inserting in lieu thereof the following new items:

"Sec. 132. Adoption assistance programs.

"Sec. 133. Cross references to other Acts.".

SEC. 3. The amendments made by this Act shall apply to expenses paid or incurred for adoptions which become final after December 31, 1983.

SUMMARY OF FAIRNESS FOR ADOPTING FAMILIES ACT OF 1984

1. Provides tax deduction for adoption expenses. Allowance of a deduction costs of an adoption, in accordance with State and Federal law, including infant, special needs or foreign child adoptions. It excludes surrogate mother and invitro arrangements. It also restricts the deduction of travel outside the United States unless such travel is required as a condition of the adoption, or to assess the health and status of the child, or to escort the child to be adopted to the United States. There is no dollar limitation on the amount of the deduction.

2. Excludes from employee's income adoption expenses paid by an employer.

3. Treats employer contributions to adoption expense plan as an ordinary and necessary business expense.

4. Effective date: applies to expenses incurred or paid for adoptions which become final after December 31, 1983.

Mr. DENTON. Mr. President, I am privileged to join the distinguished Senator from Utah (Mr. HATCH) in the introduction of the Fairness for Adopting Families Act of 1984. The bill would provide badly needed tax relief to persons who form their families through adoption.

The Subcommittee on Family and Human Services, of which I am chairman, has held several hearings on adoption. Although specific tax issues do not fall within the jurisdiction of the subcommittee, many witnesses expressed the need for ending the inequitable tax treatment of adoptive parents.

As we all know, families formed through the biological birth of children are eligible for a tax deduction for the medical expenses of the pregnancy and delivery. Adoptive parents, however, cannot deduct the expenses for adoption, even though, in many cases, they have paid the medical expenses of the baby's birth and of the biological mother's prenatal care, in addition to fees for the adoption agency and the attorney. For many families, those out-of-pocket expenses, which can vary widely from locality to locality, put a substantial strain on resources.

I believe that adopting families truly deserve fair tax treatment and should not be discriminated against under our tax laws.

The bill would offer a tax deduction for all reasonable fees for an adoption that is conducted in accordance with State law. Adoption expenses can vary from as little as $500 to as much as $10,000, depending on the location, the legal situation, and medical considerations. For that reason, the bill does not include a fixed dollar amount fo the deduction or impose a limit on it

The bill would also exclude fron taxable income any adoption benefit paid by employers to employees adopt ing children. Employers would be abl to treat the benefit as an ordinary an necessary business expense. That pr vision would be of inestimable help t both employers and employees.

Because I am interested in encoura ing support for adoption in the priva sector. I initiated a provision in the Adoption Opportunities Act reauthorization bill, S. 1003, that would direct the Secretary of Health and Human Services to educate and encourage the private sector to offer adoption benefits to adopting employees.

In a hearing on the bill, the subcommittee received written testimony from a vice president for employee benefits for a private firm, who described the development of adoption benefit plans, 37 corporations now offer adoption benefit programs to their employees. I strongly believe that, if companies were able to consider adoption benefits as an ordinary and necessary business expense, as they now are able to consider many other benefits, many more companies would provide them. Likewise, the benefit would not be considered a part of taxable income for the employee, as is currently the case.

I ask unanimous consent that a recent newspaper article that describes the current efforts of the Department of Health and Human Services to gain the support of the private sector for adoption be printed in full immediately following my statement.

We should allow the private sector to do as much as it can to support adoptive families. The Fairness for Adopting Families Act would encourage business to offer help to their employees.

Finally, the bill would repeal the current provisions for adoption expense for the adoption of special needs children. The legislation would provide more generous support for such adoptions.

Mr. President, many persons in our country are desperate to adopt children. There are older children and children with handicaps who are now in foster care but who could be adopted. There are also infants available for adoption. Young children, including children with handicaps, are also free for adoption from foreign countries. By enacting this legislation to grant tax relief to adopting families, let us help bring the thousands of waiting parents together with infants and children who are waiting for permanent, loving homes.

I urge my colleagues to join Senator HATCH and me by cosponsoring the Fairness for Adopting Families Act of 1984.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Feb. 6, 1984]

CORPORATIONS HELP IN FINDING HOMES FOR HARD-TO-PLACE CHILDREN

(By Metta Winter)

They are children of mixed parental heritage or members of a sibling group. They may be older children who have been in the foster-care system for several years. Or they may have emotional or developmental disabilities.

But these children all have one thing in common: They need a home.

Children awaiting adoption who have special needs are often the most difficult to place. In New York City alone, most of the nearly 5,000 children awaiting adoption have special needs. And the numbers of such children are on the rise.

"One Company, One Kid," a program recently established by Cornell University's Family Life Development Center, aims to help these children by encouraging businesses and corporations to find and assist employee-families to adopt special needs children.

"Often people want to adopt these children but feel they cannot afford another older child or one who may need special care. We want them to know there is a variety of support services available to them," says Janice Shindler, a "One Company, One Kid" program specialist.

One type of support becoming more common is provided by corporations themselves, in the form of fringe-benefit packages. These include maternity and paternity leave and cost reimbursements for adoptions.

Such support can make a significant difference in the number of children finding homes. IBM was one of the first corporations to expand its benefit packages to cover adoption costs. According to IBM spokesman Brian Ditzler, employees currently adopt several hundred children each year—more than 3,000 children in all, since the reimbursement beneifts were begun more than a decade ago.

There are advantages for the corporations as well. Hallmark Cards, which began adoption reimbursements four years ago, has found it an economical way for the corporation to continue its tradition of financial support to organizations and agencies serving children in need. "Making adoption reimbursements directly to employees is also seen as one way of giving choice in where our charitable contributions are made," says Hallmark spokesman Tim Crouch.

But even among those companies already providing adoption reimbursements, there can be an information gap concerning the numbers of children still available for adoption. Most companies originated their adoption reimbursement programs on the concept of infant adoption, which generally meant healthly, white infants, according to Janice Shindler. That there are comparatively few such infants available today has left some companies with the impression that there are now few adoptable children.

"This is certainly not the case," Ms. Shindler says. "There are plenty of children needing homes. We want to spread that word."

The "One Company, One Kid" program is underwritten by a grant from the United States Department of Health and Human Services. It operates through Cornell University's Family Life Development Center, which provides information training, and technical assistance to organizations and agencies in New York State concerned with strengthening families.

Recruiting will begin with corporations in the New York City area and will expand across the state, and later, the nation.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 2331. A bill to amend section 1601(d) of Public Law 96-607 to permit the Secretary of the Interior to acquire title in fee simple to McClintock House at 16 Williams Street, Waterloo, N.Y.; to the Committee on Energy and Natural Resources.

ACQUISITION OF CERTAIN LAND

● Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to authorize the Secretary of the Interior to acquire the fee simple title to the McClintock house in Waterloo, N.Y. The McClintock house is part of the Women's Rights National Historical Park, which memorializes the birth of the modern women's rights movement. I am pleased to have as a cosponsor my colleague from New York, Senator D'AMATO.

It was at the McClintock house that Elizabeth Cady Stanton, Susan B. Anthony, Lucretia Mott, Mary Ann McClintock, and Martha Wright gathered to draft the "Declaration of Sentiments" later ratified at the first National Women's Rights Convention. This document, which states that equality and justice should be extended to all people without regard to sex, is considered to be one of the Nation's 50 most important documents.

Mr. President, I cosponsored the legislation to create the Women's Rights National Historical Park (Public Law 96-607). At that time, the McClintock house was owned and used by the Waterloo Baptist Church. Although the property was designated as part of the park, acquiring it then was inappropriate. This is no longer the case. The Waterloo Baptist Church has moved to a new location, and the house is for sale.

The bill that I introduce today with Senator D'AMATO is technical in nature and noncontroversial. It merely amends the authorizing language that created the park in 1980. As such, it is deserving of prompt, favorable action by the Senate. I might add that no appropriation will be necessary. The park received $500,000 in acquisition funds under the fiscal year 1984 Department of the Interior and related agencies appropriations bill (Public Law 98-146). These moneys should be sufficient to defray purchase of the McClintock house.

Mr. President, I ask unanimous consent that the text of of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1601(d) of Public Law 96-607 (16 U.S.C. 410 11(d)), is amended by striking out the word "through" and inserting the word "and" in lieu thereof.●

● Mr. D'AMATO. Mr. President, I rise today to join in introducing a bill with my distinguished colleague from New

York. This legislation, which is identical to legislation offered in the House by my good friend, Congressman HORTON, would authorize the Secretary of the Interior to purchase the McClintock House in Waterloo, N.Y., the site of the Women's Rights National Historic Park.

When the appropriation for the purchase of the properties previously designated as part of the park was passed last year, this site was not included among those the Secretary was authorized to purchase because it was owned and used by the Waterloo Baptist Church. The Baptist Church, however, recently moved and the potential state-church conflict is, therefore, no longer a concern. This site, where Mary Ann McClintock, Elizabeth Cady Stanton, Lucretia Mott, Martha Wright, and Susan B. Anthony met to organize the first Women's Rights Convention in 1848, was included in the authorizing legislation. Had it not been for the church-state conflict, it would surely have been included in the appropriation bill as well. Therefore, I am urging the approval of this legislation.

Additionally, I would like to point out that funds remain available for this purchase from last year's appropriation and no additional appropriation is needed to complete the purchase of lands authorized to be in the park. It is most fitting that these women, who began a process that changed our Nation for the better, be honored by the completion of this valuable park.●

By Mr. D'AMATO (for himself, Mr. BENTSEN, Mr. HOLLINGS, Mr. DOLE, Mr. COHEN, Mr. CHILES, Mr. LONG, Mr. PERCY, Mr. MOYNIHAN, Mr. LEVIN, Mr. CRANSTON, Mr. DODD, Mr. JEPSEN, Mr. SPECTER, Mr. THURMOND, Mr. INOUYE, Mr. QUAYLE, Mr. TSONGAS, Mr. HECHT, Mr. BOREN, Mr. HEFLIN, and Mr. METZENBAUM):

S.J. Res. 241. Joint resolution to authorize and request the President to issue a proclamation designating May 6 through May 13, 1984 as "Jewish Heritage Week"; to the Committee on the Judiciary.

JEWISH HERITAGE WEEK

● Mr. D'AMATO. Mr. President, as Americans, we can be proud of the diverse culture which we share. The richness of our cultural heritage results from the ideals and values brought to our shores by people of many races and religions.

Among these immigrants, members of the Jewish community contribute significantly to the spiritual and cultural growth of our Nation. These individuals, along with their descendants have brought distinction and honor to every field of endeavor including the arts, humanities, and sciences. Our Jewish citizens have fought and died to preserve and protect the freedoms which this great country stands for.

The Jewish people cherish a tradition and a culture which spans the course of many thousands of years, reaching back to the dawn of civilization.

During each spring, Jews throughout the United States and around the world observe a number of significant dates. Beginning with the observance of Passover, which commemorates their passage from bondage to freedom, along with the observance of the anniversary of the Warsaw Ghetto uprising and concluding with the celebration of Israeli Independence Day, American Jews rededicate themselves to the concepts of liberty, equality, and democracy.

In recognition of the untold contributions of Jews, who have become an integral part of the American heritage, I am introducing the following resolution requesting that the President designate May 6 through May 13, 1984, as "Jewish Heritage Week."

Mr. President I ask unanimous consent that my joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S. J. RES. 241

Whereas, the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country; and

Whereas, intergroup understanding can be further fostered through an appreciation of the culture, history, and traditions of the Jewish community and the contributions of Jews to our country and society; and

Whereas, the months of March, April, and May contain events of major significance in the Jewish calendar—Passover, the anniversary of the Warsaw Ghetto Uprising, Israeli Independence Day, Solidarity Sunday for Soviet Jewry, and Jerusalem Day: Now, therefore, be it *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President is authorized and requested to issue a proclamation designating May 6 through May 13, 1984 as "Jewish Heritage Week" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.●

ADDITIONAL COSPONSORS

S. 249

At the request of Mr. PACKWOOD, the names of the Senator from Oklahoma (Mr. NICKLES), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of S. 249, a bill entitled the "Employee Educational Assistance Extension Act".

S. 875

At the request of Mr. MATHIAS, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 875, a bill to amend title 18 of the United States Code to strengthen the laws against the counterfeiting of trademarks, and for other purposes.

S. 1262

At the request of Mr. GRASSLEY, the name of the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 1262, a bill to amend the Internal Revenue Code of 1954 to improve Internal Revenue Service procedures concerning investigations and audits of churches, and for other purposes.

S. 1657

At the request of Mr. BURDICK, the names of the Senator from South Dakota (Mr. ABDNOR), the Senator from Georgia (Mr. NUNN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Vermont (Mr. STAFFORD), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Massachusetts (Mr. TSONGAS), and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of S. 1657, a bill to designate the week in November which includes Thanksgiving Day as "National Family Week."

S. 1733

At the request of Mr. TRIBLE, the name of the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 1733, a bill to amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce.

S. 1816

At the request of Mr. THURMOND, the name of the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 1816, a bill to amend the Textile Fiber Products Identification Act, the Tariff Act of 1930, and the Wool Products Labeling Act of 1939 to improve the labeling of textile fiber and wool products.

S. 2013

At the request of Mr. BUMPERS, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2013, a bill to amend the level of funding authorized for the maternal and child health services block grant for the purpose of insuring no less than the current level of services for fiscal year 1984.

S. 2131

At the request of Mr. DECONCINI, the name of the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 2131, a bill to provide for the temporary suspension of deportation for certain aliens who are nationals of El Salvador, and to provide for Presidential and congressional review of conditions in El Salvador and other countries.

S. 2178

At the request of Mr. BOSCHWITZ, the names of the Senator from Vermont (Mr. STAFFORD), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2178, a bill to amend the Federal-State Extended Unemployment Compensation Act of 1970 to provide an alternative regional trigger, and for other purposes.

S. 2182

On his own request, the Senator from Texas (Mr. BENTSEN) was withdrawn as a cosponsor of the bill (S. 2182) to harmonize, eliminate, and reduce barriers to trade in wine on a basis which assures substantially equivalent competitive opportunities for all wine moving in international trade.

On his own request, the Senator from South Dakota (Mr. ABDNOR) was withdrawn as a cosponsor of the bill S. 2182, supra.

S. 2224

At the request of Mr. MITCHELL, the names of the Senator from Rhode Island (Mr. CHAFEE), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of S. 2224, a bill to repeal section 140 of Public Law 97-92, 95 Stat. 1200, and for other purposes.

S. 2257

At the request of Mrs. KASSEBAUM, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Nebraska (Mr. EXON), the Senator from Utah (Mr. GARN), the Senator from Michigan (Mr. LEVIN), the Senator from Florida (Mr. CHILES), and the Senator from South Dakota (Mr. ABDNOR) were added as cosponsors of S. 2257, a bill entitled the "Senior Citizens' Tax Improvement Act."

S. 2307

At the request of Mr. BOSCHWITZ, the names of the Senator from Maryland (Mr. SARBANES), and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 2307, a bill making a supplemental appropriation to carry out title II of Public Law 480.

SENATE JOINT RESOLUTION 112

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 112, joint resolution to proclaim the month of March 1984 as National Social Work Month.

At the request of Mr. INOUYE, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from South Dakota (Mr. PRESSLER), the Senator from West Virginia (Mr. BYRD), and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of Senate Joint Resolution 112, supra.

SENATE JOINT RESOLUTION 143

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 143, joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning with Sunday, June 3, 1984, as "National Garden Week."

SENATE JOINT RESOLUTION 165

At the request of Mr. MATHIAS, the name of the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of Senate Joint Resolution 165, joint resolution to commemorate the bicentennial anniversary of the constitutional foundation for patent and copyright laws.

SENATE JOINT RESOLUTION 193

At the request of Mrs. HAWKINS, the name of the Senator from South Dakota (Mr. ABDNOR) was added as a cosponsor of Senate Joint Resolution 193, joint resolution designating March 6, 1984, as "Frozen Food Day."

SENATE JOINT RESOLUTION 210

At the request of Mr. TRIBLE, the names of the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Illinois (Mr. DIXON), the Senator from Alabama (Mr. HEFLIN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Oklahoma (Mr. BOREN), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of Senate Joint Resolution 210, joint resolution to designate the period commencing January 1, 1984, and ending December 31, 1984, as the "Year of Excellence in Education."

SENATE JOINT RESOLUTION 211

At the request of Mr. BURDICK, the names of the Senator from Georgia (Mr. MATTINGLY), the Senator from Mississippi (Mr. COCHRAN), the Senator from Indiana (Mr. LUGAR), the Senator from New York (Mr. MOYNIHAN), the Senator from Georgia (Mr. NUNN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Alaska (Mr. STEVENS), the Senator from North Dakota (Mr. ANDREWS), the Senator from Vermont (Mr. STAFFORD), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Alabama (Mr. HEFLIN), and the Senator from Utah (Mr. HATCH) were added as cosponsors of Senate Joint Resolution 211, joint resolution designating the week of November 18, 1984, through November 24, 1984, as "National Family Week."

SENATE JOINT RESOLUTION 217

At the request of Mr. HEINZ, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Massachusetts (Mr. TSONGAS), the Senator from California (Mr. CRANSTON), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Alaska (Mr. STEVENS), and the Senator from Illinois (Mr. DIXON) were added as cosponsors of Senate Joint Resolution 217, joint resolution to authorize and request the President to designate the week of May 6, 1984, through May 12, 1984, as "Senior Center Week."

SENATE JOINT RESOLUTION 220

At the request of Mr. KENNEDY, the names of the Senator from Arkansas (Mr. BUMPERS), tourthe Senator from New York (Mr. MOYNIHAN), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Michigan (Mr. RIEGLE), the Senator from Mississippi (Mr. STENNIS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. TSONGAS), the Senator from New Jersey (Mr. BRADLEY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Vermont (Mr. LEAHY), the Senator from Ohio (Mr. GLENN), the Senator from Mississippi (Mr. COCHRAN), the Senator from Wisconsin (Mr. KASTEN), the Senator from Idaho (Mr. McCLURE), the Senator from Alaska (Mr. STEVENS), the Senator from Vermont (Mr. STAFFORD), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Rhode Island (Mr. CHAFEE), the Senator from North Dakota (Mr. ANDREWS), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of Senate Joint Resolution 220, joint resolution to designate the week of May 20, 1984, through May 26, 1984, as "National Arts with the Handicapped Week."

SENATE JOINT RESOLUTION 225

At the request of Mr. MOYNIHAN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of Senate Joint Resolution 225, joint resolution designating the month of March 1984 as "National Eye Donor Month."

SENATE JOINT RESOLUTION 239

At the request of Mr. CHILES, the name of the Senator from Kansas (Mr. DOLE) was added as a cosponsor of Senate Joint Resolution 239, designating the week of October 21 through October 27, 1984, as "Lupus Awareness Week."

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. DECONCINI, the names of the Senator from California (Mr. WILSON) and the Senator from Montana (Mr. MELCHER) were added as cosponsors of Senate Concurrent Resolution 91, concurrent resolution expressing the sense of the Congress that the provisions of the Internal Revenue Code of 1954 relating to installment sales and the regulations prescribed by the Secretary of the Treasury under such provisions, or any other provisions of the Internal Revenue Code or regulations, should not be modified or amended in any way that will alter the manner in which mortgage-backed builder bond transactions are currently taxed.

SENATE RESOLUTION 127

At the request of Mr. ANDREWS, the name of the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of Senate Resolution 127, resolution to make the Select Committee on Indian Affairs a permanent committee of the Senate.

SENATE RESOLUTION 130

At the request of Mr. GORTON, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as cosponsor of Senate Resolution 130, resolution expressing the sense of the Senate that the President should award the Presidential Medal of Freedom to Barney Clark, to be presented to his family in his memory.

SENATE RESOLUTION 139

At the request of Mr. ZORINSKY, the name of the Senator from California (Mr. WILSON) was added as a cosponsor of Senate Resolution 139, resolution disapproving the recommendation of the Study Group on Senate Practices and Procedures to abolish the Senate Committee on Veterans' Affairs.

SENATE RESOLUTION 333

At the request of Mr. BUMPERS, the names of the Senator from Georgia (Mr. NUNN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Tennessee (Mr. SASSER), and the Senator from California (Mr. CRANSTON) were added as consponsors of Senate Resolution 333, resolution to reinstate the Farmers Home Administration Economic Emergency Loan Program.

SENATE RESOLUTION 350

At the request of Mr. GORTON, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Idaho (Mr. MCCLURE), the Senator from Colorado (Mr. ARMSTRONG), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Delaware (Mr. BIDEN), and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of Senate Resolution 350, resolution congratulating American athletes for their significant accomplishments and bearing at the 1984 Winter Olympics in Sarajevo, Yugoslavia.

SENATE CONCURRENT RESOLUTION 96—CALLING FOR THE SUBMISSION OF A NEW BUDGET BY THE PRESIDENT TO REDUCE THE FEDERAL DEFICIT

Mr. CHILES (for himself, Mr. INOUYE, Mr. BYRD, Mr. EAGLETON, Mr. BAUCUS, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOREN, Mr. BUMPERS, Mr. BURDICK, Mr. DIXON, Mr. EXON, Mr. FORD, Mr. JOHNSTON, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. PELL, Mr. PROXMIRE, Mr. PRYOR, Mr. RANDOLPH, Mr. RIEGLE, Mr. STENNIS, and Mr. ZORINSKY) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 96

Whereas the current federal budget deficits are projected to grow to unprecedented levels, exceeding $300 billion a year by 1989, under current tax and spending policies; and

Whereas the growth of the federal deficit would continue even if rapid economic growth were maintained; and

Whereas leading economic experts including the Chairman of the Federal Reserve Board, the Director of the Congressional Budget Office and the Chairman of the President's Council of Economic Advisors have testified that these deficits represent a grave threat to the health of our economy; and

Whereas delaying serious legislation to reduce the deficit until 1985 will delay any actual reduction in the deficit until 1986; and

Whereas the President has submitted a Budget proposal which is estimated by the Congressional Budget Office to produce deficits growing from $192 billion in fiscal year 1985 to $233 billion in fiscal year 1987 and $248 billion by 1989; and

Whereas the President's call for action to reduce the deficit by only a total of $100 billion over the next three years is totally inadequate to deal with the seriousness of the deficit problems, since it would yield deficits still growing to $195 billion by 1987; and

Whereas the Congressional Budget Office estimates that the net deficit reduction due to policy changes proposed in the President's budget equal only $23 billion over the next three years:

It is hereby, *Resolved by the Senate (the House of Representatives concurring)*, That:

A. No later than thirty days following enactment of this Resolution, the President shall submit a revised budget proposal to the Congress;

B. The revised budget should contain specific provisions to reduce the federal deficit by a total of at least $200 billion over the next three fiscal years below the levels most recently estimated by the Congressional Budget Office;

C. The deficit reduction proposals shall contain a balance of fair spending restraint and revenue increases;

D. Congress shall act expeditiously through regular legislative procedures to consider the President's proposals for deficit reduction and enact a package of at least $200 billion in deficit reduction.

Mr. CHILES. Mr. President, the concurrent resolution I submit today along with 27 of my Senate colleagues is straightforward. It calls upon the President to revise and resubmit the budget for fiscal year 1985. It is not an unprecedented step. Something similar was done on the last budget submitted by President Carter in 1980. The alternative balanced budget was submitted in accordance with a Republican-sponsored amendment.

The need for revisions today is far more clear. The President's budget projected a fiscal year 1985 deficit of $180 billion. That is not progress. That is not serious policy. It is an invitation to renewed recession.

Yet the President recognizes the problem, and said as much when he called upon Congress to join him in talks to develop a $100 billion downpayment on the deficit. Certainly, we need reductions. But we need more than $100 billion over 3 years. Therefore, this resolution calls upon the President to propose double that amount—$200 billion—over the next 3 years.

Within the last week, the nonpartisan Congressional Budget Office has reviewed the administration's budget proposal, and the results were breathtaking. CBO's reestimates of the budget show a $192 billion deficit in 1985, $211 billion in 1986, and $233 billion in 1987. They would grow to $248 billion in 5 years—twice the amount the President estimated. If we allow that to happen, we will be on a road to economic ruin rather than economic recovery.

If we reduce that by the $100 billion mentioned by the President we still have a deficit growing to $195 billion by 1987. We need to do better. If we can, under the President's leadership reduce the deficit by $200 billion over the next 3 years, we will bring the deficit down to 3.1 percent of the gross national product. That is still far too high a figure. But it is within the realm of economic tolerance, and certainly a clear signal to the economic forces in our society—from the biggest corporation to the smallest consumer—that America is serious about stabilizing its economic affairs, and our future is a trustworthy investment.

Mr. President, I ask unanimous consent to insert in the RECORD at this point a table comparing the deficits resulting from the President's budget, from $100 billion in deficit reductions, and from $200 billion in deficit cuts.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I — DEFICIT COMPARISONS

	Fiscal year			
	1984	1985	1986	1987
President's budget	184	180	177	181
CBO reestimate	186	192	211	233
CBO baseline	189	197	217	245
Percent GNP	5.3	5.0	5.1	5.3
A $100 billion option		(20)	(30)	(50)
Deficit	190	177	187	195
Percent GNP	5.1	4.5	4.3	4.2
B $200 billion option		(36)	(62)	(102)
Deficit	190	159	155	146
Percent GNP	[illegible]	4.0	3.6	3.1

[Prepared by minority staff, Senate Budget Committee from CBO estimate.]

Mr. CHILES. Mr. President, the concurrent resolution I have submitted is, in part, a product of the views of the most astute observers of our economic situation. Paul Volcker, the Chairman of the Federal Reserve Board, told a

Florida audience on January 13, that we cannot be confident of a sustained economic recovery without deficit cuts of between $50 billion and $100 billion in each of the next 3 years.

Dr. Rudolph Penner, Director of the Congressional Budget Office has expressed similar sentiments. And those views are shared in varying degrees both by David Stockman, the Director of the Office of Management and Budget, and Dr. Martin Feldstein, Chairman of the President's Council of Economic Advisers.

This concurrent resolution requesting action by the President is in no way an attempt to pass the responsibility back to the President and make it his alone. Last year, Congress went on record in the first concurrent budget resolution to make sizeable deficit reductions. But when it came time to change the laws and put those cuts into effect, many Members of Congress were unwilling to do so without the support of the President. And that support never came. In fact, this year's budget proposals from the White House would reduce the Federal deficit by just $23 billion over 3 years. And the Congressional Budget Office points out that the proposed military spending increases over the next 3 years exceed the proposed cuts in nondefense programs.

So we have much work to do—both Congress and the White House—and little time in which to do it.

This concurrent resolution says Congress is ready to help. And it says we are willing to accept the President's active involvement. It asks the President to forego the posture of a candidate and provide the leadership of a President in the serious and crucial fight to cut Federal deficits.

Mr. President, I ask unanimous consent that two tables reflecting the CBO reestimate of the President's budget and his deficit reduction program as reestimated by CBO be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE I-2.—THE ADMINISTRATION'S DEFICIT-REDUCTION PROGRAM AS ESTIMATED BY CBO

[By fiscal year, in billions of dollars]

	1985	1986	1987	1988	1989	Cumulative 5-yr total
CBO baseline deficit	197	217	245	272	308	1,239
Proposed changes						
Revenues [1]						
Taxation of health insurance premiums	4	6	8	10	12	40
Other tax increases	6	10	12	14	17	59
Tax reductions	2	4	5	5	5	22
Subtotal	8	12	15	228	24	77
Outlays						
National defense	10	21	23	20	11	85
Entitlements and other mandatory spending	4	6	9	12	15	46
Nondefense discretionary spending	2	5	7	12	17	44
Offsetting receipts	(*)	1	2	4	6	13
Net interest	1	2	3	5	10	20
Subtotal	3	7	2	13	36	38
Total policy changes	5	5	13	[illegible]	60	115
President's budget as estimated by CBO	192	211	233	241	248	1,124

[1] Revenue increases are shown with minus signs because they reduce the deficit; revenue decreases, which are displayed with no sign, increase the deficit.

Source: Congressional Budget Office.

TABLE I-1.—THE BUDGET OUTLOOK

	Fiscal year					
	1984	1985	1986	1987	1988	1989
Billions of dollars:						
CBO baseline [1]						
Revenues	663	733	795	863	945	1,016
Outlays	852	930	1,012	1,109	1,217	1,323
Deficit	189	197	217	245	272	308
Administration's program as estimated by CBO						
Revenues	665	741	807	878	964	1,039
Outlays	851	933	1,018	1,111	1,204	1,287
Deficit	186	192	211	233	241	248
As a percent of GNP:						
CBO baseline [1]						
Revenues	18.6	18.7	18.7	18.7	19.0	18.9
Outlays	23.9	23.8	23.8	24.0	24.4	24.6
Deficit	5.3	5.0	5.1	5.3	5.5	5.7
Administration's program as estimated by CBO						
Revenues	18.7	19.0	19.0	19.0	19.3	19.3
Outlays	23.9	23.9	24.0	24.1	24.1	23.9
Deficit	5.2	4.9	5.0	5.1	4.8	4.6
Memorandum: Gross national product (billions of dollars)	3,563	3,910	4,251	4,612	4,987	5,379

[1] The CBO baseline figures are preliminary revisions of those appearing in Congressional Budget Office, "Baseline Budget Projections for Fiscal Year 1985-1989" (February 1984).

Source: Congressional Budget Office.

AMENDMENTS SUBMITTED

DUTY-FREE ENTRY OF CERTAIN ARTICLES

DECONCINI AMENDMENT NO. 2712

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes; as follows:

At the appropriate place, add the following new section:

"SEC. . (a) the Secretary of the Treasury is authorized and directed to admit free of duty any scientific and technical equipment necessary for the sub-mm telescope project and designated to be provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany, which the Vice President for Research, University of Arizona, certifies as being required for the construction, installation, or operation of a sub-mm telescope in the State of Arizona which is the subject of a joint astronomical project undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for Radioastronomy of the Federal Republic of Germany.

(b) the provisions of subsection (a) shall apply with respect to articles entered for consumption before November 1, 1993.

SMT TELESCOPE

● Mr. DECONCINI. Mr. President, I send an amendment to H.R. 3398 to the desk, and ask unanimous consent that it be printed in the RECORD. The amendment is very simple and it is consistent with the substance of H.R. 3398. My amendment would provide duty-free entry for items related to a joint project between the University of Arizona and the Max Planck Institute for Radioastronomy in Bonn, West Germany. The collaboration will result in a new sub-mm telescope (SMT). The amendment is a perfected version of the bill I introduced last fall, S. 1986. The SMT will be contructed in southern Arizona on a site provided by the University of Arizona. The cost of the project is to be shared by the University of Arizona and the Max Planck Institute. The West Germans will be providing the telescope mount, reflector panels, support structures, mirrors, and other necessary material. This project will further cooperation between our Nation and the Federal Republic of Germany while expanding our knowledge of the universe. I hope that my colleagues will support me in this amendment. I ask unanimous consent that a description of the project be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUB-MILLIMETER TELESCOPE FACILITY

The Sub-Millimeter Telescope is a joint project of the University of Arizona, Steward Observatory, and the Max Planck Institute for Radio Astronomy in West Germany. Together the two institutions are working to construct a ten meter diameter telescope to study celestial emissions at wavelengths between the radio and the infrared regions of the spectrum. To effectively collect these feeble signals requires an unprecedentedly precise reflecting antenna located at an extremely dry site. Sub-millimeter astronomy can only be done at very high and dry sites because water vapor in the earth's atmosphere absorbs most of the incoming signals. Arizona is fortunate in having mountains within the state which are suitable observatory sites for the next generation of telescopes. Supreme among these is Mt. Graham because of its high altitude (10,700 ft.) and dry, clear skies.

The University of Arizona's Steward Observatory and Optical Sciences Center have developed new technologies in the areas of glass casting, glass grinding and polishing, and structural design using carbon-fiber-reinforced-plastic composite materials which will allow a tremendous improvement in the accuracy of the lightweight panels which form the telescope mirror. The Sub-Millimeter Telescope will be protected by an economical integrated enclosure which is literally built around the telescope. This innovative feature significantly reduces the facility costs by reducing the size of the enclosure and mimics the successful design of the Multiple Mirror Telescope facility which was built and is being operated jointly by the University of Arizona and by the Smithsonian Institution.

THE SUB-MILLIMETER TELESCOPE (SMT): A JOINT ASTRONOMICAL PROJECT OF THE STEWARD OBSERVATORY, UNIVERSITY OF ARIZONA, AND MAX PLANCK INSTITUTE FOR RADIOASTRONOMY (MPIfR), BONN, WEST GERMANY

The Submillimeter Telescope (SMT) is an advanced technology 10 meter diameter radio telescope to be constructed on a mountain top site outside Tucson, Arizona. Its high precision surface makes possible operation at the shortest radio wavelengths (1/3 millimeter) at which radiation from astronomical objects can still penetrate the earth's atmosphere. This wavelength range, which is still largely unexplored, appears to hold the key to understanding the interstellar medium and the process of star formation.

The SMT is being constructed jointly by the University of Arizona and the Max Planck Institute for Radio Astronomy (MPIfR) of Bonn, West Germany. MPIfR is responsible for constructing the telescope and mount; the University of Arizona for the building, site, and operation. Both will provide observing instruments and share the observing time. A portion of the Arizona observing time will be available to the U.S. astronomical community.

The telescope design incorporates many state-of-the-art technological features. The reflector and backup structure will be made of carbon fiber reinforced plastic (CFRP), also known as graphite epoxy, which has remarkable high strength and low thermal expansion coefficient. The reflector surfaces will be made of precision replicated sandwich panels formed out of aluminum core and CFRP face sheets utilizing a recent breakthrough in this technique under a University of Arizona-West German collaborative effort. These panels will be replicated from very high accuracy Pyrex molds generated at the University of Arizona's Optical Sciences Center.

The telescope building is a novel compact low cost design which might prove to be a prototype for other telescope projects of the future.

The SMT is a partial realization of the recommendations of the National Academy of Sciences "Field" Committee Report, "Astronomy and Astrophysics for the 1980's, Report of the Astronomy Survey Committee" (1982) and the National Science Foundation "Barrett" report, "Report of National Science Foundation Astronomy Advisory Committee Subcommittee on Millimeter and Submillimeter Astronomy" (1983). Both committees recommended construction of 10 meter class submillimeter radio telescopes.

The SMT provides an opportunity for U.S. astronomers to maintain and extend leadership in an area of radio astronomy which they have largely created. It involves an innovative new technology which is likely to be applicable to future far infrared and submillimeter space telescopes such as the Large Deployable Reflector (LDR) now under consideration. The SMT is an international cooperative project, and the first international observatory effort in Arizona.

MAX PLANCK INSTITUTE FOR RADIO ASTRONOMY, BONN, WEST GERMANY

The Max Planck Institute for Radio Astronomy (MPIfR) is one of approximately fifty Max Planck research institutes operated by the Max Planck Society of West Germany with funding principally from the West German Federal Government and from individual states. The MPIfR is located in Bonn. It consists of a number of radio astronomers and supporting technical staff, who have established a high level of capability for research in radio astronomy as well as for constructing, operating, and instrumenting radio telescopes.

The MPIfR constructed and operates the 100 meter Effelsberg radio telescope, the largest fully steerable radio telescope in the world. This telescope operates down to wavelengths as short as 1 centimeter.

The MPIfR is responsible for construction of a 30 meter millimeter wave radio telescope on the Pico Veleta in Spain. This telescope is being built for the Institute for Radio Astronomy at millimeter wavelengths (IRAM) a joint German and French venture. This telescope, scheduled to become operational in 1983, is the largest of its kind in the world.

Currently the MPIfR is collaborating with the University of Arizona in the construction of a 10 meter Submillimeter Telescope (SMT) to be located on a mountain top site near Tucson, Arizona. This telescope will operate at the very shortest radio wavelengths for which radiation from astronomical objects can penetrate the earth's atmosphere.●

PERISHABLE AGRICULTURAL COMMODITIES

BOREN (AND OTHERS) AMENDMENT NO. 2713

(Ordered to lie on the table.)

Mr. BOREN (for himself, Mr. BOSCHWITZ, Mr. BAUCUS, Mr. ABDNOR, and Mr. HART) submitted an amendment intended to be proposed by them to the bill (H.R. 3867) to amend the Perishable Agricultural Commodities Act, 1930, by impressing a trust on the commodities and sales proceeds of perishable agricultural commodities for the benefit of the unpaid seller, and for other purposes; as follows:

Strike out line 3 and insert in lieu thereof the following:

"TITLE I—PERISHABLE AGRICULTURE COMMODITIES

"SECTION. 101. Section 5 of the Perishable Agricultural Commodities";

On page 4, line 1, strike out "SEC. 2" and insert in lieu thereof "SEC. 102"; and

On page 4, after line 4, insert a new title as follows:

"TITLE II—WHEAT

"SEC. 201. This title may be cited as the "Wheat Improvement Act of 1984".

TARGET PRICES

SEC. 202. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out "$4.45 per bushel for the 1984 crop, and $4.65 per bushel for the 1985 crop" and inserting in lieu thereof "and $4.38 per bushel for the 1984 and 1985 crops".

1984 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 203. Section 107B(e) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence of paragraph (1)(A) "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)";

(2) adding at the end of paragraph (1) the following new subparagraph:

"(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of whcat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 30 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program. The Sercetary shall permit all or any part of the acreage reduced under the acreage limitation and diversion program to be devoted to hay and grazing. The closing date for signup in such programs shall not earlier than March 30, 1984."; and

(3) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1984 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1984 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this paragraph. The diversion rate shall be established by the Secretary at not less than $3 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1984 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1984. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1984 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary of Agriculture shall

make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program yield.".

ADVANCE PAYMENTS

SEC. 204. Section 107C of the Agricultural Act of 1949 is amended by—

(1) inserting in subsection (b)(1)(B) "(except that for the 1984 crop of wheat, the Secretary shall make available)" after "may make available", and

(2) striking out in subsection (c)(4) "1983 crops of wheat," and inserting in lieu thereof "1983 and 1984 crops of wheat, and the 1983 crops of".

CONGRATULATING OLYMPIC ATHLETES

GORTON AMENDMENT NO. 2714

Mr. GORTON proposed an amendment to the concurrent resolution (S. Res. 350) congratulating American athletes for their significant accomplishments and bearing at the 1984 winter Olympics in Sarajevo, Yugoslavia; as follows:

In the preamble delete the words "Wilmington, Delaware" and insert in lieu thereof "Burlington, Massachusetts".

NOTICE OF HEARINGS

SUBCOMMITTEE ON LABOR

Mr. NICKLES. Mr. President, today I am introducing legislation amending the Multiemployer Pension Plan Amendments Act of 1980. Congressman JOHN ERLENBORN has introduced identical legislation in the House of Representatives.

These amendments are designed to destigmatize the withdrawal liability provisions in the 1980 act in the eyes of contributing employers and to address the real problem presented to the title IV insurance program, that is, that many of these plans are drastically underfunded and in need of substantial reform.

The Senate Labor Subcommittee will hold 2 days of hearings on this legislation on May 15 and 17, 1984. Persons wishing to testify should submit a written request to Chairman DON NICKLES, Subcommittee on Labor, 428 Dirksen Senate Office Building, Washington, D.C. 20510. Requests to testify should be submitted no later than March 30. If you have any questions concerning the hearing, please contact Chuck Carroll, on the subcommittee staff, at 202-224-5546.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, February 22, to hold a hearing on recommendation made by the Grace Commission regarding the Department of Agriculture.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate, on Wednesday, February 22, to hold a hearing on the following nominations:

David Jordan to be Ambassador to Peru; and Harold Phillips to be on the Board of Directors of the Inter American Foundation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 22, at 2:00 p.m., to meet in closed session to consider intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC AND THEATER NUCLEAR FORCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Strategic and Theater Nuclear Forces, of the Committee on Armed Services, be authorized to meet during the session of the Senate on Wednesday, February 22, at 2:00 p.m., to receive testimony on Soviet strategic force developments.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, February 22, to hold a markup on Committee budget requests.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, February 22, in order to receive testimony concerning the following nominations: James Harvie Wilkinson III, of Virginia, to be U.S. Circuit Judge for the Fourth Circuit and Pauline Newman, of Pennsylvania, to be U.S. circuit judge for the Federal circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

STATUS REPORT ON BUDGET

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate a status report on the budget for fiscal year 1984 pursuant to section 311 of the Congressional Budget Act.

Since my last report, the Congress has cleared for the President's signature the Veterans' Compensation and Program Improvements Amendments of 1984 (S. 1388).

The report follows:

STATUS OF THE FISCAL YEAR 1984 CONGRESSIONAL BUDGET, ADOPTED IN HOUSE CONCURRENT RESOLUTION 91

REFLECTING COMPLETED ACTION AS OF FEBRUARY 10, 1984

[In millions of dollars]

	Budget authority	Outlays	Revenues
Second budget resolution level	922,125	852,125	679,600
Current level	921,414	854,057	665,286
Amount remaining	711	0	0

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $711 million for fiscal year 1984, if adopted and enacted, would cause the appropriate level of budget authority of that year as set forth in H. Con. Res. 91 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $0 million for fiscal year 1984, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 91 to be exceeded.

REVENUES

Any measure that would result in revenue loss exceeding $0 million for fiscal year 1984, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 91.●

EXECUTIVE OF THE YEAR—WILLIAM ANDRES

● Mr. DURENBERGER. Mr. President, Corporate Report—Minnesota has named as its "Executive of the Year" William Andres, chairman of Dayton Hudson Corp. A brief look at the man and at the success of the corporation under his leadership reveals that Bill Andres is truly worthy of this honor.

Bill worked his way up from management trainee over 25 years with Dayton Hudson. By the time he was named chief executive officer in 1976, the corporation had grown into a $2 billion operation with 386 stores in 38 States. Today that $2 billion has tripled and the number of stores has surpassed 1,000 in 47 States, plus the District of Columbia and Puerto Rico. Through shrewd management that is often called the best in the industry, Dayton Hudson continued to prosper during a recession that hit many other retailers hard. In terms of revenue, it

is now the Nation's fifth largest nonfood retailer. It is the second largest publicly held corporation in the upper Midwest. Last September Bill stepped down as CEO, staying on as chairman and head of the executive committee.

Bill Andres is known for his people-oriented philosophy, a man "who never forgot where he came from," as one fellow executive put it. It is a philosophy that is reflected in the corporation as a whole. Dayton Hudson continues as a consistent leader in corporate social responsibility, offering not only philanthropy but also other innovative projects for solving problems and meeting needs of the community.

The philosophy and success of William Andres and Dayton Hudson should be a model for corporate America. I ask that an article about Bill and his Executive of the Year Award, from Corporate Report—Minnesota, be printed in the RECORD.

The material follows:

[From Corporate Report, January 1984]

EXECUTIVE OF THE YEAR: WILLIAM ANDRES

(By Mary Bader Papa)

Walking through the third floor of Dayton's Minneapolis store, William A. Andres checks his watch and decides he had better call his secretary. The nearest phone is steps away, just behind an unattended cosmetics counter. He slips behind the counter and strides to the phone, picks up the receiver and begins punching buttons.

A young clerk watches him warily. She slips behind the counter and confronts the intruder: "Who are you?"

Not very loudly he answers her:

"I am the chairman of the board of Dayton Hudson Corporation."

A sure-and-I'm-the-Queen-of-England look flashes briefly across her face. It disappears and a blush fills in the few spots not already colored with makeup. The tall, narrow stranger in the pin-striped suit stops punching buttons and looks at her. "But I appreciate your asking," he says. She is speechless. As he leaves, he pauses to reassure her. "Really, I appreciate your asking."

Like most top executives in town, Bill Andres belongs to the Minneapolis Club. But it doesn't seem to have occurred to him that there's anything undignified about being behind a cosmetics counter. An inflated sense of self-importance is something Andres neglected to acquire on his way up the corporate ladder. He was too busy tending to other details, such as slowing his pace long enough to make sure that one of Dayton's approximately 90,000 employees does not feel embarrassed about having done her job right.

"People often think there's some mystery, some magic to it," Andres said recently in a speech to retailing students. But the truth is, he said, that success in the retail business "is a matter of doing a lot of little things right."

In his 25 years with Dayton Hudson, Andres has been behind many counters, and he has never ceased believing that the success of a retailing operation depends on the people who stand on either side of those counters. "He is a CEO who never forgot where he came from," says one executive who has known him for the past quarter century.

In September, Andres turned over the CEO position to his handpicked successor, Dayton Hudson president Kenneth Macke, completing a dynamic, seven-year chapter in the corporation's history. He continues as chairman and chairman of the executive committee.

Dayton Hudson had already expanded dramatically beyond its family department-store roots when Andres became CEO in September 1976—the first CEO from outside the Dayton family. Guided by the Dayton brothers, the family business by then had gone public and expanded to become close to a $2-billion diversified retailer with 386 stores in 38 states. Today, it is a more-than-$6-billion-corporation with 1,083 stores in 47 states, plus Puerto Rico and Washington, D.C.—and 68 percent of those stores were added while Andres was CEO. Despite the recession in which some retailers foundered, Dayton Hudson continued its uninterrupted 10-year history of increasing profits. It emerged from the recession stronger than ever. Earnings for the first nime months of the current fiscal year were up 25 percent. Its stock has quadrupled in value since 1976.

Behind the litany of numbers that impress investors is an impressive record of management, a management that has not only steered the corporation through the recession but also positioned it for long-range growth with a clear sense of mission and clear strategies. And, while making a profit, that management has continued the corporation's tradition of returning a share of its wealth—plus volunteer talent—to the communities in which it operates. In recognition of his solid record of professional management, the publisher and editors of Corporate Report Minnesota have selected William A. Andres as our 1984 Executive of the Year.

When Dayton Hudson went public in 1967, Sears Roebuck, the nation's largest retailer, was 40 times its size. today, Sears' retailing operations are less than four times the size of its Minneapolis-based competitor. This past year, Dayton Hudson achieved a long-sought goal when it became the fifth-largest (in revenue) non-food retailer in the nation. Last year, too, Dayton Hudson became the second-largest publicly held corporation in the upper Midwest, trailing only 3M in revenue.

"Sometimes," says Kenneth Dayton, Andres' mentor and predecessor as CEO, "we'd move so fast we wouldn't get everything right." He counted on the hard-working perfectionist Andres to set things right.

Dayton says he is sure that Andres is "the outstanding retailing executive" in the United States at this time—"In my opinion, there isn't a person who could touch him."

Andres' longtime friend Jim McClune, a former Dayton Hudson executive who is now president of Crown Center Retail Properties in Kansas City, Missouri, calls Andres "the right man at the right time in Dayton Hudson history."

Self-disciplined and organized, Andres started at the bottom of the corporation—literally. At the age of 32, he found himself hauling coats from the sub-basement to the basement at the downtown Minneapolis store. He had taken what appeared to have been a step down in order to join the Dayton organization as a management trainee. His wife, Betty, remembers how he used to come home discouraged by the sub-basement and wondering whether he had made a mistake. She advised him to sit tight.

In 1958, the Andreses and their three little boys had been living in Ohio, where he was a divisional merchandise manager for Edward Wren, a department store. Andres had interviewed that year for a position in Minneapolis with Munsingwear, and although they had decided he was too young for the job, they had been so impressed with him that they had sent his resume to Dayton's. So while visiting family in Iowa, Andres drove to Minneapolis to see Kenneth Dayton. There was no opening on Andres' level, but Dayton told him that if he took a trainee's job, he'd be paid a general merchandise manager's salary. "He was smart enough to know that if we were willing to pay his general merchandise manager's salary, we wouldn't keep him as a trainee long," says Dayton.

Kay Sexton, now a vice president for Dayton Hudson's B. Dalton Booksellers chain, was one of Andres' first supervisors in the basement budget store. "At Christmas time, he ran the robe outpost," she remembers, "and—I might add—very efficiently." At one point, Kenneth Dayton asked Sexton how good this new man was. "I told him," says Sexton, "he had the ability to run the entire basement."

Andres never had that particular opportunity. Instead he moved rapidly up the organization, becoming vice president of the home-furnishing division in 1968, then general operations manager and senior vice president of the department stores. From 1971 to 1974, he was executive vice president of all the corporation's retail operations. He became president and chief operating officer of the corporation in 1974 while Kenneth Dayton was CEO. Then in 1976, Andres was selected to be the first non-family CEO in Dayton Hudson history, an important transition that had long been planned by the Dayton brothers. Andres became chairman and CEO the next year.

Like the Daytons, Andres was born into a retailing family. His parents ran a general store in Fayette, a northeastern Iowa town that had a population of 1,000 in those days. He was an only child. "That's why I'm so agreeable, I think," he says.

On Saturday nights it was his job to candle the eggs that farmers had brought for trade. Later, in the evening, he would go to a nearby tavern and round up the farmers to collect their merchandise, so the store could close at midnight.

Business was never booming. In fact, Andres' parents had to sell their house and move into the back of the store, where they stayed for most of Andres' childhood. The future chairman of the board had his first lessons in retailing there.

"The retail business in smaller towns were caught in an unfavorable trend [the Great Depression]," he recalls. "I guess what you learn from that is that it's very important to have the right business strategy. If you do, life can be much easier for you than if you have the wrong one. No matter how well you manage, sometimes it's pretty hard to overcome being in the wrong place at the wrong time."

In those days a kid needed ingenuity and luck to get ahead. Andres had both. He also had a skill—he was an amateur magician. While still in high school, he and a friend earned money going from one small Iowa town to another, staging magic performances. They rented the stage, passed out handbills, and swept the floor when it was over. Later, magic also helped him get a college education. During his high school years he had a job traveling from town to town with recruiters from Upper Iowa University, a small school in Fayette. After young Bill entertained high school assemblies, the recruiters gave their pitch for the college. In exchange, Andres received his college tuition.

World War II interrupted his education. The Army gave him his first trip away from home. He arrived in Germany on V-E Day.

While home on leave, he met Betty on a blind date. He resorted to magic again, pulling a half dollar out from behind her ear. "Wow," she thought, "with a guy like this, I'll never go broke." After they were married, Betty taught fourth grade until Andres finished college on the GI Bill and completed a masters degree in retailing at the University of Pittsburgh.

In the analytical style for which he is known, Andres weighed his options before choosing a career. He considered dentistry, but he ruled that out after failing chemistry. He settled on retailing after reading a series of magazine articles.

Department stores and the entire retailing industry have changed drastically during Andres' career. The corporation he joined in 1958 bore little resemblance to the corporation he leads today. Before Andres joined the company, the course for change had already been set by the Daytons, who were adept at staying ahead of changing consumer habits. When demographics showed a population shift to the suburbs, the Daytons bet on shoppers' desire to shop close to home; they built Southdale, the world's first fully enclosed, two-level shopping center—beginning a retailing revolution that is taken for granted today. When customers started trading department-store ambience for discount-store bargains, the Daytons started Target. And when the well-educated baby-boom generation started coming of age, the Daytons started a bookstore chain.

Under Andres' leadership, the changes continued. Generally, the more recent changes have put the corporation in a better position to benefit from two major trends: the rapid population growth in the South and West, and the increasing price-consciousness of consumers.

Perhaps the most significant of these changes was the 1978 merger with Mervyn's, a California-based department store chain. The merger made Dayton Hudson the second-largest department store company in the country. (In 1967, Dayton's had merged with Detroit-based Hudson's department stores to form Dayton Hudson.) Not only was Mervyn's sunbelt location a plus for the corporation, whose major investments were until then concentrated in frost-belt states with modest to bleak prospects for growth, but Mervyn's retailing strategy was proven, profitable, and growing.

In the eyes of Dayton Hudson management, Mervyn's was onto an important trend—"value orientation" is what Andres calls it. (You can get the idea by walking through Dayton's department stores these days. "Valueplus" signs are everywhere on selected racks of merchandise.) Price, of course, is a big part of what is meant by value. But the term, as used by Dayton Hudson subsidiaries, also includes quality, fashion, convenience, and other things important to customers. Each operating company decides how its particular customers are likely to define value, and each tailors its strategies accordingly. Value orientation doesn't mean that customers always buy the cheapest product available; it does mean that the customer wants to get the most for the money. Under Andres' leadership, Dayton Hudson has been adapting to this trend increasingly since the mid-1970s recession.

The importance of Mervyn's to the corporation can be seen in one number: Mervyn's now provides one-third of the corporation's operating profit. It is mainly because of Mervyn's that Dayton Hudson now earns more of its revenue in California than in any other state

And Mervyn's continues to expand, with the goal of becoming a national chain. There were 69 Mervyn's stores in 1980; today there are 109. A month ago, Dayton Hudson announced its plans to open 126 new Mervyn's stores during the next five years.

What Dayton Hudson's pleased stockholders might not realize about the addition of Mervyn's to the corporation's portfolio is that it almost didn't happen. Satisfied that the important merger was all set, Andres was preparing to fly to New York to accept an award when the call came from Mervyn's that the deal was off. Andres quickly sent a stand-in to New York, while he flew to California to salvage what was probably the biggest deal of his career. "That," he says, "was a nervous one."

A second major growth area of the corporation under Andres has been the Target division. It's now the largest division of the corporation (by revenue), and, like Mervyn's, it accounts for one-third of the corporation's operating profits. A chain of discount stores where the value orientation is indisputably on price, Target went from 137 stores in 1980 to 205 stores at the end of 1983.

An important part of Target's expansion, too, was its entry into the growing western and southwestern markets. At the end of 1977, the corporation had 103 stores in the states of California, Arizona, and Texas combined. By the end of 1983, there were 356 stores in those states—almost a third of all Dayton Hudson's stores. (With 61 stores, Minnesota is now only a distant third behind California, with 205, and Texas, with 111.)

As important as the acquisitions during Andres' tenure as CEO was his move to sell some of the corporation's assets. The largest of these divestitures was the 1978 sale of nine regional shopping centers. It was a strategic decision to get out of the real-estate business—a tough decision, but a logical one for a publicly traded retailing company that didn't want to tie up its growth capital.

Responding to change—"managing change," as Andres puts it—is the nature of Dayton Hudson's business. The numbers tell the story of how successful that management of change has been:

In 1977, Andres' first full year as CEO, the bulk of corporate operating profits were produced by the department-store division (58 percent) and Target (26 percent). By 1982, the change was dramatic—the department-store division had dropped to 25 percent, Target had climbed to 33 percent, and Mervyn's was at 33 pecent.

The rate of growth among the divisions was telling: While Target and Mervyn's at the end of 1932 had a compound five-year growth rate of 26 percent and 32 percent respectively, the older department-store division—the corporation's cornerstone—had a growth rate of only 2 percent.

It is numbers such as these that help determine the future of the corporation, for growth capital is allocated to Dayton Hudson subsidiaries according to their potential for producing future profits. Accordingly, 85 percent of a recently announced $2.5-billion, five-year capital investment program is earmarked for expansion of Target and Mervyn's. There's no room in this process for sentimental attachment to favorite old stores or strategies, or for ideas that worked well yesterday.

The strategic planning process at Dayton Hudson calls for management to be testing at least one and no more than two new retailing strategies at any given time. Not surprisingly, the current test strategy involves off-price retailing, the fastest-growing retailing phenomemon in the country now. Some retailing analysts predict that off-price retailing, which now accounts for only 6 percent of the apparel business, will account for 20 percent of the apparel trade by the end of the decade. Dayton Hudson's entry in this competition is a chain of four stores called "Plums—The Elegant Discounter." Located in the trend-setting and populous Los Angeles area, Plums' strategy combines off-price retailing with discounting of moderate to classy clothes. It's too early to tell where this test strategy is going, Andres says, refusing to be drawn into judgments until there are supporting numbers. There are emotional elements of the retailing business, to be sure, but they are not on *his* end of the business. It's interesting to remember, however, that B. Dalton Booksellers, a 700-store subsidiary now, began as a test strategy with one store at Southdale in 1966.

It doesn't take much imagination to realize that there will be even more change to manage for department stores like Dayton's, Hudson's, or the corporation's smaller department store groups in the Southwest, John A. Brown and Diamond's. The number of stores in this division has remained static. One new Hudson's store opened in Michigan this past year, but in Detroit the downtown store closed its doors. In the Twin Cities, however, both downtown stores have received major investments for remodeling. Value orientation doesn't automatically mean death to the traditional department store. Andres notes that some merchandise is still "ego-oriented"—new fashions, for instance—and customers want a certain amount of atmosphere when shopping for such things. These customers want more than clothes; they want a shopping experience. But the department stores are changing, too.

A particularly interesting example of this change might first be noticed by a Dayton's customer who hears recorded loon noises. It means that customer has been lured into one of Dayton's new Boundary Waters departments, veritable Northwoods boutiques in which the company's Boundary Waters private label is applied to everything from turtlenecks to chocolate ducks. This department-store strategy combines the corporation's value orientation with the trend to private label merchandise that can be bought only at the department store. Of course, there is only the loosest of regional connections to the real Boundary Waters wilderness. It is, after all, several hundred miles away from the Nicollet Mall and even farther from Edina. But the idea seems to be to sell a little wilderness mystique along with dependable quality at a price that is neither cheap nor outrageous—unless one is not accustomed to paying $50 for chocolate ducks.

Of course, if a Dayton's customer doesn't like Boundary Waters slippers shaped like mallards, no problem. All of the corpora-

tion's stores have an unlimited return policy. The policy, Andres says, is "one of the best forms of consumerism that you can have," for it puts pressure on the merchandiser, who in turn exerts pressure on the manufacturer to improve the quality of the product. The policy is also one of the best examples of the department stores' service orientation that builds customer traffic and loyalty in ways that trendy low-overhead discounters can't.

Catering to the changing department-store customer includes providing some services—even at a loss—to reinforce the relationship with the customer. "We never lose money when we have customers in the store," says Andres, explaining why Dayton's operates its ticket service for concerts and plays at a loss. Were they to cut such services, he says, the high-profit departments would suffer from reduced traffic.

Keeping up with the changing customer is an ongoing process. "We try to approach it," Andres says, "not with giant leaps forward of looking into the future, but in making sure that the business is changing day to day the way the customer is changing." Taken into account in strategic planning, for instance, are the facts that the population is aging, that a still-growing number of women are working outside the home, that couples are having fewer children, that customers have become diversified groups with a plethora of specialized interests from jogging to pasta-making. Thus, the trend toward specialized retailing has developed.

It is not a field for nostalgic traditionalists.

Charting change and anticipating what the customer demand will be—even before the customer knows—is a broadly distributed function at Dayton Hudson. "What we try to do is enlist the help of almost everyone in this subject of change, so it isn't confined to the staff area's vision of the future," says Andres. "We think that change is occuring almost everyday. You go to the sales people on the floor of Dayton's or Target, and I think that they'd have a pretty good idea of how we need to change and how we see the customer changing." The process is institutionalized in the corporation as "trend merchandising." Under this system, it is as important to know when a trend has peaked and is on its way out as it is to recognize an incoming trend.

"Our ability to adapt, to understand and capitalize on change, is very important, not only in the merchandising area but in the areas of finance, real estate, personnel, and others," Andres says. The principle of broad, decentralized responsibility for keeping up with change, first begun on the sales floor at Dayton's when buyers were given the responsibility for spotting fashion trends, now applies throughout the corporation.

"Up here," says Andres, sitting in his corner office on the 15th floor of the IDS Tower, "your job isn't so much to be knowledgeable about every trend in every department. What you do try to do though is to have *people* leading those departments who are very attuned to trends. Your job up here is to listen a lot. You try to study the figures. You try to discover an understanding about what's going on. Hunches will occur to you. Where there's an opportunity of a problem, you try to collect clues. If you listen hard enough and long enough on a subject, pretty soon an awful lot of things will come through to you, confirming or not confirming a thought that you had about a business opportunity or problem. Therefore, it seems to me that this job is somewhat of an extension of a buyer's job, because I always felt in buying, if you listened to you sales people, to your customers, studied the trends or the hunches, pretty soon it would come through rather conclusively where something was going in terms of a fashion trend."

His hardest decisions involve people: "Making the final decision approving the discharge of an executive is tough. You spend a lot of time mulling that over." At such times, he says, "I like to treat people the way I would like to be treated if it were the other way around."

Andres' management team was deliberately shaped to provide a balance in the corporation between the creative, risk-taking entrepreneurial types and the hard-nosed financial managers. That has been a clear corporate strategy at Dayton Hudson even as the financial executives have gained dominance in other established corporations. "I think you have businesses in trouble when one side overwhelms the other," Andres says. "You can go off the deep end in terms of being creative or risk-taking, and ignore the financial implications."

Within the corporation, Andres is known for his participative management style—a style for which the Japanese usually get credit. "The old autocratic, unparticipative management style isn't going to serve many institutions well in the future," he says. ". . . The young people today want to work where they can express their views, where they can express their ideas, where they can have some real autonomy for how their business departments are conducted. And they want to be consulted and recognized." Did this style come naturally to him? Andres laughs. "It was a struggle for me. Initially I probably over-controlled. I had to learn the hard way that you have to let people make their own decisions and use their initiative. And you have to have tolerance because they don't do it exactly the way that you would do it. . . . Eventually, I came to the conclusion that it was the best way to get the job done."

Kenneth Dayton observes that, as CEO, Andres ran probably the most decentralized major corporation in America: "He would rather trade a pound of efficiency for an ounce of motivation," Dayton says.

Macke, who like Andres rose through the merchandising ranks, has regarded Andres as a mentor for 20 years even though he has worked directly for him for only the past three years. Among the lessons of those years was Andres' indirect teaching method, which included the freedom to make mistakes. Macke managed to rise to the top despite an inauspicious beginning as a handkerchief buyer just as Kleenex cornered the market.

When Macke was Dayton's scarf buyer, he remembers, Andres once stopped in his department and opened a drawer—"where we used to hide the things that weren't selling."

"How's this doing?" Andres asked, looking at the unsold scarves.

Not very well.

"Do you have any plans for it?"

Oh, yes.

"When do you suppose they'll be gone?"

After Christmas.

About January 15, Andres came around again and looked in the drawer. The scarves were still there, says Macke. "Bill looked at me, and he said, 'Oh, are these the same scarves?' That was his style. Not, 'Gee, you didn't do what you said you'd do.' He established very clearly that if you told him something, he was going to check back with you," Macke says. As soon as Macke marked down the scarves and put them on the counter, Andres walked by again. But this time he remarked, "Gee, it's nice to see you're getting rid of those scarves."

In Macke's view, Andres' strongest characteristic as a manger is his "ability to maximize the strengths of others and overlook their weaknesses." In fact, on his office credenza, sometimes covered up with papers but always nearby, is an editorial Andres clipped from a trade publication years ago. Its message, yellowed by time and framed behind glass, is simple: Concentrate on your strengths. It's a philosophy Andres applies to himself, to managing people, and to corporate strategies.

When asked to describe his proudest accomplishment as CEO, Andres doesn't hesitate: developing what he calls "the Dayton Hudson team." Macke considers Andres exceptional in this regard and credits him with making team-playing a "major part of the Dayton Hudson culture." This is no small accomplishment in a business that attracts high-powered, creative egos.

Because of this, Andres' personal style is surprising. He is controlled, low-key—not in the least flamboyant. His "people" skills are an important part of his success, says Kay Sexton: "That's really important because you're working with all these super egos in retailing." People don't feel threatened by him, and they are willing to do their best for him, she adds. "He always remembers the people he worked with. A lot of guys forget the ones who helped them along the way." Andres' unpretentious nature impressed her long ago. She remembers a night in New York many years back when both of them were part of a buyers' group having dinner in Greenwich Village. Andres suggested a postdinner drama and led the way: a visit to New York City's night court.

When Andres relaxes, his tastes are fairly simple. He likes golf, but he loves fishing. "The minute he puts one foot in a boat he is a different person," says Betty Andres.

Andres' friend Jim McClune, who has hunted and fished with him, says Andres is such a skillful fisherman that once the guide of a fishing expedition started following Andres' boat.

The Andreses are building a log home on Lake Vermilion and a vacation home on Florida's Sanibel Island. Their permanent residence is a bright, modern home overlooking a wooded pond in Edina. A spiral staircase leads from the entry hall to a lower-level amusement room where one wall is taken up with pictures of a growing family mingled with mementoes of an executive success story. There are pictures of young Bill the magician, pictures of their sons as babies and again as young men: Robert, 34, a dentist and lieutenant commander in the Navy, stationed in Okinawa; Charles, 31, a doctor in Minneapolis; and Richard, 30, a buyer with Target.

In the midst of the family memorabilia is another picture, this one of an ocean-going oil tanker. "My ship," Betty explains. She christened it for the Exxon Corporation in Taiwan. Suddenly the visitor is reminded that the boy who candled eggs and performed magic tricks in Fayette, Iowa, now sits on the board of directors not only of Dayton Hudson but also of Exxon, the largest corporation in the country.

Andres serves on other boards as well: First Bank Systems, International Multifoods, and The St. Paul Companies. In the non-profit sector, he is on the board of Minneapolis United Way and the New York-based Catalyst organization, which focuses on women's career development.

Despite a style that doesn't call attention to himself, Andres' accomplishments have attracted attention. He has been named CEO of the Year for retailing by *Financial World* magazine three times.

There have also been honors that reflect on his entire management team. Last June, *Survey of Wall Street Research* magazine polled industry analysts to create a list of the best-managed companies. In the retailing division, Dayton Hudson was tops by a wide margin. In 1982, Columbia University awarded the corporation its first Lawrence A. Wien Prize in Corporate Social Responsibility. In a speech in New York accepting the latter award, Andres proved himself the philosophical heir of the Daytons, who began the practice of giving 5 percent of their corporation's pretax profit to charitable and cultural organizations in the community. Andres wondered aloud about what others might call "corporate irresponsibility":

"Could it not be that some of the problems currently besetting some of this country's major industries (industries now suffering decline)—could it not be that some of these problems might have been lessened, had their managements been more involved in their communities, more sensitive to changes in society and more responsive to those changes?

"Could some of the unsuccessful efforts to manage change be traced to lack of attention of broader issues, a lack of involvement in addressing the needs of society as a whole, rather than just the business?

"Might not many of the changes have been more apparent to management, and management better able to respond, had there been more corporate involvement? More volunteerism, more philanthropy, more strategic planning with an eye toward the changing consumer, and more targeting of corporate resources into solving problems that affect the total society, and thus business?"

These days we've grown accustomed to hearing those "declining industries" blame their troubles on the Japanese. Andres is one American executive who doesn't feel threatened by the Japanese: "They're very good students. When they come in here [the leading Japanese retailer has been studying Dayton Hudson] they have their notebooks and they write things down. I have great admiration for the professionalism with which they approach something. I think that technique works very well—listening, studying, and collecting information, whatever the problem or opportunity. They do it superbly."

Could the Japanese do to the U.S. retailers what they have done to the U.S. auto manufacturers? Andres doesn't think so. What he does think possible, however, is that Dayton Hudson could some day form a joint venture with a Japanese retailing company in the developing Asian market. "We have no plans like that," Andres hastens to add, "but I think we always try to keep studying, knowing how things are changing."

Given the shortsightedness of some U.S. executives these days, and given some pessimism about the United States' eventual competitiveness in an increasingly global economy, Andres' and Dayton Hudson's aggressive approach to managing change is welcome information, information that—for a change—originates in Minneapolis and not in Tokyo. All the more reason for naming William A. Andres our Executive of the Year.●

NUCLEAR WASTE POLICY ACT

● Mr. JOHNSTON. Mr. President, little more than a year ago the Nuclear Waste Policy Act was signed into law. That event was the result of many years of diligent, bipartisan effort by those who recognized the importance of having a specific, statutory program for dealing with this most vital issue.

While I am concerned that we still do not have a permanent director for the office of civilian nuclear waste management, which was established by the act, I am generally pleased that some program under the act has been made.

Recently, an article appeared in Shreveport magazine which discussed the act and its impact on my home State of Louisiana. I commend that article to the attention of the Senate, and ask that it be printed in the RECORD at this point.

The article follows:

[From the Shreveport Magazine, October 1983]

THE SEARCH FOR A HIGH-LEVEL NUCLEAR WASTE REPOSITORY SITE—WILL LOUISIANA GET BURNED?

(By Dan Baldwin and Gary Cascio)

In 1978, then Louisiana Governor Edwin Edwards signed an agreement between the State of Louisiana and the federal government stating that for considerations, the state would have final veto power over establishment of a high-level nuclear waste dump within state borders. Almost before the ink dried, the federal Department of Energy began issuing internal legal opinions, not forwarded to Edwards, stating that the document was not legally binding and that the department could place a waste site within any state without regard to the Louisiana agreement.

The Principles of Understanding or "gentlemen's agreement" as it has been referred to, was initially a significant, but small part of *Shreveport's* overview of the impacts a nuclear waste dump could have on Ark-La-Tex people, institutions and economies. As research proceeded, the story grew.

The agreement is often referred to as the ultimate protection for area residents, yet its legal standing is apparently undetermined, with opinions generally divided along state and federal lines.

In researching this story, *Shreveport* interviewed geologists and scientists, reviewed hundreds of pages of documents and nuclear-related literature, interviewed state, local and federal officials, including former Governor Edwards, Governor Dave Treen, U.S. Representative Buddy Roemer, U.S. Senator J. Bennett Johnston and representatives for DOE and the White House.

New information continued to develop through press time and we are still waiting on promised responses, including an official legal opinion from federal officials. Any significant development will be reported in a follow-up or updated article.

Since the first man-made nuclear chain reaction in 1942, we have been busily creating thousands of tons of deadly military and commercial nuclear wastes of all types. And for nearly four decades scientists, the military, politicians and the government have failed miserably to find a safe means of handling this poison. Until now.

This fall, DOE will recommend to President Ronald Reagan three of five candidate sites for site characterization (detailed on-location studies and evaluations) to determine a permanent site for storage of high-level nuclear waste. The two sites not chosen will be dropped from all further consideration.

According to Louisiana Senator J. Bennett Johnston, Vacherie is number five on the list. Johnston is one of the principle sponsors of the Nuclear Waste Policy Act of 1982 (NWPA), the first national program to fully address the growing problem of radioactive waste storage. It calls for selection of a single location by March, 1987. Following a series of licensing and approval steps, a facility will be constructed ready to accept delivery of material before the end of the century.

The bill, called by Reagan as one of the most complicated pieces of nuclear regulation ever passed, has four main purposes: (1) to provide a schedule on developing repositories for disposal of high-level radioactive waste, (2) set forth a research, development and demonstration program, (3) establish federal policy and responsibility and (4) devise fees ensuring that the cost is borne by owners and generators of radioactive waste.

HIGH-LEVEL NUCLEAR WASTE

High-level waste is the byproduct of defense and commerical nuclear reactors. It is thermally hot and emits radioactivity that in some cases can kill within a matter of hours. These wastes have a mixture of varying decay rates and must be isolated from humans and the environment for 10,000 years or more . . . much more.

As stated by U.S. Representative Charles "Buddy" Roemer, "It is a serious problem. . . . This waste, depending on its half life could last in terms of its endangering human life, for as long as a half-million years or more . . . it's a national problem . . . it's growing and . . . it's not going to go away."

The waste, currently in temporary storage throughout the country, is rapidly and literally reaching the bursting point. Many of the current storage facilities cannot accept additional material. Others are already wearing out and are beginning to leak.

By 1980, 10 million cubic feet of liquid and solid waste had accumulated. If all this waste was solidified, a requirement for repository storage, it would take up 670,000 cubic feet of space. By the year 2000 it is estimated that there will be 1.3 million cubic feet of nuclear waste.

It's not going away, but it may be coming to Louisiana.

SITE SELECTION

Authority and responsibility for a repository is scattered throughout the bureaucracy, but in general, the DOE has responsibility for management of the facility and "ownership" of the waste material. The Nuclear Regulatory Commission (NRC) has licensing and regulatory authority and the Environmental Protection Agency (EPA) exercises control over environmental standards.

The process of site selection is complex and involves a series of detailed steps. Already accomplished as far as Vacherie is concerned are the national, local and area screenings.

Prior to nomination/licensing of a permanent location, three of five possible sites will be nominated for a process called site characterization to determine specific suitability for location of the permanent facility. Of significant importance here is the drilling of a large exploratory shaft to repository depth.

Later a test and evaluation facility will be constructed. Tests may include experiments with nuclear and nuclear waste materials. Eventually a site will be recommended, selected and licensed. Licensing could occur as early as 1984 and a repository could be in operation by 1998. The site chosen will be one of those with the early exploratory shaft.

The actual amount of land to be utilized is as yet undetermined, but it is DOE policy to minimize the land it must own and the surrounding areas over which it must have controls.

A "central area" consisting of buildings and facilities will cover approximately 400 surface acres within an "inner controlled area," which will require approximately another 2,000 acres and possibly a buffer zone of about 800 feet. Additionally, an "outer controlled area" of at least 1¼ miles will be established with restrictions on surface activities. DOE will exercise "any jurisdiction and control necessary" in all areas.

The repository itself will house two kinds of industrial facilities: a waste handling area on the surface and a 2,000-acre mining facility located between 2,000 and 4,000 feet underground.

Excluding research, development, transportation, support services and government overhead, the actual construction cost is estimated to be between $1.6 billion and $5.5 billion in 1980 dollars.

Nuclear waste will be solidified (in glass or ceramic, for example), and shipped to the site in specially-built cannisters. The material, in lined casks will be stored in holes inside the mine, and therefore isolated from contact with the environment by a series of man-made and natural buffers.

There are four sometimes overlapping phases in the "life" of a repository: (1) Escavation and construction which includes additional testing prior to its final acceptance or rejection, (2) the operational phase in which waste is stored, but is retrieveable with conventional technology in the event of an accident or discovery of a better disposal method, (3) the thermal stage after the repository is sealed lasts approximately 1,000 years during which the surrounding rock mass is subjected to thermal, mechanical and chemical changes caused by waste-generated heat, (4) a post-thermal phase in which the host rock returns to ambient temperatures.

The 1982 NWPA Act created a complex, bureaucratic, scientific and political process and even at this early stage the process is generating controversy.

For example, the government has repeatedly used the phrase "step-by-step" approach to describe what they claimed would be a careful, well-planned, informative process.

Several states, notably Texas, Mississippi and Utah, are concerned that the federal government is not living up to that promise. And according to *Science* magazine, the "DOE has chosen to go a dual-track approach. Construction of the exploratory shaft will proceed while . . . collection of hydrological data continues—data on which originally the site's selection for full characterization was in part based."

Exploratory shaft construction and location testing is expected to run between $30 million and $50 million. *Science* further states: "DOE is gambling that the site will not be disqualified" by further planned hydrological tests—information that can be gathered prior to such costly construction.

Not surprisingly, the evaluation of this "step-by-step approach" by local and state officials has generated conflicting views.

For example, in the booklet, *DOE Presentation For Public Hearing In Louisiana*, the department promises it ". . . has attempted to keep state and local officials, media representatives and the public in Louisiana informed about progress and major activities."

Dr. Hall Bohlinger, a member of a state advisory committee to DOE and a representative for Governor Dave Treen at a DOE-sponsored public meeting in Minden, states, "I know some of the other states are concerned that they are receiving some of the data late, but members of our committee seem fairly satisfied with our relationship with the DOE and the contact at this point . . . I have very little complaint."

Government officials around the Vacherie area have expressed different views. Tylon Blanton, president of the Webster Parish Police Jury, commenting on the government's early research activities, noted they "had been going on for months and months before people really realized what the purpose was."

He further stated that local officials eventually had to contact DOE and "ask them that the juries in the area be informed step-by-step . . . so, very hastily they had a meeting and met with us."

When asked how effective were these meetings, Blanton replied, "they've had our objections on recored many times, but you don't get many answers . . . I think that they are window-dressing to let us think that we're having a say."

Construction, testing and implementation of a nuclear waste dump will affect five major impact areas—population, economy, fiscal, community service and social—in a small community, such as those around the Vacherie salt dome. Because the nuclear waste dump will be a major industry, the influence on these five impact areas will have varying effects upon all cities and towns in the Ark-La-Tex.

A repository will take five to seven years for construction and will require between 1,700 and 5,000 workers. During the 30- to 40-year occupational period, 870 to 1,000 workers will be employed. These will be primarily highly-skilled young adults with high incomes and lifetyles different from those of long-time local residents.

Wages, business activities and local employment opportunities will be increased as will the cost of living, particularly food and housing. The poor and persons on a fixed income will definitely feel a greater pinch.

Although local business activity will increase, local merchants may not enjoy the full benefits as large and chain-store operations may be attracted by the sudden increase in population.

Social changes may not meet the approval of long-time residents and citizens may begin to miss the past informality of small-town life.

Fiscally, there may be an increase in tax revenues and additional demands will be made on police and fire protection, water and sewerage, schools, roads and bridges and other community services. There may also be a lag between demand for services and the increased tax revenues.

Others fear the new industry will drive away potential new business opportunities. "you are going to see a mass exodus," says Blanton. "What good are all these (recently completed) industrial parks going to do when people aren't going to come and locate here. They simply will not do it."

A major concern to many residents is the development of a "boomtown" economy, causing a dramatic effect on a tax base that, according to Blanton, is already overloaded, a tax base that has not been increased since the late 1940s.

The exact effect on all these impact areas is difficult at best to determine, but it is certain that they will be significant. The sudden population increase alone guarantees that. No one has ever built a permanent high-level nuclear waste respository before and, as one Minden resident stated, "This one is an experiment. No one knows what will happen."

NUCLEAR WASTE TRANSPORT

Of the 100 million U.S. shipments of hazardous materials every year, approximately 3 million involve nuclear materials and only a small percentage of that figure is high-level waste. The International Atomic Energy Agency (IAEA) reports that currently 8 million packages of radioactive material are being shipped worldwide each year and there have been "no accidents with serious consequences to the public . . . "

Yet accidents have happened and they will continue to happen at a higher rate statistically once the nation's 40-year stockpile begins flooding toward the repository. How these wastes are transported becomes an increasing safety concern—especially for those living near the primary means of transport, the interstate highway system and the nation's railways.

Wastes shipped by rail will travel in 75- to 100-ton containers. Diesel trucks will haul 25-ton containers. Both methods are rated about equally safe, but because railcars can carry more per load, they are preferred.

Vehicles, will travel in routine commerce with normal traffic. Standard industry heavy-duty vehicles and equipment will be used as present traffic standards, rules and regulations, including speed laws, are considered sufficient. Transport standards are set by the NRC and regulated by the Department of Transportation (DOT).

Although interstate highways are preferred (because of their superior construction, upkeep and generally straighter paths) truck shipments will eventually have to utilize local roads to enter a repository site.

Road conditions through Webster Parish are of varying quality, but police juror Blanton cited an additional problem when he mentioned Webster's "old, inadequate bridge system."

Considering the extreme weight, state and parish bridges will have to withstand, Blanton believes a repository located in the parish would require "a crash program to replace and repair all these many bridges . . . we had 19 bridges that were judged hazardous, some that were condemned." Webster currently has a $500,000 federal bridge program, but "it's going to take years and years" for completion.

To date, nuclear transportation has a remarkable safety record. IAEA reports that the Transportation Technology Center at Sandia National Laboratories (New Mexico) studied all U.S. transportation accidents between 1971-80. Less than 1 percent (660) of the 86,500 hazardous material shipment accidents involved radioactive materials and only five of those involved release of radioactivity.

Still, no highway, railway or bridge is accident proof. The risk of exposure in a traffic accident is a major concern although the National Academy of Sciences Panel on Transportation of Radioactive Waste concluded in 1974 that ". . . it seems likely that the overwhelming risk in transportation is that of direct death and injury and damage to property from conventional traffic accidents . . ." and that the ". . . total adverse effect of that transportation is still acceptably small."

A traffic accident involving a nuclear waste shipment becomes a problem for local fire, police and emergency personnel. Because no one can predict when or where an accident will occur and because local emergency personnel at any given location will most likely lack sufficient equipment, training and expertise to handle a serious accident involving radioactivity release, the main defense against a radiation leak is the waste cannister itself.

SHIPPING CONTAINERS

Raymond L. Murray, Professor Emeritus of the Nuclear Engineering Department at North Carolina State in *Understanding Radioactive Wastes* writes: "the philosophy of protecting the public against radiation in transportation has been that accidents are inevitable and that protection must be provided by the packaging . . ."

High level nuclear wastes will be shipped in solid form within extremely heavy, shielded containers which must meet various DOT and NRC safety standards so that, according to DOE, the effects of a traffic accident will be "(1) noncatastrophic, (2) manageable in terms of public hazard and (3) small when compared to the nonnuclear effects of the accident."

The primary radiological danger of such an accident will be to persons involved in such an accident—fire, police, emergency personnel and anyone who happens to be in the immediate vicinity.

Murray cites four types of protection built into these casks: (1) containment to prevent release of material, (2) shielding to prevent radiation exposure, (3) heat management to keep outside temperature from reaching a dangerous level, (4) criticality prevention.

Hundreds of tests have been conducted at the Sandia Laboratories to determine how these casks will withstand high speed impact, heat, punctures and immersion in water. These tests include a 30-foot free fall onto an unyielding surface; a 4-foot free fall onto a 6-inch diameter steel plunger; exposure to 1,475 degrees Farenheit for a half hour and immersion in 50 feet of water for eight hours. All testing was done to simulate potential road and railway accidents.

Further tests from 1975 to 1977 included dropping two shielded casks from a height of 2,000 feet onto the desert floor; 60 and 80 mph truck crashes into concrete barriers; and a locomotive crashing into the side of a cask placed on a truck trailer.

According to DOE, these tests "fully support the belief that all similarly constructed casks will equally well withstand severe accidents without leakage."

The Sierra Club environmental group disagrees. In a 1980 fact sheet, Shipping Casks: Are They Safe?, the organization claims the safety tests were flawed, testing requirements are inadequate and that there are significant uncertainties about casks safety. Their report quoted from several sources including Atomic Energy Commission (AEC) reports, NRC studies and others.

First, notes the report, "all the tests used a now obsolete model cask," a model currently withdrawn from service. The replacement cask has not been tested and even the manufacturer has stated it may not be equivalent to the design tested.

Furthermore, "no casks in use by the (nuclear) industry today have actually been subjected to the full-scale NRC testing requirements," and only scale models or computer simulations have been conducted. A January 1978 DOE booklet confirms that not all tests are actually performed. "Each high-level waste cask design prototype must be tested . . . or be evaluated analytically . . ."

Irradiated fuel within a cask will generate considerable heat which in turn could significantly affect the integrity of that cask. Yet tested casks contained only fresh fuel without heat elements inside. During testing only one cask was pressurized and then only at 30 times less possible pressurization requirements.

Sandia's testing requirements were questioned. The 30-foot free-fall drop to simulate a 30 mph crash was called inadequate because carriers will be traveling at normal highway or railway speeds. If the fall was to correspond to a fall off a bridge, there are numerous bridges in excess of 30 feet throughout the country.

A Battell Pacific Northwest Laboratory study stated that casks could be ruptured by crashing sideways into a bridge abutment at speeds below 15 miles per hour. Other accidents at speeds around 40 mph could cause the rupture disk to vent or the cask cavity seal to fail.

The 1,475 degrees Fahrenheit fire test was called into question because the average highway fire temperature is 1,850 degrees Fahrenheit with a range of 1,400 to 2,400 degrees Fahrenheit. Diesel burns at a high temperature and nuclear waste carrier trucks will likely carry extra fuel to avoid extra stops.

Also questioned was the 30-minute duration of the fire test. In general, the higher the temperature and the greater the length of the fire, the greater the chance of a cask failure. The Sierra Club questioned whether a local or volunteer fire department could reach the scene of a rural crash much less put out the blaze in half an hour.

Fire damage could weaken the lead casing which shields intense gamma rays, presenting a danger to emergency personnel or bystanders. Depending upon the heat and duration of burn, a valve could fail and release coolant in the form of steam which could carry off radionuclides in the water. Cracks could form and spread releasing deadly radiation as early as two hours after the accident.

Additionally, a number of seals leaked or were damaged during Sandia testing. The effect of impact and fire damage on valve performance has not been sufficiently tested, and, in general, there is a severe lack of reliable knowledge about cask performance.

The organization closes with a powerful statement reading in part, "Until shipping casks are better designed and subjected to more rigorous testing; until communities are pre-notified about irradiated fuel shipments; and until communities are adequately trained and equipped to handle radiation emergencies, irradiated fuel should not move on our highways or railroads."

A PILLAR OF SALT

Salt as a medium for nuclear waste storage was first recommended by the National Academy of Science in 1957, and is therefore the most researched of all possible host media. According to DOE, salt is an excellent choice because it possesses long-term stability, dryness, strength and has good heat dissipating characteristics.

Salt is easily mined and the technology for mining is proven and in existence. The January 1978 issue of the *Review of Modern Physics* (which was devoted entirely to the nuclear waste issue), notes: "Conventional mined cavities constitute the only deep continental geologic isolation concept based on a demonstrated technology for both the emplacement and the retrieval of radioactive waste."

Mining, particularly in salt, is the most ready, most studied and fastest method. This is not to say it is the best.

For nearly two decades scientists studied salt almost to the exclusion of all other possible media. One would think most questions about the effectiveness of salt as a storage medium should be answered. Local residents, geologists, politicians, national environmental groups (such as the Sierra Club) and scientific organizations (such as the American Institute for Physics) say otherwise.

Virtually everyone agrees that salt is a stable medium. A geologist, Dr. Nolan Shaw of Shaw Petroleum, stated that "Vacherie is a very stable area" and "at this point it is very stable."

Further research indicates, however, that the term stable geologically can be easily misunderstood. Harriet Belchik, who holds a master's degree in geology and who has made extensive studies of North Louisiana salt domes, recently stated that salt domes are in constant motion and that "while salt beds aren't going anywhere . . . dome salt is stable, but it always moving and growing."

This feature is called plasticity or "creep" and it is often touted as an advantage for waste storage. Should the salt fracture, the gradual movement would eventually "self seal" the break.

This advantage could also be considered a major disadvantage because the gradual movement is enhanced and speeded up by heat generated from high-level nuclear wastes. An article in the *American Scientist* noted: "The effects of heating appear to be a major cause of uncertainty . . ." uncertainties that ". . . are expected to be reduced by information obtained during repository construction."

The types of rock movement most likely to cause major problems in a waste repository are faulting, fracturing and diaprism. Diaprism is the large scale movement of rock masses without fracturing and it is most common in salt formations.

Estimates of salt movement vary and each dome is unique, but the *Review of Modern Physics* estimated "a maximum of about 0.3 mm per year . . . salt mobility would not be capable of transferring the waste containing salt to the biosphere during the period of concern."

Beichik, who studied the unexpected mine flooding of the Winnfield salt dome, noticed significant movement in as little span of time as 10 years. "Salt does flow. Salt is not like a rock . . . a semi-plastic flow and you can actually see it in an existing mine . . . if they have put timbers up to build an underground office, within a few years the timbers are buckled."

DRYNESS

Dryness is a critical factor in selection of a repository site because many scientists believe the only significant means of radioactive transport to the biosphere to be water and according to the Atomic Industry Forum (AIF) ". . . since salt is soluble, its very existence testifies to separation from water."

As with the definition of stable, "separation from water" does not mean salt is dry.

While he was director of the LSU School of Environmental Studies, Dr. Joseph Martinez conducted studies of North Louisiana salt domes, studies sponsored by DOE. While preferring not to be quoted by the news media, he has previously stated that ground water flowing around the Vacherie dome presents an "engineering problem."

Vacherie is wet. A DOE spokesman admitted that there is a "small swamp" on top of it. Ground water flows around it and the LSU scientists were "puzzled" to find water pockets within it.

Salt dome mines can flood and with amazing speed. The Carey Salt Co. mine at Winnfield flooded overnight about 20 years ago. Harriet Belchik noted that ground water gradually ate into an area which was drilled too close to a ground water source. In addition to the rapid flooding, the salt fractured, causing significant damage through surface level.

As noted by the Review of Modern Physics, "Although a proposed site may at the present time be 'dry' and seem free of the effects of ground water, it undoubtedly is, or at some time during the period of concern, will be in fact, located within an active groundwater flow system."

The report further noted that "The solubility of salt is a clear disadvantage if the medium is exposed to water."

In addition to the ground water around it, Vacherie contains water in it—in addition to the pockets that "puzzled" the LSU researchers. *Science Magazine* estimated that Vacherie contains 0.0001 to 0.007 percent of trace water. "Microscopic brine inclusions are observed in natural salt samples, and it is possible that this brine will migrate to a nuclear waste repository."

Water in salt, brine, is highly corrosive and it travels toward a heat source. Temperatures around a nuclear waste cannister could reach 300 degrees Fahrenheit, surrounding the cannister with a hot, corrosive liquid with the potential of breaching that cannister. Brine has been called the "universal solvent."

If the cannister is breached, the heated brine could dissolve the glass blocks containing the radioactive wastes. This would permit the waste to escape and possibly find its way into a ground water system and eventually to have contact with the surface.

As the temperature of brine increases so does its corrosive strength. A problem associated with brine migration is the buildup of potentially explosive gases around the waste cannister. During Project Salt Vault (see related story) the surface of simulated cannisters and heaters were maintained at temperatures above the boiling point of brine causing extensive stress corrosion cracking to a depth of one-half the wall thickness . . . and ". . . much more severe was the cracking of the stainless steel conduit feeding this heater."

Robert O. Pohl, professor of physics at Cornell University, has stated, "If we further consider the highwater solubility of salt and the corrosiveness of the resulting brine, we cannot help but conclude that, quite apart from geologic considerations, salt formations must be judged unsuitable for the disposal of nuclear wastes (or in fact, any highly toxic wastes.)"

Vacherie has water above, around and in the salt dome and is therefore far from dry.

HUMAN INTRUSION

Human intrusion, through solution mining or drilling, represents the most serious threat to the long-term isolation of a nuclear waste repository. Human intrusion is a serious problem from our recent past and it presents a moral dilemma concerning the future.

Dr. Shaw noted that in the early days of oil exploration drillers sought out salt formations because of the oil and gas frequently associated with those formations.

Since the 1940s, records of drilling have been accurately maintained, but prior to that, records were poorly kept, if at all. How many wells, where and at what depths is anybody's guess.

Inadequately plugged or unplugged wells can allow water to enter the dome, dissolving the salt. This could lead to sinking of the rock formations above the dome. More water could then enter through new pathways, dissolving more salt and possibly allowing the brine to return to the surface after making contact with nuclear waste, materials.

In discussing pre-1940s drilling in Webster/Bienville parishes, police juryman Blanton said, "(There has been a) tremendous amount. There's no way they can document and identify all the test holes and boring sites that have been done."

One of the major factors in the aborted Project Salt Vault was the discovery of unreported drilling holes making the repository area appear like "a piece of Swiss cheese."

Salt is a resource. A serious moral dilemma is our duty to future generations. It is impossible to predict future drilling activity, particularly hundreds and thousands of years in the future.

Salt, the oil and gas associated with salt and the minerals and the water around it are resources important to human survival. Extraction of these resources is virtually assured. Professor Pohl states: "a human intrusion into the general use of a nuclear waste depository within a few hundred years must be considered a near certainty."

Do we solve our own problems with nuclear waste or do we pass them on to the grandsons and granddaughters of our grandsons and granddaughters?

Clearly there are significant problems associated with storing nuclear waste in salt, particularly in salt domes. As Senator J. Bennett Johnston, a co-author of the Nuclear Waste Policy Act and major force behind its passage, states: ". . . there is mounting evidence that salt domes are the least desirable of all the formations under consideration."

Dr. Shaw mentions that there are "many" better rock types for a repository—granite for example.

Granite has a much greater capacity to store heat. It is stronger than salt and it does not have the problems of brine migration. The *Review of Modern Physics* states: ". . . granites which are located in sparsely populated areas in the most stable parts of the earth's crust, are typically characterized by low permeability and generally are unattractive with regard to mineral resources and agriculture."

Salt may be an ideal medium for waste storage, but the salt at Vacherie is not. It is stable, but in constant motion. It has water in, around and above it. Water could dissolve it and cause massive rock fracturing as in the Winnfield mine disaster. The area has been drilled and it is likely that numerous unrecorded and unplugged wells offer opportunities for ground water intrusion.

Additionally, there are better mediums, granite for example, located on federal government land far, far away from populated, productive areas and in locations that are unlikely to be mined by future generations.

As Congressman Roemer said, "Louisiana is characterized by two things . . . a lot of underground salt domes and a lot of aboveground and below-ground surface water formations. Add to that the years of oil and gas exploration in our state where we've punched holes in the first 5,000 to 10,000 feet of the earth's surface, almost every five miles in any direction from which you stand, would lead me to conclude that the salt formation is not smart strategy . . ."

AND THAT'S THE WAY IT IS . . .

After 40 years of brewing our own poison and 20 years of intensive research and study we now know that nuclear waste can be safely transported unless there is an accident in which someone is killed . . . study after study proves the feasibility of waste storage although the tests have proven inadequate . . . salt is stable except that it moves . . . it is dry except for the water . . . and our knowledge is sufficient except for the things we do not know.

Clearly, when speaking of nuclear waste storage, there are at least two sides to everything. And nowhere is there a better illustration of the confusion, contradiction and variance of interpretation than in the so-called "gentleman's agreement" between the State of Louisiana and the federal government.

A GENTLEMEN'S AGREEMENT

On Feb. 27, 1978, then Governor Edwin Edwards and DOE Deputy Secretary John O'Leary signed an agreement entitled "Principles of Understanding" which, for certain specific considerations, gives Louisiana an absolute veto power over construction of a nuclear waste respository within the state boundaries. It is often referred to as "the gentlemen's agreement."

Louisiana local, state and federal officials have stated their support of the document and their intentions to hold the federal government to the agreement. Presidential candidate Ronald Reagan telegraphed his support of the document to Governor Treen and both Treen and former Governor Edwards refer to the document as a binding contract.

And that should be that, except now that Louisiana has lived up to its part of the bargain, DOE states the document is legally "questionable" and unenforceable because the department did not have the authority to enter into such an agreement in the first place, and, to quote Edwards, President Reagan is "strangely silent" on the matter. (After repeated contact with White House officials, Shreveport was unable to obtain a statement from the President.)

The document in question is a two-page, 10-point agreement stating in point number 8: "All federal Government studies relating to nuclear waste disposal in the Vacherie Salt Dome in Webster Parish and the Rayburn Salt Dome in Bienville Parish will be subject to this stipulation: The Department of Energy will not construct any nuclear waste respository in Louisiana if the state objects."

In return, Louisiana has allowed the federal government certain considerations, including the right to study storage of petroleum and the study of nuclear waste disposal matters within the state.

Backing up this agreement are (1) it was written into state law, (2) there is a personal assurance from Ronald Reagan, and (3) state vetoes were written into the federal (NWPA) law. Further study reveals each bit of protection has its own vulnerability.

Effective Jan. 1, 1980 the "Principles of Understanding" were made part of Louisiana state law, reading in part "Notwithstanding any law, order or regulation to the contrary, no salt dome within the jurisdiction of the state of Louisiana shall be utilized as a temporary or permanent disposal site for radioactive waste or other radioactive material . . ."

That's fine as far as it goes, but a few paragraphs later, the state law recognizes federal superiority if the ". . . United States government nullifies or abrogates the February 27, 1978, agreement through executive or congressional action . . ."

Dr. Bohlinger confirmed this. ". . . if they select the Vacherie dome as a waste disposal site, then we would have no control whatsoever on the waste going into it . . . We've adopted rules and regulations that speak to the disposal of radio-active waste in Louisiana, except for those two exceptions . . . which we have no jurisdiction over." The two exceptions are high-level and military nuclear wastes, the exact type of material the DOE would store at Vacherie.

Therefore, the state does have a law prohibiting nuclear waste storage, but it is a law that recognizes a federal right to nullify or abrogate that law and offers little protection.

A telegram from presidential candidate Reagan to governor Treen offers more assurance, "the (Principles of Understanding) . . . agreement was entered into in good faith and if the citizens of this country are to have confidence in its government, such agreements must be honored. They will be in my administration."

Treen feels confident that Reagan will live up to his commitment in that telegram. "The bottom line for me is that Ronald Reagan has expressly stated . . . that he intends to live up to it . . .," Gov. Treen told *Shreveport*.

Edwards, who is running against Treen for governor, doesn't share that confidence. In a letter to Reagan this year he stated, "I was surprised and dismayed to learn that Louisiana has been designated as a possible nuclear waste dump site." His letter called attention to the Principles of Understanding, and to Reagan's telegram of support and asked for a reconfirmation of that telegram.

Although it has been reported by the media that Reagan responded to Edwards in the affirmative, Edwards denies this, adding, ". . . and President Reagan has been strangely silent, now that he has been elected and is the President and apparently does not wish to reconfirm his commitment made during the political campaign."

Although *Shreveport* requested a statement from President Reagan and made numerous calls to both DOE and the White House seeking the President's current position, no official response has been received.

Should Reagan not feel bound by his telegram or should another man be in office when and if Louisiana utilizes the veto granted in the Principles of Understanding, Governor Treen states, "then you have to fall back strictly on your legal arguments."

What are our legal arguments? Are the Principles of Understanding a legally enforceable document? As you might guess, Yes and No.

The representative of Louisiana who signed the document (Edwin Edwards) emphatically says it is a legally enforceable document. In his March 29, 1983, letter to Reagan he refers to it as a contract between the U.S. Government and the state. In an interview with *Shreveport* he stated, "I regard it as legally enforceable and morally binding . . . We could take the matter up with the federal courts and I'm satisfied as a lawyer . . . it is an agreement and the courts will enforce it."

Treen agrees. Referring to the agreement he says, "There was a quid pro quo . . . the state of Louisiana did give up something which is what we call consideration and therefore makes it a binding agreement."

Dr. Bohlinger confirms that the state has and is continuing to live up to its part of the bargain, adding strength to the legal validity of the agreement.

U.S. Representative Charles "Buddy" Roemer states that if the state veto issue comes up he will work "hand in glove" with the state . . ." and ". . . we would be a strong advocate of the state's position and that means any and everything in this office." Yet, Roemer, who realizes that the legality of the agreements is "unclear," says it is a "politically enforceable document," explaining, "Now I don't know if those principles are enforceable in law, but I think politically, the fall-out, pardon the pun, would be so great if this President were to go back on his word that he won't do it, that he'll find another way to solve the problem."

Therefore "yes" there are legal, moral and political principles that bind the federal government to the agreement. Of course the "no" side can also offer strong legal and political arguments.

The controversy is not merely a matter of splitting legal hairs. The Principles of Understanding give the state an absolute veto power, period. The veto available to all the states under the NWPA provides a veto power, but one that can be over-ridden by a majority vote of both houses of Congress. Furthermore, the federal government has issued legal opinions that the DOE is legally free to "choose a location without regard to a state's objection."

There are then two vetoes. One through federal legislation available to all states and one through the principles for Louisiana only that, if legally binding, is far stronger.

On March 13, 1978, just two weeks after signing the agreement, the DOE issued an internal memorandum backing down from its commitment. In essence, only the secretary of energy or his officer or an employee within DOE, according to the memo, has final decision-making power.

In other words, the DOE says it never had the authority to enter an agreement with Louisiana in the first place. The following are several quotes from that document:

"The plain language of this provision (the Secretary's authority to delegate) precludes any suggestion that the Secretary may be authorized to delegate final decision-making authority outside the Department . . . only that the Secretary or some other DOE employee or officer must retain the final decision-making function . . . once a veto is given to one state, it must, as a matter of political necessity, be given to all. This, in turn, gives rise to the possibility that no state would agree to accept a nuclear waste repository . . . and the Secretary would have made it impossible to fulfill his statutory duty of establishing such facilities . . ."

In conclusion the memo states, "In light of the foregoing, DOE lacks authority to permit states to veto the location of nuclear waste repositories within their respective jurisdictions."

Edwards (Governor at the time) says he was never sent a copy of this memorandum.

DOE has a problem. As stated in a 1979 letter from Thomas C. Newkirk, DOE assistant general counsel for legal counsel, "it remains the Department's policy not to make a final decision to proceed with construction . . . within a state if that state had indicated that it did not concur." But what if all the states decide not to concur?

A June 1978 letter to U.S. Representative John D. Dingell, chairman of the Subcommittee on Energy and Power, says the federal position was stated by acting Comptroller General of the United States R. F. Keller.

This letter supports and expands upon the DOE position. The following quotes are from that document:

". . . the vesting of authority in DOE by the 1977 (DOE Organizational) Act does not include the right to redelegate or share the nuclear waste disposal site selection authority with the states . . . we find nothing in the (DOE) Act . . . which would support a conclusion that the States could be given a 'veto' power . . ."

Citing the March DOE memorandum, Keller states "We agree with this view. In the absence of statutory authority permitting such action, we believe that any agreement by the Secretary of Energy, or any of his subordinates, with a State to make DOE's choice of a nuclear waste repository subject to rejection or disapproval by the State, is legally unenforceable."

He concludes by noting that if each state exercised a veto none would be available for establishment of a repository and "in such circumstances, if DOE is to exercise its authority to establish waste storage facilities, it would have to abandon its policy and choose a location without regard to the State's objection (as it is legally free to do)."

And what is the Department of Energy's policy today?

When questioned, the DOE response was that the NWPA has given all states a veto power. DOE spokesman Phillip Garon told Shreveport, "The NWPA reinforces the Principles of Understanding because it gives to Louisiana and any other state * * * the authority under federal law to veto (site) selection."

"It's probably unnecessary to quibble about the principles anymore * * it is a matter of federal law that Louisiana and any other state that has potential to be recommended for a repository has this right."

(In a subsequent interview Garon stated that DOE was attempting to get a "reading from the White House" about their current interpretation of the Principles of Understanding. This new interpretation was to be forwarded to Shreveport, but was not received by press time.)

It is inaccurate to state that the Principles of Understanding have been incorporated fully into federal law, a fact Garon confirms. "I will concede that it has been (incorporated) up to a certain degree, but not entirely."

As of this writing, then, the DOE does not know what its policy is, "doesn't have an official stance on it right now" and is waiting for instructions from the White House.

When contacted about the legality of the Principles of Understanding, Senator Johnston said they are not. "This administration * * * said that they would not store waste here. That doesn't mean a great deal because the storage of nuclear waste would not be until the very latter part of the decade of the 90s or until the next century."

Johnston later added "I don't know of any lawyer who has ever thought seriously that this was an enforceable agreement. The Secretary of Energy simply wasn't empowered to make a forceable binding agreement that would bind other administrations.

The U.S. Senator from Louisiana also indicated that President Reagan has reconfirmed his commitment. "Nevertheless, in my view, it never was a binding legal contract, but it was a gentlemen's agreement which we would nevertheless expect to be enforced and which President Reagan has reconfirmed." He again stated that "it doesn't mean very much" because the storage will not begin until the end of the century, long after the Reagan presidency.

In February of 1978, a representative for the people of Louisiana entered in good faith into a "gentlemen's agreement" with representatives of the federal government. It is an agreement the people of Louisiana have honored, yet an agreement the federal government has, almost from the moment of signing, declared "legally unenforceable . . . unclear . . . and questionable."

At present the legal status of the Principles of Understanding is at best undetermined. About all one can be sure of is that of those assigned to uphold the gentlemen's agreement, not all are being gentlemen.

The (Shreveport) Times, June 21, 1983

Engineer of derailed train indicted . . . Livingston (Louisiana)—The engineer of a chemical train involved in Louisiana's worst railroad disaster was indicted Monday for recklessly handling of hazardous materials . . . three railroad employees were fired after their 101-car train derailed September 28, 1982, triggering nearly two weeks of fires, explosions and the evacuation of about 2,700 people . . . damages were estimated at $12 million and millions of more dollars are being sought in dozens of lawsuits . . .

Best Estimate

In 1946 the Marshallese people of Bikini Island in the Pacific were moved to permit testing of U.S. atomic bombs. Between 1946 and 1958, a total of 23 were exploded.

By 1966, the people of Binkini requested permission to return to their homeland. Tests were conducted in 1967. In 1968 President Lyndon Johnson announced that they could return. In 1969 the U.S. Government cleaned out the debris, planted coconut trees and other fruit plants, built houses and other buildings and returned the islanders to their home.

Despite government assurances of safety, further tests showed the people were exposed to greater doses of radioactivity than predicted. They were again moved off the island in 1978.

In a brochure "The Meaning of Radiation at Bikini Atoll," the DOE explained to the islanders that, "Even though the scientists in 1967 followed as best they could the information they had gathered, the amount of radiation the people received after returning and living on their atoll was larger than the amount the scientists had estimated they would receive."

Project Salt Vault

During the 1960s' Project Salt Vault, an extensive study effort to evaluate salt's potential for storage of nuclear waste, was initiated in an inactive bedded salt mine at Lyons, Kansas. Results of initial studies encouraged use of the site as a "pilot demonstration repository." Physics Today reported that the 1971 Congressional hearings on authorizing legislation were filled with assurances by officials and technical experts that the project was sound.

Project Salt Vault was cancelled in 1972 due primarily to two factors. One, the mine area was literally honeycombed with unreported, unplugged drilling holes from early oil and gas exploration. Second, scientists discovered pockets of brine within the salt. Additionally, it was learned that commercial miners, a few miles south of the Lyons site, used the solution mining process, in which water is injected into one bore hole and emerges from another and is pumped to the surface as brine. In one 1965 incident, the miners reported an unexpected, unexplained disappearance of 175,000 gallons of water.

[Telegram]

Gov. David Treen,
Governor's Mansion, Baton Rouge, La.

Dear Dave: Confirming our conversation in New Orleans today I am making the following policy statement:

I have reviewed the February 1978 agreement between the United States Department of Energy and the State of Louisiana. I have discussed with Governor Treen the circumstances surrounding its origination and the development since that time. As long as the State lives up to its obligation, as President I will see to it that the Federal Government lives up to all the obligations which it has undertaken in that agreement, including, specifically, the obligation set forth in paragraph 8 which provides, in the words of the agreement, that the Government "will not construct any nuclear waste repository in Louisiana if the State objects".

The agreement was entered into in good faith and if the citizens of this country are to have confidence in its Government, such agreements must be honored. They will be in my administration.

Sincerely,

Ronald Reagan.

Monitored Retrievable Storage

(Excerpts From an Interview With Senator J. Bennett Johnston)

"As you know the Louisiana salt dome . . . was selected as one of the five sites to be considered. My information is . . . reliable information . . . is that Louisiana is probably fifth . . . and it will therefore be dropped from consideration in due course and that will mean we're home free as far as the salt dome is concerned.

"There is a separate track called Monitored Retrievable Storage, or MRS. That provides for storage in below ground manmade facilities where the spent fuel rods (waste) are retrievable and where it is monitored.

"I much prefer that, and it is my view, that has the much greater chance of success . . . because it is technologically better. You see, the big problem with fuel rods are radioactivity . . . toxicity . . . and waste heat, and of the three characteristics, waste heat is probably the most difficult to manage.

"So when a big quantity . . . is put in a salt dome it would tend to melt the salt . . . or otherwise deform or melt the medium in which it is put.

". . . you can also locate a monitored retrievable storage facility anywhere . . . it doesn't have to be where nature just happened to locate a salt dome.

And MRS. "makes it possible, therefore, to locate a waste disposal site in an area like, for example, the Hanford, Washington, area which now has thousands of employees connected with the nuclear industry. They, first, have a big stake in the nuclear industry. They make their money from the nuclear industry. They understand nuclear matters.

"So monitored retrievable storage is a much better solution in my view than geologic. The practical outcome of . . . I think what's really going to happen is they're going to try to move forward on geologic, but they're likely to run into either these vetoes . . . or some scientific objection from the geologic community . . . so I think it's entirely possible that they could run into very difficult problems with geologic, which is why I think it is so important to have the other track, the multiple retrievable storage.

Edwards Campaign,
Baton Rouge, La., March 29, 1983.

The President,
The White House, Washington, D.C.

My Dear Mr. President: I was surprised and dismayed to learn that Louisiana has been designated as a possible nuclear waste dump site. I respectfully call to your attention a written contract that exists between the United States Government and the State of Louisiana, copy attached, whereby nuclear waste dumping is prohibited, absent the consent of the State.

Further, I respectfully remind you that during your Presidential campaign, you made a commitment (widely circulated by Governor David Treen) that you would honor and respect that agreement. As the Governor at the time the agreement was made, I ask that you honor the U.S. Government's contract and your own campaign commitment and by Executive Order I ask that you remove Louisiana from the list of possible nuclear waste sites.

Louisiana has done more than its share for the past fifty years relative to the energy concerns and needs of our Nation. We do not need nor do we deserve the designation as a nuclear waste dump site.

As a matter of equity and fairness, as a matter of contract between the U.S. Government and the State of Louisiana, and as a matter of honoring campaign commitments made between you and Louisiana's present Governor, I ask that the name of our State be stricken from the list.

All Louisianians await your decision.

Sincerely yours,

Edwin W. Edwards,
Former Governor of Louisiana.

To Quote Sources

"Last July, Utah's Governor Scott Matheson, disturbed at a DOE decision that the selection of a salt site for an exploratory shaft shall not be subject to a full environmental impact review, ordered state agencies to withhold all assistance from DOE—for example, denying permits for the transport of overweight drilling rigs on state roads. The effect has been to put the Paradox Basin (salt bed) investigation under a virtual moratorium."

—Science Magazine,
Dec., 1982.

Radiation effects manifesting themselves in the exposed individual are called somatic. The effects are called acute if they occur within several weeks of the exposure, or latent, in which they may occur tens of years later. Acute effects follow the delivery of very large doses to all or most of the body within a time interval of hours. There is roughly a 50 percent chance that death will result within several weeks from failure of blood forming tissue . . . while at much higher doses . . . death will almost certainly occur in much shorter time as the result of failure of the gastro-intestinal system or even the central nervous system . . . It is generally conceded that the most important somatic effect in man is cancer . . . Equally important are the mutagenic effects of radiation . . ."

—Review of Modern Physics,
January 1978.

"But, what is our moral responsibility, if we kill some people by what we're doing, but it's separated in time by several thousand years. Does that relieve us of the moral responsibility?"

—Dr. Robert Kemmerly,
Minden Resident.●

THE SOCIAL IMPORTANCE OF CORPORATE PROFITS

● Mr. DURENBERGER. Mr. President, I have long been connected with efforts to clarify and further the role of the private sector in fufilling public needs. Such efforts travel under various names, including "corporate responsibility" and "private sector initiatives," but they seek the common goal of improving the way goods and services are delivered in our society by redefining the functions and goals of the private sector. An excellent articulation of this approach is found in an address given by Jack J. Crocker of Minneapolis-based Super Valu Stores, Inc.

Jack is former chairman of Super Valu, and now chairs its executive committee; he was named 1981 executive of the year by Corporate Report Minnesota. His philosophy is straightforward: The purpose of the free-enterprise system is to protect and serve the consumer. That implies a responsibility for businesses to use their profits for the benefit of the consumer—not only by putting money back into the business to improve its service or product, but also by helping answer the needs of the community and the society as a whole. Education, training, health care, and medical research all are examples of areas that can benefit from closer private-sector involvement.

The future of a free America—the social, cultural, academic, economic standards of our people—depend far more upon business leadership than anyone else.

Mr. Crocker concludes:

(T)he ultimate measurement of our combined efforts is not limited to the profitability of our individual companies, but rather encompasses the overall economic and social standards of all our citizens.

Mr. President, I highly recommend Mr. Crocker's address to my colleagues, and I ask to place in the RECORD an adaptation of the speech printed in a recent issue of Corporate Report Minnesota.

The speech follows:

THE SOCIAL IMPORTANCE OF CORPORATE PROFITS

(By Jack J. Crocker)

It has long been apparent that as individuals, we simply cannot perform most effectively within an environment limited only to intellectualism and scientific analysis. To perform our best, we all seem to need the self confidence that stems from believing in ourselves as well as believing in what we are asked to do in our daily work.

I am convinced that the overwhelming majority of all employees are able to commit their total skills and energies to corporate goals only if they believe those goals to be meaningful.

During my tenure as chief executive officer of Super Valu, I devoted much of my time to helping our people believe in themselves, and also understand and believe in the principles of economic freedom and the free-enterprise system. I knew that if they believed in themselves and the principles of competition and free enterprise, together we would succeed.

As business leaders we must accept the fact that the competitive free-enterprise system was never meant to protect our companies' financial viability; it was never meant to assure our companies' future growth. In fact, it was never meant to even assure our companies' continued existence. Competition within free enterprise is a rather ruthless weeding-out process that refuses to take a helpful interest in any business enterprise.

The system is meant to protect only the ultimate consumers. Through their choice of what they buy and where they buy, it is the consumers who decide which companies will achieve sufficient sales and earn adequate profits.

The competitive marketplace, responding to consumer demands, will ruthlessly push aside any company's management or labor unions—or any other group—that tries to obstruct or impede new efficiencies or new technology that may ultimately result in lower costs and better values to the ultimate consumer.

Through the competitive weeding-out process, the ultimate consumer, who is every citizen, is always assured that our nation's capital resources and human resources will be directed by companies and business leaders who prove themselves to be most qualified. The kindness of the competitive system stems from its seemingly selfish cruelties. It has no sympathy for the weak. It will not permit the weak to lead.

What it all adds up to is that all citizens, when acting as consumers, constitute the absolute authority deciding which manufacturers, wholesalers, retailers, and service organizations will succeed, and to what extent they will earn profits so that they can grow and give more jobs to more people.

Consumers have shown that they are smart, tough buyers who will buy products and services from the companies that serve them best—and that they will show no mercy or loyalty for those products or businesses that they perceive as inferior. We have only to look at the U.S. auto industry to see clearly just how tough consumers are in determining which companies they will not allow to profit and grow—even if it means their bringing an entire industry to its knees.

Size of company means very little—what counts is only the ability to efficiently serve.

Only 12 years ago a well-known investment banker advised me to buy International Harvester, Chrysler, A & P, and Wards as safe long-term investments because they were the giants. In recent years we have all seen customers refuse to support several mass-merchandising stores such as W.T. Grant, White Front, Fed Mart, and Woolco, forcing them to close their stores.

However, during this same period, those same customers, through their buying habits, have encouraged Target to open new stores at an unbelievable rate. Why? Because Target served them better. Consumers will not allow the weak to grow.

An interesting incident occurred recently: Mrs. Crocker and I entered a restaurant at about 7 p.m. A charming woman in charge said "We have seating for over 400 people, but we are totally filled. It will be about an hour-and-a-half before we can serve you. We are opening an additional restaurant in a few weeks so that we can serve our customers even better." We thanked her and walked across the street to a similar size restaurant where the manager seated us in a corner away from the view, even though the restaurant was only one-fourth full.

I asked him why he sat us there instead of at the nice tables. He explained that each waitress had a particular area and he wanted to give each waitress the same number of customers. After eating cold soup and chicken that was red in the middle, we commented to the manager, "Business seems slow." He replied, "Yes, with high interest rates and 11-percent unemployment, business is really tough."

What was the difference? The first restaurant was committed to serving customers better.

In reading the outstanding article in CORPORATE REPORT on today's [Executive of the Year] recipient, one sentence stood out among all others: "In a group, Gerry Rauenhorst is the guy who will serve others."

Thirty-five years in business have taught me many lessons, the most important of which is this: "Those who serve the customer best will profit best."

What more meaningful objective can you, as business leaders, have—what greater sense of achievement can you experience—than to know that your business success and profits can come only from serving your customers better?

From all this, it becomes apparent that in the highly competitive marketplace, a company's profits become the proof of its efficient use of both human and natural resources in serving customers better. The proper reinvestment of these profits is a company's only long-term financial source of economic growth, prosperity, and more jobs for more people. There is not one company in Minnesota that has not depended upon profits for its growth and additional employment.

Can a farmer buy a modern new tractor without profits? Can a manufacturer buy additional machinery without profits? Can Super Valu enlarge its warehouses without profits? Could McDonald's have expanded nationwide without profits? Could the Opus Corporation have opened new offices in several cities had they not been profitable? The answer, of course, is "No."

Not long ago, I walked through one of our newly enlarged warehouses. I observed the computers, the network of telephones, the huge insulated building with all its refrigeration, employees driving modern lift trucks, the huge tractors and trailers being filled with thousands of pounds of fresh produce, meat, and groceries. I observed how all the equipment and machinery helped the employees increase their productivity many times. I asked myself, "How effective could any of us be without silent partners of modern technology, working side by side with us?" The fact is, we would be no more effective than our early forefathers, who were so limited in their ability to produce.

As I walked through that warehouse, I also thought back to the day when our management team agreed to use a portion of that year's profits to enlarge that warehouse, buy that modern equipment, and create more jobs. Without those profits, we could not have done it.

Your company's profits do not mean greed and selfishness. Losses do not mean kindness and generosity.

Lack of profits for any company prevents the flow of new capital into new growth. Lack of profits prevents a company from investing in the most modern technology to remain efficient and competitive. Lack of profits eliminates income-tax revenues for all public needs, including schools, parks, and roads.

Lack of profits prevents additional employment. The lack of profits reduces pension funds, including those of the labor unions. Lack of profits, in preventing additional investments, reduces competition and encourages inflation. Lack of profits eliminates the job security necessary for all families.

Lack of profits helps no one, and hurts everyone.

We have learned in recent times that as profits drop or disappear, resulting in high unemployment, more than economic standards suffer. High unemployment breeds social problems, and education becomes more difficult to finance. In fact, there is no phase of our lives that is not adversely affected by an overall drop in business profits.

A few years ago, International Harvester was paying millions of dollars of income taxes, hiring more people, and rewarding its shareholders with dividends. Is International Harvester hiring more people today? In three years it has laid off 50,000 employees. Is it paying millions of dollars of income taxes today, or is IH maybe claiming refunds from tax payments you and I are making? Not one individual—any place in America—has benefited from this once-great company changing from a profitable company to one with great losses.

What more meaningful objective can you, as business leaders, have—what greater sense of achievement can you experience—than to know that your business profits earned from serving customers better are the major financial source of economic progress, prosperity, and more jobs for more people?

In a nation of free people, the wealth created through profits must be personal wealth. Otherwise, the government would own it and the competitive marketplace would give way to political rule.

If you leave this city today and drive elsewhere, every piece of farm equipment you see, every truck you pass, every train you stop for, every manufacturer, warehouse, store, or hotel you pass will be owned by free citizens. This ownership, evidenced by shares of stock, bonds, or certificates of title, is the true personal wealth of our nation. It is the personal wealth of individual citizens.

Personal wealth is far more than personal possession. It is, in reality, a responsibility, a trust, assigned to us to use only so long as we use it efficiently to serve the economic needs of our citizens. This assignment can be, and frequently is, temporary. Those who do not use their capital and wealth efficiently to serve economic needs will risk losing it. Capital and wealth in a free, competitive society will always flow to those areas where economic needs of citizens are best served.

There is within our society a responsibility of great intensity that business leaders have only partially accepted, because it does not lend itself naturally to free enterprise and competition—and because the benefits are hard for a company to measure.

The responsibility stems from the fact that in years to come, the knowledge and skills of our nation's people will be the determining force in establishing economic, social, and educational standards. For that reason, we must invest in the education and skill development of all our people, but especially young people. That is even more important than capital investments in machinery, computers, and other technology.

We must also invest in funds to overcome alcohol and drug abuse, and all the crippling and mental diseases. Not as charitable, tax-deductible contributions, but rather as an important investment in the human resources of our society.

The fact that our system does not encourage this kind of investment does not give us just reason to see this challenge as someone else's responsibility. As business leaders, we must become more involved and help seek solutions. It is our responsibility.

You and I have a greater responsibility than any other group to help maintain a strong and free America, where all our citizens may enjoy acceptable economic, social, and educational standards.

The constant criticism of corporate profits and personal wealth that we continue to read and hear strikes at the very heart of economic prosperity and more jobs for more people. In the highly competitive marketplace, the relative profitability of the private sector will be the single most important force in determining the living standards of all Americans.

How said it is that not one political leader in America would dare make such a statement.

As long as so many of our citizens fail to understand the importance of corporate profits and personal wealth, we will continue to see greater controls and restraints on economic freedom, and free enterprise will continue to be more limited than it should be in its effectiveness. If there continues to exist, among such a large segment of our society, antagonism, jealousy, resentment, and confusion toward personal wealth and company profits, the core of strength of a free America is basically lost.

It is not enough that we here today believe in the system. It is a must that all citizens in our country believe in the system. But how can they believe in it when no one, including you and me, helps them to understand it?

When the business leadership of this country realizes that it is as important to communicate the benefits of economic freedom, free enterprise, and corporate profits as it is to sell the benefits of Coca-Cola, Pepsi-Cola, and Crest toothpaste, we will serve all our citizens in the most meaningful way possible. You and I represent that business leadership.

Our social and economic challenges will not be solved by debating the issues of Republicans versus Democrats.

The future of a free America—the social, cultural, academic, economic standards of our people—depend far more upon business leadership than any one else. It is we who have the responsibility of directing our nation's human and natural resources, and the ultimate measurement of our combined efforts is not limited to the profitability of our individual companies, but rather encompasses the overall economic and social standards of all our citizens.

The responsibility is ours.●

MIKE WHITE, OUTSTANDING COACH

● Mr. DIXON. Mr. President, Senator PERCY and I should like to call the Senate's attention to an individual who has given this country an exhilarating football season and provided Illinoisans with national recognition and a deep sense of pride.

We refer, Mr. President, to Mr. Mike White, the head coach of the University of Illinois' Fighting Illini football team, who this year guided his team to an outstanding 10-2 season, capping it off with a trip to the prestigious Rose Bowl in Pasadena, Calif.

In his fourth year at the University of Illinois, Mike White is nationally recognized in the Big Ten Conference as a top offensive theorist. And well he should be. Under Coach White's direction, Illinois teams have set seven NCAA passing records and more than 30 Big Ten passing marks.

The Illini's leader began his coaching career as a graduate assistant coach at the University of California-Berkeley under former Illini Head Coach Pete Elliott in 1958 and joined Elliott's staff as a full-time assistant the following year, becoming freshman coach.

In 1964 he moved to Stanford University as offensive coodinator, where over the next 8 years he helped to produce two consecutive Rose Bowl victories following the 1970 and 1971 seasons.

In 1972, he returned to his alma mater, California-Berkeley and posted a 6-year record of 35-30-1.

Before coming to the University of Illinois, Coach White served as an assistant coach and administrative assistant with the San Francisco 49'ers of the National Football League during the 1978 and 1979 seasons.

It has been with that background and experience that he has become regarded as one of football's top offensive strategists. He has developed some of the finest quarterbacks ever to play college football. The records of players such as Craig Morton, Jim Plunkett, Mike Boryla, Steve Bartkowski, Vince

Ferragamo, Joe Roth, Rich Campbell, Dave Wilson, and Tony Eason stand as a testament to Mike White's talent for molding a top quarterback.

In 1974 Coach White was named "Coach of the Year" by the Northern California Sportswriters Association and in 1975 received the same honor from Scholastic Coach and The Sporting News. More recently, for the 1983 season, he has been named national Coach of the Year by the Walter Camp Football Foundation, United Press International and by The Sporting News. In addition, he has been named Big Ten Coach of the Year by Associated Press, United Press International and by the Big Ten Association. Accordingly, he is in constant demand on the speaking circuit and at coaching clinics.

Mr. President, Mike White has given Illinoisans a great deal to be proud of. He has returned the Fighting Illini to the national football map and in so doing has inspired us, entertained us and brought us together behind our great State university. Such is the true nature and virtue of sporting endeavors, and therein lies the debt and admiration we feel toward Coach White. We are very grateful.●

SAMMY D'S OF DINKYTOWN TO CLOSE

● Mr. DURENBERGER. Mr. President, the opening and closing of a restaurant has become a commonplace occurrence, especially in a place like Washington. Restaurants come and go with the trends. On great occasion, however, an establishment becomes so tied to a community that its closing leaves a preceptable void. Such a case is the closing of Sammy D's, a Minneapolis restaurant that has fed and nurtured students in the University of Minnesota's Dinkytown area for more than two decades.

If "nurtured" seems an odd word to describe the function of a restaurant, it is because Sammy D's is no typical restaurant and its owner is no ordinary restauranteur. Giovanna D'Agostino—known by all as Mama D—has taken the student community under her wing, ladeling out motherly affection and advice along with the platefuls of pasta. Her annual St. Joseph's Day feast, offering a free meal to anyone who comes through the door, is a local tradition. Her cooking has gained national attention in magazines and on television.

Mama D's feeling toward "her students" is reciprocated by those who have frequented her restaurant, coowned with her three sons. When she ran for mayor of Minneapolis in 1981—admittedly just trying to "shake things up" a little—an impressive organization sprang up to support her. She got 10,000 votes.

In these days of fast food and plastic hanging plants, how refreshing and how comforting it is to know there are restaurants with that inimitable personal touch; restaurants that do not just exist in a community, but become part of it. Happily, Mama D is devoting energy to a new establishment elsewhere in the Twin Cities. But Sammy D's and its owner will be missed by Dinkytown and the students who congregate there. Restaurants will move in and move out, but it won't be the same without Mama D.

I submit for the RECORD a newspaper article about Mama D from the Minnesota Daily.

The article follows:

[From the Minnesota Daily, Feb. 15, 1984]

BYE, BYE, MAMA D

(By Mary J. Pitzer)

"I'm going to miss you," a customer at Sammy D's tells the white-haired woman behind the counter as he hands her a check.

"I'm going to miss you too," says Mama D, opening the cash register. "Every time I think about it I'm going to cry."

A big hole will be left in the heart of Dinkytown when Mama D closes for the last time the Italian restaurant she owns with her three sons. For 19 years Mama D—Giovanna (Jennie) D'Agostino—has charmed customers, fed free meals to the downtrodden, and mothered thousands of University students. Her restaurant attracted celebrities, and she became one herself, appearing on national television and running for mayor.

"There's always a place that's a second home to people. Mama D's restaurant fits that mold," says Albert Hofstede, former Minneapolis mayor, who declared a Mama D Day in 1978. "I was very sad when I heard she was about to close up. It's a real loss. Nobody's going to replace her."

In spite of such affection, business at Sammy D's has been bad for the last few years, and hours have been cut to just three day's a week. Mama D says she has received several offers for the restaurant but doesn't know exactly when it will be sold. She now spends more time at her new restaurant in St. Paul, called Mama D's than she does in Dinkytown.

"Parking is so bad," she says of the problems that are forcing Sammy D's to close. "People come and go around and around. They tell me they can't come in because they can't find a place to park."

There are other reasons too. The proliferation of fast-food restaurants and pizza joints drew away students on tight budgets. Then Mama Rosa's, a West Bank restaurant, was closed in the late 1970s because of food poisoning.

"People started abandoning Mama D's restaurant, and 'Mama' is not even in the name," says Maury Bernstein, a local musician who used to play at Sammy D's, located at 1305 Fourth St. S.E., since 1971.

The confusion still lingers. Two businessmen recently approached Mama D at her St. Paul restaurant and asked her to explain to their friend that she is not Mama Rosa.

Despite the recent troubles, the 69-year-old grandmother looks back on her years in Dinkytown as the happiest of her life. "It made up for the love I didn't receive as a little girl. The Big Boss upstairs—He balances the books," she says.

Mama D's love affair with University students began in 1965 when she came from Chicago to give her son a three-week reprieve from his sandwich shop, located next to the Dinkytown post office. Her husband had just died after a long illness, and she was recovering from a car crash. "I was as down as I could go, and I thought, "Those University kids are going to be snotty," she says.

But the kids immediately adopted her, and she just naturally looked after their needs, filling their stomachs with food and their heads with advice and homespun philosophy.

The sandwich shop was just a hole-in-the-wall then, but the menu wasn't restricted to sandwiches for long.

Students would come in and ask if Mama D made spaghetti. "I'd say, 'Come back tomorrow.' Then somebody'd say, 'Mama, do you make lasagne?' 'Come back tomorrow,' "she says. When her son returned, the menu filled four pages. "He almost had 10 fits. He said, 'Who's going to make all this food?' "

But because of a customer's request, Mama D invented an antipasto salad with hot roast beef and sausage. That recipe earned her a three page spread in Better Homes and Gardens.

Her kids, however, don't remember her growing fame as much as the personal touches that made Sammy D's a favorite hangout.

"If I saw a good-looking boy and girl, I would squash them together," she says. "They'd say, 'Mama, there's no room in here.' And I'd say, 'Shut up. You should have that much room in heaven.' " She smiles and adds, "I should have been Jewish, I would have made a good yenta."

Craig Vogel, who now owns a Minneapolis piano repair business, recalls that during his freshman year in 1968, Mama D came by his table with a tray and offered him a cookie she said was "hot from the oven, made with love."

"She had an aura about her that she did really care," Vogel says. "It was good for the hipsters to see that the concept of brotherly love didn't start in 1968."

In those days some people were critical of her acceptance of students and vagabonds, no matter what they looked like. "They told me I would have a high-class place if I got rid of the hippies. And I said, 'Would you throw out the Lord if He walked in?' " To drive the point home that long hair and beards didn't bother her, she hung a picture of Jesus on the wall. It's still there, surrounded by pictures of celebrities who have met her and have eaten at Sammy D's—including Tony Bennett, Frank Sinatra, and the 1980 U.S. Olympic Hockey Team.

Mama D's generosity is legendary, and she was always ready to rescue a student in distress. If she saw someone in her restaurant picking food off a friend's plate, she figured the kid needed something to eat. So she would bring out an extra meal.

"They'd say, 'Mama, I didn't order. I don't have money to pay.' I'd say, 'Who aked you, anyway? Shut up and eat,' " she says.

Some students owed her hundreds, even thousands of dollars, Bernstein says. But the debts didn't bother Mama D because she was happy to help out. Most of the students paid her back, she says, even if it was years later.

Although friends warned her against it, she loaned $100 to Mark Hall, the Gopher basketball player who ran up monumental long-distance phone bills two years ago and charged them to the University. Instead of paying her back, Hall forged a check at Sammy D's before slipping into obscurity.

But Mama D's faith in people remains untarnished, and she hardly cares if she sees the money again. "If he would just straighten out," she says, "it would be OK."

Mama D's generosity is perhaps best remembered from the annual St. Joseph's Day meal on March 19. That's when Mama D opens the restaurant to anyone who's hungry and has no money. That night the line at Sammy D's stretches around the corner.

"She never refused anyone," says Dick Peldo, manager of the Lancer's next door. "The actual hours were from 6 to 10, but you could come at midnight and she'd feed you."

The first time the restaurant celebrated St. Joseph's Day, Mama D recalls, she asked a priest at St. Lawrence Church if she could borrow its statue of St. Joseph, the patron saint of the poor. He consented, but when she arrived to pick it up, two other priests refused to let her have it. So she sneaked into the church and plucked the statue from the altar. The priests didn't know what had happened to the statue until Sammy D's appeared on the evening news, she says. Now she has a statue of her own perched in a corner of the restaurant.

Moving out of Dinkytown will not cancel the St. Joseph's Day tradition there, she says. "Even if we close before March 19, I will get one of the churches to loan me a basement. I promise as long as I live I will have a St. Joseph's Day."

She even started writing cookbooks to help someone. The first one raised money for a friend in the Minneapolis symphony who had kidney failure. It sold more than 500,000 copies. Her fourth cookbook, which is about vegetarian cooking, is at the publisher's, and so is her autobiography, titled Shut Up, I Want to Tell You Something.

She already was a local celebrity when she started getting invitations to demonstrate her cooking and dispense philosophy on television shows such as Mike Douglas. She says she received more than 9,000 letters after she appeared on Donahue. A few addressed to "Mama D, Dinkytown, U.S.A." and "Lasagne, Minnesota" found their way to the right place.

The local spotlight once again focused on Mama D when she ran as an independent for Mayor of Minneapolis in 1981. "I didn't want to win", she says. "I just wanted to at least rattle the cages of those people at City Hall."

Sammy D's became a center for the campaign. Customers were routinely handed lawn signs as they walked out the door and Dinkytown merchants passed out campaign literature. In the end she garnered 10,000 votes. Perhaps this campaign saying summarizes her candidacy best: "It's nice to be important, but it's important to be nice."

And so when Mama D closes Sammy D's for good, she will leave behind a lot of memories. The pictures and memorabilia on the walls will be packed, and it is doubtful that they will be transferred to the new place, Mama D says. There, the lunch and breakfast traffic is brisk—better than business has been for years in Dinkytown. "It's a good location," she says. "But I miss my kids."●

HONORING THE BRAVE LITHUANIANS

● Mr. DIXON. Mr. President, it is with the utmost pride that I rise to honor and commemorate the 66th anniversary of the Declaration of Lithuanian Independence. Those of us who share the common bond of freedom have a duty to support an independent Lithuania and to recall the bitter past.

Lithuanians have suffered greatly. Since 1940 the people of Lithuania have been subjected to a blatant denial of self-determination and constitutionally protected individual rights. Soviet domination and subjugation of these people continue unabated. The freedom of speech and the freedom of religion have been discarded by a bankrupt ideology which depends upon force, manipulation, and lies for survival. Nothing could be more alien and unfair to a people who have chosen to be free.

In spite of Soviet domination and repression, Lithuanians persevere in their battle to regain their freedom and national identity. Religion continues to be practiced despite persecution and punishment. Organized resistance marches forward even in the face of imprisonment and execution.

We honor these people because their ideals are our ideals. The freedom so ardently espoused by the Lithuanian Nation of 1918 persists in the hearts and minds of Lithuanians in the 1980's. Soviet terroritial domination and repression cannot reach the collective spirit of the Lithuanian people.

I salute the brave people of Lithuania, knowing that one day they will regain their lost independence.●

LITHUANIAN INDEPENDENCE DAY

● Mr. WEICKER. Mr. President, on February 16, 1918, the Lithuanian people proclaimed an independent and free republic based upon democratic principles. This proclamation represented an end to the foreign domination and intervention that had plagued the people of this small nation for centuries. Given the opportunity to govern themselves, the Lithuanian people produced a constitution that accorded the freedoms of speech, assembly, religion, and communication. They made significant advances and improvements in agriculture, education and social legislation. World War II brought an abrupt end to the modern Lithuanian republic. Caught between two warring powers, overrun by troops of the Russian and German armies, and finally declared a Soviet "republic" in 1940, the Lithuanian people suffered the loss of life, property and liberty.

On behalf of the 1 million Lithuanian Americans, I rise today to call the world's attention to the great injustices the people of Eastern Europe have endured at the hands of the Soviet Union. And yet, after 40 years of Soviet occupation, the Lithuanian's love for freedom and spirit of independence remains strong. Their unique language, literature and culture, which clearly sets the Lithuanians apart from any other ethnographic group, continues to flourish. The basis of U.S. foreign policy is and always has been human rights. We remain committed to the basic values of human life and continue to support and defend these ideals around the world. The Soviet Union's actions in Lithuania are a challenge to these principles and should not be tolerated. Mr. President, the oppressed peoples of the world must not be forgotten nor should their struggle be allowed to die. This Nation must reaffirm its support and dedication to human rights and freedom for all nations.●

HEARINGS ON WARRANTIES ON WEAPONS SYSTEMS

● Mr. TOWER. Mr. President, I wish to announce today that the Committee on Armed Services will hold hearings on February 28 on the issue of warranties on weapons systems.

It is my understanding that the author of section 794 of the Department of Defense Appropriations Act for fiscal year 1984, Senator MARK ANDREWS, will lead off these hearings. The committee is most pleased that Senator ANDREWS can participate in our oversight on the issue of warranties and we look forward to his testimony. It is also anticipated that there will be witnesses from the Department of Defense, including senior military officers who have been intimately involved with the procurement process. The third group of witnesses will be representatives of various defense contractors and trade associations who have an interest in the warranty matter.

Since the question of warranties on weapons systems is one which has received the attention of all Senators, I wanted to make certain that the full Senate was aware of these anticipated hearings.●

CONTINUED CONCERN ABOUT CHEMICAL WEAPONS

● Mr. KENNEDY. Mr. President, the proposed defense budget contains a request of $107 million for the production of chemical weapons. Apparently, the Reagan administration has not yet learned that the American people do not want them. It has been the policy of the last three administrations, Republican and Democratic alike, to oppose U.S. production of new chemical weapons. There is no plausible reason to reverse this broadly accepted and longstanding bipartisan policy. It appears however that another debate will occur this year, and that the administration will once again raise the level of fear and encourage the production of chemical weaponry.

Senator PRYOR and Senator HATFIELD will once again be leading the attack on this proposed funding. Both of these Senators are longstanding, outspoken, and effective opponents of these weapons. Senator HATFIELD has been an opponent of these weapons since the 1960's, when, as Governor of Oregon, he opposed an attempt to store nerve gas in his State. Senator PRYOR has also been a consistent opponent of chemical weapons production.

Mr. President, I ask that the article, "The Gassing of Washington" from the February 1984 issue of the Washingtonian, be inserted in the RECORD at this point. I encourage my colleagues to read it and to note the courageous commitment of Senators HATFIELD and PRYOR to prevent the production of chemical weapons.

The article follows:

[From The Washingtonian, February 1984]

THE GASSING OF WASHINGTON

(By Blaine Harden)

On November 7, 1952, a man identified only as "J.A." was poisoned by nerve gas. J.A. was walking near a puddle of it at the Dugway Proving Ground in Tooele, Utah, when according to an Army report, he began to feel "giddy." Thus began the most severe human exposure to nerve gas ever reported in the United States.

"Within 10 seconds [J.A.] turned, clutched at his chest, and started toward the ambulance at a fast walk. He called frantically for his gas mask. His gait soon became stumbling, and as he staggered, one arm extended and flexed in a jerky manner. * * * [His breathing] was accompanied by a high-pitched screeching sound, and low-pitched gurgles," according to Chemical Corps Medical Laboratories Research Report Number 151, a declassified document in the non-public library at the Army Chemical Center at Edgewood, Maryland.

J.A. was immediately injected with atropine, a nerve-gas antidote, and taken by ambulance to a hospital. On the way, the report continues, "he was noted to have convulsive jerks recurring at five-second intervals and lasting for about one second. These motions consisted of hyperextension of the spine and legs and rapid, forceful extension of the * * * arms above the head."

After five minutes, J.A.'s "pupils were pinpoint and the eyes were open, fixed, and staring in a central position." After 25 minutes, his "breathing was characterized by coarse, bubbling * * * growls of low pitch. * * * The skin was deep blue and dry." After 35 minutes, during which time he'd been admitted to a hospital, injected with more atropine, and placed in an iron lung, J.A. was completely paralyzed and "there was no reaction to painful stimuli. The pupils were pinpoint and [the surface of his eyes was] dry and covered with dust." After 135 minutes, "the patient's hands involuntarily grasped at his throat. * * * It was necessary to forcibly restrain his upper extremities."

J.A., the report concludes, survived his encounter with nerve gas only because of immediate hospitalization, artificial respiration, and large doses of atropine.

What happened to J.A. out on the Utah desert more than 30 years ago lies at the core of an extraordinary confrontation going on today in Washington between Congress and the Pentagon. With Ronald Reagan's sanction, the Pentagon wants to end a fifteen-year freeze on the production of chemical weapons and make more nerve gas. Congress, by the narrowest of margins, has resisted.

The opponents of nerve gas, thus far, have defied a bureaucratic axiom in this city that says Congress is all but incapable of stopping a presidentially sanctioned weapons system. The specter of J.A.'s poisoning—the possibility that millions of human beings could die after such unholy suffering—has tainted nerve gas. The weapon is perceived as a repulsive, insidious, perhaps even un-American way to kill people. As such, it is an emotional monkey wrench in Washington's revved-up defense-spending machine. For the time being, nerve gas has changed the way Washington works.

Listen to two students of chemical warfare, one a supporter of nerve-gas production, the other an opponent, on the capacity of the gas to unnerve officials in Washington.

"The problem is that nerve gas is so repulsive to many minds that logic and reason go out the window. Many of your military minds are repulsed by it and do not give it the attention it deserves. The chemical companies that might produce it are afraid to touch it. They are afraid that their plants will be picketed and bombed," said Richard Ichord, a Washington-based military consultant and former congressman from Missouri. Ichord is cited as the individual in Congress most responsible for raising chemical warfare as an issue. Ichord's 1979 Reader's Digest article, "The Deadly Threat of Soviet Chemical Warfare," served as the starting point for congressional debate on the subject. According to Ichord, nothing can be done to meet the Soviet threat until "the hysteria ends and this revulsion calms down."

John Isaacs, legislative director of the Council for a Livable World, which lobbies against nerve-gas production, has used military, technical, diplomatic, and security arguments against the weapon. Yet Isaacs agrees with Ichord that the key anti-gas argument, even when it remains unspoken, is emotional.

"Logic doesn't play a major role in this decision," says Isaacs. "In this Congress, so far, you can shoot 'em, you can nuke 'em, but you can't gas 'em. A lot of 'true believers' don't believe in nerve gas. Nuclear weapons are a test of manhood. Real men need nukes. Maybe real men don't need nerve gas."

Whether real men need nerve gas or not, the history of defense votes in Washington indicates that sooner or later the Pentagon is likely to get what it and the President want.

"The Pentagon can outlast the opponents. Where major weapons systems are concerned, it is very unusual that Congress kills them," says William Kaufmann, a former Defense Department consultant who helped formulate the nation's doctrine of nuclear deterrence.

Since Ronald Reagan came to Washington three years ago, the military's winning percentage in Congress has gone up dramatically. The Pentagon is on a five-year, $1.3 trillion roll. There is money for billion-dollar weapons such as B-1 bombers, MX missiles, and nuclear-powered aircraft carriers. There is money to make this year's defense bill the largest postwar spending measure in the nation's history, larger than the entire federal budget for 1973. The Pentagon has wrested money from Congress for the production of every major weapons systems on its wish list—except nerve gas.

By Pentagon standard, nerve gas is a small item, a $124 million sliver in this year's $258 billion defense package. Nerve-gas-producing money, had it been appropriated, would be barely enough to buy three Air Force F-15 fighter jets.

While Congress has refused to spend money to make new nerve-gas weapons, it has shown no reluctance to spend money to defend against the stuff. Defensive spending for chemical warfare, totaling more than half a billion dollars this year, has grown tenfold in the past five years. No one in Congress objects to spending this money. It is nerve gas itself, not gas masks, that draws the fire.

The refusal by Congress to allow nerve-gas production has provoked more hours of floor debate per dollar requested than any other item on the defense budget. In the trenches of World War I, entire Allied army units, fearing a German chemical attack, would sometimes break and run as soldiers showed signs of chemical injuries. War scholars call it "gas hysteria." In the past two years, some members of the House and Senate, even those who vote for making more nerve gas, have succumbed to a rhetorical version of this malady.

"It is so unsavory and unpleasant. * * * It is much worse to be gassed than it is to be blown up," says Representative William L. Dickinson, a Republican from Alabama, who led the unsuccessful 1982 House fight for nerve gas.

"Even more repugnant than the horrendous destructive force of nuclear weapons," says Senator Ted Stevens, a Republican from Alaska, who, as chairman of the Senate subcommittee on defense appropriations, led last year's protracted fight in that chamber for the weapon.

"The horror is indescribable," says Senator John Warner, a Republican from Virginia and another key supporter of nerve gas.

Nerve gas also has caused unpleasantness off the House and Senate floors. Before their marriage ended in 1982, John Warner and Elizabeth Taylor had bitter arguments over the senator's support for nerve-gas production, according to Senator David Pryor, an Arkansas Democrat to whom Warner mentioned the arguments. (A spokesman for Warner says the senator has "no recollection" of talking to Pryor on this subject and that Warner has no comment on arguments he may have had with his former wife.)

Presidential aspirant John Glenn's votes for nerve gas have allowed his principal opponent former Vice President Walter F. Mondale to criticize Glenn as an "out of step" Democrat who offers the Pentagon a "blank check." Glenn's votes incited dissent within his staff with political types telling the Ohio senator that support of nerve-gas production would seriously hurt his chances of getting the Democratic nomination.

The Democratic-controlled House has consistently rejected nerve-gas production, while the Republican Senate has narrowly supported it. A tie in the Senate in November forced Vice President George Bush to cast his second tie-breaking, pro-nerve-gas vote of the year. These are the only two votes Bush has cast in the Senate and are the first such tie-breakers in six years. After the first vote last July, Bush told the President that if he ever again had to vote for the weapon, Reagan would have to call his mother and explain why. The President placed such a call to Dorothy Bush on November 8. According to Mrs. Bush, who is appalled by nerve gas, the President reassured her that George is the "best Vice President ever."

Two scenarios frame the impasse between the Pentagon and Congress over nerve-gas production. The first appeared in former congressman Ichord's Reader's Digest story. It describes a sneak nerve-gas attack in Western Europe by the Soviets.

Bodies of American and NATO soldiers are "slumped on air strips and in cockpits; at entrances to radar bunkers, gun emplacements, and missile sites." In the end: "Masked and goggled troops of the Red Army and its satellite forces now moved quickly to take advantage of the deadly invisible miasma of their own making. And while the United States, fearful of massive Soviet retaliation, held back its nuclear weapons, it became clear that Western Europe—its industrial and military infrastructure left largely intact for the conquerors' uses—was falling."

The second scenario was imagined by Matthew Meselson, a professor of biochemistry at Harvard and a critic of the Pentagon's plan to produce nerve gas.

"It was at night and I was in bed," said Meselson, who was interviewed in his Harvard office, a room cluttered with stacks of research papers and assorted chemical-warfare paraphernalia, including a gas mask, protective suit, and gas antidotes. "I had the thought of a family trapped in the basement of their house [during a war], thinking they would be safe. Then the thought occurred to me that, for nerve gas, being inside does not help at all. The gas comes over and goes into the cellar, and it becomes a gas chamber. I had the thought of a family and children seeing each other totally lose control of their bodily functions, writhing and dying and not knowing why."

These two visions color all the nerve-gas debate, charging it with an emotionalism that is not easily swayed by reason.

The Pentagon says it wants to build only enough new "binary" nerve-gas weapons to replace the nation's aging stockpile of gas-filled artillery shells and bombs. Those older weapons, last built in 1968, are kept in West Germany and in munitions depots scattered around the United States.

Binary weapons, the Pentagon says, are safer than the old "unitary" weapons because they keep the ingredients for nerve gas in two separate, non-lethal containers. Binary shells contain lethal gas only after they have been fired and the ingredients have been mixed together. Soon, the Pentagon warns, old nerve-gas weapons will become unsafe, unreliable, and useless, and the United States will be unable to retaliate in the event of a Soviet chemical attack. Finally, the Pentagon says, the only way to force Soviet concessions in arms talks on chemical weapons is to demonstrate resolve, and nerve-gas production demonstrates resolve.

Sound arguments, perhaps, but not convincing to someone haunted by visions of children writhing to death in front of their parents.

Opponents of binary production argue that existing U.S. nerve-gas weapons are more than adequate to deter the Soviets. They say the binaries are untested and that the Pentagon, slavering after new weapons, doesn't know how long existing weapons will be useful. They also say that ending the 1969 freeze on making chemical weapons will further complicate U.S.-Soviet relations and delay disarmament talks on chemical warfare. Finally, the opponents say, it is stupid to make new chemical weapons because the nations of Western Europe, where the gas must be placed if it is to be useful, have said they will not allow deployment.

Sound arguments, perhaps, but not convincing to someone haunted by fears of the Red Army gassing the free world into submission.

How willing and capable is the Soviet Union of a nerve-gas attack? The Soviets have made extensive defensive preparations for a chemical war. They have between 60,000 and 80,000 troops trained specifically for chemical warfare, compared to about 8,000 in the U.S. military. They have tanks and armored vehicles with air-pressure systems that are designed to keep out contaminated air. They have hundreds of vehicles capable of decontaminating soldiers and equipment. Warsaw Pact armies routinely practice anti-chemical maneuvers.

Evidence about the Soviets' offensive chemical capability is less firm. A Department of Defense report late last year said the Soviets can place chemical ammunition on weapons ranging from mortars to long-range tactical missiles. The U.S. has useful nerve-gas ammunition only on short-range artillery shells.

The Pentagon report, based on analyses of unspecified "information collected over many years," says "the Soviets have continued to test, produce, and stockpile chemical weapons." Yet, according to the Congressional Research Service, there is little evidence that the Soviets have increased their stocks of chemical weapons since the US stopped production fifteen years ago. Estimates of the total size of the Soviet chemical-weapons stockpile vary from as little as 30,000 tons to as much as 700,000 tons. The US stockpile is estimated at 150,000 tons.

While most experts agree that the Soviets have made elaborate preparations for chemical war, there is little agreement as to why. Here, too, it depends on which scenario one chooses to worry about. Those who fixate on the dying-family scenario tend to see Soviet preparations as defensive. They say the Soviets are justifiably frightened of a US chemical attack. They tell advocates of nerve-gas production that the Soviet buildup is a logical response to a similar American buildup in the 1950s, and '60s. They remind nerve-gas advocates that the US, unlike the Soviets, procrastinated for half a century, from 1925 to 1975, before signing the "no first use" Geneva Protocol on chemical weapons.

Those who fixate on the Red-takeover scenario remind anti-gas moralists that the Soviets have not succumbed to squeamish hand-wringing about nerve gas. The Russians have refused to respond to the US freeze on chemical-weapons production with a freeze of their own. Those who favor nerve-gas production claim that Russia is better prepared to make the gas in time of war and that Soviet military field manuals indicate a willingness to exploit a chemical advantage on the battlefield.

The scarcity of hard information allows nerve-gas arguments to drift away from real military questions. This, of course, is not peculiar to nerve gas. As James Fallows writes in The National Defense, "When arguments about defense come unmoored from the facts, they stop being about defense at all. * * * Most frequently they concern ideology, as one military program after another becomes a mere proxy for a general world view that the United States is too weak or too strong, too intrusive in the rest of the world or not assertive enough. * * * The general cast of mind of the left in defense debates is to overestimate the importance in international relations of moral examples and to underestimate the role of force. * * * On the right, the corresponding tendency is to overestimate the utility of force as a cure-all. * * *

The middle ground in the nerve-gas debate is so elusive that many participants have stopped looking.

"You have to go in [to Congress] and out-emotionalize the emotions that already exist. The point has long since passed when you could sit everyone down and, with an open mind, come up with an objective agreement," says George F. Mohrmann, a defense consultant and retired Army lieutenant colonel who, as an aide to Ichord, helped write the Redscare scenario for Reader's Digest.

On the other side of the issue, Saul Hormats, a retired federal official who supervised production of most of the nation's existing chemical-weapons stockpile and who is convinced that binary weapons won't work, has stressed in his recent testimony before congressional committees the "killing babies" aspect of nerve gas.

"How do you counter guys who are waving the flag?" Hormats asks. "Which is more terrible: the atheistic, communistic Russians or killing babies? Which is better emotion?"

Chemical warfare has been a moral conundrum ever since an April afternoon in 1915 when a cloud of greenish-yellow gas drifted downwind across a battlefield near Ypres, Belgium. The Germans routed French troops and horrified the world.

Without hesitation, the Allies mixed up their own lethal gas and retaliated in kind. "At the Ministry of Munitions we were the bees of Hell, and we stored our hives with the pure essence of slaughter," wrote Winston Churchill of the preparations for gas warfare.

While preparing its own essence of slaughter, the U.S. launched a massive and successful propaganda campaign against the Germans for using chemical weapons. Such behavior, one general wrote in the New York Times in 1915, disregards "all the laws of humanity and civilization."

American public opinion on chemical warfare was carefully manipulated by the federal government during World War I, according to General Frederic J. Brown, in his authoritative book "Chemical Warfare: A Study in Restraints." By the end of the war, Brown writes, "gas propaganda had run the gamut—the illegal and inhumane act of a murderous aggressor in 1915; just and humane retaliation in 1916; [news] blackout in 1917; and a triumph of Allied industry in 1918."

In the U.S. military, there has always been an unease with gas. There is nothing manly or glorious about leaking lethal chemicals into the air. Chemicals befoul the battlefield, complicating the tactics officers learn in war college, forcing soldiers into bulky suits and uncomfortable masks. According to Brown, both German and Allied commanders concluded after the war that once the element of surprise was lost and both sides were suited up, "a mutual exchange of gas would create a toxic battle environment causing more problems to be raised than could be solved." Chemicals are difficult to aim, they drift uncontrollably in the wind, and they are useless in the rain.

The two most commonly used chemicals in World War I were chlorine and mustard gas. These agents, especially mustard, are highly toxic. But they are not in the same league with nerve gas.

Nerve gas was discovered by accident in 1936 by a German scientist looking for a better way to kill bugs. What he discovered was an odorless, tasteless, invisible compound that, according to Hormats, "was remarkably effective against insects but, strangely enough, even more effective against man."

In World War II, the Germans did not use nerve gas because, in part, they feared that the Allies had also developed it. The Germans also believed, according to postwar interrogation of Germany's top chemical officer, that using gas would slow down the blitzkrieg invasion of Western Europe and divert scarce resources away from more useful weaponry. After the war, both the U.S. and the Soviet Union seized the German gas, took it home, and began making it. The Soviets dismantled two entire German nerve-gas plants and reassembled them in the Soviet Union. In the U.S., as manufacture of the gas started, researchers looked into the killing power of the new weapon.

Nerve gas, it was found, is capable of killing any living creature with a nervous system. It can enter the human body through the lungs by inhalation or through the skin by absorption. The gas, an organophosphorus compound related to Raid and other household insecticides, works by blocking the action of an enzyme that is part of the normal on-off function of the nervous system. The enzyme, in effect, is needed to turn nerves off. Nerve gas "binds" the enzyme and keeps it from turning off nerves. The result is uncontrolled firing of the entire nervous system. Victims "overstimulate" to death.

From a series of accidents involving Army employees—including J.A.'s poisoning in Utah—plus controlled tests with 6,720 soldier volunteers, the Army has put together a list of nerve-gas symptoms. Much of this testing and analysis took place near Washington, at the Edgewood Arsenal about 20 miles north of Baltimore, and later at the Army Medical Research and Development Command at Fort Detrick near Frederick, Maryland. Although human tests with nerve gas were stopped in the mid-1970s, chemical-warfare research continues at both installations.

Nerve-gas symptoms begin with nausea, sweating, heartburn, and tightness in the chest. Then come drooling, abdominal cramps, vomiting, wheezing, and diarrhea. The chest fills with mucus, and there are involuntary muscular twitches. Psychological effects begin with jitteriness, restlessness, and excessive swings of emotion, followed by insomnia. Under prolonged sublethal exposure, there are headaches, tremors, drowsiness, difficulty in concentrating, slowness of recall, mental confusion, and excessive dreaming. There is no record of what one dreams excessively about.

Chemical weapons like nerve gas are unique among modern weapons of war in that they are harmless to a soldier wearing protective clothing, which is standard issue to US and Soviet soldiers. Military strategy, in fact, is not to kill enemy soldiers with nerve gas, but to force them into their clumsy rubber protective suits, get them all sweaty and uncomfortable, and thereby reduce their fighting efficiency.

With nuclear warfare, deterrence depends on "mutual assured destruction." A chemical-war threat is really an "encumbrance" strategy. If the US has enough weapons to force the Russians into their rubber suits, then it has achieved its goal. If both sides have the offensive weapons and defensive suits, neither side could use nerve gas to military advantage and chemical warfare would be unlikely.

If the encumbrance strategy doesn't work, most of the dead in a chemical war will be civilians. Meselson, the Harvard biochemist and student of chemical warfare, estimates that a nerve-gas attack in central Germany intended to kill one of five soldiers (before they scramble into protective clothing) would drift downwind, under normal weather conditions, in a 24-mile-long, tear-shaped cloud. The invisible cloud would, according to Meselson's calculations, kill every unprotected person within twelve miles of the attack and incapacitate everyone else who does not have a gas mask handy.

"You are talking about killing 100 civilians, 200 civilians, for every soldier who is a casualty," says Meselson, who estimates that millions of civilians would die in a chemical war in Western Europe.

Grim statistics about civilian death and the distasteful nature of nerve gas have not gone unnoticed by the military. Compared to swords, bullets, high explosives, and even nuclear weapons, chemical weapons have always been, according to General Brown, "too technologically demanding and psychologically disquieting to be assimilated by the military profession."

Yet the military needed chemical weapons in World War I, and the Army created a bureaucracy—the Gas Service, which later became the Chemical Warfare Service, which later became the Chemical Corps—committed to meeting that need. Like any bureaucracy, the Chemical Corps is committed to perpetuating itself. The continued existence of the Chemical Corps means that for the past 69 years, someone in Washington has had career-related reasons for going to work every day, writing memos, making phone calls, and thinking about a chemical battlefield where, in the words of Senator John Warner, "the horror is unthinkable." The existence of a chemical-warfare bureaucracy guarantees requests for weapons to fight in such a war.

"If they are not doing chemical-warfare production, they don't have a job," says Senator David Pryor, who is convinced that the U.S. already has more than enough nerve gas to deter the Soviets. "It is kind of like the reasons we don't have a flat tax system. If you have a flat tax, you are going to have a lot of Internal Revenue Service agents out of work. If you don't have a chemical-warfare program you are going to have some people without a job. You know, you gotta have some way to spend the day."

Since 1918, when the U.S. last fired a chemical weapon at hostile forces, the Chemical Corps' biggest battles have been for its own survival. It has not been easy. The Corps has survived decades of public obloquy. In 1923, the *New York Herald* wrote: "Ordinary killing is bad enough, but that man should treat his fellow as he treats a rat or a cockroach is inherently repugnant to all from whom decent instincts have not fled." The Corps survived Presidents who wanted it abolished. Franklin D. Roosevelt said in 1937, "I do not want to aggrandize or make permanent any special bureau of the Army or the Navy engaged in [chemical warfare]. To dignify this Service by calling it the 'Chemical Corps' is, in my judgment, contrary to a sound public policy." And the Corps survived repeated attempts by the Army itself to reorganize it to death. The first of those attempts failed in 1919, the last in 1973.

The Corps could not have survived so long in Washington without bureaucratic skills. Like most government agencies that deal with unappetizing subjects, the Corps sanitizes chemical warfare with jargon and camouflages it in acronyms. Unplanned killings of civilians in a chemical attack are "collateral effects." Saul Hormats, who spent 37 years with the Chemical Corps at Edgewood, explains: "Talking about killing children or old people is no way to discuss something as important as chemical warfare. If you talk real, the program is dead, so you have to talk collateral effects."

A more important part of the Corps' bureaucratic battle for survival has been its ability to ingratiate itself with the right people in Congress. When the Army planned to dismantle the chemical service in 1919, the chief chemical officer, General Amos Fries, single-handedly kept it alive by sidestepping his military bosses and appealing to the chairmen of the House and Senate Military Affairs committees. Fries had made it his business to befriend these men, one on a trip to the Philippines, the other on a military assignment in Oregon.

More recently, the Corps had the good fortune of seeing retired Lieutenant Colonel George F. Mohrmann, a former Army legislative-affairs officer who for years had lobbied for the chemical program, go to work in 1976 for Ichord, then a ranking member of the House Armed Services Committee. Four years later, even though President Carter had not asked for it, Ichord pushed a bill through Congress to build a factory in Pine Bluff, Arkansas, for the manufacture of nerve-gas weapons.

The new nerve-gas plant, which has yet to make any weapons, symbolized for the Chemical Corps the end of eleven years of wandering in the bureaucratic wilderness. That exile, which almost killed the Corps, began in 1969 when President Richard Nixon halted U.S. production of chemical weapons. The late 1960s was not a politic time for making nerve gas. The U.S. was being criticized for its use of the defoliant Agent Orange in Vietnam, the environmental movement was gaining political momentum, and arms negotiators were seeking multinational treaties banning both chemical and biological weapons. The Chemical Corps also kept embarrassing itself with leaks and spills of its gas. In March 1968, an Army plan accidentally leaked nerve agent over a Utah pasture, killing more than 6,000 sheep. That incident, says an Army public-relations officer, "delivered a crippling blow to the nation's chemical-biological warfare program."

When President Nixon lowered the boom, Bobby Charles Robinson was a promising young Chemical Corps officer at the Army Command and General Staff College at Fort Leavenworth, Kansas.

"It was rough," recalls Robinson. "I remember very clearly going to class the next morning, after it had hit the news, and my classmates said, 'Aha, what are you going to be doing?'"

Robinson was a bright, plainspoken farm boy from North Carolina who had majored in chemistry and biology at Wake Forest University. The campus ROTC program there had introduced him to the Chemical Corps. During his Army chemical training at Fort McClellan, Alabama, Robinson was scarred by mustard gas.

"They really made believers out of you. . . . Most officers who went through basic training down there have a little item to remember," Robinson says, pointing with pride to a scar on the inside of his left forearm. The scar is the result of a training exercise in which small amounts of dilute mustard gas, a "blister agent" that causes chemical burns, were dripped onto the arms of prospective chemical officers. They then "decontaminated" themselves. "It gave you total confidence," Robinsons says.

Robinson believed then, as he believes now, that "somebody has to be looking at the chemical threat." So back in 1969, while all around him were deserters and program cutbacks, Robinson kept the faith. Many of the best and brightest officers in the Corps transferred to other Army branches in search of promotions. The Army chemical school at Fort McClellan was closed, funding for research dried up, and the number of Chemical Corps officers slipped from 1,375 to 700. The Secretary of the Army made plans to abolish the Corps.

During these dark days, Robinson was transferred to Fort Hood, Texas, where he bided his time and made sure his batallion of support soldiers was "one of the best-trained units for chemical protection that we had." Then, quite unexpectedly, the Corps was pulled back from the brink. This time it was the Soviets who saved the day. In the 1973 Arab-Israeli war, a Soviet tank was captured that, along with other equipment, indicated the Soviet Union was prepared to fight a chemical war. Lieutenant Colonel Robinson was called to Washington because there was no one at the Army's Nuclear Chemical Plans and Policy Division who knew nerve gas the way he did. Before he had even found his desk, Robinson was asked to write a paper explaining what binary nerve-gas weapons were all about. Robinson helped write a secret report that became the driving document behind the Army's effort to get serious again about chemical warfare. The lieutenant colonel was on his way to becoming a brigadier general, and the Chemical Corps was back in business.

The Corps needed a man like Robinson. He is warm and likable, and his southern courtliness belies stereotypes of chemical officers "as gas-and-bugs types."

"If they are looking at me as a test-tube guy, then they got me all wrong," says General Robinson in an interview in his office on the tenth floor of the high-security Army materiel headquarters in Alexandria. On one wall of his office is the insignia of the Chemical Corps (crossed test tubes over a benzene ring); on the other, framed photographs of his three children. Pointing to the photographs, Robinson explains his life's work: "I think we would be very, very remiss if we didn't provide those folks, my sons and daughters and their friends, and every soldier, the capability to survive and do his or her job on that battlefield."

Until there is a "truly effective and verifiable treaty which indeed eliminates" the possibility of chemical war, Robinson says, "you are very, very foolish if you are not prepared to counter the threat."

During the Ford and Carter administrations, according to a budget analyst at the Office of Management and Budget who took a special interest in the nerve-gas issue, Robinson was the Pentagon's best lobbyist on chemical warfare. He succeeded in scaring members of Congress about a chemical war without being scary himself.

General Robinson objects to the word lobbyist. "The Army is not authorized for lobbying. * * * You interface with the congressmen and the senators to support your program, [and the Soviet] threat comes out," he explains.

With General Robinson interfacing on the Hill, the Chemical Corps made a high-speed bureaucratic comeback. The chemical school in Alabama was reopened, chemical specialists were reassigned throughout the Army, and officer ranks were rebuilt to pre-exile levels. All the while, requests for money to make new nerve-gas weapons grew increasingly credible.

The game of bureaucratic survival in Washington is not played in a vacuum. Just as events conspired in the level 1960s to kill the Chemical Corps, so they fell into place in the late 1970s to revivify it. In 1979, an outbreak of anthrax near a suspected Soviet biological- and chemical-weapons factory in Sverdlovsk in the Ural Mountains led U.S. intelligence to suspect a Russian violation of the Biological Weapons Convention of 1972. That treaty, signed by the U.S. and the Soviets, banned production, possession, and use of biological, or "bug," weapons such as anthrax, plague, or Venezuelan equine encephalitis. It did not ban production and possession of chemical weapons.

Evidence and eyewitness accounts in Southeast Asia and Afghanistan also led the U.S. to conclude, despite reservations from some respected scientists, that the Soviets were using "yellow rain" toxins and chemical weapons.

The Soviets, in countless ways, have been midwives to the rebirth of the Chemical Corps. Pentagon lobbyists have attempted to prod reluctant congressmen into supporting nerve-gas production by giving them eight-by-ten glossies of General V. K. Pikalov, commander of Soviet chemical warfare. On the House floor two years ago, Representative G. William Whitehurst, a Virginia Republican, invoked the name of Marshal Nikolai Ogarkov, chief of staff of the Soviet Army, and warned his colleagues that nerve-gas moneys must be approved or else: "If you listen carefully, you will hear the echo of Ogarkov's laughter in the Kremlin."

In the final House debate on nerve gas last year, Representative Samuel S. Stratton, a Democrat from New York and member of the House Armed Services Committee, argued for nerve-gas production by pointing to "a dramatic new piece of evidence." Stratton, who in an earlier debate had brought a gas mask and full-protective suit into the House, said, "The Soviet Union has developed a new kind of gas that can actually penetrate our gas masks, feeble and limited as they are." Asked later about his source for this revelation, a press aide for Stratton said the congressman could find no written support for his statement, but he "swears he was told that by someone within DOD."

The Department of Defense, in the person of General Robinson, responded to Stratton's assertion by saying, "I don't know about the situation you are talking about here. I have no idea who might have told him that. I don't recall seeing any secret document but * * * I share the concern."

Invocations of the Soviet threat have become so common when Congress votes on nerve-gas funding that Senator Pryor has given them a name. He calls it "the white-knuckle show."

The white-knuckle show, according to Meselson, the Harvard biochemist and former State Department consultant who was instrumental in putting together the 1972 ban on biological weapons, "encourages sloppy intellectual performance in intelligence matters. Sooner or later it is going to hurt us."

In at least one instance, sloppy intelligence work embarrassed the Army. Among the chemical-warfare equipment found on the Soviet tank seized in the '73 Arab-Israeli war, the Army discovered a new antidote for nerve gas. The antidote, called TAB, was rushed to the U.S., copied, and, after limited testing, made the standard antidote for American soldiers. At the Army's request, Survival Technologies, Inc., a Bethesda firm, made 4 million TAB antidote injectors at $3.50 each. TAB was sent off around the world. Further testing, however, proved that the Army had been too quick to embrace Russian technology. According to a 1981 Army Chief of Staff memorandum, "studies have indicated that TAB is incapacitating in itself, causes hallucinations, and does not contain sufficient atropine to be effective."

Dr. Stanley J. Sarnoff, founder of Survival Technologies, describes the effects of TAB when taken by a soldier in the field: "He may lose his sense of proportion and his respect for authority. He could tell his sergeant to bugger off." While Sarnoff defends the $14 million TAB affair as a "a reasonable choice at the time" and one that is easy to criticize in hindsight. Meselson sees it as symptomatic of the military's thinking on chemical warfare.

"'Wow, it's Russian. It must be ten years ahead of us.' That's how the Army reacted," says Meselson. "If there had been a war, even if the Russians hadn't used gas, but we had sounded the alarm by mistake, every man would have injected himself [with TAB]— and we would have had no Army. It sounds like a joke. But it was no joke. The Russians could have just walked through."

TAB, ironically, is not even Russian. It is a Bulgarian insecticide antidote, says Meselson, that was purchased on the world market by the Egyptian army and placed in the Soviet tanks captured by the Israelis. Major Robert Pilnacek, an Army spokesman, denied that TAP is an insecticide antidote, while confirming its Bulgarian origin. The spokesman added, "TAB was presumed to be of Russian origin when captured. Going beyond that, I get in an area that I can't talk about."

Sloppy or precise evidence, real or imagined, suspicions and white-knuckle theatrics related to the Russians have all fueled bureaucratic victories for the Chemical Corps. One of the major victories was prompted by a defense Science Board study in 1980 that concluded that the US needed a "high-level focal point" for chemical warfare. So, for the first time, such a position was created within the Office of the Secretary of Defense. The position is now held by Ted Gold, an engineer who, like General Robinson, is a warm, personable, and career-driven proponent of the chemical program.

The 1980 election brought even more good news to the Chemical Corps. President Jimmy Carter had never allowed requests for nerve-gas-production money on his budgets. But the new President—who in his first press conference said the Soviets reserve "unto themselves the right to commit any crime, to lie, to cheat"—quickly saw the need. Production of nerve gas, President Reagan said, is "essential to the national interest." With a President unafraid of nerve gas and with a high-level advocate for "chemical matters" in Secretary of Defense

Caspar Weinberger's office, the Chemical Corps was primed for an assault on Congress.

On Capitol Hill, few members knew or cared about the comeback of the Chemical Corps. Nerve gas was an easy issue to repress—it was dwarfed by new fears of nuclear war, and it had to compete with a barrage of other barely comprehensible high-tech horrors. "Most members," said Senator Pryor, "make a point of not learning about it." There also are many other more politically profitable defense issues to worry about. The multibillion-dollar B-1 bomber program, for instance, has subcontractors in hundreds of congressional districts. By supporting such a weapon, a lawmaker can appear resolute against the Soviets while shipping home some pork. But a pip-squeak defense item like nerve gas offers awful visions and almost no pork-barrel benefits.

The constituency on Capitol Hill for nerve gas is, as ever, the membership of the House and Senate armed-services committees, which have consistently approved the Pentagon's requests for chemical weapons.

Then there are the boys from Arkansas. Nerve gas is a major local issue in that state. If nerve-gas weapons are made again, it will happen in Pine Bluff, a city of 58,000. (In a recent Rand McNally survey on the quality of life in American cities, Pine Bluff ranked 275th out of 277.) Representative Beryl F. Anthony Jr., a Democrat who represents the impoverished Pine Bluff area, supports nerve-gas production for the jobs it will bring home. But Anthony's understandable support has not been nearly as important to the fate of the nerve-gas issue in Washington as the dogged opposition of two other Arkansas lawmakers, Senator Pryor and Representative Ed Bethune.

It is uncommon for members of Congress to turn up their noses at a defense program that will, given time, bring home billions. Last year, Senator John Tower, a Texas Republican, wrote a "Dear Colleague" letter that said, "In my 22 years in the Senate, I do not recall any senator ever volunteering such a budget reduction in his state." While the nerve-gas opposition of Pryor, a moderate Democrat who supports most defense spending, is odd, that of Ed Bethune, a conservative Republican, is downright surprising.

When Bethune came to Congress in 1979, he did not know what binary weapons were. Furthermore, the handsome, sandy-haired former FBI agent and former prosecuting attorney had never expected that he would turn out to be the key House opponent of the only weapons system denied to President Reagan.

"I had just gotten here in 1979. What do I know from binary gas?" says Bethune. "I had been minding my own business, practicing law out in Searcy, Arkansas. So I got to Washington and I had a reporter come up to me one day and ask me about the binary munitions issue. . . . Well, I was a little embarrassed personally that I had not heard this esoteric term. Being caught short on that provoked my interest. You know how new members are around here—you want to learn. You don't want to look stupid."

Over the next three years, Bethune, whose district is next door to the Pine Bluff Arsenal, learned about nerve gas. In the process, he has made a name for himself. Bethune has met with President Reagan in the White House, as well as with Secretary of Defense Weinberger, Vice President Bush, and James Baker, the President's chief of staff. He has examined nerve-gas installations around the US and traveled to Geneva to look in on chemical-arms-control talks. He has led House debates against nerve gas and has asked the General Accounting Office to conduct an investigation of why the Department of Defense "withheld critical information" on a nerve-gas bomb. He has been quoted in national newspapers and magazines and has been interviewed by CBS News. Most newspapers back home have praised Bethune's work against nerve gas. In one editorial cartoon, he is pictured as an angel.

While no one questions the sincerity of Bethune's anti-nerve-gas crusade, it has afforded him a high profile in Washington and has helped solve his political problems at home. As a narrowly elected conservative Republican (nerve gas is the only defense issue on which Bethune disagrees with Reagan) in Arkansas' most liberal Democratic congressional district, Bethune must never seem too much of a Reaganite. "It serves him well to get out front on issues that make him look like an iconoclastic Republican," says Tom Hamburger, former Washington correspondent for the Arkansas Gazette.

Bethune embraced an issue that not only pleases the home folks but also is a safe bet in the Democratic House. Given the opportunity to vote yes or no on nerve-gas production, the House in the past two years has said no by overwhelming margins. But in the Republican Senate, where the past four nerve-gas votes have been decided by a total of eight votes, leading the opposition has been neither as easy nor as politically expedient. While Senator Pryor has lobbied and debated skillfully against nerve gas, he does not have the seniority or committee position to scuttle the majority's will. That job has fallen to the more strategically positioned senior senator from Oregon, Republican Mark O. Hatfield.

Hatfield, a religious man who, as a young soldier, was one of the first Americans to see Hiroshima after it was bombed, is a long-time adversary of the Chemical Corps. He opposes nerve gas for the same reason he opposes the neutron bomb. "The target is the civilian population," Hatfield says. His antipathy toward nerve gas dates back to the 1960s, when, as governor of Oregon, he opposed an Army attempt to store the gas in his state. Hatfield also is chairman of the Senate Appropriations Committee, and it is the power of his chairmanship that in the final days of last year's session just barely kept the US from producing the gas.

Before senator Hatfield flexed his muscles last fall, the Chemical Corps appeared to have victory in hand. Again, the Russians had done their part. When the Soviets shot down Korean Air Lines Flight 007 on September 1, the House was considering the defense-authorization bill. That bill included Senate-approved nerve-gas money that the House had soundly rejected. (The money had been put back into the defense bill by a conference committee made up of progas members of the House and Senate armed-services committees.)

The Russians, by shooting down an unarmed airliner, had set sabers rattling on Capitol Hill. It became both procedurally and politically impossible for nerve-gas opponents to hold up the entire defense package over a $124 million item. So the House approved the conference report, and for the first time in fourteen years, Congress authorized the production of chemical weapons. Then, however, came the second hurdle for any spending bill: the appropriations process, which meant the Senate Appropriations Committee—which meant Mark Hatfield.

Hatfield fixed his committee's vote against nerve gas. In October he walked into the defense-appropriations mark-up session with eleven anti-gas proxies in hand. He won on a 16-14 vote. Funding for nerve-gas production was struck from the defense-appropriations bill. That did not end it. At the Reagan administration's urging, an amendment was introduced in the full Senate to restore the money Hatfield had cut. The vote on that amendment occasioned last-minute soul-searching, bullying, and broken promises.

Between the committee mark-up and the floor vote, Hatfield counted up likely pro-gas votes and determined he was out-numbered. He appealed personally to three senators for help. "I had three of my colleagues pledge me their votes," he recalls. They were Senators Paula Hawkins of Florida, Alfonse M. D'Amato of New York, and Jesse Helms of North Carolina.

In the well of the Senate on November 8, Hawkins chose not to vote. For this, Hatfield kissed her on the cheek. D'Amato, although he said he was "still torn," reneged on his pledge and voted for nerve-gas production. Just as he had promised, Helms, the archconservative, voted against nerve-gas production. Supporters of nerve-gas, stunned by this un-Helms-like vote, watched in amazement as the stone-faced Helms quickly turned and rushed off the Senate floor.

The swinging doors of the Senate chamber were closing behind him when the voices of two pro-gas Republican senators, Ted Stevens and John Tower, joined in yelling, "Jesse! Jesse!" They ran after Helms and buttonholed him in a cloak room, impressing upon him the importance of his vote to the defense program and to the President. Looking sheepish, the senior senator from North Carolina returned to the Senate floor and whispered an apology to Hatfield: "I just can't do it; I'm sorry." He then changed his vote.

Helm's change resulted in a 46-46 tie and forced the Vice President into the tie-breaking vote that occasioned the apologetic presidential phone call to Bush's mother.

Because the House had not appropriated similar money, another conference on nerve gas was necessary. Hatfield, furious over his loss on the Senate floor, was a conferee.

On the day before Congress was scheduled to go home for the year, Hatfield told the conferees that he was prepared to stall the entire $258 billion defense bill.

"I've been in this business a long time, and I can play a hardball game when it is required. I told them, 'If you bring back that bill in any form that permits production of chemical weapons, then as far as I am concerned you don't have a bill.' I would have filibustered the conference report until the end of the session, if necessary," Hatfield says.

The conferees killed the nerve-gas-production program for another year.

So the Chemical Corps lost another round. But it is used to losing. Its officers, those committed men who have mustard-gas scars on their arms, take the long view. General Robinson says the Soviet threat is still there and the US stockpile of nerve gas is getting older every year. "We will be back this year with the same need," says Gold, the nation's top chemical bureaucrat. "The need is there."

Arms talks aimed at a ban on chemical weapons, which made progress in the 1970s, have floundered as U.S.-Soviet relations have deteriorated. Anger at the Soviets, along with increased fear of military confrontation, has raised the emotional pitch of congressional debate. Just as it was last year, nerve gas is likely to be a lightning rod for that anger and fear. Haters of the Soviet Union, fuming over the latest Russian outrage, can support production of nerve gas with enthusiasm and a clear conscience. Guilt-ridden lawmakers, worried about an arms buildup that forces cuts in domestic spending while causing record deficits, can find absolution, however meager, in voting against nerve gas.

Both Hatfield and Bethune expect another long, angry fight in Congress. Even if they stop nerve-gas production again, as may be likely in an election year, there is always next year for the Chemical Corps. As long as there is a chemical-warfare bureaucracy, there is a mechanism for learning from defeat and refining another request. As long as the Soviets are seen as an evil enemy willing to wage war with lethal chemicals, there will be votes for a deterrent.

"The nerve-gas issue reminds me of this movie about a monster from outer space," said Bethune last year. "The monster continues to grow arms and legs. You kill it off, and it comes back. Even though you are winning, you are losing."●

JUSTIN DART

● Mr. LAXALT. Mr. President, today I rise to express my sympathy at the passing of my friend Justin Dart. He, as much as anyone I have known, embodied the principles and qualities that make this Nation great. Indeed, Justin was a sterling example of the citizen-statesman that our Founding Fathers saw as essential to the health of our democracy.

Justin was a public servant in every sense. While never seeking election to high office, Justin advised great public leaders from Thomas Dewey to Ronald Reagan. Better and more responsible government was his singular goal in these relationships.

As a businessman and spokesman for free enterprise, Justin was unrivaled. He was a leader in the fields of aviation and medicine and developed one of the most successful businesses in the country.

As a philanthropist, Justin's generosity equalled his entrepreneurial genius. His contributions to education, the arts, and democracy have had and will continue to have a positive effect on the lives of countless Americans.

Yes, Justin loved his country and pursued his goals with unparallelled humility and devotion. With his passing, we will all have to work harder to preserve the principles he so richly believed in and dedicated his life to.

Although his death was a great loss for this country, his innumerable contributions will live on in an America made better by his work. Justin's family and friends can find solace in knowing that his unwavering love for this country played a significant role in making all of our lives better.●

PROMPT PAYMENTS ACT PROVING ITSELF

● Mr. SASSER. Mr. President, nearly $2.9 million in interest penalties were paid to businesses in fiscal year 1983 by the Federal Government as a result of the Prompt Payment Act of 1982. This fact provides sufficient proof for those of us who worked hard for passage of prompt payments legislation that the record of the Federal Government in making its payments to businesses on time—that is, within 30 days—left room for improvement.

When I introduced S. 30, which led to 1982's Prompt Payments Act, on January 5, 1981, I said then that "adoption of a 30-day time period in which the Federal Government must pay its bills or face interest charges makes good business sense."

There were those who resisted this initiative, claiming that it would hamstring Federal finance managers. Those of us who supported this initiative pointed to a 1978 General Accounting Office study which indicated that nearly 40 percent of the bills paid by the Federal Government were late payments.

Now, with implementation of the Prompt Payments Act, David Stockman, Director of the Office of Management and Budget (OMB), reports that "over 99 percent of payments for goods and services are now being made on time."

The correlation is obvious. The prospect of interest penalties that would have to come from already pinched agency budgets encouraged more efficient payment policies by Federal finance managers—policies which ultimately benefit everyone.

There is still much work to be done, however, in effecting an even better record of prompt payment of bills by Federal agencies. While 99 percent of bills owed by the Federal Government were paid on time in fiscal year 1983, there were an estimated 180,000 bills that were not paid on time. These bills constitute the 1 percent.

If the breakdown of these particular bills reflects the data contained in the 1978 GAO study, it means that the overwhelming number of the 180,000 bills involved small businesses. Small businesses just do not have the cash-flow capability nor administrative resources to pursue overdue accounts the way large corporations do.

In his report to the Congress on the first year of the law, OMB Director Stockman suggests that most problems with the implementation of the Prompt Payments Act came with the Department of Defense (DOD), and he says that OMB has been assured that DOD's payment problems will be overcome in 1984.

The Senate Governmental Affairs Committee, on which I serve, is continuing its series of hearings into DOD management and spending policies. And the Small Business Committee, on which I also serve, is also considering the role of small businesses in DOD procurement policies.

So, the opportunity will exist for the Senate to encourage even greater compliance with the spirit and the text of the Prompt Payments Act—as it involves small businesses and as it involves DOD, two parties most affected by its implementation—and in doing so, showing that good business practices in Government benefit everyone.

Mr. President, I ask that the OMB report on the Prompt Payments Act be printed in the Record.

The report follows:

Report on Interest Penalty Payments Under the Prompt Payment Act, Fiscal Year 1983

BACKGROUND

In 1978 the General Accounting Office reported that over 30 percent of the invoices paid by Federal departments and agencies were paid late. GAO estimated that late payments cost contractors between $150 million and $375 million a year in interest. In 1981 GAO did a followup study that showed little improvement since 1978.

The GAO reports indicated that late payments by the agencies were due to two major causes, (1) slow and inefficient processing of payments and (2) lack of Federal standards for insuring payment by specific due dates.

In September 1981 the Director of OMB wrote the heads of the departments and agencies calling for special efforts to improve the Government's bill paying practices. He instructed them to streamline administrative practices and to better adhere to guidance provided by OMB and the Treasury Department that required clear payment terms in contracts and effective cash management procedures to control the timeliness of disbursements.

LEGISLATION

Because of continued problems of late payment by Federal agencies, Congress enacted Public Law 97-177, the Prompt Payment Act, in May 1982. The Act requires agencies to pay their bills on time, pay interest penalties when payments are late, and take discounts only when payments are made within the discount period. The Act established early payment provisions for contractors providing meat and meat food products and perishable agricultural commodities. Recently, the Supplemental Appropriations Act of 1984 extended the early payment provisions to poultry, fresh eggs, and perishable egg products.

Section 2(a) of the Act required the Director of OMB to issue implementing regulations and to report to the Congress on agency implementation.

IMPLEMENTATION

OMB Circular A-125, "Prompt Payment," was issued in August 1982, to implement the Prompt Payment Act. In announcing the Circular, the Director said "These rules made good on President Reagan's pledge that the government will not be a 'deadbeat'. . . the President is committed to bringing good business like practices to government, and to seeing to it that the government pays its bills just like any other business—on time."

In accordance with the Act, Circular A-125 requires Federal agencies to pay their bills on time—not early and not late, and requires that they pay an interest penalty if payment is late. To help insure that payment is made on time, the Circular requires that agency procurement officials include in all Federal contracts specific information to facilitate payment and to document and support the payment of any required interest penalties. In addition, it requires that contractors submit proper invoices to the Federal agencies, including specific information to assure payment of the invoice by the due date. Where no due date is established in the contract, the Circular provides that payment will be made 30 days after receipt of an invoice or acceptance of the goods. Federal agencies have issued their own directives implementing the OMB Circular.

OMB is currently reviewing the applicability of Circular A-125 to progress payments. These are payments made to contractors before receipt of goods or services. Comments in response to a September 1983 proposed revision of the Circular have been received and are being analyzed. OMB will publish a final revision as soon as that analysis is complete.

As part of the Administration's Reform '88 program, agencies reported quarterly the amount of interest penalties paid. Based on the quarterly reports, OMB followed up with agencies that were having implementation problems and assisted them in resolving the problems.

CONCLUSION

In accordance with the requirements of the Prompt Payment Act and OMB Circular A-125, 38 departments and agencies reported to OMB on interest penalty payments made during fiscal year 1983. The reports indicate that the late payment problem has been all but eliminated. They show 99 percent of the Government's bills being paid on time. The major agencies reported paying approximately $2.9 million in interest penalties (see Attachment A). Seventy-one percent of the interest penalties paid were made by the Department of Defense, mostly by the Navy.

Total interest penalties resulted from making about 180,000 payments late out of a total of more than 23 million payments. About 60 percent of all payments were made by the Department of Defense. The primary reasons for late payment were delays in receipt of receiving reports and proper invoices.

Despite the fine record agencies have achieved in the first year of implementation, further improvement in bill payment practices is needed. OMB continues to receive inquiries from individual firms that have not been paid on time. As Mr. Kenton Pattie, Vice President, International Communications Industries Association, said in a recent statement to a House Small Business Subcommittee, "all has not been perfect. Each week I receive phone calls and letters from vendors who are not getting paid promptly." He added, however, that "Company executives usually tell me they have seen a major improvement since the Act went into effect October 1, 1982."

ATTACHMENT A.—SUMMARY OF MAJOR DEPARTMENT AND AGENCY FISCAL YEAR 1983 REPORTS UNDER THE PROMPT PAYMENT ACT

Department agency	Interest penalties paid	Number of interest penalties paid	Percent frequency	Major reasons for interest penalties
Agriculture	$111,171	10,009	0.72	[1]
Commerce	4,736	502	.24	[2]
Defense	2,051,121	120,782	.88	[3]
Education	1,349	123	1.09	[1]
Energy	63,723	2,354	2.08	[3]
EPA	29	6	0	[1]
GSA	56,927	2,374	.10	[3]
HHS	89,220	6,276	.46	[2]
HUD	422	39	.06	[2]
Interior	119,396	3,082	.37	[2]
Justice	52,672	3,706	.59	[1]
Labor	5,641	455	.93	[1]
NASA	4,389	233	.16	[2]
NSF	37	1	.02	[3]
OPM	338	30	.09	[3]
SBA	4,786	203	.54	[1]
State	4,180	160	.06	[2]
DOT	178,923	15,761	1.75	[2]
Treasury	16,111	1,073	.18	[2]
VA	119,861	12,245	.25	[2]
Summary	2,885,032	179,414	.65	

[1] Delay in receipt of proper invoice by paying office.

[2] Delay in receipt of receiving report by paying office.

[3] Other.●

THE FAIR TRADE IN STEEL ACT OF 1984

● Mr. HEINZ. Mr. President, I would like to inform my colleagues of my intention to soon introduce the Fair Trade in Steel Act of 1984, more commonly known as the steel quota bill. I have been considering this action for some time and have delayed for a number of reasons, among them my hope that the administration would develop an overall steel policy that would make the bill less necessary.

Unfortunately, the recent narrow and shortsighted decision by the Justice Department to block the proposed merger between LTV and Republic Steel shows we have no such policy, effectively preempts the development of any such policy and makes import restraints the only available avenue for industry relief. Accordingly, I will introduce the bill and make every effort to secure this enactment.

The Justice Department decision that has brought us to this point is disastrous for two reasons: It is wrong on the merits, and it prevents some badly needed policy coordination on steel in the White House.

On the merits, it is simply unrealistic and inaccurate to view the industry as anything but part of a global market. Imports constitute over 22 percent of our market, and in fact increased in the disastrous year of 1983 compared to 1982, even though the industry has made clear that import penetration over 15 percent causes serious injury. To argue, as Assistant Attorney General McGrath apparently did, that the EC steel agreement and Japanese self-restraint removes the foreign market as an element in the proposed merger is to see the industry with blinders on and to ignore other producers and their overall effect on the domestic industry.

Equally important, the Justice Department view penalizes the industry for winning its unfair trade practice cases pursuant to U.S. law. The steel industry has proved time and time again, in 1982, 1983, and now in 1984, that it is the victim of dumped and subsidized imports from countries determined to maintain their employment at any cost and export their economic and social problems to the United States. Despite those victories, imports were and have been increasing and, until recently, in many product lines, prices were still falling, insuring huge domestic industry losses even on what they were able to sell.

At this point, to take those industry victories, victories consistent with our law and with internationally agreed-upon standards of fair trade practices, and to use them against the industry by penalizing them for winning is to make a mockery of our trade laws and of GATT rules. It reflects a view of the world in which nothing matters but a few antitrust attorneys' theoretical view of the world, a view which itself has little to do with the reality of modern steelmaking.

The second reason this decision is a disaster is that it demonstrates a lack of an administration steel policy, and it preempts any attempts to develop one. From all I have been able to determine this decision was made unilaterally by Mr. McGrath and his staff without consultation with other agencies or the White House. The result is a decision taken without regard to any of the other relevant issues in the steel industry—imports, tax problems, regulatory matters, to mention a few. It may well have been that restructuring was a useful tool for helping the steel industry confront its modernization and investment problems.

Those opposed to quotas no doubt hoped to use such an argument against any steel trade legislation. Mr. McGrath's decision tosses that argument into the ashcan and instead forces the industry to restructure and modernize in the most painful and inefficent ways possible; yet no one else in the administration appears to have had any policy input into that decision despite its obvious implications for the Commerce Department, the Treasury Department, the Labor Department, the U.S. Trade Representative, the Environmental Protection Agency, and many others.

Worse than that, the decision may well mean the die has been cast, that it is too late for such input and that this administration is not going to have a steel policy. I hope that is not the case, and I will shortly be writing the President suggesting that that is not the wisest way to do business and urging him to sit down with all relevant agencies and appropriate Members of Congress and discuss what a steel policy for this country ought to include. I think the President wants such a policy, and I am confident that all of us working together can develop it, either on ad hoc basis or working within the kind of institutional framework for adjustment I proposed in S. 849, the Industrial Revitalization Act.

The alternative, Mr. President, is the quota bill, which has already been given a significant boost by the Justice Department's action. The many of us in Congress who are concerned about this industry that is fundamental to our economic health are simply not going to stand by and watch it suffer irreparable damage because the bureaucracy cannot get its act together. There will be a steel policy in this country, and if Congress has to write it, I suspect it will begin with the quota bill.●

NUCLEAR WEAPONS DEVELOPMENT

● Mr. HUMPHREY. Mr. President, once again I would like to shift the attention of my colleagues to a great concern of the American public—nuclear weapons development. I wish to share with you this morning two articles critical of present U.S. nuclear export policy.

These articles, in a nutshell, describe the purpose and sensibility of the Humphrey-Roth amendment, which we will offer as an amendment to the Export-Administration Act. It is with the long-term interest of this Nation in mind that we must restructure our nuclear export criteria.

I ask that the texts of these two articles appear in the Record.

The material follows:

[From the New York Times]

Tell India No on Atoms

(By Jed C. Sndyer)

Washington.—This month, the Senate will consider legislation prohibiting the Nuclear Regulatory Commission from approving the export of sensitive nuclear materials to countries that do not have nuclear weapons and that have refused to open their nuclear facilities to international inspection. This legislation would directly affect the question of whether the United States should accede to India's urgent request for spare parts for two American-built nuclear power reactors at the Tarapur Atomic Power Station, near Bombay.

Washington is being asked to permit the supply of these parts on the ground that radiation leaks resulting from worn reactor parts at Tarapur may threaten public health. The President should use this opportunity to send Prime Minister Indira Gandhi a clear message: We will not ignore what may be a clandestine nuclear weapons program.

The Senate will consider whether to amend the Nuclear Non-Proliferation Act. Passed by Congress in 1978, it requires, as a condition of United States assistance, all countries that do not possess nuclear weapons to agree to place their nuclear activities under auspices of the International Atomic Energy Agency, whose inspection program is designed to detect the diversion of fissionable materials for explosive or military purposes. India has refused to consent to such international safeguards.

India has a consistent record of noncooperation in the international control of atomic energy, including a refusal to sign the 1968 Nuclear Non-Proliferation Treaty. New Delhi has also sought nuclear self-sufficiency in ways that have alarmed nuclear-security analysts. Its choice of nuclear reactors provides an example. India uses nonconventional power reactors but precisely those reactors that facilitate the manufacture of weapons-grade plutonium.

Although India's desire for nuclear self-sufficiency would not by itself be reason for great concern, this quest for independence has been linked with attempts to evade imposition of comprehensive international safeguards, deepening the suspicions that already surround India's nuclear program. In 1974, India exploded a nuclear device in the Rajasthan Desert. The intelligence community has confirmed the accuracy of recent press accounts reporting preparations for a second nuclear test.

Of even greater concern are reports that India is stockpiling plutonium obtained from reprocessing. This reprocessing is done at several facilities (including Tarapur) under only partial safeguards. As a result, India is stockpiling plutonium that may be used either in a nuclear weapon or to fuel other unsafeguarded reactors that could yield weapons-grade material. Such reprocessing activities are even more suspicious since there is no apparent civilian use for such large amounts of plutonium. For these reasons, the United States should refuse India's request for spare parts and it should press other nations to deny aid to India's nuclear program until reliable assurances are given to alleviate concern about proliferation.

The implications of a clandestine nuclear weapons program have not escaped the notice of India's neighbor, Pakistan. Pakistan's President, Muhammad Zia ul-Haq, is alarmed about the direction of India's nuclear program and has stated that concern to American officials on many occasions. The Indian reprocessing effort (which is years ahead of a similar Pakistani program) may already have accelerated Pakistan's efforts to obtain nuclear weapons.

While the Reagan Administration has expressed concern over the direction of Mrs. Gandhi's nuclear program, Washington has been reluctant to confront New Delhi directly. In 1981, the Administration began quiet discussions to alter its fuel supply relationship with India. Expediency triumphed over principle and in July 1982 the United States arranged for the French Government to replace America as the sole supplier of enriched uranium fuel for Tarapur. A commercial supply agreement between France and India was signed in March 1983. The French (who earlier helped Iraq in its efforts to acquire nuclear weapons) are evidently unconcerned about the direction of India's nuclear activities.

Unless our Government receives ironclad assurances that India will cease unsafeguarded production and use of plutonium, it would be foolish to approve shipment of spare parts for the Tarapur reactor. If the public health is really endangered by radiation leakage from Tarapur, one would hope that Mrs. Gandhi would order the reactor shut down. Indeed, Congress understands this and is willing to stand firm against the spare-parts sale. The question now is whether the Reagan Administration has the courage to say no.

[From the Washington Times, Feb. 7, 1984]

Senators Want To Lock Door to Nuclear Club

(By Dave Doubrava)

A bipartisan group of senators, concerned over the potential spread of nuclear weapons material to Third World countries, will try to tighten export restrictions when the Export Administration Act comes up for consideration, possibly later this week.

Sen. Gordon J. Humphrey, R-N.H., said yesterday the group will offer an amendment which would prohibit the Nuclear Regulatory Agency and the Department of Energy from licensing the export or transfer of materials listed by the NRC as "significant for nuclear explosive purposes."

The restrictions would apply to nations that are not party to the Nuclear Non-Proliferation Act of 1978—among them Israel, Pakistan, Argentina, Brazil, South Africa, Libya and Iraq.

Mr. Humphrey said the amendment would apply the same restrictions now imposed on the export of complete reactors, enriched uranium, plutonium and nuclear by-products to material such as heavy water and graphite.

Under the amendment, the president could approve export or transfer if he decided it was in the national interest.

"If more and more Libyas get a nuclear capacity, we have a dangerous situation on our hands," Mr. Humphrey told an editorial board meeting of The Washington Times. "That is a very scary prospect with a greater potential for a nuclear catastrophy than in a superpower confrontation."

Mr. Humphrey said, in the long term, it will be extremely difficult to limit nuclear proliferation but said the amendment was "a good first step."

"It's possible some of the horses have gotten out of the barn, but we still have to do what we can to close that door tightly."

Sen. William V. Roth, R-Del., is co-sponsoring the measure, along with Sens. Mark O. Hatfield, R-Ore., Nancy Kassebaum, R-Kan., and Democratic presidential candidates Sen. John Glenn of Ohio and Sen. Gary Hart of Colorado.

"We believe sound nuclear export control requires that this loophole be closed, if only to alert the pertinent agencies of Congress' desire to tighten . . . controls over non-weapons nations that have refused to accede to full-scope safeguards," Mr. Humphrey and Mr. Roth wrote their colleagues.

Mr. Humphrey also said the United States should put additional pressure on nations with nuclear capability such as France to stop trading with non-nuclear states, "to help us to close the door to the nuclear club."

"If we don't limit our exports, we can't morally persuade our allies to limit theirs," he said.

The administration opposes the amendment, Mr. Humphrey said, "because they'll have less latitude."

He said he did not know if supporters have the votes to pass the amendment but said he and others would be lobbying their colleagues this week.

"We have largely failed to prevent the spread of nuclear weapons," Mr. Humphrey added. "I can't understand why we aren't that serious about closing the nuclear door tightly."●

UNEMPLOYMENT COMPENSATION

● Mr. HEINZ. Mr. President, I am pleased to be joining Senator ROTH as an original cosponsor to this legislation which affects approximately 1,700 employees in Pennsylvania and Delaware.

This bill will correct an anomaly in the Internal Revenue Code that has caused 1,700 Sun Oil Co. workers in Pennsylvania and Delaware to pay Federal income tax on unemployment benefits received in 1979, but which should have been received by them in 1973, long before Congress changed the tax laws making unemployment benefits partially taxable. As a result of the Revenue Act of 1978, these workers were subjected to what amounted to a retroactive levy on their unemployment benefits.

Though unemployment compensation is typically paid to workers while their claims are under appeal by their employers, this was not the case for the Sun employees. Benefits were withheld by the State while the employer appealed administrative and court determinations favorable to the workers. Ultimately the case reached the U.S. Supreme Court which dismissed the appeal, thereby confirming the decisions in favor of the workers.

In the meantime, 6 years had elapsed. The workers received their benefit payments, and then found themselves subject to tax. This result was clearly contrary to the intent of Congress which made benefits taxable prospectively. Congress never considered reaching back to tax benefits accrued 6 years before they were received.

The tax compounded the injury to the Sun workers who had already suffered an erosion of the value of the benefits through the impact of inflation. The Internal Revenue Service has been powerless to take remedial action because of the wording of the statute, and accordingly, this legislation will remedy the situation. This bill while it provides relief for the Sun Oil employees, will also provide relief for all employees who were entitled to unemployment compensation prior to 1978, but received the compensation after 1978.●

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, we are still working on the clearance of a unanimous-consent agreement that would provide time for the consideration of the Kennedy amendment and then for final passage of the career criminal bill tomorrow. I think there is a good chance we can get that agreement, which is not yet complete. But in order to provide additional time and to provide time for Senators to speak on other matters if they wish to do so, I ask unanimous consent that the time for morning business be extended until 4 p.m., under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am advised now that negotiations looking to a time agreement by unanimous consent for the final consideration of the career criminal bill are making headway. There is still a chance we can get that agreement this afternoon, but we do not have it yet.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for morning business be extended until not past 5 p.m., under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, unless some other Senator is seeking recognition, and I see none, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAWKINS). Without objection, it is so ordered.

Mr. CHILES. Madam President, I ask unanimous consent that the Senate proceed as if in morning business so I may introduce a resolution.

The PRESIDING OFFICER. The Senate is in morning business.

Mr. CHILES. It is in morning business.

Madam President, I send to the desk a Senate concurrent resolution and ask for its introduction.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

Mr. CHILES. Madam President, I ask unanimous consent that other Members have until 6 p.m. today to sign as original cosponsors of the Senate resolution that I just introduced; that the resolution be held at the desk.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

(The text of the concurrent resolution is printed earlier in today's RECORD.)

Mr. CHILES. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BAKER. Madam President, I say to the minority leader that I have one more item on today's Executive Calendar, under Department of the Interior, and I wonder if he is in a position to consider that today or to do it tomorrow—or at all.

On my Executive Calendar today, I have cleared for action by unanimous consent on this side the nomination, under Department of the Interior, of Ann Dore McLaughlin, of the District of Columbia, to be Under Secretary of the Interior, as well as nominations placed on the Secretary's desk in the Foreign Service.

I inquire if the minority leader is in a position to clear all or any portion of those nominations for action by unanimous consent at this time.

Mr. BYRD. Madam President, in response to the distinguished majority leader, the minority is ready to proceed on the two nominations on page 1 of the Executive Calendar but is not ready to proceed to the nominations placed on the Secretary's desk in the Foreign Service.

Mr. BAKER. I thank the minority leader.

From that, it appears that one nomination is cleared on both sides for action by unanimous consent—that is, Calendar No. 462. Therefore, I ask unanimous consent that the Senate now go into executive session for the purpose of considering Calendar No. 462 on the Executive Calendar.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF THE INTERIOR

The assistant legislative clerk read the nomination of Ann Dore McLaughlin, of the District of Columbia, to be Under Secretary of the Interior.

Mr. McCLURE. Madam President, I rise in strong support of the nomination of Ann Dore McLaughlin, of the District of Columbia, to be Under Secretary of the Interior. On February 9, the Committee on Energy and Natural Resources endorsed Mrs. McLaughlin's nomination by a vote of 17 to 0. The committee's vote followed a nomination hearing on Monday, February 6.

Mrs. McLaughlin comes before the Senate with a record of distinguished service in both the public and private sectors. She possesses fine credentials to assume the role of the second highest ranking official within the Department of the Interior. I have confidence that this background and experience will serve her well in carrying out the duties of Under Secretary.

On behalf of the Committee on Energy and Natural Resources, I am pleased to recommend Senate approval of the nomination of Ann Dore McLaughlin for the position of Under Secretary of the Interior.

Mr. BOREN. Madam President, the Senate is about to vote on the nomination of Ann Dore McLaughlin to be Under Secretary of Interior. I hope that she will be confirmed. Her background in both the public and private sector, including operating her own business, will enable her to discharge her duties well and to the benefit of the country.

While we are confirming this nominee, I would also like to acknowledge the contributions made by the previous Under Secretary of Interior. J. Jake Simmons has served the country well and his counsel at the Department of the Interior will be missed. A former vice president of the Amerada-Hess Corp., Mr. Simmons has served ably. He left a secure position with the Interstate Commerce Commission (ICC) to take on the responsibilities at the Interior Department. His performance there amply justifies the high regard in which he is held by his fellow Oklahomans.

I am very pleased to note that the President of the United States also recognizes Mr. Simmons' continued and enduring value to his country. He is being asked to return to his previous position as a member of the ICC and I hope the Senate will speedily confirm his nomination.

So as we confirm one nominee, Let us also pay tribute to another. The United States will prosper by the service of these two outstanding individuals.

Mr. NICKLES. Madam President, I rise today to also echo my support for the nomination of Ann Dore McLaughlin as Under Secretary of the Department of the Interior. Mrs. McLaughlin's qualifications blend years of experience in public policy management with a continuing involvement in environment and natural resource conservation. Her time spent in Government service, in industry, and in running a private business has exposed her to a host of management challenges and provides her with a background well suited for the demands ahead at the Interior Department. Mrs. McLaughlin has my strong support for the position of Under Secretary.

I would also take a moment to congratulate Jake Simmons for the very fine job he has done as he leaves the position of Under Secretary. Jake has been nominated to serve as a Commissioner on the Interstate Commerce Commission, where he served before leaving to go to Interior. It is my hope that the Senate will also confirm Jake Simmons as Commissioner of the ICC in the very near future.

The **PRESIDING OFFICER.** Without objection, the nomination is considered and confirmed.

Mr. BAKER. Madam President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Madam President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Madam President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—ARMED CAREER CRIMINAL ACT OF 1983

Mr. BAKER. Madam President, I have consulted with the minority leader on the possibility of a unanimous-consent agreement that would establish the arrangement for the debate and disposition of the career bill on tomorrow and a time for its final passage.

I believe the request has been cleared on both sides through our regular processes, and I will now put the request for the consideration of the minority leader and other Members.

I ask unanimous consent that on tomorrow when the Senate returns to the consideration of Calendar No. 310, S. 52, the career criminal bill, it do so under the following agreement:

That there be 1 hour allocated for debate on the bill, to be equally divided between the chairman of the Judiciary Committee and the ranking minority member thereof or their designees.

That the following amendments be the only amendments in order, with the exception of the committee reported substitute, and that the time for debate on the amendments be limited as follows:

One hour of debate on an amendment to be offered by the Senator from Massachusetts (Mr. KENNEDY) dealing with Federal prosecution of robbery. One hour on an amendment to be offered by the Senator from South Carolina (Mr. THURMOND) dealing with deferral of Federal prosecutions. The time on both amendments to be equally divided.

That the Senate then proceed to vote on or in relation to the Kennedy amendment at 2:30 p.m., to be followed, without any further intervening debate, motion, appeal, or point of order, by a vote in relation to the Thurmond amendment, to be followed by adoption of the committee substitute and final passage of S. 52 as amended, if amended.

That the agreement be in the usual form; that paragraph 4 of rule XII be waived; and that if there are to be motions, appeals, or points of order that may be submitted to the Senate, other than as herein provided for, there be 10 minutes for debate, equally divided.

That is the request, Madam President.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none, and it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate resumes consideration of S. 52 (Order No. 310), a bill to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment, no amendments shall be in order except the Committee reported substitute, an amendment by the Senator from Massachusetts (Mr. KENNEDY) dealing with Federal prosecution of robbery, on which there shall be 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and an amendment by the Senator from South Carolina (Mr. THURMOND) dealing with deferral of Federal prosecution, on which there shall be 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the bill, debate shall be limited to 1 hour, to be equally divided and controlled by the Senator from South Carolina (Mr. THURMOND) and the Senator from Delaware (Mr. BIDEN), or their designees: *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Ordered further, That at 2:30 p.m. on Thursday, February 23, 1984, the Senate proceed to vote in relation to the Kennedy amendment, to be followed without any intervening debate, motion, appeal, or point of order by a vote in relation to the Thurmond amendment, to be followed by adoption of the Committee substitute and final passage of S. 52, as amended, if amended. (Feb. 22, 1984.)

Mr. BAKER. I thank the Chair, and I thank the minority leader.

Madam President, I fully expect that there will be a rollcall vote on final passage of this measure. I do not now know whether there will be other votes, but Senators should anticipate at least one rollcall vote on the measure during the day tomorrow.

SCHEDULE FOR FRIDAY AND MONDAY

Mr. BYRD. Madam President, I inquire of the majority leader what the schedule is for Friday and Monday and whether there will be any votes expected on Friday or Monday. He may not be specific on that point, but it would help our membership to have as much information as possible, so that they can schedule their days accordingly.

Mr. BAKER. I thank the minority leader.

Madam President, after we finish the career criminal bill, I hope we may be able to proceed to a bill dealing with robbery of pharmacies. I do not expect that to take very long, but I hope to do that immediately after we finish the career bill.

Tomorrow is Thursday, and it would be my expectation that we would lay down but not deal with the Export Administration Act at that time. I anticipate that we will be in on Friday and that we will have debate on the Export Administration bill. I must say, in all candor, however, that I do not expect us to be able to dispose of that measure on Friday.

There may be votes on Friday, but I think it is more likely that it will be Monday before we have votes on that measure and before we can complete it. I would like to be mistaken about that, but I expect that it will take us Friday and Monday to take up and dispose of the Export Administration bill.

After that, we may be able to deal with a couple of other measures. There is a reciprocity bill and a Federal Trade Commission authorization bill that may be available to be taken up.

I also say, in further response to the minority leader, that some time next week—and it appears that it may be late next week—I hope to ask the Senate to proceed to the consideration of an amendment to the Constitution dealing with prayer in schools. But that will not be the first part of the week and it may not be next week at all, but I hope it will occur in the next few days.

Mr. BYRD. Madam President, I thank the majority leader.

I wonder if the majority leader would agree with me that it would be highly unlikely that there would be a vote on final passage of the Export Administration bill on Friday, if for no other reason than that some Members, naturally, will not be here on Friday, for one reason or another. I am pretty sure that most of them would probably want to be here on the final passage of that bill.

Mr. BAKER. I think it is very unlikely that we could finish that bill on Friday. I think it is virtually certain that we cannot. That is not to say that there might not be a vote, but I think final passage will almost surely come no earlier than Monday.

Mr. BYRD. I thank the majority leader.

ORDERS FOR TOMORROW

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BAKER. Madam President, I ask unanimous consent that after the Senate completes its business today, it stand in recess until 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SYMMS AND SENATOR PROXMIRE TOMORROW

Mr. BAKER. Madam President, I ask unanimous consent that after the recognition of the two leaders under the standing order on tomorrow, two Senators be recognized on special orders of not to exceed 15 minutes each, as follows, in this order: Senator SYMMS and Senator PROXMIRE.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. BAKER. Madam President, I ask unanimous consent that after the execution of the special orders tomorrow, there be a period for the transaction of routine morning business, not to extend beyond 11:30 a.m., with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF ARMED CAREER CRIMINAL ACT

Mr. BAKER. Madam President, I ask unanimous consent that at the close of business tomorrow, at 11:30 a.m., the Senate return to the consideration of Calendar No. 310, S. 52, the Armed Career Criminal Act, which is the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Madam President, on tomorrow, when the Senate convenes, it will do so at 10:30 a.m.

After the recognition of the two leaders under the standing order, two Senators will be recognized on special orders of not to exceed 15 minutes each.

After the execution of the special orders, there will be a period for the transaction of routine morning business, extending until 11:30 a.m.

At 11:30 a.m., the Senate will resume consideration of the unfinished business, which is the career criminal bill, S. 52. A time agreement has been entered into concerning the consideration and disposition and the limitation of amendments that are available to that measure and the final consideration of the measure itself as amended, if amended.

It is anticipated that after the disposition of the career criminal bill, the Senate will turn to the consideration of the bill dealing with the robbery of pharmacies, which is Calendar Order No. 648, S. 422.

Thereafter, Madam President, there may be other matters dealt with.

It is the hope of the leadership on this side, that during the day tomorrow, before the Senate concludes its activities, we may lay before the Senate for consideration, but not for further action, the Export Administration bill.

The Senate will be in session on Friday. It is not anticipated that the Export Administration bill can be completed on that day and it is expected that we will resume consideration of that measure and perhaps be prepared for its final disposition on Monday next.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BAKER. Madam President, I have nothing further to address to the Senate. If the minority leader has nothing further, and I gather he does not from his indication to me just now, then I move in accordance with the order just entered that the Senate now stand in recess until 10:30 a.m. on tomorrow.

The motion was agreed to; and at 4:52 p.m. the Senate recessed until Thursday, February 23, 1984, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 22, 1984:

DEPARTMENT OF THE TREASURY

Alfred Hugh Kingon, of New York, to be an Assistant Secretary of the Treasury, vice Ann Dore McLaughlin, resigned.

David Campbell Mulford, of Illinois, to be a Deputy Under Secretary of the Treasury, vice Marc E. Leland, resigned.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Fred William Alvarez, of New Mexico, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1988, vice Armando M. Rodriguez, term expired.

IN THE COAST GUARD

The following cadets of the U.S. Coast Guard Academy for appointment to the grade of ensign:

Carl T. Adam
Daniel P. Allan
Michael H. Anderson
Michael J. Andres
Henry W. Ayers
Bruce D. Baffer
William G. Balsinger III
Luann Barndt
Thomas Barone
Matthew R. Barre
Jeffrey H. Bartlett
Cari K. Batson
Jeffrey S. Bauer
Robert C. Baxter, Jr.
Dennis M. Becker
Kurt J. Beier
David A. Bell
Tami D. Belville
Joseph W. Billy II
John R. Bingaman
William F. Blough
Daniel S. Bobalek
Michael M. Bradley
Patrick W. Brennan
Jay J. Briggs
Eric P. Brown
Timothy R. Brown
Richard R. Bruce II
Donald G. Bruzdzinski, Jr.
Scott A. Buschman
George E. Butler
Richard A. Button, Jr.
John E. Cameron
Mark S. Carmel
Armin D. Cate
Michael B. Cerne
Eric A. Chamberlin
Corey D. Chamness, Jr.
Timothy A. Cherry
Peter D. Chittenden
Joseph H. Chu Choi
David A. Cinalli
Michael T. Close
William J. Coffey
Russell D. Conatser
David A. Coolidge
Craig A. Corl
Mark E. Crater
John M. Cushing, Jr.
Donald W. Cutrell
Aaron C. Davenport
Joseph A. DeSalvio
Borton L. DeShayes
Gerald D. Dean
Robert M. Dean IV
Robert L. DeYoung
Joel L. Dodds
Brian L. Dolph
William T. Douglas
Michael D. Drieu
Patrick J. Dwyer
Michael D. Emerson
Stephen J. Engel
Suzanne E. Englebert
Brad W. Fabling
Dale V. Ferriere
Paul P. Fierszt
Anne T. Fleck
Brian Flory
Alfred C. Folsom
Monique L. Foster
David M. Fuka
David J. Gardiner
Michael P. Germinario
Michael A. Giglio
Craig A. Gilbert
Pauline K. Goetze
Bradford B. Groves
Christopher J. Hall
Luke B. Harden
John T. Hardin II
Kevin D. Harkins
Theodore F. Harrop
Cheryl L. Harvey
Michael G. Haydin
Bruce E. Herring
Charles C. Hoffman III
Michael H. Homick
Christopher G. Honse
David A. Hoover
William L. Hucke IV
William K. Hunt
Michael C. Husak
Jeffrey D. Irino
Colleen M. Johnson
Matthew F. Johnson
Brian M. Judge
Mark V. Kasper
Michael S. Kazek
Richard M. Kenin
Clement D. Ketchum III
Sharon A. Kiel
Glenn R. Kleint
Chris G. Kmieck
John F. Koeppen
Eric B. Kretz
Kevin B. Kring
Willem M. Lange IV
James C. Larkin
Kenneth M. Lawrenson
Jacques G. Leonardi
Kevin M. Lyon
Thomas P. Marian
Raymond W. Martin, Jr.
James G. Mazzonna
David A. McBride
James E. McCaffrey
John B. McDermott
Douglas L. McKinnis
Scott T. McNutt
Douglas R. Menders
Gary W. Merrick
Brian J. Merrill
James T. Moore
Patricia L. Mountcastle
Philip E. Muir
Theodore V. Murray
Brain J. Musselman
Kevin M. Nedd
Samuel M. Neill
Jonathan H. Nickerson
Thomas M. Noonan
Stephen G. Nurre
Martin C. Oard
Scott F. Ogan
Jeffrey E. Ogden
Edward W. Parsons III
Thomas C. Pedagno
Jeffery V. Plourde
Steven D. Poulin
Scott A. Poyer
William J. Quigley
William J. Rall
Garly C. Rasicot
Paul S. Ratte
Stephen P. Rausch
Robert D. Rayhill
Matthew P. Reid
David C. Ressel
Daniel A. Ronan
Donald J. Rose
Steven A. Rowland
Kevin J. Russell
Michael D. Sakahara
John J. Santucci, Jr.
Steven G. Sawhill
Jeffrey S. Schneider
Roy J. Scott
Roger D. Scow, Jr.
Gregory W. Shaffer
Timothy J. Shamrell
James D. Singleton
Peter M. Skillings
Robert E. Smith, Jr.
Michael A. Spotto
Steven M. Stancliff
George J. Stephanos
Christopher J. Stickney
Daniel V. Svensson
Mark A. Swanson
John F. Sykstus
John E. Tomko
Michael D. Tosatto
Donald R. Triner, Jr.
Paula J. Tutein
Carl J. Uchytil, Jr.
Elizabeth K. Uhrig
Dawn K. Warden
James H. Weakley
Mark C. Weber
Peter B. Weddington
Gordon K. Weeks, Jr.
Robert G. Wheeler
Andrew P. White
Bret L. White
Anthony D. Wiest
Thomas C. Wiggans
Scott E. Williams
Steven G. Wood
Gustav R. Wulfkuhle
Vann J. Young

IN THE NAVY

The following-named Naval Reserve Officers Training Corps candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 2107:

Consunji, Ray S.
Coughlin, Joseph C.
Fry, Kathleen M.
Hoopes, Karen D.
Jennings, Michael W.
Romine, William F.
Whidden, Kenneth D.

The following-named Naval Reserve officers to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Abe, Richard G.
Allen, Thomas P.
Amala, Paul A.
Anderson, Michael
Beck, Gregory A.
Beckmann, Richard
Berendt, Mark J.
Bernard, Michael G.
Bittner, Lawrence
Brothers, Kelly R.
Brown, Geoffrey S.
Brown, Michael P.
Cary, Thomas R.
Casteel, Andrew B.
Cecchetti, Jon M.
Conlee, Don T.
Crater, Jon R.
Crouser, Paul D.
Cunnings, John B.
Davidson, Stuart W.
Davis, Michael H.
Dorman, Daniel H.
Edson, Robert W.
Finup, Timothy G.
Frank, Michael A.
Frost, Cheryl L.
Galer, Norman W.
Gerdes, Erick W.
Greenlee, Scot A.
Hawks, Scott A.
Headrick, Robert
Hurni, Phillip R.
Karlson, William
Karvois, Albert P.
Knollmeyer, Pete
Kuks, Raymond H.
Lavalley, Christop
Mackay, Eric H.
Marrs, Brian A.
Mason, Daniel W.
McAllister, Allen
Mills, Leslie D.
Neeley, Brian L.
Nelson, Bradley
Pearce, Bradley E.
Phillips, John
Raabe, Carl A.
Ramey, Brian D.
Reynolds, James
Richardson, Tommy
Rupp, Douglas E.
Ryczek, Edward J.
Sanford, Charles E.
Shackelford, Jeff
Sist, Arno J.
Staak, John N.
Stascavage, James
Stewart, Robert B.
Thurman, Deera K.
Travers, Robert G.
Wallace, James M.
Wiseman, Alan L.

The following-named Naval Reserve officer to be appointed permanent captain in the Medical Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Harper, David G.

The following-named Naval Reserve Officers to be appointed permanent lieutenant commander in the Medical Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Clapper, Mark F.
Walker, James H.
Deafenbaugh, Marti

The following-named Naval Reserve officers to be appointed permanent lieutenant in the Medical Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Anderson, Deryk L.
Eailey, Steven L.
Eeardsley, David J.
Cassano, Victoria
Collins, John J.
Conaty, Kelly R.
Dixon, Sally L.
Ebersole, Russell
Faison, Clinton F.
Fischer, Robert J.
Gilbert, Russell C.
Holmes, Michael L.
Hotel, Michael R.
Jorgensen, Nathan
Lundy, Diane C.
Maxwell, James M.
McQueston, John A.
Nugent, Sharon K.
Osgood, John C.
Pickett, Mark
Prager, Laura A.
Rascona, Dominick
Roush, Timothy S.
Russo, Deborah
Schraml, Frank V.
Sheraden, Jennifer
Thom, Franklin T.
Tomasic, Paul V.
Wallace, Douglas C.

The following-named medical college graduate to be appointed permanent captain in the Medical Corps in the Reserve of the U.S. Navy, pursuant to title 10, United States Code, section 593:

Seljeskog, Edward

The following-named medical college graduate to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, pursuant to title 10, United States Code, section 593:

Carwell, Glenn R.

The following-named U.S. Navy officers to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, pursuant to title 10, United States Code, section 593:

Chambers, Donald S.
Golden, Stephen M.
McIntosh, Bruce J.
Pentizien, Roger J.

The following-named ex-Navy officer to be appointed permanent captain in the Medical Corps in the Reserve of the U.S. Navy, pursuant to title 10, United States Code, section 593:

Budd, Frank W.

The following-named U.S. Navy officer to be reappointed permanent captain from the temporary disability retired list, pursuant to title 10, United States Code, section 1211:

Hodder, Edwin J.

The following-named Navy enlisted candidate to be appointed permanent chief warrant officer, W-2 in the U.S. Navy, pursuant to title 10, United States Code, section 555:

Grobe, James L.

The following-named U.S. Navy officer to be appointed permanent commander in the line in the Reserve of the U.S. Navy, pursuant to title 10, United States Code, section 593:

Schneider, Edward

The following-named U.S. Navy officers to be appointed permanent lieutenant in the Judge Advocate General's Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Clausen, Roger R.
Nable, Timothy J.

The following-named U.S. Navy officer to be appointed permanent lieutenant (junior grade) in the Judge Advocate General's Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Clement, David E.

The following-named Naval Reserve officers to be appointed permanent lieutenant (junior grade) in the Judge Advocate General's Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Jenkins, Max B.
Scott, Roger D.

The following-named Naval Reserve chief warrant officers to be appointed permanent chief warrant officer, W-2, in the U.S. Navy, pursuant to title 10, United States Code, section 555:

Collins, Kenneth L.
Wilde, Vincent L.

U.S. INTERNATIONAL TRADE COMMISSION

David B. Rohr, of Maryland, to be a member of the U.S. International Trade Commission for the remainder of the term expiring December 16, 1985, vice William R. Alberger, resigned.

Susan Wittenberg Liebeler, of California, to be a member of the U.S. International Trade Commission for the remainder of the term expiring December 16, 1988, vice Michael J. Calhoun, resigned.

IN THE ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Ernest D. Peixotto, 579-52-8218 (age 54), U.S. Army.

The following-named officer under the provision of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Max W. Noah, 260-42-5646, U.S. Army.

CONFIRMATION

Executive nomination confirmed by the Senate February 22, 1984:

DEPARTMENT OF THE INTERIOR

Ann Dore McLaughlin, of the District of Columbia, to be Under Secretary of the Interior.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, February 22, 1984*

The House met at 3 p.m.

His Excellency, Bishop Vincentas Brizgys, Chicago, Ill., offered the following prayer:

O God, Lord of the Universe, today, the birthday of George Washington, we are commemorating Lithuania's Independence Day in this blessed land, which is the symbol of freedom, tolerance, and prosperity to the entire world.

We beg you, Almighty God, to bless America, that she would always champion the freedom and justice, that her spirit would strengthen the spirit and hope of the Lithuanian nation, that with the entire free world, she would live and work for her own and the world's welfare, as well as for Your greater honor and glory,

We ask You, who lives and reigns forever.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

HIS EXCELLENCY, BISHOP VINCENTAS BRIZGYS

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, it is a genuine pleasure for me to welcome to our Nation's Capital, His Excellency, Vincentas Brizgys, the Bishop of Kaunas, Lithuania, who offered the opening prayer. His Excellency is the highest Lithuanian church official in the United States and the spiritual leader of the Lithuanian people, who recently celebrated his 80th birthday. It is fitting that he joins us here today, for February 16 marked the 66th anniversary of Lithuanian Independence Day.

Bishop Brizgys was born in Lithuania, and has dedicated his life in service to the church. He received his doctorates in philosophy and canon law from Gregorian University in Rome, and was dean of the faculty of theology at the University of Kaunas.

His Excellency has written several articles, and is very active in alerting the world to the persecution of the Catholic Church in Soviet-occupied Lithuania. He has traveled to Lithuanian communities throughout the world carrying on the work of the church, and he settled in Chicago in 1951.

Through his efforts and the donations of American Lithuanians, the Chapel of Our Lady of Siluva was built at the Immaculate Conception Shrine in Washington, and to commemorate the 25th anniversary of his consecration as a bishop, Pope Paul VI named him an Episcopal Assistant to the Pontifical Throne.

I thank Bishop Brizgys for being with us today and wish him continuing success in his dedicated work in the church.

LEGISLATION TO REINSTATE THE 3-PERCENT MINIMUM ADJUSTED GROSS INCOME LIMITATION ON MEDICAL EXPENSE DEDUCTIONS

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, today I am introducing legislation which reinstates the amount of medical expenses that can be deducted from Federal income tax. This year, families and elderly Americans with large medical expenses were surprised to find that they can no longer deduct their medical expenses because they cannot meet the larger threshold.

Since the passage of the Tax Equity and Fiscal Responsibility Act, the percentage of adjusted gross income which medical expenses must exceed in order to be deductible has been increased. Applicable to the 1983 tax year, this change allows deductions for those medical expenses which exceed 5 percent of adjusted gross income. Prior to the implementation of this provision, families and individuals could deduct all medical expenses which exceeded 3 percent of adjusted income. While I have consistently supported efforts which equitably reduce Federal expenditures, I could not support the passage of TEFRA due to the adverse impact of reducing allowable medical deductions. Obviously, the most severely affected by this change are families with large medical expenses and elderly Americans.

I am, therefore, introducing legislation which will reinstate the 3-percent minimum adjusted gross income limitation on medical expense deductions. I sincerely hope Congress will act swiftly on behalf of our Nation's families and elderly.

☐ 1510

JERUSALEM IS THE CAPITAL OF ISRAEL

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, the time has come to acknowledge the fact that Jerusalem is the capital of Israel.

Every sovereign nation on Earth has the right to designate its own capital. Israel has designated Jerusalem to be its capital. It is the official seat of its Government, its Parliament, the official residence of its President and Prime Minister.

Yesterday, with a number of my distinguished colleagues from both sides of the aisle, I introduced legislation to move the U.S. Embassy from Tel Aviv to Jerusalem—where it rightfully belongs. Identical bipartisan legislation has been introduced in the Senate (S. 2031) by Senator MOYNIHAN.

I believe it is crucial during the present unstable period in the Middle East that our friends in the region be reassured of the steadfastness of our support. Thus, legislation to relocate the U.S. Embassy from Tel Aviv to Jerusalem assumes a new dimension of urgency and provides us with the opportunity to send the right message to all.

It would be hypocritical for us to continue the fiction that Tel Aviv, not Jerusalem, is the capital of our strategic and democratic ally in the Middle East.

LET US NOT BE GUILTY OF PROLONGING KILLING IN EL SALVADOR

(Mr. SHANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHANNON. Mr. Speaker, yesterday, the Secretary of State indicated that the Reagan administration is considering sending more military assistance to El Salvador without congressional approval.

It is time for us to end this disastrous war policy in Central America. The Salvadoran Army has failed to meet even minimum standards for the protection of human rights.

The assassins of the Catholic archbishop, the American churchwomen and, just as importantly, thousands of innocent Salvadorans go untried and unpunished. The army which we equip with weapons has been implicated in all of these crimes.

If the United States is to represent any single idea in the world, it is that people have a right to live free from the fear of their own government. If we continue this policy of arming the killers of innocent people, we have no claim to leadership in the world. Let us not be guilty of prolonging the killing in El Salvador.

ECONOMIC SITUATION ON MISSOURI FARMS IN DIRE STRAITS

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, anyone with me in my congressional district during the past weekend would have found little evidence that there has been a full and complete economic recovery in our Nation.

To the contrary, the economy on Missouri's farms has rarely been in such dire straits. Low farm prices, natural disasters, and the continued drop in agricultural exports have combined to push many farmers to the brink of economic disaster. And now, a decline in farmland values has made it difficult, if not impossible, for farmers to borrow the funds necessary for planting this spring. If this general tightening of agricultural credit were not bad enough, the Office of Management and Budget has now directed that only $50 million of the $600 million for the Farmers Home Administration economic emergency loan program be allocated for direct loans to farmers. The remaining $550 million would be in the form of guaranteed loans. Historically, 95 percent of these funds have been used for direct loans. This OMB directive comes at a time when banks and Production Credit Associations are not particularly enthusiastic about participating in the guaranteed loan program, and when most farmers cannot afford the interest rates in the guaranteed loan program.

It bears repeating that farms are the key to the entire economy of rural America. The current situation threatens our rural banks, our small businesses, and the jobs they provide in small towns, as well as our farms.

Congress must take action now to reverse this OMB directive and make credit available to producers at a reasonable cost. Then, we must turn our attention to solving the long-term problems that have plagued the farm economy for years. If we fail to do so, we will not only see our farmhouses, our rural banks, and our small businesses boarded up, but we will also see the end of a way of life that has been the wellspring of the values of work, family, and patriotism that have helped make our country great.

LEGISLATION TO SET MINIMUM DRINKING AGE AT 21

(Mr. BARNES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARNES. Mr. Speaker, in the 20th century, every age group in the United States has enjoyed an increase in its average life expectancy, except one: 16- to 24-year-olds. In fact, their average life expectancy has dropped. The reason: drinking and driving. About 5,000 people are killed each year in alcohol-related crashes involving drivers under the age of 21, representing over 20 percent of all alcohol-related traffic deaths and costing our economy about $6 billion. Yet, teenagers comprise only 10 percent of licensed drivers. The fact is, drinking and driving is the No. 1 killer of our teenagers. President Reagan's Commission on Drunk Driving, of which I was a member, has strongly urged a nationwide minimum drinking age of 21 to reduce this tragic death rate, and calls on Congress to enact legislation requiring the States to take this action as a condition of future Federal highway aid. On behalf of the Presidential Commission, I am introducing a bill today encouraging each State and the District of Columbia to set a minimum drinking age of 21 for all alcoholic beverages as a condition of continuing Federal highway aid. A recent Gallup poll shows that 77 percent of Americans support a nationwide 21 drinking age, and 58 percent of 18- to 20-year-olds agree. I urge my colleagues to support this vitally important measure.

INTELLIGENT BEINGS

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, recently the Washington Post had an article about the search for intelligent beings in space. And a letter in the February 12 issue of the Washington Post comments on that as follows:

INTELLIGENT BEINGS?

Eugene Mallove [Outlook, Feb. 5] discusses the search for intelligent beings in space. He points out that SETI researchers cite "a number of reasons why no one has found any concrete evidence of the existence of aliens."

Advanced civilizations are probably keeping their distance. Why make contact? That wouldn't be very intelligent—there might be a danger of contamination of ideas, etc. More likely we have been quarantined.

Consider the evidence:

Surely they are aware of our nuclear proclivities.

Certainly they have heard the guns and cannons and bombs and wondered why men kill men.

Certainly they have seen the earth belching the black smoke of fossil fuels, polluting the land, the water and the atmosphere.

They must have heard the chain saws destroying forests.

Their sensors must have analyzed the chemical poisoning of the food chain.

They have heard the rumble and roar of great machines gorging the earth, destroying in days the creation of eons.

They have puzzled over why men deliberately disturb the ecological balance by indiscriminately killing wildlife and destroying wildlife habitats for the sake of development.

Surely they must marvel at the paradox: the genius of our art and architecture, our music and literature, our science and medicine and government—and still our inability to compromise with an awesome and beautiful natural environment and our inability to achieve peace among men.

They have good reason not to make contact.

JAMES G. JETT.

GERMANTOWN.

THE PRESIDENT'S BUDGET

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, 3 weeks ago several Democrats made floor statements criticizing the enormous deficit in President Reagan's budget. It seems that the Republican Congressional Campaign Committee wanted to punish us for bringing these facts to the people's attention so they sent press releases into our district with very distorted charges against us.

But I am here to say that we are not going to be muzzled by these tactics. And I wish to place into the RECORD today two direct quotes from our President, who today offers us a $200 billion deficit.

In 1980, he said:

> Mr. Carter is acting as if he hadn't been in charge for the past three-and-one-half years: . . . as if someone else was responsible for the largest deficit in American history; as if someone else was predicting a budget deficit for this fiscal year of $30 billion or more . . .

And in the Presidential debate in 1980, candidate Reagan said:

> I have submitted an economic plan . . . and believe that over a five-year projection, this plan can permit the extra spending for needed refurbishing of our defense posture, that it can provide for a balanced budget in 1983 if not earlier, and that we can afford—along with the cuts that I have proposed in government spending—we can afford the tax cuts I have proposed . . .

That is candidate Reagan. I think it very important that the American people understand this.

TASK FORCE ON TRADE OF NATIONAL HOUSE DEMOCRATIC CAUCUS READY TO ISSUE RECOMMENDATIONS

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, the Commerce Department has reported that the difference between what the United States exported last year and what it imported came to a net loss of $70 billion, an all-time record.

If we gave awards for dubious economic achievements, this disastrous performance would win a trophy. Not only does a $70 billion trade deficit represent a staggering loss of profits to U.S. businesses, it represents the loss of more than a million jobs here at home.

A $70 billion trade deficit is nearly twice as high as the previous record, set in 1982. As bad as that news is, it gets even worse. We have been informed by the Commerce Department that the trade deficit for this year is expected to exceed $100 billion—meaning that another 2 million jobs either will be lost or not created.

Two things ought to be abundantly clear from these deeply disturbing reports:

First, America is not standing tall when it comes to international trade. It is staggering. The trade policies this administration is pursuing are not working, except to benefit our foreign competitors. We need a coherent set of goals and strategies to regain market shares, and we clearly do not have one.

Second, Federal budget deficits do matter. They matter right now, not some time in the uncertain future. They matter a great deal to the U.S. businesses that are striving to be competitive but are handicapped by high interest rates and a host of confliciting trade regulations, and they matter to millions of men and women in Oregon and all over this country who have job skills and no work to do.

Because of massive budget deficits, real interest rates remain at excessively high levels, penalizing every U.S. exporter and rewarding every importer. Every American product carries a hidden tax of 20 to 25 percent, and every import an equal subsidy because of the high cost of the U.S. dollar.

Mr. Speaker, the longer we put off doing what we know needs to be done, the more damage we inflict on ourselves. We need to adopt a package of spending and revenue proposals that will substantially reduce Federal deficits this year. To go with it, we need a trade strategy that will provide American businesses with the tools they need to meet heightened competition in the international marketplace.

I want to inform my colleagues that the task force on trade of the National House Democratic Caucus, which I cochair with Congressman STAN LUNDINE of New York, is ready to issue its recommendations on regaining our competitive standing in world trade. Our report, "Competing for the Future," will be issued within the next few days, and I commend it in advance to my colleagues.

□ 1540

UNIFORM GRANDPARENT VISITATION ACT

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I am pleased to report that earlier today, the Senate Subcommittee on Separation of Powers unanimously reported out Senate Concurrent Resolution 40—calling on all 50 States to adopt a uniform Grandparent Visitation Act.

I am proud to be the author of the identical House resolution (H. Con. Res. 45) which passed unanimously last April 19.

Since I began my work on behalf of the thousands of grandparents who are the other victims of divorce and marital dissolution—the number of States which have passed laws promoting grandparent visitation has grown from 42 to 47. That is commendable. However, these State laws vary so significantly and because there is no interstate recognition of visitation orders—we are compelled to work for a uniform law.

It is said that when a child is born a grandparent is created. Today in our Nation more than 70 percent of our elderly are grandparents. The unwarranted deprivation of visitation between grandparents and grandchildren represents a form of intergenerational abuse which Government and the legal community must form a partnership to combat.

Both the House and the Senate resolutions fully recognize that grandparent visitation should only be awarded when it is in the best interest of the child. This action today by the Senate subcommittee is a vitally important step as we work for final congressional action on this important issue.

COMMEMORATING OUR FIRST PRESIDENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the program commemorating our first President at the Washington Monument today and the remarks of the two Members representing the House of Representatives, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Virginia (Mr. BATEMAN), be inserted into today's CONGRESSIONAL RECORD.

The SPEAKER pro tempore (Mr. MOAKLEY). Is there objection to the request of the gentleman from Texas?

There was no objection.

The program and the remarks are as follows:

WREATH-LAYING CEREMONY: FEBRUARY 22, 1984, PRESIDENT GEORGE WASHINGTON 252D BIRTHDAY ANNIVERSARY, WASHINGTON MONUMENT, WASHINGTON, D.C.

11:00 a.m.—Presentation of colors: Joint Armed Services Color Guard. Welcome: master of Ceremonies: Mr. Lowell V. Sturgill, Assistant Secretary, Washington National Monument Society. Remarks by the Honorable Mr. Charles C. Glover, III, Second Vice President, Washington National Monument Society; the Honorable Russell E. Dickenson, Director, National Park Service, U.S. Department of the Interior; the Honorable Frederick C. Boucher, U.S. House of Representatives, Ninth District Virginia; the Honorable Herbert H. Bateman, U.S. House of Representatives, First District Virginia. The Wreath of the U.S. House of Representatives: Hon. Frederick C. Boucher, Hon. Herbert H. Bateman. The Wreath of the Washington National Monument Society: Hon. Charles C. Glover, III. The Wreath of the National Park Service: Hon. Russell E. Dickenson.

11:30 a.m.—Taps and retiring of the colors.

REMARKS OF CONGRESSMAN RICK BOUCHER AT THE GEORGE WASHINGTON BIRTHDAY ANNIVERSARY, FEBRUARY 22, 1984, 11:00 A.M., WASHINGTON MONUMENT GROUNDS

Thank you, Mr. Sturgill for that kind introduction.

It is a pleasure to join you and all our guests in paying tribute to the man for whom this great monument was built—that great Virginian—George Washington.

During this challenging time in our nation's history, when the problems we face require sacrifice and patience on the part of all Americans, it is appropriate for us to reflect on the courage and selfless dedication of George Washington. In our nation's brief history, few Americans have contributed as much to the cause of constitutional government and freedom as George Washington did almost two hundred years ago.

When we recall the difficult problems faced by George Washington—waging a long and difficult war, founding a new government, and working with the first Congress, it is clear that our problems, by comparison, are small and can be solved. We only need Washington's unique sense of service. So let us take from this small tribute a renewed commitment to the principles and ideals to which George Washington so unselfishly dedicated his life.

I commend the Washington National Monument Society and the National Park Service for arranging this ceremony, and I am particularly grateful for my role in it. This Monument, which is among the most impressive structures in Washington, attracts thousands of tourists each year, and the Monument Society and the Park Service deserve great credit for preserving the monument's beauty and magnificence.

Thank you.

Remarks of Congressman Herbert H. Bateman at George Washington's Wreath-Laying Ceremony, Wednesday, February 22, 1984

It is with great pride that I come to you today to pay tribute to George Washington, the man who led Colonial America into rebellion against the greatest temporal power of his day, and on to independence and representative government.

George Washington was a man of great valor and insight. Not only did he have the wisdom to help design the democracy we know today, but he possessed the courage to put his plans into practice leading rebellious colonists to a victory which seemed impossible to win.

How fitting it is that a monument to honor him was erected and that we come here every year to pay tribute. I admit to a special personal bias for this man. For much of his work toward the establishment of our Nation was done in what I proudly refer to an America's First Congressional District.

Westmoreland County, in the northern part of my district is the place of Washington's birth. Williamsburg, in the southern part of my district, was the center of activity for the leaders of the Revolution. Men like Jefferson, Henry, Wythe, Washington and others planned and lead the course of action that eventually lead to the Declaration of Independence. At Yorktown in my district, Washington achieved the victory that made independence a reality for America.

Indeed I am proud of Washington and what he means to my district. But more importantly I am proud of Washington for what he means to our Nation.

With little more than a noble cause and a strong will, Washington led the rag-tag Army of the Original 13 Colonies against overwhelming odds from battle to battle. From the "shot heard 'round the world" at Lexington and the harsh winter at Valley Forge, on the road to victory at Yorktown, George Washington slowly wore down the capability and will of King George's army. His tenacity and prowess as a leader and military tactician was finally rewarded in the victory at Yorktown.

George Washington was the embodiment of the ideals on which our Nation was founded. Courage, honor, dignity and tenacity were all a part of the legacy that Washington left us. Washington's life lends testimony to the notion that through dedication to a noble cause, the impossible is indeed achievable.

Today as in 1799 when on the floor of the House of Representatives another great American from America's first district, Light-Horse Harry Lee paid tribute to George Washington, this description holds true:

> To the memory of the man, first in war, first in peace, and first in the hearts of his countrymen.

A FAILED POLICY IN LEBANON

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, yesterday I called for the resignation of George Shultz, the Secretary of State, and I would like to amplify upon my remarks.

First, it needs to be said that George Shultz is a decent, well-intended man. He is also the architect of a failed policy in Lebanon. The continuance of George Shultz as Secretary of State is a symbol in the Middle East, a symbol of a policy that was clearly misguided and tragically flawed.

The symbol is now an obstacle to peace in the Middle East. By removing it, we can begin to repair the damage that has been done and open the way to a new, more constructive American foreign policy in that region.

Additionally, it should be said that the Pentagon is not to blame. We were not informed in the Congress that the Joint Chiefs of Staff, as well as the Secretary of Defense, opposed the deployment of the marines in Lebanon. And the Speaker is right. The responsibility for the Lebanon debacle rests fully with Ronald Reagan. However, in the interest of making possible a new course in the Middle East, we must act, and act decisively, to let the world know that we are looking in a new direction.

THE MARINES DID NOT FAIL

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, I am very disturbed at what I have been hearing about our Marines in Lebanon. I have heard failure, I have heard pull out, withdrawal, retreat.

These words apply—but not to the Marines. Not to the Marines. If there was failure, it was of the policy of the administration. If there was withdrawal, it was because of the vacillating by the policymakers—including the Congress.

The Marines can hold their heads high. On the contrary, we owe them once again a terrific debt of gratitude—for they went on an impossible mission.

No; the Marines did not fail. They performed like U.S. Marines. God bless them.

☐ 1530

BALANCE THE BUDGET

(Mr. McCANDLESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCANDLESS. Mr. Speaker, during the 98th Congress, I have listened carefully as a number of my Democratic colleagues have taken the floor to denounce budget deficits. Interestingly enough, they have reached the same conclusion that I formed while in business for 25 years and while a member of the board of supervisors of the fifth largest county in California for 12 years. Their conclusion is that deficits—especially multibillion-dollar deficits at the Federal level—are bad. I wholeheartedly agree. However, many of my Democratic colleagues stop at denouncing the deficits and fail to announce a solution. The solution is a balanced budget.

I find it ironic that a number of my Democratic colleagues have sought to lay the blame for the budget deficits exclusively at the feet of the President. Such efforts fail to note the fact that it is the House of Representatives and not the President that writes appropriations into law. In spite of Democratic control of the House, there has been only one balanced budget since 1960.

Deficit spending is nothing less than spending and consuming today while leaving the bill to be paid by our children and our grandchildren. It is time to put the rhetoric aside and to pass the balanced budget amendment.

ALLOW VOLUNTARY PRAYER IN PUBLIC SCHOOLS

(Mr. HANSEN of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN of Utah. Mr. Speaker, we may ask the question: What motivated America's Founding Fathers to embrace democracy and to reject tyranny? What gave them the moral and spiritual strength to risk their lives, their fortunes, and their sacred honor in seeking to become a free nation?

The prime, motivating factor in their moral lives was their firm belief in God and their belief that God created all men equal and endowed them with the inalienable rights of life, liberty, and the pursuit of happiness.

I fear that our Nation's moral and spiritual foundation is being eroded. And I fear that if this moral foundation crumbles, our political and economic freedoms will crumble with it.

Thomas Jefferson warned us what would happen if our Nation's moral foundation crumbled. He said:

> God who gave us life gave us liberty. Can the liberties of a nation be secure when we have removed a conviction that these liberties are the gift of God? Indeed I tremble for my country when I reflect that God is just, that his justice cannot sleep forever.

We would do well at this time to remember those words of Jefferson.

For the sake and protection of our freedoms and liberties, we cannot and must not remove God from our public lives and our public schools. We must, without delay, pass a constitutional amendment to allow voluntary prayer in public schools.

LINE-ITEM VETO WILL HELP STOP UNNECESSARY SPENDING

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, all the congressional hand wringing in the world will not solve the budgetary problems faced by the Federal Government. Federal spending is out of control, and it is the unrestrained spending habits of this Congress that are largely to blame.

A constitutional amendment establishing Presidential authority to veto individual items in appropriations bills would go a long way toward eliminating unnecessary Federal spending and would be a significant and responsible way to attack Federal deficits.

Time and time again, numerous pork-barrel items are added to virtually all appropriations bills, many of them that are very vital bills and ones which the President has almost no choice but to sign. The line-item veto would help put a lid on that pork-barrel appropriations process.

The effectiveness of the line-item veto has been proven. The Governors of 43 States have this authority, and they will tell you that it is one of the greatest restraining influences on the legislatures in trying to control spending.

The majority of the American people simply do not subscribe to what seems to be the common misconception around here: that the Federal Government is not spending enough money. The fact is, we are spending too much. The line-item veto could help stop that.

Mr. Speaker, at this time I would hope to offer a unanimous-consent request calling for consideration of a line-item veto constitutional amendment. This request has been cleared by the minority leadership, and I would yield to a spokesman from the majority leadership for appropriate clearance.

Mr. Speaker, I hear no response, and that should make it clear to the American people who stands in the way of the line-item veto and cutting Federal spending—the Democratic leadership.

RESOLUTION INTRODUCED TO CUT 1985 DEFICIT

(Mr. ZSCHAU asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ZSCHAU. Mr. Speaker, the enormous Federal budget deficits projected as far as the eye can see will choke off the current economic recovery. Government borrowings to fund the deficits are absorbing most of the U.S. savings pool leaving little to finance the purchase of homes and automobiles or the expansion of businesses to create more jobs.

We in Congress realize this, but we are not doing anything about it because it is an election year. However, if we wait until next year to act, it may be too late. The economy could be on the skids by then.

Today I am introducing a resolution to cut the 1985 deficit by $50 billion. It calls for a 1-year freeze in real spending growth, which would save about $30 billion, and a 1-year 5-percent surcharge on corporate and individual income taxes that would raise $20 billion.

This resolution is an emergency, temporary measure designed to reduce the upward pressure on interest rates and sustain the recovery. It would give us some breathing room so we can formulate and pass a more comprehensive deficit reduction package next year.

The advantage of the freeze and surtax approach is that it is simple and fair. It is fair because it shares the deficit reduction pain among all programs and taxpayers.

I hope my colleagues will consider this approach to maintaining the momentum of the economy.

Mr. Speaker, the deficits will not go away if we ignore them, but the economic recovery will. It is time for us in Congress to do our job so American workers can keep theirs.

The text of the resolution follows:

Resolved by the House of Representatives (the Senate concurring), That the concurrent resolution on the budget for fiscal year 1985 reported pursuant to section 301(d) of the Congressional Budget Act of 1974 by the Committee on the Budget of the Senate and the Committee on the Budget of the House of Representatives shall meet the following objectives:

(1) Total outlays for fiscal year 1985 shall be no greater than total outlays for fiscal year 1984 plus a five per centum increase for inflation.

(2) Total receipts for fiscal year 1985 shall be increased by a one year, five per centum surcharge on corporate and individual income taxes.

A PERSON CANNOT BE TOO CAREFUL THESE DAYS

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, a few weeks ago I came across a newspaper item that was a sad commentary on media responsibility, or irresponsibility in this case. It seems that the esteemed Boston Globe described our colleague, Mr. MARKEY of Massachusetts, can you believe it, as a conservative.

Stung to the quick by this slur on his character, our stricken colleague immediately called a news conference here at the Capitol to denounce this scurrilous charge. "I cannot abide people saying I am a conservative," he said.

Mr. Speaker, I can understand his feelings. In Massachusetts, as I understand it, it may be libel per se to describe a working Democratic politician as a conservative, and certainly it is if he is seeking higher office. Mr. MARKEY had with him at the news conference three distinguished character witnesses to prove that he is a liberal: Mr. FRANK of Massachusetts, Mr. LELAND of Texas, and my colleague from California (Mr. DELLUMS).

Let me add my condolences to our friend from Massachusetts. Freedom of the press is one thing, but license is another. Members of the American Conservative Union will understand if Mr. MARKEY does not attend any of their future meetings, because a person just cannot be too careful these days.

TRADE ADJUSTMENT ASSISTANCE LEGISLATION

(Mr. NIELSON of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NIELSON of Utah. Mr. Speaker, in October 1981, 1,800 employees were laid off at Geneva Steel, the largest steel plant in the West and a major employer in my district. They immediately petitioned the Department of Labor to permit Geneva to be certified as an import-impacted company and thereby be eligible for retraining allowances under the trade adjustment assistance program.

Under normal circumstances, it only takes 60 days, but because of the backlog, it took 18 months. As a result of that, these people were cut off and were not allowed to participate in the Trade Adjustment Act.

Under current law, certified workers can receive up to 52 weeks of basic TAA and unemployment compensation combined. They are then eligible for an additional 26 weeks. However, the additional 26 weeks must start immediately, and if there is a delay, as there was in this case, they are cut off entirely.

I introduced legislation yesterday which will correct this problem. My bill would simply amend the Trade Act of 1974 to allow the 26-week period to begin with the first week of training instead of the first week following the 52-week period of entitlement to basic benefits.

Notwithstanding some reservations I have about the trade adjustment assistance program itself, I do believe that if we have this program we should work to see that it is equitable to all workers involved and they should not be penalized for the slowness in certifying the program.

□ 1540

LACK OF ACTION BY CONGRESS THREATENS HIGHER INTEREST RATES

(Mr. WORTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WORTLEY. Mr. Speaker, this morning on my way to the office, I heard a financial planner on the radio say that Americans believe if they can make the payments on their cars, charge accounts, and mortgages, they do not really worry about the future.

I think she was right. For too long, policymakers in Congress and downtown didn't worry too much about renting the money to make the Government run. Yes, it was unpleasant, in 1981, to pay 22 percent to buy a car, and yes it was dreadful to pay 18 percent to run the Government. Interest rates are down now and that is all that counts.

Well, interest rates are not down enough and there is ample evidence that they are going to start inching up. I am convinced, Mr. Speaker, that interest rates will begin an upward spiral because the marketplace has little confidence that Congress will do what it should to tackle the Federal deficit.

The marketplace is made up of gamblers, informed gamblers, but gamblers nonetheless. The marketplace does not make stupid bets. The marketplace knows how to hedge. Congress could use some of that risk-taking spirit now. Yes; it is a risk to cut back on some popular spending programs but I think it is a risk well worth taking.

Let us prove the pundits and oddsmakers wrong. Let us show the American public that it is not business as usual but that Congress has the right stuff to stop mortgaging the future to garner a few extra votes in November.

IN SUPPORT OF LINE-ITEM VETO

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and to extend his remarks.)

Mr. McCOLLUM. Mr. Speaker, all of us were just home for a district work period, and I am sure that like myself most of the Members were asked about the deficits we have been hearing about so much from both sides of the aisle lately, and I am sure that their constituents were just as confused as mine about all the finger-pointing that goes on and no action being taken up here. Republicans point at Democrats, Democrats point at Republicans, some folks point at Congress, and other folks point at the President, and so on.

The bottom line problem with our not getting at deficits is the lack of accountability. We can point fingers all we want, but it is hard to get action when there are no clear votes being taken on these basic issues. We have packages of authorization bills and packages of appropriation bills that come down here, and many times it is now impossible for us to get specific votes that would allow us to demonstrate who stands on what issues when it comes to the specifics of money bills.

If we only had the line-item veto, like my good friend and distinguished colleague, the gentleman from Mississippi, called for a few minutes ago, we would not have this problem. The President could be accountable, we could hold him accountable, and if he vetoed something, this Congress could clearly go on record about that particular item.

Mr. Speaker, the people who are not accountable right now are the Members of the House Democratic leadership who are not allowing us a chance to vote on the line-item veto so we can show the American public who is really responsible for these deficits.

WHERE THE BLAME FOR FEDERAL SPENDING LIES

(Mr. PHILIP M. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PHILIP M. CRANE. Mr. Speaker, I think we have all enjoyed the spectacle of listening to Democrats express concern over deficit spending, and as a friend of mine back in Illinois said during the recess, that is a little bit like Orson Welles doing commercials for designer jeans.

I think perhaps some of our Democratic friends have seen Mr. Mondale's budget and they are anticipating the magnitude of the tax increases that would be necessary to try to achieve a balanced budget given an estimated $130 billion increase in spending beyond what we are spending now.

I was also taken by the Speaker's comment in U.S. News & World Report that President Reagan is the all-time record budget buster in history, and I would simply remind all of us that we alone in this body have the exclusive jurisdiction to originate all spending bills. No President can spend a penny that has not been mandated originally in this body—not even our colleagues in the other body. The origination of all spending is exclusively a function of the House of Representatives.

Mr. Speaker, Thomas Jefferson said, "If we can prevent government from wasting the labors of the people under the pretense of caring for them, they must be happy."

AN ATTEMPT TO GAIN CONSIDERATION OF A BALANCED-BUDGET AMENDMENT

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Speaker, to follow up on the comments of my good friend, the gentleman from Illinois, I would like to share with the House the fact that during this recent recess, in meeting after meeting all over, in a huge district in which you could drop five Eastern States easily, 32,000 square miles of district, people were asking, why can the Congress not live within its means, clearly reflecting that if there was a chink in the genius of the Founding Fathers, it was that they could not possibly imagine that shortly down the line elected Representatives would spend so much of their money and enjoy in such a delighted fashion putting the country into debt.

Mr. Speaker, I have cleared with the minority leadership for a unanimous-consent request to bring forth the balanced-budget amendemnt. I would ask the majority for their clearance for that request. Do I hear any?

Mr. MICA. Mr. Speaker——

The SPEAKER pro tempore (Mr. MOAKLEY). No request has been entertained by the Chair.

Mr. LEWIS of California. That, Mr. Speaker, makes it very clear that the Democrats around this place do not want to balance the budget.

SCRAPPING OF THE MX WOULD HELP BRING DEFICITS DOWN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, we are hearing a lot of people talking about the deficit, and I have a good idea as to what we can possibly do to bring it down a little bit. That is to get rid of the MX.

Over the break it was very interesting because the Governor of Nebraska, the Governor of Utah, the Governor of Colorado, and many of the mayors in the West have all been pleading with the Air Force to please have environmental impact hearings on what the deployment of the MX is going to be. Everybody out there realizes that it is really a weapons system without a purpose, and we are going to spend megabucks and gigabucks, with all sorts of damage being done. I must say that it was probably one of Carter's worst ideas, and yet it seems to be the only idea that President Carter had that Ronald Reagan really likes.

So, Mr. Speaker, I would really hope that in this session we can do away with the MX and listen to the people out there who are going to be most affected by it, plus the taxpayers who are going to have to pay for this silly thing forever and ever and get nothing in return for it.

ATTEMPT TO GAIN CONSIDERATION OF VOLUNTARY SCHOOL PRAYER CONSTITUTIONAL AMENDMENT

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, at this time I would hope to offer a unanimous consent request calling for consideration of the voluntary school prayer constitutional amendment.

The Chair has ruled that in order to make this request I must have the clearance of the majority and minority leaderships.

This request has been cleared by the minority leadership.

I would now yield to a spokesman from the majority leadership for appropriate clearance.

Mr. Speaker, I hear no response. That should make it clear to the American people who stands in the way of voluntary school prayer—the Democratic leadership of this House.

□ 1550

AMENDING INTERNAL REVENUE CODE OF 1954 TO EXEMPT CERTAIN MILITARY AND CIVILIAN EMPLOYEES FROM FEDERAL INCOME TAXES

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means be discharged from further consideration of the bill (H.R. 4206) to amend the Internal Revenue Code of 1954 to exempt from Federal income taxes members of the Armed Forces of the United States who die as a result of hostile actions overseas, and for its immediate consideration in the House.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. ARCHER. Reserving the right to object, Mr. Speaker, and I shall not object, in its lead editorial one day last week, the San Antonio Express described H.R. 4206 as "one of those rare pieces of legislation that is so right and so fair that Congress ought to pass it unanimously."

I want to thank the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, for helping to make that recommendation come about. The gentleman from Illinois is to be commended for moving this bill forward—so that it can become law in time to help those families facing an April 16 deadline for filing tax returns for their loved ones who died in hostile action overseas last year.

It is important to note that this is not a totally new provision being added to the Tax Code. Rather, it is an expansion of an existing provision which now only applies to those who die as a result of wounds sustained in an area designated as a "combat zone" by Executive order of the President. In the absence of any such designation since Vietnam, current law does not apply to any of those killed in Lebanon, Grenada, Iran, or elsewhere in recent years.

What we are doing with this change is to provide equitable tax treatment for those who die as a result of hostile action overseas—regardless of any official "combat zone" designation. It covers members of the Armed Forces and Federal civilian employees.

The measure applies retroactively in providing the tax exemption to those who have died of wounds sustained overseas since December 31, 1979—and it will apply to all such cases in the future.

The exemption applies to the years of the wound and death, if different, as well as the intervening time.

The greatest benefit of the provision is its simplification of what is often a complex paperwork burden which is now added to the emotional stress of families who have to deal with the loss of a loved one. In some cases, the limited economic benefit derived will come at an important time in the lives of those who must bear the additional economic burden associated with their loss.

There is painfully little that we can do to relieve the anguish of those who have lost loved ones in hostile action overseas. Perhaps this is one small way, however, that we can help relieve some of the additional burden they must bear.

Thank you, Mr. Chairman, for providing this opportunity to show those families that their sacrifice has not been forgotten. I hope the entire House will join us now, as so many have already as cosponsors, in pressing for the earliest possible enactment of this measure.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. Further reserving the right to object, Mr. Speaker, I am happy to yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I rise in support of H.R. 4206, a bill which would provide an exemption from income tax for certain Government personnel who die as a result of hostile action directed against the United States.

Last November the Select Revenue Measures Subcommittee, which I chair, favorably reported H.R. 4206, authored by Mr. ARCHER. This legislation seeks to provide some small compensation to those brave Federal employees, both military and civilian, who die as a result of terroristic activities outside of the United States. The bill would exempt them from Federal income tax in the year in which they die. Unfortunately, we live in a world where attacks upon Americans abroad are increasing. American military personnel who often serve vital peacekeeping functions abroad are increasingly falling victim to the barbarous attacks of terrorists.

Our civilian employees are no more immune. Just last week the head of the American segment of the peacekeeping force in the Sinai was gunned down by terrorists in Italy. We must do all we can to protect our personnel serving abroad. In those sad cases where a death does occur, this bill provides some small measure of relief and assistance to the grieving families. Mr. Speaker, this bill has my strongest endorsement, as well as that of my subcommittee. It is a pleasure to speak in its behalf, and I urge its immediate enactment.

Mr. ARCHER. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois (Mr. ROSTENKOWSKI)?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.

(a) GENERAL RULE.—Section 692 of the Internal Revenue Code of 1954 (relating to income taxes of members of Armed Forces on death) is amended by adding at the end thereof the following new subsection:

"(c) MEMBERS OF ARMED FORCES DYING AS RESULT OF HOSTILE ACTIONS OVERSEAS.—In the case of any individual who dies while in active service as a member of the Armed Forces of the United States, if such death occurs as a result of wounds, disease, or injury incurred as a result of a hostile action outside the United States—

"(1) any tax imposed by this subtitle shall not apply with respect to the taxable year in which falls the date of his death, or with respect to any prior taxable year ending on or after the first day he so served outside the United States, and

"(2) any tax under this subtitle for taxable years preceding those specified in paragragh (1) which is unpaid at the date of his death (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.

The preceding sentence shall not apply to the extent that subsection (a) applies to the individual."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to all taxable years (whether beginning before, on, or after the date of the enactment of this Act) of individuals dying after December 31, 1979.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, this unusual procedure is being utilized due to the necessity for timely action on this bill, H.R. 4206 would provide that no U.S. income tax applies in the case of certain individuals, who die as a result of wounds or injury incurred outside the United States in terroristic or military action against the United States or its allies, while a member of the Armed Forces of the United States or while in the civilian employ of the U.S. Government.

Recent events in Lebanon and Grenada have focused the attention of the Nation on the sacrifice that members of the U.S. Armed Forces—and other U.S. Government employees—must be prepared to make for our country when they leave our borders. Federal income taxes should not be imposed on the income of U.S. military or civilian employees who in the course of duty lose their lives at the hands of foreign enemies of the United States. The families of these employees of the United States have withstood sufficient burdens, and they should not have the additional burden of Federal tax imposed on the employee's income.

The Committee on Ways and Means originally approved this legislation as part of the miscellaneous committee amendment to H.R. 4170. With the rapidly approaching filing deadline for income tax returns, it appeared that the relief afforded by this legislation would not be timely unless immediate action were taken. I would note that the administration strongly supports this legislation and, in fact, included it in their fiscal year 1985 budget submission. The revenue loss from the bill is estimated to be less than $5 million annually.

I urge my colleagues to recognize the urgency of this matter and to support this legislation.

● Mr. MATSUI. Mr. Speaker, the House of Representatives is being asked to approve legislation which would exempt any income tax levied by servicemen who died as a result of recent hostile actions, such as in Lebanon or Grenada. I urge all of my colleagues to join me in the effort to gain passage of this important bill.

All of us throughout the Nation are only too aware of how little we can do to relieve the pain and anguish of the families who have lost their loved ones in recent hostile actions overseas.

In 1970, the Congress enacted legislation treating individuals who had been removed from a U.S. vessel and who died while being illegally detained by the Democratic People's Republic of Korea during 1968 as serving in a combat zone (Pub. L. 91-235). Thus, service personnel who were members of the crew of the U.S.S. *Pueblo*, illegally detained in 1968 by North Korea and who died during the detention were eligible for the income tax exclusion available for service personnel who die in combat zones.

Under legislation enacted in 1980, if any American hostage held captive in Iran between November 4, 1979, and December 31, 1981, died as a result of injury or disease or physical or mental disability incurred or aggravated while in captive status, any income taxes would not have applied with respect to the year in which the individual died or any prior year ending on or after the first day the individual was in captive status. This treatment would have applied to military and civilian personnel of the United States and to certain other individuals, as well as to certain other U.S. taxpayers taken captive outside Iran on or before December 31, 1981. Moreover, if there had been any unpaid income tax liability of such an individual from years prior to captivity, the liability would have been forgiven. This total income tax exemption for American hostages who died as a result of captive status would have been available only if death had occurred within 2 years after the individual ceased to be in captive status.

Recent events in Lebanon and Grenada have focused the attention of the Nation on the sacrifice that members of the U.S. Armed Forces—and other U.S. Government employees—must be prepared to make for our country when they leave our borders. I believe that Federal income taxes should not be imposed on the income of U.S. military or civilian employees who in the course of duty lose their lives at the hands of foreign enemies of the United States. The families of these employees of the United States have withstood sufficient burdens, and they should not have the additional burden of Federal tax imposed on the employee's income.

Forgiveness of income tax only for the period from the year of the death-causing injuries or wounds to the year of death would have inequitable results. Under such a limitation, a soldier killed in a terroristic attack on a U.S. base in a foreign country on January 1 would be exempt from income tax only on 1 day's income, while a soldier killed in an attack the previous December 31 would be exempt from income tax on an entire year's income. Therefore, it is more equitable to extend the tax exclusion under the bill to income for the year preceding the year of injury.

The bill provides special Federal income tax rules for certain individuals who die while a member of the Armed Forces of the United States or while in the civilian employ of the Government of the United States.

If death occurs as a result of wounds or injury incurred outside the United States in a hostile action, then no U.S. income tax applies for the year of death or for any earlier year in the period beginning with the last year ending before the year in which the wounds or injury occurred. The bill defines the term hostile action to mean any terroristic activity directed against the United States or any of its allies, or any military action—not including training exercises—involving U.S. Armed Forces and resulting from violence or aggression against the United States or any of its allies—or the threat of such violence or aggression. The term "military action" includes a military accident, such as a military helicopter crash. The term "allies of the United States" includes any multinational force in which the United States is participating.

The subcommittee is aware of several circumstances in which the bill is intended to apply. The bill is to apply with respect to U.S. military or civilian employees who die—or who have died—as a result of the bombing of the U.S. Embassy in Beirut, Lebanon, or as a result of the bombing, shelling, or sniper attacks on the U.S. Marine headquarters there. Similarly, the bill is to apply with respect to other U.S. personnel who were participating in a United Nations peacekeeping force when killed in Lebanon by land mines or snipers in 1982 or 1983—or thereafter. The bill also applies with respect to the U.S. service personnel who died as a result of the Government's attempt to rescue the American hostages in Iran, inasmuch as that rescue attempt constituted a military action involving U.S. Armed Forces within the meaning of the bill. The bill also is to apply to U.S. service personnel who have died in a hostile action in Grenada.

With House approval of the bill, the Senate is sure to act in an expeditious manner and a firm direction will be available for the families of these slain servicemen. At least some of the tremendous economic hardships that the families suffer will be relieved by this action.●

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the Nature of a Substitute offerd by Mr. ROSTENKOWSKI: Strike all after the enacting clause and insert:

SECTION 1. Income taxes of certain military and civilian employees of the United States dying as a result of injuries sustained overseas.

(a) GENERAL RULE.—Section 692 of the Internal Revenue Code of 1954 (relating to income taxes of members of the Armed Forces on death) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN MILITARY OR CIVILIAN EMPLOYEES OF THE UNITED STATES DYING AS A RESULT OF INJURIES SUSTAINED OVERSEAS.—

"(1) In general.—In the case of any individual who dies while a military or civilian employee of the United States, if such death occurs as a result of wounds or injury incurred outside the United States in a terroristic or military action, any tax imposed by this subtitle shall not apply—

"(A) with respect to the taxable year in which falls the date of his death, and

"(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred.

"(2) Terroristic or military action.—For purposes of paragraph (1), the term 'terroristic or military action' means—

"(A) any terroristic activity directed against the United States or any of its allies, and

"(B) any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof).

For purposes of the preceding sentence, the term 'military action' does not include training exercises.

"(3) Treatment of multinational forces.—For purposes of paragraph (2), any multinational force in which the United States is participating shall be treated as an ally of the United States."

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) shall apply with respect to all taxable years (whether beginning before, on, or after the date of the enactment of this Act) of individuals dying after December 31, 1979, as a result of wounds or injuries incurred after such date.

(2) Statute of limitations waived.—Notwithstanding section 6511 of the Internal Revenue Code of 1954, the time for filing a claim for credit or refund of any overpayment of tax resulting from the amendment made by subsection (a) shall not expire before the date 1 year after the date of the enactment of this Act.

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record. The amendment simply embodies the technical changes in the bill requested by the Treasury Department.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. Rostenkowski).

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 to exempt from Federal income taxes certain military and civilian employees of the United States dying as a result of injuries sustained overseas."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3525

Mr. DANNEMEYER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3525.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
February 22, 1984.

Hon. Thomas P. O'Neill, Jr.,
The Speaker, House of Representatives, Washington, D.C.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from The White House at 10:15 a.m. on Wednesday February 22, 1984 as follows:

(1) Said to contain a message from the President whereby he transmits the seventh special message for fiscal year 1984 under the Impoundment Control Act of 1974; and

(2) Said to contain a message from the President whereby he transmits the annual report for fiscal year 1983 of the Administration on Aging of the Department of Health and Human Services.

With kind regards, I am,

Sincerely,

Benjamin J. Guthrie,
Clerk, House of Representatives.

SEVEN NEW DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. No. 98-173)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Wednesday, February 22, 1984.)

ANNUAL REPORT FOR FISCAL YEAR 1983 OF ADMINISTRATION ON AGING OF DEPARTMENT OF HEALTH AND HUMAN SERVICES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor.

(For message, see proceedings of the Senate of today, Wednesday, February 22, 1984.)

APPOINTMENT AS MEMBERS OF U.S. GROUP OF NORTH ATLANTIC ASSEMBLY

The SPEAKER. Pursuant to the provisions of section 1928a of title 22, United States Code, the Chair appoints as members of the U.S. Group of the North Atlantic Assembly the following Members on the part of the House:

Mr. Fascell of Florida, chairman; Mr. Rose of North Carolina, vice chairman; Mr. Brooks of Texas; Mr. Annunzio of Illinois; Mr. Hamilton of Indiana; Mr. Garcia of New York; Ms. Oakar of Ohio; Mrs. Burton of California; Mr. Whitehurst of Virginia; Mr. Horton of New York; Mr. O'Brien of Illinois; and Mr. Solomon of New York.

TO ESTABLISH THE SELECT COMMITTEE ON HUNGER

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 15 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 15

Resolved, That there is hereby established in the House of Representatives a select committee to be known as the Select Committee on Hunger (hereinafter referred to as the "select committee").

Functions

Sec. 2. The select committee shall not have legislative jurisdiction. The select committee shall have authority—

(1) to conduct a continuing comprehensive study and review of the problems of hunger and malnutrition, including but not limited to, those issues addressed in the reports of the Presidential Commission on World Hunger and the Independent Commission on International Development Issues, which issues include—

(A) the United States development and economic assistance program and the executive branch structure responsible for administering the program;

(B) world food security;

(C) trade relations between the United States and less developed countries;

(D) food production and distribution;

(E) corporate and agribusiness efforts to further international development;

(F) policies of multilateral development banks and international development institutions; and

(G) food assistance programs in the United States;

(2) to review any recommendations made by the President, or by any department or agency of the executive branch of the Federal Government, relating to programs or policies affecting hunger or malnutrition; and

(3) to recommend to the appropriate committees of the House legislation or other action the select committee considers necessary with respect to programs or policies affecting hunger or malnutrition.

APPOINTMENT AND MEMBERSHIP

SEC. 3. (a) The select committee shall be composed of seventeen members of the House, who shall be appointed by the Speaker, one of whom he shall designate as chairman.

(b) Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

AUTHORITY AND PROCEDURES

SEC. 4. (a) For purposes of carrying out this resolution, the select committee is authorized to sit and act during the present Congress at such times and places within the United States; including any Commonwealth or possession thereof, or elsewhere, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

(b) The provisions of clauses 1, 2, and 3 of rule XI of the Rules of the House of Representatives shall apply to the select committee.

ADMINISTRATIVE PROVISIONS

SEC. 5. (a) Subject to the adoption of expense resolutions as required by clause 5 of rule XI of the Rules of the House of Representatives, the select committee may incur expenses in connection with its duties under this resolution.

(b) In carrying out its functions under this resolution, the select committee is authorized—

(1) to appoint, either on a permanent basis or as experts or consultants, such staff as the select committee considers necessary;

(2) to prescribe the duties and responsibilities of such staff;

(3) to fix the compensation of such staff at a single per annum gross rate which does not exceed the highest rate of basic pay, as in effect from time to time, of level V of the Executive Schedule in section 5316 of title 5, United States Code;

(4) to terminate the employment of any such staff as the select committee considers appropriate; and

(5) to reimburse members of the select committee and of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties and responsibilities for the select committee, other than expenses in connection with any meeting of the select committee held in the District of Columbia.

□ 1600

Mr. HALL of Ohio (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read, printed in the RECORD, and open to amendment at any point.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, I did not hear the gentleman's comment.

The SPEAKER. The gentleman asks that the reading be dispensed with.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Under the procedure under which this measure is brought before the House, an amendment in the nature of a substitute, would an amendment to this measure be in order?

The SPEAKER. Not unless the gentleman from Ohio yields for that purpose or the previous question is defeated.

Mr. DANNEMEYER. Would a motion to commit be in order?

The SPEAKER. Not with instructions.

Mr. DANNEMEYER. A motion without instructions would be in order?

The SPEAKER. There is no motion to recommit in order. This is a privileged resolution reported from the Committee on Rules.

Mr. DANNEMEYER. I thank the Speaker.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Strike all after the resolving clause and insert:

That there is hereby established in the House of Representatives a select committee to be known as the Select Committee on Hunger (hereinafter referred to as the "select committee").

FUNCTIONS

SEC. 2. (a) The select committee shall not have legislative jurisdiction. The select committee shall have authority—

(1) to conduct a continuing comprehensive study and review of the problems of hunger and malnutrition, including but not limited to, those issues addressed in the reports of the Presidential Commission on World Hunger and the Independent Commission on International Development Issues, which issues include—

(A) the United States development and economic assistance program and the executive branch structure responsible for administering the program;

(B) world food security;

(C) trade relations between the United States and less developed countries;

(D) food production and distribution;

(E) corporate and agribusiness efforts to further international development;

(F) policies of multilateral development banks and international development institutions; and

(G) food assistance programs in the United States;

(2) to review any recommendations made by the President, or by any department or agency of the executive branch of the Federal Government, relating to programs or policies affecting hunger or malnutrition; and

(3) to recommend to the appropriate committees of the House legislation or other action the select committee considers necessary with respect to programs or policies affecting hunger or malnutrition.

(b) Nothing contained in this resolution shall be construed to limit or alter the legislative and oversight jurisdiction of any standing committee of the House under rule X of the Rules of the House of Representatives.

APPOINTMENT AND MEMBERSHIP

SEC. 3. (a) The select committee shall be composed of seventeen Members of the House, who shall be appointed by the Speaker, one of whom he shall designate as chairman.

(b) Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

(c) For purposes of this section, the term "Members" shall include any Representative in, or Delegate or Resident Commissioner to, the House of Representatives.

AUTHORITY AND PROCEDURES

SEC. 4. (a) For purposes of carrying out this resolution, the select committee is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or elsewhere, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

(b) The provisions of clauses 1, 2, and 3 of rule XI of the Rules of the House of Representatives shall apply to the select committee except the provisions of clause 2(m)(1)(B) of rule XI relating to subpena power.

(c) Nothing contained in subsection (a) of this section shall be construed to limit the applicability of clause 2(i) of rule XI of the Rules of the House of Representatives to the select committee.

ADMINISTRATIVE PROVISIONS

SEC. 5. (a) Subject to the adoption of expense resolutions as required by clause 5 of rule XI of the Rules of the House of Representatives, the select committee may incur expenses in connection with its duties under this resolution.

(b) In carrying out its functions under this resolution, the select committee is authorized—

(1) to appoint, either on a permanent basis or as experts or consultants, such staff as the select committee considers necessary;

(2) to utilize the services of the staffs of those committees of the House from which Members have been selected for membership on the select committee;

(3) to prescribe the duties and responsibilities of such staff;

(4) to fix the compensation of such staff at a single per annum gross rate which does not exceed the highest rate of basic pay, as in effect from time to time, of level V of the Executive Schedule in section 5316 of title 5, United States Code;

(5) to terminate the employment of any such staff as the select committee considers appropriate; and

(6) to reimburse members of the select committee and of its staff for travel, subsist-

ence, and other necessary expenses incurred by them in the performance of their duties and responsibilities for the select committee, other than expenses in connection with any meeting of the select committee held in the District of Columbia.

REPORTS AND RECORDS

SEC. 6. (a) The select committee shall report to the House as soon as practicable during the present Congress, the results of its investigation and study, together with such recommendations as it deems advisable.

(b) Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

(c) Any such report shall be referred to the committee or committees having jurisdictions over the subject matter thereof.

(d) The records, files, and materials of the select committee shall be transferred to the Clerk of the House.

Mr. **HALL** of Ohio (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore (Mr. DASCHLE). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Ohio (Mr. HALL) is recognized for 1 hour.

Mr. **HALL** of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 15 establishes a Select Committee on Hunger. It is a matter of original jurisdiction of the Committee on Rules, and as a privileged resolution is now being considered in the House under the 1-hour rule.

The Select Committee on Hunger shall not have legislative jurisdiction, but shall have authority to conduct a continuing and comprehensive study of the problems of domestic and international hunger. The select committee will review executive branch recommendations relating to hunger and recommend legislation relating to hunger to the appropriate committees of the House.

The Select Committee on Hunger would permit a broad perspective on the hunger problem not currently available through any of the standing committees. Such a committee would be a vehicle through which the House could conduct comprehensive oversight of many related issues within the jurisdiction of a number of committees. Jurisdiction over hunger issues is now shared by at least 8 of the 22 House standing committees and numerous subcommittees.

The Committee on Rules reported House Resolution 15 with an amendment in the nature of a substitute. As reported, the language of the resolution conforms to the model resolution appearing in "Guidelines for the Establishment of Select Committees," a report of the Subcommittee on the Legislative Process originally issued in October 1977.

To conform to these guidelines, language was added to section 2 which: First, clarifies the primary responsibility of the legislative committees over the subject areas to be addressed by the select committee; second, expands the definition of "Member" for the purposes of committee membership, to include Delegates or Resident Commissioner to the House of Representatives; third, emphasizes that the select committee would be prohibited from sitting while the House is considering a measure for amendment under the 5-minute rule; and fourth, directs the select committee to report to the House as soon as practicable during the present Congress on the results of its investigation and study, together with such recommendations as it deems advisable.

House Resolution 15 provides that membership of the select committee shall be comprised of 17 Members of the House. Members shall be appointed by the Speaker, who shall designate one of them as chairman.

To insure that the select committee will operate under the same provisions which apply to all standing committees under clauses 1, 2, and 3 of rule XI of the Rules of the House of Representatives, these clauses are made applicable to the select committee. Clauses 1, 2, and 3 of House Rules XI relate to procedures for committees, adoption of written rules, committee meetings, committee records, quorum requirements, travel limitations, and broadcasting of committee hearings.

It should be noted, however, that the committee amendment in the nature of a substitute provides that clause 2(m)(1)(B) of rule XI, which confers subpena power on committees, will not apply to the select committee.

The resolution provides the customary authority to the select committee to sit, act, and hold hearings. The authority would be granted without regard to whether the House is in session, has adjourned, or has recessed, and without geographic limitation.

House Resolution 15 further authorizes the select committee to incur expenses in connection with its duties, subject to the adoption of expense resolutions as required by clause 5 of rule XI of the rules of the House. No funds for the activities of the select committee would be available except by House approval of a funding resolution reported by the Committee on House Administration.

Mr. Speaker, there are no reliable estimates of how many hungry people there are in this country. We do know, however, that the count is growing. The lines to soup kitchens are getting longer. The number of persons seeking food assistance from churches and other nonprofit organizations is increasing alarmingly.

In my own district, the Montgomery County Hunger Coalition, one of the food providers in the Dayton area, offers a 3-day emergency food ration. During the first quarter of 1982, over 10,300 applicants received assistance from this organization. One year later, this number more than doubled to 25,547.

Unfortunately, Dayton is not unique. More and more what is happening in my district is occurring across the country. Testimony received during hearings conducted by various congressional committees, as well as studies conducted by such organizations as the Center on Budget and Policy Priorities, the Food Research and Action Center, the Nutrition Watch Committee, and the Citizens Commission on Hunger in New England provide ample evidence to confirm this. Just recently, the President's Task Force on Food Assistance completed a report which concluded that "an immeasurable but surely an intolerable number of people are hungry."

Hunger is a plague on this Earth—but is one that can be cured. Famine, massive starvation, and malnutrition are all too common among the world's population. According to the Presidential Commission on World Hunger, the United States can take effective steps to reduce their toll.

Unfortunately, there is no single congressional committee which focuses on the diverse and complex issues associated with domestic and international hunger. The eight committees with hunger-related jurisdiction all have numerous other issues to which they must lend a substantial amount of attention. Consequently, they are unable to give the issue of hunger the priority attention it requires.

A Select Committee on Hunger would provide the necessary mechanism to coordinate existing congressional action on domestic and international hunger. Such a committee will provide a channel for direct and uninterrupted focus on this critical problem.

The resolution to create a Select Committee on Hunger has broad bipartisan support. It is cosponsored by 258 Representatives and is endorsed by a coalition of over 60 diverse national organizations, including the U.S. Conference of Mayors, Salvation Army, B'nai B'rith, Bread for the World, U.S. Catholic Conference, and United Steel Workers. The resolution was approved by a unanimous voice vote of the Rules Committee, and I urge my colleagues to adopt it.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, this resolution has been cosponsored by 258 Members, myself included, and enjoys strong bipartisan support.

Anyone reading the newspapers or watching the television is aware of the fact that a large part of the world's population suffers from malnutrition and even famine. It is estimated that over 40,000 children die every day from malnutrition and related diseases. That is a horrible tragedy, and the trend may be even worse in the near future.

House Resolution 15 would establish a select committee on hunger to coordinate our resources and provide a thorough study of the situation that cannot be achieved through the split jurisdictions of our standing committees.

The select committee will focus its attention on: First, U.S. development and economic assistance; second, world food security; third, trade relations; fourth, food production and distribution; fifth, international banking and development institutions; and sixth, domestic food assistance programs.

It is our expectation that the Select Committee on Hunger will provide useful assistance and sound advice to the various standing committees by developing policy options supported by hard evidence after a thorough review of the problems.

I am generally reluctant, and often oppose, the creation of select committees in the House. And I understand why Members share that reluctance, because I have seen abuses in the past. In this instance, however, I believe the creation of a select committee is justified. I believe the problem is so basic and so widespread with no sign of going away, that we should establish a special unit to look into this tragedy and recommend what steps should be taken to deal with it.

So I urge Members to vote for this resolution because there is a most serious problem and this may help us to move in the right directions to overcome it.

□ 1410

Mr. HALL of Ohio. Mr. Speaker, I yield 7 minutes to the gentleman from Texas (Mr. LELAND), sponsor of this very important select committee.

Mr. LELAND. I thank the gentleman for yielding. Let me first commend the gentleman from New York (Mr. GILMAN) for the yeoman work that he has instituted on behalf of this most important legislation.

I truly appreciated having worked with the gentleman from New York in the very, very meticulous execution of pulling together the coalition of Members from both sides of the aisle, trying to bring this important legislation to the light of day in this House.

Mr. Speaker, on January 3 of last year, my distinguished colleague, the gentleman from New York (Mr. GILMAN), and I reintroduced House Resolution 15 to establish a Select Committee on Hunger. I am proud to say that 258 Members of Congress and an unusual coalition of over 60 religious, antipoverty, farm and labor, education, minority, senior citizen and women's organizations are supporting House Resolution 15. This overwhelming support is an expression of belief in the increasing need for a comprehensive, coordinated examination of antihunger initiatives and policy recommendations.

It is also an expression of concern about the growing worldwide problem of hunger and chronic malnutrition. These issues, I believe, call into play the moral and humanitarian responsibilities of the United States. Currently, these issues have been under the jurisdiction of several standing committees, including Agriculture, Appropriations, Banking, Budget, Education and Labor, Foreign Affairs, Government Operations, and Ways and Means. Clearly, a select committee would give the bipartisan goal of ending world hunger the priority it deserves, and would ease substantially the process of studying the staggering worldwide problem of hunger by suggesting policy options to the House and its appropriate committees.

It is a grim reality, Mr. Speaker, that hunger and malnutrition are inextricably linked to the problems of poverty. Fifteen percent of American people are unable to meet their basic human needs, including minimum caloric intake. Sadly, along with the obvious victims of hunger—Native Americans, migrant workers, the elderly, and children—35.6 percent of the black population, 29.9 percent of the Hispanic population and 12 percent of the white population increasingly are at risk of losing—not only their health, but their dignity and self-respect—as their chances to escape the poverty cycle lessen considerably. Emerson tacitly put it: "Poverty demoralizes."

I have witnessed personally, the devastating social consequences poverty has had on all Americans. We should not be surprised that the infant mortality rate—widely accepted as a measurement of determining hunger has tragically been on the rise statewide in Alabama, Alaska, Kansas, Michigan, Missouri, Nevada, and West Virginia, as well as in 32 other rural urban areas, including Pittsburgh, Baltimore, Detroit, and Houston. These statistics are and should remain unacceptable in light of the richness of resources and good old-fashion commonsense we here in the richest democracy on Earth possess.

Reports issued from organizations including the U.S. Conference on Mayors, the Food Research and Action Center, the Center on Budget and Policy Priorities, the General Accounting Office Report of June 1983, and various nutritional surveys conducted throughout the country all share one disturbing observation: That hunger in America is a reality.

In Houston, where my district is located, I have met with organizations which run food pantries and antipoverty programs in general. They tell me that at least 2,000 more people are arriving each month to receive food. The Houston Interfaith Hunger Coalition's Bread for the World program, which provides emergency food boxes to needy families who have no food, has been overwhelmed with requests for aid in the last 2 years. The number of people coming to the pantries has doubled from the 1981-82 level, and had quadrupled in the first 6 months of 1983. While Houston has encountered numerous problems, I believe, that Houston's experience is representative.

Worldwide, the reality of hunger has been devastating. According to the food and agriculture organization, approximately 450 million people are chronically hungry, as many as 1 billion are undernourished. That means one out of eight people in the world is hungry most of the time. Each year, 15 to 20 million people die as a result of hunger and starvation—that is 41,000 people dying a day—28 people die each minute, 21 of whom are children. One in four children in the developing world die before the age of 5, mostly from nutrition-related diseases. For the children of the world, hunger is a terror on the prowl. No matter how you look at it, hunger is a staggering worldwide problem.

It is possible, Mr. Speaker, given a coordinated effort and sufficient resources, to begin to address the problem of hunger both here and abroad. Historically, the United States has taken the lead in providing humanitarian assistance and guidance. I believe, Mr. Speaker, that the complex nature of the worldwide hunger problem argues for the establishment of a Select Committee on Hunger to study and address, in a comprehensive manner, hunger-related issues.

The Select Committee on Hunger in no way alters the mandate of any standing committee, nor does it lessen the role to be played by these committees in what must be an expanded U.S. effort to combat hunger and malnutrition. Rather, the select committee can help focus the attention and the energies of Congress in this spreading worldwide horror. I believe the Select Committee on Hunger will represent a positive step forward in the struggle against the pain and misery of worldwide hunger. Thank you.

Let me at this time thank the gentleman from Ohio, Mr. HALL, for shepherding this piece of legislation through the Rules Committee getting it this far. His sensitivity and compassion for the starving people of the world is exemplory.

Mr. de la GARZA. Mr. Speaker, will the gentleman yield to me?

Mr. LELAND. I yield to my colleague from Texas.

Mr. de la GARZA. I thank the gentleman for yielding.

I want to engage in a very short colloquy. I was concerned because of infringement of jurisdiction. I am willing to forgo that. I would like from the gentleman some assurances, as a leader in this effort, that members of the committees of the jurisdiction will be appointed to the select committee and that staff which has expertise from the committees of jurisdiction would be utilized by the gentleman's committee; and finally that it not be a select committee with runaway staff; doing press releases, running all over the world and doing everything except what the gentleman intends to do.

Mr. LELAND. Mr. Speaker, the gentleman and I have talked about this. I have agreed with the gentleman that, in fact, if I am called upon by the Speaker, who has the authority to appoint the committee, that I would indeed ask the Speaker if he would appoint particularly some of the people who are on the Committee on Agriculture, the committee which the gentleman (Mr. de la Garza) chairs, and also other committees of jurisdiction that have under their jurisdiction the authority that we are trying to focus on.

Very definitely, as far as staff is concerned, I am most willing to work with staff that are already available with the expertise to collaborate with them on this most important matter of hunger to utilize that expertise to the fullest.

Mr. de la GARZA. Mr. Speaker, the Committee on Agriculture has broad jurisdiction over legislation that affects both domestic and foreign food assistance programs. Since I have been a Member of this Chamber, I have consistently voiced my concern about the problem of hunger. This committee has been particularly sensitive to the need to curb hunger in the United States and to provide our fair share in resolving the world hunger problem. So that there be no mistake, I wish to provide for the record a list of some of our recent accomplishments in this area.

With respect to domestic food assistance programs, the committee is responsible for the food stamp program, the primary domestic program providing nutrition assistance to the needy. This program is funded at a level of approximately $12 billion annually. The committee is also responsible for the many commodity distribution programs under which supplemental food assistance is provided to the hungry. The committee originated the basic legislation affecting these activities and has updated the legislation almost on an annual basis in the course of the last several years.

Our tremendous productivity has resulted in making our country and its citizens the best fed in the world. Americans spend a smaller percentage of their take-home income on food than citizens of other nations. Hunger continues to be a real problem for millions of Americans, however, and programs such as the food stamp program and commodity distribution programs provide a safety net which protect even the poorest of our citizens. The committee labors continuously to improve on these important efforts.

Within our committee, the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, chaired by Leon Panetta, has devoted much time and energy to review of domestic hunger issues. For example, the subcommittee has held the following hearings during the first session of this Congress: February 8, 1983, a hearing in Cleveland, Ohio, on hunger and malnutrition; March 22 and 24, 1983, hearings on the commodity distribution program and the bill, H.R. 1590; March 25, 1983, a hearing in Birmingham, Ala., on hunger and malnutrition; April 30, 1983, a hearing in Los Angeles, Calif., on hunger and malnutrition; June 20, 1983, a hearing in San Juan, Puerto Rico, on the Commonwealth's nutrition assistance program; August 3, 1983, a hearing in Washington on the surplus commodity distribution program; and October 20, 1983, a hearing in Washington on domestic hunger issues.

As a result of these hearings, the committee reported H.R. 1590 on which it worked in close collaboration with the Education and Labor Committee. That bill provided for an expansion of the food assistance programs for the hungry through soup kitchens, food banks, and the like. The bill passed the House and its major provisions were included in Public Law 98-92. The committee also reported House Concurrent Resolution 40, expressing the sense of Congress that there should be no further cutbacks in Federal food aid to needy Americans. Action on this resolution was taken jointly with the Education and Labor Committee, and the resolution was later approved by the House.

The committee was also responsible for reporting a bill, which was signed into law as Public Law 98-204, giving States more flexibility in administering certain reporting requirements and certification period determinations in the food stamp program. The act also extended until September 30, 1985, the deadline for adoption in Puerto Rico of a noncash food assistance program in place of the island's current cash aid program. The extra time was granted to permit a thorough study so Congress can determine the eventual fate of the Puerto Rican program.

Since the beginning of the current session of Congress, the subcommittee has already held a joint hearing the Education and Labor Committee and the Dole Subcommittee of the Senate Committee on Agriculture, Nutrition and Forestry on the report of the President's Task Force on Food Assistance. The subcommittee has scheduled field hearings on hunger and related issues in March in Chicago, Ill., in Miami, Fla., and on the west coast of the United States, and Mr. Panetta has indicated his intention to introduce shortly an antihunger bill.

With respect to international food assistance, Mr. Speaker, you may know that I have consistently voiced my concern about the problem of hunger. As a congressional delegate to the 1974 Rome World Food Conference, I was involved in U.S. efforts to bring about a more comprehensive, global approach to the problem of hunger and malnutrition. On my return, I initiated the first report by the Committee on Agriculture on the subject of world hunger. Since that time, both as a member and as chairman of the House Agriculture Committee, I have made every effort to insure that the Agriculture Committee played an important role in alleviating this problem.

The committee reported legislation in 1980 which led to the creation of a 4-million-ton wheat reserve to be used to meet humanitarian needs overseas. In 1981, the committee held major hearings on the subject of world hunger. The committee again held hearings on world hunger on October 25, 1983, at which time significant testimony was heard from representatives of Government, universities, and private and voluntary organizations. The committee has invited testimony from these same witneses next week when we begin hearings on the new farm bill.

This committee has joint responsibility with the Foreign Affairs Committee over the primary international food assistance legislation, namely Public Law 480, 83d Congress. This legislation will be expiring next year and the committee will be looking closely at revisions that are needed to take account of international hunger problems.

The Public Law 480 food-for-peace program has allocated the great resources of American agriculture to the fight against underdevelopment, poverty, and hunger. This program was authorized through the efforts of the Agriculture Committee in 1954 and remains the mainstay of U.S. efforts to assist the peoples and nations of the developing world.

The committee's efforts to promote international cooperation in the areas of agricultural research and pest control have also borne great benefits by improving food production and distribution in many countries throughout the world.

It is through such programs that American agriculture is involved in worldwide efforts to improve the living conditions of the poor and needy. By its very nature, American agriculture—the breadbasket of the world—has an enduring role to play in producing the goods upon which the world's population and the world's agricultural trade depends.

We are only too well aware that poverty and the indebtedness of many Third World countries make it difficult for these countries to meet their food needs in the international market. The Agriculture Committee is committed to a course of action that would improve market conditions for these nations.

I would like to include at this point the opening statement which I made on October 25, 1983, as chairman of the House Committee on Agriculture at the hearing held by our committee on the issue of world hunger—another indication of our interest and concern—I will offer for the RECORD copies of amendments I would have offered had they been in order:

OPENING STATEMENT BY REPRESENTATIVE E (KIKA) DE LA GARZA, CHAIRMAN, HOUSE AGRICULTURE COMMITTEE

The committee has scheduled this hearing today because we are convinced that there are few issues more important to all the people of this country than world hunger.

I suppose that if you asked the American people today what the number one priority of our international policy should be, they would say it should be preserving peace and freedom in the world. If we want to promote peace and freedom, we are going to have to do everything that can be done to eliminate hunger and malnutrition today. And we are going to have to do something that may be even harder . . . we will have to promote policies that will provide enough to eat for the world population of the next century, which is now less than 20 years away.

I know that what I want to say for our record here is not new. But I think that sometimes people may forget important facts just because they are familiar facts. So I am going to say this again:

A world in which hundreds of millions of people do not get enough to eat is not likely to be a world in which it will be easy to promote the cause of freedom.

A world in which most of the people in many nations are hungry is not likely to be a world in which it will be easy to keep the peace.

For many years, programs designed to help reduce or eliminate hunger have been a major concern for this committee. Many of those programs have been designed in our hearing rooms, and that concern is going to continue to have high priority for us in the future.

The record we have made in this area is a good one. Nearly 30 years ago, we helped produce the food for peace program to make farm commodities available to needy developing countries. We have been operating a wide variety of assistance programs under the Food for Peace Act and through other efforts like the world food program. Our assistance, according to the most recent estimates I have seen, has amounted to about 33 billion dollars over the past 30 years . . . and USDA reports indicate that the United States now provides more food aid each year than all other countries combined.

In addition to programs of food aid, our country has been busy in another equally important area. Through a wide variety of programs, we have been trying to help developing nations build the skills and technical facilities needed to improve their own agriculture. The object is not to replace American exports, it is to help other countries build productive systems which feed their people better—and which, in many cases, help improve diets in a way which actually stimulates demand for the American farmer.

In spite of this record, I think it is perfectly obvious that we cannot just pat ourselves on the back and go home. In spite of All that we have done, there are still hunger problems in the world today, and there are still great concerns about the fate of poor countries in the future as populations grow.

We are meeting today to get the best possible assessment of where our efforts to fight hunger actually stand today, and what the outlook is for the future. We want to hear from Government officials and from experts in agriculture and voluntary agencies. We want to know what is working well, and what may—in their opinion—need improvement in the future.

We have the basic responsibility for many phases of our Government's programs to deal with world hunger. We want to hear today about what issues and problems we may want to review and deal with as we continue in the future to carry out that responsiblity.

AMENDMENTS BY HON. E (KIKA) DE LA GARZA TO HOUSE RESOLUTION 15

Page 8, line 16, insert at the end thereof "except that the select committee shall, to the maximum extent possible, utilize the services of the staffs of those committees of the House from which Members have been selected for membership on the select committee, and to the extent such staff is not utilized, the staff of the select committees shall consult with the staff of the relevant standing committees in carrying out their activities;".

Page 8, strike out lines 17, 18, and 19 and renumber paragraphs (3), (4), (5), and (6) on page 8, lines 20 and 22, and on page 9, lines 3 and 5, as paragraphs (2), (3), (4), and (5), respectively.

Explanation: This amendment will help ensure coordination between the activities of the select committee and the standing committees, provide the select committee with the expertise of those staff persons with knowledge of the matters within the jurisdiction of the select committee, and reduce the expenses of the select committee.

Page 7, immediately after line 8, insert the following: "A majority of the members of the select committee shall be appointed from the standing committees of jurisdiction of the House.".

Explanation: This amendment will help ensure coordination between the activities of the select committee and the standing committees of Congress so as to avoid duplication of effort and assure that the select committee would not be working at cross purposes with the standing committees.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of House Resolution 15, legislation to establish a Select Committee on Hunger. I was pleased to have joined with the gentleman from Texas (Mr. LELAND) to introduce what we believe to be an important legislative initiative to resolve the critical problem of hunger, both here and abroad. I wish also to associate myself with the remarks of the gentleman from Ohio (Mr. HALL) who has also been a strong supporter of this measure.

Currently, a broad bipartisan representation of 260 Members has cosponsored this measure. In addition a coalition of some 60 religious, antihunger, women, minority, private and voluntary organizations, labor, educational associations, and other groups has come together in support of passage of House Resolution 15.

In my work as a member of the Committee on Foreign Affairs and the Presidential Commission on World Hunger (1978-80), I have come to recognize that hunger is a problem of many dimensions. Many of these areas have been explored at length by various review groups and several congressional committees. Unfortunately, the public is by and large unaware of the extensive work of our congressional committees, the programs they have reviewed, and the underlying need for our Nation to markedly intensify its initiatives against hunger. It is our hope that a Select Committee on Hunger could support our standing committees by bringing greater visibility to their efforts in the hunger field and by exploring with them how best to underscore to the public our Nation's need to assign a higher priority to hunger.

Mr. Speaker, hearings on world hunger conducted last year by our Committee on Foreign Affairs, focused particularly on how far we have come since the 1974 World Food Conference outlined the hope that "within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted."

At these hearings, witnesses from the administration and from the private sector presented a picture that when compared to the lofty goals of the World Food Conference seemed pretty dismal. Indeed, while per capita food availability has generally increased, this masks, as one witness stated, "considerable variation in availability between countries, and appreciable seasonal fluctuation and year-to-year variability within the countries."

At home, as we know all too well, hunger is also a critical problem. This fact has been documented by the Conference of Mayors, the General Accounting Office, the National Association of Counties, many private and religious groups, and the administration, in a report issued by its Task Force on Domestic Food Assistance.

During the past year, more than 40,000 children died each day from malnutrition. Approximately 100,000 children go blind each year because of vitamin A deficiencies.

As we grapple with the problem of revitalizing a troubled economy, we cannot undermine previously successful initiatives both at home and abroad to alleviate hunger. At the same time, we cannot refrain from scrutinizing current programs with an eye to assuring that they are cost effective and helping those they are designed to assist.

It is our hope that a Select Committee on Hunger, can assist the standing committees in ultimately developing a comprehensive effective program of initiatives to alleviate hunger.

Accordingly, I urge my colleagues to support House Resolution 15, legislation establishing a vehicle which I am confident can help our Nation to intensify its efforts against hunger.

□ 1620

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Missouri.

Mr. EMERSON. I thank the gentleman for yielding.

I would just like to ask the gentleman if he indicated that the three committees that have primary jurisdiction in this area right now, which would be Agriculture, Education and Labor, and Foreign Affairs, have not been able to give adequate publicity and attention to the problem in the world, how he expects the fourth committee will?

Mr. GILMAN. That is precisely the problem because they do have so many items on their agenda.

Mr. EMERSON. Four committees can do it better than three.

Mr. GILMAN. They cannot focus the kind of attention that the problem needs. And the gentleman knows on all of our committees we have heavy agendas and we give fleeting attention to the issues, a few days here and a few days there. This committee would focus its entire attention on this issue.

Mr. EMERSON. If the gentleman will yield further, I think the gentleman is suggesting that the committees with jurisdiction right now have not been adequately doing their job. Would it not be better to direct our efforts to clarifying committee jurisdiction and having standing committees with the jurisdiction do their job, rather than add yet one more committee?

Mr. GILMAN. I am not criticizing the work of the standing committees. I think that they have been doing a proper job in the time allocated to the issue that they have reviewed and they have reviewed fragmented parcels of the issue, but have not been able to undertake the full issue.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico (Mr. RICHARDSON).

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of House Resolution 15 to establish a Select Committee on Hunger.

The problem of hunger in America is indeed very real. It is unfortunate, in fact it is downright shameful, that in the wealthiest nation on Earth, thousands of Americans, especially children, go to bed hungry each night.

We cannot wish this national tragedy away. We cannot pretend it does not exist. Statements like those made by Presidential Counsel Edwin Meese, that people are going to soup kitchens "by choice" defy reality and reinforce the fears of less fortunate citizens that their Government does not care.

Nor can we solve this problem by laying blame on the unscrupulous who cheat the food stamp system or on those the President categorizes as the "morally ineligible."

Mr. Speaker, we have seen the self-serving report of the President's Special Commission on Hunger which emphatically states that hunger and malnutrition in America is not a widespread or serious problem. Meanwhile, a number of civic groups and church organizations have stated the number of hungry Americans is on the rise.

Establishment of a Select Committee on Hunger will allow Congress to look at the facts, determine the need, and develop solutions which will assure the nutritional health of poor Americans.

With the administration having brushed this issue aside, Congress must take the lead in resolving this embarrassing and unforgiveable national crisis.

I urge Members to vote for House Resolution 15.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I rise today in strong support of House Resolution 15, to establish a Select Committee on Hunger, and I urge my colleagues to support this important measure as well.

By now, all of us know that a terrible combination of natural disasters, political turmoil, and economic collapse has left dozens of African, Asian, and Latin American countries facing starvation for large percentages of their population. Twenty-four nations in Africa alone require 1.6 million metric tons of emergency food aid. By June 1984, many of these nations will be unable to avert mass starvation without this aid. United Nations experts estimate that more than 45 million Africans may perish. This could happen notwithstanding the fact that there is food enough in world reserves to feed these people. It is an unnerving and unacceptable fact.

In Kampuchea, failed rice crops threaten 6.3 million people with famine; 300,000 pounds or rice are desperately needed in order to avoid widespread starvation in a country torn first by war then by an assassin government and now by famine. Flood damage to agricultural production and crops in Central America, combined with civil war, have left as many as 1.8 million people homeless and hungry. This number alone is more people than those living in three congressional districts.

Meanwhile, each day, 300,000 more people are born into the world, adding additional stress to an already intolerable crisis of world hunger. By conservative estimates, hunger and malnutrition now affect 500 million people globally. If Mr. Thomas Malthus, the famous 18th-century British preacher/economist whose theories on the repercussions of population growth on the food supply have led to what is now referred as a Malthusian "push," were alive today he would call today's world crisis a Malthusian "disaster." The crisis is one of epic dimensions.

Of course poverty is, in fact, the root cause of hunger. It is aggravated by industrialization, urbanization, economic mismanagement, political instability and such natural disasters as floods, droughts, and the loss of farmland to encroaching desert. And certainly, hunger, in turn, is the root cause of most economic and political turmoil in Third World countries. We must recognize this truth. People are hungry not because there is not enough food to go around. People are hungry because they are powerless to insure that the food that does exist, in abundance, is available to those that need it. The problem is primarily one of distribution and inadequate financial resources to buy available food. Consider these facts:

Last year, in fiscal year 1983, the U.S. Government, under the payment-in-kind program, paid U.S. producers approximately $10 billion not to produce. Even so, my bread-basket State of Nebraska produced 1.62 million metric tons of soybeans—or 101 percent of the United Nations' Food and Agriculture Organization's estimate for emergency African food aid of 1.6 million metric tons. In fiscal year 1982, Nebraska alone produced 2.2 million metric tons of soybeans—138 percent of the current African food shortfall. In fiscal year 1983, Nebraska—again, alone—produced 2.69

million metric tons of wheat—or 168 percent of the existing African need. In fiscal year 1982, Nebraska produced 2.76 million metric tons of wheat—173 percent of the emergency request for all of Africa. Obviously, the problem of global hunger is not one of production—it is one of distribution, and inadequate financial resources. It is not one of availability—it is one of affordability. Those with funds can compete in the world marketplace, and those without funds must rely on direct, concessionary aid. There is no way around this fact. These countries are just too poor to buy their food in the Rotterdam Commodity Market. Now they can rely only on an appeal for international assistance.

Here in Congress, various committees—seven or perhaps eight—have been struggling with the tragedies and horrors of world hunger for years. The Agriculture Committee confronts it regularly. The Appropriations Committee tackles it when they annually act upon funding measures. The Foreign Affairs Committee, of which I am a member, held 2 days of hearings on the world food crisis last summer, and held more recent hearings on the African drought and resulting famine. The Banking Committee's economic stabilization, and its International Finance and Monetary Organizations Subcommittees, both of which I am also a member, regularly face the issue of hunger and need. Committee after committee puts world hunger, in some form or another, on their agendas. But no one committee has been successful in dealing with the problems of world hunger in its entirety. Each committee has too many other pressing issues to address.

So today, Mr. Speaker and distinguished colleagues, we are about to vote on legislation to create a select committee to attempt to bring together the diverse and complicated problems which cause or contribute to world hunger. Some may oppose the measure, on the grounds that it will cost U.S. citizens additional tax dollars to establish and staff this committee. But I confidentially maintain that in the long run, if it is organized and led properly, it will be more cost-efficient to make a concerted effort to focus the issue and deal with its complexities head-on. This committee should be long in effort and expertise and short on overstaffing and overfunding. With a small, effective staff, this committee could truly enhance the efficiency of our aid programs, help understand the root causes of hunger, be they nutritional, financial or distributive and it would bring the plight of millions of fellow humans to the forefront of America's consciousness.

Morally, our prosperity compels us to act decisively. There is a vast array of technical, agricultural, organizational and financial inputs which go into our food aid efforts; and that subject must be examined as a whole. We need one place to take a comprehensive look at problems such as shipping costs, in-country distribution methods, lack of infrastructure for handling of commodities, and storage problems. We need one forum which focuses our efforts on providing material resources and human assistance to critically needy countries. We need to study what leverage the United States has to convince countries to restructure their agricultural pricing policies which are heavily skewed to the urban consumer, to the detriment of the rural producer. We need a sustained and systematic evaluation of how our food policies affect food policies in other countries. We need a careful study of how United States and world export price supports affect Third World food production incentives. We need to search for stable, ongoing methods of assistance that will allow developing countries to once again bring agricultural production in line with population growth or vice versa. This will entail tackling many complex problems.

A viable assault on hunger and malnutrition requires no less. But right now, we simply do not have the means or stimulus to launch that assault on the continually increasing number of fronts that this battle requires. Therefore, I once again urge my colleagues to support this very important legislation.

The U.S. Congress cannot stop the starvation in Africa, the drought in Kampuchea, or El Nino devastation in northern Peru. What we can do, in establishing this committee, is to provide a nerve and information center for the discussion of and coordination of actions on hunger. This is not in response to a fad or a temporary need. At the White House, the National Security Council has now begun a food assistance study, headed by a former ambassador. But, there is a need for ongoing attention to a subject which will get worse before it gets better. Not only can the proposed select committee synthesize information on the many diverse causes and repercussions of hunger, but also new ideas can be generated and policy recommendations can be made on how best to spend U.S. money in order that millions of people across the globe may have food.

Thank you.

□ 1630

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HIGHTOWER).

Mr. HIGHTOWER. Mr. Speaker, I rise in strong support of this resolution.

Every Christian knows that one of the basic teachings of Christ was to feed the hungry, clothe the naked, and bind up the wounds of the afflicted.

Yes; we know this, and yet we do not know very many hungry people. We have not had the opportunity to get as well acquainted with that group of constituents as we have the more affluent. And yet all the time we have many hungry people in the United States, not hungry because there is not plenty of food to eat, but because of various problems that have blocked it in some way or another so that it makes it impossible for them to have the kind of nutrition that they must have. But we have heard already that there are three major committees of the House that have jurisdiction over this area and as many as 22 committees that have some type of jurisdiction.

That really points to the fact that anything that is everybody's responsibility is no one's responsibility. What we need now and what this resolution will do is to put the responsibility with a select group to bring back reports to the committees of jurisdiction, not to give them any legislative jurisdiction, but to make the studies available to where the Congress can have the benefit to the special attention that this problem deserves.

Certainly none of us are failed to be moved by some of the pictures of the hungry people in various parts of the world. The calls go out for financial assistance all the time; people adopt children in foreign countries to try to see that they have some food in their bellies. Yet we know the problems in nutrition all over the world.

Lincoln said one time, "The Lord must love poor people because he made so many of them."

Well, I do not think we can paraphrase Lincoln by saying the Lord loved hungry people, that is the reason why he made so many of them. He gave us a rich, full world, and we are the ones who have created the problem. We need to feed the hungry.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to my friend, the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Speaker, I know that there has been a great deal of concern expressed about overlap and duplication of responsibility. As a member of the House Agriculture Committee, that has been a concern of mine, as well. But I can also say that, given the kinds of astounding figures, the excruciating problems that we are facing right now with regard to hunger in Africa, in particular, I can say, from the experience that I have had on the committee, that we simply do not have the time, given the rush of legislation, given the responsibilities that we have already been delegated, to deal with this issue as directly and as forthrightly and as comprehensively as we might.

And so it is that I commend the gentleman for the kind of support that he has given this legislation, to give us that opportunity to deal in a more effective way with the problem that we are facing. Certainly there cannot be a more pressing issue as we look to the world and international problems, and certainly I think this will give us that opportunity to better examine, more comprehensively examine, the opportunities that we have to deal with this problem directly.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. GLICKMAN. Mr. Speaker will the gentleman yield?

Mr. DANNEMEYER. I yield to my colleague, the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, I know how hard the gentleman from Texas has worked on this issue. I do not want to be a hard-hearted Hannah, but it seems to me that, while the problem of hunger in America and in the world is very severe, I would rather see the money for this select committee going to the problem, maybe helping buy bread or provide cheese, rather than to set up a short-lived committee to do what our standing committees are already doing, the committees of jurisdiction. We have Mr. PANETTA's committee on nutrition that has held all sorts of hearings, field hearings, Washington hearings, on hunger; we have had Mr. PERKINS' committee bring down legislation on WICK and nutrition programs. We have a committee that is set up for a very short period of time, the rest of this session, to deal with what other committees of Congress are doing. It does not look like we are managing our show very well.

So while I rarely agree with the gentleman in the well who yielded me this time, I think that we would be better served by not creating a new committee since we have existing committees of Congress that have aptly exercised their jurisdiction over these issues.

Mr. DANNEMEYER. I thank my colleague for his remarks.

Mr. Speaker, I rise in opposition to the creation of this new committee, regretfully, on two grounds.

First, I commend the people who want to alleviate hunger and human suffering. Who with any conscience would do otherwise? We have at least three committees of the House with ample staff and jurisdiction to handle this matter—Agriculture, Foreign Affairs and Education and Labor, just to name three. They are fully equipped to handle these matters.

On the second ground, I vehemently protest the procedure under which this process is brought before the House. We in the minority are precluded from offering an amendment. We cannot offer a motion to commit, we cannot offer a motion to recommit because of the way it is brought before the body at this time. We would like to protest because we would like to have a motion to commit offered to this bill or measure so that we could raise to the attention of the Members of the House the fact that we Republicans in the House, the minority, are being unfairly treated by the majority, the Democrats who control this House.

We have 38 percent of the membership of the full House, and yet on numerous committees we are being shorted in this session of the 98th Congress 22 slots on full committees and 37 slots on subcommittees.

For example, on the Agriculture Committee, which is fully prepared to take on this responsibility, we have 15 slots; we should have 16.

On the Foreign Affairs Committee, we have 13 slots, and we should have 14.

On the Education and Labor Committee we have 11, and we should have 12.

There is no justification for that deprivation of proper slots on those committees.

This House needs another committee or subcommittee to handle the affairs of this body like a sinking boat needs a hole in its bottom. It is redundant. We have far too much staff around here. The staff that exists on the committees that are in existence to serve this need are ample to bring any solution to this problem to the House for its consideration. So far as the apportionment of slots on full committees are concerned, the House of Representatives is in league with Albania, Bulgaria, Poland and the U.S.S.R. in the sense that those bodies in those countries do not apportion their members on the basis of division of the parties in the full House.

I do not think I enjoy the comfort of going home and telling my constituents that the House of Representatives is in league with the elected governments in Albania, Bulgaria, Poland, and the U.S.S.R. as to how we apportion committees on slots.

Mr. Speaker, I will be happy to yield to my colleague, the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL. Mr. Speaker, the gentleman is always so gracious in yielding to me. I have listened to his conversation very carefully. I just wanted to let the gentleman know that when we went before the Subcommittee on Accounts of the Committee on House Administration this morning with reference to the structure of my House Small Business Committee——

The SPEAKER pro tempore. The time of the gentleman from California (Mr. DANNEMEYER) has expired.

Mr. MITCHELL. I could not get him another minute, could I?

The SPEAKER pro tempore. The Chair cannot yield additional time.

Mr. MITCHELL. All right. I will get it in when I get some time, how is that?

They praised us for our good record in looking out for the Republicans.

I am concerned about that.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Mr. Speaker, I rise in strong support of House Resolution 15, a bill to create a Select Committee on Hunger.

This committee is urgently needed. The problems of hunger and malnutrition have not been relegated to distant corners of distant lands. In cities and towns across this Nation—indeed, in the shadow of this very building—soup lines are forming, meals-on-wheels trucks are rolling, and shelters are overflowing with hungry Americans with nowhere else to turn. Each day the scene is repeated: A small band of volunteers helping a huge army of homeless and hungry people get through another morning, another afternoon, another night.

In this army, no one enlists. In this army, morale is always low: Alleyways and abandoned buildings are their barracks, soiled and tattered clothing is their uniform. Yet these soldiers are well behaved: frustration and humiliation have disciplined them well. They trek for miles, sometimes in numbing cold, to do as they are told: assemble here, eat this, leave now.

And who are these soldiers? Many of them have never been in the trenches before; 20- and 30-year veterans of the labor force, adrift with no income and no savings. New mothers with babies shrieking to be fed. Sturdy young men and women, anxious to land a job, to become independent and self-supporting, whole families out of work and out of luck.

The homeless, though, are only the most visible members of our society who suffer from an inadequate diet. Hidden within our inner cities and rural hamlets, behind the walls of nursing homes and public hospitals, are countless others—silent victims, ones who are not so indiscreet as to lay on our grates or beg on our street corners.

For millions of our citizens, this is the America of the 1980's. Of course, this dismal state of affairs is not confined to our shores: The passport of hunger and malnutrition is stamped with the seals of countries across the globe. High infant mortality and short lifespans are their calling cards. But the enormity of the problem must not daunt us: A Select Committee on Hunger will give us needed focus, so that we can marshal our resources to combat this persistent foe, wherever it appears.

Mr. Speaker, I urge passage of House Resolution 15.

□ 1640

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota (Mr. DORGAN).

Mr. DORGAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this bill.

Hunger is an unusual problem in that it does not get a great deal of attention. If tomorrow night in New Jersey a house fire were to kill 45,000 children, obviously it would be a front-page headline everywhere in this world. Yet tomorrow 45,000 children will die of hunger-related causes in this world, and the next day, and the day after, and every day thereafter, and there will not be any headlines.

In addition to those children dying of hunger-related causes, 600 million people will go to bed tonight with an ache in their stomachs because they do not have enough to eat. They are not going to die in a house fire tomorrow night, but hour after hour, day after day, and month after month these people will die around the world because they do not have enough to eat and no one seems to pay enough attention to it.

Out in our part of the country we have grain bins that bulge. We have more food than we know what to do with, and we cannot figure out a way to focus attention on the hunger problem and get food from those who produce it so efficiently to those who need it so desperately.

We need to start focusing our energies on this issue. It is in our own enlightened self-interest to help solve the hunger problem that plagues this world. Also, more importantly, it is the right thing to do.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of House Resolution 15, a resolution to establish a House Select Committee on Hunger.

As the Rules Committee reported the resolution, the select committee would be composed of 17 members appointed by the Speaker. Members of this nonlegislative committee would then be charged with two very important and demanding tasks.

First and most important, the select committee will have authority to conduct a continuing, comprehensive study and review of the problems of hunger and malnutrition. As far as I know, there is no single Government agency, body, or commission charged with this function. In the House of Representatives, for example, jurisdiction over issues relating to hunger is shared by at least 8 of the 22 standing committees. There must be one panel devoted solely to an ongoing assessment of the international and domestic hunger situations and the review of the Federal Government's response to that situation.

Second, the Select Committee on Hunger is authorized to respond to the hunger-related needs around the world and in this country. Although this panel would have no legislative jurisdiction in the House committee structure, the select committee is authorized to recommend to the appropriate committees of the House legislation or other action necessary to address the problems of hunger and malnutrition. Studies and evaluations of such a critical problem are academic without a means to concretely address the situation, a situation that gets worse every day.

During the past year, Mr. Speaker, over 40,000 young children died each day from malnutrition. In some of the poorest countries, as many as 40 percent of the children below the age of 5 die each year, mostly from nutrition related causes. Even in countries with a life-sustaining food supply, malnutrition takes its toll, especially on the young. For example, 100,000 children go blind each year because of vitamin A deficiencies.

These statistics are startling and depressing. It is difficult for many, including myself, to put these huge numbers in concrete terms, in terms of millions of individuals. Even though Americans are exposed to scenes of dying children in desolate wastelands, the immediacy and sense of urgency about this tragedy are not communicated through the mass media.

The Select Committee on Hunger is designed to facilitate a comprehensive approach to hunger-related issues. By giving this issue a higher priority, the Congress will be better able to address this growing problem, both at home and abroad.

Mr. Speaker, I urge my colleagues to support House Resolution 15.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri (Mr. EMERSON).

Mr. EMERSON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I will yield to no one in this House in my concern for the issue of hunger. As the ranking minority member of the Nutrition Subcommittee of the House Committee on Agriculture, I have devoted a great deal of time and effort to this issue over the course of the past year.

I will suggest, however, that we need another House committee to tell us about hunger like we need another CBO to tell us about budget deficits. By creating yet another committee, we will salve our consciences and tell the world that we are solving hunger.

We are not by this action today coming to grips with the problem. We are, I am afraid, building a stand that will dispense a great deal of rhetoric in the months ahead, but I am afraid it will dispense little nourishment.

Members argue that we need another committee because we already have too many committees and that the jurisdiction is fragmented and divided. So what is our solution? To create yet another committee.

Mr. Speaker, I rise reluctantly in opposition to House Resolution 15. It establishes in the House of Representatives a Select Committee on Hunger. The select committee would have authority to study the problems of hunger and malnutrition, review any recommendations made by the administration relating to programs or policies affecting hunger and malnutrition, and recommend legislation or other action the select committee considers necessary.

I wonder why the sponsors and the cosponsors, and there are many on both sides, felt that this new select committee was necessary. Is it that the sponsors and the cosponsors of House Resolution 15 feel that the standing committees are not doing their jobs? I, as the ranking Republican on the Domestic Marketing and Nutrition Subcommittee, do not believe that that is true. Our subcommittee has worked very hard over the past year under the leadership of Chairman PANETTA in many hearings here in Washington and around the country trying to define and put the finger on the problem of hunger and to do something about it.

I have joined with the subcommittee chairman in many efforts to alleviate the problems of hunger, so I do not think it is that we have not been doing anything about it.

Still, could it be that the sponsors and the cosponsors do not believe that this is enough, and that a select committee could do more? Do those Members who support this resolution really believe that their colleagues are not doing their jobs? Do my colleagues believe that the committee chairmen and the subcommittee chairmen are lax or ineffective? I do not think so.

On that point, the argument was made here a year or more ago, when we created yet another committee, the Select Committee on Narcotics I believe the name of it is, when we already had five existing committees on the subject, we created yet another select committee that was going to unify the problem so we could come up with better solutions. Can anyone in this House tell me today that we have made greater advances in the war on drugs than before the creation of that select committee? I would like to see the evidence, if they can submit it.

So I cannot understand why this select committee is necessary. In our subcommittee we work hard to address this issue, and to work together to resolve the problems. The select committee could only duplicate the work of our subcommittee and the Committee on Agriculture and the Committee on Education and Labor and the Committee on Foreign Affairs. And, of course, they could spend additional money.

The committee report on House Resolution 15 states that efforts to curb hunger in the United States have been fragmented, duplicative, and inefficient. Well, maybe; but is another committee going to lessen the fragmentation, duplication, and inefficiency?

I would suggest that we should consolidate jurisdiction, rather than expand it.

This report goes on to cite the various Federal agencies and congressional committees that are responsible in whole or in part for programs addressing hunger issues. The report deplores this situation, but then proposes a solution: Yet another committee.

DOMESTIC MARKETING, CONSUMER RELATIONS AND NUTRITION SUBCOMMITTEE

1983 AND 1984 HEARINGS ON FOOD STAMPS, HUNGER AND NUTRITION ISSUES

1. February 28, 1983—Cleveland, Ohio, Review of Hunger and Nutrition Issues.

2. March 22, 1983—Washington, D.C., Commodity Distribution, H.R. 1590. March 24, 1983—Washington, D.C.

3. March 25, 1983—Birmingham, Alabama, Review of Hunger and Nutrition Issues.

4. April 20, 1983—Washington, D.C., USDA Food Stamp Budget.

5. April 30, 1983—Los Angeles, California, Review of Hunger and Nutrition Issues.

6. August 3, 1983—Washington, D.C., Commodity Distribution.

7. September 28, 1983—Washington, D.C., Employment of Food Stamp Participants.

8. October 20, 1983—Washington, D.C., Review of Hunger Studies.

9. November 10, 1983—Washington, D.C., Nutrition Education.

10. January 26, 1983—Washington, D.C., President's Task Force on Food Assistance.

PROPOSED HEARINGS

1. March 2, 1984—Chicago, Illinois, Review of Hunger and Nutrition Issues.

2. March, 1984—Miami, Florida, Review of Hunger and Nutrition Issues.

3. April, 1984—Seattle, Washington, Review of Hunger and Nutrition Issues.

USDA FOOD ASSISTANCE PROGRAMS

Program	Date enacted	1970 budget (1983 dollars in millions) [1]	1983 budget (1983 dollars in millions)	1983 participation (Average daily participants in millions)
Food stamps	1962	$1,510	$12,700	21.6
Child nutrition: [2]				
School lunch	1946	78	2,358	23.0
School breakfast	1966	50	339	3.4
Special milk	1955	263	19	1.0
(Commodities for school programs)		690	1,232	(3)
Summer food	1969	5	95	1.5
Child care food	1968	15	342	.9
Nutritional supplements for women, infants, and children:				
WIC	1972		1,130	2.5
CSFP	1969	20	36	.1
Elderly feeding	1965		104	.7
Commodities donations:				
Needy families	1936	730	45	.3
Charitable institutions	1973	59	110	(3)
Special food distribution	1981		1,050	(3)
Total		3,420	19,560	

[1] 1970 dollars are inflated using the CPI to establish the spending in 1983 dollars that would be equivalent to spending in 1970.

[2] School meal participation is the average during the school year.

[3] Summer food participation is the average during the summer. Not applicable.

Source: U.S. Food and Nutrition Service.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HAYES).

Mr. HAYES. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise to join 258 of my colleagues and the large and diverse coalition of groups which are supporting House Resolution 15, to establish a House Select Committee on Hunger.

In January 1984, I attended a hearing on the report prepared by the President's Task Force on Food Assistance. I listened with great interest to the findings of the task force, which reported that they found no evidence of rampant hunger in America. We have been told that "the homeless want to be homeless * * * people in soup kitchen lines are there because the food is free * * * things are getting better * * * and America is back."

Mr. Speaker, we all know that this is not true. Things are not getting better for the majority of working and nonworking people and poor Americans, for the elderly living on fixed incomes, for the low income and the homeless. This Congress and this administration must face the fact that thousands of people in America are without the resources to buy food and are forced to live with hopelessness and despair. Many this winter have had to choose to eat or have heat. Many chose the latter.

We pay farmers not to grow crops while people are hungry, not only in America but all over the world. We destroy food to maintain high prices, while millions die in Third World countries. I urge my colleagues to pass this legislation so that we can correct this shameful situation.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. I thank the gentleman for yielding this time to me.

Mr. Speaker, it is my hope that a vote against this resolution is not going to be misconstrued as a vote against any attempts to alleviate the problem of hunger. On the contrary, I am going to vote against House Resolution 15 for the sole reason that I believe the committee it will create will, on the basis of the House track record, not help the hunger problem at all, but it certainly will raise the staff level of the House of Representatives.

I am concerned about the problems of hunger, and I applaud those who have expressed their concerns during this debate; but I must call your attention to some of our other select committees.

We have the Select Committee on Aging, which last year we authorized $1.3 million of the taxpayers' dollars. Did that help us in the social security solution? It did not. It took a different kind of commission.

We have the so-called Kiddie Select Committee, which last year wanted $360,000; this year it has asked for twice that much. Did it help in passing the child support bill last year? Maybe, but if it did, its presence was unnoticeable.

We have the Select Committee on Narcotics. Its work has already been described by another speaker.

In short, the select committees do not do anything except hire staff and expend the taxpayers' money.

□ 1650

What they do is complicate the disparity and the fragmentation of this House's resources and of the taxpayers' resources.

I happen to serve on the committee that has to approve these committee budgets, and I say to the Members that we cannot justify the expense that we are approving today for many of the committees that serve this House. To create extra ones where that jurisdiction or area of interest overlaps is a terrible mistake, in my judgment.

We must remember that this committee cannot legislate or it cannot write a bill. All it can do is run around and have hearings and do a little traveling. And I hope it does travel because it is not going to be worth anything if it does not.

Mr. Speaker, this is a waste of the taxpayers' money. Hunger should be dealt with in other ways. We will only create a well-fed staff.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time and I congratulate all those who have taken the initiative to bring this resolution before the House, which I support.

Two years ago, during the general election, I talked with a former county judge from Arkansas about hunger in America, and I asked him, back in his days in the 1940's and 1950's, "What was the status of elderly people who worked hard all their lives and had little to show for it and did not have enough money to continue without working?"

His response was that they crawled up in a corner and died of malnutrition.

Mr. Speaker, there has been a lot of progress made since the 1950's in nutrition and in eliminating hunger from America, but hunger does exist in this country, and in addition to the need for this Nation to know the extent of that hunger, I think we also need to know how to manage better the enormous supplies of food that we have in this country.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. Gekas).

Mr. GEKAS. Mr. Speaker, the resolution itself grants certain authority to the select committee that it creates, and that authority is a wide-ranging dissertation on the various problems having to do with food, the distribution of food, and how it affects international relations and all of that.

Had I been permitted to amend this particular resolution, I would have offered language that would have allowed the select committee to look into another major part of any inquiry such as the one mandated by this legislation, namely, the impact fiscally on the problems of food distribution and getting it to the hungry. So I would have offered language to mandate the authority of the select committee as follows:

> To review the fiscal effects on, and the present operations of State and local authorities, as well as public and private institutions, with respect to programs or policies affecting hunger or malnutrition.

I understand that there was an exchange between my staff and the staff of the gentleman from Ohio in which there was a kind of accord in that at least the language we would have offered would have met with some acceptance.

I hope that if this legislation does pass—and I predict that it will—that there will be a look at the Congressional Record and there will be incorporated in the final reports of the select committee the impact fiscally and what the local and charitable and private institution programs for alleviation of the food problem really do, hoping that we can mitigate against the kind of overlapping that has been described here and the future kind of overlapping that can occur if this select committee does not take into account what is already happening on a local basis.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. Mitchell).

Mrs. LLOYD. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL. I yield to the gentlewoman from Tennessee.

Mrs. LLOYD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am pleased that we are moving today to establish a committee which will focus attention on the worldwide problem of hunger. Our efforts to study this problem and to devise corrective programs have been well intentioned but have suffered from fragmentation and inefficiency. Jurisdiction over hunger issues is spread through eight House committees thus effectively preventing a comprehensive assault on malnutrition. We have the occasion today to establish one committee which will review current programs and policies, both national and international, monitor worldwide agriculture production, and coordinate the drive to curb hunger.

The problem is a serious one, possibly beyond our full comprehension. In the poorest countries almost half of all children die before the age of 5, mostly from nutrition-related causes. In this country, we see the effects in recurring illnesses, learning disabilities, and reduced work capacity. Those who blind themselves to the human tragedy of malnutrition nonetheless see it reflected in increased health and education costs and lower productivity.

We have witnessed the success of specialized committees. The older people of America have benefited directly from the single vision of our aging committee. The people of this Nation have long been actively fighting hunger and some 60 antihunger groups have pushed for the formation of a similar structure to address hunger. This committee and the study it produces will give us a broad perspective on the worldwide nutrition need and how it can most effectively be met.

Mr. MITCHELL. Mr. Speaker, let me say to my colleagues in the House that I just want to take a second to say this: I do not see my colleague, the gentleman from California (Mr. Dannemeyer) here, but I want to take a second to indicate that the fact that this Congress has the guts to address this problem in my opinion sharply distinguishes us from the Union of Socialist Soviet Republics that he referred to.

Many Members of this House have seen the face of hunger. I see the gentleman from Texas (Mr. Leland) here, and the gentleman from Michigan (Mr. Wolpe) is also here. We flew from Gondar in Ethiopia on a 15-minute helicopter ride to a wide plateau where hungry children and old people were suffering. I have seen the face of hunger in Mali, that little, tiny, landlocked country where people are literally starving to death.

I have talked to experts and they suggest that maybe the problem is not just the distribution of food. Some suggest that if we could build the infrastructure required in the nation of Sudan, that infrastructure could become the breadbasket for the entire African Continent.

I have seen the face of hunger in this country. In the rural areas right outside Epes, Ala., I have seen children in the last 2 years still suffering from diseases such as pellagra and other diseases resulting from malnutrition.

All of us look in the face of hunger as we move to our cities. Boston now has 41 soup lines. I do not know how many there are in Washington, I do not know how many there are in Philadelphia, and the number has substantially increased in my city.

The report of the Presidential task force is obviously in error. There is deep, biting, searing hunger in this Nation for many, many people, and we do not meet our responsibility to promote the general welfare unless we address that problem.

Mr. Speaker, the question was raised as to why we need this committee, and the answer to that question to me is very simple.

Mr. Speaker. I rise in support of House Resolution 15, to establish a Select Committee on Hunger. It is imperative that we centralize and prioritize needed efforts to address the complex problems of hunger, both domestic and worldwide. The problem has grown more acute, despite opposing contentions, and it is time to rededicate ourselves to rectifying this situation.

Just recently, we witnessed the issuance of a report from the President's Task Force on Food Assistance. This report reeked of insensitivity and the significant lack of a careful and balanced study of hunger in our country. In fact, many experts have come forward to denounce this report as, among other things, a denial of the seriousness of the hunger problem. Many who have worked directly and extensively in this area have expressed concern that the task force manipulated statistics and wasted 4 months of the taxpayers' money to conclude only that hunger does exist—though the extent is questionable—and that the Federal antihunger efforts should be diminished and/or dismantled.

We must acknowledge, however that, until we move aggressively to provide continuity in the oversight of the hunger issue and related problem, we are at the mercy of such task forces. The measure before us provides a chance to not only pursue in-depth studies and conduct hearings around the country. It provides for the critical review of pertinent recommendations from the President and other branches of Government relative to programs or policies which impact hunger or malnutrition within the United States. These elements are particularly important since a public policy issue of this magnitude should indeed be subject to careful deliberation by those whom the people have entrusted to represent them at the Federal legislative level.

There is no argument with the contention that good health is essential for the well-being of our families. Consistent with this concern, however, must be a focus on nutritional health, and the detrimental impact of failure to provide adequately in this area. Hunger and malnutrition prevail in our communities whether we like it or not. Our children, who are served by school lunch programs; our elderly who are served through congregate feeding; and others who have to turn to soup kitchens, all benefit because we have recognized the need for the continued Federal role in addressing hunger and food assistance. The empty rhetoric put forth by those who are completely oblivious to the reality of such situations must not be adhered to, and once again, those of us in the Congress must take the lead in insuring that the needs of our citizens are met.

I urge my colleagues to vote favorable for House Resolution 15, and demonstrate a true commitment to alleviating the problem of hunger.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Speaker, I rise as a strong supporter of House Resolution 15 and join my colleagues in expressing support for the establishment of a Select Committee on Hunger.

I would like to commend my colleagues, the gentleman from New York (Mr. Gilman) and the gentleman from Texas (Mr. Leland) for their leadership in this issue and their dedication in seeking to establish an appropriate Federal role to focus attention on the critical problems of hunger.

I cosponsored this resolution because I believe the time has come for the Congress to recognize the importance of adequately addressing the needs of our Nation's hungry and of the world's hungry.

Mr. Speaker, I think there are important security and economic interests of the United States at stake here. Whatever policy any one of us might advocate with respect to our near neighbors, it is quite clear that the immigration pressure on our borders and the instability and revolutions in Central America stem from poverty and hunger.

Contrary to what I have heard spoken this afternoon—a charge of fragmentation, just the opposite is envisioned by this legislation. I serve as a member of the Select Committee on Children, Youth and Families, a recent creation of this body, and I am one member who is learning about a very deep, serious problem or a series of problems facing the United States about which I believe the Congress, prior to the formation of that select committee, was only very dimly aware.

Mr. Speaker, I am fully confident that this committee proposed in House Resolution 15, like the Select Committee on Children, Youth and Families, will be a great service to the Congress and to the country.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Dixon).

Mr. DIXON. Mr. Speaker, there is little question in the minds of the American people that hunger has returned to America.

Unknown numbers of our people cannot provide adequate nutrition for themselves or their families. We have all seen the face of America's hungry: Old people, the working poor, the unemployed, the homeless, among others.

The return of hunger has been ecumenical. It has not limited itself to Native Americans, migrant workers, and the elderly. As more Americans fall below the poverty line, the spectrum of hunger broadens across the land.

We have faced this problem before. Nearly two decades ago our Nation was shocked to learn that large numbers of our people were hungry. In pockets throughout the country hunger was documented—children in Appalachia, infants on Indian reservations, black children in rural areas and urban centers, and the elderly—when they could be found.

America responded: Over the course of several years, with Republican and Democratic leadership and bipartisan congressional support, America dramatically reduced hunger.

The food stamp program was established and the importance of adequate nutrition to learning was enforced by creation of school lunch and breakfast programs. Meals on wheels programs were instituted to reach the older Americans isolated in their homes. And the availability of supplemental nutrition for expectant mothers provided poor pregnant women with a base of prenatal care to reduce infant mortality among the disadvantaged.

All these things America did. And they made a difference.

Now, in 1984, it seems that many of our people are being lost between this patchwork of Federal nutrition programs.

Its comeback was several years in the making. Soup kitchens slowly began to see more people. Churches began to see families requesting help. Service agencies noted more families with little to eat. Mayors across the Nation see more hungry people and describe it as one of the most serious problems in our cities. After being seriously reduced for more than a decade, hunger has returned.

While this problem has become more acute domestically, it has reached devastating proportions globally. In the developing world we are seeing famine of tragic proportions in Africa, and many nations whose primary problem is inadequate food production.

The establishment of a Select Committee on Hunger will help to refocus our domestic food assistance and to identify new policies or approaches which are needed. It will also give attention to world hunger and the role which only our Nation can play in bringing a green revolution to Africa and the rest of the developing world so that it may be better able to meet its own food needs.

I believe the Select Committee on Hunger is needed and urge the support of my colleagues.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Panetta).

Mr. PANETTA. Mr. Speaker, hunger is a serious and complex problem in this country and in the world. It is the result of many complex factors, but it is largely the result of divisions between the advantaged and the disadvantaged, between the rich and the poor, between those who can eat well and those who cannot eat at all.

The challenge is to bridge that gap, to make people in our society understand that there is another side of America that has that problem, so that anything that contributes to that public education process is important, because we are a compassionate society.

I think this joint committee will help contribute to that educational process, but it is important, I think, to make clear that this committee if it is to be effective ought not to be duplicative. I have the assurance of the key sponsor of this that it will coordinate, particularly in the domestic hunger area in its work with the standing committees so as to avoid duplication of effort.

No committee, no subcommittee, has a monopoly on an issue like hunger, but I would hope that the focus of this committee will be to broaden the public's attention on areas that are not covered by committees that have jurisdiction on the issue of hunger.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. Wheat).

Mr. WHEAT. Mr. Speaker, first let me commend the gentleman from Tennessee (Mr. Quillen) and the gentleman from Ohio (Mr. Hall) for the work that they have done on promoting this issue today, and also the gentleman from Texas (Mr. Leland), especially despite reports throughout our Nation that hunger may not be as great an issue as it once was reported to be. They have done a tremendous job in pointing out the extent of the national problem.

I wanted to take just a minute to point out the extent of the problem in Kansas City, Mo., often considered the Breadbasket of the Nation.

Mr. Speaker, I have received reports from Kansas City that for the last decade the amount of hunger was largely static in that area, that it had remained the same; but Mr. Speaker, 2 years ago that number rose dramatically, with the number of people seeking assistance for hunger in the Breadbasket of the Nation doubling in a 1-year period of time.

Mr. Speaker, in 1983 that figure again doubled, doubling and redoubling in a period of 2 years.

Mr. Speaker, it is obvious that the number of hungry people in this Nation is growing, that it is in fact a major problem that the Congress ought to be addressing.

I hope, Mr. Speaker, that this body will approve the resolution so we may begin to address the problem.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY. Mr. Speaker, I rise in strong support of House Resolution 15, a resolution that would create a Select Committee on Hunger in the House of Representatives.

There are few problems as important as the problem of ending world hunger. As a cosponsor of House Resolution 15, I believe there is a clear and pressing need for a comprehensive, coordinated examination within this Chamber of antihunger initiatives and policy recommendations.

Presently, in the House of Representatives, eight committees share jurisdiction over the issues related to hunger. The sincerity and commitment of the membership of the committees with jurisdiction over hunger issues is established—in particular, Representative LEON PANETTA is to be complemented for the excellent set of hearings his subcommittee has held on hunger in America—yet, we all know, a complex issue calls for a broad perspective from the House. The select committee, under the terms of House Resolution 15, should examine the many dimensions of world hunger; by doing so, the select committee will be able to assist the Congress as a whole in evaluating, developing, and implementing effective strategies to end the tragedy of starvation and malnutrition in our country and overseas.

The key word is implement. I think it is very important that in passage of House Resolution 15 we emphasize our intent that the Select Committee on Hunger be a catalyst for action. I for one do not envision that the hearings and recommendations of the Select Committee on Hunger will end up on dusty shelves somewhere, neglected while more American children suffer failure to thrive and populations of Third World countries are decimated by famine. The problem of hunger is not looming on the horizon; it is before us right now.

Likewise, I believe it is important that we do not hedge in any way on our traditional support for effective food assistance programs as we await the deliberations of the select committee. We do not need a select committee report to tell us that if you continue to attack the funding levels and eligibility criteria of food assistance programs at a time when unemployment has been in record high numbers, then you will see the consequences in the health and well-being of families which are poor and in which the breadwinner cannot find work. Unfortunately, malnutrition is a lagging economic indicator and even as some sectors of the economy improve, public health officials and generous individuals who volunteer in soup kitchens and emergency shelters around the country tell us that the need for Federal assistance to fight hunger has continued to increase.

It is time for the House of Representatives to give high priority to an examination of the issue of hunger and I urge my colleagues to support House Resolution 15.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, I thank the gentleman from Ohio for yielding to me.

I rise in strong support of this Select Committee on Hunger.

The good news is that we are a land of plenty. We have a lot of food. We have about 5 billion pounds of dried food that is stored.

The bad news is that 1 out of 7 of our Americans are living in poverty; that 1 out of 4 elderly people suffer from anemia because of poor nutrition; that 1 out of 12 children are born with some kind of birth defects in our country because of the poor nutrition of their mothers.

Beyond that, we mirror in a small way the global situation. We know that people in the world are starving. There is not real good moral excuse for that.

I think this is what this committee will attempt to do, to analyze the problems of world hunger, hunger in America, and to offer recommendations to the appropriate committees. In my mind's eye, it is high time that we have a conscience about this problem, not only in our own communities, but in the world in general.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I thank the gentleman from Tennessee for yielding.

Who can doubt the seriousness of the hunger issue? Who can doubt that anyone with a conscience can be concerned about that issue?

But the question here is whether this committee, if formed, is really going to be serious about the issue to the extent of treating it fairly. The bill calls for 17 members on the committee. Will that be a 9 to 8 committee ratio, so that both major parties have a nearly equal chance to address the issue? I doubt that we will see that kind of membership ratio.

I am fearful that this committee on a most worthy subject will be simply another stacked political body.

Fairness would dictate that we do not make this committee a partisan enterprise. Let us hope that if this committee is formed that its membership will be equally divided among the political parties here in the House, so that hunger can be addressed in a way that is not a partisan issue, but is a real issue.

Mr. QUILLEN. Mr. Speaker, I urge the adoption of this resolution creating a Select Committee on Hunger. It is not a legislative committee. However, the select committee can coordinate the work of the various legislative committees which have jurisdiction now.

I feel that if we can do anything at all to relieve hunger at any level it would be well worthwhile. It is especially tragic to see so many children around the world in a situation in which they are suffering from the lack of food.

So Mr. Speaker, I urge adoption of the resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, the committee we seek to establish, in my opinion, is the most powerful tool available to us to answer the question that we have been talking about today. Last year, 40,000 children died in this world every day. Another 100,000 were blind as the result of vitamin deficiencies. In the poorest of the poor countries, over 40 percent of the children under 5 died, and that is just internationally.

Most of us know and are aware of the problems in our own districts. To me, this is the only effective way to deal with the problem in Congress.

I would urge my colleagues to vote for this bill.

Mr. MORRISON of Connecticut. Mr. Speaker, as the Representative of Connecticut's third district, which includes the seventh poorest city in the Nation, I urge the adoption of House Resolution 15. Hunger is a very real problem in Connecticut, New England, and the Nation; hundreds of millions of people throughout the world suffer because of famine and crop failure. The creation of a Select Committee on Hunger is a step toward solving these urgent problems.

Mark Patton of the Connecticut Food Bank phoned me last week with the results of a recent survey. In the last 2 years there has been a 115-percent increase in the number of people eating at soup kitchens each month in New Haven; a 74-percent increase in the number of families seeking emergency help from the food pantries in the Greater New Haven area; and an increase of 24 percent in the number of people being fed at residential facilities.

Twenty percent fewer children in Connecticut are receiving free or reduced priced meals at school than 2 years ago. Hayward Thaxton, an elementary school principal in New Haven, sees growing numbers of children coming to school hungry. They seem tired and listless, cannot concentrate, and start to squirm just before lunch as they smell the food in the cafeteria. Volunteer physicians who visit soup kitchens are finding stunted children, underweight and failing to grow normally, with poor teeth and hair, and elderly people who are thin and anemic.

Worldwide, hunger is epidemic; 41,000 children under the age of 5 die every day from malnutrition and related diseases; 100,000 people starved to death in Mozambique alone in 1983.

The creation of this select committee will enable us to consider the factors which contribute to hunger and the range of possible solutions to the problem in a unified and comprehensive way. The work of this committee will bring hunger into focus for us. It will make a statement that relieving hunger is among our highest national priorities.

Select committees can be effective vehicles for generating solutions to important social problems. The Select Committee on Children, Youth and Families, on which I serve, has made significant progress on its concerns. The Senate Select Committee on Nutrition and Human Needs, between 1970 and 1977, laid groundwork for the food stamp program, one of the Federal Government's most important programs. The Select Committee on Aging is helping us address the needs of America's elderly.

The right to nourishing food is among the most basic of human rights. That right is being denied and abridged for countless people. It is fitting that the House of Representatives focus its attention, by means of a select committee, on a remedy.

Mr. FRANKLIN. Mr. Speaker, I rise in strong support of House Resolution 15, and I look forward to following the progress of the Select Committee on Hunger.

As a member of the House Agriculture Committee, I know first hand the capabilities of our Nation's farmers. The United States has no equal as a producer of food; indeed, we should be capable of feeding the people of this Nation several times over.

Despite the fact that we have more food than we know what to do with, we continue to hear stories of hunger and of malnutrition throughout this country. This is not confined to any particular region—this problem has received as much attention in my own district, one of the poorest in the Nation, as it has here in our Nation's Capital.

If our current programs are not working, we need to know. If there is a better way to assure that the food we produce can be better distributed, we need to know. If there is anything at all that this Congress can do about this most basic problem, we need to do it. I think this resolution is well worth our support, and I am happy to support its passage.

● Mr. MOODY. Mr. Speaker, I urge my colleagues to support House Resolution 15, which establishes the Select Committee on Hunger. I am pleased to be a cosponsor of this bill, and believe that only by legislatively recognizing this critical problem can we begin to deal with it in an effective manner.

Ten years ago at the Rome World Food Conference, former Secretary of State Kissinger declared that by 1984 no child would go to bed at night hungry. Tragically, this conjecture has proven to be greatly overestimated. In Africa alone, 2,500 people die every day from starvation. Furthermore, the number of people who are hungry worldwide has not been reduced, and I find it inexcusable that domestic hunger has increased.

We must give hunger-related policies a higher priority on our congressional agenda. Existing congressional committees, due to their already crowded schedules, are not able to give concentrated attention to the problem of world hunger. The Select Committee on Hunger can draw on the individual expertise of members of these other committees, specifically to provide a more integrated, comprehensive, and effective approach.

An additional function of this committee would be to enhance the cost effectiveness of current programs and policies, both domestic and foreign. Not only is this a desirable goal in terms of our fiscal policy, but the money saved would be better used to alleviate the original problem—hunger. I would also emphasize that the cost of a select committee is small compared to the potential gains in reducing hunger at home or abroad.

This resolution was introduced over a year ago, on the first day of the 98th Congress. I am pleased that we are finally bringing it up for consideration, and again, urge my colleagues to vote for its passage.●

● Mr. LEVINE of California. Mr. Speaker, I rise today in support of House Resolution 15. This resolution authorizes the establishment of a Select Committee on Hunger in the House for the remainder of the 98th Congress.

Estimates have placed the number of those suffering the devastating effects of malnutrition as high as 1 billion people. During the past year alone, more than 40,000 children died each day as a result of malnutrition. In some poorer countries, as many as 40 percent of the children under the age of 5 die each year, mostly as a result of nutrition-related causes. The prevalence of widespread handicaps associated with work capacity and learning behavior continue to occur among the survivors as a result of inadequate diets and recurring illnesses.

America has not insulated itself from the global problems of hunger and malnutrition. Approximately 26 million Americans live at or just below the poverty line, which dramatically increases their chances of malnutrition. Equally susceptible to the problems associated with hunger are an additional 18 million Americans whose incomes fall within 150 percent of the poverty line.

Efforts to impede the progress of hunger in the United States have been fragmented, duplicative, and inefficient. Currently, there is no single Federal or State agency, or congressional committee which focuses exclusively on the diverse and complex issues affecting this vulnerable segment of society.

Eight House committees, in addition to numerous subcommittees, presently have jurisdiction over hunger-related issues. The establishment of a Select Committee on Hunger would give the hunger problem comprehensive and more coordinated attention. The select committee would be empowered to conduct a comprehensive study of the problems arising from hunger both domestically and abroad. In addition, it would be able to review all executive branch decisions or any department or agency decision which addresses programs or policies affecting malnutrition or hunger.

Although the select committee will not have legislative authority, it will be empowered to consider hunger issues including U.S. development assistance, world food security, trade relations, food production and distribution, international banking and development institutions, and food assistance programs.

The Select Committee on Hunger will be able to sustain and give ongoing attention to world hunger. By drawing on the expertise of the various members of the standing committees which have jurisdiction over the broad spectrum of hunger-related issues the select committee will be able to establish a more effective and integrated approach to solving world hunger.

Hunger is not a partisan issue. As Members of Congress we can show our commitment to the goal of ending world hunger by voting in support of this resolution. A Select Committee on Hunger is the most appropriate vehicle for insuring that a comprehensive, multidimensional approach is taken toward alleviating the domestic and international problems which are a direct result of hunger in the world. The costs of the committee are small when compared to the potential gains that will be realized in the long run.●

● Mr. WALGREN. Mr. Speaker, the failure of governments to adequately supply and distribute food to all people can have far more serious global implications than almost any other problem. As the world's most powerful force in food production and distribution, the United States has a unique responsibility to lead in efforts to reduce hunger in the world. As a cosponsor of this resolution creating a Select Committee on Hunger in the House of Representatives, I want to urge others to support this measure.

It is easy to think of hunger in this country as a nonproblem since the poor and hungry have little political will or clout and usually are not headline makers. Hunger abroad is often viewed as an occasional and short-lived drought or political calamity on our television screens. But hunger is not an invisible or occasional problem. As the 1980 President's Commission on World Hunger said:

> The true hunger problem of our time is chronic undernutrition—the problem of millions of men, women, and children who do not get enough to eat.* * * As many as 800 million of the Earth's poorest people do not get enough to eat each day and many more suffer from specific varieties of malnutrition.

The consequences of hunger are staggering, from family disruption to political unrest in whole regions of the world. Most of us have experienced the hungry cry of an infant and the joy of satisfying that hunger. The hunger of a nation is that multifold.

Just before last Thanksgiving, Senator EDWARD KENNEDY held hearings on hunger in several parts of the country, including my home, the Pittsburgh area. His findings are disturbing:

Soup kitchens in the Pittsburgh area report a 300- to 400-percent increase in people using their services from 1979 to 1983.

Over 235 local unions in the Pittsburgh area are distributing food to 30,000 needy families.

The Hunger Action Coalition, established in 1975, has experienced a dramatic 60-percent increase in the demand for emergency food every 6-month period since the present administration took office in 1981. In the first 10 months of 1983, the coalition provided food to 15,267 people—8 out of every 10 people in this group were first-time food recipients. One community leader indicated that hunger is becoming a problem for formerly affluent, white collar workers and that there will be another big influx of requests this spring when the impact of several new steel industry layoffs will be felt.

The medical community is especially concerned that hunger is now resulting in death for a number of newborn children.

Dr. Ian Holzman, resident neonatologist at MaGee Women's Hospital has presented some most disturbing information on the effect of unemployment on depriving infants of essential nutrition. MaGee has 10,000 deliveries a year, over half of all deliveries in the Allegheny County area, and serves a wide cross section of southwestern Pennsylvania. Dr. Holzman said that MaGee Hospital, which delivers 10,000 babies a year, has seen a substantial increase in admissions to their intensive care clinic—from 700 premature babies in 1981 to 1,000 in 1983. The key factor affecting premature delivery is a decline in nutrition. He noted that in 1983 almost one-half of all babies admitted to the hospital's intensive care unit had parents who were receiving medicaid, a 30-percent increase over 1981. Dr. Holzman's evidence shows that white infant mortality parallels the rise and fall of unemployment in Pittsburgh during the 1970's and, sadly, that the present dramatic increases in unemployment suggest that a rapid escalation of infant mortality can be expected in the months ahead.

We must not be so blind about the hunger problem in America to fail to grasp the severity of hunger worldwide. Right now a famine is widespread in parts of Africa. As many as 45 million persons, both young and old, may face starvation. Climatic and political conditions have sadly produced a situation which the United Nations Food and Agriculture Organization has described as, "a gradual breakdown of the delicate balance between the physical environment and social structures."

Obviously, there is much that the United States can and should do both at home and abroad in seeking the best methods to feed the hungry. I believe that this new Select Committee on Hunger has a clear charge to look through the political rhetoric to develop public understanding about why food is not reaching the millions here and abroad who need it.

I should also note that the Subcommittee on Science, Research and Technology, which I chair, is also trying to play a part in the effort to alleviate hunger. On January 30 BUDDY MACKAY, GEORGE E. BROWN, Jr., and I introduced H.R. 4684, the National Nutrition Monitoring and Related Research Act of 1984. The purpose of this bill is to create a coordinated national nutrition monitoring and research program. We seek a scientific basis to measure the nutritional status of the U.S. population.

The President's Task Force on Food Assistance recently recommended that the Federal Government take steps to improve information on nutritional status because of the difficulties encountered in documenting and quantifying with complete accuracy the extent of hunger in America. H.R. 4684 was not prepared in response to the President's Task Force on Hunger, but is the product of a number of years of oversight by the Subcommittee on Science, Research, and Technology. The bill goes beyond the recommendations of the task force by calling for the timely and continuous documentation of dietary, nutritional, and related health information.

A timely nutrition monitoring system which provides for continuous data collection, interpretation and early warning trends of potential hunger and malnutrition should be a valuable tool for the Select Committee on Hunger.

I hope that these small steps will help get us on the road to solving the inexcusable problem of hunger in the world.●

● Mr. GUARINI. Mr. Speaker, I rise today to join my colleagues in calling for passage of House Resolution 15, a resolution to establish a Select Committee on Hunger.

Federal policies regarding food and nutrition programs are considered piecemeal under the jurisdiction of a number of congressional committees, yet few things are as basic to human health and welfare. We need to establish the Select Committee on Hunger to evaluate the impact of existing programs and to develop comprehensive policies to address the problems of hunger and malnutrition in America.

It is all too evident that, in this land of plenty, some Americans are going hungry. More and more Americans have been unable to keep food on the table because of recent high levels of unemployment. Many elderly and low-income families have been forced to choose between housing or adequate nutrition because of social service program cutbacks and the pinch of inflation. Charitable organizations have reported tremendous increases in the number of individuals their soup kitchens have served. Such conditions are unacceptable in a country as agriculturally productive as ours.

In a land as bountiful as America, no one should go hungry. Our farmers produce record amounts of wheat, dairy products, and other staples, yet huge quantities of these vital foodstuffs sit in Government warehouses out of the reach of the needy. The Select Committee on Hunger will recommend policies for the productive use of surplus commodities for America's hungry citizens.

Infant mortality increases among low-income families when inadequate nutrition is available to pregnant women. In my district in Jersey City, N.J., which has some of the poorest urban neighborhoods in the Nation, the infant mortality rate nearly doubled between 1981 and 1982, in part because families in poverty often do not get proper nutrition. In addition, undernourished youngsters experience increased health risks and diminished learning ability when they must survive on inadequate diets.

Despite the existence of programs to provide food stamps, school lunches, and diet supplements to infants and pregnant women, far too many low-income families know the ravages of a poor diet. The Select Committee on Hunger will assess the effectiveness of these and other food and nutrition programs and will recommend improvements intended to help eradicate the debilitating impact of hunger in America.

Federal policies relating to agricultural production, income maintenance, and health care all include components relating to hunger. We need the Select Committee on Hunger to insure that these diverse components become part of a cohesive policy designed to end all traces of hunger in America. I urge your strong support for House Resolution 15.●

● Mr. SOLARZ. Mr. Speaker, today I would like to express to my colleague, my strong support for the resolution to establish a Select Committee on Hunger. Throughout our history the United States has shown a commitment to humanitarian goals, the most important of which is to end world hunger.

I know that my colleagues on both sides of the aisle agree that world hunger is a problem of great significance and concern to the United States, both on humanitarian grounds and as a matter of national interest and security. It is important that widespread hunger be alleviated, in order to enhance stability in the underdeveloped world.

Although many nations are making tremendous progress toward feeding their hungry, the number of hungry in the world is still at a tragic level. The problem is particularly serious in Africa, where severe droughts have devastated crops and livestock. Large shipments of grain and other supplies are desperately needed in order to stop widespread famine, but our efforts must not stop at this. In order to insure long-term stability in the food supply of these impoverished nations, we need to train and assist small farmers and agricultural experts so that more nations can achieve food self-sufficiency. Only then will the problem of hunger begin to be solved.

One of the biggest problems facing the congressional effort to help end world hunger is a lack of coordination and organization. Currently, at least eight committees have jurisdiction over the various aspects of world hunger. The creation of a Select Committee on Hunger would not abrogate any of these committee's legislative powers, but it would help to coordinate, educate, and organize the many effects underway to increase U.S. commitment to alleviating world hunger.

I, therefore, urge my colleagues to vote for this resolution, as another step toward the goal of putting an end to hunger in the world, a goal I know we, and all Americans share.●

● Mr. OWENS. Mr. Speaker, I rise in support of House Resolution 15 to create a Select Committee on Hunger.

There has been a growing tendency in this country to redefine problems in such a way as to deny that the problems exist. There was a time when 4-percent unemployment was considered to be a problem. Now we are being told that 7 or 8 percent is tolerable. In the case of hunger, there was a time when Americans were appalled when many children did not measure up to the proper height and weight for their age group. Now we are being told that there is no clearly visible problem because our children do not resemble the refugee children fleeing from famine. It is as if we have decided to accept conditions which are marginally better than the poorest parts of the world. This is ridiculous. This is the United States. This is a land of plenty—a land which exports food and which can certainly feed its own people.

The reality is that chronic undernutrition is a growing problem in this country. It is a problem which will cost us dearly as babies are born underweight and children do not develop their full potential because we did not care enough to see that they got enough to eat.

Today, one in five children lives in poverty. Among black children the rate is one in two. In parts of Detroit, the infant mortality rate hit 33 per 1,000 live births, the same as Honduras, the poorest country in Latin America. Now, if we take Honduras as our standard, one can argue that most of the United States is in better shape on this issue. However, I, for one, do not want to take Honduras as the standard for infant mortality in the United States.

There are other indications of hunger in the United States. Food pantries have been developed in most of our major cities. They are receiving an increasing number of calls for help. Although one must commend these volunteer efforts, one must also recognize that the resources available to the voluntary organizations are limited and that they are beginning to face severe problems due to the overwhelming need for help in the face of limited resources. Volunteers are becoming demoralized and "burnt out" by the sense of frustration that comes when you continuously try to stem the tide which seems about to engulf one.

It is my hope that my colleagues will agree with me that we can no longer ignore hunger or define it out of existence. It is a disgrace that people go hungry in this land. That must be our standard and our challenge.●

● Mr. ORTIZ. Mr. Speaker, I deeply regret that I was unable to be in the Chamber when the vote on House Resolution 15 was taken. I am a cosponsor of this legislation to create a Select Committee on Hunger and would have liked to personally lent my support to its passage. However, my participation in an official trip sponsored by the House Armed Services Committee prevented my return to Washington in time to cast my vote.

A Select Committee on Hunger would provide a forum for a bipartisan approach to solving the problem of world hunger. Currently, several committees have jurisdiction over the issue, thus preventing a comprehensive approach to a most complex problem. A special committee, devoting its time and energies to seeking solutions, would be far more effective than the disparate efforts of several committees with overlapping jurisdictions.

The problem of hunger is really twofold. Everyone is aware of the effects that droughts, natural disaster, and war have had on the poorest of the world's poor. Governments have rushed to provide emergency aid which will be used to meet the immediate needs of starving people. However, there is an important second aspect to hunger that is frequently overlooked—that of people who are not starving, but who are not receiving adequate nutrition to live a long and healthy life. This is a problem that transcends socioeconomic strata and occurs in every country in the world, including our own. Our country, which is the greatest agricultural producing nation in the world and which raises an abundance of grains, fruits, vegetables, and livestock, sends an alarming percentage of its people to bed hungry every night. This is a disgrace for a country with enormous resources and the capability of delivering services to the needy.

There has been an attempt to make hunger in America a bipartisan issue. It should not be. The problem is too serious, and the long-term effects on our children too dangerous to quibble over what must be done. A congressional committee enjoined with the task of exploring the problems and proposing solutions would go a long way in helping eliminate hunger in America. What is urgently needed is a forum for bringing together the information gathered by Federal, State, and local agencies, and private organizations about the extent of hunger in America. With the opportunity to review this information, the committee could establish an agenda for eliminating the problem.

Americans have always been willing to extend a helping hand to the less fortunate in the developing countries. We have provided foreign nations with the technology and training to expand agricultural production and meet their citizens' food needs. We must continue to explore options for improving agriculture in the less developed countries. At the same time, we must address the problem of hunger at home. We can do no less for our own people.

I strongly support the creation of a Select Committee on Hunger as a necessary and extremely useful means for addressing a worldwide problem that must be overcome.●

● Mr. GREEN. Mr. Speaker, although I deeply share the concern regarding the existence of hunger in our Nation, I find that I cannot support the formation of a select committee as a viable solution for meeting this need. Select committees have the potential for being used as political vehicles whose operating funds I would prefer, in most cases, to direct toward more constructive alternatives. Rather than spend the money on still another committee and more congressional staff, we should increase the funding of programs directly affecting the hungry of our Nation and of the world.

As you may know, I am a strong supporter of such bills as H.R. 2807, which increased the level of funds for 3 years to permit adequate reimbursement for meals served under the Older Americans Act of 1965. In fact, the Appropriations Committee, of which I am a member, provided an additional $16 million for this elderly feeding program in the 1983 supplemental appropriations bill. The supplemental also provided an extra $1 billion for operating the food stamp program through 1983.

I have been a strong advocate of such foreign development and aid programs addressed to hunger. I also cosponsored the hunger and global security bill, legislation which recognizes that world stability and hunger issues are related, and that security cannot be achieved through military means alone. The bill mandates making the elimination of hunger the focus of U.S. relations with developing countries.

While I share the concern that hunger policy could be better coordinated than it is at present, being divided among eight full committees, I do not agree that continued funding of a select committee would provide an appropriate solution. Select committees can neither bring bills to the floor of the House nor appropriate funds. Hunger is an entity upon which we must take action. It is not necessary to commission another evaluation of the problem.

Let us spend the taxpayers' money on feeding the hungry, not on more congressional staff.●

● Mr. GEJDENSON. Mr. Speaker, I rise today to express my strong support for the establishment of a House Select Committee on Hunger.

There is an urgent need for a congressional vehicle to investigate and recommend solutions to the chronic and disheartening problem both in the United States and worldwide. House Resolution 15, the bill that we are considering here today, will provide this necessary vehicle and create a united forum that will establish hunger as a priority issue in this body. The Select Committee on Hunger will be made up of 17 Members of the House, and its purpose will be to conduct a continuing comprehensive study of the problems of hunger both at home and abroad. Some of the issues to be examined include the establishment of a U.S. development and economic assistance program; food production and distribution; and food assistance programs.

The need for a congressional Committee on Hunger is borne out by the results of the Presidential Commission on Domestic Hunger, which concluded that hunger is not rampant in America—a conclusion that is hardly surprising coming from a commission appointed by a President whose chief counselor believes that American hunger is primarily anecdotal.

The commission's conclusions are not borne out by national statistics. Since President Reagan took office, more than 1 million recipients have been eliminated from the food stamp program, and nearly 1.7 million have had their benefits reduced; 1 million low-income children were eliminated from the school lunch program, and 500,000 fewer children now participate in the school breakfast program. WIC program funding was frozen at 1981 levels, so that less than one-third of those eligible actually receive benefits.

These cuts have gone into effect at the same time that 8 million more Americans have been classified as poor, of which 3 million are children. They have gone into effect at the same time that soup kitchens and food assistance centers have reported not only steady increases in the total number of individuals in need, but dramatic increases—doublings and triplings—during the last 2 weeks of every month.

Worldwide, 41,000 children under the age of 5 die every day because they do not receive enough to eat, and approximately 100,000 young people go blind because they do not consume enough vitamin A. The Food and Agricultural Organization (FAO) of the United Nations estimates that nearly 1½ billion people throughout the world suffer from malnutrition—one out of nine people.

In today's world, there is no excuse for any person, anywhere in the world, to die due to lack of food as the world produces enough food for everyone. The world's combined technology has brought about tremendous progress in food production and the means to transport food to distant locations. In the U.S. alone, many tons of food products lay wasting in warehouses across the country. As the world's leading producer of food, the United States must continue to play a leading role in the elimination of hunger.

House Resolution 15 is a comprehensive piece of legislation that will keep Congress actively involved in finding the best methods to wage the battle against hunger. I urge my colleagues to unanimously pass House Resolution 15 to insure that the chronic problem of hunger receives the attention it requires and deserves in this Congress.●

● Mrs. JOHNSON. Mr. Speaker, it is no secret that hunger in America is a very real, and a very serious problem. For a nation so rich and so bountiful, it is difficult for us to comprehend how there can be so many who suffer from not having enough to eat every day.

It is with some regret, therefore, that I will cast my vote today against the establishment of yet another select committee to address a truly pressing social problem. This decision was difficult but I strongly believe there are better much more direct ways for the Congress to respond to the problem of hunger, without the extraordinary expense and obfuscation of creating yet another arm of the legislative bureaucracy, another series of hearings.

The President's own Commission on Hunger in New England came to the disturbing conclusion that hunger exists in every State in our region, has been increasing steadily and shows no sign of diminishing. Even more disturbing is the development of a new class of poor people who have never been poor or hungry.

The response at the congressional level has been forthcoming. Increases in food programs have been approved, including most recently $50 million to provide States with money for emergency food centers and other agencies distributing surplus Federal commodities to the needy. Other attempts are being made to improve the distribution of surplus commodities to other parts of the country. Standing House committees having jurisdiction over issues related to hunger are capable of making substantantive legislative recommendations to the Congress on ways to combat this problem if Members of Congress demonstrate specific rather than potential concerns.

The establishment of yet another select committee, with no authority for reporting legislation of making legislative recommendations, does very little to put food in the mouths of the poor and the needy. Instead, I would suggest that we are fully capable of passing legislation to directly impact on current Federal food policies and the Select Committee on Children, Youth and Families, on which I serve could address this problems. There is a growing body of evidence that malnutrition is becoming a serious problem among poor children in the United States. The National Center for Disease Control concluded that of 400,000 low-income children studied, 8.5 percent were stunted and 7 percent were anemic. Clearly there can be no more needy part of our population than these children.

But the solution is to better use existing legislative authority to do the tough oversight work necessary to determine why in spite of existing programs is poverty increasing. Do our programs require structural change? Do we need new ways to reach those untouched and unserved by existing programs? Are the programs right but the guidelines wrong? Are existing programs ill-coordinated with community organizations, religious and secular? In short we need to do serious oversight and pass and fund necessary legislation—not waste a million dollars on more legislative staff and politicking.

It is our job in Congress to address this crisis in our Nation and to do more than create a new self-serving, nonlegislative ad hoc committee in the Congress. I challenge each and every one of us to address this problem with courage and the knowledge that action must be forthcoming and substantive.●

● Mr. BROWN of California. Mr. Speaker, I rise today in strong support of House Resolution 15, to establish a Select Committee on Hunger. The formation of this committee could contribute significantly to a more effective and timely U.S. response to hunger, both within our country and abroad. The problems of hunger are desperate in many areas of our world.

Overseas, more than 41,000 children under the age of 5 die every day from malnutrition and related diseases. Of those who survive, handicaps in learning and work capacity are common due to inadequate diets and recurring illness. Approximately 100,000 children will go blind this year alone due to vitamin A deficiencies. Last month, I participated in the special order held on the tragic situations in portions of Africa where a severe drought has resulted in widespread hunger.

Here in the United States, the infant mortality rate, an index used to assess malnutrition, is on the rise in several areas. We have had an increase in the amount of emergency food assistance requested. Soup kitchens, food banks, and other private programs are stretching their resources to the limit, as demand has doubled and tripled in the past few years. These problems deserve adequate and appropriate attention by our policymakers.

It has long been recognized that there are primary needs humans have for existence. These needs are food and water, shelter, and warmth. Without these basic necessities, all other goods and services will not sustain existence. This is such an elementary thought that I often wonder if we do not forget it in our race to enhance our society.

We have expanded our Federal Government to include arts, science, housing, infrastructure, defense, and many areas to improve our country. We have the Pentagon dedicated to coordinating and developing our defense system. We have the Federal Communication Commission which regulates and coordinates our communication systems. We have a Department of Commerce which regulates and coordinates trade and related activities within our country. Yet within Congress, within our legislative body, we do not have an organization which is responsible for coordinating and keeping as a priority, the problems of hunger.

Currently, jurisdiction on legislation affecting hungry people is split among many committees including Agriculture, Appropriations, Banking, Foreign Affairs, Education and Labor, and Ways and Means. As a member of both the Agriculture and Science and Technology Committees, I have worked on several hunger related bills. Yet there is not a comprehensive approach to hunger. Because each committee must deal with other issues also demanding immediate attention, no committee is able to give the problem of hunger the priority it deserves and needs.

We have seen the results of our present system. Time and time again, we have allowed a hunger problem to reach crisis proportions, then reacted with an emergency stopgap measure, based on that data which is available. The President's Task Force on Food Assistance found our knowledge of hunger so limited that it was unable to collect the needed facts to make a conclusive statement on the status of our country. I recently brought up on this floor the many problems resulting from the lack of oversight of our country's nutritional status. As you know, Congressman MacKay and Congressman Walgren and I have introduced legislation to establish a national nutrition monitoring and related research program which would provide the coordination which we lack in our present system. But we must do more.

Like nutrition monitoring and research, the legislative efforts addressing hunger must be coordinated and organized. This last year, in response to our country's most recent crises, we have considered several partial solutions. This included the distribution of surplus agricultural commodities, additional moneys made available through the job legislation, changes in the food stamp program, nutritional monitoring, the emergency food distribution act and others.

Within Congress, a select committee would bring the expertise of members of the committees together in one forum. The committee would then propose to the appropriate committees a coherent package of legislative and administrative proposals based on an overall perspective of current programs and needs. This would provide an integrated approach to the problems of hunger, achieving the overview of and priority to hunger which is needed, while allowing standing committees to retain final authority in their respective areas. A select committee on hunger is strongly needed, and I urge my colleagues to wholeheartedly support the passage of this legislation, and the work of the committee when established.●

● Mr. PICKLE. Mr. Speaker, I rise in regretful opposition to the creation of the Select Committee on Hunger. I do so knowing full well that there are many who may draw the erroneous conclusion that I am opposing the fight against hunger. Nothing could be further from the truth as my record indicates. I have supported our efforts to alleviate world hunger and to help our own citizens receive proper food and nutrition.

We have been down this road before, and the argument for the committee is always the same. The jurisdiction for hunger programs is split between eight committees. Even if we agree that that is a problem, we have not solved anything by creating another committee. If there is something wrong with our committee system then let us fix that. Adding another layer of bureaucracy to our committee system is duplicative and does not solve anything.

Now, I know that many well meaning people believe that this will help focus attention on the hunger issue. But I think there is something wrong when the House creates a committee whose purpose is to lobby the House itself on a single issue. We are spending taxpayers money to lobby ourselves. We vote for this like we are really doing something about the hunger problem, but we are probably not doing anything at all. This is wrong and we should not continue along this path. If we are concerned about hunger, let us do something directly about it. We do not need to study hunger as much or we need to alleviate it. We can do this properly under our present committee jurisdiction and that is what we should do: Not create yet another Select Special Committee.●

● Mr. VENTO. Mr. Speaker, I am pleased to be a cosponsor of House Resolution 15 to establish a Select Committee on Hunger and would urge my colleagues to join me in voting for this resolution. Recently, we have heard a great deal about hunger from the President and from various members of his administration. We heard Presidential Counselor Edwin Meese suggest that stories about hunger in America were merely anecdotal. We also heard the President's Task Force on Food Assistance state that "there is no evidence that widespread undernutrition is a major health problem in the United States." In short, what we have heard from the Reagan administration have been a series of statements that illustrate all too clearly this administration's detachment from this tragic problem. The need to focus national attention and provide a new voice has never been more important.

Statistics in a recent study by the Department of Health and Human Services (HHS) suggest that as many as 500,000 low-income American children under the age of 6 may be suffering from malnutrition. Some indicators of malnutrition include low height-for-age levels, low weight-for-height levels, and anemia. Other more complicated biochemical testing also revealed serious malnutrition problems among poor children. The HHS study is conducted annually and involves about 200,000 children from low-income families in 35 States who come to Federal or State offices for food and health aid. Unfortunately, there is no way of determining the full extent of hunger and malnutrition among parents and children who did not seek food assistance from a Federal or State agency. The bottom line in terms of cost to our society is very significant when we recognize that nutritional shortfall at key points in development can result in permanent mental and physical damage to these same individuals. Clearly, money and effort to avoid nutritional deficiencies is far less costly than remedial education and health programs costing our Nation and States billions of dollars.

Another study was recently released by the Citizens Commission on Hunger in New England, which conducted a study over a period of 5 months. The report by the Harvard-based researchers states that hunger is widespread and increasing. Furthermore, the study, titled "American Hunger Crisis," found that the hunger problem in America has been made worse as a result of clear and conscious actions taken by Government leaders. Hunger is no longer confined to the traditional poor in our society. Many who have never been poor before and who have never been out of work before have been forced into soup lines so that they may eat. But clearly, the problems associated with hunger have had their most devastating impact upon infants and children from poor families, upon the elderly, and upon families affected by long-term unemployment.

Mr. Speaker, I hope that this House will send a clear message to the Reagan administration about the tragedy of hunger in America. I hope that even if the President and his advisers want to sweep this issue under the rug this House will make it clear to the American people that we recognize this problem and that we are ready to begin moving in the direction of providing solutions rather than excuses. A House Select Committee on Hunger at this time will be most useful in studying the full range of Federal food assistance programs and will be able to provide leadership and direction on how we can best target our resources to meet the need. Eliminating hunger will not be easy and will not occur overnight. But the first step in the right direction must be to admit that hunger exists in America today. Thousands of Americans, including many of my constituents, have volunteered their time and energy to work in local food banks and in soup lines. I commend them for their commitment. I strongly urge my colleagues' support to demonstrate our commitment and sincere interest to those who are hungry and our resolve to help eliminate this serious problem in our Nation and abroad.●

● Mr. FAUNTROY. Mr. Speaker, I rise in support of House Resolution 15, a bill to establish a Select Committee on Hunger for the 98th Congress. A Select Committee on Hunger, composed of 17 members drawn from various committees that impact on hunger, will provide the oversight necessary in order for Congress to effectively address the tragedy of hunger.

The select committee would be authorized to conduct a comprehensive study of the problems of domestic and international hunger, review executive branch recommendations relating to hunger, and recommend to the appropriate standing committees of the House legislation relating to hunger. Like other select committees, the Select Committee on Hunger would not have legislative authority. The resolution requires the committee to report to the 98th Congress as soon as practicable the results of its study and investigation.

There is a congruency between our Nation's moral obligation to help at home and abroad to eliminate hunger and our national security. One of the great threats to peace, at home and abroad, is the growing disparity between the rich and poor. It is in our national interest to shape policies and programs that enable people to feed themselves and eliminate hunger. House Resolution 15 is an important first legislative step that would enhance our ability to focus in on and coordinate our response to the scourge of hunger

The United States itself is not insulated from the direct effect of the problems of hunger and malnutrition. All reports that I get from relief organizations working in the District of Columbia indicate that the problem of hunger is only getting worse. People are being turned away from soup kitchens because there simply is not enough food to go around. Senior citizens living on fixed incomes, deinstitutionalized mental patients, adults shut out of the economic system, and their children, have one thing in common, they have to go days and even weeks without food.

A Select Committee on Hunger would assist us in highlighting the problem of world hunger and would help in prioritizing the task of ending this terrible condition which torments our consciences here in the United States of America and in the world. The select committee would have the capability of employing and engaging staff to provide the necessary research that can support efforts to address this problem. Additionally, the select committee will provide a coordinating mechanism for Members seeking to address the issue of hunger.

Mr. Speaker, the time has come to create a Select Committee on Hunger. Let us pass House Resolution 15.●

● Mr. JEFFORDS. Mr. Speaker, I want to register my strong support for House Resolution 15, which would establish a Select Committee on Hunger in the House of Representatives.

As famine in Africa continues to exact its tragic toll, and as malnutrition remains a daily fact of life for millions of people on every continent, the need for such a committee becomes ever more apparent.

To be honest, I was initially reluctant to support this effort. Select committees, as my colleagues know, are a two-edged tool. They can serve to consolidate efforts, but can also serve to further fragment them. Moreover, I think the work of the standing committees with jurisdiction on hunger issues has been outstanding.

Much of the credit for this solid record is due to the work of my colleagues CARL PERKINS and BILL GOODLING on the Education and Labor Committee, and LEON PANETTA and BILL

EMERSON on the Agriculture Committee. Their work has not only focused needed attention on the issue of hunger in America, but has resulted in concrete legislative initiatives such as the child nutrition and commodity distribution bills passed by the House last year.

But the issue at hand is far greater than hunger in America. Even as we continue to address the fundamental problem of hunger at home, I think we need to devote far greater attention to hunger abroad. I understand and am pleased that this will be the primary focus of the committee's efforts.

Our Nation alone can no more feed the world than it can police it. Recognizing our limits, however, we must also recognize our failings. We are falling far short of what we can and might be doing.

Our agricultural industry is the most productive in the world. In stark contrast to so many nations, our problems seem to lie with food surpluses rather than deficits. Farmers and others in my State simply do not understand why our abundance cannot be better distributed among the needy at home and abroad. And I do not think that there is a Member of this body who can adequately answer that question.

Many issues that come before this body are highly speculative and theoretical. Is there a window of vulnerability, and if so, how is it best addressed? Why does the quality of education in our country appear to be slipping, and how can the Federal Government help?

Likewise, most actions we take have an intangible or incremental effect on the lives of people in this country and elsewhere. We spend money on a missile, and hope it adds to our security. We spend money on education, and hope that students are better able to learn and participate in our society.

But when we support efforts to provide relief from famine abroad, the effect is not intangible, and it is not incremental. The difference between action and inaction is like day and night. By acting, we can save lives. It is as simple as that.

Make no mistake, it is an awesome responsibility that we have. May we be equal to it. I urge my colleagues to support this legislation.●

● Mr. EDGAR. Mr. President, I rise to urge my colleagues to support House Resolution 15, a resolution to establish a Select Committee on Hunger. Although hunger and malnutrition have become increasingly prevalent problems both at home and abroad, jurisdiction over issues relating to hunger is presently spread out over eight standing committees of the House of Representatives. Clearly, the magnitude of the domestic and international hunger problem requires a more concerted and comprehensive approach.

As we all know some officials of the administration and the report of the Hunger Commission have expressed the view that there is no hunger problem in the United States. But, even if hunger is not rampant in our Nation, there are indisputably both hungry and malnourished people throughout America. Soup kitchens and shelters for the homeless report that more and more people, especially the poor and the elderly, are in need of such services. Additionally, despite the year-long improvement in unemployment, 9 million Americans remained jobless at the end of January; many are discouraged workers, the long-term unemployed with few remaining resources upon which to draw. Coupled with the rising need are the facts that, since 1981, food stamp programs have been cut by $9 billion, child nutrition programs cut 30 percent and the daily participation in school lunches has dropped by as much as 2.9 million students.

On the international front, where widespread hunger is evolving into a world crisis, the United States now gives less in foreign aid than most other industrialized countries when such assistance is measured as a share of the gross national product. The United States is presently spending more than 40 times as much money on defense as it spends on development assistance. Additional aid is needed beyond that offered by the few dedicated organizations which annually donate food and medical supplies to poor and impoverished countries. The United States is a nation whose agricultural and economic capabilities are such that it should take the initiative in attacking problems of world hunger.

As a cosponsor of House Resolution 15, I believe that the Select Committee on Hunger will serve as an effective vehicle through which to address hunger issues and to launch a more comprehensive program to resolve the increasingly critical problems of hunger and malnutrition. House Resolution 15 empowers the newly formed Select Committee on Hunger to conduct a comprehensive study of the problems of domestic and world hunger, review executive branch recommendations, and to formulate and recommend to the appropriate standing committees of the House a legislative program to address the hunger issue. Once Americans more fully understand the causes and effects of hunger and malnutrition, the United States can better work toward the alleviation of hunger both at home and across the globe. Moreover, the Select Committee will help to insure that the Congress and the executive branch follow through on proposals dealing with hunger problems.

Once again, I urge my colleagues to support this important and needed legislation.●

● Mr. UDALL. Mr. Speaker, I rise today in support of House Resolution 15. As a rule, I do not favor the creation of additional House committees. At times, however, a select committee is needed to focus special attention on an urgent national problem. I think that is the case with hunger. At the moment, jurisdiction over issues relating to hunger is shared by 8 of the 22 standing committees of this body. As a consequence, there is no one committee that can undertake a full and comprehensive review of the hunger problem in all its various forms.

The reemergence of soup lines in this country along with the drought and accompanying starvation in sub-Saharan Africa argues strongly for a renewed look at hunger. It is a serious problem both at home and abroad and one that the administration has largely chosen to ignore or dismiss. But the problem still exists. There are soup lines in Arizona and the Southwest, not just in the Northeast. There is continued starvation in the Asian subcontinent in addition to the problems now reported in Africa.

Ten years ago at the Rome World Food Conference, then Secretary of State Kissinger pledged that in 10 years no child would go to bed hungry. Today, however, we are no closer to that goal than we were in 1974. We have a long way to go before we can say with confidence that hunger is no longer a problem in this country. And it will be much longer before we can say that about the world as a whole.

A new Select Committee on Hunger will allow us to focus much greater attention on the problems of hunger. And it will help us to understand more fully the extent of hunger and what can be done to eradicate it.

I urge my colleagues to support this resolution and to follow up this action with concrete steps aimed at overcoming the tragedy of hunger.●

● Mr. DOWNEY of New York. Mr. Speaker, 10 years ago the World Food Conference focused our attention on the growing problem of hunger and malnutrition in the world. In the intervening years, the situation has not significantly improved. In the world at large, over 1 billion people are chronically undernourished; 15 to 20 million people die of hunger-related illness each year, the vast majority of them children. Now we hear that, just as was true 10 years ago, the people of Africa are facing the prospect of serious famine. Between 100 and 150 million Africans in 24 countries are affected by serious food shortages.

For some time we have been aware of the magnitude of the problem, and from time to time our consciousness is raised even more by events such as the current situation in Africa.

We need a sustained and unified effort to alleviate the problem of world hunger. We need to focus our efforts more clearly and understand how diverse aspects of U.S. policy affect poor and hungry people throughout the world. The Select Committee on Hunger will give us the means to do this.

We have been very attentive to the use of our foreign assistance programs in the war against hunger. We need to broaden our outlook and see what other U.S. programs can play a role. In 1980, the Presidential Commission on World Hunger made a number of recommendations concerning U.S. policies dealing with food production, trade, investment, debt, the policies of international financial institutions, farm policy and food assistance programs here in the U.S. These are areas that are covered, and will continue to be covered, by many different committees. The Select Committee on Hunger can work to insure that when these committees consider individual bills they are aware of the stakes involved for hungry people.

Members of Congress have already demonstrated their willingness to consider these concerns in areas that were previously thought to have little bearing on hunger. When we passed the CBI last year, we included measures to insure that local food production and nutrition in the Caribbean and Central America were not disrupted by the trade incentives offered in the legislation. This was the first time we took into account so explicitly the problem of hunger in formulating our trade policy. It encourages me to believe that we can extend our efforts in other areas.

The select committee can provide us with the resources, the information, the new ideas that we need and can help us to coordinate our efforts to alleviate world hunger. I urge my colleagues to vote for the creation of the Select Committee on Hunger.●

● Mr. BENNETT. Mr. Speaker, I rise today in support of House Resolution 15, which I have cosponsored, and which would establish a Select Committee on Hunger. One out of every eight people on Earth is hungry almost all of the time, and everyday, all over the world, hundreds of people die from hunger and malnutrition. Despite the size and the severity of the problem we can make significant steps to reduce hunger and malnutrition. The current situation threatens the well-being and security of the United States as well as the international community.

The Select Committee on Hunger would have the responsibility of assessing hunger issues that are currently under the jurisdiction of several different standing committees. There is a real need for a coordinated effort to study recommendations and implement needed policy changes. There are many varied and complex factors involved in trying to alleviate world hunger and malnutrition, and I believe this legislation is needed in order to focus our efforts on this tragic problem.●

● Mr. BIAGGI. Mr. Speaker, I rise as a cosponsor and strong supporter of House Resolution 15, which would establish a House Select Committee on Hunger for the 98th Congress. The select committee would be authorized to conduct a comprehensive study of the problems of domestic and international hunger, review executive branch recommendations relating to hunger, and make recommendations based on their findings to the appropriate standing committees of the House.

Considerable controversy of late surrounds the hunger problem, particularly in terms of domestic hunger and just how severe the problem really is. Currently, eight standing House committees share jurisdiction over issues relating to hunger. As a result congressional resources to study hunger problem and develop solutions are widely dispersed and must often be diverted to other issues of pressing concern to the particular committee.

Although the Select Committee on Hunger would not have legislative authority, it would allow for a more focused and, thus, a more effective approach in studying the problems associated with hunger and recommending meaningful legislative solutions. As an original member of the House Select Committee on Aging I base these observations on considerable experience. Simply put, I know from firsthand experience that a select committee can serve a very important and useful function in the legislative process.

Certainly, numbers cannot tell the whole story, but they can help to impress upon us the severe nature of the hunger problem. For example, while there are obviously varying degrees of hunger, the Presidential Commission on World Hunger concluded that "as many as 800 million of the Earth's poorest people do not get enough to eat each day and many more suffer from specific varieties of malnutrition * * *. About one out of every four children in the developing world die before the age of five—mostly from nutrition-related causes."

Other facts cited by the Presidential Commission on World Hunger (in their final report published in March 1980), include: First, 1 out of every 8 people on Earth is hungry most of the time; second, in many countries, up to 40 percent of the population is malnourished; third, 100,000 children go blind each year for lack of vitamin A; fourth, 16 percent of the world's children are malnourished; and fifth, over 600 million people worldwide live on incomes of less than $50 per year, making poverty the primary cause of hunger.

The Presidential Commission on World Hunger also addressed the issue of hunger in the United States, declaring, "There are still hungry people in (the United States)" despite the war on hunger that was waged in this country beginning in the 1970's. The Commission pointed out that the hunger problem in the United States is particularly severe for migrant and seasonal farmworkers, native Americans, and the elderly.

However, the Commission also noted a very disturbing fact. "No single source of information about hunger and nutritional patterns in the United States exists in the U.S. Government, making it very difficult to design an effective anti-hunger campaign." A Select Committee on Hunger would significantly bolster the work that has already been done in response to the Commission's very sad commentary on how we view our hunger problem at home.

We can also take at least one additional step. I propose that we develop a national hunger count index, which would provide an accurate measure of just how many Americans suffer from hunger or malnutrition. I will soon be introducing legislation to establish such an index. This hunger index would allow us to better target the billions of dollars we spend each year on domestic food assistance programs.

Despite the very alarming picture this data creates, there is still good reason to believe the hunger problem is not a hopeless situation. In fact, the Presidential Commission on World Hunger declared that "eleminating at least the very worst aspects of hunger by the year 2000 is possible—if the United States and others make it a major policy objective."

By establishing a Select Committee on Hunger, this august body will be clearly demonstrating its resolve to effectively combat hunger.

Simply stated, the United States, with its superior levels of agricultural productivity, and technology, must take the lead in devising and implementing an effective strategy against world hunger. The Select Committee on Hunger would be an important step in that direction. With this in mind, I strongly urge my colleagues to join with me in voting for House Resolution 15.●

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time and I move the previous question on the committee amendment in the nature of a substitute and on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **DANNEMEYER**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 122, not voting 48, as follows:

[Roll No. 28]

YEAS—263

Ackerman
Akaka
Albosta
Alexander
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnard
Barnes
Bates
Bedell
Beilenson
Bennett
Berman
Bevill
Biaggi
Boehlert
Boggs
Boland
Boner
Bonior
Borski
Boucher
Boxer
Britt
Brooks
Broomfield
Brown (CA)
Bryant
Burton (CA)
Byron
Carper
Carr
Clarke
Clay
Coelho
Coleman (TX)
Conte
Conyers
Cooper
Coyne
Crockett
D'Amours
Darden
Daschle
de la Garza
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (CA)
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Glickman
Gonzalez
Gore
Gray
Guarini
Hall (IN)
Hall (OH)
Hall, Ralph
Hamilton
Harkin
Hawkins
Hayes
Hefner
Hertel
Hightower
Horton
Howard
Hoyer
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kennelly
Kildee
Kolter
Kostmayer
LaFalce
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lipinski
Lloyd
Long (LA)
Lowery (CA)
Lowry (WA)
Luken
Lundine
MacKay
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McKinney
McNulty
Mica
Mikulski
Mineta
Minish
Mitchell
Moakley
Molinari
Moody
Moore
Morrison (CT)
Mrazek
Murphy
Murtha
Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ottinger
Owens
Panetta
Parris
Patman
Patterson
Pease
Penny
Pepper
Perkins
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Reid
Richardson
Ridge
Rinaldo
Rodino
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sawyer
Schneider
Schroeder
Schumer
Seiberling
Sharp
Shelby
Sikorski
Siljander
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stangeland
Stark
Stenholm
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vandergriff
Vento
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitley
Whitten
Williams (MT)
Williams (OH)
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (MO)

NAYS—122

Archer
Badham
Bartlett
Bateman
Bereuter
Bethune
Bilirakis
Bliley
Breaux
Brown (CO)
Broyhill
Burton (IN)
Campbell
Carney
Chandler
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Conable
Coughlin
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daub
Davis
Dickinson
Dreier
Edwards (AL)
Edwards (OK)
Emerson
Evans (IA)
Fiedler
Fields
Franklin
Frenzel
Gibbons
Gingrich
Goodling
Gradison
Gramm
Green
Gregg
Gunderson
Hansen (UT)
Hartnett
Hiler
Hillis
Hopkins
Hubbard
Hunter
Hyde
Jenkins
Johnson
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach
Lewis (CA)
Lewis (FL)
Livingston
Loeffler
Lott
Lujan
Lungren
Mack
Madigan
Marriott
Martin (IL)
Martin (NC)
McCain
McCandless
McCollum
McEwen
McKernan
Miller (OH)
Moorhead
Morrison (WA)
Myers
Nielson
Oxley
Packard
Pashayan
Petri
Pritchard
Regula
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Schaefer
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Smith (NE)
Smith, Denny
Snyder
Solomon
Sundquist
Tauke
Taylor
Thomas (CA)
Vander Jagt
Vucanovich
Walker
Weber
Whitehurst
Whittaker
Wylie
Young (AK)
Young (FL)
Zschau

NOT VOTING—48

Addabbo
Andrews (NC)
Bonker
Bosco
Chappell
Collins
Corcoran
Courter
Eckart
Erlenborn
Foglietta
Forsythe
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Harrison
Hatcher
Heftel
Holt
Jeffords
Kogovsek
Leath
Long (MD)
Markey
Marlenee
McHugh
Michel
Miller (CA)
Mollohan
Montgomery
Neal
Ortiz
Paul
Porter
Rudd
Savage
Scheuer
Shannon
Simon
Smith, Robert
Spence
St Germain
Stokes
Stump
Tauzin
Weaver
Wilson

☐ 1720

Messrs. **EVANS** of Iowa, **WHITEHURST**, **SUNDQUIST**, and **LUJAN** changed their votes from "yea" to "nay."

Mrs. **BYRON** changed her vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The **SPEAKER** pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The **SPEAKER** pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **WALKER**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 309, nays 78, not voting 46, as follows:

[Roll No. 29]

YEAS—309

Ackerman
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnard
Barnes
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Bryant
Burton (CA)
Carney
Carper
Carr
Chandler
Clarke
Clay
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Conte
Conyers
Cooper
Coyne
Crockett
D'Amours
Darden
Daschle
Davis
de la Garza
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (CA)
Edwards (OK)
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Gingrich
Gonzalez
Goodling
Gore
Gray
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hamilton
Harkin
Hawkins
Hayes
Hefner
Hertel
Hightower
Hillis
Horton
Howard
Hoyer
Huckaby
Hunter
Hutto
Ireland
Jacobs
Jones (NC)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kennelly
Kildee
Kolter
Kostmayer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Marriott
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCloskey
McCurdy
McDade
McEwen
McGrath
McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Owens
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray

Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Savage
Sawyer
Schaefer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Sikorski
Siljander
Sisisky
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Snyder
Solarz
Solomon
Spratt
Staggers
Stangeland
Stark
Stratton
Studds
Swift
Synar
Tallon
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)

NAYS—78

Archer
Badham
Bartlett
Bethune
Bilirakis
Brown (CO)
Broyhill
Burton (IN)
Byron
Campbell
Chappie
Cheney
Coats
Conable
Coughlin
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daub
Dickinson
Dreier
Edwards (AL)
Emerson
Fields
Frenzel
Gibbons
Glickman
Gradison
Gramm
Green
Hansen (ID)
Hansen (UT)
Hartnett
Hiler
Hopkins
Hubbard
Hughes
Hyde
Jenkins
Johnson
Jones (OK)
Kemp
Kindness
Kramer
Livingston
Loeffler
Lott
Lungren
Mack
Martin (IL)
McCandless
McCollum
Murphy
Nielson
Olin
Oxley
Packard
Petri
Pickle
Roberts
Robinson
Roukema
Schulze
Shumway
Shuster
Skeen
Smith (NE)
Smith, Denny
Stenholm
Sundquist
Tauke
Thomas (CA)
Vucanovich
Walker
Weber
Zschau

NOT VOTING—46

Addabbo
Bonker
Chappell
Collins
Corcoran
Courter
Eckart
Erlenborn
Foglietta
Forsythe
Gregg
Guarini
Hall, Sam
Hammerschmidt
Hance
Harrison
Hatcher
Heftel
Holt
Jeffords
Kogovsek
Leath
Long (LA)
Long (MD)
MacKay
Markey
Marlenee
McHugh
Michel
Mollohan
Montgomery
Neal
Ortiz
Paul
Porter
Rudd
Scheuer
Simon
Smith, Robert
Spence
St Germain
Stokes
Stump
Tauzin
Weaver
Wilson

□ 1740

Mr. KRAMER changed his vote from "yea" to "nay."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HALL of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 15.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RAISING RETIREMENT AGE FOR JUDGES OF DISTRICT OF COLUMBIA COURTS

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3655) to raise the retirement age for judges of the Superior Court of the District of Columbia and judges of the District of Columbia Court of Appeals, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Page 1, after line 5, insert:

SEC. 2. Section 903 of title 11 of the District of Columbia Code is amended by striking out "forty-three" and inserting in lieu thereof "fifty".

House amendment to the Senate amendment:

At the end of the Senate amendment insert the following new section:

SEC. 3. Notwithstanding the time limitations of section 434(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, the District of Columbia Judicial Nomination Commission shall submit lists, pursuant to such section, for initial nominations and appointments to judicial positions created under this Act, within ninety days after the date of enactment of this Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BLILEY. Mr. Speaker, reserving the right to object, I do so merely to say that this legislation and this amendment have been worked out in a bipartisan manner and that the minority supports it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. PARRIS. Mr. Speaker, reserving the right to object, I do so in order to propound several questions to the gentleman from California.

Mr. Speaker, as I understand the intent of the legislation which has been reported by the House, it is to add seven additional judges in the Superior Court in the District of Columbia in order to catch up on some very badly needed additional judicial talent to deal with the criminal trials that are now pending because of the overcrowded dockets of the Court; is that correct?

Mr. DYMALLY. That is correct.

Mr. PARRIS. And I further understand, Mr. Speaker, that the House now intends to attach to the legislation that has been reported from the Senate an amendment that would provide that the Judicial Commission shall have 90 days in which to make recommendations to the President for appointment.

□ 1750

Mr. DYMALLY. That is correct, on a one-time basis only.

Mr. PARRIS. Further reserving the right to object, Mr. Speaker, the problem that I have, I would say to the gentleman from California, with this posture of this situation is that if we have 90 days under the legislation for the commission to make recommendations and review the possible candidates, we then have 60 days under the legislation for the President to make a determination of appointments for this purpose, it is possible that there would be substantial delay in addressing the real problem, which is the need to advance the criminal and civil prosecutions, civil actions, which is the purpose of the justification for the judges in the first place.

My question, I would say to the gentleman from California, is: The commission already has 12 persons that they have nominated already. They are charged with the responsibility of making 21, 3 for vacancies as I understand it, and I am very hard pressed to understand why the necessity for the additional time period?

Mr. DYMALLY. Because in 1981 there were three investigators and now, with an increased workload, they only have two investigators. The last time they were faced with this problem, they had a tremendous problem which called for a supplemental appropriation to expedite the process. It was felt that the 90 days will give them enough time to do a thorough investigation and submit to the President the best nominees there are. That is basically it. It is not to delay the process, but simply to give them enough time, with limited staff, to submit to the President the best candidates that there are in the district.

Mr. PARRIS. Further reserving the right to object, Mr. Speaker, on that point, it is not correct. I would ask the gentleman from California that if the House were now to amend this proposal that it would be required that it go back to the Senate for additional action on the part of that body, which inherently has some delay?

Mr. DYMALLY. I understand that has been negotiated, and no objection is anticipated in the Senate.

Mr PARRIS. Do I understand, then, that the gentleman would anticipate speedy consideration by the other body of this proposal?

Mr. DYMALLY. That is the assurance that the chairman gave me before I took on this assignment.

● Mr. McKINNEY. Mr. Speaker, I rise in strong support of H.R. 3655, as amended, and urge my colleagues to approve this measure for Presidential signature. In doing so, we will be taking a step toward improving the criminal justice system in our Nation's Capital, and bolster previous congressional efforts to assist the District of Columbia government with long needed improvements.

It should come as no surprise to anyone who reads the local press that the District of Columbia Superior Court currently has a caseload which puts it near the breaking point. In one recent instance, an individual was ordered released because of being forced to await trial for over 1 year. The city's correctional facilities are severely overcrowded, and court-ordered improvements are only beginning to bear fruit. The public demand for a crackdown on the treatment of repeat offenders and those convicted of drug-related crimes has also contributed to an erosion of the once-efficient criminal justice system in the District of Columbia.

Last year, Congress became fully cognizant of these conditions and began to take corrective action. The fiscal year 1984 District of Columbia Appropriations Act—Public Law 98-125—provided a special, one-time Federal contribution of $25 million to begin to address the overall problem. Most of this funding, some $22.3 million, was provided for various physical and programmatic improvements in the Department of Corrections. The remaining $2.8 million was earmarked to fund seven additional superior court judges and related support staff. That amount, however, was made contingent upon enactment of the necessary authorizing legislation.

In addition to the action in the Appropriations Act, our committee began to consider what measure we could approve that would be of assistance. On October 4, 1984, the House passed H.R. 3655, which raises the mandatory retirement age of local judges from 70 to 74. The value of retaining competent, experienced judges is incalculable. Additionally, on November 17, 1984, two subcommittees held a joint hearing on two bills, each of which proposed adding 7 superior court judges to the current 43 authorized. Neither of those bills went any further, since we were aware that the other body had amended H.R. 3655 to achieve their purpose. We now have an opportunity to release $2.8 million in already approved funding by agreeing to this bill as amended. It is a step we should take, and one we should take now, before the local courts become paralyzed.

I would note that last year, support from the city on the effort to add the superior court judges was conditioned on a transfer of appointment authority to the Mayor, with the advice and consent of the city council. However, those conditions have been dropped, and the city officials have given their full support.

Mr. Speaker, there has been some concern expressed over the burden these new judgeships will place on the Judicial Nomination Commission. Under existing law, this local body has 30 days from the date a vacancy occurs to submit three names to the President for consideration. The President then has 60 days to submit his nominee to the other body for confirmation. Thus, when this bill becomes law, the commission will have 30 days to develop a list of 21 candidates.

While that process may be acceptable in the case of one or two vacancies, it does present the commission with some difficulty with respect to seven simultaneous vacancies. To alleviate this problem, the committee amendment extends the 30-day deadline to 90 days in this one instance only. I view this change as a safeguard rather than any means of creating delay. None of us would want the commission to be in the position of submitting anything less than the best qualified candidates simply because of a deadline.

I would note further that the commission is not sitting by waiting for something to happen before they begin their work. The February 16 edition of the Daily Washington Law Reporter contains an announcement seeking potential candidates by March 7, which in all likelihood will be before this measure is signed into law. Given this very positive indication of efforts to streamline the process as much as possible, I suspect the commission will not require the entire 90 days to compile and submit their candidates to the President.

Mr. Speaker, our committee has attempted, in one fashion or another, to enact this legislation since fall of 1983. The time to act is now. Hopefully, some of these additional judges can be on the bench before the summer is over. I urge my colleagues to support this bill and the committee amendment.●

Mr. PARRIS. Mr. Speaker, with the representations of my friend, the gentleman from California, I withdraw my reservation of objection.

Mr. DYMALLY. I thank both gentlemen from Virginia.

Mr. Speaker, with the help I got from my friend from Virginia, I do not think there is any need for me to debate this issue any longer. I ask for an "aye" vote.

The SPEAKER pro tempore (Mr. FEIGHAN). Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3795

Mr. BEDELL. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3795.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MALADJUSTED PRIORITIES

(Mr. WRIGHT asked and was given permission to address the House for 1 minute, and include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, the fundamental flaw in the administration's approach to deficits and Federal spending priorities emerges in crystal clarity as we compare two budgetary facts which came to light today.

The first, unearthed by an inspector general's investigation of military spending, reveals how one military manufacturer was unjustly enriched by more than $40 million at the taxpayers' expense because the Army did not insist that reduced prices by subcontractors be passed on to the American taxpayers.

The inspector general's report described this case as typical of minimal or nonexistent attention by Pentagon auditors to subcontractor prices, which account for about half of our multibillion-dollar military procurement bills.

At the same time, the Office of Management and Budget has ordered the illegal impoundment of the $30 million which Congress appropriated last year for emergency educational assistance to immigrant children in our public schools.

In this case, the OMB action is a flagrant violation of the Anti-Impoundment Act. In spite of written assurances given to me on January 5 by Secretary of Education T. H. Bell that the program would be implemented without delay, the administration now has countermanded Secretary Bell and simply marked the program down for administrative death in a budget line item labeled "Unobligated Balance Lapsing." The administration has not even done Congress the courtesy of sending a rescission message as required by law.

These two disclosures demonstrate the administration's priorities. Straining at a gnat while swallowing camels, the administration impounds funds needed for educating children, and blithely ignores millions of dollars in waste on military windfalls and cost overruns.

These maladjusted priorities must be dramatically rearranged if sanity is to be restored to budgeting and sensible balance to public policy.

The letter from Secretary Bell to Mr. WRIGHT follows:

U.S. DEPARTMENT OF EDUCATION,
January 5, 1984.

Hon. JIM WRIGHT,
Majority Leader, House of Representatives, Washington, D.C.

DEAR MR. WRIGHT: Thank you for your recent letter urging prompt Education Department action on distribution of funds for the emergency immigrant education program. Your letter also requested information on our plans for implementation of the program. I am sending a similar response to Congressman E de la Garza.

We recognize that the program must be implemented without delay and have already started the process within the Department. Authority to administer the program is being delegated to the Office of Bilingual Education and Minority Languages Affairs (OBEMLA). That office administers several related programs, including the Refugee Education Assistance program (Refugee Act of 1980) and the Bilingual Education program (Title VII, Elementary and Secondary Education Act).

It is important to publish regulations implementing the Emergency Immigrant Education Act before grants are made this fiscal year, and the Department's Office of General Counsel has begun work on the necessary regulations in cooperation with OBEMLA. A schedule has been prepared, and responsibilities have been assigned for regulation development. We anticipate the need to provide State and local educational agencies with sufficient time to review and comment on the proposed regulations, and have included it in our schedule.

I appreciate your interest in the emergency immigrant education program and wish to assure you that we are proceeding to implement it. Thank you for expressing your concern.

Sincerely,

T. H. BELL,
Secretary.

BANKRUPTCY AMENDMENTS RELATING TO COLLECTIVE BARGAINING AGREEMENTS

(Mr. RODINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RODINO. Mr. Speaker, today, I am introducing legislation to clarify congressional intent with respect to the limited circumstances under which a collective bargaining agreement may be rejected in a bankruptcy case under title 11 of the United States Code.

At the time that the 1978 bankruptcy law was under consideration by the Congress, the law being applied on the question of the conditions required for the rejection of union contracts in bankruptcy was the stringent standard set forth by the Court of Appeals for the Second Circuit in *Brotherhood of Railway and Airline Clerks* v. *REA Express, Inc.*, 523 F.2D 164, 167-169 (CA2), *cert. denied*, 423 U.S. 1017 (1975). The Congress was fully aware of the strict standard for rejection established in REA Express and believed it was simply continuing that standard when it enacted the 1978 law. Indeed, most of the lower courts have applied the strict standard of REA Express in interpreting the 1978 law.

Today, however, in the case of *NLRB* v. *Bildisco & Bildisco*, —— U.S. —— (February 22, 1984), the Supreme Court affirmed a less stringent standard for the rejection of labor contracts in bankruptcy. The Court approved the third circuit's decision that a trustee or debtor-in-possession may terminate a collective bargaining agreement where the agreement is burdensome to the estate and the equities balance in favor of rejecting the labor contract. The balancing-of-the-equities standard adopted by the Supreme Court would give no special weight to collective bargaining interests and the significant concerns underlying the national labor policy.

The legislation that I am introducing today would provide the exclusive means for the rejection of a collective bargaining agreement in a chapter 11 reorganization case. It would require a trustee or debtor-in-possession to request the permission of a bankruptcy court to reject a collective bargaining agreement. Any unilateral termination or modification of the union agreement on behalf of a chapter 11 entity agreement prior to court approval of such action would be expressly prohibited under this legislation. A hearing would be mandated and would be required to be held within 2 weeks of a request by the trustee or debtor-in-possession to reject a union agreement. The bill would require the bankruptcy judge to apply the standard used in the second circuit REA Express opinion: The collective bargaining agreement would not be subject to rejection in a chapter 11 case, unless the jobs covered by the collective bargaining agreement would otherwise be lost and any financial reorganization would fail.

WHO IS IN CHARGE IN THIS ADMINISTRATION?

(Mr. WIRTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WIRTH. Mr. Speaker, I rise today to ask my colleagues: Who is in charge of this Government?

Yesterday in the Budget Committee, Secretary Weinberger said to us that the 13-percent real growth increase in defense spending was necessary because last year the Congress had dramatically cut defense spending.

But today before the same committee, Budget Director Stockman told us that all this budget was simply to carry out the mandate Congress had given the Defense Department because last year Congress gave Defense everything they had asked for—a direct contradiction with Secretary Weinberger's statement of the day before.

In Iowa, earlier this week, the President of the United States excoriated runaway domestic spending since 1981. But today in the Budget Committee Mr. Stockman very proudly told us that domestic spending had been frozen since 1981.

In January, the President of the United States told us that no changes are going to be allowed in defense spending and no changes in revenue; but in the past few days authorities at the White House have said that, in terms of budget negotiations, "everything is on the table."

In recent weeks the President has even told us that the deficit is not a problem. And yet, today, Budget Director Stockman came in and told us what an enormous problem the deficit was in terms of the long-range future of the economy.

I would just ask my friends, particularly my friends on the Republican side, maybe you can help us out and tell us who is in charge in this administration.

Let me be more specific, Mr. Speaker. The President has offered to negotiate with the Congress a $100 billion downpayment on the massive deficits the Nation faces. That is only one-sixth of the deficits we face over the next 3 years—but it is a start.

Or rather, it would be a start if the President and his administration were serious about reducing the deficit. We cannot seriously reduce the deficit unless all three areas of the budget are on the table, subject to serious negotiations—defense and revenues, as well as domestic spending.

It has become clear that the President has ruled two of those areas out of bounds. Yesterday, in the Budget Committee, I asked Secretary Weinberger whether the President would be willing to accept anything less than the huge 17-percent increase in defense he has proposed for fiscal year 1985. The Secretary could not come up with one item that he considered negotiable in a $314 billion defense budget.

The administration continues to predict dire consequences for our Nation's security if $1 of their massive defense increases is touched. But last year, the Congress set a 5-percent limit on defense increases for 1984, and none of those dire consequences came true. Last year the administration predicted that the following things would happen—and this is only a partial list—if Congress set the 5-percent limit:

Last year the administration said they would reduce the Army and Marines by two divisions. It did not happen.

Last year the administration said they would decommission 36 ships. It did not happen.

Last year the administration said they would reduce five Air Force tactical fighter wings. It did not happen.

Last year the administration said they would withdraw carrier task forces from the Indian Ocean. It did not happen.

Last year the administration said they would withdraw one carrier battle group from the Mediterranean. It did not happen.

Mr. Speaker, this year we have a new initiative in the defense budget that I would like to draw particular attention to. The President's space-based antiballistic missile system proposal, made in his star wars speech last year, appears in the budget this year—at a price tag of $1.8 billion for 1985, with expenditures of $25 billion proposed through fiscal year 1989. And this proposal is made despite the fact that the Pentagon's own strategic weapons task force projects that no such system can be developed until well into the 21st century.

Mr. Speaker, the administration must be willing to negotiate real reductions in its defense increase. Its proposal to spend $25 billion over the next 5 years on the militarization of space would be a good start.

IMMIGRATION REFORM ACT OF 1984

(Mr. ROYBAL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROYBAL. Mr. Speaker, I am introducing today the Immigration Reform Act of 1984, a comprehensive immigration act that, unlike the Simpson-Mazzoli bill, deals directly with the pressing immigration problems of our Nation, and does not provide for a national I.D. system. It is the result of an intensive joint effort with most members of the Hispanic caucus and various organizations concerned with the interests of Hispanics, the preservation of our civil liberties, and adherence to humane immigration policies consistent with our most valued democratic ideals.

Unlike the Simpson-Mazzoli bill, it does not create an untried, costly regulatory and legal system imposing onerous recordkeeping requirements on all employers and making them subject to sanctions for hiring undocumented workers. The supposed aim of these sanctions is to prevent alien workers without documents from competing with Americans for jobs. Yet, the Simpson-Mazzoli bill also contains contradictory provisions that would permit thousands of additional foreign workers to come into the country under guestworker, H-2, and minibracero programs.

My bill, instead, imposes sanctions and increases enforcement efforts against those employers who exploit unauthorized aliens in violation of existing protective labor laws. That approach, unlike SIMPSON-MAZZOLI'S, does not call for a national I.D. system. Rather than needlessly threatening our civil liberties, it uses the commonsense and cost-effective solution to controlling our borders of increasing the resources of the Immigration and Naturalization Service Border Patrol.

A secondary immigration problem created by past failures at enforcing our immigration laws is that large numbers of those who have entered this country without proper documents now constitute an underclass of residents who pay taxes, but are unable fully to contribute to or participate in our society because of their status. The bill would remedy that situation by granting persons who have resided in this country since January 1, 1982, the opportunity of adjusting their status to that of lawful permanent residents. A special expedited adjustment process is provided for Cuban and Haitian refugees who arrived at our shores between 1980 and 1982 and have so far been denied the benefits of legal residency. The Simpson-Mazzoli bill instead would repeal the Cuban Adjustment Act, foreclosing that avenue of relief for those Cubans who have entered since April 1980, and would ignore the plight of similarly situated Haitians.

My bill would also address the problem of unconscionable backlogs of immigrant visa issuances that can prevent families from being joined for years. The bill establishes a Commission to review various aspects of immigration, and that Commission is directed specifically to recommend ways of ameliorating the visa backlogs, with particular emphasis on family reunification. Further the Commission is directed to consider the economic problems of those foreign countries that unauthorized aliens come from with the view of developing their economies so that their residents will have employment opportunities in their countries of origin and therefore remain in their own countries.

There are many other significant parts of the bill I am introducing today. I am including a summary of the bill at the conclusion of my remarks. I hope that every Member will take the time to review this legislation and assess its merits. I trust that persons of conscience who truly understand the need for immigration reform will see that my alternative is a better approach than that of the overly ambitious, yet inadequate, Simpson-Mazzoli bill.

In introducing my alternative, I would like to stress that it is nonpartisan and worthy of broad support. I publicly acknowledge the contributions of those who worked so diligently in developing this effective immigration package and who now stand ready to continue to work in support of the bill. They include representatives of MALDEF (Mexican-American Legal Defense and Education Fund), LULAC (League of United Latin American Citizens), NCLR (National Council of La Raza), ACLU (American Civil Liberties Union), Church World Service, and the American Immigration Lawyers Association.

I have reserved a special order following today's business in which I will include an analysis of the legislation.

INTRODUCTION OF LEGISLATION TO REVERSE DECISION ON REPUBLIC STEEL-LTV MERGER

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FEIGHAN. Mr. Speaker, last week, the Justice Department announced that it had rejected a proposed merger between Republic Steel and J&L Steel, a subsidiary of LTV Corp. I believe that decision was wrong. It threatens the ability of American steel companies to reorganize and compete effectively against foreign manufacturers. And it casts a pall over the hopes of thousands of working men and women whose livelihoods depend on the resurgence and health of our steel and steel-using industries.

Today, I will introduce legislation in the House of Representatives to reverse the decision of the Justice Department.

This merger would not create a monopoly. This merger would not drain competition from the marketplace. This merger would not create the largest steelmaker in America. It would create a company large enough and strong enough to compete successfully with subsidized foreign manufacturers.

The Justice Department has ignored the impact of European and Japanese steel on the American steel industry. "Existing import quotas and voluntary restraints are sufficient for dealing with the problem," stated J. Paul McGrath, Assistant Attorney General. Indeed, he intimates, the merger is unnecessary because Congress will insure that foreign steel is properly restricted. If Mr. McGrath intends to make all his legal decisions on such hunches and speculation, then maybe he is in the wrong job. A primary reason for the weakness of the American steel industry is the influx of large quantities of flat rolled products from the European Economic Community and Japan. Mr. McGrath should spend less time guessing what the Congress will do and more time realizing what our competition is doing.

Moreover, the Justice Department insists that a merger would violate the Clayton Act, a keystone of antitrust law that passed in 1914. They say they are only following the law. If that is the case—if the Clayton Act denies companies who do not hold monopolistic power the ability to merge—then the Clayton Act needs to be modified. My legislation is designed to do just that. It amends the Clayton Act to require that foreign competition or danger to the continued existence of an industry be weighed as mitigating factors when determining the legality of mergers.

Frankly, I believe the Reagan administration and the Justice Department have made a grave mistake in making this decision. Government regulation—including antitrust regulation—serves a higher social purpose than mere legalisms. The antitrust statutes were drafted with the explicit desire of Congress to protect the interests of consumers, to keep competition in the marketplace, and to restrain the risk of inflation.

With their legalistic and bureaucratic decision, the Justice Department has taken the higher social purpose of the Clayton Act and stood it on its head. If steel companies are unable to compete, their stockholders will be unable to earn a dividend, their employees will be unable to earn a paycheck. And the American consumer will pay more for products made by companies that are kept inefficient by Justice Department fiat. Inefficient steel companies mean higher prices for homes, automobiles, appliances, and most other items for every American family. It means an increased cost for machinery and tools for every American business and farm. And it means increased risks of continuing inflationary spirals.

No one should doubt how serious the situation has become. Tens of thousands of steelworkers in District 28 here in Cuyahoga County are out of work. And yet, the Reagan administration refuses to allow a reorganization of companies that can provide the thing they need most—jobs.

This attitude is far different than the one candidate Ronald Reagan shared with the American public when he asked for their vote. On September 16, 1980, Mr. Reagan promised to "allow the domestic steel industry to make a reasonable profit to generate more investment, job-creating modernization, and expansion." Yet today his actions speak louder than his words. The net income of domestic steel producers fell from a record $2.6 billion in 1981 to a historic loss of $3.6 billion last year.

If the Clayton Act—or a callous misinterpretation of it—makes it impossible for the steel industry to survive, then it is time to change the Clayton Act. Prof. Franklin R. Edwards of Columbia University's Graduate School of Business, a respected antitrust scholar, has written that—

> All too frequently regulation which served a useful function at one point in history becomes a fossilized barrier to competition in subsequent periods.

The Reagan administration interpretation of the Clayton Act is not written in stone. Times change and the realities of the world change with them. In the real world of today—if not in the Justice Department—America is losing the ability to compete effectively.

My legislation is part of an effort to insure that America's threatened industries have a future. President John F. Kennedy said that "our task is not to fix the blame for the past, but to fix the course for the future." Today, that must be our task as well. We must set the course for a steel industry that is vibrant and competitive and putting people to work. We have difficult tasks ahead of us. I believe we are up to the challenge. I am confident that with cooperation and hard work, the steel industry, which taught the world manufacturing, can restore its spirit, regain its edge, and refresh the economic potential of our industrial heartland.

GRAIN ELEVATOR BANKRUPTCIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. EMERSON) is recognized for 60 minutes.

Mr. EMERSON. Mr. Speaker, I have asked unanimous consent to have my special order on Monday next, and I take this time simply to alert Members who agreed to participate with me in the subject to be addressed, that of grain elevator bankruptcies that we are going to do it on Monday instead of today.

LITHUANIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 60 minutes.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order in commemoration of Lithuanian Independence Day.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. ANNUNZIO. I yield to the distinguished gentleman from New York (Mr. GILMAN).

Mr. GILMAN. I thank the gentleman from Illinois for yielding.

Mr. Speaker, I want to commend the gentleman for taking the time on the floor this evening to commemorate the 733d anniversary of the formation of the Lithuanian state.

Mr. Speaker, I am pleased to join today with my colleagues and the entire Lithuanian-American community to commemorate the 733d anniversary of the formation of the Lithuanian state, which was established in the year 1251, and the 66th anniversary of the founding of the Independent Democratic Republic of Lithuania, February 16, 1918. I thank my colleague, the gentleman from Illinois, Mr. ANNUNZIO, for arranging this special order today.

However, it is not without sadness that I address this subject. There once existed the expressed belief that a government should be established upon the mutual consent of those governed, and not simply imposed upon the inhabitants of a state. There was the belief that a prudent democratic form of government should be created in order to protect and insure the rights and freedoms of its citizens. This belief became widespread, and was manifested in our own Declaration of Independence and Constitution. This belief evolved in the 17th century; yet reckless forms of government persisted throughout the 18th and 19th centuries in Europe, and still exist today.

It is unfortunate that the real victims of these unjust governments are the citizens of the weaker nations. Reckless authoritarianism has been practiced throughout history and was depicted by the imperialism of Napoleon and czarist Russia. One result was the brutal partition of Poland, at the hands of various European states. Lithuania in particular, has been ruled by czarist Russia since 1905. Such monarchistic and dictatorial states consistently fail to acknowledge the legitimate historical claims which a people holds for its own existence and independence. They fail to regard the human rights of the citizens who reside in the victimized state.

One facet of World War I was an organized resistance to the imperialism practiced by the dictators of that era. During that war ethnic awareness and nationalism were heightened, against the wishes of the subjugating forces. The demands by Lithuanian nationalists for independence and self-autonomy were finally heard, and answered. In 1917, Lithuania, finally freed from German rule and protected from the territorial ambitions of Bolshevik Russia, declared its independence. In 1919, the Bolshevik troops were finally driven out of ethnic Lithuania. A peace treaty was then signed between Russia and Lithuania in July 1920, which recognized Lithuania's independence.

In those early years of independence, until the emergence of World War II, Lithuania enjoyed a representative form of government and some security. However, as early as October 1939, the Soviet Union, in compact with Nazi Germany, stationed troops in Lithuania. By June 1940, Soviet troops invaded the capital and Stalin then demanded that Lithuania reform its government. The Soviet annexation was apparent when Soviet troops forced a new single slate party election, and Lithuania was formally incorporated into the U.S.S.R. In August 1940, the new puppet government then delivered a post-facto vote requesting incorporation into the Soviet Union. Meanwhile, nationalist protesters and political dissidents were sent to Siberia. But still, Lithuanian nationalists fought bravely against Soviet and Nazi occupation.

Following the Nazi invasion of the Soviet Union in June 1941, the Lithuanians were finally able to rid themselves of the Communist regime. For 6 short weeks freedom and independence were restored, until the German occupation overthrew the government completely, and administered Lithuania under military authority.

As the war progressed, the Soviet Union regathered its forces, and soon managed to drive the German Army out of Eastern Europe. Unchecked Soviet Forces then pervaded most of Eastern Europe, and the diminutive Lithuania was not able to escape Soviet hegemony. The Soviet arm reached across the Baltic States of Latvia and Estonia and soon Lithuania again became a de facto part of the U.S.S.R. A Communist government was again installed and from 1944 until the present time, Lithuania has remained part of the Soviet Union. This unfortunate series of events has transformed Lithuania into a captive nation.

Since the Soviet Union's invasion of the Baltic region so many years ago, a strict policy of Sovietization has been pursued. The Soviets seek to crush the strong cultural identity of the Lithuanian people; all religious rights and festivals are severely punished or restricted. Their right to independence is denied, although it was recognized by the Soviet Union itself, in the 1920 treaty. The Lithuanian nation is ruled by a 15-man politburo located in Vilna. Only 10 orthodox Catholic churches are permitted in this capital city, which has a population of about 500,000.

Yet, against these odds, the Lithuanians struggle to maintain their religious and cultural identity. Seminary education is often conducted in secret and secret orders of nuns can only exist when their members disguise themselves as nurses. Political opposition exists, but is severely suppressed. Publications are strictly censured and the Russian language has been taught in schools as an official language. Industry has been nationalized and agriculture has been collectivized.

It is clear to all of us that little freedom is left in Lithuania. This sort of subjugation has become typical for the Soviet Union. Their disregard for the rights of nations and of human dignity had been demonstrated time and again. Their takeover of Lithuania, the invasion of Afghanistan, and the recent shooting down of the Korean jetliner are indicative of the Soviet threat to stability and disrespect for world peace.

I am saddened because it is a disgrace to humanity, and particularly to the Soviets, that they persist in subduing a nation whose culture has a history which may be traced to the age of the Teutonic Knights. This repression of freedom serves as a grim reminder to all of us that the 17th century ideals set for mankind, as conveyed by John Locke, have not been realized. Toward this end, the people of Lithuania, in their undying desire for freedom, should be encouraged and assisted in any manner possible. By celebrating the 66th anniversary of Lithuanian independence with the people of Lithuania, we can give hope to their dream of one day regaining their independence.

Mr. ANNUNZIO. Mr. Speaker, it was a privilege to reserve this special order to commemorate the 66th anniversary of Lithuanian Independence Day, and I want to thank all of the Members who are joining me today to help focus attention on the plight of the Lithuanian people, who continue to struggle and to work for the day when Lithuania can once again enjoy the right of self-determination and freedom.

Sixty-six years ago, on February 16, 1918, when the Lithuanians regained their independence at the conclusion of World War I, they began rebuilding their devastated country, reestablishing democratic institutions there, and protecting and safeguarding their newly won independence. Sadly, these benefits were short-lived because Lithuania was invaded by Stalin's Communist forces, and the courageous Lithuanians were once again robbed of their hard-won freedom. Those who resisted were tragically executed, or were deported under inhumane conditions to slave labor camps in Siberia.

This very brief time—less than one-quarter of a century—that the Lithuanian people enjoyed the privilege of living in independence left an indelible impression on them, and the years of Communist domination and Nazi occupation have strengthened their resolve for freedom.

Mr. Speaker, today the Lithuanians are prisoners in their own homeland, and although the Communists have attempted to wipe out the culture, religion, and heritage of the Lithuanian people, they have been unable to crush the spirit of these brave men and women, who continue in their daily struggle for freedom and human dignity. One such individual is Antanas Terleckas, a prisoner of conscience, who is now in grave danger after a lifetime devoted to a heroic struggle for basic human rights for all of his countrymen.

After serving 3 years in strict-regime camps, Terleckas is now in exile, serving a 5-year term in one of the most harsh regions of the Soviet Union. It is up to freedom-loving people throughout the world to voice their protest of the inhumane treatment of this individual by the Communists in the strongest possible terms. An article describing Terleckas' brave struggle for freedom for his oppressed country, which appeared in the January 1983 ELTA Information Bulletin sponsored by the Lithuanian National Foundation, Inc., and produced by the Supreme Committee for the Liberation of Lithuania, follows:

A "PRISONER OF CONSCIENCE" IN GRAVE DANGER

On November 23, 1975, a 46-year old Lithuanian, Antanas Terleckas, addressed an extensive autobiographical statement to Yurii V. Andropov, who was then chairman of the Committee for State Security of the USSR, better known as the KGB. In this statement, which was titled "Respect My Rights", Terleckas outlined a thirty-year-long story of persecution and of struggle for human and national rights. More than an account of a unique personal destiny, the statement appears to crystallize the wartime and postwar experience of Terleckas' homeland, Lithuania, and of entire East-Central Europe.

Today both the author of the statement and the man to whom it was addressed are struggling to remain alive. Terleckas is fighting illness in his dismal place of exile in the Magadan raion, where he was sent after serving three years in a concentration camp in the Perm' area. Andropov, who never answered Terleckas' appeal, is grappling with disease inside the Kremlin walls, the power center of a diseased and oppressive empire. Whose legacy and whose ideas shall prevail in East-Central Europe during the coming years and decades? The outcome partly depends on the people and governments of the non-soviet world, on their awareness of individuals like Terleckas and on their readiness to render immediate assistance to him and to all others who share his fate.

The case of Antanas Terleckas is a classic example of the methodical Soviet violation of the human rights clauses of the Helsinki agreement. It also clearly demonstrates that an individual who refuses to go against his conscience and who demands minimal respect for personal and national rights can exist in the Soviet Union only behind bars. Terleckas' autobiography shows that neither he nor his "proletarian" family initially opposed the Soviet rule, when it was imposed by force on Lithuania in 1940. Young Terleckas even joined the Young Communist League, believing that he could be a good citizen of the Soviet state and a loyal son of his native Lithuania. Very soon he found out that this was impossible. After he refused to become a police informer and to spy on his compatriots and peers, the KGB launched a terror campaign against him that continues to this very day. He was constantly interrogated, imprisoned, briefly committed to a psychiatric hospital, expelled from the Komsomol, and harassed during his university studies. After Terleckas completed higher education with degrees in economics and history, the KGB made it sure that he was allowed to work only as a guard.

Almost four years after sending his statement to Andropov, Terleckas joined 44 other Lithuanians, Latvians and Estonians in signing a Memorandum condemning the Hitler Stalin Pact and demanding self-determination for the Baltic countries. The statement was issued to Western reporters in Moscow, on August 23, 1979, the 40th anniversary of the Pact. On October 30, 1979, the KGB arrested Terleckas. He was sentenced on September 19, 1980, to three years in strict regime camps and five years of exile. From the first day of his incarceration, the authorities have made constant efforts either to make him "repent," or to break him down, telling him quite bluntly that if he refused to submit he would be "destroyed."

The fears that Terleckas might not be allowed to survive his term of imprisonment and exile have been increased by a new Soviet legal device, directed against individuals like Terleckas, who refuse to admit their "guilt" and who go on proclaiming their ideas and demanding their rights even in confinement. On September 13, 1983, the Presidium of the Supreme Soviet of the RSFSR issued a Decree under which a new Article, 188-3, was brought into the Criminal Code of the RSFSR: "Maliciously disobeying the orders of the administration of a corrective labor institution." Under this article, "malicious disobedience" or other activities obstructing the administration in the carrying out of its duties "will be punished." Especially dangerous recidivists "and persons who have committed grave crimes" (by this are meant, in particular, all those who have been convicted of "especially dangerous crimes against the state"—mainly "prisoners of conscience," such as Terleckas), can be punished for such activities for a period of 1-5 years. Even a minimal deviation from the "Internal Rules of Corrective Labor Institutions" may be counted as a violation of the regime.

Nothing less than the life of Antanas Terleckas, a courageous and noble individual is at stake, and that is why immediate action by the governments, parliaments, organizations and citizens of the free states on Terleckas' behalf is today of vital importance.

Mr. Speaker, across our Nation tens of thousands of Lithuanian Americans commemorate Lithuanian Independence Day, including members of Chicago's Lithuanian American Council, Inc., many of whom reside in the 11th Congressional District of Illinois which I am honored to represent. I am delighted that two of the officers of this fine organization, Petras Buchas, financial secretary, and Mykolas Pranevicius, treasurer, are joining me here today in the House of Representatives commemoration of Lithuanian Independence Day, for it the Lithuanian American Council that selected Bishop Vincentas Brizgys to be the guest chaplain this year in the House of Representatives as part of our commemoration. The names of the Lithuanian American Council's officers follow:

Honorary President: Dr. Kazys C. Bobelis.

National President: Kazys Sidlauskas, JD.

Vice Presidents: Teodoras Blinstrubas, Povilas Dargis, Leonas Kriauceliunas, DVM, Viktoras Naudzius, Vladas Simaitis, JD, Jonas Valaitis, MD.

Secretary: Grozvydas Lazauskas.

Recording Secretary: Alexander Domanskis.

Treasurer: Mykolas Pranevicius.

Financial Secretary: Petras Buchas.

Members: Stanely Balzekas, Jr., Adele Gabalis, Julius Pakalka, Eugenijus Smilgys, Ramune Tricis.

Council's Representative in Washington, D.C.: Jonas B. Genys, Ph.D.

Director of Information: Rev. Dr. Joseph Prunskis.

Office Manager: Irene D. Blinstrubas.

Trustees: Vytautas Abraitis, Alexander Chaplikas, Antanas Sukauskas, Vytautas Vucius.

Honorary Members of the Board: Alexander Aleksis, Stephen Bredes, Jr., Rev. Adolfas Stasys.

Mr. Speaker, on this solemn occasion in tribute to a brave people, I join with Lithuanian Americans who reside in the 11th Congressional District of Illinois, and Americans of Lithuanian descent throughout this Nation, in commemorating the 66th anniversary of Lithuanian Independence Day. I commend the great courage of the Lithuanian people in resisting the oppression and tyranny of Soviet domination, and I join with my colleagues in expressing the fervent hope that the goal of Lithuanian self-determination shall one day be realized.

● Ms. FERRARO, Mr. Speaker, I rise today to join my colleagues in saluting the courageous people of Lithuania for their unwavering efforts to regain their freedom and self-determination from the Soviet occupation authorities. In the face of the Soviet might, tens of thousands of Lithuanians, including human rights activists and religious personalities such as Antanas Terleckas, Sigitas Tamkevicius and Alfonsas Svrinskas, persevere bravely in their sacred struggle for the respect of their basic human rights and religious freedom. Their struggle inspires all freedom-loving peoples of the world.

On February 16, 1918, the Lithuanian people declared their full independence from over 100 years of Russian and German domination. They enjoyed free political institutions and cultural revivalism unparalleled in their history. This brief period of sovereignty was to end abruptly with the invasion of the Russian Army when Lithuania was declared a constituent republic of the U.S.S.R. on August 3, 1940. After a short period of occupation by the Nazis during World War II, the Soviet Union once again returned its occupying army to Lithuania and has remained until the present day.

Mr. Speaker, I am proud of the fact that the U.S. Government recognized Lithuania's independence on July 27, 1922. In spite of all the tragic events in that country's troubled history since then, our Government has never withdrawn our recognition of the Lithuanian sovereignty. We have never recognized the Soviets' incorporation of Lithuania into their dominion.

From their proud heritage of heroism and independence, the Lithuanian people have a solid foundation to struggle on and hope for the day when they can once again live their lives free of foreign domination and ideological oppression. On the occasion of the 66th anniversary of independence of Lithuania, I would like to pledge my firm support for their continued efforts to preserve their national identity, enjoy their basic human rights and, ultimately, regain their deserved independence.●

● Mr. ROTH. Mr. Speaker, today is very special because we are here to remember the fact of Lithuanian independence and the brutal, unprovoked action by the Soviet Union which strangled that independence. On February 16, 1918, the dream of independence for the people of Lithuania became a reality. For the next three decades Lithuania struggled to build the economic and political foundation of independence and freedom. For three decades the people of Lithuania charted a difficult diplomatic course between the foreign policies of their larger neighbors.

In the aftermath of the carnage of the First World War, Lithuanians saw an opportunity to revive their national independence. The demise of the German and Russian empires permitted the Baltic peoples the opportunity to give political expression to their desire to become the masters of their own destiny.

We should think for a moment about the difficulty which faced the Lithuanians who for centuries struggled to preserve their language and culture under foreign occupation. It was not easy—and the fact of their survival under the czars and Communist task masters is a tribute to their tenacity.

Mr. Speaker, no one in the Soviet Union should believe for 1 minute that their occupation of Lithuania will be a permanent fixture in modern history.

Not today, not tomorrow—but some day the Lithuanians will be restored to their proper place among the community of nations. History is a powerful force in the history of nations—and history is on their side.

It is impossible to think about the history of Lithuania without remembering its capital city of Vilna. This was a city during the period of independence which contained a great university. That university signified the intellectual and cultural vitality of the country. It is especially sad for Americans to remember and commemorate Lithuanian independence and to observe the tragic degree to which academic freedom and intellectual creativity was suppressed by Soviet troops and the KGB.

Mr. Speaker, what we say here today is important. But, I hope the Voice of America will remind the people of Lithuania that the American people have not forgotten their seemingly impossible dream of freedom. Freedom runs deep in the consciousness of a people who have enjoyed independence. The Soviets are constantly reminded of this fact. The Lithuanian people remind the commissars of this daily. Lithuanians struggle to preserve their distinctive national characteristics—religion and culture.

The Baltic peoples and the nationalities of Eastern Europe still yearn for national independence—free from Soviet domination. Lithuanians have a long history. The current chapter is bleak, but the struggle for Lithuanian freedom is not over. Someday, I hope this body will commemorate a new day for Lithuanian freedom.●

● Mr. MOAKLEY. Mr. Speaker, I rise to commemorate the 66th anniversary of the establishment of an independent Lithuania. On February 16, 1918, the Lithuanian people formed a sovereign nation based on democratic principles. Lithuania became a member of the League of Nations and for 20 years enjoyed the right of self-determination, a right for which they had fought for over 100 years.

In 1940, Lithuania became the scene of events all too familiar to the nations bordering the Soviet Union. Despite an explicit peace treaty in which the Soviet Union renounced any claims on the Lithuanian people or territory, Lithuania was forced to accept Soviet troop garrisons and airbases. Having thrust their foot in the door the Soviets wasted no time in occupying and annexing Lithuania. On August 3, 1940, Lithuania was declared a constituent republic of the U.S.S.R. by the Soviet Government.

Since that time, Lithuania has existed as a colony of the Soviet Union and has been denied the basic freedoms it held as a sovereign nation. The Lithuanian people have been severely persecuted; thousands have died and many more forced to abandon their homeland. The Soviets have attacked the Lithuanian culture and its Catholic religion mercilessly.

Yet Lithuania remains a proud and independent nation. The Lithuanian people have shown immense bravery and determination in preserving their national integrity against such great adversity, they continue to strive for the true independence and freedom that is their inalienable right.

We in the United States continue to recognize Lithuania as a sovereign nation and we reject the Soviet imperialism which has oppressed the Lithuanian people for so long, all Americans join in deep commitment to the reemergence of a free and independent Lithuania, we extend our hope and compassion to the Lithuanian people in their ongoing struggle against Soviet rule, and pray that they may soon enjoy the freedoms they cherish so strongly.●

● Mr. FLORIO. Mr. Speaker, I join with my colleague, FRANK ANNUNZIO, in his special order commemorating the 66th anniversary of Lithuanian Independence Day. Mr. Speaker, today we remember the undying spirit of freedom exhibited by the Lithuanian people as they shook off the yoke of the vanquished Russian conquerors and declared themselves free and independent on February 16, 1918. We remember that similar spirit of independence that fostered a similar declaration by the people of Estonia on February 23, 1918.

Together with the joyous remembrance of these glorious moments in Baltic history must also come the bitter memory of the subjugation of the Baltic people with the advent of the Russian Army in June of 1940. Just as this short-lived freedom focused world attention to the spirit of the Baltic people, so their consequent subjugation must also focus our attention to the harsh reality of the repression and persecution of the Baltic people that continues to occur.

We must never forget the violations of human rights that the people of the Baltic States have experienced at the hands of the Soviets. The brutal Russification process in these areas has taken its toll on the population and on the traditions and heritage of the Baltic people. The Soviet conquerors have done all that is in their power to break the resistance of this proud ethnic group by attempting to replace the rich culture and languages of the Baltic States with the foreign Russian language and customs. To this day, Russian is taught as a second language to students in the Baltic beginning in elementary school in an effort to replace the language of their native land with the Russian language.

We must never forget the severe repression of the Catholic Church in Lithuania, Latvia, and Estonia. Not only have churches and seminaries been ordered closed by the Soviet authorities, but anyone seeking to exercise freedom of religion is viewed as suspect by the Soviet authorities. In the city of Vilnius, in Lithuania—a city of 500,000 people—only 10 churches are permitted to operate and conduct religious services. The church at the local university has been turned into the city's museum of science.

Priests, and especially Catholic priests, are not permitted to teach religion to the young. The young age of these children has been viewed as the perfect time by the fathers of the Catholic Church to begin instilling in the children a love for the religion and customs of their forefathers. This unnatural requirement imposed by the Soviet authorities surely restricts the freedom of religion that we have long associated with traditional human rights values.

There is only one existing seminary in all of Lithuania, and this seminary graduates only 12 priests per year—too small a number to adequately serve the needs of the Lithuanian community. Furthermore, the persecution and harassment of priests and members of religious orders is so prevalent that many have begun practicing their religion secretly. This horrendous persecution of all who seek to practice their religion freely exhibits Soviet insistence on continuing to violate the human rights of the people it forcibly subjugated.

Today, as we remember the declarations of independence of Lithuania, Estonia, and Latvia, we must never forget this illegal incorporation of free and sovereign states by the Soviet aggressors. We must never forget the cruel seizure of lands by land-hungry armies. We must always strive to remember the spirit that gave birth to the declaration of independence in 1918 and to continue to hope for and support the Baltic people as they strive to realize the dreams of their forefathers and once again become independent.●

● Mr. LAGOMARSINO. Mr. Speaker, in August 1940 the Soviet Union, under Joseph Stalin, absorbed Lithuania, Estonia, and Latvia, terminating the Baltic States' brief period of independence. One thing the brutal Mr. Stalin was unable to conquer, however, was the strong desire for independence in the hearts and minds of the people of the Baltic States. I am proud to say the people of the United States are united with the people of the Baltic States in pursuing their right to self-determination.

As my colleagues know, recently the House passed Senate Concurrent Resolution 80, calling on the U.S. Government to bring the issue of self-determination for the Baltic States before the United Nations Human Rights Commission and other appropriate forums. I supported and voted for that legislation and am proud to see this Congress making efforts to insure the issue of Baltic States self-determination is brought to the forefront of world attention.

The Soviet Union continues to clearly violate the human rights of not only its own citizens, but also those of innocent civilians in territories long since occupied by Stalin and others. This attempt to brutally deny the fundamental human rights of the people of the Baltic States has not been accepted by the United States, and will not be accepted by this Congress.

I urge my colleagues to continue to speak out on this important human rights issue.●

● Mr. GEKAS. Mr. Speaker, we are commemorating today an important date in history for those persons who believe in freedom and justice in the world. On February 16, 1918, 66 years ago, the people of Lithuania declared their independence after suffering under Russian domination for many years. For 22 years, the Lithuanian people tasted freedom and enjoyed basic human rights, which are so important to the citizens of the United States. Unfortunately, the chaos of World War II directly affected Lithuania as the Nazis and then the Soviets took control of the country. The brief period of Lithuanian independence was ended by the Soviets in 1940, in direct violation of a 1920 treaty they signed recognizing the sovereignty of the Baltic State.

The United States has never acknowledged the incorporation of Lithuania into the Soviet Union, and never will. It is obvious that this wrongful violation of basic human morality prohibits our Nation from accepting the blatant land-grab by the Soviet Government. That the freedom-loving people of Lithuania must now be governed by a tyrannical nation unmindful of the human rights of its citizens is indeed a further tragedy that will one day be corrected.

The Soviets have tried to "Russify" this Baltic State by eliminating any traces of Lithuanian cultural heritage. The Lithuanian Catholic Church, an important force in the formerly independent state, has been harassed by Soviet authorities, with many of its leaders thrown in jail, tortured or killed. However, these efforts to turn the Lithuanians into loyal subjects of the Soviet Government will never be successful, for the pride and spirit of these Baltic people will continue undaunted until that day in the near future when Lithuania will be free once more.

The House of Representatives is gathered here today to salute the Lithuanian spirit of independence and express our collective wish that the Lithuanian people will soon be released from the Soviet chains that bind them only temporarily.●

● Mr. ROE. Mr. Speaker, it is a great honor to rise today to join my colleagues in this most deserved salute to the brave Lithuanian people on the occasion of the 66th anniversary of their independence day.

February 16, 1918, is a day that will always be warmly embraced by Lithuanians and all freedom-loving people around the world. For it was on that date that the Lithuanian nation became free of Soviet rule with a formal declaration of independence. That independence was widely recognized by many nations of the free world, including the United States. And, to the surprise of many, the Soviet Union signed a peace treaty with Lithuania, formally acknowledging its right to be a free and independent nation.

The proud people of the new nation soon established a strong economic base through the initiation of a series of wide-ranging, agricultural and industrial programs.

But the dream was short lived. The advent of World War II found Lithuania in the middle of the Russians and the German Army.

Despite strong protests on the part of the Lithuanians, the Russians forced their way onto Lithuanian soil and utilized the new nation as a base for its troops who were preparing attacks against the Germans.

It was on June 15, 1940, that the birth of freedom in the fledgling nation of Lithuania was crushed by the savage Russian boot when the Soviets invaded its borders. Soon after, the Russians set up a rigged election that culminated in Lithuania being illegally incorporated as a part of the Soviet Union.

During that sad period literally thousands of Lithuanians died at the hands of the brutal Russian occupation forces while others were illegally imprisoned or deported.

Despite the fact that the Russians occupied Lithuanian soil, they never conquered the minds of the Lithuanian people. The citizens of Lithuania, strong in their devotion to their religion, language, and traditions resisted attempts by the Russians to force them to accept their language and way of life. That resistance and devotion to their homeland still holds true for the Lithuanian people today.

I am most proud to be a prime sponsor of House Resolution 192 which requires the President to instruct our U.N. representatives at the United Nations to raise the question of both the illegal occupation of Lithuania by the Russians and the suppression of human rights there.

Mr. Speaker, as a member of the House Ad Hoc Committee on the Baltic States and the Ukraine, I ask all members of this most august body to join with me in reaffirming the resolution sanctioned by the Lithuanian World Congress in 1958 that Lithuanians "have not accepted and will never accept slavery."●

● Mr. RODINO. Mr. Speaker, I am proud to join in this special order commemorating Lithuanian Independence Day and I commend my colleague, Mr. ANNUNZIO, for arranging it.

It was 66 years ago that Lithuania declared herself an independent nation, but she has lived since 1940 under oppressive Soviet domination. The illegal occupation and annexation of the Baltic nations has never been recognized by the United States. It is important that we set this day aside to remember the plight of the Lithuanian people and to reiterate our unswerving opposition to the political and cultural suppression seen in Lithuania.

Despite the denial of basic freedoms to the Lithuanian people, they have maintained a brave struggle and have refused to give up the cherished ideal of freedom. Despite the fear of arrest, torture, and deportation to slave labor camps, there is a voice of dissent in Lithuania that will not be silenced. Despite the lack of religious freedom, there burns a religious spirit that will not be extinguished. The people of Lithuania will never give up the dream of a truly free nation, where liberty and justice can replace tyranny and oppression.

We must hope that the change in leadership in the Soviet Union will mean a changed policy for the Baltic nations. And we must never forget those who are fighting a daily struggle for freedom in Lithuania. As we commemorate the anniversary of Lithuania's original independence, let us pray that we will someday be able to honor this day with a joyful celebration of true freedom.●

● Mr. CARNEY. Mr. Speaker, I would like to take this opportunity to join with my colleagues in commemorating the 66th anniversary of the Declaration of Lithuanian Independence. Lithuania, along with its neighbors, Latvia and Estonia, was able to asset its independence and achieve its full national identity on February 16, 1918. Lithuania remained free for 20 years, a time of peace and prosperity for this nation.

In World War II, the powers of Nazi Germany and Stalin's U.S.S.R. conspired to deprive the Baltic States of their independence, and Lithuania remains today a nation under siege, occupied by the forces of the Soviet Union.

Mr. Speaker, the United States has never recognized the forcible occupation of Lithuania by the U.S.S.R., and America continues to recognize the right to self-determination of Lithuania, Estonia, and Latvia. In addition, we lend our moral support to those who continue to resist the oppression of the people of Lithuania today, including the brave members of the Catholic Church who are persecuted for their faith. It is only appropriate that we pay tribute to these brave Lithuanians, and to the spirit of freedom which all Lithuanians continue to posess, even in these dark times. It is also with every confidence that we express our belief that one day Lithuania, Latvia, and Estonia will again be free.●

● Mr. **DURBIN**. Mr. Speaker, I rise again this year to proclaim proudly the 66th anniversary of Lithuania's independence. As a first generation Lithuanian American, I am very familiar with, and proud of, Lithuania's tradition and aspirations.

I am also all too familiar with Lithuania's history in the years since World War II. The Lithuanian National Council declared modern Lithuania's independence on February 16, 1918, after several decades of partition between Germany and Russia. Sadly, that independence ended at the beginning of World War II when Lithuania was occupied by the Red army. That occupation did not end with the war. Lithuania is still considered by the Soviets to be part of the Soviet Union, though very much against the will of the Lithuania people.

Despite its many years of occupation, Lithuania's yearning for independence remains strong and will not change under continued Soviet domination. The same is true in the other countries forcibly controlled by the Soviet Union. It is very fitting that we should be reminded of that on the 66th anniversary of Lithuania's independence.

I have seen firsthand that flame of freedom which burns so strongly in Lithuania. I think it should serve as a clear example to the Soviet Union and all other totalitarian nations that oppression cannot eliminate national aspirations, pride in one's country or the desire for personal freedom.

The Lithuanian people have shown great courage and fortitude in maintaining their heritage and religion in the face of Soviet domination. I would like to join with my colleagues on this anniversary of their independence to commend them for their courage and to express once again our solidarity with them in ending this oppression of Lithuania.●

● Mr. **HORTON**. Mr. Speaker, I wish to take this opportunity to recognize the proud people of Lithuania and their inspiring struggle for independence. Lithuanians have withstood, with pride and dignity, centuries of Soviet domination and political persecution.

As you know, today we commemorate the 733d anniversary of the birth of Lithuania. This important day in Lithuanian history also marks the 66th anniversary of Lithuania's long sought emancipation from Soviet domination. Tragically, Lithuania only enjoyed its freedom for 22 years. In June of 1940, the Soviet Union forcefully entered the Baltic States and illegally annexed the peoples of Lithuania, Estonia, and Latvia.

We can proclaim with pride that the United States never recognized the illegal annexation of the Baltic States nor ever abandoned the cause of a free Lithuania, by our actions today, we make known to the world, our commitment to the inalienable rights of freedom—freedom of speech, national self-determination, and human rights.

The tragedy which accompanies Soviet domination continues to this day. Soviet authorities struggle to repress the unique cultures of the Lithuanian, Estonian, and Latvian people. Where these proud people deviate from the brutally proscribed policies of Sovietization, internment is the norm. This is an all too familiar pattern within the U.S.S.R.

By commemorating the independence of Lithuania and remonstrating the Soviet Union for its violation of human rights and sovereign dignity, we signal the world that we cannot rest where the rights of fellow human beings are violated. By the same stand, we signal Lithuanian Americans and their brethren that their cause has not been forsaken. We must continue our support and advocacy until they are free.●

● Mr. **HUGHES**. Mr. Speaker, it is an honor for me join in commemorating the 66th anniversary of Lithuanian Independence Day with my colleagues.

Although bound by Soviet rule, it would be foolish for one to say that the Lithuanians are mere Soviet subjects. Today, as well as in 1918, Lithuanians are an independent people in that they have never once yielded in spirit to Soviet domination.

Although held captive behind the Iron Curtain since July 1940, they refuse to be dominated. They fight courageously for religious and political freedom even though such aims are met with severe repercussions. Show trials, brutal interrogations, and denial of religious freedom are only a few of the abominable offenses committed by their Soviet oppressors.

Leaders in the Lithuanian community and in the struggle for independence, have been repeatedly jailed. Yet, the struggle continues among all Lithuanian people. The hope which is shared by the Lithuanians, American Lithuanians, and all free people, is that one day the Lithuanian constitution, adopted in 1922, which guarantees freedom of speech, assembly, and religion, will once again be the law of the land.

Today let us renew our pledge to support these brave freedom-loving people. We must keep the light of hope visible to those still in darkness.●

● Mr. **DWYER** of New Jersey. Mr. Speaker, I wish to join my colleagues in commemorating the 66th anniversary of Lithuanian Independence Day.

The proud and strong people of Lithuania have been forcibly annexed since 1940 by the Soviet Union, yet they continue to uphold and preserve their rich Baltic heritage. I believe, as freedom-loving Americans, that we must reject the incorporation of Lithuania into the Soviet Union, as well as to demand complete withdrawal of Soviet troops from all captive nations.

As you know, brave persons like Antanas Terleckas, have been struggling a lifetime for basic human rights and national identity for the oppressed people of Lithuania. Presently, Antanas Terleckas is serving a 5-year term in one of the most rigid and isolated regions in the Soviet Union. As representatives in the free world, it is up to us to offer hope to Antanas Terleckas and others, who are seeking control of their destiny.

I wish to express my deepest concern with the policies of the U.S.S.R. that have led to direct aggression and the enslavement of nations. It is imperative to the Lithuanian people that we continue to offer the hope of freedom.

Mr. Speaker, I thank my able colleague, Congressman **FRANK ANNUNZIO** for calling this special order today and join him in this tribute to the strength of the Lithuanian people.●

● Mrs. **JOHNSON**. Mr. Speaker, February 16 of this year marked the 66th anniversary of Lithuanian independence. After decades of struggle, Lithuania became an independent nation in 1918, but this glory was short lived. In 1940, the Soviet Union used the occasion of the war in Europe to invade Lithuania and force it under Soviet oppression. Lithuanians throughout the world look upon this day as one of remembrance and hope. Remembrance of the joy and pleasure of their brief freedom, and hope for those still trapped within the cultural, political, and religious persecution of the Soviet Union.

Mr. Speaker, 8 years ago, a 46-year-old Lithuanian sent a letter to the chairman of the KGB entitled, "Respect My Rights." In this correspondence, he outlined a 30-year-long story of persecution and struggle for human and national rights. Today the author, Antanas Terleckas, is struggling to remain alive. Punished because of his desire for freedom, Terleckas is fighting an illness in his dismal place of exile where he was sent after serving 3 years in a labor camp. I urge my colleagues to follow me in appealing to the Soviet Union to end such treatment and in writing to prisoners as a recognition of their valiant efforts and abhorrence of their inhumane treatment.

Yet while Terleckas is singled out for persecution by the Soviet Government because of his convictions, his fellow Lithuanians in the United States, separated by both geographic and political distance, are with him in spirit as they unite to preserve their Lithuanian heritage. On March 4, Lithuanians throughout the world, including the members of St. Andrews Church in New Britain, Conn., will celebrate the 500th anniversary of the death of St. Casimir, the patron saint of Lithuania.

The obvious pride that the Lithuanians take in their heritage and the delight with which they invite others to share it with them reflects the rich mosaic of cultures that comprises the United States. These commemorative events are a vindication for Terleckas, for they show the world that his cause, the cause of the Lithuanians, is not forgotten. Remembrance of the past provides continuity for the future, as it forges a bond between all Lithuanians, imprisoned and free. Remembrance of a common heritage insures its preservation from the death of St. Casimir 500 years ago to the struggle of Antanas Terleckas today, and ultimately, it is remembrance that will provide the key to freedom for this courageous and determined nation.●

● Mr. **GEJDENSON**. Mr. Speaker, today we commemorate the establishment of the independent state of Lithuania, which took place on February 16, 1981. This is a date of special significance to me since my parents fled Lithuania a few years after the Soviet occupation of that country.

The tragic historry of the Baltic States in the 20th century is well known to all of us. It is a history of independence, respect for human rights, cultural flowering, and economic progress, followed by invasion, repression and mass arrests and deportations of the Baltic people. This tragedy came about through the insidious collaboration of Stalin and Hitler in the secret protocol to the Nazi-Soviet nonaggression pact of 1939. This pact split central Europe between the two great powers, allowing the Germans to sweep through Poland in 1939 and the Soviet Union to annex the Baltic nations in 1940. Thirty thousand Lithuanians were deported to labor camps in Siberia during the first days of the Soviet takeover in June 1940. An estimated 340,000 were arrested and deported under Stalin's rule from 1945 to 1951. Disregard for human rights and civil liberties, and repression of cultural identities continue today.

We in the United States have never recognized this illegal incorporation of the free and independent nations of Latvia, Estonia, and Lithuania into the Soviet monolith. Until those nations regain the independence that is rightfully theirs, it is vital that we continue to speak on their behalf and to remind the world of their plight.●

● Mr. **WINN**. Mr. Speaker, today we are commemorating the 66th anniversary of the declaration of the Republic of Lithuania's independence. Although the Lithuanian Republic has since been occupied by the Soviet Union, the United States does not recognize this brutal and illegal occupation. We continue, therefore, to observe the Independence Day of Lithuania as well as those of the other Baltic States to remind the people of Lithuania, Latvia, and Estonia that their struggle for freedom is recognized and supported by the American people. Our commemoration of February 22 is also to remind the Soviet Union that the United States has not forgotten its oppression of the Lithuanian people and that its illegal occupation is not accepted by the United States.

February 22 is a day of sorrow and a day of anger. But it is also a day of pride and hope. In remembering that 66 years ago the Lithuanian people forged independence out of what appeared to be impossible circumstances, we are reminded that the renewal of independence for Lithuania is not out of reach. Indeed, remembering February 22 is a first step toward realizing this goal.●

● Mrs. **BYRON**. Mr. Speaker, I would like to thank the gentleman from Illinois for allowing me to participate in this special order to commemorate Lithuanian Independence Day.

There are many Lithuanian-Americans who have not forgotten the unlawful absorption of their native land by the Soviet Union, and it is appropriate that this Congress not forget either. As a nation that epitomizes individual freedom and the right to self-determination, we cannot ignore the national pride of Lithuanians and the other Baltic States that have been deprived of their independence. Despite their subjugation, these people strive to maintain their heritage and freedom, and as the main defender of human rights, the United States should recognize this struggle.

I commend the gentleman for bringing Lithuanian Independence Day to the attention of Congress.●

● Mr. **TORRICELLI**. Mr. Speaker, it is indeed a great privilege to join my colleagues in commemorating the 66th anniversary of the establishment of the independent Republic of Lithuania.

The brave Lithuanian people have endured constant hardship and strain. Their freedom and independence were forcibly violated by the Soviet invasion in 1940. This cruel attack was in direct violation of a peace treaty signed by the Soviet Union in 1920 recognizing Lithuanian sovereignty.

For the past 44 years Lithuania has been virtually a prison for its citizens. Lithuanian rights are unacknowledged. Political and cultural freedoms are denied. Use of the Lithuanian language in publications is forbidden. Travel across Lithuanian borders is severely restricted. Religious ceremonies are prohibited and the clergy is persecuted.

Despite repeated attempts by their Soviet oppressors to eliminate the Lithuanian culture, courageous Lithuanians have not forgotten their heritage and have stood firm on their desire for freedom. Today, as we commemorate the anniversary of Lithuanian independence, let us join with Lithuanian-Americans and reaffirm our solidarity with Lithuanian nationalists and work for self-determination in Lithuania.●

● Mr. **RINALDO**. Mr. Speaker, I am pleased to join my colleagues in commemorating the 66th anniversary of the independent Republic of Lithuania. This small Republic declared its independence on February 16, 1918, ending more than a century of Russian domination and wartime occupation by Germany. For the next 22 years, the country enjoyed freedom from foreign domination. In 1940, however, the Soviet Union overran Lithuania with tanks and armies and subjugated its people. After a fixed election—a single slate was presented—Lithuania was formally incorporated into the U.S.S.R. The United States has never acknowledged this illegal incorporation, and we must continue to affirm our policy of nonrecognition.

The 22 years of Lithuanian independence was indeed short, but was marked by significant accomplishments. Civil liberties and home rule returned after more than a century of repression. Land reform gave the masses what was once the province of the privileged. And, previously suppressed but carefully preserved folklore inspired new waves of literature, music, and art.

Lithuania today is a virtual prison camp. The Lithuanian language is forbidden in publications, and religious instruction is prohibited as the Soviets try to suffocate Lithuanian culture and heritage. During the past 3 years the human rights situation has grown steadily worse. Fearing the emergence of a nationalist movement like Poland's Solidarity, the Soviets have taken steps to restrict contact between Lithuanians and their Polish neighbors. There have also been reports of wide-scale religious harassment and of the suspicious deaths of several Catholic priests.

The Lithuanians have been denied the most basic human rights—the free exercise of political, cultural, and religious freedoms. Yet, these brave individuals have held on to their identity and have kept alive their hopes for these freedoms. We must continue our support and advocacy for them until they are free.●

● Mr. CONABLE. Mr. Speaker, I thank my colleague for taking this special order and join him in recognizing Lithuanian Independence Day. Lithuanians, forced to join the Soviet Union, have long suffered the collectivization of their land, erosion of their native language, and elimination of their cultural and religious heritages. In 1940, Soviet troops occupied Lithuania, and Stalin forcibly annexed the small, but independent, nation of Lithuania. This aggressive action killed the constitutional democracy which Lithuanians freely chose to establish just 22 years earlier.

While Lithuanian history is marked by invasion and occupation, the Soviet Union's oppressive occupation, stronghanded annexation, and continuing ruthless disregard for human rights, cultural heritage, and self-expression, stand as constant reminders to the Congress and the American people of the ever present need to guard and protect human rights and freedoms.

Recognizing that individual citizens do not necessarily agree with their leaders' rhetoric is an important step in helping the Lithuanian people and their compatriots maintain their desire for freedom. By extending the hand of friendship through increased contacts, in business, trade, and culture, we can further show our concern for the Lithuanians currently oppressed and dominated by the Soviet Union. The U.S. Government should continue the policy of not recognizing Lithuania's annexation to the Soviet Union as an indication of the concern and compassion that we hold for Lithuanians and their love of freedom and independence.●

● Mr. FORSYTHE. Mr. Speaker, I would like to call to your attention today the 66th anniversary of the establishment of the Lithuanian Republic. Overrun by the Soviets in 1940, made a part of the Soviet Union by kangaroo court legality, subjugated and exploited since then, Lithuania stands as a symbol of the Soviet Union's disregard for international law and disdain for the principle of self-determination.

When Lithuania received her freedom in the aftermath of World War I, justice and democracy gained ascendancy. For 22 short years, the Republic of Lithuania offered her people the hope of freedom—a hope that was stamped out by the invading Red Army. Like so many other countries, Lithuania lost not only her sovereignty but also her identity as years of Soviet exploitation have tried to rub out any vestiges of the old Lithuania. The large Catholic Church was disbanded, mass deportation became common, and the countryside was raped for its natural resources with no regard for the needs of the country or the populace.

Through it all though, the Lithuanian people remained strong in their faith and loyal to their country. Any small relaxation in the Soviet pressure produces a reaction by the Lithuanian people so strong that no doubt is left as to the strength of their will. Dissidence thrives there though these people pursue their objectives against great odds and with little hope of success. Acts of defiance run from the most small to daring martyrs who commit self-immolation to call attention to the atrocities of the Soviet Union. Truly, the will and strength of the Lithuanian people deserve our respect and our aid.

Let us remember that when freedom is denied others, it is not secure here. We must struggle always to insure justice and freedom for all people. For if we do not, then surely our own freedom is doomed also.●

● Mr. LENT. Mr. Speaker, I would like to take this opportunity to join my colleagues to commemorate Lithuanian Independence Day, February 22, 1984. This day is a symbol of hope to the Lithuanian people who continue their heroic struggle for freedom and self-determination. To the Lithuanian-American community, this is a day of special significance, a reaffirmation of the commitment to liberty and human rights.

The Lithuanian people first gained independence in February 1918. An entire nation rejoiced in this important victory and the opportunity to govern themselves as they saw fit. For nearly 20 years, Lithuanians were free to worship openly and live without fear of intervention or aggression from a hostile rule. Sadly, this new-found freedom was short lived when, in 1940, Soviet troops invaded and occupied the Baltic States of Estonia, Latvia, and Lithuania. The legions of fear enforced the newly imposed Soviet rule with tanks and guns.

Yet, the Lithuanian people's spirit of resistance remains strong and resolute after 44 years of Soviet oppression. Rich in determination, these people strive to preserve their heritage, the language and folkways so unique to Lithuania. Their love of freedom is passed on from generation to generation.

Here in the United States, Americans have the right to speak openly in opposition to Government policies, to organize and petition the Government. Under Communist rule, brave individuals risk interrogation or internment in the so-called psychiatric hospitals for speaking out against Soviet policies of aggression and military intervention in their country's affairs.

As citizens of the free world, we must grasp every opportunity to speak out against the fierce Soviet rule which wields force and intimidation in attempting to strip the Lithuanian people of their very identity, to silence their protests and control their thoughts.

As we commemorate February 22 as Lithuanian Independence Day, let each of us reflect on its meaning and importance. Let us pledge our united efforts to combat Communist oppression in Lithuania and throughout the world. Let us renew our support to the cause of those courageous men and women who persevere against tremendous hardship and sacrifice to maintain their dignity and human rights in the hope that someday, they will again be truly free.●

● Mr. LEVIN of Michigan. Mr. Speaker, we are a nation of diverse peoples bound together by more than just tradition or language or culture. We are a society of individuals melded as a nation by principle—the belief that individuals must have rights to freely develop their talents, and nations must have the right of self-determination.

It is, therefore, fitting that this legislative body should again commemorate, as it does annually, the declaration of the Lithuanian nation's independence. For today, the people of Lithuania cannot themselves celebrate their desire for freedom—their country continues to be occupied by over 100,000 Soviet troops who first marched into their country in the fall of 1939.

Sixty-six years ago, the Lithuanian people defied a repressive and cruel Russian czarist regime to join the community of free and independent people. The new nation quickly embarked on the difficult path of economic development and the development of its citizen's talents. Schools and hospitals were built, teachers and health workers trained. The land was taken from absentee Russian and Polish landowners and redistributed to Lithuanian farmers. For the first time in over a century, agricultural productivity rose as new technologies and new energies were harnessed by the free Lithuanian farmer. Infant mortality declined and the general standard of living improved for the average citizen. The arts and humanities flowered as literacy rates rose to over 85 percent in the 22 years of independence.

But this grand experiment was cut short by World War II. Lithuania, along with her sister Baltic Republics of Latvia and Estonia, tried to remain neutral; but they suffered the ravages of invading armies and changing fronts three times in 6 years. They lost half of their population to concentration camps, bombings, executions, deportation, and exile.

In August 1940, Lithuania, Latvia, and Estonia were illegally incorporated into the Union of Soviet Socialist Republics. The U.S. Government has firmly and consistently refused to accept this illegal annexation. We have maintained this position because it is right. Although the passage of time may dull the passions, it cannot alter truth. And it is the duty of this Nation and this legislative body not to allow the knowledge of this truth to be obliterated by time and circumstance.

Today, the people of Lithuania, Latvia, and Estonia are subjected to intense pressures of russification and Sovietization as the Soviet Union attempts to fully integrate them into their society. The Soviets seek to rob these people of their historical memory, their cultural expression, and their independent spirit. The flower of their youth is now forced to participate in the attempted subjugation of yet another freedom-loving nation, Afghanistan.

Although the Lithuanian people cannot openly celebrate their desire for freedom and independence, they demonstrate their determination to live as free men and women every day. We hear of their hopes for religious and political freedom in their "samizdat" literature which reaches the West. In fact the "Chronicle of the Catholic Church in Lithuania" will in 3 weeks celebrate its 11th anniversary. We see their courage and determination, if not their stubbornness, in the faces of their dissidents as they are tried and convicted by Soviet authorities.

And we see their creativity and determination as the scattered ranks of their dissidents are again filled by waves of new people willing to take up the struggle for free expression. In the last year over 50,000 Lithuanians have risked family and career by appealing to the Soviet Government to drop criminal proceedings against Father Svarinskas whose only crimes are that he gives religious instruction to children and has been outspoken in the defense of religious freedom in Lithuania.

In recalling the past and present sacrifices of the Lithuanian people in their struggle to live in freedom and dignity, let us reaffirm this Nation's commitment to the nonrecognition policy of the forcible annexation of Lithuania's territory and her people by the Soviet Union. Let us be more vigilant in the defense of the principle of self-determination for Lithuania and her sister Republics of Latvia and Estonia. It is particularly disturbing to find that the present administration has failed to live up to this pledge in its Defense Department and State Department publications. The omission of the free Baltic Republics in maps and public information documents published and used by our Government is inexcusable. Let us hope that the Reagan administration will correct these oversights this year. No American child of Lithuanian or Latvian or Estonian ancestry should have to ask, "Why isn't the homeland of my grandparents on this map of Europe?" It is elemental to our democracy that truth not be surpressed and that history not be rewritten to suit circumstances.●

● Mr. DONNELLY. Mr. Speaker, I am honored to address the House today on the 66th anniversary of Lithuanian Independence Day. Soviet troops continue to occupy this proud Baltic nation and to harass the people of Lithuania who seek only to live free and to practice their culture as is their legitimate right. The United States has consistently voiced its refusal to recognize the Soviet occupation of Lithuania and her neighboring Baltic States of Estonia and Latvia as a permanent condition. Today's special order, organized by our friend and colleague FRANK ANNUNZIO, is a clear sign that the U.S. House of Representatives strongly reaffirms the longstanding U.S. policy of nonrecognition of the illegal Soviet claim to Lithuania.

Mr. Speaker, the Lithuanian-American Council of Brockton, Mass., has recently adopted a resolution on this 66th anniversary of Lithuanian Independence Day. I insert the text of the resolution into the RECORD at this point, and commend this eloquent statement to my colleagues' attention.

RESOLUTION

We, the Lithuanian Americans of Brockton, Massachusetts assembled this 12th day of February, 1984, at St. Casimirs Church Hall to commemorate the restoration of Lithuania's independence, do hereby state as follows:

That February 16, 1984 marks the 66th anniversary of the restoration of the independence to the more than 733 year old Lithuanian State;

That Lithuania was recognized as a free and independent nation by the entire free world, she was a member of the League of Nations, however, she was by force and fraud occupied and illegally annexed by the Soviet Union.

That the Soviet Union is the last remaining colonial empire, subjugating independent countries; Lithuania was one of its first victims.

That the Soviet invaders, even though using tortures in jails, concentration camps, psychiatric wards are unable to suppress the aspirations of the Lithuanian people for self-government and independence as is highly evident from the numerous underground press and strong dissident activities. Now, therefore, be it *Resolved*, That we are grateful to President Reagan and the Department of State for statements that an official diplomatic non-recognition of the forced incorporation into the U.S.S.R. of the three Baltic nations will continue to be a position of his Administration also; and we are very grateful for the declaration of Baltic Freedom Day.

We urge the United States of America and other nations of the free world to use diplomatic and other possible pressures that the Soviet Union withdraw its military forces, secret police apparatus, foreign administration, and release from jails, concentration camps and psychiatric wards people who struggle for human rights and liberty and restore self-government in Lithuania.

We express our most sincere gratitude to the U.S. Congress for the impressive annual commemoration of Lithuanian independence.

We desire that copies of this Resolution be forwarded to the President of the United States, to the Secretary of State, to the U.S. Congressmen and Senators from our State and to the news media.●

● Mr. CORCORAN. Mr. Speaker, it is an honor to join my colleagues and the approximately 1 million people of Lithuanian descent residing in the United States in commemorating the 66th anniversary of the Declaration of Lithuanian Independence. Since 1940, the three Baltic States, including Lithuania, have been pinioned in a state of suffering and oppression by the Soviet Union. Through Soviet aggression, these countries were forcibly annexed, and then subjected to atrocities that violated their every human right from political self-determination and free enterprise to liberty and life itself.

The U.S. Government, recognizing in this heinous course of events the collaboration of Hitler and Stalin, this century's two most notorious despots, has never acknowledged the illegal annexation of the Baltic States by the Soviet Union. We stand staunchly behind captive Lithuanian activists bravely struggling to preserve their heritage and culture despite repression, deportation, and torture. We continue to recognize the diplomatic and consular representatives designated by the Republic of Lithuania.

There is yet one more message of solidarity with this wronged nation of people that we can send to them and to their Soviet captors. In introducing House Joint Resolution 435, I hope to bring about the U.S. Government's formal renunciation of the Yalta Executive Agreement. Through this World War II treaty, hundreds of millions of people in Central and Eastern Europe have been crushed beneath the heel of Soviet domination. I have been inundated with letters from concerned citizens all over the country who believe that through the renunciation of Yalta we can signify our regret for our reprehensible betrayal of these unfortunate peoples. Let us act together to assure Lithuanians and their brothers in adversity all over the world that we are aware of and outraged by their plight.●

● Mr. SOLOMON. Mr. Speaker, the U.S. Government has never recognized the Soviet claim to rule over the Baltic States of Lithuania, Estonia, and Latvia. To do so would be to give moral authority and political legitimacy to a brutal occupation.

The Soviet occupation of the Baltic States rivals the Nazi takeover of Eastern Europe in its cruelty. On June 14, 23 years ago, the Soviet Army commenced the deportation of thousands of Baltic families to the barren wastes of Siberia, never to see their homeland again.

Mass arrests, forced relocation, concentration camps, the cries of starving women and children, the captivity of nations under the heels of totalitarian bullies—the Baltic States suffered under Stalin what much of eastern Europe endured under Hitler. But there is one important and terribly tragic difference.

Virtually all of Europe was liberated from Hitler and his henchmen, in large part because of America's commitment and sacrifice. But Lithuania, Estonia, and Latvia remain captive, and the suffering continues.

That is why it is more important than ever to commemorate Lithuania's Independence Day, as we in the House of Representatives do today under the leadership of my distinguished colleague, the Honorable FRANK ANNUNZIO of the State of Illinois.

You will not find February 16, 1918, Lithuanian Independence Day, marked on the calendar of the Politburo. The Soviet leadership has attempted to obliterate the very idea that Lithuania came into existence as a free and sovereign state 66 years ago.

But they have failed in this purpose. Today, in America, 1 million men and women of Lithuanian descent still celebrate the memory of a free Lithuania. The American people join them. The Congress joins them.

Freedom rang once in Lithuania. It will ring again.●

● Mr. STRATTON. Mr. Speaker, I want to thank my colleague from Illinois, Mr. ANNUNZIO, for arranging this special order today in observance of the 66th anniversary of Lithuanian independence. This occasion provides us in the Congress the opportunity to demonstrate to the people of Lithuania and their families and friends throughout the world our steadfast support for their struggle for freedom, self-determination, and release from Soviet bondage.

Lithuanian history is the story of people on a political faultline, and the small country has long been a victim of German and Russian aggression. Lithuanian independence was born 66 years ago, on February 16, 1918, in the chaos of the Russian Revolution and World War I. German armies invaded and occupied the country during the war, and took it from the Russians. But the German Government was soon forced to bow to Lithuanian pressure to allow the formation of an independent State based on democratic principles. Although the Red army invaded Lithuania again in 1919, following the settlement of World War I on the eastern front, the date we commemorate today, February 16, 1918, marked the beginning of a generation of independence for Lithuania. Lithuania thrived in its independent state until 1940, when it was occupied by Soviet forces, and made to bear the yoke of a captive nation.

Yet, Mr. Speaker, despite this dramatic, tragic, and often violent story of Lithuania in the 20th century, the Lithuanian people have not lost their will, their character, their heart. Despite over four decades of Soviet oppression, the Lithuanian people have maintained and cultivated a strong sense of their unique culture and traditions, and to this day, resist continued attempts at russification, or the replacement of the Lithuanian language and culture with Russian practices.

Many Lithuanians have managed to flee the political oppression of the homeland, and today there are many strong, vital Lithuanian-American communities in the United States. But Lithuanians have and elsewhere in the world have not forgotten the struggle for their people.

Therefore, we rise today to call once again for individual freedom and self-determination in Lithuania and the other Baltic States, and to reaffirm our pledge that we in Congress will continue to do so until Lithuania is once again free.●

● Mr. YOUNG of Florida. Mr. Speaker, we join together this month to commemorate the 66th anniversary of the Declaration of Independence of the Republic of Lithuania and the Republic of Estonia. Unfortunately, for the past 44 years, since the Soviet Army overran the Baltic region in 1940, freedom and independence have been only dreams for the people of these nations.

During the "Terrible June Days" in June 1940 the Soviets marched on Lithuania, Estonia, and Latvia and 1 year later the Soviets carried out a 5-day genocide during which they callously exiled 35,000 men, women, and children to Siberia. Despite these violations of human rights, the people of this region have unfailingly continued their efforts to regain their rightful freedom.

This never-ending quest for independence by the Baltic people is a living example of the value of our freedoms, which we all too often take for granted. The Soviets have sought to eliminate the Baltic people's drive for independence by military force, endless threats, the denial of religious and cultural heritage, and the exile and imprisonment of Baltic community leaders.

These Soviet efforts, however, have proven unsuccessful. As the Soviets have found in other parts of the world, they can physically deny a nation its independence through the imposition of barriers and by military force, but they can never drive from the people of those nations the burning desire for individual freedoms and liberties which are denied under a Communist form of government.

Our purpose today, is to pay tribute to the freedom-loving people of the Baltic and to let them know of our support in their battle to regain their independence. It is also our purpose to pause and remember the freedomes we are blessed with every day which for most Lithuanians, Estonians, and Latvians are simply dreams that have been passed from generation to generation.

Let us hope that the Baltic people can some day soon openly celebrate their independence rather than hiding their joy from the watchful eyes of armed Soviet troops.

Mr. Speaker, following my remarks I would like to include two resolutions I introduced last year which call for the freedom and independence of the Baltic States and express the sense of Congress that the United States should seek, through diplomatic channels, the withdrawal of Soviet military troops from the Baltic States and the release by the Soviet of political prisoners from this region. The prompt passage of this legislation would send an inspirational message from all Americans to the oppressed people of the Baltic States that our Nation is committed to do all we can to help them someday realize their dream for freedom and independence.

H. CON. RES. 61

Whereas the United States, since its inception, has been committed to the principle of self-determination;

Whereas this essential moral principle is also affirmed in the Charter of the United Nations;

Whereas the Union of Soviet Socialist Republics is, according to its Constitution, a voluntary federation of autonomous republics;

Whereas the three Baltic Republics (the Republic of Lithuania, the Republic of Latvia, and the Republic of Estonia) did not become member republics of the Union of Soviet Socialist Republics voluntarily, but rather were occupied militarily by Russian Armed Forces in the early days of World War II and subsequently incorporated by force into the Union of Soviet Socialist Republics and have since been governed by governments approved by, and subservient to, the Government of the Union of Soviet Socialist Republics;

Whereas the ethnic makeup of the Baltic peoples (the Lithuanians, Latvians, and Estonians) is distinctly foreign in language, culture, common traditions, and religion from that of the Russian people;

Whereas, by deportation and dispersion of the native populations of the Baltic States to Siberia and by a massive colonization effort in which Russian colonists replace the displaced native peoples, the Soviet Union threatens complete elimination of the Baltic peoples as a culturally, geographically, and politically distinct and ethnically homogeneous population;

Whereas, despite such treatment, the spirit of the citizens of the Baltic States is not broken and the desire of the citizens of the Baltic States for national independence remains unabated;

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States and has continued to maintain diplomatic relations with representatives of the independent Republics of Lithuania, Latvia, and Estonia; and

Whereas the United Nations and the United States delegation to the United Nations have consistently upheld the right of self-determination of the people of those countries in Asia and Africa that are, or have been, under foreign imperialist rule: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the President and the Secretary of State should take all necessary steps to bring the Baltic States question before the United Nations and to urge that the United Nations request the Soviet Union—

(A) to withdraw all Russian and other nonnative troops, agents, colonists, and controls from the Republics of Lithuania, Latvia, and Estonia, and

(B) to return all Baltic exiles from Siberia and from prisons and labor camps on the Soviet Union;

(2) until the Baltic States become independent, the Secretary of State should, through such channels as the United States Information Agency and other information agencies of the United States Government, do his utmost to bring the matter of the Baltic States to the attention of all nations by means of special radio programs and publications;

(3) the United States should not agree to the recognition, by any international conference, of the Soviet Union's unlawful annexation of Lithuania, Latvia, and Estonia, and it should remain the policy of the United States not to recognize in any way the annexation of the Baltic States by the Soviet Union;

(4) the President should require that all government map publishers, and should request that all private map publishers, show, on all maps of Europe, the Republics of Lithuania, Latvia, and Estonia as independent states, with a footnote explaining that the military occupation and forced incorporation into the Soviet Union of Lithuania, Latvia, and Estonia has never been recognized by the United States;

(5) the right of self-determination should be returned to the peoples of Lithuania, Latvia, and Estonia through free elections conducted under the auspices of the United Nations after Soviet withdrawal from the Baltic States; and

(6) the right of self-determination should be made a prime political objective of the United Nations and should be accorded through free elections under the auspices of the United Nations to all peoples now involuntarily subjugated to Soviet communism.

H. CON. RES. 62

Whereas the United States does not recognize the illegal annexation by the Soviet Union of the Baltic nations of Estonia, Latvia, and Lithuania; and

Whereas the United States as a member of the United Nations has pledged to uphold the ideals of the United Nations Charter and ". . . to take joint and separate action . . ." to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."; and

Whereas the House of Representatives Select Committee to Investigate Communist Aggression of the Eighty-third Congress thoroughly investigated the seizure of the Baltic nations by the Soviet Union and, in its Third Interim Report, concluded that "The evidence is overwhelming and conclusive that Estonia, Latvia, and Lithuania were forcibly occupied and illegally annexed by the Union of Soviet Socialist Republics"; and

Whereas the United States, as a signatory to the Final Act of the conference on Security and Cooperation in Eurpoe, endorsed Principle VIII, concerning equal rights and self-determination of peoples, which states ". . . all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development . . ." and "The participating States . . . also recall the importance of the elimination of any form of violation of this principle."; and

Whereas the House of Representatives in the Ninety-fourth Congress, by adopting H. Res. 864, reaffirmed the United States policy concerning the Baltic nations and thereby urged positive actions: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) the President should enter into negotiations with the Soviet Union—

(A) for the withdrawal of all non-Estonian, non-Latvian, and non-Lithuanian military, political, administrative, and police personnel from Estonia, Latvia, and Lithuania, respectively, and

(B) for the release of politial prisoners of Estonian, Latvian, and Lithuanian nationality from prisons, labor camps, psychiatric institutions, and other detention centers within the Soviet Union and their return to Estonia, Latvia, and Lithuania, respectively;

(2) the President should instruct the United States delegation to the preparatory meeting of the 1980 Madrid meeting of the Conference on Security and Cooperation in Europe to seek consideration of the following matters of concern:

(A) the current illegal annexation of Estonia, Latvia, and Lithuania by the Soviet Union, and

(B) the denial of self-determination and territorial integrity to Estonia, Latvia, and Lithuania by the Soviet Union; and

(3) the President should make very effort to gain the support and cooperation of all nations to achieve the objectives of the negotiations under paragraph (1) and the consideration of matters of concern under paragraph (2).●

● Mr. BIAGGI. Mr. Speaker, at this time I would like to join with my colleagues in commemorating the 66th anniversary of Lithuanian independence and to express my concern for all those people living in Lithuania who continue to struggle for freedom and independence.

On February 16, 1918, Lithuania became the first of the Baltic States to declare its independence from Russia and Germany. Following the end of World War I, Russia attempted to take over Lithuania. The Lithuanians fought courageously and defeated the Russian invaders. A peace treaty was signed in 1920. In March 1939, Germany seized part of Lithuania. Following an agreement with Germany that gave the Soviets control of the Baltic region, the Soviet Union began building military bases in Lithuania. In 1940, the Soviets occupied all of Lithuania and made it a Soviet Republic with a Communist Government.

The history of Soviet domination of Lithuania has been one characterized by strength and courage on the part of the Lithuanian people, and tyranny and oppression on the part of the Soviet Government. From 1944 to 1952, Lithuanian guerrillas fought the Soviets. Thousands of these brave freedom fighters lost their lives in this heroic struggle. During this period the Soviet Government sent at least 350,000 Lithuanians to labor camps in Siberia because of their political beliefs or because they resisted Soviet rule. Such gross violations of basic human rights and the complete disregard for human dignity should not and will not be forgotten.

Soviet violations of basic human rights continues in Lithuania. Despite the fact that over 90 percent of Lithuanians are Roman Catholics, the Soviet Government forbids religious instruction, religious publications, and charity work. The Soviet Government also discourages church attendance, primarily by denying educational and job opportunities to those who choose to worship openly. Through its brutal, oppressive, and tyrannical actions the Soviet Government continues to deny the Lithuanian people, not only their independence, but their basic human rights as well.

The history of communism, as practiced by the Soviet Union, has been one marked by oppression, enslavement, and denial of human rights. This grim legacy continues throughout the Communist world and especially in Lithuania. In commemorating the 66th anniversary of Lithuanian independence we must also express, without equivocation, our undying resolve to support the rights and cause of those brave people living in Lithuania who refuse to succumb to Soviet oppression, and who continue to seek freedom and self-determination. By commemorating Lithuanian Independence Day, we here in Congress send a message to those brave people that we share their dream that someday they will emerge from the darkness of Communist oppression and come to live under the bright light of freedom.●

● Mr. McGRATH. Mr. Speaker, I rise today to join in the commemoration of the 66th anniversary of the restoration of Lithuanian independence.

The meaning behind the three horizontal stripes of yellow, green, and red of the national flag of Lithuania appropriately symbolizes the history of this Baltic nation. Yellow, which signifies the agrarian tradition and agricultural products of the country, wheat and rye, concurrently represents freedom from want. Green signifies hope, while red symbolizes the blood shed in the pursuit of freedom.

The declaration of Lithuanian independence came at the tail end of World War I upon the withdrawal of its two occupants, Germany and Russia. Lithuania remained independent for parts of two decades, however in 1940, 300,000 Soviet soldiers invaded Lithuania. As in most nations the Soviet Union has illegally annexed, human rights were denied, dissensions to official Soviet policy was punished, mass deportations were carried out, religious expressions was outlawed and all land was nationalized. In the later stage of World War II, Lithuanians suffered at the hands of the imperialist and bloody Nazi regime. After the war, Lithuania again came under Soviet control.

Yet despite a tragic history of foreign domination and oppression, the spirit of Lithuanians around the world remains strong in the pursuit of the restoration of a truly free homeland. Their struggle has been valiant. Occasions such as today's special order which lend tangible support to the ongoing struggle for Lithuanian independence are important in the realization of that goal.●

● Mr. MICHEL. Mr. Speaker, I am honored to join with our colleagues in honoring the people of Lithuania on Lithuanian Independence Day.

We all know the sad story of the Baltic States. We know how the Soviet Union, under the direction of the bloody tyrant Joseph Stalin, joined hands in a pact with Hitler and, when still allied with the Nazi dictator, annexed the Baltic States.

The mass deportations, the terror, the total disregard for human rights that took place with the Soviet conquest of these republics is too well known for me to detail here. Suffice it to say that the Soviet Union still claims Latvia, Lithuanian, and Estonia, although, to our Nation's credit, we have never recognized this act of barbarism.

Lithuania is about the size of West Virginia. It has about 3½ million inhabitants, most of whom are Roman Catholics.

Recently I came across statistics about what has happened to the Roman Catholic Church in that tragic country since the Soviet Union occupied it in 1940:

In 1940, there were 10 bishops in the country; in 1978 there were only 4.

In 1940, there were 1,450 priests; in 1978 there were barely over 700.

In 1940, there were religious organizations, newspapers, schools, and religious orders. Today there are none.

But why go on? Statistics cannot tell the story of what happened to Lithuania. It is necessary for free men and women to remember that Lithuania was once free—and will be free again.●

● Mr. DINGELL. Mr. Speaker, I am pleased to join in commemorating the 66th anniversary of Lithuanian Independence Day.

In 1918, the country of Lithuania formally declared its national independence. A short 22 years later, this independence was violently crushed when 300,000 Communist troops invaded and illegally annexed this small, brave country. The Soviet Union blatantly violated the sovereignty of the Lithuanian nation and for over 42 years has systematically deprived the people of Lithuania of every freedom and right we so eagerly enjoy in our country.

Despite these odds, the Lithuanian people have kept alive their undying hopes and dreams of independence and personal liberty. They remain dedicated to the vision that one day they will again be free from foreign domination and they look to that day when their political, social, and religious rights can be fully realized.

On this anniversary, it is fitting that we reaffirm our commitment to the Lithuanian people, and our hope that justice and liberty will once again prevail throughout the world.●

● Mr. BROOMFIELD. Mr. Speaker, I am honored to join many of my colleagues in participating in the commemoration of Lithuanian Independence Day. In doing so, I salute Lithuanians worldwide for their continuing nationalism and firm commitment to a nation that we all hope will soon be free of Soviet tyranny.

A proud people established the independence of the Republic of Lithuania 66 years ago; 22 years later, the dark hand of Soviet savagery ruthlessly snuffed out the flame of Lithuanian independence. Thousands of Lithuanians died during the brutal Soviet occupation and many more were imprisoned or deported. Today, Lithuania still lies crushed beneath the deplorable boot of Soviet repression. But, despite every cruel effort on the part of the Soviet regime, the traditions, culture, and vibrant spirit of the Lithuanian people live on. The courage and determination displayed by these remarkable people is to be commended and clearly noted for future generations to witness. For it is these characteristics that are admired and, indeed, shared by the American people.

We today express our solidarity with the people of Lithuania and all other nations that remain captive to Soviet imperialism. The United States has never recognized the Soviet annexation of Lithuania and until its freedom from Russian domination is secured, our recognition will be reserved for the flame of freedom which still burns so brightly in the hearts of the Lithuanian people.●

● Mr. GUARINI. Mr. Speaker, February 16 marked the 66th anniversary of the independence of Lithuania. I am proud to take this opportunity today to join with those people of Lithuanian origin in commemorating this occasion.

As we celebrate this anniversary of the independent Republic of Lithuania, we should remember that the history of this proud and independent people extends over 730 years to the first formation of the Lithuanian state. This nation represented not only a geographic union but also a cultural union of people united by similar ideals.

Two years after gaining its independence from Russia, the Republic of Lithuania signed a peace treaty with the Soviet Union in 1920. This treaty guaranteed Lithuania's right as an independent and sovereign nation. At the same time the Soviets renounced its former claim on Lithuania.

Unfortunately, as we all know, the freedom that the Lithuanians gained on February 16, 1918, was not to last. In 1940, the Soviet Union invaded Lithuania. The Lithuanian freedom fighters were unmatched in their gallantry, but they were overwhelmed by the invading force of over 300,000 Soviet troops. After World War II, the Soviets refused to free the captured Baltic nation.

We must recognize that freedom-loving Lithuanians are working hard to restore their lost rights. As Americans we can never lose sight of this struggle. As a step in the right direction we must seek enforcement of the Helsinki accords of 1975. The people of Lithuania deserve their freedom. I join with them today in honoring their independence day and their continuing quest for freedom.●

● Mr. CLINGER. Mr. Speaker, today I join with my colleagues in Congress to commemorate the 66th anniversary of Lithuania's independence. It is with my deepest sympathies that we honor Lithuanians both in the United States and in Lithuania and pledge to support their ongoing struggle for freedom and nationhood.

In 1918, 66 years ago, Lithuanians rejected oppression and became a free nation. This newly found freedom was brutally taken away by the Soviet Union in 1940. These proud people were to be subjugated to Soviet domination, a situation which was as intolerable then as it is today.

Although the physical independence of Lithuania is contained by the Soviet Union, the free spirit of these people is undaunted. In Lithuania today, these brave people's national heritage and language is daily under siege by the Soviet Union's efforts to repress cultural difference throughout the country. When the United States signed the Helsinki accords in 1975 we agreed with the Soviet Union to uphold basic human rights all over the world. The Soviet Union has been blatantly negligent in upholding this agreement in the Baltic States. I commend those Lithuanians who refuse to give up hope and continue to fight for their human rights.

Today, on the anniversary of Lithuanian independence, I pledge my support to a renewed effort to liberate the oppressed people from the Soviet Union. They will not be forgotten.●

● Mr. LEWIS of Florida. Mr. Speaker, in the month of August 1940, the Soviet Red Army marched into the independent nation of Lithuania. On that fateful day almost 44 years ago the independence of the people of Lithuania ended abruptly after just 21 years.

History testifies to the fact that freedom, independence, and sovereignty must be jealously guarded and adamently protected. As a superpower and the leader of the free world, the people of the United States can always follow the courageous example of the Lithuanian people and never take independence and freedom for granted.

The United States has never recognized the illegal annexation of Lithuania and its two Baltic Republic neighbors, Latvia and Estonia. I pray we never shall and that we always support the proud people of Lithuania living here or under the iron fist of the Soviet Union.

We must work to preserve the freedom we enjoy. We must speak out for and help other nations struggling against the odds. And we must continuously and faithfully remind the rest of the world of the tragedy that has befallen way too many of the free nations of the world, like Lithuania.

Mr. Speaker, on behalf of the American Lithuanian community of the Palm Beaches and the 12th Congressional District of Florida and all the people struggling to be free, I salute Lithuania and its people on the 66th anniversary of the restoration of that nation and the 733d anniversary of the founding of the state of Lithuania.●

● Mr. ST GERMAIN. Mr. Speaker, I would like to take this opportunity to commemorate February 16, 1984, as the 66th anniversary of the restoration of the independent state of Lithuania and the 733d anniversary of the founding of the Lithuanian state in 1251. We, in the United States, refuse to recognize the illegal annexation of Lithuania by the Soviet Union and will continue to support the Lithuanian people's quest for freedom.●

● Mr. MARKEY. Mr. Speaker, today I am honored to participate in the commemoration of Lithuanian Independence Day. I am pleased and proud to do so for several reasons. First, as a member of the U.S. Congress, I am proud of the fact that this Nation remains loyal in its recognition of independent Lithuania. Second, as a representative of the Commonwealth of Massachusetts, I am proud of the tremendous contributions made by Lithuanians over their generations of immigration. In particular, their cultural impact in such centers as Boston, Worcester, and Springfield have left Massachusetts richer. Finally, I want to call attention to the ongoing Soviet policy of systematically suppressing Lithuanian institutions of culture, religion, and language.

On February 16, 1918, the Lithuanian people declared themselves an independent nation and fulfilled a dream of almost 125 years to end Russian domination and occupation. However, that dream would have been empty if it was not nurtured by the sense of nationalism derived from a history going back to 1009, when Lithuania emerged as a collection of many principalities. External threats forged a unified state, so that by 1253, a papal representative was able to crown Mindaugus, who had been baptized 2 years earlier, King of Lithuania.

The close political relationship between Poland and Lithuania began in 1386 with the marriage of Queen Jadwiga of Poland and Grand Duke Jagiello of Lithuania. These two nations that shared, and continue to share, a deep commitment to Roman Catholicism remained in a political union that lasted until 1795. During the third partition of Poland, Lithuania was annexed by Russia. Lithuanian nationals attempted many revolts against the tsarist government, and after 1831 the Russians began a policy of cultural suppression and an imposition of Russian language, culture, and religion in Lithuania. This policy was made more severe after the unsuccessful revolts in 1863 in both Lithuania and Poland.

During World War I, the Russian occupation finally ended when Lithuania was overrun by the German armies, but the price in Lithuanian losses was great. In 1917, the combined pressures of German defeats and the Russian Revolution produced a climate suitable for the declaration of Lithuanian independence. Thus, a congress of 200 Lithuanian delegates proclaimed an independent Lithuanian republic based upon democratic principles on February 16, 1918.

The first few years of independence were difficult. When the Germans retreated from the Lithuanian capital of Vilnius on January 15, 1919, the Red Army seized the city and installed a Communist government. The Red Army was, in turn, driven out the following year by the Polish army, creating a tension between these two historically linked nations that lasted for the rest of the interwar period.

On July 12, 1920, the Soviet Union signed a peace treaty recognizing the sovereignty of Lithuania, and parts of the treaty are worth quoting today:

> In conformity with the right declared by the Russian Soviet Federated Socialist Republic that all peoples have the right to free self-determination, including the right of full secession from the State of which they are a part, Russia recognizes without any reserve the sovereignty and independence of the State of Lithuania with all juridicial consequences resulting from such recognition, and voluntarily and forever renounces all sovereign rights possessed by Russia over the Lithuanian people and territory. The fact that Lithuania was ever under Russian sovereignty does not place the Lithuanian people and their territory under any obligation to Russia.

The first permanent constitution of the new republic was adopted on August 1, 1922, and provided for freedom of speech, assembly, religion, and communication. The power of legislation was vested in the Seimas, and the executive authority rested in a president and a cabinet of ministers. In 1938, after 12 years of military rule and rule by presidential decree, a second constitution was adopted, which vested stronger powers in the executive, but reaffirmed the civil rights provisions of the original constitution.

The new republic was a poor country, but efforts were made to improve agriculture, and a land-reform program increased peasant ownership of the land. Labor-control laws were instituted to complement government efforts at industrialization. The number of schools and the number of students increased dramatically, and Lithuanian literature flourished.

Lithuania suffered greatly during the Second World War. The Germans seized territory in 1939, and a mutual assistance treaty was imposed by the Soviet Union. In June 1940, the Soviets demanded the formation of a friendly government, and the following month a rigged election resulted in the request for incorporation into the Soviet Union. On August 3, 1940, Lithuania was declared a member republic of the U.S.S.R. by the Supreme Soviet in Moscow.

During the initial Soviet occupation, Lithuania suffered the loss of 45,000 people, most of whom were deported to Siberia, and some were executed when the Soviet forces retreated before the invading Germans. During the German occupation, a policy of colonization brought several thousand German families to settle in Lithuania. Almost all Lithuanian Jews were executed or deported to concentration camps by the Nazis.

Lithuania was recaptured by the Red Army in 1944 and was closed off, along with the other Baltic republics of Latvia and Estonia, from the other Soviet republics as well as the rest of the world. Freedom of movement for outsiders is still largely restricted to the capital of Vilnius.

As the major institution of cultural and nationalistic expression, the

Catholic Church in Lithuania was an early target of the postwar Soviet occupation. Vincentas Borisevicius, Bishop of Telsiai, was arrested in February 1946 and condemned to death after a secret trial. That same year, his assistant, Bishop Pranas Ramanauskas, was also arrested and deported to Siberia. Bishop Teofilius Matulionis of Kaisiadorys and Archbishop Mecilovas Reinys of Vilnius were deported to a Siberian labor camp. Archbishop Reinys died in prison, and by 1947, Lithuania was left with a single bishop, Kazimieras Paltarokas of Panevezys, who died in 1958. By 1947, the last convents and monasteries were closed, their communities dispersed, and all monastic institutions were outlawed.

Although the overt repression eased somewhat in the post-Stalin era, more subtle policies have persistently attempted to eradicate Lithuanian cultural institutions. As in Estonia and Latvia, the Soviet Union has engaged in a strategy of Russification in Lithuania. Ethnic Russians and other non-Lithuanians have been encouraged to settle in Lithuania, and Russian language and culture are promoted at the expense of Lithuanian literary use and study.

Most recently, Soviet authorities have committed an outrage by the persecution of individual Lithuanian clergy and believers. The Reverend Alfonsas Svarinskas was arrested and charged with trumped up violations, and sentenced to 7 years in a labor camp and 3 years of exile. Moreover, Father Sigitas Tamkevicius, pastor of a church in Kybartai and a member of the Catholic Committee for the Defense of Believers Rights, was arrested on May 6, 1983, at the trail of Father Svarinskas. In addition to the persecution of individuals, the Soviets have restricted seminary enrollments and attempted to infiltrate the students who do manage to enroll in theological institutes.

The Soviet treatment of Lithuania is sadly consistent with their policies in all non-Russian areas of the last empire on Earth—the Soviet Union. This tragedy of basic human rights violations is underscored by blatant Soviet hypocrisy in their signing of the Helsinki Accords and other international agreements. We do well to honor Lithuanian Independence Day because for almost 40 years, the Lithuanianas have survived the threat of cultural extinction by the Soviet Union. I join my colleagues and fellow citizens in praising Lithuania's rich history and anticipate Lithuania's independence future.●

● Mr. FROST. Mr. Speaker, I am pleased to join with my colleagues in commemorating the 66th anniversary of Lithuanian Independence Day. Both my wife and I are of Lithuanian descent and we are justifiably proud of that heritage. Lithuania is a nation that for most of its history has had its sovereignty violated and its freedom suppressed by the Soviet Union, and yet the spirit of its people has never been broken. They have never abandoned their struggle for freedom and we must let them know that we have not abandoned them.

The brave people of Lithuania have resisted repeated attempts to replace their language and culture with that of their Russian oppressors. They have remained faithful to their religions, language, and traditions, forcing the Soviets to abandon the policy of forced russification. The two brief decades of independence that Lithuania enjoyed were marked by a flourishing of education, literature, and art, as well as great achievements in opera and music. Clearly, this is a nation of great resources that has tragically been cut off from the outside world.

Let us take this opportunity to reaffirm our commitment to the people of Lithuania in their struggle for freedom. As Americans, we share with them a common love of democracy and freedom. It is our responsibility as a nation to see that these brave people are not forgotten.●

● Mr. FORD of Michigan. Mr. Speaker, it is a great privilege for me to join my colleagues in commemorating the 66th anniversary of Lithuanian Independence Day. In marking this anniversary we are once again reminded of the conditions under which the people of Lithuania live.

On February 16, 1918, the Lithuanian nation proclaimed itself an independent and free state. However, in the summer of 1940 the independence of Lithuania ended when the Soviet Union annexed Lithuania. This annexation was accompanied by an untold number of human rights violations. These violations of the most basic human rights, like freedom of speech and press, continue to this day as the Soviet Union attempts to "russify" the people of Lithuania. Yet, against all of these threats to their indentity the courageous people of Lithuania continue to hold on to their unique identity.

Mr. Speaker, I am moved by the determination and courage of these people. I am thankful for the opportunity to pay tribute to their commitment for the most basic of all human rights—the right of self-determination. Napoleon once said:

> There are only two powers in the world, the sword and the spirit. In the long run the sword will always be conquered by the spirit.

It is the spirit of the people of Lithuania that will one day overcome the Soviet sword.●

● Mr. LIPINSKI. Mr. Speaker, February 16 is a day that represents great joy to the Lithuanian people. Lithuania declared its independence on that day in 1918, pledging to bring to its people freedom and dignity. The Lithuanian Government gave its people liberty until 1940, when the Soviet Union annexed Lithuania.

I am honored to join with my colleagues in observing Lithuanian Independence Day and calling for liberty and justice in Lithuania. The freedoms and opportunities that we take for granted in America are not available to the people of Lithuania. They cannot even discuss politics with their neighbor; instead, they must always guard what they say and to whom they say it.

In spite of the crushing oppression that has dominated the lives of Lithuanians since the Russians took over in World War II, the Lithuanian people have not lost their determination to be free. Every year a few courageous souls are willing to risk imprisonment or death to escape the tyranny imposed by the Soviet Union. The Lithuanian people have not let the specter of Soviet repression squelch their desire for liberty.

In commemorating Lithuanian Independence Day, we must rededicate ourselves to working for freedom around the world. Lithuania is only one example of a country whose noble dreams and ideals are overshadowed by restriction and repression. I join with my colleagues in praying that the Lithuanian people will soon enjoy in their land the fruit of liberty which grows so abundantly in America.●

● Mr. HOYER. Mr. Speaker, I am pleased to join my distinguished colleague, FRANK ANNUNZIO from Illinois, in commemorating the 733d anniversity of the Lithuanian State and the 66th anniversary of the establishment of the modern Republic of Lithuania. While I honor this noble country and its people, I also grieve with and for them for their sad history. For it is a history of a people struggling to be free; a people who want nothing more than to be able to live, worship, study, and dream in a country they can completely call their own.

Domination over the Lithuanians by the Russians has been evident since 1831, when the czarist government attempted to replace the Lithuanian language and culture with its own. After strong resistance, the Lithuanians were able to retain their religion, language, and traditions.

It was during 20 years, from 1918 to 1939, that the Lithuanians proved what they could really do if given the briefest glimmer of independence. During this time land reform changed an agrarian society of 450 family-owned estates into 335,720 farming units. It also saw an industrialization process that turned 151 businesses into 16,131. There was a labor control law, an 8-hour day. The number of schools doubled and literature and cultural arts flourished.

But it was all to end, as again the Soviets took dominion over their country. In 1 short year, 30,000 Lithuanians were deported to Siberia. One year later, under the Nazis, almost all Lithuanian Jews were executed. And, once again, after the war and "liberation" by the Soviet Union, there were more deportations—at least 300,000 were forced to leave their homeland.

Despite these horrible violations of her sovereignty, the people of Lithuania have retained a national consciousness that has defied the yoke of Soviet repression. Their dream of self-determination and statehood remains strong, and I am hopeful that actions such as those taken in the House today, furthers that goal.

Mr. Speaker, the people of Lithuania have cried out for our support time and time again and we have never failed to offer it. Their hope for the future is our hope, and we share in the struggle of the millions of courageous Lithuanians, both in their own country and abroad.●

● Mr. BOLAND. Mr. Speaker, today we are commemorating the 66th anniversary of the restoration of the Lithuanian's independence. I am pleased to join my colleagues in the House, and members of the Lithuanian-American community in observing this event.

Today is indeed an important day because we are reminded of the period in history when Lithuania was subjugated by the Soviet Union, and the Lithuanian people were stripped of their independence. Lithuania's struggle for national sovereignty has been a long and ardous one. In 1918, after more than a century of Russian domination, Lithuania emerged as a free and independent state. Today, Lithuania is no longer free. In 1940, Russia invaded Lithuania, disregarding the 1920 peace treaty between the two states.

Despite the occupation of their country by the Soviet Union, the people of Lithuania have never lost their commitment to liberty and human dignity. The Lithuanians have resisted complete Soviet domination and have retained much of their culture and heritage. That spirit still remains a vital force in Lithuanian national life even now, 66 years after Lithuania declared its independence.

Mr. Speaker, the courage and perserverence of the Lithuanian people have set an example for us all. As Americans, we continue to support the efforts of the Lithuanians in restoring the freedom they once had and certainly deserve.●

● Mr. RUSSO. Mr. Speaker, today we observe the 66th anniversary of the independent state of Lithuania. I am proud to join my colleagues in commemorating the anniversary of the Declaration of Independence of Lithuania when in 1918 the courageous citizens of Lithuania claimed their rights and freedom. The subsequent period was full of the kinds of accomplishments that we would expect from a proud and free people. A catalog of these accomplishments would necessarily be incomplete but should include mention of their progressive social legislation, thriving art and literature, high educational attainment, and significant economic progress.

Peace and freedom in Lithuania were tragically replaced by war and oppression during the Second World War. Following military occupation and election manipulation, Lithuania was incorporated into the Soviet Union against the manifest will of the majority of the Lithuanian people. This was a great tragedy, but yet it has never overshadowed the spirit of the Lithuanian people.

The commemoration of the Declaration of Independence for Lithuania is a time of mixed emotions—observing the tragedy as well as the pride. But while this day calls to mind the terrors of war, displacement, and forced occupation, the spirit of hope and determination of the Lithuanian people should impress upon all of us that freedom for them is still attainable. Despite constant Soviet pressure, Lithuania has continued its fight for nationalism. The persistent unrest in Lithuania underscores Moscow's inability to destroy grassroots nationalism in that area. Even after centuries of Russian domination, anti-Soviet incidents regularly occur in Lithuania, Estonia, and Latvia, where national groups forcefully assert their claims to maintain their religious, linguistic, and ethnic traditions.

Again, let us proclaim our support for the people of Lithuania in their constant struggle for the liberties and freedoms that we as Americans can enjoy every day of our lives. Let us join in this struggle by drawing the world's attention to it. By paying tribute to and recognizing the strength of these courageous people, we remain true to our own American moral and political ideals, and say to the world, "these people, too, must be free."●

● Mrs. HALL of Indiana. Mr. Speaker, it is an honor for me to shower praise upon the great people of Lithuania on this day.

I join my colleagues and the Lithuanian-American community in commemorating the 66th anniversary of Lithuanian Independence Day. Someday the hopes of the Lithuanian people shall be heard and their country will once again be free and autonomous.

On February 16, 1918, the people of Lithuania, after centuries of domination, united and declared themselves to be a free and independent nation. Although physical independence was lost in 1940 to the Soviet Union, the spirit of the Lithuanian people is unbridled. Americans stand beside their Lithuanian-American brothers and sisters to strengthen a resolve in support of their self-determination.

Many of us struggle to make real one dream: freedom for all people. We must let it be known that there will always be someone fighting for the freedom of all people of the world. Today and for as long as necessary, we will fight for a free Lithuania and a free world. Those who would be our oppressors will not be dissuaded from their errant course without hard struggle.

One of the great progenitors of freedom for all men and women, Frederick Douglass, stated that, "Power concedes nothing without a struggle. It never did, it never will." Lest we forget, every person's struggle for freedom continues. Let the Lithuanian people be an inspiration, a symbol of the unconquered human spirit. We, who continue to struggle, shall never die but merely hand the torch of freedom to another generation of fighters. May the children of Lithuania smile one day from the experience of freedom.

By commemorating Lithuanian Independence Day the House of Representatives has focused attention on this important moment and what it means as a symbol of freedom for all. I praise my colleagues for their steadfast support on this day.●

● Mr. RATCHFORD. Mr. Speaker, February 16, marked the 66th anniversary of Lithuanian Independence Day. I want to take this opportunity once again to pay tribute to Lithuanians everywhere who continue to work and hope for the liberty they have been denied so long.

Soon after the Lithuanian people established their own government and proclaimed their independence at the close of World War I, the Bolsheviks invaded the new State. The Lithuanians fought the invaders and drove them out. On July 19, 1920, the Soviet Government signed a peace treaty declaring that it "voluntarily and forever renounces all soverign rights possessed by Russia over the Lithuanian people and their territory." For a brief 20 years, Lithuania enjoyed the freedom and self-determination it had struggled so valiantly to achieve.

Twenty thousand Soviet troops returned to Lithuania with the advent of another world war, and in July 1940, the Communists forcibly annexed the country. Since then, Lithuania and its neighbors have suffered the perpetual darkness of Soviet oppression. We in the West who think of the colonial era as a time long past need only to recall the ongoing subjugation of the Lithuanian people.

I stand in deep admiration of the steadfast national consciousness of the Lithuanian people. Let us take this opportunity to reassert our solidarity with them, and with all people who face Soviet aggression every day of their lives. I look forward to the day, and I know it will come, when Lithuania's dream of freedom is realized.●

● Mr. ECKART. Mr. Speaker, Lithuania's struggle for national sovereignty symbolizes the fight of oppressed peoples found in every pocket of the world. The hardships endured by the Lithuanian people embody the American ideals of persistence, perseverance, and the willingness to combat a restricted, oppressive system. I join with my colleagues, as well as with the freedom-loving people living in this Nation, in commemorating Februaray 16—the anniversary of the Lithuanian Declaration of Independence.

Since the Soviet Union's illegal annexation of the State of Lithuania in 1940, the country has suffered unbearable indignities. The sovietization of Lithuania's economy, the nationalization of her industry, and the collectivism of her agriculture, have robbed Lithuanians of their rightful heritage. The 1 million people of Lithuanian descent residing in the United States serve to remind us and give us courage that their culture is not dormant; but rather that the vigilance of their fight can spearhead an independent Lithuania. Though the dream may not materialize in this generation, it will be sustained by our children.

We, in the United States, must double our efforts to duplicate the courage of the bravW2 Lithuanians by recommitting ourselves to the policy of self-determination. It is a privilege to express admiration for the Lithuanian cause, and to be free to celebrate a commemoration of her Independence Day.

I would like to insert in the RECORD at this point a resolution by the Lithuanian American Council expressing its deep commitment to the values of freedom and self-determination.

LITHUANIAN-AMERICAN COUNCIL, INC.,
CLEVELAND CHAPTER

We, Lithuanian Americans of the Cleveland area, gathered at the parish auditorium of the Our Lady of Perpetual Help Church in Cleveland, Ohio, on Sunday the 12th day of February, 1984, to observe the sixty-sixth anniversary of the restoration of independence of Lithuania and to honor those who gave their lives for its freedom, have adopted the following resolution:

Whereas, on February 16, 1918, Lithuania, a sovereign state and a kingdom since 1251 AD, that was overrun by its neighbors in 1795, rose again after a 123 year occupation and in its ancient capital of Vilnius proclaimed itself an independent republic; and

Whereas, on June 15, 1940, the Soviet Union, acting in conspiracy with the Hitler regime, broke all existing treaties with the Republic of Lithuania and forcibly occupied its territory, which fact had been confirmed by the Select Committee on Communist Aggression of the U.S. House of Representatives of the 83rd Congress and condemned by all U.S. Administrations; and

Whereas, while practically all former colonies have been granted independence, the Soviet Union still remains a colonial empire and continues to subjugate, exploit and deny all human rights to the Lithuanian people and through a program of deportations and colonialization seeks to change the ethnic character of Lithuania, thereby committing genocide, which is contrary to the principles of civilized mankind; now therefore be it

Resolved, That we repeatedly demand that Soviet Union withdraw its armed forces and the rest of its apparatus from Lithuania and the other occupied territories and thus permit the people to exercise their sovereign rights; and be it further

Resolved, That we again express our deep gratitude to the United States Government for the firm position of non-recognition of the Soviet annexation of Lithuania and the other Baltic States and the declaration of the Baltic Freedom Day and also request the Administration to continue to direct the attention of world opinion at all international forums on behalf of the restoration of sovereign rights to the Lithuanian and other subjugated peoples and by other available means to influence the Soviet Union to cease all acts of genocide and the illegal occupation of Lithuania; and be it finally

Resolved, That this resolution be forwarded to the President of the United States and copies thereof to the Secretary of State, U.S. Representative Dennis E. Eckart, both U.S. Senators and all U.S. Representatives from Ohio and to the press.

Resolution submitted by the Cleveland Chapters of the Lithuanian American Council and the Lithuanian American Community of USA and adopted by this assembly.

K. ALGIMANTAS PAUTIENIS,
President, Cleveland Chapter of the Lithuanian American Council.
VLADAS CYVAS,
President, Cleveland Chapter of the Lithuanian American Community.●

● Mr. FISH. Mr. Speaker, we are here today to join the Lithuanian people in their hopes and aspirations for freedom and independence. Their struggle has been long and difficult. Since the tragic June days of 1940 and 1941 when the Soviet Union invaded the Baltic States of Estonia, Latvia, and Lithuania, they have been forced into subjugation to the Soviet State.

It is estimated that approximately 45,000 Lithuanians were lost to their country during this first Soviet occupation, during World War II. Many fled Soviet domination, but many thousands of others were deported to Siberia or executed when the Soviet forces retreated under German attack.

When Germany began to lose its hold on Europe, Lithuania did not return to the freedom and independence it held prior to the war. Instead, it found itself dominated once again by the Soviet Union. Since its annexation and incorporation by the Soviet Union, we have been privy to very little of the events occurring within the country. The borders of Lithuania, as well as of Latvia and Estonia, have been kept sealed against the outside world and each other.

What news does escape is bad. Because of Soviet policies there has been a considerable change in the composition of the population of Lithuania. When the Soviets came back to power in 1944, some 80,000 Lithuanians fled to Western Germany. Another 60,000 were found in Eastern Germany and deported to Siberia. During 1945 and 1946 an additional 145,000 Lithuanians were deported. Again, in 1949 another 60,000 were deported. Some softening in the Soviet actions toward the dispersal of the Baltic peoples had occurred since Stalin's death. About a third of those deported have been permitted to return home. Most of the others though are believed to have perished.

The United States recognized the independent Lithuanian Government on July 27, 1922, and has never, since then, recognized that Nation's incorporation by the Soviet Union. We continue to maintain diplomatic relations with the representative of the former independent government. The Lithuanian people continue to resist the tyranny of their oppressors and we can do no less. We are here today to reassert our recognition of the sovereignty of the Lithuanian State. There should be no question that it is the inalienable right of the Lithuanian people to national independence and individual freedom. I join my colleagues in reaffirming that right.●

● Mr. SENSENBRENNER. Mr. Speaker, 44 years ago, the Soviet Union rolled their tanks into the tiny country of Lithuania in further pursuit of the outrageous Communist dream that, some day, all the world will envelop the Marxist doctrine.

The Soviets' puppet regime which currently governs has thoroughly and systematically erased those liberties for which the Lithuanian people so bravely won on February 16, 1918. Sporadic reports of demonstrations and protests against the current government prove that the spirit of independence remains strong, and that the goal of self-determination can be realized once again.

We must realize that when we celebrate Lithuanian Independence Day, there are also countless others who live under the ruthless tyranny of the Soviets as well. The current Soviet system is a system which chooses to forego economic progress in the face of massive shortages of food and basic material items in order to enhance its military capability; with which, as past history dictates, it would use to force its will onto other defenseless, peace-loving people. In celebrating Lithuanian Independence Day, we must call upon the Soviets to honor the Helsinki accords of 1975, in which, the Soviet Union acknowledges the right of self-determination.

The United States of America, the stronghold for freedom, the model for free people everywhere, must band together with its allies in support of the oppressed Lithuanian people, in celebrating the freedom they briefly knew, until the day they once again are free to control their own destiny.●

● Mr. PORTER. Mr. Speaker, today we commemorate Lithuanian Independence Day. The most significant tribute we can pay to Lithuania is to remember that Lithuania was once a free and independent sovereign democracy. Lithuania along with its sister States in the Baltic have been illegally occupied by the Soviet Union since 1940.

The Soviets have tried to create a new Soviet man. They have done this by systematically attempting to suppress the culture, religion, and existence of these former states. This program of russification has been resisted vigorously by the people of Lithuania. Its purpose is clear: To crush the individuality of the many nationalities within the Soviet Union, and to subjugate them to the dominance of the Russian majority.

The Soviet authorities have turned Lithuania and the other two Baltic States, Latvia and Estonia, into enormous military bases, with installations of atomic and conventional weapons. In Estonia, among the new military installations under construction are a huge harbor at Muuga, near Tallina, and missile bases on the island of Hiiumaa and at Cape Suurupi.

The proud people of Lithuania have fought to be independent, and will surely continue their fight until they have achieved their goal of rejoining the free and independent nations of this world.

There are hopeful signs on the horizon in the future. The United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States and has continued to maintain diplomatic relations with representatives of the independent republics of Estonia, Latvia, and Lithuania. The Congress has called upon the President of the United States, under Senate Concurrent Resolution 80, to direct the American delegation to the United Nations to bring the question of self-determination for Lithuania before all appropriate fora of the United Nations and in particular before the United Nations Commission on Human Rights.

The United States has refused to legitimize the Soviet seizure of the Baltic States. I am hopeful that this policy has given strength to dissidents in Lithuania to continue their brave struggle against the tyranny of their Soviet masters. Lithuanian Independence Day gives Americans who cherish their freedom an opportunity to remind the Russians that we have not forgotten our Lithuanian friends. We will never forget the cause of Lithuanian independence and will continue to fight for its restoration along with all the other subjugated nations of the U.S.S.R.●

● Mr. EDGAR. Mr. Speaker, February 16 marked the 66th anniversary of the founding of the Republic of Lithuania, as well as the 733d anniversary of the birth of the Lithuanian State. I commend the gentleman from Illinois for reserving time today to mark these important dates.

Forty-four years have passed since the Republic of Lithuania was illegally annexed by the Soviet Union, yet Lithuanians everywhere still proudly commemorate the date of their independence. In the United States we have a strong and vocal Lithuanian-American community, which contributes to our Nation while preserving the very special culture of their land of origin. In Lithuania, over 3 million people struggle to maintain their identity in the face of religious persecution and attempts at Russification.

The Lithuanian commitment to freedom is best seen in the activities over the past few years of the Lithuanian Helsinki Monitoring Group and the Committee for the Defense of the Rights of Believers, which have worked to establish human rights and religious freedom in that country. Members of these groups have continued to stand up for the rights and freedom of all people, despite harassment, imprisonment, and exile by Soviet authorities.

Mr. Speaker, our Government has taken a firm position against the incorporation of the Baltic States into the Soviet Union; we have never recognized the annexation of Lithuania by the Soviets. I hope that Members will take this opportunity to reaffirm this commitment by joining me as a cosponsor of House Concurrent Resolution 192, which calls on our representatives to the United Nations to raise the question of the occupation of Lithuania, Latvia, and Estonia by the Soviet Union. The courage and hope of the Lithuanian people should be an inspiration to all of us as we seek to promote freedom and human rights around the world.●

□ 1800

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 30 minutes.

● Mr. NEAL. Mr. Speaker, I am informing the House today of a U.S. Export-Import Bank proposal to extend direct credits of $147,050,000 to make possible the sale of three new Boeing 767-200 jet aircraft to Egyptair, the national airline of Egypt.

The Eximbank said that Boeing won the Egyptair contract despite strong competition from Airbus Industrie, the European aircraft consortium, and that financing was "a crucial factor" in the sale.

The three Boeing 767-200's, plus related spare engines and parts, will sell for an estimated $173 million. The Boeing Co. of Seattle will manufacture the airframes for the planes, and the engines will be made by the Pratt & Whitney Aircraft Group of United Technologies Corp. in Hartford, Conn. Other U.S. firms will supply parts.

This Eximbank financing notification was referred to me as chairman of the Banking Committee's Subcommittee on International Trade, Investment, and Monetary Policy. Under section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, the Eximbank is required to notify Congress of proposed credits or financial guarantees, or combinations thereof, of $100 million or more. Unless the Congress by its action determines otherwise, the Eximbank may give final approval to the transaction after 25 days of continuous session of the Congress after notification.

I am submitting for the RECORD the complete Eximbank notification, which provides details and terms of the proposed Egyptair loans. I would welcome any comments or questions my colleagues might have about the Eximbank proposal.

The Eximbank material follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., February 3, 1984.

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Eximbank has submitted a statement to the Speaker of the House of Representatives and the President of the Senate in accordance with the provisions of Section 2(b)(3)(i) of the Export-Import Bank Act of 1945. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

NANCY S. PIGMAN,
Congressional Relations Officer.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., February 3, 1984.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Room, U.S. Capitol.
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the House of Representatives with respect to the following transaction involving U.S. exports to Egypt:

A. DESCRIPTION OF TRANSACTION

1. PURPOSE

Eximbank is prepared to authorize direct credits of $147,050,000 to Egyptair to facilitate the purchase in the United States by Egyptair of three (3) new 767-200 jet aircraft and related spare engines and parts. The engines for the Boeing aircraft are Pratt and Whitneys manufactured by United Technologies Corporation. The total U.S. export value for this transaction is estimated to be $173,000,000. This purchase by Egyptair of Boeing aircraft follows intense competition with Airbus Industrie, the European aircraft consortium.

2. IDENTITY OF THE PARTIES

(a) Egyptair

Egyptair is the commercial air carrier of Egypt and is wholly-owned by the Government of Egypt. Established in 1932 as Misr Airwork, Egyptair is one of the oldest airlines and was a founding member of IATA. In 1942 the Government of Egypt bought out the private shareholders of Misr Airwork and it became the national flag carrier of Egypt. Egyptair's present route structure extends from Cairo west to London, Madrid and Copenhagen; east to Bangkok, Manila and Tokyo; and south to Abidjan, Nairobi and Dar es Salaam. Thirty-eight percent (38%) of Egyptair's passenger traffic in 1981 was carried on its domestic routes. Eximbank has had no previous experience with Egyptair.

(b) Government of Egypt

The Government of Egypt will unconditionally guarantee payment of Egyptair's indebtedness to Eximbank under the direct credits.

3. NATURE AND USE OF GOODS AND SERVICES

The principal goods to be exported from the United States are three new generation 767 commercial jet aircraft, to be used by Egyptair on its domestic and intercontinental routes. The airframes for the 767's will be manufactured by the Boeing Company of Seattle, Washington. The engines for the aircraft will be manufactured by the Pratt and Whitney Aircraft Group of United Technologies Corporation in Hartford, Connecticut. In addition, other U.S. firms will furnish spare parts.

B. EXPLANATION OF EXIMBANK FINANCING

1. REASONS

The Eximbank credits totalling $147,050,000 will facilitate the export of $173,000,000 of United States goods. Sales, profits and employment for U.S. aircraft manufacturers and their subcontractors are heavily dependent upon exports. Through 1990, aircraft purchases by foreign airlines are expected to account for a very high percentage of total U.S. aircraft sales. Eximbank's financial support for exports of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining a large share of the market for commercial jet aircraft, but recently U.S. suppliers have faced increasingly competitive sales and financing arrangements of Airbus Industrie and its supportive official export credit agencies in France, Germany and the United Kingdom.

Boeing estimates that the export of its three aircraft will provide 1,470 direct and indirect man/years of work for Boeing, United Technologies and their respective subcontractors. In addition, Boeing has indicated that small business will supply 17.3 percent of the dollar value of the 767 airframe and engine costs. Additional benefits which will flow to the United States from the transaction include sizeable follow-on exports of spare parts, ground support and other related equipment.

Competition between Boeing and Airbus Industrie for this sale has been intense. After more than eight months of constant review and negotiation, Egyptair has chosen the Boeing 767-200 over the Airbus A-310 to serve its widebody needs. A crucial factor in Egyptair's decision was financing.

Foreign official export credit support for the A-310 was offered on the basis of a loan for 62.5 percent of the purchase price at an interest rate of 12 percent and a "second tranche" loan for 22.5 percent at an interest rate of 12.5 percent. Eximbank, having confirmed the Airbus offer, issued a Preliminary Commitment to Boeing to support the sale of five (5) 767-200's on matching terms. Egyptair has requested Eximbank to convert the P.C. into final credits with respect to three (3) aircraft, with the P.C. for the remaining two (2) continuing in effect until June 30, 1984.

Therefore, Eximbank is offering a direct credit financing package aggregating 85 percent of the cost of the aircraft, of which 62.5 percent shall be at an interest rate of 12 percent per annum, and 22.5 percent shall be at an interest rate of 12.5 percent per annum.

2. THE FINANCING PLAN

The financing plan for the total U.S. procurement supported by the Eximbank direct credit is as follows:

	Percentage of U.S. Cost	Amount
Cash payment	15	$25,950,000
Eximbank direct credit (Tranche 1)	62.5	108,125,000
Eximbank direct credit (Tranche 2)	22.5	38,925,000

(a) Eximbank charges

Tranche 1 and Tranche 2 of the Eximbank direct credits will bear interest at the rates of 12 percent and 12.5 percent per annum, respectively, payable semiannually. Eximbank will charge a commitment fee of ½ of 1 percent per annum on the undisbursed amounts of the Eximbank direct credits and a credit application fee of 2 percent of the amounts of the Eximbank direct credits.

(b) Repayment terms

Aggregate disbursements under the Eximbank direct credits will be repaid pari passu by Egyptair in 20 equal semiannual installments beginning February 5, 1985.

Attached is additional information on Eximbank activity in, and economic data on, Egypt.

Sincerely,

WILLIAM H. DRAPER III.

Attachments.

Eximbank Exposure in Egypt as of December 31, 1983

	Millions
Direct loans and financial guarantees	122.0
Medium-term bank guarantees and insurance	112.3
Short-term insurance	2.0
Total exposure	236.3

REPAYMENT EXPERIENCE

Although there have been some payments delayed for technical reasons, payments of principal and interest due on Eximbank loans to Egyptian borrowers are current.

EGYPT: BASIC DATA

Area, 386,000 square miles.

Population, 1982; 44 million.

Annual population growth; 2.9 percent.

Per Capita GDP, fiscal year 1982; $663 (converted at official rate); $400 (converted at free market rate).

Origin of GDP, Fiscal Year 1982:	*Percent share*
Agriculture	18.7
Industry and mining	12.8
Petroleum	14.2
Construction	4.5
Trade and finance	17.3
Government and other services	17.1

Wholesale price increase[1]	*Percent*
1979	17.1
1980/81[2]	6.9
1981/82	8.2
1982/83	11.9

[1] Heavily weighted with subsidized items and therefore understated.

[2] In May 1980 the fiscal year was changed from January-December to July-June.

GOVERNMENT BUDGET

[In millions of Egyptian pounds]

	1980/81[1]	1981/82	Prel 1982/83
Revenues	7,279	8,733	9,800
Expenditures	9,846	13,227	14,645
Deficit	-2,567	-4,493	-4,845
Deficit as percent of GDP	15	22	21

[1] In May 1980 the fiscal year was changed from January-December to July-June

BALANCE OF PAYMENTS

[In millions of U.S. dollars]

	1980/81	1981/82	1982/83
Exports, f.o.b., of which	3,985	4,144	3,555
Petroleum	(2,857)	(3,032)	(2,468)
Imports, c.i.f.	-8,722	-8,617	-8,258
Trade balance	-4,737	-4,473	-4,703
Services, net	3,338	2,365	3,613
Suez Canal fees	(780)	(909)	(956)
Workers' remittances	(2,855)	(2,032)	(3,057)
Tourism	(712)	(611)	(600)
Current account balance	-1,336	-2,057	-1,064
Capital account, net	1,194	666	896
Balancing item		1,466	1,057
Overall balance	-142	+77	+889

MAJOR EXPORTS

[U.S. dollars in millions]

	1980	Percent of total	1980/81	Percent of total	1981/82	Percent of total
Crude oil	$2,430	65	$2,559	65	$2,600	65
Petroleum products	567	15	620	16	729	18
Raw cotton	423	11	394	10	430	11
Oranges	39	1	47	1	54	1
Cotton yarn	214	6	220	6	174	4
Textiles	82	2	67	2	57	1
Miscellaneous manufactured articles	87	2	111	3	107	3

EXTERNAL CIVILIAN PUBLIC DEBT

	1980/81	1981/82
Outstanding and disbursed, end of period, total	15,066	16,645
Medium- and long-term, public	13,772	15,020
Medium- and long-term, private	320	455
Short-term debt	974	1,170

DEBT REPAYMENT

	1980	1981	1982	1982/83
Principal	1,219	1,451	1,821	1,804
Interest	318	412	481	577
Total	1,537	1,863	2,302	2,381
Debt service ratio, percent	15.9	19.8	24.6	26.4

●

ADMINISTRATION'S PROPOSALS THREATEN AMERICAN HOME BUYERS AND MORTGAGE FINANCE INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, several weeks ago the administration in a draft proposal included legislative changes that would weaken and diminish the vital role in the mortgage finance industry of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association.

I immediately wrote to Chairman ROSTENKOWSKI of the House Ways and Means Committee to whom this legislation would be referred and who has been very supportive on issues relating to housing, expressing my concern over this draft proposal, in particular, the retroactive provision presently in the draft that would place a cloud over a new mortgage finance mechanism known as the collateralized mortgage obligation (CMO).

On February 10, five of the top representatives of the Nation's housing and mortgage lending industries wrote President Reagan expressing their opposition to this same draft proposal advanced by this administration. In their unanimous judgment, this proposal would cause an immediate increase in interest rates and other unnecessary consequences for the American home buyer. This letter reads as follows:

> AMERICAN BANKERS ASSOCIATION,
> MORTGAGE BANKERS ASSOCIATION OF AMERICA, NATIONAL ASSOCIATION OF HOME BUILDERS, NATIONAL ASSOCIATION OF REALTORS, NATIONAL COUNCIL OF SAVINGS INSTITUTIONS,
> *February 10, 1984.*
>
> The PRESIDENT,
> *The White House,*
> *Washington, D.C.*
>
> DEAR MR. PRESIDENT: On behalf of the Nation's housing and mortgage lending industries, the undersigned would like to express our opposition to an Administration proposal that will cause an immediate increase in mortgage interest rates. We are referring to the prohibition, upon introduction, of transactions similar to Trusts for Investments in Mortgages (TIMs) that is contained in the U.S. Treasury's proposed TIMs bill. In particular, we would like to express our extreme dismay at the provision in the Administration's TIMs bill that would make the bill's prohibition of TIMs-like transactions effective as of the date of introduction.
>
> This provision will result in the immediate curtailment of TIMs-like activity, such as the issuance of Collateralized Mortgage Obligations (CMOs) by FHLMC and FNMA, as well as CMOs issued by private concerns that are backed by securities guaranteed by Federal agencies or instrumentalities. This moratorium would result because of the uncertainty CMO sponsors would face that at some time in the future CMO offerings made subsequent to the introduction of the bill would face extremely adverse tax consequences because sponsors would be denied a deduction for interest paid on such bonds if the Administration bill is enacted. Thus, even before the merits of these TIMs-like activities are examined in Congress, the use of this invaluable financing technique will come to a standstill.
>
> The cost of this curtailment will be borne immediately by the homebuying public in the form of higher mortgage interest rates, because the better prices and lower yields CMOs enjoy have permitted lower mortgage rates for consumers than would otherwise be the case. This provision will also make portfolio restructuring for thrift institutions more expensive if they cannot sell loans to FHLMC in its CMO program.
>
> To ensure the continuance of our industries' efforts to provide affordable home financing alternatives, we request that the section that effectively prohibits TIMs-like transactions be dropped from the bill. Failing that, we urge that the effective date for the prohibition of TIMs-like transactions in the Treasury's bill be effective on the date of enactment of the Act, and not on the date of introduction. We can then present the positions of our respective industries to the Congress and debate the merits of the Administration's TIMs bill rather than present a case that in one very important respect is moot from the outset.
>
> Felix M. Beck, President, Mortgage Bankers Association of America; Peter D. Herder, President, National Association of Home Builders; C. Robert Brenton, President, American Bankers Association; Donald H. Treadwell, President, National Association of Realtors; M. Todd Cooke, Chairman, National Council of Savings Institutions.

As you will note, Mr. Speaker, the objections of these industry groups focus on the provision that I mentioned earlier in which the administration would prohibit retroactive to the date the bill is introduced, certain types of secondary mortgage market activity involving collateralized mortgage obligations. The CMO is a specific type of mortgage-backed bond pioneered by the Federal Home Loan Mortgage Corporation and presently issued by many private investment firms as well.

Mr. Speaker, it is well known that the Reagan administration is determined to disengage Government, including the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association from the marketplace, relying upon "free market" forces alone to allocate resources to produce the appropriate amounts of goods and services, including housing, for the American people.

It is surprising, nevertheless, that the administration is proposing to end the ability of any secondary mortgage market entity, private as well as Government sponsored, to offer any CMO or similar mortgage instrument using Government-related agency securities as collateral.

As the spokesmen for our Nation's financial, homebuilding and real estate industries point out in their letter to the President, the effect of the administration proposal will be "immediate curtailment in the issuance of CMO's by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Corporation, as well as CMO's issued by private concerns that are backed by securities guaranteed by Federal agencies or instrumentalities." The cost of this curtailment, the spokesmen emphasize, "will be borne immediately by the home buying public in the form of higher mortgage interest rates, because the better prices and lower yields CMO's enjoy have permitted lower mortgage rates for consumers than would otherwise be the case." This provision, they add, will also make portfolio restructuring for thrift institutions more expensive if they cannot sell loans to the Federal Home Loan Mortgage Corporation in its CMO program.

Mr. Speaker, the administration's draft bill is designed to open the way for creation by private concerns of trusts for investment in mortgages, or TIM's, which would be allowed to pool mortgages and issue securities against them without incurring tax liability at the pool level. Although the Congress has not had the opportunity to consider all aspects of this TIM's proposal, the issue has been discussed in hearings and has been well received by the legislative branch. However, it now appears the administration is not only seeking approval of its TIM's proposal, but in the same breath is asking Congress to shackle the congressionally chartered secondary mortgage market agencies, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Government National Mortgage Association, which over the years have won bipartisan acclaim for their extraordinary service to the American home buyer. Indeed, the irony is that the administration would destroy the highly successful CBO's developed by the Federal Home Loan Mortgage Corporation and now extensively used by the private sector to promote housing credit, even before Congress has acted on the TIM's legislation.

As the Nation's housing and mortgage lending spokesmen pointed out to the President in their recent letter, "even before the merits of these TIM's-like activities are examined in Congress, the use of this invaluable fi-

nancing technique (COM's) will come to a standstill."

Mr. Speaker, I strongly object to this misguided approach to the formulation of public policy, and I agree with the industry spokesmen.

Therefore, Mr. Speaker, I, along with a number of my colleagues, am introducing a sense of the House resolution that expresses this conviction, and I urge my colleagues to join in sponsorship of this important message.

SUMMARY OF IMMIGRATION REFORM ACT OF 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROYBAL) is recognized for 5 minutes.

● Mr. ROYBAL. Mr. Speaker, I am submitting for the benefit of my colleagues, the following:

SUMMARY OF IMMIGRATION REFORM ACT OF 1984

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

Part A—Preventing displacement of domestic workers by unauthorized aliens

Sec. 101. Authorization of appropriations for enhanced enforcement of labor laws:

Provides for a supplemental authorization to the Department of Labor for increased enforcement of certain labor laws, as they relate to violations involving undocumented workers under the Fair Labor Standards Act, and the Occupational Safety and Health Act with particular emphasis on areas with a concentration of such unlawful activities; and to the National Labor Relations Board for increased enforcement of labor-management laws: $5 million for fiscal year 1984 (last quarter); $25 million for fiscal year 1985; and $30 million for fiscal year 1986.

Directs the Secretary to develop a plan within 2 months for supplemental personnel and resources for fiscal year 1984; and to develop revised plans for fiscal year 1985 and fiscal year 1986.

Directs the Secretary to establish a program for efficient labor law enforcement to deter the employment of unauthorized aliens and remove the economic incentive for employers who exploit and use such aliens.

Directs the Secretary to develop this labor enforcement program in consultation with business and labor organizations, and labor law experts

Sec. 102. Enhanced enforcement of labor laws.

Establishes a civil penalty not to exceed $10,000 for willful violations of existing recordkeeping requirements under the Fair Labor Standards Act, or knowing violations of such requirements after receipt of a notice of a violation. This provision shall apply to violations occurring after the date of enactment.

Adopts an administrative mechanism for determination of a penalty, taking into consideration the size of the business and the gravity of the violation.

Part B—Improvement of INS enforcement and services

Sec. 111. Authorization of appropriations for enhanced enforcement and service activities of the Immigration and Naturalization Service.

States that two essential elements of the program of immigration control and reform established by the Act are (1) an increase in the border patrol and other INS enforcement activities, and (2) an increase in the service activities of the INS.

Provides for a supplemental authorization in fiscal year 1984 of $75 million for enhanced INS services and enforcement activities; and for start-up costs associated with the legalization program.

Provides overall authorization levels for INS activities in fiscal year 1985 and fiscal year 1986, including sufficient funds for the expansion of the enhanced service and enforcement program begun in fiscal year 1984: $700 million for fiscal year 1985, and $715 million in fiscal year 1986.

Provides that a significant portion of any additional appropriations will be available to improve INS delivery of services, including timely processing of petitions and applications.

Provides that any increase for enforcement activities should be used predominantly for border area patrol.

Directs the Attorney General to develop a plan within two months for supplemental personnel and resources for fiscal year 1984; and to develop revised plans for fiscal year 1985 and fiscal year 1986 for enhanced enforcement and services.

Sec. 112. Unlawful transportation of aliens to the United States.

Establishes criminal penalties for unlawful transportation of aliens to the U.S. for commercial advantage or private profit.

Sec. 113. Report on establishment of anti-smuggling program.

The Attorney General, jointly with the Secretary of State, shall initiate discussions with Mexico and Canada to establish formal bilateral anti-smuggling programs, and report to Congress within one year on the progress made in establishing such programs.

Sec. 114. Immigration emergency contingency plan.

Directs the Attorney General to provide for a contingency plan on the allocation and management of INS resources in the event of an immigration emergency and on providing assistance to affected States and localities.

Authorizes the Attorney General to request necessary urgent appropriations provided that the President has determined that an immigration emergency exists and has certified that fact to the Congress.

Sec. 115. Program of in-service training.

Directs the Attorney General to provide for in-service training programs to familiarize INS personnel in contact with the public with the rights and varied cultural backgrounds of aliens and citizens in order to safeguard the consititutional and civil rights, personal safety, and human dignity of all individuals with whom they have contact in their work.

Sec. 116. Enhancement of community outreach within the Immigration and Naturalization Service:

Provides for enhanced responsibilities for the INS community outreach program at the district level to provide outreach to the district population, to: improve services including naturalization, address community problems, and investigate complaints of INS abuse of authority. Allow INS to secure the assistance and services of community and voluntary organizations in furthering the improvement of services, particularly those related to naturalization.

Part C—Adjudication and enforcement powers and procedures

Sec. 121. United States Immigration Board and establishment of administrative law judge system.

Creates an independent agency within the Department of Justice, a 7-member United States Immigration Board (USIB), to hear and determine appeals from nearly all final decisions of administrative law judges, as well as review of certain exercises of discretionary authority, imposition of administrative fines and penalties, and determinations respecting bond, parole and detention.

Authorizes the Chair of the Board to appoint administrative law judges to hear cases of exclusion, deportation and suspension of deportation, adjustment of status (including legalization under Title III of this Act), rescission of adjustment of status, asylum, and such other immigration cases as the Attorney General may designate.

Sec. 122. Arrest, search, and detention authority of Service officers and employees.

Revises the Immigration and Nationality Act (INA) to clarify the authority of INS personnel to conduct detentions, arrests, searches and interrogations, to set the standards for the proper exercise of that authority, and to provide various procedural safeguards for persons detained and arrested and subjected to deportation proceedings.

Major provisions require speedy bail determinations, an advisement of rights in English and in the person's native language, open hearings, and a prompt administrative or judicial determination after an arrest of the sufficiency of evidence to initiate deportation proceedings.

Sec. 123. State and local enforcement of immigration laws.

Prohibits state and local law enforcement personnel from stopping, questioning, or detaining a person solely on the ground that the person may be deportable or excludable, except as specifically authorized by the INA.

Sec. 124. Effective dates and transition.

Provides the general rule that changes made by Part C of Title I take effect upon enactment, with specific exceptions for proceedings initiated before implementation of the administrative law judge system.

Requires the President to nominate the Chair and other members of the United States Immigration Board within 45 days of enactment.

Sec. 125. Technical and conforming amendments.

Changes to the INA to reflect the change in title of special inquiry officers to administrative law judges and transferring authority under this legislation.

Part D—Suspension of deportation

Sec. 131. Durational residency requirement.

Revises the requirement of continuous physical presence in the U.S. during a 7-year period for suspension of deportation, to that of continuous residency, for the same period.

TITLE II—REFORM OF LEGAL IMMIGRATION AND NATURALIZATION

Part A—Immigrants

Sec. 201. Providing additional immigrant visa numbers for natives of contiguous countries.

Provides 40,000 visas each for Mexico and Canada with the unused portion available to the other country.

Sec. 202. Change in colonial quota.

Increase the colonial quota from 600 to 3,000.

Sec. 203. Report on admissions and numerical limitations.

Requires a comprehensive Presidential report to Congress every three years on the impact on the U.S. of immigration.

Sec. 204. Miscellaneous provisions.

Permits natural fathers to petition for entry of their children, without the need for legitimation or adoption.

Extends to certain self-supporting retirees the waiver of numerical limitations as already provided to certain non-preference investors.

Permits university researchers to be treated as faculty for purposes of the certification process.

Part B—Nonimmigrant tourists

Sec. 211. Visa waiver for certain visitors.

Authorizes the Attorney General and Secretary of State to jointly establish a 3-year pilot program for the admission of foreign tourists without the need to obtain a visitor's visa with up to 8 countries under reciprocal arrangements.

Part C—Naturalization

Sec. 221. Providing option of administrative naturalization.

Confers jurisdiction on the Attorney General to naturalize persons as citizens and permits an alternative administrative naturalization procedure in lieu of the current judicial procedure.

Sec. 222. Waiver of English language requirement for individuals over 50 years of age.

Eliminates English language requirement for naturalization applicants over 50 years of age.

Sec. 223. Eliminates the requirement of 6 months residence in a state for naturalization.

Sec. 224. Reduces to 4 years the period of residence required for naturalization.

TITLE III—LEGALIZATION

Sec. 301. Legalization.

Provides that the Attorney General shall adjust to permanent resident status aliens who:

1. Establish that they entered the United States before January 1, 1982, and have resided continuously in the United States since that date;

2. Apply for adjustment during the 18-month period beginning no later than the sixth month after enactment;

3. Are not otherwise excludable, i.e., are admissible as immigrants with the following provisos:

(a) Grounds for exclusion which do not apply are the same as those in the Mazzoli bill.

(b) Other grounds for exclusion which are waivable for humanitarian purposes, to assure family unity, to prevent undue hardship, or when it is otherwise in the public interest are the same as those in the Mazzoli bill.

Prohibits a determination that an alien would be excludable under section 212(a)(15) of INA, as likely to become a public charge, where the applicant can demonstrate a history of employment evidencing self-support without reliance on public cash assistance.

4. Have not been convicted of any felony (other than certain violations of the INA involving re-entry) committed in the United States, and have not assisted in the persecution of any person on account of race, religion, nationality or political opinion; and

5. Register for the draft if required to do so by the Military Selective Service Act.

Provides that certain classes of aliens with the determination of their status pending are to be considered to be in unlawful status for purposes of this section (and hence able to apply for adjustment under this section.)

Directs the Attorney General to establish eligibility requirements by regulation and to publish guidelines for the approval of applications in consultation with the House and Senate Judiciary Committees and with voluntary agencies and organizations assisting in processing applications. An alien's application which meets such guidelines shall be approved, unless the Attorney General can establish legal grounds for its denial.

Requires the Attorney General, in establishing the guidelines, to:

1. Liberally construe the requirements for eligibility, taking into account the special circumstances of individuals residing in unlawful status.

2. Provide for flexibility in the determination of periods of continuous residence, allowing for brief and casual trips abroad, or for temporary trips required by emergencies or extenuating circumstances outside the control of the alien.

3. Provide that continuous residency is not lost if absences from this country are 45 days or less annually.

4. Accept the use of affidavits of witnesses to establish continuous residence.

Allows the Attorney General to waive the requirement of continuous residence in cases which would result in undue hardship to the alien, or his/her family.

Makes applicants subject to criminal penalties for knowingly and willfully making false statements in the submission of the application.

Provides for transitional legal status protecting applicant from deportation and permitting them to work legally pending determination of their status; and protects aliens apprehended before the end of the application period from deportation until they are afforded the opportunity to apply for adjustment and a final determination is made on such application.

Permits aliens to appeal denial of their applications.

Requires the Attorney General to designate qualified voluntary agencies and state, local, and community organizations to assist in disseminating information to potential applicants and in receiving applications; and protects the confidentiality of individually identifiable information contained in the applications.

Restricts eligibility for federal benefits for applicants who do not meet a 5-year continuous residency requirement, beginning on the earliest date the alien can demonstrate continuous residency while making them eligible for certain essential benefits.

Sec. 302. Cuban-Haitian adjustment.

Provides for adjustment of status to permanent residence of a specified class of Cuban-Haitians who entered the U.S. before January 4, 1982 and provides for continuation of benefits under Section 501 of the Refugee Education Assistance Act.

Sec. 303. State assistance.

Provides for full reimbursement to state and local governments for the costs of providing public assistance and public health services to eligible legalized aliens up to 4 years beginning on the date of the alien's adjustment of status.

Provides for assistance to states for providing educational services to eligible legalized aliens for the same period.

Sec. 304. Cooperation with state and local governments.

States that the Attorney General, Secretary of Labor, and Secretary of Health and Human Services will consider recommendations of advisory groups established by state and local governments to improve the implementation of this legislation.

TITLE IV—NATIONAL COMMISSION ON IMMIGRATION

Sec. 401. Commission on immigration.

Establishes a 4-year commission to study and seek solutions (legislative and administrative) to certain immigration problems such as: push and pull factors affecting unauthorized immigration, incentives for employers to use unauthorized aliens, dependency of the agricultural industry on temporary employment of unauthorized aliens, and backlogs for approved immigrants visa petitions.

With regard to the push and pull factors, the Commission will—

(1) Seek to develop, in partnership with Latin American countries reciprocal trade and economic development programs of mutual benefit.

(2) Review and analyze the economic and social conditions, patterns, and trends in the U.S. and in foreign countries affecting unauthorized immigration and long-term problems associated with unauthorized immigration (including the people-to-people program described in H. Con. Res. 196).

(3) Take into account prevailing and projected demographic, technological, and economic trends affecting immigration; the impact of immigration laws and their enforcement on unauthorized immigration and on conditions in foreign countries; the manner in which unemployment in the U.S. is affected by unauthorized immigration; and laws and policies governing relations between the U.S. and foreign countries.

(4) Conduct its reviews and analyses in close consultation with the governments of those foreign countries that are major sources of unauthorized immigration.

With regard to incentives associated with employment of unauthorized aliens, the Commission will—

(1) Assess the effectiveness of the enforcement of the labor laws in removing the economic incentives to hire unauthorized aliens.

(2) Assess the level of displacement of lawful resident workers by employment of unlawful residents.

(3) Review alternative measures to minimize job displacement while ensuring that employment discrimination does not occur, should it be found that enforcement of relevant labor laws are ineffective in removing economic incentives to employ unauthorized aliens.

With regard to temporary agricultural workers who are unauthorized aliens, the Commission will review the temporary worker program under the INA and assess present and future labor shortages in the industry, abuses of foreign and domestic agricultural workers, the feasibility and cost of effectiveness of training domestic workers to perform such work, and whether statutory changes in such program should be made.

With regard to immigrant visa backlogs, the Commission will study the existence and extent of backlogs in the issuance of immigrant visas for which applications have been approved and shall propose means of ameliorating such backlogs, with particular emphasis on family reunification, presenting their recommendations within 18 months enactment.●

EAST-WEST TRADE: A GERMAN PERSPECTIVE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. JONES) is recognized for 15 minutes.

● Mr. **JONES** of Oklahoma. Mr. Speaker, last month, at a conference held in Washington on economic interdependence and the future of world trade, Dr. Heinz Schimmelbusch presented a paper on "East-West Trade and Technology Transfer." As Congress continues its consideration of the Export Administration Act this year, and particularly the efficacy of embargoes, Dr. Schimmelbusch's paper should give us some guidance as to the position of our Western trading partners.

I am certain that Dr. Schimmelbusch shares my concern that critical military technology not fall into the hands of those who will use it against us, but his discussion of how such technology is transferred was illuminating to me.

I commend Dr. Schimmelbusch's paper to my colleagues' attention, and insert it at this point in the RECORD:

East-West Trade and Technology Transfer

(Statement of Dr. Heinz Schimmelbusch, member of the executive board of Metallgesellschaft AG)

1. East-West trade is only of minor importance for the West. Let me first illustrate the quantitative importance of East-West trade for the Western countries.

In fact, in the past exports from OECD countries to COMECON states and also their imports from those countries did not represent more than 3 to 5 percent of the entire foreign trade volume. The generally increasing trade volume has left these relationships virtually unchanged. This fact is illustrated for exports and imports in the first chart of my paper. The importance of East-West trade varies quite substantially between individual OECD-countries. West Germany's exports and imports to and from the Eastern Bloc account for no more than 5 percent of the total foreign trade volume even though West Germany, because of its geographical situation as a neighbouring state to the Eastern Bloc should be in the forefront of considering COMECON countries as its trading partners.

2. The relative role of East-West trade for COMECON countries is crucial.

The picture is quite different seen from the point of view of the COMECON countries. The OECD countries play a relatively important part in the foreign trade of the Eastern Bloc. After all, about one third of the total foreign trade volume of the Soviet Union and also of smaller Eastern Bloc countries is transacted with Western countries. In general, therefore, the Eastern Bloc's dependence on foreign trade with the West is of relative greater importance than the trading relationships with the Eastern Bloc for Western countries.

3. Technology transfer by exporting from the West to the East is insignificant.

In commenting on East-West trade one should be aware of the kind of goods exchanged in this trade. In exports to the Eastern Bloc, machinery, equipment and motor vehicles are predominant. Exports of agricultural products have caught up substantially during the last few years—as a consequence of grain exports—so that the proportion of those goods is now almost equivalent to the aforementioned technical goods. Other important export goods are chemicals and products of the steel industry which include, of course, the well-known embargoed pipeline supplies. As regards exports of industrial products, conventional technology continues to be in a leading position.

The quantitative importance of the export of high technology products is extremely low, at about 3.5 percent of total export to the Eastern Bloc, especially in comparison with the share of those products in total OECD trade. Furthermore with the products he buys, the customer usually obtains only a very limited amount of transferable know-how. The know-how is much more integrated in production processes and in the understanding of its use. In other words, transferable know-how is more easily conveyed through software rather than by hardware.

By far the most important route for technology transfer is not linked to trade in industrial products but passes via patents, licenses, scientific publications and other ways. I do not want to mention the words "espionage" and "cover organizations," because a good old German manager does not get mixed up in that sort of activity.

If one tried to categorize routes of technology transfer the conclusion would be that the trade of raw materials and manufactured products does not lead to significant transfer and that the transfer potential rises exponentially as we pass from the tangible area of physical goods to the more intangible field of software, from manufactured products, machinery and equipment via complete plants and systems to patents, licenses, scientific publications and to the "dark channels."

The company I represent, the Metallgesellschaft group is an engineering and trading organization only engaged in fields where technology transfer is limited. Our business with the Eastern Bloc comprises raw materials for the chemical and metal industries, nonferrous metals and large scale industrial plants.

4. For the West there is no critical dependence on imports from Eastern Bloc.

As regards the imports from Eastern Bloc countries, there is a clear predominance of raw materials, especially fuels which are supplied from the Soviet Union. As a result of the exploding energy prices during the seventies the proportion of energy raw material supplied to Western countries rises considerably during that period. This refers especially to Western Europe with regard to natural gas.

However, the frequently quoted dependence of Europe on the energy raw materials supplies of the Soviet Union is far less important than one could think.

This situation will not change when the natural gas agreement with the Soviet Union becomes effective. The Soviet Union's share of the energy supplies of individual West European countries is not more than 7-8%. In view of this relatively low share and considering the natural gas stocks along with the possibilities of substitution by other energy sources and supplies of energy from other countries, the dependence on the USSR is not dangerous. On the contrary, it constitutes a convenient additional energy option for West European customers.

5. Failure of embargo policy.

West Germany has had a rather sad experience with the "embargo" as an instrument of trade policy. The first steel pipeline embargo was imposed on the Soviet Union as long ago as 1963. It mainly affected our country as the main supplier of pipe; nonetheless we complied with the embargo. As a result, German supplies declined from 255,400 tons of steel pipe in 1962 to zero in 1966. What is more, the embargo had virtually no effect since on the one hand the Soviet Union found an alternative technical solution and on the other they found substitute suppliers in the West. You can well imagine that after this experience the new embargo affecting the natural gas pipeline contract was met with great skepticism in our country. As a German politician rightly observed the only real impact of the pipeline embargo by the U.S. was that the Soviet Union has put the pipeline construction as a Number One priority.

Another aspect of the natural gas pipeline contract has been the target of American criticism, too. Thus, it was alleged that as part of this unpopular bargain the loan interest had been subsidized to below market levels. But one thing should be made quite clear in this context: West Germany does not grant any public interest subsidies.

There is a credit insurance, for which, however, a market rate had to be paid. The interest subsidies in connection with the natural gas pipeline contract were paid by the private exporters who had, of course, made the corresponding allowance in their price calculations. The low interest rates were seen by the Soviet Union as a point of prestige.

6. Regulatory restrictions on East-West trade are ultimately ineffective.

Every nation obviously has the right to restrict exports of militarily relevant products to potential enemies. The question is how to define military relevance. My argument goes for a restrictive definition. Ultimately also the export of grain is militarily relevant, since it enables the receiving countries to save investments in the agricultural sector, freeing funds for other, including military, uses. A definition like this if enforced efficiently, would eliminate East-West trade and increase dramatically the probability of a military confrontation. The so-called "Cocom List" has to be oriented toward items directly usable for weapon systems. Items within the "dual use" range should be searched for how realistic a military application really is.

In general, it is very difficult to make any regulations effective when they are applied to market economies and free societies. We have to accept the fact that in a way we have to choose between our basic belief in the principles and the economic efficiency of an international free market society and its attractiveness on the one hand and a vast and sprawling application of bureaucratic efforts and restricted economies on the other.

The complex interrelationship of the various parties on both sides is so sensitive that political sanctions will inevitably hurt one's own cause. The direct and indirect economic costs of embargoes have never been thoroughly analyzed. I still believe that the high ranking Soviet official was serious when pointing out that the credit facilities worked out with the German banks for the pipeline deal helped the Russians to buy grain from American farmers.

7. East-West trade supports peace.

After all, in connection with foreign trade we should be aware that trade is always in the mutual interest, otherwise it wouldn't take place.

I am a firm believer in the stabilizing effects of interbloc economic cooperation. The more managers of industrial complexes at various levels on both sides of the Iron Curtain are in business contact the more the relative importance of military people is reduced and thereby political tensions decrease.

The German/French example: From the mid-18th century to World War II Germany and France fought a total of 13 wars. If 10 years after World War I somebody had had the courage to state that there would be no more wars between France and Germany, he would have been called a dreamer. If somebody made the same prediction today, it would be considered as a self-explicatory observation. The reconciliation between Germany and France, which makes any new outbreak of hostilities so unlikely, has been also caused by a dramatic increase in trade between both countries. From 1950 to 1982 the total volume of trade between these two countries increased eighty times, from 1.3 billion to 103.0 billion Deutschmarks.

Of course, this is to the same extent not achievable between countries of different political ideologies. It will for the foreseeable future not be possible to induce the Soviet Union to become an ally of the West, just for economic reasons. It was General de Gaulle who coolly observed that states tend to have interests—not friends.

But I believe that the mutual economic networking and the resulting interdependence of economies disentangles military confrontation and constitutes a valuable contribution to peaceful co-existence, maybe the only material counterbalance of the technicians to military build up.

For instance, my company is involved in building a large Methanol Plant in a COMECON country whereby the Methanol not used for captive purposes is exported under a compensation finance scheme. The building of such a plant takes years and the long-term purchase contract thereafter involving the logistics of large quantities of a liquid bulk commodity ensures that for a long period the parties involved have to cooperate in many ways. I could not think of a more durable system of ties than that provided by such ventures.

In a world where the influence of the military is increasing in both blocs the businessmen should act as a countervailing force maintaining the communication links between East and West and establishing interdependence which—by its very economic results—has a strong tendency to be repetitive and widening. One might note that by forcing the COMECON countries to become self-sufficient within their system nobody would benefit at all.●

RETREAT FROM A SECRECY MADNESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Brooks) is recognized for 5 minutes.

● Mr. BROOKS. Mr. Speaker, last week the New York Times ran an editorial entitled "Retreat from a Secrecy Madness." It cautions that the administration's recent decision to shelve portions of the President's polygraph and censorship directive does not end this matter and advises Congress not to relax our vigilance. Because this advice is sound and should be heard, I would like to insert the editorial into the Record.

[From the New York Times, Feb. 16, 1984]

RETREAT FROM A SECRECY MADNESS

Still protesting that Congress doesn't appreciate the peril to national security, the Reagan Administration is nevertheless retreating from its reckless hunt for leaks and leakers. At least for now, it has shelved the sweeping order imposing an unconscionable lifetime censorship on Federal employees and terrorizing normally trusted public servants with random lie-detector examinations.

Not being privy to the Administration's ultimate political secrets, we don't know what promoted this change of heart about treating the whole Government as if it were the Central Intelligence Agency. But the retreat is plainly tactical, not a conversion to openness. Congress, which blocked the order when it first appeared, cannot relax its vigilance.

It would be pleasant to conclude from this episode that President Reagan now understands that his problem about secrets is that there are too many of them, not too few; that a Government spinning wheels to chase minor leaks disables itself in real security matters; that censoring the writings of top officials—for life—will deprive the nation of able workers now and vital criticism in the future.

Congress was properly unimpressed with the Administration's specious alarm and narrow response. No less committed to effective government, it demanded evidence of the danger from uncensored articles by former officials. The search produced nothing of consequence.

Since the White House cannot see the light, it is good that the President's men at least felt the heat. The directive was becoming a political liability for an Administration that boasts of openness. If Mr. Reagan had refused to rewrite this chilling directive, Congress would have done the job.

The best response to the President's retreat is for Congress to renew its order forbidding any executive action on this front until it is given a new proposal. Then let the White House show, if it can, that there is any conceivable security risk that can justify any restriction on the rights of Government employees and the public's right to hear their views when they return to private life.●

A GREAT CITIZEN OF MONTEREY COUNTY PASSES AWAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Panetta) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, it is with great sadness that I bring to the attention of my colleagues the death of a good friend, Richard Bragg, who contributed as much as anyone I know to the well-being of the Monterey Peninsula in California.

Dick Bragg had recently begun his eighth year as president of the Monterey County Board of Education. He had served 15 years on the board, which was extraordinary in view of the fact that he lived in the area a total of only 18 years. In that job, Dick led the successful effort to establish Monterey County's educational cable television channel. He also directed many political and educational programs for the county office of education. Because of his excellent work, Dick was elected to an unprecedented two terms as president of the California County Boards of Education Association.

Monterey County owes a great debt of gratitude to Dick for his local accomplishments as well as his statewide work.

Dick led a varied professional life in addition to his work on the board of education. Dick held the following jobs during his life: public relations consultant, ghost writer, talk show host, lecturer, employment agency operator, management consultant, weekly newspaper publisher, political campaign director, and executive director of an industrial development group.

In 1980, Dick took on a job at my request which he carried out with flying colors. He directed the 1980 Federal census in the 16th Congressional District. As my colleagues know from their own experiences with the census, this was a complex and demanding job, and I could not have made a better choice for district director.

By the way, I should inform my colleagues that Dick's accomplishments came about without benefit of a high school degree. Like many of his generation, he was forced to drop out of high school during the Depression in order to help his family. It was not until the age of 32 that he received a high school "equivalency" degree.

Mr. Speaker, the death of Dick Bragg represents a terrible loss to the Monterey Peninsula and to my wife Sylvia and myself. But of course his family knows that loss better than anyone, and I know my colleagues join Sylvia and me in extending our deepest sympathy to Dick's wife Virginia and their entire family.●

B-1, THE PLANE THAT COULD NOT BE SHOT DOWN

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, last week Knight-Ridder newspapers published a series of three outstanding articles by its reporter Frank Greve giving the shocking story of the B-1 bomber and the coalition of aircraft builders, old bomber pilots, and Congressmen who secretly kept the B-1 project alive even after it was canceled by President Carter.

The article is a classic case history of how a determined group of members of the military industrial complex organized to foist an unneeded and costly weapons system on the American people even though the Commanding General of the Strategic Air Command and many other experts opposed it.

It is a story of manipulation, conflicts of interest, falsified cost estimates, and, above all, masterful political organization on the part of the prime contractor, Rockwell International Corp.

In the process, the cost per plane has gone from $29 million in 1969 to $390 million in November 1981, according to the most recent Congressional Budget Office estimate.

Mr. Speaker, 13 years ago, I participated with Senator George McGovern in an analysis of the B-1 bomber which concluded that, while in some respects it was an improvement over the B-52, it was not needed, it was technologically obsolete, and it would be immensely expensive. In the 13 years that have intervened, nothing has happened to change our original conclusions, except that the cost has escalated and the plane has become more obsolete.

If we ever needed an example of how the Pentagon wastes billions of dollars on weapons systems which add only marginally to our defense needs, the B-1 bomber is it.

Mr. Speaker, I am offering for the RECORD the first installment of the Knight-Ridder newspapers articles on the B-1 as published in the Akron Beacon Journal of February 12, 1984. I will offer the next installment for tomorrow's CONGRESSIONAL RECORD.

THE PLANE THAT COULDN'T BE SHOT DOWN

(By Frank Greve)

WASHINGTON.—Shortly before the outbreak of World War II, a British cavalry officer advised a group of cadets: "Gentlemen, you will find that in warfare there is no substitute for the horse, the well-bred horse."

Today, the manned bomber—like the horse in World War II—seems obsolete to more and more strategists: dashing, but not very smart. And that is not a new conclusion. In fact, since 1960, three U.S. presidents and their defense policy-makers have rejected manned bomber production, reasoning that improved Soviet air defenses had made suicidal the manned bomber's premier mission—bombing heavily defended targets inside the Soviet Union. They considered ballistic and cruise missiles more accurate, more reliable and cheaper.

Yet despite 20 years of turn-downs and deferrals, the Air Force has somehow won approval from the administration and Congress of plans to spend at least $114 billion by 2000 on a fleet of 210 new manned bombers.

How did this happen?

A three-part Knight-Ridder Newspapers series explains how a close alliance of generals, defense contractors and members of Congress gathered enough power to make military logic unimportant, sidestep or wait out skeptical presidents, and oust, sterilize or intimidate internal critics. The result was to give the United States the B-1 bomber, the most costly combat aircraft in history and, at the same time, a weapon of uncertain value to the nation's defense.

As the story of the B-1 illustrates, this close alliance—christened the "military-industrial complex" by President Dwight Eisenhower—has developed a weapons-buying system that produces profits and promotions in peacetime, even if it provides questionable tools for war.

It is an alliance that is well beyond checks. Indeed, the defense establishment has become so powerful that, in the case of the B-1, even Defense Secretary Caspar W. Weinberger got only the answers the plane's proponents wanted him to have when he questioned the wisdom of buying the bomber.

Rockwell International Corp., with headquarters in Pittsburgn, is a principal beneficiary of the decision to buy at least 100 of the new bombers—the first half of the Air Force's modernizing effort. Rockwell stands to gain $13.5 billion in contracts and about $400 million in profits for its lead role in building those 100 planes.

And there is another category of gainers: members of Congress, their aides and Air Force brass who backed the manned bomber and since have retired to become Rockwell consultants or full-time employees. They helped Rockwell's bomber programs survive the production vetoes of Presidents John Kennedy, Lyndon Johnson and Jimmy Carter, and they pushed for research money from Richard Nixon and Gerald Ford, who never had to decide about actual production. Finally a president came along who thought manned bombers were great—Ronald Reagan.

As for Congress, its enthusiasm for the new airplane soared in 1980 and 1981. During that period, as the B-1 evolved into an updated version called the B-1B, the bomber's price doubled to more than $200 million each. And as the price soared, the plane's expected performance actually dropped significantly. The most generous conclusion is that Congress, sensing jobs, contracts and votes, went along for the ride.

The series will describe how:

Defense Secretary Weinberger repeatedly "misspoke"—Weinberger's word—in testifying to Congress about how well the new bomber would perform.

The Air Force's premier B-1 proponent, Lt. Gen. Kelly Burke, deputy chief of staff for research, development and acquisition, orchestrated acceptance of the bomber within the Pentagon before he retired. Then he accepted a White House job as a consultant on strategic and space systems, and hired on as an adviser to Rockwell International, which, in addition to its lion's share of B-1 contracts, has big interests in military satellites and strategic weapons.

Nuclear freeze supporters such as Ohio's Sen. Howard Metzenbaum and California's Sen. Alan Cranston, knowing of massive B-1 contracts for their states, learned to love the bomber while hating the bomb.

The positively guaranteed fixed price of $20.5 billion for 100 B-1s was plucked from thin air by the Air Force, according to participants in the decision. Some consideration was even given to pricing the B-1 fleet at $19.9 billion, but the Air Force's B-1 backers decided that seemed too much like the dime store salesmanship that prices items at $2.98 and $14.99 to make them sound cheaper.

The Air Force over several years developed two different estimates of what the bomber would cost. "One (estimate) showed what we'd said the B-1 would cost," explained an Air Force auditor. "The other showed what we really thought it would cost." The difference, according to participants in the decision: better than $10 billion, enough to buy two nuclear-powered aircraft carriers, or more than double last year's federal aid to elementary, secondary and vocational schools.

Congress' willingness to oblige Rockwell is best explained by a simple statistic: The average senator favoring Rockwell in a key 1983 vote had at stake $1 billion in constituent contracts for the B-1. The average opposing senator had only $346 million in home-state contracts to lose.

Despite explicit assurances to the contrary, the Pentagon has stalled or starved research on another bomber likely to be superior to the B-1, the "Stealth" or Advanced Technology Bomber. One effect is to give Rockwell a better shot at the production contract for 110 more new bombers, due to be let in 1986.

Northrop Corp., prime contractor for Stealth, has not resisted Rockwell's recent ambitions. The reason, according to a Northrop lobbyist, is that the Air Force wants the B-1 and "If you're in business, you don't want to offend your best customers."

Expert Air Force committees advising Weinberger on the B-1 and its alternatives were so stacked that much detailed information challenging the B-1 never reached the Secretary's desk.

Although Rockwell and the Air Force both say the B-1 program currently is "on time and under budget," Gen. David Jones, former Air Force chief of staff and former chairman of the Joint Chiefs of Staff, has concluded that the B-1 will eventually cost more than is now predicted. He is not alone.

Compared with what it was supposed to be, the B-1 is a nosediving disappointment.

Originally the Air Force wanted a bomber capable of speeds in excess of 2,000 mph. Now the Air Force, recognizing that the B-1 could not meet that standard, has reduced the performance requirement to a cruising speed of a little less than the speed of sound at sea level, 738 mph.

Even with the costly fuselage design and variably swept wings once required for 2,000-mph speeds, B-1s were to cost only $29 million apiece back in 1969. Now those unneeded and expensive supersonic features are still aboard and the B-1's cost is up to $200 million each by the Air Force's accounting, $400 million by that of the Congressional Budget Office.

The price does not reflect itself in performance: Loading the B-1 with enough bombs, fuel and electronic defenses to make it matter in the battlefield of the 1990s has added 82,000 pounds to its takeoff weight, now 477,000 pounds. Comparing its weight to the thrust of its engines, the B-1 should actually maneuver more sluggishly than most passenger jets, its designers concede.

But those are not crucial concerns if the B-1 can use sophisticated electronic countermeasures to evade Soviet defenses and effectively drop bombs.

The question has always been: How long could penetrating bombers stay ahead of improving Soviet radar and missiles?

The answers, unfortunately, keep changing.

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The Carter administration decided the B-1 could not penetrate Soviet defenses beyond about 1990, according to classified documents described in congressional testimony by Sen. Carl Levin, D-Mich., a member of the Senate Armed Services Committee. Weinberger appeared to agree in October 1981 when he appeared before the same committee.

"I think there is no question whatever that we will not be able to use the B-1 as a penetrator after 1990," the defense secretary said then. "Probably by 1988 to 1989 you lose the ability to penetrate unless someone wants to direct suicide missions, and that is not anything I am going to do."

But in a recent interview, Weinberger said he now believes the B-1 will be able to penetrate Soviet defense until about 1997 or 1998. If he ever said otherwise, he added, "I certainly misspoke."

Sen. Ted Stevens, R-Alaska, chairman of the Senate Appropriations Defense subcommittee, also had problems with the B-1 following a closed-door CIA briefing in October 1981. He said he could see "practically no difference between the B-1 and the B-52 in penetration ability." And Stevens indicated to reporters just after the CIA briefing that both the B-1 and the B-52 (the Air Force's present strategic bomber) would be adequate against Soviet air defenses until about 1990.

Since B-1s were not to be fully deployed until 1988, according to administration plans. Weinberger's 1981 testimony suggested that the $20 billion to $40 billion outlay would net only two years of usefulness as a bomber of Soviet targets. And Stevens' conclusion was that B-52s could do the job almost equally well.

Such testimony does not win approval from Congress to buy weapons.

For example, the Strategic Air Command had prepared the secret report cited by Levin that reached the same pessimistic conclusions about the B-1 as Weinberger and Stevens. But by November of the same year, Gen. B. L. Davis, head of SAC, dismissed that report as "now outdated."

The biggest bomber fans always have been bomber pilots, bomber crewmen and SAC, the bomber branch of the Air Force. Since October, 1954 they have sought a replacement for their Boeing B-52 aircraft. In that tough campaign, May Day 1960 proved a day of infamy: A Soviet surface-to-air missile reached 65,000 feet over Sverdlovsk, northeast of Moscow in the Ural Mountains, and felled a U-2 reconnaissance plane and its pilot, Francis Gary Powers.

If Soviet radars and missiles could track and drop planes at 65,000 feet, bomber skeptics asked anew, what hope was there for heavy, sluggish bombers flying at much lower altitudes? This question is still being asked.

Another durable question: If radar-guided B-52 bombers in the Vietnam War had an accuracy of no better than a half mile, and modern ICBMs have an accuracy of 500 feet, what missions really require a manned bomber?

Air Force research since 1954, intended to answer those questions, has cost more than $9 billion. It has left behind museums-worth of drawing-board bombers: the Advanced Nuclear Penetrator (a nuclear-powered bomber literally downed by its protective lead weight,) the Subsonic Low Altitude Bomber, the Extended Range Strike Aircraft, the Low Altitude Manned Penetrator, the Advanced Manned Precision Strike System, the Advanced Manned Strategic Aircraft, the Long Range Combat Aircraft, the Cruise Missile Carrier Aircraft and the Strategic Weapons Launcher.

One reason bomber research continues is that the Strategic Air Command just doesn't like missiles. SAC officers should not be reduced to "the silent silositters of the '60s" advised Gen. Curtis LeMay, a founding father of SAC, when the missile threat to bombers first became evident in the Kennedy administration.

Instead, according to the LeMay doctrine still current at SAC, "Missiles, whether carried on airplanes or launched from the ground, will be (used) primarily to aid the penetration of the manned bomber."

That U.S. missiles should be considered threatening to U.S. bombers is a political fact of Pentagon life. It distorts arguments about the military merits of bombers and missiles, however, just as the preponderance of aircraft carrier admirals in the Navy distorts arguments about the military usefulness of carriers. And there's a further, larger political wrinkle on the bomber issue: Republican administrations over the past 30 years have been fonder of bombers than Democratic ones.

This has been doubly so when the presidents have come from America's aerospace heartland, Southern California. When Richard Nixon was running against John Kennedy in 1960, for example, he coaxed the Defense Department into announcing, a week before Election Day, that bomber research was to be boosted by more than $100 million annually. Most of the money went to his home state, California, which Nixon carried narrowly in his defeat.

Los Angeles-based North American Aircraft, which became a Rockwell division in 1967, benefited most from that move. It scored again in 1970 when the Nixon administration picked North American for the initial $1.35 billion B-1 bomber research and development contract over Washington-based Boeing and a Texas-based division of General Dynamics, both more experienced bomber-builders said by congressmen from their home states to have submitted lower bids.

Among the ardent fans of a Rockwell-built B-1 in 1970 was then-California Gov. Ronald Reagan, up for re-election against popular Democrat Jesse Unruh. Reagan again backed the B-1 in his 1976 presidential campaign, but he truly fell in love with it after July 1977. That's when President Jimmy Carter, regarded at the time as a powerful and charismatic populist, blocked B-1 production.

For the next three years, while Carter's popularity waned as Iranian fanatics took U.S. hostages and the Soviet Union invaded Afghanistan, Reagan and Republican conservatives made Carter's decision to stop B-1 production a symbol of his alleged weakness on defense. Bringing back the B-1, explained Republican platform writer William Schneider Jr., "became part of the Republican sacred litany."

By the 1980 presidential campaign, it was clear that Carter's loss would be Rockwell's gain. Not that the technical merits of the B-1 had changed. (Actually, the B-1 had lost ground, particularly to cruise missiles, which could be launched from outside the Soviet Union and which, being smaller, are harder for air defense radars to detect.) Rather, the B-1 bomber had become a political imperative for the Republican Party.

"Even those who were not experts in strategic weapons recognized the importance (of the B-1) in showing the determination of the Reagan administration to improve our defense posture," said Schneider, author of the strategic weapons chapter of the GOP platform. And the enthusiasm of nonexperts, keenly sensitive to symbolism about defense, suited Rockwell International just fine.

Immediately after Carter stopped B-1 production, reporters asked Bastian "Buz" Hello, president of Rockwell's North American Division, what he would do about it. "Not a thing," Hello replied. "Those people are paid to make those decisions."

And last summer Willard Rockwell Jr., board chairman emeritus of the company that bears his name, was asked what Rockwell International could do to influence opinion in Washington. "Not much that's legal," he replied.

Both Hello and Rockwell were being too modest.

In mid-1977, after the B-1 cancellation and after Reagan's decision to run again, a group of Rockwell executives placed what may have been regarded then as an odd sort of bet. For $25,000 a year, they hired as consultants to the Rockwell space division a small Los Angeles public relations firm, Deaver and Hannaford Inc.

The firm had only one prominent client at the time: Ronald Reagan. Michael Deaver and Peter Hannaford, aides to Reagan when he was governor, wrote and syndicated Reagan's radio and newspaper commentaries, booked his speeches and generally kept Reagan in public view from 1976 until the 1980 campaign took off.

For its $75,000 investment over three years Rockwell got principally a prototype for an eight-page newsletter for 14,000 Space Division employees. The newsletter was never published, according to Hannaford and a Rockwell spokesman. And, early in 1980, Rockwell International put Deaver and Hannaford on a $100,000-a-year contract.

Both men, at the time, were very heavily occupied with the Reagan campaign, according to Hannaford and Craig Fuller, a former executive with Deaver and Hannaford, now White House Cabinet affairs coordinator. Their major contribution to Rockwell, after receiving the new contract, is said by Rockwell spokesmen to have been another eight-page newsletter, this one for contributors to the company's political action committee. The first edition of that newsletter is dated "Spring 1982."

So the more evident value of retaining Hannaford and Deaver was to indirectly, and legally, promote the Reagan candidacy. Several companies and organizations closely allied to Reagan adopted a similar strategy after Reagan failed to win the Republican presidential nomination in 1976.

Dart Industries, now Dart and Kraft Inc., for example, hired Deaver and Hannaford. Dart's founder was the late Justin Dart, a prominent Reagan confidant. So did Pacific Mutual Life Insurance Co., on whose board sat William French Smith, outgoing U.S. attorney general. And so did the Institute for Contemporary Studies, on whose board sat Weinberger and senior Reagan adviser Edwin Meese III, Reagan's nominee to replace Smith.

While Reagan was the firm's biggest client in gross billings, according to Fuller, these other accounts were far more profitable.

After Reagan's victory in 1980, when Deaver became deputy White House chief of staff, Rockwell, like Deaver and Hannaford's other clients, gained a friend in court. "From time to time, if Rockwell wanted to see somebody, it helped ease the way so they could tell their story," explained a source close to Deaver and Hannaford.

Hannaford, who bought out his partner when Deaver joined the White House staff, confirmed his company's financial arrangement with Rockwell. "But if you're insinuating that we provide them with special access, the answer is no," said Hannaford. All his firm did on the B-1, he said, was "listen to (Rockwell's) views about how things were going, and comment upon it in relation to the general attitudes that people in the administration had on it."

Hannaford, whose firm is now the Hannaford Co., explained that "we and our clients all believe very strongly in the private enterprise system, capitalism and a strong defense, and the B-1 is part and parcel of that. It happens that most of the Reagan people feel the same way." Deaver, through a secretary, declined comment.

Rockwell corporate spokesman Sam Petok took more umbrage than Hannaford when asked whether the White House ties had helped the B-1 program. "Your line of questioning is unfair to the nation," Petok said. Later he cooled, asking rhetorically, "How does American politics work? You marshal all the resources you can."●

CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1984

(Mr. JONES of Oklahoma asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. JONES of Oklahoma. Mr. Speaker, pursuant to the procedures of the Committee on the Budget and section 311(b) of the Congressional Budget Act of 1974, I am submitting to the RECORD a letter to the Speaker advising him of the current level of spending and revenues for fiscal year 1984.

COMMITTEE ON THE BUDGET,
Washington, D.C., February 21, 1984.
Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending.

Pursuant to Committee Rule 10, I am herewith transmitting the status report under H. Con. Res. 91, the First Concurrent Resolution on the Budget for Fiscal Year 1984. This report reflects the adjusted resolution of October 25, 1983, and the current CBO estimates of budget authority, outlays, and revenues.

With best wishes,
Sincerely,

JAMES R. JONES,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1984 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 91

REFLECTING COMPLETED ACTION AS OF FEBRUARY 9, 1984

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	923,809	853,386	679,600
Current level	920,730	853,370	665,286
Amount under ceilings	3,079	16	
Amount under floor			14,314

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $3,079 million for fiscal year 1984, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 91 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $16 million in outlays for fiscal year 1984, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 91 to be exceeded.

REVENUES

Any measures that would result in a revenue loss for fiscal year 1984, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 91.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., February 10, 1984.
Hon. JAMES R. JONES,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriation levels for those items contained in the most recently agreed to concurrent resolution on the 1984 budget (H. Con. Res. 91). This report for fiscal year 1984 is based on our estimates of budget authority, outlays, and revenues using the assumptions and estimates consistent with H. Con. Res. 91.

Since my last report, the Congress has cleared for the President's signature the Veterans' Compensation and Program Improvements Amendments of 1984 (S. 1388) thus increasing the estimated current level of 1984 outlays.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	917,005	849,936	665,286
2. Entitlement authority and other mandatory items requiring further appropriation action	3,724	3,289	
3. Continuing resolution authority			
4. Conference agreements ratified by both Houses		145	
Current level	920,730	853,370	665,286
Budget resolution H. Con. Res. 91	923,809	853,386	679,600

[In millions of dollars]

	Budget authority	Outlays	Revenues
Current level is:			
Over resolution by			
Under resolution by	3,079	16	14,314

Sincerely,

RUDOLPH G. PENNER,
Director.

PARLIAMENTARIAN STATUS REPORT, HOUSE SUPPORTING DETAIL, FISCAL YEAR 1984 AS OF CLOSE OF BUSINESS FEBRUARY 9, 1984

[In millions of dollars]

	Budget Authority	Outlays
I. Enacted		
Permanent appropriations and trust funds	535,903	491,993
Appropriations enacted previous session	522,190	499,031
Offsetting receipts	−141,088	−141,088
Enacted this session		
Total enacted	917,005	849,936
II. Entitlement authority and other mandatory items requiring further appropriation action		
Child nutrition	417	222
Department of Defense		
Civilian pay raises	436	422
Military pay raises	1,205	1,169
Retired pay, Defense	133	65
Claims, Defense	63	57
Payment to Foreign Service Retirement Fund	3	3
Offsetting receipts	−3	−3
Range improvements	1	1
FUBA	33	33
Medicaid	556	556
Advances to unemployment		
Insurance trust fund	3,932	3,932
Offsetting receipts	−3,932	−3,932
Special benefits, disabled coal miners	20	20
Special benefits, federal employees	12	12
Social services block grants	25	25
Rehabilitation services and handicapped research	34	28
Guaranteed student loan program	132	
Payment to civil service retirement fund	230	230
Offsetting receipts	−230	−230
Civilian agency pay raises	657	678
Total	3,724	3,289
III. Continuing resolution authority[1]		
IV. Conference agreements ratified by both Houses: Veterans' Compensation and Program Improvements Amendments of 1984 (S. 1388)	*	145
Total current level as of February 9, 1984	920,730	853,370
Budget resolution H. Con. Res. 91	923,809	853,386
Amount remaining		
Over ceiling		
Under ceiling	3,079	16

[1] Agriculture, Commerce, State, Justice, Foreign Assistance, Treasury, Postal Service and General Government and other selected appropriations are funded under continuing resolution authority (Public Laws 98-151) for the full fiscal year and, therefore, are included in the enacted category of this report.

Note: Detail may not add due to rounding.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FORSYTHE (at the request of Mr. MICHEL), for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. OXLEY) to revise and extend their remarks and include extraneous material:)

Mr. Dannemeyer, for 60 minutes, February 23.

Mr. Walker, for 60 minutes, February 23.

Mr. Weber, for 60 minutes, February 23.

Mr. Gingrich, for 60 minutes, February 23.

Mr. Mack, for 60 minutes, February 23.

Mr. Emerson, for 60 minutes, February 27.

Mr. Bilirakis, for 60 minutes, March 20.

(The following Members (at the request of Mr. Durbin) to revise and extend their remarks and include extraneous material:)

Mr. Neal, for 30 minutes, today.

Mr. Gonzalez, for 30 minutes, today.

Mr. Roybal, for 5 minutes, today.

Mrs. Byron, for 5 minutes, today.

Mr. Jones of Oklahoma, for 15 minutes, today.

Mr. Brooks, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Donnelly, for 60 minutes, February 23.

Mr. Frank, for 60 minutes, February 23.

(The following Member (at the request of Mr. Gonzalez) to revise and extend his remarks and include extraneous material:)

Mr. Alexander, for 60 minutes, on February 23.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Morrison of Connecticut, prior to the vote on House Resolution 15.

Mr. Franklin, prior to the vote on House Resolution 15.

(The following Members (at the request of Mr. Oxley) and to include extraneous matter:)

Mr. Philip M. Crane in three instances.

Mr. Clinger.

Mr. Conte.

Mr. Petri.

Mr. Dannemeyer in two instances.

Mr. Kemp.

Mr. Porter.

Mr. Fields in two instances.

Mr. Michel in three instances.

Mr. Green.

Mr. Jeffords.

Mr. Smith of New Jersey.

Mr. McGrath.

Mr. Coats.

Mrs. Roukema in two instances.

Mr. Gingrich.

Mr. Schaefer.

Mr. Siljander in two instances.

Mrs. Martin of Illinois.

Mr. Roth.

Mr. Taylor.

Mr. Campbell.

Mr. Gilman.

Mr. Goodling.

Mr. Rinaldo.

(The following Members (at the request of Mr. Durbin) and to include extraneous matter:)

Mr. Lantos.

Mr. Bryant.

Mr. Markey in two instances.

Mr. Frost.

Mr. Gaydos.

Mr. Barnes.

Mr. Florio.

Ms. Kaptur in three instances.

Mr. Nowak.

Mr. Fauntroy.

Mr. Natcher.

Mr. Carr.

Mr. Long of Maryland.

Mr. Udall.

Mr. Fascell in two instances.

Mr. Hamilton.

Mr. Ottinger.

Mr. Edwards of California.

Mr. Downey of New York.

Mr. Frank.

Mr. Wyden.

Mr. Edgar.

Mr. Borski.

Mr. Berman.

Mr. Ford of Michigan.

Ms. Ferraro in two instances.

Mr. Gejdenson in two instances.

Mr. Boner of Tennessee.

Mr. Torricelli in three instances.

Mr. Rodino.

Mr. Sisisky.

Mr. Ireland.

Mr. Boucher.

Mr. Shelby.

Mr. LaFalce.

Mr. Kolter.

Mr. Ortiz.

Mr. Moody.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1388. An act to amend title 38, United States Code, to increase the rates of compensation for disabled veterans and the rates of dependency and indemnity compensation for survivors; to express the sense of the Congress that increases in the rates of compensation should take effect on December 1 beginning in fiscal year 1985; and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills of the House of the following titles:

On February 9, 1984:

H.R. 2898. An act to declare certain lands to be held in trust for the benefit of the Paiute Indian Tribe of Utah, and for other purposes.

On February 10, 1984:

H.R. 1557. An act for the relief of William D. Benoni.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 4 minutes p.m.), the House adjourned until tomorrow, Thursday, February 23, 1984, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Omitted from the Record of February 21, 1984]

2620. A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Tobacco Inspection Act to consolidate, and provide additional, authority for the Secretary of Agriculture to establish methods for efficient and equitable marketing of tobacco; to the Committee on Agriculture.

2621. A letter from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 8(b) of the Soil Conservation and Domestic Allotment Act to improve procedures for the selection of ASCS county and local committees; to the Committee on Agriculture.

2622. A letter from the Secretary of Agriculture, transmitting a report entitled "Needs Assessment for Fo[illegible]d Agricultural Sciences;" to the Committee on Agriculture.

2623. A letter from the director, Office of Management and Budget, transmitting a cumulative report on rescissions and deferrals of budget authority, pursuant to Public Law 93-344, section 1014(e) (H. Doc. No. 98-171); to the Committee on Appropriations and ordered to be printed.

2624. A letter from the Acting Assistant Secretary of Defense (Comptroller), transmitting a report of the value of property, supplies and commodities received from the Berlin Magistrate for the quarter October 1, 1983 through December 31, 1983, pursuant to Public Law 98-212, section 718; to the Committee on Appropriations.

2625. A letter from the Acting Secretary of Agriculture, transmitting a report entitled "Development of Alternative Technologies for Quarantine Treatment of Fruits and Vegetables"; to the Committee on Appropriations.

2626. A letter from the Secretary of Defense, transmitting a report on violations of the Anti-Deficiency Act, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

2627. A letter from the General Counsel, Department of Defense, transmitting an amendment to the Manual for Courts-Martial, pursuant to 10 U.S.C. 836(b); to the Committee on Armed Services.

2628. A letter from the Acting Assistant Secretary of Defense (Comptroller), transmitting a listing of contract award dates for the period March 1, 1984 to April 30, 1984, pursuant to 10 U.S.C. 139(b); to the Committee on Armed Services.

2629. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notice of the Air Force's decision to convert to contractor performance the source data entry function at Hill Air Force Base, Utah, pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, Section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

2630. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notice of the Air Force's decision to convert to contractor performance the fuels management function at Tinker Air Force Base, Okla., pursuant to 10 U.S.C. nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

2631. A letter from the Deputy Assistant Secretary of Defense (Installations), Department of Defense, transmitting active duty strength level of components of the Armed Forces and civilian personnel and base structure, pursuant to 10 U.S.C. 138(c)(3) (93 Stat. 806; 94 Stat. 2840); to the Committee on Armed Services.

2632. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter of Offer to Turkey for defense articles estimated to cost in excess of $50 million (Transmittal No. 84-18), pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

2633. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting a report on the proposed decision to convert to contractor performance the facilities services and supply service functions at the Naval Ordnance Station, Louisville, Ky., pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

2634. A letter from the Chief, Program Liaison Division, Office of Legislative Division, Department of the Air Force, transmitting the Department's report on experimental, development and research contracts of $50,000 or more, for the period July 1, 1983, through December 31, 1983, pursuant to 10 U.S.C. 2357; to the Committee on Armed Services.

2635. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize supplemental appropriations for fiscal year 1984 for the Armed Forces for operation and maintenance; to the Committee on Armed Services.

2636. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notification of the Air Force's decision to convert to contract the commissary shelf stocking and custodial services function at 24 Air Force installations (involving 10 or fewer civilian employees); to the Committee on Armed Services.

2637. A letter from the Acting Assistant Secretary of the Treasury (Legislative Affairs), transmitting a report entitled "Targeting Assistance to the Needy," pursuant to Public Law 95-118, section 1103 (95 Stat. 746); to the Committee on Banking, Finance and Urban Affairs.

2638. A letter from the Secretary of the Treasury, transmitting the 1983 fourth quarter report on the Olympic commemorative coin program, pursuant to Public Law 97-220, section 11; to the Committee on Banking, Finance and Urban Affairs.

2639. A letter from the Auditor, District of Columbia, transmitting a report entitled "D.C. Auditor Observations of ANC Improvement Needs," pursuant to Public Law 93-198, section 455(d); to the Committee on the District of Columbia.

2640. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 5-106, "Closing of a Public Alley in Square 1028 Act of 1983", and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2641. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 5-105, "Reprogramming Policy of 1980/Definitions and Process Amendments Act of 1983", and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2642. A letter from the Secretary of Education, transmitting final regulations in connection with "Pell Grant Cost of Attendance for 1984-1985", pursuant to GEPA, section 431(d)(1) (88 Stat. 567; 90 Stat. 2231; 95 Stat. 453); to the Committee on Education and Labor.

2643. A letter from the Secretary of Education, transmitting a draft of proposed legislation to improve the operation of the chapter 1 program authorized under the Education Consolidation and Improvement Act of 1981, to improve the effectiveness of migrant education programs, to provide for use of the most recent available decennial census information, and for other purposes; to the Committee on Education and Labor.

2644. A letter from the Secretary of Education, transmitting a draft of proposed legislation to consolidate existing Federal vocation programs, to simplify requirements for States and other recipients participating in Federal vocational education programs, and to authorize certain State and national programs for the development of vocational skills in the work force that will improve productivity and economic growth, and for other purposes; to the Committee on Education and Labor.

2645. A letter from the Secretary of Education, transmitting a draft of proposed legislation to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes; to the Committee on Education and Labor.

2646. A letter from the Secretary of Education, transmitting request for authorizing legislation for fiscal year 1985 for Indian education, pursuant to 31 U.S.C. 1110; to the Committee on Education and Labor.

2647. A letter from the Secretary of Energy, transmitting the annual report for fiscal year 1982 on Federal Government conservation programs, pursuant to EPCA, section 381(c); to the Committee on Energy and Commerce.

2648. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting an itemized report of revenues and expenses for the months of October and November 1983, pursuant to Public Law 91-518, section 308(a)(1) (93 Stat. 542; 95 Stat. 693); to the Committee on Energy and Commerce.

2649. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the annual report of activities for fiscal year 1983, pursuant to Public Law 91-518, sections 308(b) and 805(1)(B); to the Committee on Energy and Commerce.

2650. A letter from the Vice President for Governmental Affairs, National Railroad Passenger Corporation, transmitting a report on passengers carried and ontime performance for the months of October and November 1983, pursuant to Public Law 91-518, section 308(a) (2); to the Committee on Energy and Commerce.

2651. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the Department of the Army's proposed lease of defense articles to New Zealand (Transmittal No. 9-84), pursuant to AECA, section 62(a) or (b) (95 Stat. 1525); to the Committee on Foreign Affairs.

2652. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting Presidential Determination 84-4 and justification thereof for exercising his authority to authorize assistance for Yugoslavia under the international military education and training program for fiscal year 1984, pursuant to Sections 614(a)(1) and 620(f) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2653. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter of Offer to Turkey for defense articles and services estimated to cost $70 million (Transmittal No. 84-18) and the required certification that furnishing security assistance to Turkey is consistent with principles established in sections 620c(b), pursuant to AECA, section 36(b) (90 Stat. 741; 93 Stat. 708, 709, 710; 94 Stat. 31 34; 95 Stat. 1520) and FAA, section 620C(d); to the Committee on Foreign Affairs.

2654. A communication from the President of the United States, transmitting a report on the situation in Lebanon, including present and future participation of the U.S. Armed Forces in the multinational force, pursuant to Public Law 98-119, section (H. Doc. No. 98-170); to the Committee on Foreign Affairs and ordered to be printed.

2655. A letter from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a) (92 Stat. 993); to the Committee on Foreign Affairs.

2656. A letter from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a) (92 Stat. 993); to the Committee on Foreign Affairs.

2657. A letter from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a) (92 Stat. 993); to the Committee on Foreign Affairs.

2658. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, Department of State, transmitting political contributions by Richard Imus, rank of Ambassador, chief textile negotiator, and his family, pursuant to Public Law 96-465, section 304(b)(2); to the Committee on Foreign Affairs.

2659. A letter from the Secretary of State, transmitting request for authorizing legislation for fiscal years 1984, 1985, and 1986 for development and security assistance programs, pursuant to 31 U.S.C. 1110; to the Committee on Foreign Affairs.

2660. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO during January 1984, pursuant to Public Law 91-510, section 719(h); to the Committee on Government Operations.

2661. A letter from the Assistant Secretary for Health, Department of Health and Human Services, transmitting a report on a new system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2662. A letter from the Chairman, National Credit Union Administration, transmitting the administration's activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2663. A letter from the Chairman, U.S. International Trade Commission, transmitting the Commission's 1983 annual report of its activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2664. A letter from the Deputy Assistant Secretary of Defense, transmitting a report on a new system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2665. A letter from the General Counsel, Foreign Claims Settlement Commission, Department of Justice, transmitting a report on the implementation of the Government in the Sunshine Act for the year 1983, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2666. A letter from the Secretary of the Interior, transmitting a proposed contract with the East Bench Irrigation District of Dillon, Mont., pursuant to June 13, 1956, chapter 382; to the Committee on Interior and Insular Affairs.

2667. A letter from the Chairman, Pennsylvania Avenue Development Corporation, transmitting a report of activities during 1983, pursuant to Public Law 92-578, section 11; to the Committee on Interior and Insular Affairs.

2668. A letter from the Deputy Assistant Secretary of the Interior, transmitting a draft of proposed legislation to establish a working capital fund in the Bureau of Reclamation, Department of the Interior, and for other purposes; to the Committee on Interior and Insular Affairs.

2669. A letter from the Director, Administrative Office of the U.S. Courts, transmitting statistics concerning the bankruptcy court system; to the Committee on the Judiciary.

2670. A letter from the Secretary of Transportation, transmitting the second annual report on the delegation of vessel inspection and documentation services, and reviews of vessel hull, machinery, piping, and electrical plans to the American Bureau of Shipping, pursuant to July 5, 1884, chapter 221, section 8(c) (95 Stat. 1706); to the Committee on Merchant Marine and Fisheries.

2671. A letter from the Secretary of Transportation, transmitting a report of the administration's activities under the Merchant Marine Act, 1936, pursuant to June 29, 1936, chapter 858, section 208 (90 Stat. 380), section 804 (84 Stat. 1033; 94 Stat. 2241; 95 Stat. 164), and section 809(a) (89 Stat. 780; 94 Stat. 2241; 95 Stat. 164; to the Committee on Merchant Marine and Fisheries.

2672. A letter from the Special Counsel, Merit Systems Protection Board, transmitting a report of the Director, Federal Emergency Management Agency, on his investigation of allegations of violation of law and regulation and abuse of authority by officials of the National Emergency Training Center, Emmitsburg, Md., pursuant to 5 U.S.C. 1206(b)(5)(A) (92 Stat. 1125); to the Committee on Post Office and Civil Service.

2673. A letter from the Secretary of Transportation, transmitting the Department's report on the use of life-cycle cost factors (LCC) in rolling stock procurements for mass transit programs, pursuant to Public Law 88-365, section 12(b)(2) (96 Stat. 2151); to the Committee on Public Works and Transportation.

2674. A letter from the Administrator, Environmental Protection Agency, transmitting a 5-year plan for environmental research, development and demonstration, together with comments of the Science Advisory Board, pursuant to Public Law 94-475, section 5; Public Law 95-155, sections 4, 8(c), 9(a), and 10; to the Committee on Science and Technology.

2675. A letter from the Director, National Science Foundation, transmitting a request for authorizing legislation for the fiscal years 1985 and 1986 for the National Science Foundation, pursuant to 31 U.S.C. 1110; to the Committee on Science and Technology.

2676. A letter from the Secretary of Commerce, transmitting a request for authorizing legislation for the fiscal year 1985 for the operation of the civil land remote sensing satellite system by the Department of Commerce, pursuant to 31 U.S.C. 1110; to the Committee on Science and Technology.

2677. A letter from the Acting Secretary, Department of Agriculture, transmitting an assessment of, and program for the Nation's renewable resources, of the forest, range, and other associated lands, pursuant to Public Law 93-378, section 8(a) (90 Stat. 2949); jointly, to the Committees on Agriculture and Interior and Insular Affairs.

2678. A letter from the Secretary of Housing and Urban Development, transmitting a report on the activities of the Solar Energy and Energy Conservation Bank, pursuant to Public Law 96-294, section 519(a); jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

2679. A letter from the Acting Secretary, Department of Agriculture, transmitting a report on the Department's activities related to minority recruitment in the Foreign Service for the period ending September 30, 1983, pursuant to Public Law 96-465, section 105(d); jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

[Submitted February 22, 1984]

2680. A communication from the President of the United States, transmitting requests for supplemental appropriations for fiscal year 1984 and amendments to the request for appropriations for fiscal year 1985, pursuant to 31 U.S.C. 1107 (H. Doc. No. 98-174); to the Committee on Appropriations and ordered to be printed.

2681. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 5-110, "Closing of a Public Alley in Square 247 Act of 1983," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2682. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 5-109, "Closing of a Public Alley in Square 86 Act of 1983," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2683. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 5-108, "Closing of a Public Alley in Square 285 Act of 1983," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2684. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 5-107, "D.C. Relinquishment for Adoption Reform Act of 1983," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2685. A letter from the Vice President, Information Systems and Controller, Washington Gas Light Co., transmitting a copy of the company's balance sheet as of December 31, 1983, pursuant to 43 D.C.C. 313; to the Committee on the District of Columbia.

2686. A letter from the Director, Office of Bilingual Education and Minority Languages Affairs, Department of Education, transmitting notification that there will be a delay in submitting the biennial report on the condition of bilingual education in the Nation which was due on February 1, 1984, pursuant to ESEA, section 731(c) (92 Stat. 2278); to the Committee on Education and Labor.

2687. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Federal Railroad Safety Act of 1970, pursuant to 31 U.S.C. 1110; to the Committee on Energy and Commerce.

2688. A letter from the Assistant Secretary for Legislative and International Affairs, Department of State, transmitting a report on U.S. policy to establish and encourage an international strategy to prevent the cultivation and manufacture of and traffic in illicit drugs, pursuant to FAA, section 481(e)(1) (97 Stat. 1053); to the Committee on Foreign Affairs.

2689. A letter from the Director, Office of Legislative Affairs, Agency for International Development, transmitting an itemization of the amounts obligated and expended in Nicaragua for the period June 30, 1983 to December 29, 1983, pursuant to Public Law 97-113, section 724(e); to the Committee on Foreign Affairs.

2690. A letter from the Secretary of State, transmitting the seventh annual report on Americans incarcerated abroad, pursuant to Public Law 95-105, section 108; to the Committee on Foreign Affairs.

2691. A letter from the Director, Peace Corps, transmitting a draft of proposed legislation to further amend the Peace Corps Act, pursuant to 31 U.S.C. 1110; to the Committee on Foreign Affairs.

2692. A letter from the Employee Benefits Administrator, Farm Credit Banks of Wichita, transmitting the retirement plan for the employees of the associations and banks of the North Farm Credit District, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

2693. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report on the expenditure of appropriated funds for the period from October 1, 1983 to December 31, 1983, pursuant to 2 U.S.C. 104a (H. Doc. No. 98-175); to the Committee on House Administration and ordered to be printed.

2694. A letter from the Deputy Associate Director for Royalty Management Operations, Department of the Interior, transmitting proposed refunds of offshore lease revenues from Outer Continental Shelf lands, pursuant to the act of August 7, 1953, chapter 345, section 10(b); to the Committee on Interior and Insular Affairs.

2695. A letter from the Secretary of Commerce, transmitting the annual report on the marine sanctuary program for fiscal years 1981 and 1982, pursuant to Public Law 92-532, section 302(d); to the Committee on Merchant Marine and Fisheries.

2696. A letter from the Secretary of Commerce, transmitting the annual report on ocean pollution monitoring and research covering fiscal year 1982, pursuant to Public

Law 92-532, section 202(c) (94 Stat. 2242); March 10, 1934, chapter 55, section 5 (60 Stat. 1080); to the Committee on Science and Technology.

2697. A letter from the Chairman, Commission on Fair Market Value Policy for Federal Coal Leasing, transmitting the Commission's final report; jointly, to the Committees on Appropriations and Interior and Insular Affairs.

2898. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Natural Gas Pipeline Safety Act of 1968, as amended, and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1985 and 1986, pursuant to 31 U.S.C. 1110; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. APPLEGATE:

H.R. 4889. A bill to amend title 38, United States Code, to add the disease lupus erythematosis to the list of chronic diseases that are considered to be service connected for purposes of veterans' benefits if occurring within 1 year from the date of veteran's separation from service; to the Committee on Veterans' Affairs.

H.R. 4890. A bill to amend title 38, United States Code, to increase from $4,400 to $5,000 the maximum amount of automobile adaptive equipment assistance the Administrator of Veterans' Affairs may provide to a veteran with a service-connected disability; to the Committee on Veterans' Affairs.

By Mr. ARCHER:

H.R. 4891. A bill to provide duty-free treatment to certain cresylic acid; to the Committee on Ways and Means.

By Mr. BARNES (for himself and Mr. Nelson of Florida):

H.R. 4892. A bill to amend title 23, United States Code, to establish a nationally uniform minimum drinking age of 21 years; to the Committee on Public Works and Transportation.

By Mr. BETHUNE:

H.R. 4893. A bill entitled the "Arkansas Wilderness Act of 1983;" jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. CAMPBELL (for himself and Mr. Martin of North Carolina):

H.R. 4894. A bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage bonds to be issued; to the Committee on Ways and Means.

By Mr. DYMALLY (for himself, Mr. Solomon, Mr. Solarz, Mrs. Burton of California, and Mrs. Boxer):

H.R. 4895. A bill to permit the naturalization of certain Filipino war veterans; to the Committee on the Judiciary.

By Mr. EDGAR:

H.R. 4896. A bill to amend title 38, United States Code, to provide that bereavement counseling may be provided by the Veterans' Administration as part of a program of home health services; to the Committee on Veterans' Affairs.

By Mr. FEIGHAN:

H.R. 4897. A bill to amend the Clayton Act to provide for the consideration of certain mitigating factors in certain determinations; to the Committee on the Judiciary.

By Mr. FIELDS:

H.R. 4898. A bill to repeal mandatory social security coverage of employees of religious organizations and of employees of charitable and educational organizations affiliated with religious organizations; to the Committee on Ways and Means.

By Mr. FRENZEL:

H.R. 4899. A bill to suspend the duty on acetylsulfaguanidine until the close of December 3, 1986; to the Committee on Ways and Means.

By Mr. HUBBARD (for himself, Mr. Forsythe, Mr. Breaux, Mr. Bosco, Mr. Tauzin, Mr. Ortiz, Mr. Young of Alaska, and Mr. Sunia):

H.R. 4900. A bill to authorize appropriations for fiscal year 1985 for the operation and maintenance of the Panama Canal, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. HUGHES (for himself, Mr. Sawyer, Mr. Brooks, Mr. Fish, Mr. Schumer, Mr. Morrison of Connecticut, Mr. Feighan, Mr. Smith of Florida, Mr. Bennett, Mr. Shaw, Mr. Sensenbrenner, and Mr. Lewis of Florida):

H.R. 4901. A bill to amend the Controlled Substances Act, the Controlled Substances Import and Export Act, and the Tariff Act of 1930 to improve forfeiture provisions and strengthen penalties for controlled substances offenses, and for other purposes; jointly, to the Committees on the Judiciary, Energy and Commerce, and Ways and Means.

By Mr. HUTTO:

H.R. 4902. A bill to amend the Internal Revenue Code of 1954 to reduce the minimum adjusted gross income limitation on medical expense deductions from 5 percent of adjusted gross income to 3 percent; to the Committee on Ways and Means.

By Mr. MATSUI (for himself, Mr. Russo, and Mr. Waxman):

H.R. 4903. A bill to amend title XVIII of the Social Security Act to provide for an additional transitional year in which to implement the hospital prospective payment system; to the Committee on Ways and Means.

By Mr. OTTINGER (for himself and Mr. St Germain):

H.R. 4904. A bill to stabilize domestic oil prices by creating an independent corporation to buy and sell crude oil and petroleum products; to the Committee on Energy and Commerce.

By Mr. PETRI:

H.R. 4905. A bill to amend title 18 of the United States Code to provide capital punishment for first degree murder committed by prisoners serving a life sentence; to the Committee on the Judiciary.

By Mr. RINALDO (for himself, Mr. Rodino, Mr. Forsythe, Mr. Smith of New Jersey, Mr. Guarini, Mr. Hughes, and Mrs. Roukema):

H.R. 4906. A bill to amend the Clean Air Act to control sources of sulfur dioxides and nitrogen oxides to reduce acid deposition, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RITTER:

H.R. 4907. A bill to amend title II of the Social Security Act to extend the operation of recently expired provisions providing for continued payment of disability benefits during administrative appeal of terminations thereof, and to amend title XVI of such act to provide for a similar continuation of benefit payments under such title; to the Committee on Ways and Means.

By Mr. RODINO (for himself, Mr. Seiberling, and Mr. Feighan):

H.R. 4908. A bill to amend title 11 of the United States Code to clarify the circumstances under which collective bargaining agreements may be rejected in cases under chapter 11 of such title, and for other purposes; to the Committee on the Judiciary.

By Mr. ROYBAL (for himself, Mr. Edwards of California, Mr. Fauntroy, Mr. Garcia, Mr. Bates, Mr. Berman, Mrs. Boxer, Mr. Brown of California, Mrs. Burton of California, Mr. Gonzalez, Mr. Matsui, Mr. Conyers, Mr. Coleman of Texas, Mr. Dellums, Mr. Evans of Illinois, Mr. Mineta, Mr. Martinez, Mr. Ortiz, Mr. Reid, Mr. Torres, and Mr. Towns):

H.R. 4909. A bill to amend the Immigration and Nationality Act to revise and reform the immigration and nationality laws, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHAEFER:

H.R. 4910. A bill to reduce the rate of pay payable for Members of Congress to the rate that was in effect on December 31, 1983; to provide that rates of pay for Members of Congress may be adjusted only by act of Congress; to require a recorded vote on any proposed adjustment in rates of pay for Members of Congress, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Rules.

By Mr. SOLARZ:

H.R. 4911. A bill to amend the National School Lunch Act to restore the food service equipment assistance program repealed by the Omnibus Budget Reconciliation Act of 1981; to the Committee on Education and Labor.

By Mr. BORSKI (for himself, Mr. Morrison of Connecticut, Mr. Young of Alaska, Mr. Horton, Mr. Moakley, Mr. Pritchard, Mr. Carney, Mr. Addabbo, Mr. Dreier of California, Mr. Corcoran, Mr. Annunzio, Mr. Hoyer, Mr. Stangeland, Mr. Martinez, Mr. McCain, Mr. Fascell, Mr. Roe, Mr. Forsythe, Mr. Robinson, Mr. Latta, Mr. Akaka, Mr. DeWine, Ms. Kaptur, Mr. Evans of Illinois, Mr. Udall, Mr. Jacobs, Mr. Smith of New Jersey, Mr. Mazzoli, Mr. Gradison, Mr. Lundine, Mr. Dixon, Mr. Won Pat, Mr. Hawkins, Mr. Crockett, Mr. Wheat, Mr. Bilirakis, Ms. Mikulski, Mr. Kasich, Mr. Patman, Mr. Bonior of Michigan, Mr. Foglietta, Mr. Sunia, Mr. Darden, Mr. Gray, Mr. Moore, Mr. Siljander, Mr. Chappie, Mr. Weiss, Mr. Harrison, Mr. Ackerman, Mr. Kostmayer, Mr. Whitley, Mr. Emerson, Mr. Anthony, Mr. Fauntroy, Mr. Albosta, Mr. Frenzel, Mr. Gekas, Mr. Gephardt, Mr. Boland, Mr. Ford of Michigan, Mr. Fish, Mr. Packard, Mr. Alexander, Mr. Barnes, Mr. Bedell, Mr. Boner of Tennessee, Mr. Broomfield, Mr. Evans of Iowa, Mr. Broyhill, Mr. Stokes, Mr. Vento, Mr. Wortley, Mr. Simon, Mr. Beilenson, Mrs. Johnson, Mr. Ford of Tennessee, Mr. Conyers, Mr. Cooper, Mr. Coughlin, Mr. Coyne, Mr. Daniel, Mr. Daub, and Mr. Brown of California):

H.J. Res. 488. Joint resolution designating the week of October 21, 1984, through October 27, 1984, as "Lupus Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. SOLARZ (for himself and Mr. Barnes):

H. Con. Res. 261. Concurrent resolution expressing support for the initiatives of the Contadora Group; to the Committee on Foreign Affairs.

By Mr. EDWARDS of Oklahoma:

H. Res. 441. Resolution to amend the Rules of the House of Representatives to restrict the consideration of supplemental appropriation bills by the Committee on Appropriations; to the Committee on Rules.

By Mr. GONZALEZ (for himself, Mr. Schumer, Mr. Garcia, and Mr. Lowry of Washington):

H. Res. 442. Resolution to express the sense of the House of Representatives with respect to proposed limitations on the secondary mortgage activities and use of the securities of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LELAND:

H. Res. 443. Resolution to provide for the expenses of investigations and studies to be conducted by the Committee on Hunger; to the Committee on House Administration.

By Mr. ROYBAL (for himself and Mr. Rinaldo):

H. Res. 444. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Select Committee on Aging in the 2d session of the 98th Congress; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

[Omitted from the Record of February 21, 1984]

322. By the SPEAKER: Memorial of the Senate of the State of Massachusetts, relative to official governmental relations with the Republic of China; to the Committee on Foreign Affairs.

323. Also, memorial of the Legislature of the Territory of Guam, relative to Guam's deficit elimination plan and capital improvement projects request for fiscal year 1985; to the Committee on Interior and Insular Affairs.

324. Also, memorial of the Legislature of the State of Maine, relative to the sunset provision in Federal laws associated with tax-exempt mortgage revenue bonds for single family housing; to the Committee on Ways and Means.

325. Also, memorial of the Senate of the State of West Virginia, relative to foreign steel imports; to the Committee on Ways and Means.

[Submitted February 22, 1984]

326. By the SPEAKER: Memorial of the Legislature of the State of South Dakota, relative to adopting Taiwan-Republic of China as a sister state; to the Committee on Foreign Affairs.

327. Also, memorial of the General Assembly of the State of Indiana, relative to the atrocities committed against members of the Baha'i faith in Iran; to the Committee on Foreign Affairs.

328. Also, memorial of the Senate of the State of Pennsylvania, relative to the import of steel; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HOYER:

H.R. 4912. A bill for the relief of David Brown, Truc Nuong Brown, and Jeffrey Brown; to the Committee on the Judiciary.

By Mr. HUTTO:

H.R. 4913. A bill for the relief of Vincent J. Markalonis; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 287: Mr. Walker.

H.R. 461: Mr. Roe.

H.R. 625: Mrs. Smith of Nebraska, Mr. Nielson of Utah, Mr. Pease, Mr. Vander Jagt, Mr. Matsui, Mr. Bereuter, Mr. Richardson, Mr. Tallon, Mr. Aspin, Mr. Spratt, and Mr. Bonior of Michigan.

H.R. 1028: Mr. Vander Jagt, Mr. Duncan, and Mr. Morrison of Connecticut.

H.R. 1400: Mr. McCurdy.

H.R. 1415: Mr. Slattery, Mr. Wolf, Mr. Kildee, Mr. Hartnett, Mrs. Vucanovich, Mr. Franklin, Mr. Dwyer of New Jersey, Mr. Chandler, Mr. Gingrich, Mr. Darden, Mr. Lungren, Mr. Edwards of Alabama, and Ms. Fiedler.

H.R. 1581: Mr. Lewis of California, Mr. Daniel, Mr. de la Garza, and Mr. Moorhead.

H.R. 1881: Mr. Bennett, Mr. Daschle, Mr. Forsythe, Mr. Hance, Mr. Jones of North Carolina, Mr. Moakley, Mr. Parris, Mr. Rowland, Mr. Skeen, Mr. Stangeland, Mr. Sundquist, Mr. Vento, Mr. Wise, and Mr. Wolf.

H.R. 1918: Mr. Vento.

H.R. 1937: Mr. Nielson of Utah, Mr. Mollohan, and Mr. Boland.

H.R. 1955: Ms. Kaptur, Mr. Olin, Mr. Rose, Mr. Clarke, Mr. Darden, and Mr. Durbin.

H.R. 1959: Ms. Oakar, Mr. Reid, and Mr. Kramer.

H.R. 1991: Mr. Lewis of Florida, Mr. Stokes, Mr. Gray, and Mr. Mazzoli.

H.R. 2053: Mr. Michel, Mr. Mitchell, Mr. Sabo, and Mr. Edgar.

H.R. 2099: Mr. Erdreich, Mr. Gray, Mr Coleman of Texas, and Mr. Donnelly.

H.R. 2124: Mr. Regula, Mr. Staggers, Mr. McCloskey, Mr. DeWine, Mr. Chappell, Mr. Harkin, and Mrs. Hall of Indiana.

H.R. 2126: Mr. Gray and Mr. Mazzoli.

H.R. 2127: Mr. Gray and Mr. Mazzoli.

H.R. 2300: Mr. Wheat, Mr. Sabo, Mrs. Hall of Indiana, Mr. Carper, Mr. Borski, Mr. Lujan, and Mr. Richardson.

H.R. 2380: Mr. DeWine and Mr. Lowry of Washington.

H.R. 2382: Mr. Chappell.

H.R. 3058: Mr. Seiberling.

H.R. 3282: Ms. Ferraro.

H.R. 3285: Mr. Brown of California.

H.R. 3464: Mr. Savage.

H.R. 3581: Mr. Evans of Iowa and Mr. Horton.

H.R. 3633: Mr. Seiberling and Mr. Levin of Michigan.

H.R. 3755: Ms. Mikulski and Mr. Britt.

H.R. 3777: Mr. Bilirakis, Mr. Cooper, Mr. Lewis of Florida, Mr. McCollum, Mr. Mack, Mr. Mica, Mr. Nelson of Florida, and Mr. Sundquist.

H.R. 3950: Mr. Hansen of Idaho, Mr. Gephardt, Mrs. Boxer, Mrs. Burton of California, Mr. Foglietta, Mr. Chappie, and Mr. Harrison.

H.R. 3979: Mr. Bonker.

H.R. 4080: Mr. Dorgan, Mrs. Johnson, Mr. Crockett, Mr. Spratt, and Mr. Conyers.

H.R. 4148: Mr. Hartnett.

H.R. 4287: Mr. Lagomarsino and Mr. McCurdy.

H.R. 4360: Mrs. Boggs.

H.R. 4361: Mrs. Boggs.

H.R. 4363: Mrs. Boggs.

H.R. 4402: Mr. Rudd, Mr. Miller of Ohio, Mr. Rahall, Mr. Conable, Mr. Kemp, and Mr. Boehlert.

H.R. 4413: Mr. Mineta, Mr. Akaka, Mr. Leland, Mr. Morrison of Connecticut, Mr. Fazio, Mr. Simon, Mr. Florio, Mr. Gray, Mr. Bates, Mr. Miller of California, and Mr. Rangel.

H.R. 4427: Mr. Porter.

H.R. 4447: Mr. Matsui, Mr. Beilenson, Mr. Simon, and Mr. Boucher.

H.R. 4459: Mr. Solomon.

H.R. 4467: Mr. Murphy and Mr. Kolter.

H.R. 4558: Mr. Brown of California.

H.R. 4571: Mrs. Martin of Illinois, Mr. Hightower, Mr. Bilirakis, Mr. Coats, and Mr. Livingston.

H.R. 4590: Mr. Neal, Mrs. Hall of Indiana, Ms. Mikulski, Mr. Spratt, Mr. Nichols, Mr. Hartnett, and Mr. Dowdy of Mississippi.

H.R. 4621: Mr. Broyhill, Mr. Patman, Mr. Craig, Mr. Edwards of Oklahoma, and Mr. Roth.

H.R. 4637: Mr. Smith of Florida.

H.R. 4642: Mr. Gradison, Mr. Hamilton, Mr. Matsui, Mrs. Burton of California, and Mr. Breaux.

H.R. 4657: Mr. Smith of Florida.

H.R. 4745: Mr. Ford of Michigan, Ms. Mikulski, and Mr. Rahall.

H.R. 4747: Mr. Addabbo, Mr. Fazio, Mrs. Burton of California, Mr. Stokes, Mr. Simon, Ms. Kaptur, Mr. Ford of Michigan, Mr. Garcia, Ms. Ferraro, Mr. Richardson, Mr. Rangel, Mr. Leland, Mr. Vento, Mr. Boland, Mr. Barnes, Mr. Kogovsek, Mr. Kildee, Mr. Won Pat, Mr. Fauntroy, Mr. Hawkins, Mr. Obey, and Mr. Berman.

H.R. 4762: Mr. Wise, Mr. Heftel of Hawaii, Mr. Ritter, Mr. Akaka, Mr. Lowry of Washington, and Mr. Owens.

H.R. 4859: Mr. Conable.

H.R. 4875: Mr. Matsui.

H.J. Res. 71: Mr. Kindness, Mr. Olin, Mr. McCandless, Mr. Martinez, and Mr. Schaefer.

H.J. Res. 100: Mr. Rinaldo, Mr. McEwen, Mr. Rowland, Mr. Lagomarsino, Mr. Coats, Mr. Duncan, Mr. Lungren, Mr. Huckaby, Mr. Campbell, Mr. Hunter, Mr. Young of Florida, Mr. Dyson, Mr. DeWine, Mr. Edwards of Oklahoma, Mr. Nielson of Utah, and Mr. Mack.

H.J. Res. 145: Mr. Won Pat, Mr. Rangel, Mr. Hammerschmidt, Mr. Howard, Mr. Frenzel, Mr. Skelton, Mr. Biaggi, Mr. McGrath, Mr. Harrison, Mr. Wolpe, Mr. Fish, and Mr. Wortley.

H.J. Res. 247: Mr. Traxler, Mr. Moakley, Mr. LaFalce, Mr. Addabbo, Mr Dwyer of New Jersey, Mr. Rangel, Ms. Oakar, Ms. Kaptur, Mr. Applegate, Mr. Seiberling, Mr. Stokes, and Mr. Eckart.

H.J. Res. 281: Mr. Young of Missouri and Mr. Hammerschmidt.

H.J. Res. 326: Mr. Volkmer, Mr. Stokes, Mr. Hightower, Mr. Cheney, Mr. Gregg, Mr. Hiler, Mr. Loeffler, Mr. Lungren, Mr. McCandless, Mr. Nielson of Utah, Mr. Shuster, Mr. Skeen, Mr. Walker, Mr. Philip M.

Crane, Mr. Markey, Mr. Ralph M. Hall, Mr. Gradison, Mr. Natcher, Mr. Anderson, Mr. Jeffords, Mr. Carper, and Mr. Kramer.

H.J. Res. 344: Mr. Akaka, Mr. Boehlert, Mr. Borski, Mr. Carper, Mr. Chappell, Mr. Coats, Mr. Corrada, Mr. English, Mr. Fazio, Mr. Fish, Mr. Foglietta Mrs. Holt, Mr. Howard, Mr. Jacobs, Mr. Levine of California, Mr. Loeffler, Mr. McCandless, Mr. McCain, Mr. McGrath, Mr. McHugh, Mr. Oberstar, Mr. Ottinger, Mr. Owens, Mr. Patterson, Mr. Slattery, Mr. Smith of New Jersey, Mr. Denny Smith, Mr. Tauzin, Mr. Vento, Mr. Weiss, and Mr. Sharp.

H.J. Res. 404: Mr. Miller of Ohio.

H.J. Res. 422: Mr. Stangeland, Mr. Ford of Tennessee, Mr. Vento, Mr. Gilman, Mr. Volkmer, Mr. Clinger, Mr. Weaver, Mr. Hartnett, Mr. Wylie, Mr. Bereuter, Mr. Torres, Mr. Dowdy of Mississippi, Mr. Marriott, Mr. Dorgan, Mr. Richardson, Mr. Jones of North Carolina, Mr. Neal, Mr. Daniel, Mr. Gray, Mr. Kemp, Mr. Kostmayer, Mr. McDade, Mr. Moakley, Mr. Beilenson, Mr. Clay, Mr. Hubbard, Mr. Ottinger, Mr. Morrison of Connecticut, Mr. McKernan, Mr. Simon, Mr. Boucher, Mr. Wheat, Mr. Tallon, Mr. Feighan, Mr. Mrazek, Mr. Anderson, Mr. Robinson, Mr. McCloskey, Mr. Andrews of Texas, Mr. Hansen of Utah, Mr. Coleman of Texas, Mr. Lehman of California, Mr. Barnard, Mr. Savage, Mr. Kildee, Mr. Boland, Mr. Akaka, Mr. Downey of New York, Mr. Fuqua, Mr. Donnelly, Mr. Rinaldo, Mr. Snyder, Mr. Hopkins, Mr. Siljander, Mrs. Martin of Illinois, and Mrs. Byron.

H.J. Res. 432: Mr. Rangel, Mr. Weiss, Ms. Mikulski, Mr. Lipinski, Mr. Green, Ms. Oakar, Mr. Hyde, Mr. Gekas, Mr. Wilson, Mrs. Boxer, Mr. Rahall, Mr. Akaka, Mr. Archer, Mr. Andrews of Texas, Mr. Wheat, Mr. Owens, Mr. Alexander, Mr. Shumway, Mrs. Ferraro, Mr. Bennett, Mr. Albosta, Mr. Sabo, Mr. Solarz, Mr. Downey of New York, Mr. Levine of California, and Mr. Chappie.

H.J. Res. 441: Mr. Edwards of California, Mr. Vento, Mr. Levine of California, Mr. Martinez, Ms. Kaptur, Mr. Fauntroy, Mr. Dellums, Mr. Walgren, Mr. Berman, Mr. Mitchell, Mr. Towns, Mr. Crockett, Mr. Stark, Mr. Lehman of Florida, Mr. Frank, Mr. Ottinger, Mr. Seiberling, Mr. Owens, Mr. Studds, Mr. Russo, Mr. Dwyer of New Jersey, Mr. Ackerman, Mr. Weiss, Mr. Kastenmeier, Mr. Bedell, Mr. Oberstar, and Mr. Morrison of Connecticut.

H.J. Res. 446: Mr. Vandergriff, Mr. Levine of California, Mr. Young of Missouri, Mr. Weiss, Ms. Ferraro, Mr. Beilenson, Mr. Richardson, Mr. Matsui, Mr. Pashayan, Mrs. Schneider, Mr. Levitas, Mr. Rahall, Mr. Berman, Mr. Ratchford, Mr. Lehman of Florida, Mr. Vento, Mr. Kostmayer, Mr. Rangel, Mr. Kasich, Mr. Regula, Mr. Torricelli, Mr. Quillen, Mr. Conte, Mr. Burton of Indiana, Mrs. Boxer, Mr. St Germain, Mr. Boucher, and Mr. Morrison of Connecticut.

H.J. Res. 452: Mr. Addabbo, Mr. Won Pat, Mr. McKernan, Mr. Ford of Tennessee, Mr. Ralph M. Hall, Mr. Morrison of Connecticut, Mr. Leland, Mr. Sunia, Mr. Barnes, Mr. Gilman, Mrs. Schneider, Mr. Fazio, Mr. Clay, Mr. Dymally, Mr. Moody, Mr. Markey, Mr. Hatcher, Mr. Towns, Mr. Richardson, Mr. D'Amours, Mr. Crockett, Mr. Bedell, Mr. Alexander, Mr. Walgren, Mr. Ackerman, Mr. Carr, Ms. Ferraro, Ms. Kaptur, Mr. Leach of Iowa, Mr. Lent, Mr. Fauntroy, Mr. Lantos, Mr. Solarz, Mr. Gray, Mr. Lehman of Florida, Mr. Heftel of Hawaii, Mr. Price, Mr. Pritchard, Mr. Dyson, and Mr. Wirth.

H.J. Res. 456: Mr. Bates, Mr. Clay, Mr. Dymally, Mr. Fazio, Mr. Hawkins, Mr. Lagomarsino, Mr. Matsui, Mr. McGrath, Mr. Owens, Mr. Rahall, Mr. Stratton, Mr. Towns, Mr. Weiss, Mr. Whittaker, and Mr. Young of Alaska.

H.J. Res. 477: Mr. Barnes, Mr. Won Pat, Mr. Dymally, Mr. Moody, Mr. Horton, Mr. Richardson, Mr. Crockett, Mr. Roe, Mrs. Johnson, Mr. Solarz, Mr. Florio, Mr. Hatcher, Mr. Skelton, Mr. Downey of New York, Mr. Wyden, Mr. Lantos, Mr. Weaver, Mr. Berman, Mr. Matsui, Mr. Wortley, Mr. Reid, Mr. Bevill, Mr. Yatron, Mr. Frenzel, Mr. Lagomarsino, Mr. Sunia, Mr. Hyde, and Mr. Rangel.

H.J. Res. 478: Mr. Long of Louisiana, Mr. Rose, Mr. Duncan.

H. Con. Res. 152: Mr. Mollohan.

H. Con. Res. 215: Mr. Lewis of Florida.

H. Con. Res. 225: Mr. Frenzel, Mr. Bilirakis, Mr. Coats, Mr. Craig, Ms. Mikulski, Mr. Williams of Ohio, Mr. Hartnett, Mr. McNulty, Mr. Wirth, Mrs. Schroeder, Mr. Nielson of Utah, Mr. Porter, Mr. Molinari, Mr. Rowland, Mr. DeWine, Mr. Whitehurst, Mr. Conte, Mr. Howard, Mr. Lowery of California, Mr. Sawyer, Mr. Young of Missouri, Mr. Kazen, Mr. Hyde, Mr. Andrews of Texas, Mrs. Johnson, Mr. Whittaker, Mr. Rangel, Mr. Sikorski, Mr. Fazio, Mr. Bereuter, Mr. Vander Jagt, Mr. Yates, Mr. Corrada, Mr. Hutto, Mr. Boland, Mr. Coughlin, Mr. McGrath, Mr. Ralph M. Hall, Mr. Bevill, and Mr. Walker.

H. Con. Res. 226: Mr. Chappie, Mr. Petri, Mr. Pritchard, Mr. Rowland, Mr. Smith of New Jersey, Mr. Spratt, and Mr. Zschau.

H. Con. Res. 229: Mr. Porter, Mr. Ritter, and Mr. Akaka.

H. Con. Res. 239: Mrs. Boxer, Mr. Edwards of California, Mr. Gejdenson, Mr. Solarz, Mr. Akaka, and Mr. Bates.

H. Con. Res. 242: Mr. Gore.

H. Con. Res. 247: Mr. Sam B. Hall, Jr., Mr. Weber, Mr. Nichols, Mr. Thomas of Georgia, and Mr. Horton.

H. Con. Res. 253: Mr. Coughlin and Mr. Kostmayer.

H. Res. 45: Mr. Mollohan.

H. Res. 303: Mr. Owens.

H. Res. 430: Mr. Ackerman, Mr. Addabbo, Mr. Barnes, Mr. Bonior of Michigan, Mr. Clay, Mr. Dellums, Mr. Dixon, Mr. Dwyer of New Jersey, Mr. Evans of Iowa, Mr. Fauntroy, Mr. Florio, Mr. Ford of Tennessee, Mr. Fowler, Mr. Frank, Mr. Hayes, Mr. Howard, Mr. Kostmayer, Mr. Leland, Mr. Levine of California, Mr. McNulty, Mr. Markey, Mr. Mitchell, Mr. Morrison of Connecticut, Mr. Patterson, Mr. Sabo, Mr. Stokes, Mr. Udall, Mr. Walgren, Mr. Weiss, and Mr. Won Pat.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3525: Mr. Dannemeyer.

H.R. 3795: Mr. Bedell.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

[Omitted from the Record of February 21, 1984]

316. By the SPEAKER: Petition of the Berea City Council, Ohio, relative to H.R. 4103; to the Committee on Energy and Commerce.

317. Also, petition of the city of Maple Heights, Ohio, relative to H.R. 4103; to the Committee on Energy and Commerce.

318. Also, petition of the Detroit Lithuanian Organizations Center, Detroit, Mich., relative to the occupation of Lithuania, Latvia, and Estonia; to the Committee on Foreign Affairs.

319. Also, petition of the Allegheny County Board of Commissioners, Pittsburgh, Pa., relative to steel imports; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

AVIATRIX SETS RECORD WITH UNICEF ESSAYS

HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Wednesday, February 22, 1984

● Mr. MATHIAS. Mr. President, it is not often that children have an opportunity to participate in a historic event, but this month students from my State of Maryland had that chance. Maryland grade-school children, together with their counterparts in the District of Columbia and Virginia, participated in the second annual UNICEF essay contest, expressing their concern for the welfare of the world's children. Their essays then traveled around the world with aviatrix Brooke Knapp as she broke the world speed record, flying around the globe in 45 hours, 32 minutes, and 53 seconds.

Mrs. Knapp and her crew stopped in London, Moscow, Novosibirsk—the Soviet Union's atomic research city, Peking, and Tokyo, in addition to their American destinations. Wherever the plane landed, Mrs. Knapp was greeted by children who accepted the essays and letters from American children. Those children also gave her letters and artwork to bring back to the United States.

Brooke Knapp's good-will mission in behalf of the world's children, together with a previous transpolar flight, is expected to raise about $500,000 in gifts and pledges to UNICEF.

Mrs. Knapp's flight set a diplomatic record, too. Her Gulfstream III plane was the first private American plane to be cleared to fly across the Soviet Union in 40 years. At a time of strained American-Soviet relations, it is reassuring that a flight for UNICEF can open the airways and give life to authentic concern for the world's children.

The young writers from Maryland and those from the entire metropolitan area should be proud to have participated, through their essays, in such a historic event. I ask to enter the winning Maryland essay and the names of all the essay contest winners in the CONGRESSIONAL RECORD.

The material follows:

MARYLAND WINNING ESSAY: "THE LAND WHERE THERE WAS NO SCHOOL"

(By Emily Topf, Sidwell Friends School, grade 4)

Kenya—children working.
Children working—no education.
No education—no decent job.
No decent job—depending on your parents.
Depending on your parents—never growing up.
Never growing up—afraid to try something new.
Afraid to try something new—never learning.
Never learning—limited life.
Limited life—finding a dead end.
Finding a dead end—starving.
Starving—dying.
Dying—never living life.

UNICEF 1984 VALENTINE'S DAY ESSAY CONTEST WINNERS

FROM MARYLAND

(1) Emily Topf, Sidwell Friends School.

(2) Athena Kopsidas, The Rev. Thomas Daniel's Greek Orthodox Parochial School.

(3) Jay Quash, Sidwell Friends School.

(4) Georgia Kalapothakos, The Rev. Thomas Daniel's Greek Orthodox Parochial School.

FROM WASHINGTON, D.C.

(1) Todd Johnson, Murch Elementary School.

(2) Maria Degretzikos, The Rev. Thomas Daniel's Greek Orthodox Parochial School.

(3) Rebecca Davis, Murch Elementary School.

(4) Thea Joselow, Murch Elementary School.

(5) Adam Feinstein, Murch Elementary School.

(6) Ayanna E. M. Dunn, Washington International School.

FROM VIRGINIA

(1) Greg Hunter, Jamestown Elementary School.

(2) Kate Connally, Jamestown Elementary School.

(3) Drake Witham, Jamestown Elementary School.

(4) Karen Massa, Jamestown Elementary School.

(5) Mary Lu, Norfolk Academy.●

INDUSTRIAL DEVELOPMENT BONDS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. LaFALCE. Mr. Speaker, within the coming months the House is going to return to a difficult legislative issue: tax changes, and, in particular, industrial development bonds (IDB's). The IDB controversy interrupted work on tax legislation in 1983, and it is likely that conflict will again be a stumbling block to easy agreement on essential tax matters.

Robert J. Samuelson, writing in the Washington Post, has described the tax-exempt bond explosion as "symptomatic of larger confusions," and he adds that the phenomenon is "enormously revealing of the problems of fashioning sensible economic and budget policies." Because Samuelson's analysis is particularly insightful, I am entering his column in the RECORD. I would also like to take a moment to elaborate on his suggestion.

As an economist, Samuelson views the IDB controversy in terms of efficiency. His first question: "Are we allocating our tax dollars efficiently?" is answered with an unequivocal: "No." "The new bonds erode the Federal tax base and raise interest rates on public purpose bonds," he says. He calls the idea that we are promoting much economic development farfetched, and he goes so far as to say that most borrowers do not need the subsidy, and because most localities have them they no longer create a competitive edge.

As a discouraged political analyst, Samuelson worries that "economic inefficiencies are politically irrelevant," and he points out that no one seems to care whether the investment of our tax dollars is "misallocated and inefficient." "Groups * * *" he says, "deplore Federal deficits one day and defend the proliferation of tax-exempt bonds the next."

Mr. Speaker, I am sympathetic to Mr. Samuelson's discouragement about the confusion we face when making economic decisions. To an economist and even to the casual observer the decisions appear so obvious—if we have a deficit we cut spending or we increase revenues; if we have a program that is inefficient and is growing out of hand, we place reasonable limits on it. To those of us entrusted with such decisions the issues are often more complex, yet I still insist that the facts are not so confused as to condone inaction.

Mr. Samuelson's article follows:

[From the Washington Post, Feb. 22, 1984]

TAX-EXEMPT BONDS: A STUDY IN POLITICS

(By Robert J. Samuelson)

House Ways and Means Chairman Dan Rostenkowski (D-Ill.) is the latest legislator to discover the politics of tax-exempt bonds.

Last year, he proposed curbing the proliferation of the bonds. You might think that a bill intended to cut federal deficits and redirect tax-exempt financing away from private projects such as shopping centers and toward traditional public works such as roads, sewers and schools would pass Congress by acclaim. It didn't.

Anyone trying to fathom the deficit deadlock can profit by Rostenkowski's experience. The tax-exempt-bond explosion is a modern marvel—a phenomenon interesting in its own right but also enormously revealing of the problems of fashioning sensible

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economic and budget policies. It's a case study in the economic inefficiencies caused by practical politics.

The bonds have defied both political control and economic conditions. Despite higher interest rates, bond volumes have jumped 85 percent since 1979 to $89.5 billion. The lure is simple enough. Because interest payments aren't subject to tax, affluent bondholders can accept lower rates and come out ahead. Tax-exempt rates have traditionally been 20 to 35 percent below rates on comparable taxable bonds.

What underlies the bonds' explosive growth is the availability of this inexpensive credit for a growing list of private purposes. Traditionally, tax-exempt bonds were issued by state and local governments, which repaid the bonds from local taxes and used the proceeds for public construction. But private-purpose bonds—used, for example, to finance industrial projects, stores, home mortgages and student loans—now account for the majority.

Since 1975, their share of all new tax-exempt bonds has jumped from 29 to 56 percent, according to the Treasury. The newer bonds typically are issued by special agencies (such as a housing authority or economic development agency), which funnel the funds to borrowers. The ultimate borrower, not the government, then is responsible for repaying the bonds.

Although devoted to lofty goals—from stimulating economic development to promoting homeownership—the new bonds erode the federal tax base and raise interest rates on public-purpose bonds. Public construction becomes more expensive, and the allocation of cheap credit for private uses increasingly reflects political, not economic, efficiency.

The borrowers' benefits are clear—their interest rates can be cut up to two-fifths—but the public's are not. A General Accounting Office study, for example, disputes the argument that mortgage bonds promote much home ownership. About three-quarters of the borrowers could have afforded homes without the extra subsidy, GOA estimated.

The idea that the bonds stimulate much local economic development is more far-fetched. Because many localities now provide so-called industrial revenue bonds, the availability of bond money ceases to be a competitive factor in site selection. Moreover, about two-thirds of the borrowers are restaurants, stores and local services that aren't geographically mobile.

Nor do most borrowers need the subsidy. As economic development specialist Michael Barker noted: "Since [the bonds] are backed only by the revenue of the recipient, they can only be sold for companies that are, by definition, creditworthy." The Congressional Budget Office lists the largest beneficiaries since 1977 as: K mart Corp., $301 million; Kroger Co., $146 million; Dow Chemical Co., $102 million; and McDonald's Corp., $86 million.

By contrast, the costs of the bond explosion are much clearer. The Treasury estimates the 1983 revenue loss for private-purpose bonds at $7.4 billion, almost as great as the $9.1 billion for public-purpose bonds. Meanwhile, interest rates on tax-exempt bonds are near historic highs compared with taxable bonds; higher volumes of tax-exempt bonds require higher relative rates to attract more buyers.

Rostenkowski's bill would have taken some—not much—of the pressure off interest rates by limiting growth of private-purpose bonds. Higher rates only can hamper the job of providing good roads, water systems and jails. Fifteen years of skimping on repairs has left a large backlog of public works projects.

To some extent, these traditional responsibilities suffer as local officials attempt to offset federal cutbacks in other areas. When Congress trimmed hospital, housing, economic development and student loan programs, states and localities—with the self-serving assistance of bond lawyers and underwriters—responded with new forms of tax-exempt financing.

The resulting system escapes both political and economic discipline. Because most new tax-exempt borrowing falls outside local budgets, neither voters nor legislators need to decide how to spend scarce loan funds. But, of course, the funds are scarce: Loans made for one purpose almost certainly divert funds from other purposes.

Congress could end this sham by limiting the tax-exempt authority to narrow public purposes. But so far it has been unwilling to confront powerful local lobbies. Even Rostenkowski's bill imposed only mild restrictions. Although the measure will be revived and faces better prospects, its limited effect is suggested by the revenue it would raise: an estimated $326 million in 1986.

Most local officials easily rationalize the bonds. Low-interest-rate loans are a patronage available to them at no cost. Profits even can be made: Inexpensive tax-exempt borrowings can be reinvested swiftly (if temporarily) at higher rates. As for the effect on interest rates, local officials can argue plausibly that small movements in rates on tax-exempt issues are completely overshadowed by general shifts in rates.

In the end, the economic inefficiencies are often politically irrelevant. No one notices if investment is misallocated and inefficient. Groups such as the National Governors' Association deplore federal deficits one day and defend the proliferation of the tax-exempt bonds the next. The bonds serve so many interests—lucky borrowers, wealthy taxpayers, local officials—that Congress can't, won't, kill them.

And that's just the point. Almost any group can rationalize a defense of its own program. The tax-exempt-bond explosion is symptomatic of larger confusions. We have increasingly mixed public and private responsibilities. There are no easy rules for determining what should be the province of government and what shouldn't. The bitter budget struggle, the huge deficits and lackluster economic efficiency—these are inevitable results.●

ACID RAIN CONTROL PENALIZES THE NEEDY

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. COATS. Mr. Speaker, many of us, both on and off the Committee on Energy and Commerce, have long been grappling with the issue of acid rain. I wish to commend to my colleagues the following testimony submitted before the Subcommittee on Health and the Environment at its acid rain field hearing in Indianapolis, on February 10. This testimony, by the Indianapolis Urban League, marks a significant point in the acid rain debate. The Urban League, a nonpartisan, interracial, nonprofit community organization dedicated to the economic advancement of black Americans and other minorities, recognizes that the costs of acid rain controls will fall most heavily on the needy in the Midwest—the poor, the elderly, those on fixed incomes who rely on Federal programs.

The Urban League points out:

Acid rain may or may not be a problem, scientists offer widely differing views on this issue, but before you ask Indianapolis' unemployed and poor to help foot the bill, you must be absolutely sure that it is a problem and not just speculation. The Indianapolis Urban League wants a clean environment. It supports additional research to answer the questions concerning acid rain that are still unanswered because we must have the answers to develop rational public policy.

Mr. Speaker, this is what I and many of my colleagues have been saying for 3 years. It is time we put people first, especially our needy. I urge my colleagues to read this important testimony.

TESTIMONY ON THE SOCIAL IMPACT OF ACID RAIN LEGISLATION

(By Sandra Emmanuel, Indianapolis Urban League, Indianapolis, Ind.)

The Indianapolis Urban League is a nonpartisan, interracial, nonprofit community organization which uses the tools and methods of social work, economics, law, business management and other disciplines to secure equal opportunities in all sectors of our society for black Americans and other minorities.

The Indianapolis Urban League receives support from the United Way, foundations, unions, corporations, church groups and other community organizations and individuals. Seventy-five percent of our clients are recipients of many State and federally funded programs.

We strongly urge you to take into consideration the fact that individuals in Indianapolis who utilize State and federally funded programs will find themselves in a serious financial situation if their electric bills are increased substantially by acid rain legislation.

The poverty population level in the Indianapolis SMSA was approximately 107,000 in 1980. The number of children under age 18 below the poverty level was approximately 40,000. The population of 65 years of age and older who had incomes below poverty level numbered 14,000 in 1980. These individuals and households pay electric bills. They cannot afford a 25- to 35-percent increase in electric rates.

While the acid rain fund is purported to pay for additional environmental controls equipment, we are not naive enough to believe the tax on utility companies won't be passed on to the consumer. In addition, our local electric utility will have to pay the tax, but probably not benefit due to the lack of funds available for the entire program. Consequently, a large portion of their acid rain compliance costs will be borne again by the consumer.

This proposed increase in electric cost would be on top of phone cost increase resulting from the AT&T divestiture, and certain increases in natural gas prices. The increases are going to disproportionally impact on the poor; unemployed; and elderly people who are on fixed incomes.

Acid rain may or may not be a problem. Scientist offer widely differing views on this issue, but before you ask Indianapolis' unemployed and poor to help foot the bill, you must be absolutely sure that it is a problem and not just speculation. The Indianapolis Urban League wants a clean environment. It supports additional research to answer the questions concerning acid rain that are still unanswered because we must have the answers to develop rational public policy.

Thank you for allowing the Indianapolis Urban League to testify today.●

BUTLER LEADS AGAIN

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. KOLTER. Mr. Speaker, enthusiasm and commitment are important factors that shape one's overall attitude toward life and work. They are also attributes of leadership. Over the last several years, change in our basic industries precipitated by an endless flow of unfairly subsidized imports, and subsequent layoffs, concessionary agreements, as well as plant closings, has placed enthusiasm and commitment at a premium among industrial workers.

Despite having accepted concessions, experiencing layoffs, and seeing foreign competitors tighten their grip on domestic markets, the employees at Armco's Electrical Steel Division in Butler, Pa., have formed a committee to fight unfair steel imports. The S.O.S., or "Stealing Our Steel," committee consists of 12 volunteers representing the three unions and management of the Butler Works. Their objective is to call attention to the steel import problem and rally support for H.R. 4352, the Fair Trade in Steel Act.

Last January 25, the S.O.S. committee scheduled a "Write Your Congressman Day" at the plant. Employees, their spouses, retirees, and concerned community leaders wrote letters requesting my support of H.R. 4352. I met with the S.O.S. committee on the following day and accepted a mailbag stuffed with over 2,600 letters, most of which were handwritten. The message was clear: Control imports before we lose our future.

While touring the Butler facility that afternoon, I learned what makes the Butler Works a leader in specialty and electrical steel production. Butler was one of the first to convert melting facilities from the ancient open hearth method to the modern electric furnace. The three 165-ton electric furnaces supply molten metal to the world's largest Argon Oxygen Decarburization vessel (AOD) for further refining. Following the AOD process, the steel is cast into slabs by one of the plant's two computer-controlled continuous casters. Butler is the first and only specialty steel producer in the United States that continuously casts 100 percent of its products. The facility is also a leader in utilizing advanced computer monitoring and control systems.

On the finishing end, Butler again leads the industry in the production of high quality electrical steel. A patented annealing process yields certain properties that enhance grain-oriented steels for application in large distribution transformers and electric motor laminations. Emphasizing the commitment to quality, and consistent with the tradition of leadership in producing electrical steels, Armco announced the installation of a $2.9 million laser system at the Butler Works. The laser scriber, to be the largest in an industrial application in the free world, will enhance the magnetic qualities of the electrical steel by scanning the surface of a continuous strip of steel. The result will be improved performance of electrical steel in electric transformers without causing damage to the surface insulation of electrical-oriented steel. This process will make Butler's steel more competitive with Japanese electrical steels.

Mr. Speaker, I have related some of the technical wonders I viewed, or had described for me, but machines do not make steel by themselves. People do. None of the technological firsts could have occurred without the employees. In keeping with the tradition of being first, the employees of the Butler Works were the first in the corporation to form a committee to fight imports. To my knowledge, they are the first to organize a plant level effort designed to rally support for H.R. 4352 on a large scale. They are by no means complete or satisfied. Riding the crest of a successful first effort, the S.O.S. committee plans on a major effort to involve the town of Butler in their campaign to fight unfair steel imports. If employees at other facilities throughout the Nation shared the enthusiasm and commitment that the ones at Butler have shown me, every congressional office would be swamped with letters.

Let us commend the employees of the Armco Butler Works for the fine example they have provided. Thank you.●

AMERICAN HUNGARIAN FEDERATION ON HUMAN RIGHTS

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. SILJANDER. Mr. Speaker, on January 19, 1984, the representatives of the American Hungarian Federation transmitted a memorandum to the White House, National Security Council, and the Department of State.

The delegates were received by Mr. Jack Courtemanche, Deputy Special Assistant for Public Liaison to the President, and Mr. Linas Kojelis, White House Ethnic Affairs Adviser, Dr. John Lenczowski and Paul F. Dobriansky, Directors of Soviet and East European Affairs of the National Security Council, and by Assistant Secretary of State for Human Rights Elliott Abrams, and several of his staff members.

Members of the delegation were: Mr. Laszlo Bojtos, chairman of the board of the American Hungarian Federation; Mr. Imre Beke, chairman, executive committee; Dr. Elelemer Bako and Dr. Ignatius Kazella, associate presidents; Dr. Joseph Sarossy, chairman, international relations committee; and Dr. Z. Michael Szaz, secretary of international relations.

The response the delegation received was very favorable both on the issues relating to human rights in Hungary, VOA and RFE inclusion of the problems and happenings of Hungarians in Romania and other Danubian countries and the persecution of the more than 2.5-million Hungarian minority in Romania.

The American Hungarian Federation is 78 years old and has always been a fighter for human freedom and dignity. Its staunch defense of American values and Hungarian culture in this country has been particularly noteworthy. It gives me a great pleasure, therefore, to ask for unanimous consent to insert the summarized version of the memorandum into the RECORD.

SUMMARY OF THE MEMORANDUM OF THE AMERICAN HUNGARIAN FEDERATION ON UNITED STATES-HUNGARIAN RELATIONS AND THE SITUATION OF THE HUNGARIANS IN TRANSYLVANIA (ROMANIA)

Three salient features characterize the situation of the Hungarian nation: continued Soviet occupation, Communist one-party rule and the mistreatment of the Hungarian minorities, particularly in Transylvania (Romania).

Economic reforms and some relaxation of the airtight control of the Party, in spite of remaining subservient to the Soviet Union internationally, resulted in close economic relations with the West. They include Western loans upon which the Hungarian economy depends and numerous joint ventures. Until now, Hungary's trustworthiness did

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not suffer, despite the huge per capita indebtedness.

Lately, the Hungarian Government sharpened its measures against the "dissidents" and those writers exposing the plights of the Hungarian minorities in other Soviet-bloc states.

In general, we find a reawakening of national consciousness in Hungary which is, however, not revisionist but aimed at helping the Hungarians in other Soviet-bloc states to retain their Hungarian ethnicity.

I. UNITED STATES-HUNGARIAN RELATIONS

The American Hungarian Federation urges a policy toward Hungary aimed at widening the parameters of freedom of the Hungarian nation domestically and internationally.

Therefore, we endorse the policy of "differentiation," but consider Vice President Bush's remarks at Vienna on Romania ill-advised and without facual basis.

We favor MFN status for Hungary and closer United States-Hungarian economic ties. We want the MFN process to serve as a monitor for Hungarian performance on human rights and emigration procedures.

We urge representations about the Demszky and Csoóri cases which involve human rights violations.

We welcome the appointment of a former Hungarian national, Nicholas Salgo, as ambassador to Hungary.

We appeal for American understanding for those scholars and writers who try to reawaken the national spirit in Hungary.

II. SITUATION OF THE HUNGARIANS IN TRANSYLVANIA (ROMANIA)

The 2.5 million Hungarians in Transylvania were attached, after a millennium of close association with the Kingdom of Hungary, to Romania by the 1920 Trianon Peace Treaty. Northern Transylvania was restored to Hungary in the Second Vienna Award but in the 1947 Paris Peace Treaty it was reattached to Romania despite American objections.

Between 1947 and 1958, despite the persecution of the middle classes, ethnic policies of the Romanian government were tolerable.

In 1958, a forced assimilation process was begun. The Hungarian school system was abolished, the Hungarian Bolyai University was merged and later submerged into the Romanian Babes University and the Magyar Autonomous Province was first diluted by redistricting and then dissolved in 1968.

Some improvement occurred in the wake of the Soviet invasion of Czechoslovakia, but lasted only four years.

The educational reform between 1974-77 destroyed the mainstay of Hungarian education, the lycees. Today, less than half of Hungarian students attend Hungarian sections in secondary schools. The new vocational high schools are inadequately provided with Hungarian-language textbooks and teachers.

All specialized colleges, including the Graduate School for Teachers organized to train Hungarian-language teachers, have been "integrated" and few Hungarian-language courses remain.

Cultural institutions, too, were "integrated." Of the six Hungarian theaters four are now "sections" of Romanian theaters and play mostly Romanian and classic plays with the addition of a few Translyvanian Hungarian authors.

The new forced assimilation drive created in 1981 a Hungarian resistance (Ellenpontok) calling for equality in the treatment of nationalities in Romania. Its presumed authors were badly beaten and released only as a result of international pressure. One of them was expelled to Hungary since.

Repression of the Hungarian history of Transylvania in textbooks and publications is near complete. The historical documents, in turn, are under safe lock and key in the State Archives, open to trusted Romanian historians only.

Churches are either separated (Roman Catholic) from the West, infiltrated and/or intimidated (Hungarian Reformed), or simply suppressed (Uniate). Priests and ministers causing difficulties fall victim to car accidents, are arrested and at best "reassigned" to mountain villages.

CONCLUSIONS

The American Hungarian Federation urges talks between the United States and Romanian Governments on the human, cultural, community and self-determination rights of the Transylvanian Hungarians. We refer to the letter on this matter by Representative Don Ritter (R., Pa.) signed by 220 other members of the House last July.

The United States has considerable leverage over Romania and could force even the non-enforcement of their law on education tax. We urge the Administration to use its influence and leverage for an amelioration of the 2.5 million Hungarians of Transylvania, the largest national minority in Europe outside of the Soviet Union.

We call the attention of the Administration to the likelihood that in the absence of a peaceful resolution (which is possible under the guarantees of the Romanian Constitution, now constantly violated), the conflict could escalate, with Hungarians and Romanians, and United States interests in Romania the losers.●

TRIBUTE TO JAMES MAXWELL BROWN

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. SHELBY. Mr. Speaker, I would like to pay tribute and recognize an outstanding citizen and businessman who lives in my hometown of Tuscaloosa, Ala.

James Maxwell Brown is now 80 years young, and still editor of the Tuscaloosa Exchange Club newsletter, a job he began over 50 years ago. "There have been times when I've tried to stop but someone always talks me into staying on," Brown said in a recent interview.

Following are parts of a wonderful story that appeared in the Exchangite a few years ago entitled "Who Can Beat Tuscaloosa's Jimmy Brown's Record?":

[From the Exchangite, July-August 1981]

WHO CAN BEAT TUSCALOOSA'S JIMMY BROWN'S RECORD?

John H. Awtry was president of The National Exchange Club . . . Franklin Delano Roosevelt, having recently been elected to his first term as the nation's President, was grappling with the cruel realities of the Great Depression . . . The Exchangite was plugging the Milwaukee Convention and the Chicago World's Fair, and Exchange was involved with youth, aviation and the National Recovery Administration. It was 1933.

In Tuscaloosa, AL, 29-year-old James M. "Jimmy" Brown had agreed to take over editorship of "The Unitor" bulletin of the Exchange Club of Tuscaloosa, the club he had joined only two years previously.

Incredibly, and wondrously so, Jimmy is still editing the bulletin. He has done so every week during that time with the exception of a period during and following WW II. From June 1942 until December 1945 he served as a volunteer in the U.S. Marine Corps. About a year after his discharge, says Jimmy, "I was drafted again to edit The Unitor. All in all I would say that I have been editing The Unitor for some 45 years plus a few months."

At age 80, Jimmy is semiretired from the real estate and investments business, and in reasonably good health for his age, he says. "I'm a hunt and peck typist still using a used Underwood typewriter that I acquired on my return from World War II."

Indeed, Jimmy is one unusual man. Take World War II, for instance. Most of the men who first went to war, as in the more recent conflicts—except for the professional military people—were the young.

James Maxwell Brown was 38. He ended up in the elite U.S. Marines. They were the fighters who took the islands in the Pacific. And Jimmy Brown soon found himself in the thick of fighting.

He tried to get into the Navy. But the Navy turned him over to the Marines. He went to Paris Island, SC, the Marine Corps base, and was brought up short by the officer who saw this 38-year-old.

"Brown, how in the world did you get in the Marines?" Those were Jimmy's first words of greeting as he reported to help defend his country.

Brown allowed as how a Navy physician certified him for the Marines.

"If a lieutenant commander put you in I'm sure not in position to take you out," were the next cheering thoughts Brown recalls.

Today, Brown continues with the kind of quiet courage he had when he fought in the Pacific. "I'm very optimistic," he says. "I sure would like to stick around long enough to see how well things will turn out."

Such names as Eniwetok, Kwajalein, Tarawa and many others have little or no recollection for today's men and women of fighting age.

But Brown was there.

He does not boast. "I was maybe in the third or fourth wave of Marines who invaded the islands."

Jimmy almost went into the newspaper business at one time. That was before he fought in World War II.

"Editing The Unitor for the Exchange Club of Tuscaloosa is not only my pleasure, it's also my hobby," says the man who has lived in only two different houses since his birth in Tuscaloosa, Jan. 31, 1904. Doing the publication every week, he says, "is a labor of love." He remembers taking over the job from the late Dr. Oscar Dahlene, who was on the faculty of the College of Engineering at the University of Alabama. Jimmy earned a degree in commerce from the University of Alabama in 1927.

Not only has Jimmy served his club and Exchange as bulletin editor, but was club secretary for two terms in 1935 and '36, was club president in 1956, and served as district governor in 1957.

As might be expected of a man who fought with the 22nd Regiment of the Fleet Marine Force, starting as the lowest private and ending up a sergeant, Jimmy has always taken a deep interest in veterans affairs.

He is a past commander of the Farley W. Moody Post of the American Legion and the Findley B. Burrett Post of the Veterans of Foreign Wars. Also, he is a former president of the Past Commander's Club of the Alabama Department of the American Legion.

In addition, Brown was on the Alabama Executive Committee of the VFW. For five years he was secretary and treasurer of the Marine Corps League. He served on the Selective Service Board for 21 years after his discharge.

Active in his church, he has been on the board of deacons of the First Baptist Church and has been clerk since 1961. He is a 52-year Mason and still active.

He has seen the Tuscaloosa Club grow from around 32 members to 200 or more. He was voted Outstanding Exchangite in 1962.

In addition, the Junior Chamber of Commerce found him an able member. He is a past local and state president.

Jimmy's father was once probate judge of Tuscaloosa County and later register in chancery. Jim said of the late Judge James C. Brown, "He served two terms as probate judge. He was the only man to beat W. W. Brandon here in Tuscaloosa County." Bill Brandon later defeated the late Judge Brown. W. W. "Plain Bill" Brandon went on to serve as Governor of Alabama from 1923 to 1927.

Mr. Speaker, James Maxwell Brown is a fine example of an individual who has worked to make his community, State, and country a strong and healthy environment in which to work and live. He continues to be an asset to Tuscaloosa as a leader of outstanding dedication whose praiseworthy contributions serve as an inspiration to all of us.

We need more individuals in America today like James Maxwell Brown who are not afraid to get out and pursue ideals they believe in. Throughout these many years he has given so much of himself to others, and I believe this tribute is certainly deserving to this outstanding individual.

It is with the greatest pleasure that I share this insight of Jim with my colleagues in the House of Representatives. He is a fine man and my friend, and I wish him the very best in all his future endeavors.●

THE STRATEGIC EXCLUSION OF ISRAEL

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. TORRICELLI. Mr. Speaker, as we continue our search to find an adequate strategic plan for the Middle East, American lives and interests remain in jeopardy. As the civil war in Lebanon deepens, we must design a policy that will allow us to more quickly respond to future crises in that region.

Recently, I read an excellent article in the Yale Political Journal by its editor Gideon Rose on the part Israel can undertake in aiding American Middle Eastern objectives.

Mr. Rose's article is a concise and persuasive analysis of the important role Israel can play in alleviating many of the strategic difficulties we must contend with in that vital area of the world. I commend it to my colleagues.

THE STRATEGIC EXCLUSION OF ISRAEL

(By Gideon G. Rose)

(Gideon G. Rose, '85, is Editor-in-Chief of the Yale Political Monthly.)

September, 1983—When the United States had to resupply the desperate Lebanese Army with ammunition, NATO ally Greece refused the U.S. access to its airfields and even to American bases on Greek soil, while at the same time allowing Czechoslovakian military transports to land and refuel enroute to resupplying Syria. NATO ally Turkey also refused the United States access to its airfields. The Lebanese Army was eventually resupplied from British bases on Cyprus.

October, 1983—After the terrorist bombing of the U.S. Marine complex in Beirut, Marine wounded were flown to distant aircraft carriers, to British bases on Cyprus, and some even to West Germany, 4½ hours away. At least one Marine died because of the delay in adequate medical care.

October, 1983—Leaks revealing extensive U.S. training and supplying of a Jordanian mobile strike force marked American involvement in an 'Arab RDF" of dubious commitment, popularity, and ability.

These are simply the most recent examples of the systematic exclusion of Israel from U.S. stratetic planning in the Middle East, a policy which hurts the United States while providing nothing in return. Israel would accept U.S. bases and could have helped supply the ammunition; Israeli hospitals, the best in the region and only half an hour away, were standing ready to treat American casualties; and crack Israeli antiterrorist and commando troops with proven records were passed over as U.S. proxies. American national interests are being ignored as strategic and military policy is held hostage to misguided appeasement of Arab demands.

The United States has several strategic goals in the Middle East and Eastern Mediterranean: ensuring Western access to Persian Gulf oil; protecting NATO's southern flank in time of war; protecting U.S. allies in the region from Soviet and Soviet proxies' threats; and protecting U.S. economic interests. Israel can help substantially in all these areas. But certain U.S. observers, seduced by Arab oil wealth, are willing to do anything to protect supposedly endangered economic interests at the expense of a wise regional defense posture. Fearful of Arab displeasure, these voices reject any cooperation with Israel, even when that cooperation manifestly benefits the U.S. Since the record does not bear out their fears, however, they should no longer stand in the way of a true strategic alliance between the United States and Israel.

In the wake of the Iranian crisis and the Soviet invasion of Afghanistan, which underscored the precarious nature of Western access to Persian Gulf oil, President Carter proclaimed the "Carter Doctrine," that the United States would defend with force if necessary its interests in the Persian Gulf. This doctrine was fortified by the creation of a Rapid Deployment Force (RDF) able to project American strength quickly into critical areas. Unfortunately, like the Holy Roman Empire, the RDF seemed at first to be a triple misnomer—it was neither rapid, nor deployable, nor forceful. The difficulty in creating a viable RDF, and hence a creditable deterrent to Soviet aggression, has remained a central problem in U.S. strategic planning.

Because of the great distance of probable areas of conflict from the continental United States, the cost and delay involved in moving men and materiel stationed here should be prohibitive: if we were to use half of our strategic lift capability, it would take 77 days to transport just one mechanized division from the United States to the Gulf, and it would cost $390 million. This would be too little, too late, for too much. The dilemma has given rise to the concept of "prepositioning," the stationing of supplies and equipment for RDF use somewhere in the region beforehand, so that in a crisis only troops would have to be transported.

Various locations have been suggested for prepositioning: Diego Garcia, a small island in the Indian Ocean; Kenya; Somalia; Egypt; and Oman. All of these sites, however, lack at least one of the four qualities needed for an ideal prepositioning site: location, political reliability (depth of commitment to U.S. interests), political stability (probable length of commitment to U.S. interests), and air defensibility. Diego Garcia is the U.S. base closest to the Gulf, and is reasonably reliable, stable, and defensible, but it is 3,000 miles away. Kenya is 2,500 miles away, and cannot provide adequate air cover to protect any equipment that might be stored there from a preemptive strike by neighboring Soviet proxies. Somalia is 1,600 miles away, demands exorbitant fees in return for basing privileges, is not very stable, and has the same problems with air defense that Kenya has. Egypt is well-suited geographically (1,100 miles away), is politically reliable, and can provide air defense against anybody except Israel, but its continued stability must be called into question.

Isolated from the Arab world because of its peace treaty with Israel, Egypt may come under increasing pressure to come back into the fold, which would mean less overt and extensive relations with both Israel and the United States. Oman, while geographically ideal (800 miles), cannot provide air cover to defend any equipment against attacks from Soviet bases in Afghanistan or from South Yemen. It is also reluctant to permit major visible cooperation with the U.S. In response to these problems, American planners have advocated "spreading the risk" among various sites, with Egypt primary among them. It is ironic that the single best-suited prepositioning site in the region has not even been considered.

Israel meets every precondition for basing and emerges in comparison as an excellent site. Its location 1,300 miles away is third only to Oman and Egypt. If distance to Europe is also considered the ideal site could be used for a "swing force" going to conflict either in the Gulf or in Europe—Israel is the closest (2,500 miles from Munich), with only Egypt (2,900 miles) comparable.

Because of the permanent alignment of Israel with the democratic Western world and with the United States in particular, Israeli and U.S. interests are and will continue to be similar; Israel recognizes that its security is connected to the security of the United States, and will do whatever is necessary to aid U.S. forces. Because of its democratic political system, open society, and moral heritage, Israel is the only truly stable U.S. ally in the region, and the only state whose help can be counted on not only now but also for the foreseeable future. And because of its unique situation among hostile states, the Israeli Air Force must permanently ensure the sanctity of Israeli airspace: Israel is the only site where U.S. equipment would be safe from domestic violence and from air attack.

Compared to the 77 days and $390 million it would take to transport one mechanized division from the U.S. to Saudi Arabia (using half our airlift capacity), the 11 days and $63 million it would take from Israel seem extremely efficient. If the United States were to build and operate enough transports to match the 11-day Israeli time, it would cost $9.5 billion. In the face of these differentials, the current reliance of the United States on long, costly strategic airlifts from the continental U.S. and on alliances with dubious friends seems foolhardy.

Protecting NATO's southern flank in wartime and protecting Western interests and allies in the region from Soviet and Soviet-sponsored aggression requires controlling the Mediterranean, the primary job of the U.S. Sixth Fleet. The fleet must protect itself, project force ashore to defend allies and deter enemies, and safeguard necessary lines of communication and supply. Israel can help to do these things at little or no cost. Defending the Sixth Fleet means protecting the ships against anti-ship missiles and submarine attacks; defending allies and interests in the region means deterring Soviet attacks; and defending lines of communication means providing air cover and support.

Because of the expanding Soviet role in the area, and the drain of Sixth Fleet resources involved in protecting the Persian Gulf, the U.S. Navy presence in the Eastern Mediterranean needs to be bolstered; the cheapest and easiest way to do this is to utilize the Israeli Navy and Air Force. By equipping Israeli ships with anti-submarine technology, at one stroke the United States could vastly increase its protection against Soviet submarine attack at minor cost; since anti-submarine technology cannot be used for any other purpose it is hard to understand any objection to this move. Because of its preeminence in the region, the Israeli Air Force is ideally suited to providing the deep cover needed to protect lines both of communication and supply not only over the Mediterranean but over the Persian Gulf.

Since Israel cannot afford to be cut off from the sea, and since the major enemy of the United States, the Soviet Union, is also a major enemy of Israel, the strategic goals of the two countries in the Mediterranean are similar. All that is necessary is to hold joint operations to familiarize the armed services of each with those of the other. The Soviet Union must already consider Israeli forces in any East-West balance of power in the region; it is folly for the United States not to do so as well. Lest some say that the advantages already exist and that there is no need for further cooperation, it must be recognized that nations cannot work in unison without prior preparation--the role Israel could play in American actions in the region is negligible unless there are joint exercises beforehand.

Many of the same arguments which support cooperation between Israel and the U.S. RDF and Navy support cooperation between Israel and the U.S. Air Force. Any RDF move would require large quantities of fuel and adequate air protection of the transports. The logical solution for the fuel problem is the same as for RDF equipment: pre-positioning in Israel.

Fuel depots are even more vulnerable to terrorist or air attack than supply depots; because of the absolute protection Israel could provide it would seem the best choice, at the very least for a worst-case fallback supply. Protection of air transports, like protection of lines of communication, could be provided by the dominant air power in the region (whose record against Soviet-made planes is excellent): Israel. An additional area of possible cooperation is aircraft maintenance. Because of its constant need for air defense, Israel has developed aircraft maintenance facilities unique in the area. Since this infrastructure is designed to service U.S.-made planes, it could provide parts and expert service for the U.S. Air Force in times of need--something no other country in the area could supply, and yet which would be crucial in any protracted conflict.

A parallel need which again only Israel could fill would be adequate medical facilities capable of treating casualties resulting from U.S. action in the region. Little attention has been given to this aspect of a struggle, but unless the wounded are to be left on the battlefield or wait to be airlifted back to the nearest U.S. base thousands of miles away, some form of medical care close by must be found. In contrast to the almost Medieval conditions in certain countries nearby, Israel's hospitals rival those in the United States, especially in regard to treating wounded soldiers an area in which Israel has regrettably been forced to specialize.

Because of its wars with Soviet clients, Israel has served as the primary testing-ground for much American military equipment. The lessons learned have often been shared, although because of inadequate communication and cooperation between Israel and the United States important data-sharing remains to be made. By revealing the superiority of American weapons to their Soviet counterparts, Israel has helped the United States in two ways: by convincing many nations to buy U.S. rather than European or Soviet equipment, and by forcing the Soviet Union to divert funds from research and development of new systems to the replacement and upgrading of its own defenses, proven by Israel to be inadequate.

Were there closer connections between the armed services of the two countries, both would gain much. The Marine complex in Beirut was unconscionably defenseless and open to terrorist attack, even after a similar attack on the U.S. Embassy earlier in the year. Had the Marines talked more with the Israelis a few minutes down the road in a well-fortified camp, scores of them might not have died. Israel has contributed to the defense of U.S. interests in the region in the past; it is to the advantage of the United States to encourage further cooperation.

Israel has been forced to perfect its military to the point at which in local arenas it is a match for anyone. This was achieved to deter and defeat Arab attacks, but Israel's strength need not be limited to this purpose. By implementing certain measures of strategic cooperation, the United States can, in effect, receive the benefits of a dedicated and extremely capable modern army, navy, and air force with none of the costs of creating them. In this lies the essential logic of cooperation: instead of spending billions of dollars trying to create an Arab ally of military significance (Iran, Saudi Arabia, Egypt, Jordan, etc.) where the will and preconditions for an effective force do not exist, the United States can, in Israel, get that ally cheaply and permanently.

With the benefits of cooperation so clear, the burden of proof lies on those who oppose it. The argument against cooperation runs as follows: the Arabs don't like Israel, therefore if the United States is too close to Israel the Arabs will retaliate by embargoing oil, or raising prices, or tilting toward the Soviet Union. It is a political argument, not a strategic one, and it is both morally and pragmatically incorrect. To deny benefits to ourselves and to a staunch democratic ally simply because other allies threaten to hurt us is to submit to economic blackmail and to appease. It is also shortsighted, for the record of American Middle Eastern policy shows that far from hurting our relations with the Arabs, close ties to Israel may even have raised our standing in the Arab world.

The growth of U.S. military and economic aid to Israel during the 1970s paralleled an unprecedented rise in American influence in the Middle East. This alone should put to rest the canard that involvement with Israel hurts us with the Arabs. To the extent that we can persuade Israel to make certain concessions, we demonstrate that the Arabs may be able to get part of what they want through peaceful negotiations not war. Our ability to broker the Egyptian-Israel Peace Treaty and, in the eyes of the Arab world, to "deliver" the Sinai have been largely responsible for our alliance with Egypt. Even if involvement were to hurt us, it would be involvement such as arms sales and military aid things which we do for Israel, not things (like basing, data-sharing, etc.) which Israel could do for us.

The argument against cooperation with Israel assumes that non-cooperation wins favor which would not be granted otherwise. What has the United States gained from its non-cooperation? Jordanian entry into the Camp David negotiations? Saudi Arabian pressure on the PLO to allow Jordan to negotiate? Saudi Arabian exertion of its economic power to further U.S. interests? Syrian withdrawal from Lebanon? PLO recognition of Israel?

Did Moslem terrorists refrain from blowing up the Marine complex because we refrained from cooperating with and talking to the Israelis down the road?

As long as the United States disdains the benefits of strategic cooperation with Israel, so long will we suffer from misguided perceptions of our national interest. As Steven Spiegel has written:

> In Shakespeare's King Lear the monarch foolishly relinquishes his kingdom to two daughters who flatter him with expansive but false promises of everlasting devotion while he disowns his one faithful daughter, Cordelia, because she will not stoop to pretenses. The analogy with America's current Middle East policy is compelling. Countries like Saudi Arabia and Kuwait, which offer friendship but will not cooperate with U.S. defense or diplomatic efforts, are regarded as crucial allies, whereas Israel which

offers facilities and services—is progressively treated as a pariah, a candidate for economic sanctions and political alienation. King Lear destroyed his life, his family, and his kingdom because he could not judge between friend and foe. The moral for the United States is obvious."●

"HOW TO WIN FRIENDS AND INFLUENCE FOREIGN POLICY": THE NEW YORK TIMES PRAISES CHAIRMAN LEE HAMILTON

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. LANTOS. Mr. Speaker, the New York Times published an excellent, thoughtful article about our distinguished colleague, Chairman LEE H. HAMILTON. As a member of the Europe and Middle East Subcommittee of the House Foreign Affairs Committee which he heads, I can only praise the Times for recognizing those qualities that we who have worked with him have long known and appreciated.

For the benefit of my colleagues who may have missed that article, I include it in the RECORD:

[From The New York Times, Feb. 19, 1984]

HOW TO WIN FRIENDS AND INFLUENCE FOREIGN POLICY

(By Martin Tolchin)

WASHINGTON.—At a meeting a few weeks ago, House Speaker Thomas P. O'Neill Jr. asked Representative Lee H. Hamilton for his views on the continued stationing of marines in Lebanon. Mr. Hamilton had supported the deployment of the marines, and indeed had played a key role in fashioning the compromise that provided that the troops would perform a peacekeeping role for a period not exceeding 18 months.

But Mr. Hamilton, who had persuaded the Speaker to support the Administration's policy in Lebanon, replied that, among other things, he was troubled by what he felt was widespread confusion about the American role in Lebanon. What was needed, he said, was leadership that would provide a clear and forceful sense of direction.

Mr. Hamilton's remarks to a group that included the Secretaries of State and Defense were taken as a signal that Congressional support for the White House's Lebanon policy had badly eroded. For although his name is hardly a household word, the 20-year House veteran enjoys extraordinary influence among his colleagues on foreign policy issues. His influence transcends his positions as the No. 2 Democrat on the Foreign Affairs Committee and a key member of the Intelligence Committee. A political moderate, he enjoys close ties to both the House's young liberals and more conservative senior members. "Lee Hamilton is a thinker, which makes him a little different," said Christopher J. Matthews, a top aide to Mr. O'Neill. "He makes his case logically, deductively. He's not the kind of visceral politician you see around here. The Speaker looks to him as his expert on Lebanon, and carefully weighs everything he says."

After that meeting in the Speaker's office, Mr. Hamilton joined Representative Les Aspin, a Wisconsin Democrat, in a celebrated letter to President Reagan urging a clarification of the American role in Lebanon. They told the President that the United States had "overstated" its stake in Lebanon, had not pushed hard enough to achieve a political solution and was overly reliant on military solutions.

The letter elicited a prompt, respectful response from the President, who nonetheless said that he was determined to keep the marines in Beirut. Mr. Hamilton was subsequently designated by the Democratic leadership to draft a new resolution spelling out what the United States role in Lebanon should be, and was at work on still another of the compromises that have come to be his stock in trade when the President announced the pullout of the marines.

The Congressman has a special relationship with Representative Dante B. Fascell, a Florida Democrat and chairman of the Foreign Affairs Committee. He enjoys a similar relationship with Representative Edward P. Boland, a Massachusetts Democrat who heads the House Intelligence Committee. It was Mr. Hamilton, working with Mr. Fascell, who drafted a compromise on American assistance to El Salvador, trying the aid to improvements in human rights and land reform. And it was Mr. Hamilton, in conjunction with Mr. Boland, who hammered out the Democratic leadership position against providing covert aid to the rebels in Nicaragua.

CRAFTING CONSENSUS

"The toughest thing to do in this institution is to build consensus, create a compromise," Mr. Hamilton acknowledged. "The issues come at us with such rapidity, and they are so complex, that it's very hard to do." The Congressman believes in White House supremacy in foreign policy, but with some reservations. "My view is that the President is the chief foreign policy maker," he said. "Nothing we do is going to change that, or should change that. But I also believe that Congress has an important role to play. We're a partner in that process, perhaps a junior partner, but nonetheless a partner."

"Congress rarely initiates foreign policy," he continued. "We react to Presidential initiatives. We tend to influence policy on the margins." A major function of the Congress, Mr. Hamilton says, was demonstrated during the Lebanon crisis. "Congress is the principal institution that tells a President if he has support for a policy," he said.

Mr. Hamilton's other power base is on the Joint Economic Committee, which he will head next year, under a system of rotating chairmanships between the House and Senate. He is a fiscal moderate, and his economic views by and large reflect those of the rural Indiana district he represents. As chairman of the Europe and Middle East subcommittee, Mr. Hamilton has been tougher than most of his colleagues on Israel, has voted against aid to Israel and assailed that country's invasion of Lebanon. "United States-Israeli interests are usually parallel, but not always," he said. "I do not equate Israeli national interest with United States national interest."

Mr. Hamilton believes that comity holds the House together. This was demonstrated several years ago, when his effort to lift the arms embargo against Turkey was approved by the Foreign Affairs Committee by a single vote. Five minutes later, Representative Michael Harrington, a Massachusetts Democrat who supported the embargo, walked in. His flight to Washington had been delayed by bad weather; had he been present, Mr. Hamilton's effort would have failed. Mr. Hamilton later told friends that, had Mr. Harrington asked for a fresh vote, he would have gone along with the request.●

WHAT ABOUT THE RUSSIANS?

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. MARKEY. Mr. Speaker, I commend to my colleagues a concise booklet entitled "What About the Russians?" The book, written by Sanford Gottlieb, makes the argument for preventing nuclear war through arms reduction and explores the question of why we should work with the Soviet Union to stop the spread of nuclear weapons. The book is published by the Student/Teacher Organization to Prevent Nuclear War. STOP Nuclear War is an educational organization of high school students and teachers based in Northfield, Mass. Mr. Gottlieb is senior adviser of STOP Nuclear War and also executive director of United Campuses to Prevent Nuclear War, an organization that cooperated in publishing "What About the Russians?" An excerpt from the book's introduction follows:

INTRODUCTION

"We want peace, but what about the Russians?" In the current wave of concern about nuclear war, the basic question continues to worry the American public.

American distrust of the Soviet Union is a fact of life. According to a Roper poll in 1981, 69% of the public believed the Soviets seek global domination. Half of this group thought the Soviets would seek that goal even at the risk of war. A Washington Post/ABC News Poll in 1982 reported that six out of every seven Americans believed the Soviet Union would secretly violate a nuclear-freeze agreement, which a majority nonetheless favored.

Most Americans accept the idea that, if we are to remove the shadow that hangs over our future, we must reach arms reduction agreements with the Soviets. But how can you reach agreements with people you think are out to do you in? That quandary has troubled millions of Americans. It blocked ratification of the SALT II Treaty. It has been a stumbling block in the way of most efforts to slow or stop the Soviet-American arms race. Those who wish to work for arms reduction and the prevention of nuclear war must address this question squarely or they will lose credibility with the public.

The purpose of this booklet is to help concerned Americans resolve that problem realistically for themselves. The first three chapters address the sources of distrust: Soviet actions over the decades and American reactions to the USSR. How Americans see Soviet power and influence is central to any discussion of working with the Soviet Union. This booklet has therefore gone not only into the military and political realities, but also into perceptions.

Next, to put the picture in perspective, we look as objectively as we can at Soviet fears, weaknesses and foreign policy goals. We then compare foreign interventions by the two superpowers, applying a single standard. Finally, we consider the interests the two countries have in common—the necessary basis for any agreement—and explore the Soviet record in keeping agreements.●

FIELDS' BILL REPEALS SOCIAL SECURITY TAX ON RELIGIOUS ORGANIZATIONS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. FIELDS. Mr. Speaker, 1 year ago, the Congress put the Nation's interests ahead of partisan politics and passed the Social Security Act Amendments of 1983.

While this was an historic piece of legislation, we all recognize the individual provisions contained within that bill are not carved in stone. All of us realize I hope, that as with any other bill, some small amount of fine tuning is usually necessary in the years ahead.

Like many of my colleagues, I supported this legislation because there was a clear and overriding need to restore social security to financial health. Nevertheless, there were a number of provisions contained within H.R. 1900 that troubled me deeply.

One such provision forced employees of churches and religious organizations to participate in the social security system. For over 200 years, our Nation has had a strong tradition of protecting the first amendment right of separation of church and state. It is a policy which has served our Nation well, and it is a policy to which we must not abandon now.

Throughout our Nation's history, employees of churches and religious organizations were always given the option of choosing whether or not to participate in the social security program. It was this option which was eliminated with the passage of the Social Security Act Amendments of 1983.

The undeniable fact is that as of January 1 of this year, the Federal Government has placed a new and onerous tax on thousands of churches throughout this Nation. It is a tax that is being paid through the matching of an employees contribution to the social security system.

Mr. Speaker, this mandatory coverage is a violation of the letter and spirit of the first amendment.

I recognize there may be little enthusiasm for an additional review of the social security system but I believe we must address this issue.

With that in mind, I am today introducing a bill which would permanently repeal this mandatory requirement for all employees of churches and religious groups which are classified as a tax-exempt nonprofit organization under title 501(c)(3) of the Internal Revenue Code.

Mr. Speaker, in the last several weeks, I have discussed this issue at great length with dozens of ministers and hundreds of my constituents. The overwhelming majority of these individuals share my view that the mandatory inclusion of church and religious employees under social security is fundamentally wrong. I am certain that many of my colleagues have heard similar communications from their constituents.

Mr. Speaker, I would urge my colleagues to join with me now in working for the repeal of this onerous requirement.●

ETHEL MERMAN

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Ms. FERRARO. Mr. Speaker, a mighty voice from Queens has been stilled. But the voice of Ethel Merman will not be forgotten, as long as there are lights on Broadway.

Born in 1909 in Astoria, Ethel Agnes Zimmerman attended Bryant High School in Long Island City and worked as a stenographer there before breaking into show business.

Yes, a star was born, and raised, in that part of Queens which I am proud is part of my congressional district. Ethel Merman in many ways remained a Queensite all her life. Bold and brassy, she was also a 100-percent professional who cared about those less fortunate. In the last year of her life, Ethel Merman was seriously ailing. But she spent time doing volunteer work at the hospital where she herself was being treated.

Nobody who ever saw Ethel Merman in "Annie Get Your Gun" ever thought it was strange for a woman from Queens to be portraying a crack shot from the Wild West. Ethel Merman was, simply, a natural who developed her voice by singing, not by taking singing lessons.

Queens will miss Ethel Merman and all America will miss this feisty, vibrant star. When she sang "There's No Business Like Show Business" we all believed it—because there was no one in show business quite like Ethel Merman.●

REPRESENTATIVE ERLENBORN LAUDED FOR PENSION ROLE

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mrs. ROUKEMA. Mr. Speaker, it is very rare indeed when an entire area of the law is associated almost completely with a single Member of Congress. Nevertheless, that is certainly the case with our colleague, JOHN ERLENBORN, and his work in the pension area.

As you know, Congressman ERLENBORN will be leaving Congress at the conclusion of this session. His leadership and achievements are legendary, but the singular contribution for which he is most likely to be remembered is as one of the authors of the Employee Retirement Security Income Act of 1974 (ERISA). On virtually any question regarding ERISA, both sides of the aisle collectively turn to the gentleman from Illinois for his discernment and guidance. Most importantly, he has served as the protector of the integrity of pension plans, upon which millions of Americans rely for economic security in their later years.

As the ranking Republican on the Labor-Management Relations Subcommittee, I have benefited immensely from the gentlemen's wisdom and expertise in this area. Consequently, I was pleased to note a recent editorial in the December 1983 edition of Pension World thanking Congressman ERLENBORN for his service in this area and detailing his many accomplishments.

The editorial follows:

JOHN N. ERLENBORN—THANK YOU IN ADVANCE

John N. Erlenborn (R-Ill.) has announced that this is his last term as a member of the House of Representatives. From a "pension viewpoint," this could be the most significant national development in many years.

Washingtonians are very much aware of the importance of individual legislators in determining the nation's course. However, it continues to be a surprise to them to find that in many areas of the country there seems to be a belief that things just happen because the majority of the people feel a certain way—or even because something is "right".

In our schools, we learn that Congress does this and that—viewing our individual representatives as some sort of mass with a consensus or general will. Presidents are identifiable individuals; Congress is an interlocked group. This concept carries over into our adult lives. Few people ever write to their representatives. This is a constant cause of frustration for leaders of various interest groups when they try to arouse their constitutents. One wonders how many in the audience actually "do something about it," after applauding vigorously the rabble-rousing pitch of the lobbyist. They may view with as much alarm as he or she does, but . . "what can you do?" and so it seems to be across the land.

Well, Congress didn't "do" ERISA and certainly President Ford did not. (Oh, the Presidents' men—Nixon's and Ford's—had something to say, but it was supplementary, not basic.) And while certain former Congressional staffers like to be recognized for their part in the proceedings of 1970-74, they were not the prime movers.

Nothing would have happened without the interest and efforts of a somewhat unlikely combination of four people (in alphabetical order): John Dent, John Erlenborn, Jacob Javits, and Harrison Williams.

This is not the place for detailed historical treatment of the origins of ERISA or for personal profiles of its legislative fathers. But a brief look back may not be untimely—particularly as we try to picture the 1984 legislative calendar.

In a way, each of these legislators had a special interest in the nation's private pension funds. Clearly, to summarize these individual interests is to grossly understate the contributions each made. Yet the combined efforts resulted in the negotiated settlement called ERISA.

In brief, then: Congressman Dent wanted to be sure that the individual workers received the promised benefits. As much as anyone, he was interested in the required vesting of pension credits and in having an effective pension plan termination insurance program. Congressman Erlenborn, while recognizing the need for uniform regulation to replace scattered and varied state laws, wanted to make sure that there was a balance between the establishment of standards and the providing of flexibilty so that the private pension system could continue to grow. Senator Javits was interested in ensuring that the entire pension system fulfilled the social and economic purposes Congress had in mind in granting special status in labor and tax legislation to the pension plans. Senator Williams wanted to be sure that those persons making the decisions concerning the day-to-day operations of the employee benefit plans were guided by the highest standards of trust on behalf of the plan participants.

Now that the other three "fathers" have left the Congressional scene, Mr. Erlenborn has taken on more and more of their roles, so that in recent years he seems to have become the voice of all four. His positions on the issues still reflect his interest in protecting the pension system from over-regulation; yet his decisions fall within the overall context of the original mutual and practical agreement of 1974.

Although in a continual minority role, Erlenborn is recognized as the most knowledgeable person on the Hill in pension matters. His position is much more that of a statesman rather than an advocate of certain private interests. An example is his sponsorship of legislation to unify and simplify the administration of ERISA, despite the fact that groups representing large employers are against this move in the direction of efficient government. (They would rather have poor administration of a law they don't like.) similarly, his push for an ERISA for state and local government plans has earned him very few plaudits. Neither the taxpayers nor the covered employees seem to care, yet his concern for the public interest has caused this issue to remain on the pension agenda.

The "hottest" item on that agenda is the amendment of the single-employer termination insurance provisions of ERISA. At issue is the proper funding of the programs through a major increase in premium while at the same time eliminating a number of loopholes which have greatly weakened the intent of the employer liability provisions. There are a number of complicated aspects, some of which are related to the incredibly complex Multiemployer Pension Plan Amendments. It has been agreed by Congress and the White House that if the interested parties—principally Big Labor, Big Management, and Congressional Staff—can agree on the details, the resulting legislation will be enacted *without amendment.* As one of those who saw the loopholes for what they were in the process of enactment some 10 years ago, Congressman Erlenborn has been pressing hard for revision of the termination liability provisions. His acceptance of the proposed solution is essential to the passage of the new amendments.

The difficulty in 1984 is that the "lame duck" game will undoubtedly be played. Those groups who have been opposing the Erlenborn proposals in the private and public areas will take whatever steps are necessary to delay action for just one more year. If they are successful, and the odds are that they will be, most likely these issues will be shelved for a considerable period—perhaps never to return. Still, the fact that Rep. Erlenborn cared enough to fight the good fight year after year, having to educate and re-educate his peers—for these actions alone he should be honored.

However, John Erlenborn does not get credit solely for being a Don Quixote. He has achieved major things for the entire pension community, and millions of us owe him our thanks.●

ELEANOR JOSAITIS

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. CARR. Mr. Speaker, Eleanor Josaitis, a dedicated and caring individual, has recently received the "Michiganian of the Year" award by the Detroit News. Although I cannot personally be with the many distinguished persons honoring her in Michigan this evening. I would like my colleagues to know of the many achievements Mrs. Josaitis has accomplished during her lifetime.

As the associate director of Focus: HOPE, Eleanor has affected the lives of thousands of poor and hungry in Michigan by providing surplus foods to these needy individuals. Along with Father William Cunningham, the director of Focus: HOPE, the organization was successful in opening a new feeding center in Pontiac, a city in my congressional district with many hungry mothers and children.

The Detroit News recently printed a short biography on Eleanor Josaitis. Below is a reprint of this article which sums up the impact she has had on all our lives:

ELEANOR JOSAITIS

Detroit was still staggering from the recession in 1983. People were unemployed and hungry. Many families lined up at soup kitchens for their evening meals. Yet, Washington was looking for ways to cut food subsidies programs.

But scrawled on a piece of paper that Eleanor Josaitis keeps in her wallet are four words: "Above all, do something." She did. The long-time associate director of Focus: HOPE was not only instrumental in maintaining the organization's feeding program for pregnant mothers and children, she helped expand it. Last month, with a $4 million federal grant, Focus: HOPE opened a new food center in a renovated truck terminal in Pontiac which will feed 15,000 people a month. This is in addition to the 50,000 mothers and children under 6 the organization already feeds at its center in Detroit. Families receive agriculture department food products under the program, which is considered one of the most efficient in the country.

Mrs. Josaitis, 52 and a mother of five, pulled out all the stops to keep the food coming. She and Focus: HOPE director Fr. William Cunningham took videos of their program and knocked on congressmen's doors. A plane was borrowed from Ford Motor Co. to fly in 26 key congressional aids to tour their facilities.

"She's a role model in our organization," says Fr. Cunningham. "She has integrity, and anybody that deals with her knows they can believe anything she says. They also know she will not enter into a contest unless she has totally committed herself . . . she will never give up."

I am proud to know Eleanor Josaitis and count her as a friend and inspiration. I know that thousands of people in Michigan join me in honoring her today.●

ROUKEMA CITES 150TH ANNIVERSARY OF WEST MILFORD, N.J.

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mrs. ROUKEMA. Mr. Speaker, I would like to ask my colleagues to join me in congratulating the township of West Milford, N.J., as it celebrates the 150th anniversary of its official founding.

First Lenni-Lenape Indians, and soon after Dutch, English, and German families settled in the area. And the news spread that this area was an excellent place in which to live.

Laws enacted on February 25, 1834, formally established West Milford Township. At that time, the township lay in Bergen County. But by 1837, this area had so grown and prospered that it became necessary for West Milford and several other towns to form the new county of Passaic.

West Milford developed as an iron ore center. For more than three-quarters of a century in the 1800's, the mines provided the backbone of the local economy. Various families helped build the early town, including the Hewitt family, whose name has been memorialized in West Milford's mail address.

During the Civil War, the iron mines were a most important source of iron for the North. By the thirties, however, iron ore mining moved West to Minnesota and the mines shut down.

Today, West Milford is a most comfortable residential community, proud of its past, but with its eyes to the future. The population there has increased sevenfold since the fifties.

A thriving, well-planned community, the township has just built a new high school and started a brand new public library with 20,000 books gathered by proud township residents.

This bucolic and verdant home for 22,750 residents boasts over 30 lakes set in the 80-square-mile township. Although only 38 miles from Manhattan, West Milford is blessed with an abundant amount of undeveloped land. The area contains many hiking trails and State parks. Indeed, some of my colleagues may have been in West Milford if they have hiked the Appalachian Trail.

West Milford is, in my opinion, the perfect example of public spirit and healthy lifestyle that typifies the idealism of our American tradition. I am proud to represent West Milford in this distinguished body.

I applaud West Milford on this historic anniversary and offer my best wishes for continued success.●

SOUTHERN AFRICA

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. SILJANDER. Mr. Speaker, recent news stories have told us of the battle in southern Angola between the territorial defense forces of Namibia and South Africa against the Soviet-sponsored guerrilla forces of the South West Africa People's Organization (SWAPO). We know from hearings held by Senator JEREMIAH DENTON in the U.S. Senate last year that SWAPO is another Russian surrogate terrorist group, acting as a cat's paw to further Soviet empire expansionism in southern Africa.

Of particular concern to Americans is the fact that the SWAPO terrorists seem to be bent on seizing control of Namibia—South West Africa—as the gateway to ultimate Soviet control of all of southern Africa, and the strategic minerals located there which are of critical importance to United States national security. For example, we cannot build a jet engine without chrome, platinum, and other strategic minerals which come from southern Africa and for which we are 100 percent import dependent. Thus, the military activities in southern Angola are the immediate concern to most Americans, many of whom are not fully aware of the situations there.

The following newsstory from the South African Press Association and the Capetown Sunday Times indicates that Soviet military commanders were in direct control of the defeated Cuban, FAPLA, and SWAPO military forces during the massive battle at Kuvelai in Angola.

Of particular concern should be the fact that a total of 25 Soviet made T54 and PT76 tanks were destroyed during the battle and that SWAPO is using these tanks. Other newsstories report that the Soviets have installed SA-9 heat-seeking ground-to-air missiles in southern Angola. All of this simply means that the embattled Angolan regime is really only a Soviet puppet which owes its tenuous existence to Soviet and Cuban arms and advisers. In return, despite the continued gains by the pro-Western UNITA freedom fighters, the Marxist government continues to spend resources to protect and support the SWAPO terrorist campaign to spread Marxist-Leninism to Namibia.

SOUTHERN AFRICA

Russian military commanders were in direct control of the defeated Cuban, Fapla and Swapo forces during this week's massive battle at Cuvelai against out-numbered South African troops.

The South African forces scored a decisive victory. During the month-long anti-Swapo operation in Southern Angola, they destroyed 25 Russian-built tanks and killed "about 400" enemy troops.

They began to withdraw at the week-end and the Minister of Defense, General Malan, warned the South African forces would, if necessary, strike again "regardless of the consequences."

At Cuvelai alone, 324 enemy troops were killed and 11 Soviet tanks destroyed. The month-long operation claimed the lives of 21 South African soldiers.

South African Defense Force intelligence sources are satisfied that the victory of Cuvelai was essentially a pitting of Russian against South African military commanders—which the South Africans won hands down.

Military observers say the involvement of Russians in the conflict adds an ominous new dimension to the war.

The direct role that Russia has assumed in the war in Angola throws new light on an earlier Soviet warning against South African "aggression", and on disclosures that South Africa and the Soviet Union were in contact last year on the Angolan issue.

The South African Defense Force's Chief-of-Staff Operations, General Ian Gleeson, told a Press Conference in Pretoria that intelligence sources had confirmed that in several areas of the month-long operation culminating at Cuvelai, Russians were known to have been issuing orders and guidelines to Angolan, Cuban and Swapo forces.

Gen. Glesson said it had been estimated that there were just under 5,000 Russians spread throughout Angola acting in instructive, technical, command and maintenance capacities.

Until now they had not been directly involved in the fighting. But in the latest operations probably a few hundred were involved.

To outnumbered South African force, which had Angolan, Cuban and Swapo forces reeling in retreat, registered one of the biggest victories thus far in the war.

SADF chiefs believe it has probably set Swapo back by more than a year.

Gen. Gleeson said the pre-emptive action achieved all its major objectives and consideration was being given to a scaling-down of the operation and possible withdrawal of conventional and mobile forces.

FULL ALERT

But South African forces would remain on full alert during the withdrawal and for the next few weeks in case of a regrouping by Swapo forces and further attempts at infiltration.

SADF sources have compared the operation's success with that of Operation Protea in 1981, when Swapo plans and objectives were again set back by about a year.

They believe the operation has thwarted Swapo's hopes of infiltrating large contingents of terrorists into South West Africa early in the New Year in the hope of significant military gains before January 31 and the proposed ceasefire negotiations.

Gen. Gleeson also released more detail of the battle centered in the Cuvelai area south west of Cassinga where an important Swapo command post was destroyed.

In the process, incaculable harm was done to Swapo's entire logistical set-up in Southern Angola, destroying supply and command structures which will take many months to restore from the north.

Gen. Gleeson said that in the entire operation, a total of 25 Russian-made T54 and PT76 tanks were destroyed by the South Africans.

Some of the PT76 tanks were being used by Swapo elements, he said.

The South Africans had not introduced their own tanks into the battle because they had not been looking for a fight with Angolan government forces.

They had destroyed the tanks with anti-tank weapons and 90mm guns mounted on vehicles.

"But if the type of armoured protection given the Swapo forces at Cuvelai by Angolan and Cuban forces persists in future, we may be compelled to introduce our own tanks," he said.

During a UN Security Council debate requested by Angola, the South African ambassador to the UN, Mr. Kurt von Schirnding, said South Africa had no desire to control a single centimetre of Angolan territory.

"It is hypocrisy for Angola to come to this council and to state that it wishes to avoid a situation that would lead to 'disastrous consequences'. It is the actions of the Angolan regime in aiding and abetting Swapo's terrorist aims and by supporting Swapo to launch attacks from and maintain bases on Angolan territory which will lead to 'disastrous consequences', unless the Luanda regime comes to its senses.

"If they are concerned with the threat to 'peace and security in the region' why do they attempt to justify the presence in Angola of the Cuban and other surrogates, representing ideologies completely foreign to Africa?

"South Africa and I trust the members of this council, will not be taken in by this transparent attempt of the Luanda regime at deception."

Referring to South Africa's disengagement offer, Mr. Von Schirnding said:

"It will be recalled that Angola's immediate response to this positive gesture on the part of SA was one of contemptuous rejection. Apparently that regime has now had second thoughts.

"Hence this attempt by Angola to appear to be reasonable. The Angolan Government is, however, the one which will have to comply with the conditions for peace, not the SA Government. The SA Government's offer still stands."●

YOUTH ART MONTH

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. ROTH. Mr. Speaker, I have introduced a resolution that will declare the month of March 1984 to be "Youth Art Month." Similar legislation received widespread support in the 97th Congress.

Since it was first initiated in March 1961, Youth Art Month has been widely recognized by many Governors, mayors, art educators, civic groups, and parents as a worthwhile opportunity to emphasize the value of art education for all children and to encourage public support for quality school art programs.

Now, more than ever, our youth need a positive outlet for their talents and emotions. Art offers such an outlet for self-expression. Also, art programs develop self-esteem, discipline, appreciation for the work of others, and a capacity to cooperate with others. Clearly, art is not a frill, but an essential element for the full development of all children.

Youth Art Month is an ideal time for everyone concerned with art education to work together to increase its support. In State capitol exhibits and thousands of local exhibits, the spotlight is on the creative, interesting, and appealing works of art students. We openly acknowledge that art has great value—speaking a universal language, stimulating a child's creativity, nurturing a child's appreciation of beauty.

Youth Art Month and quality art education merit our support now. I invite my colleagues to join me in observing the importance of art education in the development of a priceless American asset—our children.●

HUMAN NUTRITION RESOURCE CENTER ON AGING

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. O'NEILL. Mr. Speaker, I would like to bring to my colleagues' attention an article from the February 8 Boston Globe on the U.S. Department of Agriculture's Human Nutrition Resource Center on Aging at Tufts University in Boston, Mass.

This article describes the important research underway at the nutrition center and the stated purpose of the center—to learn whether diet can reduce or delay the degenerative disease that comes with aging. The human and financial costs of the aging process are staggering in today's world and I highly commend the professional commitment of both the staff and volunteers at the Tufts Center. I urge my colleagues to read this article on the efforts underway.

The article follows:

[From the Boston Globe, Feb. 8, 1984]

TUFTS NUTRITION RESEARCHERS STUDY DIET AND AGING PROCESS

(By Alexis Beck)

How people eat may determine how they age. A research center at Tufts University is exploring the connections between eating and aging.

The $35 million Nutrition Research Center on Aging on Washington Street in Boston is one of five U.S. Department of Agriculture laboratories established in an effort to advance human nutrition research. (The others are in San Francisco, Houston, Grand Forks, N.D., and Beltsville, Md.) But Tufts has the first center in the world to address specifically the link between nutrition and aging, and to suggest ways in which diet, alone and combined with other factors, can make the aging process more healthful.

The impressive 15-story building, which opened its doors in October 1982, towers over Boston's Chinatown and Combat Zone as the newest addition to the Tufts health sciences campus.

"Our mission has nothing to do with disease," emphasizes Dr. Robert Russell, the center's acting director. "Rather, we are looking at how diet and nutrition can keep people healthy. We want to see how the degenerative conditions associated with aging, like osteoporosis [bone thinning], cataract formation and less active immune system, for example, might be prevented through diet."

"We have no data concerning how nutrient requirements evolve as people get older," explains Jean Mayer, the internationally renowned nutritionist who is president of Tufts. "Do our requirements for vitamins go up or down as we age? We don't know."

The fact is, no comprehensive study has ever been done to determine the specific nutritional needs of the elderly. Current understanding of the dietary needs of the elderly has been deduced from what is known about the requirements of other age groups, mostly under 25. While dietary surveys of the elderly have indicated reduced consumption of nutrients as people age and their eating habits change, these surveys have not been coupled with biochemical and physiological assessments.

USDA has appropriated $9.9 million for the Tufts center this year and is expected to grant the center $12 million next year to continue its research. The center's research is viewed by the government as a 30-year project.

The center's staff of more than 200 scientists, clinicians and support personnel will be involved in five major areas of study:

Nutrient requirements.

Nutritional epidemiology: the importance of specific vitamins and minerals and the conditions, such as stress, disease, environment and other nutrients in the diet, that alter requirements.

Nutrient metabolism: the body's use of nutrients.

Drug-nutrient interactions. The scientists want to find out if certain medications commonly prescribed for the elderly might actually remain in the body fat of overweight individuals for longer periods of time than in a lean body, thereby leading to a possible toxic build-up from an otherwise safe prescribed daily dosage.

Functional systems. Separate teams study the effect of poor nutrition on digestion and blood clotting as well as on the liver, the muscles, the skin and eyes.

The ultimate goal is to determine the optimal diet that, in combination with hereditary, constitutional, psychological, sociological and environmental factors, will improve health and vigor over the individual's lifespan.

While some of the research is based on long-term animal studies, many projects depend on paid volunteers who live at the center for anywhere from a few days to several months.

Accommodations for live-in recruits include color TV, telephone and private bath in the modern rooms, as well as a rooftop swimming pool and panoramic view of the Boston skyline from an 11th-floor picture window. Volunteers are paid $10 or $20 a day, depending on the demands and discomfort level of their particular study. Leisure activities such as movies, theatergoing or museum visits are arranged by a recreational therapist.

The volunteers are closely monitored by the team of nurses and dietitians in the Metabolic Research Unit, where they live. The staff wants to be sure the recruits are eating, exercising and eliminating properly. The effects of their special diet on their organs, muscels, blood and daily performance are carefully measured; how well or poorly they use and absorb their food must also be assessed.

"The daily schedule for participants depends on the study in which they are enrolled," says Mary Shea, head nurse on the MRU. Some projects require hourly blood tests, regular urine and stool samples, or frequent visits to the human physiology and exercise lab, where even their sweat is collected and analyzed. Every morsel of food served is planned according to study protocol, and every bit must be eaten.

The volunteers are not allowed to leave the building alone. If they go to the bank, for instance, the are accompanied by a chaperon. While security is one objective (many of the volunteers do not know the city well), there's more to it than that. After all, just one or two bites of a triple cheeseburger could throw a very precise and rigid metabolic study way off. This would be costly because, when all services are accounted for, each volunteer costs about $630 a day.

Margaret and Paul Rosie of Medford think being a volunteer is a piece of cake.

"If you want a rest, this is it," says Margaret, 60, a homemaker. She became involved with the center through an ad she saw in the "help wanted" section of a newspaper seeking people who wanted to lose weight.

Outfitted in their jogging suits and sneakers, the Rosies are the picture of energy and enthusiasm, having just finished a one-hour yoga class.

At 5 feet 3 inches tall and 190 pounds, Margaret would like to lose 50 pounds. Her husband, 66, would like to carry 200 rather than his current 226 pounds on his 6-foot, 2-inch frame.

Asked why weight loss is important to them, the Rosies were unified in their answer: health. "I'd like to feel stronger and healthier, live longer," explained Paul, a retired sales representative and avid golfer.

The Rosies are actually involved in a five-month drug study, in which weight loss is but one part of the research. Their diet is restrictive only insofar as calories are concerned.

"It's a pharmokinetic study where by liver and kidney excretion of the drug imipramine, an antidepressant, is analyzed in the obese elderly body versus the lean elderly body and young body," Shea explains. "Then, as volunteers like the Rosies lose body fat and continue to receive the drug, any difference in absorption will be measured."

Volunteers are also recruited through senior citizen organizations and housing projects, feeding programs for the elderly, newspaper ads and articles, says Caroline Darby, senior recruiter who is also a nutritionist. "And you don't have to be 65 to be a volunteer. We're doing a lot of comparative studies that require volunteers of all ages, from 18 to 80."

Volunteers are carefully screened before admission to ascertain their physical and mental capacities to participate. An important aspect of this process is to ensure that each volunteer fully understands what the study consists of and that he or she will not be placed at medical risk.

"While many are attracted by the opportunity for free medical attention, personal nutrition counseling, and the social aspects of participation, most volunteers are motivated because they simply want to be of help," says Russell.

Preparing meals for 14 live-in volunteers is no simple matter. Special orders are the rule rather than the exception, according to Patricia Gerrity, director of dietetics.

For a study to determine the dietary requirements of zinc and copper in senior citizens, the basic 35-day diet order goes something like this: 1800 calories a day, 60 grams of protein (turkey, chicken and fish only), low fiber (no vegetables or fresh fruits) and distilled water only.

"On this type of diet, where foods are basic as drinking water, red meat, seafood and breads have to be restricted due to their high zinc or copper content, we're somewhat limited, but my job is to turn these limitations into nutritious and edible meals," explains research dietitian Helen Rasmussen.

One translation of the diet order would be a dinner of barbecued chicken and a serving of instant potatoes, both prepared according to a special recipe; 25 grams of white bread with exactly 5 grams of margarine; 50 grams of water-pack peaches; and 100 grams of apple juice. At 9 p.m., for a snack, a volunteer on this study can look forward to 100 grams of apple juice and four of those cheese crackers with peanut butter commonly found in vending machines.

Under Gerrity's leadership, a team of registered dietitians translates the strict requirements of each study protocol into palatable meals.

The MRU kitchen looks more like a spaceage laboratory than a food service operation. Behind each stainless steel and glass work station equipped with state-of-the-art equipment, a technician weighs and measures, right down to the gram, every ingredient.

Although Mayer, Tufts' president, is a renowned nutritionist, he is not directly involved with research at the center. "There are other reasons besides me that the center is at Tufts," Mayer modestly confesses. "New England and Boston, with its large population of older citizens, variety of ethnic and economic groups, and its urban-rural character, is really a microcosm of the United States as a whole, when you think about it." He further noted that the area provides not only extensive material for the research, but also a unique and unprecedented opportunity for nutrition education of an urban population.

"The ideal of medicine," Mayer says, "is that we die young, as late as possible."

That philosophy is a major goal of the center. "Everybody eats and everybody get old," reasons Dr. Jeffrey Blumberg, 38, the center's assistant director. "I plan on growing old and would like to do it healthfully."●

BLACK AMERICAN CONTRIBUTIONS TO THE REVOLUTION

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of House Joint Resolution 454, which I introduced on January 26 with my colleague from Connecticut, NANCY JOHNSON, in commemoration of the contributions of black men and women to the cause of American independence.

History cannot only be a table of places, dates, and events. It has to be a chronicle of men and women—real living people—who have put their imprint on our Nation. Some are well-known—some are obscure—but all have played a part.

Too often we tend to forget that not just one race, or one sex, has played its part in creating the national destiny. We need to acquaint ourselves with and honor those black Americans who played such a little recognized but important role in the struggle for American independence.

Mr. Speaker, over 4,000 blacks served in the Continental Army. Each of the 13 Original States had blacks numbering among their troops, courageously sacrificing their lives for the sake of America's liberty. Hardly a military action between 1775 and 1781 occurred without black participation either among racially integrated companies, or in certain all-black contingents. The valor of the black soldiers of the American Revolution was highly commended by both statesmen and historians.

Crispus Attucks, who might have been fleeing from slavery, was apparently the first man to shed his blood for American freedom when he was shot down by the British troops in the Boston massacre. Blacks were also fighting courageously at Lexington and Concord. Peter Salem, one of the black soldiers at Bunker Hill became a hero when he slayed Major Pitcain.

Each of the Thirteen Colonial States must be proud of the blacks who joined their patriot ranks. They fought for the cause of independence at each New Jersey battle of consequence. They were in Trenton, Princeton, Red Bank, and Monmouth, to name a few.

Mr. Speaker, our Nation is a great blend of races, colors, and nationalities. What they have in common is this—they are all Americans. All have made contributions to this great land of ours. All have seen great visions of what this Nation can do and become, if we all work together.

I am very proud to be a cosponsor of this important resolution. Many of these black men and women overcame great difficulties and endured great hardships to help secure America's independence. We should be inspired by the strength of these patriots. But more importantly, we should recognize their contibutions to our Nation by allowing them to take their rightful place in history.

I would like to thank the gentlewoman from Connecticut for her work in introducing this resolution, and I look forward to its prompt consideration on the House floor.●

RESOLUTION IN SUPPORT OF CONTADORA PEACE PROCESS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. SOLARZ. Mr. Speaker, today I am introducing, with the distinguished chairman of the Subcommittee on Western Hemisphere Affairs, Mr. BARNES, a resolution affirming the U.S. Government's support of the Contadora peace process.

On January 9, the day before the release of the report of the National Bipartisan Commission on Central America—the Kissinger Commission—there was a significant agreement reached among the Central American nations. Meeting with the Contadora group, the Central American countries signed "Principles for Implementation" of the 21 objectives they had agreed to last fall. This represents an important step toward the kind of peace, for that troubled region, which all of us in Congress should enthusiastically support.

The Central American nations agreed to implement specific and significant measures immediately: A census of military installations, weapons, troops, and foreign advisers; elimi-

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nation of illegal arms traffic and all forms of support for insurgents; internal dialog; respect for human rights, complying with international legal obligations; provisions for representative political parties and free elections; and socioeconomic measures. The agreement also established three commissions charged with development of recommendations for verification, supervision of compliance, and further steps toward a regional peace agreement.

We believe that the U.S. Government should strongly and concretely promote implementation of this agreement. The Kissinger Commission recommended that the United States support the Contadora process, and Secretary Kissinger stated the recommendation even more clearly in testimony to the Foreign Affairs Committee on February 8.

I ask that the full text of the January 9 agreement be printed and that Members from both sides of the aisle join in affirming our support for this agreement and the continuing Contadora peace process.

"PRINCIPLES FOR THE IMPLEMENTATION OF THE COMMITMENTS UNDERTAKEN IN THE DOCUMENT OF OBJECTIVES," ADOPTED AS THE FINAL RESOLUTION OF THE JOINT MEETING OF THE CENTRAL AMERICAN AND CONTADORA GROUP FOREIGN MINISTERS IN PANAMA CITY ON 8 JANUARY 1984

The Governments of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, considering:

1. That in September 1983 the five governments approved the Document of Objectives, which is the frame of reference for the regional peace agreement;

2. And that it is necessary to take measures to implement the commitments contained in that document, resolve to:

I. Adopt the following principles for immediate application:

1. SECURITY AFFAIRS

a. To prepare a registry or detailed inventory of military installations, weapons, and troops by each of the Central America states, in order to establish the foundations for a policy to control and reduce these things, providing ceilings and resulting in a reasonable balance of forces in the region.

b. To prepare a census in each country and to adopt a calendar of reduction with an eye to the elimination of foreign military advisers and other foreign individuals who are participating in military or security activities.

c. To identify and eradicate all forms of support, encouragement, and financing for or tolerance of irregular groups of forces involved in the destabilization of Central American governments.

d. To identify and eradicate irregular groups of forces that, acting either from or through the territory of any Central American state, participate in destabilizing actions against another government in the region.

e. To localize the areas, routes, and means used for illegal intraregional and extraregional arms traffic, in order to eliminate it.

f. To establish direct communication mechanisms for the purpose of preventing and resolving incidents among states.

2. POLITICAL AFFAIRS

a. To promote national reconciliation on the basis of justice, freedom, and democracy, and, to that effect, to create mechanisms that permit dialogue within the countries in the region.

b. To guarantee full respect for human rights and, to this end, to comply with the obligations contained in international legal documents and constitutional provisions on the subject.

c. To enact or review electoral legislation for the convocation of elections, so as to guarantee effective popular participation.

d. To create independent electoral bodies that will establish reliable electoral registries and ensure the impartiality and democracy of the processes.

e. To dictate, or when applicable update, regulations that guarantee the existence and participation of political parties that are representative of the various sectors of opinion.

f. To establish an electoral calendar and to adopt measures that will ensure that political parties can participate under conditions of equality.

g. To strive to carry out actions that will permit the attainment of true political confidence among the governments of the area, in order to contribute to detente.

3. SOCIOECONOMIC AFFAIRS

a. To intensify the program of aid for Central American refugees and to facilitate voluntary repartriation through the cooperation of the governments involved, in communication or coordination with national humanitarian organizations and the appropriate international organizations.

b. To grant full cooperation to the Central American Integration Bank, ECLA, the Action Committee for Support to the Socioeconomic Development of Central America, and SIECA [Secretariat of Central American Integration].

c. To jointly negotiate for foreign resources that permit the revitalization of Central American integration processes.

d. To encourage intra-zonal trade and to promote greater and better access to international markets for Central American products.

e. To promote joint investment projects.

f. To establish just socioeconomic structures that consolidate genuine democratic systems and permit full access of their peoples to their right to work, education, health, and culture.

II. Authorize the technical group, which is the advisory body for the joint meeting of the foreign ministers of Central America and the Contadora Group, to follow up on the actions provided for in this document on security, political, and socioeconomic affairs. The technical group will inform the meeting of ministers on the progress made in the implementation of these measures.

III. Create, within the framework of the Contadora Group, three working commissions charged with the preparation of studies, legal briefs, and recommendations that develop the areas of security, political, and socioeconomic affairs, and proposals for the verification and supervision of compliance with the agreed upon measures.

The working commissions will be governed by the following rules:

a. They will consist of the representatives of the Central American governments. Each country may appoint no more than two advisers per commission.

b. The Contadora Group will convoke and participate in the session of those commissions, so that it may continue to extend its active cooperation in the discussion of the assigned topics and in the preparation of agreements.

c. Foreign advisory services, whether provided by individual personalities or representatives of international organizations, must be previously approved by consensus.

d. The working commissions will be installed in office no later than 31 January 1984 To this end, the participating governments will appoint their representatives and advisers and opportunely inform the Foreign Ministry of the Republic of Panama.

e. Each commission will draft and present its respective calendar and working program before 29 February 1984.

f. The working commissions will carry out their duties within the framework established by the Document of Objectives, will have their tasks coordinated by the technical group, and will present their studies, legal briefs, and recommendations to the joint meeting of foreign ministers no later than 30 April 1984.●

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. McGRATH. Mr. Speaker, Congress has traditionally lent its support to the struggle of Soviet Jews by holding a Call to Conscience Vigil each year. During my tenure in Congress, I have proudly participated in this event which focuses attention on these prisoners of silence; human beings a society attempts to eliminate from within while denying their existence to the rest of the world.

Support for this year's Call to Conscience is especially urgent. Within the past 12 months a Government sponsored Anti-Zionist Committee has been established in the Soviet Union, anti-Semitic articles have appeared in state publications, and virulently anti-Semitic books have been critically acclaimed and recommended in the Soviet media. The Government has stepped up its attack on the Israeli Government and its policies, no doubt in part to further ostracize those who wish to emigrate there. Emigration has plunged to its lowest level since 1963. Only 1,314 Soviet Jews seeking exit visas were permitted to leave.

During the August recess I visited with approximately 30 refuseniks. I believe the story of one young man, Iosif Radomiselsky, is representative of the plight of all those struggling for freedom.

I met Iosif in Leningrad where he lives with his elderly and infirmed parents who are also refuseniks. He is trained as a computer engineer. However since 1979 when he first applied for permission to emigrate to Israel, he was forced to leave his career employment and has only been able to find work at odd jobs on a part-time basis. Currently he works as a hospital orderly.

His August 1979 refusal was based on his studies at the Leningrad Military-Mechanical Institute. He was refused at 6-month intervals since that time until December 1982. It was then that Iosif received a final refusal, notification that he will never be granted permission to emigrate, and that he may not reapply for an exit visa. At 30 years of age the prognosis for the remainder of Iosif's life is as a pariah of Soviet society.

Remarkably Iosif is undaunted. He is self-taught in Hebrew and teaches the language and Jewish history and culture to others in the Leningrad refusenik community. He is harassed at work, and the hospital at which he is employed is under pressure to fire him. He lives with the knowledge that at any time he may be arrested on trumped up charges as a result of his activism. Yet, Iosif Radomiselsky has no fear.

He radiates a love of freedom and the Jewish tradition he has labored to keep alive. His mind is quick, his sense of humor irresistible, and his courage inspring. Despite cultural deprivation, the Jewish spirit flourishes among the refuseniks of Leningrad, in large part due to Iosif's leadership.

Soviet attempts to extinguish a yearning for freedom have been ruthless and massive. A oneness to the past among this remarkable group of refuseniks has beaten the odds against Soviet terror. Iosif Radomiselsky and his brethren have our respect, our prayers, and our awe.

I congratulate the gentleman from Pennsylvania for his work in chairing this year's vigil. The work is far from done.●

VOA'S BROADCAST BURIAL GROUND

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. KEMP. Mr. Speaker, this year President Reagan is asking for $113 million for radio construction—the first of a 5-year, $1 billion plan to modernize the Voice of America. The Reagan administation and the Congress laid the foundation for this program when we approved last August a $22 million VOA supplemental. This authorized the hiring of engineers needed for VOA to move toward the contemporary technology essential if the Voice is to be heard around the world. Last fall Congress authorized $165 million for VOA construction.

Now the administration is seeking funding for the first of five steps toward a modern VOA. VOA Director Ken Tomlinson pointed out in a recent interview:

> Much like building space vehicles in the 1960's, you can't press a button and immediately design and install transmitter facilities and antennas, and all you need for the kind of quality sound we must have in American broadcasting. It will take years, but we must begin today.

The following article by Fred Reed in the Washington Times points to the irony that the most technologically advanced nation in the world has such antiquated broadcast equipment for its Government services. I commend this article for my colleagues, and urge them to support the crucial modernization process at VOA.

The article follows:

[From the Washington Times, Jan. 2, 1984]

VOA's Broadcast Burial Ground

(By Fred Reed)

I have an antiquary's interest in ancient technology, being fascinated by the dusty alembics of the old alchemists, by forgotten apparatus and crumbling outmoded machinery, so I went to see Ken Tomlinson, who is curator of the Voice of America.

Mr. Tomlinson is, in my estimation, the best medievalist in the field of radio. Certainly he presides over the world's foremost collection of obsolete transmitters. If you want to see how broadcasting was done before the modern age of electronics, the VOA is the place to go.

Mr. Tomlinson's people have some wonderful . . . "junk" isn't quite the right word, although any engineer would so name it. The equipment is aging, falling apart. In Europe, the Voice still broadcasts with transmitters captured from the Wehrmacht in World War II. William Shockley discovered the transistor in 1947.

Some of the equipment bears stamps saying things like "Patented 1915." Where but at the Voice can you find still in operation the technology of World War I?

Tubes for transmitters from the late Devonian haven't been manufactured for many geological epochs, nor have other parts; to keep these exhibits in working order, technicians patiently wind coils by hand, like bushmen chipping spear points. They have no choice. Once, when the Voice decided to get rid of a fine old transmitter, a European museum asked for pieces of it.

The uninitiated may wonder how the Voice got into the realm of technological archeology. Easily, very easily. The Voice began as the broadcasting service of the United States, and deployed equipment that was modern at the time. The time, however, was a long time ago. A distressing attribute of radio equipment is that it does not stay new. Some wretched modernist at General Electric or Matsushita is always finding a better way. Electronics is not by nature a Tory enterprise. Engineers don't care how Cato modulated his carrier. They want to improve on things. They do improve things.

This means that you have to spend a certain amount annually if you don't want to become a reliquary. The Voice didn't. More precisely, Congress didn't. Not spending money on the Voice is easy for Congress. After all, nothing very bad happens in consequence. The transmitters creak on, a little rustier but still transmitting. The electorate has never heard the Voice and has barely heard of it. I'd be surprised if more than 10 men in Congress know what a diode is. Nobody pays attention. The equipment gets older and older until replacing it would cost too much to think about.

Not long ago I got a nice little Japanese short-wave receiver, a lovely box tuning from slightly below domestic broadcast to 30 megacycles. The VOA may have to use Nazi electronics, but I don't. Anyway, I often spend an hour or so tuning up and down the spectrum to keep up with what various governments want the world to think they are thinking.

The clearest and most frequent signals from, say, the Caribbean region are from Moscow, Cuba and Managua. The virulence of the propaganda against the United States would, I think, startle most people in this country. There is nothing even slightly restrained about it. The United States is the enemy of all Latin peoples and must be defeated. Americans would shrug this stuff off as being transparent twaddle; Third-Worlders, incredibly unsophisticated, swallow a lot of it. By comparison the VOA is scarce and weak (It also sounds at times like a '60s commune having a selfcriticism session, but we're talking hardware.)

As a citizen of what is alleged to be an advanced country, an American might well be embarrassed by the VOA's Cro-Magnon control boards, primitive antenna fields and rotting towers. I for one would like my nation's radio service to be, clearly and conspicuously, a few years in advance of Ben Franklin and his kite. Sheer vanity demands as much.

The deterioration of things technical is not encouraging for other reasons. The United States has come a long way on a strong scientific back and a weak political mind. It is unsettling to watch the back weaken while the mind remains the same.

The easiest answer to this problem, which is to say the only answer the country is likely to consider, is to make the Voice of America part of the Smithsonian. Let us abandon half measures. Overnight the Voice would change from a crumbing radio service into a superbly endowed museum. Congress could continue to do nothing, and thereby improve the collection, which would slowly become older and quainter.

Mr. Tomlinson might object, inasmuch as he wants to run a radio system instead of an agency for the preservation of Victorian technology. We should courteously disregard his views as self-interested. Private ambition should not be permitted to hinder a crucial historical enterprise.●

MR. CHAPMAN GOES TO AUSTIN

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. BRYANT. Mr. Speaker, for the past 5 years, Willie Chapman, 33, has led the Dallas County AFL-CIO Council as its secretary-treasurer. His efforts, which have brought credit to organized labor in Dallas County and to the causes in which he has guided his fellow workers, have been so successful that he has been rewarded with a large and more important assignment. He and his family will soon move to Austin, where he will become the legislative and political director of the Texas AFL-CIO.

This insightful young leader has approached his work with enthusiasm and humor, with forthrightness and a commitment to help build a better world—one that is fair and just and protective of human liberty and dignity.

I am grateful that Willie Chapman has served the working men and women and the best interests of communities I am privileged to represent, and I am confident that he will carry with him to his new job the notion that doing what is right and doing it well is both personally rewarding and rewarding for the society in which we live.

I am pleased to call to the attention of my colleagues not only Willie Chapman's fine record of achievement and his promise for the future, but also a recent column of commentary about him by Molly Ivins in the Dallas Times Herald.

The commentary follows:

[From the Dallas Times Herald]

GOODBYE TO LABOR'S REPRESENTATIVE IN REPUBLICANVILLE

(By Molly Ivins)

"There has never been but one question in all civilization—how to keep a few men from saying to many men: You work and earn bread as we will eat it." That's Willie Chapman's favorite quotation. Chapman, head of the AFL-CIO Council in Dallas for the past five years, is preparing to depart these shores on account of he's been promoted to legislative and political director of the state AFL-CIO. So it seemed like a good time to stop by for a farewell chat about recent past and the future of organized labor with the man who has represented it in the heart of Republicanville. For those whose concept of a labor leader began and ended with George Meany, Willie Chapman is something of a shock. He does not smoke cigars. He does not have a beer gut. He still has a full head of blond hair. He is soft-spoken and in fact somewhat shy: Public speaking is so painful to him that only his deep commitment to the union movement finally overcame his reluctance to get up on front of an audience. He is 33 years old. "I've been told I was too young every time I've ever run for union office," he said with amusement, "but those days are fast fading. It's funny about labor: in business, 33 is not too young for anything, but in labor we tend to come into power later."

According to Willie Chapman, "Being with the labor movement in Dallas means also having to play defense, always preachin' to the choir, but Chapman finds consolation in the thought of all those potential converts out there, all those souls who need saving. Eight percent of the workers in Dallas belong to unions, compared to 12 percent statewide and about 23 percent nationally. "Dallas is a center for several industries with great potential for unions—health care, clerical-insurance and service industries. There are mostly women employees who are tired of working for pin money, many of them are single heads of household and they have to train the men who supervise them. One of the great myths of the labor movement is that we go out and organize unions. People organize themselves and we've got to be ready for them when they're ready for us."

Of the anti-union climate in Dallas, Chapman said dryly, "They've been well-educated by the Dallas Morning News. Did you know the phrase 'right-to-work' came from one of their editorials? And that was the most brilliant stroke of anti-union public-relations anyone has ever thought of."

Chapman is a home boy, graduated Garland High: His daddy was a sheetworker, but Willie joined the Ironworkers, mostly 'cause the pay was higher. His devotion to unionism stems from his own experience as a worker: The dignity and camaraderie he found in the union meant a great deal to him.

Another favorite quote of Willie Chapman's is something an old Polish-American autoworker told Walter Reuther on a UAW anniversary occasion: "I want to thank you and the union for all the wonderful things you do for me. I am happy you give me a higher pay and I live in a better house and my children went to better schools and thank you for all these things. But most important of all, Brother Reuther, for 18 years I work in the Kelsey-Hayes foundry before the union and for 18 years they called me dumb Polack, and then the union came along, and they call me brother."

Of the PATCO strike, Chapman said, "It's easy to look back and see the leadership underestimated the resolve of the Reagan administration. It was obvious the federal government could crush a strike by a union of 14,000 members. But it was absolutely heartless to win the battle and then bayonet the wounded. That was wretched excess. Another major strike during Chapman's tenure here was the transit workers walkout. He says that, once again, dignity was an issue. "I talked to driver after driver and found one thing bugging them all was new managers who wouldn't give them the time of day."

Chapman's skepticism about "new" or "enlightened" management—of the sort extolled in the best-selling, "In Search of Excellence"—is greater than the Divide. "Funny, they're always careful to enlighten employees on issues that are not a cost factor to them. They give you all these nice things and then say the other issues aren't on the table. People don't like to be treated like some type of pet—the employer chooses when to give you a bone."

When asked what he would do in Dallas if he had his druthers—and the money to do it—Chapman answered at once, "I'd start a mass program of reaching out to non-union workers and making them aware of the unfair circumstances affecting them. Then they'd do the organizing."●

FUTURE HOMEMAKERS OF AMERICA

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. NATCHER. Mr. Speaker, last week the 400,000 members of the Future Homemakers of America observed National FHA/HERO Week with the theme "Future Homemakers of America: Creating Partnerships for Excellence."

Future Homemakers is a national vocational student organization that develops leadership and decisionmaking skills through projects related to family life concerns, community involvement, and personal growth. Since Future Homemakers of America was founded in 1945, over 6 million youths have been involved in its programs.

1983 was a year of changes and growth for Future Homemakers of America. The new National Headquarters and Leadership Center in Reston, Va., was dedicated and over 2,000 delegates attended the national meeting in Washington, D.C., last summer. Mildred Reel, the executive director for 20 years, retired and Louisa Liddell has been appointed the new director. Two new national projects were introduced: STAR—Students Taking Action for Recognition—recognizes student achievement in leadership and job-related skills and Sew for Dough—Sew to Grow, cosponsored by Simplicity Pattern Co. and Future Homemakers of America, encourages teens to develop chapter projects that organize a teen-run business—Sew for Dough—or complete a community project—Sew to Grow. Two major national peer education projects—families and futures and the student body—were strengthened through expanded programs.

The Second District of Kentucky, which I have the privilege to represent, has 2,595 members in 43 chapters. Each chapter plans and works on an in-depth impact project during the year. Projects in 1983 included: Adopt a grandparent; safety for children; child abuse; special olympics; to dare is to care; and the best you can be. The chapters also helped with community projects which benefit family health, such as March of Dimes, Arthritis Foundation, Heart Fund, and Crusade for Children. In addition, the chapters helped with collections for cerebral palsy, cystic fibrosis, diabetes foundation, and UNICEF.

I want to take this opportunity to commend the members of the Future Homemakers of America for their accomplishments in 1983 and to wish them continued success in all their future endeavors.●

JOHN DINGELL ATTACKS UNFAIRNESS OF REAGAN ADMINISTRATION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. MARKEY. Mr. Speaker, on February 17, 1984, the distinguished chairman of the Energy and Commerce Committee, our friend and colleague from Michigan, the Honorable John D. Dingell, delivered an important and timely address to the Consumer Federation of America. In his remarks, Mr. Dingell told the 16th Consumer Assembly that the Reagan administration is trying "to dismantle the structure of consumer protection which have played a major role in setting this Nation apart as an enduring symbol of freedom and prosperity."

To those of you just returning from your home district, Mr. DINGELL's remarks come as no surprise. For the subject of his address was, of course, fairness. The American people do not think the Reagan administration is concerned about fairness. JOHN DINGELL knows the American people are right and he is speaking out against "trickle down" theories and other gimmickry destined to make the rich still richer and the poor even poorer. As always, Mr. DINGELL backs his statements up with the cold hard facts. His speech includes an alarming account of abuses and improprieties by the Reagan administration. It is a sorry tale of an administration consumed with concern for the "haves" and unaware of the needs of the many.

Mr. Speaker, I commend Mr. DINGELL for his forthright and honest report on the Reagan administration's wholesale attack on the American consumer. The Nation needs the leadership of this Congress and colleagues such as Mr. DINGELL to resist the fundamental inequities of the Reagan administration's efforts to feather the beds of their friends while deserting the man and woman in the street.

Mr. DINGELL's speech follows:

REMARKS OF HON. JOHN D. DINGELL BEFORE THE CONSUMER FEDERATION OF AMERICA, FRIDAY, FEBRUARY 17, 1984

I know I am billed as talking to you about natural gas today, and I will, but I'd like first to make some observations about where this country is and where I fear it may be going—particularly if we allow the present Administration to "finish the job."

Two years ago when I spoke before the 15th Consumer Assembly, I started by saying that 1981 would "go down in history as the year the American consumer was mugged in the name of economic recovery and regulatory reform." I didn't realize then how hard this Administration would work to repeat the record in 1982 and 1983 and, if the President's proposed budget be any guide, again in 1984. The theory of "trickle down" has instead turned out to be "trickle up." The rich are richer and the poor are poorer today than they were three years ago when Mr. Reagan took office.

This President is more radical, more reactionary, and more anti-consumer than any in this century. He has made more radical changes in four years in the way the Federal Government treats America's citizens—or, rather, mistreats them—than any other President in this century. He still wants to undo the sound regulations that for most of this century have protected American consumers and American small businesses from the rapacious appetites of the rich and greedy.

When I spoke to you two years ago I said that "the structure which this Administration is trying to dismantle has made enormous contributions to the quality of American life and has played a major role in setting this nation apart as an enduring symbol of freedom and prosperity in a troubled world."

Congress has been able in some small ways to prevent the wholesale dismantlement of the Federal Government that this President and his friends have sought to accomplish, but it has been extremely difficult and we have not been able to manage as much as I would have wished.

I should interject here that what we have been able to accomplish has been possible only because the American public has begun to recognize the unfairness of it all, and because organizations like the CFA have worked harder than ever to ensure some modicum of remaining decency in our Federal Government and its programs.

Still, the list of abusive changes, accomplished often through the back door of personnel reductions and budget cuts rather than through the fairer and more appropriate process of seeking changes in our laws, is enormous. And more keep being suggested. Cabinet Department and regulatory commission decisions have had devastating impacts on our consumers. Many of these decisions have been reached without full compliance with the laws of our country, and many have involved improper procedures and/or inappropriate—and even ex parte—contacts with those supposedly being regulated. Let me mention just a few examples.

The Federal Trade Commission has upended our anti-trust laws, permitting and even encouraging some of the biggest and most anti-consumer mergers in this country's history. This is especially true in the oil industry, which has been doing very well—note Mobil-Marathon and Texaco-Getty (at $10 billion, the biggest proposed merger in history!). Note that during 1983 there were 2,533 announced mergers—a nine-year record—with a total price tag of $73.5 billion! Major beneficiaries of this merger mania are the President's friends in big banks and big brokerage houses.

In a great break from both tradition and consistency, the Department of Justice's Mr. McGrath has tilted against a merger in the one industry everyone knows is in trouble. While I will not comment on the specifics of the proposed steel mergers, that industry, in Mr. McGrath's own words, is an industry in "crisis." As I said earlier, the rich get richer. . .

Just to show that his preliminary decision does not mean a new conversion to belief in the anti-trust law, Mr. McGrath has promised to give Justice Department guidance on how steel competitors can engage in industrywide negotiations to achieve efficiency improvements (which he says includes "reshuffling or consolidating plants and operations now under separate ownership")—without violating the anti-trust laws.

The Consumer Product Safety Commission has become more of a consultant to product manufacturers than a protector of public health and safety. Indeed, in defense of a budget 12 percent lower than the Commission had in 1981, its Chair, Nancy Harvey Steorts said, "The CPSC is working with industry instead of against it."

The Securities and Exchange Commission, designed not only to protect investors from fraud but to ensure fairness and integrity in our basic market system, has failed abysmally in enforcement of our Federal securities laws and, at the same time, is pressuring the states to reduce *their* standards.

The Federal Energy Regulatory Commission (FERC) has been as lax as all the others in enforcing the laws under its jurisdiction. Moroever, since this Administration came into office, FERC has tried mightly to decontrol natural gas prices, particularly under its departed chairman during 1981 and 1982, slowing such efforts only when the Congress refused to go along.

The FERC also is that same commission which decided last June that all electric utilities under its jurisdiction should be allowed to charge 50 percent of the cost of construction work in progress (CWIP) for new powerplants—whether they need it or not! That decision, particularly if emulated by the state regulatory commissions, could cost consumers billions of dollars.

The Federal Communications Commission, whose chairman has a high disregard for the fairness doctrine and equal time, has seriously overstepped the bounds of propriety by bending to White House pressure and meeting secretly with the President to discuss an active Commission rulemaking on financial interest and syndication. The contestants were Hollywood producers and television networks—and you know full well who are this President's cronies.

The Environmental Protection Agency has been a disaster area, in keeping with the Administration's desire to undo our environmental laws and return to the lassez-faire plunder approach of the last century. With more than 20 former EPA officials gone, and one convicted of felony, there is some respectable new leadership at the agency, and yet, the President and his minions still show a complete disregard for the public health and safety and the environment. After all the trouble last year, we find that the Office of Management and Budget is still trying to throttle EPA's efforts to protect the public health.

These are but a few examples of anti-consumer actions we have suffered at the hands of the Reagan deregulators. I might point out that there are 11 vacancies on seven regulatory commissions at the present time, and all of those would go to Democratic or Independent persons. Small wonder decisions are consistent with Reaganomics. The Commissions with such vacancies are the Commodity Futures Trading Commission (1), the Equal Employment Opportunity Commission (1), the Federal Home Loan Bank Board (1), the International Trade Commission (2), the Interstate Commerce Commission (3), the National Labor Relations Board (1) and the Securities and Exchange Commission (2).

I should also point out that, if Mr. Reagan were reelected, he would have the right to appoint 62 additional troglodyte commissioners! Moreover, there already are 12 Reagan commissioners whose terms already extend beyond what would be the end of his hoped-for second term.

Considering the damage he might also do to the Supreme Court and the Appeals and District Courts, the thought of a second term is alarming, to say the least.

I mentioned earlier that the 1984 budget indicates that Mr. Reagan thinks he is on a tear, and he proposes to keep right on dismantling and dismembering the Federal Government, with absolutely no regard for the American people. Christopher DeMuth, who is in charge of destroying Government from within the Office of Management and Budget, has some proposals which are enough to curl one's hair—and, I hope, to arouse such ire among you in the CFA and all Americans that you will prevent their occurring and, for that matter, prevent Ronald Reagan from being given four more years.

In an analysis of the Administration's 1984 regulatory agenda prepared for the Cabinet Council on Economic Affairs, DeMuth gave the President low marks for failing to accomplish "broad and potentially durable changes" to regulatory policies, but gave high marks to the Reagan regulatory program in the area of slowing the issuance of new regulations. DeMuth targeted banking, natural gas, telephone and airline deregulation as the most important deregulation initiatives in FY-1984. He made three recommendations for achieving the Administration's strategy: (1) fundamental and permanent "reform" of the basic regulatory statutes; (2) administrative "reform" of existing regulations; and (3) requiring federal agency heads to establish a "detailed regulatory policy agenda" that would be reviewed by OMB in much the same manner as the federal budget is currently reviewed.

The list of specific proposed statutory reforms reflects this Administration's total disregard for the welfare of all save America's wealthiest citizens and the more rapacious elements of the big business community. In DeMuth's own words, these changes will "produce the largest economic gains":

Rewrite the Food, Drug and Cosmetic Act to eliminate government approval of the efficacy of pharmaceutical and medical products. Substitute consideration of costs and benefits in making cosmetic and food additive decisions; reduce medical-devices classification requirements and reduce or eliminate FDA's role in food labeling disclosure. Back to the days before Frank Norris's expose of the Chicago meat packing houses!

Limit OSHA regulation to only "serious" occupational health hazards, leaving safety regulation to private incentives. Back to the days of unsafe workplaces!

Totally abolish the ICC and FERC. Reserve some standby regulatory authority for price regulation but only in "true monopoly markets." Back to the days of Jay Gould and the Standard Oil Trust!

Abolish FCC telecommunications regulation except in "monopoly intercity-transmission markets." Replace FCC broadcasting regulation with private property rights in the electromagnetic spectrum. Back to the days of ownership of all property by the wealthy few!

Rewrite the securities laws to focus exclusively on disclosure of basic financial information. Eliminate all other investor and market protections, with special emphasis on eliminating the restrictions on insider trading and tender offers. Back to the days of the 1929 crash!

DeMuth suggested that a similar list could be drawn up of administrative reforms, including the suggestion that race and gender hiring regulations could be eliminated; that entry and production restraints could be eliminated from agricultural marketing orders; that wage and hour rules, including teenage employment restrictions, could be liberalized to the maximum legal extent (Is this an implicit repealer of our child labor laws?), and other outlandish ideas.

DeMuth's analysis also said: "Telephone Rates: Last session the House passed legislation to prevent the FCC from reforming the telephone rate structure and to impose punitive taxes on new telecommunications technologies. The Administration opposed. This would be one of the most retrograde regulatory laws to pass in many decades; defeating it in the Senate should be an important priority."

Do you agree?

Here's another DeMuth assertion: "E.O. 12291 Oversight: House Democrats will launch election-year attacks on 'OMB interference in the regulatory process.' They will attempt to divide OMB and the agencies whenever major regulations are being debated within the Administration, will attack OMB for gutting essential regulatory protections at the behest of big business, and will hold noisy oversight hearings."

To that, I say, damn straight! (I would like to note that today marks the third anniversay of the signing of E.O. 12291. However, I will not ask you to observe a moment of silence in commemoration.)

Let me digress for a moment to discuss natural gas very briefly. At the moment, there is some considerable pressure for one kind of special-interest legislation or another to bail out one segment or another of the industry. And there is pressure for Congress to act to protect consumers—which I would very much like to see us do.

So far, however, we have not managed to gather enough votes to pass what I believe is balanced legislation aimed at putting some order in the natural gas market as we move toward the decontrol of new gas and, at the same time, relieving consumers of the shocking price rises we've seen in the past couple of years.

I am prepared to try again to move natural gas legislation through the Energy and Commerce Committee, but I am not prepared to move legislation that harms consumers. And I am not disposed to move solely for the sake of moving, and warn you that I am sincere when I say that a bad bill is worse than no bill at all.

If you want legislation, you are going to have to work very, very hard in the coming weeks and months, the more so because much of the industry—not to mention President Reagan—still wants to decontrol old natural gas prices at the wellhead. Further, there are many obstacles between action in my Committee, if we can prevail there, and the House floor, the Senate floor and the Conference Committee. We didn't have the votes in the Committee in November, and I don't think we have them now; prove me wrong, and I'll push ahead. But again, I am not prepared to move any bill that is inequitable or designed as a "quick fix." Natural gas is far too complex a subject and an industry to go for half-baked answers.

To return briefly to my earlier theme, Mr. Reagan and his aides like Mr. DeMuth—not to mention the Steortses, the Fowlers, the Millers and the Shads of this Administration—have an agenda which, if even part of it is adopted, will wreak even more havoc on our Nation and its citizens than they have wrought up to now. What he proposes is more of what we've seen, all designed to continue the trend of enriching the rich and wiping out the middle class and the poor—all in the name of getting the government off people's backs. The government I know and respect is not on people's backs, but merely there to keep rapacious economic powers from unfairly ripping them off.

That is the government I believe in, and I know you do, too. It is the government of compassion and of fairness. It is a government designed to provide for the equal rights underlying our constitution. Above all, it is a government of laws, not of men, and that—most horrifying of all—is what this Administration seems hell bent to ignore. Rather, theirs is a government of men, and the devil, the laws and the public take the hindmost.●

HISTORY IN A FLAG: MARYLAND CELEBRATES ITS 350TH ANNIVERSARY

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. BARNES. Mr. Speaker, this year marks the 350th anniversary of Maryland—a State rich in history whose founding fathers dreamed of a colony free of religious persecution. This idea is one of the interesting items brought up in the following essay on the State flag—a unique interpretation that begins with the design of the banner itself and ends with a historical portrait of Maryland's 350 years.

HISTORY IN A FLAG

The occasion of the 350th anniversary of the founding of Maryland prompts a salute to the unusual Flag of this great state. Of yellow, black, white, and red, it is considered beautiful by some and not so beautiful by others, but everyone agrees that, beautiful or not, it is unique.

It is unique because of its color combination, and also, because it alone of the fifty state flags is based on amorial bearings of a founding father, George Calvert, Lord Baltimore. More than this—by chance, or historical serendipity—Maryland's flag may be viewed as a history lesson is graphics.

Because of its ancient design, first used on the Great Seal of Maryland in 1648, it is appropriate to assign special significance to the colors of the flag, as in heraldic times. Yellow, or gold, may represent civil authority and wealth; black may represent the fertile soil. White suggests the spiritual values and red sacrifice and courage.

The flag is quartered, precisely separating gold and black from white and red. This visual partition is a clear representation of the separation of secular qualities from spiritual ones, a concept inaugurated at the little colony on the St. Mary's River.

Today, we take separation of church and state as a matter of course, but in 1634 such a concept was unique in history.

The yellow and black quarters of the flag are designed with six bars (or stripes) alternately yellow and black. They are traversed by a diagonal (a bend) that is counterchanged, i.e., black where it crosses a yellow bar and yellow where it crosses a black one. Just by chance, during the proprietary period in Maryland, from 1634 almost until the time of the Revolutionary War, there were six Lords Baltimore. So each bar represents a lord. As for the diagonal, that represents Henry Harford, the last proprietor, a natural son who inherited the job but not the title.

On the white and red quarters, which in turn are quartered, there is a cross counterchanged. It is neither red nor white. It is both, and yet it is still the Cross. This, again by chance, is a graphic representation of freedom of choice in religion, another of the unique founding precepts of the First Lord Baltimore's colony. It was through this concept of religious freedom of choice that Maryland became known as the "Free State."

The history taught by this unique flag concerns separation of church and state, a representation of seven generations of courageous settlers before the Declaration of Independence, a freedom of choice in religion, and one thing more. When the first Lord Baltimore established his colony, he meant it to be a sanctuary for all Christians, Catholic or Protestant. No doubt, he would be pleased to know that today his Maryland's flag waves a welcome to all men and women who would be free—be they red, or yellow, black, or white.●

MORE HEARINGS SCHEDULED TO GATHER VDT INFORMATION

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. GAYDOS. Mr. Speaker, If the projections are correct, new users of video display terminals (VDT's) will be created in the work force on the average of about 11 every minute from now until the end of the decade.

VDT's are the medium through which humans put computers to work, and for the past 10 years their use has been growing exponentially.

Unrest and uncertainty about the side effects on users have grown almost as rapidly.

As chairman of the Subcommittee on Health and Safety, I received a study report last fall on the potential hazards of VDT's, and the following public response to news of the proceedings was greater than anything I have experienced as chairman. The subcommittee received more than 200 inquiries from all sections of the country, and the callers all were anxious to have any information available.

This concern will only grow as VDT use reaches toward the 40 million expected in the workplace by 1990.

Yet there is no real body of information on these very useful new tools, and their impact on the people who wield them.

If anything is symbolic of the 20th century it is the nasty surprise; that is, the things that hold great promise for helping us may eventually deliver disastrous side effects. We need look no further than asbestos to understand the principle. We should know more about VDT's as soon as we can.

Last fall's meeting dealt with the results of a survey of American Newspaper Guild members in six cities.

Among the findings was a higher than usual incidence of cataracts among VDT users in the study group. Usually associated with age, cataracts were found among relatively young persons in this study.

Therefore, the Subcommittee on Health and Safety this year will hold hearings on VDT's to gather into a record the existing information, the current hypotheses, and the opinions of those who use VDT's and of those who make and sell them.

The first of these hearings will be at 9:30 a.m. on Tuesday, February 28, in room 2261 of the Rayburn Building. Witnesses will come from the Service Employees International Union and 9-to-5, the National Association of Working Women. Other hearings are scheduled tentatively for March 13 and March 20. Additional hearings will be announced as arrangements are completed

Meanwhile, because of the high interest in the initial meeting, I offer for the RECORD excerpts of the study that was presented.

The study was sponsored by the American Newspaper Guild, and the survey was of more than 1,000 guild members. It was done by Dr. Arthur L. Frank, who was associated with the Mount Sinai School of Medicine, division of internal medicine, when the study began. He currently is chairman of the Department of Preventive Medicine and Environmental Health at the University of Kentucky College of Medicine. He is a specialist in occupational and internal medicine.

The excerpts of Dr. Frank's paper follows:

EFFECTS ON HEALTH FOLLOWING OCCUPATIONAL EXPOSURE TO VIDEO DISPLAY TERMINALS

(By Arthur L. Frank, M.D., Ph. D.)

RESULTS

Approximately 40% of those circulated responded to the questionnaire with 1,109 questionnaires being returned. Of those, a number were blank (often with comments as to the reason for not participating) and ultimately 1,047 questionnaires were available for analysis. Of these 74% were returned by VDT users and 26% from non-users. The number of responses from each location varied from 97 to 353. In some cases individual questions were left blank, and analyses were done for each question based on the number of respondents to each question.

The group which responded, while atypical for many working populations, appears to accurately reflect workers in the newspaper industry who are white-collar members of the Newspaper Guild. There were 542 female respondents and 505 male respondents. The group as a whole was young, the average age being 38 yr. (range 18-82). There were small differences when VDT users and non-users were looked at separately (37 vs. 40). Overall, 67% of the females were users of VDT's, while 81% of the males used VDT's. While for the group as a whole 50% had a college degree or higher level training, more males were represented in the higher education status, and higher education correlated with a greater number of work hours. While a majority of individuals used VDT's in their current job, VDT use fell with previous employment, correlating well with the observation that VDT's have only been recently put into newspaper offices.

Complaints of eye problems among VDT operators were frequent and generally consistent across the six subgroups, although frequently there were insufficient data to make valid statistical interpretations. Whereas there were no significant findings with regard to other senses such as smell or taste, significant differences were noted with reports of deteriorated vision, eye strain, eye irritation, red eyes, and blurred vision.

As a group, the vast majority of individuals wore eyeglasses. The majority of respondents of both groups had at least one prescription change within the two years prior to the completion of the questionnaire and there were no significant differences in the number of prescription changes. Questions were asked about both cataracts and any pre-cataract conditions. Many of the same individuals who reported having cataracts, reported positively for pre-cataract condition.

Of the 18 cataracts reported, 16 were among VDT users, but it appeared that many had developed prior to exposure of these individuals to VDT's. The age range for those reporting cataracts was 27 to 67 years, but the age at which the cataract first developed ranged from 14 to 57 years. Data was incomplete for a number of these individuals as to either number of years in the current job or the age at which the cataract developed. Although data was incomplete, six of the 16 cataracts among VDT users were first noted within the previous five year period, and five of these six came from a group of 10 individuals reporting cataracts from one study location (St. Louis). It should also be noted, that one case of cataract developed at age 26, one year after the start of employment in the most recent job which included VDT use. Another case developed at age 34, 10 years after start of work in the current job. That individual had been employed in their current job for 15 years, and some of that time had been with VDT use.

In addition to the questions about cataract and pre-cataract conditions, there were questions asked about other eye conditions not hypothesized as related to VDT use. Such conditions included glaucoma, styes, and iritis. There were no differences between VDT users and non-users when the frequency of these other problems were evaluated.

There was a series of questions with regard to musculo-skeletal complaints. The responses to each of these was statistically highly significant when all groups were combined. Positive findings were noted for neck pain, shoulder pain and low back pain. These three were significantly correlated with VDT use.

The problems of headaches was also highly correlated with VDT use. VDT users significantly reported headaches more than non-users.

Reproductive questions were asked about at some length. Unfortunately, when the study population was subdivided by sex, age, and marital status, relatively few individuals remained for a thorough evaluation of many of the questions of concern. The results obtained from this questionnaire survey are unable to support either the view of a harmful or of no harmful effect on pregnant women.

The question of birth defects could not be thoroughly evaluated. Of the 11 female VDT users noting that they had had a child born with a birth defect, three had the abnormal birth within the past five years, while on their current VDT using job. One case was reported from 40 years previously. Of note was the fact that although males were a minority of the total study population, they reported more birth defects among their offspring than did the working women. Five of the 18 reported birth defects among the offspring of males had occurred within the past five years while the users were on their current VDT job.

There was insufficient data to support or reject a relationship between VDT exposure and miscarriages. From the total study population 62 miscarriages were reported by 57 different individuals. Among the women, 39 reported miscarriages, as did 18 males in their wives. As a percentage of the total female population of this study, some 7% of women reported a miscarriage. This is not readily comparable with other data since this includes unmarried women, and women older than childbearing years. There were no marked differences between any of the six study locations. Miscarriages in this population were reported by females as having occurred between the years 1948 and 1982. Of these, 15 were reported since 1977 and from these, 7 had been among the VDT user group while 3 had not, with the remainder being unknown for some of the specific details.

Among this group, there was no evidence of premature birth or infant mortality related to VDT exposure. There also did not appear to be any effect upon the menstrual cycle with VDT use.

Ergonomic and personal perceptions were also evaluated and positive findings were noted. While there was neither a correlation with an increase or decrease in sexual activity, and neither group reported "feeling ill", VDT users both as a total group and in many cases as subgroups, commented on being irritable, having trouble sleeping, and having trouble getting up. In addition, there was one question worded with a positive rather than a negative connotation (that is "have more energy") and in this case there was a significant difference, with non-VDT users reporting this finding more frequently than users.

There were also significant findings related to observations about the workplace. Problems with reflections, improper brightness, the way one sits, poor equipment, and overwork, were consistently reported by VDT users but did not appear to affect non-users.

No differences were reported on the question of skin rashes.

There was another finding of interest. while there were no differences in frequency of consultation of a physician or for hospitalizations, the amount of lost time from work for medical reasons was greater for VDT users than non-users.

CONCLUSIONS AND RECOMMENDATIONS

This survey, intended to generate working hypotheses, of Newspaper Guild employees has demonstrated that problems do exist in some areas which correlate with VDT use. The visual complaints of users, the musculoskeletal complaints, and the intra- and interpersonal difficulties reported, seem clearly associated with VDT use. In addition to overall job satisfaction, these difficulties may be manifest in terms of additional lost time from work, which might have major economic implications for the workforce of the United States and Canada.

While reproductive findings of this study were inconclusive, the need for a study specifically addressing this issue remains.

In light of the number of cataracts reported at one study location within the last five years, it might be valuable to consider additional studies with regard to cataracts, or to specifically evaluate this workplace situation, compared to others, with regard to radiation exposure or other potential explanations for this possible effect.

It is recommended that the scientific community continue to seek suitable study populations to study the various aspects of VDT exposure and potential health affects. Recognizing that there are great difficulties in working with human populations, there should be continued efforts and support in this area because of the public health implications affecting large numbers of individuals.●

PETER GUST ECONOMOU

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. NOWAK. Mr. Speaker, the city of Buffalo, N.Y., which I have the privilege to represent, is known as the city of good neighbors.

One of our finest neighbors, one of Buffalo's most renowned citizens, is Mr. Peter Gust Economou.

Like the restaurant with which he has been associated in various capacities for nearly 60 years, Peter Gust truly is a household name in our community. He is also respected nationwide and internationally for his professional accomplishments and his civic contributions.

The name Peter Gust Economou has become synonymous with grace, civility, and charm.

The combination of Peter Gust's many accomplishments make him a living example of the American dream come true. He was a 14-year-old immigrant who came to this country from his native Greece during the first decade of this century. He came to work, long and hard, and in time won fame, fortune, and the admiration of his adopted countrymen.

The following article prepared for the Buffalo & Erie County Historical Society when it awarded its coveted Red Jacket Award to Mr. Economou in 1981 provides a thumbnail sketch of this man's distinguished career:

RED JACKET AWARD PRESENTED

The Historical Society presented its 1981 Red Jacket Award to Peter Gust Economou at ceremonies following its Annual Meeting, Thursday, November 5, 1981. The original medal, which is in the Society's possession, was presented by President Washington to Red Jacket, the Seneca spokesman, in ceremonies in Philadelphia in 1792. One of the most famous of such medals given by the United States Government to Indian dignitaries in the early days of the Republic, it came into the possession of the Society in 1895. The Award honors an individual first for his civic achievement and service, but more in recognition of a lifetime of quiet, continued, unbroken devotion.

Peter Gust Economou merits such an Award. Known to many as "Peter Gust," manager and owner of the Park Lane Manor House and President of the Park Lane Corp., he instituted the first professional food preparation and handling course in 1956 at Emerson High School when he was President of the Buffalo Board of Education.

He came to Buffalo from Greece in 1909, when only 14 years of age, and washed pots and pans in the kitchen of the first Buffalo Statler Hotel. When he left the Statler in 1925 he was maitre d'hotel. For 25 years he hosted a radio show, then a TV show entitled "Your Host, Peter Gust."

In 1968, he received the first annual Ellsworth M. Statler Appreciation Award in recognition of his "good service to his industry, his pioneering efforts in the area of food service education, and his genuine concern for his fellow citizens." Economou received the Judge John D. Hillery Award for Public Service in 1969. His other honors include the International Food Manufacturers Association Gold Plate Award; the Dignified Order of the Dinner Gong given by the International Food Executives Association; Award of Les Amis d'Escoffier Foundation; and DeBands Award for outstanding educational contributions to the food industry. He is president emeritus of the 8,000 member International Food Service Executives Association.

Peter Gust has been pleasing Western New York diners with exceptional culinary delights and entertaining guests the world over for more than half a century.

Peter Gust harnessed the same dedicated energy that brought him a distinguished professional career and successful business when called to community service.

Whether it was his work in various capacities for diverse charities over the years, or whether it was service as a member of the boards of the safety board of the city of Buffalo and the Buffalo Sewer Authority or as president of the Buffalo School Board, Peter Gust made an invaluable contribution to improving the quality of life for his neighbors—in the city of good neighbors.

Mr. Speaker, it is a pleasure today to offer this salute to Peter Gust Economou, a man who has enriched the lives of so many. His record of achievement and service is an exemplary one that will provide inspiration to many for years and years to come.●

GEN. "CHAPPIE" JAMES

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. FASCELL. Mr. Speaker, I would like to bring to the attention of our colleagues, an article published in a recent edition of the Miami Herald honoring Gen. Daniel "Chappie" James. This timely work, written by Herald publisher Richard G. Capen, Jr., captures the true spirit of Black History Month as it commemorates one of this country's great black Americans. General James' relentless pursuit of excellence in the face of adversity enabled him to become the highest ranking black in the U.S. military. He attained the rank of four star general before he retired in 1978.

For the last 58 years, Black History Month has been the occasion for our Nation to celebrate the historical contributions of black Americans. As we recognize Black History Month, it is highly appropriate to reflect upon the values, dedication and constant drive to excel that characterized the life of General "Chappie" James. The high ideals and values demonstrated by the General during his outstanding career serve as an inspiring example for today's youth. I urge our colleagues to review the text of Dick Capen's tribute to one of America's great patriots:

[From the Miami Herald, Feb. 12, 1984]

EXCELLENCE: NOBODY CARES ABOUT ITS COLOR

(By Richard G. Capen, Jr.)

"This is your nation, and don't get so busy practicing your right to dissent that you forget your responsibility to contribute. If she has ills, you hold her hand until she is well and then work for constructive change within the system."

"Don't stop to argue with the ignoramus who calls you nigger. You don't have time. Press on. Perform. Perform. Excel. Excel. And when you drive back by in the limousine of success, that ignoramus will be standing there on the corner wrapped in his hate."

"The power of excellence is overwhelming. It is always in demand, and nobody cares about its color."—Gen. Daniel "Chappie" James, USAF (1920-1978).

"Chappie" James was an extraordinary human being. Born in Pennsacola and the youngest of 17 children, he fought incredible odds and obstacles to become one of the most dynamic inspirations of our time. He was well known in South Florida, having spoken here frequently during his Air Force career. He also had strong family ties in town. Bob Simms (who recently retired as director of the Community Relations Board) and his wife, Aubrey, are Chappie's in-laws, and Judge Leah Simms, their daughter, is his niece.

General James and I were close friends and colleagues during our respective Pentagon tours in the late 1960s, when I was an assistant to then-Secretary of Defense Melvin Laird. I deeply valued my association with Chappie. Today, his picture and the above quotes from some of his speeches are on display in my office as a constant reminder of his commitment to excellence.

Lamentably, the memory of Chappie James is fading fast. As far as I'm concerned, he should head the list of salutes during Black Heritage Month (which we are currently celebrating). But if the recent past is any pattern, most will over-look the legacy of General James, and that's a disgrace.

As the highest-ranking black in the military, Chappie James walked with Presidents. He served as a key adviser to Cabinet officers, especially Secretary Laird, who quickly became his mentor. He was the first black ever to address the Daughters of the American Revolution in Constitution Hall, and he had them cheering in the aisles. A highly decorated fighter pilot, he flew 179 combat missions in the Korean and Vietnam wars. At 6'4" and 220 pounds, he didn't climb into the plane—he strapped it on.

He plowed through anti-war crowds on college campuses to give patriotic speeches and sang Negro spirituals at black-tie dinners. He was immensely proud to be black, but his personality and energy were so overwhelming that one soon forgot his color.

As a kid, he earned quarters washing planes at a civilian airport near Pensacola. He dreamed of flying—while Navy aircraft thundered over Pensacola. When World War II broke out, he refused to join the Navy, as many local blacks did, because, "I didn't want to wind up as another black cook." Instead, he signed up for the Army Air Corps (later to become the U.S. Air Force) and was assigned to a segregated squadron at Tuskegee, Ala.

His first instructor was Jim Plinton, who later became the first black executive of a major airline and who now lives in Miami as a retired Eastern Airlines officer. "Chappie James was such an imposing figure," Plinton told me, "and yet he could bend his knees, be humble, and have fun. He could be gentle as a lamb and yet as a fighter pilot he was tough as nails."

The "colored" public schools in Pensacola left much to be desired, so Chappie's mother started one of her own. The tuition was 5 cents a week, or whatever you could afford to attend the Lillie A. James School. Mrs. James taught her son the eleventh commandment: "Thou shall not quit."

General James spoke often about how his mother urged him to prepare for the future. "I was told to eliminate one by one all the reasons some bigot might say I was not capable of standing beside him or deserving of equal opportunity. If he says you are dirty, make sure you are clean. If he says you are dumb, make sure you learn. If he says you are scared, make sure you are brave. And when the door of opportunity finally opens, be prepared with your bags of knowledge, your patriotism, your honor—and then charge in."

Another distinguished Floridian—Reubin Askew—grew up with Chappie James in the same neighborhood. "At least my end of Alcaniz Street was paved and had lights," Florida's former governor recalled. Governor Askew describes General James as one of our country's "authentic heroes. In everything he did, Chappie reflected a deep-seated love of country. He was proud to be black, but he was an American first. He was constantly trying to challenge young people."

Before it was all over, General James had collected more medals, awards, and plaques than all the generals combined. He received a fourth star and capped off his active service with the vital post as commander-in-chief of the North American Air Defense Command (NORAD) at Cheyenne Mountain outside Colorado Springs. He was a driven, committed man who lived life to the fullest. In 1977, he suffered a mild heart attack and was forced to retire for health reasons on Feb. 1, 1978. Twenty-five days later, he was dead.

It has been six years since the voice of Chappie James was silenced. The memory of his record is frozen indelibly in history, and there are a few token monuments that bear his name—a Federal building in Pensacola, a street at Tinker Air Force Base, and an elementary school in Brooklyn. His picture is part of the Smithsonian Air and Space Museum's salute to black aviators. But what about his dynamic spirit? Why has no one chosen to capture that spirit as a living monument of hope?

How can we use General James's legacy as a means to inspire today's young people who, like him, must struggle to overcome handicaps in their own pursuits? We in Florida have a special responsibility in that regard. After all, he was a native son.

Why not a Chappie James Scholarship program to fund college education for deserving blacks? The state already offers a variety of state aid for minorities. Why not elevate its importance and prestige by naming the grants in honor of one of Florida's most inspiring blacks?

Why not establish a statewide Chappie James oratorical contest open to *all* high-school students? It would be a winner, I'm sure.

Tuskegee Institute is already at work. Chappie's alma mater is completing plans to become the first predominantly black college to offer a bachelor's degree in aerospace engineering. President Reagan has signed a bill authorizing funds to establish the program and erect a building that will be named the General Daniel "Chappie" James Center for Aerospace Science and Health Education. However, Federal funding has been repeatedly delayed, and private contributions are urgently needed.

In the meantime, our community has come together to salute Black Heritage Month with an impressive series of programs ranging from teacher workshops and salutes to black pioneers, to tours and fashion fairs. Among the many local exhibits is a fascinating display at *The Herald* featuring popular black entertainers. The public exhibit, which will run through Feb. 27, was unveiled last week at a reception here for more than 400 community leaders. It was made possible through the generosity of Clyde Killens, an Overtown businessman.

In my book, though, no celebration of black heritage here—or anywhere else in America--can be considered complete without a salute to Chappie James.●

INTERNATIONAL TERRORISM

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● **Mr. CONTE.** Mr. Speaker, over the past several years, the scourge of terrorism has spread to all parts of the world; no social or economic class is free from the constant threat of violence. In recent years, the institutionalization of political violence has contributed to this looming threat. Groups like the Red Brigade, the Irish Republican Army, the PLO, and the Basque Separatists in Spain have used and are using terrorism as a tool of international diplomacy. Uses of this violent tool are not limited to political organizations. So-called legitimate governments have used terrorism to achieve their political ends. Intelligence reports indicated that Libya and the Islamic Republic of Iran have been directly involved in terrorist activities.

For Americans, the effects of international terrorism are not just viewed on television or read in the newspapers, but the violence associated with political terrorism has come closer to home. The takeover of our Embassy in Teheran, the kidnaping of General Dozier, the suicide mission at Beirut International Airport that killed over

200 Marines, the bombings at our Embassy in Kuwait and right here in the Capitol graphically show that terrorism is a serious threat to international peace and security.

Mr. Speaker, there is only one solution to this problem: international cooperation. I am pleased to see that the Italian Government has made great progress on controlling terrorist activities.

The thorough investigations and swift prosecution of those responsible for kidnaping General Dozier and attempting to assassinate the Holy Father must be commended. I will include for the RECORD a Washington Post editorial entitled "Italy Against the Terrorists" that highlights the antiterrorist accomplishments of the Italian Government. I hope that the United States will continue to cooperate with Italy and other interested nations to control and ultimately eliminate this violence affecting thousands of innocent people throughout the world.

ITALY AGAINST THE TERRORISTS

The war against terrorism has its victories, and, for current examples, you could look to Italy. The most spectacular depredation in recent years was the Red Brigades' kidnaping and subsequent murder of Aldo Moro, former prime minister of Italy, in the spring of 1978. One of the investigating judges, Rosario Priore, was here in Washington recently and provided a recapitulation of the prosecutions so far.

In the Moro affair, Judge Priore said, 60 defendants have been tried and 56 of them convicted. Of those, 32 are serving life sentences. Now a second and larger round of trials is under way in which some 250 defendants face charges involving a great range of the Red Brigades' activities over the past six years.

The testimony, Judge Priore said, is also providing a clearer picture of the Red Brigades' international connections. They were in touch with other similar organizations all over Europe—the IRA in Northern Ireland, Basque separatists in Spain, the Red Army Faction in West Germany. They got important support, including both arms and training, from the Palestine Liberation Organization.

The group that murdered Moro was also responsible for the kidnaping of the American soldier, James L. Dozier, two years ago. Judge Priore noted the sophistication of the questioning to which Gen. Dozier was subjected. It suggested, in the judge's view, that this interrogation was being carried out on behalf of foreign powers, not a platoon of local guerrillas. People in the Red Brigades at the time have testified that in their meetings there were reports of offers of weapons and money from Bulgaria. Since Bulgarians were also in contact with the gunman who shot Pope John Paul II at the Vatican the previous summer, the judge wonders whether there is a connection between the cases. But, as he adds, that theory requires further evidence; the investigation is still open.

By no means all of the questions have been conclusively answered, but the Italian police and courts have done an extraordinary job of unraveling an organization that seemed, at one point, to be invulnerable. It ought not pass unnoticed that this work required immense personal courage on the part of all who took part in it. Prosecutors, jurors, jailers and judges all were under a constant threat of assassination or deliberate mutilation. At the time that this series of cases began, the Red Brigades were still riding high, and they shot several of their pursuers before their organization began to disintegrate. The successful rescue of Gen. Dozier by the Italian police was a clear demonstration that things were changing. It would be foolish and inaccurate to say that the struggle against terrorism in Italy has now been won. But the extent of the investigators' progress deserves to be recognized as a remarkable accomplishment in behalf of law and common decency.●

A TRIBUTE TO JOHN BASILONE

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. TORRICELLI. Mr. Speaker, across America, citizens appreciate the sacrifice of those among us who valiantly lost their lives in times of battle. With the recent anniversary of the invasion of Iwo Jima in mind, I would like to call to the attention of my colleagues one particular instance of unmatched heroism.

The following account by Joseph Monti of the bravery of marine Sgt. John Basilone at Iwo Jima is a lasting tribute to a fearless patriot who gave his life so others could live in peace.

Mr. Speaker, I join with Mr. Monti in paying respect to this outstanding citizen.

A HERO AT IWO JIMA

EDITOR, The Record: As the anniversary of the invasion of Iwo Jima nears—Feb. 19—let us recall the valor and sacrifice of a truly great New Jersey hero, United States Marine Corps Sgt. John Basilone of Raritan. On Guadalcanal his actions contributed to the defeat of an entire Japanese regiment. He was in charge of two sections of heavy machine guns.

Under almost continuous attack for three days, with no sleep or food, fighting against terrific odds, he helped to successfully defend Lunga Ridge. During the battle, Basilone repaired machine guns, crossed hostile lines for badly needed ammunition, and held his position as others fell, until replacements arrived. He killed at least 38 Japanese.

For this uncommon valor, 26-year-old Basilone was the first enlisted marine in World War II awarded the Congressional Medal of Honor. Safely promoting war bonds in the United States, Sergeant Basilone had fought his share of the war. Yet, remembering his buddies still in the Pacific Theater, he chose to return to battle alongside them.

Landing on Iwo Jima with the first assault wave, Basilone, under intense fire, destroyed a blockhouse and its Japanese defenders. He also guided a trapped marine tank safely through a mine field. Basilone was killed later that day by a mortar shell. He was posthumously awarded the Navy Cross for valor on Iwo Jima.

Let us never forget John Basilone, whose memory serves as an inspiration for patriotism and a reminder of the sacrifices made to preserve our precious freedom. All high school students should be made aware of this great World War II hero from New Jersey.

JOSEPH MONTI,
Chairman,
Social Studies Development,
Hasbrouck Heights High School.●

THE UNITED NATIONS: CENTER FOR KGB ACTIVITIES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. PHILIP M. CRANE. Mr. Speaker, in spite of the lofty ideals and abundant expectations that accompanied the founding of the United Nations in 1945, that organization has failed in many ways to live up to its charter. Many Americans held out great hope that this organization would help to usher an era of peace, brotherhood, and tranquility into the affairs of men and nations. But that has not been the case.

Not only has the United Nations been guilty, in recent years, of maintaining a hypocritical double standard at the expense of both the Western democracies and the U.N. Charter, it has also become the center of Soviet espionage activities in this country. Those who staff the Soviet mission to the United Nations and those Soviets who hold key posts in the United Nations itself fulfill numerous spying assignments in addition to their official activities. The size of the Soviet staff belies its true function: There are well over twice as many Soviet diplomats listed for the Soviet mission to the United Nations than for any other nation's mission. The U.S. mission has a mere 48 diplomats, compared to 109 for the Soviets.

Today I would like to include the first section of a four-part series that deals with Soviet use of the United Nations as a center for their espionage activities. Each day of this week I will include another portion of that series. I encourage my colleagues to take a few moments to read this interesting and revealing look at Soviet abuse of the United Nations; I believe that it clearly documents how the charter of that body has been betrayed and scorned by the U.S.S.R.

[From the New York Tribune, Tuesday, Jan. 24, 1984]

SOVIETS SEEN OVERSTAFFING U.N. TO FURTHER CONTROL IT

(By Narayan Keshavan)

First in a 4-part series

UNITED NATIONS.—Soon after World War II, Soviet strongman Josef Stalin decided that Moscow could use the United Nations as an important outpost to propagate Soviet opinions and policies.

"We do not need the United Nations," Stalin is said to have remarked, adding, "What we need is a stage from which we can express any opinion we want."

Western officials say that the Soviets have not merely fullfilled Stalin's dictate, but have gone even further to establish a mechanism that helps promote the Kremlin's interests in the United Nations.

Over the years, the Soviets have established a vice-like grip in various departments in the world body, non-East bloc officials contend. According to a restricted document issued in 1983 titled "Personnel Questions: Composition of U.N. Secretariat: Report of the Secretary-General," there were 432 Soviet employees in the U.N. Secretariat at various levels.

A review of this annual report on personnel matters by the New York Tribune for the last 3 years revealed that in 1982 the Soviets had 438 employees in the Secretariat, and 421 the previous year. In addition, there are more than 30 employees in the Secretariat listed under Ukrainian Soviet Socialist Republic and Byelorussian Soviet Socialist Republic.

The professional staff—U.N. jargon to describe key posts—from the Soviet Union totals 176; from the Ukraine, 19; and from Byelorussia 13, according to another U.N. document, which analyzes "staff in posts subject to geographic distribution by region, nationality and level." These figures are within the "desirable range" for Soviet professional staff representation in the Secretariat, which lies between 176 and 238.

Another strong contingent operates out of the Soviet Mission to the U.N. According to the Blue Book, a U.N. listing of missions and their staff, the Soviets have 109 members in their mission. But according to a Federal Bureau of Investigation (FBI) estimate, an additional 141 Soviets work in the mission and are not listed in the U.N. document.

R. Jean Gray Jr., special agent in charge of the FBI in New York, said there are some 680 Soviets operating from New York City. "There are never less than 600 working in New York City," Gray said in an interview, adding that "there is a certain percentage in intelligence activities."

He would not reveal the FBI's exact estimates, but Western officials assess that at least a third of the 680 Soviets in the City are connected with the Kremlin's two main intelligence establishments—the KGB (secret police) and GRU (military intelligence).

For Moscow, the United Nations is a "valuable instrument for intelligence gathering," a Western diplomat said. He pointed out that "over 100 of them [Soviets] are listed as diplomats. . . . What are all these people doing?"

In contrast to Moscow's 109 diplomats listed, the United States has 48 listed; Britain, 16; Canada, 14 and France, 27.

What does a majority of the huge Soviet contingent in the City do? Sources both inside and outside of the world body said a large number of Soviets were engaged in various forms of spying.

According to Soviet defector Arkady Shevchenko, "The penetration of United Nations by the Soviets is very deep. There is no question about that."

KAZAKOV NO. 3 MAN

Shevchenko, who worked as the undersecretary general in the Department of Political and Security Council Affairs (PSCA) before defecting to the United States in 1978, told the Tribune in an interview that the Soviet intelligence network in New York is overseen by Vladimir Mikhailovich Kazakov, a deputy permanent representative to the United Nations. Kazakov, whom Shevchenko identified as the KGB head here, is the No. 3 man in the Soviet mission.

Shevchenko agreed that within the United Nations itself there were no big secrets that the East bloc was attempting to get. "It is not the U.N. Secretariat where spying goes on. It is a base for operation," he said. "It is an excellent place to put these [KGB] people."

Emilio de Olivares, the executive assistant to Secretary-General Javier Perez de Cuellar, dismissed Shevchenko's remarks saying, "That is what he is paid to say, by whoever."

In an interview, de Olivares, a Peruvian who is considered the alter ego of de Cuellar, said: "I wouldn't take his [Schevchenko's] words too seriously. . . . They are mere allegations."

The Peruvian added, "What do we care? There are no secrets here. It is for the host country to act. If they can prove it then action can be taken."

However, the FBI's Gray described Shevchenko's account as "good information."

"Discrediting him [Shevchenko] is part of Soviet disinformation," Gray said. One senior Western official in the United Nations said of Shevchenko, "His story is pretty credible."

This official, who like several other U.N. staff members interviewed for this report spoke on condition that he not be identified, said: "Undoubtedly, this place is made use of by Soviets for espionage purposes. . . . [For the U.S.] espionage is the greatest single danger of having the U.N. here. They [the Soviets] are using this place for gathering information inside the United States."

One official said that the secretary-general does not have any "internal mechanism" to investigate to what extent the United Nations is being misused for spying by East bloc employees. However, he said, "It is naive to think espionage is not going on here," adding, "That is a shadowy world."

The secretary-general's position, one source said, is: "Please bring me some evidence and I will act on it."

One senior official suggested that the United States is not interested in confronting U.N. authorities with evidence of espionage, mainly because doing so may jeopardize sources.

U.N. MYSTERY TO FBI

"What goes on in the [Secretary] building is a mystery to us," the FBI's Gray said. "They [the Soviets] can pretty much do what they want." He pointed out that under an agreement between the United Nations and the United States, Washington is prohibited from "conducting any type of official or administrative investigation without an invitation from the secretary-general."

"We can't go roaring in there. . . . It is an extraterritorial area," Gray said.

Keeping tabs on the Soviets is a touchy issue, said Gray. "We are very careful not to interfere with their right of access and their ability to be represented in the United Nations."

Although there may not be any state secrets inside the U.N. Secretariat, what concerns FBI and other Western officials is the KGB's covert attempts to recruit diplomats from other countries, especially from the Third World, to work for the Kremlin's interest.

Gray explained that the Soviets could recruit a junior diplomat who later was promoted in his country's foreign service hierarchy. Years later, Gray pointed out, this once junior diplomat may be posted in Washington in a key slot in his country's embassy. "Then he is a threat, because he is a Soviet agent."

According to Shevchenko, the United Nations "is a very important recruitment center. Some of those recruited in the U.N. later become foreign ministers or politicians in their countries."

The Soviets also treasure the United Nations, Shevchenko said, because employees of the world body have no restrictions placed on their movements, unlike diplomats working in the mission or other outposts such as the embassy in Washington. Moreover, most of them, according to Shevchenko, travel in cars with American license plates, making it "virtually impossible to keep track of them."

The defector said it was pretty easy to distinguish between KGB agents and other Soviet employees in the Secretariat. "All KGB people will have good cars. Some of them live in good apartments and not at the compound [a Soviet residential complex in the Riverdale area]," Shevchenko said.

According to him, "all KGB people are easy with money. Diplomats have to make written requests." Shevchenko said generally the money is used for entertainment. In addition, he said, KGB operatives are "dressed in expensive clothes."●

BEEF EXPORTS TO JAPAN

HON. FREDERICK C. BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. BOUCHER. Mr. Speaker, on Friday, February 17, 1984, I was joined by 13 of my colleagues in sending the attached letter to the Special Trade Representative, William E. Brock. The letter addresses Japan's unfair trade barriers to the import of high quality American beef, a matter which I regard as one of the great inequities in Japanese trading practices.

In view of the fact that our current trade agreement governing beef exports to Japan expires on March 31, 1984, this is a timely concern. Any new trade agreement which the United States signs with Japan should contain a substantial reduction of Japanese barriers to the importation of American beef.

I hope that my colleagues will recognize the unfairness of Japan's existing practices and let Ambassador Brock know of the importance of this issue to America's beef cattle industry.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 17, 1984.

Hon. WILLIAM E. BROCK,
U.S. Trade Representative, Office of the Special Trade Representative, Washington, D.C.

DEAR AMBASSADOR BROCK: When the United States and Japan resume bilateral negotiations to reach a new trade agreement concerning exports of American beef to Japan, we hope you will insist that the Japanese eliminate their unfair barriers to the importation of American beef. It is our

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view that Japan's import quotas and tariffs pose an obstacle to free trade which substantially restricts a natural market for our domestic beef industry.

Under the existing trade agreement, which the United States and Japan signed in 1978, Japan limits its imports of high quality American beef to 30,800 metric tons. This quota and an import tariff of 25 percent have combined to drive the price of a 16 ounce prime cut of beef in Japan to approximately $20. At this highly inflated price, quality beef products are largely unavailable to the Japanese public, despite evidence of a substantial demand by Japanese consumers for American beef products.

We are acutely aware of the importance of our commercial relationship with the Japanese, and we are committed to trade policies which will enhance this relationship. In this regard, we would point out that the United States provides Japan with open access to our market for new automobiles and consumer electronic products. This nation imposes no mandatory import quotas on automobiles, and our tariff rate is a modest 2.8 percent. By contrast, Japan's policies toward imports of high quality American beef are both unfair and inconsistent with the rules of the General Agreements on Tariffs and Trade.

The United States has been more than fair in its evenhanded treatment of Japanese imports; however, our fair treatment is not returned by the Japanese. We sense that the American people are growing tired of ever increasing trade deficits in the face of unfair foreign trade policies.

We sincerely hope that during your upcoming negotiations with the Japanese you will share with their trade representatives our belief that the time has come when the fairness we have extended to them must be returned in like measure.

Sincerely,

Frederick C. Boucher, Charles Hatcher, Carl D. Perkins, Norman Sisisky, Glenn English, Dan Daniel, Dick Durbin, Tom Harkin, Hank Brown, Pat Williams, Charles Stenholm, Pat Schroeder, Lane Evans, and Jim Olin.●

THE ROLE OF BLACK INDIVIDUALS IN THE AMERICAN REVOLUTION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● **Mr. CONYERS. Mr. Speaker, in 1774, 2 years before American independence, there were 500,000 black individuals in the American colonies, nearly 20 percent of the total population. At least 5,000 blacks served in the Revolutionary Army. Despite the laws that prohibited blacks from military service, they distinguished themselves in battle.**

House Joint Resolution 545 seeks to honor the contributions of black men and women in the struggle for American independence. The U.S. Capitol Historical Society is actively engaged in publishing articles and books on the black role in the War of Independence. Unfortunately, not very much is taught about these individuals, the events of their lives, and their contributions to the Nation.

The distinguished black historian, Dr. Benjamin Quarles, has written a fine article entitled "The Revolutionary War as a Black Declaration of Independence," that recently appeared in a collection, "Slavery and Freedom in the Age of the American Revolution" (University Press of Virginia, 1983). Public ignorance of the role of black individuals in the Revolution can be overcome in reading this article. Dr. Quarles is the author of "The Negro in the Making of America," "Black Abolitionists," and "The Negro in the American Revolution." I recommend the article to my colleagues.

Excerpts of the article follow:

THE REVOLUTIONARY WAR AS A BLACK DECLARATION OF INDEPENDENCE

(By Benjamin Quarles)

During the summer of 1777 Capt. William Whipple, a soldier from Portsmouth, New Hampshire, noted that his slave, Prince, was quite dejected. Asked by Whipple to account for his moodiness, Prince explained, "Master, you are going to fight for your liberty, but I have none to fight for." Struck by the essential truth of Prince's complaint, Whipple lost no time in freeing him.

Before his emancipation Prince had been one of the oarsmen who rowed George Washington and his party across the ice-choked Delaware river in a blinding snow and sleet storm Christmas night 1776. But even had Prince Whipple not taken part in one of the most significant battles of the Revolutionary War, there was nothing unusual about his longing to be free. This yearning for freedom was common among those in bondage and its roots ran deep. The contagion of liberty had long infected blacks, reaching epidemic proportions with the outbreak of the war against England. As was the case for other Americans, regional differences characterized Afro-American culture, and within each regional group status determinants such as occupation and skin color further divided both slave and free blacks. Moreover, in ever-changing early America the patterns of black life were not static from one generation to another. But regardless of these distinctions, all blacks during the Revolutionary era shared a common goal—the pursuit of freedom and equality.

The exchange between Captain Whipple and his slave illustrated another major characteristic of Revolutionary War blacks, their tendency to differ with whites in interpreting the rhetoric and the meaning of the war itself. When whites, for example, accused England of trying to enslave them, they had in mind such measures as stamp acts and trade restrictions, royal decrees and Parliamentary legislation. To white Americans the war meant freedom and liberty in a politico-economic sense rather than in the sense of personal bondage. Admittedly, the Revolutionary War did have its social overtones, as J. Franklin Jameson reminded us half a century ago. And, as Jesse Lemisch, Alfred F. Young, and others have pointed out more recently, various underprivileged white groups, including women, had distinctive reactions to the war, each of them viewing it as an opportunity for advancement.

With all due credit for its pivotal role in the history of human freedom, the American Revolution fell considerably short of the egalitarian goals it proclaimed. Like many subsequent armed outbreaks, it was essentially a colonial war of liberation; it was waged, however, against a country not unlike America itself. White Americans claimed that they were fighting for the rights of Englishmen—rights that they had long enjoyed but that the Crown had tried to abrogate; they struggled to retain freedom rather than to acquire it.

Although white patriots might not have cared to acknowledge it, the American Revolution bore the overtones of a civil war; indeed, it was more a war of independence than one of revolution. Moreover, unlike other colonial wars of liberation, as Moses Coit Tyler pointed out, it was "directed not against tyranny inflicted, but only against tyranny anticipated." Its inherent conservatism limited the revolutionary potential of the American War for Independence.

Slaves saw the matter differently. In its impact on them the war was truly revolutionary. Seizing the opportunity, they gave a personal interpretation to the theory of natural rights and to the slogans of liberty and independence. Such a patriotic exhortation as "Give me liberty or give me death" carried special meaning to people in bondage.

The special circumstances of Afro-American life sharpened the desire to be free. In sheer numbers blacks composed in 1774 a larger proportion of the total population than they ever would again, 500,000 out of 2,600,000, nearly 20 percent. These half-million blacks had become Afro-Americans in the true sense of the hyphenated word. Reinforced by more recent arrivals from overseas, they retained strong spiritual and aesthetic ties with their ancestral homelands, their rich cultural heritage already working its way into American music, dance, folk literature, and art. Indeed, in reference to Americans from Africa the term acculturation lacks precision; it would be better to use transculturation, a process of exchange and not a one-way street. Despite the persistence of their African heritage, however, most blacks by 1774 had undergone a transition from Africans to Afro-Americans and were no longer the "outlandish" blacks slave traders had deposited in the New World.

Their Americanization had resulted from a complex of influences, economic, socioreligious, and genetic. They certainly had been integrated economically, as a vital source of labor. Slaves in the southern colonies, numbering 90 percent of the total slave population, produced the agricultural staples of the late colonial period, tobacco, rice, and sugar. A plantation required skilled laborers as well as field hands, and these too were black. As Marcus W. Jernegan pointed out, "It is hard to see how the eighteenth-century plantation could have survived if the Negro slave had not made his important contribution as an artisan." In South Carolina, Peter H. Wood has noted, slaves not only engaged in the full range of plantation activities "but were also thoroughly involved wherever experiments were made with new products," such as the development of silk culture. North Carolina's blacks likewise performed complex and essential tasks. "If their status often forced them into menial labor," observed Jeffrey J. Crow, "they still contributed skills and know-how to the colony's agriculture and crafts."

The northern provinces also had their component of slaves with industrial skills. Slave workers in New York, as described by Edgar J. McManus, "showed proficiency in every field of human endeavor." Lorenzo J. Greene, another authority on blacks in the colonial North, painted a similar picture of the slave in New England who might be called upon "not only to care for stock, to act as a servant, repair a fence, serve on board ship, shoe a horse, print a newspaper, but even to manage his master's business." And in New England, as elsewhere, slave women were proficient spinners, knitters, and weavers.

Daily contacts between black worker and white owner inevitably led to a sociocultural interaction between the parties, with the slaves becoming familiar with and sometimes adopting the beliefs and behavior patterns of their owners. Such personal contacts were most frequent when a master owned only one or two slaves. The pattern of person-to-person association between the races was less pervasive on the larger plantations, but even there one would find a corps of domestic slaves, whose children, it may be added, tended to play with the children of the master.

The Revolution, with its slogans of liberty and equality, inevitably appealed to a group such as the blacks. If this were the credo of the new America, they would joyfully make the most of it. As a class black Americans were not strong on theory and would hardly have been prepared to discuss the ideological origins of the war. But they could readily understand propositions to the effect that all men were created equal and that everyone was entitled to personal freedom. Themselves short on worldly goods, most blacks did not consider private property, particularly the ownership of slaves, a basic natural right.

Like other Americans, blacks viewed the war in terms of their own interests and concerns. Perceiving what they regarded as an inescapable inconsistency between the ideals of the Revolution and the institution of slavery, they redoubled their efforts for emancipation, their methods including freedom suits, petitions to state legislatures, and military service. In states like Massachusetts that considered them not only property but also persons before the law, slaves instituted suits for freedom. Such actions cast the master in the role of defendant, obliged either to defend the validity of his title or to answer the charge that slavery itself was illegal or unconstitutional.

The effect of a judicial decree extended only to the litigants immediately involved in the case. Hence blacks seeking freedom collectively rather than individually drafted petitions to their state legislatures. Typical of such pleas was that sent in November 1779 to the New Hampshire assembly by nineteen slaves from Portsmouth. Contending that "the God of nature gave them life and freedom," the petitioners asserted that freedom "is an inherent right of the human species, not to be surrendered but by consent."

Slaves in the Revolutionary War South, denied recourse to the courts or the legislatures, expressed their protests more directly. Exhibiting an insubordinate disposition, they became harder to handle. Ronald Hoffman concluded in his study of Revolutionary Maryland that the Eastern Shore centers of black population "were severe sources of strain and worry during the Anglo-American conflict." By way of example, Hoffman cited a late 1775 dispatch from the Dorchester County Committee of Inspection reporting that "the insolence of the Negroes in this country is come to such a height that we are under a necessity of disarming them. We took about eighty guns, some bayonets, swords, etc."

Slave discontent was further evidenced in the marked increase of runaways. To escape-minded blacks the war was a godsend; the number of fugitive slaves reached flood proportions during the conflict. Thomas Jefferson estimated that during the war more than 30,000 Virginia slaves took to their heels. Attesting to their numerical strength, runaway slaves in Revolutionary Georgia established communities of their own.

Black's desire for freedom found its greatest fulfillment in wartime service as armsbearers. British overtures and American military necessity enabled slaves to join the armed forces and thereby win freedom with their muskets. The invitation to blacks to join the British ranks was first offered in the early months of the war by Lord Dunmore, Virginia's last royal governor. In June 1779 Commander in Chief Sir Henry Clinton issued the most sweeping of the slave-freeing proclamations by the British command. It promised blacks their freedom and stipulated that they would be given their choice of any occupation within the British lines. Blacks welcomed such overtures, their motivation being more pro-freedom than pro-British.

By 1779 the Americans too were welcoming blacks to their armies. In the early stages of the war American military and civilian authorities had adopted a policy of excluding Negroes, a policy based on the mistaken supposition that the war would be over quickly. By the summer of 1777, with the war dragging into its third year, a policy reversal began when the northern colonies and Maryland decided to enlist blacks whatever the risks.

Slaves needed no second invitation. Recruiting agents had only to mention or hint at that magic word freedom to bring them into the fighting forces. It is striking, for example, that of the 289 identifiable blacks in the Connecticut army, five reported "Liberty" as their surname when they signed on, and eighteen reported "Freedom" or "Freeman."

Free blacks also welcomed the coming of the Revolutionary War. Just as their lot was akin to that of the slaves, so was their response. Like the slaves, the free blacks drafted petitions and joined the army. Prince Hall, for example, did both. Led by the Cuffe brothers, blacks in Massachusetts lodged an official protest against the denial of their right to vote even though they paid taxes. In a 1780 petition to the state legislature they invoked the patriotic slogan, "No taxation without representation."

Free blacks who joined the army were variously motivated. They shared the common hope, however, that the high-sounding affirmations of the Revolution were more than hollow rhetoric. With a touch of the wishful thinking not uncommon to those who are reform-minded, black Americans tended to take seriously the proclaimed goals of the patriots.

Hence in assessing the temper and spirit of the Revolutionary War blacks, one finds that, slave and free alike, their loyalty was not to a locality in which they were propertyless, not to an assembly in which they could not sit, and not to a social order that denied their worth. They reserved allegiance for whoever made them the best and most concrete offer in terms of man's inalienable rights, which is only to say that the loyalty of black Americans centered on the fundamental credos upon which the new nation was founded.

The hope of black Americans for a new day of equality was not realized; it was a dream deferred. True, the Revolutionary War had its positive side. It was imbued with a strong moral overtone, leading some whites to question an institution such as slavery, no matter how time-honored. To whites of a reformist turn of mind the war had exposed the inconsistencies and contradictions in American thought about the rights of man, particularly those of the black man. But if heightened sensitivity to the presence of an underprivileged black group characterized some whites, they were far out-numbered by those who detected no ideological inconsistency. These white Americans, not considering themselves counterrevolutionary, would never have dreamed of repudiating the theory of natural rights. Instead they skirted the dilemma by maintaining that blacks were an out-group rather than members of the body politic. They subscribed to an equation of equality that excluded nonwhites, regarding them as outside the sociopolitical community encompassed by the Revolutionary War tenets of freedom and equality.

Black Americans, not unexpectedly, gave an entirely different reading to these war-spawned concepts. To them freedom was everyone's birthright; everyone had certain inalienable rights. In black circles the feeling of independence that these beliefs had fostered outlasted the roar of the guns. Still unspent, the spirit of '76 found new outlets among blacks. The Revolutionary War as a black Declaration of Independence took on a power of its own, fueled by residual Revolutionary rhetoric and sustained by the memory of fallen heroes and the cloud of living black witnesses. To black Americans the theory of natural rights did not lose its relevance with the departure of the British troops. Blacks were left no choice other than to oppose all efforts to de-revolutionize the Revolution.

However complacent and self-congratulatory their white countrymen may have been after expelling the British, the less euphoric black Americans turned their thoughts to the unfinished business of democracy. Their sense of self-identity, forged in the colonial period and honed by the Revolutionary War, now gave way to a sense of community, of cooperative effort in a cause that was no less true-blue Americanism simply because its advocates were dark-skinned. Their problems pressing, their resources meager, black Americans took heed of the Revolutionary War slogan "United or die." They were brought together not so much by a blood knot or a common Old World heritage as by a shared experience, particularly during the war, and by a shared pursuit of the goals articulated by Jefferson in 1776.

Blacks of the Revolutionary War er could work independently, as in thei churches, or cooperatively with whites, as i providing schools. But neither by independent nor cooperative action could they mak any headway in winning suffrage, a right s vital to the "created equal" concept in th Declaration of Independence. In the Ne England colonies during the colonial perio slaves had been permitted to establish moc Negro governments, electing their own "gov ernors." Primarily a form of diversion, thes slave "elections" were occasions for feastin and merriment, but as Lorenzo Greene ha

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argued, the "governments" they set up "acted as a sort of political school wherein slaves received the rudiments of political education which could be drawn upon once they were enfranchised."

Five of the thirteen States forming the new nation—New York, Pennsylvania, Delaware, Maryland, and North Carolina—did not exclude blacks from voting. Indeed, in one of these States, Maryland, a black candidate ran for public office in 1792, very likely the first of his color ever to take this bold step. Thomas Brown, a horse doctor, sought one of the two seats allotted to Baltimore in the House of Delegates. In a September 24, 1792, public letter addressed "to the virtuous, free and independent electors of Baltimore-Town," Brown asserted that he had "been a zealous patriot in the cause of liberty during the late struggle for freedom and independence, not fearing prison or death for my country's cause." Brown closed his somewhat lengthy letter with a pledge that "the corpulency of my body shall be no clog to the exercise of my genius, and agility of my limbs, which shall be kept in perpetual motion for the good of the State." His vote so minuscule as not to have been recorded, Brown was defeated in his bid for office, a circumstance reflecting the times.

Postwar blacks resorted to another form of political participation, the right to petition for redress of grievances. On December 30, 1799, as the Revolutionary War era was drawing to a close, a group of seventy-four blacks from the Philadelphia area addressed a petition "To the President, Senate, and House of Representatives," requesting abolition of the overseas slave trade and modification of the fugitive slave law so as to prevent the kidnapping of free blacks. The document concluded with a plea that blacks might "be admitted to partake of the liberties and unalienable rights" to which they were entitled. Although invoking the language and the spirit of the Declaration of Independence and the Constitution, the appeal was couched in the most respectful and conciliatory of tones, and it issued from a city in which the Liberty Bell once had rung, heralding the birth of the new nation. But the House of Representatives did not prove to be liberation-minded; the Congressmen rejected the petition by a chilling vote of eighty-five to one.

This rejection of Revolutionary principles, like others, did not deter blacks from pressing for the Revolution's goals of freedom and equality. Determined and patient, they would hardly have heeded J. R. Pole's observations that "revolutions by the nature of the historical process are always incomplete" and that a revolution tends to raise hopes that it cannot satisfy. Blacks of the Revolutionary War era would have been more receptive to the contention of jurist Benjamin N. Cardozo that a principle has a tendency "to expand itself to the limit of its logic." For them the war and the freedom concepts it sprouted bore their own seeds of regeneration.

In fine, the Revolutionary War can be termed a black Declaration of Independence in the sense it spurred black Americans to seek freedom and equality. The Afro-Americans of that era stood wholeheartedly among those who viewed the war as an ongoing revolution in freedom's cause. To a degree approaching unanimity, they clothed the War for Independence with a meaning and a significance transcending their own day and time and not confined to the shores of the new republic. To them the full worth of the American Revolution lay ahead.●

THE HOUSTON CHRONICLE ON DÉTENTE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. FIELDS. Mr. Speaker, in his book, "Mein Kampf," Adolf Hitler announced to the entire world his plan of world domination by a Nazi, National Socialism, Germany. However, during the 1930's the leaders and peoples of the free world did not take this threat seriously until it was too late to save millions of lives and enormous public expenditures.

Marxist-Leninists the world over, led by the Soviet Union, have been announcing their plans for world domination since before Hitler. Yet in spite of their progress so evident to any schoolchild that can read a map, relatively few leaders in the free nations take their threat seriously, primarily because the language of communism is designed to deceive.

Once such word of deception in the Communist, Marxist-Leninist lexicon is "détente." To gullible and leftist members of our society and government, détente means friendship, peace, cooperation, and disarmament. To the dictators of the Soviet Union and its allies, détente means something quite different.

I am pleased to present for the RECORD a recent editorial from the February 21, 1984, edition of the Houston Chronicle which reminds us what détente means to the Soviets. I congratulate the Houston Chronicle not only for its vision of reality, but more importantly for its courage in stating it.

In speaking so plainly amid the present calls for détente by others in the media, academia, and public office, the Chronicle has spoken boldly amid the sounds of cocking pistols. But that is what real Texans do best.

Mr. Speaker, the Chronicle editorial follows, after which I have added testimonials from assorted Communist sources:

[From the Houston Chronicle, Feb. 21, 1984]

"DAYS OF DETENTE" WERE NOT DAYS OF WINE AND ROSES

The new Soviet leader, Konstantin Chernenko, speaks favorably of detente. In 1982, he said, "Detente is unquestionably the path to peace and cooperation."

One Western leader commented after meeting with Chernenko last week that he is a man who goes back to the "days of detente."

Well, those days of detente were not days of wine and roses. More accurately, the United States sipped too much diplomatic wine and began to see the Soviets through rose-colored glasses.

We can understand why Chernenko would like a return to the days of detente. He would prefer a gullible rather than an alert United States.

Detente means different things to the Soviets than it does to Americans. In the early 1970s, detente in this country meant arms agreements, increased trade, a lessening of the propaganda war, a lowering of barriers to travel and communications, a general feeling of good will. To the Soviets, we came to understand, detente represented a period in which to build more and bigger intercontinental ballistic missiles, to buy the technology it was incapable of producing, to tighten its hold on its own people and to continue ideological warfare.

When the Soviet people themselves began to interpret detente as a lessening of the Kremlin's iron grip, they were quickly warned by their leadership that, "There can be no peaceful coexistence between socialism and capitalism" in the ideological sphere. Dissidents were harshly suppressed.

Instead of speaking of a revival of "days of detente," President Reagan is speaking of a more sensible "useful dialogue." There are a multitude of avenues for that dialogue to follow. The most significant development would be for the Soviets to return to the bargaining table at both the European intermediate-range missile discussions and the strategic arms talks.

No more one-sided detente, thank you. No more rose-colored glasses.

What Moscow calls "military detente" means arms reduction on the part of its adversary while its own arms expansion and war preparations continue behind the smokescreen of "detente".—Peking Review (Peking), 9 Jan. 1976, No. 2, p. 18.

The stuggle for military detente should in no way be taken to mean refusal by Marxists, the working-class partners and the socialist countries to support the national liberation struggle of the working people in the oppressed countries.—P. Zhilin, "The Military Aspect of Detente," International Affairs (Moscow), No. 12, Dec. 1973, p. 25.

The communist parties of capitalist countries and the national-liberation zone constantly point out that detente is part and parcel of their revolutionary effort. In turn, the fraternal parties of socialist countries strictly adhere to class principles in their foreign policy, which means that they fight for peace not from positions of pacifism or conciliation, but with due regard to the inevitability of revolutionary changes in the world, being always prepared to help in practice those who are fighting for these changes.—K.I. Zarodov.

Detente and peaceful coexistence are not tantamount to a political and social status quo. Detente provides more favorable conditions for overcoming the crisis in a democratic way and for remaking society along democratic and socialist lines. B.N. Ponomarev, "The International Significance of the Berlin Conference," Kommunist (Moscow), 1976, No. 11.

The triumph of the revolutionary forces in Vietnam, Laos and Cambodia, the defeat of the intervention in Angola, the upsurge of the workers' movement in capitalist countries, the enhanced influence of the communist parties, and the continued growth of the strength and influence of the socialist world system—all these factors have brought home to the imperialists the close connection between detente and the class struggle. Berecz, World Marxist Review (Toronto), Sept. 1976, p. 63.

The bourgeoisie's demand for "ideological detente" is both absurd and perfidious. It is absurd because no international agreement can end the ideological struggle, any more than it can remove class antagonisms. And it is perfidious because, by calling for "ideological detente," the bourgeoisie wants a free hand in socialist countries, the "right" to carry out unhampered its long-standing plans of "softening" socialism and disarming it ideologically and politically. With our class enemies, "ideological detente" implies division of the international communist and working-class movement, of the alliance between socialism and the national-liberation forces. K.I. Zarodov, World Marxist Review (Toronto), Sep 1976, p 105.

Right wing reformist conceptions have led some people to assume that peaceful coexistence is possible also in the ideological field. Is some kind of reconciliation with bourgeois ideology possible? No, such a reconciliation would lead to the ideological disarmament of communism to the disarmament of the international labor movement. Peaceful coexistence refers only to intergovernmental and economic relations; it cannot apply to the ideological struggle between two systems. Armed struggle can be avoided. Ideological struggle is unavoidable In the ideological field concessions to the bourgeoisie would represent an abandonment of the principles of our ideology. M. A. Suslov, "Speech," (Moscow), 2 Feb 1962.

Support for detente is rooted deeply in the consciousness of the U.S. working class and masses, who see its importance for the destiny of the world. Long before the U.S. ruling class accepted peaceful coexistence and detente as an official state policy, solidarity with the Soviet Union had been a powerful, sometimes decisive, trend in the U.S. working class and democratic minded masses. . . . And today the U.S. communists believe that the role of the working class and masses of people can be decisive in maintaining a consistent policy of detente, developing it to the stage of military detente, and making it irreversible. H. Winter, "Whither U.S. Foreign Policy at the Bicentenary?" World Marxist Review (Toronto), May 1976, pp 93-94.●

FATHER BRUCE RITTER AND AMERICAN FAMILIES

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. MICHEL. Mr. Speaker, in his memorable state of the Union address, President Reagan mentioned Father Bruce Ritter, nationally known as the founder of Covenant House, an institution in New York City dedicated to helping homeless young people. Father Ritter has testified before the Senate Caucus on the Family and I am privileged to bring his inspiring—and sobering—words to the attention of our colleagues.

At this time I insert in the Record the remarks made by Father Bruce Ritter before the Senate Caucus on the Family, January 26, 1984:

PREPARED REMARKS OF FATHER BRUCE RITTER

Ladies and gentlemen of the Senate, my name is Father Bruce Ritter, a Franciscan priest from New York. I am delighted and privileged to have this opportunity to speak to you this morning about my concerns and those of my friends. Concerns based on more than fifteen years caring for some of the most desolate children in our society.

I am President of Convenant House, a child care agency I founded almost fifteen years ago to care for street children. If I may take the liberty of speaking for a few moments about how our work began, I think you may find our early history somewhat entertaining, but it will also certainly provide you the context from within which you can understand the sort of problems, indeed the fearful suffering faced by these children.

Within my Order I was trained as an academician. I have an earned doctorate in late Medieval History of Dogma and I taught that rather arcane subject for about ten years. I spent the last five years of the teaching part of my priesthood in New York City at Manhattan College where I also became chaplain to the student body.

My teaching career came to a rather abrupt end one Sunday as I was preaching to the college kids on campus. My sermon that day was on "Zeal and Commitment"—the need for my students to be more involved in the life and work of the Church. At the end of my sermon the president of the student body stood up in church and said, "Bruce, we think you are a pretty good teacher, but we don't like your sermons". He said, "We think you should practice what you preach and show us a little of that zeal and commitment you just talked about."

Well, as a result of that rather coercive invitation, I asked for a new assignment: to live and work among the poor in the East Village of New York City, that's a very large slum on the lower east side of Manhattan. It's an area of New York completely taken over by the hard drug scene. I moved off campus into a junkie's apartment near the East River and almost immediately became involved with the problems of some of the hundreds of houseless kids that lived on the streets and in the abandoned buildings in that neighborhood.

One night at two o'clock in the morning in the middle of a blizzard these six kids knocked on my door: four boys and two girls, all under sixteen—runaways from all over the country. They asked if they could sleep on the floor of my apartment. The next morning it was still quite cold and snowing and the kids obviously did not want to leave. One boy, however, did go outside for just a few minutes and brought back four more kids. "This is the rest of us," he said, "the rest of our family." He said, "They were afraid to come last night, they wanted us to check you out first. And I told them that you did not come on to us last night, so that it was probably okay."

These ten children had been living in one of the abandoned buildings on the block with a group of junkies who were exploiting them sexually—were pimping them—that's how the junkies were supporting their habit. And when the kids refused the junkies simply burned out the apartment the kids were living in and threw them out in the snow. A week before that these kids had been forced to make a porn film in order to get some food. Hating what was happening to them, horror-stricken at the direction their lives were taking, these ten children fled the junkies and came down the street to my place.

That was the beginning of Covenant House. I could not find a single child care agency that would accept these children, so I kept them. The problem was that the next day two more kids came in. And the next day two more. And then literally dozens and dozens of other homeless, runaway kids began knocking on our door—so many that eventually my friends and I founded Covenant House. We specialize in caring for runaway kids and homeless teenagers. We operate crisis centers in many cities now—this year we'll care for over 15,000 children and young people. Every month more than a thousand kids come into residence in our programs.

Let me break that number down for you just a little bit: two-thirds of these kids are boys. Twenty-five percent are 15 years old and younger, twenty-five percent 16 and 17; the other half 18, 19 and 20. Eighty to ninety percent come from their home cities—runaway kids never run very far. Most of these kids come from abusing, one-parent, alcoholic families. There are few mysteries about why these kids run away. Most of them have suffered some form of exploitation on the street.

They are good kids—you would be wrong if you thought they were not good kids. Most of them are simply trying to survive. When you are 13, or 14, or 15, or for that matter, 16, 17 or 18, and you have no place to live, you are cold and hungry and scared and you've got nothing to sell except yourself—you sell yourself. A tragically high number of these kids become the merchandise in a massive, well-financed, well-developed American sex industry. They have become the commodities, the merchandise in our sex-for-sale society, where it has become okay to pay for sex and be paid for it. It is no exaggeration to say that there are hundreds of thousands of teenagers in this country involved in commercial sex-for-sale. I can't tell you how tragic their lives are.

In the beginning, these kids do not really understand what is happening to them. I mean, in the beginning a girl will say to me, "Bruce, he ain't no pimp, he is my boyfriend." "And he needs me". And in the beginning a boy will say to me, "Bruce, I ain't gay, I ain't no hustler, I'm just trying to make a few bucks". In the beginning. But after a hundred johns, five hundred johns, it becomes increasingly difficult then quite simply impossible to separate what you are from what you do. You become what you do and you no longer even care. The girls seem to show it first in their faces. The boys can hide it longer. But the boys die sooner—the girls can survive longer. You see, it is simply more acceptable for a girl to work the street than a boy.

In our brief history as a child care agency, more than 50,000 kids have come to us. Most of them have suffered some form of exploitation. We are simply overwhelmed with the problems of the thousands upon thousands of homeless and often exploited children that will come to us this year.

Our child care records at Covenant House read like hip versions of William Blake's "Songs of Innocence and Experience"—with one great difference. Unlike Blake's little waifs, most of our kids were never allowed any innocence to lose—instead they have had to earn innocence through pain—pain at their homes and greater pain on the street.

I know my kids don't look innocent when you first see them. Their life on the street is saturated in the raw need to survive, a need that leads many into crime, many into every sort of prostitution, formal and informal. Yet by and large they are innocent: they are victims of social decay and family disintegration, caught up in a nightmarish struggle for survival before they have had a chance to grow into physical and moral maturity. Their incredible courage in that struggle, and their desperate groping for purpose and meaning in life are the very essence of real innocence.

Today, however, I will not dwell on the specific needs of street kids; their pain is only a symptom of a much deeper disorder in our society, the disintegration of families and of the environments in which they once prospered. As much as I am honored by your invitation to speak today, I am more deeply gratified that there exists a group of distinguished public servants willing to confront that disorder head-on. It is a task which will lead you not just into the most complex questions of social policy but into a reconsideration of the role of fundamental moral values in a pluralistic, democratic society. And it is a challenge that faces not only you who are in government but all of us who have made the care of children our life's work. The traditional American family is an awesomely strong and resilient institution, but it has probably never been closer to collapse than it is now.

For example, from 1970 to 1980 the number of married couples with children under 18 declined, while the number of single-parent households doubled. The divorce rate has tripled since 1960. Of the children who come to Covenant House, less than a quarter have been raised in two-parent homes. In counselling our kids and working with their parents we see day after day the overwhelming emotional and economic burdens that single parenthood imposes—all the more overwhelming because so many single parents assume that role while they are still little better than children themselves.

Instability in family life is both evidenced and exacerbated by the mushrooming mobility of American society. Fully 45 percent of Americans changed their residence from between 1975 and 1980. The children who come to Covenant House once again illustrate the extreme effects of this new trend: almost two-thirds have moved at least once during the past year, and about 25 percent have moved four or more times. Family life for many Americans has become an erratic, rootless journey from one faceless neighborhood to another. Is it so surprising that many of their children eventually take to the road as well? Slowly, progressively alienated from neighborhood, from family, from any stable contact of relationships and values, many Americans and their children become slaves of our treasured mobility.

When we look under the surface of family life in this country, some ugly, frightening facts emerge. From 1977 to 1980 alone the number of reports of child abuse and neglect rose by over 50 percent—to 785,000. Is that simply better reporting? All of us know it's not. At Covenant House half of our kids have been the victims of repeated physical abuse. Nationally we have reason to believe that 25 percent of girls and 10 percent of boys will have suffered some form of sexual abuse by age 18. Fully a quarter of our girls admit that they have been raped. It is an ominous fact that the girls at Covenant House most likely to become teenage mothers are those who have suffered abuse.

The increase of single parenthood, the declining loyalty of Americans to their neighborhood, and the devastating phenomenon of child abuse—these are developments which seem to be the result of individual decision rather than social policy. But if we turn for a moment to examine other powerful forces at work, both economic and cultural, a more complex image emerges. On the economic front, for example, families have not fared well during the past decade. The average income of families in constant dollars declined 6 percent from 1972 to 1981. Yet the federal tax burden on those families has increased—once again in real terms—by over a third. By contrast, single and married taxpayers with no children have suffered only a tiny real increase in their tax burden during that same period. It is an incredible fact that in 1984 a single parent with two children can expect to pay higher taxes on the same income than a married couple with no children. Ten years ago that same single parent would have paid only two-thirds as much.

Painful as it is, the economic plight of families—and particularly families at risk of disintegration—is worth pursuing further. A recently completed Columbia University study of children who come to our New York program found that about half came from families receiving public assistance. That isn't very surprising in light of recent statistics showing that over 20 percent of all children under 18 live in families with income below the poverty line. According to the scholarship of our own Senator Daniel Moynihan, indeed, one-third of all children born in 1979 can expect to live in single-parent homes on public assistance prior to their 18th birthday.

Public assistance, however, becomes less and less useful to families in need. In real dollars the typical AFDC grant was cut in half during the 1970's. When no more than half of all divorced women can expect to receive full child support from their former husbands, it is clear that many will be forced to turn to a public assistance system that cannot meet their and their children's basic needs.

Raising a child, I am told, is an expensive business. U.S. Department of Agriculture estimates place the cost at about $2,000 a year per child on even the barest boned budget—just for essentials. What is more, the cost of raising a child increases constantly as he grows—so that the costs for a 16-year-old are one-third higher in real dollars than for a 6-year-old. When most American families are not experiencing continuous real increases in income, the economic pressures of that increased cost can be severe. For families on public assistance the rise in child-rearing costs as children grow older is devastating. If we recognize how economic difficulty can cause severe strain and break-up of marriages, how can we ignore its effects on a parent-child relationship?

All of us feel safe discussing economic trends and strains because of the large amount of "objective", quantifiable data available. But we don't need statistics to identify a source of family trauma in this country far more profound than changes in their income—the deterioration, the virtual collapse of a social and moral climate which supports and nourishes family life.

Ours has become a deeply materialistic, even hedonistic culture—a society of consumers. One of the great minds in federal tax policy—Henry Simons—has said that children are a "form of consumption" for their parents. That is, he believed the birth of a child into a family should be treated for tax purposes no differently from the purchase of a new boat or car or any other luxury. Distinguished advertising firms carefully manipulate children to develop their consumer mentality, then cynically turn around to use children in seductive, sexually suggestive ad campaigns to sell products to adults. Surrounded by a culture which regards children more as objects than as developing human beings, it is hardly a shock that many parents treat them as objects, too.

At its most extreme, this dehumanization of children can lead to cultural perversions that are deeply humiliating to those who love the best in America. Six years ago it took merely a walk through Times Square—with child pornography on open display—to see how deep that perversion runs. Now the world of child prostitution and pornography has moved underground, but the exploitation of children as sexual objects and partners remains a brutal part of our moral landscape. That terrain gives little shelter to values that support and sustain healthy family life.

So let's be fair to American families. If it is true that we as a people are less faithful, less tender to our families than ever before, it is also true that factors out of our control have served to hasten family disintegration. And though we can indulge in endless speculation about the causes of that decay, we must accept the fact that the family will always remain a stubbornly mysterious institution—a compound of love, commitment, weakness, and practicality.

Whatever its origin, the effect of family disintegration on kids is agonizing to review. For young men the suicide rate increased by almost 50 percent from 1970 to 1979. In some other post-industrial societies the rate of young suicides is even higher than ours. At Covenant House one-third of the girls and one-sixth of the boys have previously attempted suicide. Half of our residents seriously consider suicide as their only way off the street. According to a recent study as many as 82 percent of our residents suffer from extreme depression or another significant psychiatric disability.

For a short-term crisis program like ours, the plight of those children presents an overwhelming burden. We can only claim to succeed with a third—either through family reconciliation, appropriate referral to a longer-term program, or establishment in independent living. Of course, we could do some things better—but we will always fail with most of them. The time for repairing endangered families and rescuing their children is not after they have fallen apart.

Broken families and homeless children present a searing challenge—it is, in my view, the deepest ethical and moral challenge of our generation. Whether we respond to it will depend not simply on your resolve as members of Congress but on the willingness of the entire private sector to commit itself to the care and protection of family life.

Private sector employers must undertake a wide variety of initiatives on behalf of their employees' families. Provision for child care for working mothers at or near the work site could make it possible for hundreds of thousands to get off public assistance and into the working force. It didn't escape my notice that the Senate has recently done precisely that for its employees—and that now the House is scrambling to catch up. Flexible scheduling of work hours and, where possible, structuring work that can be done in the home could allow many other parents to work without short-changing their children's need for nurture.

We in social services must accept heavy responsibility for developing effective, imaginative responses to what seems a hopelessly complex problem. We have to begin with the recognition that family reconciliation, not youth emancipation, must be our primary hope. But very often, where families are irretrievably broken, we must focus on ways of reintegrating homeless children into their own communities—settings which give them continuity of environment and values. And finally we must lead the way in designing ways to provide the emotional support, remedial education and job training they desperately need. That includes beginning model business enterprises employing homeless youths—to show the private sector how to tap their potential. Nevertheless, with unemployment and illiteracy among youth at desperately high levels, our task is indeed a heavy one.

In prevention of family break-up the prospects are brighter. Churches and community groups should be able, with proper financial support, to provide training in parenting to young mothers of children at risk. Ongoing support for families is always stronger if it comes from church and neighborhood rather than from government: it is a national scandal how relatively little many of our local religious and community organizations do to reach out to families in need. As long as we persist in thinking that only government can solve problems of poverty and social disintegration, the prospect of any breakthroughs in those areas will remain bleak.

But that is not to say government is free from responsibility for immediate, thoughtful action on behalf of families. Direct government intervention into family life is only rarely successful and always expensive, but government can create a climate that nourishes family cohesion. I claim to be no expert in national affairs, but I think you ought to consider a few ideas for action on the federal level-action aimed at strengthening families all across the economic spectrum.

First, I challenge you to consider carefully the current structure of federal taxation as it applies to families. I mentioned earlier the disproportionate burden of taxation borne by families with children, and that may be a subject for careful review. Short of wholesale tax reform, however, a few relatively minor adjustments in the federal tax laws could make a substantial difference in helping the private charitable sector do its work in reaching out to families and children in trouble. Some ideas for such adjustments are:

First, establishment for a tax credit, in addition to currently allowed deductibility, for all charitable contributions aimed at specific kinds of problems faced by youth and families: for example, contributions to organizations established to provide remedial education, job training, crisis and long-term shelters for street youth, search networks for missing children parenting programs and day-care centers. Tax credits to businesses employing disadvantaged youth could be expanded, and as could new tax credits for employers who establish child-care programs for their employees. Provision of accelerated depreciation and tax credits for investments in property used by programs benefiting children and families could attract substantial private capital. If we are to have tax shelters in this profit-oriented society, why not direct them toward investments that will directly help families at risk?

Second, I urge you to give careful consideration to at least minor adjustments in federal public assistance programs. In particular, you should consider establishing income supplements for AFDC families with older children, for whom child-rearing costs are higher. Those supplements could be made conditional on the youths' regular attendance in school or in job-training—thus encouraging poor families both to stay together and to keep their children in school. Special income supplements could also be made available to single parents who enroll in parenting, remedial education and vocational education programs—all as incentives to move toward independence, and to cover increased costs of child care and transportation, resulting from participation in those programs. In addition AFDC rules might be adjusted to allow for "team parenting" by mothers on public assistance—that is, cooperative living and child-rearing to two single parents to allow one or both to leave on staggered schedules for school or work, without drastic loss of public assistance. These are investments that I believe would quickly repay their cost by encouraging those on welfare to raise children who can break out of the welfare cycle.

Finally, I urge you to continue to battle against the exploitation of children who have landed on the street. This year the Senate took a great step in passing S. 1469—cosponsored by many in this room—to expand federal prohibitions against the use of children in pornography. As some of you may know, that is legislation we at Covenant House fought for actively—both among you and through our participation as "friend of the court" in the Ferber decision last year. But now it is critical to provide support for law enforcement efforts across the country to fight the daily battle against child prostitution and pornography—and to provide support, as well, for police efforts to find missing children. Unless law enforcement officials have the mandate and the support to protect vulnerable children, we know only too well that beautifully written laws can become a dead letter.

I throw out these ideas timidly, knowing that you face heavy demands from many worthy comers. Our perspective at Covenant House is admittedly a limited one—we see the desperately wounded and the dying among our children. You here have the ability to take the broader view, to examine the crisis of the family from every angle and to seek solutions in every quarter. You have the credibility and the clout to lead our country toward a responsible, generous concern for families. Hundreds of thousands of letters from Covenant House supporters have convinced me that the American public eagerly, almost angrily awaits a serious national policy on behalf of family health and unity. If you take the lead, they will follow.

Before beginning to formulate that policy, however, all of us in and out of government need to accept one great, if unpleasant fact. The nature of "family" in our society has changed: now millions of children are raised by single parents, millions of mothers now work, and millions of "latch key" children must get along without constant parental supervision. There is nothing wrong with our traditional ideals of family life, but those ideals must not be allowed to stigmatize the single parents and working mothers who work desperately to care for their children. The fact that you in this caucus have, in your Statement of Purpose, recognized the difficulties facing all types of families—and set out to find ways of helping to ease them—is a measure of the leadership you have begun to provide on this most complex of national problems.

In one of her great novels George Eliot paused a few lines to explain why, in a time crowded with war, crime and disease, she devoted herself to stories about the narrow world of women and families. That world, she explained, was the "vessel" which carries "the treasure of human affections"—the means by which mankind's noblest instincts survive from one generation to the next. Surely all of us here find ourselves often preoccupied with the great questions of war and peace, prosperity and want, freedom and slavery. But if we take for granted too long that best part of our nation's life—its families—we may live to see what is noblest within us perish, and what is kind within us fade.●

GUN CONTROL AND THE RIGHT TO PERSONAL PROTECTION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. PHILIP M. CRANE. Mr. Speaker, proposed legislation to restrict the rights of American citizens to possess firearms to defend themselves and their property represents a severe threat to our basic freedoms as citizens of the United States. Under American law, police protection is guaranteed in broad terms, but there is no provision to provide personal protection to any particular citizen. Thus, until the law enforcement and criminal justice system in the United States demostrate the ability to furnish an adequate measure of public safety, there is no logical reason why citizens should be forbidden from doing whatever they can to protect themselves.

Rather than putting more restrictions on the possession of firearms, more restrictions should be put on the criminals that use guns to commit crimes. Attention should be focused on the criminal, not the gun.

In addition, police statistics in State after State have demonstrated that the incidence of crime and violence committed by persons who legally purchase firearms is virtually nonexistent. Statistics also indicate that criminals do not abide by gun control laws and that most law-abiding citizens do. Needless to say, the criminal does not bother with the niceties of obeying the law—for a criminal is by definition someone who disobeys laws. The end result of gun control legislation is the law abiding are rendered supine and helpless in the face of criminal violence.

The following article, Mr. Don B. Kates, Jr., a San Francisco civil-liberties lawyer, reflects upon the absurdities of restricting firearm possession in a society that fails to provide adequate protection to its citizens.

CAN WE DENY CITIZENS BOTH GUNS AND PROTECTION?

(By Don B. Kates, Jr.)

District of Columbia police were sued because somehow both "911" calls two women had made to report that their house had been broken into and their downstairs roommate was being raped got lost in the shuffle. The court determined that for the next 14 hours all three were held captive, robbed and sexually tormented.

Yet the District appellate panel found last year in favor of the authorities in an unheralded decision that illustrates an important aspect of the controversy labeled "gun control."

The court's reasoning for exonerating the police helps explain why studies find women, though much less likely to own guns for sport, make up 50% of those who say they own guns only for protection. Though the ratio of sworn officers to population in the District is several times higher than in any other U.S. city, police resources are still inadequate to provide personal protection or reliable response to calls for help. So, the court reiterates the universal and "fundamental principle of American law that a government and its agents are under no general duty to provide public services, such as police protection, to any particular citizen."

In lieu of a right to police protection, the District safeguards its citizens by forbidding them to buy handguns or keep any gun to protect home or business. Anti-gun groups see no irony in this, having compiled statistics to show that guns are rarely useful for self-defense while banning them would radically reduce homicide. But my research and that of other criminologists casts doubt on both these claims.

In the five years before the ban went into effect in 1977, homicide in the District dropped almost 36%. But in the five subsequent years it rose 16% (while decreasing 9% in neighboring Virginia—which has no such law). The only form of District homicide to fall radically was justifiable killing of felons by citizens, which dropped to virtually nothing.

Anti-gun lobbyists claim that such justifiable homicides are rare, but this turns out to be based on 20-year-old artificially truncated statistics from just two cities. Nationwide, 1981 FBI statistics show that citizens justifiably kill 30% more criminals than do police. Even this statistic substantially under-represents the phenomenon: It counts only robbers and burglars killed, excluding personal self-defense—for example, a woman who kills a boyfriend to keep him from beating her to death. The whole range of justifiable homicide appears in 1981 California statistics that show citizens justifiably kill twice as many felons as do police; in Chicago and Cleveland it is three times as many.

Such information helps redress the statistical imbalance that so distorts the handgun-prohibition debate. While exhaustive national statistics on handgun misuse are published annually, no comparable statistics on beneficial uses are compiled. Even justifiable-homicide statistics are only a crude index to the value of civilian handguns. We don't, after all, measure the value of police guns only by the number of criminals they kill. The number wounded, captured or driven off is far greater and more important. A paper delivered to the 1981 meeting of the American Society of Criminology estimate that the number of defensive handgun uses by civilians each year far exceeds criminial misuses. This estimate is based on survey data compiled by pollster Patrick Caddell for an anti-gun organization. It is confirmed by a 1983 national survey of prison inmates by the University of Massachusetts's Social and Demographic Research Institute. Nearly 70% of the felons said they knew criminals who had been shot, arrested or driven off by armed citizens.

Beyond concrete defensive uses is the deterrent effect that civilian firearms possession may exercise upon crime. Faced with a drastic increase in rape, Florida police in Orlando instituted a highly publicized program in 1966 in which 3,000 women received handgun defense training. Rape statistics were down 90% by 1967, while aggravated assault dropped 25% and burglary fell 24%. Although rape began to increase again when the one-year program ended, even five years late it was still 13% below the 1966 figure. In the same period, rape in the surrounding area had increased 308%. When a defensive firearms program for Detroit grocers received wide publicity from the police chief's denunciations and the shooting of seven robbers, grocery robberies dropped 90%. Comparable programs for retail merchants in Highland Park, Mich., and for pharmacists in New Orleans are credited with similarly dramatic robbery decreases.

The most persuasive argument against the effectivenes of defensive gun ownership concerns burglaries, because 90% occur when no occupant is present to use a gun. Nevertheless, studies by criminologists Gary Kleck, David Bordua and James Wright find a burglar has a numerically greater chance of being confronted by an armed householder than he has of being arrested and prosecuted and of actually serving time. Which, they ask, is greater deterrent: a slim chance of being shot or an even slimmer chance of being jailed? In this connection, recall the Atlanta suburb that reacted to the Morton Grove, Ill., handgun ban by requiring every sane, responsible head of household to keep a firearm. Compared to the preceding year, burglary rose slightly in Morton Grove but fell 73% in the Atlanta suburb.

As a criminologist, I certainly don't oppose gun control or endorse compulsory gun ownership. Laws designed to divest the irresponsible not just of handguns, but of all firearms, are useful to the extent tailored to maximize enforceability. It is possible, for example, to identify potential acquaintance murderers, since studies invariably find them to have long criminal-violence histories involving irrational attacks on acquaintances. But wholesale handgun confiscation, which is all too often proposed as "gun control," would divert scarce police resources from controlling potential misusers with a history of violence into an unwinnable confrontation with millions of decent citizens who believe (whether rightly or not) that they have both an inalienable right to and an urgent need for handguns to protect their homes and families.

Beyond the pragmatic questions of enforcing wholesale confiscation, and the massive civil-liberties violations inherent in even attempting it, is the moral issue: Does a society that has legally announced non-responsibility for protecting its innocent citizens have the right to prevent them from doing what they can to protect themselves?●

A LOOK AT UNITED STATES-MEXICO RELATIONS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. UDALL. Mr. Speaker, as a Member of Congress from Arizona, I am especially aware of the relationship between the United States and our neighbor, Mexico. Too often the Mexican Government is overlooked in the discussion of our foreign policy toward Latin America.

Both Mexico and the United States share a common interest in the development of an economically and politically stable Central America. This added to our commercial and cultural ties, makes our relationship with Mexico something to be highly valued and carefully protected.

In recognition of that special relationship and the need for future cooperation, I would like to insert in the RECORD at this time a New York Times report written by James Reston.

MEXICO ASKS UNITED STATES TO CHANGE POLICIES

(By James Reston)

MEXICO CITY.—President Miguel de la Madrid, expressing deep concern about the economic chaos and military violence in Latin America, has called on the United States to reappraise its policies for the region in 1984.

"I feel that North-South relations on the American continent could seriously deteriorate," the Mexican President said.

"I believe that if military violence increases we will not be able to solve the problem," Mr. de la Madrid said. "It's going to grow and multiply. It's going to get out of control, with losses for all. First, for the Central American countries themselves, but also for the security of the hemisphere."

Mr. de la Madrid, speaking in an interview at his residence of Los Pinos on Feb. 7, also emphasized what he considered the dangers of the Reagan Administration's economic policies, which carry the prospect of continuing high interest rates and budget deficits. The private interview was granted on condition that it not be published until today.

VIEWS ON CENTRAL AMERICA

Mr. de la Madrid responded mostly in Spanish to the questions, which were posed in English. His answers were translated by an official Mexican interpreter.

Concerning the situation in Central America, Mr. de la Madrid repeated the views he has expressed a few hours earlier that day in a news conference with foreign correspondents based in Mexico.

"There is no doubt that the military interventions and naval maneuvers of the United States have created a great deal of irritation in Latin America," Mr. de la Madrid said.

Asked in the interview what Mexico wanted the Untied States to do in Central America, he repeated his opinion that the efforts of the so-called Contadora group, composed of Mexico, Venezuela, Colombia and Panama "provides reasonable, sure and honorable bases for political negotiation.

"I believe that in Central America political talent is being put to the test to achieve a good result," he said. "If it is not able to solve the problem, a climate of enmity will increase among the countries involved.

"In Argentina, for example, there is already a feeling of frustration because of the United States' position on the Falkland Islands," the Mexican President said. "If other motives are added to this we will have an empoisoned climate which will be of no help to us in doing so many things that have to be done on the continent."

He was asked what President Reagan said to him in response to this argument. "Whenever I've spoken to President Reagan," He replied, "we have both been very frank. This in itself seems to me very positive. I'm always willing to listen to his reason and he too, at least, seems to be willing to listen to mine. I'm afraid we have not convinced each other."

Turning to the continuing high interest rates and budget deficits, Mr. de la Madrid said, "I believe that this worries not only American citizens, but also the rest of the world, because the United States deficit is financed not only by domestic savings in the United States, but by the savings of the entire world.

"There is no doubt that the American dollar has regained its role as the major currency of the Western World," he said, "and when the American dollar becomes perhaps too strong, and when the interest rates paid in the United States are so high, the attraction of the American dollar is irresistable and that implies a problem for the other countries that is very difficult to handle.

DOES NOT BLAME THE UNITED STATES

"For Mexico, for example, one of the main problems is the high interest rate," he said. "Our foreign debt service absorbs a large part of our effort. This year, for example, the payment of the interest alone is equal to the income from our total oil exports. This creates a serious problem for us with respect to our balance of payments and managing our budget."

The Mexican President said he did not blame United States policy on interest rates for all Mexico's economic problems. Mexico had its own reasons for guilt, he said, but was doing everything possible to correct them. He added, however, that if at the same time external conditions do not exist in the world economy that favor Mexico, the effort here in Mexico City will be insufficient.

"I think," the President said, "that Mexico's problem is very similar to that of other developing countries. And I do not believe that the economic recovery of the world can be achieved only with the great thrust of the economy of the United States or of the industrialized countries.

"That is, that if we do not find a way for cooperation to be of benefit also to the developing world we will encounter serious problems for the industrialized economies themselves," he said.

Mr. de la Madrid said Mexico had been able to avoid social unrest during the economic crisis of 1983 partly by good luck on the agricultural front.

INCREASE IN DEMONSTRATIONS

He conceded, however, there was "a great increase" in street demonstrations in 1983—close to 1,000 in Mexico City alone—and more Mexicans seeking economic refuge in the United States.

On Nicaragua, Mr. de la Madrid said "we think we can succeed in having Nicaragua assert its nationalistic character and become less dependent on the Socialist Bloc. For this there would have to be more financial cooperation from the Latin American countries, Western Europe, Japan, Canada, and the United States itself.

"I feel the Nicaraguan people are willing to do this but the American Government hasn't the least bit of confidence in them," he said. "What I have said is that we should give them the chance to show their good faith."

Mr. de la Madrid was asked about Fidel Castro's reaction to the current situation in Central America.

The Mexican President said that from his contacts with the Cuban Government, "I believe that Cuba is willing to support the Contadora scheme.

"The more the United States Government becomes more aggressive," he added, "the more Castro does too, for elementary tactical reasons. But basically I think he wants a settlement in the Central American region."●

TOLEDO FINDS A WAY TO HELP TEACHERS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Ms. **KAPTUR.** Mr. Speaker, it is with great pride that I commend this recent New York Times article to my colleagues. As Mr. Shanker points up, solutions to the problems of our public school systems can be addressed in a fair and effective way.

I hope this article helps to lead the way for even more creative interaction between the key players in communities who develop school policy.

UNION, MANAGEMENT SHARE RESPONSIBILITY: TOLEDO FINDS A WAY TO HELP TEACHERS

(By Albert Shanker, President, American Federation of Teachers)

There's much talk about improving the quality of teachers and about the problem of what to do with those who are not competent. Though there may be relatively few such teachers, most of the action on this issue is filled with confrontation and conflict . . . usually involving fights between teacher unions and school management as to whether tenure provisions should be weakened. These fights, no matter who wins in the end, are losers for public education. They undermine public confidence and stimulate support for tuition tax credits and other forms of aid to nonpublic schools.

At least one school district has done it differently and better . . . Toledo, Ohio. The district had gone through tough times. In the late 1970s the schools were frequently closed—a revenue shortfall and failed bond levy, a teachers' strike, snow closings. Relations between the school district and the union were bad for a long time. But in 1981 . . . before all the national fuss about education . . . the Toledo Federation of Teachers and the public school system decided to try to turn things around. Both the union and school management agreed that it was not in anyone's interest to have incompetent teachers on the job. What was needed was for teachers to be given plenty of help and support . . . but, given all that, those who couldn't make it should not be retained.

Those are easy ideas to agree to. What was and is unique about Toledo is that the teachers' union and the school system reached agreement that this was not to be just the responsibility of school administrators but, rather, the joint responsibility of teachers and administrators.

Just what does this mean in actual practice? There are two separate but related programs. One deals with newly hired and inexperienced teachers—interns; the second, with experienced teachers who are having great trouble.

The Toledo Federation of Teachers selects a number of outstanding teachers to serve as consulting teachers for a period up to three years. These teachers play a major part in training, helping and evaluating new teachers . . . and ultimately these consulting teachers make recommendations to a nine-member panel, an Intern Review Board, as to which new teachers should be retained and which should be told that they're just not good enough to be given permanent jobs in the system. The Board is made up of five teachers and four administrators. It makes recommendations to the school superintendent for final action.

Instead of the usual conflict, the Toledo plan assumes that joint governance and responsibility are better than confrontation. Second, it assumes that teachers are professionals, not mere workers in an educational factory. New teachers are strictly evaluated through peer review to make sure that only good teachers are retained. After the evaluation there is very little supervision or subsequent evaluation unless some serious problem becomes obvious at a later time.

Principals are freed to concentrate on schoolwide improvement. Teachers are helped and evaluated by others in their own field of specialization (there is an effort to match the specialty of the consultant to the specialty of the intern), usually not the case when the principal does it. And the principal is not torn between keeping morale high and holding teachers accountable.

Then there is the other aspect of the program. Experienced teachers who are obviously having great problems (in the view of the "building committee"—the other teachers in the school—and the principal) are placed in "intervention" . . . given one-on-one help from the consultants—their colleagues who are outstanding teachers. That help continues until the teacher has improved to the point of being successful at the job . . . or a decision is reached that the teacher can't improve sufficiently and termination is recommended.

The program is succeeding. It is popular with both teachers and administrators. After a period of failures to pass bond issues, the 1982 large bond issue was passed by 70% of the voters, the largest margin in the history of the city- a sure sign of public confidence in the schools.

Of course, there are problems. There are some questions as to whether a teacher union, which is supposed to protect its members, should play a role, a decisive one in many cases, in deciding not to retain someone. There are similar problems on the side of management. If teachers are to do the training, evaluation and a large part of the decision-making in who should be retained and who should not, many administrators feel the loss of an important part of their job. But, while they are uneasy with their new roles, both teachers and administrators agree that this system is better than the one they had before. Teachers are getting more day-to-day help . . . and only good teachers are being retained. Also, many parents who had placed their children in schools outside the city or in private and parochial schools are now bringing their children back to the Toledo public schools. And, any plan which enhances the professional status of teachers is likely to attract more highly qualified people to the school system.

The teachers' union and the Toledo school system saw what was happening. The system was going down fast. They've made very big and very daring changes. With the great demands for school improvement . . . and the threat of tax credits . . . other school systems and teacher organizations ought to give the Toledo plan a close look. Or come up with a model of their own which is based on cooperation rather than conflict, shared responsibility, enhanced professional status for teachers and a real bottom line of recognizable improvement.●

THE NEED FOR INDIAN SERVICE CENTERS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. BROWN of California. Mr. Speaker, the 1980 U.S. census estimates that there are approximately 10,084 American Indians within San Bernardino County.

The majority, approximately 90 percent, live off the reservation among the general population. Although confronted by serious problems, there is no effective vehicle to reach the off-reservation Indian. There is a need to establish several service centers designed to focus on the unique problems confronted by this "invisible" minority. Indian service centers can provide a focal point for advocacy and an effective framework for service delivery.

The following is an article from a newspaper in my district that discusses the off-reservation Indian and the need for Indian service centers by Carl Yetzer, San Bernardino Sun staff writer.

Most of County Indian Population Mingles With Other City Dwellers

(By Carl Yetzer)

San Bernardino.—Although many city dwellers may not realize it, most Indians in San Bernardino County do not live on reservations.

The overwhelming majority—about 90 percent—live among the general population, mostly in valley or High Desert communities. But they are a largely silent and sometimes invisible minority.

Because the Spanish missionaries of the colonial period gave them Hispanic surnames, they tend to blend in with the Mexican-American population in many urban areas. And, though their needs are sometimes quite different from those of other ethnic groups, social service agencies often have a tough time identifying and reaching out to them.

According to a status report on the American Indian population prepared by the county's Community Services Department, there was a sudden surge in the non-reservation Indian population here in the years following World War II.

Indian veterans returning to their reservations found no jobs there and started migrating to urban areas. The process was speeded up, the report says, by the federal government's policy of forcibly introducing the concept of private property ownership on reservation lands that had been communally held.

That caused a massive migration of Indians from all over the United States into San Bernardino County and other parts of Southern California. The government offered transportation, job training and housing for Indians and their families willing to move off the reservations.

Today, according to the county report, about 90 percent of the local Indian population lives in areas where income levels are in the lower 25 percent of the population. Over 40 percent of all off-reservation Indian families receive some form of public assistance.

And the usual problems of poverty—illness, alcoholism, chronic unemployment—affect Indians as much as any other poor segment of the population.

"There is a very high morbidity rate from diabetes," said George Meneses, the coordinator of a special Indian Education Program of the San Bernardino City Unified School District.

"There is also a very high percentage who are affected by alcoholism," he said. "That's not to say that they're all alcoholics, but the problem seems to affect them to a greater degree."

But unlike blacks, Hispanics, the handicapped and other minorities, Indians do not have any kind of organization to deliver services to them or to serve as their advocate.

That, coupled with their inherent distrust of the bureaucracy, makes it difficult for local service agencies to administer programs designed to help them.

"We have programs through Rolling Start that work with the handicapped," said Rodolfo H. Castro, executive director of the Community Services Department. "We have programs administered through Casa Ramona that are situated in the Mexican-American community. But as far as American Indians are concerned, it's a hard thing to get a hold of.

"We have advocates for the blacks," he said. "We have advocates for the handicapped. We have advocates for Hispanics, all of whom are making sure their target populations are getting their fair share. But we have a vacuum in the American Indian community."

More than anything else, Castro would like to see an Indian Center re-established in the San Bernardino area. The community had one from 1974 until late 1980, but it closed because of dissension among its directors.

The only functioning Indian Center in the county now is in Barstow, but it operates on a shoestring.

Acting director Robert Flores receives no salary. The county provides office space, which the center shares with Rolling Start. Flores pays the phone bill out of his own pocket.

Employed by the Santa Fe Railway as a car inspector, Flores is supposed to be in the center only one day a week. But, he said, he comes in when he's needed, usually a few hours every day.

"I've only got a wife, four kids and a ranch, so I've got nothing better to do with my free time," he said with a satirical smile. "This is all for the prestige."

Beneath it all, Flores knows that if it weren't for the center about 3,500 Indians in the Barstow area wouldn't receive the health care, job training and other services the center provides. Here, as elsewhere, he said, Indians are reluctant to deal with the white man's bureaucracy.

"Indians are very shy, you might say," he said. "it's very hard to get them to talk. You've just got to sort of be there."

What's more, he said, Indians are not a homogeneous group.

"We have 42 different tribal affiliations we know of to deal with," he said. One tribe's beliefs and customs can be very different from another's.

"The main thing you have to know is respect," he said. "The first time you go into somebody's house you don't go in and be real witty and tell them all you're going to do. They may have a lot of pride and you simply have to explain the kinds of services that you can provide. And there are ways of doing it without saying 'Here, here's a handout.' "

Lou Reed, acting director of the Community Services Department's American Indian Program, said some Indian people are ashamed to disclose their heritage when applying for aid. It is another reason many are reluctant to apply.

"I was here when the Indian Center was operating in San Bernardino," said Castro, "and I know that some services were getting through. The difficulty was the dissension within the board.

"So what we're recommending is the selection of a professional, committed and effective board that can handle the establishment of some kind of administrative structure for the American Indian.

"The best thing that we can do," he said, "is to try and ensure that through some vehicle the American Indian gets his fair share so that when the resource allocations are made, the American Indian is not, once again, the forgotten American."●

THE 25TH ANNIVERSARY OF JUDGE ALBERT AND MILDRED MATTHEWS

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. DIXON. Mr. Speaker, I appreciate this opportunity to join the relatives and friends of Judge Albert and Mildred Matthews in honoring their 25th wedding anniversary. I would also like to express my sincere appreciation for the many years of professional and community service they have both shared with the people of Los Angeles.

Judge Matthews has been a pillar of the Los Angeles judicial community for the past 24 years. From his first decisions as an administrative hearing officer for the Unemployment and Disability Insurance Appeals Board to his current position as a superior court judge for Los Angeles County, Judge Matthews has served the citizens of

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Los Angeles with a degree of responsibility that promotes fairness and firmness.

His commitment to public service is also evident by his active participation in community child care and alcoholism programs, as well as his 43 years of service as a Sunday School teacher for the Second Baptist Church of Los Angeles.

Mildred Matthews has also made significant contributions to the citizens of Los Angeles County. Her dedicated service to the Public Social Service Commission, which is involved with public welfare and foster children programs, has earned her commendations from the Los Angeles County Board of Supervisors. Her active participation as a volunteer community worker for the Girl Scouts, PTA, Pueblo Del Rio Housing Project, and NAACP demonstrates an unflagging commitment to improve the quality of life for all of our citizens, particularly children, teenagers and senior citizens.

Judge Albert and Mildred Matthews will proudly celebrate 25 years of a full and fruitful marriage when they renew their wedding vows on March 11. But the citizens of Los Angeles County, along with the family and friends of the Matthews, will also be celebrating the more than 25 years of strong and inspiring service they have both given to their community.●

THE JOSEPHSON RESEARCH FOUNDATION

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. FASCELL. Mr. Speaker, American policy in the Middle East is surely one of the most difficult and yet most important issues facing the United States. As we have witnessed recently in Lebanon, devising an effective foreign policy for that troubled and vital region is an urgent but elusive goal.

In our determined efforts to reach that objective we need every possible insight and understanding, including various views on all sides of the question. A significant contribution to that cause was made on October 23-25, 1983, when the Josephson Research Foundation, founded in 1982 by Mr. Marvin Josephson, brought together 10 distinguished and respected Middle East specialists.

In keeping with the foundation's objective of enhancing opportunities for discussion of prominent topics of interest to those concerned with public policy, participants in a 3-day meeting fulfilled their mandate with distinction. The proceedings of that meeting have been published under the title. "American Policy in the Middle East: Where Do We Go From Here?" Copies are available from the Josephson Research Foundation, Inc., 18th floor, 40 W. 57th Street, New York, N.Y. 10019.

I extend my sincere appreciation to Mr. Marvin Josephson for his outstanding efforts to encourage public debate on the issues of our time and I call our colleagues' attention to the executive summary of these important discussions on American policy in the Middle East.

POLICY GUIDELINES—EXECUTIVE SUMMARY

1. The Administration should continue its efforts to achieve a reconciliation in Lebanon. These actions could ultimately lead to the withdrawal of foreign troops—including our own. While these efforts are being pursued, intermediate alternatives should be explored. In the Middle East the European model of nation states is not always applicable to local conditions where models of shared rule and autonomy are often more appropriate. Partition may also have to be considered.

2. The U.S. should not pursue the Reagan Plan as presently constituted. It is dangerously ambiguous on the future of Jerusalem which Israel will not relinquish, and it does not recognize that an Israeli presence in some form on the West Bank is inevitable. Therefore, the plan should be amended or quietly set aside while a dialogue between the Israelis and West Bankers who are ready to discuss key issues seriously is encouraged. As in the case of Lebanon, innovative non-European resolutions like shared rule and new concepts of autonomy should be explored. There is no reason to be preoccupied with the Palestinian question at the expense of more immediate and pressing priorities.

3. The U.S. should cease its efforts to press moderate Arabs to play a role in American security programs in the Middle East. Some of these governments may come forward from time to time. However, there should not be an expectation of visible association with the U.S. lest the pressure destabilize the regime or lead to the irritation of both Washington and the Middle East government in question. The U.S. should concentrate on Turkey, Egypt and Israel in addition to our own efforts as a means of fulfilling security considerations in the area.

4. We must begin to view the area in terms of our own strategic interests. Therefore, we should pursue a serious and detailed strategic cooperation arrangement and dialogue with Israel. These activities should extend to quiet efforts for increasing the indirect services (e.g. maintenance and prepositioning of U.S. equipment) Israel has already declared itself ready to discuss, as well as to planning for contingencies of mutual concern.

5. The U.S. should not tilt toward Iraq in the Iran-Iraq war, but instead should continue a policy of strict neutrality. Iran remains *the* critical country in the Persian Gulf. The U.S. should be weighing means of making new approaches toward regaining influence with Teheran, especially after the Ayatollah dies. Meanwhile, the U.S. should not take actions such as the support of Iraq which will compromise the future relationship between Teheran and Washington.

6. As a means of encouraging the stability of the Gulf and the continued and uninterrupted flow of oil, a multilateral Western force of 4,000 to 6,000 men should be stationed in Oman.●

SBIR PROGRAM REFLECTS FLORIDA'S TECHNOLOGICAL PROGRESS

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. IRELAND. Mr. Speaker, the SBIR (Small Business Innovation Research) orientation conference which took place in Orlando on January 25 and 26 indicates Florida's encouraging progress in the development of high technology enterprise.

Although the Orlando Sentinel (January 30, 1984, page E-2:1) correctly reported that Florida is not receiving a percentage of SBIR awards equal to our population, there is also another side to the story. In fiscal year 1983, the first year of the governmentwide SBIR program, Florida submitted 120 proposals and received 9 awards. As the Sentinel and Milton Stewart, president of the Small Business High Technology Institute, point out, if participation were equal to the State's 5 percent of the U.S. population, the figures would be closer to 450 submissions and about 33 awards. That day is not here yet, but it is not far away.

The history of the past decade indicates rapid growth in Florida's technological capabilities. During the previous 5 years, when the SBIR program was limited to two agencies (1977-82), my State won only four awards, compared to the nine awards won in the single year of 1983. This rate of growth places Florida among the dozen or so fastest improving States in the competition for Federal Government innovation research awards.

Forbes magazine reported that Florida ranked sixth (tied with Minnesota) as home for the fastest "Up and Comers" on the list of public companies. The University of Florida recently noted that 8 of the State's 10 top manufacturing firms are high-tech.

Most encouraging to me is that the high-tech infrastructure is developing in several exciting directions, bringing together the capabilities of smaller, innovative firms, university systems, and the State and Federal Governments.

A prime example is the Florida State Technology Applications Center, which has been operated by Florida State University and the National Aeronautics and Space Administration. Over the past 5 years, more than 800 businesses have utilized STAC to obtain rapid modern computerized factfinding about science and technology at reasonable cost. Small business development centers in central and northwest Florida are adding further resources to assist new and small business growth.

In my view, it is these kinds of cooperative relationships which are needed

If the U.S. industry is to reassert its competitive edge in the worldwide marketplace and so build back its base of superior products, new jobs, and opportunities.

VALUE OF PROGRAM

The small business innovative research program is exactly the kind of intelligent linking of private and public resources which can further this process. I was a strong supporter of SBIR when it was first before the Congress. I am delighted with the quality of the program nationally during the first year, and the galvanizing effect which it is having in my own State.

SBIR was enacted because every authority who had studied the matter, including the Commerce Department and the Executive Office of the President, concluded that small firms make a "striking contribution to innovation." Researchers attribute about half of all industrial innovations to small firms, yet small business was receiving only about 3 percent of all Government R&D contracts. I am pleased to report that many of the representatives of the 11 departments and agencies participating in this program have told audiences all over the country that, although many people have questioned whether devoting one-half percent or 1 percent of their research budgets to small business would help their agency or help the country, the solid results of this program have made believers out of the skeptics.

As a result, our agencies are per- orming their missions better. In addi- ion, our country is establishing a base f small innovative ventures which can urn things around for us in the inter- ational marketplace, where the United States has just recorded its argest deficit in history, a total of ver $60 billion in 1983.

Accordingly, I would like to thank he National Science Foundation and he Small Business Administration for heir leading roles in bringing the BIR program to the Florida audi- nce. I would also like to thank the presentatives of the 14 major agen- es, the 15 leading Government R&D rime contractors, and other private xperts, such as Arthur Andersen & o., who used their expertise to bring hese wonderful opportunities to the tention of the Florida business, fi- ancial, and academic community.

I would like to do all I can to help ild this base so that Florida can ake even further progress in realiz- g its potential in high technology, b generation, growth, and exports in e future. At this point I will include article from Today magazine dis- ssing high tech.

HIGH TECH IN FLORIDA

(By Darcy Meeker)

There's a new war between the states—a ttle to attract high-technology industries—and Florida stands to be a big winner in the fray.

The nationwide scramble to catch the rising star of new technologies has a very solid economic motive; high tech is seen as recession-proof. Computer and space technologies can go no place but up, and defense high tech, with its federal support, does not flutter with every breeze in the business climate.

Competing with the top three established centers—California's Silicon Valley, the Boston Corridor and North Carolina's Research Triangle—are 50 others in various stages of development, and two dozen on drawing boards. Dubbed "High-Tech Highways" as a generic term, they sport nicknames like Silicon Mountain, Silicon Desert, Silicon Bayou, Golden Triangles near San Diego and in New Hampshire, Satellite Alley in Maryland, Tech Island on Long Island, Sunset Corridor in Oregon and Polymer Valley near Akron.

Florida's chances to be on top when the smoke of battle clears are very good.

Says Miami businessman and former Florida Secretary of Commerce Stuart Edgerly: "California is where it was. Texas is where it is. Florida is where it is going to be."

One good reason is sheer momentum.

Again and again, experts evaluating the chances for high-tech industry and research center around the country cite the need for a "critical mass" of successful companies.

Florida has it. In the "Electonics Belt" near Orlando, In "Silicon Beach" in southeast Florida. In "Robot Alley," which runs from UF in Gainsville down to Orlando. (Some observers group the three into a powerful "Golden Girdle" across the state.)

High tech's mass exodus to the Sunshine State started a quarter of a century ago along the Space coast and has gained momentum since then.

Florida's biggest manufacturing firm, Martin Marietta, began in Orlando in 1956 with a handful of employees and now employs about 10,500. Neck and neck with it is Harris Semiconductor, whose Melbourne operations were launched in 1952 and which now has 10,000 employees in Florida.

In fact, of Florida's top 10 manufacturing firms, eight are high tech. United Technologies (Pratt-Whitney), in Palm Beach Gardens since 1957, has over 8,000 employees, IBM, in Boca Raton since 1967, has over 5,000. Honeywell, in Clearwater since 1957, has over 5,000. Monsanto, in Pensacola since 1953, has 5,000. General Electric, St. Pete since 1957, has over 4,000. Florida's tenth largest manufacturing employer, Motorola, started with fewer than 100 employees in Fort Lauderdale in 1970 and now employs 3,500 Floridians. Non-high tech companies in the top 10 include sixth-ranked Knight Ridder—which publishes the Miami Herald and other newspapers and has joined the high-tech leagues by launching Viewdata, a computerized news service. Tropicana in Bradenton is ninth.

High-tech employment increased more than 40 percent during the last five years in Florida and the number of high-tech firms grew by 27 percent.

High-technology industries provided 41.4 percent of Florida's manufacturing jobs in 1982, says Hank Fishkind of UF's Bureau for Economic and Business Research. "The electrical and electronics industry was the largest manufacturing employer, accounting for 14.4 percent of all manufacturing jobs. Transportation equipment (including space-shuttle-related industry) ranked second with 11 percent."

High tech is an even bigger force in Florida than nationwide, accounting for 7.3 percent of Florida's new jobs since 1975, compared to 6.1 of the nation's new jobs since 1975. In Florida, 67 percent of the 115,004 new manufacturing jobs since 1975 came in high tech.

Says Florida Gov. Bob Graham ('59, BA): "Florida entered the information economy years ago. Our traditional business sectors—agriculture, construction and tourism—will be augmented by high-technology industry and international commerce in the next 25 years.

The University of Florida itself is one of the strongest weapons Florida has in its arsenal to win the high-tech war.

Business Week points out: "The university environment is the engine of technology and the driving force behind bringing technology to an area."

UF provides the sophisticated engineering manpower to help Florida manufacturers get ahead, providing more employees than any other U.S. university to Harris, and over 800 to IBM's work force.

UF students design integrated circuits that Harris builds and UF researchers test Harris-designed circuits for electronic noise, impurities and other factors. UF computer graphics expert John Staudhammer serves Martin Marietta as a consultant. UF has the nation's first university-based computerized news service and feeds Viewdata both news and employees. Harris, IBM, and most of the other firms have donated or loaned robots and computers to help UF produce the sophisticated employees they need. Tropicana's solar pasteurizer is now in UF's Energy Research and Education Park.

In fact, research-education exchanges link UF with most of Florida's top 10 manufacturing firms.

Many of the state's efforts to ensure a high-tech future involve the University of Florida. UF is headquarters for FEEDS (Florida Engineering Education Delivery System), which provides graduate engineering education for engineers on the job. And UF will be the future think-tank engine for high-tech research with its planned Florida Research and Development Center.

Putting high tech in Florida's future is what this magazine is all about. Read on. . . . ●

A PEACETIME HERO

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. DANNEMEYER. Mr. Speaker, "getting involved" is a popular term these days. Teachers, counselors; and even some of our colleagues are urging people to get involved. Why? Because in recent years, getting involved has not been on the top of the priority list for a lot of people. In fact, it has sunk so far down that there have been more than a few instances where a crime or a tragedy has occurred and eyewitnesses have failed to come to the aid of the victim for fear of the consequences of involvement. "That's their problem" is often the rationale or "I can not afford to get mixed up in this."

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Last summer, another of those instances almost occurred. In fact, it would have had it not been for the initiative of one man. One minute he was standing in his backyard. The next, he was racing to the scene of an auto accident in which a young woman was fatally injured. Others gathered as well, but instead of following their stand back and wait for the rescue squad example, this man stepped forward to give aid, noticing as he did so that the woman was pregnant. Whereupon he administered CPR in the hope that, at the very least, the baby could be saved. Not one of the 50 to 60 people watching responded to his pleas for help, some even criticized his efforts but, in the end, those efforts were rewarded. The baby was subsequently delivered alive by Caeserian section, an accomplishment doctors later said probably would not have been possible had it not been for this unsung hero. That's right, hero. This man's action not only required quick thinking and the courage of his convictions, but it saved a life. And that is the stuff of which heroes are made.

Perhaps if unsung heroes like Kenneth Von received more recognition for putting the needs of others above concern for self in a time of crisis, more people would follow their example. Therefore, I ask unanimous consent that the September 9, 1983, Los Angeles Times article describing Kenneth Von's heroic rescue be inserted in the RECORD at this time. After reading this story, I am sure my colleagues will join me in paying tribute to a man who, under pressure, was more than equal to the challenge of helping someone in need.

The article follows:

[From the Los Angeles Times, Sept. 9, 1983]

MAN SAVES UNBORN BABY OF CRASH VICTIM

(By Eric Malnic)

Kenneth Von was the only one who tried to help.

The pregnant woman died, succumbing a half-hour later to the massive head injuries she had suffered in the traffic accident.

But her unborn child—despite the taunts and jeers of 50 to 60 bystanders who refused to assist Von in his untrained efforts at cardiopulmonary and mouth-to-mouth resuscitation—was saved.

Born by Caesarean section at Lakeview Terrace Medical Center in Pacoima about an hour after the accident, Antoinette Jiminez's tiny daughter was reported in serious but stable condition Thursday.

Doctors there credited Von—who learned his lifesaving techniques by watching television—with saving the child's life.

"I was sad the woman didn't make it, but I hadn't thought she would," Von said Thursday. "What I was really working on was to save that baby. I was awfully happy when I heard it was alive. . . .

"What ticked me off was the reaction of all those people who just stood there and watched," he said. "Nobody wanted to get involved."

Von, 36, a divorced trucking company executive who lives with his 14-year-old daughter and 12-year-old son near the intersection of Foothill and Van Nuys boulevards in Pacoima, said he was standing in the backyard of his home at about 7 p.m. Wednesday when he heard "the screeching of brakes and the impact."

As police later reconstructed the accident, Salvador Jiminez had been heading south on Foothill with his pregnant, 23-year-old wife when a car driven by William Scurlock ran a red light and slammed broadside into the Jiminez vehicle.

"I ran to the corner, and when I got there her torso was hanging out the window," Von said. "The whole side of her head was caved in. . . .

"She gave a last gasp, and I thought, 'Oh God, she's dying.' But I looked down, and I saw she was pregnant. I figured that if I could get some air into her lungs, the baby might have a chance. . . .

"I'd never had any formal training in CPR or any of that, but I'd watched it on television. I figured I had to do something." But Von said that when he asked the gathering crowd for assistance in removing Antoinette Jiminez and her semiconscious husband from the wreckage of the car, no one stepped forward.

"I hollered to the people to help, but, honest to God, they did nothing," Von said.

"I finally got to her and laid her across the seat, and then I found her legs were trapped. I couldn't get anyone to help, but I finally ripped the dash loose by myself, got her out, cleared her mouth and started mouth-to-mouth and CPR."

Von said that as he labored over the stricken women, "the people stood around and criticized me for what I was doing. . . .

"One woman looked at all the blood and said, 'Ugh, I wouldn't do that.'

"Another person said, 'You're sick, man. She's already dead.'

"There were 50 or 60 people there, and no one would help me."

Rose Brown, a witness to the accident, confirmed Von's account.

"I don't know why they didn't help," she said. "They just stood there, acting like dummies."

Among those who didn't help, according to police, was Scurlock.

Officers said that after throwing several beer cans from his disabled auto, Scurlock fled on foot, leaving behind his girlfriend, Elisha Rene Fletcher, 18, her sister, Oritha Fletcher, 15, and Oritha's 11-month-old son, John.

"After about 15 minutes," Von said, "a guy stopped, and he helped work on her heart. Then the paramedics showed up, and they got an oxygen bottle on her."

Antoinette Jiminez was rushed by ambulance to the nearby medical center, where the Caesarean section was performed after she was pronounced dead. Doctors said Von's resuscitation efforts probably kept the unborn child alive by getting oxygen to the fetus through the dying woman's body.

Salvador Jiminez was hospitalized with several fractures, police said. Elisha, Oritha and John Fletcher were treated for minor cuts and bruises and released.

"Scurlock is still hiding someplace." Valley Traffic Division police Officer Anthony Bartoletto said Thursday. "We don't know where."

As for Von, he said Thursday that he plans to get some formal training in lifesaving techniques, now.

"I guess the other people were afraid they'd get sued, but I never thought about that," he said. "I just acted on impulse.

"I'd do it all over again in a minute if I thought I could help someone."●

WHO TURNED THE FIRST AMENDMENT UPSIDE-DOWN?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. PHILIP M. CRANE. Mr. Speaker, I have no doubt that if the Founding Fathers of this Nation were alive today they would be appalled by a recent trend in constitutional interpretation. The first amendment clause that allows for freedom of religion has been so radically interpreted and drastically altered so as to leave it hanging by a thread. This clause, known as the "free exercise" clause, was originally intended to prevent the Federal Government from establishing a national religion and forcing compliance with that State religion. It states very simply: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Somehow, however, the courts of this land have interpreted this clause to mean that the State should insulate itself from all moral and religious values. Nothing could be further from the truth; the framers of the Constitution were themselves deeply religious men with an abiding belief in the positive effect of religion in men's lives. As John Adams stated:

> Statesmen may play and speculate liberty, but it is religion and morality alone upon which freedom can securely stand. A patriot must be a religious man.

The trend that has prevailed in the past two decades has been to reject Mr. Adams' admonition and leave religion entirely out of Government. I believe that the effect has been both negative and counterproductive. Our colleague Mr. WILLIAM DANNEMEYER wrote an outstanding article on this very subject; I hope you will take a few moments to read it.

The article follows:

WHO TURNED THE FIRST AMENDMENT UPSIDE-DOWN?

(By William E. Dannemeyer)

The question of application of Judeo-Christian ethics to public policy has generated serious discussion as well as some shrill and sadly misinformed rhetoric over recent months. Moral Majority has been the most readily available target. For some, it has been shocking to be confronted with large, organized groups of Christians who lobby for or against particular political positions.

There is, in a sense, good reason for this reaction: for nearly a century, large groups within the evangelical church have been virtually trapped in a type of pietism that often excluded public involvement. Why, then, in a society that has traditionally reveled in democratic action, are we not rejoicing that these people have finally come out of their cultural cloister? I personally believe the debate is healthy for our nation. I see the resurgence of a viewpoint that calls for strong foundations in ethics as a sign o

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hope in a culture that seems to have forgotten its roots.

The framers of the U.S. Constitution vanted to keep the federal government out of the business of the church. At the same ime, they expected the church and its nembers to have influence in the development of this nation's policies. They did not vrite the concept of absolute separation of he church from the state into the Constituion. And while not all members of the Coninental Congress or the men who wrote the Constitution were practicing Christians, hey lived within a framework of Christian rinciples, and they revered Christianity as necessary undergirding for social strucure. It was thus that Benjamin Franklin, a enowned religious skeptic of his time, could nake the following comment during the Constitutional Convention of 1787:

"We have not hitherto once thought of umbly applying to the Father of Lights to luminate our understanding. In the begining of the contest with Great Britain, hen we were sensible to danger, we had aily prayers in this room for devine protecon. Our prayers, sir, were heard, and they ere graciously answered . . . do we image that we no longer need his assistance? I ave lived, sir, a long time, and the longer I ve, the more convincing proofs I see of this uth—that God governs the affairs of men.

"And if a sparrow cannot fall to the round without his notice, is it probable an mpire can rise without his aid? We have een assured, sir, in the sacred writings that cept the Lord build the house, they labor vain that build it. I firmly believe this."

John Adams made the following comment: Statesmen may play and speculate liberty, t it is religion and morality alone upon hich freedom can securely stand. A patriot ust be a religious man."

The very concept of our representative rm of government—the checks and balces system and the doctrine of enumered powers—was founded upon the Chrisn belief that man is fallible and prone to rongdoing. Thus, in order to ensure that one man or group could attain and isuse excessive power, the federal governent was limited.

The Constitution is not, nor was intended be, a religious creed. Christian theism, wever, so permeated the minds of those o wrote it that the principles within it "indubitably Christian," as the English torian and renowned skeptic, H. G. Wells, t it.

The First Amendment states: "Congress ll make no law respecting an establishnt of religion, or prohibiting the free exise thereof." It appears that it was not intention of the framers to keep Chrisn influence out of the state. Rather, they ended to prohibit the federal government m setting up a national church.

Thomas Jefferson, who was no lover of church, said in his second inaugural adss: "Religion is independent of the wers of the General Government and relius exercise should be left as the Constiion found them, under the direction and cipline of the church or state authori."

n his book American Constitutional Hisy, Edward S. Corwin interpreted Jeffer's statement this way: "In short, the ncipal importance of the amendment lay he separation which it effected between respective jurisdictions of state and ion regarding religion, rather than in its ring on the question of separation of rch and state."

The purpose therefore of the First Amendment was to keep the federal government out of religion. It provides freedom for religion, not the modern interpretation of absolute freedom from religion—which I believe is logically impossible.

The founding fathers lived in a time when the intellectuals readily admitted that the Christian religion, with its roots deeply embedded in Judaism, served as the source for many aspects of eighteenth-century criminal law, tort liability, the role of voluntary agencies and charities, the concepts of just defense of nations, and the definitions of basic human dignity and human rights. When the First Amendment was ratified in 1791, many of the states presumed that members of the churches, with Christianity's wealth of ethics and tradition of involvement in policy formation, would work intimately with both local and state governing bodies.

As Alexis de Tocqueville noted, "America is still the place where the Christian religion has kept the greatest real power over men's souls; and nothing better demonstrates how useful and natural it is to man, since the country where it now has the widest sway is both enlightened and the freest."

Commenting further on those who attack Christian influence in America, he said: "Unbelievers in Europe attack Christians more as political than as religious enemies; they hate the faith as the opinion of a party much more than as a mistaken belief, and they reject the clergy less because they are the representatives of God than because they are the friends of authority."

In many ways, modern America has taken up the banner that de Tocqueville found not only inappropriate, but lacking in credibility. It has concluded that the church must be neutralized, and so Christianity that informs and influences the state has become a political threat to the independence of the state, which has put itself in the place of God.

"How dare they dictate their moral convictions to all Americans!" is the battle cry of those opposed to Moral Majority and similar groups. But if we do not base our legal and political decisions upon Christian morals, upon what morals then are they to be based?

Every man, whether he recognizes it or not, lives by a code of ethics in his personal life—a code that necessarily affects society in general. The belief in man's adequacy to rule his own affairs (which is secular humanism in a nutshell) is a pervasive world view today, and it has vast influence on public policy formation in both the U.S. and abroad. The issue of authority is the ultimate question in all codes of ethics, whether personal of social. If the codes by which nations live are not drawn from transcendent truths, then they are created arbitrarily, and their basis is pure power. And where human power is the basis for solving all social problems, then consolidation and centralization of that power is the presumed means to the solution.

Some elite groups of people want to press the mold of their power philosophies upon the U.S. and the entire world. It is because much of the opposition to these philosophies has lacked a solid core of transcendent truth that they have grown so pervasively. Those elitists, those secular humanists, have created their own view of the world and reality. I believe they are misguided and therefore dangerous.

A summary of beliefs of the secular humanist religion is described in its published manifestos. Its religious/ethical beliefs are extensive: humanism denies and rejects God, theism, deism, faith, prayer, all divine purpose of providence, all religions that "place God above human needs," the existence of life after death, "traditional religious morality," "national sovereignty," and a "profit-motivated society."

Humanism proclaims its own set of self-serving, unproved dogmas as replacement for the tenets of traditional religion. It asserts that the universe is "self-existing and not created." It says man is the product of evolution and that the "joy of living" and the "satisfactions of life" are the supreme goal of man. Ethics come from "human experience," not from God.

Humanism recognizes and accepts abortion, euthanasia, suicide, and all varieties of sexual exploration and immoral lifestyles. It works for the establishment of a "secular society," a "socialized economic order," world government, military disarmament, and population control by government.

Whether consciously or unconsciously, those who support secular humanism are attempting to make it the religion of American government. The conflict between two philosophical beliefs surfaces in specific issues. Those of us who are in elective public life are being asked to take a stand. For example:

Creation/evolution.—Do we teach only one or both theories in public schools?

Homosexual lifestyle/practice.—Should the nation's laws recognize and encourage a tolerance of it?

Permissiveness.—Should we discipline children in public school and, as a last resort, use corporal punishment?

Prayer in public schools.—Should a school district have the authority to permit an opening prayer?

Pornography.—Are there any circumstances where society can deal with the dehumanizing of sexuality and in downgrading to the level of animals?

Capital punishment.—Are there any circumstances where society can impose the death penalty?

Deficit spending.—Does the continued practice of deficit—money supply expansion, debasement of the currency—reach the point of theft prohibited by the seventh commandment?

Abortion.—When does life begin? And after it has begun, is there any point before birth at which taking it should be prohibited?

The Jewish-Christian Scriptures contain moral principles, usually referred to as the Judeo-Christian ethic. Where Scripture speaks on the issues described, the use of political power and influence to give them life is not the promotion of a religion, I believe, but rather a recognition of the heritage that has permitted our civilization to reach this point. Our political system has legislated laws against murder, adultery, theft, perjury, and for parental control of children. No one can seriously suggest that the fact that these laws exist in the political system means the establishment of a state religion. These are principles that are basic to Western civilization. The Scriptures, which are the source of these moral ethical principles, contain other principles that, some believe, help people in civil authority to resolve those issues now being discussed in the political forum.

The first three commandments deal with the relationship between God and man. For the civil state to legislate compliance with any of these three would be to cross the line

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established and prohibited by the First Amendment to the U.S. Constitution. But at the same time, to suggest that individuals in political authority may not use the other commandments that deal with man's social relationships in order to orient the compass of the secular state is to subject the direction of our political system to whatever wind may come along—including secular humanism, itself a religion, which is the major contestant on the current scene.

In the final analysis, no man or woman, whether a private citizen or an elected official, can escape the choice God gives to every human: Do we follow God or man?●

THE PRESIDENT'S BUDGET: II

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, February 22, 1984, into the CONGRESSIONAL RECORD:

THE PRESIDENT'S BUDGET: II

The President's 1985 budget is an unusual, even puzzling, document.

It calls for spending restraint as its main objective, but at the same time it envisions accelerated spending for foreign aid, space exploration, and defense. My view is that Mr. Reagan does not want to spend less money than Congress. He just wants to spend it differently, so the growth of the budget continues. Despite all the talk about cutting back, the 1985 budget will exceed the 1981 budget by 41%. The reduction in domestic spending has proceeded far more slowly than the rise in defense spending. The budget clearly puts defense ahead of domestic needs.

The President's budget perpetuates recent trends in domestic spending. This spending, adjusted for inflation, is lower in 1984 than it was in 1981, it essentially will not grow in real terms through 1989. The middle-class is not affected too much. Large programs such as social security, medicare, veteran's benefits, and federal pensions receive gentle treatment. The "working poor", however, are bound to be affected by cuts in child nutrition programs, food stamps, training and employment programs, and aid to families with dependent children. In addition, the President proposes abolishment of the Legal Services Corporation and the Economic Development Administration. He cuts budgets for aid to small business, new rural housing loans, historic preservation, and community services. He wants to phase out mass transit operating subsidies. Despite Mr. Reagan's recent stress on education, he reduces funds for education overall. In higher education, he eliminates two major student grant programs and requires middle- and lower-income families to contribute more to college costs.

The budget makes it clear that something must be done about defense spending. Mr. Reagan calls for a 13 percent real increase in defense budget authority, to $305 billion. While I believe national security will require further real increases in defense spending, I also believe that the President's defense plan threatens not only the strength of the economy but also the very military preparedness it seeks to ensure. The increase of $1,700 billion over the next five years puts too much emphasis on new weapons and not enough on manpower and maintenance. The question for Congress is where and what to trim.

Many things in the President's budget are unacceptable. Sooner or later, the need for credit in the expanding private economy will come into conflict with the government's needs to borrow enormous sums to finance the deficit. Both these needs are satisfied by drawing on the same pool of savings. When that conflict occurs, the Federal Reserve will have the choice of making more credit available, thus generating inflation, or holding credit steady, thus causing a recession.

The President's budget is designed to avoid pain and exploit fully the economic gains of the moment. It is a short-sighted document, one that does not address seriously the economic problems soon to come upon us. The harm of the deficits, for example, is not immediate, but in the long run they will slowly but inexorably sap the vitality and stunt the growth of the economy. The danger is most apparent in the burgeoning national debt. In 1981, it stood at $740 billion. Today, it is $1,433 billion. The figures show that increased interest payments on the national debt since Mr. Reagan took office exceed all of the savings that he has achieved by cutting domestic spending during the past three years. Outlays for interest on the national debt are expected to rise from $108 billion this year to $131 billion in 1987. Someday, we will pay dearly for such extravagance with higher taxes, fewer jobs, and more inflation.

It is of interest that the President's budget dismisses the "supply-side" theory of economics so much vogue in Washington just a few years ago. Supply-side economists argued that the large tax cuts of 1981 would stimulate the economy to such an extent that they ultimately would pay for themselves in added tax collections. This budget, however, is not so exuberant. In it, the administration admits that it is incorrect to assume that economic recovery will by itself eliminate the deficit. The comforting assumption that the deficits will disappear more or less automatically as recovery proceeds is not warranted.

As the budget was presented to Congress, many legislators were surprised by the open disputes among Mr. Reagan's top economic staff. In one outburst, the Secretary of the Treasury, Donald Regan, told Congress that it could "throw away" the President's Economic Report, a document drafted by the Chairman of the Council of Economic Advisors, Martin Feldstein. The dispute reflects the split within the administration between the supply-side economists and the more orthodox conservative economists. The major point of contention is Mr. Feldstein's view that there is a link between deficits and high interest rates. Another is Mr. Feldstein's insistence that projected growth in the deficits during the Reagan Presidency can be traced to tax cuts and military spending, both of which are key elements of the President's program.

The budget is an opportunity to educate the country in the requirements of running a strong and stable economy. By that measure, the President's budget fails. It does not tackle the deficits, but puts them off until later. It does not describe a program of shared sacrifice, but one which imposes sacrifice on those least able to afford it. The President's budget is attuned to popular sentiments not economic needs. Mr. Reagan is seeking a mandate from the voters in 1984, and he will see about his program next year. My guess is that the strategy underestimates the voters and poses serious risks to the economy. I favor moving ahead with talks between Congress and the President to reduce the deficits. It may be that the odds are against success in an election year, but we should go ahead anyway and aim for at least a $200-billion cut over a three-year period.●

UKRAINIAN INDEPENDENCE DAY

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 1, 1984

● Mr. RATCHFORD. Mr. Speaker, the 5 million citizens of the Ukraine comprise the strongest, most determined, and most outspoken voice of nationalism in the Soviet Union. For nearly all of the 66 years since the Ukrainians declared their independence, they have engaged in a daily struggle for freedom and for their own ethnic identity which is an inspiration to me, and to all Americans.

On January 22, 1918, the Ukrainians declared their independence from Russia. By the end of the year, overcome by the too numerous Russian forces, the Ukraine succumbed to tyranny. Since then, the odds which the Ukrainians face in their daily lives would seem insurmountable to we who tend to take so many of the rights we enjoy for granted. Ukrainians are denied full citizenship, and yet they may not emigrate. The Soviet government has made it illegal to teach Ukrainian language or culture i Ukrainian schools. And although Ukrainians account for 20 percent o the Soviet population, they accoun for a full 50 percent of Soviet politica prisoners.

The persistence of this people in defying their oppressors demonstrate the failure of the totalitarian system to subjugate the minds and hearts o the Ukrainians. We Americans enjo the greatest freedoms of any nation i the world and we must not forget th millions of people throughout th world and in the Ukraine who hav been unable to share in the fruits o freedom. Their struggle is our struggl because when freedom is denied anywhere, we are all endangered. Thi year, as in the past 66, we reaffirm ou faith in the Ukrainian people, and i the realization of their goals.●

REAGAN'S IRRESPONSIBLE POLICY IN THE MIDDLE EAST

HON. RICHARD OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. OTTINGER. Mr. Speake President Reagan's decision to rel

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cate the marines in Beirut to ships offshore again gave the country too little too late. The American presence in Lebanon will not be removed; rather, the escalation of our firepower from battleships off the coast indicates that our military presence may well increase. Recent reports indicate that our shelling may have devastated civilian hospitals in the mountains, areas that previously had been supportive of the American troops.

Our piecemeal involvement in Beirut has already cost the American people more than $51 million. More important, this appallingly mismanaged operation has resulted in the purposeless deaths of 264 American soldiers. I commend the comments of Anthony Lewis in the New York Times February 9 to my colleagues. As Mr. Lewis points out, every day this senseless debacle continues is a day too long.

The comments follow:

[From the New York Times, Feb. 9, 1984]

REAGAN'S RESPONSIBILITY

(By Anthony Lewis)

BOSTON.—Is there any thing in the recent history of American foreign policy to equal the sheer concentrated folly of Ronald Reagan's performance in Lebanon? To that complicated problem he has brought ignorance, ineptitude, self-delusion and purposeless militarism. The result is disaster—and he shows no signs of learning from it.

To begin at the end: One week ago, in a Wall Street Journal interview, the President was asked about Speaker Thomas O'Neill's call for removal of the Marines from Lebanon. "He may be ready to surrender," Mr. Reagan said, "but I'm not."

When he made that nasty comment, his Administration had already made tentative plans to pull the Marines out. Was he ignorant of what was going on? Or did he know and just decide that the best way to deal with the critics of his failing policy was a McCarthyite swipe?

When the moment came to announce that the Marines would in fact be withdrawn, there was another display of the true Reagan character. He flew off for a little holiday and left it to a press handout to announce the withdrawal that a week earlier he had said would mean "a pretty disastrous result for us worldwide." No serious President, or person, would so cravenly evade responsibility.

Mr. Reagan's responsibility for failure in Lebanon goes back to the period just before Israel's invasion in June 1982. The United States Government knew what Israel was planning and did nothing to stop what turned out to be a tragic mistake, costly to Israel and Lebanon and America.

The man who planned the invasion, Gen. Ariel Sharon, thought he could not only drive the P.L.O. out but remake Lebanon into a unitary state, friendly to Israel, under control of a Maronite Christian minority. It was a wild delusion that no one the least familiar with that difficult country could have believed. But Ronald Reagan did—or acted as if he did.

In September of 1982, when Amin Gemayel became President in shattered Beirut, there was a window of opportunity to knit the sects of Lebanon into a government. Mr. Gemayel was popular with Moslems then. The problem was to work out a power-sharing formula that would give them a sense of fairness in the system.

American support to that end was crucial. Mr. Gemayel needed help with the hard-liners among his own people, the Christian Phalange, who wanted to yield nothing to the Moslems. He needed American help in talking to the Syrians, who had to be a factor in any Lebanese settlement.

Mr. Reagan and his diplomats, at that moment of opportunity, supplied no leadership for the essential step of power-sharing. They ignored Syria entirely: a fatal mistake because above all the Syrians are known to insist on being consulted when their interests are involved.

Instead, the United States devoted its political resources to getting an agreement between Mr. Gemayel and Israel. It assured everyone that Syria would withdraw from Lebanon if Israel did: a preposterous assurance.

The Israeli-Lebanese agreement, signed last May 17, was denounced by Syria and by some of the internal parties in Lebanon as an improper political reward to Israel for the invasion. It had the effects of sharpening the internal tensions.

The invasion also had an extraordinary unintended effect on the sectarian politics of Lebanon. the Shiite Moslems, the largest population group, had long been the weakest politically. Now many Shiites were pushed north to Beirut by the invasion; others, remaining in the south, clashed with the occupying Israeli forces. The result was to radicalize the Shiites, to make them more insistent on a prominent role in Lebanese politics and more susceptible to the revolutionary influence of the Ayatollah Khomeini.

To the end Mr. Reagan and his people ignored those realities. He talked about Lebanon as if it were an East-West battlefield instead of a sectarian morass. He pressed the Israelis to hold their lines even as they knew better. His rigid words encouraged the hard men behind Amin Gemayel. His bravado last week about holding fast probably encouraged them to their fatal mistake: having the Lebanese Army attack Shiite neighborhoods. Disintegration of the army followed.

There are still ways that the United States could be useful in Lebanon: politically, not through the fantasy of change by military force. Druse and Shiite leaders can be talked to; they still are demanding only a share, not all power in Lebanon.

But it is little use thinking about such possibilities while Ronald Reagan is President. His idea of American influence is to have the battleship New Jersey fire its guns into the mountain villages of Lebanon. There can be no reasonable American policy while we have a rigid, ignorant, irresponsible President.●

TRIBUTE TO VAAD HARABONIM OF QUEENS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. ACKERMAN. Mr. Speaker, it is with great pleasure that I rise today to draw the attention of my esteemed colleagues in this Chamber to the outstanding accomplishments of the Vaad Harabonim of Queens, the distinguished Rabbinical Board representing 70 rabbis and 40,000 congregants throughout my district and borough.

In existence for close to three decades, Vaad Harabonim of Queens has dedicated itself to the promulgation of Jewish tradition and observance, and to the perpetuation of the highest standards of Jewish living.

The impressive roster of officers who have been at the helm of this worthy organization reflects the vitality and dynamics of Vaad Harabonim of Queens, while its record of spiritual and communal accomplishments has resulted in an exemplary network of services benefiting every segment of the community.

On a personal note, Mr. Speaker, I am grateful for the interest, concern, and participation of the Vaad and its members in the civic and political affairs of our district, and for the responsible cooperation which they consistently demonstrate in matters of local and national importance.

On Sunday evening, February 26, 1984, the Vaad Harabonim of Queens will celebrate its installation of officers at Congregation Tifereth Israel of Jackson Heights. The new slate of officers is composed of individuals who have been recognized for their scholarship, their leadership, their experience, and their character.

It is, therefore, my pleasure, Mr. Speaker, to call on the Members of the Congress of the United States to join me in extending congratulations to Rabbi Mordekai Shapiro, president; Rabbi Hershel Solnica, honorary president; Rabbi Meyer Bilitzky, Rabbi Moshe Gans, and Rabbi Irwin Sanders, vice presidents; Rabbi David Bergstein, treasurer; Rabbi Benzion Levin, secretary; and Rabbi Yitzchak A. Sladowsky, executive vice president.

With pride in their heritage, and through patience, gentleness, and determination, may the new administration of the Vaad Harabonim of Queens be successful in writing a glorious chapter in the history of the growing Queens Jewish community, triumphantly and in good spirit.●

CH2M HILL RECEIVES AWARD FOR OUTSTANDING WORK WITH SMALL AND DISADVANTAGED BUSINESSES

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. WYDEN. Mr. Speaker, it is my pleasure today to congratulate the international consulting engineering firm of CH2M HILL, which is headquartered in Oregon. CH2M HILL received a significant award recently from the Environmental Protection Agency. EPA recognized CH2M HILL's outstanding commitment to involving small, disadvantaged, minority and women-owned businesses in EPA-funded work as subcontractors.

The Agency contracted with CH2M HILL over a year ago to manage the Superfund program to deal with hazardous waste sites in the 29 Western States and territories (EPA regions V through X). As program manager for zone II, CH2M HILL built an effective team and aggressively tackled this urgent and complex assignment. They have subcontracted a great deal of this work. In fact, the original subcontracting goals established for small, minority and women-owned firms have been far exceeded. This is an excellent example of a company actively seeking and successfully obtaining the participation of such groups in meaningful ways.

CH2M HILL, which is the sixth largest consulting engineering firm in the country, was presented the first annual EPA Administrator's Award for "Outstanding Prime Contractor Achievement" on November 29, 1983. The award was accepted by CH2M HILL's president, Harlan Moyer; vice president for governmental affairs, Richard L. Corrigan; corporate affirmative action officer, Willy Loud; and manager of the firm's mid-Atlantic regional office in Reston, Va., where the Superfund program management staff are located, George Gunn.●

TEACHING ENGLISH IN SCANDINAVIA

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. FORD of Michigan. Mr. Speaker, I am very pleased to bring to the attention of my colleagues a special exhibit on "Teaching English in Scandinavia" mounted by the Scandinavian Council of Washington, D.C., in the rotunda of the Cannon Building. The monthlong exhibit beginning February 23 demonstrates the development of the remarkably effective multilingual societies in the five Scandinavian countries: Denmark, Finland, Iceland, Norway, and Sweden.

The exhibit features methods for teaching English in the Scandinavian schools, reinforcing it in the home, and encouraging its use as a fully developed second language. Special emphasis will be given to the role of language as a common medium through which diverse groups can work in a spirit of cooperation and trust. The tribute to education in Scandinavia joins other nationwide programs begun in 1982 as a concerted effort to acquaint our country with the customs and culture of a people so significant to our own heritage. I would also like to recognize the fine contribution made to this effort by the European Division of the Library of Congress by arranging for a symposium of distinguished scholars in conjunction with the opening day of the exhibit.

This unique and informative effort will promote the friendship and understanding between our Nation and Scandinavia as well as illustrate innovative educational techniques. It has the full support of both Houses and I am very honored to serve with Senator Orrin G. Hatch as the chairman of the Congressional Organization Committee. I would also like to thank the following House and Senate leadership for serving as honorary cochairmen: Tip O'Neill, Jim Wright, Tom Foley, Trent Lott, and Senators Ted Stevens, and Alan Cranston. In addition, I appreciate the support as honorary patrons from the following Members of Congress: Dingell, Horton, Townes, Levin of Michigan, Won Pat, Dymally, Perkins, Pepper, Corrada, McCandless, Lundine, Simon, Hertel of Michigan, Weiss, Rangel, Sabo, Lehman, Green, Levine of California, Erlenborn, Feighan, Schumer, Mineta, Patterson, Boxer, Vento, Petri, Britt, and Regula.●

WORKER SAFETY IN FEDERAL AGENCIES

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. PETRI. Mr. Speaker, last November, I attended the Presidential Safety and Health Awards ceremony at which Edwin Meese, Counselor to the President, spoke. His remarks demonstrate the administration's commitment to worker safety in Federal agencies and the savings to the Government that result from lower worker compensation costs when safety is the goal in the workplace. I believe that my colleagues would be interested in seeing what contributions various agency heads made to safety and to lower compensation costs in 1982 and 1983. Therefore, I am requesting permission to insert Mr. Meese's remarks in the Record at this point.

REMARKS BY EDWIN MEESE III, COUNSELOR TO THE PRESIDENT, PRESIDENTIAL SAFETY AND HEALTH AWARDS CEREMONY

I am honored to be presenting these awards to the winning agencies on behalf of President Reagan, whose schedule made it impossible for him to be here.

The value of these awards does not exist in the plaques or certificates to be presented. Their true value lies in the fact they represent Federal employees lives saved, injuries and illnesses prevented, and untold dollars saved in compensation costs. I am extremely pleased to represent the President at this ceremony.

1. William F. Bolger, when appointed as Postmaster General, made accomplishment of safety and more healthful workplaces one of his primary goals. His performance here today recognizes the success of his efforts and the cooperation of all Postal employees in achieving that goal. A Postal publication attests to the Postal spirit when it stated recently, "Supervisors are aware of their safety responsibilities and recognize that establishing and meeting safety objectives is as important as reaching productivity goals." Their efforts have resulted in:

Compensation costs for 1982 being reduced 17 percent from the Postal Service's average for the three previous years.

Compensation claims being reduced 23 percent in the same period.

It is a pleasure, Mr. Bolger, to present the 1982 Presidential Award in Category I, to you and all the employees in the U.S. Postal Service.

2. The Department of Defense, because of its size, was divided into four groups—the three military services and the fourth group comprising all branches of DOD other than military services. This fourth group of nonservice personnel represents such activities as communications, mapping, logistics and intelligence, and had a compensation claim cost of $65 per employee in 1982, while the average cost in the Government was $296 per employee. Their claims rate was less than two per 100 employees while the average for the government is over six per hundred. I am pleased to present the 1982 President Award in Category II to Assistant Secretary of Defense, Lawrence J. Korb.

3. The Civil Aeronautics Board had a claims rate of less than one—actually .71—per 100 employees in 1982, and that represents a 13 percent reduction from CAB's previous three-year average. This agency has also affected a 38 percent reduction in their compensation costs.

It is a pleasure to present the 1982 Presidential Award, Category III, to Dan McKinnon, Chairman of the Civil Aeronautics Board.

4. The Department of Agriculture has made tremendous strides in its safety and health program as evidenced by their 42 percent reduction in compensation claims rate and a compensation costs per employee below the Government-wide average. It is, therefore, gratifying to present the Honorable Mention Certificate in Category I, to Assistant Secretary John J. Franke, Jr., and to all Department of Agriculture employees.

5. The National Aeronautics and Space Administration is recognized for having the low claim rate of 1.62 per 100 employees in 1982 and for having the second best claims cost record in its category. It is, therefore, a pleasure to present the Honorable Mention Certificate in Category II, to NASA's Administrator, James M. Beggs, and to all the employees of NASA.

6. The National Science Foundation has reduced its compensation costs by 36 percent—to a point where there is only an expenditure of $9 per employee. As mentioned earlier, the Government-wide average compensation cost is $296. It is my pleasure to recognize Director Edward A. Knapp and all other employees of the National Science Foundation by presentation of this Honorable Mention Certificate in Category III.●

EMIGRATION POLICIES OF THE SOVIET UNION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. CLINGER. Mr. Speaker, today I would like to call attention to the emigration policies of the Soviet Union, and most notably, to their increasing defiance to the requests of Soviet Jews to emigrate.

Even though the U.S.S.R., along with 35 other countries, signed the Helsinki accords in August of 1975, the Soveit Union has, for the past 4 years in particular, severely limited the number of Jewish citizens that they have allowed to emigrate. They have also spread anti-Zionist propaganda, and consistently harassed many of those who did apply for exit visas. It is estimated that since 1968, 380,000 Soviet Jews have expressed an interest in leaving and have been denied.

In March of last year, the Soviets formed what they called an anti-Zionist Committee of the Soviet Public. This was allegedly formed to counter the influence of Israel and other Jewish organizations. Despite the above mentioned figures, in June this committee announced that "the process of reuniting families is, for the most part completed." This is taken by many to be further evidence that the Soviet Union will not allow many more of its Jewish populace to emigrate, and I urge Congress to seriously address and consider this issue.

In addition to this anti-Semitic stance, the Soviets have recently undertaken several steps to insure that Jewish citizens do not have the same fundamental rights as those of other Soviet citizens. Because of the increasing desire to emigrate, authorities reduced the number of Jewish students enrolled in institutions of higher learning by 40 percent, causing the number of Jewish employees in the scientific and technical communities to drop. Also, they have stripped many visa applicants of their advanced degrees and professional positions.

Perhaps the most shocking example of what the Soviet Union is now engaged in is the plight of many of their "refuseniks." A refusenik is a term used to identify one who has tried to obtain an exit visa and has been refused. Many refuseniks have been trying for 10 years or more to obtain exit visas, and have been sentenced to labor camps or exile as a result. This action is in itself repulsive, but when taken in the context of a new law on the Soviet books, it becomes even more menacing. The law, enacted last year, states that:

> Malicious disobedience . . . or any other opposition to the administration of the execution of its functions by a prisoner . . . can bring up to three more years of imprisonment.

It is through oppressive acts such as these that the Soviet Union attempts to silence and bury its dissidents within. However, I believe that if we, the Members of the U.S. Congress, lead the world in voicing our unanimous disapproval of Soviet immigration policy, the U.S.S.R. will modify its position in the face of public outcry and allow its Jewish citizens the right to emigrate freely to the West.●

ACID RAIN CONTROL PROGRAM

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. RINALDO. Mr. Speaker, I have introduced legislation today dealing with the acid rain problem which may be one of the most significant environmental concerns of the century. Incorporating most of the provisions advocated by the Coalition of Northeastern Governors, this legislation, in contrast to other bills, does not tell the States how to achieve their allocated emission reductions. Reductions may be achieved from any source, including powerplants and major combustion sources. States may select any combination of reduction measures, so long as the required reduction is achieved on schedule.

The effects of acid deposition have been documented throughout the Nation. Acid rain has caused damage to aquatic, soil, forest, material and cultural resources as well as reductions in visibility. It is, therefore, essential that a comprehensive, nationwide program of acid rain controls be adopted immediately. This legislation attempts to provide a framework under which these controls can be implemented.

REDUCTIONS IN EMISSIONS

This bill provides for a reduction of 10.7 million tons of sulfur dioxide in two phases. In phase 1, States would be required to achieve emissions reductions equivalent to reducing statewide average utility sulfur dioxide—SO2—emissions rates to 2 pounds per million Btu's—MM Btu's—of energy produced. These reductions would be achieved by January 1, 1989. In phase 2, the statewide average emissions rate from all combustion facilities must be equivalent to a 1.2 pound/MM Btu's level. The 1.2 level is the standard new boilers must meet. These reductions will be achieved by January 1, 1995. Affected States must develop a reduction strategy through the State implementation plan process. Those States that do not comply will be subject to EPA sanctions. In addition, this bill would prevent an increase of 2 million tons of SO2 emissions that would occur if no bill were enacted.

The bill also calls for a reduction of 4 million tons of nitrogen oxide by 1995. This will be achieved through revisions to the new source performance standards for electric utility steam generating units and small industrial boilers, and through revised emissions standards for trucks.

TRUST FUND

One unique feature of this legislation is the funding mechanism. The U.S. Treasury will be authorized to provide 100 percent interest-free loans for the capital costs of any equipment necessary to meet mandated reduction levels. A nationwide fee of 1.5 mills/kilowatt-hour will be imposed on all nonnuclear fossil fuel generated electricity for a period not to exceed 6 years. In addition, the Department of the Treasury will be authorized to issue bonds in anticipation of loan repayments. The moneys generated will be pooled in a trust fund at the Department of Treasury for the purpose of making interest-free loans. Loan repayments will be related to the level and schedule of debt service on the bonds issued, with repayments after the construction period reduced to the amount necessary to repay funds raised through bond issuance.

There are several advantages to this approach. First, this program will allow all construction to begin within 5 years of enactment, as 100 percent of the necessary funds will be assured. Immediate construction will reduce the total cost of the program, as future inflation costs will be avoided. Second, the certainty of funding will provide a stable planning environment for utilities and eliminate the risk and interest payments associated with market funding. Third, a loan program will encourage utilities to be economical in their emissions reductions strategies. Finally, once construction is terminated and all bonds retired, loan repayments can be forgiven, providing a considerable subsidy for affected utilities.

ACCELERATED RESEARCH AND MITIGATION PROGRAM

This bill provides for a package of accelerated research, which will include: tracer studies to determine pollution formation and transportation nationwide; studies on the effects of acid rain; studies of Western acid rain problems; studies of visibility and health-related aspects of acid rain; studies on the effectiveness of mitigation; and the identification of new acid rain control technologies. In addition, funds would be allocated for a State-grant mitigation program.

I believe that this legislation provides the framework for the development of a national acid rain control program. It provides ample assistance for those States which have far to go in achieving the targeted reductions. Yet, it imposes only minimal costs on

States in the West and Southwest where little pollution is generated, and in the Northeastern States which have aggressive clean air programs.●

MRS. AGNES JACKSON—A COMPASSIONATE AND DEDICATED LEADER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Ms. KAPTUR. Mr. Speaker, this past week, the people of the Ninth District of Ohio were saddened by the death of Mrs. Agnes Reynolds Jackson, a compassionate and dedicated leader in our community who so often put service above self.

Mrs. Jackson was founder of the Fair Housing Center in Toledo, Ohio, and served on the Toledo Community Housing Resources Board. She was instrumental in the development of educational programs for realtors, minority tenants, and prospective buyers.

Agnes not only gave so much of herself to her community but encouraged civic participation by others. She had a special love for political involvement and for encouraging younger people to shape the future. Her kindness and warmth touched everyone around her. She was actively involved in the Toledo League of Women Voters and served 3 years as its president. Agnes also was a member of the board of the Toledo Chapter, American Civil Liberties Union. Her dedication to improving the quality of life for all people never faltered.

The people who knew her well will miss her kind presence always. Those she helped by her boundless dedication to others will know a better life through her. It is with great sadness, but also with deep gratitude, that I enter her name in this Record as a permanent testimony to a beautiful American woman who lived her beliefs daily and made a substantial contribution to those ideals embodied in our Constitution.●

GAS STATIONS IN THE SKY

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. FROST. Mr. Speaker, the Strategic Air Command continues to provide for the security of our Nation, and I believe it is fitting that we recognize the efforts of the men and women in this area of our military services whenever possible.

Recently, Mr. Doug Clarke, a reporter for the Fort Worth Star Telegram, wrote an article concerning one aspect of the responsibilities of the Strategic Air Command. The article speaks for itself, and I want to share it with my colleagues at this point in our procedure.

The article follows:

USAF Crew Operates Gas Station in the Sky

(By Doug Clarke)

Down, nearly five miles below, a line of clouds scudded across the Mississippi River as Staff Sgt. David Gallegos lay on his stomach turning dials and flipping switches.

Suddenly, from what moments before had been a dot in the air, an Air Force KC-10 swooped into view, below and behind the KC-135 tanker Gallegos was in.

Moments later, the KC-10, piloted by Capt. Dennis Storck, began its gentle approach, edging upward and closer to the KC-135 flying out of Carswell Air Force base.

The two Strategic Air Command planes were on a refueling training mission.

Gallegos, a 10-year veteran of the Air Force, began talking to Storck, giving directions and describing the approach.

Gallegos had the controls of a flying boom in his hands. His left hand controlled the extension which connected with the KC-10 and would feed it the fuel. His other hand controlled the boom, moving it right and left, up and down.

Storck's plane had made the rendezvous in the air over northern Mississippi after taking off from Barksdale Air Force Base in Louisiana. He had already flown to Kansas and refueled another plane from Offitt Air Force Base in Nebraska. Both the KC-10 and KC-135 are tankers and are used for refueling and cargo hauling.

In the KC-135's cockpit, Capt. Ken Irvin, the pilot, and 1st Lt. Bob Arthur, the copilot, switched off the autopilot and took control of their aircraft, trimming the plane to keep it level as the shock wave from the KC-10 buffeted the tail section, forcing it upward and the plane's nose downward.

The midair rendezvous, a daily ritual for pilots of the Strategic Air Command, is in itself something of a miracle when you consider the speed of the planes, the geography covered and the distance a small error could make. From virtually thousands of miles flown to within 50 feet, operating on a time frame of seconds, the two planes met.

As the KC-10, the military version of the DC-10, edged closer, Gallegos flew the boom up and suddenly hit the switch that locked the two planes together.

In a minute, 1,000 pounds of fuel switched from one tanker to the other.

"Don't drain yourself," Storck radioed. "We have plenty ourselves."

The planes separated. And in the KC-10, Storck relinquished the pilot's seat to a pilot on a training flight. Twice more pilots receiving training flew into the boom's area and were connected.

On the second connection, the planes, flying with the boom locked in place, made a sweeping right turn over the Mississippi Delta, the primitive, organic appearance of the Delta's streams, swamps and oxbow lakes providing a sharp contrast for the technological procedures occurring high in the air.

"Good flying," Gallegos said. "Perfect platform," came the reply from the KC-10.

The KC-10 broke away from the tanker, flew alongside to permit a photographer to take some pictures and went on its way.

In the KC-135 cockpit, Capt. Tom Griffith, the navigator, pointed to a town on a radar screen where a picture of the ground appeared in various shades of orange. On a map on his table he pointed to a location. The radar screen and the map were identical. The mapped line of flight bisected a town. The plane was on course.

Master Sgt. Tom McCorkle, a public information officer along for the ride, related some "gee whiz" facts about the KC-135. "At a filling station, a gas pump going full blast for a year couldn't pump as much fuel as this plane does in six minutes. This plane is capable of burning all of the fuel it carries making for some long missions," he said, explaining that it couldn't burn all of its fuel through the engines because they would wear out before the fuel was gone."

Irvin's crew is an instructor crew, one of SAC's highest rated. Irvin is the oldest crew member at 34. The four crewmen represented 35 years of Air Force service.

The mission had been routine, the results perfect.●

TRIBUTE TO HAROLD JAMES COOK

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. FAUNTROY. Mr. Speaker, I would like to bring to the attention of the Congress, Mr. Harold James Cook, the 1983 Big Brother of the Year, for both the National Capital region and region III.

I am pleased to recognize the contributions made by the Big Brothers of the National Capital area at this time, for during the week of February 13-19, 1984, the Big Brothers/Big Sisters of America, and the Big Brothers of the National Capital area celebrated their national 1984 appreciation week.

Today, there are 450 Big Brothers/Big Sisters affiliates across the country serving 100,000 young people. For 34 years, the Big Brothers of the National Capital area have met the needs of hundreds of fatherless boys in the District of Columbia, Maryland, and Virginia, by pairing them one-on-one with adult male volunteers.

Harold James Cook, an administrative law judge with the D.C. Board of Education and the D.C. Rental Accommodations Office, and a Big Brother to three young men is an exemplary volunteer. Mr. Cook is an example to us all of the true spirit of voluntarism and is a champion among those who serve and develop our young people.

Mr. Speaker, I hope my colleagues will have the opportunity to commend the Big Brother/Big Sisters of America in their respective congressional districts for their invaluable contribution to the lives of young Americans.●

TIME TO ACT ON INEQUITIES IN COMMITTEE STAFF SALARIES

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mrs. MARTIN of Illinois. Mr. Speaker, this morning I was privileged to testify before the House Administration Subcommittee on Accounts, regarding the committee funding resolution which is currently being considered by that body, and which will shortly come to the full House for discussion.

I have prepared a study which demonstrates continuing inequities in the compensation received by men and women now employed as staff on the committees serving our House. It is imperative that we, as employers and as legislators espousing a philosophy of equity and fairness, understand the implications of continuing as we have in the past. To my knowledge, no Member of Congress overtly espouses the practice of discrimination on the basis of gender; the effect of our current practices, however, innocent as they may appear, have encouraged the continuation of sexism within our own committee heirarchy. This must now end.

For the RECORD, my comments to the subcommittee follow:

I appreciate the opportunity to appear before this committee and see again my colleagues whom I have missed. Having served on the Committee on House Administration myself, I am well aware of the good intentions of Members now charged with developing, implementing, and defending the budgets from which House committees will draw their funds.

Last year as I joined others on the Subcommittee on Accounts in analyzing budget requests from the committee chairmen, my attention was drawn to the magnitude of professional staff employees: Upon closer scrutiny I was surprised by the blaring and unequal pay division between women and men serving the committees of this House. Last year I presented figures to the committee that showed 79 percent of those earning less than $20,000 per year are female and 71 percent of those earning more than $40,000 per year are male. I am sad to say that the figures this year look no better.

With some exasperation I would like to present a synopsis of salary requests made by chairmen of both standing and select House committees, reporting figures for both statutory and investigative staff workers. Although the Committee on House Administration has jurisdiction over investigative staff only, figures are also attached for entire committee staff, for comparison.

Some committees deserve commendation. For example, both the Ways and Means Committee and the Education and Labor Committee have records showing that they judge talent and ability rather than externals. But such examples must not be the exception; they must be the rule.

Considering only investigative staff, a full 81 percent of those earning $20,000 and under are women, and of those earning $40,000 and more, 75 percent are men. If my colleagues wish to know firsthand about the feminization of poverty, they need only look at this institutionalized process which relegates women to the lowest paying positions and men at the apex of the wage-earning mountain.

My worst of the batch list for 1984 includes the Committee on Small Business, with 13 men and only 1 woman earning over $40,000. Veterans, Government Operations, and Science and Technology appear to have embraced institutionalized discrimination on the basis of gender as well. Unfortunately, it is difficult to divide committees into groups of good and bad relative to their salary policies; almost all are poor.

I do not necessarily charge that relegating women to the lowest paying positions while advancing men to the top is a matter of conscious policy within our committee hierarchy; but simply, discrimination has occurred—and will continue to occur if the proposed funding resolution is passed; because individual committee chairmen have refused to change accepted practice and custom. Members of the Committee on House Administration can and must be the implement for change.

For this reason, I urge this committee to adopt language in the committee funding resolution requiring all committee chairmen to take action to assure that procedures relating to salary, promotion, and other matters relating to staff members are nondiscriminatory in nature. Further, chairmen should be required to report to the Committee on House Administration indicating the proactive measures taken.

I am told that the Congress is often called the "Last Plantation" because of its hiring practices. We have a House that reaffirms the goals under the Equal Employment Opportunity Commission while excluding itself; a House that reaffirms the goals of the Civil Rights Commissions while ignoring them in its own practices. Such a House and its Democratic leadership debase already cheap words by not providing economic equity. These committees are, after all, under Democratic chairmen who claim their support for equality; these chairmen serve under a speaker who spoke for the ERA, House Joint Resolution 1, with ringing words of support. Why not, then, action to make a supposed commitment into reality?

Now it is time for us to get our house in order. I hope that the members of this committee, with this opportunity knocking, will open wide the door of economic opportunity—at least for our own employees.

1984 REQUEST—COMPARISON OF INVESTIGATIVE STAFF

Committee	$20,000 and under		$40,000 and over	
	Women	Men	Women	Men
Aging	11	2	2	10
Agriculture	4	1	3	6
Armed Services	5	0	3	12
Banking	9	2	5	15
Children	3	0	2	1
District of Columbia	4	2	0	0
Education and Labor	14	6	3	12
Energy and Commerce	28	6	10	29
Foreign Affairs	6	0	3	8
Government Operations	3	2	3	23
House Administration	5	0	3	8
Intelligence	0	0	0	0
Interior and Insular Affairs	6	0	2	2
Judiciary	4	2	3	5
Merchant Marine	3	4	3	7
Narcotics	3	0	0	5
Post Office	11	2	0	2
Public Works and Transportation	7	1	2	2
Rules	1	2	0	0
Science and Technology	2	0	2	16

1984 REQUEST—COMPARISON OF INVESTIGATIVE STAFF—Continued

Committee	$20,000 and under		$40,000 and over	
	Women	Men	Women	Men
Small Business	4	1	0	3
Standards of Official Conduct	0	0	0	0
Veterans	3	0	0	1
Ways and Means	5	0	9	9
Total	141	33	58	176

1984 REQUEST—COMPARISON OF INVESTIGATIVE AND STATUTORY STAFF

Committee	$20,000 and under		$40,000 and over	
	Women	Men	Women	Men
Aging	11	2	2	10
Agriculture	4	1	8	20
Armed Services	7	0	6	27
Banking	13	5	8	27
Children	3	0	2	1
District of Columbia	4	3	2	14
Education and Labor	14	6	15	23
Energy and Commerce	28	6	14	45
Foreign Affairs	6	0	11	27
Government Operations	5	3	6	34
House Administration	6	1	6	16
Intelligence	2	1	3	9
Interior and Insular Affairs	6	0	5	28
Judiciary	4	2	7	25
Merchant Marine	3	4	9	19
Narcotics	3	0	0	5
Post Office	12	3	3	21
Public Works and Transportation	7	1	6	27
Rules	2	3	5	14
Science and Technology	7	0	4	28
Small Business	7	1	1	13
Standards of Official Conduct	0	0	0	4
Veterans	4	0	0	8
Ways and Means	5	0	14	26
Total	163	41	137	472

TABLE 1

[Amounts in percent]

	Women	Men
Investigative staff:		
Earning $20,000 and under	81.03	18.97
Earning $40,000 and over	24.47	75.53
All committee staff:		
Earning $20,000 and under	79.90	20.10
Earning $40,000 and over	22.50	77.50

TABLE 2

[Amounts in percent]

	1983	1984
Investigative staff:		
Earning $20,000 and under—women	80.83	81.03
Earning $20,000 and under—men	19.17	18.97
Earning $40,000 and over—women	23.56	24.47
Earning $40,000 and over—men	76.44	75.53

●

CONGRESSIONAL PAY

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. SCHAEFER. Mr. Speaker, I wish to inform the Members that today I have introduced H.R. 4910, legislation dealing with congressional pay.

I understand that this is not a pleasant subject. However, I am introducing this legislation because I believe that part of Congress low rating in public opinion polls can be attributed to the mishandling of the pay issue.

I believe a close analysis of the issue will indicate that it is not so much the pay raise that offends so many, it is the way the pay raise comes about.

As you know, the Executive Salary Cost-of-Living Adjustment Act of 1975 provides that Members and top executives in all three branches automatically receive the same percentage pay as General Schedule (white-collar) Federal employees. This year the President provided a General Schedule increase of 3.5 percent, effective January 1, 1984, and according to the 1975 act, Members are due the same percentage increase. From 1975 to 1981, Members still needed to appropriate money separately for their own raises. However, since Public Law 97-51 was implemented in 1981, no yearly vote is required for the raise to go into effect.

What this bill will do is alleviate the public's concern with what has come to be known as backdoor legislation. This bill allows Congress to consider raises at any time, but insists that legislation pertaining to that raise be considered as a separate piece of legislation. Let us face it, some of our constituents will never agree to Members getting a raise. But more often than not, the disagreement involves constituents who feel that Congress is using deceptive tactics by having the raise attached to other legislation.

An additional positive aspect to this bill is that we will be able to deal with the issue at our convenience. No longer will we be forced to accept a pay raise that we oppose simply because there is insufficient time for Congress consideration. With the passage of this legislation, we will be able to deal with pay raises in an orderly manner unlike the last 8 years when there have been many mad scrambles to undo the raise.

The most important reason for supporting this bill is the obligation that we have to our constituents. They have the right to know how their legislators stand no matter how controversial a matter. They want a Member who levels with them. They want a Member who truly believes in the vote being cast. If we cannot cast a vote with conviction, do we deserve to be here? It is for these reasons that I urge all my colleagues who favor a responsible Government to support this effort.●

SEEK EXTENSION OF HOUSING ASSISTANCE PROGRAM

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. CAMPBELL. Mr. Speaker, today, I am introducing a bill that extends, indefinitely, the ability of State and local housing finance agencies to issue mortgage revenue bonds. As you know, Mr. Speaker, a sunset provision on continuation of this program has been in effect since the end of the year. Even though I and 333 others of my colleagues have endorsed the extension of this sunset, the Congress has yet to act on this issue.

This legislation will allow low- and moderate-income home buyers the ability to buy a home they would otherwise find unattainable due to continued high mortgage interest rates. Nearly 15 percent of all single new family home sales are financed from revenue bond proceeds. In addition, nearly $800 million in Federal, State, and local taxes are generated by the construction of these new units.

I ask my colleagues to join me in preventing the untimely death of this much-needed housing assistance program.●

AMERATHON 1984

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. DANNEMEYER. Mr. Speaker, next summer, the Olympics come to Los Angeles, pitting man against man, woman against woman, in the finest tradition of athletic competition. But the Olympics are not the only international sporting event coming to the Los Angeles area next summer; Amerathon 1984, pitting man and machine against man and machine, is also on the schedule and it too promises competition in the finest tradition of auto racing. In fact, the conclusion of Amerathon 1984 in Los Angeles on July 22—following a grueling 39,000-mile competition—will help set the tempo for the Olympic competition to follow.

Amerathon 1984 is not the first motor car marathon ever held; previous ones having been conducted in 1907, 1970, 1974, and 1977, but it is certainly the longest. Also, it is the first marathon motor rally to be held exclusively in the Western Hemisphere. The event kicks off in Anaheim, Calif., May 26, with the first leg taking the participants through Mexico and into Guatemala. From there the vehicles, all of which must be production line models, will be shipped to Colombia, where they will make a long loop around South America over a period of roughly 3 weeks. Then, it is back to Guatemala, up through Old and New Mexico, over to the World's Fair at New Orleans, on to Washington, D.C., up through Canada and Alaska to the oil fields of Prudhoe Bay and finally back down the west coasts of Canada and the United States, to the grand finale in Los Angeles on July 22. Anybody can enter and to overall winner will go a prize of one-half million dollars. Many other cash prizes will also be awarded.

I do not know about my colleagues but, to me, this sounds like quite an adventure. Credit for making it all possible should go to rally director Derek Gates, competition director Brian Chuchua, whose business is located in the district I am proud to represent, legal adviser Peter Gwosdof, chief control officer Mark Smith, a host of other officials and their staffs, representatives from the nations through which the race will pass, and the sponsors of the event. Three years of planning have gone into the effort and all involved are to be commended for what they have accomplished to date. As the clock ticks down to the start of the race 3 months hence, more and more people are sitting up and taking notice. As they should.●

DEAN SETH WILSON CELEBRATES 42 YEARS AT OZARK BIBLE COLLEGE

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. TAYLOR. Mr. Speaker, it is with considerable pleasure that I direct the attention of my colleagues to the Christian accomplishments of Seth Wilson, dean emeritus of Ozark Bible College in Joplin, Mo. On this day, Dean Wilson is being honored by his students, friends, and colleagues for his 42 years of service to the school.

Dean Seth was there at the beginning, holding the post of academic dean at what was then Ozark Christian College located in Bentonville, Ark. He continued in that capacity when the college was reorganized and renamed "Ozark Bible College" in 1942. He moved with the school to Joplin in 1944 where he served as academic dean until 1979 when he was named "Dean Emeritus."

Dean Wilson was recently honored in a resolution approved by the Missouri State Senate which noted among other things that:

> He is recognized nationally as one of the most prolific writers of text materials for use in thousands of Sunday school classes, is a regular author of articles for the Chris-

tian Standard and the Lookout, is a faithful teacher and instructor at camps and conferences.

There is much more to be said about Dean Seth Wilson's contributions to a better way of life for those who have had the opportunity to attend his classes or be inspired by his writings. However, a sincere "well done," congratulations and best wishes for a future filled with continued good works will suffice for now.●

APPRECIATION TO PHYSICIAN VOLUNTEERS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. FLORIO. Mr. Speaker, I would like to express my appreciation to Dr. Louis O. Papa of Stratford, N.J. Dr. Papa is associate professor of medicine at the New Jersey School of Osteopathic Medicine, and is prominent in osteopathic medicine.

Last summer, Dr. Papa and two other physicians from Stratford, Dr. John Fitzharris and Dr. Gary Heck, went to the Dominican Republic at their own expense to provide health care to poor people living in remote villages. Most of the people they cared for were needy Dominican citizens, and they also treated a number of Haitian refugees. Dr. Papa, Dr. Heck, and Dr. Fitzharris not only paid their own costs, they also brought prescription drugs which they distributed to patients who badly needed such medicines.

This summer, Dr. Papa, Dr. Fitzharris and Dr. Heck, joined by Dr. William Moors who practices in Marlton, N.J., will perform another medical mission. This time, they will be going to Costa Rica. Their trip will be sponsored by the Society for the Propagation of the Faith for the Camden diocese. Such missions bring incalculable good will to the United States.

I am certain that other health care personnel would be interested in voluntarily providing their services to medically underserved people in other countries who desperately need care.●

EXTENSION OF THE FIRST YEAR TRANSITION RATE FOR THE MEDICARE PROSPECTIVE PAYMENT SYSTEM

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. WAXMAN. Mr. Speaker, I am pleased to join my colleagues, Congressmen ROBERT MATSUI and MARTY RUSSO, in cosponsoring a bill to improve the new medicare prospective payment system.

Our bill would simply stretch out the transition period for full implementation of the new payment system. It would retain, for 1 additional year, the first year blended rate which is comprised of 75 percent of each hospital's specific rate and 25 percent of a regional average rate. The remainder of the transition period would not be affected by our bill.

The purpose of the bill is to provide all of us—the Congress, the administration, and the hospital community—more time to evaluate the effects of the new system as it comes on line and to make sure it will achieve our goals without serious and unintended side effects. Preliminary analyses indicate there may be some serious regional disparities if the full system is implemented according to the current schedule. In addition, suggestions have been called to my attention regarding ways in which the specific DRG rates can be refined to account better for variations in patient needs. Pursuant to congressional directives, the administration is undertaking several studies regarding key aspects of the system. It behooves us to extend the scheduled transition, in order to review these analyses and ideas carefully.

I wish to make it absolutely clear, however, that this bill does not represent any slacking in our commitment to the new prospective payment system. Indeed, it is precisely because of our commitment to making the system work, and work properly, that we want to take the time to study it carefully and to reassure ourselves that it is achieving our stated objectives. No one should infer that this is the first chink in the armor, and that it will lead to the demise of the prospective payment system.

This bill achieves our purpose of extending the transition period in the simplest possible way—by merely extending the initial transition formula for 1 year. I welcome discussion on the purpose of the bill, as well as further suggestions on how we might impove the transition period while reaffirming our goal of moving steadily toward full implementation of a fair and equitable prospective payment system. I hope this bill will receive prompt consideration by all of my colleagues.●

THE "21" DEBATE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. GOODLING. Mr. Speaker, tomorrow, I will be calling on the House Subcommittee on Surface Transportation to report legislation promoting a national uniform legal drinking age before the onset of the summer recess.

I am pleased that the subcommittee intends to hold a hearing on this vital issue at long last, since for the past 15 months—during both the 97th and 98th Congresses—I have made a determined effort to draw attention to this problem, and to persuade the Congress to make a strong statement in support of "21."

As my colleagues are well aware, I am the sponsor of the original resolution (H. Con. Res. 23) which calls on all States and the District of Columbia to adopt 21 years as the minimum legal age for the purchase and consumption of all alcoholic beverages.

Since the introduction of my resolution in the lameduck session of the 97th Congress, numerous measures have been introduced which vary in their approach to achieving "21." These will be the subject of Thursday's hearing.

For myself, I support any initiative aimed at remedying the teenage drunk driving epidemic that can be passed in the 98th Congress. I call upon all of my colleagues to do no less.●

TRIBUTE TO MRS. CHARLIE B. NUNN

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Ms. KAPTUR. Mr. Speaker, often the fine work of the dedicated staff people that serve this body and the individual Members goes unrecognized. Two weeks ago, Mrs. Charlie B. Nunn of Toledo passed away. For 26 years, she faithfully served my predecessor, the Honorable Thomas Ludlow Ashley, as a crucial staff member in his district congressional office. Because Lud Ashley held such a prominent and respected position in this body, Charlie B. Nunn's service was not only to the people of the Ninth District, but to the people of the Nation as well. Some called her the "Second Congressman" from this district.

Aside from her responsibilities to Mr. Ashley, she also was extremely active in community service organizations. Charlie B. Nunn was a trustee of the Legal Aid Society, a member of the board of directors of Jack and Jill, president of the Pan Pacific and Southeast Asia Women's Association and other organizations.

I know my colleagues join me in offering her husband, Irving C. Nunn and the entire Nunn family our condolences on the loss of this special woman. All of the people of the Ninth District mourn the loss of this fine public servant.●

EXIMBANK—1984

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. IRELAND. Mr. Speaker, as you know, I have a keen interest in the health and vitality of our industries involved in overseas trade, and I have a special interest in small business. As chairman of the Export Opportunities Subcommittee of the Small Business Committee, and as a member of the Foreign Affairs Committee as well, I believe I have a responsibility to insure that all our industries are serviced by a healthy and vital U.S. Export-Import Bank.

Mr. Speaker, I am concerned about our trade posture. What is worse, I am concerned about the role of the U.S. Export-Import Bank. We have a trade problem, and we have a leadership problem.

This year we could experience the worst trade deficit in the history of our Nation. Some say that this is not important. Some say that our domestic markets are more than large enough to compensate for this sudden deterioration and that in time the dollar will weaken somewhat overseas. I do not agree. The trade deficit is going to get much worse than earlier predicted. It could be as much as $100 billion if circumstances are left alone. This is a serious situation, and it is serious because it is costing hundreds of thousands of U.S. jobs. This we cannot tolerate.

Our trade balance with Latin America, for example, deteriorated by $20 billion between 1981 and 1983—"the largest change in our trade balance with one region in so short a period of time in our history," according to the Under Secretary of Commerce for International Trade, Lionel Olmer. The largest part of that decline was lost exports—$17 billion worth, or over 400,000 U.S. jobs. This circumstance can only in part be attributed to a strong U.S. dollar. More important has been inadequate export financing, and it is not a question of making risky loans, but rather it appears to be one of leadership on the part of our leading agency involved in export finance.

There is an emerging picture of inactivity at the Export-Import Bank, and I believe it my responsibility to bring this to the attention of Congress. It involves a wide range of issues and problems, and I have every intention to obtain an adequate explanation for them. Among these are:

At a time when Congress has mandated that the Export-Import Bank function as a fully competitive institution, the Board of Directors of the Bank is considering raising its fees;

At a time when stimulating U.S. exports is crucial, the Board of Directors of the Export-Import Bank is making an alarmingly few number of loans. Indications are that so far this fiscal year the Bank has used less than 5 percent of the loans and guarantees it is authorized to use;

At this critical stage of developing an adequate mixed credit program, there is little if any indication that one is being developed that will be effective in aiding U.S. business in competing against aggressively supported mixed credits as practiced by foreign governments;

At this equally critical time of development of a new-to-market/new-to-export small business set-aside program, which Congress also recently mandated, the Chairman of the Board of the Bank and the other Board members are on travel. Indeed, it is not clear to me that the Board of Directors will even meet during the month of February.

Worse still, there is no substantive indication that the Bank is in any way responding effectively to the need of developing a small business promotional effort, including the design of a simplified application process and a solid public relations effort.

Mr. Speaker, these are concerns I share with other Members of Congress, and small and big businesses alike. If they are not adequately addressed, I predict that the Bank will demonstrate a dismal record of accomplishment for this fiscal year. What concerns me even more is that the record of recent years and today will live on to plague the Bank in the future. We are and will be confronted with challenges, challenges which will involve and require creative leadership in the area of export finance. At present there is little indication that the Bank's leadership recognizes the seriousness of our present situation.

I shall continue to report to you from time to time on this crucial economic, political, and social issue.●

REPRESENTATIVE CONTE IS PRAISED FOR HIS WORK ON HUNGER ISSUE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. GILMAN. Mr. Speaker, I would like to include at this point in the RECORD comments by Mr. James Grant, Executive Director of the U.N. Children Fund. This international organization has literally affected the lives of millions of children around the world. Their work is held in high regard by many involved in development programs.

Mr. Grant wrote the following statement at the United Nations Headquarters in New York City on February 17, 1983. Our colleague, the gentleman from Massachusetts (Mr. CONTE), delivered the Paul Hoffman Memorial Lecture to representatives of 99 countries and to many other persons in attendance. Mr. CONTE was honored for his longtime support for international development issues, including the recurring problem of hunger. As a member of the Appropriations Committee, he has fought hard to maintain adequate and effective levels of assistance to developing countries, including funds for emergency food aid.

Mr. Grant said of our colleague:

> At least one million children and mothers and fathers are alive today and hundreds of millions (are) better off today because of Silvio Conte's unceasing efforts for the past 25 years.

I commend Mr. CONTE for his admirable work on behalf of the poor and hungry throughout the world, and I appreciate his support for this important resolution establishing a Select Committee on Hunger.●

TWO RECEIVE HONOR MEDAL FOR LIFESAVING

HON. NORMAN SISISKY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. SISISKY. Mr. Speaker, on February 10, two men from Virginia's Fourth Congressional District received the coveted Honor Medal for Lifesaving from the Boy Scouts of America.

William Arrington, Jr., of Windsor, Va., and Henry Wilson, of Franklin, Va., are both Boy Scout leaders. Mr. Arrington, a member of the committee for troop 41, chartered to the Windsor Ruritan Club, is employed by the Norfolk Naval Shipyard in Portsmouth, Va. He is an Eagle Scout. Mr. Wilson is a paraprofessional employee of the Old Dominion Council working with Scout units in the Three Rivers District in Franklin, Va.

Arrington and Wilson received the award for attempting to rescue a man trapped in his car after it plunged into the James River.

Mr. Speaker, these two men will receive the first Honor Medals to be awarded in the State of Virginia since 1974. The medals are also the first to be awarded in the United States this year.

Both men were with several other adult Scout volunteers returning on the James River ferry on a cold, rainy October evening when they saw a car plunge from the loading ramp into the river.

Arrington and Wilson jumped from the moving boat into the river and swam 30 yards, despite the current, to the rapidly sinking car.

They saw the passenger of the car, Charlie Wynn of Surry, Va., struggling to get out of the vehicle, but the water had short-circuited the electric windows and the doors were jammed by the water pressure. Despite repeated attempts in the few minutes the car was partially above water, and after the vehicle had submerged, they were unable to break the windows or force open the doors. The body was recovered by State police divers several hours later.

William Arrington, Jr., and Henry Wilson made a valiant attempt to save a life and in doing so exemplified the Scouting tradition of selfless service.

The Honor Medal for Lifesaving is awarded through the action of a national review board to those registered members of the 4.7 million member organization, both youth and adult, who demonstrate "unusual heroism in saving or attempting to save life at the risk of their own." Normally, about 25 Honor Medals are granted throughout the United States each year.

Mr. Speaker, I would like to say that Messrs. Arrington and Wilson displayed extraordinary heroism, and are truly deserving of this Honor Medal, the rarest award given by the Boy Scouts of America. They not only received the Honor Medal, but the respect of everyone who learns of their deed.●

JUNIOR WOMAN'S CLUB OF THE GREATER BRUNSWICK AREA

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. DWYER. Mr. Speaker, it is with a great deal of pride and satisfaction that I rise to address the House today, for on Friday, February 24, a very important event will occur in New Brunswick, N.J.

On that date, Mr. Speaker, the Junior Woman's Club of the Greater Brunswick Area will celebrate its golden anniversary, marking 50 years of providing service to the community.

We all rise in this Chamber, from time to time, to inform our colleagues about the outstanding contributions to the community made by some of our constituents and that is how it should be. People helping other people is not a Democratic idea or a Republican one. It is neither liberal nor conservative. But it is very, very American.

We seek to encourage activity of this type because it helps those who need help and contributes much to the well-being of those who are able to help. Certainly, the Junior Woman's Club of the Greater Brunswick Area epitomizes this spirit.

Their efforts on behalf of handicapped persons of all ages are well known in central New Jersey and on this, the 50th anniversary of their founding, it is altogether fitting that this Congress honor them here today.●

MEMORIAL TO A HUMANITARIAN

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. BATES. Mr. Speaker, I would like to take a moment of my colleague's time to note the passing of a man who made significant contributions to the city and residents of San Diego.

Dr. Bob Siegal was more than just active in the business and professional community. He was a forensic dentist in the county coroner's office where he worked on the team identifying victims of the PSA airliner crash. He served on the Board of Directors of the San Diego Dental Society and in the National Forensic Odontology Society. His professional career was an example and ideal to those following him.

He served his country as a meteorologist in the China-India-Burma campaign in World War II. He was active in a number of local, State, and national political campaigns. He served in a number of capacities with the San Diego Jewish Community Center.

But more than these accomplishments of a full professional and community life, Bob was a practical man, with hard-headed political instinct, yet with a humane, gentle, caring side. He believed in people and his passing on December 24, 1983 was a loss to all of us.●

THE RETIREMENT OF FORREST B. CRUMPLEY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. EDWARDS of California. Mr. Speaker, Forrest B. Crumpley, San Jose printer, has announced his retirement as of the end of February 1984, ending 20 years of dedicated service to the progressive community of San Jose.

Born in 1915, he grew up in a rural area around Springfield, Mo. His mother was a schoolteacher, his father a farmer and a boilermaker. The severe poverty of the Depression years led him into the Army to alleviate the burden of hunger in his family—now there would be one less mouth to feed.

The year 1940 brought a huge influx of workers to Washington, D.C., to work in the Census Bureau. Forrest was among them. Fascism under Hitler and Mussolini was running rampant in Europe, and Forrest was concerned with the need, at home and abroad, to stop it. He became active in fighting discrimination against minorities in the capital. A strong, active, and conscious democracy would be a bulwark against fascism. A few months after his marriage in 1941, he continued his struggle as part of the Army during World War II. Most of his service time was spent in New Caledonia, where his farming skills were utilized in growing vegetables to feed the troops in the Pacific Theater.

After the war, the Crumpleys settled in Seattle, Wash., where Forrest made his first contact with the magic of printing. Unemployment brought a move to San Francisco, where he started his long career in printing, learning to run a press. On the side, there was much volunteer work, along with Bay Area Graphic Artists, working up publicity to awaken people to the consciousness of their power to direct the course of events, to redress their grievances, and to improve their welfare through organized, united action—through labor unions, political parties, and special interest and community groups.

Forrest's lifelong dedication has been to correct the ills created by the imbalance of our economic system and to establish a system of equality and justice for all where each citizen can reach his or her potential. In time, Forrest set up his own business (Fidelity Printing) and began to realize his dream of serving his community and country as an individual citizen in the area of his expertise. As the local "printer for progress," always available at any hour, in any emergency, at low cost or as a volunteer, he has been an active participant in the struggles to further the cause of justice, peace, security, human and labor rights.

Forrest's deepest concern now is to stop the threat of nuclear war and to get the United States out of Central America. He leaves the printing press behind, but takes with him direction and conviction. The fight will go on.●

ONE YEAR DRG PHASE IN DELAY

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. MATSUI. Mr. Speaker, I am introducing legislation today which will provide our Nation's hospitals with more time to adjust to the prospective payment method of reimbursement for medicare inpatient services. As you recall, this medicare cost containment system was created by the Social Security Act Amendments of 1983.

Let me say at the outset that my bill does not change in any manner the prospective reimbursement system enacted by Congress last year. Indeed, I strongly support this form of cost containment and believe it is an important first step in our continuing effort to resolve medicare's financing problem. The new reimbursement system will pay hospitals a prospectively determined rate per discharge based on diagnostic categories or Diagnostic Related Groups (DRG).

My legislation does, however, propose to freeze for 1 additional year the way hospitals presently are reimbursed under the prospective payment system.

When Congress considered prospective payment last year, we decided to phase in the payment rates over a 3-year period. DRG payments will move from rates reflecting hospital-specific and regional costs to rates based on national costs. During each year of the transition, the hospital-specific and regional component of the DRG rate decreases and the national component increases until the system is based on purely national rates at the phase-in's conclusion.

Moving away from regional and hospital-specific rates will cause many hospitals, particularly in urban areas, to experience a severe shortfall relative to the cost of providing services to their medicare patients. While an important tenet of prospective payment is the financial incentive for hospitals to reduce their costs below the prescribed DRG rate, I am concerned that phasing in the new system too rapidly may not allow hospitals with high costs to make necessary operational and managerial changes to cope.

Given that containing the cost of health care is becoming a more pressing national priority, it is important that our efforts in this direction are successful. We should be most concerned with enabling hospitals to adapt their operations to the new age of cost containment. To accomplish this goal, we should not feel unable to make adjustments in the present transition period for prospective payment.

To conclude, my legislation will provide a needed breathing space of 1 year so that hospitals can absorb and digest the changes they are required to make under prospective reimbursement. I am hopeful that my colleagues will support this effort.●

TRIBUTE TO BRONX STUDENT ATHLETES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. BIAGGI. Mr. Speaker, at this time I am proud to pay tribute to four student athletes from my home district in the Bronx, N.Y., who have been named to the National High School Track All-America roster. All four were named to the prestigious roster because of their outstanding performances in the 4 x 400M relay event. The four students are: Terry Pinkney, Doreen Hutchison, Yvette Cash, and Cximare Adams from Harry S. Truman High School in the Bronx.

These four girls should be extremely proud of this accomplishment since selection to the high school track all-America roster was made on the basis of the top 10 1983 track performances in the Nation for their respective events. The all-America program is sponsored by the American Textile Manufacturers Institute in cooperation with the National High School Athletic Coaches Association.

I am especially honored to pay tribute to these four fine young women because they have shown outstanding achievement both on and off the field. Athletics can be an important part of a student's growth and development. The motivation to do one's best, the will to win and the spirit of teamwork as developed in athletics, can many times make the difference between ordinary achievement and the development of one's full potential. I am confident that the dedication, sacrifice, and hard work displayed by Terry, Doreen, Yvette, and Cximare will carry them far in whatever they strive to accomplish.●

A TRIBUTE TO RANDOLPH (RANDY) SCOTT SARGENT

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. LONG of Maryland. Mr. Speaker, it is a great honor for me to award a congressional commendation to Randolph (Randy) Scott Sargent, who will become an Eagle Scout on February 22, 1984.

Randy is a constituent of mine from the Cockeysville area and a junior at Dulaney Senior High School. He has been a member of the Springdale/Cockeysville Scout Troop No. 880 for 7 years and has earned many badges, the most recent of which are his Citizenship in the Nation, Citizenship in the World, Communications, and Scholarship badges.

Outside of his participation in Troop No. 880, Randy manages to find time to be involved with the Dulaney Senior High School Band, the Dulaney Thespians, and many of the school's musical productions. He is also an active member of the Methodist Youth Fellowship—Appalachian service project. Randy lives with his parents, Jimmie and Evelyn Sargent, and his younger brother Brian—also a Scout—in Cockeysville.

I am extremely proud to have such an outstanding young man living in my district and join Randy's family and friends in congratulating him on his investiture as an Eagle Scout. I wish Randy continued success in all of his future endeavors.●

THE HUTCHERSON COFFEE CLUB

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. BONER of Tennessee. Mr. Speaker, during the recent district work period, it was my honor to attend the Hutcherson's Coffee Club in Nashville and to receive the significant recognition of being named an honorary member of this group of older citizens living in an urban area of the Fifth District of Tennessee.

While I was only with the group a short time, we were able to exercise almost all of the rights and privileges of membership, including: Drinking coffee, giving advice—and the membership had plenty to give me—sharing war stories, talking sports—but only if the member supports the University of Tennessee—and proposing solutions to the world's problems. While we did exercise our right to philosophize, mainly we exercised our right to just plain shoot the bull.

While this group obviously has fun with each other, they also prove an important and poignant point. The friendliness and fellowship of the Hutcherson Coffee Club shows that older Americans—even those living in an urban setting—can still experience some of the joys we usually only associate with living in a small town.●

TRIBUTE TO REV. SUZAN D. JOHNSON

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. GREEN. Mr. Speaker, I rise to congratulate a most remarkable woman, the Reverend Suzan D. Johnson, who, on Sunday, March 4, 1984, at 4:30 p.m. will be the first black woman in any American Baptist Church, nationwide, to be installed in a senior pastorate position, as pastor of the Mariners' Temple Baptist Church.

Reverend Johnson served as interim pastor for 6 months prior to her election as senior pastor. Under her leadership, the church grew from 60 active members to more than 200.

The Mariners' Temple Baptist Church, where the ceremony will take place, is the oldest Baptist Church on

Manhattan Island. Established in 1785, it has had a great history, and has been named an historical landmark. The name derives from its having been originally established for seamen whose ships docked in the nearby East River.

I join my colleagues and my constituents in congratulating the Reverend Johnson and the Mariner's Temple Baptist Church and wishing them both continued success in the future.●

LUPUS AWARENESS WEEK, 1984

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. BORSKI. Mr. Speaker, I am introducing today a resolution to designate October 21-October 27, 1984, as Lupus Awareness Week, 1984.

Lupus erythematosus, or lupus, is a serious disease of the body's immune system for which there is no known cause and no cure. Although largely unknown among the general public, lupus is more common than multiple sclerosis, muscular dystrophy, leukemia, or cystic fibrosis. Over 500,000 people are afflicted with the disease, with more than 50,000 new cases diagnosed every year. The disease can affect people of all ages, yet over 70 percent of lupus victims are women, often those in their childbearing years.

In lupus, the antibodies that normally protect us from infections attack normal cells, resulting in severe inflammation and scarring of healthy tissue. Patients suffer from the common symptoms of pains of the joints, frequent infections, and rashes. Approximately 95 percent of lupus patients are stricken with arthritis. Easy bruising may occur due to a reduced ability of the blood to clot properly. Lupus may only affect the skin in some people, while in others it may damage major body organs. Lupus can cause kidney and heart disease, pleurisy, and pneumonia. In some cases, the disease may result in death.

Lupus is often confused with a variety of other diseases. Early victims are often misdiagnosed, preventing them from receiving treatment that could possibly reduce the severity of the disease.

The legislation I am introducing today is an important means by which to express our concern and increase public awareness of the social and human cost and burdens imposed by this terrible disease. The survival rate for lupus victims has improved in recent years largely due to increased public awareness, allowing for early diagnosis and improved treatment. Although there has been progress, much remains to be done. This legislation is an important component of such increased public awareness.

Last year's effort enjoyed strong bipartisan support with 232 cosponsors. I urge the renewed support of my colleagues in the passage of Lupus Awareness Week, 1984.●

CONGRESSIONAL VIGIL FOR SOVIET JEWS: THE CASE OF TZALO AND KHAYA LIPCHIN

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. FRANK. Mr. Speaker, the plight of the Soviet Jews is one we are all familiar with. There are many indications that their situation is now at a low point; the almost complete cessation of emigration, and the officially sponsored anti-Semitic campaign are but two examples.

Behind these general trends lie a multitude of individual stories, stories which must be told if we are to understand what the repression of this community entails. Tzalo and Khaya Lipchin have been waiting for more than 5 years now for permission to come to America. Their son, Leonid, is a constituent of mine. Leonid undertook a 16-day hunger strike in 1978, in order to get an exit visa. This heroic gesture is a striking sign of the oppression Jews suffer in the Soviet Union.

I am sorry to say, Mr. Speaker, that though Leonid is free and in the United States, his suffering has not ended. The Soviet authorities let him go but forced his parents to remain. This enforced separation of a family is a flagrant violation of the Helsinki Final Act and the subsequent agreement in Madrid. When the Soviets violate their international commitments to human rights, we must not be silent; we must publicize it. We must not only publicize the general trends, but the individual stories of refuseniks who are harassed, of families which are torn apart, for it is these stories which are most revealing of the difference between our two systems.

Mr. Speaker, the continued separaton of parents and son must stop. It is inexcusable. Tzalo and Khaya Lipchin clearly have a right to join Leonid in this country. If their own nation refuses to recognize this right, let it at least be clear that we in this body, and the West generally, do recognize this right.

I am glad to see that the Congressional Call to Conscience Vigil is becoming a tradition, after the successful effort last year which brought 150 Members of this body together in protest against the persecution of the Soviet Jews. As I said, each one of us knows several tragic cases in which families have been harassed or torn apart.

This vigil presents an opportunity to publicize many of these stories in one place, so as to bring home the dimensions of the tragedy. I am grateful to the Union of Councils for Soviet Jewry and to my colleague, Mr. COUGHLIN of Pennsylvania, for bringing this event to my attention.●

INDEPENDENT LIVING CENTER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. BERMAN. Mr. Speaker, this Friday, February 24, the first Independent Living Center for mentally disabled adults in the San Fernando Valley will be dedicated.

The dedication culminates years of hard work by the San Fernando Valley Community Mental Health Centers and leaders in local government. I am pleased that this special center was constructed in part with funds from the Department of Housing and Urban Development. The center is a model of cooperation between all levels of government.

What makes this center so important is its focus on preparing mentally disabled adults to learn the skills necessary for them to live independently. The center serves as an important link with the other residential alternatives for the mentally disabled. It is an important step in their learning to function independently. It is also a significant alternative to lengthy and expensive hospitalization.

Mr. Speaker, I commend the members of this community for their cooperation and vision in making this Independent Living Center a reality. I urge my colleagues to view the center as a model for what they can accomplish in their own communities. We can wish the San Fernando Valley Community Health Center success in their future work.●

BLACK HISTORY MONTH

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. MARKEY. Mr. Speaker, we are once again pausing to reflect on the rich inheritance we as a society gain from the contributions of black men and women over the course of our American history. Black History Month in 1984 is notable for several achievements in the recognition and enhancement of our knowledge of the role of blacks in forging the American experience.

First, we now have the official Federal holiday in honor of the birth of Dr. Martin Luther King, Jr. For years to come, this holiday will remind us of the peaceful tolerance he so brilliantly taught and demonstrated throughout his life. By honoring Dr. King, we honor those founding principles of equality and freedom so basic to our democracy.

A second achievement to commemorate in Black History Month is the introduction of House Joint Resolution 454, introduced by my colleague, Representative NANCY JOHNSON of Connecticut, honoring the contributions of black men and women to the American Revolution. Recent scholarship has amply documented the intrinsic contributions of black Americans to the winning of independence. Over 5,000 black soldiers bravely served in every major battle of the Revolution, from Bunker Hill to Yorktown. This resolution urges special observances and activities during Black History Month in 1985 to study and to honor the important contributions of blacks to the success of the American Revolution.

I heartily endorse the use of Black History Month as a vehicle to help our schools and the citizenry in general to learn more of the richness of our heritage. I applaud the effort to sensitize the agencies of all levels of government to their role in fostering the political socialization of our citizens.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, February 23, 1984, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 24

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Charles C. Hardin, of Maryland, to be Assistant Secretary of Transportation for Governmental Affairs, and Jim J. Marquez, of Kansas, to be General Counsel, Department of Transportation.
SR-253

9:30 a.m.
Finance
Savings, Pensions and Investment Policy Subcommittee
Taxation and Debt Management Subcommittee
To hold hearings on S. 1758, to establish a recovery account system for calculating the depreciation deduction under the accelerated cost recovery system for 3- and 5-year personal property.
SD-215

Judiciary
Constitution Subcommittee
Business meeting, to mark up Senate Joint Resolution 1, proposing an amendment to the Constitution of the United States with respect to fixing the compensation of Members of Congress, S. 139, to eliminate certain Federal court jurisdiction in issuing orders requiring the assignment of students to public schools on the basis of race, color, or national origin, and S. 119, to establish procedures for holding constitutional conventions for proposing amendments to the Constitution.
SD-226

Labor and Human Resources
Aging Subcommittee
To resume oversight hearings on the implementation of the Older Americans Act (Public Law 89-73), focusing on title III, long-term care provisions.
SD-430

10:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of the Interior.
SD-138

Environment and Public Works
To resume hearings on S. 768, to authorize funds through fiscal year 1987 for and to extend certain programs of the Clean Air Act. (Public Law 95-95).
SD-406

Finance
Savings, Pensions and Investment Policy Subcommittee
To hold joint hearings with the Subcommittee on Taxation and Debt Management on S. 1857, to revise certain tax rules relating to private foundations, and S. 2165, to make permanent the income tax credit for research and development expenditures.
SD-215

Labor and Human Resources
Family and Human Services Subcommittee
To hold hearings on proposed legislation to express the sense of the Senate that parents of adolescent children should be involved in the care, treatment, and counseling of adolescents served by Federal assistance programs.
SD-628

FEBRUARY 27

9:30 a.m.
Finance
International Trade Subcommittee
To resume hearings on S. 1723, to redesignate the U.S. Trade Representative as the President's Representative for Trade Negotiations, and the provisions of S. 121, to establish a U.S. Department of Trade as an executive department of the Federal Government (pending on Senate calendar).
SD-215

10:30 a.m.
Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1985 budget.
SD-608

1:30 p.m.
Finance
Health Subcommittee
To hold hearings on S. 2053, to provide for the placement of severely disabled individuals in community or family living facilities.
SD-215

FEBRUARY 28

9:00 a.m.
Appropriations
Labor, Health and Hunam Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Mine Safety and Health Review Commission, ACTION, Corporation for Public Broadcasting, National Commission on Libraries and Information Science, and the Soldiers' and Airmen's Home.
SD-116

9:30 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.
SD-538

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1985 budget.
SD-608

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for National Aeronautics and Space Administration.
SR-253

Labor and Human Resources
To hold oversight hearings on alleged corruption by officials of local chapters of the Operating Engineer's Union.
SD-430

Labor and Human Resources
Aging Subcommittee
To hold oversight hearings on the implementation of the Older Americans Act (Public Law 89-73), focusing on title IV, research demonstration and education training provisions.
SD-628

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on Air Force programs.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Washington Metropolitan Area Transit Authority, and the Research and Special Programs Administration, Department of Transportation.
SD-124

Armed Services
To hold hearings on warranties on weapons systems.
SR-222

Energy and Natural Resources
Business meeting, on pending calendar business.
SD-366

Select on Intelligence
Budget Subcommittee
To hold closed hearings on proposed legislation authorizing funds for fiscal year 1985 for the intelligence community.
S-407, Capitol

Joint Economic
To resume hearings in preparation for its forthcoming annual report, focusing on the outlook for inflation.
2359 Rayburn Building

1:30 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1985 budget.
SD-608

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Indian Education, Department of the Interior, and the National Endowment for the Arts.
SD-138

Armed Services
To continue hearings on warranties on weapons systems.
SR-222

Select on Intelligence
Budget Subcommittee
To hold closed hearings on proposed legislation authorizing funds for fiscal year 1985 for the intelligence community.
S-407, Capitol

2:30 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1985 budget.
SD-608

FEBRUARY 29

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Railroad Retirement Board, National Labor Relations Board, National Mediation Board, OSHA Review Commission, Prospective Payment Assessment Commission, and Federal Mediation and Conciliation Service.
SD-116

9:30 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1985 budget.
SD-608

Labor and Human Resources
To continue oversight hearings on alleged corruption by officials of local chapters of the Operating Engineer's Union.
SD-430

Select on Indian Affairs
To hold hearings on S. 2166, authorizing funds through fiscal year 1988 for provisions of the Indian Health Care Improvement Act.
SD-562

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the National Highway Traffic Safety Administration, Department of Transportation.
SD-138

Energy and Natural Resources
Business meeting, on pending calendar business.
SD-366

Environment and Public Works
Transportation Subcommittee
To hold oversight hearings on the implementation of the Surface Transportation Assistance Act (Public Law 97-424).
SD-406

Veterans' Affairs
To hold oversight hearings on the Veterans' Administration readjustment counseling program and the VA loan guaranty program.
SR-418

10:30 a.m.
Joint Economic
To resume hearings in preparation of its forthcoming annual report, focusing on the economic outlook for 1984 and Federal economic policy.
SR-325

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Foreign Relations
To resume hearings on proposed legislation authorizing funds for fiscal year 1985 and supplemental funds for fiscal year 1984 for foreign assistance programs.
SD-419

Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

MARCH 1

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of Labor, and the Employment and Training Administration, Department of Labor.
SD-116

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1985 for the National Aeronautics and Space Administration.
SR-253

9:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimate, for fiscal year 1985 for foreign assistance programs.
SD-226

Banking, Housing, and Urban Affairs
Securities Subcommittee
To hold hearings on S. 910 and H.R. 559, bills to permit the Securities and Exchange Commission to assess civil penalties for trading in securities while in possession of material nonpublic information.
SD-538

Small Business
Innovation and Technology Subcommittee
To hold oversight hearings on the implementation of the Small Business Innovation Research Act Public Law 97-219).
SR-428A

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the National Science Foundation.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Bureau of Land Management, Department of the Interior.
SD-138

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Judiciary
To hold hearings on the nomination of Edwin Meese III, of California, to be Attorney General.
SD-106

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 1531, to provide for the establishment and operation of school-age child care services in public schools.
SD-430

1:00 p.m.
Select on Intelligence
Budget Subcommittee
To hold closed hearings on proposed legislation authorizing funds for fiscal year 1985 for the intelligence community.
S-407, Capitol

1:30 p.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture.

SD-192

MARCH 2

9:30 a.m.

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To hold oversight hearings to review the process of recovering oil by mining.

SD-366

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the U.S. Representative to the United Nations, and for voluntar contributions to International Organizations and programs.

SD-192

Environment and Public Works

To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the Environmental Protection Agency.

SD-406

Judiciary

To continue hearings on the nomination of Edwin Meese III, of California, to be Attorney General.

SD-106

2:00 p.m.

Finance

Economic Growth, Employment and Revenue Sharing Subcommittee

To hold hearings on S. 2185, to extend through fiscal year 1989 the credit provisions of the Targeted Jobs Tax Credit, which focuses tax incentives for employment on specific target groups that are found to experience high unemployment rates.

SD-215

MARCH 5

9:30 a.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Commerce, Justice, State, the Judiciary, and certain related agencies.

S-146, Capitol

10:00 a.m.

Environment and Public Works

Regional and Community Development Subcommittee

To hold oversight hearings to review the cost of Tennessee Valley Authority power purchased by the Department of Energy.

SD-406

2:00 p.m.

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Committee for Purchase from the Blind, Federal Elections Commission, Merit Systems Protection Board, Office of Special Counsel, Federal Labor Relations Authority, U.S. Tax Court, Administrative Conference of the United States, and the Advisory Committee on Federal Pay.

SD-124

MARCH 6

9:30 a.m.

Banking, Housing, and Urban Affairs

To resume hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.

SD-538

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the National Bureau of Standards.

SR-253

Judiciary

Juvenile Justice Subcommittee

To continue hearings on S. 2014, proposed Missing Children's Assistance Act, focusing on the reauthorization provisions for juvenile justice assistance.

SR-418

Labor and Human Resources

Labor Subcommittee

To hold oversight hearings on the implementation of the Taft-Hartley Act.

SD-430

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on Navy programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Architectural and Transportation Barriers Compliance Board, and the Office of Inspector General, Department of Transportation.

SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearing on proposed budget estimates for fiscal year 1985 for the Internal Revenue Service, Department of the Treasury, and the General Services Administration.

SD-124

Environment and Public Works

Business meeting, to consider those items in the President's budget for fiscal year 1985 which fall within its legislative jurisdiction and consider recommendations which it will make thereon to the Budget Committee.

SD-406

11:30 a.m.

Veterans' Affairs

To hold hearing to review the legislative priorities of the Veterans of Foreign Wars.

SD-106

2:00 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of State, focusing on international security assistance programs.

S-126, Capitol

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

3:00 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for conservation programs of the Department of Energy.

SD-138

MARCH 7

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Labor-Management Services Administration, Employment Standards Administration, and Bureau of Labor Statistics, all of the Department of Labor, and the Pension Benefit Guaranty Corporation.

SD-116

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

9:30 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Agricultural Research Service, Cooperative State Research Service, Extension Service, and the National Agricultural Library.

SD-192

Banking, Housing, and Urban Affairs

To continue hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.

SD-538

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for fiscal years 1985 and 1986 for the U.S. Coast Guard.

SR-253

10:00 a.m.

Appropriations

Legislative Branch Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of the Senate, Office of the Senate Sergeant at Arms, Congressional Budget Office, and Office of Technology Assessment.

S-128, Capitol

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the United States Railway Association, and Conrail.

SD-138

Environment and Public Works

Business meeting, to mark up S. 768, to authorize funds through fiscal year 1987 for and to extend certain pro-

grams of the Clean Air Act (Public Law 95-95), and other pending calendar business.
SD-406

Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for health programs administered by the Public Health Service, Department of Health and Human Services.
SD-430

Veterans' Affairs
Business meeting, to mark up proposed legislation authorizing funds for fiscal year 1985 for the Veterans' Administration.
SR-418

1:30 p.m.
Finance
To hold hearings to review the Social Security Advisory Council's recommendations on medicare trust solvency.
SD-215

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of State, focusing on international narcotics control, migration and refugee assistance, and antiterrorism programs.
S-126, Capitol

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

2:30 p.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Board for International Broadcasting, Securities and Exchange Commission, Equal Employment Opportunity Commission, and the Civil Rights Commission.
S-146, Capitol

MARCH 8

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Occupational Safety and Health Administration, Mine Safety and Health Administration, and Departmental Management, all of the Department of Labor, and the President's Committee on Employment of the Handicapped.
SD-116

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1985 for the National Aeronautics and Space Administration.
SR-253

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed supplemental funds for fiscal year 1984 for the Department of Defense, and for assistance to Grenada.
SD-192

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs administered by the Agency for International Development.
S-126, Capitol

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Science and Technology Policy, Selective Service System, and the Consumer Product Safety Commission.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Indian Health Service, Department of Health and Human Services, and the National Gallery of Art.
SD-138

Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Government Printing Office, General Accounting Office, Library of Congress, and the Congressional Research Service.
S-128, Capitol

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on H.R. 3169, to facilitate commerce by the domestic renewable energy industry and related service industries.
SD-366

Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings to review the problems of children of alcoholics.
SD-430

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs administered by the Agency for International Development.
S-126, Capitol

MARCH 9

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the Federal Railroad Administration, Department of Transportation, and to review rail safety activities.
SR-253

10:00 a.m.
Finance
Health Subcommittee
To hold hearings to review capital financing under the medicare program's existing provision for reasonable cost reimbursement.
SD-215

MARCH 12

9:30 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Commerce, and the International Trade Commission.
S-146, Capitol

2:30 p.m.
Finance
International Trade Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the U.S. International Trade Commission, U.S. Customs Service, and the Office of the U.S. Trade Representative.
SD-215

MARCH 13

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of Education, Departmental Management, Salaries and Expenses, Office of Civil Rights, and Office of Inspector General, all of the Department of Education.
SD-116

Office of Technology Assessment
The Board to hold a general business meeting.
Room to be announced

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.
SD-538

Labor and Human Resources
Aging Subcommittee
To hold oversight hearings on the implementation of the Older Americans Act (Public Law 89-73), focusing on title V, community services employment provisions.
SD-430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on research and engineering programs.
SD-124

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Panama Canal Commission, and the St. Lawrence Seaway Development Commission, Department of Transportation.
SD-138

Environment and Public Works
Business meeting, to resume mark up of S. 768, to authorize funds through fiscal year 1987 for, and extend certain programs of, the Clean Air Act (Public Law 95-95), and other pending calendar business.
SD-406

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 2300, to authorize civilian procuring agencies to enter into multiyear contracts when such contracts are determined to be in the Government's best interest.
SD-342

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for Multilateral Development Banks.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Surface Mining, Department of the Interior, for the U.S. Holocaust Memorial Council.
SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Postal Service, and the Office of Personnel Management.
SD-124

MARCH 14

8:30 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Education, including Elementary and Secondary Education, Education Block Grants, and Impact Aid.
SD-116

9:30 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Communications Commission, District of Columbia Courts, and the U.S. Courts of Appeals.
S-146, Capitol

Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for health programs administered by the Public Health Service, Department of Health and Human Services.
SD-430

10:00 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Architect of the Capitol.
S-128, Capitol

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Executive Office of the President, and the Advisory Commission on Intergovernmental Relations.
SD-124

Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold oversight hearings to review U.S. Coast Guard polar icebreaking operations.
SR-253

Environment and Public Works
Business meeting, to resume mark up of S. 768, to authorize funds through fiscal year 1987 for, and extend certain programs of, the Clean Air Act (Public Law 95-95), and other pending calendar business.
SD-406

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on the Office of Management and Budget Circular A122, to restore use of Federal funds for lobbying by contractors and grantees.
SD-342

2:00 p.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.
SD-192

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Inspector General, Agency for International Development, General Accounting Office, and the Inter-American Foundation.
S-126, Capitol

MARCH 15

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Education, including Vocational and Adult Education, Education for the Handicapped, and Rehabilitation Services and Handicapped Research.
SD-116

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for local rail service assistance programs of the Department of Transportation.
SR-253

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on spare parts procurement and acquisition management.
SD-192

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Fish and Wildlife Service, Department of the Interior.
SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Civil Aeronautics Board.
SD-124

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on restoring classroom discipline in public schools.
SD-430

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Export-Import Bank.
S-126, Capitol

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of the Treasury.
SD-124

MARCH 19

2:00 p.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the National Oceanic and Atmospheric Administration, Marine Mammal Commission, and the Small Business Administration.
S-146, Capitol

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Bureau of Government financial Operations, Bureau of the Public Debt, Bureau of the Mint, and U.S. Savings Bonds Division, all of the Department of the Treasury.
SD-124

MARCH 20

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Education, including student financial assistance, student loan insurance, higher and continuing education, higher education facilities loan and insurance,

and educational research and training activities overseas.

SD-116

9:30 a.m.

Judiciary

Constitution Subcommittee

To resume hearings on Senate Joint Resolution 10, proposing an amendment to the Constitution of the United States relative to equal rights for women and men, focusing on the impact of the amendment on social security.

SD-226

Labor and Human Resources

Aging subcommittee

To hold oversight hearings on the implementation of the Older Americans Act (Public Law 89-73).

SD-628

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense.

SD-192

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Peace Corps.

S-126, Capitol

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearing on proposed budget estimates for fiscal year 1985 for the Council on Environmental Quality, and the Environmental Protection Agency.

SD-124

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Library Services and Construction Act.

SR-485

1:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for foreign assistance programs.

S-126, Capitol

2:00 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Navajo Hopi Relocation Commission, and the Institute of Museum Services.

SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of the Treasury, U.S. Postal Service, and general government programs.

SD-124

MARCH 21

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Education, including college housing loans, special institutions, Howard University, the National Institute of Education, Education Statistics, Bilingual Education, and Libraries.

SD-116

Labor and Human Resources

To hold hearings on pending nominations.

SD-430

9:30 a.m.

Banking, Housing, and Urban Affairs

To resume hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.

SD-538

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Highway Administration, and the Office of the Secretary of Transportation.

SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Federal Procurement, Office of Management and Budget, and the U.S. Customs Service, U.S. Secret Service, Bureau of Alcohol, Tobacco, and Firearms, and the Federal Law Enforcement Training Center, all of the Department of the Treasury.

SD-124

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

2:00 p.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Soil Conservation Service, and the Agricultural Stabilization and Conservation Service.

SD-192

3:00 p.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Commodity Credit Corporation, Foreign Agricultural Service, Office of International Cooperation and Development, and the provisions of Public Law 480.

SD-192

MARCH 22

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense.

SD-192

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Veterans' Administration.

SD-124

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Minerals Management Service, Department of the Interior.

SD-138

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings to review the educational needs of native Hawaiian children.

SD-430

Labor and Human Resources

Family and Human Services Subcommittee

To hold hearings on proposed legislation authorizing funds for Head Start programs.

SD-562

MARCH 23

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of Health and Human Services.

SD-116

10:00 a.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the National Transportation Safety Board.

SD-138

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on proposed legislation authorizing funds for adult education assistance.

SD-430

MARCH 27

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Health and Human Services, including the Health Resources and Services Administration, and the Office of the Assistant Secretary for Health.

SR-428A

9:30 a.m.

Banking, Housing, and Urban Affairs

To resume hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.

SD-538

Labor and Human Resources

To hold oversight hearings on U.S. relations with the International Labor Organization.

SD-430

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-116

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Railroad Administration, Department of Transportation, and the National Railroad Passenger Corporation (Amtrak).

SD-138

2:00 p.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Farmers Home Administration, Department of Agriculture.

SD-124

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Bureau of Indian Affairs, Department of the Interior.

SD-138

MARCH 28

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Health and Human Services, including the Health Care Financing Administration, Social Security Administration, and refugee programs.

SD-116

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative priorities of Amvets, Blinded Veterans Association, Paralyzed Veterans of America, Military Order of the Purple Heart, and Veterans of WWI.

SR-325

9:30 a.m.

Labor and Human Resources

Aging Subcommittee

Business meeting, to consider proposed legislation authorizing funds for fiscal years 1985, 1986, and 1987 for programs of the Older Americans Act (Public Law 89-73).

SD-430

10:00 a.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of State, and the U.S. Information Agency.

S-146, Capitol

MARCH 29

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings in closed session on proposed legislation authorizing funds for fiscal year 1985 for the National Aeronautics and Space Administration, to be followed by open hearings.

SR-253

Labor and Human Resources

Aging Subcommittee

Business meeting, to consider proposed legislation authorizing funds for fiscal years 1985, 1986, and 1987 for programs of the Older Americans Act (Public Law 89-73).

SD-430

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the National Aeronautics and Space Administration.

SD-124

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of the Interior, and the Bureau of Mines, Department of the Interior.

SD-138

2:00 p.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Federal Crop Insurance Corporation, and the Rural Electrification Administration.

SD-124

MARCH 30

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Health and Human Services, including Human Development Services.

SD-116

APRIL 2

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

APRIL 3

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the National Institutes of Health, Department of Health and Human Services.

SD-116

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Aviation Administration, Department of Transportation.

SD-138

Labor and Human Resources

Alcoholism and Drug Abuse Subcommittee

To hold hearings on proposed legislation authorizing funds for the National Institute on Drug Abuse, and the National Institute on Alcohol Abuse and Alcoholism.

SD-430

Labor and Human Resources

Family and Human Services Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on Title X: Family Planning.

SD-562

2:00 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the U.S. Forest Service, Department of Agriculture.

SD-138

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

APRIL 4

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1985 for the National Institutes of Health, Department of Health and Human Services.

SD-116

9:30 a.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Bureau of Investigation, Department of Justice, the Federal

Trade Commission, and the Office of U.S. Trade Representative.
S-146, Capitol

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Interstate Commerce Commission.
SD-138

2:00 p.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 the Food and Drug Administration, Department of Health and Human Services, and the Commodity Futures Trading Commission.
SD-124

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

APRIL 5

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Health and Human Services, including the Centers for Disease Control, and the Alcohol, Drug Abuse, and Mental Health Administration.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Neighborhood Reinvestment Corporation, National Credit Union Administration, and the Office of Revenue Sharing (New York City loan program), Department of the Treasury.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the National Endowment for the Humanities, and the Economic Regulatory Administration, Department of Energy.
SD-138

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Labor and Human Resources
Family and Human Services Subcommittee
Business meeting, to consider proposed legislation authorizing funds for low-income energy assistance and Head Start programs.
SD-430

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

APRIL 6

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on S. 50 and S. 1672, bills to streamline trade relief procedures and make trade relief more accessible to small businesses.
SD-215

APRIL 10

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Health and Human Services, including the Office of Inspector General, Office for Civil Rights, Policy Research, and Departmental Management, Salaries and Expenses.
SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Coast Guard.
SD-138

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for fossil energy research and development programs of the Department of Energy.
SD-138

APRIL 11

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Urban Mass Transportation Administration, Department of Transportation.
SD-138

Labor and Human Resources
To resume oversight hearings on certain activities of the Legal Services Corporation, focusing on past and present policies at the Corporation, including political activity.
SD-430

APRIL 12

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Emergency Management Agency, and the Federal Home Loan Bank Board.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the strategic petroleum reserve, and the naval petroleum reserves.
SD-138

APRIL 24

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

10:00 a.m.
Labor and Human Resources
Family and Human Services Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on title XX (adolescent family life demonstration projects).
SD-430

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Geological Survey, Department of the Interior.
SD-138

APRIL 25

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

APRIL 26

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Housing and Urban Development.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Smithsonian Institution.
SD-138

Labor and Human Resources
Family and Human Services Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on title XX (Adolescent Family Life Demonstration Projects).
SD-430

APRIL 30

2:00 p.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Supreme Court, and the Arms Control and Disarmament Agency.
S-146, Capitol

MAY 1

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Transportation and certain related agencies.
SD-138

Labor and Human Resources
Family and Human Services Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on title X (Family Planning).
SD-430

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the National Park Service, Department of the Interior.
SD-138

MAY 2

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Transportation and certain related agencies.
SD-138

MAY 3

10:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for U.S. Territories.
SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Transportation and certain related agencies.
SD-124

Labor and Human Resources
Family and Human Services Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on Title X (Family Planning).
SD-430

MAY 7

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for certain programs of the Department of Housing and Urban Development and related agencies.
SD-124

MAY 8

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for certain programs of the Department of Housing and Urban Development and related agencies.
SD-124

Labor and Human Resources
Family and Human Services Subcommittee
Business meeting, to consider proposed legislation authorizing funds for programs of the Public Health Service Act, including Title X (Family Planning), and Title XX (Adolescent Family Life Act).
SD-430

MAY 9

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

MAY 15

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2329, to improve retirement income security under private multiemployer pension plans and to remove unnecessary barriers to employer participation in those plans by modifying the rules relating to employer withdrawal liability, asset sales, and funding.
SD-430

MAY 17

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To resume hearings on S. 2329, to improve retirement income security under private multiemployer pension plans and to remove unnecessary barriers to employer participation in those plans by modifying the rules relating to employer withdrawal liability, asset sales, and funding.
SD-430

MAY 22

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on alleged corruption by officials of the Boilermaker's Union.
SD-430

JUNE 13

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JUNE 19

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on the civil rights of victims in labor disputes, focusing on existing agencies ability to protect rank and file employees and the general public during labor disputes.
SD-430

JUNE 20

9:30 a.m.
Labor and Human Resource
To continue oversight hearings on the civil rights of victims in labor disputes, focusing on existing agencies ability to protect rank and file employees and the general public during labor disputes.
SD-430

CANCELLATIONS

FEBRUARY 24

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on S. Con. Res. 69, expressing the sense of the Congress that the Secretary of Transportation should make available for civilian use certain satellite-directed navigational aids developed by the Department of Defense for the guidance of aircraft.

SD-253

MARCH 6

9:30 a.m.

Governmental Affairs

Information Management and Regulatory Affairs Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal years 1985 through 1989 to carry out the provisions of the Paperwork Reduction Act (P.L. 96-511), to reduce Federal paperwork requirements and duplications, and consolidate statistical policy activities with information management in the Office of Management and Budget.

SD-342

SENATE—*Thursday, February 23, 1984*

(Legislative day of Monday, February 20, 1984)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Give unto the Lord, O ye mighty, give unto the Lord glory and strength. Give unto the Lord the glory due unto His name; worship the Lord in the beauty of holiness.—Psalm 29: 1,2.

Almighty God, supreme Lord of the universe, the whole Earth is full of Thy glory. "The heavens declare the glory of God and the firmament sheweth his handywork." (Psalm 19: 1). Help us to see that we diminish our humanness when we do not or will not glorify Thee. Help us to see that the root of man's refusal to honor Thee as the first order of life is not simply oversight but is actually rebellion. Grant us grace dear God to set our priorities straight and to give to Thee the preeminence which is exclusively Thine. We pray in the name of Him whose exemplary humanness was a perfect model of praise and adoration to God. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I am advised that the distinguished Senator from Idaho (Mr. SYMMS) has no need now for the special order in his favor which was granted for this morning and I know of no other Senator who needs additional time. I inquire of the minority leader if he has any requests or requirements for additional time. I could save that 15 minutes if he wants it or I can yield it back.

Mr. BYRD. Mr. President, I appreciate the offer by the distinguished majority leader. I might need a little of the majority leader's time if he would hold it for me.

Mr. BAKER. Very well. Mr. President, I ask unanimous consent that time allocated to the distinguished Senator from Idaho (Mr. SYMMS) may be added to the time of the two leaders equally divided.

The PRESIDING OFFICER (Mr. TRIBLE). Without objection, it is so ordered.

Mr. BAKER. Mr. President, that means Senator PROXMIRE would be on deck for the first special order. If he is within hearing, I expect he is on notice of that event.

After the special order is executed, we will have a period for the transaction of routine morning business, as previously ordered, which will end at 11:30 a.m., and then we will go back to the career criminal bill.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I do not expect today to be a long day. We have a series of votes ordered beginning at 2:30 p.m. After that it is the intention of the leadership on this side to try to reach the Export Administration bill, even though I am aware of the fact that some of those who are principally involved in the debate on that issue may not be available until late today or tomorrow. But we have a deadline on that bill. The last extension of that measure is upon us. I think it expires next week. So it would be the intention of the leadership on this side to ask the Senate to turn to the consideration of the Export Administration bill today, even though I fully anticipate that we may ask consent to lay aside that measure temporarily and proceed to other matters as they are available and can be mutually agreed on by the minority leader and I and cleared on our respective sides.

One bill that comes to mind that we might do is Calendar Order 648, S. 422, a bill to amend title 18 of the United States Code to provide a criminal penalty for robbery of controlled substances, which is usually referred to as the pharmacy robbery bill. I do not think that will take long. But it is really a logical part of the crime package that the Senate has been considering for the last several days and if it is possible to clear that this afternoon after we lay down Export Administration then perhaps we could do that.

There are other matters we may be able to take up, but I will consult with the minority leader on them as well.

Once again, after we finish the career criminal bill, which will be sometime after 2:30 today, we will try to lay down the Export Administration bill, with the expectation that we may lay that measure aside temporarily and go to other things that can be cleared.

I am advised that there is one privileged matter that may be available today and that is the conference report on ocean commerce transportation. I guess that is also referred to sometimes as the shipping bill. And if that conference report is available and if we can arrange a time agreement on that, we will try to do that perhaps also.

Mr. President, I believe that is all I have to say this morning. I offer my remaining time to the minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. Mr. President, I am glad that the majority leader is scheduling the Export Administration bill. I join with him in saying that it is necessary and urgent that action be taken on that bill. I will want to cooperate in every way that I can to that end.

Would the majority leader again, as he did last evening, comment on the prospects for rollcall votes tomorrow?

Mr. BAKER. Yes.

Mr. President, I cannot say that there will not be any rollcall votes tomorrow. What I can say is, to repeat what I said last evening, that I think we will be engaged in general debate on the Export Administration bill tomorrow, assuming that we can reach it, but I would not expect to vote on final passage until at least Monday.

Mr. BYRD. Does the majority leader anticipate any rollcall votes?

Mr. BAKER. I do not anticipate them, Mr. President, but once again, I am reluctant to say there will not be any because there is always the possibility that there would be. But I think the odds are heavy against rollcall votes on Friday.

Mr. BYRD. I thank the distinguished majority leader.

Mr. BAKER. Mr. President, I yield my remaining time under the standing order, if any remains, to the control of the minority leader.

Mr. BYRD. Mr. President, I thank the majority leader.

DEFENSE SPENDING

Mr. BYRD. Mr. President, the need for review of both the level and components of our defense budget is urgent.

The submission of the fiscal year 1985 defense budget highlights the problems which the Weinberger Pentagon has refused or been unable to address effectively: an unacceptably

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

high level of waste and an unwillingness to prioritize programs. The administration wants to fund every conceivable weapons system but has not adequately addressed extravagant, wasteful and even fraudulent costing.

The most successful efforts to get at waste in the Pentagon have been created by Congress in the face of active opposition by the administration. This is true in the case of the creation of an independent Inspector General for DOD. It has been the Inspector General which has surfaced the scandals associated with procurement of spare parts, which constitute as much as $13 billion in annual purchases. Reform is clearly needed in this area—a report by the Inspector General pointed out that DOD was simply not using cost-effective procedures and that contracting officials were not paying adequate attention to cost levels. The administration not only opposed the creation of an Inspector General, it has opposed all other attempts to bring reform in Pentagon practices.

Last year Congress passed amendments which required all defense contractors to provide warranties for their equipment, including free spare parts and repairs. DOD is now seeking repeal of this warranty requirement. Further, Congress created an independent testing bureau in DOD responsible for evaluating weapons independently from the company contractors who produced them. Recent reports indicate DOD is not implementing this reform.

In a further effort to get at these problems, I sponsored successful amendments last fall which require the Office of Federal Procurement Policy to conduct fresh and independent reviews of DOD spare parts pricing and end-of-fiscal-year spending practices. DOD's attitude was to actively oppose the reauthorization of the Office of Federal Procurement Policy. Instead of supporting reform, then, the Weinberger Pentagon has fought it every step of the way.

As for the level of the Pentagon budget, the administration has thumbed its nose at the guidelines provided by the Budget Committee last year. If those guidelines were followed the fiscal year 1985 budget should be some $16 billion lower than requested. Indeed, if we use the administration's inflation estimates and the Budget Committee guideline of 5 percent real growth in defense spending, then Congress should cut about $23 billion off the fiscal year 1985 level and another $40 billion from the fiscal year 1986 administration projection. This would translate into a 2-year savings of some $20 billion in outlays, a major chunk of the dangerously high deficits the administration is proposing.

The administration refuses to prioritize its programs.

Senator Inouye and I joined in writing a letter to Mr. Jim Baker asking for the administration's guidance in ways to reduce the defense budget. We requested that we have that information 48 hours before the next meeting, which will take place today at 2 o'clock. We not only did not get the information we requested; we did not even get the courtesy of a response to our letter.

I do not think there is any question but that there will be some reductions in the defense budget. It seems to me that it would be very helpful if we could have the recommendations of the President as to where we should best make those reductions. That is what Senator Inouye and I had hoped to get. In other words, the prioritization of defense programs.

We need that assistance from the President, the Commander in Chief, and I hope it will be forthcoming.

The administration says it wants to negotiate arms reductions with the Soviet Union, and that some of these weapons systems are to be used as bargaining chips. Yet the arms talks are going nowhere. Arms control thus far is a failure under the Reagan administration. We are going forward with building not one, but two new manned bombers, the B-1 and the Stealth.

I have opposed going forward with the B-1 because it will not penetrate Soviet defenses in the 1990's. Second, the cost of that program is going to delay, I am afraid, the progress that would otherwise be made on the Stealth bomber, which we are advised would penetrate Soviet defenses in the 1990's and beyond.

We are going forward with three new intercontinental missiles—MX and Midgetman which represent two contradictory strategic policies, as well as the new Trident II submarine-launched missile. In addition, we are going forward with different kinds of cruise missiles, Pershing II missiles and a variety of shorter range missiles. Now we cannot have everything at once, we must prioritize and the administration must tell us what is most important and what we can best do without. The B-1 bomber is now estimated to cost about $227 million per airplane—we are buying 100 of them, and yet they will not be able to perform their basic mission by the mid-1990's. That mission will be performed by the Stealth bomber. At some $23 billion in program costs, the American people have a right to know why we need to have the B-1 at all.

In all likelihood, if past experience is to be a guide, they will probably end up costing much more than estimated.

The administration should submit a revised defense budget which would give Congress the appropriate options—namely, alternative levels of spending which would conform to the Budget Committee level of 5-percent real growth, with programs prioritized for our review and selection.

Secretary Weinberger, in testimony this week, stonewalled the Congress, resisting intransigently all suggestions to moderate the defense request or provide us with a list of priorities. He said that it would be "incorrect, dangerous, and wrong" to reduce the defense budget and simply refused to provide a list of suggested cuts. His refusal to cooperate with Congress on defense is unreasonable.

I should say also that we need further assurances that DOD will not obstruct the legitimate and legal requirements imposed on it for reform of the outrageous costing scandals now afflicting DOD, and that are being brought to light through the committee processes and through the press.

Mr. President, I ask unanimous consent to have printed in the Record an item from yesterday's Washington Post entitled "Pentagon Report Says Lax Auditing Is Causing Excessive Profits."

There being no objection, the article was ordered to be printed in the Record, as follows:

PENTAGON REPORT SAYS LAX AUDITING IS CAUSING EXCESS PROFITS

(By Fred Hiatt)

Military contractors are making millions of dollars in excess profits because Defense Department auditors are not attentive enough and do not punish companies that overcharge, according to an internal report by the Pentagon's assistant inspector general.

For example, the report states, the manufacturer of Army Blackhawk helicopters used Pentagon audits to persuade the company's subcontractors to lower prices by as much as $40.8 million. But the Army signed its contract with the prime manufacturer, Sikorsky Aircraft, before completing those audits, and thus did not benefit from the lower costs, according to the report.

The case is typical of "minimal or nonexistent" attention paid by Pentagon auditors to prices charged by subcontractors, which account for about half of the Pentagon's multibillion-dollar procurement bills, the report says.

In addition, the report says the Pentagon's "soft approach" toward contractors with a history of overcharging "has resulted in unnecessary expenditure of millions of dollars."

Submitted last month by James H. Curry, assistant inspector general for audit policy and oversight, the report examined nine weapon systems worth $5.5 billion. In six of them, prime contractors failed to provide—and Pentagon officials failed to demand—information needed to justify subcontract prices, the report says.

As a result, there can be no assurance that the prices negotiated ". . . were fair and reasonable," the report concludes.

The report is likely to fuel criticism by members of Congress seeking to trim the Defense Department's $305 billion budget request for fiscal 1985. A top Pentagon official last fall urged "that the report be withdrawn" before it could completed and published.

"This report causes us great concern," Mary Ann Gilleece, deputy under secretary for acquisition management, wrote in a memo in November. "It is replete with nonfactual data .... Even draft reports, containing the magnitude of errors such as this one, can cause great damage to the department."

Authors of the report said they had corrected several minor errors and noted that it was not intended to be a formal audit. In a response to Gilleece, they said the bulk of their report is accurate.

Upon request yesterday, the Defense Department released the report, Gilleece's memo and the response by the inspector general's office.

The report lauds the Navy for the contract it negotiated for procurement of F14 fighter jets, one of the nine weapon systems the report examined. The Navy sent auditors to major subcontractors before negotiating its prime contract and so could calculate what it considered a reasonable price for the plane.

There were no other success stories among the nine systems examined. The report found that:

The Army negotiated a contract to buy Bradley Infantry Fighting Vehicles before the prime contractor, FMC Corp., had submitted information about subcontract prices. FMC then negotiated lower prices with its subcontractors, resulting in a $6.7 million "windfall," the report states.

The Pentagon's lax oversight allowed the same manufacturer to continue making parts for the vehicle after subcontractors could have supplied the parts for less, costing the Army more than $5 million.

The contractor purchased $4.2 million of "pivot arm assemblies" from a subsidiary for $470.20 each, for example, after an independent firm offered to supply the part for $323.98 each, according to the report.

An FMC spokesman declined comment yesterday. A spokesman for Sikorsky Aircraft, a division of United Technologies Corp., said he could not comment on the Blackhawk case until he has seen the report.

In another case, the Pentagon rejected suggestions to seek less expensive sources for parts even after a prime contractor suggested such a move.

In 1978, Fairchild Co., prime maker of the A10 attack plane, began suggesting second sources for about 200 high-cost parts that Fairchild had been manufacturing, but Pentagon officials rejected all but two.

Savings on 10 of those parts, had Fairchild's suggestion been accepted, would have been $4.7 million, the report states.

Mr. BYRD. Mr. President, I see the Senator from Wisconsin (Mr. PROXMIRE) in the Chamber. Does he wish time?

Mr. PROXMIRE. I thank the leader. I have time.

Mr. BYRD. I thank the Senator.

Mr. President, I suppose I am at liberty, then. I do not see anyone on the other side of the aisle who would like to have the time at the moment, so I yield back the remainder of my time.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

THE REAL ARGUMENT FOR COMPREHENSIVE NUCLEAR ARMS CONTROL

Mr. PROXMIRE. Mr. President, in a letter to the Wall Street Journal on February 16, Carl Sagan concisely puts the big case for all out worldwide nuclear arms control—now. Sagan's brief 600-word letter is an answer to a critic who questioned whether a nuclear war would really bring a nuclear winter—with weeks of darkness and months of subzero temperatures—throughout most of the world. Sagan argues that even a relatively small scale nuclear war that concentrated on the destruction of cities would, indeed, bring darkness, inhuman cold, and death to the survivors. His contention is based on elaborate and careful calculations by a number of scientists from a number of countries including both superpowers. And how does Sagan's critic answer this? His critic's rebuttal is based on no scientific evidence, no calculations, just a theory which Sagan rebuts with evidence.

Who is right? Mr. President, I shall take Sagan and the scientific evidence. It is like putting the deans of our best medical schools up against a primitive, chain-smoking witch doctor on whether smoking contributes importantly to cancer and heart disease. In that case, I would take the medical school deans.

Mr. President, I venture to guess that at least 95, perhaps 100, Members of this body, if they would study all the evidence, would agree with the Sagan thesis that a nuclear war would probably devastate the surviving human remnant—that is, what is left after the bombing and concussion and fires. Few Members of this body have given the nuclear winter consequences of a nuclear war the consideration it deserves. That is unfortunate, because the implications for the policies we follow are obvious. If there has been a congressional hearing on this critical revelation, it has been a well-kept secret. Consider what these scientists find as the consequences of a nuclear war. They find it would very possibly exterminate most of the human race. Weeks of darkness and months of subzero cold that would immediately follow such a war would kill plants and animals throughout the Earth. Famine and starvation more widespread than any in human history would follow. With cities devastated, transportation destroyed, utilities dead—what could generate heat? Our homes would become icy tombs. Almost all of mankind would freeze or starve to death.

Mr. President, from any angle we consider the nuclear winter, we must come to the conclusion that we have a single, overwhelmingly vital responsibility now as U.S. Senators. That is to prevent a nuclear war. Even a small nuclear war, a nuclear war not involving either one of the superpowers, could destroy us. For those Senators who have ignored nuclear proliferation, consider this chilling conclusion of Dr. Sagan—that there is "a very real prospect that nations far from the zone of immediate and utter devastation will suffer unprecedented catastrophe without a single nuclear weapon being dropped on their territories."

American and allied firms have repeatedly sold nuclear materials and equipment to Argentina, Brazil, South Africa, Pakistan, India, and we are about to sell to China—which has the distinction of being both the biggest Communist country on Earth and the world's most aggressive pusher of nuclear arms—know-how, materials, and equipment. Every single one of these countries that has or very likely will receive nuclear exports from the United States, with the exception of China, has refused to sign the Nuclear Arms Nonproliferation Treaty. That treaty would prohibit the diversion of nuclear materials or equipment for military purposes. Would any Senator like to tell us that these nations are not engaged in building nuclear arsenals? Whom are we trying to kid? Of course they are. That is why they did not sign the Nuclear Nonproliferation Treaty. And If we continue to follow our present mindless nuclear proliferation policies, will they succeed? Absolutely and for sure.

Mr. President, this great country may disappear from the face of the Earth in the next 20 or 30 years without either superpower lifting a military finger against the other. What an irony. Both superpowers have built massive deterrents. There is every reason to suspect they will work to deter a superpower attack. A Russian preemptive nuclear attack on this country would be an act of certain suicide. We know it. They know it. So in all probability, unless there is a terrible accident, it cannot happen. But a "small nuclear war" in the Middle East, where they are always fighting, or in the Far East or even in South America could end life in the United States and our present weak policies on proliferation move us constantly closer to that grim prospect.

Mr. President, I ask unanimous consent that the letter to the Wall Street Journal by Dr. Carl Sagan headlined, "The Chilling Aftermath of a Nuclear War" be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

The Chilling Aftermath of a Nuclear War

(By Carl Sagan, Director, Laboratory for Planetary Studies, Cornell University)

A nuclear war, even a fairly modest one, now seems likely to trigger a period of hemispheric, and possibly global, subfreezing cold and dark that would have catastrophic consequences for our planetary civilization and perhaps for our species. The cause would be absorption of sunlight at altitude by dust from high yield ground-bursts and, particularly, by soot from the burning of cities and forests. My colleagues and I have called this effect Nuclear Winter, and have described it in some detail in the Dec. 23 issue of Science, the publication of the American Association for the Advancement of Science.

This study (also known as the TTAPS Report, after the last names of its authors, Turco, Toon, Ackerman, Pollack and Sagan) has been carefully reviewed by over 100 scientists, and roughly similar conclusions have since been drawn in separate calculations by scientists of many nations, including the Soviet Union and in U.S. weapons laboratories.

I was, therefore, surprised to see the article (editorial page Feb. 3) by S. Fred Singer, based on no calculations whatever. While acknowledging that our conclusions "may well be correct," Singer proposes that the net effect of the soot and dust might be to warm the Earth through the greenhouse effect, rather than to cool it. He is generous in crediting our group for "the pioneering work on the Venus greenhouse effect," and chides us for not taking Venus rather than Mars as the appropriate analogy for the post-nuclear war Earth. But these results are too important to be based on mere analogy. We have calculated some 40 different nuclear war cases, with a wide range of parameters, and in none of them is there any significant surface temperature increase. The reason is not difficult to grasp: soot absorbs more light in the visible than in the infrared, where greenhouse opacities must lie.

Dr. Singer then argues that even if we are right about the freezing, the effects would not last "very long." Again he offers no calculations. Our extensive computer modeling takes account of a variety of plausible values of parameters associated with coagulation of particles, rainout and other scavenging mechanisms.

We are taken to task for "inconsistencies"; in particular, the fact that the depletion of the ozonosphere by fireball-generated oxides of nitrogen will not increase the flux of biologically dangerous ultraviolet light at the surface of the Earth while the soot and dust are still in the atmosphere. This is true, as we state explicitly and repeatedly. What Singer overlooks is that the timescale for the ozonosphere to heal itself is longer than the timescale we calculate for Nuclear Winter, so that long after the dust and soot have been removed from the atmosphere, incremental solar ultraviolet light is reaching the surface through the still disrupted ozone layer.

He then goes on to complain that in any case Nuclear Winter is not novel; that it is merely a specific example of a "Doomsday Machine" of the sort Herman Kahn described in general terms many years ago. The connection of Nuclear Winter with Doomsday Machines is explicitly and repeatedly made in my article on the policy and doctrinal implications of Nuclear Winter, published in the Fall/Winter 1983 issue of Foreign Affairs.

The prospect of Nuclear Winter seems to require a serious reassessment of many aspects of the conventional strategic wisdom, including (1) the possibility that a "decisive" first strike is suicidal to the aggressor even if the adversary does not lift a finger to retaliate; (2) the bankruptcy of "crisis relocation" and "civilian shelter" programs; and (3) the very real prospect that nations far from the zone of immediate and utter devastation in Northern Mid-latitudes will suffer unprecedented catastrophes without a single nuclear weapon being dropped on their territories.

One of the many surprises for us in the TTAPS calculations was the possibility that a quite "small" nuclear war, involving 1,000 weapons, each of 100-kiloton yield, all exploded over cities, could produce virtually the full Nuclear Winter effects. The present global strategic arsenals are almost 20 times larger. As long as the U.S. and the Soviet Union are content to maintain and even augment such bloated arsenals, we are trusting the human future to the reliability of machines and the sobriety and sanity of political and military leaders for the indefinite future and for a steadily increasing number of nations. The danger is so grave and so open-ended as to suggest an urgent need for a massive, bilateral, verifiable decrease in the global inventory of nuclear weapons to below the threshold at which Nuclear Winter could be triggered, while still preserving, if we so wish, the doctrine of strategic deterrence.

BEATE KLARSFELD'S INSPIRING EXAMPLE

Mr. PROXMIRE. Mr. President, I would like to share with you a story from the January 22 issue of Parade magazine. The article is about a very courageous person named Beate Klarsfeld.

Beate grew up in wartime Germany. Hitler, to Beate, was the powerful leader of her country who was soon to be the leader of the world. It was not until her marriage to Serge Klarsfeld that she learned the truth about Hitler's horrifying extermination camps.

Serge Klarsfeld is one of the fortunate Jewish survivors of World War II. His experiences opened Beate's eyes to a history she had never known. Shocked and outraged by her own country's injustice to humanity, Beate Klarsfeld then decided to dedicate her life to tracking down Nazi war criminals.

Mrs. Klarsfeld's mission was dangerous and intense. She was often arrested and risked her own life to help convict those involved with Hitler's genocide of 6 million Jews.

Included in the death toll were "The Children of Izieu." A home in the small French village of Izieu hid 41 Jewish children from the Nazi terror surrounding them. The children were safe until one day in 1944 when eight German SS men broke into the home. Leading the invasion was Klaus Barbie.

Barbie and his men forced the children out of the house and into their trucks. These innocent youngsters were driven to Auschwitz where they later died in the gas chambers. These children make up only a small fraction of the murders for which Klaus Barbie is responsible.

Barbie, known as the "Butcher of Lyons," became a prime target of Beate Klarsfeld's investigative efforts. After years of pursuit, Klaus Barbie was finally traced.

The trial 1 year ago last month resulted in Barbie's exile. The verdict represents a moral victory for humankind and was a personal victory for Beate Klarsfeld stemming from years of exhaustive research and investigation.

Beate Klarsfeld's courage and determination represent an inspiring example for us as a nation. The Senate must ratify the Genocide Convention, which would help protect national, ethnic, racial, and religious groups from morbid crimes like those committed by Klaus Barbie.

NAILING DOWN THE SAVINGS

Mr. PROXMIRE. Mr. President, I congratulate the Health Care Financing Administration (HCFA) for issuing regulations which should save the taxpayers at least $20 million a year. Here is how the taxpayers will save that money.

Last November, I gave HCFA my Golden Fleece Award for allowing medicare to foot the bill for cutting healthy toenails. Medicare does not usually pay for routine foot care, such as cutting toenails. But if patients have an infection around the toenail, then medicare will pay for a procedure called debridement of mycotic toenails—in other words, cutting infected toenails.

The Inspector General of the Department of Health and Human Services investigated these payments and found:

> Solid indications that some podiatrists * * * are misdiagnosing the medical condition of beneficiaries in order to obtain medicare reimbursement for routine toenail cutting, which is generally not a covered service.

What were some of these indications? Some practitioners billed the medicare program $791,000 for their services, over 70 percent of which were for the debridement of mycotic toenails. Others billed for as many as 116 debridements in a single day, which is certainly questionable because a debridement normally takes about 15 minutes.

I endorsed two reforms which would help end this waste. First, limit reimbursements for debridements to once every 60 days, unless a medical doctor documented the need for more frequent treatment. Second, require that medical doctors determine that the toenail is really infected.

Here is what HCFA recently did to end this waste:

> The trimming or treatment of a mycotic nail has been specifically indentified as routine and, therefore, noncovered foot care in the absence of (1) clinical evidence of mycosis of the toenail and (2) compelling medical evidence documenting that the patient either (a) has a marked limitation of ambulation requiring active treatment of the nail or (b) in the case of a nonambulatory patient, has a condition that is likely to result in significant medical complications in the absence of such treatment.

In addition, the regulations require a 60-day screen for this treatment.

Mr. President, I thought my colleagues would be interested to see that the Government, given a little nudge, does work. And the taxpayers will no longer be clipped to the tune of at least $20 million a year.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **BAKER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. MATTINGLY). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER**. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend past 11:30 a.m., with statements therein limited to 5 minutes each.

ESTONIAN INDEPENDENCE DAY

Mr. **PERCY**. Mr. President, on February 24, Estonians throughout the free world will commemorate the 65th anniversary of the Declaration of Estonian Independence. We must join with them to express again our own admiration for all those who presevere against heavy odds to maintain Estonia's national identity.

The people of Estonia have endured continuous efforts by the Soviet Union to "russify" their culture and replace their langauge, an attempt which strikes at the very heart of Estonian national pride. Yet Estonians have continued to resist these efforts due to their inherent belief in their right to their heritage and the worldwide support for their independence.

I am proud that the United States has not forgotten these brave, resourceful people. Last year I was glad to cosponsor a resolution, which passed the Senate by a wide margin, urging the President to take all steps necessary to bring the question of self-determination for the Baltic States before the United Nations. I am hopeful that this resolution will serve notice on the Soviet Union that the world is mindful of the deprivation of national rights and fundamental freedoms in the Baltic States.

Additionally, Congress passed an amendment I introduced creating a separate division of the Radio Liberty broadcast services to the Baltic States thereby increasing the strength and prestige of these services. I believe this transmission, known as the "Baltic States Services," which functions as an informational lifeline through which we can communicate the ideals of democracy, will reinforce the distinct identity of Estonia and her sister Baltic States.

By these actions, I hope to let the people of Estonia know that they are not alone in their struggle, and that they have not been forgotten by those already fortunate enough to enjoy liberty. I have great admiration for the fortitude and courage they have displayed during these long years of struggle and respect them for their adherence to the principles of freedom which they have been denied for so long. It is my prayer that the Estonians will once again know the joy of living in freedom and guiding their own national destiny.

THE FEDERAL DEATH PENALTY

Mr. **PERCY**. Mr. President, yesterday the Senate passed the bill to reestablish the Federal death penalty. I have been asked why I voted against that bill, and by way of explanation, I offer these brief remarks.

I can remember quite clearly the day nearly 10 years ago when the Senate considered and passed a similar bill, sponsored by the late Senator McClellan. I think the arguments for and against the death penalty are much the same today as they were then. We have had a number of Supreme Court decisions on the issue since then, and many of the States have rewritten their laws to take account of the Court's decisions, but the fundamentals are much the same.

I firmly believe that if there were convincing evidence that the death penalty deters crime, I might well support it, at least in some circumstances. But there is no such evidence. Even the Judiciary Committee, in its favorable report on S. 1765, stated that "the available data on this question is at best inconclusive."

In the past I have supported imposing a sentence of death for murder by an inmate of a Federal correctional facility serving a life sentence. In that case, because of his long confinement, such a prisoner would have time to reflect on the gravity of such a crime, and the death penalty could have a real deterrent effect. Although S. 1765 contained such a provision, it contained a great deal more besides, and I ultimately decided I could not support it.

Mr. President, this issue is a grave one, and I have given it deep thought. Years ago, in the wake of the violent murder of my own daughter, I asked myself what I would do if I were called upon to decide what sentence should be imposed on her murderer? I finally concluded, after deep reflection, that I would not impose the death penalty.

Moreover, in that case 13 different people, people who did not know each other, confessed to the crime. If you were to execute one of them, how would you choose? And if you made a mistake, if you chose someone who was not guilty of the crime, there would be no way to correct that mistake.

In the last analysis, each Senator's vote on this issue is a highly personal one, something on which he must answer to his own conscience. The decision is not any easy one. I know that many people favor the death penalty, and I will respect their views as I hope they respect mine. But I have concluded that capital punishment is wrong unless it serves to deter crime. That is why I voted against S. 1765.

Mr. President, I ask unanimous consent that the portion of the CONGRESSIONAL RECORD containing my remarks on the McClellan bill, and the remarks of Senators CRANSTON and HUGHES immediately following mine that day, be included in today's RECORD, in further explanation of my views on the issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAPITAL PUNISHMENT

Mr. PERCY. Mr. President, I am very grateful that the distinguished Senator from Iowa (Mr. HUGHES) is in the Chamber this evening.

Very seldom are votes really influenced by the debate we hear on the floor. Many times on major issues, we have reached a conclusion based on a lifetime experience, and we vote those convictions and those conclusions. In this particular case, on the bill we considered today, the imposition of a death penalty in Federal courts, I have been deeply troubled by the entire issue.

Together with my colleagues, I deplore the heinous crimes that have been committed in this country—murder, kidnaping, hijacking, and so forth. I earnestly have sought, along with my colleagues, to find ways which we could arrest the crime wave we have experienced in this country over a period of years and the types of crimes that have been committed with such visibility in recent days, weeks, and months.

After listening to the debate on the floor, and feeling that the Committee on the Judiciary has given this matter a great deal of thought and consideration, I would have expected to find more solid evidence that the death penalty would in fact be a deterrent to the crime and would provide a solution to the problems that we as a society have faced.

I think it is unconscionable for a human life to be taken by an individual or by society. Before I could condone the Government of the United States, and before I could cast a vote for our Government, to establish the procedure for the mandating of the death penalty, I would have to be absolutely convinced that it would be a deterrent and would prevent another crime that might have been committed against mankind—in fact, against the whole idea of God and creation. I did not see that evidence.

Mr. President, I have given a great deal of thought to the legislation now before the Senate which would reinstate the death penalty. The debate has been of a high quality and it has helped me to reach a conclusion.

For many reasons the taking of human life is unconscionable. It is a basic affront to the dignity of each human. The murder of a human being is an irrevocable act, whether committed by a vicious criminal, or whether committed by the Government of the United States, or any of the 50 States.

Before I could cast my vote to institute legalized murder on behalf of the government, I would have to be convinced that such a vote is absolutely essential and fully justified. The burden of proof must be on those who argue for the death penalty. Before any of us can vote for death, I believe we must be convinced, "beyond a reasonable doubt," if you will, that the death penalty is necessary and justified.

To my mind, this proof has not been forthcoming.

Every study that I have seen on this question has concluded that the death penalty is not a deterrent to crime. Perhaps if I could be convinced that the death penalty was in fact a deterrent then I might be more inclined to vote for this bill. But I have not been so convinced.

I share the concern which others have stated over the finality of the act. If we later discover that we have executed the wrong person, there is no recourse. As Lafayette said, and as was so eloquently quoted by the distinguished Senator from Iowa (Mr. Hughes) yesterday:

"I shall ask for the abolition of the penalty of death until I have the infallibility of human judgment demonstrated to me."

This problem is, in and of itself so serious that I feel it must be resolved. Yet, there is no way to resolve it, precisely because we all are indeed fallible—we do make mistakes. Fortunately, in most instances we can overcome our mistakes when we find we are in error. But in the case of death, a mistake would indeed be fatal. Thus a vote for the death penalty only invites our society, at some time, in the future, to make such a terrible mistake. I am not prepared to vote for our Federal Government to take that risk when I cannot see any clear-cut advantage to society and our citizens if we do.

If my vote for the dealth penalty would mean that any victim could be brought back to life by the execution of the assailant, then I would vote for this bill. But, as the distinguished Senator from Michigan (Mr. Hart) has so forcefully pointed out, the Government's murder of the criminal does not bring back the victim, and no vote today by any Senator will bring back the life any victim of a murder. What it does do, though, is contemplate more deaths, sanctioned, authorized, and mandated by the Government.

I admit that I have been mentally torn by this issue, and I have reached my conclusion only with great difficulty. I have been moved by the eloquent statements of my two distinguished colleagues, Senator Hughes and Senator Hart. To my satisfaction, they have rebutted the arguments of the proponents of this legislation, and thus the respect for life still stands as the ultimate criterion upon which I base my judgment.

For those who argue that without the threat of the death penalty there is no effective deterrent to serious and violent crime, I say this does not seem to be the view of leading professional penologists. In my judgment, and that of many others, the way to deter crime is through the certainty of swift justice. Through the centuries that we have imposed the death penalty, criminals have not been deterred by the threat of death.

But clean up the criminal justice system, provide for speedy trials, swift but sure justice, and that will be the deterrent which we all so earnestly want. Senator Ervin has introduced legislation to accomplish this that I have cosponsored.

Mr. President, every citizen has felt the sting of crime. Many have felt the pain of having a loved one taken from them by a senseless murder. But I say to them, with deep feeling, the death penalty is not the way to react to this barbarism. Violence only breeds more violence. If we indeed believe that we are a civilized society, we must try to overcome our visceral, emotional responses, and instead heed the counsel of wisdom, the counsel of humanity, and the counsel of experience, and refuse to authorize the Government's cold blooded and premeditated murder of any person.

Mr. President, in conclusion, if some time in the future I could be convinced that the death penalty could be a real deterrent, I might change my mind. But with the evidence before us today, I am not so convinced.

I am also concerned that the specter of a mandatory death penalty might influence some jurors and cause them to acquit a guilty person. Certainly, we do not want to take any action which would have such an adverse result.

In addition, the presence of the death penalty will only prolong the process of the trial, delaying a final determination, and this is contrary to having speedy justice.

Finally, the penalty of life imprisonment is still present, and by voting against the death penalty, no one in this body is voting for permissiveness nor is anyone being soft on crime. The penalties are and will remain severe. But the penalty of death is neither necessary nor justified. Those who have argued for it have, in my judgment, failed to overcome the presumption of every citizen's right to live.

Before reaching a final conclusion I put to myself the ultimate test. What if I were called upon to decide what sentence should be imposed upon the vicious murderer of my own daughter?

I would not impose the death penalty.

I would want that person removed from society, so that he could not commit another crime. During a life of imprisonment, I would want that person hopefully some day to realise the gravity of the crime against God and one of his children that he had committed. I would hopefully want this person to be convinced that he had committed a sin against God as well as against society and ask for God's forgiveness for that act. Death for such a person would in a way be too easy. I would not want to be guilty of committing another crime in the name of society.

Consequently, I cast my vote against this legislation.

Mr. Hughes. Mr. President, will the Senator yield?

Mr. Percy. I am happy to yield.

Mr. Hughes. Mr. President, I wish to commend the distinguished Senator from Illinois and also thank him for restoring in my own heart a great deal of satisfaction to stand here and witness a father who has lost a beloved daughter by a savage and vicious murder, to this date unsolved in the annals of criminal history, and say that if he were given the right to make the decision as to whether the murderer might live or die, that he would choose that the murderer might continue to live and eventually find redemption and forgiveness through repentance. It is a statement which I think few men would make, even if they had the opportunity under similar circumstances.

This body today, I think, has witnessed something unique, in both the Senator from Illinois, who has lost his daughter, and whose family has suffered one of the most grievous crimes in our history, and the Senator from Massachusetts (Mr. Kennedy), whose own family has suffered so grievously from murder, explaining the bill to this body, that they see light in the society and hope in humanity by not reinstituting a savage means of so-called justice again in our society.

I have known the Senator from Illinois so well and his own deep faith that has borne him through in these many troubling hours.

In biblical history we know that Moses, after 40 years, was led to the Promised Land, to lead his people to freedom from Egypt. We read of King David, who sent his own son into battle, and then took his wife in adultery, but who was forgiven by God.

We can look at the Master himself, and those who were followers of Christ, when a capital crime was committed by a woman and she was condemned for committing adultery. He said to her. "Where are those who have condemned you?"

She said, "Master, they are not here," and he said, "Neither do I condemn you."

A father who has lost his daughter knows the pangs and the pains of the event. Having three daughters of my own, and thinking how I would feel, placed in a similar situation, makes me at this moment say to my distinguished colleague from Illinois that I will always be indebted to him for having witnessed to the magnificent feeling of heart and soul that he has expressed when he was faced with this most difficult pain that has touched his family.

I commend him for the forgiveness that is in his own soul, and I express the hope of all mankind that we might share in comparable compassion if we were faced with a comparable problem which faced the distinguished Senator from Illinois.

Mr. Cranston. Mr. President, I, too, want to express my gratitude to the Senator from Illinois for his statement. It was a powerful one, one that I trust will be heeded by many Americans as they reflect upon where we stand and what we are doing when we consider the problem.

I wish to commend the courage of the Senator from Iowa for expressing himself as he has, and also the Senator from Massachusetts for the position he took, in light of the history of his own family.

DELAWARE ATHLETES—OLYMPIANS

Mr. BIDEN. Mr. President, my State of Delaware is proud to have placed the largest number of athletes, in proportion to its size, on the U.S. Olympic Team which has just competed with

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such distinction in the winter games at Sarajevo.

But we are even prouder of the 10 young men and women who not only represented Delaware and the Nation at those games, but who also exemplified so well the personal discipline, the urge to excel, and the individual will to compete that lie at the heart of the Olympic ideal. They are amateurs in the best sense of the word, because they compete out of love for their sport and with no object other than excellence.

They are true Olympians, and they achieved the excellence they pursued.

Kitty and Peter Carruthers won the silver medal in figure skating pairs, while Lea Ann Miller and Bill Fauver ranked 10th in that event.

Carol Fox and Richard Dalley were 5th in figure skating dance, with Elisa Spitz and Scott Gregory ranked 10th in the same event.

Frank Masley ranked 14th in the luge singles and 13th in the luge doubles, while Tom Barnes was a member of the team that ranked 5th in the four-man bobsled event.

For any 10 young women and men to have performed at such a consistently high level in Olympic competition would have been remarkable, to say the least, but for such a record to have been made by 10 young people who live in a State of less than 650,000 population, Delawareans believe, is a just source of pride.

And beyond that pride, Mr. President, Delaware also feels a strong sense of admiration and gratitude for the contributions of Ron Ludington and for his very special talent at helping the skaters derive the utmost from their own talent and dedication. He is a teacher of rare skill and commitment, and we are fortunate to have him among us.

In a divided and contentious world, Mr. President, Olympic competition provides and invaluable working demonstration that the individual pursuit of fairplay and excellence can, at its best, dissolve our differences and emphasize our common humanity.

It is perhaps the single most important lesson we can learn about ourselves, and for it we are very much indebted to the whole community of Olympic athletes, including these fine young women and men who went to Sarajevo from Delaware and returned in triumph.

VIETNAM MEMORIAL SERVICE

Mr. BIDEN. Mr. President, on November 11, 1983, last Veterans Day, I had occasion to attend the dedication ceremony of a Vietnam veterans monument in my hometown of Wilmington, Del. At that time I listened to an address by Edward M. Jentz, colonel, U.S. Army (retired) that I found both eloquent and poignant. I believe it, along with the remarks of William L. Slacum, Delaware State commander of the Disabled American Veterans, is worth sharing with my colleagues and others. I ask unanimous consent that the remarks of these two gentlemen be printed in the RECORD as if read.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VIETNAM MEMORIAL SERVICE, NOVEMBER 11, 1983, WILMINGTON, DEL.

(By Edward M. Jentz, Colonel, U.S. Army (Retired))

Mothers, Fathers, Next of Kin, Veterans, Ladies and Gentlemen, Young Folks, Children, and Especially My Brothers of the Nam:

This memorial service is in honor of the 166 comrades named in bronze on that statue. It is part of the honors you bestow today upon them and us—the guys who made it back.

And for us Vietnam veterans, the reason we are here is the price paid by Delaware's killed and missing in action and the other 58,000 men and women listed on the Vietnam wall in Washington, D.C. Within this ceremony we will, by emplacement of helmet and jungle boots at 17 rifles, represent those Delaware comrades of the Navy, Air Force, Marines, Coast Guard and Army from the 17 battle campaigns of Vietnam. Indeed, it is a most difficult task to express what those times were for them and us.

I, humbly and with the greatest sense of honor, speak of those times as the names are read of those men of Delaware, some still missing, who gave the greatest gift to their buddies. A. E. Housman, in his poem epitaph, spoke of war and life and death with these lines:

> Here lie we because we did not choose to shame the land from which we sprung.
> Life, to be sure, is nothing much to lose, but young men think it is, and we were young.

The first three campaigns of Vietnam were:

The advisory campaign, March 15, 1962, to March 7, 1965.

The defense campaign, March 8, 1965, to Christmas Eve 1965.

The counteroffensive campaign, Christmas day 1965 to June 30, 1966.

They were times of the delta and its mud. Booby traps, punji stakes, the first tastes of nuc mam sauce.

They were days of H-21 helicopters and Puff the Magic Dragon gunships. They were med evac requests. They were operations known as Game Warden, Market Time, Prairie, Hastings. They were sounds of "di di" and "sorry 'bout that" and "No. 10." They were exhausting climbs in the Central Highlands. They were sand in everything. They were war zone D. The Iron Triangle, firefights in Junction City and Indian Country. They were Peter, Paul, and Mary singing, "Leaving on a Jet Plane." And they were a thousand acts of courage by American service men and women every day.

Reading the names of those honored Delaware comrades from those campaigns is Congressman Tom Carper, a Vietnam Veteran.

I. ADVISORY CAMPAIGN

(March 15, 1962 to March 7, 1965)

Rank, name, service, date of death:

Captain James H. Johnson, Jr., U.S. Army, October 3, 1963.

DEFENSE CAMPAIGN

(March 8, 1965 to December 24, 1965)

Rank, name, service, date of death:

Private First Class James E. Holden, U.S. Army, November 17, 1965.

COUNTEROFFENSIVE CAMPAIGN

(December 25, 1965 to June 30, 1966)

Rank, name, service, date of death:

Specialist Fourth Class George W. Cripps, Jr., U.S. Army, January 13, 1966.

Private First Class Wilbert R. Butler, U.S. Army, February 7, 1966.

Private First Class Douglas D. Alley, U.S. Army, February 26, 1966.

Private First Class Frederick E. Smith, U.S. Army, February 26, 1966.

Specialist Fourth Class Edmund L. Sudler, U.S. Army, March 23, 1966.

Specialist Fourth Class James V. Donnelly, U.S. Army, March 25, 1966.

Private First Class Richard K. Hill, U.S. Marine Corps, March 26, 1966.

Sergeant Arthur C. Morris, Jr., U.S. Army, April 3, 1966.

Sergeant Charles E. Porter, U.S. Army, April 8, 1966.

Private First Class George W. Woodson, Jr., U.S. Army, April 23, 1966.

Private First Class Robert N. Tams, U.S. Army, May 10, 1966.

Staff Sergeant Gene Karl Hess, U.S. Air Force, June 17, 1966.

Private First Class Edwin H. Sornson, U.S. Army, June 20, 1966.

Private First Class Robert M. Bowman, U.S. Army, June 29, 1966.

THE 4TH CAMPAIGN WAS COUNTEROFFENSIVE PHASE II

(1 July 1966 to 31 May 1967)

It was days of claymore mines, flak jackets, bonnie hats, air boats, and sampans.

It was spider holes and rain and kool aid.

It was names like Perfume River, Union I and II, Kingfisher, and Cedar Falls.

It was pop smoke and, "I Roger Yellow Smoke is the LZ Hot?"

It was deep reconnaissance by Green Berets on teams Alabama, Colorado, and Nevada of the Shining Brass and Prairie Fire Operations.

It was cities of Tay Ninh, Nha Trang, Bong Son, Qui Nhon, Chu Lai, Phu Loc and Quang Tri.

It was the songs, "Parsley, Sage, Rosemary and Thyme", and "The Universal Soldier."

It was the Supremes, the Beatles, the Temptations.

And it was a thousand acts of courage by American service men and women every day.

Reading the names of those honored Delaware comrades from that campaign is Mr. Rick Collins, County Executive . . . a Vietnam veteran.

Rank, name, service, date of death:

Lieutenant Commander James J. Connell, Jr., U.S. Navy, July 15, 1966.

Airman First Class Norman W. McRobie, U.S. Air Force, November 26, 1966.

Staff Sergeant James A. Messick, U.S. Army, January 8, 1967.

Technical Sergeant George E. Jones, U.S. Air Force, January 25, 1967.

Major Charles G. Stoeckel, U.S. Air Force, January 31, 1967.

Private First Class William L. Lowman, U.S. Army, February 4, 1967.

Sergeant First Class Wolfram W. Bischoe, U.S. Army, February 13, 1967.

Private First Class Gerald R. Thompson, U.S. Army, March 5, 1967.

Corporal Lawrence L. LaSalle, U.S. Marine Corps, March 17, 1967.

Private Louis A. Leatherbury, U.S. Marine Corps, March 24, 1967.

Staff Sergeant Elmore Brittingham, Jr., U.S. Army, March 25, 1967.

Specialist Fourth Class Victor E. Press, U.S. Army, April 1, 1967.

Sergeant George F. Perry, III, U.S. Army, May 15, 1967.

Specialist Fourth Class George H. Williams, U.S. Army, May 16, 1967.

Private First Class Robert D. Alexander, U.S. Army, May 20, 1967.

Specialist Fourth Class James A. Glover, U.S. Army, May 31, 1967.

THE 5TH CAMPAIGN WAS COUNTEROFFENSIVE PHASE III

(1 June 1967 to 29 January 1968)

It was a time of the Ho Bo Woods, the Ashau Valley, Happy Valley, the Pineapple West of Saigon.

It was cities of Phan Tiet, Moc Hua, An Khe, Plei Me.

It was battle cries of, "Hang Tuff" and "No Sweat" and "Tighten Up" and "Waste 'Em" and "Gun Team Forward," and "Medic," and "Semper Fi."

It was operations Buffalo, Lancaster, Meade River and it was Hill 875.

It was rolling thunder of F100 and F4 and A6 aircraft into North Vietnam.

It was "Dustoff," and Steel Tiger and Route Package One.

It was Tunnel Rats, and Recon, and Dear Johns.

And it was a thousand acts of courage by American service men and women every day.

Reading the names of those honored Delaware Comrades from that campaign are Mr. Al Eshenwald and Mr. Bob Patterson . . . Vietnam Vets.

Rank, name, service, date of death:

Sergeant Howard L. Webb, U.S. Army, June 8, 1967.

Specialist Fourth Class Frank A. Giacobello, Jr., U.S. Army, June 14, 1967.

Specialist Fourth Class Raymond D. Crowder, Jr., U.S. Army, June 19, 1967.

Captain Graham N. Lowdon, Jr., U.S. Army, June 28, 1967.

Specialist Fourth Class Walter A. Samans, Jr., U.S. Army, July 10, 1967.

Corporal Samuel Paoletti, U.S. Marine Corps, July 17, 1967.

Sergeant Robert E. Johnson, U.S. Army, July 21, 1967.

Private First Class William A. Pollard, U.S. Marine Corps, July 21, 1967.

Private Raymond J. Ludwig, U.S. Marine Corps, July 27, 1967.

Lance Corporal George E. Partin, Jr., U.S. Marine Corps, August 14, 1967.

CN Jon J. Hayden, U.S. Navy, August 16, 1967.

Chief Moter Sergeant Harold W. Haddick, U.S. Air Force, August 22, 1967.

Corporal Francis B. Amoroso, U.S. Army, September 3, 1967.

Major William L. Nellans, U.S. Air Force, September 17, 1967.

Corporal Theodore J. Chason, U.S. Army, October 8, 1967.

Private James T. Morris, Jr., U.S. Army, November 3, 1967.

Corporal Edmund L. Palczewski, U.S. Marine Corps, November 3, 1967.

Second Lieutenant Kevin G. Flaherty, U.S. Army, November 4, 1967.

Major Karl D. Hezel, U.S. Air Force, November 17, 1967.

Lieutanant Colonel John M. Martin, U.S. Air Force, November 20, 1967.

Lance Corporal Lance N. Jenkins, U.S. Marine Corps, December 6, 1967.

Corporal Paul F. Branyan, Jr., U.S. Army, December 10, 1967.

First Lieutenant James L. Miller, U.S. Army, December 14, 1967.

Private First Class Donald P. Hamilton, U.S. Marine Corps, December 19, 1967.

Lance Corporal Robert W. Doyle, U.S. Marine Corps, January 5, 1968.

Warrant Officer Paul L. Berry, U.S. Army, January 10, 1968.

Corporal Paul M. Fones, U.S. Army, January 10, 1968.

First Lieutenant Harry P. McFalls, U.S. Army, January 10, 1968.

Private First Class Paul W. Quick, III, U.S. Marine Corps, January 11, 1968.

HM3 Robert L. Tracy, U.S. Navy, January 18, 1968.

Specialist Fourth Class Isaiah White, U.S. Army, January 27, 1968.

Private First Class Robert J. Mereider, U.S. Marine Corps, January 28, 1968.

THE 6TH CAMPAIGN WAS TET COUNTEROFFENSIVE

(30 January 1968 to 1 April 1968)

It was rucksacks, and sappers, and night defensive positions, and mini guns, and starlight scopes.

It was rearm and refuel and carrier decks and it was 5 miles high in a B52 bomber on an ARC Lite Mission.

It was rocket propelled grenades, AK47 rifles, tracers and ricochets.

It was Bam Wee Ba Beer, Lurp Rations, hot sauce on C Rations, it was pizza and ice delivered when you were begging for water, ammo and med evacs, it was the battle of the Hue, the Embassy, the Phu To Race Track.

It was trench warfare on the edge of a hundred firebases.

It was the song, "Those Were The Days My Friend".

And it was a thousand acts of courage by American service men and women every day.

Reading the names of those honored Delaware comrades from that campaign is Karen Peterson, Sister of Kevin Peterson—U.S. Navy Vietnam-era veteran deceased.

Rank, name, service, date of death:

Private First Class Ralph L. Thompson, Jr., U.S. Marine Corps, February 1, 1968.

Lance Corporal Robert C. Anderson, U.S. Marine Corps, February 3, 1968.

Sergeant Donald E. Dawson, Jr., U.S. Army, February 9, 1968.

Specialist Fourth Class Wayman E. Paskins, U.S. Army, February 14, 1968.

Specialist Fourth Class Richard J. Faulkner, U.S. Army, February 25, 1968.

Lance Corporal Linden W. Brittingham, U.S. Marine Corps, March 1, 1968.

First Lieutenant Thomas B. Adams, U.S. Army, March 4, 1968.

Captain Douglas D. Crowe, U.S. Army, March 4, 1968.

Warrant Officer Donald E. Kenton, U.S. Army March 6, 1968.

Corporal Michael D. Rolfe, U.S. Marine Corps, March 8, 1969.

Specialist Fourth Class Raymond P. Dobrzynski, U.S. Army, March 13, 1968.

Second Lieutenant James R. Adams, U.S. Army, March 20, 1968.

THE 7TH CAMPAIGN WAS COUNTEROFFENSIVE PHASE IV

(2 April 1968 to 30 June 1968)

It was a time of Beehive Shells, Cobra Gunships, Sam Missiles.

It was bouncing Betty mines, grenades, trench knives, 500 and 750 pound bombs.

It was napalm, and people sniffers, and fire direction centers, and medical bunkers and air sea rescue.

It was the song, "My Girl", it was Junior Walker, Credence Clearwater and Booker T and the MG's.

It was bailouts over Hanoi and Haiphong and Laos, it was missing in action, it was prisoner of war and it was "Doc, Gimme My Rifle, I Want to Die Fightin".

And it was a thousand acts of courage by American service men and women every day.

Reading the names of those honored Delaware comrades from that campaign is Mr. Ike Harrison . . . a Vietnam veteran.

Rank, name, service, date of death:

Lance Corporal Frank J. Mastromatteo, U.S. Marine Corps, April 8, 1968.

Private Wayne C. Jester, U.S. Army, April 10, 1968.

Corporal Lionel L. Robinson, U.S. Marine Corps, April 10, 1968.

Captain Michael Momcilovich, Jr., U.S. Army, May 5, 1968.

Staff Sergeant Charles A. Geronimo, U.S. Army, May 12, 1968.

Corporal George H. Coppage III, U.S. Army, May 15, 1968.

Private First Class Clifton Cubbage, U.S. Army, May 16, 1968.

Private First Class Joseph M. Kaminski, Jr., U.S. Marine Corps, May 24, 1968.

Lance Corporal Gene T. Grant, U.S. Marine Corps, May 29, 1968.

Sergeant Jacob R. Weldin, U.S. Army, June 6, 1968.

Staff Sergeant Donald M. Cuff, U.S. Marine Corps, June 7, 1968.

Private First Class Toby Ernest Collins, U.S. Army, June 11, 1968.

Private First Class Elmer L. Faulkner, Jr., U.S. Marine Corps, June 18, 1968.

Sergeant Richard M. Chamberlain, U.S. Marine Corps, June 21, 1968.

Warrant Officer Frank W. Jones, U.S. Army, June 30, 1968.

THE 8TH CAMPAIGN WAS COUNTEROFFENSIVE, PHASE V

(1 July 1968 to 1 November 1968)

It was a time of never ending combat assaults by helicopters onto landing zones straight from hell.

It was battles in the monsoons, and search and destroy.

It was building school houses from sheets of tin and midnite requisitioned cement.

It was Firebase Kathy, the Coastal Plain, and the "Once Again Guys, into the Ia Drang."

It was Pleiku, Dak Pek, An Hoa, the Fishnet Factory, Firebases Hardcore and Geronimo, and Camp Evans. It was Ban Me Thout, Gia dinh.

It was Victor Charlie and the Cong and Vc and Kit Carson Scouts.

It was R& R and Round Eyes.

It was the song by the Doors, "This is the End", roaring in your head as you walked point. It was that 20-year-old nurse along side your stretcher saying, "Hang in There Guy" as you bounced to an operating room. And it was crying as you held your dying buddy.

And it was a thousand acts of courage by American service men and women every day.

Reading the names of those honored Delaware comrades from that campaign is MG, retired, Frank Ianni . . . a Vietnam veteran.

Rank, name, service, date of death:

First Lieutenant Leonard A. Bird, U.S. Marine Corps, July 13, 1968.

Corporal James W. Schulz, U.S. Marine Corps, July 14, 1968.

Private First Class David M. Arnold, U.S. Army, July 15, 1968.

Specialist Fourth Class Donald L. Gibson, U.S. Army, July 19, 1968.

Gunnery Sergeant Edward A. Willing, U.S. Marine Corps, July 21, 1968.

Private First Class Luther J. Ross, Jr., U.S. Army, July 22, 1968.

Staff Sergeant William S. Baker, U.S. Army, July 25, 1968.

Private First Class Bruce E. Clough, U.S. Marine Corps, August 2, 1968.

Sergeant First Class Morris A. Mallard, Jr., U.S. Army, August 7, 1968.

Sergeant Jan Victor Henrickson, U.S. Army, August 12, 1968.

Corporal Michael W. Sinibaldi, U.S. Army, August 14, 1968.

Private First Class Bruce E. Dolbow, U.S. Army, August 25, 1968.

Private First Class Aaron Zane H. Glazar, U.S. Marine Corps, September 23, 1968.

Corporal Robert E. Williams, U.S. Marine Corps, September 23, 1968.

Private First Class Philip D. Reeder, U.S. Army, September 27, 1968.

Corporal Ronald T. Bleacher, U.S. Marine Corps, September 29, 1968.

First Lieutenant Werner C. Brown, II, U.S. Army, September 29, 1968.

Lance Corporal Sylvester J. Howard, U.S. Marine Corps, October 16, 1968.

Specialist Fourth Class Robert W. Dieffenbach, Jr., U.S. Army, October 18, 1968.

THE 9TH, 10TH, AND 11TH CAMPAIGNS WERE COUNTEROFFENSIVE PHASE VI

(2 November 1968 to February 1969)

TET 69

(23 February 1969 to 8 June 1969)

SUMMER/FALL 1969

(9 June 1969 to 31 October 1969)

They were times of Operations Scotland I and II, Dewey Canyon, and places like Ca Mau, Can Tho, My Tho, Da Lat, Kontum.

They were some of the days upon days of torture and months of the years of solitary confinement for our POW's.

They were leeches and jungle rot and malaria and Elephant Valley, it was a time of "Baby Light My Fire", and "Blowin in the Wind", and "I Can't Get No Satisfaction."

It was Hamburger Hill.

It was a time of our roaring voices singing, "We Gotta Get Out of This Place", and then we went to again brief our squads, or crews, or just pack our 60 pound loads and sigh, "Here We Go Again."

And it was a thousand acts of courage by American service men and women every day.

Reading the names of those honored Delaware comrades from those campaigns is Mr. James Harbison . . . a Vietnam veteran.

Rank, name, service, date of death:

HM3 John J. Gott, Jr., U.S. Navy, December 18, 1968.

Sergeant Daniel A. Tressler, Jr., U.S. Army, February 2, 1969.

Major Richard J. Curry, U.S. Army, February 23, 1969.

Private First Class Frank W. Nelson, Jr., U.S. Marine Corps, February 23, 1969.

Corporal Richard C. Stevenson, U.S. Marine Corps, February 23, 1969.

Sergeant Arthur S. Hill, Jr., U.S. Marine Corps, March 4, 1969.

Specialist Fourth Class Jeffrey T. Cassidy, U.S. Army, March 10, 1969.

First Lieutenant James L. Ripanti, U.S. Army, March 14, 1969.

Private First Class Lawrence E. Hitchens, U.S. Marine Corps, May 17, 1969.

Corporal Vaughn O. Hall, U.S. Army, May 23, 1969.

Private First Class Alan G. Geissinger, U.S. Army, June 11, 1969.

Sergeant First Class Lloyd J. Downs, U.S. Army, June 19, 1969.

Lieutenant Colonel Arnold C. Hayward, U.S. Army, July 11, 1969.

Sergeant David L. Hastings, U.S. Air Force, July 18, 1969.

Specialist Fourth Class Reginald W. Burris, U.S. Army, August 16, 1969.

First Lieutenant Robert H. Donaway, U.S. Army, August 18, 1969.

Captain Robert P. Acher, Jr., U.S. Air Force, September 1, 1969.

Captain George L. Aikin, U.S. Army, October 9, 1969.

Staff Sergeant Abraham L. Moore, U.S. Air Force, October 11, 1969.

Colonel Frank H. Briggs, U.S. Air Force, October 19, 1969.

Lance Corporal Michael J. Rodowicz, U.S. Marine Corps, October 25, 1969.

Private Charles E. Boxler, U.S. Army, October 28, 1969.

THE 12TH AND 13TH CAMPAIGNS WERE WINTER SPRING 1970

(1 November 1969 to 30 April 1970)

THE SANCTUARY COUNTEROFFENSIVE

(1 May 1970 to 30 June 1970)

It was a time of the Parrot's Beak, the Angel's Wing, the Fish Hook, the Cambodian Coast Blockade, it was Chinese 107 and 122 milimeter rockets.

It was tracker dogs, and scout dogs, and M60 machineguns.

It was sniper teams, and corn crab soup and re-constituted milk.

And it was stand downs and withdrawals, and into Cambodia.

And it was a thousand acts of courage by American servicemen and women every day.

Reading the names of those honored Delaware comrades from those campaigns is Mrs. Pauline Anderson . . . President, Chapter 1, American Gold Star Mothers. Mother of Lt. Charles R. Anderson, killed in Vietnam, 3 March 1971.

Rank, name, service, date of death:

Specialist Fourth Class Robert J. Fuller, U.S. Army, November 10, 1969.

First Lieutenant Robert A. Falkenau, U.S. Army, December 6, 1969.

Second Lieutenant Gary L. Dempsey, U.S. Army, January 1, 1970.

Sergeant Thomas J. Protack, U.S. Army, February 1, 1970.

Specialist Fourth Class James W. Stewart, U.S. Army, February 2, 1970.

Corporal Michael Dipasquantonio, U.S. Marine Corps, February 5, 1970.

Sergeant William J. Murphy, U.S. Army, February 16, 1970.

Warrant Officer Eric W. Taylor, U.S. Army, February 18, 1970.

Specialist Fourth Class Raymond C. Hetzler, U.S. Army, February 27, 1970.

CN Glenn W. Miller, U.S. Navy, April 7, 1970.

Specialist Fourth Class Francis X. Gaworski, U.S. Army, April 10, 1970.

Corporal Rodney W. Wilson, U.S. Army, May 25, 1970.

Private First Class William J. Bunting, U.S. Army, May 26, 1970.

Specialist Fourth Class Earl R. Webb, Jr., U.S. Army, June 3, 1970.

Corporal Richard A. Bowman, U.S. Army, June 9, 1970.

Specialist Fourth Class Michael R. Dadisman, U.S. Army, June 24, 1970.

We come to the final campaigns of Vietnam.

They were:

COUNTEROFFENSIVE PHASE VII

(1 July 1970 to 30 June 1971)

CONSOLIDATION 1

(1 July 1971 to 30 November 1971)

VIETNAM CEASE FIRE

(30 March 1972 to January 1973)

They were still the times of elephant grass, blazing heat and freezing nights in the highlands.

Of POW's and MIA's, of honor and courage equal to Khe Sanh, Con Tien, the Rockpile, LZ X-Ray, the Michelin Plantation, Land Ve, Nui Ba Dinh, Dong Xuai, Red River Valley, and the than Hoa Bridge of earlier years.

Your earplugged transistor radio still rock and rolled you into no man's land. And they were indeed still times of laughter, terror, rage, anguish and incredible acts of valor and humanity by American servicemen and women every day.

Reading the names of those honored Delaware comrades from those campaigns is again Mrs. Pauline Anderson.

Rank, name, service, date of death:

Staff Sergeant William E. Jones, U.S. Army, July 14, 1970.

Specialist Fourth Class Jesse L. Moses, U.S. Army, August 4, 1970.

Corporal Frederick R. Killmon, U.S. Marine Corps, August 31, 1970.

Technical Sergeant Robert B. Johnson, U.S. Air Force, November 29, 1970.

Private First Class Nolan R. Ray, U.S. Army, December 5, 1970.

Sergeant John W. Rucker, U.S. Army, December 14, 1970.

Private First Class Joseph S. Tidwell, U.S. Army, January 17, 1971.

Captain Michael J. Keri, U.S. Army, February 6, 1971.

Private First Class John R. Selak, U.S. Army, February 21, 1971.

First Lieutenant Charles R. Anderson, U.S. Army, March 3, 1971.

Specialist Fifth Class Richard S. Dennison, U.S. Army, March 5, 1971.

Corporal Donald R. Bailey, U.S. Army, March 31, 1971.

Chief Warrant Officer Robert S. Schettig, U.S. Army, July 3, 1971.

Chief Warrant Officer Rolin J. Crosby, U.S. Army, November 6, 1971.

Captain Larry F. Potts, U.S. Marine Corps, April 7, 1972.

Technical Sergeant Donald R. Haskins, U.S. Air Force, April 26, 1972.

Major Gerald F. Ayres, U.S. Air Force, June 18, 1972.

Colonel Paul Oswald Meder, U.S. Air Force, December 21, 1972.

In the novel, the 13th Valley by John M. Del Vecchio, a story of a rifle company in Vietnam in 1970, the main character is Private Chelini—a man just arrived to the war zone. But he is everyman new to war. He is sailor, soldier, marine and airman. His first combat action is a few days later with a group of men who teach him all they know of survival. He comes to love these men in that 9 days operation—he loves them in the purest sense.

Many of them die on the final day and later at a memorial service, similar to this . . . he stands and shouts:

They are not gone;
They are here now;
They stand with us;
They sit in these seats;
Through us, they will live forever.

And so we the living Delaware Vietnam Veterans and our brothers of bronzed honor on that statue say to you, to this State, to this country, and to the world, and we say it in one voice of solidarity, fierce patriotism and honor of having shown duty done and courage proven, yes, we say,—"God Bless America."

VETERANS DAY OBSERVANCE, NOVEMBER 11, 1983

(By William L. Slacum, Delaware State Commander, Disabled American Veterans)

Each year, Veterans Day is marked in countless different ways by countless different Americans across the Nation and around the world.

For some, it has always been a day of mourning and this year an entire nation grieves the recent loss of our brave comrades who have given their last full measure on the shores of the Mediterranean at Beirut and on the island of Grenada. Today, so many mothers, fathers, wives, and other family members recall the shock of an untimely notice advising them that their loved one had sacrificed his life for America on the battlefield.

Today, many brothers, sisters, widows, and orphans will sadly remember standing by the flag-draped casket of one of our country's heroes or heroines as the bugle is sounded and rifle volleys are fired.

For many other Americans, Veterans Day is a time for thanksgiving. Their loved ones fought honorably and well in Europe, the Pacific, Korea, Vietnam, Beirut, or Grenada—and returned home.

For still others, today is a day of curiosity. Their lives and the lives of their loved ones have never been touched by war. They were never threatened by an enemy's bombs and bullets. They've never experienced the struggle to preserve our Nation's values and freedom.

While Veterans Day may mean many hings to many Americans, it's still a day hat somehow touches all of our souls, regardless of how we commemorate those who erved.

Today, all Americans are asked to remember, and to think about, the sacrifices made y some 39 million citizens who have worn he uniforms of our Nation since its founding. This is good.

Even if those thoughts are only momenary—the result of an evening news story bout some Veterans Day observance—it is ood. We must be reminded that America's berty was purchased by blood, sacrifice nd, all to often, life itself.

Today, more than 28 million Americans—men and women, young and old—proudly ll themselves veterans. And they proudly alute the courage and commitment shown y their fellow veterans.

For those of us who have served in uniorm, it is a deeply emotional experience. Veterans recall the enemies of this land of urs—enemies who sought to destroy and dominate the world's mightiest fortress of democracy.

They remember the great acts of courage and the singular dedication they say when they were young soldiers, sailors, airmen, or marines. In short, they recall what it took to keep America free.

On a more personal level, veterans remember the friends who were killed or wounded on the field of battle and those who contracted debilitating illnesses while defending our country. Many recall the final words of buddies who died in their arms.

Veterans Day is all of these things, and more, for members of Disabled American Veterans. Today we think back to the days when we lay sick or wounded in military and Veterans' Administration hospitals. Thoughts about the pain and struggle of rehabilitation come back to us as well.

In addition, each of America's 2½ million service-connected disabled veterans carries a personal reminder of war and what it can do to people. Though the battles for the most part have been over for years, the physical and mental scars of war remain.

The racking cough that one man brought back from the gas-choked trenches of France is still with him 7½ decades after the smoke of World War I has cleared. The arm lost four decades ago at Iwo Jima is gone forever. The muscle tissue shredded by a Chinese rocket in Korea is still scar tissue today. The sight lost to a Vietcong bullet in the Mekong Delta will never return. The suffering of marines from the terroristic attack on their headquarters in Beirut less than 3 weeks ago is just beginning and for some it will never end.

The sacrifices made by disabled veterans during war are still being made today, 365 days a year, every year.

But we are proud people—proud of the sacrifices we made for our country. And we believe all veterans have a right to their pride. War has no glory, but what America's veterans have done has the greatest possible dignity.

Our thoughts on this day also include a prayer, the prayer that, never again, will this Nation be forced into war. Never again, will America's sons and daughters be asked to sacrifice their blood and their lives to save the life of their Nation.

Never again, we hope, will the pain, the bloodshed and the terror of the battlefield be thrust upon the world's freedom-loving people.

Our prayer is also a prayer of rededication. America's Disabled Veterans know, better than anyone else, that freedom can exact a terrible price. They know that freedom is too precious a value to ignore, too dear a principle to relinquish. They know that freedom must be carefully nourished, faithfully tended, and zealously guarded if it is to survive. As we dedicate our Vietnam Veterans Memorial later today, let us rededicate ourselves and our resources to those guardians of freedom that have fought our Nation's battles. Let us renew their faith in us that we are eternally grateful. Theodore Roosevelt, our 26th President, once said, "A man who is good enough to shed his blood for his country is good enough to get a square deal afterward." Today we hope that all Americans will recall the debt owed to those who have defended each and every one of us—those who continue to pay the price of freedom even today.

This year, nearly 1⅓ million veterans will be hospitalized in Veterans' Administration facilities and approximately 18 million will go to the VA for outpatient treatment. On any given day, like today, some 70,000 veterans will be cared for on the wards of VA hospitals across the Nation. Thousands more are residents in State veterans homes and geriatic care facilities in every State.

President Reagan called attention to these men and women in his Veterans Day Proclamation this year. He told the Nation that sick and disabled veterans have earned our special consideration. The words he used are these, "There is no better tangible expression of our affection than by remembering to visit them at home or in our hospitals."

Our home-bound and hospitalized veterans deserve no less. When medicine alone can't curb the pain or cure the disease, a friendly smile can often do so much. And that personal demonstration of care will help acknowledge the debt owed to those who have sacrificed for each of us—a debt that can never be fully repaid.

On this Veterans Day we recall, too, that peace leads a fragile existence. U.S. troops on the demilitarized zone in Korea, our naval forces in the Mediterranean, our peacekeeping forces on Grenada, and our advisers in Latin America are among those Americans who are facing the constant threat of combat right now.

And we must all remember the courageous sacrifices being made today by American marines in Lebanon. Just a decade after the end of our most recent war, American blood is being spilled on foreign soil again.

Our military men and women are away from their homes, their families, and their loved ones on this Veterans Day. Many will still not be home when Thanksgiving rolls around, or Christmas, or Memorial Day.

We must remember these young Americans with our thanks and our prayers for their safety. They are serving as their forefathers served—with pride and the understanding that safeguarding America's freedom is a never-ending job.

Veterans Day is their day too, just as surely as it belongs to all who have worn America's uniforms before them.

Veterans Day is no holiday. It is a day to recall the horror of war and armed conflict. It is a day to honor those who endured that horror for the country they loved. It is a day to pay tribute to those who face that horror today.

SENATE SCHEDULE

Mr. BAKER. Mr. President, at 11:30 a.m. the Senate will resume consideration of the unfinished business, which is the career criminal bill, S. 52, on which there is a time agreement.

The first vote will occur on amendments to that bill or the bill itself, if amendments are not submitted, at 2:30 p.m. I do not anticipate that a vote will occur before 2:30 p.m.

After that, it is the intention of the leadership to try to reach the export administration bill, with the full expectation that we will not deal with it beyond laying it down and making it the pending business.

I anticipate that the Senate will be asked to temporarily lay aside the export administration bill to proceed to other matters, the next perhaps being S. 422, a bill introduced by Senators JEPSEN and THURMOND, to amend

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the United States Code with respect to robbery of controlled substances, referred to as the pharmacy bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMED CAREER CRIMINAL ACT

The PRESIDING OFFICER. Under the previous order, the hour of 11:30 a.m. having arrived, the Senate will now resume consideration of S. 52, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 52) to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment.

The Senate resumed consideration of the bill.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that during this interval period while we wait that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. KASTEN). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, the pending business is Senate bill 52, designated as the Armed Career Criminal Act of 1983. It would for the first time, in my judgment, involve the Federal Government in a significant Federal initiative on street crime in the United States by supplementing the efforts of local prosecutors on the two most serious forms of street crime, robbery, and burglary.

While there are a wide variety of criminal acts, including murder, arson, and rape, the two most prevalent and violent forms of street crime are the robberies and burglaries which constitute the core of the problems of police and prosecuting attorneys. This bill would provide for Federal jurisdiction and Federal prosecution in a situation where an individual had twice been convicted of robberies or burglaries. If that person is subsequently charged with a robbery or burglary, while possessing a firearm, that individual would be subject to Federal prosecution in Federal court, with the individual judge calendar, the Speedy Trial Act, and a mandatory sentence of 15 years to life.

During the course of some 14 years in law enforcement, 8 of which were served as district attorney of Philadelphia, and during the course of extensive hearings before the Criminal Law Subcommittee and the Juvenile Justice Subcommittee on the Committee of the Judiciary, we have found extensive evidence supporting the conclusion that career criminals constitute the major threat to public safety, law, order, and justice in the United States today.

The record is replete with studies showing that career burglars commit a burglary or more a night and career robbers commit a robbery or more every day or two, so that 10 percent of the criminals in this country commit approximately 70 percent of the crimes.

Law enforcement's highest priority, in my judgment, ought to be efforts to stop the career criminal from these repeated robberies and burglaries.

Senate bill 52 directs its attention to providing a very significant leveraging effect to assist local prosecutors.

When I was district attorney of Philadelphia, at any one time I had approximately 500 career criminals on the docket, and it was an extraordinarily difficult matter to bring those defendants to trial because, with their serious records and their serious charges, defendants had great motivation to seek continuances and delays. They also had great motivation for judge-shopping, which is a practice where the defense bar seeks to place the case before a lenient judge. There are a variety of techniques which are available as a defense tactic to have cases continued. As a result, it was extraordinarily difficult to bring these 500 serious cases to trial.

With the availability of the Armed Career Criminal Act of 1983, it would be possible for a local prosecutor, such as the district attorney of Philadelphia to obtain Federal prosecution on two or three or four of these cases. This would cause a tremendous leveraging or rippling effect, so that many of the defendants whose cases were pending in the State court would enter guilty pleas and stop judge-shopping or seeking continuances.

If a few such cases were referred to the Federal prosecutor where there is an individual judge calendar, it would not be possible to engage in judge-shopping. By an individual judge calendar I mean a procedure where a specific judge is assigned a case for the life of the case. Under normal State procedures a case will be listed before a judge at a given courtroom on a given day and if continued it goes back to the general list to be reassigned to another judge in another courtroom on another day. It is in the defendant's interest to have the case continued until he gets the judge before whom he would most like to be tried, or to have the case continued virtually indefinitely until the witnesses disappear or have forgotten key facts, because delay works very much to the advantage of the defendant in a criminal case.

Had the career criminal bill been in effect while I was district attorney of Philadelphia, I am confident that with the referral of a few cases to the Federal prosecutor, there would have been many, many guilty pleas from the other defendants on the docket. They would not have received sentences of 15-years-to-life as is provided under the Career Criminal Act, but they would have received sentences of 5-to-10 years or 7-to-14 years. This would have been a highly desirable period of incarceration following from the leveraging effect of this Federal prosecution.

With the experience in mind in handling such cases as career criminals, I engaged in very extensive hearings before the Criminal Law Subcommittee and the Juvenile Justice Subcommittee, two subcommittees of the Committee on the Judiciary, on which I serve.

The Career Criminal Act was introduced first in the 97th Congress on October 1, 1981, as Senate bill 1688, and subsequently reintroduced in the 98th Congress as Senate bill 52.

One of the first initiatives in support of this bill was to secure a meeting with President Reagan in an effort to obtain his support for the legislation. In mid-November, the President granted such a meeting and along with Attorney General William Smith, Presidential Counselor Edwin Meese and others, the career criminal bill was studied. At the conclusion of the meeting, the President did in fact support this legislation, providing it could be worked out in a way which did not overburden the Federal courts or create tremendous additional expenses for the Federal Government.

We expected that some 500 cases a year would be targeted for Federal prosecution. It was my thought that even with that limited number of cases across the Nation, it could have a tremendous rippling and leveraging effect for the reasons which I have already outlined.

An issue was raised as to the availability of Federal prison space, and at the end of 1981, there was a little prison space among the approximately 30,000 jail cells available at the Federal level.

Our thought was that while it was not desirable necessarily to take 500 spaces for any category of criminal, it would be worthwhile to isolate these 500 career criminals among the worst of the 30,000 who would be incarcerated. The entire process of criminal law enforcement is a matter of selectivity. It is never possible to prosecute all of the cases where charges are brought and crimes have been committed, but it is highly desirable and necessary to pick out the worst of the cases for criminal prosecution. It was our judgment that these career criminals would be among the worst and most deserving of being incarcerated.

Mr. President, we are in the process of trying to work out some of the difficulties with a constitutional issue I shall refer to in the course of this floor statement. I have the appropriate Justice Department official available now by telephone, and I should like to interrupt this presentation and yield the floor. I shall return in a moment. At this time, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. To whose time would the quorum call be charged?

Mr. SPECTER. It may be charged on my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I inquire as to how much time remains.

The PRESIDING OFFICER. The Senator has 2 minutes remaining; the other side has 18 minutes remaining.

Mr. SPECTER. How much time was allotted originally?

The PRESIDING OFFICER. Thirty minutes to each side was allotted originally.

Mr. SPECTER. Mr. President, S. 1688 in the 97th Congress was ultimately passed by the Senate by a vote of 93 to 1, and ultimately was passed by the House of Representatives. It then was part of the seven-part crime package which the President vetoed for the principal reason, as he said, that he was opposed to the concept of a drug czar.

In that veto message, the President did raise a question as to constitutionality of the career criminal bill, and stated concern about the veto provision under which a local prosecutor could stop the jurisdiction of the Federal court.

S. 52 was reintroduced in the 98th Congress and is pending at the present time. The issue of the local prosecutor's veto is part of the text of the bill in the intent of Congress section; this solves the issue which has been raised by the President and by the Department of Justice.

An amendment may be offered, based on concern expressed by some, which would remove the language of local prosecutor veto from the intent of Congress section to the body of the bill. I agree that the Federal prosecution ought to go forward only where there is acquiescence by the local prosecutor. It is my hope that in the course of these proceedings, we may be able to work out that matter.

Mr. President, I yield the floor.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. STENNIS. What is the division of time?

The PRESIDING OFFICER. All the time of the Senator from Pennsylvania has expired. The other side has 18 minutes remaining.

Mr. STENNIS. Mr. President, the Senator who has charge of the bill is detained on another matter. Under these circumstances, I ask unanimous consent that the time not be charged to either side, for at least 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M.

Mr. THURMOND. Mr. President, I move that the Senate stand in recess until the hour of 1:30 p.m.

The motion was agreed to and, at 12:53 p.m., the Senate recessed until 1:32 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. EAST).

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I understand that the distinguished Senator from Massachusetts and the distinguished Senator from Pennsylvania are ready to proceed.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 2716

(Purpose: To provide for an enhanced penalty for career robbers and burglars)

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself and Senators THURMOND, BIDEN, LAXALT, LEAHY, EAST, DENTON, MOYNIHAN, and CHILES, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself, Mr. THURMOND, Mr. BIDEN, Mr. LAXALT, Mr. LEAHY, Mr. EAST, Mr. DENTON, Mr. MOYNIHAN, and Mr. CHILES proposes an amendment numbered 2716.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 5, strike line 3 and insert in lieu thereof the following: "of a robbery or burglary offense which may be prosecuted in a court of the United States, or";

(2) On page 5, strike line 12 and insert in lieu thereof the following: "(c) The offense referred to in subsection (b) of";

(3) On page 7, line 9, add "and" after "way;";

(4) On page 7, line 11, delete "; and" and insert a period after "person"; and

(5) On page 7, strike section 4(c).

Mr. KENNEDY. Mr. President, I commend the Senator from Pennsylvania (Mr. SPECTER) for his work on this legislation, which addresses the serious problem of violent crimes committed by career criminals.

The "Report to the Nation on Crime and Justice," released by the Department of Justice at the end of last year, confirms the significant role played by repeat offenders in criminal assaults on our citizens. In the Wolfgang Philadelphia study, cited in the report, chronic offenders committed 61 percent of all homicides, 76 percent of all rapes, 73 percent of all robberies, and 65 percent of all aggravated assaults perpetrated by members of the group studied. A Washington, D.C. study relied on by the Justice Department in the report, found that persons who had four or more arrests between 1971 and 1975 made up 24 percent of all arrests during this period. With the uncontroverted evidence that a relatively small group of career criminals is responsible for most of the crimes in America, our limited resources must be targeted to this active group of habitual offenders.

In approving S. 1762, the Comprehensive Crime Control Act of 1984, the Senate has taken the most important step at the Federal level to combat career criminals. The reforms in bail and sentencing procedures included in that bill emphasize the importance of swift, harsh punishment for repeat offenders. One of the most important provisions of that bill requires that career criminals who are found guilty of a third serious felony must receive a prison sentence at or near the maximum authorized by law, without early release or parole. This provision will assure the incapacitation of our most dangerous perpetrators of Federal crimes.

In other ways, both Congress and local prosecutors around the Nation have recognized the importance of incapacitating repeat offenders. The establishment of career criminal prosecutorial units was the most successful program funded by the law enforcement assistance administration. Today, career criminal units, which were started with LEAA grants, are operating in the vast majority of local district attorneys' offices in jurisdictions with a population of 250,000 or more. These special units emphasize thorough investigation and prompt and vigorous prosecution of repeat offenders who commit violent crimes.

The bill which the Senate considers today is another useful response to criminal activity by chronic offenders. I am in complete agreement with the concept embodied in the bill that chronic offenders should be dealt with swiftly and harshly. I applaud the idea of encouraging Federal prosecutors to assist State and local prosecutors in bringing career criminals to justice, but I cannot support an expansion of Federal jurisdiction over robberies and burglaries, where State and local law enforcement interests are often paramount, without protection of the legitimate interests of the local prosecutors in these crimes. In its current form, S. 52 contains no such protection for local prosecutors.

I ask unanimous consent that a letter from the National District Attorneys Association in opposition to the bill may be printed in the RECORD at the conclusion of my statement.

Mr. SPECTER. Will the Senator yield for a question?

Mr. KENNEDY. At the conclusion of my remarks, if I may.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. The amendment which I offer today on behalf of myself and Senators THURMOND, BIDEN, LAXALT, and others would restore the appropriate balance between Federal and State interests in robberies and burglaries by limiting the career criminal bill to Federal offenses.

The sponsors of the bill, the distinguished chairman of the Senate Judiciary Committee, Representatives of the Justice Department, and myself, have worked diligently to draft an amendment to the bill that would protect the interests of the local prosecutors without creating concerns within the administration that might lead to a veto of the bill by the President.

The amendment that I now offer is the result of our efforts to resolve the problem of the role of the local prosecutor in prosecutions of robberies and burglaries under the bill. The amendment limits the expedited prosecution, bail procedures, and enhanced penalty provided for in the bill to existing Federal robbery and burglary offenses, where the person charged has been convicted of two prior State or Federal robbery or burglary offenses. By eliminating any expansion of Federal jurisdiction, the amendment moots the issue of participation by the local prosecutor in decisions to prosecute under the bill. The amendment is supported by the Justice Department and local prosecutors around the country.

With my amendment, the bill will provide an important tool for incapacitating career criminals, without adversely affecting Federal-State law enforcement relations.

I urge my colleagues to accept the amendment and approve the bill.

EXHIBIT 1

NATIONAL DISTRICT
ATTORNEYS ASSOCIATION,
Alexandria, Va., August 2, 1983.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: On July 20, 1983, the Senate Committee on the Judiciary reported favorably Senator Specter's Armed Career Criminal Act of 1983 (S. 52). The National District Attorneys Association is opposed to this legislation.

The Armed Career Criminal Act would create a federal offense for third and subsequent robberies and burglaries while armed. The provisions of this bill are essentially the same as contained in S. 1688 which was filed in the 97th Congress by Senator Specter. We oppose the present legislation for the same reasons we opposed the 1982 act.

Robberies and burglaries have historically come within the sole jurisdiction of local police agencies and local prosecutors. Local agencies are better equipped to investigate and prosecute these cases than are the federal agencies. Federal agencies simply do not presently have in place an appropriate apparatus to respond to this legislative mandate without a major new allocation of resources.

Further, the federal system cannot adequately meet the burden of investigating and prosecuting crimes presently within its jurisdiction. A major report commissioned by the Department of Justice recently revealed that, during the period studied, declination policies followed by U.S. Attorneys resulted in a 48 percent decline in the prosecution of bank robbery cases; a 40 percent decline in the prosecution of mail fraud cases; and almost a 60 percent decrease in the prosecution of weapons cases. Prosecutions of other violence-related cases also declined: auto theft prosecutions were down more than 63 percent; cargo theft prosecutions were down about 60 percent; and drug related prosecutions were down about 37 percent. The net result of this policy was to shift the burden of prosecuting these traditionally federal cases to the local prosecutor.

It is ludicrous to create a new federal crime for burglary and robbery when the U.S. Attorneys cannot cope with their present serious federal caseload.

Few dispute the fact that law enforcement in America is essentially a local responsibility. This was most recently recognized by the Attorney General's Task Force on Violent crime. The report was based on the premise that "in general, federal action is appropriate when one or more of the following four conditions are met:

"The crime requires the creation and exercise of federal jurisdiction because it—

"Materially affects interstate commerce.

"Occurs on a federal reservation or in the District of Columbia.

"Involves large criminal organizations or conspiracies that can be presumed to operate in several states.

"Is directed at a target of overriding national importance (e.g., an assassination attempt on the life of a high federal official."

The problem caused by career robbers and burglars does not, under the above guidelines, require the degree of federal cognizance contemplated by the Career Criminal Act of 1983. Indeed, this expansion of federal jurisdiction in the absence of compelling reasons threatens the delicate balance between federal and local governments.

The present bill contains language which expresses the "intent of Congress" that: "An offense under this section shall not be prosecuted unless the appropriate state prosecuting authority requests or concurs in such prosecution and the Attorney General or his designee concurs in such prosecution."

It is a well-known fact that "intent of Congress" language is not legally compelling and, in fact, is often ignored. Presence of this language, therefore, in no way makes this bill palatable to the local prosecutors.

Finally, the Armed Career Criminal Act of 1983 holds out to Americans besieged by crime a false hope that the federal government is riding to the rescue and that soon they can again sleep soundly in their beds. Nothing could be more remotely true and to imply otherwise is to perpetrate yet another hoax on the American people.

Should you require further information on this issue, please contact me.

Sincerely,

JACK E. YELVERTON,
Executive Director.

Mr. SPECTER. Will the Senator yield for a question?

Mr. KENNEDY. Yes, Mr. President.

Mr. SPECTER. The Senator from Massachusetts has raised the issue that there should be control, in effect, in the hands of the local prosecuting attorney. The bill, in its present form, provides in section 4:

> An offense under this section shall not be prosecuted unless the appropriate State prosecuting authority requests or concurs in such prosecution and the attorney general or his designee concurs in such prosecution.

In light of the language which says that there shall not be a prosecution unless the appropriate State prosecuting attorney requests or concurs, how can the Senator from Massachusetts express concern that any court would allow the Federal prosecutor to proceed without such request or concurrence?

Mr. KENNEDY. The Senator knows that answer prior to the time he asks the question. The section of the bill to which the Senator from Pennsylvania refers is an intent of Congress provision. When the Senator from Massachusetts proposed an amendment to put the requirement for local prosecutor concurrence in the main provision of the legislation, it was opposed by the Senator from Pennsylvania. I want to make sure, if we are going to adopt a requirement for local prosecutor acquiescence prior to Federal prosecution under this bill, that we are going to actually include it in the body of the legislation in a clear and precise way. That was the amendment that was initially prepared by the Senator from Massachusetts and was not acceptable to the Senator from Pennsylvania. I think the amendment that we offer now resolves this issue in a way which will insure that expedited Federal prosecution, strict bails, and enhanced penalties, which the Senator from Pennsylvania desires are available for the appropriate armed robbery and burglary offenses. I know it does not quite achieve what the Senator from Pennsylvania would like to achieve or perhaps what would have been acceptable at an earlier time to the Senator from Massachusetts, but nonetheless I do think this is the best resolution of this particular issue.

Mr. SPECTER. Will the Senator yield for another question?

Mr. KENNEDY. Yes.

Mr. SPECTER. How can the Senator compare the reference to a legislative history which contains so many ambiguities with the specific statement of congressional intent of this bill which leaves no ambiguity at all with the flat statement that there cannot be a prosecution without the request or concurrence of the local prosecutor?

Mr. KENNEDY. In answer to the question of the Senator from Pennsylvania, if that was the intent, then we could have included it in the body of the legislation. That was not acceptable. We did include the local prosecutor veto in the bill in the last Congress to clear up any possibilities of ambiguity. The words are clear with regard to the intent section, but it is not included with regard to the operative section. Lawyers draw distinctions with that kind of arrangement. The Justice Department itself has raised questions about what might appear to be the clear expression in the intent section. In order to address that ambiguity, the Senator from Massachusetts and the Senator from South Carolina and our other colleagues have addressed that issue in a way which we believe will resolve it in a very clear, concise, and precise way in the operative provisions of the legislation.

I ask unanimous consent to include in the Record, Mr. President, a letter from the Assistant Attorney General to the chairman of the Senate Judiciary Committee, dated February 7, 1984, expressing the Department's opposition to an amendment requiring acquiescence by the local prosecutor prior to initiation of a Federal prosecution and expressing its support for the bill as reported. Obviously, if the Department believed the intent of Congress language in the bill as reported required acquiescence by the local prosecutor, it would not have supported the bill.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of Justice,
Office of Legislative Affairs,
Washington, D.C., February 7, 1984.

Hon. Strom Thurmond,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This is with reference to an anticipated Floor amendment to S. 52, the Career Criminal Act. The effect of the amendment would be to oust the Federal Government of jurisdiction over offenses under the statute if a State or local prosecutor objects to federal prosecution of the offense. We object strongly to such an unprecedented restraint upon federal prosecutorial discretion as we believe that it (1) raises serious constitutional and practical problems, (2) is totally inconsistent with Senate action only last week on the pharmacy robbery provision of S. 1762, and (3) is unnecessary.

We support S. 52 as reported by the Senate Judiciary Committee. The expected Floor amendment, however, would return the career criminal bill to substantially the same form in which it vetoed as part of H.R. 3963 of the 97th Congress. In announcing his disapproval of that bill, the President stated on January 14, 1983:

"H.R. 3963 would also authorize the Federal prosecution of an armed robber or burglar who has twice been convicted in State court. This provision includes an unworkable and possibly unconstitutional restraint upon Federal prosecutions in this area, by allowing a State or local prosecutor to veto any Federal prosecution under his or her authority, even if the Attorney General had approved the prosecution. Such a restraint on Federal prosecutorial discretion and the delegation of Executive responsibility it entails raise grave constitutional and practical concerns. It would, for example, surely increase friction among Federal, State, and local prosecutors at a time when we are doing so much to decrease it."

In short, the Senate Judiciary Committee has revised S. 52 to avoid the constitutional and practical problems created by earlier editions of the bill. Yet the anticipated Floor amendment would undo the work of the Committee and would modify the bill in such a way that the Department would be obliged to urge its disapproval once again.

We would note that the pharmacy robbery provision of S. 1762, which was approved by the Senate by a vote of 91-1 last week, raised the identical issue to which the amendment to S. 52 seeks to respond. That is, both the pharmacy robbery provision (Part N, Title X of S. 1762) of the Comprehensive Crime Control Act and S. 52 create a potential for "case poaching" by federal prosecutors to the detriment of State and local prosecutors. Yet the Senate did not write the pharmacy robbery part of S. 1762 in such a way as to make federal jurisdiction dependent upon the opinion of the pertinent State or local prosecutor. Rather, the Senate, in approving the pharmacy robbery part of S. 1762, simply stated the intent of the Congress that such cases should ordinarily be prosecuted federally only upon the request of the pertinent State or local prosecutor.[1] There is no absolute statutory ban upon federal prosecution of pharmacy robbery cases as is being proposed in connection with S. 52. We believe that the Senate acted properly in approving the pharmacy robbery part of S. 1762 last week and that the proposed amendment to S. 52 is totally inconsistent with Senate action on S. 1762.

Finally, we would point out that the "fugitive felon" statute, 18 U.S.C. 1073, authorizes federal prosecution of persons fleeing across State lines to avoid State prosecution. That statute created the same potential for federal incursions upon State and local jurisdiction that arises in connection with career criminal legislation and the Congress expressed its intent that fugitive felon cases should not normally be prosecuted by federal authorities. The Department of Justice has honored that expression of Congressional intent and has, over the years, prosecuted only a handful of fugitive felon cases, each one in circumstances where federal prosecution was clearly indicated. There have been no complaints whatsoever by State or local prosecutors regarding the activities of the Department of Justice under 18 U.S.C. 1073 and thus we believe that there is no empirical basis for suggesting that a statement of Congressional intent is inadequate to prevent inappropriate federal intrusion into State and local jurisdiction in areas of concurrent jurisdiction.

Again, we support S. 52 as reported by the Committee on the Judiciary but strongly object to the anticipated Floor amendment and would feel constrained to recommend that the President disapprove S. 52 if amended to make federal jurisdiction absolutely dependent upon the consent of the pertinent State or local prosecutor.

Sincerely,

Robert A. McConnell,
Assistant Attorney General.

Mr. SPECTER. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Massachusetts has 7 minutes and 31 seconds, the Senator from Pennsylvania has 18 minutes.

Mr. SPECTER. Mr. President, is this on the Kennedy amendment?

The PRESIDING OFFICER. That is correct.

Mr. SPECTER. Was the response of Senator Kennedy charged to my time?

The PRESIDING OFFICER. It was not.

Mr. SPECTER. How much time did I start with on the amendment?

The PRESIDING OFFICER. Eighteen minutes.

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[1] Part N of Title X of S. 1762 does require the approval of a high-level official in Washington in order to initiate a federal pharmacy robbery prosecution in circumstances where a State or local law enforcement official does not request or concur in federal prosecution. We would have no objection to insertion of a similar provision in S. 52.

Mr. SPECTER. I started with 18 minutes.

The PRESIDING OFFICER. That is correct.

(Mrs. HAWKINS assumed the chair.)

Mr. SPECTER. Madam President, I forcefully oppose the Kennedy-Thurmond amendment because it would emasculate the career criminal bill which last year passed the Senate by a 93-to-1 vote. Senator KENNEDY has referred to his original proposal to move section 4 which would require local prosecutor request or concurrence into the body of the bill, and quite frankly it was agreeable to me to have it either in the body of the bill or in the intent section. The reason it was put in the intent section is because in the President's veto message in January of 1983, on a seven-bill package, there was a reference to a possible unconstitutional restraint or a grave constitutional issue. In order to eliminate that possible problem I agreed to put the language of concurrence or request into the intent of Congress section of the bill. I am equally agreeable to putting the language into the body of the bill. But what the Kennedy-Thurmond amendment does is to change this legislative provision totally. It now provides that the career criminal designation will be applied only to robberies or burglaries which may now be prosecuted in Federal court. That means that they are limited to bank robberies on Federal property like post offices. The whole intent of the career criminal bill would be emasculated and gutted. The purpose of this bill is to bring the Federal Government for the first time into the area of street crime. Where someone is convicted of two or more robberies or burglaries in the past and commits a subsequent robbery or burglary with a firearm, that offense may be prosecuted in the Federal court, with its speedy trial provisions, individual judge calendars and a mandatory minimum of 15 years to life.

There were in 1981—the most recent statistics available—in this country 574,000 robberies, 3.7 million burglaries, a total of some 4.3 million robberies and burglaries. It has been estimated that some 70 percent of those robberies and burglaries are committed by career criminals; thus the career criminals commit more than 3 million of those offenses. I think it is a safe estimate that at least 10 percent of those robberies and burglaries could be eliminated if we had the career criminal bill to provide the leveraging which I earlier described.

For example, when I was district attorney of Philadelphia and had some 500 of these cases on my docket, defense lawyers judge-shopped and sought continuances. If two or three of the cases had gone to the Federal court with trial within 90 days and a minimum sentence of 15 years, there would have been 200 guilty pleas or more, not with sentences of 15 years-to-life but with substantial sentences in the 5- to 10-year range.

The Kennedy-Thurmond amendment totally changes that provision because now the career criminal bill can apply only if the robbery or burglary is committed on Federal property, if it is now prosecutable as a Federal offense. That does not cover a robbery at 14th and K Streets; it does not cover a burglary on Capitol Hill; it does not cover a robbery or burglary now cognizable under the laws of the 50 States of the United States and the District of Columbia. We do not even have a real career criminal bill under the amendment Senator KENNEDY, with the concurrence of the cosponsors, has proposed.

The bill in its present form would constitute a significant Federal attack on robberies and burglaries, and I submit to this body that it would provide ample protection for the local prosecutors, who are really engaged here in a turf war.

The present bill provides in the intent section that there will be no prosecution without the request or concurrence of the local prosecutor. What Federal judge would permit a Federal prosecutor to come into court in the face of that language? Absolutely none.

All of the district attorneys together have not produced one case in the history of American jurisprudence where that clear-cut a stated congressional intent or legislative intent has been flouted. They have not produced one case because there is no such case.

Under this formulation of the bill, the local prosecutors are protected; but, more fundamentally, the people in this country are protected.

Why not put this language, then, into the body of the bill, which is Senator KENNEDY's original proposal and his amendment last year? I said to him a few moments ago that it would be acceptable to me. The reason expressed is that there is a possibility, a mere possibility, that the President may veto the bill if the language is in the body of the bill. That is precisely where the language was when it came to the President's desk in January of 1983, and he did not say then that he would veto it. He said only that is was a possibly unconstitutional restraint and raised grave constitutional problems.

I believe that if this bill were presented to the President with the prosecutor veto provision in the body of the bill, he would sign the bill. To the extent that a risk would be presented that he might not sign the bill, the matter should be presented squarely to the President. We should not lose the tremendous advantages of this career criminal bill by allowing the district attorneys of this country to dictate to the U.S. Senate what is the function of the U.S. Senate.

I have a very high regard for the National District Attorneys Association. I was a member of the group for many years. I have a higher regard, however, for the Senate of the United States, which passes on the legislative policy of this country. There is no fair reading of this language, notwithstanding Senator KENNEDY's response, which leaves any crevice to permit a prosecution to be brought unless requested or concurred in by the local prosecuting attorney.

This bill should be passed in its present form, and the Kennedy-Thurmond amendment should be soundly rejected.

Madam President, how much time remains?

The PRESIDING OFFICER. Fifty-five seconds.

Who yields time?

Mr. KENNEDY. Madam President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 7 minutes and 31 seconds.

Mr. KENNEDY. I yield 5½ minutes to the Senator from South Carolina.

Mr. THURMOND. Madam President, S. 52 as reported would make it a Federal offense to carry a firearm during the commission of, or attempt or conspiracy to commit, a Federal or State robbery or burglary, if the person charged has previously been twice convicted of a Federal or State robbery or burglary, or an attempt or conspiracy to commit such an offense. The new offense would be punishable by a fine of not more than $25,000 and imprisonment of not less than 15 years.

Special provisions applicable to this offense would permit danger to the community to be considered in making bail decisions; make the prior convictions a matter solely for the judge before the trial without requiring allegation in the indictment or proof at trial; and require the sentence imposed to be served in full. In addition, the bill contains a general "intent of Congress" section that, among other things, indicates that these offenses ordinarily should be prosecuted by the States and should not be prosecuted federally except at the request or concurrence of State authorities and approval by the Attorney General or his designee.

Madam President, as I considered this measure last Congress and again this Congress, I have had strong misgivings with respect to providing Federal jurisdiction over these essentially State and local offenses based solely on the "armed career criminal" aspect of the case. On the other hand, so long as Federal authorities proceed solely at the request or concurrence of State prosecuting authorities, the Senator from Pennsylvania (Mr. SPECTER) has made a substantial showing that Federal resources might be helpful in selected cases. It is on this basis that I have supported the bill up to this point.

Over the past few weeks, I have talked extensively with responsible officials of the Department of Justice about provisions of the bill designed to give State and local prosecutors a veto power over Federal prosecution of an offense under this section based solely on State law. They have serious constitutional concerns about these provisions and, indeed, might urge a veto unless they are deleted. On the other hand, the National District Attorneys Association and National Association of Attorneys General strongly object to potential Federal jurisdiction of these State offenses without some local veto power. There appears to be no compromise satisfactory to all.

Accordingly, I have decided to cosponsor an amendment with the distinguished Senator from Massachusetts (Mr. KENNEDY) to limit this career criminal offense to Federal robberies and burglaries. Thus, the enhanced penalties would be available if a person with two prior Federal or State robbery or burglary convictions were charged with a Federal offense—for example, robbery of a federally insured bank or a post office.

Madam President, I know this narrows the substantive reach of the bill to some degree. But it appears necessary to accommodate the responsibility for law enforcement allocated between Federal and State authorities under our Federal system. With this amendment, I hope this bill will pass and be enacted into law.

Madam President, if the original amendment of the distinguished Senator from Massachusetts had been adopted—and the National District Attorneys Association and the National Association of Attorneys General favored that—a serious constitutional question would have been involved here. In fact, there probably would be a veto. The Justice Department would probably recommend a veto.

So the Senator from Massachusetts and I have gotten together to work out a provision that will be approved by the Justice Department and that we think is reasonable. This new provision will provide a Career Criminal Act at the Federal level. We have no Career Criminal Act now at the Federal level.

The distinguished Senator from Pennsylvania feels that we ought to go ahead and act on this matter as originally contemplated. Since the Justice Department will recommend a veto, we think it is unwise.

Here is what the President said in his veto message concerning a crime package that included similar career criminal provisions last Congress. His veto message on H.R. 3963 signed on January 14, 1983, reads as follows:

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. THURMOND. Madam President, I yield such time on the bill as I require.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. He vetoed the crime package because of the drug czar part and this provision and here is what the President said on this provision:

> H.R. 3963 would also authorize the Federal prosecution of an armed robber or burglar who has twice been convicted in State court. This provision includes an unworkable and possibly unconstitutional restraint upon Federal prosecutions in this area, by allowing a State or local prosecutor to veto any Federal prosecution under his or her authority, even if the Attorney General had approved the prosecution. Such a restraint on Federal prosecutorial discretion and the delegation of Executive responsibility it entails raise grave constitutional and practical concerns. It would, for example, surely increase friction among Federal, State, and local prosecutors at a time when we are doing so much to decrease it.

So, Madam President, this has been a rather tough matter to work out.

I commend the able and distinguished Senator from Pennsylvania for the great interest he has shown in this, and I can understand his position. On the other hand, why pass something that is going to be vetoed? And then, too, there is a question here of jurisdiction between the Federal level and the State level.

Under this bill now, if there had been two robberies or burglaries committed at the State level and then one at the Federal level, the Federal Government can go ahead and prosecute at the Federal level.

But the Justice Department is very concerned if Federal jurisdiction is granted where the third offense is a State offense and local prosecutors can veto an exercise of Federal jurisdiction of such a case.

Mr. STENNIS. Madam President, will the Senator yield to me for a question?

Mr. THURMOND. Madam President, I am glad to yield.

Mr. STENNIS. I commend the Senator for the work he has done on this bill along with a number of other bills.

Ordinarily, Madam President, as I see it, the district attorney in the State court is an elected official. A great many of the people know him personally, and it is looked upon as a peoples' office. And the people feel that he, to some degree, represents them by and large in these communities, and I do not think we should give that up. I do not think we should surrender it or impair it in any way.

But I do see where you are up against a practical matter here and Senators have worked this out here where the Federal Government can come in to these so-called hard cases.

Mr. THURMOND. If it is a third offense.

Mr. STENNIS. Yes, a third offense.

Mr. THURMOND. And violation of Federal law.

Mr. STENNIS. Yes. A third offense. That is the major point.

If the prosecuting authorities, those selected by the people and who carry out the traditions, if they agree on consent. Is that the substance now of the amendment as written now?

Mr. THURMOND. Originally, it was provided that if there were any three offenses, even at the State level, they could be considered a Federal career criminal. But the National District Attorney Association objected to that and so this compromise has been reached. It would provide that if, say, two State or Federal robberies or burglaries have been committed and then there is a third one committed in violation of Federal law, the Federal Government can go ahead. And we think that is a reasonable compromise.

Mr. STENNIS. Yes.

Mr. THURMOND. In other words, under the amendment we would defer to the State prosecutors their rights on the jurisdictional question, unless the predicate offense, the third offense, is otherwise a Federal offense.

Mr. STENNIS. Yes.

I think the Senator is correct about that. It would be a great mistake, in my humble opinion, to take all this authority and power away from the district, the State court, the district attorney, as I say selected by the people, known by a lot of them, and personally responsible in his mind to those people.

But this does retain him as a factor and an essential factor before they can proceed.

I support the bill on that account.

Mr. THURMOND. I thank the Senator very much. I am confident that the State attorneys general would support this compromise we have reached, as well as the district attorneys of the States.

Mr. STENNIS. Yes.

Mr. THURMOND. If we go otherwise, they oppose it. Furthermore the Justice Department indicates they will recommend a veto of a provision that gives State control over the exercise of Federal jurisdiction. This amendment seems to be the only practical approach to handle this matter.

Mr. KENNEDY. Madam President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I think I have a minute or two. I only have a couple minutes.

Mr. SPECTER. Madam President, how much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 10 minutes and 39 seconds remaining; and the Senator from Massachusetts has 1 minute and 42 seconds remaining.

Mr. THURMOND. Madam President, we will take a little time on the bill.

The PRESIDING OFFICER. That requires unanimous consent.

Mr. KENNEDY. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. How much time do we have?

The PRESIDING OFFICER. All time on the bill has expired.

Who yields time?

Mr. THURMOND. Time on the bill, as I understand it, has not expired.

The PRESIDING OFFICER. The time on the bill has expired.

Mr. THURMOND. It has expired.

Madam President, I ask unanimous consent that 10 additional minutes be allowed to each side so we may discuss it further.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. THURMOND. Madam President, in reply to the distinguished Senator from Pennsylvania as to this congressional intent question, I wish to say that in the 1964 Civil Rights Act the bill explicitly precluded the Federal court from ordering busing of school children to achieve racial balances but the Supreme Court construed the bill to permit the Federal court to order busing. That is the case of Swann against Charlotte and Mecklenburg School District.

So this compromise appears to be the only reasonable course to follow.

I wish to say this, that ordinarily it is the responsibility of the States anyway to provide their own career criminal laws. This gives another alternative if there is a third crime and there is a Federal law violated. So this bill will be helpful. This will provide for the first time a Career Criminal Act at the Federal level which we do not have now.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, if there is something more that the Senator from Pennsylvania wishes to add, I will withhold until after he is finished.

Otherwise, would the Senator from South Carolina please yield me 2 minutes?

The PRESIDING OFFICER. The Senator has 1½ minutes remaining.

Mr. THURMOND. I am glad to yield such time as the Senator requires.

Mr. KENNEDY. Madam President, I agree with the Senator from Pennsylvania with regard to the need to deal with the career criminal. It seems to me that the resources of the Federal Government, when the U.S. attorneys can hardly take 50 percent of their cases now, should be targeted on organized crime, drug trafficking, and the other crimes which are appropriately within Federal jurisdiction, and that the local district attorneys should be working on career criminals who commit robberies and burglaries. If he wants to make a recommendation here or as a member of the Appropriations Committee to appropriate money to support career criminal efforts at the local district attorney level so that they can have greater resources to move toward those prosecutions which the Senator from Pennsylvania is so concerned about and which I think all of us in this body are concerned about, I would welcome the opportunity to support him in those efforts.

I think that is the most valuable contribution of the Federal Government to the incapacitation of criminals that commit State robberies and burglaries, and that is why I would hope that our amendment would be accepted.

● **Mr. BIDEN.** Madam President, I rise in support of the Kennedy-Thurmond amendment to S. 52 the Armed Career Criminal Act of 1983.

However, first, I would like to emphasize that in general this legislation is amply supported by the Judiciary Committee's hearings and research on the problem of repeat offenders. For almost 10 years now there has been a strong consensus among experts in the area of violent street crime that a small percentage of repeat offenders are committing a disproportionate amount of the violent street crime. According to the committee's report approximately 6 percent of the offenders commit between 50 percent and 70 percent of the violent crime.

Furthermore, the committee heard some evidence to suggest that there are local jurisdictions where assistance from the U.S. attorney might make it more likely that a defendant who otherwise would not get the attention of an overworked local district attorney will be prosecuted. Also, the statute itself would create a better bail release and sentencing scheme than now exists in many States. In this respect this legislation would have an impact on repeat offenders and violent street crime.

However, the legislation will be counterproductive in one important respect. Without the Kennedy-Thurmond amendment I fear it will create unnecessary friction between Federal, State, and local prosecutors.

In 1982, when the Senate last acted on this bill, we gave local district attorneys a right to veto any Federal prosecution. Although the new version of the legislation recognizes this concern it moves the language to the "intent of Congress" portion of the bill where I fear it will have no binding effect. The National District Attorneys Association strongly opposes this version of the bill and asks us to support the Kennedy-Thurmond amendment which would clear up this problem.

There are those in the Justice Department and here in the Senate who argue that the legislation should be changed because of the President's veto of the earlier bill. The President argued to me and the junior Senator from Pennsylvania, the author of this bill, that a local district attorney veto provision was unconstitutional. I feel that the Senator from Pennsylvania had the better part of that argument with the President at the time and I have not changed my mind. I think that in a circumstance like this where we are contemplating a rather significant expansion of Federal jurisdiction that the State and local law enforcement officials should have some check against Federal abuse.

Madam President, I ask unanimous consent to have printed in the RECORD a letter which I received from Mr. Edward G. Rendell, district attorney, city of Philadelphia.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DISTRICT ATTORNEY'S OFFICE,
Philadelphia, Pa., February 10, 1984.

Hon. JOSEPH BIDEN,
Russell Office Building,
Washington, D.C.

DEAR SENATOR BIDEN: Enclosed please find copies of two letters I recently sent to eighty-five district attorneys and fifty state directors of the National District Attorney's Association regarding the "Armed Career Criminal Act of 1983" (Senate Bill 52), and the proposed amendment which you are co-sponsoring with Senators Kennedy, Thurmond and Laxalt.

As you will note, I have requested that prosecutors contact their respective Senators urging that they co-sponsor this bill. We are keenly aware that you have been an ardent advocate for our position, despite the controversy which it has evoked. We are greathy appreciative of your efforts on behalf of this amendment.

If I can be of any further assistance to you or your staff, please do not hesitate to contact me.

Sincerely yours,
EDWARD G. RENDELL,
District Attorney.

In Re Senate Bill 52.

DISTRICT ATTORNEY'S OFFICE,
Philadelphia, Pa., February 8, 1984.

DEAR COLLEAGUE: As you may be aware, there has been a two year attempt in the United States Senate to pass legislation which would allow United States Attorneys to prosecute armed career criminal cases in the federal courts. These cases are defined as any robbery or burglary committed with the use of a firearm where the offender has been convicted of at least two prior robberies or burglaries. This legislation is called the "Armed Career Criminal Act of 1983", Senate Bill 52.

Needless to say, this is an intrusion by federal authorities into the prosecution of crimes which have traditionally and constitutionally been reserved to the states and local prosecutors. In 1983, efforts to pass this legislation were not successful, but now it has reached the floor of the Senate and it will most likely be voted on shortly after the Senate reconvenes on February 21. There is a holiday recess from February 10th through the 20th and during that time period your Senators will most likely be back home.

I am enclosing a copy of the Bill in its present form and after you have reviewed it you will note that in Section 4, the "Intent of Congress" section, Sub-section (c) gives lip service to the proposition that armed robberies and burglaries ordinarily would be prosecuted by the states and that federal prosecution should only take place when there are exceptional circumstances. In fact, this sub-section seems to go further in that it states that there shall be no federal prosecution unless the appropriate state prosecuting authority concurs that such offense be federally prosecuted. It is important to understand, however, that this language is *not* legally binding and is *not* part of the actual act itself. "Intent of Congress" sections are not black letter law and are only advisary in nature. The National District Attorneys Association has strongly opposed passage of this Bill in its present form. It is our position that this Bill is not acceptable in its present form and should only be passed if this language is moved from the "Intent of Congress" section into the substantive and controlling language of the legislation. We are not without allies in this effort. During the last attempt to pass this legislation Senator EDWARD KENNEDY (D. Mass.) was able to successfully amend the Bill to accomplish our goal. However, this needs to be done once again and Senator Kennedy has been joined in this effort by three extremely respected leaders of the Senate Judiciary Committee: Senator STROM THURMOND (R. S. Car.), Senator JOSEPH BIDEN (D. Del.), and Senator PAUL LAXALT (R. Nev.). They have introduced an amendment which will give the state prosecutor the absolute right to veto such a prosecution by the federal authorities and this language is placed, not in the "Intent of Congress" section but in the actual controlling language of the legislation.

I am writing you to urge that you contact your United States Senators by phone or telegram (preferably both) before the Senate reconvenes on February 21. You should urge them to support the Kennedy-Thurmond amendment to Senate bill 52 and more importantly, to join as a cosponsor of that amendment. I have been informed by staff members of several of the Senators that unless we can marshall a strong lobbying effort before February 21 there is a very good chance that this bill will pass the Senate. The Justice Department supports it and its chief sponsor, Senator Arlen Spector, is a very effective and dogged proponent. I have spoken to Ed Miller, President of NDAA, and he has indicated to me that the Association will also be contacting you to urge you to take this action, but I am writing you personally because this is an issue that I feel very strongly about. I believe that we are simply better equipped and experienced to handle prosecution of street crimes and that to allow the federal government to take away this right would be tantamount to losing our best and most important cases where we achieve our strongest results.

Thank you in advance for your cooperation and help.

Sincerely yours,

EDWARD G. RENDELL.●

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Madam President, I yield myself 4 minutes.

Madam President, the Senator from Massachusetts expresses concern about career criminals, but the kind of an amendment which he has proposed here today does not well serve that concern. The problem of career criminals in this country is of overwhelming importance, since some 4,300,000 robberies and burglaries are committed each year, and there are more than 3 million by career criminals. The adoption of this bill in its present form presents a realistic likelihood of eliminating at least 10 percent, or more than 300,000, of these robberies and burglaries. But what the Kennedy-Thurmond amendment does here is to limit the third offenses to cognizable under Federal law—bank robberies or robberies or burglaries on Federal property.

The district attorneys of Detroit, Louisville, Miami, Philadelphia, and Boston all testified in favor of this career criminal bill. Their only concern was that they have the authority either to request or concur in the prosecution. And that is provided under the current language of the bill in the intent section.

The Senator from South Carolina refers to the Civil Rights Act of 1964 as an illustration of violating congressional intent, but that act is not apposite here, it does not apply, because in ordering busing the Supreme Court of the United States based the remedy on a constitutional right. The Court was not looking to the 1964 Civil Rights Act. So it made no difference whether the 1964 Civil Rights Act prohibited busing or not. The authority was under the Constitution.

When the Senator from South Carolina refers today to a veto of this bill, it is speculation and speculation only. The language of President Reagan's statement in January 1983, which was much more authoritative than anything that we may surmise, talks about a possible constitutional restraint or a grave constitutional issue.

I believe it is accurate to say that we cannot predict what the President would do if confronted with this bill. But this career criminal bill ought to be put to the President. I do not believe he would veto it; but if he saw fit to veto it, the veto could be overridden by a clear-cut vote. After all, this bill passed 93 to 1 when it was up in 1982.

Madam President, this is a very important measure which would help enormously, which would aid law enforcement, which has the realistic possibility of putting behind bars career robbers and burglars to eliminate in excess of 300,000 robberies and burglaries a year. If the Kennedy-Thurmond amendment is adopted, this bill will be emasculated. It is little better than no bill at all. The Kennedy-Thurmond amendment ought to be rejected and the bill in its present form ought to be passed.

The PRESIDING OFFICER (Mr. DENTON). Who yields time?

Mr. THURMOND. Mr. President, we are willing to yield back our time if the distinguished Senator from Pennsylvania wishes to yield back his time.

Mr. EAST. Mr. President, I would like to make a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time for that purpose?

Mr. THURMOND. Mr. President, I would be pleased to yield to the Senator.

Mr. KENNEDY. Mr. President, I believe I have a minute and 40 seconds remaining. I would be glad to yield it to the Senator from North Carolina.

Mr. EAST. Mr. President, have the yeas and nays been requested on this amendment?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. EAST. Mr. President, I request the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, unless somebody else cares to speak, I think we could all yield back our time.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 16 minutes and the Senator from Massachusetts has 11 minutes.

Mr. BAKER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, there was an order, was there not, for the Senate to vote at 2:30 as a specific time and that was extended by 20 minutes, is that correct?

The PRESIDING OFFICER. The time was extended first by a unanimous-consent agreement which was not objected to to take time off the bill which had expired. That increment of time was 10 minutes. And after that, an additional 20 minutes was granted by unanimous consent.

Mr. BAKER. On what?

The PRESIDING OFFICER. Equally divided.

Mr. BAKER. On what, on an amendment or on the bill?

The PRESIDING OFFICER. On the bill.

Mr. BAKER. Mr. President, I am inquiring about how that affects the time certain to vote on the amendment.

The **PRESIDING OFFICER**. As I just took the chair, it would be about 3 o'clock.

The subsequent unanimous-consent request will not be taken from the bill.

Mr. THURMOND. Mr. President, I think I requested the extended time on the amendment, not on the bill.

Mr. BAKER. Mr. President, I do not object to that. But may I say that the order, as I read it, specifically provided for a vote at 2:30, paragraph 4 of rule XII being waived, a specific time to vote not on the bill, but on an amendment.

Now, Mr. President, what I am inquiring about is whether of not there is additional time now for debate on the amendment or if there is additional time for a vote on the bill. And I will consult privately with the Parliamentarian on how this happened. Could the Chair please advise me how much time remains on the bill and how much time remains on the amendment?

The **PRESIDING OFFICER**. He will have to also advise me, because I was not on the floor at that time. It does seem to be a rather complex and perhaps confused situation.

The time for debate on the amendment has expired. The time for the bill did remain and it is now time for a vote on the amendment, since the additional time which was granted was on the amendment and that time has been yielded back.

Mr. BAKER. Mr. President, let me say further, in the nature of a parliamentary inquiry, that I do not mind that. But may I point out that the time to vote was negotiated between the minority leader and myself yesterday and it took account of the scheduling requirements and convenience of a great number of Senators on both sides. I hope that we could get on with that vote as soon as possible, because we are going to run into severe complications, as far as a number of Senators are concerned, if we do not start that vote in sequence pretty quick.

Mr. President, do I understand now that the previous unanimous-consent request was to extend the time for debate and thus extend the time for the vote to begin on the Kennedy amendment?

The **PRESIDING OFFICER**. The Senator is correct.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BAKER. Yes.

Mr. KENNEDY. Mr. President, I think we are all prepared to vote on both the amendment and final passage on the bill. I have no further remarks on either subject.

The **PRESIDING OFFICER**. Time has been yielded back.

Mr. SPECTER. Mr. President, I did not yield my time back.

The **PRESIDING OFFICER**. The Senator from Pennsylvania has 6 minutes and 58 seconds as of now remaining on the amendment.

Mr. SPECTER. Thank you, Mr. President. I shall take less time than that, but I would like to make final statement before the vote occurs.

It is my submission to this body, Mr. President, that the career criminal bill is a very significant piece of legislation, because for the first time it brings the Federal Government into the fight against street crime. And I submit it does so in a very effective way. This bill in its present form provides that it will be a Federal offense when someone commits a robbery or burglary with a firearm having been convicted of two or more robberies or burglaries. And that reaches street crime in Tennessee, in Kansas, in the District of Columbia—everywhere.

The amendment proposed by Senator KENNEDY drastically alters that bill by providing that the third offense must be what is now a Federal offense. And that would limit the prosecutions to situations like a bank robbery or a burglary or robbery on what is otherwise Federal property. That, simply stated, guts and emasculates, the bill.

With the career criminal bill in its present form, there would be a tremendous leveraging effect, enabling local prosecutors to obtain tremendous numbers of guilty pleas because of the threat of having any one of many cases on the docket go to the Federal court with a speedy trial and mandatory 15-year sentence.

I submit futher, Mr. President, that every conceivable concern the local prosecutors may have is taken into account in section 4 of this bill under the intent of Congress which provides flatly that:

> An offense under this section shall not be prosecuted unless the appropriate State prosecuting authority requests or concurs in such prosecution.

So the concern raised by the distinguished Senator from Mississippi, Senator STENNIS, would be fully met, because prosecution in a Federal court could not go forward unless the local district attorney agreed.

There is no danger of a veto of the bill in its current form, because the Justice Department has said that as long as the local prosecutor's veto is in the intent section and not in the body of the bill, it is in an acceptable form and would not raise the constitutional issue contained in the President's message in January 1983 where he vetoed the crime package largely because of concern about the drug law bill.

Mr. President, for reasons already outlined, this bill has the realistic likelihood of eliminating in excess of some 300,000 robberies and burglaries in this country. It has been supported by the district attorneys of Boston, Philadelphia, Miami, Louisville, and Detroit, and I submit it will make a significant step forward for law enforcement in its present form, providing the Kennedy amendment is defeated.

I thank the Chair.

Mr. BYRD. Mr. President, I would like to bring to the attention of the Senate that my colleague Senator DANIEL INOUYE is unable to vote on the Kennedy-Thurmond amendment to S. 52 today because he is temporarily away on official business. He is attending the so-called budget deficit meeting in the Old Executive Office Building downtown, on behalf of Senate Democrats.

I am ready to yield back the remainder of my time.

The **PRESIDING OFFICER**. Does the Senator yield back the remainder of his time?

Mr. SPECTER. If all time has been yielded back, I yield back the remainder of my time.

The **PRESIDING OFFICER**. All time is yielded back.

Mr. THURMOND. Mr. President, we are ready to vote.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Oregon (Mr. HATFIELD), the Senator from Nevada (Mr. LAXALT), and the Senator from Alaska (Mr. MURKOWSKI), are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), would vote "yea".

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART) and the Senator from South Carolina (Mr. HOLLINGS), are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Massachusetts (Mr. TSONGAS) are absent on official business.

The **PRESIDING OFFICER** (Mr. DURENBERGER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 77, nays 12, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—77

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Danforth
DeConcini
Denton
Dodd
Durenberger
Eagleton
East
Evans
Exon
Ford

Garn
Goldwater
Gorton
Grassley
Hatch
Hecht
Heflin
Helms
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Kennedy
Lautenberg
Leahy
Long
Mathias
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Nickles
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Warner
Weicker
Wilson
Zorinsky

NAYS—12

Boschwitz
D'Amato
Dixon
Hawkins
Heinz
Kasten
Levin
Lugar
Matsunaga
Packwood
Specter
Wallop

NOT VOTING—11

Cranston
Dole
Domenici
Glenn
Hart
Hatfield
Hollings
Inouye
Laxalt
Murkowski
Tsongas

So Mr. KENNEDY's amendment (No. 2716) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, have the yeas and nays been ordered on final passage?

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD. Mr. President, what is the question?

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

● Mr. LEVIN. Mr. President. I voted against the Kennedy-Thurmond amendment to the career criminal bill, S. 52, based on assurances I received from Senator SPECTER that in the event the amendment had been defeated, he would have offered an amendment to move the provision granting local prosecutors a veto over the prosecution of career criminals from section 4 of the bill to the body of the bill.

I support the purpose of S. 52, which is to employ Federal resources against repeat offenders of violent crimes. The Kennedy-Thurmond amendment will significantly weaken S. 52. I am persuaded that Senator SPECTER's willingness to further modify the bill to prohibit (in the body of the bill) Federal prosecution under the act unless the appropriate local prosecutor first agreed to Federal jurisdiction over the offender would have protected the interests of the States and localities.●

● Mr. LEAHY. If we want to be serious about stopping the rising tide of violent crime in America, we must begin by stopping the noxious growth of the career criminal. Anyone who has prosecuted violent crime in the last two decades as I have, is painfully aware that the majority of these offenses are committed by those whose lives are devoted to preying on others. We have career criminals in Vermont, and I can tell you firsthand that they respect neither State boundaries nor human dignity. Their coin is violence, and they spend it freely.

Today this body takes a significant step in establishing a strong partnership between the Federal and State Governments in the fight against career crime, and I am gratified to be a part of this important moment. The Federal Government will now be able to assist the States with significant new strength where a robber or burglar commits a Federal offense involving a firearm, following two or more convictions for robbery or burglary under State or Federal law.

Passage of this bill will not end all career crime and is not advertised as doing that. Violent crime is still the responsibility of State and local governments in most cases. But the bill before the Senate will give us important options in dealing with that small fraction of the most dangerous, most professional, most prolific offenders—the very same people who cause the bulges in our crime statistics and large dents in our law enforcement budgets.

Passage of this legislation is the result of a great deal of thought and compromise. One of the most important issues was the respective roles of Federal and State prosecutors. When I conducted a rural crime hearing in Vermont in 1982, there was much concern expressed about the takeover of local criminal jurisdiction by Federal authorities in this and similar bills. The Department of Justice is equally concerned about legislation that would create the possibility of Federal intervention, but would make that intervention depend on State discretion.

The final compromise on this bill avoids both concerns, though its coverage is narrower than it was when it was first introduced, as a result. I hope that the bill we are about to adopt will be passed by the House and put into action as soon as possible. The principal result will be more convictions of career criminals, but an important second result will be the experience Federal and State authorities will gain in working with the concept of combating career crime through joint efforts.

While I strongly believe that State and local authorities must remain in charge of the battle against violent crime, I hope that in the years to come we can build on this experience and broaden the scope of the legislation to include a third robbery or burglary, whether or not that third offense is a Federal crime.

With this bill as a point to start from, I look to the day when Federal help will be available on this broadened basis to State and local prosecutors who want and ask for it.

There is another reason to be happy about the passage of this important legislation, and that is the splendid spirit of bipartisanship that made it possible. I was glad to join Senators KENNEDY and BIDEN on the compromise amendment that broke the impasse on this bill. But I was equally glad to join the amendment's other key sponsors, Senators THURMOND and LAXALT. This was not a Democratic or a Republican achievement, but a triumph of sense and resolve over divisiveness and despair.

Last week President Reagan said the fight against crime had become a partisan fight, but within this Senate today is a monument of evidence to the contrary. Calling the fight against crime a partisan matter will end up having only one result—benefiting criminals by delaying necessary legislation. Violent criminals do not check the party credentials of its victims. And allies in the fight against crime have no greater justification in checking each other's credentials.

Differences—sincere differences—will surely arise. I do not favor the death penalty because I believe it is a poor deterrent to crime and makes the statement that Government sanctions willful killing. I support a real life sentence without the possibility of parole as more effective and less divisive. But whether particular colleagues agree or disagree on this issue, that both approaches to this terrrible dilemma have exactly the same motivation: To give order and sanity to our lives and a sense of safety and well-being as we pursue our individual dreams.

Effective criminal laws are tools in the search for a just society. I commend my colleagues for today's action and hope that our debate in this Chamber will be a model for the Nation in this political year.●

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. BAKER. Mr. President, Senators should know that this may not be the last vote today. There may be another rollcall after this.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Oregon (Mr. HATFIELD), and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. ARMSTRONG) and the Senator from Oregon (Mr. HATFIELD) would each vote "Yea."

Mr. BYRD. I announced that the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. TSONGAS) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—92

Abdnor
Andrews
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Evans
Exon
Ford
Garn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Hecht
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Lautenberg
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Weicker
Wilson
Zorinsky

NAYS—0

NOT VOTING—8

Armstrong
Cranston
Glenn
Hart
Hatfield
Hollings
Murkowski
Tsongas

So the bill (S. 52), as amended, was passed, as follows:

S. 52

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Armed Career Criminal Act of 1984".

SEC. 2. Chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2118. Armed Career Criminals

"(a) Whoever carries a firearm during the commission of a robbery or burglary offense which may be prosecuted in a court of the United States, or commits such an offense with another who carries a firearm during the commission of such offense, or attempts or conspires to do so, shall be fined not more than $25,000 and imprisoned not less than fifteen years.

"(b) An offense under this section shall not be prosecuted unless the United States proves beyond a reasonable doubt that the defendant has been convicted of at least two offenses described in subsection (c) of this section.

"(c) The offense referred to in subsection (b) of this section is any robbery or burglary offense, or a conspiracy or attempt to commit such an offense, which may be prosecuted in a court of any State or of the United States and which is punishable by a term of imprisonment exceeding one year.

"(d) Notwithstanding any other provision of law—

"(1) any person charged with an offense under this section shall be treated in accordance with the provisions of section 3148 of this title;

"(2) the indictment or the information need not contain allegations pertaining to or references to subsection (b) of this section

"(3) the issue of whether the United States has fulfilled its burden of proof beyond a reasonable doubt under subsection (b) of this section shall be heard and decided by the court before trial; and

"(4) the court shall not sentence the defendant to probation, nor suspend such sentence, and the defendant shall not be eligible for release on parole before the end of such sentence.

'(e) For purposes of this section—

"(1) 'State' means any State of the United States, any political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States;

"(2) 'firearm' has the meaning set forth in section 921 of this title;

"(3) 'robbery offense' means any offense involving the taking of the property of another from the person or presence of another by force or violence, or by threatening or placing another person in fear that any person will imminently be subjected to bodily injury; and

"(4) 'burglary offense' means any offense involving entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.

"(f) Except as expressly provided herein, no provision of this section shall operate to the exclusion of any other Federal or State law, nor shall any provision be construed to invalidate any other provision of Federal or State law.".

SEC. 3. The table of sections at the beginning of chapter 103 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"2118. Armed Career Criminals.".

SEC. 4. It is the intent of Congress that—

"(a) the trial and appeal of any person prosecuted under section 2118 of title 18, United States Code, as added by this Act, shall be expedited in every way; and

"(b) this section shall not create any right enforceable at law or in equity in any person.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I will take only 1 minute. I just wanted to highly compliment as well as thank the Senator from South Carolina and all the others who worked on these complicated bills. We had some amendments today that were highly important and it took a lot of work on them.

I think the almost unanimous vote and big vote that most of them received is an attest to the quality of the work. It is a difficult field and also a highly controversial one.

People come here sometimes and see things dull and quiet and it looks like nobody is working. As a matter of fact, the membership here digs down and digs deep and hits hard and comes up with a lot of fine work, aided by their staffs. I think we ought to say something more about them. As one Member here, I wish to thank them and commend them. They add to the stature of the Senate, as well as doing the country a lot of good.

May I add a mention of the former chairman of the Judiciary Committee and the ranking minority members in former years, because these bills have been around, as many know, for a good number of years and have had a lot of work by a lot of Members.

SHIPPING ACT—CONFERENCE REPORT

Mr. STEVENS. Mr. President, the distinguished senior Senator from Washington will now present to the Senate a conference report on the Ocean Shipping Act of 1984. Senator GORTON's efforts have brought to the Senate, in the form of this conference report, a bill that is considerably better than the bill that we sent to the House some time ago.

This legislation will have a very positive impact on our seriously depressed ocean shipping industry which has chafed far too long under an outdated and overly restrictive regulatory system first passed by Congress in 1916. It will allow U.S.-flag ocean carriers to compete more effectively in an international shipping market which is increasingly controlled by foreign interests. This will not only produce positive results for U.S. trade and commerce but will also help preserve our sealift capacity, which is so vital to our national security.

The Senator from Washington has been involved in this effort for almost 4 years now. In that effort he has been joined by our very competent and distinguished Secretary of Transportation, Elizabeth Dole, and by Admiral Shear, the Maritime Administrator. Senator GORTON and the staff of the Senate Commerce Committee did an outstanding job in the arduous task of reaching a compromise with House Judiciary and Merchant Marine and Fisheries Committees. I particularly want to thank the Commerce Committee staff, Peter Friedmann, John Hardy, Terry Spillsbury, Gretchen Hoffman, and Jean Uyehara. Other staff who assisted in the effort are Bill Phillips, Steve Cannon, Ren Patch, Wes Howard, Steve Ross, and Sally Rogers.

So I do commend Senator GORTON for the work he has done.

Pending the arrival of the distinguished majority leader, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, as I indicated earlier today, there is a conference report, which is a privileged matter, that is here and available. It has been cleared for action on both sides. The minority leader has indicated, I believe, that he has no objection to us laying it down.

Mr. President, I hope it will not take very long to complete this measure. In any event, we should be able to complete it today.

There is the possibility, I suspect a strong possibility, that there will be a rollcall vote asked for on final passage.

Therefore, Mr. President, I submit a report of the committee of conference on S. 47 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 47) to improve the international ocean commerce transportation system of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conference.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, February 23, 1984.)

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I am pleased to present to the Senate the conference report on S. 47, the Shipping Act of 1984. After 6 years of debate we are on the verge of sending to the President potentially the most significant maritime legislation in decades. I am proud that S. 47, which the Senate passed almost 1 year ago, on March 1, 1983, has stood the test of House scrutiny and has emerged as an improved bill. I am particularly pleased that many of those who previously opposed the legislation now feel that they can support it.

The conference committee consisted of 22 members representing the Senate Commerce, Science, and Transportation Committee, the Senate Judiciary Committee, the House Merchant Marine and Fisheries Committee, and the House Judiciary Committee. Twenty of these members signed the conference papers and now sponsor the bill I bring before you today.

Mr. President, I should like to add that it is my view that the dynamics of the conference, which involved these 22 members over the course of the last 2 or 3 months, has not only produced a bill much superior to that which passed the House of Representatives but superior to the one which we passed through the Senate almost a year ago. It is a tribute to the working of the legislative process that we have now reached the goal of a fine set of amendments to the Shipping Act of 1960.

From the very beginning, it has been the goal of this Senator as the sponsor to the bill, and other members who have worked on it, to bring up to date the Shipping Act of 1960, to strengthen the position of the U.S.-flag merchant marine in international trade, to simplify and clarify the laws relating not just to the U.S.-flag merchant marine but to all foreign-flag merchant marines which trade with the United States, to make a more predictable and logical set of rules which applied to that international trade and thus, of course, to cut down on the uncertainty and on the volumes of litigation which have plagued this important mode of transportation.

I am convinced that we have succeeded in all of those goals and have, at the same time, enhanced competition and efficiency in a way which will benefit not only the carriers but the shippers and the businesses of the United States which are dependent on trade both into and out of this country.

Mr. LONG. Will the Senator yield for a moment?

Mr. GORTON. I am delighted to yield.

Mr. LONG. Let me first compliment the distinguished Senator from Washington for the many months he has spent working on this legislation. The entire Nation is in his debt for his diligent work in that regard.

The Senator from Louisiana has been a supporter of the bill. I would like to study the Senator's presentation. I am, however, confident I will vote for and support the conference report.

The thing that concerns this Senator, and I think it concerns the great majority of Senators who come from States that border on the high seas, is that the merchant marine of the United States has been declining. Both the administration, many people elsewhere in Government, as well as taxpayers in general, resent having to pay a subsidy to keep American ships on the high seas. Yet the fact is that were it not for the shipping laws that tend to favor our merchant marine, we would not have any merchant marine. We cannot compete with labor that comes out of Singapore or India or various other countries with extremely low-wage scales.

For that matter, I regret to say that we cannot compete with the South Koreans for whatever reason. I think part has to do with their wage scales, but there are a number of factors why they produce ships more cheaply than we do.

Can we say with assurance to those interested in the American merchant marine that if this bill becomes law, we have seen an end to the downward spiral of the American merchant marine, or must we tell the people back home that unfortunately, in spite of the best we could do, the merchant marine is going to continue to decline and it will continue to have less and less of a place in the overall American economy?

Mr. GORTON. Mr. President, with his usual incisive method of analysis, the distinguished Senator from Louisiana has hit the heart of the problem relating to the U.S.-flag merchant marine. We have, for more years than any of us have been alive, been essentially noncompetitive in the world in international trade through our merchant marine because of higher costs related to the construction of ships in the United States and the operation of American flag ships, to some of the manning requirements that relate to them, and the like. There has been a constant struggle, in which the Senator from Louisiana has played an important part, to see to it that we reach the twin goals of a viable U.S.-flag merchant marine, and at the same time the greatest possible encouragement of international trade, the heart of the business of that merchant marine.

The Senator from Louisiana who is far too modest, as he has contributed substantially to the drafting and construction of this bill, knows that it has been our goal of revising the regulatory statutes that relate to the merchant marine, to strengthen them.

One of the reasons, far from the only reason, that the U.S.-flag merchant marine has been in such sorry shape has been that it has had a set of laws more punitive from its point of view applied to its activities than are applied to ships flying the flags of other nations with whom we compete by their own nations, and that that has discouraged innovation and progress in the U.S.-flag merchant marine.

A primary goal of this bill, of course, is to bring our regulations somewhat more into line with those of our foreign trading partners and competitors and to see to it that our merchant marine spends less of its money defending itself in court and dealing with regulatory agencies and spends more of it in providing competitive services.

I am convinced that we have accomplished that goal in this bill, S. 47.

I must say, as the Senator from Louisiana well knows, that we have by no means solved all of the problems relating to the U.S.-flag merchant marine. I am not even certain that we have solved the most important problems. They have to do with the cost of doing business imposed by the requirement at the present time that U.S.-flag ships be constructed in the United States, that they be subsidized in their operations here by those operating subsidies, by the fact that the administration has seen to it in the last several years there has been no construction differential subsidy and that subsidies for operations have gone down.

We are, we hope, beginning to wean the U.S.-flag merchant marine away from being a heavily subsidized entity in this country, to make it a less subsidized entity or, sometime in the future when it can be appropriately competitive, not to be subsidized at all. We are taking a significant step in that direction, I believe, by this bill. The necessity to look at the promotional statutes relating to the U.S.-flag merchant marine is still a task which is before us.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. GORTON. Yes, the Senator will.

Mr. LONG. Mr. President, I regret I cannot recall how many years ago it was, but there was a time when the Senator from Louisiana stood on this floor. He stood on this floor. He was then the junior Senator from Louisiana. He occupied the same capacity as the Senator from Washington. He was standing and speaking as chairman of the Merchant Marine Subcommittee of the Committee on Commerce. He was absolutely delighted with the success we had in passing a bill which had everything in it that those of us who were really interested in the merchant marine thought should be in such a bill.

We passed that bill, went to conference, and came back with what we had substantially suggested. We thought we could really predict a very bright future for the merchant marine. We thought we were predicting an expanding future—more jobs, more ships, a more successful merchant marine, more investment, just everything to be part of the great growing American economy.

I regret to say to the Senator from Washington that it did not work out that way. Through the years, various and sundry things with which the Senator from Washington is thoroughly familiar developed into a pattern and a trend which caused our shipping lines to become less profitable rather than more profitable, caused our merchant marine to decline, and brought us into the sorry state we find our merchant marine in today. I know the Senator is doing his best to reverse that situation.

What I am seeking from the Senator is an intelligent guess as to where we stand when we pass this legislation, and I am confident we will pass it. Are we going to see a flow of additional funds into the merchant marine? Are we going to see more jobs, more ships built, an expanded area of American commerce? Or must we content ourselves with a further decline in jobs, in the number of ships at sea and the number of tons that this Nation can see go safely on the high seas?

Mr. GORTON. Mr. President, I hope and I believe that we have already seen the bottom of the swing for the fate of the U.S.-flag merchant marine; that in connection with some of the changes which have already taken place in the last 2 or 3 years, enhanced by this bill, we will begin to see a recovery.

I may say to the distinguished senior Senator from Louisiana that he lacked one advantage when he passed the bill to which he refers through the Congress many years ago which I have had. He lacked the counsel of the now senior Senator from Louisiana, as well as the great wisdom of the Senator from Hawaii (Mr. INOUYE). This Senator must confess that when he came to the Senate 3 years ago, this is a subject about which he knew absolutely nothing. Perhaps that was an advantage. At least this Senator was not bound by all the mistakes of the past. But had it not been for the counsel and wisdom and advice of the Senator from Hawaii, the Senator from Louisiana, and a number of others here, we would not be here discussing a bill of this quality today.

Mr. LONG. Mr. President, if I may say to the Senator, it seems to me this is one area where politics and partisanship have no part. No one has asked me to do anything about this matter because I am a Democrat and I am sure no one has asked the Senator from Washington to do anything because he is a Republican. The President has not asked me to do anything. I do not know whether he has asked the Senator from Washington or not.

Mr. GORTON. If I may interrupt, some of the things we were asked to do by the administration are some of the things we did not wish to do.

Mr. LONG. If the Senator's position is parallel to what mine was when I occupied the same position he has today, we had a lot of latitude available to us. We had the potential of making the administration go along with us on a reasonable basis. I think the Senator has that potential as chairman of this subcommittee and spokesman for the full committee.

We in this Congress have the possibility and the potential, if we provide the leadership, in view of the fact that the President is interested in so many things that he cannot focus on this way he would like to. If those of us who are interested in the merchant marine will only work together, we can keep this Nation on the high seas and we can have a merchant marine that can not only provide for our peacetime essentials, but that can provide us the sinews it takes in wartime to see that the supplies are available to our servicemen wherever we go and that we have enough ships on the high seas to provide our minimum requirements. It can be an Achilles' heel for the United States if we do not have enough people trained in the arts and skills of the merchant marine industry that we have to rely upon people who do not speak our language and who have no loyalty to this Government to man our ships in wartime.

That is not getting into the details of our balance of payments, which are absolutely a disgrace. We need every dollar we can earn in our balance of payments. To the extent that we maintain a merchant marine, that helps with the problem. I completely applaud everything the Senator has done in this matter, and I think the Nation owes him a debt of gratitude. I must say, however, Mr. President, that I really feel that because the Senator is busy with other matters in addition to this and he is giving it more time than many others—because the others, myself included, are busy with other things, we have not done everything in our power because we are doing other things that are important to the country. It leaves me wondering whether we should not be going to work, having passed this bill, to start from here to see if we cannot go a step beyond this. The Senator knows that today, this great industry has declined to a sad state. Most of the shipping companies with which I am familiar are making very little profit if any at all. As the Senator so well knows, in that condition, it does not attract investments that are required. He wants it to provide the inspiration that will attract young people to devote their lives to it. So do I.

I hope, having passed this bill, we then take another look to see if this is everything the doctor ordered. I am happy about what the Senator has achieved in Congress. It was my privilege to give my proxy for a vote in conference, and I could not have done any better if I had been there. I find myself thinking, having done all we can do for now, is this going to be enough? I hope we will take stock of ourselves after this bill is passed and see whether this bill, with all the good work the Senator has done, is still adequate.

Mr. GORTON. The Senator from Louisiana is 100 percent correct. Again, I believe he has put his finger on the heart of this problem. That is that, as serious as it is, every Member of this body has matters which are of greater urgency and greater priority. This Senator falls into that category. I chaired the Subcommittee on the merchant marine in the 97th Congress that introduced this bill. I no longer chair that committee. I share the chairmanship with the Senator from Alaska (Mr. STEVENS) because he is busy with other things and I can finish it but each of us will go to a number of our other priorities when we leave off the consideration of this bill. But we will do so with exactly the warning that the Senator from Louisiana gives.

This is a significant step forward and this is going to help our merchant marine industry. I believe it is going to help our trade industry, the people who work in this field, who are the customers of the merchant marine. But it is not going to solve all those problems, it is not enough; there is much more which needs to be done. The Senator from Louisiana and I, each of whom remains a member of the Subcommittee on the Merchant Marine, will have other duties in the future.

Mr. LONG. I thank the Senator.

(Mr. SPECTER assumed the chair).

Mr. GORTON. The sponsorship list of this bill indicates, as the Senator from Louisiana has pointed out, strong bipartisan support and includes Senators INOUYE, LONG, STEVENS, PACKWOOD, THURMOND, HATCH, and KASTEN, and Congressmen RODINO, SEIBERLING, WALTER JONES, BIAGGI, BREAUX, HUGHES, FEIGHAN, FORSYTHE, SNYDER, DON YOUNG, FISH, and MOORHEAD, as well as myself.

A brief summary of this bill would be useful at this point. S. 47 amends the Shipping Act, 1916, which regulates international ocean liner shipping. It provides for more flexible and responsive ocean transportation services benefiting U.S. exporters and importers by authorizing service contracts and time/volume rates, by allowing carriers who are members of ratemaking conferences to take independent rate action upon only 10-days notice, and by allowing shippers to organize nonprofit associations to consolidate cargo and negotiate volume discounts.

This bill clarifies the antitrust immunity originally provided carriers under the 1916 act to clearly allow carriers to form ratesetting conferences and other forms of cooperative-working arrangements. Recognizing technological advances, S. 47 allows these conferences to offer intermodal through rates—a single tariff incorporating truck, rail, and ocean legs.

The Shipping Act will dramatically expedite review of carrier agreements by the Federal Maritime Commission, calling for approval or disapproval within 45 days of application. The basis of review will be far more specific than under current law, allowing a more predictable decisionmaking process. Because this bill will benefit both carriers—providers of ocean transportation services—and shippers—consumers of ocean transportation services—it is endorsed by both.

When I first introduced the Ocean Shipping Act in 1981, there were four basic objectives. As we went to conference, both the House and Senate versions accomplished three of these objectives:

First, expedite the process for reviewing carrier agreements at the FMC; second, extend antitrust immunity to allow conferences to set intermodal rates; and third, overturn the Svenska presumption that carrier agreements are against the public interest—that is, place the burden of proof on those opposing an agreement.

The fourth objective of this legislation was to further reduce the uncertainty surrounding the antitrust immunity originally conferred by the Shipping Act of 1916. It was in this area that the House and Senate bills differed greatly, each with its own merits and faults.

S. 47, as reported out of the Senate Commerce Committee, reduced the uncertainty of current law by:

First, doing away with two of the three current subjective standards for FMC review: "against the public interest" (Svenska); "detrimental to the Commerce of the United States";

Second, substituting a list of specific prohibited acts. The third vague standard: "unfair or unjustly discriminatory" was retained as one of the prohibited acts.

During the effort to move S. 47 through the Senate last spring, the Judiciary Committee members sought a subjective standard for review of all agreements. A compromise was reached in which prohibited acts would be the basis for review of most agreements, but two types of agreements were subject to special, subjective scrutiny. Pooling agreements and joint ventures, even those already approved, could be investigated and canceled by the FMC, upon complaint of a third party, if the FMC believed the pool or joint venture would "substantially reduce competition in the trade as a whole," unless the agreement in question:

First, would result in efficiencies outweighing the reduction in competition; second, further U.S. foreign policy interests; third, was expressly authorized by a government-to-government agreement; or fourth, responded to discriminatory cargo preference actions by foreign governments.

This was certainly a subjective standard, which applied to two of the potentially most efficient carrier arrangements, and thus from my point of view severely undermined the thrust of S. 47 to clarify the standards for FMC review of carrier agreements. This was, I believe, a grave weakness in the Senate bill, which otherwise provided, through the enumeration of prohibited acts, far more certainty than current law.

Mr. LONG. Mr. President, will the Senator yield?

Mr. GORTON. The Senator will.

Mr. LONG. Mr. President, I think it would be well to illustrate the point the Senator has in mind because I believe it important that we recognize just by way of illustration how this particular provision would work.

Mr. GORTON. If the Senator from Louisiana will defer to me for just a moment, this is a description of the form in which the bill passed the Senate. Since, as a result of the conference, it is no longer a direct part of the bill, I think those examples will come better when we get to a description of the conference report.

Mr. LONG. I thank the Senator.

Mr. GORTON. The House chose to address the issue of subjective standards differently. On the positive side, I felt it treated all agreements similarly. On the negative side, I felt it introduced a new general competitive standard.

The House version included most of the same prohibited acts set forth in the Senate version of S. 47. But, instead of substituting the specific prohibitions for subjective standards, the House version supplemented them with a general competition standard.

Not only was this directly contrary to the Senate intent to remove the ambiguity of a Svenska-like test, but Judiciary report explanation, expressly subscribed to by the House, explicitly tied the first part of the general standard to antitrust market-share analysis. Since virtually any meaningful carrier agreement could fall the market-share test, there could be a finding of a "harmful reduction in competition." I saw this as an unacceptable approach which would undermine the basic thrust of Shipping Act legislation.

Thus, I felt it was imperative if this bill were to move forward to achieve the goals which originally motivated me to pursue this legislation, and the Senate Commerce Committee to report it out, that the subjective standard found in the House version—and the relevant report language—be replaced by an entirely new and different standard with new report language. I am satisfied that the provisions of section 6 (g) and (h) and the corresponding conference report language more nearly achieve the original goals of clarity, certainty, and predictability for our regulatory scheme.

And I want to emphasize once again that these were very high on our orders of priority.

Specifically, the Senate Conferees agreed to recede from the language of subsections 12(c)(8) and 13(d) of S. 47 and the House Conferees agreed to recede from language of subsection 5(g) of H.R. 1878. The conferees intend that the new conference report shall govern interpretation of the new section 6(g).

The new section 6(g), while providing for limited additional discretion in the hands of the FMC, clearly places the burden of proof on the Commission, and establishes the Commission as the sole Federal agency or department charged with enforcing the new general standard.

Critical to the analysis of the general standard is the following portion of the conference report.

The new section 6(g) allows the Commission to seek an injunction if it determines that an agreement "is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost."

The compromise accedes to the House position insofar as it would establish a flexible general standard to be applied by the regulatory agency with expertise in this industry. This standard provides a basis for Commission review of agreements other than for contravention of specific statutory proscriptions and recognizes that a substantial reduction in competition can, under certain circumstances, trigger Commission intercession to prevent agreements from becoming effective or remaining in effect.

On the other hand, the standard in the conference bill responds to the Senate concern that the "public interest" test in the present law is vague and unworkable in its automatic application of certain antitrust principles to ocean shipping. The new standard removes any per se condemnation of concerted conduct such as might be applied under the antitrust laws. Consequently, the standard establishes a threshold for prompt approval of most generally accepted joint conduct in ocean shipping.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. GORTON. The Senator will.

Mr. LONG. Mr. President, what the Senator is explaining to us is something that a person would have to be a master of the subject to understand. I feel we ought to try—and I wish the chairman of the subcommittee at the time that we went to work on this bill would do so—to explain for the benefit of the Record what this means as applied to a specific situation, so that someone reading this Record who is not a master of the subject can understand what we are talking about.

I can understand what the Senator is talking about, but I do think it would be helpful if he could give us a specific illustration as to how this would work.

Mr. GORTON. I will be happy to do so.

This Senator provides for only the caution, at the point of this interruption of a reading of the actual report of the members of the conference committee, to point out that great care was taken in the preparation of S. 47 in the form in which it is before the Senate now and of the report of the conferees to balance the competing considerations which motivated the Senate in passing S. 47 in its form and the House in passing H.R. 1878 in its form.

Because the primary negotiations were conducted between Senate Members on the Merchant Marine Subcommittee and the House Members of the Judiciary Committee, most particularly the chairman of the Judiciary Committee, Representative RODINO, it is important for us that the legislative history of this bill be as clear as it can possibly be.

With that purpose, the answer to the Senator's question is that it was our view here in the Senate that we should set up a set of specific prohibitions that were exceedingly clear, and that only those prohibitions would permit for intervention by the Federal Maritime Commission.

It was very clearly the feeling of the opponents of the bill in the Senate, who were unsuccessful here, and to the draftsmen of the House version of the bill that that was fraught with great danger, that the imagination of people in this area would figure out something which was just as destructive of competition as the prohibited acts but would not come within their specific ambit, and that, therefore, there should be a general standard, general prohibitory language, prohibiting undesirable conduct.

The House, as we have explained, in our view went so far on that as to destroy the whole thrust of the bill. The compromise took the basic House framework of having a general standard of prohibited conduct, but what it has done is to say, first, that the Federal Maritime Commission can only fool around for 45 days after a proposed agreement is filed.

One of the problems in the past, as the Senator from Louisiana knows, was that these things go on and on forever.

Second, that even during those 45 days, a third party cannot come in and get an injunction simply because they allege that, at some time in the future, they might be prejudiced by the agreement in question.

Third, if during the 45 days the Federal Maritime Commission has not made a finding consistent with the prohibitions in the act, it will go into effect. Persons who feel that they are penalized, in fact, by an agreement in force may thereafter bring litigation to challenge it.

What it does, in the specifics which the Senator from Louisiana wishes, is that it cuts down very substantially on the paper shuffling. It cuts down any advantage that existed previously simply to bring even a frivolous action and get a temporary restraining order against an agreement going into effect.

It means that people making the challenge outside the Federal Maritime Commission will have to show actual damage after the fact, rather than simply a gifted lawyer's imagination about what some potential harm would be before the fact.

This Senator feels very firmly that this adds measurably to the certainty and predictability with which a conference or an individual carrier can go into a particular arrangement; that it will cut down very substantially on litigation; and that, in sum, it will allow both our carriers and our shippers to spend more of their time and effort on the business in which they are engaged and less on legal maneuvering.

Mr. LONG. All that is very good, and I approve of it. But I think that for the benefit of the RECORD, at some point—I know of no time better than the present—someone, and I think the Senator would be the best one to do it, ought to explain how this thing starts.

For example, the Senator refers to a conference. He is talking about some shipping companies, I assume—let us say, three in number and maybe more. I wish he would specify.

It seems to me that the RECORD should illustrate how this starts and how it works.

For example, I assume he is talking about three different companies—let us say, A, B, and C. They meet. They discuss the problem and agree on a set of rates. It might be well to specify what we are talking about—from certain destinations to certain other destinations. Having agreed on a rate, I assume someone wants to complain about it, and I think it would be well to illustrate.

I wonder if the Senator would be willing to carry out the scenario of how this would work, so that we could understand and so that someone reading the RECORD could understand what we are talking about here.

Mr. GORTON. The Senator from Louisiana is entirely correct.

A conference is the traditional system through which ocean carriers have operated. A carrier could include three carriers, presumably two carriers, or, in many cases, a substantially larger number.

Generally speaking, a conference is a group of carriers engaged in the same trade: from east coast ports to Europe, or west coast ports to South America or Japan and the Orient, and the like.

The tradition, far beyond the length of the memory which any of us have, is that the conferences do, in fact, set not only the rates for ocean carriage—that is, how much per tonnage for all carriage or particular kinds of groups—but also for the number of sailings and the dates of those sailings and the like, so that there is a degree of predictability about them.

Because the conference system long preexisted the Shipping Act of 1916, that Shipping Act said that conference activities, as long as they did not violate certain tests, were exempt from the internal American antitrust laws.

A number of court decisions, not closely after 1916 but relatively recently, in the 1950's and 1960's have reaised questions and set exceptions. So we face the prospect that, very frequently, an agreement which was approved by the Federal Maritime Commission was thereafter challenged by the Justice Department, another part of the same Government, and found to be invalid, even though the carrier members had entered into it in good faith.

Under this law, conferences would be able to set these traditional prices and rates and other terms and conditions—sailings and the like—of carriage. They would be public.

In other words, the conference agreement would then have to be filed with the Federal Maritime Commission. The Federal Maritime Commission would have 45 days to examine that conference agreement and to determine whether or not it violated any of the specific or general prohibitions contained in this act. During that period of time, when it was not in effect, no third party could challenge it. After its approval, or its approval by failure to act, it could be attacked later by such third parties if they were in fact prejudiced by it and if in fact the court found it to be illegal.

So we have not ended the impact of lawyers and courts in this process, but we have telescoped it. We have made it smaller. We have made it much less attractive to make speculative attacks on it.

The other thing we have done which is very important—for which the Senator from Ohio, who has been an opponent of this bill, deserves a great deal of credit, though not all of it—is to say that if we are going to give these conferences this kind of power, we have to have something which operates on the other side in favor of the shippers, in favor of the consumers of these goods. One of those, which always traditionally has been a part of it, is that a carrier does not have to join the conference. If a carrier can do better by not being in the conference and has different rates, the carrier is free to do so.

There was a concept proposed at one time of closed conferences, which would require everyone to be in one of these conferences, which was rejected at the very beginning of this process.

In addition, we have provided for a right of independent action on the part of conference members. That is to say, if the conference sets prices too high and one of the conference members feels that it can do better by competing on the basis of offering lower rates, it can do so on 10 days' notice.

I referred to that process here somewhat earlier.

So, there is a strong element of competition which is involved in this entire process. We have, however, gone on to recognize something which has come into existence long after the 1916 Shipping Act, and that is that most of the goods which are now shipped by these freighters are in containers. They do not put a little tiny package in the ship any more. It is in containers and the high degree of likelihood is that when the ship leaves New Orleans, for example, to go to South America those goods did not originate in New Orleans; they have originated in St. Louis or Chicago or Kansas City or some such place.

So we all allowing the conferences to set what we call intermodal rates, that is to say, the seller of the goods can find out in Kansas City, in effect, sign one contract which will take his goods by rail from Kansas City to New Orleans and by ship from New Orleans to Rio de Janeiro and again by rail or by truck from Rio de Janeiro to Sao Paulo or wherever it is they are going.

Mr. LONG. Or they can put it on the barge and float it down the river with a lot of other barges, and put it on the barge, float it down the river, and lift it aboard the ship in New Orleans.

Mr. GORTON. Exactly. They can use the flexibility which a modern transportation system such as the United States has offered to them.

Mr. LONG. Yes.

Mr. GORTON. So, again, I simply need to say it is in the area of encouraging both agreements, which are public, available to everyone, and at the same time competition that we have passed this bill. We have also allowed certain rights to small shippers to get together in nonprofit organizations which can bargain for lower rates when they combine to counterbalance some of the powers which the conferences involving more than one carrier would have.

Mr. LONG. Mr. President, the Senator has given us a very good and clear explanation of how some of this would work.

When this type of an agreement is made on the part of the conference, would he mind explaining the kind of people who are likely to complain about it and what type of complaints that they are likely to be making under this process he has explained?

Mr. GORTON. That is a particularly good question which the Senator from Louisiana has put up.

Traditionally, one would think that complaints would come from shippers, that is to say the producers or the sellers of particular goods, about a conference arrangement on the grounds that service was either too poor or rate prices were too high.

What we have done successfully, I can say to the Senator from Louisiana, in drafting this bill over the course of the last 3 days, is to create one in which the organizations representing the shippers and a number of the large shippers operating as individuals have agreed is also to their benefit, because they feel that a stronger American merchant marine and a more rational system and one, I must say, which allows for this independent action to which I have already referred which allows them to get the benefit of competition is in their best interest. Nevertheless, one can hardly hope that any law that is passed is going to work out so perfectly in practice that no one ever is going to feel aggrieved by it, and an aggrieved party might conceivably be a carrier that felt that it was being arbitrarily excluded directly or indirectly from a particular trade. It might be a shipper or a group of shippers who felt that, however well the system might work in theory that in a particular practice and a particular trade which may be a relatively minor one, the conference system was working in a way which was very much to the detriment of the goals of the bill itself.

Mr. METZENBAUM. Mr. President, will the Senator from Washington yield for a question?

Mr. GORTON. I yield.

Mr. METZENBAUM. Now, at 4:25 p.m. having had this bill up before the Senate for almost 45 minutes, does the Senator now believe in retrospect it might have been advisable to enter into a time agreement, 1 hour equally divided, a half hour on a side?

Mr. GORTON. The Senator from Washington has been having such a fine time with the Senator from Louisiana here that he has lost all track of time.

Perhaps the Senate would have reached a final vote earlier had there been such a time agreement, but by the same token, it seems to me that the questions of the Senator from Louisiana are helping to clarify the record.

Mr. METZENBAUM. I have no quarrel at all with the questions of the Senator from Louisiana, but I know that there were certain leadership parties in this Senate who thought this might be a better way to bring this matter to a prompt conclusion, and since the Senator from Ohio does hope to be heard on the subject and will be heard on it, I just noted we are running far beyond what had originally been contemplated, but I certainly do not want to preclude nor in any way deter my good friend from Louisiana from the debate.

Mr. GORTON. The Senator from Washington has been a Member of the Senate for a shorter period of time than any other Member in the Chamber, but it has already been brought to his attention on times too numerous to mention that leadership estimates of how long a particular bill is going to take to pass the Senate are invariably too short.

Mr. METZENBAUM. Amen.

Mr. LONG. Mr. President, since the Senator asked the question, the Senator from Louisiana feels constrained to say that any time leadership has a chance to get a time agreement they should take it. That has been my experience, and this Senator was once a part of the leadership. If you have a chance to get a time agreement you should take it because the odds are you would save time by doing it.

Mr. President, it is not important to the Senator from Louisiana whether this bill passes at 5 p.m., or 5:30 p.m., or 6 p.m., or even tomorrow. It does seem to me that sometimes we neglect our duty by failing to make the RECORD clear what we think about matters and also failing to make clear for the RECORD the aspects that might otherwise be left obscured.

I wish to ask the Senator from Washington: Might the complainant be a port or those who speak for a port city?

Mr. GORTON. That is a correct. A port would have standing under the terms of this act.

Mr. LONG. Might it be that rates are agreed? Just for sake of argument, let us assume that the people at Houston might feel the rates were too favorable to the people at New Orleans. Therefore, they might want to complain because to do it the way the shippers had agreed might cause cargo to sail out of New Orleans where otherwise from their point of view it should have gone through Houston. To give a more likely example, might it not be that the people in Baltimore might feel it was not right because they would be competitive with the gulf coast ports and if the gulf coast ports had rates which were too favorable it might cause traffic to come down the Mississippi River rather than over the Appalachians by rail and therefore they might want to complain that they are losing cargo and losing traffic because the agreement might have been too favorable to the gulf coast ports?

Mr. GORTON. The Senator is correct.

Mr. LONG. I just wish to get this matter in perspective. So there are all kinds of factors. It could be competition among ports; it could be competition among shipping lines; it could be competition among those who carry the product to the ports. It also could be a complaint among consumer interests that the total effect of all of this might not be in the public interest and in particular would not be in their interest. If they wanted to they would have recourse under the legislation the Senator is reporting to us.

Mr. GORTON. The Senator is correct.

Mr. LONG. It seems to me that is appropriate, Mr. President, and I did wish to ask the Senator.

I thank the Senator.

Mr. GORTON. I should wish to thank the Senator from Louisiana for his help in clarifying the bill.

When this series of questions started this Senator was in the process of reading from the report of conferees and believes that he is at the correct place.

> Other significant changes from the public interest standard of the present law include section 6(h), placing the burden of proof on the Commission in any application of the general standard.
>
> The compromise will place in the hands of the Federal Maritime Commission, the expert agency charged by the Congress with regulating this industry, sole responsibility for enforcing the general standard. Although the Department of Justice will continue to represent the FMC in most other respects, the Commission is granted authority to represent itself in actions to seek an injunction. The expertise of the FMC in regulating this industry, the agency's experience in applying the standard, and the likely need for prompt action to stop threatening conduct, warrant a limited exception to the principle of centralized government litigation authority. In this case, the limited grant of litigation authority is to an independent agency, created by Congress with considerable autonomy from the Executive Branch. As new and evolving forms of cooperative conduct develop, the conferees believe that the Commission, rather than the antitrust agencies or the courts in the first instance, is in the best position to assess an agreement's benefits and detriments in light of the objectives of this Act.

That is the end of the quote from the report of the conferees.

While the conference report is extremely helpful, there are some specific points which should be emphasized.

In view of the time, I will ask unanimous consent that the balance of my remarks be printed in the RECORD.

The Senator from Louisiana has said that he would like to hear all of what we have to say, which is important in legislative history; and this Senator believes that to be a totally appropriate request.

Mr. LONG. Mr. President, please understand that I agree with what the Senator is saying, but I do think that it is appropriate that we make this a matter of record. This Senator would have had to object to the unanimous-consent request because, from the point of view of the Senator from Louisiana, we ought to make a record of this matter. And I will say a few brief words after it is over, but I think this is a very important piece of legislation. It represents years of work on behalf of the Senator from Washington and others. I think that no harm will be done if we just explain this matter to the Senate.

Mr. GORTON. The Senator believes not only that no harm will be done but that it will help us immensely.

Mr. LONG. I thank the Senator.

Mr. GORTON. While the conference report is extremely helpful, there are some specific points which should be emphasized.

First, the definition of a marine terminal operator, as in the 1916 act, is restricted to a person—"in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier." In actual practice, the FMC has regulated not only the providing of marine terminal facilities, but also marine terminal services performed by marine terminal operators on those facilities.

It was agreed that the statutory definition of marine terminal operator would not be altered from that found in the Shipping Act, 1916. Implicit in this agreement is the agreement that the FMC will continue to regulate not only the facilities furnished by a marine terminal operator, but also the marine terminal services furnished, as in fact the Commission has historically done.

Second, the issue of tariff filing was debated in both the House and Senate. As part of the overall compromise, it was agreed that the current tariff filing practices would be continued. Although not statutorily required to do so under the Shipping Act, 1916, pursuant to its responsibilities under that act, the Federal Maritime Commission has, by regulation, required the filing of terminal tariffs by persons engaged in carrying on the business of furnishing wharfage, dock, warehouse, or other facilities. See 46 CFR part 533. It is expected that this practice will be continued. The conference report specifically notes, however, certain exemptions from the marine terminal operator tariff filing which is consistent with exemptions found elsewhere in the bill. Envisioning the continued regulatory requirement of tariff filing by those who now file tariffs, conferees intend that forest products, bulk cargo, and recyclable metal scrap, waste paper, and paper waste not be included within the ambit of any such requirement.

Mr. President, I may interject that that was a contribution of the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, I want to congratulate the Senator from Washington for his effectiveness and his statesmanship in seeing that that particular provision remained in the bill.

It seems to me that we have discriminated against scrap materials long enough and in the interest of improving the environment and in the interest of making good use of our resources, it is about time that we quit discriminating against those who collect used materials and reuse those materials.

So that this provision will help us to see that the roadsides remain clear of all these beer cans that you see in some areas and that those who collect waste materials and take them off our hands and, generally speaking, help the economy would be encouraged to do the same. So this is a small blow for what should be done in a very broad area.

I am pleased to see the Senator prevailed in this area. Now if we can do the same thing in a great number of other areas, we will have just done a lot to help with the energy crisis and we will have also done a great deal for justice and fairness in this great country.

Some people think just because some fellow is in the business of collecting scrap, picking up all the waste, steel and aluminum and whatever it is that you see laying around the countryside—just because somebody picks up rags and scrap and finds a way to reuse all that material, it does not mean he is unworthy of being considered a full-faith American citizen.

We used to have a bad image of the junkman or the ragman, the fellow who went around and collected waste materials and made something out of them. If you look at the descendants of those same ragmen today, they are very successful businessmen.

Mr. GORTON. And they have provided a vitally important service.

Mr. LONG. They provided a good service. They took a lot of stuff that would otherwise have been junk and waste and they made good use of it. And it benefits all of us. They used something that otherwise would have gone on to a fire and been burned, but it was put together in a useful way. They rendered a service and they made a profit at it. Generally speaking, they, themselves wound up being pillars of the community. If you look at the second generation, many of them are presidents of the chambers of commerce and some of the most outstanding members of the community. Why? Because they worked for a living and worked very hard for it and rendered a useful service in doing so.

I am all for the forestry products industry, for example. But when you really get down to it, it serves an even better purpose if you take all this litter that otherwise would louse up the whole landscape, pick all that junk up and recycle that in some future product. A greater service is rendered there than by just going out and cutting one more pine tree.

So it serves a purpose to recycle. We cannot afford to waste all that energy. If you take all those tin cans and aluminum cans along the highways in my State and elsewhere, pick all that stuff up and make it into another can or another piece of aluminum, or whatever you might make it into, you have saved that much of America's precious resources by using it over and over again.

When the Senator prevailed in this matter, he set the stage for somebody else to strike another blow for freedom. Because, as much as I favor the depletion allowance and matters of that sort, it is not fair to do it just by putting some fellow out of business who is in the business of collecting all of this waste material, recycling it and putting it out there for society to use a second or third time.

So, as far as I am concerned, that is one of the best provisions in the bill. I must say I have a little pride of authorship.

Mr. GORTON. I thank the Senator from Louisiana for his comments.

This exemption is consistent with the treatment of these cargoes in sections 8(a)(1) and 8(c) of this act, and the expected continued tariff filing by marine terminal operators.

Third, under the declaration of policy a provision was added "to encourage the development of an economically sound and efficient U.S.-flag liner fleet capable of meeting national security needs."

In 1961, the U.S.-flag promotional role was taken from the FMC and given to the newly created MARAD. It was recognized that there was a conflict of interest when the FMC was given the responsibility of both fairly and equitably regulating the foreign shipping of the United States, and promoting U.S.-flag interests. Generally speaking, we find this true today as well.

It may be useful to review the purpose for including a "U.S.-flag provision" in the declaration of policy. In recent years, nations have sought to promote their merchant marines through not only direct subsidies, but also indirect subsidies. Carriers controlled by their governments, some without any incentive or motive to operate at or above cost, have been able to undercut U.S. carriers when competing for cargo. This bill in section 9, continues the present statutory language designed to prevent abuses by these controlled carriers.

I may say that this is a contribution to this bill on the part of the distinguished Senator from Hawaii (Mr. INOUYE).

Mr. LONG. Will the Senator yield at that point?

Mr. GORTON. I yield.

Mr. LONG. There is a provision in the General Agreement on Tariff and Trade which seems to be the most unused but although potentially useful section that there is that provision, just to paraphrase it, says, that when some ostensibly private entity is really trading as a nation and you are competing with them, that you have a right to treat that entity as though it is competing with you as a nation, not a private company, and that you have the privilege of doing whatever it takes to see that your people have a chance to compete against that nation.

This Nation has made practically no use of that provision in the General Agreement on Tariffs and Trade. I am here to submit to the Senator from Washington that we ought to be using that.

For example, when we have to compete, let us say, with the Soviet Union, and they designate some agency of the Soviet Union as their trading company, is anybody kidding anyone that when one of our companies competes with that Soviet company, it is competing with the great nation of the Soviet Union? He is not competing against some shipping company over there.

Sometime ago there was an American pipeline company hopeful of getting into a deal to transport Soviet gas to sell on the world market, hopefully to the United States at least in part, and he discussed the proposition with those in the Soviet Union who would produce the gas. In the course of the conversation, he said,

> I think we ought to explain this to you, that according to our estimates you would make no profit whatever out of this enterprise because according to our cost the entire cost that we will be paying would be consumed in shipping cost and transportation cost. Our analysis indicates that you

will be receiving zero, actually a zero price, for this natural gas at the wellhead.

The Soviet authority sitting there chuckled and said, "Well, of course, that is because you do not understand the way we keep our books." In other words, from their point of view, they had other political purposes in mind which would make it to their advantage to go ahead and sell us natural gas even though all they were getting for it was the transportation cost from the point where it was delivered at the well until we received it over here at some point in the United States.

One can run through his own mind what their purpose might be in doing business that way. It challenges the imagination. But let us recognize that from their point of view, it served a purpose.

How can one compete if they are willing to sell their product for nothing, for zero? We will be confronted with the same kind of problem in the future as nations are willing to use their cheap natural gas or their oil produced in their nation and sell it at a ridiculously cheap price if it goes into a product which, when delivered here, attracts a price that is worth it, all things considered. For all we know, it might be used for espionage; it might be used to build more industries in their country. The good Lord only knows what the purpose might be. But when a nation is trading as a nation, they are privileged to do business that way and no one can compete with anything like that. This is the reason that we ought to more and more think in terms that if we are trading with a company that does business as a nation, we ought to treat them as a nation, and we ought to give our concerns, be it a shipping company or a manufacturing company, whatever consideration is necessary to see that we are competitive. It is the utmost outrage for us to tax our own citizens to pay the expense of a program that helps others to compete unfairly with them. It is like the practice that they said existed in Paris during the French Revolution. Supposedly a victim of the guillotine was required to carry the basket up to the guillotine with him so that there would be a basket to drop his head into when the blade dropped.

It is not fair to require American companies to pay taxes for a program that is death. If we cannot guarantee our own companies, particularly trading in our own markets, a fair opportunity to compete, it seems to be that is unworthy of us because we have a duty to our own citizens who support this Government of ours, who keep us in office, we have a duty to them to provide them a fair chance to compete, knowing very well that we do less for our concerns than perhaps any other nation on Earth.

In fact, let me ask the Senator, by point of illustration, does he know of any other country that has a large area fronting on the ocean as we do that does any less to defend their merchant marine than we do?

Mr. GORTON. The Senator knows of none.

Mr. LONG. I thank the Senator. That is all the more reason that I am proud to support his leadership.

Mr. GORTON. The Senator from Louisiana is one of the most expert Members of this body, perhaps the most expert Member of this body, on the provisions of the General Agreement on Tariffs and Trade. I think that the lesson or the illustration he has just provided has been very eloquently stated.

Mr. LONG. Just to go one step further, I thoroughly approve all that the South Koreans are doing to become a seafaring nation. They are a hardworking people, they are an industrious people. The South Koreans believe in our form of government. They believe in democracy, and they are willing to fight for it. All that I highly applaud, and I think we ought to cooperate and help them achieve that objective. I cannot quarrel with those who think for and work for that government when they do whatever is necessary to make their nation competitive on the high seas.

By the same token, just as they do rally behind their merchant marine and give it enormous support, and I think we should cooperate with them in that effort, I do not think it is fair that we impose a death sentence on our own industry in order that we can cooperate with them. It seems to me there is room enough for them in the shipping field just as there is room enough for us.

When we are carving out a place for various countries in the overall picture and in our markets, we ought to start out with our own shipping, and then from that point forward see how much room we can make for the others. I would be perfectly content to make the Japanese or somebody move over to make room for the South Koreans, but I do not think it is quite fair to ask that our shippers should be pushed out of the market for the benefit of any of our allies, as much as I admire them. Our shippers are not getting that much business the way it is now. I do not think we ought to ask them to go out of business or to accept a death warrant in order to take care of someone else.

I regret to say that has all too often been a part of our foreign policy, where one will take the view that while, of course, he felt a great deal of sympathy for the American concern that was in the process of going out of business, that this person might feel we should take the international point of view that all things considered, the American should go out of business so that someone else can have it.

I know the Senator does not share that view, but I have been concerned that some seem to.

Mr. GORTON. I thank the Senator from Louisiana. It is most interesting that the subject to which he has just referred is the next subject in my remarks.

Additionally, certain countries have discriminated against U.S. carriers, particularly in the cross-trades, where they operate in closed conferences and can exclude U.S. carriers from membership. Under section 13(b)(5) this bill provides a means by which the FMC can, and should, protect U.S. carriers seeking to compete in these foreign-to-foreign ocean routes.

Another possible problem area arises from cargo reservation schemes in the laws or trading practices of some foreign nations. There are important policy considerations that have led the United States to oppose some cargo reservation schemes. The conferees understand that these considerations may lead our Government to continue this opposition in many cases. At the same time, the conferees recognize that some U.S.-flag carriers may be confronted with a cargo reservation scheme that will exclude them from a trade entirely, or severely limit their access to certain cargo. Under such circumstances, the conferees consider it a clear benefit to allow U.S.-flag carrier participation in the trade. Although the Commission might generally not approve such restrictive arrangements, the Commission, after giving due consideration to the maritime and trade policy views of the United States, may conclude that approval is necessary in order to maintain a viable U.S.-flag service, as it has in the past in similar circumstances. The conference report, in its analysis of section 6, emphasizes this point.

The purpose of re-enumerating the specific U.S.-flag provisions is to describe the intent of the U.S.-flag provision contained in the Declaration of Policy. That is, to protect U.S.-flag carriers through the regulatory process when they are faced with discriminatory behavior by foreign countries or carriers.

Fourth, there has been some concern with the appearance of the term "ocean tramp, or bulk carrier" in section 10(d)(2). The purpose here is only to prohibit marine terminal operators from concertedly boycotting or unreasonably discriminating in the provision of post services to ocean tramps or bulk carriers. There has never been a requirement for tariff filings regarding bulk commodities, and there is no intention that such a requirement develop as a result of this bill. In fact, section 8 of S. 47 specifically states "except with regard to bulk cargo * * *" each common carrier and conference shall file tariffs with the Commission. Thus it is clear that no new tariff filing for ocean tramps and bulk carriers is anticipated.

In sum, Mr. President, the Shipping Act of 1984 revises the Shipping Act, 1916, to provide an updated, simplified, more efficient regulatory scheme for international liner shipping. The paramount objective is to develop and maintain an efficient ocean transportation system through commercial means with minimum Government involvement.

The legislation certainly considers:

The ocean common carrier who desires stability in enforcement;

The independent nonconference carrier who desires to remain in business as a competitive alternative to conferences;

The large shipper who desires broader loyalty arrangements and flexibility;

The small shipper who fears market dominance by his larger competitors and desires to see his goods compete with those similarly produced in foreign counties;

The freight forwarder who wants to be assured that the exisiting system of licensing and bonding will be retained and that he will continue to receive compensation; and

Ports and marine terminal operators who are generally satisfied with the status quo.

This bill truly represents a consensus by all affected parties. I urge its passage.

Before I yield the floor, Mr. President, I want to make two or three additional comments. The first is to say, as the Senator from Louisiana understands and appreciates, that no bill of this nature or of this complexity could possibly be designed without the immense aid and assistance of a skilled and dedicated staff. It is exactly such a staff with which I and the Senate Committee on Commerce, Science, and Transportation and its Merchant Marine Subcommittee have been blessed. Mr. Terry Spilsberg was first assigned to the Merchant Marine Subcommittee when I became its chairman. He drafted the first version of this bill and worked very hard on it through the end of the 97th Congress.

Second, my own staff member, Cassie Phillips, has provided wise advice and counsel on the bill as it was debated on the floor of the Senate almost a year ago.

Above and beyond the contributions of all of these other people, however, is that of Mr. Peter Friedmann, who is with me here on the floor today, who has served the Merchant Marine Subcommittee with respect to this bill for more than the past year. He has been primarily responsible for all of the multitude of dealings with the House on the differences between the House and the Senate versions and has dealt with all of the groups interested in this bill, as well as with his counterpart staff members on the House Merchant Marine Committee and on the House Judiciary Committee. Much of the form of this bill is due to his efforts and he deserves the thanks not only of the sponsor of the bill and the members of the committee but of the people of the United States.

I also do not wish to yield the floor without saying a word about a Member on the floor, the distinguished Senator from Ohio, who has had, to put it mildly, grave reservations about this bill in its original form to this date. He does not need my saying it to know that he has had very real effect on the form and on the substance of the bill. I can now say, as we are reaching the end of this process, that the impact which he has been a positive one.

One of the reasons that I can say with confidence that we now have a better bill than that which passed either the House or the Senate in its original form is because of his efforts. I only regret that he has decided, I think after some feelings on both sides, that he still must oppose the bill. It was one of my primary goals to see to it that when we ended this process, I would have the support of my friend from Ohio. I seem to have fallen a little bit short of that support. I can only turn him, after saying that, over to the distinguished Senator from Louisiana, who has already shown his eloquence on the floor here today.

Mr. PACKWOOD. Mr. President, as chairman of a committee that has experience in deregulating a number of transportation modes, I am extremely pleased with the product now being brought before the Senate. I congratulate Senator GORTON on his leadership and hard work in bringing the Shipping Act to this point.

S. 47, the Shipping Act of 1984, is unusual in that it represents a consensus of carriers and shippers—those who provide ocean shipping service seeking to maximize income, and those who are consumers of that service seeking the lowest cost ocean transport. For this reason, I feel comfortable that the Senate and House conference committee has reported out an excellent piece of legislation.

As in any legislation whose purpose is to significantly change the way industry and Government operates, there is some uncertainty involved. Thus, even after this legislation is sent to the White House, the Commerce Committee will continue to listen and be responsive to those who will be impacted by this legislation.

I wish specifically to note with approval the interpretation of specific provisions by my colleague, SLADE GORTON, the author of this bill. Specifically I refer to:

First, the use of the terms "ocean tramp, or bulk carrier" in section 10(d)(2);

Second, the expected continued regulation of marine terminal facilities but also services;

Third, the important concern with U.S.-flag interests in section 2(3), but the limitation of its application to specific instances of discrimination against U.S.-flag carriers. In this regard, the fact that those opposing a proposed or existing carrier agreement or activity—not involving controlled carriers, foreign-to-foreign movements, or cargo reservation schemes imposed by foreign nations—are U.S.-flag carriers, will not be a factor, and

Fourth, continued tariff filing by marine terminal operators. The proposed Shipping Act, 1984 does not provide for the filing of tariffs by marine terminal operators, nor does the Shipping Act, 1916. However, the FMC requires that marine terminal operators file their tariffs with the FMC as the result of administrative procedure, General Order No. 15 (part 533). Since marine terminal operators are required to file their tariffs with the FMC, and I understand that almost every marine terminal operator who responded to the FMC notice of inquiry and intent to review regulation of ports and marine terminal operators favored the continued filing of their marine terminal tariffs with the FMC, it seems only logical that the filing of marine terminal tariffs be continued under the new 1984 Shipping Act.

The Shipping Act, 1984, will go down as one of the major pieces of legislation of the 98th Congress. It goes a long way to resolving critical obstacles to an efficient ocean transportation system. I look forward to watching U.S. commerce, our importers and especially our exporters, reap the benefits.

Mr. THURMOND. Mr. President, I rise in support of the conference report to S. 47. The legislation we approve today is the product of intense work by the Committee on Commerce, Science, and Transportation and the Committee on the Judiciary in the Senate, as well as the Merchant Marine and Judiciary Committees in the House. I would like to thank all the conferees for their sincere and dedicated efforts to develop legislation acceptable to both Houses.

Mr. President, as chairman of the Committee on the Judiciary, I am particularly pleased with the independent action provision of the bill (section 5(b)(8)), as well as the establishment of a general standard (section 6(g)), under which the Federal Maritime Commission can seek to enjoin any agreement that "is, likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transporation cost."

In conclusion, Mr. President, the conference report we consider today is a compromise. Both sides of the issues created by certain provisions of the bill engaged in give and take. I am today satisfied that a reasonable solution has been achieved. This body must, of course, continue to monitor the results of this legislation and be ready to act if and when necessary.

Mr. METZENMBAUM. Mr. President, I rise to express my appreciation to the manager of the bill for his kind comments and to indicate my respect for him and his staff in connection with negotiations in the conference committee as well as his handling of this bill overall. I have no fault to find with him or his efforts, for the direction in which he has attempted to move this legislation. I respect him and I know that he has handled this legislation in a manner that he deems best for our country and for the merchant marine industry.

In the same vein, I respect the efforts of the distinguished Senator from Louisiana, who has had a longtime concern about the merchant marine industry.

Having said that, Mr. President, it is true, as my friend from Washington points out, that I still do not think this is good legislation. That is because I have a basic concept, a basic feeling that when there is price fixing, when there is dividing of markets, it is not in the best interests of this country. I am one of those who believes very strongly in a free enterprise system, in the right to compete and that competition should not be hindered in any way whatsoever, and that when two or more business groups or businesses or people get together to fix prices or to divide up a market, they have not served our Nation's best purposes.

As I see the distinguished majority leader on the floor of the Senate, I would like to point out to him parenthetically that he said to me, "You are not going to hold us up very long, are you?" as we walked in the door. I said no, but that was about 1 hour and 15 minutes ago and the Senator from Ohio has just now been able to obtain the floor. So, indeed, I did not intend to debate this at great length, but I had assured him, no, I did not think the debate would take long. I did not know the capacity of my friend from Washington and my friend from Louisiana. I think it still will not be a long debate.

Mr. BAKER. Mr. President, I had a terrible feeling back in the office, as I was listening to the squawk box, that the Senate had adjourned and somebody forgot to tell me. But I am reassured by the remarks of the Senator from Ohio.

Indeed, we had that conversation as we walked together through the corridors to the Chamber. I do hope we can do this as soon as possible. It is now almost 5 o'clock. I do expect there will be a rollcall vote and those listening in their offices should anticipate the possibility of one more rollcall vote tonight on this conference report. It may not be necessary.

Mr. METZENBAUM. Mr. President, does the majority leader indicate that he is going to insist upon a rollcall vote?

Mr. BAKER. No, Mr. President, I am not.

Mr. METZENBAUM. Does the Senator from Washington?

Mr. GORTON. No, Mr. President, the Senator from Washington simply wanted to reserve the right to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Senator from Ohio will not insist on a rollcall.

Mr. BAKER. Well, Mr. President, we may very well not have one. I was under the impression that the Senator from Ohio would ask for a rollcall. I then withdraw the admonition I just issued.

Mr. LONG. Mr. President, the Senator from Louisiana may want a rollcall.

Mr. BAKER. I knew I spoke too soon, Mr. President.

I reinstate my admonition that there may be one more rollcall vote tonight and I thank the Senator from Louisiana, I think.

Mr. METZENBAUM. Mr. President, to continue on with my remarks, there is no question that the conference report is a substantial improvement over the bill that left the Senate, and within the confines of the issues in disagreement between the two Houses it is my view that the conferees have done an admirable job of preserving competition and protecting consumers, but—and it is a big but—I cannot agree with the underlying premise of both versions of this bill, that is, that international ocean transportation should be governed by cartels.

That is what would be permitted under this legislation. This Senator has said before, and repeats it now, that I believe the free competitive system is the kind of system which works best for the American economy. This conference report places a throttle upon those free competitive processes working. You can use any flag that you want—certainly the American flag—to say that this is good for the American people and wave it as high as you want, but when all is said and done we have made an inroad upon the free enterprise system. I believe that is as American as apple pie, and I do not believe we should have that inroad upon the free competitive practices.

Now, we know that recently this Congress indicated it believes the transportation industry should be moving more toward free competitive activity. With this bill we move in exactly the opposite direction—toward regulation by private agreement. This bill permits carriers to form conferences in order to fix prices and divide up markets. There would be a little bit higher degree of accuracy in this Senator's opinion if instead of being called conferences they were called cartels because that is exactly what they are. They are cartels that are permitted to conspire to drive out independent carriers. The concerns that are oftentimes expressed about the small business person on the floor of this body are sort of left by the wayside in this legislation, although it is fair to say it is in a little better shape than it was when it left the Senate.

These cartels can raise costs to exporters, drive up retail prices of imported goods, and force consumers to bear increased transportation costs.

Mr. LONG. Mr. President, will the Senator yield?

Mr. METZENBAUM. Certainly.

Mr. LONG. Mr. President, the Senator from Louisiana believes in the antitrust laws just as the Senator from Ohio believes in them, but he also believes in fairness, as I am sure the Senator does; he believes in justice, which is the whole purpose of laws.

Now, my understanding is that some time ago the Justice Department, seeking to break up certain practices which they believed to be anticonsumer and against the public interest within this country, undertook to proceed against various shipping companies, American shipping companies as well as foreign shipping companies, that were engaged in parallel conduct in the North Atlantic trade.

Now, if my memory serves me correctly—and it has been some time since this matter came to my attention—those foreign nations proceeded to pass laws making it against the law, a crime under the laws of their nation, for those companies or anybody else to reveal the information that those companies had within their control, so that the Justice Department in proceeding on what it believed to be antisocial conduct, to say the least, against consumer interests, or against interests of this country, found it had no choice then but to proceed to prosecute the American companies while those European companies engaged in the same product were given a pass.

Now, does the Senator think it fair that those people can engage in conduct and their national parliaments can pass laws saying it is against the law for anybody to admit they are violating our laws in trading with us and our people would be prosecuted for doing exactly the same thing their competitor is doing which for the life of this Senator can only mean a death sentence to our competitor where the other fellow has a green light to go ahead and get away with whatever mischief he can where his national government protects him against our country ever knowing what he is up to?

Mr. METZENBAUM. The Senator from Louisiana is not wrong. He is correct. What he says is true. But that does not make it right. What we should be doing is using diplomacy in order to see to it that the other nations play fair with our corporations.

Now, I will advise the Senator from Louisiana that just recently the minister of trade from one of our larger trading partners was in to see me complaining about the fact that certain foreign companies who are required to comply with our laws having to do with antitrust and other subjects felt—and it involved some practices in their country as distinguished from practices in our country—it was a violation of their sovereignty and they were doing that which I think is appropriate—they were indicating their opposition and their concern.

But having said that, I say to my friend that that does not justify or make right the exemptions provided for in this legislation. I think it is an issue that has some relationship, but I am not at all certain the issue is relevant to the one before us in this legislation. I think the Senator is right in saying those foreign nations should not have taken the action they did, but this legislation is not going to impact upon that subject. Those laws will still be every bit as effective.

Mr. LONG. Mr. President, if the Senator will be so kind as to yield further about this matter, it is a big jungle out there. The Congress of the United States has no power to pass laws that affect those countries except insofar as their shipping company is within the territorial limits of the United States. Our laws cannot reach them on the high seas. Our laws cannot reach them when they are within their own country. The only time our laws can reach them is the time we have them inside one of our ports, as a practical matter.

Mr. METZENBAUM. I am not disagreeing with the Senator, but I say to the Senator that I do not want to confuse the issue. The issue has to do with cartels agreeing to set prices and share markets. We are talking about exemptions from our laws with respect to 72 percent of the cargo being carried in foreign bottoms and we are providing in this bill a means for those foreign bottoms or the companies that own those foreign bottoms to be exempt from our laws and to be permitted to engage in price fixing.

Now, if anything, it is a reverse of what the Senator is saying because what we are doing is inviting exemptions for the foreign-owned ships in this legislation whereas the foreign countries are coming down on our companies, and that just does not make good sense to me.

Mr. LONG. If the Senator will yield——

Mr. METZENBAUM. Sure.

Mr. LONG. I assume when he says 72 percent, he means 72 percent of that cargo is being hauled in the foreign bottoms.

Mr. METZENBAUM. That is correct. As I understand it, 72 percent of the American cargo being hauled both ways on the high seas is being hauled in foreign ships. I think that is correct.

Mr. LONG. I submit to the Senator that if you do not permit our shipping company to meet the rate of the other guy's shipping company, it is not going to be 72 percent; it is going to be 100 percent.

Mr. METZENBAUM. You hit it right on the button.

I want not only for them to meet the rate but also to lower the rate.

These American shipping companies know how to compete. That is the way they grew up in this country. They are competitive. But instead of letting them compete, you are saying join together these foreign companies and our companies, agree upon a price, decide that this one gets this part of the market and the other gets the other part of the market.

What you are doing by this legislation is making it rough on the American consumer; worse yet—or equally as bad—making it rough on the American shipper.

Why should these American shippers be held helpless against these great cartels? That is why I do not understand why we are passing this legislation, and I do not understand why the Grange and the American Farmers Union and all American industry is not in here saying, "See here, why are you doing this to us? You're going to increase prices to the American people."

That is not good sense.

Mr. LONG. The point of view of the American shipping companies is that some of them are in bankruptcy already, and if we follow your point of view, they will all be in bankruptcy. As it stands now, some of them cannot make it. None of them is making enough money to expand.

It appears our liner industry's prospects for attracting investment are relatively poor according to the statistics of the Council of American-Flag Ship Operators:

> The consistent inability of the industry to earn a return on equity commensurate with other industries has weakened its ability to attract much needed capital investment. In comparison to other industry groups, the ocean liner industry is one of the poorest and most inconsistent in terms of return on equity:
>
> Between 1976 and 1980, the industry has only generated a return on assets of between 0.9 percent and 6.1 percent.
>
> During the same period, long-term debt increased from 0.76 of equity to 3.83 times equity. The ratio of current assets to current liabilities fell from 1.7 to 1.3.
>
> The liner industry's return on equity in 1979 was less than one-fifth the all-industry average. In 1981, it was less than half and over the last 5 years has never been greater than two-thirds of the all-industry average.

If we do not, by our laws, permit them to compete as they see it, not as you see it; if you do not let them compete in the fashion they think they will have to compete to stay in that business—and they know that business better than you do—from their point of view, if we follow the Senator's approach, they might as well all file a petition in bankruptcy and get it over with.

Mr. METZENBAUM. I agree with the right of my distinguished colleague to make that statement, but I do not agree with the factual basis behind it, because the General Accounting Office made a study of that very issue. The proponents of this legislation had claimed that American carriers need monopoly profits to stay afloat, and the General Accounting Office indicated that they did not need this legislation and that they were doing OK financially. I think that is an impartial source, and I think you would have to agree that it is the best source we, in Congress, can get, to have the General Accounting Office make a study; and they said the American shippers do not need it.

Mr. LONG. The Senator may or may not recall this, but I do. I hope he was there to see it, because there were plenty of Senators on the floor when it happened.

Does the Senator recall, in the closing days of the last session, that my junior colleague from Louisiana, Mr. JOHNSTON, rose from the seat I am pointing at, in the rear of the Chamber, and proceeded to offer an amendment to existing law to let the Lykes Bros. Shipping Co. acquire four ships foreign?

The two Senators from Louisiana were sponsoring legislation to buy foreign ships rather than build them in Avondale, at New Orleans. Why? Because they could get those foreign ships much cheaper than what it would cost to build in the United States, including Avondale, in the New Orleans metropolitan area.

The explanation was given that if we do not give them this little break we are asking for, they will have to go out of business.

That is the situation Lykes was up against, and that is not untypical of the industry today. If they are in that kind of desperate strait and they come in here saying, "If you do what is being done in this bill, we might be able to survive," does the Senator think he is better qualified to say what would keep them in business than they are?

Mr. METZENBAUM. I am not at all certain, I say to the Senator from Louisiana, that Lykes indicated they were going to go out of business if they did not get the authority with respect to those four ships. I think they got a special deal out of this Congress, and some of us had to close our eyes and hold our nose a little—because it was not good legislation—and I did exactly that. Your colleague from Louisiana was the sponsor of the amendment. I do not think there was any evidence or that Lykes claimed they were going out of business.

Is not Lykes part of the LTV Corp.?

Mr. LONG. No.

Mr. METZENBAUM. It is not?

Mr. LONG. At one time they were.

Mr. METZENBAUM. I do not remember Senator Johnston indicating that Lykes was going to go out of business if they did not get that authority.

Mr. LONG. I heard him say it.

Mr. METZENBAUM. You may be right.

Mr. LONG. I sat right there and heard him say it.

Mr. METZENBAUM. I am not questioning it. I say I do not remember. But what I am saying is that that has nothing to do with this bill. This bill has to do with providing exemptions from the antitrust law.

You can have the Johnston bill and build the ships in Korea, which I do not particularly approve of, nor do you, because we would rather have them built with American labor. But once the ships are built, why are we giving them antitrust exemption? That is what this bill is all about.

Mr. LONG. I think I can illustrate the point in a way a reader of the Record might understand it.

We are talking about fierce competition in this area, because there is very fierce competition, and our shippers are getting the worst of it.

It is like the story I heard many years ago about a man who was in a duel in Kentucky. He was telling his friend about it, that he was challenged to a duel. He went out on the field of honor, and they stepped off 20 paces, back to back. When he turned around, the other scoundrel was standing behind a tree.

The friend said, "What did you do?"

He said, "Quite naturally, that throwed me behind a tree."

If the other fellow is shooting from behind a tree, the Senator wants to keep our man out in the open, powerless to defend himself.

All I am saying is that in this tremendously cut-throat competition that exists in this business, you had better give our people the same chance to compete that the other fellow has, because it is all they can do to keep their nose above water the way it is now.

I ask the Senator: Is there not a substantial shipyard in Ohio in the process of going out of business right now?

Mr. METZENBAUM. No. As a matter of fact, that is not what happened. That shipyard is out of business because that great savior of the American people, that fine American citizen, George Steinbrenner, took his shipyard down South, after pounding away at this Senator on the telephone, for days on end, asking for some special consideration.

So I say to you that the shipyard did not go out of business. George Steinbrenner just moved his shipyard south, after the community in which it had been located for a number of years bent over backward to give him every consideration.

That shipyard is still operating. As a matter of fact, this Congress gave them special consideration with a lease-back deal. That company, so far as I know, is doing just fine, being subsidized by the American taxpayers with one of those lease-back deals.

So I say that if we follow your line of reasoning, that we should provide an exemption from the antitrust laws because the shipping industry is having some problems, which the GAO says it is not having, then we should provide exemptions for the shoe industry, for the auto industry, for the textile industry, for the radio and TV manufacturers, and everybody else ought to get an exemption from the antitrust laws.

That is what you are really arguing. But the fact is there has been no economic justification, and the fact is that this bill does exactly what I said it does, and that is it permits price fixing and dividing up of markets.

And how can this Senator, the strongest exponent of the free enterprise system, the one who has addressed the issue so well on so many occasions, say that we want to eliminate competitive forces from being given an opportunity to work?

Let the American free enterprise system work, please.

(Mr. ABDNOR assumed the chair.)

Mr. LONG. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. LONG. Let me say to the Senator from Ohio that I take issue with him, and I think the Record will show that, but I think that I should not pursue it any further on the Senator's side. When the Senator has concluded his presentation I shall respond and explain my view on that matter.

Mr. METZENBAUM. The Senator does not take issue with my expression that he is one of the strongest proponents of the free enterprise system in this body.

Mr. LONG. Mr. President, that, I suppose, I will have to accept grudgingly and reluctantly.

But on the merits of the legislation, I do find myself compelled to reach a somewhat different conclusion.

Mr. METZENBAUM. I understand my friend from Louisiana.

Mr. President, I do not believe that this bill is going to result in increased prices to consumers, increased prices to small businessmen who have no bargaining power compared to these powerful cartels and the reduced competition that will occur as a result of this bill can fairly be called deregulation. If anything, it is more regulation. It is more Government interfering in the free competitive marketplace.

I frankly am at a loss to explain how anyone in this Chamber who was truly committed to free enterprise can support this bill. I am not now saying the conference report; I am saying the basic bill which has been modified by reason of the language in the conference report.

We have heard the ocean transportation industry is competitive and that there are no monopoly profits. If that is true, why have the carriers lobbied so hard for this bill and why have some, not all, why have some of the unions who do business with those carriers put all of their political muscle behind the legislation as well? Why are the carriers so adamant that the Antitrust Division and the Federal Trade Commission not enforce laws designed to prevent monopoly profits?

Proponents claim that competition is not suited to the ocean transportation industry. But that same claim was made when Congress moved toward deregulation and letting the free marketplace operate with respect to the trucking industry, the rail industry, and air transportation.

I am not going to kid you. There have been some rough spots that have occurred as a result of that transition in those three industries.

But the overall effect of competition in these markets has been to the benefit of consumers.

Proponents also claim that American carriers are going to need these monopoly profits. As I said to my friend from Louisiana, the General Accounting Office made a study and they refuted this claim.

Mr. President, I ask unanimous consent to have printed in the Record the GAO report.

There being no objection, the report was ordered to be printed in the Record, as follows:

[By the Comptroller General of the United States: Report to the Chairman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives]

CHANGES IN FEDERAL MARITIME REGULATION CAN INCREASE EFFICIENCY AND REDUCE COSTS IN THE OCEAN LINER SHIPPING INDUSTRY

The U.S. ocean liner shipping industry is subject to regulation under the Shipping Act. Critics allege that this Act has led to the decline of the U.S. flag liner fleet, has led to inefficient service, and has damaged foreign relations. In this report, GAO examines these allegations and analyzes alternatives to the current regulatory framework. The report finds that while the Act has led to inefficiencies and high costs, the U.S. flag liner fleet is not in the state of decline ascribed to it. The views of liner firms and their conference organizations as well as of shippers are presented. Although the report makes no recommendations, it sets forth a number of issues for congressional consideration.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C.

B-198002, 10CCPAD79
Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives.

DEAR MR. CHAIRMAN: This report responds to your committee's request that GAO conduct an economic analysis of the international ocean liner shipping industry. In the report we discuss the economic rationale for revising the Shipping Act, 1916, and the economic implications of frequently discussed modifications of the Act. We provided your committee a copy of the draft report in December 1981, for use in deliberations on H.R. 4374, a bill to improve the international ocean commerce transportation system of the United States.

As arranged with your office, we are sending copies of this report to the Secretary, Department of Transportation, the Chairman, Federal Maritime Commission, and the Attorney General, Department of Justice. Copies are also being sent to other interested parties and to those who request them.

Sincerely yours,
CHARLES A. BOWSHER,
Comptroller General of the United States.

DIGEST

Increasing concern about the viability of the United States merchant marine has led the Congress to consider substantial revisions to the Shipping Act, 1916, as amended (hereinafter referred to as the Shipping Act or the Act). While valid reasons exists for modifying the Act, GAO does not believe the current condition of the general cargo liner segment of the U.S. merchant marine is among them. Certain provisions of the Act have fostered inefficiencies and high costs in the ocean liner shipping industry and strained foreign relations, but the U.S. flag liner fleet has performed adequately and does not appear to be in the state of decline generally ascribed to it.

OBJECTIVES, SCOPE AND METHODOLOGY

The House Committee on Merchant Marine and Fisheries requested that GAO conduct an economic analysis of the international ocean liner shipping industry. The two principal objectives of this analysis are to determine whether there is any valid economic rationale for revising the Shipping Act, and second, to assess the economic implications of frequently discussed modifications of the Act.

GAO used several methodological approaches to meet the objectives of this report. First, GAO consulted Government officials and reviewed relevant documents and studies to ascertain the general condition of the U.S. flag liner fleet. Second, GAO relied on economic analysis to determine the effects of current regulation, and potential alternatives to it, on the international ocean liner shipping industry. Third, GAO supplemented this approach by surveying and interviewing U.S. shippers, carrier representatives, and other affected parties. Fourth, GAO used statistical techniques to analyze data collected from the Maritime Administration and the Federal Maritime Commission (FMC). (See chapter 1.)

THE SHIPPING ACT, 1916, PLACES RESTRICTIONS ON SHIPPING CONFERENCES

Shipping conferences are voluntary associations of ship operators that jointly determine rates and levels of service on trade routes throughout the world. The Shipping Act allows the members of U.S.-based conferences to jointly determine rates, pool revenues, and restrict or regulate service levels between ports. Any agreements to do so, however, must be filed with and approved by the FMC, which can disapprove any agreement that it finds to be unjustly discriminatory, detrimental to commerce, contrary to the public interest, or in violation of the Shipping Act. If their agreements are approved by the FMC, conferences are granted immunity from prosecution under U.S. antitrust laws.

The Act, as amended, also requires that conference membership be open on equal terms to any carrier willing and able to provide regular liner service on a U.S. foreign trade route. It restricts the type of exclusive patronage contracts that conferences can use to foster shipper loyalty and combat competition from nonconference carriers. Conferences are allowed to use dual rate contracts, whereby shippers agreeing to ship exclusively on conference lines are charged lower rates. However, restrictions are placed on the amount of discount allowable under these contracts and on the type and amount of any penalty that can be imposed on shippers violating these agreements. A variety of other practices are also prohibited to ensure that shipers are not denied access to nonconference carriers.

In addition to these restrictions, the Shipping Act prohibits any common carrier serving the U.S. foreign trades from charging unjustly discriminatory or unreasonable rates. Carriers are also prohibited from charging less than their published tariff rates, and the FMC can disapprove any rate that it finds detrimental to U.S. commerce. (see chapter 2.)

THE SHIPPING ACT FOSTERS WASTEFUL SERVICE COMPETITION

In the ocean liner shipping industry, the demand for services is affected by both the rates charged and the level of service offered. As a result of the Shipping Act and its enforcement by the FMC, conferences covering the U.S. foreign trades are able to restrain price competition by jointly establishing common tariffs to which their members must adhere. However, conferences have not been able to effectively control capacity in the U.S. foreign trades because of their inability to limit membership and the difficulty of obtaining FMC approval for agreements to pool revenues or restrict the number of sailings. Consequently, competition among conference members occurs primarily by augmenting the level and frequency of service offered to shippers and not by reducing prices. This process can result in higher costs due to low capacity utilization rates (a result of more frequent sailings with each carrying less cargo), and lower rates of return on invested capital.

High rates charged by conferences can also induce nonconference operators (also called independents) to enter the U.S. foreign trades. The inability of conferences to use more stringent types of exclusive patronage contracts limits their ability to deter the entry of these carriers. A substantial amount of entry by price-cutting independents would cause rates to fall and aggravate the problem of excess capacity. As a result, U.S. flag conference members could suffer financial losses. (See chapter 2.)

THE CONDITION OF THE U.S. LINER FLEET DOES NOT JUSTIFY A MAJOR REVISION OF THE SHIPPING ACT

Taken at face value, certain statistics suggest that the general cargo liner portion of the U.S. merchant marine is in serious trouble. For example, the number of U.S. flag general cargo vessels declined from 523 in 1970 to 256 in 1980. In addition, the number of carriers composing the U.S. flag liner fleet has fallen from 19 in 1970 to 9 in 1981. Further, the U.S. fleet of general cargo vessels has fallen from second largest in the world in 1965 to eighth largest in 1979 in terms of total deadweight tons.

But recent advances in cargo handling and ship design technology suggest a different interpretation. Containerization enables fewer containerships to transport the same amount of cargo in the same amount of time as conventional vessels. Thus, rather than indicating distress, the decline in the number of U.S. flag vessels and the relative ranking of the U.S. flag liner fleet reflect significant changes in the type of ships used by U.S. flag operators to carry their cargo. By adopting containerization, a smaller number of operators and vessels can carry the available cargo. The decline in the number of U.S. flag carriers was also a result of other factors, such as diversification and changing market conditions.

Thus, major revisions of the Shipping Act are not required to assure the fleet's existence. However, because advances in technology are producing even larger, more costly vessels, U.S. flag operators may find it increasingly difficult to replace their fleets in the future. To assure the continued, successful performance of the fleet, it may be necessary for U.S. carriers to form consortia. These arrangements would let U.S. flag operators pool their resources, while maintaining the benefits of interline competition. (See chapter 3.)

ENFORCING THE SHIPPING ACT STRAINS INTERNATIONAL RELATIONS BUT IS NOT BIASED AGAINST U.S. CARRIERS

The United States is unique among maritime nations in the way it regulates the international ocean liner shipping industry. Most countries do not impose restrictions on the practices or organizational structures of shipping conferences. Shippers are generally allowed to protect their own interests by forming groups known as shippers' councils to negotiate rates and conditions of service with conference representatives.

Because of differing international philosophies and policies regarding the maritime industry, the FMC's enforcement efforts have strained relations with a number of trading partners of the United States. As a result, the FMC has had difficulty in obtaining access to documents stored in foreign countries and U.S. flag carriers have claimed that enforcement of the Shipping Act is thus disproportionately directed toward them. GAO's analysis of 58 malpractice cases initiated by the FMC failed to show any evidence of an enforcement pattern biased against U.S. flag carriers. (See chapter 3.)

ELIMINATING WASTEFUL SERVICE COMPETITION—ALTERNATIVES TO THE PRESENT SYSTEM

Eliminating wasteful service competition and its onerous effects on operators could be achieved in two dramatically different ways. The first method is to subject all carriers serving the U.S. foreign trades to the full force of this country's anti-trust laws. Then, price competition would supplant wasteful service competition. Rates would be lower but less stable. High cost U.S. flag operators would be adversely affected and, in the worst circumstances, could cease operation without substantial increases in the subsidies currently available. This option could also increase diplomatic tensions since it would further subject foreign flag carriers to prosecution under U.S. antitrust laws. The other method is to adopt the policy of most maritime nations and free the conferences covering U.S. trade routes from all regulatory and antitrust constraints. This approach would permit carriers greater freedom to devise and implement methods to control capacity, eliminate wasteful service competition, and deter the entry of nonconference operations. In addition, it would relax diplomatic tensions and lower the costs of providing liner service. The interests of shippers could be safeguarded by forming shippers' councils.

REACTIONS OF CARRIERS AND SHIPPERS TO PROPOSED ALTERNATIVES

The results of GAO's interviews with shippers suggest that if the current conference system is retained, freight rates will increase at the same rate as costs incurred by carriers increase. Both the current degree of rate stability and level of service quality would be expected to remain the same. Shippers believe that eliminating the carriers' antitrust immunity would lead to lower but less stable rates. Conversely, shippers believe that extending antitrust immunity would result in higher rates than those that now exist. There was, however, no consensus among shippers regarding the level of service quality under either alternative.

GAO also posed questions to carrier and conference officials, who believed that the current problems affecting the industry could be solved by permitting conferences to limit membership and more easily rationalize service. (See chapter 4.)

MATTERS FOR CONSIDERATION BY THE CONGRESS

Two broad options are available to the Congress in considering revisions to the Shipping Act, 1916, that can eliminate the inefficient form of service competition which presently exists on U.S. foreign trade routes. The first option is to withdraw the current level of antitrust immunity. The second option is to expand an antitrust exemption to allow carriers to control capacity more easily.

The most suitable choice depends upon the economic and diplomatic costs and benefits associated with each alternative, but GAO's evaluation of the current evidence does not clearly favor one over the other. However, if carriers are granted expanded antitrust immunity, GAO believes shippers should be provided with the opportunity to form shippers' councils to safeguard their interests.

Currently there are two bills before the Congress, S. 1593 and H.R. 4374, that would significantly expand the level of antitrust immunity. S. 1593 contains a provision establishing U.S. shippers' councils, but H.R. 4374 does not.

The Congress should also consider changing current maritime regulation to enable U.S. flag liner operators to more easily form consortia to facilitate financing new vessels. By making this alternative form of vessel acquisition readily available, U.S. flag carriers may be placed in a more favorable position compared with their foreign flag competitors.

AGENCY COMMENTS

GAO received comments on a draft of this report from the Department of Justice (DOJ), the FMC, and the Department of Transportation (DOT). DOJ considered the report to be, overall, a "well-reasoned and factually accurate assessment." The FMC commended GAO on the report and stated its own views on several issues. DOT agreed with the conclusion that the Shipping Act fosters wasteful service competition, but felt that the report failed to consider other important measures of the U.S. fleet's performance. GAO disagrees with DOT's contention that these measures would show the fleet to be in significant enough distress to justify a major revision of the Shipping Act. All these agencies' specific comments, and GAO's responses to them, are in appendixes I-III.

CHAPTER I

INTRODUCTION

Firms providing regularly scheduled common carrier liner service on U.S. foreign trade routes are regulated by the Federal Maritime Commission (FMC) under provisions of the Shipping Act, 1916, as amended (hereinafter referred to as the Shipping Act or the Act). Although the regulatory provisions of this legislation affect carriers operating under foreign flags as well as those operating under our country's flag (known as U.S. flag carriers), increasing concern about the viability of the U.S. merchant marine has led the Congress to consider major revisions to the Act. This concern stems partly from the fact that the U.S. flag liner fleet has an important role as a naval auxiliary in time of war or national emergency.

To facilitate their review of the Act and the FMC, the House Committee on Merchant Marine and Fisheries asked us to conduct an economic analysis of the international ocean liner shipping industry. Specifically, we were requested to consider:

The size, stability, and profitability of the U.S. flag ocean liner shipping fleet;

The availability and prices of ocean shipping services in U.S. trades;

The rate of technological change;

Effects on U.S. trade and the balance of payments;

The economic effects of current, increased, or diminished regulation;

The consequences of increased competition that U.S. carriers face from state-supported foreign flag lines; and

The effect on the U.S. liner industry of revenue pools and equal access agreements governing the movement of some cargoes between the United States and other countries.

OBJECTIVES, SCOPE, AND METHODOLOGY

We had two principal objectives: first, to determine whether there is any economic justification for revising the Shipping Act, and second, to analyze frequently discussed revisions. We first used economic analysis to establish the possibly harmful effects Federal maritime regulation could have upon the U.S. ocean liner industry. We then evaluated the actual performance and financial health of the U.S. flag liner fleet.

The scope of this report parallels the congressional request, although we have elaborated in discussing some areas of concern and restricted our discussion of others. We believe that, prior to undertaking any major revision of maritime legislation, it should be well established whether the U.S. flag liner fleet has been declining, and if regulation is indeed the principal cause. Thus, we examined the effects of regulation and the status of the U.S. flag liner fleet in great detail.

Our analysis of alternatives to the current regulatory system was limited by the unavailability of data on unregulated trade routes and the willingness and ability of those whom are interviewed to respond to certain questions we posed. When we examined revenue pools, data and resource availability forced us to narrow the scope of our analysis to freight rates, capacity utilization, and profit rates.

We used several methodological approaches to achieve the objectives of this report. First, we consulted with officials of several Government agencies, including the Maritime Administration and the Federal Maritime Commission, and reviewed relevant journals, Government-sponsored research, congressional hearings, reports by the Federal Maritime Commission (FMC) and the Maritime Administration (MARAD), and numerous articles published in newspapers and trade magazines.

Second, we conducted interviews with shippers, carrier representatives, and conference officials. Our interviews with shippers were preceded by a comprehensive survey questionnaire. Third, to analyze the effect of revenue pools, we used economic and statistical analysis to both specify the particular relationships to be estimated and interpret the results obtained. Our review was performed in accordance with GAO's current "standards for Audit of Governmental Organizations, Programs, Activities and Functions."

In chapter 2, we discuss the restrictions and privileges that the Shipping Act, and amendments incorporated in P.L. 87-346, have placed on international ocean liner companies operating in the U.S. foreign trades, and analyze their economic and diplomatic effects.

In the next chapter, we assess the condition and performance of the U.S. flag liner fleet by examining (1) its dependency on Federal assistance, (2) its technological achievements, (3) its ability to carry the Nation's imports and exports, and (4) its absolute and relative size (in terms of the number and types of vessels operated, the number of companies in existence, the relative ranking of the U.S. flag general cargo carrying fleet among all nations, and its market share). Chapter 3 also contains the results of our analysis of malpractice cases brought by the FMC against liner operators from 1976 to 1980. The purpose of our analysis was to determine the validity of allegations that FMC enforcement efforts have been disproportionately directed toward U.S. flag carriers.

In chapter 4, we discuss the effects of two commonly proposed modifications of the Shipping Act: namely, reducing the antitrust immunity granted to carriers; and, to the contrary, expanding carriers' antitrust immunity. Both these would eliminate the problem of wasteful service competition, but would achieve this goal in quite different ways. We supplement this discussion with the results of our interviews with shippers concerning what the effects of certain alternatives to the current system would be on rates and service quality. We also include the results of our discussions with carrier and conference officials, who told us about the changes that they would like to see made to the Shipping Act.

In chapter 5, we discuss shippers' councils. These are organizations that could probably serve a useful purpose if carriers are granted expanded immunity from this country's antitrust laws. Included in the chapter is a review of the functions and organizational structures of shippers' councils established in other nations, and a review of attempts to establish these organizations in this country.

In chapter 6, we present the results of our analysis of the effects of revenue pooling by carriers serving several U.S.-South American trade routes. This activity is likely to increase if carriers are granted expanded antitrust immunity or if the United States accedes to the United Nations Code of Conduct for Liner Conferences. Because U.S. accession to this Code could require major changes to the Shipping Act, the Code's main provisions, historical background, and current status are also discussed in this chapter.

Our main conclusions, matters for consideration by the Congress, and agency comments on a draft of this report, are presented in chapter 7.

CHAPTER 2

PROVISIONS OF THE SHIPPING ACT FOSTER WASTEFUL SERVICE COMPETITION, EXCESS CAPACITY, AND HIGH COSTS, AND STRAIN INTERNATIONAL RELATIONS

This chapter reviews the restrictions and privileges that the Shipping Act, 1916, as amended, has placed upon international ocean liner companies operating in the U.S. foreign trades. We conclude that the Act encourages carriers serving these trades to engage in wasteful service competition that leads to over-capacity and raises costs. Some liner operators may be financially impaired in the long run as a result. In addition, enforcing the Act has also strained the United States' diplomatic relations with foreign governments.

SHIPPING CONFERENCES SEEK TO INCREASE PROFITS BY LIMITING COMPETITION

Since the late 19th century, ocean liner companies have formed carrier associations known as shipping conferences. One objective of these associations is to increase the profits realized by their members as a group. While the jurisdictions of conferences vary, they generally cover the traffic moving from one group of ports to another and are organized so that their territories do not overlap. Most liner companies are members of several conferences, since they generally serve ports that are covered by more than one conference.

At the beginning of the 20th century, the Congress began to investigate the activities of conferences with jurisdiction over U.S. ports. These conferences tried to secure higher profits for their members as a whole by establishing higher rate schedules to which all members were to adhere. Conferences also sought to control carrying capacity. Without such control, the higher conference rates would induce carriers to increase their sailings and fleet size, increasing costs until any additional profits that could otherwise have been achieved were eliminated.

To control carrying capacity (which is a function of the number and size of the ships serving a particular trade route and the number of sailings made by each ship), these conferences restricted their memberships and limited the number of sailings made by each member. In addition, conferences sought to drive nonmember companies (called independents) out of business by using predatory practices.

In addition to setting rates and controlling capacity, the conferences also had to suppress potential competition from two sources—their own members and independents—to achieve a lasting increase in joint profits. Latent price competition among conference members was typically controlled by organizing a revenue pool. Revenues earned by individual member companies serving the same ports were pooled together and periodically distributed among the member companies according to a predetermined schedule. This eliminated the incentive for conference carriers to secretly undercut the high conference rates and increase their own individual profits at the expense of those who adhered to the established rate schedule.

Controlling price competition by nonconference members was more problematic for conferences. To prevent independents from entering a trade route and undercutting rates, conferences developed methods to guarantee that shippers would continue to patronize their members even in the presence of lower-priced carriers. One such method was the deferred rebate. During a specified period, 6 months for example, part of the charges paid by a shipper would be set aside by the conference. If the shipper continued to patronize the conference exclusively during the next 6 months, the funds accumulated during the preceding 6 months would be refunded. This served to substantially increase the cost of switching from conference to nonconference carriers, since shippers risked losing not only the funds accumulated during the previous 6 months but also those being accumulated during the current period.

Another method was to offer shippers better sailing schedules than those offered by independents. This was accomplished by coordinating their members' sailing schedules to prevent the bunching of sailings around a few peak times, thus minimizing any gaps in service. This coordinating activity, frequently termed rationalization, is considered by some to be the most desirable feature of the conference system because it allows carriers to increase capacity utilization and reduce the costs per ton of cargo carried. Instead of transporting a given quantity of cargo aboard two ships, each of which was only half-filled, conferences attempted to use only one ship. The other ship could then be rescheduled to sail at another time or transferred to another trade route. It is uncertain, however, to what extent the resulting savings were passed on to shippers in the form of lower rates or used to increase members' joint profits.

A third method used by conferences to foster shipper loyalty was to refuse service to shippers who had used nonconference vessels in the past, even when space was available. Conferences on occasion also employed "fighting ships" against independents. These vessels, subsidized by conference members, would meet or undercut the lower rates charged by independents until they either left the trade or joined the conference.

THE SHIPPING ACT ATTEMPTS TO PROTECT SHIPPERS BY REGULATING CARRIERS

The Department of Justice brought suit against three conferences in 1911, charging them with engaging in practices and entering into agreements which restrained trade and thus violated the antitrust laws. The matter was never resolved, however, because these conferences dissolved prior to World War I. In 1912, partly because of this suit, the Congress appointed a committee, chaired by Congressman Alexander, "to determine whether or not [the Congress] should recognize the agreements existing between carriers by water or recommend that the Sherman antitrust law be enforced against them and those combinations be broken up."[1] In its final report, issued in 1914, the Alexander Committee, as it came to be known, advocated that a balance be struck between the interests of shippers and carriers. This recommendation became the basis of the Shipping Act, 1916, legislation that is the cornerstone of American regulatory policy in international ocean shipping.

During its investigation, the Alexander Committee found that conferences offered shippers a number of advantages, including ample tonnage and efficient, frequent, and regular service. However, the committee also believed that conferences, if left unregulated, would not always act in the best interests of shippers. The problems identified with the unsupervised operation of conferences included "excessive" and discriminatory rates, the lack of published tariffs and classifications, and deferred rebates which placed shippers in a state of continual dependence on conference carriers.

Partly in response to a dramatic increase in ocean freight rates during World War I, the Congress passed the Shipping Act in 1916, incorporating most of the recommendations of the Alexander Committee. The legislation was essentially a shipper protection statute that attempted to aid shippers by enabling them to reap the benefits of conferences while avoiding their undesirable features. By permitting liner operators to form conferences and gain antitrust exemption, the Shipping Act also benefited carriers. However, explicit restrictions were placed on carrier practices and agreements as well as on the organizational structure of conferences. Section 14 of the Act, for example, prohibited carriers from using deferred rebates and fighting ships, and prevented them from retaliating against shippers for any reason by threatening to refuse service.

Section 15 gave carriers the ability to negotiate agreements that provided for the formation of conferences, pooling of revenues, rationalization of services, and joint setting of rates. Before any of these agreements could go into effect, however, they had to be submitted to and approved by the United States Shipping Board, a predecessor of the Federal Maritime Commission. Originally, the Board could disapprove any agreement it found to be unjustly discriminatory, detrimental to commerce, or illegal under the Shipping Act. Subsequently, a fourth ground, "contrary to the public interst," was added.[2]

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[1] 53 Congressional Record 8077 (1916).

Sections 16, 17, and 18 of the Act placed restrictions on the carriers' ability to set rates by requiring, among other things, that rates be just, reasonable, and nondiscriminatory.

ACT REVISIONS AFFECT CONFERENCE OPERATIONS

The regulatory system established by the Shipping Act, 1916, was extensively amended in 1961, when Public Law 87-346 was passed. This legislation was enacted partly in response to a 1958 Supreme Court decision in which exclusive patronage contracts (dual rate contracts) were declared illegal. These contracts, which give shippers discounts if they agreed to ship exclusively on conference vessels, were devised by conferences as a replacement for the deferred rebate. Breach damages imposed under a dual rate contract, like those under a deferred rebate contract, were designed to impose costs on shippers who switched from conference members to independents.

Section 14 of the Act was amended to legalize dual rate contracts, but specified several conditions that carriers believed considerably reduced their effectiveness. Of primary importance was limiting the penalties that could be imposed for violating a contract and limiting the exclusive patronage discount to 15 percent.

Public Law 87-346 also amended section 15 of the Act to restrict the conferences' ability to control their memberships. Prior to being amended, the Act stated that any conference agreement could be disapproved if it was unjustly discriminatory or unfair between carriers. Public Law 87-346 explicitly permitted approval of only those conference agreements specifying that conference membership be open on equal terms to any carrier with the intention and ability to provide regular liner service in the trade.[3]

Public Law 87-346 further revised the Act to state that carrier agreements could also be disapproved if they were found to be "contrary to the public interest." To implement this new criterion the FMC formulated a principle that agreements violating this country's antitrust laws would be approved only if carriers could "bring forth such facts as would demonstrate that the . . . rule was required by a serious transportation need, necessary to secure important public benefits or in furtherance of a valid regulatory purpose of the Shipping Act."[4] This principle, known as the Svenska test, has become a matter of major concern to carriers, who consider it to represent an unwarranted application of antitrust laws to the maritime industry, and has increased the difficulty carriers face in obtaining FMC approval of their agreements.[5]

Not all amendments to the Act have weakened the conferences operating in the U.S. foreign trades. The Ocean Shipping Act of 1978 (P.L. 95-483), for example, protects conferences from incursions by price-cutting state-controlled carriers. This legislation, which was enacted primarily in response to the Soviet Union's increasing incursion into U.S. foreign trades during the 1970s, permits the FMC to adjudicate the reasonableness of controlled carrier rates and suspend their tariffs for up to 180 days.

ECONOMIC EFFECTS OF THE SHIPPING ACT

Conferences covering the U.S. foreign trades today are considerably less able to control competition among their members and limit competition from nonmembers than conferences did prior to the passage of the Shipping Act. Their powers were reduced even further by Public Law 87-346. Conference members must receive FMC approval to organize revenue pools, rationalize service, and limit sailings, and are not permitted to limit membership. Their inability to use deferred rebates or more effective dual rate contracts has limited their ability to deter the entry of independent operators. As a result of these restrictions, conferences covering U.S. foreign trade routes are unable to increase the profits of their members as a group.

The primary problem U.S.-based conferences have is the inability to effectively control capacity by limiting the number of members and the number of sailings made by members. The lack of any effective conference controls on capacity, in conjunction with the high rate schedules set by conferences, encourages members to seek increases in the amount of cargo they carry. Banned from competing through secretly reducing rates below posed levels[6] to attract more traffic, members increase the level of service they provide by increasing sailings or adding additional ships. This process leads to chronic over-capacity and increases the costs of transporting a given amount of cargo until profits are, at best, comparable to those available from other forms of investment.

The fact that conference members serving the U.S. foreign trades are unable to use deferred rebates, more effective dual rate contracts, or predatory practices, creates an additional problem. Independents operating in other trades may be attracted to the U.S. foreign trades because of the ease with which they can enter and the prevailing high conference rates, thus exacerbating the overtonnage problem. In addition, these independents typically offer lower rates to attract cargo.

To combat the incursions of price-cutting independent operators, U.S.-based conferences may either permit their members to reduce their rates (the right of independent action) in an attempt to drive the independents from the trade, or persuade them to join the conference. Rate wars of this type can be very costly for conference members as they are forced to reduce their rates while providing a high level of service. This can cause some conference members, particularly high cost U.S. flag carriers, serious financial problems over time.

Even in the absence of incursions by independents, however, the Shipping Act would lead to a combination of high rates, high costs, high and wasteful service levels, and at best, a level of profit that adequately compensates invested capital.

DIPLOMATIC EFFECTS OF THE SHIPPING ACT

Because the United States is unique among maritime nations in the way it regulates the international ocean liner shipping industry, there are also diplomatic effects associated with the Shipping Act and its enforcement by the FMC. Other nations generally do not regulate conference activities governmentally, but allow shippers to form associations (known as shippers' councils) to negotiate matters concerning rates and service levels directly with conference officials. Thus, international carriers operating on U.S. foreign trade routes find themselves concurrently under the jurisdiction of two governments having substantially different legal systems and regulatory philosophies.

The potential for international difficulties present in the Act did not materialize until the early 1960s, when the FMC was established solely to regulate the industry, and the resources devoted to enforcing the Shipping Act were substantially increased. Shortly thereafter, international discord arose when the FMC ordered several foreign flag carriers and conferences that had allegedly violated the Shipping Act to produce certain documents located outside of the United States. Foreign governments vehemently protested these orders and some European governments enacted "blocking statutes" or issued decrees preventing the release of any documents requested by the FMC.

Under these conditions, foreign flag lines could acquire, in effect, partial immunity from the Shipping Act, since the FMC would not be able to obtain sufficient information to determine whether they were, in fact, violating the law. U.S. flag carriers, on the other hand, might therefore be subject to much stricter enforcement by the FMC, an allegation that we examine in the next chapter. The Congress hoped to alleviate this potential problem by passing the Shipping Act Amendments of 1979, which allowed the FMC to suspend the tariffs of foreign flag carriers failing to comply with its subpoenas or discovery orders.

CHAPTER 3

U.S. FLAG LINER FLEET PERFORMS ADEQUATELY DESPITE PROVISIONS OF THE SHIPPING ACT

One major reason given for revising the Shipping Act is concern about the condition of the U.S. flag liner fleet. Despite considerable Federal assistance, a number of factors indicate that the general cargo liner segment of the U.S. merchant marine may be in serious trouble: the number of U.S. flag general cargo vessels declined from 523 in 1970 to 256 in 1980; the relative size of the United States' general cargo vessel fleet (in terms of deadweight tons) fell from second in the world in 1965 to eighth in 1979, and the number of U.S. flag liner carriers declined from 19 in 1970 to 9 in 1981.

The evidence shows, however, that these developments are, in large part, attributable to the combination of a stagnant volume of U.S. liner cargoes and the rapid adoption of container handling technology by U.S. flag liner companies. Thus, it appears that the U.S. flag liner fleet is not in a state of general distress significant enough to justify a major revision of the Shipping Act.

FEDERAL ASSISTANCE

Without question, the performance of the U.S. flag liner fleet has been greatly assisted by the Federal Government. To promote developing and maintaining an adequate and well-balanced U.S. flag fleet, the Congress passed the Merchant Marine Act in 1936.

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[2] See FMC v. Aktiebolaget Svenska Amerika Linien (Swedish American Line), 390 U.S. 238 (1968).

[3] "No such agreement shall be approved . . . which fails to provide reasonable and equal terms and conditions for admission and readmission to conference membership of other qualified carriers in the trade, or fails to provide that any member may withdraw from membership upon reasonable notice without penalty for such withdrawal." 46 U.S.C. 814 (1976). Such conferences are commonly called "open conferences" to distinguish them from "closed conferences" which have the ability to restrict their membership.

[4] FMC v. Aktiebolaget Svenska Amerika Linien, 390 U.S. 238, 243 (1968).

[5] One noteworthy exception is that shipping agreements negotiated between governments are automatically assumed to be in the public interest and are not subject to the Svenska test.

[6] Among the revisions to the Act included in Public Law 87-436 was a provision requiring operators to adhere to posted tariffs. Conference agreements also generally require that members adhere to posted tariffs.

This legislation authorized two direct subsidy programs that are currently administered by the Maritime Administration (MARAD) within the Department of Transportation.[1] These two programs are the Construction Differential Subsidy (CDS), under which approximately $200 million was spent during the 1979 fiscal year, and the Operating Differential Subsidy (ODS), under which about $300 million was spent during the same period. Under the CDS program, U.S. flag liner companies who purchase vessels for foreign trade built in U.S. shipyards receive a portion of the difference between the ship's domestic and foreign price. The ODS program compensates U.S. flag liner companies for the differences between certain U.S. flag vessel input costs (essentially labor) and the lower input costs of competing foreign vessels serving the same trade routes. Currently, eight of the nine U.S. flag carriers participate in MARAD's ODS program. In addition to these two direct fiscal aids, the liner fleet also receives assistance through three cargo preference requirements that reserve certain cargoes for U.S. flag vessels.

MARAD also administers a Federal loan guarantee program for ships purchased by U.S. flag lines from U.S. shipyards that effectively lowers the interest rate that these companies must pay.

CONTAINERIZATION REVOLUTIONIZES THE FLEET

Until the mid-1950s, liner shipments moved exclusively in small parcels. In this conventional or breakbulk system, each piece of cargo would be handled many times on its way from the manufacturer to the overseas buyer. During the late 1950s, U.S. flag carriers introduced an alternative cargo handling process that greatly reduced the number of times an individual parcel had to be handled. This new technology, containerization, consisted of stowing cargo in strongly constructed standard sized boxes or vans, either at the manufacturer's plant or at a nearby consolidating station, and then shipping the entire load of cargo as a single until to its ultimate destination. From the time the container is locked and sealed, the cargo is untouched until it reaches the consignee or a customs inspection station.

The economic advantages of container shipping are substantial. First, extensive savings are made in packaging and claims costs. Second, from four to eight times more tonnage per hour can be loaded or unloaded from a containership than from a conventional breakbulk vessel. Third, because of faster loading and unloading times, container vessels have a much higher ratio of sea time to port time than conventional breakbulk vessels. Fewer ships, therefore, are required to transport a given amount of cargo in a specified period.

Because a containerized cargo handling operation requires a substantial support system, and conventional breakbulk vessels need to be modified to accept containers or be replaced by ships designed specifically for this purpose, containerization has made it necessary for U.S. flag liner companies to acquire large amounts of very costly equipment. But despite these high initial costs, containerization has nonetheless greatly lowered the cost per ton of cargo transported when compared with the cost per ton of conventional breakbulk shipping. This cost advantage explains, in part, the dramatic increase in the amount of containerized cargoes our country has shipped since 1970. As shown by table 1, the percentage of U.S. containerized liner cargoes has risen from 15.3 percent to 53.7 percent between 1970 and 1978. This table also shows that the total amount of U.S. commercial liner tonnage has not substantially or consistently increased since 1970.

U.S. fleet size affected

Replacing conventional cargo handling technology with containerization allows liner companies to reduce the number of vessels required to transport a given amount of cargo in a specified period. Thus, if U.S. flag carriers anticipate that their share of this country's import and export liner tonnage will remain relatively constant, they will order fewer ships when making vessel replacement plans, leading to a decline in the number of U.S. flag cargo vessels over time. Table 2 shows that this has, in fact, occurred. As the number of U.S. flag general cargo vessels fell from 523 in 1970 to 256 in 1980, the fleet has become increasingly containerized.

TABLE 1.—U.S. CONTAINERIZED LINER CARGOES

	Total commercial liner tonnage (millions of tons)[1]	Commercial container tonnage millions of tons)[2]	Percentage containerized
1970	50.4	7.7	15.3
1971	44.2	8.3	18.8
1972	44.6	12.1	27.1
1973	51.3	17.5	34.1
1974	51.4	20.8	40.5
1975	44.3	21.3	48.1
1976	49.8	25.7	[illegible]
1977	47.8	27.3	57.1
1978	54.8	29.4	53.7

[1] Excludes Department of Defense cargoes

[2] These figures include containerized cargo transported aboard vessels in nonliner service and, in some cases, transported aboard tanker vessels. Consequently the percentages overestimate the extent to which liner cargoes are containerized by some small amount

Sources: "The Annual Report of the Maritime Administration for the fiscal year 1979," p. 33, "Containerized Cargo Statistics, 1975," p. 10, and "Containerized Cargo Statistics, 1978," p. 6

Because conventional breakbulk vessels have been replaced with more productive container vessels, the decline in the absolute number of U.S. flag liner ships has not adversely affected the fleet's cargo carrying capability. As table 3 shows, the average annual U.S. flag share of U.S. liner cargo (expressed either in dollar value or tonnage) actually increased from 1966-70 to 1976-78.

The rapid containerization of the U.S. general cargo fleet is also partly responsible for the decline in its relative size from second largest in the world in 1965 to eighth largest in 1979. Such rankings are made on the basis of total deadweight tons and ignore differences in the compositional nature of various fleets. By 1979, the U.S. general cargo carrying fleet had the largest containership capacity and LASH vessel capacity in the world, and, by far, the lowest percentage of breakbulk capacity (24.9) of any major maritime nation. To the contrary, the seven nations that ranked ahead of the United States in 1979 had fleets that were largely composed of breakbulk vessels. Thus, the decline in the United States' relative ranking since 1965 reflects its more rapid adoption of container technology. It is not an indication of distress, because these rankings do not consider the relatively higher productivity of the U.S. flag containerships, and, as a result, severely understate the fleet's true cargo carrying capability compared with those of other nations.

Number of firms affected

Containerization could also be partly responsible for the decline in the number of U.S. flag liner companies from 19 in 1970 to 9 in 1981. If an efficient container service requires more and larger vessels than one company can afford, the number of liner companies may decline as firms with breakbulk operations decide not to invest in container technology and evenutally merge or cease operation entirely.

TABLE 2.—PERCENTAGE DISTRIBUTION OF PRIVATELY OWNED U.S. FLAG GENERAL CARGO VESSELS IN EXCESS OF 1,000 GROSS TONS

Vessel type	June 30 1970 (Percent)	June 30 1975 (Percent)	June 30 1980 (Percent)
Conventional breakbulk and partial container	83	55	43
Full container[1]	16	35	42
LASH barge carrying	0	7	6
Roll-on/roll-off	1	3	9
Total	100	100	100
Total number of vessels	523	310	256

[1] Full containerships transport only containers. Roll-on/roll-off (RO-RO) vessels differ from full containerships in that they can transport entire tractor trailer trucks as well as containers. In a lighter aboard ship (LASH) system, cargo is initially loaded aboard barges that are then lifted onto a mother ship, which then transports them to their final destination

Source: U.S. Department of Commerce, Maritime Administration, Vessel Inventory Report as of June 30, 1980, p. 4

TABLE 3.—AVERAGE ANNUAL U.S. FLAG SHARE OF OCEAN LINER CARGOES, 1956–78

Years	In billions of dollars			Million long tons		
	Average annual value of liner cargoes	U.S. flag share value of U.S. liner cargoes	Share (percent)	Average annual tons of liner cargoes	U.S. flag share tons U.S. liner cargoes	Share (percent)
1956-60	16.5	5.9	35.8	47.1	15.6	33.1
1961-65	20.1	6.2	30.8	49.1	12.8	26.1
1966-70	27.4	8.0	29.1	47.2	10.9	23.1
1971-75	49.4	14.7	29.7	47.2	12.4	26.3
1976-78	85.9	25.9	30.1	50.7	15.1	29.9

To determine whether containerization was, in fact, an important causal factor affecting the number of U.S. flag firms, we investigated the circumstances surrounding the demise of eight subsidized U.S. flag carriers since 1965. The advent of containerization and the costs of its adoption was a major factor in three of these cases. In another case, a company's financial problems were at least partly caused by the selection of an inappropriate type of container technology for the particular trade routes it served. Other factors, such as diversification efforts and uncertainty about the maritime policies of certain South American nations, were of major importance in the remaining cases.

Our review certainly did not indicate that the U.S. flag fleet is in any general chronic distress attributable to the Shipping Act. Of the eight defunct companies considered, a majority offered service on only one trade route at the time they were either acquired by other liner companies or ceased operation. This suggests that, in the future, successful liner companies may be those that are larger, multi-route operations. As advances in containership techology produce

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[1] MARAD was transferred from the Department of Commerce to the Department of Transportation by P.L. 97-31 on August 6, 1981.

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even larger, more costly vessels, the continued successful operation of the fleet may require that U.S. flag companies form consortia similar to those formed by Japanese companies. These arrangements, in which capital resources are pooled, would enable U.S. operators to acquire the equipment needed to compete effectively against foreign flag consortia while still retaining the possibility of interline competition.

NO EVIDENCE OF UNFAIR ENFORCEMENT

If enforcement of the Shipping Act is disproportionately directed toward U.S. flag carriers, their competitive position relative to foreign flag lines operating on U.S. trade routes, and thus their economic performance, could be adversely affected. Because the number and magnitude of Shipping Act infractions actually committed by U.S. and foreign flag carriers is unknown, the following two assumptions were made to determine whether the FMC has been evenhanded in its enforcement of the Act. First, the fraction of all malpractices actually committed by the carriers of any country is equal to the fraction of the total liner tonnage it transports. Second, if the FMC's enforcement activities were unbiased, the malpractice cases brought against U.S. flag carriers should represent a fraction of all such cases that is equal to the fraction of the total liner tonnage they transported.

Our analysis was based on 58 rebating and malpractice cases initiated by the FMC against U.S. and foreign flag liner companies from October 1976 to June 1980. The FMC provided us with the following information on each case: (1) the carrier involved, (2) the carrier's flag, (3) the date on which the case was instituted, (4) the trade route(s) on which the malpractice was alleged to have occurred, (5) the period over which the malpractice was alleged to have occurred, and (6) its current disposition, the date on which the case was concluded, if appropriate, and the settlement, if any.

On the basis of our two assumptions we anticipated that, in the absence of any flag bias, 16 or 17 of the 58 cases would have been brought against U.S. flag carriers. However, only 14 cases were actually brought against U.S. flag carriers. Thus, the available evidence suggests that the Shipping Act is not being unevenly enforced by the FMC.

CHAPTER 4

ALTERNATIVES TO THE CURRENT CONFERENCE SYSTEM, AND VIEWS OF SHIPPERS AND CARRIER AND CONFERENCE OFFICIALS

Two major alternatives have been suggested for eliminating the wasteful service competition resulting from the Shipping Act. They have differing economic consequences for the U.S. liner industry as well as differing implications for this country's diplomatic relations with our maritime trading partners, and possibly the military capability of the U.S. flag liner fleet as well.

The first alternative is to subject carriers serving the U.S. foreign trades to the full force of this country's antitrust laws. This would probably result in abolishing conferences on U.S. foreign trade routes and ending joint rate setting by carriers. Wasteful service competition would be eliminated as operators adjust their prices rather than their service levels to attract additional cargo.

However, several arguments have been advanced against eliminating the industry's antitrust immunity. One argument is that severe price competition would drive rates below average total cost, resulting in financial distress for many carriers. A related argument is that if only a few companies, or perhaps only one, are able to survive a protracted rate war, they will eventually set rates at higher levels than under the current conference system. A third argument is that severe rate instability might result, making U.S. shippers worse off.

While none of these arguments is especially persuasive on economic grounds, national security and diplomatic considerations merit some attention. Primarily because of higher wages and higher staffing levels, U.S. flag liner companies are among the highest cost operators in the world. Thus, without the protection afforded by high conference rates, U.S flag carriers may be forced out of existence. If this happens and the U.S. flag liner fleet is essential to this country's national security, then an alternative means of supporting U.S. flag operators must be found. Such options as increasing maritime subsidies or increasing cargo preference requirements might be required. In addition, this alternative could exacerbate international tensions as a result of enforcing U.S. antitrust laws against foreign flag carriers.

The second major alternative is to expand the conferences' antitrust immunity. The ability to more easily form revenue pools and limit members' sailings, in conjunction with increasing powers to combat the incursions of nonmember lines, would eliminate wasteful service competition. The cost of providing shippers with liner service would be lowered because of increased capacity utilization. Whether these lowered costs would be passed along to shippers, however, is uncertain.

But many of the abuses noted by the Alexander Committee could reappear if some regulation did not exist. Perhaps self-regulation, in the form of shippers' councils, might be employed. These councils could negotiate rate and service issues directly with conferences, and ensure that U.S. flag carriers remain viable conference members at current or even reduced subsidy levels. In addition, having vessels available as a military auxiliary would be more certain, and U.S. maritime law would be brought into closer correspondence with the rest of the world, lessening diplomatic difficulties.

SHIPPERS' VIEWS

Because revising the Shipping Act could have a substantial impact on U.S. shippers, we surveyed and interviewed them to determine what they considered to be the likely effects of various alternatives. Although several shipper organizations have already testified before the Congress regarding legislation to revise the Act, we nevertheless thought it would be insightful to sample the attitudes and experiences of individual shippers.

We first mailed a detailed written questionnaire to 105 shippers. Of the 45 shippers who responded, we then selected 22 for indepth interviews concerning the current conference system and alternatives to it.[1] Specifically, we were interested in determining what shippers believed the effects would be of different alternatives to the current system on the level and stability of freight rates and the level of service provided. We also asked shippers how their answers to these questions would be affected if a U.S. shippers' council were operational.

The current conference system

To the question of what would happen to rates and service over the next few years if the current conference system remained unchanged, 14 of the 19 respondents projected rate increases due primarily to increased labor and fuel costs. Sixteen of the 21 shippers who answered the question on service quality felt that it would probably remain about the same.

These shippers strongly supported the concept of shippers' councils. Twelve of the 19 respondents said that councils would have a beneficial effect on both rates and service quality, and 16 of the 22 shippers interviewed stated that their companies would join and support financially such an organization.

When asked to list the three most important changes needed in the U.S. conference system, 3 did not answer and 9 of the 19 respondents listed only one change. Although there was no strong consensus among these respondents, the most commonly cited change concerned the need for greater shipper involvement in rate matters. It is possible to conclude, therefore, that the shippers in our sample believe the current conference system is a perfectly viable one not in need of major change.

Alternatives

In asking shippers to determine which alternative to the present conference system would most likely lead to the highest and lowest rate levels, the most and least stable rate structure, etc., we focused on the following four alternatives:

Open competition

Conference either further weakened or prohibited.

Carrier antitrust immunity eliminated.

Joint rate making no longer permitted.

Restricted conference

Carrier antitrust immunity increased.

Membership of third flag carriers limited.

Forming cargo pools and rationalizing service available.

Closed conference

Extensive antitrust immunity for conference carriers available.

Operators have a free hand to engage in whatever activities would enhance the joint profits of all members.

Other

Respondents could identify any other option, including the current system.

The answers we obtained are summarized in table 4.

Obviously, these shippers believe that open competition and closed conferences will result in dramatically different combinations of average rate levels and rate stability. There was, however, no consensus regarding a relationship between service quality and these four alternatives. Consequently, even if shippers could reach agreement on the desired combination of average rate level, rate stability, and service quality—something our survey indicated might not be possible—it is unlikely that there would be any agreement regarding the way in which it could best be achieved.

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[1] This group of 22 shippers was not scientifically selected; our choices were based upon a number of factors. Limitations in our travel budget forced us to concentrate our efforts in the eastern half of the Nation. Therefore, the views of smaller shippers may not be adequately represented in our sample. In light of that restriction we focused our attention on the shippers accounting for the largest percentage of this country's import and export trade. Some consideration was also given to the mix of commodities transported and the trade routes on which those goods were shipped.

TABLE 4.—EFFECTS OF ALTERNATIVES TO THE CURRENT CONFERENCE SYSTEM

Effect	Open competition	Restricted conference	Closed conference	Other [a]
Lowest liner rates	13	1	1	5(4)
Highest liner rates	2	1	15	2
Most rate stability	2	6	3	8(5)
Most rate instability	13	0	4	1
Greatest improvement in service quality	5	5	3	6(3)
Greatest decline in service quality	8	0	12	0
Most significant overall effect on trade	10	1	2	6

[a] The number in parentheses indicates the number of shippers that identified "the current system" as their specific choice.

VIEWS OF CARRIER AND CONFERENCE OFFICIALS

The carrier and conference officials with whom we spoke generally believed that the problems of carrier resignation from conferences, illegal rebating, and the entry of nonconference operators into the U.S. foreign trades could be handled by abandoning the current system and moving toward closed conferences. The revisions proposed by carrier and conference officials would typically result in substantial increases in carrier cooperation, such as revenue pools and service rationalization, a situation that could reduce price competition and result in higher rates.

Our view of congressional testimony and discussions with seven U.S. flag carrier officials indicated that while there is broad agreement that the Shipping Act should be revised, there is little consensus as to what changes should be made. We asked these carrier officials how they view the current conference system and how they think its continued operation will affect such performance measures as size of the U.S. fleet, carrier financial stability and profits, capacity utilization, introduction of new technology, and the balance of payments. Although several either could not or would not predict how the various factors would be affected, these officials often attributed many of the problems faced by the liner industry to the current conference system.

For example, they cited the ease with which foreign flag carriers can enter our trades to "dump" excess tonnage, thereby contributing to the overtonnage problem, or to "skim" the highly profitable high value cargo and then leave when the market dries up. This situation is particularly onerous to U.S. flag carriers because they have made substantial long-term commitments and large capital investments in ships and other equipment in order to adequately service the U.S. trades. In addition, representatives of one carrier stated that it is especially difficult to correct overtonnage in U.S. trades because carriers find it very difficult to obtain FMC approval of capacity sharing agreements and U.S. carriers are not always able to join conferences in foreign trades.

Although most U.S. flag carriers are dissatisfied with the current system, we also found that they do not completely agree on the most desirable alternative to it. Four of the severn carrier officials we interviewed, however, did support extensive bilateral cargo preference requirements or the establishment of more revenue pools.

We also interviewed the chairman of three conferences serving the U.S. foreign trades. Chairman often serve in the same capacity for several ocean liner conferences, and such was the case with these three—together, they serve as the chairman of 17 conferences. They were generally dissatisfied with the current system, which was perceived as enabling independents to enter the U.S. foreign trades and undercut the conferences' rates on high value-high profit cargoes. This was attributed to the limited measures that U.S.-based conferences currently have available to foster shipper loyalty. They did not, however, acknowledge the possibility that independents are being attracted to the U.S. foreign trades because of the high rates charged by conferences. They also believed that incursions by independents could best be reduced by legalizing closed conferences and allowing members to more easily rationalize their services. Two of these officials thought that adopting closed conferences should be accompanied by organizing a U.S. shippers' council. None of the three suggested that a comprehensive approach, encompassing both the subsidy and regulatory systems, was necessary to correct the problems they discussed.

CHAPTER 5

SHIPPERS' COUNCILS CAN LIMIT THE MARKET POWER OF CONFERENCES

Shippers' councils [1] could represent shippers' interests effectively if the antitrust immunity of conferences operating in the U.S. foreign trades is expanded. Even under the current conference system, such councils could help establish formal communications between shippers and carriers. But attempts to organize shippers' councils in the United States have not been successful, although they exist in practically every other major trading nation. This chapter reviews the development of foreign councils and issues seen as barriers to establishing councils in this country, and discusses their potential advantages and disadvantages.

DEVELOPMENT AND STATUS OF FOREIGN COUNCILS

The shippers' council concept is not new; in Britain it was recommended as early as 1909. The early councils were usually composed of large shippers and organized along product or commodity lines. Actively supported by their governments, they were primarily concerned with fostering exports of certain major commodities. Later, these councils expanded their memberships to include a wider range of shippers using liner services.

According to a 1976 study by the United Nations Conference on Trade and Development (UNCTAD), shippers' councils or equivalent organizations were established and operating in 23 developing nations or territories and 20 developed market economy countries by mid-1976.[2] Thirty-five of these councils were established in the private sector, although many of these have government agencies as members. Government influence has been stronger in the other eight councils. In the United States and Brazil, government agencies (FMC in the United States and SUNAMAM in Brazil), instead of shippers' councils, protect shippers' interests.

In the late 1950's, delegates from European nations met with representatives of the British Shippers' Council, and subsequently formed the European Shippers' Council (ESC). Together, with the Council of European and Japanese National Shipowners' Association (CENSA), they have produced 19 joint recommendations that reflect concern for commercial due process, and have adopted a code of practices for conferences calling for maximum freedom by shippers and carriers to resolve their problems with minimal government interference.

Other existing multi-national councils include the Central American Shippers' Council, the Intergovernmental Standing Committee on Shipping composed of 4 East African countries, a Southeast Asian Federation of 5 countries established in 1976, and the establishment that same year of a permanent secretariat and joint negotiating committee among 20 west and central African countries. In addition, both Australia and Japan have had considerable experience with shippers' councils. For example, the Australian Shippers' Council, an outgrowth of shippers' councils that had jurisdiction over individual trade routes, was established in 1972.

COUNCIL STRUCTURE AND ACTIVITIES VARY

No single, universally accepted shippers' council format exists. Councils have evolved differently, and are shaped primarily by the interests and needs of the shippers and institutional considerations. Because of the diversity among nations, a great deal of flexibility is needed in establishing a multi-national council.

Councils are usually composed of individual companies, trade associations and/or commodity boards, or a combination of the first two types. Financing also varies. Most are financed through member subscriptions, government grants, or a combination of both, while others are financed by imposing a tax on shipments. Some councils use these funds to employ relatively large, full-time permanent staffs, while others rely on members or the government to provide research and other types of assistance.

Generally, functions such as overall policymaking, management, and coordination are carried out by an executive committee, a general assembly, or a board of directors. Consultations with carriers, however, are usually conducted by a series of standing or ad hoc committees which generally are organized along functional (i.e., legal, import, export, liner air cargo, etc.), regional, and/or commodity lines.

Council activities vary from country to country. Although there are exceptions, councils usually deal with matters of broad concern to all shippers (such as port congestion problems, surcharges, general rate levels and increases, and maritime law) rather than with specific issues regarding a particular commodity or an individual rate. These latter matters are generally pursued by individual shippers or trade associations.

EFFECTIVENESS OF COUNCILS

While the evidence is limited, several studies have demonstrated that shippers' councils have established effective consultation procedures with conferences. One report (by UNCTAD in 1976) identified five factors essential to meaningful consultation: (1) a willingness on the part of conferences to provide councils with essential financial data, (2) councils which adequately represent all shippers, (3) the ability and willingness of councils to use data provided by conferences, (4) "compatibility" between conferences and councils, and (5) a competitive market for shipping services, i.e., the ability of shippers to use alternative services.

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[1] Shippers' councils are defined as associations of shippers or their agents established to: (1) consult and exchange information or views regarding general rate levels, rules, practices, or services; and (2) agree upon positions for the purpose of consulting and negotiating with oceanborne common carriers in foreign commerce or conferences of such carriers.

[2] Together, these 43 nations accounted for about two-thirds of the cargoes usually shipped by liner in 1973.

Another UNCTAD report [3] recommended the establishment of shippers' councils to protect shippers' interests, while a study performed by the University of Wales in 1978 attributed much of the need for regulation of U.S. liner conferences to the absence of effective shippers' councils.

Other studies conducted in the past few years have also argued that councils can effectively prevent conference abuses and have supported the establishment of shippers' councils in the United States. In addition, some evidence exists which credits the effectiveness of foreign shippers' councils with freight rate disparities in U.S. foreign trades. In a 1978 report for the Department of Transporation, Booz-Allen and Hamilton, Inc., concluded that shippers' councils representing exports in Europe and in the Far East may be a significant factor behind the generally lower inbound rates.

EFFORTS TO ESTABLISH A U.S. SHIPPERS' COUNCIL UNSUCCESSFUL

One of the earliest references to a U.S. shippers' council appears in a 1967 FMC report, which concluded that U.S. shippers were generally not aware how the European councils operated and were uncertain about the antitrust implications of collectively dealing with conferences. To alleviate this situation, the report recommended that the FMC consult with interested agencies to develop a program with satisfactory safeguards which would permit shippers to bargain collectively with conferences. According to FMC officials, however, no action was ever taken on this recommendation.

CENSA/ESC attempted to foster interest in U.S. shippers' councils by inviting selected American observers to its 1965 proceedings. In subsequent years other U.S. shipper groups—the National Industrial Traffic League, the International Traffic Committee of the New York Chamber of Commerce and Industry (NYCCI), and the American Importers' Association (AIA)—became interested in the idea of a U.S. shippers' council. The latter two groups began independent studies of the feasibility of establishing a U.S. council.

In 1976, the AIA and the NYCCI called for a single national shippers' council with five strong regional organizations, and asked the Department of Justice, Antitrust Division, to state its enforcement intentions with respect to the proposed council. DOJ responded to the AIA request in July 1977, stating that the subject of shippers' councils was not appropriate for its business review procedure because it was currently investigating the antitrust implications of joint carrier/shipper activity in connection with ocean freight rates. However, DOJ did state its opinion that while the objectives of the proposed council were clear, the means of accomplishing these objectives presented "an almost infinite number of activities which could result in unreasonable restraint of trade." Thus, the antitrust question, we believe, continues to be a major obstacle to establishing a U.S. shippers' council.

LEGISLATIVE ATTEMPTS TO ESTABLISH U.S. COUNCILS STALLED

Several bills calling for establishing shippers' councils have been introduced in recent years. The reaction from the executive branch has been mixed; the Department of Justice is primarily concerned that such councils may have substantial anticompetitive effects or otherwise inhibit market forces. According to the FMC, Government involvement would be essential for several years until authorizing legislation was fully implemented. The FMC is also concerned that the interests of noncouncil shippers might not be adequately protected and that a council might prove to be ineffective in the absence of strong governmental involvement. In commenting on legislation proposing shippers' councils, the Department of Commerce was concerned about the possibility that those organizations would abuse any antitrust immunity granted them.

STRONG SUPPORT FOR U.S. COUNCILS AMONG SHIPPERS

Shippers have generally supported establishing a U.S. shippers' council. Recent polls and surveys, including our discussions with shippers (see chapter 4), indicate strong support for such councils. As reported in American Shipper,[4] 78 percent of the shippers polled favored shippers' councils, 17 percent were opposed, and 5 percent had no opinion. However, there was little consensus concerning how councils should be organized.

ADVANTAGES AND DISADVANTAGES OF ESTABLISHING U.S. COUNCILS

Although we have the experience of some foreign shippers' councils to draw on, weighing the pros and cons of establishing U.S. councils is still quite difficult. The main argument in favor of councils is their ability to serve as a countervailing force to the organized power of conferences. Other potential benefits of councils include a more responsive conference system based on regular and frequent consultation as opposed to confrontation, better representation of shippers before the Congress and Federal agencies, and increased comity with our trading partners who rely on organized shipper/carrier consultation, rather than regulation, to control conference abuses.

Among the more commonly cited potential disadvantages or problems associated with forming U.S. councils is the concern that they may become strong cartels which might engage in anticompetitive activities, such as price fixing and boycotting. Another major concern is that councils will fail to adequately represent and protect the interest of small shippers. Also, there is some concern that councils will merely become regulatory appendages of the FMC and add another layer of bureaucracy in an already over-regulated industry.

While several issues need to be resolved prior to forming councils, we believe two are especially important. First is the uncertainty about the FMC's future role. If it is retained or enhanced, the need for strong U.S. shippers' councils is diminished, and vice versa. Second is the antitrust implications of participating in council activities. While many questions still remain as to exactly when councils will be allowed to do, it is clear that the Department of Justice, during the previous administration, supported strong antitrust controls of shippers' councils. However, we believe that if the powers of conferences are significantly enhanced by extensive antitrust immunity, then U.S. shippers should be provided the opportunity to form councils to safeguard their interests.

CHAPTER 6

REVENUE POOLS AND THE UNITED NATIONS CODE OF CONDUCT FOR LINER CONFERENCES

Very little reliable information is available concerning the effects existing revenue pools have upon participating U.S. flag carriers, although it is needed to evaluate several maritime policy issues. First, the Congress may decide to promote forming revenue pools as a way to improve the profitability of the U.S. flag liner fleet. Currently, carriers operating in the U.S. foreign trades have difficulty receiving FMC approval for pooling agreements because they must demonstrate that they are in the public interest. Second, such information could assist the FMC in deciding whether to approve or disapprove revenue pooling agreements. Third, the United States has to decide how it will respond to the internationally accepted United Nations Code of Conduct for Liner Conferences (the Code), portions of which bear a strong resemblance to revenue pools.

REVENUE POOLS AND CARGO RESERVATION PROGRAMS MAY CAUSE AVERAGE RATE LEVELS TO RISE

Economic theory suggests that both revenue pools and cargo reservation programs may increase the average level of rates on affected trade routes. Cargo reservation programs could have that effect through their tendency to greatly reduce the number of companies permitted to carry what are often substantial amounts of merchandise. Carriers authorized to transport those shipments can set high rates without fear of being underbid by other companies. Revenue pools may also increase average rate levels by discouraging firms from cutting rates in an attempt to increase the amount of traffic they carry.[1]

Sometimes, governments, such as those of the United States and many South American nations, restrict the carriage of certain cargoes to their own national flag lines. When there is a significant amount of reserved cargo carried between two countries, the countries involved often enter into an equal access agreement, with each country granting the other's national flag carriers access to its own government-controlled cargoes. The national flag carriers can then generally set rates without fear of competition from other carriers, and increase their profits. However, if the governments of developing countries desire to promote their exports and obtain imports as cheaply as possible, they may regulate rates to allow these carriers only a compensatory return on investment.

Another means of raising rates and profits is through revenue pools, which discourage firms from secretly cutting rates in an attempt to increase the amount of traffic they carry. Participating carriers pool the revenues earned in transporting specified cargoes and, at regular intervals redistribute them according to a predetermined scheme. Generally, the cost structure of the liner industry makes rate cutting a real possibility. When the demand for liner services declines, carriers may suffer losses even if all firms adhere to the same rate schedule. A carrier could reduce its individual losses by cutting rates if other lines maintained theirs. If all carriers followed this same strategy, however, their losses would increase as rates fell below average cost. Revenue pools can prevent this from occurring by eliminating the incentive to cut rates. Thus, average rate levels may be higher, all other things being equal, on those trade routes where revenue pooling occurs.

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[3] United Nations Conference on Trade and Development, Protection of Shippers' Interests: Guidelines for Developing Countries, U.N. Doc. TD/B/C.4/176 (1978).

[4] "Sixty three Percent of Shippers Oppose Mandatory Conference Membership for Lines Offering 25 Sailings Each Year," American Shipper, June 1979, p. 2.

[1] Alternatively, cargo reservation programs and revenue pools could cause average rate levels to fall if they lead to significant increases in capacity utilization and resulting decreases in costs.

CAPACITY UTILIZATION AND PROFIT RATES SHOULD INCREASE AND COSTS SHOULD FALL

Without revenue pools, carriers must compete for a relatively fixed amount of cargo by lowering their rates or increasing their sailings. But this will eventually lead to overtonnaging, with a resulting increase in the cost per ton carried. However, revenue pools guarantee each participating carrier a share of pooled revenues; thus, there is no incentive to increase sailings to attract more cargo.[2] So capacity utilization should improve, cost per ton should fall, and carrier profits should increase as a result of revenue pooling.

REVENUE POOLS LINKED TO EQUAL ACCESS AGREEMENTS

In the U.S.-South American trades, revenue pools have generally been instituted in conjunction with or in the wake of governmentally negotiated equal access agreements. Pooling insures that equal access to government-controlled cargoes leads to an equal distribution of the revenues earned by the national flag carriers serving these trade routes. The cargoes covered by these pools typically include all the commercial as well as the government-controlled cargoes carried by the participating carriers.

In the U.S.-Brazilian trades, revenue pools and equal access agreements were agreed to in negotiations in 1970 between the two countries. Similar agreements were made between the United States and Argentina in 1973.

ANALYSIS OF REVENUE POOLS PLAGUED BY STATISTICAL PROBLEMS

We tried to determine how the revenue pools organized in the 1970s among the United States, Brazil, and Argentina, actually affected the profit rates, freight rates, and capacity utilization of participating U.S. flag carriers. While we encountered severe statistical problems in determining the effects of pooling on profits and freight rates we found that some, but not all, of the revenue pools led to a significant improvement in capacity utilization.

UNITED NATIONS CODE OF CONDUCT FOR LINER CONFERENCES

Many developing nations believe that liner conferences, by restricting competition and increasing freight rates, have slowed their economic development. They contend that excessive transport charges make their exports less competitive and increase the cost of their imports, depriving them of foreign exchange which could be used to finance growth. These nations argue that this situation should be remedied through the international regulation of conferences.

At the urging of these developing nations, the United Nations passed a resolution in 1962 calling for the formation of the United Nations Conference on Trade and Development (UNCTAD) to study the advantages and disadvantages of the conference system and recommend changes to it. After many years of intensive and often bitter negotiations, UNCTAD formulated the United Nations Code of Conduct for Liner Conferences, which was adopted by maritime nations on April 6, 1974, subject to ratification by individual national governments.

The main purpose of the Code is to allow developing nations to establish and develop their own shipping lines, thus ensuring reasonable rates for their cargoes. This would be achieved by admitting these carriers to full conference membership and allocating equal shares of most conference cargo carried between two participating countries to the conference liners of the trading partners.

According to its provisions, the Code will go into effect 6 months after the date on which at least 24 nations having a combined tonnage of not less than 25 percent of the world liner tonnage (as of 1973) ratify it. This is expected to occur sometime in 1982. So far, the United States has declined to ratify the Code, primarily because some of its provisions conflict with the Shipping Act and the Nation's own economic philosophy. Some maritime analysts have predicted that unless the United States ratifies it, the Code could have an unfavorable effect upon U.S. flag liner operators serving the U.S. trades, although we do not believe this will necessarily occur.

Some similarity exists between the Code and revenue pools, such as assigning cargo shares to agreement members. However, the main difference is that the South American pooling agreements reserve certain cargoes exclusively for pool members, but under the Code, nonconference carriers can still compete for the cargo. Thus, independents are more of a competitive threat under the Code than under the South American pooling agreements.

CHAPTER 7

SUMMARY, MATTERS FOR CONSIDERATION BY THE CONGRESS, AND AGENCY COMMENTS

Under the provisions of the Shipping Act, 1916, as amended, firms providing regularly scheduled common carriers liner service on U.S. foreign trade routes are permitted to join shipping conferences. Subject to regulatory approval by the FMC, these carrier associations are granted antitrust immunity which allows them to jointly set the rates charged by their members. Unlike conferences covering non-U.S. trades, however, they are not permitted under U.S. law to restrict their memberships and must receive FMC approval before implementing any capacity-restricting devices such as revenue pools or sailing agreements.

In the ocean liner shipping industry, the demand for service is affected by both the rates charged and the level of service offered. As a consequence if the Shipping Act and its enforcement by the FMC, conferences covering the U.S. foreign trades are only able to restrain price competition by establishing common tariffs to which their members must adhere. Competition among conference members thus occurs primarily by augmenting the level of service offered. Such service competition reduces profits by decreasing capacity utilization and increasing operators' costs and not through lowering their revenues (as would be the case if prices were cut). The current system probably does not result in excessive profits for conference members, but it has led to excess capacity, inefficient service competition (such as more frequent sailings with emptier ships), and higher costs than would be the case in either a fully competitive market or a fully rationalized cartel.

The high rates charged by conferences also induce carriers in other trades to enter the U.S. foreign trades. Because the Shipping Act prohibits using deferred rebates and limits the terms of dual rate contracts, independent operators find it easy to enter U.S. foreign trades. These nonconference companies attempt to gain a share of the market by offering lower rates than those of conferences. This competition can cause U.S. flag conference members to suffer financial losses.

In addition to eliminating wasteful service competition, we identified two other possible reasons for changing current maritime regulations: (1) to assist the U.S. flag liner fleet, allegedly in a state of decline because of the Shipping Act; and (2) to remove a strain on U.S.-foreign relations. We decided to submit the first of these to closer scrutiny because of the importance of the U.S. merchant marine a reserve and auxiliary to the military in time of war or national emergency.

Our initial survey revealed that the general cargo liner segment of the U.S. merchant marine is apparently in serious trouble as evidenced by declines in the number of firms and ships, and in the relative status of the U.S. flag general cargo fleet among maritime nations. Upon closer study we found that the declines in the number of vessels and the relative position of the U.S. flag fleet were largely due to adopting a highly efficient containerized cargo handling technology (containerization) and did not appear to be a sign of chronic distress. The reduction in the number of firms was primarily the result of several factors including containerization, uncertainty over the maritime policies of certain South American nations, and the diversification efforts of U.S. companies. However, the rapidly rising cost of new vessels may make it increasingly difficult for U.S. flag operators to replace their fleets in the future. The ability to more easily form consortia and thereby pool resources could alleviate this situation. Although this could require slight modification of present regulation, we conclude that the current status of the U.S. flag liner fleet is not a valid rationale for a major overhaul of the Shipping Act.

Because the United State is unique in the way it regulates an essentially international industry, we found that FMC enforcement of the Shipping Act strained diplomatic relations with a number of our maritime partners. To enforce certain provisions of the Shipping Act fairly, the FMC needs to obtain documents stored in foreign countries. But some nations believe that the FMC's attempts to gain access to these documents represent a violation of their sovereignty, and have enacted blocking statutes to prevent the transfer of documents and limit the enforcement powers of the FMC. These statutes could provide foreign flag carriers with what amounts to partial immunity from the Shipping Act, and U.S. carriers have claimed that FMC's enforcement efforts, as a result, are disproportionately directed toward them. To determine the validity of this claim, we examined 58 malpractice cases initiated by the FMC from October 1976 to June 1980. Our analysis failed to show any evidence of a biased enforcement pattern.

Having found that provisions of the Shipping Act, as administered by the FMC,

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[2] To the contrary, revenue pooling agreements generally contain a provision that requires participants to make a minimum number of sailings to be eligible to receive their allocated portion of the pooled revenues.

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foster wasteful service competition and strain international relations, we examined two widely discussed modifications of the Act. The first is to initiate more price competition by reducing or eliminating the antitrust immunity currently granted to shipping conferences. The second is to expand the antitrust immunity currently granted conference members. Either of these two alternatives would reduce the amount of wasteful service competition. The first alternative would introduce more price competition into the liner shipping industry. Competition would consequently be of more value to shippers. Wasteful service competition would be supplanted by increased price competition to give shippers a more desirable combination of rates and service. But this option would have diplomatic costs associated with it that are probably greater than those associated with this country's current maritime policy. The second alternative would allow conferences to more easily adopt measures that would enable them to limit service competition by controlling capacity. This could be achieved by allowing conferences to limit membership (i.e., closed conferences) and the number of sailings made by members. If this permission is granted, we believe it will be necessary to allow U.S. shippers the opportunity to form shippers' councils so they can safeguard their interests. U.S. maritime law would be brought into conformity with that of most major maritime nations, and international tensions created by differences in maritime policies would lessen.

Thus, while the first alternative may be preferable on economic grounds, certain diplomatic costs are associated with it that are not present in the second alternative. Since it was not possible for us to weigh these economic and diplomatic costs against one another, we could not reach a conclusion as to which alternative was preferable.

In analyzing shippers' councils, we concluded that these organizations should not be established in the United States unless the conferences' antitrust immunity is expanded or the FMC's power to protect shippers is reduced. At present, the FMC is charged with protecting shippers' interests. This situation is analogous to that between the Interstate Commerce Commission and shippers who use rail and truck services. Since those shippers have not needed to form councils, we concluded that under current regulation the users of international ocean liner services do not need to organize shippers' councils.

Our study of alternatives to the current conference system concluded with a statistical study of the revenue pools organized on this country's Argentinian and Brazilian trade routes during the 1970s. These pools are of interest because an expansion of carriers' antitrust immunity and/or the United States' adoption of the United Nations Code of Conduct for Liner Conferences in its present form could lead to a proliferation of these agreements. We believed it was important to determine how revenue pools might affect U.S. flag operators and shippers.

Because of data limitations and statistical problems, we were only able to reach conclusions regarding the effect of revenue pools on the capacity utilization of participating U.S. flag carriers. We obtained some evidence that suggested capacity utilization has significantly improved. Some of the pools that were examined, however, did not have that effect upon capacity utilization.

MATTERS FOR CONSIDERATION BY THE CONGRESS

Two broad options are available to the Congress in considering revisions to the Shipping Act, 1916, that can eliminate the inefficient form of service competition which presently exists on U.S. foreign trade routes. The first option is to withdraw the current level of antitrust immunity. The second option is to expand the antitrust exemption to allow carriers to control capacity more easily.

The most suitable choice depends upon the economic and diplomatic costs and benefits associated with each alternative, but our evaluation of the current evidence does not clearly favor one over the other. However, if carriers are granted expanded antitrust immunity, we believe shippers should be provided with the opportunity to form shippers' councils to safeguard their interests.

Currently there are two bills before the Congress, S. 1593 and H.R. 4374, that would significantly extend the level of antitrust immunity. S. 1593 contains a provision establishing U.S. shippers' councils, but H.R. 4374 does not.

The Congress should also consider changing current maritime regulation to enable U.S. flag liner operators to more easily form consortia to facilitate financing new vessels. By making this alternative form of vessel acquisition readily available, U.S. flag carriers may be placed in a more favorable position compared with their foreign flag competitors. It may be desirable to allow only those consortia that will permit the largest amount of intercarrier competition on a route. In this regard, the joint space charters used by Japanese firms appear to be the most appropriate choice. It would be possible to secure the benefits of interfirm cooperation while avoiding the anticompetitive problems that could emerge under other types of consortia.

AGENCY COMMENTS

We requested and received written comments on a draft of this report from the Department of Justice (DOJ), the Federal Maritime Commission (FMC), and the Department of Transportation (DOT). (All three agencies' specific comments and our responses to them are contained in appendixes I-III.) DOJ considered the report to be, overall, a "well-reasoned and factually accurate assessment." The FMC commended us on the report and stated its own views on several issues. DOT agreed with the report's conclusion that the Shipping Act fosters wasteful service competition, but felt that the report failed to consider other important measures of the U.S. flag liner fleet's performance.

Specifically, DOT contended that such financial measures as the rates of return on equity and assets, the ratio of long-term debt to equity, and the ratio of current assets to current liabilities would show the fleet to be in significant enough distress to justify a major revision of the Act. We disagree with this contention for the following reasons: First, U.S. flag liner operators have become increasingly diversified since 1965, and many are now in fact subsidiaries of conglomerate enterprises. Thus, the financial measures cited by DOT, particularly those involving equity valuation, are questionable in comparing the performance of the U.S. carriers over time or with other sectors of the economy.

Second, we found that the Maritime Administration did not have the data needed to compute such financial measures for a long enough period to be indicative of any long-term trend or chronic distress within the U.S. flag fleet. Thus, our approach was based on the premise that if the return on invested capital realized by U.S. flag liner operators was chronically unremunerative, there would be clear evidence of a long-term decline in new investment and, ultimately, in the ability of the U.S. flag fleet to transport cargo. The evidence presented in the report shows that this has not occurred. As table 3 indicates, the U.S. flag fleet transported about the same amount of cargo (in terms of average annual tons) from 1956-60 as from 1976-78. Compared with the 1971-75 period, U.S. liner operators have actually increased their carriage. More impressive, U.S. flag carriers were able to undertake a substantial and rapid investment in new and costly container technology during the late 1960s and 1970s. As a result, the U.S. merchant marine had the largest containership and barge carrier vessel fleets in the world by 1979 in terms of total deadweight tons.

Third, even with questions about their reliability and comparability aside, the profitability data cited by DOT fail to show any evidence of a persistent secular decline. Rather, they exhibit year-to-year variation due to cyclical changes in demand and supply conditions that are common to all sectors of the economy. The ratio of long-term debt to equity does persistently increase from 1976 to 1980, but this is not necessarily an indication of sagging financial health. To the contrary, firms often increase their amount of borrowing in times of rising demand to obtain greater leverage and a higher rate of return on invested equity. Alternatively, recent increases in this ratio could reflect an increase in borrowing by U.S. flag liner operators in order to finance the ordinary and necessary replacement of aging vessels. Furthermore, Federal loan guarantee programs, by lowering interest costs, have actually made borrowing a relatively more attractive source of funds for U.S. flag operators, thereby causing the fleet average ratio of long-term debt to equity to be higher than what it might have been in the absence of these programs.

Fourth, the financial statistics which DOT cited are simple industry averages that conceal substantial differences in the performance of individual U.S. liner operators. According to a Maritime Administration report on the financial condition of U.S. flag liner operators dated November 30, 1981, the 1980 returns on equity ranged from a high of 35.8 percent to a low of −193.9 percent; the 1980 returns on assets ranged from 13.5 percent to −23.3 percent; the 1980 ratios of long-term debt to equity ranged from 16.42 to 0.21; and the 1980 ratios of current assets to current liabilities ranged from a high of 2.2 to a low of 0.6. More important, this report reveals that some major U.S. flag liner operators have had consistently and substantially higher than average rates of return on equity and assets during the 1976-80 period, while other operators have shown consistently and substantially lower than average rates of return to assets and equity. This buttresses our conclusion that there is no evidence of any systematic, industry-wide distress and that company-specific factors such as size, ship-type, and route systems are more important than the regulatory system in determining the financial performance of U.S. flag operators.

Fifth, the Maritime Administration's own recent analysis of the financial condition of U.S. flag liner companies referred to above actually supports our conclusion that the U.S. flag liner fleet is not in a state of financial decline. Although their analysis notes that some U.S. flag operators had increased financial problems in 1980, it states that the majority of operators "have shown improved earnings in 1980 over 1979" and that, overall, "1980 was a relatively good year for the industry," with industry net profit increasing 539 percent, total industry assets increasing 9.7 percent, and total liabilities decreasing both absolutely and as a percentage of total assets from 1979 to 1980. Their report's assessments of the future prospects for all but two U.S. flag carriers were also very optimistic.

DOT also stated that changes in the Shipping Act appear essential because of the prospect of future budgetary constraints on the subsidy programs available to U.S. flag operators. As this report concludes, changes in Federal maritime regulation can lead to increases in efficiency and reduce costs in the ocean liner shipping industry, but these savings should be realized by foreign flag carriers operating on U.S.-foreign trade routes as well as by U.S. flag carriers. Thus, there is no assurance that the relative competitive position of U.S. flag operators will necessarily improve as a result. What puts U.S. flag carriers at a competitive disadvantage compared with foreign flag liner operators is not so much current regulation as the fact that U.S. operators are generally among the highest cost carriers in the world. As our recent report on the subsidy programs discusses, these higher costs are primarily due to substantially higher construction, maintenance, and repair costs, higher wages, and higher staffing levels compared with foreign flag vessels.[1] Because none of these factors will be affected by prospective revisions of the Shipping Act, we do not share DOT's optimism that potential changes in maritime regulation can conceivably offset the severe cost disadvantages faced by U.S. flag operators in the event of significant reductions in the subsidy programs.

[Appendix I]

DOJ's Comments and GAO's Response

U.S. Department of Justice,
Washington, D.C., January 13, 1982.

Mr. William J. Anderson,
Director, General Government Division, U.S. General Accounting Office, Washington, D.C.

Dear Mr. Anderson: Thank you for providing the Department of Justice (Department) an opportunity to comment on your draft report entitled, "Changes in Federal Maritime Regulation Can Increase Efficiency and Reduce Costs in the Ocean Liner Shipping Industry" (PAD-82-11).

Essentially, the draft report concludes that there are two basic alternatives to the existing regulatory policy on international ocean liner shipping. Under the first of these alternatives the antitrust exemption for liner shipping would be eliminated so that liner operators would be required to become more competitive. In contrast, under the second alternative, the existing antitrust exemption would be expanded so that companies engaged in liner shipping would be given greater freedom to engage in restrictive business practices. The Administration has recently completed a policy review in this area and in general concluded that the second alternative is preferable to the first. Overall, the draft report presents a well-reasoned and factually accurate assessment of the available alternatives. However, the following three minor factual errors in the report should be corrected.

1. The report repeatedly asserts that U.S. flag liner operators are competitively disadvantaged because, unlike their foreign flag competitors, they are prohibited from entering into consortia agreements (see pages viii, 3-27, 5-1, 5-2, and 8-3). According to the report, this prohibition stems from the antitrust laws (see p. 3-27). This is an assertion that has been frequently repeated even though it lacks a factual basis. The antitrust laws impose neither a blanket prohibition against consortia agreements, nor distinguish among liner operators on the basis of nationality. While it is conceivable that some consortia agreements among American flag operators might theoretically violate the antitrust laws, it is always possible for the Federal Maritime Commission (FMC) to grant antitrust immunity to such arrangements under section 15 of the Shipping Act (46 U.S.C. § 814). Moreover, in considering such an application the FMC would be required to adhere to the same standard of review as it utilizes when considering consortia agreements among foreign flag operators.

2. The report is out of date insofar as it represents that the Regulated Industries Section of the Antitrust Division is responsible for antitrust enforcement in the shipping industry (see page 1-16). That section was reconstituted as the Energy Section several years ago and responsibility for the shipping industry was transferred to the Division's Transportation Section. The report should also note that the Department does not agree with the assertion by some members of the industry that the Antitrust Division's participation in FMC proceedings is intended to "cripple" the conference system by "clogging up" regulatory channels (See page 1-17). All of the Antitrust Division's activities at the FMC have been conducted in good faith and for the sole purpose of insuring that members of the shipping industry justify their agreements in a manner that is consistent with the requirements of the Shipping Act and the FMC's own precedents.

3. The report is technically incorrect in implying in footnote 3 on page 2-17 that, in 1979, 13 shipping executives entered pleas of *nolo contendere* to felony violations of the antitrust laws. In fact, these individuals were charged with misdemeanor violations, and only the corporations were charged with felony violations.

Should you desire any additional information pertaining to our response, please feel free to contact me.

Sincerely,

Kevin D. Rooney,
Assistant Attorney General for Administration.

RESPONSE

1. The Department of Justice is technically correct, and changes have been made where appropriate. Under Section 15 of the Shipping Act, the FMC does have the authority to grant immunity to consortia agreements involving U.S. flag carriers, and is required to adhere to the same standard of review as that used when considering such agreements among foreign flag carriers. However, in interviews with us, some representatives of U.S. flag carriers expressed their belief that they were, de facto, prohibited from entering into consortia agreements because of the difficulty involved with obtaining FMC approval. Moreover, U.S. flag carriers operate predominantly on FMC-regulated U.S.-foreign trade routes, while foreign flag carriers operate primarily on foreign to foreign trade routes beyond the FMC's jurisdiction. Since more of their operations are subject to FMC regulation, U.S. flag carriers can, in this sense, still be considered relatively disadvantaged.

2. Footnotes were added to the draft report to note DOJ's organizational changes and its disagreement with the assertion made by industry members.

3. A change was made to the draft report to note the distinction between the felony and misdemeanor charges.

[Appendix II]

FMC's Comments and GAO's Response

Federal Maritime Commission,
Washington, D.C., January 22, 1982.

Mr. Henry Eschwege,
Director, Community and Economic Development Division, U.S. General Accounting Office, Washington, D.C.

Dear Mr. Eschwege: Thank you for providing us with a copy of the draft report to the Congress entitled "Changes in Federal Maritime Regulation Can Increase Efficiency and Reduce Costs in the Ocean Liner Shipping Industry." We appreciate the opportunity for review and comment on this draft.

I would like to commend the GAO on its draft report. It obviously represents many hours of research on a difficult and perplexing subject.

The enclosure to this letter contains the Commission's comments on specific sections of the draft report. These comments are intended to state our views on several controversial topics and should not be viewed in any way as a criticism of the report.

After you have had the opportunity to review our comments, we would be pleased to discuss this matter at greater length.

Again, thank you for providing us an opportunity to comment.

Sincerely,

Alan Green, Jr.
Chairman.

COMMENTS OF FEDERAL MARITIME COMMISSION

The Federal Maritime Commission has the following comments regarding the proposed draft of a U.S. General Accounting Office report entitled "Changes in Federal Maritime Regulation Can Increase Efficiency and Reduce Costs in the Ocean Liner Shipping Industry." Our specific comments are organized headings which correspond to headings in the draft.

Digest and summary

In the Digest and Summary of the draft report frequent reference is made to the two alternatives to the present system—elimination of the antitrust exemption for steamship lines serving the U.S. foreign trades and, in the alternative, authorization of closed conferences. It has been suggested in the draft report that both of these alternatives would eliminate excessive service competition in the industry. We believe that in developing its options, the GAO has overlooked a third option: the encouragement of rationalization among steamship lines without adopting a closed conference system. This can be undertaken through such arrangements as space charter agreements, pooling agreements, and/or joint service agreements.

While the GAO report does not provide a specific recommendation with respect to the lifting of the antitrust exemption or the formation of closed conferences, we believe that removal of the antitrust exemption is not a viable alternative. The draft report contends that elimination of the antitrust exemption would result in price competition supplanting service competiton. The GAO draft report, however, does not examine this contention from a long-run viewpoint. There is no question that in the short run, removal of the antitrust exemption would result in increased price competition. However, the nature of the liner shipping industry is such that nationalistic interests manifested by extensive government subsidization and control of their merchant fleets may result in prices, over the long run, being higher than would be the case under the present system.

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[1] See "Maritime Subsidy Requirements Hinder U.S.-Flag Operators' Competitive Position," U.S. General Accounting Office, CED 82-2, November 30, 1981.

Given the cost structure of the industry (i.e., a high proportion of constant to total costs, with declining average costs per unit of output), elimination of the antitrust immunity would most likely result in rate wars in the short run as carriers cut rates to attract as much cargo as possible to fill their vessels. With nationalistic interests exerting a strong influence, the result of the rate war would probably not be the survival of the most efficient liner operators as economic theory would posit; but rather, the surviving carriers would more likely be those with the strongest backing of their national governments. Thus, short-run price competition may result in the more efficient carriers exiting a given trade. Over the long run, the combination of inefficient operations and barriers to entry created by government-supported merchant fleets may result in prices higher than they would have been in the absence of the short-run price competition. We believe that a primary goal of regulation of the international liner industry should be the encouragement of efficiency. The injection of excessive price competition through elimination of the antitrust exemption may not encourage efficiency; on the contrary, it may encourage inefficiency.

From a political standpoint, elimination of the antitrust immunity would severely strain our international relations by subjecting the carriers of foreign nations to our antitrust laws. While the draft report contends that enforcement of the Shipping Act strains U.S. international relations, we believe that the degree to which international relations are presently strained would be substantially greater under a scenario that removes the antitrust exemption.

Chapter 2

The title of Chapter 2, *Provisions of the Shipping Act of 1916 Foster Wasteful Service Competition, Excess Capacity, and High Costs, and Strain International Relations,* is misleading and conclusory, and not necessarily based upon the available evidence. Therefore, much of our discussion concerns this chapter.

We are concerned that the draft report misplaces the blame for the problems facing the ocean shipping industry operating in the U.S. liner trades. The excessive service competition discussed on pages 2-19 through 2-22 cannot be attributed solely to the FMC's administration of the Shipping Act, 1916.

In the first place, while the Shipping Act requires conferences to be open to any and all entrants, there is no express restriction on conferences organizing revenue pools, limiting sailings, or otherwise rationalizing services. The report states at page 2-19 that "conferences are generally denied permission to organize revenue pools, rationalize service, limit sailings, or limit membership". At page 2-20, the report refers to conferences' inability to form pooling agreements. These statements are not accurate.

In practice, it is rare that conferences have sought authority to pool revenues. Most pooling agreements are submitted outside the conference framework. However, members of pooling agreements generally belong to the relevant conferences in their trades. There are presently 20 pooling agreements operating in the South American trades, the Far East trade, the Mediterranean trade, and the Calcutta/Bangladesh trade. U.S. flag carriers are members of many of these pooling agreements.

With respect to other forms of rationalization, the draft report suggests that the FMC has generally been unwilling to permit rationalization arrangements (particularly among U.S. flag carriers); and consequently, the inability of carriers to rationalize their services has contributed to rate wars and ultimately a reduction in operation or even a cessation of service.

There are a number of points relevant to this argument. First, the FMC has not been unwilling to approve agreements which rationalize services. On the contrary, the Commission has approved agreements which rationalize service, and attempt to develop a more efficient international ocean transportation system.

The Commission has approved more than 20 joint service agreements. Such agreements generally provide a significant degree of rationalization by combining the operations of two or more carriers into one service.

The Commission has approved over a dozen space charter agreements which provide for more efficient utilization of space on board vessels which may be sailing at less than full capacity. These agreements are prevalent throughout the Far East trades and have recently been filed in the African trades. The FMC recently approved Agreement No. 10420, which is a space charter agreement among five U.S. flag carriers in the Far East trade. This agreement is one which attempts to rationalize service by allowing each of the five lines to charter space on one another's vessels if necessary. Previous to the approval of Agreement No. 10420, the Commission approved Agreement No. 10050-3, a discussion agreement among U.S. flag carriers in the Far East trade. In its analysis of that agreement, the Commission staff found that among the benefits emanating from the agreement were a reduction in excess capacity and the commensurate higher utilization rates that might be encouraged *if the carriers could create an effective rationalization program* (emphasis added).[1]

Thus, it is not entirely correct to argue that the Shipping Act or its enforcement by the FMC has discouraged the implementation of rationalization proposals. The FMC has approved pooling agreements, space charter agreements, and the formation of consortia. U.S. flag carriers have not been deterred from engaging in rationalization arrangements by the FMC. On the contrary, the FMC has approved a space charter arrangement requested by U.S. flag carriers.

International tension

We are further concerned that the draft report singles out the Shipping Act, 1916, as the primary cause of international tension without examining the deleterious effects which our national policy favoring competition has had on international relations. Our antitrust laws, which embody our national policy favoring competition, reach the conduct of American nationals wherever it occurs if the conduct has substantial anticompetitive effects on the commerce of the United States. *United States v. Aluminum Co. of America,* 148 F.2d 416 (2d Cir. 1945). The antitrust laws have also reached foreign defendants where there was an intent to restrain competition in the United States. Absent section 15 immunity, conferences in the U.S. trades would be prohibited under the antitrust laws. Concerted activity which is conducted outside an approved agreement exposes the participants not only to antitrust liability but also to liability for violations of the Shipping Act. See *In re Ocean Shipping Antitrust Litigation,* 15 S.R.R. 839 (Oct. 15, 1980) and *Pacific Seafarers, Inc. v. Pacific Far East Line, Inc.,* 404 F.2d 804 (D.C. Cir. 1958). Because the policies underlying the antitrust laws are antithetical to the economic philosophies of many of our trading partners, the extraterritorial application of the antitrust laws have strained international relations.

One of the primary purposes of Section 15 was to minimize conflict with trading partners by permitting a controlled departure from strict American antitrust principles in international trade. To that extent, section 15 tends to foster better relations with our trading partners. To give life to this purpose, the moderating effects of section 15 on international maritime commerce cannot be realized unless its reach is co-extensive with that of the antitrust laws of the United States.

Although the extraterritorial application of the remaining sections of the Shipping Act, 1916, may occasionally cause difficulties with our trading partners, there appears to be general agreement in the international community that many of the practices which are unlawful under the Shipping Act, 1916, should be curbed. The UNCTAD Code would prohibit conferences from unfairly differentiating between similarly situated shippers. Fighting ships would be prohibited and adherence to published tariffs would be required. Thus, it cannot be said that the United States stands totally by itself in believing that such activities should be regulated.

Contrary to the statements in the draft report, the United States is not alone in regulating the steamship industry. For example, Canada, in explaining its reservations regarding the UNCTAD Code of Conduct for Liner Conferences, stated the following:

"The conferences have become very strong, over the years, and have tended to establish monopoly situations. Canada has found it necessary to regulate the conference to permit their continued operation in the Canadian context."[2]

Australia, a strong supporter of the conference system, retains the power to regulate the practices of conferences under the 1966 Amendment to the Trade Practice Act.

We are aware of several countries which are considering measures which would increase their level of regulation of conference activities. This regulation takes a variety of forms. Nonetheless, there is a growing interest by foreign governments in the activities of conferences.

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[1] Economic Impact Statement, Agreement No. 10050-3, U.S. FLAG Far East Discussion Agreement, Office of Economic Analysis, FMC, June 21, 1979, p. 25.

[2] United Nations Conference of Plenopotentiaries on a Code of Conduct for Liner Conferences 83, UN Doc. TD/Code/13 (1975).

Once the UNCTAD Code of Liner Conferences goes into effect, numerous countries will be in a position to veto conference activity through government owned or controlled carriers. The source of this "veto power" is contained in Article 3 of the UNCTAD Code which states in part:

"However, a decision cannot be taken in respect of matters defined in a conference agreement relating to the trade between two countries without the consent of the national shipping lines of those two countries."

This "veto power" will provide the numerous countries having government owned or controlled carriers with a ready means to regulate the activities of conferences. We have no reason to believe that this power to regulate will not be exercised.

Section 14

The discussion of section 14 of the Shipping Act, 1916 (p. 2-10) implies that section 14 applies only to conferences. This is not correct. Section 14, by its turns, applies to all carriers whether they are independents or conference members.

SUMMARY

In its summary of Chapter 2, the GAO notes that excessive service competition has led to excess capacity, higher costs, and a poor level of profitability for conference carriers, which may result in a cessation of operations by those carriers. The scenario painted by the GAO omits one important element. Academic economists may argue that such competition clears the market of inefficient, high-cost operators and the result of such price cutting would be a more efficient transportation system. The problem with the theory is that it does not take into account the nature of the liner shipping industry. Numerous carriers are subsidized or government controlled. Pricing and service decisions may not be made strictly on commercial or financial grounds but rather may be significantly influenced by political considerations. Such carriers are not solely operators of vessels from nonmarket economy countries, but also include operators from market economies which desire to maintain shipping lines. The attached Table 1 reflects the large number of steamship lines of market economy or mixed economy countries, which are significantly government owned and/or operated.

In addition to the large number of state-controlled carriers shown in Table 1 (which is not an all-inclusive list), many nations reserve cargoes for their national fleets and designated carriers of trading partners. Many nations exert a strong governmental influence on their marchant fleet (such as the Government of Japan, cited in Appendix II to the draft report. As a result of these factors, exit from the liner industry is impeded not only by economic factors, but also by political factors. Open competition which results in rate wars may result in some carrier victims. However, the victims may not necessarily be the least efficient carriers (as economic theory would posit) but rather may be the carriers without financial backing of their governments. As a result, the consequences of unfettered competition may not be the most efficient transportation system but may be the encouragement of inefficiency as a result of the substantial nationalistic interests involved.

Chapter 4—Conference alternatives

In Chapter 4, the GAO outlines the arguments for and against what they perceive as the two alternative methods for eliminating "wasteful" service competition—elimination of the antitrust immunity and expension of the antitrust immunity. Form an economic standpoint, the GAO believes that price competition resulting from elimination of antitrust immunity would not be harmful. The problems with this argument are numerous. First, as we have previously noted, domestic concepts of the effects of market forces have, at best, an imperfect application to the international maritime industry. This in itself creates barriers to entry. Inefficiency, rather than efficiency can be encouraged by the free-play of market forces. Second, while the GAO contends that as a result of a lack of barriers to entry and the mobility of resources, monopolist prices cannot be charged, it should be noted that resources in the steamship industry are not perfectly mobile (i.e., it would be very difficult for a containership operator in the Far East trade to shift vessels from that trade if it were experiencing a rate war to the South American trade, at a time when that trade was profitable, because of a lack of containerized port facilities). Additionally, it is unlikely that many carriers would be interested in reentering a trade which had just witnessed a destructive rate war. The imperfect mobility of resources in the steamship industry means that a rate war may not clear the market of inefficient carriers. In the aftermath of a rate war, carriers would not necessarily reenter a trade with the speed required to produce a textbook case of market equilibrium pricing. Consequently, the possibility for monopolistic prices does exist.

We are concerned with GAO's contention that the economic arguments for maintaining the anitrust exemption are not persuasive. We believe that the GAO has not fully evaluated these arguments. The international character of the liner shipping industry together with its cost structure (i.e., a high proportion of constant costs to total costs and declining average costs per unit of output) render open competition unworkable. Moreover, the political considerations cannot be taken as lightly as the GAO has done. The most recent publication on the economics of liner shipping entitled, *Liner Conferences in the Container Age*, by Gunnar K. Sletmo and Ernest W. Williams, Jr., 1981, provides an excellent treatise on why the benefits of competition are limited in this industry.

Expand antitrust immunity

The other alternative cited by the GAO is the expansion of the antitrust immunity to what the authors describe as "pre-1916 conditions". There was no antitrust immunity prior to 1916. Prior to 1916 the Sherman Act prohibited collective ratemaking activities by conferences serving United States commerce. GAO may have intended to suggest expansion of current antitrust immunities. The Commission has supported legislative efforts to expand current antitrust immunity in ways which eliminate overlapping liabilities for Shipping Act and antitrust violations. Closed conferences are not a necessary facet of expanded antitrust immunity and may or may not respond to GAO's concerns. While closed conferences may encourage rationalization, we do not believe that sanctioning such conferences would completely resolve the political and economic dilemma of the liner industry.

In the conclusion to Chapter 4, the GAO contends that elimination of the antitrust exemption would lead to lower rates. We believe that while this may be a short run impact, it may not be a long run impact since many operators have political as well as economic motives. The argument for antitrust exemption elimination fails to address the issue of the efficiency of the carriers surviving a period of intense price competition.

Chapter 7—U.N. Code of Conduct for liner conferences

In explaining why the United States has not ratified the UNCTAD Code for Liner Conferences, the following statement is made on page 7-30 of the draft:

"This [the failure to ratify] is primarily because the Code's provisions regarding the powers granted to conferences and the noncompetitive allocation of cargo conflict with the provisions of the *Shipping Act of 1916*." (Emphasis added).

The statement is incorrect. The United States explained its failure to ratify the Code as follows:

"This involves more than just conflict between potential treaty law and our own domestic regulatory legislation, but rather basic differences in economic philosophies. Regulatory legislation can, after all, be changed, and although difficult we are prepared to seek such changes in order to promote international harmony in shipping regulation. We have hoped, however, that others would not attempt to impose principles on us which, going beyond regulatory rules, were contrary to our own economic philosophy, particularly in relation to the role of competition." [3]

The conflict concerned economic philosophies regarding competition, and not the requirements of the Shipping Act, 1916.

TABLE 1.—GOVERNMENT-OWNED/OPERATED LINER CARRIERS IN MARKET ECONOMY COUNTRIES [1]

Country	Carrier
Algeria	Compagnie National Algerienne de Navigation
Argentina	Empresa Lineas Maritimas Argentinas
Australia	Australian National Line
Brazil	Lloyd Brasileiro
Egypt	Egyptian Navigation Company
France	Compagnie General Maritime
Gabon	Societe Nationale des Transports Maritime
India	Shipping Corporation of India
	Mogul Line Ltd
Indonesia	Djakbarta Lloyd
Iran	Islamic Republic of Iran Shipping Line
Italy	Italia Line
	Lloyd Treiestino
Malaysia	Malaysia International Shipping Corporation
Morocco	Compagnie Marocain de Navigation
Pakistan	Pakistan Shipping Corporation
	National Shipping Corporation
Peru	Corporacion Pervana de Vapores
Philippines	Philippine National Lines
Taiwan	China Merchants Steam Navigation Company
Thailand	Thai Maritime Navigation Co. Ltd
Turkey	Turkish Cargo Lines
Venezuela	C.A. Venezolana de Navegacion

[1] This list does not necessarily include all government owned/operated liner carriers of the market economy countries, rather it is merely a sample.

Source: "Maritime Subsidies," U.S. Department of Commerce, Maritime Administration, January 1981.

RESPONSE

1. The two major alternatives referred to in the digest and summary are (1) to eliminate the antitrust exemption to spur more price competition, and (2) to extend antitrust immunity to allow conferences and carriers greater freedom to devise and implement methods of controlling capacity. The second alternative, i.e., increased ability to rationalize capacity, may be achieved by

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[3] I United Nations Conference of Plenipotentiaries on a Code of Conduct for Liner Conferences 90, UN Doc. TD/CODE/1B (1975).

authorizing closed conferences as well as by encouraging intercarrier agreements to pool revenues or cargoes, limit sailings, or form consortia within the open conference system. The FMC, however, has misconstrued it to mean only the former. This confusion has apparently resulted from the fact that "closed conference" was one of the four, more narrowly defined, alternatives (in addition to "restricted conference," "open competition" and "other") that we posed to shippers and carriers during structured interviews.

2. The FMC's contention that the draft report considered only the short-run price effects of eliminating the current antitrust immunity is incorrect. To the contrary, the very argument that the FMC makes was explicitly stated in the draft report as follows: "One fear is that this option would lead to severe price competition, resulting eventually in very few lines, or even a monopoly in control of a particular trade route. Critics argue that the resulting rates would be higher than those charged by conferences." As the draft report noted, we do not consider this argument very persuasive for two reasons. First, this result could only occur if the surviving lines do not face the threat of having new firms enter the trade routes on which they are operating. Second, to the extent that there are barriers deterring new entry, the surviving lines would still exercise the same restraint as existing conferences in setting rates. Thus, rates in this worst case would be no higher than under the conference system. If removal of the antitrust exemption did lead to periodic rate wars followed by increases in prices to conference levels, rates, on the average over the long run, might still be lower than those experienced under conferences.

3. The draft report also explicitly addressed this argument concerning the nature of the industry's cost, as follows: "It is feared that prices often would be driven below average total cost and operators would cease operations. Competition can drive prices below average total cost in industries such as liner shipping where the level of demand fluctuates and the direct costs of providing a service . . . are small compared to overhead cost . . ." As the draft report noted, however, it is not just the nature of costs that would induce a rate war if the antitrust exemption were removed (after all, a large number of well functioning, competitive industries, such as hotels, barber shops, motor carriers, theaters, cement producers, and petroleum producers have similar cost structures), but the fact that the existing regulatory system has caused excessive service competition and substantial excess capacity on U.S. foreign trade routes. Unfettered price competition should eventually correct this overcapacity as the level of new investment diminishes and operators shift existing vessels to other, more profitable trade routes. It is this decrease in excess capacity that, for a given level of demand, will cause increases in the extent to which the surviving capacity is utilized and subsequent decreases in the cost per ton of cargo carried on U.S. foreign trade routes. Thus, contrary to the FMC's contention, this increase in efficiency is not predicated on the survival of the "most efficient" (i.e., lowest cost) operators, although the potential cost reductions would be greater if this did occur.

We agree with the FMC that the degree to which flag carriers are supported by their various governments could be an important factor determining which carriers exit from U.S. foreign trade routes. It is precisely for this reason, given U.S. cargo preference laws, the maritime subsidy programs, and our national commitment to maintain a merchant marine adequate for national security, that the survivability of high cost U.S. flag carriers would not be seriously jeopardized if the antitrust exemption were removed.

We also agree with the FMC that a primary goal of Federal maritime regulation should be the encouragement of efficiency. However, as the report concludes, we believe that the current regulatory system has actually had the opposite effect.

4. We agree. The draft report clearly stated that eliminating the antitrust immunity could "increase diplomatic tensions since it would further subject foreign flag carriers to prosecution under U.S. antitrust laws." In fact, it is partly because we could not weigh these increased diplomatic costs that we were unable to recommend any major revisions to the Shipping Act.

5. We disagree for the reasons stated in our replies to points #6, #7, #8, and #9.

6. Although we did not seek to place any "blame" for the problems facing the ocean liner shipping industry, we do feel that our report adequately supports the conclusion that Federal maritime regulation has led to excessive service competition, overcapacity, high rates, and increased costs on U.S. foreign trade routes.

7. The FMC is correct in saying that there is no express legal restriction on conferences, or carriers, organizing revenue pools, limiting sailings, or otherwise rationalizing services.

As the Justice Department noted in its comments on this draft report, it is always possible, under Section 15 of the Shipping Act, for the FMC to grant antitrust immunity to such agreements that might theoretically violate the U.S. antitrust laws. As the draft report noted, however, the FMC can disapprove such agreements on four grounds: unjust discrimination, detriment to commerce, illegality under one of the specific provisions of the Shipping Act, or contrary to the public interest. The fourth ground was added in 1961 as a result of P.L. 87-346. To implement this new criterion, the FMC formulated a principle, subsequently upheld by the Supreme Court, that agreements in potential violation of the U.S. antitrust laws would be approved only if the parties to the agreements could "bring forth such facts as would demonstrate that the . . . rule was required by a serious transportation need, necessary to secure important public benefits or in furtherance of a valid regulatory purpose of the Shipping Act." It is partly because of this so-called "Svenska Test" that carriers find the current regulatory process costly, burdensome, and overly time-consuming. In interviews, some representatives of U.S. flag carriers expressed their belief that they were, in fact, prohibited from entering into many such agreements because of the difficulty involved with obtaining FMC's approval. Any references in the draft report that could have inadvertently misled one to believe that the Shipping Act or the FMC absolutely prohibited these agreements were corrected.

8. The draft report clearly stated that, "as of June 1980, there were only 17 approved pooling agreements to which U.S. flag operators were party were on file with the FMC." However, many of these pools were formed by carriers to implement the provisions of bilateral trade agreements negotiated between the United States and foreign governments. As the draft report noted, such agreements are automatically assumed to be in the public interest and, thus, are not subject to the "Svenska Test."

9. The fact that the FMC has recently approved some rationalization agreements does not contradict the fact that the FMC's approval process has been slow, costly, and uncertain. Thus, we still feel that it is both correct and fair to argue that the regulatory process has discouraged the consideration, formation, and implementation of rationalization proposals by carriers serving U.S.-foreign trade routes. As noted above in point #7, some representatives of U.S. flag carriers even believe that they are, in fact, prohibited from engaging in some agreements because of the difficulty in obtaining FMC's approval.

10. Because this report concerns the effects of Federal maritime regulation, we naturally focus some attention on the international tensions caused by the FMC's enforcement of the Shipping Act. However, the draft report did not single out the Shipping Act, 1916, as "the primary cause of international tension." It did note that "firms, both foreign and domestic, are subject to prosecution under this country's laws if they perform actions . . . [that] are illegal and have a substantial effect within the United States." Although this "substantial effects" doctrine applies to both the U.S. antitrust laws and the Shipping Act, it was not our intention or objective to determine which has put the greater strain on international relations.

11. The fact remains that the FMC's enforcement of the Shipping Act, 1916, has led to considerable international tensions. Some foreign countries have even enacted so-called "blocking statutes" which make it illegal for their shipping lines to comply with FMC discovery orders.

12. The draft report never said or implied that "the United States stands totally by itself" in believing that some maritime practices should be regulated.

13. The draft report did not state that the United States is "alone" in regulating the steamship industry. Rather, it noted that the "United States is unique among maritime nations in the way in which it regulates" the industry. In general, foreign countries have not enacted special laws, like the Shipping Act, to extensively regulate the activities of liner conferences, or have established official bodies, like the FMC to enforce such laws.

14. The FMC is technically correct in that Section 14 applies to all carriers, whether or not they are conference members. However, prior to the passage of the Shipping Act in 1916, many of the activities prohibited by Section 14 were used by conferences to combat and deter competition by independent operators. Thus, we feel the draft report's statement that "Section 14 apparently was designed to ensure that shippers would not be denied access to nonconference operators as a result of conference actions" is a valid one. We did make a minor revision to correct any possibly misleading implication that these prohibitions concerned only conferences.

15. See our reply to point #3.

16. Contrary to the FMC's assertion, we do not contend that there is a lack of barriers to entry or that capital resources are "perfectly mobile" in the ocean liner shipping industry. In fact, we are aware of no industry, either domestic or international, where this hypothetical condition actually exists. What we do contend is that barriers

to entry are not likely to be very high since vessels can, in most cases, be shifted from one trade route to another, or leased to other operators. However, as noted in our reply to point #3, even if there are significant barriers to entry, the surviving operators would still exercise the same restraint as conferences in setting rates. Although, as the FMC suggests, carrier risk aversion could increase after a rate war, this should be a temporary phenomenon. Thus, even in the worst case, rates should generally be no higher than those set by conferences, and are likely to be lower.

17. For the reasons cited in our replies to points #2, #3, and #16, we disagree with the FMC's contentions (1) that we did not fully evaluate the arguments for maintaining the industry's antitrust exemption and (2) that open competition is unworkable for economic reasons. We also do not believe that we have taken the political considerations "lightly." The draft report clearly stated that, although removing the antitrust exemption may be preferable on economic grounds, it will lead to increased diplomatic costs. It was actually because we could not weigh these economic benefits and diplomatic costs against one another that we could not recommend this particular course of action.

18. The draft report was revised to correct the misimpression that antitrust immunity existed prior to 1916. We agree that authorization of closed conferences is not a necessary facet of expanded antitrust immunity or that it will solve completely the political and economic problems of the liner industry. Our draft report made no such statements to this effect.

19. See our reply to points #2 and #3.

20. The draft report was revised to state that the United States has declined to ratify the Code because of conflicts with the Shipping Act and our own economic philosophy.

[Appendix III]

DOT's Comments and GAO's Response

U.S. Department of Transportation,
Washington, D.C., February 4, 1984.
Mr. Henry Eschwege,
Director, Community and Economic, Development Division, U.S. General Accounting Office, Washington, D.C.

Dear Mr. Eschwege: We have enclosed two copies of the Department of Transportation's (DOT) reply to the General Accounting Office (GAO) report, "Changes in Federal Maritime Regulations Can Increase Efficiency and Reduce Costs in the Ocean Liner Shipping Industry," dated December 9, 1981.

At the time the report was issued, the Administration was involved in its own effort to assess the impact of the administration of the Shipping Act on the ocean liner industry and to develop recommendations for changes in the Act. On December 31, 1981, the Secretary of Transportation announced the President's decision favoring far-reaching regulatory reform of the international ocean liner shipping industry.

This Department is aware of the difficulties associated with any study of the ocean liner shipping industry. This situation is compounded by the broad nature of the request of the Merchant Marine and Fisheries Committee. As currently written, the GAO report appears to be incomplete. It is the Department's recommendation that the report be revised giving consideration to the points addressed in the enclosed statement. In this regard, we will be pleased to provide whatever technical assistance would be helpful to the GAO.

Sincerely,

Robert L. Fairman.

COMMENTS

I. DEPARTMENT OF TRANSPORTATION REPLY TO GAO DRAFT OF A PROPOSED REPORT ON CHANGES IN FEDERAL MARITIME REGULATION CAN INCREASE EFFICIENCY AND REDUCE COSTS IN THE OCEAN LINER SHIPPING INDUSTRY

II. SUMMARY OF GAO FINDINGS AND RECOMMENDATIONS

The U.S. House Committee on Merchant Marine and Fisheries requested that the GAO conduct an economic analysis of the international ocean liner shipping industry to assist them in their oversight of the Federal Maritime Commission (FMC) and their attendant review of Federal maritime regulation. The two objectives of the draft GAO analysis are to determine whether there is any valid economic rationale for changing the current regulatory system embodied in the Shipping Act of 1916; and second, to assess the economic implications of frequently discussed modifications of the Act.

The principal findings and recommendations reflected in the GAO draft report include the following:

1. The Shipping Act fosters wasteful service competition

In the ocean liner shipping industry, the demand for services is affected by both the rates charged and the level of service offered. As a result of the Shipping Act and its enforcement by the FMC, conferences covering the U.S. foreign trades are able to restrain price competition by jointly establishing common tariffs to which their members must adhere. However, they have not been able to effectively control capacity and rationalize service in the U.S. foreign trades because of their inability to limit membership and the FMC's general unwillingness to approve conference agreements to pool revenues or restrict the number of sailings.

Consequently, competition among conference members occurs primarily by augmenting the level and frequency of service offered to shippers and not by reducing prices. This process can result in high costs due to low capacity utilization rates (a result of more frequent sailings with each carrying less cargo), and at best, adequate rates of return on invested capital.

High rates charged by conferences can also induce nonconference operators (also called independents) to enter the U.S. foreign trades. The inability of conferences to use more stringent types of exclusive patronage contracts limits their ability to deter the entry fo these carriers. A substantial amount of entry by price-cutting independents would cause rates to fall and aggravate the problem of excess capacity. As a result, U.S.-flag conference members could suffer financial losses.

2. The condition of the U.S. liner fleet does not justify a major revision of the shipping act (chapter 3)

Taken at face value, certain statistics suggest that the general cargo liner portion of the U.S. merchant marine is in serious trouble. For example, the number of U.S.-flag general cargo vessels declined from 585 in 1965 to 256 in 1980. In addition, the number of operators composing the U.S.-flag liner fleet has fallen from 19 in 1965 to 9 in 1981. Further, the U.S. fleet of general cargo vessels has fallen from second largest in the world in 1965 to eighth largest in 1979 in terms of total deadweight tons.

Reconsidering these statistics in the light of recent advances in cargo handling and ship design technology, containerization, enables fewer containerships to transport the same amount of cargo in the same amount of time as conventional, breakbulk vessels by reducing the amount of time spent in port. Thus, rather than indicating distress, the decline in the number of U.S.-flag vessels and the relative ranking of the U.S.-flag liner fleet reflect significant changes in the type of ships and in the means by which U.S.-flag operators carry their cargo. With the adoption of containerization, a smaller number of operators and vessels can carry the available cargo. In fact, the evidence shows that U.S.-flag liner operators pioneered in the development of containerization, and have been able to acquire this new technology more rapidly than operators in other countries. In addition to the effects of containerization, the decline in the number of U.S.-flag operators was also a result of other factors such as poor management, changing market conditions, and uncertainty with regard to the maritime policies of certain South American nations.

Because there is no compelling evidence that the U.S.-flag liner fleet is in the state of decline generally ascribed to it, major revisions of the Shipping Act are not required to assure the fleet's existence. However, because advances in technology are producing even larger, more costly vessels, U.S.-flag operators may find it increasingly difficult to replace their fleets in the future. To assure the continued, successful performance of the fleet, it may be necessary to allow U.S. carriers to more easily form consortia to pool their resources. These arrangements would place U.S.-flag operators on the same footing as foreign-flag carriers, while maintaining the benefits of interline competition.

3. Enforcing the Shipping Act strains international relations, but is not biased against U.S. carriers (chapter 3)

The United States is unique among maritime nations in the way it regulates the international ocean liner shipping industry. Most countries do not impose restrictions on the practices or organizational structures of shipping conferences. Shippers are generally allowed to protect their own interests by forming groups known as shippers' councils to negotiate rates and conditions of service with conference representatives.

Because of differing international philosophies and policies regarding the maritime industry, the FMC enforcement efforts have strained relations with a number of our trading partners. As a result, the FMC has had difficulty in obtaining access to documents stored in foreign countries and U.S.-flag carriers have claimed that enforcement of the Shipping Act is thus disproportionately directed toward them. To determine the validity of this allegation, we examined the distribution of 58 malpractice cases initiated by the FMC from October 1976 to June 1980. Our analysis failed to show any evidence of an enforcement pattern biased against U.S.-flag carriers.

4. Eliminating wasteful service competition—alternatives to the present system (chapter 4)

Eliminating wasteful service competition and its onerous effects on operators could be achieved in two dramatically different ways. The first method would entail submitting all U.S. and foreign-flag carriers serving the U.S. foreign trades to the provisions of this country's antitrust laws. If this were to occur, price competition would supplant service competition. Rates would be lower, but less stable. U.S.-flag operators would be adversely affected and in the worst circumstances could cease operation. Such an outcome would be unacceptable, especially taking account of the view that the U.S.-flag liner fleet serves as a military auxiliary in a time of national emergency. Under this alternative, the level of subsidy currently provided U.S. operators would need to be increased. This option could also increase diplomatic tensions since it would further subject foreign-flag carriers to prosecution under U.S. antitrust laws.

The other method would be to adopt the policy of most maritime nations and free the conferences covering U.S. trade routes from all regulatory constraints. This approach would permit carriers to devise methods to control capacity, eliminate wasteful service competition, and deter the entry of nonconference operators into certain trade routes. In addition, it would relax diplomatic tensions and lower the costs of providing liner service. The interests of shippers could be safeguarded by forming shippers' councils with countervailing bargaining power, as has been done in other maritime nations.

A less draconian alternative could be to encourage forming revenue pools to allow carriers to rationalize service. Our analysis of the revenue pools organized on U.S.-Latin American trade routes during the 1970's showed that some pools significantly improved the capacity utilization of U.S.-flag carriers. Unfortunately, we were not able to analyze the effect on rates and profits because of statistical problems and data limitations.,

5. Reactions of carriers and shippers to proposed alternatives (chapters 5 & 6)

The results of our interviews with shippers suggest that if the current system is retained, freight rates will increase at the same rate as costs incurred by carriers increase. Both the current degree of rate stability and level of service quality would be expected to remain the same. Shippers believe that under the alternative of increased competition, rates would be lower and more volatile than under the present open conference system or the closed conference alternative. Conversely, shippers believe that closed conferences would result in higher rates than those that now exist. There was, however, no consensus among shippers regarding level of service quality under either alternative.

We also posed questions to carrier and conference officials. It was their view that the current problems of carrier resignation from conferences, illegal rebating, and the entry of nonconference operators into the U.S. foreign trades could be eliminated by permitting closed conferences as an alternative to the present system.

6. Matters for consideration by the Congress (chapter 8)

Two broad options are available to the Congress in considering revisions to the Shipping Act of 1916. Both would alter the nature of the antitrust exemption which has been granted to shipping conferences covering the U.S. foreign trades. The first option would allow conferences to adopt measures enabling them to control capacity and limit wasteful service competition. If this permission were granted, we believe shippers should be provided with the opportunity to form shippers' councils to safeguard their interests. U.S. maritime law would be brought into conformity with that of most major maritime nations, and international tensions created by differences in maritime policies would be mitigated. The second option is to withdraw the antitrust immunity currently granted to conferences. This would introduce more price competition into the liner shipping industry. Consequently, competition would be of more value to shippers. Wasteful service competition would be supplanted by an increase in rate competition to give shippers a more desirable combination of rates and service. This policy would have diplomatic costs associated with it that are probably greater than those associated with this country's current maritime policy.

The most suitable choice depends upon the economic and diplomatic costs and benefits associated with each alternative, but GAO's evaluation of the current evidence does not clearly favor one over the other.

III. SUMMARY OF DEPARTMENT OF TRANSPORTATION POSITION

By letter dated December 9, 1981, a copy of the subject draft GAO report entitled, "Changes in Federal Maritime Regulation Can Increase Efficiency and Reduce Costs in the Ocean Liner Shipping Industry," was forwarded to the Secretary of Transportation for comment. At that time, the Administration was involved in its own effort to assess the impact of the administration of the Shipping Act on the ocean liner industry and to develop recommendations for changes in the Act. On December 31, 1981, Secretary of Transportation Drew Lewis announced President Reagan's decision favoring far-reaching regulatory reform of the international ocean liner shipping industry. A copy of this announcement is attached.

The Administration's recommendations are guided by three major objectives. First, we are committed to minimizing government intervention in the affairs of the maritime industry. Second, we want to bring U.S. policy and the footing of our carriers into line with that of the rest of the world. Third, we want to maintain a strong U.S. merchant marine.

Our program would make it easier for organizations of ocean carriers to enter into agreements to determine capacity, set rates and organize their activities without unnecessary regulatory restrictions. Intermodal rates could be established. Revenues could be apportioned and joint service arrangements would be possible. Antitrust immunity for shipping activities of ocean carriers would be extended and clarified. Specific practices such as those intended to drive independent carriers from our trades would continue to be prohibited but would be subject to penalties under the Shipping Act rather than the antitrust laws. Vague and discretionary standards for the regulatory approval of ocean carrier agreements which cause unnecessary delay and expense would be eliminated.

The Department concurs with the draft report's conclusions that the Shipping Act fosters wasteful service competition. We agree that existing regulatory restraints on the activities of conferences result in high costs and low capacity utilization. As the report indicates, the high rates that result from these conditions induce excess nonconference capacity in our trades. Conference members, including U.S.-flag carriers, suffer financial losses as a result.

We also concur with the draft report's conclusions that it will be necessary in the future to put the U.S.-flag fleet on an equal footing with its foreign competitors. Specifically, we agree that it is necessary to allow U.S. carriers greater freedom to organize their resources and modernize their fleet. This will also require revisions to the Shipping Act.

Given the above conclusions, we are unable to understand the draft report's conclusion that the condition of the U.S. liner fleet does not justify a major revision of the Shipping Act. Even though the report correctly assesses the stability of U.S.-flag liner tonnage over the period 1970 to 1978, the report fails to analyze other important measures of industry performance. The U.S.-flag share of liner cargoes has declined steadily since 1976. Financial performance of the liner industry, relative to other sectors of the U.S. economy, has been unstable and below average. At the present time, three of the nine remaining U.S.-flag liner operators are in serious financial trouble. These conditions exist despite substantial direct and indirect Federal subsidies, a factor ignored by the report. With the prospect of future budgetary constraints on the subsidy programs, the viability of a U.S. liner fleet requires that means be found to promote industry productivity and reduce industry costs. Under these circumstances, changes in the Shipping Act to facilitate those improvements would appear essential. We are concerned that the GAO's conclusion rests upon a somewhat limited perspective and a narrow analysis of past performance of the U.S. industry. It is the responsibility of this Department and its Maritime Administration to foster the development of the U.S. merchant marine. Consistent with that responsibility, we have concluded that the industry's prospects for the future require that we eliminate the increased costs and inefficiencies attributable to the Shipping Act in order to revitalize this important industry.

The Department also takes exception to the report's finding that the enforcement of the Shipping Act is not biased against U.S. carriers. We believe this finding may be misleading. There is no dispute that the Federal Maritime Commission has greater enforcement capability over U.S. flag carriers than foreign flag carriers operating in our trades. It is this disparity in enforcement capability that constitutes the bias against U.S. flag carriers to the benefit of their foreign flag competitors. The statistical analysis employed in the report simplistically assumes that a FMC case is a standard unit of measure for enforcement. No attempt is made to assess the frequency or magnitude of violations nor to correlate the same with the frequency of prosecution and magnitude of punishment.

Further, the Department is concerned that the report's analysis of the relative construction costs of break bulk and containerships of comparable characteristics may be inaccurate. That analysis concludes that in 1979 a standard containership cost approximately five times as much as a conventional break bulk ship. The Maritime Administration's experience with construction costs of break bulk and containerships with comparable characteristics indicates that the cost differential may be substantially less.

This Department is aware of the difficulties associated with any study of the ocean liner shipping industry. This situation is compounded by the broad nature of the request of the Merchant Marine and Fisheries Committee. As currently written, the draft report appears to be incomplete. It is the Department's recommendation that the report be revised giving consideration to the points addressed here. In this regard, we will be pleased to provide whatever technical assistance would be helpful to the GAO.

IV. POSITION STATEMENT

A. Chapter 3

Chapter 3 of the GAO draft report is devoted to refuting evidence of the apparent decline in the U.S.-flag liner fleet, measured in terms of number of firms, vessels, and deadweight. Concern about the condition of the fleet is cited as the primary impetus for revising the regulation of U.S. foreign waterborne commerce. By observation and some statistics, the decline in these measures from 1970-1978 is attributed to be a consequence of containerization and incidental conditions—not due to conditions of industry-wide distress. Further, measured in terms of cargo carried by value and tonnage, "the U.S.-flag general cargo fleet's ability to transport this Nation's liner imports and exports had not deteriorated during the 1970's."

Narrowly interpreted, this conclusion is accurate. The U.S.-fleet carried about the same amount of cargo, measured by value and tonnage, in 1978 as it did in 1970. However, the U.S.-flag share reached a peak in 1976 and has been declining ever since in terms of both measures.

The major Federal interest in the U.S.-flag liner fleet concerns the fleet's value as a military auxiliary in times of war or national emergency. The analysis fails to address this requirement. It does clearly point out the fleet's compositional shift from break bulk to container vessels. However, in terms of military sealift capability, the containership is the least useful of all general cargo vessel types. The decline in numbers of break bulk vessels is particularly worrisome to Department of Defense planners.

Financial performance is a key measure of an industry's condition. In comparison to other industrial groups the ocean liner industry is one of the poorest and most inconsistent in terms of return on equity, as shown below.

RETURN ON EQUITY—U.S. FLAG LINER INDUSTRY AGAINST OTHER INDUSTRIAL GROUPS

Industry group	1976	1977	1978	1979	1980
Manufacturing	15.0	14.9	15.9	16.9	14.9
Mining	16.5	8.5	8.2	19.8	23.2
Retail trade	14.7	15.0	15.3	15.7	14.1
Class I railroads	1.9	2.4	2.0	5.2	6.3
Trucking	20.0	18.3	14.8	15.6	11.8
Air transport	11.7	14.3	20.9	11.7	5.0
Public utilities	11.5	12.1	12.1	13.0	12.8
Services	18.1	17.8	21.2	20.4	20.4
Financial	10.1	15.1	15.7	16.8	14.9
U.S. Flag Liner Cos	13.2	5.9	10.4	3.2	10.4

Note.—Source of other industrial groups. Citibank monthly economic letter, April 1978, April 1979, April 1980, April 1981.

During this same period, the industry has only generated a return on assets of between .9 and 6.1 percent, hardly healthy. As additional indicators of sagging financial health, long-term debt increased from .76 of equity to 3.83 times the equity, and the ratio of current assets to current liabilities fell from 1.7 to 1.3 during this same period. Such financial information would not appear to have been considered by the GAO. Additionally, at the present time three U.S.-flag liner firms are plagued with financial difficulties. These difficulties are due in part to a decline in Government-sponsored preference cargoes—an important facet of U.S. support to the fleet. These preference cargoes have provided U.S. liner operators with the marginal revenues that have made the difference between profit and loss.

In addition to the potential loss of these firms, maintenance of the entire fleet is in jeopardy. As the analysis points out, one-third of the current fleet was built before 1967. Replacements are highly unlikely in an environment where profitability is low, financing costs high, and construction subsidy funds curtailed. The authority to replace subsidized vessels overseas is presently limited to 1982, and will be available in 1983 only under statutory conditions which are unlikely to occur. This offers no option for the majority of replacements needed beyond 1983.

The latter part of Chapter 3 attempts to determine the validity of U.S.-flag liner operator contentions that FMC enforcement of the malpractice provisions of the Shipping Act of 1916 has been disproportionately directed against them. This claim is concluded by the GAO to be unfounded on the basis of a simplistic and convoluted analysis.

The analysis is predicated on the assumption that: (1) actual malpractices committed by carriers of each flag are in direct proportion to the cargo tonnage they transport; and, (2) if FMC enforcement activities are unbiased, the proportion of total cases brought against U.S.-flag carriers should equal the portion of total tonnage carried by U.S.-flag carriers. Following this line of logic, the analysis computes that given the 58 cases brought by the FMC from October 1976 to June 1980, an unbiased distribution would have brought 16 of these cases against U.S.-flag carriers. Since in fact only 14 of the cases were brought against U.S.-flag carriers, the conclusion is derived that charges of bias are unfounded.

The assumptions employed in this analysis arbitrarily ignore the substance of the charge and lead to nothing more than a statistical computation. At issue is the charge that foreign-flag carriers have been able to engage in more illegal activities under the Shipping Act of 1916 in part because the FMC has greater enforcement capability over U.S.-flag carriers. It is this disparity in enforcement capability that constitutes a bias against U.S.-flag carriers to the benefit of their foreign-flag competitors. If indeed foreign-flag carriers do engage in more illegal activities, the apparent proportional distribution of FMC cases suggests that a bias does exist. Following the logic employed, unbiased enforcement would require a case distribution proportional to the frequency of illegal activity.

With respect to the statistical information in Chapter 3, page 3-17 of the GAO report includes a chart based on *Fairplay International Shipping Weekly* (Fairplay) data and concludes that in 1979 a standard containership cost approximately 5 times as much as a conventional break bulk ship. This conclusion does not agree with our shipbuilding cost information.

The Fairplay data identifies three distinct types of ships with estimated construction costs provided for succeeding years from 1969. Each of these standard ship types provides a different service such that the classes of ships may not be used interchangeably. Comparing construction costs of such types would have as little meaning as comparing costs of a pick-up truck and trailer-tractor rig. Our experience with the U.S. building costs of break bulk and containerships of comparable characterisitics is that the costs are approximately equal.

It is inferred from information abstracted from Fairplay's July 17, 1980, issue that containership prices have risen much more rapidly than break bulk ship selling prices, thereby contributing to the high cost of providing modern marine transportation service. The Fairplay data states that in 1973 the standard containership costs approximately 3.6 times as much as a conventional break bulk vessel, but by the end of 1979 that ratio has risen to 5.2.

Closer examination of the Fairplay data reveals what may be a flaw in the data base. Between 1973 (annual average price) and June 1974, approximately a one year period, the reported price of a standard containership doubled from £10,000,000 to £20,000,000. In the following five years, from June 1974 through December 1979, the containership prices increased a total of 43.5 percent while the Fairplay standard break bulk ship increased in price by 57 percent from £3,500,000 to £5,500,000.

The questionable change in relative prices of different type cargo ships appears to center around what pricing changes actually occurred from 1973 to 1974. From June 1973 to June 1974, the price of the Fairplay break bulk ship increased 55.5 percent from £2,250,000 to £3,500,000, contrasted to a doubling of the containership estimated selling price. It should be noted, however, that an improper comparison may be drawn since the containership price is on an annual basis for 1973 and then shifts to a six-month pricing time period with two prices quoted for 1974 (June and December). It is unfortunate that this difference in baseline period occurs at a time with ship prices and shipbuilding costs were rising so rapidly as a result of shortages that were developing in material supplies (steel and other basic raw materials) and growing backlogs in international shipbuilding orderbooks.

The Fairplay article does state that the prices are estimates based on three hypothetical cargo vessels, a 11,000/13,000 dwt dry cargo carrier, a 25,000 dwt bulk carrier and a 25,000 dwt containership. The prices are computed considering four variables: hull steelwork, main and auxiliary machinery, outfit and painting and yard overhead plus depreciation, insurance classification charges and a 5 percent profits mark-up. Since market conditions are not included in the calculation, the prices reported are in fact not really shipping selling prices, but rather builder's estimated costs of construction. Examination of the Fairplay data for each one of the three standard vessels indicates that the price always increased with time, never decreasing, which was the case in the real marketplace.

On page 3-17 of the GAO report the graphical display indicates price decreases in 1975 and 1976. This occurs, however, because the GAO authors converted the ship price expressed in British pound to U.S. dollars using year-end currency exchange rates rather than retaining the original currency, used in compiling the statistical data. In converting currency the GAO has introduced another very important variable.

In the real marketplace the selling prices of ships declined sharply in the second half of the 1970's. The drop in prices, a reaction to marketplace activities, is not included in the Fairplay pricing structure. After the 1978 oil crisis, the market for tankers, which dominated world shipbuilding tonnage demand, collapsed and ship prices declined, reaching levels in 1978 that were below building costs. In 1979 after adjustments were made to reduce shipbuilding berths ship prices rose. Increasing price trends continued into the first half of 1981. In the second half of 1981 ship orders have declined and the market has become sluggish.

Our office records of Japanese contract prices for standard ships do not support the conclusion reached by the GAO that a standard containership design has become substantially more expensive relative to a standard break bulk ship. The Japanese shipbuilder IHI's "Fortune" breakbulk ship design that was built in 1975 for Y 1,800 million was constructed in 1980 for Y 3,000 million, whereas a large containership having a capacity of 1,450 containers, priced at Y 6,900 million late in 1973, would be priced in the Y 9,000 to 10,000 million price range in 1980 dollars. It is our observation that actual contract prices fail to lend support to the GAO statement that containership prices have increased more rapidly than break bulk ship prices. Furthermore, it should be recognized that the magnitude of ship price is a reflection of the size (capacity in cubic measure) and the degree of outfit included in a ship designed to provide a certain service. For the ship designs reviewed above and the Fairplay standard ships, the containership designs are considerably larger, having higher horsepower machinery which is reflected in the contract price.

B. Chapter 7

The GAO draft report also presented (in Chapter 7) a simplistic and questionable analysis of the merits of the U.N. Liner Code of Conduct. The GAO believes U.S. adoption of the Code could lead to proliferation of pooling agreements. The GAO analyzed the pools operating in U.S. trades with Argentina and Brazil. Of three measures used in the analysis, only changes in capacity utilization yielded some results. In the review of the GAO, there is still some doubt that establishing revenue pools will always lead to an improvement in the capacity utilization of U.S.-flag operators. Relating the Latin American pools to Codist pools infers U.S. carriers' capacity utilization might improve within the U.N. regulatory system also. That an improvement in load factors may not occur in all trades with pooling and rationalization is not even considered by the GAO.

As an alternative, GAO could have assessed the potential economic implications of code-sanctioned cargo sharing on U.S. carriers. One technique would provide an analysis of freight revenue earnings. MarAd analyses show some deterioration for U.S. operators on certain trades, and lead to the conclusion that bilateral agreements might better serve U.S. maritime interests. The GAO did not consider bilateralism as a policy alternative.

The report states there are considerable similarities between the Code's cargo allocation provisions and U.S.-Latin American pooling agreements. The conceptual similarity has yet to be proven through implementation. There are major differences between U.S. pooling practices and the regulatory regime outlined in the U.N. system. The pools to which the U.S. belongs are authorized and administered in a framework of Government-to-Government agreements, and maritime authorities communicate on the execution of the agreements. The Code appears to be more restrictive of direct Government participation in liner regulation and it is questionable whether the unique economic and political factors and flexibility which have gone into development of U.S.-sponsored bilateral agreements could be achieved within a multinational treaty such as the proposed liner code. The U.S. pools have not required closing liner conferences, an integral provision of the Code. There is no evidence presented in the report that closed conferences would improve the profits of U.S. carriers and shippers, or expedite the regulatory process.

The GAO also comments on the possibility that displaced tonnage will move into U.S. trades if the Code goes into effect without U.S. participation. The GAO accepts the position that LDC's would need to acquire or charter otherwise surplus vessels to meet their cargo allocations permitted by the Code. However, no economic analysis is given to support this position.

The GAO does not evaluate the economic or regulatory implications of significant provisions of the Code. Many of these, in addition to being fundamentally different from U.S. principles, are questionable in terms of economic benefits for carriers. For example, some analysis could be included of the economic effects of Codist closed conferences, the implications of expanded conference authority, and the results of code-sanctioned intervals for conference freight rate increases on carriers and shippers.

Additional elements included in this section of the report, along these same lines, could be made more specific with statistical evidence or data regarding the implications of maintaining or altering the U.S. position on the code. Clearly this report is engaged in an effort toward addressing this concern, and additional analysis would be helpful here to bring the study closer to its objective.

RESPONSE

1. We disagree with the assertion that the draft report appeared to be incomplete, and have made no changes to the report's major findings and conclusions based on these comments. While we appreciate the offer to supply us with technical assistance and have received helpful assistance from Maritime Administration (MARAD) officials during the course of our review, we found that they were unable to give us much of the data and information that we requested.

2. We feel that this paraphrase of the draft report's conclusions is incomplete. It notes that high costs can lead to subsequent rate increases, but fails to mention the report's finding that a crucial stimulus to high costs and excessive service competition is the high rate levels resulting from the conferences' ability to set rates and suppress price competition. Further, the draft report clearly stated that high rate levels act as an incentive for *both* conference and non-conference carriers to excessively increase capacity.

3. There are several reasons why we strongly disagree with the contention that "the report fails to analyze other important measures of industry performance" that would indicate any chronic distress significant enough to justify a major revision of the Shipping Act.

First, DOT's implication that the draft report failed to consider changes in the U.S. flag share of liner cargoes is simply incorrect. Despite year-to-year cyclical fluctuations, there has not been any persistent, long-run secular decline in U.S. flag share (expressed as a percentage of either dollar value or tonnage carried) from 1956 to 1978, the latest year data were available for this study (see table 3). Although U.S. flag share has recently been declining from a peak reached in 1976, the average annual U.S. flag share of liner tonnage for the period 1976-78 is higher than for the earlier periods: 1971-75; 1966-70; and 1961-65.

Second, U.S. flag liner companies have become increasingly diversified since 1965, and many are now in fact subsidiaries of conglomerate enterprises. Thus, financial statistics cited by DOT, particularly those involving equity valuation, are questionable when comparing the performance of the U.S. liner operators over time or with other sectors of the economy. Furthermore, we found that MARAD did not have the data needed to compute such financial measures for a long enough period to be indicative of any long-term trend or chronic distress within the U.S. flag fleet. Thus, our approach was based on the premise that if the return on invested capital realized by U.S. flag liner operators was chronically unremunerative, there would be clear evidence of a long-term decline in new investment and, ultimately, in the ability of the U.S. flag fleet to transport cargo. The evidence presented in the draft report showed that this has not occurred.

As table 5 indicates, the U.S. flag fleet transported about the same amount of cargo (in terms of average annual tons) in the 1956-60 period as in the 1976-78 period. Compared with the 1971-75 period, U.S. liner operators have actually increased their carriage. More impressive, U.S. flag operators were able to undertake a substantial and rapid investment in new and costly container technology during the late 1960s and 1970s. As a result, the U.S. merchant marine had the largest containership and barge carrier vessel fleets in the world by 1979 in terms of total deadweight tons.

Third, even with questions about their reliability and comparability aside, the profitability data cited by DOT fail to show any evidence of a persistent secular decline. Rather, they exhibit year-to-year variation due to cyclical changes in demand and supply conditions that are common to all sectors of the economy. Furthermore, we find it questionable how one can contribute such short-run fluctuations to the Shipping Act, 1916, or expect revisions of the Act to significantly affect the cyclical behavior of rates of returns.

Fourth, DOT mentions changes from 1976 to 1980 in the return on assets, long-term debt to equity ratio, and the ratio of current assets to current liabilities as other indicators of sagging financial health. In a follow-up interview with cognizant DOT officials, they supplied us with the annual values for the following statistics:

TABLE 5.—ANNUAL FINANCIAL STATISTICS FOR U.S.-FLAG LINER COMPANIES

[In percent]

	1976	1977	1978	1979	1980
Return on assets	6.1	2.2	3.3	0.9	4.3
Ratio of long-term debt to equity	.76	.84	1.70	2.03	3.83
Ratio of current assets to current liabilities	1.7	1.6	1.3	1.3	1.3

Source: Maritime Administration

Like the return on equity, neither the return on assets nor the ratio of current assets to current liabilities shows any evidence of a trend. The ratio of long-term debt to equity does persistently increase over this period, but this is not necessarily an indication of "sagging financial health." To the contrary, firms often increase their amount of borrowing in times of rising demand to obtain greater leverage and a higher rate of return of invested equity. Alternatively, recent increases in this ratio could reflect an increase in borrowing by U.S. flag liner operators in order to finance the ordinary and necessary replacement of aging vessels. Furthermore, federal loan guarantee programs, by lowering interest costs, have actually made borrowing a relatively more attractive source of funds for U.S. flag operators, thereby causing the fleet average ration of long-term debt to equity to be higher than what it might have been in the absence of these programs.

Fifth, as noted above, we do not believe that a 5-year period is sufficient to indicate any long-run secular changes in the financial health of the U.S. flag liner fleet. During the followup interview, we asked DOT officials if they could supply us with the values of these financial statistics for a considerably longer period, i.e., 1960-80. They responded that the data necessary to compute these statistics prior to 1976 did not exist.

Sixth, the financial statistics which DOT cites for the period 1976-80 are simple averages that conceal substantial differences in the performances of individual U.S. liner operators. According to a MARAD report on the financial condition of U.S. flag liner operators dated November 30, 1981, the 1980 returns on equity ranged from 35.8 percent to −193.9 percent; the 1980 returns on assets ranged from 13.5 percent to −23.3 percent; the 1980 ratios of long-term debt to equity ranged from 16.42 percent to 0.21 percent; and the 1980 ratios of current assets to current liabilities ranged from 2.2 percent to 0.6 percent. More important, this report reveals that some major U.S. flag liner operators have had consistently and substantially higher than average rates of return on equity and assets during the 1976-80 period, while other operators have shown consistently and substantially lower than average rates of return to assets and equity. This buttresses our conclusion that there is no evidence of any systematic, chronic distress and that company-specific factors such as size, ship type, and route system, are more important than the regulatory system in determining the financial performance of U.S. flag operators.

Seventh, the Maritime Administration's own recent analysis of the financial condition of U.S. flag liner companies referred to above actually supports our conclusion that the U.S. flag liner fleet is not in a state of financial decline. Although their analysis notes that some U.S. flag operators had increased financial problems in 1980, it states that the majority of operators "have shown improved earnings in 1980 over 1979" and that, overall, "1980 was a relatively good year for the industry," with aggregate net profit increasing 539 percent, total assets increasing 9.7 percent, and total liabilities decreasing both absolutely and as a percentage of total assets from 1979 to 1980. Their report's assessments of the future prospects for all but two U.S. flag carriers were also very optimistic, as evidenced by the following excerpted characterizations of eight U.S. flag operators: ". . . outlook for the future is bright"; ". . . is having an excellent year . . . outlook . . . appears favorable"; ". . . outlook for the short-term appears sound"; ". . . short-term results should continue to be profitable"; ". . . prospects . . . appear bright"; ". . . should continue to be profitable"; ". . . stands a good chance of operating profitably"; ". . . results are extremely promising." Of the two operators for which MARAD expressed concern regarding future profitability, one is a very small carrier which has had problems for several years, while the other has been adversely affected by an event beyond its control. Furthermore, the study notes that several carriers are currently undertaking substantial new investment programs to replace and modernize their fleets, which have led to significant and rapid increases in their ratios of long-term debt to equity. Another carrier is said to have experienced a substantial decrease in its return on equity because of growth in retained earnings.

Eighth, the current financial difficulties of three of the nine U.S. flag liner operators referred to by DOT occurred after our review and analysis were completed. Even so, there is little reason to believe these developments are directly related to, or caused by, provisions of the Shipping Act. DOT notes only that "these financial difficulties are due in part to a decline in government-sponsored preference cargoes." Similar difficulties, however, have not been experienced by the two largest carriers of reserved cargo. In our follow-up interview, DOT officials noted that these difficulties were actually due more to the types of ships these three carriers were operating, a factor that is also unrelated to maritime regulation.

Ninth, DOT is incorrect in stating that our evaluation "ignored" Federal subsidy programs. In fact, chapter 3, on the performance and status of the U.S. flag liner fleet, begins with a discussion of both the direct and indirect assistance received by U.S. flag operators.

4. We believe that DOT is overly sanguine about potential changes in maritime regulation being able to offset future budgetary constraints on the subsidy programs available to U.S. flag operators. As this report concludes, changes in Federal maritime regulation can lead to increases in efficiency and reduce costs in the ocean liner shipping industry. But these savings should be realized by foreign flag carriers operating on U.S.-foreign trade routes as well as by U.S. flag carriers. Thus, there is no assurance that the relative competitive position of U.S. flag operators will necessarily improve as a result. What puts U.S. flag carriers at a competitive disadvantage compared with foreign flag liner operators is not so much current regulation as the fact that U.S. operators are generally among the highest cost carriers in the world. As our recent report on the subsidy programs discusses, these higher costs are primarily due to substantially higher construction, maintenance, and repair costs; higher wages; and higher manning levels compared with foreign flag vessels.[1] Because none of these factors will be affected by prospective revisions of the Shipping Act, we do not share DOT's optimism that potential changes in maritime regulation can conceivably offset the severe cost disadvantages faced by U.S. flag operators in the event of significant reductions in the subsidy programs.

5. We agree with DOT that a better analysis of FMC's enforcement efforts could be performed if one could "assess the frequency or magnitude of violations" of the Shipping Act. Unfortunately, however, this information is not available. Because the actual incidence of malpractices committed by U.S. and foreign flag carriers is in fact unknown, our analysis was based on the clear stated assumption that the proportion of malpractices committed by these carriers equaled the proportion of total liner tonnage they carried from 1972 to 1978. If, as DOT implies, this assumption is not correct, our finding that the FMC has not been biased in its enforcement efforts could indeed be considered misleading. However, DOT presents no evidence or data to show that foreign flag carriers commit proportionately more malpractices than do U.S. flag carriers. Thus, while DOT may consider our analysis to be "simplistic and convoluted," we still consider it to be a straightforward, clearly stated analysis that uses the best approach possible given the limited information available.

6. In our draft report we cited information on the price trends of a 1,200 TEU containership, a conventional 11,000-13,000 DWT breakbulk cargo vessel, and 2,400 containers. Our purpose was to use a readily available source to graphically illustrate the increases in the cost of this equipment from 1969 to 1979. The draft report clearly stated that the source of this information was a trade publication, noted the basic assumption and methodology used by this publication to derive these estimates, and referred the reader to this source for further details. We neither intended nor claimed to have done our own analysis.

In addition to illustrating the increases in the prices of this equipment, the information from this trade publication also indicated a growing divergence over time between the cost of a containership and the cost of a conventional breakbulk vessel. Based on the Maritime Administration's own experience, DOT believes the cost difference between a breakbulk and containership may actually be substantially less. Given the fact that millions of dollars of construction subsidies are based on MARAD's estimates of foreign construction costs, we certainly hope that their ship building cost information is accurate. However, whether the actual cost difference is 5 times, 3.3 times, or 1.2 times is immaterial, since the draft report drew no conclusions or inferences from it. DOT is simply incorrect in stating that "It is inferred from information abstracted from Fairplay's July 17, 1980, issue that containership prices have risen much more rapidly than breakbulk ship selling prices, thereby contributing to the high cost of providing modern marine transportation service." To the contrary, the draft report clearly stated that "Despite the relatively high and increasing prices of containerships, containers, terminals, and other supporting equipment, containerization technology has nonetheless greatly lowered the cost per ton of cargo transported when compared with the cost per ton of conventional breakbulk shipping."

7. See our reply to point No. 1.

8. See our reply to point No. 3.

9. There is certainly no dispute that the U.S. flag liner fleet has a vital role to play as a naval auxiliary in time of war or national emergency. It is also true that the fleet's shift from breakbulk to container vessels could have significant implications concerning its military sealift capability under certain scenarios. However, for several reasons, we did not feel it was appropriate to address this issue during our analysis of maritime regulation. First, it is unrelated to the basic mission of the Federal Maritime Commission or the goals of the Shipping Act, 1916. Rather, it is the mission of MARAD, under the authority of the Merchant Marine Act, 1936, to promote the development of a U.S. merchant marine capable of serving as a naval and military auxiliary and composed

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[1] U.S. General Accounting Office, "Maritime Subsidy Requirements Hinder U.S.-Flag Operators' Competitive Position," (CED-82-2), November 30, 1981.

of the best-equipped and most suitable types of vessels. Second, it is doubtful whether current maritime regulation, or any of the proposed major changes to it, could have any discernible causal effect on the composition of the U.S. flag liner fleet. Third, if there are an inadequate number of breakbulk vessels for national defense purposes, the most effective way to correct the imbalance is to alter the subsidy programs to make the construction and operation of these vessels relatively more attractive to U.S. flag operators, rather than to alter the regulatory system which affects all carriers, both U.S. and foreign flag, operating on U.S.-foreign trade routes. Fourth, in order to address this issue, one would have to consider not only the size and composition of the U.S. flag liner fleet, but also the size and composition of the effective U.S. controlled fleet, which consists of American-owned and controlled vessels registered under other flags that can be requisitioned by the President under section 902 of the Merchant Marine Act for national defense or national emergencies. This would have been far beyond the scope and objectives of our study.

10. See our reply to point No. 3.

11. We find it difficult to understand DOT's assertion that "the maintenance of the entire fleet is in jeopardy," when several major U.S. flag liner operators, one of whom has received no operating or construction subsidies at all, have recently undertaken substantial new investment programs to replace their fleets with modern, efficient vessels. If, in spite of this new investment, the Administration believes that the authority for subsidized operators to acquire foreign built or reconstructed vessels needs to be extended to 1983 in order to assure the continued maintenance of the U.S. flag fleet, it already has the ability to do so under certain circumstances. The Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, allows subsidized operators to construct, reconstruct, or acquire vessels overseas if the Secretary of Transportation finds and certifies in writing that construction subsidy funds are not available. The law further provides that:

> The provisions of this section shall be effective for fiscal year 1983 only if the President in his annual budget message for that year requests at least $100,000,000 in construction differential subsidy or proposes an alternative program that would create equivalent merchant shipbuilding activity in privately owned United States shipyards and the Secretary reports to Congress on the effect such action will have on the shipyard mobilization base at least thirty days prior to making the certification. . . .

With regard to the availability of this option beyond 1983, we have recently recommended that the Congress amend the Merchant Marine Act, 1936, to extend and clarify the Secretary of Transportation's authority to allow subsidized operators to build vessels overseas and have even suggested legislative language to that effect. (See "Maritime Subsidy Requirements Hinder U.S.-Flag Operators' Competitive Position," CED-82-2.)

12. See our reply to point No. 5.

13. See our reply to point No. 6.

14. Contrary to DOT's assertion, the draft report did not attempt to analyze the merits of the U.N. Code of Conduct for Liner Conferences. Because U.S. accession to the Code could require major changes to current regulation, the draft report did discuss the Code's historical background, main provisions, and current status. We also noted that some maritime analysts have argued that there could be an unfavorable effect on U.S. flag liner operators if the United States does not accede to the Code. We just add that this expected effect may not necessarily occur under certain circumstances. We do concur with the commonly held belief that the Code's cargo sharing provisions could cause a proliferation of revenue pooling activity. However, both the similarity and the major difference between the Code's cargo allocation provisions and the major elements of the equal access and revenue pooling agreements currently in effect on several U.S.-South American trade routes are clearly stated. Despite this, DOT misconstrued our analysis of these U.S.-South American revenue pools to be an analysis of the Code's potential effects on U.S. foreign trade routes. It is not. In concluding this section of the draft report, we stated that "if the Code does come into force without the U.S. acceding to it, it is unclear whether U.S. flag operators will be adversely affected" and that "any decision that is made should consider the issues of international comity, defense capability of our liner fleet, and the welfare of U.S. shippers." We agree with DOT on the need for these issues to be analyzed. However, it was never the intention nor the objective of this report to do so.

Mr. METZENBAUM. In any event, the principal effect of this bill is going to be that the American consumers will be subsidizing foreign shipowners who carry 72 percent of the cargo in the U.S. trade.

If Congress believes that the national interest provides subsidies for the U.S. merchant fleet, we should directly provide that through appropriations, but we should not be doing it by causing the American consumer to pay that much more because all that amounts to is just pyramiding the costs on the American people.

This bill also contains a number of specific flaws which compound the harm to competition and to consumers.

The bill does not merely legalize price fixing among carriers, the legislation actually directs the Federal Maritime Commission to police the cartel, to limit any discount.

Think of that. Instead of the Government agency coming in and seeing to it that free competition works, in this instance we change it, just the reverse. The FMC, the Federal Maritime Commission, is brought in and we tell them to police the cartel, see to it that no one does any discounting.

What kind of American way is that, that someone who wants to sell for something less cannot do it and if they do, the Federal Maritime Commission will come in and slap their fingers? That just does not make sense. That is not the American way.

So I say that both versions of this bill and the conference report do not address the very basic issue of companies joining together to set prices, to fix prices, and to divide markets.

That is not right. That is not what we, Congress, and the American people have normally accepted as the right practices in the American economy.

This conference report would specifically allow the conferences, the cartels, to set monopoly prices, not alone over the shipping costs, but over the land portion of intermodal transportation. What that means is that shippers do not want to stop just at setting prices on the high seas. They want to be certain that they really have the whole package put together. So now while the rail and the trucking firms compete in a free market, which this Congress established as Government policy, we are saying with this bill that ocean carriers can fix prices for the rail or truck portion of routes involving ocean shipping.

What is the next step? The shippers can set prices for the shipment from the high seas. The shippers can set prices for the transportation by truck or rail on land. Maybe they can even go further and start to set the prices at which the products will be sold or bought before they get into the transportation end of the business. I just do not believe that is right.

This conference report is going to pass. This matter is going to become law. But making it law is not going to make it right and there are a good many Members of this body who are going to look back someday and some constituent is going to say to them, "How come you permitted this exemption from the antitrust laws? Did you realize what you did at that time?" And they are going to say, "Well, we had some idea about it, but we thought we were helping the shipping industry."

Yes, you helped the shipping industry, but maybe you hurt the grain industry, maybe you hurt some other part of the farm industry, and maybe you caused prices to go up to the consumers. You did a lot of things. Well, we helped the shipping industry.

As a matter of fact, I may not have been in this body as long as some, but I have been here a reasonably long period of time, and it seems to me that I can recollect there being at least 6 to 10 pieces of legislation during this period of time which have come forward because we had to help the shipping industry.

I want to have a strong merchant marine. I want to help the shipping industry, but I do not want to do it at the price of the free enterprise system and particularly when the shipping industry does not need it.

To be sure, the conference bill does contain a provision which on paper at least is an important protection for consumers. The Federal Maritime Commission can go into court to block substantially anticompetitive agreements. That is good. However, I fear that this protection may be illusory. It may read well, but I doubt that it will play out as well in practice.

Only the FMC under this legislation, not the private parties or the Justice Department, may bring these lawsuits. And, in all honesty, it is fair to point out that the Federal Maritime Commission's historic role has been to watch out for the industry, not for the consumers.

Mr. President, as I indicated to my fellow conferees, I do not intend to engage in lengthy debate on this report. I am pleased the conferees agreed to preserve Justice Department jurisdiction over group boycotts and below-cost pricing when the FMC is not fully enforcing the law in these areas. I think that was good.

However, the question before us now is not whether this bill is better than prior legislation which was before the Senate. The question is whether this special antitrust immunity is a good thing. I do not believe the record justifies this special-interest exception to the Sherman Act, the Magna Carta of our free enterprise system. I, therefore, believe, Mr. President, that the conference report should be rejected.

As I previously indicated, at the earliest possible moment I am prepared to vote no, but I will not delay the deliberations any further.

Mr. LONG. Mr. President, the statement of the able Senator from Ohio on the competitive aspects of the problem certainly deserves the thoughtful attention of all students of antitrust. I think it would be appropriate for me to read and simply comment briefly on the view of the majority of those on the Commerce Committee relating to this subject.

Let me just read from page 7 of the report to accompany S. 504:

> Clear antitrust immunity also marks a major step in revitalizing our maritime industry because it removes a major handicap created by uneven enforcement.

Now, what we are talking about, Mr. President, uneven enforcement, we are talking about an antitrust law which is applied with a vengeance against American shippers, but which is not applicable to their competitors. In other words, it is still strictly a one-way street where the American can be subjected to treble damages or all sorts of criminal penalties, under the antitrust laws which, as a practical matter, are not applicable to their foreign competitors.

Let me read on:

> U.S.-flag carriers domiciled in this country are totally exposed to all U.S. laws and regulations pertaining to liner shipping, including the full brunt of unexportable domestic antitrust policies, while foreign carriers generally evade the thrust of those same U.S. laws and regulations. Foreign carrier exposure is limited by the locus of records and documentation overseas, beyond the reach of subpena and FMC section 21 orders, and by "blocking statutes" erected by the governments of our major trading partners who do not share our antitrust philosophy. These blocking statutes enacted by 12 countries in response to U.S. efforts to enforce its shipping and antitrust laws, prohibit

Now, get that, Mr. President, these are foreign laws passed by nations with whom we are trading and nations whose shipping services serve the United States:

> Prohibit the production of evidence or testimony by witnesses pursuant to subpenas issued by the FMC. The British Government, for example, has recently enacted a law entitled "Protection of Trading Interests Act, 1980." That act provides that the British Secretary of State may direct any person in the United Kingdom not to comply with another country's laws insofar as they attempt to regulate actions outside of the other country to the detriment of British trading interests. It also authorizes the Secretary to prohibit compliance with foreign court orders that encroach upon the jurisdiction of the United Kingdom. The law also prohibits a British court from enforcing certain multiple damage awards (including treble damages).

Now, why do they put that in "including treble damages"? Because, Mr. President, if one of our shipping companies is found to be engaging in a competitive practice that puts its competitor out of business, he can be held liable for treble damages to pay three times the damage that was inflicted upon his competitor. But the British law would prohibit anybody from providing the evidence that would make their shipping companies liable for the same type penalty that would be imposed on the American trying to compete with that British company.

Mr. President, let me read this sentence:

> The law also prohibits a British court from enforcing certain multiple damage awards (including treble damages) against United Kingdom citizens, and permits them to recover the part of such—

Mind you, listen to this, Mr. President. It not only says you cannot sue them, listen to this, it "permits them to recover the part of such multiple damage awards which exceeds actual compensation."

Let me continue reading from the committee report:

> To make matters worse, the Justice Department has objected to many pooling, space-charter, joint venture or consortia proposals that include U.S. carriers, but has rarely, if ever, intervened when such agreements are confined to foreign carriers. Consequently, U.S. carriers have become reluctant even to seek authority to operate by the same efficient methods for which foreign carriers receive frequent approvals from our own government. Exposure to the antitrust laws and the heavy burden of justification before the Commission have deprived U.S.-flag carriers in particular, from potential pricing and cost benefits that could be achieved through the economics of rationalized or joint services. At the same time foreign carriers can make arrangements or concessions to improve their competitive position, often by providing shippers outside of the United States with benefits on routes other than those to or from the United States.

That raises an interesting question that the Senator from Ohio might want to direct himself to at some point. How is the Justice Department going to do anything but crucify American shippers if they are bidding on some business between two foreign countries, where they may be competing with some foreign nation? We hope they would get some business if they haul some cargo over to Japan and on the way back they drop some cargo off in the Philippines. You would like to hope they would get some of that business going back home. Usually, that is what is called a backhaul rate in railroading, and you think you could do it very cheaply.

Why should our Government try to put one of our people in jail for violating the antitrust laws, or the criminal sanctions, or pursue him under the civil sanctions when he is really competing with somebody between, let us say, Japan and the Philippines, or between South Korea and Australia? In that area, Mr. President, you would think that our people would have a right to do as anyone would do. They say in Rome to do as the Romans do. Why should our people not be able to compete by the law of the jungle if other people are competing in the same area? Let me continue:

> By clearly authorizing rationalizing arrangements with complete antitrust immunity and by restricting dual enforcement by the Justice Department as well as the Commission, this bill would eliminate much of the unequal effect of our regulation on U.S.-flag operators.
>
> In making its determination to legislatively overturn *Svenska*, and its progeny, the Committee also was persuaded by several other commercial factors.
>
> First, "Open competition", which can be expected to seriously weaken the conference system, cannot be assured for any length of time. Thus even theoretical benefits associated with such competition would be temporary. Afterwards, the U.S. liner fleet, U.S. exporters and importers, the public, and our national security would pay the price.
>
> Furthermore, conferences and other agreements for economic cooperation are not confined to the lines engaging in the foreign trade of the United States. They are universally used in the foreign trade of other countries as well as in our own. The merchants of other countries now enjoy the foregoing advantages of cooperative arrangements. Making open and cutthroat competition possible among the lines serving the United States would place American exporters at a disadvantage in many markets as compared with their foreign counterparts.
>
> Second, in the event of the "price-cutting" envisioned by "open competition", it would not be the efficient low-cost carriers who would survive. There are many state-controlled carriers in international shipping. Moreover, other merchant fleets are so heavily subsidized by their governments or so closely integrated with their governments' national objectives that their operations primarily serve their respective na-

tion's economic, political, and military policies. Where this is the case, the carriers can afford to operate without regard to traditional profit and loss consideration. In either event, their governments will intercede in the marketplace if they believe that their best interests are not served by the marketplace solution.

Third, unlike domestic surface transportation, demand for international liner transportation is inelastic. Thus the lower prices which competition theoretically brings will not generate more cargo in a trade. Moreover, since ocean transport costs averaged approximately 8 percent of value, significant reductions of such a small cost component would be unlikely to increase the amount of cargo, even if the demand were elastic.

Fourth, in international ocean liner shipping, the route to reduced unit costs and cargo rates is the attainment of higher load factors. The ocean liner industry is characterized by a very high proportion (75 percent) of fixed costs. This is the reverse of most industries where only 25 percent of costs are fixed.

With this kind of cost structure, far greater benefits can be obtained from high vessel utilization than from increased competition generated by adding to the number of liner services, operating in a trade. The latter increases the vessel tonnage operated without increasing the aggregate of cargo tonnage available to be handled, thus increasing the cost of doing business.

Fifth, if it is to operate efficiently, the liner industry is far more dependent on the coordination of service than other forms of transport (efficiency-ship capacity in reasonable relationship to the volume of cargo offered).

Cargo cannot move in or out of a trade in short-run response.

Ocean liner service differs from domestic common carriers since the unit in which service is produced (the ship) is much larger in relation to available traffic volume than the units with which domestic carriers produce their service.

Not only is vessel capacity large in relation to total trade-route volume, it is especially so in relation to individual shipments. A containership may draw its individual cargo from several hundred shippers.

Finally, there are enormous capital and other constant costs in the liner industry. Today, a new container ship costs about $100 million. Not only are the vast majority of cost (such as for crew and fuel) fixed, but a vessel voyage takes significantly longer than air transport movements which have proved somewhat more amenable to open competition. Thus, once the commitment to make a sailing is made, the asset is tied up for a longer period of time, and the need to keep utilization as high as possible increases.

The Committee strongly believes that it is in our national interest to permit cooperation among carriers serving our foreign trades to permit efficient and reliable service. Our shippers need: stable, predictable freight rates than can be relied on when bidding or quoting in their foreign markets; frequent, reliable, well-tailored service to keep inventories at minimal levels while meeting market demands; a choice of responsive and efficient carriers who do not force them to subsidize empty space, old engines, or excessive crew. Our carriers need a stable, predictable, and profitable trade with a rate of return that warrants reinvestment and a commitment to serve the trade; greater security in investment; regulatory parity with foreign competition; and expeditious and predictable regulatory supervision.

Mr. President, the point is made here that by invoking the U.S. antitrust laws against American shippers and not invoking it against the foreign shippers, all you will succeed in doing is putting the American shippers out of business; and that while in the short run, the American shippers are going through their death throes before they go out of business, there may be some temporary benefit for the consumer. But any benefit the consumer enjoys will be very short lived because from that point forward there will be no American shipping companies to protect him against the kind of unfair discrimination that could adversely affect him in the years to come.

Mr. President, the fact is international shipping is different from other modes of transportation, such as trucking, railroads, and airlines, and the differences require a certain degree of otherwise impermissible concerted economic activity be allowed in international shipping to insure the kind of competition in price and services that is achieved through full application of the antitrust laws to other modes.

The committee has recognized this, Mr. President. I wish to emphasize that all recognize that international liner shipping should not have complete immunity from antitrust laws, and this bill does not give it. But it does extend antitrust immunity to specified activities, and then only under carefully prescribed conditions which insure fairness and protect the interests which otherwise could be injured by abuse of the limited immunity which S. 47 confers.

Briefly I would like to outline some of the reasons why international liner shipping is different than other modes of transportation, and why therefore open competition as envisioned by full application of the antitrust laws will not work.

Open competition cannot be assured for any length of time.

As the Alexander committee concluded almost 70 years ago, there is no happy medium between war and peace in ocean commerce when several lines engage in the same trade. Without conference agreements, one of two things would happen. The lines would either engage in rate wars which would mean the elimination of the weak and survival of the strong; or, to avoid a costly struggle, the foreign-flag carriers would attempt to consolidate through common ownership. Either result would create a monopoly which would be far more anticompetitive than any concerted activity that would arise from the open conference system. Thus even theoretical benefits associated with open competition would be temporary. Afterward, the U.S. liner fleet, U.S. exporters and importers, the public, and our national security would pay the price.

Conferences and other agreements for economic cooperation are not confined to the lines engaging in the foreign trade of the United States. They are universally used in the foreign trades of other countries as well as in our own. The merchants of other countries now enjoy the advantages of cooperative arrangements. Making open and cutthroat competition possible among the lines serving the United States would place American exporters at a disadvantage in many markets as compared with their foreign counterparts.

In the event of the price cutting envisioned by open competition, it would not be the efficient low-cost carriers who would survive. There are many state-controlled carriers in international shipping, and other merchant fleets are so heavily subsidized by their governments or so closely integrated with their governments' national objectives that their operations primarily serve their respective nation's economic, political and military policies. Where this is the case, the carriers can afford to operate without regard to traditional profit and loss consideration.

In either event, their governments will intercede in the marketplace if they believe that their best interests are not served by the marketplace solution.

Unlike domestic surface transportation, demand for international liner transportation is inelastic. Thus the lower prices which competition theoretically brings will not generate more cargo in a trade.

In international ocean liner shipping, the route to reduced unit costs and cargo rates is the attainment of higher load factors. The ocean liner industry is characterized by a very high proportion—75 percent—of fixed costs. This is the reverse of most industries where only 25 percent of costs are fixed.

With this kind of cost structure, far greater benefits can be obtained from high vessel utilization than from increased competition generated by adding to the number of liner services operating in a trade. The latter increases the vessel tonnage operated without increasing the aggregate of cargo tonnage available to be handled, thus increasing the cost of doing business.

If it is to operate efficiently, the liner industry is far more dependent on the coordination of service than other forms of transport—efficiency equals ship capacity in reasonable relationship to the volume of cargo offered.

Cargo cannot move in or out of a trade in short-run response. Ocean liner service differs from domestic common carriers since the unit in which service is produced, the ship, is much larger in relation to available traffic volume than the units with which domestic carriers produce their service.

Not only is vessel capacity large in relation to total trade-route volume, it is especially so in relation to individual shipments. A containership may draw its individual cargo from several hundred shippers.

There are enormous capital and other constant costs in the liner industry.

Today, a new containership costs over $100 million. Not only are the vast majority of costs fixed, but a vessel voyage takes significantly longer than air transport movements. Thus, once the commitment to make a sailing is made, the asset is tied up for a longer period of time, and the need to keep utilization as high as possible increases.

With more time, Mr. President, I would outline in more detail why this law would give our people a chance to compete on an equal basis with the shipping companies representing other nations. But that, I believe, Mr. President, has been fairly well made clear by the previous legislation and I will rely upon that. I simply feel that the committee has been interested in seeing that Americans have a right to compete with others on the high seas. In the last analysis, that is all this legislation does. It simply attempts, on behalf of our Nation, to insist on fairness for our own shipping companies who, in the main, serve the U.S. market in hauling cargo back and forth to other nations.

As I said in the colloquy with the Senator from Washington, I am not aware of any nation on Earth, a maritime nation, that does less to assist its shipping companies to compete on the high seas than does the United States. If someone, including the able Senator from Ohio, can show me where Great Britain, Norway, Japan, or some other major shipping power is doing a great deal less to defend their own interests than the United States, then I might reconsider my position. Otherwise, Mr. President, my position is what we do here to help American shipping companies to stay in business is far from being too much. In fact, if it is subject to any fair criticism, it would be that we do not do enough.

Mr. President, I would like a vote on this matter. I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GORTON. Mr. President, the Senator from Ohio was entirely correct when he stated the issue on which we are going to vote is not whether or not the conference report is superior either to the bill which passed the House or which passed the Senate, although it is superior to either of those proposals.

The Senator from Ohio is not correct, however, when he says the question before the Senate of the United States is whether or not the conference system is an appropriate method of doing business in international trade.

The question before the Senate and the people of the United States here today is whether or not this set of proposals is superior to the Shipping Act of 1960 which itself recognized that the conference system was customary in international trade by ocean liners.

The Senator from Ohio has built his case against this proposal around the fact that it will raise tariffs, raise prices, and worsen service for shippers of U.S. goods.

My view is that exactly the opposite is the case, and that this will promote more competition and better service, as against his that it is not intrinsically better or worse than his case. Each of us can appropriately have his opinion, as does the Senator from Louisiana on my side.

What tips the argument decisively in our favor, it seems to me, is the fact that during the course of producing this bill we have gained the enthusiastic support of the very consumers on whose behalf the Senator from Ohio purports to speak. Organizations representing shippers and many individual shippers themselves have worked with the committees in both the House and the Senate in the production of this legislation, and they, the customers of these services, believe that there will be more competition and better service as a result of the passage of this bill than there is today.

That is to say that the users of this service will be benefited.

It is also highly clear, as the Senator from Louisiana has pointed out, by creating a more even playing field, by offering a better and fairer set of rules applying to U.S. flag carriers and ending a discriminatory enforcement of certain domestic laws against them, that they will be benefited in their internal competition against their foreign competitors. That is a reason for the bill. It is an important reason for the bill.

The best reason for voting for this bill is that it will benefit the consumers of these services by their own testimony and by their own support of what we propose here this afternoon.

Mr. RANDOLPH. Will my able colleague from Washington State yield for a brief comment?

Mr. GORTON. I shall be delighted to yield to my friend from West Virginia.

Mr. RANDOLPH. Mr. President, it seems to me that in a question of this kind, when a Member of the Senate is asked to vote, he considers, of course, not only the arguments that are made in this body itself, but he should support leadership which all of us cannot have in a particular field. I feel that the Senators from Washington (Mr. GORTON) and Louisiana (Mr. LONG), are well reasoned in their arguments. I have listened to what they have said. I have heard the opposition as provided by an effective colleague (Mr. METZENBAUM) to the pending conference report.

As for myself, I represent an inland State, West Virginia—which is not a shipping State, a coastal area, as we know, except when our cargoes of coal shipments will increase. Hampton Roads, Newport News, and Norfolk are ports vital for coal shipped to foreign markets.

We have our rivers, and are often called the mother of rivers. But we do understand this problem. The knowledgable arguments made are worthy of proponents and opponents. I have followed the arguments closely. It seems to me that there is clearly a valid case for our support, I believe the Senate will do what the Senators who have led the fight, ask us to do, that we will vote affirmatively by a substantial margin for this measure.

Mr. GORTON. Mr. President, I am profoundly grateful for the confidence of the Senator from West Virginia, our good friend and noted colleague. I trust I shall always be worthy of the confidence he has expressed in me.

(The following occurred earlier:)

Mr. BAKER. Mr. President, I do not know whether we can finish this conference report today or not. I hope so. But it is getting close to 6 o'clock. I made a statement earlier in the day that I did not anticipate votes tomorrow and that I thought the odds were heavily against rollcall votes on Friday. But let me say that I have notified the minority leader that I wish to modify that estimate. It may be that we will have a vote tomorrow. I am not predicting it. I am certainly not trying to urge any Senator to terminate this debate at any time.

But, based on the possibility of a vote on this conference report tomorrow, and based on, I suppose, the possibility of a vote on something else, I wish now to amend and modify the statement I made in response to an inquiry from the distinguished minority leader on whether there will be any record votes tomorrow. I indicated I thought not, I thought I could not guarantee that, but the odds were against it. But I now say I hope not, but I am not sure, and Members should not assume there will be no votes tomorrow.

Mr. LONG. Mr. President, I think I will be through by 6 o'clock, if the Senator wants some kind of indication of how long I am going to take.

Mr. BAKER. I thank the Senator. I was not trying to hurry the Senator from Louisiana. I just wanted to make sure I stayed honest with the minority leader and all Senators, because I do not want Members to think——

Mr. METZENBAUM. Mr. President, is the majority leader implying that if there is to be a vote on the conference committee report that that vote will take place tomorrow?

Mr. BAKER. Well, it could. In all fairness, I think Members had not expected this to take quite this long and many of them have left. So it is possible that we will have that vote tomorrow instead of today.

Mr. METZENBAUM. I wonder if the Senator from Louisiana is now in a position to advise us as to whether he expects to insist upon a rollcall vote.

Mr. LONG. Mr. President, I honestly believe this matter ought to be the subject of a rollcall vote. I think it is a significant piece of legislation. I think the Senator from Ohio has made a fruitful contribution and a noble contribution to the debate and when we conclude the debate I think we ought to have a rollcall vote on the matter.

Mr. BAKER. Mr. President, let me say to the Senator from Louisiana that I am not trying to talk him out of that, because he is absolutely right in that respect, I suspect. But I want to make sure Senators are not misled by my earlier statement.

Mr. LONG. Mr. President, as far as this Senator is concerned, I would be delighted to vote on this matter this evening. I would be delighted to vote around 6 o'clock. I will try to conclude my remarks by that time, if the Senator wants to vote today. If he wants to vote tomorrow, I will be delighted to come back tomorrow.

Mr. BAKER. Mr. President, if we can do it by 6 o'clock, I think that is better. I suggest to Senators who may be listening to this in their offices that they should still anticipate a possibility of a vote tonight at 6 and certainly they should expect a possibility of a vote on tomorrow on other matters.

(Conclusion of earlier proceedings.)

Mr. INOUYE. Mr. President, after 8 years of hard work by everyone concerned, Congress is on the verge of completing the task of streamlining the laws regulating our international ocean liner shipping, so that everyone who operates in those trades should be able to do so more efficiently. Ship operators, shippers, and consumers should benefit from enactment of S. 47, the Shipping Act of 1984.

I believe the version of S. 47 which emerged from the Senate/House conference is a better piece of legislation than either of the versions which had earlier passed their respective Houses. Mr. President, if ever there were legislation that was subject to thorough study and scrutiny from all interests and points of views, S. 47 is it.

Efforts to reform the Shipping Act of 1916, began with Senate passage of S. 2585 in the 96th Congress, continued with House passage of similar legislation (H.R. 4374) in the 97th Congress, and will finally be achieved with enactment of S. 47. During this 6-year effort, several Senate and House committees have held many, many days of hearings, and witnesses representing every point of view have testified.

In other words, consumers, antitrust proponents and opponents, shippers, ship operators, the State Department, the Justice Department, the Department of Transportation, the FMC, and many, many others have all had their say.

The House passed S. 47 last October 17, and, as I have noted, the Senate had acted the previous March. So not only has everyone had an opportunity to make his or her views known on this measure, they had ample time in which to do so.

Mr. President, I wish to congratulate the chairman of our Merchant Marine Subcommittee, the senior Senator from Alaska, Senator STEVENS, and his predecessor, the senior Senator from Washington, Senator GORTON, who has worked so long and hard to bring us to the point where we are today.

I also wish to congratulate the committee staff who has ably assisted us throughout the long and complex negotiations.

Finally, Mr. President, I would urge my colleagues to support our efforts. The conference version of S. 47 is a sound piece of legislation which is long overdue.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota (Mr. ANDREWS), the Senator from Colorado (Mr. ARMSTRONG), the Senator from Washington (Mr. EVANS), the Senator from Oregon (Mr. HATFIELD), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

Mr. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. TSONGAS) is absent on official business.

The PRESIDING OFFICER (Mr. MATHIAS). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 74, nays 12, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—74

Abdnor
Baker
Baucus
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
D'Amato
Danforth
DeConcini
Denton
Dodd
Dole
Domenici
Eagleton
East
Exon
Ford
Garn
Goldwater
Gorton
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Huddleston
Inouye
Jepsen
Kassebaum
Kasten
Kennedy
Lautenberg
Laxalt
Leahy
Long
Lugar
Mathias
Matsunaga
Mattingly
McClure
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Randolph
Riegle
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Weicker
Wilson
Zorinsky

NAYS—12

Biden
Bingaman
Boren
Dixon
Durenberger
Hawkins
Humphrey
Levin
Metzenbaum
Nickles
Proxmire
Roth

NOT VOTING—14

Andrews
Armstrong
Chiles
Cranston
Evans
Glenn
Hart
Hatfield
Hollings
Johnston
Melcher
Murkowski
Percy
Tsongas

So the conference report (S. 47) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JEPSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, this is a moment that I had for a while thought would never arrive, the passage of this conference report of the Senate, because it has been the subject of much controversy, both in the previous session of this Congress and then considerable amount of debate today. But it did pass, and I wish to take this opportunity to especially congratulate the distinguished senior Senator from Washington for his perseverance and his dedication to the passage of this measure.

It is a major piece of legislation. He deserves major credit for the accomplishment that has just been achieved. I wish to congratulate him, Mr. President, for a job well done.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I am about to make an announcement that I hope will bring pleasure and joy to all of those who may listen. If we do what I think we are about to do, we will not have to be in session tomorrow.

I had anticipated that we would need tomorrow both for the export administration bill, for other sundry matters, but especially S. 422, the Jepsen-Thurmond bill dealing with pharmacies. But I am advised now that we can do the pharmacy bill tonight. I am also advised by the distinguished chairman of the Banking Committee that for a variety of reasons it is not practical to actually begin consideration of the export administration bill until Monday.

Under those circumstances, what I propose to do, if there is not to be a rollcall vote on the Jepsen matter, is to dispose of that by voice vote tonight and then to lay before the Senate the export administration bill, and then ask the Senate to stand in adjournment subject to the boilerplate language that we usually agree to until Monday at 11 a.m.

I do not mean that to be an inducement, but if it is I will be pleased with the result.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. BYRD. Would the majority leader be willing just to proceed by unanimous consent to pass the Jepsen bill?

Mr. BAKER. Yes, Mr. President, I would, and I assume the Senator from Iowa would be agreeable to that as well.

Mr. JEPSEN. Absolutely.

There are some committee amendments which I think we formally adopt. Is that correct?

Mr. BAKER. Very well.

Mr. JEPSEN. Is that necessary, I ask the majority leader?

Mr. BAKER. I believe both are at the desk and we can manage them by unanimous consent.

CRIMINAL PENALTY FOR ROBBERY OF A CONTROLLED SUBSTANCE

Mr. BAKER. Mr. President, under those circumstances, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 648, S. 422.

The **PRESIDING OFFICER.** The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 422) a bill to amend title 18 of the United States Code to provide criminal penalty for robbery of a controlled substance.

There being no objection, the Senate proceeded to consider the bill, which has been reported from the Committee on the Judiciary with amendments, as follows:

On page 2, line 7, strike "property from" and insert "from the person or presence of another, any material, compound, or prescription containing any quantity of a controlled substance belonging to or in the care, custody, or control, management or possession of".

On page 2, line 16, strike "$5,000" and insert "$25,000".

On page 2, line 16, insert:

"(b) Whoever enters or attempts to enter the business premises or property of a pharmacy or a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) with the intent to steal any quantity of a controlled substance shall be fined not more than $25,000 or imprisoned not more than twenty years, or both.".

On page 2, line 24, strike "(b)" and insert "(c)".

On page 3, line 2, strike "$15,000" and insert "$10,000".

On page 3, line 3, strike "not less than fifteen years nor more than thirty years" and insert "for not more than twenty-five years".

On page 3, line 5, strike "(c)" and insert "(d)".

On page 3, line 7, strike "not less than twenty".

On page 3, line 8, strike "(d)" and insert "(e)".

On page 3, line 14, strike lines 14-17 and insert:

"(f) For the purposes of this section, the term 'controlled substance' has the meaning set forth in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"(g) For the purposes of subsection (b), the term 'business premises or property' includes storage facilities, vehicles, aircraft, trucks, or other means of transport or delivery.

"(h) Violations of this section may be prosecuted only upon approval by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or a designated Assistant Attorney General, unless assistance is requested by a State or local law enforcement official.".

On page 4, line 7, strike "The" and insert "For each of the first three years after the date of enactment of this Act, the".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2118. **Robbery of persons registered under the Controlled Substances Act.**

"(a) Whoever takes or attempts to take from the person or presence of another, any material, compound, or prescription containing any quantity of a controlled substance belonging to or in the care, custody, or control, management or possession of a pharmacy or a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) by force or violence, or by intimidation, shall be imprisoned for not more than twenty years, or fined not more than $25,000, or both.

"(b) Whoever enters or attempts to enter the business premises or property of a pharmacy or a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) with the intent to steal any quantity of a controlled substance shall be fined not more than $25,000 or imprisoned not more than twenty years, or both.

"(c) Whoever, in committing any offense under subsection (a) or (b), assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be fined not more than $10,000 and imprisoned for not more than twenty-five years.

"(d) Whoever in committing any offense under section (a) or (b), kills any person, shall be subject to imprisonment for any term of years or for life.

(e) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by fine or imprisonment, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

"(f) For the purposes of this section, the term 'controlled substance' has the meaning set forth in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"(g) For the purposes of subsection (b), the term 'business premises or property' includes storage facilities, vehicles, aircraft, trucks, or other means of transport or delivery.

"(h) Violations of this section may be prosecuted only upon approval by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or a designated Assistant Attorney General, unless assistance is requested by a State or local law enforcement official.".

SEC. 2. The table of sections for chapter 103 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"2118. Robbery of persons registered under the Controlled Substances Act.".

SEC. 3. For each of the first three years after the date of enactment of this Act, the Attorney General of the United States, shall submit an annual report to the Congress with respect to its enforcement activities relating to the offense described in the amendment made by the first section of the Act.

Mr. JEPSEN. Mr. President, I rise in support of S. 422, a bill I introduced early on in the 98th Congress, which would make the robbery and burglary of controlled substances from pharmacists a Federal offense.

As many of my colleagues know, I have been working on this issue for quite some time and am pleased that the Senate is once again going to have an opportunity to express its strong support for this important legislation.

As anyone who has looked at the committee hearings on this issue can attest, the seriousness of these heinous crimes cannot be understated. Every day, pharmacists put their lives on the line in order to serve the American people. And, virtually every day a pharmacist or other drug enforcement administration registrant is victimized by a drug-seeking criminal.

We at the Federal level cannot turn our backs on these individuals. As information I have previously placed in the record indicates, more and more pharmacists are simply refusing to carry controlled substances on their premises for fear of being victimized by criminals.

Clearly, this has a tremendous impact on law-abiding citizens who can no longer find the prescription drugs they need to remain out of a hospital.

As the distinguished chairman of the Judiciary Committee knows, the Senate has consistently shown its support for legislation similar to that being adopted today.

Unfortunately, our colleagues in the House have not been as supportive. I hope the House will act on S. 422, and act favorably. The pharmacists of this country are closely watching the action the House will be taking on this bill and I can assure my colleagues they are vitally interested in this issue.

In closing, I would only state my appreciation for the strong support my efforts have received from the chairman of the Judiciary Committee, Senator THURMOND. His steadfast support has been greatly appreciated by me and I think I speak for all those interested in this issue when I say that those responsible for dispensing controlled substances owe Senator THURMOND a debt of gratitude.

Mr. THURMOND. Mr. President, as an original cosponsor of S. 422, I rise in strong support of its passage. The elements of the offense contained in this bill are identical to those passed by the Senate on February 2 as part J of title X of S. 1762, the Comprehensive Crime Control Act of 1984.

Under existing Federal law, many activities involving the illegitimate acquisition and transfer of controlled substances are punishable. However, while it is a Federal offense, for instance, to knowingly obtain possession of a controlled substance by misrepresentation or fraud, it is not an offense to obtain possession by other traditionally criminal means, such as robbery or burglary. In fact, a registrant who fails to report such a theft is subject to Federal prosecution, while the robber or burglar is not. S. 422 would address this anomaly by making robbery or burglary of controlled substances from a registrant with the DEA a Federal offense.

Robberies and burglaries of controlled substances have achieved nightmare proportions in this country. According to the DEA, in 1981 alone, over 2,000 armed robberies involving controlled substances took place. Most of these crimes occur in neighborhood pharmacies and pose considerable danger not only to the registrant, but to the innocent customer as well. Furthermore, manufacturers are now the target of a disturbing number of these robberies and burglaries.

Mr. President, obviously the Federal Government will not become involved in every pharmacy robbery and burglary that takes place. It would not be appropriate for it to do so. To insure that Federal jurisdiction in this area is limited to appropriate cases, the committee included an amendment which would limit prosecutions to two situations. First, the Attorney General, Deputy Attorney General, Associate Attorney General, or designated Assistant Attorney General may authorize a prosecution. In the alternative, Federal prosecutions may be requested by the appropriate State or local law enforcement official. In this way, a balance between Federal and State interests is achieved. Furthermore, as a result, we do not anticipate that any additional appropriations will be needed.

Mr. President, I want to commend the sponsor of this bill, Senator ROGER JEPSEN, for his hard work on this issue, over many years. Congressman HENRY HYDE, who has sponsored the companion measure in the House, has also worked with us. Finally, Senator CHARLES GRASSLEY sponsored the amendments addressing Justice Department concerns which were adopted by the committee.

Mr. President, in passing S. 422 today, we intend to send a loud message to the criminal elements in this country that our neighborhood pharmacies will not serve as a battleground in the narcotics trafficking wars. I urge my colleagues to join me in strong support of S. 422 and I hope that the House of Representatives will act on it, and also on our crime package, promptly.

Mr. BAKER. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2118. Robbery of persons registered under the Controlled Substances Act.

"(a) Whoever takes or attempts to take from the person or presence of another, any material, compound, or prescription containing any quantity of a controlled substance belonging to or in the care, custody, or control, management or possession of a pharmacy or a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) by force or violence, or by intimidation, shall be imprisoned for not more than twenty years, or fined not more than $25,000, or both.

"(b) Whoever enters or attempts to enter the business premises or property of a pharmacy or a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) with the intent to steal any quantity of a controlled substance shall be fined not more than $25,000 or imprisoned not more than twenty years, or both.

"(c) Whoever, in committing any offense under subsection (a) or (b), assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be fined not more than $10,000 and imprisoned for not more than twenty-five years.

"(d) Whoever in committing any offense under section (a) or (b), kills any person, shall be subject to imprisonment for any term of years or for life.

"(e) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by fine or imprisonment, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

"(f) For the purposes of this section, the term 'controlled substance' has the meaning set forth in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"(g) For the purposes of subsection (b), the term 'business premises or property' includes storage facilities, vehicles, aircraft, trucks, or other means of transport or delivery.

"(h) Violations of this section may be prosecuted only upon approval by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or a designated Assistant Attorney General, unless assistance is requested by a State or local law enforcement official.".

SEC. 2. The table of sections for chapter 103 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"2118. Robbery of persons registered under the Controlled Substances Act.".

SEC. 3. For each of the first three years after the date of enactment of this Act, the Attorney General of the United States, shall submit an annual report to the Congress with respect to its enforcement activities relating to the offense described in the amendment made by the first section of the Act.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JEPSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I wish to take this opportunity to congratulate the distinguished Senator from Iowa for his efforts in this respect. It is a cause that he has championed for many months. It is a worthwhile effort and a major contribution to the quality and scope of law enforcement in this country. I wish to thank him for his efforts. I thank the majority leader.

Mr. JEPSEN. Mr. President, I thank the majority leader.

Mr. BAKER. Mr. President, may I say to the minority leader that it appears that another item on the Calendar has been cleared for action by unanimous consent. I refer to Calendar Order No. 653, Senate Resolution 293, and ask if he is prepared to proceed by unanimous consent to that item.

Mr. BYRD. Mr. President, the response is in the affirmative.

Mr. BAKER. I thank the minority leader.

DIRECTING SENATE LEGAL COUNSEL TO TAKE CERTAIN ACTION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Senate Resolution 293, Calendar Order No. 653.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 293) directing the Senate legal counsel to bring civil action to enforce the subpena of the Permanent Subcommittee on Investigations.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, Senate Resolution 293 authorizes the Permanent Subcommittee on Investigations to enforce its subpena against a recalcitrant witness, Anthony J. Accardo. The subcommittee has been seeking Mr. Accardo's testimony for its investigation of labor racketeering in the hotel workers union. On November 17, 1983, Mr. Accardo appeared before the subcommittee, and was immunized under a court order, but refused to answer the subcommittee's questions.

Title VII of the Ethics in Government Act of 1978 authorizes civil actions to enforce Senate subpenas. Under that statute, a committee must file a full report with the Senate on its basis for civil enforcement. On February 9, when the Committee on Governmental Affairs reported Senate Resolution 293, it filed such a report, Senate Report 98-354, which accompanies the resolution. That report describes the subcommittee's procedure and the witness's objections. In brief, the witness objected that the subcommittee had based its questions on illegal electronic surveillance, but the committee has reported that the subcommittee has not employed any such surveillance in its questioning of Mr. Accardo.

When the Senate adopts a civil enforcement resolution, it directs the Senate Legal Counsel to apply to the U.S. District Court for the District of Columbia for an order under 28 U.S.C. 1364 directing the witness to testify. The witness has an opportunity to present his objections to the court for a ruling. If the court overrules the objections and orders the witness to testify, he may then obey, thereby avoiding sanctions. A witness who fails to obey a court order to testify may be incarcerated for civil contempt.

Since the civil enforcement procedure was created in 1978, the Senate has used this procedure once before. In September 1980 the Senate adopted Senate Resolution 502 authorizing the Permanent Subcommittee on Investigations to enforce a subpena to William Cammisano, who has objected to the subcommittee's procedure for immunizing witnesses. The courts upheld the subcommittee's procedure and Mr. Cammisano ultimately served just under 17 months of civil contempt incarceration for refusing to obey a court order to testify.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

> S. Res. 293
>
> Whereas the Senate Permanent Subcommittee on Investigations subpenaed Anthony J. Accardo to testify at a subcommittee hearing, and he appeared before the subcommittee at a hearing on November 17, 1983, and was immunized under court order against self-incrimination by his testimony but refused to answer the subcommittee's questions; and
>
> Whereas under section 703(b) of the Ethics in Government Act of 1978 (2 U.S.C. 288b(b)), the Senate legal counsel shall bring a civil action to enforce a subpena of a Senate subcommittee only when directed to do so by the adoption of a resolution by the Senate: Now, therefore, be it
>
> *Resolved*, That the Senate legal counsel shall bring a civil action in the name of the Senate Permanent Subcommittee on Investigations to enforce the subcommittee's subpena to Anthony J. Accardo, and that the Senate legal counsel shall conduct all appeals, contempt proceedings, and other ancillary legal proceedings, relating to testimony of Anthony J. Accardo before the subcommittee.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SEQUENTIAL REFERRAL—S. 1546

Mr. BAKER. Mr. President, I have a sequential referral request that appears to bear the approval notation of the minority leader. I will now state the request.

I ask unanimous consent that Calendar Order No. 583, a bill to amend the Deepwater Port Act of 1974, as reported by the Committee on Commerce, Science, and Transportation, be sequentially referred to the Committee on Environment and Public Works for the purpose of considering section 4 of the committee amendment only, for a period not to extend beyond March 1, 1984; and that if at such time the Committee on Environment and Public Works has not reported S. 1546, it shall be immediately discharged from further consideration thereof and S. 1546 shall be placed on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER OF PROCEDURE ON MONDAY, FEBRUARY 27, 1984

Mr. BAKER. Mr. President, I also have boilerplate language in respect to the adjournment today over until Monday next. Could I inquire of the minority leader if he is prepared to consider such a request if I put it at this time?

Mr. BYRD. Yes. If the majority leader will just give me a moment.

Mr. President, there is no objection.

Mr. BAKER. I thank the Senator.

Mr. President, I ask unanimous consent that when the Senate convenes on Monday, February 27, 1984, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with and, following the recognition of the two leaders under the standing order, there be a special order in favor of five Senators as follows in this order: Senator PROXMIRE, Senator GORTON, Senator DENTON, Senator SYMMS, and the distinguished minority leader, Senator BYRD, for not to exceed 15 minutes each, to be followed by a period for the transaction of routine morning business not to exceed 30 minutes in length, with Senators permitted to speak therein for not more than 5 minutes each; and provided further that the morning hour shall be deemed to have expired.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXPORT ADMINISTRATION ACT AMENDMENTS

Mr. BAKER. Mr. President, I have only one other matter to address the Senate and that is to prepare us for the consideration of the Export Administration bill, when we resume session after the adjournment on Monday. If the minority leader is prepared for me to do so now, I will ask the Senate to turn to the consideration of that item.

Mr. BYRD. Mr. President, I have already discussed this with the majority leader, but, for the record, so that Mr. PROXMIRE will know that I had him in mind—and it has been discussed also with Mr. GARN—with the understanding that there be no opening statements today, because Mr. PROXMIRE, when he left, was under the impression that this bill would be before the Senate tomorrow. The majority leader has indicated that there would be no session tomorrow. So, with that understanding, there is no objection.

Mr. GARN. Mr. President, if the minority leader would yield, I will further state that I have discussed this with the distinguished ranking minority member of the Banking Committee and he was aware that there would be no statement today and that we would not be on the bill until Monday. So, to further reassure the minority leader, he is aware of what we are doing.

Mr. BYRD. Mr. President, the other side has better intelligence than we have in this particular instance.

Mr. BAKER. We keep up with each other pretty well.

Mr. President, in view of this exchange, it is clear now that if the Senate agrees to turn to the consideration of S. 979, it will be solely for the purpose of laying down that measure, and it will be the intention of the leadership on this side, then, to ask the Senate to stand in adjournment until Monday next.

Mr. President, I now ask unanimous consent that the Chair lay before the Senate Calendar Order No. 217, S. 979.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I am not going to object to moving forward with this legislation, I would also like to compliment the distinguished Senator from Utah (Mr. GARN) and the distinguished Senator from Wisconsin (Mr. PROXMIRE). This is legislation which I believe is very urgent. I am delighted that the majority leader has cleared the path for the Senate to proceed to consider the legislation. I have no objection.

Mr. BAKER. I thank the minority leader.

Mr. President, I now ask the Chair to lay before the Senate Calendar Order No. 217, S. 979.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 979) to amend and reauthorize the Export Administration Act of 1979.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert:

That this Act may be cited as the "Export Administration Act Amendments of 1983".

FINDINGS

SEC. 2. Section 2 of the Export Administration Act of 1979 is amended—

(1) by striking paragraph (6) and inserting in lieu thereof the following:

"(6) Uncertainty of export control policy can inhibit the efforts of American business and work to the detriment of the overall attempt to improve the trade balance of the United States."; and

(2) by adding at the end of the section the following new paragraph:

"(10) The transfer of national security sensitive technology and goods to the Soviet Union and other countries where actions or policies are adverse to the national security interests of the United States, has led to the significant enhancement of Soviet bloc military-industrial capabilities, thereby creating a greater threat to the security of the United States, its allies, and other friendly nations, and increasing the defense budget of the United States.".

DECLARATION OF POLICY

SEC. 3. Section 3 of the Export Administration Act of 1979 is amended—

(1) in paragraph (3), by striking out the period after "commitments" and inserting in lieu thereof "or common strategic objectives.";

(2) in paragraph (7), by striking "every reasonable effort" in the second sentence and inserting in lieu thereof "reasonable and prompt efforts", and by striking "resorting to the imposition of controls on exports from the United States" in the second sentence and inserting in lieu thereof "imposing export controls";

(3) in paragraph (8), by striking "every reasonable effort" in the second sentence and inserting in lieu thereof, "reasonable and prompt efforts", and by striking "resorting to the imposition of export controls." at the end of the paragraph and inserting in lieu thereof "imposing export controls.";

(4) in paragraph (9), by inserting "or common strategic objectives" after "commitments" each time it appears; and

(5) by adding after paragraph (11) the following:

"(12) It is the policy of the United States to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States.

"(13) It is the policy of the United States to sustain vigorous scientific enterprise. To do so requires protecting the ability of scientists and other scholars freely to communicate their research findings by means of publication, teaching, conferences, and other forms of scholarly exchange.".

GENERAL PROVISIONS

SEC. 4. Section 4 of the Export Administration Act of 1979 is amended—

(1) in subsection (a) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) Validated licenses authorizing multiple exports, issued pursuant to an application by the exporter, in lieu of an individual validated license for each such export, including, but not limited to the following:

"(A) A distribution license, authorizing exports of goods to approved distributors or users of the goods;

"(B) A comprehensive operations license, authorizing exports and reexports of technology and related goods, including items on the list of militarily critical technologies developed pursuant to subsection (d) of this section, from a domestic concern to and among its subsidiaries, affiliates, or other approved consignees that have long-term, contractually defined relations with the exporter. The Secretary shall grant the license to manufacturing, laboratory, or related operations on the basis of approval of the exporter's system of control, including internal proprietary controls, applicable to the technology and related goods to be exported rather than approval of individual export transactions. The Commissioner of Customs, in cooperation with the Secretary periodically, but not less frequently than annually, shall perform audits of these licensing procedures to assure their integrity and effectiveness.";

(2) in subsection (b), by striking "commodity" each time it appears, and by striking "consisting of any goods or technology subject to export controls under this Act." and inserting in lieu thereof "stating license requirements for exports of goods and technologies to all destinations to which such exports are controlled under this Act.";

(3) in subsection (c), by striking "significant" and inserting in lieu thereof "comparable", and by inserting after "those produced in the United States," the following: "so as to render the controls ineffective in achieving their purposes,";

(4) by adding at the end of subsection (c) the following: "The Secretary and the Secretary of Defense shall cooperate in the gathering and assessment of information relating to foreign availability, including the establishment and maintenance of a jointly operated computer system."; and

(5) by striking subsection (f) and inserting in lieu thereof the following:

"(f) NOTIFICATION OF THE PUBLIC: CONSULTATION WITH BUSINESS.—(1) The Secretary shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or impacted by export controls, on the United States export control policy and the foreign availability of goods and technology.

"(2) In carrying out the provisions of this Act, the Secretary shall consult on a continuing basis with the advisory committees established under section 135 of the Trade Act of 1974.".

NATIONAL SECURITY CONTROLS

SEC. 5. Section 5 of the Export Administration Act of 1979 is amended—

(1) by inserting after the first sentence of subsection (a)(1) the following: "This authority includes the power to prohibit or curtail reexports of such goods and technologies and the transfer of goods or technologies within the United States to embassies and affiliates of countries to which exports of these goods or technologies are controlled.";

(2) in subsection (a)(2), by striking "(A)", and by striking paragraph (B) in its entirety;

(3) in subsection (a)(3), by striking the last sentence;

(4) in subsection (b) by inserting after "as", the following: "whether its policies are adverse to the national security interests of the United States,";

(5) in subsection (c), by striking "commodity" in paragraph (1) and by striking paragraph (3) and inserting in lieu thereof the following:

"(3) The Secretary shall review the list established pursuant to this subsection at least once each year in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and shall promptly make such revisions of the list as may be necessary after each such review. The Secretary shall publish notice of each annual review in the Federal Register before he begins such review, provide opportunity for comment and submission of data, with or without oral presentation, by interested Government agencies and other affected or

potentially affected parties during such review, and publish any revisions in the list, with an explanation of the reasons therefor, in the Federal Register. The Secretary shall further assess, as part of such review, the availability from sources outside the United States, or any of its territories or possessions, of goods and technology comparable to those controlled under this section.";

(6) in subsection (d)(2), by striking "and" at the end of subparagraph (B), by adding "and" at the end of subparagraph (C), and by inserting after subparagraph (C) a new subparagraph (D), as follows:

"(D) goods (i) which would extend, complete, maintain, or modernize a process line employed in the application of a militarily critical technology, or (ii) the analysis of which would reveal or give insight into a United States military system and would thereby facilitate either the design and manufacture of that system or the development of countermeasures against that system,";

(7) in paragraph (2) of subsection (d), by inserting after "possessed by" the following: "or available in fact from sources outside the United States to";

(8) in paragraph (4) of subsection (d), by striking "October 1, 1980" and inserting in lieu thereof "January 1, 1985";

(9) in paragraph (5), by striking "The" and inserting in lieu thereof "Items on the"; by striking "commodity", and by inserting "and subsection (f)" after "subsection (c)".

(10) in paragraph (6) of subsection (d) by striking "subsection" and inserting in lieu thereof "section";

(11) by adding at the end of subsection (d) a new paragraph (7) as follows:

"(7) The establishment of adequate export controls for militarily critical technology and keystone equipment shall be accompanied by suitable reductions in the controls over the products of that technology and equipment.";

(12) in paragraph (1) of subsection (e), by striking "a qualified general license" and inserting in lieu thereof "the multiple validated export licenses described in section 4(a)(2) of this Act";

(13) by striking paragraphs (3) and (4) of subsection (e) and inserting in lieu thereof the following:

"(3) The Secretary shall require only a general license in lieu of a multiple or individual validated license under this section for the export of goods or technology to countries party to a multilateral agreement, formal or informal, to which the United States is a party, or to countries party to a comparable bilateral agreement with the United States, if the export of such goods or technology is restricted pursuant to such multilateral or bilateral agreement, unless the goods or technology are included on the list of military critical technologies developed pursuant to subsection (d) of this section, in which case the Secretary may require a multiple or individual validated license.

"(4) The Secretary, subject to the provisions of subsection (l), shall not require an individual validated export license for replacement parts which are exported to replace on a one-for-one basis parts that were in a commodity that has been lawfully exported from the United States.

"(5) The Secretary shall periodically review the various special licensing procedures, taking appropriate action to increase their utilization by reducing qualification requirements or lowering minimum thresholds, to combine procedures which overlap, and to eliminate those procedures which appear to be of marginal utility.";

(14) in paragraph (1) of subsection (f), by inserting after "The Secretary, in consultation with" the following: "the Secretary of Defense and other";

(15) in paragraphs (1) and (2) of subsection (f), by striking "sufficient" each time it appears and inserting in lieu thereof "comparable";

(16) in subsection (f), by striking paragraph (3) and inserting in liue thereof the following:

"(3) The Secretary shall make a foreign availability determination under paragraph (1) or (2) on his own initiative or upon receipt of an allegation that such availability exists from an export license applicant. The Secretary shall accept the applicant's representations made in writing and supported by evidence, unless such representations are contradicted by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. Determination of foreign availability by the Secretary may include but not be limited to consideration of the following factors: cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, technical data packages, backup packages, durability, quality of end products produced by the item proposed for export, and scale of production.";

(17) in subsection (f), by adding a new paragraph (7) as follows:

"(7) The Secretary shall make a foreign availability determination under paragraph (1) upon request of the appropriate technical advisory committee established by subsection (h)(1) of this section. The Secretary shall treat the representations of the technical advisory committee in the manner provided in paragraph (3).";

(18) in paragraph (4) of subsection (f), by striking "take steps to initiate" and inserting in lieu thereof, "actively pursue";

(19) by striking subsection (g) and inserting in lieu thereof the following:

"(g) Indexing.—In order to ensure that requirements for validated licenses and multiple export licenses are periodically removed as goods or technology subject to such requirements becomes obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. The regulations issued by the Secretary shall establish as one criterion for the removal of goods or technology the anticipated needs of the military of countries to which exports are controlled for national security purposes. Any such goods or technology which no longer meets the performance levels established by the regulations shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other department or agency of the United States objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list. The Secretary shall also consider, where appropriate, removing site visitation requirements for goods and technology which are removed from the list unless objections described in this subsection are raised.";

(20) in paragraph (1) of subsection (h), by adding after "Departments of Commerce, Defense, and State" the following: ", the intelligence community,";

(21) in paragraph (2) of subsection (h), by striking "and" at the end of paragraph (C), by striking the period at the end of subparagraph (D) and inserting in lieu thereof a comma and the following: "and (E) any other questions relating to actions designed to carry out the policy set forth in section 3(2)(A) of this Act.";

(22) by striking paragraph 6) of subsection (h);

(23) in subsection (i), by striking paragraph (3);

(24) in subsection (i)(4), by striking "(4)" and inserting in lieu thereof "(3)", and by striking "pursuant to paragraph (3)" and inserting in lieu thereof "by the members of the Committee.";

(25) in subsection (i), by adding new paragraphs (4), (5), and (6) as follows:

"(4) Agreement to accord the current multilateral agreement treaty status.

"(5) Agreement to improve the International Control List and minimize the approval of exceptions to that list, strengthen enforcement and cooperation in enforcement efforts, provide sufficient funding for COCOM, and improve the structure and functions of the COCOM Secretariat by upgrading professional staff, translation services, data base maintenance, communications and facilities.

"(6) Agreement to strengthen COCOM so that it functions effectively in controlling export trade in a manner that better protects the national security of each participant to the mutual benefit of all.";

(26) by striking subsection (j) and inserting in lieu thereof the following:

"(j) Commercial Agreements With Certain Countries.—(1) Any United States firm, enterprise, or other nongovernmental entity which enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which calls for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report the agreement with such agency with sufficient detail to the Secretary.

"(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions, except where the unpublished technical data involve a technology identified by the Secretary of Defense as a militarily critical technology.

(27) in subsection (k), by adding after "with other countries" the following: ", including those countries not participating in the group known as the Coordinating Committee,", and by adding at the end thereof the following: "In cases where such negotiations produce agreement on export restrictions comparable in practice to those maintained by the Coordinating Committee, the Secretary shall treat exports to countries party to such agreements in the same manner as exports to members of the Coordinating Committee are treated.";

(28) by striking subsection (l) and inserting in lieu thereof the following:

"(l) Diversion to Military Use of Controlled Goods or Technology.—Whenever there is reliable evidence that goods or technology which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes have been diverted to an unauthorized use or consignee in violation of the conditions of an export license, the Secretary for as long as that diversion continues—

"(A) shall deny all further exports to or by the party or parties who divert or conspire to divert any goods or technology subject to national security controls under this section to an unauthorized use or consignee regardless of whether such goods or technology are available to that country from sources outside the United States; and

"(B) may take such additional steps under this Act with respect to the party or parties referred to in subparagraph (A) as he determines are appropriate in the circumstances to deter the further unauthorized use of the previously exported goods or technology.

"(2) As used in this subsection, the term 'diversion to an unauthorized use or consignee' means the use of United States goods or technology to design or produce or maintain or contribute to the design, production, or maintenance of any item on the United States Munitions List, or the transfer of United States goods or technology to any consignee or end user engaged in or contributing to such design, production, or maintenance, or the military use of any item on the COCOM list."; and

(29) by adding the following new subsections:

"(m) Security Measures.—The Commissioner of Customs, in consultation with the Secretary and the Director of the Federal Bureau of Investigation, shall provide advice and technical assistance to persons engaged in the manufacture or handling of goods or technology subject to controls under this section to develop security systems to prevent violations or evasion of controls imposed under this section.

"(n) Recordkeeping.—The Secretary, the Secretary of Defense, and any other department or agency consulted in connection with a license application or revision of a list of controlled commodities, goods, or technologies, shall make and keep records of their respective advice, recommendations, or decisions, including the factual and analytical basis of the advice, recommendations, or decisions.

"(o) National Security Control Agency.—To assist in carrying out the policy and other authorities and responsibilities of the Secretary of Defense under this section, there shall be established within the office of the Under Secretary of Defense for Policy a National Security Control Agency. The Secretary of Defense may delegate such of those authorities and responsibilities, together with such ancillary functions, as he may deem appropriate to the Agency.

"(p) Exclusion for Agricultural Commodities.—This section does not authorize export controls on agricultural commodities, including fats and oils or animal hides and skins.".

FOREIGN POLICY CONTROLS

Sec. 6. Section 6 of the Export Administration Act of 1979 is amended—

(1) by inserting after the first sentence of paragraph (1) of subsection (a) the following: "Whenever the authority conferred by this section is exercised with respect to a country, the President is also authorized to impose controls on imports from that country to the United States.";

(2) by adding at the end of paragraph (1) of subsection (a) the following new sentence: "The President may not, under this section, prohibit or curtail the export or reexport of goods, technology, or other information in performance of a contract or agreement entered into before the date on which the President notifies Congress of his intention to impose controls pursuant to subsection (e) of this section on the export or reexport of such goods, technology, or other information to the intended destination or under any validated license or other authorization issued under this Act.";

(3) in paragraph (2) of subsection (a) by striking "one year" each place it appears and inserting in lieu thereof, "6 months";

(4) by striking subsection (b) and inserting in lieu thereof the following:

"(b) Criteria.—The President may impose, expand, or extend export controls under this section only if he determines that—

"(1) such controls are likely to achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

"(2) such controls are compatible with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

"(3) the reaction of other countries to the imposition or expansion of such export controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or counterproductive to United States foreign policy interests;

"(4) such controls will not have an extraterritorial effect on countries friendly to the United States adverse to overall United States foreign policy interests;

"(5) the cost of such controls to the export performance of the United States, to the competitive position of the United States in the international economy, to the international reputation of the United States as a supplier of goods and technology, and to individual United States companies and their employees and communities, taking into account the effects of the controls on existing contracts, does not exceed the benefit to United States foreign policy objectives; and

"(6) the United States has the ability to enforce the proposed controls effectively.";

(5) by amending subsection (c) to read as follows:

"(c) Consultation With Industry.—The Secretary in every possible instance shall consult with and seek advice from affected United States industries and appropriate advisory committees established under section 135 of the Trade Act of 1974 before imposing any control under this section. Such consultation and advice shall be with respect to the criteria set forth in paragraphs (1) through (6) of subsection (b) and such other matters as the Secretary considers appropriate.";

(6) by striking subsection (e) and inserting in lieu thereof the following:

"(e) Notification of Congress.—(1) The President in every possible instance shall consult with the Congress before imposing any export control under this section. Except as provided in section 7(g)(3) of this Act, the President shall not impose, expand, or extend such controls until he has transmitted to the Congress a report specifying—

"(A) the purpose of the controls;

"(B) the determinations of the President with respect to each of the criteria set forth in subsection (b) and the bases for such determinations;

"(C) the nature and results of any alternative means attempted under subsection (d), or the reasons for imposing, extending, or expanding the control without attempting any such alternative means; and

"(D) whether the President is also exercising the authority to control imports as authorized by subsection (a), and if the President is not exercising such authority, an explanation of the reasons therefor.

"(2) Such report shall also indicate how such controls will further significantly the foreign policy of the United States or will further its declared international obligations. To the extent necessary to further the effectiveness of such export control, portions of such report may be submitted on a classified basis, and shall be subject to the provisions of section 12(c) of this Act. Such report shall at the same time it is submitted to the Congress also be submitted to the General Accounting Office for the purpose of assessing the report's full compliance with the intent of this subsection.

"(3) In the case of an extension of controls occurring at a 12-month interval after the initial imposition or expansion of controls, such report shall be submitted in writing. In the case of an extension of controls at a 6-month interval following the submission of a written report, such report need not be in writing but shall be presented by the Secretary in testimony before the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Foreign Affairs.";

(7) in subsection (f), by striking the period at the end of the first sentence and inserting in lieu thereof a comma and "or on donations of items intended to meet basic human needs such as food, educational materials, seeds and hand tools, medicines and medical supplies, water resources equipment, clothing and shelter materials, and basic household supplies.", and by striking the last sentence and inserting in lieu thereof the following: "This subsection shall not apply to any export control on medicine or medical supplies or food, except for donations of such items as those listed in the first sentence of this subsection, which is in effect on the date of enactment of the Export Administration Act Amendments of 1983.";

(8) in subsection (g), by inserting "(1)" after "Foreign Availability.—", and by adding at the end of the subsection the following new paragraphs:

"(2) Prior to any extension of controls pursuant to paragraph (2) of subsection (a), the President shall evaluate the results of his actions under paragraph (1) of this subsection and shall include the results of that evaluation in his notification to Congress pursuant to subsection (e).

"(3) In the event that the President's efforts under paragraph (1) are not successful in securing such cooperation during a 6-month period when controls imposed under this section are in effect, in the subsequent 6-month period, if such controls are extended, the Secretary shall take into account the foreign availability of goods or technology subject to controls. If the Secretary affirmatively determines that a good or technology is available in comparable quantity and comparable quality from sources outside the United States to countries subject to such controls so that denial of the license would be ineffective in achieving the purposes of the controls, then the Secretary shall issue a license for the export of such goods or technology during the period of such foreign availability. The Secretary shall remove such goods or technology from the list established pursuant to subsection (k) if he determines such action is appropriate.

"(4) In making a determination of foreign availability under paragraph (3) of this subsection the Secretary shall follow the proce-

dures specified in section 5(f)(3) of this Act."; and

(9) by striking "commodity" in the first sentence, and by striking the second sentence of subsection (k) and inserting in lieu thereof "The Secretary shall clearly identify on the control list which goods and technical data and countries or destinations are subject to which types of controls under this section.".

SHORT SUPPLY CONTROLS

Sec. 7. Section 7 of the Export Administration Act of 1979 is amended by striking subsection (j).

PROCEDURES FOR PROCESSING EXPORT LICENSE APPLICATIONS

Sec. 8. Section 10 of the Export Administration Act of 1979 is amended—

(1) by striking out "60" each place it appears and inserting in lieu thereof "40";

(2) by striking out "90" each place it appears and inserting in lieu thereof "60";

(3) by striking out "30" each place it appears and inserting in lieu thereof "20";

(4) by inserting in paragraph (3) of subsection (f) after "the policies set forth in section 3 of this Act which would be furthered by denial," the following: "what if any modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls imposed under this Act, and which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for considerations with regard to such modifications or restrictions, if appropriate,";

(5) by striking paragraph (1) of subsection (g) and inserting in lieu thereof the following:

"(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology, whether by single or by multiple license, to any country to which exports are controlled for national security purposes, or where the Secretary of Defense, in consultation with the Secretary, determines that there is a clear risk of diversion of militarily critical goods or technology to proscribed destinations. Whenever the Secretary of Defense determines that the export of any such goods or technology will prove detrimental to the national security of the United States by making a significant contribution to the military potential of any such country, or constituting a clear risk of diversion to a proscribed destination of militarily critical goods or technology, the Secretary of Defense shall recommend to the President that such export be disapproved.";

(6) in paragraph (2) of subsection (g) by inserting after "category," in the second sentence the following: "or where there is a clear risk of diversion of militarily critical goods or technology to proscribed destinations,"; and

(7) in paragraph (2) of subsection (g) by inserting after the first sentence the following: "If the Secretary and the Secretary of Defense are unable to concur on the types and categories of transactions or on any proposed export of goods or technology which should be referred to the Secretary of Defense for review, the matter shall be referred to the President for resolution.".

VIOLATIONS

Sec. 9. Section 11 of the Export Administration Act of 1979 is amended—

(1) by inserting in subsection (a) after "violates" the following: "or conspires to or attempts to violate";

(2) by striking in paragraph (1) of subsection (b) "exports anything contrary to" and inserting in lieu thereof "violates or conspires to or attempts to violate";

(3) by inserting in paragraph (1) of subsection (b) after "benefit of" the following: "or that the destination or intended destination of the goods or technology involved is", and by striking "restricted" and inserting in lieu thereof "controlled";

(4) by adding at the end of paragraph (1) of subsection (b) the following new sentence: "For purposes of this subsection, a country to which exports are controlled for national security purposes is one identified pursuant to the determinations made in accordance with section 5(b) of this Act.";

(5) by inserting after paragraph (2) of subsection (b) the following new paragraphs:

"(3) Whoever possesses any goods or technology with the intent to export them contrary to this Act or any regulation, order, or license issued thereunder shall be subject to the penalties as provided in subsection 11(a), except for a national security violation which would be subject to the penalties as provided in section 11(b)(1).

"(4) Nothing in this subsection or subsection (a) shall limit the power of the Secretary to define by regulations violations under this Act.";

(6) in subsection (c), by striking out "head and all that follows through "thereof" and inserting in lieu thereof "Commissioner of the United States Customs Service of the Department of the Treasury (and officers or employees of the Service specifically designated by the Commissioner)";

(7) by adding at the end of subsection (c) the following new paragraphs:

"(3) In addition to any other authority under this Act, the Secretary may revoke or suspend the authority to export of any person convicted of a violation of any other provision of Federal law arising out of the export of goods or technology prohibited by or under this Act.

"(4) Whoever violates any national security control imposed under section 5 of this Act, or any regulations, order, or license related thereto, or any regulation issued pursuant to a multilateral agreement to control exports for national security purposes, to which the United States is a party, may be subject to such controls on the importing of goods or technology into the United States or territories and possessions as the President may prescribe.";

(8) by inserting in subsection (e) after "subsection (c)" the words "or any amounts realized from the forfeiture of property interest or proceeds forfeited pursuant to subsection (g)", and by inserting after "refund any such penalty" the words "imposed pursuant to subsection (c)";

(9) by striking out the second sentence of subsection (f);

(10) by redesignating subsection (g) as subsection (i) and inserting the following new subsections:

"(g) Forfeiture of Property Interest and Proceeds.—(1) Whoever has been convicted of a national security export control violation under subsection (a) or (b) shall, in addition to any other penalty, forfeit to the United States—

"(A) any of his interest in, security of, claim against, or property or contractual rights of any kind in the goods or technology that were the subject of the violation;

"(B) any of his interest in, security of, claim against, or property or contractual rights of any kind in property that was used to facilitate the commission of the violation; and

"(C) any of his property constituting, or derived from, any proceeds obtained directly or indirectly as a result of such violations.

"(2) The procedures in any criminal forfeiture under this section, and the duties and authority of the courts of the United States and the Attorney General with respect to any criminal forfeiture action under this section or with respect to any property that may be subject to forfeiture under this section, are to be governed by the provisions of section 1963 of title 18, United States Code.

"(h) Prior Convictions.—No person convicted of a violation of section 793, 794, or 798 of title 18, United States Code, section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778), shall be eligible at the discretion of the Secretary, to apply for or use any export license for a period for up to ten years from the date of conviction. Any outstanding export license in which such person has an interest may be revoked at the discretion of the Secretary at the time of conviction."; and

(11) by striking "or" after "(d)," in subsection (i) as redesignated, and inserting after "(f)" the following: ", (g), or (h)".

ENFORCEMENT

Sec. 10. Section 12 of the Export Administration Act of 1979 is amended—

(1) in subsection (a), by inserting "(1)" after "General Authority.—";

(2) in subsection (a), by striking "the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and", and inserting in lieu thereof "a district court of the United States,";

(3) in subsection (a), by striking out "head" and all that follows through "thereof)" and inserting in lieu thereof "Commissioner of the United States Customs Service of the Department of the Treasury (and officers or employees of the Service specifically designated by the Commissioner)";

(4) by adding at the end of subsection (a) the following new paragraphs:

"(2) An officer of the United States Customs Service of the Department of the Treasury or other person authorized to board or search vessels who has reasonable cause to suspect that any goods or technology have been or will be exported from the United States in violation of any Act governing exports may—

"(A) stop, search, and examine, within or without his district, a vehicle, vessel, aircraft, or person, on which or whom he has reasonable cause to suspect there are any such goods or technology, whether by the person in possession or charge or by, in, or upon such vehicle, vessel, aircraft, or otherwise;

"(B) search, wherever found, any package or container in which he has reasonable cause to suspect there are any such goods or technology;

"(C) seize and secure for trial any such goods or technology on or about vehicle, vessel, aircraft, or person, or in such package or container.

"(3)(A) An officer of the United States Customs Service of the Department of the Treasury or other person authorized to board or search vessels may, while in the performance of, and in connection with, official duties, make arrests without warrant in the enforcement of the provisions of any Act governing exports. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws.

"(B) If such officer or person has reasonable cause to suspect that any goods or technology have or would have been exported from the United States in violation of any Act governing exports, the officer or person shall refer such matter to the Secretary of the Treasury, or his designee, or the Attorney General for civil or criminal action, respectively, in accordance with this section.";

(5) in the first sentence of paragraph (3) of subsection (c), by striking out "department or agency with enforcement responsibilities under this Act" and inserting in lieu thereof "United States Customs Service of the Department of the Treasury (and officers or employees of the Service specifically designated by the Commissioner)"; and

(6) by inserting in subsection (c)(3): ", including information pertaining to subjects of ongoing investigations," after "enforcement of this Act" in the first sentence; and by adding at the end thereof, the following: "The Secretary shall consult on a continuing basis with the Attorney General, the Commissioner of Customs, and the heads of other departments and agencies which obtain information subject to this paragraph to facilitate the sharing of such information.".

ANNUAL REPORT

SEC. 11. Section 14 of the Export Administration Act of 1979 is amended—

(1) by inserting "AND QUARTERLY" after "ANNUAL" in the section heading; and

(2) by adding at the end thereof the following:

"(d) FOREIGN AVAILABILITY REPORT.—The Secretary and the Secretary of Defense shall jointly prepare and transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives quarterly reports on the operation and improvement of the Government's ability to assess foreign availability, including but not limited to training of personnel, use of computers, and utilization of Foreign Commercial Service Officers.".

UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION

SEC. 12. (a) Section 15 of the Export Administration Act of 1979 is amended—

(1) by inserting "ADMINISTRATIVE AND" before "REGULATORY" in the caption;

(2) by designating the matter following "SEC. 15." as subsection (b); and

(3) by inserting after "SEC. 15." the following:

"(a) The President shall appoint, by and with the advice and consent of the Senate, an Under Secretary of Commerce for Export Administration who shall carry out all functions of the Secretary of Commerce under this Act which were delegated to the office of the Assistant Secretary of Commerce for Trade Administration prior to the effective date of the Export Administration Act Amendments of 1983 and such other functions as the Secretary may prescribe.".

(b) Section 5314 of title 5, United States Code, is amended by inserting "Under Secretary of Commerce for Export Administration," before "and Under".

DEFINITIONS

SEC. 13. Section 16 of the Export Administration Act of 1979 is amended—

(1) by striking paragraph (4) and inserting in lieu thereof the following:

"(4) the term 'technology' means technological or technical data, and shall include information or know-how of any kind that can be used or adapted for use in the design, production, manufacture, repair, overhaul, processing, engineering, development, operation, maintenance, or restoration of goods or commodities, including computer software. Information or know-how may take tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or take an intangible form, such as training or technical services. Technological data shall also include all goods or commodities that will be used in the industrial application of the technological information, regardless of the end-use classification of the goods or commodities;";

(2) in paragraph (3), by inserting after "article," "natural or manmade substance,"; and

(3) by redesignating paragraph (5) as paragraph (8), and by inserting the following new paragraphs:

"(5) the term 'export of goods' means—

"(A) an actual shipment or transmission of goods out of the United States, or

"(B) an actual shipment or transmission of goods, or portions thereof, originally exported from the United States to any destination other than that indicated to the appropriate United States authority as the initial destination of the goods at the time of the original export from the United States;";

"(6) the term 'export of technology' means—

"(A) an actual shipment or transmission of technology out of the United States; or

"(B) any release of technology of United States origin in a foreign country;"; and

"(7) the term 'United States' means the States of the United States, its commonwealths, territories, dependencies, and the District of Columbia;".

OFFICE OF STRATEGIC TRADE

SEC. 14. The Export Administration Act of 1979 is amended by adding at the end thereof the following new section:

"OFFICE OF STRATEGIC TRADE

"SEC. 25. The President shall submit to the Congress, not later than March 15, 1984, a proposal to create an Office of Strategic Trade. In developing his proposal, the President shall take into account, among other things, the need for better coordination of export licensing responsibilities and procedures, improved enforcement of this Act and other laws that provide authority to impose controls on exports, representation of the United States in the Coordinating Committee for Multilateral Export Controls (COCOM), through monitoring and analysis of data relating to technology and technological transfer, evaluation of technological changes that are relevant to the export licensing process, and more effective liaison with the business community and others affected by the export licensing process.".

AMENDMENT TO INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

SEC. 15. Section 203(a)(1) of the International Emergency Economic Powers Act (50 U.S.C. 1202) is amended—

(1) by striking out "and" at the end of paragraph (A);

(2) by inserting "and" at the end of paragraph (B); and

(3) by adding the following new paragraph:

"(C) impose controls on exports of goods or technology from United States companies, or their subsidiaries or licensees operating outside the United States;".

AUTHORIZATION

SEC. 16. Section 18 of the Export Administration Act of 1979 is amended by striking paragraph (1) of subsection (b) and inserting in lieu thereof:

"(1) $11,610,000 for each of the fiscal years 1984 and 1985, and".

TERMINATION DATE

SEC. 17. Section 20 of the Export Administration Act of 1979 is amended by striking out "1983", and inserting in lieu thereof "1989".

AMENDMENT TO MAGNUSON ACT

SEC. 18. Clause (viii) of section 201(e)(1)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(e)(1)(E)) is amended by inserting "fishery" before "matters".

JUDY TYREE

Mr. DECONCINI. Mr. President, I would like to call to your attention a beautiful lady. She has a big heart, a wonderful disposition, and remarkable drive that make her a beautiful lady.

I first met Judy Tyree a number of years ago and admired her work from afar for a number of years.

As a single parent she had the ability and drive to raise two children and to confront the business world as a professional woman back in the days when that was not easy for a woman to do. She moved to Tucson, Ariz., 13 years ago and virtually took the community by storm. Her organization and her friendliness won over the hearts of virtually everyone she came in contact with. Two years ago I asked her to run the southern Arizona portion of my reelection campaign. She did it with the organization, drive, and tenaciousness that won me friends I had never met.

Judy has been involved in projects as diverse as the chamber of commerce and the women's movement, and she has been a driving force in each.

A year ago she became the director of my southern Arizona Senate office and again turned it into one of the most productive offices in the United States.

Last month Judy was honored as the Tucson woman of the year. Normally, such awards are reserved for individuals who have lived in Tucson all of their lives and were a part of the establishment. Rarely has anyone as young as Judy been selected, but her personality and her accomplishments made the selection a natural.

For all of these reasons, Mr. President, I have found it necessary to bring Judy Tyree to your attention and to the attention of the whole country, because I feel with the greatest feeling I can demonstrate that Judy Tyree is, in fact, one of the most remarkable people in this country.

WILLIAM H. MEYER—FORMER HOUSE MEMBER

Mr. LEAHY. Mr. President, on December 15, 1983, a man of conscience and courage—the first and only Vermont Democrat to ever serve in the

U.S. House of Representatives—died at his home in Rupert, Vt.

William H. Meyer served as a Congressman for only one term. Elected in 1958, the 2-year term in the Congress was the only elective office Mr. Meyer ever held.

He was a forester by profession and a conservationist by nature. He was a large but gentle man, who made the most of his brief opportunity in public service.

It was not popular back in 1958 to speak of bringing the People's Republic of China into the United Nations and urge the United States to give full diplomatic recognition to a country we had just recently engaged in hostilities.

It was almost novel back then to hear a Representative from one of the Nation's most rural and unspoiled States talking about environmental dangers being created by largely unregulated exploitation of the Nation's natural resources.

But Bill Meyer was first and foremost a man of peace.

He had great faith in human nature and the ability of nations to work out their differences through words rather than conflict.

He had been a conscientious objector, an outspoken critic of the Vietnam war who gave advice and counsel to many confused and bewildered Vermont youths who questioned the Nation's involvement in a war in Southeast Asia.

He fought, during his brief time in Congress, against the proliferation of nuclear weapons and was calling for a nuclear freeze before the term was in popular use.

He gained only one label during his career in Washington—the press and his colleagues called him the "conscience of the House of Representatives." It was a label he bore proudly.

But Bill Meyer was not a man who measured success by elections won or honors bestowed. He ran because his ideas were important and because too few candidates display courage lest the public find them dangerous, or at the very least, eccentric.

Bill Meyer was certainly not dangerous, and time has proven that he was clearly not eccentric.

He did the unusual thing by today's standards. He ran for public office without compromising his beliefs in anyway.

To his wife, Bertha, and his three children, I join in their sorrow but exalt in the memory of this great Vermonter.

Mr. President, I ask unanimous consent that commemorative articles from the Burlington Free Press, the Rutland Daily Herald, and the Times-Argus be printed in the Record as a memorial to former Representative William H. Meyer, Democrat from Vermont.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Rutland Daily Herald, Dec. 17, 1983]

William Meyer, Peace Advocate, Dies

(By Sally Johnson)

West Rupert—William H. Meyer, a dedicated Democrat who preached peaceful internationalism during the early days of the Cold War, died unexpectedly Thursday at his home in West Rupert. He was a week short of his 69th birthday.

A professional forester all his life, Meyer captured a congressional seat in 1958, the first and only Democrat Vermont has ever sent to the U.S. House.

His political career was short-lived, and he was defeated by Robert T. Stafford in 1960. As Meyer put it, "I did not leave politics voluntarily. I was defeated."

During his short congressional tenure, however, Meyer established himself as a thinker so far ahead of his time that international politics has only recently caught up to him. He insisted that mainland China should be allowed to join the United Nations and that tax revenues should be spent to create jobs rather than to manufacture weapons.

"I was working for world peace overall," he recalled in a recent interview. "I wanted a nuclear test ban treaty and a different approach to nuclear war.

"I also thought it was in our interest to have China enter the United Nations. My other program was to have more negotiation, less concentration on arms buildup, to use taxes for domestic programs."

Meyer knew the decision-makers weren't listening to him. That didn't bother him a bit. Like any good forester, Meyer was planting seeds.

"I think that fundamentally I was correct. I feel now, as then, that it is the responsibility of a leader to lead. I felt that even if I couldn't get something done, I had the responsibility to try," he said.

"One of my political failings was to take a long-term view of things rather than worry about short-term gains. I was trained as a forester to think in terms of 20, 40, even 100 years. It has been partly my approach to politics."

Democratic National Committeeman John Carnahan of Brattleboro, who served as Meyer's chief congressional aide, recalled Friday night his boss was often called the "conscience of the Congress."

Carnahan said Meyer was a political loner who "played an important role by being at the right place at the right time. He never followed the usual stream of thinking. He was a rugged individualist who was unto himself."

Meyer was physically a big man who spoke with a forceful intensity that accentuated his radical thinking.

Meyer was born in Philadelphia Dec. 29, 1914, son of Jacob and Mary (Baumann) Meyer. He trained as a forester at Pennsylvania State University.

He became the first executive director of the Merck Forest Foundation in 1951, a job he held until 1957 when he gave it up to run for Congress.

"Prior to 1958, there were some Democrats putting up some good races," said Meyer modestly. "Also, there was a serious recession in 1958. A lot of Democrats won who hadn't won in a long time."

He "got out and waged a healthy campaign. The Republicans had a six-way primary and that created some dissension. Former Gov. (Harold J.) Arthur had some enemies, and I didn't."

He made another stab at elective politics in 1970 as a Liberty Union candidate for the U.S. Senate and then again in 1972 when he unsuccessfully ran for the U.S. House.

Of the 1972 campaign, Meyer said "I entered mainly because I wanted to have somebody speaking out for George McGovern and Tom Salmon."

Through it all, Meyer remained a consulting forester. His environmentalist credentials include his role as chairman of Vermont's first land-use conference in 1953. He was also instrumental in founding the Vermont Natural Resources Council.

He was also a member of the Society of American Foresters, the Wildlife Society, the Wilderness Society, the Nature Conservancy and the Alpha Tau Omega Society. He was a former member of the Rupert Fire Co. and chairman of the Rupert Town Democratic Committee.

Survivors include his wife, Bertha (Laros) Meyer; a daughter, Mrs. Kristin Warner of Farmville, Va.; two sons, William L. Meyer of South Burlington and Karl H. Meyer of Chicago, Ill.; 10 grandchildren; and several nieces and nephews.

Friends may call at the McClellan Funeral Home in Salem, N.Y., Sunday from 2 to 4 p.m.

Private funeral services will be held at the convenience of the family.

Memorial contributions in lieu of flowers may be made to a favorite charity.

[From the Burlington Free Press, Dec. 17, 1983]

Ex-Vermont Congressman William Meyer, 68, Dies

(By Scott Mackay and Steve Farnsworth)

William Meyer of West Rupert, the only Democrat to represent Vermont in the U.S. House in the 20th century and a man who was knocked out of Congress after one term because he advocated recognition of Communist China in the 1950s, died Friday. He was 68.

In 1958, Meyer, a 41-year-old forester and political unknown, defeated former Republican Gov. Harold Arthur for the U.S. House. In Washington, Meyer proved to be a politician ahead of his time, pushing for an end to testing and building of nuclear weapons, recognition of mainland China and an end to the peacetime military draft.

Those stands got him in trouble with Vermont voters in 1960 when he ran for re-election. Another Republican governor, Robert Stafford, ran against Meyer and defeated him easily, 94,905 to 71,111.

The defeat did not dampen Meyer's political ambitions. He would run time and again for both the U.S. House and Senate, but would never be elected. In 1970 he was the Liberty Union candidate for the Senate. In his last race for U.S. House in 1972, Meyer was defeated by former Republican Congressman Richard Mallary.

"I actually did assume the leadership in the anti-nuclear fight," Meyer recalled in a 1978 interview. "The major battle in Congress was on my shoulders as a rookie congressman."

More than anything else, administrative assistant John H. Carnahan of Brattleboro remembered Meyer as intelligent and earnest.

"It was obvious he was very seriously interested in the causes he spoke for," Meyer's chief Washington aide, recalled.

"He was not an ordinary politician. He was an intense sort of person, one who followed his own conscience."

Asked about his days on Capitol Hill, Carnahan said, "We worked very hard. And I think we did a good job."

Meyer made an attempt to conceal his views during his 1958 campaign. "I propose that we take a calculated risk and announce that we will stop the testing and manufacturing of atomic and hydrogen bombs so that we can lead all nations to accept disarmament on a greater scale," he told voters.

A World War II veteran, Meyer was not a pacifist. But he believed the United States had to negotiate for disarmament rather than work on building up military power.

"The thing that struck me more than anything else about the man was his idealism and his stubbornness," said former Democratic Gov. Philip Hoff of Burlington. "He was a real breath of fresh air" in Vermont politics in the 1950s, Hoff said. "He was not well understood by the average Democrat in this state and he was a very hard guy to get to know, but he had an impact, a beneficial impact."

Meyer did not become involved in politics until 1956. He told a reporter he decided to become involved when he watched then-Vice President Richard Nixon on television supporting use of nuclear weapons in a nation many Americans knew then as French Indochina, the country that would become burned into the national consciousness as Vietnam in the 1960s.

"That does it, Bertha. Let's go," Meyer said to his wife in 1966 when he heard that President Dwight Eisenhower wanted Nixon to stay on the GOP ticket. Meyer went to a caucus of six Democrats in Rupert and began his political career.

After his defeat by Stafford, Meyer would become something of a political gadfly in the left wing of the Democratic Party. He worked for civil rights, was an early critic of U.S. policy in Vietnam and often criticized Democratic leaders, including Hoff, for being too conservative.

Russell Niquette Sr. of Winooski, who ran for governor as a Democrat in 1960, said, "He reminded me, more than anyone else I ever knew, of an old Vermont Yankee. Nobody could approach him in Washington with money in their hand.

"I've never seen his like before or since," Niquette recalled. "He was a fine man, one hell of a fellow."

Bernard O'Shea of Enosburg, another of Meyer's top aides, said Meyer was counted as one of the U.S. House's influential progressive voices in the late 1960s.

"It was very significant he took a forward-looking position," O'Shea said. "All eyes were on Meyer. If only he could have been re-elected."

"He was a guy who had the guts to face the world and say what he thought," said John Finn of St. Albans, a state Democratic organizer in the 1950s.

O'Shea said, "He was a man who wanted to represent the electorate and challenge them at the same time. He had a vision about what he wanted to have happen. And much of what he wanted came to pass."

[From the Times Argus (Barre-Montpelier, Vt.), Thursday, Dec. 22, 1983]

THE SHORT, MEMORABLE

(By Glenn Gershaneck)

Eulogies and editorials prompted by the death last week of William H. Meyer focused on his unprecedented, still unmatched success as a Democrat in winning the 1958 election for Vermont's seat in the U.S. House. There was more, however, and less, to the West Rupert forester.

The larger import of his victory was that it proved to Vermont Democrats that they could, given the right circumstances, surmount a political domination that had run unchecked since the Republican grip had fastened on the state a century earlier.

In that race, Meyer was the only Democratic winner, but Bernard Leddy and Fred Fayette, both Burlington lawyers, almost won the governor's and U.S. Senate elections, respectively. Leddy came the closest that a Democrat had, up to then, in the gubernatorial race.

For Bill Meyer, a tall, heavy-set man who agreed with assessments that he was ahead of his political time, the election of '53 was the fruit-laden tree bough that stayed just out of his reach, teasing and tantalizing him through five successive losses. He never grabbed it again.

Meyer's triumph in 1958 at the age of 43 over Harold Arthur broke ground for Philip H. Hoff, who in 1962, defeated another Republican of diminished public esteem to become Vermont's first Democratic governor. This pioneering role was probably the closest Meyer came to being in the mainstream of his party, let alone the country.

While Hoff and former Gov. Thomas P. Salmon won five gubernatorial terms between them, Democrats have yet to win another U.S. House race. In that sense, Meyer's deed was unique for Vermont.

His two years in Washington were, both by his account and by election results, not punctuated with actions likely to have allowed him time to build seniority. He lost the seat in 1969 to then Republican Gov. Robert T. Stafford, and never again made a strong election challenge, though not for want of trying.

The stand in Washington that appeared to have given Meyer the most satisfaction, recalled years later in interviews during other political campaigns, was his call for recognition of mainland China. That, combined with other realistic, but unpopular, positions, led to his loss to Stafford.

For two elections after the 1960 defeat, Meyer vied for the Democratic nomination for the U.S. Senate. He lost the primary each time, costing him the opportunity to face first George Aiken, then Winston L. Prouty in the general election. His star had set as a candidate who could attract other Democrats to his cause.

He sat out the rest of the decade after his 1964 loss, but reappeared in full regalia in 1970, under a new political banner, the Liberty Union, which eventually would have an impact on Vermont elections, but not while be was there.

Liberty Union was a splinter party that demanded serious treatment. Meyer and a few others, chiefly from southern Vermont, founded the party that summer, meeting at homes and in churches, enlisting supporters and publicity.

Meyer talked the language of the disenfranchised, as did the other Liberty Unionist, saying it was time to take control of government from the rich and turn it over to the rest of the people.

Unions and poor Vermonters were finally championed, and if people had not merely listened to Meyer & Co., liked a lot of what they said, then ignored them, life might have improved. Votes were short that first campaign, which featured Meyer's third shot at the U.S. Senate, running against Hoff and Prouty.

When Meyer hit the campaign trail, something seemed to have changed. Instead of pushing the Liberty Union line, Meyer seemed more intent on embarrassing and pressing Hoff, for not being more than he was. He paid little attention to Prouty. Indeed, the Liberty Union for years seemed to find more wrong with the major party most of them left, than with the party that represented much of what they despised.

After losing that race, Meyer was out of elective politics until 1976, when he sounded his last hurrah, returning to the Democratic fold to challenge a Republican-turned-Democrat, John A. Burgess, for the U.S. House nomination. Here, much of the bitterness of the 1960 campaign boiled over.

In interviews, Meyer told how Burgess, as a Republican state's attorney in Bennington County, had "painted me pink" during the Stafford campaign. He said a group of Republicans aimed to brand him as a communist sympathizer, and succeeded. He never forgot or forgave them. He also could not prevent Burgess from beating him.

The Meyer who bowed out of politics then had mellowed considerably, if interviews published this year were accurate. He was affable and apparently content to comment on the political scene.

What was he like in his heyday? A friend who reported on those times offered this appraisal:

"He was a political accident, but there was a lot of character in the guy. . . . For instance, Meyer was part of what was up to then, and may still be, the best balanced team of candidates the Democrats ever ran in Vermont. Leddy for governor. . . Fayette for the Senate, and Meyer for the U.S. House.

"Meyer was one of the first non-Catholic candidates on the Democratic top ticket (just ask Hoff how inportant it was) and a genuine non-politician. He walked around in his green corduroy suit with a checkered work shirt and either no tie or a brown tie and heavy shoes.

"He gave Vermonters naïvety, sincerity and honesty. On the heels of a divisive GOP primary that produced Harold Arthur, a political caricature, as a candidate, Meyer must have seemed to be sent from Heaven to protect Vermont from national embarrassment.

"Meyer overcame neglect and some opposition from the Democrats; a wartime 4F draft status that stemmed from the local draft board taking the easy way out of a conscientious objection filing, and dozens of other political liabilities.

"He even eschewed drinking (until election night when he guzzled a water glass of booze that promptly knocked him on his tail). After his election, he fell victim to Washingtonitis and was used by the peace movement of that era that sent him around the country on speaking sessions to express his views on Red China, nuclear weapons and the like.

"When first I saw him after a few months in Washington, he was wearing an expensive black overcoat that had a fur or velvet collar and he was sporting a homburg hat. He had also taken up trying to drink with Win Prouty, who was fearful that Meyer might be taking a bead on a Senate seat.

"Meyer was retired after one term and never quite returned to the old forester who was such a breath of fresh political air in Vermont, but he was cut from a different cloth and deserved some mention of that."

[From the Rutland Daily Herald, Tuesday, December 27, 1983]

A Bit of Political History

One of the more interesting bits of Vermont political history concerns the rise and fall of former Congressman William H. Meyer of West Rupert, who died earlier this month relatively remote from people's observation after becoming the first Democrat to win a statewide election since the origin of the Republican party a century earlier.

Having shown the Democrats how to beat the Republicans, then being beaten himself, Bill Meyer became a pariah in his own party, an off-horse, an outcast as far as the Democratic party leadership was concerned.

No one could have anticipated in the 1950's that his untimely advocacy of recognizing the People's Republic of China would set the stage for one of the major accomplishments of the Nixon administration. When Bill Meyer was arguing for a link with Red China and its admission to the United Nations, it was a period when espousing such a step was regarded by Nixon and U.S. Sen. Joe McCarthy, two of the nations' leading red baiters, as evidence of an affinity for Communist causes and indicative of subversion.

In the interests of political expediency, he was cautioned to softpedal his demand for closer ties with China but he paid no attention.

A big man physically, he had an earnest way of speaking and a somewhat ponderous manner. He moved and spoke in a style reminiscent of a bulldozer. No one could doubt his sincerity or his political naïvety.

And no one could blame him for resenting widespread comments at the time he was elected to Congress that he won because of the weakness of the Republican candidate, Harold J. Arthur of Burlington, a former governor and lieutenant governor. How could a GOP candiate with such a record of success in politics be called weak? Only in later years was he willing to acknowledge that Arthur was no powerhouse.

After all, when Bill Meyer ran for re-election in 1960, the year John F. Kennedy was elected president, he was defeated by Gov. Robert T. Stafford who had eked out a victory for governor by only 719 votes over Beerard Leddy in 1958. But Congressman Meyer's political career was far from over when he lost his seat in Congress. He had been bitten hard by the virus politicus.

In later years he was bitter about the way leaders of his own party turned against him and treated him as a political liability. When he lost to Stafford in 1960, he barely carried the Democratic strongholds of Chittenden and Franklin Counties. In the 1960 primary, for the first time since Vermont's primary was adopted in 1916, there was a contest for the Democratic nomination. His own party betrayed him.

In 1962, the Democratic organization begged him not to stir up the Republicans by challenging the venerable George D. Aiken for the U.S. Senate. When he refused to listen to reason, the organization drafted W. Robert Johnson of Brattleboro to run against him in the primary. Again he was defeated. In the third recorded Democratic primary contest in 1964 he lost to Frederick J. Fayette of South Burlington. Undaunted he ran for Congress a third time in 1972 and was defeated by Republican Richard W. Mallary.

During his brief service in Congress, William Meyer inveighed against usurpation of government powers by the CIA and the military, issues which were more sensitive then than they are now. When he conducted a poll in 1960 which included a question about U.S. recognition of United Nations' membership for China 46 percent of those responding were opposed while 32 percent were favorable. The poll didn't affect his own support for recognizing China.

As a politician, Congressman Meyer might not have been a consistent winner regardless of support or opposition within his own party. But it's an interesting aspect of his rise and fall that he could be said to have opened the door to Vermont Democrats only to have it slammed in his own face.

[From the Rutland Daily Herald, Saturday, Dec. 17, 1983]

William Meyer, Peace Advocate, Dies

(By Sally Johnson)

West Rupert—William H. Meyer, a dedicated Democrat who preached peaceful internationalism during the early days of the Cold War, died unexpectedly Thursday at his home in West Rupert. He was a week short of his 69th birthday.

A professional forester all his life, Meyer captured a congressional seat in 1958, the first and only Democrat Vermont has ever sent to the U.S. House.

His political career was short-lived, and he was defeated by Robert T. Stafford in 1960. As Meyer put it, "I did not leave politics voluntarily. I was defeated."

During his short congressional tenure, however, Meyer established himself as a thinker so far ahead of his time that international politics has only recently caught up to him. He insisted that mainland China should be allowed to join the United Nations and that tax revenues should be spent to create jobs rather than to manufacture weapons.

"I was working for world peace overall," he recalled in a recent interview. "I wanted a nuclear test ban treaty and a different approach to nuclear war.

"I also thought it was in our interest to have China enter the United Nations. My other program was to have more negotiation, less concentration on arms buildup, to use taxes for domestic programs."

Meyer knew the decision-makers weren't listening to him. That didn't bother him a bit. Like any good forester, Meyer was planting seeds.

"I think that fundamentally I was correct. I feel now, as then, that it is the responsibility of a leader to lead. I felt that even if I couldn't get something done, I had the responsibility to try," he said.

"One of my political failings was to take a long-term view of things rather than worry about short-term gains. I was trained as a forester to think in terms of 20, 40, even 100 years. It has been partly my approach to politics."

Democratic National Committeeman John Carnahan of Brattleboro, who served as Meyer's chief congressional aide, recalled Friday night his boss was often called the "conscience of the Congress."

Carnahan said Meyer was a political loner who "played an important role by being at the right place at the right time. He never followed the usual stream of thinking. He was a rugged individualist who was unto himself."

Meyer was physically a big man who spoke with a forceful intensity that accentuated his radical thinking.

Meyer was born in Philadelphia Dec. 29, 1914, son of Jacob and Mary (Baumann) Meyer. He trained as a forester at Pennsylvania State University.

He became the first executive director of the Merch Forest Foundation in 1951, a job he held until 1957 when he gave it up to run for Congress.

"Prior to 1958, there were some Democrats putting up some good races," said Meyer modestly. "Also, there was a serious recession in 1958. A lot of Democrats won who hadn't won in a long time."

He "got out and waged a healthy campaign. The Republicans had a six-way primary and that created some dissension. Former Gov. (Harold J.) Arthur had some enemies, and I didn't."

He made another stab at elective politics in 1970 as a Liberty Union candidate for the U.S. Senate and then again in 1972 when he unsuccessfully ran for the U.S. House.

Of the 1972 campaign, Meyer said "I entered mainly because I wanted to have somebody speaking out for George McGovern and Tom Salmon."

Through it all, Meyer remained a consulting forester. His environmentalist credentials include his role as chairman of Vermont's first land-use conference in 1958. He was also instrumental in founding the Vermont Natural Resources Council.

He was also a member of the Society of American Foresters, the Wildlife Society, the Wilderness Society, the Nature Conservancy and the Alpha Tau Omega Society. He was a former member of the Rupert Fire Co. and chairman of the Rupert Town Democratic Committee.

Survivors include his wife, Bertha (Laros) Meyer; a daughter, Mrs. Kristin Warner of Farmville, Va.; two sons, William L. Meyer of South Burlington and Karl H. Meyer of Chicago, Ill; 10 grandchildren; and several nieces and nephews.

Friends may call at the McClellan Funeral Home in Salem, N.Y., Sunday from 2 to 4 p.m.

Private funeral services will be held at the convenience of the family.

Memorial contribution in lieu of flowers may be made to a favorite charity.

[From the Burlington Free Press, Thursday, Dec. 22, 1983]

Tribute to Bravery

Bill Meyer was the bravest man I ever met. If he thought a thing was right or wrong he said so. Politics or personal friendship or privilege be damned, you could not move him unless you could convince him on the facts or the justice of a thing. He was a rock, a fine intellect, and a big, big warm-hearted man. He was not perfect. I did not find him at all hard to get to know.

Dennis Morrisseau.

Burlington.

MESSAGES FROM THE HOUSE

At 10:39 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2751. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

At 11:57 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3655) to raise the retirement age for judges of the Superior Court of the District of Columbia and judges of the District of Columbia Court of Appeals; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that pursuant to the provisions of section 1928a of title 22, United States Code, the Speaker appoints as members of the U.S. group of the North Atlantic Assembly the following Members on the part of the House: Mr. FASCELL, Chairman, Mr. ROSE, Vice Chairman, Mr. BROOKS, Mr. ANNUNZIO, Mr. HAMILTON, Mr. GARCIA, Ms. OAKAR, Mrs. BURTON of California, Mr. WHITEHURST, Mr. HORTON, Mr. O'BRIEN, and Mr. SOLOMON.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4206. An act to amend the Internal Revenue Code of 1954 to exempt from Federal income taxes certain military and civilian employees of the United States dying as a result of injuries sustained overseas.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 4336. An act to make certain miscellaneous changes in the laws relating to the civil service.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4206. An act to amend the Internal Revenue Code of 1954 to exempt from Federal income taxes certain military and civilian employees of the United States dying as a result of injuries sustained overseas; to the Committee on Finance.

MEASURE HELD AT THE DESK

Pursuant to the order of the Senate of November 17, 1983, the following bill was held at the desk by unanimous consent:

H.R. 2751. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2563. A communication from the vice president of Washington Gas transmitting, pursuant to law, a certified copy of the balance sheet of the company as of December 31, 1983; to the Committee on Governmental Affairs.

EC-2564. A communication from U.S. Bankruptcy Court Judge Hill, District of New Jersey, transmitting, pursuant to law, notice of his acceptance of appointment; to the Committee on the Judiciary.

EC-2565. A communication from U.S. Bankruptcy Court Judge Leal, Southern District of Texas, transmitting, pursuant to law, notice of his acceptance of appointment; to the Committee on the Judiciary.

EC-2566. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on compliance with the Consumer-Patient Radiation Health and Safety Act; to the Committee on Labor and Human Resources.

EC-2567. A communication from the Secretary of Education transmitting a draft of proposed legislation to simplify, improve, and consolidate Federal programs assisting vocational education; to the Committee on Labor and Human Resources.

EC-2568. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Examination of the U.S. Government Printing Office's Financial Statements for the Fiscal Years Ended September 30, 1983 and 1982"; to the Committee on Rules and Administration.

EC-2569. A communication from the President of the United States transmitting, pursuant to law, a report on the situation in Lebanon and participation of U.S. forces in the multinational force; to the Committee on Foreign Relations.

EC-2570. A communication from the Acting Secretary of Agriculture transmitting, pursuant to law, a report on the development of alternative technologies for quarantine treatment of fruits and vegetables; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2571. A communication from the Secretary of Agriculture transmitting, pursuant to law, a needs assessment for food and agricultural sciences; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2572. A communication from the Acting Secretary of Agriculture transmitting, pursuant to law, a report on the Department of Agriculture's activities in minority recruitment in the Foreign Service; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2573. A communication from the Acting General Counsel of the Department of Defense transmitting a draft of proposed legislation authorizing supplemental appropriations for fiscal year 1984 operation and maintenance; to the Committee on Armed Services.

EC-2574. A communication from the Assistant Secretary of Defense for Manpower, Installations, and Logistics transmitting, pursuant to law, a report on DOD manpower requirements for fiscal year 1985; to the Committee on Armed Services.

EC-2575. A communication from the Secretary of the Treasury transmitting, pursuant to law, a report on fourth quarter 1983 activities of the Olympic Commemorative Coin program; to the Committee on Banking, Housing, and Urban Affairs.

EC-2576. A communication from the Secretary of Transportation transmitting, pursuant to law, a report on the delegation by the Department of certain Coast Guard statutory duties to the American Bureau of Shipping; to the Committee on Commerce, Science, and Transportation.

EC-2577. A communication from the vice president for Government affairs, Amtrak, transmitting, pursuant to law, a report for October and November 1983, on the average number of passengers per day per train and the on-time performance of each train; to the Committee on Commerce, Science, and Transportation.

EC-2578. A communication from the vice president for Government affairs, Amtrak, transmitting, pursuant to law, Amtrak's fiscal year 1983 annual report, and its legislative recommendations for fiscal year 1985; to the Committee on Commerce, Science, and Transportation.

EC-2579. A communication from the Administrator of the Environmental Protection Agency transmitting, pursuant to law, a report on the Agency's 5-year plan for research, development, and demonstration; to the Committee on Environment and Public Works.

EC-2580. A communication from the Assistant Secretary of State for Legislative and Intergovernmental Affairs transmitting, pursuant to law, a report on the Presidential authorization of military education and training assistance to Yugoslavia for fiscal year 1984; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MATHIAS, from the Committee on Rules and Administration, with amendments and an amendment to the title:

S. Res. 309. An original resolution to amend S. Res. 76 of the 98th Congress (Rept. No. 98-358).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 292. Joint resolution designating "National Theatre Week."

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 352. An original resolution to pay a gratuity to Joyce L. Thiss.

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2335. An original bill to provide a temporary extension of the credit card surcharge prohibition.

S. 2336. An original bill to permit price differences with respect to credit card sales transactions.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 59. Joint resolution to authorize and request the President to designate February 27, 1986, as "Hugo LaFayette Black Day."

S.J. Res. 112: Joint resolution to proclaim the month of March 1984, as "National Social Work Month."

S.J. Res. 137: Joint resolution to designate April 7, 1984, as "World Health Day."

S.J. Res. 148: Joint resolution to designate the week of May 6, 1984, through May 13, 1984, as "National Tuberous Sclerosis Week."

S.J. Res. 171: Joint resolution for the designation of July 20, 1984, as "National POW/MIA Recognition Day."

S.J. Res. 184: Joint resolution to designate the week of March 4, 1984, through March 10, 1984, as "National Beta Club Week."

S.J. Res. 193: Joint resolution designating March 6, 1984, as "Frozen Food Day."

S.J. Res. 201: Joint resolution to provide for the designation of the week of November 25 through December 1, 1984, as "National Epidermolysis Bullosa Awareness Week."

S.J. Res. 202: Joint resolution to designate 1984, as "The Year of Water."

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 205: Joint resolution authorizing and requesting the President to designate the second full week in March of each year as, "National Employ the Older Worker Week."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 213: A joint resolution designating 1984 "The Year of the Secretary."

S.J. Res. 220: A joint resolution to designate the week of May 20, 1984, through May 26, 1984, as "National Arts With the Handicapped Week."

S.J. Res. 225: A joint resolution designating the month of March 1984 as "National Eye Donor Month."

S.J. Res. 228: A joint resolution to designate the week of May 20, 1984, through May 26, 1984 as "National Digestive Diseases Awareness Week."

S.J. Res. 232: A joint resolution to authorize and request the President to designate the month of May 1984 as "National Physical Fitness and Sports Month."

S.J. Res. 238: A joint resolution to designate the week beginning November 19, 1984, as "National Adoption Week."

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment and with a preamble:

S. Con. Res. 93: A concurrent resolution authorizing the rotunda of the Capitol to be used on April 30, 1984, for a ceremony commemorating the days of remembrance of victims of the Holocaust.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Robert F. Kane, of California, to be Ambassador Extraordinary and Plenipotentiary to Ireland.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert F. Kane.

Post: Ambassador to the Republic of Ireland.

Contributions, amount, date, and donee.

1. Self: $225, 1980, Royer for Congress; $100, 1980, Republican National Committee; $120, 1982, Republican Presidential Task Force.

2. Spouse, none.

3. Children and spouses:

Stephen J. (Brenda) Kane, $50, 1980, Charles Pashayan for Congress; $200, 1980, Reagan campaign; $100, 1982, Senator Pete Wilson campaign.

Anne (Charles C.) Coogan, none.

Thomas F. (Valerie) Kane, none.

James M. Kane, none.

Mary Kane, none.

4. Parents, none.

5. Grandparents, none.

6. Brothers and spouses:

James E. (Lois) Kane, none.

John L. (Jane) Kane, none.

George W. Kane, none.

Benjamin G. (Ruth) Kane, $50, 1979, Hughes Aircraft Political Action Committee; $50, 1980, Hughes Aircraft Political Action Committee.

Thomas F. Kane, none.

7. Sisters and spouses: Mary H. (John E.) Burke, none.

Woodward Kingman, of California, to be an Associate Director of the United States Information Agency.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PERCY. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Senior Foreign Service and, to save the expense of reprinting them on the Executive Calendar, ask that these nominations lie at the Secretary's desk for the information of Senators. The full list was printed in the January 30, 1984, Congressional Record.

By Mr. THURMOND, from the Committee on the Judiciary:

Pauline Newman, of Pennsylvania, to be United States Circuit Judge for the Federal Circuit;

Robert C. Bonner, of California, to be United States Attorney for the Central District of California for the term of four years; and

Errol Lee Wood, of North Dakota, to be United States Marshal for the District of North Dakota for a term of four years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN:

S. 2332. A bill to suspend for a 3-year period the duty on lactulose; to the Committee on Finance.

S. 2333. A bill to suspend for a 3-year period the duty on iron-dextran complex; to the Committee on Finance.

S. 2334. A bill to suspend for a 3-year period the duty on nicotine resin complex; to the Committee on Finance.

By Mr. GARN from the Committee on Banking, Housing, and Urban Affairs:

S. 2335. An original bill to provide a temporary extension of the credit card surcharge prohibition; placed on the calendar.

S. 2336. An original bill to permit price differences with respect to credit card sales transactions; placed on the calendar.

By Mr. ROTH (for himself and Mr. Heinz):

S. 2337. A bill to amend the Internal Revenue Service to provide that the inclusion in gross income of certain amounts of unemployment compensation shall not apply to unemployment compensation which is payable by reason of a work in 1973 but was not paid until 1979; to the Committee on Finance.

By Mr. HEINZ (for himself, Mr. Bentsen, Mr. Bingaman, Mr. Burdick, Mr. Stafford, Mr. Packwood, Mr. Glenn, and Mr. Riegle):

S. 2338. A bill to amend title XVIII of the Social Security Act to allow medicare coverage for home health services provided on a daily basis; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. Burdick):

S. 2339. A bill to amend titles XVIII and XIX of the Social Security Act to provide that the services of a mental health counselor shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

By Mr. DeCONCINI:

S. 2340. A bill to increase the duty on imported copper by an amount which offsets the cost incurred by copper producers in the United States in meeting domestic environmental requirements; to the Committee on Finance.

By Mr. STAFFORD (for himself, Mr. Pell, Mr. Hatch, Mr. Weicker, Mr. Kennedy, and Mr. Dodd):

S. 2341. A bill to authorize a program to enhance the access to and the quality of vocational education, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HELMS:

S. 2342. A bill to amend the Export Administration Act of 1979; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN:

S. 2343. A bill to reform the alternative minimum tax; to the Committee on Finance.

By Mr. LEVIN:

S. 2344. A bill for the relief of Abdul Hafiz Tannir; to the Committee on the Judiciary.

By Mr. HEINZ:

S.J. Res. 242. A joint resolution to designate May 12, 1984, as "National Hospital and Health Care Day"; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S.J. Res. 243. A joint resolution to designate the week preceding October 28, 1984, as "National Immigration Week"; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. Hatch, Mr. Hatfield, Mr. Hollings, and Mr. Inouye):

S.J. Res. 244. A joint resolution designating the week beginning on May 6, 1984, as "National Asthma and Allergy Awareness Week"; to the Committee on the Judiciary.

By Mr. GORTON:

S.J. Res. 245. A joint resolution to designate the week of April 15 through April 21, 1984, as "National Recreational Sports Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MATHIAS from the (Committee on Rules and Administration):

S. Res. 352. An original resolution to pay a gratuity to Joyce L. Thiss; placed on the calendar.

By Mr. LAUTENBERG (for himself, Mr. Ford, Mr. Exon, and Mr. Inouye):

S. Res. 353. Resolution to express the sense of the Senate that universal basic telephone service at reasonable rates must be maintained; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

S. 2236. An original bill to permit differences with respect to credit card sales transactions; placed on the calendar.

CREDIT CARD LEGISLATION

● Mr. GARN. Mr. President, on February 22, 1984, the Committee on Banking, Housing, and Urban Affairs convened to consider proposals amending the Truth-in-Lending Act's provisions allowing merchants to offer cash discounts, and prohibiting credit card surcharges. As a result of these deliberations, the committee by voice vote favorably reported S. 2336.

HISTORY OF THE LEGISLATION

The Truth-in-Lending Act, passed in 1968, required creditors to provide meaningful, consistent, and uniform disclosure of the costs and terms of credit. Under the act, the entire cost of credit was required to be disclosed as a finance charge and an annual percentage rate. Any differences in price offered by merchants to reflect the higher costs involved with accepting credit cards would have had to be included in the finance charge and annual percentage rate disclosures. Therefore, the requirements of the original Truth-in-Lending Act operated to severely inhibit merchants from offering case discounts—or its mirror image—the credit card surcharge, to recover credit costs.

Concerned that cash buyers were subsidizing credit users when all buyers paid the same price for an item, Congress amended the Truth-in-Lending Act in 1974 to provide that cash discounts up to 5 percent need not be disclosed as a finance charge, if they were clearly and conspicuously disclosed and available to all cash customers. This amendment was intended to encourage the offering of cash discounts by removing legal disincentives for their use.

Congress acted again on this issue in 1976 to provide guidance to the Federal Reserve Board on the question of whether the 1974 legislation permitted both cash discounts and surcharge pricing systems. In 1976, Congress defined the term "discount" as a reduction from the "regular price" and "surcharge" as an addition to that price. Congress also eliminated another legal impediment discouraging the use of cash discounts by exempting them from characterization as credit charges under State usury or disclosure laws. Finally, Congress specifically prohibited the imposition of surcharges until February 27, 1979.

In 1978, Congress extended the surcharge prohibition for another 2 years.

In 1981, passing the Cash Discount Act, Congress for the third time extended the surcharge prohibition and requested that the Federal Reserve Board study the costs and effects of credit card use. That study was transmitted to the Congress on July 27, 1983.

Facing an expiration of the ban on surcharges on February 27, 1984, the House on November 15, 1983, passed H.R. 4278 to extend the ban until July 31, 1984. The Senate Subcommittee on Consumer Affairs held hearings on February 7, 1984, where every witness addressed both the surcharge issue, and discussed problems related to expiration of the ban on surcharges. On February 22, the Senate Banking Committee reported out two bills to: First, temporarily extend the ban until May 15, 1984 and second, to permanently amend the law and permit price differences for credit card sales transactions.

THE FEDERAL RESERVE BOARD STUDY

The Cash Discount Act required the Federal Reserve Board to study the costs and effects of credit card transactions. Governor Teeters, in her testimony before the subcommittee, pointed out that:

> The principal reason for the temporary nature of the surcharge prohibition was to allow Congress to study the issue more thoroughly. It wanted to determine whether there is, in fact, a higher cost associated with the use of credit cards; whether cash customers do, as a result, subsidize credit customers; and whether it is necessary to allow surcharges as well as discounts in order to eliminate any subsidization.

The Board released its study, entitled "Credit Cards in the U.S. Economy: Their Impact on Costs, Prices and Retail Sales," on July 27, 1983. Its major conclusions are as follows:

> The costs to retailers of credit card transactions (including point-of-sale, security-related, and financial costs) are higher than the costs for other types of transactions. The extra cost is about 2 to 3 percent of the transaction amount.
>
> There is little evidence that credit card usage increases overall retail sales volume. Because credit cards are so widely accepted, retailers as a whole do not recover the added cost of credit card transactions through increased sales.
>
> Credit card transactions cost most retailers more than cash transactions, and this cost is not offset by higher retail sales volume, but is reflected in the level of prices. The increase in prices is probably around 1 percent.

Governor Teeters noted that this 1-percent increase in the cost of goods could amount to as much as $6 billion a year. The study also noted that at present, only 25 percent of gasoline stations, and some 6 percent of other retailers, offer cash discounts.

REASONS FOR THE SENATE BILL

The Senate bill reflects the Federal Reserve Board's legislative recommendation, a recommendation stemming from the findings and conclusions of its study. Support for this bill is predicated on several reasons. First and foremost, as the Federal Reserve Board witness Governor Teeters noted, surcharges and discounts are "fundamentally equivalent." Governor Teeters stated in her testimony that:

> While advocates of discounts have claimed that discount programs result only in price reductions for cash buyers, without penalizing credit card users, economic reality is such that prices generally will be restructured so that the "new" credit price is above—and the discounted cash price only somewhat below—the "old" single price. The Board's study indicates that if discount programs are to be economically feasible, most are likely to involve some increase in the price, from which discounts to cash customers are calculated. In fact, two-tier pricing through discounts ordinarily would result in essentially the same level of credit and cash prices as would a surcharge program.

If surcharges and discounts are fundamentally equivalent, they should be treated equally under Federal and State law.

Second, as the Board also noted, if Congress wants to encourage two-tier pricing, merchants should be provided with the flexibility to offer two methods of pricing—not just cash discounts. That merchants find the current discount program confusing and too much trouble to administer was emphatically pointed out by a witness from the National Oil Jobbers Council, who called the cash discount program "nightmarishly difficult to implement." The witnesses from the oil industry, whose service stations are the heaviest users of cash discount programs, unanimously supported legislative changes permitting them to impose a "difference in price between cash and credit"—which they believe to be much easier to administer and to eliminate substantial confusion over what constitutes a legal "cash discount" and an illegal "surcharge".

Third, the Senate bill will benefit consumers. A witness from the Consumer Federation of America insisted that:

> The surcharge ban is neither appropriate nor fair; it undermines the purpose of the Cash Discount Act, and it misleads consumers about the true costs of credit.

He went on to point out that the current law, prohibiting surcharges, obscures the true cost of credit and forces cash customers to subsidize credit purchasers; penalizes low-income consumers who may not qualify as credit customers and must pay cash; and discourages merchants from using two-tier pricing.

Finally, the bill reported by the committee will remove unnecessary and intrusive Government inhibitions on the ability of merchants to reflect the cost of credit in their prices. Simply put, surcharge prohibitions which prevent merchants from recovering credit costs constitute an unwarranted interference in private business decisions.

THE SENATE BILL

The Senate bill essentially does three things: First, it eliminates the terms "discount" and "surcharge" and substitutes the term "difference in price." Second, it provides the necessary truth-in-lending disclosure exemptions and State usury law preemptions now applicable to unlimited cash discounts, to "differences in price", if those differences: First, do not exceed 5 percent of the cash price of the property; Second, are clearly and conspicuously disclosed: and third, are made available to all cash customers and all credit customers using the same credit card.

Provisions of the Cash Discount Act already require clear and conspicuous disclosure, and the Senate bill clarifies that disclosure must be made both at the point of sale, and in advertisements for a price. Consistent with current law, this requirement allows individual merchants to determine the manner and method of their disclosure, as long as a good faith effort has been made to clearly and conspicuously disclose the availability of differences in price at the point of sale and in advertisements with a price. The Cash Discount Act, which requires cash discounts to be made available to all cash purchasers, has also been modified in this bill. Cash discounts must still be made available to all cash purchasers, and similarly all credit card purchasers using the same credit card must be charged an identical rate. However, a merchant may charge customers using different credit cards a different price for credit to recover the costs and merchant discount fees which vary between different credit card issuers. As is presently the case, a merchant need not offer the same dollar differences between cash and credit prices for all goods at all locations operated by a given seller, as long as the seller offers the difference to all cash customers, or all credit customers presenting the same credit card, at the same location. The merchant must comply with all three requirements—a 5-percent limit, disclosure, and availability—or else the merchant would lose the exemptions from truth-in-lending and applicable State usury and disclosure laws.

Third, the Senate bill protects third-party card issuers—card issuers who are not sellers—from liability under Federal and State laws for differences in prices imposed by merchants. The premise of this protection is that it is extremely difficult, if not impossible, to comply with the truth-in-lending disclosure requirements and State laws for charges imposed on cardholders by thousands of merchants unrelated to the issuer.

Under the provisions of the Senate bill, the card issuer is essentially blind to a transaction involving price differences where the issuer is not the seller. In this case, because it is the merchant's business decision to offer a difference in price and encourage payment by other than credit cards, the merchant alone has the responsibility, and the potential liability, for noncompliance with the 5 percent, availability, and disclosure requirements.

The Senate bill also retains that provision of current law which prevents card issuers from restricting the offering by merchants of different prices to induce cardholders to pay by cash, check or means other than a credit card.

The committee adopted an amendment offered by Senator GORTON to change a provision in the committee print which would have subjected only the "excess" of any price difference over 5 percent to Federal and State laws. Therefore, under the Senate bill, the entire price differences for cash and credit customers will not enjoy protection from truth-in-lending disclosure requirements and State usury and other requirements unless they meet the tests for a 5-percent limit, disclosure, and availability.

In sum, the bill is designed to permit merchants to pass on the greater cost of credit to the users of credit.

Mr. President, I ask unanimous consent, that the bill and section-by-section analysis of S. 2336 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 167 of the Truth in Lending Act (15 U.S.C. 1666f) is amended to read as follows:

"§ 167. Price differences for credit cards

"(a) With respect to credit cards which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract or otherwise, prohibit any such seller from charging different prices to induce a cardholder to pay by cash, check, or other means not involving the use of a credit card.

"(b) With respect to any sales transaction, any difference in price offered by the seller to induce payment by cash, check, or other means not involving the use of a credit card is not a finance charge as determined under section 106 if—

"(1) the difference does not exceed 5 percent of the cash price of the property or service;

"(2) the same difference is available to all cash customers or is applicable to all credit card customers using the same card; and

"(3) the fact that the price will differ depending on the means of payment is disclosed clearly and conspicuously at the seller's place of business and in any advertisement that includes a price.

"(c) Where the requirements of subsection (b)(1), (b)(2), or (b)(3) are not met, the entire price difference is a finance charge.

"(d) A card issuer other than the seller is not required to treat a price difference offered by the seller as a finance charge, even though the seller fails to comply with the requirements of subsection (b).".

(b) The table of sections at the beginning of chapter 4 of such Act is amended by striking out the item relating to section 167 and inserting in lieu thereof the following:

"167. Price differences for credit cards.".

(c) Section 103 of such Act (15 U.S.C. 1602) is amended by striking out subsections (p), (q) and (x).

(d) Section 171(c) of such Act (15 U.S.C. 1666j(o)) is amended—

(1) by striking out "discount" and inserting in lieu thereof "price difference"; and

(2) by adding at the end thereof the following: "With respect to a card issuer who is not the seller, a price difference imposed by the seller is not considered a finance charge or other charge for credit even though the difference fails to meet the requirements of section 167(b).".

(e) Section 3(c)(2) of Public Law 94-222 (15 U.S.C. 1666f note) is repealed.

SECTION-BY-SECTION ANALYSIS

(a) Amends Section 167 of the Truth-in-Lending Act as follows:

Section 167(a) prohibits card issuers from prohibiting a seller from charging different prices to induce a cardholder to pay by cash or a method other than a credit card.

Section 167(b) exempts differences in price offered by a seller from disclosure as a finance charge under the Truth-in-Lending Act if three requirements are met: (1) the price difference does not exceed five percent of the cash price of the property or service; (2) the price difference is available to all cash customers; or applies to all credit customers using the same credit card; and (3) the price difference is clearly and conspicuously disclosed at the seller's place of business and in any advertisement which includes a price.

Section 167(c) states that the entire price difference constitutes a finance charge if the three requirements set forth in section 167(b) are not met.

Section 167(d) exempts a card issuer who is not a seller from disclosing a difference in price as a finance charge; even if the merchant fails to meet the three requirements set forth in section 167(b).

(b) Amends the table of sections in Chapter 4 of the Truth in Lending Act to read "167. Price differences for credit cards."

(c) Deletes section 103 (p), (q) and (x) of the Truth-in-Lending Act.

(d) Amends section 177(c) of the Truth in Lending Act so that price differences which meet the requirements of section 167(b) will not be a charge for credit under the usury laws of any State or under the laws of any State relating to disclosure of information in connection with credit transactions; and exempts card issuers who are not sellers from treating price differences as a charge for credit under such State laws.

(e) Repeals section 3(c)(2) of Public Law 94-222.●

By Mr. ROTH (for himself and Mr. HEINZ):

S. 2337. A bill to amend the Revenue Act of 1978 to provide that the inclusion in gross income of certain amounts of unemployment compensation shall not apply to unemployment compensation which is payable by reason of a work in 1973 but which was not paid until 1979; to the Committee on Finance.

EXEMPTION FOR CERTAIN UNION MEMBERS FOR TAXES ON UNEMPLOYMENT BENEFITS

● Mr. ROTH. Mr. President, I am today introducing legislation, along with my colleague from Pennsylvania, Mr. Heinz, to correct an inequity which will impose a substantial and unfair tax burden on approximately 1,700 union members employed by the Sun Oil Co. in Marcus Hook, Pa.

In 1973, these 1,700 employees were involved in a labor dispute with Sun Oil Co. The labor dispute resulted in a work stoppage for 4 months. The Bureau of Employment Security and the Unemployment Compensation Review Board ruled that the work stoppage constituted a "lock-out," meaning that the 1,700 employees were entitled to unemployment benefits in 1973.

Despite the board's ruling, Sun Oil Co. fought paying the workers' unemployment benefits. For 6 years, from 1973 to 1979, Sun Oil battled in courts to avoid paying the benefits due its employees.

Finally, last year the U.S. Supreme Court ordered the company to pay its employees the benefits they were entitled to receive in 1973.

However, in the Revenue Act of 1978, Congress made certain unemployment compensation benefits subject to Federal income taxes, beginning in 1979. And despite the fact that the Sun Oil workers were entitled to receive the unemployment benefits in 1973, they are now being told they must pay taxes on the benefits they finally received in 1979.

I do not believe this is fair. The unemployment compensation benefits became due in 1973, when the benefits were not subject to taxation. Applying the 1978 change in the Tax Code on a retroactive basis would be extremely inequitable.

Therefore, the legislation I am introducing today would exempt the Sun Oil workers from paying taxes on the unemployment benefits they should have been paid in 1973.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) subsection (d) of section 112 of the Revenue Act of 1978 (relating to taxation of unemployment compensation benefits at certain income levels) is amended to read as follows:

"(d) Effective Date.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1978, in taxable years ending after such date; except that such amendments shall not apply to payments made for weeks of unemployment ending before December 1, 1978.".

(b) If credit or refund of any overpayment of tax resulting from the amendment made by subsection (a) is barred on the date of the enactment of this Act or at any time during the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.●

By Mr. HEINZ (for himself, Mr. Bentsen, Mr. Bingaman, Mr. Burdick, Mr. Stafford, Mr. Packwood, Mr. Glenn, and Mr. Riegle):

S. 2338. A bill to amend title XVIII of the Social Security Act to allow medicare coverage for home health services provided on a daily basis; to the Committee on Finance.

HOME CARE PROTECTION ACT

● Mr. HEINZ. Mr. President, today I am introducing legislation of utmost importance to the Nation's 30 million medicare beneficiaries and am pleased to be joined in this effort by my friend and esteemed colleague, the Senator from Texas (Mr. Bentsen). Our bill, the Home Care Protection Act, would correct a relatively new and serious problem that has emerged in the administration of medicare's home health benefit. The Home Care Protection Act will reassure medicare beneficiaries of their lawful entitlement to home health services when their physician considers it to be medically necessary. Without this legislation, I fear that many older Americans will be denied urgently needed medical care.

How did this troubling situation arise? The problem, Mr. President, hinges on the definition of the "intermittent" care standard: Specifically, whether or not medicare beneficiaries may receive coverage for less than full-time daily home care, even when it is medically necessary. For several years, "intermittent" or part-time care was defined by Congress and interpreted by intermediaries to mean noncontinuous or less than full-time or part-time skilled care at home. But recently, visits of 1 hour or less, sometimes made on a daily basis, have been construed by fiscal intermediaries to mean full-time, in-home care—which by definition, renders it similar to nursing home care and, therefore, precludes payment as a medicare home health benefit.

Quite frankly, I am not sure why this controversy has surfaced. The Congress has been quite clear in its intent. The statute defines home health services to include part-time or intermittent nursing care provided by or under the supervision of a registered nurse. Over the past decade, the Congress has asserted time and time again its support for home health care. We have removed financial and other restrictions to the home health benefit, including copayments and the limit of 100 visits per beneficiary per benefit period. It is clear to me that Congress has given a clear mandate to the Department of Health and Human Services to administer this benefit in a fair and consistent manner.

This being the case, I must say, Mr. President, that I am shocked at the stories that I have been hearing from some of the home health agencies around the country. Even in Pennsylvania, where the home health providers and the fiscal intermediaries are attempting to cover benefits in good faith in accordance with congressional intent, there have been some very serious cases brought to my attention. Permit me to share with you two such cases.

The first case is that of a 77-year-old man who was discharged from the hospital following gastrointestinal surgery. His 74-year-old spouse was blind and therefore could not be taught the specifics of his necessary care in the home. The gentleman was homebound. The surgical wound was draining. The plan of care included daily visits by a registered nurse for care of the draining wound until such a time as the visits could be reduced in frequency. At the end of 3 weeks of care, and after consultation with the attending physician, it was determined to continue daily visits for a maximum of 1 more week; however, after submission of the case to the intermediary, coverage was denied for the period after 3 weeks based on the fact that the care was not intermittent. His blind spouse was left alone to care for the wound.

The second is the case of a 69-year-old female who was discharged from the hospital with a terminal diagnosis of metastatic cancer. The physician, the discharge planner, and the nursing supervisor of the home health agency held a conference and determined that the patient could be cared for at home with daily visits by a registered nurse, and less frequent visits by home health aides and other professional personnel. The patient was therefore discharged from the hospital to the care of the home health agency and the attending physician. The intermediary denied coverage of these services on the basis of the patient being "too sick to be at home."

Over the past year and a half, I have learned, to my regret, that these two examples are not particularly unusual. To the contrary, I have been told by the National Association for Home Care, the American Federation of Home Health Agencies, and the Home Health Services & Staffing Association that this problem for medicare beneficiaries, both those who do not receive care and those who have their benefit claims denied, is all too common.

The problem that I have been describing seems to have surfaced following issuance of a transmittal March 1982 from the Health Care Financing Administration to the fiscal intermediaries. The transmittal revised the manual to read that medicare will pay for part-time medically reasonable and necessary skilled nursing care or home health aid services 7 days a week for a short period of time, for example, 2 to 3 weeks. While I am told that this revision was not intended to be used as an absolute limit on coverage for intermittent care, many fiscal intermediaries have begun to make coverage decisions according to the letter of this new transmittal—often, with little consideration of the beneficiaries' need for care. There is absolutely no reason to limit the home health benefit in such a capricious manner.

I should point out that some home health interests have appealed denials of benefits, such as those I have just described, before medicare administrative law judges. In every case that I know of, the judges have ruled for the beneficiaries and against the intermediary and HHS. I am sorry to say that this scenario reminds me of the current crisis in the disability program where ALJ's reverse SSA decisions two-thirds of the time. Surely, the Congress and this administration does not want to begin to travel down a similar path of human tragedy with medicare home health benefit.

Some have suggested that the transmittal was issued by the Health Care Financing Administration in an effort to reduce unnecessary utilization of the benefit. Mr. President, no one is recommending liberalization of the benefit with this bill. No one is arguing against a prudent effort to make the care available only when it is absolutely necessary and in accordance with the original intent of the law. We are arguing for consistent and fair administration of medicare's home health benefit, which is for so many people, the most humane, the most appropriate, and the most cost-effective form of care. Furthermore, appropriate use of the home health benefit, as this bill would clearly allow, would discourage excessive inpatient stays and unnecessary hospital readmissions. Limiting use of the home health benefit could well be penny wise and pound foolish—if failure to provide home care results in increased hospital and nursing home costs.

The difficulty currently facing medicare beneficiaries is sure to be exacerbated with implementation of DRG's, medicare's new prospective payment system for hospitals. In an effort to reduce lengthy and costly inpatient stays, hospitals may begin discharging sicker patients into the community even when they still may need some form of skilled care. We already know from the New Jersey and Maryland examples that prospective payment provides incentives to reduce hospital stays. Both States have seen an increase in the demand for home health services—with a higher degree of skilled nursing required.

An administrator from a home health agency in New Jersey told me,

> We are already seeing people at home, who have been sent out of hospitals without continuing care, getting into trouble within a few weeks and needing rehospitalization.

Mr. President, it would seem fairly safe to predict a similar response on the national level once the DRG's are fully implemented. Surely Congress did not intend to design the medicare prospective payment system to send people out of the hospital, deny them care at home, so that medicare ends up paying for their return ticket to the hospital.

Mr. President, if we are not careful, we will witness the establishment of a no-care zone, where medicare beneficiaries are well enough to leave the hospital, but too sick for care at home. Without clarification, medicare beneficiaries will continue to be subjected to vague definition of the length and type of home care that is available, which seems to depend entirely upon the fiscal intermediaries' definition of the "intermittent" care standard.

The Home Care Protection Act would give home health providers the ability to provide daily, medically necessary home care, as originally intended by Congress, in a fair, consistent, and humane manner. I hope you will join me in supporting this legislation.●

● **Mr. BENTSEN.** Mr. President, I join with the distinguished Senator from Pennsylvania, Mr. HEINZ, in introducing the Home Care Protection Act of 1984 which is intended to correct a serious problem that has emerged in the administration of medicare's home health benefit.

As a review of the legislative history of home health care demonstrates, Congress intended that such care be available to medicare beneficiaries on an "intermittent" basis, as opposed to full time around-the-clock nursing services. Where a physician determines that home care is appropriate and that services need not be full time, the medicare statute authorizes coverage.

However, over the last 2 years, there has been a significant increase in denials of reimbursement for home health services by fiscal intermediaries because of new and more restrictive interpretations of the term "intermittent." Unfortunately, this change has limited and in some cases eliminated the availability of home care to a substantial number of medicare beneficiaries. Intermediary decisions concerning coverage of home health care now vary considerably from region to region.

A number of examples of inconsistency in applying the intermittent standard have been cited by home health care agencies. For instance, intermediaries in Federal region V limit home health care to a 31-day maximum while region I permits up to 42 days of care. In the State of Wisconsin, intermediaries allow only three home care visits per week, while in Texas, home care spokesmen indicate reimbursement can be obtained for 5 to 7 days of care per week.

The Home Care Protection Act which we are introducing today will also provide needed protection to medicare beneficiaries whose hospital stays are shorter as a consequence of the implementation of the new medicare prospective payment system—PPS. As PPS has gone into effect, home health providers report an increasing number of sicker patients are being released from hospitals into their care. This bill will help to insure that there patients receive the services they need from qualified professionals in a setting which their physician feels is most appropriate. If home health services are linked carefully with hospital discharges, substantial savings to the medicare trust fund may be possible. The following case illustrates how home care can prevent readmission to a hospital and thereby improve the cost-effectiveness of medical treatment. Last year, an elderly woman living in Big Spring, Tex., was diagnosed with end stage liver disease. She was catheterized due to abdominal swelling. Because the patient received daily home care, reimbursement was denied by the medicare intermediary. She was forced to enter a hospital where charges to the medicare program were $300 per day, or $250 more each day than what had been charged by the home health agency.

I want to stress, Mr. President, that this bill does not represent an expansion of home care services. Rather, it is a technical clarification of current law which is intended to stop the erosion of benefits by arbitrary and inconsistent actions of fiscal intermediaries under contract to the Health Care Financing Administration. The legislation we introduce today will explicitly allow medicare reimbursement for up to 60 days of home care. Program actuaries project the cost associated with the codification of this standard at approximately $150 million over the next five years.

In sum, the Home Care Protection Act—which is strongly supported by the National Association for Home Care—will guarantee access to services which Congress intended medicare

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participants to receive and will insure equitable treatment by intermediaries who determine eligibility for reimbursement.

I urge my colleagues to support swift passage of this measure.●

● Mr. BINGAMAN. Mr. President, I am pleased to be an original sponsor of the Home Care Protection Act introduced today by Senators JOHN HEINZ and LLOYD BENTSEN. The act would assure medicare beneficiaries of access to home health care when it is prescribed by the attending physician in line with the original intent of Congress.

Health care in America has come full circle. It originated in the home and moved to the hospital with the advent of technology and improved methods of diagnosis and treatment. However, emphasis is now turning back to the home setting as a way to control costs.

Today, in fact, hospitals are acquiring home health capabilities for several reasons. First, in the face of the prospective payment system (PPS) established by the Medicare and Medicaid Amendments of 1983, and now being implemented, hospitals must find ways to lower the cost of inpatient care. One way to do this is to move the patient more quickly from the hospital to the home. Hospitals also benefit from a community relations standpoint by having home health capabilities. Having such capabilities also demonstrates to the community and to State planners that hospitals are seeking alternatives to inpatient care in an effort to hold down the costs.

These dramatic changes in the approach to inpatient care have occurred in the last 2 years—but not without complications. Let me explain:

Home health benefits were first provided for under medicare in 1965. Section 1861(m) of the Social Security Act defined home health services covered by medicare as items and services furnished at home under a physician's plan of treatment. These services included part-time or intermittent care under the supervision of a registered nurse. The law also says home care includes "skilled nursing care on an intermittent basis."

The controversy began when the Health Care Financing Administration narrowly interpreted the word "intermittent." Congress intended to use the language to counterpoint its coverage of skilled nursing care in a nursing home. To qualify for nursing home care paid by medicare, Congress said that an individual must need full-time nursing attention. Short of 7-days-a-week full-time nursing care, Congress intended that home health service be provided.

Congress also intended that the physician's judgment be deferred too. Payment for home care visits under medicare only covers services delivered in line with a plan of treatment established and periodically reviewed by a physician. Moreover, it is the physician who must decide in the first instance, and on an ongoing basis, whether the patient should receive part-time nursing services in the home or full-time nursing in a hospital or skilled nursing home. Where a noninstitutional level of care visits are not full time in scope, the medicare statute requires coverage.

The current problem is threefold. First, some beneficiaries have been considered ineligible for care beyond a 2- or 3-week period based on an ambiguous interpretation of the intermittent care standard. As a consequence, some persons are denied care altogether and others have had their payment claims denied retroactively. Second, while some physicians prescribe daily home care for their patients for a short period, payment for this care has been denied, depending upon the administrative interpretation of "daily" need. Third, decisions concerning coverage of home health care now vary sharply from State to State, leading to inconsistent administration of the Federal home health benefit. Sick beneficiaries may receive home health care for an extended period of time in one region of the country, but not in another. The Home Care Protection Act would correct these ambiguities.

One example of the problem is evident in the case of an 85-year-old patient from my State of New Mexico with peripheral vascular disease. He had a statis ulcer on his leg, and he had already lost his other leg to the same problem. He lived with his 85-year-old wife, who was unable to care for him. Although service was provided for this patient on a daily basis until his leg was healed, medicare claims were denied retroactively.

Another example, a woman from another part of New Mexico received home care for irrigation and packing of wounds located on the stump of her right leg and on her groin. Because of the large size of the wounds and their location, the patient was unable to care for herself. She also required help with her diabetic regime and assistance in walking. Daily care was needed, but since this patient did not meet the Government agency's interpretation of intermittent care, medicare reimbursement was denied.

Mr. President, this problem is not confined to New Mexico. It is nationwide. The National Association of Home Care has evidence that severe problems exist in 7 of the 10 regions of the Department of Health and Human Services. Home health agencies have appealed denials such as those I have mentioned before medicare administrative law judges. The judges have ruled in favor of providing home health care every time.

A case in Detroit is a case in point. It involved skilled nursing visits to a beneficiary on a daily basis for over 33 weeks. The judge found that the care had been authorized by a physician and that it qualified as "part-time intermittent care" under the definition of the medicare law and regulations. The judge stressed that the alternative would have been a nursing home placement at many times the cost to the Government.

This bill is a modest effort to respond to an existing crisis—to bring the interpretation of the key term "intermittent care" in the present medicare statute in line with the intent of Congress. The bill provides that up to 60 days of home health care will be provided at the direction of a physician. The bill would in effect stop the Health Care Financing Administration from cutting existing home care benefits and will provide a standard definition of care to avoid arbitrary decisions which vary from region to region. It does not constitute a major or costly expansion of medicare's home care benefits.

Mr. President, this is a bill whose time has come. It is important to the many people who need home health care and to those who administer that care. We must think of the cost in human terms. We must think of what it says about our commitment to human dignity. I believe this bill is vital and I ask my colleagues to join me in supporting Senators HEINZ and BENTSEN in its enactment.●

● Mr. GLENN. Mr. President, as the ranking Democratic member of the Special Committee on Aging, I am deeply aware of the important role that home health services play in our health care system. Since joining the committee, I have sought ways to develop home and community-based services as alternatives to more costly institutional care. I am pleased to join Senator HEINZ in introducing legislation which will address this issue. I encourage my colleagues to support this bill.

Over the past several years, Congress has approved legislation that allows the substitution of home health services in place of prolonged or unnecessary institutionalization. In the 1980 Omnibus Budget Reconciliation Act, Congress removed several requirements for home health services which were considered unnecessarily restrictive, such as a 3-day prior hospitalization period. In recent months, however, it has become apparent that administrative guidelines being distributed by the Department of Health and Human Services are in fact restricting access to home health services for some beneficiaries.

Simultaneous to the implementation of the 1980 changes, the Health Care Financing Administration sent out new interpretations for the term "intermittent." As a result, services were to be limited to 1-2 hours, 2-3 times a week. This guideline was subsequently revised to permit up to 1-3 hours of care, 2-3 days a week or a maximum of 9 hours of care a week.

Care required on a daily basis was limited to a period of 2 to 3 weeks, unless extensive medical documentation was provided to justify an extension. Because these guidelines were so restrictive, home health agencies have been unable to provide adequate care for fear that intermediaries will deny payment.

The legislation we are introducing today will establish a consistent and sensible standard for the delivery of home health care. Agencies will be allowed to provide home health services on a daily basis for a period of up to 60 days, when requested by a physician. A recertification of need will be required after the first 30 days in order for the benefits to continue. This legislation will not extend benefits to a new population. Rather, it will make services available to a population already identified as in need of care who might otherwise be forced to remain in the more costly hospital bed.

A study was prepared in 1983 by the Council of Home Health Agencies from my own State of Ohio. Their analysis of 155 patients served by their member agencies revealed some important savings for our health care system. By providing daily care, as needed, they were able to serve these 155 patients for a total cost of $185,690. Had the patients been treated in a nursing home, the cost would have risen to $213,745 and hospitalization for this treatment would have cost $1,147,620. Yet they were advised by HCFA that patients requiring daily care should be cared for in a skilled nursing facility or hospital.

We are currently in the midst of a major redesign of our health care system. The success of our new hospital prospective payment system is predicated on the availability of less costly forms of care which will allow patients to return home as quickly as possible. It is unwise and unjust to place arbitrary restrictions on the application of these types of services.

We are all eager to establish an efficient and cost-effective home and community-based health care system. Through home health agencies, many of our homebound elderly and disabled are able to enjoy the dignity of being cared for in their own homes. I commend the many home health agencies in this country. For this reason, I would also like to acknowledge my support for Senate Joint Resolution 237 designating November 25 to December 1 as "National Home Care Week."●

By Mr. INOUYE (for himself and Mr. BURDICK):

S. 2339. A bill to amend titles XVIII and XIX of the Social Security Act to provide that the services of a mental health counselor shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

REIMBURSEMENT FOR SERVICES OF MENTAL HEALTH COUNSELORS

● Mr. INOUYE. Mr. President, today, on behalf of Senator QUENTIN BURDICK and myself, I am introducing legislation which would amend our Nation's medicare and medicaid programs to insure that the services of mental health counselors will be directly reimbursable.

We are introducing this bill to provide our Nation's mental health counselors with an opportunity to present their case before the Senate Finance Committee.

Mental health counselors are a new breed of mental health professionals and we understand that nearly 90 percent of these individuals have received their professional degree within the last decade. Under the provisions of our bill, in order to be reimbursed, a mental health counselor must have, at a minimum, a masters degree in a related field, 2 years of additional supervised clinical experience, and be licensed or certified by the appropriate State authorities or where the State has not enacted such a practice act, by the National Academy of Certified Clinical Mental Health Counselors.

We further understand that there are approximately 8,000 mental health counselors across the Nation.

Mr. President, I request unanimous consent that the text of our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2339

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding at the end thereof the following new subparagraph:

"(I) mental health counselor services;".

(b) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"MENTAL HEALTH COUNSELOR SERVICES

"(ee)(1) The term 'mental health counselor services' means services performed by a mental health counselor (as defined in paragraph (2)) which he is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, whether or not he is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'mental health counselor' means an individual who (A) possesses a master's or doctor's degree in counseling, mental health counseling, community counseling, or similar degree title, (B) after obtaining such a degree has performed at least two years of supervised clinical counseling, and (C) is licensed or certified as such in the State in which he practices, or if such State does not license or certify mental health counselors, is certified by the National Academy of Certified Clinical Mental Health Counselors and listed in such organization's Register of Certified Clinical Mental Health Counselors.".

SEC. 2. (a) Section 1905 (a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) mental health counselor services (as defined in section 1861(ee)); and".

(b) Section 1902(a) of such Act is amended—

(1) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(A) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)";

(2) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)"; and

(3) by striking out "paragraphs numbered (1) through (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs numbered (1) through (18)".

SEC. 3. (a) The amendments made by the first section of this Act shall be effective with respect to services performed on or after the first day of the first month which begins more than sixty days after the date of the enactment of this Act.

(b)(1) Except as provided under paragraph (2), the amendments made by section 2 shall be effective with respect to payments under title XIX of the Social Security Act for the calendar quarters beginning more than sixty days after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by section 2, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.●

By Mr. DECONCINI:

S. 2340. A bill to increase the duty on imported copper by an amount which offsets the cost incurred by copper producers in the United States in meeting domestic environmental requirements; to the Committee on Finance.

COPPER ENVIRONMENTAL EQUALIZATION ACT OF 1984

Mr. DECONCINI. Mr. President, our Nation's domestic copper industry is facing a very real and serious financial crisis. Unemployment is high; production levels are the lowest since the Great Depression; and foreign imports of copper are at the highest in this country's history. There are many reasons for this situation—some that we in the Congress have the ability to do something about and others which will require action by the executive branch. The legislation I am introducing today is a responsible and reasonable approach to resolving a portion of the copper problem, and I believe it makes eminent sense.

At the heart of the copper industry's financial woes is unfair foreign competition. Domestic producers must compete in the same international markets as foreign producers who may receive subsidies from their own government or assistance for plant expansion and rehabilitation through multilateral international financing organizations. At the same time, such plants do not have to invest substantial sums of money to meet environmental standards like we do in the United States.

Certainly wage scales and employee benefits, health and safety requirements, and environmental regulations add to the costs of our domestic copper production. Consequently, the price per pound of copper produced in the United States is higher than copper produced in many foreign countries. However, the added costs to protect labor and our environment, I believe, are for the most part warranted and worthwhile. These requirements reflect certain values which we, as Americans, feel are important sacrifices we must make in order to protect the strength of our Nation, and in particular, the strength of our domestic labor force and long-term environmental health.

On the other hand, Mr. President, why should American industry be forced to suffer at the hands of foreign governments who do not share our values and priorities. Copper is a critical strategic material vital to this country's national security. In order to insure a ready supply of this strategic material for domestic and defense purposes, we must have a strong and healthy industry. This Nation's copper industry is an efficient and cost-effective one. It does not have the benefit of governmental subsidies; but in order to comply with environmental regulations and meet our national objectives, it must invest millions of dollars in control technology equipment. The costs for plant modification and emission controls are reflected in the end price per pound of copper produced. The cost of production of foreign copper is not governed by any environmental regulations.

In order to achieve equity, protect our Nation's domestic industry, and place foreign countries on notice that we will not allow them to undercut domestic production, I believe we ought to levy a duty, on a sliding-scale basis, on copper products coming into this country from nations not having environmental standards and regulations comparable to those in the United States. This action, Mr. President, will not impact countries like Canada, Germany, or Japan, which compete fairly and have in place strong environmental regulations. It will, however, affect nations like Chile, which continue to produce high levels of copper even during periods of recession, with similar environmental laws. The result, Mr. President, will be a stronger domestic copper industry and a message is being sent foreign countries that we do not agree with and do not condone their lack of environmental standards.

Until recently, Mr. President, our domestic copper industry was internationally competitive. As times and laws have changed, however, we have placed ourselves at an unfair economic disadvantage. We, as a nation, need to assess our trade practices and priorities. I believe environmental equalization is a very good place to start. It will not only protect our industry here at home but will make a major contribution toward improving our global environment.

Mr. President, I request unanimous consent that the full text of my bill, The Environmental Equalization Tarrif Act of 1984, appear in the RECORD at this point. I further urge the bill's expeditious consideration by the members of the Finance Committee.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Copper Environmental Equalization Act of 1984".

PURPOSE

SEC. 2. The purpose of this Act is—

(1) to enhance the world's environment by encouraging foreign copper producers to adopt environmental measures substantially equivalent to those employed in the United States; and

(2) to offset the cost advantage obtained by foreign copper producers who do not employ environmental measures substantially equivalent to those imposed on domestic copper producers.

AMENDMENTS TO THE TARIFF SCHEDULES OF THE UNITED STATES

SEC. 3. The Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new part:

Item	Stat. suffix	Articles	Units of quantity	Rates of duty		
				1	LDDC	2
		"Part 4.—Environmental Equalization Duties				
		Part 4 headnotes: 1. The duties provided for in this part are cumulative duties which apply in addition to the duties, if any, otherwise imposed on the articles involved. Unless otherwise stated, the duties provided for in this part are effective until suspended or terminated. 2. The duties provided for by items 970.00 and 972.00 may be adjusted as provided in section 4 of the Copper Environmental Equalization Act of 1984.				
		Subpart A, Metal-Bearing Ores and Other Metal-Bearing Materials				
970.00		Copper bearing ores and materials (provided for in items 602.28, 602.30, 603.49, 603.50, 603.54, and 603.55 of part 1, schedule 6).		15¢ per pound on copper content	15¢ per pound on copper content	15¢ per pound on copper content.

				Rates of duty		
				1-a	1-b	2
		Subpart B. Metals, Their Alloys and Their Basic Shapes and Forms				
972.00		Copper, its alloys and their so called basic shapes and forms (provided for in items 612.02 through 612.06, inclusive, and items 612.15 through 613.18, inclusive, of part 2C, schedule 6).		15¢ per pound on copper content	15¢ per pound on copper content	15¢ per pound on copper content".

ADJUSTMENTS TO COPPER EQUALIZATION DUTY

Sec. 4. (a) The President shall, under the circumstances described in subsection (b), adjust the duty imposed on an article of copper under part 4 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202).

(b) The President shall, based upon determinations of the various environmental costs of production by the Administrator of the Environmental Protection Agency (hereinafter in this Act referred to as the "Administrator") under section 6—

(1) increase the duty imposed by such part 4 on an article of copper by an amount equal to the amount by which—

(A) the United States environmental costs of production per pound of such article, exceed

(B) the sum of—

(i) the foreign environmental costs of production per pound of such article, plus

(ii) the amount of such duty (prior to such increase); and

(2) decrease the duty imposed by such part 4 on an article of copper, by an amount equal to the amount by which—

(A) the sum of—

(i) the foreign environmental cost of production per pound of such article, plus

(ii) the amount of such duty (prior to such decrease), exceeds

(B) the United States environmental cost of production per pound of such article.

PROPOSALS FOR ADJUSTMENT TO THE COPPER EQUALIZATION DUTY

Sec. 5. The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall by regulation prescribe a procedure by which interested parties may propose an adjustment in the rate of duty under section 4. If the Secretary finds pursuant to such procedure that there may be cause to make an adjustment under section 4, he shall request the Administrator to make a determination under section 6 of each of the environmental costs of production required to be made by such section.

DETERMINATION OF ENVIRONMENTAL COSTS OF PRODUCTION

Sec. 6. The Administrator shall by regulation prescribe a method or methods for the determination of environmental costs of production for the articles of copper subject to the duty imposed by part 4 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202), which shall include a method or methods for the determination of the foreign environmental cost of production of such an article of copper in cases in which environmental costs of production have been incurred in more than one country.

(b) When requested by the Secretary under section 5, the Administrator shall, applying the methods prescribed under subsection (a), determine—

(1) the environmental cost of production for each phase of processing of each article for which such request is made, with respect to each country in which such processing occurs, and

(2) the comparable environmental cost of production of such article in the United States for each such phase.

The foreign environmental cost of production shall be computed with respect to each such article for each combination of countries in which such article may be processed for importation into the United States.

REDUCTION OF DUTIES

Sec. 7. Notwithstanding any other provision of law, the President may reduce the duty which is imposed on articles of copper by part 4 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) only in accordance with the provisions of this Act.

AMENDMENT TO THE TRADE ACT OF 1974

Sec. 8. Paragraph (1) of section 503(c) of the Trade Act of 1974 (19 U.S.C. 2463(c)) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(H) copper articles which are subject to the duty imposed by part 4 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202).".

DEFINITIONS

Sec. 9. For purposes of this Act—

(1) The term "environmental cost of production" means the cost incurred in mining, milling, smelting, refining, or in any other phase of the processing of an article of copper which is subject to—

(A) the duty imposed by part 4 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202), or

(B) such duty if imported into the United States,

which is attributable to compliance with a law or regulation of the country in which such processing occurs for the purpose of protecting the environment.

(2) The term "United States environmental cost of production" means the aggregate of the environmental costs of production of an article of copper—

(A) which would be subject to the duty imposed by such part 4 if it were imported into the United States, and

(B) for which each phase of the processing occurs in the United States.

(3) The term "foreign environmental cost of production" means the aggregate of the environmental costs of production of an article of copper subject to the duty imposed by such part 4 which is imported into the United States.

EFFECTIVE DATE

Sec. 10. The provisions of this Act shall be effective with respect to articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act.

By Mr. STAFFORD (for himself, Mr. Pell, Mr. Hatch, Mr. Weicker, Mr. Kennedy, and Mr. Dodd):

S. 2341. A bill to authorize a program to enhance the access to and the quality of vocational education, and for other purposes; to the Committee on Labor and Human Resources.

VOCATIONAL EDUCATION ACT OF 1984

● Mr. STAFFORD. Mr. President, today, joined by my colleagues Senator Pell, Senator Hatch, Senator Weicker, Senator Kennedy, and Senator Dodd, I am introducing the Vocational Education Act of 1984.

I want to especially emphasize the contributions which my fellow sponsors made to this legislation. From the beginning, Senator Pell, the ranking member on the Subcommittee on Education, Arts and Humanities, played an invaluable role in creating the proposals contained herein. Senator Hatch, chairman of the Labor and Human Resources Committee, has exhibited a general concern about vocational education's direction and a specific interest in increasing opportunities for single parents and homemakers seeking to return to work outside the home. Senator Weicker, who chairs the Subcommittee on the Handicapped, made numerous contributions aimed at providing more effective services to the handicapped and disadvantaged. And Senator Dodd's interest that this bill help support new programs in high technology are reflected here. Senator Kennedy also has joined our effort to more clearly focus the Federal role in vocational education on equity and quality.

The proposal we are placing before the Senate represents a significant refinement of the Federal role in vocational education. It is one answer to many of the questions which have been raised about that role in the 8 years since the Vocational Education Act was last reauthorized, and I would like to share with my colleagues our rationale for making the recommendations embodied in this proposal.

The commitment the Federal Government makes to vocational education is more than just significant; it is enduring. Since the enactment of the Smith-Hughes Act of 1917, the Federal Government has blazed many trails in vocational education. It has provided leadership when there was none; significant fiscal resources where there were few; and the incentive to change when the old ways and stale habits prevailed.

Now, the time to reassess the Federal role has come. In the 21 years since the enactment of the Vocational Education Act of 1963, funding for State and local vocational education programs has increased dramatically. Whereas in fiscal year 1966, the Federal Government spent nearly $1 of every $3 devoted to voc ed, today it contributes roughly $1 out of $10.

This almost seismic shift in the vocational education landscape was, to a large extent, the result of Federal efforts to spur State and local investment in education for employment. Having succeeded in great measure in accomplishing its objectives, Congress sensed, in 1976, the need to reexamine what the Federal act had done and speculate about what it should do.

Therefore, in the Education Amendments of 1976, Congress directed the National Institute of Education to undertake a thorough evaluation of programs conducted under the Vocational Education Act of 1963. This evaluation was completed and its findings submitted to Congress in 1981.

This document, entitled "The Vocational Education Study: The Final Report," exhaustively detailed the myriad effects of the Federal investment in vocational education. It contained many findings and raised numerous issues. Yet, among the salient results of the NIE report, one conclusion stood out among all others. That conclusion was: "the Vocational Education Act of 1963, as amended, attempts to achieve too much with too few resources." In other words, the ambitious ends of the 1963 act overwhelmed the means to achieve those very ends.

Congress would be foolhardy to ignore this conclusion.

Since 1963, as the vocational enterprise has grown and matured, two trends have characterized the Federal legislation: first, the relative Federal resources devoted to voc ed have diminished; but second, the expectations of the VEA have increased.

In testimony submitted to the Subcommittee on Education as part of its oversight hearings, Dr. Charles Benson of the University of California, Berkeley, made this observation:

> The objectives of the Act were so diffuse and the provisions of the Act were so vaguely drawn—where they were not contradictory—that the Act has become, essentially, a block grant, offering a small amount of additional support to state-local activities.

Those of us who support vocational education must be forthright enough to examine whether the act, by standing for too much, accomplishes too little. And, we must seriously question whether or not the act has become more a symbol than an effective contributor to modern vocational education.

For my part, and for my colleague from Rhode Island (Senator PELL) I cannot justify a merely symbolic Federal role. The Federal Government must establish realistic, relevant, realizable, and recognizable goals for its participation. To do anything less would be to ignore the findings represented in the NIE report.

The Vocational Education Act of 1984 attempts to do just that. Rather than trying to achieve too much with too little, it narrows the goals of Federal participation. Its purposes are characteristic of the larger Federal role in education generally: The provision of equity and quality.

The central element of this legislation is the expansion of vocational education services to individuals who are underserved by the vocational system. Those individuals include the handicapped, the disadvantaged, women, adults in need of retraining and the incarcerated.

Admittedly, the existing act devotes some resources to these same goals. Yet, they constitute only a minority portion of the total Federal contribution. Our proposal devotes the majority of Federal resources to the expansion of opportunities for these individuals.

Furthermore, as the NIE report observed, "while the theme of equity pervades the law, much is authorized and relatively little is required." The legislation we introduce today seeks to remedy this criticism by being more explicit in how it requires these funds to be used, particularly for the disadvantaged and the handicapped.

In addition to the equity goals, the VEA of 1984 seeks to assist States and localities in improving and expanding, but not maintaining, vocational education programs. A responsibility of the Federal Government is to move the vocational enterprise forward, not to support its ongoing activities, which are more properly the responsibility of the States and local educational agencies. By emphasizing improvement, expansion and innovation over maintenance, we hope to achieve that end.

This legislation addresses other issues as well.

Much discussion has occurred regarding the interest of the private sector. As "end-users" of the vocational product, industry and labor have a keen interest in the preparation of tomorrow's work force. Therefore, the new act would give the private sector the opportunity for meaningful and effective participation in the policymaking process at the State level by revamping the current State advisory council. But, while the prospects for greater participation are improved, those ends will be realized only if the private sector shoulders its share of responsibility.

Many of the requirements in the existing act are procedural. The proposed VEA of 1984 recognizes that elaborate planning processes already exist and seeks to simplify those requirements by, among other things, implementing a 2-year planning period. That period would be coterminous with the Job Training Partnership Act's planning period in order to give every opportunity for States to effectively coordinate vocational education and JTPA activities.

Currently, the Secretary of Education has a limited capacity to assist in the development of exemplary programs. This proposal, therefore, creates a special secretarial fund to support through a competitive process specific program goals deemed nationally important.

Serious allegations have been raised regarding the conduct of vocational education research. We are deeply concerned that vocational education research has taken on a proprietary flavor and that institutional considerations have become larger than the research itself. Therefore, we are proposing to expand research opportunities by making the National Institute of Education responsible for coordinating vocational education research.

Mr. President, there are many other issues which could be mentioned at this time. Yet, in my mind, they are better examined in the context of the exact legislation.

Permit me to say this in summation. Every so often, when we in this body are discussing the technical aspects of specific legislation, someone will seek to remind us that we should keep in mind the people we are attempting to serve. In my mind, this proposal does just that.

The Vocational Education Act of 1984 is oriented to the individual. It is designed to promote programs for people, not bureaucracies. It is devoted to serving students, not to building institutions.

We hope we have achieved these objectives in this proposal and that we have honored the maxim against attempting too much with too little.

As the legislative process proceeds, we invite the comments and suggestions of our colleagues and the public regarding the specific provisions of this act.

I ask unanimous consent that the attached bill and section-by-section analysis be reprinted in the RECORD, as well as the statements of my cosponsors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vocational Education Act of 1984".

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STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to—

(1) assist the States to assure that individuals who are inadequately served under vocational education programs are assured access to quality vocational education programs, especially individuals who are disadvantaged, who are handicapped, men and women who are entering nontraditional occupations, adults who are in need of training and retraining, individuals who are single working parents or who have been primarily homemakers as adults, individuals with limited English-speaking proficiency, and individuals who are incarcerated in correctional institutions;

(2) enhance the quality of vocational education programs carried out in the States;

(3) promote greater cooperation between public agencies and the private sector in preparing individuals for employment, in promoting the quality of vocational education in the States, and in making the vocational system more responsive to the labor market in the States; and

(4) authorize national programs designed to meet designated vocational education needs and to strengthen the vocational education research process.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. (a) There are authorized to be appropriated $900,000,000 for the fiscal year 1985 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1989, to carry out the provisions of titles I, II, III, and IV of this Act, relating to State programs.

(b) From the funds appropriated for this Act for each fiscal year, 2 percent shall be available to carry out the provisions of title IV, relating to national programs.

DEFINITIONS

SEC. 4. As used in this Act:

(1) The term "administration" means activities of a State necessary for the proper and efficient performance of its duties under this Act, including supervision, but not including ancillary services.

(2) The term "area vocational education school" means—

(A) a specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market, or

(B) the department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market, or

(C) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market, or

(D) the department or division of a junior college or community college or university operating under the policies of the State board and which provides vocational education in no less than five different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if it is available to all residents of the State or an area of the State designated and approved by the State board, and if, in the case of a school, department, or division described in clause (C) or this clause, it admits as regular students both persons who have completed high school and persons who have left high school.

(3) The term "community-based organization" means any such organization described in section 4(5) of the Job Training Partnership Act.

(4) The term "construction" includes construction of new buildings and acquisition, and expansion, remodeling, and alteration of existing buildings, and includes site grading and improvement and architect fees.

(5) The term "cooperative education" means a program of vocational education for individuals who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field, but the two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

(6) The term "criminal offender" means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender.

(7) The term "correctional institution" means any—

(A) prison,

(B) jail,

(C) reformatory,

(D) work farm,

(E) detention center, or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

(8) The term "curriculum materials" means materials consisting of a series of courses to cover instruction in any occupational field which are designed to prepare persons for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field.

(9) The term "disadvantaged" means individuals (other than handicapped individuals) who have economic disadvantages and who require special services and assistance in order to enable them to succeed in vocational education programs, under criteria developed by the Secretary based on objective standards and the most recent available data. Such term includes individuals who are from low income families, individuals who have limited English proficiency and individuals who are dropouts from, or who are identified as potential dropouts from, secondary school.

(10) The term "eligible recipient" means a local educational agency or a postsecondary educational institution, and for the purpose of carrying out section 203(a)(3) and section 303(b) includes a community-based organization.

(11) The term "handicapped", when applied to individuals, means individuals who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons, or persons with specific learning disabilities, who by reason thereof require special education and related services, and who, because of their handicapping condition, cannot succeed in the regular vocational education program without special education assistance or who require a modified vocational education program and who have an individualized education plan which meets the provisions of the Education of the Handicapped Act.

(12) The term "homemaker" means an individual who—

(A) has not worked full time to support himself or herself, and has been a dependent for tax purposes, for at least 10 years during the period beginning on the date on which the individual—

(i) was first married,

(ii) was a parent of a first child, or

(iii) attained 18 years of age,

and ending on the date on which the determination is made; and

(B) has been a dependent for tax purposes for most of the 10-year period immediately prior to the date on which the determination is made.

(13) The term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program.

(14) The term "low-income family or individual" means such families or individuals who are determined by the Secretary to be low-income according to the latest available data from the Department of Commerce.

(15) The term "postsecondary educational institution" means a nonprofit institution legally authorized to provide postsecondary education within a State for persons sixteen years of age or older, who have graduated from or left elementary or secondary school.

(16) The term "private vocational training institution" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (A) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (B) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (C) has been in existence for two years or has been specially accredited

by the Secretary as an institution meeting the other requirements of this subsection; and (D) is accredited (i) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this clause, or (ii) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this clause, or (iii) if the Secretary determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards. For the purpose of this paragraph, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

(17) The term "school facilities" means classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed. Such term shall not include any facility intended primarily for events for which admission is to be charged to the general public.

(18) The term "Secretary" means the Secretary of Education.

(19) The term "single working parent" means an individual who—

(A) is unmarried or legally separated from a spouse,

(B) has a minor child or children for which the parent has either custody or joint custody; and

(C) is working at least 20 hours a week, for an employer or in self-employment, and furnishes the preponderance of the nonpublic financial support for the household of the parent.

(20) The term "State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(21) The term "State board" means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

(22) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary or secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(23) The term "vocational education" means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree; and, for purposes of this paragraph, the term "organized education program" means only (A) instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training, and (B) the acquisition, maintenance, and repair of instructional supplies, teaching aids and equipment; and the term "vocational education" does not mean the construction, acquisition or initial equipment of buildings, or the acquisition or rental of land.

TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

PART A—ALLOTMENT AND ALLOCATION

ALLOTMENT

Sec. 101. (a)(1) From the sums appropriated pursuant to section 3, the Secretary shall reserve—

(A) 2 percent for the activities described in title IV; and

(B) 2 percent for the purpose of carrying out section 103.

(2) Subject to the provisions of paragraph (3), from the remainder of the sums appropriated pursuant to section 3(a), the Secretary shall allot to each State for each fiscal year—

(A) an amount which bears the same ratio to 50 percent of the sums being allotted as the product of the population aged fifteen to nineteen inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount which bears the same ratio to 20 percent of the sums being allotted as the product of the population aged twenty to twenty-four, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount which bears the same ratio to 15 percent of the sums being allotted as the product of the population aged twenty-five to sixty-five, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount which bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under clauses (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under clauses (A), (B), and (C) for such year.

(3)(A) No State shall receive less than one-half of one percent of the amount available under this subsection for each such fiscal year except that in the case of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands the minimum allotment shall be $200,000.

(B) No State shall, by reason of the application of the provisions of subparagraph (A) of this paragraph, be allotted more than 150 percent of the allotment of that State in the fiscal year preceding the fiscal year for which the determination is made.

(C) For the purpose of this paragraph, the term "State" does not include the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year for carrying out the program for which such amount has been allotted shall be available, from time to time, for reallotment, on such dates during such year as the Secretary shall fix, on the basis of criteria established by regulation, among other States. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the next succeeding fiscal year and shall be deemed to be part of its allotment for the year in which it is obligated.

(c)(1) The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), except that (i) the allotment ratio in no case shall be more than 0.60 or less than 0.40 and (ii) the allotment ratio for Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be 0.60.

(2) The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the three most recent consecutive fiscal years for which satisfactory data are available.

(3) The term "per capita income" means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department.

WITHIN STATE ALLOCATION

Sec. 102. (a) Each State shall allocate from its allotment in each fiscal year—

(1) not to exceed 4 percent of the allotment for administrative expenses;

(2) 1 percent of the allotment for the expenses of the State Council on Vocational Education, except that no State may expend less than $110,000 nor more than $275,000 in each fiscal year for the purpose described in this clause;

(3) 1 percent of the allotment for the purpose of guidance and counseling activities at the State level in each fiscal year; and

(4) of the remainder of the allotment of the State—

(A) 67 percent shall be available for activities described in title II, and

(B) 33 percent shall be available for activities described in title III.

(b) For the purpose of clauses (2) and (3) of subsection (a) of this section, the term "State" shall not include the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

INDIAN PROGRAMS

Sec. 103. (a) For purposes of this section, the term "Act of April 16, 1934" means the Act entitled "An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452-457).

(b)(1) From the funds reserved pursuant to section 101(a)(1), the Secretary is directed, upon the request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, to enter into a contract or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the purposes of this Act, except that such contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this sentence. From any remaining funds reserved pursuant to section 101(a)(1), the Secretary is authorized to enter into an agreement with the Secretary of the Bureau of Indian Affairs for the operation of vocational education programs authorized by this Act in institutions serving Indians, aged fifteen to twenty-four, inclusive, eligible to receive educational benefits as Indians from the Bureau of Indian Affairs, and the Secretary of the Interior is authorized to receive the funds for the purposes described in this paragraph.

(2) For the purposes of this Act, the Bureau of Indian Affairs shall be deemed to be a State board; and all the provisions of this Act shall be applicable to the Bureau as if it were a State board.

PART B—STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

STATE ADMINISTRATION

SEC. 111. (a)(1) Any State desiring to participate in the vocational education program authorized by this Act shall, consistent with State law, establish or designate a State board of vocational education which shall be the sole State agency responsible for the administration or the supervision of the State vocational education program. The responsibilities of the State board shall include—

(A) the coordination of the development of policy with respect to such programs;

(B) the coordination of the development, the approval procedures, and the submission to the Secretary, of the State plan required by section 113 and by section 114; and

(C) the consultation with the State council on vocational education and other appropriate State agencies, councils, and individuals involved in the planning and approval as required by sections 113 and 114.

Except with respect to the functions set forth in the preceding sentence, the State board may delegate any of its other responsibilities involving administration, operation, or supervision, in whole or in part, to one or more appropriate State agencies.

(2) Each State shall include a description of any delegation of its functions under paragraph (1) in its State plan, or amendments to such plan, submitted to the Secretary.

(b)(1) Any State desiring to participate in the programs authorized by this Act shall assign at least one individual to work full time to assist the State board to fulfill the purposes of this Act by—

(A) administering the program of vocational education for single working parents and homemakers described in section 201(f);

(B) gathering, analyzing, and disseminating data on the adequacy and effectiveness of vocational education programs in the State in meeting the education and employment needs of women (including preparation for employment in technical occupations, new and emerging occupational fields, and occupations regarded as nontraditional for women), and on the status of men and women students and employees in such programs;

(C) reviewing vocational education programs (including career guidance and counseling) for sex stereotyping and sex bias, with particular attention to practices which tend to inhibit the entry of women in high-technology occupations, and submitting (i) recommendations for inclusion in the State plan and the progress reports of programs and policies to overcome sex bias and sex stereotyping in such programs, and (ii) an assessment of the State's progress in meeting the purposes of this Act with regard to overcoming sex discrimination and sex stereotyping;

(D) reviewing proposed actions on grants, contracts, and the policies of the State board to ensure that the needs of women are addressed in the administration of this Act;

(E) developing recommendations for programs of information and outreach to women concerning vocational education and employment opportunities for women (including opportunities for careers as technicians and skilled workers in technical fields and new and emerging occupational fields);

(F) providing technical assistance and advice to local educational agencies, postsecondary institutions, and other interested parties in the State, in expanding vocational opportunities for women; and

(G) assisting administrators, instructors, and counselors in implementing programs and activities to increase access for women (including displaced homemakers and single heads of households) to vocational education and to increase male and female students' enrollment in nontraditional programs.

(2) For the purpose of this subsection, the term "State" means any one of the fifty States and the District of Columbia.

(3) Each State shall expend not less than $60,000 in each fiscal year to carry out the provisions of this subsection.

STATE COUNCIL ON VOCATIONAL EDUCATION

SEC. 112. (a) Each State which desires to participate in vocational education programs authorized by this Act for any fiscal year shall establish a State council, which shall be appointed by the Governor or, in the case of States in which the members of the State board of education are elected (including election by the State legislature), by such board. Each State council shall be composed of eleven individuals so that—

(1) a majority of its membership are individuals who are representative of business and industry in the State;

(2) one of the members appointed under clause (1) is a member of the State job training coordinating council established pursuant to section 122 of the Job Training Partnership Act;

(3) individuals who are representative of secondary education and postsecondary education in the State are members, except that representation for secondary education and postsecondary education shall be equal;

(4) two individuals who are members from the State legislature, one appointed from each House (or in the case of an unicameral legislature, appointed from the legislature) are members; and

(5) one individual who is representative of labor organizations in the State is a member.

(b) The State shall certify the establishment and membership of the State council prior to the beginning of each planning period described in section 113(a)(1).

(c) Each State council shall meet as soon as practical after certification has been accepted by the Secretary and shall select from among its membership a Chair who shall be a nongovernmental representative member of the State council. The time, place, and manner of meeting, as well as council operating procedures and staffing, shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.

(d)(1) Each State council shall advise the State board in the development of the State plan submitted under section 113 and shall advise the State board on the policy matters arising out of the vocational education programs assisted under this Act.

(2) Each State council shall review the State plan in accordance with the procedures described in section 114.

(3) Each State council shall—

(A) analyze and report on the distribution of spending for vocational education in the State and on the availability of vocational education activities and services within the State, together with an analysis of the weaknesses of such distribution and availability;

(B) furnish consultation to the State board on the establishment of evaluation criteria for vocational education programs within the State;

(C) submit recommendations to the State board on the conduct of vocational education programs conducted in the State which emphasize the use of business concerns and labor organizations;

(D) assess the distribution of financial assistance furnished under this Act, particularly with the analysis of the distribution of financial assistance between secondary vocational education programs and postsecondary vocational education programs;

(E) recommend procedures to the State board to insure and enhance the participation of the public in the provisions of vocational education at the local level within the State, particularly the participation of local employers and local labor organizations; and

(F) report to the State board on the extent to which the individuals described in section 201(b) are provided with equal access to quality vocational education programs.

(e) Each State council is authorized to obtain the services of such professional, technical, and clerical, personnel as may be necessary to enable it to carry out its functions under this Act and to contract for such services as may be necessary to carry out its evaluation functions, independent of programmatic and administrative control by other State boards, agencies, and individuals.

(f) Each State shall make available for the expenses of the State council on vocational education the portion of its allotment required under section 102(2) but not less than $110,000 for each fiscal year.

STATE PLANS

SEC. 113. (a)(1) Any State desiring to receive funds from its allotment for any fiscal year shall submit to the Secretary a State plan for a three-year period in the case of the initial plan and a 2-year period thereafter, together with such annual revisions as the State board determines to be necessary.

(2) The planning periods required by paragraph (1) of this subsection shall be coterminous with the planning program periods required under section 104(a) of the Job Training Partnership Act.

(b) Each such plan shall—

(1) set forth the planned uses of Federal, State, and local funds available for vocational education for each fiscal year for which the plan is submitted and describe how the State will expend funds for the uses described in section 201, together with a description of the use of funds for the purposes described in section 301;

(2) describe the manner in which the State will comply with the criteria required for programs for the handicapped and for the disadvantaged prescribed by section 204;

(3) describe how the State is complying with the policy set forth in the Education of the Handicapped Act regarding handicapped students in vocational education;

(4) provide assurances that the State will furnish relevant training and vocational education activities to single working parents and homemakers who desire to enter occupations that are not traditionally associated with their sex;

(5) describe the methods of administration that are necessary for the proper and efficient administration of the assistance provided under titles II and III of this Act;

(6)(A) provide assurances that the State will establish measures for the effectiveness of programs assisted under this Act using evaluative measurements such as—

(i) the occupations to be trained for, which will reflect a realistic assessment of the labor market needs of the State;

(ii) the levels of skills to be achieved in particular occupations, which will reflect the hiring needs of employers; and

(iii) the basic employment competencies to be used in performance outcomes, which will reflect the hiring needs of employers; and

(B) the State will establish separate measures for evaluating the effectiveness of programs for the handicapped assisted under this Act, designed to reflect the appropriate needs of handicapped individuals;

(7) provide assurances that the State board will cooperate with the State council on vocational education in carrying out its duties under this part;

(8) provide assurances that funds will be distributed to eligible recipients on the basis of annual applications and that any eligible recipient dissatisfied with final action with respect to any application for assistance under this Act will be given reasonable notice and opportunity for a hearing;

(9) provide assurances that the State will comply with the distribution of assistance requirements contained in section 203 and describe the criteria for the distribution of assistance required by section 203 and section 302;

(10) provide assurances that, to the extent consistent with the number and location of individuals described in clauses (1) and (2) of section 201(b) in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such individuals in the vocational education program assisted under title II of this Act;

(11) provide assurances that Federal funds made available under this Act will be used so as to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the State plan, and in no case supplant such State or local funds;

(12) provide assurances that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act); and

(13) provide assurances that, and, where necessary a description of the manner in which, the State board will comply with the other requirements contained in titles I, II, and III of this Act.

APPROVAL

SEC. 114. (a)(1) Each State plan prepared in accordance with the provisions of section 113 shall, ninety days before the plan is to be submitted to the Secretary, be furnished to the State legislature of the State for review and comment. If the matters covered by the comments of the State legislature are not covered by the State plan, the State shall submit the comments with the State plan to the Secretary.

(2) If the State legislature is not in session during the period described in paragraph (1), the State board shall submit the plan for review and comment to the next meeting of the State legislature and shall forward the comments of the State legislature to the Secretary when the comments are received.

(b)(1) Each State plan shall be submitted to the State council on vocational education for review and approval not later than 90 days prior to the submission of the plan to the Secretary in accordance with the procedures described in this subsection.

(2) Whenever the State council approves of the plan submitted in accordance with paragraph (1) of this subsection, the plan shall be submitted to the Secretary.

(3)(A) Whenever the State council disapproves of the State plan submitted in accordance with paragraph (1), the council shall return the State plan together with its comments and recommendations to the State board for such revisions as the State board determines to be appropriate. The revised State plan shall be resubmitted to the State council, once, for approval.

(B) If the State council approves the resubmitted State plan, the State plan shall be submitted to the Secretary.

(C) If the State council disapproves of the resubmitted State plan, the revised State plan, together with the comments required by subparagraph (A) of this paragraph, shall be submitted to the Secretary.

(c)(1)(A) The Secretary shall approve any State plan which meets the requirements of section 113 and the other provisions of this Act.

(B) In approving State plans under this section, the Secretary may consider the comments of the State council prepared under paragraph (3) of subsection (b).

(2) The Secretary shall not make a final determination disapproving any State plan, or any modification thereof, without first affording the State reasonable notice and opportunity for a hearing.

TITLE II—PROGRAMS FOR VOCATIONAL EDUCATION OPPORTUNITIES

USES OF FUNDS

SEC. 201. (a) From the portion of the allotment of each State under section 101 available for this title, each State shall provide vocational education services and activities designed to meet the special needs of groups of individuals specified in subsection (b).

(b) Each State shall use the portion of its allotment available for this title in any fiscal year to provide vocational education services and activities designed to meet the special needs of, and to enhance the participation of—

(1) handicapped individuals;

(2) disadvantaged individuals;

(3) adults who are in need of training or retraining;

(4) individuals who are single working parents or who have been primarily homemakers as adults; and

(5) criminal offenders who are serving in a correctional institution.

(c) Each State shall use the portion of its allotment available for this title in any fiscal year for handicapped individuals only for expenditures limited to supplemental or additional staff, equipment, materials, and services not provided to other individuals in vocational education that are essential for handicapped individuals to participate in vocational education.

(d) Each State may use the portion of its allotment available for this title for any fiscal year for the improvement of vocational education programs designed to provide equal access to quality vocational education to disadvantaged individuals.

(e)(1) Each State may use the portion of its allotment available for this title to improve or expand vocational education services and activities to train and retrain adult workers.

(2) Funds used for the purpose described in paragraph (1) may only be used for services and activities developed in coordination with the State agency administering title III of the Job Training Partnership Act.

(3) Funds for services and activities under this subsection may be used for—

(A) additional training under title III of the Job Training Partnership Act;

(B) vocational education programs for training or retraining adults, including programs for older Americans and displaced homemakers; and

(C) the costs of serving adults in other vocational education programs such as by paying the costs of instruction or the costs of keeping facilities open longer.

(f) Each State may use the portion of its allotment available for this title to—

(1) provide, subsidize, reimburse or pay for vocational education and training activities, including basic literacy instruction and necessary educational materials, that will furnish single working parents and homemakers with marketable skills; and

(2) make vocational education and training more accessible to single working parents and homemakers by assisting them with child care or transportation services or by organizing and scheduling the programs so that such programs are more accessible.

(g)(1) Each State may use the portion of its allotment available for this title in any fiscal year for basic skills instruction whenever the State board determines that such instruction is necessary to carry out the purposes described in subsection (b) of this section.

(2) Each State may use the portion of its allotment available for this title in any fiscal year for the provision of educational training through arrangements with private vocational training institutions where such private institutions can make a significant contribution to obtaining the objectives of the State plan and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions.

(h) Vocational education services and activities described in subsection (b) shall, to the extent practicable, include work-site programs such as cooperative vocational education, work-study, and apprenticeship programs.

DISTRIBUTION OF ASSISTANCE

SEC. 202. Of the amounts made available to each State from the portion of its allotment available for this title for each fiscal year—

(1) 20 percent shall be available for handicapped individuals;

(2) 40 percent shall be available for disadvantaged individuals;

(3) 20 percent shall be available for adults in need of training or retraining;

(4) 19 percent shall be available for individuals who are single working parents or who have been primarily homemakers as adults; and

(5) 1 percent shall be made available for criminal offenders who are in correctional institutions.

WITHIN STATE ALLOCATION

SEC. 203. (a)(1) The State board shall allocate the 60 percent of the amount allotted to the State and available for this title for vocational education services and activities for the handicapped and the disadvantaged to local educational agencies in the State based upon the relative number of children who are counted for the purpose of section 111(c) of the Elementary and Secondary Education Act of 1965 in the public schools of the local educational agencies within the State.

(2) Whenever there are area vocational education schools in a State, the appropriate local educational agencies within that State shall use funds allocated under paragraph (1) of this subsection for services and activities carried out by area vocational education schools within the area served by such agency in proportion, to the extent practicable, to the number of children who would be eligible to be counted under such section 111(c) if the area vocational education school were a secondary school in such agency.

(3) Each local educational agency shall use, to the extent feasible, community-based organizations, in addition to other eligible recipients, for the use of funds available under this title in areas of the State in which there is an absence of sufficient vocational education facilities or in which the vocational education programs do not adequately address the needs of disadvantaged students, or in which the local educational agency determines that the community-based organization can better serve disadvantaged students.

(4) Each local educational agency is authorized to use funds allocated under paragraph (1) of this subsection for joint projects with one or more other local educational agencies.

(b) The State board shall establish criteria for the distribution of the remaining 40 percent of the amount of the allotment of the State available for this title to eligible recipients within the State for the purposes described in clauses (3), (4), and (5) of section 202.

CRITERIA FOR SERVICES AND ACTIVITIES FOR THE HANDICAPPED AND FOR THE DISADVANTAGED

SEC. 204. (a) The State board shall, with respect to that portion of the allotment distributed in accordance with section 203(a) for vocational education services and activities for handicapped individuals and disadvantaged individuals, provide assurances that—

(1) equal access will be provided to handicapped and disadvantaged individuals in recruitment, enrollment, and placement activities;

(2) equal access will be provided to handicapped and disadvantaged individuals to the full range of vocational programs available to nonhandicapped and nondisadvantaged individuals, including occupationally specific courses of study, cooperative education, and apprenticeship programs; and

(3)(A) vocational education programs and activities for handicapped individuals will be provided in the least restrictive environment and will be included as a component of the individualized education plan required under section 612(4) and section 614(a)(5) of the Education of the Handicapped Act; and

(B) vocational education planning for handicapped individuals will be coordinated between appropriate representatives of vocational education and special education.

(b) Each local educational agency shall, with respect to that portion of the allotment distributed in accordance with section 203(a) for vocational education services and activities for handicapped individuals and disadvantaged individuals, provide information to handicapped and disadvantaged students and parents of such students concerning the opportunities available in vocational education at least one year before the students enter the grade level in which vocational education programs are first generally available in the State, but in no event later than the beginning of the ninth grade, together with the requirements for eligibility for enrollment in such vocational education programs.

(c) Each student who enrolls in vocational education programs and to whom subsection (b) applies shall receive—

(1) assessment of the special needs of such student with respect to completing successfully the vocational education program in which the student wants to enroll;

(2) special services, including adaptation of curriculum, instruction, equipment, and facilities, designed to meet the needs described in clause (1);

(3) guidance and counseling activities associated with the provision of such special services; and

(4) counseling services designed to facilitate the transition from school to post-school employment opportunities.

TITLE III—VOCATIONAL EDUCATION PROGRAM IMPROVEMENT INNOVATION AND EXPANSION

USES OF FUNDS

SEC. 301. From the portion of the allotment of each State under section 101 available for this title, each State may use grants for—

(1) the improvement of vocational education programs within the State designed to improve the quality of vocational education;

(2) the expansion of vocational education activities necessary to meet the student needs, particularly in economically depressed urban and rural areas of the State in which there are inadequate vocational education programs;

(3) the introduction of new vocational education programs, particularly in economically depressed urban and rural areas of the State;

(4) exemplary and innovative programs which stress new and emerging technologies and which are designed to strengthen vocational education services and activities;

(5) guidance and counseling activities in the improvement of vocational education programs within the State;

(6) the provision of inservice and preservice training designed to increase the competence of vocational education teachers, counselors, and administrators, including special emphasis on the integration of handicapped and disadvantaged students in regular courses of vocational education;

(7) programs relating to curriculum development in vocational education within the State, including the application of basic skills training;

(8) the expansion and improvement of programs at area vocational education schools; and

(9) the acquisition of equipment and the renovation of facilities necessary to improve or expand vocational education programs within the State.

DISTRIBUTION OF ASSISTANCE

SEC. 302. (a) Of the amounts made available to each State for the portion of its allotment available for this title for each fiscal year—

(1) 25 percent shall be available for activities at the State level; and

(2) 75 percent shall be distributed among eligible recipients, or combinations of eligible recipients, pursuant to criteria established by the State board.

(b) In prescribing the criteria under clause (2) of subsection (a), the State board shall give special emphasis to economically depressed urban and rural areas of the State and to area vocational education schools serving such areas.

(c) Not less than 10 percent of the amounts available to each State for this title in each fiscal year shall be available only for conducting consumer and homemaking education programs.

CRITERIA FOR PROGRAM IMPROVEMENT, INNOVATION, AND EXPANSION

SEC. 303. (a)(1) Subject to the provisions of this title, each State may expend funds available under this title in the manner best suited to carry out the purposes of this Act within the State.

(2) Each State board shall develop criteria for the distribution of funds available under clause (2) of section 302(a).

(b) Each State may make use of community-based organizations, in addition to eligible recipients, for the use of funds available under this title in areas of the State in which there is an absence of sufficient vocational education facilities or in which the vocational education programs do not adequately address the needs of disadvantaged students or wherever the community-based organization can better serve disadvantaged students.

(c) Any project assisted with funds made available under this title shall be of sufficient size, scope, and quality to give reasonable promise of meeting the vocational education needs of the students involved in the project.

TITLE IV—NATIONAL PROGRAMS

PART A—RESEARCH

RESEARCH OBJECTIVES

SEC. 401. It is the purpose of this part to authorize research activities to be conducted through the National Institute of Education which—

(1) contribute to improving the access to vocational education programs of individuals who are disadvantaged, who are handicapped, women who are entering nontraditional occupations, adults who are in need of retraining, individuals who are single working parents or who have been primarily homemakers as adults, individuals with limited English-speaking proficiency, and individuals who are incarcerated in correctional institutions;

(2) improve the competitive process by which research projects are awarded;

(3) encourage the dissemination of findings of research projects assisted under this Act to all States; and

(4) are readily applicable to the vocational education setting and are of practical application to vocational education administrators and instructors and others involved in vocational education.

NATIONAL INSTITUTE OF EDUCATION

SEC. 402. (a) In order to carry out the objectives set forth in section 401, the Secretary, through the National Institute of Education, shall conduct applied research on aspects of vocational education specifically related to this Act. Such research shall include—

(1) effective methods for providing quality vocational education to handicapped individuals, disadvantaged individuals, men and women in nontraditional fields, adults, individuals who are single working parents or who have been primarily homemakers as adults, individuals with limited English-speaking proficiency, and the individuals who are incarcerated in correctional institutions;

(2) strategies for coordinating local, State, and Federal vocational education, manpower training, and economic development programs to maximize their efficacy;

(3) the constructive involvement of the private sector in public vocational education;

(4) successful methods of reinforcing and enhancing basic academic skills in vocational settings; and

(5) the development of curriculum and instructional methods relating to new and emerging technologies.

(b) In addition, the Secretary shall—

(1) operate a clearinghouse for information on activities conducted by the States under titles II and III, and on contracts made by the Secretary pursuant to this section; and compile an annotated bibliography of research, exemplary and innovative program projects, and curriculum development projects assisted with funds made available under this Act;

(2) initiate leadership development and inservice education activities for State and local vocational education instructors and administrators; and

(3) support meritorious, unsolicited research proposals from State and local educators relating to the goals of this Act.

(c) No more than 20 percent of the amount made available under this part in any fiscal year may be awarded to any single recipient of financial assistance under this part.

NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS ASSISTED UNDER THIS ACT

SEC. 403. (a) The Secretary shall conduct a national assessment of vocational education assisted under this part, through independent studies and analysis by the National Institute of Education. The assessment shall include descriptions and evaluations of—

(1) the vocational education activities and services delivered to the individuals who benefit from vocational education activities and services assisted under this Act;

(2) the qualifications of teachers, counselors, and staff;

(3) the within State allocation of assistance under title II of this Act;

(4) the coordination of vocational education programs with employment training and economic development within the State;

(5) the impact of vocational education programs on the achievement of academic skills and employment opportunities of students; and

(6) the coordination of vocational education and postsecondary programing for handicapped and disadvantaged individuals.

The National Institute of Education shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required by this section. The National Institute of Education shall report to Congress the preliminary results of the assessment required by this section in January and July of 1988, and a final report shall be prepared and submitted to the Congress not later than January 1, 1989.

(b) Notwithstanding any other provision of law or regulation, such reports shall not be subject to any review outside of the Department of Education before their transmittal to the Congress, but the President and the Secretary may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.

(c) Not more than 20 percent of the amounts available under this part in any fiscal year may be expended to carry out the assessment authorized by this section.

PART B—SECRETARIAL FUND

PROGRAM AUTHORIZED

SEC. 411. (a) From the amounts available for this part under section 431 for each fiscal year, the Secretary is authorized to carry out, directly or through grants to or contracts with State and local educational agencies, postsecondary vocational institutions, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which support—

(1) model programs providing improved access to quality vocational education programs for those individuals described in section 201(b) of this Act and for men and women seeking nontraditional occupations;

(2) examples of successful cooperation between the private sector and public agencies in vocational education;

(3) programs to overcome national skill shortages, as designated by the Secretary in cooperation with the Secretary of Labor, Secretary of Defense, and Secretary of Commerce; and

(4) such other activities which the Secretary may designate which are related to the purposes of this Act.

(b) All programs funded by amounts made available by this section shall be—

(1) of direct service to individuals enrolled in such programs; and

(2) capable of wide replication by service providers.

(c) The Secretary shall disseminate the results of the programs and projects assisted under this section in a manner designed to improve the training of teachers, other instructional personnel, counsellors, and administrators who are needed to carry out the purposes of this Act.

PART C—VOCATIONAL EDUCATION AND OCCUPATIONAL INFORMATION DATA SYSTEMS

DATA SYSTEMS AUTHORIZED

SEC. 421. (a)(1) The Secretary shall develop a national vocational education data reporting and accounting system using uniform definitions. The system required by this section shall include information resulting from the evaluations required to be conducted by this Act and other information on vocational—

(A) students (including information on their race and sex),

(B) programs,

(C) program completers and leavers,

(D) staff,

(E) facilities, and

(F) expenditures.

(2) In developing the system required by this subsection, the Secretary shall endeavor as much as possible to make the system compatible with the occupational information data system developed pursuant to subsection (b) and other information systems involving data on programs assisted under the Job Training Partnership Act.

(3) Any State receiving assistance under this Act shall cooperate with the Secretary in supplying the information required to be submitted by the Secretary and shall comply in its reports with the vocational education data system developed by the Secretary pursuant to paragraph (1). Each State shall submit the data required to carry out this subsection to the Secretary in whatever form the Secretary requires. Whenever possible, the reporting of data under this paragraph shall include reporting of data by labor market areas within the State.

(4) The Secretary shall have the responsibility for updating the national vocational education information and accounting system and for preparing annual acquisition plans of data for operating the system.

(5) The Secretary shall use 33 1/3 percent of the funds available for this part under section 431(3) for the purpose of assisting the States in complying with the data collection requirements of this section and shall use 66 2/3 percent to carry out subsection (b).

(b)(1) There is established a National Occupational Information Coordinating Committee which shall consist of the Secretary, the Administrator of the National Center of Education Statistics, the Commissioner of Labor Statistics, the Assistant Secretary for Employment and Training, the Assistant Secretary of Commerce for Economic Development, the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), the Under Secretary of Agriculture for Small Community and Rural Development, and the Assistant Secretary of Health and Human Services for Vocational Rehabilitation. The Committee, with funds available to it under section 431(3) shall—

(A) in the use of program data and employment data, improve coordination between, and communication among, administrators and planners of programs authorized by this Act and by the Job Training Partnership Act, employment security agency administrators, research personnel, and employment and training planning and administering agencies at the Federal, State, and local levels;

(B) develop and implement an occupational information system to meet the common occupational information needs of vocational education programs and employment and training programs of the national, State, and local levels, which system shall include data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and standardized occupational classifications; and

(C) assist State occupational information coordinating committees established pursuant to paragraph (2).

(2) Each State receiving assistance under this Act and under the Job Training Partnership Act shall establish a State occupational information coordinating committee

composed of representatives of the State board, the State employment security agency, the State job coordinating council, the agency administering the vocational rehabilitation program, and the State economic development agency. This committee shall, with funds available to it from the National Coordinating Committee established pursuant to paragraph (1)—

(A) implement an occupational information system in the State which will meet the common needs for the planning for, and the operation of, programs of the State board assisted under this Act and of the administering agencies under the Job Training Partnership Act; and

(B) use the occupational information system to implement a career information delivery system.

INFORMATION BASE FOR VOCATIONAL EDUCATION DATA SYSTEM

SEC. 422. The Secretary shall assure that adequate information on the access to vocational education programs by handicapped and disadvantaged secondary school students be included in the national vocational education data system, required by section 161 of the Vocational Education Act of 1963 (prior to the repeal made by section 523(a)) and by this part, for the annual survey. The information base for the annual survey for the handicapped shall be in 6-digit detail as defined in A Classification of Instructional Programs published by the National Center for Educational Statistics. The survey shall include information with respect to total handicapped enrollment by program, by program enrollment by type of instructional setting, and by type of handicapping condition.

PART D—GENERAL PROVISIONS

DISTRIBUTION OF ASSISTANCE

SEC. 431. Of the amounts appropriated pursuant to section 3(b) for any fiscal year and available for this title—

(1) 30 percent shall be available for part A;

(2) 40 percent shall be available for part B; and

(3) 30 percent shall be available for part C.

TITLE V—GENERAL PROVISIONS

PART A—FEDERAL ADMINISTRATIVE PROVISIONS

PAYMENTS

SEC. 501. The Secretary shall pay from its allotment under section 101 to each State for any fiscal year for which the State has a State plan approved in accordance with section 114 (including any amendment to such plan) the Federal share of the costs of carrying out the State plan.

FEDERAL SHARE

SEC. 502. The Federal share for each fiscal year shall be—

(1) 50 percent of the costs of administration of the State plan;

(2) 50 percent of the costs of vocational education services and activities under title II described in the State plan for handicapped and disadvantaged students described in section 201(b) (1) and (2) and for the individuals described in clauses (3), (4), and (5) of section 201(b); and

(3) 50 percent of the costs of vocational education improvement, innovation, and expansion programs under title III.

MAINTENANCE OF EFFORT

SEC. 503. (a)(1) Payments for any fiscal year under this Act to a State shall be reduced in accordance with paragraph (2) unless the Secretary finds that the fiscal effort per student, or the aggregate expenditures for vocational education, in that State for the fiscal year preceding the fiscal year for which the determination was made was not less than 95 percent of such fiscal effort per student or the aggregate expenditures for vocational education for the second preceding fiscal year.

(2) The Secretary shall reduce the amount of the payment of funds under this Act, to which the State otherwise would have been entitled under its allocation, in the exact proportion to which a State fails to meet the requirements of paragraph (1) by falling below 95 percent of both the fiscal effort per student and the aggregate expenditures for vocational education (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(b) The Secretary may waive the requirements of this section for one fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources.

WITHHOLDING; JUDICIAL REVIEW

SEC. 504. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State board, finds that—

(1) the State plan or amendment approved under section 114 has been so changed that it no longer complies with the provisions of this Act; or

(2) in the administration of the State plan or of programs conducted pursuant to it there is a failure to comply substantially with any such provision,

the Secretary shall notify such State board that no further payments will be made to the State under this Act (or, further payments to the State will be limited to programs under or portions of the State plan not affected by such failure) until satisfied that there will no longer be any failure to comply. Until so satisfied, the Secretary shall make no further payments to such State under this Act (or shall limit payments to programs under, or portions of, the State plan not affected by such failure).

(b) A State board which is dissatisfied with a final action of the Secretary under this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which action is based, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set aside such action, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his action. The findings of the Secretary as to the facts, if supported by the weight of evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by the weight of evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall, unless specifically ordered otherwise by the court, operate as a stay of the Secretary's action.

(c)(1) If any eligible recipient is dissatisfied with the final action of the State board or other appropriate State administering agency with respect to approval of its local plan, such eligible recipient may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the State board or other appropriate State administering agency. The State board or such other agency thereupon shall file in the court the record of the proceeding on which the State board or such other agency based its action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the State board or other appropriate administering agency, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the State board or such other agency to take further evidence, and the State board or such other agency may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings.

(3) The court shall have jurisdiction to affirm the action of the State board or other appropriate administering agency or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari certification as provided in section 1254 of title 28, United States Code.

(d)(1) The Secretary shall prescribe and implement rules to assure that any hearing conducted under section 434(c) of the General Education Provisions Act in connection with funds made available from appropriations under this Act shall be held within the State of the affected unit of local government or geographic area within the State.

(2) For the purposes of paragraph (1)—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

AUDITS

SEC. 505. Each State shall obtain financial and compliance audits of any funds which the State receives under this Act. Such audits shall be made public within the State on a timely basis. The audits shall be conducted at least every two years by an organization or person independent of an agency administering activities under the Act. The audits shall be conducted in accordance with the Comptroller General's Standard for Audit of Governmental Organizations, Programs, Activities, and Functions.

PART B—TRANSITIONAL AND CONFORMING PROVISIONS

EFFECTIVE DATE

SEC. 521. (a) This Act shall take effect for fiscal years beginning on or after October 1, 1984, except that the authority of the Secretary to prescribe regulations under this Act and the responsibility of States to submit State plans are effective upon the date of enactment of this Act.

(b) Not later than 90 days after the date of the enactment of this Act, the Secretary shall prescribe regulations for carrying out the provisions of this Act.

TRANSITION PROVISIONS

SEC. 522. (a) Each State and eligible recipient of financial assistance under this Act, or under the Vocational Education Act of 1963, may expend funds received under this Act or under the Vocational Education Act of 1963 to—

(1) conduct planning for any program or activity authorized under this Act; and

(2) conduct any other activity deemed necessary by the recipient to provide for an orderly transition to the operation of programs under this Act.

(b) On the effective date of this Act, the personnel, property, and records of the National Occupational Information Coordinating Committee established under section 161(b) of the Vocational Education Act of 1963 shall be transferred to the National Occupational Information Coordinating Committee established pursuant to section 421 of this Act.

CONFORMING AMENDMENTS

SEC. 523. (a) The Vocational Education Act of 1963 is repealed.

(b)(1) Section 4 of the Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(A) by striking out "section 195(10) of the Vocational Education Act of 1963" in paragraph (14) and inserting in lieu thereof "section 4(13) of the Vocational Education Act of 1984";

(B) by striking out "section 195(11) of the Vocational Education Act of 1963" in paragraph (23) and inserting in lieu thereof "section 1201(h) of the Higher Education Act of 1965"; and

(C) by striking out "section 195(1) of the Vocational Education Act of 1963" in paragraph (28) and inserting in lieu thereof "section 4(23) of the Vocational Education Act of 1984".

(2) Section 122 of such Act is amended—

(A) by striking out paragraph (8) of subsection (a); and

(B) by striking out "section 105(d)(3) of the Vocational Education Act of 1963" in subsection (b)(7)(B) and inserting in lieu thereof "section 112(d) of the Vocational Education Act of 1984".

(3) Section 125(b)(1) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act of 1984".

(4) Section 427(a)(1) of such Act is amended by striking out "section 104(a)(1) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 111(a)(1) of the Vocational Education Act of 1984".

(5) Section 431(c) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act of 1984".

(6)(A) Section 463(a) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 421(b) of the Vocational Education Act of 1984".

(B) Section 464(a)(1) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 421(b) of the Vocational Education Act of 1984".

(C) Section 464(c) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 421(b) of the Vocational Education Act of 1984".

(D) Section 463(a) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 421(b) of the Vocational Education Act of 1984".

(E) Section 464(b) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act of 1984".

(7) Section 472 of such Act is amended by striking out "National Advisory Council on Vocational Education (established under section 162 of the Vocational Education Act of 1963)" in subsection (a).

(8) Section 473 of such Act is amended—

(A) by striking out "National Advisory Council on Vocational Education" in paragraph (7)(A) and each place it appears in paragraph (7)(B); and

(B) by striking out "section 162 of the Vocational Education Act of 1963".

(c) Section 703(a)(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3223(a)(8)) is amended by striking out "section 122(a)(4) and part J of the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act of 1984".

(d)(1) Section 113(d) of the Higher Education Act of 1965 (20 U.S.C. 1013(d)) is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act of 1984".

(2) Section 114(b) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act of 1984".

(3) Section 1022(a) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act of 1984".

(e)(1) Section 305(b)(11) of the Adult Education Act (20 U.S.C. 1205(b)(11)) is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act of 1984".

(2) Section 318(a)(4) such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act of 1984".

(f)(1) Section 113(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking out "the Vocational Education Act of 1963 (77 Stat. 403)" and inserting in lieu thereof "the Vocational Education Act of 1984".

(2) Section 114(c) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act of 1984".

(g) Section 101(a)(11) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)) is amended by striking out "the Vocational Education Act" and inserting in lieu thereof "the Vocational Education Act of 1984.".

(h) Section 104 of the Vocational Education Amendments of 1968 is amended by striking out "section 102(a) of this Act (as such Act will be in effect on October 1, 1977)" and inserting in lieu thereof "section 3 of the Vocational Education Act of 1984".

VOCATIONAL EDUCATION ACT OF 1984: SECTION-BY-SECTION ANALYSIS

The "Vocational Education Act of 1984," restructures and replaces the Vocational Education Act of 1963, providing increased emphasis on programs designed for those currently underserved, on program improvement, and on mechanisms designed to increase the focus of vocational education programs on meeting employment needs. The Act authorizes vocational education programs for 5 years, through fiscal year 1989.

SHORT TITLE

Section 1 states that this Act may be cited as the "Vocational Education Act of 1984."

STATEMENT OF PURPOSE

Section 2 declares that the purpose of this Act is to (1) assure that individuals who are inadequately served under vocational education programs are assured access to quality vocational education programs, (2) enhance the quality of such programs in the States, (3) promote greater cooperation between public agencies and the private sector in preparing individuals for employment, and (4) authorize national programs to meet designated needs and strengthen the vocational education research process.

AUTHORIZATION OF APPROPRIATIONS

Section 3 authorizes $900 million for fiscal year 1985 and such sums as may be necessary for each of the succeeding fiscal years through 1989 to carry out authorized State programs, except that 2 percent of the funds are reserved for national programs (title IV).

DEFINITIONS

Section 4 provides definitions for terms used in the Act; most of these are identical to those in the Vocational Education Act of 1963, as amended.

TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

Part A—Allotment and allocation

Allotment

Section 101 reserves 2 percent of the sums appropriated for national programs and 2 percent for Indian programs. The remaining funds are allotted to the States on the basis of a formula whereby 50 percent of the available funds are allotted according to population aged 15 to 19 times the allotment ratio, 20 percent according to population aged 20 to 24 times the allotment ration, 15 percent according to population aged 25 to 65 times the allotment ratio, and the remaining 15 percent in proportion to the first 3 allotments. No State shall receive less than one-half of 1 percent of the available funds, except that no State shall receive more than 150 percent of the funds allotted to it in the preceding year. The allotment ratio is defined as 1.00 less the product of (A) 0.50 and (B) the quotient obtained by dividing the per captia income of each State by the per capita income of all the States, except that the allotment ratio shall be no more than 0.60 or less than 0.40. Per capita incomes shall be calculated on the basis of the average for the three most recent consecutive years for which data are available.

Within State Allocation

Section 102 requires each State to allocate from its allotment not more than 4 percent for administrative expenses, 1 percent for the State Council on Vocational Education, and 1 percent for guidance and counseling activities. Of the remaining funds, 67 percent shall be available for programs for vocational education opportunities (title II), and 33 percent for vocational education program improvement, innovation, and expansion (title III).

Indian Programs

Section 103 authorizes the Secretary to enter into contracts with Indian tribal organizations for the purpose of providing vocational education programs. Two percent of the funds appropriated for title I are reserved for this purpose.

Part B—State organization and planning responsibilities

State Administration

Section 111 requires any State desiring to participate in programs authorized by this Act to establish or designate a State board of vocational education. The board shall coordinate the development of vocational education policy, coordinate the submission of the State plan, and consult with the State council on vocational education. Each State must assign at least one person to work full-time to assist the State board with respect to sex equity in vocational education programs. This person must administer the program for single working parents and homemakers, gather and disseminate data on the education and employment needs of women, review programs for sex stereotyping and sex bias, ensure that the needs of women are addressed in the administration of the program, develop programs of information and outreach to women, provide technical assistance in expanding vocational opportunities for women, and provide assistance to increase access for women to vocational education and increase male and female enrollment in nontraditional programs. Each State must allot not less than $60,000 for this purpose.

State Council on Vocational Education

Section 112 requires any State desiring to participate in programs authorized by this Act to establish a State council on vocational education. The majority of members of the council shall be representative of business and industry in the State, one of whom must be a member of the State job training council established under the Job Training Partnership Act. Secondary and postsecondary education shall be equally represented on the council; two members shall be from the State legislature; and one member must represent labor organizations in the State. The council must hold at least one public meeting per year. The council shall advise the State board on the development of the State plan and on policy matters relating to vocational education. The council shall analyze the distribution of funds and services within the State, consult with the State board on program evaluation, make recommendations concerning programs emphasizing the use of business and labor organizations, assess the balance in programs between secondary and postsecondary institutions, make recommendations concerning public participation (including employers and labor organizations) at the local level, and analyze the extent to which individuals with special needs have been provided with equal access to quality programs.

State Plans

Section 113 requires participating States to submit to the Secretary a State plan, the initial plan being for a 3-year period followed by 2-year periods thereafter. Each plan shall set forth the planned uses of Federal, State, and local funds available for vocational education and describe how the State will expend funds for persons with special needs (title II), and for program improvement, innovation, and expansion (title III). The plan shall provide assurances that (a) the State will establish measures for the effectiveness of programs, such as the occupations to be trained for and the levels of skills to be achieved in particular occupations, and separate measures for programs for the handicapped, (b) the State board will cooperate with the State council in carrying out its duties, (c) funds will be distributed to eligible recipients on the basis of annual applications, (d) provision will be made for the participation of individuals enrolled in private elementary and secondary schools in programs authorized by title II, (e) Federal funds will be used to supplement State and local funds, and (f) the State will make provision for necessary fiscal control and fund accounting procedures. The plan shall describe the criteria for the distribution of assistance under titles II and III.

Approval

Section 114 requires that the State plan be submitted to (a) the State legislature for review and comment, and (b) to the State council for review and approval. The Secretary shall approve any State plan which meets the requirements of this Act.

TITLE II—PROGRAMS FOR VOCATIONAL EDUCATION OPPORTUNITIES

Uses of Funds

Section 201 specifies that funds available for title II shall be used to meet the special vocational education needs, and enhance the participation, of handicapped individuals, disadvantaged individuals, adults in need of training or retraining, single working parents and individuals who are primarily homemakers, and criminal offenders who are serving in correctional institutions. Funds available for programs for the handicapped shall be limited to providing services not available to other individuals and are essential for the handicapped to participate in vocational programs. Funds available for programs for the disadvantaged may be used for programs designed to provide equal access to quality vocational education for the disadvantaged. Funds available for programs for adults may be used only for programs developed in coordination with the State agency administering title III of the Job Training Partnership Act. Funds available for programs for single parents and individuals who are primarily homemakers may be used for vocational and basic literacy instruction and for assistance to make such programs more accessible.

Distribution of Assistance

Section 202 requires that of the funds available for title II, 20 percent shall be available for programs for the handicapped; 40 percent shall be available for programs for the disadvantaged; 20 percent shall be available for programs for adults in need of training or retraining; 19 percent shall be available for programs for single parents and individuals who are primarily homemakers; and 1 percent shall be available for programs for criminal offenders who are in correctional institutions.

Within State Allocation

Section 203 requires States to allocate 60 percent of the funds available under this title (the amount for the handicapped and the disadvantaged) to local educational agencies based on the number of children counted at the local level under title I of the Elementary and Secondary Education Act of 1965. Local agencies shall allow area vocational schools to participate on an equitable basis. The State board shall determine the criteria for the distribution of the remaining funds.

Criteria for Services and Activities for the Handicapped and for the Disadvantaged

Section 204 requires the State board to provide assurances that, with respect to the 60 percent of the funds allocated for the handicapped and disadvantaged, equal access will be provided to such individuals in recruitment, enrollment, placement, and in the full range of vocational programs available to non-handicapped and non-disadvantaged individuals. Assurances are also required that vocational programs will be provided to the handicapped in the least restrictive environment and will be included as a component in the individualized education plan required by the Education of the Handicapped Act. With respect to programs for the handicapped and disadvantaged, each local educational agency is required to provide to students and parents information concerning the availability of vocational opportunities and eligibility requirements at least 1 year prior to the academic grade in which vocational programs are first generally available in the State. Students desiring to enroll in a vocational program shall receive (1) an assessment of their special needs relative to completing successfully the vocational program in which they want to enroll, (2) special services designed to meet their needs, (3) guidance and counseling with respect to such special services, and (4) counseling services designed to facilitate their transition from school to employment opportunities.

TITLE III—VOCATIONAL EDUCATION PROGRAM IMPROVEMENT, INNOVATION, AND EXPANSION

Uses of Funds

Section 301 allows States to use funds available for this title for the improvement of vocational education programs, program expansion, introduction of new programs, exemplary and innovative programs, guidance and counseling, provision of inservice and preservice training, curriculum development, and acquisition of equipment and renovation of facilities.

Distribution of Assistance

Section 302 requires that 25 percent of the available funds be available for activities at the State level and that 75 percent be distributed among eligible recipients by criteria established by the State board. The criteria shall include special emphasis on economically depressed urban and rural areas. Not less than 10 percent of the funds available to a State under this title shall be used for conducting consumer and homemaking education programs.

Criteria for Program Improvement, Innovation, and Expansion

Section 303 requires the State board to develop criteria for the distribution of funds among eligible recipients under section 302. States are allowed to make use of community-based organizations, in addition to eligible recipients, when facilities are insufficient or when programs do not sufficiently address the needs of the disadvantaged. Projects must be of sufficient size, scope, and quality to give reasonable promise of meeting the needs of vocational students.

TITLE IV—NATIONAL PROGRAMS

Part A—Research

Research Objectives

Section 401 declares that the purpose of this part is to authorize research activities through the National Institute of Education which will (1) contribute to improving access to vocational programs for persons with special needs, (2) improve the competitive process by which research projects are awarded, (3) encourage the dissemination of research results, and (4) have practical application.

National Institute of Education

Section 402 requires the Secretary through the National Institute of Education to conduct applied research on problems in vocational education specifically related to this act, including effective programs for persons with special needs; strategies for coordinating Federal, State, and local programs; involvement of the private sector; inclusion of basic skills in vocational programs; and improvement of programs related to new technologies. The Secretary is required to operate a clearinghouse for information related to this Act and initiate leadership development and inservice training activities. Not more than 20 percent of the funds available under this part shall be awarded to any single recipient.

National Assessment of Vocational Education Programs Assisted Under This Act

Section 403 requires the Secretary to conduct a national assessment of vocational education assisted under this Act, through independent studies and analysis by the National Institute of Education. The assessment shall include (1) delivery of services; (2) background of teachers, counselors, and staff; (3) within-State allocation of funds for persons with special needs; (4) coordination of vocational and job training programs within the States; (5) effectiveness of vocational programs on academic skills and employment opportunities; and (6) coordination of vocational and postsecondary programs for the handicapped and disadvantaged. Interim reports to Congress are required in January and July of 1988, and a final report by January 1, 1989. Not more than 20 percent of the funds available under this part shall be expended for the assessment.

Part B—Secretarial fund

Program Authorized

Section 411 authorizes the Secretary to carry out programs and projects which support (1) model programs providing improved access for persons with special needs; (2) private and public cooperation in vocational education; (3) programs addressing national skill shortages, as designated by the Secretary in cooperation with the Secretaries of Labor, Defense, and Commerce; and (4) other activities the Secretary designates as related to the purposes of this Act. All such support shall be related to direct services for individuals and shall be capable of wide replication. The Secretary shall disseminate the results of these projects.

Part C—Vocational education and occupational information data systems

Data Systems Authorized

Section 421 requires the Secretary to develop a national vocational education data reporting and accounting system, using uniform definitions and including information on vocational students, programs, program completers and leavers, staff, facilities, and expenditures. Section 421 also establishes a National Occupational Information Coordinating Committee that shall use the funds available to it to improve (1) coordination of program and employment data, and (2) communication among administrators and planners of programs authorized by this Act and by the Job Training Partnership Act, at the Federal, State, and local levels. The Committee shall also develop and implement an occupational information system to meet information needs common to vocational education and employment training programs, and provide assistance to State occupational information coordinating committees in implementing State occupational information systems.

Information Base for Vocational Education Data System

Section 422 requires the Secretary to provide adequate information on the access to vocational education programs by handicapped and disadvantaged secondary students by the collection of such information through the vocational education data system, as required by this part and by the Vocational Education Act of 1963 (prior to its repeal by this Act), and such information shall be collected in the annual survey. Data on the handicapped shall be in 6-digit detail as defined in "A Classification of Instructional Programs," and shall include information on total handicapped enrollment by program, and program enrollment by type of instructional setting and type of handicapping condition.

Part D—General provisions

Distribution of Assistance

Section 431 requires that of the funds available for title IV, 30 percent shall be available for part A, 40 percent for part B, and 30 percent for part C.

TITLE V—GENERAL PROVISIONS

Part A—Federal administrative provisions

Payments

Section 501 requires the Secretary to pay, from the allotment to each State, the Federal share of the costs of carrying out an approved State plan.

Federal Share

Section 502 defines the Federal share to be (1) 50 percent of the cost of administration of the State plan, (2) 50 percent of the cost of programs authorized by title II, and (3) 50 percent of the cost of programs authorized by title III.

Maintenance of Effort

Section 503 requires the Secretary to reduce payments under this Act to any State unless the fiscal effort per student or the aggregate expenditure for vocational education in the State in the previous fiscal year was not less than 95 percent of the amount in the second preceding fiscal year. Reductions shall be made in direct proportion to the amount by which a State fails to meet the required amount. The requirement may be waived, for 1 year only, in circumstances where the Secretary determines that the State has experienced an exceptional or uncontrollable decline in financial resources.

Withholding; Judicial Review

Section 504 requires the Secretary to withhold payments to any State whenever (1) the State plan or amendments thereto, or (2) the administration of the State plan or programs conducted under such plan no longer comply with the provisions of this Act. States may appeal any such decision of the Secretary.

Audits

Section 505 requires States to obtain financial and compliance audits for any funds received under this Act. Such audits shall be conducted at least every 2 years, and the results shall be made public on a timely basis. The audits shall meet the relevant standards established by the Comptroller General.

Part B—Transitional and conforming provisions

Effective Date

Section 521 declares that the provisions of this Act shall be effective for fiscal years beginning on or after October 1, 1984, except that the authority for the Secretary to make regulations and the States to submit State plans is effective upon enactment. The Secretary shall prescribe regulations not later than 90 days following enactment.

Transition Provisions

Section 522 permits States and eligible recipients receiving funds under this Act, or under the Vocational Education Act of 1963, to expend such funds to conduct planning and other activities deemed necessary for the orderly transition to the operation of programs under this Act. On the effective date of this Act, the personnel, property, and records of the National Occupational Information Coordinating Committee established under the Vocational Education Act of 1963 shall be transferred to the similar Committee established under this Act.

Conforming Amendments

Section 523 repeals the Vocational Education Act of 1963, and makes the necessary changes in references to this Act in other education and employment training legislation.●

● **Mr. PELL.** Mr. President, I am very pleased to join the distinguished chairman of the Education Subcommittee (Mr. STAFFORD) in introducing the Vocational Education Act of 1984. This is truly landmark legislation. It would reshape the Federal role in vocational education, and target our limited financial resources to areas of greatest need. In so doing, it would enable us to maximize the use of the Federal dollar.

Almost 2½ years ago, I set forth a series of general principles or guidelines that I thought should be followed as we proceeded to consider reauthorization of the Vocational Education Act. The legislation that we are introducing today meets the objectives which I had in mind then, and which I continue to believe are extremely important.

OBJECTIVE I: TARGETING OF FUNDS

I am of the mind that the Federal contribution to vocational education in the years ahead should not be in the form of general aid. Rather, it should focus upon providing vocational opportunities for particular special populations within our society. Among the groups that I have continually had in mind are the economically disadvantaged, the school dropout, the handicapped, the incarcerated, women, persons of limited English-speaking ability, and those who are deficient in basic skills instruction.

The needs of many of these groups are addressed in the vocational opportunities title of the Vocational Education Act of 1984. For instance, this title, which accounts for most of the money that flows to the States, places a major emphasis upon serving the needs of the disadvantaged. This includes children from poor families and those of limited English-speaking ability. It also contains a special focus upon the school dropout and upon the need for improved basic skills instruction. These funds, which constitute 40 percent of the vocational opportunities title, will be very important in meeting the vocational education and training needs of minority youth in our Nation's major cities, where the unemployment rate for such youth continues at the extremely alarming rate of 50 percent.

A second major part of this title of our bill stresses the needs of the handicapped. We have worked closely with the chairman of the Subcommittee on the Handicapped (Mr. WEICKER) in writing the provisions of the legislation that addresses the vocational education and training of handicapped students, and I am delighted that he is joining us in introducing this bill.

A third part of the vocational opportunities title provides a small amount of seed money to improve vocational training for those who are in correctional institutions throughout our Nation. The only way we can begin to break the cycle of recidivism in our society is to provide the incarcerated with training in prison that will lead to a job upon release. Failure to provide meaningful job training simply continues the revolving door of in, out, and back into prison that is so prevalent in our society today.

A fourth important element of our legislation is concerned with sex equity in vocational education and training, a primary focus of which is equitable vocational opportunities for women. We have not only preserved but also expanded and strengthened the sex equity provisions in the current law. In addition, we have worked closely with the chairman of the Labor and Human Resources Committee (Mr. HATCH) to provide funds for vocational training programs that address the special needs of single parents and homemakers who are seeking to enter or reenter the work force.

OBJECTIVE II: PROGRAM IMPROVEMENT

I deeply believe that another major role of Federal legislation in this area should be to insure that vocational education and training courses be as up to date as possible. They should reflect job requirements, and should utilize the latest modes of instruction. This means modern machinery and tools, and the use of the latest technological advances available. It also means courses in new and emerging technologies wherever and whenever necessary.

Vocational education students must have access to the most modern resources available, and Federal law should provide assistance to help accomplish this objective. Accordingly, the Vocational Education Act of 1984 includes a program improvement, innovation, and expansion title. This is a major priority area in our bill, and one that we believe will not only encourage but spur States and localities to make sure that our vocational education programs are always current in supplying students with the training that can actually lead to a related job in our society.

OBJECTIVE III: EMPHASIS ON ECONOMICALLY DEPRESSED AREAS

Closely related to providing vocational opportunities for special populations is the equally important task of providing assistance to the areas of our country that have the greatest need. Our program improvement title, therefore, places special emphasis on directing aid to the economically depressed urban and rural areas of America. For our major metropolitan areas, I am very hopeful that this will mean a substantial increase in vocational education facilities and services, and an end to the present situation in which our cities containing 20 percent of our population have only 7 percent of the present vocational education facilities.

OBJECTIVE IV: ADULT TRAINING AND RETRAINING

For several years it has been clear that vocational education must become more actively and deeply involved in the area of adult training and retraining. This should involve help to several different adult groups: the unemployed and economically dislocated worker, the displaced homemaker, the older American worker, the underemployed worker, and the person who simply desires an occupational change.

Well over 1 year ago I introduced the Older American Vocational Education Act. That legislation directly addresses the vocational training and retrianing needs of the adult workers, and I am very pleased that major elements of that legislation have been incorporated in the bill we are introducing today. An adult training and retraining section is a key part of our vocational opportunities title. In addition, we have stipulated that the adult training and retraining effort must be closely coordinated with the Job Training Partnership Act that was enacted last year.

OBJECTIVE V: WORK-RELATED EXPERIENCE

The success of cooperative education, work study, and apprenticeship programs indicates clearly the value of a work-related experience. Wherever possible, formal classroom instruction should be supplemented by an on-the-job training experience to give the student an understanding of what a job involves, as well as the demands placed upon the individual who holds a job. This is an important testing ground for the student, and can provide valuable insights into what a student can expect to find in the workplace. I have long maintained that a work-related experience should be an integral part of formal vocational education and training. Accordingly, I am encouraged that we have recognized the importance of this activity, and placed a strong emphasis upon it in the provisions of the Vocational Education Act of 1984.

OBJECTIVE VI: AN END TO COMPLEXITY

I also believe that we can and should have a Federal law for vocational education that is not overly complex and prescriptive, and that does not require long, detailed administrative regulations. We have sought in the Vocational Education Act of 1984 to set Federal priorities, provide targeted resources, and permit the States to be creative in developing programs to meet the needs of the people to be served.

OBJECTIVE VII: ADEQUATE FUNDING

With the fiscal constraints upon a nation just coming out of a severe recession and confronted by massive budget deficits, it is abundantly clear that Federal vocational education legislation cannot be all things to all people. We simply do not have unlimited financial resources.

The major conclusion of the NIE report on vocational education was that the current Federal law attempts to do too much with too little money. We have taken that admonition to heart in the legislation we are introducing today. We have provided an increase in the authorization, which is recognition of the very important role vocational education plays in our society. At the same time, we have narrowed the focus of vocational education because of our desire to make sure that the limited money we have is used in a most effective manner.

Simon Bolivar, the South American liberator, at one time observed that: "nations walk to the plentitude of their greatness with the same gait they walk toward education. If education flies, nations also fly." This legislation adheres strongly to that ideal. It represents a commitment on our part not only to improving the quality of vocational education and training but also to enhancing its contribution to the vibrance of the American Nation. On many occasions I have said that the real strength and health of our Nation depends upon the education and character of our people. To my mind, this legislation is a reaffirmation of that belief.

Mr. President, I urge my colleagues to give this bill their most serious consideration, and invite them to join us in charting a new and even more productive course for vocational education and training in our country.●

VOCATIONAL EDUCATION ACT OF 1984

Mr. HATCH. Mr. President, I am pleased to join today with my colleagues from the Committee on Labor and Human Resources: Senator STAFFORD, Senator PELL, and Senator WEICKER in introducing legislation to reauthorize the expiring vocational education law. Although this legislation differs from S. 2302, the Vocational Education Consolidation Act, which I introduced on February 9, 1984, it is designed essentially to accomplish a similar objective which is to reduce the administrative restrictions in the existing law. In some respects, the Vocational Education Act of 1984 is patterned after chapter II of the Education Consolidation and Improvement Act which is the education block grant that we passed in 1981. In both the former and the latter a proportion of the funds passes through directly to local education agencies. In both program design is left substantially to agencies of State and local governments.

The legislation specifically supports the provision of vocational education to people with special needs such as handicapped persons, economically disadvantaged persons, displaced homemakers, and single working parents.

Although I usually oppose set-asides that set program priorities for State and local governments, at a time when budgetary constraints compel us to set priorities I feel that it is entirely proper that the Federal Government concentrate its efforts on behalf of needy and underserved populations. There may be differences in the local situations among the 50 States. But every State has substantial numbers of the people who are the primary concern of this legislation; and serving them should be a nationwide priority.

I am particularly pleased that the substance of the Single Parents and Homemakers Education Assistance Act, S. 2318, has been incorporated into the Vocational Education Act of 1984. S. 2318, which I introduced just yesterday, is designed to provide vocational education to single working parents who are struggling in low-wage jobs to support themselves and their children, and homemakers who must, after years of caring for their families, seek work outside the home. The vocational education needs of both these groups have not been substantially met by existing Federal, State or local programs. These persons, who are predominantly women, have an especially difficult time in obtaining the training necessary for jobs that will make full use of their abilities.

Other provisions of the bill are well conceived and worthy of note. Prime examples are the sections that deal with vocational education research and the collection of national data on vocational education.

An agenda for vocational education research is established and the National Institute of Education is charged with responsibility for this agenda. For some time the Congress has been searching for a viable mechanism for conducting research in vocational education. We created a National Center for Vocational Education Research, but this approach has not led to a dynamic and truly national effort. In my judgment it is time to give the National Institute of Education the overall responsibility for the Federal contribution to educational research, including vocational education research.

One of the serious impediments to economically relevant vocational education planning is our inadequate and unreliable data regarding existing vocational education programs, and present and future occupational prospects. Presently, our nonsystem produces a fragmented and uncoordinated collection of data on students, jobs, completions, placements, and employment opportunities. The confusion is exacerbated by the lack of standard definitions used in the collection of data.

This bill requires uniformity in the reporting and accounting systems used for vocational education and congruity between these systems and the systems used for other Federal programs such as the Job Training Partnership Act. Therefore, occupational planners, employers, and Government officials will speak the same language when they use the data that is so essential to the proper planning of vocational programs.

Finally, the bill promotes a State-directed effort to improve the quality of vocational counseling. In our highly complex and competitive society, counseling students on career choices and the education necessary for the career of their choice is an essential service that has not been well performed in many communities. Providing this service requires special dedication and special training. The shortage of counselors with these qualifications is sufficiently grave that the Federal Government should help the States to develop responsive guidance and counseling programs regarding vocational education.

Mr. President, the Vocational Education Act of 1984 represents a large improvement over existing law. I was pleased to cooperate with Senator STAFFORD and Senator PELL in developing this reauthorization, and I am proud to support it.

By Mr. HELMS:

S. 2342. A bill to amend the Export Administration Act of 1979; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT ADMINISTRATION ACT AMENDMENTS

● Mr. HELMS. Mr. President, I am introducing today a bill which will strengthen our controls over exports to Communist countries. The aggressive and expansionist policies of the Soviet Union demand firm action if we are to preserve the security of our Republic and of the free world.

While my distinguished colleagues from Pennsylvania (Mr. HEINZ) and from Utah (Mr. GARN) have worked hard to produce a bill to control trade with Communist countries, this Senator feels that measures to strengthen our controls further are necessary. We must bear in mind that the central principle of the Export Administration Act in its original form in 1949 was to so control trade with Communist countries that the transfer of goods and technology to them would not contribute to the development of their military-industrial base.

The bill that I am introducing today is in many respects similar to S. 979. In fact, much of the language is identical. I have, however, introduced new language to strengthen our controls over trade to Communist countries.

The original Export Control Act of 1949 served its purpose for some 20 years. In 1969, however, the original thrust of the bill was changed to reflect the advent of the so-called "détente" policy of Henry Kissinger. The act, since 1969, has been systematically watered down to serve a new purpose: trade promotion to Communist countries. I am deeply concerned about this trend and my bill will serve to get our Nation back on the track of controlling trade with Communist countries.

My bill restores the name of the act to its original name, the Export Control Act. We simply must keep our focus on the basic purpose of this act, which is to control trade with Communist countries.

In section 2 of the act, the findings, my bill adds a paragraph finding that the concept of "foreign availability" of goods and technology should be eliminated as a factor in granting licenses. Rather than accept the existence of so-called "foreign availability" as an excuse to transfer goods and technology to the Communist world, we should eliminate the actual availability. We can do that if we have the will to do so.

Mr. President, a lot has been said about so-called availability of competing products in foreign countries. According to a recent Commerce Department study, during the 1970's, the United States was responsible for about 95 percent of the innovation in the high technology field. U.S. corporations located here at home, as well as U.S. subsidiaries abroad, and foreign licensees were responsible for this tremendous progress. This study indicates that in the decade of the 1980's, innovations in technology of U.S. origin will be at a level of about 65-70 percent of what is available on the world market.

What this means is that if we control the exports of U.S.-origin technology and negotiate with our allies on a bilateral and multilateral basis, the problem of so-called foreign availability will disappear.

My bill also adds a paragraph which emphasizes that foreign availability should not only be controlled for foreign policy purposes but also for national security purposes. In addition, a paragraph is added to the findings which specifically states that excessive dependence upon Soviet resources, whether energy resources or other critical resources, harms the security of our Nation as well as the security of our allies.

In Section 3, the Declaration of Policy, my bill adds language to strengthen the President's hand in controlling the transfer of important scientific and technical information during scholarly exchanges if the President determines that it would hurt our national security.

My bill adds a paragraph to declare that U.S. policy is to minimize the dependence of ourselves and of our allies on Soviet energy and other critical resources. While this is certainly a matter of basic commonsense, we need a statement in this bill for all the world to see to show our determination in this area. We cannot allow the Soviet Union to hold us or our allies hostage to critical resource blackmail.

In Section 4, General Provisions, my bill would not allow the issuing of comprehensive operations licenses nor distribution licenses for exports of controlled goods or technology. These types of licenses pose serious problems as loopholes through which dangerous leakage of goods and technology may flow to the Communist world. My bill also adds a paragraph to this section which specifically encourages the administration to negotiate on a bilateral and multilateral basis to reduce foreign availability of goods and technology.

In Section 5, National Security Controls, my bill would not provide for annual review by the U.S. Government to decontrol items on the unilateral portion of our national Commodity Control List. This would interfere with the NATO-related body, the Coordinating Committee for Multilateral Controls, which conducts its review every 3 years.

My bill would also prevent automatic decontrol of items through the mechanism of so-called indexation; that is, through growing obsolescence. Just because technology forges ahead with the progress of human innovation, this does not mean that items which become less significant from a Western point of view because of this process are not still significant for the much more backward Soviet world. Automatic decontrol through the indexation method is simply not a prudent policy.

My bill would not allow the issuance of a general license in the area of West-West trade by checking only the new Military Critical Technology List (MCTL). We must have both the Commodity Control List (CCL) and the Military Critical Technology List used together to provide an adequate check in the control process. Goods which are controlled by the CCL must remain controlled. While the new MCTL compendium is very important and worthwhile, its focus may be too narrow. Therefore, both lists must be used to control exports to Communist countries.

In Section 5, Foreign Policy Controls, my bill would allow the President to impose extraterritorial measures to assist in the export control process. As I mentioned earlier, the vast majority of technological innovations are of U.S. origin and the President must have the authority to reach to overseas U.S. subsidiaries and licensees to protect our technology and goods.

My bill specifically addresses the problem of international terrorism by strengthening provisions of the act to include authority for the President to impose controls on medical and other basic supplies if he concludes that such items may be headed for use by international terrorist organizations through some cover-type operation. My bill would specifically forbid the issuance of export licenses for goods or technology headed to any international terrorist organization or agent of such organization. The recent massacre of U.S. Marines in Beirut underscores the necessity to crack down on international terrorist organizations.

Mr. President, I am deeply concerned that the facts about trade with Communist countries and its consequences are not more available to the American people and to Congress. Therefore, in Section 11, the Annual Report, my bill would strengthen the provisions for reporting to Congress on the foreign availability issue and measures which the administration is taking to eliminate such foreign availability. My bill also calls for two new reports in the President's annual report to Congress on export controls.

The first new report my bill calls for is a report which lists the licenses granted to exporters for exports to controlled countries. This information would include the name of the person to whom the license was granted, the type of good exported, and the country, or end-user, of such good. In this manner, Congress and the American people will have clear access to the general structure of U.S. trade with Communist countries. Information concerning proprietary matters, such as trade secrets relating formulas and specific prices, is not required.

The other report called for in my bill would relate to the economic impact of exports to controlled countries. Specifically, domestic consequences of such trade with Communist countries must be reported on in the area of job loss and injury to our industries here at home which result from such trade. Congress and the American people needs this type of information in order to better understand the consequences of trade with the Communist world and to protect our national interests and our domestic well-being.●

By Mr. MOYNIHAN:

S. 2343. A bill to reform the alternative minimum tax; to the Committee on Finance.

ALTERNATIVE MINIMUM TAX

● Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation on a matter of real importance, the fairness and efficiency of our tax system.

How fair is it, when thousands of Americans enjoy high annual incomes, but pay little or no personal taxes? How efficient is it, when the Tax Code permits—nay, encourages—investments in tax shelters producing little or no economic benefit. I submit that there is more than a casual relationship between these matters of equity and efficiency. It is by the use of tax shelters that some of the wealthiest among us manage to avoid paying any income tax.

Certainly, it is not the intention of the Tax Code to permit persons with high incomes to escape any tax liability. But it is the effect. We have, after all, progressive tax rates, which suggest that the richest among us, who can best afford to do so, should contribute the most to the Nation's common revenues. It is equally acknowledged in the Tax Code, however, that this progressivity can be moderated through tax deductions and credits for such recognized purposes as paying mortgage interest, medical expenses, or taking business losses. And there is a separate and distinct recognition that everyone who can afford to do so should contribute something, a minimum contribution.

This is the alternative minimum tax under current law, requiring 20 percent tax on income above $40,000—for couples, filing joint returns. This, quite truly, is a minimum; 20 percent is the marginal rate for ordinary income at about $15,000; it also is the preferential rate for long-term capital gains in the highest bracket.

It does not work. It does not work, because high income persons can still shelter their incomes not only from progressive tax rates but from the minimum tax as well. Let me speak for a moment about tax shelters, investments designed to enable a taxpayer to reduce his taxable income by more than the amount he invests. Tax shelters take the form of investments—and who among us does not want to encourage investment? But these are not economic investments in a true sense. Here, investment occurs not with the expectation of economic profit, but rather with the assurance of tax deductions, credits, and losses. The goal is not to produce a profit, but to reduce the tax liability on income from other sources.

The current minimum tax does not work, because high income persons can still use tax shelters to reduce their taxable incomes below the $40,000 level that triggers the minimum tax. By strengthening and expanding the minimum tax, we can at once undercut the attraction of tax shelters and insure contributions by everyone. This is an approach with both equity and efficiency to recommend it.

It is not uncommon for a tax-shelter scheme—say, a partnership formed to borrow funds and to purchase and lease a building or farm equipment—to generate $2 or more in paper losses—mainly, depreciation deductions—for every $1 invested. That means a high-income person with, say, $200,000 in income from salary, dividends, and interest can invest in a tax shelter that generates, say, $150,000 in paper losses. That would leave the taxpayer with about $50,000 in taxable income, from which he might well deduct additional amounts of charitable contributions, medical expenses, the interest on his home mortgage, personal exemptions for himself and his family, and the like. Just as the tax shelter enables him to avoid the 50-percent progressive rate on income of $200,000, so it also enables him to evade the 20-percent minimum tax on income above $40,000.

This should tell us how we can begin to restore minimum equity and efficiency to that Tax Code: In computing taxable income, for purposes of the minimum tax, the taxpayer can use deductions for businesses or trades only to offset gains from trades or businesses. These losses, however, cannot be used to offset income from other sources. In short, under my proposal, he could not shelter income from the minimum tax.

The taxpayer still can claim his personal deductions for mortgage interest and the like. The taxpayer still can deduct losses from business or trade activities, but only against his gains from business or trade activities. If these losses exceed these gains, then he can carryover any unrealized losses to the next year, when he does have gains. What he could not do is use these losses, these deductions, to shelter other income from not only the regular progressive tax, but also from the minimum 20-percent tax on income above $40,000.

At once, we can insure that everyone who can pay something does so—in particular, that taxpayers with incomes above $40,000 will pay something on any income above $40,000. At the same time, we also can strike a blow at the near epidemic of economically inefficient tax sheltering. This simple measure would remove a taxpayer's incentive to shelter all his income. This truly is a matter of some real importance, for the efficiency of our economy as well as the equity of our tax system.

On February 24, I introduced this measure as part of a larger proposal, "The Tax Shelter Reform Act of 1984." Today, I am introducing the same proposal as a separate piece of legislation. I urge my colleagues to join me, in helping to restore equity and efficiency.

I ask unanimous consent that the full text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 55(b) of the Internal Revenue Code of 1954 (relating to the alternative minimum tax for taxpayers other than corporations) is amended by adding at the end thereto the following new subsection:

"(3) Notwithstanding the above, the alternative minimum taxable income shall never be less than the alternative minimum taxable income floor as defined in subsection (f) below."

(b) Section 55(f) of the Internal Revenue Code of 1954 (relating to the alternative minimum tax for taxpayers other than corporations) is amended by adding at the end thereto the following new subsection:

"(3) ALTERNATIVE MINIMUM TAXABLE INCOME FLOOR.—The alternative minimum taxable income floor for the taxable year means the taxpayer's adjusted gross income with the following three adjustments:

"(1) deductions attributable to property held for the production of rents or royalties or to a trade or business (other than a trade or business consisting of the performance of services) shall not be taken into account to the extent that the deductions from such activities exceed the gross income attributable to such activities;

"(2) adjusted gross income shall be increased by the amount in Section 57(a)(9); and

"(3) adjusted gross income shall be reduced by the taxpayer's alternative tax itemized deductions."

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after February 23, 1984.●

By Mr. HEINZ:

S.J. Res. 242. Joint resolution to designate May 12, 1984, as "National Hospital and Health Care Worker Day;" to the Committee on the Judiciary.

NATIONAL HOSPITAL AND HEALTH CARE WORKER DAY

● Mr. HEINZ. Mr. President, I am proud to offer today a Senate joint resolution designating May 12, 1984, to be "National Hospital and Health Care Worker Day."

Mr. President, throughout the debate over spiraling health care costs and the financial problems facing the medicare program, one major component has been overlooked, the contributions of individuals who provide care to the sick, injured, and impaired. More than 5.8 million hospital and health care workers dedicate themselves each day of the year to the health and well-being of the American people. A "National Hospital and Health Care Worker Day" would recognize their contribution and would proclaim our appreciation of their efforts to maintain high standards of quality care in our hospitals, nursing homes, doctors' offices, and other health settings.

Mr. President, I am proud to note that today we are served by the most advanced and respected health care system in the world. Our medical institutions have earned this fine reputation through the dedicated efforts of men and women whose knowledge and expertise transforms technological advances and medical discoveries into improved services and better health care for us all.

In just the last decade, marvelous new procedures and technologies have been introduced which effectively prevent the spread of some diseases, improve diagnostic accuracy, and enhance the lives of the terminally ill. These advances in medical technology demand increased training, expertise, and specialization. Rather than weaken the delivery of health care in our hospitals, this specialization has produced a highly skilled corps of health care workers who provide a variety of services with a spirit of unity and purpose. Further, because of the difficult legal and ethical questions posed by recent advances in life-sustaining technology, health care workers must now respond with a higher degree of sensitivity to the needs of very ill patients and their families.

In the coming years, there will be increasing pressure to restrain health costs. All participants in the health care delivery system are sure to be affected, including hospitals, medical suppliers, physicians, nurses, and the entire range of health-related therapists, technicians, specialists, and maintenance workers. Unless we take care to recognize their essential contribution to the human side of patient care, we risk overlooking the most important factor in quality health care. We cannot ignore the needs and aspirations of those who provide this care any more than we can ignore the needs of the sick who require care. I am confident that our Nation's hospital and health care workers will continue to do their utmost to assure that quality care will not be sacrificed in the effort to develop more efficient ways of delivering and financing our health care. A national day to recognize the human element in this effort is a small way to remind ourselves of their important contribution to this goal.

Mr. President, May 12 is an especially appropriate date for "National Hospital and Health Care Worker Day" because Florence Nightingale, a crusader of reform in our health care system, was born on that day 164 years ago. Florence Nightingale dedicated her life to improving the quality of care during the infancy of modern American medicine, when patients relied on the skill and attention of nurses for relief of pain and suffering. Today, health care workers across the the country continue this tradition of serving the needs of others.

Mr. President, I am proud to sponsor a day to recognize the skills, dedication, and human decency that hospital and health care workers bring to their work in caring for others.●

By Mr. MOYNIHAN:

S.J. Res. 243. Joint resolution designating the week preceding October 28, 1984, as "National Immigration Week"; to the Committee on the Judiciary.

NATIONAL IMMIGRATION WEEK

● Mr. MOYNIHAN. Mr. President. I am introducing legislation today to designate the week preceding October 28, 1984 as "National Immigration Week." October 28 is the anniversary of the dedication of the Statue of Liberty, which has stood in New York harbor since 1886 as a greeting to the millions of immigrants who have entered our country through the Port of New York.

It is commonplace to say that this is a nation built by immigrants. But it is nonetheless correct. It is true, too, that the heritage of immigration remains with us—determines, in fact, much of the character of our policy.

In 1963, in "Beyond the Melting Pot," a book I coauthored with my distinguished colleague, Nathan Glazer, we stated a thesis that I believe still to be valid:

> It is true that immigrants to this country were rapidly transformed, in comparison with immigrants to other countries, that they lost their language and altered their culture. It was reasonable to believe that a new American type would emerge, a new nationality in which it would be a matter of indifference whether a man was of Anglo-Saxon or German or Italian or Jewish origin, and in which indeed . . . it would be impossible to make such distinctions. This may still be the most likely result in the long run. . . . Yet it is also true that it is forty years since the end of mass immigration, and new processes, scarcely visible when our chief concern was with the great masses of immigrants and the problems of their "Americanization," now merge to surprise us. The initial notion of an American melting pot did not, it seems, quite grasp what would happen in America. . . .
>
> As the groups were transformed by influences in American society, stripped of their original attributes, they were recreated as something new, but still as identifiable groups. Concretely, persons think of themselves as members of that group, with that name; they are thought of by others as members of that group, with that name; and most significantly, they are linked to other members of the group by new attributes that the original immigrants would never have recognized as identifying their group, but which nevertheless serve to mark them off, by more than simply name and association, in the third generation and even beyond.

In other words, immigration is not simply another historical event in America's past. It is a fact that influences our behavior as individuals and as a nation still.

The Statue of Liberty and its neighbor in New York harbor, the Ellis Island Immigration Station, are the tangible symbols of immigration to America. Both symbols are in urgent need of rehabilitation, I might add. A Presidentially-appointed commission is attempting to raise private funds to complete their renovation by the date of the Statue's centennial in 1986.

It is the purpose of my legislation to set aside the week preceding October 28, 1984, in which we would especially contemplate the unique development of this Nation through immigration and celebrate the freedom and opportunity which attracted so many millions of talented, courageous, and enterprising souls to our shores.

I ask unanimous consent that a copy of the legislation be printed in the RECORD following my remarks, and I urge my colleagues to join me in supporting this bill.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 243

Whereas the United States is a nation built primarily by immigrants from other nations;

Whereas the Statue of Liberty in New York Harbor since its dedication on October 28, 1886, has been a symbol of American liberty and opportunity;

Whereas the Ellis Island Immigration Station in New York Harbor between 1892 and 1954 was the disembarkation point for over 24 million immigrants;

Whereas over 40 percent of American citizens are directly descended from immigrants whose first glimpse of America was the Statue of Liberty and who passed through Ellis Island; and

Whereas American character and enterprise have been shaped by immigration: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week preceding October 28, 1984, as "National Immigration Week" throughout these United States.●

By Mr. DOLE (for himself, Mr. HATCH, Mr. HATFIELD, Mr. HOLLINGS, and Mr. INOUYE):

S.J. Res. 244. Joint resolution designating the week beginning on May 6, 1984, as "National Asthma and Allergy Awareness Week"; to the Committee on the Judiciary.

NATIONAL ASTHMA AND ALLERGY AWARENESS WEEK

● Mr. DOLE. Mr. President, today, Senators HATCH, HATFIELD, HOLLINGS, INOUYE and I are introducing a joint resolution requesting the President to designate the week of May 6-12, 1984, as National Asthma and Allergy Awareness Week. An identical joint resolution has been introduced in the House by Representatives O'BRIEN and CAMPBELL.

Allergies and asthma together represent an enormous public health problem. Here are the facts:

One of every six American children and adults is afflicted in some way by these illnesses;

An estimated 5,000 individuals die each year from asthma, despite common medical knowledge and treatments capable of preventing such deaths;

As many as 9 million Americans are asthmatic, over a third of whom are children;

Hay fever afflicts an estimated 15 million Americans;

About 8 million work days a year are lost due to hay fever and asthma;

About 130 million school days are missed each year because of asthma and hay fever;

Occupational allergic diseases are now believed to be a major cause of workplace-caused illness;

An estimated 16 percent of all hospital inpatients suffer from adverse drug reactions, often allergic in nature;

Many other ailments of the skin, joints, kidneys, lungs, intestines, glands; as well as some parasitic, blood, infectious and malignant disorders are now believed to have major allergic and immunologic components.

The costs to individuals and families, employers, the health delivery system, and society of asthma and allergic diseases are enormous. For example:

The total cost of these incurable immunoligic diseases was estimated at $4 billion in 1981;

Direct costs for physicians services, drugs, and hospital or nursing home care are estimated to be close to $2 million a year;

Indirect costs, such as lost wages, probably exceed $800 million a year for hay fever and asthma alone; and

Social security benefits for $400 million were allowed in one recent year to workers disabled by asthma.

To emphasize the importance of public education and awareness and to encourage the continued public and private support of research, we urge our colleagues to join us in this joint resolution.●

By Mr. GORTON:

S.J. Res. 245. Joint resolution to designate the week of April 15 through April 21, 1984, as "National Recreational Sports Week"; to the Committee on the Judiciary.

NATIONAL RECREATIONAL SPORTS WEEK

● Mr. GORTON. Mr. President, today I am introducing a resolution calling upon the President to proclaim the week of April 15 through 21, 1984, as "National Recreational Sports Week."

Recreational sports programs benefit participants in many ways: physically, socially, and emotionally. Plus, they bring fun and enjoyment to all who take part.

The concept of a "National Recreational Sports Week" was developed by the National Intramural-Recreational Sports Association (NIRSA). This nonprofit organization was founded in 1950. Members of NIRSA are professionals in the field of recreational sports, and are working to meet the needs of communities for adequate recreational opportunities.

I commend the National Intramural-Recreational Sports Association on its work in this area. The passage of this resolution will help to increase the public's awareness of the benefits of recreational sports, and I hope my colleagues will join me in supporting this measure.●

ADDITIONAL COSPONSORS

S. 33

At the request of Mr. Mathias, the name of the Senator from Kansas (Mr. Dole) was withdrawn as a cosponsor of S. 33, a bill to amend title 17 of the United States Code with respect to rental, lease or lending of motion pictures and other audiovisual works.

S. 144

At his own request, the name of the Senator from Oklahoma (Mr. Boren) was withdrawn as a cosponsor of S. 144, a bill to insure the continued expansion of reciprocal market opportunities in trade, trade in services, and investment for the United States, and for other purposes.

S. 627

At the request of Mr. Packwood, the names of the Senator from Vermont (Mr. Stafford), and the Senator from Rhode Island (Mr. Pell) were added as cosponsors of S. 627, a bill to authorize the establishment of a national scenic area to assure the protection, development, conservation, and enhancement of the scenic, natural, cultural, and other resource values of the Columbia River Gorge in the States of Oregon and Washington, to establish national policies to assist in the furtherance of its objective, and for other purposes.

S. 717

At the request of Mr. Thurmond, the name of the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of S. 717, a bill to amend section 8 of the Uniformed Services Survivor Benefits Amendments of 1980 to provide the same annuity benefits to the surviving spouses of certain former members of the uniformed services who died before September 21, 1972, but after their discharge or release from active duty as are provided under such section to the surviving spouses of certain former members who died before such date while serving on active duty.

S. 801

At the request of Mr. Thurmond, the name of the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of S. 801, a bill to amend title 10, United States Code, to establish a program to provide high school graduates with technical training in skills needed by the Armed Forces in return for a commitment for enlisted service in the Armed Forces.

S. 905

At the request of Mr. Eagleton, the names of the Senator from Arkansas (Mr. Bumpers), and the Senator from Montana (Mr. Baucus) were added as cosponsors of S. 905, a bill entitled the National Archives and Records Administration Act of 1983.

S. 1059

At the request of Mr. Denton, the name of the Senator from Virginia (Mr. Trible) was added as a cosponsor of S. 1059, a bill to provide that it shall be unlawful to deny equal access to students in public schools and public colleges who wish to meet voluntarily for religious purposes and to provide district courts with jurisdiction over violations of this act.

S. 1082

At the request of Mr. Ford, the name of the Senator from Montana (Mr. Melcher) was added as a cosponsor of S. 1082, a bill amending title 49 of the United States Code with respect to standards for rail rates and determinations of rail carrier market dominance, with respect to railroad accounting principles, and for other purposes.

S. 1128

At the request of Mr. Leahy, the name of the Senator from Florida (Mr. Chiles) was added as a cosponsor of S. 1128, a bill entitled the Agricultural Productivity Act of 1983.

S. 1145

At the request of Mr. Denton, the name of the Senator from South Dakota (Mr. Pressler) was added as a cosponsor of S. 1145, a bill to recognize the organization known as the Catholic War Veterans of the United States of America, Incorporated.

S. 1474

At the request of Mr. Sarbanes, the name of the Senator from Hawaii (Mr. Matsunga) was added as a cosponsor of S. 1474, a bill to amend title 10, United States Code, to authorize the use of post and base exchanges and commissary stores by persons who, but for age, would be entitled to retired pay under chapter 67 of such title.

S. 1537

At the request of Mr. Danforth, the name of the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of S. 1537, a bill to provide additional authorization of appropriations for certain programs for fiscal year 1984, and each of the 4 following fiscal years.

S. 1756

At the request of Mr. Durenberger, the names of the Senator from Illinois (Mr. Percy), and the Senator from New Mexico (Mr. Bingaman) were added as cosponsors of S. 1756, a bill to provide for assistance to State and local governments and private interests for conservation of certain rivers, and for other purposes.

S. 1857

At the request of Mr. Durenberger, the name of the Senator from Maine (Mr. Mitchell) was added as a cosponsor of S. 1857, a bill to amend the Internal Revenue Code of 1954 to remove certain impediments to the effective philanthropy of private foundations.

S. 1931

At the request of Mr. Durenberger, the name of the Senator from New Mexico (Mr. Bingaman) was added as a cosponsor of S. 1931, a bill to amend the Internal Revenue Code of 1954 to revise the tax incentives for certain alcohol fuels.

S. 1992

At the request of Mr. Bentsen, the name of the Senator from North Carolina (Mr. East) was added as a cosponsor of S. 1992, a bill to amend the Internal Revenue Code of 1954 to simplify and improve the income tax treatment of life insurance companies and their products.

S. 2003

At the request of Mr. Domenici, the name of the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of S. 2003, a bill to amend the tariff schedules of the United States to impose duties on subsidized hydraulic cement, cement clinker, and concrete block and brick.

S. 2014

At the request of Mr. Specter, the names of the Senator from Arizona (Mr. DeConcini), the Senator from Missouri (Mr. Eagleton), the Senator from Washington (Mr. Gorton), the Senator from Wisconsin (Mr. Kasten), and the Senator from Georgia (Mr. Nunn), were added as cosponsors of S.

2014, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide for assistance in locating missing children.

S. 2096

At the request of Mr. Packwood, the name of the Senator from Michigan (Mr. Levin) was added as a cosponsor of S. 2096, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to permit investment by employee benefit plans in residential mortgages.

S. 2099

At the request of Mr. Jepsen, the name of the Senator from Indiana (Mr. Lugar) was added as a cosponsor of S. 2099, a bill to delay for 2 years the mandatory coverage of employees of religious organizations under social security.

S. 2102

At the request of Mr. Roth, the names of the Senator from Texas (Mr. Bentsen), the Senator from New Mexico (Mr. Bingaman), the Senator from North Dakota (Mr. Burdick), the Senator from Florida (Mr. Chiles), the Senator from Maine (Mr. Cohen), the Senator from Connecticut (Mr. Dodd), the Senator from Minnesota (Mr. Durenberger), the Senator from Utah (Mr. Garn), the Senator from Arizona (Mr. Goldwater), the Senator from South Carolina (Mr. Hollings), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Johnston), the Senator from Michigan (Mr. Levin), the Senator from Indiana (Mr. Lugar), the Senator from Maryland (Mr. Mathias), the Senator from Ohio (Mr. Metzenbaum), the Senator from Rhode Island (Mr. Pell), the Senator from Illinois (Mr. Percy), the Senator from Wisconsin (Mr. Proxmire), the Senator from Arkansas (Mr. Pryor), the Senator from Maryland (Mr. Sarbanes), the Senator from Tennessee (Mr. Sasser), the Senator from Vermont (Mr. Stafford), the Senator from Alaska (Mr. Stevens), the Senator from California (Mr. Wilson), the Senator from California (Mr. Cranston), the Senator from North Dakota (Mr. Andrews), and the Senator from Hawaii (Mr. Matsunaga), were added as cosponsors of S. 2102, a bill to charter the National Academy of Public Administration.

S. 2125

At the request of Mr. Tower, his name was added as a cosponsor of S. 2125, a bill entitled the Arkansas Wilderness Act of 1983.

S. 2131

At the request of Mr. DeConcini, the names of the Senator from Maryland (Mr. Sarbanes), and the Senator from New Mexico (Mr. Bingaman) were added as cosponsors of S. 2131, a bill to provide for the temporary suspension of deportation for certain aliens who are nationals of El Salvador, and to provide for Presidential and congressional review of conditions in El Salvador and other countries.

S. 2203

At the request of Mr. Specter, the name of the Senator from Maryland (Mr. Sarbanes) was added as a cosponsor of S. 2203, a bill to repeal section 2392 of title 10, United States Code, relating to the prohibition on the use of Department of Defense funds to relieve economic dislocations, and for other purposes.

S. 2247

At the request of Mr. DeConcini, the names of the Senator from Rhode Island (Mr. Pell), the Senator from Arkansas (Mr. Pryor), and the Senator from Maryland (Mr. Sarbanes) were added as cosponsors of S. 2247, a bill to provide for the payment of certain burial benefits for veterans who were former prisoners of war.

S. 2287

At the request of Mr. Pell, the name of the Senator from New Jersey (Mr. Lautenberg) was added as a cosponsor of S. 2287, a bill to provide for the distribution of oil overcharges collected by the Department of Energy to consumers.

SENATE JOINT RESOLUTION 70

At the request of Mr. Garn, the names of the Senator from Nevada (Mr. Hecht), the Senator from Iowa (Mr. Jepsen), the Senator from Arkansas (Mr. Bumpers), and the Senator from New Mexico (Mr. Domenici) were added as cosponsors of Senate Joint Resolution 70, a joint resolution to designate the week beginning April 17, 1983, as "National Building Safety Week."

SENATE JOINT RESOLUTION 143

At the request of Mr. Melcher, the names of the Senator from West Virginia (Mr. Randolph), the Senator from Illinois (Mr. Dixon), the Senator from Hawaii (Mr. Inouye), and the Senator from Nebraska (Mr. Exon) were added as cosponsors of Senate Joint Resolution 143, a joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning with Sunday, June 3, 1984, as "National Garden Week."

SENATE JOINT RESOLUTION 171

At the request of Mr. Stennis, the names of the Senator from Oklahoma (Mr. Nickles), the Senator from Illinois (Mr. Percy), and the Senator from Minnesota (Mr. Durenberger) were added as cosponsors of Senate Joint Resolution 171, a joint resolution for the designation of July 20, 1984, as "National POW/MIA Recognition Day."

SENATE JOINT RESOLUTION 210

At the request of Mr. Trible, the names of the Senator from Louisiana (Mr. Long), the Senator from Arkansas (Mr. Pryor), and the Senator from Delaware (Mr. Biden) were added as cosponsors of Senate Joint Resolution 210, a joint resolution to designate the period commencing January 1, 1984, and ending December 31, 1984, as the "Year of Excellence in Education."

SENATE JOINT RESOLUTION 213

At the request of Mr. D'Amato, the names of the Senator from New Jersey (Mr. Lautenberg), the Senator from New Hampshire (Mr. Humphrey), the Senator from Alaska (Mr. Stevens), and the Senator from Arizona (Mr. DeConcini) were added as cosponsors of Senate Joint Resolution 213, a joint resolution designating 1984 as "The Year of the Secretary."

SENATE JOINT RESOLUTION 220

At the request of Mr. Kennedy, the name of the Senator from Illinois (Mr. Dixon) was added as a cosponsor of Senate Joint Resolution 220, a joint resolution to designate the week of May 20, 1984, through May 26, 1984, as "National Arts with the Handicapped Week."

SENATE JOINT RESOLUTION 222

At the request of Mr. Lautenberg, the names of the Senator from South Carolina (Mr. Hollings), and the Senator from North Dakota (Mr. Andrews) were added as cosponsors of Senate Joint Resolution 222, a joint resolution designating the month of June 1984 as "Student Awareness of Drunk Driving Month."

SENATE JOINT RESOLUTION 225

At the request of Mr. Moynihan, the names of the Senator from Michigan (Mr. Riegle), the Senator from Nebraska (Mr. Zorinsky), the Senator from Maryland (Mr. Sarbanes), and the Senator from Pennsylvania (Mr. Heinz) were added as cosponsors of Senate Joint Resolution 225, a joint resolution designating the month of March 1984 as "National Eye Donor Month."

SENATE JOINT RESOLUTION 228

At the request of Mr. Randolph, the names of the Senator from California (Mr. Cranston), and the Senator from Illinois (Mr. Dixon) were added as cosponsors of Senate Joint Resolution 228, a joint resolution to designate the week of May 20, 1984, through May 26, 1984 as "National Digestive Diseases Awareness Week."

SENATE JOINT RESOLUTION 235

At the request of Mr. Pell, the name of the Senator from West Virginia (Mr. Byrd) was added as a cosponsor of Senate Joint Resolution 235, a joint resolution to authorize the Law Enforcement Officers Memorial Fund, Inc., to establish a "National Law Enforcement Heroes Memorial."

SENATE JOINT RESOLUTION 239

At the request of Mr. Chiles, the names of the Senator from Minnesota (Mr. Boschwitz), and the Senator from Oklahoma (Mr. Boren) were added as cosponsors of Senate Joint Resolution 239, designating the week of October 21 through October 27, 1984, as "Lupus Awareness Week."

SENATE JOINT RESOLUTION 241

At the request of Mr. RANDOLPH, his name was added as a cosponsor of Senate Joint Resolution 241, a joint resolution to authorize and request the President to issue a proclamation designating May 6 through May 13, 1984 as "Jewish Heritage Week."

At the request of Mr. D'AMATO, the names of the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Maryland (Mr. SARBANES), and the Senator from California (Mr. WILSON) were added as cosponsors of Senate Joint Resolution 241, supra.

SENATE CONCURRENT RESOLUTION 96

At the request of Mr. CHILES, the names of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Senate Concurrent Resolution 96, a concurrent resolution expressing the sense of Congress that the President should submit a revised budget proposal which contains provisions to reduce the Federal deficit by at least $200 billion over the next 3 years.

SENATE RESOLUTION 74

At the request of Mr. PELL, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of Senate Resolution 74, a resolution expressing the sense of the Senate concerning the future of the people of Taiwan.

SENATE RESOLUTION 191

At the request of Mr. LEAHY, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of Senate Resolution 191, a resolution relating to justice in the case of the slain American churchwomen in El Salvador.

SENATE RESOLUTION 287

At the request of Mr. HUDDLESTON, the name of the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of Senate Resolution 287, a resolution establishing a "Task Force on Agricultural Credit."

SENATE RESOLUTION 335

At the request of Mr. MOYNIHAN, the names of the Senator from Hawaii (Mr. INOUYE), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of Senate Resolution 335, a resolution calling on the Office of Management and Budget to withdraw its proposed revisions to Circular A-122.

SENATE RESOLUTION 336

At the request of Mr. DOLE, the names of the Senator from Illinois (Mr. DIXON), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of Senate Resolution 336, a resolution to proclaim "Circle K International Week."

SENATE RESOLUTION 352—GRATUITY TO JOYCE L. THISS

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 352

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Joyce L. Thiss, widow of George R. Thiss III, an employee of the Senate at the time of his death, a sum equal to five months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 353—RELATING TO UNIVERSAL BASIC TELEPHONE SERVICE

Mr. LAUTENBERG (for himself, Mr. FORD, Mr. EXON, and Mr. INOUYE) submitted the following resolution which was referred to the Committee on Commerce, Science and Transportation:

S. RES. 353

Whereas the telecommunications industry is in a state of transition due to organizational changes in the industry as well as technological advances and rapidly developing competition;

Whereas it is essential that affordable basic telephone service remain universally available during and after this transition;

Whereas efforts now underway that are intended to provide long-run benefits to individual consumers and to the U.S. economy generally, may have a negative effect on universal service; and

Whereas, the sudden transition to new pricing levels, mechanisms and structures for a variety of telecommunications services—including local access, special access, and OCC access—may threaten the viability of alternative networks, the vitality of interexchange competition, and the maintenance of universal service.

Now, therefore be it resolved that it is the sense of the United States Senate, That

1. A proper balance of the public interest requires a reliance on sound economic principles and open marketplace competition only to the extent it does not jeopardize the universal availability of affordable basic telephone service of adequate quality;

2. The Federal Communications Commission should institute no flat end user charges for residential and single line business customers until it thoroughly documents that such charges will not threaten universal basic telephone service and submits the results of its study to the Senate in sufficient advance time to enable the Senate to exercise its oversight function. If proposed, such changes shall not be implemented before June, 1985.

3. If the Commission implements flat end user charges after completing the study called for above, it shall at the same time, in conjunction with the states ensure the institution of reduced cost basic telephone or lifeline service for those people who otherwise would not be able to afford basic telephone services and it shall exempt such people from the obligation to pay any flat end user charge adopted by the Commission.

Devise and implement a plan, whereby rural small telephone companies with high costs will receive necessary additional assistance in excess of that which the Commission had announced in July 1983 for such companies, in order to ensure affordable basic telephone service to their customers;

Carefully review the tariffs for interexchange telecommunications services that are filed to carry out the Commission's action to ensure that the prices for such services are reduced to the maximum extent possible;

4. If the Commission finds, after thorough and scrupulous review, that there are justified significant changes in the pricing levels, mechanisms and structures for telecommunications services—including local access, special access, and OCC access—the Commission shall implement such changes in a gradual transition, in order to minimize the impact of the viability of alternative networks, the vitality of competition, and the maintenance of universal service. Accordingly, if the Commission shall impose flat end user charges on residential and single-line business customers, those charges shall not exceed $4 per month per line prior to 1990 and the implementation of the charges rising to the $4 level shall be phased in gradually. The Commission shall not consider any further increases in the charges before additional study and Congressional oversight in the light of facts developed during the transition period between 1984 and 1990. Also, the Commission shall expand the exemption from surcharges on private line surcharges to include those users who appropriately verify that they do not interconnect with the public switched telephone network.

● Mr. LAUTENBERG. Mr. President, today I am introducing a sense of the Senate resolution regarding the continuing transition in telecommunications, particularly, the effort by the Federal Communications Commission to phase out the so-called long distance subsidy of local fixed costs and to substitute a so-called access charge on all local customers. I am joined by Senators FORD, EXON, and INOUYE.

On January 26, 1984, the Senate agreed to table a motion to proceed to S. 1660, a bill to impose a 2-year moratorium on access charges on residential and small business telephone customers. While I had earlier supported a legislative response to the Commission, I argued during Senate consideration that recent actions by the FCC made legislation, at least for the time being, unnecessary.

In obvious response to congressional concern, the Commission tentatively agreed on January 19, and confirmed on January 25, to postpone access charges, to mandate a mechanism to insure lifeline service for the poor, and to address other concerns expressed here. As recently as last week, the Commission issued a memorandum opinion and order in furtherance of its January decision. We are introducing this resolution to make clear our intention to hold the Commission to its word.

I do want to emphasize, however, that this resolution does not address the matter of restoring the pension portability rights of the employees of the former Bell System. That is something that we must correct through legislation. I am committed to doing that and I know so are many others including Senators FORD, EXON, RIEGLE, and PACKWOOD.

Mr. President, we will continue to exercise our powers of oversight over the Commission—to insure that universal service is maintained, and to insure as best we can that this profound change in the telecommunications industry works well for consumers, both business and residential, the industry and its many workers, and the Nation as a whole.●

AMENDMENTS SUBMITTED

FREEDOM OF INFORMATION REFORM ACT

DENTON AMENDMENT NO. 2715

(Ordered to lie on the table.)

Mr. DENTON submitted an amendment intended to be proposed by him to the bill (S. 774) entitled the "Freedom of Information Reform Act"; as follows:

On page 16, line 24, strike out "or".

On page 17, line 6, strike out all after "functions" and insert in lieu thereof "functions; or".

On page 17, between lines 6 and 7, insert the following:

"(12) related to the investigation of terrorism or concerned with foreign counterintelligence operations.".

On page 17, strike out lines 8 through 15 and insert in lieu thereof the following:

SEC. 12. Section 552(b) of title 5, United States Code, is amended by striking out the second sentence thereof.

CAREER CRIMINAL ACT

KENNEDY (AND OTHERS) AMENDMENT NO. 2716

Mr. KENNEDY (for himself, Mr. THURMOND, Mr. BIDEN, Mr. LAXALT, Mr. LEAHY, Mr. EAST, Mr. DENTON, Mr. MOYNIHAN and Mr. CHILES) proposed an amendment to the bill (S. 52) to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment; as follows:

(1) On page 5, strike line 3 and insert in lieu thereof the following: "of a robbery or burglary offense which may be prosecuted in a court of the United States, or";

(2) On page 5, strike line 12 and insert in lieu thereof the following: "(c) The offense referred to in subsection (b) of";

(3) On page 7, line 9, add "and" after "way;";

(4) On page 7, line 11, delete "; and" and insert a period after "person"; and

(5) On page 7, strike section 4(c).

EXPORT ADMINISTRATION ACT AMENDMENTS

PERCY AMENDMENTS NO. 2717 THROUGH 2720

(Ordered to lie on the table.)

Mr. PERCY submitted four amendments intended to be proposed by him to the bill (S. 979) to amend and reauthorize the Export Administration Act of 1979; as follows:

AMENDMENT No. 2717

On page 41, strike out line 7.

On page 41, line 15, strike out the second period and insert in lieu thereof "; and".

On page 41, between lines 15 and 16, insert the following:

(8) by adding at the end thereof the following:

"(k)(1) Beginning 180 days after the date of enactment of this subsection and every six months thereafter, the Secretary shall submit to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report listing in two sections—

"(A) all applications the processing of which was completed during the preceding six months and which required a period longer than the period permitted by subsection (c), or by subsections (d), (e) and (f) (1) of this section before notification of a decision was sent to the applicant, and

"(B) all applications which have been in process for a period longer than the period permitted by subsection (c), or by subsections (d), (e) and (f) (1) of this section and upon which final action has not been taken.

"(2) Each listing shall identify—

"(A) the application case number;

"(B) the value of goods covered by the application;

"(C) the country of destination;

"(D) the date the application was received by the department;

"(E) the date on which the Secretary granted or denied the application;

"(F) the date the notification was sent to the applicant; and

"(G) the total number of days which elapsed between receipt of the application in acceptable form and the cut-off date of the report, or the date that notification of decision was sent, whichever is earlier.

"(3) For an application which was referred to other agencies, the listing shall also include—

"(A) the agencies to which referral was made;

"(B) the date or dates of referral; and

"(C) the date or dates recommendations were received from these agencies.

"(4) For an application referred to any other agency which has taken a period longer than the period permitted by subsection (e) of this section to provide its recommendations, the listing shall also include—

"(A) the office responsible for processing the application and the position of the officer responsible for the office; and

"(B) the period required for processing by the office.

"(5) The report shall also provide an introduction which contains (A) a summary of the number and value of applications listed by length of process delay beyond the period permitted by subsection (c), or by subsections (d), (e) and (f)(1) of this section (0-15 days; 16-30 days; 31-45 days; 46-60 days; more than 60 days delay), and (B) a summary by country of destination of the number and value of such applications.

"(6) Not later than January 1, 1986, the Secretary shall implement a computer-based system for recording the reporting information required by this section to facilitate expedited reporting of these processing delays.".

AMENDMENT No. 2718

On page 39, between lines 23 and 24, insert the following:

(4) in subsection (d)—

(A) by inserting "(1)" after "(d)" REFERRAL TO OTHER DEPARTMENTS AND AGENCIES.—";

(B) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively; and

(C) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1) of this subsection, the Secretary shall, within 5 working days after receiving an application which is properly completed, determine pursuant to subsection (g) of this section whether it is necessary to refer the application to the Secretary of Defense. If the determination is affirmative, the Secretary shall refer the application to the Secretary of Defense together with all information supplied by the applicant, within 3 working days of that determination. The Secretary may concurrently refer the application to any other department or agency for its information and recommendations at the same time.

"(3) The Secretary, in carrying out his review responsibilities under this Act, shall review all such applications concurrently with the review by the Secretary of Defense.

"(4) In the case of any application which is referred to any other agency where concurrent review is not completed by the Secretary within the period authorized by this section for review by the agency to which referred, the Secretary shall have additional time for review in accordance with subsection (f) only if the Secretary of Defense or other agency to which the application was referred has recommended that the application be denied or be approved subject to specified conditions.".

Redesignate succeeding paragraphs accordingly.

AMENDMENT No. 2719

On page 52, line 2, after the first period, insert the following: "The President's proposal shall specify that the Office of Strategic Trade shall be subject to the foreign policy guidance of the Secretary of state and shall carry out its responsibilities in a manner consistent with the United States foreign policy objectives and priorities as determined by the Secretary of State.".

AMENDMENT No. 2720

On page 39, strike out line 4.

On page 39, line 10, strike out the last period and insert in lieu thereof "; and".

On page 39, between lines 10 and 11, insert the following:

(10) by striking out "crime" in the first sentence of subsection (j)(1) and inserting in lieu thereof "Notwithstanding any other provision of this section, crime".

PERCY (AND OTHERS) AMENDMENT NO. 2721

(Ordered to lie on the table.)

Mr. Percy (for himself, Mr. **Andrews**, Mr. **Sarbanes**, and Mr. **Durenberger**) submitted an amendment intended to be proposed by them to the bill S. 979, supra; as follows:

On page 52, between lines 2 and 3, insert the following new section, and renumber succeeding sections accordingly:

SMALL BUSINESS ASSISTANCE

Sec. 15. Section 10 of the Export Administration Act of 1979 is amended by adding at the end thereof the following new section:

"(k) Small Business Assistance.—Not later than 120 days after enactment of this subsection, the Secretary of Commerce shall develop and transmit to the Congress a plan to assist small businesses in the export licensing application process. The plan shall include, among other things, arrangements for counseling small businesses on filling applications and identifying goods or technology on the commodity control list, proposals for seminars and conferences to educate small businesses on export controls and licensing procedures, and the preparation of informational brochures.".

TARIFF TREATMENT OF CERTAIN ARTICLES

GRASSLEY AMENDMENT NO. 2722

(Ordered to lie on the table.)

Mr. **GRASSLEY** submitted an amendment intended to be proposed by him to the bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes; as follows:

On page 28, after the table following line 15, insert the following new section:

SEC. 141. CERTAIN MAGNETRON TUBES.

Subpart B of part I of the Appendix is amended by inserting in numerical sequence the following new item:

"Magnetron tubes used in cooking appliances with an operating frequency of 2.450 GHZ and a minimum power of at least 300 watts and a maximum power not greater than 2,000 watts (provided for in item 684.28, part 5, schedule 6)	Free	No change	On or before 12/31/86".

● Mr. **GRASSLEY**. Mr. President, today I am offering an amendment which makes a technical change to a previous amendment I offered to S. 2019.

Because of some concern from interested parties in the private sector as well as within the administration that the original bill and subsequent amendment to that bill was not narrowly enough defined, this amendment will define it to everyones satisfaction, including mine.

This amendment defines for the purpose of S. 2019 magnetron tubes used in cooking appliances with an operating frequency of 2.450 GHz and a minimum power of at least 300 watts and a maximum power not greater than 2,000 watts.●

EXPORT ADMINISTRATION ACT AMENDMENTS

KENNEDY AMENDMENT NO. 2723

(Ordered to lie on the table.)

Mr. **KENNEDY** submitted an amendment intended to be proposed by him to the bill S. 979, supra; as follows:

At the appropriate place in the bill, add the following section:

"JUSTICE AND DEMOCRACY IN THE PHILIPPINES

Sec. . (a) The Congress finds that—

(1) Benigno Aquino, Junior, was a leading figure in the effort to restore democracy and constitutional rule in the Philippines.

(2) In returning to the Philippines, he willingly faced death to lead the struggle for the restoration of democracy and nonviolent change.

(3) His brutal assassination was a despicable act that cut short the life of a dedicated Filipino patriot who was deeply committed to the cause of peaceful change and the restoration of democracy in his country.

(4) In the wake of his assassination, there may be a greater tendency on the part of the Filipino people to support those who would resort to violence as a way to bring about change in the Philippines.

(5) The elections for the National Assembly scheduled for May 1984 have now become more important than ever, in terms of providing the Filipino people with an opportunity to peacefully determine their own future and to bring about such political changes they may desire.

(b)(1) The Congress strongly deplores the brutal assassination of Benigno Aquino, and expresses its sincere condolences to his family and to all Filipinos who have shared his commitment to democracy.

(2) It is the sense of the Congress that all appropriate steps should be taken to achieve a thorough, independent, and impartial investigation of the Aquino assassination in a timely fashion and to bring to justice all those responsible for that assassination.

(3) It should be the policy of the United States to support genuine, free, and fair elections to the National Assembly in May 1984, and to that end, to urge the Government of the Philippines to take the necessary steps to secure the full participation of the opposition parties in these elections, including the prompt reconstitution of an objective impartial electoral commission, and the restoration of full freedom of the press, so that all issues can be fully and openly debated and decided.

(4) The United States Government should take into account among other factors the conduct of the Government of the Philippines investigation into the Aquino assassination and the fairness of the 1984 National Assembly elections in the conduct of its relations with the Government of the Philippines.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. **ROTH**. Mr. President, the Senate Committee on Governmental Affairs will hold a hearing on Oversight of Defense Contract Audit Agency and Contract Auditing on Thursday, March 1, at 9:30 a.m., in room SD-342 of the Dirksen Senate Office Building. For further information, please contact Mr. Link Hoewing at 224-4751.

Mr. President, the Senate Committee on Governmental Affairs will hold a nomination hearing for Mr. John Keane to be Director of the Bureau of the Census, Wednesday, February 29, at 2:30 p.m., in SD-342 of the Dirksen Senate Office Building. For further information, please contact Ms. Margaret Hecht at 224-4751.

COMMITTEE ON THE BUDGET

Mr. **DOMENICI**. Mr. President, the Senate Committee on the Budget will continue hearings on the first concurrent budget resolution for fiscal year 1985 beginning on Monday, February 27, 1984. All hearings will be held in room 608 of the Dirksen Senate Office Building. The following is a list of the witnesses scheduled to testify at the hearings:

Monday, February 27, 1984, 10:30 a.m.

Mr. James M. Beggs, Administrator, Headquarters, National Aeronautics and Space Administration;

Mr. William D. Carey, executive officer, American Association for the Advancement of Science;

Dr. John H. Gibbons, Director, Office of Technology Assessment; and

Hon. George A. Keyworth II, Office of Science and Technology Policy, Executive Office of the President.

Tuesday, February 28, 1984, 9:30 a.m.

Dr. Robert J. Rubin, Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services;

Dr. Janet L. Norwood, Commissioner, Bureau of Labor Statistics, U.S. Department of Labor;

Dr. Blanche Bernstein, director, Social Policy Research Institute, New School for Social Research, New York City;

Dr. John Palmer, codirector, Urban Institute Project, "Changing Domestic Priorities"; and

Dr. Frank Levy, professor of public affairs, University of Maryland.

Tuesday, February 28, 1984, 1:30 p.m.

Dr. Rudolph Penner, Director, Congressional Budget Office; and

Mr. Charles A. Bowsher, Comptroller General of the U.S. General Accounting Office.

Tuesday, February 28, 1984, 2:30 p.m.

Mr. J. Peter Grace, Chairman, President's Private Sector Survey on Cost Control.

Wednesday, February 29, 1984, 9:30 p.m.

Hon. Paul A. Volcker, Chairman, Board of Governors of the Federal Reserve System.

Thursday, March 1, 1984, 9:30 a.m.

Dr. Terrel H. Bell, Secretary, Department of Education;

Dr. Jo Ann Krueger, principal, Manzano High School, Albuquerque, N. Mex.;

Dr. Allan Odden, Education Commission of the States; and

Dr. Patricia Graham, dean, Graduate School of Education, Harvard University.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. **McCLURE**. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings in Hawaii before the Committee on

Energy and Natural Resources on the report of the Native Hawaiian Study Commission. The hearings will each commence at 10:30 a.m. and will be held as follows: Monday, April 16, State Capitol auditorium in Honolulu, Oahu; Tuesday, April 17, Yano Hall in Captain Cook, Hawaii; Wednesday, April 18, in the county council chambers of the city hall in Wailuku, Maui; and Friday, April 20, in the county council chambers of the city hall in Lihue, Kauai.

Those wishing to testify or who wish to submit written statements for the hearing record should contact Mr. James Beirne of the committee staff at 202-224-2564, or Ms. Gladys Karr of Senator Matsunaga's Honolulu office at 808-546-7555.

For further information regarding these hearings, you may wish to contact Mr. Beirne or Ms. Karr at the above listed numbers.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Public Lands and Reserved Water on Tuesday, March 6, beginning at 2 p.m. in room SD-366 of the Dirksen Senate Office Building.

The subcommittee will receive testimony on S. 1084, to designate additional rivers as components of the National Wild and Scenic Rivers System, and for other purposes; S. 416, to amend the Wild and Scenic Rivers Act by designating a segment of the Illinois River in Oregon and the Owyhee River in Oregon as components of the National Wild and Scenic Rivers System; S. 2095, to amend the Wild and Scenic Rivers Act by designating the Wildcat River for study as a national wild and scenic river; and S. 1756, to provide for assistance to State and local governments and private interests for conservation of certain rivers, and for other purposes.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510.

Because of the number of persons expected to testify, witnesses will be placed in panels and limited to 5 minutes of oral testimony. Witnesses should provide the subcommittee with 50 copies of their written statement 24 hours in advance of the hearing, as required by the Rules of the Senate.

For further information regarding this hearing, you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON BUDGET AUTHORIZATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Budget Authorization, of the Select Committee on Intelligence, be authorized to meet during the session of the Senate on Thursday, February 23, at 1:30 p.m., to meet in closed session to consider the fiscal year 1985 intelligence budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, February 23, at 10 a.m. to receive testimony from commanders of the Unified Command.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Agricultural Policy of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, February 23, to hold a hearing on S. 2304, the Food Aid and Export Market Promotion Act, and S. 2005, Agriculture Export Trade Equity Act of 1983.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRANSIT CRIME PREVENTION ACT OF 1984

● Mr. LAUTENBERG. Mr. President, I was pleased to join yesterday with my colleague from New York, Senator D'Amato as a principal cosponsor of the Transit Crime Prevention Act of 1984. This legislation authorizes $25 million in fiscal year 1984, $75 million in fiscal year 1985, and $100 million in fiscal year 1986 for crime prevention efforts by our Nation's mass transit systems. Funding for this program will be derived from the mass transit account enacted in 1982.

Efforts to combat crime on subways, trains, and buses are essential to the success of mass transit systems. Crime and the fear of crime serve as deterrents to the use of mass transit facilities and a threat to those who have no choice but to use mass transit. Substantial progress has been made to combat crimes such as nonpayment of fares, robberies, and violent assaults. Use of mirrors, closed circuit TV's and improved lighting have proven effective. The Port Authority of New York and New Jersey has incorporated such equipment into its control room for its trans-Hudson or Path system which connects Newark to Manhattan. The success of that system is in large part accounted for by the perception that it is safe as well as reliable. New Jersey Transit has also employed closed circuit cameras in an effort to detect criminal activity.

Mr. President, many of those who use mass transit to get to work, school, recreation, and shopping have no other means of transportation. Without a greater effort to combat crimes on buses and trains, these people are subjected to fear and anxiety on a daily basis. The better our efforts to reduce the fear of crime, the more our systems will be used and the more sound will be our investment in mass transit.●

A NATION LED ASTRAY

● Mr. GOLDWATER. Mr. President, once again, our country is being visited by that quadrennial madness known as the Presidential campaigns. What is unfortunate, however, is that this political insanity is not restricted to every fourth year. Indeed, the present system of selecting candidates has stretched the time limits beyond political decency. Is it any wonder that the voter turnout keeps slipping each year? If you consider that the American electorate is being harassed almost constantly, it is easy to see why they have been reduced to boredom. On top of this, the vast proliferation of special interest groups has inundated the voters through their mailboxes, radio, television, and the printed media with enough political trivia to stuff a mule.

In effect, Mr. President, we are creating a credibility crisis of staggering proportions if we allow this process to continue. Because of my deep concern about this matter, I was offered the privilege of submitting my views on this to my hometown newspaper, the Arizona Republic.

Mr. President, because of my concerns and those of my colleagues, I ask that this article be printed in the Congressional Record.

The article follows:

[From the Arizona Republic, Feb. 19, 1984]

A Nation Led Astray—Goldwater: Campaign Spectacles, Special Interests Hurt Democracy

(The 1984 presidential campaign already under way also marks the 20th anniversary of Sen. Barry Goldwater's 1964 bid for the presidency. In the following article prepared by Goldwater exclusively for Perspective, the senator deplores the current method of presidential campaigning, and outlines possible reforms.)

On many occasions, I have wondered what our Founding Fathers would say if they were allowed the privilege of a return visit to the nation they created. I am sure they would be amazed by the technological wizardry which has grown up since they started this country. They would also be surprised at the rather large extent of misunderstanding of the paper they wrote called the Constitution and the misinterpretation of that document.

While they probably would be pleased at the growth and direction of most of our endeavors, they would not be pleased at all with what has happened to our system of government; in fact, they would be appalled. However, the most disgraceful thing I think they would see is the almost unbelievable spectacle we have created to elect our public officials, especially the president.

For more than 50 years, increasingly, we have accelerated the trend toward packaging all of our candidates like bars of soap, and merchandising them accordingly. With the advent of television and the one-minute news story, a whole new breed of campaign experts has arisen who, frankly, detract from the political scene rather than enhance it. As a consequence of the influence of this sort of people, our campaigns have grown longer, more costly and more lacking in substance.

Unfortunately, these trends do not cease after election day, but are carried into office with the elected candidate. Due to the fact that 75 percent of our population gets its knowledge of world and national affairs from television and radio, it is only natural that the candidates and their managers revert to the electronic media to spread their message.

With all the arguments that the Founding Fathers had about so-called freedom of the press and the resulting enactment of the First Amendment, I believe they would be somewhat surprised at the extent to which this freedom has been either carried, pushed or dragged into use and misuse.

Probably the most important problem which has arisen since our inception as a nation is the vast proliferation of special interest groups. Because of their growth, concomitant and parallel with the methods of packaging and electing a candidate, our government has experienced an exponential growth that defies any one person to manage it successfully. With the tremendous growth of these single-interest, special interest groups has come an overwhelming increase in laws, rules and regulations which threatens to bury the American public under tons of paperwork.

As an example, there are over 30 different caucus groups and committees which have been established on Capitol Hill. These groups, which are sort of "supra" committees and operate outside of the normal legislative process, have been established to push one area or issue. While it is true that they are not always successful, nevertheless they have had some effect in creating legislation for the parochial benefit of some group or area without regard to the welfare of the country as a whole.

Despite the repetitious warnings by the Founding Fathers of the dangers to a republican democratic type of government, if we allow special interest groups to proliferate to the point that people only vote for those interest, then we will find presidential campaign after presidential campaign with candidates making promises to every single group, promises they know cannot be kept. So, here is where we have a bit of dishonesty creeping into the whole picture.

Since coming to Congress, I have witnessed the establishment of five separate Cabinet-level departments: Education, Energy, Health and Human Services, Housing and Urban Development and Transportation. With the increased bureaucracy and billions of dollars to throw at the problems these departments were supposed to solve, can anyone honestly say that the federal government has done a job that could not have been done better and cheaper by local governments? Yet, as we all know, the creation of these bloated bureaucracies came about as a result of political payoffs to special interest groups with the implied consent of those people who can and will use these groups for their own narrow, political purposes.

Because of this influence of all the special interest groups, the job of Chief Executive of the United States has become an almost unmanageable burden. As an example, the president is responsible, under our Constitution, to establish a budget for the federal government. Unfortunately, the president can control only about 25 percent of the budget since the rest of the money is allocated by open-ended programs mandated by Congress.

And, at the rate that Congress and its special interest group allies are going, the office of President of the United States will soon end up like the monarchy of Great Britain—nice to look at during ceremonial occasions, but essentially powerless. In effect, what we are doing is taking Chicago ward politics, raising it to the federal level and refining it to the nth degree and slowly, but surely, destroying the valuable contents of our Constitution.

Because of my concerns in this area, last year I introduced a bill in Congress that I think would curb these abuses and return our government back toward the spirit and letter of our Constitution.

In essence, my bill would do two things: limit the time during which campaigns could be conducted, and restrict the amount of money which could be donated to or used by a candidate. Without some curbs in these areas, the continuing alienation of the public will grow past the point of redemption.

In short, unlimited political spending is destructive of the free election system. If this continues, voter participation will continue to drop, respect for elected officials will plummet and political campaigns will be run by slick packaging artists. On top of this, the neglect of public duties by absentee officals in search of campaign "exposure" and funds will undermine government operations.

To curtail these trends, my suggestion is to have both national parties hold their national conventions on the day after Labor Day. This would reduce the presidential campaign to not more than eight weeks. On top of that, no presidential candidate could begin to raise or to spend money on that race prior to the beginning of the actual year in which the election takes place.

Because of the time restriction, it would take considerably less money to conduct a campaign. Therefore, I suggest that a dollar amount, based on population, be fixed for the expenditure of funds during the primary and general elections. The restrictions on presidential candidates would apply to all other candidates on a pro rata basis.

In recent years, one other dangerous trend has been established which should be commented on briefly. Since the days of Watergate and all that it entailed, a "mean-spirit" feeling has developed in this country regarding politics and politicians. Whether this is an accurate reflection of the population as a whole or rather that it is a distorted image is hard to tell. Whatever its reality, it has managed to keep quite a few very capable people from volunteering for public office. While I'm not sure, I believe that the rise in influence of special interest groups and the decline in the popularity of politics and politicians has a direct and causal link.

While all of this may sound like political heresy, I am convinced that a return to the concepts of our Founding Fathers is the only way the public will ever have its confidence restored in the political process. Number one, we must decrease or eliminate the unwarranted influence of special interest groups and, number two, we must begin to legislate and manage on a truly national basis instead of a regional or parochial basis.

And, I would remind everyone that the President of the United States and every United States Senator and Representative, upon assuming office, takes an oath to "support and defend the Constitution." What this means is that even though we may be elected from a particular area, we still have a higher allegiance to the national welfare.●

LITHUANIAN INDEPENDENCE DAY

● Mr. PELL. Mr. President, February 16 marked the 66th anniversary of Lithuanian independence. After living for more than a century under Russian rule and tyranny, the Lithuanian people courageously rebelled against their oppressors and on February 16, 1918, declared Lithuania to be an independent state. Today, I am proud to join Lithuanians throughout the world in commemorating this memorable event.

The historic struggle waged by the Lithuanian people for freedom and self-determination did not come to an end with their declaration of independence. Bolshevik forces made repeated attempts to deal a death blow to the newly established republic. Nevertheless, Lithuanians successfully defeated these forces, and in 1920 the Soviet Union signed a peace treaty recognizing Lithuania's independence and sovereignty and renouncing forever all claims to Lithuanian territory.

Lithuania's existence as a sovereign nation-state was tragically and illegally ended by the Soviet Union during the Second World War. Under a secret protocol to the Nazi-Soviet Nonaggression Pact, the Soviet Union laid claims to Lithuania and the other Baltic States of Latvia and Estonia. This agreement was a flagrant abrogation of the 1920 peace treaty with Lithuania. Having received the green light from Germany to occupy the Baltic States, the Soviet Union in October 1939 forcibly obtained the right to station Soviet Forces on Lithuanian territory. The following June the Soviet Union orchestrated the downfall of the nationalist government and replaced it with a new pro-Soviet Government. In August 1940, at the request of the new government and against the wishes of the Lithuanian people, Lithuania was formally incorporated into the Union of Soviet Socialist Republics. To this day, the

United States has consistently refused to recognize this unalwful annexation of Lithuania by the Soviet Union and has steadfastly supported the Lithuanian people in their valiant and unending struggle against Soviet repression.

Since 1940, the Soviet Union has tried to eliminate independent religious, political, and cultural activities in Lithuania. In Lithuania, as in Poland, Catholicism is deeply rooted and the Catholic church has played a central role in the formation of social, political, and religious beliefs. It is not surprising, therefore, that the Catholic church and its followers have been the main targets of the government's campaign. Catholic worshippers have been intimidated and harassed, and Catholic priests have been detained and brought to trial. In 1980 and 1981, there were a number of suspicious assaults against Catholic priests. Several of these were fatal. Last year, two influential priests, Father Alfonsas Svarinskas and Father Sigitas Tamkevicius were convicted on charges of anti-Soviet agitation and conduct. Father Svarinskas was sentenced to 7 years in prison and 3 years in exile, and Father Tamkevicius received a sentence of 6 years in prison and 4 years in exile. In spite of these developments, Catholics continue to be active in the struggle for human rights and freedoms in Lithuania.

The Lithuanian Helsinki Monitoring Group, another target of the government's campaign, has been severely shattered by the imprisonment and, in some cases, involuntary exile of its members. Over the years, the monitoring group published some 30 documents, interceded with the Lithuanian authorities on behalf of those whose rights had been deprived, and focused public attention on human rights violations. Although the demise of this group is a setback, I am confident that the Lithuanian people will continue their struggle for human rights and fundamental freedoms.

As a member and former cochairman of the Commission on Security and Cooperation in Europe, I am deeply concerned about violations of human rights in Lithuania. As a party to the United Nations Charter and various international covenants on human rights, and as a signatory of the Helsinki accords, the Soviet Union has pledged respect for human rights and fundamental freedoms and has accepted political and legal obligations in these areas. As we commemorate the 66th anniversary of Lithuanian independence, it is fitting and proper that we remind the Soviet Union of these obligations and that we reaffirm our own commitment to the principles of liberty and self-determination for Lithuanians and for all people who are forced to live in the absence of freedom.●

AMBULATORY SURGICAL CENTERS

● Mrs. HAWKINS. Mr. President, earlier this month I had the pleasure to dedicate a new $2 million state-of-the-art medical eye care facility, the Neumann Eye Institute in Deland, Fla. This institute combines the very best in technologically sophisticated surgical procedures and devices with highly personalized medical care and still reduces health care costs in the process.

Mr. President, I am very supportive of the developing trend toward free-standing ambulatory surgical centers such as the Neumann Eye Institute and I ask that my remarks as well as the remarks of Dr. Spencer Thorton and Dr. Albert Neumann be printed in the RECORD.

The remarks follow:

NEUMANN EYE INSTITUTE DEDICATION

(By Senator Paula Hawkins)

I am pleased to be here today to help dedicate the Neumann Eye Institute's new medical eye care facility. The fact that the Institute's workload has tripled and forced them to expand just a few years after locating here in Deland, is not only an indication of the advances in the field of ocular surgery, but it is also an indication of the quality of work that Dr. Neumann and his colleagues practice here at the Neumann Eye Clinic.

The gift of sight is a precious, God-given miracle that most of us really don't appreciate until we begin to lose it. But fortunately God also created talented men and women like Dr. Neumann and his colleagues, who have the skill and expertise to restore vision and improve our ability to see. Just a few years ago, contact lenses were considered a remarkable achievement in eye care; now we have soft contact lenses, bifocal contact lenses, astigmatic lenses, and extended wear lenses that can be worn up to 100 days. Just on the horizon are synthetic corneas and soft contact lenses for newborn babies who have undergone surgery for cataracts.

But even more exciting are the advances in ocular surgery, and the Neumann Eye Institute has been at the forefront of these technical advances, often pioneering techniques even before they reach academic institutions. The Neumann Eye Institute and the surgery performed here has attracted internationally known physicians in ocular surgery. Professor Fyodorov of Moscow, one of the leaders in developing a technique for the surgical correction of near-sightedness, and Dr. Danielle Aron-Rosa of Paris, who designed the Neodymium YAG laser for cataract surgery, have both traveled to DeLand just to vist the Neumann Eye Institute and teach their techniques to ophthalmologists in this area.

This Institute has been at the forefront of advances in eye care technology, and it has made sure that its patients are given the benefit of the most up-to-date improvements in quality of eye care and reductions in cost. I only wish that the federal government could do as good a job as the Neumann Institute at keeping abreast of technological advances. It was only recently that Medicare finally permitted reimbursement for outpatient opthalmalic surgery. It finally dawned on them that abulatory eye surgery is not only as safe as institutionalized care, it was much, much less expensive. And, it has a beneficial effect on patients, many of whom had put off needed care because of fears of hospitalization.

Unfortunately, we still haven't convinced the federal government of the benefits of Dr. Aron-Rosa's YAG laser. Medicare will pay if the patient is anesthetized in a hospital operating room and if a scapel is used to cut the eye membrane. But, it still will not reimburse if the patient is seated in a chair in his street clothes and is treated by a painless cold laser beam. Because of the supreme accuracy and safety of the YAG laser, it can be applied where an ordinary laser cannot. It can instantly and painlessly sever a membrane that takes up to four hours in traditional surgery. But until the Food and Drug Administration reclassifies this type of surgery, the lack of Medicare reimbursement takes this procedure economically out of the reach of many individuals who could have benefited from it.

The Food and Drug Administration is currently seeking the American Academy of Ophthalmology's views on the YAG laser as part of its premarket application approval process. The Academy has responded by approving a comprehensive document that summarizes the safety, benefits, and effectiveness of the YAG laser. I hope that the Academy's positive position will hasten the federal government's approval of the YAG laser for Medicare reimbursement.

These are exciting times in the field of eye care and ocular surgery. Technological advances and improvements in eye care have restored and preserved vision in countless numbers of individuals. You should feel justifiably proud to be host to an Institution that is at the forefront of ambulatory eye surgery. The Neumann Eye Institute is leading the way toward improved, yet cost-effective, eye care. And I am pleased that they asked me to join them today in dedicating a facility that demonstrates their pursuit of excellence and cost efficiency in health care.

STATEMENT OF ALBERT C. NEUMANN, M.D., FOUNDER AND MEDICAL DIRECTOR, NEUMANN EYE INSTITUTE

I would like to thank all of you for being here and sharing this happy occasion with us. I would also like to thank Senator Hawkins and Dr. Thornton for their kind support.

This day would not be possible without the more than 20,000 patients whom I have had the privilege of caring for during these past 10 years. I would like to recognize the DeLand business, and government community who encouraged and assisted us with our recent building program.

Specifically, I would like to thank Mr. Jack Matsche, our general contractor, Whistle Carter, and all the subcontractors for putting into tangible form our institute concept.

My sincere appreciation is extended to my devoted staff for their dedication, professionalism, and industry. Our accomplishments have been the result of teamwork. I feel that they are the best health care team in the Nation and I am proud to be associated with them.

However, my family deserves much of the credit for any accomplishments experienced to date. So, to my wife Linda, and my children Albert, Erich, Karoline, I say thank you for all the sacrifices we have had to make as a family so that the Neumann Eye Institute concept could become a reality.

We moved to DeLand 10 years ago this month and opened a private practice of ophthalmology. My family and I were attracted to the unspoiled natural beauty of Central Florida and in particular to the charm and genuine friendliness of the citizens of Deland. The presence of Stetson University with its educational and cultural opportunities was a further inducement.

When we decided to move to Deland, my colleagues in Montclair, N.J., encouraged me to reconsider, fearing that I would find professional stagnation in the sands of southern medicine. What they didn't know was that Florida sand is very fertile and provides an abundant flora. My professional life has flourished here and I have been proud to bring to Deland renowned medical colleagues from the United States and abroad.

Some 5 years ago, after establishing a busy ophthalmology private practice, I yearned for a more satisfying intellectual professional experience. Rather than leave Deland and teach at a university center, I decided to establish an eye institute right here. I felt that an eye institute could provide better care than that which is usually experienced in either private or university practice. The institute concept embraces the caring for people characteristic of private practice with the intellectual curiosity and high technology usually associated with university centers. I am proud to say that we have succeeded in establishing this concept.

Over the past 15 years, we have seen a decentralization process take place in ophthalmology, in that most of the significant new surgical developments have originated in the private sector rather than the university centers. Private practice eye surgeons have introduced the following new procedures: Ultrasonic cataract removal, intraocular lens implantation, nearsightedness surgery, cataract laser surgery, glaucoma laser surgery, and same-day, low-cost cataract outpatient surgery. It appears that creativity may often be discouraged by academic conservatism and centralization in ophthalmology.

Social planners should take note of this phenomenon. Their master plans should avoid policies that would stifle initiative and prevent patients from selecting the medical procedure of their choice or the physician of their choice.

The institute has a staff devoted not only to clinical eye services, but also a full-time staff dedicated to clinical research and medical education. The institute model allows a physician to stay alive professionally and to grow intellectually. Our professional staff not only benefits from new medical concepts developed by others throughout the world, but they also actively contribute to medical knowledge with their own clinical research, instrument design, and introduction of new surgical procedures.

The public has accepted our institute model which addresses both the non-medical and medical needs of the patient and his family. Why? Because health care consumers have come of age. They are knowledgeable, perceptive, selective, and they demand the right to participate in their own health care decisions. Therefore, the medical community must respond affirmatively to their demand in the competitive decades of the eighties and nineties. The patient's convenience must be placed before the physician or the hospital's convenience. Moreover, physicians must demystify the practice of medicine. We are no longer perceived as godlike. A reformation, if you will, is underway. A list of patients' rights are being figuratively nailed to physician and hospital doors. Patient activist organizations are requesting physicians and health care facilities to involve the patient in the medical care process by presenting the patient with choices, by fully disclosing the physician's competency for each medical and surgical procedure offered, and by justifying costs.

The Neumann Eye Institute has responded to this challenge through its media center and lay education department. We are proud of our medical demystification program that allows patients and family members to view live eye surgery in the presence of a knowledgeable and caring counselor who herself has undergone cataract implant surgery. As patients and their family watch surgery, their anxiety gives way to understanding. Our Ambulatory Surgical Center allows cataract implant patients to have their vision restored in an anxiety free, pleasant, safe environment at significantly less cost than the hospital outpatient surgery alternative. According to hundreds of visiting ophthalmologists and several visiting representatives from the Federal Government, our ambulatory surgical center is considered a national model.

If all cataract surgery were performed in a free standing medicare approved Ambulatory Surgical Center such as ours, experts estimate that more than $500 million would be saved annually. By eliminating the expense of hospital stays, ambulatory or "same day" surgery could save U.S. health care consumers $2.5 billion per year this year and anywhere from $6 billion to $15 billion per year in the future as the concept evolves. Therefore, corporate America and the health insurance industry are supporting this ambulatory surgical concept.

New forms of health care delivery and new medical technologies will be with us during the next decades. But, in our pursuits of cost containment and high technology alternatives, we must be careful not to destroy the physician-patient relationship which is built upon mutual trust and respect. In the final analysis, it is the human values which must be recognized, preserved and enhanced.

In the beginning of this address, I expressed my appreciation to many fine people. I would like to close now by recognizing my parents, Albert Frederick Neumann and Elizabeth Delores Neumann who, through sacrifice and personal example, taught their sons to appreciate the value of hard work. Through their living and loving, they also taught the importance of goals, the value of caring, and the job of achievement. Theodore Roosevelt had this to say about the joy of achievement . . .

"It is not the critic who counts, not the man who points out how the strong may stumble, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena; whose face is marred by dust, sweat and blood; who strives valiantly, who errs and comes short again and again; who know the great enthusiasms, the great devotions, and spends himself in a worthy cause; who, at the best, knows in the end the triumph of high achievement; and who, at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat."

It is with great pleasure that we publicly dedicate the Neumann Eye Institute to the memory of Albert Frederick Neumann and Elizabeth Delores Neumann.

ADDRESS BY SPENCER P. THORTON, M.D., CHIEF OF OPHTHALMOLOGY, BAPTIST HOSPITAL, NASHVILLE, TENN.

Just a few years ago I got to know Dr. Neumann through my interest in radial keratotomy, the surgical correction of nearsightedness. I observed him in some of his early cases and he generously shared his techniques with me and other corneal surgeons. Since then, I've had the pleasure of traveling with him and his lovely wife Linda, on national and international lecture tours, and have witnessed his popularity as a speaker and educator both here and abroad.

As an internationally recognized educator, he has participated in many conferences and seminars on quality eye care around the world . . . He is one of three American Eye Surgeons to be invited to lecture in the Department of Ophthalmology at the University of Vienna, and in the Department of Ophthalmology at the University of Zurich. He was also one of three American Eye surgeons invited to return to the Institute of Eye Microsurgery in Moscow to lecture on his technique and results with Radial Keratotomy, the Russian operation for the cure of near-sightedness. I have learned to appreciate him for his concern and respect for his patients and for his commitment to professional excellence . . . and it is this combination that has lead to his vision for a facility to provide a standard of eye care second to none . . . the Institute is the result of that commitment.

Contemporary medicine is a rapidly changing field. The volume of new knowledge expands so rapidly that it is difficult to stay abreast in one's own area of specialization. Recent Ophthalmology has been especially subject to radical breakthroughs in research, technology, and new surgical procedures. Those physicians who are committed to providing their patients with the best care that current knowledge offers must make a substantial commitment of time, energy, and financial resources to stay abreast of the most advanced treatments and surgical procedures.

Dr. Neumann is distinguished by his dedication not only to keep up with these new developments, but also to be among the nation's leaders in innovative medical eye care. In 1975 he was one of the first eye surgeons in Florida to perform phakoemulsification, a new technique for removing cataracts through a very small incision that allows patients to return to normal activity within days. He was among the first eye surgeons in Florida to provide patients with more natural vision after cataract surgery. In March in 1980, he became the first eye surgeon to perform radial keratotomy in the Southeast and he developed and personally directs the most respected training course in radial keratotomy for eye surgeons in the United States. Through this course he has taught several hundred American and European ophthalmologists how to do the procedure. Since the procedure was new and controversial, Dr. Neumann felt an ethical obligation to carefully monitor his radial keratotomy patients and to engage in clinical research that would objectively evaluate its long term effects. His clinical research has greatly contributed to the understanding and acceptance of this exciting new procedure.

The year 1980 also saw Dr. Neumann perform the first of many "triple procedures", an operation that combines cataract extraction, intraocular lens implantation, and corneal transplantation. Dr. Neumann also began doing office-based cataract surgery in 1980, a development that was instrumental in his decision to begin the arduous planning and research for a freestanding ambulatory surgery center. The result is the nationally recognized Ambulatory Surgical Center of Central Florida, the first licensed, Medicare approved eye ambulatory surgical center in the State of Florida. In 1983, Dr. Neumann became the first eye surgeon in Central Florida and one of the first in America, to use the YAG laser to perform secondary cataract surgery. Dr. Daniele Aron-Rosa, the YAG laser's developer, from the University of Paris, joined him in DeLand to offer the area's first physican training seminar in the laser's clinical use.

All of this would be remarkable enough if it were merely an unusually large and busy ophthalmology practice. But the full time clinical research and education dimension of the Institute that Dr. Neumann has conceived and developed here make the Neumann Eye Institute truely unique. He and his staff have created the best of both worlds here in DeLand. The Neumann Eye Institute combines the intellectual challenges and high technologies usually associated with university eye centers with the personalized patient care of private medical practice.

In a way you could say that this magnificant facility, the envy of ophthalmologists across the nation, represents the culmination of his pioneering career. But that would be to assume that Dr. Neumann will rest on his laurels. Anyone who knows him, knows better than that. From a forward looking perspective, this facility represents the commencement rather than the culmination of Dr. Neumann's contribution to ophthalmology. Today we are celebrating the marvels of modern medicine-such as "same day cataract surgery with lens implantation", laser surgery, and nearsightedness surgery. But we are celebrating much more. Ten years ago no one could have imagined that these sight saving procedures would be available. Who among us can imagine what lies ahead? More remarkable developments will come to pass. They will be available to the people of this area because this facility and its concept of advanced eye care is here. But, the results of the efforts of the Neumann Eye Institute in clinical research and education will continue to affect patients throughout the world.●

SENIOR CITIZEN TUTORIAL VOLUNTEER NETWORK

● Mr. BOREN. Mr. President, senior citizens have been described as our Nation's most precious resource. They possess wisdom, experience, and insight which the rest of us can only admire and envy. Tragically, they are a resource which is all too often ignored.

The youth of our country, meanwhile, are struggling in school. Their classroom performance is often characterized as mediocre or worse. National standardized test scores have dropped precipitously, arousing concern throughout the educational community.

There is reason for such concern, but there is also reason for hope. On February 9, the Senator from Michigan Mr. LEVIN introduced S. 2310, a bill which goes a long way toward correcting both of the problems just described. I am proud to be an original cosponsor of this legislation establishing a senior citizen tutorial volunteer network.

This proposal makes worlds of sense. It would utilize the talents and wisdom of the elderly to enhance the education of youth. Senior citizen volunteers would tutor children of low-income families, helping to reinforce the subject matter taught in class. The benefits of this kind of personalized attention could be incalculable.

I urge the Senate to give its approval to the Senior Citizen Tutorial Volunteer Network.●

OUTER CONTINENTAL SHELF LEASE SALES

● Mr. WILSON. Mr. President, recent action by the Supreme Court has caused considerable concern to me and several of my colleagues. In January, the Court in a 5-to-4 decision, ruled that determination of Federal consistency with State coastal zone management plans was not required at the leasing stage of Federal Outer Continental Shelf (OCS) oil and gas development under the terms of the Coastal Zone Management Act (CZMA) of 1972. Put another way, the Department of the Interior is not required to show that OCS lease sales are consistent with the affected State's coastal zone management program.

The Court ruled instead that a consistency determination is required only at the exploration, development, and production stages of OCS development. Second, the Court argued that a lease sale does not "directly affect" a coastal zone because the Federal OCS lands in question are located outside of the State's coastal zone jurisdiction. The Court maintained that the Coastal Zone Management Act requires Federal activities to be consistent with a State's management program only if these same activities are located within the State's coastal zone area.

Furthermore, the Court stated that even if Federal activities located outside of a State's coastal zone were required to be consistent with a State management plan under the terms of the Coastal Zone Management Act, leasing still would not be subject to a consistency determination. Writing for the majority, Justice O'Connor contended that the act itself of selling a lease, which really only requires a paper transaction, does not "directly affect" a coastal zone and, therefore, should not be subject to a consistency determination.

I believe that the Court's interpretation of the Coastal Zone Management Act is wrong. First, it seems contrary to the intent of this act to exempt all Federal activities located outside the State's coastal zone from the consistency requirement if, in fact, those activities produce an impact within the State's coastal zone. It is not the location of Federal activities that should govern but rather the effect of these activities. The OCS Santa Barbara blowout of 1969 is a case in point. This oil rig was located in Federal waters outside of the State's territorial sea, yet its effect on the State's coastal zone was devastating.

Second, the Court's claim that the act of a lease sale does not "directly affect" a coastal zone is shortsighted and internally inconsistent. A lease sale initiates a chain of events that leads to activities which potentially have a very real effect on the coastal zone. To quote from the decision, "Large sums of money change hands (at a lease sale) and the sale may therefore generate momentum that makes eventually exploration, development and production inevitable." It would seem unfair to oil companies to have them expend what can be hundreds of millions of dollars in the purchase of leased tract, only to have this bonus bid forfeited at the exploration stage if the Government determines that their exploration and development plans are "inconsistent" with the State's coastal zone management program. Why not let the oil companies know at the leasing stage—before they spend millions of dollars in the purchase of a lease—whether their potential plans for development meet the consistency criterion?

Additionally, a proposed sale usually contains a long list of stipulations included as part of the terms of the lease. These terms and stipulations represent the first explicit recognition of the potential impact oil and gas development may have on its surrounding environment. To deny State authorities the opportunity to participate in the planning for OCS development at this stage is to contravene the intent of the Coastal Zone Management Act.

The decision must be reversed. Yesterday, several of my colleagues introduced legislation to accomplish this objective. I have chosen not to cosponsor this legislation at this time because of unanswered questions I have with regard to the ramifications of the bill's language. However, I very much support what my colleagues are attempting to accomplish and intend to work closely with them throughout the committee hearings process. Meanwhile, I will continue to work on developing bill language that more directly relates to the impact of the decision.●

HARRY S. TRUMAN CENTENNIAL—A NATIONAL CELEBRATION

● Mr. EAGLETON. Mr. President, a few weeks ago in the Senate caucus room the U.S. Postal Service conducted a most impressive first day stamp issuance for the Harry S. Truman stamp. The ceremony was the first event of 1984 to kick off a year long celebration of former President Harry S. Truman's 100th birthday.

There are a number of special events planned throughout the United States in the months ahead. The Smithsonian Museum has created a special film, and in cooperation with the Harry S. Truman Library of Independence, Mo., will be sending a special traveling exhibit to many cities across our country. In addition to these events, there are many exciting lectures and programs planned throughout the year.

I look at this year's celebration as an occasion to celebrate a great President's centennial, and a chance to rededicate ourselves to the things Harry S. Truman stood for all of his life—concern that working people of this country get a fair deal out of life, an insistence on facing up to the problems no matter how difficult and contentious they are, and the courage and honesty to tell it like it is.

Mr. President, the Harry S. Truman Library of Independence, Mo., has put together a comprehensive calendar of events for the Harry S. Truman centennial, which I would like to have printed in the RECORD at this time.

HARRY S. TRUMAN CENTENNIAL CALENDAR, 1984

[Listed in this calendar are Truman Centennial events that are, with few exceptions, open to the general public. Because so many centennial events have been planned throughout the Nation, it is impossible to list all of them. This calendar lists, therefore, only a portion of the scheduled events, with emphasis placed on activities occurring at or near the Truman Library. Inquiries should be directed to the host or sponsoring organization. Periodic revisions of this calendar are planned.]

	Event	Location/host organization	Sponsoring organization
January:			
19	Publication of the Independence Examiner Truman Centennial Edition		The Independence Examiner, 410 S. Liberty, Independence, Mo. 64050 (816/254-8600).
22	Opening of traveling exhibit "Harry S. Truman: A Centennial Remembrance" (on display through Feb. 20).	Friends of the Ritz, Ritz Theater, Blytheville, Ark. (501/763-2574)	Harry S. Truman Library/Harry S. Truman Library Institute.
26	Harry S. Truman Stamp Issuance (by invitation) 11 a.m	Senate Caucus Room, Washington, D.C	U.S. Postal Service, Mr. Ray Blezis, USPS, room 5800, 475 L'Enfant Plaza, SW., Washington, D.C. 20260-6352 (202/245-4956).
February:			
1-20	Display of traveling exhibit "Harry S. Truman: A Centennial Remembrance"	See entry of Jan. 22	
4	Opening of exhibit "Civil Rights and Black Americans in the Truman Years" (on display through Mar. 31).	Harry S. Truman Library	Black Archives of Mid-America, Inc., 2033 Vine, Kansas City, Mo. 64108 (816/483-1300).
23	Lecture by Robert Dyer: "Benton's History of Missouri in Legend and Song" (Pt. 1 of 3-part series on Missouri artist Thomas Hart Benton; see entries of Mar. 22 and Apr. 19), 7:30 p.m	Harry S. Truman Library, Multipurpose Room	University of Missouri—Rolla/Harry S. Truman Library/State Capitol Museum.
March:			
1-31	Display of exhibit "Civil Rights and Black Americans in the Truman Years".	See entry of Feb. 4	
1	Truman Centennial Celebration Symposium 7:30 p.m	Pierson Hall, University of Missouri—Kansas City campus (816/276-1314).	University of Missouri—Kansas City, Kansas City, Mo.
4	Opening of traveling exhibit "Harry S. Truman: A Centennial Remembrance" (on display through Apr. 3).	Clark Hall, Central Missouri State University, Warrensburg, Mo. (816/429-4649).	Harry S. Truman Library/Harry S. Truman Library Institute.
21	Film presentation on Truman Presidency (Pt. 1 of 7-part series, every Wednesday through May 2), 2 p.m. and 7:30 p.m.	Harry S. Truman Library Auditorium	Harry S. Truman Library.
22	Lecture by Bob Priddy: "Political Portraits and Political Furor"	See entries of Feb. 23 and Apr. 19	
28	Film presentation on Truman Presidency (Pt. 2), 2 p.m. and 7:30 p.m	See entry of Mar. 21	
April:			
1-3	Display of traveling exhibit "Harry S. Truman: A Centennial Remembrance".	See entry of Mar. 4	
4	Film presentation on Truman Presidency (Pt. 3), 2 p.m. and 7:30 p.m	See entry of Mar. 21	
11	Film presentation on Truman Presidency (Pt. 4), 2 p.m. and 7:30 p.m	do	
11	Television broadcast of "Smithsonian World," hosted by David McCullough (this segment, entitled "Design for Living," depicts Margaret Truman Daniel touring Truman home), 8 p.m., central time.	PBS-TV	Smithsonian Institution, Washington, D.C.
11-12	Truman Centennial Celebration	University of Missouri—Kansas City campus	University of Missouri—Kansas City, Kansas City, Mo. (816/276-1631 or 1314).
13	Opening of exhibit on Truman Home "219 North Delaware: At Home in Independence" (on display throughout remainder of 1984).	Harry S. Truman Library	Harry S. Truman Library.
13-14	26th Annual Missouri Conference on History	University Center, University of Missouri—Kansas City campus, 1 session at Truman Library, Apr. 13, 7 p.m.	Missouri Conference on History/University of Missouri—Kansas, City Kansas City, Mo. (816/276-1631).
18	Film presentation on Truman Presidency (pt. 5), 2 p.m. and 7:30 p.m	See entry of Mar. 21	
19	Lecture by Dr. Douglas Wixon: "Tom Benton and the Social Milieu of the 30s".	See entries of Feb. 23 and Mar. 22	
25	Film presentation on Truman Presidency (pt. 6), 2 p.m. and 7:30 p.m	See entry of Mar. 21	
26	Henry A. Bundschu Visiting Scholar Lecture by Edmund S. Wehrle: "Truman and East Asian Crisis, 8 p.m.	Mabee Theater, Rockhurst College	Rockhurst College, 5225 Troost, Kansas City, Mo. 64110 (816/926-4000).
May:			
1-31	Display of exhibit "219 North Delaware"	See entry of Apr. 13	
1	Opening of traveling exhibit "Harry S. Truman: A Centennial Remembrance" (on display through May 28).	Harry S. Truman Library	Harry S. Truman Library/Harry S. Truman Library Institute.
2	Film presentation on Truman Presidency (pt. 7), 2 p.m. and 7:30 p.m	See entry of Mar. 21	
4	Premiere of "Truman: A Self-Portrait (30-min film)	National Museum of American History, Smithsonian Institution, Washington, D.C.	National Museum of American History.
4	Opening of exhibit "Captain Harry—A Centennial Salute" (open to the public May 7 to Oct. 1), 8:30 a.m. to 4 p.m.	National Guard Association Headquarters Building, 1 Massachusetts Ave., NW., Washington, D.C (202/789-0031).	National Guard Association.
4-5	Performances of "Give'em Hell Harry" starring Kevin McCarthy, 8 p.m	Folly Theater, Kansas City, Mo	Folly Theater, 300 W. 12th St., Kansas City, Mo. (816/474-44440).
4-7	"Harry's Hay Days '84" (includes parade, 9 a.m., May 5 and Truman Farm Home Dedication, 12 noon, May 5).	Grandview, Mo	Grandview Heritage Commission.
5	Truman Centennial Parade	Independence, Mo	Independence Truman Centennial Commission, Independence, Mo.
5	Symposium: "Harry Truman: The Man and His Years"	Carmichael Auditorium, National Museum of American History	Resident Associate Program, Smithsonian Institution, Washington, D.C.
5-6	"Harry S. Truman Days" (includes "Give'em Hell Harry" Bar-B-Que, Young Democrats breakfast and banquet—speakers).	Independence, Mo	Jackson County Democratic Committee (for information write Harry S. Truman Days Headquarters 113 W. Lexington, Independence, Mo. 64050).
7	Truman Town Meeting, 7 p.m	Folly Theater, 300 W. 12th St., Kansas City, Mo	The Kansas City Star/Harry S. Truman Library (Bill Tammeus 816/234-4437).
8	Joint session of the Congress of the United States honoring Harry S. Truman's 100th birth date, 10 a.m.	U.S. House of Representatives	Congress of the United States, Washington, D.C
8	Opening of exhibit "Berlin Airlift" (on display through Aug. 31)	National Air and Space Museum, Smithsonian Institution, Washington, D.C.	National Air and Space Museum.
8	Presidential Wreath Laying Ceremony, 9 a.m., American Legion Wreath Laying Ceremony, 10 a.m.	Harry S. Truman Library Courtyard Gravesite	U.S. Army, Fort Leavenworth, Kans., Missouri District of the American Legion.
8	Harry S. Truman Good Neighbor Award Luncheon. Recipient: Ambassador Jean J. Kirkpatrick (by invitation), 12 noon.	Radisson-Muehlebach Hotel, Kansas City, Mo	Harry S. Truman Good Neighbor Award Foundation, Kansas City, Mo.
8	Harry S. Truman Community Birthday Party, 6 p.m. to 8 p.m	Independence Square, Independence, Mo	Independence Truman Centennial Commission, Independence, Mo.
8	Broadcast of television documentary on Truman, narrated by Walter Cronkite.	CBS-TV	CBS, Inc.
10	Harry S. Truman Birthday Concert (Kansas City Symphony Orchestra), 8 p.m.	Reorganized Church of Jesus Christ of Latter Day Saints Auditorium, 1001 W. Walnut St., Independence, Mo. 64050.	Harry S. Truman Birthday Concert Committee.
11	Harry S. Truman Public Service Award Ceremony and Reception. Recipient: Margaret Truman Daniel 7 p.m.	Harry S. Truman Library Front Portico	Harry S. Truman Public Service Award Commission, Independence, Mo.
12	Truman Home Dedication Ceremony, 1:30 p.m	do	National Park Service/Harry S. Truman Library.
13	Opening of exhibit "Gifts to the President" (on display throughout remainder of 1984).	Harry S. Truman Library	Harry S. Truman Library.
13	Harry S. Truman Scholarship Awards, 1 p.m	Harry S. Truman Library Auditorium	Harry S. Truman Scholarship Foundation, Washington, D.C.

HARRY S. TRUMAN CENTENNIAL CALENDAR, 1984—Continued

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	Event	Location/host organization	Sponsoring organization
19	"Whistle Stop: Independence," Heritage Homes Tour, 8 a.m. to 6 p.m	Starts at the Harry S. Truman Railroad Station, 600 S. Grand, Independence, Mo	Independence Junior Service League, Independence, Mo. (for information call Susie Block—816/373-9566).
June:			
1-30	Display of exhibits "219 North Delaware" and "Gifts to the President"	See entries of Apr. 13 and May 13	
3	Opening of traveling exhibit "Harry S. Truman: A Centennial Remembrance" (on display through July 2).	Dane G. Hansen Memorial Museum, Main & Douglas, Logan, Kans. (913/689-4846).	Harry S. Truman Library/Harry S. Truman Library Institute
July:			
1-2	Display of traveling exhibit "Harry S. Truman: A Centennial Remembrance".	See entry of June 3	
1-31	Display of exhibits "219 North Delaware" and "Gifts to the President"	See entries of Apr. 13 and May 13	
4	Parade 9 a.m	Independence, Mo. (Independence Square to the Truman Library)	Independence Jaycees, Independence, Mo
4	26th Annual Independence Day Ceremony, 10 a.m	Harry S. Truman Library Front Portico	Harry S. Truman Library
4	Opening of folk art exhibit "Dear Mr. President . . . Artistic Gestures from Ordinary People" (on display throughout remainder of 1984).	Harry S. Truman Library	Do.
14	Opening of traveling exhibit "Harry S. Truman: A Centennial Remembrance" (on display through Aug. 12).	Arkansas State Capitol, Little Rock, Ark. (501/371-5160)	Harry S. Truman Library/Harry S. Truman Library Institute
August:			
1-12	Display of traveling exhibit "Harry S. Truman: A Centennial Remembrance".	See entry of July 14	
1-31	Display of exhibits "219 North Delaware, "Gifts to the President," and "Dear Mr. President".	See entries of Apr. 13, May 13, and July 4	
26	Opening of traveling exhibit "Harry S. Truman: A Centennial Remembrance" (on display through Sept. 24).	Missouri State Capitol Building, Jefferson City, Mo. (314/751-4210)	Harry S. Truman Library/Harry S. Truman Liurary Institute.
September:			
1-24	Display of traveling exhibit "Harry S. Truman: A Centennial Remembrance".	See entry of Aug. 26	
1-30	Display of exhibits "219 North Delaware," "Gifts to the President," and "Dear Mr. President".	See entries of Apr. 13, May 13, and July 4	
15	Opening of genealogical exhibit "Harry S. Truman/Bess Wallace: Family Ties" (on display throughout remainder of 1984).	Harry S. Truman Library	Harry S. Truman Library
October:			
1-31	Display of exhibits "219 North Delaware," "Gifts to the President," "Dear Mr. President," and "Family Ties".	See entries of Apr. 13, May 13, July 4, and Sept. 15	
7	Opening of traveling exhibit "Harry S. Truman: A Centennial Remembrance" (on display through Nov. 9).	Hannibal Arts Council, 625 Broadway, Hannibal, Mo. (314/221-6545)	Harry S. Truman Library/Harry S. Truman Library Institute.
18-20	Conference on U.S. Foreign Policy	Alameda Plaza and Harry S. Truman Library (tentative)	International Relations Council of Kansas City/Harry S. Truman Library.
November:			
1-9	Display of traveling exhibit "Harry S. Truman: A Centennial Remembrance".	See entry of Oct. 7	
1-30	Display of exhibits "219 North Delaware," "Gifts to the President," "Dear Mr. President," and "Family Ties".	See entries of Apr. 13, May 13, July 4, and Sept. 15	
8	Opening of exhibit "American Perspective: Paintings of American Historic Sites by Kay Smith" (on display throughout remainder of 1984).	Harry S. Truman Library	Harry S. Truman Library/National Park Service.
8-10	Conference on Harry S. Truman in Jackson County, Mo	Harry S. Truman Library	Harry S. Truman Library/National Park Service.
23	Opening of traveling exhibit "Harry S. Truman: A Centennial Remembrance" (on display through Jan. 10, 1985).	Dana College, Blair, Nebr. (420/426-4101)	Harry S. Truman Library/Harry S. Truman Library Institute.

S. 2125—ARKANSAS WILDERNESS ACT

● Mr. TOWER. Mr. President, today, I am pleased to support the measure that would set aside a small percentage of Arkansas national forest lands as national wilderness areas. These proposed wilderness areas fall in some of the most scenic and breathtaking topography between the Rocky Mountains and the Appalachians, the beautiful Ozark and Ouachita mountains.

The 1964 Wilderness Act established the National Wilderness Preservation system to preserve select Federal lands in a national state. While these select few wilderness areas are off limits to road building, timber cutting, mining, or motorized vehicles, they are the popular setting for some of America's finest camping, hunting, fishing, swimming, canoeing, photography, and other recreational uses.

Mr. President, this bill as proposed by my colleagues, Senators BUMPERS and PRYOR would set aside less than 6 percent of Arkansas' national forest as wilderness areas. These areas are for the most part remote and rugged in terrain and not suitable for timber activities. A Congressional Research study concluded that even if every acre proposed were included in the wilderness act, "national forest payments would not be reduced in the counties affected."

Mr. President, as a Texan, I support this legislation for the Razorback State because of the love of Arkansas as a vacation location for my fellow Texans. Every year over 600,000 Texans seek out the pleasures in their neighboring State to the northeast. This is nearly two-thirds of a million visitors that account for 29 percent of Arkansas' out-of-State tourists. Both in 1981 and 1982, Texas ranked No. 1 as a State of origin for touring in the Land of Opportunity. In fact, Mr. President, in 1982, the typical visitor to Arkansas could be described as a "43-year-old Texan traveling with his family." His favorate activities will include "sightseeing, camping, fishing, and other water sports."

Thus, Mr. President, I am pleased to cosponsor S. 2125 and I commend my colleagues for its introduction. However, I warn them while I am in support of Texans enjoying their beautiful wilderness, I will never concede which State has better football teams.●

PROCUREMENT SUCCESS STORY

● Mr. GOLDWATER. Mr. President, for entirely too long, in my view, we in the Congress have been besieged by a continuous barrage of examples of mismanagement, cost overruns, and fraud and waste in the Department of Defense, by both congressional and media critics.

It is time to recognize some of the well managed and cost effective programs for which the Department of Defense is also responsible.

I recently read in the Wall Street Journal on Monday, February 6, 1984, an article that tells such a story concerning the B-1 bomber.

I commend the article to all the Members of the Congress since it shows that the Department of Defense and the aerospace industry have taken to heart the recent criticism of certain programs and, more importantly, are doing something about it.

I ask that this article be printed in the RECORD.

The article follows:

PROCUREMENT SUCCESS STORY

Waste, fraud, mismanagement. Those words have become popularly synonymous with the Pentagon procurement process. It is good, then, to be able to cite recent evidence counter to that image.

The big news Friday was that the Air Force had divided a huge jet-engine contract between General Electric and the former, exclusive contract-holder, Pratt & Whitney. The competition is expected to produce cost savings, plus a warranty system that shifts some costs for material failures back on the contractor.

Another success story also appears to be underway, involving the B-1. The B-1 bomber program, which Jimmy Carter killed and Ronald Reagan resurrected, is now two years into development and is well ahead of schedule and below cost. That's no small accomplishment for a $20.5 billion program, which some critics contended might cost nearly twice that. Much of the credit goes to an Air Force management that decided not to re-invent the wheel and to the multiyear procurement procedure that Defense Secretary Weinberger has been advancing.

The Air Force has already documented $550 million in cost savings, and the figure could reach more than $1 billion, according to Gen. William E. Thurman, who manages the B-1 program. He attributes the savings to the multiyear procurement procedure, which helps drive down unit costs by avoiding costly fits and starts in the production program. New incentives for cost savings have led, as well, to some smart engineering decisions to use available standard components, where possible, instead of designing new ones.

For instance, the B-1 will use the Air Force's standard radio equipment, and the radar will be the same one already developed for the F-16. On the other hand, the Air Force didn't spare any money on providing the B-1 with the special capabilities needed to replace the aging B-52s as America's penetrating strategic bomber; emphasis was placed on developing sophisticated computers, avionics and other electronic equipment both to protect the aircraft from enemy attack and to improve its ability to locate and destroy targets.

Contractors have been encouraged to save money under the B-1's fixed-price incentive program, under which the government and the contractors evenly split the savings when an item comes in under budget. Rockwell, the major contractor, already has saved about $500 million. At the same time, aircraft assembly is moving ahead so briskly that the first plane may be ready as soon as next fall, about six months ahead of schedule. The last of the 100 planes is due by mid-1988.

The B-1's primary function will be to strengthen the U.S. nuclear deterrence capability through its ability to penetrate Soviet air defenses and its ability to find dispersed Soviet weapons. Greater Soviet deployment of mobile missiles threatens to weaken the U.S. counterstrike capability, since it is difficult to target U.S. ballistic and cruise missiles on these weapons. But the Air Force expects that the aircraft also can function as a long-range tactical bomber, carrying either conventional bombs or "smart" guided weapons. It may well serve a special role in projecting American air power into remote areas that are too distant for our current land-based or carrier-based tactical aircraft. Some British military experts believe that the costly war over the Falkland Islands might have been averted had the British had such a long-range bomber capable of interdicting the Argentine ships and thus capable of discouraging a seaborne invasion of the islands.

The handling of the B-1 appears to point the way for all new military procurement programs, entailing less congressional disruption of year-to-year budgeting and better incentives for cost saving. It demonstrates how much room there has been for improvement and how much more military muscle this country can acquire for its money through more intelligent procurement practices.●

EMBASSY TO JERUSALEM

● Mr. LAUTENBERG. Mr. President, the Senate Committee on Foreign Relations began hearings today on a subject that is extremely important to the relationship between the United States and its closest ally in the Middle East, Israel. The committee received testimony on S. 2031, a bill to require that the U.S. Embassy in Israel be located in the city of Jerusalem.

Mr. President, I strongly support S. 2031 and was an early cosponsor of this important measure, introduced by my distinguished colleague from New York, Senator MOYNIHAN.

To share my views with my colleagues, Mr. President, I ask that a statement I submitted to the Committee on Foreign Relations as part of the hearing record on S. 2031 be printed in the RECORD.

The statement follows:

STATEMENT BY SENATOR FRANK R. LAUTENBERG TO THE SENATE FOREIGN RELATIONS COMMITTEE ON S. 2031

As an early cosponsor of S. 2031, legislation to move the United States Embassy in Israel to Jerusalem, I urge the committee to take prompt action to report this bill favorably to the full Senate for approval this year. The strained and confused policy of the United States in maintaining its Embassy in Israel in Tel Aviv has long been in need of review and correction. I commend the author of this bill, Senator MOYNIHAN, for bringing this issue before the Senate for consideration.

My view, simply stated, is that Israel has the right to designate the seat of its government. Israel has designated Jerusalem as its capital and located the Knesset and its primary government offices there. If the United States recognizes the state of Israel, as a friend and vital ally, it should recognize its capital and move our Embassy there. The Chancellery and the Ambassador of the United States to Israel should be located in Jerusalem.

Jerusalem has never been two cities, or three. It is one city, and it can only flourish and develop as a united entity. Indeed, it has done so in recent years.

Today Jerusalem is an open city. There are arrangements that ensure free and unimpeded access for peoples of all faiths to visit the scores of holy places that make Jerusalem such a sacred and treasured place. This is as true today as any day in Jerusalem's long and varied history, and the arrangements are in stark contrast to the divisions and restrictions that were in effect for almost two decades after 1948.

It is hard to imagine any other status for the city of Jerusalem that would better preserve its international character and its place as a religious center for three of the world's major faiths. More importantly, it is impossible to pretend that a united Jerusalem under Israeli control is simply a short-lived or passing matter. Jerusalem is the capital of Israel. There is no political force in Israel today that would even consider making that fact the subject of any negotiation with any other state. The United States cannot continue a policy on the status of Jerusalem that is neither desirable nor realistic.

The United States should maintain its diplomatic representatives to Israel in Israel's capital. I believe with 2 dozen of my colleagues in the Senate that it is time to face this issue squarely. Our current policy is needlessly contradictory and defensive. Next year, our Embassy should be in Jerusalem.

I urge the committee to take prompt action in reporting S. 2031 favorably to the full Senate.●

NUCLEAR WEAPONS

● Mr. HUMPHREY. Mr. President, I am taking this opportunity to insert into the RECORD four different news accounts concerning the proliferation of nuclear weapons capabilities. It is imperative for all of us to understand our currrent nuclear export policy, especially its inconsistencies and shortfalls, if we are to responsibly serve the national interest.

I would hope we all agree that this country must serve as a peacemaker, not a weapons sower. Brazil, Pakistan, Argentina, and South Africa are approaching the threshold level of nuclear weapons development. A reassessment of our nuclear export standards is long overdue.

I ask that the texts of these four articles appear in the RECORD at conclusion of my remarks.

The articles follow:

[From the Washington Post, Feb. 10, 1984]

PAKISTAN'S NUCLEAR CHIEF SAYS IT COULD BUILD BOMB

Pakistan's top nuclear scientist said in an interview published yesterday that his country now has the technology to enrich uranium and could produce its own atomic bomb if necessary, but U.S. nuclear non-proliferation experts cast doubt on his claims.

According to the Reuter news agency, Abdul Qadir Khan told the Urdu-language daily Nawa-i-Waqt, "Paskistan has broken the western countries' monopoly on the enrichment of uranium."

Khan's statement was questioned by energy experts in Washington who believe that Pakistan is years away from completion of a uranium enrichment facility capable of producing the quality and quantity of uranium required for weaponry.

In the interview, Khan is quoted as saying that Pakistan's nuclear program is for peaceful purposes, adding, "If in the interest of the country's solidarity the president of Pakistan * * * gave the team of scientists an important mission, it would not disappoint the nation."

Khan, who heads Pakistan's atomic energy program, was tried last year in Amsterdam for stealing the blueprint of an enrichment facility in the Netherlands, apparently the model for the Pakistani plant at Kahuta. Khan, who denied the charges, was convicted in absentia and sentenced to four years in jail.

A spokesman for the Pakistani Embassy yesterday reiterated that the country's nuclear program is "not weapon-oriented. It is entirely for peaceful purposes."

[From the New York Times, Jan. 23, 1984]

BRAZIL PREDICTS ABILITY TO BUILD A-ARMS BY 90'S

RIO DE JANEIRO, Jan. 22.—Brazil will be able to produce nuclear weapons by the

1990's, Navy Minister Maximiano da Fonseca said in an interview published today.

But Admiral da Fonseca told the Jornal do Brasil that any decision to make a bomb would depend on a political decision by a future government.

"Through the natural development of research the country will inevitably one day have the material necessary to build the bomb," the minister said.

[From the Washington Post, Feb. 10, 1984]

South Africa Pledges To Abide by Nuclear Treaty

(By Allister Sparks)

Cape Town.—Just a month before it is to start up the first of two big reactors at its nuclear power station at Koeberg, near here, South Africa has pledged to conduct its nuclear affairs in accordance with "the spirit, principles and goals" of the Nuclear Nonproliferation Treaty.

But it will still not sign the treaty, which requires a country to submit all its nuclear installations to international inspection.

While South Africa is prepared to allow the power station to be inspected, it refuses to do so in the case of a pilot uranium enrichment plant at its main nuclear energy establishment at Valindaba, near Pretoria.

This is because South Africa claims to have developed a new enrichment process and says that its "propriety" technology may be "compromised" if it opens the pilot plant to inspection.

Nuclear scientists have suspected for some time that South Africa is developing—or has developed—the capability of making nuclear weapons using locally enriched uranium.

Wynand L. de Villiers, chairman of South Africa's Atomic Energy Board, said in a statement Jan. 31 that the country had been made aware of American concern about its nuclear intentions and has given Washington an assurance that it will follow the principles set out in the nonproliferation treaty and the nuclear suppliers' group guidelines.

That means that South Africa, which is the world's third largest uranium producer, will not sell any to countries that do not have nuclear weapons without International Atomic Energy Agency or Euratom safeguards, de Villiers said. (Euratom is the European Community's nuclear energy agency.) Nor will it sell enriched uranium or make sensitive nuclear technology available to any other country without IAEA or Euratom safeguards.

De Villiers also said that South Africa is prepared to resume talks with the international agency's secretariat about inspections of a semicommercial enrichment plant that it is building at Valindaba, but not of its pilot plant there. The government has refused to give any reasons for distinguishing between the semicommercial plant, still under construction, and the pilot plant, which now is completed.

South Africa also is prepared to resume talks with the United States "at any time," de Villiers added.

De Villiers' statement was warmly welcomed by the State Department, raising hopes in some government quarters here that it may lead to an easing of U.S. restrictions on nuclear sales to South Africa.

The United States has been refusing to meet the terms of a contract to supply South Africa with fuel for the Koeberg power station because of a 1978 law prohibiting the export of nuclear material to countries that do not sign the nonproliferation treaty or open all their facilities to international inspection.

The Reagan administration, however, has been eager for some time to adopt a more flexible attitude toward South Africa, in line with its policy of "constructive engagement" with this country.

Any decision to ease the embargo would be of more symbolic than practical importance to Scuth Africa, because this country already has enough fuel for the power station to last until its own enriched uranium plant comes into operation within the next two years.

With the help of two U.S. brokerage companies, South Africa acquired almost 100 tons of enriched uranium from French, Swiss and Belgian suppliers in 1981.

Fortuitously, the U.S. fuel cutoff did not delay the commissioning of the power station either, as had been expected at the time it was imposed. This is because the completion of the $2 billion plant was delayed by a sabotage attack in December 1982.

Four limpet mines, planted by saboteurs of the underground African National Congress, exploded during a 12-hour period inside the plant, causing extensive damage that officials now admit has taken nearly a year to repair.

The first of the two reactors in the French-built plant is due to start up in mid-March and will reach full generating capacity in July. The second reactor is scheduled to "go critical" in November.

A year from now, the power station should be feeding 1.8 million kilowatts into the state-owned Electricity Supply Commission's power grid, adding 10 percent to a total production that already represents 60 percent of all the electricity generated on the African continent.

Security at the power station has been tightened since the sabotage attack. Reporters who were given a rare glimpse of the plant Monday were not allowed closer than an observation platform built about 500 yards from the huge structures that house the fuel assemblies. They looked out over a scene not unlike the Berlin Wall, with three high security fences, floodlights and tall sentry towers with armed guards.

Large notices warn that it is an offense punishable by a fine of $8,000, three years' imprisonment, or both, to photograph or make a sketch of anything in the area.

The huge, box-like building in the middle of this security compound has been sited on a beachfront to use the icy waters of the South Atlantic, washing northward from Antarctica, as a coolant. The two round reactors, rising from the building's center, make it look like an oversized steamship stranded on the shore.

A naval exclusion area prohibits any seagoing craft from approaching within two miles of the station.

Donne Murray, information officer at the site, said the power station will be able to generate enough electricity to run metropolitan Cape Town, with a population of 1.5 million, 30-miles down the coast.

Murray said that the South African government has no plans to build another nuclear power station "for at least 20 years."

Argentina Formulates Nuclear New Deal

(By John Walsh)

In coming months, actions by Argentina are likely to provide a major test of the Reagan Administration's policies to prevent the spread of nuclear weapons. Last November, the Argentines revealed that they were secretly building a plant to enrich uranium, which would give them a greater potential for producing weapons-grade nuclear materials then had previously been known. But the new civilian government of President Raul Alfonsin seems to be moving toward acceptance of more international safe guards on the nation's nuclear activities, which would impede Argentina's developing a nuclear weapons capability. And U.S. officials are particularly encouraged by the new government's decision to shift the nuclear program from military to civil authority. The United States will have to weigh these contrasting developments as it considers requests from Argentina for U.S. nuclear exports.

Disclosure of the enrichment project provided not only a rude surprise for the United States but also evidence of an embarrasing lapse in the global intelligence effort intended to keep tabs on developments relevant to nuclear proliferation.

Argentina has been numbered among the "problem" countries in respect to nuclear proliferation. Because Argentina has its own deposits of uranium and is technically advanced, the country has been regarded as capable of accomplishing its avowed aim of achieving nuclear independence by creating a complete nuclear fuel cycle. Argentina is known to be constructing a reprocessing plant that would enable it to separate plutonium from irradiated nuclear fuel. Completion of an enrichment plant would enable the Argentines to produce nuclear explosives either by enriching natural uranium to weapons grade or providing nuclear fuel free of international safeguards which could be irradiated in Argentine reactors and then reprocessed to extract plutonium. Argentina has consistently denied any intention of developing nuclear weapons, stressing its aim of achieving self sufficiency in peaceful nuclear activities.

State Department officials affirm that announcement of the enrichment plant near Pilcaniyeu in Rio Negro province some 600 miles from Rio de Janeiro came as a surprise to them. They were aware of a building there, they say, but not that it was an enrichment plant. Apparently it was too small for its purpose to be suspected since the gaseous diffusion process, which the plant is said to employ, usually requires facilities on a considerably grander scale. It was also thought that Argentina had no need for enriched uranium because the country's nuclear power program has concentrated on a type of reactor that uses natural uranium fuel. Perhaps the major question left by the slipup, however, is that of what might have been overlooked elsewhere.

The revelation of the enrichment plant project in November occurred at a time when critics in the country were taking the Reagan Administration to task for approving the retransfer by West Germany to Argentina of 143 tons of heavy water of U.S. origin. The heavy water is designed for use in a power reactor of Canadian design which employs heavy water to moderate the fission reaction and is now being built in Argentina by West German contractors.

The heavy water is subject to the international nuclear safeguards administered by the International Atomic Energy Agency (IAEA) in Vienna, which means that IAEA inspectors keeps tabs on facilities and materials to prevent prohibited uses. The implications for nuclear nonproliferation in a system only partially under safeguards, nonetheless, are seen as serious by U.S. critics. At a House hearing, for example, Paul Leventhal, president of the Nuclear Control Institute, a nonprofit research organization that concentrates on nuclear proliferation issues, argued that heavy water, like enriched uranium, is an essential ingredient for converting nonexplosive uranium into explosive plutonium.

Critics in Congress and in organizations concerned with nonproliferation matters have attacked the Reagan Administration for permitting exports of nuclear components and technology which are not covered by the U.S. Nuclear Non-Proliferation Act, which does mandate that recipients of U.S. reactors and nuclear fuel accept full scope safeguards—those covering all of a country's nuclear facilities and materials.

Critics are striving to close what they see as the major loophole in U.S. nonproliferation laws. The House last year passed an amendment introduced by Representative Howard Wolpe (D-Mich.), which forbids the export of nuclear components and technology to countries that do not accept full scope safeguards. In the Senate, a comparable amendment has been sponsored by Senators Gordon J. Humphrey (R-N.H.) and William V. Roth (R-Del.). The issue is expected to be thrashed out in the coming session and U.S. dealings with Argentina could well be affected.

Argentina's nuclear policies are now undergoing a major review. President Alfonsin has reaffirmed his intention to place Argentina's National Atomic Energy Commission (CNEA) under civil authority and named a commission headed by the foreign minister to recommend changes in the country's nuclear program including nonproliferation policies. Alfonsin has also suggested that his government is willing to accept more safeguards on nuclear facilities. However, a number of obstacles remain before the United States could freely export nuclear technology to Argentina.

Argentina declined to sign the Nuclear Nonproliferation Treaty (NPT) and has refused to accept full scope safeguards on its nuclear facilities. Argentine officials now say that the country may be willing to ratify the Treaty of Tlateloco, which provides for a nuclear free zone in Latin America. Argentina has signed but not ratified the treaty. In the past, the Argentine unwillingness to ratify was attributed to the failure of some countries in the area, including Brazil and Cuba, to accede to it. Unlike the NPT, Tlateloco permits development of peaceful nuclear explosives, which Argentina has not been willing to forego.

The Argentine atomic energy authority has traditionally been controlled by the military and that association strengthened a presumption that the program had a military orientation. The CNEA's longtime chief, Vice Admiral Carlos Castro Madero, exercised a major influence on the country's nuclear program. Castro Madero, however, resigned after Alfonsin took office in early December, and the new government has reiterated its intention to put the nuclear program under civilian control.

The shift to civilian control does not however, necessarily indicate that the Argentine's will make a full reversal of past policies on nonproliferation. Castro Madero in announcing construction of the enrichment plant placed the responsibility for the Argentine decision to build it at least indirectly on U.S. actions which were viewed as frustrating Argentine plans for its nuclear industry. Argentina's ambitions for its nuclear industry are obviously substantial as is the investment it has made in it. Some American observers believe that costs and technical difficulties facing the Argentines in completing the plant may deter them from carrying through on it. But politically, abandoning the country's aspirations to nuclear independence would be difficult because the policy is popular in Argentina, particularly with the Peronists and the military, who form the new government's most serious potential opposition. It is not clear, as one State Department source put it, how far the government "would be willing to expend political capital."

Another factor working against U.S. nonproliferation aims is the charge increasingly made by Argentina and other nonweapons countries that the United States and the Soviet Union have not fulfilled the obligation explicit in the NPT that the superpowers would work effectively to reduce the number of nuclear weapons in their arsenals and to assist nonweapons countries with their civil nuclear programs. The nonweapons states indicate that they, therefore, feel less impelled to accept safeguards.

The Reagan Administration's strategy on nonproliferation is based on the view that the best way to influence countries to accept nonproliferation measures is for the United States to cooperate with them in their efforts on conditions that they accept adequate safeguards. The Administration rejected Carter Administration tactics of denying U.S. nuclear technology and assistance to nonweapons countries in the cause of preventing their development of facilities capable of producing nuclear explosives. The Reagan Administration is dealing with an Argentine government evidently more disposed than its predecessors to negotiate safeguards as part of a nuclear quid pro quo. Skeptics in this country contemplating the prospect of a complete nuclear fuel cycle in Latin America worry that both governments and policies can change.●

ENVIRONMENT AND PUBLIC WORKS COMMITTEE

● Mr. STAFFORD. Mr. President, I was very pleased that Senator Daniel J. Evans of Washington requested the Senate Committee on Environment and Public Works as one of his major committees, and that the Republican Committee on Committees acted favorably on this request, which was approved in turn by the majority leader and our conference. I know that Senator Randolph, the ranking minority member of the committee, was pleased as well that Senator Frank R. Lautenberg of New Jersey elected to take the additional minority position on the committee. These assignments were made possible by the enlargement of the Committee on Environment and Public Works from 16 to 18 members, accomplished by Senate Resolution 338, and were formalized in Senate Resolutions 339 and 341.

In discussing the activities of the Committee on Environment and Public Works, which I chair, Senator Evans has expressed particular interest in the work of the Environmental Pollution Subcommittee, the Water Resources Subcommittee, and the Transportation Subcommittee. Yesterday, Senator Lautenberg confirmed that he would also like to be a member of these subcommittees.

It is, therefore, with great pleasure that, pursuant to our committee rules and in consultation with Senator Randolph, I have assigned Senator Evans and Senator Lautenberg to the Environmental Pollution, Water Resources and Transportation Subcommittees.

The Environmental Pollution Subcommittee, ably chaired by Senator Chafee, is responsible for water pollution, solid waste disposal and resource recovery, Superfund, and fisheries and wildlife. It has already done outstanding work in this Congress by producing S. 431 and S. 757, now pending on the Senate Calendar. Senator Mitchell has been especially attentive to these issues in his position as ranking minority member of the subcommittee.

Senator Abdnor, with the able cooperation of Senator Moynihan, has brought forward S. 1739, also pending in the Senate. That bill addresses, for the first time in several years, national policy issues in water resource development. The subcommittee's juridisction includes flood control projects, river basin policy, inland waterways construction, and operation, and small watersheds.

Our Transportation Subcommittee deals with the Federal-aid highways program—one of the original and vital public works jurisdictions of the committee which has a major impact in every State, if not finally every locality in the Nation. I am sure Chairman, Symms and Senator Bentsen will welcome the interest and attention of our two new members as we continue to address the very difficult highway issues now before the committee.

As members of the full committee, Senators Evans and Lautenberg will be dealing as well with clean air issues, our budget recommendations for all the agencies and programs within the jurisdiction of the committee, reform of the public building program, Presidential nominations, and all other activities of the full committee.

Mr. President, I ask that there be included in the Record at this point an excerpt from the Rules of Procedure of the Committee on Environment and Public Works, and a revised list of the committee and its subcommittees.

The material follows:

Excerpt

Rule 11. Subcommittee Membership.—Following consultation with the Majority Members and the ranking Minority Member of the Committee, the Chairman shall announce selections for membership of the Subcommittees referred to in Rule 10.

Committee on Environment and Public Works, U.S. Senate, 98th Congress

Robert T. Stafford, Vermont, Chairman; Jennings Randolph, W. Va., Ranking Minority Member; Bailey Guard, Staff Director; John W. Yago, Jr., Minority Staff Director.

MEMBERS OF THE FULL COMMITTEE

1. Robert T. Stafford, Vermont; 2. Howard H. Baker, Jr., Tennessee; 3. John H. Chafee, Rhode Island; 4. Alan K, Simpson, Wyoming; 5. James Abdnor, South Dakota; 6. Steve Symms, Idaho; 7. Pete V. Domenici, New Mexico; 8. Dave Durenberger, Minnesota; 9. Gordon J. Humphrey, New Hampshire; 10. Daniel J. Evans, Washington; 11. Jennings Randolph, West Virginia; 12. Lloyd Bentsen, Texas; 13. Quentin N. Burdick, North Dakota; 14. Gary Hart, Colorado; 15. Daniel Patrick Moynihan, New York; 16. George J. Mitchell, Maine; 17. Max Baucus, Montana; and 18. Frank R. Lautenberg.

SUBCOMMITTEES

Environmental Pollution.—John H. Chafee, Chairman; Alan K. Simpson, Steve Symms, Dave Durenberger, Daniel J. Evans, George J. Mitchell, Gary Hart, Daniel Patrick Moynihan, Frank R. Lautenburg.

Nuclear Regulation.—Alan K. Simpson, Chairman; Howard H. Baker Jr., Pete V. Domenici, Steve Symms, Gary Hart, George J. Mitchell, Max Baucus.

Water Resources.—James Abdnor, Chairman; Pete V. Domenici, Dave Durenberger, Gordon J. Humphrey, Daniel J. Evans, Daniel Patrick Moynihan, Lloyd Bentsen, Max Baucus, Frank R. Lautenberg.

Transportation.—Steve Symms, Chairman; Robert T. Stafford, Howard H. Baker, Jr., John H. Chafee, James Abdnor, Daniel J. Evans, Lloyd Bentsen, Jennings Randolph, Quentin N. Burdick, Daniel Patrick Moynihan, Frank R. Lautenberg.

Toxic Substances and Environmental Oversight.—Dave Durenberger, Chairman; Alan K. Simpson, James Abdnor, Gordon J. Humphrey, Max Baucus, Quentin N. Burdick, Gary Hart.

Regional and Community Development.—Gordon J. Humphrey, Chairman; Howard H. Baker, Jr., Pete V. Domenici, John H. Chafee, Quentin N. Burdick, Lloyd Bentsen, George J. Mitchell.

The Committee on Environment and Public Works is one of 16 standing Committees of the United States Senate. The work of the Committee brings together elements of national policy providing developmental opportunities and those providing for environmental protection. Over the last two decades, it has encompassed major environmental initiatives as well as basic infrastructure development.

Although the Senate created the Public Buildings and Grounds Committee in 1837, the present Committee structure of the Congress was established in 1946. Federal-aid highway systems, flood control and navigation projects, and construction of Federal buildings were the original areas of jurisdiction of the Senate Committee on Public Works. Beginning in 1963, water and air pollution control, rural and community economic development, and relief of natural disasters became important areas of the Committee's activity.

The landmark Clean Air Act of 1970, and the Federal Water Pollution Control Act of 1972, brought the Committee recognition as the jurisdictional home of environmental pollution control. In 1977 the Senate transferred fish and wildlife refuges and programs, and the regulation of nonmilitary nuclear power to the Committee, now designated "Environment and Public Works."

The Committee's environmental responsibility also includes the Resource Conservation and Recovery Act (RCRA) governing disposal of solid waste, Superfund (CERCLA), the Toxic Substances Control Act (TSCA), the Safe Drinking Water Act, ocean dumping, and the National Environmental Policy Act (NEPA).

Committee oversight extends to programs in five cabinet-level departments and seven independent agencies, including the Environmental Protection Agency, the Council on Environmental Quality, the civil works program of the U.S. Army Corps of Engineers, the Federal Highway Administration (DOT), the Economic Development Administration (DOC), the Tennessee Valley Authority, the Appalachian Regional Commission, the Fish and Wildlife Servie (DOI), the Nuclear Regulatory Commission, the Public Buildings Service (GSA), the Federal Emergency Management Agency, the Soil Conservation Service (USDA), and the non-performing arts functions of the Kennedy Center.

Recent public interest in the Commitee's activities has focused on the prevention of acid rain, the protection of endangered species and of barrier islands, and the repair of bridges and maintenance of Federal-aid highways, including completion of the Interstate System.●

RURAL DEVELOPMENT RESOLUTIONS PASSED BY THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION

● Mr. **HUDDLESTON.** Mr. President, in January, hundreds of delegates from all over the country attended the 42d annual meeting of the National Rural Electric Cooperative Association. Although the NRECA is primarily concerned with rural electric issues, the organization has been very active in advancing the cause of rural development.

During the annual meeting, a number of resolutions were considered and approved by the delegates. The most significant resolution approved was a strong endorsement of S. 1300, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act, and its companion measure, H.R. 3050. I am proud to say that I introduced this legislation which now has 40 Senators as sponsors.

The delegates also approved several resolutions relating to rural development issues. I believe these resolutions are worthy of review by my colleagues, and I commend the NRECA for its initiatives on these important issues. I ask that the text of the resolutions be printed in the RECORD.

The text follows:

RESOLUTION NO. A-3

From: Community and Economic Development Committee
Approved by: Resolutions Committee
Subject: Implementation of Rural Development Policy Act

NRECA was the first major, rural-oriented organization to support the Rural Development Policy Act when the annual meeting of 1978 adopted a resolution specifically calling for Congress to pass the Act. During the struggle to enact this important rural legislation, many farm and rural organizations joined with NRECA in support of the bill which became law.

Among other things, the legislation mandates that the Executive Branch continue rural development. It directs the Secretary of Agriculture to coordinate all federal rural development, which in effect, assigns to USDA the lead role for the government's activities in this field.

Moreover, the Act requires the Secretary of Agriculture to formulate a nationwide rural development program and to see to it that it is carried out. To assist him, the law creates the position of Undersecretary for Small Community and Rural Development. The Act also requires establishment of a process to assess local development needs involving input from state and local governments. And further, the law requires the USDA to prepare an analysis of the President's budget recommendations relevant to rural development.

Under the Act, USDA is to submit its recommendations for rural development strategy annually to the House and Senate Agriculture Committees as well as its assessment of rural development needs, and its analysis of budget recommendations.

We urge the Administration to implement this law in such a manner as to achieve to the greatest extent possible the objectives of the Act. We urge Congress to exercise in-depth oversight to insure that rural America receives the maximum benefits of the legislation.

RESOLUTION NO. A-7

From: Community and Economic Development Committee
Approved by: Resolutions Committee
Subject: Jobs Creation Campaign

Unemployment and underemployment in rural areas remain at a high level exceeding the national average. Present estimates indicate that fewer than five million of 55 million rural Americans derive their principal income from farming. A large number of rural residents who are unemployed or underemployed are members of rural electric systems. It is in the interest of consumer-members for their rural electrics to assist in stimulating job opportunities in their service areas along with related community facilities and services.

Such an effort can help stabilize rural population so as to avoid another flood of rural outmigration which decimated scores of rural communities in the '50s and '60s. Moreover, it can help slow the escalation of electric rates. And such an effort can earn for our systems recognition as service-oriented organizations of essential economic and social value to their service areas.

We therefore recommend that rural electric systems support, to the fullest extent possible, a national rural jobs creation campaign. Also, we request that the Rural Electrification Administration actively assist its borrowers in such an undertaking.

In addition, we ask our national association to develop in cooperation with a broad representation of the rural electric leadership a plan for a nationwide promotional and informational effort to provide backup and guidance for the activities of NRECA member systems.

RESOLUTION NO. A-8

From: Community and Economic Development Committee
Approved by: Resolutions Committee
Subject: Rural Health Clinics

More than a year has elapsed since Congress passed and the President signed legislation permitting the reactivation of the joint rural health clinics program of Farmers Home Administration and the Department of Health and Human Services. This program, begun in 1978 under a joint agreement between the two government entities, proved highly successful in providing critically needed health care facilities to rural people in medically underserved rural areas.

Under the 1978 interagency agreement, FmHA supplied loans to construct the clinics and HHS grant funds to help clinics amortize the debt. From 1978 until mid-1981, FmHA loaned $59 million for 160 clinics which resulted in access to medical treatment by thousands of rural people in places where such access was practically nonexistent.

We actively support legislation to reactivate the program which was halted by a decision of the Comptroller General in January, 1982. The passage of the legislation in December, 1982, was reflective of Congress' intention that the program be resumed, but FmHA and HHS has been renegotiating the renewal of their agreement for more than a year.

We urge FmHA and HHS to conclude their negotiations which we feel have been needlessly protracted and to reimplement this valuable rural health program without further delay.

RESOLUTION NO. A-9

From: Community and Economic Development Committee
Approved by: Resolutions Committee
Subject: Business and Industry Loan Program

Despite the Administration's attempt to kill Farmers Home Administration's business and industry loan program, which was authorized by the Rural Development Act of 1972, Congress again approved $300 million as a guaranteed loan level for this year. Because of this program, which represents a significant source of credit to rural enterprises and has helped to create or save thousands of jobs in rural areas, relies upon private funds, with FmHA guaranteeing repayment of 70 to 90 percent of the amount, it has little impact on the Federal budget.

Developing new employment opportunities and retaining existing ones are of paramount importance to the welfare of rural America. We therefore urge FmHA to make the full extent of the 1984 guaranteed loans available to rural businesses which are otherwise unable to obtain financing.

RESOLUTION NO. A-10

From: Community and Economic Development Committee
Approved by: Resolutions Committee
Subject: Reorganization of Rural Development

The recommendation of the Senate Government Operations Committee that the Economic Development Administration be transferred from the Department of Commerce to the Department of Agriculture is a more logical one in our opinion than the Administration's proposal to shift EDA to the Department of Housing and Urban Affairs.

We believe that EDA could be combined with the non-farm rural development programs of Farmers Home Administration into an effective development agency within USDA. We also would recommend that the Office of Rural Development Policy become part of such an agency.

FmHA is no longer able to effectively administer both farm and non-farm programs and as a result has downgraded the priority of the latter. This situation will continue, in our view, until USDA takes steps to reorganize its rural development responsibilities by assigning them to a new agency so as to give them the high priority which Congress directed that they have.●

ROBERT J. RUSSO RECOGNIZED FOR 5 YEARS OF DEDICATION

● Mr. LAUTENBERG. Mr. President, on February 26, Robert J. Russo will be recognized by his friends for his 5 years of dedicated work as the director of the Essex County Division of Consumer Services in Verona, and for 2 successful years as chairman of the Democratic County Committee in Bloomfield. Bob will be honored by many of the people he has helped and worked with during his 15-year career in education and government. Bob has been a teacher in Newark, a coordinator of the North Essex Education Center of Essex County College in Belleville, and an assistant to the New Jersey public advocate in Trenton.

In his current role as director of the Essex County Division of Consumer Services, Bob has been an aggressive consumer advocate, guarding the consumer against unfair business practices. With the help of a staff that includes volunteers, senior citizens and students, his office helps thousands of consumers each year through educational programs and enforcement of consumer protection laws. Bob should be recognized for his attempts to settle conflicts by mediation, avoiding litigation that is costly to merchants, and that delays satisfaction to consumers. Bob has made a noteworthy effort to inform the public, taking the view that education can stop consumer complaints before they happen.

I note that one-third of the complaints Bob's office handles come from senior citizens. Because the elderly are particularly vulnerable to unfair business practices, the office is especially receptive in responding to their concerns.

Bob's activities in the realm of politics also deserve recognition. Elected chairman of the Bloomfield Democratic Committee in 1982, Bob helped his party gain two new council seats. The stunning victory was a tribute to Bob's tireless organizing and hard work on behalf of others.

At this time, I would like to congratulate Bob Russo for his dedication to public service and wish him continued success in the future.●

GETTING SERIOUS ABOUT PROLIFERATION

● Mr. LEVIN. Mr. President, the Senate is about to begin debate on a number of amendments to tighten the controls over our nuclear commerce with other nations, as part of our deliberations on the Export Administration Act amendments. Paul Leventhal, president of the Nuclear Control Institute, has just published an article in the March 1984 issue of the Bulletin of Atomic Scientists, which puts the problem of nuclear nonproliferation into perspective. I commend it to the attention of my colleagues and I ask that it be printed in the Record.

The article follows:

From Washington: Getting Serious About Proliferation

(By Paul Leventhal)

The superpowers are not the only travellers on the road to nuclear war. As more nations acquire the means, the materials and the motivation to build nuclear weapons, it becomes more likely that the first nuclear war will break out between newly nuclear nations. If the superpowers are drawn into such a conflict, it could also be the last nuclear war.

Given the obvious importance to the United States of preventing nuclear war, it is surprising that non-proliferation is not a high item on the U.S. foreign policy agenda. The best indication of this is the way President Reagan treats the subject. Appearing last fall before the opening session of the U.N. General Assembly, he said, "And, let me add, we must ensure that world security is not undermined by the further spread of nuclear weapons. Nuclear non/proliferation must not be the forgotten element on the world's arms control agenda." and that's all he said in an arms-control address whose text filled half a page in The New York Times.

In a speech the previous spring on the subject of nuclear weapons, the President also devoted a paragraph to proliferation:

"Every country that values a peaceful world order must play its part. Our allies, as important nuclear exporters, also have a very important responsibility to prevent the spread of nuclear arms. To advance this goal, we should all adopt comprehensive safeguards as a condition for nuclear supply commitments that we make in the future. In the days ahead, I will be talking to other world leaders about the need for urgent movement on this and other measures against nuclear proliferation."

Unfortunately, Reagan did not follow through, as expected, by raising the matter at the Williamsburg economic summit a month later. Instead, his Administration violated its own comprehensive safeguards principle by approving, in the space of 90 days, nuclear sales to India, Argentina and South Africa. These nations refuse to open all their nuclear facilities to international safeguards inspection, refuse to ratify the Nuclear Non-Proliferation Treaty (NPT), and either have, or are developing, the means to set off nuclear explosions.

Viewed cynically, the President's policy can be described as fighting proliferation by assisting the proliferator. The policy is actually an exercise in real world politics as directed by the President's ambassador for non-proliferation, Richard T. Kennedy.

Highly condensed, the policy would read something like this:

"In the real world, the spread of nuclear-weapons capability and materials is inevitable. We may wish we could prevent proliferation, but the best we can do is manage and limit it. Any nation that wants the bomb can acquire the wherewithal to build it—sooner or later. Why, then, cause unnecessary frictions by trying to stop the unstoppable? Better to be a reliable nulcear supplier and, in this way, to influence and to gain information on the way other nations use nuclear energy. Better to deal with the regional tensions that drive nations to the bomb than to deny the technical means to produce one. Cut these nations off without an atom and we gain only lost customers and lost influence. Nuclear firms in France, West Germany, Canada, Britain, Switzerland and Japan will be only too happy to take over the business. Of course, we never would jeopardize national security for commercial gain, but our approach does help to support the ailing U.S. nuclear industry with profitable foreign sales."

Thus, when the Indians asked that General Electric provide spare parts for their Tarapur nuclear power plant, and when the South Africans asked that Westinghouse maintain and provide technical services for their Koeburg nuclear powerplant, and when the West Germans and the British asked approval to retransfer 143 tons of U.S.-produced heavy water to Argentina's Atucha II nuclear powerplant, the Reagan Administration was ready to oblige.

The Administration contends that these are minor sales which do not conflict with its basic policy of requiring comprehensive safeguards as a precondition of "significant new supply arrangements." Some critics, including this writer, strongly disagree and view these as significant transactions that seriously undercut traditional U.S. leadership in combatting proliferation and that also violate the spirit, if not the letter, of the Nuclear Non-Proliferation Act of 1978.

A strategy that rewards NPT-rejectionist nations by engaging in nuclear trade with them is only half the problem with the Reagan non-proliferation policy. The other half is the Administration's determination to reward allies and trading partners like Japan and Switzerland by approving their requests to separate plutonium, a nuclear-explosive material, from used U.S.-supplied reactor fuel and to recycle the plutonium in conventional and breeder reactors.

Congress cracked down on the Administration's *domestic* plans to use explosive plutonium as fuel by cutting off federal funding for a commercial spent-fuel reprocessing plant in Barnwell, South Carolina and for a demonstration breeder reactor at Clinch River, Tennessee. In 1982 Congress outlawed the use of plutonium from commercial powerplants in the United States, including breeders. But there is little prospect for prompt action on pending legislation to block approval of widespread foreign reprocessing of U.S.-supplied fuel and commercial use of the separated plutonium.

The Reagan Administration defends its sharp break with the highly restrictive plutonium-use policy of the previous two administrations by declaring that use of U.S.-origin plutonium will be approved only for advanced nuclear nations that pose "no proliferation risk." Critics argue, however, that no nation can be deemed to be without proliferation risk because motivations change, safeguards are weak and terrorists pose a comtinual threat.

Approving large-scale commercial use of plutonium represents a Rubicon which, once crossed, legitimates and inaugurates the plutonium economy. Even if Japan can be trusted not to build nuclear weapons with U.S. plutonium, a precedent will have been set that other advanced, but perhaps less trustworthy, nations can be expected to seek to exploit. It will be all the more difficult, and perhaps diplomatically impossible, for the United States to say "no" to such nations after saying "yes" to Japan.

A recent study by the Nuclear Control Institute uses the industry's most reliable data to project that by the end of the next decade there will be enough separated plutonium in free-world commerce for 88,000 nuclear weapons if present plans for reprocessing spent fuel and recycling plutonium go forward.[1]

The fundamental problem with the Administration's approach is that to assume proliferation is inevitable helps to ensure that it will be—a self-fulfilling prophecy of apocalyptic proportions. Proliferation is far from inevitable. Consider that 119 nations have ratified the Nuclear Non-Proliferation Treaty while only eight nations with significant nuclear programs have not. (Two nations already possessing nuclear weapons—China and France—and six without declared nuclear arsenals—Argentina, Brazil, India, Israel, Pakistan and South Africa.) Of course, reducing regional tensions is an essential stategy for steering today's potential proliferators away from the bomb. But it is no substitute for determined U.S. leadership in steering civilian nuclear programs away from explosive materials that, once introduced into commerce, can transform the world into a place of unprecedented danger and violence. Proliferation will likely prove unmanageable once hundreds, eventually thousands, of tons of explosive plutonium are used to fuel conventional and breeder reactors, as the industry now plans.

In short, a U.S. role as reliable nuclear supplier to reliable customers is sound non-proliferation policy. But supplying nations that defy basic non-proliferation norms (either by rejecting safeguards or pursuing plutonium) is an exercise in appeasement that sets the wrong example for other nations and accelerates the proliferation process.

A recent case in point is Argentina which caught the United States by surprise with its announcement in November that for the past five years it had been building, with some unspecified outside assistance, an unsafeguarded uranium enrichment plant. This, despite Ambassador Kennedy's earlier defense of the heavy-water transfer to Argentina as a means to "create a stronger sense of mutual confidence and an informed understanding of each other's non-proliferation concerns and objectives." The United States clearly did not buy information and influence with this nuclear deal.

A leading critic, Representative Howard Wolpe has expressed concern that the reliable-supplier approach fast degenerates into a policy of "any nuclear sale is a good sale" and leads to a strategy by non-NPT nations of playing one nuclear supplier off against another to gain all the items and know-how needed for nuclear independence, that is, for the full nuclear fuel cycle required to produce nuclear weapons without further outside assistance.

To the surprise and chagrin of Administration officials, the House passed an amendment to the Export Administration Act offered by Wolpe and Representative Richard Ottinger to close loopholes in non-proliferation law by requiring full-scope safeguards as a condition of all nuclear exports and to cancel the specific transfers recently approved for Argentina, India and South Africa.

The Senate, meanwhile, has passed a non-binding resolution offered by Senators John Glenn and Rudy Boschwitz calling on the President to cancel these sales. This advisory resolution was enacted as part of the State Department Authorization Bill at the close of Congress' 1983 session, but not before House and Senate conferees weakened it by giving in to Administration demands for a "health and safety exception" for sending spare parts to India's Tarapur reactor—an exception that the Senate previously had rejected by a resounding 59 to 28 vote.

In February, soon after reconvening, the Senate will take up one or more variations of the binding amendment passed by the House. Since there is considerable concern about the Reagan nuclear export program among conservative Republican senators, it is likely that some measure will be enacted to restrict nuclear trade with nations refusing to accept full-scope safeguards.

The House-passed amendment is a spin-off of certain provisions in two comprehensive non-proliferation bills still pending in the House and Senate which take similar approaches to tightening nuclear-export restrictions and barring commercial use of U.S.-origin plutonium. One of the bills the Nuclear Explosives Control Act of 1983, introduced by Senator Gary Hart and Representative Ottinger, also provides positive incentives in the form of nuclear-fuel assurances and technical assistance to nations that agree to forgo use of explosive separated plutonium and highly enriched uranium in their nuclear programs.

The time is ripe for providing such incentives and assistance to forgo explosive fuels because it is now known that natural uranium is cheap and plentiful, uranium enrichment plants are under-utilized for producing low-enriched power and research reactor fuels, high-quality uranium fuel can be burned longer in conventional reactors to stretch our fuel supplies, and reprocessing plants and breeder reactors are proving extremely costly, difficult and dangerous to operate. In addition to Hart, two other Democratic presidential candidates, Senator Alan Cranston and former Vice-President Walter Mondale, support this bill's carrot-and-stick approach to non-proliferation.

Enactment of some combination of these bills would facilitate effective U.S. non-proliferation leadership by eliminating the double standards and loopholes from existing law that permit considerable nuclear assistance to non-NPT nations. The United States, by getting its own nuclear-export and plutonium-use policies in order, would be in a strong moral and political position to provide forceful leadership and generous incentives to other nations to do the same.

The critical question is whether the U.S. government is prepared to lead. To be effective, the United States has to expect to expend far more short-term political capital to achieve long-term non-proliferation gains and to impose far higher political costs on non-cooperating nations. This necessarily involves linking U.S. non-proliferation objectives to a wide range of political, economic and security issues with other nations, and not confining non-proliferation discussions to the narrow area of nuclear commerce, as is now largely the case.

Finally, and of greater importance, the United States and the Soviet Union must make substantial progress in limiting and reducing their nuclear arsenals if they are to have any credible non-proliferation credentials. Otherwise, there can be little hope that the membership of the nuclear club will not grow in years to come.●

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[1] David H. Albright, "World Inventories of Civilian Plutonium and the Spread of Nuclear Weapons," June 1983.

FAVORABLE REPORTING OF S. 2336

● Mr. GARN. Mr. President, on February 22, 1984, the Committee on Banking, Housing, and Urban Affairs convened to consider proposals amending the Truth-in-Lending Act's provisions allowing merchants to offer cash discounts, and prohibiting credit card surcharges. As a result of these deliberations, the committee by voice vote favorably reported S. 2336.

HISTORY OF THE LEGISLATION

The Truth-in-Lending Act, passed in 1968, required creditors to provide meaningful, consistent, and uniform disclosure of the costs and terms of credit. Under the act, the entire cost of credit was required to be disclosed as a "finance charge" and an "annual percentage rate." Any differences in price offered by merchants to reflect the higher costs involved with accepting credit cards would have had to be included in the finance charge and annual percentage rate disclosures. Therefore, the requirements of the original Truth-in-Lending Act operated to severely inhibit merchants from offering cash discounts—or its mirror image—the credit card surcharge, to recover credit costs.

Concerned that cash buyers were subsidizing credit users when all buyers paid the same price for an item, Congress amended the Truth-in-Lending Act in 1974 to provide that cash discounts up to 5 percent need not be disclosed as a finance charge, if they were clearly and conspicuously disclosed and available to all cash customers. This amendment was intended to encourage the offering of cash discounts by removing legal disincentives for their use.

Congress acted again on this issue in 1976 to provide guidance to the Federal Reserve Board on the question of whether the 1974 legislation permitted both cash discounts and surcharge pricing systems. In 1976, Congress defined the term "discount" as a reduction from the "regular price" and "surcharge" as an addition to that price. Congress also eliminated another legal impediment discouraging the use of cash discounts by exempting them from characterization as credit charges under State usury or disclosure laws. Finally, Congress specifically prohibited the imposition of surcharges until February 27, 1979.

In 1978, Congress extended the surcharge prohibition for another 2 years.

In 1981, passing the Cash Discount Act, Congress for the third time extended the surcharge prohibition and requested that the Federal Reserve Board study the costs and effects of credit card use. That study was transmitted to the Congress on July 27, 1983.

Facing an expiration of the ban on surcharges on February 27, 1984, the House on November 15, 1983, passed H.R. 4278 to extend the ban until July 31, 1984. The Senate Subcommittee on Consumer Affairs held hearings on February 7, 1984, where every witness addressed both the surcharge issue, and discussed problems related to expiration of the ban on surcharges. On February 22, the Senate Banking Committee reported out two bills to, first, temporarily extend the ban until May 15, 1984; and second, to permanently amend the law and permit price differences for credit card sales transactions.

THE FEDERAL RESERVE BOARD STUDY

The Cash Discount Act required the Federal Reserve Board to study the costs and effects of credit card transactions. Governor Teeters, in her testimony before the subcommittee, pointed out that "the principal reason for the temporary nature of the surcharge prohibition was to allow Congress to study the issue more thoroughly. It wanted to determine whether there is, in fact, a higher cost associated with the use of credit cards; whether cash customers do, as a result, subsidize credit customers; and whether it is necessary to allow surcharges as well as discounts in order to eliminate any subsidization."

The Board released its study, entitled "Credit Cards in the U.S. Economy: Their Impact on Costs, Prices and Retail Sales" on July 27, 1983. Its major conclusions are as follows:

> The costs to retailers of credit card transactions (including point-of-sale, security-related, and financial costs) are higher than the costs for other types of transactions. The extra cost is about 2 to 3 percent of the transaction amount.
>
> There is little evidence that credit card usage increases overall retail sales volume. Because credit cards are so widely accepted, retailers as a whole do not recover the added cost of credit card transactions through increased sales.
>
> Credit card transactions cost most retailers more than cash transactions, and this cost is not offset by higher retail sales volume, but is reflected in the level of prices. The increase in prices is probably around 1 percent.

Governor Teeters noted that this 1-percent increase in the cost of goods could amount to as much as $6 billion a year. The study also noted that at present, only 25 percent of gasoline stations, and some 6 percent of other retailers, offer cash discounts.

REASONS FOR THE SENATE BILL

The Senate bill reflects the Federal Reserve Board's legislative recommendation, a recommendation stemming from the findings and conclusions of its study. Support for this bill is predicated on several reasons. First and foremost, as the Federal Reserve Board witness Governor Teeters noted, surcharges and discounts are "fundamentally equivalent." Governor Teeters stated in her testimony that:

> * * * while advocates of discounts have claimed that discount programs result only in price reductions for cash buyers, without penalizing credit card users, economic reality is such that prices generally will be restructured so that the "new" credit price is above—and the discounted cash price only somewhat below—the "old" single price. The Board's study indicates that if discount programs are to be economically feasible, most are likely to involve some increase in the price, from which discounts to cash customers are calculated. In fact, two-tier pricing through discounts ordinarily would result in essentially the same level of credit and cash prices as would a surcharge program.

If surcharges and discounts are fundamentally equivalent, they should be treated equally under Federal and State law.

Second, as the Board also noted, if Congress wants to encourage two-tier pricing, merchants should be provided with the flexibility to offer two methods of pricing—not just cash discounts. That merchants find the current discount program confusing and too much trouble to administer was emphatically pointed out by a witness from the National Oil Jobbers Council, who called the cash discount program "nightmarishly difficult to implement." The witnesses from the oil industry, whose service stations are the heaviest users of cash discount programs, unanimously supported legislative changes permitting them to impose a "difference in price between cash and credit"—which they believe to be much easier to administer and to eliminate substantial confusion over what constitutes a legal "cash discount" and an illegal "surcharge."

Third, the Senate bill will benefit consumers. A witness from the Consumer Federation of America insisted that "the surcharge ban is neither appropriate nor fair; it undermines the purpose of the Cash Discount Act, and it misleads consumers about the true costs of credit." He went on to point out that the current law, prohibiting surcharges, obscures the true cost of credit and forces cash customers to subsidize credit purchasers; penalizes low-income consumers who may not qualify as credit customers and must pay cash; and discourages merchants from using two-tier pricing.

Finally, the bill reported by the committee will remove unnecessary and intrusive government inhibitions on the ability of merchants to reflect the cost of credit in their prices. Simply put, surcharge prohibitions which prevent merchants from recovering credit costs constitute an unwarranted interference in private business decisions.

THE SENATE BILL

The Senate bill essentially does three things: First, it eliminates the terms "discount" and "surcharge" and substitutes the term "difference in price." Second, it provides the necessary Truth-in-Lending disclosure exemptions and State usury law preemptions now applicable to unlimited cash discounts, to "differences in price," if those differences (1) do not exceed 5 percent of the cash price of the property; (2) are clearly and conspicuously disclosed; and (3) are made available to all cash customers and all credit customers using the same credit card.

Provisions of the Cash Discount Act already require clear and conspicuous disclosure, and the Senate bill clarifies that disclosure must be made both at the point of sale, and in advertisements for a price. Consistent with current law, this requirement allows individual merchants to determine the manner and method of their disclosure, as long as a good-faith effort has been made to clearly and conspicuously disclose the availability of differences in price at the point of sale and in advertisements with a price. The Cash Discount Act, which requires cash discounts to be made available to all cash purchasers, has also been modified in this bill. Cash discounts must still be made available to all cash purchasers, and similarly all credit card purchasers using the same credit card must be charged an identical rate. However, a merchant may charge customers using different credit cards a different price for credit to recover the costs and merchant discount fees which vary between different credit card issuers. As is presently the case, a merchant need not offer the same dollar differences between cash and credit prices for all goods at all locations operated by a given seller, as long as the seller offers the difference to all cash customers, or all credit customers presenting the same credit card, at the same location. The merchant must comply with all three requirements—a 5-percent limit, disclosure, and availability—or else the merchant would lose the exemptions from Truth-in-Lending and applicable State usury and disclosure laws.

Third, the Senate bill protects third-party card issuers (card issuers who are not sellers) from liability under Federal and State laws for differences in prices imposed by merchants. The premise of this protection is that it is extremely difficult, if not impossible, to comply with the Truth-in-Lending disclosure requirements and State laws for charges imposed on cardholders by thousands of merchants unrelated to the issuer.

Under the provisions of the Senate bill, the card issuer is essentially "blind" to a transaction involving price differences where the issuer is not the seller. In this case, because it is the merchant's business decision to offer a difference in price and encourage payment by other than credit cards, the merchant alone has the responsibility, and the potential liability, for noncompliance with the 5 percent, availability, and disclosure requirements.

The Senate bill also retains that provision of current law which prevents card issuers from restricting the offering by merchants of different prices to induce cardholders to pay by cash, check or means other than a credit card.

The committee adopted an amendment offered by Senator GORTON to change a provision in the committee print which would have subjected only the "excess" of any price difference over 5 percent to Federal and State laws. Therefore, under the Senate bill, the entire price differences for cash and credit customers will not enjoy protection from Truth-in-Lending disclosure requirements and State usury and other requirements unless they meet the tests for a 5-percent limit, disclosure, and availability.

In sum, the bill is designed to permit merchants to pass on the greater cost of credit to the users of credit.

A section-by-section analysis follows:

SECTION-BY-SECTION ANALYSIS

(a) Amends Section 167 of the Truth-in-Lending Act as follows:

Section 167(a) prohibits card issuers from prohibiting a seller from charging different prices to induce a cardholder to pay by cash or a method other than a credit card.

Section 167(b) exempts differences in price offered by a seller from disclosure as a finance charge under the Truth-in-Lending Act if three requirements are met: (1) the price difference does not exceed five percent of the cash price of the property or service; (2) the price difference is available to all cash customers; or applies to all credit customers using the same credit card; and (3) the price difference is clearly and conspicuously disclosed at the seller's place of business and in any advertisement which includes a price.

Section 167(c) states that the entire price difference constitutes a finance charge if the three requirements set forth in Section 167(b) are not met.

Section 167(d) exempts a card issuer who is not a seller from disclosing a difference in price as a finance charge; even if the merchant fails to meet the three requirements set forth in Section 167(b).

(b) Amends the table of sections in Chapter 4 of the Truth-in-Lending Act to read "167. Price differences for credit cards."

(c) Deletes Section 103 (p), (q) and (x) of the Truth-in-Lending Act.

(d) Amends Section 171(c) of the Truth-in-Lending Act so that price differences which meet the requirements of Section 167(b) will not be a charge for credit under the usury laws of any State or under the laws of any State relating to disclosure of information in connection with credit transactions; and exempts card issuers who are not sellers from treating price differences as a charge for credit under such State laws.

(e) Repeals Section 3(c)(2) of Public Law 94-222.●

LITHUANIAN INDEPENDENCE DAY

● Mr. LEVIN. Mr. President, in mid-February 1918, the people of Lithuania declared their right to self-determination and asserted their territorial rights. That declaration represents a hallmark in the history of the free world. Lithuania had freed itself from the imperial dominion of a neighboring power and had burst forth as a fresh and independent nation. Promises of unstymied political, economic and cultural growth lay on the horizon—attainable now that the nation was free to pursue its own destiny. Establishment of an independent Lithuania was an absolute triumph for the people of the small Baltic State and a real advance for the cause of global freedom.

The fruits of victory were sweet, but they were fleeting. A short 22 years after the declaration of independence, the Soviets marched in. In 1940, the Soviet bear crushed the Lithuanian progress with a cruel blow. It battered and bruised the fledgling sovereign state—wiping out political institutions and deporting some 35,000 political leaders. The bear did not stop with decimating Lithuanian political achievements, it strangled her linguistic and cultural traditions—factors vital to national identity. The bear stomped on Lithuanian dignity. As has been the case not only in the Baltic Nations but also in Eastern Europe and Afghanistan, the Soviets refused to recognize the territorial integrity of a people and have absorbed an entire nation into their huge union.

The Soviets openly violated internationally recognized human rights agreed to in the Helsinki accords and the Universal Declaration of Human Rights. And the campaign to annihilate all vestiges of an independent Lithuanian state has continued to this very day. That the Soviet effort still persists is testimony to Lithuanian fortitude and deep-rooted nationalism. In the face of this repression, Lithuanians hold fast to an intangible that can be neither stifled nor destroyed. All lovers of freedom hope, that a sovereign state of Lithuania will one day be restored.

Lithuanian Americans across the United States, many of them relatives of those who are so many miles away, gather every year to dream the same dream, holding the same hope. I joined with one such group in Southfield, Mich., recently at the Detroit Lithuanian Organizations Center, and I ask to print the text of a resolution they adopted in the RECORD.

The resolution follows:

RESOLUTION

On the occasion of Lithuania's Independence Commemoration in Southfield, Michigan on February 12, 1984;

We, United States citizens of Lithuanian descent, residing in Southeastern Michigan, and having gathered on February 12, 1984, at 12:30 p.m. at the Lithuanian Cultural Center, 25335 West Nine Mile Road, Southfield, Michigan, to commemorate Lithuania's Independence Day, hereby resolve that:

Whereas, after World War I, Lithuania, having had an honorable and great state history of over 700 years, proclaimed its independence on February 16, 1918, and

Whereas, Lithuania was a member of the League of Nations, and

Whereas, the Soviet Union occupied Lithuania in June of 1940, and

Whereas, United States has not recognized the Soviet occupation of Lithuania;

Now, therefore, We are proud that the United States carries the beacon of freedom and independence to the enslaved State of Lithuania, and

We know that the enslaved Lithuanian nation for two generations has looked up to the high ideals of the United States, and

We ask our government to exert full diplomatic and other pressures on the Soviet Union to withdraw its occupational forces from Lithuania, Latvia, and Estonia so that these Baltic States would regain their liberty and independence.

Now, therefore, We empower the Chairperson of the Day to sign this Resolution and resolve to send it to the President, the President of the Senate, the Speaker of the House of Representatives, and the Senators and Representatives from the State of Michigan.●

ORDER FOR ADJOURNMENT UNTIL MONDAY, FEBRUARY 27, 1984, AT 11 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Monday next under the terms of the unanimous consent agreement previously entered into.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, FEBRUARY 27, 1984, AT 11 A.M.

Mr. BAKER. Mr. President, I see no Senator now seeking recognition. I move, in accordance with the order just entered, that the Senate now stand in adjournment until the hour of 11 a.m. on Monday next.

The motion was agreed to and the Senate, at 6:40 p.m., adjourned until Monday, February 27, 1984, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, February 23, 1984*

The House met at 11 a.m.

The Reverend Mr. Charles A. Mallon, Holy Family Church, Mitchellville, Md., offered the following prayer:

In my distress, I called to the Lord, and He answered me.

O Lord, deliver me from lying lip, from treacherous tongue.—Psalm 120: 1-2.

Father, we accept this day as a gift from You. Bless us and deliver us from all evil. Allow us to follow You sincerely and to seek You at all times.

Father, the words we use to express ourselves reflect the true condition of our hearts. Open our ears that we might hear the pain which we inflict on one another through verbal deception. And place in our hearts an ever-growing love for the truth, that we might approach You in this same spirit and that our hearts might witness to Your presence within us.

This we ask through our Lord, Jesus Christ, who lives and rules with You and the Holy Spirit, one God, forever and ever. Amen.

THE JOURNAL

The **SPEAKER.** The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

ESOP TAX DEDUCTIONS

(Mr. MOLLOHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOLLOHAN. Mr. Speaker, I am today introducing the Employee Stock Ownership Improvement Act of 1984. This legislation will encourage employee participation in ESOP's by authorizing a tax deduction to an ESOP company equal to the amount of qualified stock dividends it distributes to shareholders.

I am enthusiastic about this bill because, in these days of extensive and theoretical debate on industrial policy, ESOP's are a very real, working approach to dealing with the special industrial problems of the 1980's.

This legislation is particularly timely for my district: On January 11, the workers of what used to be the Weirton Mill of the National Steel Corp. finalized purchase of the mill and created the Weirton Steel ESOP. This is today the largest functioning ESOP in the country, and a model—the standard of comparison—for businesses across the country considering similar measures.

Weirton Steel, and other similar ventures, deserve the Federal encouragement my bill would offer. I do not pretend this bill will rescue all ailing industries, but the concept is one valuable approach. The people of Weirton, W. Va., have blazed the trail: The U.S. Congress can offer support by approving this legislation.

RESTORE TRADITIONAL FAIRNESS OF COLLECTIVE BARGAINING

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, yesterday, the Supreme Court took an unfortunate step toward dismantling our national system of collective bargaining.

The Court decided that an employer can unilaterally tear up a legal contract with his employees under chapter 11 of the Federal bankruptcy laws.

My Subcommittee on Labor Standards heard of contracts renounced, years of seniority thrown out the window, and wholesale reductions of wages and benefits—all due to chapter 11.

When a worker's bank account runs dry, he does not have the right to abrogate his contract and demand a higher salary. How, in the name of fairness, can that be the exclusive privilege of one party to a contract.

The Supreme Court said this action is constitutional, but it did not say it was fair.

And it is not.

I am introducing legislation to restore the traditional fairness of our collective bargaining procedure.

Mr. Speaker, this is not a question of labor versus capital. It is an issue of fairness, equity, and the sanctity of contracts between employer and employee.

H.R. 4072, A SENSIBLE WHEAT PROGRAM

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute.)

Mr. GLICKMAN. Mr. Speaker, Agriculture Secretary Block's announcement last weekend to extend for 3 weeks the signup period for the 1984 wheat program was about the same as offering passengers on the *Titanic* the choice of port or starboard cabins. The Secretary has simply given farmers longer to mull over a bad program. He has multiplied zero by 3 weeks, and the sum is still zero, according to my math, and according to, I suspect, the math of most wheat farmers.

We are approaching this year's harvest with near record wheat carryovers and a market no better than 1 year ago and still the administration fiddles while our farmers' Rome is burning. Except for improvements made for summer fallow producers, we still have a bad wheat program and I am afraid we are courting disaster. Unforunately, this "investment-minded" administration fails to recognize that a wise, prudent investment now in our wheat farmers will yield a significant return later and will prevent the collapse neglect will surely bring.

The Secretary's token announcement is especially frustrating to those of us who have worked trying to develop a compromise bill for a reasonable policy. Last November, this House approved H.R. 4072 making needed improvements in the wheat program which have been totally ignored by the administration's decision, clear in last weekend's announcement, to stonewall any necessary changes. That should put the heat on the Senate to take up what we have already passed, H.R. 4072, for a sensible wheat program this year before it is too late.

U.S. MILITARY INVOLVEMENT IN CENTRAL AMERICA—GAO STUDY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, last summer, some very disturbing information concerning the Reagan administration's intentions and plans for U.S. military involvement in Central America came to my attention. So serious were the implications of this information that I requested an investigation by the General Accounting Office.

For the past 4 months, GAO, using a team of investigators with extensive experience in such matters, has been formally engaged in this effort. It has been my hope that this study could be completed in a timely and uncontentious manner, and because of this, I have not previously publicly announced this initiative.

However, difficulties have been encountered with the Department of De-

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

fense and the Central Intelligence Agency over the past 3 months which persuade me that I have no choice other than to bring this matter to the attention of my colleagues in the House and to the American people.

Thus, I intend to address this issue this afternoon. I will discuss the Reagan administration's pattern of failure: Failure to heed the warnings of its own in-house lawyers, failure to inform the Congress and the American people, failure to heed the congressional intent in the matter of the Boland amendment, and failure to cooperate in the GAO investigation, under a special order of the House this afternoon.

LET'S USE A PARACHUTE!

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, when it comes to deficits, some around here say, "Don't worry, we have time. Let's play politics."

Remember the joke about the guy who jumps off the 50th floor without a parachute and when he passed the 30th floor, somebody shouts: "How is it going?" And he answers, "So far, so good."

So it is with this economy. It is going great. Interest rates are half what they were 3 years ago, inflation about a fraction, unemployment plummets, real growth is strong. So far, so good.

There is one problem: Deficits. Now we are talking $200 billion a year forever. Add $1 trillion to the national debt in 5 years and see what happens to the economy. Because of the size and the duration of the deficit, interest rates and inflation will be pushed up and the recovery will die, of that I am certain. I just do not know when.

The time to reduce deficits, however, is now, while the economy is headed up. Let us forget Democrat and Republican, let us get together, beginning with spending reductions and tax reform and reduce the deficit. Remember "So far, so good," but we just do not know what floor we are passing on the the way down.

□ 1110

LEGISLATION ALLOWING EXEMPTIONS FROM TANDEM TRUCK REQUIREMENT

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, earlier this week the Supreme Court rejected a Connecticut law which banned tandem trailer trucks from traveling on interstate highway segments running through the State.

According to the Court, Federal law prohibits States from banning these trucks on interstate segments regardless of safety, design, or road-wear considerations.

I believe this airtight Federal law is wrong, Mr. Speaker, and I am introducing legislation which would allow States the opportunity to ask the U.S. Department of Transportation for exemptions to the tandem truck requirement on a case-by-case basis.

All interstate highway segments are not necessarily alike, Mr. Speaker. We need the chance to recognize these differences and to keep these biggest rigs off the roads that cannot safely accommodate them.

SENATOR McGOVERN SHOULD BE COMMENDED FOR STATESMANSHIP

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, although the winner of the Iowa Caucus was Vice President Mondale, another winner emerged from these caucuses, Senator George McGovern.

Although Senator McGovern and I do not share similar views on many issues, his conduct in the primary should be commended. He has addressed the issues openly, failed to criticize his opponents, and has asked all voters to vote their conscience.

Mr. Speaker, as a Democrat, as a Member of this body, I think Senator McGovern should be commended for his statesmanship and conduct in these primaries.

COMPREHENSIVE NATURAL GAS POLICY NEEDED

(Mr. DURBIN asked and was given permission to address the House for 1 minute.)

Mr. DURBIN. Mr. Speaker, natural gas prices are creating an unconscionable burden on the families and businesses of the Midwest. Several weeks ago I joined in a "Dear Colleague" letter to the President urging him to include some reference to the natural gas crisis of the Midwest in his state of the Union address.

Although the President did not, I subsequently received a letter from the White House and, I quote, in the letter it is said:

> Comprehensive natural gas legislation remains the Administration's number one energy legislative priority.

Yesterday the Federal Energy Regulatory Commission granted to Panhandle Eastern a rate increase of up to 11 percent in natural gas prices which will hit the Midwest in March of this year.

After the harsh winter we have been through and the high bills, this sort of increase is unconscionable and unbearable, particularly to families on fixed incomes, families of average income, and businesses.

In the Midwest we can insulate ourselves against the cold, but we cannot insulate ourselves against the greed of Panhandle Eastern. What we need now is a comprehensive natural gas policy in this session of the Congress of the United States.

LEGISLATION PROVIDING FOR DEATH PENALTY FOR FEDERAL PRISONERS WHO COMMIT MURDER IN PRISON

(Mr. PETRI asked and was given permission to address the House for 1 minute.)

Mr. PETRI. Mr. Speaker, the people of Wisconsin were shocked recently by the brutal and senseless murder of a prison guard at the Oxford, Wis., Federal correctional facility. Sadly, the question we must ask about the killing of Boyd Spikerman is not "Why did it happen?" but rather, "Why hasn't this happened more often?"

Prison guards must patrol unarmed among the prisoners in our overcrowded correctional facilities because they are so vulnerable that a pistol or shotgun could be taken from them in the course of an escape attempt or prison protest. For the same reason, the guards are locked in the cellblocks without a key.

Unlike the guards, however, some of the prisoners are armed, having secretly fashioned homemade knives which they keep hidden.

What is there to deter prisoners serving life terms from murdering prison guards, or for that matter, other prisoners? After all, they are already serving the maximum sentence.

We must protect our prison guards by providing better deterrence. I have always opposed the death penalty except in the most extreme cases. Unfortunately, this has to be one of those cases. This is why yesterday I introduced legislation to provide for a death penalty for Federal prisoners serving life terms who commit first-degree murder in prison.

CONSIDERATION OF LINE-ITEM VETO CONSTITUTIONAL AMENDMENT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, at this time I would hope to offer a unanimous-consent request calling for consideration of a line-item veto constitutional amendment.

The Chair has ruled that in order to make this request I must have the clearance of the Democrat and Republican leaderships.

This request has been cleared by the Republican leadership and I would now yield to a spokesman from the Democrat leadership for appropriate clearance.

Mr. Speaker, I hear no response. That should make it clear to the American people just who stands in the way of the line-item veto and cutting Federal spending—the Democrat leadership of this House. That is who.

□ 1120

THE DEMOCRATIC LEADERSHIP STANDS IN THE WAY OF A BALANCED BUDGET

(Mr. **KRAMER** asked and was given permission to address the House for 1 minute.)

Mr. **KRAMER.** Mr. Speaker, at this time I would hope to offer a unanimous-consent request calling for consideration of an amendment to require a balanced budget.

The Chair has ruled that in order to make this request I must have the clearance of the majority and the minority leaderships.

This request has been cleared by the minority leadership.

I would now yield to a spokesman from the majority leadership for appropriate clearance.

Mr. Speaker, I hear no response. That should make it clear to the American people who stands in the way of a balanced budget—the Democratic leadership of this House.

BILINGUAL BALLOT BILL

(Mr. **BADHAM** asked and was given permission to address the House 1 minute and to revise and extend his remarks.)

Mr. **BADHAM.** Mr. Speaker, today I am introducing legislation to terminate the effect of provisions of the Voting Rights Act of 1965 that require bilingual ballots and election materials and to permit the States to determine whether such ballots and materials are necessary.

Few would deny the premise that command and proficiency of the English language is vital to immigrants if they anticipate becoming participating and contributing members of our communities. In order for an immigrant to become a U.S. citizen, our laws state that he or she must read, write, and speak English in ordinary usage. Our laws also mandate, however, that immigrants who vote must be provided with ballots in their native language if the community in which they reside has at least a 5 percent non-English speaking population.

This multilingual policy at the ballot box, where the voter employs his most valuable right of citizenship, often presents an undue financial burden in localities where the cost of printing bilingual ballots clearly outweighs the demand for those ballots.

While bilingual ballots do serve a useful purpose in some areas of the country, this legislation which I am introducing today will allow the States to decide if they wish to provide ballots in a language other than English by taking into consideration local conditions.

As an example, Federal law requires that ballots be translated from English to Spanish in 37 California counties. In Orange County, a portion of which I represent, the registrar of voters has said that $125,000 was spent for bilingual ballots during the June 1982 primary and $26,000 was spent for the ballots for the November 1982 general election. It is expected to cost slightly less than $100,000 to translate and print sample ballots in English and Spanish for a long ballot that will be used during the June 1984 primary election. Last November, only about 2,000—less than two-tenths of 1 percent—of 987,000 registered voters requested materials in Spanish. In San Francisco last November, 62 percent voted to eliminate the bilingual ballot requirement. The extra cost of printing ballots in English, Spanish, and Chinese in San Francisco had been costing taxpayers $1 million each election year.

Based on these examples evidencing the minimal demand for and high cost of bilingual ballots, I hope that the majority of my colleagues will join me in supporting this legislation to allow States to individually determine the necessity of bilingual ballots.

THE 1984 WINTER OLYMPICS AT SARAJEVO

(Mr. **CONTE** asked and was given permission to address the House for 1 minute.)

Mr. **CONTE.** Mr. Speaker, I would like to take this time to pay tribute to our American athletes who represented this country so well in the winter Olympics at Sarajevo. Our skiers, skaters, and sledders kept us enraptured night after night as they showed the world what the best of our country is all about.

Who can forget spidery Scotty Hamilton taking his last lap of the ice arena, chest gleaming with gold, arms aloft with red, white, and blue?

Who was not moved by Kitty Carruthers and her brother Peter, from Massachusetts, bear hugging in ecstasy at their come from behind capture of the silver?

Who was not at the edge of his seat when the midcourse times of our skiers Bill Johnson, Debbie Armstrong, Christin Cooper, and the incredible Mahre twins flashed across the television screen?

To all of our Olympic athletes, I would like to extend the thanks of the American people. Their accomplishments in reaching this highest caliber of amateur sports achievement are revered by their countrymen. Their and their families' sacrifices through years of training have not been for naught.

And, as hosts of this year's summer games, I would like to extend my deepest thanks to the people of Yugoslavia for providing a model for us to follow in extending the warmest possible welcome for these topnotch athletes from around the world. I look forward to reciprocating their hospitality and care in Los Angeles this summer.

IRAN REAFFIRMS INTENTION TO SHUT DOWN THE STRAIT OF HORMUZ

(Mr. **COLEMAN** of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **COLEMAN** of Missouri. Mr. Speaker, today Iran reaffirmed its intention to shut down the Strait of Hormuz. While the bloody fighting between Iran and Iraq is often thought to have few important consequences for the United States, just the opposite is true. Approximately 8 million barrels of crude oil are shipped through the strait every day, the bulk of it going to the United States and its Western allies. Over 10 percent of U.S. oil comes from the gulf. In the case of Japan, over 50 percent of its oil could be shut off. The level of dependency for Germany is 19 percent, for France 28 percent, and for Italy 26 percent. Obviously, Iran's threats to close off the Strait of Hormuz must be taken seriously for the potential consequences of any such cutoff would be extremely grave for the United States and our industrial allies. For the record I am enclosing the following table which illustrates the degree of Western dependence on gulf oil.

Country	Amount of imported crude from gulf area (bbl.)	Percent of dependence on gulf oil
United States	432,000	10.6
Japan	1,782,000	54.0
Germany	258,000	19.4
France	389,000	28.5
Italy	387,000	26.1

A BALANCED BUDGET AMENDMENT

(Ms. **FIEDLER** asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. **FIEDLER.** Mr. Speaker, today I rise in support of a constitutional amendment to balance the budget.

The State of California has just delivered hundreds of thousands of signatures that are going to provide it with a chance to become the 33d State to support a balanced budget amendment.

The halls are filled today here at the House of Representatives with a large number of young peoople whose futures are going to be forfeited if this Congress does not make more responsible decisions as it relates to the budget.

I watched a charade yesterday, as a member of the Budget Committee, put on by the House Democratic leadership, claiming that $100 billion in deficit reduction efforts were simply not worthwhile.

It is understandable why they would take that position because out of the last tax bill, where taxes were raised with their support, for every dollar of increased taxes, there was $1.12 spent, further putting us into a hole.

Mr. Speaker, it is time that we passed a balanced budget amendment—not because we cannot balance our budget, not because we cannot be fiscally responsible, but because the majority of the Members of Congress refuse to do so.

DEFICIT REDUCTION

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, there have been resolutions introduced in Congress in the last several days calling on the President to resubmit his budget requests with additional deficit reduction recommendations.

That approach, to put it mildly, reaches the height of absurdity. Why do you think we passed the Budget Control and Impoundment Act several years ago but to get the Congress in the act of developing our own budget? Why do we have a Budget Committee in the House? Why do we have one in the Senate? If we do not like what the President from whatever party submits to us, we are supposed to get the job done on our own, independently under that act.

May I remind the Members of this Chamber that the Congress controls the purse strings around here. The President cannot spend one dime, he cannot buy a pencil unless the Congress first authorizes and appropriates.

The Democratic leadership of this House can do something about deficit spending any time they want to.

They have not offered an alternative budget. They refuse to talk specifics. All they can do is gritch, gritch, gritch.

The Democratic leadership seems bound by the dictates of their daily memos from Fritz Mondale saying, "politicize the dickens out of the deficits, but for God's sake to not do anything about them because we would like to have them for political issues."

TRENT LOTT will lay before the Deficit Reduction Task Force today a specific timetable for action that should be acceptable to anyone interested in doing something constructive about deficit spending.

The American people should know that it is the responsibility of this Congress, not the President or anyone running against him, to decide matters of spending and taxes.

I suggest that we get on with it, Mr. Speaker.

THE CONGRESSIONAL RECORD SHOULD BE AN ACCURATE REFLECTION OF PROCEEDINGS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, for some time I have expressed a concern that the CONGRESSIONAL RECORD, the official record of our proceedings in this House, is a sham, a distortion of what takes place in this body that in some cases has become an outright lie.

The RECORD of yesterday adds credibility to that charge. During yesterday's proceedings, the gentleman from California (Mr. LEWIS) sought to ask unanimous consent to bring up the balanced budget amendment under the gag rule procedures that have been instituted by the Chair. As he asked the majority clearance for his request, the gentleman from Florida (Mr. MICA) rose and objected. Yet the printed RECORD for yesterday does not show that objection.

The accurate record of this House, the video tapes made each day, would show the objection; but our official RECORD does not and will not. That is a distortion. That means that we do not have a record we can trust of our proceedings but a fantasy instead. It is time to stop lying to the American people and make the CONGRESSIONAL RECORD an accurate reflection of what we do around here.

THE SCHEDULING OF BILLS FOR CONSIDERATION BY THE HOUSE

(Mr. WEBER asked and was given permission to address the House for 1 minute.)

Mr. WEBER. Mr. Speaker, yesterday the distinguished chairman of the Judiciary Committee, Mr. RODINO, introduced H.R. 4908, a bill to amend title 11 of the United States Code regarding collective bargaining agreements. Because this bill has been introduced by the chairman of the committee, it will no doubt be dealt with expeditiously.

Mr. Speaker, there is an important and sad lesson in this, because this legislation was introduced the very day the Supreme Court ruled against big labor on the issue of collective bargaining contracts for firms in chapter 11.

Mr. Speaker, the voluntary school prayer amendment has been tied up in Mr. RODINO's Judiciary Committee for 21 years, anticrime legislation which recently passed the Senate and was declared "dead on arrival" in the House of Representatives has been in the works for 18 years.

The message from the Democratic leadership to the people of the United States is clear: If you are a school child who wants the right to pray in school, or a law-abiding citizen seeking protection from criminals, you must wait literally decades before your cause is given consideration in the House of Representatives. But if you are a big labor union or other special interest group, you not only get to pick the Democratic Presidential candidate but your concerns will be dealt by the House of Representatives in a matter of hours.

□ 1130

WHO IS RESPONSIBLE FOR THE DEFICITS?

(Mr. MACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACK. Mr. Speaker, yesterday at the Budget Committee hearing we once again heard the shrill political rhetoric about the President's budget, saying the deficits were too high. Then we see today that the Democrats in the other body want the President to submit another budget.

Come on, guys. It is about time you brought forward your own budget. Last year at this time, Democrats in this House were well on their way to preparing their own budget which, by the way, called for tax increases of some $23 billion, and spending increases of some $45 billion, and guess what. The tax increase never took place, but, you guessed it, the spending increases in fact took place.

The end result is a $190 billion deficit. Now, who is kidding who about who is responsible for the deficits? Where are all the born-again budget balancers of last year, and why are you not speeding your budget alternative to the floor instead of hiding behind talk, talk, talk.

Talk about political fraud, Mr. Speaker. I say you and your colleagues win that prize.

FULL ACCOUNTING OF MIA'S AND POW'S NEEDED

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, the Vietnam veterans served their country as bravely as any Americans in our history. They are in need of our continued support.

Veterans programs have been created or expanded in all areas of life: Income security, education, training and job search assistance, rehabilitation, medical care, and housing assistance.

But we must not forget those 2,490 Americans still unaccounted for. The Department of Defense has obtained more than 2,200 reports regarding MIA's and POW's with over 560 firsthand live sightings.

The Joint Casualty Resolution Center must be commended on their work to compose the case files to obtain an accounting of our Americans. Yet those records are useless without the cooperation of the governments of Laos, Kampuchea, and the Socialist Republic of Vietnam. To date, there has been little, if any, cooperation given by these governments—with only 88 remains being returned to us as of January 1984—placing them in direct violation of article 8 of the Paris Peace Agreement. We have clear evidence that these governments have kept copious records of their prisoners.

The Ohio congressional delegation has taken the lead in requesting a full accounting of our Nation's MIA's and POW's.

For Ohio to take the lead on this matter is not unusual. Our State ranks fourth in the number of servicemen unaccounted for with 129 missing. Our Ohio veterans were also the first to stand vigil at the Vietnam War Memorial the week between Christmas and New Years.

But this does not affect only Ohio. I hope that our colleagues will join us in a resolution requesting that the President demand a full accounting of the Americans still missing. I pray that the governments of the Socialist Republic of Vietnam, Laos, and Kampuchea will decide in favor of cooperation and humanity.

DEPUTY DEMOCRATIC WHIP SHOULD RESIGN

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I have listened with fascination to the deputy Democratic whip, the gentleman from Arkansas (Mr. ALEXANDER) as he explains that responsibility has to be involved and that, therefore, the Secretary of State should resign because his policies have failed.

I went back and looked on September 28, 1983. On a vote to require immediate withdrawal, an honorable vote which many Members voted for that would have required immediate withdrawal, the gentleman from Arkansas (Mr. ALEXANDER) voted to follow the policies of the Secretary of State.

On a later vote the same day, a vote to allow the troops to stay in for 18 months, a vote against which many Members honorably voted "no," the gentleman from Arkansas (Mr. ALEXANDER) voted "yes."

In other words, on the two key votes this body took, the gentleman from Arkansas voted in favor of Mr. Shultz' policies. Therefore, I suggest the gentleman from Arkansas, following his own logic, should resign at the end of this special order today.

ADOPT A BALANCED BUDGET CONSTITUTIONAL AMENDMENT

(Mr. DANIEL B. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL B. CRANE. Mr. Speaker, we are confronted in this Congress by a serious problem. The problem is the inability to live within our means. Year after year we insist on spending more than we collect.

The Federal budget is out of control. For years, fiscally responsible colleagues have spoken about the need for a balanced budget, while many of my colleagues from the other side of the aisle have scoffed about the need for fiscal restraint.

Apparently in recent months Democrats have discovered the amazing fact that budget deficits are a real problem. Now both Democrats and Republicans agree that we need to do something about deficits and solve the problem. Unfortunately, some Democratic Members are not interested in solving the deficit problem. They are only interested in campaign rhetoric. They are not interested in reducing the enormous growth of Federal spending, which is the real cause of higher deficits.

Therefore, it is imperative that Congress pass a balanced budget amendment. A constitutional amendment is the best way to insure the necessary fiscal responsibility. I urge its adoption.

PRESIDENT COULD GIVE US A BALANCED BUDGET

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, the calls for a constitutional amendment to balance the Federal budget come from our colleagues and have come from our President as well. The President asked in the state of the Union address to balance the Federal budget by a constitutional amendment in some other President's time.

The President, as he took office, assured us that he would balance the budget by 1982 or 1983, and to do so he cut taxes. He was brave and came forward with a solution. He cut taxes at a time when the deficit was one-quarter of what it is today. Now, when the deficit is 300 to 400 percent larger than it was when he took office, the President wants somebody else to propose a solution.

The Speaker or the head of the Senate needs half of their bodies, 218 Members of the House and 51 Members of the Senate, to agree to deficit reduction actions.

The President, given a blank piece of paper, could present us a budget that was totally in balance. At every opportunity that the President has had, he has given us budgets with larger deficits than at any time in the history of the country.

We ought to return the deficit-ridden budget to the President so he can present us a document that needs no cooperation and no support from any Member of this House or the Senate. On his own, the President has the opportunity to present a document that is in balance. At every opportunity, he has failed to take action to balance the budget. Let him tell us which programs he wants to cut, and then let the American people respond to that as they have responded to other suggestions of the President.

DEPARTMENT OF JUSTICE SHOULD RECONSIDER LTV-REPUBLIC STEEL MERGER

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, last week the Department of Justice denied the proposed merger between LTV and Republic Steel. It did so, in my opinion, on very shaky ground. It said that foreign imports were really not a part of the domestic market and had very little impact on the domestic market.

I think that they were hiding their heads in the sand. Let us just look at a couple of facts.

Since 1979, flat-rolled steel imports into the American market have nearly doubled. Last year, over 22 percent of the American market was foreign steel, and in some product lines was as high as 50 percent. In 1983, over 172,000 steelworkers were receiving trade adjustment assistance, and that means that the Department of Labor determined they lost their jobs because of imported steel.

The Department of Justice lawyers do not know what is happening in what is called the Steel Belt or the Rust Belt, but the impact that imports is having on individuals is disastrous.

The steel industry must have the ability to rationalize, must have the ability to use the most efficient parts of these various plants if they are going to survive, and we need it for our national security.

I urge the Department of Justice to take another look or request a new proposal for this merger.

DEMOCRATIC LEADERSHIP IS STOPPING SCHOOL PRAYER AMENDMENT

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the overwhelming majority of the American people are of the opinion that school districts in America should have the ability to offer an opening day prayer when we open our public schools.

This House is elected, as all the Members know, for 2 years. One of the essential ingredients of the whole process of democracy in America is accountability. The American people have the right to ask, "Why does not the House of Representatives vote on this issue?" so that the people of the country can determine whether or not their Member reflects the sense of that constituency. That is what this place is all about.

Some of us in this House believe that we should have the school prayer amendment on the floor of the House for consideration so we can vote one way or another as to how we stand. Then our constituents can evaluate this vote, along with others, as to whether we deserve to come back here.

We have cleared this request with the minority leadership. The Speaker has ruled that before I can make a unanimous-consent request to bring the school prayer amendment on the floor of the House for a vote, I have to get the consent of the majority leadership.

So I am now asking: Is there anybody in this chamber willing to speak for the majority side, the Democratic Party, so we can bring this issue on the floor of the House for a vote? If there is anybody, will they please stand up and say something?

Well, there is silence. So the American people can easily determine who is stopping this issue, the school prayer amendment, from coming onto the floor for a vote.

□ 1140

RESOLUTION SEEKING TO SECURE A FULL ACCOUNTING OF POW'S AND MIA'S IN SOUTHEAST ASIA

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, today I am joining Congressman DOUG APPLEGATE and my colleagues from Ohio in sponsoring a resolution which seeks to secure a full accounting of Americans missing in Southeast Asia. This measure is an effort to communicate to the families of those still missing in action that America cares and demands a full accounting by the North Vietnamese.

Evidence is mounting that the Vietnamese are still withholding information regarding American servicemen. The nations of Indochina owe the world the fullest accounting for the 2,490 Americans captured or missing.

Passage of the resolution will augment the President's attempt to speak some kind of humanitarian response from the North Vietnamese by making it clear that he is speaking not only for the Congress but for the American people.

We have a responsibility to the families of the men and women who have defended freedom. It is important that we accept that responsibility by making every effort to secure an accounting of servicemen still missing in action.

Mr. Speaker, the Veterans' Vigil Society has collected more than 1 million signatures during the 24-hour-a-day vigil at the Vietnam, Veterans Memorial beginning at Christmas 1982. These signatures represent the individual efforts put forth by Americans who are determined to see this thing through to the end. Moreover, the commitment of Terry McConnell and all the members of the Vigil Society are an inspiration and a poignant reminder of the measure of devotion these men and women are still willing to put forth in this endeavor.

Mr. Speaker, I urge my colleagues in the House to join with us in actively supporting this resolution.

AGRICULTURAL SABOTAGE IN EL SALVADOR

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, the Washington Post reports this morning that Marxist guerrillas are successfully sabotaging El Salvador's coffee, cotton, and sugar crops. With a platform like that, it is no wonder that these Fidelitos prefer the bullet to the ballot as a means of gaining power.

Farming campesinos have been threatened and attacked by guerrillas—clearly a violation of human rights. Coffee, which accounts for more than one-half of Salvador's export earnings, is off 40 percent. In dollar terms, this equals about $360 million, nearly 10 percent of the country's gross national product.

Guerrilla attacks on six coffee processing plants during 1983 caused at least $10 million in damage. Three million pounds of coffee were destroyed in a seventh attack last month.

At least 2,500 acres of sugar cane were burned in guerrilla raids in the last week of January alone. Guerrilla operations have also contributed to a 64-percent decline in cotton acreage and an expected 20 percent production decline by the end of this year's harvest.

And what is Congress doing while crops burn and campesinos hide from the guerrillas? We are thinking of new ways to restrict aid to the democratically elected Government of El Salvador—in the name of human rights, of course.

That does not make sense, and it is about time we woke up to the real world.

THE SCHOOL PRAYER ISSUE

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS of Montana. Concerning this matter of school prayer, time and time again on this House floor during these 1-minute speeches my colleagues from the Republican side of the aisle have been trying to snooker the American people.

First, there is no accepted procedure within the House whereby we can bring up a constitutional amendment through any method related to these 1-minute speeches. That is not within the understood procedures of the House.

Second, do the Members realize that school prayer in America is not illegal, that there are hundreds and perhaps thousands of schools in this country which start each day with a moment of silent meditation?

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS of Montana. I will not yield.

In fact, there is a small school district in a small city, a half hour's drive from where I speak, across the Potomac, that starts every day that way. My sons and daughters attend that school. There is nothing unconstitutional about it.

What our friends on the Republican side want to do is this: They want to write the prayer your child must recite in school.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS of Montana. They want to write that prayer, and barring that, and if they only want to have a silent moment for silent meditation, that is now constitutional under the laws of our land. So let us not be snookered by this.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Of course, the gentleman will not yield.

The **SPEAKER** pro tempore (Mr. DURBIN). The time of the gentleman from Montana (Mr. WILLIAMS) has expired.

FOREIGN LANGUAGE ASSISTANCE FOR NATIONAL SECURITY ACT OF 1983

Mr. **BONIOR** of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 440 and ask for its immediate consideration.

The Clerk read as follows:

H. RES. 440

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2708) to further the national security and improve the economy of the United States by providing grants for the improvement of proficiency in critical languages, for the improvement of elementary and secondary foreign language instruction, and for per capita grants to reimburse institutions of higher education to promote the growth and improve the quality of postsecondary foreign language instruction, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and each section of said substitute shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER** pro tempore. The gentleman from Michigan (Mr. BONIOR) is recognized for 1 hour.

Mr. **BONIOR** of Michigan. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Missouri (Mr. TAYLOR) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 440 provides for the consideration of H.R. 2708, the Foreign Language for National Security Act of 1983. The resolution provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

House Resolution 440 provides an open rule making in order the consideration of germane amendments. The resolution also makes in order the consideration of a committee amendment in the nature of a substitute now printed in the bill as original text for the purpose of amendment.

The bill, H.R. 2708, violates no rule of the House and therefore requires no waiver of any such rule. House Resolution 440 provides that after the bill and any amendments adopted in the Committee of the Whole have been reported to the House, it shall be in order for any Member to demand a separate vote on any amendment to the bill or to the committee amendment in the nature of a substitute. Finally, House Resolution 440 provides one motion to recommit with or without instructions.

Mr. Speaker, several recent reports on education have revealed a serious lack of foreign language skills on the part of most American students. This is regarded as not only a shortcoming in our educational system but also as a stumbling block in achieving national security. The National Commission on Excellence in Education, in its recent report, noted a critical deterioration in our foreign language capacity. Of that declining emphasis in foreign language study, the Commission said, "We have, in effect, been committing an act of unthinking, unilateral educational disarmament." Similarly, in 1979, the Presidential Commission on Foreign Language and International Studies, also detecting an inadequate emphasis on foreign language competency, concluded that, "Nothing less is at stake than the Nation's security." In the same vein, Adm. Robert Inman, Deputy Director of the Central Intelligence Agency, said, "The foreign language capability of our country is poor and is getting worse." He added that this presents "a major hazard to our national security."

An example of that hazard was presented by Representative SIMON in his testimony before the Committee on Rules regarding H.R. 2708. The Department of Defense maintains a list of "language essential positions" for which knowledge of a foreign language is needed to perform the job. In 1980, personnel could be found to fill only one-half of these positions, leaving over 8,000 jobs unfilled.

In addition to being perceived as a national security threat, many corporate presidents, chairmen, and other officials have testified that our lack of foreign language expertise also hurts us in the international trade market. These authorities indicate that we can no longer expect all other countries to adapt themselves to our ways and our language if we want to remain a leader in world trade.

To halt the decline in our foreign language competence and promote its resurgence, the Committee on Education and Labor has reported H.R. 2708. This legislation would provide incentives to improve our national foreign language expertise by increasing the quality and quantity of foreign language instruction. The legislation authorizes the Secretary of Education to establish grants to States to fund model foreign language programs in local school districts and in community colleges as well as junior colleges; authorizes grants to colleges and universities based on foreign language course enrollment; creates a summer intensive foreign language institute in each Federal region for exceptional high school foreign language students; establishes a summer institute in each Federal region for elementary and secondary school foreign language instructors; and creates a matching grant program to colleges and universities to help send foreign language students abroad.

H.R. 2708 authorizes $50 million and is estimated by the Congressional Budget Office to have little inflationary impact.

Mr. Speaker, House Resolution 440 provides full and free debate of a piece of legislation aimed at strengthening our national security, improving our international trade posture, and providing a more broad-based education for our students. It is a good rule under which to consider an important piece of legislation and I urge its adoption.

☐ 1150

Mr. **TAYLOR**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 440 is an open rule under which the House will consider legislation creating a new grant program to assist States and institutions of higher education in paying for foreign language courses.

The bill made in order by this rule, H.R. 2708, authorizes $150 million over the next 3 fiscal years for a system of categorical grants for foreign language programs at the local school district level, the community and junior college level, as well as the college and university level.

The rule is simple, in that it makes in order an amendment reported by the Committee on Education and Labor in the nature of a substitute as original text for the purpose of amendment under the 5-minute rule.

In addition, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the Committee on Education and Labor describes the need for improving the foreign language proficiency of this Nation's students in terms of our national security interests as well as our commercial interests. The committee report highlights testimony they received from various military and intelligence experts regarding the need for foreign language fluency in our military and foreign services.

I do not propose to argue there is no need for us to be concerned with the fact that our schools are not teaching enough foreign languages to our students, or even that better foreign language training would improve our ability to export products overseas. There is a school of thought, however, that matters relating to the kind of courses to be taught in our schools are best left to the local school boards, State governments, and college and universities themselves.

Mr. Speaker, when the gentleman from Illinois (Mr. SIMON) appeared before the Committee on Rules this week, he was quite eloquent in his advocacy of this bill.

According to the gentleman from Illinois, this bill sends a signal to the schools of the country that foreign language instruction is a concern of the Federal Government and that the funds authorized in the bill would encourage colleges and high schools to upgrade their language programs.

Mr. Speaker, there was no controversy about this rule during the Rules Committee consideration of it, and I expect none here on the House floor. I urge adoption of the rule.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 2708, the Foreign Language Assistance for National Security Act.

I would first like to note that the bill that my colleague from Illinois (Mr. SIMON) has introduced is a much strengthened version of a similar effort initiated in the Congress, but which was never considered on the floor. I could not lend my support to that earlier effort because I felt that the funding was too extravagant for these times of budget trimming, and the bill's impact too dispersed to be truly effective. I would like to compliment my colleague from Missouri (Mr. COLEMAN) for his contributions to this improved bill.

I know that Mr. SIMON has very high goals for the language education of our Nation, but I believe that unless there is an underlying economic necessity for multilingualism on a massive scale in this country, I am afraid that no amount of money—whether $50 million or $500 million—will bring about the kind of language diversity that my colleague seeks. While it is true that facility in more than one language can be enriching and its own reward for some, the majority of Americans simply do not need or desire the mastery of a second language. I fear, then, that a great deal of effort and money could be spent in a futile effort to teach those who would rather not be taught.

H.R. 2708, in paring down its funding requisites over 25 percent and in better targeting its resources, is a more sound attempt to promote language education in this country by providing incentives and opportunities to those most likely to benefit immediately. Mr. SIMON's overall goals remain exceptionally high, but with this rewrite of last year's areas in which we can hope to have real impact—teacher institutes, special study programs here and abroad for students, and rewards to higher learning institutions that require foreign language facility upon entrance or graduation. The "carrot and stick" approach that we take in this legislation will serve to attract those individuals and institutions willing to shoulder the prime responsibility for their foreign language programs. Thus, rather than force-feeding foreign languages to students, we have merely provided opportunities and incentives for pursuing them. And pursue them they will, if, as I said earlier, there is ample reason. With more and more incentive for the United States to compete aggressively in the world marketplace, we shall very likely see such ample reason in the form of many jobs requiring foreign languages—perhaps the most compelling incentive of all.

Thus, while I applaud my colleague's active interest in this vital area of our educational process, I do believe that we must limit ourselves to what can reasonably be accomplished on the Federal level—H.R. 2708 is a fine starting place.

Mr. Speaker, I do not believe that my support of this legislation and my cosponsorship in any way goes against an understanding that I had after two very productive meetings at the White House during our lengthy recess period, meetings that were designed to put the emphasis upon education, since it seems to be a topic that the White House and others in the Congress are talking a lot about. I say that I do not think it is inconsistent primarily because we do not necessarily need to increase total spending to fund this bill. What we need to do is perhaps reorder our priorities and shift funds in order to meet those priorities.

There are two particular areas that I am quite concerned about. One would be the area to grant to institutions of higher learning money that would be used to establish intenseive studies to certain selected high school students. There is no one that is a better salesman for a language program that the students themselves, and when they would return to their school districts, their ability to speak fluently in a foreign language would be an encouragement to others to be more interested.

The second one that is very important to me is the grants to institutions in higher education to encourage students to study abroad. This would be coupled with the international business internship, so that in the future we can compete effectively with Japan, with Germany and other nations, as we try to improve our economic base.

With all these things in mind, I am a cosponsor of the Foreign Language Assistance for National Security Act.

Mr. BONIOR of Michigan. Mr. Speaker, I reserve the balance of my time.

Mr. TAYLOR. Mr. Speaker, I yield 7 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I rise in favor of the rule.

(By unanimous consent, Mr. WALKER was allowed to speak out of order.)

SCHOOL PRAYER AND HOUSE RULES

Mr. WALKER. Mr. Speaker, a few minutes ago we heard what I would have to classify as an exposition of ignorance on the issue of school prayer and the House rules here on this floor. I think it is important that the American people and this body understand that what we heard just does not fit the real world.

It was interesting that the gentleman who talked to us about it could not defend his position and therefore would not yield to someone who wanted to raise questions about it.

The gentleman said that there is no procedure on this House floor by which the school prayer issue could be brought to the floor for consideration. That just is not the case. There are several ways in which the school prayer issue can come out here.

Mr. TRAXLER. Mr. Speaker, would the gentleman yield for a question?

Mr. WALKER. I would be glad to yield to the gentleman.

Mr. TRAXLER. Mr. Speaker, I know the gentleman would not want to misstate what our colleague said. What he said was, if the gentleman will check the record, he said that under the 1-minute rule there is no procedure.

Mr. WALKER. Well, I appreciate the gentleman making the correction and I do want to be accurate here, but I would suggest that that is inaccurate, too, that what we were asking under the 1-minute procedure was a unanimous-consent request. We had been asking that before. This is a procedure by which many pieces of legislation have been brought to the floor in years past.

We, for instance, had a bill which raised the outside earnings of Members of Congress brought to this floor by unanimous consent in the past.

We were seeking to bring bills to the floor. This was so serious a matter that the Speaker ruled that there had to be a procedure established to get around this because Democrats were having to stand up and actually object to our unanimous-consent request; so the Speaker set forth a procedure. He came to the chair one day and read into the RECORD of the House a procedure by which these unanimous-consent requests would have to come forward.

□ 1200

What he said was that the minority leadership and the majority leadership would have to clear such matters.

So what we have been doing is coming to the floor and saying that the minority has cleared this. It has been checked through and, in fact, we were asking for the majority clearance. If the majority would give the clearance we are seeking, we in fact then could ask unanimous consent to bring forward a rule that would allow consideration of a school prayer amendment, and that is precisely what we have at the desk.

Those rules are filed. We could in fact have school prayer brought to the floor under that unanimous-consent procedure. And the reason we have had to resort to that is because the Democratic-controlled committee, under the chairmanship of the gentleman from New Jersey (Mr. RODINO) has refused to bring school prayer to the House floor and has held it tied up for decades now.

It seems to us that you have to use extraordinary means in order to try to get an issue that 80 percent of the American people support to the floor. So I have to say that the gentleman from Montana just does not understand the procedure as outlined earlier in this session by the Speaker, and we are following, to the letter, the procedure outlined by the Speaker and hope that the gentleman from Montana will go back and read what the Speaker had to say.

Mr. FOLEY. Will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Washington.

Mr. FOLEY. I would say to the gentleman that I do not know of anytime within the history of the United States that we have had a constitutional amendment brought to the floor by unanimous consent.

Mr. WALKER. But we had one brought out under suspension of the rules the other day. That was a very interesting procedure, too. We managed to get one out here under a no amendment procedure, so we had one under suspension of the rules.

A unanimous consent request would allow for a rule that would allow 10 hours of debate and full amendment, and so that is a procedure by which we have typically considered legislation.

Mr. FOLEY. If the gentleman will yield again, while he may not have interpreted it so, what the gentleman from Montana was attempting to clarify that it was unprecedented for a constitutional amendment to reach the floor by a unanimous consent request during the 1-minute speeches.

Mr. WALKER. I thank the gentleman. That is not what the gentleman from Montana said. The gentleman said there is no procedure by which this can be done, and I say that the gentleman is absolutely wrong. There is a procedure.

Mr. WEBER. Will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Minnesota.

Mr. WEBER. I think the gentleman from Pennsylvania makes an important point, and I would ask if the distinguished majority whip would respond.

We are not arguing that the procedure is not extraordinary. But the point that is at issue here today is, is there or is there not a procedure under which a Member, through a 1-minute speech, can, with the assent of the majority, bring to the floor of this House a constitutional amendment.

Mr. FOLEY. I think by the procedure of unanimous consent almost anything can be done in the House.

Mr. WEBER. If the gentleman will yield back——

Mr. WALKER. I will be glad to yield to the gentleman from Minnesota.

Mr. WEBER. There by virtue of the fact the distinguished majority whip has just confirmed that the statement of the gentleman from Montana was specifically not correct.

Mr. FOLEY. If the gentleman would not mind yielding and giving me a chance to finish the sentence before he takes back the time——

Mr. WALKER. I will be glad to yield to the gentleman from Washington.

Mr. FOLEY. The gentleman from Montana was saying that there was no established procedure by which we discuss constitutional amendments or arrange for their consideration on the floor during the 1-minute speeches.

Now, unanimous consent can accomplish, as the gentleman knows, almost anything. However, it is not only extraordinary, but, in fact, unprecedented to consider during a 1-minute speech a unanimous-consent request for the purpose of bringing up a constitutional amendment.

Recalling the gentleman's violent objections to what he considered procedural irregularities in bringing the ERA to the floor under a suspension of the rules, I find it interesting that he now wants the procedure even more used.

Mr. WALKER. If I may reclaim my time, Mr. Speaker, I would say to the gentleman that our unanimous-consent requests, though, allow for something that the suspension of the rules did not allow for: 10 hours of debate and full amendment. If you bring up the bill under suspension on those terms, this gentleman will very gladly endorse that kind of procedure. But, of course, we cannot allow that kind of debate; we cannot allow yielding out here on the floor to people who want to make a point.

The gentleman from Montana a few minutes ago was asked to be yielded to so we could correct all of this with him, and he refused to yield.

Mr. WILLIAMS of Montana. Will the gentleman yield?

Mr. WALKER. So I will be glad to yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. I appreciate the gentleman yielding. The gentleman knows full well that these are 60-second times that we have down there and the best way to disrupt a Member's 60 seconds is to ask him to yield when he is making an important and vital point, which I hope I was making, and which has not been made yet on the floor of the House with regard to things the gentleman is calling for and has been saying nonstop for 4 weeks.

Mr. WALKER. If I may reclaim my time, the gentleman from California (Mr. LUNGREN) had been on the floor just a few minutes before, I think just the Speaker before, and had graciously yielded to the gentleman from Connecticut, who used the same technique, and yet we did not have the same kind of graciousness on the gentleman's part.

Now, I think that was a rather interesting display there, and I think it would have been well to have you corrected in a misstatement that you made.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania (Mr. WALKER) has expired.

Mr. BONIOR of Michigan. Mr. Speaker, getting back to the subject matter at hand, the rule that the gentleman from Michigan is trying to have the House focus on, I at this point think that it is probably appropriate that we cut debate on the rule and get on to the important bill that the gentleman from Illinois (Mr. SIMON) and his committee brings before us.

So at this point, Mr. Speaker, I have no futher requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 440 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2708.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the

Whole House on the State of the Union for the consideration of the bill (H.R. 2708) to further the national security and improve the economy of the United States by providing grants for the improvement of proficiency in critical languages, for the improvement of elementary and secondary foreign language instruction, and for per capita grants to reimburse institutions of higher education to promote the growth and improve the quality of postsecondary foreign language instruction, with Mr. TRAXLER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois (Mr. SIMON) will be recognized for 30 minutes and the gentleman from Missouri (Mr. COLEMAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we had significant discussion on this whole question back some months ago when the math, science, foreign language bill was up.

We are the only Nation on the face of the Earth in which you can go through grade school, high school, college, get a Ph.D. and never have a year of a foreign language, and that hurts us significantly.

I am pleased to have this bill reported out of our Education and Labor Committee by a voice vote and pleased to have the cosponsorship and the good work of my colleagues, the gentleman from Missouri (Mr. COLEMAN), and the gentleman from Pennsylvania (Mr. GOODLING).

Let me speak very briefly, and I shall be brief, on two points and why this is important. One is the whole area of trade.

Last year, 1983, our trade deficit doubled the 1982 trade deficit. The major reason for that was the overvalued dollar caused by the deficit that we discussed earlier this morning.

There is a second reason, a second reason, and there are obviously some other reasons, too, but one of the reasons is we cannot speak to our customers in their own language and we make mistakes that are ridiculous.

General Motors came out with a car called the Nova. Nova in Spanish means "it does not go," and not surprisingly in Latin America the car did not sell. GM changed the name to Caribe and it sold.

Coca-Cola tried simply using the Chinese for Coca-Cola, or its equivalent, and it meant "bite the wax tadpole" and they finally changed the product name so that it now means in Chinese "Let the month rejoice."

□ 1210

Pepsi-Cola had an advertisement in the Chinese edition of the Reader's Digest which was later corrected. "Come Alive With Pepsi," the ad was intended to read but instead read; "Pepsi brings your ancestors back from the grave."

Well, you can go on. We chuckle at these things, but these things are costing us jobs. Let me give you some more very specific examples. A recent survey showed among French companies buying outside of France that they prefer to deal with companies who can speak French.

Germany and Austria, the majority of companies that buy outside of Germany and Austria insist that correspondence be in German and that contracts be in German. American companies that cannot do that end up losing.

Let me give you a happy example. The State of North Carolina, thanks to an unusual State superintendent by the name of Craig Phillips, recognized that the future for business in this country is going to be in exports and foreign investment. Some started pushing foreign languages, international correspondences in their schools.

Nationally, 13 percent of our high school students take foreign languages. In North Carolina, 25 percent do.

What State do you think today has more foreign investment than any other? It is a State that advertises they have secretaries that can type in English and German and so forth. It is the State of North Carolina. Charlotte, N.C., alone, has 123 foreign firms.

Well, the whole area of trade, we simply have to recognize a fundamental lesson: You can buy in any language; you cannot sell in any language. To sell you have to speak the language of your customer.

The second area is the area of security. Here let me pay tribute to Secretary Weinberger, who understands the dimensions of this problem and also the people at the CIA and former deputy director of the CIA, Adm. Bobby Inman has been one of our most eloquent spokesmen on this problem. NATO exercises, every time after NATO exercises, these point out the language problem. When our hostages were taken in Tehran, 52 hostages, 6 of the 62 spoke Farsi; only 2 of them spoke it fluently. One of the hostages testified before our subcommittee and said "we were speaking to the elite in English, we didn't know what was going on in the streets of Tehran."

When we got involved in Vietnam, so far as I can determine, in the Defense Department, the State Department, all the great universities of this country, we had a grand total of two American-born specialists who understood the language and the culture of that area.

What if we had, had 10 or 20 or 30 of such experts? Maybe, you cannot rerun history, but maybe there would not have been 3 million Asian lives lost and 57,000 American lives lost.

I had a very practical experience. I was a delegate to the special U.N. session on disarmament back in 1978. One of the days we were meeting there, Foreign Minister Gromyko invited our delegation to go over and meet with the Soviet delegation. Secretary Vance led our delegation along with Governor Harriman and three or four others of us.

We met with our Soviet counterparts. There was a Russian translator and we listened to the translator. And then we would respond in our dialog. But I think I am correct in saying that every Soviet delegate spoke and understood English; not a one of us spoke and understood Russian.

I would love to get in debate on the floor of the House where I have a kind of an advantage over my opponent. Yet we are in international meetings all the time on that.

Where we are, Mr. Chairman, is this, as a nation; we are spending more and more and more on weapons of destruction; we are spending less and less and less to understand one another.

And that, I suggest, is a course that ultimately is calamitous.

And this bill, and our colleague from Pennsylvania has already outlined very briefly what it does and I will not repeat on that here now, but this bill sends a signal to the schools of the Nation that we have to be building bridges of understanding; that we cannot be so provincial that we are not doing what other nations are doing, and that is studying foreign languages.

Let me respond to two other criticisms; one that I heard from the gentleman from Missouri (Mr. TAYLOR) earlier. He said we ought to leave it to local schools. Clearly the effort is going to continue to be made by local schools. This is simply a carrot, a signal. We are not substituting for what the local schools can and must do. But there is no way for a school in Michigan or southern Illinois or California or Missouri or anyplace else for that local school district to know that we have a national problem of serious dimensions.

Then the second criticism is people say "Well, we don't even know English, we shouldn't be studying foreign language." One of the interesting things is, and the tests show this overwhelmingly, one of the most effective ways to improve English skills is to study a foreign language. It holds up your own language in a mirror. That is why the schools in New York City and now the schools in Washington, D.C., are requiring 1 year of a foreign language; because they are interested in improving English language skills at the same time they are providing that incentive.

I think this is a step forward. I think it has been improved by some of the suggestions that have been made by my colleague from Pennsylvania (Mr. GOODLING) over where the bill was originally. I want to pay tribute to my colleague, Mr. COLEMAN, who has shown a continuing interest in this whole serious problem. I hope this House today takes a positive step forward for the Nation.

Mr. Chairman; I rise in support of H.R. 2708, the Foreign Language for National Security Act of 1983. The bill has the following important provisions:

It establishes a system of competitive grants among States for funding model foreign language programs to be run by local school districts and community and junior colleges;

It authorizes grants to colleges and universities to reimburse these institutions for part of the costs of providing foreign language instruction to students. This grant program is designed to encourage institutions of higher education to institute language entrance or exit requirements, to encourage students to take more than 2 years of a language, and to encourage students to study one of the less commonly taught languages;

It authorizes grants to institutions or consortia of institutions of higher education to establish intensive summer language programs for exceptional high school students and for elementary and secondary school teachers; and

It authorized grants to universities and consortia of universities to pay not more than half the cost of sending advanced language students abroad.

In 1979, the President's Commission of Foreign Languages and International Students warned us that with this country's diminishing foreign language capabilities, "Nothing less is at stake than the Nation's security." More recently, the National Commission on Excellence in Education declared that we have, in effect, "have been committing an act of unthinking unilateral disarmament." Foreign language education was listed by the Commission as a national priority.

Why have these prestigious commissions arrived at their conclusions? Consider the numbers: Fewer than one-fifth of U.S. high school students have any training whatsoever in a foreign language; fewer than 4 percent of these same students have studied beyond the first years. Even in our colleges and universities, the number of students enrolled in foreign languages has dropped below 9,000. And worse still, fewer than 1 percent of these college students are studying languages spoken by over three-quarters of the world's population—languages like Arabic, Chinese, and Russian.

These data have profound ramifications for the national interest. Our trade deficit last year exceeded $70 billion. Why? Obviously, the reasons are manifold and complex. Part of the answer, However, must rest with our poor communication abilities. Whereas you can buy a product in any language, you must sell in the language of your client. As one witness before my subcommittee has testified, recent British experience suggests that 50 percent of French firms give preferential business treatment to those foreign companies which speak French. Half of all German and Austrian firms apparently require that correspondence be in German. In 1979, there were about 10,000 Japanese business men in this country who spoke fluent English. At the same time, there were only 900 American businessmen in Japan—and only a handful of them spoke any Japanese.

What about defense and diplomacy? Adm. Bobby Inman, former Deputy Director of the CIA, told my subcommittee quite bluntly that the deteriorating language programs in this country present a major hazard to national security. The State Department no longer requires that a future foreign service officer know a foreign language. So far as I can tell, we are the only country in the world that does not have such a requirement. Our State Department just could not find enough applicants who know any languages. And yet, where are the crisis spots in the world today?

Lebanon, El Salvador, the horn of Africa, Angola, to name just a few. These are some of the most unstable parts of the world. They are the areas where we are most actively competing with the Soviets for the allegiances of the people. None of them are English-speaking countries.

The Department of Defense keeps a list of what it calls language essential positions. A Government study in 1980 estimated that only about one-half of these positions were filled at the necessary level of proficiency—or filled at all. We are talking about over 8,000 unfilled positions.

It is alarming to note, along these lines, that there are only 28,000 Americans studying Russian even at the first year level. At the same time, there are over 10 million students learning English in the Soviet Union. In fact, there are more teachers of English in the U.S.S.R. than there are students of Russian in this country. With all the billions of dollars we spend on sophisticated intelligence-gathering, we could, for a fraction of the cost, increase our knowledge of our major adversary by simply being able to talk with their citizens and read their publications.

Next week is National Foreign Language Week. To commemorate the occasion, President Reagan has issued the following statement:

> We live in a time when mediocrity and imbalance in education cannot be tolerated. In no previous era have so many citizens depended so heavily upon their personal understanding and comprehension of global affairs. Communication between nations which is accomplished well can have positive effects upon countless millions. However, communication which is accomplished poorly can be sobering. Mistakes in judgment due to a lack of understanding or misinterpretation of the nuances of languages can produce unexpected and adverse results.

I could not say it better.

The total authorization for this bill is $50 million. That is less than one-half the cost of a single B-1 bomber. It is a very small price to pay for our national security.

● Mr. PERKINS. Mr. Chairman, we are here today to consider H.R. 2708, the Foreign Language Assistance for National Security Act of 1983. This legislation has the following major provisions:

First, awards competitive grants to States for funding of model foreign language programs run by local school districts and community colleges at an authorization level of $10 million and $4 million respectively;

Second, authorizes grants to colleges based on their foreign language course enrollments at an authorization level of $11 million;

Third, authorizes grants to higher education institutions to establish summer language training institutes for exceptional high school language students and elementary and secondary foreign language teachers; and finally

Fourth, authorizes grants to higher education institutions to pay up to one-half the costs of sending advanced college foreign language students abroad to further develop their language skills.

H.R. 2708 was jointly referred to the Subcommittee on Postsecondary Education and the Subcommittee on Elementary and Secondary Education. Both subcommittees held extensive hearings on this bill. I would like to take this opportunity to commend my colleague, PAUL SIMON, for his dedication and work in this important area of education.

Our national need for improved and increased language skills has become apparent and documented over the past years by many reports and also books such as "The Tongue-Tied American," written by our distinguished colleague, PAUL SIMON. Increasingly, other languages, especially of the Third World countries, are gaining importance in the business world, in the diplomatic arena, and in other areas of national security. If our country wants to maintain its competitive ability with other countries, we must become knowledgeable and able to converse with people of other nations in their own language.

As we have all heard, one area where American businesses dealing competitively with businesses abroad agree is that language proficiency is extremely important. The marketplace is now highly competitive, and we are increasingly dependent on other nations for trade. Businesses are, as a result, looking out of necessity to hire persons who know a second language. We know, too, that language proficiency is a must for any high level diplomacy and for purposes of national security.

In order to be fully proficient in another language, however, especially the more difficult languages, it requires intensive study and long-term commitment. The kind of language ability and competence that we are talking about necessitates that we, as a nation, begin to emphasize and encourage individuals from elementary school through adulthood to acquire language skills.

There is no question that a comprehensive solution to this problem is essential if we are to resolve this national crisis. H.R. 2708 does just that. By promoting intensive and long-term study at various levels, this bill provides a broad-based plan for addressing the needs of business, our Nation's economic relations, and our national security.

H.R. 2708 offers us all a challenge which I feel we can and must meet. I urge all of us to move quickly to consider this bill.●

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the kind remarks of our chairman, Mr. SIMON. I suppose if there is anyone in the House who has focused attention on this issue, it has been PAUL SIMON.

I am certainly glad to be able to enthusiastically support the product that has come out of our subcommittee and out of our committee here.

He mentioned a few statistics, the fact that our high schools' youngsters are not being exposed to foreign languages.

It used to be that in order to get into college, you had to take 2 years of foreign languages, as an admission requirement. Well, those admission requirements were thrown out in the 1960's and 1970's when things turned around on the Nation's campuses. And those requirements were some of the first to be thrown out the door. And they were thrown out mainly by students because they were difficult courses. Foreign languages are difficult.

But the fact of the matter is that that is even more reason why we have to start the emphasis back in the classroom. If colleges required it as an admission requirement, you can be sure that the high schools are going to start teaching foreign languages again. And that is what we are trying to do here. We are trying, in fact, providing some incentives for colleges and high schools to put this subject back into the curriculum.

America's high schools now are exposing 15 percent of their youngsters to foreign languages; this is down significantly from what it was 10 or 15 years ago.

But on the secondary school level, it is not any better because statistics show that only 8 percent of the Nation's colleges and universities in fact require foreign languages for admission. That is down from 34 percent as recently as 1966.

As the chairman (Mr. SIMON) has indicated, this is impacting on national security as well as trade, business, and economic losses that we sustain as a nation. Our Embassies are at a severe loss when it comes to understanding the culture, the history, the tradition of the host countries, and indeed the language of the host countries. We are not adequately addressing this issue in this country. And people say, "Well, that is up to the local school districts."

Well, we have a national problem, a national security problem that will not be solved by various States and localities on their own coming forward to address this problem on their own. This is a modest attempt to put some emphasis in an area that needs emphasis.

Now we like to cite and quote the National Commission on Excellence in Education which has presented a lot of good ideas and some fresh ideas to the American people on how we can make better our public school systems.

The Commission points out in its report this deficiency in foreign languages and suggest that we have some programs to make sure that we understand other languages and other cultures in order to serve our national needs in commerce, diplomacy, defense, and education.

We had the former Deputy Director of the CIA, Adm. Bobby Inman, who testified before us, and he told us:

> We are losing a number of people in our foreign service community, either intelligence-gathering, or in the foreign service. They have served for 20 years or so. They came through our public school educational system when foreign languages were required. We are losing those people into retirement now.
>
> We do not have the younger people coming on that are capable to step into their shoes who know two and three languages who can be moved around the world, who can gather the intelligence to know what is going on.

□ 1220

As the gentleman from Illinois (Mr. SIMON) mentioned the personnel in our Embassy in Iran, I suppose somebody could have come up on the street to most of the people who worked in that Embassy and said, "We are taking over the Embassy tomorrow at 12 o'clock, make sure you are not there." They would not even know what they were being told. Had they understood the language things could have been different. And that is true throughout the world.

There is talk that we do not need to know these other languages. No, America has always considered itself an island nation. Sure, we need to know Spanish if we go south into Mexico and Central America and perhaps French if we go up into Quebec in Canada. We always let the other people speak our language and that is not just when they are in the United States, that is when Americans travel abroad either in an official capacity or in a private capacity, we always insist either on a translator or have them speak our language. And there is nothing more arrogant for somebody to go to another country and say, "You speak my language. I am not going to speak your language." Americans generally do not know how to speak the native language when they travel abroad it is somewhat embarrassing for our people to have to deal with others on a level where obviously Americans are not as informed of the local language, culture and tradition, because of this lack of emphasis.

The fact of the matter is this bill is not going to solve the entire problem but it is a start, it is a matter of emphasis, it is something that we can do. And I think it calls on us to recognize our shortcomings, try to do something about it, and go forward with it.

I think this is a well drafted piece of legislation. It tries to focus on various levels of our educational process and system from the elementary and secondary level to the college level, even the teacher level, to retrain teachers in foreign language instruction.

Sometimes we cannot see the payoff on some of this, but sometimes you can. And I think it is very meaningful that as nations around the world strike out for democracy on their own—for example, in Turkey, where they have gone from a military government to a direct elected democracy, and in Spain the same situation, other places in South America, to find people who have studied in the United States who have not only studied here but know our language, know our customs, know our traditions, can better understand us and our problems. And I think that likewise it can pay off if we can best understand their concerns and problems and relate better to them.

It has always been the other way around, but America has got to wake up. While we might have the English language as the so-called universal language these days, I think there is a trend more and more to going back to native languages. And I doubt that under present circumstances we would even have the capability of staffing enough interpreters for our business needs and our Government needs. It is a deplorable condition.

National security alone dictates support for this bill today.

Mr. Chairman, I reserve the balance of my time.

Mr. SIMON. Mr. Chairman, first of all, I want to commend my colleague from Missouri for an excellent statement and I would add, in line with what he has had to say, that we have the only Foreign Service where you can get into the Foreign Service without having a foreign language.

Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. Panetta) who has provided great leadership in this area.

Mr. PANETTA. Mr. Chairman, first of all, I want to commend the gentleman from Illinois (Mr. Simon) and the gentleman form Missouri (Mr. Coleman) for their outstanding work in this legislation and bringing it to the floor.

This is by far one of the most important pieces of legislation related to our national security. This is an area that has been identified by Members of Congress as an area of need, by the business community, by people in the academic area, by many people who are concerned but our failure to understand how important it is to learn to communicate with the rest of the world.

And, yet, little seems to happen. When we place requirements on the State Department, when we place requirements on the Defense Department, little seems to happen.

Why is that? I think the basic problem is that foreign language training, foreign language education, has always been considered kind of a fringe benefit of education. It is not viewed as one of the basics of education in our country.

The three "R's" are, but somehow foreign language training never makes it to the three "R's." Well, it is the fourth "R", which is "reality," the reality of the world we live in.

The fact is that foreign language training is essential to our diplomacy, to our ability to understand other countries and other cultures. Reality today is that most of our Embassies are not fully manned by people who are capable of the language of the country they are in. And you do not begin to understand that country or its culture until you learn to use their language.

In the area of military security, Bobby Inman has been referred to here, he has constantly said that our competency is poor and getting worse when it comes to foreign language training.

The Defense Department has some 13,000 positions that require a language capacity. We have only filled about 50 percent of them. The reality is that for military security you need language training.

And last, in the area of trade and competition in the world, without question we cannot even begin to pierce the markets of the world abroad without the capacity to speak the language of those countries.

The point is this: This is the fourth "R" of education, it is reality. The President's Commission, that I had the honor to serve on with the gentleman from Illinois, a few years ago, said that our training in foreign languages is at a point where it is scandalous, it is scandalous.

And so the point here is that this legislation tries to deal with that. If we are to promote understanding in the world, if we are to promote the security of the world, if we are to compete in this world, then we are going to have to do something about it.

Kurt Waldheim said a few months ago:

> Many civilizations in history have collapsed at the very height of their achievement because they were unable to analyze their basic problems, to change direction and to adjust to the new situations which faced them.

We in the Congress have analyzed the basic problem. This legislation is an opportunity to change direction. And I urge my colleagues to not let this opportunity pass by. Let us adopt this legislation.

At this point, let me further expand on my views on this legislation.

Mr. Chairman, the security and prosperity of the United States have come to depend more than ever on our ability to communicate with other nations. The revolution in Iran, the continuing cycle of violence in the Middle East, and the threat of upheaval in Central America have been unwelcome reminders that our national security does indeed depend on events outside our national control. International economic competition from Japan, West Germany, and the nations of the developing world threaten our ability to export American products and further illustrate the need to improve our understanding of other cultures, languages, and economic systems.

Unfortunately, in the face of a world becoming more closely intertwined economically, politically, and militarily, the response of our Nation has been—to say the least—inadequate. At all educational levels we are failing to produce American students with the foreign language skills necessary to meet the challenges of the decades ahead. Make no mistake about it. Today's youngsters are tomorrow's diplomats, intelligence experts, and international business people. Yet, we are failing to provide them with the skills necessary to compete with other nations in the political, military, and economic arenas. Through the passage of H.R. 2708, Congress can help to reverse this trend, to guarantee that our Nation has the human resources necessary to protect our vital national interests, at home and abroad.

H.R. 2708 represents a well-balanced attempt to deal with the critical lack of foreign language skills in our schools, in our diplomatic intelligence, and business communities. In order to stimulate foreign language training at the elementary and secondary levels, H.R. 2708 would authorize grants to States for the funding of model programs in local school districts. H.R. 2708 would also provide grants to institutions of higher education which establish foreign language entrance or exit requirements, and which have at least 5 percent of their students enrolled in foreign language courses. These two programs are complementary, and provide an essential system of incentives for educational institutions to provide students with the skills they will need to succeed in business, in government, and in everyday life.

Sections 6 and 7 of H.R. 2708 would authorize the Secretary of Education to establish summer foreign language training institutes for exceptional high school language students and elementary and secondary language teachers. These institutes would help outstanding students become proficient in a language early on, and would encourage the introduction of innovative teaching techniques into the foreign language curriculums of our Nation's schools. These provisions of H.R. 2708 are essential if we are to begin to identify and train those whose outstanding aptitude for languages can serve America's interests in a variety of areas.

Section 8 of H.R. 2708 would provide much needed Federal matching funds for advanced language study abroad. The "immersion method" of teaching languages and cross-cultural skills is the most effective means we have of instilling in students a comprehensive understanding of a particular country or region. The funds authorized under section 8 would be specifically targeted at students who plan to visit those nations which are most important to the future security and prosperity of the United States. Again, as in sections 1 through 7, section 8 of H.R. 2708 places primary emphasis on developing those human resources which our Nation will need to compete in the decades ahead.

As Adm. Bobby Inman, former Deputy Director of the CIA told Congress in 1981, "the foreign language capability of our Nation is poor and getting worse." This trend can be traced directly to our elementary and secondary schools, and to our colleges and universities. At the elementary level, fewer than 1 percent of our pupils currently receive any foreign language instruction. At the secondary level, only 15 percent of American students study a second language, and just 5 percent pursue these studies for more than 2 years. Only 8 percent of our postsecondary institutions require a foreign language for admission, and the vast majority mandate no language training during a 4-year undergraduate education. Most important, less than 1 percent of American students who are enrolled in foreign language programs study Chinese, Japanese, Arabic, and Russian, which together comprise 80 percent of the spoken languages of the world. It comes as no surprise then that there are more teachers of English in the Soviet Union than there are students of Russian in the United States.

It is also becoming increasingly clear that our Nation's diplomatic, intelligence, and economic efforts are being held hostage to this antiquated and ethnocentric national education policy. In the field of international diplomacy we have so few college graduates competent in foreign languages that the State Department can fill only 66 percent of the Foreign Service positions which require even minimum language competence. In 1980, when a Soviet soldier in Afghanistan sought asylum in the American Embassy, none of the Embassy staff could speak to him in Russian. Only 6 of the 60 American diplomats in Iran in 1978 spoke the local language, and when the Embassy was seized, only 2 of the remaining staff could communicate with their captors. Before the Vietnam war, this country did not have even five American-born experts who could speak the Vietnamese language. What a difference a few more experts might have made.

In our national defense and intelligence communities, the situation is equally alarming. Of the 13,000 positions in the Department of Defense which require foreign language capability, only half are filled by individuals with the necessary language competence. In the CIA, the NSA, and the other intelligence agencies, we simply cannot find enough qualified linguists to staff our increasingly sophisticated network of data collection and analysis. According to the congressional testimony of some of our Nation's leading defense and intelligence experts, this critical situation can be traced to a lack of adequate foreign language training in American schools. In 1981, Admiral Inman told Congress that recruiting qualified individuals for intelligence positions "has been made difficult by the fact that many universities and colleges no longer have foreign language requirements as part of their mandatory curriculums. We need to be able to recruit and hire people who already possess capability in a foreign language."

In testimony before the House Subcommittee on Postsecondary Education, Maj. Gen. Richard Larkin of the Defense Intelligence Agency concurred. He stated that—

> Recent trends show that intelligence opportunities based on language skills are increasing rapidly, while the availability of language trained professionals has been gradually shrinking. This problem is directly related to the inability of our educational system to continue to provide the talent required for understanding foreign cultures and interpreting their behavior.

In the same congressional hearing, Craig Wilson, Special Assistant to the Secretary of Defense for Intelligence and Human Resources concluded:

> The American population no longer presents us (the Defense Department) with a large talent bank of bilingual and multi-lingual people on which to draw to meet current and future needs. . . . The problems, the shortfalls, won't be eliminated overnight.

In the economic sphere, we are similarly dependent on our ability to understand other languages and cultures. International trade now accounts for a full 25 percent of our gross national product. Forty percent of U.S. farmland produces for export, and 20 percent of U.S. industrial output is sold abroad. All told, one in five Americans depends on international trade for employment. Far more than at any previous time in our history, the economic decisions and actions of other countries are of central importance to our own national economic well-being. Most important, we depend more than ever on foreign markets for sustaining our sales, profits, and jobs.

I would ask my colleagues to consider the following examples of the commercial disasters which ignorance of other languages and cultures can help to create. When General Motors advertised its "Body by Fisher" car in Belgium, the slogan was described in Flemish as "Corpse by Fisher." Similarly, when Chevrolet tried to market its Nova model in Puerto Rico and Latin America, the company's advertising executives failed to realize that "No va" is Spanish for "It doesn't go." And who can forget the Pepsi-Cola company's use of its "Come alive with Pepsi" advertising campaign in Taiwan. The literal translation of this slogan was "Pepsi brings your ancestors back from the grave."

In order to avoid commercial blunders of this type in the future, our secondary schools and colleges need to produce potential business executives who are competent in foreign languages. Unlike our defense and intelligence agencies, the American business community has no means to provide foreign language training to its new hires. As Richard McElheny, Director General of the U.S. and Foreign Commercial Service, told Congress last April: "Language training in our schools and colleges * * * provides business with employees who have a head start and helps sell American products in world markets." Without this essential language training, our pool of future business executives will be doomed to repeat the mistakes of the past.

Mr. Chairman, when we consider the dearth of foreign language skills in our diplomatic, intelligence, and business communities, the need for congressional enactment of H.R. 2708 becomes clear. There is direct connection between our poor language capabilities as a nation, and the second-class status of foreign language education in our Nation's schools. As elected officials of the Federal Government, it is our responsibility to guarantee the security and economic prosperity of our Nation. H.R. 2708 would help us to meet this responsibility by providing incentives for States, local schools, and colleges and universities to improve and expand their foreign language programs.

H.R. 2708 does not call on the Federal Government to assume total responsibility for the foreign language education of our Nation's children. It simply recognizes that it is our responsibility to help create a pool of foreign language competent Americans which our Government and business community can draw from in the future. Because the States have neither the resources nor the inclination to undertake this difficult task alone, congressional action in this area can act as a catalyst, encouraging States and localities to educate our children for the 21st century.

Mr. SIMON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I join the distinguished colleague from Illinois (Mr. SIMON) and the gentleman from Missouri (Mr. COLEMAN) and I would but echo the eloquent statement made by my colleague, the gentleman from California (Mr. PANETTA). I can attest to the fact of the importance of languages, having grown up in a dual culture and speaking several languages, one of necessity, the two because of business and professional needs.

But we are in the United States possibly the most language deficient country in the world. And the world has shrunk to such a minute, infinitesimal little island, that without languages there is no communication. The reality which my colleague from California spoke about is so very true.

The only two things that the human needs is food for his sustenance and communication with his neighbor, for security, for commerce, for education, for everything that you do in your daily life.

So that is why I am so terribly proud of my colleagues, the gentleman from Illinois (Mr. SIMON) and the gentleman from Missouri (Mr. COLEMAN). This is a very modest approach to a problem which is probably the greatest problem. Whether we have one more missile than the Russians is not going to matter as much as whether we have one more person who can speak to them in their own language.

□ 1230

Would that our negotiators at the disarmament conferences could understand the Russians. It is always the other way around. I have been to international meetings. I have seen how just a grasp of a very small part of any language can be a terrific asset for us.

I would like to say—I think it was mentioned by my colleague, the gentleman from Missouri (Mr. COLEMAN)—that this is perhaps the most important bill that we are going to have this session of Congress—not the appropriation of the money, not the missiles, not the defense, but whether we allow our citizens to compete in the world forums, whether we allow our industry to compete at their own level, using the language of the other people that we wish to deal with.

It is a development of the human element. It is adding another dimension to the development of the human mind that a person can communicate effectively with one not of our own country in their language, for the betterment of our security, for the development of our intellect and for the development of peace in the world. Ultimately, peace will only come when we can communicate with each other, for that we need to speak in the languages of our neighbors, they already do in ours.

Mr. SIMON. Mr. Chairman, I thank the gentleman from Texas, who is an example of someone who does have the ability to speak two languages and who has been a great asset to our country.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. KOLTER).

Mr. KOLTER. Mr. Chairman, the lack of proficiency in a foreign language is not new to citizens of the United States, but over the past several decades it has grown more prevalent. Several recent studies on education describe the need for an increased commitment to foreign language education. Perhaps the often quoted study, "A Nation at Risk," states it best:

> Study of a foreign language introduces students to non-English speaking cultures, heightens awareness, and comprehension of one's native tongue, and serves the Nation's needs in commerce, diplomacy, defense and education.

Our European Allies, as well as the Soviet Union, have recognized that proficiency in a foreign language, is indicative of a well rounded individual. They begin instruction early, when young minds are much more amenable to new concepts and ideas. Those same nations acknowledge that the study of foreign language is an integral component of international commerce. I believe it is time that the Congress of the United States shows its resolve to address this problem by making a commitment to the study of foreign languages here in our own Nation.

Individuals involved with international trade have termed our inadequacies in foreign tongues, "a self-enacted trade barrier more effective than any protective tariff ever established." Representing a district that is heavily impacted by foreign imports, I can appreciate this comment.

In closing, not only is the study of a foreign language an excellent vehicle for introducing students to a particular Nation's history, culture, and way of life, but the rigor and structure provide a sound bases for instilling academic discipline.

I urge my colleagues to support this bill and I will leave you with the remarks of the chairman of a domestic corporation who stated before the committee, "the ineptitude of Americans in foreign langugages is an embarrassment for our country. It contributes to our image of arrogance."

Mr. SIMON. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Oklahoma (Mr. MCCURDY), who has worked on the foreign language, science, and math bill, and who has been a great help in this area.

Mr. McCURDY. Mr. Chairman, I want to rise and commend the gentleman from Illinois (Mr. SIMON) for his remarkable leadership in this area and the gentleman from Missouri (Mr. COLEMAN) for his support and leadership. Without a doubt, this is a very important piece of legislation. I think it is one that cannot be ignored and is a complement to everything we do in the areas of national defense and national security.

As a member of the Armed Services Committee, the Intelligence Committee and the Science and Technology Committee, I see on a daily basis the impact of our tongue-tied skills in America and the need for improving our language proficiency. As one who was required to learn a foreign language in college, I am glad that that discipline was imposed upon us, and I think that that is the type of thing that we need to reconsider.

I want to stand up and commend the gentleman from Illinois, and I look forward to working with him on this issue in the years to come.

Mr. COLEMAN of Missouri. Mr. Chairman, in closing, I think there are a couple of amendments that will be offered, and we can discuss those then, but I want to share with the Members a personal experience.

We all speak to high school classes from time to time, and it is important that we do so. It is also important to know what courses the students are taking in those high schools. I spoke to one last week in a small rural community. There was a full high-school complement of students there. And I asked the class that I spoke to how many were taking a foreign language, and nobody raised their hands because this school did not offer any foreign language. They did not realize what they were missing and the opportunities that they were missing.

Through this bill we can educate more teachers to teach in these classrooms, we can come up with model programs for public schools to teach foreign languages, we can start something today that I think will show great benefit next year and the year after and 10 or 15 or 20 years from now. If we do not get started today with some program, we are just going to go on and on and have dreadful statistics to point to in the years ahead.

Again I renew my support for this bill.

Mr. Chairman, since I have no further requests for time, I yield back the balance of my time.

Mr. SIMON. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN of Michigan. Mr. Chairman, I would like to commend the gentleman from Illinois (Mr. SIMON), the gentleman from Missouri (Mr. COLEMAN) and everybody else who has been involved in this issue. It is not a very highly charged political issue. But these Members have charged straight ahead anyway, to their credit, and I think that years from now this country will more fully recognize it, and I hope sooner than that.

I would like to briefly call upon my experience of 4 years within AID and to relate what a high price we are paying in this country for the lack of adequate language training. First of all—and I think it has been referred to already here—we do pay one way or another, and with Government moneys one way or the other. We are spending hundreds of thousands of dollars today of Government moneys training personnel within our Foreign Service, and sometimes civil service employees and those who are appointees, in foreign languages. It would be much better if we would use the money or some other moneys to train people earlier, to train them before they come into Government, to train them at a younger age when the aptitude for language, the facility with learning of a foreign language, is much greater.

And also, if I might, let me just say a word as a parent who has seen a number of children take foreign language courses. I think I speak for hundreds of thousands of parents in this country. The gentlemen are to be commended for the provisions in this bill that would provide some moneys—not relatively very much, but meaningful amounts—to elementary and secondary institutions to improve the teaching of foreign language in our schools.

Mr. Chairman, we are wasting so much money in our schools today teaching kids languages, foreign languages, in ways that a year or two after they have left the institution they take nothing or little with them. So this is a prudent bill, as well as an imaginative one. It is an important bill, even though it is not, as I said earlier, highly charged politically. I am sure that I have the support of the vast majority of my colleagues in rising in support of this bill. It is a tribute to the foresight of those Members who have been working for its passage.

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Mr. SIMON. Mr. Chairman, I want to thank the gentleman from Michigan who, before he became a distinguished Member of this body, was the Deputy Director of AID and speaks from practical experience.

Mr. Chairman, I have no further requests for time, and I think we can move on to the amendment stage.

● Mr. FRANKLIN. Mr. Chairman, I rise in reluctant support of H.R. 2708. This legislation addresses an area of critical need in our educational process but, I feel, does not address it adequately. The state of U.S. foreign language proficiency is at a crisis level, and something must be done. This bill sets up categorical grant programs to provide funding for State elementary and secondary school systems and also for colleges and universities to improve their foreign language programs. I generally do not support the establishment of new grant programs, and I do not believe that these programs will adequately address the problem, but I am supporting the bill with the hope that educators will see it as an incentive to further develop existing foreign language services.

In most of the world the English language is a requirement for all stu-[illegible], and the world is getting smaller [illegible]. We must equally prepare [illegible] generations to be able to communicate with our competitors and trading partners throughout the world. For instance, Chinese is spoken by approximately one-fourth of the world's population, and you can count on your hands the number of U.S. high schools that teach the Chinese language. There is no way the United States can compete in the world market when our citizens are at such a disadvantage in communication.

I would like to commend the gentleman from Illinois (Mr. SIMON) for bringing this issue to the forefront and exposing the critical nature of our foreign language proficiency. I support passage of H.R. 2708 as a signal to Secretary Bell and the other leaders of the education community that the House of Representatives recognizes this need and is willing to take the first steps toward resolution of the problem.●

● Mr. FORD of Michigan. I rise today in support of H.R. 2708, the Foreign Language Assistance for National Security Act. This bill establishes an important initiative that will address an increasing problem for our Nation—the lack of foreign language training in our educational system and the lack of foreign language ability on the part of our citizens.

The United States ranks behind every other developed country in the world in terms of its foreign language training. The majority of the world requires students to study at least one foreign language during elementary school. In many cases secondary school students are required to study two or more foreign languages. In the United States it is possible to go through grade school, high school, college, and even a Ph.D. program without studying a foreign language. This lack of training has an impact on every facet of our dealings with foreign nations. It impedes us in our international business and trade transactions and threatens our national security.

In November 1979, the President's Commission on Foreign Language and International Studies said in its report:

> We are profoundly alarmed by what we have found: a serious deterioration in this country's language and research capacity, at a time when an increasingly hazardous international military, political and economic environment is making unprecedented demands on America's resources, intellectual capacity and public sensitivity.

The National Commission on Excellence in Education came to similar conclusions and included "achieving proficiency in a foreign language" in its list of curriculum matters that "must be addressed." American business leaders have also advocated increased foreign language training. Testifying before the Postsecondary Education Subcommittee in April 1983, Richard L. McElheny, Director General of the United States and Foreign Commercial Service, stated:

> Obtaining language skills must be a cost of doing business, just like any other expense. Language training in our schools and colleges at least provides business with employees who have a head start and helps sell American products in world markets.

H.R. 2708 provides for grants to establish model foreign language programs in local school districts and junior colleges and assistance to other postsecondary education institutions based on their foreign language course enrollments. This bill brings to light a critical problem and suggests a first initiative to help alleviate that problem. My distinguished colleague from Illinois (Mr. SIMON) is to be commended for bringing this bill to the House. I am also pleased to recognize the significant contributions of the minority members of the Education and Labor Committee in shaping this bill. They should be fully credited for their excellent efforts.

I urge my colleagues to vote for passage of H.R. 2708.●

● Mr. YOUNG of Florida. Mr. Chairman, I rise in support of H.R. 2708, the Foreign Language Assistance for National Security Act.

As a member of the Permanent Select Committee on Intelligence, I can attest to the critical importance of foreign language skills to our Nation's intelligence organizations. The most glaring example of our Nation's foreign language deficiency was during the 1979 takeover of our Embassy in Tehran. A review of the events leading up to that dark period in our history when 50 Americans were held hostage for more than a year shows that the lack of Farsi-speaking intelligence and Embassy personnel was a direct cause of this major foreign policy embarrassment.

The analysis and collection of large amounts of intelligence data is essential to assuring a strong national security. The data serves no purpose if it cannot be analyzed quickly and accurately. During the later years of the last decade, our intelligence capabilities were severely hampered by legal restrictions and reduced funding. As a result, much of the data collected by our sources in the field never was analyzed. During this decade, a renewed emphasis has been placed on our intelligence collection as a vital component of our national security.

Much improvement, however, still is needed to increase our foreign language capabilities. Shortages remain in analysts proficient in the numerous Arabic and more obscure Russian dialects. It is crucial that our Nation have students with a thorough knowledge not only of the basic European languages, but also an understanding of the nuances of native languages for many small and developing nations.

To insure our national security requires timely and accurate information about the activities of hostile nations. That is why we must encourage our Nation's students to pursue the studies of a wide variety of languages and dialects. More and more U.S. scholars recognize the severe shortage of skilled foreign language specialists. The Christian Science Monitor reported last month, in an article I would like to include with my remarks, that signs indicate a growing awareness of this problem has resulted in steps being taken by our schools and universities to attract more students into these fields of education. This legislation will make an important contribution to that effort.

The article follows:

[From the Christian Science Monitor, Jan. 26, 1984]

"TONGUE-TIED" U.S. FACES TRADE, DEFENSE BIND

(By Craig Savoye)

BOSTON.—Colleges and high schools in the United States have stopped saying "c'est la vie" to declining foreign-language enrollment.

There is evidence to suggest that attitudes toward foreign languages are turning around, but the number of students taking language courses remains low by historical standards. A few statistics gathered from several sources, including US Rep. Paul Simon's book, "The Tongue-Tied American," highlight the problem:

Less than 1 percent of the 11 million students in undergraduate and graduate studies in American colleges and universities currently studies the foreign languages that are spoken by three-fourths of the world's population; even fewer become fluent in one.

There are more *teachers* of English in the Soviet Union than there are *students* of Russian in the US.

Only 15 percent of American high school students are studying French, German, or Spanish, and only 1 in 20 of them goes beyond two years of study.

Only 8 percent of American universities require a foreign language for admission, down from about 85 percent in 1915 and 34 percent as recently as 1966.

"At a time when it is more important than ever that we communicate with the rest of the world, US citizens are notoriously deficient in foreign-language skills, and statistics suggest they are getting more tongue-tied every day," says Representative Simon (D) of Illinois, chairman of the House subcommittee on postsecondary education.

Why is foreign-language competency so vital? Experts see the importance of language study not so much as an academic exercise, but as a means for fostering cross-cultural understanding. Such understanding is sometimes indispensable in the realms of diplomacy, national security, and international business.

A well-known example of the diplomatic problems that can be caused by language deficiency was the lack of Farsi-speaking diplomats at the American Embassy in Tehran during the Iranian revolution. Many observers believe that the failure to foresee or head off the embassy takeover can be traced, at least in part, to inadequate language training.

The U.S. government acknowledges the direct link between national security and foreign-language competency. The supersecret National Security Agency recently invited 15 colleges and universities to take part in a program designed to encourage the study of the Russian language.

Government agencies in particular are beginning to feel the effects of the declining number of experts in Russian and other languages.

In terms of international business, foreign-language incompetence tends to hamper the ability of Americans to operate effectively overseas and puts them in a position of waiting for others to come to them.

"Most of the US firms which should be exporting today are not," says Simon "and a major reason for that is our inability to speak the language of our customers. We need to learn a fundamental lesson from our Japanese and West German competitors: You can buy in any language, but you cannot sell in any language."

As concerned as educators are about the decline in foreign-language competency, signs indicate the downward trend is bottoming out. Enrollments are up at some colleges and universities; a number of others have reinstituted language requirements; and efforts are being made to train more teachers in the field.

The resurgence may have been touched off in part by a report issued in 1979 by the President's Commission on Foreign Language and International Studies. It found "scandalous incompetence" in the teaching of foreign language in American schools and offered more than 100 specific recommendations to alleviate the problem.

The report "has boosted some college departments of language," says John Rassias, a nationally known professor of language at Dartmouth College in Hanover, N.H., and a member of the commission. "The turnouts are bigger and bigger, enrollments are increasing. But most of this is individual effort on the part of the colleges."

Despite the efforts of the education community, Congress remains lukewarm in its support of legislation to upgrade foreign-language instruction in schools. No significant federal legislation followed in the wake of the report.

Congress is considering a $50 million bill, entitled Foreign Language for National Security, which would fund model language programs and provide grants to colleges based on foreign-language enrollment. While similar legislation has been shelved in the past, the chances for passage of this bill are rated as good this session.

A recently passed bill designed to upgrade science and math instruction included scholarship money for those promising to teach "critical languages" upon graduation. These languages are generally defined as the less-commonly taught ones, such as Japanese, Russian, Chinese, and Portuguese. Also, the Defense Department has established a committee to study the whole issue of foreign language.

"There needs to be a sign and signal from the federal government that language is a national priority," says James Perkins, chairman of the International Council for Educational Development. "But after that, the initiative has to be carried on from the graduate level on down through elementary schools and into the home. The federal government affects only 5 percent of the overall budget."●

● Mr. OWENS. Mr. Chairman, I rise in support of H.R. 2708, the Foreign Language Assistance Act. This bill begins to recognize the significance of foreign language proficiency for our people. English speakers have long been isolated in an arrogance that has demanded that others understand our words without a comparable understanding on our part. I never cease to be amazed that a person can be considered to be educated in this country and yet fail to demonstrate proficiency in at least one other language.

The bill also takes another step by encouraging the teaching of languages which have long been ignored in this country. If one were to lump together the Chinese, Hindi, and Arabic speakers of the world, one would include over half of the world's population. And yet, one can barely find speakers of these languages who have been born and raised in this country. Our businessmen look toward the industrial success of Japan, but fail to learn that language and gain an understanding of the ways of the Japanese.

Perhaps more disturbing is the fact that we have so few people who are multilingual. How can we expect to understand the dynamics of Soviet/Latin American relationships without having people who can speak both Spanish and Russian and who have knowledge and understanding of Russia and the many Latin American countries? This sort of language gap may prove more difficult to resolve than the perceived Sputnik gap of the fifties.

Language training is needed on all levels in this country. One can only hope that a Federal interest in language training may help to change the attitudes that deny our children the early opportunities to learn a second and third language and the attitudes that persist in later years that languages are somehow alien, suspect, and unnecessary.●

● Mr. WYDEN. Mr. Chairman, I rise today in support of H.R. 2708, the Foreign Language Assistance Act.

H.R. 2708 would wisely invest in the future of this Nation by providing a modest sum of Federal dollars to help improve the proficiency of American students in foreign languages, and the instruction of foreign languages in elementary and secondary schools, as well as promoting the study of languages in our colleges and universities.

In November 1979, the President's Commission on Foreign Language and International Studies warned in its report:

> We are profoundly alarmed by what we have found; a serious deterioration in this country's language and research capacity, at a time when an increasingly hazardous international military, political and economic environment is making unprecedented demands on America's resources, intellectual capacity and public sensitivity. The Commission concluded that as a result of the erosion of our foreign language capacity, nothing less is at stake than our national security.

Recently, the National Commission on Excellence in Education concluded in its report, "A Nation at Risk," that through this country's lack of foreign language speaking ability we have "been committing an act of unthinking, unilateral disarmament." The Commission recommended that American students achieve foreign language proficiency:

Because study of a foreign language introduces students to non-English-speaking cultures, heightens awareness and comprehension of one's native tongue, and serves the nation's needs in commerce, diplomacy, defense, and education.

The "unilateral disarmament" about which the Commission warned was echoed by U.S. Adm. Bobby R. Inman, the former Deputy Director of the Central Intelligence Agency, when he testified before Congress that, "The foreign language capability of our country is poor and getting worse (and presents) a major hazard to our national security."

Further, as Congressman Simon noted in a hearing before his subcommittee, when the American Embassy personnel were held hostage in Tehran, only 6 of the 52 hostages could communicate with their captors. And, when the U.S. Ambassador to Afghanistan was kidnaped and brutally slain, our Embassy personnel did not have the language capacity to negotiate with the terrorists.

As our economy shifts to a more globally integrated one, and our information technologies further bridge the gaps of land and water that separate nations and continents, our need to communicate with our neighbors expands tangentially.

H.R. 2708 would help us to address some of our foreign language shortfalls by: Providing grants for local school districts to establish model foreign language programs in local schools and community colleges; awarding per capita grants to institutions of higher learning to help support foreign language instruction and to establish intensive summer language programs for high school students and elementary and secondary school teachers; and helping universities and colleges to send advanced language students abroad.

Passage of H.R. 2708 would also send a message that this Congress stands by the millions of concerned educators, parents, and students who are working together to improve our schools and educational system—and that we, too, are committed to that improvement. This is one positive and necessary step for us to take during this session of Congress, and I urge my colleagues to vote in favor of the bill.●

The **CHAIRMAN**. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "Foreign Language Assistance for National Security Act of 1983".

The **CHAIRMAN**. Are there any amendments to section 1? If not, the Clerk will designate section 2.

Mr. **BADHAM**. Mr. Chairman, might I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the Record and open to amendment at any point?

Mr. **SIMON**. Mr. Chairman, I was going to make that same request, and I will concur in that request.

The **CHAIRMAN**. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the remainder of the bill, H.R. 2708, is as follows:

Sec. 2. The Congress finds that—

(1) the economic and security interests of this Nation require significant improvement in the quantity and quality of foreign language instruction offered in the Nation's educational institutions, and Federal funds should be made available to assist this purpose;

(2) many endeavors in both the public and private sectors involving such matters as international relations or multinational business transactions require the skills of individuals with knowledge of foreign languages; and

(3) the educational institutions of the Nation should provide students with an understanding of the history and culture which influence the perspectives, values, and attitudes of the people of other countries, and foreign language instruction is one means of achieving this goal.

Sec. 3. (a) The Secretary shall make grants to State educational agencies whose applications are approved under subsection (b) in order that such agencies may fund model programs, designed and operated by local educational agencies, providing for commencement or improvement and expansion of foreign language study for students residing within their school districts. Any State whose application is approved shall receive an amount equal to the sum of (1) $50,000, plus (2) the product of $0.04 multiplied by the population of the State (as determined in accordance with the most recent decennial census). The amount described in the preceding sentence shall be made available to the State for two additional years after the first fiscal year during which the State received a grant under this section if the Secretary determines that the funds made available to the State during the first year of funding were used in the manner required under the State's approved application.

(b) Any State educational agency desiring to receive a grant under this section shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No application may be approved by the Secretary unless the application—

(1) contains a description of model programs designed by local educational agencies, and representing a variety of alternative and innovative approaches to foreign language instruction, which were selected by the State educational agency for funding under this section;

(2) provides assurances that all children aged five through seventeen who reside within the school district of the local educational agency shall be eligible to participate in any model program funded under this section (without regard to whether such children attend schools operated by such agency);

(3) provides assurances that, if the application of the State educational agency is approved, each model program described in the application shall have available to it sufficient funds from State and local sources, in addition to any funds under this section, to ensure that the program is carried out as described in the application; and

(4) provides that the local educational agency will provide reliable and valid evaluations of pupils' proficiency at appropriate intervals in the program, and provide such evaluations to the State educational agency.

(c)(1) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of this section. Expenditures for educational services and arrangements pursuant to this subsection for children in private schools shall be equal (taking into account the number of children to be served and the needs of such children) to expenditures for children enrolled in the public schools of the State or local educational agency.

(2) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children from private schools as required by paragraph (1), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children which shall be subject to the requirements of this subsection. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 557(b) (3) and (4) of the Education Consolidation and Improvement Act of 1981.

(d) If sums appropriated to carry out this section are not sufficient to permit the Secretary to pay in full the grants which State educational agencies may receive under subsection (a), the amount of such grants shall be ratably reduced.

Sec. 4 (a) The Secretary shall make grants to State agencies whose applications are approved under subsection (b) for the purpose of providing assistance to model programs designed and operated by community and junior colleges providing for the commencement or improvement and expansion of foreign language studies at those institutions. Any State whose application is so approved shall receive an amount equal to the sum of (1) $30,000, plus (2) the product of $0.01 multiplied by the population of the State (as determined in accordance with the most recent decennial census).

(b) Any State desiring to receive a grant under this section shall, through a State agency designated (in accordance with State law) for this purpose, submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No application may be approved by the Secretary unless the application—

(1) contains a description of model programs designed by community and junior colleges, and representing a variety of alternative and innovative approaches to foreign language instruction, which were selected by the State agency for funding under this section;

(2) provides assurances that, if the application of the State agency is approved, each model program described in the application shall have available to it sufficient funds from State and local sources, in addition to any funds under this section, to ensure that the program is carried out as described in the application; and

(3) provides that the community and junior colleges will provide reliable and valid evaluations of pupils' proficiency at appropriate intervals in the program, and provide such evaluations to the State agency.

(c) If sums appropriated to carry out this section are not sufficient to permit the Secretary to pay in full the grants which State agencies may receive under subsection (a), the amount of such grants shall be ratably reduced.

SEC. 5. (a)(1) The Secretary shall make grants to institutions of higher education to reimburse such institutions for part of the costs of providing undergraduate foreign language instruction to students at such institutions. Any institution of higher education desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

(2)(A) An institution of higher education shall not be eligible for a grant under this section for fiscal year unless—

(i) the sum of the number of students enrolled at such institution in qualified postsecondary language courses on October 1 of that fiscal year exceeds 5 per centum of the total number of students enrolled at such institution; and

(ii) such institution requires that each entering student have successfully completed at least two years of secondary school foreign language instruction or requires that each graduating student have earned two years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in a foreign language).

(B) For purposes of subparagraph (A)(i), the total number of students enrolled in an institution shall be considered to be equal to the sum of (i) the number of full-time degree candidate students enrolled at the institution, and (ii) the number of part-time degree candidate students who are enrolled at the institution for an academic workload, as determined by the institution in accordance with standards prescribed by the Secretary.

(3) As a condition for the award of any grant under this section, the Secretary may establish criteria for evaluating programs assisted with funds under this section and require an annual report which evaluates the progress and proficiency of students in such programs.

(b)(1) Any institution of higher education which submits an application under this section for a grant for any fiscal year, and which has sufficient undergraduate enrollment in postsecondary language courses and foreign language requirements as required under subsection (a)(2), shall be eligible to receive an amount equal to the sum of the following:

(A) To provide assistance for the costs of postsecondary foreign language instruction at the level of the first or second year of postsecondary study of a language, an amount equal to—

(i) $30, multiplied by

(ii) the remainder, if any, of—

(I) the number of students enrolled in a qualified postsecondary foreign language course at such level on October 1 of such fiscal year, minus

(II) the number of students equal to 5 per centum of the total number of students enrolled at such institution.

(B) To provide assistance for the costs of foreign language instruction above the level of the second year of postsecondary study of a language, an amount equal to—

(i) $40, multiplied by

(ii) the number of students enrolled in a qualified postsecondary foreign language course at such level on October 1 of such fiscal year.

(2) Any institution which is eligible to receive an amount under paragraph (1) shall be eligible to receive an additional amount equal to $40 multiplied by the number of students enrolled (at any level of instruction) in any foreign language instruction in languages determined by the Secretary to be less commonly taught.

(c) If sums appropriated to carry out this section are not sufficient to permit the Secretary to pay in full the grants which an institution of higher education may receive under subsection (b), the amount of such grants shall be ratably reduced.

SEC. 6. (a) The Secretary shall make grants to an institution of higher education (or a consortium of such institutions) in each Federal region whose application is approved under subsection (b) for the purposes of providing assistance to summer intensive language training institutes for exceptional secondary school students. Any institution or consortium whose application is so approved shall receive an amount equal to not more than $3,000 multiplied by the number of students, not to exceed one hundred and fifty, enrolled in such institute.

(b) Any institution of higher education or consortium of such institutions desiring to receive the grant for its region shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No such application may be approved by the Secretary unless the application—

(1) contains a description of the proposed program of intensive instruction, which may include, but is not limited to, the languages described in section 8(b)(1);

(2) provides adequate assurance that students from any Federal region who wish to participate will be selected on the basis of aptitude in that language, as determined by appropriate testing and verified by their teachers, and of motivation;

(3) provides assurances that the institution of higher education will seek to enroll at least eighty qualified students in the institute; and

(4) provides assurances that the program of intensive instruction will be developed and operated in close cooperation with secondary school teachers and administrators.

(c) The Secretary shall encourage, to the extent possible, diversity in the languages taught in institutes during any summer within the United States.

(d) Awards under this section shall be made to institutes (or consortia) on the basis of excellence of the program proposed in the application, taking into consideration such elements as library resources, faculty achievement, and language learning facilities.

(e) Funds available to institutes under this section may be used to cover costs associated with enrollment in an institute, including tuition, fees, administration, and living expenses.

(f) If sums appropriated to carry out this section are not sufficient to permit the Secretary to pay in full the grants which institutions of higher education may receive under subsection (a), the amount of such grants shall be ratably reduced.

SEC. 7. (a) The Secretary shall make grants to an institution of higher education (or a consortium of such institutions) in each Federal region whose application is approved under subsection (b) for the purposes of providing assistance to summer language training institutes for the professional development of the proficiency of elementary and secondary school language teachers. Any institution or consortium whose application is so approved shall receive an amount equal to not more than $3,000 multiplied by the number of teachers, not to exceed three hundred, enrolled in such institute.

(b) Any institution of higher education or consortium of such institutions desiring to receive the grant for its region shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No such application may be approved by the Secretary unless the application—

(1) contains a description of the proposed program of instruction;

(2) provides adequate assurance that teachers from any Federal region who wish to participate will be selected on the basis of recommendations from a principal or other supervisory official and a demonstrated commitment to the teaching of the language studied in the institute; and

(3) provides assurances that the institution of higher education will seek to enroll at least eighty qualified teachers in the institute.

(c) Awards under this section shall be made to institutes (or consortia) on the basis of excellence of the program proposed in the application, taking into consideration such elements as library resources, faculty achievement, and language learning facilities.

(d) Funds available to institutes under this section may be used to cover costs associated with enrollment in an institute, including tuition, fees, administration, and living expenses.

(e) If sums appropriated to carry out this section are not sufficient to permit the Secretary to pay in full the grants which institutions of higher education may receive under subsection (a), the amount of such grants shall be ratably reduced.

SEC. 8. (a) The Secretary shall make grants to institutions of higher education, or to consortia of such institutions, whose application is approved under subsection (b) for the purposes of providing assistance to enable advanced foreign language students to develop their language skills and their knowledge of foreign cultures and societies through study abroad. Such study abroad may be combined with an internship in an international business enterprise. Any institution or consortium whose application is so approved shall be eligible to receive a grant in an amount not to exceed one-half the cost of providing such assistance.

(b) Any institution of higher education or consortium of such institutions desiring to receive a grant under this section shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No such application may be approved by the Secretary unless the application—

(1) contains a description of the proposed program of study abroad in any of the following areas:

(A) Latin America, the Caribbean, and Puerto Rico for the study of Spanish, Portuguese, and other major languages of that region;

(B) the Middle East for the study of Arabic and other major languages of that region;

(C) Japan for the study of Japanese;

(D) the People's Republic of China or the Republic of China for the study of Chinese;

(E) the Republic of Korea for the study of Korean;

(F) the Union of Soviet Socialist Republics for the study of Russian and other major languages of that region;

(G) Africa for the study of major languages of that region;

(H) South Asia for the study of Hindi and other major languages of that region;

(I) Eastern Europe for the study of major languages of that region; and

(J) Southeast Asia for the study of major languages of that region;

(2) provides adequate assurance that those who wish to participate will be selected on the basis of demonstrated proficiency in the language, as shown by testing comparable to that conducted by the Foreign Service Institute of the Department of State; and

(3) demonstrates that the program will provide the opportunity to combine language study with the study of journalism, international business, finance, economic development, science, engineering, political science, international studies, or other related areas and is open to students majoring in those areas if they can qualify under paragraph (2).

(c) Funds available to institutions under this section may be used to cover costs associated with the study abroad program, including tuition, fees, administration, and living expenses.

(d) If sums appropriated to carry out this section are not sufficient to permit the Secretary to pay in full the grants which institutions of higher education may receive under subsection (a), the amount of such grants shall be ratably reduced.

Sec. 9. No grants shall be made or contracts entered into under this Act except to such extent, or in such amounts, as may be provided in appropriation Acts.

Sec. 10. For purposes of this Act:

(1) The term "institution of higher education" means any institution of higher education, as defined under section 1201(a) of the Higher Education Act of 1965, which is located within a State, but does not include a community or junior college.

(2) The terms "community college" and "junior college" mean any institution of higher education, as defined under section 1201(a) of such Act, which is located within a State and which provides a two-year program for which awards an associate degree or which is acceptable for full credit toward a bachelor's degree.

(3) The terms "local educational agency" and "State educational agency" have the same meaning given such terms under section 198 of the Elementary and Secondary Education Act of 1965.

(4) The term "Secretary" means the Secretary of Education.

(5) The term "State" means any of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(6) The term "qualified postsecondary foreign language course" means a course of foreign language instruction which (A) is scheduled to meet at least five days each week for at least fifty minutes each day, or (B) provides instruction each week for a period of time equivalent to the period described under clause (A).

Sec. 11. There are authorized to be appropriated for each of the fiscal years 1984, 1985, and 1986—

(1) $10,000,000 to carry out section 3 of this Act;

(2) $4,000,000 to carry out section 4 of this Act;

(3) $11,000,000 to carry out section 5 of this Act;

(4) $5,000,000 to carry out section 6 of this Act;

(5) $10,000,000 to carry out section 7 of this Act; and

(6) $10,000,000 to carry out section 8 of this Act.

AMENDMENT OFFERED BY MR. BADHAM

Mr. BADHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BADHAM: Page 18, after line 13, insert the following new paragraph:

(7) The term "foreign language" means any language other than English, except that with respect to programs and activities conducted under this Act in the Commonwealth of Puerto Rico such term includes English.

Mr. BADHAM. Mr. Chairman, this amendment is a very simple and straightforward amendment, because nowhere in this otherwise exceptionally good piece of legislation is the term "foreign language" defined.

At a time when our technology has brought the United States and the farthest corners of the world closer through the sharing of information—financial, technological, scientific, and social—our capability in foreign languages is vital if we wish to effectively compete in foreign marketplaces, maintain close ties with our allies and understand the actions of our adversaries. I am a strong proponent of the Foreign Language and National Security Act and believe this bill will greatly enhance our national foreign language proficiency.

The need for improved language capability was articulated during testimony before the Subcommittee on Postsecondary Education—24 percent of America's high school students in 1965 studied a foreign language; only 15 percent studied a foreign language in 1979. In our universities, 34 percent had language requirements in 1966; only 8 percent require foreign language today. We need trained linguists so that the United States may function effectively in a multinational society. We must reverse this trend of disinterest and stress adroitness in foreign language. H.R. 2708 provides the means to encourage more language classes and to conduct intensive language training.

There is, however, one fault in this otherwise exceptional legislation. Nowhere in this bill has the term "foreign language" been defined. Therefore, I am offering an amendment which states the following:

> The term foreign language means any language other than English, except with respect to programs and activities conducted under this Act in the Commonwealth of Puerto Rico such term includes English.

One of the welcome applications of this amendment would be that it precludes the possibility of foreign students studying in the United States from using the funds contained in this bill for the study of English. My amendment would assure that students gain proficiency in languages other than English. The Commonwealth of Puerto Rico would be the sole exception to the rule due to the fact that only 42.5 percent of the population is English speaking.

I encourage my colleagues today to support my amendment which purely and simply seeks to eliminate ambiguity and to define foreign language.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I am more than happy to yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding

Mr. Chairman, I want to thank my colleague from California. I think he has an excellent amendment. It clarifies the intent of the bill, and I would be very pleased to accept the amendment.

Mr. BADHAM. Mr. Chairman, I thank the gentleman.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

Mr. Chairman, I certainly appreciate the gentleman's contribution, and I support the amendment.

Mr. BADHAM. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BADHAM).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offered an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEKAS: Page 18, line 14, insert "(a)" after "Sec. 11.", and after line 22 insert the following new subsection:

(b) Notwithstanding subsection (a), no funds are authorized to be appropriated to carry out this Act unless such funds are appropriated in an Act or Joint Resolution containing no other appropriation (to carry out any other law).

Mr. GEKAS. Mr. Chairman, at the outset I want to establish for the record that I am a strong supporter, and always have been, of exposing the schoolchild of this Nation to a foreign language, or to more than one foreign language, at every kind of opportunity that can be granted for that purpose.

I, myself, have benefited from many of the concepts which have been articulated during the general debate on this floor. I consider myself bi-and-a-half lingual; that is, I can speak English to some degree, and I can speak Greek to some degree, therefore the bi comes into my description of myself as being bilingual, and then I can speak some Spanish, perhaps halfway to being trilingual.

So I understand the benefits of having our schoolchildren and our curricula throughout the Nation have the opportunity for additional exposure to foreign languages.

But this amendment has nothing to do with the merits of the bill. In fact, if one takes it to its logical extreme, it aids and helps the prospects of focusing attention on the merits of the legislation, because this piece of legislation, this amendment, isolates the entire issue. It so isolates it that it will, if carried out, go to the desk of the President in a form uncluttered by any other subject matter, unhurt by any other concepts among which the President would have to pick and choose, and sets out for the world to see that the Congress of the United States and the President are discussing a measure which will enhance the viability of the foreign language capacity of the students of our Nation and, therefore, the capacity of our Nation to deal with international problems to a higher degree.

So what it does is simply isolate it for the purposes of appropriations. We will be saying, in addition to what I have been saying about isolating it on the merits, isolating it fiscally so that when the subject matter appears before the President, it will not have exacerbated the deficit situation.

This bill, in its present form, calls for, unless I am mistaken, $150 million in new expenditures in the next 3 years. What does that mean? There is no indication in the bill how we are going to pay for that $150 million additional expenditure. What we are doing, then, is adding to the deficits, adding to the national debt, worsening the very situation about which we hear so many outcries and about which we heard just before this debate, in the 1-minutes, about the horror of the deficits and adding to the national debt.

So here we have a grand opportunity to adopt a pay-as-you-go facility and a pay-as-you-go procedure and at the same time bolstering the merits of the bill by adding additional sunshine on this isolated way of treating this bill, and at the same time making sure that the Congress of the United States and the President of the United States understand the fiscal reality, the fiscal responsibility, of pay-as-you-go, and making sure that this bill is not entered into the other appropriations, thus making it impossible for us to segregate it and thus add to the national deficit and to the national debt.

I ask for support of the amendment, and I do hope that I am not met with the opposition that would say this constitutes a line-item veto and, therefore, it should be considered in some other larger manner consistent with full action of the House on the line-item veto itself.

I do not consider it a line-item veto measure, although it does amount to that, perhaps, if you take it to its logical extreme. But I consider it a new way to do business; that is, to take a new program, which this is, a new spending program, one that if it is adopted adds $150 million to the deficits, and adds to the national debt, to take it, and put it in a separate place for all to see.

The **CHAIRMAN.** The time of the gentleman from Pennsylvania (Mr. GEKAS) has expired.

(By unanimous consent, Mr. GEKAS was allowed to proceed for 1 additional minute.)

Mr. GEKAS. Let us begin with this measure, an important measure, as it is, to say when we do have an important concept to bring before the American public, let us act on it, when money appropriations are attached to it, in such a way that we will embellish the prospects of full understanding across the Nation as to what we are about to do as Members of Congress.

□ 1250

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment, and I do want to say a few words about the bill itself.

So far as I can discern, the amendment offered by the gentleman from Pennsylvania (Mr. GEKAS) proceeds from the very best of intentions. He says that he wants to elevate this program and isolate it to an importance all its own independent of other education programs. To do that he would have us pass an entirely separate appropriation bill each year dedicated solely to this single purpose.

I see in that an inherent danger, surely not intended by my distinguished friend, the gentleman from Pennsylvania. If we were to form a precedent of breaking out individual authorizations into individual appropriations, we never could finish our work. Were we to start it here, we would be tempted to do it in other places as well. We have enough difficulty scheduling and getting passed in due course the 12 or 14 appropriation bills which we pass each year.

I recall in 1958, following the Sputnik launching, the hue and cry throughout the country for us to do something dramatic in education. We passed in 1958 the National Defense Education Act. It was a major step forward in improving and modernizing our capacity as a nation to educate the next generation of citizens. That bill was not considered separately under appropriations. It became a part of the departmental appropriation bill, and I do not think it would really be appropriate for us to separate this one out individually.

Now, the gentleman suggests that the President ought to have the opportunity to focus on this particular program uncluttered by other education programs. He has that opportunity when this bill presently before us crosses his desk. That is the way it is always done. When we authorize a new program, we have an authorization bill. It is at that point that the President has the authority and the responsibility to focus on that particular program. Only later, after a bill is authorized, after a program is authorized by a bill such as this, does it become eligible for appropriations, and at that point I think it would be a dangerous precedent to single it out for a separate appropriation bill because there would be no end to that.

That is the only reason I oppose it, but I think it is adequate reason to vote down the amendment.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Not at this point, because I have some other things that I want to say of a very positive and important nature about this program authorized by this bill.

I have enjoyed reading, and I recommend to all of our colleagues and to all of the public, this very excellent and scholarly book on the subject written by our distinguished colleague, the gentleman from Illinois (Mr. SIMON). The book is entitled "The Tongue-Tied American," confronting the language crisis. Among other facts pointed out in this very excellent study is the fact that prior to the unexpected eruption in Iran we were unable to discern the depth of the seething ferment of ideology, fundamentalism, nationalism, and even hatred toward the United States. It took us completely by surprise. Well, one of the reasons that this may have been true is that of the 60 U.S. Foreign Service officers in Iran during the revolutionary year of 1978, only 6 were even minimally proficient in Farsi, which is the language spoken by the people in the streets in Iran.

Another fact that I think stands out in sharp contrast to our professed desire to recapture our position in world trade is the fact that there are approximately 10,000 Japanese business representatives of Japanese firms in the United States. All of them can speak English. There are about 500 U.S. business representatives in Japan speaking for American firms, and fewer than 50 of them are able to speak any Japanese.

Therefore, it seems to me that we should concentrate not on the divisive questions of procedure but on the bill before us and pass it, as bills always have been passed, and make it eligible thereby for regular appropriations.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(On request of Mr. GEKAS, and by unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I am anxious to know, since the gentleman has some of the congressional history locked in his head over the last couple of decades, whether or not, when that scene took place where the Sputnik spurred us into educational action, at that time, when that act was passed, there existed $180 billion or more in deficits for this country.

Mr. WRIGHT. Well, of course, there never have existed deficits in the range that we face today. Before Ronald Reagan's Presidency we never had a deficit larger than $67 billion. Today we have deficits that are three times as high in an annual range than we ever had in any previous year, and it appears likely that if we follow our present course set out by the President in his budget recommendations, we shall add more to the national debt in just 4 years than all of the post-World War II Presidents, from Harry Truman through Jimmy Carter, added in their administrations in 35 cumulative years. Just think about it. More in 4 years than in 35 years cumulatively.

But the problem is not an increase in educational expenditures. Education has been cut. Education is not the cause of the deficit. The cause of the deficit quite clearly is $135 billion added to the deficit this year, by Secretary Simon's reckoning, through the excessive tax cut of 1981 and some $83 billion annually spent more on military this year than were spent in the year 1981. Those are the principal causes. At least Martin Feldstein says those are the causes of the deficit.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the distinguished gentleman from Illinois.

Mr. SIMON. Mr. Chairman, on the amendment itself, I agree with the gentleman from Texas that it is a well-intentioned amendment, but procedurally it would cause chaos.

I just took the $50 million appropriation the gentleman was talking about here, and if we did this with the entire budget, we would be talking about 17,000 bills. Now, that does not make much sense.

So, Mr. Chairman, I would hope the amendment will be defeated. There is no precedent for this at all. I would hope that the committee would reject this amendment, and I thank my colleague, the gentleman from Texas, for yielding.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I said at the outset for the benefit of the gentleman from Illinois that I want to attach this type of separation for some new program. I am not talking about every single bill that we act on with respect to appropriations, but about a new bill, a new concept, one that adds to the deficit on its own without ever having been sprung before out of any kind of program. This is a new program that we want to isolate for the benefit of the public so they will know what it is all about and at the same time act fiscally responsibly as we are doing so.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has again expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. WRIGHT. Mr. Chairman, I appreciate the gentleman's concern for fiscal responsibility, but I would respond to him by saying that the concept and the need for foreign language training is not new. It was included indeed in the National Defense Education Act. That reinvigorated math, science, and foreign language studies. Unfortunately, through the years we have come to glorify science and math but to ignore the importance of the foreign language studies.

So this is not a new need. Education is not a new idea. The importance and the imperative of equipping the American generations of the future with the capacity to cope in an ever-more complex multilingual world is not a new need. It is simply a need that we are beginning newly to recognize, and I do not think there is any reason to require this program to face any more difficult hurdle in the appropriation process than we require of our other programs that we authorize.

The launching of Sputnik in 1957 catapulted the United States into a new era of realistic concern about the quality of our educational system. The National Defense Education Act passed that same year, pumping needed Federal funds onto the parched earth of neglected education programs across the country.

The National Defense Education Act reinvigorated American education. In math, science, and foreign language studies the United States made great strides forward.

But the progress, especially in the foreign language field, was not sustained. By the late 1960's and throughout most of the 1970's, America gave up on foreign languages. For all intents and purposes, America is a monolingual nation, this despite our many ethnic minorities who have immigrated to these shores throughout our Nation's history.

In April of last year the National Commission on Excellence in Education issued a report that sent shock waves throughout the country. The report suggests that our educational inadequacies represent a severe threat to the Nation's future.

"We have," the Commission cautioned, "in effect, been committing an act of unthinking, unilateral educational disarmament."

Strong words. Even stronger medicine is needed to revive American education. Too much damage has been inflicted because of unthinking neglect. We cannot allow educational excellence to slide into the background, because education is the foundation of our future.

The bill before this House today seeks to return foreign language study to center stage where it belongs. Our distinguished colleague from Illinois (Mr. SIMON) has been a tireless advocate of improved foreign language and international studies programs. He is the author of an important and definitive book on the subject. In this bill he has fashioned a workable program to "further the national security and improve the economy of the United States" by strengthening foreign language programs.

Mr. Chairman, the President's Commission on Foreign Language and International Studies stressed our linguistic shortcomings in its 1979 report: "Strength Through Wisdom." The report cited a scandalous deterioration in foreign language competence in America. "Nothing less is at stake," concluded the report, "than the Nation's security."

The fact is foreign language study is not only a crucial ingredient in a well-rounded education. Foreign language competence contributes directly to or national capacity to learn about and understand other nations and peoples who share this world with us. Adm. Bobby R. Inman, testifying before the House Subcommittee on Postsecondary Education in his capacity as

Deputy Director of the Central Intelligence Agency, declared that "The foreign language capability of our country is poor and is getting worse." The Admiral added that this situation represents "a major hazard to our national security."

The following quote from Admiral Inman tells the story:

> In our operations area, we are now losing many of our most experienced people who have had 20 or so years of service using a second and third language. Replacement of these people has been made difficult by the fact that many universities and colleges no longer have foreign language requirements as part of their mandatory curriculum . . . . We need to be able to recruit and hire people who already possess capability in a foreign language and not lose the time required to train them in this skill after they are on board.

Time does not permit me to quote extensively from alarming testimony that the subcommittee received from Agency representatives and from a variety of business spokespeople. Let me point out that the Defense Intelligence Agency is on record expressing deep concerns about our diminishing skills in foreign languages. In addition, a spokesman for the Secretary of Defense made the following statement to dramatize the need for national action on foreign languages.

> Intelligence units to support the Rapid Deployment Force will require an estimated additional 874 military linguist positions for six major Middle East and African languages and dialects. For these, as well as most languages, there is not a trained, recruitable base within the American population.

American business, increasingly buffeted by staggering foreign trade deficits, is learning a difficult lesson: Foreign language ability and cultural sensitivity play a role in our capacity to compete in the international marketplace.

Richard Morrow, president of Standard Oil Co. of Indiana, has stated that—

> The United States can no longer afford to remain a monolinguist nation, expecting the rest of the world's peoples to adjust to our ways. Thus the need for Americans to learn foreign languages is more urgent than ever.

Mr. Chairman, let us not sit idly by, waiting for another Sputnik to shock us into long-overdue action. Let us show foresight and wisdom in setting realistic goals for our educational system and in providing the leadership that is needed to insure excellence.

In conclusion, Mr. Chairman, I want to compliment the gentleman from Illinois (Mr. SIMON) for his dedication and commitment to foreign language study. He has been tireless in pursuing this important issue, and I think this House owes him, not only our support for the bill, but also our gratitude for pointing us in the right direction.

In addition, Mr. Chairman, let me say to our colleague from California (Mr. PANETTA) and other members of the Congressional International Education Group, that it is an honor for me to be associated with the work of that group as it tries to focus congressional attention and fashion important legislation in this critical area.

Mr. WALKER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I do rise in favor of the amendment, and I think that the gentleman from Pennsylvania (Mr. GEKAS) has offered us a very innovative way of attempting to approach the line-item veto issue, because what the gentleman says is that if we are going to add new programs, then at the very least we ought to have some way of separating out the actual spending mechanism for Presidential approval.

□ 1300

Now, that is what this amendment proposes to do. Now, what we hear then argued is that this is some new concept, that this is a horror in terms of procedure and so on.

I submit that every time we try to offer a procedure to limit spending or to get some control over spending, that is precisely the argument that we get.

The Democratic Party that has been on this floor nearly every day since this session began, talking about big deficits and talking about Ronald Reagan's deficits and the majority leader just a few minutes ago once again pinned the deficits on the administration and on Ronald Reagan, absolutely refuse to give the President the tools that are necessary in order to do something about that deficit.

Now, we have offered it out here in a line-item veto on some other bills. We got precisely the same argument.

"Oh, you can't do it this way on this bill. This is the wrong kind of approach on this particular kind of legislation."

"Oh, we can't bring it up under a constitutional amendment, because that is a wrong procedure, too, and that hasn't come out of the committee."

Always there is a procedural argument as to why the President cannot be given the tools necessary in order to deal with the deficits that they want to accuse him of.

Now, the problem is, of course, that it is pure politics with them. The deficit issue is pure politics. They want to be able to accuse the President without giving him the tools to do anything about that which they are accusing him of.

So we have had a political charade out here for weeks and for months.

What the gentleman from Pennsylvania is saying is, "OK, here is another way, fellows. Here is another approach to the same thing that we have been trying to get across now for some weeks and some months of giving the President some way of cutting the spending that you say has gone far too high."

All the gentleman proposes is the fact that we are going to have for this single program a single appropriation.

Now, we have heard that described by the majority leader as a dangerous precedent. I suggest that the precedents for this kind of action go back to the founding of the Republic. The reason why a line-item veto is needed today as a part of the functional aspect of government is because that which was in the early days of the Republic is not longer. It used to be that virtually every program that the President signed on to went down to him as a separate item. We did not have massive appropriation bills going to the President. We did not have everything folded into one large garbage can and sent down to the White House. We had individual programs go to the White House that the President could veto or not. In vetoing it, it came back up here under the regular veto procedure; but now the President does not have a chance on individual items to veto and so therefore we have suggested a line item as a way of allowing him to get into these large bills and line item out particular programs.

All that the amendment of the gentleman to me seems to do is say, "Let's have that procedure that has a longstanding tradition in the country, apply it to at any new programs that come before this House."

I just cannot imagine why we cannot see that that kind of fiscal discipline tool is reasonable and acceptable, not just for this program, but for other new programs that we might have come before us.

Mr. GEKAS. Mr. Chairman, would the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Pennsylvania.

Mr. GEKAS. I am fascinated by what the gentleman has cited as a precedent.

Is it not true that if we followed this bill through, if this bill were enacted without my amendment, I submit to the proponents, it would without question add to the deficit? I think that would have to be agreed. It adds to the deficit by $150 million.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Illinois.

Mr. SIMON. I wish the gentleman from Pennsylvania had been here when his colleague, the gentleman from Pennsylvania (Mr. GOODLING) spoke on that very question.

Mr. GEKAS. I was here.

Mr. SIMON. The gentleman pointed out that this would not necessarily add to the deficit, for two reasons. First, we are talking about increased trade that will result in improving our economy; and second, it can be money that can be transferred from within the Department from other sources.

Mr. GEKAS. But we still have to agree that on its face, on the paper, on the numerical part of it, it adds to the deficit at the outset. Maybe the future benefits will cut some future deficit, but I am going by this moment.

Assuming that that is so, for the purpose of my argument, when it reaches the President's desk, he would have the choice under my amendment of saying that this program is so good that I am going to sign it into law.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. WALKER. Mr. Chairman, I continue to yield to the gentleman.

Mr. GEKAS. The President would say, "This program is so good and so needed and so important to the future of the country that I am going to sign it, even though it adds $150 million to the deficit."

But if the President feels that it is outlandish in its proportions and that at this point in history, it should not be added to it, does that not leave the matter back in the lap of the Congress, and if Congress and all its proponents and all those of us who feel so strongly about the merits of this bill say, "Mr. President, you are wrong. We ought to have this even if it does add to the deficit," we can override that veto.

With the kind of support this bill is going to get in its final vote, I would venture to say that we could predict that we could override that veto; but at least give that American public the opportunity, acting through the President, to determine at that moment when it is on his desk whether we can afford that additional deficit spending.

Mr. WALKER. Well, Mr. Chairman, of course, the gentleman is absolutely right. The veto override procedure would always be with us.

I think it is also interesting that every time we get one of these programs out here, it is always a program that is going to pay for itself. I mean, I have never heard of one program here in recent months that when it came to the floor and we suggested that it might add to the deficit, that it was not a self-paying program; yet the deficits continue to go up.

Now, all these self-paying programs somehow add up to more spending, or if in fact what we can end up doing is taking the money out of other moneys that are in the Education Department, then the provision of the gentleman would not even apply, because there would be no need for an appropriation at that point. There would be no need for a separate appropriation bill. The Department would simply transfer the moneys and we would not need to have anything; so it seems to me that that argument becomes inaccurate.

Mr. SIMON. Mr. Chairman, will the gentleman yield further?

Mr. WALKER. Yes, I would be glad to yield to the gentleman.

Mr. SIMON. Mr. Chairman, I do not think the gentleman has read the amendment, because the amendment says:

> (b) Notwithstanding subsection (a), no funds are authorized to be appropriated to carry out this Act unless such funds are appropriated in an Act or Joint Resolution containing no other appropriation (to carry out any other law).

So the answer is simply that giving the appropriation to the Department means that you cannot carry out the provisions of this act.

The gentleman from Pennsylvania needs a course in English, not a foreign language, I am afraid.

Mr. WALKER. Well, I thank the gentleman for adding to my educational credentials; but I would say to the gentleman that it seems to me that it makes it quite clear that what they are attempting to do is deal with the appropriations process.

The gentleman suggested a moment ago that the moneys could simply be transferred within the Department.

I am suggesting that under the gentleman's amendment, and the author of the amendment may wish to speak to that, that under the amendment of the gentleman, such a transfer could take place as long as there was an appropriate authorization in place. That seems clear to me in that language.

Mr. WEBER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Chairman, I thank the gentleman for yielding.

First of all, I want to commend the gentleman from Pennsylvania for a truly unique approach to this issue, but I would also like to ask our colleague from Illinois a question, if I might.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. WEBER, and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, I continue to yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Chairman, I thank the gentleman for yielding.

We debated a line-item veto amendment, offered by our colleague from Georgia to the library bill, and the gentleman from Illinois in opposing that amendment indicated that he was in support of the concept of the line-item veto, but not in support of that specific amendment.

Now our colleague from Pennsylvania has come forward with a truly different approach, one that in our judgment makes substantially more sense and presuming that our colleague from Illinois is still in support of the concept, I would ask the gentleman to outline if he can for us some of the criteria that the gentleman would apply to an acceptable line-item veto amendment to a piece of legislation.

Mr. WALKER. I would be glad to yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, let me say first of all, if the gentleman and I both think we are serious about something, we do not suddenly spring an idea on the floor. We sit down in our offices and we discuss the various ideas.

I happen to think a line-item veto, which would have a three-fifths override provision of something along that line is something that may be worked out; but I think it ought to be studied very, very carefully. You do not just suddenly bring these ideas and amendments to the floor without careful consideration.

I recognize that the gentleman from Pennsylvania is a new Member of Congress; but if we are serious about these things and not simply trying to make political hay, we sit down and we try to work things out. That is what we did with this bill, so that we have bipartisan support. That is what we ought to be doing with amendments, if we are serious.

Mr. WALKER. Well, Mr. Chairman, once again I appreciate the contribution of the gentleman from Illinois on that; but the fact remains that the House floor is where we are supposed to work some of these things out. We are elected to participate here on the House floor. The committee structure around here is subservient to the House floor. It does not seem to me to be outrageous that some Member would bring an amendment to the House floor and expect it to be discussed as a part of the House process and decided upon in that process. It seems to me to be a perfectly logical extension of what we do.

One other point was made by the majority leader a moment ago about this particular approach. He said that we would never finish our work, that we cannot do our job now, that that is the problem.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

□ 1310

Mr. WALKER. Let me point out that that also does not ring very true with this Member when I see that we have had three whole bills before us all week this week, when we have shut down the House early in the afternoon every day, when since the beginning of the session we have had practically no business on the floor. When we cannot even go 5-day legislative weeks and then we hear an argument from the majority leader suggesting that the reason why we should turn down an innovative approach to line-item veto is because we just cannot possibly get our work done, I would suggest that maybe one reason why we cannot get our work done is because the majority party cannot schedule legislation in a way that assures us that we have enough time to work and get a lot of these things accomplished.

So I suggest that the gentleman from Pennsylvania has brought forward a very, very good approach to line-item veto and that anyone in the House that thinks that it is high time that we give the President some authority to deal with deficits should be in support of the gentleman's amendment.

I yield back the balance of my time.

Mr. WILLIAMS of Montana. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment, although I appreciate the author's intent, and to speak on the amendment and some of the related, to a degree, factors that have been raised in debate today.

First is that this bill, and somehow this bill alone, if you would listen to some of the debate, adds to the deficit. The fact is that the deficit and adding to it is far more complex than simply the expenditure of Federal money.

The deficit is added to in a combination of ways, not simply a matter of spending. It involves factors including expenditures balanced against revenues; interest rates play a part; inflation rates play a part; the price of the dollar.

To indicate that several hundred thousand or a few million dollars appropriated in every single bill, whether it is the MX or it is an education bill automatically adds to the deficit is to show a naivete about how the deficit is created that is almost unbelievable. There are some expenditures that are made by governmental bodies, including this one, that really are better labeled investments.

It seems to me that some public expenditures of money return to the taxpayer by a reduction in the deficit.

One thing we know from most of the good studies with regard to expenditure of education dollars is that they, in the long pull, reduce the deficit, not add to it.

Mr. WEBER. Will the gentleman yield?

Mr. WILLIAMS of Montana. I will be pleased to yield to my colleague.

Mr. WEBER. Is the gentleman arguing that expenditures on certain items in the budget do not add to the deficit?

Mr. WILLIAMS of Montana. That is correct.

Mr. WEBER. Which items in the budget? This is a new economic theory for me and I wonder if the gentleman would explain to me which items in the budget do add to the deficit and hence are not investments?

Mr. WILLIAMS of Montana. I am surprised that the gentleman believes that there is some new economic theory about expenditures and how the deficit is created. Economists have long understood that some public expenditures tend to roll over more tax dollars and, therefore, decrease rather than increase the deficit than do other tax dollars.

Mr. WEBER. Will the gentleman yield?

Mr. WILLIAMS of Montana. I yield to the gentleman.

Mr. WEBER. I understand that. My point, though, is we have a pretty big deficit.

Mr. WILLIAMS of Montana. I will say.

Mr. WEBER. $180 billion.

Mr. WILLIAMS of Montana. Absolutely.

Mr. WEBER. So somewhere there is a whole bunch of expenditures that are not investments, so I wonder if the gentleman could illuminate me because I want to do something about the deficit. Which of those expenditures are not investments?

Mr. WILLIAMS of Montana. Let us focus on the type of investment and expenditure that we are making here today. Generally it is agreed, I think, among most experts that educational dollars could be considered in the realm of investments that in the long run reduce the deficit.

The great example for that is the recent news that the initial capital costs of World War II have now been recovered simply through the method of increased revenues directly related to the education benefits in the GI bill.

Had it not been for the GI bill, had it not been for those people returning from the war going to college, and then followed by their children going to college because mom and dad did, the war would not yet be paid for. That, my friend, is an investment.

Mr. WEBER. Will the gentleman yield?

Mr. WILLIAMS of Montana. I yield to the gentleman.

Mr. WEBER. My point is, though, we still have this deficit, you know, and I guess my question is what in that budget is not an investment so that we can identify the cause of the deficit.

What does the gentleman advise us is not and is causing this deficit, what is not an investment in our Federal budget?

Mr. SIMON. Will the gentleman from Montana yield?

Mr. WILLIAMS of Montana. Yes, I yield to the gentleman.

Mr. SIMON. There are obviously a great many things that are not investments in the way that they are going to generate something. What we are talking about here is seed corn.

When you build a tank it is not going to generate anything for this economy or virtually nothing. There are a great many things that really do do something for the economy. There are a great many other things that do not.

Mr. WEBER. Will the gentleman from Montana yield?

Mr. WILLIAMS of Montana. I do not want to get into a debate with the gentleman about our expenditures of the last decade and which are precisely investments, and investments under my definition, and which are expenditures. But, yes, I will yield one more time.

Mr. WEBER. The problem is you are laying out here for us an economic theory that says that certain items in the budget produce more for the Government than they cost us; hence, if we are seriously interested in reducing the deficit we must focus our deficit reductions on other areas of the budget. I just thought for the benefit of those who are seeking willy-nilly to reduce everything in the budget you could tell us what is not an investment so we will know where to direct our attention.

The CHAIRMAN. The time of the gentleman from Montana (Mr. WILLIAMS) has expired.

(By unanimous consent Mr. WILLIAMS of Montana was allowed to proceed for 3 additional minutes.)

Mr. WILLIAMS of Montana. Let me focus for the gentleman on one area of enormous expenditure which is clearly not an investment, which is simply an expenditure. This year the taxpayers of America will be asked to pay more of their taxes to be used simply to service the debt, simply to pay the interest on this enormous debt, than Lyndon Johnson spent to run the entire Government, including the Great Society in 1965. That is not productive. That is Ronald Reagan's deficit, and it is not productive.

You remember Ronald Reagan talking about all of the waste in the Great Society. We ran the Vietnam war, the Great Society, the schools, the bridges, the court system, the parks, the playgrounds, and everything else in this country for what it now costs the taxpayers in this country to simply put down on the deficit. That is an investment of the type of wasted money I am speaking of.

Mr. WEBER. Will the gentleman yield?

Mr. WILLIAMS of Montana. Let me continue on with my statement.

It has been said that Democrats and those of us that are apparently for this legislation reject every single mechanism that comes along for balancing the budget. We reject the constitutional amendment to balance the budget.

I, for one, do reject that. Now, let me tell you why.

For 150 years in this country this country was run on a balanced budget. It made no difference that children were not properly educated, that the nutrition levels in this country were a disaster, that people were sleeping on the streets in greater numbers than they are today. The hard fact is that at the end of the year the Federal Government had its books balanced and therefore we all said hooray, we are a success.

Then about 54 years ago this country woke up and said, no, this country is not a success until we improve these things and many other things, until we put people back to work, and so we began some deficit spending.

My party, the members of my party, have abused beyond what we should, that deficit. But do the members of my party want to go back to those bad old days of the first 150 years where we had six financial crashes, where unemployment never got below 10 percent, where we had an economic caste system in this country? No, I will trade an occasional deficit for that.

Mr. DANNEMEYER. Will the gentleman yield?

Mr. WILLIAMS of Montana. Yes, I yield to the gentleman.

Mr. DANNEMEYER. I happen to have a copy here of the voting record of June 23, 1983, last year, which adopted the concurrent budget resolution which established the level of spending for fiscal year 1984 in which we are now involved, and I will share it with the gentleman.

There were 239 votes whereby that was approved, and 186 against us. Of the 239 that approved it, 229 were Democrats and 10 were Republicans.

I am puzzled. You say Ronald Reagan created the deficits, but the fact is for the whole budget resolution running the Federal Government for fiscal year 1984, 229 Democrats voted for it and only 10 Republicans. Maybe I do not understand accountability, but that tells me that the Democrats voted for the budget.

The CHAIRMAN. The time of the gentleman from Montana (Mr. WILLIAMS) has again expired.

(By unanimous consent Mr. WILLIAMS of Montana was allowed to proceed for 2 additional minutes.)

Mr. WILLIAMS of Montana. Let me respond to that and finish my statement. This Member of Congress voted for less spending by more than $1 billion than this President wanted. This Democratic Member voted for less spending than this President asked for by more than $1 billion. No. 1.

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No. 2, I say to my colleagues on that side of the aisle that if the President is correct and this Congress is a big spending Congress, then the President is a big spending President because we have each year of his term spent what he asked. We have spent what he requested. The only difference is that the Congress has continually asked for less deficit than this President has wanted.

Now to complete my statement, let me say that, indeed, there is a mechanism by which we can reduce spending and balance this budget and it is called the budget. The President's budget and the Congress budget. And check the facts, my friend; this House has asked for less spending than this President has requested 3 years in a row, 3 years in a row.

The Republicans have voted against that reduction in spending in the majority and the Democrats have voted in favor of it.

Mr. Chairman, I yield back the balance of my time.

Mr. SIMON. Yes, Mr. Chairman, I do not want to cut off any serious debate, but we are wandering far afield from the bill at hand. I ask unanimous consent to cut off all debate on this amendment in 10 minutes.

Mr. DANNEMEYER. I object, Mr. Chairman.

Mr. WEBER. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope my colleague, Mr. WILLIAMS, will stay in the Chamber for a moment. I will cite an interesting reference from the National Taxpayers Union which prepared an analysis of the voting record of all of us serving in the 97th Congress. This is for the second session.

The National Taxpayers Union, you know, prepares an analysis of voting records for all votes, not just a few, all votes on spending. And it is interesting because it has reference to two Members serving from Montana; one's name is WILLIAMS. And it categorizes all of us in four ways: Good, 63 percent or more; fair, 43 to 62 percent; average, 38 to 42 percent; and big spending, 27 percent or less.

Now when you apply that category to the gentleman from Montana (Mr. WILLIAMS) what do you know? You find he has 25. That makes him a big spender. And I thought he would like to know that because maybe his mail has not reached him yet from the National Taxpayers Union which rates the Members of Congress and in case he has not seen it, it is right here. I will be happy to share it with him.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to my colleague.

Mr. BADHAM. I thank the gentleman for yielding.

Mr. Chairman, I am very pleased that he brought that business up about the National Taxpayers Union and the big spenders including the gentleman from Montana, because I think he might have misspoke himself just a little bit when he was speaking about the Democrats and cutting the deficits, saving all this money.

Is the gentleman aware that last year and the 2 years previous that from the budget requests and the budget numbers in the appropriations bills passed by this House that every category of appropriation over the budget requests of the President was increased by this House, every category, with the exception of one? And that was the defense of our country.

And we cannot do all the deficit cutting and all the budget cutting by reducing the readiness of this country. But I would thank the gentleman for yielding and maybe he can get an answer to the fact that was the other gentleman aware that every category of appropriation was increased except one?

Mr. DANNEMEYER. I am glad my colleague brought that out. It is a very interesting fact and I am sure the Members of the House will rest a little more safely this evening knowing that.

Mr. ALEOSTA. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Michigan.

Mr. ALBOSTA. I certainly thank the gentleman from California for yielding to myself. I think I have listened to the debate for some time and I believe that we are talking about trying to find a way to prevent deficit financing at the same time we are talking about a very necessary educational program.

Let me ask the gentleman from California if he would agree that we must find a different way to address the issues of the countries like El Salvador, Nicaragua, all the countries in Central America or those in Africa or those in Eastern Asia, the Near East?

Do we not have to do something to try to find a different way to persuade the vast amount of people, remembering that 90 percent of the people in Nicaragua during the Somoza regime was in poverty; poverty that they could not get out of. And we were offering them nothing. Do you not agree we have to now offer them something?

Mr. DANNEMEYER. Well, I will say to my colleague from Michigan on the issue of spending that in case he did not see this analysis of the National Taxpayers Union, the distinguished Member, Mr. ALBOSTA here, has a rating of 25 which also puts him in the category of a big spender.

And the National Taxpayers Union is unique among organizations that rate Members of Congress—it is unique among Members of Congress because it rates all those, defense, nondefense. So I think it is a fairly accurate analysis of who is responsible for this big spending.

Mr. ALBOSTA. If the gentleman would yield on the question that I had asked him. Do not we have to find a different way? I think we ought to talk constructively about the issue before us.

Mr. DANNEMEYER. I will respond if I may. I think the most constructive step that this country can take to the problems of Central America would be to drive down the cost of borrowing money which is impeding economic progress around our Western World. That relates to the question of how do we get the inflation premium out of the lending rate, about 6 points? Today our prime is 11, it should be 5; that would help Central America.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. WEBER, and by unanimous consent, Mr. DANNEMEYER was allowed to proceed for 3 additional minutes.)

Mr. DANNEMEYER. I will tell you why I make that observation. I, like many Members of the House, have gone to Central America, San Salvador, Guatemala, trying to figure out what is the best course that our country can take there.

I had occasion to speak with some coffee growers in Santa Ana, San Salvador, early last spring. And one of the biggest problems they have of running their business, quite frankly, is the cost of borrowing money has reached such a level in their country that they are literally driven to the wall.

And America's dollar determines what it costs to borrow money in that part of the world and the way we get the inflation premium out of the lending rate is to get our borrowing requirements down, which means the U.S. Government has got to get its snout out of the borrowing trough.

And the way we get its snout out of the borrowing trough is to, unfortunately, tell the proponents of this legislation that the best thing we can do for the taxpayers of this country is not add yet another $150 million of debt onto the burden we are going to pass onto our grandchildren.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman.

Mr. ALBOSTA. I thank the gentleman. I would like to ask you some more questions. I have not been able to make my point. But I think it is important that I make my point through dialog between the minority and my viewpoints. So if you could get yourself to concentrate on the fact that we have to change policy in Central America or we cannot do anything about our influence in those particular areas.

Mr. DANNEMEYER. I am having difficulty trying to respond to my colleague; perhaps the gentleman from Minnesota can respond. I yield to the gentleman.

Mr. WEBER. I thank the gentleman.

I am not keeping up with it exactly. I wonder if our colleague can explain precisely how Central American peace policy relates either to the education bill or the budget deficit.

Mr. ALBOSTA. I will tell the gentleman exactly how it relates if the gentleman from California would yield.

Mr. DANNEMEYER. I yield to my colleague from Michigan.

Mr. ALBOSTA. I will tell you how it relates, because I do not think we can win the battle in Central America unless we are willing to educate our people in the languages of those countries. We have to be able to do that. We have to be able to send doctors over there that can speak the language of those countries. We have to send educators over there, engineers over there, that speak the languages of those countries.

The way we can reduce our military expenditures, pay for this bill without any deficit financing, would be to contribute the amount of money that is necessary to run this program and put it on a fast track so that we can get our points of view across to those people in the languages that they speak in those countries.

And then we start helping them. And we send our soldiers into that country to protect those Peace Corps workers or whoever it is, teachers that are working in that country, that is the only way that we are going to win. If we refuse to do it, if we refuse to make those expenditures, then we will fail in Central America, and it is creeping right up through Mexico.

Mr. DANNEMEYER. I will say to my colleague in response.

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The CHAIRMAN. The time of the gentleman from California (Mr. DANNEMEYER) has expired.

Mr. WEBER. Mr. Chairman, I ask unanimous consent that the gentleman from California (Mr. DANNEMEYER) may proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. OBERSTAR. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

And I am sorry that the distinguished Member from Illinois is not on the floor, because he made some comments earlier that I think need to be clarified.

First of all, he made the reference to the gentleman from Pennsylvania (Mr. GEKAS) being new to the body and possibly raising the issue without understanding, but, in fact, the gentleman from Pennsylvania (Mr. GEKAS) has had more legislative experience than the gentleman from Illinois. We have a very distinguished junior Member of our body who earlier had spent 14 years in the Pennsylvania Legislature and who is well aware of the procedures and processes by which our legislative body governs itself.

But I suspect the gentleman from Pennsylvania, like I, was surprised to see this bill come to the floor in this form, that the reason he offered the amendment so hastily is because we frankly expected, after our earlier dialog on the Library Construction Act, that the chairman from Illinois, who had told us he favored the line-item veto, who told us he believed in working together, who told us that he wanted to see a sophisticated and an appropriate legislative line-item veto develop, that we expected the gentleman from Illinois to bring on the floor a bill which would contain precisely what we had discussed over a month ago.

And so if any burden is to be borne in this body it is by the chairman of the subcommittee, who did not do what we understood, from a colloquy on the floor, he would seek to do. He has not developed a line-item veto, he does not have the appropriate language in the bill, he does not seem to be pursuing it.

But let me go to one other step. And I might say in passing that since my doctorate is in modern European history, and I have lived in France, Germany, and Belgium, I have some considerable interest in foreign language education and I would be inclined to vote for this bill. But I think that we have to look at the budget and when the gentleman from Montana, upon being pressed, suggested that the clearest single example of wasteful money or money that should not be spent was the debt and the interest on the debt, he probably is not aware or might not be aware of section 4 of the Constitution of the United States, which says:

> The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services . . . shall not be questioned.

Now, the problem we face is that constitutionally we cannot deal directly with interest on the debt and the only thing our good friends on the left seem capable of finding is defense to cut. And, in fact, it was totally appropriate that the gentleman from Illinois would rise and cite a tank as, in his opinion, an example of a nonprofitable thing to invest in. But since the gentleman from Illinois has returned, I would simply like to repeat my earlier comments for a second and he might wish to respond to it.

First, contrary to the gentleman's earlier assumption, the gentleman from Pennsylvania in fact has now had 16 years of legislative experience of which only 2 are in this body, but we generally accept State legislatures as legitimate places to practice.

Second, in our earlier dialog on the Library Construction Act, the gentleman assured us that he in fact agrees on the principle of the line-item veto. And I simply want to proffer that from our side of the aisle if there was any haste in offering a specific amendment, it was because many of us had come to believe that possibly the next time the gentleman brought a bill to the floor it might contain what the gentleman thought was a sophisticated and appropriate sort of language allowing us to have a line-item veto.

Mr. MACK. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Florida.

Mr. MACK. I thank the gentleman for yielding.

I would just like to expand, I guess, on some of the thoughts that the gentleman just brought up as to why this might be a surprise act that we have here this afternoon.

One of the things that I have found out in the short period of time that I have been here, unlike the gentleman from Pennsylvania (Mr. Gekas), I did not have the 14 years of experience in legislative matter, but I fully expected to be able to come here and talk about issues that face the country and try to deal and to try to solve those problems.

And I found out that when we went to our various committee meetings that the entire effort was being controlled by the other side. In fact, Members did not even have to show up. They had proxy votes. Some people call them "ghost" votes. I could not express those opinions that we ought to talk about the line-item veto.

I do not understand why there is this shock and concern about coming to the floor of the House, which is where I thought the American people decided what they wanted to have done with their Government. Here we are on the floor of the House trying to decide something that we believe in and we are being told that this is a surprise act.

Let me make just one further comment, if I could, having to do with the defense issue that has been raised.

Just recently CBO came out with another analysis of defense spending and another analysis of its composite figure for its deflator. And the interesting thing that they said in combination of those two, is that if there was not one dollar, one real dollar increase over the next 5 years in defense spending, you would end up with a budget deficit in 1989 of $246 billion.

My point is we are going to have to find some other areas in this budget of over $800 billion to talk about as to where we can cut it.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Gingrich) has expired.

(By unanimous consent, Mr. Gingrich was allowed to proceed for 3 additional minutes.)

Mr. GINGRICH. One final comment and then I will be glad to yield to the distinguished gentleman from Illinois.

Since the gentleman is a member of the leadership on his side and his side does control this House, we would be perfectly happy to cease offering amendments of this kind if in fact the gentleman's leadership would commit itself to an orderly procedure for bringing things like line-item veto to the floor. We would be perfectly willing, I think everyone on our side, if we knew we were going to have a part in scheduling and in working out a procedure by which adults might negotiate together. I think we could have a regular and orderly process of dealing with these issues that are not real large and not real small.

But so long as the gentleman's leadership retains the right by caprice and ambush to bring out things such as ERA on less than 1 day's notice under suspension, we feel that we have to use those limited tools that are available to the minority to insure that the American people are heard.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to my distinguished colleague from Illinois.

Mr. SIMON. I thank the gentleman from Georgia. I thank him for promoting me to the leadership over on this side, but I am afaid I do not qualify in that regard.

Let me just mention a couple of things. No. 1, the gentleman said why does this bill not include this provision the gentleman is talking about. This bill was reported out of committee May 16, a long time before our earlier conversation.

Second, if the gentleman from Georgia is serious, and I have no reason to doubt that he is serious, I think what we have to do is to get three or four Members on the gentleman's side and three or four Members from our side to sit down and say, "How can we work something out that is sensible?"

Now, we can continue posturing on both sides and making all kinds of speeches and making points back home or we can try and get a job done.

Frankly, this is why I am cosponsoring the whole idea of the bipartisan commission along the line that the Senator from Kansas (Mr. Dole) talked about some time ago.

What we are involved in right now is a specific suggestion that we have a procedure that would result in just a legislative mess. And I do not think the gentleman from Georgia seriously would want to see this kind of amendment on every other bill that came along.

Mr. GINGRICH. If I may reclaim my time, I think that the gentleman would agree that in fact he did have the opportunity since our conversation to himself craft a committee amendment which would achieve our purpose, that he was not hamstrung and that certainly as chairman of the subcommittee he could have brought it.

Mr. WEBER. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Minnesota.

Mr. WEBER. I would just point out further that the whole concept of a line-item veto balanced budget amendment, if it is to be considered under the normal procedures as the gentleman from Illinois commends to us, must come through the committee. The committee structure obviously is not working because there is no plan to consider that amendment any further, no plan to bring it to the floor.

So we are forced to resort to what may be variously described as extraordinary procedures, whether it be the procedure of bringing it up directly on a bill such as this today or the extraordinary procedure the gentleman from Illinois has described which is for a few of us to huddle in the back of the room today to talk about it. There is no real difference. We are talking about a procedure outside of the normal committee structure because the committee will not act on this.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Gingrich) has expired.

Mr. ALBOSTA. Mr. Chairman, I ask unanimous consent that the gentleman from Georgia (Mr. Gingrich) may proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. OBERSTAR. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is unfortunate that debate has been sidetracked onto an extraneous matter, not unimportant in

itself, but extraneous to the subject of this legislation.

I have addressed myself to the matter of the line-item veto in the past. And for my colleagues to my previous observations about the inappropriateness of the line-item veto and the appropriate provisions of the Budget and Impoundment Control Act of 1974 which does give the President sufficient authority within the bounds of the Constitution in appropriate manner of proper administration of checks and balances which is within our constitutional framework.

And I wanted to rise in very strong support of this legislation and commend the gentleman from Illinois for his year-long endeavor to bring this bill to the floor, for his more than year-long effort prior to introduction of the bill to shape the legislation.

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I was pleased to join with him in making suggestions on the content of the legislation. The bill as constituted makes a tremendous advancement in the teaching of foreign languages and the stimulating of interest and capacity in foreign language education and capability on the part of students at elementary and secondary level and at the higher institution level of this country.

For a very modest investment on the part of the people of the United States we would be able to make a very major leap forward in the development of foreign language teaching capability and foreign language understanding and fluency on the part of students throughout the United States.

One of the provisions of this legislation that I particularly encouraged in its formulation—and I am delighted that it has been retained in the bill—is that provision providing stimulative funding for summer high school language institutes. There is a pioneering program in the State of Minnesota, the International Language Village Program of Concordia College at Moorhead, Minn., which teaches seven different languages in a summer program that brings together students throughout the State of Minnesota and from other States in a total immersion approach in which the students speak the language of their particular village all day, all evening, throughout the 1- to 4-week course in which they are enrolled. I happened to visit the program last summer and found the students enthusiastic about their participation. Being a French language major and fluent in French myself, I was able to converse with the students and to determine the level of progress they had made, since I had known some of them prior to their enrollment in the program, and I could see that in the 2- and 4-week programs they had made tremendous advances.

Well, if we could encourage the proliferation of programs by this modest amount of stimulative funding, where we could encourage the development of such institutes throughout the United States, we would be making a major advance in foreign language education training. And, of course, the provisions that allow summer teacher institutes to improve the skills of those who are teachers of foreign languages. Surely, nothing can be more important for a nation that is immersed in world trade, which depends so heavily on commerce among nations, than to develop here in the United States, capability for foreign language among people at all sectors of our society and beginning in the elementary and secondary schools. That is the place to begin, to spark the interest and to insert the taste for foreign language and for students to grasp the significance not just of words, of phrasing, of phonetics, of diction, but also the fact that when you are studying a foreign language you are entering into the culture of a people, the culture of a people whose language you are studying, you enter into their thought process, into their history and into their current events.

I earnestly hope that this legislation will be passed overwhelmingly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GEKAS).

The question was taken, and on a division (demanded by Mr. GEKAS) there were—ayes 15, noes 9.

Mr. SIMON. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 30]

Ackerman
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Applegate
Archer
Aspin
AuCoin
Badham
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Bilirakis
Bliley
Boehlert
Boggs
Boland
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coleman (MO)
Coleman (TX)
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foley
Ford (MI)
Fowler
Frank
Franklin
Frenzel
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hartnett
Hawkins
Hayes
Hefner
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Markey
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Pease
Penny
Perkins
Petri
Pickle
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
Staggers
Stangeland
Stenholm
Stokes
Stratton
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres

Torricelli
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wirth
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

☐ 1400

The CHAIRMAN. Three hundred seventy-seven Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois (Mr. SIMON) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. As previously announced, this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 145, noes 243, not voting 45, as follows:

[Roll No. 31]

AYES—145

Archer
Badham
Bartlett
Bateman
Bennett
Bereuter
Bethune
Bilirakis
Bliley
Broomfield
Brown (CO)
Burton (IN)
Byron
Campbell
Carney
Chandler
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Coleman (TX)
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Daub
Davis
DeWine
Dickinson
Dreier
Duncan
Edwards (AL)
Emerson
Evans (IA)
Fiedler
Fields
Fish
Franklin
Frenzel
Gekas
Gingrich
Goodling
Gradison
Gramm
Gregg
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Hiler
Hillis
Holt
Hopkins
Hubbard
Huckaby
Hunter
Hyde
Ireland
Johnson
Kasich
Kemp
Kindness
Lagomarsino
Leach
Lent
Lewis (FL)
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Mack
Marriott
Martin (IL)
Martin (NC)
McCain
McCandless
McCollum
McDade
McGrath
McKernan
Michel
Miller (OH)
Montgomery
Moore
Moorhead
Morrison (WA)
Nichols
Nielson
O'Brien
Oxley
Packard
Parris
Pashayan
Patman
Petri
Pursell
Ray
Ridge
Ritter
Roberts
Roemer
Rogers
Rudd
Schaefer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (NE)
Smith (NJ)
Smith, Denny
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Taylor
Thomas (CA)
Vander Jagt
Vandergriff
Vucanovich
Walker
Weber
Whitehurst
Whittaker
Williams (OH)
Winn
Wolf
Wylie
Young (AK)
Young (FL)
Zschau

NOES—243

Ackerman
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Applegate
Aspin
AuCoin
Barnes
Bates
Bedell
Beilenson
Berman
Bevill
Biaggi
Boehlert
Boggs
Boland
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Brown (CA)
Bryant
Burton (CA)
Carper
Carr
Chappell
Clarke
Clay
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
Darden
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (CA)
Edwards (OK)
English
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hamilton
Harkin
Harrison
Hawkins
Hayes
Hefner
Hertel
Hightower
Horton
Howard
Hoyer
Hughes
Hutto
Jacobs
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Levitas
Lewis (CA)
Lipinski
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
MacKay
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Panetta
Pease
Penny
Pepper
Perkins
Pickle
Price
Pritchard
Rahall
Rangel
Ratchford
Regula
Reid
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Savage
Sawyer
Schneider
Schroeder
Schumer
Seiberling
Sharp
Sikorski
Simon
Sisisky
Slattery
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauke
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Wheat
Whitley
Whitten
Williams (MT)
Wirth
Wise
Wolpe
Wortley
Wyden
Yates
Yatron
Young (MO)

NOT VOTING—45

Addabbo
Anthony
Barnard
Boner
Bonior
Bonker
Broyhill
Coelho
Collins
Conable
Corcoran
D'Amours
Eckart
Erdreich
Erlenborn
Foglietta
Forsythe
Fuqua
Hall, Sam
Hance
Hatcher
Heftel
Jeffords
Latta
Leath
Lloyd
Madigan
Marlenee
Martin (NY)
McEwen
McHugh
Patterson
Paul
Porter
Quillen
Roth
Scheuer
Shannon
Smith, Robert
St Germain
Tauzin
Towns
Watkins
Wilson
Wright

☐ 1410

The Clerk announced the following pairs:

On this vote:

Mr. Erlenborn for, with Mr. Addabbo against.

Mr. Quillen for, with Mr. Anthony against.

Mr. Porter for, with Mr. Coelho against.

Mr. Latta for, with Mrs. Collins against.

Mr. Madigan for, with Mr. Towns against.

Mr. ORTIZ and Mr. McCLOSKEY changed their votes from "aye" to "no."

Mrs. JOHNSON changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: At the end of the bill add the following new section:

SEC. 12. Notwithstanding any other provisions of this Act, the total amount authorized to be appropriated for each fiscal year authorized in this Act, is reduced by 10 per centum.

Mr. WALKER. Mr. Chairman, what we have before us is a new program. I think we can start from the premise that any new program, no matter how meritorious it might be, is pure deficit add-on. Any time we decide in this Chamber that we are going to have more spending, we simply add to the deficit, because that spending has to be added on to the deficit.

What my amendment proposes to do with regard to this bill is to say that in some small way we ought to take cognizance of the fact that we are in fact passing a new program with $150 million of new spending in it; so what my amendment proposes is a 10-percent across-the-board cut. It would amount to $15 million over the 3 years the bill would be authorized.

Now, I do not contend and I do not think anybody else would contend that a $5 million a year savings for each of the 3 years that this program would be in effect is going to get us anywhere close to a balanced budget, but it would at least show that we have a determination to move toward a more acceptable budget, and when we bring these items out on to the floor that we recognize there are in fact spending implications to that which we do that end up being a deficit add-on.

I would remind the House that what we have done so far this week is that we have spent lots of new money. We had three bills before us, all of which are spending add-ons. One bill was the National Council on Arts and Humanities. That was a spending add-on bill. Then we created a new committee in the House yesterday. That was more spending. Today we are creating another new program.

Mr. MITCHELL. Mr. President, the House is not in order. I know that we want to show respect for our colleague from Pennsylvania. Let us be quiet and hear his words of wisdom.

Mr. WALKER. Mr. Chairman, I want to thank the gentleman from Maryland very much. I know he is always very attentive to these issues where we are raising spending issues. I want to thank him very, very much for his courtesy extended.

Mr. Chairman, today here we are, we are creating another new program which indeed is more money; so all I would say is that if we adopt this amendment and at least lower the level of spending a little bit that we still send some signal that we are in fact determined to do something about deficits. We are faced with $200 billion deficits, as we are so often reminded on this floor, and it seems to me that a 10-percent cut in spending here would at least be a move in the right direction and does not seem at all unreasonable.

I will at this point yield back the balance of my time. This could have been a lot shorter if we had been able to have a little order in the House. I thank the Chair.

Mr. SIMON. Mr. Chairman, I rise in opposition to the amendment. I shall not take my 5 minutes and I hope we can dispose of this quickly.

I would simply point out three things. First, this is a modest amount that has been agreed to by the minority side and the majority side after carefully looking at this bill.

Second, this is an area where the Commerce Department of the United States says that we have a serious problem that is impairing foreign trade.

Third, the Secretary of Defense, Mr. Weinberger, wrote to the Secretary of Education here a few months ago saying that this is an area we have to strengthen.

This is also the area where Adm. Bobby Inman at that point Deputy Director of the CIA, testified that our foreign language deficiencies, and I quote, "are a major long-range hazard to the security of this country."

□ 1420

For us now to cut back with this, and I recognize the good intent of the gentleman from Pennsylvania, I think is a mistake. I think his amendment ought to be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 35, noes 67.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: On page 3, after line 3, insert the following new section (and redesignate the succeeding sections and references thereto accordingly):

ESTABLISHMENT AND PURPOSE OF THE NATIONAL COMMISSION FOR UTILIZATION AND EXPANSION OF LANGUAGE RESOURCES

SEC. 3. (1) There is established a commission which shall be known as the National Commission for the Utilization and Expansion of Language Resources (hereafter in this Act referred to as the "Commission"). The Commission shall—

(a) develop national policy for the identification, preservation, and improvement of language resources;

(b) evolve an active program for the utilization of the language resources of the United States and to encourage the development of language skills for use in nontraditional areas such as commerce, trade, and defense;

(c) serve as consultant and coordinator to National and State professional educational associations for the development and implementation of programs and activities designed to preserve and identify language resources;

(d) identify information needed to inventory language resources, and coordinate the development of this data with the various executive departments;

(e) provide data on language resources to Federal, State, and local government agencies; education systems, colleges, universities, and private businesses, in accordance with demonstrated needs and the national interest; and

(f) make information available about language resources and their use to the military and intelligence communities as such resources relate to national security.

(2) Membership. (a) The Commission shall be composed of ten members, five of whom shall be appointed by the President and five of whom shall be appointed by the Secretary of Education or his designated representative. The President and the Secretary shall appont as members of the Commission, scholars, educators, or public servants who have made notable contributions to the field of language study. A vacancy in the Commission shall be filled in the same manner as the original appointment was made.

(b) Members shall be appointed for four years. Five members of the initial Commission shall be appointed for two-year terms. All Commission members shall be eligible for reappointment by the President.

(c) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(d) Six members of the Commission shall constitute a quorum.

(e) The Chairman of the Commission shall be elected by the members of the Commission from the Commission membership.

(3) Powers of Commission. (a) The Commission may appoint and fix the compensation of such personnel as it deems advisable in accordance with (i) the provisions of title 5, United States Code, governing appointments in the competitive service, and (ii) the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(b) The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(c) When so authorized by the Commission, any member of agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) The Commission may secure directly from any department, agency, or instrumentality of the Government of the United States or the government of the District of Columbia information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, such department, agency, or instrumentality, shall furnish such information to the Commission.

(4) Report. The Commission shall submit a report annually of the results of its program to each House of Congress and to the President.

Page 18, after line 15, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(1) Such funds as may be necessary to carry out section 3 of this Act;

Mr. GONZALEZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GONZALEZ. Mr. Chairman, this is a very important bit of legislation pending. My amendment is offered in very deadly earnestness and with very serious intentions, because this amendment reflects legislation I have been introducing for eight Congresses, because I long ago recognized the importance of this issue.

To bring home the importance of the necessity of us preserving and conserving our language resources in our country, abundant and numerous as in no other country, I called for the creation of a commission that would bring this about.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I will be glad to yield.

Mr. SIMON. The gentleman has an idea here that I think may very well be the germ of a solid idea. We have worked this thing out with the other side, and I am reluctant to take apart an agreement on a bill.

The gentleman does have a separate bill that would do this, and I would like to assure the gentleman from Texas that if he should decide to withdraw this amendment I would be pleased to guarantee him that we can hold hearings on this idea and see where we go from there.

Mr. GONZALEZ. I thank the very distinguished chairman and I will accede to that request, but after I have used a little bit of my 5 minutes.

I really appreciate the commitment, because it has been difficult to get hearings. As I said, it has been about eight or eight and a half Congresses that I have introduced this legislation, but only once did we ever get or merit a subcommittee hearing, and that was in 1969.

In all seriousness and in order to illustrate the seriousness of it and the heavy damages that our country has paid for our continued indifference to the need reflected in the pending legislation, and also in my bill that is pending, during the Vietnam conflict America did not have one person, either in the military or in the civilian intelligence, CIA, FBI, or in the executive branch of the Government that knew the Vietnamese tongue or tongues, not one, not one.

I am going to indulge in a little bit of personal history because I think it will add to making the point I would like to bring across today.

When I first went to school in the first grade I did not know a word of English. I knew two languages, though. One was my own family or mother tongue, Spanish, and the other was German. So as a result I had to stay a whole year in what we call the low first.

But it also afforded an opportunity to comprehend the beauty and the significance of two of the greatest languages in the world. In my immediate environment at that time, and up to and following the first year after World War II, we had community newspapers, weeklies in the neighboring counties that were published in German. They are gone now. That resource is lost to this country.

In San Antonio we had the only Spanish language daily newspaper published in the United States for 44 consecutive years, and the only Spanish language daily published without fail during the 44 years in the entire Western World, North America, and South America.

It is gone. There is no way that anything like that could be reestablished today.

We have lost and have caused to be eroded these tremendous, tremendous assets.

So I want to announce my support of the Simon bill, but also seek the support, the active support of my colleagues for the bill I have been introducing that simply would recognize as a national policy our responsibility to preserve and conserve our natural linguistic or language resources that we have inherited from every single contributing member of the human race. Let us not lose that.

The **CHAIRMAN**. The time of the gentleman from Texas (Mr. GONZALEZ) has expired.

(By unanimous consent Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. **GONZALEZ**. I also render personal testimony to the wealth of opportunity it has given me to know two languages.

We have an old story back in Texas and it relates to this little mouse that was always ducking the cat because he would wait in his hole until he heard the dog barking. Then he knew it was safe to come out because the cat would not be around. Then on one of those occasions he heard the dog bark and he came out and soon found himself in the paws of the cat. And he said, "I don't understand this, Mr. Cat. I thought I heard the dog."

The cat said, "My friend, it pays to be bilingual."

☐ 1430

Mr. Chairman, I ask unanimous consent that I be permitted to withdraw my amendment.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Texas?

There was no objection.

The **CHAIRMAN**. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The **CHAIRMAN**. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. TRAXLER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2708) to further the national security and improve the economy of the United States by providing grants for the improvement of proficiency in critical languages, for the improvement of elementary and secondary foreign language instruction, and for per capita grants to reimburse institutions of higher education to promote the growth and improve the quality of postsecondary foreign language instruction, pursuant to House Resolution 440, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The **SPEAKER**. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The **SPEAKER**. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER**. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **DANNEMEYER**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas, 265, nays, 120, not voting 48, as follows:

[Roll No. 32]

YEAS—265

Ackerman
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Annunzio
Aspin
AuCoin
Barnes
Bates
Bedell
Beilenson
Bereuter
Berman
Biaggi
Bilirakis
Boehlert
Boggs
Boland
Bonior
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Bryant
Burton (CA)
Carr
Chandler
Chappell
Clarke
Clay
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Conte
Conyers
Coughlin
Courter
Coyne
Crockett
D'Amours
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Durbin
Dwyer
Dymally
Early
Edgar
Edwards (AL)
Edwards (CA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fish
Florio
Foley
Ford (MI)
Fowler
Frank
Franklin
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Gonzalez
Goodling
Gray
Green
Guarini
Hall (IN)
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Harkin
Harrison
Hawkins
Hayes
Hefner
Hertel
Hillis
Hopkins
Horton
Howard
Hoyer
Hughes
Jenkins
Jones (NC)
Jones (TN)
Kaptur
Kastenmeier
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leach
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lipinski
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McDade
McGrath
McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Natcher
Neal
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Packard
Panetta
Parris
Pease
Penny
Pepper
Perkins
Petri
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose

Rostenkowski
Rowland
Roybal
Russo
Sabo
Savage
Sawyer
Schneider
Schroeder
Schumer
Seiberling
Sharp
Sikorski
Siljander
Simon
Skeen
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stangeland
Stark
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
Vandergriff
Vento
Walgren
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whitten
Williams (MT)
Williams (OH)
Wirth
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)

NAYS—120

Andrews (TX)
Applegate
Archer
Badham
Bartlett
Bateman
Bennett
Bethune
Bevill
Bliley
Brown (CO)
Burton (IN)
Byron
Campbell
Carney
Carper
Chappie
Cheney
Coats
Cooper
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Dickinson
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English
Evans (IA)
Fiedler
Fields
Frenzel
Gekas
Glickman
Gore
Gradison
Gramm
Gregg
Gunderson
Hansen (ID)
Hansen (UT)
Hartnett
Hightower
Hiler
Holt
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jacobs
Johnson
Jones (OK)
Kasich
Kemp
Kindness
Kramer
Lagomarsino
Lewis (CA)
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Livingston
Loeffler
Lowery (CA)
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Mack
MacKay
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McCain
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Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Myers
Nelson
Nichols
Nielson
Oxley
Pashayan
Patman
Pickle
Ray
Roberts
Roemer
Rogers
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Schaefer
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Shelby
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Slattery
Smith, Denny
Snyder
Solomon
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Taylor
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Walker
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Zschau

NOT VOTING—48

Addabbo
Anthony
Barnard
Boner
Bonker
Broyhill
Collins
Conable
Corcoran
Eckart
Erdreich
Erlenborn
Flippo
Foglietta
Ford (TN)
Forsythe
Fuqua
Hall, Sam
Hance
Hatcher
Heftel
Jeffords
Kazen
Latta
Leath
Lloyd
Lott
Madigan
Marlenee
Martin (NY)
McCurdy
McEwen
McHugh
Patterson
Paul
Porter
Quillen
Roth
Scheuer
Shannon
Smith, Robert
St Germain
Tauzin
Towns
Watkins
Waxman
Wilson
Wright

☐ 1450

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Paul against.

Mr. Porter for, with Mr. Latta against.

Mr. BEVILL and Mr. ANDREWS of Texas changed their votes from "yea" to "nay."

Mr. SILJANDER and Mr. COURTER changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 2708, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1765. An act to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked to proceed for 1 minute for the purpose of inquiring of the distinguished majority whip the program for the balance of this week and for next week.

Mr. FOLEY. Mr. Speaker, if the distinguished Republican leader will yield, we have concluded the legislative business for the day and for the week.

The House will meet in pro forma session on Monday, February 27, 1984.

On Tuesday, February 28, it will meet at noon and will consider three bills under suspension of the rules. Recorded votes will be postponed until after the debate on all suspension bills is concluded. The three bills are as follows:

H.R. 4956, to further extend the Export Administration Act; H.R. 3506, to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, Calif.; and H.R. 2014, to establish Illinois and Michigan Canal National Heritage Corridor in Illinois, and for other purposes.

On Wednesday, February 29, the House will meet at 3 p.m. to consider H.R. 3050, Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983, subject to a rule being granted. There will be general debate only on that bill.

On Thursday and Friday, March 1 and 2, the House will meet at 11 a.m. and will complete consideration of H.R. 3050, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983.

The House will adjourn by 3 p.m. on Friday. Conference reports may be brought up at any time, however, and any further program will be announced later.

That is the extent of the program as presently planned.

Mr. MICHEL. Mr. Speaker, would the gentleman wager a guess as to whether a Friday session really would be essential if we can complete the REA bill on Thursday?

Mr. FOLEY. If we complete the REA bill on Thursday, it is not the present intention to schedule a session on Friday.

Mr. MICHEL. I thank the gentleman.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. LUNGREN. I would like to address a question to the distinguished majority whip.

There has been a rumor circulating among some of us on the Judiciary Committee; it came to our attention that there was a possibility that the ERA—not the REA, but the ERA—might be brought up within the next couple of weeks. As I understand it, the REA bill should not take us 3 days, even though it is indicated that 3 days have been committed to it. This is not any indication that we might see the ERA bill next week, is it?

Mr. FOLEY. No. As far as I am aware, we have planned nothing for Wednesday and the rest of the week except the rule, general debate and final consideration of the REA bill.

I just responded to the distinguished Republican leader that if we complete that on Thursday, we will not be scheduling on Friday.

Mr. LUNGREN. If the gentleman will yield further, there has been, of course, as the gentleman knows, an ongoing question as to whether we might in fact deal with the immigration reform bill this year. I have been informed by some on the gentleman's side that a decision has been made by the leadership on the Democratic side as to when it will be brought up, and I would like to inquire as to whether the gentleman can inform the body.

Mr. FOLEY. If the gentleman from Illinois will further yield, we have had discussions on that matter. The Speaker has announced publicly that one of the bills that will be brought up this year is the Immigration Act. I think the general plan is that it will be considered sometime during the month of March. That is the present tentative schedule. I cannot give the gentleman any more precise date at this time.

Mr. LUNGREN. If the gentleman will yield further, as the distinguished majority whip knows, the Senate now has completed action on all 42 parts of the President's crime package. The President invited those of us on both the Democratic and Republican side, both the Senate and the House, who have any jurisdictional authority with respect to his crime package, well over a year ago, and at that time indicated that he understood the Senate would deal with it in a total package but that the House wanted to break it down into a number of different elements. Admittedly, on the Judiciary, we have not passed out much in that regard, but at least we did pass out a reform of the insanity defense. Since we are now coming up on the third anniversary of an unfortunate circumstance, the shooting of our President, which began the debate on the insanity defense in this country, I wonder if the distinguished majority whip might inform us as to whether there is any intention that we bring that up or any other part of the overall crime package presented to us by the President a year ago.

Mr. FOLEY. Perhaps the gentleman will yield at this time to the gentleman from New Jersey (Mr. HUGHES), who is chairman of the subcommittee.

Mr. MICHEL. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Speaker, I am really taken back somewhat by the statement of my colleague, the gentleman from California, that we have not done very much on the crime issue.

The fact of the matter is, as the gentleman well knows, crime is spread over about five different subcommittees of the judiciary. We have passed in this Congress, the 98th Congress, an antitampering bill, which the President has already signed, which was part of the package; we have passed the Justice Assistance Act, which is one of the major provisions within the omnibus bill. That passed the House by 399 to 16. It has been languishing in the Senate since last May. We passed the Drug Dependent Offenders Act, which is a bill, as the gentleman well knows, that tracks people who have drug problems who are out on probation and parole. That has been languishing in the other body since last May. As the gentleman well knows, we have passed a major child pornography bill, which the President referred to 2 weeks ago. That is in a conference committee between the House and the Senate. As the gentleman well knows, the Subcommittee on Crime has passed a major forfeiture bill and sentence reform bill, which goes to the full committee next week. As the gentleman well knows, the full committee has already passed the "Drug Czar," which is awaiting a rule. As the gentleman well knows, the Judiciary Committee has passed a major Extradition Reform Act, which was a part of the omnibus crime bill, which was removed from the bill sent over here.

And I might say to the gentleman that I think the President has been rather unfair because, you know, five of the provisions that are presently in the omnibus crime bill were part of the omnibus crime bill of the 97th Congress which the President vetoed. I have some difficulty understanding at this posture how anyone could suggest that we are not moving on crime legislation.

Now, I have looked at the omnibus bill, I will say to my colleague from California, and I believe that I have within my jurisdiction, that is, the Subcommittee on Crime jurisdiction, where HAL SAWYER is the ranking Republican member, about 10 parts of that, and every one of those parts are in the pipeline, either have been enacted into law or are in the process, in conference, sitting over on the Senate side awaiting action by the Senate, or else they are moving through committees expeditiously.

I might say to my colleague that a great deal of credit has been taken for the modification of the posse comitatus law. My colleague from California knows that we had to beat the Department of Defense over the head to take that legislation. The administration dragged its feet on that.

So we are doing our share on the parts of the omnibus crime package at least that I have jurisdiction over.

Mr. MICHEL. If I might make just one observation on that measure that has been adopted over in the other body, when you can get the senior Senator from Massachusetts, Mr. KENNEDY, and also the senior Senator from South Carolina, Mr. THURMOND, together on a piece of legislation—it covers a pretty wide spectrum—when that happens, it would appear to me for us to simply default on moving that would do an injustice to the American people.

□ 1500

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I would be happy to yield to my friend, the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the gentleman's comments. I would point out to him that the so-called major bill that he talked about the President vetoing last year contained 4 elements, several of which were not in the original 42-point package the President had. Drugs is one of them, of course, which the President vetoed it essentially for. We have a different form right now.

The forfeiture provisions which, frankly, are a watered down version of the forfeiture provision that the President has presented to us, and I would hope the gentleman would want to extend that in view of the Supreme Court's decision subsequent to that.

The justice assistance, which is the grandson of LEAA, and the career criminal bill, which is another thing the President never had in his proposal to begin with. So we have 2 out of 42.

I would also suggest to the gentleman that we have yet to deal with bail reform on this floor. We have yet to deal with sentencing reform on this floor. We have been told by the chairman of the Committee on the Judiciary that the death penalty is too controversial for us to deal with it. Many American people would like to know that it is too controversial for their elected representatives to deal with it.

We have not dealt with the habeas corpus reform, which the chairman of the Committee on the Judiciary has informed us is too controversial. We have not dealt with the exclusionary rule, which most prosecutors say is an essential thing for us to deal with, particularly in the area of drug abuse, and we have been informed by the chairman of the Committee on the Judiciary that that also is too controversial for us to deal with.

So essentially, as far as the total leadership is concerned, we really do not have much scheduled. As the gentleman has suggested, there are some things that his subcommittee has worked on, and I appreciate that, but that is only part of the pipeline. Somewhere along the line there is a constipation of that pipeline which does not allow us to deal with these things here on the floor. We can talk about it a lot, but there is nothing going on right now to deal with the comprehensive package the President sent to us, and I think everybody ought to be aware of that.

Mr. HUGHES. Mr. Speaker, will the gentleman yield to me further.

Mr. MICHEL. Briefly, I will yield to the gentleman from New Jersey, and make the observation that the points the gentleman makes are very well taken. I have been very careful on our side to be appointing some very significant people on committees such as Judiciary, all deserving in my judgment, after giving long hours to the discussion of the subject at subcommittee or full committee level, as having the fruition of their work come to either bloom or die or something, some resolution, out here on the floor.

So the gentleman is perfectly within his rights when he raises these questions.

Mr. HUGHES. Mr. Speaker, if the gentleman will yield further, let us face it. The gentleman and I have an excellent working relationship, and the gentleman knows full well that there is not one bill, one provision in an omnibus crime bill that comes to the Subcommittee on Crime that is not in our pipeline right now. The gentleman knows that. The gentleman knows that I have supported every provision that comes to my Subcommittee on Crime, as well as some of the provisions that the gentleman raises, such as bail reform, which the gentleman knows I support, a modification of the exclusionary rule, which the gentleman knows I support, reform of habeas corpus, which the gentleman knows I support.

But the point I want to make is that the gentleman knows that there is only one way to pass crime legislation.

Mr. LUNGREN. To have it on the floor and vote on it.

Mr. HUGHES. No; if you want to pass crime legislation, you have to deal with the crime issues individually, for the simple reason that if you send a package over here from the Senate, as has happened, it goes to about 15 different committees and subcommittees, any one of which could refuse to pass out their provisions, and the whole package goes down the drain.

The gentleman well knows that if you really want to just get up and make a lot of arguments, and I say they are spurious, about crime, and that is what you want to do, you want to get a lot of sex appeal out of the issue, then we are going about it in the right way, but if you really want to pass crime legislation, then we will have to deal with the issues one at a time.

When the gentleman suggests that that major forfeiture bill that the President vetoed in the 97th Congress was a watered-down version, I want to say to my colleague that I am afraid that he either did not read the bill very carefully or else he does not understand its full impact, and I cannot believe that he did not read it very carefully, because in the final analysis he is a very diligent legislator and I am sure that he is just mistaken, because that piece of legislation had very strong administrative forfeiture provisions in there. It had a whole new sentencing scheme in there that would increase the sentences manyfold. It had a whole new alternative fine provision in there. It, in fact, had a new presumption in there that all the assets that are acquired by a defendant after a criminal enterprise is underway are presumed to come from the criminal enterprise.

So I do not know how the gentleman can suggest it was watered down.

Mr. MICHEL. I do not think we can really debate that issue here this afternoon with such little notice being given to the Members if that is what we are going to talk about.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will yield one final time to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Speaker, the fact of the matter is, there has been a bipartisan effort to try and get major criminal legislation to the floor of this House. Approximately 18 years ago, the Brown Commission was established on a bipartisan basis for a comprehensive reform of the Criminal Code. I was on the Criminal Justice Subcommittee for 4 years. We passed out two different versions of that. We managed to pass it out of the committee both times. We were denied access to the floor in both Congresses.

In this Congress, the President sends up to us a comprehensive package, and yet we have had very few of those elements presented to the floor. I am not castigating the gentleman for his work on the subcommittee, but we are talking about the decisions that are made by the majority leadership as to what we are going to deal with.

I would just suggest that the insanity defense which we passed out of our committee last fall is certainly as important for us to discuss as an authorization for additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, Calif. I have been there. It is a beautiful site. It is wonderful. Yosemite is great. That whole administrative office is beautiful. But the American people want to know if we are going to do something about crime, not just give them the grandson of LEAA, but something about the Hinckley defense, something about the death penalty, something about those things that you have suggested are important, habeas corpus reform, but the chairman of the Committee on the Judiciary has said, "We will not allow them to see the light of day because they are controversial."

That is my point. We ought to be embarrassed, frankly, about the paucity of legislation that we have been dealing with over the past few weeks. It is a joke, unfortunately, that that is what we are dealing with when we have important questions coming out of committee after committee.

That is the only point I am making. I am not directing it at the chairman of that subcommittee.

Mr. MICHEL. Mr. Speaker, if my minute has expired, I will yield back the balance of my time.

ADJOURNMENT TO MONDAY, FEBRUARY 27, 1984

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. Coleman of Texas). Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT ON S. 47, SHIPPING ACT OF 1984

Mr. HUGHES submitted the following conference report and statement on the Senate bill (S. 47) to improve the international ocean commerce transportation system of the United States:

Conference Report (H. Rept. No. 98-600)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 47) to improve the international ocean commerce transportation system of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Shipping Act of 1984".

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Sec. 18. Agency Reports and Advisory Commission.
Sec. 19. Ocean Freight Forwarders.
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Sec. 22. Compliance with Budget Act.

SEC. 2. DECLARATION OF POLICY.

The purposes of this Act are—

(1) to establish a nondiscriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States with a minimum of government intervention and regulatory costs;

(2) to provide an efficient and economic transportation system in the ocean commerce of the United States that is, insofar as possible, in harmony with, and responsive to, international shipping practices; and

(3) to encourage the development of an economically sound and efficient U.S.-flag liner fleet capable of meeting national security needs.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) "agreement" means an understanding, arrangement, or association (written or oral) and any modification or cancellation thereof; but the term does not include a maritime labor agreement.

(2) "antitrust laws" means the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended; the Antitrust Civil Process Act (76 Stat. 548), as amended; and amendments and Acts supplementary thereto.

(3) "assessment agreement" means an agreement, whether part of a collective-bargaining agreement or negotiated separately, to the extent that it provides for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized.

(4) "bulk cargo" means cargo that is loaded and carried in bulk without mark or count.

(5) "Commission" means the Federal Maritime Commission.

(6) "common carrier" means a person holding itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation that—

(A) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination, and

(B) utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country.

(7) "conference" means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to utilize a common tariff; but the term does not include a joint service, consortium, pooling, sailing, or transshipment arrangement.

(8) "controlled carrier" means an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by the government under whose registry the vessels of the carrier operate; ownership or control by a government shall be deemed to exist with respect to any carrier if—

(A) a majority portion of the interest in the carrier is owned or controlled in any manner by that government, by any agency thereof, or by any public or private person controlled by that government; or

(B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier.

(9) "deferred rebate" means a return by a common carrier of any portion of the freight money to a shipper as a consideration for that shipper giving all, or any portion, of its shipments to that or any other common carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed with the terms of the rebate agreement or arrangement.

(10) "fighting ship" means a vessel used in a particular trade by an ocean common carrier or group of such carriers for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade.

(11) "forest products" means forest products in an unfinished or semifinished state that require special handling moving in lot sizes too large for a container, including, but not limited to lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, paper board in rolls, and paper in rolls;

(12) "inland division" means the amount paid by a common carrier to an inland carrier for the inland portion or through transportation offered to the public by the common carrier.

(13) "inland portion" means the charge to the public by a common carrier for the nonocean portion of through transportation.

(14) "loyalty contract" means a contract with an ocean common carrier or conference, other than a service contract or contract based upon time-volume rates, by which a shipper obtains lower rates by committing all or a fixed portion of its cargo to that carrier or conference.

(15) "marine terminal operator" means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier.

(16) "maritime labor agreement" means a collective-bargaining agreement between an employer subject to this Act, or group of such employers, and a labor organization representing employees in the maritime or stevedoring industry, or an agreement preparatory to such a collective-bargaining agreement among members of a multiemployer bargaining group, or an agreement specifically implementing provisions of such a collective-bargaining agreement or providing for the formation, financing, or administration of a multiemployer bargaining group; but the term does not include an assessment agreement.

(17) "non-vessel-operating common carrier" means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.

(18) "ocean common carrier" means a vessel-operating common carrier; but the term does not include one engaged in ocean transportation by ferry boat or ocean tramp.

(19) "ocean freight forwarder" means a person in the United States that—

(A) dispatches shipments from the United States via common carriers and books or otherwise arranges space for those shipments on behalf of shippers; and

(B) processes the documentation or performs related activities incident to those shipments.

(20) "person" includes individuals, corporations, partnerships, and associations existing under or authorized by the laws of the United States or of a foreign country.

(21) "service contract" means a contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as, assured space, transit time, port rotation, or similar service features; the contract may also specify provisions in the event of nonperformance on the part of either party.

(22) "shipment" means all of the cargo carried under the terms of a single bill of lading.

(23) "shipper" means an owner or person for whose account the ocean transportation of cargo is provided or the person to whom delivery is to be made.

(24) "shippers' association" means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or service contracts.

(25) "through rate" means the single amount charged by a common carrier in connection with through transportation.

(26) "through transportation" means continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States point or port and a foreign point or port.

(27) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and all other United States territories and possessions.

SEC. 4. AGREEMENTS WITHIN SCOPE OF ACT.

(a) Ocean Common Carriers.—This Act applies to agreements by or among ocean common carriers to—

(1) discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of service;

(2) pool or apportion traffic, revenues, earnings, or losses;

(3) allot ports or restrict or otherwise regulate the number and character of sailings between ports;

(4) limit or regulate the volume or character of cargo or passenger traffic to be carried;

(5) engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators or non-vessel-operating common carriers;

(6) control, regulate, or prevent competition in international ocean transportation; and

(7) regulate or prohibit their use of service contracts.

(b) Marine Terminal Operators.—This Act applies to agreements (to the extent the agreements involve ocean transportation in the foreign commerce of the United States) among marine terminal operators and among one or more marine terminal operators and one or more ocean common carriers to—

(1) discuss, fix, or regulate rates or other conditions of service; and

(2) engage in exclusive, preferential, or cooperative working arrangements.

(c) Acquisitions.—This Act does not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

SEC. 5. AGREEMENTS.

(a) Filing Requirements.—A true copy of every agreement entered into with respect to an activity described in section 4 of this Act shall be filed with the Commission, except agreements related to transportation to be performed within or between foreign countries and agreements among common carriers to establish, operate, or maintain a marine terminal in the United States. In the case of an oral agreement, a complete memorandum specifying in detail the substance of the agreement shall be filed. The Commission may by regulation prescribe the form and manner in which an agreement shall be filed and the additional information and documents necessary to evaluate the agreement.

(b) Conference Agreements.—Each conference agreement must—

(1) state its purpose;

(2) provide reasonable and equal terms and conditions for admission and readmission to conference membership for any ocean common carrier willing to serve the particular trade or route;

(3) permit any member to withdraw from conference membership upon reasonable notice without penalty;

(4) at the request of any member, require an independent neutral body to police fully the obligations of the conference and its members;

(5) prohibit the conference from engaging in conduct prohibited by section 10(c)(1) or (3) of this Act;

(6) provide for a consultation process designed to promote—

(A) commercial resolution of disputes, and

(B) cooperation with shippers in preventing and eliminating malpractices;

(7) establish procedures for promptly and fairly considering shippers' requests and complaints; and

(8) provide that any member of the conference may take independent action on any rate or service item required to be filed in a tariff under section 8(a) of this Act upon not more than 10 calendar days' notice to the conference and that the conference will include the new rate or service item in its tariff for use by that member, effective no later than 10 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item.

(c) Interconference Agreements.—Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences must provide the right of independent action for each conference.

(d) Assessment Agreements.—Assessement agreements shall be filed with the Commission and become effective on filing. The Commission shall thereafter, upon complaint filed within 2 years of the date of the agreement, disapprove, cancel, or modify any such agreement, or charge or assessment pursuant thereto, that it finds, after notice and hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports. The Commission shall issue its final decision in any such proceeding within one year of the date of filing of the complaint. To the extent that an assessment or charge is found in the proceeding to be unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall remedy the unjust discrimination or unfairness for the period of time between the filing of the complaint and the final decision by means of assessment adjustments. These adjustments shall be implemented by propsective credits or debits to future assessments or charges, except in the case of a complainant who has ceased activities subject to the assessment or charge, in which case reparation may be awarded. Except for this subsection and section 7(a) of this Act, this Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do not apply to assessment agreements.

(e) Maritime Labor Agreements.—This Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do not apply to maritime labor agreements. This subsection does not exempt from this Act, the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, any rates, charges, regulations, or practices of a common carrier that are required to be set forth in a tariff, whether or not those rates, charges, regulations, or practices arise out of, or are otherwise related to, a maritime labor agreement.

SEC. 6. ACTION ON AGREEMENTS.

(a) Notice.—Within 7 days after an agreement is filed, the Commission shall transmit a notice of its filing to the Federal Register for publication.

(b) Review Standard.—The Commission shall reject any agreement filed under section 5(a) of this Act that, after preliminary review, it finds does not meet the requirements of section 5. The Commission shall notify in writing the person filing the agreement of the reason for rejection of the agreement.

(c) Review and Effective Date.—Unless rejected by the Commission under subsection (b), agreements, other than assessment agreements, shall become effective—

(1) on the 45th day after filing, or on the 30th day after notice of the filing is published in the Federal Register, whichever day is later; or

(2) if additional information or documentary material is requested under subsection (d), on the 45th day after the Commission receives—

(A) all the additional information and documentary material requested; or

(B) if the request is not fully complied with, the information and documentary material submitted and a statement of the reasons for noncompliance with the request. The period specified in paragraph (2) may be extended only by the United States District Court for the District of Columbia upon an application of the Commission under subsection (i).

(d) Additional Information.—Before the expiration of the period specified in subsection (c)(1), the Commission may request from the person filing the agreement any additional information and documentary material it deems necessary to make the determinations required by this section.

(e) Request for Expedited Approval.—The Commission may, upon request of the filing party, shorten the review period specified in subsection (c), but in no event to a date less than 14 days after notice of the filing of the agreement is published in the Federal Register.

(f) Term of Agreements.—The Commission may not limit the effectiveness of an agreement to a fixed term.

(g) Substantially Anticompetitive Agreements.—If, at any time after the filing or effective date of an agreement, the Commission determines that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, it may, after notice to the person filing the agreement, seek appropriate injunctive relief under subsection (h).

(h) Injunctive Relief.—The Commission may, upon making the determination specified in subsection (g), bring suit in the United States District Court for the District of Columbia to enjoin operation of the agreement. The court may issue a temporary restraining order or preliminary injunction and, upon a showing that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, may enter a permanent injunction. In a suit under this subsection, the burden of proof is on the Commission. The court may not allow a third party to intervene with respect to a claim under this subsection.

(i) Compliance With Informational Needs.—If a person filing an agreement, or an officer, director, partner, agent, or employee thereof, fails substantially to comply with a request for the submission of additional information or documentary material within the period specified in subsection (c), the United States District Court for the District of Columbia, at the request of the Commission—

(1) may order compliance;

(2) shall extend the period specified in subsection (c)(2) until there has been substantial compliance; and

(3) may grant such other equitable relief as the court in its discretion determines necessary or appropriate.

(j) Nondisclosure of Submitted Material.—Except for an agreement filed under section 5 of this Act, information and documentary material filed with the Commission under section 5 or 6 is exempt from disclosure under section 552 of title 5, United States Code and may not be made public except as may be relevant to an administrative or judicial action or proceeding. This section does not prevent disclosure to either body of Congress or to a duly authorized committee or subcommittee of Congress.

(k) Representation.—Upon notice to the Attorney General, the Commission may represent itself in district court proceedings under subsections (h) and (i) of this section and section 11(h) of this Act. With the approval of the Attorney General, the Commission may represent itself in proceedings in the United States Courts of Appeal under subsections (h) and (i) of this section and section 11(h) of this Act.

SEC. 7. EXEMPTION FROM ANTITRUST LAWS.

(a) In General.—The antitrust laws do not apply to—

(1) any agreement that has been filed under section 5 of this Act and is effective under section 5(d) or section 6, or is exempt under section 16 of this Act from any requirement of this Act;

(2) any activity or agreement within the scope of this Act, whether permitted under or prohibited by this Act, undertaken or entered into with a reasonable basis to conclude that (A) it is pursuant to an agreement on file with the Commission and in effect when the activity took place, or (B) it is exempt under section 16 of this Act from any filing requirement of this Act;

(3) any agreement or activity that relates to transportation services within or between foreign countries, whether or not via the United States, unless that agreement or activity has a direct, substantial, and reason-

ably foreseeable effect on the commerce of the United States;

(4) any agreement or activity concerning the foreign inland segment of through transportation that is part of transportation provided in a United States import or export trade;

(5) any agreement or activity to provide or furnish wharfage, dock, warehouse, or other terminal facilities outside the United States; or

(6) subject to section 20(e)(2) of this Act, any agreement, modification, or cancellation approved by the Commission before the effective date of this Act under section 15 of the Shipping Act, 1916, or permitted under section 14b thereof, and any properly published tariff, rate, fare, or charge, classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.

(b) EXCEPTIONS.—This Act does not extend antitrust immunity—

(1) to any agreement with or among air carriers, rail carriers, motor carriers, or common carriers by water not subject to this Act with respect to transportation within the United States;

(2) to any discussion or agreement among common carriers that are subject to this Act regarding the inland divisions (as opposed to the inland portions) of through rates within the United States; or

(3) to any agreement among common carriers subject to this Act to establish, operate, or maintain a marine terminal in the United States.

(c) LIMITATIONS.—(1) Any determination by any agency or court that results in the denial or removal of the immunity to the antitrust laws set forth in subsection (a) shall not remove or alter the antitrust immunity for the period before the determination.

(2) No person may recover damages under section 4 of the Clayton Act (15 U.S.C. 15), or obtain injunctive relief under section 16 of that Act (15 U.S.C. 26), for conduct prohibited by this Act.

SEC. 8. TARIFFS.

(a) IN GENERAL.—

(1) Except with regard to bulk cargo, forest products, recycled metal scrap, waste paper, and paper waste, each common carrier and conference shall file with the Commission, and keep open to public inspection, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. However, common carriers shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of a through rate. Tariffs shall—

(A) state the places between which cargo will be carried;

(B) list each classification of cargo in use;

(C) state the level of ocean freight forwarder compensation, if any, by a carrier or conference;

(D) state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules or regulations that in any way change, affect, or determine any part or the aggregate of the rates or charges; and

(E) include sample copies of any loyalty contract, bill of lading, contract of affreightment, or other document evidencing the transportation agreement.

(2) Copies of tariffs shall be made available to any person, and a reasonable charge may be assessed for them.

(b) TIME-VOLUME RATES.—Rates shown in tariffs filed under subsection (a) may vary with the volume of cargo offered over a specified period of time.

(c) SERVICE CONTRACTS.—An ocean common carrier or conference may enter into a service contract with a shipper or shippers' association subject to the requirements of this Act. Except for service contracts dealing with bulk cargo, forest products, recycled metal scrap, waste paper, or paper waste, each contract entered into under this subsection shall be filed confidentially with the Commission, and at the same time, a concise statement of its essential terms shall be filed with the Commission and made available to the general public in tariff format, and those essential terms shall be available to all shippers similarly situated. The essential terms shall include—

(1) the origin and destination port ranges in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements;

(2) the commodity or commodities involved;

(3) the minimum volume;

(4) the line-haul rate;

(5) the duration;

(6) service commitments; and

(7) the liquidated damages for non-performance, if any.

The exclusive remedy for a breach of a contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree.

(d) RATES.—No new or initial rate or change in an existing rate that results in an increased cost to the shipper may become effective earlier than 30 days after filing with the Commission. The Commission, for good cause, may allow such a new or initial rate or change to become effective in less than 30 days. A change in an existing rate that results in a decreased cost to the shipper may become effective upon publication and filing with the Commission.

(e) REFUNDS.—The Commission may, upon application of a carrier or shipper, permit a common carrier or conference to refund a portion of freight charges collected from a shipper or to waive the collection of a portion of the charges from a shipper if—

(1) there is an error in a tariff of a clerical or administrative nature or an error due to inadvertence in failing to file a new tariff and the refund will not result in discrimination among shippers, ports, or carriers;

(2) the common carrier or conference has, prior to filing an application for authority to make a refund, filed a new tariff with the Commission that sets forth the rate on which the refund or waiver would be based;

(3) the common carrier or conference agrees that if permission is granted by the Commission, an appropriate notice will be published in the tariff, or such other steps taken as the Commission may require that give notice of the rate on which the refund or waiver would be based, and additional refunds or waivers as appropriate shall be made with respect to other shipments in the manner prescribed by the Commission in its order approving the application; and

(4) the application for refund or waiver is filed with the Commission within 180 days from the date of shipment.

(f) FORM.—The Commission may by regulation prescribe the form and manner in which the tariffs required by this section shall be published and filed. The Commission may reject a tariff that is not filed in conformity with this section and its regulations. Upon rejection by the Commission, the tariff is void and its use is unlawful.

SEC. 9. CONTROLLED CARRIERS.

(a) CONTROLLED CARRIER RATES.—No controlled carrier subject to this section may maintain rates or charges in its tariffs filed with the Commission that are below a level that is just and reasonable, nor may any such carrier establish or maintain unjust or unreasonable classifications, rules, or regulations in those tariffs. An unjust or unreasonable classification, rule, or regulation means one that results or is likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level. The Commission may, at any time after notice and hearing, disapprove any rates, charges, classifications, rules, or regulations that the controlled carrier has failed to demonstrate to be just and reasonable. In a proceeding under this subsection, the burden of proof is on the controlled carrier to demonstrate that its rates, charges, classifications, rules, or regulations are just and reasonable. Rates, charges, classifications, rules, or regulations filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission are void and their use is unlawful.

(b) RATE STANDARDS.—For the purpose of this section, in determining whether rates, charges, classifications, rules, or regulations by a controlled carrier are just and reasonable, the Commission may take into account appropriate factors including, but not limited to, whether—

(1) the rates or charges which have been filed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs, which are hereby defined as the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade;

(2) the rates, charges, classifications, rules, or regulations are the same as or similar to those filed or assessed by other carriers in the same trade;

(3) the rates, charges, classifications, rules, or regulations are required to assure movement of particular cargo in the trade; or

(4) the rates, charges, classifications, rules, or regulations are required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

(c) EFFECTIVE DATE OF RATES.—Notwithstanding section 8(d) of this Act, the rates, charges, classifications, rules, or regulations of controlled carriers may not, without special permission of the Commission, become effective sooner than the 30th day after the date of filing with the Commission. Each controlled carrier shall, upon the request of the Commission, file, within 20 days of request (with respect to its existing or proposed rates, charges, classifications, rules, or regulations), a statement of justification that sufficiently details the controlled carrier's need and purpose for such rates, charges, classifications, rules, or regulations upon which the Commission may reasonably base its determination of the lawfulness thereof.

(d) DISAPPROVAL OF RATES.—Whenever the Commission is of the opinion that the rates, charges, classifications, rules, or regulations filed by a controlled carrier may be unjust and unreasonable, the Commission may issue an order to the controlled carrier to show cause why those rates, charges, classifications, rules, or regulations should not be disapproved. Pending a determination as to their lawfulness in such a proceeding, the

Commission may suspend the rates, charges, classifications, rules, or regulations at any time before their effective date. In the case of rates, charges, classifications, rules, or regulations that have already become effective, the Commission may, upon the issuance of an order to show cause, suspend those rates, charges, classifications, rules, or regulations on not less than 60 days' notice to the controlled carrier. No period of suspension under this subsection may be greater than 180 days. Whenever the Commission has suspended any rates, charges, classifications, rules, or regulations under this subsection, the affected carrier may file new rates, charges, classifications, rules, or regulations to take effect immediately during the suspension period in lieu of the suspended rates, charges, classifications, rules, or regulations—except that the Commission may reject the new rates, charges, classifications, rules, or regulations if it is of the opinion that they are unjust and unreasonable.

(e) Presidential Review.—Concurrently with the publication thereof, the Commission shall transmit to the President each order of suspension or final order of disapproval of rates, charges, classifications, rules, or regulations of a controlled carrier subject to this section. Within 10 days after the receipt or the effective date of the Commission order, the President may request the Commission in writing to stay the effect of the Commission's order if the President finds that the stay is required for reasons of national defense or foreign policy, which reasons shall be specified in the report. Notwithstanding any other law, the Commission shall immediately grant the request by the issuance of an order in which the President's request shall be described. During any such stay, the President shall, whenever practicable, attempt to resolve the matter in controversy by negotiation with representatives of the applicable foreign governments.

(f) Exceptions.—This section does not apply to—

(1) a controlled carrier of a state whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment;

(2) a controlled carrier of a state which, on the effective date of this section, has subscribed to the statement of shipping policy contained in note 1 to annex A of the Code of Liberalization of Current Invisible Operations, adopted by the Council of the Organization for Economic Cooperation and Development;

(3) rates, charges, classifications, rules, or regulations of a controlled carrier in any particular trade that are covered by an agreement effective under section 6 of this Act, other than an agreement in which all of the members are controlled carriers not otherwise excluded from the provisions of this subsection;

(4) rates, charges, classifications, rules, or regulations governing the transportation of cargo by a controlled carrier between the country by whose government it is owned or controlled, as defined herein and the United States; or

(5) a trade served exclusively by controlled carriers.

SEC. 10. PROHIBITED ACTS.

(a) In General.—No person may—

(1) knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or by any other unjust or unfair device or means obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable;

(2) operate under an agreement required to be filed under section 5 of this Act that has not become effective under section 6, or that has been rejected, disapproved, or canceled; or

(3) operate under an agreement required to be filed under section 5 of this act except in accordance with the terms of the agreement or any modifications made by the Commission to the agreement.

(b) Common Carriers.—No common carrier, either alone or in conjunction with any other person, directly or indirectly, may—

(1) charge, demand, collect, or receive greater, less, or different compensation for the transportation of property or for any service in connection therewith than the rates and charges that are shown in its tariffs or service contracts;

(2) rebate, refund, or remit in any manner, or by any device, any portion of its rates except in accordance with its tariffs or service contracts;

(3) extend or deny to any person any privilege, concession, equipment, or facility except in accordance with its tariffs or service contracts;

(4) allow any person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighing, false measurement, or by any other unjust or unfair device or means;

(5) retaliate against any shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;

(6) except for service contracts, engage in any unfair or unjustly discriminatory practice in the matter of—

(A) rates;

(B) cargo classifications;

(C) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage;

(D) the loading and landing of freight; or

(E) the adjustment and settlement of claims;

(7) employ any fighting ship;

(8) offer or pay any deferred rebates;

(9) use a loyalty contract, except in conformity with the antitrust laws;

(10) demand, charge, or collect any rate or charge that is unjustly discriminatory between shippers or ports;

(11) except for service contracts, make or give any undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever;

(12) subject any particular person, locality, or description of traffic to an unreasonable refusal to deal or any undue or unreasonable prejudice or disadvantage in any respect whatsoever;

(13) refuse to negotiate with a shippers' association; or

(14) knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier without the consent of the shipper or consignee if that information—

(A) may be used to the detriment or prejudice of the shipper or consignee;

(B) may improperly disclose its business transaction to a competitor; or

(C) may be used to the detriment or prejudice of any common carrier.

Nothing in paragraph (14) shall be construed to prevent providing such information, in response to legal process, to the United States, or to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this Act. Nor shall it be prohibited for any ocean common carrier that is a party to a conference agreement approved under this Act, or any receiver, trustee, lessee, agent, or employee of that carrier, or any other person authorized by that carrier to receive information, to give information to the conference or any person, firm, corporation, or agency designated by the conference, or to prevent the conference or its designee from soliciting or receiving information for the purpose of determining whether a shipper or consignee has breached an agreement with the conference or its member lines or for the purpose of determining whether a member of the conference has breached the conference agreement, or for the purpose of compiling statistics of cargo movement, but the use of such information for any other purpose prohibited by this Act or any other Act is prohibited.

(c) Concerted Action.—No conference or group of two or more common carriers may—

(1) boycott or take any other concerted action resulting in an unreasonable refusal to deal;

(2) engage in conduct that unreasonably restricts the use of intermodal services or technological innovations;

(3) engage in any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of a common carrier not a member of the conference, a group of common carriers, an ocean tramp, or a bulk carrier;

(4) negotiate with a nonocean carrier or group of nonocean carriers (for example, truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by those nonocean carriers: Provided, That this paragraph does not prohibit the setting and publishing of a joint through rate by a conference, joint venture, or an association of ocean common carriers;

(5) deny in the export foreign commerce of the United States compensation to an ocean freight forwarder or limit that compensation to less than a reasonable amount; or

(6) allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper, except as otherwise required by the law of the United States or the importing or exporting country, or as agreed to by a shipper in a service contract.

(d) Common Carriers, Ocean Freight Forwarders, and Marine Terminal Operators.—

(1) No common carrier, ocean freight forwarder, or marine terminal operator may fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.

(2) No marine terminal operator may agree with another marine terminal operator or with a common carrier to boycott, or unreasonably discriminate in the provision of terminal services to, any common carrier or ocean tramp.

(3) The prohibitions in subsection (b) (11), (12), and (14) of this section apply to marine terminal operators.

(e) Joint Ventures.—For purposes of this section, a joint venture or consortium of

two or more common carriers but operated as a single entity shall be treated as a single common carrier.

SEC. 11. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

(a) Filing of Complaints.—Any person may file with the Commission a sworn complaint alleging a violation of this Act, other than section 6(g), and may seek raparation for any injury caused to the complainant by that violation.

(b) Satisfaction or Investigation of Complaints.—The Commission shall furnish a copy of a complaint filed pursuant to subsection (a) of this section to the person named therein who shall, within a reasonable time specified by the Commission, satisfy the complaint or answer it in writing. If the complaint is not satisfied, the Commission shall investigate it in an appropriate manner and make an appropriate order.

(c) Commission Investigations.—The Commission, upon complaint or upon its own motion, may investigate any conduct or agreement that it believes may be in violation of this Act. Except in the case of an injunction granted under subsection (h) of this section, each agreement under investigation under this section remains in effect until the Commission issues an order under this subsection. The Commission may by order disapprove, cancel, or modify any agreement filed under section 5(a) of this Act that operates in violation of this Act. With respect to agreements inconsistent with section 6(g) of this Act, the Commission's sole remedy is under section 6(h).

(d) Conduct of Investigation.—Within 10 days after the initiation of a proceeding under this section, the Commission shall set a date on or before which its final decision will be issued. This date may be extended for good cause by order of the Commission.

(e) Undue Delays.—If, within the time period specified in subsection (d), the Commission determines that it is unable to issue a final decision because of undue delays caused by a party to the proceedings, the Commission may impose sanctions, including entering a decision adverse to the delaying party.

(f) Reports.—The Commission shall make a written report of every investigation made under this Act in which a hearing was held stating its conclusions, decisions, findings of fact, and order. A copy of this report shall be furnished to all parties. The Commission shall publish each report for public information, and the published report shall be competent evidence in all courts of the United States.

(g) Reparations.—For any complaint filed within 3 years after the cause of action accrued, the Commission shall, upon petition of the complainant and after notice and hearing, direct payment of reparations to the complainant for actual injury (which, for purposes of this subsection, also includes the loss of interest at commercial rates compounded from the date of injury) caused by a violation of this Act plus reasonable attorney's fees. Upon a showing that the injury was caused by activity that is prohibited by section 10(b) (5) or (7) or section 10(c) (1) or (4) of this Act, or that violates section 10(a) (2) or (3), the Commission may direct the payment of additional amounts; but the total recovery of a complainant may not exceed twice the amount of the actual injury. In the case of injury caused by an activity that is prohibited by section 10(b)(6) (A) or (B) of this Act, the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.

(h) Injunction.—

(1) In connection with any investigation conducted under this section, the Commission may bring suit in a district court of the United States to enjoin conduct in violation of this Act. Upon a showing that standards for granting injunctive relief by courts of equity are met and after notice to the defendant, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the issue under investigation. Any such suit shall be brought in a district in which the defendant resides or transacts business.

(2) After filing a complaint with the Commission under subsection (a), the complainant may file suit in a district court of the United States to enjoin conduct in violation of this Act. Upon a showing that standards for granting injunctive relief by courts of equity are met and after notice to the defendant, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the complaint. Any such suit shall be brought in the district in which the defendant has been sued by the Commission under paragraph (1); or, if no suit has been filed, in a district in which the defendant resides or transacts business. A defendant that prevails in a suit under this paragraph shall be allowed reasonable attorney's fees to be assessed and collected as part of the costs of the suit.

SEC. 12. SUBPENAS AND DISCOVERY.

(a) In General.—In investigations and adjudicatory proceedings under this Act—

(1) depositions, written interrogatories, and discovery procedures may be utilized by any party under rules and regulations issued by the Commission that, to the extent practicable, shall be in conformity with the rules applicable in civil proceedings in the district courts of the United States; and

(2) the Commission may by subpena compel the attendance of witnesses and the production of books, papers, documents, and other evidence.

(b) Witness Fees.—Witnesses shall, unless otherwise prohibited by law, be entitled to the same fees and mileage as in the courts of the United States.

SEC. 13. PENALTIES.

(a) Assessment of Penalty.—Whoever violates a provision of this Act, a regulation issued thereunder, or a Commission order is liable to the United States for a civil penalty. The amount of the civil penalty, unless otherwise provided in this Act, may not exceed $5,000 for each violation unless the violation was willfully and knowingly committed, in which case the amount of the civil penalty may not exceed $25,000 for each violation. Each day of a continuing violation constitutes a separate offense.

(b) Additional Penalties.—

(1) For a violation of section 10(b) (1), (2), (3), (4), or (8) of this Act, the Commission may suspend any or all tariffs of the common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed 12 months.

(2) For failure to supply information ordered to be produced or compelled by subpena under section 12 of this Act, the Commission may, after notice and an opportunity for hearing, suspend any or all tariffs of a common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member.

(3) A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended or after its right to utilize that tariff has been suspended is subject to a civil penalty of not more than $50,000 for each shipment.

(4) If, in defense of its failure to comply with a subpena or discovery order, a common carrier alleges that documents or information located in a foreign country cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of the failure to comply and of the allegation relating to foreign laws. Upon receiving the notification, the Secretary of State shall promptly consult with the government of the nation within which the documents or information are alleged to be located for the purpose of assisting the Commission in obtaining the documents or information sought.

(5) If, after notice and hearing, the Commission finds that the action of a common carrier, acting alone or in concert with any person, or a foreign government has unduly impaired access of a vessel documented under the laws of the United States to ocean trade between foreign ports, the Commission shall take action that it finds appropriate, including the imposition of any of the penalties authorized under paragraphs (1), (2), and (3) of this subsection.

(6) Before an order under this subsection becomes effective, it shall be immediately submitted to the President who may, within 10 days after receiving it, disapprove the order if the President finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

(c) Assessment Procedures.—Until a matter is referred to the Attorney General, the Commission may, after notice and an opportunity for hearing, assess each civil penalty provided for in this Act. In determining the amount of the penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and such other matters as justice may require. The Commission may compromise, modify, or remit, with or without conditions, any civil penalty.

(d) Review of Civil Penalty.—A person against whom a civil penalty is assessed under this section may obtain review thereof under chapter 158 of title 28, United States Code.

(e) Failure To Pay Assessment.—If a person fails to pay an assessment of a civil penalty after it has become final or after the appropriate court has entered final judgment in favor of the Commission, the Attorney General at the request of the Commission may seek to recover the amount assessed in an appropriate district court of the United States. In such an action, the court shall enforce the Commission's order unless it finds that the order was not regularly made or duly issued.

(f) Limitations.—

(1) No penalty may be imposed on any person for conspiracy to violate section 10(a)(1), (b)(1), or (b)(4) of this Act, or to defraud the Commission by concealment of such a violation.

(2) Each proceeding to assess a civil penalty under this section shall be commenced within 5 years from the date the violation occurred.

SEC. 14. COMMISSION ORDERS.

(a) IN GENERAL.—Orders of the Commission relating to a violation of this Act or a regulation issued thereunder shall be made, upon sworn complaint or on its own motion, only after opportunity for hearing. Each order of the Commission shall continue in force for the period of time specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

(b) REVERSAL OR SUSPENSION OF ORDERS.—The Commission may reverse, suspend, or modify any order made by it, and upon application of any party to a proceeding may grant a rehearing of the same or any matter determined therein. No rehearing may, except by special order of the Commission, operate as a stay of that order.

(c) ENFORCEMENT OF NONREPARATION ORDERS.—In case of violation of an order of the Commission, or for failure to comply with a Commission subpena, the Attorney General, at the request of the Commission, or any party injured by the violation, may seek enforcement by a United States district court having jurisdiction over the parties. If, after hearing, the court determines that the order was properly made and duly issued, it shall enforce the order by an appropriate injunction or other process, mandatory or otherwise.

(d) ENFORCEMENT OF REPARATION ORDERS.—(1) In case of violation of an order of the Commission for the payment of reparation, the person to whom the award was made may seek enforcement of the order in a United States district court having jurisdiction of the parties.

(2) In a United States district court the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs, nor for the costs of any subsequent stage of the proceedings, unless they accrue upon his appeal. A petitioner in a United States district court who prevails shall be allowed reasonable attorney's fees to be assessed and collected as part of the costs of the suit.

(3) All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties in the order may be joined as defendants, in a single suit in a district in which any one plaintiff could maintain a suit against any one defendant. Service of process against a defendant not found in that district may be made in a district in which is located any office of, or point of call on a regular route operated by, that defendant. Judgment may be entered in favor of any plaintiff against the defendant liable to that plaintiff.

(e) STATUTE OF LIMITATIONS.—An action seeking enforcement of a Commission order must be filed within 3 years after the date of the violation of the order.

SEC. 15. REPORTS AND CERTIFICATES.

(a) REPORTS.—The Commission may require any common carrier, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report or any account, record, rate, or charge, or memorandum of any facts and transactions appertaining to the business of that common carrier. The report, account, record, rate, charge, or memorandum shall be made under oath whenever the Commission so requires, and shall be furnished in the form and within the time prescribed by the Commission. Conference minutes required to be filed with the Commission under this section shall not be released to third parties or published by the Commission.

(b) CERTIFICATION.—The Commission shall require the chief executive officer of each common carrier and, to the extent it deems feasible, may require any shipper, shippers' association, marine terminal operator, ocean freight forwarder, or broker to file a periodic written certification made under oath with the Commission attesting to—

(1) a policy prohibiting the payment, solicitation, or receipt of any rebate that is unlawful under the provisions of this Act;

(2) the fact that this policy has been promulgated recently to each owner, officer, employee, and agent thereof;

(3) the details of the efforts made within the company or otherwise to prevent or correct illegal rebating; and

(4) a policy of full cooperation with the Commission in its efforts to end those illegal practices.

Failure to file a certification shall result in a civil penalty of not more than $5,000 for each day the violation continues.

SEC. 16. EXEMPTIONS.

The Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to this Act or any specified activity of those persons from any requirement of this Act if it finds that the exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce. The Commission may attach conditions to any exemption and may, by order, revoke any exemption. No order or rule of exemption or revocation of exemption may be issued unless opportunity for hearing has been afforded interested persons and departments and agencies of the United States.

SEC. 17. REGULATIONS.

(a) The Commission may prescribe rules and regulations as necessary to carry out this Act.

(b) The Commission may prescribe interim rules and regulations necessary to carry out this Act. For this purpose, the Commission is expected from compliance with the notice and comment requirements of section 553 of title 5, United States Code. All rules and regulations prescribed under the authority of this subsection that are not earlier superseded by final rules shall expire no later than 270 days after the date of enactment of this Act.

SEC. 18. AGENCY REPORTS AND ADVISORY COMMISSION.

(a) COLLECTION OF DATA.—For a period of 5 years following the enactment of this Act, the Commission shall collect and analyze information concerning the impact of this Act upon the international ocean shipping industry; including data on:

(1) increases or decreases in the level of tariffs;

(2) changes in the frequency or types of common carrier services available to specific ports or geographic regions;

(3) the number and strength of independent carriers in various trades; and

(4) the length of time, frequency, and cost of major types of regulatory proceedings before the Commission.

(b) CONSULTATION WITH OTHER DEPARTMENTS AND AGENCIES.—

The Commission shall consult with the Department of Transportation, the Department of Justice, and the Federal Trade Commission annually concerning data collection. The Department of Transportation, the Department of Justice, and Federal Trade Commission shall at all times have access to the data collected under this section to enable them to provide comments concerning data collection.

(c) AGENCY REPORTS.—

(1) Within 6 months after expiration of the 5-year period specified in subsection (a), the Commission shall report the information, with an analysis of the impact of this Act, to Congress, to the Advisory Commission on Conferences in Ocean Shipping established subsection (d), and to the Department of Trasportation, the Department of Justice, and the Federal Trade Commission.

(2) Within 60 days after the Commission submits its report, the Department of Transportation, the Department of Justice, and the Federal Trade Commission shall furnish an analysis of the impact of this Act of Congress and to the Advisory Commission on Conferences in Ocean Shipping.

(3) The reports required by this subsection shall specifically address the following topics:

(A) the advisability of adopting a system of tariffs based on volume and mass of shipment;

(B) the need for antitrust immunity for ports and marine terminals; and

(C) the continuing need for the statutory requirement that tariffs be filed with the enforced by the Commission.

(d) ESTABLISHMENT AND COMPOSITION OF ADVISORY COMMISSION.—

(1) Effective 5 and one-half years after the date of enactment of this Act, is established the Advisory Commission on Conferences in Ocean Shipping (hereinafter referred to as the "Advisory Commission").

(2) The Advisory Commission shall be composed of 17 members as follows:

(A) a cabinet level official appointed by the President;

(B) 4 members from the United States Senate appointed by the President pro tempore of the Senate, 2 from the membership of the Committee on Commerce, Science, and Transportation and 2 from the membership of the Committee on the Judiciary;

(C) 4 members from the United States House of Representatives appointed by the Speaker of the House, 2 from the membership of the Committee on Merchant Marine and Fisheries and 2 from the membership of the Committee on the Judiciary; and

(D) 8 members from the private sector appointed by the President.

(3) The President shall designate the chairman of the Advisory Commission.

(4) The term of office for members shall be for the term of the Advisory Commission.

(5) A vacancy in the Advisory Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(6) Nine members of the Advisory Commission shall constitute a quorum, but an Advisory Commission may permit as few as 2 members to hold hearings.

(e) COMPENSATION OF MEMBERS OF THE ADVISORY COMMISSION.—

(1) Officials of the United States Government and Members of Congress who are members of the Advisory Commission shall serve without compensation in addition to that received for their services as officials and Members, but they shall be reimbursed for reasonable travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Advisory Commission.

(2) Members of the Advisory Commission appointed from the private sector shall each

receive compensation not exceeding the maximum per diem rate of pay for grade 18 of the General Schedule under section 5332 of title 5, United States Code, when engaged in the performance of the duties vested in the Advisory Commission, plus reimbursement for reasonable travel, subsistence, and other necessary expenses incurred by them in the performance of those duties, notwithstanding the limitations in sections 5701 through 5733 of title 5, United States Code.

(3) Members of the Advisory Commission appointed from the private sector are not subject to section 208 of title 18, United States Code. Before commencing service, these members shall file with the Advisory Commission a statement disclosing their financial interests and business and former relationships involving or relating to ocean transportation. These statements shall be available for public inspection at the Advisory Commission's offices.

(f) ADVISORY COMMISSION FUNCTIONS.—The Advisory Commission shall conduct a comprehensive study of, and make recommendations concerning, conferences in ocean shipping. The study shall specifically address whether the nation would be best served by prohibiting conferences, or by closed or open conferences.

(g) POWERS OF THE ADVISORY COMMISSION.—

(1) The Advisory Commission may, for the purpose of carrying out its functions, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Advisory Commission may deem advisable. Subpenas may be issued to any person within the jurisdiction of the United States courts, under the signature of the chairman, or any duly designated member, and may be served by any person designated by the chairman, or that member. In case of contumacy by, or refusal to obey a subpena to, any person, the Advisory Commission may advise the Attorney General who shall invoke the aid of any court of the United States within the jurisdiction of which the Advisory Commission's proceedings are carried on, or where that person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and the court may issue an order requiring that person to appear before the Advisory Commission, there to produce records, if so ordered, or to give testimony. A failure to obey such an order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the person is an inhabitant or may be found.

(2) Each department, agency and instrumentality of the executive branch of the Government, including independent agencies, shall furnish to the Advisory Commission, upon request made by the chairman, such information as the Advisory Commission deems necessary to carry out its functions.

(3) Upon request of the chairman, the Department of Justice, the Department of Transportation, the Federal Maritime Commission, and the Federal Trade Commission shall detail staff personnel as necessary to assist the Advisory Commission.

(4) The chairman may rent office space for the advisory Commission, may utilize the services and facilities of other Federal agencies with or without reimbursement, may accept voluntary services notwithstanding section 1342 of title 31, United States Code, may accept, hold, and administer gifts from other Federal agencies, and may enter into contracts with any public or private person or entity for reports, research, or surveys in furtherance of the work of the Advisory Commission.

(h) FINAL REPORT.—The Commission shall, within one year after its establishment, submit to the President and to the Congress a final report containing a statement of the findings and conclusions of the advisory Commission resulting from the study undertaken under subsection (f), including recommendations for such administrative, judicial, and legislative action as it deems advisable. Each recommendation made by the Advisory Commission to the President and to the Congress must have the majority vote of the Advisory Commission present and voting.

(i) EXPIRATION OF THE COMMISSION.—The Advisory Commission shall cease to exist 30 days after the submission of its final report.

(j) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $500,000 to carry out the activities of the Advisory Commission.

SEC. 19. OCEAN FREIGHT FORWARDERS.

(a) LICENSE.—No person may act as an ocean freight forwarder unless that person holds a license issued by the Commission. The Commission shall issue a forwarder's license to any person that—

(1) the Commission determines to be qualified by experience and character to render forwarding services; and

(2) furnishes a bond in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

(b) SUSPENSION OR REVOCATION.—The Commission shall, after notice and hearing, suspend or revoke a license if it finds that the ocean freight forwarder is not qualified to render forwarding services or that it willfully failed to comply with a provision of this Act or with a lawful order, rule, or regulation of the Commission. The Commission may also revoke a forwarder's license for failure to maintain a bond in accordance with subsection (a)(2).

(c) EXCEPTION.—A person whose primary business is the sale of merchandise may forward shipments of the merchandise for its own account without a license.

(d) COMPENSATION OF FORWARDERS BY CARRIERS.—

(1) A common carrier may compensate an ocean freight forwarder in connection with a shipment dispatched on behalf of others only when the ocean freight forwarder has certified in writing that it holds a valid license and has performed the following services:

(A) Engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of that space.

(B) Prepared and processed the ocean bill of lading, dock receipt, or other similar document with respect to the shipment.

(2) No common carrier may pay compensation for services described in paragraph (1) more than once on the same shipment.

(3) No compensation may be paid to an ocean freight forwarder except in accordance with the tariff requirements of this Act.

(4) No ocean freight forwarder may receive compensation from a common carrier with respect to a shipment in which the forwarder has a direct or indirect beneficial interest nor shall a common carrier knowingly pay compensation on that shipment.

SEC. 20. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—The laws specified in the following table are repealed:

Shipping Act, 1916:	
Sec. 13	39 Stat. 732.
Sec. 14a	46 App. U.S.C. 813.
Sec. 14b	46 App. U.S.C. 813a.
Sec. 18(b)	46 App. U.S.C. 817(b).
Sec. 18(c)	46 App. U.S.C. 817(c).
Sec. 26	46 App. U.S.C. 825.
Sec. 44	46 App. U.S.C. 841b.
Merchant Marine Act, 1920:	
Sec. 20	41 Stat. 996.
Merchant Marine Act, 1936:	
Sec. 212(e)	46 App. U.S.C 1122(e).
Sec. 214	46 App. U.S.C. 1124, wherever that section applies to the Federal Maritime Commission (Commission), any member of the Commission or any member, officer or employee designated by the Commission.
Omnibus Budget Reconciliation Act of 1981:	
Sec. 1608	95 Stat. 752.

(b) CONFORMING AMENDMENTS.—The Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), is amended as follows:

(1) in section 1 by striking the definitions "controlled carrier" and "independent ocean freight forwarder";

(2) in sections 14, 15, 16, 20, 21(a), 22, and 45 by striking "common carrier by water" wherever it appears in those sections and substituting "common carrier by water in interstate commerce";

(3) in section 14, first paragraph, by striking "or a port of a foreign country";

(4) in section 14, last paragraph, by striking all after the words "for each offense" and substituting a period;

(5) in section 15, fourth paragraph, by striking "(including changes in special rates and charges covered by section 14b of this Act which do not involve a change in the spread between such rates and charges and the rates and charges applicable to noncontract shippers)" and also "with the publication and filing requirements of section 18(b) hereof and";

(6) in section 15, sixth paragraph, by striking ", or permitted under section 14b," and in the seventh paragraph, by striking "or of section 14b";

(7) in section 16, in the paragraph designated "First", by striking all after "disadvantage in any respect" and substituting "whatsoever.";

(8) in section 17 by striking the first paragraph, and in the second paragraph, by striking "such carrier and every";

(9) in section 21(b) by striking "The Commission shall require the chief executive officer of every vessel operating common carrier by water in foreign commerce and to the extent it deems feasible, may require any shipper, consignor, consignee, forwarder, broker, other carrier or other person subject to this Act," and substituting "The Commission may, to the extent it deems feasible, require any shipper, consignor, consignee, forwarder, broker, or other person subject to this Act.";

(10) in section 22 by striking subsection (c);

(11) in section 25, at the end of the first sentence, by adding "under this Act";

(12) in section 29 by striking "any order of the board, the board," and substituting "any order of the Federal Maritime Commission under this Act, the Commission,";

(13) in sections 30 and 31, after the words "any order of the board", by adding "under this Act,";

(14) in section 32(a) by striking "and section 44"; and

(15) in section 32(c), after the words "or functions,", by adding "under this Act,".

(c) Technical Amendments.—Section 212 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122) is amended by—

(1) striking after subsection (d) the following undesignated paragraph:

"The Federal Maritime Commission is authorized and directed—"; and

(2) striking after subsection (e) the following undesignated paragraph:

"The Secretary of Transportation is authorized and directed—".

(d) Effects on Certain Agreements and Contracts.—All agreements, contracts, modifications, and exemptions previously approved or licenses previously issued by the Commission shall continue in force and effect as if approved or issued under this Act; and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act.

(e) Savings Provisions.—

(1) Each service contract entered into by a shipper and an ocean common carrier or conference before the date of enactment of this Act may remain in full force and effect and need not comply with the requirements of section 8(c) of this Act until 15 months after the date of enactment of this Act.

(2) This Act and the amendments made by it shall not affect any suit—

(A) filed before the date of enactment of this Act; or

(B) with respect to claims arising out of conduct engaged in before the date of enactment of this Act, filed within one year after the date of enactment of the Act.

SEC. 21. EFFECTIVE DATE.

This Act shall become effective 90 days after the date of its enactment, except that sections 17 and 18 shall become effective upon enactment.

SEC. 22. COMPLIANCE WITH BUDGET ACT.

Any new spending authority (within the meaning of section 401 of the Congressional Budget and Impoundment Control Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in advance in appropriations Acts. Any provision of this Act that authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1984.

And the House agree to the same.

Walter B. Jones,
Mario Biaggi,
John B. Breaux,
William J. Hughes,
Peter W. Rodino,
John F. Seiberling,
Edward F. Feighan,
Edwin B. Forsythe,
Gene Synder,
Don Young,
Hamilton Fish, Jr.,
Carlos J. Moorhead,
Managers on the Part of the House.

Bob Packwood,
Slade Gorton,
Ted Stevens,
Robert W. Kasten, Jr.,
Russell B. Long,
Daniel K. Inouye,
Strom Thurmond,
Orrin G. Hatch,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 47, the Shipping Act of 1984, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the House amendment. The differences between the Senate bill and the House amendment and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the managers, and minor drafting and clarifying changes.

SECTION 2—DECLARATION OF POLICY

The House version contained no statement of policy; the Senate passed bill recited an extensive list of purposes. The Conferees agree that a long list is unnecessary because it duplicates language contained in the operative sections of the bill. The Conferees, therefore, agree to a broad declaration which sets forth the three principal goals of regulation: minimal intervention in a nondiscriminatory regulatory process; an efficient and economic transportation system that, insofar as possible, is consistent with international practices; and development of an efficient U.S. liner fleet that meets U.S. national needs.

SECTION 3—DEFINITIONS

With the exception of definitions dealing with forest products in an unfinished or semifinished state, the Conferees agree to adopt the definitions contained in the House bill; the Senate recedes from its disagreement.

The forest products definition is essentially the same as that which was included in S. 47 as passed by the Senate. The language in the Senate reports addresses this definition.

Also, the Conferees agree to the addition of a new definition (24), "shippers' association", which reads as follows: "shippers' association" means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or services contracts."

This definition was included for the sole purpose of identifying this shippers' group. A shippers' association would continue to be subject to laws other than the Shipping Act of 1984. If a group meets the definition, it can negotiate rates on behalf of its members. Section 10(b)(13) prohibits any common carrier from refusing to negotiate with such an association.

The Conference bill excludes from the definition of "ocean common carrier" the words "bulk cargo vessels" that were in the Senate bill. The elimination of this phrase removes an ambiguity; it is not intended to provide a new exemption from the antitrust laws for agreements relating to the transportation of bulk commodities that the FMC has refused to approve under Section 15 of the Shipping Act, 1916, or likely would not have approved under principles it has established for agreements relating to bulk commodities transportation. At the same time, the bill is intended to continue the antitrust exemption for agreements relating to the transportation of bulk commodities that the FMC has approved under the 1916 Act or likely would have approved. Finally, the bill is not intended to alter the definition of "bulk cargo" as that term has been interpreted under the Shipping Act, 1916.

SECTION 4—AGREEMENTS WITHIN SCOPE OF THE ACT

This section states the coverage of the bill. It lists the type of agreements to which the bill applies. When read in connection with sections 5 and 7, the effect is to remove the listed agreements from the reach of the antitrust laws as defined in the bill. It and section 5 are based on section 15 of the Shipping Act, 1916. The conferees agree to adopt the first five items listed in section 4(a) of the House Amendment. The conferees adopt the Senate version of 4(a)(6). In addition, the conferees agree to add language in paragraph (7) stating that common carriers may agree to regulate or prohibit the use of service contracts. Sections 4(b) and (c) are substantively the same in both versions. The conference agreement adopts the House Amendment with only technical changes.

SECTION 5—AGREEMENTS

This section is largely modelled after the "agreements" section of the House bill. In section 5(a), the last sentence is changed to read: "The Commission may prescribe the form and manner in which an agreement should be filed and the additional information and documents necessary to evaluate the agreement." This change from the House language ensures that petitioners before the Commission will be asked only for information relevant to the Commission evaluation of an agreement rather than for information based upon broad standards unrelated to that agreement.

The conferees, in accepting 5(b)(5), agree that the only items (within paragraph (5)) which must be included within a conference agreement will be those prohibited by section 10(c)(1) and (3)—a boycott or other concerted activity resulting in an unreasonable refusal to deal or any predatory practice which is designed to prevent entry into a trade by outsider competition. One effect of this provision will be to remove such activity from the antitrust immunity conferred by section 7(a)(2) if, as normally would be the case, it is found that the activity was undertaken without a reasonable basis to conclude that it is pursuant to an agreement on file with the Commission and in effect when the activity took place, or is exempt from filing requirements of the Act. The immunity from private antitrust suits conferred in section 7(c)(2) remains unaffected by this provision. The conferees agree that the FMC retains principal and initial authority to enforce all prohibitions in the Act; the authority of the Department of Justice or the Federal Trade Commission to investigate or prosecute possible antitrust violations that would also violate section 10(c)(1) or (3) of the Shipping Act should be exercised only after notifying the FMC. If the FMC is actively pursuing a matter, the conferees agree that the antitrust agencies should, as a matter of discretion, defer to the FMC. The antitrust agencies would become involved only in cases in which an enforcement vacuum has occurred.

No double jeopardy should attach—if the FMC has targeted conduct in an enforcement action that has gone to judgment, the antitrust enforcement agencies may not target the same conduct under the antitrust laws. Moreover, the conferees agree that any antitrust liability arising out of an unlawful boycott or predatory activity be limited to actual or threatened conduct, and that antitrust immunity granted in Section 7 shall continue for general agreements approved by the Commission.

The independent action section (5(b)(8)) of the bill requires that each conference agreement provide for independent action on rates or service items required to be filed in a tariff under section 8(a) of the bill. The conferees agree that the notice period to be given to the conference before a member may take independent action cannot be more than ten calendar days. The House recedes from a provision that would have limited the notice period to 2 working days for independent action; the Senate recedes from a provision that would have limited independent action to certain trades and only when a loyalty contract is in effect. The conference bill makes it a prohibited act to use a loyalty agreement not in conformity with the antitrust laws.

Section 8(a) does not require that service contracts be filed in a tariff. Consequently, section 5(b)(8) does not require conferences to permit their members a right of independent action on service contracts. The conferees agree that section 8(c) of the bill, which authorizes the use of service contracts, cannot be read as undermining the authority of a conference to limit or prohibit a conference member's exercise of a right of independent action on service contracts. However, conference agreements must permit independent action on time-volume rates in section 8(b), since time-volume rates must be filed under section 8(a).

The net result is that a member of a conference does not have a statutory right to enter into a service contract in violation of the conference agreement. Under section 4(a)(7), the conference agreement may prohibit its members from entering into a service contracts or it may allow them to enter into a service contract subject to such conditions as the conference may establish. Thus, while a conference agreement is not required to provide each member a right of independent action on service contracts, neither is it prohibited from doing so.

Under the bill, a conference may enter into a service contract. If it does so, the individual members do not, under the bill, have a right of independent action to deviate from that service contract unless the conference agreement so provides.

The House and Senate bills both adopt provisions of section 15 of the Shipping Act, 1916, applicable to assessment agreements. Under existing law and under both bills, the remedies and regulatory standards applicable to assessment agreements are intended to be exclusive. In making this explicit, the conferees have reconciled the two versions to preclude any inference that the many new and restated provisions in the bill respecting rate, conference, and terminal regulation are also to be applied to assessment agreements.

SECTION 6—ACTION ON AGREEMENTS

Section 6 of the bill governs Commission action on agreements filed with the Commission under Section 5. Most of the subsections of this Section are modelled after House provisions. Subsections (g) and (h), however, have been redrafted as a part of a compromise to provide for FMC authority to act against certain substantially anticompetitive agreements.

The model for FMC review of agreements is the portion of the Hart-Scott-Rodino Act governing premerger clearance of proposed acquisitions and mergers 15 U.S.C. § 18A). Agreements are to be reviewed promptly—unless special problems are encountered, the FMC will be allowed only a forty-five day period—and they will take effect automatically unless the Commission takes affirmative action under subsection (b) or (h). The Commission is authorized to seek additional information from the filing persons (subsection (d)), but only when necessary to carry out the statutory review process. A filing person may request expedited approval under subsection (e). And pursuant to subsection (f), the Commission may not limit the term of effectiveness of an agreement. Subsection (j) provides for confidential treatment of any information submitted under this Section.

Subsection (k) establishes that the Commission, upon notice to the Attorney General, may represent itself in district court proceedings pursuant to subsection (h) or (i) or section 11(h). In appearances in a United States Court of Appeals arising out of such proceedings, the Commission may represent itself with the approval of the Attorney General. Although this formulation leaves the Department of Justice in a position to carry out its responsibilities in coordinating Federal Government litigation, the Commission is accorded maximum leeway in recommending action on any appeal and, when the Department approves, may continue to represent itself in the Court of Appeals. The Department will represent the FMC in court proceedings under the Act except as provided in this subsection.

SECTION 6(d)

Section 6(d) grants the FMC the authority to seek additional information from a filing party prior to allowing an agreement to go into effect. The conferees anticipate that most agreements filed with the Commission will be routinely approved within 45 days, without requiring submission of additional information. Only in cases in which there is a substantial issue of unreasonable and anticompetitive effects will the Commission need to make use of this authority. Even in such instances, the Conferees agree that the requests for additional information should be scaled to the importance of the issue and the ability of the filing parties to respond within a reasonable period. The Commission may, of course, receive information from third parties who believe they will be affected by a particular agreement. (The participation of third parties is, of course, limited to this informal role.) And, as the expert regulatory agency, the Commission is expected to call upon its expertise in disposing of the issues. When the Commission requires a filing party to submit information, it should be information that is in the party's grasp, relevant to resolving the issue before the Commission, and not unduly burdensome.

SECTION 6 (g) AND (h)

A. Background—Differing approaches in House and Senate bills

The new general standard in section 6(g) represents a compromise of approaches taken in the Senate and House bills.

The provision would authorize the Federal Maritime Commission to seek injunctive relief against agreements that it determines do not meet the standard set forth in the subsection. This flexible standard permits the Commission to seek an injunction even when an agreement would not violate any of the prohibited acts set forth elsewhere in the bill.

The Senate bill contained no general standard. It did not authorize Commission disapproval of agreements except for violation of specified requirements (the Commission could also authorize special investigations of, but not immediately disapprove, certain pooling agreements). The Senate approach reflected a view that review of agreements under the general standard of the present Shipping Act, including the "public interest" test, places too much weight on antitrust principles and that the present standard is too vague to provide clear guidance to the regulated industry as to the extent of permissible activities. Believing that this vagueness and overemphasis on competition has not well served the public because it has denied carriers serving the U.S. foreign commerce opportunities to cooperate, rationalize services, and achieve rate stability, the Senate excluded a general standard from its bill.

The House bill, on the other hand, included a provision authorizing the Commission to intercede against substantially anticompetitive agreements, even if these agreements would not violate any specific prohibitions of the bill. The House provision grew out of the Judiciary Committee's conviction that it is impossible to draft a sufficiently comprehensive list of specific prohibited acts to cover all potentially injurious anticompetitive behavior; such behavior would, under the House approach, be weighed against beneficial effects under a flexible general standard. Problems with uncertainty and delay would be addressed through a streamlined review process that set shorter time limits for Commission action than those prescribed in the Senate bill. And the House bill placed the burden on the Commission to establish that an agreement would result in a harmful reduction in competition before it could enjoin the operation of an agreement.

Because of the strong views on the general standard, the conferees opted for a compromise provision differing in approach from either the House or Senate bills. Specifically, the Senate conferees agree to recede from the language of subsections 12(c)(8) and 13(d) of S. 47 and the House conferees agree to recede from language of subsection 5(g) of the House amendment. The conferees intend that this report shall govern interpretation of the new section 6(g).

B. Nature of the compromise general standard

The new section 6(g) allows the Commission to seek an injunction if it determines that an agreement "is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost." The compromise accedes to the House position insofar as it would establish a flexible general standard to be applied by the regulatory agency with expertise in this industry. This standard provides a basis for Commission review of agreements other than for contravention of specific statutory proscriptions and recognizes that a substantial reduction in competition can, under certain circumstances, trigger Commission intercession to prevent agreements from becoming effective or remaining in effect. On the other hand, the standard in the Conference Bill responds to the Senate concern that the "public interest" test in the present law is vague and unworkable in its automatic application of certain antitrust principles to ocean shipping. The new standard removes any per se condemnation of concerted conduct such as might be applied under the antitrust laws. Consequently, the standard establishes a threshold for prompt approval of most generally accepted joint conduct in ocean shipping. Other significant changes from the public interest standard of the present law include section 6(h), placing the burden of proof on the Commission in any application of the general standard.

The compromise will place in the hands of the Federal Maritime Commission, the expert agency charged by the Congress with regulating this industry, sole responsibility for enforcing the general standard. Although the Department of Justice will continue to represent the FMC in most other respects, the Commission is granted authority to represent itself in district court actions to seek an injuncton. The expertise of the FMC in regulating this industry, the agency's experience in applying the standard, and the likely need for prompt action to stop threatening conduct, warrant a limited exception to the principle of centralized government litigation authority. In this case, the limited grant of litigation authority is to an independent agency, created by Congress with considerable autonomy from the Executive Branch. As new and evolving forms of cooperative conduct develop, the conferees believe that the Commission, rather than the antitrust agencies or the courts in the first instance, is in the best position to assess as agreement's benefits and detriments in light of the objectives of this Act.

The general standard leaves the carriers room to develop new and innovative cooperative ventures for dealing with rapidly changing technologies and customer needs. At the same time, it grants to the Commission the necessary authority to act to stop schemes that go beyond what is necessary to obtain such benefits and cause substantial anticompetitive effects.

The flexibility in the compromise provision eliminates the need for a longer list of possibly overreaching prohibitions. The conferees agree that selective provisions limiting joint ventures or pooling agreements might discourage arrangements that often enhance the quality, frequency, or efficiency of transportation services. These agreements, just as any others, should be permitted unless the FMC demonstrates that they are likely to cause concrete competitive harm evidenced in unreasonable and detrimental changes to transportation costs of services.

The language of this subsection must be interpreted in light of the historic international acceptance of carrier conference agreements. Conferences have been recognized in our laws at least since the Shipping Act of 1916. This legislation does place substantial limitations on that conference activity, including provisions that require open membership, a right of independent action on 10 days' notice for each member, and a substantial list of protective prohibitions, including a ban on boycotts, fighting ships, or other concerted practices designed to deny entry or drive existing competitors from the market. This legislation also prohibits the use of loyalty contracts not in conformity with the antitrust laws. But while limiting certain possible excesses of concerted activity, the compromise general standard clears the way for the conferences to perform concerted activities that serve the long-term interests of ocean carriers and shippers.

Economists and transportation experts differ as to whether conferences are the best means of attaining a modern and efficient transportation system and, if so, how conferences should be structured. After weighing these concerns, the conferees have approved a bill that, subject to the constraints already mentioned, permits the reasonable use of conferences and other concerned activity to address structural and competitive problems, such as severe rate instability and overcapacity, that have long plagued this industry. Underlying this determination is also a realization that the major economic allies of the United States continue to tolerate or even support conference and other cooperative carrier activity, in many cases in a measure far stronger than our laws have tolerated. Any major change in regulatory policy, although not precluded by these differences in approach, should be taken with a sensitivity to interests of friendly nations, and, insofar as possible, in tandem with them.

C. Analysis under the general standard

A critical factor enabling the Conferees to agree on a more narrowly drawn general standard is the inclusion in this bill of numerous other provisions which address the nation's interest in competition in the ocean common carrier industry. For example, prohibited acts in the Shipping Act of 1984 will continue the protections of the present law against predation and unreasonable refusals to deal. Even more importantly, the bill includes other specific and major procompetitive reforms that will affect the operation of ocean carriers and conferences—notably a strong requirement of independent action with a limited notice period and the elimination of conference authority to offer loyalty contracts (unless their use would not violate the antitrust laws.) With these reforms and other provisions in the bill, the Conferees have determined that carrier agreements generally will serve this nation's interest in international liner shipping. Thus, the Conferees determined to strike the overall balance between competition and cooperation in specific provisions of the act and to allow for disapproval of agreements only under the carefully drawn circumstances set forth in subsection 6(g).

The new standard will permit conference agreements and amendments (including those providing intermodal ratemaking authority) to be reviewed promptly. Except in cases raising substantial issues under the standard, such agreements will enter into effect routinely, without the need for submitting additional information under section 6(d). Intermodal rate agreements have been used effectively throughout the world and are an important tool permitting the conferences to offer a through-rate, preferred by many shippers over segmented, port-to-port rates. Although some conferences serving U.S. trades have implemented intermodal rate agreements, the authority for such agreements is disputed. The Act recognizes that intermodal ratemaking authority is an important tool for the conferences to remain viable; no special stigma should attach to such agreements under the general standard.

The general standard also permits agreements providing for rationalization of services to be reviewed promptly and, except in cases raising substantial issues under the standard, to enter into effect routinely. Through these agreements, overcapacity (i.e., economic waste) can be reduced and efficiency enhanced, thereby better enabling carriers to respond with reasonable rates that afford them a reasonable return.

As suggested by the title of subsection (g), a likely reduction in competition should be substantial before triggering Commission intercession under the general standard. Unless the competitive threat is substantial, any reduction in service or increase in cost would not be unreasonable, as required by the general standard. The Commission should not, in any event, expend its limited resources to pursue insubstantial reductions.

The market share of parties participating in concerted action is a touchstone for traditional antitrust analysis. This form of analysis, although helpful in determining whether an agreement is likely to cause a substantial reduction in competition, is only one factor in the Commission's decision calculus. Its significance will depend on the circumstances. In the case of conference agreements, including those with intermodal ratemaking authority, the conferees believe that potential reductions in competition will be at least partially offset by a member carrier's right of independent action and ability to enter and leave the conference freely. In some forms of concerted action, participation by all or virtually all of the members of a trade is necessary if the agreement is to have the desired effect on problems of overcapacity or rate instability. Thus, although a market share analysis is available to the Commission, in many cases, depending on the circumstances, its outcome will not be determinative or necessary for application of the general standard.

In applying the general standard, the Commission also must consider whether the relevant competitive market includes more than just ocean common carriers providing direct service in a trade. The conferees intend that the Commission, in carrying its burden under the general standard, consider the impact on shippers of an agreement not only in view of competition between ocean common carriers providing direct service in a trade, but also in view of other competitive means of transport. In some cases, alternative liner routings, bulk carriers, charter operators, or air freight carriers may provide competitive alternatives to the direct service provided by ocean common carriers. In considering these alternatives, the Commission may gather relevant information from shippers, other carriers, and third parties. And although the Commission may use its information powers to request market information from the proponents of an agreement, such information must be relevant and readily available to the proponents.

Even if an agreement is likely to cause the requisite reduction in competition, the Commission can obtain injunctive relief only if the likely net result will be an unreasonable increase in costs to shippers, or an unreasonable reduction in the frequency or quality of service available to shippers. There are two distinct aspects to this requirement.

The first is whether the harm to shippers is unreasonable. The term "unreasonable" is to be understood in a commercial context. Unreasonableness refers to the cost of transportation to the shipper or the availability or quality of service to the shipper. The likely change in costs or services must arise from the agreement and be material and meaningful. The Commission may not determine that rate increases of service reductions are "per se" impermissible results of agreements. Rate increases or decreases in the frequency or variety of service may be necessary to achieve other benefits of the Act. The determination whether an agreement is likely to produce "an unreasonable increase in the price of transportation" does not authorize the FMC to engage in the type of ratemaking analysis undertaken by regulators of public utilities or as applied in the domestic off-shore trades.

A second aspect of the unreasonableness requirement is that the negative impact upon shippers may be offset by the benefits of an agreement. For example, the competitive harm ensuing from conferences, already diminished by the statutory limitations on conference activity, can and often will be offset by the significant benefits of such activity. The privately-owned ocean common carriers that service U.S. foreign commerce are likely to be subjected to increasing competition from state-subsidized and controlled carriers. A conference's ability to address problems of overcapacity and rate instability is an important benefit that the Commission must weigh.

Another possible benefit to be considered by the Commission is the impact of an agreement on U.S. foreign policy and international comity. The Conferees agree that the United States should act with sensitivity to the interests of its trading partners when administering shipping regulation. One possible problem area arises from cargo reservation schemes in the laws or trading practices of some foreign nations. There are important policy considerations that have led the United States to oppose some cargo reservation schemes. The conferees understand that these considerations may lead our Government to continue this opposition in many cases. At the same time, the Conferees recognize that some U.S.-flag carriers, through no fault of their own and despite such government opposition, may be confronted with a cargo reservation scheme that will exclude them from a trade entirely, or so limit their access to certain cargo as to make service of the trade commercially unattractive, unless they participate in a revenue or cargo sharing agreement with the carriers of such nations that preserves the right of the U.S.-flag parties to the agreement to compete for reserved cargo. Under such circumstances, the Conferees consider it a clear benefit to allow U.S.-flag carrier participation in the trade. Although the Commission might generally not approve such restrictive arrangements, the Commission, after giving due consideration to the maritime and trade policy views of the United States, may conclude that approval is necessary in order to maintain a viable U.S.-flag service, as it has in the past in similar circumstances.

Another important potential benefit to be considered is any efficiency-creating aspects of an agreement. Agreements involving significant carrier integration are, if properly limited to achieve such important benefits, to be favorably considered by the Commission and the courts. Joint ventures and other cooperative agreements can enable carriers to raise necessary capital, attain economies of scale, and rationalize their services. Pooling arrangements can also offer significant benefits in reducing excess capacity and promoting efficiency.

In assessing the benefits of any of these agreements, however, the Commission need not wear blinders. If, in applying its expertise, the Commission establishes that reasonable and commercially proven alternative arrangements will provide most or all of the essential benefits without the same anticompetitive impact, it may weigh this fact in its decision calculus. The conferees agree, however, that this standard does not represent a return to existing law, under which proponents may have been compelled to show that no less anticompetitive alternative was available to obtain the benefits of the Act.

The Conferees intend that ocean carriers be free to structure their own affairs, except when such structuring violates specific statutory provisions or the new, more narrowly drawn general standard. Even when an agreement raises potential issues under the general standard, the Conferees believe that the procedural framework for application of that standard will give carriers maximum flexibility. Carriers will be able to obtain a prompt ruling from the Commission under the new provisions for expedited review. If the Commission objects to an agreement under the general standard, the filing party may withdraw it, modify it, or force the Commission to make its showing in court. Even after such a court proceeding is initiated, the filing party retains the option of withdrawing or settling the matter with the Commission.

In sum, the general rules of operation and approval of agreements have been developed by the Congress with full awareness of the realities of international ocean carriage; a general standard has been retained to provide the necessary flexibility to deal with the unusual or severe cases not addressed by other prohibitions in the Act.

SECTION 7—EXEMPTION FROM ANTITRUST LAWS

Section 7 defines the limits of antitrust immunity for conduct pursuant to this Act. The provisions in the House and Senate bills were similar. The conferees agree to the House provisions with a few exceptions.

Section 7(a)(1) extends antitrust immunity to agreements in effect under this Act. Section 7(a)(2) extends immunity to activity undertaken "with a reasonable basis to conclude" that it is pursuant to an effective agreement on file with the Commission or exempt from filing requirements under Section 16. The conferees chose this formulation of (a)(2) from the Senate bill; the House bill would have keyed immunity to "a reasonable belief." The conferees agree that the test—a "reasonable basis to conclude"—is objective. The actual belief of the parties at the time of the conduct will generally not be controlling. At the same time, if parties to concerted conduct are shown to have believed that their conduct was outside the scope of an effective agreement and not exempted from filing requirements, this fact would tend to demonstrate that no "reasonable basis to conclude" is present.

A new subsection (a)(3) has been added to provide for antitrust immunity for transportation services within or between foreign countries, whether or not via the United States, unless there is a direct, substantial, and reasonably foreseeable effect on the commerce of the United States. This compromise provision, similar to language approved by the House Judiciary Committee but not included in the final House version of the bill, is a modified version of subsection (a)(4) of the Senate bill. The new provision parallels language in Title IV of the Export Trading Company Act of 1982, intended to limit the extraterritorial reach of United States antitrust laws.

Section 7(a) omits a provision in the House and Senate versions that would have conferred antitrust immunity on agreements with foreign shippers' councils. These paragraphs are not required in order to confer antitrust immunity on common carriers, or groups of common carriers, that negotiate or enter into agreements with a shipper, or group of shippers. Cooperative arrangements among carriers to discuss and fix rates or to pool or apportion traffic are, for example, within the scope of the Act. Section 7(a)(2) confers antitrust immunity on such conduct if it is within ths scope of an agreement filed with the Commission and in effect. This immunity applies regardless of whether the carrier or conference is dealing with a single shipper or a group of shippers—and regardless of whether the service is offered pursuant to a published tariff or a service contract.

Section 10(b)(13) prohibits carriers from refusing to negotiate with a shippers' association. A carrier or group of carriers need not fear antitrust liability arising out of such negotiations. Thus, even if group conduct exposes shippers to antitrust liability, a carrier or conference that has dealt with the shippers is protected as long as its conduct was within the scope of an effective agreement. Both the carriers and the shippers receive additional antitrust immunity from private antitrust suits under section 7(a)(2). Inclusion of a provision that confers antitrust immunity only on agreements with foreign shippers' councils could have been interpreted as suggesting that carriers dealing with domestic shipping groups, or even individual shippers, could not enjoy the same protection.

Section 7 omits a provision in the Senate bill that would have conferred antiturst immunity on concerted action by domestic shippers. Cooperative activities of shippers in obtaining shipping services would not be proscribed by the antitrust laws if the cooperating group does not possess threatening market power. Business Review Letters of the Department of Justice and Advisory Opinions of the Federal Trade Commission are available to provide advice to such shippers. In addition, Title III of the Export Trading Company Act of 1982 allows groups of exporters to apply to the Secretary of Commerce for antitrust certification.

The conferees agree to the language of subsection (b)(3) from the House bill. This subsection preserves antitrust jurisdiction over an agreement among common carriers to establish, operate, or maintain a marine terminal in the United States. Carrier-owned joint operations of marine terminals would be proscribed under the antitrust laws only if such operations present a substantial threat to competition. Agreements covering such joint operations need not be filed with the Commission under Section 5.

SECTION 8—TARIFFS

In subsection (a)(1) the conference agreement adopts the Senate provision, with language modifications. The courts have found that virgin bulk cargoes (such as ores, woodchips and woodpulp) regularly compete with their recycled counterparts (recycled metal scrap and wastepaper) in industrial markets both here in the United States and overseas. Thus, in order to treat these competing industrial raw materials as equally and fairly as possible for transportation purposes, the conferees agree to exempt both virgin and recycled categories from the tariff-filing requirements. The words "recyclable" and "metal bearing materials" contained in the Senate bill were dropped as too vague. The term "recycled metal scrap, wastepaper or paper waste" adopted by the conference means aluminum, copper, iron or steel, lead, nickel, tin, zinc and mixed metal scrap, alloy or residues, as well as the various types of wastepaper, newsprint, paperboard and other paper products, recovered or diverted from solid waste and transported so that they may be reused as industrial or manufacturing raw materials, either here in the United States or abroad. The conference agreement adopts the House version of the remainder of subsection (a) and subsection (b).

In subsection (c) the conference agreement adopts the Senate language regarding service contracts and inserts the phrase "or shippers association" in lieu of the phrase "shipper joint ventures". This change reflects the House conferees' decision to recede to the Senate conferees' desire to permit shipper associations in lieu of the shipper joint venture concept originally in S. 47. The conferees agree to add the phrase "recycled metal scrap, waste paper and paper waste" after the phrase "forest products". In addition, the conference agreement deletes the prhase "to provide specified services under specified rates and conditions". This is viewed by the conferees to be merely a technical amendment.

Pursuant to its responsibilities under the Shipping Act of 1916, the Federal Maritime Commission has, by regulation, required the filing of terminal tariffs by persons engaged in carrying on the business of furnishing wharfage, dock, warehouse or other facilities. See 46 C.F.R. Part 533. If the Commission continues this requirement, the conferees intend that forest products, bulk cargo, and recyclable metal scrap, waste paper, and paper waste not be included within the ambit of any such requirement. This exemption is consistent with the treatment of these cargoes in section 8(a)(1) and 8(c) of this Act.

SECTION 9—CONTROLLED CARRIERS

The House recedes from its provision that would have added a new exemption for controlled carriers registered in a state that is designated as a beneficiary-developing country for purposes of the generalized system of preferences provided for in the Trade Act of 1974 and has privately-owned vessels registered within its jurisdiction that are not operated by a common carrier.

Current law (Public Law 95-483) exempts from its requirements controlled carriers of states whose vessels are entitled by a treaty of the U.S. to national or most favored nation treatment; as well as controlled carriers of states which have subscribed to the statement of shipping policy contained in Note 1 to Annex A of the Code of Liberalization of Current Invisible Operations of the OECD. While the United States is not a subscriber to "Note 1," those countries which are have made a commitment to avoid the kinds of unfair competition practices at which Public Law 95-483 is directed.

Public Law 95-483 was passed after several years of consideration and many days of hearings in response to a great and growing problem of unfair competition from cross trading government-owned carriers. The House provision would have substantially broadened the existing exemptions in that Act. It has been suggested that the added exemption in the House bill could have carved twenty-seven countries out from coverage of the law, including a Comecon country. Virtually every one of these countries has ratified the UNCTAD Code on Liner Conference Conduct, which will disadvantage U.S.-flag commercial carrier operations as cross traders. The House provision would have weakened one of the major tools for dealing with non-commercial carriers in a world in which non-commercial shipping considerations are becoming increasingly important.

Accordingly, the Conferees believe any broadening of the exemption in existing law should be considered in separate hearings on legislation specifically intended for that purpose. The Conferees agree to delete the House language with the understanding that, if the Administration presents a bill to amend the Control Carriers Act, then such a bill would be given consideration.

SECTION 10—PROHIBITED ACTS

The prohibited Acts contained in the House version are adopted by the Conference with certain modifications. Because service contracts will selectively favor some shippers, several of the proscribed acts (sections 10(b) (6) and (11)) were amended to assure that service contracts may discriminate as to rates and cargo classifications, and provide distinct advantages or preferences that might otherwise be in violation of the Act. Such differentials are the very nature of contract service.

An additional prohibited act was added that prevents carriers from refusing to negotiate with shippers' associations as defined in section 3(24).

Section 10(c)(5) prohibits a conference or group of carriers in the export foreign commerce of the United States from denying brokerage to ocean freight forwarders or limiting that compensation to less than a reasonable amount. Rather than specify the limitation at 1¼ percent of the freight charges, as was done in the Senate version, the Conferees agree to proscribe any denial of compensation at less than a reasonable amount. "Reasonable", has been determined by the Federal Maritime Commission in those cases at which limitation of compensation was at issue to be no less than 1¼ percent. The Conferees view the approach taken by the Federal Maritime Commission as consistent with their continuing regulatory responsibility and assume that the Commission will be guided by its past actions when determining what a "reasonable amount" will be. The prohibited act applies only to concerted action—an individual carrier may deny compensation or pay brokerage at any level without any liability under this Act.

SECTION 11—COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS

Section 11 governs Commission investigations, complaints, reports, and injunctive and reparations relief available to persons injured by reason of violation of the Shipping Act. Subject to a few modifications, the conferees agree to accept the House language for this section.

Investigations and proceedings under this section may reach any potential violation of the Act. Although Commission investigations may reach possible violations of the general standard, enforcement of that standard is solely through section 6(h).

Subsection (d) of the Senate bill dealt with special Commission investigations of conduct pursuant to pooling arrangements. This provision is dropped in view of the conferees agreement on a general standard in Section 6(g). Pooling arrangements can be addressed under the general standard.

Section 11(g) permits a party injured by violations of the Shipping Act (other than a violation of the general standard) to obtain reparations. Private suits for damages under the antitrust laws will no longer be permitted when the injury is the result of conduct prohibited by the Shipping Act (Section 7(c)(2)). The Commission may direct payment of damages not to exceed twice the amount of actual injury for violations of 6 specified prohibited acts. In all other cases, Section 11(g) will limit damages to the amount of actual injury. But a successful complainant will be awarded interest at commercial rates, compounded from the date of injury, and reasonable attorney's fees. In determining the amount of attorney's fees, a complainant's expenses for representation before the Commission as well as in any federal court proceeding (such as under subsection (h)) should be considered. But a successful complaint is not entitled to attorney's fees for any portion of the proceeding for which it did not prevail or for procedural motions that are unsuccessful.

Subsection (h)(1) authorizes the Commission to seek relief in a federal district court to enjoin for the duration of a Commission complaint proceeding conduct in violation of the Act. The Standard for the Commission to obtain such relief has been altered from the House bill. Under the new language, the Commission is entitled to relief if the "standards for granting injunctive relief by courts of equity are met." See *Washington Metropolitan Area Transit Commission* v. *Holiday Tours, Inc.*, 559 F.2d 841 (D.C. Cir. 1977); *Virginia Petroleum Jobbers Ass'n* v. *Federal Power Commission*, 259 F.2d 921 (D.C. Cir. 1958).

If a person allegedly injured by a violation has filed a complaint with the Commission, such person may file suit for preliminary injunctive relief under subsection (h)(2). The same standard applicable to a suit initiated by the Commission applies to the granting of a temporary injunction. Under the Federal Rules of Civil Procedure, the Commission may intervene in such a proceeding.

A successful private complainant will recover attorney's fees for the injunctive proceeding if ultimately successful on the merits (subsection (g)). If the complainant does not obtain injunctive relief under subsection (h)(2), the court shall award reasonable attorneys fees to the defendant. The conferees believe an automatic award of reasonable attorney's fees to a successful defendant will discourage frivolous private suits to block legitimate conduct. Such an award should cover only those fees reasonably caused by the complainant's suit for a preliminary injunction, excluding any unnecessary costs generated by a defendant's response.

A preliminary injunction issued under subsection (h)(1) or (2) may not extend beyond 10 days after the Commission has issued an order disposing of the issues under investigation.

SECTION 12—SUBPENAS AND DISCOVERY

The conference agreement incorporates verbatim the language which appears identically in both the House and Senate versions.

SECTION 13—PENALTIES

Section 13(a) through (13(b)(4) was similar in the House and Senate bills. The conference agreements adopts the House language in those sections. The Senate recedes from its opposition to the House language in 13(b)(5) in general. That paragraph was changed to make clear that the action of a common carrier, either acting alone or in concert with any person, to impair the access of U.S. vessels to cross-trades is subject to penalties authorized in paragraphs (1), (2), and (3) of this subsection. The conference agreement adopts the House version of the remainder of section 13 with the exception of section 13(f)(1), which was redrafted to restate current law.

SECTION 14—COMMISSION ORDERS

The Senate conferees recede and agree to the House version of sections 14(a) through 14(d)(3). In section 14(e) the statute of limitations is reduced from four years in the House version to three years.

SECTION 15—REPORTS AND CERTIFICATES

The Senate recedes and accepts the House version of Section 15.

SECTION 16—EXEMPTIONS

The Senate recedes and accepts the House version of Section 16.

SECTION 17—REGULATIONS

The Senate recedes and accepts the House version of Section 17(a). The conferees also agree to incorporate into the conference version a new Section 17(b), which permits the Commission to promulgate interim rules within the ninety-day period preceding the effective date of this Act. The conferees further agree that interim rules shall be in effect only for a limited period of time. Thus, Section 17(b) directs the Commission to promulgate final rules no later than 270 days after the date of enactment, or 180 days after the effective date. These final rules are to be promulgated subject to the public notice and comment requirements of section 553 of title 5, Unites States Code.

SECTION 18—AGENCY REPORT AND ADVISORY COMMISSION

Section 18 is a compromise provision that provides for the FMC to collect data on the operation of this act for a period of five years following enactment. The FMC's report, with input from the Department of Justice, the Department of Transportation, and the Federal Trade Commission, will be submitted to a specially created Advisory Commission that will reexamine the regulatory policy underlying international ocean transportation.

Reliable empirical data about trends and practices in the industry will be valuable in weighing the effectiveness of the reforms that the Act will implement. Any future debate on regulatory policy will benefit from the availability of this information.

The original Shipping Act of 1916, the 1961 Amendments, and S. 47 are all attempts to formulate a system of rules that reconciles the principle of free and open competition with the pattern of cartels and other concerted practices that have typified this industry at least since the 1870's. The result has been neither pure competition nor pure rationalization, but rather a system of regulated cartels. S. 47 is a refinement in the rules governing open conferences—not an expression of a new American policy with respect to agreements among competing carriers in international ocean carriage.

There is much reason to believe that the current system of regulated conferences is the best way to balance the conflicting interests and that, with the reforms of S. 47, the system will be much improved. On the other hand, some have argued that the current system achieves few of the benefits of either rationalization or open competition. According to this view, either pure competition or closed conference would better serve the nation than the hybrid regulatory system that has existed for the last 70 years. Pure competition would address the classic problem of the industry—overcapacity—by eliminating competitors; strict rationalization would address the same problem through tight governance over participation in a trade.

The House version of S. 47 contained provisions designed to collect further information and provide for a study commission. Section 20 of the Senate bill would have provided for the Comptroller General to make a comprehensive study of major issues affecting the regulation of ocean common carriers.

The House and Senate conferees recede from their respective versions in favor of a new Section 18. The conferees believe that a period of time should elapse before further consideration of the Shipping Act. This time should be used to collect information on the effects of the new regulatory scheme. For the first five years after the enactment of this legislation, the FMC is to collect data on tariffs, services, independent carriers, and regulatory proceedings. Subsection (b) requires that the FMC consult annually with the Department of Transportation, the Department of Justice, and the Federal Trade Commission. Subsection (c) provides for the FMC to report the facts it collects with its analysis of the operations of this Act, and for the Department of Transportation, the Department of Justice and the Federal Trade Commission also to report. Subsection (c) also provides a list of topics to be addressed; the Conferees do not intend that this list be exclusive.

Subsections (d) through (j) establish and provide the legal framework for an Advisory Commission on Conferences in Ocean Shipping, which will come into existence five and one-half years after enactment of this legislation. The Advisory Commission differs in a number of respects from the Commission that the House bill would have created. First, the conferees have made clear that it is to be an Advisory Commission. Second, the membership of the Advisory Commission is reduced by elimination (except for a single cabinet-level official) executive branch officials. Third, the Advisory Commission is to focus on the single largest question underlying the Shipping Act—whether the nation will best be served by closed conferences, open conferences, or prohibiting conferences. In addition, the conferees expect that the Advisory Commission will address other important issues raised during the consideration of S. 47. These should include, but not be limited to, (1) whether tariff filing, and its accompanying enforcement by the Federal Maritime Commission, should be continued, and (2) whether independent action should be required on service contracts. Fourth, the Advisory Commission is to be staffed by the Department of Transportation, the Department of Justice, the Federal Maritime Commission, and the Federal Trade Commission, and its authorization is to be limited to $500,000. Finally, the Conference version makes a number of procedural changes in the operation of the Advisory Commission, such as in the manner that its compulsory process is to be enforced and in removing the explicit exemptions from title II of the Federal Advisory Committee Act, the Ethics in Government Act, the Sunshine Act, the Privacy Act and the Freedom of Information Act.

SECTION 19—OCEAN FREIGHT FORWARDERS

The Senate recedes and accepts the House version of section 19.

SECTION 20—REPEALS AND CONFORMING AMENDMENTS

The Senate recedes and accepts the House version of Section 20.

SECTION 21—EFFECTIVE DATE

The conference agreement adopts ninety days after enactment, as the effective date of this Act, with the exception of Sections 17 and 18 which shall become effective upon enactment.

SECTION 22—COMPLIANCE WITH BUDGET ACT

The Senate recedes and accepts the House version of section 22.

Walter B. Jones,
Mario Biaggi,
John B. Breaux,
William J. Hughes,
Peter W. Rodino,
John F. Seiberling,
Edward F. Feighan,
Edwin B. Forsythe,
Gene Snyder,
Don Young,
Hamilton Fish, Jr.,
Carlos J. Moorhead,
Managers on the Part of the House.

Bob Packwood,
Slade Gorton,
Ted Stevens,
Robert W. Kasten, Jr.,
Russell B. Long,
Daniel K. Inouye,
Strom Thurmond,
Orrin G. Hatch,
Managers on the Part of the Senate.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1955, HOUSE JOINT RESOLUTION 196, HOUSE JOINT RESOLUTION 373, and HOUSE JOINT RESOLUTION 434

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that I might withdraw my name as a cosponsor of the following bills: H.R. 1955, House Joint Resolution 196, House Joint Resolution 373, and House Joint Resolution 434.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3795

Mr. EMERSON. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 3795, the so-called Wine Equity Act.

I do so because I have concluded that there is developing an attitude in the European Community to refrain from punitive actions vis-a-vis the American soybean and corn industry. I withdraw from cosponsorship in a spirit of amity, to the end that free trade implies fair trade.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 1510

GENERAL LEAVE

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks, and to include extraneous matter, on the subject matter of the special order of the gentleman from Massachusetts (Mr. DONNELLY).

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

JOINT RESOLUTION DIRECTING PRESIDENT TO SECURE ACCOUNTING OF MIA'S IN SOUTHEAST ASIA

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. APPLEGATE. Mr. Speaker, today, I and 79 Members of Congress are introducing a joint resolution to immediately direct the President to secure from the Southeast Asian governments the full accounting of our U.S. servicemen listed as POW/MIA from the Vietnam conflict.

Over 11 years have passed since the end of this conflict. But yet we still have 2,490 American servicemen unaccounted for from every State in the Nation.

Last year, President Reagan told a gathering of the League of Families, that he was determined to obtain the fullest possible accounting for our Americans missing in Southeast Asia. "We must not rest," the President said, "until we know their fate."

These are surely great words, but what assurances do we have that this promise will be fulfilled? That is what our resolution does—insures every mother, father, spouse, brother, and sister that an accounting will be made.

I realize that little progress has been made over the years to bring the remains home of our servicemen. And it is the 2,490 men and women that concerns us. Recently, a high-level U.S. delegation met the Vietnamese Government officials to discuss the fate of those servicemen missing in Vietnam.

I most certainly applaud these efforts. But what happens if the talks and negotiations fail? What about the other Indochina nations involved in the Vietnam conflict? We cannot automatically assume that they will participate in these negotiations.

Vietnam-era veterans have suffered because they got no homecoming, no parades and no ceremonies of gratitude. Families, too, have suffered because—denied the remains of loved ones—they were denied the ceremonies that cauterize wounded spirits.

Imagine, Mr. Speaker, the torment of thinking that a loved one might be living with an unspeakable sense of abandonment. We are speaking for them here today, by introducing this resolution.

Yesterday, Mr. Speaker, you met with a contingent concerned about the POW/MIA issue. We brought to your attention over 125,000 signatures of American citizens equally concerned about our missing men.

Yesterday was also an important day in history. It was the birthday of the father of this great Nation, George Washington. As a general in the military and our first President, George Washington fought for our freedoms and liberties. We are here today to fight for the freedom of 2,490 men.

The POW/MIA issue is a nonpartisan issue which deserves the full support of the House of Representatives. Following my statement is a listing by State of the men unaccounted for. This, in my judgment, clearly underscores the need for support we should have from every Member of Congress and from every State.

I would hope that my colleagues will review this listing. We are talking about men from their State and possibly their districts. I would also hope that they will review our resolution. It is to the point, and insures us in this body that an accounting will be made.

It is also important to note that my friend, Senator J. JAMES EXON of Nebraska, will be introducing a similar resolution in the U.S. Senate tomorrow.

Four years ago, Mr. Speaker, the media kept the Nation mesmerized by counting, up to 444, the number of days of captivity for 52 U.S. diplomats. The count of days greatly exceeds this count for 2,490 American servicemen. Who is counting now? Unless we, in the Congress, care enough now, we may not know the fate of these POW/MIA's.

U.S. servicemen unaccounted for by State[1]

Alabama	45
Alaska	3
Arizona	26
Arkansas	28
California	250
Colorado	41
Connecticut	40
Delaware	6
District of Columbia	9
Florida	83
Georgia	50
Hawaii	11
Idaho	12
Illinois	105
Indiana	71
Iowa	40
Kansas	39
Kentucky	22
Louisiana	35
Maine	19
Maryland	37
Massachusetts	59
Michigan	77
Minnesota	46
Mississippi	18
Missouri	51
Montana	21
Nebraska	25
Nevada	10
New Hampshire	10
New Jersey	64
New Mexico	18
New York	160
North Carolina	61
North Dakota	17
Ohio	129
Oklahoma	49
Oregon	46
Pennsylvania	128
Rhode Island	10
South Carolina	31
South Dakota	9
Tennessee	44
Texas	164
Utah	23
Vermont	4
Virginia	62
Washington	60
West Virginia	26
Wisconsin	37
Wyoming	6
Puerto Rico	3
Virgin Islands	1
Other	7

[1] Figures compiled from the POW/MIA Fact Book published by the U.S. Department of Defense, January 1984.

SPONSORS OF HOUSE JOINT RESOLUTION 489

Mr. Siljander, Mr. Pepper, Mr. Kogovsek, Mrs. Schneider, Mr. Mrazek, Mr. Frank, Mr. Mazzoli, Mrs. Schroeder, Mr. Leland, Mr. Walgren, Mr. Reid, Mr. McNulty, Mr. Hartnett, Mr. Mineta, Mr. Evans of Illinois, Mr. Madigan, Mr. Mollohan, Mr. Scheuer, Mr. DeWine, Mr. Ratchford.

Mr. Dwyer, Mr. Lewis of California, Mr. Ritter, Mr. Kindness, Ms. Mikulski, Mr. Jacobs, Mr. Morrison of Connecticut, Mr. Rahall, Mr. Nowak, Mr. Kasich, Mr. Glickman, Mr. Frenzel, Mr. Sam B. Hall, Jr., Mr. Akaka, Mr. Simon, Mr. Seiberling, Mr. Hayes, Mr. McGrath, Mr. Hansen of Idaho, Mr. Fazio.

Mr. Sunia, Mr. Sensenbrenner, Mr. Ottinger, Mr. Bereuter, Mr. Carper, Mr. Miller of Ohio, Mr. Dyson, Mr. Wortley, Mr. Berman, Mr. Markey, Mr. Feighan, Mr. Jeffords, Mr. Sikorski, Mr. Torres, Mr. Young of Florida, Mr. Horton, Mr. McCurdy, Mr. Eckart, Mr. Wirth, Mr. Torricelli, Mr. Mavroules, Mr. Gore, Mr. Hiler, Mr. Goodling, Mr. Regula, Mr. O'Brien, Mr. Hance, Mr. Clay.

H.J. Res. 489

Joint resolution directing the President to secure a full accounting of Americans missing in Southeast Asia

Whereas more than 600 Americans were lost in Laos during the Vietnam conflict, yet no American servicemen were released from Lao Government control when the conflict ended in 1973 and the remains of only a few have been returned to the United States;

Whereas the United States Government has been unable to secure the return of the remains of United States servicemen reported by the Vietnamese to have died in captivity in South Vietnam; and

Whereas the United States Government has, as yet, failed to verify 36 percent of the reports from persons who have claimed to have seen missing Americans in Southeast Asia: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is directed—

(1) to act immediately and expeditiously to secure from the governments of the nations of Indochina the fullest accounting for the 2,490 Americans captured or missing as a result of the Vietnam conflict; and

(2) to work for the immediate release of each living American who may still be held captive in Indochina and the immediate return of the remains of all American servicemen and civilians who have died in Southeast Asia.

Sec. 2. The President shall submit two reports to Congress on the POW-MIA problem. The first report shall describe the actions that have been taken by the Federal government prior to the date of enactment of this resolution to secure a full accounting of Americans POW's and MIA's in Southeast Asia and shall be submitted within thirty days of the date of enactment of this resolution. The second report shall describe the actions taken by the Federal Government in carrying out the first section of this resolution and shall be submitted within one hundred and eighty days after the date of enactment of this resolution.

BUDGET POLITICS CLOUD IMMIGRANT EDUCATION PROSPECTS

(Mr. de la GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. de la GARZA. Mr. Speaker, I am alarmed at the way this administration is directing its efforts to obviate the will of the Congress.

The fiscal year 1984 continuing appropriations bill, Public Law 98-151, included language for carrying out the Immigration Education Assistance Act under title V of H.R. 3520, providing $30 million for that purpose.

It is obvious the administration does not intend to obligate any of this amount. The administration is doing this without providing the Congress notification of its intention.

Mr. Speaker, this alarms me. This intrusion on our rights is frightening. In that connection, I submit for my colleagues' reading an excerpt from my weekly newsletter on this subject:

Budget Politics Cloud Immigrant Education Prospects

My colleague and good friend Majority Leader Jim Wright and I have locked horns with the U.S. Department of Education. It's a classic feud between Congress and a federal department which does not want to use money that Congress specifically requested it spend. We are talking about $30 million—about the price of a paint job for a MX missile!

If this were a Shakespearean play, we'd be close to the fifth act. Last year, Majority Leader Wright and I tried in vain to convince our House and Senate colleagues to pass a law establishing a permanent immigrant education program within the Education Department, with year-to-year funding. Border taxpayers are footing the bill for the federal government when it's a federal responsibility to help out with immigrant education. Well, the Congress did not pass such a law—and the Majority Leader and I settled for second best. A quick shot in the arm of $30 million was given to the Education Department to relieve some of the local tax burden for this special kind of education effort.

We wrote Education Secretary Bell and urged him to use the money as quickly as possible—and he wrote back saying he would do so. But this is late February, and the money is unspent—and the President's proposed fiscal year 1985 budget in fact says that the $30 million is languishing in budgetary limbo—unused and unaccountable. This is unfortunate because local school districts need help with immigrant education efforts, particularly our Valley schools.

Now here's what the Administration says. It contends that since Congress failed to pass a law establishing a permanent, year-to-year immigrant education program—the Education Department lacks the necessary instructions for spending the $30 million. But like any musical record, there's a flip side. When Congress appropriated the $30 million in lieu of a permanent program (hopefully we can get a permanent program passed some time soon), it specifically instructed the Education Department to spend that money on immigrant education needs—and only on immigrant education.

If the President does not want to spend funds appropriated by Congress, he can either defer the spending or he can rescind the funds in which case they return to the treasury at the end of the fiscal year. In each case, the President must notify Congress of his intentions, but the President has not done so. Under the Impoundment Control Act of 1974, the General Accounting Office (the financial accounting arm of Congress) can investigate situations where the President has avoided making his intentions clear.

Normally, a rescession (cancellation) of funds requires Congressional action. If the head of the GAO—the Comptroller General—finds that a federal department or agency is trying to rescind or even defer spending money appropriated by Congress without formally notifying Congress of such, the GAO has the right under the Impoundment Control Act to file suit in federal court to require the federal government to spend the funds. At the present time, the GAO is looking into this issue. I have also written Secretary Bell and requested a meeting to discuss this crucial turn of events.

The whole situation boils down to this. When Congress passes a law which establishes a program for the good of the nation, it is the right of the federal government to implement the program using its best judgment. Congress clearly allows the various federal departments to do the final shaping on programs authorized by law. But when it comes to the money that funds these programs, Congressional prerogative is constitutionally based. When Congress appropriates money, we expect it to be spent for the purposes outlined. Nor do we look kindly on the federal government using funds for a purpose other than that which Congress specifies. The Majority Leader, and I are committed to seeing our $30 million escape the budget limbo assigned to it by an Administration unwilling to act in behalf of the taxpayers who have to foot the bill for immigrant children's educational needs. And that's the bottom line. We can't expect education to succeed in America if our school districts are not given the help they need.

NEW PROPOSAL FOR MISSILE TALKS

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COUGHLIN. Mr. Speaker, the decision of the Soviet Union to break off arms control talks with the United States has been a deep disappointment to those of us who fervently believe that agreements reducing weapons and international tensions can and must be achieved.

It is crucial that the dialog be reopened. The recent change in Soviet leadership offers the potential of a fresh start and the United States should seize the initiative by making creative and constructive proposals.

I have written to President Reagan urging him to propose—in conjunction with our NATO allies—that the United States offer to cancel the deployment of all 108 Pershing II missiles in Europe in exchange for a reduction in the number of Soviet SS-20 missile warheads to equal the number of warheads planned for NATO ground-launched cruise missiles. Each side would then be limited to 464 medium-range warheads.

The proposal offers a middle course designed to get the intermediate-range nuclear force talks back on track. It requires concessions of both sides but offers each advantages as well. For the Soviets, it would eliminate the weapon they fear most—the extremely fast Pershing II missile capable of striking Moscow in minutes. For the United States and our allies, the proposal would require more than a 50-percent reduction in Soviet SS-20 missiles. The basis would then be established for further warhead reductions on a one-for-one basis.

Mr. Speaker, this proposal first came to my attention in a January 13, 1984, Washington Post article by John D. Immele, a nuclear explosive design specialist at the Lawrence Livermore

National Laboratory. He makes a strong case for sacrificing the Pershing II in order to achieve reduced and equal numbers of intermediate-range nuclear warheads in Europe. I believe the idea makes sense and urge that the proposal be formally presented to the Soviets.

I commend Mr. Immele's analysis and insert his article in the Record at this point:

A Missile Deal for Europe—and Beyond

(By John D. Immele)

A designer of the MX warhead offers a plan he hopes will make the MX unnecessary.

As expected, the Soviets walked out of the Geneva talks on intermediate-range nuclear forces (INF) when planned NATO deployments of Pershing II and ground-launched cruise missiles began.

In a Moscow press conference and in Pravda editorials, the Soviets have insisted that new U.S. missiles must be removed before the INF talks can resume.

These media ploys appear to me to be designed to heighten public anxiety in the West so that NATO will retreat short of its current goal of nuclear parity in Europe and remove the new missiles without the Soviets' cutting any of their SS20 forces. The alliance is quite properly continuing deployment, and the first missiles have become operational.

But what direction can a compromise INF proposal take that would draw Soviet negotiators back to the table and result in a stable arms control agreement?

The views here are personal, reflecting the hopes of one American nuclear weapons designer. In general I favor the course the Reagan administration has charted in arms control. But neither it nor that of the now-absent Soviet negotiators has yet arrived at a treaty that provides more security for both sides.

I believe the United States should continue to take the initiative in seeking arms reductions and technology controls in land-based missiles. Beginning with the European nuclear forces, the United States should pursue compromise agreements in new directions aimed at improving East-West stability as perceived by each side. Such a strategy, I believe, would eventually lead to successful treaties concerning longer-range strategic missiles.

In Europe, the United States should give up deployment of the planned 108 Pershing II missiles in exchange for the Soviets' reducing the number of their SS20 warheads to that of NATO's ground-launched cruise missile warheads.

Such a compromise, I believe, would improve the stability of the continent while not endangering the interests of either side. This compromise does require, however, that both sides acknowledge each other's hopes and fears.

We in the United States must recognize the threat the Pershing II poses to the Soviet leadership in a crisis situation. Since the Pershing II warhead can reach deep into Russia and can maneuver for improved accuracy, Soviet leaders fear a quick first-strike "decapitation" of much of their command authority. This fear makes the Pershing II destabilizing in a crisis.

The SS20 also has a short fly-out time, but there is an important asymmetry: SS20s do not threaten U.S. cities, U.S. land-based missiles or U.S. command-and-control centers.

For their part, the Soviets and Warsaw Pact allies must accept that their modern SS20 warheads will be balanced by modern, mobile, survivable NATO weapons of equal range and firepower.

An important feature of the ground-launched cruise missile (GLCM) is that it will replace, one-for-one, airplane-deliverable nuclear bombs. Unlike a manned bomber, the GLCM is not confined to a few runways. Its launchers can disperse from air bases in a crisis to any number of locations in the countryside, making it more survivable than airfield-based planes.

While the GLCM has the same threatening range as the SS20 and Pershing II, it cannot be construed as a first-strike weapon because it flies much more slowly than the ballistic missiles. It would take more than two hours to reach Moscow.

By keeping the cruise missiles, NATO would retain and make more survivable its second-strike nuclear deterrent.

By matching one GLCM warhead for each SS20 warhead, the scheduled NATO deployment of 464 GLCM warheads would sanction only 155 triple warhead SS20s, roughly half the number currently deployed. Moreover, it would establish a one-for-one warhead formula that could be used in negotiating even deeper cuts in the total number of INF warheads in Europe.

I would prefer that there be no land-based nuclear forces in Europe at all. But accepting the present imbalance can only invite nuclear intimidation of our allies and increase the actual threat of nuclear war.

I am optimistic we can achieve an agreement of this type because the Soviets are legitimately upset by the Pershing II and are surely discovering that they cannot manipulate Western politics to the extent they had hoped. Moreover, the proposed compromise meets the concept of "equal security" the Russian negotiators have given a high priority in their negotiations.

In their July 1982 "walk in the woods," Geneva negotiators Paul Nitze and Yuli Kvitsinsky discussed a similar idea. Though it was rejected by both governments at the time, that compromise suggested the negotiators realized both the potential of the Pershing II as a bargaining chip and the deep NATO commitment to establishing nuclear parity in Europe either by deploying the GLCM or eliminating such forces outright as in President Reagan's initial zero-zero option.

Giving up the Pershing II seems to me to be a small price to pay for a workable treaty that would enhance stability in Europe and set the stage for further reductions in nuclear forces there.

Moreover, a valuable precedent would be demonstrated to friend and foe alike; bargaining chips can enhance arms control if the United States has the patience and resolve to play them properly.

Use of other chips could further world stability.

As one of the designers of the MX warhead, I would be gratified if that missile's deployment were scrapped in exchange for significant reduction in the Soviets' destabilizing, first-strike SS17, SS18 and SS19 strategic missiles.

A Pershing II/SS20 treaty can be a historic first step toward such a mutually beneficial strategic agreement.

THE BIG SPENDERS IN CONGRESS

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, there is a lot of heat going around in here about spending policies. We had our friend, the gentleman from Connecticut (Mr. Gejdenson), get up and attack the President for his position on the budget.

There happens to be a number of analyses that are used to govern judgment on how people spend. The National Taxpayers Union probably has the most honest one. It judges every single vote we take on spending, whether it is for defense or whether it is for domestic spending.

So I just took a look down here to see what those spending records are. In the 1st session of the 97th Congress, of the 35 who were considered to do the most for spending restraint, only 3 of the 35 were Democrats. Two of those, Mr. Gramm and Mr. Stump, are now Republicans, and the other is Mr. McDonald, who is no longer with us.

When the National Taxpayers Union did it in the 2d session of the 97th Congress, only five were Democrats, McDonald, Gramm, Stump, Roemer, and Stenholm, in that group. And in that group listing the worst spenders, there are 38. All 38 are Democrats, and the gentleman from Connecticut, who was just advising us on spending, is one of the worst spenders in the entire Congress, as listed by the National Taxpayers Union. He also managed to qualify for the standard of being one of the big spenders in the 1st session of Congress as well.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. If the gentleman wants to give the President advice on spending, I suggest he give him his voting record and suggest the President support the votes in the opposite direction of the gentleman's voting record.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, does the gentleman argue the fact that if the President wanted to, he could present Congress with a balanced budget, and that in the House and Senate it takes a majority?

Mr. LUNGREN. I will be happy to reclaim my time so I can answer the gentleman's question

Mr. GEJDENSON. All right. It takes 218——

Mr. LUNGREN. The President can do nothing in terms of spending. The gentleman knows as well as I do that the budget is merely a sheet of paper.

Mr. GEJDENSON. The President's proposal has——

Mr. LUNGREN. It is the spending that counts and this is the gentleman's spending record.

CALLING A CONSTITUTIONAL CONVENTION ON THE SUBJECT OF A BALANCED BUDGET

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANNEMEYER) is recognized for 60 minutes.

Mr. DANNEMEYER. Mr. Speaker, I take this special order today to talk about a subject that is gaining momentum around this country at a rate that should cause the leadership of this House to be very concerned as to what their responsibility should be in response to it. I am speaking of the effort on the part of the States of this Union to exercise what our Founding Fathers placed in the U.S. Constitution when the people of this country are faced with an institution—in this instance, the House of Representatives combined with the other body, the Senate, comprising the Congress of the United States—where the Congress of the United States is engaging in conduct which is at variance with the sense and judgment of the vast majority of the American people.

We are witnessing in this era of the 20th century in American politics one of the great paradoxes in the sense that poll after poll shows that the people of our Nation want the Congress of the United States to get its fiscal house in order. These polls show that 65 to 70 percent of the people—Democrats, Republicans, and Independents alike—want this institution in which we serve to balance the budget of the U.S. Government and to achieve that balance by cutting spending, not increasing taxes. That is the mandate of the people of this country. And yet this institution one time in the last 24 years has balanced the budget.

Why the paradox? And I suppose it becomes even more interesting when we analyze that on the election which takes place each November of even-numbered years in this country, when we elect every Member of this body, the people of the country send back to this body Members who are voting against achieving a balanced budget. The question is, How does this happen? Is there no accountability in the political process of America where the people want a balanced budget to come about? And yet the people who are here, who are elected to discharge that responsibility, do not see fit to do it.

Mr. Speaker, in response to this paradox, our Founding Fathers placed a provision in our Constitution which provides an alternative to bring discipline to the Congress of the United States in a spending sense. The Constitution of the United States says that when 34 States of our Union, two-thirds, petition Congress on a particular subject, Congress in that instance must call a constitutional convention on that subject or, in the alternative, propose an amendment to the States to comply with that mandate on the part of the State legislatures.

Well, so far 32 States in this Union have petitioned the Congress of the United States to call a convention on the subject of a balanced budget amendment to the Federal Constitution. When the number gets to 34, the Constitution of the United States requires this Congress to call that convention, and it is in this sense and to this issue I speak this afternoon in this special order.

In my home State of California, last Friday, as the result of an effort that began last fall, we were successful in concluding a diligent effort to use what is called the initiative process to place on the ballot of our State in November 1984 a measure which will give the people of California the opportunity of saying whether or not they want to make California the 33d State in the Union of the required 34 to require that Congress call a constitutional convention on the subject of a balanced budget. And I am happy to state to my colleagues that as a result of that effort for the initiative which sought signatures on the petition, we were able to turn in a little over 600,000 signatures in the 58 county clerks' offices around the State of California last Friday.

The law requires in that State that we have a little less than 400,000 valid signatures, so we are assured of a place on the ballot in the sense of qualification. By the law, the secretary of the State of California must indicate whether or not we have complied with that requirement. We expect to receive that official word about the 20th of March.

Mr. CRAIG. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to my colleague, the gentleman from Idaho.

Mr. CRAIG. Mr. Speaker, let me congratulate my colleague, the gentleman from California, for what he has just said. He, and Senator WILSON, and several organizations have not only been diligent in their effort but deserve the heartfelt thanks of a good many Members of Congress and the people of the United States for being able to accomplish what I was told early on was the impossible. And I say that because that was to gain the necessary signatures that they have just filed in California to qualify this critical issue for the ballot in November.

I remember, after proposition 13 in California, I heard a good many people say that never again would it be possible to garner enough signatures to put a spending- or a tax-limitation issue on a California ballot. Well, I say to the gentleman that he has not only done that, but I think he is sending an extremely important message to this body, to this Congress, in that the people of California have an opportunity in November to express their extreme concern over the inability of this Congress to recognize the need to balance expenditures and revenues.

I am standing here joining with the gentleman in his special order today as chairman of CLUBB—Congressional Leaders United for a Balanced Budget—an organization that the gentleman and others have joined with me in and that is catching some excitement here in this body. Some 41 Members of this House, in a bipartisan effort, have joined now to go out to States like California, Kentucky, Vermont, Montana, Michigan, Maryland, and Ohio, where we have these issues before the State legislatures, and in initiative drives now to tell the story that deserves to be told, that not only do we have a House unwilling to control itself, but that we have a budget process that in large part has run aground and a Congress that does not recognize the critical need to bring in line Federal expenditures and Federal revenues in what is best known as a balanced budget.

□ 1520

My colleague from California is absolutely right. Year after year when the citizens of our country have been polled on whether this Congress should get its fiscal house in order to the tune of 65 to 75 percent through the sixties and the seventies, and into the eighties, they have said: "Absolutely. We have to balance our budgets. Our States in most instances have to balance their budgets and we simply cannot understand why the Congress of the United States can't be fiscally responsible."

Now we are running very, very large national debts, a deficit that is phenomenally large and it is all because of that accumulation process, over the years, where a good many people in this Congress decided that the way to really stimualte the economy was to deficit spend. Well, I think we know better than that. We know that at some time you have to pay bills and that bill paying now is costing us in interest alone for fiscal year 1985 in the budget being considered some $140-plus billions in interest alone, becoming one of the largest single items in the Federal budget.

That is why CLUBB was organized. That is why States like California under the leadership of BILL DANNEMEYER and Senator PETE WILSON have begun to say: "Wait a moment. We will use article V of the Constitution. We will recognize the wisdom of our forefathers."

When in the final days of that constitutional convention after it was already decided that Congress should have the right to petition the States for the purpose of changing the Constitution, Madison stood up and said: "You know, we ought to grant the States the same right that if our Congress ever got beyond the bounds of what we thought was prudent and responsible government that we could grant to the States that same right." In other words, to the people, to stand up and say to the Congress of the United States, "No, you are doing it wrong. We want you to change it," and that is the process that is put right now.

We have 32 States, as my colleague from California has just mentioned, California could well be the 33d State, Kentucky might be that, Vermont might be that, several other States are looking at it at this time.

It is very possible that by the fall of 1984 this House will be put in a position where they will have to say: "We have to respond to the Constitution. We have to respond to the citizens of this country. We are mandated by the Constitution to offer a balanced budget amendment."

I have told my friends in Idaho and across the country where I have been speaking on the issue that it is not a panacea, but it is an extremely valuable tool to force this Congress to be fiscally responsible and to recognize we must bring in line the revenues and expenditures if we are going to create the kind of economic environment in this country that all our citizens are crying out for, one of full employment and low interest rates and a positive long-term kind of projection that builds the kind of economic stability in this country that we need.

Efforts like the gentleman has launched in California, efforts like those in this Congress that have joined the CLUBB organization in a bipartisan sense, not to lobby Congress, because we found out in lobbying Congress in 1982 that they would not be responsible, and they would not respond; that we now have to turn to the States of this country either in an initiative drive or to the legislatures to ask them to help us in turning this body around to bring forth that constitutional amendment that I think ultimately serves as a very valuable tool in getting our fiscal house in order.

So I congratulate the gentleman from California, Bill Dannemeyer, for the tremendous effort in California that is now in large part successful, that puts that most important issue on the ballot in November. I am here, I stand ready to help the gentleman as chairman of CLUBB here in the House, as Pete Wilson is chairman in the Senate CLUBB to assist the gentleman in any way we can in the State of California to tell that most valuable story to the citizens of California, to encourage them to come to the polls in November to assist us in bringing about that critical balanced budget amendment to offer to the States for ratification.

I thank the gentleman so much again for the time and once again, congratulations.

Mr. DANNEMEYER. I thank my colleague.

Mr. HUBBARD. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to my friend, the gentleman from Kentucky.

Mr. HUBBARD. Mr. Speaker, I appreciate my friend, the gentleman from California, yielding.

From day to day and in my office at this particular time during the special orders, listening to various Members of Congress speaking along the subject of balancing the Federal budget and our growing Federal deficits, and we continue to vote on issues in this 98th Congress which, of course, do cost our Federal Government more and more; but there are those who are Democrats, there are those who are Republicans, who are very interested in balancing the budget, and my votes reflect that, as do many other Democrats; too often I hear as I listen to the special orders from my office that the Republicans are trying to emphasize that they are the only ones in Congress that are really interested in a balanced budget. The Republicans are saying that they are the ones who are most interested in reducing the Federal deficit.

Yet I would remind my colleagues on the House floor at this time that there are those of us in the Democratic Party who speak out for, who work for, who vote for a balanced Federal budget and for reduced Federal spending.

I was asked moments ago by a Kentucky educational television reporter if my constituents are talking to me more nowadays about the Comprehensive Crime Control Act than any other legislation before Congress.

I said, "No; they are not. My constituents mostly are talking about balancing the Federal budget and reducing deficit spending."

But for those who try from time to time to make this a partisan issue, and I would say about my dear friend from California and my good friend from Idaho, who have just spoken, they have not tried to make this a partisan issue, as best I remember; but from time to time there are those who claim it is one party's fault or the other.

As a Democrat who persistently and consistently has worked toward reducing our Federal deficit and has said time and time again, instead of just speaking in general terms about reducing the deficit, I said, "Let us reduce foreign aid expenditures. Let us look at the air and space program. Let us look at military spending," and I say that as one who served in the Air Force and the Army and I have Fort Campbell in my district; but I think there are ways we can reduce military spending, at least not go along with the increases asked for now by Secretary Weinberger of the Department of Defense.

I will not take any more of the gentleman's time. He was kind enough to yield; but I would say, if I could, that as we hear from time to time on the House floor day after day, some of the Members surely would not demagog it, but they do say from time to time that it is the Democrats fault.

Well, I would have to remind our Republican colleagues that as much as I admire and like personally President Ronald Reagan in many ways, he did not present us a balanced budget. He presented us a budget with increased Federal spending and, of course, the Democrats have hammered on that issue from time to time; but we must face the fact that the Federal Government cannot balance the budget overnight. We are not going to be able to do it this week. We cannot do it this month.

I admit in the past when Congressman John Rousselot was a Member of the House, I voted for his Rousselot amendment, which called for an immediate balancing of the budget. I knew that was impractical, but I was trying to send a message as a Democrat that the people that I represent do want a balanced budget, even if it is this month, this year.

Let us be practical. We cannot balance the budget in 1984, nor can we next year, but we can reduce Federal spending.

The point I am making is that there are Democrats as well as people in the gentleman's party, I say to my good friend, the gentleman from California (Mr. Dannemeyer), who are interested in reducing spending and balancing the budget and there are those of us on the Democratic side who represent constitutents who are demanding that we, in Congress, do that and I share the gentleman's views on that, but in a nonpartisan way, since we are both, the gentleman as a Republican and I as a Democrat, trying to accomplish the same goals; but it is not altogether the Democrats fault, nor would I say it is altogether the Republicans fault; but I would say that Federal spending has increased during the Presidency of Ronald Reagan in unprecedented terms, while we have had a Republican controlled Senate and, yes, a Democratic Party controlled House.

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague for his comments;

but let us not kid ourselves. I want to recognize the contribution that 46 Democrats made on the week of September 30, 1982, when they had the courage to go to the well of the House and sign a discharge petition so we could get a rollcall vote on the proposed constitutional amendment, House Joint Resolution 350, which we finally got on October 1. I thank the gentleman for that.

I have not checked the record, but I suspect and I take the gentleman's word for it that he was one of the 64 Democrats in this House that joined with us to give us 236 votes total for that measure, and I thank the gentleman for that and I respect him; but we delude ourselves if we fail to recognize that the impediment to bringing the proposed constitutional amendment to the floor of this House in this, the 98th Congress, is the leadership of the House, led by the gentleman's leader, Tip O'Neill.

He is sitting on the top of the majority of Democrats in this House, 267. You have a majority of 62 to 38 percent.

□ 1530

We have been asking to bring the proposed constitutional amendment, House Joint Resolution 243, now reposing in the Judiciary Committee of this House on to the floor of this House for a vote. Now we have asked time and time again to do that. The majority, under Tip O'Neill, has the ability to bring that measure to this floor of the House for a vote any time the spirit moves him. Is that not true?

Mr. HUBBARD. Will the gentleman yield?

Mr. DANNEMEYER. I will be happy to yield.

Mr. HUBBARD. Since the gentleman commented about my being sat upon by Tip O'Neill, let me just say I meet once a week with the Honorable Speaker of the House, Tip O'Neill, in our House leadership meeting. I serve as associate whip, appointed by the majority leader, Jim Wright, and the majority whip, Tom Foley. Our party recognizes those who think in the liberal way, those who are moderates, and those who are conservatives.

Tip O'Neill met with us again this morning. Tip O'Neill discussed specifically the fact that we are going to have to work to reduce Federal spending and to balance the budget.

Tip O'Neill understands that the majority of the people in this country are wanting a balanced budget.

But I would remind my good friend, my Republican friend from California, that our President comes from your good State and I would hope that he would share your views about balancing the budget, not just to say so in press conferences, but to present to the Congress a budget that is balanced.

Mr. DANNEMEYER. Let us talk about that point. We know the politics that are involved.

The Democrats in the House are just shouting "Mr. President, propose us a balanced budget."

Now, why are they doing that? For a very simple reason. They are just waiting for President Reagan to send up here his proposals for cutting spending. So what? So that immediately when the President proposes those spending cuts the Democrats are going to go out to the country saying to those special interests who will be adversely affected, "Do you see what Ronald Reagan is trying to do to you? Don't you dare let this man serve another 4 years in the White House because he has you destined for some cuts."

That is the politics of it.

But the Constitution sets aside those politics. The Constitution places the responsibility on the House of Representatives to initiate every appropriation bill. I do not care who is in the White House. That President can only spend what we appropriate. The buck stops here.

We have the responsibility of setting the level the spending level of the country, not the White House.

Mr. HUBBARD. Will the gentleman yield again?

Mr. DANNEMEYER. I will be happy to yield.

Mr. HUBBARD. The gentleman from California and I are good friends, and I would remind the Speaker that he and I and others will be going to Chicago tomorrow for a specific mission and I am sure that we will discuss this further.

But I will remind you again that it is the President of the United States who is the one who presents to the Congress, in the state of the Union message and in other ways, a budget for us to consider for the forthcoming fiscal year beginning October 1 each year. And I sat here on the third row on the end and shook hands with the President as he came in and went out. I like the man. But he did not ask us to adopt a balanced budget. He presented us goals and measures that called for increased spending, especially in the military.

And I repeat, I am not opposed to the military. I am proud to have retired as a captain in the Army and to have represented Fort Campbell Military Base for 10 years.

But I am saying to you that there is too much rhetoric. There is too much political talk. There is too much demogoguery about balancing the budget and one party being at fault. Maybe all of us are at fault.

There have been times when I have voted for measures that I thought were best for our country and, yes, they called for more spending, more Federal spending, but I voted no today and I voted no yesterday. There are Democrats who are voting no on some of the bills we are spending more money for.

I would say to my colleague and good friend that, as you say, that if the President would have come in and presented us a balanced budget in his state of the Union message, here is one Democrat that would not have gone out and demogogued it and tried to urge my constituents to believe we should not do that. I would have said let us support the President, as I have on other occasions.

I have as a Democrat supported our President regardless of the fact he is of the other party.

Mr. DANNEMEYER. Some of my colleagues want to have a chance to contribute to this exchange.

Mr. WEBER. Will the gentleman yield?

Mr. DANNEMEYER. I recognize my friend from Minnesota.

Mr. WEBER. I thank the gentleman in the well for yielding. I would just make the point that those of us on this side that have tried repeatedly to make the point about the Democrats being primarily responsible for the blockage of the action on the floor of the House are not saying that all Democrats are bad or that there are not people such as the gentleman from Kentucky who maybe share our views on occasion.

But the point is that there are only a select number of individuals who are elected to the Democratic leadership and they control the flow of legislation through this House. And the gentleman from Kentucky may have his personal views and may support the President more often than members of his party. But the fact is the leadership of his party is presenting action on the items that are of great significance to the American people. And we as Republicans do not have to look too far to find out where exactly that responsibility lies, and it lies with the leadership of the gentleman's party.

Mr. HUBBARD. Will the gentleman yield so that I may comment on that?

Mr. DANNEMEYER. I will be happy to yield to my colleague from Kentucky.

Mr. HUBBARD. Just in response to what the gentleman has said, it certainly is interesting, and I say this most kindly to my good friend from Minnesota, to see some of the same faces each day on the House floor in the special orders. You have Republicans who are so liberal that they could not even come close to getting elected in my district. My district in western Kentucky never has elected a Republican, but they are people who are for a balanced budget and for reducing spending by the Federal Government, and they are people who are very concerned about and interested in the majority thinking of this country.

I am trying to speak as the gentleman interrupts to say my constituents in western Kentucky are predominantly Democrats but they are good Americans who are for the best interests of this country.

We do not go around attacking Republicans. We really do not have that many down in western Kentucky to attack. But I say to you again, you have got liberals on the Republican side who are so liberal that they would not have a chance to get 10 percent in my district.

Mr. WEBER. If the gentleman will yield, would those good Democrats in western Kentucky who would not vote for a liberal Republican vote for Speaker O'Neill?

Mr. HUBBARD. I think they would. Speaker O'Neill is not as bad a guy as you try to paint him, and I am not trying to paint Republicans as bad people. I think Tip O'Neill on various occasions has strongly supported the President, even when some of us Democrats were criticizing him. He has supported the President, as has Majority Leader Jim Wright and has Tom Foley, our majority whip.

This conservative to moderate Democrat from Kentucky is very fond of Tip O'Neill, Jim Wright, and Tom Foley. They vote at times different than I do, but I respect their views, and I know that they are working toward the best interests of this country.

By the way, you Republicans who are taking the floor right now, I have already said as a Democrat where I would like to reduce spending. How about you all sharing your views on where specifically you would like to reduce the Federal deficit?

Mr. DANNEMEYER. In response to that I want to tell my colleague that next Tuesday at 11 o'clock in room 227 I will invite the gentleman to be there. We are having a press conference at which we are going to unveil an alternative budget resolution for 1985 at which W. R. Grace, who headed the Grace Commission, will be present and that budget resolution will identify about $80 to $90 billion—it is in the final drafting stage now—of spending cuts for fiscal year 1985, including some in defense.

It is a result of the implementation of the recommendations of the Grace Commission, along with some recommendations of the Heritage Foundation as to where we could cut spending in 1985. I hope that the leadership of this House will give us a rule so that we can consider that proposal on the floor of the House when we take up the first concurrent budget resolution.

Mr. HUBBARD. If the gentleman would yield, I say this in a kind way, you dear Republican friends of mine that are so concerned about this Federal deficit and reducing spending and balancing the budget, why wait until next Tuesday? This is Thursday, February 23. Why not share with us right now where you would like to see the Federal Government spending reduced?

Mr. DANNEMEYER. Come to that press conference and you will be able to see chapter and verse.

Mr. HUBBARD. Is that your remarks?

Mr. DANNEMEYER. This is the work product that essentially is a reflection of the recommendations of the Grace Commission. That is available. Have you read it?

Mr. HUBBARD. I have not read the Grace Commission. I know where I would like to cut spending, and it would result in about $80 to $90 billion in reduced spending.

I have already itemized where I would like to see the budget cut significantly, and I wish that you good friends on the Republican side who speak day after day after day about reducing the Federal deficit would be specific and tell us where you would like to see spending cut.

Mr. DANNEMEYER. Come on Tuesday and we will show you.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to my colleague from Long Beach.

Mr. LUNGREN. My first response would be if the gentleman would watch our voting record he will see that we vote day after day after day to cut spending.

One of the problems we have in discussing the makeup of this House with our constituents is that oftentimes party does not mean that much back home. The gentleman has said there are not enough Republicans in his district really to pay much mind to.

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You do not have to get angry at them because they are not around. In some States being a Democrat, being a Republican, my home State of California, the city council is run on a nonpartisan basis; county supervisors are run on a nonpartisan basis, and so forth.

But the fact of the matter is that the gentleman well knows this House is organized by party. Those of us in the minority party, the Republican Party, do not get a fair shake in terms of representation on the committees and through the proxy voting, the dominant theme of the majority party leadership is what controls this House, the gentleman knows that, in committee after committee. That is why the question posed to you as to why your constituents would vote for Tip O'Neill as Speaker of the House, is important. It is not whether or not Tip is a nice man; he is a great man; he is a fine guy; he tells great stories. He would be the type of person you would want to stop by and have a drink with. But that is not what we vote on Speaker of the House for. He decides what comes to this floor.

He told us that when ERA was here. He gave us instruction:

> The ERA is on this floor under this extraordinary proceeding because I want it to, and I happen to be able to use that as the prerogative of the Speaker.

Now, Mr. O'Neill said in an interview with the Wall Street Journal 2 years ago that he would not apologize for being a big spender. He described himself as, quote: "One of the biggest spenders of all time." That says a lot about the attitude of the House and where we are going.

The problem we have here is we have no real guard against excess spending. That is why this constitutional amendment is so important. It will provide an external discipline on the Members of the House in terms of spending.

I went to a Member of the House the other day and said, "Look, there might be a certain project in my district that I don't think we ought to expend money for but other people around my district support it," including members of the gentleman's party "and would like to maybe not have that funded."

They said, "Wait a second, don't ask me to vote against that in committee because that gentleman happens to be chairman of a committee that will finance a project in my district and I can't afford to go against him."

Now, the only reason we come to that spot in this place is because we have no requirement to balance the budget. If we had a requirement to balance the budget, Democrats and Republicans would work together to quit the logrolling that goes on in this place. It would in a sense protect some of the biggest spenders because when their special interests came to them and said, "I want 100 percent of this program" they could say, "I am sorry, I can only give you 75 percent because the budget constraint is such that we can only provide 75 percent of what it is we want."

The gentleman has raised the issue of Republicans on spending and so forth. So I should inform the gentleman of a survey that is taken on an annual basis by the National Taxpayers Union. Probably the most appropriate index of spending there is because it looks at every single vote we cast that impacts on spending, not just defense, not just social programs, not just entitlements; everything.

So it is as fair as there is.

And in the first session of the 97th Congress, of those who had the best record under this categorization for spending restraint, only 3 of the 35 were Democrats. Who were they? They were Congressman Gramm and

STUMP, who have since become Republicans and Mr. McDonald, who is no longer with us.

All of those who were categorized by this nonpartisan organization as big spenders, every single one was a Democrat. Now they said the next session of the 97th Congress, five Democrats were listed in the category of those who were the best on spending restraints. Those five Democrats were Mr. McDonald, as I say who is no longer with us; Mr. GRAMM, who has changed parties, Mr. STUMP who has changed parties, Mr. ROEMER and Mr. STENHOLM.

So, 2 Members of the gentleman's party, well over 30 or 40 Members on this side of the aisle among those who were listed as the worst of the big spenders, somewhere in the neighborhood of 38, unfortunately they were all of the gentleman's party.

Now that may be accidental, but I do not think it is. What I am suggesting is there is a mindset that prevails in the majority of both parties; on this side it is for less spending; on the gentleman's side generally it is for more spending, because the leadership of the gentleman's side truly believes the Federal Government has a bigger role to play than most of us on this side do and I do not fault the individual gentleman's feelings on that, but what we are talking about is how do we get these things to the floor?

We are as much victimized as the gentleman is in his own party by not allowing these things to be brought to the floor.

Mr. DANNEMEYER. I yield to my colleague from Kentucky.

Mr. HUBBARD. I thank the gentleman from California for yielding to allow me to respond briefly to my good friend from California who just spoke. He keeps on speaking about the leadership of the Democratic Party. Yet those of us who know the special orders in recent days and weeks where some few Republicans take to the well as we do right now; one Democrat here, several Republicans, I think there are five Republicans.

Mr. LUNGREN. I wish TIP were here.

Mr. HUBBARD. Where is your leadership, where is Congressman BOB MICHEL, where is TRENT LOTT, where is JACK KEMP? They are not here day after day, talking about the House Democratic leadership, because they are practical enough to know that the Democrats and Republicans alike in this House are responsible for the good things we accomplish as well as the faults we have. And it is not the Democratic Party's fault.

I am a Democrat who hears all this dialog from time to time in my office as the same ones on the Republican side, not the Republican leadership, not MICHEL, not TRENT LOTT, not JACK KEMP, but these friends who are conscientiously concerned about balancing the budget but who want to blame it on the Democrats. There are 218 Members of this House who can decide what we vote on on the House floor. It is not up to TIP O'NEILL. There are 218 of us in this body, just a simple majority who can bring an issue before the Congress, and there are 167 Republicans, but as you know there are many of that 167——

Mr. LUNGREN. Would the gentleman tell us what the ratio is on the Appropriations Committee, the committee for spending, what is the ratio?

Mr. HUBBARD. In the Senate where the Republicans have control, the Republicans have the majority of those on the Appropriations Committee and in the House, the Democrats have the majority.

Mr. LUNGREN. If the gentleman will just cease for a second, it is apportioned on the Senate side according to the proportion of the overall membership; that is not true in the House. We are shorted a number of slots. So that basically your party can roll us every single time they want to do it, that is an unfortunate circumstance, but it happens to be true.

The same is true on the taxing committee, the same is true on the Budget Committee and then the Rules Committee; the traffic cop, is two to one plus one majority to minority.

So that any time the gentleman's leadership wishes to have anything brought to the floor, you have the votes every single day. If we have all of our votes together, we can not put a single thing on this floor because we are outnumbered two to one plus one. That does not reflect the membership of the body, but it is the reality in those committees.

Mr. DANNEMEYER. Let us give the gentleman from Idaho a chance, Mr. CRAIG.

Mr. CRAIG. Thank you. I would like to congratulate my colleague from Kentucky for his expression of concern and his record in echoing the need for a device in this body to control our expenditures, to bring in balance our revenues and our expenditures and to force this body to prioritize in light of the money that is available and not that free-wheeling way we have had in the last several decades to spend all we have got and go out and borrow a lot more. I think that he is sincere in that effort.

I did say early on in addressing the efforts of my colleague from California that CLUBB, the Congressional Leaders United for a Balanced Budget, is just that; a very real bipartisan effort on the part of Democrats and Republicans alike, who serve in this body and recognize that there is no real device, system, machinery, if you will, that controls the spending mechanism. And that what is so critical for this body, I believe, and I think the majority of Americans believe and my colleague from Kentucky believes, and although he and I may differ on where we would prioritize that spending, we do not differ on the idea that it is critically important that this House bring its processes in order and it brings in balance its revenues and its expenditures so that we do not continue to create these massive debt burdens, these massive deficits that have truly gotten out of control and that we force the mechanism back in place so that we can all adhere to a modicum of fiscal responsibility and that there is a device there that will take those liberals and tell them "No, you can't do that. You can work with us on where you want the money spent but you simply cannot say we will spend all we have got and then we will go out and borrow 80 percent of the new wealth of this country generated in 1985 in additional expenditures to the deficit route." So I concur with my colleague from Kentucky, that it is critically important that we get our act together. And his State legislature, just yesterday his State senate voted out a resolution to petition this body to force that balanced budget issue and I congratulate the State of Kentucky and the State senate there for that kind of wisdom because we need their help in causing this body to be fiscally responsible and I congratulate him and his State for doing so.

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Mr. HUBBARD. If the gentleman will yield further, thank you for allowing me to speak briefly in response to the good comments by my friend, the gentleman from Idaho (Mr. CRAIG), whose record, of course, is one of obvious concern for his country and who votes for reduced Federal spending.

I would like to remind my colleagues that there are many Democrats who, from day to day, vote to reduce Federal spending and I wish that just one of my Republican colleagues, sometime on the House floor here in the extraneous remarks, would just be specific as to where they would like to see the Federal deficit reduced. We continue to hear you talk about next Tuesday and there is some report coming out, the Grace Commission. It sure would be nice to hear one of my colleagues just say where they would like to see the Federal deficit reduced, because there are many Democrats who would like to see Federal spending reduced for foreign aid. We would like to see the air and space projects reviewed to see if we are wasting money there.

Mr. DANNEMEYER. I am going to reclaim my time and respond to my friend from Kentucky with this observation about what the gentleman would like to see because I think it is appropriate at this point.

This Member from California was one of the half a dozen in the House last year who prepared a first alternative budget resolution in March. And it proposed a level of spending for this country about $100 billion less than was finally adopted. Some of it was in defense, some of it was in foreign aid. We cut out such programs as revenue sharing—we do not have any revenue sharing, we have a debt to share. And I do not want to enumerate all of it, but it was an identification by categories of where we would cut.

What happened to it? I took it to the Rules Committee, controlled by the gentleman's party, 2 to 1 plus 1, and does the gentleman know what they did with it? They took the bottom of the desk and they buried it. They did not even make in order the consideration of that alternative budget resolution on the floor of the House so the Members who are here would have an opportunity of voting up or down as to whether or not they wanted to cut spending by that amount.

Now, why they did that, who knows? One reason I can suggest is that the leadership of the gentleman's party, the Democratic Party, does not want to have the responsibility of their members being identified as to spending cuts of any amount, let alone $100 billion. Why? They do not want to vote for the spending and have to go home and face their constituents as to why they voted against cutting spending. That is why they buried that proposal. That is why we are staying here today and so long as the Lord gives us life we intend to stand here every day we can, under the rules dominated by the gentleman's party, and keep talking and talking and talking until finally the leadership of this House places onto this floor for consideration the balanced budget amendment. What else can we do?

Mr. HUBBARD. If the gentleman would yield, first, I would like to point out that the Kentucky State Senate which voted yesterday in Frankfort, Ky., to ask Congress to balance the budget by constitutional amendment, is composed of 28 Democrats and 10 Republicans.

Mr. DANNEMEYER. Enlightened men.

Mr. HUBBARD. The majority of those members of the State senate, a body in which I served for 8 years, from 1968 to 1974, yes, they voted that way and they are for a balanced budget. And the Governor of Kentucky, a Democrat, will certainly endorse that legislation as it passes through the General Assembly of Kentucky.

I would say once again there are 167 Republicans in the House of Representatives, but in the past several days and weeks I have only seen about 10, more or less, on the House floor pleading for a balanced budget. Where is the minority leader, the minority whip, the minority caucus chairman? Where is the ranking minority member of the Appropriations Committee?

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I will yield to my colleague from California.

Mr. HUNTER. I am glad the gentleman asked that question and I think if the gentleman had been on the House floor yesterday he would have heard the Republican whip, the gentleman from Mississippi (Mr. Lott), saying exactly the same thing that dozens of Republicans have asked over the last several weeks.

And let me quote the gentleman from Mississippi (Mr. Lott), his final words:

> Mr. Speaker, at ths time I would hope to offer a unanimous-consent request calling for consideration of a line item veto constitutional amendment.

Exactly the same words that the gentleman claims a small band of conservatives have been asking.

> This request has been cleared by the minority leadership. And I would yield to a spokesman from the majority leadership for appropriate clearance.

Apparently nobody spoke up from the majority side.

Mr. Lott concluded:

> Mr. Speaker, I hear no response and that should make it clear to the American people who stands in the way of a line item veto and cutting Federal spending, the Democrat leadership.

Mr. Lewis of California, who is the research chairman for the Republican delegation, had these words to say. And this was again yesterday in considering the balanced budget. He said:

> Mr. Speaker, I have cleared with the minority leadership for a unanimous-consent request to bring forth the balanced budget amendment. I would ask the majority for their clearance for that request. Do I hear any?

Apparently there was an objection, but it was not noted in the Record.

Mr. Lewis of California concluded:

> Mr. Speaker, that makes it very clear that the Democrats around this place do not want to balance the budget.

I would suggest to the gentleman that if he had been listening this morning he would have seen the Republican leader, Bob Michel, taking the Democrat leadership to task for not allowing, not doing anything about the deficit, and not allowing the balanced budget tools, the President's tools for reducing the deficit to be brought up in this House.

I find it kind of frustrating to hear the gentleman imply that such things that are as important to the American people as they are—and I am talking about the balanced budget, line item veto, and school prayer. School prayer I think has something like a 70-percent constituency throughout the country, according to the polls that I have seen—to imply that the American people do not even want to have this matter considered in that it is an inconsequential matter, an inconsequential issue, that only a few people are concerned about. I think that that is ridiculous.

I think that one thing that the American people do not like to see, whether they are on this side of the issue or that side of the issue, they like to see issues fully and fairly debated. And that is one thing that has not occurred.

Mr. DANNEMEYER. I thank my colleague from California for making that observation. I can share with my good friend from Kentucky the observation that this Member from California is chairman for the Republican Study Committee this year. We are a body of 140 or so Republicans of 167 in the conference. I would say that is a leadership position. I am not saying that I have authority to speak for all Republicans in this House because I do not have, but the point is that our leadership, as the gentleman from California has pointed out, has been a part of this effort. And I think they are fully supportive of what we are doing.

And I can ask the gentleman the question: Where is Tip O'Neill? I do not see him around here.

He is at a press conference, I am told.

Mr. HUNTER. If the gentleman will yield further, there is one other Republican who has been pressing for some of these issues. His name is Ronald Reagan. And I understand that last night in his press conference, he again talked about school prayer and about the necessity of at least bringing it forth for a full and fair debate before the American people.

Mr. DANNEMEYER. I thank my colleague for making that observation.

Some Members in the California delegation, in fact, in this House, may ask a question, which is a good one. Why would you in California have to resort to the initiative process in order to have California achieve the status of one of the 34 States in the Union, of the two-thirds that is required by the Constitution, to produce action on the part of Congress? Why can you not get the State legislature to do this action?

Mr. HUNTER. If the gentleman would yield for one final observation. I would like now to ask the gentleman from Kentucky, now that he has heard the statements that were read into the Record that were the statements of the Republican whip, Mr. Lott, that were read into the Record by Mr. Lott yesterday, and the statement by Mr. Lewis, who is the Republican research chairman, now that he has heard their statements placing the blame for not bringing up the line item veto and the balanced budget on the Democrat leadership, if he is not now satisfied that Republican leaders, in fact, have been calling for these things? And that these statements in the Congressional Record are representative of statements by Republican leaders?

Could the gentleman respond to that? I think that is an important point because the gentleman said where was our whip and I have just given the gentleman the statement by the whip made yesterday morning making exactly this same request that other Members have been making for several weeks.

Mr. HUBBARD. If the gentleman will yield, I will be glad to respond. I have been away from the microphone conferring with others here in the House Chamber.

Let me say that the House minority whip, Trent Lott, and his wife are dear friends of mine. We attend the same Columbia Baptist Church in Falls Church, Va. And he is from Mississippi and my district is just north of his in Kentucky, in western Kentucky. We share many of the same views.

I would agree that he is for a balanced Federal budget and I did not get the chance to hear the dialog on the House floor yesterday because of constituents visiting my office, including many postmasters, but I can tell the gentleman for sure that one Democrat leader, Jim Wright, has spoken in my own congressional district three times. And every time has mentioned that he and other Democrats, including Congressman Carroll Hubbard, are for a balanced Federal budget and for reduced spending.

The key to it, as the gentleman knows, is where do you cut. Where do you start? And I have been specific and I have four times today asked my Republican friends, who are on the floor today, to be specific. Where would you start?

□ 1600

Where would you cut?

Nothing has been said except, "Well, next Tuesday now we are going to have a commission report, we are going to have a commission that is going to suggest where we can cut $80 billion, $90 billion."

But the Republicans and the Democrats of this House who are aware of what is happening know that we cannot balance the budget this year. You cannot just slash social security benefits in half; you cannot cut off medicaid and medicare next week in order to balance the budget; nor can you stop all military spending. But I am for reducing it some. I repeat that comes from someone who served in the military.

Mr. HUNTER. I appreciate the gentleman's remarks, and I will yield back my time and this dialog can continue, but the reason I came to the House floor was because I saw the gentleman from Kentucky making the statement that the Republican whip was not involved in this effort, and I think that now that I have read the statement to him that was made just yesterday by the Republican whip on the House floor making exactly the same call, he will at least agree that the Republican whip and the Republican research chairman, and the Republican leadership is involved in trying to bring to the House floor these very important items, the line-item veto, the balanced budget, and school prayer. I think the gentleman, now that he has seen that statement in the Record, will agree.

Mr. DANNEMEYER. Mr. Speaker, I will yield to my colleague, the gentleman from Ohio (Mr. Kasich).

Mr. KASICH. I certainly understand and respect what the gentleman has just said about the balanced budget amendment. I think, though, the point that we try to make in regard to the balanced budget amendment is that no one is suggesting that tomorrow the budget is going to be balanced. What we are arguing is that we need to put an amendment in place, that we need to put in place a discipline on this Congress that is going to force this Congress to pick and choose and prioritize programs, and we certainly need to have a mechanism whereby we tell the special interest groups that float in and out of Washington that the money does not grow on trees and that we need a mechanism.

That is the only thing that the gentleman from California is arguing here today. The necessary number of States have already passed the resolution. I did not know but I was really pleased about what the gentleman said about his own State taking positive action. This thing ought to come up on the floor of the House. We ought to have an opportunity to vote for a balanced budget amendment. There is not anybody that I know who supports this thing who says that the budget is going to be balanced tomorrow. But everyone is saying, "Let us have the discipline, let us have the mechanism by which this Congress sends the word to Main Street and to Wall Street that ultimately we are going to have to balance that budget."

And I think the gentleman will agree that if the Congress makes a commitment to move these deficits in the right direction, it will send the kinds of messages that we want to send around this country that is going to enable us to have a confidence again in where we are headed economically, and that the Congress will agree that we are not going to have the best of both worlds.

I think the gentleman will agree that the ultimate tragedy here is for us to fund program after program after program with no discipline and we do not have to pay for it, all we have to do is run the printing press or force the Federal Government to borrow, which, of course, drives up inflation, and obviously drives up interest rates and puts Americans out of work. What we want is, we want the mechanism. And we want the opportunity on this floor to cast a vote yes or no on a balanced budget amendment.

There are going to be Republicans who are going to vote no, and there are going to be Democrats who vote yes. But what the President is calling for, what this side has been calling for, is bipartisan cooperation to put a mechanism in place that ultimately will mean fiscal responsibility on the part of this House, and it is something that all America wants. So let us get on with the show.

Mr. DANNEMEYER. Mr. Speaker, I yield to my colleague, the gentleman from Kentucky (Mr. Hubbard).

Mr. HUBBARD. I thank the gentleman for yielding.

Mr. Speaker, let me say that the majority leader, the gentleman from Texas (Mr. Wright), in our leadership meeting this morning mentioned that the President, to put it mildly, was totally incorrect in saying that the Democratic leadership is not willing to meet with him. House Majority Leader Jim Wright, House Speaker Tip O'Neill, House Majority Whip Tom Foley would always be willing to meet with the President of the United States, no matter who he is or she is, no matter what party that person happens to be.

Let me say, in response, though, as we continue to talk about the President and the Congress, hopefully some day the Republican-controlled U.S. Senate will see to it that they could pass a constitutional amendment.

Mr. DANNEMEYER. Mr. Speaker, may I respond to my colleague, the gentleman from Kentucky, that, in response to that observation, the U.S. Senate has voted, by a vote of 69 to 31 about 21 months ago, for this constitutional amendment House Joint Resolution 350. It was 69 to 31. And when we took it up in our House, it was 236 to 187.

And I want to share with my colleague, the gentleman from Kentucky, where that 236 came from. Now, on that occasion, which was October 1, 1982, there were 172 Republicans who voted aye—that was 89 percent of the Members of the House—and 64 Democrats, the party of the gentleman from Kentucky, which was 26 percent of their total in the House, for a total of 236; 26 percent of the Democrats, 89 percent of the Republicans. And we are delighted to have you join with us and vote that way, and we hope that you will do it again, and we thank you for it.

Mr. HUBBARD. Will the good gentleman from California yield?

Mr. DANNEMEYER. I yield to the gentleman from Kentucky.

Mr. HUBBARD. The gentleman is so smooth and he is such a good talker, no wonder the Republicans have him out here arguing for the budget to be balanced.

I again say that during the 98th Congress, where the Republicans have control of the Senate, I am hopeful that they, too, will decide some day in this Congress to pass a constitutional amendment for a balanced budget.

The gentleman mentioned that they did it 21 months ago. But maybe there is somebody out there, maybe someone in my district, out at Route 2, Benton, Ky., who would not know that 21 months ago did not include the time of the 98th Congress. What the gentleman is referring to is legislation in the last Congress, my friend.

Mr. DANNEMEYER. That is right. On August 4, 1982, on the Democratic side, the gentleman's party, 22 voted yes, 24 no. And 47 Republicans voted yes and 7 voted no; 87 percent of the Republicans in the Senate voted yes, and 47 percent of the Democrats, to comprise that majority of 69 to 31. And we are delighted to have it happen.

Mr. HUBBARD. Could my good friend explain to me why the Republicans, who control the U.S. Senate in the 98th Congress, have not passed a constitutional amendment for a balanced budget during this Congress? Why have they not even brought it up for a vote?

Mr. DANNEMEYER. Well, listen, I have enough problems trying to figure out what we do in the House of Representatives, without trying to figure out what they do in the other body.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to my colleague, the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, first of all, I want to clarify something, and I would ask the question of our colleague, the gentleman from Kentucky.

Our colleague, the gentleman from California (Mr. Hunter), has three times asked the gentleman from Kentucky to clarify a statement he made earlier. The reason we want that clarification is because the gentleman from Kentucky indicated that the Republican leadership was not involved in the effort to bring to the floor the items of a balanced budget constitutional amendment, the line-item veto, and voluntary school prayer.

In response to that, our colleague, the gentleman from California (Mr. Hunter) read specific statements on the floor of the House from the Republican whip, Trent Lott, the chairman of the Republican Research Committee, Mr. Lewis, and a statement from our minority leader, Bob Michel.

I think that we do not want to be in a position of having any Member of this body misrepresent the position of either the Republican leadership or the Democratic leadership. I would respectfully ask that our colleague, the gentleman from Kentucky, respond to the question of the gentleman from California (Mr. Hunter).

Mr. HUBBARD. Mr. Speaker, would the gentleman ask that again? I was talking with my good friend from your side, the gentleman from Idaho, Mr. Larry Craig, and I missed the question. Will the gentleman repeat the question?

Mr. DANNEMEYER. I will yield to the gentleman from San Diego, Mr. Hunter, for that question.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Speaker, the reason I came to the House floor was because I saw the gentleman from Kentucky stand up and say, "Where is your leadership?" Essentially, the gentleman said there is a small band of people who come down here and talk about these things, "but where is your leadership on these issues? They have not been speaking out."

Mr. HUBBARD. Where is Congressman Michel, your minority leader?

Mr. HUNTER. I have Congressman Michel's statement right here that he made on the House floor this morning. Let me read part of it to you:

> The Democratic leadership of this House can do something about deficit spending any time they want to. They have not offered an alternative budget. They refuse to talk specifics. All they do is gritch, gritch, gritch.
>
> The Democratic leadership seems bound by the dictates of their daily memos from Mondale saying, "Politicize the dickens out of the deficit, but for God's sake don't do anything about them because we would like to have them for political issues."

Now, if that is not a statement criticizing the Democratic leadership, I do not know what is. So here we have a statement by Bob Michel, we have the statement that I just read from Trent Lott, our whip, yesterday, asking to bring the balanced budget amendment to the House floor. We have a statement by Mr. Lewis made yesterday, asking to bring the line-item veto to the House floor. And those statements concluded with:

> Mr. Speaker, I hear no response, and that should make it clear to the American people who stands in the way of a line-item veto and cutting Federal spending. The Democratic leadership.

And the only point I am establishing is, the gentleman was not correct when he said the Republican leadership is not down here making these statements and criticizing the Democratic leadership for not allowing these things to come up. I think that the gentleman does owe us an answer, and I think the answer should be yes, you have to concede the Republican leadership has been down here making exactly the same statements, in some cases saying exactly the same words verbatim, that other Members have been saying for several weeks. Is that not true?

□ 1610

Mr. HUBBARD. The Republican leaders apparently, according to what the gentleman has come up with of comments made recently——

Mr. HUNTER. This is the Congressional Record. I will give it to the gentleman if he would like.

Mr. HUBBARD. I would concede that the Republican leaders say from time to time that they are for a balanced budget. It is interesting, of course, that they never mention where they would start to cut anything to balance the budget.

Will the gentleman let me finish?

Mr. HUNTER. Yes, I will let the gentleman finish.

Mr. HUBBARD. The Republicans, of course, and I say this kindly, I do not dislike any of my colleagues on the other side, I consider them good friends of mine, and we are smiling as we talk, but they know and I know, that it is impossible to balance the budget this year immediately, it is impossible to balance the budget even next year. It would be good if we started reducing it. I vote to do that. There are many of us Democrats who vote to do that; 218 people in this House can decide anything by a 1-vote majority, including what is voted on on the House floor, but 167 Republicans you have, and many of those say they are for a balanced budget but they are not going to cosponsor legislation or introduce legislation to reduce the spending. They are not voting out here to reduce the spending. Many of them voted for the legislation that passed today that adds about $150 million.

Mr. HUNTER. Mr. Speaker, will the gentleman yield to me for an answer.

Mr. DANNEMEYER. I will yield to my colleague from California (Mr. Hunter).

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Speaker, the gentleman said that the Republicans have been given lipservice to bringing up a balanced budget amendment and line-item veto but have not been doing anything.

The point that I was making, again, is when the gentleman from Mississippi (Mr. Lott) stood here on the House floor yesterday, he said:

> Mr. Speaker, at this time I would hope to offer a unanimous consent request calling for consideration of a line-item veto constitutional amendment. This request has been cleared by the minority leadership—

That is by Bob Michel—

and I would yield to a spokesman from the majority leadership for appropriate clearance.

No one spoke up from the majority leadership in giving that permission.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. DANNEMEYER) has expired.

Mr. HUNTER. I thank the gentleman for yielding.

THE LINE-ITEM VETO AND BALANCED BUDGET CONSTITUTIONAL AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. WEBER) is recognized for 60 minutes.

Mr. WEBER. Mr. Speaker, I do not want to cut off this last discussion that has been so enlightening and so, if my colleague, the gentleman from California (Mr. HUNTER) would wish to continue to pursue his point, I would be happy to yield to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. I thank the gentleman for yielding

Mr. Speaker, I would just like to conclude in asking our friend, the gentleman from Kentucky, is it not true, in light of these words, that the Republican leadership, members of the Republican leadership, did stand up and did ask for permission from the majority leadership, as a rule that was laid down by the Speaker, for permission to bring up a unanimous-consent request to bring up the line-item veto and the balanced budget? Can the gentleman answer that question?

Is it not true that Mr. LOTT did make that request?

Mr. WEBER. Mr. Speaker, I would reclaim my time and yield to the gentleman from Kentucky (Mr. HUBBARD) for the purpose of answering our colleague's question.

Mr. HUBBARD. I thank the gentleman for yielding.

Let me say this, and I hope the gentleman will not interrupt me and let me finish.

I admit to the gentleman that the Republican leadership says time and time and time again how they want to balance the budget and reduce Federal spending. The President of the United States, who presents to us the budget, and who presented us with a budget with record deficit spending levels, said last night at his press conference, and I am sure at other times, that he is for a balanced budget.

I am for a balanced budget. The gentleman from Texas (JIM WRIGHT), the majority leader, is for a balanced budget.

But let me say this to the gentleman before he interrupts me: I guarantee you this is a fact. The great majority of the American people are sick and tired of the Democrats and the Republicans in the Senate and the House demagoging this issue, and debating it, with the Democrats on the Senate side blaming the Republicans, who hold a majority, and you good Republicans here in the House blaming TIP O'NEILL and the House Democratic leadership for the fact that we have deficit spending.

I think the American public is smart enough to know that with a Republican in the White House, with Republicans leading in the Senate and having control there, and with the Democrats having control in the House, that it is high time to put America first and party politics second. And that is what the people of this country want, and I would advise our Republican friends in the House that they need to be introducing bills and working to convince some of their Members to vote along with them to give all 167 voting to cut the budget. We Democrats who continue to vote that way will try to give us a majority. Remember that it just takes 218.

I would one last time say to the gentleman, and this is true in my district and it is true in the gentleman's district, the gentleman from California (Mr. HUNTER): Your constituents and mine are sick and tired of all this rhetoric in Congress about balancing the budget and cutting spending when, in fact, we do not do it. We voted today and we voted yesterday and we voted last week to add to the Federal deficit. There are Democrats who voted against that today and there were Democrats who voted against it yesterday, and there were Republicans who voted against it.

What the gentleman and I need to agree on is that we need to have a majority of us in the House of Representatives who are voting to cut spending, instead of all this hogwash and rhetoric down here in the well of the House.

Mr. WEBER. Mr. Speaker, if I may reclaim my time for 1 minute before yielding to our colleague, it is unfortunate what has just happened here because earlier in the debate the gentleman from Kentucky made the point that the Republican leadership was not in support of the efforts of a number of us here on the floor. The gentleman from California has five times asked the gentleman from Kentucky to clarify that in view of obvious statements in the RECORD to the contrary, and the gentleman from Kentucky has neglected to answer that question, which is truly unfortunate, because it puts him in the position of misrepresenting, knowingly or unknowingly, the positions of a number of his colleagues in the House.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to my colleague, the gentleman from Ohio.

Mr. KASICH. I appreciate the gentleman yielding.

Again, if the gentleman from Kentucky would agree, as I pointed out, this liberal House has the benefit of the best of all worlds. We can spend money like it is water. We do not have to worry about coming up with the money to pay the bills. So what do we do? We either print money, we borrow money, we drive up the interest rates, and throw everyone out of work.

My point is, we need the mechanism. I think the gentleman agrees that we need the mechanism in this body to impose some kind of discipline on this Congress, and I ask the gentleman to go to the leadership.

No one can tell me, and you cannot argue with this, that your leadership is opposed to the balanced budget amendment. They are. And for liberals in this body to complain about deficits is like the Mafia complaining about street crime. They are not concerned about it. They are going to spend, spend, spend, and they do not want to have the discipline.

Anybody who is concerned about deficits, and anyone who wants to get this thing under control, recognizes that we cannot just keep spending out of control; 1962 was the first year the Federal Government had a budget of $100 billion. So from 1776 to 1962, we lived within $100 billion. The budget for the next fiscal year is going to be over $900 billion.

What the liberals want to do is keep spending. They just want to tax, tax, tax, so they can spend, spend, spend. The bottom line is, we need to have this balanced budget amendment that locks into place Federal spending to some limited percentage of GNP.

All I ask the gentleman to do is to go to the leadership and ask the leadership to let this amendment come up on the House floor and let people vote the way they want to. Those who are for it, they are going to have to go home and face their people. Those who are against it are going to have to face their people.

All we are suggesting is: Let us put the discipline in the law. Let us pass this balanced budget amendment and let us get the liberal leadership of this body to bring this thing up. It is no big deal and it is silly to argue that they are somehow for it or we are against it. Bring it up on the floor and we will find out when they call the roll.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I would yield to my colleague, the gentleman from California (Mr. LEWIS), a member of the Republican leadership.

Mr. LEWIS of California. I thank my colleague for yielding.

Mr. Speaker, I must say I was intrigued by the discussion of the gentleman from Kentucky with my colleagues here. It was my questionable honor the other day to go to the well and suggest that I had permission from the leadership on our side of the aisle to ask unanimous consent to withdraw the balanced budget item from committee so we could discuss it on the floor.

According to the Speaker's dictate, I did turn to the majority side and ask for leadership permission for that unanimous-consent request, and I am not sure exactly how it occurred, but the representative of that leadership, maybe the hired gun, objected to that request.

☐ 1620

Frankly, it occurs to me, because the gentleman has been so encouraging about his own commitment to try to balance the budget, that perhaps next week I could come to the floor and request once again that unanimous consent, and perhaps he could consult with his colleagues within his leadership and maybe be on the floor and give me that permission.

If not that, then the gentleman from Kentucky could at least encourage me further by joining me in signing the discharge petition which would, with the right numbers, in spite of Speaker O'NEILL, allow us to have that matter on the floor.

Mr. WEBER. Mr. Speaker, I thank the gentleman from California.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to my colleague, the gentleman from California.

Mr. LUNGREN. Mr. Speaker, the gentleman from Kentucky has mentioned several times why we do not have the Republicans in the Senate move the constitutional amendment for a balanced budget as they did in the last Congress. One major reason, I suppose, is that we have sent the constitutional amendment to balance the budget to the great graveyard of constitutional amendments, the Judiciary Committee, on which I serve.

If the gentleman will recall, we had a change in 26 seats in the House as a result of the last election, and our chance to get 218 signatures for a discharge petition have been reduced.

The gentleman from Kentucky makes the point that all we need is a majority in the House to vote for reduced spending and yet we have pointed out that time and time again a majority of the Republicans in the House have voted for reduced spending while a majority of the Democrats in the House have voted for increased spending. Well over a majority, well over the two-thirds necessary of the Republicans voted for the constitutional amendment, but, alas, that was not true with respect to the Democrats.

So, unfortunately, party does make a difference.

The gentleman has invoked the name of JIM WRIGHT, much like, as I recall being a small student in a Catholic school when our nuns used to invoke the image of certain saints in the church, and the gentleman has suggested that the gentleman from Texas (Mr. WRIGHT) is in favor of a balanced budget.

I would just point out to the gentleman again that the National Taxpayers Union does a study of each and every vote cast in the House of Representatives. Therefore, it is an honest analysis of that. And, unfortunately, Mr. WRIGHT is in the zero percentile with respect to voting for spending restraint.

Now, that is their application.

The gentleman has defended the Speaker of the House, Mr. O'NEILL, who I concede is a genuinely enjoyable and personable individual. But according to their listing, again the Speaker of the House, the No. 1 member of the gentleman's party in a leadership position, is in the zero percentile in terms of voting for spending restraint.

Those points may not be conclusive to the gentleman, but having practiced law before the State and Federal courts, I would suggest the evidence is pretty heavy as to where the overall blame should remain.

I just hope that the gentleman from Kentucky will take advantage of the suggestion of the gentleman from California (Mr. LEWIS), that he check with the leadership of his side, since he is an assistant whip, that he will check with the leadership of the House on the Democratic side and get permission from them to allow us to bring to the floor the constitutional amendment to balance the budget, the constitutional amendment for a line item veto, and the constitutional amendment for school prayer.

If the gentleman can do that, then, of course, the gentleman will show us that it is not a partisan issue, nor should it be, and that then in fact we might be able to allow the workings of the House of Representatives to go forward on the very strong felt feelings of the American people.

Mr. Speaker, I thank the gentleman for yielding.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just wanted to make the point that one of the problems we have around here is, too, that once somebody does something like object to having the balanced budget amendment brought to the floor, we then have the institutional arrangements to cover the tracks of all that. The objection to which the gentleman from California (Mr. LEWIS) referred a moment ago did not show up in the CONGRESSIONAL RECORD today. Even though the gentleman from California had made the request and in fact it was objected to on the floor, sure enough, when the CONGRESSIONAL RECORD came out today, that objection does not show. Somehow we had the tracks covered on behalf of the majority who made that objection.

I suggest, first of all, that it is a distortion of the CONGRESSIONAL RECORD. It lends credence to the argument that what we need is a verbatim transcript of the CONGRESSIONAL RECORD. But, beyond that, it also shows that the institutional arrangements around here are such that we do try to protect the majority and their cohorts at all possible costs.

Mr. WEBER. Mr. Speaker, I thank the gentleman from Pennsylvania for his comments.

Mr. WILLIAMS of Montana. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to my colleague, the gentleman from Montana.

Mr. WILLIAMS of Montana. Mr. Speaker, I appreciate the gentleman's generosity in extending his time to me. I have sat in on almost all this debate, although I have not entered it.

It seems to me there have been two primary elements that we have discussed here, other than some unfortunate kicking around of Ronald Reagan and TIP O'NEILL. Apparently we are taking polls again and finding out who is popular and who is unpopular, and we are aiming at them.

But other than that, we have been talking primarily about two important matters. One is whether or not the House leadership on either the Republican or the Democratic side or whether or not the Senate leadership on either the Republican or the Democratic side is involved in some type of a backroom conspiracy to prevent a constitutional amendment from coming out on the floor.

Then, second, the debate has centered on whether or not a balanced budget under any circumstance is good.

Let me say this briefly about the first matter: There is no conspiracy in either the Senate or the House to prevent this matter from coming out on the floor, but neither is the House leadership or the Senate leadership, the Democratic leadership over here in the House, or the Senate leadership, going to allow any constitutional amendment to be put through some type of a slam-dunk.

Our Constitution is too precious, and we must proceed reasonably and prudently.

Have the House and Senate leaderships allowed this matter to come recently to the floor? Yes. Yes, just 15 months or so ago this House brought the matter up on the floor and rejected it.

Mr. WEBER. Mr. Speaker, I wish to reclaim my time for one moment.

Mr. WILLIAMS of Montana. And perhaps this House or this Congress will bring it up again.

Mr. WEBER. The point that needs to be made, of course, is that the balanced budget constitutional amendment was brought to the floor of this House over the objections of the Democratic leadership through the use of the discharge petition which allows the majority of the Members of the House to sign it. There is no way that a single member of the Democratic leadership wanted to see that balanced budget constitutional amendment come to the floor of this House, and I am sure the gentleman from Montana would agree with me that had it been left to the desires of the Democratic leadership it never would have been brought up for a vote.

Will the gentleman agree with me on that?

I yield again to the gentleman from Montana for an answer to that.

Mr. WILLIAMS of Montana. Mr. Speaker, I thank the gentleman for yielding.

The House leadership is not going to work its will and neither, if the Republicans controlled this House, would they allow the leadership to work its will over a committee. If a committee of this House cannot find the votes within the membership of that committee to bring out a matter, particularly a matter as important as a constitutional amendment, the leadership is not going to work its will.

Does the gentleman mean to tell me that he wants the Speaker of this House to have such power that he can bomb that bill out of there all by himself? Why, that would be power akin to the power given to the Presidency. I do not think the American people want the Speaker of the House to have that kind of power.

Mr. WEBER. Mr. Speaker, I will reclaim my time.

Mr. WILLIAMS of Montana. Does the gentleman think he should have that power?

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. WEBER. Reclaiming my time, Mr. Speaker, I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague for yielding.

I want to share an observation with my friend, the gentleman from Montana, because he talked about how we got the vote in October 1982. I was here. I lived that day. And what I heard the gentleman say surprised me, quite frankly, because he may recall that under the rules of the House when something is bottled up in a committee, the only way we can get it on the floor of the House is through what is called a discharge petition.

Now, we have to go down there in the well of the House and individually sign up that we want to have the committee discharged—that is what it is all about—so we can have a vote on the floor of the House. We need 218.

When we got up to about 205 or 206 or 207, the Speaker of the House, TIP O'NEILL, went to some of the Democrats who had the courage to sign that discharge petition and asked them—sometimes it is referred to as twisting their arms—to take their names off the discharge petition. And they did.

So what did we do? When it got back down to about 200 or 203 on September 27, 1982, we got outside the Chamber over there and we got 15 Members of the House in concert to come in a group to the well of the House and sign up to reach 218.

Now, the rules say that when you get to 218, you cannot take your name off anymore. That is how we forced TIP O'NEILL, the Speaker of this House, who controls this House, to give us a vote on that issue which we finally got on October 1, 1982. We got it over his objection, his strenuous objection, because he did not want that issue to come to a vote.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from Montana asked a good question, and I think it deserves an answer. What about unilateral power in the hands of the Speaker?

I contend the Speaker of the House has unilateral power. The Speaker of the House is making decisions right now about what will come to the floor. There are bills that have been reported out of committee months before that the Speaker has unilaterally decided shall not come out here for a vote.

Those are some of the things we are complaining about, too. The Speaker has unilateral authority to keep the House from acting on legislation, and I think that if the gentleman is disturbed about unilateral authority, he ought to be disturbed about what is taking place in this House Chamber.

We have a tyranny in the House Chamber right now. It is a tyranny of the majority that freezes the minority out of participation and then forces legislation down our throats or keeps legislation from coming to the floor.

□ 1630

I think that that kind of a legislative tyranny is one of the things that we are most concerned about. I am surprised to hear the gentleman from Montana raise that kind of point, because I think it is clear that the Speaker of the House holds such dictatorial powers right now.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. I just would like to refer to the remark of the gentleman from Montana (Mr. WILLIAMS) about a slam-dunk.

The gentleman will recall what happened in the last Congress. As the gentleman from California mentioned it was only under the threat of the discharge petition that it was brought to the floor under a closed rule, with the exception of one amendment allowed, the amendment of the gentleman from Arkansas (Mr. ALEXANDER), which really was a legislative rather than a constitutional requirement for a balanced budget.

Then one of the very strong arguments made on the floor is essentially what the gentleman is saying. This is a slam-dunk. This is an inappropriate way to deal with the Constitution of the United States.

We do not have the opportunity to amend, so we are caught in the very careful and clever, I must admit, legislative catch-22 of where the Judiciary Committee on which I serve refuses to pass out a constitutional amendment, refuses to pass out even with amendments and the opportunity to amend, the only vehicle which is left is a discharge petition under which you cannot have amendments and under which the debate is limited and then we are attacked for trying to amend the people's Constitution in such a cavalier fashion.

Now, when you are in the leadership in the majority, you can do that.

The gentleman from Kentucky said, "When is the Republican Senate going to act?"

I just would like to inform the gentleman from Kentucky, who was just in the chair, now is exiting the chair, and others in this Chamber, that the Republican Senate Judiciary Committee has scheduled a major hearing on the constitutional amendment to balance the budget for March 6 of this year. I would say that is far more than we have done in the great graveyard of all constitutional amendments, the House Judiciary Committee.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. WEBER. I am going to yield to my colleague from Ohio and then I will yield to my colleague from Montana.

Mr. KASICH. Mr. Speaker, as I sit here and listen to this debate, the thing that is mind boggling to me is that somehow there is an implication, maybe even stronger than an implication, that somehow the liberal leadership of this House is in favor of the balanced budget amendment.

Now, I was a sponsor of the balanced budget amendment in the State of Ohio. I can tell you that the liberals have argued for years in opposition to the balanced budget amendment, based on that fact that it is a dangerous amendment, that it locks government in, puts a straitjacket on the Federal Government, that is one of the arguments.

I will tell you what another one of the arguments has been over the years and that is that we need not concern ourselves with the percentage of GNP in spending that the Congress has been doing over the years.

I mean, the liberals have argued that consistently. We do not want to straitjacket the Federal Government and we should not be so concerned about the rate or the growth of Federal spending.

Now, if you want to argue the merits of the balanced budget amendment, that is one thing; but to stand on the floor and somehow argue that the liberal leadership of this House in some way, shape or form, favors the balanced budget amendment, is just simply inaccurate and the American people should clearly understand that these people who control this House, if the vote was put to them yes or no on a balanced budget amendment, they would vote no, because the liberals do not want to have that mechanism that imposes that discipline on this Congress; so if you want to debate the merits of a balanced budget amendment, that is one thing; but to stand here and somehow argue that the Republican leadership does not favor the balanced budget amendment or to stand here and argue that the liberal leadership in this House does favor it is simply inaccurate and we ought to stop this debate. If you want to debate the merits of the balanced budget amendment, that is one thing.

I think the case is open and shut. If the leadership really wanted to bring this thing to the floor, they would do it tomorrow and I really wish that they would by unanimous consent tomorrow and let us get on with it.

Mr. WEBER. Mr. Speaker, I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. Mr. Speaker, I thank the gentleman for yielding.

I think my point is this, my point about the slam-dunk and about having to proceed reasonably, whenever we talk about amending the Constitution of the United States, the basic law of the land. My point is simply this. For well more than 1 hour now and for many, many days, people swing their verbal fists at this fellow called Tip O'Neill and say, "The liberal leadership of this House won't bring the bill out of committee."

Well, I mean, what you want is for Tip, the Speaker, to assume some autocratic power where he can simply say to the Judiciary Committee, to the members of the Judiciary Committee, "I don't care how you want to vote on this thing. Get that balanced budget amendment out of there."

Now, that does not let the committee system work and I think the committee system ought to work.

You have the procedure through petitioning to bring the bill out. You have done it before that way.

Let there be no mistake about it. There are many people in this country, including conservatives, that do not believe and do not support the language that is in the balanced budget amendments which they have seen. I do not support it and I wish the gentleman would give me 30 seconds to tell him why.

I am going to repeat part of what I said earlier today. Americans have short memories. For 150 years in this country we lived with a balanced budget. We had a lot of deprivation. America was not progressing as it should. We were not really the prince of liberty and the watchman on the walls of freedom. One of the reasons was because we strapped ourselves, no matter what, no matter how bad education in this country got or how bad the infant mortality rate went, we said that government should not be involved and they insisted on a balanced budget.

Now, since that time we have developed another system, a system that says, no, we can have occasional deficits. Let me tell you that members of my party, Democrats, have misused that deficit. The deficit has never been higher than it is under Republican Presidents, but nevertheless, we have had Democratic Congresses during those years and I think that the members of my party, as have your Presidents, have misused that deficit. Do we want to go back to the European style economic system in this country where unemployment never went below 10 percent, where we had six financial crashes, where labor-management rife was not unusual, but was common.

Those were the days when we had less government and a balanced budget.

Now, I for one, will support a balanced budget constitutional amendment if it protects us from going back to those bad old days.

Mr. WEBER. Mr. Speaker, if I can reclaim my time for a minute, the gentleman has put forward a point of analysis which I think must be challenged. The gentleman has said that basically we have no progress in this country or not much for 150 years. First of all, I would dispute that.

Mr. WILLIAMS of Montana. This gentleman did not say that.

Mr. WEBER. But more importantly, have argued that the progress that has been made in this country since then has been because of deficit spending, is that the gentleman's point?

I yield back to the gentleman from Montana.

Mr. WILLIAMS of Montana. There is not an economist worth his salt in this country that will not tell you that the reason we are now coming out of the recession is because of Federal spending and the deficit. If it continues, we are going to go back into a recession. It is public funding and the deficit that is bringing us out of the current recession. There is no private spending. The public sector is the only one spending.

So is this deficit now being beneficial? Yes.

Mr. KASICH. Mr. Speaker, will the gentleman from Minnesota please yield to me?

Mr. WEBER. I yield to my colleague from Ohio.

Mr. KASICH. What I would like to point out to the gentleman from Montana, as I am sure he fully understands, is that the balanced budget amendment that is being discussed currently throughout this country, we are only one or two States short now by maybe half of a House or one House short in the State of Kentucky, provides clearly that if 60 percent of the membership of this body would vote, that it would be proper to spend in the hole, we can do it; but you know, John Maynard Keynes himself would roll over in his grave if he realized what we are spending in 19 out of the 20 years.

I do not think there is an economist from Keynes all the way to the supply side that would argue that somehow deficits are proper every year; but I think it is also arguable to say that there is not an economist from Keynes to the supply side who would argue that it is not important to have flexibility in a balanced budget amendment; but what this balanced budget amendment will do is provide that safeguard and to avoid a straitjacket, as the gentleman from Kentucky argued.

You know, everybody here just keeps voting for all these programs. Well, we are going to impose this vital discipline on the Congress; but now we are into the mechanics. I guess we are aside from the issue whether the leadership is for it or against it. If liberals want to be against this thing, that is fine; but let us just tell the truth. Let us just say we are for it or we are against it.

Let us not try to say, well, we are for it, but we are not going to bring it out of committee. Just tell the truth. Let the American people know where you stand. That is the bottom line.

The gentleman says that it cannot come out of the committee. I will bet the chairman of the committee does not favor the balanced budget amendment. I mean, he is the chairman of the committee. He gets a vote, too.

Mr. WEBER. Mr. Speaker, I yield to a member of the Budget Committee, the gentleman from Florida (Mr. Mack).

Mr. MACK. Mr. Speaker, I just would like to respond to the comments of the gentleman from Montana (Mr. Williams).

Mr. WEBER. Mr. Speaker, could we have the attention of the gentleman from Montana? I believe our colleague from Florida is trying to address him.

Mr. MACK. You know, I heard earlier in the day the gentleman make the same comments that in essence great progress has been made because of the spending that we have been doing here with the Federal Government over I do not know how many years the gentleman wants to say, but certainly over the last 35 or 50 years.

The gentleman seems to have a problem with the balanced budget amendment. I have been listening to the arguments. I can think back to the days when I began my college career and spent many, many years working in economics and then spent most of my business career in the banking business and received an appointment to the Federal Reserve Board, which unfortunately I was not able to accept because of making a political commitment. I know there are arguments on both sides. You can listen to economists from all over; but what I would like to suggest is that if we are going to spend at the level that we are, and the gentleman has probably heard the same statistics that I did several days ago, Rudy Penter indicated that our spending pattern seems to be putting us to the point where we are going to consume about 25 percent of the GNP by 1989.

□ 1640

The only thing I would say to you is I think those who feel strongly about the fact that we need to have Federal spending is that I think you at the same time have an obligation to tell the American people how you are going to pay for it.

For too long we have been going behind their backs, so to speak. It is much easier to go to the capital markets through the Secretary of the Treasury and say go and borrow this than it is to go back home and say we have decided to do these programs and as a result you are going to have to pay higher taxes for it.

Mr. WILLIAMS of Montana. Will the gentleman yield?

Mr. WEBER. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. I thank the gentleman for yelding.

Let me be clear with my friend from Florida (Mr. Mack), with whom I share a seat on the Budget Committee. I am not for these big deficits. I think they are outrageous. I think that the largest deficit in history before Ronald Reagan, the $66 billion stacked up in the Nixon-Ford years was outrageous. I think that even though Jimmy Carter cut that deficit in half in 2 years, it started to climb a little toward the end and got up around $56 billion, $57 billion, and I thought it was outrageous. And I think the projected $200 billion deficit this year is outrageous.

But I do not think you need a balanced budget to cure it. We would not have $200 billion in deficits if we had not moved away from a percolate-up in economics to trickle-down economics. That is why we have a deficit. You are unwilling to change that. You would rather keep the trickle-down economics which will not work and go to a balanced budget amendment which will affect this country in such a way that it will be intolerable.

Mr. WEBER. This is an important point because the gentleman and I engaged in some discussions on the whole question of the deficit this afternoon on one of the pieces of legislation that was before the House. The point, though, is if we all agree we have to cut the deficit, the question is where are we going to start to cut the deficit.

We had an education bill up this afternoon, and the gentleman from Montana and his colleague from Illinois and some others made the point that cutting that part of the budget would not result in a reduction of the deficit because spending on education is an investment and so it yields more to the Government in the long term than it takes away.

I would just like to renew that debate if I could with the gentleman because I find it very difficult to believe. The gentleman then said that an example of spending in the Federal budget that is not an investment and hence if we could reduce it would result in a reduction in the deficit with interest on the national debt. Interest on the national debt, as I am sure the gentleman understands, is not an item that we can control, hence I would again ask the gentleman from Montana to continue that discussion we began earlier in the day.

If we cannot cut the interest on the national debt because we are obligated by law, if there are certain items such as education that are investments and hence cutting those will not deal with the national debt, where would the gentleman suggest we cut the budget, because it is not an investment?

I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. I thank the gentleman.

I would not place all of education, by the way, off limits for further efficiencies, including dollar cuts. I think there are probably some areas where we can cut, but Lord knows, we went after that first and really hit it pretty hard, which I think was a bad mistake.

Where can we cut? What I would do is, I would stretch out defense spending, build many of these systems the President wants to spend on, but I would stretch out defense spending over a couple of years. I would cut the President's rate of growth in half.

I would collect better than half of the President's downpayment in defense.

I would then move to further efficiencies in domestic spending, although the domestic spending is declining.

I would move to cut the rate of growth in foreign aid, including military hardware overseas, and over a 3-year period we are going to get another $10 billion or so there.

Then I would move to the revenue side. When the President says the problem with the deficit is not that Americans do not pay enough taxes, he is precisely correct, despite the columnist George Will. The President is precisely correct. What the President does not go on to say is that the problem with the deficit is that some Americans do not pay enough taxes.

As everyone watching knows, there are thousands of large corporations and hundreds of thousands of wealthy people in this country who are not paying their share, and under Ronald Reagan they got the biggest income tax cut in the history of the 200 years of this country. We ought to recover some of it back and put it right on the deficit.

I would balance the budget in a 3-year time period doing that.

Mr. WALKER. Will the gentleman yield?

Mr. WEBER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

What we are hearing from the other side is the latest version of voodoo economics from all I can see. We have heard nothing here that fits together as a cohesive economic program but a lot of meandering.

But the last point the gentleman makes that somehow there are taps out there to be taxed just does not hold up at all. If you tax away every dime of income in this country over $75,000, taxed away every dime, total confiscatory taxation, you get enough money to run the Federal Government for 14 days. That leaves us with 76 days' worth of deficit, and we have taxed away every dime of income with all of the implications that has for investment in this country.

If you tax away every dime of income beyond $50,000 in this country you get enough money to run the Government for 40 days. You still have 50 days' worth of the deficit, so you are not going to find it.

The point is you have to tax away every dime of income, total confiscatory taxation of every dime of income over $26,000 in order to do what the gentleman is suggesting.

Mr. WEBER. If I can make sure I understand the gentleman, the gentleman is talking about if we chose to balance the budget through increased taxes alone we would have to raise taxes by a certain amount on people over a certain income level. Would the gentleman explain again?

Mr. WALKER. That is confiscatory taxation. What I am suggesting is if we were going to do it with taxes, you have to tax away every penny of income earned in this country over $26,000 in order to get to where the gentleman from Montana wants to be.

I am suggesting the $26,000 a year families in this country are not rich people. They are very, very much in the middle class of this country. They are people who cannot afford to have their incomes taxed away.

When we hear suggestions that somehow we are going to tax away that kind of income it strikes me as an appalling kind of economic philosophy.

Let me suggest, though, that the fact is we are never going to tax away income, all income over $26,000. What we have to do then is find ways of taxing even greater numbers of people, and what that invariably does is it moves the taxation rate down to people making $15,000 a year. And every time you hear the Democrats talking about taxing the rich, what they are really talking about is taxing away income from families of $15,000 a year or more.

I suggest to you there is no family in this country at $15,000 a year that is rich. That is the precise problem that you have with any Democratic proposal that suggests increased taxes as a part of the mix.

Mr. WEBER. The gentleman is quite correct. The gentleman makes an important point, and I think that the American people understand that, too. They understand when you talk about raising taxes but say it is not going to be your taxes, it is only the taxes of those wealthy corporations and those rich individuals, that is a lot of BS and the average American understands when you talk about raising taxes that you are raising taxes on the average working American, the average small businessman and the average farmer. That is why polls continually show overwhelmingly the majority of the American people support reducing the deficit not through increased taxes but by reduced spending.

Mr. MACK. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from Florida.

Mr. MACK. I am sorry the gentleman from Montana (Mr. WILLIAMS) is apparently gone because I have to make an assumption, an assumption that what he is saying is that the way to solve the problem is on the tax side. At least that is the implication.

Mr. WEBER. If I can reclaim my time, to be fair to the gentleman from Montana, he also did talk about cutting the defense budget and the foreign aid budget as well.

Mr. MACK. Let me make a comment, then, about the defense budget.

One of the figures the two of us had the opportunity to hear several weeks ago during the budget hearings was that the Director of the Congressional Budget Office indicated to us that if there was not one dollar of real growth, that is if all we allowed for in the defense budget between now and 1989 was to allow that to just grow by whatever the inflation factor was, they made the statement that you would end up with a budget deficit in 1989, again, mind you, no real growth in spending in defense over that period of time, that you would still end up with a budget deficit of some $246 billion or $249 billion.

The suggestion I am making is that lots of people, and we hear it day in and day out at the Budget Committee hearings, say the thing to solve the problem is you just go after defense. And the suggestion I think the gentleman did make was half of the budget or the President's downpayment would come from military spending, and maybe we can get $50 billion out. I rather doubt it.

Mr. WEBER. If I can reclaim my time for a minute, I think the gentleman from Florida makes a good point. It should be stated that although many of us believe we can try to economize in the Defense Department as well, it is important to understand that the President has not proposed increases in the defense budget simply because he likes to spend money on defense.

The President came into the office after 10 years basically of retreat on the defense budget, 10 years during which really defense spending decreased, while real domestic spending was increasing dramatically. And the President, and many others in the Congress, and indeed President Carter in his last year in office, came to the conclusion that we needed real dollar increases in the defense budget, not just because we liked to spend money on defense but because over a 10-year period of time our defenses had slipped sufficiently so that there was a real danger, there was a real danger of our becoming susceptible to either international blackmail, of course, or worse yet, attack.

That is why we have embarked on a rebuilding of our Nation's defenses.

□ 1650

Mr. MACK. Just to make one more point about the suggestion, anyway, that the problem is on the tax side. Again, some additional statistics that we were given indicated that the spending pattern again would push us to a point of about 24.9 or 25.2 percent spending as a percentage of GNP, gross national product, which is the accumulation of all the goods and services this country produces in a given year.

I raised the question to the Director of the Congressional Budget Office and asked him what was the highest level of taxation that we have been at in the recent years? The number that he used was 20.8 percent; in other words, where 20.8 percent of all of the goods and services we produce is consumed in revenues to the Federal Government.

We are presently at about an 18.7 or 19 percent of GNP. The suggestion I am making is, suppose we went back to the level of 20.8 percent which, by the way, the American people said in the 1980 election they were not very happy with, they wanted a lower level; even if he went back to that 20.8 percent, you have 4.1 or 4.2 percent of gross national product in spending that has to be cut.

I had to say that because I hear people saying, running forth with the simple answer: to raise taxes.

Mr. WEBER. Let me understand what the gentleman from Florida is suggesting; the gentleman is saying that even if we were taxing proportionately at the highest level we ever taxed in history, we would still have a deficit because spending as a percentage of gross national product has increased.

Mr. MACK. OK. Let me put that in perspective, what that number would come out to be. The amount remaining is somewhere around $120 billion to $150 billion in spending.

Mr. WEBER. Even if we were taxing at the highest level in American history we would still have $125 to $150 billion deficit?

Mr. MACK. That is correct.

Mr. WEBER. I thank the gentleman for that important comment.

I yield to our colleague from Ohio.

Mr. KASICH. If you look at the numbers, that is an enlightening and interesting conversation, if you look at the numbers from 1776 to 1962, we lived within $100 billion budget; 1962 was the first year the Government ever spent $100 billion. Eight years after that, it was $200 billion. Four years after that, it was $300 billion. This last fiscal year it is over $850 billion. And to somehow argue that we have a revenue problem is absurd.

You know, it is kind of like my being paid an income of $15,000 a year, going out and buying two Cadillacs and a brand new home and then when the creditors come by and ask me to pay the bills, I blame my employer because I say that his pay level did not keep up with my level of spending.

Remember we raised taxes $99 billion. Somehow we have to communicate this, we raised $99 billion in that deal, but through this body in 1982, there were supposed to be $3 in cuts for every dollar in increase. It has not even worked out to one for one. That is one of the reasons why we need this balanced budget amendment.

Because if you are going to raise taxes to some degree to help solve this problem, you certainly do not want those taxes to be used to find higher levels of spending. But to go from $100 billion in 1962 to $925 billion in the next fiscal year, somewhere in that vicinity, we have to control Federal spending. We need to have the discipline imposed on this Congress to do that. That is why we need to have this amendment. I think it is very clear.

What really blew my mind, though, is to be here and listen to a Member on that side argue the deficits somehow have contributed to economic growth. They have not contributed to economic growth.

Mr. WEBER. Reclaiming my time, the gentleman from Montana practices what he preaches; because on 17 key votes to increase spending, deficit spending last year, the gentleman from Montana voted in favor of increasing spending 16 times out of those 17 times, adding a total of $20.283 billion in deficit spending.

So the gentleman from Montana does practice what he preaches.

Mr. KASICH. He was arguing there for a second that somehow maybe these deficits were okay, but now because it has become a political issue, maybe down the road they will not be OK, but somehow for the last 19 years in a row when we have spent in the hole that somehow that has been positive and that has led to economic growth, but now we are running out of time for some mysterious reason. That is a bunch of baloney.

The Federal Government ought to operate like responsible families do; that is, to balance the budget. I mean, it is a simple, basic phenomenon in the United States of America and the U.S. Congress ought to start operating its house like good, responsible American families do: You do not spend more than what you take in, because when you do you get yourself in trouble.

Mr. WEBER. I thank the gentleman for his contribution. I yield to our colleague from California.

Mr. HUNTER. I thank the gentleman for yielding. I think one final point should be made, that when the gentleman from Kentucky was asking, "Well, where are you with your leadership" and "Where are they?" I think we should make it very clear that we are solidly behind our leadership. Our leadership has been inspiring and inspired in changing the track that America is on.

I would like to quote very briefly the 1 minute, from the 1-minute statement that our leader, Bob Michel made this morning. I think it is a very important statement with regard to our talking today and I quote:

> May I remind the Members of this Chamber that the Congress controls the purse strings around here. The President cannot spend one dime, he cannot buy a pencil unless the Congress first authorizes and appropriates. The Democratic leadership of this House can do something about deficit spending anytime they want to. They have not offered an alternative budget, they refuse to talk specifics.

I think the gentleman from Montana said, when referring to the necessity to cut some domestic spending, he said, and I think I quote: "We need to have some efficiency in domestic spending." That was the extent of his discussion of talking about making specific cuts in domestic spending. I finish Mr. Michel's statement:

> The Democratic leadership seems bound by the dictates of their daily memos from Mondale saying, "Politicize the Dickens out of the deficits, but for God's sake don't do anything about them, because we would like to have them for political issues."

I think that that describes the situation that exists right now. Let me say as a Member who has stood up and I know my friend from Minnesota would agree, my friend from Ohio and from Florida, we stand solidly with our leadership. Trent Lott gave an excellent pitch on the House floor yesterday. I work for Trent Lott in the whip organization, the gentleman from Minnesota does, too. We are solidly with our leadership. Jack Kemp is the guy who reminded America that they stand with the Republican Party, not the Democratic Party. He is the guy who woke up the Republican Party and woke up the American people to the fact that our philosophy is with the American people and most Americans consider themselves basically to be conservative, fiscally conservative and to be for national defense and a foreign policy that is worthy of respect.

Jerry Lewis came out on the House floor and reminded the Democrats who said "Where is your leadership" that he was here yesterday and Jerry Lewis, our research chairman, challenged, I think, the gentleman from Kentucky to show up on the House floor tomorrow and when we ask that question "Will the majority now allow us to at least make the unanimous consent request to bring up balanced budgets, line item veto and school prayer" that Mr. Hubbard, the gentleman from Kentucky, would work with the majority leadership to see that that question is answered in the affirmative.

So when we show up tomorrow morning, Jim Wright, the Democratic leader, is standing up there at the Democratic leadership saying "Yes, we give our consent, go ahead and make the unanimous consent request." And I thank the gentleman.

Mr. WEBER. I think the gentleman from California makes a very important point. Indeed, our leadership on the Republican side of the aisle has been heroic in their support of efforts to bring these items to the floor of the House of Representatives that have been neglected for so long.

In fact, one every day that the House has been in session this year, Republicans have come to the floor of the House with the expressed approval of the Republican leadership and asked to bring to the floor of the House of Representatives the line item veto, the balanced budget constitutional amendment, and the voluntary school prayer amendment and on every single day that this House has been in session, the Democrats have failed to come up with the appropriate clearance to do so.

In view of that obvious reality, it should be very clear to the American people that the Republicans want to bring those items to the floor to be voted on and debated; the Democrats do not.

I yield to Mr. Mack.

Mr. MACK. A few minutes ago, I was mentioning about the need for balanced budget amendment, and I put it in the context of my background in finance, economics, and so forth. But I think the real story is told right here on this floor in this House, and it is a story that I tell when I go back to my district because I think it really makes a point.

Whether you want to believe, again, the arguments on either side of a balanced budget amendment concept, whatever economist you want to pick, really becomes irrelevant; the question, the debate on the merits from an economic point listening to a professor of economics really break down when you get right here. And here is the point that I am making and you may recall this; the first vote that we had as freshmen Members of Congress.

□ 1700

I came down on the floor and the first request that we had to vote on was whether we were going to establish a new committee here in Congress.

The interesting thing from my vantage point was that I had a preceived idea that when I came here that, really, we had too many committees already, that we were spending too much money on staff and so forth. So I had already come to the conclusion I was going to be voting against that.

But being new, I said I really ought to go around and check, maybe there is something that I do not know about in this particular piece of legislation. I ought to find that out by asking someone.

So I started to make my way around the floor of the House, asking Members what they thought. And sure enough, their reaction was, "We don't need this committee. We have already got too many committees. It is a select committee. It can't write legislation. You know, we would have to hire more staff. Spend more money. We don't need this."

And so being a relatively clever guy, I put all that information together and said I know how I am going to vote.

So I went over and placed the card and voted and then I looked up there and I saw, gee, there were only 35 other individuals in Congress who vote the same way that I did. And there were about 400 who voted to say let us established this new committee.

Well, what I did not tell my colleagues was the name of the committee. Now the name of the committee was the Select Committee on Families and Children. And the other bit of information that I did not tell my colleagues a moment ago, I was told as I went around the floor, was: "You know, Connie, you just don't go back home and run for reelection if you vote against something that is called families and children."

As I say, you can talk about all the ramifications of the merits and demerits of the economics of a balanced budget amendment, but what that one vote said to me and everything that took place from that moment now indicates to me that there is no political courage in this body.

The easiest thing to do is just add spending, add spending, add spending, and go borrow the money.

Mr. WEBER. The gentleman from Florida makes an important point and it is illustrative of a pattern of behavior here in the House that we are trying day after day to bring to the light of the American people. And that is not that the Congress is not doing the right thing, but that the Congress finds ways really of obscuring from the American people the truth about what goes on here, as the gentleman from Florida pointed out.

When we voted on that Committee on Families and Children, everybody on the floor knew it was basically a waste of our money, but they said, "Well, you can't vote against that for political reasons."

There is that kind of inside talk that goes on in the House of Representatives all the time and everybody knows where the two parties stand on the issues, everybody knows that we are not going to vote on the balanced budget, the school prayer, the line item veto, because the Democratic leadership does not want us to. And yet, the politicians will find another way of explaining it to the people so that they will not be held accountable. And that is what we are trying to change in the course of this legislative session.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from Ohio.

Mr. KASICH. The reason why there are people who are opposed to the balanced budget amendment is because they want to have the best of both worlds. They want to spend as much money as they can get their hands on and, as the gentleman from Minnesota says, do not have to worry about how to pay the bills.

If you have a balanced budget amendment that says you must balance the budget, that means that you get to that 12 o'clock at night the day when you have to certify this thing and you have to balance. You are faced with a choice, a choice of prioritizing programs. And if you do not have that discipline, that mechanism in place, you can just spend and spend and spend and not have to worry about anything.

Let us touch just for a second on this issue of deficits. There is a lot of discussion about why we are in this situation. Let me say this in response to my friend from Florida, who told the story about the establishment of this committee early on. Budget after budget, after budget, appropriation bill, after appropriation bill, after appropriation bill, comes to the floor of this House with billions of dollars in spending over and above what the President has requested.

Now you cannot have it both ways. You cannot complain that the President is cutting budget, he is cutting all these programs and then argue that he has high deficits on the other hand and then turn around on this floor and complain about the deficits and pass budgets that are billions of dollars over what the President's requests have been.

So we get budget after budget after budget that drives us further and further and further in the hole.

There is another factor that is particularly interesting. This President is now serving with inflation at about the lowest level in about 20 or 30 years. When you have low inflation the government does not profit like it normally does. People do not jump into higher and higher tax brackets, therefore paying more and more taxes.

So lower inflation has been a benefit to the American consumer, but a bust to the Federal Government that is interested in spending more and more money.

Now some liberals on this side argue that we ought to repeal indexing. Well, indexing is the greatest thing in the world for those people who are middle- and lower-income groups, because what that does is protect them against having higher and higher tax bills because inflation pushes them into higher and higher tax brackets.

So having lower inflation has certainly aggravated the problem of deficits, but has helped the American people have a sound dollar.

And the other issue is the interest rates that this President inherited when he assumed office in January 1981. The interest rates were 21½ percent. And it was only a matter of time after inheriting that legacy from the Carter administration that we were going to have so many people out of work.

Now that people are going back to work again, that deficit naturally is going to shrink.

So it is a combination of things that have contributed to this. But the bottom line is we just cannot continue to have lip service. We have got to get a handle on Federal spending and we have got to look at every program.

And, finally, let me say one other thing, and that is the discussion about defense spending, which the gentleman has been engaging in with people on the other side of the aisle. Under John Kennedy almost 50 percent of the budget of this country went for defense spending. Under Ronald Reagan, less than a third of the budget is going for defense spending.

Now the accelerated growth is something that concerns us all, but everybody remember, under John Kennedy, nearly 50 percent of the budget went for defense and under Ronald Reagan less than a third.

So let us not have a strawman out there. Let us be realistic about what we have to do to get this problem under control.

Mr. WEBER. I thank the gentleman from Ohio for his important points.

I have just a few minutes remaining and I would like to conclude by just making a point about the schedule that we have kept so far in the Congress, because many people may be under the misconception that the reason that we have not dealt with the balanced budget amendment and the school prayer amendment and the line-item veto amendment is because Congress has been so busy dealing with other crucial business that there has literally not been a second when we could have dealt with them.

We have now been in session, I believe, 4 weeks this year. And the schedule that we have kept has been anything but breathtaking in the course of the session.

I would like to just review some of it. We went into session, first of all this year, the week of January 23.

How many bills did we consider the week of January 23? Well, Monday we were not in session at all that week. Tuesday we had one bill under consideration, H.R. 2615, Weatherization Employment Act. And Wednesday we really worked up a sweat dealing with the Atmospheric Climatic and Ocean Pollution Act of 1983. Two bills considered, only 2 days that we had any votes on the floor of the House at all during that first week that we were in session.

The second week, the week of January 30, we were in session on Monday, Tuesday, Wednesday, and Thursday and considered all of six pieces of legislation during that week, including such controversial items as the Earthquake Hazards Reduction and Federal Fire Prevention and Control Act.

The point I am making is not that earthquake reduction is not important, the point I am making is that it is not highly controversial, it goes not take a lot of the time of the Congress.

This week we concluded business earlier today, on Thursday, after being in session for 3 days, having dealt with just a few pieces of legislation. In all, if you review the work of this Congress over the last 2 months of the year now, what have we done? We have passed only seven pieces of legislation by recorded votes.

There is no reason why this Congress cannot pick up items such as the balanced budget constitutional amendment, the voluntary school prayer amendment, the line item veto amendment, the President's crime control package, all of the other items of legislation that are already to be acted on here. There is no reason why we cannot do that other than the simple reason that the Democratic leadership of the House of Representatives does not want their Members to have to come to the floor of the House and vote on some of those items of legislation. The time is there and the time to act is well beyond us.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I think the gentleman makes an excellent point. And the fact is that if we do not act on those things early in the session, we are not going to get to them late in the session either. By the time we get late in the session we are going to find all kinds of a backlog of legislation, we are going to come on to recesses and up to convention time and we are going to be told you have got to shove through this legislation in a very hurried fashion because we do not have time, we have got all this work to do. And we are also going to be told that there certainly is no time to consider something as controversial as a balanced budget amendment, a school prayer amendment, and so forth.

And so if we do not act on it now, the American people can be assured that the chances of acting on it are relatively small. And I think that we can look at this period of inactivity in the House as being something which does go directly against the American people's agenda on this floor because the greedy special interests are going to have their day in just a few weeks and they are going to get everything they want and it is going to be rushed through here in a manner that will appear to be much activity, but the fact will be that many days here in the early part of the session were left very lax.

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Mr. WEBER. The gentleman makes a good point. And again, it is a point we made earlier in the discussion with the gentleman from Florida (Mr. MACK).

There is a game that is played here to keep the American people from understanding why we do not act on these things.

When I go home to my district and the gentleman from Pennsylvania goes home to his district, I am sure that the gentleman finds, as I do, that people ask all the time, "Well, why don't you vote on these things? Why isn't there any action taking place?" And we understand why it is, and we have to explain it to them.

But there is a game played here to keep the American people from understanding why the House of Representatives is not taking action on these items.

One of the aspects of that game is the little play that the gentleman from Pennsylvania has referred to. Early in the session we cannot take it up because a couple of Members from the other side said earlier, "Well, that would be slam dunking it, that would be going around the committee process, and we have to respect established procedures. That is why we will not act on it from now until July or August."

Then they will say, as the gentleman from Pennsylvania points out, "Well, we cannot act on it now because it is late in the session, there is too much important business to be dealt with."

And year in and year out that kind of game is played here in the House of Representatives, so that the average American voter really does not understand why his Member of Congress comes home and says, "I want the balanced budget amendment, I want voluntary school prayer. Hey, I am for dealing with all of these problems you have got, but, gee, there are just these reasons why we cannot deal with it."

There is only one reason why we cannot deal with it. That one reason is because the Democratic leadership of the House of Representatives does not want to deal with it.

Mr. WALKER. If the gentleman will yield further, once again I think we need to make the point that if they can get through this year without having acted on these bills, then all of those bills have to be reintroduced and we have to start all the way through the process again in the next year, and so once again they are protected because at that point, if we say early in 1985, "How come we are not taking up these measures?" the answer will be, "Well, they have just been introduced in committee, we have not had time to consider these." So it is going to be at least June until we have any chance whatsoever of acting on those, and then by that time we will have so much legislative business that we cannot possibly take them up this year, and then we will get into 1986, and we will be right back to hearing the same language again. And all it is, it is an attempt by the tryanny that runs this place to make certain that the will of the people is never democratically voted upon on the House floor.

I thank the gentleman for yielding.

Mr. WEBER. The gentleman from Pennsylvania makes an important point.

Of course, as we are sitting here discussing these issues tonight, we are participating in what we call special orders. That is because this is a period of time when all Members can have some access to the floor of the House to debate issues before the American people.

What needs to be understood is that we can force debate on the issues here to the extent that we can get Members from the other side to at least come down on the floor and talk about them; but we cannot force votes on those issues because of the power of the Speaker and the power of the Democratic leadership. They reserve that power for themselves.

Mr. WALKER. If the gentleman will yield further, I thought it was very interesting that in a recent article in the Congressional Quarterly it was pointed out that the Democrats are now looking into ways of perhaps cutting off special order time, as well.

Mr. WEBER. So that we could not even debate these issues.

The SPEAKER pro tempore. The time of the gentleman from Minnesota (Mr. WEBER) has expired.

SIXTY-SIXTH ANNIVERSARY OF ESTONIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DONNELLY) is recognized for 10 minutes.

● Mr. DONNELLY. Mr. Speaker, tomorrow, February 24, Estonians all over the world will observe the 66th anniversary of the Declaration of Independence of the Republic of Estonia.

Since 1940, when the Soviets illegally occupied Estonia, this anniversary has been an understandably solemn occasion. The enjoyment of independence was short-lived in Estonia, however, the memories have not lost their emotional immediacy for the embattled brave people of Estonia. They cannot forget the brief moment of freedom, nor should they, for that is what keeps them alive and with hope.

We do well to commemorate this important anniversary in the House Chamber today. No matter how much adversity the Soviets can place in the way of the legitimate quest for a return to independence, they will fail. For the Soviets have run into a force they cannot control, or break, by multitude of arms. They have lost in their cowardly battle to destroy the human spirit and native culture of the Estonian people.

The Estonian-American community can be certain that we in Congress will not waver in our efforts to draw international attention to the continuing struggle for human dignity and self-determination in Estonia and her neighboring Baltic States of Lithuania and Latvia. It is a cherished just cause which we are totally committed to, and which our Nation's diplomatic policy of nonrecognition reaffirms.●

● Mr. CARNEY. Mr. Speaker, it is my pleasure to take this opportunity to join with my colleagues in commemorating the 66th anniversary of the Declaration of Estonian Independence. This nation declared its independence on February 24, 1918, and enjoyed 20 years of peace, prosperity and freedom.

The era of Estonian independence was forcibly ended in 1940 when the Soviets occupied the nation. In the years that followed, hundreds of thousands of Estonians were deported to Siberia, from where many never returned. Despite the occupation and continued Soviet terror, the Estonian people have not lost their will for freedom. It lives on even in this dark period of stepped-up persecution by Soviet authorities.

The three latest victims of Soviet oppression are Arvo Pesti, Heiki Abonen, and Lagle Parek, who in the spirit of peace signed a petition which would include the Baltic States in any nuclear free zone established in northern Europe. For this request, all three men have been sentenced to hard labor in Soviet labor camps. This violation of human rights is deplorable; it should also give pause to those of us in the West who tenaciously cling to the notion that the Soviets are as anxious to negotiate an arms settlement as we are in the West. The Soviets treated a call for disarmament in the most brutal manner possible.

Estonia is a true victim of Soviet aggression, according to Estonian National Council President Juhan Simonson. In this tiny nation of 1.46 million people, there are several missile bases, a naval harbor near Tallinn, the capital city, and 122,000 troops stationed within Estonian borders.

The military buildup in Estonia reflects the Soviet Union's blatant disregard for human rights and self-determination, as well as a military mentality which we in the West find alarmingly difficult to grasp.

It is my hope that on this commemoration of Estonian independence, we remember the Estonian heroes of the past battle for independence, as well as the heroes of today, like Pesti, Ahonen, and Parek, who continue to speak their mind despite the most certain punishment that awaits them for speaking their mind.

Mr. Speaker, America has never recognized the illegal occupation of the Baltic States of Estonia, Latvia, and Lithuania. The United States continues to support the right of these nations to self-determination. On this 66th anniversary of independence, we join with all Estonians that one day their homeland will be free.●

Mrs. JOHNSON. Mr. Speaker, I am proud to join with my colleagues today in celebration of the 66th anniversary of the independence of Estonia. After centuries of struggle and sacrifice, Estonia became an independent nation in 1918. Unfortunately, this freedom was brief, for in 1940, the Soviet Union forcibly annexed Estonia. Since 1940, the Soviet Union has illegally occupied Estonia and has oppressed its people.

In 1981, a group of Estonians signed a petition calling for a nuclear-free zone in northern Europe, including Estonia. The petition was a simple plea for peace, and the Soviet response was characteristic. The homes of most of the singers were searched, and they themselves were interrogated by the KGB. Many were arrested. On December 16, 1983, three of the Estonian signers, Heiki Ahonen, Arvo Pesti, and Lagle Parek, were sentenced to labor camps for their "crimes": Heiki Ahonen and Arvo Pesti each were sentenced to 5 years in a labor camp plus 2 years internal exile while Lagle Parek received 6 years of hard labor and 3 years domestic exile.

Estonians are being imprisoned because they exercised a freedom of speech which we, as Americans, cherish. Yet while we bask in our many freedoms we must not forget those without such a basic luxury. Today we not only remember the freedom of Estonia but we also give our hope to those still oppressed.

● Mr. MICHEL. Mr. Speaker, February 24, 1984, marks the 66th anniversary of the declaration of independence of Estonia. As you know, the United States has never formally recognized the takeover of the Baltic States by the Soviet Union, a move made by the Communists during their infamous alliance with Hitler.

At this time I wish to insert in the RECORD a statement by the Estonia-American National Council about the current situation in Estonia. Anyone who reads it must be aware of the terrible consequences of falling victim to Communist tyranny.

STATEMENT REGARDING CURRENT SITUATION IN ESTONIA

The question of peace and security in Europe is an issue with global significance, with great importance for the United States. The hope of maintaining a balance of power there is, unfortunately, constantly being thwarted by the Soviet Union. In the northern European sphere, the Soviets have actively been advocating the establishment of a nuclear-free zone, while themselves acting contrary to this objective.

While speaking of disarmament in northern Europe, the Soviet authorities have turned Estonia—and the other two Baltic States, Latvia and Lithuania—into enormous military bases, with installations of atomic and conventional submarines, warships, missiles, underground and aboveground airfields, tanks, artillery, etc., etc. In Estonia, among the new military installations under construction are a huge harbor at Muuga, near Tallinn, and missile bases on the island of Hiiumaa and at Cape Suurupi, as well as at several locations inland. At the end of 1983, there were 122,000 Soviet troops stationed in Estonia, a country with a population of 1.46 million. (This is comparable to having 18.5 million foreign troops stationed in the United States!)

In the fall of 1981, a group of Estonian, Latvian, and Lithuanian activists, fearing for the future survival of their countries, signed a petition calling for any nuclear-free zone in northern Europe to include the eastern shores of the Baltic Sea, i.e. the Baltic States. They said in part:

"We hope that the NATO and the Warsaw Pact powers will be able to guarantee the ban on nuclear weapons in the nuclear-free zone in northern Europe, including the Baltic Sea and the Baltic countries. Such a ban on nuclear weapons in one area would be an important step toward the fulfillment of the greatest expectations of mankind: Complete Disarmament".

Soviet response to this appeal was characteristic: the homes of most of the signers were searched, and they themselves were interrogated by the KGB. Many were arrested. On December 16, 1983, three of the Estonian signers of this petition were sentenced to labor camps for their "crimes".

Heiki Ahonen, Arvo Pesti and Lagle Parek are no strangers to Soviet persecutions. In 1981, Heiki Ahonen, a 27-year old engineer, was temporarily interned in a Tallinn polyclinic, in connection with his attempts to organize strikes in Estonia. Arvo Pesti, a 27-year old philologist, was expelled from Tartu University in 1979, for his alleged involvement with the Poolpäevaleht, an Estonian underground publication. Lagle Parek, a 42-year old architect, whose father was shot by the Soviets in 1941, was herself deported to Siberia in 1949 at the age of eight. There she, along with her mother, 71-year old grandmother and her 18-year old sister (Heiki Ahonen's mother), was forced to work in the forests at Novosibirsk in Siberia for six years.

For their "crime" of signing an "anti-Soviet" document calling for peace and disarmament, Lagle Parek was sentenced to six years hard labor plus three years domestic exile, while Heiki Ahonen and Arvo Pesti each were sentenced to five years in a labor camp plus two years internal exile.

Just before the opening of the recent Conference on Confidence- and Security-building Measures and Disarmament in Europe, these same peace-loving Soviets had this to say about Baltic nationalists and the United States:

"They in Washington are now busy manufacturing, one after another, fabrications that smear the Soviet Union. All manner of "documents" . . . that distort the historical truth and abound in falsehoods about the Soviet "occupation" of the Baltic Republics and "violations" of human rights there, are being written to the dictation of "sovietologists" from the CIA. . . . It is crystal clear that any action of anti-socialist nature staged in the run-up to the Stockholm Conference will inevitably jeopardize the prospects for good-neighborly relations and cooperation in Europe. This cannot but make everyone, who wants the skies over Tallinn to be peaceful and who does not want its ancient streets to be reduced to smoldering radioactive ashes, abhor the masterminds of such provocations."

What must Lagle Parek, Heiki Ahonen, Arvo Pesti, and Enn Tarto (now awaiting trial for his part in the nuclear-free zone petition) think of these Soviet pronouncements?●

● Mr. LENT. Mr. Speaker, I would like to take this opportunity to join my colleagues to commemorate Estonian Independence Day, February 24, 1984. This day is a symbol of hope to the Estonian people who continue their heroic struggle for freedom and self-determination. To the Estonian-American community, this is a day of special significance, a reaffirmation of the commitment to liberty and human rights.

The Estonian people first gained independence in February 1918. An entire nation rejoiced in this important victory and the opportunity to govern themselves as they saw fit. For nearly 20 years, Estonians were free to worship openly and live without fear of intervention or aggression from a hostile rule. Sadly, this new-found freedom was short lived when, in 1940, Soviet troops invaded and occupied the Baltic States of Estonia, Latvia, and Lithuania. The legions of fear enforced the newly imposed Soviet rule with tanks and guns.

Yet, the Estonian people's spirit of resistance remains strong and resolute after 44 years of Soviet oppression. Rich in determination, these people strive to preserve their heritage, the language and folkways so unique to the Baltic region. Their love of freedom is passed on from generation to generation.

Here in the United States, Americans have the right to speak openly in opposition to government policies, to organize and petition the government. Under Communist rule, brave individuals risk interrogation or internment in the so-called psychiatric hospitals for speaking out against Soviet policies of aggression and military intervention in their country's affairs. At the end of 1983, there were 122,000 Soviet troops stationed in the Baltic nation of Estonia alone, a country with a population of 1.46 million. This is comparable to having 16.5 million foreign troops stationed in the United States.

As citizens of the free world, we must grasp every opportunity to speak out against the fierce Soviet rule which wields force and intimidation in attempting to strip the Estonian people of their very identity, to silence their protects and control their thoughts.

As we commemorate February 24, as Estonian Independence Day, let each of us reflect on its meaning and importance. Let us pledge our united efforts to combat Communist oppression in Estonia and throughout the world. Let us renew our support to the cause of those courageous men and women who persevere against tremendous hardship and sacrifice to maintain their dignity and human rights in the hope that someday, they will again be truly free.●

● Mr. GILMAN. Mr. Speaker, I rise in recognition and support of today's 66th anniversary of the Declaration of Independence of the Republic of Estonia. I thank my colleagues, the gentleman from Pennsylvania, Mr. RITTER and the gentleman from Massachusetts, Mr. DONNELLY, for arranging this time for us. Yet, since 1940, the U.S.S.R. has illegally occupied Estonia. Despite Soviet harassment and military presence, this small country has maintained its strong heritage. The Estonian people's struggle for freedom is an ongoing process that deserves our attention and admiration.

I recently received a statement from the Estonian American National Council in New York City on the current situation in Estonia. It is a clear, moving example of the repressive lifestyle the people of Estonia endure under Soviet occupation, and I wish to bring it to the attention of my colleagues by including it at this point in the CONGRESSIONAL RECORD:

REGARDING CURRENT SITUATION IN ESTONIA

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"We hope that the NATO and the Warsaw Pact powers will be able to guarantee the ban on nuclear weapons in the nuclear-free zone in northern Europe, including the Baltic Sea and the Baltic countries. Such a ban on nuclear weapons in one area would be an important step towards the fulfillment of the greatest expectations of mankind: Complete Disarmament".

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". . . they in Washington are now busy manufacturing, one after another, fabrications that smear the Soviet Union. All manner of "documents" . . . that distort the historical truth and abound in falsehoods about the Soviet "occupation" of the Baltic Republics and "violations" of human rights there, are being written to the dictation of "sovietologists" from the CIA. . . . It is crystal clear that any action of anti-socialist nature staged in the run-up to the Stockholm Conference will inevitably jeopardize the prospects for good-neighborly relations and cooperation in Europe. This cannot but make everyone, who wants the skies over Tallinn to be peaceful and who does not want its ancient streets to be reduced to smoldering radioactive ashes, abhor the masterminds of such provocations."

What must Lagle Parek, Heiki Ahonen, Arvo Pesti, and Enn Tarto (now awaiting trial for his part in the nuclear-free zone petition) think of these Soviet pronouncements?

Estonian American National Council,
New York, N.Y., February 1984.

I applaud the courage and conviction of the people of Estonia, and I urge my colleagues to join in recognizing and supporting today's anniversary with the hope that soon the people of Estonia will, once again, be free.●

● Mr. McGRATH. Mr. Speaker, during the past few weeks, Members of Congress have spoken of the struggles of the people throughout Eastern Europe who have lost their homelands and freedom to foreign domination. Today I rise in commemoration of the people of Estonia who have shared in the tragedy of their Baltic neighbors.

Estonia, along with Latvia and Lithuania, shared a brief but shining time of independence and free government. Since World War II, when much of Eastern Europe was forcibly incorporated into the Soviet Union, Estonians under Communist control have yearned for the return of self-determination and freedom in their own land.

Estonia, which was victimized by the brutal Nazi war machine, has more recently suffered at the hands of the Russians. The Soviets desire to obliterate all traces of the Estonian nation—its history, culture, traditions, and religion. "Russification" methods have included intimidation, arrest, and deportation. Still, the spirit of the Estonians thrives, their hope has not been diminished. On this, the celebration of Estonian independence, the American people salute their courage, and support their ongoing struggle.●

● Mr. EDGAR. Mr. Speaker, tomorrow is the 66th anniversary of Estonian Independence Day. During the two decades during which the Estonian people enjoyed their independence, they demonstrated what a small nation can achieve while enjoying a democratic way of life. In 1940, Stalin illegally absorbed Estonia and the other Baltic States into the Soviet Union; the United States still does not recognize this occupation. Now, for over 40 years, the people of Estonia have fought to retain their identity in the face of ceaseless oppression by the Soviet regime.

Those of us who live in freedom have an obligation to remember the valiant efforts of Estonians and to work for full implementation of the Helsinki accords, which protect human rights in countries like Estonia. Therefore, I hope that my colleagues will join me in cosponsoring House Concurrent Resolution 192, which calls on our representatives to the United Nations to raise the question of the occupation of the Baltic States by the Soviet Union. Likewise, we should all continue to work to establish basic human rights and freedom for the Estonian people. Let us join with Estonians here and in their homeland in looking toward a day when Estonians can again live freely and enjoy the full richness of their culture.●

● Mr. HUGHES. Mr. Speaker, it gives me great pleasure to join my colleagues in this salute to the Republic of Estonia. Estonia has long been a proud nation, with a rich and fruitful culture.

Estonian identity comes from a varied and stormy history. Since the 13th century, Estonia has often been occupied and ruled by distant landlords. Yet the Estonians have always preserved their tradtions, language, and culture. It takes a strong people to protect their heritage during outside occupation, but the Estonians have done so. Their strong will is based in the dream that, one day, Estonia will once again be a "free" and "independent" republic.

Currently, Estonia is a captive under the rule of the Soviet Union. The Soviet Union has repeatedly tried to strip the Estonians of their culture. In a systematic campaign to diffuse and eradicate Estonian beliefs, the Soviet Government has flooded the towns of Estonia with Russian workers who have been taught the tenets of communism. These workers raise their children without the teachings of Estonian history and identity. Thus, the rich culture of Estonia is slowly being slaughtered through the heavy importation of Russian citizens and Soviet ideology.

And yet, Estonia and its Baltic neighbors strive to overcome their oppressor daily. Their love for freedom and dignity presses them on through any hardship.

The United States has never recognized the forced annexation of Estonia by the Soviet Union. On this 66th anniversary of Estonian Independence, we commemorate the Estonian struggle for independence. Our actions may remind the nations of the world of the Helsinki agreements, and our support for these freedom-loving people in their will to once again become self-governing.●

● Mr. FORD of Michigan. Mr. Speaker, it is with great humility and admiration, and not without a touch of sadness that I rise today to commemorate the 66th anniversary of Estonian Independence Day. For we are not celebrating the continued existence of a free and democratic state; rather, we are assuring that the conditions under which the heroic Estonian nation exists are not forgotten.

On February 24, 1918, the people of Estonia proclaimed themselves a free and independent state. For a few short years, they enjoyed all of the rights which any sovereign state enjoys. However, in the summer of 1940, all of these rights, including the most basic of all human rights—the free exercise of political, cultural, and religious freedoms—ended when the Soviet Union invaded and annexed the Baltic States of Lithuania, Latvia, and Estonia. These human rights violations are continued to this day by a signatory of the Helsinki Accords on Human Rights, the Soviet Union. This points out once again the hypocrisy of the Soviet Union, a country which preaches one thing, only to practice the exact opposite.

Yet, against many hardships, the people of Estonia have continued to struggle both within the Soviet Union and in the world community for an end to this forced occupation. Mr. Speaker, I am moved by the courage and conviction of the Estonian people. We will not let their cause die away, for one day they will again be a free and independent state as is their legitimate right.●

● Mr. SENSENBRENNER. Mr. Speaker, as I stand here today, a member of a democratic, freedom-loving nation, it is evident that others less fortunate are being denied the most basic of human rights—the exercise of political, cultural, and religious views. Although February 24, 1984, signifies the 66th anniversary of the declaration of Estonian independence, this celebration is darkened by reality. Following an illegal incorporation by the U.S.S.R. in 1940, which today stands in flagrant violation of the Helsinki accords, proud Estonians struggle onward against an oppressive Soviet regime.

The Soviet presence is strongly felt. Estonia is being transformed into a military base complete with missiles, tanks, artillery, warships, and atomic and conventional submarines. At the end of 1983, 122,000 Soviet troops resided in this Baltic State with a population of 1.46 million. Translated into a more meaningful scenario, this ratio would be like having 16.5 million foreign troops positioned here in the United States. The Russian language now holds preferential status at all official, educational, and cultural levels. Estonians brave enough to exhibit gestures of resistence, do so knowing that persecution and harsh repercussions will be forthcoming for their "crimes."

The brave people of Estonia deserve international recognition today. We, who live among the free, must reaffirm our commitment to those who continue to resist the Russification process.●

● Mr. ANDERSON. Mr. Speaker, this Friday marks the 66th anniversary of the declaration of independence by the State of Estonia. I want to add my voice to those of my colleagues in paying recognition to the Estonian people on this auspicious day. I want to thank my colleagues, BRIAN DONNELLY and DON RITTER, for arranging this special order.

In 1918, at the end of World War I, the valiant Estonian people succeeded in wresting control from the Soviet Union and on February 24, independence was declared. For the next 22 years, Estonia blossomed into a truly free and independent state and their unique culture and language flourished.

However, in 1940, fate was not on the side of the Estonians as the Soviet Union once again forcefully occupied their territory.

For the past 44 years, the Estonians have struggled under constant Soviet repression and hardship. Just this past December, three Estonians were sentenced to labor camps simply because they had signed a petition calling for a nuclear-free zone in Northern Europe and the Baltic States. Many other signers of the petition were arrested, and subjected to searches of their homes and to interrogation by the KGB.

In spite of this persecution, the Estonian people have bravely resisted all efforts to incorporate them into the Soviet Union and to extinguish their cultural heritage. By joining with Estonians throughout the world in recognizing this historic occasion, I hope that we can bolster their unwavering desire for freedom and independence that they have struggled for so long to achieve.●

● Mr. DWYER of New Jersey. Mr. Speaker, I wish to join my colleagues in commemorating the 66th anniversary of Estonian Independence Day.

As the Estonian people all over the free world commemorate the 66th anniversary of their declaration of independence, they continue to face serious threats to their language, culture, and their very existence.

In the 66 years since the Estonian people have proclaimed the reestablishment of their independence, Estonian citizens have suffered relentless persecution at the hands of a totalitarian regime. I wish to express my deepest concern with the enslavement of Estonia, and continue to hope for a complete withdrawal of Soviet troops from this Baltic nation.

I believe expressions of support are imperative in the continuing struggle for human rights in the captive nation of Estonia. Courageous people like Heiki Ahonen, Arvo Pesti, and Lagle Parek have been struggling a lifetime for the independence of their homeland.

The desire for liberty and independence for the brave people of Estonia must be steadfastly kept alive. As representatives in the free world, we shall continue to share with them their aspirations for the recovery of their freedom and independence.

Mr. Speaker, I thank my able colleagues, Congressman BRIAN DONNELLY and Congressman DON RITTER, for calling this special order today and join them in this tribute of strength to the Estonian people.●

● Mr. HOWARD. Mr. Speaker, February 24 commemorates the 66th anniversary of the independence of the Republic of Estonia. However, this independence was short lived. In August 1940, Estonia was forced to relinquish its national sovereignty as it was illegally incorporated into the Soviet Union. This nation has continually fought for its very existence under Soviet tyranny. For four decades, the Estonian people have been subjected to Soviet domination and injustice. The violations of basic human rights in this nation and the other Baltic States cannot be overlooked.

I am fortunate to represent a large number of people of Estonian descent in the Third Congressional District. These individuals are outstanding citizens, contributing in a big way to local community life through their professions and civic activities. Still, they yearn for a day in which their brothers and sisters, parents, and grandparents overseas can live in a free Estonia.

The right to self-determination for the Estonian people has not been fulfilled. The United States continues to honor the principles on which this country was founded. It is up to those of us in the free world to support and stand by the cause of the valiant people of Estonia and the other Baltic nations. We must join with them as they confirm their determination to fight for the restoration of the independence of their native Estonia. We share their hopes and dreams of freedom and liberty.●

● Mr. MOAKLEY. Mr. Speaker, I rise today to speak on behalf of the millions of suppressed people in Estonia who have sought to be free on the tyrannical and repressive rule imposed on them by the Soviet Union. Since 1940, when the Soviet Union criminally annexed the country as a result of the Hitler-Stalin pact, the cries of millions of torturted and oppressed people have gone unheard. It is time that we took a stand and recognized this horrible injustice.

The Estonians fought a successful war of independence against the Bolshevik Russians after World War I. They went on to be the first country in the world to grant its minorities cultural autonomy, providing Government-subsidized schools, theaters, and libraries. It was in 1940, as I previously mentioned, that the hopes and dreams of eternal freedom were crushed by the Soviets.

In June 1941, 60,000 Estonians, 5 percent of the total population, were either killed or sent to Soviet concentration camps. From that time onward to 1949, over 350,000 lives were lost. Many died in the Soviet's camps, many more died trying to defend their homeland. In 1949, 80,000 farmers looked on helplessly while their land was taken from them and turned into state farms; many were then deported to Siberia. Today, countless more have been victimized and violated by the ruling elite of the Soviet Union.

However, the Soviet Union will never be able to totally obliterate the strong national pride and traditions that persist in the people of Estonia. The people will never give up their hope of once again proudly flying the Estonian flag of freedom, and ridding themselves of the tyranny of the Soviet Union.

Some Estonians, who were able to escape, have carried their pride and fierce determination with them to America. In my home district of Boston, Mass., our Estonian citizens have contributed greatly. Some, who arrived with just the clothes on their backs, have started new lives and helped our fair city grow and learn. Our community, I can thankfully say, has been bettered by our Estonian friends. Unfortunately, they can never be truly happy until they know that their friends and relatives back in their homeland are safe and free. It is our duty to speak out for these people and give the oppressed people of Estonia a light of hope, and to never allow their dream of freedom die.●

● Mr. ANNUNZIO. Mr. Speaker, I am privileged today to join with my colleagues in commemorating the 66th anniversary of Estonian Independence Day. On February 24, 1918, 66 years ago, the Estonian people proclaimed their independence and created a government free of the domination imposed on them for centuries by the Russians.

Shortly after the formation of a free Estonia, Estonians and their allies successfully defended their country from attacks by the Red Army, which under Lenin tried to force communism on the newly independent nation. On February 2, 1920, a peace treaty was signed between the new Republic of Estonia and the Soviet Union. Under the treaty, the Soviet Union "agreed to renounce voluntarily forever all rights over Estonian territory and people."

Sadly, Estonia remained free for only 20 years, because in 1940 the Soviet Union again attacked and invaded this country, and incorporated it into the Soviet empire. The United States has never recognized this brutal seizure by the Communists, and we as Americans must continue our strong protests of violations of human rights in Estonia at the hands of the Communists.

The Estonian American National Council has issued a statement concerning Soviet atrocities committed by the Soviets during their illegal occupation of Estonia, and that statement follows:

Statement Regarding Current Situation in Estonia by the Estonian American National Council, New York, N.Y., February 1984

The question of peace and security in Europe is an issue with global significance, with great importance for the United States. The hope of maintaining a balance of power there is, unfortunately, constantly being thwarted by the Soviet Union. In the northern European sphere, the Soviets have actively been advocating the establishment of a nuclear-free zone, while themselves acting contrary to this objective.

While speaking of disarmament in northern Europe, the Soviet authorities have turned Estonia—and the other two Baltic States, Latvia and Lithuania—into enormous military bases, with installations of atomic and conventional submarines, warships, missiles, underground and aboveground airfields, tanks, artillery, etc., etc. In Estonia, among the new military installations under construction are a huge harbor at Muuga, near Tallinn, and missile bases on the island of Hiiumaa and at cape Suurupi, as well as at several locations inland. At the end of 1983, there were 122,000 Soviet troops stationed in Estonia, a country with a population of 1.46 million. (This is comparable to having 16.5 million foreign troops stationed in the United States!)

In the fall of 1981, a group of Estonian, Latvian and Lithuanian activists, fearing for the future survival of their countries, signed a petition calling for any nuclear-free zone in northern Europe to include the eastern shores of the Baltic Sea, i.e. the Baltic States. They said in part:

"We hope that the NATO and the Warsaw Pact powers will be able to guarantee the ban on nuclear weapons in the nuclear-free zone in northern Europe, including the Balitc Sea and the Baltic countries. Such a ban on nuclear weapons in one area would be an important step towards the fulfillment of the greatest expectations of mankind: complete disarmament."

Soviet response to this appeal was characteristic: the homes of most of the signers were searched, and they themselves were interrogated by the KGB. Many were arrested. On December 16, 1983, three of the Estonian signers of this petition were sentenced to labor camps for their "crimes".

Heiki Ahonen, Arvo Pesti and Lagle Parek are no strangers to Soviet persecutions. In 1981, Heiki Ahonen, a 27-year old engineer, was temporarily interned in a Tallinn polyclinic, in connection with his attempts to organize strikes in Estonia. Arvo Pesti, a 27-year old philologist, was expelled from Tartu University in 1979, for his alleged involvement with the Poolpäevaleht, an Estonian underground publication. Lagle Parek, a 42-year old architect, whose father was shot by the Soviets in 1941, was herself deported to Siberia in 1949 at the age of eight. There she, along with her mother, 71-year old grandmother and her 18-year old sister (Heiki Ahonen's mother), was forced to work in the forests at Novosibirsk in Siberia for six years.

For their "crime" of signing an "anti-Soviet" document calling for peace and disarmament, Lagle Parek was sentenced to six years hard labor plus three years domestic exile, while Heiki Ahonen and Arvo Pesti each were sentenced to five years in a labor camp plus two years internal exile.

Just before the opening of the recent Conference on Confidence- and Security-building Measures and Disarmament in Europe, these same peace-loving Soviets had this to say about Baltic nationalists and the United States:

"They in Washington are now busy manufacturing, one after another, fabrications that smear the Soviet Union. All manner of "documents" . . . that distort the historical truth and abound in falsehoods about the Soviet "occupation" of the Baltic Republics and "violations" of human rights there, are being written to the dictation of "Sovietologists" from the CIA. . . . It is crystal clear that any action of anti-socialist nature staged in the run-up to the Stockholm Conference will inevitably jeopardize the prospects for good-neighborly relations and cooperation in Europe. This cannot but make everyone, who wants the skies over Tallinn to be peaceful and who does not want its ancient streets to be reduced to smoldering radioactive ashes, abhor the masterminds of such provocations."

What must Lagle Parek, Heiki Ahonen, Arvo Pesti, and Enn Tarto (Now awaiting trial for his part in the nuclear-free zone petition) think of these Soviet pronouncements?

Mr. Speaker, the Estonian people have never waivered in their determination to resist the Communists' colonization of their beloved country and the savage suppression of their language, their customs, their national traditions, and their religion.

On this occasion, I am honored to join with Estonian-Americans in the 11th Congressional District of Illinois, and Americans of Estonian descent throughout this Nation, as they share with Estonians everywhere their hopes and prayers that Estonia will once again take its rightful place in the community of free nations.●

U.S. POLICY IN CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 60 minutes.

Mr. ALEXANDER. Mr. Speaker, I have made no secret of my differences with President Reagan over his policy in Central America. We would travel different roads to help our neighbors in their efforts to construct peaceful, prosperous democratic futures. I prefer diplomatic democracy building to military fortress building. I would lift the spirit of the Central American people rather than brandishing the sword before them.

Regardless of the road our Nation takes in relations with our Central American neighbors, I believe the American people and their Representatives in the U.S. Congress should and must have full and factual information on the U.S. military operations in Central America. Congress has been denied that information.

A bedrock principle of our democracy is that American citizens and their elected Representatives in Congress have the freedom to agree or to disagree with a President's foreign policy and its conduct, and we have the freedom to act on that agreement or that disagreement.

Errors, misunderstandings, and mistrust flow from evasions, misinformation, and subterfuge regarding the intent and the execution of Government policy.

In recent months, Mr. Speaker, I have taken actions which I hope will help close the gap between what the Reagan administration says about its Central American policy and the way the Reagan administration is actually going to implement that policy.

At my request last year, the General Accounting Office began an extensive examination of Reagan administration activities associated with the Big Pine military training exercises in Central America. Since my investigation began, information collected confirms that the administration is acting to circumvent congressional intent for Central America by proceeding to fund the construction of military and paramilitary bases for future use by the Honduran Army and by the American military as well.

This is unmistakably beyond the scope of existing congressional authorization.

Furthermore, it is my view that the administration is engaging in a systematic effort to prevent Congress and the American people from having access to information about these developments implementing the Reagan administration policy in Central America.

Documents collected by my staff, along with information from sources within and from without the administration, suggest the following:

First, the administration has used the Defense Department operation and maintenance appropriations to establish a permanent military infrastructure in Honduras which is clearly beyond the authorized purpose of those funds.

Specifically, the United States has constructed airfields, barracks, radar units, and artillery installations, together with other military support facilities, in Honduras, which go far beyond the simple training exercises the administration says it has been conducting in that country.

I have here with me today some photographs recently taken at my request. On my extreme right, in this photograph on the upper left, U.S. troops are shown constructing military barracks in Honduras. You can see by the construction that is undertaken that those barracks are meant to be permanent.

In the second picture here, at Palmerola military installation near Comayaqua, we see newly constructed barracks known as "tropical huts" and other construction financed by the Defense Department.

At Camp Sea Eagle, here in this picture, an aerial photograph has been taken. Camp Sea Eagle is affectionately referred to by U.S. military personnel stationed there as "Camp Swampy" because of its tendency to flood. In fact, I am told that this military facility was built in a swamp where fishermen used to fish, and they are asking the military how long they intend to be there because they are ruining the fishing in the area.

As opposed to what we are being told, these facilities are at least durable for 10 years and, with maintenance, can go far beyond in their durability.

□ 1720

The fourth photograph which I have here shows an airfield built by the U.S. Army Corps of Engineers during Big Pine II. In the fifth photograph, we can see United States and Honduran troops engaged in artillery training exercises. The sixth photograph reveals a permanent U.S. radar installation capable of aiding air strikes in the region.

Second, the administration was warned of the possible illegal nature of this unauthorized activity prior to undertaking the Big Pine training exercises by the Office of the Judge Advocate of the U.S. Army.

Third, the administration has decided that it will interpret the Boland amendment, enacted by this Congress, to the Defense Authorization Act of 1983, in a manner which allows it to continue funding antigovernment rebels in Nicaragua, whose mission is to overthrow the Government of Nicaragua.

Fourth, the administration has intentionally concealed information about American involvement in Central America as has been evident by the numerous frustrations encountered by the General Accounting Office in compliance with my request, as well as efforts by other Members in this Congress seeking similar information.

Last month, I requested that the U.S. Comptroller General provide me with a formal decision regarding the legality of the uses to which the Reagan administration is putting congressionally appropriated funds in Central America. My original request to the General Accounting Office grew out of reliable and disturbing information which came to me last summer. My request for the formal Comptroller General decision is the result of additional data I have received. These data raise serious questions about the legality of the Reagan administration's spending tens of millions, maybe even hundreds of millions of dollars, in Central America.

My efforts to insure completion of a full and fair examination of the Reagan administration military activities in Central America have been repeatedly obstructed by the Department of Defense and the Central Intelligence Agency. They have not been stymied, however; only delayed.

The frustration has arisen from dilatory, manipulative, and obstructionist tactics engaged in by the Defense Department and the Central Intelligence Agency.

Let us examine just one instance which is relevant to this presentation this evening. It relates to congressional interest in the Woerner report. This is the Defense Department report of the "El Salvador Military Strategy Assistance Team."

The report, dated November 1981, contains 366 pages. The leader in its preparation was Brig. Gen. Frederick Woerner who can be said to be the architect of the security assistance plan for El Salvador.

In the spring of 1982, Senator EDWARD ZORINSKY, a member of the Senate Committee on Foreign Relations, wanted to review the Woerner report and he requested a GAO analysis on that report. The Defense Department refused to release the report until the chairman of the Senate Foreign Relations Committee invoked section 26(c) of the Arms Export Control Act requiring its release to the Foreign Affairs Committee.

Even when the Defense Department yielded to the letter of the law, its observance was extremely limited. The Woerner report was released to a severely limited congressional list and only after General Garcia, the head of the Salvadoran military, OK'd its release.

The Defense Department went even further. When the GAO analysis was complete, the Defense Department demanded control of it and made it available to a severely limited list of Congressmen and even prevented completion of the normal GAO report distribution within the Department of Defense, itself.

Given this history, the Defense Department's reaction to the General Accounting Office's work on my own study request is not in the least bit surprising. Two examples of the obstacle-course psychology at work are found in DOD's handling of two letters from the General Accounting Office.

On November 28, 1983, 3 months ago, the GAO wrote to Defense Secretary Caspar Weinberger, asking for DOD's answers to a series of questions about the Department's activities in Honduras. These are questions reasonable people would have expected the Department of Defense to have answers for before it began the Big Pine military training exercise in Honduras last summer. We are still waiting for the Department's answers.

I would submit that the Department of Defense is finding it difficult to patch together an answer to the November letter because it is having extreme difficulty, in view of the admonition of the U.S. Army Judge Advocate General, squeezing out of the Federal law a rationale which would legalize certain of its Big Pine training exercise activities. In fact, I would submit that before Big Pine II got underway, and perhaps during the operation itself, the U.S. Army's Office of Judge Advocate General advised the policymakers that the President's plans were on a quicksand foundation and that its activities to spend U.S. tax dollars to fund these military operations in Central America were not based upon a sound footing and were, in fact, possibly illegal and an infraction of the law; that the Judge Advocate told the Department of Defense that a number of the proposed activities were of questionable legality if funded by the Department of Defense under the "operation and maintenance" account appropriated by this Congress.

These were actions actually carried out under Big Pine II, so we can only conclude that the Department of Defense was not willing to take the advice of its own lawyers and its own legal staff.

On December 1, 1983, GAO again wrote to Secretary Weinberger in a matter related to its efforts to complete the study which I requested. This letter specifically focused on the Department of Defense interpretation of the Boland amendment to the Defense Department appropriation laws. The Boland amendment, as we recall, sets limits on the CIA and Department of Defense activities in Central America. It was widely debated in this Congress last year. It took DOD 2 months to provide an answer.

The letter which I received related in part only to Big Pine II, the most recent of the Department of Defense military training exercises in Central America which began last summer.

Surely it is reasonable to have expected that the Defense Department should have known its answers to these questions before it committed American troops and American taxpayers' dollars to Honduras.

I intend to insert all of these letters in the RECORD following my remarks, and subsequently in Extensions of Remarks.

In summary, the Department of Defense says it is complying with the letter of the law, but that the intent of Congress with regard to the law is irrelevant. That kind of sophistry is unworthy of one of the most powerful institutions in one of the most powerful nations on Earth.

□ 1730

It is akin to a man claiming surprise when the boys he taught to fire a 105-

millimeter howitzer have set off a war. Many of the Hondurans trained by the U.S. Special Forces have been taught to use American artillery under Big Pine II. They are teenagers, boys, who have been trained to fight a war. Before Big Pine II, Honduras had no artillery.

Perhaps Department of Defense indulgence in these roadblocking tactics against congressional efforts to obtain information needed for rational decisionmaking reflect a misguided view of the Department of Defense. that view goes something like this: "This congressional interest in what we are doing in Central America is a tempest in a teapot; stall Congress long enough until after the elections, and maybe the interest will go away."

To those who feel that way, I would say, "absolutely not." Perhaps there are more of the people's Representatives in this Congress who can remember the lessons of the U.S. involvement in Southeast Asia than there are people in the Department of Defense who have learned those lessons.

Big Pine II was promoted to the American people by Ronald Reagan as a "training exercise" for U.S. forces. Now those facts which have come to our knowledge are telling we Americans that we find ourselves in the same position as landsmen using the fragile rods of freedom to try to protect their vulnerable crops of truth and honor from the ravages of a rampaging elephant.

I have no quarrel with U.S. forces engaging in training exercises with our allies in Central America. In fact, such actions are wise and even necessary. They are firmly within our national security interests. They are logical support of our goal of helping to create a better world, a free world of international involvement between allies to defend our freedom against the aggression of those that would deny us that freedom. A world where people can freely, without fear, choose a democratic self-government. But Big Pine is a training exercise with a difference, or multiple differences. It is some of the differences which concern me. I am not necessarily opposed to all of them per se. I would almost certainly support parts of those exercises, if they were properly authorized by the U.S. Congress as prescribed by law.

The use of Big Pine as a charade to build permanent military bases in Central America is not authorized by law. In fact, this Congress has been denied information about those bases and the construction of these military infrastructure until this time.

Some of the activities which have been undertaken under Big Pine are cloaked by the Department of Defense in a mist of security classifications. These include differences to which I have referred that separate the Big Pine exercises from your usual military training maneuvers.

I believe that Congress must carefully consider these differences to determine whether they are appropriate for a military training exercise, and whether they are legal under current law. To put it another way, is the President of the United States faithfully executing the laws of this land?

Among the issues we must examine are whether Defense Department programs should be used for providing foreign aid humanitarian programs in the fields of medicine, of education, and of community development.

There are differences between Big Pine and most other U.S. military training exercises. In other contacts under other laws on other scales, Congress has supported, in fact, similar assistnce, but, in each case those assistance programs were authorized by law.

However, we are dealing with the laws governing money for the Department of Defense in the context of Big Pine and follow-on military exercises in Central America. The differences I have already cited are not the only differences nor perhaps even the most disturbing ones.

Big Pine, as with other U.S. military training exercises, is financed with operation and maintenance funds. Money appropriated by the Congress. At present, it is anticipated that the Grenadaro I exercise, set to begin in Central America in June, will be similarly financed with operation and maintenance money.

In a training exercise, it is traditional for the military forces involved to go in, to involve themselves in training sometimes in joint effort with our allies, and then to get out—taking their equipment with them and leaving behind few, if any, physical changes.

Big Pine II consumed 6 months. It left behind in the Honduras military a civilian infrastructure of a semipermanent or permanent nature. Now President Reagan and the Department of Defense are telling the American people and the Congress that the official end of Big Pine is only a beginning. Hundreds of U.S. military personnel will be staying in Honduras. They will be making way for thousands more who will be committed there under the Grenadaro I training exercise.

The Big Pine training exercise put the elephant's trunk and the four legs into the fields of the landsmen. It did so on the backs of Reagan administration assurances to the Congress and American people that it was a normal training exercise. In short, a show of support and cooperation with our Central American neighbors who want peace and democracy. This is the justification for that involvement.

However, there are some things about Big Pine that neither the President nor the Department of Defense told the Congress or the American people. These are actions which evoke unwelcome echos of other times and other places in history. The times were the 1960's and the 1970's. The places were Thailand, Laos, Cambodia, and Vietnam.

That was also an era when Congress and the American people got too much of their information after the fact, as we are now seeing again in Central America, and got it from sources other than from the President, from the Defense Department, the State Department, and the CIA.

It was a time when we were not told that the preparations being made in Southeast Asia could result in longterm U.S. military presence in that region. Although the signals are clear in Central America, neither the Congress nor the American people were told that the training exercises were designed to make way for semipermanent and permanent U.S. military presence in the volcanic terrain of our Central American neighboring States.

□ 1740

About Big Pine, neither Congress nor the American people were told by the Reagan administration that it was moving to change Honduras, one of the most fragile civilian democracies in Central America, into a military fortress; but the course that has been set has every potential for doing just that in relationship to the capabilities of Honduras Central American neighbors, be they friend or foe.

The implications such an eventuality have for U.S.-Latin American relations and democracy in the Western Hemisphere cause my imagination to soar.

It is not my intention today to draw too many parallels between U.S. involvement in Central America with those of Southeast Asia, or to draw them too tightly. But, it seems to me that it would be instructive for us to examine some of those relationships.

In the 1960's the United States built airfields in Thailand. In the 1980's the Defense Department is building or planning to build more airfields in Honduras than the sum total that nation had before Big Pine II got underway. The Reagan administration asked Congress to spend for an airfield at LaCeiba. Congress said "no," explain to us your plan for the region and we will consider the matter again. Instead, the Defense Department took its Army Engineers, its Navy Seabees, and its equipment and built three airfields in Honduras. More are planned under Grenadaro I.

It is common practice for temporary, assault-level airfields, to be built, then dismantled, during military training exercises. The Big Pine airfields have not been dismantled. It is not usual for training exercises to be used to upgrade existing C-130 aircraft capable fields, or to expand them to double the length needed. Of course, I have been told that one explanation for turning a 4,000-foot airfield runway at Aquacate, Honduras, near the Honduras-Nicaraguan border, into an 8,000-foot runway was simply a case of putting two 4,000-foot runways together and joining them in the middle, and instead of handling an airlift now, the 8,000-foot runway can handle an air strike assault capability.

In the 1960's in Thailand, the United States installed radar systems and logistics bases and a secret base at Udon. Under Big Pine, the Reagan administration has installed sophisticated radar in previously radarless Honduras. It has begun development of logistics bases at such places as San Lorenzo, with proposals for development of military capabilities in Puerta Castilla. The purpose of the U.S. involvement with the Honduran Aquacate base remains a question mark.

In Laos, the CIA supported the Hill tribes in a secret war in the 1960's. Congress reacted by setting limits on those funds. In the 1980's, the CIA support of Contras against the Nicaraguan Marxist government also has spurred congressional reaction. Funding limits have been set. Congressional preferences have been established for open, above-board, overt, rather than covert, under-the-table, aid to our Central American neighbors striving to strengthen the growth of democracy, freedom and independent self-government.

The 1970's saw U.S. military adivser limits set for Cambodia out-of-country training for Cambodian forces, limited congressional support for U.S. involvement in Cambodia, and heavy use of special authorities at the early stages of U.S. action in Cambodia.

In the 1980's with U.S. involvement in El Salvador, we have seen limits set on U.S. military advisers. Many references have been made to the inadequacies of these advisers by this administration. Congressional support for U.S. involvement in El Salvador is limited and it is eroding. The U.S.-built regional military training center in Honduras will be used for training Salvadoran military forces; and the Reagan administration is making heavy use of special funding authorities under section 506(A) of the Foreign Assistance Act of 1961, as amended.

Has the Reagan administration so quickly forgotten the lessons of our recent past that our Nation is doomed to a future of repeating those errors? Or, more properly put, has Ronald Reagan not learned that there is a limit to the use of military force in the implementation of foreign policy?

Is it true that the U.S. Constitution puts on the President the heaviest burden for the formulation and conduct of foreign policy? The answer is "Yes;" but our history makes clear that no American foreign policy can survive and succeed in the absence of strong support from the American people and their elected Representatives in the U.S. Congress. Events in Lebanon provide us with a fresh and painful reminder of this basic truth.

The American people and their congressional representatives are well able to make sound decisions on U.S. foreign policy formulations of any Presidency. We will express our agreement or our disagreement, as is our right to do, as citizens of this free land, of this self-governing Nation of democratic traditions. Misunderstandings and flawed evaluations are the inevitable result of incomplete information, evasions, and subterfuge, the likes of which we are seeing exercised by the Reagan administration.

President Reagan has assiduously developed and maintained the image of the "Great Communicator." It is past time for him, and his administration, to use those skills to be open and frank with the American people and with their representatives in the U.S. Congress about the road that he is taking in the U.S. relations with our Central American neighbors, whether it is a militaristic policy or a diplomatic one or a combination of both.

Mr. Speaker, I attach the following material, to which I referred earlier, following my remarks and subsequently in extensions of remarks:

GENERAL ACCOUNTING OFFICE,
Washington, D.C., December 1, 1983.

Hon. CASPAR W. WEINBERGER,
The Secretary of Defense.

DEAR MR. SECRETARY: The General Accounting Office is reviewing aspects of recent United States activities in Central America pursuant to congressional requests. In connection with this work, our office has been asked questions about Department of Defense (DOD) funds, goods, and services provided to persons or groups for activities in Central America, principally in 1983. We would like to obtain your views on these matters.

Section 793 of the Department of Defense Appropriations Act, 1983, as incorporated in Public Law 97-377, Further Appropriations Act, 1983 (December 21, 1982), 96 Stat. 1830, 1865, provided:

"None of the funds provided in this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras."

We would like your views on the following matters concerning section 793:

1. What is the scope of section 793? In this connection, please provide copies of any DOD memoranda, opinions, or other documents concerning the significance and parameters of this provision. In particular, we would like to know your opinion on whether section 793 barred the following activities:

a. The transfer of DOD goods and services to any group or individual, not part of a country's armed forces, to—

(1) perform reconnaissance activities in Nicaragua;

(2) restrict the flow of supplies to rebels in El Salvador or other countries;

(3) bomb, rocket, strafe, etc., targets (military, civilian, economic, ideological, political, diplomatic, etc.) and persons in Nicaragua; and

(4) destroy economic facilities (e.g., oil storage tanks or bridges) or disrupt economic activity (e.g., cotton harvesting or crop planting) in Nicaragua.

b. The transfer of DOD funds to any such individual or group to pay the salaries and expenses of any persons or groups to conduct such activities.

c. The loan, detailing, or temporary retirement of DOD personnel to direct, assist, advise, or train any person or groups in carrying out such activities.

d. The transfer of funds, goods, or services to a third party (public or private entity), which then makes them available for the purposes described in a.-c. above.

2. To the extent that they are not subject to section 793, must DOD seek reimbursement for the goods, services, and expenses involved in the activities described above?

e. Did the section 793 restriction continue in effect under FY '84 continuing resolutions, Public Law 98-107, 97 Stat. 733, and Public Law 98-151, Stat. . These continuing resolutions provide agencies with funds "under the terms and conditions provided for in the applicable appropriations Acts for fiscal year 1983."

In addition to our inquiries concerning section 793, we would appreciate answers to the following questions:

4. Section 775 of H.R. 4185, (the FY '84 DOD appropriation passed by Congress on November 18) places a $24 million ceiling on the obligation or expenditure of funds available to DOD in FY '84 in "supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual." Which, if any, of the activities described under questions 1 a.-d. above would be covered by section 775 and subject to the ceiling?

5. What authority does DOD have to carry out humanitarian or civic action programs in Central America? In this connection please—

a. specify what legal limitations, if any, apply to such activities, e.g., funding limitations, and

b. describe and provide copies of any arrangements or agreements for such activities.

Under what circumstances must DOD obtain reimbursement for any humanitarian or civic activities performed, or goods transferred, in connection with such work? May reimbursement be waived?

Because of intense congressional interest in this matter, we request your response to these questions by December 31, 1983. If there are any questions concerning this request, please contact Mr. Richard Kasdan or Ms. Dayna Shah of our office (275-5881).

Sincerely yours,

HENRY R. WRAY,
Assistant General Counsel.

GENERAL COUNSEL
OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., February 2, 1984.

MR. HENRY R. WRAY,
Assistant General Counsel, U.S. General Accounting Office, Washington, D.C.

DEAR MR. WRAY: The views of the Department of Defense on the matters raised in your December 1, 1983 letter to Secretary Weinberger are provided herein.

In particular, you have asked for DoD views on the Boland Amendment, section 793 of the Department of Defense Appropriations Act, 1983. As noted in your letter, the Amendment states as follows:

"None of the funds provided in this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras."

The words "for the purpose of . . ." are critical to understanding the Boland Amendment. The question arises, does this language bar expenditure of funds only when the purpose of funding the supported military activities is to overthrow the Nicaraguan Government or to provoke a confrontation with Honduras, or does it also bar funding of a paramilitary group when the purpose of that funding is to pressure Nicaragua to cease its aggression against El Salvador, even though the recipient group's overall intent is to overthrow the Nicaraguan Government? The Administration has taken the former view—that it is the purpose of the funding agency that is controlling—while at least some Congressional critics have suggested that if either a U.S. Government Agency or a group receiving U.S. funds has the purpose of overthrowing the Government of Nicaragua or provoking an exchange with Honduras, then the statute prohibits assistance to that group.

The legislative language is less ambiguous. When read in context, it becomes apparent that Congress was referring to the purpose of U.S. Governmental agencies, not the purpose of the individuals and groups receiving assistance from these agencies.

The Amendment prohibits the use of certain funds "by the Central Intelligence Agency or the Department of Defense" to furnish certain specified assistance to any "group or individual" for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras." [Emphasis added.] The law prohibits the expenditure of funds, for example "by the CIA", for the prohibited purpose. Had the Congress intended to prohibit CIA assistance "to any individual or group which is not a part of a country's armed forces and which is already known by that Agency to have the intent of overthrowing the Government of Nicaragua or of provoking a military conflict between Nicaragua and Honduras," it would presumably have so stated. Indeed, immediately before adopting the Boland Amendment, the House considered and overwhelmingly rejected the language just quoted, which had been proposed by Congressman Harkin as a substitute to the Boland Amendment. The key difference between the unanimously approved Boland Amendment and the Harkin substitute (which was defeated by a margin of greater than two to one) was that Boland restricted the purpose of the government agency, while Harkin's restriction focused on the "intent" of a paramilitary group or individual.

Therefore it is not legally relevant under the Boland Amendment whether the Government of Nicaragua is in fact eventually overthrown, or whether an exchange between Nicaragua and Honduras takes place. What is relevant is the immediate motive or purpose for which the assistance is provided, not the long-term intent of those who are assisted. Assistance provided to pressure Nicaragua to cease its intervention in El Salvador—even if it resulted in the fall of the present regime—would not contravene the Boland Amendment, while assistance given to overthrow that regime, even if totally ineffective or actually counter-productive, would violate this statute.

Some critics of this position appear to acknowledge that the "letter" of the Boland Amendment has been followed, and allege that the Executive Branch, and in particular the CIA, may be violating its "spirit" by failing to maintain adequate control over paramilitary forces receiving assistance. Congress may indeed be concerned about the possible consequences of paramilitary efforts to overthrow the Sandinistas and the accompanying risks of a conflict between Honduras and Nicaragua—and from both a policy and a political standpoint these considerations may warrant careful attention by Administration decision-makers—but as a matter of law it is incorrect to read the terms of the rejected Harkin Amendment into the Boland Amendment. The record shows that the House considered and *rejected* language which would have prohibited assistance to paramilitary groups intending to overthrow the Nicaraguan Government. To suggest that the Harkin Amendment was somehow incorporated into the "spirit" of the Boland Amendment is untenable.

In accordance with this view, we do not believe that answering the detailed set of questions under your question number 1 would serve a useful purpose at this time.

Regarding your inquiry concerning whether DOD must seek reimbursement to the extent such goods, services and expenses are not subject to section 793, this office has taken the position that unless otherwise authorized, DOD support to any other U.S. Government agency, including the provision of goods, equipment and services, must be provided on a cost reimbursable basis in accordance with the authority of the Economy Act or other similar authority.

The FY-1984 continuing resolutions specifically provided for the continuation of the provisions of the 1983 Defense Appropriations Act, including section 793. In the absence of any provision to the contrary in the FY-1983 supplemental appropriations and/or the FY-1984 continuing resolutions themselves, section 793 continued in effect until FY-1984 Defense Appropriations Act (P. L. 98-212) became law.

Since the activities described in subparagraphs 1a.-d. were written specifically to apply within the Nicaraguan context, there is little question that these activities would be covered by the provisions of H.R. 4185 which broadly apply to all military or paramilitary activities conducted in Nicaragua.

DOD may carry out humanitarian or civic action programs in Central America. Although this office has ruled that DOD has no separate statutory authority to perform humanitarian or civic action programs, under the authority of the Economy Act or other similar authority, DOD may provide such assistance as is requested to the Department of State or AID to perform these activities in accordance with the statutory authority of those agencies. The DOD would seek reimbursement from the DOS or from foreign assistance appropriations.

As a general rule DOD has no authority to waive reimbursement for civil or humanitarian activities. However, under certain specific circumstances the Department, in determining charges for its services within the authority of the Economy Act or other statutory authority, may exercise its discretion not to seek payment for those services it would usually have sought payment for either prior to or upon completion of these activities.

We hope this information will assist your office in its review of United States activities in Central America.

Sincerely,

WILLIAM H. TAFT IV.

AN OLYMPIC COIN GOLD MEDALIST—GEORGE A. DEMBINSKI

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the Olympic coin program is designed to raise money to help train our Olympic athletes and to stage the 1984 Los Angeles summer Olympic games. With more than 5 months to go before the opening ceremonies, coin sales have already raised $32 million, making this the most successful Olympic coin program in history. This Olympic coin program has been enthusiastically supported by the coin collectors of the United States, but none more so than Mr. George A. Dembinski of Albany, N.Y. Mr. Dembinski has been an unpaid but avid supporter and promoter of the coins. For more than a year, Mr. Dembinski has selflessly done all he can to alert the public to these wonderful coins.

To help market the Olympic coins, the Treasury Department hired a high-priced New York advertising firm as a marketing consultant. In contrast to the marketing firm, for whom Olympic coins were only a job, Mr. Dembinski brought enthusiasm and a genuine love for coins and our athletes to his efforts. His passion for the program runs deep, and it shows.

During the debate on Olympic coins, Mr. Dembinski wrote me supporting an Olympic coin program that would be run by the United States and provide all profits to the Olympics. When that program was adopted by this House and then became law, Mr. Dembinski could have rested and let the Government run the program. Instead, he became active in promoting the coin program on his own. While the marketing consultant was still planning a campaign to contact banks, Mr. Dembinski contacted banks. While the marketing consultant was planning how to get media exposure, Mr. Dembinski was appearing on radio shows. While the marketing consultant was considering how to get print media exposure, Mr. Dembinski was writing to editors.

Working strictly as a volunteer, Mr. Dembinski has done a tremendous job of publicizing and promoting the Olympic coin program. Singlehandedly, he has distributed almost 50,000 order blanks for the coins. He has placed these applications in banks, grocery stores, libraries, and other public locations. Mr. Dembinski has also spoken publicly on the Olympic coin program at various locations. He has made 10 or more appearances on radio talk shows, in which he has discussed and promoted the Olympic coins. Furthermore, Mr. Dembinski has tirelessly written to newspapers and magazines, informing them of the Olympic coin program.

In this Olympic year, Mr. Dembinski typifies the true Olympic spirit. He is an unpaid amateur who excels at what he does, and he does it out of love for the Olympics and Olympic coins. He receives no compensation for his work, only the gratification that comes from doing a job that he loves and does well.

George Dembinski seeks no recognition, he seeks no glory, he seeks no monetary gain. But if there were a gold medal to be given for Olympic coin promotion, there could only be one winner. That winner is not the slick and well-financed professional marketing consultant, but the dedicated amateur, driven not by material gain, but by love of country.

The winner of the gold medal for Olympic coin promotion can go only to George A. Dembinski of Albany, N.Y. My congratulations to him for an amazing display of genuine Olympic spirit.●

□ 1750

LEBANON: COLLAPSE OF A NONPOLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, at last and long last the President has ordered the removal of the U.S. forces from Beirut. At last, at long last, our Marine forces are removed from the trap that they have occupied month after month in pursuit of a policy that was in the beginning only a bright and unrealistic hope, and in the end a bitter loss.

Needlessly, the United States has thrown away close to 300 lives of our best young men. Needlessly, because those young men were kept in their indefensible position at the Beirut Airport for months after it had become abundantly clear that their mission, whatever it may have been, had failed. They were kept out there, exposed to all manner of attack, for months after it had become clear that they were not seen as peacekeepers but as the allies of the so-called Gemayel government, and therefore the enemies of all who opposed that one particular faction.

They were kept out there for months after it had become clear that Gemayal either could not or would not move to create a government that might have some chance of reconciling the factions of his country, might have had some chance of ending the fratricide, might have had some chance of restoring order.

When Gemayel proved unable to broaden his government, which was months ago, as so we said, it was plain that the United States was in a losing proposition and yet the President did not move. Far from it. He stubbornly raised the stakes, even to the point of waving the red shirt of the Russian menace, to the point of questioning the patriotism of anyone who questioned his course.

Now, having done all of that, he really says Lebanon is just a part of the bigger picture, it is not that important after all.

What was absolutely vital a month ago, a year ago, is now reduced to nothing in the strangely shifting vision of the White House.

I have said for months and I have pointed out to the President and asked this question 14 months ago: What is the mission, Mr. President?

I made allusion to the most ancient of observations and that is that when the trumpet gives an uncertain sound, who then can prepare for battle.

What a tragedy. What a waste. Now that the Gemayel government is seen for what it always has been, the figurehead of one of Lebanon's factions, the mouthpiece of one of Lebanon's private armies, the mere occupant of part of the city limits of Beirut, the President belatedly orders a pullout that some of us have sought for months and months, month after month, week after week, saying that it was all in the name of a good cause. But we have to, we must ask again and again as I have for 14 months, what cause, what is the cause, what cause is served by the United States suborning itself to one of Lebanon's factions. What cause is served by throwing away lives in a military mission that was absurd from any military point of view?

I must remind my colleagues, and I said this months ago, that the Joint Chiefs of Staff were unanimous against that deployment of the Marines in Beirut. And extraneous from any diplomatic perspective, what cause has been served by embarrassing every force of moderation in the Middle East? What cause has been served by having our heaviest guns blindly lob shells into the vaguest of targets? What cause has been served by lavishly equipping and training a Lebanon army that today cannot even muster half of its forces and has been shattered in its first real test, an army that does not believe in its own country, because its government has not made any credible effort to reconcile the factions that have bled Lebanon endlessly for year after year.

We have to, we must indeed ask what now is the mission of the American forces in and around Lebanon, Mr. President, now that the misadventure, the tragic misadventure of the Beirut Airport assignment is over with. Will we now have another impossible mission in the form of marines sitting idly in ships off the shore of Lebanon, still exposed to attack, as I have been bringing out for 6 months? We must not forget those antiship missile gun emplacements are still there. They have not been knocked out. They have ranges of up to 50 miles. They are there performing no job of any military meaning at huge cost. We have to, we must ask will we now, after all of this sacrifice of blood and treasure in a hopeless cause in Lebanon, will we now place our troops at risk in yet another politically easy but militarily useless gesture. And, most importantly, we have to, we must ask what is our policy in the Middle East. Is it to try and find peace between the major antagonists? Is it to limit the threat posed by the Iran-Iraq war? Is it to build up the forces of moderation?

Have we lost sight of the plan to create an American backed Jordanian force, or have we asked what purpose such a force would serve?

What about the role and the reason for the rapid deployment force?

The truth of the matter is at present we have no identifiable policy in the Middle East. We have what I call an amalgam of assorted hopes, a random, sad sampling of dreams, but not a policy that any American can understand or any ally rally around.

If the trumpets give an uncertain sound, we have a hope, but only a hope, that somehow the Camp David process will stay alive, that there will somehow be negotiation between Israel and her Arab neighbors. We have the hope that somehow the Iran-Iraq war will not result in a shutdown of the Straits of Hormuz with resulting catastrohic losses of oil resources vital to the industrial world, a new oil shock.

We have the hope that Syria and other radical forces in the Middle East will be held in check. But by what? There is no word.

We do not even think about the Palestinian problem now that the murderous Arafat has at last been done in by the torturous perils of Palestinian intrigue.

But we know, or we should know, after all these bitter years, that the problem will not go away of its own. It was created by human failings and it must be addressed by human ingenuity and good will.

We must have the wit and the will. We must ask ourselves first and foremost what are our most basic national interests in the Middle East. Peace between Israel and the Arab world? A settlement of the Palestinian issue? Free access to Arab oil? Keeping the Russians out of any influential role?

□ 1800

Once we define what it is we want to do in the Middle East, then I believe we can devise ways of accomplishing that.

But we cannot go on forever proclaiming that this is this, that, or the other crisis, it demands our intervention as a matter of face, for when we intervene as we did in Lebanon, it is more than face that is at stake; it is American lives.

We have to ask, we must indeed ask: Which cause is it that we are willing to spend lives on? And more critically, we have to have clear and must obtain clear goals for without them our policy will merely continue as it has now for decades; endless reactions to endless crises engineered by one or another forces jockeying for temporary advantage. Certainly a clear policy would not end crises, but it would at least inform us of what can and what cannot, what need and need not be a question of paramount importance.

For instance, we have troops out in the Sinai, as I have brought out in the last few months; a forgotten force, significant for two historical reasons. One, this was a force that for the first time in the history of the Congress was mandated by Congress. And second, nothing, after that, by way of a report to the Congress.

But they are sitting up there, mostly the 82d Airborne, and we do not hear from them; nobody thinks of them. But suppose the policy of peace between Israel and Egypt changes as they have already; Egypt has gone back and obtained reconciliation with its severed Arab neighbors of the Camp David agreement.

I wonder how many of us noted that the chief U.S. officer, the man in charge of that very mission, was murdered in Italy recently. I wonder how may of us even know that the force is out there, let alone consider what dangers it faces or what basic and vital interests of the United States it serves.

For instance, now that the misadventure in Labanon is over, who among us would now argue that it was involved in a truly American interest? Who among us today would deny that the bleeding carcass of Lebanon is, in fact, a leftover, unsovled problem created by ever-so-flawed peace after World War I, or the leftover complications of a French policy that tried, some 40 years ago, to temporize the factional disputes that have plagued that land since the very dawn of recorded history? It is not that I, or anyone else, lack sympathy for the people of Lebanon, but that if we had asked the hard questions last April or May or even last autumn, we would have conceded that no vital interest was at stake, our mission, whatever it was, had failed and it was time to get out of a trap.

Lebanon's future is a mystery, but the future course of our own conduct cannot be left to mystery and chance. It must be determined by realistic, firm assessments of what we can do, what means we have available to us and what, at rock bottom, our own most basic needs and interests are.

We cannot be all things to all places, nor can we ever be making fresh, temporizing commitments as we have in the past.

There is the Sinai, still no closer to settlement than before the troops were there. Thus far it has been a benign mission. But as Beirut should have proven to us, such supposedly benign assignments can become very dear in their cost and grow into vast consequential failures. We cannot substitute ourselves for missions that ought to be entrusted to multinational, truly neutral peacekeepers. We cannot shirk our obligations, but we must carefully choose which burdens we will shoulder and not stumble out of ignorance or pride or hubris into such traps as Lebanon, indeed, has been.

What we are seeking is not a defeat of our military forces and what we are seeing, I must say, is that indeed, as our poor military have been placed by dint of circumstances into a defensive situation, we must see that this has not been a defeat of our military. They were never engaged; they were merely exposed, as I have said, needlessly, staked out like targets at a turkey shoot.

What we are seeing is a collapse of a nonpolicy. The lesson it should hold for us is that we must have a real policy. There is no substitute for a real policy. And for Congress, the lesson is that we should have trusted our own instincts and information, not allow ourselves to be bamboozled and bullied by a blind administration for if Congress had exercised its honest judgment, we would not have lost 250 marines last October in the bomb attack, we would not have lost aircraft to Syrian attack, and we would not have found our ships pounding Lebanese tragets for reasons that the administration itself never could explain.

The failure in Lebanon is not just that of Ronald Reagan, it is also the failure of Congress to demand accountability, to trust its own well-founded judgment, to exercise its own powers. We have been too willing to give leeway to the White House all too often, in Vietnam, in Lebanon, and elsewhere.

Will it now be Central America, as our very distinguished whip was saying a few minutes ago? Will it be China or will it be someplace else next? Korea? Middle Europe? The answer will probably be a crisis in Latin America. That will be our next big headlines, I am afraid. The question then will become whether Congress will have the wit or the will to keep America from again drifting toward disaster; but this time, almost as in a Greek tragedy, placing, your children and my children, your grandchildren and my grandchildren, your great grandchildren and my great grandchildren, into an endless, fateful period of hostility and enmity with those neighbors that fate decrees must share this part of the world with us from here on out.

The drift is already present in Central America with a policy destined to failure; as the distinguished whip clearly pointed out a while ago. But few are aware of the peril or seem to want to be. Just as few understand what the peril in the Lebanese event was.

Nonpolicy collapsed there. It need not happen again, but it can and it will, if neither those charged with policy nor those who represent the people conduct themselves with honesty, candor, and hard-headed good sense. We lose more than face in our Lebanons; we lose needlessly and inexcusably lives and endless treasure, all at the expense of our greatest interest and greatest national good.

Let Lebanon be a lesson and a warning; let us learn from it and resolve never again to be so generous in our grant of power to an administration that cannot tell us why it is needed to begin with, or to what end it is being committed.

I yield back the balance of my time.

RESCUE SOCIAL SECURITY DISABILITY INSURANCE FROM ITS CURRENT CRISIS

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEPPER. Mr. Speaker, distinguished colleagues, if the Reagan administration has its way, the Social Security Administration will resume terminating SSI benefits to disabled people. Furthermore, these individuals, the majority of which have been unjustly thrown off the rolls, will no longer be able to receive benefits while they are appealing their termination from the disability program. We must do everything in our power to stop this great injustice to the disabled American.

The definition of totally disabled under the Social Security Act, is an extremely unfair criteria. If strictly enforced, even the most severely disabled could be found ineligible, and we know, given this administrations past record, thousands of deserving individuals will be thrown off the program rolls. This administration does not seem to be concerned with the injustices and suffering these people are forced to endure. We all have heard of horror stories related to individuals whose SSI checks have been unjustly stopped; including suicides. Take the case of this woman who was in my office just this week. She said her checks had been cut off which subsequently lead to her eviction from her house. All of her furniture was put out on the street. The furniture which was not ruined by rain was stolen by passers by. She had nowhere to turn and her life was in complete turmoil. She has been returned to the SSI rolls after a hearing, but restitution was never made to her for the complete loss of her furniture and family heirlooms and not to mention the frustration and humiliation from which she still suffers.

We know there is great need for reform in the disability program, but we must exercise compassion and restraint when dealing with someone's only means of support. If the disabled cannot rely on this program, what then can they rely on?

My fellow colleagues, I call upon you to rescue the SSDI from its current crisis. We must not take away from their only means of support. We must make benefits available to those who are having their case reviewed, until they are deemed ineligible. We must observe physical evidence that the recipient is making progress, and we must levy a moratorium on mental impairment reviews until a revising of the list of mental impairment is made permanent. We cannot allow the cruel and inhumane treatment of the disabled American to continue.

SOCIAL SECURITY DISABILITY TERMINATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 60 minutes.

Mr. **FRANK**. Thank you very much, Mr. Speaker.

Let me say I was pleased to be able to defer, when I was originally called, to the deputy whip, the gentleman from Arkansas (Mr. ALEXANDER) who I think presented to the House and the Nation an extraordinary important documentation of a very serious potential problem. We are often told in the Congress that we ought to act to prevent problems before they flare up and in what he did today, the gentleman from Arkansas has shown how that is to be done. And I hope what he has done will be heeded.

□ 1810

My purpose in taking out this special order is to talk about the renewed crisis that is upon us in the area of disability.

Mr. **BEDELL**. Mr. Speaker, will the gentleman yield?

Mr. **FRANK**. I would be glad to yield to the gentleman from Iowa.

Mr. **BEDELL**. I thank the gentleman for yielding.

I wish to commend the gentleman for bringing to the attention to this body the serious problem that exists today over social security disability terminations.

In March 1981, the administration embarked on an inflexible, inefficient, and in many cases inhumane review of the social security disability rolls which resulted in the termination of benefits for 470,000 individuals. The administration stood by its new review process claiming that program costs would be cut by $1.1 billion each year.

This exercise quickly came into question as Members of Congress, like myself, were contacted by thousands of individuals who were notified that their benefits were being cut, despite their serious disability. In addition, the appeal process essentially collapsed under the weight of 470,000 people appealing their termination notice. By December 1983, 160,000 were restored on appeal, 190,000 were actually cut, and 120,000 were still pending. And finally, the effort to survive while on appeal became the most crucial problem in my district. Prior to January 1983, no continuation of benefit was allowed for those appealing their notice.

It was in January 1983 that some relief was ordered by Congress by the continuation of benefits for those appealing until final decisions were made on their case. When this provision expired on December 7, the administration honored the continuation of payments, and halted the termination process until early this month. On February 2, the administration resumed its termination process. Those already in the appeal process, as of December 7, 1983, will continue to receive pay, but all new terminations will not be covered by this provision during their appeal. I find this especially unjust and worthy of immediate action.

Despite these temporary efforts, the real problem continues and for this reason I strongly support proposals in Congress to reform the present review procedure and standards for eligibility. Pending congressional initiatives would restrict the termination of benefits only to those cases where a beneficiary's medical condition has improved to the point of being able to perform substantial gainful activity. Changes would also be made in the review process by continuing benefits during the appeal process through the administrative law judge level, and requiring face-to-face interviews for those being terminated because of medical recovery.

I am certainly not suggesting that those receiving disability benefits should never be examined, but I do believe that many of the terminations we have been seeing are the result of careless and arbitrary decisions. I cannot state strongly enough my support for prompt action to reform the disability program. The present situation is unacceptable and I will stand firm in my efforts to keep a sense of decency in the review process.

I cannot thank the gentleman enough for bringing this matter up so that we can call attention to what I think is a serious problem in our society and something that certainly needs to be rectified.

GENERAL LEAVE

Mr. **FRANK**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the subject of my special order.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. **FRANK**. Mr. Speaker, one basic fact brings me to the well tonight and has led to more than a dozen of our colleagues here in the House to join in this special order. As we deliberate today and as we have deliberated for the past couple of weeks, desperately ill Americans who are unable, through no fault of their own, to earn a living have been thrown off the disability rolls without the benefit of judicial review.

Congress, as other Members have documented in their statements under this special order, several years ago asked that there be redeterminations under disability. We all have a responsibility to see that a program, as essential a program as disability, is run efficiently.

When that small minority of people who are inclined to abuse take unfair advantage of a program and people who are in fact able bodied pretend to be disabled and take funds, they are robbing the public and they are robbing genuinely disabled. And of course it is our responsibility to see in a regularized way that that does not happen.

But no Members of Congress anticipated several years ago when they asked for reviews that we would have war on the disabled. And that is what we have got. We have had a pace of review which is so rapid that it obviously forecloses any effort to consider fairly the individual merits of the cases.

When hundreds of thousands of people are swept up in this kind of a net injustice is inevitable. I do not think I have seen an issue—not just in my 3 years here, but in my prior service in the State legislature and working for a mayor—where elected officials were so uniformly barraged by their constituents with hard evidence of callous and unfair action by government.

No one has denied that uncounted, tens of thousands and more desperately ill citizens have had their lives already blighted by illness made incomparably worse, more difficult, more painful, more anguishing, by the Federal Government denying them the very money they need on which to live.

There have been lives lost because of the way in which this program was administered. I know of cases myself and there are others I have read about where lives have been lost through suicides, with people confronted with the loss of their income or with the terrible anguish of yet another redetermination in which they are treated in some cases almost as criminals because they happen to have been unfortunate enough to have been stricken with an illness. We know of cases of people with severe heart conditions and other medically tenuous situations who have died shortly after the stresses and strains of this kind of program. We have had people ill for many years, long on disability, wishing they could get to work, but not being able to, dismissed without any doctor having seen them, without even having an interview face-to-face with an individual from the agency.

What Congress did say a year ago was, please do not throw these people off. We are talking now about people who had already proven that they were disabled, already proven under the stringent standards of this program that they were so sick in mind or in body or both that they were unable to work, that they were unable to hold even the most menial of jobs. And that is the standard that they had to get to get on disability.

They have been thrown off, many of them wholly unjustifiably. There is probably not another area where the Government makes decisions where the rate of judicial reversal has been so great. Administrative law judges have overturned well over half of the terminations in these cases. In more than 50 percent of the time, in other words, they have said to the Federal Government, you are wrong, those people cannot work. In effect, what we have is documentation of a systematic effort by this administration's operatives to go to people who were disabled and to say to them, "We no longer are going to pay you enough to stay alive."

And then we have had judges say in over 50 percent of the cases, "You are wrong. Those people have no other way to survive."

So Congress said, quite reasonably, please do not terminate anybody who is already on until the administrative law judge has had a chance to hear the case. Then if they are terminated there is nothing anybody will try to do about it.

That legislation unfortunately expired in November because it was anticipated, when it was passed as a separate piece of legislation, that comprehensive legislation would follow.

We were told by the Secretary of Health and Human Services at the time that she would impose a moratorium herself even though the legislation had run out. In fact, the Governor of my State and some others argued for moratorium and she said to them, "There is no need for you to do that. I am going to take care of it."

The Governor of Massachusetts was chided for jumping the gun in saying that he would prevent disabled people from being thrown off the rolls.

□ 1820

And what we all found, to our dismay, was that as of February, this month, the Reagan administration is resuming the practice of saying to people who have long since proved that they were disabled physically or mentally, or both, unable to work, "That's tough. You are going off the rolls, and we do not care how you support yourself. We will cut off all your income, even though you probably still cannot work."

They are doing this now without waiting for the administrative law judge.

The Ninth Circuit Court, covering the Western States, just enjoined the Secretary of Health and Human Services from continuing to do that in that circuit. But people in other parts of the country are subjected in fact to continued dismissal. One of the problems we have now is chaos, in which different States are subjected to different rules. In some cases if you are desperately ill, you are protected; in other cases if you are equally desperately ill, you are not protected. That in itself is a problem. But the fundamental problem is that the Reagan administration, in its effort to cut back on spending on the needy, is visiting untold anguish and punishment on the genuinely needy.

Mr. Speaker, this is an administration that has asked us to spend $8 billion on aid to Central America over the next few years.

I have some objections to that program on the merits. I think we need some foreign assistance—not in the magnitude and for the purposes that this administration is asking in Central America—but does not the President understand how difficult it is going to be to get the American people to meet our international obligations if they are simultaneously hearing about their friends and their neighbors and their relatives who are being thrown off the disability rolls? Does he actually think he will get the majority vote to send $8 billion to Central America in the next couple of years, when he tells us we cannot afford to continue a meager disability payment to someone so stricken in mind and body that he or she cannot work? But they will get thrown off the rolls, they will be left to subsist, God knows how, when $8 billion will go to Central America, will be lost in the bog of El Salvador.

Or do we continue to fund an MX missile of dubious military worth because money is no object with the military, but we tell a 62-year-old woman who has had severe physical problems that she is going to be cut off the disability rolls, and she may not be eligible yet to collect her social security?

That is the kind of situation we are facing.

There is legislation pending that would give some relief to the disabled. None of us, unfortunately, can give the disabled the kind of relief they want. What they want is their health back. We are not talking here about malingerers, we are not talking about people who deliberately refuse to work. We are talking about our fellow citizens who have tragically been stricken, through no fault of their own, with illnesses that prevent them from working. That is what they had to prove to get onto the rolls. And we are not talking about people who have reduced capacity to work, who have to do less. We are talking about people who once had to prove that they were unable to work at all.

And Ronald Reagan has now ordered that these people be thrown off the disability rolls in excessive numbers, without adequate examination and without the benefit of judicial review.

I do not think that reflects the kind of America in which we want to live. When we have got a payment-in-kind program that is costing us billions of dollars in the agricultural area, when we have got the MX missile and an $8 billion proposal to go the Central America and subsidies of all sorts to all other forms of industry in America, I do not think we want to be told that we cannot afford a meager amount to an individual so ill that he or she can no longer work.

Two things have to happen right away, Mr. Speaker. First, it is imperative that the Reagan administration show some compassion. That has been, unfortunately, very difficult for them

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in many cases. But we are asking them, while they are talking about $8 billion for Central America and a 13-percent increase for the military and new and more lavish forms of subsidies for this or that favorite group in this society that they have put forward, "Can we not spare a relatively small amount of money to continue on the disability rolls people so sick that they cannot work? Can we not allow them to continue to subsist with a relatively small Government payment at least until a judge has decided on their case?"

So all of us, I think, are urging this administration to reimpose that moratorium. Congress is going to reenact it. There is no real dispute in Congress about the need for administrative law judges to review before termination of disability cases.

Unfortunately, the legislative process has bogged down. I wish it had not. Congress deserves some criticism there. But is the administration justified in blaming, indeed victimizing, the disabled because of a glitch in the congressional process? Is it the fault of these working people, once working people, who can no longer work, that our legislative schedules get boggled up and we cannot get a majority for a particular bill at a particular time because it has got a whole lot of packages in it?

The administration has no justification for continuing what it is now doing. The administration once admitted we were right and that they should not throw people off until the administrative law judge has acted. They have repudiated that promise and they are subjecting an awful lot of people to a great deal of misery. Cut these people off, and then 8 months or a year later you restore them, but you do not restore them in any way that is relevant, you do not spare them the pain and the anguish, people who are already fragile mentally and physically, that they get when they get cut off.

So we urge the administration as earnestly as we can to show some compassion and to let up on these people, to please stop victimizing those who are so sorely in need. There have got to be better objects on which this administration can show some fiscal toughness than the disabled. Let them look at the Pentagon; let them look at the Agriculture Department; let them look at a whole range of other things. But let them, please, lay off the most vulnerable people in our society. If anything makes a mockery of this safety net we have heard about from the White House, it is a policy which deliberately makes war on the most vulnerable people in our society.

But Congress also has a responsibility here. Under the very able work of the chairman of the relevant Subcommittee of Ways and Means, the gentleman from Texas (Mr. PICKLE), good legislation has come on.

The gentleman from Texas (Mr. PICKLE) has just arrived, and I will be glad to yield to him.

Mr. PICKLE. I appreciate the gentleman yielding, and I appreciate the initiative he is showing, along with many of our colleagues, in trying to advance the bill that is pending.

I am glad to see so many Members interested in the serious problem our country faces in regard to the social security disability program. Your support in passing the legislation already proposed by the Committee on Ways and Means to resolve the crisis we now face is welcome. This legislation was drafted last year in response to complaints from beneficiaries and State program administrators.

Today, we find that in 20 States, Federal circuit courts have found the administrative standards and procedures unacceptable. This judicial activity has cast such doubt on the program that in nine other States, the State governments have simply refused to process terminations from their disability rolls in accordance with Federal guidelines. To put it plainly, we have no national program for disability. What we have is a mess.

In January the administration announced that the problem could be solved administratively. Given the chaos in the system due to Federal court action, I do not see how this is possible. Today on the "CBS Morning News," when Secretary Heckler was asked if the administration would comply with the latest Federal circuit court ruling she once again referred to the 7-month-old package of administrative reforms. In testimony presented to the Subcommittee on Social Security last Friday in Dallas, Gov. Mark White of Texas said:

> These problems require a legislative solution. I strongly disagree with the position taken by the administration that the regulatory changes implemented over the past few months are adequate remedy.

The Subcommittee on Social Security will hold an additional hearing in Boston this Friday to take testimony from officials and beneficiaries in the State of Massachusetts where a moratorium on terminations of beneficiaries has already been declared.

I believe that we in Congress must take responsibility in this matter and pass the legislation now in the Committee on Ways and Means. Again, I thank my fellow Members for their support in this effort.

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Mr. Speaker, I thank the gentleman for his special order and I know we will be working together to see this legislation passed.

Mr. FRANK. I want to thank the gentleman from Texas. As I said, I was in the process of paying tribute to his leadership as he walked in, and I am delighted he was able to make that statement because he has shown some real leadership here and has put together a bill which, as he points out, went unanimously through the committee. We are not talking here about an issue that had been partisan in Congress, and I am glad to note that in this special order there are Members of both parties. The gentleman from Massachusetts (Mr. CONTE) and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) have both cared a lot about this. They also agree with us on this.

Unfortunately, we thought we had agreement until the administration, as the gentleman from Texas pointed out, until Ronald Reagan sent his people up here to say no legislation is needed, and then they proceeded to break the agreement we thought we had regarding moratorium. So when they tell us they can handle it administratively, they have indicated to us what they mean by that, which is terminating people without even going through a judge.

Mr. PICKLE. I might add that the gentleman from Massachusetts, Mr. JIM SHANNON, is a coauthor of this bill and has probably taken more active initiative in advancing the bill than any member of our subcommittee. So we are proud to have his help.

I think we will find these hearings tomorrow in Boston will be of national interest and the public can again be reminded that this legislation is critical and should pass.

Mr. FRANK. I thank the gentleman, and I am glad he mentioned my colleague, the gentleman from Massachusetts, Mr. SHANNON, who has done so much work on this. This has been one that Massachusetts has done a great deal of work on.

Earlier today I inserted into the RECORD a copy of a letter from the Governor of Massachusetts, Michael Dukakis, in which he expressed his refusal to go along with the policy of victimizing the already victimized by throwing them off the disability rolls, and also I have inserted a copy of a resolution adopted by a special commission on disability chaired by State Representative Joseph DeNucci and State Senator Jack Backman, in which they called on the administration to cease its war on the disabled and asked Congress to act.

I was particularly pleased, Mr. Speaker, that the gentleman from Texas noted the urgency of this legislation. I agree with him that it would have been better if we had put that legislation through already. I voted for the rule last November, which would have brought the entire package with the tax bill to the floor. That was defeated and the will of the House prevails. We now again have a comprehensive bill, as he points out, and I hope we can get a comprehensive bill to the floor because I think we do need tax revenues.

But if we cannot, if there are disputes over the tax bill, I was glad to hear the gentleman from Texas, Mr. **Pickle**, say that he would then move to break out the disability bill. I want to solve the revenue problems as part of the overall budget problem, but I do not think we in Congress want to be in the position of holding hostage the disabled while we do that.

If the administration had been cooperative, if they had agreed to continue the moratorium on termination, if they had continued to say, "OK we will not throw these people off until a judge says they have no case," then we would not have been under such pressure. Given an administration refusal to extend even that most minimal courtesy to the disabled to hold off until a judge has ruled in their case, then I think the pressure is on us.

While I prefer a comprehensive solution, if we cannot promptly get an overall bill to the floor, then it will be our responsibility to take that separate piece of legislation that Mr. **Pickle** talked about and bring that to the floor. The gentleman from Texas has put forward a very good bill. It is a fiscally responsible bill. It does not simply automatically give money to anybody who says he or she is disabled. It sets up fair standards by which we can do the redetermination. It does not seek to end redetermination altogether. It sets up fair standards by which this Government can say, "If you still cannot work, we will allow you this very minimal amount." No one is getting rich off of disability.

So I hope the administration will show some compassion. I hope the President will find other places in that very large budget he sent us to make economies and will not victimize further the literally sickest people in our society, because to be disabled you have to have been the victim of so virulent a disease, physical or mental, that you are rendered incapable of working. No one voluntarily incurs such disease. No one voluntarily stays sick. When our fellow citizens are so afflicted through no fault of their own, it goes beyond reason that we would add to their anguish and to their pain and to their dilemma by denying them these funds and by treating them in such a brusque manner.

I should add, Mr. Speaker, that one thing I have found particularly unattractive on the part of the Reagan administration is that people who survived this redetermination procedure—and I called it termination procedure rather than redetermination procedure partly accidentally but in fact more accurately because that is what it has been under this administration, not redetermination but an excuse for termination—people who a year or two ago survived it now find that they are being again subjected to it. These are people with problems. These are people with illnesses. To have added to the stress of that illness that every year, every 18 months, they have to go through this process in which they are almost guilty until proven innocent, that is pretty hazardous to their health, and this is not a group on whom we ought to be inflicting further health hazards.

Mr. Speaker, I want to express my appreciation to the many of my colleagues who will be joining me in the **Congressional Record** with regard to this special order.

I want to renew my plea to President Reagan that he immediately countermand the orders that have been given that lead seriously disabled people to be thrown off the rolls, We know what has happened. Well over half of the people thrown off the rolls have been found by an impartial judge to be so in need of help that they were restored.

Mr. President, please, do not inflict on these unfortunate people a greater degree of harm. We can all work together to find other places in the Federal budget in which cuts can be made with far less damage to individuals.

Second, Mr. Speaker, I hope that we will succeed promptly in getting an overall bill to the floor which will include a good piece of disability legislation such as the gentleman from Texas outlined. If we run into other problems, if there are going to be problems in agreeing on a tax bill between the Senate and ourselves, or in getting the President to sign one, if we cannot be sure that an overall bill, including both revenues and disability, will go through very soon, then it will be to our discredit if we do not break out the disability bill and do it separately. It is worth trying, but if we allow the disability bill to be held hostage to a dispute over taxes, then we will be compounding the error that the President has made. He has caused this situation. It calls on us, I think, to act with as much efficiency as we can.

Mr. Speaker, again I want to thank my colleagues and those staff members who have borne with us for this time. I do not usually resort to a special order and I am reluctant to impose on people at a late hour such as this, but we have today one of the most crises this country faces from the standpoint of common decency. The sickest, the most vulnerable, the poorest people in this country, as we stand here, are being victimized by a Reagan administration policy that is more insensitive than any I have ever seen. I hope that he will stop it, and I hope that Congress will use its undeniable powers to order a cessation to it if the President himself is immediately willing to do so.

The Patriot Ledger editorial follows:

Fighting for the Disabled

Gov. Michael S. Dukakis is right to refuse to cut off Social Security Disability beneficiaries before Congress can protect them from further harsh and unreasonable treatment at the hands of the Reagan administration. The administration is wrong on both humanitarian and political grounds to threaten to punish Massachusetts by taking control of the federally-funded program away from the state.

Over White House objections, the U.S. House of Representatives is close to enacting legislation which would require a determination that a beneficiary is no longer disabled before payments could be cut off. The bill also would bar termination of benefits before completion of the appeals process.

Because safeguards like those were not in place during the first two years of the Reagan administration, thousands of persons were unfairly cut off from benefits. Most later had their payments restored on appeal, after suffering hardships documented in grim testimony before Congress.

In Massachusetts, benefits go to about 50,000 citizens with long-term illnesses or disabilities severe enough to prevent them from working. During 1981 and 1982, 3,000 of them were dropped from the roles; 70 percent of them had their benefits restored on appeal.

One result of that experience was an effort by the Reagan administration to coerce Social Security Administration (SSA) law judges to reject more appeals. Other effects were a congressionally-imposed moratorium on terminations during 1983 and a series of federal court orders around the nation aimed at the Reagan administration's policy.

As the White House moved last month toward a new round of terminations, Rep. J. J. Pickle, D-Texas, described the situation this way: "The disability program is in total chaos. States are refusing to operate the program under federal guidelines, the federal courts are establishing their own guidelines because SSA's rules are harsh and unfair, and beneficiaries are in a state of cruel uncertainty about whether their benefits will continue or not."

Because of the chaos, U.S. Health and Human Services Secretary Margaret Heckler in outlining her intent to begin terminations this month had to prepare different letters for four different sets of states. Despite past and pending federal court rulings affecting the disability program in the commonwealth, Massachusetts was not fortunate enough to get one of the letters which permits some states to continue a moratorium on terminations.

Instead of trying to impose four divergent national policies, it would be appropriate for the White House to give Congress time to enact uniform guidelines. With such action expected soon, the amount of money involved would be small.

In an election year in which President Reagan has moderated his demands for cutbacks in a number of social programs, lurching ahead against the severely ill and handicapped is inexplicable. The president should stop his stubborn assault on the disabled, and spare them, the nation and his campaign from more grim accounts about the effects of his policy.

● Mr. MARKEY. Mr. Speaker, I want to commend my colleague and friend **Barney Frank** for calling this special order on the current crisis in the social

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security disability program. The Reagan administration's recent announcement that it would resume its jettisoning of people from the disability rolls shocks the conscience and creates a genuine crisis for those Americans who depend on this assistance.

Since the Reagan administration began its disability review program, the injustices suffered by disability insurance recipients have been intolerable. Since the reviews began in March 1981, disability examiners have ordered 46 percent of those reviewed off the rolls. And of those who appealed their denials, 60 percent have had their monthly payments reinstated.

Consequently, 60 percent of those people cut off from disability benefits were terminated unjustly and without proper cause. And in my home State of Massachusetts, an even higher percentage—74 percent—have been reinstated after appealing the initial termination decision. These facts make it clear that severe problems exist in the disability review programs.

What has the administration offered to combat these plain numbers: More of the same. In fact, this administration has gone out of its way to make life hard for disabled Americans.

By refusing to consider any of the reform legislation pending in Congress, the administration ignores the problem.

By threatening the States that have strived for compassion on disability review with financial penalties, the administration has gone beyond ignorance to being mean spirited.

By disciplining judges who have shown too much compassion in reversing many determination decisions, the administration demonstrates the extremes it will go to in order to achieve its objectives.

By harassing disability recipients who have had their benefits reinstated upon review, the administration has been cruel.

And by removing people from the disability program before a judge has ruled on whether they are still eligible for disability benefits, the administration shows an insensitivity that surprises no one.

I think the time has come for this House to take action which will prevent the administration from pursuing a policy which is at best misguided—and at worst, mean spirited. I applaud my colleague from Massachusetts for organizing this special order and I hope the support generated today is focused on passing legislation which stops the administration and protects disabled Americans.●

● Mr. WEISS. Mr. Speaker, I commend my friend and colleague, Mr. FRANK, for calling a special order on this critical issue. I hope that today's dialog results in expeditious consideration and passage of legislation pertaining to the social security disability insurance (SSDI) program. In light of the Reagan administration's recent announcement that it will reinstate the review and termination of SSDI participants, it is incumbent on Congress to prevent any further hardships to the mentally and physically disabled who depend on this program.

Since 1981, 470,000 SSDI recipients have been notified that their benefits were being terminated. The confusion, pain, and sometimes fatal consequences of the termination procedures are a direct result of the Reagan administration's zealous and hasty implementation of a congressionally mandated review of all nonpermanently disabled beneficiaries. President Reagan and the Office of Management and Budget embraced the review procedure as another budget cutting tool. When the review was legislated in 1980, the Social Security Administration estimated that it would produce a net savings of $10 million over 4 years—1982 to 1985. However, just 9 months later, in their March 1981 budget revisions for fiscal year 1982, the administration projected a net savings of about $3 billion over the same period and over $200 million in savings in 1982.

To effect these savings, the Reagan administration imposed rigid review procedures on the States. In most cases, beneficiaries have received cursory reviews without the benefit of face-to-face interviews or proof of medical improvement. Of those who have contested their terminations, nearly two-thirds have had their benefits reinstated. Clearly, the review procedures are woefully misdirected. At this time, 30 States, voluntarily or through court orders, have suspended or altered the review procedures. New York State successfully challenged the Federal disability standards in U.S. district court. The court ordered the Federal Government to reinstate benefits or reconsider applications for more than 60,000 persons. Yesterday, the Ninth U.S. Circuit Court of Appeals ordered Secretary Heckler to resume payments to SSDI beneficiaries whose payments were terminated after August 30, 1981, in nine Western States.

Yet the Reagan administration continues to insist that the current review procedures are adequate and has called upon the States to continue processing the SSDI reviews. The administration expects to cut program costs by $1.1 billion a year through the review process. This administration has no regard for the human costs associated with its policies.

It was never the intent of Congress that the review procedures be used to balance the budget. The National Governors Association unanimously passed a resolution calling upon Congress to enact legislation to rectify this problem. We have an opportunity to clarify congressional intent through the passage of the social security disability insurance provisions of H.R. 4170, the Tax Reform Act of 1983. I urge my colleagues to show their support of the States and courts which have attempted to bring judicious and fair procedures to the SSDI review process.●

● Mr. DOWNEY of New York. Mr. Speaker, we face a serious crisis in the social security disability insurance program. As a result of the administration's callous handling of the large-scale eligibility reviews of SSDI, over 400,000 people have been removed from the SSDI rolls since 1981. The majority of those who have appealed their removal to administrative law judges have been reinstated. In the meantime, they have suffered suspension of their benefits and the burdensome task of assembling all their records and presenting themselves and their records for a long review process.

In New York State in fiscal year 1981 there were 676 people removed from SSDI eligibility. In fiscal year 1982, 10,074 New Yorkers were removed as a result of the administration's vastly expanded efforts to purge the SSDI rolls. This incredible acceleration of the process results in great injustice for many people and this injustice is not lessened by the fact that many of those removed are eventually reinstated. In my own district, of those people who have come to our attention, approximately 85 percent have been reinstated.

Faced with this cruel and inhuman situation, New York State imposed a moratorium on terminations on July 22, 1983. It was one of the first States to take this step. Other States have followed. Sixteen States now have moratoriums. Court orders imposing moratoriums cover nine other States. It is not often that this many States take such strong action against Federal Government policy. Clearly, there is a serious problem, and it will not be addressed by Secretary Heckler's ultimatum to the States to resume the eligibility reviews.

The States have indicated their willingness to work out a solution, but they will not do it at the expense of disabled people. In response to Secretary Heckler's ultimatum, the Governor of New York State has informed the Secretary that the Commissioner of Social Services is ready to meet the officials of the Social Security Administration to discuss the problem. New York State continues its moratorium on reviews.

Congress has indicated its willingness to address this problem. Extensive congressional hearings have shown that there are serious abuses and improper procedures being used in the review process. There are currently several bills proposing remedies for this situation.

But the Acting Commissioner of the Social Security Administration confidently tells us that the administration believes "that the administrative and legislative reforms already accomplished make further reforms unnecessary."

The experiences of hundreds of thousands of disabled citizens belie this statement. The actions of 16 States and several Federal courts challenge the administration to respond to this crisis. I intend to work actively on legislation that will restore security to the social security disability review process.●

● Mr. CONTE. Mr. Speaker, I want to thank my good friend, the gentleman from Massachusetts (Mr. FRANK) for taking this special order today on the social security disability process. Mr. FRANK and I—and many, many Members of the House—have been actively involved in disability reform legislation in the past.

The disability program in this Nation is in a state of disarray. From the spring of 1981, the program has been marked by a series of fits and starts, of concepts developed but not implemented, of reviews begun but not completed, of errors made and thousands of people needlessly hurt. I do not have the time or the desire to list the countless horror stories that I have heard from people whose benefits were erroneously terminated by callous, harsh reviews.

Congress first became involved in disability reform legislation after hearing of the problems caused by the increased reviews mandated in 1981. By December 1982, Congress had enacted temporary reform legislation which provided:

First, a slowdown of disability reviews mandated by the 1980 Bellmon amendment;

Second, a face-to-face hearing at the first appeals level (reconsideration), and;

Third, benefit payments through to a hearing by an administrative law judge.

The provisions of the temporary reform rules generally expired on October 1, 1983; Congress extended the benefits-pending-appeal rules to December 7. They have since expired.

In the summer of 1983, Secretary Heckler made several administrative reforms in the disability program through her discretionary authority. For example, the Secretary expressed her support for disability benefit payments through to the first face-to-face appeal. She also broadened the definition of "permanently disabled" which had the effect of reducing the number of disability reviews. By and large, the announcements made by the Secretary were a good start. I felt—as did many of my colleagues—that we needed to go further.

One principal concern last year on this subject was reviews of the mentally disabled. One Government study indicated an alarming rate of erroneous terminations of the mentally disabled, and Mr. FRANK, Mr. SHANNON, and I introduced a bill last year to impose a moratorium on reviews of the mentally disabled. Other concerns last year included the decisions of several courts which held that a disability beneficiary's benefits could not be terminated without evidence of medical improvement. Several States imposed their own moratoriums on reviews. For example, Massachusetts will not conduct continuing disability reviews through to a termination phase. The problems and the inconsistencies grow.

And then last year, Mr. Speaker, came a voice of reason from the confusion. Congressman PICKLE and his subcommittee began work on a comprehensive disability reform proposal. It was developed in a calm and responsive manner, and responded to the concerns everyone had—the administration, the Congress; more importantly, it responded to the needs of the disabled. I was proud to be a cosponsor of the Pickle disability reform proposal. The full Ways and Means Committee marked up the legislation and incorporated it into H.R. 4170, the Tax Reform Act.

In general, the Pickle reform bill contains the following provisions:

First, provides, on a permanent basis, benefit payments through to a hearing before an administrative law judge.

Second, the bill imposes a moratorium on reviews of the mentally disabled for a limited period of time.

Third, the reconsideration process would be replaced with a new system to insure an immediate face-to-face interview with an individual whose benefits are about to be terminated.

Fourth, the Social Security Administration would be required to study all relevant medical evidence before terminating a claimant. As well, the bill provides that a claimant not be terminated unless his condition has improved to the extent that he is able to engage in substantial gainful activity.

Fifth, social security would be required to apply court decisions across the circuit in which they are handed down.

As I have said, this is an excellent proposal, and I am pleased that the Ways and Means Committee, in a bipartisan manner, approved such significant legislation.

The full House defeated the rule for consideration of the tax bill. As a partial result, the payment through appeals rules expired on December 7; however, Secretary Heckler announced a temporary reform on cessation of disability benefits. As of February 1, however, the administration announced that States would be required to begin terminating benefits once again. This means that a beneficiary whose benefits are terminated this month could receive their last check in April—and have no benefits during an appeal to an administrative law judge, which can take up to 6 months.

Even worse, 27 States are currently not in compliance with Federal disability regulations. And yesterday, the Ninth Circuit Court of Appeals ruled that all States within the circuit had to restore benefits to disability recipients terminated from the rolls without evidence of medical improvement. There is far too much confusion—far to much—to accept the assertions made by some that further reforms are unnecessary. Further reforms are necessary—along the lines of those contained in the Pickle bill.

Mr. Speaker, the time has come to bring this issue to the attention of Congress and to act on its passage. It is too important to too many people not to do anything. We have to prove to the disabled people in this country that we are truly the people's House.●

● Mr. FLORIO. Mr. Speaker, I would like to commend my colleague from Massachusetts, Mr. FRANK, for his leadership in organizing this special order today to point out the importance of reforming the social security disability insurance program.

I am very disappointed that the Reagan administration recently announced that it will oppose any comprehensive reform for overhauling the review system for determining social security disability. While I strongly believe that only eligible people should receive disability benefits, I am concerned that the administration has cut off benefits to many people who are disabled. Furthermore, while the administration had agreed to continue disability insurance payments while a termination was being appealed, the Social Security Administration recently notified the State agencies that they should resume processing disability cutoffs.

Although New Jersey has placed a moratorium on continuing disability investigation cessations, many other States are processing cutoffs of benefits. Furthermore, even in New Jersey, thousands of beneficiaries are concerned that they may be denied their benefits if the State's moratorium is lifted.

The approach taken by the House Ways and Means Committee in H.R. 4170 is a good one. It insures that no beneficiary loses eligibility for benefits as a result of careless or arbitrary decisionmaking by the Federal Government. In addition, the bill would provide a more humane and understandable application and appeal process for disability applicants and beneficiaries appealing termination of their benefits. I support the approach taken in H.R. 4170 and urge the Congress to act expeditiously to reform the disability insurance program.●

● Mr. WOLPE. Mr. Speaker, let me begin by thanking my distinguished colleague from Massachusetts, Mr. FRANK. The need for the reform of the social security disability review process is acute and, by pressing the issue, Representative FRANK does a service to the thousands who have been the victim of a process so arbitrary in its standards, that the courts have simply disallowed a great many of the original decisions.

Michigan represents a perfect case study of the unfairness of the review process and of the cost, both in terms of the human tragedy and taxpayer dollars, that the system has engendered. A study conducted by the Michigan State interagency task force on disability has reviewed 158 cases where supplemental social security recipients were terminated between January 1981 and February 1982. The results were wholly different than anticipated but no different than what ought to have been anticipated. The Social Security Administration had projected a savings of $380,000 to the Federal Government as a result of these terminations. However, of 103 people for whom costs could be tabulated, 21 were back on the rolls within 13 months as a result of appeals. The cost to the Federal Government of these appeals was $14,000. Thirty-six people went on general assistance at a cost to the State of Michigan of $78,000 a year. Twenty-six people went on Aid to Families with Dependent Children at a cost to both the Federal Government and the State of $60,000 yearly. Three people were admitted as full-time patients to mental hospitals at a cost to the State of $103,000 a year. Seventeen people became outpatients at clinics in community mental health programs, costing the State $100,548 a year. The total cost to the State the first year recipients were off the program was thus over $341,000. The Federal Government was out over $74,000 as well.

In addition, there were 39 people for whom costs were not tabulated; however, their experience in their first year off the rolls is instructive. Three people received State prison terms, three more spent from 9 to 14 months in county jails, 5 died, and 27 people could not be located.

I am pleased to report that one person actually became gainfully employed. One person—one person, out of hundreds terminated, has rejoined the regular working community. All of the terminations were made on the premise that all people removed from the rolls ought to be able to find gainful employment. In fact the real world experience in Michigan totally discredits this premise. Moreover, one of the major arguments for trimming the disability rolls was that both the Federal Government and the State would achieve significant savings. Where are they?

Clearly it is imperative that Congress act now to bring some measure of sanity back into the administration of the disability review program. It is now being applied in such a way that 27 States, including Michigan, are in some way defying the Government by either placing moratoriums on continuing disability reviews or are operating under court-ordered review guidelines that depart from the Federal mandate. The time has come to halt a wholly unjust and cost-ineffective attack on the disabled, one of the most defenseless and vulnerable segments of our society.●

● Mr. GLICKMAN. Mr. Speaker, it is time we dealt forcefully and logically with the mess that is currently the social security disability insurance program. When Congress passed the law in 1981 to tighten up the review process in disability cases, we did not intend that the process would work in the overly restrictive, overly bureaucratic and inhumane fashion it has.

The reform legislation currently awaiting House action appropriately addresses the question of medical improvement for purposes of review and cessation of current disability benefits. This must be the subject of clear statutory language or the matter will continue to clog up the courts as more and more claimants whose cases have been reviewed and benefits stopped take their cases to Federal court.

In my district problems involving social security disability are the most prevalent kind of casework I am contacted about. Many of the disability recipients are thrown into panic when they receive notice of a review. Most depend exclusively on that benefit for income and have ongoing medical problems which make private health insurance expensive and difficult to secure. The anxiety and effort involved in working with the current social security disability determination process often aggravates the medical condition suffered by the claimant. In my own files, I have heartfelt letters from relatives of deceased disability claimants which state that anxiety and stress caused by the present review process in fact caused a worsening of the claimants condition to the point of actually causing or hastening their death. Let me share two examples.

As one letter put it:

> My husband was in bad health and could not have lived a long life but I, his doctors, and everyone else involved are thoroughly convinced that he would, at least, be alive today if it had not been for all of the aggravation the Social Security Administration caused him which definitely damaged his health further and faster.

Another letter from a former claimant's daughter states:

> My point is this, the social security system may not have pulled the trigger, but it held the gun. My daddy might still be alive today if he would have had medicare.

At the time he died, her father was still appealing the review and cessation of his benefits. He died in August; in September his wife and children were told through their attorney that the social security office conceded the denial of benefits may have been in error and they were going to review the case—a month after the man died. The daughter ends her letter:

> Daddy would have wanted us to fight the system, in hopes that the system itself will be changed to help the ones that need the social security benefits so desperately.

The best way to change the system so that it deals with these difficult decisions in a fair, thorough, and humane fashion is to pass the Social Security Disability Amendments of 1983. It is true that the Social Security Administration has undertaken a number of actions to improve the disability determination review process, specifically by introducing face-to-face reviews at an earlier point in the process. However, many of these new provisions are too little, too late. They still don't adequately address the question of an appropriate, reasonable medical improvement standard which the bill approved by our Ways and Means Committee does.

Likewise, the House legislation would address the issue of continuation of benefits pending appeal. Disability benefit recipients whose cases are currently being reviewed now receive only 2 months benefits after being notified that it has been decided they are no longer disabled. The vast majority of the cessation cases appeal the decision and, because of the large numbers of such appeals, this appeal process can take months. Unless Congress addresses this very soon and passes this bill with the continuation of benefits pending appeal, we will once again face a vast number of cessation cases, desperately pushing for their appeals to be fairly heard while facing the onus of going on welfare while they wait out the process.

In closing, I would stress we are talking about a disability program here. While we need to make sure it operates effectively and free of abuse, we also need to make sure it has a heart—and the sensitivity that implies.●

● Mr. OWENS. Mr. Speaker, today we are considering the social security disability issue. The system by which disability insurance payments are claimed, and a determination made, has been a cause of deep concern to many in the last 3½ years. The policies that have led to this concern have been exposed and the Department of Health and Human Services Secretary has taken a new approach. This shift in policy was not accompanied by any admission that the previous policies were harsh, inhumane, and downright indecent.

President Reagan's first budget document, "A program for Economic Recovery," contained a section entitled "Tightening Eligibility for Disability Insurance" in which reduction of rapidly growing disability insurance costs was pledged through ending misdirected benefits. The administration proceeded with its plan and produced a net saving of over one-half of a billion dollars in the 1983 fiscal year. Those savings were made despite the increased administrative costs associated with the Reagan program. Those savings and increased administrative costs were paid at the expense of the many disabled who were removed from the rolls. The definition of permanent disability to the point where very few would qualify, zeroing in on pensioners receiving the largest benefits rather than on those whose medical conditions would be more likely to improve and compelling the State agencies to speed up the processing of cases; this is the unsavory strategy used to save that one-half of a billion dollars.

The process of review made it necessary for claimants to produce evidence of their continuing disability. Notices were sent to some who were mentally disabled and incapable of responding. This incapacity was then used against them and served as the basis for terminating benefits.

The failure of the disability review process can be seen in the rate of reversal within the Social Security Administration when cases were appealed and reviewed by administrative law judges. In 1982 about half of the terminations were appealed and 61.2 percent of the appealed cases were reversed by administrative law judges. Claimants who lost in the administrative law system and appealed to Federal district court met with similar success.

It is right and proper to carefully screen applications for disability and to review cases of nonpermanent disability. It is not proper to turn the lives of disability claimants into nightmares of uncertainty. No one would argue that those who can realistically work should be collecting disability payments. On the other hand, we have an obligation to those who have worked and paid into a social security insurance system to provide them with the assurance that they will receive the benefits to which they are entitled if they are disabled. It is no blessing to qualify for disability payments. We should not turn it into a curse.●

● Mr. DWYER of New Jersey. Mr. Speaker, this evening, I join my colleagues in voicing our utmost concern over the impending disaster facing many thousands of social security disability recipients.

Since the administration commenced its stepped-up review of social security disability cases in 1981, we have all heard and read of many tragedies involving people who were terminated from the disability rolls pending reviews. Individuals whose disability was questioned and whose benefits were terminated died while awaiting a reconsideration. Horror stories from disabled persons came from across the country, along with pleas for help.

Legislation enacted at the end of the 97th Congress, and extended in August 1983, offered some temporary relief by providing that a person notified of a termination could elect to continue to receive payments through the administrative law judge hearing. This is often the final stage of the review process and over a quarter of those people earlier terminated have had their benefits reinstated at that level.

Throughout last year, efforts by the Social Security Subcommittee continued in an effort to report out legislation providing a solution to the policy and procedural problems encountered in the disability review process. In September, the full committee approved legislation to accomplish this. The bill, H.R. 3755, was endorsed by organizations such as SOS and the American Psychiatric Association. Many, including myself, were hopeful that the nightmare facing hundreds of thousands of disabled persons would soon be erased through prompt consideration of this bill. The measure, however, was subsequently included in the tax bill which we were unable to address last year.

Time is now rapidly running out. The stop-gap measures previously adopted expired on December 7 and benefits could continue only 2 months after that time.

Late last month, the administration stated that notification had been given to the States to resume processing disability cutoffs. Furthermore, the administration has expressed its opposition to the legislation now pending which would alleviate many of the problems associated with the disability review process.

The Congress has only a few weeks left to act before substantial numbers of disability recipients are notified of impending termination of benefits. We must act quickly and responsibly to forestall another chapter of horror stories.●

● Mr. APPLEGATE. Mr. Speaker, I want to thank my colleague from Massachusetts, Congressman BARNEY FRANK, for giving us this opportunity to express our deep concern over the social security disability program.

Not since the establishment of this program has it come under such vicious attacks by an administration. During the past 4 years, we have seen the present administration take away from the poor and needy and give to the rich. The social security disability program is not alone, but the attacks on this program have been more serious when you consider the numbers of people who have been thrown off before their "day in court."

We know the administration is against any reform legislation which is pending in the House, we know the administration has threatened States that are not in compliance with Federal guidelines, we know the administration has harassed recipients who have had their disability benefits reinstated by administrative law judges, and we know the administration has disciplined judges who have reversed too many decisions to terminate benefits.

In my congressional district in Ohio, I have had a number of constituents thrown off of disability with nowhere else to turn but welfare. In fact, one constituent of mine was taken off disability, and, after the long hearing/appeals process, he was still denied a disability benefit. This may not seem strange to many, but the constituent had to fight tooth-and-nail with the Social Security Administration, provide reams of documentation, and undergo numerous tests by physicians only to have the Social Security Administration ignore these facts and deny his benefits. It is also important to note that both the doctors and the administrative law judge upheld his disability claim, only to have the Social Security Administration overturn these determinations every step of the so-called process.

We are not talking about eliminating fraud and abuse within the system, but we are talking about taking away benefits from honest citizens who have no choice but to claim disability benefits.

We are a caring Nation, and it is time Congress steps in and takes immediate action to assure individuals that we do care.

Reform of the social security disability program is imperative, and I encourage my colleagues to push for meaningful legislation that addresses this crisis situation.●

● Mr. OBERSTAR. Mr. Speaker, in May 1981, President Reagan submitted to Congress his social security recommendations. Included in his benefit reduction package was a proposal to amend the definition of disability. Under this revised definition, disability benefits would not be granted unless a disability met or equaled the Listing of Impairments and had lasted or was expected to last at least 24 months. Age, education, and experience would no longer be considered.

Public outrage at the time forced the President to ask that action on his social security proposals be deferred, but we should keep in mind that his recommendations have never been repudiated. This is particularly true in the field of disability where it appears that changes the Congress has refused to endorse are being accomplished by administrative fiat.

Our streets, shelters, soup kitchens, and public assistance rolls bear witness to the inexactness of the science of judging disability. Nowhere has the wrongness of the revised standards been more apparent and more devastating than in the case of the mentally disabled, but it is not only retardation and emotional instability which have been misjudged. Victims of severe heart disease, arthritis, multiple sclerosis, and other debilitating diseases have been told they are capable of working. Under current law, it makes no difference whether there is a job opening, whether it is in their region of the country, or whether they have the skill for the job. I have seen more individuals referred to jobs such as parking lot attendant or night watchman than such jobs exist in my state.

When I initially reviewed the President's disability proposals, I predicted that enactment would effectively cancel both the social security disability insurance and supplementary security income programs and return responsibility for the disabled to the States. We know that is already happening through the use of revised disability standards, as approximately a third of those whose benefits have been terminated are now on State and local public assistance rolls.

I join my colleagues here today in urging immediate action on H.R. 3755 which will restore integrity to the disability review process and permit payments to continue during administrative review of benefit cutoff.

I also wish to take this opportunity to call to the attention of my colleagues legislation I have introduced to repeal the separate definition of disability which applies only to widows and widowers. All the arguments we have heard about the harshness of the disability standards for wage earners and SSI applicants pale in comparison to the standards we apply to widows. For them, the revised definition of disability the President would have imposed on all individuals is already a virtual reality, as the law provides that age, education and experience cannot be considered. As a result, thousands of widows, after exhausting all their resources, qualify for SSI as disabled individuals yet are, at the same time, told they are not sufficiently disabled to qualify for a survivors' benefit. I ask each of you to review my more detailed remarks in the February 21, 1984, Record and join in my effort to make the wage earner—SSI definition of disability applicable to all disability benefit applicants.●

● Mr. SHANNON. Mr. Speaker, almost half a million disabled Americans have had their lives seriously disrupted by the disability review process over the past 3 years.

The human suffering from this national disaster has been demonstrated over and over again in congressional hearings, in the media, and in the neighborhoods and homes of Americans across the country.

This crisis has shattered the confidence and the trust that the disabled once held for their Government. The social security disability program is failing to achieve its basic goal: to provide economic security to a worker and his or her family should the worker become disabled.

Last year, along with Congressman Stark, I introduced a comprehensive disability reform package that was strongly endorsed by the broad coalition of organizations that had joined together out of concern over how the disabled were being treated.

Under the leadership of Chairman J. J. Pickle and Chairman Dan Rostenkowski, a refined version of this bill was approved by the Ways and Means Committee last fall and is now waiting for action on the House floor.

The President has recently sent two witnesses to the Capitol to testify in opposition of this bill.

The President believes this legislation is unnecessary.

The President is wrong.

Clearly disabled workers are being thrown off the rolls. Nearly two-thirds of the beneficiaries who have appealed their terminations have had their benefits restored.

The overly harsh and unfair standards and procedures used by the Social Security Administration have not gone unnoticed by the courts. Some 20 States are now operating under some sort of court order.

In another nine, the State governments have simply refused to process terminations until changes are made.

And soon, beneficiaries who are removed from the rolls will not be protected by continued benefits during appeal, since the benefits provision expired last December.

None of these problems will be resolved until we enact the bipartisan bill approved by the Ways and Means Committee.

The President's representatives tell us he is worried about the cost of this bill.

I ask the President, "What about the cost of his policies in terms of lost human dignity and ruined lives?"

What about the increased administrative costs because thousands of disabled workers are being wrongly terminated and are left with no choice but to flood the appeals process?

What about the cost to the trust funds because the system is in total chaos, with many States being ordered by the courts to reopen thousands of cases that were processed incorrectly?

As hard as he might try, the President cannot wish away these problems.

Only the enactment of the Ways and Means Committee bill will restore the uniformity, stability, and fairness to the social security disability program we are all seeking.

I urge Members to strongly supply prompt action on this legislation.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, I think it would be unfortunate at this late date for social security disability reform to be characterized as a partisan issue. I was among a number of Republicans who opposed the 1980 social security amendments, which are responsible for many of the problems we have been hearing about for almost 3 years. Last year, Mr. Conte and I were part of the small group working closely with the chairman of the Social Security Subcommittee, Mr. Pickle, to bring about the first reform of the 1980 amendments.

Because time was running out in the legislative session, we were unable to act on a comprehensive disability bill last year. The emergency amendments, which became Public Law 97-455, were always considered a stopgap measure. There was never any question that comprehensive legislation was required to resolve the serious problems that still existed.

It is especially important for us to act expeditiously because the provision of Public Law 97-455 that continued benefits through the administrative law judge (ALJ) level for those who appeal cessation at the continuing disability review expired on December 7. Currently, it takes 180 days, on the average, from the request for a hearing to a disposition by an ALJ. It is important to keep in mind that for many terminated recipients, disability insurance was their major or sole source of income. Prior to the continued benefit payment provision of Public Law 97-455, the loss of disability insurance during the period from reconsideration through disposition by an ALJ resulted in mortgage defaults, bankruptcies, and other serious financial handships. And the loss of medicare caused many people's health to further deteriorate. Since the Social Security Administration ordered many States to begin processing cases this month, those who are terminated will receive their last check on May 3.

We cannot allow the hardships of the past to occur again. It is my deepest hope that we will all join together to support the excellent amendments reported by the Social Security Subcommittee and enact legislation before May 3.●

● Mr. VENTO. Mr. Speaker, on January 25, the Reagan administration announced that it would oppose any legislation designed to solve the problems surrounding the continuing disability reviews being conducted on behalf of the Social Security Administration. The administration's decision to oppose reform legislation, such as H.R. 3755, is truly unfortunate and demonstrates a disturbing lack of good faith, particularly in light of the fact that the Ways and Means Social Security Subcommittee and the Select Committee on Aging, of which I am a member, have made great efforts to accommodate the administration's concerns. Rather than seeking a compromise which is fair to disability recipients and which meets the administration's concerns, the administration has chosen to close off discussion of the issue, hoping that the problems will disappear. Well, Mr. Speaker, the problems will not disappear.

Since March 1981, State disability agencies acting on behalf of SSA have notified 470,000 people that they are no longer eligible to receive disability benefits. In 1981, when it became apparent that there were serious problems with the manner in which the disability reviews were being conducted, I introduced legislation to remedy those problems which were not necessarily the result of Congress mandating the review process but which occurred because of the illogical manner in which the reviews were being conducted by the administration.

Approximately two-thirds of those who have appealed their terminations have had their benefits reinstated. It is apparent that the Reagan administration has misused and abused the 1980 law mandating the review process. Congress can do many things but we cannot pour commonsense into the heads or compassion into the hearts of the Reaganuts who misadminister the law. The unusually high reversal rate suggests that the Federal guidelines which the State agencies have been told to apply are seriously flawed and need to be changed. But rather than changing the guidelines for review, Secretary Heckler has sent letters to all of our Governors essentially asking them to resume the seriously flawed disability review process. Interestingly, however, the Governors have not all received identical letters. Rather, they have received letters tailored to exact not a uniform and even-handed SSA policy but rather to uphold different standards and insure different policies in the various States.

The first letter, sent to the Governors of those eight States which justifiably acted on their own initiative to halt the illogical disability reviews because of their unfairness, requests that these Governors notify their regional Social Security Commissioner of their States' "plans to resume processing of medical cessation cases within 2 weeks."

The second letter, sent to Governors of those States in the third and fourth Federal circuits, requests that those Governors process disability cases but to uphold any termination decisions due to pending litigation on the medical improvement issue; a key issue, I might add, not just for those States but of importance nationwide.

The third letter, sent to the Governors of 12 States under court injunctions prohibiting terminations of disability benefits, requests that these Governors process cases in accordance with court-imposed standards. Ironically, this raises the questions as to whether the Secretary is rejecting the SSA standards in following the courts' orders.

Finally, the fourth letter, sent to the Governors of 24 States including the Governor of Minnesota, States which were continuing to process disability cases, requests that these Governors continue to do so without any suggestion that they apply the medical improvement standard or other court-ordered modifications. Clearly, the Secretary seems confused as to what the law is and what equal protection and due process mean in the disability review process.

Mr. Speaker, Secretary Heckler has expressed her serious concern about the lack of uniformity in State disability reviews and has called for a uniform standard to be applied. But I would strongly suggest that the lack of uniformity is a problem which has been created and compounded by the actions of the administration itself, well demonstrated most recently in these letters to our State executives. How can we possibly expect the States to apply a uniform standard for review when the Secretary of HHS cannot even determine what that standard should be? And yet the Reagan administration has made it quite clear that it will oppose legislation, such as H.R. 3755 introduced by Mr. PICKLE and which I have cosponsored, which would establish a fair standard for review and which all of the States could apply. H.R. 3755 can lead us out of the legal quagmire that this mean spirited and illogical application of social security disability policy has led to.

Mr. Speaker, I know that my colleagues are familiar with the horror stories surrounding this issue of the severe mentally and physically impaired people being cut off from their disability benefits. In my home State of Minnesota, Federal Judge Earl Larson has ordered the reinstatement of disability benefits to some 14 000 mentally impaired persons who previously had their benefits terminated. Federal judges in various other States, including Colorado, Indiana, New York, and those States in the ninth Federal circuit have taken similar actions. If there has been one consistent message in these court rulings, it is that SSA must show that a disabled person has enjoyed medical improvement in their condition before their benefits can be cut off. This medical improvement test is a key feature in H.R. 3755. But again, the administration opposes the adoption of the medical improvement standard which the courts are requiring.

Mr. Speaker, I applaud the action of the Federal courts and the action of those Governors who have acted on their own initiative to halt the disability review process until fair standards are adopted. We in Congress have known for almost 2 years now that there are serious problems with the disability review process. It should therefore come as no surprise to us that the Governors and the Federal courts have moved to protect the due process rights of hundreds of thousands of our constituents. I hope that we will assume our responsibility to pass comprehensive legislation which addresses this problem. In my opinion, H.R. 3755 provides a fair and comprehensive solution. It adopts the medical improvement standard and requires that substantive policy must be published in Federal regulations subject to the notice and comment provisions of the Administrative Procedures Act. It is time to end the chaos in the disability review process. The surest way to end that chaos would be for this House to pass H.R. 3755.●

● Mr. SISISKY. Mr. Speaker, in September 1983, when I presided over a Select Committee on Aging hearing in my district on the social security disability program, I illustrated the severity of the situation with individual cases of my constituents.

One of the individuals I mentioned had suffered a stroke and two heart attacks. He had a history of diabetes and high blood pressure. When I first spoke of his dilemma, he had just received the notice that his case was being reviewed. After another heart attack, he then received notice that he was able to work. Two months ago, while still in the lengthly appeals process, this man committed suicide.

In another case also explained at the September hearing, an individual with similar medical problems was taken off the rolls. During the appeals process, he had another heart attack and was hospitalized. While in the hospital, he suffered yet another heart attack and died. The next day his wife received notice from the administrative law judge that he was to be reinstated.

I asked to hold this Aging Committee hearing in my district because 40 percent of the over 1,000 cases in my district offices in the first 7 months of my term involved social security disability. What was most striking about the hearing was the overwhelming concurrence of the witnesses that reform is needed to insure that truly disabled people continue to receive the benefits they have paid for and they deserve. We heard details of countless cases, like the two I have shared with you, where tragic mistakes have been made.

My colleagues, a system where over half of the decisions are overturned as blatant errors is a system in urgent need of reform.

None of us want ineligible people in this program and periodic reviews are necessary. When Congress acted in 1980 to require reviews, it wanted to reduce the waste and fraud in the program, estimated at about $218 million over 4 years of reviews. Instead, the administration has thrown 340,000 people off disability, saving $2.7 billion, 123 times the amount Congress expected. The administration is not cutting out just waste and fraud but the heart of the program.

State governments also recognized the unfairness of the system. Individual Governors, including Virginia's Governor Robb, acted to halt further disability reviews until needed reforms could be made by the Congress.

Now, the Secretary of Health and Human Resources has threatened to take action against those States not conducting reviews under the administration's guidelines. Only pending litigation in the judicial circuit which includes Virginia precludes our State from having to resume reviews using the clearly inhuman standards advocated by this administration.

These Governors were acting to restore fairness to the process as a last resort to protect their citizens. The administration is now moving to punish them for being committed to assuring just and humane treatment for their citizens.

It is a shame that this line of defense has had to rest with our Governors. What is needed is congressional action. I urge my colleagues to act quickly to pass the reform bill crafted carefully by the Ways and Means Committee. We need to move to protect those citizens who deserve social security disability benefits.●

● Mr. ROYBAL. Mr. Speaker, I want to commend Congressman BARNEY FRANK for asking for this special order to discuss the inequities of the disability program. Congressman FRANK has been in the forefront, working with Governor Dukakis and the Massachusetts Special Commission on the Disabled, and convening Aging Committee hearings in Boston to protect the rights of the disabled to a fair and equitable program.

Mr. Speaker, comprehensive legislation to revise the current disability process is necessary primarily to prevent further mistreatment of literally hundreds of thousands of truly disabled persons. Although I could cite case histories for hundreds of unfortunate people, I think all compassionate Members of Congress are equally knowledgeable about the hardships visited on their disabled constituents. Therefore, I would like to emphasize four other points which will be expanded on at the Aging Committee hearing on the afternoon of February 28:

First, the continued discontent and actions of the States charged with making the disability determinations;

Second, the lack of national uniformity in the disability program;

Third, the growing number of Federal court orders which overturn administrative procedures and policies of the Social Security Administration; and

Fourth, the increased financial costs of allowing the current chaotic situation to continue.

Witnesses at the hearing will include Gov. James Hunt, Jr., of North Carolina who was the first Governor to impose a moratorium on cessations in his State; Attorney General Stephen Sachs of Maryland; and our former colleague, Joe Fisher, who sat on the Ways and Means Social Security Subcommittee, and is now secretary of the Virginia Division of Human Resources.

Since March 1981, State disability agencies, using stringent Federal guidelines, have notified 470,000 Americans that they are no longer disabled enought to receive benefits. Although two-thirds of those who appeal the initial decision win back their benefits, the Social Security Administration insists that about 97 percent of the States decisions are correct interpretations of Federal guidelines. Nevertheless, the States and Federal courts have effectively altered the review process in most of the country and may ultimately lead to the reinstatement of a majority of the terminated beneficiaries.

During five hearings in four States and Washington, D.C., the Select Committee on Aging has taken direct testimony from five Governors and numerous other State officials. They offer persuasive evidence that the current regulations and subregulatory procedures are grossly unfair.

On October 20, I inserted in the CONGRESSIONAL RECORD a list of State and Federal court decisions affecting the disability program. Since that time, Governors Brennan of Maine, Dukakis of Massachusetts, Clinton of Arkansas, Thompson of Illinois, and Anaya of New Mexico have ordered a halt to the termination of disability benefits pending congressional action. Currently, 31 States have either court-ordered or self-imposed moratoriums on further terminations or have otherwise significantly altered the determination process in their States.

In a recent court case, brought by New York City, a Federal judge ordered SSA to reinstate benefits to an estimated 62,000 mentally impaired persons. City officials estimated the amount of retroactive payments at $125 million or more. In addition, based on previous SSA estimates of $10 million for the administrative costs of implementing a similar case in the Midwest, the administrative costs of the New York City case will approximate $40 million. Since the court-ordered retroactive reinstatement of the former beneficiaries, any marginal benefit savings will be more than offset by the administrative costs of the initial termination and reinstatement actions.

In my own State of California, a Federal judge—Lopez against Heckler—ordered the SSA to reinstate 75,000 beneficiaries in nine Western States. The beneficiaries were to be rereviewed and could not be terminated from the program unless SSA could demonstrate medical improvement in their conditions. Although the Supreme Court stayed the reinstatement of terminated beneficiaries, a moratorium on all terminations was issued by the SSA, pending development of the court-ordered medical improvement standard. Yesterday a Federal circuit judge once again ordered SSA to reinstate the terminated beneficiaries. It also said that SSA's continuing disregard of court rulings threatened constitutional government in this country. When this court order is finally implemented, its administrative costs will exceed the $40 million for the New York case, and again, the benefit savings projected by the administration will disappear due to the reinstatement of beneficiaries. These are only a few of the several incidences which demonstrate that the backlash to the SSA's harsh implementation of its review procedures may well end up costing the Federal Government as much as the current administration wanted to save.

Some argue that the State and court actions destroy the uniformity of a national disability program. In truth, the lack of uniformity was a natural reaction to the Federal Government's attempt to retroactively change the way the statutory definition of disability is applied. The actions by the States and courts were simply an attempt to put back into the program the equilibrium which existed prior to the reviews.

In order to truly establish a national policy which will be accepted by the States and courts, it must be a fair policy. I believe that such a policy must state that an individual cannot be terminated without a demonstration of medical improvement, that substantive policy must be published in regulations subject to the notice and comment provisions of the Administrative Procedures Act and that SSA must either abide by or appeal valid orders by Federal courts.

The disability legislation currently awaiting action—title IX of H.R. 4170—will require these changes in the disability review process. If all of the significant revisions in this legislation are enacted and implemented, then I am confident that the turmoil among the States will come to an end. Until that time, however, I am just as certain that the current chaos will persist.

We cannot continue to ignore the medical improvement issue because the courts have been consistent in their rulings requiring a medical improvement standard. We cannot continue to enact piecemeal legislation since the Governors have spoken clearly in the unanimous August 2, 1983, resolution by the National Governors Association which calls on Congress to enact major reforms, all of which are contained in H.R. 4170.

For those Members who are concerned about the so-called cost of comprehensive legislation, let me reiterate that there can be nothing more costly in both human and fiscal terms than to allow the current chaos to continue. It now seems that the most uniform aspect of this program is that it is uniformly in chaos. This chaos is dramatized by the four different kinds of letters Secretary Heckler sent to the Governors in January asking them to resume the processing of the continuing disability reviews. These letters had the effect of implementing court-ordered disability standards in some States while challenging the validity of similar gubernatorial orders in other States. The Secretary directed eight States to rescind State actions to halt or alter the Federal review process, while six States were told to continue a moratorium pending the outcome of current litigation, while 12 States were directed to process cases in accordance with court imposed standards, while the remaining 24 States resume processing according to SSA's subregulatory guidelines. In effect, the fiscal cost of this confusion may well be more expensive than the pending legislation which would, at least, get everyone operating under the same guidelines.

I hope that the Congress will move quickly to enact reforms in title IX of H.R. 4170. In addition, we should reopen previous decisions or otherwise redress the damage already done to help the half million people terminated from the program. Second, any moratorium should apply not only to those with mental handicaps, but also to those with physical ailments. There should also be a modification of the rigid 3-year review requirement which requires SSA to perform up to 500,000 reviews a year, or in the future, be subject to accusation that they are not being vigilant. A better approach would be to require a review within 3 years of initial entitlement with subsequent reviews at the discretion of the Secretary.

Mr. Speaker, the Congress has known for almost 2 years that there are severe problems with the disability process. Because we have failed to enact comprehensive reform while the administration continues the basic thrust of its policies, the States and courts have moved with compassion to protect the due process rights of hundreds of thousands of our constituents. We have it in our power to end the confusion and chaos by enacting comprehensive national legislation which redresses the several grievances outlined by the States and the courts. If we fail to act fairly, then we must accept the fact that other responsible governmental entities will justifiably continue their patchwork efforts to put some humane rationality back into the process. However, I must say to my colleagues, that we should not abdicate our responsibilities any longer. If we cannot move to quickly pass title IX of H.R. 4170, then we should place a nationwide moratorium on the review process either through authorizing legislation or the appropriations process.

If the results of next Tuesday's Aging Committee hearing continue to confirm the findings of the past, I shall redouble my efforts in the Appropriations Committee and in the House to see that the process be stopped and past grievances be redressed.●

● Mr. MOODY. Mr. Speaker, I rise today to add my voice to those decrying the Reagan administration's actions against disabled persons receiving social security disability insurance (SSDI). I would like to thank my colleague and good friend from Massachusetts for requesting this important special order.

The SSDI program is experiencing a great deal of crisis and change. In 1980, Congress mandated that all current and future SSDI beneficiaries be subject to a review of their status every 3 years. Yet this administration has transformed a review process into a virtual inquisition which has disrupted lives and has created unnecessary stress for many SSDI beneficiaries. It is an abusive use of the law and a misinterpretaion of congressional intent.

Congress has been attempting to address this issue and, after several months of hearings, compromise legislation was developed and is pending in the House. It is my understanding that near the end of last session the administration agreed to a temporary moratorium on the removal of persons from the disability rolls until Congress acted to reform the review process. Yet recently the Secretary of the Department of Health and Human Services (HHS) testified before Congress that HHS would resume the wholesale removal of persons from the Federal assistance program.

There are many stories about the hardships endured by persons who, after an appeal and an extensive and lengthy review of thier records, were mistakenly removed from the disability rolls, I would like to relate to you one more incident which occurred as a result of the administration's overly zealous approach to the SSDI review process.

Last year, an elderly constituent of mine who has received SSDI for a number of years was reviewed. The constituent was told he would have to take a physical examination or risk losing his benefits. This examination was required even though there were records which clearly indicated the man's disability, including a heart attack suffered a few years earlier. Despite this fact, the constituent was asked to take a pulmonary function test. The examination, along with the anxiety created by the possibility of losing his benefits, was too stressful and he suffered a seizure in the clinic. Unfortunatley, this clinic was not equipped to handle emergencies, nor did the clinic staff have the appropriate telephone numbers—doctors, hospitals, ambulance services—readily available. My constituent survived, but continues to be treated for problems resulting from the seizure.

This is a dramatic and unusual incident. Nonetheless, it is illustrative of the stress and strain these, often severely, disabled persons must endure because of the administration's actions. The review process is necessary, but it must be conducted in a manner which will not disrupt lives or cause hardships for those who have already suffered enough.●

SELLING THE B-1

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, yesterday I placed in the RECORD the first of three articles by reporter Frank Greve of Knight-Ridder newspapers detailing how a group in the Pentagon collaborated with North American Rockwell Corp. to continue funding the B-1 project even after it had been canceled by President Carter. As I pointed out, this shocking story is a classic case history of the functions of the military industrial complex in selling a weapon system of only marginal military value but of extremely high cost.

Today, I am offering the second of the series of articles as it appeared in the Akron Beacon Journal for Monday, February 13. As the article points out, the most effective Rockwell lobbyists were not lobbyists as such. Rather, they were Congressmen, their key staff and committee aides, and Air Force generals. They were executives with Rockwell's nationwide network of more than 3,000 B-1 subcontractors allied with unions that stood to gain jobs from the bomber's production.

The genius of the Rockwell strategy was that in a project of such magnitude, involving tens of billions of dollars, Rockwell could use the subcontractor system to insure that nearly everyone in Congress had one or more companies back home with some stake in the B-1 project. According to the article, 48 of the 50 States have a piece of the bomber's production, including my own State of Ohio and my own home district.

Having used that strategy to successfully persuade Congress to reauthorize the B-1 after President Reagan took office, Rockwell next developed a new strategy with the aim of assuring that, upon completion of the project, there will be enormous pressure to continue it beyond the 100 planes currently authorized. This strategy revolves around Rockwell's proposed production schedule, which is to complete 1 airplane in 1984, 7 in 1985, 10 in 1986, 34 in 1987, and 48 in 1988.

This was accomplished when Rockwell got Congress to approve a multiyear contract instead of a year-to-year contract. Senator SAM NUNN is quoted as saying that by the end of the project:

> The production line will be so hot, so geared-up, and involve so many people—50,000 to 60,000—that going from 48 to 0 in 1 year, at the same time we are trying to decide on the advanced technology bomber (Stealth), would be virtually politically impossible.

The result is that the worst fears of Gen. Richard Ellis, the former commanding general of the Strategic Air Command and an opponent of the B-1, will be realized: namely that the B-1 project will indefinitely defer the production of a truly advanced strategic bomber, the so-called Stealth.

So, Mr. Speaker, we have in this article a picture of how the military industrial complex uses public funds not only to put over costly and dubious weapons systems but even to forestall the development of systems that are technologically and militarily superior.

The text of the second article follows these remarks:

Fringe Benefits Lucrative for B-1 Supporters

(By Frank Greve)

WASHINGTON.—Phyllis Badham, 23, fresh out of college, landed her first job at Rockwell International Corp. in the government relations department.

That's fitting: Her father, Rep. Robert Badham, R-Calif., long has been a key supporter of the B-1 bomber, Rockwell's biggest-ever defense contract.

Rep. Richard Ichord, D-Mo., and Rep. Robert Wilson, R-Calif., became lobbyists for several defense contractors when they retired from Congress in 1981.

Both had held influential positions on the House Armed Services Committee and both had fought hard to revive the B-1 bomber after President Jimmy Carter stopped production in 1977. Both now lobby for Rockwell International and other defense contractors when Congress considers tax and contracting policies.

Gordon Giffin, formerly right-hand man to Sen. Sam Nunn, D-Ga., one of the most respected defense thinkers in Congress, now lobbies for Rockwell, too, promoting the B-1 bomber and Rockwell space programs.

Both Giffin and James McIntyre, director of the Office of Management and Budget in the Carter administration, are partners in the Atlanta law firm Hansell Post, which is on a $2,000-a-month retainer to represent Rockwell, according to congressional lobbying reports. Giffin also is treasurer of Nunn's re-election campaign.

Then there's Robert Andrews, former B-1 expert for Sen. John Glenn, D-Ohio, the stoutest Senate supporter of the new bomber. Today Andrews heads Rockwell's B-1 lobbying office in Washington.

Nothing surprising here, nothing illegal.

But as these examples demonstrate, Rockwell has rewarded the B-1's backers in Congress. In fact, by the time the 1980 election delivered to Washington a new pro-B-1 president and a more pro-defense Congress, Rockwell had ample reason to believe it would win the $30 billion to $40 billion B-1 contract.

How did Rockwell win that congressional support for an aircraft whose military usefulness has been challenged for 20 years?

Surprisingly little credit for the victory goes to Rockwell's official Washington lobbying team. Many Capitol Hill defense experts gave this Rockwell operation low marks for effectiveness. Recently there have been several retirements and reassignments from Rockwell's Washington lobbying office.

The better Rockwell lobbyists, it turned out, were not lobbyists as such. Rather, they were congressmen, their key staff and committee aides, and Air Force generals. They were executives of Rockwell's nationwide network of more than 3,000 B-1 subcontractors, allied with leaders of the United Auto Workers, the International Association of Machinists and other unions that stood to gain jobs from the bomber's production.

Rockwell's lobbying strategy, devised by Belgian-born aerospace engineer Bastian "Buz" Hello, 57, president of Rockwell's North American Aviation Division, had four elements:

First, Rockwell didn't take Carter's 1977 "no" for an answer. Instead, it assumed the 1980 election would produce a Republican president, either former Texas Gov. John Connally or California's Ronald Reagan, both of whom would back the B-1.

By November 1980, for example, then-board chairman Willard F. Rockwell Jr., the company's leading political activist, had contributed $51,435 to Republicans—mostly through national Republican campaign committees—and $200 to Democrats.

And, between 1977 and 1980, Ichord, chairman of the Research and Development Subcommittee of the Armed Services Committee, and Wilson, the full committee's ranking minority member, successfully pushed through at Rockwell's urging approval for more than $300 million in continued research and development funds for the B-1. That kept the program alive until Carter's decision not to produce the B-1 could be reconsidered by the Reagan administration.

Both Ichord and Hello also pushed the B-1 as a cruise missile launcher once Carter decided he favored cruise missiles to do the bomber's job.

For good measure, Ichord's subcommittee also slashed money for cruise missiles and B-52 bomber improvements, two Carter-backed programs competitive with the B-1.

Out of the president's budgets, for example, went funds for new avionics for the B-52, funds for conversion hardware to allow the B-52 to carry cruise missiles, funds for B-52 engine improvements and funds for improved protection of the B-52's crew, instruments and weapons against nuclear radiation and other blast effects.

The Carter administration caught on to the Ichord-led ploy, but as one Carter administration defense analyst explained, "Presidents have limited power."

Elsewhere, on the corporate front, Rockwell maintained close links to the B-1's subcontractors. It also arranged gainful employment for more than 1,500 engineering and production personnel with B-1 experience by lending those workers to other companies or Rockwell divisions. Thus, Rockwell stood ready to start turning out bombers as soon as Washington was ready to buy them.

Immediate readiness to go into production was particularly important because the Northrop Corp. and the Boeing Co. had teamed to develop a new bomber, called an Advanced Technology Bomber, or "Stealth," which should be more able to avoid enemy defenses. It threatens to make the B-1, with 80 percent of its technology dating from the 1960s, largely obsolete in the 1990s.

The B-1's main remaining advantage over Stealth, in the eyes of many congressional supporters, is that it can be deployed several years sooner, an important consideration for an administration and Congress eager to do something now to improve strategic defenses.

Moreover, in seeking to offset Stealth's edge in the premier and most challenging bomber mission—penetrating Soviet air defenses to drop nuclear warheads—Rockwell wanted Congress to think of the B-1 as an aircraft for all missions, not just a penetrating bomber.

So Rockwell and its backers pitched the B-1 as a cruise missile launcher (even though the plane it will replace, the B-52, will be adequate to that task, according to the Air Force, until 2000.) They pitched it as a conventional bomber supporting rapidly deployed U.S. troops in, say, the Middle East (even though the B-52 can do that, too.) And they pitched it as a threat to Soviet warships (another mission the B-52 can handle.) They even pitched it for antisubmarine warfare and mine-laying.

Finally, having persuaded Congress to buy 100 updated versions of the B-1 bomber, now called the B-1B, Rockwell's strategists want to guarantee that when more new bombers are needed, Rockwell, not the Northrop-Boeing team, will build them.

To that end, Rockwell promoted a key 1980 congressional demand that a squadron of new bombers be built by 1987, a dead-line Stealth could not meet.

And, although it can't be documented because of official secrecy, three sources familiar with the details say that Rockwell was able to get money from a Stealth technology pool—a secret Pentagon research funding cache for efforts to conceal aircraft from enemy radars and missiles.

Any Stealth money that may have gone to Rockwell keeps that much away from Northrop-Boeing while improving the B-1 as a Stealth competitor in the future. The amount of money set aside for overall Stealth research is secret, and does not need to be accounted for publicly.

Thus far, all has gone according to plan. Narrow arguments about the B-1's military usefulness have not significantly eroded political support for it. And that political support, consisting of two-to-one majorities in the Senate and House, now protects the B-1 from the threat of Stealth.

The majorities consist of loyal Republicans, coupled with large numbers of defecting Democrats. Cementing them together is what Rockwell executives have called their "national production strategy." Translation: Instead of maximizing use of its own production lines, Rockwell has elected to farm out B-1 production among thousands of subcontractors.

This practice began with B-1 prototype models, so Congress got the message.

The engines were made in Lynn, Mass.; the fan blades, in Springfield, Ohio; and the stabilizers, in Baltimore.

The actuators were made in Kalamazoo, Mich.; the wing control surfaces, in Tulsa; the tires, in Akron; the parachute escape system, in Des Plaines, Ill.; and the secondary power system, in Phoenix.

The electrical power distribution system was made in Melbourne, Fla.; the windshields, in Garden Grove, Calif.; the avionics integration, in Seattle; the radar altimeter, in Minneapolis; the radar, in Dallas; and the seats, in Denver.

Net effect: Nearly everyone in Congress has a company back home with a stake in the B-1. In fact, 48 of 50 states have a piece of the bomber's production (The exceptions: Alaska and Hawaii.)

The average state stake in B-1 contracts is $780 million, using the Congressional Budget Office's estimated cost of $39.8 billion for 100 planes. Each billion dollars of defense spending generates between 30,000 and 40,000 jobs, according to Defense Secretary Caspar W. Weinberger.

Every defense contractor tries, like Rockwell, to spread a program's benefits broadly. "You almost have to, to get a strategic program through Congress," explained the Washington representative for a major defense subcontractor.

"But Rockwell is the best," Rep. Joseph Addabbo, D-N. Y., chairman of the Defense Appropriations Subcommittee, said in a recent interview. "I've had many members say, 'I have a plant with X-number of jobs and I just can't vote against the B-1.'

"It's effective: They've used congressmen as their lobbyists."

The potency of Rockwell's "national production strategy" showed vividly last July when the Senate voted whether to kill the B-1 and instead approve a crash program for Stealth. The move failed, 68-30.

The average senator favoring the B-1 had $1 billion in constitutent contracts at stake. The average opponent had $374 million in home state contracts, according to a vote analysis by Knight-Ridder Newspapers, based on state-by-state B-1 contract figures compiled by Employment Research Associates of Lansing, Mich., a public interest group specializing in the impact of defense spending.

A whopping $1.8 billion in contracts was the average benefit for the home states of the 20 Democrats who bucked their party's leadership and backed the B-1. This group of defecting Democrats included such backers of the nuclear freeze as Sen. Howard Metzenbaum of Ohio and Sen. Alan Cranston of California.

In interviews, each was asked to square his vote for a major new nuclear weapons system with his anti-nuclear philosophy.

"It's a very complicated matter," said Cranston, eventually coming to the point that manned bombers can be recalled while missiles cannot, leading him to interpret his vote for the B-1 as a vote for deterrence. California stands to gain more than any other state—$12.3 billion—from B-1 contracts.

"I would never vote for a new weapons system of any kind just to create jobs," vowed Metzenbaum, who opposed the B-1 in 1977. He changed his mind in 1981, he said, after "sitting back and going into it with an open mind," and concluding that national security required a new bomber for conventional as well as nuclear missions. Ohio is the second-biggest gainer from B-1 contracts with $7.4 billion at stake. Metzenbaum stood for reelection in 1982.

And the contracts are disbursed widely enough for virtually every congressional district to feel their impact. Ohio alone has 382 companies enrolled in B-1 production, 653 of them with fewer than 500 employees. That's according to information provided by Rockwell to the Air Force and by the Air Force to Rep. John R. Kasich, R-Ohio, who favors the bomber. Much of the B-1's airframe will be built in his Columbus district.

One other feature of the "national production strategy" deserves attention. Although Rockwell managed to retain about 60 percent of the B-1 program for its own production lines, Rockwell engaged eight of the nation's top defense contractors as B-1 subcontractors, according to Pentagon records.

Among them are the Boeing Co. and Northrop Corp., would-be producers of Stealth, the key competitor to the Rockwell bomber.

As a partial consequence of Northrop's involvement with B-1 production, "Our policy is to speak no evil about the B-1," a Northrop lobbyist explained recently. Moreover, the Air Force clearly favored the B-1B for the first 100 new bombers, "and we didn't want to (anger) the Air Force," the Northrop executive said. "If you're in business, you don't want to offend your best customers."

Thus, Northrop and Boeing acquiesced when the Air Force and the Pentagon recently made Stealth less competitive by adding a 30-month prototype evaluation period to the program.

No longer would Stealth compete with the B-1 starting in 1988-89, just as B-1 squadrons are becoming operational. Instead, the first Stealth now is tentatively scheduled to appear in 1991-92, giving the B-1 program time to develop improved models and compete more successfully.

Such maneuvers may seem unimportant, but successful Washington defense contracting consists of precisely such small moves.

After winning approval of the B-1 program from Congress in January 1982, Rockwell and its allies turned their attention to a second front from which Stealth might threaten.

Historically, Congress has often slowed production rates on defense contracts when budgets were tight. For example, an aircraft procurement due to run from 1980 to 1985 might be stretched to run until 1990, thereby reducing the yearly spending.

It that were to happen with the B-1 and Stealth were available or almost available, what would there be to keep Congress from dropping the old bomber in favor of the new one?

Over the past year, Congress and the Pentagon have virtually solved Rockwell's problem. The deal, engineered by Defense Secretary Weinberger himself, was this: If Rockwell and its subcontractors would agree to a fixed price for 100 B-1s, the administration would ask Congress to waive its right to annual budget reviews and instead firmly commit itself to buying those bombers between 1982 and 1988.

That practice, officially called multiyear contracting, has proven to save money on nuts-and-bolts defense purchases involving large quantities of items and worry-free production processes. But it has never been tried on anything like the B-1, for which production methods are literally still being invented, and for which major components—the electronics, mostly—are still under development.

Moreover, in hearings on the B-1 multiyear contract proposal, the Air Force admitted that potential savings under this unique arrangement would be only about $800 million. And that sum was later whittled down to about $300 million by auditors of the General Accounting Office.

But the most interesting and important feature of the proposed contract was something else—the production schedule. Rockwell proposes to complete one airplane in 1984, seven in 1985, 10 in 1986, 34 in 1987, and 48 in 1988.

Sen. Nunn, describing himself as a B-1 proponent opposed to the multiyear contract, got the point: Enormous pressure will build in years ahead to preserve B-1 jobs.

In the 1986-88 period, Nunn told fellow senators in floor debate last summer, "The production line will be so hot, so geared up, and involve so many people—50,000 to 60,000—that going from 48 to zero in one year, at the same time we are trying to decide on the Advanced Technology Bomber (Stealth), would be virtually politically impossible."

What Rockwell seeks, and many defense experts expect the company to win, is a second contract, let in 1986-88, for 100 more B-1 bombers. "There'll be a place for the ATB after that, somewhere down the road," predicted Dr. Hans Mark, a former secretary of the Air Force.

Sen. Ernest Hollings, D-S. C., called the tactic the "hidden agenda" of the Pentagon, the administration and Rockwell.

Just as senators began to catch on to Nunn's point, the Air Force came to Rockwell's rescue. Gen. Charles A. Gabriel, Air Force chief of staff, provided proponents with a new estimate of the savings from multiyear contracting on the B-1—not $800 million, a sum that had been whittled away by time and skeptical congressional auditors, but $2.2 billion to $3 billion.

"One of the great advantages of being on the side of the Air Force is that you get the most recent information," Nunn observed dryly. "When you are not on the same side as the Air Force you do not get the most recent information."

In the end, even though they couldn't decide what the B-1 was supposed to do or what it would cost in dollars and future military commitments, the Senate authorized multiyear procurement of the B-1.

It was the same story on the House side. Rep. Badham, leading the debate last June 14, accused questioners of the multi-year plan of a "transparent attempt to destroy the program by putting the program costs over the affordability threshold."

In the end, multiyear procurement of the B-1 carried by 2-to-1 margins in both houses of Congress. The effect: Rockwell will get to build at least 100 B-1 bombers and have every legislative edge possible over Stealth.

Indeed, it seems quite likely that Stealth never will emerge as an independent aircraft. Instead, Air Force generals are beginning to hint, Stealth technology will be incorporated as much as possible into future models of the B-1, and Rockwell will sell at least 100 more of the updated version.

One opponent of such an outcome, Rep. Norman Dicks, a Washington Democrat who often looks after the interests of Seattle-based Boeing, offered an observation rather like Nunn's about the Air Force: "The Air Force will do just about anything in terms of manipulating the numbers in order to sell Congress on programs that it is advocating.

"To me it is really offensive when we can't any longer trust the military leadership of this country to present honest figures to the Congress. To me it is a very serious indictment of their professional integrity, their credibility. It just says something about how far off-track we have gotten." ●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Boehlert) to revise and extend their remarks and include extraneous material:)

Mr. Walker, for 60 minutes, February 27.

Mr. Weber, for 60 minutes, February 27.

Mr. Gingrich, for 60 minutes, February 27.

Mr. Mack, for 60 minutes, February 27.

Mr. Craig, for 60 minutes, February 29.

(The following Members (at the request of Mr. Glickman) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 30 minutes, today.

Mr. Shannon, for 5 minutes, today.

Mr. Jones of Oklahoma, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Boehlert) and to include extraneous matter:)

Mr. Regula.
Mr. Shumway.
Mr. Gingrich.
Mr. McGrath.
Mr. Badham.
Mr. Wolf.
Mr. Fish.
Mr. Gilman in five instances.
Mr. Pursell.
Mr. McCandless in two instances.
Mr. Kemp.
Mr. Mack.
Mr. Snyder.
Mr. Petri.
Mr. Fields.
Mr. Franklin.
Mr. Shuster.
Mr. Green.
Mr. McEwen.

(The following Members (at the request of Mr. Glickman) and to include extraneous matter:)

Mrs. Burton of California.
Mr. Levine of California.
Mr. Matsui.
Mr. Chappell.
Mr. Florio.
Mrs. Collins.
Mr. Stark in three instances.
Mr. Mineta.
Mr. Rodino.
Mr. Frank.
Mr. Obey.
Ms. Ferraro.
Mr. Leland.
Mr. Wyden.
Mr. Garcia.
Mr. Harrison in two instances.
Mr. Waxman.
Mr. Harkin.
Mr. Synar.
Mr. Edgar.
Mr. Long of Maryland.
Mr. Markey.
Mr. Richardson.
Mr. Alexander.
Mr. Stokes.
Mr. Bedell.
Mr. Barnes.
Mr. Kostmayer.
Mr. Lantos in three instances.
Mr. Guarini.
Mr. MacKay.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1765. An act to establish constitutional procedures for the imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4336. An act to make certain miscellaneous changes in laws relating to the civil service.

ADJOURNMENT

Mr. FRANK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 40 minutes, p.m.) under its previous order, the House adjourned until Monday, February 27, 1984, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

2699. Under clause 2 of rule XXIV, a letter from the Under Secretary of the Navy, transmitting a report defining the offshore zones along the United States in which oil or gas drilling would cause appreciable impact on naval operations, pursuant to Public Law 98-94, section 1260(b), was taken from the Speaker's table and referred jointly to the Committees on Armed Services and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calender, as follows:

Mr. JONES of North Carolina: Committee of conference. Conference report on S. 47. (Rept. No. 98-600). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WHITTEN:

H.R. 4914. A bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage revenue bonds to be issued; to the Committee on Ways and Means.

By Mr. LENT (for himself, Mr. Michel, Mr. Ritter, Mr. Madigan, Mr. Whittaker, Mr. Corcoran, Mr. Dannemeyer, Mr. Neilson of Utah, Mr. Tauke, Mr. Oxley, Mrs. Schneider, Mr. Fish, Mr. Gilman, Mr. Wortley, Mr. Sundquist, Mr. Walker, Mr. Hillis, and Mr. Sawyer):

H.R. 4915. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to expedite the cleanup of inactive hazardous waste disposal sites, to assist the States in fulfilling their responsibilities under that act, to improve the enforcement authorities under that act, to provide for financial assistance for affected communities, to provide for the regulation of underground storage tanks, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. ANDREWS of North Carolina (for himself, Mr. Moakley, Mr. Long of Maryland, Mr. Hertel of Michigan, Mrs. Boxer, Mr. Foglietta, Mr. Daub, Mr. Britt, Mr. Ford of Tennessee, Mrs. Schneider, Mr. Mica, Mr. Hansen of Idaho, Mr. Towns, Mr. Biaggi, Mrs. Lloyd, Mr. Evans of Iowa, Mr. Edwards of Oklahoma, Mr. Dymally, Ms. Kaptur, Mr.

Tallon, Mr. Bevill, Mr. Pashayan, Mr. Staggers, Mr. Conte, Mr. Guarini, Mr. Albosta, Ms. Oakar, Mr. Bereuter, Mr. Fuqua, Mr. Edgar, Mr. Matsui, Mr. Dwyer of New Jersey, Mr. Hightower, Mr. Stokes, Mr. Frank, Mr. McCain, Mr. Madigan, and Mr. Young of Alaska):

H.R. 4916. A bill to recognize Senior Center Week during Senior Citizen Month as proclaimed by the President; to the Committee on Post Office and Civil Service.

By Mr. BADHAM:

H.R. 4917. A bill to terminate the effect of provisions of the Voting Rights Act of 1965 that require bilingual ballots and election materials and to permit the States to determine whether such ballots and materials are necessary; to the Committee on the Judiciary.

By Mrs. COLLINS:

H.R. 4918. A bill to amend the Urban Mass Transportation Act of 1964 to increase amounts available for expenditure from the mass transit account of the highway trust fund; to the Committee on Public Works and Transportation.

By Mr. GIBBONS:

H.R. 4919. A bill to increase the maximum annual dollar amount limitation on deductions allowed under the Internal Revenue Code of 1954 for contributions to an individual retirement account of a spouse and to provide that the limitation relating to the amount of compensation received, with respect to such deductions, shall be computed on the basis of the combined compensations of a husband and wife; to the Committee on Ways and Means.

By Mr. RANGEL (for himself, Mr. Ford of Tennessee, Mr. Waxman, and Mr. Roybal):

H.R. 4920. A bill to amend titles IV, XVI, and XVIII of the Social Security Act and chapter 1 of the Internal Revenue Code of 1954 to reverse the present upward trend in the poverty rate, particularly among children and the elderly; to the Committee on Ways and Means.

By Mr. EDWARDS of Alabama:

H.R. 4921. A bill to provide for the selection of additional lands for inclusion within the Bon Secour National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

H.R. 4922. A bill to exclude the Fort Morgan Road from the coastal barrier resources system in Baldwin County, Ala., and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. HARKIN (for himself, Mr. Bosco, Mr. Dorgan, Mr. Evans of Illinois, Mr. Hayes, Mr. Jeffords, Mr. Mrazek, Mr. Owens, Mr. Pease, and Mr. Simon):

H.R. 4923. A bill to amend the Public Utility Regulatory Policies Act of 1978, the Federal Power Act, and the Internal Revenue Code of 1954 to establish certain rules regarding the regulatory treatment of certain Federal tax credits and deductions allowable to regulated electric utilities; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. LAGOMARSINO:

H.R. 4924. A bill to provide for the conveyance to the city of Lompoc, Calif., of certain real property under the jurisdiction of the Department of the Army; to the Committee on Armed Services.

By Mr. LEVITAS:

H.R. 4925. A bill to terminate certain authority of the executive branch of the Government which is subject to congressional review unless that authority is approved by an enactment of the Congress; to the Committee on Armed Services.

H.R. 4926. A bill to terminate certain authority of the executive branch of the Government which is subject to congressional review unless that authority is approved by an enactment of the Congress; to the Committee on Banking, Finance and Urban Affairs.

H.R. 4927. A bill to terminate certain authority of the executive branch of the Government which is subject to congressional review unless that authority is approved by an enactment of the Congress; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. MOLINARI:

H.R. 4928. A bill making a supplemental appropriation to carry out title II of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 83-480); to the Committee on Appropriations.

By Mr. MOLLOHAN:

H.R. 4929. A bill to encourage employee participation in employee stock ownership plans by providing tax deductions to ESOP companies equal to the amount of certain cash dividends they pay on stock held in their ESOP's; to the Committee on Ways and Means.

By Mr. PRICE (for himself and Mr. Dickinson) (by request):

H.R. 4930. A bill to authorize appropriations for civil defense programs for fiscal years 1985 and 1986, and for other purposes; to the Committee on Armed Services.

H.R. 4931. A bill to authorize certain construction at military installations for fiscal year 1985, and for other purposes; to the Committee on Armed Services.

H.R. 4932. A bill to withdraw and reserve for the Department of the Air Force certain public lands within the Nellis Air Force Range, within Clark, Nye, and Lincoln Counties, Nev., for use as a training and weapons testing area, and for other purposes; jointly, to the Committees on Armed Services and Interior and Insular Affairs.

H.R. 4933. A bill to withdraw and reserve for the Department of the Army certain public lands within the McGregor Range, Otero County, N. Mex., for use as a training and weapons testing area, and for other purposes; jointly, to the Committees on Armed Services and Interior and Insular Affairs.

By Mr. SHANNON:

H.R. 4934. A bill to amend the Internal Revenue Code of 1954 to provide that, in the case of pension plans for police and firefighters, actuarial adjustments in the pension plan limitations will be made on the basis of age 55 instead of age 62; to the Committee on Ways and Means.

By Mr. SNYDER (for himself and Mr. Shuster):

H.R. 4935. A bill to approve a 6-month interstate cost estimate for fiscal year 1985, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 4936. A bill to apportion certain funds for interstate highway construction for fiscal year 1985; to the Committee on Public Works and Transportation.

By Mr. SOLOMON:

H.R. 4937. A bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary.

H.R. 4938. A bill to provide a special defense to the liability of political subdivisions to States under section 1979 of the Revised Statutes (42 U.S.C. 1983) relating to civil actions for the deprivation of rights; to the Committee on the Judiciary.

By Mr. WAXMAN (for himself and Mr. Eckart):

H.R. 4939. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize emergency action with respect to pesticides which present an imminent hazard to the public health; to the Committee on Energy and Commerce.

By Mr. WYDEN:

H.R. 4940. A bill to amend title 4, United States Code, to provide that States using a unitary method of taxation may not treat foreign trades or businesses as members of a unitary business; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. APPLEGATE (for himself, Mr. McEwen, Mr. Chappell, Mr. Stokes, Mr. D'Amours, Mr. Oxley, Mr. Bonior of Michigan, Mr. Garcia, Mr. Roe, Mr. Smith of Florida, Mr. Daschle, Mrs. Smith of Nebraska, Mr. Siljander, Mr. Pepper, Mr. Kogovsek, Mrs. Schneider, Mr. Mrazek, Mr. Frank, Mr. Mazzoli, Mrs. Schroeder, Mr. Leland, Mr. Walgren, Mr. Reid, Mr. McNulty, Mr. Hartnett, Mr. Mineta, Mr. Evans of Illinois, Mr. Madigan, Mr. Mollohan, Mr. Scheuer, Mr. DeWine, Mr. Ratchford, Mr. Dwyer of New Jersey, Mr. Lewis of California, Mr. Ritter, Mr. Kindness, Ms. Mikulski, Mr. Jacobs, Mr. Morrison of Connecticut, Mr. Rahall, Mr. Nowak, Mr. Kasich, Mr. Glickman, Mr. Frenzel, Mr. Sam B. Hall, Jr., Mr. Akaka, Mr. Simon, Mr. Seiberling, Mr. Hayes, Mr. McGrath, Mr. Hansen of Idaho, Mr. Fazio, Mr. Sunia, Mr. Sensenbrenner, Mr. Ottinger, Mr. Bereuter, Mr. Carper, Mr. Miller of Ohio, Mr. Dyson, Mr. Wortley, Mr. Berman, Mr. Markey, Mr. Feighan, Mr. Jeffords, Mr. Sikorski, Mr. Torres, Mr. Young of Florida, Mr. Horton, Mr. McCurdy, Mr. Eckart, Mr. Wirth, Mr. Torricelli, Mr. Mavroules, Mr. Gore, Mr. Hiler, Mr. Goodling, Mr. Regula, Mr. O'Brien, Mr. Hance, and Mr. Clay):

H.J. Res. 489. Joint resolution directing the President to secure a full accounting of Americans missing in Southeast Asia; to the Committee on Foreign Affairs.

By Mr. RODINO (by request):

H.J. Res. 490. Joint resolution authorizing the President's Commission on Organized Crime to compel the attendance and testimony of witnesses and the production of information; to the Committee on the Judiciary.

By Mr. ZSCHAU:

H. Con. Res. 262. Concurrent resolution calling for a 1-year freeze in real Federal spending and a 1-year surcharge on individual and corporate income taxes; to the Committee on Rules.

By Mr. NEAL:

H. Res. 445. Resolution to express the sense of the House of Representatives that the National Defense Service Medal be reissued; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. McDADE:

H.R. 4941. A bill for the relief of William Kubrick, and for other purposes; to the Committee on the Judiciary.

By Mr. SHANNON:

H.R. 4942. A bill for the relief of John Beals; to the Committee on the Judiciary.

By Mr. WILLIAMS of Ohio:

H. Con. Res. 263. Concurrent resolution expressing the sense of Congress regarding Andrew Susce, Sr.; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of February 22, 1984]

H. Con. Res. 225: Mr. Duncan, Mr. Ritter, Mr. Ford of Tennessee, Mr. Wolf, Mr. Russo, Mr. Barnard, Mr. Bliley, Mr. Lewis of Florida, Mr. Kogovsek, Ms. Ferraro, Mr. Gore, and Mr. Edwards of Oklahoma.

[Submitted February 23, 1984]

H.R. 507: Mr. Martinez.

H.R. 618: Mr. Penny and Mr. Gramm.

H.R. 836: Mr. Watkins and Mr. Chandler.

H.R. 991: Mr. Crockett, Mr. Breaux, and Mr. Matsui.

H.R. 1203: Mr. Frenzel.

H.R. 1923: Mr. McCollum.

H.R. 2125: Mr. Gekas, Mr. Walker, Mr. Chandler, and Mr. Edgar.

H.R. 2296: Mr. Wolf and Mr. Frank.

H.R. 2447: Mr. Gore and Mr. Eckart.

H.R. 2620: Mr. Gore.

H.R. 2697: Mr. Hutto, Mr. Livingston, Mr. Sharp, Mr. Mollohan, Mr. Kindness, and Mr. Lowery of California.

H.R. 2698: Mr. Lowery of California.

H.R. 2841: Mr. Packard and Mr. Spratt.

H.R. 2916: Mr. Whitehurst.

H.R. 2981: Mr. Edwards of Oklahoma.

H.R. 3009: Mr. Wise, Mr. Dwyer of New Jersey, and Mr. Martinez.

H.R. 3010: Mr. Mrazek, Mr. Wise, Mr. Dwyer of New Jersey, Mr. Martinez, and Mr. Daschle.

H.R. 3050: Mr. Foglietta, Mr. Oxley, and Mr. Yatron.

H.R. 3242: Mr. McEwen.

H.R. 3282: Mr. Hawkins.

H.R. 3457: Mr. Foley and Mr. Brown of California.

H.R. 3508: Mr. Conable.

H.R. 3702: Mr. Oberstar.

H.R. 3748: Mr. Guarini, Mrs Kennelly, Mr. Biaggi, Mr. English, Mr. Kostmayer, Mr. Bonior of Michigan, and Mr. Howard.

H.R. 3939: Mr. Morrison of Washington.

H.R. 4037: Ms Ferraro.

H.R. 4064: Mr. Vander Jagt.

H.R. 4076: Mr. Matsui and Mrs. Vucanovich.

H.R. 4148: Mr. Roe and Mr. Frank.

H.R. 4243: Mr. Lundine, Mr. Hartnett, Mr. Erdreich, Mr. Dwyer of New Jersey, Mr. Berman, Mr. Williams of Montana, Mr. Daub, Mr. Crockett, and Mr. Duncan.

H.R. 4312: Mr. Forsythe.

H.R. 4356: Mr. Clarke and Mr. Leach of Iowa.

H.R. 4393: Mr. Harrison and Mr. Towns.

H.R. 4440: Mr. Bedell, Mr. Bonior of Michigan, Mr. Conte, Mr. Kogovsek, and Mr. Wyden.

H.R. 4457: Mr. Gingrich Mr. Lehman of Florida, Mr. Tauke, Mr. Mavroules, Mr. Rose, Mr. Howard, and Mr. Wortley.

H.R. 4571: Mr. Bateman.

H.R. 4597: Mr. Downey of New York, Mr. Carney, Mr. Lent, and Mr. Schumer.

H.R. 4654: Mr. Smith of Florida.

H.R. 4662: Mr. Ortiz.

H.R. 4677: Mr. Jeffords and Mrs. Martin of Illinois.

H.R. 4683: Mr. Leland, Mr. Hammerschmidt, Mr. Albosta, Mr. Wilson, Mr. Morrison of Connecticut, Mr. Owens, and Mr. Akaka.

H.R. 4702: Mr. Livingston.

H.R. 4717: Mrs. Vucanovich.

H.R. 4765: Mr. Shannon.

H.R. 4768: Mr. Wolf, Mr. Miller of California, Mr. Fish, Mr. Burton of Indiana, and Ms. Mikulski.

H.R. 4794: Mr. Sawyer.

H.R. 4805: Mrs. Schneider.

H.R. 4813: Mr. Kostmayer, Mr. Corrada, Mr. Patterson, Mr. Sensenbrenner and Mr. Rodino.

H.R. 4832: Mr. Lundine.

H.R. 4863: Mr. Wolpe, Mr. Fauntroy, Mr. Leland, Mr. Coyne, Mr. Moakley, Mr. Rodino, Mr. Stark, Mr. Walgren, Mr. Patterson, Mr. Dorgan, Mr. Roe, Mr. Udall, Mr. Kastenmeier, Mr. Bonior of Michigan, Mr. Matsui, Mr. Britt, Mr. Simon, Mr. Owens, Mr. Conyers, Mr. Young of Missouri, Mr. Edwards of California, Mr. Fish, Mr. Dymally, Mr. Mitchell, Mr. Hawkins, Mr. Bedell, Mr. Vander Jagt, Mrs. Schneider, Mr. Clay, Mr. Rangel, Mr. Tauke, Mr. Jeffords, Mr. Levin of Michigan, Mr. Morrison of Connecticut, Mr. Markey, Mr. Yatron, Mr. Synar, Mr. Mrazek, Ms. Kaptur, and Mr. Daschle.

H.R. 4877: Mr. Daniel B. Crane, Mrs. Boxer, Mrs. Burton of California, Mr. Dowdy of Mississippi, Mr. Markey, Mr. Annunzio, Mr. Levine of California, Mr. Weiss, Mr. Wyden, Mr. Levin of Michigan, Mr. Frank, Mr. Waxman, Mr. Horton, Mr. Torres, Mr. Roe, Mr. Daub, Mr. Mavroules, Mr. McKinney, Mr. Bosco, Mr. Dyson, Mr. Lehman of Florida, and Mr. Frost.

H.R. 4908: Mr. Foglietta, Mr. Mrazek, Mr. Fauntroy, Mr. Walgren, Mr. Bosco, Mr. St Germain, Mr. Nowak, Mrs. Hall of Indiana, Mr. Leland, Mr. Boland, and Mr. Edwards of California.

H.J. Res. 205: Mr. Ackerman, Mr. Philip M. Crane, and Mr. Jones of North Carolina.

H.J. Res. 326: Mr. Bereuter, Mr. Boehlert, Mr. Hunter, Mr. McCollum, Mr. McKinney, Mr. Mack, Mr. Myers, Mr. Weber, Mr. Zschau, Mr. Archer, Mr. Badham, Mr. Brown of Colorado, Mr. Carney, Mr. Chappie, Mr. Dreier of California, Mr. Gekas, Mr. Latta, Mr. Lowery of California, Mr. McCain, Mr. Pashayan, Mr. Ritter, Mr. Roberts, Mr. Schulze, Ms. Snowe, Mr. Thomas of California, Mr. Vander Jagt, Mrs. Vucanovich, Mr. Whitehurst, and Mr. Broomfield.

H.J. Res. 382: Mr. Applegate, Mr. Bateman, Mr. Coleman of Texas, Mr. Fish, Mr. Hillis, Mr. McCain, Mr. Minish, Mr. Montgomery, Mr. Murphy, Mr. Neal, Mr. Parris, Mr. Ray, Mr. Richardson, Mr. Roth, Mr. Rowland, Mr. Smith of Florida, Mr. Thomas of Georgia, and Mr. Whittaker.

H.J. Res. 391: Mr. Moorhead, Mr. Kemp, and Mr. Duncan.

H.J. Res. 443: Mr. Kogovsek and Mr. Carr.

H.J. Res. 463: Mr. Smith of Florida, Mr. Owens, Mr. Traxler, Mr. Rahall, Mr. Hyde, Mr. Bonior of Michigan, Mr. McGrath, Mr. Leland, Mr. Young of Missouri, Mr. Fish, Mr. Bedell, Mr. Long of Maryland, Mr. Early, and Mr. Green.

H. Con. Res. 122: Mr. Martinez.

H. Res. 411: Mr. Bonior of Michigan.

H. Res. 433: Mr. Yatron, Ms. Kaptur, Mr. Brooks, and Mr. Franklin.

H. Res. 441: Mr. Whitehurst, Mr. Walker, and Mr. Lewis of Florida.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1955: Mr. Glickman.

H.R. 3795: Mr. Emerson.

H.J. Res. 196: Mr. Glickman.

H.J. Res. 373: Mr. Glickman.

H.J. Res. 434: Mr. Glickman.

EXTENSIONS OF REMARKS

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

HON. PETE WILSON

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Thursday, February 23, 1984

● Mr. WILSON. Mr. President, now is the time for Congress to act on the balanced Federal budget/tax limitation amendment to the Constitution.

On Friday, February 17 in California, we took the significant step of filing some 600,000 signatures of California voters. This accomplishment will result in placing on the November ballot an initiative directing the legislature to petition Congress to propose a constitutional amendment mandating a balanced Federal budget. This measure would ask Congress, if it fails to propose the amendment, to call a constitutional convention to consider the proposal.

Many organizations and individuals in California have joined together as Californians for a Balanced Federal Budget to get this measure on the ballot. I am excited about our first achievement and extend my sincere appreciation to our volunteers and all others involved. We intend to continue our work to insure that California join the 32 States which thus far have petitioned Congress to act. A total of 34 is required. Similar initiative efforts are underway in the States of Montana, Ohio, and Washington. There is also a good likelihood of legislative action in Kentucky, Michigan, New York, and Vermont. In other words, it is very likely that the requisite 34 States will, by this year, compel a convention.

Congress could head off a convention by proposing the amendment now. I am confident that the Senate Judiciary Committee will report Senate Joint Resolution 5 next month. When that happens, I urge prompt Senate passage. For if we do not, the people of California and at least one other State will compel the alternative method for proposing an amendment to the Constitution.●

REMEMBERING THE COMMUNIST COUP IN CZECHOSLOVAKIA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. WOLF. Mr. Speaker, this coming Saturday, February 25, 1984, will mark the 36th anniversary of the Communist coup in Czechoslovakia and as Americans of Czechoslovak descent remember the destruction of democracy in that unfortunate country, I would like to share with my colleagues an article written by one of my constituents on his experience in Czechoslovakia in 1948.

Vavro Rysavy today lives in Falls Church, Va., and is a prominent member of the American Czechoslovak community. He is a dentist by profession, having achieved a national reputation in that field. Mr. Rysavy fled his homeland following the Communist takeover in Czechoslovakia on February 25, 1948, and relates in the following article his views of the events leading to that day and what he describes as a lesson for the free world.

The article follows:

COMMUNIST COUP IN CZECHOSLOVAKIA

LESSON FOR THE FREE WORLD

(By Vavro Rysavy)

In 1938 in Munich, Czechoslovakia was forced to sacrifice itself, against its will and its better judgement, to save the world from the danger of a war with Hitler. The sacrifice demanded of it was in vain. The war took place.

In 1948 Czechoslovakia put an end to an epoch during which European countries sought alliance with the communist movement and attempted to build a new and better world in cooperation with it. The February coup of 1948 opened their eyes. Any attempt at alliance with communism is futile. I want to remind the West of this Czechoslovak experience and warn that its leaders should scrutinize carefully every maneuver and tactic used by the newly developed Eurocommunism (in France, Italy and Spain), lest that which had happened to Czechoslovakia in 1948 be repeated. To point out the lesson to be learned from it, I would like to sketch out the conduct of the Czechoslovak communists between the years 1938 and 1948, including the period during the war, be it in the Protectorate of Bohemia and Moravia, in the Slovak State or abroad, in France and England.

As a result of Munich, Czechoslovakia was divided into two parts. One was the cut down Protectorate of Bohemia and Moravia, the other was the Slovak State, equally reduced in size and created by the will of Hitler. The fact is that the Czech and Slovak communists all during this time failed to behave as Czechoslovak patriots but instead adopted different tactics for the different periods, in compliance with Moscow's directives. In 1939, after the breakup of Czechoslovakia, various centers of resistance appeared inside the Protectorate of Bohemia and Moravia and the Slovak State. Abroad, many former political leaders, led by President Dr. Edward Benes, and members of all the political parties, except for the communists, took part in this movement for reestablishment of a democratic Czechoslovakia. The communist illegal press came out sharply against this activity and condemned it, especially the resistance movement abroad, led by President Benes. They justified this attitude by their professed conviction that the Czechoslovak resistance movement abroad had allegedly become a tool of imperialist war, conducted in the interest of American and British capital. Communists abroad, in France and England, refused to join the Czechoslovak army which was then being formed, and refused also to cooperate with the Czechoslovak government in London.

On 22 June 1941, this attitude changed in all areas, in the Protectorate of Bohemia and Moravia, inside the Slovak State, and abroad. Since that day on which Hitler attacked the Soviet Union, the communist leaders underwent a change and began to show willingness to cooperate with the democratic representatives, be they inside various organizations or in the Czechoslovak armed forces abroad. Communist representatives entered the Czechoslovak State Council, a surrogate of the former Czechoslovak parliament, which was in London. Since that historical event, the Czechoslovak communists became active in all sectors of government.

The result of this cooperation with the communists was the establishment of the National Front of Czechs and Slovaks, based on participation of all Czech and Slovak parties in exile. From the Czechoslovak point of view the decision to establish it appeared to be very reasonable and useful. The Czechoslovak Republic lies exactly on the meeting point of East and West. It is oriented to the West by its culture, economic ties and its respect for personal and political freedoms. After the bad experience with France in 1938, Czechoslovakia looked for support in case of danger to its largest neighbor in the East. The Czechoslovak internal and foreign policy was based on the principle of cooperation with all the World War II allies.

Because during the war the Czechoslovak communist party had behaved in the State Council as a normal parliamentary democratic party, cooperation with it on the platform of the new government appeared to be a very reasonable and feasible concept. The first two years of the National Front government (1945-1947) in fact confirmed the correctness of the view that for Czechoslovakia, primarily because of its geographical position, the best policy was to form a government jointly with the communists. All the parties of the National Front favored cooperation with the Soviet Union, while maintaining cooperation with the Western democracies. All the parties of the National Front favored the social and economic changes which stemmed from the nationalization of industry. No disagreements relating to these basic principles of foreign and domestic policy existed between the parties of the National Front until the very last moment.

The communist party in the government as well as in the National Assembly professed adherance to democratic principles, supported them, and its representatives until the last moment represented themselves as supporters of democracy. Despite all this, on 25 February 1948 a forcible coup took place, liquidating practically in a few hours all democratic freedoms and creating a police state out of Czechoslovakia.

What is necessary to know about the communist movement? What was the tried-and-tested method used by the communists in countries where they seized power? It is necessary to always bear in mind the following: The communist party has been and will be a totalitarian party. It regards its cooperation with democratic parties as merely a tactical maneuver, maintained only until such time when it becomes a majority party—be this achieved through elections or by force. The goal of its policy is to seize power in the state, and to do this by any means available. To seize power, it needs to cooperate with the democratic parties, infiltrate the democratic socialist movement and the trade union movement. That is the first stage in its struggle for power. When as a result of this first stage the communist party becomes part of a country's government, the second stage is initiated. This consists of infiltrating the police and the army. After that comes the final stage: transfer of all power into the hands of the communists and a gradual removal of all the quislings from the democratic and socialist institutions and parties who had helped the communists during the first two stages.

HOW DID THIS PROCESS DEVELOP IN CZECHOSLOVAKIA?

During the last war years, especially abroad, and at home during the first two postwar years, the communist party preserved fully all the trappings of democracy. The government in which the communist party was the strongest party strictly preserved freedom of the press, speech and religion. In Prague and in the larger Czechoslovak cities it was possible to buy all English and American newspapers. In Chech and Slovak press one could read articles which were severely critical of the domestic and foreign policy of Czechoslovakia.

The communist party preserved this surface appearance but underneath it was building its partizan power structure. First of all, this was done inside the trade union organizations whose leadership the communist party had seized immediately after the liberation of Prague. Simultaneously, the same process took place inside the cooperatives' movement. Second, the communist party infiltrated the socialist movement. It systematically eroded the socialist parties and calculatedly removed those of their leaders whom the communist party found undesirable (Nemec, Kapinaj and others). Also, it directly and indirectly exerted pressure on other parties of the National Front in order to keep undesirable persons from obtaining functions. It took some time before the communists succeeded fully in disintegrating the socialist and democratic forces because the roots of democratic tradition were so deeply established in Czechoslovakia. Even after they had the trade unions and the agricultural and cooperative organizations in their hands there were definite indications that they might lose the election which was to take place in the spring of 1948. That is why at that moment the communists switched over to the second stage of their struggle for power.

To do this, they made use of the state apparatus where the armed police forces were in their hands. With the help of the police the communists seized the leadership of all political parties. They occupied central headquarters of the parties of the National Front and appointed new leadership. It made absolutely no difference to them whether this or that removed functionary had distinguished himself as a Czechoslovak patriot in the home resistance movement or the one abroad. The only criterion was the partisan one. If he did not suit the communists he was liquidated.

Much has been written about the 1948 February coup and thousands of pages have been covered with descriptions of the events which occurred during those blackest days of our history and involved the highest government circles in Prague. Now that three decades have passed I would like to state (as one of the thousands of democrats who had been affected by those events) that the democratic ministers who resigned did so without first making sure that they had on their side the requisite number of ministers needed to cause the resignation of the whole government. They did not think through the possible consequences of their individual resignations and thus by their action provided the communists an even easier opportunity than they might have had otherwise to seize power. I want to use my own case as an example of how this event affected the less prominent but solid supporters of the democratic side.

I was member of the resistance movement in Slovakia since 1939 and I was the first to bring about the official start of the Slovak National Uprising on 29 August 1944 when the Nazi units decided to occupy Slovakia. After the Slovak National Uprising was suppressed by the German army I fought (till the end of war in 1945) in the Slovak mountains. My fellow combatants and myself were lucky enough to survive to see the end of the war, at which time I immediately began to be politically active in the Slovak Democratic Party. Our fight against the communists was hard. The Red Army had flooded into Czechoslovakia and had set up its communist proteges everywhere. One had to have courage not to give in to intimidation exerted by the communists in many different ways. As a resistance fighter in good standing, several times promoted and decorated by the army, I had the political and moral wherewithall to stand up to their methods—yet even so in the end they succeeded in destroying me.

This is why I want to illustrate what happens during the last stages of a communist take-over by describing my own case. It occurred in Slovakia, in my home district of Zilina. After the end of the war the political reliability of citizens accused of collaboration was tested in public hearings. In our district 140 public officials and workers were accused by the communists of collaboration with the fascist regime which had held power in Slovakia during the war. At their public hearing I was the representative of the Democratic Party. I was able to honorably clear all the accused who as a result were to retain their functions and jobs.

However, the next day the local communist daily "Den" published a vicious attack against me, and a message was received at the local headquarters of the National Front requesting the Democratic Party to recall me as their representative because the communists found it impossible to conduct any political negotiations with me. Then and there I was forced to resign from several functions. After this came the following: hard fighting during the 1946 election, my appointment as first alternate to the Slovak National Council, my election as chairman of the Young Democrats in 1947, and my protests at the Ministry of National Defense in Prague against falsification of history of the Slovak National Uprising by the communists. All this earned me the distinction of being one of the first to be imprisoned by the communists after the 1948 February coup (in Zilina and in Trencin). Immediately after my release from prison I was forced to go into exile.

The above is not meant as self-glorification but as an argument in the ongoing discussion about "democratic" communism. Until the February coup our local communists also described themselves as democratic. Yet, once they seized power, they underwent a total transformation in outlook and methods. What they did to me, a popular individual, a well-known sportsman, resistance fighter and politician, points out how dangerous it might be if we should be once again misled by their tactical maneuvers and once again fall victim to their distorting propaganda.●

U.S.S.R. AND UNITED STATES SHOULD MAKE FRIENDSHIP GESTURES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. SIMON. Mr. Speaker, the death of the leader of the Soviet Union provides an opportunity for an improved relationship between the United States and the Soviet Union, an opportunity I hope this administration will not pass up, though I confess some disappointment in the fact that the President did not personally attend the funeral in Moscow.

The Soviets at the same time could make some gestures now that would be welcomed by the United States and all the West.

One of those would be the release of Anatoly Shcharansky. He has been imprisoned for matters that would not cause imprisonment in our country.

He is obviously not in good health.

The Soviet Union has nothing to gain by his continued detention and everything to gain by permitting him to emigrate.

In that same connection, let me add that another couple for whom I have been working for some months whose continued detention also causes problems for those few of us who know them is the case of Prof. and Mrs. Naum Meiman.

The Meimans wish to emigrate to Israel. He is now 73 years old. This is not a case that has caused the kind of international concern that the case of Anatoly Shcharansky has caused, but it is a case that I am personally interested in, and it is one on which I would personally appreciate a favorable response by the Soviet Union.

This is a time when both of our countries should be making gestures of friendship. I hope we provide them.

I hope the Soviets will also provide them.

WEST URGED TO PRESS FOR RELEASE

ROME (UPI).—The wife of Anatoly B. Shcharansky, the imprisoned Jewish dissident, says that her ailing husband has served more than half of his 13-year sentence and that the Soviets may be ready to discuss freeing him early.

In Rome last week on an international tour to seek her husband's release, Avital Shcharansky urged Western governments to intensify their pressure on the Kremlin.

"Anatoly's condition is very grave," Mrs. Shcharansky said at a news conference.

Shcharansky, who has become the major symbol of Soviet dissidents, was sentenced to a three-year prison term, followed by 10 years in a labor camp, in 1977 on charges of spying for the Central Intelligence Agency. Both he and the United States denied the charges.

Shcharansky went on a 110-day hunger strike in the winter of 1981 after Soviet authorities prevented him from receiving or sending letters.

Although he resumed eating when mail privileges were restored, his health was seriously damaged. His mother, who visited him Jan. 5, said that he had regained little weight and that he had complained of heart pains that prevent him from sleeping.

Shcharansky's wife said the first hint of the possibility of an early release had surfaced in a letter that Soviet President Yuri V. Andropov sent to Georges Marchais, the French Communist Party leader.

The letter, dated Jan. 21, 1983, raised the possibility that Shcharansky might be freed before his 13-year sentence is finished, she said.

Hopes that he might be released surged recently since he has completed more than half his 13-year sentence, an unofficial condition the Soviets seem to have required before considering his release, she said.

Other diplomatic signals to the same effect followed Andropov's letter, although nothing concrete was mentioned, Mrs. Shcharansky said. She did not elaborate.●

RESOLUTIONS ON FEDERAL REFORM ON THE SSDI PROGRAM ADOPTED AT THE FEBRUARY 9, 1984, MEETING OF THE SPECIAL COMMISSION ON SOCIAL SECURITY DISABILITY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. FRANK. Mr. Speaker, recently, the Reagan administration has resumed its crusade against the disabled. Men and women whose only crimes are that they suffer from serious disabilities are being subjected to callous harassment by this administration in its unceasing effort to cut back on funds spent for the needy so as to free up more and more billions for unnecessary and expensive new weapons.

I am very proud that the Commonwealth of Massachusetts through Governor Michael Dukakis, and through the Special Commission on Social Security Disability chaired by Senator Jack Backman and Representative A. Joseph DeNucci, has been in the forefront of the effort to defend the disabled against the inhumane policies of this administration. I would like to share with my colleagues the strong response of Governor Dukakis and the Backman-DeNucci commission to the recent Health and Human Services annoucement that it will resume throwing people off the rolls before these people have had the benefit of impartial hearings before administrative law judges:

Whereas, on June 7, 1983, Secretary of Health and Human Services Margaret Heckler announced that, "It is clear to me now [that] the old, paper-oriented [SSDI] review process we inherited was too insensitive, too bureaucratic. Mistakes were too easy to make—and too hard to rectify"; and

Whereas, Secretary Heckler subsequently ordered a moratorium on such process until such issues could be remedied; and

Whereas, Acting SSA Commissioner Martha McSteen, under the direction of Secretary Heckler, testified before the U.S. Senate Finance Committee on January 25 that: a) said moratorium will be ended in February 1984; b) the Secretary is opposing key elements of the reform legislation now before Congress; and c) the states out of compliance with such orders shall be punished; and

Whereas, it is the Commission's judgment that the Social Security Administration of the U.S. Department of Health and Human Services has reversed its commitment to the disabled citizens of the Commonwealth of Massachusetts: Now therefore be it

Resolved, That the Special Commission formally recommends to the Secretary of Health and Human Services Margaret Heckler that the moratorium on SSDI cessations be maintained until the Congress of the United States has passed comprehensive legislation to reform the social security system; and be it further

Resolved, That the Special Commission requests Secretary Heckler to support the current initiatives before the Congress to reform the social security system; and be it further

Resolved, That the Special Commission recommends that Secretary Heckler take no action to federalize or otherwise remove responsibilities from the Massachusetts Disability Determination Service until the federal district court has disposed of the civil action now before it, and such removal of responsibility is in accordance with the final decision of the court; and be it further

Resolved, That the Special Commission commends Governor Michael S. Dukakis for announcing that he intends to continue the Massachusetts moratorium on SSDI terminations indefinitely and for indicating that he will take no action unilaterally, without prior consultation with this Commission; and be it further

Resolved, That the Special Commission, in the event of a threat of federal takeover, urges the Governor to take any and all legal means to prevent such actuality; and be it further

Resolved, That the Special Commission recommends to legal counsel for the Commonwealth and for Greater Boston Legal Services that all efforts be made to expedite the civil action brought by them; and be it further

Resolved, That the Special Commission urges the Governor and his administration to implement the recommendations of the SSDI Commission including creation of a face-to-face stage, including management by the state, continued benefits beyond that appeal and to the ALJ stage, and all other structures as recommended by the task force comprised of advocates and DDS personnel working on these issues.

THE COMMONWEALTH OF
MASSACHUSETTS,
EXECUTIVE DEPARTMENT,
Boston, February 8, 1984.

Hon. JACK H. BACKMAN,
State Senate, State House, Boston, Mass.
Hon. A. JOSEPH DENUCCI,
House of Representatives, State House, Boston, Mass.

DEAR SENATOR BACKMAN AND REPRESENTATIVE DENUCCI: I am sorry I cannot be with you today to discuss the Commonwealth's plans for responding to new instructions from the Federal government regarding the processing of continuing disability reviews in the SSDI system. It is my decision to continue to have the Massachusetts Rehabilitation Commission not process terminations while issues remain unresolved at the Federal level.

As you know, I have been extremely concerned by the implementation of the 1980 Social Security Amendments which mandate these reviews. The rules and procedures under which recipients of SSDA are reviewed must be made more equitable and more humane, and I have supported Federal legislation to correct current inequities. In the meantime, the states must not terminate the major, if not sole, source of support to our most vulnerable citizens unless we can be assured that those citizens are afforded full protection.

I have learned that the letter I received recently from Secretary Heckler is one of four different instructions being sent to Governors—each with different processing procedures in their states. Although the letters refer to uniform and equitable treatment of disability claimants and beneficiaries nationwide, this is not the case today—nor will it be if the states comply with the Secretary's instructions.

In at least 11 states, processing will be conducted under court imposed medical improvement standards. In at least seven others, states will be permitted to hold all medical cessations pending further consideration of litigation.

We are in the process of talking to our Regional Social Security Office to determine why Massachusetts was not placed in the pending litigation category and authorized to hold CDR cessations, as under my December order. Until these questions are resolved and I am assured that disability recipients in Massachusetts will be fully protected, no termination notices will be sent from our Disability Determination Services to SSA and no one will be dropped from the rolls.

I am also in the process of conferring with our Congressional delegation and other states who have been placed in the "nonprocessing" category by SSA to determine an appropriate course of action and to renew efforts to get pending disability reform measures approved as quickly as possible in this session of Congress.

I want to continue our partnership with the Special Commission toward our common end: protection of disabled citizens of the Commonwealth. I can assure you that I will take no unilateral action on this issue without first consulting with the Special Commission.

Acting Secretary John Mudd will be happy to discuss these issues in further depth with the Commission.

Sincerely,

MICHAEL S. DUKAKIS,
Governor.●

PESTICIDE TOLERANCE EMERGENCY AUTHORITY ACT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. WAXMAN. Mr. Speaker, today I have introduced with Congressman ECKART the Pesticide Tolerance Emergency Authority Act. This legislation authorizes the Administrator of the Environmental Protection Agency (EPA) to revoke an exemption and to set a tolerance level for any pesticide that poses an imminent hazard to public health. In addition, the legislation directs the Administrator of EPA to revoke the exemption for the pesticide ethylene dibromide (EDB) and to set tolerance levels for EDB residues on agricultural products immediately.

Currently, pesticides are regulated under both the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). FIFRA requires that all pesticides be registered by the EPA Administrator before they may be used. When a registered pesticide is subsequently determined to pose an imminent hazard, the law authorizes the EPA Administrator to suspend the pesticide's registration immediately. Administrator Ruckelshaus used this authority on February 3 to suspend the registration of EDB as a fumigant on stored grain and on grain milling machinery.

Pesticide residues on food are regulated under the FFDCA. Unfortunately, there is no emergency authority in that act to revoke an exemption and set a tolerance level quickly for a pesticide that poses an imminent hazard to public health. This legislation gives the EPA such emergency authority.

The legislation also mandates Administrator Ruckelshaus to use this new authority to revoke the exemption for EDB and to set residue levels for that pesticide immediately. On February 3, Administrator Ruckelshaus announced recommended levels for EDB residues on various grain products. Those guidelines are only voluntary. It may take months or even years to establish binding tolerance levels. In the interim, the Food and Drug Administration can take no enforcement action against foods that contain EDB in excess of those guidelines.

On that same day, Administrator Ruckelshaus told the American people that EPA was initiating the rulemaking procedures necessary to revoke EDB's exemption and to establish legally enforceable tolerance levels. Unfortunately, the Administrator did not initiate those rulemaking proceedings on February 3. It was not until 2 weeks later that he finally began the rulemaking procedures. Enactment of this legislation will assure that the American public will be protected against excessive levels of EDB in their food.

The Subcommittee on Health and the Environment, which I chair, will hold prompt hearings on this legislation. During those hearings, we will investigate why Administrator Ruckelshaus has taken no action with respect to EDB residues on some fruits when FDA has found significant EDB residues on some fruits. The Subcommittee will also examine the need for fundamental changes in the food safety laws to assure that the American people are not faced with the dangerous pesticide of the month in their food supply.●

A TWO-TRACK RESOLUTION OF THE CRISIS IN BANKRUPTCY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. FISH. Mr. Speaker, each day more Members are becoming deeply concerned about the impending crisis in bankruptcy adjudication, and deservedly so. Unless Congress acts, less than 6 weeks from today we will not have a bankruptcy court system capable of administering the 825,000 debtors estates and 12.7 million creditors claims now pending. Congress now has no choice but to rise to the occasion and take that action which is necessary in the national interest. We cannot afford further delay.

A legislative deadlock has characterized the bankruptcy courts matter almost since the Supreme Court ruled in the Marathon case in mid-1982 that article III of the Constitution requires life tenure for the judges if they are to exercise the judicial power provided under the 1978 Reform Act. In order to break this impasse, I have long advocated the adoption of a two-track approach. Under this, the article III courts bill reported 1 year ago from the Judiciary Committee, H.R. 3, would move immediately to the floor for consideration. A second bill making substantive amendments to the bankruptcy code, such as those sought by the consumer finance industry and farmers concerned with grain elevator bankruptcies, would be reported from the Judiciary Committee and scheduled for floor debate on an early timetable subscribed to by both the chairman of the Judiciary Committee, Mr. RODINO, and the Speaker of the House, Mr. O'NEILL.

Yesterday's decision by the Supreme Court in NLRB against Bildisco & Bildisco, holding that corporations have broad latitude to unilaterally abrogate their labor contracts, lends new urgency for many to the need to enact substantive amendments.

Mr. Speaker, 2 days ago the New York Times published a letter in which I discussed the present crisis in bankruptcy and the two-track solution which I believe is essential for its resolution. That letter follows:

[From the New York Times, Feb. 21, 1984]

BANKRUPTCY REFORM CANNOT WAIT TILL AFTER NOVEMBER 6

(By Hamilton Fish, Jr.)

To the Editor: Your Feb. 10 editorial regarding the current crisis in bankruptcy adjudication suggested that "muddling through" until after the election is preferable to court reform legislation that also "beats up on debtors" by including amendments sought by the consumer credit industry. I believe that muddling through is unacceptable. Congress can and must do better.

If we continue to "limp along," we will put at risk a court system that is currently responsible for the claims of over 12.7 million creditors against 825,000 debtors' estates with assets of $93 billion and obligations of $123.5 billion. If the system is crippled or comes to a halt, we could imperil our recovery from the recent recession.

The Supreme Court has avoided deciding the constitutionality of the interim rule under which the courts have been operating since December 1982. But if we buy time by extending the rule, the Court may at last have to confront that question. An adverse ruling could invalidate untold thousands of bankruptcy court decisions.

Additional delay will also accelerate the loss of able and experienced bankruptcy judges, far too many of whom have left the bench since the Marathon decision held the existing system unconstitutional.

Finally, our experience thus far has been that delay on the court bill has not facilitated compromise but has tended to harden positions taken by the parties concerned. For all of these reasons, Congress must act decisively before the March 31 deadline.

A year ago, the House Judiciary Committee reported H.R. 3, originally co-sponsored by Chairman Rodino and myself, granting life tenure to the judges of the independent bankruptcy court system established by the Reform Act of 1978.

There are five sources of opposition to that bill:

The House Democratic leadership does not want to give President Reagan 227 lifetime judicial appointments. The life-tenured Federal judges are reluctant to expand their numbers and share their power as members of the Judicial Conference, which sets policy for the Federal court system. The credit industry believes that without linkage, or the opportunity to attach its amendments to the court bill, its proposals will die in this Congress. Organized labor seeks an amendment limiting the use of Chapter 11 bankruptcy proceedings to repudiate executory collective bargaining agreements. And lastly, there are those who simply believe that narrowed jurisdiction and nontenured judges are appropriate for the bankruptcy court system.

The solution as I see it—and I believe it can be achieved—is a two-track approach agreed to in advance. The key is to renegotiate the linkage between the bill that places the courts on firm constitutional basis and legislation making changes in the substantive law of bankruptcy.

The court bill must move immediately on the first track. Time has given the House Democratic leadership a victory on the appointments issue. It is too late for any substantial number of bankruptcy judgeships or other necessary district or appellate court judgeships to clear the Senate this year. H.R. 3 could be amended, therefore, to provide that all judges shall be appointed commencing Jan. 21, 1985, the day after the next inaugural.

The question of lifetime versus nontenured appointments for the bankruptcy judges should be fully debated and decided on the House floor, as the supporters of H.R. 3 have always been prepared to do.

Turning to the second track, the credit industry has 231 House co-sponsors on its bill (H.R. 1800), has seen similar legislation pass the Senate and is now entitled to have its proposals debated on their merit.

I have prepared amendments intended to meet the requirements of the industry while not sacrificing the interests of debtors in a fresh start; Mr. Rodino has his own bill on the subject.

As part of an agreement to let the court bill move ahead without delay, Mr. Rodino must agree to a date certain by which to report a substantive amendments bill from the Judiciary Committee—and he has expressed willingness to do this. It is also essential, however, for Speaker O'Neill to promise that a substantive amendments bill will be scheduled for consideration on the House floor within a specified time thereafter. The protection sought by labor would be allowed as an amendment to such a substantive bill.

The two-track approach, providing separate but swift handling of both the court bill and the credit industry and related amendments, is not only attainable but essential. The stakes are now far too high for the Congress and the nation to settle for extended delay and deadlock in resolving the crisis in bankruptcy.●

A CONGRESSIONAL TRIBUTE TO HON. DICK ROSSBERG

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. ANDERSON. Mr. Speaker, on April 6, 1984, the council and citizens of the city of Torrance, Calif., will be recognizing Hon. Dick Rossberg on his retirement after 8 years of distinctive public service to the city of Torrance.

Educated at Northwestern University and the New York Institute of Finance, Dick has been a courageous and conscientious civic leader and councilman, not afraid to speak out on controversial matters.

Dick has been in office during 8 crucial years of the city's history—when many decisions where made that had significant impact on Torrance's future social and economic growth. He has consistently sought to continue the high quality of life for the residents of Torrance, while serving on the following city council subcommittees: Parks and recreation; transportation; finance; employee relations; and citizen development and enrichment. Dick's long time advocacy of local government control and his belief in fiscal responsibility in an honest government has helped Torrance maintain its high standing among the other cities of the State.

Besides his work on city council, he also served as past president and member of the board of directors of the Torrance Area Chamber of Commerce, past president of the Palos Verdes Rotary Club, and member of the Riviera Sportsman's Club. Dick also served as president of the South Bay Cities Association and as chairman of the city council committee for the Torrance Armed Forces Day parade, one of the largest in the Nation.

Mr. Speaker, I am proud of Dick Rossberg. He is an extremely fair councilman who listens to both sides and weighs all issues before casting his vote. I know the people of Torrance will miss him when he does not seek reelection this year.

My wife, Lee, joins me in congratulating Dick Rossberg on a job well done. We both hold him in high esteem, and though we will miss his leadership, we are confident of his future success in his work at Shearson American Express. We wish Dick and his wife, June, and their children, Claudia, Chris, Jill, and Kirk, the very best in the years to come.●

U.S. ROLE IN THE MILITARIZATION OF CENTRAL AMERICA

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. EDGAR. Mr. Speaker, two members of the American Friends Service Committee in Philadelphia recently returned from a factfinding trip to Central America and published what I consider an extremely informative report on the effects of the U.S. role in the militarization of that troubled region.

The report, written by Eva Gold and Mary Day Kent, covers current conditions in Panama, Costa Rica, Nicaragua, and Honduras. Perhaps the most important contribution of the report is a detailed look at the effects of the current Ahuas Tara II (or Big Pine II) military exercises on the domestic scene in Honduras. While many reasons have been given for the joint Honduran-United States exercises, Kent and Gold report that many Hondurans see the large U.S. presence due to the exercises as preparation for U.S. military intervention in the region and that Honduras is being turned into a base for U.S. military operations. The report explains that many Hondurans have taken the view that "today Honduras is virtually an occupied country."

I am today including excerpts from the AFSC report in the record, and I commend this information to the attention of my colleagues:

A VIEW OF THE U.S. ROLE IN THE MILITARIAZATION OF CENTRAL AMERICA

(By Eva Gold and Mary Day Kent, Members, American Friends Service Committee)

INTRODUCTION

Since spring 1980 the conflict in Central America has been intensifying and threatening to engulf the whole region. By fall 1983 the outbreak of a regionwide war with U.S. military forces playing a significant role seemed imminent as prospects for peaceful negotiated solutions to the region's conflicts appeared to be slipping from reach. We decided on our trip in order to get a closer view of the U.S. military buildup, to gain a perspective from both U.S. personnel in the region and from Central Americans on U.S. military policy, and to assess the impact of the U.S. military presence on the possibilities for peace. We were able to talk with a wide range of people in both formal interviews and personal conversations. Those we met with included U.S. Embassy officials, U.S. military officers, Central American government officials, elected representatives, and military officers, academic and independent researchers, Catholic and Protestant church people, international and local journalists, development and refugee assistance workers, lawyers, business people, human rights advocates and Salvadoran and Nicaraguan exiles.

In each of the countries visited several significant similiarities emerged: indications of significant popular support for peace; a sense of the inevitability of a U.S. armed intervention unless the U.S. public successfully presses for a change in the current Administration's policies; a sense that the Central American countries are being used as instruments of U.S. foreign policy and that the national aspirations and welfare of each of the countries are being overlooked in the process; and appreciation for the negotiating efforts of the Contadora countries—Mexico, Colombia, Panama and Venezuela—and a sense that their efforts were slowing the momentum toward regional war; and finally, a sense of the obliviousness of U.S. policymakers to the realities of Central America and to the bonds and hostilities among the Central American nations.

The U.S. invasion in Grenada was very much on the minds of people in the region. The invasion was widely regarded as a warning or a threat—a signal of U.S. military power and commitment. Yet Grenada is more than a signal. It is also an example. When the opportunity presented itself at a chaotic moment in Grenada's internal political development, the U.S. military was ready to act. Its preparedness was based upon at least two years of naval exercises in the Caribbean. During that same period the United States had waged a vigorous diplomatic campaign to create a political climate supportive of U.S. intervention and a domestic and international propaganda campaign intended to isolate Grenada and make it appear a threat within the Caribbean community and to U.S. national security. In the aftermath of Grenada the Administration was successful in defusing domestic and international dissent. Many Central Americans, however, expressed the hope that the invasion of Grenada might also be a lesson to the U.S. public, government and military about the extensive military force such an action demands.

The situation in Central America bears similarities to the two-year period preceding the U.S. invasion of Grenada. U.S. Embassy and military personnel and local military and government officials gave us insight into the extent of the U.S. military buildup and at least a partial picture of the many military options being developed. In the guise of joint military exercises, like the Ahuas Tara II (Big Pine II) exercises now underway in Honduras, the United States is gaining practical experience, testing and evaluating options. Simultaneously the United States is trying to foster political and military cohesion among all the Central American countries against Nicaragua: military and political agreements among Honduras, El Salvador and Guatemala; erosion of Costa Rican neutrality; a more active Panamanian role; and a hysterical fear of revolutionary Nicaragua. Meanwhile, a propaganda campaign at home and among the international community presents U.S. policy as defending Central American "democracies" against "totalitarian" Nicaragua, and guerrilla organizations in El Salvador and Guatemala which are viewed as Nicaraguan surrogates.

The Central American policy of the Administration has not had smooth sailing. The Administration has not yet forged a consensus in Congress or the U.S. public for its policies. In the region, U.S. ignorance of the relationships between countries and conditions within each country has hindered the development of a regional military or political organization and the isolation of Nicaragua. There is widespread support for the Sandinistas within Nicaragua and the counter-revolutionaries based in Honduras and Costa Rica have failed to "liberate" territory; the Costa Rican government is committed to its tradition of neutrality; the Guatemalan armed forces maintain their historic independence. Many Salvadorans believe current political and military structures in El Salvador cannot be transformed into a popularly supported government through elections or any other device the U.S. might promote. The Contadora countries exemplify Latin and, consequently, international resistance to current Administration policy. These and other domestic, regional and international contradictions will influence the outcome of events.

CONCLUSIONS AND RECOMMENDATIONS

This visit to Central America deepened our understanding of the conflict treatening the region and provided us with insight into the particular ways in which U.S. policy is pushing events within each of the countries in the region. Many of those with whom we spoke who are familiar with the programs of the American Friends Service Committee (AFSC) were deeply appreciative of the different forms of work AFSC is doing on Central American issues. They stressed that at this time peace education efforts to avert a war are critical through the creation of an informed public that demands change in U.S. policy objectives and tactics.

In each of the countries we visited we were impressed by evidence of widespread sentiment for peace. In almost every instance the heightening U.S. military buildup was seen as exacerbating regional tensions and inhibiting peaceful resolutions to the conflict. Two restrictions on U.S. government intervention in Central America that seem important to maintain are the ban on military aid to Guatemala and the prohibition on U.S. assistance and training to regional police forces. Areas for emphasis in our work are the maintenance of these and other barriers to further U.S. intervention.

There are some perspectives which we feel should be incorporated into AFSC's analysis and presentation of U.S. policy in Central America: Military and economic assistance should be seen as integrated and understood to function together. Economic assistance should not be seen as separate, benign or even neutral. It is an essential component of the military strategy; more emphasis should be given to following and attempting to understand the purely military and globally strategic planning behind U.S. policy in the region. We should not miss the global motivations behind some decisions by being overly concentrated on the specifics of the local situation and the local impact of decisions; and we should prepare ourselves and our constituency with a long-range sense of commitment to work on Central America. The intervention and the struggles there will continue for years to come and we need to balance our crisis orientation with this long-term awareness.

Finally, we found that the AFSC materials translated into Spanish were welcomed and seemed to meet a need for accessible information. We should continue to translate materials whenever resources permit.●

THE HOUSE LEADERSHIP IS UNFAIR

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. GINGRICH. Mr. Speaker, Congressman Bob McEwen has expressed the concern many of us feel for the unfair methods the liberal Democratic leadership uses to stop the American people from having their voice heard. His column is an excellent statement of the need for real change in the current one-sided system of mismanaging the people's House of Representatives.

The column follows:

FAIRNESS IN THE HOUSE OF REPRESENTATIVES

(By Congressman Bob McEwen)

A continuing and disturbing process has been taking place on the floor of the House of Representatives over the past several weeks. Congressmen have for the past 12 consecutive legislative days come to the House floor attempting to force debate and consideration of three basic issues. They include an amendment to balance the federal budget, voluntary school prayer, and the line item veto. Each time, Speaker Tip O'Neill of Massachusetts and his appointed leaders, the parliamentarian, the floor leader, the clerk and so forth, have refused to even so much as acknowledge these requests for consideration.

What is most disturbing about this is that the Speaker, in this Second Session of the 98th Congress, has already decided which issues will or will not be discussed. The majority party leadership has predetermined the agenda for this year and any variance from this strict line will not be permitted. This is not good news for Members of the House such as myself who believe that there are many crucial issues which the Congress should be considering this year. But Mr. O'Neill with his overwhelming majority of votes does not want these issues addressed in an election year. And it is not good news for the American people who must wait even longer for Congressional action on these vital concerns.

The case of voluntary school prayer, is an issue that has been before the House of Representatives for 21 years and yet has not been brought to the floor. Over and over again, the American people have expressed their support for voluntary prayer by a vote of three or four to one. In the Sixth Congressional District of Ohio, 88 percent of the taxpayers responding to my annual questionnaire answered "Yes" to the question, "Do you agree that voluntary prayer should be permitted in public schools?" There is no question our Nation's citizens want elected representatives to uphold the traditional values of faith, of work and of family.

Voluntary school prayer is not a partisan issue, which makes the hard-headed stance of the Speaker and the House leadership even less understandable.

Inaction by the Congress has permitted the United States Supreme Court, in the absence of such legislation, to act. They've even decided to deny school teachers the right to post the Ten Commandments in a classroom, even though the Ten Commandments were chiseled into the marble above the U.S. Supreme Court bench when the Supreme Court building was built in 1935.

This unabated drift by our national government and the refusal by the majority in the Congress to consider initiatives from the President, because it is an election year, accentuates the need for a political and philosophical change in direction by the House of Representatives. Mr. O'Neill and his obstructionists should either act or get out of the way.

For the past several years, the taxpayers of America have also voiced their support for an amendment to the Constitution to require balanced federal budgets. More recently, support has been growing for a presidential line item veto. Three out of every four voters in the Sixth District Survey favor such action.

But again, Speaker O'Neill and his team of committee chairmen have refused to allow these issues to be discussed. More recently, however, Speaker O'Neill has imposed a new rule which prohibits Members from even asking for their consideration without clearing it through his leadership group first. Needless to say, that clearance and approval from the Speaker never comes.

It is frustrating that the partisan majority in the House can thwart the will of the overwhelming majority of our Nation's citizens. But that is exactly what is happening. Unless the voters change the membership of the Congress, the O'Neill cadre will continue to fiddle while deficits, school prayer and other legislation burns.●

HIGH TECH—LOW COST

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. MACK. Mr. Speaker, the United States is on the threshold of three great revolutions: in computer and information sciences, space technology, and biology. These technological revolutions are equivalent to the shift from primitive to agricultural societies, and from agricultural based communities to an industrial society. Some have referred to this as the dawning of the information society, or postindustrial society. Regardless of the terminology, what is clear is that we are in the beginning of an era characterized by a resurgence of innovation and a creative use of technology that will revolutionize the way we do business, the content of business activity, and the costs of doing business.

Industrial progress has generally been accompanied by less expensive ways of producing goods or providing services, and we now have even greater tools such as computers and communications systems to promote efficiency and cost effectiveness. But beyond that, we are developing all kinds of new technologies that can produce goods and services that were previously unattainable or simply too costly. These technologies include bioengineering, metallurgy in space, and laser technology, to name a few.

To illustrate how this new technology can positively affect lives on a personal level, I would like to insert in the RECORD an account of how new medical tools and techniques have provided treatment for one patient that was extraordinarily less costly than conventional treatment in both a monetary sense, and in emotional and physical expenditure. This account was written by Dr. Joseph P. O'Bryan, an accomplished physician and constituent from Fort Myers, Fla.

HIGH TECH—LOW COST

(By Joseph P. O'Bryan, M.D.)

Much has been written recently criticizing the high cost of medical care. Technological advances have particularly been castigated for not proving their cost-accountability worth. The monetary and non-monetary costs associated with the over use of new and existing technologies have aroused increasing concern throughout the health care system. The artificial heart implant in Dr. Barney Clark, liver transplants, renal dialysis, etc. are frequently cited as examples.

The following case report should serve as a rejoinder to the nay-sayers who view the technology of medicine as an unaffordable luxury.

A 71-year-old man became abruptly ill in early November 1982, with chills, fever, abdominal pain, and jaundice. Clinical evaluation pointed to obstruction of the common bile duct as the source of his illness and this was corroborated by various radiographic techniques. Gallstones were demonstrated in the common bile duct, but not in the gallbladder. A decision was made to attempt endoscopic widening of the opening of the common bile duct by means of electrocautery. This is a well established procedure for the removal of common bile duct stones, known as endoscopic sphincterotomy. The procedure was carried out without difficulty and complete relief of his symptoms and removal of the stones was obtained. The hospital stay was 5 days. He was able to resume his usual lifestyle immediately after discharge.

Until May 1983 he had no problems, but developed episodic chest pain then. A treadmill exercise test was done with an abnormal response noted. Cardiac catheterization was carried out in July 1983, which revealed single vessel, high-grade narrowing in one of the large coronary arteries. He was felt to be a candidate for coronary angioplasty—dilatation of the coronary artery with a balloon catheter passed through the artery, performed nonsurgically. Angioplasty was carried out, and was judged to be quite successful. No further problems was experienced until December 1983, when anginal pain once again appeared. Repeat coronary artery catheterization disclosed re-stenosis of the coronary artery that had been previously dilated. Once again balloon angioplasty was done, and, as before, considered to be successful with complete subsidence of his symptoms.

Costs for his hospitalization during the endoscopic sphincterotomy were about $2,300 as compared to $5,000 for cholecystectomy, which is the usual treatment. Similarly, the cost differential between the coronary artery balloon angioplasty, and coronary artery bypass surgery were significant. The former cost around $3,000 as compared to projected cost of $15,000 to $20,000 for the coronary artery bypass surgery.

Without access to the technological procedures this gentleman would have conservatively encountered an additional 4 weeks of hospitalization, and 18 weeks of limited posthospitalization activities. The savings in health care costs were considerable, and more importantly the psychological, well-being of a vital, proud septuagenarian was not only preserved but even enhanced.●

HUBERT A. SMITH: VETERAN OF WORLD WAR I AND A STEADFAST ADVOCATE OF H.R. 1918

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. ANDERSON. Mr. Speaker, Mr. Hubert A. Smith, a veteran of World War I, recently celebrated his 90th birthday. He has been instrumental in helping me in my attempt to secure the passage of H.R. 1918, which authorizes a service pension for World War I veterans. He has written to many of our colleagues, educating them on this issue and on the merits of H.R. 1918. In large part because of his tenacity, 212 of our colleagues have cosponsored this legislation.

I wrote a letter to Hubert, congratulating him on reaching the youthful age of 90 and thanking him for refusing to relinquish his fight for the enactment of H.R. 1918. I would like to enter into the RECORD the reply I received from Hubert, because I believe all our colleagues should realize just how important passage of this bill is to the veterans of World War I.

The text of his letter follows:

VETERANS OF WORLD WAR I
OF THE U.S.A., INC.,
Tulsa, Okla., February 6, 1984.

Hon. GLENN M. ANDERSON,
Member of Congress from California,
Washington, D.C.

DEAR GLENN. Your warm Greeting and recognition on my 90th, Birthday, January 29th, 1984, came as a surprise and an Honor that filled my heart with hope and faith. you were most generous.

To just say Thanks for your Greetings, hardly expresses my answer. I consider our association in this task, one of trying to secure the passage of H.R. 1918, an unrestricted World War I pension bill a factor of high esteem. With God's help and your continued efforts, we shall succeed.

Sincerely,

HUBERT A. SMITH,
Oklahoma Department Legislative Officer and Judge Advocate, Senior Vice Commander and Legislative Officer.

Mr. Speaker, I have testified before the Veterans' Affairs Subcommittee on Compensation, Pension, and Insurance about H.R. 1918. Quite simply, other than veterans of the Civil War the veterans of World War I are the only veterans for whom Congress did not pass either a service pension or a GI bill.

A service pension is one which recognizes military service, not financial distress. Many GI bill benefits are comparable to the concept of a service pension. Educational benefits, for example, are provided to post-World War I veterans in recognition of their military service rather than need; and this is as it should be.

As a nation, our first responsibility is to recognize the contributions made by men and women who serve in the Armed Forces. How well would we fulfill this responsibility if we were to say to our Vietnam veterans, "No more GI bill benefits, you are going to receive the same recognition from your country as the veterans of World War I." And just what could they then look forward to receiving? Would you believe a lump sum payment, known as an adjusted compensation credit, of up to $525; access to VA hospitals; and a needs-based pension for those who are disabled or who reach age 65. Why our Vietnam veterans would find such treatment disgraceful, and it is.

Today, there are fewer than 297,000 World War I veterans among us. Their final chapter has almost been written, and we have yet to enact a service pension for them. Let us act by passing H.R. 1918 before the last sentence written about them concludes: "The forgotten veterans of World War I."●

PROTECT AMERICA'S TECHNOLOGICAL SUPREMACY

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. PETRI. Mr. Speaker, my distinguished colleague from Wisconsin, Mr. Roth, whom I and the rest of this body have recognized as a leader in Congress on the Export Administration Act, has written an insightful and useful article that appeared in the editorial pages of the February 22, 1984 issue of the Christian Science Monitor. Mr. Roth has clearly been in the forefront in protecting America's technological supremacy from being stolen by nations in the Communist bloc. Last fall, as the ranking member of the House Subcommittee on International Economic Policy and Trade, Mr. Roth led the fight in the House to require the licensing of high technology exports. Now that the Senate is beginning to take up this vital issue, it is more timely than ever to review the ideas that Mr. Roth has articulated during floor debate on the subject of the Export Administration Act. For this reason I am inserting the text of Mr. Roth's article, "Protecting the West's Technological Edge," into the Record.

The article follows:

Protecting the West's Technological Edge

(By Toby Roth)

The defense of the West is hostage to a high-technology race between the United States and the Soviet Union. The nonpartisan National Academy of Sciences reports that the overall loss to the Soviets of U.S. technology has permitted the Soviet military "to develop countermeasures to Western weapons, improve Soviet weapon performance, avoid hundreds of millions of dollars in research and development (R&D) costs, and modernize critical sectors of Soviet military production."

Surreptitious acquisition of advanced goods and technology by our adversaries is not a new problem. Congress, in approving the first export control law in 1949, gave the president authority to license, and thereby restrict, exports and reexports of U.S. products. Presidential use of this authority to embargo grain and pipeline equipment to the Soviets has been vigorously debated, but national-security controls have received considerably less attention.

The Export Administration Act does not prevent the Soviets and their East European allies from acquiring by stealth high technology from NATO countries and Japan. Recently, Japan's foreign minister said his country's high technology directly contributed to the Soviet military buildup. Since November, customs officials in the U.S., West Germany, Sweden, and Britain have seized U.S. high-tech equipment being smuggled to the U.S.S.R.

Enforcing export control prohibitions is complicated, because the list of goods and technologies we claim to control contains many items of questionable significance to Soviet military development. Over the past decade this list grew, but the Office of Management and Budget reduced funds for enforcing export controls and the bureaucracy to investigate license applications.

In their present form export controls burden the overwhelming number of reputable exporters. We continue to require licenses for many products freely available to the Soviets from other exporting nations. In too many instances U.S. exporters wait months for license application approvals while foreign exporters ship orders.

Commerce Secretary Malcolm Baldrige said the export control list could be reduced by 50 percent without placing militarily sensitive technology in the hands of enemies. But paring down the control list involves making subjective judgments about which goods and technologies are critical to enhancing Moscow's strategic capabilities. Executive-branch decisionmaking is burdened by a bitter struggle between the Commerce Department on the one hand, and the Defense Department and the Customs Service on the other hand, for jurisdiction over which agency will be responsible for enforcing controls.

Congress is now rewriting the Export Administration Act. Advocates of stimulating exports and proponents of stricter controls have furiously debated the elimination or retention of certain controls. Framed in these terms, many of proposed amendments to the act are legislative placebos for the problem of making the export control law more effective. We cannot completely stem the flow of Western technology to the East. But we can delay its transfer, which would disrupt Soviet weapons development, because Soviet military planners count on the prospective acquisition of Western technology.

A legislative prescription to reform the Export Administration Act should include:

First: Reduce the number of goods subject to export controls. Our NATO allies require licensing for only the most advanced items on a common list of goods which guides the export control policies of our major allies. This practice would reduce the number of U.S. export licenses by 50 percent.

Second: Congress should provide the financial resources to ensure the proper investigation and technical evaluation of export license applications.

Third: The Paris-based Coordinating Committee, founded in 1949 by NATO countries to coordinate allied export control laws, needs to be strengthened.

Fourth: Congress should consolidate within one Cabinet-level department the responsibility for developing, enforcing, and coordinating export control policy.

Fifth: Because the executive branch has been unable to develop a selective list of militarily critical technologies, Congress should authorize funds for its General Accounting Office to undertake this task.

Sixth: Most important, government must caution American business of the necessity to excercise care in the sale and export of militarily critical goods and technologies. American business has a responsibility to make the government aware of suspicious purchases or other red flags that indicate the possibility of an illegal export.

It is imperative that the Soviet Union not think of Western advanced technology as its national resource. An effective Export Administration Act demands cooperation between government and business and imposes responsibilities on both. The promotion of exports and the protection of our national security are not mutually exclusive propositions.●

1984 CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. REGULA. Mr. Speaker, once more Congress is expressing its concern to the world of the plight of Jewish people residing in the Soviet Union. The Soviet Jewish community is the third largest in the world. Yet they are deprived of their basic human rights. These are the same rights we, as Americans, take for granted: the right to practice their own religion and culture and the right to live where they choose.

In addition, the teaching of Hebrew is denied while the press continues to incite hatred of Jewish culture. Synagogues and Jewish schools have been closed.

Perhaps the worst violation of their rights is the Soviet Union's denial of their right to emigrate. The Helsinki Final Act of 1975 makes this right an internationally recognized one. In 1983, we saw the least amount of exit visas issued in nearly a decade. In 1979, 51,320 Soviet Jews were allowed to emigrate. In 1983, only 1,315 were granted visas.

Free nations of the world must stand up and object to the Soviet Union's treatment of its own citizens. We can never allow one group of people to be blatantly persecuted as was the case before and during World War II.

I, therefore, join with my colleagues of the House to express my concern and deep regret that such a situation still exists in today's world. In our struggle to spread humanitarian and democratic values throughout the world, let us never forget those who are being silenced by the Soviet hand of repression.●

THE PLIGHT OF SYRIA'S JEWS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. LEVINE of California. Mr. Speaker, on December 29, 1983, the pregnant wife and young children of a prominent Syrian Jewish jeweler and merchant were savagely murdered in Aleppo, Syria. The wife, age 25, had been shot and repeatedly stabbed, her breasts cut, her stomach slit open, the fetus killed, and her body mutilated. The bodies of her two children, Joseph, 6, and Sandy, 3, lay beside her. Joseph's arms had been broken, and Sandy's body was cut to pieces.

According to both the U.S. Department of State and the Embassy of Syria, the Syrian authorities are actively pursuing the investigation of these gruesome murders to arrest and bring to justice the perpetrators. We await with deep concern and interest the result of that effort.

This shocking story is awful enough in itself. It is not insignificant, however, that the individuals who were murdered were Jews. George E. Gruen, Ph. D., director of Middle East affairs at the American Jewish Committee in New York, has written an article which puts this story into the context of the plight of Syria's Jews generally. It is informative and compelling reading, and I commend it to the attention of my colleagues.

The text follows:

SYRIA'S 5,000 JEWISH HOSTAGES

(By George E. Gruen, Ph. D.)

The Syrian Foreign Ministry, in announcing the release of the captured American pilot, Lieut. Robert O. Goodman, Jr., declared that the Syrian Government was "answering the human appeal of the Rev. Jesse Jackson to President Hafez al-Assad, . . ." If the Syrian President truly wishes to show that he is responsive to humanitarian appeals, then let him once and for all stop holding the Jewish community hostage and permit those who might wish to leave to be reunited with their families in the United States and other Western democracies.

Fear has gripped the 5,000 Jews of Syria in the wake of the unsolved brutal murder and mutilation of a pregnant Jewish mother and her two small children in Aleppo.

On December 28, Chaim Victor Abadi, a prominent jeweler and merchant, received an obscene phone call at his office in which the anonymous caller described the unspeakable acts he had perpetrated against his beautiful wife. Mr. Abadi at first dismissed the call as a vulgar prank, but he was horrified on returning home to find that Lillian, his 25-year-old wife, had been shot and repeatedly stabbed, her breasts cut, her stomach slit open, the fetus killed, and her body mutilated. Beside her lay the bodies of their two children, Joseph, six, and Sandy, three. The little boy's arms had been broken and the girl's body was cut to pieces.

The Jewish community does not believe that this atrocity was the work of a common thief, because this vile murder was followed by telephone calls to several members of the Aleppo Jewish community, made in the dead of night, warning them that "you are next." The Syrian authorities have launched an investigation and are providing police protection to the threatened families. Some suspect that members of Rifaat Assad's defense companies carried out this atrocity as part of a plan to terrorize the Jewish community and enrich themselves. The special defense companies, whose ostensible mission is to protect President Hafez al-Assad from internal subversion, have in the past entered homes and extorted money from wealthy Syrian families and engaged in numerous atrocities.

According to Amnesty International and correspondents of the New York Times and the Washington Post, these forces in February 1982 killed 10,000 to 20,000 residents and demolished the heart of the ancient city of Hama in the process of crushing a rebellion by the fundamentalist Moslem Brotherhood. There were no Jews living in Hama. Syria's Jews are concentrated in Damascus (4,000), Aleppo (700), and Qamishly (200). While the Jews resent the Syrian Government's singling them out for special treatment and its refusal to permit them to emigrate, they are loyal to President Assad. As one Syrian Jew recently explained, "We feel we are hostages today, but if Hafez al-Assad should be overthrown things will be much worse for us." The Jews fear that the Moslem Brotherhood would embark on wholesale programs against the Jews.

Despite the obvious antipathy of the Jewish community to the Moslem Brotherhood, the members of the defense companies have at times taken advantage of the Jewish community's defenselessness. This is not the first crime suffered by the Abadi family. During a house-to-house search in Aleppo in July 1980, a defense unit entered the home of Mr. Abadi and took him with them to identify other Jewish homes in the neighborhood. A guard was posted outside and the captain remained behind, ostensibly to search the house. Finding nothing incriminating, he ordered Mrs. Abadi to strip to prove she was not concealing Moslem Brotherhood literature on her person, and then raped her. A protest to the authorities led to a promise of an investigation, but no announcement was made as to whether the officer involved was punished or reprimanded. Several other Jewish women in Aleppo were also violated, but were too afraid to protest.

Since the Jewish community is kept under especially close surveillance by the Mukhabarat (the Syrian secret police), it is hard to believe that ordinary Syrians would dare on their own to harm members of the Jewish community. Indeed, following the evacuation of the Palestine Liberation Organization forces from Beirut in August 1982, the Mukhabarat picked up two armed Palestinians who had entered the Jewish quarter in Damascus without permission and warned them that they would be arrested if they entered again. Whereas in the past the secret police had not intervened when the Palestinians living among the Jews had harassed the latter, in recent years the Mukhabarat had been ordered by President Assad not to allow the Palestinians to molest the Jews.

While all Syrians feel vulnerable because of the internal strife and external problems facing the country, the Jews are in a uniquely precarious position. They are the only group that is totally forbidden to emigrate. Their identity cards are stamped "Musawi" (followers of Moses). Religion is no longer listed for other Syrians and about a million Moslem and Christian Syrians have managed to go abroad. Non-Jews can travel to neighboring Lebanon and Jordan without requiring a passport. Those few Jews who are permitted to travel abroad for business, medical or family reasons, must post a bond of $5,000 and leave close members of the family behind as guarantee of their return.

A decade ago, in March 1974, two young Syrian Jewish men were killed and four young Jewish women were raped and murdered as they attempted to flee to neighboring Lebanon. In response to numerous international protests, including a personal appeal by President Jimmy Carter, 14 unmarried Jewish women were permitted to come to the United States in July 1977 to marry. There were hopes that Assad would fulfill the promise he made to Carter at their meeting in Geneva in May 1977 that additional Syrian Jews would be permitted to leave for humanitarian reasons "on a case by case basis." Yet in the past six years only a few dozen persons, mostly ill or aged, have been permitted to leave.

The Syrian authorities have continued to deny appeals for family reunion in the United States, where there are some 25,000 Jews of Syrian origin. There are presently some 400 additional unmarried Jewish women in Syria who find it difficult to find suitable husbands, since many young Jewish men had earlier fled the country.

The tragedy of the Abadi family would have been averted had the Syrians permitted family reunion. Lillian Antebi Abadi's parents and her brother are currently residing in the United States. She and her husband were permitted to visit them last year, but with exquisite cruelty, the Syrian authorities forced the couple to leave their three-year-old daughter with relatives in Aleppo, to assure that the family would return to Syria.

Another heartbreaking case is that of the Barakat family from Qamishly. Mrs. Batya Barakat, a mother of four small children, was gravely wounded and paralyzed when she was shot by Syrian border guards in August 1979 as her family attempted to escape to freedom. After posting a $10,000 deposit she was permitted to come to the United States for medical treatment, accompanied by her aged parents. Her husband was imprisoned for six months after another unsuccessful attempt to flee. After many diplomatic interventions, the husband and the two older children were permitted to join her. But her two youngest children, Gaby and Filly, now aged 9 and 6, are still not permitted to leave Syria. Their mother has not seen them for more than three years. She needs another operation to try to avert total paralysis, but refuses to undergo the risk unless she can first see her children.

It will take more than the release of one American airman to convince the world that President Assad has become a humanitarian.●

PROJECT OPEN

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mrs. BURTON of California. Mr. Speaker, it is abundantly clear that there are serious deficiencies in the system of health care available to our Nation's senior citizens. The system is woefully inadequate in providing preventive health care, which delays or prevents costly hospitalization. In addition, the availability of long-term care for elderly Americans is both fragmented and extremely expensive.

Mount Zion Hospital and Medical Center, which is in my congressional district, has recently completed a successful 5-year demonstration program called Project OPEN—organizations providing for elderly needs. Project OPEN tested the viability of establishing a coordinated, cost-efficient system of health care delivery for the medi-

care frail elderly. I am submitting a summary of Project OPEN for my colleagues to examine. It is a promising approach to health care for the elderly.

I would also like to commend my friends, Barbara Sklar and Dr. Lawrence J. Weiss of Mount Zion Hospital, for their worthy efforts.

The summary follows:

PROJECT OPEN

(Organizations Providing for Elderly Needs)

FINAL REPORT

(1978-1983)

Project OPEN, Organizations Providing for Elderly Needs, was a five year research demonstration program funded by the Health Care Financing Administration and based at Mount Zion Hospital and Medical Center in San Francisco, California. The project targeted the chronically ill Medicare elderly population who were having difficulty maintaining an independent lifestyle. Its main objective was to evaluate the impact of a hospital-based brokerage model of service delivery on the elderly population's service utilization patterns, health and social service care costs, and functional well-being.

Mount Zion Hospital worked with five other community service agencies to develop a consortium model. Project OPEN was established as the lead adminstrative and fiscal channeling agent for the consortium. Service contracts were established with consortium agencies and other community providers to create a comprehensive service package for the elderly (including adult day health care, transportation, homemaker, home maintenance, etc.). Project OPEN's service delivery system used service coordination and an interdisciplinary team focus to accomplish its goals. A unique combination of functional assessment, team case conferencing, long range care planning, service coordination and monitoring were used to achieve individually tailored plans of care.

The Project was evaluated through an experimental methodology employing a randomized control group which represented the existing health care delivery system. After five years of study, the final results of Project OPEN indicated the following:

1. Participants received a more comprehensive package of health and social services and received these services in stricter accordance with the six-month plan of care than did the control group.

2. The participants achieved quicker access to needed services through the benefits of assessment and service coordination, as well as Project OPEN's arrangements with contracted service providers.

3. Participants received more effective health and social service care as shown by the maintenance of the demonstration clients' functional status over time, whereas the control group functionally deteriorated. In particular, it was found that the social network scale significantly improved over time for demonstration clients and deteriorated for the control group. Importantly, it was seen that the informal support system was enhanced by project intervention: formal services did not supplant informal services. Additionally, the demonstration group also showed greater success in accomplishment of service goals than did the control group.

4. Considering the rate of institutionalization for the demonstration and control groups for the duration of the program, there were 11 percent fewer participants hospitalized; an 11 percent difference in the average number of admissions per patient; the average number of days of total hospitalization per demonstration patient was lowered by 5.4 days; the average length of stay per acute admission was reduced by 1.2 days; and readmission rates were 21 percent lower for the experimental group, as expected.

5. Perhaps the most significant finding of Project OPEN was the cost savings of 15 percent for demonstration clients. In actual dollar amounts this is a saving of $138 per participant per month or $1,658 per year. This translates into $547,000 for 220 participants over 18 months of the program. The cost savings occurred in both Medicare Part A and Part B reimbursable services and were most strongly evidenced during the initial six months of Project participation. This suggests that active service coordination might be most effectively used in the first six months of program participation and then continued on an inactive, as-needed basis, with client monitoring by a paraprofessional.

Project OPEN's data indicates that a comprehensive, effective, and cost-efficient system of health care delivery can be successfully implemented with the long term care chronically ill elderly.●

HUMAN EFFECTS OF TOXIC CHEMICALS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. FLORIO. Mr. Speaker, for years we have debated the issue of providing relief to those injured by exposure to toxic and hazardous substances. When the Superfund was first created in 1980, provisions affording such relief were deleted in a last minute compromise necessary to secure passage of the legislation and we agreed instead to commission a study of the problem. That study, performed by a blue ribbon panel of legal experts representing the States, the private bar and the academic community concluded in 1982 that the current legal system did not offer those injured by toxic and hazardous substances adequate recourse to secure compensation for their injuries.

That legal study has led many of us to conclude that the next Superfund reauthorization must address this crucial issue. Therefore, when a bipartisan group of 24 cosponsors and I introduced a bill recently (H.R. 4813) to extend and expand the Superfund program, we included several provisions designed to address the plight of those who are injured when abandoned hazardous waste sites contaminate their water, their soil and their air.

Some are now opposing that legislation on the basis that these provisions are controversial and unwarranted. We are even told that any proposal to provide relief to injured citizens is a "solution in search of a problem" because there is no concrete evidence that any American has been seriously damaged in that way.

As we evaluate such arguments, I would draw my colleagues' attention to the following articles from the New York Times and the Philadelphia Inquirer recounting a recent health study by Harvard University scientists concerning the tragedy that befell one small Massachusetts town.

[From the New York Times]

WOBURN STUDY LINKS CANCER AND DEATHS TO TAINTED WATER

BOSTON.—Residents of Woburn, Mass., have received scientific confirmation of what many of them had suspected for years: The high rate of leukemia in their town had something to do with the drinking water.

A two-year study coordinated by three scientists at the Harvard School of Public Health found "a consistent pattern of positive associations" between the amount of water consumed from two contaminated wells and the incidence of childhood leukemia, fetal and newborn deaths and various birth defects and illnesses.

Results of the study were made public Wednesday night at a community meeting in Woburn, a suburb north of Boston.

"I feel a sense of relief, knowing that science is behind us," said Anne M. Anderson, who helped form a group called For A Cleaner Environment after her son Jimmy was diagnosed as having leukemia in 1972. Jimmy died nine years later, at the age of 12, and Mrs. Anderson said she always felt the water caused his illness.

MY DISHWASHER ROTTED OUT

"It smelled, it tasted bad, it was corrosive," she said. "My dishwasher rotted out."

After Jimmy fell ill, she learned that other children in the neighborhood also had leukemia. "It's a rare disease, but it wasn't a rare disease in my neighborhood," Mrs. Anderson said.

The state shut down two of the four wells that supplied Woburn with water in 1979 after they were found to contain various toxic wastes, including trichloroethylene, a carcinogen. Studies by the Massachusetts Department of Public Health in 1981 and 1982 confirmed a high leukemia rate in Woburn but did not link it to the water.

Stephen W. Lagakos, one of the three scientists who conducted the study, said it found a "pretty compelling" association, statistically, between the water and various illnesses.

"You'll never be able to prove cause and effect," he said, comparing the study with establishing a link between smoking and lung cancer.

Mr. Lagakos and his colleagues, Marvin Zelen and Barbara Wessen, received help from about 300 volunteers from Woburn, who conducted telephone interviews with 3,257 households filling out a lengthy questionnaire on each. Later, the researchers examined state records to determine the percentage of water each household received from the contaminated wells over the 16 years the wells were open.

According to the study, 15 children who had leukemia from 1969 to 1983 received an average of twice as much water from the two contaminated wells as the average household in Woburn. In that period, the town's leukemia incidence was 2.4 times the national average, according to the report.

The researchers found three fetal or newborn deaths among 39 pregnancies where mothers received at least two-thirds of their water from the two wells. That amounts to 77 deaths for 1,000 pregnancies against an expected rate of 7.7 for 1,000, according to the study.

The study also identified a "significantly higher" risk of eye and ear birth defects among infants whose mothers had had a high exposure to the water during pregnancy. And the study linked urinary, respiratory and skin disorders to consumption of the water.

Mr. Lagakos emphasized that not all defects or disorders of the types cited in the study could be blamed on the wells, but he said the excess number of them pointed to a strong correlation.

The study did not attempt to identify the source of the toxic chemicals, a question that has been debated for years. The wells are downstream from a giant toxic waste dump, which the Environmental Protection Agency has called one of the 10 worst in the country, but some people believe companies nearer to the wells could be responsible.

The Andersons and seven other families are suing a chemical company and a tannery for damages.

[From the Philadelphia Inquirer, Feb. 9, 1984]

RESEARCHERS BLAME WATER FOR BIRTH DEFECTS, LEUKEMIA

BOSTON.—Drinking water from wells near one of the nation's worst chemical dumps statistically appears to have been the cause of leukemia, birth defects and other diseases in children, Harvard researchers said yesterday.

Their discovery of "a consistent pattern of positive associations" in Woburn, a Boston suburb, results from the largest study ever conducted on the effects of industrial toxins in a single geographic area.

The study found a statistical link between the amount of well water drunk and the incidence of childhood leukemia, stillbirths, birth defects and childhood disorders of the lungs, kidneys, and skin.

It did not investigate whether the well water contributed to adult diseases. Woburn has the highest overall cancer rate in the state.

"The evidence seems pretty compelling to us that the adverse health effects are tied directly to the wells," said Dr. Stephen W. Lagakos, who directed the research at the Harvard School of Public Health.

The wells were closed five years ago.

The researchers cautioned that the absolute increase in sickness attributable to the wells was small, and that many of the illnesses would have occurred anyway. "As far as having a major impact on the community, it's rather minimal," said Dr. Marvin Zelen, a researcher. "But for individuals, it's a calamity. One is too many."

Environmentalists have long feared the effects of toxic-waste dumps on people who live near the sites. Actual evidence of harm, however, is scarce, because population studies that might prove a link are expensive and time-consuming.

The latest study was conducted by Harvard researchers for a Woburn citizens group called For A Cleaner Environment. In 1982, 321 volunteers collected data on 3,257 Woburn families, or 54 percent of the population.

The study linked the ailments to water drawn from two city wells downstream from the sprawling Industriplex dump. For 130 years, the site was a dumping ground for wastes from chemical plants and tanneries.

The two wells were closed in 1979 after they were found to be contaminated with an industrial solvent. It is still not clear whether it was the chemical dump that tainted the water, but Lagakos said contamination from the dump site "is the obvious suspected culprit."

The dump, last used by a chemical company in 1968, was listed by the Environmental Protection Agency as the fourth-worst toxic-waste site in the nation. Among substances found there were arsenic, lead, chromium, zinc and rotting animal hides.

Data collected in 1982 concerned family histories dating from 1969. A follow-up study was done for certain diseases in 1983.

The study found 16 cases of childhood leukemia in the city, more than double the national average. Six of the 22 cases of eye-and-ear birth defects reported in the survey also were attributed to water from the two wells.

There were three stillbirths among 39 pregnant women who got two-thirds of their water from the wells. That is the equivalent of 77 stillbirths for each 1,000 pregnancies—10 times the expected rate.●

IT IS TIME TO MODIFY THE UNITARY METHOD OF TAXATION

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. WYDEN. Mr. Speaker, it is time for the Congress to enact legislation modifying the present system of unitary taxation.

Under the present system, used by 12 States, including my home State of Oregon, a company's worldwide activities are treated as a single unit and the State takes a share of that whole unit's income, rather than the income generated just within the State.

The United States is the only nation that sanctions this method of taxation. And its use is causing many of our international trading partners to ask simply: "What's fair about taxing us when we don't make a profit in your State?" The answer is that it really does not make sense.

After studying this issue in depth, I have come to the conclusion that the unitary method of worldwide taxation in its present form is a significant obstacle to creating new jobs throughout the country and Federal action is needed to correct the problem.

While I believe it is sound to employ the unitary principle to domestic activity, I think its application should stop at the water's edge.

Consequently, I am today introducing legislation to modify the unitary system so that it would extend, by and large, only to business activity within the United States.

I am urging these modifications for two major reasons.

First, I believe that these modifications will lead to an expansion of U.S. trade and investment opportunities with Pacific Rim nations and in Europe. These potential trade opportunities are vitally important to the entire country because of our growing trade deficit, which is estimated to approach $100 billion this year. In fact, a Japanese business group recently annouced that they will make no investments in States utilizing the unitary method of taxation.

Second, the modifications my legislation makes in the unitary method of taxation can be a great help to new plants in their critical startup stage. Many of these plants go for years before they make profits after locating in a new region of the country. But under today's system of unitary taxation, a worldwide, international trading company will often pay taxes long before they make any profit in a new community. Obviously, such an onerous burden on plants just getting off the ground is not likely to make corporations involved in international trade want to come into a new community this confronts them with such an initial hurdle.

Supporters of the unitary tax in its present form argue that without it, large international corporations use accounting sleight-of-hand to avoid paying taxes. But the current method of unitary taxation seems to me like a remedy unsuited to this concern. A better remedy is to beef up the way we administer the tax collection system on income earned in America. And that is exactly what my bill does.

My bill stipulates that the Internal Revenue Service (IRS) must provide the States with any and all information about company earnings for those international businesses that are affected by this legislation.

The IRS has a direct financial interest in keeping international corporations honest and has extensive resources to attain that goal. My bill requires that the IRS make these resources available to the States to assure that corporations pay the taxes that they rightfully owe to each State.

Supporters also point to the right of the individual States to generate their own revenue as they see fit, but as applied to the use of worldwide unitary taxation, that argument is not germane. The Supreme Court has said that the Federal Government must speak with one voice when regulating commercial relations with foreign governments. But the worldwide unitary method impairs the Federal Government's ability to speak with a single voice.

Moreover, under our federal system, it is the Central Government, not the States, that conducts the Nation's foreign relations. Foreign commerce and foreign trade are essential aspects of the relations between nations. Hence, any action by the States that interfers with international commerce threatens the Federal uniformity that the Founding Fathers ordained for the conduct of our foreign affairs.

The international trade community faces numerous barriers that distort the marketplace, and there are many steps we and our trading partners need to take to maximize the potential for world commerce. One practical step our country can take is to eliminate the use of the unitary tax on business activity that occurs outside the United States.

Now I am not going to contend that my legislation is the be-all and end-all for economic development. As we know, there are a variety of factors, ranging from the quality of a region's educational institutions to its water supply that go into a company's decision to bring new jobs in. One thing that is certain is we do not need any more obstacles on the path to expanded trade and international commerce. By modifying the present system of unitary taxation, my bill removes one of those obstacles.

H.R. 4940

A bill to amend title 4, United States Code, to provide that States using an unitary method of taxation may not treat foreign trades or businesses as members of an unitary business

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 4 of title 4, United States Code, is amended by adding at the end thereof the following new section:

"§ 114. Treatment of Foreign Trades or Business Under Unitary Method of Taxation

"(a) No State (or political subdivision thereof) may, for purposes of any income tax levied by such State (or political subdivision), treat any person as being a member of a unitary business if 80 percent or more of such person's total business activity is outside the United States.

(b) For purposes of subsection (a)—

"(1) the term 'State' includes the District of Columbia,

"(2) the term 'income tax' has the meaning given to such term by section 110(c) of this title, and

"(3) the term 'business activity' means any activity engaged in or performed by any person in connection with the operation of a trade or business."

(b) The analysis for chapter 4 of such title 4 is amended by adding at the end thereof the following new item:

"114. Treatment of foreign trades or businesses under unitary method of taxation."

(c) The amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

SEC. 2. (a) The Secretary of the Treasury is requested to provide to the tax officials of any State, at the request of such officials and subject to the provisions of law which protect the confidentiality of any return or return information, all information in his possession relating to any person affected by the enactment of the first section who is subject to taxation under the laws of such State.

(b) The information which the Secretary of the Treasury is requested to provide under subsection (a) includes, but is not limited to—

(1) any distribution, apportionment, or allocation by the Secretary of the Treasury (or his delegate), under section 482 of the Internal Revenue Code of 1954, of gross income, deductions, credits, or allowances between or among organizations, trades, or businesses which are owned or controlled by the same interests,

(2) any determination of such Secretary (or delegate) under part I of subchapter N of chapter 1 of such Code (relating to determination of sources of income),

(3) any determination of such Secretary (or delegate) under part III of such subchapter N (relating to income from sources without the United States).●

INTERSTATE COST ESTIMATE MUST BE PASSED

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. SHUSTER. Mr. Speaker, today we have introduced two measures which I believe could resolve the impasse which has prevented for nearly 5 months the allocation of $3.6 billion of interstate construction funds to the States. The first measure we have introduced would be a 6-month interstate cost estimate (ICE) approval which would send $1.8 billion of interstate entitlement to the States. This, in my judgment, is the most sensible course to follow. The interstate construction program is being delayed due to the problem of approving the ICE. This infusion of interstate dollars, badly needed to complete our National Interstate Highway System, will get the program moving forward and allow Congress the opportunity to pass a more substantial highway-mass transit bill with a longer ICE approval. I want, also, to emphasize that there are no projects in this bill.

Also, I have introduced a measure that is less favorable but could also be viewed as a short-term solution to the ICE problem. This bill would allocate one-half percent to every State but would cap those States currently scheduled to receive one-half percent to fifty percent of that level. Thus, each State would receive an initial infusion of $18 million except those who are one-half percent States whose level would be $9 million. Again, this measure will buy the Congress time to present legislation needed to fine-tune the 1982 act.

I am hopeful that the House Public Works and Transportation Committee will consider one of these options immediately and provide the mechanism to get the interstate program moving forward.●

VOODOO ECONOMICS HITS VETS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. OBEY. Mr. Speaker, the Stars and Stripes, the national veterans newspaper, has a very interesting editorial this week on the impact of the Reagan administration's budgets on our Nation's veterans. I recommend the editorial to my colleagues.

VOODOO ECONOMICS HITS VETS

George Bush accused Ronald Reagan of "voodoo economics" when each was running for the presidency. Both men have now announced a desire to renew their four year lease on the executive suites at the White House.

But the $200 billion deficit in Reagan's 1985 budget should cause veterans to wonder if the President knows how he will ever repay his bills.

"America is back and standing tall" the President proclaimed in his State of the Union message. But just how far back are we standing, Mr. President?

A million more people are out of work today than in the month Ronald Reagan became President. This includes 62,000 more unemployed Vietnam veterans.

Business failures are more than double their number in 1980. To keep up with economic pressures last year, the Small Business Administration (SBA) was forced to double its loans to veterans. That is $641 million or one-fourth of all 1983 funds loaned by SBA.

In just three years the President has added $502 billion to the national debt. Those who would blame Congress for this increase, should note that, despite strong political pressures from home, the Congress appropriated only $3.2 billion more than Reagan requested last year. This budget deficit is clearly of the President's own making.

Interest payments on this increased debt have now absorbed every last dollar of the savings which Reagan accomplished with large reductions in social programs. Those veterans who were hurt badly, or just barely, by those budget cuts are now loudly wondering how funds which they formerly received so quickly flowed into the pockets of money lenders?

Last fall veterans voluntarily deferred their legal claim to several million dollars in cost of living allowances (COLA) when the Administration claimed that the budget simply could not take the strain. Our COLA was captive to our conscience and to our patriotism. We sacrificed, but to what end?

For those veterans fighting for physical, as well as financial health, the VA reminds us that 60 percent of those served by VA hospitals make under $10,000 annually. And an astounding 79 percent earn less than $15,000 yearly.

Millions of veterans have found that the American dream is an uphill struggle of financial despair. They are also most quickly, and permanently, damaged by cuts in social programs.

Further reductions in veterans' benefits are at the top of the President's 1985 post-election hit list. Pleasure at Reagan's election year VA budget will quickly turn into a pitched battle to save our entitlement programs.

Budget Director, David Stockman's major defense of the 1985 budget rests on a separate list of additional "structural reforms" planned after Reagan's re-election. There are eight items on Stockman's list. The first four programs to be cut in the budget are veterans' health care benefits, Federal military pensions, Medicare and Medicaid.

As the President recalled in a recent magazine interview, his first term as California governor laid the basis for major reforms in his last four years. "I never mentioned them in the campaign," he said. "But after the re-election we went to work on them."

While veterans' organizations like to link benefit programs to the national defense commitment, this Administration clearly places such entitlements squarely in the category of "public welfare" efforts whose necks would soon be stretched across a budgetary chopping block.

Mr. Reagan contends that his budget deficits are bearable because prosperity is just around the corner. These blue-sky claims are so unrealistic that even his closest advisers cannot stomach the budget. "This package does not meet the fiscal needs of the nation," said Budget Director, Stockman. "This budget is not what we need," echoes chief economic adviser, Dr. Martin Feldstein.

What we do need is a budgetary process ungoverned by this cynical attempt to fool some of the people some of the time and which acknowledges that a tax increase and cuts in military spending are a certainty.

Veterans are among the nation's major supporters of a strong defense posture. They are also very conscious of the deadly weakness of these budgets which allocate billions for hardware and pennies for upgrading and expanding the manpower upon which a nation's military defense must ultimately depend.

President Reagan's strengths and weaknesses are so closely intertwined that veterans will not easily decide on whether to continue his Administration in power. What is certain, however, are the political dangers he will encounter in efforts to stay-the-course and slice veterans' entitlements.

If this threat continues, veterans will likely chose to retire Mr. Reagan to cutting the brush on his California ranch rather than to re-elect a man who is determined to further chop up that network of programs which sustains so many hard pressed citizens.●

PRESIDENT'S COMMISSION ON ORGANIZED CRIME

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. RODINO. Mr. Speaker, at the specific request of the Justice Department on behalf of the President's Commission on Organized Crime, I am today introducing a joint resolution to authorize the Commission to compel attendance and testimony of witnesses and the production of information.

To fulfill effectively the mandate set forth in Executive Order No. 12435, the Commission must be able to gather information quickly and efficiently. This joint resolution would assist this process by empowering the Commission to issue subpenas; to seek court orders—punishable by contempt—to enforce the subpenas; and to seek writs of habeas corpus to secure testimony of persons in custody. It would also authorize the Commission—with Attorney General approval—to compel testimony or production of information withheld on the basis of self-incrimination; to administer oaths, examine witnesses and receive evidence; and to permit disclosure to the Commission of records of Government agencies. In addition, it provides for protection of information given the Commission and for service of process and payment of witnesses' fees.

These powers are consistent with those approved by the Congress for previous commissions of this nature. Some fine tuning of the joint resolution may be necessary to insure granting of the proper degree of power to the Commission. This Commission has encountered difficulties in getting underway. I intend for this proposal to get swift consideratioin so that the Commission can exercise its responsibilities as quickly as possible.

Mr. Speaker, it has been suggested by the Reagan administration that this body has been dragging its feet on passage of anticrime legislation. For the record, I want to state that I think we have made substantial progress. We have approved the Justice Assistance Act and a tough child pornography bill. The Judiciary Committee has passed legislation modifying the insanity defense and streamlining our efforts to combat drug trafficking. It has in the works sentencing reform, victims compensation and legislation that toughens penalties for trademark counterfeiting. I expect the committee to complete action on these measures this year. I know that our approach may not be to the administration's liking, but I think it is a correct approach—one that protects the interests of victims, community, law enforcement, and defendants. I am proud of our progress.●

PERSONAL EXPLANATION

HON. ALAN B. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. MOLLOHAN. Mr. Speaker, yesterday the House passed House Resolution 15, to establish a Select Committee on Hunger. Unfortunately, I was ill and unable to cast my vote. As a cosponsor and supporter of this legislation, I would have voted in favor of this measure. The problem of domestic hunger in this country is a real one that should be addressed in a systematic and objective manner. I believe the creation of a House Select Committee on Hunger is an important step toward that goal.●

HARKIN PHANTOM TAX BILL LOWERS ELECTRIC RATES

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. HARKIN. Mr. Speaker, today, I am introducing the Phantom Tax Reform and Least Cost Electric Energy Planning Act with Congressmen Bosco, DORGAN, LANE EVANS, HAYES, JEFFORDS, MRAZEK, OWENS, PEASE, and SIMON. This bill changes a provision in the law unfair to just about everyone who uses electricity. It allows utility commissions nationwide to reduce electric bills by billions of dollars.

The bill concerns phantom taxes. Investor-owned electric utilities have collected over $25 billion from their customers for Federal income taxes, but, actually keep the money. In theory, some, but certainly very little, will be paid back to customers. In 1981, Iowans alone paid $55 million in these phantom taxes to electric companies.

This bill changes the current law that prevents State utility commissions from fully protecting the consumer interest at stake here. Instead, the bill gives them the discretion to return these tax benefits back to consumers through lower rates.

The Phantom Tax Reform Act allows utility commissioners to remove an incentive which not only raises electric rates, but also encourages investor-owned utilities to build powerplants costing billions of dollars which may not be needed. During the last dozen years, over 100 powerplants were abandoned before they were completed. Electric utilities spent over $10 billion in this decade on plants which will never generate any electricity. Consumers will pay a substantial amount of those costs in higher electric bills. The Government, both Federal and State, also pays for much of this cost because utilities deduct the loss on their taxes. This means either a larger budget deficit, or more taxes for everybody else.

The following national organizations support this measure:

American Association of Retired Persons, American Public Power Association, Citizen/Labor Energy Coalition, Consumer Energy Council of America, Consumer Federation of America, Environmental Action, Environmental Defense Fund, Environmental Policy Institute, Friends of the Earth, National Association of State Utility Consumer Advocates, National Consumers League, National Council of Senior Citizens, Natural Resources Defense Council, National Taxpayers Union, Public Citizen, Service Employees International Union, Sierra Club, Solar Lobby, Union of Concerned Scientists, United Auto Workers, United Food and Commercial Workers, and the United Methodist Church, Board of Church and Society.

In addition, there are numerous State and local organizations which have endorsed the bill.

WHAT IS THE LAW NOW?

Under present law, electric utilities recover the cost of their federal income taxes through your electric bills. They charge you as if they did not receive the full benefit of their investment tax credits or accelerated depreciation allowed by the Tax Code. These provisions substantially reduce the taxes which a utility pays and, in fact, many don't pay any taxes at all.

According to a Joint Tax Committee study, on average, utilities only paid an effective tax rate of 15 percent in 1982. However, they still charge their customers as if they did not receive these tax breaks. Over the life of a powerplant, perhaps 30 years, they slowly return the value of these tax breaks back to their consumers, although the full amount is never fully returned for reasons described below.

This is how it works. Utilities receive an investment tax credit of 10 percent of the cost of building a new plant. They receive this credit, or reduction in taxes, while a plant is being built. At the same time, they may include the value of that 10 percent tax credit in determining the cost of a plant which they will recover from their ratepayers, although it spent none of its own capital to make this investment. In short, the utility is actually earning a profit on funds contributed by the country's taxpayers.

A utility also is allowed to reduce its taxes through the accelerated cost recovery system (ACRS). This provision was included in the 1981 Economic Recovery Tax Act. A utility may take a deduction for the expenses incurred in depreciating the cost of the powerplant over a 10- or 15-year period depending on the type of plant being built. Under this system, a utility may be able to deduct 54 percent of the depreciation expenses of a powerplant in just 5 years. However, the utility charges its customers as if it were depreciating the plant over its full useful life—perhaps 30 or 40 years.

As an example, if a utility could reduce its total taxes by $300 million from depreciation expenses, as much as $162 million of that reduction could be recovered in deductions during the first 5 years of its plant's existence. But during that same time, consumers' electric bills would only be reduced by $50 million. This ratemaking practice is called normalization. Again, consumers pay the utility's taxes as if it depreciated its plant over its full useful life, rather than the Tax Code's accelerated depreciation life. Accordingly, under this example, customers would have effectively loaned $112 million to their utility.

In theory, consumers are eventually supposed to see a reduction in electric rates from these tax savings. But, no interest is paid on this loan, nor does the consumer have a chance to use this money for perhaps 20 or 30 years. In practice, since utilities continually make new investments in powerplants, consumers, including the elderly, always remain in the hole and never gain the full use of their money.

Currently, if a utility commission found this practice unreasonable and required the utility to pass its tax savings on to its consumers, then the law would take away the utility's eligibility for these tax breaks. The money would revert to the Treasury and neither the customer nor the company would receive any benefit.

WHAT DOES THIS BILL DO?

My bill permits the Iowa Commerce Commission or any other State public utility, commission to require that these tax savings be flowed through, or immediately returned, to consumers instead of normalizing the benefits as the law now requires.

A commission may hold hearings and then establish a least cost energy plan for utilities. If, under the plan, the commission finds that returning tax savings back to consumers would mean lower energy costs, the consumers keep the money. In short, it returns to States the ability to regulate electric utilities as they see fit.

In a July 1981 case involving Iowa Power & Light, an Iowa Commerce Commission decision said:

> Normalization is an inefficient, inequitable and unnecessary method of raising capital for a utility. Whereas, flowthrough achieves the regulatory objectives of charging customers for reasonable costs properly matched with the service they receive from investments dedicated to providing that service.

Presently, the Iowa Commerce Commission requires that State tax benefits be flowed through to the consumers. If this bill is enacted, the Iowa commission could do the same with Federal tax benefits. A State also could choose a middle path, flowing through some of the benefits but not others, as consistent with their least cost energy analysis. The key, again, is that this bill restores discretion with State commissions to regulate utilities as they see fit.

At the Federal level, the bill allows the Federal Energy Regulatory Commission (FERC), which regulates wholesale sales of power from one utility to another, to do the same thing. It also requires that FERC gradually pass through the tax benefits to electric ratepayers over the useful life of an asset and prevents the FERC from allowing a utility to earn a profit on funds in its deferred tax accounts.

MAINTAINING AN ADEQUATE ELECTRICAL SUPPLY AT LEAST COST

Some utilities may argue that they need the immediate use of the cash from these deferred tax payments, or phantom taxes, so they can invest in needed powerplants and other equipment. They claim that it is in the customer's benefit to have the utility hold on to the funds because of the nature of the financial markets, particularly the fact that some companies are unable to borrow money at reasonable interest rates. Under this legislation, utility commissions would have to consider such factors. We need an electric utility system which has sufficient capacity to meet the Nation's needs and which must be both reliable and resilient. This system, however, does not come cheaply.

At the same time, some utilities are in financial difficulty because they built plants which were simply not needed. In many instances, these utilities had another means available to meet their customers power needs. Instead, they decided that the best way to meet this need was to build expensive new power plants when there were far cheaper alternatives such as energy conservation and cogeneration.

In some cases, a utility may clearly need to build a new powerplant. However, the type of plant they decided to build will be affected by the tax laws which give greater incentive to construct one type over another. And that decision could cost customers more millions of dollars.

In 1982, I chaired a hearing in Des Moines where Wes Birdsell, the general manager of the Osage, Iowa, municipal utility, explained how his town of 3,700 people saved a million dollars in powerplant costs by installing $100,000 in conservation equipment. Programs like Osage developed take a lot of work, but mean lower electric bills and a more efficent economy.

A least cost energy plan would take into consideration each of these factors. The true costs of the alternative available to consumers would be evaluated, including the value of the consumer retaining the use of their money over these years, compared with interest costs which a utility would incur in building a powerplant. The plan also would consider the energy alternatives to building expensive power plants which sharply increase electric rates.

The present law allowing utilities to keep their deferred or phantom taxes provides a real incentive for a company to choose building new powerplants instead of less expensive alternatives.

The tax law skews the decisionmaking process of electric utilities and encourages them to overestimate the future need for electrical power. Year after year, the industry's projections of electric power needs exceeds almost all other outside projections. And those projections often turn into expensive projects costing billions of dollars.

Public utility commissions need to carefully examine least-cost energy alternatives before utilities make major plant expenditures. They need to balance the consumer's right to have the present use of his or her money. They also need to look at the alternatives available to a utility in meeting its customers power needs. Last, they need to look at the financial position of each utility. After examining these factors, a utility commission should then decide what is the best energy and financial course for a utility. This is a decision which should not be predetermined by Federal law which balances none of these issues.

In sum, present law prevents electric utility regulators from looking at these factors and rewards utilities which engage in construction programs regardless of need. This bill will restore the proper regulatory decision-making process.

TWO FALSE ARGUMENTS FOR AUTOMATIC "NORMALIZATION OF TAXES"

Argument: Investor-owned utilities argue that every company which invests in new plants and equipment should be entitled to retain the benefits of accelerated depreciation and their investment tax credits. If they do not keep these savings, they will not have the investment dollars which they will eventually need to build required electric capacity.

Answer: Private utilities are monopolies which have an obligation to serve their customers and are required to make the necessary investments to meet that obligation. In return, regulators provide with a fair return on investment. They do not need the additional incentives or cash which tax normalization provides to meet their public service obligations.

In contrast, unregulated companies which are not assured of earning a profit may need tax incentives to make needed investments. However, they may not be able to retain these savings because marketplace pressure may force the company to pass through in lower prices a portion of those benefits to customers to meet competitive demands.

Argument: Private utilities argue that they are in poor financial health because utility commissions do not provide them with an adequate return on investment. This means they cannot raise sufficient money to make needed investments, and pay operation costs and earn a fair profit. In short, deferred or phantom taxes provide an extra financial cushion which utility commissions cannot touch.

Answer. I believe it is unreasonable to bias energy planning by allowing utilities to retain substantial sums of money through phantom taxes. If some utility commissions are not providing companies with an adequate rate of return, then the solution is to give them an adequate one. This is an issue, however, which should be addressed by State and Federal regulators.

When a utility provides for the energy needs of its customers through the most efficient and least-cost means, they should be rewarded with a better return on investment. Instead, our present tax laws provides an incentive for utilities to build expensive powerplants at a much higher cost to consumers. Regardless of the wisdom of that investment, the law always provides utilities with a bonus provided by consumers. This is not sound energy policy. In contrast, my bill will restore a sound, balanced approach to future investments in energy capacity.

Attached is a section-by-section analysis of the bill and a history of the tax laws that created this present situation:

SUMMARY OF PHANTOM TAX REFORM ACT OF 1984

Title I. Broadens authority of state regulatory commissions by amending the Public Utility Regulatory Policies Act of 1978 (PURPA).

SEC. 101. Amends Title VI of PURPA by adding a new section as follows:

(a)(1) Allows a state regulatory authority to hold hearings to develop least system cost plans for meeting demand for electric energy services by electric utilities.

(2) Specifies that all direct costs of a measure or resource are to be calculated over its effective life in order to determine elements of a least-cost energy plan. Costs to be considered include distribution and transmission, waste disposal, end-of-cycle and fuel. (The least-cost concept conforms to that adopted in the Pacific Northwest Electric Power Planning and Conservation Act.)

(3) Specifies that hearings shall give detailed assessment to:

Customer energy efficiency improvements and use of renewables:

Load management techniques;

Cogeneration;

Electricity generation using biomass, waste, renewable resources, or geothermal;

Production efficiency improvements;

Central station powerplants;

Changes in rate design; and

Any other alternatives established by the State regulatory authority to meet demand at the least estimated incremental cost.

(b) Gives state utility commissions the authority to determine ratemaking treatment of the investment tax credit and accelerated depreciation for utilities under their jurisdiction whenever a least-cost plan has been approved for those utilities. Ratemaking treatment is to further purposes of the plan. Thus, a utility commission in any state which adopts a least-cost energy plan could eliminate "phantom tax" charges by any utility covered by such a plan.

(c) Conforms section to Title I of PURPA regarding utilities covered.

(d) Provides that least-cost plan can be developed by agency other than state regulatory authority if responsibility has been designated by state law or the governor.

Title II. Broadens regulatory authority of FERC by amending the Federal Power Act.

Section 201. Amends Part II of Federal Power Act by adding a new section as follows:

(a)(1) Allows FERC to hold least-cost hearings.

(2) and (3) Sets forth elements of least-cost hearings in the same manner as for states.

(b) Allows FERC to decide whether to flow through or to normalize utility tax benefits in setting wholesale rates when a least-cost plan has been adopted.

(c) Requires FERC, within 90 days of enactment to adopt "economic normalization" whenever normalization is used. This prevents FERC from allowing utilities to include the value of tax benefits in their rate bases, a practice currently allowed by federal law for the investment tax credit. It also prevents FERC from allowing utilities to retain tax expense payments from wholesale customers permanently by not following any normalization procedure.

(d) Provides technical specifications for economic normalization of investment tax credits and accelerated depreciation.

Title III. Amends the Internal Revenue Code to conform to Title I and II above, by amending the provisions which require normalization of taxes in order for utilities to receive the tax benefits.

LEGISLATIVE HISTORY OF PHANTOM TAXES

1946—Accelerated depreciation first allowed by Treasury Department.

1954—Internal Revenue Code of 1954: Accelerated depreciation first allowed by law.

1955—Pennsylvania utility commission flows through tax benefits from accelerated depreciation to ratepayers.

1962—Revenue Act of 1962: Investment tax credit (ITC) first enacted: 3 percent for public utilities, 7 percent for other businesses. Tax lives for depreciation shortened by one-third of useful life.

1960's—Trend develops among state utility commissions to flow through tax benefits to ratepayers.

1969—Tax Reform Act of 1969: Normalization of accelerated depreciation required by law for all utilities not already using flow-though accounting.

1971—Revenue Act of 1971: Faster accelerated depreciation and shorter tax lives adopted causing deferred taxes to skyrocket. ITC's for utilities increased to 4 percent; general rate remains 7 percent. Normalization of ITC's required for all utilities required to normalize accelerated depreciation under 1969 act.

1975—Tax Reduction Act of 1975: ITC increased to 10 percent for utilities and other businesses. Utilities allowed ITC for construction work in progress.

1978—Revenue Act of 1979: 10 percent ITC made permanent part of federal tax code.

1981—Economic Recovery Act of 1981: Tax lives shortened to 10 years (nuclear), 15 years (fossil). Accelerated Cost Recovery System (ACRS) adopted allowing very fast depreciation by 1986. Normalization required for all utility property placed in service after Dec. 31, 1980.

1982—Tax Equity and Fiscal Responsibility Act of 1982: Fast depreciation scheduled by ERTA for 1986 is repealed.

Prepared by Environmental Action, based on reports by Donald Kiefer of Congressional Research Service.●

THE RETIREMENT OF DR. NORMAN E. WATSON

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. BADHAM. Mr. Speaker, Dr. Norman E. Watson, chancellor of the Coast Community College District since 1964, has announced his retirement effective June 30, 1984.

Few leaders in the contemporary educational milieu have contributed as much to the community college concept and movement as has Dr. Watson. His impact has been nationwide, but no where is it more evident than in the 105 square mile Coast College District.

Under his leadership, the three colleges of the district—Orange Coast College, Golden West, College and Coastline Community College—involve nearly 46 percent of the eligible adult population each semester, making Coast per capita the most attended community college district in the Nation.

His foresight and guidance have brought Coast into the forefront of learning technology, the result being that Coast is the Nation's No. 1 producer and distributor of high quality television courses for college credit.

Among his many affiliations, Dr. Watson is on both the executive committee and board of directors of the Public Broadcasting Service and the Commission on Post Secondary Accreditation and he is a member of the board of directors of the League for Innovation.

Dr. Watson was born in Santa Ana, Calif., September 27, 1915. He received his bachelor's degree from Pomona College in 1938; his master's degree from the University of Southern California in 1941. He attended Claremont Graduate School between 1944-46 then earned his doctor of education degree from Stanford University in 1951.

He and his wife Gwenda have three children: Mrs. Sandra O'Connell of Irvine, Calif.; Kevin of Costa Mesa; and Katherine of Irvine, Calif. The Watsons reside in Newport Beach.

AIR TRAVELERS SECURITY ACT

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. EDGAR. Mr. Speaker, I have decided today to cosponsor H.R. 2053, a bill introduced by my colleague from California (GLENN ANDERSON) which would overturn the Civil Aeronautics Board's recent decision in the so-called competitive marketing case. The CAB decision, overriding a finding by its own administrative law judge, would transform the travel agent system by eliminating the Air Traffic Conference's program of preventing nonaccredited agents from acting as agents for conference airlines.

This change in the system could drastically weaken the present worldwide transportation marketing system. The travel agent network and the reliability of interlining arrangements would be jeopardized. The universality of carrier representation would no longer be required, and the reliability and professionalism of the travel agent industry could be called into question.

The current system of accreditation came about several decades ago due to confusion and lack of consumer protection in the marketing of airline tickets. The Air Traffic Conference continues to provide convenience and confidence for air travelers throughout the United States and around the world. There are more than 22,000 travel agents across the United States, virtually all of them small businesses. An average of 1,000 new agencies open every year.

It is my fear that if the current framework of regulations for this industry were done away with the interests of the consumer and the small businessperson could well suffer while a few large companies might benefit. I have always been a strong supporter of deregulation in the field of transportation where it could be shown that general benefits to consumers and the general economy would be best served. I am not assured that this is the case with the travel agent industry and feel it is prudent to preserve a good, reliable system which has served us well over the years.

Very simply, H.R. 2053 would vacate the CAB decision on competitive marketing and reinstate the decision of Administrative Law Judge Ronnie Yoder which maintained the basic framework of the current air travel system. I believe this is a wise course to follow and I look forward to imminent approval of the measure by the Committee on Public Works and Transportation and the House.●

HIGHWAY SAFETY LEGISLATION: AGAINST DRUNK DRIVERS AND FOR OUR CHILDREN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. LANTOS. Mr. Speaker, I would like to address two issues that are major causes of death and injury on our highways. First, the installation and use of child restraint devices in automobiles is probably the most important step that can be taken to insure the health and well-being of our children. Automobiles are not designed for our young; current safety features are not adequate to protect children in cars.

Legislation, which I am sponsoring, would give States incentives to implement laws insuring proper safety restraints for children. Already many States mandate child seats for children under the age of 5, including my home State of California, my bill would encourage all States to adopt similar legislation. For the sake of thousands of children, I urge this Congress to act favorably on such legislation.

The second issue that I would like to discuss is drunk driving. Alcohol-related automobile accidents are the leading cause of death for young Americans between 16 and 24 years of age. For all Americans between 5 and 35 years old, automobile accidents are the No. 1 cause of death, and over half of these are caused by drunk drivers.

These statistics are devastating—1 out of every 2 Americans will be involved in an alcohol-related automobile accident in his or her lifetime. Some 25,000 people each year—71 people every day—die in automobile accidents in which alcohol is a contributing cause.

The problem of drunk driving is one that affects all of us, whether we drive after drinking or not. In some parts of the United States, it is estimated that 10 percent of all drivers on the highways on weekend nights have legally impaired abilities to drive or are drunk. A study by the Allstate Insurance Co. estimates that drunk drivers cost the American taxpayers $21 to $24 billion a year for increased costs of law enforcement, higher insurance rates, and other costs.

To help reduce this inexcusable and unacceptable carnage on our highways, I introduced in the House the Drunk and Drugged Driving Prevention Act. The bill has two important elements.

First, this bill provides incentives to States to establish a minimum drinking age of 21. Although young people between the ages of 16 and 24 comprise only 20 percent of the driving population and total vehicle miles traveled, they account for over 40 percent of all fatal alcohol-related accidents. Expanding the minimum drinking age to age 21 in all States would help reduce drunk driving and reduce the loss of life due to alcohol.

Second, the bill will increase the certainty and severity of punishment for those found guilty of drunk driving. Of every 200 drunk drivers on the road, at most only one is arrested. The probability of getting caught while driving under the influence of alcohol is slim. Furthermore, of those who are caught, few receive serious penalties.

My bill seeks to get at the source of the problem by encouraging States to enact laws against those persons selling alcohol to persons who are already legally drunk or who are minors. The drunk driver is not the only responsible individual in an alcohol-related accident—the bartender who sold the drinks, or the liquor store clerk who sold the bottle, bears some responsibility, and they too should be punished.

In addition, my bill provides incentives to the States to modernize traffic record systems in order to improve enforcement of highway safety rules and regulations. This will help insure better prosecution of those who violate drunk driving laws.

We must protect our children and remove drunk drivers from our roads. Mr. Speaker, once again I urge my colleagues to work to enact legislation affecting drunk driving this year.●

SALUTE TO OUR WINTER OLYMPIANS

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. McCANDLESS. Mr. Speaker, today, I would like to salute our 1984 winter Olympians. For while the Olympic flame which burned so intensely over Sarajevo, Yugoslavia, has been extinguished, the light of their achievements continues to burn in all of us who witnessed their performances.

They have made us proud to be Americans.

Through their individual quests for excellence, they embody the American spirit of demanding the best, and being satisfied with nothing less. They live the American virtues of discipline and dedication; hard work and perseverance; industry and self-sacrifice. In short, they exercise the American birthright of the freedom to become what you want to become.

By demanding the best in themselves, they challenge the rest of us to demand the same from ourselves. By striving to reach their fullest potential, they inspire us to develop fully the talents with which we each have been blessed. By persevering in the face of adversity, they remind us that adversity is best met by redoubling our efforts to overcome it, and that gratification seldom can be instant.

With their efforts and achievements, they urge us to greatness. To our youth, they are models, and establish the standards to which they someday will aspire. To all of us, they are proof that we can live our dreams. For that, we must thank them.

Perhaps most importantly, their performance in Sarajevo demonstrated that it is possible to compete, while coexisting peacefully. Let their demonstration serve as a reminder of this to the leaders of all nations.

I congratulate our winter Olympic team on its accomplishments, and wish them continued success in their future endeavors. They have conducted themselves admirably, and have made their families, their friends, and their country proud.●

TOLEDO, OHIO EXPERIMENT OF INTEREST

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. SIMON. Mr. Speaker, one of the places I turn each Sunday is Albert Shanker's column in the New York Times. Albert Shanker is the president of the American Federation of Teachers.

Recently he had a column in which he talked about the experiment in Toledo, Ohio. I am inserting that column in the RECORD because I think it is a significant development.

This Nation has been blessed by good leadership in both the American Federation of Teachers and the National Education Association.

What we need throughout the country is the kind of cooperation and vision and insight that the people of Toledo, teachers, administrators, and the public, have shown there.

WHERE WE STAND: UNION, MANAGEMENT SHARE RESPONSIBILITY—TOLEDO FINDS A WAY TO HELP TEACHERS

(By Albert Shanker)

There's much talk about improving the quality of teachers and about the problem of what to do with those who are not competent. Though there may be relatively few such teachers, most of the action on this issue is filled with confrontation and conflict . . . usually involving fights between teacher unions and school management as to whether tenure provisions should be weakened. These fights, no matter who wins in the end, are losers for public education. They undermine public confidence and stimulate support for tuition tax credits and other forms of aid to nonpublic schools.

At least one school district has done it differently and better . . . Toledo, Ohio. The district had gone through tough times. In the late 1970s the schools were frequently closed—a revenue shortfall and failed bond levy, a teachers' strike, snow closings. Relations between the school district and the union were bad for a long time. But in 1981 . . . before all the national fuss about education . . . the Toledo Federation of Teachers and the public school system decided to try to turn things around. Both the union and school management agreed that it was not in anyone's interest to have incompetent teachers on the job. What was needed was for teachers to be given plenty of help and support . . . but, given all that, those who couldn't make it should not be retained.

Those are easy ideas to agree to. What was and is unique about Toledo is that the teachers' union and the school system reached agreement that this was not to be just the responsibility of school administrators but, rather, the joint responsibility of teachers and administrators.

Just what does this mean in actual practice? There are two separate but related programs. One deals with newly hired and inexperienced teachers—interns; the second, with experienced teachers who are having great trouble.

The Toledo Federation of Teachers selects a number of outstanding teachers to serve as consulting teachers for a period up to three years. These teachers play a major part in training, helping and evaluating new teachers . . . and ultimately these consulting teachers make recommendations to a nine-member panel, an Intern Review Board, as to which new teachers should be retained and which should be told that they're just not good enough to be given permanent jobs in the system. The Board is made up of five teachers and four administrators. It makes recommendations to the school superintendent for final action.

Instead of the usual conflict, the Toledo plan assumes that joint governance and responsibility are better than confrontation. Second, it assumes that teachers are professionals, not mere workers in an educational factory. New teachers are strictly evaluated through peer review to make sure that only good teachers are retained. After the evaluation there is very little supervision or subsequent evaluation unless some serious problem becomes obvious at a later time.

Principals are freed to concentrate on schoolwide improvement. Teachers are helped and evaluated by others in their own field of specialization (there is an effort to match the specialty of the consultant to the specialty of the intern), usually not the case when the principal does it. And the principal is not torn between keeping morale high and holding teachers accountable.

Then there is the other aspect of the program. Experienced teachers who are obviously having great problems (in the view of the "building committee"—the other teachers in the school—and the principal) are placed in "intervention" . . . given one-on-one help from the consultants—their colleagues who are outstanding teachers. That help continues until the teacher has improved to the point of being successful at the job . . . or a decision is reached that the teacher can't improve sufficiently and termination is recommended.

The program is succeeding. It is popular with both teachers and administrators. After a period of failures to pass bond issues, the 1982 large bond issue was passed by 70% of the voters, the largest margin in the history of the city—a sure sign of public confidence in the schools.

Of course, there are problems. There are some questions as to whether a teacher union, which is supposed to protect its members, should play a role, a decisive one in many cases, in deciding not to retain someone. There are similar problems on the side of management. If teachers are to do the training, evaluation and a large part of the decision-making in who should be retained and who should not, many administrators feel the loss of an important part of their job. But, while they are uneasy with their new roles, both teachers and administrators agree that this system is better than the one they had before. Teachers are getting more day-to-day help . . . and only good teachers are being retained. Also, many parents who had placed their children in schools outside the city or in private and parochial schools are now bringing their children back to the Toledo public schools. And, any plan which enhances the professional status of teachers is likely to attract more highly qualified people to the school system.

The teachers' union and the Toledo school system saw what was happening. The system was going down fast. They've made very big and very daring changes. With the great demands for school improvement . . . and the threat of tax credits . . . other school systems and teacher organizations ought to give the Toledo plan a close look. Or come up with a model of their own which is based on cooperation rather than conflict, shared responsibility, enhanced professional status for teachers and a real bottom line of recognizable improvement.●

BARBER, SAY IT ISN'T SO

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. KEMP. Mr. Speaker, after 20 years as a leader in Congress and of the Republican Party, BARBER CONABLE has announced his plans to retire from the House of Representatives. When I learned of BARBER's retirement plans, I sent him this letter, which I would like to read into the CONGRESSIONAL RECORD.

> Barber, you are the epitome of what each of us is meant to be as a Member of Congress. You have maintained the highest principles of leadership integrity and dedication to the cause of good government and decent politics. But most important of all, I have always been able to count on your friendship, your leadership, and your example.
>
> As we have worked together for Western New York and the Country, your keen insights, combined with your knowledge and understanding of our Nation's legislative process have helped put America back on its feet looking towards tomorrow with renewed hope, optimism, and opportunity.
>
> When you leave the House, you will not only be missed by all your friends on both sides of the aisle, but by the Nation as well, which owes you a great debt of gratitude.
>
> Barber, say it isn't so! But if it is, thank you from all of us, and Godspeed to you, Charlotte, and your wonderful family."●

POLICE AND FIREFIGHTERS PENSION PLAN BILL

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. SHANNON. Mr. Speaker, today I am introducing legislation to correct an inequity which has resulted from the pension provisions of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). Those provisions tightened the restrictions on employee pension plans, and I think that for the most part they were good provisions, ones that will help insure that pension plans benefit employees at every level and do not just serve to enrich a few highly paid employees at the top. But one part of the provisions, the actuarial limit for early retirement benefits, would work a hardship in a very important group of employees: our police and firefighters.

Besides setting limits on the amounts that could be contributed tax-free to defined contribution plans, or received tax-free from defined benefit plans, TEFRA imposed a reduction on an actuarial equivalent basis in the cap on pension benefits allowed for those retiring prior to age 62. Before TEFRA, the actuarial reduction had begun at age 55.

What we overlooked in enacting these provisions was the fact that many police and firefighter pension plans allow retirement before age 62, and very often before age 55. Usually such plans allow participants to retire and collect benefits after they have worked a certain number of years, rather than at a certain age, and receive either full or early retirement benefits. This makes sense when you stop to think of the strenuous and often hazardous nature of a police officer or firefighter's job. Under the old rules, the pension limits were still comfortably above what these retirees might receive, even when they retired well before age 55. The limits imposed by TEFRA, however, could severely affect some of these retirees' pension plans.

The legislation I am introducing would allow police and firefighters to continue with their current pension systems by allowing the actuarial adjustments in the pension plan limitations for these employees to be made on the basis of age 55 rather than age 62. This change would apply to any plan benefiting full-time employees of a State or local police or fire department under which the period of service is taken into account in determining the amount of benefits and under which the employee must have 20 years of service to be eligible for benefits. The provisions would operate retroactively, as if they had been included in TEFRA.

All of us have police officers and firefighters as constituents, and we all know how important are the services of these dedicated and hardworking individuals. I hope that my colleagues will agree that it would do no disservice to the purpose of the TEFRA provisions to give these employees a break and allow them to keep their pension plans as they are.●

TRIBUTE TO PENN MOUNTAINS COUNCIL

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. HARRISON. Mr. Speaker, on February 29, 1984, hundreds of people in the Wilkes-Barre, Pa., area will gather to mark a monumental occasion in the history of Boy Scouting in northeastern Pennsylvania. The celebration will be centered on the 65th anniversary of Camp Acacnela, making it one of the oldest Scout camps in continuous operation in the United States.

The Penn Mountains Boy Scout Council provides a high quality scouting program for over 6,000 young people in Luzerne and Wyoming Counties. Today, over 100 community organizations provide Scouting programs for our youth. The Penn Mountains Council is an active agency of the Wyoming Valley United Way and the Wyoming County United Fund.

Mr. Speaker, it is my honor to pay tribute to them today to share the news of this major milestone with my friends and colleagues in the House.●

THE BRONX: ALIVE AND WELL

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. GARCIA. Mr. Speaker, for quite some time I have been expressing the virtues of the Bronx in New York. I have been pointing out the positive aspects of the Bronx, not just because I am the Representative from that district, but because I have grown up there and lived there all my life. Consequently, I know firsthand what potentials exist in the Bronx, both human and community. In this regard, I feel proud and confident of the Bronx when I receive letters like the one below from the wife of a Bronx businessman. Their determination to stay in the Bronx is reflective of a sense of hope and prosperity which is growing daily. I recommend the letter to my colleagues.

DOUGLASTON, N.Y.,
January 30, 1984.

Hon. ROBERT GARCIA.

DEAR SIR: This note is in reference to your letter to the editor of the New York Times concerning the South Bronx.

My husband's company, F. W. Honerkamp, Inc., has been in the Bronx since 1946. This company is 112 years old and moved to 940 Bryant Avenue in 1946 after leaving Lower Manhattan at 200 Lewis Street to make way for low-cost housing. Last year he sold the building to a customer and is now leasing a building from the city at 500 Oak Point Avenue. This business was started by his grandfather, then continued by his father, now my husband, two sons and we have 5 grandsons who may someday follow along.

I just thought you should know the South Bronx is alive and well despite my handout from campaign promises.

Sincerely,

RUTH HONERKAMP
(MRS. FRANK W.)

P.S. If you ever need plywood you know where to go now.●

SELECT COMMITTEE ON HUNGER

HON. KATIE HALL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mrs. HALL of Indiana. Mr. Speaker, I rise to congratulate the Members of this body on the adoption of House Resolution 15, to establish a Select Committee on Hunger. I am proud to be a cosponsor of this bill because I know that hunger is one of the fundamental moral issues facing this country today.

Contrary to the belief of the present administration, there is hunger in America in 1984. Acknowledging that hunger exists is only part of the solution. In understanding how and why hunger exists as well as analyzing the possible remedies and their ramifications, we can eradicate hunger from this Nation. Indeed, this is the purpose of the Select Committee on Hunger.

In my district, the First Congressional District in Indiana, the unemployment rate has reached as high as 22 percent. In some cities in the country, estimates project that as many as 20 percent of the unemployed are presently eating from garbage cans. It is true that there are Government programs in place to deal with the hunger in the country. But, it is also true that hunger still exists. Since jurisdiction on legislation affecting hungry people is currently split among many committees, the Select Committee on Hunger will provide a comprehensive solution.

As well as being deeply concerned about the individuals in the country who lack sufficient amounts of food, I am equally concerned about those individuals who are malnourished because of a lack of adequate nutrients in their diets. We are all familiar with the empty calories found in processed foods and we know that even though a child's stomach may be full, the nutrients necessary for the development of the child's mind and body may be lacking. We need to scientifically investigate the whole question of hunger and the dilemma of the undernourished.

Let us insist that hunger is a priority issue in America. And let us proceed to attack this complicated problem head-on. Again, I congratulate my colleagues on their role in eradicating hunger from America.●

PRIVATE RELIEF BILL FOR JOHN BEALS

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. SHANNON. Mr. Speaker, it is very rarely indeed that I introduce a private relief bill—but that is what I am doing today. One of my constituents is faced with a situation that can only be described as tragic, and this seems to be the only way of helping him.

This young man, John Beals of Maynard, Mass., enlisted in the Navy in March of 1983. He was given a physical at that time and received a clean bill of health. At the beginning of November, John went to a naval hospital complaining of pain in his right shoulder. No X-rays were taken; he was merely given a sling and a painkiller. A month later, after he had injured the shoulder after slipping in the shower, an X-ray was taken. A tumor was discovered, which proved to be malignant.

Just before Christmas, John went home for his brother's wedding and sought treatment at the VA hospital in Jamaica Plain. However, he was refused treatment there because his medical records had not yet been sent from San Diego. Finally he went to the Dana Farber Hospital, where it was found that the tumor had grown, that it had metastasized to his stomach, and that the biopsy site was infected. The doctors at Farber feel that the delay in treatment may have worsened John's prognosis.

Right now that prognosis does not look very good. Four chemotherapy treatments did little to reduce the tumor; he recently had surgery to remove it. He faces more surgery soon to amputate the entire right arm at the shoulder. He has also received antibiotic therapy to clear up the infection from the biopsy.

All this would be bad enough. But what makes this situation especially tragic, and makes legislative action necessary, is that the Navy has flatly refused to pay this young man's medical costs. It claims that the tumor was a "preexisting condition," not incurred during his service in the Navy—despite the fact that a Navy physician had certified him as healthy at the time he enlisted. Instead, it will simply give him a medical discharge with no disability rating.

Treatment for cancer is very expensive, and John's family does not have much money. The Jimmy Fund has awarded him $25,000, but that will run out eventually, and more will be needed. The fund will not award him a second grant; they feel this is the Navy's responsibility.

My staff and I have talked with Navy personnel, and have done our best to persuade them to show some compassion in this case—so far to no avail. I think that this is a disgraceful situation, one that we cannot in good conscience allow to go uncorrected. The bill I am introducing would deem John Beals eligible for medical benefits from the Navy for treatment of his illness. I hope that my colleagues will support me in providing him with the help he needs and deserves.●

FEDERAL SUPPORT FOR MASS TRANSIT

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Ms. FERRARO. Mr. Speaker, a little more than a year ago, Congress took a major step forward in terms of providing Federal support for mass transit by establishing the mass transit account within the highway trust fund. The mass transit account, which for the first time provides a stable and reliable source of funds for capital projects, was set up to fund a limited number of cost-effective new rail systems as well as for other uses such as the modernization and extension of existing rail systems.

More than $1.1 billion in discretionary section 3 capital grants, funded out of the mass transit account, will be awarded in the current fiscal year. However, because of the open-ended nature of the section 3 capital assistance program, local transit systems find it very difficult to develop orderly long-term capital plans.

I have introduced legislation, H.R. 4769, to provide greater predictability and stability in the section 3 program. The bill is very straightforward. It would establish minimum apportionments for both "new start" and "rail modernization" projects. Beginning in fiscal year 1985, no less than 35 percent of section 3 funds would be obligated for new starts and no less than 45 percent for rail modernization. The new starts percentage represents slightly more than these projects received in fiscal year 1984, while the rail mod percentage is a bit less than these projects received this year.

I believe that we need to take this action for two reasons. First, transit systems need this predictability if they are to plan and execute sensible, long-term, cost-effective capital improvement programs. Second, the present program not only hinders transit systems' efforts to develop coherent capital programs, it discourages American firms that wish to participate in the transit program.

Passage of this bill will still leave a lot of flexibility within the section 3 program. Twenty percent of the section 3 funds would be available for bus capital projects that cannot be funded out of section 9, or for other new start or rail mod projects. But at least both major claimants, the new start and rail mod systems, will know the minimum amount of money available over the life of the program. That knowledge should help them do what any sound business does—develop a baseline, multiyear capital budgeting plan.●

AUSTIN BLAIR

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. PURSELL. Mr. Speaker, on March 31, the friends of Austin Blair appropriately honor Michigan's great Civil War Governor by erecting official State historic markers in two communities directly associated with Governor Blair's life. This is a fitting tribute to a man who served the State of Michigan and the Nation faithfully and responsibly for many years.

Austin Blair, whose likeness is enshrined in our U.S. Capitol's Statuary Hall, served within these Chambers as a Member of the U.S. House of Representatives from 1867-73. In addition, Blair was cofounder of the Republican Party and later in life, served as regent of the University of Michigan.

At this time, I would like to insert in the RECORD some information concerning our former colleague's distinguished career.

As a young lawyer, Austin Blair was elected to his first political office in 1843, serving on the Eaton County Board of Supervisors. Destined 18 years later to become Michigan's ninth Governor and lead the State through the horrors of the Civil War, Blair displayed from the beginning of a long and distinguished career, his eagerness to serve.

Living with his new bride and young child in Eaton Rapids, the young attorney found himself 9 miles away from Charlotte, the county seat and the location of the board's meetings. During those days modes of transportation were scarce so Blair made use of his own resources. He walked. Historians, today, often refer to Blair's frequent treks across the prairie and through the woods, an effort he made solely to record the proceedings of the Eaton County's legislative body as county clerk.

Austin Blair was born February 8, 1818, in Tompkins County, N.Y. He attended Cazenovia Seminary and Hamilton College and was graduated as a Phi Beta Kappa from Union College in 1839. Two years later, after studying law, he was admitted to the Tioga County Bar.

In June 1841, Blair moved to Jackson and began practicing law. Following a 2-year residence in Eaton Rapids, Blair returned to Jackson where he became a successful attorney and made his home there the rest of his life.

Blair entered actively into politics as an antislavery Whig, supported Henry Clay for President in 1844, and was a member of the Michigan House of Representatives in 1846. He joined the Free Soil Party in 1848 and was a delegate to the Buffalo convention that nominated Martin Van Buren for President. The next year he married his third wife, a widow, who bore him a daughter who died in infancy, and four sons.

In 1854, Blair was "under the oaks" in Jackson as leader in the gathering that formed the Republican Party. He ran under that banner to win a 2-year term as a State Senator in 1855-56. One of his chief thrusts in the legislature was to obstruct enforcement of the Federal Fugitive Slave Law of 1855. The "Underground Railroad" was in full swing and Michigan led in the opposition to the Federal statute that enforced slavery.

Blair was chairman of the Michigan delegation to the Republican National Convention in 1860 and worked hard to nominate William H. Seward for President. Following Seward's defeat, Blair declared that he and Michigan still favored that "great statesman," and would now follow him "in the grand column which shall go out to battle for Abraham Lincoln of Illinois."

In that same year Blair was elected Governor of Michigan, and less than 4 months after he took office, the Nation plunged into Civil War. In his inaugural address in Lansing on New Years Day, 1861, Blair warned that the Union "must be preserved and the laws must be enforced in all parts of it at whatever cost," adding that "secession is revolution and revolution is the overt act of treason and must be treated as such."

Lincoln had been in office less than 5 weeks when Blair got a telegram from the War Department of April 15 at his home in Jackson. It asked that Michigan furnish a regiment of 10 companies as its share of a force Lincoln was asking the States to supply to the war effort.

The legislature, already in recess, had authorized Blair to raise such a force but had not appropriated funds to pay for the recruiting. Blair, realizing formal action would take too long, got Detroit and outstate businessmen to donate funds and within a few days had $81,020 to back up his call to arms. On May 13, the foot soldiers from the Wolverine State boarded steamships for their ride to Cleveland where they hopped a train for the Nation's Capital. Ten days later, they occupied Alexandria, Va.

Blair served three terms in the U.S. House of Representatives after the war but lost a bid for nomination to the U.S. Senate. In 1872, he joined the Liberal Republicans and campaigned for Presidential candidate Horace Greeley. Greeley lost, and Blair, himself, was overwhelmingly defeated as the gubernatorial candidate on a fusion ticket backed by Liberal Republicans and Democrats. He returned to the GOP by 1880 but was unsuccessful in his bid for the Michigan Supreme Court. His last public service was as regent of the University of Michigan.

Blair died in Jackson on August 6, 1894.●

THE IMPORTANCE OF FIRE SAFETY EDUCATION: THE LESSON LEARNED BY SHAWN RYAN

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. STARK. Mr. Speaker, I would like to take this opportunity to congratulate 7-year-old Shawn Ryan of Hayward, Calif., for a courageous achievement in saving his mother and many other lives during a recent apartment building fire.

At around 4 a.m., February 10, Shawn was awakened by the smell of smoke coming from his parent's bedroom in their apartment. Because he had been counseled on fire safety techniques, Shawn had the presence of mind to make his way to the bedroom, where he found his mother nearly unconscious on a burning matress, awakened her and led her outside of the second floor apartment. However, his mother went back inside to call 911, but got lost in the smoke on her way out. Shawn entered the building and again helped his mother to safety.

Seeing the flames spread to the third floor, Shawn then got a wet towel, wrapped it around his face and started knocking on doors of the 10-unit building. Some 18 residents were able to get out in time.

This is a very courageous act for a remarkable young man. This example points out the importance of education in fire safety to young people. The act has also set an example for both students and adults. It is the kind of example that inspires the entire Nation.●

XIV OLYMPIC WINTER GAMES

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1983

● Mr. FIELDS. Mr. Speaker, the 14th Olympic Winter Games are now history.

I believe every American joins with me in applauding the efforts of the fine young men and women who represented our Nation in Sarajevo.

While we may not have won the most medals, what is important is that our athletes participated in these games to the best of their ability and that they represented us with class and distinction.

Nevertheless, as I watched these games, I was distressed to again learn that many of our athletes came to those games in Sarajevo with one hand tied behind their backs.

For example, Jack Whittaker, a highly respected sports commentator, highlighted the problems facing our cross-country skiing and biathlon teams. He noted that the entire budget for our biathlon team was $100,000 which is a figure barely enough to cover travel expenses to international events.

In addition, the American people were told of the plight of our bobsled team and the fact that they had to purchase just prior to the games themselves, a spare sled from Switzerland so that they could attempt to effectively compete.

Finally, it has become a well-known story that one of our two speed-skating facilities in West Allis, Wis., is once again on the edge of closing because of a lack of sufficient financing.

Mr. Speaker, I believe this situation is deplorable. It is time for this Congress to provide some assistance to the young men and women who represent us with such distinction in international competition. It is time that we provide them with the tools, the facilities, and the funding so that they can effectively compete with athletes from other nations—all of which receive direct governmental support.

While I am not suggesting direct Federal appropriations, I am strongly suggesting that we enact the Olympic Checkoff Act, H.R. 1984.

With the passage of this legislation, we can insure, at no cost to the Federal Government, that no future U.S. Olympic team nor amateur athlete in this Nation is denied the opportunity to effectively compete.

I urge the enactment of H.R. 1984.●

NATIONAL WOMEN'S HISTORY WEEK

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1983

● Mr. MATSUI. Mr. Speaker, I am proud to draw the attention of my colleagues to a unique exhibit intended to emphasize the contributions of black, Asian, white, Hispanic, and Indian women in America. In honor of National Women's History Week, March 4-10, 1984, the California Black Cultural Assembly has brought together over 70 panels of paintings, prints, illustrations, and photographs depicting the role, contributions, and achievements made by women through struggle. The exhibit, which features achievements in the fields of science, literature, education, judiciary, government, arts, business, and industry, will be permanently housed in Sacramento, Calif., and can be seen by all who reside and visit the area.

"An Achievement Against the Odds Ceremony" and reception at the California State Capitol in Sacramento on February 29, 1984, will recognize the hard work and determination that went into collecting this material from national and State organizations. Without the fine insight and support of some very dedicated and concerned individuals, Mr. Speaker, this program would never have been possible.

By highlighting the contributions and achievements made by women of all ethnic backgrounds—including those women well known and those seldom recognized—this exhibit can only heighten our appreciation for women's role in the history of this great country. Furthermore, by demonstrating the accomplishments made by women against the tremendous obstacles of discrimination and racism they have faced, this exhibit encourages all young Americans to excel in their chosen fields of endeavor.●

ALAMEDA COUNTY EASTER SEAL SOCIETY HUMANITARIAN OF THE YEAR AWARD

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. DELLUMS. Mr. Speaker, I would like to bring to the attention of my colleagues the following statement of the Easter Seal Society, which describes the fine work of Mr. Stephen D. Bechtel, Sr., and announces his selection as Humanitarian of the Year by the Easter Seal Society of Alameda County.

The statement follows:

The Easter Seal Society of Alameda County has named Mr. Stephen D. Bechtel, Sr., as the eighth Humanitarian of the Year.

Each year the society considers citizens who have either made a significant contribution to helping people in making a difference in the lives of others less fortunate, or who throughout the years have been involved in supporting Easter Seal.

Mr. Bechtel's personal and professional honors are numerous. He was named one of the Top Ten Construction Men of the past half century by the American Society of Civil Engineers, was selected for membership in the Hall of Fame for Business Leadership by Fortune Magazine, and received the American Academy of Achievement's Golden Plate Award.

Mr. Bechtel, who is presently senior director of the Bechtel Group of Companies, has made contributions to many international and community organizations such as the Bechtel International Center at Stanford University; the School of Engineering at the American University of Beirut; the Graduate School of Management-Brigham Young University; the Center for Middle Eastern Studies of Harvard University; the Monterey Institute of International Studies; the University of California at Berkeley; the Bechtel International Center at the University of the Pacific; Golden Gate University (San Francisco); the University of San Francisco; Pepperdine University, Malibu, Calif.; the University of Santa Clara; and Head Royce School and Mills College, both of Oakland; the Easter Seal Society of Alameda County; Alta Bates Hospital, Childrens Hospital Medical Center of Northern California, the Merritt Peralta Foundation, and the American National Red Cross, the U.S. Olympic Committee; the American Academy of Achievement; the YMCA and YWCA; Boys Clubs, Boy Scouts, and Junior Achievement; the Oakland Symphony, the Paramount Theatre Oakland, the Oakland Ballet, the Oakland Museum, the International Host Committee of California, American Conservatory Theatre, the San Francisco Opera Association, the San Francisco Ballet Association, the San Francisco Symphony Association, the World Affairs Council, the California State Parks Foundation, and the National Audubon Society.

Mr. Stephen D. Bechtel, Sr., is an outstanding citizen who has given unstintingly of his time, talent, and concern for the advancement of opportunities for the people of our community.●

COMMEMORATING LITHUANIA

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mrs. SCHNEIDER. Mr. Speaker, I rise to join my colleagues in recognizing the 733d anniversary of the founding of the Lithuanian State in 1251. Throughout turbulent periods of European history, Lithuanians have maintained their nationalistic pride in the face of occupation and domination from other nations. It has now been 66 years since the independent State of Lithuania was restored at the close of World War I. That independence was ended by the redrawn map emerging from the rubble of a war-torn Europe, and Lithuania was absorbed into the Soviet Union. Yet the spirit of independence and the memory of Lithuanian sovereignty remains in the hearts of its citizens wherever they may be.

We recognize that the geographical location of the Baltic States has resulted in their being viewed as prizes in territorial wars. The United States has never recognized the annexation of Lithuania, Latvia, and Estonia by the Soviet Union. The hopes of many sons and daughters of the Baltic States that their countries will once again be sovereign nations burn most brightly on the anniversary of their independence. We take this opportunity today to share the hopes of the Lithuanians, and of people everywhere, to live free of foreign domination.●

DRUG TRAFFICKING IN THE PACIFIC COMMUNITY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. GILMAN Mr. Speaker, under the leadership of the distinguished gentleman from New York (CHARLES B. RANGEL), chairman of our Select Committee on Narcotics Abuse and Control, of which I am the ranking minority member, last month, our select committee visited the drug-producing, trafficking, and financial centers of Hong Kong, Thailand, Burma, Pakistan, Turkey, and Italy.

During the course of that mission, I also had the opportunity to participate in a security conference pertaining to the Soviet intrusions into the Pacific region which was sponsored by the Pacific Community Institute and the Asia and World Institute that was held in Seoul, South Korea from January 19 to 22, 1984. The conference was chaired by my colleague and former chairman of our Narcotics Select Committee, Lester Wolff.

Representatives from Indonesia, Japan, Taiwan, and Thailand attended the conference. Attendees from the United States included our distinguished colleagues, the gentleman from New York (JOE ADDABBO), the gentleman from Alabama (BILL DICKINSON), the gentleman from New York (NORM LENT), the gentleman from Maryland (Chairman LONG), and the gentleman from Guam (TONY WON PAT). During the conference's deliberations, I presented a paper on narcotics trafficking in the Pacific region and discussed the Soviet incursion into Afghanistan which has opened up the floodgates of opium that is being produced and trafficked from Southeast Asia.

While in South Korea, I also met with personnel from our Drug Enforcement Administration, State Department, and military troops stationed in South Korea.

South Korea, which is the largest producer of illegal methaphetamine (a stimulant, "speed") in Asia and supples approximately 90 percent of this mood-altering substance to Japan, has apparently become a transshipment point for narcotics originating from Thailand With respect to drug abuse among our troops stationed in Korea, I have been informed that methaphetamine and marihuana are the most frequently abused drugs by our Armed Forces personnel.

Mr. Speaker, in an effort to inform my colleagues of the growing problem of drug trafficking in the Pacific region, I am including at this point in the RECORD, the complete text of my statement that was delivered at the conference and urge them to continue to support international efforts to combat narcotics trafficking and drug abuse:

The statement follows:

STATEMENT BY REPRESENTATIVE BENJAMIN A. GILMAN

Mr. Chairman, Co-Chairmen, distinguished participants and my colleagues, I am delighted and honored to have this opportunity to appear at this Security Conference of the Pacific Community Institute and the Asia and World Institute to discuss with you the impact of narcotics trafficking and drug abuse in this part of the world, and its impact on national and foreign policies of the nations of the Pacific Community. It is a special pleasure for me to once again join with our distinguished colleague, the Chairman of this Conference and former Member of Congress, Lester Wolff, whose leadership and dedication to combatting narcotics trafficking is known world wide and who, as a Member of Congress, helped create the House Select Committee on Narcotics Abuse and Control, of which I now serve as the Ranking Minority Member.

I have just returned from Islamabad, Pakistan where our Narcotics Select Committee, chaired by my distinguished colleague, Charles B. Rangel of New York, was on the last leg of its fact-finding mission to the drug producing, drug trafficking and the drug financial centers of the world, specifically Hong Kong, Thailand, Burma, Pakistan, Turkey and Italy. We met with the leaders of those nations and saw first hand, in the poppy fields, the enormous quantities of opium that are produced in that part of the world.

As a result of our mission to the subcontinent of Asia, I wish I could report to you that the drug trafficking situation is being reduced. To the contrary, it is getting even more critical. The Soviet incursion into Afghanistan has opened up the floodgates of opium that is being produced and trafficked from Southeast Asia. The influx of more than two million refugees along the Afghan-Pakistani border intensifies the drug trafficking operations, including the trading of drugs for guns. The central governments of Afghanistan and Pakistan are unable to effectively combat the drug traffickers, and the Soviet Union, which, contrary to public pronouncements, has a substance abuse problems among its own citizens, is doing little, if anything, to combat narcotics trafficking in that region.

Similarly, in the Golden Triangle region of Burma, Laos and Thailand, the central governments are unable to control the territory where illicit opium is produced. Iran's war with Iraq has provided a favorable environment for increased Iranian narcotic production and trafficking. Hostilities in Lebanon have allowed the Hashish production and trade in the Bekaa Valley to flourish. Consequently, drug trafficking and drug abuse have reached epidemic proportions throughout the world. Interdicting narcotics trafficking, eradicating the illicit production of drugs at their source, alerting the world's citizenry to the dangers of drug abuse, and treating and rehabilitating those who have become dependent upon drugs is a staggering, global problem.

The Bangkok Post, on January 14th, 1984, reported that "not less than 100 tons (100,000 kilos) of pure and unadulterated heroin are up for sale annually and of this, less than 10 tons are interdicted by the authorities." The Post commented: "to rid the world of this danger, more terrible than nuclear warheads because it destroys imperceptibly from within, it is imperative that governments and policy makers in every national capital should come to grips with reality."

No nation, regardless of its political ideology or socio-economic status is immune to the devastating and debilitating effects of drug abuse or from the insidious drug merchants who profit from human suffering. Virtually every region of the world—from North America to Latin America, from Europe, Africa and the Middle East to the Orient and Oceania—has become a victim to drug trafficking and drug dependency. And in every region there can be found major narcotic distribution hubs and financial centers for international narcotic syndicates.

Narcotics are destroying our youth, corrupting our public officials and threatening the security of our nations. Narcotics refining and trafficking feed on and encourage corruption, destabilizing national politics and national economies. Insurgency and drug trafficking often go hand-in-hand as the profits of narcotics finance the purchase of guns.

The Asian Wall Street Journal of January 10, 1984, in commenting on the heroin feeding Asia's growing drug habits, reported that Asia now has many more heroin addicts than does the United States and that the region's drug habit has been fed by a glut of heroin in East Asia.

The United Nations Commission on Narcotic Drugs recently reported the continuing spread of drug abuse in Australia, Bangladesh, Burma, India, Indonesia, Japan, Malaysia, Pakistan, the Philippines, the Republic of Korea, Signapore, Sri Lanka and Thailand. For example, there are over 5,700 heroin addicts registered in Burma; 32,900 in Hong Kong, over 65,000 in Malaysia, and approximately 5,200 in Singapore. In Thailand, the number of addicts is presently estimated to be between 400,000 and 600,000. In Pakistan, there are an estimated 30,000 heroin addicts; an estimated 150,000 abuse cannabis resin and 50,000 abuse Mandrax. In the United States, there are an estimated 500,000 addicts in drug treatment centers. Obviously, drug abuse is note confined to the consuming countries . . . the drug producing nations are fast becoming victim nations as well as drug consuming nations. We have received alarming reports from these nations regarding extensive use of drugs among their citizens, particularly among their youth.

The Golden Triangle area of Thailand, Laos and Burma and the Golden Crescent area of Afghanistan, Pakistan and Iran comprise the major areas of opium production in the world, and our statistics are only the tip of the drug problem. The consumption data does not and cannot account for the unknown number of abusers who are not reported as drug addicts. The reports cannot include those who are not registered in drug treatment centers or who are physically and psychologically dependent upon amphetamines, barbiturates, tranquilizers or who are cross-addicted to pills and alcohol. The data does, however, reflect what we all know: that narcotics trafficking is not limited to the Pacific community of nations but is a worldwide, multi-billion dollar business activity that knows no boundaries, political ideologies or competing economic systems; and that it adversely affects the health and well-being of our citizens.

Given the political instability in the Middle East, the difficult task of the central governments in the Golden Crescent of Afghanistan, Iran and Pakistan and the Golden Triangle of Burma, Laos and Thailand, to control the illicit production of opium, and given reports of increased illicit opium production from the Golden Triangle, there is an urgent need to formulate a comprehensive, coordinated regional strategy here in the Pacific. Our achievements in crop control and interdiction in recent years have been only marginal in reducing the availability of heroin, cocaine and marihuana.

As a United States representative to the 36th session of the United Nations General Assembly, I had the opportunity to help draft the U.S. initiated resolution creating an international drug control strategy and basic five-year program of action that was adopted by the General Assembly in December of 1981. Hopefully the Pacific nations will support the global drug strategy by providing the necessary resources, personnel and funds to implement the strategy and to monitor its activities. Seven years ago . . . in December of 1977 . . . our distinguished Chairman, Lester Wolff, when he was a U.S. representative to the 32nd U.N. General Assembly, helped draft a U.S. initiated resolution inviting the United Nations Fund for Drug Abuse Control (UNFDAC) to work with the World Health Organization and other U.N. agencies to identify and demonstrate the best techniques for drug abuse prevention and for treating and rehabilitating drug abusers.

With respect to the U.N. Drug Fund, last year, only 42 nations or 13 percent of the 157 member nations comprising the United Nations, contributed a paltry $6,719,229 to the U.N. Drug Fund or an average of nearly $200,000 per nation; private contributions amounted to $581,929 for a grand total of $7,301,158. Only nine nations—Australia, Canada, France, the Federal Repubic of Germany, Italy, Japan, Norway, Sweden, and the United States—contributed $100,000 or more to UNFDAC for 1982. With respect to the Pacific community nations, last year Australia contributed $141,509 to the U.N. Drug Fund; Japan, $300,000; Malaysia, $5,000; the Philippines, $4,000; and the Republic of Korea, $2,000 for a total of $452,509.

Given the global dimensions and rapid growth of narcotics trafficking, its hundreds of billions of dollars in untaxed revenues, its impact on the integrity of governments and the debilitating effects of drug trafficking on so many of our citizens throughout the world, surely the international community has the capability of contributing more than a few million dollars to the United Nations Drug Fund to help wage a global "war" on drug abuse and to commit itself to a global drug strategy.

It is heartening to point out that there are some significant achievements in combatting drug trafficking. For example, the current efforts of Yugoslavia in beefing-up two of its border stations along the Bulgarian and Greek borders will help stem the flow of illicit drugs from the Middle East across its borders into Western Europe and points beyond. Yugoslavia, which seized more heroin in 1980 than any other European nation, has 8,000 reported drug addicts. Its Federal Customs Administration has formally requested funding assistance from the U.N. Fund for Drug Abuse Control. This is obviously the very type of activity for which the U.N. Drug Fund was established, and it is clearly in our best interest to do whatever we can to assist in halting the flow of heroin, cocaine, marihuana and other dangerous drugs. Unlike Yugoslavia, the Soviet Union and the People's Republic of China have not contributed a single red cent to UNFDAC, which was created in 1971.

In an effort to prod nations of the international community to help combat narcotics trafficking, the U.S. House of Representatives Narcotics Select Committee working with the Foreign Affairs Committee recently adopted the Rangel-Gilman-Hawkins amendment to our foreign assistance legislation, which President Reagan has now signed into law, authorizing the President to suspend economic and military assistance to those nations that fail to take adequate steps to curtail the illicit production and trafficking of drugs destined to the United States.

In determining whether a nation has failed to take "adequate steps" to prevent controlled substances from entering the United States, we must consider all of the efforts being made by a nation receiving U.S. assistance to meet its obligations under international law, including law enforcement measures to eliminate their illicit cultivation, manufacture and trafficking of drugs. Such nations must be committed to a plan (including its implementation) to contol the production and distribution of illicit drugs, and the President is required annually to transmit to the Congress a detailed report describing the policies adopted, agreements concluded, and programs implemented by the State Department pursuant to its delegated responsibilities for international narcotics control. The report must also include plans, programs, and timetables adopted by nations receiving our assistance and the accomplishments achieved by those nations.

During this conference I would hope our participants would consider:

How the Pacific nations can influence the People's Republic of China, the Soviet Union and its East European satellites that it is the their interest to join with us in combatting narcotics trafficking and drug abuse;

How the Pacific nations can effectively, in regional cooperation, combat the onslaught of the illicit drug trafficking that is causing so much misery to our citizens;

How we can help raise the consciousness of our citizens regarding the dangers of drug abuse;

How the Pacific community can help raise the profile regarding the seriousness of narcotics trafficking and drug abuse within their own nations and within the U.N. General Assembly and other agencies of the U.N.; and

How we can satisfactorily respond to these issues when leaders throughout the world apparently do not perceive the magnitude of the drug problem (and in some instances are not willing to admit the existence of a domestic drug problem).

In order to prevent and control drug abuse, the Pacific nations must first recognize the magnitude and seriousness of the drug problem and the urgency (A) to elevate this problem to a higher level of priority, (B) to pool our resources and act in a concerted, cooperative manner, (C) to formulate a comprehensive, coordinated, multifaceted regional drug strategy, and (D) to implement that strategy with sufficient resources to effectively wage "war" on this scourge of all mankind.

Until the nations of the Pacific community realize that it is in their best interests . . . their national security interests . . . to achieve these goals, then the "war" on narcotics trafficking and drug abuse will surely be lost and the human misery for millions of drug abusers will continue unabated. If that occurs, then tragically the Pacific community and indeed the world will gradually sink into becoming a drug-oriented society.●

PERSONAL EXPLANATION

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. SYNAR. Mr. Speaker, on the afternoon of Thursday, February 9, 1984, I was away from Washington and, as a result, was necessarily absent for three votes of the House. Following is an explanation for the RECORD of how I would have voted, had I been present and voting:

Rollcall vote No. 25: Conference report on S. 1340, Rehabilitation Act amendments. "Yea."

Rollcall vote No. 26: House Resolution 429, rule for consideration of H.R. 2899, EPA R&D authorization. "Yea."

Rollcall vote No. 27: H.R. 2899, final passage, H.R. 2899, EPA R&D authorization. "Yea."●

FETAL PAIN

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. SILJANDER. Mr. Speaker, on Thursday, February 9, I introduced a bill that deserves the bipartisan support of all the Members of this body. The bill I have introduced calls for the informed "freedom of choice" for women to decide if they wish their unborn child to receive anesthesia for the relief of the pain caused to that child during abortion.

For my proabortion colleagues I would like to emphasize from the outset that this bill does nothing to change the Supreme Court's 1973 decision making abortion legal for all 9 months of pregnancy. The bill does not require that a parent use anesthesia if she chooses not to. All it requires is that the physician who is to perform the abortion inform the parent that the anesthesia is available for the relief of the pain her unborn child will feel, if the child is past his or her eighth week since conception.

Medical doctors and scientist have proven that the physiological development of the unborn child is such that by the eighth week of pregnancy the human fetus probably experiences organic pain. They have demonstrated clearly that by the 13th week of pregnancy the unborn child definitely feels pain. Out of the 1½ million abortions performed each year in this country half take place after the 7th week and several hundred thousand take place each year after the 13th week of pregnancy.

Perhaps some colleagues feel that a woman should have a right to an abortion, but surely they do not feel that the fetus should suffer throughout the abortion. I have heard many of these colleagues argue eloquently against inflicting pain on laboratory animals or Department of Defense test animals, and I cannot believe that they would not want to extend the same protection to members of their own species. As the findings in the bill state, the Government asserts a legal interest in the humane disposition of animals. Certainly we should assert a similar interest for the unborn human child.

I think if all of the Members of the House review the facts that they will have no hesitation to support this bill, and in fact, may have second thoughts about their support for abortions, at least past the seventh week. The unborn child develops at a remarkable pace from conception. Within 3 to 4 weeks the heart is beating. By 5 to 6 weeks the childs brain is functioning and sending brain waves that can be recorded. By the 8th week various levels of the central nervous system are functioning and by the 13th week the entire central nervous system is functioning. Perhaps many of you have seen the tiny feet lapel pins that many prolife people wear. They show the detailed development of the unborn child's feet at only 10 weeks. The entire child's body is formed early in the first trimester. In fact, as Dr. Wilke put it, "Nothing is added from the moment of conception until the time the old man dies, except nutrition."

Mr. Speaker, at this point I insert a legal memorandum submitted by Thomas J. Marzen and Burke Balche of Americans United for Life. AUL is a Chicago based group of lawyers who have dedicated themselves to the legal defense of unborn or handicapped children, the aged and infirmed, and all others whom the prolife movement reaches out to. They are greatly respected by all those who read their work. The "Statement on the Evidence for Fetal Pain" shows the rationale for this legislation and its legal basis in the law.

Statement on the Evidence for Fetal Pain

THE DETECTION AND MECHANISM OF PAIN

It is relatively simple to conclude pain exists if the subject is able to verbalize to a physician that "it hurts here or there." But if the subject cannot communicate his or her pain through words—for example, if it is a dog or cat, or if human, if he or she is an infant or is comatose—then the physician faces a problem: How can pain be detected in a non-communicative subject?

To overcome this problem, physicians must—and do—rely on other criteria to detect pain. Specifically, physicians must look for organic, as opposed to physchological, pain. Psychological pain results when an individual can anticipate or imagine harmful or unpleasant sensations. Organic pain is a physiological and neurological response to noxious stimuli. Liebeskin, JS, Paul, LA: Psychological and Physiological Mechanisms of Pain. Am Rev Psycho 28: 42, 1977.

Organic pain results when a noxious force or substance stimulates special pain receptors and that stimulus passes through the neural pathways of the central nervous system to the thalamus in the brain. Noxious stimulation of the central nervous system may produce a reflexive response or a more sophisticated aversive response.

Reflexive responses involve only the spinal column, and the reaction is then simple and direct—of the type that occurs in the leg when the knee is tapped with a light hammer. The thalamus and cortex of the brain are not involved in reflexive responses.

On the other hand, aversive responses involve the whole central nervous system, including the thalamus. Aversive responses are the body's attempt to escape from or avert painful stimuli. Collins, V: Principles in Anesthesiology. Philadelphia: Lea & Feberger, 1976, pp. 906-934.

Neurologists conclude that a non-communicative subject, such as a human fetus, senses organic pain when: 1) the requisite neurologic structures are present to sense noxious stimuli, and 2) the subject responds aversively to noxious stimuli.

FETAL DEVELOPMENT AND THE ABILITY TO SENSE PAIN

A fetus can sense organic pain when the pain structures within the central nervous system are developed and functioning. Induced abortion will cause pain to a fetus with a functioning central nervous system if the method used stimulates the pain receptors and excites the neural pathways. Dilatation and evacuation (D & E) and saline instillation are two abortion methods capable of stimulating pain receptors and exciting neural pathways.

The requisite pain stuctures are in the central nervous system. Special pain receptors (nociceptors) are located in free nerve endings that are scattered throughout the body. Nociceptors are sensitive to pressure, mechanical stress (that is, stress that results when body tissue is punctured, crushed, or broken), heat, and chemical invasion. When a nociceptor is excited by a noxious stimulus, it discharges. As a result, an electrical impulse passes through a connecting nerve fiber and travels to the spinal cord. Neurons within the spinal cord act as elevators, lifting the incoming signal to the brain. Upon arrival at the brain, the impulse enters the thalamus and eventually may reach the cortex. (The thalamus is the end organ for the sensation of organic pain. The cortex may participate, but only to supply the psychological reactions and directed physical responses to pain.) The thalamus, and sometimes the cortex, fire new impulses outward. These signals spur motor nerves into action to initiate the body's response to pain. See generally Mountcastle, VB: Pain and Temperature Sensibilities. In Mountcastle, VB (ed): Medical Physiology. St. Louis: CV Mosky Co, 1980, pp. 391-427.

The requisite pain structures of the central nervous system exist in a human fetus perhaps as early as eight weeks, but certainly by 13½ weeks. Sensory nerves, including nociceptors, may reach the skin of the fetus by the ninth week of gestation. The first detectable brain activity in response to noxious stimuli occurs in the thalamus between the eighth and tenth weeks. The movement of electrical impulses through the neural fibers and spinal column takes places between eight and nine weeks gestation. Reinis, S, Goldman, JM: The Development of the Brain. Springfield: Charles C. Thomas, 1980, pp. 223-235.

Concurrent with the development of the sensory structures is the emerging responsive behavior of the fetus. By the end of the seventh week, a tap on the mouth of the fetus will cause the lips to draw back. By ten weeks, the palms of the hands are sensitive to touch, and at eleven weeks the face and extremities likewise respond to tactile stimuli. Reinis & Goldman, p. 252. By thirteen and a half weeks, organic response to noxious stimuli occurs at all levels of the nervous system, from the pain receptors to thalamus. At that point, therefore, the fetal organic response to pain is more than a reflexive response. It is an integrated physiological attempt to avert the noxious stimuli. Collins, pp. 922-923. In sum, various parts of the central nervous system function at least as early as eight weeks, and by thirteen and a half weeks the central nervous system functions as a whole in all parts of the body except in the skin at the back of the head. Thus, perhaps by eight weeks, and definitely by thirteen and a half weeks, the fetus is sensitive to organic pain. Reinis & Goldman, p. 232.

Medical literature includes descriptions of fetal reactions that are indicative of the experience of organic pain. In response to experiments performed on twelve to sixteen week fetuses, movements of the head, body, and limbs have been observed. These movements were vigorous, and consisted of ventro- or dorsoflexion of the trunk, flexion of the limbs, and turning of the head. Westin, B, Nyberg, R, Enhoring, G: A Technique for the Perfusion of the Previable Fetus. Acta Paediatrica, 47:339, 1958. These indicate the presence of acute fetal pain.

ABORTION AS A SOURCE OF FETAL PAIN

Any form of abortion that excites nociceptors and/or stimulates neural pathways represents a noxious stimulus. Thus, such an abortion would exact organic pain if done on a fetus whose central nervous system is functioning—that is, at least if done on a fetus at thirteen and a half weeks or any time thereafter. Abortions by dilatation and evacuation (D & E) and by saline amnioinfusion represent examples of abortion methods that impose noxious stimuli that cause organic pain in a pain sensitive fetus.

D & E abortions are performed after the twelfth week of pregnancy (and are performed up to and including the period of viability) when fetal bones are too large and brittle and the size of the fetus is too great for standard first trimester abortion techniques. D & E involves the progressive dismemberment of the fetus prior to extraction in order to facilitate removal of the fetal parts from the uterus. Benson, RC: Handbook of Obstetrics and Gynecology. Los Altos: Lange Medical Publications, 1980, p. 434; Cates, Jr., W: D & E after 12 Weeks: Safe or Hazardous? Contemp Obstet Gynce 13:23, 1979. The slicing and crushing involved in dismemberment of the fetus in D & E abortions would obviously excite pain receptors and stimulate the neural pathways, thereby evoking an aversive response in a fetus whose central nervous system is functioning.

Abortions by saline amnio-infusion are performed after the fourteenth week up to and including the period of fetal viability. Second Trimester Abortion: A Symposium by Correspondence. J Reprod Med 16:2, 1976, pp. 47, 56. The procedure involves the insertion of a hypodermic needle into the amniotic sac to remove the amniotic fluid. In return, a hypertonic (highly concentrated) solution of sodium chloride is injected into the sac. The solution disrupts the placenta, causing fetal expulsion in up to 48 hours after the time the solution is injected. Benson, p. 437. During that period, the corrosive effects of the saline burn away the upper skin layers of the fetus. The esophagus and mouth are also burned when the fetus swallows amniotic fluid polluted by the saline. By the time the fetus is expelled there is extensive edema and submembranous degeneration. By changing the surface of the fetus in this fashion, saline would excite pain receptors and stimulate the neural pathways of a functioning central nervous system during the course of the abortion and until the fetus dies. Affidavit of William Matviuw, M.D., ¶12(b). *Charles* v. *Carey*, No. 79 C 4548 (N.D. Ill. opinion date Oct. 14, 1983), *appeal filed sub. nom. Charles* v. *Daley*, No. 83-3175 (app. filed Dec. 2, 1983).

CONCLUSION

Perhaps as early as eight to ten weeks gestation, and certainly by thirteen and a half weeks, the human fetus is capable of experiencing organic pain. Between the eighth and tenth weeks the thalamus begins to emit special brain waves in response to noxious stimuli, thereby indicating the existence of thalamic function. Because a functioning thalamus evokes organic suffering, the fetus between eight to ten weeks thus may suffer when exposed to noxious stimuli. But certainly by thirteen and a half weeks the fetus aversively reacts to noxious stimuli with integrated responses at all nervous system levels. The total organic response at that point is definitely more sophisticated than mere reflex. Thus, it is certain that a fetus senses organic pain at least by thirteen and a half weeks gestation.

Induced abortion will cause pain to a fetus with a functioning central nervous system if the method used stimulates the pain receptors and excites the neural pathways. Dilatation and evacuation (D & E) and saline instillation are two abortion methods that stimulate pain receptors and excite neural pathways in a fetus with the requisite neural structures. They are employed at times in gestation when these structures are present and, therefore, cause organic pain to the human fetus.

H. R. 4857

A bill to amend title 18 of the United States Code to provide for the informed choice of women upon whom abortions are performed about the use of anesthetics and analgesics in cases where there is reasonable medical certainty that organic fetal pain is caused by abortion

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Relief of Pain in the Human Fetus During Abortion Act".

FINDINGS AND PURPOSE

SEC. 2. The Congress makes the following findings:

(1) The evidence of science establishes that the human unborn child experiences organic pain perhaps from as early as eight weeks after conception and definitely from thirteen and a half week after conception.

(2) Organic pain occurs when pain receptors are stimulated and neural pathways within the human central nervous system are excited by noxious stimuli (defined as stimuli that are harmful or injurious in nature), thereby causing an aversive physiological response.

(3) Organic pain can be diagnosed in a noncommunicative patient when the requisite neutral structure is present and an aversive physiological response to noxious stimuli is detected.

(4) A human fetus can sense organic pain when the pain structures within the central nervous system are developed and functioning.

(5) The relevant sensory structures of the central nervous system include nociceptors (pain receptors), neural fibers or pathways, spinal column, thalamus, and cortex. Sensory nerves, including nociceptors, reach the skin of the fetus by the ninth week of gestation. The first detectable brain activity in response to noxious stimuli occurs in the thalamus between the eighth and tenth weeks. The movement of electrical impulses through the neural fibers and spinal column takes place between eight and nine weeks of gestation.

(6) Concurrent with the development of the sensory structures of the human fetus, responsive behavior to stimuli can be detected. By the end of the seventh week, a tap on the mouth of the fetus will cause the lips to draw back. By ten weeks of gestation, the palms of the hands are sensitive to touch, and at eleven weeks the face and extremities likewise respond to tactile stimuli. By thirteen and a half weeks, organic response to noxious stimuli occurs at all levels of the nervous system, from pain receptors to the thalamus. Thus, at that point, the fetal organic response to pain is more than a reflexive response: It is an integrated attempt to avert the noxious stimuli.

(7) Various levels of the central nervous system function at least as early as eight weeks, and by thirteen and a half weeks the central nervous system functions as an integrated whole in all parts of the body.

(8) Therefore, perhaps as early as eight weeks, and at least by thirteen and a half weeks, the human fetus is sensitive to organic pain.

(9) Since fetal sensitivity to pain exists at least as early as thirteen and a half weeks, any form of induced abortion that excites pain receptors and/or stimulates the neural pathways would cause organic fetal pain at any time thereafter.

(10) Abortions by dilatation and evacuation and saline evacuation and saline amnioinfusion are examples of procedures that present noxious stimuli capable of causing organic pain to the human fetus.

(A) Dilatation and evacuation (D&E) abortions are performed after the twelfth week of pregnancy (and are performed up to and including the period of viability) when fetal bones are too large and the size of the fetus is too great for standard first trimester abortion techniques. Dilatation and evacuation involves the progressive dismemberment of the fetus prior to extraction to facilitate removal of fetal parts from the uterus. The slicing and crushing involved in the dismemberment of the fetus would profoundly excite pain receptors and stimulate neural pathways, thereby evoking an aversive response in a fetus whose central nervous system is functioning.

(B) Abortions by saline amnioinfusion are performed after the fourteenth week up to and including the period of fetal viability. The procedure involves the insertion of a hypodermic needle into the amniotic sac to remove the amniotic fluid. In place of the fluid, a hypertonic (highly concentrated) solution of sodium chloride is injected into the sac. The solution disrupts the placenta, causing fetal expulsion in up to forty-eight hours after the time the solution is injected. During that period, the corrosive effects of the saline burn away upper skin layers of the fetus. The esophagus and mouth are burned as well when the fetus swallows the amniotic fluid polluted by saline solution. By the time the fetus is expelled, there is extensive edema and submembranous degeneration. By damaging the surface of the fetus in this fashion, saline would excite pain receptors and stimulate the neural pathways of a functioning central nervous system during the course of the abortion and until the fetus dies.

(11) Where the procedure may pose risk or harm or discomfort to the child, it is standard medical practice to provide the parent with information on analgesics and anesthetics, so that harm or discomfort can be minimized. It is therefore consistent to provide a woman contemplating abortion with information concerning fetal pain and ways to abolish or alleviate pain before abortions certain to cause organic fetal pain.

(12) As the government asserts a valid interest, sufficient to provide for the humane disposition of animals, by requiring that they be treated with care and dispatched without pain, the government asserts a compelling interest sufficient to foster humane disposition of a human fetus by requiring that women obtaining abortions be informed of ways by which fetal pain caused by abortion may be abolished or alleviated.

SEC. 3. (a) Chapter 89 of title 18 of the United States Code is amended by adding at the end the following new sections:

"§ 1822. Informed choice in certain abortions

"Whoever knowingly performs an abortion of a living human fetus or embryo, with knowledge or in reckless disregard of reasonable medical certainty that the abortion will cause organic pain to that fetus or embryo and of reasonable medical certainty that anesthetics or analgesics are available for use to alleviate or abolish that pain without informing the woman upon whom the abortion is to be performed of the availability of the anesthetics or analgesics to abolish or alleviate pain caused to the fetus shall be fined not more than $1,000 unless in the medical judgment of the person performing the abortion based on the particular facts of the case before him or her: (1) there exists a medical emergency that does not provide sufficient time to so inform the woman, or (2) use of such anesthetic or analgesic would decrease a known possibility of sustained survival, with or without artificial support, of the fetus or embryo apart from the body of the woman upon whom the abortion is to be performed. Nothing in this law requires the physician to employ analgesics or anesthetics to abolish or alleviate organic pain to the fetus that would incease medical risk to the mother.".

(b) The table of sections at the beginning of chapter 89 of title 18 of the United States Code is amended by adding at the end the following:

"1822. Informed choice in certain abortions.".●

A TRIBUTE TO DAVID, "THE BUBBLE BOY"

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. LELAND. Mr. Speaker, last night a courageous young resident of my city, Houston, Tex., passed away. We all knew this special 12-year-old as David, "The Bubble Boy."

David was born in 1971 with severe combined immune deficiency (SCID). This disease leaves its victims unable to fight any disease; the most benign germ will kill.

David was by far the oldest survivor of SCID. Immediately after his birth his doctors at the world-renowned Baylor College of Medicine-Texas Children's Hospital of Houston, whisked him into a special sterile bubble. His life was spent in sterile chambers with filtered air, sterilized food, sterilized toys. Later, with a special NASA sterile-environment spacesuit, he was able to venture out of the hospital to visit his parents' home or go to the movies.

Just over 2 weeks ago, on February 7, David was freed from his life of isolation. David had become ill, apparently as a result of complications from a bone marrow transplant he received last October. The transplant of his sister's bone marrow to David was his only chance for a normal survival. His doctors, including his personal physician, Dr. William Shearer, could not effectively treat him in his sterile plastic shell. Then, for the first and only time, David was able to experience his mother's kiss, the touch of his family; he asked for, then drank a coke, the only one he ever had. These past 16 days he took joy and pleasure in the small routine things we all take for granted.

David has been termed "a medical miracle." But it is the miracle of David, his warmth and humor which shall be missed. he was an inspiration, and his death leaves a void in all of us. My fellow Houstonians and our Nation mourn his death, and we extend our most sincere condolences to his parents and sister.●

TRIBUTE TO STEFANI AUSKALNIS

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. HARRISON. Mr. Speaker, on February 24, 1984, the city of Pittston, Pa., will pay tribute to one of its most prominent residents. Stefani Auskalnis celebrated her 96th birthday on February 21st.

Ms. Auskalnis was born in Lithuania in 1888. She journeyed to America at the age of 17, where she has lived and worked all her life. In fact, she continued working until she reached the age of 70.

Longevity has been a blessing not only to Stefani but also to her family. Her father reached the age of 113 and her grandfather to age 115.

Mr. Speaker, I would like to join with all the residents of the Pittston, Pa., area, and more specifically the Anthracite Apartments, in paying tribute to this most distinguished citizen.●

PAT DAMIANI—"MR. LABOR"

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. GILMAN. Mr. Speaker, yesterday morning it was my sad and unpleasant duty to attend the funeral of a good friend of mine, a man who was a good friend of the working people in our 22d Congressional District of New York, and throughout the Nation, Pat Damiani.

In Rockland County, N.Y., Pat Damiani was long known as Mr. Labor, for he came to personify the labor movement in our region. Pat served as president of the Rockland County Building and Central Trades Council—an amalgamation of all of the construction unions—from 1947 until his untimely death last Thursday. He was business manager of the International Brotherhood of Electrical Workers, Local 363, for 36 years, prior to his retirement last year.

In the period just after World War II, when Pat Damiani first rose to prominence in the labor movement, Rockland County was a rural, isolated region. Agriculture and rural living were ways of life; and the urban sprawl of Metropolitan New York was a different world.

During the 36 years since Pat Damiani rose to labor leadership, the world of Rockland County changed—and few people contributed more to bring about that change than did Pat Damiani.

When Pat Damiani became an IBEW business manager, the total membership of local 363 was only 24.

Now, its membership numbers 3,000.

When Pat Damiani first rose to prominence in the labor movement, the total population of Rockland County was just over 74,000.

Today, it is slightly less than 300,000.

This period saw far-reaching social and political changes rock Rockland County. Whereas labor has been unable to cope in other areas faced with similar growth and change, labor in Rockland County stayed on top of the changes. The well-being of the worker and the consumer were always uppermost in the mind of Pat Damiani.

For years, Pat Damiani fought for the adoption of a strong electrical code in the building regulations of Rockland County; a battle which ended successfully, and a battle in which few labor leaders became involved.

Pat was known for his tireless efforts on behalf of the Good Samaritan Hospital, his pet cause, and a number of other charities. A list of causes with which Pat Damiani closely allied himself would fill page after page in the CONGRESSIONAL RECORD: He was chairman of the Rockland County Manpower Advisory Council, served on the Mid-Hudson Ancillary Manpower Committee, the New York State Apprentice Training Council, Governor Rockefeller's Youth Employment Council, the New York State Arbitration Council, the American Arbitration Association, and many other worthy organizations.

For his tireless efforts on behalf of the State of Israel, Pat was placed on the Scroll of Honor of Israel in 1965. He was awarded the Yeshiva Humanitarian, Educator and Labor Leader Award in 1969. He received the Rockland County Citizen of the Year Award in 1967, and was, in 1972 voted one of the three most influential persons in Rockland County by a panel of business leaders in 1972.

In the early 1970's Pat was one of the few east coast union leaders to side with the United Farm Workers in its dispute with growers, and asked all union members in Rockland County to join in the boycott of lettuce.

Pat Damiani will be sorely missed—by his wife, Ann, by his three sons, and two daughters, by the members of the labor movement, by his many friends in the business community, and by the community as a whole.

But he will also be intensely missed by the many, such as myself, who could call Pat Damiani friend.

Pat Damiani, who was only 69 years young at his passing, was one of the most dedicated, sincere, and honest individuals I have ever known. His shoes will be big ones to fill.

I ask my colleagues to join with me in expressing our condolences to the Damiani family and in paying tribute to a great American.●

NATIONAL UNIVERSITY IN SAN DIEGO, CALIF.

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. BATES. Mr. Speaker, at a time when computers are in the mainstream and the need to understand their usage is more important than ever, I am proud of National University in San Diego, Calif. In just 14 years, the school has grown from an institution serving primarily employees at San Diego high technology and aerospace firms to one of California's largest independent universities with an enrollment of 10,000. Throughout the growth, National has retained its orientation as a school for working people, and continues to make education accessible to students who work during the day.

The success of the university is primarily due to its president, David Chigos who strived to build a high technology administrative school which catered to students in the working world. Among the school's innovations is a computer system featuring a single, real-time data base. Every fact—from registration to events—goes into a single data base, giving school administrators an institution omniscience as accessible as the nearest video terminal.

Building on the idea that the human being comes first and before the company, Mr. Chigos requires his administration to do their own secretarial work. He also maintains an open door policy with anyone wishing to meet him and encourages his faculty to continue their education. The 40 professors at National University are required to possess Ph.D.'s or law degrees as well as 10 years of work experience.

I am proud to have National University in my congressional district.●

PROBLEMS FACING OUR EDUCATIONAL SYSTEM

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. RICHARDSON. Mr. Speaker, Mr. Ramon Estrada, a constituent of mine from Tierra Amarilla, N. Mex. is recognized as an outstanding educator and counselor throughout the State.

He has written these superb articles on the issues of education. They offer unique insights into the problems facing our educational system and I would like to share them with my colleagues.

I insert these articles in the CONGRESSIONAL RECORD:

A PROFESSION ON TRIAL

"A Nation at Risk" is another trial the education-profession is now being tried on. Such trials didn't start today; they started long ago, many yesterdays ago. They started with the first attempt made to improve the self-behavior of another, academically, socially, and in general, moralistically. Throughout its trials, the education-profession has not flunked, but has compromised for the sake of its jurors. Its verdict has been, and is, a proven positive fact. Look at the results, you the jurors, engineers, lawyers, doctors, legislators, parents, scientists, presidents, etc., and all human aspects of our society.

A profession serving its national population, structured with compromises, and providing the greatest responsibility of any profession in a nation has always been overlooked and underated to lower echelons.

Through its efforts it has developed you, the jurors. Careerwise, look at what it has done for you. Examine your social status, your academical potential, your earning abilities, your salary.

Compare, before the verdict, jurors, your life-standings to the puns in the education-profession who developed you, and then judge. What's the social standing and earning potential of educated puns in comparison to you, the jurors? Educators are beginning to reason, jurors, that their academical potential is being judged in vain. Under such social conditions why strive toward becoming an educational pun? They're proud of your accomplishments, due to their efforts, and they're becoming fully aware of your appreciation. What rewards are you offering and what can they expect, another trial?

Jurors, it's not the academical puns, failing; it's you the jurors failing them. You have requested and demanded. They compromised and delivered. They recall, they were being successful with the basics. You felt they didn't need them; they changed and what do you want now? They had strong discipline measures. You demanded freedom for student-populations without understanding freedom's concepts; they compromised and changed. What do you want now?

Longer days and more homework? Maybe, but first assist the puns in education to develop attitudes of educational expectations and educational future needs. As you the jurors judge them, they're beginning to judge you. They're trying, but they need you, who judge them. They're wondering, "Where are/what happened to family expectations and family responsibility?" Jurors, can you face a verdict?

You the jurors have failed. Give the puns in the education-profession their proper social standings, their needed financial earnings and support their efforts by allowing instruction to be implement. Finally jurors, develop the much needed social behavioral sciences of our national society, and the puns in the profession of education will, like always, compromise and develop the nation's needs!

A TWO TRACK EDUCATIONAL SYSTEM

Gordon W. Allport, on his text, "Becoming", wrote, "The course of growth is in part random. * * * we include gene-linked dispositions, grouped under the term "inheritance", * * * temperament, motility, physique, and intelligence—all ground-conditions of personality, * * * which can be neither accurately predicted nor controlled. Chance factors * * * the particular environment into which a child is born, his culture, and accidents of climate or disease—all of which influence his becoming but are exterior to the process of life."

These basic considerations for a Psychology of Personality provided by Gordon W. Allport might be viewed as technical; nevertheless, they embody the philosophical needs of the total structure of educational bodies. The efforts toward development of a human-being's directional personality toward societal intermingling needs with goals of meeting self-needs toward "becoming" must, and are, the major responsibilities of our national educational systems.

The persistence of our national educational systems to reach above mentioned desired concepts through academical training only, is not only next to impossible, but impossible. Gene-linked dispositions plus chance-factors influence the internal and external factors of "becoming" in a child; therefore, evaluative factors in academical gains, during early stages of schooling, may well commence to develop stages of insight toward required training for future self and national needs. Academical requirements can then be relaxed, but not eliminated, as training of a vocational nature commences to develop interest and motivation.

Merle Severy, in the National Geographic, writes, "Once a wall is pierced, who knows what will pass through." Once the wall of education is pierced, we should know what will pass through, motivated personalities learning to become as they pridefully serve themselves and their nation!

ELIMINATE FLUNKING AND PREPARE FOR THE FUTURE

Through the years, as I struggle through the portholes and waning decks of educational structures, I've come to the following conclusion: The acquisition of teaching is accomplished when "effort toward learning is willingly attempted" and not by the measurement of what was taught. Day in and day out of the school-year a student-population is tested, and day in and day out of the school-year a portion of that student-population fails to reach the expectations of the test's standards. It is common fact that mental intelligence differs from one individual to another. Yet, we dastardly fail as educators to realize that we need to "change" our educational directions to serve student-populations to discover their identity so that they would willingly attempt to learn to meet their needs and provide for the needs of their society.

If a student doesn't have the strong mental potential required to comply with academical learning as is expected, academical expectations become illusions, and educational systems continue to make the student aware of becoming another human failure. I cannot imagine a student being progressive in our society after twelve years in our educational systems of being brainwashed that his mental potential has orally and mentally been classified as failure, "F". Where have we, at anytime, assisted a student in discovering his identity whereby he/she has learned that their mental potential has a place in our societies? Abraham H. Maslow writes: " . . . the loss of illusions and the discovery of identity, though painful at first, can be ultimately exhilarating and strengthening."

Members of the National Commission on Excellence in Education in reference to implementing recommendations recommend Standardized tests of Achievement, certifying student's credentials, identify the need for remdial intervention, and identifying the opportunity for advance or accelerated work. Such are the assessments in reference to the quality of education as stated in the report, "A Nation at Risk". Accordingly, "This system . . . will assist teachers and students to evaluate student progress."

The "implementing recommendations" are commendable and needed; nevertheless, evaluation of student progress, as per the stated assessments, leaves one with the understanding that academical requirements are the total needs of a student's progress. Again, some students will have the mental potential to enrich themselves academically after such evaluation takes place. What happens to students lacking the mental potential to enrich themselves, academically? Do we continue to wonder and blame different elements of society; the pace of society, institutions of higher-learning, departments of education, or the teaching staff in school-systems?

After such an assessed evaluation, one that has existed in school-systems for scores of years, and one that will continue in future years, couldn't a "progressive nation" institute meaningful solutions to meet the needs of students who have been identified as not having the mental potential for acquiring all the expectations of expected academical desires?

Won't the future of our "progressive nation" need or require, other than scientists or mathematicians, mechanics, carpenters, cooks, barbers, beauticians, technicians, plumbers, truck-drivers, etc.? If education is going to be a national priority of the present administration, let's prioritize it toward meeting needs of all students to comply with all needs of our "progressive nation".

"The Protestant work ethic," which applies to all faiths according to Ann Landers, "has always held out the promise of material success as the reward for a job well done * * *" reinforces the need to develop students according to their mental potential so that they too may have such successes in meeting the needs of the nation.

If sincerity exists toward prioritizing educational needs in our "progressive nation", let's then develop a Two Track Educational System whereby we'll meet student-needs as evaluated. We would then be developing identified student-potential that would proudly and successfully gain materialistically for itself as it met the nation's needs. Wouldn't we then be eliminating flunking in our school-systems as we prepare our student-population for the future?●

A RESOLUTION TO AID IN THE ACCOUNTING OF POW'S AND MIA'S

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. CHAPPELL. Mr. Speaker, I rise in support of the resolution introduced today by my colleague from Ohio, concerning our POW/MIA's in Southeast Asia. This resolution would direct the President to obtain a full accounting of these missing Americans. As an original cosponsor to this measure, I feel that it will point us in the right direction in obtaining a final and verifiable answer to the fate of these 2,491 men and women.

Since the fall of Saigon in 1975, there have been 2,200 reports of Americans still in Southeast Asia; 560 were live, first-hand sightings, 303 have been resolved and 200 unverified, but still under investigation. The sources of these reports have been former POW's, aerial photos, and peacekeeping forces who have been sent to this region since the end of our military involvement.

Certainly, we should commend all present and previous efforts to address this situation. In fact our esteemed colleague SONNY MONTGOMERY has spent a great deal of time here and in Southeast Asia since the end of the war in an effort to obtain the necessary information to bring this tragic chapter of our history to a final end. I believe that with such past attempts and this resolution we can work toward some type of final documentation.

The statistics speak for themselves. There is not one State in the Union which has been spared this nightmare of uncertainty. My home State of Florida has 83 families still questioning the whereabouts of a loved one, and nine of those families are from my district alone. While there is legitimate concern among some Members that actions such as this resolution give rise to false hope, I feel that it is beneficial in keeping our attention focused on a matter of national significance. In some cases we may never know, but if the fate of even one MIA or POW is documented, it will have been worth our commitment.●

A SALUTE TO THE CUYAHOGA COUNTY BAR ASSOCIATION'S 38TH ANNUAL PUBLIC SERVANTS MERIT HONOREES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. STOKES. Mr. Speaker, it is a distinct pleasure to join the bench and bar leaders from my hometown of Cleveland in saluting the five honorees of the 38th Annual Cuyahoga County Bar Association Public Servants Merit Award. Mr. David Adams, Mrs. Jessie Austin, Mr. Roy T. Companey, Mr. John Curran, and Mr. Donald Grossenbaugh will be honored for their outstanding service to the Cuyahoga Bar Association on Tuesday, February 29, at a luncheon in Cleveland. On behalf of the residents of my congressional district, I salute each honoree.

Together, these individuals have amassed over a century and a half of public service. However, their achievements and dedication as public servants cannot be adequately explained only in terms of years of service. For that reason, Mr. Speaker, I take this opportunity to share some brief details about the public service careers of this year's honorees.

Mr. David Adams, the first honoree, has dedicated his life to teaching, counseling, and juvenile court administration duties. For Mr. Adams, his life has been one of many distinctions and achievements.

The Army Air Force awarded Mr. Adams a Purple Heart, a Three Cluster Air Medal and a Presidential Citation. After completing his service in the Army Air Force, Mr. Adams obtained a degree in education from Bowling Green University in February 1950, and immediately accepted a teaching position in biology and physical education at Northridge High School.

From 1952 to 1959, David Adams managed a Lakewood Employment Bureau office. After a stint with the Parma Public School system, David Adams joined the juvenile court as a probation officer in 1964. Successive advancements as a placement worker, supervisor, administrative assistant, and superintendent of the detention home led to his current position in July 1983 as the director of special projects.

Mr. Speaker, the bar association's second honoree, Mrs. Jesse Austin, began her tenure of service with the Cleveland municipal court system in 1955 as a typist for Angelo Gagliardo who headed the probation office at that time. It was the beginning of her public service career for the court.

Today, she has progressed to the position of supervisor of typists, chief clerk, and deputy bailiff for Mary E. Busher, current probation department chief. With these demanding responsibilities, Mrs. Austin is required to train and supervise the municipal probation departments' clerical staff, purchase all supplies, maintain the office machinery, and make certain that all judges receive cases and reports on time.

Mr. Roy T. Companey is the third honoree for the February 29 luncheon. He is the probate court's general referee. His educational background includes a degree from Adelbert College in 1953 and the Western Reserve Law School.

Mr. Speaker, in 1957, Roy Companey joined the legal department of the Cuyahoga County Welfare Department as an investigator. Five months later, he entered into employment with the probate court. Starting as a deputy clerk in the applications department, he moved through the accounts and inventory units of the court for 10 years and in September 1967, he was appointed to his present post of general referee. That task requires him to hear and determine various classes of actions and proceedings.

Mr. Speaker, the fourth honoree, Mr. John J. Curran, began his distinguished career with the Cleveland municipal court in 1953 as an aide to Helen J. Lyons. Today, Mr. Curran serves as the court administrator for the common pleas court.

Other positions he has held at the Cleveland municipal court include deputy clerk in the criminal division for 8 years and a 1965 appointment as the room I motions referee in the common pleas court. After serving in various divisions of the court's administrative functions, this 1951 Cleveland Marshal Law School graduate became the ombudsman of the common pleas court last year. He is also the immediate past president of the Ohio Association of Court Administrators.

The last honoree, Mr. Donald Grossenbaugh, is one of my constituents from Bedford and is known throughout that community as the No. 1 citizen. Mr. Grossenbaugh serves as the personnel chief of the Cuyahoga County clerk's office.

His outstanding service in that office is surpassed only by his recent election as mayor of Bedford in January 1984.

In the clerk's office, Mr. Grossenbaugh has served, with distinction for over 31 years. Beginning in 1953 as a file clerk, he gained experience in the auto title section, in the filing division, and in the auto title branch. Later, under Clerk Emil J. Masgay, Mr. Grossenbaugh was elected to a branch manager in the auto title bureau and eventually, under the present county clerk moved into the personnel unit of the office which he now heads.

Mr. Speaker, the five honorees will be feted at a luncheon on Tuesday in Cleveland. The luncheon and the estimated 1,000 people expected to attend are some indication of the high regard in which the honorees are held by their peers, the members of the Cuyahoga County Bar Association, and the general public.

I applaud their achievements. I ask that at this time, my colleagues join with me in a well-deserved salute for Mr. David C. Adams, Mrs. Jesse Austin, Mr. Roy Companey, Mr. John J. Curran, and Mr. Donald Grossenbaugh.●

A TRIBUTE TO BELL MOTOR CO.'S 61ST ANNIVERSARY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. DYSON. Mr. Speaker, I would like to pay tribute to and recognize the extraordinary contributions of two St. Mary's County businessmen and their successful family business. I am proud to share with our colleagues in the House of Representatives the accomplishments of Mr. J. Ernest Bell and his brother, Mr. T. Webster Bell, Sr. These two men will be honored today as owners of the second oldest Chevrolet dealership in the United States.

As very young men, in a promising new era brought about by the automobile, these enterprising brothers formed the Bell Motor Co., Inc., and received their Chevrolet dealership on January 17, 1923. Success did not come easy, though, for in the early years, many long hours of hard work and sacrifice were required of the Bell brothers. Ernest managed sales and Webster took full charge of the service department. Miss Catherine Sterling joined the small business as a secretary, displaying a graciousness and charm befiting her job. Her heart was won by Webster Bell and she soon became his bride. She continues to provide the capable skills necessary to maintain the records and tax accounts in the bookkeeping section. Now she serves as head bookkeeper.

In a time when a man's word was his bond, Webster and Ernest Bell's concern was for their customers. Their honesty and integrity in all of their dealings was instrumental in making their business successful. Bell Motor Co. became a trusted name as its customers realized they could depend on the performance of the service department after every sale. People soon realized that the Bell brothers appreciated and valued their business. Today, any Chevrolet that carries the Bell Motor Co. imprimatur carries with it a legacy of excellence.

Bell Motor Co., Inc., is an outstanding example of family unity and harmony. Thomas W. Bell, Jr., serves as manager of the service department and his brother, Frank C. Bell, is the used car manager. Both carry on the tradition and quality of Bell Motor Co., Inc., serving southern Maryland. The future looks bright with grandsons T. W. Bell III, Francis G. Bell, Joseph A. Bell, Gary S. Bell, Mark J. Bell, and Frank C. Bell having joined the ranks and structure of this family business.

As we read statistics about the numerous business failures around the country, let us look with pride and pleasure upon the 61 years of outstanding service and achievement of J. Ernest and T. Webster Bell. I am pleased to bring this to the attention of our colleagues today and ask that each of you join me in saluting these self-made Americans.●

WASHINGTON POST PRAISES NEW FOREIGN AFFAIRS COMMITTEE CHAIRMAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. LANTOS. Mr. Speaker, the Washington Post published an excellent, thoughtful article about our distinguished colleague, Chairman DANTE FASCELL. As a member of the House Foreign Affairs Committee, which he heads, I can only praise the Post for recognizing those qualities that we who have worked with him have long known and appreciated. It has been a pleasure serving under his leadership thus far, and I look forward to continuing to work with him.

For the benefit of my colleagues who may have missed that article, I include it in the RECORD.

[From the Washington Post, Feb. 20, 1984]

HOUSE FOREIGN AFFAIRS PANEL SEEKS REJUVENATION UNDER FASCELL

(By Joanne Omang and John M. Goshko)

The elevation of Rep. Dante B. Fascell (D-Fla.), a jovial, earthy, 30-year veteran congressman, to the chairmanship of the House Foreign Affairs Committee last month has raised hopes among members that the committee may be able to regain some of the influence and power that have slipped away from it in recent years.

Unlike the more prestigious Senate Foreign Relations Committee, which wields considerable clout through its power to approve appointments and treaties, the House committee's main influence lies in foreign aid funding. Congress, however, has not managed to pass an aid bill since 1981.

"Congress has got only two real weapons," Fascell said in a recent interview. "One is money, and the other is impeachment. They're both very blunt instruments, so the alternative is persuasion and jockeying for position."

Fascell has made enactment of a foreign aid bill this year his top priority, saying Congress will become irrelevant to the policy-making process if it fails to break the habit of funding foreign assistance through continuing resolutions that provide money but little or no congressional direction about how funds should be spent.

Many members believe that Fascell, 67, has a good chance to overcome the wide disparities on his committee in order to pass an aid bill and, in the long-term, to rejuvenate the group's role in foreign policy.

They see him as an effective bridge between the House leadership and the younger committee Democrats whose views were forged in the anti-war and civil rights ferment of the 1960s. Those younger members now hold most of the key foreign policy subcommittee chairmanships and frequently want to move in more boldly liberal directions than the leadership deems wise.

Fascell acknowledged that he faces a tough task because he is taking over at a time when "all the hot potatoes" of world affairs have put Capitol Hill in its most restive mood since the Vietnam war.

His desire to use foreign aid as an instrument for affecting the policy process is certain to become intertwined with growing uncertainty about U.S. Middle East policy in the wake of President Reagan's decision to remove U.S. Marines from Lebanon and pressure from House liberals to put brakes on Reagan's pursuit of military solutions in Central America.

These are subjects about which he can speak with gilt-edged credentials because they involve the policy areas to which Fascell, reflecting the concerns of his constituents, always has paid the greatest attention.

Florida's 19th district's is a sprawling area that stretches from the southern suburbs of Miami to Key West. When Fascell, a transplant from New York, first went to Congress in 1954, he seemed an improbable choice for the district's traditional white residents.

But he was in the vanguard of a population shift that made the expanding subdivisions on the edges of Miami the dominant part of the district. Given the large Jewish and Hispanic populations in Miami, it is no surprise that Fascell became a stalwart of the pro-Israel faction in Congress and a ranking House expert on Latin America.

Fascell's predecessor as chairman, Clement J. Zablocki (D-Wis.), who died after a heart attack late last year, frequently was criticized for an alleged tendency to be a rubber stamp for incumbent administrations of both parties. Zablocki also was regarded as an old-school legislator who was out of step with younger members and unable to impose control over subcommittee chairman who often seemed to be charging off in conflicting directions.

Fascell holds a secure spot in the Democratic establishment surrounding House Speaker Thomas P. (Tip) O'Neill Jr. (D-Mass.). There he is highly regarded for his ability to skillfully draft legislation, build a consensus of support for it and then steer it through to passage. "He's a great compromiser, a legislator's legislator," said Rep. Robert J. Lagomarsino (R-Calif.), a conservative who usually is on the opposite side of Fascell in committee votes.

Fascell, who calls himself, "a child of the Depression," readily concedes the gap in age and attitude between himself and such younger subcommittee heads as Michael D. Barnes (D-Md.), Western Hemisphere affairs; Stephen J. Solarz (D-N.Y.), Asian and Pacific affairs; Howard Wolpe (D-Mich.), Africa, and Don Bonker (D-Wash.), international economic policy and trade.

But, he said, "They have a lot to offer. They may force a lot of issues, that used to get settled in cozy meetings between the congressional leaders and the White House, into noisy debates. But I think the country benefits from that."

More importantly, Fascell commands from these men a respect and affection that often was lacking during Zablocki's tenure. As a result, Fascell could turn out to be the glue that binds the disparate voices on the committee and makes the panel move in a way that gives the Democrats a coherent and consistent lever for influencing foreign policy.

"People ask us why we don't do more," Fascell said. "Well, who the hell runs Congress? Nobody runs Congress; it's 535 individual members. So what is there we can do? Well, we're not administrators, but we can have input into what the form of foreign policy is through instruments like the foreign aid bill."

When it comes to dealing with the Reagan administration, Fascell has clear ideas about where the Democrats should be acting as counterweights to modify the president's course. The increasing complexity of nuclear and conventional warfare "means greater and greater limits on the use of military power to accomplish political objectives," he said. "But Reagan's policy has been one of increasing the rhetoric and then increasing confrontation, and that's a very dangerous thing."

In what had loomed as his first test as committee chairman, Fascell collaborated with Rep. Lee H. Hamilton (D-Ind.), chairman of the Europe and Middle East subcommittee, to draft a resolution calling for "prompt and orderly" withdrawal of U.S. Marines from Lebanon. But a showdown with the White House on that issue was averted by Reagan's announcement last week that he was ordering the Marines to ships off the Lebanese coast.

Fascell still must steer the committee through some potentially tough choices on Central America. "The Central Americans are in such difficulties economically, we shouldn't think the United States can do everything by itself," he said.●

ENERGY EMERGENCIES—AMERICA IS UNPREPARED AND VULNERABLE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. MARKEY. Mr. Speaker, in his press conference last night, President Reagan stated that America would not allow the combatants in the Iran-Iraq war to block the Strait of Hormuz and deprive the Western democracies access to the vast energy resources of the Arabian Peninsula. Mr. Reagan may have some contingency plan for dealing with the blockage of this strategic waterway, but his administration has left America almost totally unprepared for the economic shock waves which would flow from an oil import cutoff.

Oil imports have risen dramatically in the past few months and our Nation's oil consumption is also up sharply due to a very cold winter and increased economic activity. But, the Reagan administration has taken no resolute actions to protect our economy from the kind of economic devastation which oil cutoffs caused twice in the 1970's. In fact, the Reagan administration is relying on severe price increases as the only response to an oil cutoff.

During the Arab oil embargo of 1973-74 oil prices increased by 500 percent. During the Iranian Revolution of 1979 prices went up by 250 percent. Now, according to the Department of Energy's own numbers, the price of oil would rise by 400 percent—or $4 per gallon for home heating oil and more for gasoline—if we suffered a similar cutoff.

No, Mr. President, the answer to the questions presented by the continuing conflict in the Arabian Gulf is not saber-rattling rhetoric. The answer is as simple as the motto: "Be prepared." America is not prepared for an oil emergency and it will not be as long as the Reagan administration's only answer is higher prices at the gas pump.

The Reagan administration may have learned from the past, the problem is: They just don't care.●

BALTIC STATES COMMEMORATION NOTED

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. GREEN. Mr. Speaker, it is appropriate that we pause this week to note two very important occasions, Lithuanian Independence Day and Estonian Independence Day, and I would like to thank my distinguished colleagues, Representatives ANNUNZIO, DONNELLY, and RITTER, for arranging for special orders to mark these days.

These occasions remind us that while all people do not share the precious freedom which we enjoy, it is a gift that is sought after tirelessly. While these two countries are celebrating the 66th anniversary of their declaration of the independence, in fact both countries remain dominated by the Soviet Union.

Through many years of systematic abuse the Soviet Union has tried to destroy the Lithuanian and Estonian cultures, their languages, even their heritages. The Soviet efforts have not succeeded. While the Soviets continue to occupy these countries, they have not been able to wipe out the fierce national pride of Lithuanians and Estonians around the world.

As a member of the Congressional Human Rights Caucus, I am constantly reminded of the persecution many nations are forced to endure. It is a responsibility of all Members of Congress to make the struggles of these nations known to all. We must continue to commemorate such events as Captive Nations Week and support bills such as House Concurrent Resolution 192, which would require our representatives in the United Nations to raise the question of the suppression of human rights by the Soviet Union.

We cannot rest until the Baltic peoples win the basic right of self-determination which their Soviet oppressors continue to deny most cruelly.●

CALIFORNIA AMERICAN CANCER SOCIETY SUPPORTS BILL TO EARMARK CIGARETTE EXCISFS TO MEDICARE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. STARK. Mr. Speaker, last year, an estimated 440,000 Americans died of cancer—1,205 people a day, one every 72 seconds. Another 870,000 people are expected to be diagnosed as having cancer during 1984. According to the American Cancer Society, 25 percent of all cancer cases and 75 percent of all lung cancer cases result directly from cigarette smoking.

Against this discouraging picture, I am pleased to inform my colleagues that the California Division of the American Cancer Society believes that H.R. 3513, which I introduced July 11, 1983, will help in the battle against cancer. H.R. 3513 makes permanent the $0.08 tax increase on cigarettes, as adjusted by a cost-of-living provision, and would transfer the tax revenue to medicare.

That a division of the American Cancer Society is actively working to turn this proposal into law indicates that a permanent tax on cigarettes is more than simply a matter of revenue. It is indeed a matter of life and breath. Last year, an estimated 117,000 Americans died of lung cancer; 135,000 others were diagnosed as having the disease. Only 9 percent of these new lung cancer patients will live 5 or more years after that diagnosis.

H.R. 3513 not only insures that tax revenue from cigarette sales continues to flow into the general fund, but also creates a permanent disincentive for buying cigarettes by hitting smokers in a sensitive spot—the pocketbook. A permanently higher price may motivate smokers to reconsider spending the extra money on a product that could kill them. We have told people about the horrors of cancer from a health standpoint. We need to reinforce that message through the pocketbook. H.R. 3513 can do just that.●

U.S. POLICY TOWARD JERUSALEM—THE CAPITAL OF ISRAEL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. LANTOS. Mr. Speaker, Jerusalem is the capital of Israel, despite the fact that the United States has steadfastly and hypocritically refused to acknowledge it by moving our Embassy and our Ambassador's residence from Tel Aviv to Jerusalem—where it rightfully belongs. I have introduced legislation in the House and a parallel bill has been introduced in the Senate to remedy this outrageous situation.

An excellent analysis of U.S. policy toward Jerusalem as the capital of Israel has recently been published, and its timing is most appropriate in the context of the debate which our legislation has generated. I wish to call it to the attention of my colleagues in the House of Representatives. It is Sara M. Averick's study for the American Israel Public Affairs Committee, U.S. Policy Toward Jerusalem, the Capital of Israel—AIPAC Papers on United States-Israel Relations, No. 6.

The executive summary of that analysis provides an excellent résumé of the background of our Government's policy toward Jerusalem. I urge my colleagues to read the entire study. There can be no other conclusion that a change in our policy is long overdue. It is time to move the U.S. Embassy to Jerusalem.

The executive summary follows:

For more than three decades, U.S. policy has avoided the reality that Jerusalem is, has been, and always will be the capital of Israel. Instead, the United States refuses to acknowledge Israeli sovereignty over any part of Jerusalem, even the western part of the city which has been an undisputed and organic part of the modern state of Israel since its establishment in 1948.

This is not an even-handed policy; it is an anti-Israel policy.

Jerusalem is the embodiment of Jewish history, the heart and soul of the Jewish people. For three thousand years, Jerusalem has been the focus of their national and religious yearning. For more than 30 years, the offices of Israel's president and prime minister, the Knesset (Parliament), and most government ministries have been located in Jerusalem. Since 1967, the once-divided city has been united under Israeli control with freedom of access guaranteed to all holy sites. No Israeli government which so much as implied relinquishing Jerusalem as Israel's capital could survive in power for a day.

Present U.S. policy attempts to refute these realities by maintaining the American Embassy in Tel Aviv, 40 miles from Israel's capital. The ambassador is allowed no "official" role or status in Jerusalem, despite the fact that he must deal with the Government of Israel located there. Instead, the American Consulate in Jerusalem operates independently of the embassy and reports directly to Washington.

In no other country in the world is the American Embassy located outside the administrative capital. Even the American Embassy to communist East Germany is located in East Berlin although the U.S. does not recognize Berlin as the capital of the German Democratic Repulic. In effect, the United States has one consistent rule for the rest of the world, including a member of the Warsaw Pact, and another unjustified rule for Israel, a friend and ally.

Other anomalies and contradictions in U.S. policy toward Jerusalem include:

Labeling east Jerusalem "occupied territory" after it came under Israeli control, thereby implicitly and post facto recognizing Jordanian sovereignty over that sector (which the U.S. had refused to do while Jordan was actually in control there from 1948-1967).

Espousing the principle of an "undivided" Jerusalem while refusing to acknowledge the reality that the city is already united (American officials are even forbidden to associate with Israeli officials in east Jerusalem).

Insisting that the city be both united and yet subject to negotiations, implying that even west Jerusalem could be handed over to the Arabs.

Public opinion polls indicate that a sizeable majority of Americans supports Israeli control over a unified Jerusalem and prefers such control to the alternatives of internationalization of the city or Arab control of east Jerusalem. Support for Jerusalem as the capital of Israel runs three-to-one in favor among Americans with an opinion on the subject.

Key American leaders, in departures from official policy, have reflected this public sentiment. President Reagan has voiced his personal preference for keeping Jerusalem "undivided under Israeli rule." Former Vice President Walter Mondale has called for recognition of Jerusalem as Israel's capital and the transfer of the embassy to Jerusalem.

Even moderate Arabs like President Sadat of Egypt, who recognize Israel's right to exist, also recognize Israeli sovereignty over west Jerusalem. The American Embassy could be relocated there without prejudging the wider issues surrounding east Jerusalem.

A change in American policy is long overdue. It is time to move the American Embassy to Jerusalem.●

IN SUPPORT OF FULL ACCOUNTING OF OUR POW/MIA'S IN SOUTHEAST ASIA

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. ROE. Mr. Speaker, I am proud today to announce my sponsorship of a House joint resolution directing the President to secure a full accounting of Americans missing in Southeast Asia.

For far too many years, the fate of some 2,494 Americans who bravely defended the principles of freedom in Southeast Asia, has been unknown. That total includes 1,150 who were known to have been killed but whose remains have never been recovered. Our Defense Department has listed all but 14 of the 2,494 Americans on that list as "presumed dead."

But, in my opinion, that is too large an assumption to make. We simply cannot accept that list as fact until there is an allout effort made to seek an agreement with the Vietnamese and Laotian Governments that will result in the first full accounting of the fate of our MIA's.

It is a fact that since 1975, literally hundreds of Indochinese have reported that they have seen firsthand, live Americans who are still being held captive. More than 180 of those reports are currently being investigated by the Joint Casualty Resolution Center.

Mr. Speaker, while we may not know where these Americans are, and if in fact they are alive or dead, we must never stop searching for them until we are thoroughly convinced of their fate.

It is inconceivable to me that the Vietnam Government has no information or knowledge concerning the whereabouts of 2,500 American soldiers reported as missing in action. It is also our moral obligation to their families that we pursue all avenues to obtain an accurate accounting of those men and women.

We must continue to press the State Department, the Department of Defense and our intelligence community to fully investigate all reports of our missing Americans in Southeast Asia.

Mr. Speaker, I am also a prime sponsor of House Joint Resolution 344 which designated July 20, 1984, as "National POW-MIA Recognition Day."

Approval of that resolution would be a fitting tribute to all American prisoners of war who often were forced to suffer brutal and inhuman treatment by their captors and to the families of those who are tragically still missing in action.

I ask my colleagues to join me in support of these two most important measures honoring those who have fought so bravely in our behalf.●

LITHUANIAN INDEPENDENCE DAY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. **BEREUTER**. Mr. Speaker, legislative business prevented me from joining the gentleman from Illinois and my other colleagues yesterday in the special order paying homage to the 66th anniversary of the restoration of Lithuania as an independent State. Lithuania and its three Baltic sister States, Estonia and Latvia, flourished only 21 years as sovereign and free nations in this century.

The infamous Ribbentrop-Molotov agreement marking the collusion of Stalinist Russia and Nazi Germany in 1939 culminated in the annexation of these three small countries by the Soviet Union; and ended the few years of freedom enjoyed by these nations.

The United States has never recognized this territorial robbery and never should. The centuries old cultural and intellectual legacy of great European cities such as Vilna, Lithuania's capital, will never disappear in the hearts of Lithuanians still in the Baltic State and Lithuanian Americans here.

Although I do not have the honor of representing a very large number of Lithuanian Americans in Nebraska's First District, I do represent a large number of Americans from various East European ancestries. I think I speak for all of Nebraska's First District when I proclaim my admiration and support for this strong and courageous people.●

BREAKING THE HIGHWAY IMPASSE

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. **SNYDER**. Mr. Speaker, I am introducing today, on behalf of myself and the gentleman from Pennsylvania, Mr. SHUSTER, two alternative measures to break the impasse currently crippling the interstate highway construction program.

The first, which we would prefer as the most responsible course, would make it possible for the Secretary of Transportation to apportion immediately nearly $2 billion in interstate funds and get the interstate construction program moving again.

The second would simply authorize the Secretary to apportion to each State at least a certain portion of the interstate authorization which should have gone out last October 1.

A key feature of the first—and most preferable—approach lies in the fact that it goes back to the last interstate cost estimate (ICE) approved by the Congress as the basis for apportionment. That was the 1981 ICE which was used as the basis for apportionment of interstate funds in fiscal year 1983; that ICE would be adjusted only to reflect withdrawals of planned segments from the system, and also to reflect allocations of discretionary interstate funds.

Thus, no case in which there may be a dispute between a State and the Department of Transportation as to what should or should not be included in the ICE would be prejudiced one way or another in terms of congressional intent.

Interstate apportionments of roughly $1.8 billion at this time would be very helpful to the approximately three dozen States which are out of interstate funds. And it would give the program some breathing room while we try to achieve agreement on a package containing ICE approval for the remainder of fiscal year 1984 and fiscal year 1985.

This is responsible legislation, Mr. Speaker, and it is urgently needed. Testimony before the Public Works Committee leaves no doubt that the interstate program has already been subject to a drastic cutback. I urge my colleagues to join in supporting my efforts to bring about its prompt passage by the House.

As I have said, Mr. Speaker, this is by far the more responsible alternative, given our inability to get approval of the full ICE. However, we have had some background negotiations concerning this approach, and it has not proved possible to achieve agreement among all parties concerned.

Therefore, we also are offering the second option—a minimal approach—as well, in hopes of getting something moving. Here is how it would work:

The Secretary would be authorized, in most cases, to apportion to each State one-half of 1 percent of the interstate funds which should have gone out last October 1. That would amount to just over $18 million per State.

Our alternative would impose a further cap by saying that no State may be apportioned more than 50 percent of what it received last year. This would affect States which only received 1 percent of the total authorization or less.

This second version would also be neutral on the subject of what work properly should be included in the ICE.

In sum, Mr. Speaker, we have sought a 6-month version which we offer today as alternative No. 1. And recognizing that this modest measure may encounter difficulty, we also offer the half-percent version as alternative No. 2.

It is to be regretted that we have come to this impasse, just a year after the Surface Transportation Assistance Act of 1982, with its greatly increased authorizations and increases in revenue for the highway trust fund, was signed into law amid predictions of significant job impact.

The jobs are not being provided as promised; the tax revenues are coming in but not being obligated for highway improvements as promised. The construction industry and the States are at their wits' end. Our alternatives at least offer some hope of relieving the bleak outlook.●

REV. AND MRS. DAVID GEARHART

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. LONG of Maryland. Mr. Speaker, I wish to honor today a couple who have contributed almost two decades of guidance and support to the members of the Ruxton community. Rev. and Mrs. David Gearhart will be leaving Ruxton after 19 years of dedicated service as the leaders of the Church of the Good Shepherd. My family and I have been privileged to know the Gearharts throughout Reverend Gearhart's term as rector and we have always felt the deepest respect and admiration for both of these outstanding individuals.

Reverend Gearhart attended Lehigh College in Pennsylvania and received his doctorate from the Virginia Seminary. He served as pastor for churches in Hellersville, Pa., and Centerville, Md., before coming to lead the Church of the Good Shepherd in 1965. Reverend Gearhart served as deputy to the general convention of the national governing body in 1964, 1969, 1973, and 1976. He participated in an exchange pulpit program with the vicar of St. Francis of High Wickham, England in 1971. While serving as pastor of the Church of the Good Shepherd, he and his wife's accomplishments are too numerous to list here, but some of the highlights include: The acquiring of a new pipe organ for the church, the sponsorship of a Laotian refugee family, and serving on the board of the church home and hospital retirement complex and on the board of directors of Episcopalian Social Ministries in Baltimore.

This Sunday marks more than a loss for the Church of the Good Shepherd and the Ruxton community; it is also a loss for the entire Episcopalian ministry, as Reverend Gearhart will conclude 25 years of leading congregations as well. However, the generosity and devotion with which Harriet and David Gearhart served the Ruxton community will be remembered long after their departure. I wish them many happy and peaceful years ahead and know their presence will be sorely and deeply missed in Ruxton.●

SOVIET ARMS-CONTROL VIOLATIONS

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. COURTER. Mr. Speaker, the President's January 23 report to Congress on seven Soviet arms-control violations was a major event in the history of arms control. It was a partial response to the requirements of Public Law 98-202, which sought a comprehensive review of the Soviet compliance record. While this report was well done and appreciated, it raised more questions than it answered.

On February 10, I was joined by 40 of my colleagues in writing to the President to request further information on this subject. In particular, we sought further evaluation of the specific charges of Soviet violations that have been made in public, a report on the state of Soviet development of an antiballistic missile system, and an assessment of the military impact of the Soviet treaty violations.

This information is vitally necessary in the task of determining whether and how the United States should respond to the Soviet violations. If arms-control treaties protect our security, it is reasonable to assume that one-sided compliance endangers American security. If Congress is to participate intelligently and responsibly in the formation of future defense and arms-control policies, we must come to terms with the issue of Soviet violations and decide what needs to be done. For these reasons, it is my hope that the White House will supply a substantive reply to the letter of February 10.

I submit for the RECORD the text of this letter, a list of the signatories, a copy of the White House's acknowledgment of the letter, and a list of alleged Soviet violations of arms agreements that were not covered in the January 23 report, and which have been reported in the public press.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 10, 1984.

Hon. RONALD REAGAN,
President of the United States of America,
The White House, Washington, D.C.

DEAR PRESIDENT REAGAN: As Members of Congress involved in national security issues, we have appreciated your desire for Congressional consultation on arms control issues, and we believe that this consultation has helped to build the consensus we need to protect our security and pursue meaningful arms control initiatives. Because the management of arms control policy is so vital to our national security, we hope that the current hiatus in the arms talks will be used to re-examine our negotiating strategy and defense posture so that we are prepared to make genuine progress when the Soviets do return to the table.

In this regard, we appreciate your report to Congress of January 23, 1984, describing seven areas in which the Soviet Union has violated treaties or broken political commitments on arms control. The report analyzing "seven initial issues" provides excellent information in response to the requirements of Public Law 98-202. However, it does not cover all the allegations of Soviet violations which have been raised in the public press; we respectfully request that you continue the work of the interagency study group so that public reports may be issued evaluating the merits of all the charges that have been made. A list of some of the Soviet arms control violations that have been reported in the press is attached to this letter.

In particular, we are concerned about the reports of accelerated Soviet development of an anti-ballistic missile system. A comprehensive Soviet missile defense system, as you know, would greatly reduce the deterrent capability of our strategic forces, and would be extremely destabilizing. If the situation is as serious as some have claimed, we must take the steps necessary to guard against the consequences of Soviet "breakout" of the ABM treaty. Members of your Administration have briefed the press on CIA findings in this area; we request that a report be given to Congress on this subject on an expedited basis.

In the January 23 report, you state that Soviet violations should lead to futher negotiations, improved verification, more careful treaty drafting, and efforts to induce corrective Soviet actions. While these conclusions are valid, we believe it safe to assume that the Soviets, having reached strategic goals in violation of treaties, will not readily reverse any part of their military program. Accordingly, we believe it necessary for the Defense Department to assess the military impact of Soviet treaty violations, and to incorporate this assessment into our defense planning. We would appreciate being informed of this assessment.

As you have pointed out, arms control will only ensure world peace when there is bilateral compliance with agreements. Violations undermine the basis for future agreements and create potentially dangerous elements of instability. We stand ready to cooperate with you in the work of advancing arms control and protecting American security.

Sincerely,

Jim Courter, Ken Kramer, Daniel B. Crane, Bob Davis, Duncan Hunter, Howard C. Nielson, Bill Dannemeyer, Tom Bliley, Mark Siljander, Dennis E. Eckart, Jerry Solomon, Bobbi Fiedler, Larry J. Hopkins, Jack Kemp, Tom Corcoran, G. William Whitehurst, E. Clay Shaw, Barbara F. Vucanovich, Larry Winn, Jr., Mickey Edwards, Ray McGrath, Buddy Roemer, Denny Smith, Tom Loeffler, Bill Broomfield, Dick Cheney, Dan Coats, Tommy Hartnett, Bill Lowery, David Dreier, Vin Weber, Bob Stump, Lyle Williams, Dan Burton, Jim Sensenbrenner, Eldon Rudd, Chris Smith, Dan Marriott, Trent Lott, Dan Lungren.

SOVIET ARMS CONTROL VIOLATIONS DESCRIBED IN THE PUBLIC PRESS

Production of more than 30 Backfire bombers per year;

Arctic staging of Backfire bombers;

The Intercontinental range of 8,900 kilometers and refueling capability of the Backfire bomber;

Continued production of TU-95II Bear bombers to be equipped with long range cruise missiles;

Development of a new heavy Submarine-Launched Ballistic Missile, the SS-NX-23.

Soviet admission in November 1983 at the SALT Standing Consultative Commission of the fact that their forces exeed all three SALT II ceilings on MIRV's and bombers equipped with long range cruise missiles, 820, 1200, and 1320;

The Soviet refusal to dismantle over 250 strategic delivery vehicles by the end of 1981 in order to comply with the SALT II ceiling of 2250 strategic delivery vehicles, and continued expansion of their forces since 1981;

The seriously increased and widespread pattern of Soviet camouflage, concealment, and deception.

Several additional well known Soviet violations of SALT II need to be reported upon: SS-18 rapid reload refire capability as a violation of the SALT II prohibition on rapid reload and refire capabilities; Deployment of AS-3 Kangaroo Air to Surface missiles with range of "650 Kilometers" (see "Soviet Military Power") on 100 TU-95 Bear Bombers, in further violation of the SALT II Data Exchange and the 1320 ceiling; Deployment of new long range air-launched cruise missiles on Bear and Backfire bombers, in further violation of the 1320 ceiling.

In addition, there have been some recent press reports of Soviet violations of the SALT I ABM Treaty which also need to be reported on: Soviet testing of Surface-to-air missiles in a prohibited ABM mode, such as SAM-5s, SAM-10s and SAM-12s; Deployment of five other prohibited Battle-Management radars, in addition to the Abalakovo radar; Deployment and mass production of a prohibited mobile, rapidly deployable ABM, the ABM-3 and its SH-04 and SH-08 interceptor missiles and mobile radars; Testing of a prohibited ABM rapid reload and refire capability; Deployment of a prohibited nation-wide ABM defense; Deployment of more than 100 ABM launchers around Moscow.

THE WHITE HOUSE,
Washington, D.C., February 21, 1984.

Hon. JAMES A. COURTER,
House of Representatives, Washington, D.C.

DEAR JIM: Thank you for your February 10 letter, cosigned by 39 of your colleagues, indicating your appreciation for the reports to Congress on Soviet noncompliance and expressing your concern over accounts of accelerated Soviet development of an anti-ballistic missile system. In your correspondence you also requested additional information on this subject and an assessment of the military impact of Soviet treaty violations.

We appreciate knowing of your concerns in this regard and have transmitted your request to the President's national security advisers. Let me assure you that your comments will be promptly reviewed, and you should be hearing further as soon as any additional information becomes available. In the interim, you may be sure that we are continuing to evaluate all evidence with respect to compliance.

With best wishes,
Sincerely,

M. B. OGLESBY, Jr.,
Assistant to the President.●

H.R. 4840—INTRODUCTION OF FOREIGN OWNERSHIP BILL

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. SWIFT. Mr. Speaker, I am pleased to have joined my colleagues in sponsoring H.R. 4840, legislation that will significantly modernize the Communications Act of 1934. Our legislation will update and extend an important policy against foreign control of information sources.

Broadcast spectrum is a scarce resource. To assure that it is the American citizens who benefit from its use, Congress made broadcast license holders public trustees. An important part of this assurance was the prohibition on foreign control of broadcast stations. This policy also recognizes the importance of close coordination within the U.S. communications industry in times of national emergency.

Our legislation would not only reaffirm this fundamental policy but will also extend it to cover sources of video programing that did not exist in 1934—large cable television and television networks not otherwise covered under the act.

The present law requires a case-by-case review by the FCC on every request for a waiver of these rules and, at a time when the Commission is otherwise deregulating the industry, that burden is not justified. The bill relieves the FCC of this responsibility.

I commend the provisions of this bill to my colleagues and encourage them to consider seriously joining us in sponsoring this bill. Let me mention to any who might be concerned that this is, somehow, an "anti-foreigner" bill; no other country in the world allows as much foreign ownership as the United States does. The U.S. system, relying on private ownership of broadcast stations, is one we are proud of and should work to preserve. However, it is also important that we assure that the public airwaves are held in the public interest and for the benefit of American viewers.●

A FULL ACCOUNTING FOR OUR POW/MIA'S

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. SEIBERLING. Mr. Speaker, I am pleased to cosponsor a resolution introduced by my colleague, DOUG APPLEGATE, calling on the President to make every effort to secure a full accounting for all of the 2,491 Americans listed as missing or captured in Southeast Asia.

For the families and friends of our MIA's, the Vietnam war has never really ended. I suspect there is no way for the Nation's MIA families to put their hopes and fears to rest until they know for certain what happened to their loved ones still missing overseas. I truly hope that the United States will use every available means at its disposal to obtain information about our MIA's.

However, I think it is only fair to note that the Vietnamese Government may be genuinely unable to account for every missing U.S. serviceman, since it is likely that some were lost at sea or in extremely remote and uninhabited jungle areas.

It is also important to recognize that the United States continues to have only limited leverage with which to persuade the Government of Vietnam to release information about our MIA's. We would, in my judgment, be in a far better position to extract information if we proceeded with the difficult process of normalizing relations with Vietnam.

I commend the gentleman from Ohio (Mr. APPLEGATE) for introducing this resolution, and urge my colleagues in the House to support it.●

CONGRESSIONAL TRAVEL IN PERSPECTIVE

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. BARNES. Mr. Speaker, I would like to share with my colleagues a column which appeared on the op ed page of the Baltimore Sun on February 22 which concerns the much-discussed subject of congressional "junkets." Richard Reeves, the author of the column, provides what I believe is a very compelling defense of congressional travel, using as an example the experience and knowledge of our colleague, Representative STEPHEN SOLARZ, who has visited over 60 countries in his 10 years in the House of Representatives. As Mr. Reeves accurately points out, not only the citizens of Brooklyn, but also his colleagues in the House have benefited from the expertise and understanding that Representative SOLARZ displays on foreign policy issues, resulting from what might be termed "junkets" by those who are unaware of the immense value of such trips to Congress and to the Nation—and the hard work that they entail.

The article follows:

JUNKETS

Representative Stephen Solarz glanced quickly at his watch as he began to talk with Dr. Herbert Levy, publisher of the Gazeta Mercantil, Brazil's equivalent of the Wall Street Journal.

"How much time do you have?" the Brazilian asked.

Embarrassed, Mr. Solarz answered, "Only 45 minutes."

That was last month. Congress was in recess back home. Mr. Solarz, a Democrat from Brooklyn, was on a "junket." In an hour, he had an appointment with a leader of the left-wing PT, the Workers Party. He had just come from a working lunch with the director of the Instituto dos Estudios Economicos, Sociais e Politicos.

I was along for a while to get some updating on South America, and to write about congressional travel. I was paying my own way. Mr. Solarz's way, of course, was being paid by the taxpayers.

"Junkets" are expensive. They cost something like $20 million a year. The privilege is sometimes abused by congressmen who, for instance, decide they must go to the Paris Air Show, with their wives and shopping bags.

Because of the outrages of a few, attacking congressional travel has become a popular indoor sport in Washington and around the country. But traveling with Mr. Solarz might convince any reasonable American that, on balance, junkets are a bargain—a necessary bargain.

The United States has always been a determinedly self-interested country, more than a little suspicious of foreign people and places. A deadly combination of arrogance and ignorance has cost us many foreign friends and many young American lives. We all would be a lot better off if more of our representatives knew more about what life and politics were actually like in Beirut or Guatemala City.

Mr. Solarz, who was first elected to the House of Representatives in 1974, has been to those places and to more than 60 other countries. I am more than a little impressed by the know-how and knowledge of a man I first met 18 years ago when he was the 25-year-old campaign manager of a losing congressional candidate in Flatbush. He has gone a long way since then, meeting with King Hussein of Jordan 12 times and talking with Fidel Castro 19 hours during three marathon visits.

He often looks at his watch. The congressman held eight separate meetings that day in Brazil. I have known him to have as many as 13—on an August day last year visiting refugee camps in Thailand.

He is like a vacuum cleaner, sucking in information like a good reporter. In Africa, he helped change U.S. foreign aid policies after he discovered tons of food from America rotting on the docks of countries without storage warehouses. He also has had his mind opened and changed on occasion. After visiting Cyprus, he opposed the lifting of U.S. arms embargoes on Greece—a change of position that angered Greek-American constituents in Brooklyn.

Because of his travels, Mr. Solarz has influence far beyond his years, and far beyond his district, on foreign policy questions before the House. "Steve is powerful without being popular. He's too brusque, too New Yorkey," one Western congressman told me. "I don't like him myself, but I look to him when I have to vote on things I don't know about. There are about 15 or so others who do the same thing."

So, in many congressional districts, the real votes on foreign policy are based on the judgement of a guy from Brooklyn. Some congressmen vote the way Steve Solarz votes because he's been there—and they're afraid their constituents might punish them if they spend taxpayers' money on "junkets."●

TRIBUTE TO DR. MARTIN LUTHER KING, JR.

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. OWENS. Mr. Speaker, as we have focused our attention in the last few weeks on the life of Dr. Martin Luther King, Jr., it is important to recognize his importance in other parts of the world.

It is the tradition in Israel to plant living memorials to those who have fallen. A forest has been planted at Golani Junction, Israel, in memory of Dr. King. The forest will grow as a symbol of the continuity of life and the vision that Dr. King shared with all people of good will.

Dr. King is warmly remembered in Israel as a staunch friend who shared the dream of a land based on the principles of democracy and equality he held so dear. He saw the promised land both as a fulfillment of a Biblical prophecy and as a place for the Jewish people to live in freedom and dignity.

The memorial forest can do more than honor the memory of Martin Luther King, Jr. It can stand as a reminder to all who would divide people based on race, religion or nationality that a vision which recognizes the oneness of humanity is the vision that will beckon us toward the peaceful resolution of our differences. It is only in recognizing the common bonds, desires and aspirations of all people that we can work together in peace for the benefit of all.

As the trees grow and spread their branches, let us hope that the ideals shared by Dr. King and all people of good will take root and grow strong. The trees' task is to grow. Our task is to share Dr. King's vision of peace and hope.●

CUTTING THE FEDERAL DEFICIT

HON. BUDDY MacKAY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. MACKAY. Mr. Speaker, since coming to Washington I have been one of the freshmen Democrats who has striven for direct action to reduce the Federal budget. Having served in the Florida Legislature, which is required to balance its budget each year, I do not accept the notion that the Federal Government can go on year after year, developing huge deficits, without serious consequences to our economy.

Today, a leading spokesman for the business community, Mr. Owen B. Butler, chairman of the Procter & Gamble Co., addressed that subject in a talk made in the Cannon House Office Building before a seminar on Government spending, sponsored by Women in Government Relations. I commend to my colleagues Mr. Butler's forthright views and sense of urgency that action must be taken now to reduce the Federal deficit. I therefore insert excerpts from his talk in the RECORD at this time:

THE BUSINESS COMMUNITY'S ROLE IN THE POLITICS OF SPENDING CUTS

(By Owen B. Butler)

If we continue to indulge ourselves in credit card living, spending and borrowing as though there were no tomorrow, we doom ourselves and our children to economic stagnation and unacceptable levels of unemployment.

It is time we stopped trying to blame this on one political party or another, or on the Congress, or on the Administration. The fact is, we have a representative government and our elected officials generally do their very best to follow the wishes of the electorate. If we want to change our course, then we, the businessmen, we, the public, we, the electorate, have simply got to make it clear that our first priority in spending and taxes is to live within our means. If we make it clear to our elected representatives that we will not return to office the Administration and the Congress which legislates these astronomical deficits, then the hard choices will be made and the deficits will disappear.

I would like to devote the rest of my remarks this afternoon to a brief discussion of what I believe are the overpowering reasons why we must set a balanced budget as our first priority.

First of all, we need to get the size of the current deficits in perspective. These are not "deficits as usual". The fact is that the federal deficits for the last two fiscal years, and the projected deficits for the next two fiscal years, are far and away the highest peace time deficits in the history of our country. Even when measured as a percentage of gross national product (which rules out the effects of inflation and economic growth), they are substantially larger than the largest deficits we ran during the middle of the Great Depression of the 1930's when we were deliberately trying to spend our way out of economic disaster and were consciously willing to encourage inflation.

Common sense tells us that no individual, no family, and no corporation can consistently spend beyond its income without eventually facing financial disaster. The same is true of governments except that a government which persistently spends beyond its means can bring economic disaster to the entire country. All of the economic rationalizations in the world will not change the basic laws of human behavior.

One area in which I think businessmen, because of their experience, can make a contribution is by demanding that we look at facts rather than theories.

Learned economists may debate whether deficits are inflationary, but a simple study of our post war history confirms clearly that repeated federal deficits are inflationary. They also tell us, and this may come as a surprise to some, that repeated federal deficits also tend to reduce (rather than stimulate) the rate of economic growth and they tend to increase (rather than reduce) the rate of unemployment.

Let's take a close look at the history of our economy since 1950, dividing it into periods of consistent federal fiscal policy. During the 17 years from 1950 through 1966 the federal budget was generally in balance with six years of small surplus, seven years of small deficits, and four years of almost exact balance. During that same period, the economy grew by an average annual rate of 4 percent. The inflation rate was 2.1 percent and the unemployment rate averaged less than 5 percent. Interest rates on short-term borrowing were 2.5 percent and on long-term borrowing were 4 percent.

During seven of the next eight years we ran deficits, but the deficits were relatively small and averaged 1.2 percent of the gross national product during the eight year period. The annual growth rate in the economy dropped from 4 percent to 3.4 percent and the inflation rate rose to 4.8 percent. The unemployment rate stayed about the same, but interest rates almost doubled.

During the next seven years, from 1975 to 1981, we ran a deficit every year and the size of the average deficit doubled to about 2.4 percent of gross national product. The economic growth rate dropped again from 3.4 percent to 2.5 percent. The inflation rate increased from 4.8 percent to 7.9 percent. Unemployment inceased to more than 7 percent and long-term interest rates rose to 14.0 percent.

During the two years ending last September the deficits averaged 4.9 percent of GNP. Despite the apparently robust recovery during 1983, GNP at the end of the two years had gained less than 2 percent for an average annual growth rate of less than 1 percent. It is true that the inflation rate had been reduced by a strong monetary policy, but we paid the price for that with an average 9.6 percent unemployment rate and a 13.9 percent long-term interest rate.

From a businessman's perspective, it is entirely reasonable that persistent deficit spending by the federal government would have the results which these correlations suggest; that is, lower economic growth, higher inflation, and higher interest rates. Let's examine for a moment the rationale which explains these correlations.

To begin with, our currency is not now backed by anything but the credit reputation of the issuer; that is, the federal government. We tend to forget that this has only been true for a short period of time, but the fact is that our currency represented in some fashion a promise to pay in either gold or silver from 1792 up until August of 1971. It is true that domestic convertibility had gradually been abandoned during the 1930 to 1970 era, but international convertibility remained in place until a little over 12 years ago. Once we abandoned that final convertibility, the currency became nothing more than an IOU. At the same time, we embarked on an era of persistent deficits of constantly increasing magnitude and the financial markets reacted accordingly. It is perfectly obvious that IOUs issued by a creditor who persistently lives beyond his means will have declining value. In other words, it is inevitable that currency issued by a government which never balances its budget and which year after year not only fails to repay principal but borrows money to pay interest on the debt will continually decline in value—hence, inflation.

The expectation of inflation inevitably generates higher interest rates. Lenders insist on an interest rate which will not only provide a decent return on their investment, but will also protect them against the inevitable loss in face value.

When we try to keep interest rates low by issuing more currency, inflation accelerates. Although inflation can initially cause a quick burst of economic activity, it has a very depressing effect on economic growth over any extended period of time. Business is taxed on apparent profits rather than real profits. Corporate taxes during the periods of highest inflation during the '70's reached a rate of about 66 percent of the actual profits; that is, reported profits adjusted for changes in the price level, leaving only about one-third of the actual before-tax profits for dividends and reinvestment in the businesses. This forced industry to turn to borrowing rather than retained earnings for investment in new plants and equipment, and as corporations used up their borrowing capacity the investment in new plants and equipment had to decline. At the same time, it became more attractive for investors to put their money in property which would increase in value with inflation rather than into production of new goods and services.

The alternative solution of controlling inflation with tight money and very high real interest rates creates a difficult but equally painful problem. The high real interest rates attract foreign currency and inflates the value of the dollar versus other currencies. I think most businessmen agree that it is precisely this action which accounts for a dollar which is overvalued as much as 20-25 percent versus other major currencies. This overvaluation of the dollar makes it impossible for producers to compete effectively with other industrialized countries and accounts for much, if not all, of the frightening trade deficit we now suffer, and that deficit in turn represents the export of jobs from the U.S. to other countries. The best calculation we can make is that the present trade deficit costs us more than 1.9 million jobs. Said another way, if the trade deficit were eliminated, unemployment would drop by almost two percentage points.

In net, deficits create high rates of inflation and/or high real interest rates and these, in turn, create low economic growth and high unemployment. Common sense tells us this is true. Common sense tells us why it is true, and history confirms that this is precisely what has happened.

Now, we are proposing deficits for the current year and coming fiscal years which are at least as high as the last two years.

A simple look at history and at the projected deficit for the next two years suggests very strongly that we must either act to eliminate the deficit or we must be prepared for more years of zero economic growth accompanied by either extreme levels of unemployment or extreme rates of inflation. Who among us would willingly accept either of these alternatives?

I think it is high time we stopped talking about making "down payments" on the deficit, stopped talking about some modest reduction in the deficit, stopped talking about Constitutional amendments and simply demand that Congress do what it has the power and the responsibility to do; that is, to balance the budget and to balance the budget now. Waiting until after the elections simply won't work. By that time, we will be right back where we were when the Carter Administration took over in 1977. The economy will almost certainly be slowing down again and we will have a new excuse to defer the painful decisions. We need to return our country to the growth rates and unemployment rates we had from 1950 to 1966. To do that we must balance the budget and to do that we must make some very painful decisions.●

IN RECOGNITION OF THE AMERICAN WORKING WOMEN

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. BEDELL. Mr. Speaker, I rise today to recognize American working women, with special note for the millions of homemakers and rural agricultural workers. Out of the 45 million working women of this country, these two groups are often taken for granted or ignored.

While the popular attention has focused on the many women in the work force, homemakers still comprise the largest group of workers in America. Though over half of all married women work outside the home, that leaves almost half—24 million—still working full time in the home. These individuals have long polished skills which contribute substantially to our Nation's economy.

In addition, I would like to pay special tribute to many women who work on farms. There are over 34 million women, living on farms and in small towns, working as homemakers, farmworkers, and in agribusiness and industry. The farm woman traditionally has been a vigorous and essential partner in the planning, hard work, and business skills that sustain the independent family farm.

Rural American Women (RAW), a group organized in 1977, has compiled statistics and research from all areas of the country regarding farm women. Over 128,000 of the Nation's 2.5 million farms are solely or principally operated by women. This does not include the thousands of women who are actually cooperators of farms which are listed under a male operator. Statistics show that the number of women employed solely or principally as farm operators and managers doubled from 1970 to 1980. These figures have continued to grow.

I salute the contributions of all working women, whether they hold corporate positions, spend long hours behind a desk, work sunup to sundown on farms, or spend the day managing their home. They are all making a big impact on our Nation and they deserve recognition.●

A WELCOME TO EL SALVADOR'S DEATH LOBBY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. STARK. Mr. Speaker, this morning's Washington Post carries a story with a headline I hoped we would never see in our country. The headline reads: "D'Aubuisson Is Promoted Here".

The Halls of Congress are graced this week with the presence of people whose organization has been directly linked to a sustained program of calculated political murder.

The representatives of the Salvadoran party ARENA have come to Washington to explain to us in Congress the Salvadoran reality from their viewpoint. Will their presentation of that reality include a description of how their leader, Roberto D'Aubuisson, presided over a drawing of lots for the honor of assassinating Archbishop Romero? Will they provide us with insight into why their party has conducted machinegun attacks on the Embassy of the United States? Or will they rather explain to us why their particular brand of politics through abduction, and government through terror is the best answer to the Communist threat in El Salvador, and Central America?

Mr. Speaker, I do not dispute the right of these ARENA representatives to bring their case to Washington. I simply want to make sure that my colleagues know who they are welcoming to their offices: Roberto D'Aubuisson's Salvadoran death lobby.●

A TRIBUTE TO JOSEPHINE RUFFINO

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

Mr. GUARINI. Mr. Speaker, I would like to make known a volunteer program which has been in effect since 1967 in the Hudson County area, wherein a very dedicated constituent has provided opera programs. The remarkable individual I refer to is Mrs. Josephine Ruffino of North Bergen.

While the calendar may put her in the status of being an "older American." She indeed displays boundless energy, operating a remarkable organization, known as the Family Opera.

This group has dedicated themselves to producing outstanding operas, filling a void in our area. In addition to the professional performances, the remarkable part of the Family Opera is that no tickets are sold, no one is paid, as the only income is derived from voluntary contributions and donations.

Currently the Family Opera, which was formerly known as the North Bergen Opera Association, is involved in its winter program with the following schedule:

October 2, 1983—Lucia di Lammermoor, Gaetano Donizetti.

November 6, 1983—La Forza del Destino, Giuseppe Verdi.

December 4, 1983—La Boheme, Giacomo Puccini.

January 8, 1984—La Traviata, Giuseppe Verdi.

February 5, 1984—Die Fledermaus, Johann Strauss.

March 4, 1984—Pagliacci, Ruggiero Leoncavallo.

May 6, 1984—Falstaff, Giuseppe Verdi.

June 3, 1984—The Merry Widow, Franz Lehar.

While they do not enjoy the stature of U.S. opera companies such as the Baltimore Opera Co., whose general manager is J. Holbrook, or the New York City Opera, whose general director is our beloved Beverly Sills, or the tremendous Metropolitan Opera Association of New York City, directed by Anthony Bliss, they indeed have the same love of music and people.

Mrs. Ruffino is fortunate to have the professionalism of Dr. Herman Schlisserman as musical director, whose boundless energy matches that of Mrs. Ruffino. His musical direction of the one and only Swiss Bond of Hudson County, with more than 90 years of community service, is renown.

In addition to the packed house they have each Sunday at the Park Theater in Union City, with a 1,000-seat capacity, the Family Opera has brought a message of beauty through music, the international language, to hospital groups, high school students, and older Americans, who have enjoyed performances which included ballet, an important part of the company.

Josephine Ruffino and the Family Opera have a continuing problem which they face with great trepidation. They have indeed been fortunate in the past to have the assistance of Mr. Arthur Imperatore, president of the A.P.A. Transport Co., who is a true lover of the arts. He has assisted on many occasions, helping to provide funds and wherewithal to continue the beautiful music program.

A turning point in Mrs. Ruffino's life occurred in 1953 when she was involved in an automobile accident, which resulted in a long period of hospitalization. Dr. Herman Schlisserman provided medical care and it was there they joined in the musical programs. A graduate of Julliard School of Music, Dr. Schlisserman has provided the professionalism and determination with resulting perfect performances.

Mrs. Ruffino, meanwhile, has assured the many tasks coordinating the musicians, the lights, props, scenery, costumes, public relations, and raising the limited funds needed for their annual programs.

Josephine is the proud mother of three children, Russell Ruffino, Ph. D., Anthony Ruffino, a member of the U.S. Marines during the Korean conflict, and Jacqueline Ruffino, who is in a supervisory position for the U.S. Navy, Bureau for Medicine and Surgery at the Pentagon.

She is a member of Our Lady of Fatima Church in North Bergen, a member of the U.S. Marines and Navy Mothers Club, and the N.J. Federation of Business and Professional Women.

For her efforts she was awarded a community service citation for outstanding citizenship by the New Jersey State Department of the Veterans of Foreign Wars. A highlight in her community career has been a personal invitation from former Speaker of the House John McCormack to visit the White House through the efforts of former Congressman Dominick V. Daniels of the 14th District.

The Family Opera, under Josephine's direction, and with Dr. Schlisserman's input personifies service to the community and a love of life which is echoed constantly through their musical programs.

Charles Kingsley said:

> Music has been called the speech of angels; I will go further and call it the speech of God Himself.

Josephine, through her dedication indeed echoes the words of Dora Flick Flood:

> Music is Nature's love and tears transformed into Harmonies that reach the spirit of man.

And Plato's reminder that:

> Music to the mind is as air to the body.

Mrs. Ruffino's efforts is volunteerism at its best. More importantly, however, is the ripple effect she causes instilling the same spirit in many individuals, urging them to accept their responsibilities to work for community causes.

I urge all my colleagues here in the House of Representatives to join with me in thanking Josephine Ruffino and urging the continuation of her beautiful work, bringing music, which has been so beautifully described by John S. Dwight:

> Music is to me an ethereal rain, an ever-soft distillation, fragrant and liquid and wholesome to the soul, as dew to flowers; in incomprehensible delight, a joy, a voice of mystery, that seems to stand on the boundary between the sphere of the senses and the soul, and plead with pure, unrefined human nature to ascend into regions of seraphic uncontained life.
>
> O wondrous power! Art thou not the nearest breath of God's own beauty, born to us amid the infinite, whispering gallery of His reconciliation! Type of all love and reconciliation, solvent of hard, contrary elements—blender of soul with soul, and all with the Infinite Harmony.●

TRIBUTE TO BERNARD KAZON

HON. JOHN R. McKERNAN, JR.

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. McKERNAN. Mr. Speaker, on February 27, the family and friends of Mr. Bernard Kazon will gather to celebrate his 60th birthday. I would like to extend the best wishes of the House, and to pay tribute to his many accomplishments.

Mr. Kazon, who lives with his wife, Shirley, in Portland, Maine, is an active member of his community. Born in Rutland, Vt., he attended Syracuse University but left to join the Army during the Second World War and then served his country again in Korea, where he attained the rank of lieutenant.

Today, Bernie Kazon is executive vice president of the Eastland Shoe Manufacturing Corp., one of the busiest and largest shoe manufacturers in the Northeast. Unlike some companies that have used foreign labor in manufacturing their shoes, Eastland has dedicated itself to making a quality, affordable product using Maine labor. Eastland employs about 600 men and women in Freeport, Lewiston, and Fryeburg, Maine.

Bernie has maintained an active interest in civic concerns and national issues related to consumer protection. He has also been involved in philanthropic efforts of national Jewish organizations, as well. The Kazons have also raised a daughter, Paula, a teacher outside Boston, and a son, Peter, an attorney with the Federal Trade Commission here in Washington. Perhaps the proudest addition came last year, when Bernie became a grandfather to young Robert, the son of Paula and her husband Peter Bentinck-Smith.

I am pleased to extend these good wishes to this thoughtful and softspoken gentleman on his 60th birthday.●

LITHUANIAN INDEPENDENCE DAY

HON. GLENN M. ANDERSON

OF CALIFORINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. ANDERSON. Mr. Speaker, I am proud to join my colleagues, and the Lithuanian people around the world, once again in commemorating Lithuanian Independence Day. I thank my colleague from Illinois, Mr. ANNUNZIO, for arranging this special order.

February 16, 1984, marked the 66th anniversary of the Lithuanian's declaration of independence from the Soviet Union. For 22 years, in the aftermath of World War I, the Lithuanian people pursued a prosperous and independent existence. Their spirits were highest, perhaps, when in 1920, the Lithuanians signed a peace treaty with the Soviet Union in which the Soviets renounced all claims against Lithuania and recognized her as a sovereign state.

Tragically, with the advent of World War II, Lithuania once again became a center of conflict, as first Nazi Germany and then Communist Russia occupied her territory. Once again, the people of Lithuania found themselves under the domination of the Soviet Union.

However, despite these 44 years of oppression and hardship, the Lithuanians' desire for freedom and independence has persisted. By providing recognition and support to these brave people, I hope that we can keep the flame of hope burning in the hearts of both the 1 million Lithuanian Americans and of those who continue their valiant struggle to preserve their culture and heritage in the Soviet Union.●

H.R. 4843, AMENDING THE HOUSING AND COMMUNITY DEVELOPMENT ACT

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. KOSTMAYER. Mr. Speaker, today I am introducing H.R. 4843 to correct a technical flaw in the Housing and Urban Recovery Act of 1983. I refer to the section of the act which amends section 105(c)(2)(B) of the Housing and Community Development Act of 1974.

The recent legislation insures that at least 51 percent of all community development block grant funds are used to benefit low- and moderate-income persons, and requires that areawide activities be located in neighborhoods where a majority of the residents are of low and moderate income.

The law, however, recognizes that some cities and towns receiving block grant funds may have no areas which have a majority of low- and moderate-income households. In such circumstances, section 105(c)(2)(B) provides that such city or county target their funds to those areas with the highest concentration of low- and moderate-income persons, and limit activities only to those areas in the upper quartile of concentrated areas.

This provision in fact attempted to incorporate current regulatory policy, with one critical oversight. Current HUD regulations apply not only to those jurisdictions having no areas with a majority of low- and moderate-income residents, but also includes grantees with few such areas. By dropping the word "few," the new law makes it unrealistic for many low-density cities and counties to concentrate their funds in a handful of census block groups with 51 percent lower income residents.

I have been assured by those responsible for drafting this legislation in the closing days of the last session, that this was indeed an oversight.

It is important to note that without this technical change, fewer low- and moderate-income persons will actually benefit from community development block grant funds. In my home county, Bucks County, Pa., for example, only 14 percent of the county's low- and moderate-income population will be served under these provisions. If the change I am proposing is made, 40 percent of the low- and moderate-income population will be able to benefit. The same inequitable distribution applies in several other counties in Pennsylvania. In York County, for example, the situation is even more dramatic. There only 2.5 percent of the county's total low- and moderate-income population will be served if the law is left unchanged.

This provision has the same effect in urban communities in other States as well, such as New Jersey, Michigan, Ohio, Wisconsin, Delaware, New York, and Illinois.

Although this is a small, technical change, it is an important change, Mr. Speaker. Similar legislation is to be introduced within the week in the other body by Senator JOHN HEINZ and others. I urge the support of my colleagues in this matter, and appreciate the support I have already received from the chairman of the Banking Committee.

The text of H.R. 4843 follows:

H.R. 4843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds that—

(1) assistance received under the community development block grant program should principally benefit persons of low and moderate income and areas in which a majority of the residents are such persons;

(2) section 105(c)(2)(B) of the Housing and Community Development Act of 1974 limits the ability of metropolitan cities and urban counties without concentrated, high-density development to effectively carry out this objective;

(3) the provisions of such section 105(c)(2)(B) significantly depart from the long established policy of the community development block grant program and, in some cases, may result in a reduction in the number of persons of low and moderate income who benefit from activities assisted under such program; and

(4) a technical amendment to such section 105(c)(2)(B) is required to ensure that assistance under the community development block grant program principally benefits persons of low and moderate income.

SEC. 2. Section 105(c)(2)(B) of the Housing and Community Development Act of 1974 is amended by inserting after the comma the following: "or in any jurisdiction in which such areas are so few or have such small populations that the Secretary determines it would be plainly inappropriate for such jurisdiction to address the needs of its residents who are low and moderate income persons by limiting assisted activities to activities serving such areas,".●

THE SENSELESS DEATH OF OFFICER THOMAS P. RUOTOLO

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. GILMAN. Mr. Speaker, last weekend, along with thousands of his fellow officers, I attended the funeral, in Dobbs Ferry, N.Y., of my constituent, Police Officer Thomas P. Ruotolo, who was brutally shot to death by a parolee who had been convicted of manslaughter.

Officer Tom Ruotolo was one of New York City's finest. He held a master's degree in criminal justice, and ironically was scheduled to be transferred in the next few days from street duty to complete his training in computer sciences.

The tragic death of Tom Ruotolo reminds us all of the need for long overdue reform of our criminal justice codes. The frustration felt by the townspeople of Dobbs Ferry—who knew and loved Tom Ruotolo—was made more bitter by the knowledge that the crime was perpetrated by a convicted felon, who should not have been on the streets.

Two items of pending legislation which I have cosponsored may go a long way toward eliminating a repetition of the tragic death of Tom Ruotolo.

H.R. 2193, which was authored by our colleague from California (Mr. ANDERSON), would impose a mandatory penalty for felonies committed with the use of a firearm.

H.R. 953, authored by our colleague from New York (Mr. BIAGGI) would prohibit the manufacture and sale of bullets which can pierce protective armor.

The wife, parents, family, and the many friends of Officer Thomas P. Ruotolo cry out that his death be not in vain. It is incumbent upon us to approve legislation with teeth in it—legislation that lets the criminal know that we in the Federal Government have declared war on crime.●

A TRIBUTE TO VICKIE VAN STEENBERGE

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. SHUMWAY. Mr. Speaker, at this time I would like to ask my colleagues to join with me in paying tribute to the outstanding achievements of an exceptional woman, Vickie Van Steenberge. Vickie has just been honored by the Soroptomist International of Lodi as "Woman of the Year," a well deserved tribute.

Vickie is indeed unique. She has the distinction of being 1 of only about 20 women in the United States today who run foundries. Vickie began as a secretary with the Lodi Iron Works, working her way up to president in less than 15 years. She has provided outstanding and beneficial leadership for the foundry for 20 years. The community of Lodi can join her employees in testifying to her sound and wise managerial abilities, and her commitment to the industry as a whole.

Vickie Van Steenberge is also a respected wife, a devoted mother, and a dedicated volunteer in community and civic affairs. She has lent her sound abilities to the Lodi library board of directors, the chamber of commerce board, and the civil service commission board for San Joaquin County. She is one of the founders of the San Joaquin County Zoological Society, and is a past president of its board of directors. She has always strongly supported Boys and Girls Club and the Garden for the Blind. And, Vickie Van Steenberge was one of the founders of the Tokay Savings Bank. The only woman on its board of directors, she has served as the board's chairman.

I am delighted to be able to commend Vickie's many achievements and to congratulate her on this well-earned recognition.●

WHEN ABORTION BECOMES BIRTH

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. SILJANDER. Mr. Speaker, on February 15, 1984, the New York Times published an extensive article entitled "When Abortion Becomes Birth: A Dilemma of Medical Ethics Shaken by New Advances." The article gives a frank and shocking description of late term, second and third trimester abortions. Also, it is clearly not written from a profile perspective.

It will be best for the reader of this article to judge the horrible rationale of those medical merchants who perform abortion for themselves. Doctors who have switched methods of abortions that dismember the unborn child in the womb to prevent his or her's live birth, clearly show abortionists' acknowledgement of human life in the womb and his total rejection of the right to life. What we see in this article is not a debate over whether the unborn child is human or not, but what to do with the abortionist's problem of the child's humanity.

Is it not an indictment of our national failure that we acknowledge the need to preserve the life of viable aborted fetuses, but this Congress resists, in defiance of our Constitution and our national heritage, to restrict, access to abortion in any of the 9 months of pregnancy? I hope my colleagues see this article and understand the extent to which the national tragedy of abortion has dehumanized our society.

[From the New York Times, Feb. 15, 1984]

WHEN ABORTION BECOMES BIRTH: A DILEMMA OF MEDICAL ETHICS SHAKEN BY NEW ADVANCES

(By Dena Kleiman)

A woman went to Beth Israel Medical Center in Manhattan for an abortion. When it was done, the doctors told her she had just given birth to a daughter.

The child, though seriously brain-damaged, was saved by new techniques of caring for extremely premature infants, and the techniques get better every year. The number of children surviving abortions is still tiny, and their chances of leading healthy lives are still small, but they are posing extraordinarily troubling problems for doctors and hospital administrators.

In effect, medical technology has leaped beyond both the law on abortion and the assumptions of medical ethics. At many hospitals, policies have been thrown into turmoil.

Doctors are grappling with whether a child born as a result of an abortion should be given the same extraordinary care as one born of a miscarriage. Hospital ethics committees are confronting the question of whether late abortions should be moved out of operating rooms and into the obstetrical wings holding the latest life-saving equipment. Women requesting late abortions at some hospitals are being told that a fetus born alive will be given all chances to survive.

"ONE OF OUR MOST DIFFICULT AREAS"

"The area of late abortions is one of our most difficult areas," said Dr. Alan Rosenfield, acting director of obstetrics and gynecology at Columbia-Presbyterian Medical Center, "There are no easy answers, given our technology now."

In its landmark 1973 decision, the United States Supreme Court upheld a woman's right to abortion until the point of fetal viability and said that point was generally at about 28 weeks after conception. In New York State, the law allows abortions through the 24th week of pregnancy. But a decade of advances in medical science have made it possible to sustain the lives of infants earlier—as early as 23 weeks.

Live births after abortions are still extremely rare. Of the more than 160,000 abortions performed in 1982 in New York, there were 18 live births, according to statistics maintained by the State and City Health Departments. No statistics are maintained nationwide.

But the very possibility—a possibility most hospitals are reluctant to discuss openly—has stirred internal hospital discussions of when and how abortions are performed, whether late pregnancies should be screened for defects, and what specific procedures should be taken if a child is born live.

And there are difficult new legal issues. When an abortion becomes a birth, it is unclear who must decide what procedures are in the infant's best interest or who is financially responsible.

Because infants born of abortion are injured in the abortion process, legal scholars are asking whether it would be possible for such a seriously injured infant to make a claim of "wrongful life" against a hospital.

DIFFERING APPROACHES TO THE PROBLEM

Policies vary dramatically.

Some hospitals are now only performing elective abortions until the 20th week—a point where it is still impossible to sustain fetal life—except in cases where a fetus has been determined to suffer from major defects.

Others, refusing to make even that exception, are declining to perform amniocentesis, the genetic screening of the amniotic fluid surrounding the fetus. The test is generally recommended for women over the age of 35 and undergone by countless others to defect fetal abnormalities.

Some hospitals are switching to an abortion procedure that eliminates any possibility that a fetus might live.

WARNINGS TO THE FAMILIES

At still others, families are routinely being advised that an abortion may result in a live birth.

"We have to warn the families," said Dr. Hugh R. Barber, chief of obstetrics and gynecology at Lenox Hill Hospital in Manhattan, where abortions are performed until the legal limit of 24 weeks. "You have to tell them there is a slight possibility the fetus may live."

Dr. John Parente, director of obstetrics and gynecology at the Bronx-Lebanon Hospital Center, said that amnicoentesis is not available there and that the hospital did not want to do late abortions.

"It's an emotional problem," he said. "We just don't want to do it."

"We decided to cut back to 20 weeks," said Dr. Fritz Fuchs, professor and former chairman of the department of obstetrics and gynecology at New York Hospital-Cornell Medical Center, where an exception is made for major defects. "In this manner, we have avoided getting into any difficulties with the law."

FEAR INSPIRES CAUTION

The subject is rife with emotion and debate. Much of the discussion is taking place behind closed doors for fear of publicity and lawsuits.

Told about the subject of this article, many doctors declined to return telephone calls. In one case, the director of obstetrics at a major New York hospital spoke in detail of an aborted infant's survival last year and the traumatic impact this event had on the hospital's staff. The next day, he called back to deny the incident had ever occurred.

The questions of when abortions should be performed, by what method, and what kinds of infants should be saved are answered differently by different physicians.

While publicly the great majority of hospitals agree that any infant who survives an abortion or miscarriage should be kept alive, doctors acknowledge privately that this practice varies widely from hospital to hospital.

CIRCUMSTANCES OF PROCEDURE

"It's necessary to remember that these days abortion is done on request and therefore not a procedure you undertake in the interest of the fetus," said Dr. Gordon W. Douglas, the chief of obstetrics and gynecology at New York University Medical Center, where abortions are performed only until the 20th week of pregnancy except in cases of fetal abnormality.

"What most of us try to do is to try to remain within the law and not generate problems for anyone," Dr. Douglas said. "The hospital requires any live fetus to be given full supportive services and full resuscitation regardless of prognosis. But the delivery of a living fetus carries no guarantee of a surviving adult of any competence."

Complicating the problem for doctors at many hospitals are advances that have been made in detecting defects long before birth. Many of these procedures, including amniocentesis and sonography, cannot be performed until relatively late in the pregnancy, so often decisions about such abortions are made just at the edge of fetal viability.

WORKING AT CROSS PURPOSES

"It makes us all schizophrenic," said Dr. Richard Hausknecht, an associate clinical professor of obstetrics and gynecology at Mount Sinai Hospital who specializes in high risk pregnancies. "Nowadays we are asked to terminate a pregnancy that in two weeks doctors on the same floor are fighting to save."

Very premature infants, with low birth weight, suffer from myriad problems. Recent advances have helped prevent lung collapse in these tiny infants and have made it possible to nourish them with new formulas.

Nevertheless, serious handicaps persist. The cost of producing a survivor from a fetus of less than 28 weeks' gestation—whether it is a result of an abortion or of natural miscarriage—can run into the tens of thousands of dollars, not including medical costs from later complications of premature birth.

THREE METHODS OF ABORTION

Much debate concerns the method by which late abortions are performed. Generally, there are three methods.

Injecting saline into the amniotic sac to induce labor in the mother is still the most commonly used procedure in late abortions. While it generally results in fetal death, it has been associated with harmful side effects in women and doctors have increasingly turned to the use of prosteglandin in late abortions.

Prosteglandin is a substance that also induces labor, but it does not poison the fetus. Of all abortion methods, prosteglandin—while believed to be the safest for women by some doctors—is also the most likely to result in a live birth.

The third and most controversial of the methods is dilation and evacuation. Known as D and E, it involves dismembering the fetus while still in the womb, which eliminates any possibility of live birth. It is a relatively new procedure in late abortions, and is generally believed to be among the safest for women and the least psychologically painful. However, it is also generally considered the most traumatic for doctors and staff.

The suction and curettage method, in which the cervix is dilated and the fetus is extracted through a suction tube, is generally applicable only in the early stages of pregnancy.

NEW PROCEDURE IS GAINING

According to the Centers for Disease Control in Atlanta, the use of dilation and evacuation in second-trimester abortions has increased greatly in recent years, as more physicians have learned to perform the procedure and it has gained in acceptance.

Division abounds among gynecologists about who is willing to perform late abortions and by what method.

"I think every obstetrician struggles with this and makes his mind up what his threshold is," said Dr. David Grimes, a gynecologist with the division of reproductive health at the center in Atlanta. "Some do it until 12 weeks. Some will do it until 24."

"It would not be worth it to me to take even a small risk to the mother's life to avoid possibly of a live birth," said Dr. Bruce Young, director of maternal-fetal medicine at New York University Medical Center, where the policy also is to perform abortions until the 20th week of pregnancy except in cases of fetal deformities. The method of choice ast New York University Medical Center is the use of prosteglandin.

"A woman comes to me for a late abortion and I do it the best way I know how," said Dr. E. Wyman Garrett, an obstetrician in Newark who is among a growing number of physicians who have developed expertise in performing D and E's through the 24th week of pregnancy.

He said he prefers this method because it is safer for the woman and because it avoids the agonizing decision of what to do when a child is born alive—a situation he confronted only last year.

In that instance, Dr. Garrett performed a saline abortion on a young woman at University Hospital in Newark. The infant that emerged weighed about 1 pound 10 ounces and was alive. It was born Jan. 13 and died April 29 after developing meningitis.

"I do D and E's because I think it is safer," said Dr. William Rashbaum, a gynecologist affiliated with Beth Israel who also specializes in this method. "It is a horrible procedure. Staff burnout is a major problem. But are you functioning in the interests of taking care of your staff or taking care of your patients?"

THEORIES FOUNDER ON REALITY

A serious problem physicians confront in performing late abortions is the gap between abstract theories on fetal viability and the realities of medical practice.

In the case of the fetus born alive during an abortion at Beth Israel, for example, the infant was believed to have been only 23 weeks in gestation, but it was in fact 25 or 26 weeks, according to one doctor.

"The baby turned out to be older than we thought," the doctor said. Beth Israel officials said that the infant suffered extensive brain damage but would not discuss the incident further.

Pregnancy due dates, dates of conception and fetal viability are still uncertain areas. They depend on the skills of the doctor, the technical currentness of the hospital and individual development of the child.

METHOD OF DETERMINING AGE

When a woman in the second trimester of pregnancy approaches a physician for an abortion, she is asked to undergo a sonogram, which produces an image of the fetus. It is the best—though still far from perfect—way for doctors to determine gestational age, since recollections about last menstrual periods are highly imprecise.

The age is estimated by measuring the diameter between two points on the fetus' skull. In theory the wider the diameter, the older the fetus. But accuracy depends on the machinery used and on the skill of the technician using it. Congenitally small children make estimations of fetal age even more difficult.

"Sonograms are very subjective," said Jeffrey Karaban, a sonographer at one of the largest abortion clinics in New York City, the Eastern Women's Center in Manhattan, where 8,000 abortions are performed a year. "Certainly there are a lot of bad sonograms done. We have patients come from seemingly reputable places and yet their sonograms don't jibe with what we see."

Viability is even more difficult to assess. Once a highly premature infant is born—either as a result of abortion or of miscarriage—its gestational age is determined by how much it weighs and a number of other physical characteristics: the condition of its eyes, the state of its skin, how much cartilage it has developed in its ears. This, too is highly subjective.

CHARACTERISTICS OF FETUS

A 24-week fetus physically appears to resemble a child, but its lungs and brain are still not fully developed, nor are its eyelids open.

If a decision has been made to resuscitate the baby, a mask may be placed over its mouth and nose and a needle placed through its navel to measure blood pressure and body chemistry. The baby is then weighed and further examined to determine whether to continue treatment.

Some doctors do not believe an infant is "viable," and thus a subject for the most advanced and aggressive treatment, if it is seriously deformed or has been determined to have less than a 20 percent chance of survival. Other doctors will try to save any infant with a heart beat.

"I have never been called to deal with such a case, but if I were, I would vigorously treat that baby," said Dr. John Driscoll, director of the neonatal intensive care unit at Columbia-Presbyterian. "If the baby was anomalous, there would be a whole other set of dilemmas. If I were asked about a Down's syndrome baby, I believe everything should be done. I differ with some people's thoughts about quality-of-life issues."

CONTINUED NEED RAISES TROUBLING QUESTION

The underlying question that many doctors ask in confronting these difficult medical problems is why late abortions are still necessary, given the availability of contraceptives and the comparative ease with which abortions can now be obtained.

Indeed, over the past 10 years, elective abortions have been performed at progressively earlier stages of pregnancy nationwide, and the great majority are now carried out within the first trimester.

Of the 1.6 million abortion performed in the United States in 1980—the last available figure from the Centers for Disease Control in Atlanta—more than 90 percent were done within the first 12 weeks. Only about 13,000—less than 1 percent of all abortions performed nationwide—were performed on women pregnant more than 21 weeks.

According to statistics compiled by the Centers for Disease Control, the largest group of these women is between the ages of 15 and 19.

Many of these are believed to be unwed teen-agers who do not know they are pregnant until they feel the baby kick. Quickening—as fetal movement is called—usually first occurs between the 17th and 20th weeks of pregnancy. About 10 percent of all second-trimester abortions—less than 1 percent overall—are preformed on women who have discovered they are carrying infants with serious defects.

Amniocentesis is usually performed during the 14th through 16th weeks of pregnancy. Results take at least three to four weeks, so that a woman choosing to abort a fetus with birth defects may not be able to do so until the 17th or as late as the 20th week of pregnancy. If there are problems with culturing the fluid, it may have to be performed even later.

In an article to be published by the Georgrtown University Law Journal next June, Nancy K. Rhoden, assistant professor of law at Ohio State University in Columbus, points out that advances in neonatology may have made the Supreme Court's Roe v. Wade decision obsolete.

But as legal scholars, ethicists and others continue to dissect this complicated subject, hospitals and physicians are trying to cope with the human drama of what is appropriate and what is not, whether abortions should now be carried out in the obstetrical wings of hospitals where fetuses can be monitored or whether neonatologists should be present at abortions where a live birth is a possibility.

"Social policy makes the late abortion issue worse," said Dr. Phillip Stubblefield, chief of obstetrics and gynecology at Mount Auburn Hospital in Cambridge, Mass., and an associate professor at Harvard Medical School. "Doing an abortion at 28 weeks is indefensible. I would draw a line at 24." The only exception he would make would be to save the life of the mother.

"What are the chances of a 24-week fetus to have a normal life?" asked Dr. William Caspe, the director of pediatrics at Bronx-Lebanon Hospital. "Probably small. Can they survive in terms of their heart and lungs? Yes. In terms of brain survival we are not there. And so a number of us have great qualms about what to do to a teeny tiny baby. For medical and legal reasons, we need to resuscitate. Some feel comfortable at that. Some don't.

"As a society, you shouldn't want us to do that. But as society, you give us no choice."●

JOHN EASTUS

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. MINETA. Mr. Speaker, it gives me great personal pleasure to rise today in honor of one of San Jose's most valuable citizens. Mr. John Eastus, a deputy city manager for the city of San Jose, is going to retire on March 2, 1984, after a 26-year career as a public servant in the city of San Jose. John Eastus is a friend of mine and, by working with John for nearly two decades, I have seen for myself that John is truly a fine friend of all in the city of San Jose.

Since coming to San Jose in 1957, John has worked hard to improve his city. He bagan working for the city of San Jose as a junior engineer, and that was only the beginning of an outstanding 23-year career in the Department of Power and Water. Whether a junior engineer, a chief of his division, or a deputy director of his department, John consistently displayed extraordinary talent and competence. John's service and competence were recognized in 1980, when he was appointed to become deputy city manager for Community Services.

John's hard work has helped preserve and improve the city of San Jose, and John's ability to innovate helped create the new Department of Community Services. Perhaps John's greatest gift lies in his ability to inspire trust and friendship. He has established friendly working relationships with employees as well as supervisors, and he often served as the linchpin in important municipal projects.

Mr. Speaker, John Eastus has built an admirable record, and I ask you and all the Members of this House to join me in honoring this dedicated, widely respected professional. Let us wish John and his lovely wife, Sherry, the continued success and happiness which they richly deserve.●

CAPT. CHARLES N. CALVANO

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. RUSSO. Mr. Speaker, a former Chicago resident became commander of the David Taylor Naval Ship Research and Development Center at Annapolis, Md., last fall after the congressional adjournment. I would like to take this opportunity to congratulate Capt. Charles N. Calvano.

Captain Calvano graduated from the U.S. Naval Academy in 1963. He served as first lieutenant and as CIC officer and also qualified as an officer of the deck on the U.S.S. *Davis*. He graduated from U.S. Naval Destroyer School in 1965 and served on the U.S.S. *Moale* as weapons officer and as operations officer. He is a qualified surface warfare officer specialist. In addition, he graduated from MIT in 1970, where he earned the degree of master of science in ocean engineering and the professional degree of naval engineer.

His experience is impressive, including ship superintendent at Boston Naval Shipyard, project officer for construction of nuclear powered guided missile cruisers at Newport News, and he worked on the staff of the Commander, Naval Surface Force, U.S. Atlantic Fleet, as maintenance type desk officer for 33 guided missile destroyers and cruisers.

There are many men like Captian Calvano who serve their country with dedication and distinction and who demonstrate the great talent required by our fine armed services. I commend him, and I know my colleagues join in wishing all the best to him and the countless others who serve us well.●

HOUSE OF REPRESENTATIVES—*Monday, February 27, 1984*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, that Your grace and love and peace will abound in our lives and in all the dealings we have with others. While we speak for what we believe and voice our own concerns, yet may we always try to appreciate the beliefs and concerns of other people. Help us to develop trust between each other that our word can be accepted as truth, and even in disagreement, we may respect the motivations of others, and so live together in harmony and understanding. In Your name, we pray. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 47) entitled "An act to improve the international ocean commerce transportation system of the United States."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 52. An Act to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment; and

S. 422. An Act to amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance.

DEDICATION OF AMERICAN SAMOA SEAL

(Mr. **SUNIA** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **SUNIA**. Mr. Speaker, a Delegate to Congress is in every way a Member except he cannot vote on this floor. In my case, there were two exceptions. I also did not have a seal in this hallowed Hall to prove my membership.

Today, I am proud and honored to introduce to you, sir, and to the membership of this House, the newest addition to our Hall of States—the Seal of the Territory of American Samoa.

Like the seals of other States which were reproduced in 1949 from the original glass seals, the American Samoa seal is cast in plaster and painted in appropriate colors. This artwork and the installation was performed under direction and supervision of our Capitol Architect.

The theme is cultural. A Samoan house (fale) is outlined and in it is a bowl of chiefly drink (tanoa ava) on which are leaning crosswise a staff (to'oto'o) and whisk (fue) of the Samoan orator, the orator-chiefs being the keepers of our customs and traditions. The background design is taken from that of tapa (siapo), the traditional and ceremonial wear of the Samoan people, used today mostly for ceremonies. In the outer circle you can find the motto of our territory: SAMOA, MUAMUA LE ATUA, (Samoa, God is First). The date, April 17, 1900, is Flag Day, the day when the chiefs ceded their islands to the United States and the Stars and Stripes were raised and we became part of this great country.

As the southernmost part of our country, I am pleased—in fact—proud of the company I keep up there in the northeast corner of the ceiling. I am surrounded by the seals of the great States of Missouri, Louisiana, Mississippi, Alabama, Tennessee, North Carolina—and just to prove that I have national protection—Vermont is in the same corner.

I initiated the request with the Capitol Architect on November 20, 1981. It has taken 2 years to complete this delicate task, and I take this opportunity to commend the Architect, Mr. White and his office for this beautiful piece of artwork.

And finally, Mr. Speaker and Members, my sincere thanks for this final act of accepting America Samoa into the House of Representatives.

In commemoration of this occasion, a bowl of our drink of chiefs, the ava, is being placed in room 1709 Longworth. If you can, please stop and join my chiefs.

WEAPONS RACE IN SPACE

(Mr. **BROWN** of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **BROWN** of California. Mr. Speaker, this morning's Washington Post reported that the administration is unlikely to achieve a ban on antisatellite (ASAT) weapons—space weapons designed to destroy satellites in orbit, because of the difficulty of verifying Soviet ASAT activities. Mr. Speaker, this is a disturbing report.

ASAT's represent the first step of the arms race into space. Failure to negotiate a ban on ASAT's could spell doom for hopes of controlling other space weapons, and poses a threat to existing arms control agreements, such as the 1972 ABM treaty. Testing, development, and deployment of space based ballistic missile defense BMD systems are prohibited under the 1972 anti-ballistic-missile (ABM) treaty. The ABM treaty, negotiated and ratified under President Nixon, is indisputably the single most effective arms control treaty to date. It is based on the principle that strategic ballistic missile defense systems fuel the nuclear arms race, since the best way to overcome the BMD system is to build more missiles.

The President's failure to more aggressively seek a ban on ASAT's (which if used could violate the ABM treaty's provision not to interfere with national technical means of verification) raises serious doubts about his ability or desire to control the proliferation of weapons in space. If the President is truly interested in arms control, then a moratorium on ASAT testing, and a ban on ASAT development is a good place to start. The President should make a counterproposal to the Soviet Union's August draft ASAT treaty submitted to the United Nations, and make a serious effort to control weapons in space.

AN UPDATE ON CONSTITUTIONAL AMENDMENTS

(Mr. **WALKER** asked and was given permission to address the House for 1 minute.)

Mr. **WALKER**. At this time I would hope to offer a unanimous-consent request calling for the consideration of amendments to permit voluntary school prayer, a balanced budget amendment, and a line-item veto.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The Chair has ruled that in order to make these requests, I must have the clearance of the majority and minority leaderships.

These requests have been cleared by the minority leadership.

On days previous, we have asked nearly every day for the majority leadership to clear these same requests. We have gotten no response from the majority leadership, and I think it is becoming increasingly clear as day after day this procedure goes on that it is the Democratic majority in this House that stands in the way of considering these major issues.

AUTHORIZING THE SPEAKER TO DECLARE RECESS ON MARCH 15, 1984, TO RECEIVE IN JOINT MEETING THE PRIME MINISTER OF IRELAND

Mr. BROWN of California. Mr Speaker, I ask unanimous consent that it may be in order at any time on Thursday, March 15, 1984, for the Speaker to declare a recess for the purpose of receiving in joint meeting the Prime Minister of Ireland.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

HOUR OF MEETING ON THURSDAY, MARCH 15, 1984

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday, March 14, 1984, it adjourn to meet at 10:30 a.m. on Thursday, March 15, 1984.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON MARCH 22, 1984, TO RECEIVE IN JOINT MEETING THE PRESIDENT OF FRANCE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Thursday, March 22, 1984, for the Speaker to declare a recess for the purpose of receiving in joint meeting the President of the Republic of France.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

UPDATE ON CONGRESSIONAL RECORD

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, it has happened once again. Once again the CONGRESSIONAL RECORD does not reflect what really took place in debate in this House last week.

And I think it is disturbing that we are finding instance after instance where Members are making changes in the RECORD which do in fact change the context of debates that have taken place in the House Chamber. And I think the American people are becoming increasingly disturbed by a CONGRESSIONAL RECORD that is not an accurate reflection of what takes place in this body.

□ 1210

The incident most recent concerns a debate which began last week in the 1-minute speeches when Congressman WILLIAMS of Montana came to the House floor to take issue with the way in which some of us have been trying to raise the school prayer amendment for debate on the House floor.

And, at that time, Mr. WILLIAMS said and I quote, and the quote that I am utilizing here is the quote that comes directly off the video tapes of the House of Representatives.

Mr. WILLIAMS said, and I quote:

> First, there is no procedure within the House whereby we can bring up a school prayer amendment through some method that has anything to do with these 1-minute speeches. That is not within the procedures of the House.

Now, some of us in a matter of minutes after that, when we were able to get recognized, since Mr. WILLIAMS would not recognize us in the course of his 1-minute speech, we took issue with the statements that he had made. And we said that in fact there is a procedure, a procedure outlined by the Speaker of the House in a statement from the chair just a few weeks previous. And we made it clear that it is extraordinary procedure, but in this case it is an issue that has been waiting for 20 years to be taken up on the House floor and, therefore, it seems that maybe, since 80 percent of the American people support voluntary school prayer, that maybe some extraordinary means might be used for this particular instance.

We, in the course of that debate, had the gentleman from Washington (Mr. FOLEY) come and Mr. FOLEY said that indeed this was an extraordinary means and one that would not be lightly used, but did say that indeed under unanimous consent, which is what we had been seeking to use, that under unanimous consent that, yes, it could be done.

Well, as we discussed the issue then it became clear that what Representative WILLIAMS had been talking about was, well, he just did not regard what we were doing as an acceptable kind of practice and therefore it is not what is commonly understood to be the procedures of the House. That was, really his contention.

But it was not in line with the statement that he made earlier in which he said and I quote: "First, there is no procedure within the House whereby we can bring up * * *" school prayer under the 1-minutes. "That is not within the procedures of the House," is the statement that he made and the statement that we were debating.

We were trying to make it very clear that indeed it was within the procedures of the House to do it.

And I think that the RECORD would show, if, in fact, we had an accurate RECORD, that our side pretty much won that debate.

But the problem around here is you do not win a debate until the RECORD gets printed. What you have happen is people cheat. After the debate is over, they go back and change their remarks so that it appears as though something was said that was not really the case. So that is precisely what happened here.

The 1-minute speech that was given on the topic that then later incurred the debate came out changed. We just added a couple of words so that it would appear as though a far more reasonable statement was made in the initial instance.

And I read what the CONGRESSIONAL RECORD came out the next day as showing. The CONGRESSIONAL RECORD now shows Mr. WILLIAMS saying:

> First, there is no accepted procedure within the House—

Now, he added the word "accepted"—

> there is no accepted procedure within the House whereby we can bring up a constitutional amendment through any method related to these 1-minute speeches. That is not within the understood procedures of the House.

Once again, adding the word "understood."

It qualifies his original statement considerably. It would make it appear as though those of us who made no changes in our remarks, when we rose later on to speak to the issue, were speaking to an issue that was not real because we had misinterpreted what Mr. WILLIAMS had said. In fact, we had not. When you go back and see the original video tape precisely what we were saying on the floor is what Mr. WILLIAMS said, but that is not reflected in the official RECORD of the House of Representatives.

So, in fact, what we have is a situation where when you do not win a debate, when you cannot allow your words to stand as originally spoken, you just cheat and you change them.

Well, I am suggesting that that is not the way in which this House should be proceeding. If in fact, we are going to debate these issues and in fact, we are going to try to articulate issues that are on the minds of the American people, I think at the very least that we ought to have the common courtesy, the common decency, when some of these matters become controversial, not to cheat and change them.

What we are producing around here on a consistent basis is a distorted Congressional Record, the official document that it presents, that is being presented to the Nation as being the document of official record of this House is a distortion. It has very little basis in reality, it has very little basis in fact, and it is a real indictment of the way in which we handle our official documents in this body.

Many people know that in the last session of the Congress we had the issue arise of committee transcripts that were maliciously changed, where a staff member went through and tried to change the debate by making changes maliciously with the prime intent of trying to make some Members look bad and other Members look good.

And we had to have an Ethics Committee investigation of that and that staff member was forced to resign their job—why they were not fired, I do not know—but the fact is that they were at least forced to resign their job.

Now, we have not been able yet to proceed to a Justice Department investigation of the whole matter, which also should be done because what that staff member did was a violation of Federal law, in my opinion. And it seems to me that what we should be moving toward is a Justice Department investigation.

But, nevertheless, what has happened around here is this idea of changing the Congressional Record and changing the documents that are our official matters for proceeding has become so widespread that some staff member got the idea that he could just go in and change the whole thing for posterity.

I think that what we are seeing on a constant basis here in the House of Representatives is instance after instance after instance where Members are coming to the floor after the debate is over and changing their remarks in a way, of course, to make themselves look better. Ego is a major driving force around this body. But, as a result, what they are doing is changing the context of debate and it is particularly devastating for many of us who have tried to help clean up at least our portion of the Record by not changing our remarks, by allowing our remarks to stand as we speak them on the House floor, warts and all.

And I think it is high time that we make it understood that we are going to begin adhering to the rules around here. The rules around here say that you cannot make substantive changes in the Record, that you can only make minor grammatical changes. That is what you are supposed to have the ability to do around here. And I think it is high time that we begin at least enforcing that. And, in my opinion, it is high time we changed the rules of the House and go to the kind of verbatim transcripts that most legislative bodies around the world have in democratic countries and virtually every courtroom in the country has, where the issues of life and death are before them, they use verbatim transcripts. It seems to me it is high time we begin doing that around here, too.

PREVENTING CREDIT CARD FRAUD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, tens of millions of responsible Americans use credit cards yet do not know how to take adequate precautions to insure that they are not victims of credit card fraud and abuse. While most people would take care to watch over the cash they hold in their hand, many of those same people stash their credit cards in any handy place, from glove compartments to desk drawers, and unwittingly become easy targets for credit card criminals.

Credit card fraud is increasing every year. The American Bankers Association has concluded that losses from credit card fraud could total $2 billion per year by 1985. From the consumer's standpoint, credit card fraud could lead to inconvenience and liability for the first $50 worth of goods a thief charges, and increased service and interest charges overall. Today, credit card fraud costs about 8 cents for every credit card transaction, an amount that could easily increase in the next several years. In the interest of protecting the consumer, I would like to call attention to specific precautions the holder of a credit card can take to guard against credit card theft.

First, a consumer should sign the credit card as soon as it is received. This prevents someone from finding a card, signing it with the name imprinted on the front, and then charging up a storm. Signing the credit card serves to deter a would-be thief from obtaining fast and easy credit.

Similarly, if a consumer has ordered a credit card and does not receive it within a reasonable time, the consumer should notify the card issuer that the card has not been received. Cards can be stolen while in transit to the consumer, and the alert consumer will be aware that an expected card has not arrived.

Consumers should also carry their cards wisely. A consumer should never carry more cards than he or she plans on using in any given day. If the consumer does and is robbed, a thief will have access to all account numbers as well as the actual cards. Chances are small that credit card holders will need to use all cards on the same day. Consumers will save themselves time and possibly money as well by leaving the credit cards they rarely use at home rather than in their wallets.

Additionally, it is best to keep credit cards separate from identification documents, such as a driver's license and a social security card. In the event a wallet is stolen, keeping the information in a different location prevents the thief from obtaining credit cards and supporting identification. I should add that a credit card user should never leave a wallet or purse in an open, unguarded area. This is especially true in gyms and offices, where many people pass through unwatched. Sneak thieves know all the hiding places and make a living by lifting cash and credit cards from unattended wallets and purses.

When using a card, every step of the transaction should be observed. Consumers should try to insure that the salesclerk only runs off one copy of a charge slip. Where a carbon is involved, cardholders should take the carbon papers or at least rip them up. This prevents a thief from copying the number from the carbon. Additionally, consumers should always be sure the card returned after a transaction is their own.

As soon as a statement is received, consumers should check the list of charges incurred. Anything questionable should be called to the attention of the card issuing company immediately. Charges that appear which a consumer did not make may be simply a mistake, or they may be fraudulent charges made by a thief. The sooner such charges are reported, the sooner they can be corrected and additional unauthorized charges prevented.

Consumers should never give out their account numbers in response to telephone calls, no matter how urgent or compelling the caller's story. Thieves will often pretend to be the police or the card issuer, taking a survey, calling from a contest, or offering items for sale, or they may use other ruses in convincing the consumer to part with the card number. Once the consumer has parted with the card number, the thief can run up thousands of dollars in fraudulent charges.

When a consumer discovers that his or her credit cards have been lost or stolen, he should immediately notify the credit card issuer. This will end the consumer's liability for further unauthorized use of the card. In addition, it will enable the card issuer to stop further charges through use of the card, and it may lead to the apprehension of the criminal.

Automatic teller machines (ATM's) are also a source of credit and bank card fraud, and consumers should take precautions when using ATM's as well. Consumers should avoid using ATM's in isolated locations or places that are deserted at a particular time of day. Consumers should be aware of the person behind them when conducting a transaction. Holders should be careful that no one is reading their personal information or stealing a code number which accesses a certain account. Lastly, consumers should be sure the screen is clear as they leave an ATM.

Hopefully, we can all work together to eliminate this increasing problem. Credit card criminals are always ready to take advantage of even the smallest opportunity. With a little attention and education, consumers can help see that credit card fraud is reduced.●

TAX LEGISLATION DURING A BUDGET CRISIS—A STATEMENT OF POSITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 30 minutes.

● **Mr. STARK.** Mr. Speaker, every 48 hours, we impose upon our children and grandchildren another billion dollars worth of Federal debt. That is about $350,000 of new debt every minute.

Sometimes debt can finance a better future—as when a family buys a house with a 30-year mortgage. But the rate at which we are today incurring new Federal debt is unreasonable and irrational. It is immoral to be imposing this much debt and debt service on unborn generations during a period of relative peace and recovery.

We are in a Keynesian recovery—unprecedented Federal deficits got us out of the near-depression of 1981 and 1982. But now that there is recovery, there is no possible economic justification for deficits "as far as the eye can see." Now is the time we should be reducing past debt.

My experience as a banker tells me that our deficits are keeping interest rates too high, preventing long-range corporate productivity investments, keeping the dollar overvalued, and destroying jobs in the export industries while sucking in job-destroying imports.

I believe the Nation faces an extraordinarily serious crisis.

We must reduce Federal deficits.

I support the pay-as-you-go proposal: Any increase in spending or decrease in revenues must be offset by spending reductions or revenue increases. Under this system, we would have a balanced budget in 3 years.

We do not need a constitutional amendment: We just need the courage to do our duty.

Therefore, during this budget crisis, I want to explain to the many people who write me and visit my office urging various tax expenditures, my position on tax policy.

The primary aims of a rational tax system—and we have lost sight of these—are to raise fairly enough money to run the Government without excessive deficits or surpluses. At present, our tax laws are a miserable failure. They are perceived as being unfair, yet fail to raise enough money. We ought to be making our tax laws more equitable and increasing the revenues they produce. Instead, we create new inequities and lose more money through loopholes. And an equitable tax code does not distort or influence economic choices by discriminating between similar lines of business.

In line with my support of the pay-as-you-go proposal, I want to advise that I can only consider requests for tax expenditures if they also offer ideas on where revenues can be raised by closing other tax preferences (preferably in the same economic sector) or through general rate revisions. To be considered by me, every bill which loses money must also raise an offsetting amount.

If this philosophy were to govern, the Tax Code would not have one-tenth the distortions and injustices that it now possesses. In the past, we have legislated by the "double pick-pocket theory of taxation." Alternative energy groups are asking Congress for very expensive ($2 billion) extensions of investment tax credits on the grounds that oil, gas, and coal have special tax privileges and they also need these credits in order to compete. Would it not be better to create a level playing field by removing the tax loopholes for fossil fuels, rather than giving alternative energies new loopholes?

In this time of budget crisis, I believe that if the alternative energy industries want $2 billion worth of tax subsidies, they should also obtain support for $2 billion worth of revenue gain. I say this even though I believe in energy independence and in the cleanliness and environmental values of solar and wind and other alternative energies. I would love to give them what they want, but the Federal Treasury has only red ink to share. To give them what they want is to give all our children more debt.

The same applies to the hi-tech industries which are supporting the extension of investment tax credits for incremental R&D. What a white-hat issue; what a wonderful thing to support. But the price tag is at least $700 million. I would be delighted to support their proposal, because I believe it is a more worthy cause and more cost/beneficial for the country than most of the other items in the Tax Code. But the proponents should be helping the Congress find a way to offset the cost. Given the international trade competitiveness of hi-tech industries, they, more than most, should want lower interest rates and an end to the overvalued dollar.

Some contractors want the extension of mortgage subsidy bonds (contained in H.R. 4170), but they are also asking for new incentives so people can get tax breaks for savings to buy homes. But that will contribute to the deficit and keep interest rates higher, longer. Surely, if they want such a provision, they should offer as an offset an existing provision which is less effective and efficient to their industry.

Governors and mayors want uncontrolled, backdoor revenue sharing through the right to issue unlimited amounts of industrial development bonds (IDB)—a concept that will cost the Treasury growing billions over the years. My question is: What will they trade? Do they want this more than, say, direct, appropriated revenue sharing?

Mr. Speaker, with deficits running at or above $180 billion, adding roughly $18 billion a year to our future debt payments, it is time—past time—to choose.

I offer these thoughts in the hope that other Members may agree with them. I offer them as a warning to all those requesting tax expenditure votes from me that they have a duty to offer offsetting revenues.

This discipline is the only way we can break out of the economic wilderness in which we are wandering.●

AMERICAN FORESTS ARE DYING

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, in the Sunday New York Times, an article by Philip Shabecoff outlines the peril facing the eastern and southern forests of the United States. It has come to light that what is happening in our eastern and southern forests were trees that now at higher elevations are dying—dying rapidly—is similar to a situation that is occurring in the Black Forest of Germany and other forests of Europe, where in Germany, just in the last few years, these forests have shown serious debilitation.

□ 1220

Upwards of one-third of the Black Forest may be dead already. And this was unknown until just a few years ago, although deterioration of the forests were taking place for many years prior to that. It became visible, and people became aware of it, only in the last few years. The same thing may be happening in our eastern and southern forests, with untold calamity if this occurs.

The thought is, of course, that it is possibly acid rain, acidification of the soils. It is appearing first in the high elevations. The red spruce are dying rapidly. It is a situation that we simply must address.

As chairman of the Committee on Forest Management and a member of the Forest Subcommittee, I will be calling upon the Forest Service to undertake a massive research program to discover as quickly as possible how serious the peril is to our national forests.

Mr. Speaker, I include at this point in the RECORD an article on the problem by Philip Shabecoff that appeared in the New York Times:

[From the New York Times, Feb. 26, 1984]

WIDESPREAD ILLS FOUND IN FORESTS IN EASTERN U.S.

(By Philip Shabecoff)

WASHINGTON, February 25.—Rapidly accumulating evidence indicates that forests throughout the Eastern United States are in decline, perhaps seriously.

There is no scientific consensus on the cause and significance of the decline, but evidence gathered so far points to manmade pollution as the chief suspect.

Some scientsts are worried that some of the symptoms are similar to those that eventually led to a dramatic decline in Central European forests.

New research has shown that some species of softwood trees are losing their foliage, dying and failing to reproduce at high elevations in the Southeastern part of the Appalachian chain. Until recently, observations of forests throughout the country had found such problems only in the Northeast.

As disturbing, in the view of some scientists and foresters, are data from a number of studies and a survey by the United States Forest Service showing a large-scale, rapid and simultaneous drop in the growth rates of at least half a dozen species of coniferous trees in the East.

The trend, which is being traced through the measurement of annual growth rings of thousands of individual trees, started around 1960 and has apparently accelerated over the past 10 years. Some hardwood trees are also showing the symptoms, although to a lesser degree.

The forest decline is most pronounced at higher altitudes but is found at all elevations. Scientists say tree core samples and other evidence shows that the slowdown in tree growth is without precedent, as far as they can determine.

Scientists, Federal officials, forestry experts and industry spokesmen interviewed in the past two weeks said more research was needed to determine the causes and implications of the forest decline. They said they could not rule out natural causes.

But most of them said the evidence so far strongly suggested that air pollution from power plants, factories, motor vehicles and other human activity either by itself or in combination with natural stresses, was responsible for the declining state of the trees.

Biologists and plant pathologists say some of the symptoms in the Eastern forests are similar to those observed in trees in Germany and elsewhere in Central Europe 20 or more years ago. They raise the question of whether the decline now being found in forests here may be a precursor of the large-scale tree decline and death now afflicting an estimated 35 percent of Germany's forests.

Scientists stress that available data are insufficient to predict whether forests here are facing the same fate as the German forests. But some of them find the prospect alarming.

"Something very dramatic is happening very quickly to the forests of the Eastern United States," said Robert I. Bruck, a plant pathologist at North Carolina State University. "If we are going in the same line as Germany we are facing the ecological catastrophe of the century."

"SCARY" FINDING IN SOUTH

Dr. Bruck has recently discovered that red spruces and, apparently, Fraser firs are deteriorating and dying at the top of Mount Mitchell near Asheville, N.C., the highest peak on the Eastern Seaboard. His studies have found that virtually no plant life is reproducing there, leaving the once lush mountaintop increasingly barren, a finding he described as "scary."

There is no consensus on what role, if any, is played by acid rain in damaging or slowing the growth of the forests. Acid rain occurs when air pollutants, chiefly sulfur dioxide and nitrogen oxides, change chemically in the atmosphere and fall to earth as acidic rain, snow, fog or dry particles.

Acid rain is now generally conceded to be destroying life in some bodies of freshwater in the Northeast. But several of the scientists and forestry experts interviewed said the potential threat to forests, because of their commercial, ecological and esthetic importance, was a much greater cause for concern that the sterilization of several hundred lakes.

A soil scientist studying the growth patterns of Eastern trees, Authur H. Johnson of the University of Pennsylvania, said he was reluctant to discuss his findings with a reporter before publishing them for scientific peer review.

SKEPTICISM PREDICTED

"This widespread, synchronous growth decline is a new idea—it has never been reported before," he said. "The scientific community will be skeptical seeing the proof."

But in a recent statement for the Senate Environment and Public Works Committee, Dr. Johnson summarized the findings of his studies of Eastern forests and those of other scientists. "In a large number of cases, the growth of forest trees has been substantially less than expected during the past 15 to 25 years," he said, adding that in a few cases, "mortality has been substantially greater than expected."

He said data on tens of thousands of trees showed "unexplained" reductions in growth and increases in mortality in six or seven coniferous species in Maine, New Hampshire, Vermont, New York, New Jersey, Virginia, Tennessee, North Carolina, Georgia and Alabama.

Because researchers have been unable to attribute this decline solely to natural factors such as weather patterns, drought, sudden temperature changes, diseases, insects or natural catastrophes, Dr. Johnson said, "It is reasonable to suspect that airborne pollutants alone or in combination with natural causes could be involved."

SAME PATTERNS AS IN EUROPE

He also said, "Tree ring studies conducted in central and northern Europe have shown the same anomalous patterns in diameter growth rates in recent decades, followed by alarming incidences of decline and mortality in several species."

For the past two years, Samuel B. McLaughlin, a forest physiologist with the Oak Ridge National Laboratory in Tennessee, has been examining Eastern forests' response to air pollution in a study for the Environmental Protection Agency. So far, growth patterns have been studied in core samples from 7,000 trees, representing 34 species on 88 forest plots in 15 states from Maine to Missouri and Arkansas.

"We can safely say that there has been a systematic, regionally scaled and sustained decline in the growth of several species over the past 20 to 25 years," Dr. McLaughlin said. He said the process had been most pronounced in the past 10 years.

In general, he said, the results show that there was "an abrupt shift to slower growth rates" that occurred at the same time in New England, Tennessee and North Carolina, that the effects were seen at high and low elevations and that young trees seemed to be affected in the same way as older trees. In Arkansas and Missouri, westward from the Appalachian region, the decline has been less pronounced, he reported.

SUBSTANTIALLY SLOWED GROWTH

Preliminary analyses of recent growth rates compared with those in a base period, 1932-56, indicate "substantially slowed growth in the range of 20 to 30 percent for several evergreen species," he said.

Primarily affected, he said, were such softwoods as spruce, fir, and short-leaf and pitch pine. There was also an "abnormally slow" growth rate in such hardwoods as yellow birch, black oak, sugar maple and hickory, he said.

Dr. McLaughlin noted that the slowdown in growth began after a pronounced increase in air pollution in the late 50's and early 60's, including sulfur emissions and ozone, in the East. About the same time there were pronounced climate changes, including lower winter temperatures for a number of years.

Dr. McLaughlin agreed there was a possibility that what was happening to Eastern forests was a precursor of what was happening to German forests. But he said there was a need for more research.

Joe P. McClure project leader of a forest inventory by the United States Forest Service's Southeastern regional office in Asheville, said preliminary figures from the most recent survey of thousands of one-acre plots indicated some tree species were not growing as fast as they did in previous decades. Primarily affected, he said, are yellow pines such as loblolly and short-leaf, in the Piedmont regions of South Carolina and Georgia. Trees in Alabama show the same symptoms, he said.

SOMETHING IS HAPPENING

"It is obvious something is happening," he said, "but it is very complex to sort out just what it is that is happening." He noted that the Forest Service had been conducting its surveys since 1930 but that this was "the first time anybody has seen this slowdown."

If the preliminary figures are confirmed, what is happening "is serious and significant," he said. "But all we can say now is that something appears to be wrong."

Evidence that trees have been dying at high altitudes in New England and New York has been turning up for some years, including the widely reported death of the red spruce on Camels Hump in Vermont.

Last November, Dr. Bruck of North Carolina State went to the top of Mount Mitchell and found red spruce thinning and dying there, the first evidence of high altitude tree mortality in the Southeast. Dr. Bruck said he was convinced that investigation would show similar patterns of dead or dying tres in many boreal, or Northern, forests along the crest of the Appalachians.

Previously, graduate students working with Dr. Bruck conducted laboratory experiments showing acid moisture killed a type of fungus that protects the roots of healthy trees. When fungi died, the trees, loblolly pines, started to decline and die.

On Mount Mitchell, Dr. Bruck saw the same dead and dying fungi on the red spruce roots that he saw on the laboratory trees. He said this supported the hypothesis that acid rain might be causing the decline of the spruce.

But further investigations on Mount Mitchell found other possible causes of the tree deaths, including high ozone levels, more airborne nitrogen than could be absorbed by the vegetation and heavy metals, including lead and aluminum. The mountaintop was a "garbage dump" of pollution, much of it toxic, he said.

"We don't know whether it is one thing, five things or 30 things that is causing the decline," he said. He said a pathological "syndrome" of interrelated factors was most likely to be found responsible.

He noted that the decline in boreal forests and the slowdown in tree growth was happening east, or downwind, of major industrial areas in both Europe and the United States.

The recent evidence is convincing those previously skeptical that pollution is contributing to the decline of trees. Dr. Arthur W. Cooper, head of North Carolina State's forestry department, said that when he first heard about dying trees on Mount Mitchell, "I would have said it was nothing but God working his will up there." Then, he added, "But then Bob Bruck calls up and tells me there are heavy metal concentrations 25 times what they should be—well, that puts a different light on things."

John Huckabee of the Electric Power Research Institute, an arm of the utility industry, said the institute was taking reports of the forest decline seriously. John Hall, a vice president of the National Forest Products Association, a trade group, said timber companies had found no significant tree decline on their own lands yet and were thus not alarmed. But he said the industry was watching the results of the new research.

Dr. Bruck and some other scientists said they thought the uncertainties on the causes of forest damage showed the need for more research before an expensive program to curb acid rain was undertaken. This is also the position of the Reagan Administration.

But Michael Oppenheimer, an atmospheric physicist with the Environmental Defense Fund, expressed the view of a number of experts when he said, "If you can't guarantee that the problem will be solved by reducing the sulfur, nitrogen or ozone in the air, the best policy is to reduce all of these pollutants."

SLAVE LABOR IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, I know that the weather is deteriorating, and it may be that, before too much of the early afternoon has come and gone, some of the staffers and some of the people on the Hill may wish to wend their way back home.

At this time, though, I think that we ought to remember that throughout the country now, not just in the southwest border area, we have a very pathetic situation on a continuing basis and one that has been going on, and endemically so, since the so-called termination of World War II. Actually, I do not think World War II has hardly ended, if we still have 300,000 of our servicemen in Germany alone. Be that as it might, though, the majority of the country—and this is reflected in the Congress—is really unaware of this continuing agitating, very serious question of the so-called undocumented or illegal worker that streams across our borders; I would say that 999 out of 1,000 coming for the same reason our forefathers came, with a few exceptions. I would say I am one of those, and I will explain.

My family on my father's side came to the New World in 1561. They were with the advanced groups that found silver and gold in the northcentral State of Durango in Mexico, and they settled and eventually colonized and then reached farther north. Years later, they went through what we call New Mexico and Colorado and all of those vast expanses. The same reason: In pursuit of finding gold and silver.

But when Spain then formally began to colonize, that part was known as the Province of Nueva Vizcaya, or New Vizcaya, named after what they call in Spain Vizcainos, vast province, one of the most fiercely independent in all of Spain.

We are so unaware of history that we blithefully ignore that Spain had very similar development to England. As you will recall, the West Saxons, the East Saxons, became West Sussex, all of these were fiefdoms and kingdoms, and then they were all at one time or another coalesced.

The same thing happened in Spain, with one exception, and that is that for 800 years, the southern tier of Spain was occupied by the Moors, Los Moros, and you had an incessant struggle for 800 years between the Crescent and the Cross. This should explain the tremendous religious fervor and the strong identification of the church with the state in Spain for centuries.

When the people from Spain came to the New World, their first ventures, of course, were these adventurers such as my own ancestors, that were seeking gold, silver, and all of the adventure of a new world.

When they settled in these places, though, they deepened roots. The family house, for instance, is still standing. It is more that 400 years old. It is a historical place, or national historical Mexican place, because this was the site, the ancestoral home, where Benito Juarez, fleeing with his cabinet, with the French in hot pursuit, stayed overnight and then proceeded north into what now is known as Ciudad Juarez for that reason. The reason it is known as Ciudad Juarez is that that is where President Juarez fled to the border of the United States in getting away from the French.

The reason I am going into all of this is that, with the turmoil of the Mexican revolutionary period, my parents, in my father's case, for his very life, left Mexico and ended up in San Antonio in 1911, this month of February. And my father remained in San Antonio for 56 years.

If you had talked to him, like I did, the night before he died—and he died at the age of 90, with his full reasoning faculties; in fact, I would say that his mind was more limpidly clear than my own—you would have thought he was going back to the old home country the next day. And this is the way he talked for 56 years. In the meanwhile, they may not have, or maybe they did, realized their families were being born here to them, and some of us grew up in this twilight world in which we did not know if we were fish or fowl, but always had been impressed with the notion that we were going back.

The reason is simple, and that is that my father's roots being so deeply imbedded in that soil, he could not find himself thinking in any other way that the historical aspect of it, because the Province of Nueva Vizcaya for several centuries was defined as that area whose southernmost limits are roughly today the State of Durango, but then, in the words of the chroniclers, extending as far north as man could walk, which means that, from a historical perspective, when the Republic of Mexico was founded after its declaration of independence from Spain, and then subsequent to that, in its war with the United States and the dismemberment of its territories, the historical focus from that point of view is very different from the one in our point of view. So that when the 1924 Immigration Act was first passed—and that was the first national comprehensive Immigration and Naturalization Act—and the requirement for such things as passports, for instance, it made very little dent on the Mexican border. Even up to the time of the early 1930's you could almost travel at will back and forth across the border. The only thing you would have to do would be to pay 5 cents toll to pass the private bridge, the international bridge.

□ 1230

That was it. So, that with all of the things that have happened since then, the growth of the United States; the tremendous growth in population; the demographic, social, and economic changes in Mexico, have all had an impact on this continuing problem.

It has been those laborers in the field, those arms symbolizing this worker leaving a soil that proverbially was so attached to the peasant, or derogatorily known as the peon, traditionally in Mexico, would be separated from his little plot of land only by death. So that when that kind of people, for whatever impelling reason, leave that terrain, their native soil, there has to be an overriding, overwhelming, just an irresistible force that leads them. And that, of course, is bare subsistence: self preservation.

Even as I rise here today to talk, you go just less than 125 miles from the border into the State of Coahuila, and you will find miners that are earning less than $1.50 a day. You will find very primitive conditions. You will find people living literally in caves.

Who comes? Who are these that are so venturesome that leave that native soil and come up here in order to seek some existence or, if possible, earn some money and either send it back or return with it? Usually, the younger, more enterprising. What is never taken into account in all of the studies that I know of—I think I am aware of every single study from the private universities to the Department of Labor to the Federal Reserve Board branches in Dallas—that have conducted surveys of the impact or what appears to be the impact of this labor in domestic labor conditions.

Never, and their estimates are wild, as to exactly how many illegals or undocumented workers there are in this country. They range all the way from 1 to 10 million and, of course, that shows you the deficiency of our ability to grasp knowledgeably, even statistically, halfway, the dimensions of this tremendous movement back and forth.

I would say that for every three that cross the border northward within a year, there will be at least two going back; eventually back and forth. In the meanwhile, as we have marked a course of the development of our immigration and naturalization laws, and the impelling forces in 1924 were not those forces motivated by these currents and winds of change in our southern borders. But rather, the Orient, the Chinese, the oriental, and our exclusion laws were born in that first enactment of 1924.

The first attempts go back 110 years, and they go back to the labor situation in a burgeoning country, the United States, and the importation of the Bohemian. What was derogatorily called the Bohunk of Pennsylvania and these coal-producing areas where this is where the miners who dig and burrow into the Earth. Unless and until a human being enters a mine and, particularly in the most primitive conditions that every day are taking place in a country such as northern Mexico, you will have no appreciation whatsoever of what we take for granted: the metal, these microphones, all of the minerals that we use and take for granted in our modern day living. To see what it takes; to see the deaths that occur; to see the devastating sicknesses that result when no programs such as our black lung program that at times has been so divisive, even here in debate. This is why when I got up and spoke on this subject matter, my colleagues from Pennsylvania could not understand the germaneness because of the district I represent. But the reason is that I have close kinship and knowledge: My oldest brother was a mining engineer, a graduate of the Colorado School of Mines. But he had to go back to where the mines are and that was Mexico, where he lived to the day he died 3 years ago.

I can tell you that when we see that it was this labor that has labored in the fields originally. Today, it is no longer true. I think a lot of people do not realize it, but when you hear about Caesar Chavez and the farmworkers, they are working in a vacuum. They are a minority in a tiny minority because the co-called Mexican American is the most organized, or rather urbanized American in our country. There is not any other group, ethnic, language-identified, cultural-historically identified that has the urban presence now the Mexican American does. He is no longer in the fields.

But, down South there is not an inch of road, there is not 1 yard of railroad line that was not made by the bronze arms of these men. When king cotton was king, it was those while bolls plucked by this labor that enabled it to continue to reign king.

The skyscrapers that we see now in southwest Texas all of them would never had been built had it not been for this labor. But today, as it has been now for some decades, the most pathetic and tragic human development in the world is taking place right here in our own boundaries. We may revile Russia, we may shout "slave labor" all day long, but let me tell you what has taken place and that I have denounced here in my own area and extending west—at least within the confines of the State of Texas and I know elsewhere—we have the equivalent. We are doing no less.

When I got up on this House floor and announced on the closing date of the first session of the Congress, which, if I recall correctly was November the 18th, I closed my presentation by presenting to the House this malodorous situation, which, as I said then I thought had been eliminated for at least 10 years, resurrected by the Justice Department of this administration as carried out by the western judicial district of the Federal Judiciary headquartered in San Antonio. That is, where we are holding individuals for no offense other than the fact that they crossed illegally, maybe the first time only, but, are being held in jail for more than a year, for as long as 14 months on the pretext that they are needed as material witnesses in pending cases.

Even as I speak today and even after a long and patient exchange with the presiding Federal judge now in the western judicial district, the district attorney, who, incidentally, does not happen to be Eskimo-descended or what we call down there, I hate these labels. I have always said, and sometimes this has brought the wrath of my own fellow ethnics who seem to imply that I am a traitor, I have always said we are either Americans or we are not. If we are not, then I want to know the Sam Hill what we are. I say that when we start getting these gradations and we ourselves then isolate ourselves and strangle ourselves in tribal isolation, then we have added impediments and obstacles to the resolution of these real problems. Besides as is reflected in an old Mexican saying: We are either all children of God or all stepchildren of God.

But, here in 1984, we are holding in jail for no probable cause and contrary to the basic constitutional rights guaranteed any human within the territorial limits of the United States of America, we are jailing them. The district attorney will release a few, in the custody of whom? A law enforcement agent, a border patrolman or a Customs official who in turn then takes him and farms him out to some rancher employer, and when they complain as these four did in November they are immediately picked up, rearrested an put back in jail.

□ 1240

In those cases, I established the fact that through the agreement, the stipulation of agreement, an understanding between the two lawyers involved, because the district attorney said he had to have the body presence of these witnesses absolutely. We amended title 18 several years ago, I was one of those who motivated it, to make it explicitly clear that the will and the intent of the Congress was that instead of detention, that every available means be taken to take depositions.

Incredibly, when faced with this, the present district attorney for the Federal western judicial district says, "Why? That is too costly. It is cheaper to hold them in jail." Then he turns around, and out of the other side of his mouth, he says, "We are paying millions and millions in order to have custody, and board, and feed, and house in jails these individuals."

It seems to me that that defies all reason. It seems to me that after that was exposed that something should have been done to follow through and investigate and see how extensive this practice is.

Well, as I stand here today, there are about 100 of those kinds of prisoners in the county jail of Bexar County in San Antonio. There is no telling how many more there are westward within Texas. But let me tell my colleagues what is worse: In the Federal penitentiaries in Oklahoma, Reno, in what is supposed to be the minimum security of Seagoville in Texas, we have 1,000 of those right now, but not in minimum security but in maximum environment, with no right to counsel, charged with no offense other than they have entered the country illegally and have been apprehended.

We also amended the law in that respect and made it clear to the administrative officials, whether the Justice Department or any other department, that it is the congressional will, desire, and intent that any illegal charged only with the act of illegal entry be immediately deported. The escape hatch here is that they are supposed to be needed as material witnesses.

In the case of these four individuals, the articles of agreement between the defendant and the prosecution, in July, stated, stipulated, that those witnesses were not presentially needed any longer, yet they were confined, and then in the name of saving the taxpayers' money, they were at least under custody to a law enforcement agent with a gun on his side, and to allow him to go farm them out to specific ranchers. Why those specific ranchers? Why not have some kind of bid? That ought to be investigated.

Well, to this day the Justice Department has yet to answer the inquiry that I and seven of my colleagues made of the Justice Department on November 17 last year, to this day. This ought to indicate clearly what the intentions, what the practices, what the philosophy is. But how in the world can we stand up and have the moral right to tell the world that we condemn what we call slave labor in Middle Europe, slave labor in the Russian spheres of influence, when we do even worse, or the same at least. What is the difference? I do not see any. I see none. I fail to see it.

Even to this day I get ridiculed by these officials back home, and the district attorney is persistent and defiant and the judges, who finally, when I made that last speech on November 18, 2 days later the then judge, who since has quit the bench, ordered the release of those four. He summarily ordered them to be released.

That is what it took, though. It had to take a congressional voice. What is my constituency there? What is the political mileage? If anybody thinks there is political mileage in this, he or she does not know much about politics. On the contrary, I get abusive letters saying, "Why do you want to take care of these tax-eating, criminal illegals who come here and violate the law and have to be picked up by the police? Are you selling out to Mexico? Are you a Mexican Congressman?"

This is the kind of thing we are facing in 1984. Incredible. Unbelievable, and a hardened and calloused officialdom, and you cannot say, like some of my ethnics have loved to say in the past, "Oh, this is a gringo, a prejudiced gringo," because the western Federal district attorney happens to be of the same ethnic extraction I happen to be.

So this is not the issue. The issue is, as it always has been and as it properly is, whether or not we have proper enforcement of the laws and whether or not we have the same concern and regard for the dignity of human rights, and particularly once those humans are within the confines of our soil and boundaries, national boundaries, or will we then, because we can get away with it and because the Government of Mexico, for whatever reason, has stopped doing what it used to do back 20 years ago, and that is, through their lawyers, intervene in these cases. The ruling classes of Mexico appear to care less, since they look on all of this as an economic safety valve.

Are we going to wait until we have the U.N. Human Rights Commission appealed to? Let me tell you, a good case can be made against America. The only reason the Mexican Government has not done it, I do not know what the only reason is, but I suspect that it is because they have their problems in which they are now overweeningly wholly dependent, they are so out economically to the ruling powers that be in our country, that is, the ones who are really running our country, and I have spoken about that on this House floor before, and because, as I said before, they consider this our economic safety valve.

Let me assure my colleagues that the bills thus far developed, some of them have been bogged down here, known as the Simpson-Mazzoli, and all of that, we can pass every one of them and they will not address themselves to the problem.

The fundamental problems are two, and they are just as unaddressed today as the day they started to be problems. I was the only one who got up here in 1965 in the then famous, the Lyndon Johnson jewel and pride, which he took to the base of the Statute of Liberty to sign, and I sent him a telegram asking him to veto it. Why? Because I had to get up there and take on the then Congressman from Minnesota, McGregor, who thundered out an amendment that for the first time placed quotas on the Western Hemisphere nations regardless of which ones they were, overlooking what God and fate and destiny has fixed, and that is that there are only two adjoining nations, Canada to the North, Mexico to the South.

□ 1250

The chairman of the Judiciary Committee then had promised me that such an amendment would not be accepted. We had fought it off during the committee hearing in the Judiciary Committee. I had appeared before the Judiciary Committee. But when McGregor got up in this well, the Chairman reneged on that commitment to me and accepted that amendment. The record will show I was the lone voice.

Where were all of these groups? Where were the church and all these experts? Where were they? They were not anywhere around. But I knew it was so bad and I knew it was so unrealistic that I asked Mr. McGregor one question. I said, "Are you promising this on the basis that Mexico and Canada must be treated the same and on an equal basis as Iceland?" And the record will show that he said, "Yes."

Now, with that kind of a reply one cannot argue. You are arguing against a state of mind. A state of mind does not allow reasoning.

So then the record will show that I predicted this: I said, "OK, go ahead, but in less than 10 years you are going to see the insidiousness of what you're doing."

So what do we have now? Does Simpson-Mazzoli or does any one of the other substitutes address itself to the fact that quotas placed on Mexico, fixed in nature, are unrealistic?

If we concede what many here desire and what is improperly called an amnesty, is that going to diminish the flood? No. In fact, it will enhance the lawbreaking because once those thousands on the list awaiting their proper priority under the quota system find out that they can get in here and remain here long enough, that is the only way they are going to do it, because that is the only way they will be able to do it.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. GONZALEZ) has expired.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORT ON H.R. 2014

Mr. SUNIA. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until 5 p.m. to file a report on the bill, H.R. 2014.

The SPEAKER. Is there objection to the request of the gentleman from American Samoa?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. Walker) to revise and extend their remarks and include extraneous material:)

Mr. Emerson, for 60 minutes, on February 28.

Mr. Walker, for 60 minutes, on February 28.

Mr. Weber, for 60 minutes, on February 28.

Mr. Gingrich, for 60 minutes, on February 28.

Mr. Mack, for 60 minutes, on February 28.

(The following Members (at the request of Mr. Sunia) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Stark, for 30 minutes, today.

Mr. Gonzalez, for 30 minutes, today.

Mr. Stratton, for 5 minutes, today.

Mr. Neal, for 60 minutes, on February 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Walker) and to include extraneous matter:)

Mr. Broomfield.

Mr. Young of Florida.

Mr. Moorhead.

Mr. Winn.

Mr. McCain.

Mr. Ritter.

(The following Members (at the request of Mr. Sunia) and to include extraneous matter:)

Mr. Annunzio in six instances.

Mr. Anderson in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Clay.

Mr. Mineta.

Mr. Ottinger.

Mr. Wyden.

Ms. Ferraro.

Mr. Murtha.

Mr. Stark.

Mr. Towns.

Mr. Rostenkowski in two instances.

Mr. Barnes.

Mr. Alexander.

Mr. Mavroules.

Mr. Stokes.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 52. An act to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment; to the Committee on the Judiciary.

S. 422. An act to amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance; to the Committee on the Judiciary.

A BILL PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on February 23, 1984 present to the President, for his approval, a bill of the House of the following title:

H.R. 4336. An act to make certain miscellaneous changes in laws relating to the civil service.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Tuesday, February 28, 1984, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2700. A letter from the Under Secretary of Defense, Research and Engineering, transmitting a report on the amounts spent on, and use of humans for testing biological and chemical warfare agents, pursuant to 50 U.S.C. 1511 (Public Law 91-121, section 409(a) (96 Stat. 1822)); to the Committee on Armed Services.

2701. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the loan, guarantee and insurance transactions supported by Eximbank during January 1984 to Communist countries as a result of Presidential Determinations, pursuant to the act of July 31, 1945, chapter 341, section 2(b)(2) (88 Stat. 2334); to the Committee on Banking, Finance and Urban Affairs.

2702. A letter from the Auditor, District of Columbia, transmitting a report entitled, "Annual Report on Advisory Neighborhood Commissions," pursuant to Public Law 93-198, section 455(d); to the Committee on the District of Columbia.

2703. A letter from the Secretary of Education, transmitting a draft of proposed legislation to make certain amendments to the act of September 30, 1950 (Public Law 874, 81st Congress), and for other purposes; to the Committee on Education and Labor.

2704. A letter from the Secretary of Education, transmitting a draft of proposed legislation to authorize the establishment of an endowment fund at Howard University; to the Committee on Education and Labor.

2705. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a notification of the intent to issue a commercial export license for sale of certain major defense equipment (Transmittal No. MC-8-84), pursuant to AECA, section 36(c) (90 Stat. 743; 94 Stat. 3136; 95 Stat. 1520); to the Committee on Foreign Affairs.

2706. A communication from the president of the United States, transmitting his determination that continued nuclear cooperation with the European Atomic Energy Community (EURATOM) is needed in order to achieve U.S. nonproliferation objectives and to protect our common defense and security, pursuant to AEA, section 126a.(2) (92 Stat. 133) (H. Doc. No. 98-176); to the Committee on Foreign Affairs and ordered to be printed.

2707. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a) (92 Stat. 993); to the Committee on Foreign Affairs.

2708. A letter from the Secretary of State, transmitting a report on the activities of countries within the United Nations and the U.N. specialized agencies, pursuant to 22 U.S.C. 287b nt. (Public Law 98-164, section 117); to the Committee on Foreign Affairs.

2709. A letter from the President, African Development Foundation, transmitting a draft of proposed legislation to extend the authority of the African Development Foundation; to the Committee on Foreign Affairs.

2710. A letter from the Chairman, Depository Institutions Deregulation Committee, transmitting a report on the committee's activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2711. A letter from the Chairman, Federal Mine Safety and Health Review Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2712. A letter from the Director of Administration, Department of Energy, transmitting a report on the Department's activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2713. A letter from the Director, Federal Emergency Management Agency, transmitting a report on the Agency's activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2714. A letter from the Director, Peace Corps, transmitting a report on the Peace Corps' activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2715. A letter from the Executive Secretary, National Mediation Board, transmitting a report on the Board's activities under the Freedom of Information Act covering calendar year 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2716. A letter from the Freedom of Information/Privacy Officer, Interstate Commerce Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2717. A letter from the Deputy Assistant Secretary of the Interior for Water and Science, transmitting a report on the application by the East Bench Irrigation District for a loan under the Small Reclamation Projects Act, pursuant to the act of August 6, 1956, chapter 972, section 4(c) (71 Stat. 48); to the Committee on Interior and Insular Affairs.

2718. A letter from the Secretary of Transportation, transmitting an evaluation of the contracting authority of the Coast Guard to establish, maintain and operate navigational aids, pursuant to Public Law 97-322, section 105(b); to the Committee on Merchant Marine and Fisheries.

2719. A letter from the Secretary of Transportation, transmitting revised estimates for completing substitute highway projects and substitute transit projects, pursuant to 23 U.S.C. 103(e)(4) (96 Stat. 2101); to the Committee on Public Works and Transportation.

2720. A letter from the Secretary of Commerce, transmitting a report on the implementation of the Stevenson-Wydler Technology Innovation Act of 1980, pursuant to Public Law 96-480, section 5(d); to the Committee on Science and Technology.

2721. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend title 38, United States Code, to extend and improve the program of veterans readjustment appointments in the Federal Government and for other purposes; to the Committee on Veterans' Affairs.

2722. A letter from the Executive Director, U.S. Holocaust Memorial Council, transmitting a draft of proposed legislation to authorize appropriations to the Executive Director, U.S. Holocaust Memorial Council, for services necessary to perform the functions of the U.S. Holocaust Memorial Council; jointly, to the Committees on House Administration, Interior and Insular Affairs, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: From the Committee on Interior and Insular Affairs. H.R. 2014. A bill to establish the Illinois and Michigan Canal National Heritage Corridor in the State of Illinois, and for other purposes with amendment (Rept. No. 98-601). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

[Submitted February 24, 1984]

The Committees on Banking, Finance and Urban Affairs and Ways and Means discharged from the further consideration of H.R. 3050; H.R. 3050 referred to the Union Calendar and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BETHUNE (for himself, Mr. Conable, Mr. Chappie, and Mr. Packard):

H.R. 4943. A bill to amend the Rural Electrification Act of 1936 to insure the continued financial integrity of the Rural Electrification and Telephone Revolving Fund, and for other purposes; to the Committee on Agriculture.

By Mr. EDGAR:

H.R. 4944. A bill to amend title 10, United States Code, to provide that certain educational benefits paid by the Department of Defense to or on behalf of members of the Armed Forces shall be treated for purposes of taxation in the same manner as educational assistance payments under the GI bill; jointly, to the Committees on Armed Services and Ways and Means.

By Mr. FRANK:

H.R. 4945. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to clarify the requirement that summary descriptions of plan provisions required to be provided to plan participants and beneficiaries be sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the plan and to improve civil enforcement of such requirement; to the Committee on Education and Labor.

By Mr. MAZZOLI:

H.R. 4946. A bill to amend the laws of the United States to eliminate gender-based distinctions, and for other purposes; to the Committee on the Judiciary.

H.R. 4947. A bill to require the head of each Federal administrative and executive agency to conduct a review of agency regulations, to rewrite current regulations with sex-based distinctions, and to refrain from promulgating future regulations which contain gender-based distinctions; to the Committee on the Judiciary.

H.R. 4948. A bill to amend the Internal Revenue Code of 1954 to provide that the zero bracket amount for heads of households shall be the same as the zero bracket amount for joint returns and surviving spouses; to the Committee on Ways and Means.

H.R. 4949. A bill to amend the Internal Revenue Code of 1954 to allow employers a tax credit for hiring displaced homemakers; to the Committee on Ways and Means.

H.R. 4950. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the deduction for retirement savings on the basis of the compensation of their spouses and to treat alimony as compensation for purposes of such deduction; to the Committee on Ways and Means.

H.R. 4951. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the expenses for household and dependent care services necessary for gainful employment which may be taken into account for computing a tax credit, and to include certain organizations providing dependent care within the definition of tax-exempt organization under such Code; to the Committee on Ways and Means.

By Mr. NICHOLS (for himself, Mrs. Vucanovich, Mr. Marriott, Mr. Kazen, Mr. Mavroules, Mr. Ray, Mr. Daniel, Mr. Stratton, Mr. Hopkins, Mr. Stump, Mr. Martin of New York, and Mr. Kasich):

H.R. 4952. A bill to authorize the Secretary of Defense to provide assistance to certain Indian tribes for expenses incurred for community impact planning activities relating to the planned deployment of the MX missile system in Nevada and Utah in the same manner that State and local governments were provided assistance for such expenses; to the Committee on Armed Services.

By Mr. RATCHFORD (for himself, Mrs. Kennelly, Mr. Gejdenson, Mr. Morrison of Connecticut, Mr. McKinney, and Mrs. Johnson):

H.R. 4953. A bill to establish procedures for exempting certain interstate highways from the requirement that States allow tandem trailer trucks on interstate highways; to the Committee on Public Works and Transportation.

By Mr. WYDEN:

H.R. 4954. A bill to penalize unauthorized direct access to individual medical records through a telecommunications device; jointly, to the Committees on the Judiciary, and Energy and Commerce.

By Mr. YOUNG of Florida:

H.R. 4955. A bill to require the Secretary of Transportation to prescribe regulations requiring certain modes of public transportation in interstate commerce to reserve some seating capacity for passengers who do not smoke; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. BONER of Tennessee (for himself, Mr. Akaka, Mr. Badham, Mr. Barnes, Mr. Bateman, Mr. Bates, Mr. Bennett, Mr. Bereuter, Mr. Bevill, Mr. Bilirakis, Mr. Bonior of Michigan, Mr. Britt, Mr. Campbell, Mr. Clarke, Mr. Conyers, Mr. Cooper, Mr. Corrada, Mr. Daniel B. Crane, Mr. Daschle, Mr. Daub, Mr. Davis, Mr. de la Garza, Mr. Dixon, Mr. Duncan, Mr. Dwyer of New Jersey, Mr. Edgar, Mr. Fazio, Mr. Fish, Mr. Ford of Tennessee, Mr. Frenzel, Mr. Goodling, Mr. Gore, Mr. Green, Mr. Hammerschmidt, Mr. Hansen of Idaho, Mr. Harrison, Mr. Hefner, Mrs. Holt, Mr. Horton, Mr. Hyde, Mrs. Johnson, Mr. Jones of North Carolina, Mr. Jones of Tennessee, Mr. Kasich, Mr. Kemp, Mr. Kolter, Mr. Lagomarsino, Mr. Lantos, Mr. Leland, Mr. Lent, Mr. Lewis of Florida, Mr. McEwen, Mr. McNulty, Mr. Martinez, Ms. Mikulski, Mr. Montgomery, Mr. Murphy, Mr. Neal, Mr. Oberstar, Mr. Ortiz, Mr. Ottinger, Mr. Owens, Mr. Pashayan, Mr. Patman, Mr. Perkins, Mr. Pepper, Mr. Price, Mr. Quillen, Mr. Richardson, Mr. Robinson, Mr. Rodino, Mr. Roe, Mr. Roemer, Mr. Savage, Mr. Shumway, Mr. Skelton, Mr.

Stangeland, Mr. Stratton, Mr. Sundquist, Mr. Sunia, Mr. Tallon, Mr. Towns, Mr. Traxler, Mr. Vandergriff, Mr. Vander Jagt, Mr. Walgreen, Mr. Waxman, Mr. Weiss, Mr. Winn, Mr. Won Pat, and Mr. Yatron):

H.J. Res. 491. Joint resolution to designate the month of September 1984 as "National Sewing Month"; to the Committee on Post Office and Civil Service.

By Mr. BONER of Tennessee (for himself, Mr. Cooper, Mr. Duncan, Mr. Ford of Tennessee, Mr. Gore, Mr. Jones of Tennessee, Mr. Quillen, and Mr. Sundquist):

H. Con. Res. 264. Concurrent resolution authorizing the Rotunda of the Capitol to be used for a ceremony on March 15, 1984, commemorating the anniversary of the birth of President Andrew Jackson; to the Committee on House Administration.

By Mr. ANNUNZIO:

H. Res. 446. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by standing and select committees of the House in the second session of the Ninety-eighth Congress; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

329. The SPEAKER presented a memorial of the Legislature of the State of Nebraska, relative to student loan bond issues; jointly to the Committees on Education and Labor and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3400: Mr. Porter, Mr. Lent, Mr. Gilman, Mr. Daschle, Mr. Minish, Mr. Solomon, Mr. Carney, Mr. Lundine, Mr. Nowak, Mrs. Collins, Mr. Conyers, Mr. Hayes, Mrs. Hall of Indiana, Mr. Solarz, Mr. Rodino, Mr. Guarini, and Mr. Russo.

H.R. 3967: Mr. Skelton, Mr. Andrews of Texas, Mr. Vandergriff, Mr. McCloskey, and Mr. Glickman.

H.R. 4005: Mr. Beilenson, Mr. Kindness, Mr. Chandler, Mr. Garcia, Mr. Lehman of California, Mr. Lipinski, and Mr. Wolpe.

H.R. 4093: Mr. Roth, Mr. Clinger, Mr. Horton, Mr. Young of Alaska, and Mr. Dellums.

H.R. 4431: Mr. Rudd.

H.R. 4571: Mr. Mrazek and Mr. Rudd.

H.R. 4813: Mr. Frank, Mr. Downey of New York, and Mr. Weaver, Mr. Lundine, Mr. Ortiz, Mr. Dixon, and Mr. Beilenson.

H.R. 4843: Mr. Torricelli.

H.J. Res. 389: Mr. Boland and Mr. Moody.

H.J. Res. 422: Mr. Gephardt, Mr. Rangel, Mr. Dyson, Mr. Chandler, Mr. Rose, Mr. McHugh, Mr. Wyden, Mr. Bonker, Mr. McNulty, Mr. Lewis of California, Mr. Smith of Iowa, Mr. Ortiz, Mr. Martinez, Mr. Lungren, Mr. Kogovsek, Mr. Conable, Mr. Denny Smith, and Mr. Pashayan.

H.J. Res. 441: Mr. Torricelli, Mr. Evans of Illinois, Mr. Ratchford, Mr. Panetta, Mr. Beilenson, Mr. Moakley, Mr. Weaver, Mr. Bonior of Michigan, and Mr. Barnes.

H.J. Res. 442: Mr. Williams of Ohio, Mr. McCloskey, Mr. Anthony, Mr. Fuqua, Mr. Boland, Mr. Edwards of Alabama, Mr. Barnard, Mr. Levitas, Mr. LaFalce, Mr. Hammerschmidt, Mr. Murtha, Mr. Mavroules, Mr. Heftel of Hawaii, Mr. Bethune, and Mrs. Kennelly.

H.J. Res. 443: Mr. Clarke, Mr. Edgar, and Mr. Kolter.

H.J. Res. 445: Mrs. Johnson, Mr. Bartlett, Mr. Gingrich, Mr. Bethune, Mr. de la Garza, Mr. Mollohan, Mr. Darden, Mr. Mrazek, and Mr. Schaefer.

H.J. Res. 451: Mr. Carney, Mrs. Boxer, Mr. Denny Smith, Mr. Brown of California, Mr. Early, Mr. Daub, Mr. Lipinski, Mr. Vander Jagt, Mr. Wolpe, Mr. Annunzio, Mr. Andrews of Texas, and Mr. Gore.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3

By Mr. KINDNESS:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Bankruptcy Court Amendments of 1984".

TITLE I—BANKRUPTCY JURISDICTION AND PROCEDURE

Sec. 101. (a) Section 1334 of title 28, United States Code, is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

"(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11 or arising in or related to cases under title 11.

"(c) The district courts may refer any case or proceeding described in subsection (a) or (b) of this section to a United States bankruptcy court and may withdraw, in whole or in part, any such reference.

"(d) In any case or proceeding referred under subsection (c) to, and pending in, the bankruptcy court, such court may exercise the jurisdiction conferred on the district courts by subsections (a), (b), and (f).

"(e) Nothing in this section prevents a district court in the interest of justice or in the interest of comity with State courts and respect for State law, from abstaining from hearing a particular proceeding arising in or related to a case under title 11. Any motion to abstain, filed in a case or proceeding which has been referred to the bankruptcy court, shall be determined by the district court which so referred such case or proceeding. Upon the timely motion of a party in a proceeding based upon a State law claim or State law cause of action, not arising under title 11 or arising in a case under title 11, with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section, the district court shall abstain from hearing such proceeding if an action is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction. Any decision to abstain made under this subsection is not reviewable by appeal or otherwise. This subsection shall not be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, as such section applies to an action affecting the property of the estate in bankruptcy.

"(f) The district court in which a case under title 11 is commenced or is pending shall have jurisdiction of all of the property, wherever located, of the debtor, as of the commencement of such case, and of all of the property of the estate.".

(b) The heading for section 1334 of title 28, United States Code, is amended to read as follows:

"§ 1334. Bankruptcy cases and proceedings".

(c) The table of sections of chapter 85 of title 28, United States Code, is amended by amending the item relating to section 1334 to read as follows:

"1334. Bankruptcy cases and proceedings.".

Sec. 102. (a) Chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1408. Venue of cases under title 11

"Except as provided in section 1410 of this title, a case under title 11 may be commended in the district court for the district—

"(1) in which the domicile, residence, or principal place of business in the United States, or principal assets in the United States, of the person or entity that is the subject of such case have been located for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one-hundred-and-eighty-day period than the domicile, residence, or principal place of business, in the United States, or principal assets, in the United States, of such person were located in any other district; or

"(2) in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership.

"§ 1409. Venue of proceedings arising under title 11 or arising in or related to cases under title 11

"(a) Except as provided in subsections (b) and (d) of this section, a proceeding arising in or related to a case under title 11 may be commenced in the district court in which such case is pending or by which such case was referred to a bankruptcy court.

"(b) Except as provided in subsection (d) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case to recover a money judgment of or property worth less than $1,000 or a consumer debt of less than $5,000 only in the district court for the district in which a defendant resides.

"(c) Except as provided in subsection (b) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case as statutory successor to the debtor or creditors under section 541 or 544(b) of title 11 in the district court for the district where the State or Federal court sits in which, under applicable nonbankruptcy venue provisions, the debtor or creditors, as the case may be, may have commenced an action on which such proceeding is based if the case under title 11 had not been commenced.

"(d) A trustee may commence a proceeding arising under title 11 or arising in or related to a case under title 11 based on a claim arising after the commencement of such case from the operation of the business of the debtor only in the district court for the district where a State or Federal court sits in which, under applicable nonbankruptcy venue provisions, an action on such claim may have been brought.

"(e) A proceeding arising in or related to a case under title 11, based on a claim arising after the commencement of such case from the operation of the business of the debtor, may be commenced against the representative of the estate in such case in the district court for the district where the State or Federal court sits in which the party commencing such proceeding may, under applicable nonbankruptcy venue provisions, have brought an action on such claim, or in the district court in which such case is pending or by which such case was referred to a bankruptcy court.

"§ 1410. Venue of cases ancillary to foreign proceedings

"(a) A case under section 304 of title 11 to enjoin the commencement or continuation of an action or proceeding in a State or Federal court, or the enforcement of a judgment, may be commenced only in the district court for the district where the State or Federal court sits in which is pending the action or proceeding against which the injunction is sought.

"(b) A case under section 304 of title 11 to enjoin the enforcement of a lien against property, or to require turnover of property of an estate, may be commenced only in the district court for the district in which such property is found.

"(c) A case under section 304 of title 11, other than a case specified in subsection (a) or (b) of this section, may be commenced only in the district court for the district in which is located the principal assets, in the United States, of the estate that is the subject of such case.".

(b) The table of sections of chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new items:

"1408. Venue of cases under title 11.
"1409. Venue of proceedings arising under title 11 or arising in or related to cases under title 11.
"1410. Venue of cases ancillary to foreign proceedings.".

SEC. 103. (a) Chapter 89 of title 28, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1452. Removal of claims related to bankruptcy cases

"(a) A party may remove any claim or cause of action in a civil action, other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action, under section 1334 of this title.

"(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of action, or a decision not so remanding, is not reviewable by appeal or otherwise.".

(b) The table of sections of chapter 89 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1452. Removal of claims related to bankruptcy cases.".

SEC. 104. (a) Title 28 of the United States Code is amended by inserting after chapter 5 the following new chapter:

"CHAPTER 6—BANKRUPTCY COURTS

"Sec.
"151. Designation of bankruptcy courts.
"152. Appointment of bankruptcy judges.
"153. Salaries; character of service.
"154. Division of business; chief judge.
"155. Temporary transfer of bankruptcy judges.
"156. Staff; expenses.
"157. Procedures.
"158. Appeals.

"§ 151. Designation of bankruptcy courts

"In each judicial district, the bankruptcy judges in regular active service shall constitute a department of the district court to be known as the bankruptcy court for that district. Each bankruptcy judge may exercise the judicial power of the bankruptcy court with respect to any action, suit, or proceeding and may preside alone and hold a regular or special session of the court, except as otherwise provided by law or by rule or order of the district court.

"§ 152. Appointment of bankruptcy judges

"(a)(1) The United States court of appeals for a circuit shall appoint bankruptcy judges for each of the judicial districts established in section 133 of this title, located within such circuit. Each bankruptcy judge shall be appointed for a term of fourteen years.

"(2) Whenever a majority of the judges of any court of appeals cannot agree upon the appointment of a bankruptcy judge, the chief judge shall make such appointment.

"(b) The Judicial Conference of the United States shall determine the number and official duty stations of bankruptcy judges, after considering the recommendations submitted by the Director of the Administrative Office of the United States Courts and prepared by the Director in consultation with the judicial council of the circuit involved.

"(c) Each bankruptcy judge may hold court at such places within the judicial district, other than the official duty station of such judge, as the business of the court may require.

"(d) With the approval of the Conference and of each of the judicial councils involved, a bankruptcy judge may be designated to serve in any district adjacent to or near the district for which such bankruptcy judge was appointed.

"(e) A bankruptcy judge may be removed during the term for which such bankruptcy judge is appointed, only for imcompetence, misconduct, neglect of duty, or physical or mental disability and only by the judicial council of the circuit in which the judge's official duty station is located. Removal may not occur unless a majority of all the judges of such council concur in the order of removal. Before any order of removal may be entered, a full specification of charges shall be furnished to such bankruptcy judge, and such bankruptcy judge shall be accorded an opportunity to be heard on such charges.

"§ 153. Salaries; character of service

"(a) Each bankruptcy judge shall serve on a full-time basis and shall receive as full compensation for his services a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title, to be paid at such times as the Judicial Conference of the United States may determine.

"(b) A bankruptcy judge may not engage in the practice of law and may not engage in any other practice, business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of such bankruptcy judge's duties as a judicial officer. The Conference may promulgate appropriate rules and regulations to implement this subsection.

"(c) Each individual appointed under this chapter shall take the oath or affirmation prescribed by section 453 of this title before performing the duties of the office of bankruptcy judge.

"§ 154. Division of business; chief judge

"(a) Each bankruptcy court having more than one bankruptcy judge shall by majority vote promulgate rules for the division of business among the bankruptcy judges to the extent that the division of business is not otherwise provided by the rules of the district court.

"(b) In each bankruptcy court having more than one bankruptcy judge, the district court shall designate one judge to serve as chief judge. Whenever a majority of the judges of such district court cannot agree upon the designation as chief judge, the chief judge of such district court shall make such designation. The chief judge of the bankruptcy court shall ensure that the rules of the bankruptcy court and of the district court are observed and shall ensure that business of the bankruptcy court is handled effectively and expeditiously.

"§ 155. Temporary transfer of bankruptcy judges

"A bankruptcy judge may be transferred to serve temporarily as a bankruptcy judge in any judicial district other than the judicial district for which such bankruptcy judge was appointed, upon the approval of the judical council of each of the circuits involved.

"§ 156. Staff; expenses

"(a) Each bankruptcy judge may appoint a secretary, a law clerk, and such additional assistants as the judicial council of the circuit involved determines, with the approval of the Director of the Administrative Office of the United States Courts, to be necessary. So judicial council may delegate its authority under this subsection to the Director of the Administrative Office of the United States Courts.

"(b) Upon a determination by the judicial council of the circuit involved that the number of cases and proceedings pending within the jurisdiction under section 1334 of this title of the bankruptcy court for a district so warrants, such judicial council may authorize, with the approval of the Director of the Administrative Office of the United States Courts, such bankruptcy court to appoint an individual to serve as clerk of such bankruptcy court. Such judicial council may delegate its authority under this subsection to the Director. The clerk may appoint, with the approval of such bankruptcy court and in such number as may be approved by the Director, necessary deputies, and may remove such deputies with the approval of such bankruptcy court.

"§ 157. Procedures

"(a) Each district court, under the supervision of the judicial council of the circuit involved, may provide that all cases under title 11 and all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred under section 1334 of this title to the bankruptcy court for the district. In the exercise of its jurisdiction, the bankruptcy court may enter orders and judgments which shall be effective upon entry by the clerk of the bankruptcy court or the district court, as the case may be, unless stayed by the bankruptcy court or the district court.

"(b)(1) On timely motion of a party or on its own motion, the district court may, in its discretion, withdraw the reference to a bankruptcy court of any such case or proceeding, in whole or in part, except that such motion shall be granted—

"(A) with respect to a proceeding involving a claim or cause of action which is not one arising in a case under title 11; or

"(B) if the district court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.

Such a motion shall not stay any action by such bankruptcy court unless the district court so orders.

"(2) Any party to a case or proceeding who does not file a timely motion for withdrawal referred to in paragraph (1) of this subsection shall be deemed to have consented to the exercise by such bankruptcy court of jurisdiction under section 1334 of this title and may not attack the judgment in such case or proceeding on the grounds that such judgment should have been entered by any district court.

"(c) The district court, in its discretion, may refer any case or proceeding withdrawn under this section—

"(1) to a bankruptcy court for the district to serve as a special master in accordance with the Federal Rules of Civil Procedure, notwithstanding rule 53(b) thereof, except that the district court shall apply the standard of review specified in section 634(b)(1)(C) of this title, in lieu of the standard of review specified in rule 53(e)(2) of the Federal Rules of Civil Procedure, to the findings of fact submitted by the special master;

"(2) to a United States magistrate in accordance with section 636 of this title as applicable to civil proceedings generally; or

"(3) to a bankruptcy judge who shall exercise all the jurisdiction and powers of a United States magistrate under section 636 of this title, with respect to such case or proceeding.

"§ 158. Appeals

"(a) The district courts of the United States shall have jurisdiction to hear appeals from final judgments, orders, and decrees, and from interlocutory orders and decrees, of bankruptcy courts entered in cases and proceedings referred to the bankruptcy courts under section 1334 of this title. An appeal under this subsection shall be taken only to the district court for the judicial district for which the bankruptcy court is established.

"(b) An appeal to a district court under subsection (a) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts.

"(C) The courts of appeals shall have jurisdiction of appeals from all final decisions, judgments, orders, and decrees of the district courts entered under this section.".

(b) The table of chapters of part I of title 28, United States Code, is amended by inserting after the item relating to chapter 5, the following new item:

"6. Bankruptcy Courts."

SEC. 105. The salary of a bankruptcy judge in effect immediately before the date of the enactment of this Act shall remain in effect until changed as a result of a determination or adjustment made under section 153(a) of title 28, United States Code, as added by this Act.

SEC. 106. (a) Notwithstanding section 152 of title 28, United States Code, as added by this Act, the term of office of a bankruptcy judge who is serving on the date of the enactment of this Act shall expire eight years after the date such bankruptcy judge was last appointed to such office or was continued in office by section 404(b) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2683), whichever event occurred later.

(b) For purposes of section 151 of title 28, United States Code, as added by this Act, the bankruptcy judges continued in office by subsection (a) are the bankruptcy judges referred to in such section 151.

TITLE III—OMNIBUS JUDGESHIPS

SEC. 201. (a) To enable the courts of appeals to perform the additional functions imposed on them by the amendments made by title I of this Act, the President shall appoint, by and with the advice and consent of the Senate, two additional circuit judges to the Court of Appeals for the First Circuit, two additional circuit judges to the Court of Appeals for the Second Circuit, two additional circuit judges to the Court of Appeals for the Third Circuit, one additional circuit judge to the Court of Appeals for the Fourth Circuit, two additional circuit judges to the Court of Appeals for the Fifth Circuit, four additional circuit judges to the Court of Appeals for the Sixth Circuit, two additional circuit judges to the Court of Appeals for the Seventh Circuit, one additional circuit judge to the Court of Appeals for the Eighth Circuit, five additional circuit judges to the Court of Appeals for the Ninth Circuit, two additional circuit judges to the Court of Appeals for the Tenth Circuit, and one additional circuit judge to the Court of Appeals for the District of Columbia.

(b) In order that the table contained in section 44(a) of title 28, United States Code, will reflect, with respect to each judicial circuit, the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

"Circuits	*Number of judges*
District of Columbia	12
First	6
Second	13
Third	12
Fourth	11
Fifth	16
Sixth	15
Seventh	11
Eight	10
Ninth	28
Tenth	10
Eleventh	12
Federal	12".

SEC. 202. (a) To enable the district courts to perform the additional functions imposed on them by the amendments made by title I of this Act, the President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the southern district of Alabama, one additional district judge for the district of Alaska, four additional district judges for the central district of California, one additional district judge for the district of Connecticut, three additional district judges for the southern district of Florida, one additional district judge for the middle district of Georgia, one additional district judge for the district of Hawaii, three additional district judges for the northern district of Illinois, one additional district judge for the southern district of Illinois, one additional district judge for the western district of Kentucky, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maryland, one additional district judge for the district of Massachusetts, two additional district judges for the eastern district of Michigan, one additional district judge for the northern district of Mississippi, two additional district judges for the southern district of Mississippi, one additional district judge for the eastern district of Missouri, one additional district judge for the district of Montana, three additional district judges for the district of New Jersey, one additional district judge for the northern district of New York, two additional district judges for the eastern district of New York, one additional district judge for the western district of Oklahoma, one additional district judge for the district of Rhode Island, one additional district judge for the eastern district of Tennessee, one additional district judge for the western district of Tennessee, two additional district judges for the eastern district of Texas, one additional district judge for the western district for Texas, one additional district judge for the eastern district of Virginia, one additional district judge for the western district of Washington, and one additional district judge for the district of Wyoming.

(b) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the western district of Arkansas, one additional district judge for the middle district of Florida, one additional district judge for the northern district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the district of Massachusetts, one additional district judge for the western district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the northern district of Ohio, and one additional district judge for the western district of Washington. The first vacancy in the office of district judge in each of the judicial districts named in this subsection occurring five years or more after the date of the enactment of this Act shall not be filled.

(c) The last sentence of section 2 of the Act of October 20, 1978 (Public Law 95-486; 92 Stat. 1632), shall not apply to the district judgeship of Minnesota and to the district judgeship for the northern district of Ohio, authorized by such section.

(d) In order that the table contained in section 133 of title 28, United States Code, will reflect, with respect to each judicial district, the changes in the total number of permanent district judgeships authorized as a result of subsections (a) and (c) of this section, such table is amended to read as follows:

"Districts	*Judges*
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	3
Arizona	8
Arkansas:	
Eastern	3
Western	1
Eastern and Western	2
California:	
Northern	12
Eastern	6
Central	21
Southern	7
Colorado	6
Connecticut	6
Delaware	3
District of Columbia	15

"Districts	*Judges*
Florida:	
Northern	3
Middle	9
Southern	15
Georgia:	
Northern	11
Middle	3
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	19
Central	3
Southern	3
Indiana:	
Northern	4
Southern	5
Iowa:	
Northern	1
Southern	2
Northern and Southern	1
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	6
Maine	2
Maryland	10
Massachusetts	11
Michigan:	
Eastern	15
Western	4
Minnesota	6
Mississippi:	
Northern	3
Southern	5
Missouri:	
Eastern	5
Western	5
Eastern and Western	2
Montana	2
Nebraska	3
Nevada	3
New Hampshire	2
New Jersey	14
New Mexico	4
New York:	
Northern	4
Southern	27
Eastern	12
Western	3
North Carolina:	
Eastern	3
Middle	3
Western	3
North Dakota	2
Ohio:	
Northern	10
Southern	6
Oklahoma:	
Northern	2
Eastern	1
Western	4
Northern, Eastern, and Western	2
Oregon	5
Pennsylvania:	
Eastern	19
Middle	5
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	4
Middle	3
Western	4
Texas:	9
Northern	9
Eastern	6
Southern	13
Western	7
Utah	3
Vermont	2
Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	2
Western	6
West Virginia:	
Northern	2
Southern	4
Wisconsin:	
Eastern	4
Western	2
Wyoming	2".

Sec. 203. (a) Section 371 of title 28, United States Code, is amended to read as follows:

"§ 371. **Resignation or retirement for age**

"(a) Any justice or judge of the United States appointed to hold office during good behavior who resigns from the office after attaining the age, and serving the period whether continuously or otherwise, specified of subsection (c) of this section shall, during the remainder of his lifetime, receive an annuity equal to the salary such justice or judge received at the time of resignation.

"(b) Any justice or judge of the United States appointed to hold office during good behavior may retain the office but retire from regular active service after attaining the age, and serving the period whether continuously or otherwise, of subsection (c) of this section and shall, during the remainder of his lifetime, continue to receive the salary of the office the President shall appoint, by and with the advice and consent of the Senate, a successor to a justice or judge who retires under this section.

"(c) The age and service requirements for resignation or retirement under this section are as follows:

"Attained age:	*Years of service:*
65	15
66	14
67	13
68	12
69	11
70	10".

(b) The amendments made by subsection (a) shall not apply with respect to any justice or judge of the United States appointed to hold office during good behavior who resigns or retires from such office before the date of enactment of this Act.

TITLE III—CONFORMING AMENDMENTS

Sec. 301. Section 372(c)(6)(vii) of title 28, United States Code, is amended by striking out "section 153" and inserting in lieu thereof "section 152".

Sec. 302. (a)(1) Section 604(a) of title 28, United States Code, is amended—

(A) by redesignating paragraphs (15) through (17) thereof as paragraphs (16) through (18), respectively, and

(B) by redesignating paragraph (14), as added by the Court Interpreters Act (Public Law 95-539; 92 Stat. 2043), as paragraph (15).

(2) Section 602(b) of title 28, United States Code, is amended by striking out "section 604(a)(15)(B)" and inserting in lieu thereof "section 604(a)(16)(B)".

(b) Section 604 of title 28, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and

(2) by redesignating subsection (f), as added by the Court Interpreters Act (Public Law 95-539; 92 Stat. 2040), as subsection (g).

Sec. 303. (a) Section 620(b)(3) of title 28, United States Code, is amended—

(1) by striking out "referees,", and

(2) by striking out "commissioners" and inserting in lieu thereof "magistrates".

(b) Section 751(d) of title 28, United States Code, is amended by striking out "commissioners" and inserting in lieu thereof "magistrates".

Sec. 304. (a) Section 631(a) of title 28, United States Code, is amended by striking out "conference" and inserting in lieu thereof "Judicial Conference of the United States".

(b) Section 631(c) of title 28, United States Code, is amended—

(1) by striking out "of the conference, a part-time referee in bankruptcy or" and inserting in lieu thereof "of the Conference,", and

(2) by striking out "magistrate and part-time referee in bankruptcy," and inserting in lieu thereof "magistrate and".

(c) Chapter 43 of title 28, United States Code, is amended by striking out "conference" each place it appears and inserting in lieu thereof "Conference".

Sec. 305. (a) Section 634(a) of title 28, United States Code, is amended by striking out "the rates now or hereafter provided for full-time and part-time referees in bankrutpcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended," and inserting in lieu thereof "rates determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of the title".

(b) The rates for salary of full-time and part-time United States magistrates in effect immediately before the date of the enactment of this Act shall remain in effect until changed as a result of a determination or adjustment made under section 634(a) of title 28, United States Code, as amended by this Act.

Sec. 306. Section 957 of title 28, United States Code, is amended by striking out "district".

Sec. 307. Section 1360 of title 28, United States Code, is amended—

(1) by striking out, "or Territories";

(2) by striking out, "Territory" each place it appears; and

(3) by striking out, "within the Territory" and inserting in lieu thereof "within the State".

Sec. 308. Section 1930 of title 28, United States Code, is amended by striking out "clerk of the bankruptcy court" each place it appears and inserting in lieu thereof "clerk of the court".

Sec. 309. Subsections (f), (j), (k), (l), and (m) of section 8339, subsections (b)(1) and (d) of section 8341, and section 8344(a)(A) of title 5, United States Code, are each amended by striking out "and (o)" and inserting in lieu thereof "and (n)".

Sec. 310. Section 402(b) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2682), is amended by striking out "shall take effect on April 1, 1984" and inserting in lieu thereof "shall not take effect".

Sec. 311. Sections 404, 405(a), 405(b), 405(c), 406, 407, and 409 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2683), are repealed.

Sec. 312. (a) On the date of the enactment of this Act there shall be transferred to the appropriate district court of the United States—

(1) cases, and matters and proceedings in cases, under the Bankruptcy Act that are pending immediately before such date in the bankruptcy courts continued by section

404(a) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687), other than cases, and matters and proceedings in cases under—

(A) section 77 or chapter IX of the Bankruptcy Act, or

(B) chapter X of the Bankruptcy Act in which a general reference under section 117 of the Bankruptcy Act is not in effect, and

(2) cases under title 11 of the United States Code, and proceedings arising under title 11 of the United States Code or arising in or related to cases under title 11 of the United States Code, that are pending immediately before such date in the bankruptcy courts continued by section 404(a) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687).

(b) On the date of the enactment of this Act, there shall be transferred to the appropriate district court of the United States appeals from final judgments, orders, and decrees of the bankruptcy courts pending immediately before such date in the bankruptcy appellate panels appointed under section 405(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2685).

SEC. 313. (a) Section 8331(22) of title 5, United States code, is amended—

(1) by striking out "or under section 404(d) of the Act adding this paragraph",

(2) striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) who is serving as a United States bankruptcy judge on the date of the enactment of the Bankruptcy Court and Federal Judgeship Act of 1983 and who continues to serve until the expiration of such judge's term of office determined under section 106(a) of the Bankruptcy Court and Federal Judgeship Act of 1983;",

(3) in subparagraph (B)—

(A) by striking out "transition period" and inserting in lieu thereof "period beginning on October 1, 1979, and ending on the expiration of such judge's term of office determined under section 106(a) of the Bankruptcy Court and Federal Judgeship Act of 1983", and

(B) by striking out the period at the end thereof and inserting in lieu thereof "; or", and

(4) by adding at the end thereof the following new subparagraph:

"(C) who is appointed as a bankruptcy judge under section 152 of title 28.".

(b)(1) The first sentence of section 8334(a)(1) of title 5, United States Code, is amended by inserting "and a bankruptcy judge" before the period.

(2) The matter relating to bankruptcy judges in the table set out in section 8334(c) of title 5, United States Code, is amended—

(A) by striking out the following item:

"7 .... After January 1, 1970".

and

(B) by inserting in lieu of the item stricken by subparagraph (A) the following new items:

(b) On the date of the enactment of this

"7 .... January 1, 1970, to December 31, 1983
"8 .... After December 31, 1983".

(c) Section 8336 of title 5, United States Code, is amended—

(1) by redesignating subsection (k) as subsection (l), and

(2) by inserting after subsection (j) the following new subsection:

"(k) A bankruptcy judge who is separated from service, except by removal, after becoming sixty-two years of age and completing ten years of service as a bankruptcy judge is entitled to an annuity.".

SEC. 314. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act, or the application of that provision to persons or circumstances other than those as to which it is held invalid, is not affected thereby.

SEC. 315. (a)(1) Whenever a court of appeals is authorized to fill a vacancy that occurs on a bankruptcy court of the United States, such court of appeals shall appoint to fill that vacancy a person whose character, experience, ability, and impartiality qualify such person to serve in the Federal judiciary.

(2) It is the sense of the Congress that the courts of appeals should consider for appointment under section 152 of title 28, United States Code, to the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, the bankruptcy judge who holds such office immediately before such vacancy arises.

(b) The judicial council of the circuit involved shall assist the court of appeals by evaluating potential nominees and by recommending to such court for consideration for appointment to each vacancy on the bankruptcy court persons who are qualified to be bankruptcy judges. In the case of the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, such potential nominees shall include the bankruptcy judge who holds such office immediately before such vacancy arises.

(c) Before transmitting to the court of appeals the names of the persons the judicial council for the circuit deems best qualified to fill any existing vacancy, the judicial council shall have determined that—

(1) public notice of such vacancy has been given and an affirmative effort has been made, in the case of each such vacancy, to identify qualified candidates, without discrimination as to race, color, sex, religion, or national origin,

(2) such persons are members in good standing of at least one State bar, or the District of Columbia bar, and members in good standing of every other bar of which they may be members,

(3) such persons possess, and have a reputation for, integrity and good character,

(4) such persons are of sound physical and mental health,

(5) such persons possess and have demonstrated commitment to equal justice under law,

(6) such persons possess and have demonstrated outstanding legal ability and competence, as evidenced by substantial legal experience, ability to deal with complex legal problems, aptitude for legal scholarship and writing, and familiarity with courts and court processes, and

(7) such persons' demeanor, character, and personality indicate that they would exhibit judicial temperament if appointed to the position of United States bankruptcy judge.

SEC. 316. The Supreme Court may issue such additional rules of procedure, consistent with Acts of Congress, as may be necessary for the orderly transfer of functions and records and the orderly transition to the new court system created by this Act.

SEC. 317. This Act and the amendments made by this Act shall take effect upon enactment.

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Bankruptcy Court Amendments of 1984."

TITLE I—BANKRUPTCY JURISDICTION AND PROCEDURE

SEC. 101. (a) Section 1334 to title 28, United States Code, is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

"(b) Nothwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11 or arising in or related to cases under title 11.

"(c) The district courts may refer any case or proceeding described in subsection (a) or (b) of this section to a United States bankruptcy court and may withdraw, in whole or in part, any such reference.

"(d) In any case or proceeding referred under subsection (c) to, and pending in, the bankruptcy court, such court may exercise the jurisdiction conferred on the district courts by subsections (a), (b), and (f).

"(e) Nothing in this section prevents a district court in the interest of justice or in the interest of comity with State courts and respect for State law, from abstaining from hearing a particular proceeding arising in or related to a case under title 11. Any motion to abstain, filed in a case or proceeding which has been referred to the bankruptcy court, shall be determined by the district court which so referred such case or proceeding. Upon the timely motion of a party in a proceeding based upon a State law claim or State law cause of action, not arising under title 11 or arising in a case under title 11, with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section, the district court shall abstain from hearing such proceeding if an action is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction. Any decision to abstain made under this subsection is not reviewable by appeal or otherwise. This subsection shall not be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, as such section applies to an action affecting the property of the estate in bankruptcy.

"(f) The district court in which a case under title 11 is commenced or is pending shall have jurisdiction of all of the property, wherever located, of the debtor, as of the commencement of such case, and of all of the property of the estate.".

(b) The heading for section 1334 of title 28, United States Code, is amended to read as follows:

"§ 1334. **Bankruptcy cases and proceedings**".

(c) The table of sections of chapter 85 of title 28, United States Code, is amended by amending the item relating to section 1334 to read as follows:

"1334. Bankruptcy cases and proceedings.".

SEC. 102. (a) Chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1408. Venue of cases under title 11

"Except as provided in section 1410 of this title, a case under title 11 may be commenced in the district court for the district—

"(1) in which the domicile, residence, or principal place of business in the United States, or principal assets in the United States, of the person or entity that is the subject of such case have been located for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one-hundred-and-eighty-day period than the domicile, residence, or principal place of business, in the United States, or principal assets, in the United States, of such person were located in any other district; or

"(2) in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership.

"§ 1409. Venue of proceedings arising under title 11 or arising in or related to cases under title 11

"(a) Except as provided in subsections (b) and (d) of this section, a proceeding arising in or related to a case under title 11 may be commenced in the district court in which such case is pending or by which such case was referred to a bankruptcy court.

"(b) Except as provided in subsection (d) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case to recover a money judgment of or property worth less than $1,000 or a consumer debt of less than $5,000 only in the district court for the district in which a defendant resides.

"(c) Except as provided in subsection (d) of this section, a trustee in a case under title 11 may commence a proceeding arising in or related to such case as statutory successor to the debtor or creditors under section 541 or 544(b) of title 11 in the district court for the district where the State or Federal court sits in which, under applicable nonbankruptcy venue provisions, the debtor or creditors, as the case may be, may have commenced an action on which such proceeding is based if the case under title 11 had not been commenced.

"(d) A trustee may commence a proceeding arising under title 11 or arising in or related to a case under title 11 based on a claim arising after the commencement of such case from the operation of the business of the debtor only in the district court for the district where a State or Federal court sits in which, under applicable nonbankruptcy venue provisions, an action on such claim may have been brought.

"(e) A proceeding arising in or related to a case under title 11, based on a claim arising after the commencement of such case from the operation of the business of the debtor, may be commenced against the representative of the estate in such case in the district court for the district where the State or Federal court sits in which the party commencing such proceeding may, under applicable nonbankruptcy venue provisions, have brought an action on such claim, or in the district court in which such case is pending or by which such case was referred to a bankruptcy court.

"§ 1410. Venue of cases ancillary to foreign proceedings

"(a) A case under section 304 of title 11 to enjoin the commencement or continuation of an action or proceeding in a State or Federal court, or the enforcement of a judgment, may be commenced only in the district court for the district where the State or Federal court sits in which is pending the action or proceeding against which the injunction is sought.

"(b) A case under section 304 of title 11 to enjoin the enforcement of a lien against property, or to require turnover of property of an estate, may be commenced only in the district court for the district in which such property is found.

"(c) A case under section 304 of title 11, other than a case specified in subsection (a) or (b) of this section, may be commenced only in the district court for the district in which is located the principal assets, in the United States, of the estate that is the subject of such case.".

(b) The table of sections of chapter 87 of title 28, United States Code is amended by adding at the end thereof the following new items:

"1408. Venue of cases under title 11.

"1409. Venue of proceedings arising under title 11 or arising in or related to cases under title 11.

"1410. Venue of cases ancillary to foreign proceedings.".

SEC. 103. (a) Chapter 89 of title 28, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1452. Removal of claims related to bankruptcy cases

"(a) A party may remove any claim or cause of action in a civil action, other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action, under section 1334 of this title.

"(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of action, or a decision not so remanding, is not reviewable by appeal or otherwise.".

(b) The table of sections of chapter 89 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1452. Removal of claims related to bankruptcy cases.".

SEC. 104. (a) Title 28 of the United States Code is amended by inserting after chapter 5 the following new chapter:

CHAPTER 6—BANKRUPTCY COURTS

"Sec.
"151. Designation of bankruptcy courts.
"152. Appointment of bankruptcy judges.
"153. Salaries; character of service.
"154. Division of business; chief judge.
"155. Temporary transfer of bankruptcy judges.
"156. Staff; expenses.
"157. Procedures.
"158. Appeals.

"§ 151. Designation of bankruptcy courts

"In each judicial district, the bankruptcy judges in regular active service shall constitute a department of the district court to be known as the bankruptcy court for that district. Each bankruptcy judge may exercise the judicial power of the bankruptcy court with respect to any action, suit, or proceeding and may preside alone and hold a regular or special session of the court, except as otherwise provided by law or by rule or order of the district court.

"§ 152. Appointment of bankruptcy judges

"(a)(1) The United States court of appeals for a circuit shall appoint bankruptcy judges for each of the judicial districts established in section 133 of this title, located within such circuit. Each bankruptcy judge shall be appointed for a term of fourteen years.

"(2) Whenever a majority of the judges of any court of appeals cannot agree upon the appointment of a bankruptcy judge, the chief judge shall make such appointment.

"(b) The Judicial Conference of the United States shall determine the number and official duty stations of bankruptcy judges, after considering the recommendations submitted by the Director of the Administrative Office of the United States Courts and prepared by the Director in consultation with the judicial council of the circuit involved.

"(c) Each bankruptcy judge may hold court at such places within the judicial district, other than the official duty station of such judge, as the business of the court may require.

"(d) With the approval of the Conference and of each of the judicial councils involved, a bankruptcy judge may be designated to serve in any district adjacent to or near the district for which such bankruptcy judge was appointed.

"(e) A bankruptcy judge may be removed during the term for which such bankruptcy judge is appointed, only for incompetence, misconduct, neglect of duty, or physical or mental disability and only by the judicial council of the circuit in which the judge's official duty station is located. Removal may not occur unless a majority of all the judges of such council concur in the order of removal. Before any order of removal may be entered, a full specification of charges shall be furnished to such bankruptcy judge, and such bankruptcy judge shall be accorded an opportunity to be heard on such charges.

"§ 153. Salaries; character of service

"(a) Each bankruptcy judge shall serve on a full-time basis and shall receive as full compensation for his services a salary at an annual rate determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-261), as adjusted by section 461 of this title, to be paid at such times as the Judicial Conference of the United States may determine.

"(b) A bankruptcy judge may not engage in the practice of law and may not engage in any other practice, business, occupation, or employment inconsistent with the expeditious proper, and impartial performance of such bankruptcy judge's duties as a judicial officer. The Conference may promulgate appropriate rules and regulations to implement this subsection.

"(c) Each individual appointed under this chapter shall take the oath or affirmation prescribed by section 453 of this title before performing the duties of the Office of the bankruptcy judge.

"§ 154. Division of business; chief judge

"(a) Each bankruptcy court having more than one bankruptcy judge shall by majority vote promulgate rules for the division of business among the bankruptcy judges to the extent that the division of business is not otherwise provided by the rules of the district court.

"(b) In each bankruptcy court having more than one bankruptcy judge, the district court shall designate one judge to serve as chief judge. Whenever a majority of the judges of such district court cannot agree upon the designation as chief judge, the chief judge of such district court shall make such designation. The chief judge of the bankruptcy court shall ensure that the rules of the bankruptcy court and of the district court are observed and shall ensure that business of the bankruptcy court is handled effectively and expeditiously.

"§ 155. Temporary transfer of bankruptcy judges

"A bankruptcy judge may be transferred to serve temporarily as a bankruptcy judge in any judicial district other than the judicial district for which such bankruptcy judge was appointed, upon the approval of the judicial council of each of the circuits involved.

"§ 156. Staff; expenses

"(a) Each bankruptcy judge may appoint a secretary, a law clerk, and such additional assistants as the judicial council of the circuit involved determines, with the approval of the Director of the Administrative Office of the United States Courts, to be necessary. Such judicial council may delegate its authority under this subsection to the Director of the Administrative Office of the United States Courts.

"(b) Upon a determination by the judicial council of the circuit involved that the number of cases and proceedings pending within the jurisdiction under section 1334 of this title of the bankruptcy court for a district so warrants, such judicial council may authorize, with the approval of the Director of the Administrative Office of the United States Courts, such bankruptcy court to appoint an individual to serve as clerk of such bankruptcy court. Such judicial council may delegate its authority under this subsection to the Director. The clerk may appoint, with the approval of such bankruptcy court and in such number as may be approved by the Director, necessary deputies, and may remove such deputies with the approval of such bankruptcy court.

§ 157. Procedures

"(a) Each district court, under the supervision of the judicial council of the circuit involved, may provide that all cases under title 11 and all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred under section 1334 of this title to the bankruptcy court for the district. In the exercise of its jurisdiction, the bankruptcy court may enter orders and judgments which shall be effective upon entry by the clerk of the bankruptcy court or the district court, as the case may be, unless stayed by the bankruptcy court or the district court.

"(b)(1) On timely motion of a party or on its own motion, the district court may, in its discretion, withdraw the reference to a bankruptcy court of any such case or proceeding, in whole or in part, except that such motion shall be granted—

"(A) with respect to a proceeding involving a claim or cause of action which is not one arising in a case under title 11; or

"(B) if the district court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.

Such a motion shall not stay any action by such bankruptcy court unless the district court so orders.

"(2) Any party to a case or proceeding who does not file a timely motion for withdrawal referred to in paragraph (1) of this subsection shall be deemed to have consented to the exercise by such bankruptcy court of jurisdiction under section 1334 of this title and may not attack the judgment in such case or proceeding on the grounds that such judgment should have been entered by any district court.

"(c) The district court, in its discretion, may refer any case or proceeding withdrawn under this section—

"(1) to a bankruptcy court for the district to serve as a special master in accordance with the Federal Rules of Civil Procedure, notwithstanding rule 53(b) thereof, except that the district court shall apply the standard of review specified in section 636(b)(1)(C) of this title, in lieu of the standard of review specified in rule 53(e)(2) of the Federal Rules of Civil Procedure, to the findings of fact submitted by the special master;

"(2) to a United States magistrate in accordance with section 636 of this title as applicable to civil proceedings generally; or

"(3) to a bankruptcy judge who shall exercise all the jurisdiction and powers of a United States magistrate under section 636 of this title, with respect to such case or proceeding.

"§ 158. Appeals

"(a) The district courts of the United States shall have jurisdiction to hear appeals from final judgments, orders, and decrees, and from interlocutory orders and decrees, of bankruptcy courts entered in cases and proceedings referred to the bankruptcy courts under section 1334 of this title. An appeal under this subsection shall be taken only to the district court for the judicial district for which the bankruptcy court is established.

"(b) An appeal to a district court under subsection (a) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts.

"(c) The courts of appeals shall have jurisdiction of appeals from all final decisions, judgments, orders, and decrees of the district courts entered under this section.".

(b) The table of chapters of part I of title 28, United States Code, is amended by inserting after the item relating to chapter 5, the following new item:

"6. Bankruptcy Courts.".

SEC. 105. The salary of a bankruptcy judge in effect immediately before the date of the enactment of this Act shall remain in effect until changed as a result of a determination or adjustment made under section 153(a) of title 28, United States Code, as added by this Act.

SEC. 106. (a) Notwithstanding section 152 of title 28, United States Code, as added by this Act, the term of office of a bankruptcy judge who is serving on the date of the enactment of this Act shall expire eight years after the date such bankruptcy judge was last appointed to such office or was continued in office by section 404(b) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2683), whichever event occurred later.

(b) For purposes of section 151 of title 28, United States Code, as added by this Act, the bankruptcy judges continued in office by subsection (a) are the bankruptcy judges referred to in such section 151.

TITLE II—OMNIBUS JUDGESHIPS

SEC. 201. (a) To enable the courts of appeals to perform the additional functions imposed on them by the amendments made by title I of this Act, the President shall appoint, by and with the advice and consent of the Senate, two additional circuit judges to the Court of Appeals for the First Circuit, two additional circuit judges to the Court of Appeals for the Second Circuit, two additional circuit judges to the Court of Appeals for the Third Circuit, one additional circuit judge to the Court of Appeals for the Fourth Circuit, two additional circuit judges to the Court of Appeals for the Fifth Circuit, four additional circuit judges to the Court of Appeals for the Sixth Circuit, two additional circuit judges to the Court of Appeals for the Seventh Circuit, one additional circuit judge to the Court of Appeals for the Eighth Circuit, five additional circuit judges to the Court of Appeals for the Ninth Circuit, two additional circuit judges to the court of Appeals for the Tenth Circuit, and one additional circuit judge to the Court of Appeals for the District of Columbia.

(b) In order that the table contained in section 44(a) of title 28, United States Code, will reflect, with respect to each judicial circuit, the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

"Circuits	*Number of judges*
District of Columbia	12
First	6
Second	13
Third	12
Fourth	11
Fifth	16
Sixth	15
Seventh	11
Eighth	10
Ninth	28
Tenth	10
Eleventh	12
Federal	12".

SEC. 202. (a) To enable the district courts to perform the additional functions imposed on them by the amendments made by title I of this Act, the President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the southern district of Alabama, one additional district judge for the district of Alaska, four additional district judges for the central district of California, one additional district judge for the district of Connecticut, three additional district judges for the southern district of Florida, one additional district judge for the middle district of Georgia, one additional district judge for the district of Hawaii, three additional district judges for the northern district of Illinois, one additional district judge for the southern district of Illinois, one additional district judge for the Western district of Kentucky, one additional district judge for the western district of Louisiana, one additional district judge for the district of Maryland, one additional district judge for the district of Massachusetts, two additional district judges for the eastern district of Michigan, one additional district judge for the northern district of Mississippi, two additional district judges for the southern district of Mississippi, one additional district judge for the eastern district of Missouri, one additional district judge for the district of Montana, three additional district judges for the district of New Jersey, one additional district judge for the northern district of New York, two additional district judges for the eastern district of New York, one additional district judge for the western district of Oklahoma, one additional district judge for the district of Rhode Island, one additional district judge for the eastern district of Tennessee, one additional district judge for the

western district of Tennessee, two additional district judges for the eastern district of Texas, one additional district judge for the western district of Texas, one additional district judge for the eastern district of Virginia, one additional district judge for the western district of Washington, and one additional district judge for the district of Wyoming.

(b) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the western district of Arkansas, one additional district judge for the middle district of Florida, one additional district judge for the northern district of Illinois, one additional district judge for the northern district of Indiana, one additional district judge for the district of Massachusetts, one additional district judge for the western district of New York, one additional district judge for the eastern district of North Carolina, one additional district judge for the northern district of Ohio, and one additional district judge for the western district of Washington. The first vacancy in the office of district judge in each of the judicial districts named in this subsection occurring five years or more after the date of the enactment of this Act shall not be filled.

(c) The last sentence of section 2 of the Act of October 20, 1978 (Public Law 95-486; 92 Stat. 1632), shall not apply to the district judgeship for the district of Minnesota and the the district judgeship for the northern district of Ohio, authorized by such section.

(d) In order that the table contained in section 133 of title 28, United States Code, will reflect, with respect to each judicial district, the changes in the total number of permanent district judgeships authorized as a result of subsections (a) and (c) of this section, such table is amended to read as follows:

"Districts	*Judges*
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	3
Arizona	8
Arkansas:	
Eastern	3
Western	1
Eastern and Western	2
California:	
Northern	12
Eastern	6
Central	21
Southern	7
Colorado	6
Connecticut	6
Delaware	3
District of Columbia	15
Florida:	
Northern	3
Middle	9
Southern	15
Georgia:	
Northern	11
Middle	3
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	19
Central	3
Southern	3
Indiana:	
Northern	4
Southern	5
Iowa:	
Northern	1
Southern	2
Northern and Southern	1
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	6
Maine	2
Maryland	10
Massachusetts	11
Michigan:	
Eastern	15
Western	4
Minnesota	6
Mississippi:	
Northern	3
Southern	5
Missouri:	
Eastern	5
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	3
New Hampshire	2
New Jersey	14
New Mexico	4
New York:	
Northern	4
Southern	27
Eastern	12
Western	3
North Carolina:	
Eastern	3
Middle	3
Western	3
North Dakota	2
Ohio:	
Northern	10
Southern	6
Oklahoma:	
Northern	2
Eastern	1
Western	4
Northern, Eastern, and Western	2
Oregon	5
Pennsylvania:	
Eastern	19
Middle	5
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	4
Middle	3
Western	4
Texas:	
Northern	9
Eastern	6
Southern	13
Western	7
Utah	3
Vermont	2
Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	2
Western	6
West Virginia:	
Northern	2
Southern	4
Wisconsin:	
Eastern	4
Western	2
Wyoming	2".

Sec. 203. (a) Section 371 of title 28, United States Code, is amended to read as follows:

"§371. Resignation or retirement for age

"(a) Any justice or judge of the United States appointed to hold office during good behavior who resigns from the office after attaining the age, and serving the period whether continuously or otherwise, specified of subsection (c) of this section shall, during the remainder of his lifetime, receive an annuity equal to the salary such justice or judge received at the time of resignation.

"(b) Any justice or judge of the United States appointed to hold office during good behavior may retain the office but retire from regular active service after attaining the age, and serving the period whether continuously or otherwise, of subsection (c) of this section and shall, during the remainder of his lifetime, continue to receive the salary of the office the President shall appoint, by and with the advice and consent of the Senate, a successor to a justice or judge who retires under this section.

"(c) The age and service requirements for resignation or retirement under this section are as follows:

"Attained age:	*Years of service:*
65	15
66	14
67	13
68	12
69	11
70	10".

(b) The amendments made by subsection (a) shall not apply with respect to any justice or judge of the United States appointed to hold office during good behavior who resigns or retires from such office before the date of enactment of this Act.

TITLE III—CONFORMING AMENDMENTS

Sec. 301. Section 372(c)(6)(vii) of title 28, United States Code, is amended by striking out "section 153" and inserting in lieu thereof "section 152".

Sec. 302. (a)(1) Section 604(a) of title 28, United States Code, is amended—

(A) by redesignating paragraphs (15) through (17) thereof as paragraphs (16) through (18), respectively, and

(B) by redesignating paragraph (14), as added by the Court Interpreters Act (Public Law 95-539; 92 Stat. 2043), as paragraph (15).

(2) Section 602(b) of title 28, United States Code, is amended by striking out "section 604(a)(15)(B)" and inserting in lieu thereof "section 604(a)(16)(B)".

(b) Section 604 of title 28, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and

(2) by redesignating subsection (f), as added by the Court Interpreters Act (Public Law 95-539; 92 Stat. 2040), as subsection (g).

Sec. 303. (a) Section 620(b)(3) of title 28, United States Code, is amended—

(1) by striking out "referees,", and

(2) by striking out "commissioners" and inserting in lieu thereof "magistrates".

(b) Section 751(b) of title 28, United States Code, is amended by striking out "commissioners" and inserting in lieu thereof "magistrates".

Sec. 304. (a) Section 631(a) of title 28, United States Code, is amended by striking out "conference" and inserting in lieu thereof "Judicial Conference of the United States".

(b) Section 631(c) of title 28, United States Code, is amended—

(1) by striking out "of the conference, a part-time referee in bankruptcy or" and inserting in lieu thereof "of the Conference,", and

(2) by striking out "magistrate and part-time referee in bankruptcy," and inserting in lieu thereof "magistrate and".

(c) Chapter 43 of title 28, United States Code, is amended by striking out "conference" each place it appears and inserting in lieu thereof "Conference".

SEC. 305. (a) Section 634(a) of title 28, United States Code, is amended by striking out "the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended," and inserting in lieu thereof "rates determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), as adjusted by section 461 of this title".

(b) The rates for salary of full-time and part-time United States magistrates in effect immediately before the date of the enactment of this Act shall remain in effect until changed as a result of a determination or adjustment made under section 634(a) of title 28, United States Code, as amended by this Act.

SEC. 306. Section 957 of title 28, United States Code, is amended by striking out "district".

SEC. 307. Section 1360 of title 28, United States Code, is amended—

(1) by striking out "or Territories";

(2) by striking out "or Territory" each place it appears; and

(3) by striking out "within the Territory" and inserting in lieu thereof "within the States".

SEC. 308. Section 1930 of title 28, United States Code, is amended by striking out "clerk of the bankruptcy court" each place it appears and inserting in lieu thereof "Clerk of the court".

SEC. 309. Subsections (f), (j), (k), (l), and (m) of section 8339, subsections (b)(1) and (d) of section 8341, and section 8344(a)(A) of title 5, United States Code, are each amended by striking out "and (o)" and inserting in lieu thereof "and (n)".

SEC. 310. Section 402(b) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2682), is amended by striking out "shall take effect on April 1, 1984" and inserting in lieu thereof "shall not take effect".

SEC. 311. Sections 404, 405(a), 405(b), 405(c), 406, 407, and 409 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2683), are repealed.

SEC. 312. (a) On the date of the enactment of this Act there shall be transferred to the appropriate district court of the United States—

(1) cases, and matters and proceedings in cases, under the Bankruptcy Act that are pending immediately before such date in the bankruptcy courts continued by section 404(a) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687), other than cases, and matters and proceedings in cases under—

(A) section 77 of chapter IX of the Bankruptcy Act, or

(B) chapter X of the Bankruptcy Act in which a general reference under section 117 of the Bankruptcy Act is not in effect, and

(2) cases under title 11 of the United States Code, and proceedings arising under title 11 of the United States Code or arising in or related to cases under title 11 of the United States Code, that are pending immediately before such date in the bankruptcy courts continued by section 404(a) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687).

(b) On the date of the enactment of this Act, there shall be transferred to the appropriate district court of the United States appeals from final judgments, orders, and decrees of the bankruptcy courts pending immediately before such date in the bankruptcy appellate panels appointed under section 405(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2685).

SEC. 313. (a) Section 8331(22) of title 5, United States Code, is amended—

(1) by striking out "or under section 404(d) of the Act adding this paragraph",

(2) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) who is serving as a United States bankruptcy judge on the date of the enactment of the Bankruptcy Court and Federal Judgeship Act of 1983 and who continues to serve until the expiration of such judge's term of office determined under section 106(a) of the Bankruptcy Court and Federal Judgeship Act of 1983;",

(3) in subparagraph (B)—

(A) by striking out "transition period" and inserting in lieu thereof "period beginning on October 1, 1979, and ending on the expiration of such judge's term of office determined under section 106(a) of the Bankruptcy Court and Federal Judgeship Act of 1983", and

(B) by striking out the period at the end thereof and inserting in lieu thereof "; or", and

(4) by adding at the end thereof the following new subparagraph:

"(C) who is appointed as a bankruptcy judge under section 152 of title 28.".

(b)(1) The first sentence of section 8334(a)(1) of title 5, United States Code, is amended by inserting "and a bankruptcy judge" before the period.

(2) The matter relating to bankruptcy judges in the table set out in section 8334(c) of title 5, United States Code, is amended—

(A) by striking out the following item:

"7	After January 1, 1970

and

(B) by inserting in lieu of the item stricken by subparagraph (A) the following new items:

"7	January 1, 1970, to December 31, 1983
"8	After December 31, 1983

(C) Section 8336 of title 5, United States Code, is amended—

(1) by redesignating subsection (k) as subsection (l), and

(2) by inserting after subsection (j) the following new subsection:

"(k) A bankruptcy judge who is separated from service, except by removal, after becoming sixty-two years of age and completing ten years of service as a bankruptcy judge is entitled to an annuity.".

SEC. 314. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act, or the application of that provision to persons or circumstances other than those as to which it is held invalid, is not affected thereby.

SEC. 315. (a)(1) Whenever a court of appeals is authorized to fill a vacancy that occurs on a bankruptcy court of the United States, such court of appeals shall appoint to fill that vacancy a person whose character, experience, ability, and impartiality qualify such person to serve in the Federal judiciary.

(2) It is the sense of the Congress that the courts of appeals should consider for appointment under section 152 of title 28, United States Code, to the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, the bankruptcy judge who holds such office immediately before such vacancy arises.

(b) The judicial council of the circuit involved shall assist the court of appeals by evaluating potential nominees and by recommending to such court for consideration for appointment to each vacancy on the bankruptcy court persons who are qualified to be bankruptcy judges. In the case of the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, such potential nominees shall include the bankruptcy judge who holds such office immediately before such vacancy arises.

(c) Before transmitting to the court of appeals the names of the persons the judicial council for the circuit deems best qualified to fill any existing vacancy, the judicial council shall have determined that—

(1) public notice of such vacancy has been given and an affirmative effort has been made, in the case of each such vacancy, to identify qualified candidates, without discrimination as to race, color, sex, religion or national origin,

(2) such persons are members in good standing of at least one State bar, or the District of Columbia bar, and members in good standing of every other bar of which they may be members,

(3) such persons possess, and have a reputation for, integrity and good character,

(4) such persons possess and have demonstrated commitment to equal justice under law,

(6) such persons possess and have demonstrated outstanding legal ability and competence, as evidenced by substantial legal experience, ability to deal with complex legal problems, aptitude for legal scholarship and writing, and familiarity with courts and court processes, and

(7) such persons' demeanor, character, and personality indicate that they would exhibit judicial temperament if appointed to the position of United States bankruptcy judge.

SEC. 316. The Supreme Court may issue such additional rules of procedure, consistent with Acts of Congress, as may be necessary for the orderly transfer of functions and records and the orderly transition to the new court system created by this Act.

SEC. 317. This Act and the amendments made by this Act shall take effect upon enactment.

H.R. 3050

By Mr. **BETHUNE**:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Rural Electrification and Telephone Revolving Fund Solvency Act of 1984".

SEC. 2. Section 302 of the Rural Electrification Act of 1936 (7 U.S.C. 932) is amended by adding the following new subsection at the end thereof:

"(c) The Administrator shall maintain two separate accounts within the fund to be known as the Electrification Account and the Telephone Account, respectively. The assets, liabilities, income, and expenses of the fund that are attributable to the operations of the electric loan program shall be accounted for in the Electrification Account and assets, liabilities, income, and expenses of the fund that are attributable to the operations of the telephone loan program shall be accounted for in the Telephone Account. The assets accounted for in the Electrification Account shall be available only for the purposes described in subsection (b) of this section relating to the operations of the electric loan program, and the assets accounted for in the Telephone Account shall be available only for the purposes described in subsection (b) of this section relating to the operations of the telephone loan program.".

SEC. 3. Section 304 of the Rural Electrification Act of 1936 (7 U.S.C. 934) is amended by adding the following new subsection at the end thereof:

"(d) Obligations of the fund evidencing the sale or assignment of notes or certificates of beneficial ownership pursuant to subsections (b) and (c) of this section shall provide for level annual debt service payments to the holder thereof. The Administrator and the Secretary of the Treasury or the Federal Financing Bank, as the case may be, are authorized and directed to reform all outstanding certificates of beneficial ownership held by the Secretary or the Federal Financing Bank to provide for the payment of level annual debt service over the remaining term of such notes or certificates.".

SEC. 4. Section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b)(1) For each account in the fund, the Administrator shall determine the interest rate which will be charged on insured loans made from each such account. Such determination shall be made in October of each year and, if an issue of a certificate of beneficial ownership is made with respect to a period later in the fiscal year, within 30 days of the date of such issue; except that for the remainder of the fiscal year in which the Rural Electrification and Telephone Revolving Fund Solvency Act of 1984 is enacted, the interest rate shall be determined as soon as practicable after the date of enactment of such Act.

"(2) The interest rate on insured loans made during the remainder of the fiscal year in which the Rural Electrification and Telephone Revolving Fund Solvency Act of 1984 is enacted shall be equal to 80 percent of the standard rate, as determined under paragraph (3). Insured loans made during the succeeding nine fiscal years shall bear interest at a rate determined by multiplyng (A) 80 percent plus 2 percentage points for each fiscal year which begins after the fiscal year in which such Act was enacted and before the determination is made, by (B) the standard rate, as determined under paragraph (3) for the applicable period. Insured loans made during the tenth fiscal year beginning after such date of enactment and during each fiscal year thereafter shall bear an interest rate equal to the standard rate determined pursuant to paragraph (3) for the applicable period.

"(3) Each time the interest rate is determined pursuant to paragraph (1), the Administrator shall determine a standard rate for each account of the fund by dividing the interest and principal expenses of such account (excluding principal payments on outstanding loans to the Administrator from the Secretary of the Treasury pursuant to section 3(a) of this Act) during the six calendar months preceding the month in which the determination is made by the interest income of such account during the same period and then multiplying the quotient by the rate of interest on the most recent certificate of beneficial ownership sold from such account; except that such standard rate shall be no less than 5 per centum per annum.

"(4) The Administrator may also make insured loans to borrowers experiencing extreme financial hardship at a lesser rate (hereinafter in this section referred to as the 'special rate') than the rate determined under the preceding provisions of this subsection but not less than one-half of the rate otherwise in effect for the period in which the loan is made.".

SEC. 5. Section 307 of the Rural Electrification Act of 1936 (7 U.S.C. 937) is amended to read as follows:

"SEC. 307. (a) Notwithstanding any other provision of this Act, it shall be the responsibility of the Administrator to encourage and assist rural electric and telephone borrowers to develop their resources and ability to achieve the financial strength needed to enable such borrowers to satisfy their credit needs from their own financial organizations and other sources.

"(b) When it appears to the Administrator that the loan applicant is able to obtain a loan for part of his or her credit needs from a responsible credit source at reasonable rates and terms consistent with the loan applicant's ability to pay and the achievement of the objectives of this Act, the Administrator may request the loan applicant to apply for and accept such a loan concurrently with an insured loan. In any event, the total principal amount of insured loans approved under this title in any fiscal year shall not exceed $850,000,000 from the Electrification Account and $250,000,000 from the Telephone Account.".

SEC. 6. Section 408 of the Rural Electrification Act of 1936 (7 U.S.C. 948) is amended by—

(1) striking out the second sentence in paragraph (2) of subsection (b); and

(2) in paragraph (4) of subsection (b), inserting "and income taxes" after "before interest", and striking out "higher" and inserting in lieu thereof "other".

SEC. 7. Section 301 of the Rural Electrification Act of 1936 (7 U.S.C. 931) is amended by inserting "and" after the semicolon at the end of paragraph (4) of subsection (a) and by striking out "; and" at the end of paragraph (5) and all that follows in such subsection and inserting in lieu thereof a period.

SEC. 8. Section 406 of the Rural Electrification Act of 1936 (7 U.S.C. 946) is amended by inserting the following new sentence at the end of subsection (c): "All amounts received by the Administrator as a result of the redemption and retirement of Class A stock shall be deposited into miscellaneous receipts of the Treasury.".

SENATE—*Monday, February 27, 1984*

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

The Lord is my life and my salvation, whom shall I fear? The Lord is the strength of my life; of whom shall I be afraid?—Psalm 27:1.

Father in Heaven, from whom comes all power and authority, the men and women who compose the Senate are here not just because they want to be, but because they submitted themselves to the will of the people. A majority in the state, at least the majority of those who voted, believe that each had the credentials and qualifications to be trusted with the Nation's welfare. Each of these uncommon, powerful Senators of good repute is here by the will of the people.

With all this power and all these credentials concentrated in one body, the whole ought to be far greater than the sum of its parts. Dear God, we pray that the opposite will not happen in this election year. As the thousands of agendas represented here gravitate more and more into the context of partisan or personal agendas—as competition for office increases and cooperation decreases—preserve the Senate from diminished unity and intensified fragmentation so that the body as a whole becomes less than the sum of its parts. In the name of Him who entered history to unite all things. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, just to review the schedule for today, pursuant to the order entered on February 23, the reading of the Journal has been dispensed with and all of the procedures that follow have been dealt with.

ORDER FOR RECOGNITION OF SENATOR DIXON IN LIEU OF SENATOR DENTON

After the leaders' time, there will be special orders. I ask unanimous consent that the special order for Senator DENTON be transferred to SENATOR DIXON.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Following those special orders, and there are five of them, there is a period for the transaction of routine morning business of 30 minutes, during which Senators may speak for not to exceed 5 minutes. Then the Senate will resume the unfinished business, which is the Export Administration Act amendments. There is a reported amendment pending.

MAJORITY LEADER STATEMENT

Mr. President, I ask unanimous consent that any statement the majority leader wishes to make be printed in the RECORD at this point.

The PRESIDENT pro tempore. Without objection, it is so ordered.

REPORT ON HONDURAS TRIP

Mr. STEVENS. Mr. President, I believe the Senate is aware that I traveled to Honduras this past weekend. I was accompanied on this trip by my colleagues, Senator MATTINGLY, chairman of the Appropriations Subcommittee on Military Construction, Senator RUDMAN, who is a member of the Defense and Foreign Operations Appropriations Subcommittee, and Senator WILSON, who is a member of the Armed Services Committee.

I might point out that we were accompanied by staff, including minority staff. I had personally issued an invitation to every member of the Appropriations Committee on both sides of the aisle to accompany us on our trip there.

I want to read a short statement highlighting our findings. It is a statement I read to the press this morning preceding questions they asked the four of us.

JOINT STATEMENT OF SENATORS STEVENS, MATTINGLY, RUDMAN, AND WILSON

We spent 2 days in Honduras. Our purpose was to evaluate the results of the expenditure of U.S. funds for joint military exercises and military construction as well as security assistanced.

Our unanimous conclusions are:

First. The recently concluded Big Pine II exercise was a well planned and well executed exercise that gave U.S. units realistic training in an atmosphere that lent authenticity to the exercise. And, in some instances for the first time, U.S. units carried out training missions identical to their combat mission assignments.

Second. We found every evidence that the Honduran people and their Government welcomed the exercises both from a perspective of improving the effectiveness of their armed forces and of discouraging neighboring Nicaragua from the threatening gestures it made toward Honduras early last year.

This latest series of exercises and the accompanying naval maneuvers off both coasts of the isthmus were conducted not only to train military units but to demonstrate U.S. resolve and willingness to support our regional allies. Big Pine II had the political effect of reducing the anxiety felt by Honduras because of tension on the border with Nicaragua and possibly inducing a more serious Nicaraguan negotiating stance in the search for a comprehensive peace in the region. The level of border incidents with Nicaragua declined markedly following the initiation of the naval maneuvers and the Big Pine II exercise.

Third. We found the use of military operation and maintenance funds appropriate and state simply that we consider allegations of construction of semipermanent and permanent facilities with these funds are gross exaggerations.

Fourth. We are encouraged by the strong commitment we found in Honduras to a free press, free labor unions, political parties of genuine substance and strength and support by the Honduran military for civilian control of the government.

Fifth. We believe that the National Bipartisan Commission on Central America correctly stated the case for and the proper ratio between economic and military assistance proposed for Honduras.

Again, I point out that is a unanimous statement from the four Senators who made that trip.

Mr. President, as indicated by the findings from our recent trip to Honduras, there is a large list of participating units in the Big Pine II exercises. Units from all over the country took part in these exercises. I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

PARTICIPATING UNITS—BIG PINE II

GROUND FORCES

1. HQ JTF-11—McDill AFB, FL.
2. 43rd Support Group—Ft Carson, Co.
3. 46th Engineer BN—Ft Rucker, AL & Ft McClellan, AL.
4. 41st Combat Support Hosp—Ft Sam Houston, TX.
5. 101st Aviation BN—Ft Campbell, KY.
6. 3rd Bn. 319th FA—Ft Campbell, KY.
7. 7th Special Forces Group—Ft Bragg, NC & Ft Golick, Panama.
8. 28th Marine Amphib Unit—Camp Lejeune, NC.
9. USMC Det Tiger Island—Camp Lejeune, NC.
10. 11th Signal BDE—Ft Huachuca, AZ.
11. 74th Navy Const Bd (Det)—Gulfport, MS.

AIR FORCE

1. 756th TAS (AFRES)—Andrews AFB, MD (C-130).
2. 142nd TAS (ANG)—New Castle, DE (C-130).
3. 105th TAS (ANG)—Nashville, TN (C-130).
4. 180th TAS (ANG)—St Joseph, MO (C-130).
5. 143rd TAS (ANG)—Warwick, RI (C-130).
6. 179th TAS (ANG)—Mansfield, OH (C-130).
7. 130th TAS (ANG)—Charleston, WVA (C-130).
8. 109th TAS (ANG)—St Paul, MN (C-130).
9. 115th TAS (ANG)—Van Nuys, CA (C-130).
10. 144th TAS (ANG)—Anchorage, AK (C-130).
11. 327th TAS (AFRES)—Willow Grove, PA (C-130).
12. 439th TAW (AFRES)—Youngstown, OH (C-130).
13. 155th TAS (ANG)—Memphis, TN (C-130).
14. 109th TAS (ANG)—St Paul, MN (2nd Deployment) (C-130).
15. 130th TAS (ANG)—Charleston, WVA (2nd Deployment) (C-130).
16. 115th TAS (ANG)—Van Nuys, CA (2nd Deployment) (C-130).
17. UNK (PRNG)—San Juan, PR ((C-7A).

Mr. STEVENS. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the Democratic leader is recognized.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, is the distinguished deputy leader prepared at the moment to indicate whether or not he anticipates rollcall votes this afternoon?

Mr. STEVENS. I might say to my good friend, the Democratic leader, that we are trying to ascertain that at the present time. There is a series of amendments pending to the Export Administration Act. It is our understanding that there is no way that work on that act could be finished today, but it will be the pending business as soon as we are able to complete the morning business and the special orders.

I might say to my good friend that he has noted and I have noted the report that there is a substantial possibility of a very serious storm in the area today and we certainly shall take that into account in trying to set an earlier hour for termination or our business today.

Mr. BYRD. I thank the distinguished assistant majority leader.

RESERVATION OF MINORITY LEADER TIME

Mr. BYRD. I ask unanimous consent that I may reserve the remainder of my time, in the event a Senator may wish to utilize it.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, there are five Senators who have special orders, but they were not aware that we would not use the leader time. I suggest the absence of a quorum awaiting their arrival.

I withhold that to inquire if my good friend from Wisconsin would like to proceed.

The PRESIDING OFFICER. Yes, Mr. President, I would.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes.

CONGRESS HAS FAILED TO RESPOND TO THE "NUCLEAR WINTER" THREAT

Mr. PROXMIRE. Mr. President, the most shocking revelation on the consequences of nuclear war has been virtually ignored by the Congress. Scientific calculations have predicted a nuclear war might lead to a nuclear winter with weeks of darkness and months of subzero cold and with widespread death of plant and animal life and human starvation. This forecast and the data on which it was based was made public at an international conference in Washington on October 31 and November 1 last year. But what have the administration and we, in the Congress, done about it? My answer is, nothing.

Mr. President, this grim forecast about the consequences of nuclear war has the most serious implications for the foreign policy, military policy, and arms control policy of this Government. For instance, Dr. Carl Sagan, an eminent scientist and a leading expert in advancing this nuclear winter thesis, has contended that this country could suffer the terrible consequences of a nuclear winter—and that means that we would have millions of Americans starving and freezing to death—even if the war is a "small" nuclear war, and—get this—not involving the United States or the Soviet Union. Think of what that means for what could follow nuclear proliferation. Our present mindless policy of selling nuclear materials and equipment to countries that have refused to sign nonproliferation treaty permits these countries to deny international inspection to determine whether or not they have diverted the materials to military purposes, which means to this Senator they are doing exactly that. As more and more of these countries build up their nuclear arsenals—with U.S. help—the likelihood steadily increases of precisely the kind of "small" nuclear war that Dr. Sagan warns could trigger a worldwide "nuclear winter".

So what is the Congress doing about this? To their credit, Senators HATFIELD and KENNEDY did call a conference on December 7th to discuss the "nuclear winter." But there has been virtually no formal action by any congressional committee or any administrative agency to study this matter in the detail it obviously deserves, with a single exception. Neither the Congressional Research Service nor the General Accounting Office have anything underway. The Office of Technology Assessment indicates that they would like to step in and analyze the situation in 1 or 2 years after there are conflicting studies published. The one exception to this "who, me?" attitude comes from the Defense Nuclear Agency which is working in cooperation with the Energy Department and the National Science Foundation. They have been investigating this prospect for at least 1 year. They have told my staff that there is at least 1 more year required before even preliminary results can be forecast.

Does Congress have an obligation to move aggressively into this situation? Consider that top international scientists tell us, if the course we are now on leads to a nuclear war, the planet may become a gigantic, pitchblack, subzero refrigerator. But this has not even jarred awake the Congress or our thousands of congressional staff personnel. In the meantime, the only agencies studying the problem are involved in a no-rush, take-your-sweet-time yawner. They are going back to consider the basic chemistry and physics involved. They say they want to present the problem more precisely. For example, just how many nuclear bombs would make the nuclear winter? Where is the cutoff? Where do you step over the edge and create these conditions? It is like stopping while a man is floundering in the water and on the verge of drowning, so you can take the time to determine just how much rope to throw him and whether the rope should be nylon or hemp. They say there are many highly sophisticated technical problems involved before they can prove or disprove the nuclear winter theory.

Mr. President, the grim fact is that some of our very best scientists have concluded that the nuclear winter is a real likelihood. With time, we can determine how likely or how unlikely it may be. Meanwhile, Congress and the executive agencies of this Government should work not only with the Soviet Union but with other nations in this world to stop the nuclear arms race and, above all, to put a firm halt to the proliferation of nuclear weapons. Therefore, we should work with the scientists of other nations to give a very high priority—with our best scientific personnel and with whatever resources it takes to determine promptly and in detail the prospects of a nuclear winter following a nuclear war. This is not a ho-hum, take-our-sweet-time project. It is the most serious threat to human life on Earth that mankind has faced. Congress has been figuratively sucking its thumb and staring at the wall. It is time we acted.

INDELIBLE SHADOWS

Mr. PROXMIRE. Mr. President, on December 27, 1983, a New York Times book review featured Annette Insdorf's "Indelible Shadows." The author combines history and popular culture in an analysis of 75 different documentary and fictional films. These films all have one thing in common: They depict the most devastating atrocity known to humanity—the Holocaust.

The ugly reality of Hitler's concentration camps is now nearly one-half century behind us. Yet, as Insdorf notes in her book, this horror story continues to be a popular theme for Hollywood producers. Recent films like "Sophie's Choice" and the telefilm, "Playing for Time," keep American awareness and sympathies high, but the author questions the effectiveness and impact of the medium—the silver screen itself. Insdorf explains, "The facts of the Holocaust are richer than the fictions an artist could invent."

No matter how realistically the terrors of these death camps are portrayed, the fact remains that we, as Americans, are outsiders. Our only understanding of the event comes from either television viewed from the security of our own home or films in the detached atmosphere of a movie theater.

The United States is very fortunate. Our mainland has never suffered a World War, an attack, or the destruction and brutality that accompany such hostility. Americans are lucky never to have been the victims of genocide—the horror of mass extermination. But is this any reason for excusing ourselves as a nation from the treaty making genocide a crime under international law? Are we so far removed and well protected that we can be oblivious to the constant violation of human rights?

Keep in mind that the Genocide Convention was first signed in the heated aftermath of the Holocaust, but our urgency should be no less today than it was 36 years ago when the Genocide Convention was signed. The United States vigorously participated in the drafting of the treaty—in fact, it was at our initiation that this treaty was unanimously accepted—in the United Nations General Assembly following World War II. Does our Nation need to experience the terrifying destruction of genocide to fully understand the importance of this safeguard against such a crime? I should hope not.

We must not sit idly by as unjust killings take place daily all over the world, content to see them later as merely dramatic segments on the screen.

Annette Insdorf also comments on the effect commercials have on Holocaust television dramas. Commercials, the author points out, give the audience a break from the pain and devastation before their eyes and consequently increase the distance and fictional quality of the event. But there were no "station breaks" for the Jews who were being tortured and killed.

I urge my colleagues to see the reality of the need for this treaty and to ratify the Genocide Convention.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR GORTON

The PRESIDING OFFICER. Under the previous order, the Senator from Washington (Mr. GORTON) is recognized for not to exceed 15 minutes.

THE BUDGET

Mr. GORTON. Mr. President, I rise today to offer to the Senate an outline of a budget proposal which I will submit to the Senate Budget Committee for its consideration during its deliberations on the First Concurrent Resolution on the Budget for Fiscal Year 1985.

In recent months, increasing concerns over the fiscal course of the Federal Government have been voiced by Democrats and Republicans alike. Even Treasury Secretary Regan—misleadingly caricatured by some as indifferent to budget deficits—has acknowledged that projected deficits are troubling, and that action to reduce them would be helpful.

The White House is currently negotiating with a bipartisan group of Senators and Representatives, trying to find a consensus proposal that can provide at least a "downpayment" on our current budget deficits. At the same time, the chairman of the Finance Committee and his counterpart in the House of Representatives are working independently toward the same, or a similar, goal. In the face of this activity, courtesty demands that I explain my reasons for offering my own proposal in this difficult and contentious area.

There are several reasons, Mr. President, why I wish to submit this proposal to the Senate for its consideration. First and most simply, I wish to add my voice to the chorus of those who believe that Federal budget deficits are the most serious threat, not only to our short-term economic recovery but to the long-run economic welfare of our society. This latter point is one which particularly troubles me. The size of the Federal deficits, now and for the rest of this decade, is unprecedented in U.S. peacetime history and will have most adverse effects on capital formation in this country. Without new capital formation there will be little or no growth to enrich our children, social and political tensions will be exacerbated as interests struggle for a larger share of a pie no longer growing, and a long-run feature of the American experience—confidence that our economic welfare can improve steadily—will be called into question. There may be some who are willing to accept this view of the future, but I am not of their number.

The second reason I am offering this proposal is to make it clear that there is sentiment in Congress for proceeding with a deficit reduction budget now, regardless of the outcome of the current negotiations between the White House and congressional leaders. Indeed, Mr. President, my own conviction is that the President's proposed budget deficit downpayment is not enough, and that Congress should be considering larger steps aimed at restoring the balance between our receipts and our expenditures.

In the next 3 years, according to the baseline estimates provided by the Congressional Budget Office, we will add $661 billion to our national debt. A budget downpayment of $100 billion against this is only that—a downpayment. Even if we achieve this goal we will face the same problem next year, and in all probability the year after that and the year after that. Given this unhappy outlook, I believe that we in the Congress must face up to a broad range of deficit reduction options. In this sensitive year frankly, it will be, difficult to pass measures containing the more politically senitive options, but I have no doubt that we will have to consider these again next year, and we may as well start accustoming ourselves to that idea now.

The third reason why I am offering this budget proposal for my colleagues' consideration is to place before them a specific proposal which begins to address some of the concrete but difficult steps I believe we are going to have to take to resolve this dilemma. I believe the proposal I have drafted, and which I will describe momentarily, is fair and balanced. I doubt that it fits anyone's ideal of how we should address the deficits—including my own. I know that all of its elements will be unpopular with some Members, and some elements may be unpopular with almost everyone. Nonetheless, I believe that it is a realistic proposal, given the constraints inherent in the Federal budget process, and that it is worthy of the Senate's consideration.

I hasten to add that I do not view my proposal as set in stone. I regard this as one step in a dynamic process. I am eager to listen to criticism of my proposal, and to consider and debate constructively advanced alternatives. The dimensions of my proposal are quite different from that which appears to be taking shape in the Finance Committee. I believe, however, that this proposal will continue to have relevance, because I do not believe that the Finance Committee will offer more than a first step in this area—although a very valuable first step, indeed.

I would also like to report to my colleagues that I am working with other members of the Washington State congressional delegation in an effort to identify a budget proposal which can command the endorsement of our entire delegation. With a delegation evenly divided between Democrats and Republicans, and spanning the philosophical spectrum from conservative to liberal, this would be an important accomplishment. Although I am offering this proposal today, I fully intend to continue to work with my delegation's effort and hope to support the proposal it ultimately generates.

Let me outline briefly the contents of the proposal I advance today. This budget would reduce Federal deficits by $151 billion over the next 3 fiscal years, compared to the Congressional Budget Office baseline estimates. I should point out, Mr. President, that all of these budget estimates are preliminary. I have submitted my proposal to the CBO for final costing prior to the Senate Budget Committee markup. The deficit reduction is achieved through a combination of spending cuts and revenue increases, in the ratio of $1.17 in spending reductions for every $1 in tax increases.

On the spending side, my proposal is as follows: For defense, it provides for no increases in outlays above the levels passed in last year's budget resolution. This is approximately a 5-percent real growth rate over the 3 years of the resolution. With a careful setting of priorities by the Defense Department, I believe this to be consistent with our needs for a strong national defense.

Spending reductions are achieved in the entitlement program area in several ways. The core of the proposal in this area is a cap on cost-of-living increases in nonmeans testing entitlement programs—social security and Federal retirement—at a rate of 3 percentage points lower than the change in the Consumer Price Index. This is the proposal advanced last year by Senators **DANFORTH**, and **BORDEN**, and while I acknowledge that it is politically difficult, I believe that some similar proposal is essential to addressing what is at the heart of our budgetary problem: rapid and nearly uncontrollable growth in our entitlement programs. The exempting of programs for the poor from this COLA cap, as well as the fact that these programs' COLA's systematically overcompensated for real cost-of-living increases for a number of years in the late 1970's, justify this proposal, which is certainly more palatable than the harsher alternatives of cutting benefits or restricting eligibility.

Also on the entitlement side, my budget assumes enactment of the provisions of the Omnibus Budget Reconciliation Act of 1983, still pending before the Senate, which includes a delay in the civil service COLA and a 1-year freeze on physician fees under medicare. Agricultural income support programs are also modified, and my proposal calls for an additional $12 billion in medicare program savings. While I have not specified precisely how these are to be derived, the deliberations of the Finance Committee last week provide a number of possibilities in this field.

My proposal also achieves savings in nondefense discretionary programs, albeit modest ones. I do not believe that this area of the budget will permit significant further spending cuts. The spending cuts of 1981 and 1982 were concentrated in this area, and it is simply too small to permit much more in the way of reductions. Nonetheless, some savings would be possible through a modest—one-half of 1 percent point—reduction in outlay growth, with specific exemptions for programs that benefit the poor, such as housing assistance, health grants, WIC, and other nutrition programs. My budget proposal also permits the new initiatives in environmental protection and in space and science proposed by the President.

Turning to the tax side, the core of my budget proposal is again based on the Danforth-Boren idea: a cap at CPI minus 3 percent on the rates at which personal income tax rates are indexed beginning in 1985. If I prove my good faith in this effort anywhere, it is here. I believe tax indexing to have been the most vital and fundamental of all of the tax reforms of 1981. But to deal with the evils of budget deficits adequately and fairly all must sacrifice and the test of the seriousness of any proposal must be whether or not it touches the primary interests of he who makes it. In addition to this, my proposal assumes adoption of the key elements of both the Senate and House 1983 reconciliation tax proposals: sale/leaseback transaction reform, life insurance company taxation, limits on industrial development bonds, income averaging, and the net interest exclusion.

I have also included $12 billion over 3 years in abuse curtailment measures, as proposed by the administration, although I believe that the Tax Committees may be able to find much more than this amount if their enthusiasm is permitted to operate freely.

Finally, I assume that other unspecified measures can be enacted to raise approximately $9 billion more over the 3 years. At the same time, my budget provides room for enactment or extension of several positive proposals which would result in a revenue loss: enterprise zone legislation, which is highly meritorious and deserving of action by this Congress; extension of the research and development tax credit; extension of the targeted jobs tax credit; and renewal of single family dwelling mortgage revenue bond authority.

Mr. President, I have prepared several tables which summarize my proposal and its effects, and I ask unanimous consent to have these tables printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE I.—DEFICITS, BY FISCAL YEAR

[In billions of dollars]

	1985	1986	1987
CBO baseline	196	217	248
Administration (as estimated by CBO)	192	211	233
Gorton	172	166	172

TABLE II.—3-YEAR SPENDING AND REVENUE EFFECTS, GORTON AGAINST ALTERNATIVE BUDGETS

[In billions of dollars]

	Gorton against administration	Gorton against CBO baseline
Spending		
Defense	-51.0	0
Entitlements	-43.5	-63.5
Nondefense discretionary	-4.2	-0.8
Interest	-8.8	-16.8
Undistributed offsetting receipts	-5.0	0
Total spending	-94.1	-81.1
Revenues	34.5	69.5
Total deficit effect	-128.6	-150.6

TABLE III.—OUTLAY AND REVENUE EFFECTS OF GORTON BUDGET: COMPARISON TO BASELINE ESTIMATES

	Fiscal year—			
	1985	1986	1987	Total
I. Outlay reductions:				
Cap nonmeans tested COLAs at CPI-3 percent	4.4	11.7	19.2	35.3
Spending provisions of S. 2062	2.8	5.7	6.0	14.5
Cap nondefense discretionary growth, with exceptions for programs for poor	.4	1.0	1.9	3.3
Wheat target price revision		.9	.7	1.6
Medicare/Medicaid	2.6	3.9	5.5	12.1
NASA/NSF	(.4)	(.4)	(1.4)	(2.2)
EPA	(.1)	(.1)	(.1)	(.3)
Interest	1.1	4.7	11.0	16.8
Total outlay reduction	10.8	27.4	42.8	81.1
II. Revenue increases:				
Cap indexing at CPI-3 percent	3.9	10.8	19.0	33.7
Tax provisions of S. 2062	3.6	6.9	7.6	18.1
Structural reform [1]	.1	.4	.5	1.0
Abuse curtailment	3.2	4.3	4.7	12.2
Other revenue increases	2.0	3.0	4.0	9.0
Enterprise zone	(.1)	(.4)	(.8)	(1.3)
R&D and targeted job tax credits	(.3)	(.8)	(1.1)	(2.3)
Mortgage revenue bonds, with credit certs	(.1)	(.3)	(.5)	(.9)
Total tax increase	12.3	23.9	33.4	69.5
Total deficit reduction	23.1	51.3	76.2	150.6

[1] Net of provisions contained in S. 2062

Mr. GORTON. Mr. President, the effect of my budget proposal if adopted will be to reduce the Federal budget deficits by over $150 billion over the next 3 fiscal years. This is not enough. It does not solve the problem. Further actions still will be required. But it is a start. It will demonstrate to Wall Street and to Main Street that Congress is serious about reducing the deficits, and prepared to take the painful steps necessary to reach this goal.

Mr. President, I believe that the time to act on this or a similar proposal is now. The economy is recovering, unemployment is falling, production is up. I greatly fear that if we do not act soon, we will be confronted with an infinitely more difficult situation in the future. Should the recovery level off—as ultimately it must—or worse, should we appear to be on the brink of another recession, then the Congress would be faced with the need to take deficit reduction steps—which are admittedly contractionary in nature—at precisely the time when they are most dangerous. We have the opportunity to avoid this scenario, if we act now. Delay can only make the job more difficult, not only because the deficits will be larger, but also because the business cycle may present a less congenial environment for taking such action in the future. I implore my colleagues to join me in a search for a significant deficit reduction package that we can pass with bipartisan support and send to the White House. I know that the risks of this course are great. But the risks of inaction are much greater, and I believe that the people will, in their wisdom, ultimately reward those who show courage now; and exercise their wrath on those who delay.

RECOGNITION OF SENATOR DIXON

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized for not to exceed 15 minutes.

Mr. DIXON. I thank the Chair.

DOESN'T THE NAVY BELIEVE IN COMPETITION?

Mr. DIXON. Mr. President, there is an old saying, "Fool me once, shame on you. Fool me twice, shame on me."

The Secretary of the Navy, John Lehman, assured me personally late last year that CAI/recon optical's low altitude, high speed camera, the CA-810, would be fully tested. The assurance was also given that no decision would be made on the purchase of Zeiss cameras until the CA-810 had been tested.

Now, Mr. President, the only thing we have in this business is our word. The Navy had given the same assurances to my colleague, Senator PERCY, and to Congressman PHIL CRANE. So we told our staffs that they should not prepare an amendment to the defense appropriations bill to fence the funds for the fiscal year 1984-85 procurement of Zeiss cameras even though the General Accounting Office had found multiple violations of the Defense Acquisition Act.

We had the Navy's word, and where I come from, your word is your bond.

But, Mr. President, I regret to say that the Navy is not doing what it said it would do.

Our staffs were recently informed that the Navy is proceeding to fund the third year of the sole-source award to Zeiss Avionics for the purchase of an additional 14 cameras. The Navy has not completed testing a competitive camera, the CA-810. The Navy claims the camera does not meet its reliability requirement, relying on selected data from tests conducted on the camera for other purposes—environmental qualification and performance testing—rather than conducting the reliability testing in accordance with applicable military standards and a previously agreed-upon test schedule. The Navy has delayed flight testing the CA-810 camera, basing this delay on a superseded standard for electromagnetic interference, when, in fact, the camera meets the currently effective military standard.

I have received, from the GAO, a copy of a letter sent to the law firm which represents Zeiss Avionics Systems, Inc. The law firm had objected to the GAO report of September 22, 1983, as being one sided and slanted. I ask unanimous consent that this GAO letter be printed in the RECORD.

There being no objection, the letter was ordered to printed in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., January 26, 1984.

ROBERT H. KOEHLER,
Patton, Boggs, & Blow,
2550 M Street, NW.,
Washington, D.C.

DEAR MR. KOEHLER: We have carefully reviewed your letter of October 13, 1983, which criticized our recent report, Sole-Source Award of a Contract for Aerial Reconnaissance Cameras to Zeiss Avionics Systems, Inc., (NSIAD-83-58, September 22, 1983) as being one-sided and slanted.

After a thorough review of your comments, we remain convinced that our report fairly depicts the actions taken by the Navy in awarding this procurement. We do not, therefore, intend to withdraw or reissue our report.

It is important to note that the primary objective of our review was to evaluate Navy actions and compare them to the requirements of the Defense Acquisition Regulation. We did not assess the actions taken or not taken by Zeiss Avionics or CAI. Nevertheless, we have considered the points contained in your letter and present our responses in the enclosure.

We are also sending copies of this letter to Senators John W. Warner, Charles H.

Percy, Alan J. Dixon; Representative Philip M. Crane; and the Secretary of the Navy.

Sincerely yours.

FRANK C. CONAHAN,
Director.

DISCUSSION OF POINTS IN OCTOBER 13, 1983, LETTER

Point 1 (page 1): GAO "supports" its conclusion that the Navy did not solicit alternative camera suppliers with the comment of only one individual, the NAVAIR-547 Technical Specialist who coordinated this procurement.

GAO response—(1) During our discussions, the Technical Specialist was accompanied by the naval officer who is his immediate superior and responsible for NAVAIR-547 activities. This officer participated in the discussions and was invited to comment and/or elaborate.

(2) The Technical Specialist's statements and their importance were discussed in the presence of two GAO staff members on several occasions, thus providing an opportunity to amplify, elaborate, or retract.

(3) Any attempt by the Navy to determine alternative suppliers' interest, whether by letter or the more formal procedures of a solicitation, would be a matter of public record and as such, contained in the contract file. The absence of such documentary evidence lends further support to the Technical Specialist's statement.

(4) The Technical Specialist was the person most qualified to provide authoritative statements on the circumstances surrounding this procurement because he was the individual responsible for the procurement.

Point 2 (page 1): Contrary to the GAO characterization, Zeiss Avionics Systems, Inc. is a U.S. company, incorporated under New York law, with corporate headquarters in California.

GAO response—The Zeiss Avionics' charter is to market and distribute cameras produced by the Carl Zeiss Foundation of Germany. This is Zeiss Avionics sole product line.

Point 3 (page 1&2): CAI is the only U.S. camera manufacturer that builds a framing tactical reconnaissance camera; Fairchild makes only a panoramic camera utilizing rotating optics and has not built a still picture camera in over 20 years.

GAO response—As noted on page 2 of our report, the Marine Corps has been using two cameras, the KS-87B and KA-56, for low altitude reconnaissance. The KS-87B is produced by CAI and the KA-56 by Fairchild. Both suppliers have produced reconnaissance cameras for many years and are considered by the Navy to be the major U.S. suppliers of such cameras. However, in December 1978, the Navy decided that neither the KA-56 nor the KS-87B provided the capability needed for a very low and fast reconnaissance mission. The KA-56 is a panoramic camera, which is subject to distortion, and therefore, it was judged unsuitable. The KS-87B had been in use for some time and the Navy believed it did not provided sufficient resolution or area coverage.

While we did not present the information exactly as you have, we did state the Fairchild KA-56 camera is a panoramic and the KS-87B has been in use for some time. We also pointed out that CAI and Fairchild were considered the major U.S. suppliers. More importantly, we state that the Navy decided neither camera provided the desired capability. It was at this point, therefore, that the Navy could have announced its requirements and considered offers from all qualified suppliers.

Point 4 (page 2): The Navy contracted with CAI for additional low altitude lenses in 1978 in an effort to improve the low altitude reconnaissance capability.

GAO response—Our review of this procurement indicated it was a routine buy of replacement items. The documentation makes no mention of a change in program emphasis or that the Navy was dissatisfied with CAI's product. Further, there was no indication that the Navy was considering a new requirement for a camera capable of a very low and very fast reconnaissance mission. This procurement could, in fact, have misled CAI since it is reasonable to presume the Navy would not have purchased the lenses if it was dissatisfied or had a requirement for a new camera.

Point 5 (page 2): Mr. O. D. Johnson, CAI's Washington representative, regularly discussed with Navy representatives the status of the Zeiss KA-107 evaluations from the time the Navy procured the first test camera in March, 1979.

GAO response—As stated on page 4, Appendix II of our report, neither CAI officials nor NAVAIR-547 personnel could provide documentation that would provide a definitive answer to what was specifically discussed during the various meetings held by these parties. It is important to note that the test report of October 1980, was on the mechanical KA-107C which the Navy did not buy. A test version of the electronic camera which the Navy did buy was not delivered until June 1981 and lab tests on the new camera were not complete until August 1981. The Commerce Business Daily notice announcing the Navy's intentions was published on September 1, 1981.

Point 6 (page 2): Mr. Ralph Samoles of CAI was present at the Marine Corps Air Station, El Toro, California during much of the original testing of the Zeiss camera and, in fact, received copies of substantial portions of the documents relating to the program.

GAO response—We were aware that CIA had a representative at El Toro. However, as indicated in the previous point, the Navy did not buy the camera it originally tested. Further, the lab tests on the camera the Navy did buy were completed in August and a Commerce Business Daily notice published on September 1, 1981.

Point 7 (page 2): CAI was fully aware of the need for the camera and of what the Navy was doing in the way of evaluating the Zeiss camera.

GAO response—CAI was aware that the Navy was conducting test and evaluation of the Zeiss mechanical KA-107C camera. This was, in fact, the express purpose given by the Navy for publishing its intention to negotiate with Zeiss for a KA-107 and a KA-108 in the Commerce Business Daily of December 19, 1978. This was the only information officially published by the Navy until the September 1981, Commerce Business Daily announcement. In the interim, the Navy did not make any public announcement nor did it officially communicate the specifics of its requirement or its intentions to buy a new camera to CAI. The record, therefore, would indicate that the only information provided CAI was that the Navy was testing and evalutaing a mechanical KA-107 camera. CAI's actions, as shown under the following points indicate it was not aware of the requirements or planned buy.

Point 8 (page 2): In the summer of 1981 (well before the issuance of the Commerce Business Daily Notice), the president of CAI and Mr. Johnson visited representatives of the Naval Air Systems Command and presented a document which purported to show that both the old CAI KS-87B camera and the Fairchild KA-56 were better than the Zeiss KA-107 camera.

GAO response—The circumstance behind the visit by CAI's president to the Naval Air Systems Command is further evidence that CAI did not know the Navy was planning to buy a new camera. In going to the Systems Command, the president was going "over the heads" of NAVAIR-547 officials because he had discovered the Navy had programmed funds to buy the Zeiss camera in quantity. He was concerned that CAI had not been informed of the requirement, had not been asked if it was interested in trying to meet that requirement, and had been misled. The comparison he offered the Navy indicated that CAI had no idea the Navy actually wanted a new electronic camera. The comparison was between CAI's KS-87B, Fairchild's KA-56, and the Zeiss KA-107C mechanical camera. Navy documents showed that it was only after the CAI president voiced his concern and on the advice of Navy counsel that the Commerce Business Daily notice was published.

Point 9 (page 2): There were regular visits of CAI Representatives to the Navy and visits of Navy personnel to CAI's plant during this time period in which product lines were discussed as well as new development. During the winter of 1980-81, a CAI representative visited the Navy to discuss its low altitude panoramic cameras as an alternative to the Zeiss KA-107 framing camera.

GAO response—The Department of the Navy is required by the Defense Acquisition Regulation (DAR) to use competition to the maximum extent practical. The Navy, to comply with DAR, should have formally sought the participation of alternative suppliers. To protect the competitive process, the DAR also requires equitable treatment of suppliers. Thus, the same information must be made available to all suppliers at the same time in order to insure a fair competition. As indicated in your point, the Navy had ample opportunity to do this and chose not to.

Point 10 (page 3): The GAO Report intentionally ignores the fact that, with the exception of this one Navy contract to Zeiss CAI is the sole-source supplier of framing reconnaissance cameras for the entire Department of Defense and has been the sole-source for at least the last 10 years.

GAO response—We were aware of CAI's status as a sole-source supplier but did not consider it relevant because this does not impact on CAI's eligibility to participate in other competitions. On the other hand, if the Navy wished to award a sole source contract to Zeiss, the DAR provides the necessary authority if adequate justification is found. The Navy did not choose this course of action.

Point 11 (page 3): The report ignores the fact that the Navy only began working exclusively with Zeiss after the Navy determined that Zeiss was the only possible source for the low altitude framing camera.

GAO response—NAVAIR-547, the Navy activity responsible for the award, could not provide any documentary evidence indicating that CAI or Fairchild were advised of the Marine Corps/Navy requirement for a new camera, or the plan to buy a new camera, in quantity, to satisfy the requirement.

This lack of documentary evidence is supported by the Technical Specialist's statement that he did not discuss with either CAI or Fairchild the Navy's need or plan to buy a new camera nor did he discuss with either supplier whether it would be interested in undertaking a development effort. Thus, the Navy could not have determined Zeiss was the only source because it did not contact or solicit either of the two suppliers that usually provide cameras.

Point 12 (page 3): Obviously, if CAI had neither the interest nor the present ability to manufacture a new low altitude framing camera, it simply was not a "prospective contractor" within the meaning of the regulation cited.

GAO response—As indicated above, the Navy did not take action to determine if CAI was interested. CAI, therefore, was not given an opportunity to express interest until it acted on its own initiative. As indicated earlier, CAI's president went to the Systems Command to express his concern at not being informed of the requirement or asked if CAI was interested in trying to meet that requirement.

As to CAI's "present ability," CAI was not given any specifics on the requirement until the Commerce Business Daily announcement of September 1981. By that time, the following events had occurred:

1. Zeiss briefed the Navy about future plans for an electronically driven camera, (May 1980);

2. the Navy and Zeiss met to discuss a new camera, (August 1980);

3. Zeiss defined a new camera combining features of its KA-107C and KA-108 cameras, (September 1980);

4. the Commanding General of the Third Marine Aircraft Wing requested purchase of what he called the electronically cycled KA-107C, (November 1980); and

5. a representative of the North Island Naval Air Rework Facility went to Germany to discuss the new cameras with Zeiss and to reach agreement on its specifications, (December 1980).

Considering that CAI was not given any specifics on the requirement while Zeiss was given the opportunities listed above, it is not surprising that Zeiss was the only supplier responding and CAI's "present ability" was not equal.

Point 13 (page 4): Zeiss submitted an unsolicited proposal on its electonic camera to the Navy in September 1980. This unsolicited proposal resulted in the mechanical KA-107C becoming an electronic driven camera, later redesignated the KS-153A.

GAO response—DAR 4-904(a) permits the award of a sole-source contract on the basis of an unsolicited proposal under certain circumstances. An unsolicited proposal is defined in the DAR as "* * * a written offer to perform a proposed task or effort, initiated and submitted to the government by a prospective contractor (offeror) without a solicitation by the government with the objective of obtaining a contract * * *." The DAR specifies the procedures to be followed by the agency in evaluating unsolicited proposals. One of these procedures requires the agency to clearly mark or stamp the proposals as unsolicited.

The Navy did not follow the procedures specified in the DAR for evaluation of unsolicited proposals. Further, the Navy gave no indication that it considered the offer as unsolicited by marking the solicitation as unsolicited. In fact, Naval personnel located at the North Island Air Rework Facility did not indicate to us that the question of an unsolicited proposal had arisen.

The Zeiss offer of September 1980 was not treated as an unsolicited proposal when received by the Navy. In fact, the question of an unsolicited proposal was not raised until the conclusion of our audit.

Since the Navy chose to treat Zeiss's September 1980, offer as part of on ongoing discussion at that time, and subsequently issued a Commerce Business Daily notice dated September 1981, requesting proposals from interested parties for production of essentially the same camera, the issue of an unsolicited proposal is irrelevant.

Point 14 (page 4): The absurd finding that the KA-107C/KS-153A camera was not an "off-the-shelf" item, as defined by DAR 14-001.7, highlights and extent to which GAO goes to make a finding favorable to the position of the Illinois delegation. If asked whether Zeiss has 38 cameras sitting on its warehouse shelf just waiting for someone to place an order, the answer is no. But neither Zeiss, CAI nor any other manufacturer of hightech expensive equipment manufactures a system without a customer order. However, if the question is whether the camera has been developed, built, lab and field tested, produced and sold to customers, the answer, is yes. The same cannot be said for CAI's newest entry, the CA-810—it is still under development.

GAO response—Six months after the September 1981 CBD notice, Zeiss wrote to the Navy explaining there were delays in a schedule to develop test equipment because the camera was too far from completion to be used. This may explain why Zeiss was not required to deliver the first KS-153A until 540 days, 18 months, after contract award. In addition, the KS-153A is unique, that is, it was specifically designed to meet the Marine Corps requirements for a very fast, very low, reconnaissance mission. It had not, therefore, been built, produced, or sold to customers.

Point 15 (page 5): The Navy will be required to terminate the Zeiss contract for the convenience of the government. See Collins Electronics, Inc., ASBCA No. 16956, 72-2 BCA 9542.) If the entire procurement was terminated, these terminated costs could result in a loss of approximately $4.8 million to the Navy.

GAO response—The DAR requires that available funds must be adequate to finance the first year's procurement of cameras and potential termination charges for all 4 years of the multi-year contract. Navy officials state that they did not have adequate funding to comply with the DAR. The Navy advised Zeiss of its predicament and Zeiss waived its right under the termination clause to claim recurring costs. This action by Zeiss reduced the amount of funding the Navy was required to have; thus, clearing the way for the Navy to award a multi-year contract. Navy officials estimated during our review that termination charges would be about $100,000 based on the Zeiss waiver.

We do not have any comment on the $4.8 million estimate because we do not know the basis upon which the estimate was made. However, termination charges can be and usually are subject to audit. Once the audit is completed, negotiations between the contractor and the Government are undertaken. If the negotiations do not result in a mutually acceptable agreement, the matter can be presented to the Armed Services Board of Contract Appeals. If the Board's decision is disputed, an appeal can be made to the civil courts. We believe, therefore, that any estimate of termination charges is highly speculative and must await adjudication. In any event, if termination becomes necessary, the Department of Defense will have to weigh such costs against the need to protect the integrity of the procurement process.

Point 16 (page 5): Additionally, GAO did not report that, when the Navy issued the July 1983 Source Solicitation in the Commerce Business Daily (which required prospective cameras (read CAI) to be submitted to the Navy on or before August 1, 1983), Senator Dixon demanded that the Secretary of the Navy extend by 90 days the camera receipt date: from August 1 to October 31.

GAO response—CAI told the Navy before the July 1983 solicitation was issued that it would not be able to respond until November. Nevertheless, NAVAIR-547 chose to issue a solicitation calling for response by August, although it knew (having already been told) that CAI could not respond by that date.

Mr. DIXON. Mr. President, I think the time has come to cancel this entire existing contract and reopen the full procurement to competition. The GAO has estimated, based on the Navy's own figures, that canceling the contract would cost the Government $100,000.

Along with my colleagues, I am going to request that the GAO reopen its investigation. We are going to request that the Justice Department begin its own investigation immediately into whether any possible violations may have occurred under the defense acquisitions as indicated by the GAO in its September 1983 report.

Senator PERCY and I will offer an amendment, at the proper time, to the defense authorization bill which will cancel the Zeiss contract and require a complete rebidding of this procurement.

Mr. President, Members of Congress have been misled by the Navy, and I must reach the sad conclusion that if they have misled us over a relatively small $11 million contract, there may be even more costly examples of the Navy's lack of, shall we say, candor.

Mr. President, the routine use, on a large scale, of noncompetitive contract awards by the Defense Department must stop.

It is easily the most inefficient practice our Government carries on, and it is fraught with abuse which costs us all money.

I hope my colleagues will ponder some of the points I have made and support our effort to stop this particular abuse before it goes any further. A heavy dose of competition will do much to cure this dangerous disease of sole-source contracts.

RECOGNITION OF SENATOR SYMMS

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is recognized for not to exceed 15 minutes.

AFRICA

Mr. SYMMS. Mr. President, I am pleased to note that the vast continent of Africa, its people, its economy, and its future have been receiving considerable attention in the news lately. Recently, two major publications, "Time" and the "New Republic," devoted cover articles to the subject of Africa. These articles deal with the topic of Africa in a refreshingly enlightened and substantive manner, and I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. Mr. President, I was privileged recently to spend 2 weeks in southern Africa, during what I view as a period of important and potentially historic developments. I wanted to take this opportunity to report to my colleagues briefly on the conditions I saw and the changes I perceived.

The conflict between South Africa and Mozambique has been making headlines for months now. In the last few weeks, South Africa has been exercising both military and diplomatic options toward a resolution of the conflict. Currently, it appears that the talks on security and economic cooperation between South Africa and the Republic of Mozambique are bearing fruit, with one positive outcome being a cessation of border hostilities.

Through the efforts of the Reagan administration and Deputy Secretary of State Chester Crocker, it appears that efforts toward disengagement between South Africa and Angolan forces along the Namibian border are succeeding.

However, there have been alarming reports these past few days about violations on the part of the Angolan forces with SWAPO forces crossing the border and coming back into Southwest Africa. I hope this does not disrupt what otherwise was on the way, a responsible direction which South Africa was taking, make no mistake about it. The Republic of South Africa cannot nor should not allow SWAPO terrorists to violate the border.

I think it needs to be noted that peace can only be achieved, and independence and self-governing in Namibia, Southwest Africa, can only be accomplished, if the Soviet Union surrogates, now estimated to be 30,000—and I have heard estimates as high as 45,000 Cubans, an additional 1,500 East Germans, and an additional 2,500 other Eastern European and Soviet forces in Angola—if those people will leave Angola.

The formula for the period leading up to U.N.-supervised elections calls for withdrawal of most South African troops from Namibia. It would only be reasonable to exact a similar concession from Angola; that is, Cuban withdrawal, if South Africa leaves Namibia. How can Namibia feel secure with 30,000-plus Cuban troops and others just across the Okovango River from the most densely populated part of its country? Interestingly, there is another river in the Angolan/Namibian frontier area, the Cubango. Some have interpreted it to mean Cuban Go. Maybe the Cubans will see it that way, too.

Mr. President, the continent of Africa deserves our scrutiny, a fresh look unfettered with the preconceptions of three or four decades past. We must face the reality that this rich and, in many areas, lush and potentially productive land is in trouble. Africa cannot feed itself, not just because of the pressures of pestilence and drought, but because of improper land use, and the failure of agricultural programs. These failures should not be misconstrued as the fault of the African farmer, but, rather, the fault of national leadership, and the fault of well-intentioned Western aid programs that infused capital into the continent without simultaneously encouraging policies to use that money to advance private ownership and capitalism, the foundations of Western economic prosperity.

That, I think, Mr. President, is the main problem that needs to be emphasized. American aid and the aid of other countries in Africa does very little good if the African farmer is not allowed the privilege or the understanding of private ownership of the land so that there can be efforts to move forward toward more productivity and incentive for that farmer to benefit from his own labors.

I subscribe to the philosophy of life that while all progress requires change, all change is not progress. Under the guise of change for progress, many African governments adopted the Marxist economic ideas and ideals that have failed in Africa. Some African countries have indebted their citizens heavily to foreign banks to pay for projects of questionable utility and purpose.

Strangling state controls, bloated state enterprises, and bureaucracies, and agricultural disincentives have stifled individual initiative and private sector development. Africa is beginning now to acknowledge these deep-rooted problems, and is taking actions toward long overdue policy reform. In the short term, however, many countries are faced with the necessity to import an increasing amount of food, at the same time that they are confronted with a severe balance-of-payments problem.

Mr. President, after 2 weeks in Africa I certainly would not claim to be an expert. I am just one Senator who has spent some time reading about and visiting the country. I am both frustrated and saddened by the numbers of people in need, and by the fact that our humanitarian aid has done little to insure that future generations of Africans will be able to clothe and feed themselves better than their predecessors.

I would appeal to my colleagues to read particularly the article I will enclose at the end of my statement which was in Time magazine earlier this year. For example, in Zaire, which was known as the Belgian Congo when it gained independence in 1960, it had 58,000 miles of good roads. Today there are only 6,200 miles of roads which are passable. So even if they could produce enough for the people to eat, in many cases they cannot transport it around the country to see that people can in fact have enough to eat.

While on the average Africans have 10 percent less to eat than they did only a decade ago, there is one country that does not fall into that category and that is South Africa. There is no question about it, that they have paid a high price in terms of their relationship with other countries in the world, but there is some hope there that at least all of their people can progress in their political, social, and economic lives.

In my visit, I was in the Republic of South Africa, the territory of Namibia/Southwest Africa, and the Republic of Bophuthatswana. I met with governmental and political leaders in all areas, and I was impressed by the degree of political activity in the region. There is great anticipation for increased political activity as progressive constitutional changes come into being in South Africa later this year.

Mr. President, we cannot expect to have anything approaching a mature political system as we know it in South Africa until there is full provision for black participation. Yet later this year, parliamentary provision will be made for Asian and so-called colored citizens. This is a major point of departure in South African policy, and I believe it is only the first of many reforms to be made there, to broaden political participation.

No one questions that apartheid must end, but I think it helpful to evaluate South Africa in relationship to other African countries, and their prospects for improvement and economic growth.

South Africa provides the highest living standard, for all its people, in sub-Sahara Africa. This includes its black citizens who in economic terms, if not political, are better off by far than their sisters and brothers outside South Africa. The economy of South Africa has, like much of Africa and the world, been buffeted by recessionary economic difficulties. It also suffers from a decrease in the price of gold, and again, like much of the rest of Africa and the world, from the strength of the American dollar.

Yet, compared to the rest of Africa, South Africa's economy is vibrant. While much of Africa was decimated by drought, and South Africa was not spared, it has succeeded in feeding its people.

Education is a passion for South Africans of all skin tones. Black citizens in South Africa are better off than blacks in other areas of the continent. Their pupils are attending schools, and gaining marketable educations. South Africa is No. 1 on the continent educationally, and school subjects focus on supplying students with the skills and knowledge they will need upon graduation.

In Bophuthatswana, I met with the twice-elected President of that independent state, Lucas L. M. Mangope. President Mangope talked about his country with great pride. He pointed out that Bophuthatswana is nearing self-sufficiency, now only dependent on foreign aid for 4 percent of his country's budget. He noted that 66 percent of the free world's platinum production takes place in his country, that his country's agriculture is improving despite the terrible 2½-year drought, and that he is creating jobs for the Tswana people.

But, President Mangope most wanted to talk about the need and importance of education for the young, particularly technical education. He was proud of the nearly completed technical college for students in Mmabatho. President Mangope would be a wise leader for any people, but for the Tswana, he is a treasure. Bophuthatswana, like so many African nations, warrants our attention and our moral support.

Mr. President, I ask unanimous consent to include in the RECORD the program of a conference that I was privileged to attend the first 2 days I was in the country which had parliamentarians from Europe, South Africa, and the United States in attendance, including my colleague, Senator ROTH from this body.

There being no objection, the program was ordered to be printed in the RECORD, as follows:

CERCLE—DRAFT PROGRAMME

(International Conference, Lanzerac Hotel, Stellenbosch, South Africa, January 12-15, 1984)

Thursday, January 12:
Arrival of guests.
Friday, January 13:
0930—Welcome address and "tour d'horizon" by Chairman.
1000/10.15—Southern Africa in Soviet Strategy.
1100—Coffee.
1115—South African presentation: external affairs.
1200/12.45—Discussion.
1300—Lunch.
1430—South African presentation: internal developments.
1515—Trade, minerals.
1600—Tea.
1615—Portuguese territories.
1700—Zimbabwe, Namibia.
1800—End of Session.
2000—Dinner. Hosted by Pik Botha, RSA, Foreign Minister.
Saturday, January 14:
0930—United States Policy on Southern Africa.
0945—British and European policies.
1100—Coffee.
1115/1245—Discussion.
1300—Lunch.
1430—Discussion.
1600—Tea.
1715—Country reports.
1800—End of Session
2000—Dinner.
Sunday, January 15:
1000—Country reports, concluded.
1100—Coffee.
1115/1230—Practical measures: discussion.
1230/1300—Cercle: future arrangements.
1315—Lunch. Conference ends.

Mr. SYMMS. We had the opportunity to have a premeeting with the Foreign Minister of the Republic of South Africa at this conference. That took place at Stellenbosch, South Africa. Then our regular itinerary started on Sunday, January 15.

I just want to make mention of one highlight of that itinerary. I will enclose the entire itinerary in the RECORD. We had the opportunity to visit plants of production, schools, and the town of Soweto which has been in the news at different times, to see what kind of progress was being made.

On Tuesday, January 17, we arrived at Secunda, the latest oil from coal plant of the South African Coal, Oil, and Gas Corp., SASOL.

Mr. President, the SASOL plant is absolutely mind-boggling for most people from anywhere in the world to visit.

They are running some 80,000 tons of coal a day through SASOL 2 and 3, converting this to petroleum, to diesel oil, heating oil, gasoline, in enormous quantities and of a very high quality in what they believe to be an economically feasible operation. It is now still partially about 20 percent owned by the Government but is being transferred into private ownership and is giving South Africa a great deal of independence from the OPEC countries with respect to their out-of-country needs for liquid petroleum. They are largely a coal-driven economy, but they have made very wise use of their coal.

I think it is worthy of mention also, Mr. President, that the prime contractor for this massive plant of modern technology happens to be the Fluor Corp. of Santa Ana, Calif., U.S.A.

Mr. President, I also would like to have printed in the RECORD at this point my schedule to Southwest Africa and Namibia. I might mention, Mr. President, that one of the big concerns I came away from southern Africa with from my visit along the southern border, South-West Africa and Namibia—I did have an opportunity to go into Free Angola and visit with Jonas Savimbi and meet the forces of UNITA there.

I think it is worthwhile to note that those people are fighting a struggle that is most important to the people of the United States.

There being no objection, the schedule was ordered to be printed in the RECORD, as follows:

SOUTH AFRICA FOUNDATION—VISIT BY MEMBERS OF THE U.S. SENATE AND CONGRESS

SUNDAY, JANUARY 15, 1984

Messrs. Chuck Bona and James Houston (members of the Foundation's American MM Committee), and their wives, will call for you.

(Manager of Hewlett Packard SA (Pty) Limited, and Managing Director of the NCR Corporation of SA (Pty) Limited, respectively).

1030: Leave for the Heia Safari Ranch, about 40-minutes by road from Johannesburg, where you will spend the day in attractive surroundings, watching some wild animals and enjoying a barbeque and an afternoon's tribal music and dancing.

1600: Return to your hotel.

1700: Messrs. M. Christie, General Manager, and K. Sadie, Visitors Manager, both of the SA Foundation, will meet you at your hotel for a programme discussion.

Drinks 1800: With Mr. P. Camay, General Secretary, Council of Unions of South Africa (CUSA).

Evening: At leisure.

MONDAY, JANUARY 16, 1984

0910: Leave your hotel.

0930: Arrival at the offices of the SA Foundation. Introduction to: Mr. J. de L. Sorour, Director General of the SA Foundation (SAF), Mr. R. J. Ironside, President, and Dr. J. van Zyl, Executive Director, SA Federated Chamber of Industries (HCI), respectively; Mr. H. Klerck, President, and Mr. F. Stockenstrom, Executive Director, Afrikaanse Handelsinstituut (AHI), respectively (in translation the AHI means the Afrikaans Commerical Institute); Mr. W. Yeowart, President, Association of South African Chambers of Commerce (ASSOCOM).

1000: Tea.

1030: Briefing session. The following subjects will be presented: The socio-political situation of South Africa, relations with neighbouring states, destabilisation, etc.—Mr. Sorour; An overview of the South African economy—Mr. Yeowart; The industrial sector—Dr. Van Zyl; Aspects of South Africa's minerals—Professor T. E. Beukes, Department of Mineral Economics, Rand Afrikaans University.

Lunch 1300: With the above and other guests. (Please see attached guests list.) The speaker will be the Rt. Rev. Bishop Isaac Mokoena, Rector of the Southern Africa Theological College for Independent Churches, who will talk on the need of continued investment in South Africa; Leave.

1500: Visit the 3-M Factory; Miss D. Jansen, Public Relations Manager, will receive you and introduce you to Mr. E. Ashe, Managing Director, and other senior staff; Tour of the factory where you will have the opportunity of viewing the working conditions, facilities, and have discussions with workers as well as senior officials; Return to your hotel.

1745: Leave your hotel.

1800: Arrival at the Automobile Club of Johannesburg, for a finger supper arranged by the American Chamber of Commerce.

2000: Return to your hotel.

Evening: At leisure.

TUESDAY, JANUARY 17, 1984

0645: Leave your hotel.

0715: Arrival at Grand Central Airport; Departure by private aircraft.

0830: Arrival at Secunda the latest oil from coal plant of the SA Coal, Oil and Gas Corporation (SASOL); Mr. A. B. W. Swart, Head of Public Relations, will meet you; leave for the visitors centre; You will be introduced to either Mr. J. A. Stegmann, Deputy Chairman, or Mr. J. L. J. Bezuidenhout, Executive Director (Deputy President and trustee of the SA Foundation, respectively), and: Mr. P. V. Cox, General Manager, Mining; Mr. I. P. Marais, Assistant General Manager, SASOL II; Mr. J. H. Fourie, Assistant General Manager, SASOL III; This will be followed by discussions and the viewing of an audio visual programme.

1030: Tour of the plant.

1100: Leave.

1200: Arrival at Wonderboom Airport, Pretoria; Mr. Sadie will meet you and accompany you to the Burgerspark Hotel in Pretoria.

Lunch 1230: Afrikaanse Handelsinstituut; Leave.

1500: Arrival at Defence Headquarters (DHQ); Commander A. Brink, a Public Relations Officer, will meet you and conduct you to an operations room where Lt. General I. R. Gleeson, Chief of Staff Operations, will welcome you on behalf of the South African Defence Force; He will hand you over to Commander J. J. deBeer, Chief of Strategic Studies, for a comprehensive briefing on the question of South Africa and its strategic importance to the Western World.

1630: Termination of the briefing; Return to Johannesburg.

WEDNESDAY, JANUARY 18, 1984

0800: Mr. Sadie will call for you; Leave your hotel.

0815: Appointment with Dr. R. Lee, Director, Planning and Development, The Urban Foundation, in his office, 4th floor, UBS Building, cnr Eloff and Fox Streets.

0915: Leave for Soweto; One group will be accompanied by Miss S. Manfred, Head of Community Relations Unit, TWS Public Relations, and the other group will be accompanied by Mr. Sadie; Your programme will include a visit to the Pace Commercial School, other educational institutions, housing and township development projects, medical services, private sector involvement, electrical and civil engineering upgrading, etc.; Return to Johannesburg.

Lunch 1245: At the Pot Luck Restaurant with Dr. N. Motlana, a medical practitioner and Chairman of the Soweto Committee of Ten.

Afternoon: Discussions with trade union leaders; Return to your hotel.

1900: Mr. J. H. Steyn, Executive Director, The Urban Foundation, and former Justice of the Supreme Court, Cape Province Division, will call on you for a pre-dinner discussion.

Dinner 1930: ASSOCOM; East London Room Carlton Hotel.

THURSDAY, JANUARY 19

0810: Mr. Sadie will call for you.

0815: Leave for Jan Smuts Airport.

0930: Departure from Johannesburg (SA. 303).

1135: Arrival at D. F. Malan Airport, Cape Town.

Lunch 1230: In the Ante-room of the Mount Nelson Hotel with Mr. L. G. Abrahamse and guests. (Please see attached guest list); (Mr. Abrahamse is Vice President of the SA Foundation, and Chairman, Syfrets-UAL Holdings Limited); Please note that due to lack of time you will go to the Mount Nelson Hotel direct. Your baggage, however, will be taken to the Cape Sun Hotel and placed in your rooms where the whole group has been pre-registered in order to eliminate individual check-in.

Afternoon: Options—Political appointments; Visit to the factory of the SA Nylon Spinners (Pty); Limited—Return to your hotel.

Dinner 1930: With Mr. C. Eglin, Progressive Federal Party spokesman on Foreign Affairs, in a private room at the Cape Sun Hotel.

FRIDAY, JANUARY 20, 1984

Morning: Options.—Dicussions with Control leader; Visit to the Naval Base at Simonstown—Return to Cape Town.

Lunch 1230: In a private room in the Mount Nelson Hotel with The Honorable R. F. Botha, Minister of Foreign Affairs and Information, and guests.

1520: Round table discussion with The Hon. O. P. Horwood, Minister of Finance, in his office, and Dr. J. de Loor, Director General for Finance, and Dr G. de Kock, Governor of the SA Reserve Bank; Return to your hotel.

Buffet Supper 1900 for 1930: FCI

SATURDAY, JANUARY 21, 1984

Lunch 1230: With Mr. W. Stadtler, Minister at the United States Embassy, and Mrs. Stadtler, and guests at their residence, Launceston, Torquay Avenue, Bishopscourt; Return to your hotel.

1530: A debriefing with the SAF, AHI, FCI and ASSOCOM.

1700: Leave.

1730: Arrival at the home of Mr. and Mrs. Franklin Sonn, 287 Belgravia Road, Penlum Estate, Athlone (Mr Sonn is Rector of the Peninsula College for Advanced Education, and President of the Cape Professional Teachers' Association); Farewell barbeque with some of their friends has been arranged in your honor; Return to your hotel.

SUNDAY, JANUARY 22, 1984

Senator and Mrs. Symms; Rep. and Mrs. Young; Rep. Kramer.

Morning:

1145: Leave for D. F. Malan Airport.

1300: Departure from Cape Town (SA. 759).

1550: Arrive at J. G. Strijdom Airport Windouk S.W.A. on Flight SA 759 from Cape Town. Met by: Miss Katrin Kohler, Office Manager of the Proswa Namibia Foundation. Proceed to the Kalahari Sands Hotel and book in. Programme discussion with Miss Kohler and brief interview of: Mrs. J. Fischer, Proswa representative.

1900: Met by Miss Kohler in the foyer of the hotel.

1930: Dinner with: His Excellency Dr. W. A. Van Niekerk, Administrator-General of SWA/Namibia and Mrs. Van Niekerk. Mr. G. Roux, member of the Mangement Committee of the Proswa Namibia Foundation and Head of Programmes of the South West Africa Broadcasting Corporation (SWABC) and Mrs. Roux. Venue: South West House.

MONDAY, JANUARY 23, 1984

0700: Breakfast with Mr. G Roux and Mr. L. Kok, senior newsreporter of the South West Africa Broadcasting Corporation (SWABC). Venue: Suite 1205, Kalahari Sands Hotel.

0815: Military briefing at Headquarters, SWA Territory Force by senior staff officers of the defence force. Venue: Bastion Building.

1000: Interview with Dr. J. Jones, Secretary of the Department of Finance. Venue: Office of Dr. Jones.

1115: Interview with Mr. S. Cleary, Chief-Director of the Office of the Administrator-General. Venue: Offices of the Administrator-General.

1245: Lunch with Mr. J. Garoeb, member of the Multi-Party Conference and leader of the Damara Council. Mr. M. Katjiuongua, member of the Multi-Party Conference and President of the South West Africa National Union (SWANU). Mr. D. F. Mudge, member of the Multi-Party Conference and Chairman of the Democratic Turnhalle Alliance (DTA). Mr. A. Shipanga, member of the Multi-Party Conference and President of the SWAPO-Democrats (SWAPO-D). Mr. J. De Waal, Secretary of the Multi-Party Conference and Secretary of the DTA. (To be confirmed). Host: Mr. G. Kaschik, Honorary President of the Proswa Namibia Foundation, Director of Priflinger & Roll (PTY) Ltd (a trust company) and member of the City Council of Windhoek. Venue: Suite 1205, Kalahari Sands Hotel.

1530: Visit the Academy for Tertiary Education; addressed by Prof. A. Buitendacht, Rector of the Academy. (To be confirmed). Return to the hotel.

1800: Depart for guest-farm "Bergquell" of Mr. and Mrs. F. J. Wucher. Barbecue with prominent citizens of Windhoek. (List of persons attending the barbecue will be furnished). Return to the hotel.

TUESDAY, JANUARY 24, 1984

0730: Meet Miss Kohler in the foyer of the hotel. Depart for Eros Airport.

0800: Depart Eros Airport by military aircraft for Omega Military Base in the operational area.

1530: Depart Omega Military Base for Waterkloof Air Force Base, Pretoria.

1730: Arrive at Waterkloof Air Force Base, Pretoria. Met by a representative of the South Africa Foundation.

Programme: Mrs. F. Symms.

MONDAY, JANUARY 23, 1984

1030: Met at the reception of the hotel by Mrs. M. Pottas, Vice-Chairperson of the Proswa Namibia Foundation. Shopping and lunch with Mrs. Pottas.

1430: Met by Mrs. S. May, Honorary Life President and member of the Management Committee of the Association for the Handicapped. Proceed to the Centres of the Association for the Handicapped with Mrs. May and Mr. C. Strijbis, Director of the Association for the Handicapped.

1700: Return to the hotel.

1800: Meet Miss Kohler at the reception of the hotel and depart for guest-farm "Bergquell".

LUNCHEON TO BE HELD IN THE FOUNDATION'S BOARDROOM ON MONDAY, JANUARY 16, 1984, AT 1300

The following are additional guests who will be present at the luncheon:

Mr. W. Baqua, Group Industrial Relations Consultant, Barlow Rand Limited. Mr. R. Conway, Harvard Business School. Mr. J. Mavuso, Chairman, Soweto Development

Corporation. Mr. L. Mehlomakulu, Business Development Manage, Barclays National Bank limited. Mr. R. Monama, Researcher, Institute of Applied Legal Studies, University of the Witwatersrand. Mr. G. Thula, Principal Urban Representative, kwaZulu Government.

BARBEQUE TO BE HELD IN HONOUR OF THE MEMBERS AND WIVES OF THE U.S. SENATE AND CONGRESS, IN THE HOME OF MR. AND MRS. FRANKLIN SONN, ON SATURDAY, JANUARY 21, 1984, AT 1930

Guests: Mr. and Mrs. W. F. de la Harpe Beck, Honorary President, SA Foundation, Chairman, Murray and Roberts Construction Company (Pty) Limited. Prof. and Mrs. W. Esterhuyse, Department of Philosophy, University of Stellenbosch. Mr. and Mrs. B. Figaji, Deputy Director of Technology, Peninsula Technikon. Prof. and Mrs. J. Gerwel, Department of Afrikaans/Nederlands, University of the Western Cape. Rev. and Mrs. L. Louw, Department of Social Work, University of Cape Town. Mr. and Mrs. J. Martin, Principal, Nuwedrift Primary School, Paarl. Dr. and Mrs. D. Triegaardt, Head, Department of Physical Science, Peninsula Technikon. Mr. and Mrs. J. Tromp, Deputy Director of Humanity, Peninsula Technikon. Prof. and Mrs. R. E. Van Der Ross, Trustee of the SA Foundation, Rector, University of the Western Cape.

LUNCHEON TO BE HELD IN THE ANTE-ROOM OF THE MOUNT NELSON HOTEL ON THURSDAY, JANUARY 19, 1984, AT 1230

Guest List: Mr. and Mrs. L. G. Abrahamse (hosts), Vice-President of the SA Foundation, Chairman, Syfrets-UAL Holdings Limited. Mr. and Mrs. F. Davin, Managing Director, SA Mutual. Mr. and Mrs. D. T. Fletcher, Chairman, Caltex Oil. Mr. and Mrs. J. Gouws, Regional General Manager, Nedbank Limited. Mr. and Mrs. H. W. Middlemann, Chairman, Colonial Mutual Life Assurance Society. Mr. and Mrs. P. Swartz, Managing Director, Superama. Mr. and Mrs. P. V. Vlok, Attorney.

GUESTS ATTENDING THE BARBECUE HELD IN HONOUR OF SENATOR AND MRS. S. SYMMS AND REPRESENTATIVE K. KRAMER

Date: January 23, 1984.
Time: 1900.
Venue: Guest-farm "Bergquell."

1. Mr. G. Berens, Chairman of the Proswa Namibia Foundation and the Managing Director of Edward Lumley & Sons, Insurance Brokers.
2. Mr. K. Bohme, President of the Chamber of Commerce and Industries for SWA/Namibia and Managing Director of A. Wutow Trading Co (Pty) Ltd.
3. Mr. A. Bruckner, Managing Director of SW Engineering Co (Pty) Ltd.
4. Mr. R. Frohlich, Director of Companies & Mrs. Frohlich.
5. Adv. F. Kozonguizi, Director: Government Liaison.
6. Mr. C. MaCauley, Director of Rossing Uranium Ltd.
7. Prof. P. J. Malherbe, Auditor-General of South West Africa/Namibia.
8. Mr. B. Masche, General Manager of South West Breweries, Ltd.
9. Dr. Z. Ngavirue, Consulting Director: Personnel and Training at Rossing Uranium Ltd.
10. Mr. S. May, Honorary life President and Management Committee member of the Association for the Handicapped.
11. Mr. D. Ollewagen, Regional Manager of SWA/Namibia Nedbank Ltd.
12. Mr. S. Pottas, Chairman of the Association for the Handicapped.
13. Mrs. M. Pottas, Vice-Chairperson of the Proswa Namibia Foundation.
14. Mr. G. Roux, Member of the Management Committee of the Proswa Namibia Foundation and Head: Programmes of the South West Africa Broadcasting Corporation.
15. Dr. H. Schneider, Director of Veterinary Services of SWA/Namibia.
16. Mr. K. H. Schneider, Managing Director of Standard Bank SWA Ltd.
17. Mr. S. C. Schofield, Regional Manager of SWA/Namibia Barclays National Bank Ltd.
18. Mr. H. H. Schulz, Building contractor.
19. Mr. K. Stern, Member of the Management Committee of the Proswa Namibia Foundation and Managing Director of Western Trading Corporation (Pty) Ltd, a Karakul Import/Export Company.
20. Mr. G. C. Van Wijk, Director-General of the International Karakul Secretariat and Manager of the Karakul Board of South Africa.
21. Miss K. Kohler, Office Manager of the Proswa Namibia Foundation.

Mr. SYMMS. Mr. President, I ask unanimous consent to have printed in the RECORD a speech that was given by one of Mr. Savimbi's top assistants to the delegation when we were there on their viewpoint of what is happening with respect to Angola. I think what we need to do as a nation, Mr. President, is give moral support to the forces of UNITA in what is happening in Angola. Mr. President, I think it would be appropriate if this Congress would repeal the so-called Clark amendment so we could give support to those people in Angola who are trying to free that country and free the economy of that country, and give those people an opportunity to move forward as progress is taking place in southern Africa.

(Mr. DENTON assumed the chair.)

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE NATIONAL UNION FOR THE TOTAL INDEPENDENCE OF ANGOLA—UNITA

Honourable Mr. Symms, Leader of the U.S. congressional delegation; Honourable Members of the U.S. Congress; ladies and gentlemen: On behalf of the party, UNITA, and its leader, Dr. Jonas Savimbi, it is with great pleasure that I extend to you and your delegation our sincere and heart-felt greetings and we all wish you a very warm welcome.

Today, the 24th of January 1984, the people of UNITA in Angola and abroad, feel greatly honoured on being visited by the distinguished members of all the powerful, U.S. Congress.

Honourable Congressmen, it is our open policy to promote cooperation and friendship with all free and peace loving nations of the world.

It is now, more than ever before, that such co-operation and friendship may be given a meaningful character and form, because it is now that those whose duty it is, to stir up political turmoil in order to fish in troubled waters, are extending, and will continue to do so, their tentacles to continents where, until in recent years, violence and strife were unknown.

The American War of Independence, culminating in the Declaration of Independence on the Fourth of July, 1776, and all other successful just wars of liberation, have been and continue to be, a source of inspiration and example to us.

Your coming to UNITA areas is viewed by us not only as historic, but also, as a visit by victorious warriors to their own battle front, because we consider our war against Russians and Cubans, as being in part, your own war, wherever it may be waged. In this respect, we represent an advanced defense line in favour of the west in whatever perspective the problem may be viewed.

UNITA's war effort should be viewed, in broad terms, as being part of that general struggle against the Soviet expansionist policies the world over, with special emphasis to this strategic part of Africa. While this is so, we continue to wonder for how long will nations remain independent, for how long will democracy, peace and justice be preserved if the West, lead by the United States of America do not take into account the pleas of those, who against their own will, have fallen victims to the very system they abhor?

Whereas UNITA is committed and fundamentally bound to the ousting of all the foreign troops from Angola, be they Russians, Cubans and others of East European origin, we feel a golden opportunity exists for the West to help defeat, to their own advantage, the Soviet Union's sinister African designs, if only they participated.

With reference to the hesitation and inertia of many Western countries in containing the Soviet and Cuban expansionism, I am tempted to refer to what President Nixon wrote in his book, "The Real War".

He wrote: "The most tragic of all is when those who hold the power refuse to use it, and because of that refusal, lives and the very freedom are exposed to danger."

Fortunately, many countries are now coming to the aid of UNITA and it is a question of time before the dreams of the people of Angola become true: the departure of the Soviets and all their stooges from Angola.

This development, is the direct result of President Savimbi's correct leadership coupled with the massive political support UNITA enjoys amongst the people and the successful creation by UNITA, of well trained regular forces.

UNITA, under the leadership of Dr. Jonas Savimbi, backed by the armed forces for the liberation of Angola, has broken the myth of MPLA's invulnerability in its so called traditional areas.

In this respect, we are proud to announce to the American public and through you, to the entire world, that our forces are successfully operating in 14 of the 16 provinces of Angola including Luanda, Kuanza Sul, Kuanze Norte, Malange, Lunda and Uige, all once upon a time, considered MPLA's strongholds.

I am pleased to state that amongst the recent UNITA's political and military successes, is the fall of the eastern town called Kazombo, which has finally deprived MPLA's minority government of control of the entire Zambian frontier with Angola.

Honourable Members of the United States Congress, we are quite aware of the difficulties and critical situations that lie ahead, more especially, with the ever increasing contingents of the Cuban forces flowing in. Nevertheless, we have reached a point of no return in our just attempt to correct the course of history. Should the present trends of our war be anything to go by, I am tempted to state that the appalling dark days of 1976 are almost over.

It is our fervent hope that during your stay here, adequate irrefutable evidence of the cruel destructive Soviet proxy war, shall be made available to you, so that through you and other future political and journalistic personalities, the world shall be in a better position to know and understand the Angolan question and the UNITA factor, with all its implications in the southern African political equation.

We are not war-mongers, we stand for peace through political dialogue. Our political objectives have been more than publicised as being national reconciliation and the departure of the Cubans. We still believe in and stand by these principles, because they are the final key to the political stability in Angola and, indeed, in Southern Africa.

Honourable Congressmen, your government's connections with UNITA's struggle and Dr. Savimbi are common knowledge to all our people. We greatly appreciate the efforts of all U.S. government and people in their endeavour to promote peace, security, justice and democracy, which objectives we cherish, share and defend, to the point of laying down our lives.

On our part, we shall continue to explore all the peaceful avenues to the end of the Southern African conflict, without abdicating our responsibilities to our people and Humanity, until victory is assured, where upon with all the necessary pomp and pride, shall join the international community of free nations, with whom, on the basis of mutual respect, equality and a common desire for peace and progress, shall work to build a new and prosperous nation.

Honourable Congressmen, once again, in the name of the party, you are most welcome and I hope you make the best of your stay here.

Thank you.

Long live Africa!

Long live Angola!

Long live Unita!

Long live Presidente Savimbi!

Long live the peace loving nations of the world!

Long live our distinguished visitors!

The struggle shall triumph, united we shall win.

Central Base of UNITA, Freeland of Angola, 24th of January 1984.

Mr. SYMMS. Mr. President, I think it might be worth mentioning that one of the meetings I had was with Jerry Osgood, who is a distinguished military officer of the United States, a full colonel in the U.S. Air Force. He made the point to me that the efforts being made by our State Department's Mr. Chester Crocker, to have what we call constructive engagement, is most important and that we do need to give support to that.

Additionally, he made the point that we need to recognize that in the process, it did take time for us to solve some of our problems in the United States and that we should in fact be somewhat generous with time in Southern Africa.

I ask unanimous consent to have printed in the RECORD at the end of my remarks a letter to the editor of the New York Times, written January 18 by Mrs. J. Osgood, a U.S. citizen temporarily residing in South Africa, which speaks directly to this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SYMMS. Mr. President, I am very concerned when I read of efforts and negotiations taking place in South Africa. I hope that in any engagement that our State Department is making, my appeal to the Department of State would be not, in any way, to leave out of the consideration those people who are fighting for freedom in Angola; the National Union for the Total Independence of Angola, UNITA. By the very nature of U.S. laws, we are not giving them any support, for it is illegal for the U.S. Government to make any effort or overtures to do anything in Angola, in spite of the fact that the Soviets, through their proxies, the Cubans, and directly with Soviet involvement in Angola, are spending a great deal of money there to see if they can continue to hold Angola in the Marxist camp. I hope that we would, at least as a minimum, not make any agreements with respect to Southwest Africa, with respect to the southern continent, that overlooks the fact that a big percentage, a big portion of Angola, is now actually under the control of Dr. Jonas Savimbi.

I hope my colleagues will read the appeal that was made to me, which I have had printed in the RECORD, in a speech that was given. I apologize that I do not at the present time have the name with me of the gentleman who actually made the speech. I can only say that he is one of the leaders of the UNITA forces in southern Angola. I had the privilege to address the same audience—and observed that many Americans individually wished them well in their efforts to liberate their own country from the clutches of the Cubans and Soviets, interlopers who are up to no good in Africa.

Mr. President, one thing that is certain in Africa—the countries that have opted for one party Marxist dictatorship are in big economic trouble—our policy should be simple—support our friends—oppose our enemies.

[From Time, Jan. 16, 1984]

Exhibit 1

A Continent Gone Wrong

(Our ancient continent is now on the brink of disaster, hurtling towards the abyss of confrontation, caught in the grip of violence Gone are the smiles, the joys of life.—Edem Kodjo, former Secretary-General of the Organization for African Unity.)

A quarter of a century after the nations of sub-Saharan Africa began to gain their independence, that bleak view is shared by increasing numbers of Africans and non-Africans alike. The New Year's Eve coup in Nigeria was only the most recent recurrence of a pattern of failure that has gripped the continent. Black-ruled Africa is suffering today from a political and economic malaise that few could have imagined when British Prime Minister Harold Macmillan spoke eloquently in 1960 of the "wind of change" then sweeping the continent.

Uhuru!, the Swahili clarion call for freedom from the European colonial powers, has brought independence but little liberty for millions of black Africans. The rallying cry "One man, one vote" has been transferred into reality, but it has suffered an ironic distortion. Many Africans now have one vote, but often it can be cast for only one man. Zambia's President Kenneth Kaunda was the sole candidate in his nation's presidential elections last October, when he was elected to a fifth four-year term. In Kenya, long a showplace of African democracy, President Danial Arap Moi faced no challenger in elections last September.

All too frequently, fledgling African democracies have become hostage to leaders intent solely on gaining and holding power. In the past 25 years, more than 70 leaders in 29 African nations have been deposed by assassination, purges or coups. Among the 41 major independent black African nations, only seven allow opposition political parties. Seventeen are single-party states. Another 17 are ruled by military regimes.

Economically, the picture is no brighter. In nation after nation, independence has been followed by a steady decrease in per capita food production. Such essential government services as education, health care and transportation are in disarray. African countries are so riddled by foreign debt, estimated at a total of $100 billion annually, that they are near bankruptcy. In the meantime, sub-Saharan Africa's population of 210 million in 1960 has grown to 393 million. It continues to increase by 2.9 percent annually, the fastest growth rate in the world.

Almost without exception, African governments have allowed a crucial part of their colonial inheritance—the infrastructure of roads, railways, cities and towns built by Europeans—to deteriorate. In Dar es Salaam, the once attractive capital of Tanzania, years of postcolonial neglect have left their ravages. Pavements are cracked and unrepaired. Manhole covers have disappeared and not been replaced. Buildings are unpainted and grimy. In many areas, garbage is no longer collected; thin wisps of pungent smoke curl up through the palm trees from burning piles of refuse.

Roads built by European engineers are being gradually swallowed up by the bush. When Zaire, then known as the Belgian Congo, gained its independence in 1960, it had 58,000 miles of good roads; now only 6,200 miles are passable. The Ivory Coast, a model of economic development and relative prosperity under President Felix Houphouet-Boigny, is now beset by a troubled economy and uncertainty about who will succeed him.

Sub-Saharan Africa is burdened with half the world's 10 million refugees, partly as a result of the drought that has held the Sahel region in its arid grip for more than a decade. As nomadic herdsmen wander thousands of miles in search of food and water, some 14 million acres of potentially productive grasslands are destroyed each year by their livestock. At least 20 percent of the continent is desert; experts believe that the process of "desertification" could encompass 45 percent of Africa in 50 years if current patterns of land use are allowed to continue. Famine and pestilence plague hundreds of thousands of Africans. Livestock diseases like rinderpest, a fatal viral infection known as "the cattle plague," and human maladies like malaria, cholera and bilharziasis, a water-borne urinary-tract disease, are on the rise.

Political oppression has taken its own savage toll. Early last year Nigeria expelled 2 million Ghanaian workers to ease the mounting problems it faced trying to provide work for its own population. Some 700,000 ethnic Somalis, victims of a protracted war with Ethiopia, live in refugee camps within Somalia. The Sudan shelters another 637,000 refugees, including secessionist Eritreans who have been forced to flee Marxist-oriented Ethiopia, as well as 200,000 Ugandans. The Ugandan refugees have fled in two waves: those escaping the brutal policies of former Dictator Idi Amin in the '70s and those who have recently left Uganda to avoid President Milton Obote's military "cleanup" operations. Zaire supports another 335,000 refugees from upheavals in Angola, Rwanda and Burundi.

Africa's blight and decay also extend to projects and equipment built or financed by well-meaning foreign countries. In rural Senegal, a $250,000 U.S.-made solar-powered irrigation system lies idle, mainly because of maintenance problems. Just outside Lusaka, in Zambia, hundreds of government vehicles sit abandoned in a parking lot. Some are wrecks, but many others are almost new, missing only a clutch plate or a windshield. Desperately short of foreign exchange, the government of President Kaunda prefers to import new vehicles through aid programs rather than buy the spare parts necessary to repair the old ones. In Zambia and Tanzania, locomotives badly needed to haul copper and agricultural produce sit on railroad sidings because no one can fix their hydraulic-brake systems.

In scores of countries where small, labor-intensive projects are needed, technological white elephants have proliferated. In Tanzania, Zaire, and Somalia, glass-and-steel airport facilities, built in anticipation of air traffic that has not materialized, have been allowed to fall apart. Escalators do not work; electronic flight schedule boards have been replaced by blackboards; automatic sliding doors have to be operated manually. In Uganda and Angola, some high-rises lack glass panes and running water. In 1975 Canada built a $2.5 million semiautomatic bakery in Dar es Salaam, but often there is no flour to make bread. Moscow's aid efforts have fared no better. A Soviet-built cement factory at Diamou, Mali, was designed for a capacity of 50,000 tons a year. Beset by regular breakdowns, it produced five tons last year. In accepting such largess, African leaders have mortgaged themselves to outside interests. Observes a Nigerian film maker: "We build palaces but can't run them, we build cars we can't repair, we are attracted by everything that glitters. We are slaves to another culture."

One of the major exceptions to the litany of failure is South Africa, which has become sub-Saharan Africa's premier economic and military power. But this has been achieved at an unacceptable price: the disenfranchisement of its 21 million blacks, who account for 70 percent of the population. They are allowed to work, but cannot vote in central-government elections. They have little freedom to choose where they work or live. Many are forced to settle in *bantustans*, or black homelands, that the white government has set aside to segregate blacks while exploiting their labor. The elaborate canon of apartheid laws means that activist blacks who speak out against the government too forcefully, or who are simply caught in the wrong place at the wrong time, can be detained, jailed or fined at the whim of South African authorities.

Independence, paradoxically, has not freed most of Africa from the yoke of foreign domination and meddling. Cuban soldiers act as proxies for the Soviet Union in Angola and Ethiopia; East German military advisers are present in Mozambique and Ethiopia. The regime of Ethiopian Chairman Mengistu Haile Mariam has paid homage to Moscow by erecting a statue of Lenin in Addis Ababa. Mengistu allows the Soviets to maintain a naval base on the Dahlak Islands in the Red Sea. Libya's Colonel Muammar Gaddafi, often with Moscow's backing, has emerged as the continent's chief troublemaker. Gaddafi has been behind unsuccessful coups in at least half a dozen nations from Gambia to the Sudan.

Of the former colonial powers, France maintains the most visible presence, stationing troops and dispensing both military and economic aid to more than 20 countries. Some 300,000 French now live and work in Africa, more than twice the number during colonial times. Last summer, President Francois Mitterrand dispatched 2,000 soldiers and eight Mirage and Jaguar jets to forestall Soviet- and Libyan-backed insurgents intent on overthrowing the government of Chad's President Hissene Habre. The U.S. provided AWACS planes and anti-aircraft missiles to Chad; it has also negotiated the use of port facilities and airstrips in Kenya and Somalia. "We are undergoing a second colonialization," protests a Tanzanian academic. "Our present leaders are just like the old tribal chiefs who signed pacts with colonizers for a few beads. Friendship and military pacts are now penciled up in return for guns, aid or cash loans. Africa is up for grabs."

One result of growing foreign influence has been a debilitating loss of confidence among Africans themselves. "What kind of people are we?" asks one African leader. "Are we not forced to admit that our continent lives in absolute poverty?" Such questions underscore a painful truth. "The years of freedom have mounted up, mocking the plausibility of the excuses for failure," British journalist Ian Smiley wrote in the Atlantic Monthly. "Africa is back where it was 50 years ago."

Perhaps no single factor is more frequently blamed for Africa's ills than the legacy of 80 years of colonialism. This year will mark the centenary of the Berlin Conference, at which Britain, France, Germany, Belgium and Portugal, among others, agreed to divide Africa into "spheres of influence." Borders were established without regard for traditional tribal boundaries and loyalties, thus setting off fierce antagonisms between rival groups within the same country. Once the domain of powerful kingdoms such as Dagomba in western Africa and Matabele in central Africa, the land was carved up in the intense competition for natural resources and cheap labor.

However irrational, the new boundaries were inherited by African leaders when the Europeans departed. In all but a few instances, African leaders themselves all too willingly reproduced and perpetuated the worst aspects of the mismanagement, greed and elitism bequeathed to them by the colonial powers. Even so Africans blame their former colonial masters for instilling a taste for Western-style material goods, corruption and the pursuit of power.

No group has lavished more treasure on grandiose schemes, and has less to show for it, than Africa's leaders and the bloated, inefficient bureaucracies that serve them. Nigeria's Shagari, for instance, began the construction of a new capital city about 300 miles northeast of Lagos, at an estimated cost of $16 billion. Yet hundreds of thousands of Nigerians in the slums of Lagos lacked running water, adequate sewage systems, medical care and educational facilities. President El Hadj Omar Bongo of Gabon, an oil-producing country with a foreign debt of $1 billion, built a $27 million conference center with a facade of imported Italian marble for the 1977 summit meeting of the Organization of African Unity in the capital of Libreville.

Even in the poorest African capitals, such as battle-scarred Ndjamena, Chad, government officials can be seen in convoys of Mercedes-Benz limousines, scattering cyclists and pedestrians as they pass. Owning a Mercedes is so potent an African status symbol that in East Africa a Swahili ward was coined to describe the elite that drives them: *wabenzi*, literally, men of the Mercedes-Benz.

Last year President Mobutu Sese Seko of Zaïre was accused by his former Foreign Minister of embezzling $1 billion in Belgian currency from the state treasury. Western sources estimate Mobutu's personal fortune at nearly $4 billion, most of it in Swiss banks. In 1976, Jean-Bédel Bokassa of the Central African Republic, not content with being President-for-Life, declared himself Emperor and staged a $20 million ceremony for the occasion. Bokassa crowned himself with a gold-and-diamond diadem that cost $2 million. (Nearly two years later, with covert assistance from France, Bokassa was deposed.)

Osusu ("corruption" in Ashanti) is ubiquitous both in government and in the commercial sectors. Gambian police are currently investigating the mysterious disappearance of about $1 million, apparently caused by a syndicate of bank clerks who systematically defrauded the accounts of illiterate farmers. "The figures are coming at us so fast," said a police officer, "that sometimes we think our investigators are making them up." In 1980, a Gambian bank clerk tried to telex $2 million to an overseas account; he was caught before the money was actually transferred.

As often as not, large amounts of foreign food, cash and equipment never reach their intended destinations. A "transportation operator" in Sierra Leone received more than $2,000 from the government to distribute 150 tons of rice; investigators later discovered that the only vehicle he owned was a Honda motorcycle. During the '70's, badly needed relief supplies for Chadian refugees were routed through Nigeria. But the shipments never made it because the wife of a high government official in Chad demanded huge bribes from the Nigerian drivers.

With hard currency in short supply, black markets are booming. In Marxist Mozambique, drivers of the People's Taxi Service will happily switch off their meters and cruise all day for payment in dollars. No wonder: the black market pays up to 1,000 Mozambican meticais to the dollar, compared with the official exchange rate of 42. "To Africa's sickness, pestilence and disease, add corruption," says Senegal's President Abdou Diouf. "It is endemic to this continent."

Bribes, known variously as *Dash*, *chai* or *Bonsella*—the traditional palm greasing for services rendered or anticipated—have become a way of life. They now take the form of a carton of razor blades, a case of Scotch or the latest in digital watches. Smugglers make a killing in African marketplaces. Recently police raided a privately owned store along Pugu Road in Dar es Salaam and found a cache of spare vehicle parts large enough to fill the cargo hold of a ship. Says former Tanzanian Police Chief Ken Flood: "Africa has always attracted con men and carpetbaggers. But they were almost always whites from Europe. Now the blacks themselves have learned the game."

African leaders regularly order crackdowns on profiteering and corruption. Declared President Julius Nyerere of Tanzania last year: "[Economic saboteurs] will have their ill-gotten property confiscated and will be given hoes to work on the land for a very long time." Several hundred suspects are now being held in Tanzanian prisons under the country's Preventive Detention Act. Mozambique's President Samora Machel has publicly berated and fired corrupt government officials, as has Zambia's Kaunda. In Zimbabwe, the four-year-old government of Prime Minister Robert Mugabe has ordered stiff new penalties for corruption, including fines of $5,000 and five years' imprisonment.

Still, widespread opportunities for fraud have raised doubts that such measures will have much beneficial effect. Notes the London-based weekly magazine West Africa: "It is open season for any racketeer with the capital and contacts to acquire sole control of some consumer product." A cartoon in another publication depicts a soldier talking to a village woman. "There is no food," he explains, "because we have shot the black marketeers."

But perhaps the most disturbing trend in Africa's postcolonial experience has been the continuation of tribal conflicts that have bedeviled the best-intentioned efforts at nation building. Kenya's Moi, a member of the minority Kalenjin tribe, calls modern Africa's tribal strife "the cancer that threatens to eat out the very fabric of our nation."

From the beginning of the postcolonial period, arbitrary violations of traditional boundaries by European administrators set blacks against blacks. Kenya's 1952 Mau Mau uprising began as a rebellion against British colonial rule, which had designated fertile highland areas for white settlement. The struggle quickly turned into a civil war between Kikuyu rebels and loyalists. In the ensuing four years, more than 11,000 blacks were killed, most of them Kikuyu. By contrast, only 95 whites died. A little more than a decade later, when it seemed possible that a young Luo labor leader named Tom Mboya could succeed Kenyan President Jomo Kenyatta, the younger man was assassinated. His killers were widely assumed to be hard-core Kikuyu loyalists.

In all but a handful of African countries, tribal loyalties still predominate, especially in rural areas where nationalist sentiment has not penetrated. Zaire has 200 different tribes speaking some 75 languages, from the Pygmies in the east to the Baluba, Batetela and Bassongo-Meno in the interior. In Burundi, the minority Tutsi tribe had subjugated the majority Hutu (85 percent of the population) for centuries. During three months in 1972, an estimated 200,000 Hutu were slaughtered after being blamed for an abortive coup. More than a decade earlier, in neighboring Rwanda, the Hutu (80 percent of the population) had overthrown their Tutsi masters, killing 100,000. The bloodiest war in postcolonial Africa was fought from 1967 to 1970, when the predominantly Ibo region of southeastern Nigeria seceded and formed the independent state of Biafra. The civil war cost at least 1 million lives before Biafra was brought back under Nigeria's control.

Such explosions of tribal violence are often cited as justification for the frequent emergence of one-party states in Africa. The latest example may be Zimbabwe. After a bloody seven-year civil war that ended white rule in what was then Rhodesia, majority Shona tribesmen loyal to Robert Mugabe and Ndebele fighters led by Joshua Nkomo reached a shaky accord to rule independent Zimbabwe. But not long after Mugabe was elected Prime Minister in 1980, tribal enmity resurfaced. Since then the Shona-dominated army and security police have killed an estimated 2,000 to 3,000 Ndebele. Nkomo fled to London last March, although he returned to Zimbabwe in August.

Driven by tribal factionalism since independence, Nigeria established a deliberate policy aimed at breaking down old tribal hostilities. Before the U.S.-style Nigerian constitution was suspended following General Buhari's coup, a presidential candidate needed to win a plurality in national elections and at least 25 percent of the vote in two-thirds of the country's 19 states. The system was imperfect, but in two free elections Nigerian voters cast their ballots across tribal lines.

Rapid urbanization has hastened the process of detribalization, but this has created an entirely new set of problems. Attracted by the often spurious promise of wealth in Africa's burgeoning cities, hundreds of thousands of Africans have deserted their native villages. In 1950, only three African cities had populations of more than 500,000; now there are 29. Many African sociologists see the phenomenon as a primary cause of social disintegration; young Africans in particular discard tribal values and disciplines for an urban-centered culture of Coca-Cola and transistor radios. For many Africans there is a growing awareness that tribal life was the source of tradition, of social and spiritual values. "In the transitional society in which we live," says Eddah Gachukia, a Kenyan legislator, "there is an urgent need to establish alternative ways and means of teaching our children effectively."

Kenya's urban population, typically, doubled between 1969 and 1979. In August 1982, many Kenyans were jolted into recognition of the new reality when an apparent coup attempt by a handful of air force noncoms and some officers, assisted by university students, degenerated into a mindless rampage through Nairobi. Youngsters smashed windows and shot up the lobby of the Hilton Hotel, a ready symbol of Western affluence. After taking over the radio station, the rioters were unable to find suitable martial music for the occasion. They ended up broadcasting the lilting strains of Bob Marley's Caribbean reggae.

Surveying a street scene in Nairobi, Trinidadian Author Shiva Naipaul (brother of V.S.) was struck by a sense of unreality among young city dwellers. In his book *North of South: An African Journey*, Naipaul describes meeting a modishly dressed student who claimed he was studying literature, but declined to name a favorite author. His reason: "I don't care much for reading." In another encounter, an aggressive shoeshine boy tried to charge him $6 for "deluxe special" treatment. Wrote Naipaul: "The tribal world was real. The new world, lacking definition and solidity, fades away into the dimmer reaches of fantasy. The greed of my shoeshine boy did not . . . recognize any limits. He had lost touch with reality."

Reality may be closer for the approximately 75 percent of Africans who have remained in smaller towns and villages. But their awareness of their economic plight is sharp. Joshua Kweka, 28, earns $100 a month as a clerk at a small factory that manufactures mosquito-repellent coils in the Tanzanian town of Himo (pop. 5,000), just across the border from Kenya. He shares a room near the factory with his sister, while his wife and child live with relatives on a five-acre farm 6,000 feet up the slopes of Mount Kilimanjaro. Kweka and his sister usually eat *ugali*, cooked maize meal, for lunch and dinner. Only rarely can they afford to add tomatoes, which cost $1 per lb. With stewing beef at $1.50 per lb., they are lucky if they can afford to eat meat once a week.

For recreation, Kweka listens to his transistor radio, unless the batteries die. Then, he says, "you have to wait until there are batteries in the shop." That can take several months. On weekends he exchanges gossip and talks politics with friends in one of Himo's bars. He drinks locally brewed banana beer rather than factory-produced lager, mainly because at 50 cents a pint it is one-quarter as expensive. Occasionally someone at the bar will produce goods smuggled in from neighboring Kenya and sell them for five times the Kenyan price.

Kweka and his family are the victims of a well-intentioned experiment that has gone awry. Tanzanian President Nyerere was one of the few African leaders who recognized early that agricultural development was the key to economic growth in Africa. In the late '60s and early '70s, he nationalized farms in an effort to boost agricultural productivity. But his socialist approach failed, in part because Tanzanian farmers lacked incentives to cooperate. As a result, production of Tanzania's key export crops (coffee, cotton, tea, pyrethrum and sisal) is 40 percent lower than it was in 1970. The manufacturing sector, which was also taken over by the state, has fared no better. Mainly because of a lack of foreign exchange to buy raw materials and spare parts, many factories are now operating at less than 20 percent of capacity. That has sparked a vicious circle of economic decline. Without consumer goods to buy, farmers produce only enough food for themselves, which in turn means even less foreign exchange to keep Tanzanian factories running. Says Venance Chaka, a Himo farmer: "Africans are just like Europeans or Asians. They want to live better, and they don't really care which system provides the better life."

In most other countries, the problem has been outright neglect of agriculture in favor of more glamorous industrial development. As population growth and urbanization have surged out of control, the plight of rural areas has worsened. Often the state pays artificially low prices for farm commodities in order to finance urban-development schemes and to lower prices for people in the cities. One result: the importation of food has tripled in Africa during the past decade. Nigeria, which was once largely self-sufficient, spends $2 billion a year on imported food. In terms of per capita income and the availability of food, the citizens of many sub-Saharan countries are worse off now than they were at independence.

The solution, according to most experts, is to stress the development of agriculture. Elliot Berg, who was coordinator of the African Strategy Review Group for a 1981 World Bank report, argues, "No continent or region or country is going to modernize itself and develop its resources unless it begins with agriculture." The problem, says the World Bank report, is not financing alone. It estimates that aid earmarked for agricultural projects in sub-Saharan Africa totaled some $5 billion between 1973 and 1980. Berg holds Western governments partly responsible for approving expensive and inappropriate projects in the first place.

As the situation has worsened, the World Bank and the International Monetary Fund have begun to impose stricter conditions on countries receiving aid. These include devaluation of inflated currencies, realistic exchange controls, scaled-back development projects and more efficient administration of loans. Wila D. Mung'omba, executive president of the Abidjan-based African Development Bank, believes that additional changes are necessary if Africa is to manage an economic recovery successfully. Among them: aid recipients must curb nonessential imports, end policies tailored to deliver cheap food to the cities, and begin giving greater incentives to farmers.

The response thus far has been mixed. Zimbabwe has taken steps to reduce food subsidies from $200 million annually to $58 million. It has raised the price of bread 25 percent and milk 50 percent. In addition, the government has raised taxes and devalued the Zimbabwe dollar in order to qualify for $375 million in IMF and World Bank loans to improve railroads and roads. Before General Buhari's coup, Nigeria had hoped to receive a three-year, $2 billion IMF loan. But like the Shagari government, the new military rulers are uncertain whether to abide by IMF preconditions and devalue the naira. So far, Tanzania has staunchly refused to observe the strict guidelines of the international lending institutions. Scoffs President Nyerere: "The IMF is a device by which powerful countries increase their power over poor nations."

Much of black Africa has no choice but to depend on foreign aid to pull out of its current economic difficulties. After decades of independence, many African leaders, once seduced by the promises of doctrinaire socialism, have accepted the advantages of private initiative and the free-market system. Though the Organization of African Unity is torn by internal dissension, joint economic efforts on the continent are under way. Kenya, Uganda and Tanzania are attempting to revive cooperative agreements on trade, customs and transportation that collapsed when Kenya pulled out of the East African Community in 1977. Says U.S. Assistant Secretary of State for African Affairs Chester Crocker: "There are signs on the economic front of agonizing reappraisal. There is a climate of realism that wasn't there five years ago."

The new willingness of Africa's leaders to confront their parlous economic circumstances has eroded the appeal of Soviet Marxism. Except in Ethiopia, Angola and Mozambique, Moscow's attempts to play on the anticolonialist sentiments of Africans have foundered. For one thing, Africans have discovered that education, customs and trade still tie them more closely to Western Europe. They have also observed that experiments in Marxist socialism have largely been unsuccessful. One of the best examples is resource-rich Ghana, where the four-year-old government of Flight Lieut. Jerry Rawlings, 36, now faces an economy teetering on the brink of collapse. The Soviets have demonstrated skill at selling arms to poor African nations, often for hard currency, but they have even been less generous than the West with their economic aid. Soviet Leader Yuri Andropov has made it plain that the Soviet economy cannot afford to give substantial assistance to Third World countries. Most African nations have taken notice.

Some Western experts acknowledge that they have contributed to African woes by failing to address the specific problems of individual countries. That too is changing. Says a British diplomat: "Situations vary from country to country and call for the development of Western relations with Africa on a bilateral basis." For its part, the U.S. accounts for 10 percent to 15 percent of total bilateral aid to Africa for security, economic development and humanitarian purposes. "We're going to see some difficult times ahead," says Crocker. "We should try to help those who are doing the most to help themselves, to create some success stories."

Still, a panoply of difficulties will have to be faced and overcome. Many African countries do now tolerate a free press. Indeed, they favor the adoption of UNESCO-proposed guidelines that Western critics claim will submit reporters to greater regulation. Many African countries lack independent judiciaries, or blatantly disregard the one they have. Authorities in Zimbabwe, for example, recently ignored a high-court decision to acquit six white air force officers who has been accused of sabotage. The officers have since been released, but the episode caused an outcry in the West. Indeed, the Reagan Administration has sliced its aid to Zimbabwe from $75 million to $40 million, partly out of concern about Mugabe's increasingly undemocratic and anti-Western policies.

Some experts contend that the proliferation of authoritarian governments in Africa represents a stage in the political development of what are still very young nations. "We have to recognize that the constitutions we bequeathed to our former African colonies don't work in some places," says a British official. "It is not a mortal sin for these countries to adapt them to their own particular circumstances. When one looks at the reality, it is remarkable that Africa is as stable as it is."

According to Wole Soyinka, a well-known Nigerian playwright and essayist, Americans and Europeans should not measure democracy in Africa by their own standards. "When Westerners speak of a democracy," he says, "they think of specific structures: a legislature or parliament, elections conducted by secret ballot, certain formalities of debate—in short, the rituals that were bequeathed to the ex-colonies in the hope they would remain house-trained." Soyinka argues that "the veneer of democracy" bestowed by the former colonial powers "has badly peeled." Its worst manifestation, in his view: the one-party states that have too often become entrenched civilian dictatorships.

Many thoughtful Africans believe that, given time, some sort of homegrown democratic system will take root, although few are able to describe what form it will take. In Africa, as everywhere, economic growth requires a stable political environment. The evidence so far suggests that countries such as the Ivory Coast, Botswana, Senegal, Cameroon and Kenya have achieved political stability through a mixed economy, a strong, pragmatic central government, and evolving democratic institutions, however imperfect.

A quarter-century after *Uhuru!*, African leaders must recognize that anti-colonial rhetoric may win votes, but it will not solve problems. However they may feel about the colonial era, it cannot be expunged from history. The positive legacies of the past must be emphasized, while new ideas are tested to deal with the problems of the present and future. A high priority will be to chip away at divisive tribal enmities. Finally, Africans must accept the essential requirement of political stability: the orderly, peaceful transfer of power in the best interest of the governed. Without that resolve, nationhood in Africa will too often be, as it has been in the past, a sad parody of itself.

"I AM NOT DISCOURAGED"

Léopold Sédar Senghor, 77, the former President of Senegal (1960-80), is a poet, a philosopher and one of Africa's most respected elder statesmen. He is among the few Africans ever nominated for a Nobel Prize, and last year was elected to the prestigious French Academy for his contributions to politics and literature. Senghor is also a member of an even more exclusive group: he is one of three African leaders who have relinquished power voluntarily.[1] In an interview with Time Correspondent John Borrell in Dakar, he discussed Africa's past and how it has shaped the present.

ON INDEPENDENCE

In the 1950s and 1960s it was natural to be romantic and believe that independence would solve all our problems. Then we were too optimistic; now we often tend to be too pessimistic. In reality, the colonizing powers did not prepare us for independence. Today we need to think methodically and formulate an economic and social development plan on both the worldwide and national levels.

ON AFRICA'S ECONOMIC PROBLEMS

In spite of everything, I am not discouraged. We have started a dialogue with the rest of the world. We need each other, and we can complement one another. We are beginning to make progress through associations like the one that links the European Community with more than 60 African, Asian and Pacific countries. Perhaps more needs to be done in the future about population growth. For us it is not an easy problem to solve. We love large families. But some progress is being made.

ON EAST-WEST TENSIONS

As long as France and Britain had colonial empires, the [cold] war between the U.S. and the U.S.S.R. could not be waged here. Since then, the struggle between capitalism and Marxism has been transferred to Africa. Mostly it is the Soviet Union's fault. Its most dynamic representative is [Libya's Colonel Muammar] Gaddafi, who is responsible for a lot of the trouble in many parts of Africa.

ON HUMAN RIGHTS ABUSES

One should not look at the problem in racial terms and say, "Well, naturally, they are blacks." Let us take South America. The majority of the population is white, and yet South America, be it politically or economically, is hardly more advanced than we are. There are dictatorships in South America, and the prisons are full.

ON COUPS

They are the result of the perversion of the colonial system, which encouraged us to keep the personality cult and the spirit of dictatorship. That was the nature of colonial power. The frequency of coups in Africa is the result of the backwardness in civilization that colonization represented. There are indeed many, many dictatorships. But there are exceptions: look at the Ivory Coast and Cameroon, just to name two. I am concerned about the frequency of coups. We are too docile, allowing ourselves to be influenced by the Americans, the Soviets or even the French and the British. What we should all be fighting for is democratic socialism. And the first task of socialism is not to create social justice. It is to establish working democracies.

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[1] The others: former President Ahmadou Ahidjo of Cameroon and Nigeria's former military leader, General Olusegun Obasanjo.

[From the New Republic, Jan. 9 and 16, 1983]

THE ANGUISH OF AFRICA

(By Geoffrey Wheatcroft)

When Africa was first severed from Europe in the name of independence a quarter of a century ago, few could foresee the speed with which this massive political experiment would fail, or the anguish that failure would bring. Africa's appalling troubles today are sometimes blamed on malice and exploitation. The truth is that they are more the result of false hopes and exaggerated expectations. Above all, they are the consequence of a great irony. African nationalism was to be a rejection of empire and of all things European. But the whole experiment of de-colonization was conducted on terms just as Eurocentric as those the imperialists used. When Africa tried to shed Europe, it found that there was no way of doing so but the European way. It clung to the latest European fashions, the ideologies of socialism and nationalism. And now, like a divorced couple who keep getting back together, Europe and Africa cannot stay away from each other.

Only quite recently has it become possible to talk openly of the failure of independent Africa. The old excuses—of European indifference or "neo-colonialism"—are less frequently trotted out. It is even possible to discuss in respectable, liberal publications, as it was not a few years back, whether this failure might not say something about Africa itself. Could it not be true that a final, cruel trick was played on the Africans by asking them to perform an impossible feat? Anyone who knows Africa will recognize the sense of humiliation, of impotent rage, expressed by Africans who, as they watch things fall apart, realize that they cannot control the destinies of their countries. Might not this have been in the end the biggest humiliation of all?

A point of nomenclature: by Africa I mean tropical Africa. That term is preferable to the commonly used "black Africa," which is a coarse phrase—we don't call China "yellow Asia"—and geographically inexact. North of the Tropic of Cancer are the countries of the Mediterranean littoral, Arab politically and Islamic culturally. South of the Tropic of Capricorn is white supremacist South Africa, part of the northern Atlantic world politically, and European in culture. What comes between the two tropics forms a kind of political and cultural entity.

The European empire in tropical Africa was extraordinary in the suddenness of both its coming and its going. A hundred years ago the "Scramble for Africa" had scarcely begun. Partition didn't come until the 1880s, when the German Kaiser Wilhelm II and the Belgian King Leopold seized vast unclaimed territories in central and southern Africa. Great chunks of the continent were arbitrarily designated as colonies by the European powers and capriciously named. The Ivory Coast had been named by slave traders in the eighteenth century; Nigeria was named after the river Niger on the whim of an English journalist.

Until the Scramble began, as far as Europeans were concerned, Africa was the "dark continent." Explorers had mapped the interior, missionaries had proselytized its inhabitants, and traders had bartered with them—but the territory was owned and run by Africans. In the African interior a century ago there were still powerful kingdoms: Samory and Dagomba in the west; Lunda and Matabele in central Africa. Exactly why the Scramble took place is still a puzzle. Simple materialist explanations will not do. In the words of a later historian, "The enormous areas of tropical Africa appear impressive on the map, but of most of them the plain truth is that they had remained so long ownerless because they were not worth owning."

From whatever impulse—rivalries in Europe, pressure from the few Europeans already in Africa—the continent was carved up. Ancient kingdoms were overthrown, cultures were destroyed. When the Africans didn't resist, this conquest was comparatively harmless. When they did, it was atrocious. In the southwest, now Namibia, German mercenaries (whose commander was called Goering, father of a more famous son) reduced the number of the Herero people by four-fifths in the space of a short "campaign." In Zambesia, later Rhodesia, Cecil Rhodes civilized the Matabele and Moshona with the Maxim gun and noose. In the Congo Basin, Leopold's Belgian agents were responsible for hundreds of thousands of deaths. That episode inspired a lapidary and lasting phrase in Conrad's Heart of Darkness: what the white man did in Africa is "not a pretty picture when you look into it too closely."

The colonizing nations went about their tasks in different ways. The Belgians and the Germans made little pretense about their mission. They were there to rule and enjoy. The Portuguese had been there longest. They didn't so much remake their colonies in a new image as get absorbed by them—as the large mulatto populations of Angola and Mozambique testify. The French spoke passionately of their mission civilisatrice, but were more pragmatic and less high-minded than the British, and thus freer from racial caste attitudes. Quite early on they accepted that anyone sufficiently educated, emancipated from Africa ways, and "evolved"—evolué—could achieve the highest dignity of all and become a black Frenchman. This contrasts favorably with the virtuous, icy aloofness of the Oxford-educated English, who believed they were fulfilling a duty engendered by privilege. But whatever the differences in nuance, all were agreed on the superiority of European culture, morals, and manners.

Racist as it may have been, this attitude was not confined to paternalistic colonial administrators or grasping traders. It was shared by all Westerners—Americans as much as British and French—and was just as characteristic of self-consciously liberal or enlightened thought as of conservative opinion. In the early nineteenth century, Thomas Macaulay wrote a famous paper on Indian education in which he asserted that colonial education should be in English. The Dutch pastor and politician Baron van Hoevall argued that in the East Indian colonies, the Javanese should be brought to, not cut off from, the benefits of Dutch culture and Calvinism. Progressives all of them, they helped set the tone for Africa: the day would come when Africans would be treated as equals, but emancipation would come on European terms. The whole world, in the words of one writer, would wear a necktie, drive an automobile, pay income tax, and practice birth control.

Emancipation would also come on a European timetable. Africans might one day be fit to rule themselves, but that day was far off—perhaps centuries away. In the wake of World War I, movements for colonial freedom got under way, but they were apparently insignificant affairs, led by Africans educated in Europe, or at least in the European image. Such people were a tiny minority, but as it happened they were destined to inherit their particular corner of the earth.

After World War II the age of empire came to a sudden end. The European powers had exhausted themselves. Their empires in Asia had been undermined by independence movements much more powerful and plausible than those in Africa. Chief, of course, was Gandhi's Congress Movement in India. If India received its freedom, might not freedom for Africa be close at hand? And so, in the 1950s, the idea began to take root that the African colonies might be given their independence.

In 1957 the British Crown Colony of the Gold Coast became the sovereign state of Ghana. After that the freeing of Africa took place at bewildering speed. Shortly after de Gaulle came to power in 1958, he offered a new status to France's African colonies. In 1960, Nigeria—the greatest of all British colonies in size, population, and natural resources—received its freedom, along with the Congo and all of a dozen former French colonies which became the French African Community (C.F.A.). These forerunners were followed by many others. At the beginning of 1957 there had been only two independent states in tropical Africa: Ethiopia and Liberia. By the 1970s the Organization of African Unity was to number fifty member states.

On top of this rapid chain of events, further disorientation came in the shape of the psychological preparation for *uhuru*, the Swahili word for freedom. Europe had to be made ready to grant, and Africa to receive, independence. This campaign of acclimatization was fought on two fronts. The official front held that the African colonies were countries like any other, which really meant like European countries. As a final benefaction they would be granted written constitutions, with bicameral legislatures, an independent judiciary—the lot. Each new country would step out of the egg fully fledged, ready to operate like any European nation-state, and to take its place in the community of nations.

To put it like that is not a travesty, but looking back we see just how fantastic the pretense was. Even to call them African "countries" is begging the question. They were artificial units, drawn up two generations before in European chancelleries and ministries, quite often by men with fairly accurate physical maps and no other knowledge of Africa whatsoever. Heterogeneous peoples were yoked together for the sake of administrative convenience. These units had no history of nationhood before the whites arrived, and had been given almost no preparation for independence.

The other front advocated a different, and more interesting, kind of propaganda. It was represented by a group of writers, journalists, and historians who might be called the Friends of Africa. I am thinking of the British ones, though they had their counterparts in other countries. A good example is Basil Davidson, a life-long revolutionary enthusiast. He celebrated the Tito regime in Yugoslavia first, and went on to the Mao regime in China. Then he turned to Africa. His numerous books, both historical and contemporary, are well written and knowledgeable.

In *African Awakening*, Davidson had several didactic purposes, as did the others who thought and wrote like him. One theme was white guilt. Europe had been the aggressor, Africa the victim. In large measure this is unassailably true, though it is arguable that the worst aggression took place in the age of slavery and before the heyday of empire properly speaking. The next theme was African pride, a celebration of the African heritage. This also was worth doing. Of all the parts of the world that had suffered from being judged on Eurocentric terms, Africa had suffered most. Much as Europeans might dislike and fear India, China, or Arabia, and much as they continued, in large part, to consider them inferior, they could not claim that they had no existence beyond the most primitive. But that was what was continually said of Africa.

It had no culture, no civilization, no tradition of political community, no history. Little more than twenty years ago Hugh Trevor-Roper, the Regius Professor of Modern History at Oxford, could deplore undergraduates who wanted to learn African history, to him a nonexistent subject: "Perhaps in the future there will be some African history to teach, but at present there is none or little. There is only the history of Europe in Africa."

Against this, the Africanists argued that Africa indeed had a history, and it had nations, and cultures. "Isn't it mere mystification," Davidson wrote, "to describe a typical European people, with all their xenophobia, group ambition, and sense of exclusive pride, as a *nation*, while reserving the word *tribe* ('primitive' or 'barbarous' being understood) for a people like the Yorubu?" Warming to his theme, he wrote that in the thirteenth century, "The scholarship of Timbuktu and Djenne could probably have given points to that of Oxford and Cambridge." It is easy to smile at this rhetoric. More significant, note that for all his desire to free himself of European patronization, he still used Eurocentric terms of reference. Universities and learning are admirable; so also are states.

Similarly the leaders of African nationalism themselves were caught in a trap—unacknowledged and unrecognized—between using and not using Eurocentric concepts. These leaders were a curious group. All emerging nations have self-appointed leaders, usually lawyers and journalists who become professional politicians, and one of whose first tasks is the rewriting of history. The African nationalists may have been extreme examples of this type because they had to strive harder, and because they comprised such a small minority among their people. The number of educated Africans at the turn of the century was far smaller than, say, of educated Slovaks, Croats, or Rumanians in the Hapsburg Empire fifty years before.

What formal education they had received was by definition European—and yet they did not only wish to lead their people toward European goals. They wanted industrialism and development, but they conjured up a vivid African past. They sometimes reverted from European to African clothes, like Ghanaian leader Kwame Nkrumah, the alumnus of Lincoln University in Pennsylvania who was later to appear before his parliament in Accra wearing brilliant Kente robes from Akan weavers. They rediscovered historic African names for their new countries: Ghana, Benin, Malawi. They defended African traditions, albeit in the language of European learning. Jomo Kenyatta, an anthropologist and graduate of the London School of Economics who was to become president of independent Kenya, wrote a famous and rapturous passage celebrating the practice of female circumcision among the Kikuyu.

Both African nationalists and the Friends of Africa were in a quandary about tribes (or nations). They recognized—indeed emphasized—that Africa was made up of nations (or tribes), but at the same time the political units that the nationalists were about to inherit were the colonial constructs whose borders paid no heed to which tribe or nation lived where. The new leaders who took charge of those constructs naturally wanted to make the best of what they had. More than that, many or even most of the professional commentators on Africa wrote from a Marxist or Marxisant perspective. They were thus caught in the trap of sometimes having to acknowledge the strength of national sentiment when it served the cause of progress, and at other times pretending that national sentiment didn't exist, in the name of proletarian internationalism or its African equivalent.

Thus the leader of the nationalist struggle in Portuguese Guinea, Amilcar Cabral, once claimed that "there are no conflicts between the peoples of Africa. There are only conflicts between the elites. When the peoples take power into their own hands, as they will do with the march of events, there will remain no great obstacle to effective African solidarity." To see how farfetched this was, one need not think of African experience, but of centuries of European history, which is largely the record of violent mutual hostility between peoples (or tribes, or nations).

So it was that the African age of independence began with two *fables convenus*: that the peoples of Africa were united by their common Africanism; and that the artificial constructs left behind by the colonial empires were potentially viable nation-states. This last hope might be expressed nervously, as Davidson did: "Pre-colonial Africa had many hundreds of independent states. Colonialism brought these together into some fifty colonies. These are now engaged in trying to transform themselves into as many nations. Can it possibly work?" He would have liked the answer to be yes. But the truthful answer was, very likely not. Realism was in short supply twenty-five years ago.

In fact, the newly independent "nations" of Africa soon showed themselves all too capable of imitating the worst vices of European nation-states. They almost seemed to parody the newest and least stable countries of Europe, "independent atheist police states full of fatuous nationalism and power hunger," as Evelyn Waugh once said of the Balkans. Just when realism and a modest approach to the problems of countries with a rudimentary economic—especially agricultural—base was needed, wild dreams were dreamed. What these countries needed were policies to encourage peasant farming, development of artisan trade, and bicycle factories. What they got were big new concrete buildings in the capital cities, grandiose hydroelectric schemes, heavy industry, and state-owned airlines. All this in the name of national greatness and often of "socialism."

The Congo gave the first warning that all was not well with the new Africa. It was easy enough, and to some extent true enough, to blame the Congo's early troubles on its former masters. Belgium had certainly granted independence negligently and with bad grace to a country that, with only a small educated African class, was notably ill prepared for it. The giant Belgian mining company, Union Minière, plotted to split off the copper-rich province of Katanga as a kind of company state. But for all that, what happened to the Congo could not solely be laid at the door of European hostility. The Congo showed that it was not enough to celebrate independence with eloquence and enthusiasm. Independence presupposed disinterested ruling classes, which, in the event, proved not to be there. And for all the cynical maneuverings behind the secession of Katanga, that episode showed also how strong were Africa's fissiparous tribal passions. It did not require a European financial plot to make different peoples within many African nations dislike each other. It only needed the removal of the discipline of colonial rule for ancient sentiments to erupt.

Ghana had seemed the best equipped of all British colonies for independence. Conor Cruise O'Brien, who went to live in Ghana in his early years, ruefully looked back twenty-five years after independence and wrote that the country once had "a tradition of sophisticated intertribal relations, and a sense of community embracing the coastal and forest peoples. It had the most developed educational system in Africa and the best civil service, headed by Ghanaians of high capacity and strict integrity." But within a few years of independence, things were going terribly wrong. Nkrumah was encouraging panegyrics to himself that might have made Stalin blush. One official biography described him as "our father, teacher, brother, our friend, indeed our life, for without him we would no doubt have existed but we would not have lived." The once efficient administration went corrupt. The temptations were too strong and the Protestant ethic left behind by the English too fragile. Not for the first time self-rule proved to be far from honest rule: it did not need Africa to show that. In the parliament, Nkrumah delivered homilies on the need for political honesty, and for citizens—especially legislators—to repatriate funds held on illegal deposit abroad. The parliamentarians laughed and laughed. Nkrumah himself smiled. In one country after another *Uhuru* has manifested itself as an opportunity for a ruling elite to stuff its pockets. The official "philosophy" of Kenya is called "self-help." As a wry Kenyan joke goes, a better translation from Swahili to English is "help yourself."

On the other side of the continent was Tanzania, for long one of the most admired of African countries among European intellectuals. Its ruler for more than twenty years has been Julius Nyerere, a special darling of the Friends of Africa. His rule has not collapsed completely into autocracy and the personality cult. He is an intelligent and modest man who translated Shakespeare into Swahili in his prison cell and who draws a presidential salary of $6,000 a year. And yet judged objectively, he is a disastrous failure. He has come close to admitting this himself, saying that Tanzania is no nearer its goals of self-reliance and socialism than it was when he set those goals sixteen years ago. He also confesses—uniquely among African leaders—that the Africans themselves are largely to blame for the failures of their new countries.

The Tanzanian case is an important one precisely because it was the country for which so many hopes had been held out. It was comparatively prosperous under British rule, and it was meant to build something new on that prosperity—socialism and self-reliance, the twin goals of the "*ujamaa*," or the familyhood system proclaimed by Nyerere in 1967. *Ujamaa* called for the regrouping of dispersed peasant farmers into villages where the land would be owned communally and farmed collectively. This would achieve the economic goal of increased prosperity and production. Within six years, 2 million people, or 15 percent of the population, had been relocated in villages. Within the next three years another 13 million had.

Nyerere originally had said that "viable socialist communities can only be established with willing members." That precept was soon forgotten, and peasants were forcibly driven to the new villages, their old houses and crops sometime destroyed to drive them away. Some *ujamaa* villages work fitfully. However, relocation all but destroyed large parts of the rural economy.

Agriculture is now in rapid decline, and industry runs at 20 to 30 percent of capacity. The output of export crops has dropped drastically. Production of cashew nuts is down by 70 percent. Once self-sufficient in agriculture, the country relies heavily on food imports and is the largest per capita recipient of aid in Africa, taking more than $600 million a year from outside donors. Inflation runs at more than 70 percent annually. The simplest goods are unavailable on the shelves of stores in Dar es Salaam. When a Tanzanian aircraft was hijacked not long ago, there was a bitter joke in East Africa that the hijacker had wanted to fly to London to buy toothpaste.

Tanzania survives, but the duns are closing in. Like several other African countries, it has been regularly bailed out by Western banks and governments. The International Monetary Fund has permitted another loan of $350 million a year for the next three years, but is making tougher conditions than ever before. The dream has turned horribly sour.

In one African country after another, the general economic tendency is for the cities to lord it over the country. Africa is still an overwhelmingly agrarian continent. Rationally, it should be run in the interests of the rural masses, with higher prices paid for food to encourage agriculture. The opposite has happened. Food prices have been kept artificially low so that the urban minority or minorities on which each government depends—the elite, the army, the mob—can eat cheaply.

Millions have been driven off the land and have migrated to the cities. In 1960 only three tropical African cities had populations of more than a million. Today twenty-eight have. They are not even "real" cities, as were those thrown up by industrial revolutions—in Lancashire, in Pennsylvania, or in the Ruhr—where although conditions might be grim, there were at least natural resources and developing industries. The great sprawling cities of Africa—and the shantytowns or *bidonvilles* on their outskirts—are repositories of people who have flocked there in the hope of living inexpensively when there is no future on the land.

The vicious circle is given another turn by currency policies. Many African countries—the members of the French African Community importantly excepted—have artificial and absurd exchange rates, the product of national pride, the selfishness of the ruling elite, and an unwillingness to admit failure. The absurdity is measured by the discrepancy between official and black-market rates. The record was probably held by Ghana before its last coup, when the street rate for the dollar was eighty times higher than the listed rate. Even now a dollar officially buys about 6.15 Ghanaian cedis, but can buy up to 180 on the streets of Accra. Those with cash to spend, and who can buy foreign currency at the official rate—the urban elite once more—find shopping abroad agreeably cheap. Meanwhile the farmer has even less hope of exporting cash crops.

Governments can struggle against the consequences of their own misdeeds. The official food price and the official exchange rate can be enforced with severity as extreme as firing squads. Governments can try to reverse the drift of country to town by force. Nigeria expelled 2 million illegal immigrants last year. "Marxist" Mozambique drives out shantytown squatters on pain of death. The junta in Ethiopia follows Pol Pot's example by expelling the masses from the cities, and famine results. But nothing works. Nothing can hold back the human tide. The Ethiopian government can be savage, but not strong; it lacks the means, not the will, to be fully Stalinist. Ironically, the one state in Africa that really does have a Stalinist political economy is South Africa, so reviled by the Russians and so favored by President Reagan—and, one suspects, secretly envied by other African politicians for its success in controlling the migration of labor.

And so, what is to be done with Africa? For one thing, although this seems to be a chronicle of gloom, all is not hopeless. Commonsense economic policies would point the road to recovery. A free market in food prices would encourage farmers to grow again. To begin with, there might even be government subsidies to farmers. Europe has left Africa so many bad legacies: why couldn't it export the European Economic Community's Common Agricultural Policy, with its bribes to farmers to produce? But there is no need for complicated agricultural policies in the long run; just a fair deal for farmers.

What is not needed, certainly not in the long term, is "aid," once so precious a liberal principle. Africa already receives more aid than any other part of the third world—$9 per head in Asia in 1981 as compared with $20 in Africa. Guilt-inspired aid from Western governments and incautious loans from Western banks have subverted the development of indigenous agriculture. Private investment, not long ago universally denounced as neo-colonialism, may well do more good.

A few countries—Kenya, Malawi, Togo, the Ivory Coast, and Cameroon—have greatly boosted the production of both food crops and of export cash crops since independence. They have all put behind them the same spendthrift mistakes they made along with other countries in the early years of independence. Significantly, none of those countries is a favorite of the Euro-American intelligentsia, of the Friends of Africa. None has an aggressively nationalist or self-consciously left-wing regime. Even more significantly, the last three named are former French colonies and enthusiastic members of the French African Community. Togo's per capita G.N.P. increased by 129 percent from 1960 to 1980, the Ivory Coast's by 73 percent, Cameroon's by 91 percent, a contrast indeed to the rest of Africa. Most of the C.F.A. colonies have solid economic records; those that don't, such as Chad and Mali, are the countries of the sub-Sahara desert, the Sahel. They are destitute, beyond redemption except by outside help, and cannot be reproached.

One reason for the C.F.A.'s success, to be brutal, is that the French never left. There are now nearly half a million French citizens in West Africa, ten times as many as two decades ago (twelve thousand of them soldiers). The C.F.A. has two central banks, one based in Senegal, one in Cameroon, each with a French treasury official as its chairman. There is real money in circulation, not the Mickey Mouse kind: the C.F.A. franc is tied to the French franc. Two-thirds of each C.F.A. member's hard-currency earnings is deposited with the treasury in Paris, the rest with the two banks. It is pure "neo-colonialism"—but it works. Not only is their gross national product increasing faster than elsewhere in Africa, inflation is lower and savings higher. Above all, deprived of the means to "pay" for cheap food with worthless money, governments leave farmers to set their own food prices.

The last and hardest question is what will happen to the states of Africa. The Africans are landed with the boundaries of colonial days, but they are not necessarily stuck with them for good. All African rulers are terrified of the tribal (or national) passions that might tear their countries apart. They will remain terrified, until—with or, one hopes, without violence—the boundaries are reshaped to something corresponding to ethnic divisions. This is considered a great heresy in Africa, and also among professional Africanists. It was significant that the Friends of Africa like Davidson were to a man hostile to the secession of Biafra from Nigeria in 1967.

There is one very understandable reason why Africans resist the return to tribal divisions: the South African policy of "homelands." These homelands, or Bantustans, are fragmented and economically hopeless units, run by corrupt stooges. The "independence" celebrations of Ciskei, a Xhosa-speaking homeland in South Africa, were preceded by police beatings and imprisonments. The new chief of state Chief L. L. Sebe declared on Christmas, "We are free, we are independent. Acknowledge that or be damned." The next speaker was Dr. Piet Koornhof of the South African Ministry for Cooperation and Development. Sebe's chief of police is his brother. The neighboring homeland of Transkei is also run by siblings, the brothers Mantanzima. (These two families are sometimes called the Xhosa Nostra). No wonder Africans pause at the thought of tribal states.

But in time the Africans will come to accept the realities of language and nation. They will understand that Biafra was a portent of political units based on those realities. They will see the absurdity of present borders. After all, how would Europeans feel if Europe had been arbitrarily partitioned by African statesmen at the Congress of Dar es Salaam a century ago, carving, out a unit, say, called Rhenia, which included northeastern France, northwestern Germany, Belgium, and the Netherlands? And what would one's reaction be to a national revolt of the Netherlands, and the attempt to suppress it by force and starvation? There is simply nothing to be said for huge, entirely artificial units like Zaire, Nigeria, or Tanzania.

It is unlikely and undesirable that Africa should break up into the hundreds of kingdoms of pre-colonial days, but that is not the only answer. A few large, loose confederations would make sense—perhaps one with English as its lingua franca stretching down the east coast from the Horn to, one day, the Cape. Another running down the west coast, south and west of the Gulf of Guinea, would have French as the common language. Within each confederation, numerous different peoples could follow their own paths.

Europe has indeed imposed a succession of alien concepts on Africa, which never asked for them: mercantile trade, Christianity, liberalism, democracy, and, as a final bad joke, revolutionary Marxist socialism. Some African rulers lucubrate about socialism as though it had relevance to their countries. But it is an utterly European concept. President Nyerere calls himself a socialist, but doesn't see how "socialism" as he understands it is a product of the industrial revolution in sophisticated nation-states. He has an adviser-confidant, or guru, Joan Wicher, an old-fashioned progressive Englishwoman, who writes his speeches and manifestos. Neither she nor Nyerere can see that when she exhorts him "to build socialism," she is the last imperialist.

But to some extent we are all still cultural imperialists. The final form this cultural imperialism has taken is very odd indeed, for it appears on surface to be anti-colonial and anti-racist. So terrified are whites, Europeans, the north, of being thought racist (one might cynically say frightened of their own unconscious racism) that they project their European identity onto the Africans, and hence do them a terrible disservice. At the back of our minds is a half-recognized fear that if Africans fail by the measures we apply, then they are inferior beings.

Progressive opinion has swung wildly, from the days when progressives above all though that European ways were a great gift to Africa, to more recently when European ways are resolutely condemned. And yet, all the time, European concepts are employed. A debate continues as to whether the multi-party liberal state or the one-party state is better suited to Africa. But why either? The Africanists assume without thinking that the state is both a natural progression and a great benefaction to Africa. It is in fact a quite alien concept there. And in the century of Hitler and Stalin, the state is not in any case a very obviously admirable institution even in Europe; in Africa it would not be hard to demonstrate that it has done more harm than good.

To express heterodox views on Africa even now is to run the risk of being misrepresented. Certainly "racism" in the sense of contempt for other peoples and cultures is odious, but it is not more silly and damaging than to lie about other peoples and cultures. There is no need to lie about Africa. There is no need even to be too gloomy. De Tocqueville once pointed out to a racist friend who sneered at primitive peoples that the people of Britain were once the most barbarious and primitive in Europe, and two thousand years later they were running the world. Africa will survive, and its relations with the rest of the world will change. Who knows? Africa may yet have something to teach us all.

EXHIBIT 2

JANUARY 18, 1984.

EDITOR,
New York Times.

DEAR SIRS: It remains a mystery to me how intelligent people like yourselves are continually duped by the Soviet line. Perhaps it's the old adage, "Don't confuse me with facts, my mind is made up."

FACT. There could long since have been a political settlement in Namibia, with a properly elected government, probably SWAPO, if you and others would refute the Soviet line and provide assurances that whatever government reigns in Windhoek is not propped up by force by the Soviets and their surrogates, i.e. Cubans in Angola.

FACT. The Cubans, Soviets, and other surrogates are not in Angola to defend Angola against South African attack. They are there to keep the non-elected, unpopular, marxist government in power, despite the desires of the people of Angola.

FACT. SWAPO guerrillas entering Namibia from Angola are terrorists; not freedom fighters. I have been to Ovambo. I have been to Kavango. Have you? There are internal SWAPO in Namibia who are indeed nationalists. They would probably win an election today. But there will be no election while you and others advocate/support the SWAPO terrorist cause. South Africa will not permit a government take over by force: not in South Africa; not in Namibia.

FACT. The South African government does not have a policy/objective of overthrowing the government of Angola; or Mozambique, or Lesotho, or Zimbabwe. However, they do have a policy of denying the use of these countries for the launching of terrorist attacks, be they SWAPO, ANC, PAC, or PLO. A terrorist is a terrorist and will not be condoned.

FACT. South Africa would like to see the government of surrounding countries solve their internal problems. South Africa will not choose the leader who comes out on top; but, if Angola could accommodate UNITA; Mozambique, Renamo; Lesotho, the BCP; Zimbabwe, ZAPU—life would be much easier for South Africa and everybody else. South Africa is trying to solve its internal problems; without outside interference. Her neighbors should be encouraged to do so also.

I ask you, in whose interest is a military dominance by force of SWAPO, MPLA, FRELIMO—even BNP, ANC, or ZANU? Who else? The Soviets, of course!

Why not let SWAPO internal handle Namibia—let MPLA and UNITA settle their problems without the Cubans—let Jonathan have his elections—let Machel reach an accord with the South Africans—see if Mugabe is capable of accommodating the Matebele? As long as you and others fall for the Soviet rhetoric, and harp on the "racist regime" as being the cause of all the problems in this part of the world the outlook is bleak.

You should watch the South African's lips when they speak. They will not be "forced" to do anything; not by you, not by Andropov, the U.N., or anybody else. They will talk, and reason, and compromise—as long as the other party is not holding a gun on them or is trying to sell Marxism cloaked under the self righteous banner of black nationalism—it just doesn't sell down here! Please open your eyes and those of your readers to the full story of Southern Africa, including "Tribalism." Your present rationale is the same line that brought us Fidel Castro and the Ayatollah Khomeini. Have you thought of that? Which is the lesser evil; which has the prospect for constructive change?

Mrs. J. OSGOOD,
U.S. Citizen, temporarily residing in Southern Africa.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes each.

THE APPLICATION OF INTERNATIONAL LAW TO IRANIAN FOREIGN EXCHANGE REGULATIONS

Mr. PERCY. Mr. President, the U.S. Government is continuing its efforts through the Iran-United States Claims Tribunal to obtain compensation for those Americans whose property or interests were damaged by the Government of Iran. Thus far, our people have been very successful in obtaining favorable judgments from the Tribunal, and the prospects for further significant levels of compensation appear excellent. One of the issues which may arise in future cases concerns the matter of Iranian foreign exchange regulations and the availability of funds to pay the awards made to U.S. citizens by the Tribunal. Because of the importance of this issue to many Americans with claims against Iran, I have asked the Legal Adviser of the Department of State to make available an extensive memorandum on this subject prepared by his office. I ask unanimous consent that this memorandum and its attachments be included in the RECORD at this point so that it will be readily available.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM: THE APPLICATION OF INTERNATIONAL LAW TO IRANIAN FOREIGN EXCHANGE REGULATIONS

A number of claims before the Iran-United States Claims Tribunal raise the issue of whether Iranian regulations restricting the availability of foreign exchange effect the Tribunal's ability to render awards against Iran payable from the Security Account.[1] The Tribunal has ad-

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Footnotes at end of article.

dressed Iranian exchange restrictions in some of its awards,[2] but has left several important questions unresolved and made implicit assumptions about other questions in cases where those questions have not been briefed by the parties or the Governments. This memorandum addresses several aspects of Iranian exchange restrictions, including their legal relation to three international agreements—the Algiers Accords, the Articles of Agreement of the International Monetary Fund[3] and the Treaty of Amity, Economic Relations and Consular Rights Between Iran and the United States[4]—to which both Iran and the United States are parties.

Iran and its controlled entities have argued that certain funds owed to U.S. nationals, including bank deposits, contract payments, patent royalties, dividends and other credits, are being maintained on claimants' behalf in Iranian financial institutions or on the books of Iranian corporations. Iran has asserted that its foreign exchange regulations prevent the conversion of these rial-denominated funds and accounts into dollars or their repatriation from Iran, but that the rials are fully available for claimants' use in Iran.[5] Iran has further argued, in some cases, that its assertions that deposits and credits are being maintained on claimants' behalf should not only be taken at face value, but are sufficient to defeat the Tribunal's jurisdiction over such claims.[6] In other cases, Iran has argued that its foreign exchange restrictions are valid exercises of its sovereign authority that must be respected by other states and their nationals.[7] Iranian banking institutions have sometimes asserted that Iran's municipal exchange restrictions prevail over its international obligations.[8] Finally, while it does not dispute that its 1978 and 1979 exchange regulations restrict current international transactions, Iran has argued that its restrictions are consistent with its obligations under the Fund Agreement and the Treaty of Amity. Iranian entities have particularly relied on the argument that since Iran's system of restrictions has been described in the Fund's annual report on exchange regulations, the Fund must have approved those restrictions.[9]

Regardless of their conformity or nonconformity with the Treaty of Amity, the Fund Agreement or customary international law, Iran's exchange restrictions are irrelevant to many of the claims in which they have been raised. Except in cases where no claim could be made without alleging the invalidity of Iran's restrictions on current international payments, those restrictions are irrelevant to the Tribunal's consideration or resolution of claims according to the structure and procedures laid out in the Accords. The obligations Iran assumed under the Accords concerning the resolution of claims supersede the requirements of its municipal foreign exchange regulations.

Moreover, the exchange restrictions imposed by Iran in 1978, 1979 and thereafter are outside the scope of both the Fund Agreement and the Treaty of Amity. Consequently, those restrictions are not enforceable against U.S. claimants. They do, however, constitute an element of valid causes of action by claimants against Iran.

I. IRAN'S FOREIGN EXCHANGE RESTRICTIONS ARE SUBORDINATE TO THE PROVISIONS OF THE ALGIERS ACCORDS

The Algiers Accords have the status under international law of a treaty between Iran and the United States and, thus, are part of the governing international law between them. The Accords provide that specified categories of claims by U.S. nationals may be brought to the Tribunal under the Claims Settlement Declaration and paid from a Security Account funded from blocked accounts in U.S. banks and denominated in U.S. dollars. Iran is unconditionally obligated to replenish the Account in dollars whenever its balance falls below $500 million.

Bank Markazi attempts to rewrite the Accords by contending that they provide only for the payment of a claim if "its sources were of a foreign exchange nature and would have been an outstanding payable foreign exchange debt on the date of signing the Declaration."[10] There is no basis for this interpretation. Iranian exchange restrictions were not mentioned in the Accords and the United States did not agree that its nationals would accept payment subject to Iranian restrictions on foreign exchange. The Tribunal was "established for the purpose of deciding claims," not for such of those claims as Bank Markazi may consider to be "of a foreign exchange nature."[11] Whether denominated in rials, dollars or some other currency, an unpaid invoice is a debt within the Tribunal's jurisdiction under the Accords. The existence or assertion of Iranian exchange restrictions is immaterial to the Tribunal's duty to consider a U.S. national's claim based on that debt and, if it finds Iran liable, order payment from the Security Account.

The Tribunal has recognized that Iran's exchange restrictions are irrelevant to its jurisdiction over claims arising out of an underlying debt. In *Kimberly-Clark, supra*, the Tribunal held:

"[T]he existence and the amount of the debt cannot seriously be disputed. As a result of the Declarations of Algiers and of the establishment of a Security Account in U.S. dollars, the delayed payments can and must be paid out of the Security Account.

"It is unnecessary in this case to determine the question of the legality under international law of the Iranian exchange controls, as the Claims Settlement Declaration provides for payment in dollars from the Security Account of awards for debts owed by entities controlled by the Government [of Iran]."[12]

The logic of *Kimberly-Clark* applies equally to claims arising out of contracts, expropriations and other measures affecting property rights, since the Claims Settlement Declaration provides for their payment from the Security Account in precisely the same way.

In addition to the Tribunal's precedent, it is a well-established principle of international law that municipal laws cannot be invoked as a defense to international obligations. Article 27 of the Vienna Convention on the Law of Treaties provides that "[a] party may not invoke the provisions of its internal laws as justification for its failure to perform a treaty."[13]

Iran's attempts to interpose its foreign exchange regulations as a defense to the claims of U.S. nationals are efforts to elevate its municipal law over the obligations it undertook by signing the Algiers Accords. Iran's position "that in the case of conflicts between the internal and international law the internal law shall prevail . . ."[14] is manifestly incorrect and contrary to the established rule of international law.

The Accords have established a mechanism for the adjudication of the claims of U.S. nationals. Claims for unpaid royalaties,[15] breaches of contract,[16] unpaid debts,[17] expropriations,[18] fees for services rendered under contract,[19] etc. are claims of U.S. nationals arising out of debts, contracts, expropriations, or other measures affecting property rights. The Algiers Accords provide that such claims be brought before the Tribunal. Iran's exchange restrictions do not alter the Tribunal's jurisdiction or its duty to order that valid claims within that jurisdiction be paid from the Security Account.

II. IRAN'S EXCHANGE RESTRICTIONS VIOLATE THE TREATY OF AMITY

A. The treaty prohibits exchange restrictions except in the most limited circumstances

Iran and the United States entered into a Treaty of Amity, Economic Relations and Consular Rights on August 15, 1955.[20] This treaty established an extensive legal framework for the conduct of trade, investment and economic relations. It prohibits foreign exchange restrictions of the type Iran has imposed since 1978.

Article VII(1) of the Treaty of Amity generally prohibits the imposition of exchange restrictions, subject to only two exceptions.[21] First, the parties agree to accept restrictions "specifically approved by the [International Monetary] Fund." Article VII(1)(b). Iran's 1978 and 1979 restrictions have not been approved by the Fund and consequently violate this provision.

The only other restrictions permissible under the Treaty are those "necessary to assure the availability of foreign exchange for payments for goods and services essential to the health and welfare" of the people of one of the High Contracting Parties. Article VII(1)(a). Iran has not attempted, nor would it be able, to demonstrate that the restrictions introduced in 1978 and 1979 were necessary to secure its reserve position.

However, even if a party to the Treaty validity imposes restrictions under Article VII(1), it must "promptly make reasonable provision for the withdrawal in foreign exchange in the currency of the other High Contracting Party"[22] of funds for the payment of several categories of obligations and liabilities. The circumstances under which foreign exchange must be made available are extensive and include most, if not all, of the claims before the Tribunal in which Iran has raised the issue of its exchange restrictions.

Article VII(2)(a) explicitly recognizes the duty to provide foreign exchange to compensate for "takings" referred to in Article IV(2) of the Treaty.[23] Foreign exchange must be made available for the transfer of earnings and royalties, Article VII(2)(b), as well as for certain categories of capital transfers. Article VII(2)(c).

B. Iran's exchange restrictions have not been approved by the international monetary fund

Iran's exchange restrictions of 1978, 1979 and thereafter are not within Article VII(1)(b) of the Treaty of Amity because they have not been approved by the Fund.[24] In a letter to counsel for a U.S. claimant, Mr. George P. Nicoletopoulos, Director of the Fund's Legal Department, stated:

"Iran has not sought or received approval from the Fund pursuant to Article VIII [of the Fund Agreement] since 1974 for the imposition or reimposition of any exchange measures that are subject to Fund approval. . . .

"Publication of information regarding a member's exchange controls or exchange restrictions in the Fund's Annual Report does not constitute or indicate Fund approval of such controls or restrictions".[25]

Since it has neither sought nor received Fund approval, Iran cannot come within Article VII(1)(b) of the Treaty of Amity.[26]

C. Iran's exchange restrictions violate article VII(1)(a) of the Treaty of Amity

1. Iran has not demonstrated that its restrictions are necessary

Although Iran has asserted that it is "faced with War and Economic Sanctions . . . [and] needs foreign exchange for the procurement of goods, health and welfare of her people,"[27] it has offered no evidence to support its claim. Such an undocumented assertion is inadequate to prove the kind of necessity contemplated by the Treaty of Amity. Iran has offered no evidence that its foreign exchange position justified the imposition of stringent exchange restrictions in 1978 and 1979 and their continuation to the present. In the absence of compelling evidence of the necessity of its measures, Iran's actions must be deemed to violate Article VII(1)(a) of the Treaty.

2. Iran's foreign exchange position does not justify its exchange restrictions

Article VII(1)(a) contemplates exchange restrictions only if the party imposing them can show it has insufficient foreign exchange reserves to finance essential imports. Iran has not only failed to attempt such a showing, the facts suggest it could not do so. Given Iran's exchange position in 1978-1979, the restrictions it introduced did not meet the standards of the Treaty of Amity.

There is no evidence that Iran was experiencing balance of payments difficulties or shortages of foreign exchange in November, 1978. Iran's exchange reserves were higher in 1978 than in 1974 when it was confident enough of its exchange position to relax existing restrictions and establish the unregulated non-commerical exchange market and eliminate pre-existing exchange restrictions.[28] I.M.F. statistics show that Iran's liquid foreign exchange reserves totalled $8.223 billion in 1974.[29] In 1978, they totalled $11.977 billion.[30] By 1979, the total had grown to $15.210 billion; by June 1980, to $15.478 billion.[31]

These data indicate that Iran's 1978 restrictions were not introduced in the face of historically low foreign exchange reserves. As noted, foreign exchange reserves were higher in 1978 than in 1974 when pre-existing restrictions were relaxed. Neither were the 1978 restrictions responsive to a dramatic decline in liquid reserves from the previous year. The 1977 reserves were $12.106 billion, only $129 million higher than in 1978.[32] Under the standards of the Treaty of Amity, Iran's foreign exchange position in 1978 and 1979 did not justify the imposition of stringent restrictions.

In addition to the relative strength of Iran's foreign exchange position in 1978 and 1979 when it imposed restrictions on current transactions, there is evidence to suggest that Iran's retention of those restrictions falls outside the scope of Article VII of the Treaty of Amity. Iranian officials have repeatedly declared the fundamental strength of Iran's foreign exchange position.[33] Thus, neither the introduction nor retention of the post-1977 restrictions is consistent with Article VII of the Treaty of Amity which contemplates only those restrictions that have been demonstrated to be necessary to the welfare of the nation imposing them.

3. Iran has made no "reasonable provision" for the withdrawal of funds in U.S. dollars

Even if Iran's restrictions could be temporarily justified under Article VII(1)(a) of the Treaty, Article VII(2) requires that Iran make "reasonable provision" for the withdrawal of U.S. dollars to satisfy certain categories of debts and obligations. Particularly where, as has been demonstrated here, Iran has extensive foreign exchange reserves and has offered no justifications for its restrictions, "reasonable provision" cannot mean no provision. Yet, Iran has made no provision for the withdrawal of funds in U.S. dollars.

There is no set definition of what constitutes a "reasonable provision" for the withdrawal of foreign exchange under Article VII(2) of the Treaty. Determinations of reasonableness must be made in light of the circumstances of particular cases. Any such determination, however, must be made in the context of the Treaty's general prohibition of and presumption against the validity of "restrictions on the making of payments, remittances and other transfers of funds." In Article VII(2), the parties intended that funds actually be made available at an early time for remittance from the territory of the party imposing restrictions. Otherwise, the admonition that arrangements be made "promptly" would be meaningless. A party does not have discretion to refuse or indefinitely delay payment.

By imposing stringent restrictions without offering any justification and failing to provide any mechanism which actually results in the conversion and withdrawal of hard currency, Iran has violated Articles VII(1)(a) and VII(2). Iran has pointed to no situation in which the export of dollars is currently contemplated. To the contrary, it has argued that it has no responsibility to make any payment available except in rials.[34] In light of its demonstrated foreign exchange position, Iran's refusal to make dollars available for withdrawal violates the Treaty of Amity.

III. IRAN'S EXCHANGE RESTRICTIONS VIOLATE THE ARTICLES OF AGREEMENT OF THE INTERNATIONAL MONETARY FUND

A. Iran's status under the fund agreement

Iran has been a member of the International Monetary Fund since 1945. One of the goals of the Fund is to eliminate municipal restrictions on current foreign exchange transactions.[35]

Under Article VIII(2) of the Fund Agreement, no member may impose restrictions on payments or transfers for current international transactions.[36] The drafters of the Fund Agreement recognized, however, that, especially in the period immediately following World War II, some members were not prepared completely to eliminate restrictions on current transactions. Article XIV consequently provides that some members may elect certain "transitional arrangements" which exempt them from the operation of Article VIII(2), (3) and (4) and replace them with Article XIV(2) and (3). A member availing itself of the transitional arrangements of Article XIV is expected to make progress toward Article VIII status and "to notify the Fund as soon . . . as it is prepared to accept [Article VIII] obligations." Article XIV(1).

Iran elected to be governed by the transitional arrangements of Article XIV and is consequently permitted under Article XIV(2) to "maintain and adapt" the restrictions that were in effect on the date it joined the Fund. Article XIV(3) further provides, however, that members permitted to maintain existing restrictions must consult annually with the Fund about the necessity of continuing their restrictions.[37] Moreover, the transitional arrangements of Article XIV allow only the maintenance and adaptation of existing restrictions; Article XIV does not authorize the imposition of new restrictions. Should new restrictions be introduced or old restrictions eliminated and then reimposed, they would be subject to the requirements of Article VIII.[38]

B. Iranian exchange regulations

Iran had a system of exchange restrictions in effect in 1945, when it joined the International Monetary Fund, and in 1955, when it signed the Treaty of Amity. Those regulations basically required central bank approval of all transactions involving foreign exchange. It is these restrictions that Iran would be permitted to "maintain and adapt" under Article XIV of the Fund Agreement.

In 1974, in the face of a favorable balance of payments from both oil-related and non-oil sectors of the economy, Bank Markazi issued a series of circulars setting up a dual exchange market system.[39] The dual market distinguished between "commercial" and "non-commericial" markets and transactions.

The terms "commercial" and "non-commercial" must be understood in the specific context of the dual market system. The labels did not describe markets limited to transactions that would have been considered "commercial" or "non-commercial" in traditional usage. The distinction between the two markets lay primarily in the source of the foreign exchange that funded each market. The commercial market was controlled by Bank Markazi and funded with foreign exchange earned through oil and oil-related activities. The foreign exchange earned from non-oil exports, estimated by Iranian banking officials in 1974 to be between 700 and 800 million rials per year, was made available for discretionary public use. Banks were permitted to use the foreign exchange proceeds acquired through these transactions "in any manner and for any purpose.[40]

Under the dual market system, the only limitation on the non-commercial market was the amount of foreign exchange earned by non-oil exports. The non-commercial market rate was to be allowed to float and was not to be subsidized by the commercial market.[41] Since the only limitation on the non-commercial market was quantitative rather than qualitative, the uses to which non-commercial exchange could be put were wholly discretionary. Because the non-commercial market involved simpler procedures, it attracted most transactions, including many that could have been conducted in the commercial market.

Under this system, which remained in effect until November 1978, persons in Iran, including U.S. citizens and affiliates of U.S. firms engaged in business in Iran, could accept payments in rials and exchange those rials for dollars on the non-commercial market for remittance abroad. Foreign nationals could freely convert their rial bank deposits into foreign currencies for transfer out of Iran. Exchange Restrictions 1975 at 241. Thus, during the period in which the dual market was in operation, "exchange restrictions were abolished in principle."[42]

On November 14, 1978, Bank Markazi issued Circular NA/11600, which effectively eliminated the dual market system. Several categories of transactions which previously qualified as non-commercial could only be conducted subject to specific Bank Markazi approval.[43] Even more far reaching, Bank Markazi "terminated its support of the non-commercial foreign exchange market by discontinuing sales of U.S. dollars to match supply with demand for foreign exchange in that market."[44] Without central bank support, the non-commercial market was no longer effective and exchange availability was once again subject to the administrative discretion of Bank Markazi.

Iranian banking authorities admit that Circular NA/11600 introduced new exchange restrictions and eliminated the previously free transfer of foreign exchange out of Iran.

"[P]rior to 1979, transfer of any foreign exchange was carried out freely, but following the Islamic Revolution, the meeting of clients' requests for transfers of money was no more possible due to foreign exchange restrictions."[45]

The non-commercial market, effectively disabled by the 1978 withdrawal of central bank support, was formally abolished by Circular NA5/2090 issued by Bank Markazi on May 5, 1979.[46] Circular NA5/2090 nullified the dual market system. Exporters, the source of most non-commercial exchange under the dual market system, were no longer exempt from Bank Markazi commercial market regulations.[47] They were required to deposit exchange earnings, regardless of the oil or non-oil related source of those earnings. Banks had to buy and sell foreign exchange at prescribed rates, and the use of foreign exchange was subject to the approval of Bank Markazi in each individual case.

C. Iran has violated the fund agreement by introducing its post-1974 exchange restrictions without prior fund approval.

As discussed above,[48] Iran's establishment of the dual market system in 1974 effectively eliminated exchange restrictions in Iran. Iran does not dispute that point, but argues that, as an Article XIV member of the Fund, it has the right to introduce and reintroduce exchange restrictions without regard to Article VIII.[49] Iran's position is inconsistent with longstanding Fund interpretation and practice and has been explicitly contradicted by the Director of the Fund's Legal Department. Article XIV status entitles a member only to "maintain and adapt" restrictions that were in place when it originally joined the Fund. If those original restrictions are eliminated and new restrictions subsequently introduced, the new restrictions are subject to Fund approval under Article VIII. Fund approval is also required where original restrictions are eliminated and then reimposed.

For more than thirty years, the Fund has interpreted its Articles of Agreement to require that once restrictions originally authorized under Article XIV have been eliminated, any subsequent restrictions must meet the standards of Article VIII.

"Like a country that has accepted the obligations of Article VIII, Sections 2, 3, and 4, a member availing itself of the transitional arrangements (Article XIV, Section 4), may not introduce new restrictions on the making of payments and transfers for current international transactions or reimpose those that have been effectively eliminated without the prior approval of the Fund under Article VIII. . . . [A] member does not affect its existing obligations to consult and to obtain prior approval from the Fund by not accepting formally the obligations of Article III.[50]

This interpretation of the Fund Agreement grows out of a 1949 decision by the Fund regarding South Africa. The Fund found that South Africa, an Article XIV member which had "introduced" new exchange restrictions after virtually eliminating its original restrictions, was subject to Article VIII. South Africa's post-1946 restrictions were held to require prior Fund approval under VIII(2).[51] Thus, the Fund has interpreted its Articles of Agreement to mean that once a member has "ceased to maintain restrictions, it has none that it can adapt under Article XIV. Any action to reintroduce restrictions that it might contemplate would be governed by Article VIII." [52]

As a member of the Fund, Iran was aware of this rule both when it elected to establish the dual market and when it returned to a system of strict restrictions in 1978-1979. By eliminating exchange restrictions in 1974, Iran was left with nothing to "maintain or adapt." The restrictions implemented in 1978, 1979 and thereafter, even to the extent they returned to the situation in place before 1974, were subject to prior Fund approval under Article VIII(2) of the Fund agreement.

The Fund's interpretation has been clearly reaffirmed in the context of a claim before the Tribunal. The Director of the Fund's Legal Department has stated:

"Once a member [of the Fund] has eliminated a restrictive measure maintained under Article XIV, the measure cannot be reintroduced under that Article. Any such reintroduction of the restrictive measure is regarded as a new introduction, subject to approval by the Fund in accordance with Article VIII." [53]

Thus, Iran's position that it may reimpose previously abandoned restrictions [54] is completely without merit.

While the Fund has not made a final determination of whether Iran's post-1974 restrictions require prior approval under Article VIII(2),[55] Iran's introduction of exchange restrictions in 1978 and 1979 directly parallels the actions taken by South Africa in 1946-1948. By introducing, operating and supporting the dual market between 1974 and 1977, Iran eliminated the restrictions that had been in effect when it joined the Fund.[56]

In 1978 and 1979 Iran reimposed stringent exhange restrictions. Mr. Nicoletopoulos' letter has explicitly reaffirmed the Fund's longstanding policy that restrictions introduced in such a context are subject to Article VIII approval and confirmed that Iran has neither sought nor received such approval. One must conclude that Iran's actions violate Article VIII(2) of the Fund Agreement and that its restrictions are not enforceable against U.S. nationals at the Tribunal.

D. Article VIII(2)(b) of the fund agreement does not prevent the Tribunal from enforcing contracts

Article VIII(2)(b) of the Fund Agreement renders unenforceable "[e]xchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of the member maintained or imposed consistently with this Agreement . . . ." [57] A court's duty to refuse to enforce exchange contracts is dependent upon two preliminary determinations: (1) that the exchange controls have been maintained or imposed consistently with the Fund Agreement,[58] and (2) that the transaction at issue is contrary to the exchange regulations. If Iran is to be the beneficiary of defenses based on Article VIII(2)(b), as it was in *Mark Dallal* v. *Islamic Republic of Iran, et al.*,[59] then it must prove those defenses. "[A] defendant who relies on Article VIII, Section 2(b) necessarily asserts that exchange controls are maintained or imposed consistently with the Articles [of Agreement], and he should have the burden of proving that fact." [60] Iran has not met that burden.[61]

Furthermore, Article VIII(2)(b) requires the Tribunal to establish that the transaction at issue was contrary to the valid exchange regulations. In *Mark Dallal*, however, the Tribunal could not "find that the evidence presented by the Respondents fully prove[d] that the transaction at issue was a capital transaction in disguise, . . . [but was] simply left in doubts as regards [its] true character." [62] Absent the determination that the transaction violated validly imposed exchange controls,[63] the Tribunal has no duty not to enforce exchange contracts. Consequently, the Tribunal's reliance on Article VIII(2)(b) in *Mark Dallal* was premature. Until Iran proves its compliance with the Fund Agreement, Article VIII(2)(b) cannot affect the Tribunal's jurisdiction or duty to render awards.

IV. IRAN'S EXCHANGE RESTRICTIONS INTERFERE WITH THE PROPERTY RIGHTS OF U.S. NATIONALS

Nationals of the United States have property rights in their assets which are legally protected from invalid exchange restrictions by both the Fund Agreement and the Treaty of Amity. Iran's exchange restrictions are sufficiently burdensome as to constitute a taking of some claimants' property.[64] The Tribunal has acknowledged that "a taking of property may occur under international law, even in the absence of a formal nationalization or expropriation, if a government has interfered unreasonably with the use of property." [65] Even if not expropriatory in every case, Iran's exchange restrictions so severely restrict owners' access to and use of their funds as to constitute a valid cause of action for "other measures affecting property rights," regardless of how narrowly that phrase is construed.[66] Thus, U.S. claimants have a valid cause of action before the Tribunal based on Iranian exchange restrictions as promulgated and applied.

V. CONCLUSION

Iran's exchange restrictions, imposed by Bank Markazi in 1978 and 1979 after a four year period in which there were effectively no restrictions on remittances, cannot relieve Iran of its obligations under the Algiers Accords, an international treaty. The Accords provide for Tribunal jurisdiction over certain categories of claims by U.S. nationals. Valid claims are to be paid out of a dollar-denominated Security Account. Iranian exchange regulations have no bearing on the adjudication and payment of the claims of U.S. nationals except where it would be impossible to state a claim without alleging that Iran's exchange restrictions were invalid as written or applied.

Iran's exchange regulations violate both the Treaty of Amity and the Articles of Agreement of the International Monetary Fund. Iran's restrictions were not motivated by inadequate foreign reserves and have not been approved by the Fund. Iran has offered no justification for its imposition of restrictions on current international payments and has made no reasonable provision for the prompt remittance of dollars to U.S. nationals as required by the Treaty.

Iran does not deny that it eliminated exchange restrictions during the 1974 to 1977 period and admits that before late-1978 there were no restrictions on transfers of foreign exchange out of Iran. Neither does Iran deny that its 1978 and 1979 regulations represent either new restrictions or the reintroduction of pre-1974 restrictions. Iran incorrectly contends that its status as an Article XIV member of the Fund entitles it to introduce new restrictions or reinstate old restrictions without prior Fund approval. Iran's position is contradicted by thirty years of Fund practice and a recent statement by the Fund's Legal Director. Iran's post-1974 restrictions are subject to prior Fund approval under Article VIII of the Fund Agreement. Iran has neither sought nor received that approval.

Since invalid restrictions impose no duty on either national courts or international tribunals considering contracts between members or their nationals, the Tribunal has no duty to refrain from enforcing such contracts. Moreover, the enforcement against U.S. nationals of restrictions that violate both the Treaty of Amity and the Fund Agreement substantially and unjustifiably interferes with the recognized property rights of those U.S. nationals.

For all of the foregoing reasons, the exchange restrictions imposed by Iran in 1978, 1979 and thereafter are not enforceable against U.S. claimants at the Tribunal.

DAVIS R. ROBINSON.

FOOTNOTES

[1] *See infra* notes 5-9 and accompanying text.

[2] *See Kimberly-Clark Corp.* v. *Islamic Republic of Iran, Bank Markazi, et al.*, Award No. 46-57-2 (May 25, 1983); *Mark Dallal* v. *Islamic Republic of Iran, Bank Mellat*, Award No. 53-149-1 (June 10, 1983).

[3] 60 Stat. 1401, 2 U.N.T.S. 39, T.I.A.S. No. 1501, entered into force Dec. 27, 1945, amended effective July 28, 1969 by Bd. Governors Resol. No. 23-5; amended effective April 1, 1978, Bd. Governors Resol. No. 31-4 [hereinafter cited as the Fund Agreement]. The United States and Iran are both original members of the Fund; their memberships date from Dec. 27, 1945. *See* Exhibit 1 for Articles VIII and XIV of the Fund Agreement.

[4] Treaty of Amity, Economic Relations and Consular Rights, Aug. 15, 1955, United States-Iran, 284 U.N.T.S. 93, 8 U.S.T. 899, T.I.A.S. No. 3853 [hereinafter cited as Treaty of Amity or the Treaty].

[5] *See* Statement of Defense of Bank Tejarat at 5, *Trans World Airlines, Inc., (TWA) & David R. Balfour* v. *Government of the Islamic Republic of Iran, Bank Markazi, Bank Mellat, Bank Tejarat, et al.*, Claim No. 434 (filed Dec. 28, 1982) ("Claimant's credit balance in account number 607266 stand[s] at IR 7,756,042, which can be utilized whenever Claimant desires. Since it is a Rial account, . . . the funds can be presently utilized in Iran . . . ."); Rejoinder of Bank Mellat at 8, *Computer Science Corp. (CSC)* v. *Government of Islamic Republic of Iran, Bank Tejarat, Bank Mellat, et al.*, Claim No. 65 (filed Aug. 1, 1983) ("[T]his bank is prepared to effect payment . . . in Tehran in Rial currency . . . ."); Rejoinder of Bank Tejarat at 1-2, *id.* (filed Aug. 1, 1983) ("[T]he balance of Rial Account No. 60077-6 in Claimant's name . . . is available to Claimant.")

[6] *See* Rejoinder of Bank Tejarat at 2-3, *Computer Science Corp. (CSC)* v. *Government of Islamic Republic of Iran, Bank Tejarat, Bank Mellat, et al.*, Claim No. 65 (filed Aug. 1, 1983) (no dispute which could be referred to the Tribunal; bank requests dismissal); Statement of Defense at 12-13, *Gillette Co., et al.* v. *Iran*, Claim No. 139 (filed Oct. 21, 1982), Award No. 69-139-3 (Aug. 29, 1983); Statement of Defense of Bank Melli at 7, *Aeronutronic Overseas Service Inc.* v. *Air Force of Iran, Bank Markazi, Bank Melli, et al.*, Claim No. 158 (filed July 12, 1982) ("Assuming the Air Force's obligation to pay . . . is found binding, the transference thereof outside the country in the form of foreign exchange which is in express violation of Iranian foreign exchange regulations and/or *the withdrawal thereof from the Security Account is not agreed to.*") (emphasis added).

[7] *See* Rejoinder at 7, *Hood Corp.* v. *Islamic Republic, et al.*, Claim No. 100 (filed Nov. 19, 1982) ("Government may not be questioned or sued for exercising its sovereignty right."); Statement of Defense at 3, *Hood Corp.*, (filed Sept. 7, 1982) ("[T]he regulations formulated by laws governing the exchange restriction form part of the states [sic] sovereignty, and governments are bound to abide thereby."); Statement of Defense at 9, *Gillette Co. et al.* v. *Iran*, Claim No. 39 (filed Oct. 21, 1982), Award No. 69-139-3 (Aug. 29, 1983) (issuance of exchange restrictions within rights of sovereign).

[8] *See infra* note 14 and accompanying text.

[9] *See* Rejoinder of Bank Markazi at 2, *Hood Corp.* v. *Islamic Republic, et al.*, Claim No. 100 (filed Nov. 19, 1982) (compliance with IMF regulations since published in IMF annual report); Affidavit of Ali Manavi-Rad at 3, *Schering Corp.* v. *Iran*, Claim No. 38 (filed May 5, 1983) (Iran has met all requirements of the Fund relating to Art. XIV members); Dissenting Opinion of Dr. Shafeiei on the Issue of Dual Nationality at 78, Award Nos. 31-157-2 and 32-211-2 (dissent filed Oct. 12, 1983); Reply of Bank Melli at 9, *United States of America* v. *Islamic Republic of Iran*, Case No. B/25 (filed Nov. 3, 1983). It will be demonstrated below both that publication by the Fund does not indicate Fund approval and that Iran's restrictions violate the Fund Agreement.

[10] Rejoinder of Bank Markazi at 3, *Aeronutronic Overseas Services Inc.* v. *Air Force of Iran, Bank Markazi, Bank Melli, et al.*, Claim No. 158 (filed Oct. 31, 1983).

[11] *Id.*

[12] *Kimberly-Clark Corp.* v. *Islamic Republic of Iran, Bank Markazi, et al.*, Award No. 46-57-2 (May 25, 1983) at 13. The Tribunal has also held that "exchange regulations are not relevant to unjust enrichment." *See Isaiah* v. *Bank Mellat*, Award No. 35-219-2 (Mar. 30, 1983) at 14.

[13] Vienna Convention on the Law of Treaties, Art. 27, U.N. Conference on Law of Treaties, Doc. A/CONF. 39/27, May 23, 1969, *reprinted in* 8 I.L.M. 679 (1969) [hereinafter cited as Vienna Convention]. *See also* Restatement (Second) of the Foreign Relations Law of the United States § 3(2), 3(2) comment i (1965) [hereinafter cited as Restatement]. The Convention reflects pre-existing international law on the subject. *See Case of the Free Zones of Upper Savoy and the District of Gex [France* v. *Switzerland]* 1932 P.C.I.J. ser. A/B, No. 46 ("[I]t is certain that France cannot rely on her own legislation to limit the scope of her international obligations." *Id.* at 167); *Treatment of Polish Nationals in Danzig*, 1932 P.C.I.J. ser. A/B, No. 44 ("[A] State cannot adduce as against another State its own Constitution with a view to evading obligations incumbent on it under international law or treaties in force." *Id.* at 24); *Interpretation of the Convention Between Greece and Bulgaria Respecting Reciprocal Emigration, etc. (Advisory)*, 1930 P.C.I.J. ser. B., No. 17 ("[I]t is a generally accepted principle of international law that in the relations between Powers who are contracting Parties to a treaty, the provisions of municipal law cannot prevail over those of the treaty." *Id.* at 32).

[14] Rejoinder of Bank Mellat at 7, *Computer Science Corp. (CSC)* v. *Government of Islamic Republic of Iran, Bank Tejarat, Bank Mellat, et al.*, Claim No. 65 (filed Aug. 1, 1983).

[15] *See Kimberly-Clark Corp.* v. *Islamic Republic of Iran, Bank Markazi, et al.*, Award No. 46-57-2 (May 25, 1983).

[16] *See Ford Aerospace, et al.* v. *Islamic Republic of Iran, Bank Markazi et al.*, Claim No. 159; and Statement of Defense of Bank Markazi, *id.* (filed May 16, 1983).

[17] *See Schering Corp.* v. *Iran*, Claim No. 38.

[18] *Id.*

[19] *See DIC of Delaware, Inc.* v. *Tehran Redevelopment Corp. (T.R.C.), et al.*, Claim No. 255; and Statement of Defense, *id.* (filed June 7, 1982).

[20] *See* Treaty of Amity, *supra* note 4. Iran has not terminated the Treaty pursuant to Article XXIII, still enjoys benefits under this Treaty, *e.g.*, regarding investor visa tax exemptions, and has invoked it, *e.g.*, in its Memorandum of Points and Authorities in Support of Motion to Dismiss at 2, *Starrett Housing Corp.* v. *Government of Iran*, Civ. Act. No. 79-6364 (S.D.N.Y.) (filed July 15, 1980). The United States further notes the ICJ decision in *Case Concerning United States Diplomatic and Consular Staff in Tehran*, 1980 I.C.J. 200, 228 para. 54 ("[A]lthough the machinery for the effective operation of the 1955 Treaty has, no doubt, now been impaired by reason of diplomatic relations between the two countries having been broken off by the United States, *its provisions remain part of the corpus of law applicable between the United States and Iran.*") (emphasis added).

[21] Treaty of Amity, *supra* note 4, Article VII(1) states: 1. Neither High Contracting Party shall apply restrictions on the making of payments, remittances and other transfers of funds to or from the territories of the other High Contracting Party, except (a) to the extent necessary to assure the availability of foreign exchange for payments for goods and services essential to the health and welfare of its people, or (b) in the case of a member of the International Monetary Fund, restrictions specifically approved by the Fund.

[22] Treaty of Amity, *supra* note 4, Article VII(2).

[23] Any proper interpretation of the parties' intentions as to "reasonable provision" in Article VII(2) must reflect the language of Article IV(2) dictating "prompt payment of just compensation . . . *in an effectively realizable form* . . . ." (emphasis added). The United States has consistently interpreted "effectively realizable form" to require payment in dollars or some other currency readily convertible into dollars and removable from the state in which the injury occurred. *See* Restatement, *supra* note 13, at § 190 and reporter's note (relating standard of § 190 to standard in U.S. bilateral treaties). *See also* 8 M. Whiteman, Digest of International Law 1184 (1967). Any failure to compensate in dollars or other hard currency significantly impinges on Iran's obligation to compensate in an effectively realizable form.

[24] An exchange restriction violates the standards of Article VII(1)(b) of the Treaty of Amity unless it has been specifically approved by the Fund.

[25] Letter from George P. Nicoletopoulos to Joseph P. Griffin (July 22, 1983) (responding to Mr. Griffin's letter of March 24, 1983, requesting information regarding the status of Iran's exchange restrictions under the Fund Agreement). *See* Exhibit 2.

[26] By contrast, the United States has scrupulously observed the requirements of the Fund. When President Carter issued Executive Order 12170 on November 14, 1979, restricting payments to or transactions with the Government of Iran or its controlled entities for reasons of national and international security, the U.S. Executive Director of the Fund notified the Fund's Managing Director immediately and invoked the Fund's Executive Board Decision No. 144 (52/51). Decision No. 144 (52/51) permits members to take measures that restrict current payments when those measures are required for national security reasons. Such measures must be reported to the Fund within thirty days of their introduction. If thirty days after the measures are submitted to the Fund, the Fund has not disapproved them, "the member may assume that the Fund has no objection to the imposition of restrictions." Dec. No. 144 (52/51) (August 14, 1952), *reprinted in* Selected Decisions of the International Monetary Fund 203, 204, (9th ed. 1981). The U.S. Executive Order was duly reported and, despite Iranian objections, was never disapproved by the Fund. *See* 2 J. Gold, The Fund Agreement in the Courts 360-370 (1982).

[27] Rejoinder of Bank Markazi at 6, *Schering Corp.* v. *Iran*, Claim No. 38 (filed Feb. 15, 1983). The United States notes that in November, 1978 and May, 1979, when stringent restrictions were reintroduced, Iran faced neither a war with Iraq nor any "economic sanctions." Thus the two factors advanced as justifications for exchange restrictions are not only unsupported by specific evidence, but could not possibly have figured in the decision to impose those restrictions.

[28] *See* Section III. B., *infra*, for an explanation of the introduction and implementation of exchange regulations in Iran since 1974.

[29] I.M.F., International Financial Statistics: Yearbook 19182, at 246-249. The quoted figure represents line 1 l.d. of the I.M.F.'s standard representation of "International Liquidity" positions, labelled "Total Reserves Minus Gold." That figure represents the sum of lines 1 b.d., SDRs; 1 c.d., Reserve Position in the Fund; and 1 d.d., Foreign Exchange. "Foreign Exchange" is an incomplete representation of a member's liquid foreign reserves because "SDRs and Reserve Position are unconditional Fund related reserve assets." I.M.F., International Financial Statistics, February 1983, at 7. Since the access to these resources is unconditional, they are properly part of a member's total reserves of foreign exchange. However, even if one compared only the line 1 d.d. "Foreign Exchange" numbers for

1974 and 1978, one would find the same relation as for "Total Reserve Minus Gold." In 1974 "Foreign Exchange" was $7.652 billion; in 1978 it was $10.907 billion.

[30] I.M.F., International Financial Statistics, February, 1983, at 216.

[31] I.M.F., International Financial Statistics, April 1983, at 218. In June 1980, $14.789 billion was in liquid Foreign Exchange. *Id.*

[32] I.M.F., International Financial Statistics, February 1983, at 216.

[33] Although Iran's foreign exchange reserves were somewhat reduced in the third and fourth quarters of 1980 and the first quarter of 1981, *see* International Financial Statistics, November 1983, a Bank Markazi official was quoted in January 1981 as saying that Iran's "reserves are quite satisfactory. No problem there." Wall St. Journal, January 3, 1981, at 25, col. 2. In later 1982, Ali Manavi-Rad told the Wall Street Journal that Iranian foreign currency reserves were rising at a rate of $1 billion a month. Wall St. Journal, November 4, 1982, at 35, col. 2. These statements suggest that Iran has been able to sustain its war with Iraq and increase its foreign exchange reserves at a fairly rapid rate. The United States notes that Iran has acknowledged Mr. Manavi-Rad's authority to speak on issues of international banking. *See* Affidavit of Ali Manavi-Rad at 3, *Schering Corp v. Iran*, Claim No. 38 (filed May 5, 1983). *See also* Decree of the Council of Ministers, Sept. 13, 1976, appointing Mr. Manavi-Rad a representative to the IMF and the World Bank.

[34] *See* Statement of Defense at 16, *Hood Corp. v. Islamic Republic, et al.*, Claim No. 100 (filed Mar. 15, 1982) ("no obligation . . . to pay the deposit in any other currency but rials."); Statement of Defense of Bank Markazi at 22, *Ford Aerospace, et al. v. Islamic Republic of Iran, Bank Markazi, et al.*, Claim No. 159 (filed May 16, 1983) (". . . if the Tribunal finds the claimant entitled to collect the said sum, it will be payable in rials, and not in foreign exchange, because . . . Bank Markazi Iran has not been obligated to pay in foreign exchange."); Rejoinder of Bank Mellat at 7, *Computer Science Corp. (CSC) v. Government of Islamic Republic of Iran, Bank Tejarat, Bank Mellat, et al.*, Claim No. 65 (filed Aug. 1, 1983) ("[C]onversion of the balances of Claimant's Rial accounts into U.S. Dollars and the transfer thereof abroad is among the cases absolutely prohibited . . .").

[35] *See* Fund Agreement, *supra* note 3, Art. I(v).

[36] Article XXX(d) of the Fund Agreement defines payments for current transaction as follows:

Payments for current transaction means payments which are not for the purpose of transferring capital, and includes, without limitation: (1) all payments due in connection with foreign trade, other current business, including services, and normal short-term banking and credit facilities; (2) payments due as interest on loans and as net income from other investments; (3) Payments of moderate amounts for amortization of loans or for depreciation of direct investments; and (4) moderate remittances for families living expenses.

The Fund may, after consultation with the members concerned, determine whether certain specific transactions are to be considered current transactions or capital transactions.

Current transactions include, without being limited to payments for services rendered, payment of invoice amounts, earnings and income for investments, including dividends and royalties, payments on loans, and the amortization and repayment of loans. The fact that funds may be located in a bank account does not automatically transform them into capital. Funds on deposit that arose out of current transactions retain their characteristics as "payments for current transactions" and are subject to Article VIII of the Fund Agreement. Furthermore, Fund members "may not delay the transfer by a payee to his own country of the proceeds of a current international transaction and then take the position that the proceeds have become capital subject to control." J. Gold, *supra* note 26, at 420. *See also* J. Evans, *Current and Capital Transactions: How The Fund Defines Them*, 3 Finance and Development (1968).

[37] The Fund issues an annual report on the exchange regulations of its members. However, the report, *Exchange Arrangements & Exchange Restrictions*, is issued whether or not a member has fulfilled its duty to consult or obtain approval of the Fund before changing or imposing exchange restrictions. Thus, descriptions of a country's exchange restriction in the Fund's report do not imply Fund approval of the restrictions described. Iran's restrictions have been described in each annual edition of *Exchange Restrictions*, but, as demonstrated by Mr. Nicoletopoulos' letter, have not been approved by the Fund. *See supra* note 25 and accompanying text.

[38] *See infra* text accompanying notes 49-55.

[39] *See* Bank Markazi Circular NA/37/41850, January 10, 1974 (exempting exporters from depost obligations); Bank Markazi Circular 994/H, January 14, 1974 (establishing the "non-commercial" exchange market). *See* Exhibit 3.

[40] I.M.F., Exchange Arrangements and Exchange Restrictions 1974, 25th Ann. Rep. at 222 [hereinafter cited as Exchange Restrictions by appropriate year].

[41] *See* I.M.F., Exchange Restrictions 1975. Although the non-commercial market was theoretically limited to its own resources Bank Markazi did support the non-commercial market by making foreign exchange available to individual banks that faced demand for exchange greater than their supply. While Markazi's support function was initially one of guaranteeing adequate distribution of non-commercial exchange earned by the entire system, by 1976-77 non-commercial sales of exchange exceeded total non-commercial exchange earnings. The shortfall was supplied by Bank Markazi until it promulgated Circular NA/11600 in November 1978. *See infra* note 44 and accompanying text.

[42] I.M.F., Exchange Restrictions 1975 at 244. Subsequent annual I.M.F. reports indicate that, during the period from 1974 through 1977, Iran effectively had no exchange restrictions. *See* I.M.F., Exchange Restrictions 1976 at 238-41; I.M.F., Exchange Restrictions 1977 at 237-40; I.M.F., Exchange Restrictions 1978 at 211-14. *See also infra* note 45 and accompanying text.

[43] Circular NA/11600, Nov. 14, 1978. *See* Exhibit 4.

[44] I.M.F., Exchange Restrictions 1979 at 216.

[45] Response of Bank Tejarat at 4, *William Bros Int'l Corp. v. Government of Islamic Republic of Iran, Bank Markazi, et al.*, Claim No. 492 (filed Nov. 11, 1983). *See also* Statement of Defense of Bank Tejarat at 2, *Consortium for International Development v. Islamic Republic of Iran, Agricultural Development, et al.*, Claim No. 455 (filed Nov. 3, 1983) ("[P]rior to the Islamic Revolution, transfer of foreign exchange abroad used to be without restriction."); Bank Markazi Submission, Answer to Questions of the Tribunal at 3, *Kimberly-Clark Corp. v. Islamic Republic of Iran, Bank Markazi, et al.*, Claim No. 57 (filed June 24, 1982) ("since 23.8.1357 [14.11.78] more restrictive regulations have come into force, as stipulated in Memorandum No. 11600/NA"); Annual Report of Bank Markazi 1357 (1978-79) at 22 ("strict foreign exchange controls enforced as of the month of Azar").

[46] *See* Exhibit 5.

[47] *Compare* I.M.F., Exchange Restrictions 1975 at 244 col. 1 paras. 1, 2, 3 & 6 summarizing the 1974 dual market system, *with* I.M.F., Exchange Restrictions 1980 at 206, entry under "May 5" which summarizes the effect of Circular NA5/2090. The Untied States notes that the IMF placed considerable emphasis on NA/11600 and its effect on the dual market, *see* I.M.F., Exchange Restrictions 1979 at 216, and that Iran has relied exclusively on NA/11600 in those of its pleadings which cite any specific regulation other than the general monetary and banking law. Regardless of the relative importance of the Circulars of November 1978 and May 1979, the IMF's annual reports on exchange restrictions show that Iran has had exchange restrictions in place every year since 1978. *See* I.M.F., Exchange Restrictions 1979 at 213-16; I.M.F., Exchange Restrictions 1980 at 203-206; I.M.F., Exchange Restrictions 1981 at 218-220; I.M.F., Exchange Restrictions 1982 at 237-240. This period is in pointed contrast to the 1974-1977 period in which the Fund's reports indicated that Iran had no effective exchange restrictions. *See supra* note 42 and sources cited therein.

[48] *See supra* notes 42 and 45 and accompanying text.

[49] *See* Reply to Post-Hearing Memorial at 4, *Kimberly-Clark Corp. v. Islamic Republic of Iran, Bank Markazi et al.*, Claim No. 57 (filed April 18, 1983) ("There is nothing to prevent the reinstatement [sic] of foreign exchange restrictions by member countries. Iran's restricting foreign exchange regulations do not in any way contravene Article XIV [of the Fund Agreement]."); *See also* Affidavit of Ali Manavi Rad, *Supra* note 33, at 3.

[50] I.M.F., Exchange Restrictions 1967, Ann. Rep., at 2.

[51] 1 I.M.F., The International Monetary Fund 1945-1965 248-50 (J. Horsefield ed. 1969).

[52] J. Gold, *The International Monetary Fund and Private Business Transactions* 19 (I.M.F. Pamphlet Series, No. 3 1965). *See also* J. Evans, *supra* note 36, at 31. ("[T]he road from Article XIV to Article VIII is one way. Once restrictions have been removed, they may not be reintroduced, except under Article VIII with Fund Approval.")

[53] Letter from Nicoletopoulos to Griffin, *supra* note 25. *See Exhibit 2.*

[54] *See* Reply to Post-hearing Memorial at 4, *Kimberly-Clark v. Islamic Republic of Iran, Bank Markazi, et., al.*, Claim N. 57 (filed April 18, 1983), *quoted in relevant part, supra* note 51.

[55] Letter from Nicoletopolos to Griffin, *supra* note 25, at para. 3. *See* Exhibit 2.

[56] *See supra* text accompanying notes 42-47.

[57] Fund Agreement, *supra* note 3, Article VIII(2)(b) (emphasis added).

[58] *See* Exec. Bd. Dec. No. 446-4 (June 10, 1949) *reprinted in* Selected Decisions of the International Monetary Fund 201 (9th ed. 1981). The Decision clarifies the duty of a tribunal of a Fund member to decline to enforce exchange contracts that are contrary to regulations imposed *consistently* with the Fund Agreement. The Fund has not determined that Iranian exchange restrictions have been "maintained or imposed consistently with [the Fund] Agreement." *See* Exhibit 2.

[59] Award No. 53-149-1 (June 30, 1983).

[60] 2 J. Gold, *supra* note 26, at 334. *See also* D. Sandifer, Evidence Before International Tribunals 127 (rev. ed. 1975). Article 24(1) of the Tribunal's Rules of Procedure states: "Each party shall have the burden of proving the facts relied on to support his claim or defence."

[61] In *Mark Dallal*, Iran did not prove that its exchange regulations were limited to the type of capital transfers permitted under Article VI(3).

[62] *Mark Dallal* at 11. The Tribunal did not inquire whether Iran's regulations were also being applied "in a manner which . . . restrict[ed] payments for current transactions or which . . . unduly delay[ed] transfers of funds in settlement of commitments," article VI(3), and, therefore not in conformity with Article VI(3). As demonstrated, the same Iranian regulations invoked in *Mark Dallal*, e.g. Circular NA/11600, restrict current transactions. The *Dallal* decision does not clarify the distinction between current and capital transactions. Mr. Dallal was to be paid for services rendered. Payments for services are not capital transfers, but payment for current transactions under Article XXX(d)(1) ("all payments due in connection with foreign trade, other current business, *including services* . . .") (*emphasis added*). *See also* note 36, *supra* and sources cited therein.

[63] To the extent the Tribunal relied in the Fund's publication of Iran's exchange restrictions as evidence of their conformity with the Fund Agreement, *Mark Dallal* at 6, it was mistaken. *See supra* text accompanying note 25.

[64] International law recognizes that exchange regulations which so completely restrict an owner's right to use his money as to constitute a *de facto* taking are compensable as expropriations. *See* 8 Whiteman, *supra* note 23, at 981-82; 2 Hackworth, Digest of International Law 68 (1941); B. Wortley, Expropriation in Public International Law 107 (1977).

[65] *Harza Engineering Co. v. Islamic Republic of Iran*, Award No. 19-98-2 (Dec. 30, 1982) at 9, n. 2 and authorities cited therein. *See also Claim of the Tanglefoot Co.*, 30 Int'l L. Rep. 120-22 (1958); *Claim of Schwarzenbach Co.*, Dec. No. CU-21 (Foreign Claims Settlement Comm'n, Jan. 13, 1967); B. Wortley *supra* note 61, at 107 ("foreign exchange control may be spoliatory in its effects and held to be illegal"); 8 Whiteman, *supra* note 23, at 1007; M. Shuster, The Public International Law of Money 76-77, 76 n. 2 (1973) and authorities cited therein.

[66] *See Grimm v. Islamic Republic of Iran*, Award No. 25-71-1 (Feb. 22, 1983). Exchange restrictions interfere with the enjoyment of property in a way that is not only "generically similar to 'expropriations'," *id.* at 4, but virtually identical. The application of Iran's invalid restrictions is a legal wrong that is the proximate cause of claimants' effective loss of their property.

EXHIBIT 1

ARTICLE VIII.—GENERAL OBLIGATIONS OF MEMBERS

Section 1. Introduction

In addition to the obligations assumed under other articles of this Agreement, each member undertakes the obligations set out in this Article.

Section 2. Avoidance of restrictions on current payments

(a) Subject to the provisions of Article VII, Section 3(b) and Article XIV, Section 2, no member shall, without the approval of the Fund, impose restrictions on the making of payments and transfers for current international transactions.

(b) Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistenty with this Agreement shall be unenforceable in the territories of any member. In addition, members may, by mutual accord, cooperate in measures for the purpose of making the exchange control regulations of either member more effective, provided that such measures and regulations are consistent with this Agreement.

Section 3. Avoidance of discriminatory currency practices

No member shall engage in, or permit any of its fiscal agencies referred to in Article V, Section 1 to engage in, any discriminatory currency arrangements or multiple currency practices, whether within or outside margins under Article IV or prescribed by or under Schedule C, except as authorized under this Agreement or approved by the Fund. If such arrangements and practices are engaged in at the date when this Agreement enters into force, the member concerned shall consult with the Fund as to their progressive removal unless they are maintained or imposed under Article XIV, Section 2, in which case the provisions of Section 3 of that Article shall apply.

Section 4. Convertibility of foreign-held balances

(a) Each member shall buy balances of its currency held by another member if the latter, in requesting the purchase, represents:

(i) That the balances to be bought have been recently acquired as a result of current transactions; or

(ii) That their conversion is needed for making payments for current transactions.

The buying member shall have the option to pay either in special drawing rights, subject to Article XIX, Section 4, or in the currency of the member making the request.

(b) The obligation in (a) above shall not apply when:

(i) The convertibility of the balances has been restricted consistently with Section 2 of this Article or Article VI, Section 3;

(ii) The balances have accumulated as a result of transactions effected before the removal by a member of restrictions maintained or imposed under Article XIV, Section 2;

(iii) The balances have been acquired contrary to the exchange regulations of the member which is asked to buy them;

(iv) The currency of the member requesting the purchase has been declared scarce under Article VII, Section 3(a); or

(v) The member requested to make the purchase is for any reason not entitled to buy currencies of other members from the Fund for its own currency.

Section 5. Furnishing of information

(a) The Fund may require members to furnish it with such information as it deems necessary for its activities, including, as the minimum necessary for the effective discharge of the Fund's duties, national data on the following matter:

(i) Official holdings at home and abroad of (1) gold, (2) foreign exchange;

(ii) Holdings at home and abroad by banking and financial agencies, other than official agencies, of (1) gold, (2) foreign exchange;

(iii) Production of gold;

(iv) Gold exports and imports according to countries of destination and origin;

(v) Total exports and imports of merchandise, in terms of local currency values, according to countries of destination and origin;

(vi) International balance of payments, including (1) trade in goods and services, (2) gold transactions, (3) known capital transactions, and (4) other items;

(vii) International investment position, i.e., investments within the territories of the member owned abroad and investments abroad owned by persons in its territories so far as it is possible to furnish this information;

(viii) National income;

(ix) Price indices, i.e., indices of commodity prices in wholesale and retail markets and of export and import prices;

(x) Buying and selling rates for foreign currencies;

(xi) Exchange controls, i.e., a comprehensive statement of exchange controls in effect at the time of assuming membership in the Fund and details of subsequent changes as they occur; and

(xii) Where official clearing arrangements exist, details of amounts awaiting clearance in respect of commercial and financial transactions, and of the length of time during which such arrears have been outstanding.

(*b*) In requesting information the Fund shall take into consideration the varying ability of members to furnish the date requested. Members shall be under no obligation to furnish information in such detail that the affairs of individuals or corporations are disclosed. Members undertake, however, to furnish the desired information in as detailed and accurate a manner as is practicable and, so far as possible, to avoid mere estimates.

(*c*) The fund may arrange to obtain further information by agreement with members. It shall act as a centre for the collection and exchange of information on monetary and financial problems, thus facilitating the preparation of studies designed to assist members in developing policies which further the purpose of the Fund.

Section 6. Consultation between members regarding existing international agreements

Where under this Agreement a member is authorized in the special or temporary circumstances specified in the Agreement to maintain or establish restrictions or exchange transactions, and there are other engagements between members entered into prior to this Agreement which conflict with the application of such restrictions, the parties to such engagements shall consult with one another with a view to making such mutually acceptable adjustments as may be necessary. The provisions of this Article shall be without prejudice to the operation of Article VII, Section 5.

Section 7. Obligation to collaborate regarding policies on reserve assets

Each member undertakes to collaborate with the Fund and with other members in order to ensure that the policies of the member with respect to reserve assets shall be consistent with the objectives of promoting better international surveillance of international liquidity and making the special drawing right the principal reserve asset in the international monetary system.

ARTICLE IX.—STATUS, IMMUNITIES, AND PRIVILEGES

Section 1. Purposes of Article

To enable the Fund to fulfill the functions with which it is entrusted, the status, immunities, and privileges set forth in this Article shall be accorded to the Fund in the territories of each member.

Section 2. Status of the Fund

The Fund shall possess full juridical personality, and in particular, the capacity:

(i) To contract;

(ii) To acquire and dispose of immovable and moveable property; and

(iii) To institute legal proceedings.

Section 3. Immunity from judicial process

The Fund, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

* * * * *

Section 3. Guarantee of the Fund's assets

Each member guarantees all asssets of the Fund against loss resulting from failure or default on the part of the depository designated by it.

ARTICLE XIV.—TRANSITIONAL ARRANGEMENTS

Section 1. Notification to the Fund

Each member shall notify the Fund whether it intends to avail itself of the transitional arrangements in Section 2 of this Article, or whether it is prepared to accept the obligations of Article VIII, Section 2, 3, and 4. A member availing itself of the transitional arrangements shall notify the Fund as soon thereafter as it is prepared to accept these obligations.

Section 2. Exchange restrictions

A member that has notified the Fund that it intends to avail itself of transitional arrangements under this provision may, notwithstanding the provisions of any other articles of this Agreement, maintain and adapt to changing circumstances the restrictions on payments and transfers for current international transactions that were in effect on the date on which it became a member. Members shall, however, have continuous regard in their foreign exchange policies to the purposes of the Fund, and, as soon as conditions permit, they shall take all possible measures to develop such commercial and financial arrangements with other members as will facilitate international payments and the promotion of a stable system of exchange rates. In particular, members shall withdraw restrictions maintained under this Section as soon as they are satisfied that they will be able, in the absence of such restrictions, to settle their balance of payments in a manner which will not unduly encumber their access to the general resources of the Fund.

Section 3. Action of the Fund relating to restrictions

The Fund shall make annual reports on the restrictions in force under Section 2 of this Article. Any member retaining any restrictions inconsistent with Article VIII, Sections 2, 3, or 4 shall consult the Fund annually as to their further retention. The Fund may, if it deems such action necessary in exceptional circumstances, make representations to any member that conditions are favorable for the withdrawal of any particular restriction, or for the general abandonment of restrictions, inconsistent with the provisions of any other articles of this Agreement. The member shall be given a suitable time to reply to such representations. If the Fund finds that the member persists in maintaining restrictions which are inconsistent with the purposes of the Fund, the member shall be subject to Article XXVI, Section 2(a).

Exhibit 2

International Monetary Fund,
Washington, D.C., July 22, 1983.

Mr. Joseph P. Griffin,
Wald, Harkrader & Ross,
Washington, D.C.

Dear Mr. Griffin: This letter is in response to the questions that you have raised in your letter of March 24, 1983.

1. As a preliminary observation to your questions, I should point out that a member needs to seek the approval of the Fund only for those exchange measures that fall within the definition of Article VIII, Sections 2(a) and 3 of the Fund's Articles of Agreement, and the maintenance of which is not otherwise authorized by the Articles. Thus, approval is not required for exchange measures maintained in accordance with the provisions of Article XIV, Section 2, or for exchange controls that are necessary to regulate international capital movements, if introduced consistently with Article VI, Section 3. Whether a particular measure is an exchange measure, and whether it is an exchange measure that would be subject to approval under Article VIII, can only be determined after an examination of the particular measure in question and its application.

2. Under Article XIV, Section 2, a member may maintain and adapt to changing circumstances those exchange restrictions, including multiple currency practices and discriminatory currency arrangements, that the member had when it joined the Fund. Once a member has eliminated a restrictive measure maintained under Article XIV, the measure cannot be reintroduced under that Article. Any such reintroduction of the restrictive measure is regarded as a new introduction, subject to approval by the Fund in accordance with Article VIII.

3. Iran has not sought or received approval from the Fund pursuant to Article VIII since 1974 for the imposition or reimposition of any exchange measures that are subject to Fund approval. As noted above, whether or not any particular measure is or is not subject to approval under Article VIII can only be answered with respect to the measure in question. In view of the circumstances of Iran since 1978, it has not yet been possible to make this determination in respect of that member.

4. Publication of information regarding a member's exchange controls or exchange restrictions in the Fund's Annual Report does not consititute or indicate Fund approval of such controls or restrictions. The Annual Report on Exchange Arrangements and Exchange Restrictions, which was entitled Annual Report on Exchange Restrictions until 1978, contains information on the trade and payments aspects of a member's restrictive system, as well as on the member's exchange arrangements. This information is published without reference to whether or not any particular measure, if subject to Article VIII, has or has not been approved.

5. In this connection, I wish to express our displeasure and regret that an earlier informal inquiry by a lawyer with your firm along the same lines as the present request was used without our knowledge as the basis for an affidavit, submitted by your firm in legal proceedings, that attributed certain statements to a member of the Fund's staff. While the statements were accurate, this is an unprecedented procedure and the affidavit does not constitute an authoritative statement of the Fund's position on the questions concerned. The appropriate course is to submit a formal request to the Fund, such as that made under your letter of March 24, 1983, if the intention is to use the response in a legal proceeding.

Sincerely yours,
George P. Nicoletopoulos,
Director, Legal Department.

Exhibit 3

CIRCULAR

From: Bank Markazi Iran.
No: 994/H.
Date: 24.10.1352 (January 14, 1974).

Further to the circular Reference NA/41850/37 dated 20.10.1352 (Jan. 10, 1974) concerning the exporters' exemption from depositing a foreign exchange contract for export of the goods indicated in the above referenced circular, please note that, effective this date until further notice, foreign exchange transactions shall be governed by the following regulations in the cases mentioned herein.

(1) The country's banks may purchase the foreign exchange proceeds of exports and services at the prevailing market rate in any way they deem advisable.

(2) The banks may purchase, at the prevailing market rate, the foreign exchange related to loans, capital and deposits of persons or institutions directly or according to the criteria determined by Bank Markazi Iran, and may sell the same in any manner they deem advisable.

(3) Bank Markazi Iran is prepared to buy, at the official rate and according to the relevant criteria, the foreign exchange proceeds of exports and services in excess of the market requirement which are dealt in by Bank Markazi Iran.

(4) Should the persons and institutions mentioned under (2) above intend to sell their foreign exchange holdings to Bank Markazi Iran at the official rate and to repurchase the same from Bank Markazi Iran at the official rate at the time of transfer, they must obtain Bank Markazi Iran's approval thereon and observe the other relevant regulation, before transferring the foreign exchange to Iran.

(5) The banks may accept foreign exchange deposits from real and legal entities and utilize the same in any manner they wish, with due observance of Bank Markazi Iran's regulations.

(6) The foreign exchange purchased or received as deposits (subject matter of (1), (2), and (5) above) shall be called "non-commercial foreign exchange," and the banks shall be required to enter the operations thereon in a separate disciplinary account.

(7) Sale of "non-commercial foreign exchange" by any bank may never exceed its purchase of "non-commercial foreign exchange" from its customers.

(8) In order to regulate the foreign exchange market, the banks shall be required to prepare the data on the purchase and sale of foreign exchange in the manner to be determined by Bank Markazi Iran, and to submit the same to Bank Markazi Iran at the close of office hours every Thursday as well as at the end of each month.

It is understood that the sale of foreign exchange by Bank Markazi Iran to the country's banks shall be in accordance with the criteria already advised to you, vide relevant circulars.

Exhibit 4

CIRCULAR

From: Bank Markazi Iran.
To: Bank.
No.: 11600.
Date: 14.11.1978.

Further to Circular No. Na/42400 dated 14.1.1974, please take note that you are authorized to continue as before to sell commercial exchange in respect of imports with due regard to the General Regulation of Imports and Exports of the Year and in observance of the previous circulars and regulations of Bank Markazi. As of this date the sale of exchange in respect of the expenditures given on the attached list is considered as commercial. Considering that the sale of commercial exchange by you must correspond exactly with your sale of commercial exchange for imports of expenditures reflected on the attached list, you will please direct the personnel in charge to pay minute attention to the foregoing in preparation and dispatching to Bank Markazi on time of the exchange statistics.

Sale of non-commercial exchange shall be subject until further notice to the following regulations:

1. You are authorized to buy the exchange earned from exports and services at the market price of the day and sell it at the market price of the day.

2. Your sale of non-commercial exchange shall at no time exceed the purchase of non-commercial exchange.

3. Your exchange deposits, loans in exchange capital and credit in exchange received from foreign sources as well as overdraft facilities for your checking account with foreign agents are considered commercial exchange and may not be spent on non-commercial uses.

4. Bank Markazi Iran is prepared to buy the exchange earned from exports and services in excess of market requirement and Bank Markazi transaction, on the basis of the criteria governing Bank Markazi rates.

5. All banks are required to file as before with Bank Markazi information relating to purchase and sale of non-commercial exchange at the close of Thursdays and at the end of each month.

6. Please direct the personnel in charge to include in the daily statistics of exchange received and paid under related code and headings the figures reflecting sale of exchange for the expenditures set forth in the list attached to this Circular, included heretofore in the statistics of non-commercial exchange received and paid.

Your attention is drawn, in implementation of the provisions of this Circular, to Clause A, Article 42 of the Monetary and Banking Law regarding deviation from Bank Markazi regulations causing the transfer of exchange or undertaking the transfer of exchange.

List Attached to Circular No. Na/11600, Dated 14.11.1978

1. Sale of exchange to each passenger departing from Iran, against a valid passport, up to Rials 200,000. To passengers accompanying the holder of the valid passport, you are authorized to sell the equivalent of the above amount per head. The amount and currency sold to passenger shall be entered in the passport, indicating the date of sale (Code 95—Passengers).

2. Sale or transfer of exchange for medical treatment of Iranian national abroad, against presentation of medical bill (Code 41, medical expenditure).

3. Sale of exchange to Iranian students abroad against presentation of certificate of enrollment equivalent to Rials 70,000 per month. In case presentation of certificate of enrollment is not feasible, the sale of exchange equivalent to the above amount, on condition of undertaking to present the certificate within three months is authorized (Code 57, Students).

4. Sale of exchange for services on the basis of contracts concluded between domestic and foreign institutes, including salaries of foreign specialists, engineers and experts, royalties and technical assistance charges, fees for preparing drawings and designs, costs of supervising and erecting works, price of documents and technical know-how (Code 52—Services) with the approval of Bank of Markazi Iran.

5. Loans and credits acquired from abroad with the authorization of Bank Markazi Iran:

(A) Reimbursement of principal (Code 98).

(B) Reimbursement of interest (Code 99).

(C) Related costs (Code 45—Loan and Credit Costs).

6. Profits earned from operations of foreign transportation companies (air, marine and ground) with the approval of Bank Markazi Iran (Code 59).

7. Reinsurance premiums, foreign investors' dividends and other transfers of the insurance companies, with the approval of Bank Markazi Iran (Code 60).

8. Hiring machinery and work paraphernalia, with the approval of Bank Markazi Iran (Code 46).

9. Remuneration of cultural and sport activities, against presentation of bills under the related contract (Code 48).

10. Costs of setting up expositions abroad against presentation of the related documentation, (Code 47).

11. Transfer of dividends of foreign investors in mixed banks, with the approval of Bank Markazi Iran (Code 53).

12. Transfer of the principal and profits earned from operations of companies operating in Iran on the strength of the Law for Attraction and Protection of Foreign Investors, in accordance with the related regulations (Code 42).

13. Transfer in respect of meeting mandatory expenditures, equivalent to Rials 35,000 (Code 43).

14. Sale of commercial exchange for expenditures other than those enumerated above shall, in each individual case, require the prior approval of Bank Markazi Iran.

Exhibit 5

CIRCULAR

From: Bank Markazi Iran.
To: Bank.
No.: Na 5/2090.
Date: 5.5.1979.

Please take note that in accordance with the Ministry of Economic Affairs and Finance Proposal No. 3145 dated 2.5.1979 and the Decree of the Council of Ministers of the Islamic Republic of Iran dated 2.5.1979, the Decree No. M/265-30 dated 1.1.1974 of the Council of Ministers is cancelled and exportation of goods is subject to deposit an exchange undertaking. The Circular No. Na/37/41850 dated 10.1.1979, issued by Bank Markazi exempting exporters from depositing exchange undertaking is therefore null and void. Exporters are required henceforth to deposit exchange undertakings for exportation of goods in compliance with the relevant laws and regulations and Bank Markazi directives.

As of the above date, you are authorized to buy from exporters the exchange acquired from exportation of Iranian goods at the unofficial price of 78 Rials per 1 United States Dollar.

You may also arrange for the reimbursement of exporter of the difference between the official and unofficial prices of purchase of the date action is taken at the time of payment of funds related to exportation of goods to countries which have signed barter agreements with Iran. Bank Markazi shall place at your disposal exchange at official price equivalent to barter export exchange purchased at unofficial price.

Exchange earned from exportation directly bought by you as well as exchange placed at your disposal in respect of exportation to countries parties to barter agreements shall be sold at U.S. $1 = 79.50 Rials and for usages to be determined by Bank Markazi in each case.

You are authorized to send by written or telegraphic draft until further notice up to U.S. $500 or the equivalent thereof at par value in other currencies at unofficial price to meet the urgent and miscellaneous requirements abroad against each request therefor.

You are authorized to sell exchange at the official rate with due regard to regulations for the following purposes:

1. Importation of commodities with due regard to the General Import and Export Regulations of the year.

2. Travel expenses of each holder of a valid Iranian passport intending to travel abroad up to U.S. $3,000 and each person accompanying the holder of the valid passport up to U.S. $1,000, totally up to U.S. $6,000 in respect of one passport. The passport presented to you must be marked with the seal indicating payment of exit charges and exit permit. In each case, the amount of exchange sold, with date and name of the bank branch and signature of the person in charge shall be entered in the passport as well as in the tickets of each traveller.

To persons authorized under regulations to make multiple exits, exempt from payment of exit charges, and to peddlers only the equivalent of U.S. $500 shall be sold, in respect of each trip, not exceeding U.S. $6,000 in a year.

3. For the expenditures of the Iranian students abroad enrolled in secondary schools or higher classes, U.S. $1,000 per month against presentation of valid certificate of school or undertaking of the applicant to present such certificate within three months. In order to grant facilities to the students, you may agree to sell exchange to meet their 3-month exchange requirements up to U.S. $3,000 at once.

4. For expenditures of the retired personnel residing abroad, U.S. $1,000 per month against presentation of the retirement document and verified certificates of residence in the country of residence.

5. Expenditures for treatment of Iranian nationals abroad on the basis of the certificate of specialized physician indicating the essential nature of treatment abroad, as determined by Bank Markazi.

6. For services rendered under contracts concluded between domestic and foreign agencies including part of salaries of foreign experts, specialists and engineers, royalties and technical assistance, fees for perparing drawings and designs, costs of supervision and installation of works, prices of documents and technical data, with approval of Bank Markazi.

7. Reimbursement of the principal and interest and other costs related to loans and credits acquired with previous authorization of Bank Markazi, with approval of Bank Markazi.

8. Net earnings from operations of foreign transportation (air, sea, ground) companies according to the standards set forth by Bank Markazi.

9. Re-insurance premiums, dividends of foreign investors and other transfers of insurance companies, with approval of Bank Markazi.

10. Rentals for machinery and implements, with approval of Bank Markazi.

11. Rewards for cultural and sport activities against invoice and in accordance with relevant agreement, with approval of Bank Markazi.

12. Costs of setting up expositions abroad against relevant documentation, with approval of Bank Markazi.

13. Transfer of dividends of foreign investors in consolidated banks, with approval of Bank Markazi.

14. Repatriation of the principal and profits earned by companies operated on the basis of the Law for Attraction and Protection of Foreign Investment, with approval of Bank Markazi.

This circular supersedes all previous circulars issued by Bank Markazi in this connection.

You will please promulgate the provisions of this circular to your branches and require them to continue as before to send to Bank Markazi exchange statistics on the basis of the previous Bank Markazi directives.

Also, please acknowledge the receipt of this circular.

CYPRUS

Mr. TRIBLE. Mr. President, in November of last year, hopes for an equitable solution to the Cyprus problem were shattered by the declaration of an independent Turkish state on the northern half of the island. Turkish Cypriots, who comprise only 20 percent of the island's population, declared themselves the Turkish Republic of Northern Cyprus and quickly won diplomatic recognition from Turkey.

The Congress immediately joined President Reagan and nearly all of our Western allies in condemning the action and in refusing to recognize the newly declared state. But despite the passage of several months and the repeated urgings of the United Nations and governments around the world, the situation remains unchanged.

With each day, the Turkish Republic increases its hold on the northern end of the island and threatens to become a permanent, insurmountable obstacle to the reunification of Cyprus. This attempt at secession compounds the injustice suffered by Cypriots for centuries and, for the citizens of the internationally recognized Republic of Cyprus and responsible members of the international community, it is simply unacceptable.

For thousands of years, the Cypriots have been buffeted by violence and division. Control of their land has been passed from nation to nation, through Syrian, Roman and countless other hands. It is a history unbefitting so proud and generous a people.

Even after centuries of oppressive Turkish rule, the attainment of independence from Britain in 1960 could not calm the island. Internal violence flared in 1963, and in March of the following year, a U.N. peacekeeping force was dispatched to Cyprus.

Turkish troops invaded in 1974 and occupied the northern end of the island. Almost 5,000 Cypriots were killed in that invasion, and many others are still missing. Nearly 200,000 Greek Cypriots fled to the southern part of the island to escape the Turkish attack. Cyprus had been effectively partitioned and, roughly 20 years after first landing on the island, the U.N. peacekeeping force still stands on the dividing line between Greek and Turkish Cypriots.

We cannot perpetuate this sad history by accepting the current division of Cyprus. The unlawful declaration of an independent Turkish state, and its subsequent endorsement by the Turkish Government, have shattered the longstanding U.N. effort to negotiate a settlement to the Cyprus problem. Moreover, this attempt at secession will sharpen the discord between Greece and Turkey, sow disharmony within the NATO alliance, and increase tensions in the already sensitive area of the Southeastern Mediterranean.

The Congress has condemned the secession and the Turkish recognition, and has urged the reversal of both. While there has been talk of negotiations in recent weeks, the prospect of a diplomatic resolution is remote. The Cypriots' hope for freedom requires additional action. Turkey and its surrogate state on Cyprus must be made aware that continued indifference to the suffering they have caused will have serious consequences.

As a free and compassionate nation, the United States must reaffirm its commitment to the reunification of Cyprus. The effort to negotiate a settlement to the dispute between Greek and Turkish Cypriots is certain to be difficult and lengthy. Yet, the mere passage of time must not force the Cypriots and their friends to acquiesce in the permanent division of that land.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXPORT ADMINISTRATION ACT AMENDMENTS

The PRESIDING OFFICER. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

A bill (S. 979) to amend and reauthorize the Export Administration Act of 1979.

The Senate resumed consideration of the bill.

Mr. GARN. Mr. President, only those with their heads in the sand would fail to recognize the current expansionist policies of the Soviet Union. Their announced goal is to rearrange the international system in their favor. To achieve this the Soviet Union has become deeply involved in every major area that is threatening international stability. For well over a decade they have conducted a massive buildup in conventional and nuclear forces that is without precedent and totally unrelated to their legitimate defense needs. The Soviets and their surrogates are continually aiding revolutionary and subversive movements worldwide. Their brutal aggression is continuing in Afghanistan, as is their support for the most radical and destabilizing forces in Latin America, the Middle East, and Africa.

The New York Times last summer publicized a series of articles on the activities of the KGB, and I ask unanimous consent that the articles be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GARN. Mr. President, in 1983 alone 147 Russians were expelled from various countries for illegal spying activities. These expulsions have been from nearly every country in Western Europe, as well as from Australia and Japan. Yet these expulsions represent only the tip of the iceberg in Soviet intelligence activities. For example, the Times article estimated that there are as many as 400 Soviet agents operating in France alone, not including any agents operating there from other Warsaw Pact intelligence services. Mr. President, my colleagues might be interested to know that there are reportedly 75 Soviet intelligence officers assigned to the Soviet consulate in San Francisco, close to the famous Silicon Valley. Recent press accounts have focused on the possibility that the Soviet consulate there regularly intercepts microwave telephone communications and the technology that is so transmitted.

It is instructive to review the activities that the Soviet agents were engaged in thatled to their expulsion. The Soviet Vice Consul in Geneva, Switzerland was expelled for his activities in collecting technological and economic information. Denmark expelled the Soviet KGB chief in Copenhagen in charge of the section for science and technology. This Soviet agent was expelled not only for his pursuit of Western technology but also because of his efforts to put a Danish accomplice on the country's Fulbright Scholarship Committee. The Belgian Government expelled the director general of a Soviet-Belgian company interested in computers. His predecessor had also been expelled 7 years earlier. The much publicized expulsion of 47 Soviet journalists and diplomats by the French Government was targeted on Soviet agents involved in acquiring technological information.

In the latter part of last year, the Belgian Government expelled another six Soviets and East Europeans for economic espionage. These individuals were involved with a company in Brussels that acted as a front for Soviet bloc spy activities. These expulsions followed the arrest of an East-bloc trade specialist in the Belgian Foreign Ministry for selling confidential documents to the Soviet bloc. In mid-September, the Canadian Government expelled two Soviet officials for high technology espionage.

Mr. President, the point in reviewing these expulsions is to emphasize that the Soviet Union has attached highest priority to the acquisition of Western goods and technology. A recent study by our intelligence community described the Soviet effect as "massive, well planned, and well managed—a national-level program approved at the highest party and governmental levels." Unfortunately, this Soviet effort has by and large been successful. In hearings before our committee, Under Secretary of Commerce for International Trade, Lionel Olmer, described the loss of Western technology to the Soviet bloc as a hemorrhage.

This Soviet effort jeopardizes our national security—which is based on maintaining a substantial technological advantage over the Soviet military—and imposes very heavy budgetary costs on us and our allies. In response to one of my written questions following a committee hearing on the Export Administration Act, the Assistant Secretary of Defense for International Security Policy, Richard Perle, stated that the loss of technology and goods to the Soviet Union, by both legal and illegal means, has cost the U.S. Government tens of billions of dollars in added costs to the defense budget in order to respond to this technological loss, and he added that these are costs that cannot be recaptured.

Air Force Maj. Gen. Doyle E. Larson, Commander of the Electronic Security Command, described the effect of this transfer of Western goods and technology on the Soviet military:

> In 1970 the Soviet Union was behind in almost every aspect of military technology from strategic weapons down to light vehicles. It did not have a single successful attack-fighter design, and the fire control systems for its tanks were grossly inferior. Its anti-tank missiles were primitive as were its air-to-air missiles, avionics and aircraft guns. It lacked modern lightly armored vehicles, relied on towed artillery, had no modern helicopters in combat units, and had no modern communications in its land forces. Today . . . virtually all of the above defects have either been eliminated or compensations made.

The intelligence community report summed up these costs by stating that:

> It is clear that the Western military expenditures needed to overcome or defend against the military capabilities derived by the acquisition of Western technology far outweigh the West's earnings from the legal sales to the Soviets of its equipment and technology.

So, Mr. President, when we are considering the renewal and amendment of the Export Administration Act, we must keep foremost in our minds the strategic purpose of that act and the threat to our national security and the costs to our national budget that the act is supposed to address. We must do nothing in considering this legislation that will serve to weaken our national security by making it easier for our adversaries to obtain Western goods and technology with which to fashion weapons to threaten our society.

Mr. President, the cost of defense are skyrocketing with each new generation of sophisticated weaponry. We can no longer afford to meet that cost and build up our adversaries at the same time. If we cannot endlessly increase our defense spending, and that is becoming ever more clear, then we have no choice but to organize ourselves much more effectively to control the transfer of critical goods and high technology to our adversaries.

Mr. President, passage of the bill S. 979 by the Senate, as reported without objection by the Banking Committee, is supported by the administration. It takes major steps to enhance the national security of the United States and our allies. At the same time, it contains provisions that will make major changes that will improve the competitiveness of American exporters. This is reflected in the wide support that the bill enjoys from both American business and from individuals and groups representing strong national security interests.

For example, Mr. President, my colleagues and I have received a letter, signed by 20 different trade associations, including both manufacturing and agricultural interests, in support of this bill. Among those associations that signed the letter are the Business Round Table, the Chamber of Commerce of the United States, the National Grange, the National Corn Growers Association, the National Association of Manufacturers, the Electronic Industries Association, and many others. Their letter says, in part:

> We urge you to support S. 979 without any amendment which would weaken the Committee bill." It then goes on to commend the Banking Committee, "for its efforts in shaping a bill which would protect our national security and foreign policy interests while enhancing our economic security through exports. We view this legislation * * * as extremely important. * * *

As the Banking Committee was considering this bill, an important letter was sent to the President by members of the Senate Steering Committee. Signed by Senators Helms, Hatch, McClure, Denton, Nickles, Thurmond, East, and Symms, the letter called for a strong bill that took into account the key elements of S. 434, introduced by myself and eighteen of my colleagues in this body. Mr. President, that concern has been met in this bill before us today, and I am grateful for the support and assistance that I have received from my colleagues as this bill was developed.

Mr. President, in order to have an export administration system that meets our national security, foreign policy, and economic needs, I have kept three objectives in mind as I have reviewed this act:

Achieve better government and administration of our export control system, including adequate enforcement of the law;

Assign a higher priority and greater visibility to export administration; and

Increase the efficiency of export administration so as to minimize its effect on American producers and exporters.

I feel confident that S. 979 achieves each of these goals, but it does so only as the bill is taken as a whole. Just as our freedoms at home can only be maintained by a strong national defense, so can our trade restrictions be liberalized only within a context of enhanced discipline and effectiveness in our efforts to enforce those controls that are maintained.

For example, Mr. President, S. 979 places greater emphasis on the use of licenses for multiple exports of items controlled under the act, thereby greatly reducing the paperwork burden on exporters and facilitating the flow of potentially sensitive exports. One section of the bill creates a new license for multiple transfers of technology beyond our borders. Another provision provides for the decontrol of certain exports to our allies. I support these provisions, but only insofar as they are accompanied by increasing the role of the Defense Department in reviewing appropriate licenses before they are granted, as well as by enhancing our enforcement capabilities.

Thus, the bill would transfer enforcement responsibilities for the act from the Commerce Department—our trade promotion agency—to the Customs Service, a traditional law enforcement agency with centuries of experience in enforcing the law at our borders, and with well established relationships with our allies for conducting investigations abroad. This move is strongly supported by the evidence accumulated during months of investigation by the Permanent Subcommittee on Investigations of the Governmental Affairs Committee and by almost a thousand pages of testimony before both that subcommittee and the full Banking Committee. In taking this step, the bill incorporates the substance of bill S. 407, introduced by Senators Nunn and Chiles, as well as a chief provision in bill S. 397, introduced by Senator Heinz, and cosponsored by Senator Tsongas.

Equally important with regard to enhancing enforcement is the provision of the bill granting the President the authority to deny access to the United States market for imports from companies that violate our national security export controls.

If a foreign company, in many cases contrary to promises it may have given, transfers sensitive technology or goods to our adversaries, I see absolutely no reason why we should feel bound to continue to give them access to our markets. The United States is the biggest market in the world. That is one of our greatest strengths, and I do not think that many companies will take long to decide if they had to choose between exporting sensitive technology and goods to our adversaries and having access to sell to the United States. Not only would that be a strong deterrent to violations of our export controls, but in many cases it may be the only deterrent to such actions by companies operating abroad. Furthermore, it is a sanction that affects the target of it directly and significantly, while at the same time can be used so as to have little or no negative effect on any American producers. The availability of such a sanction would allow us to take the various steps to liberalize our controls on trade with other Western nations as are contained in this bill.

Mr. President, this delicate balance is also found in the foreign policy control provisions of the bill. S. 979 provides for simple and unqualified sanctity of existing contracts at the time of the imposition of new foreign policy export controls. Taken by itself, this provision would represent a serious limitation of the President's ability to conduct an effective foreign policy, and I would be unable to support it. At the same time, however, as S. 979 provides for contract sanctity—significantly restricting the use of export controls as a foreign policy tool—the bill gives the President the authority to apply import controls for foreign policy purposes, and thus preserves the ability of the President to take significant action in promotion of major foreign policy interests without having to resort to the use of force.

Moreover, Mr. President, foreign policy import controls have the virtue of placing the costs of economic sanctions on the target country rather than on the American exporter. Instead of saying to the American exporter that Libya has been conducting an unacceptable foreign policy and therefore you must lose export sales, we would be saying to the Libyans that unless they conduct themselves appropriately in their international relations we will not accord them the privileges of importing their products into the United States. In this manner, it is clear who will be paying the cost.

In summary, Mr. President, S. 979 does what no one expected would happen when we began this process of examining the Export Administration Act. It strongly promotes both national security and export concerns. In fact, it is by achieving exactly both of these objectives simultaneously that we have any bill at all. This is what concensus is all about, and it is the hallmark of the Senate. As long as this delicate balance is maintained we will have an excellent bill worthy of the support of all of the Members of this body. If adopted in its present form, the legislation can result in greater security and reduced defense costs. An ineffective Export Administration Act on the other hand would mean little security that no increase in defense costs could overcome.

I heartily commend those of my colleagues who are responsible for this bill, particularly the senior Senator from Pennsylvania (Mr. HEINZ), who has long been a leader on this issue. I would also commend and thank the ranking minority member of the Banking Committee, Senator PROXMIRE, who has been very supportive in producing this bill; and also Senators COHEN and NUNN, whose work in the Governmental Affairs Committee investigating the enforcement of our export controls has been of invaluable service to the process of improving this act.

Mr. President, I ask that the administration policy statement in support of S. 979 as well as the letter from the business group in support of the bill be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY

S. 979—EXPORT ADMINISTRATION ACT AMENDMENTS OF 1983

The Administration supports passage by the Senate of S. 979 as reported, but will work to delete or modify provisions in disagreement in Conference.

THE BUSINESS GROUP ON THE
EXPORT ADMINISTRATION ACT.
September 1, 1983.

Hon. JAKE GARN,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR GARN: The Export Administration Act (EAA) of 1979 expires on September 30, 1983. The Senate Banking Committee has reported S. 979, the Export Administration Act Amendments of 1983. The bill extends and modifies the Act, particularly with respect to foreign policy export controls and national security export controls.

The American business and agricultural communities have come together to form a "Business Group" to address the extension of the EAA. While we have reservations about some provisions, we urge you to support S. 979 without any amendment which would weaken the Committee bill. The Business Group commends the entire Banking Committee for its efforts in shaping a bill which would protect our national security and foreign policy interests while enhancing our economic security through exports.

We view this legislation to amend the current Export Administration Act as extremely important in light of the fact that exports, and the jobs they generate, are critical to the health of the domestic economy. The U.S. share of world exports has been declining due in part to U.S. export control policies which cause foreign customers to view American businesses as unreliable suppliers.

S. 979 will be considered by the full Senate very soon. We urge you to support the bill. We hope that our concerns about several national security provisions (outlined in the attached) will be addressed in conference.

Sincerely,

American Association of Exporters and Importers, American Electronics Association, American League for Exports and Security Assistance, American Soybean Association, the Business Roundtable, Chamber of Commerce of the United States, the Computer and Business Equipment Manufacturers Association, Computer and Communications Industry Association, Electronic Industries Association, Emergency Committee for American Trade, National Association of Wheat Growers, National Association of Manufacturers, National Corn Growers Association, National Custom Brokers and Forwarders Association, National Foreign Trade Council, National Grange, National Machine Tool Builders Association, Petroleum Equipment Suppliers Association, Semiconductor Industry Association, U.S. Council for International Business.

EXHIBIT 1

[From the New York Times, July 24, 1983]

THE K.G.B. GOES ON THE OFFENSIVE AND THE WEST BEGINS STRIKING BACK

(by John Vinocur)

BONN, July 23—The Soviet intelligence and security agency, the K.G.B., has entered a phase of aggressiveness in its activities in the West, according to allied officials. The upsurge is cited as the principal cause of a series of expulsions of Soviet agents from countries around the world since the start of 1983.

The number of Russians expelled for illegal intelligence-gathering so far this year has reached 90, according to the United States State Department. Six others, identified as spies, left on their own. The total for all of 1982, according to United States Government records was 49; in 1981, it was 27.

TECHNOLOGY AND MISSILES

The increased number of expulsions, including the French decision to order the departure of 47 Russians in April, is widely described as a function of the stepped-up K.G.B. effort, but not a result of a coordinated Western campaign.

Although there were varying views on the degree of increase in the K.G.B.'s activities, intelligence analysts, government officials, and active and former counterespionage officers interviewed in six European countries and the United States agreed that the areas of Soviet concentration were the acquisition of advanced Western technology, and an attempt to block, through political-influence operations, NATO's deployment at the end of the year of new nuclear missiles in Western Europe.

During the first half of this year every North Atlantic Treaty Organization member in Europe with the exception of Luxembourg and Portugal expelled or arrested men described as Soviet agents.

The latest of the Russians to be expelled was Vladislav Istomin, a Vice Consul in Geneva, who was told to leave Switzerland early this month after he was described as a spy specializing in the collection of technological and economic information.

Switzerland, a neutral, also closed the Bern bureau of the Novosti press agency, citing its attempts to influence disarmament groups calling themselves the peace movement, and threw out a Soviet journalist and a diplomat described as his K.G.B. superior.

Denmark expelled Yevgeny Motorov, head of Line X for the K.G.B. in Copenhagen. Line X is the field section for science and technology.

Danish counterespionage sources said he tried not only to obtain microelectronic equipment on NATO's embaroged lists, but also to interest a Dane, a potential agent, in joining the country's Fulbright Scholarship Committee.

A PRIZED TARGET

In Belgium, Yevgeny Mikhailov, a director general of a Soviet-Belgian company interested in computers, was thrown out, just as his predecessor was seven years.

These expulsions have counterparts in Thailand, Australia and Japan, a particularly prized target for its technological innovations. Even the Iran of Ayatollah Ruhollah Khomeini sent home 18 Russians described as K.G.B. agents, denouncing their "treachery."

If Soviet efforts to acquire technology in Japan are regared by United States officials as particularly intense, it is in Western Europe that counterintelligence officials have been most forthcoming in discussing K.G.B. activities.

"We see a multiplication and an intensification in the technology sector that must reflect unusual pressure to perform," a West German counterespionage official said. "I just wasn't there before in the same degree. They've become very aggressive."

Another West German expert spoke of a coordinated, intense campaign to mobilize Western opinion against the new NATO missiles.

"ABUSIVE" AND "OUTRAGEOUS"

In Paris, aides to President Francois Mitterand used the words "abusive" and "outrageous" in describing the K.G.B. activities that led to the expulsions there.

An American who surveys Soviet espionage activities dated the buildup back two and a half to three years.

The onset of détente in the late 60's led to a general upswing in efforts by the K.G.B., he said, "but their plans appear to have been pushed forward. If you look at the behavior, you cannot reach another conclusion."

"The people who were on the streets work overtime, and the other guys who were usually in the house went into the streets," the American said.

He found a symbol for the expansion in a Soviet general, a man normally leaving his office only rarely, who was "hustling on the street"—seeking to make an illegal contact in an allied capital.

The start of the buildup preceded the coming to power of Yuri V. Andropov, the Communist Party chief who headed the K.G.B. and its half-million or more agents for 15 years.

But it developed under him—and with it the K.G.B.'s reputation as a highly skilled, professional organization, hampered by bureaucracy, corruption and internal rivalries, yet unquestionably respected, or reviled, as a leading international instrument of Soviet power.

A DIVISION OF LABOR

In addition to the K.G.B.'s assertiveness, there are reports of its increased use of Eastern European intelligence services in coordinated operations.

A West German expert, one of those in Western Europe who see relatively limited changes in the tempo of Soviet espionage, insisted that its overall effectiveness had grown because of better division of labor—giving tasks formerly accomplished by K.G.B. officers to the so-called "satellite agencies."

Documents turned over to the Swiss authorities after the occupation of the Polish Embassy in Bern by dissidents showed unusual coordination between the East bloc embassies there in amassing information on military matters.

Some evidence exists that East Germany, after having achieved remarkable penetration in West Germany, is increasing its espionage effort in Scandinavia, notably in Denmark.

The Czechoslovaks are strongly present in Austria—the West European country widely described as the least resistant to Soviet-led espionage—and the Bulgarians in Italy, Greece, and Turkey.

A United States Government document, assessing a decade of Western technology collection by the Soviet intelligence agencies and their East European counterparts, found last year that it had saved the Warsaw Pact "hundreds of millions of dollars" and "years in development time."

The acquisitions, the report said, have permitted the modernization of the pact's weapons industry, greater weapons performance, and the ability to build in countermeasures "to Western weapons early in the development of their own weapons programs."

General notions of the extent of the K.G.B.'s activities have been reinforced as well.

TRAINING OF TERRORISTS

Pro and con discussions among Western intelligence agencies, current six or seven years ago, over the possibility of Soviet involvement in the training of terrorists have largely subsided, replaced by a general acceptance that as many as 2,000 or 3,000 members of the Palestine Liberation Organization received specialized training in the Soviet Union. The P.L.O., in turn, furnished instruction to Western European terrorists.

Varying presumptions and theories still exclude any single line among the Western agencies about the role Mehmet Ali Agca says the K.G.B. played in aiding his attempt on the life of Pope John Paul II in 1981.

The French and Italian intelligence services are among those tending to accept the premise that the Russians were a party to the shooting. But, with the exception of the Italians, none of the European counterespionage agencies seem to have made a priority of investigating the case.

Rather, the attention of these agencies is mainly focused on trying to keep track of the K.G.B. officers in so-called "legal" positions—embassies, trade missions, international organizations—running agent networks made up of target-country nationals and "illegals," or Russians with false identities who have been submerged over periods of 10 to 15 years in the West.

The job is enormous. In most Western countries, the percentage of officers of the K.G.B., and the G.R.U., the Soviet military intelligence organization, among Soviet "legals" is estimated at about 30 to 40 percent of the entire Soviet representation.

A PRIME TARGET

In a country like France, this would mean about 400 officers. According to Nikolai Polyansky, a Russian who defected while working for Unesco in Paris in 1981, the percentage of Soviet intelligence officers in a country like Switzerland, a prime target because of its international organizations and financial community, runs to about two-thirds the entire staff.

In France, officials consider that the number of Soviet agents has increased significantly, and date the buildup from the last four years.

In West Germany, where the mass of Warsaw Pact intelligence operations are carried out by East Germans, the 408 Russians in official delegations have been described as including 109 confirmed intelligence officers, and 77 who are suspected of serving intelligence functions.

Since full, 24-hour surveillance of a single Soviet officer by a counterespionage service, including relays and replacements, can involve as many as 20 men over a week, pressures on counterespionage services have grown.

FATIGUE AND ANGER

"To understand what the French did when they threw out the 47," an expert explained, "you can assume that the decision was weighed politically, and bolstered by very good evidence obtained by the very best technical means. But plain fatigue and real anger played a part."

The French expulsions, which clearly strengthened the determination of other governments to move against K.G.B. operations, were essentially aimed at Line X in Paris. President Mitterand actually received 127 names for possible expulsion, and the final list was drawn from them.

The Government's vague explanation at the time of the expulsions in April mentioned intolerable interference in several areas of French life.

The cases, in fact, involved rather classic military espionage, with considerable, but not dominant, interest in France's development of a neutron weapon.

Soviet officers bribed and blackmailed French citizens. The lack of arrests of the K.G.B.'s French agents has been explained privately as an attempt to keep the Russians in the dark about the extent of French knowledge of their operations.

A K.G.B. DEFECTOR

The French have described as "interesting in a general sense without direct bearing on the expulsions" a series of disclosures about K.G.B. operations by Vladimir Kuzichkin, a K.G.B. major in charge of illegal operations in Iran who defected to Britain in June 1982.

One report, attributed to a Western diplomat in Moscow, told of France's breaking a Soviet Embassy code through an unusual technological advance. There was no confirmation, but highly perfected listening and surveillance devices are believed to be an important factor in the West's evaluation of K.G.B. activities.

Mr. Polianski said in an interview that all Western intelligence agencies had enough detailed information on Soviet intelligence officers and their activities in Western countries to proceed with scores of expulsions, and that this had been the case in France for years.

"All that was needed is the political will," he said. "Mr. Mitterrand had it. His predecessor did not. The evidence is there. Take West Germany. The evidence is there. The political will is missing."

Intelligence officials repeatedly state that expulsions and attitudes of individual countries toward Soviet intelligence activities go far beyond the activities themselves and relate to domestic politics.

If a Socialist Government can expel 47 Russians without difficulty or severe reprisal, an official said, then similar decisions become less problematical elsewhere.

There is a strong assumption among intelligence and political officials outside France that, regardless of the Soviet Union's "abusive" and "outrageous" behavior, Mr. Mitterrand would not have made his decision unless he had some clear political points to make.

The officials assume that he sought to weaken the French Communist Party as a source of potential trouble within his coalition Government of Socialists and Communists; to strengthen his anti-Soviet credentials at a time when France hoped for maximum understanding of its economic problems among its Western allies, notably the United States, and to cut the ground away from any domestic opposition that would push for French acceptance of the Soviet demand that French missiles be counted in calculation a possible agreement on intermediate-range nuclear missiles in Europe.

For a former British specialist in Soviet intelligence operations, the most significiant aspects of the series of expulsions are whether the Russians are allowed to substitute new personnel, and if there are signs, however small, of the expulsions' effect on K.G.B. operations.

So far, in France, none of the K.G.B. officers have been replaced. The Soviet Union has proposed three or four names to fill the corresponding positions at Unesco from which its men were expelled, but they have not been approved by the French Government.

VIRTUALLY NO RETALIATION

For some experts, the fact that there has been virtually no retaliation by the Soviet Union for most of the expulsions is a clear sign that it seeks to limit damage by avoiding a cycle of countermeasures and new reprisals.

In the case of France, the Russians are understood to have been informed that dozens of new expulsions could take place if the French Embassy staff in Moscow were diminished.

Expulsions in themselves are believed to create substantial problems within the K.G.B.

As a result, numbers of experienced officers cannot be used easily in the West again, and extreme caution must be employed in running operations and developing or maintaining contacts with agents who may be under surveillance.

Because foreign postings are considered substantial career rewards, there are psychological and bureaucratic problems in reintegrating men into service at home, often in dismal internal security jobs in the Soviet provinces.

[From the New York Times, July 25, 1983]

A TRAIL OF WESTERN TECHNOLOGY IS FOLLOWED TO THE K.G.B.'S DOOR

(By John Vinocur)

PARIS, July 24.—Every year western high technology with military applications, worth millions of dollars, disappears beyond the borders of the Soviet Union and its allies. Sometimes the Warsaw Pact's procurement effort is so effective that the embargoed equipment is even returned to the West for secret repairs.

American laws and North Atlantic Treaty Organization agreements ban the transfer of such sophisticated microelectronic and computer equipment. But the volume reaching the Eastern bloc is startling, according to Western intelligence experts.

Much of it is obtained, they say, through dummy corporations and covert suppliers who cooperate with the technology procurement campaign, which is regarded as the current primary task of the K.G.B., the Soviet intelligence and internal-security agency, and the G.R.U., its military counterpart.

THE CASE OF THE MAN AT ORLY

How it works is illustrated through a case involving Jean Didat, a freight forwarder at Orly Airport in Paris. He has taken some extraordinary troubleshooting trips. The most brazen was traveling to Amsterdam to handle a shipment of advanced American-made microelectronic equipment, strategic goods weighing more than a ton, that the Russians were secretly flying back to the West from Moscow for servicing.

The Czechoslovaks also complained about their covertly obtained million-dollar American computers, he said. The Warsaw Pact countries' grievances were dizzying because they concerned sensitive American technology acquired from Western European middlemen systematically diverting embargoed material to the East.

According to Western experts, most of the goods correspond to precise shopping lists administered by Soviet intelligence agencies. It was a Fairchild Sentry 7 quality control system for testing integrated circuits that Mr. Didat said was shipped westward from Moscow for repair. The Sentry 7 is on the United States list of technology proscribed for export to the Soviet Union and its allies.

Last year a United States Government document, trying to describe the scope of the illegal acquisitions, said that they had eroded the technical superiority of Western weapons and that stopping the procurement was one of the West's "most complex and urgent issues." The intensity of K.G.B program is such that it is said that the Central Intelligence Agency has set up a special internal organization to deal with technology transfers.

Defining the Soviet operation, the Government report said the K.G.B., with the extensive support of the intelligence agencies of Eastern Europe, had the main responsibility for collecting "Western classified, export-controlled and proprietary technology."

"These intelligence organizations," the report said, "have been so successful at acquiring Western technology that the manpower levels they allocate to this effort have increased significantly since the 1970's to the point where there are now several thousands technology collection officers at work. These personnel, under various covers ranging from diplomats to journalists to trade officials, are assigned throughout the world."

According to an expert in Washington, there may be as many as 100 K.G.B. collection officers working at the Soviet Embassy in Tokyo, one of the most fertile areas for acquisitions. In general, the Japanese efforts to control the process are regarded as slower in starting than those in the United States, or in Western European countries when their own technology, as opposed to that of third countries, is involved.

MICROELECTRONIC EQUIPMENT

The report said the illegal acquisition of hundreds of pieces of Western microelectronic equipment worth hundreds of millions of dollars had allowed the Soviet Union to build the basic industry for the development of sophisticated weapon systems over the next decades.

According to the document, the level of the acquired hardware and technical skill is such that put together it could "meet 100 percent of the Soviets' high-quality microelectronic needs for military purposes, or 50 percent of all their microelectronic needs."

A table of "notable successes" by the Russians contained in the report listed dozens of items such as advanced inertial guidance components, missile guidance subsystems, computers, lasers and complete industrial processes.

The report asserted that the acquisitions most directly affecting Soviet military development came from the gathering by K.G.B. agents of first-hand intelligence information, and "illegal trade diversions," the purchase of sensitive equipment through dummy corporations in the West for eventual transfer of the Warsaw Pact.

ROLE OF THE MIDDLEMAN

It is here that the middlemen come in. Mr. Didat estimated that his little office at Orly, decorated with a calendar of Soviet movie star from the Soviet film export organization, handles goods worth $20 million to $25 million a year for several years in traffic toward the Soviet Union and Czechoslovakia.

Almost all of it was American high technology material, obtained through an intricate series of post-box companies in Liechtenstein and Switzerland, forged, purchased and misappropriated documents and great amounts of cash.

In his interpretation of French law, Mr. Didat said he felt that the transport end of things, sending crates marked electrical equipment from here to there, was legal. The rest of the business he is familiar with, he said, was managed separately by Robert Almori, also known as Mathurin Almori, or Joseph Lousky, two Frenchmen named this year by a hearing commissioner of the United States International Trade Administration as involved in the reexport of American equipment to "proscribed destinations."

Denied export privileges himself by the United States Department of Commerce in April for having shipped unlicensed high technology from the United States, and questioned last month for two days by the French police, Mr. Didat has not been accused of any crime.

But in separate interviews he and an associate, both describing themselves as manipulated and insignificant, furnished partial details of the some of the operations that, in the view of some investigators in the United States and Europe, have the mark of the Warsaw Pact's technology procurement campaigns.

GROUPS IN FRANCE AND SWITZERLAND

The company that employed Mr. Didat, Cotricom, in which a Mr. Almori, according to the Paris trade register, held a majority share, served as shipper for two parallel groups in France and Switzerland.

Accordingly to the trade register, Cotricom was created in 1977, nine months after the incorporation of Hedera Establishment, a Liechtenstein post-box company that served as an intermediary. After considerable success over a period of years, the operations foundered this year with the issuance of the Commerce Department's trade ban on its principals and subsequent police investigations in France and Switzerland.

Both the French and Swiss legs worked on the principle that American high technology can be bought legally and with relative ease on the open market in the United States and transported to seemingly reputable purchasers in Western Europe without much difficulty.

In some cases, computer subcomponents, electronic manufacturing and testing systems were sent to Cotricom from Technica Limited, a company in Scottsdale, Ariz., run by Michel d'Ormigny. He is a French-born naturalized citizen of the United States, who, after a career in the garment business, went into the microelectronics field in what was believed to be an association with Mr. Almori.

SHIPMENT TO COTRICOM

In at least one instance, a Technica shipment, described as unlicensed by the Commerce Department, was made to Cotricom for the account of Hedera Establishment. The man who signed the Hedera order blank, listing himself as administrator, was Felix Constantine Popovitch.

Mr. Popovitch is a French citizen who said that he was born in Egypt of Rumanian parents and that he received an electrical engineering degree in 1960 from Stanford University. He was employed until his contract was terminated this month as a sales manager for microelectronics by Calma, a wholly owned French subsidiary of General Electric. He worked previously in Japan as Far East marketing manager for Fairchild Systems Technology.

Mr. Popovitch signed the order blank for Hedera because, he said, Mr. Almori, "a buddy, a guy I know," who was involved in Hedera, had asked him for a favor. Although Mr. Popovitch denied it, Mr. Didat asserted that it was he who did the repair work in Amsterdam on the Fairchild equipment he had flown out of Moscow.

Mr. Popovitch has acknowledged involvement in two orders. But, in fact, the volume flowing through Cotricom was vast, and the size and complexity of the equipment great. Mr. Didat said he went to Czechoslovakia to handle what he described as the first delivery of a Fairchild Sentry 7, the type of unit, worth about $400,000, that eventually brought the French leg of the operation into the open.

"About three years ago," said Bernard Goldfarb, a French textile importer and exporter, "Almori came to see me through friends. The way he talked he seemed like a guy with political protection. He told me about his trips to Hungary and the U.S.S.R., and to talk like that I figured someone had to be watching out for him, because what he asked me was to get him an order blank from a certain company so that he could import something under an American embargo."

The company, Mr. Goldfarb said in an interview, was C.G.E. Alstholm, a major French electronics and technology producer nationalized by President François Mitterrand's Government. "I went to see a friend, and I got the order blank," Mr. Goldfarb said. But the association did not end there.

According to Mr. Goldfarb, Mr. Almori returned to see him last year, talking about another order blank and saying he had to go to the United States Embassy in Paris to prove that the signature on an Alstholm purchase order, that of a Mr. Lefevre, was legitimate.

"I stayed up all night practicing writing his name," Mr. Goldfarb said. "Almori told me there was nothing to worry about, that the fix was in."

In fact, the order for two Fairchild units worth $800,000 has raised suspicions when Mr. Didat sought to expedite it in Washington, and the request for an export permit from the United States was never approved. Mr. Goldfarb said he kept 20,000 francs for his efforts and distributed 30,000 more to two intermediaries. (At the current rate of exchange 20,000 francs is worth $2,570, and 30,000 francs is $3,855.) With his acknowledgment of his role to the French police and United States officials, he said, he has experienced "shame I'll never live down."

ILLEGALLY OBTAINED PURCHASE FORM

Mr. Almori has not responded to attempts to have him comment on the case. Mr. Didat said his impression was that Mr. Almori had been delivering to the Soviet union for more than two decades. Somehow, uncharacteristic sloppiness entered the handling of the illegally obtained Alstholm purchase form.

Since the late 1970's, Mr. Didat said, Mr. Almori "got orders from the Russians or Czechs, and most of the time they used U.S. catalogues and showed him precisely what options they wanted." Mr. Didat added: "He never bought what wasn't ordered, and he was paid by the Russians or whoever through accounts in Switzerland and West Germany. But he's not a special case. There are a hundred deliverers like Almori."

The Swiss operation, which involved Hedera, in part, and Mr. Lousky, for whom Mr. Didat, said he also shipped material, had a different mode of procedure because much of the ordering was done from inside an established Swiss electronics company, Favag S.A. of Neuchâtel, a subsidiary of the Hasler holding group in Bern.

According to officials of Hasler, two Favag employees, Pierre André Randin, the purchasing manager, and Marc Villoz, the administrator, both since dismissed, used the company to make orders for American high-technology equipment that was sold off to a dummy corporation apparently for transfer to the East.

DIAGRAMS OF ORDERS

Mr. Randin is described by Hasler officials as the former employee of an American corporation who lives with a Czechoslovak-born woman previously employed by Favag.

He has drawn diagrams showing how a Czechoslovak organization made orders through Hedera that were eventually passed along directly, or via Favag, to Eler Engineering. Thus is a tiny company founded with about $50,000 in capital in Rances, Switzerland, liquidated and then reestablished, also in Switzerland, by Mr. Lousky, whose residence is in Paris.

Other orders had been handled earlier by a second small company, apparently founded by Mr. Lousky, bearing the name Ditton & Drayton.

The equipment includes an order of more than $1 million for three Digital PDP 11/70s computers, described by a United States official as having possible use in missile guidance and the collection of data from satellites, and one VAX 11/780 computer from Data General, sold for about $800,000, in which Czechoslovak engineers were said to have inspected the material in a warehouse near Geneva.

The operation fell apart this spring as a result of the disappearance in 1962 of two American-made machines used in manufacturing microcircuitry. Shipped to Favag by a company in Massachusetts, and resold to Eler the equipment was suddenly gone.

"LARGEST DIVERSION OF ITS KIND"

A Swiss customs service investigation into the affair has described it as the "largest diversion of its kind in the country's history," and a Commerce Department suspension order cited Mr. Randin and Mr. Lousky as having conspired to re-export the two projection mask aligners, made by the Perkin-Elmer Corporation of Norwalk, Conn., to a "proscribed destination."

The machines, worth about $500,000, were traced to France. Mr. Didat does not say he shipped them to Eastern Europe, but like most of the investigators he would not argue against the presumption that they wound up in the Soviet Union.

Mr. Lousky was described by his lawyer as "not in France at the moment." Mr. Didat said no one saw Mr. Almori around anymore.

Hedera Establishment was dissolved as a company last Jan. 31 with declared capital of 15,000 Swiss francs ($7,125 at the current rate of exchange). Under corporate law in Liechtenstein, its papers suggest nothing more about who paid for its multimillion-dollar accounts other than listing the two Vaduz lawyers who served as the entire membership of its "administrative board."

Mr. GARN. Mr. President, I once again wish to thank the distinguished Senator from Wisconsin. I will yield the floor at this time and turn to him for his opening statement on the bill.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I support S. 979 and I agree with virtually everything my good friend the chairman of the Banking Committee has said about the bill. He and I support it together and I think we agree wholeheartedly on its principal purposes.

Mr. President, S. 979 is a bill to renew and amend the Export Administration Act which expired on October 14, 1983. After the expiration of that act, the President exercised authority provided in the International Emergency Economic Powers Act and declared a national economic emergency in order to maintain the export controls that had been in place under the lapsed Export Administration Act. S. 979 will renew, amend, and extend the Export Administration Act through September 30, 1989. The act and regulations issued pursuant to its provisions provide broad authority for controlling the export of civilian goods and technology from the United States to potential adversary nations, if such technology from the United States to potential adversary nation if such technology and goods would make a significant contribution to such nations' military capability if diverted to military application. The President is also authorized by the act to regulate exports in order to further the foreign policy of the United States and fulfill its international responsibilities, or to protect the domestic economy from excessive drain of scarce materials and to reduce the inflationary impact of foreign demand.

The renewal of the Export Administration Act has been a very controversial item in this session of Congress. S. 979, the bill reported by the Banking Committee, is a consensus bill. The bill achieves a balance between our national security needs, that is, to restrict the flow of critical U.S. technology to the Soviet military, and our economic security needs which call on us to promote exports and export-related jobs.

It is a consenses bill because we worked hard to make sure it achieves both purposes. The bill deals with national security controls, foreign policy controls, and it strengthens the enforcement provisions of present law.

Mr. President, I think virtually every Member of the Senate recognizes the terrible burden which the arms race places upon us. We recognize also that the Soviet Union has a disadvantage in that their technology, by and large, is not equivalent to ours. We have an advantage because our technology is superior. In some weapons systems, we are a year ahead; in some, we are 2, 3, or 4 years ahead.

Mr. President, it is most frustrating for us to devote the tens of billions of dollars we devote to research and development for the military—and we are increasing that rapidly and, of course, we should, because it is the very heart of our military strength—and then to see the Soviet Union able to make up this technology advantage because of our export policy.

I. NATIONAL SECURITY CONTROLS

That is why I think the United States must do a better job of controlling exports of our Nation's high technology. We need export controls because the evidence is incontrovertible that the Soviet Union and its satellites have obtained American and Western technical know-how and have made enormous gains, based on that know-how, in building their armed strength. Using U.S. and Western technological developments, the Soviets have rapidly improved their military capabilities in microelectronics, lasers, radar, precision manufacturing, and other areas. Their acquisition of our technology is not an accident. Our committee heard credible testimony regarding the Soviet Union's massive, well-managed technology acquisition programs which are providing them with significant savings of time and money in their military R&D programs.

(Mr. EAST assumed the chair.)

Mr. PROXMIRE. We are losing our advantage. I think we have to recognize that the Soviet Union has more tanks, they have more planes, they have more land-based missiles. The advantage we overcome, to some extent at least, by our superior technology. Our submarines, our planes, and our missiles have technological advantages to provide for greater accuracy and greater mobility, and provide for a technological advantage on our side. It is extraordinary frustrating if we lose that advantage because they are able to secure our technology because of our export program. The acquisitions they make have enabled them to close the gap between our weapons systems and their own and to develop countermeasures to our technological innovations—thus forcing us and our Western allies to spend more on our defense programs.

As a longtime member of the Appropriations Committee, who is increasingly concerned with our spiralling budget deficits—I am appalled by the advantage the Soviets accrue by acquiring our expensively developed technology. They are benefiting from our expenditures and our taxpayers are in effect subsidizing the modernization of the Soviet military machine. Think of that irony, Mr. President. We must stop this hemorrhage of our technology.

The U.S. business community is not unsympathetic to this problem and is not opposed to controls on items whose acquisition by the Soviets would be detrimental to our national welfare. Our exporters are, however, very concerned with export controls that are too broad or which forbid them from making sales which are then made by companies from Japan or Europe. This bill attempts to deal with both of these problems by streamlining controls and upgrading our structure for controlling the acquisition of Western technology by the Soviet Union.

STREAMLINE CONTROLS

In S. 979, we have tried to streamline the national security control list and to keep it updated and focused on only items that are of critical military significance. It seeks to protect the rights and interests of exporters by simplifying and expediting licensing processes where possible.

For example, S. 979 provides the Secretary of Commerce with authority to issue a comprehensive operations license for multiple exports and reexports of technology and related goods—including items on the militarily critical technologies list—from a domestic concern to and among its subsidiaries, affiliates, or other approved consignees that have long-term contracts with the exporter. The bill does not provide that such a license would be issued as a matter of right. It would be granted only after an approval of the exporter's system of controls, which would have to be reexamined at least once a year.

Use of the license would, however, help minimize administrative burdens on U.S. exporters and, at the same time, provide a strengthened system of controls to prevent diversions. S. 979 would make explicit right of the Secretary of Defense to review the issuance of such multiple export licenses where there is a clear risk of diversion of militarily critical goods or technology to proscribed destinations. S. 979 also enlarges the advocacy role of exporters in the formulation and conduct of export control policy and increases congressional oversight of the process in order to prevent abuses.

STRENGTHEN COCOM

But American businesses have complained that our allies do not control the leakage of high technology from their manufacturers. Testimony before the committee shows that while we prohibit certain exports to the Soviet Union, our allies—particularly Japan—make the sales. The result is that the Soviet Union gets the technology; we lose the sales and jobs; the Japanese companies get the profits and are further strengthened to penetrate our domestic markets.

This bill reinforces the President's mandate to negotiate an improved multilateral control system by upgrading the Coordinating Committee Agreement, Cocom, to a treaty status. The Cocom is presently an informal multilateral control body in which we participate with our NATO allies, minus Iceland, and Japan. Raising this informal agreement to the status of a treaty will signal to our allies the importance our Government attaches to the need for export controls on equipment which threaten our mutual security.

Besides this symbolic move, the bill also directs the executive branch to work in Cocom to update the list of technologies that need to be controlled and to harmonize licensing and enforcement mechanisms among Cocom members.

As part of this effort to strengthen multilateral controls, the bill provides the President with authority to deny a company which violates national security controls, whether they are maintained by the United States or Cocom, the privilege of importing items into the United States. We want potential violators of national security controls in other countries to know that they may have to choose between engaging in illicit trade and having access to the U.S. market.

ROLE OF THE SECRETARY OF DEFENSE

Besides attempting to streamline licensing and to strengthen Cocom, the bill also seeks to clarify the role of the Secretary of Defense in the review of high technology license applications. The Secretary will continue to have a right to review any proposed export of goods or technology to any country to which exports are controlled for national security purposes. These countries are for the most part the Soviet Union and Eastern Europe, but include Cuba and North Korea.

He may also review the export of items on the militarily critical technologies list to free world destinations if he has reason to believe there is a clear risk of diversion to the Soviets, and if the Secretary of Commerce concurs in such a review by DOD. Any disagreement between the two Secretaries on the latter point is to be resolved by the President.

II. FOREIGN POLICY CONTROLS

S. 979 continues to provide the President with authority to control exports for foreign policy purposes. The bill states that it is U.S. policy to use export controls to restrict the export of goods and technology where necessary to further the foreign policy of the United States, or to fulfill its declared international obligations, or to encourage other nations to prevent the use of their territories by international terrorists.

The bill makes clear, however, that the President is expected to exercise prudence in utilizing foreign policy controls. Thus section 6(b) of the bill lists six Presidential determinations that must be made before foreign policy controls can be imposed on exporters. These criteria include, among other things, whether such controls, are likely to achieve their foreign policy purposes in the light of other factors, including the availability of embargoed goods from other sources. The determining words in the bill's declaration of policy and in section 6(b), dealing with export controls and the foreign availability of goods, are that controls can be imposed, despite foreign availability, if the purposes of the controls can still be achieved despite foreign availability.

The committee report, in addressing this matter, states that the committee recognizes that there may be cases in which the actions of the country against which controls have been instituted are of such an abhorrent nature that U.S. foreign policy controls would be appropriate despite the decision of our allies not to cooperate. Present uses of such controls which are an example of how they might be employed despite foreign availability include:

First, requiring a validated license for the export of crime control and detection equipment to certain countries in order not to have the U.S. contribute to violations of human rights by governments in those countries;

Second, controlling the exports of weapons, and the equipment to make them, to South Africa in order to distance our country from the repugnant practice of apartheid practiced by the Government of that increasingly isolated country;

Third, controlling exports of certain items to Syria, Yemen, Libya, and Cuba in order to combat international terrorism.

Thus the determination criteria in section 6(b) are not as restrictive of Presidential authority as might appear on first reading them.

Section 6 of the act, which provides Presidential authority to impose foreign policy controls, has also been amended to state that the President cannot abrogate contracts already in effect at the time at which the President imposes export controls. The act provides that in the future foreign policy controls are to be prospective in nature only. Nevertheless, the committee recognized that abrogation of contracts might be appropriate in certain foreign policy emergency situations. S. 979, therefore, amends the International Emergency Economic Powers Act, to make explicit the President's authority to abrogate contracts in foreign policy emergencies.

This bill also attempts to strengthen the President's hand in using foreign policy controls by giving him the additional authority to control imports from countries that are the targets of foreign policy controls. This authority is intended to lessen the burden on American exporters, who have heretofore been asked to pay the entire cost of foreign policy controls in this area. Such authority, however, does not extend to using import controls against nontarget nations, even if their cooperation is needed to insure the effectiveness of such controls.

III. ENFORCEMENT

As I noted above, this bill attempts to emphasize strict controls on truly critical items whose export needs to be restricted, and the lessening of controls on other items. It also seeks to insure that the administration and enforcement of export controls will be handled efficiently and effectively.

For years I have felt that the Department of Commerce should not simultaneously administer both our export promotion and control programs because there is an inherent conflict between these two functions. Testimony before the Banking Committee during consideration of this bill strengthened my conviction on this point. Several members of the Banking Committee wanted this bill to establish an Office of Strategic Trade, a new independent Federal agency within which all the export administration and enforcement functions of the Government would be coordinated.

Presently such functions are scattered throughout a number of different departments and agencies and we wanted to pull them together. Although the committee found considerable merit in this concept, it decided to delay action on the matter until the administration was able to conduct a study outlining the feasibility of such a proposal. The bill thus requires the President to submit to Congress a proposal for creating an Office of Strategic Trade, not later than March 15, 1984.

The President, in developing this proposal, is directed to take into account several factors, including the need for better coordination of export licensing and enforcement under this act and other laws that provide authority to impose controls on exports. The committee report states that the administration should not incorporate its own views regarding the wisdom of creating such an office in its proposal but should set forth in detail how such an office can be effectively created. We in the Congress will then be in a much better position to thoroughly consider this matter.

However, this bill also makes immediate changes to the Export Administration Act's enforcement provisions that will partially cure the conflict in the Commerce Department's authority that I have mentioned above. It transfers primary responsibility for enforcing the act's provisions to the U.S. Customs Service. That agency is one of the traditional law enforcement agencies of the Government and has substantial resources and extensive enforcement experience. Moreover, the resources of the Customs Service are already in place in all of the major U.S. ports of exit through which illegal exports might pass.

The bill's transfer of primary enforcement authority to the Customs Service is also another sign of our recognition of the important role that must be played by international cooperation in any successful enforcement effort. The Customs Service is in an excellent position to conduct export control investigations abroad because it has counterpart agencies in so many countries with which it has day-to-day working relationships.

Besides upgrading the role of the Customs Service, this bill also strengthens enforcement by confirming that the criminal penalties provided in the act are available to punish attempts and conspiracies to violate the act as well as to punish completed violations.

The bill does leave the licensing of exports within the Commerce Department but creates a new Under Secretary of Export Administration to raise the priority and visibility of the function within the Government. Presently the Assistant Secretary for Export Administration must report to the Under Secretary of International Trade, who also has important responsibilities for export promotion. The new Under Secretary created by this bill will be the chief spokesman and the focal point for export licensing within the Government. I am fully aware that the present Under Secretary has taken a strong enforcement position. My concern is that this policy be institutionalized for the future.

In summing up my reasons for commending this bill to my colleagues, I want them to know that I am very much aware that the subject of using export controls to achieve foreign policy and national security goals has become quite controversial in this time of high unemployment in our country, and particularly when we realize that each $1 billion increase in exports results in 24,000 new jobs. But we keep this in perspective. Last year, the United States exported over 150 billion dollars' worth of manufactured goods. Of that total, less than $1 billion in exports were affected as a consequence of export controls for national security reasons. We must balance this small loss of exports with the recognition that without effective export controls we will have to spend tens of billions more on defense than might otherwise be the case.

I am absolutely convinced that the bill before us attempts to and succeeds in striking a proper balance between our national security and economic security needs. I therefore urge my colleagues' support in passing S. 979.

I may say, Mr. President, this Senator was very impressed by the testimony of the Department of Defense and by the testimony of the U.S. Customs Service. Customs, after all, is an enforcement agency. They have the expertise, they have the competency, they have the experience, and they have the personnel to enforce our export controls. The Commerce Department has none of that. The Commerce Department's purpose is to promote trade, promote exports. That is a very worthy, commendable purpose, but it is also a purpose which has a direct conflict with out need to control and limit exports that can benefit the Soviet Union. That is precisely what this bill tries to do.

It gives the Department of Defense a greater degree of authority in preventing these exports, it gives the Customs Service the power which they need and should have because they are, they should be, the policing agency. We provide for that.

I think this is a good bill, Mr. President, which I am very hopeful will become law.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, as I stated, this is a bill that deserves the consideration of and passage by the Senate. Normally, the situation is that the committee chairman of the full committee or the ranking minority member is the manager of the bill. In this case, Senator HEINZ has been so actively involved in this issue for so many years, particularly as the chairman of the Subcommittee on International Finance and Monetary Policy, that I felt that he should be the appropriate one to manage the bill today because of his long involvement. As a matter of fact, without the cooperation of Senator HEINZ and Senator PROXMIRE, there would not be a bill today.

We started out this process with somewhat different viewpoints on the bill but were able to achieve a consensus. I wanted to recognize particularly the work of Senator HEINZ, not just on this bill but in this area over a number of years, and ask him to manage S. 979 while it is before the Senate.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I accept the challenge laid down by my friend from Utah. I thank him at the outset for his kind remarks. Indeed, we did all begin from somewhat different starting points, but because we were able to reach accords on our various initial differences, I think we have a very good bill. I want to say right up front that without the strong interest of the chairman of the committee and his intimate knowledge of the act and of the problems that we have had over the years with the Export Administration Act, going back to long before he came to this body we would never have had the excellent piece of legislative craftsmanship we have before us today. So I thank my friend and colleague and my chairman, the distinguished Senator from Utah (Mr. GARN), for his kind remarks and for entrusting me with the responsibility to manage this legislation.

Mr. President, let me say that the Banking Committee has indeed worked hard on this bill and, in my judgment, is bringing to the floor a carefully drafted piece of legislation that is the product of considerable thought and analysis. At the same time, it is carefully drafted because it reflects a delicately balanced compromise, the one I referred to a moment ago, between objectives that in the past have proved extremely difficult to reconcile.

On the one hand the right to export—and the need to export for the sake of our economy—is essential. As the U.S. economy matures, and as we face the development of a true world market, thanks to major steps forward in forms of global communication and transportation, the export sector becomes increasingly critical to our overall economic growth. In 1960 exports accounted for 3 percent of our gross national product. In 1970 they represented 4 percent. By 1980, however, that had grown to almost 9 percent, a threefold increase in two decades. There is simply no question among economists of any persuasion that continued growth of our export sector is vital to the health of the domestic economy. And that link, of course, means jobs. The Commerce Department currently estimates that every $1 billion in exports creates between 25,000 and 30,000 jobs. The decline in U.S. exports of over $20 billion from 1982, just 2 years ago, to 1983, based on first quarter data annualized, which means 600,000 jobs, is compelling evidence of this linkage.

Mr. President, both the Reagan administration and the Congress have understood the importance of exports and have worked together on legislative initiatives to break down our own self-imposed barriers to exporting. In 1982, for example, we passed, and President Reagan signed into law, the Export Trading Company Act, which will encourage the development of full service trading companies to assist primarily small and medium-sized companies in the export of their goods and services. Earlier, we made important changes in the taxation of Americans working overseas to assist Americans doing business abroad, particularly project contractors.

In 1981, the Senate also adopted amendments to the Foreign Corrupt Practices Act, legislation which I anticipate will shortly be before the Senate again. These amendments will clarify the FCPA so as not to deter Americans from engaging in legitimate business activities overseas.

Also recently considered by the Senate and signed into law by the President was renewal of the Export-Import Bank. That bill, S. 869, strengthened the Bank's mandate to provide competitive financing for our exporters.

Taken together, Mr. President, there are all pro-export initiatives that reflect the determination of the Congress and the administration that we have a significantly stronger export sector.

On the other hand, the right of export must be reconciled with the need to protect our national security and the need to give the President sufficient flexibility to use export controls for legitimate foreign policy purposes. Stories about leakage of technology to Eastern bloc countries have been in the press frequently and, unfortunately, they have often proved to be accurate. The committee has already built a lengthy record of Soviet attempts to obtain Western technology in its hearings. In addition, our chairman, the distinguished Senator from Utah (Mr. GARN) did detail some of this evidence in his earlier remarks on this bill.

It was apparent to the members of the committee that this problem exists for two reasons that are relevant to the Export Administration Act, namely poor enforcement and lax licensing practices. Rather than dwell on those issues at length, I would refer interested Senators to the report of the Permanent Subcommittee on Investigations of the Government Affairs Committee entitled "Transfer of United States High Technology to the Soviet Union and Soviet Bloc Nations," which was issued on November 15, 1982. That is a most complete report which discusses in considerable detail the problems with the current act. If I may say so, I think the Senate owes a debt of gratitude to the Government Affairs Committee and in particular the Senator from Georgia (Mr. NUNN) for this thorough investigation. The Banking Committee incorporated into the bill before us today a number of recommendations made by the Permanent Subcommittee on Investigations which were contained in Senator NUNN's bill, S. 407.

Mr. President, the Banking Committee, under the outstanding leadership of our chairman, Senator GARN, has worked very hard to develop a consensus bill that takes into account both our export needs and our security objectives. This bill is designed to simplify and streamline the licensing process under national security controls, focusing the control system on goods and technology that are militarily critical and making the question of foreign availability a major consideration in decisions to place an item under controls and to grant an export license for it.

Because of these changes, our bill will be of great help to American exporters, particularly our high technology industries who have experienced considerable and unnecessary delays in the licensing process and have found end products controlled even though they are readily available and sold elsewhere.

When it is the technology used to manufacture widely available end products that is truly critical, handcuffing American exporters selling end products makes about as much sense as locking up innocent citizens to protect them from crime.

Now, at the same time our bill strengthens our national security through significant procedural improvements such as the shift of enforcement authority to the Customs Service and through a significant strengthening of investigatory and enforcement authority and resources to tighten up the licensing and enforcement processes, leading to more effective controls on critical items. Thus, items with national security implications will be better and more effectively controlled while other items, both goods and technology, will flow more freely overseas.

To be more specific, the provisions of the committee bill relating to national security are intended to achieve five specific objectives.

First, increase multilateral discipline and cooperation through upgrading Cocom, the multilatral Coordinating Committee of Western States that maintains a list of items subject to multilateral control;

Second, simplify and, where possible, reduce the licensing burden, particularly for high technology end-products going to our allies;

Third, give the question of foreign availability a determining role in the decision to grant a license, as well as the decisions to place an item on the control list or on the militarily critical technologies list;

Fourth, clarify the legitimate role of the Defense Department in reviewing license applications where there is a risk of diversion of militarily critical goods and technology to adversaries.

Fifth, upgrade management of the licensing process and improve enforcement.

UPGRADING COCOM

Let us first discuss upgrading Cocom. In addition to instructing our negotiators to seek to raise Cocom to treat status, thereby giving it more stature and credibility, the committee bill also provides discretionary authority to the administration to deny the right to import of companies that violate either our export control laws or Cocom standards.

This provision, which is a modification of an administration proposal, is essential to convincing our allies of our commitment to an effective control process and our determination to enforce it fully. The committee concluded that one of the main problems of our existing control program is illegal diversion and reexport to the Soviet Union from other Western countries after the product has left U.S. hands due to often lax enforcement efforts by our allies. Authority to impose import controls will both encourage our allies to better police their own control systems and Cocom standards and give our Government the tools to provide such enforcement as well. As the committee report makes clear, this authority is only applicable to individual companies—not countries—that violate our laws, our Cocom standards, and is not, in any event, to be used indiscriminately.

SIMPLIFICATION AND REDUCTION

Regarding simplification and reduction of the licensing burden, consistent with our emphasis on tighter control of truly critical items and less control of other items, the committee bill authorizes a comprehensive operations license which will permit multiple transfers of technology and related goods from a U.S. firm to its affiliate abroad if satisfactory controls and safeguards are in place. In addition, the substitute provides for export under general license, that is without case-by-case advance application, of nonmilitarily critical items to Cocom nations. Both of these measures, along with the reduction of licensing times by one-third, should simplify and reduce the licensing burdens for exporters, particularly high technology firms, for whom the COL is intended.

FOREIGN AVAILABILITY

As I have indicated previously concerning foreign availability it makes no sense for the United States to prohibit the export of an item if it is available from other sources. Too often under current law the question of foreign availability has not been adequately analyzed by the Government. Funds authorized for this purpose in 1979 have never been used. Representations of industry—which is usually in the most knowledgeable position—have not been taken seriously. Foreign availability can be a difficult question in specific cases, but its critical nature demands that it be taken seriously. The committee bill insures that, both by providing a more detailed description of what could be considered in determining availability, and by effectively placing the burden of proof on the Government. It must accept business representations unless it has evidence to the contrary.

Additionally, by explicitly making foreign availability a criterion for placement on the control list and the MCTL, we guarantee full consideration of foreign availability throughout the control process.

DEFENSE DEPARTMENT REVIEW

As to Defense Department review, the relationship between the Defense Department and the Commerce Department in the licensing process has been a difficult one for some time, perhaps inevitably so given their differing mandates. In an effort to clarify that relationship, the committee bill provides for DOD right of review, subject to Commerce concurrence, of license applications where there is a clear risk of diversion of militarily critical items.

Current law provides for DOD review under more ambiguous circumstances which in practice have limited it primarily to exports direct to Eastern Europe. The committee bill would also permit such review, subject to commerce concurrence, in certain other cases.

This provision has been the subject of some erroneous interpretation by the Commerce Department, which, not entirely unexpectedly, regards it as giving excessive authority to the Defense Department. In fact, it more accurately represents a clarification of the way the 1979 act was intended to operate. The Department of Defense is entitled to review applications where there is a clear risk of diversion and upon review, to recommend denial of the application; that is also in current law. All such review, however, is to be made with the concurrence of the Commerce Department, disagreements to be resolved by the President.

UPGRADING OF MANAGEMENT AND ENFORCEMENT

The committee concluded that much of the problem of "leakage" of technology and goods to our adversaries is due to certain inadequacies in the license application review and enforcement processes. To correct those deficiencies, the committee bill transfers enforcement responsibility, but not licensing responsibility to the Customs Service, an agency better equipped in terms of resources and its overall mandate to enforce the act, and provides broad new enforcement powers to the Government. In addition, the committee bill upgrades management of the licensing process by raising responsibility for it to the level of an independent Under Secretary in the Commerce Department and by requiring the President to submit a proposal for an Office of Strategic Trade to control the licensing process.

FOREIGN POLICY CONTROLS

On the foreign policy side, the bill attempts to maintain the President's authority and flexibility to impose controls; yet at the same time seeks to provide our farms and businesses with the assurance that controls will not be imposed without exceptional reason, and that when imposed, they will be implemented in a way that maximizes the impact on their intended target and minimizes the impact on the

American agricultural and business communities.

The trust of the committee bill with respect to foreign policy controls is, frankly, to discourage them, without at the same time repealing the President's authority to impose them.

Our experience with most foreign policy controls has been largely an unhappy one. They have usually been unilateral. They have had little impact on their intended targets, and they have caused real harm to American exporters. They have not only caused us lost sales but have led to permanent lost market share abroad. They have also struck a crippling blow to the credibility of Americans as suppliers.

The committee bill seeks to restore that credibility by:

First, requiring more through consideration of a higher standard before controls are imposed;

Second, protecting existing supply relationships through a contract sanctity provision; and

Third, as in national security controls, giving foreign availability a determining role in issuing licenses of items subject to foreign policy controls.

TOUGHER STANDARD, MORE CONSIDERATION

As to a higher standard, because of the concerns about the negative impact of controls on U.S. exporters, the committee has attempted to develop a structure that will require more intensive and more thorough consideration of the implications and practicality of controls in specific circumstances as well as more advance consultation with the Congress prior to their imposition. Over the past 4 years consultation has become little more than notification a few hours in advance, and consideration of the statutory criteria has become pro forma. By changing the criteria from items to be considered to determinations that must be made, and by requiring a report on such determinations to be submitted to Congress prior to the imposition of controls, the committee bill elevates the decisionmaking process to a more demanding level and requires more serious and thorough study by the executive branch before any action is taken.

Let me now speak to the contract sanctity provision.

CONTRACT SANCTITY

Probably the best way to restore the credibility of American suppliers is to protect existing contracts and provide that export controls imposed for foreign policy purposes be prospective. This action would also help alleviate many of the problems that resulted from last year's Yamal pipeline controls that have been the source of sustained complaints from our European allies about the extraterritorial application of U.S. law.

While the committee bill does provide for prospective application of foreign policy controls under the Export Administration Act, it is important to note that it does not preclude Presidential action that would require the abrogation of contracts. Such action can still be taken under the International Emergency Economic Powers Act (IEEPA), pursuant to the declaration of an emergency by the President. The committee report, moreover, explicitly recognizes that this may result in a somewhat expanded concept of what constitutes an emergency, but it was our view that if the imposition of controls is so important as to require the breaking of contracts with the resultant damage to our economy and our exporters, then the issue is important enough to warrant the declaration of an emergency. There has been some suggestion that the President ought nonetheless to have flexibility under the Export Administration Act to take action that may have only a symbolic impact. Unfortunately, export controls are never only symbolic. They may not hurt their intended target, but they almost always hurt American farms and businesses. The committee substitute insures that if such action is taken—and it can be taken—it will only be in circumstances serious enough to warrant it.

FOREIGN AVAILABILITY

Regarding foreign availability, as in the case of national security controls, it is useless to impose controls in the face of comparable products available from other sources, unless we can reach multilateral agreement on the restriction of those other sources of supply. The committee bill encourages that effort by providing that foreign availability would not be a criterion in licensing products for export to countries that are the subject of foreign policy controls for the first 6 months, but that after that, in the absence of multilateral cooperation it will become a factor. This will provide time for negotiations to achieve some degree of multilateral cooperation, and at the same time will provide the President with sufficient flexibility even in subsequent 6-month periods of controls to take foreign availability into account among other factors.

Mr. President, what I have just said describes the most important provisions of the bill and the portions of it most likely to be discussed today. The bill, however, contains more than 80 amendments to the Export Administration Act, and I think it would be useful to enumerate them; so, Mr. President, I ask unanimous consent that a list of the provisions of the bill be printed at this point in my remarks.

There being no objection, the list of provisions was ordered to be printed in the Record, as follows:

Provisions of Committee Print—(Excluding Minor, Technical and Conforming Amendments)

Sec. 1. Title.

Sec. 2. Amendments to findings.

Add finding that transfers of technology have significantly enhanced Soviet-bloc military capabilities.

Sec. 3. Amendments to declaration of policy.

(a) Encourage multilateral cooperation with non-COCOM states.

(b) Technical modifications in anti-terrorism policy declaration.

(c) Add new policy statement to encourage international cooperation in restricting the sale of goods and technology that can harm the security of the United States.

(d) Add new policy objective on protecting the ability of scientists and scholars to communicate their research findings freely.

Sec. 4. Amendments to general licensing provisions.

(a) Description of types of licenses, including multiple export licenses, among them the Comprehensive Operations license.

(b) Substitute "comparable" for "significant" in foreign availability language.

(c) Commerce-DOD cooperation in information gathering, including jointly operated computer system.

(d) Broadens required commerce consultation with the private sector, including with advisory committees established pursuant to section 135 of the Trade Act of 1974 (sectoral advisory committees).

Sec. 5. Amendments to National Security Controls.

(a) Add authority to control transfers of goods or technologies within the U.S. to embassies and their affiliates of countries to which exports are controlled.

(b) Add consideration of whether a nation's policies are adverse to U.S. national security interests as factor in licensing decision.

(c) Annual review of all national security controls.

(d) Publication of changes in control list, with explanations, in Federal Register.

(e) More detailed explanation of technologies to be placed on MCTL.

(f) Require publication of MCTL by January 1, 1985.

(g) Make foreign availability a criterion for placement on MCTL.

(h) Broaden scope of DOD annual report from MCTL only to actions on all national security control items.

(i) Mandate that establishment of adequate controls on militarily critical technology and keystone equipment shall be accompanied by suitable reductions in controls on the products of that technology and equipment.

(j) Require multiple export license rather than individual validated license for exports to COCOM countries, unless item is on MCTL, in which case an individual validated license could be required.

(k) Not require individual validated license for replacement parts.

(l) Periodic review of licensing procedures by Commerce to increase utilization, lower thresholds, reduce overlap, eliminate procedures of marginal utility.

(m) Change "sufficient" to "comparable" in foreign availability language.

(n) Put burden on government to develop evidence in foreign availability decisions, with list of specifics to be considered in assessments of availability.

(o) Commerce to review availability upon request of appropriate Technical Advisory Committee.

(p) Add needs of military in countries subject to controls as one criterion for indexing.

(q) Add "the intelligence community" to list of government participants in TAC's.

(r) Delete reducing scope of controls as COCOM objective.

(s) Add as COCOM objectives:

(1) Raising it to treaty status.

(2) Improve the International Control List, minimize exceptions to it, strengthen enforcement, cooperation, funding, improve COCOM staffing, etc.

(3) Strengthen COCOM so it functions effectively to better protection national security of all participants.

(t) Broadening coverage of private commercial agreements which must be reported to the government.

(u) Provide that when bilateral agreements on export restrictions similar to COCOM's are reached, U.S. shall treat exports to that nation similar to its treatment of exports to COCOM nations.

(v) Tighten unauthorized diversion provisions.

(w) New section providing for assistance from government to private sector in developing better security measures.

(x) Requirement for more detailed government recordkeeping of licensing decisions.

(y) Establishment of National Security Control Agency within DOD to help that agency carry out its licensing responsibilities.

(z) Prohibits contracts on agricultural commodities under this section.

Sec. 6. Amendments to foreign policy controls.

(a) Authorization (but not requirement) for President to impose import controls when export controls for foreign policy purposes are imposed.

(b) "Complete" contract sanctity provision.

(c) Require review of foreign policy controls every 6 months instead of 1 year.

(d) Require that certain factors be determined rather than considered before controls can be imposed.

(e) Require broader consultation with industry before imposing controls.

(f) Require notification of Congress prior to the imposition of controls; report to include determinations made with explanations therefor, including whether or not import controls are imposed and why or why not. Report also to be submitted to GAO to determine compliance with law. In the case of extensions of controls, report to be in writing at 1 year intervals, and to be presented orally by the Secretary at hearings at 6 month intervals.

(g) Expands food and medical exclusion to cover certain donated items to meet basic human needs.

(h) Foreign availability would become criteria in issuing licenses if efforts to obtain allies' cooperation fails after first 6 months of controls.

Sec. 7. Amendments to short supply controls.

Specific provisions for controls on certain horses are removed.

Sec. 8. Amendments to procedures for processing license applications.

(a) Time periods for licensing decisions are reduced by one third.

(b) Requirement that denial notice be accompanied by explanation of what modifications or restrictions could be made that would allow a license to be approved.

(c) Defense Department may, with Commerce Department concurrence, review applications for export to destinations with risk of diversion of militarily critical goods or technology to controlled countries. Disagreements to be referred to the President.

Sec. 9. Amendments to violations section.

(a) Adds as violations, "conspires to or attempts to violate".

(b) Adds as violation knowledge that export is intended for destination to which exports are controlled for national security purposes.

(c) Clarification as to which countries are controlled for national security purposes.

(d) Possession with intent to export contrary to this Act or relevant licenses or regulations made a violation. Authority of Security of Commerce to define violations by regulations clarified.

(e) Secretary may revoke or suspend authority to export of those convicted of violations.

(f) Authority to control imports from violators of national security control provisions.

(g) Violators' interest in property or proceeds that were the subject of the violation forfeited to the Treasury.

(h) Authority to the Secretary to deny export licenses to those convicted of certain other related offenses under other laws.

Sec. 10. Amendments to enforcement section.

(a) Broader latitude for investigators and enforcement officials to choose a district court.

(b) Transfer of enforcement responsibility to Customs Service.

(c) Additional search and seizure authority for Customs.

(d) Provision for greater information sharing between agencies.

Sec. 11 Amendments to annual report.

Require that report on foreign availability be made quarterly.

Sec. 12. Amendments to administrative and regulatory provisions.

Provides for Under Secretary of Commerce to handle export administration responsibilities.

Sec. 13. Amendments to definitions.

(a) Expand definition of technology.

(b) Clarify that "good" includes "natural or man-made substance."

(c) Adding definitions of "export of goods" "export of technology", and "United States".

Sec. 14. Office of strategic trade.

Requires the President to submit a plan for an OST by March 15, 1984.

Sec. 15. Amendments to the International Emergency Economic Powers Act.

Makes explicit the President's authority under IEEPA to impose export controls pursuant to the declaration of an emergency that could include the breaking of contracts between U.S. manufacturers or their overseas affiliates and consignees in countries that are the object of the emergency.

Sec. 16. Authorization.

Authorizes $11,610,000 for each of the fiscal years 1984 and 1985.

Sec. 17. Extension of act.

Extends act to September 30, 1989.

Mr. HEINZ. Mr. President, let me conclude by saying a word about the process that produced this bill. As Senators are aware, Senator GARN and I introduced different bills last February, bills which moved in somewhat different directions. My bill, S. 397, I think it is fair to say, was oriented toward solving some enforcement problems with present law and addressing the concerns of the exporting business community. Senator GARN's bill, S. 407, created an Office of Strategic Trade and was generally perceived as significantly toughening the national security controls in present law. In fact, these bills represented the very conflicts in objectives which I have been discussing today. Recognizing that an extended acrimonious debate would not produce a better law, Senator GARN and I resolved with the help of our committee to reconcile our bills and develop a product that reflects both our objectives. I believe that we have done so, and again express my appreciation to Senator GARN for his willingness to engage in this process and produce a consensus bill.

The bill before the Senate today is a fair compromise, and it is our best hope for making some real improvements in our export control laws. But I cannot overemphasize the delicacy of this effort. We have found ourselves regularly confronting either those who would export nothing because of the risk of technology falling to adversaries or those who would sell everything regardless of that risk.

S. 979 walks a careful path between those two extremes, and I know I speak for Senator GARN when I say we hope to keep it that way. Obviously, no bill is perfect, and we anticipate a number of amendments which we will be able to support wholeheartedly and maybe in some case halfheartedly. Indeed we have some amendments which we plan to offer ourselves.

I want to be clear, however, that we will resist efforts to break apart the consensus we have produced and tilt the bill off the path into one of the directions I have just described. Such an unbalancing would not serve either our national security interests or the interests of our businessmen and farmers, and, more importantly, it would destroy the integrity of the Export Administration Act.

Let me elaborate on this last point.

Mr. President, it has, indeed, been a long and difficult process to reach this point. The committee reported this bill last May, and it has been delayed ever since first in controversy over some of the central issues in the bill and more recently over issues that are essentially peripheral to the question of national security and foreign policy export controls. Even now that we are finally on the floor, it appears from those amendments which have been filed that much of the debate will revolve around peripheral, even nongermane issues. With regard to those issues, let me say I have some sympathy for a number of amendments that will be offered, but my fundamental responsibility as one of the bill's managers, and, indeed, thanks to Senator GARN, the manager for the majority, is to protect its integrity as well as that of the Export Administration Act. Therefore, let me make clear from the beginning of the debate that I intend to oppose all nongermane amendments and will move to table them. Since some of them may have broad support, a tabling motion may well on some occasions be a futile gesture. Nevertheless, it is my obligation to see that this bill does not become the proverbial Christmas tree festooned with amendments the Senate has never considered through its normal legislative process.

In doing so, I hope, frankly, to discourage Senators from offering such amendments because this is too important a bill to be so cluttered. The decisions we will make on this bill will have a major import on both our security and on our exporters' ability to sell abroad successfully. And may I add that the House bill is substantially different from ours, and I would envisage a complicated and difficult conference unless, of course, we can persuade the House to recede, as of course we hope they will. Under these circumstances, if I may be blunt, the last thing we need is a long list of nongermane amendments further complicating the conference. Therefore, it will be this Senator's intention to oppose all such amendments.

Having said that, Mr. President, it appears that we are now ready to move forward and consider the bill. Seeing no admonishment to the contrary, I move that the committee amendment be agreed to and considered as original text for the purpose of further amendment.

The motion was agreed to.

AMENDMENT NO. 2724

(Purpose: To retain boycott enforcement in the Department of Commerce)

Mr. HEINZ. Mr. President, I send to the desk six technical amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Heinz) proposes an amendment numbered 2724.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 46, line 4, after "Commissioner)" insert ", except with respect to section 8, and the Secretary of Commerce only with respect to section 8".

On page 35, line 24, strike "Notification of" and insert in lieu thereof "Consultation With".

On page 51, line 5, strike "; and" and insert in lieu thereof the following:

"or

"(C) any release of technology in the United States with the knowledge or intent that it will be shipped or transmitted to a foreign country; and".

On page 512, strike lines 6 through 8 and insert in lieu thereof the following:

"(7) the term 'United States' means the States of the United States, its commonwealths, territories, dependencies, possessions, and the District of Columbia, including foreign trade zones and the Outer Continental shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act.".

On page 51, line 22, strike "through" and insert in lieu thereof "thorough".

On page 24, strike line 23 and insert in lieu thereof the following: "in section 4(a)(2) of this Act; and in the same paragraph by striking 'a' after 'in lieu of' and inserting in lieu there of 'an individual';".

On page 49, line 13, after the first period, insert the following: "The Secretary of Commerce shall designate three Assistant Secretaries of Commerce to assist the Under Secretary in carrying out such functions.".

On page 49, between lines 16 and 17, insert the following:

(c) Section 5315 of such title is amended by striking out, "Assistant Secretaries of Commerce (8)." and inserting in lieu thereof "Assistant Secretaries of Commerce (10).".

Mr. HEINZ. Mr. President, these are truly technical amendments. They correct spelling or reference errors or they make minor clarifying changes in the bill. I believe the minority has looked over the amendments carefully, and I ask my comanager of the bill, Senator Proxmire, if he has any comments.

Mr. PROXMIRE. Mr. President, the staff of the minority of the committee has had an opportunity to go over the amendments. They are truly technical, as I understand, and in no case are they substantive. As the Senator points out, they correct spelling, dates and matters of that kind. They do not go to the substance. I am delighted to agree with the distinguished Senator from Pennsylvania, and I have no objection to accepting the amendments.

Mr. HEINZ. I thank the Senator from Wisconsin (Mr. Proxmire).

Mr. President, I wish to make explanatory comment on one of the amendments so that there is no misunderstanding.

The amendments are all technical, but so that there is no misconstruction of what I have said, one of the amendments would appear on its face to be substantive, in this sense—that it provides that antiboycott enforcement will continue to be in the jurisdiction of the Department of Commerce. When the bill was being drafted, it was erroneously moved to the Customs Service. It was never in the Customs Service; it was never intended to be in the Customs Service. I do not want anyone who sees that change to think that we are engaging in some legislative legerdemain. That, indeed, is truly a technical change that was unintended in the first place by the committee.

Mr. PROXMIRE. As I understand it, this was a technical drafting error in the first place, and we are correcting that.

Mr. HEINZ. The Senator from Wisconsin is correct, and I thank him very much.

The PRESIDING OFFICER. Without objection, the amendment (No. 2724) is agreed to.

Mr. HEINZ. I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2725

Mr. HEINZ. Mr. President, I send to the desk four more technical amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Heinz), on behalf of himself and Mr. Garn, proposes an amendment numbered 2725.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 10, insert after (d) the following: "and included on the control list as provided for under subsection (d)(5)".

On page 17, line 5, strike "1983" and insert in lieu thereof "1984".

On page 51, line 15, strike "1984" and insert in lieu thereof "1985".

Mr. HEINZ. Mr. President, these are four more technical amendments which I offer on behalf of Senator Garn and myself. They correct some erroneous drafting, a mistaken cross-reference, and correct some dates to reflect that action on the bill has been delayed.

For example, the due date for the OST study would be next month in the bill as reported. We changed that to March 1985.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I have no objection to the consideration of and favorable action on these amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2725) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2726

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 2726.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 50, strike lines 7 through 11 and insert in lieu thereof the following: "services:";".

Mr. HEINZ. Mr. President, this is not, technically speaking, a technical amendment.

This amendment responds to concerns that some have raised that the definition of technology as provided for in the bill is in some respects too broad and could reach items that were not intended by the committee. In order to avoid confusion, we believe that the concerns raised can be dealt with by deleting the last sentence of the definition. The business community has indicated that this will relieve their concerns with the provision, and staff analysis has indicated that the definition would remain sufficiently broad to apply to all potential forms that technology might take. This amendment will do little more than clear up confusion, but that in itself is worthwhile doing.

Mr. PROXMIRE. Mr. President, in reading the lines that would be deleted, there is a superfluous sentence at the end of the section. I agree with the manager of bill that the amendment would be appropriate and would not make a significant substantive change.

The PRESIDING OFFICER. Without objection, the amendment (No. 2726) is agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2727

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 2727.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with, and I will explain this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, line 17, strike "prescribe.";", and insert in lieu thereof "prescribe.".

On page 43, insert between line 17 and 18 the following new paragraph:

"(5) The President may provide by regulation standards for establishing levels of civil penalty as provided in this subsection based upon the seriousness of the violation, the culpability of the violator, and the violator's record of cooperation with the government in disclosing the violation.".

Mr. HEINZ. Mr. President, there are very substantial penalties available under the current act, including fines and the denial of export privileges. S. 979 would add to these penalties the right of the President to deny import privileges to violators of the act.

Since not all violations of the act are of equal gravity, it is appropriate to require that the application of the civil penalties be proportional to the severity of the violation. This amendment would not establish such guidelines, as that is more appropriately done by the administering agencies. But this amendment would require that guidelines applying this principle of proportionality be established. It is, therefore, a helpful and balanced amendment that I believe should be adopted.

Mr. PROXMIRE. Mr. President, what this does, as I understand it, is to provide that when the civil penalties are assessed they have to be based upon the seriousness of the violation, the culpability of the violator, and the violator's record of cooperation with the Secretary in disposing of violations. These are provisions that have consistently gone into similar statutes.

So, of course, I am happy to agree with the amendment.

Mr. HEINZ. Mr. President, I thank the Senator from Wisconsin. He is correct in his interpretation. I thank him for his support.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 2727) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2728

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes amendment No. 2728.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, line 25, prior to the semicolon insert the following: "and inserting in lieu thereof "In any such action with respect to enforcement of section 8, the court shall determine de novo all issues necessary to the establishment of liability.".

Mr. HEINZ. Mr. President, this is a technical amendment exempting antiboycott from the bill's changes to de novo review.

The committee, as it has reviewed the Export Administration Act, has endeavored to refrain from making any change whatsoever to the antiboycott provisions of the law.

Unfortunately, one amendment that was made in the bill before us does affect procedures under the antiboycott enforcement provisions.

The amendment would insulate the antiboycott section from this change, which has been all along the intention of our committee.

Mr. PROXMIRE. I rise in support of the judicial review amendment offered by Senator DIXON, one of my colleagues on the Banking Committee.

Presently section 13 of the Export Administration Act exempts functions carried out under the act from the provisions of the Administrative Procedures Act—except for administrative sanctions imposed on violators of the antiboycott regulations provided for in section 8(a) of the act.

Congress reasons for excluding other provisions of this act from the requirements of the Administrative Procedure Act including judicial review had been the intimate relation to foreign policy and national security of the functions invoked under this act. These foreign policy and national security functions may at times require secrecy, speed, unity of design, and special expertise. We certainly did not, and do not now want, the courts second guessing the President with regard to how he carries out such functions under this act.

During our committee's considerations of S. 979, however, Senator DIXON expressed concern that civil penalties, including revocation of the authority to export, had been and could be again imposed on U.S. businesses without them having a chance to explain or defend their position. We agreed some sort of limited due process procedures should be developed for such instances.

Our committee asked our staff to develop such an amendment. They were directed, however, to fashion an amendment that would not permit the courts to get involved in second-guessing the President and other officials of the executive branch with regard to whether national security or foreign policy controls should be invoked, and whether particular items should be included under such controls. The due process procedures were to be limited solely to reviewing the imposition of civil penalties in a very narrow fashion.

I believe the amendment before you provides U.S. exporters with a fair and impartial method to contest civil penalties or other administrative sanctions that are imposed on them, including temporary denials of the authority to export. It provides that a party charged with violating the act is entitled to a formal complaint specifying the charges, and further provides him with the right to contest such charges before an independent administrative law judge. It further provides that the administrative law judge shall make his findings of fact and conclusions of law in a written decision which is then subject to review and affirmation, modification, or nullification by the Secretary. Any order by the Secretary is in turn subject to review by the U.S. Court of Appeals for the District of Columbia; but any appeal to the courts must be filed within 15 days after the decision of the Secretary. We have put in time periods for accomplishing the administrative review process as we do not want any cases to be dragged on unnecessarily. You will note that the jurisdiction of the court of appeals is carefully limited, and that it is not authorized to review any decisions by the executive branch with regard to the foreign policy and national security findings or decisions made by the executive under this act as to what items should be controlled. Let me make absolutely clear that we want the courts to review only whether a particular exporter is subject to a civil penalty or other administrative sanction and not whether any of the conditions precedent to imposing such penalties have been properly made. By this I mean we do not want the courts looking at whether foreign policy controls were properly invoked, or whether a particular item is available from a foreign source. Likewise, we do not want the courts to review whether national security control should be in effect, or whether an item should be included on the list of controlled items.

With regard to whether an item sought to be exported is in fact, as opposed to properly, on the control list, we have provided for a limited review by an administrative law judge. There is to be no court review of the administrative law judge's decision in that matter.

I believe that provisions of this amendment are good ones that provide due process for our exporters, but at the same time will prevent the courts from second-guessing the President in regard to his foreign policy and national security responsibilities. I urge your support for it.

Mr. PROXMIRE. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 2728) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2729

Mr. HEINZ. Mr. President, I have two additional technical amendments that I wish to offer.

Mr. President, I send these two amendments to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 2729.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 30, line 25, delete "dence" and insert in lieu thereof "dence, as determined by the Secretary,".

On page 25, line 10, insert after (d) the following:

"and included on the control list as provided for under subsection (d)(5)".

Mr. HEINZ. Mr. President, the first of these amendments is a technical amendment clarifying the role of the Secretary of Commerce to determine the existence of reliable evidence of diversion for the purpose of imposing denial orders.

The bill, as written, shifts the responsibility for enforcing export controls to the Customs Service from the Commerce Department. The bill would, however, leave with the Secretary of Commerce the responsibility to deny export privileges to violators of export controls when there is a case of diversion of controlled items.

This amendment would make it clear that it is the responsibility of the Secretary of Commerce to determine that the diversion has occurred for the purposes of exercising his authority to deny export privileges.

The second amendment will clarify that MCTL items, the militarily critical technology list items, must be on the control list in order to be controlled.

The bill has a provision that requires that trade with our Cocom partners should not be subject to stringent controls unless the items in question are part of the militarily critical technology list, the MCTL. The MCTL, in and of itself, Mr. President, is not a control list, however. It is actually a reference list.

This amendment clarifies the intent of the bill that MCTL not become a control list and that items on the MCTL are subject to control if they are also a part of the control list.

These are the items that were referred to by that provision already in the bill, and this amendment simply makes the intent of the committee clear in that regard.

Mr. PROXMIRE. Mr. President, I have no objection to the amendment.

We have examined the amendment and we agree with the analysis by the manager of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 2729) was agreed to.

AMENDMENT NO. 2730

Mr. HEINZ. Mr. President, I send to the desk an amendment, which I offer on behalf of myself and Senator GARN, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself and Mr. GARN, proposes an amendment numbered 2730.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 40, strike lines 18 and 19 and insert in lieu thereof the following:

"mines on the basis of reliable evidence that goods or technology controlled pursuant to section 5 of this Act are likely to be diverted to proscribed destinations. Whenever";

(2) On page 40, line 23, strike the comma and all that follows through and including line 25, and insert in lieu thereof "the Secretary"; and

(3) On page 41, strike lines 3 through 6 and insert in lieu thereof the following:

"(6) in paragraph (2) of subsection (g), in the second sentence, by striking the following:

"to any country to which exports are controlled for national security purposes";".

Mr. HEINZ. Mr. President, this, in my view, is also a technical amendment. What it does is it deals with the section 10(g) provision in the bill, the so-called DOD review of West-West licenses.

What the amendment does is to make a clarifying change in the bill. It was the belief of the committee that the Secretary of Defense has an important role to play in reviewing certain types of export license applications. Inasmuch as there is dispute over the meaning of current law—and

I emphasize that, Mr. President, not the meaning of the language in the bill, but current law—with regard to the Secretary of Defense's role in this area, the committee bill contains a provision to clarify it. Some confusion, nevertheless, has persisted. So I am offering an amendment to resolve the issue even further.

I offer it because I want it to be consistent with the committee's intent. It is my belief the committee's intent, based on what we said on the record, is that the Secretary of Defense should be given access to review certain so-called West-West export license applications. To facilitate this process, the law would require the Defense and Commerce Secretaries to agree in advance on specific categories of such applications to be reviewed. The amendment that I am offering reinforces that intent of the committee.

Mr. PROXMIRE. Mr. President, I ask my good friend from Pennsylvania—as I understand it, in this case, the Secretary of Defense makes the decision. As I understand it, the way it reads is:

> Where the Secretary of Defense, in consultation with the Secretary, determines there is a clear risk of diversion.

So it is not the Secretary of Commerce, it is the Secretary of Defense who makes that decision; is that right?

Mr. HEINZ. The Senator is correct. It is the Secretary of Defense who determines whether there is a clear risk of diversion while it is the Secretary of Commerce and the Secretary of Defense together who determine the classes and categories of export license applications to be referred to the Secretary of Defense for his review. And of course, disagreements will be resolved by the President.

Mr. PROXMIRE. Very good. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania (Mr. HEINZ).

The amendment (No. 2730) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2731

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Washington (Mr. Gorton) proposes an amendment numbered 2731.

Mr. GORTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 39, between lines 13 and 14, insert the following:
>
> Section 7 of the Export Administration Act of 1979 is amended—
>
> (1) in paragraph (1) of subsection (i), by striking "validated" in the first sentence and inserting in lieu thereof "export";
>
> (2) by redesignating paragraphs (2), (3) and (4) as paragraphs (3), (4) and (5), respectively, and inserting the following new paragraph:
>
> "(2) To the maximum extent practicable, the Secretary shall utilize the multiple validated export licenses described in section 4(a)(2) of the Act in lieu of a validated license for exports under this subsection.";
>
> (3) in paragraph (4) of subsection (i) by striking paragraph (A) and inserting in lieu thereof the following:
>
> "(A) lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber inspection Bureau Export R-List Grades of Number 3 common or better;";
>
> (4) by striking subsection (j) and inserting in lieu thereof the following:
>
> "(j) EFFECT OF CONTROLS ON EXISTING CONTRACTS.—Any export controls imposed under this section shall not affect any contract to export entered into before the date on which controls are imposed, including any contract to harvest unprocessed western red cedar (as defined in subsection (i)(4) of this section) from state lands, the performance of which contract would make red cedar available for export. For purposes of this subsection, the term 'contract for export' includes, but is not limited to, an export sales agreemnent and an agreement to invest in an enterprise which involves the export of goods or technology."; and
>
> (5) the amendment made by subsection (4) shall apply to export controls in effect on the date of the enactment of this Act and export controls imposed after such date.

Mr. GORTON. Mr. President, for some years, western red cedar from the Pacific Northwest has not been approved for export except under certain restrictive circumstances. This amendment would insert into the act language instructing the Commerce Department to use the multiple instead of individual export license for exportable red cedar, thus speeding up the process, and parallels a new section in this act which allows multiple rather than individual licenses for a broad range of exports.

It clarifies the definition of "unprocessed red cedar" by substituting a technical definition for the ambiguous term "lumber without wane."

Most importantly, it makes permanent the grandfather language, contract sanctity language, previously enacted as annual riders to appropriations resolutions.

Mr. President, I understand this has been cleared by both the majority and the minority.

Mr. HEINZ. Mr. President, as I understand this amendment, it will replace the unnecessarily burdensome requirement for a validated license with a broader term, that of an export license, which presumably would be easier to get, and not subject the applicant to the kinds of national security and foreign policy licensing requirements he could be subjected to.

Mr. GORTON. That is correct.

Mr. HEINZ. Second, I understand the Senator from Washington also hopes to encourage an alternative to validated licenses. I think those are meaningful changes. I think it will make it easier for his exporters of unprocessed western red cedar to get such licenses. I have no problems with the amendment.

Mr. PROXMIRE. Will the Senator from Washington yield?

Mr. GORTON. I yield.

Mr. PROXMIRE. This would grandfather a relatively small part of the export of red cedar logs, approximately on the average, 5 percent of the yearly harvest of red cedar. Is that right?

Mr. GORTON. The Senator is absolutely right.

Mr. PROXMIRE. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2731) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PROXMIRE. Mr. President, will the Senator yield for a minute?

Mr. DIXON. I yield.

Mr. PROXMIRE. Mr. President, I am going to step off the floor for a minute to confer with some of my colleagues. I ask the Senator from Illinois, who is a member of the committee, if he will handle the bill for the minority in my absence.

Mr. DIXON. I would be delighted.

AMENDMENT NO. 2732

Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Illinois (Mr. DIXON) proposed an amendment numbered 2732.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 53, after line 9, insert the following new section:

ADMINISTRATIVE PROCEDURE

Sec. 19. Section 13 of the Export Administration Act of 1979 is amended by adding at the end thereof the following:

"(c) Procedures Relating to Civil Penalties and Sanctions.—(1) In any case where a civil penalty or other civil sanction (other than a temporary denial order or a penalty or sanction for a violation of section 8) is sought under section 11 of this Act, the charged party is entitled to receive a formal complaint specifying the charges and, at his request, to contest the charges in a hearing before an administrative law judge. Prior to such hearing the charged party may submit a response to the complaint, including briefs and other supporting materials. The charged party and the Government may present and cross-examine relevant witnesses. With the approval of the administrative law judge, the Government may present evidence in camera in the presence of the charged party or his representative. The charged party may argue orally his case in recorded proceedings before the administrative law judge who shall then make his findings of fact and conclusions of law in a written decision which shall be referred to the Secretary. The Secretary shall, in a written order, affirm, modify, or vacate the decision of the administrative law judge within 30 days after receiving it. All material submitted to the administrative law judge and the Secretary and all the recorded proceedings constitute the administrative record for purposes of review by the courts.

"(2) The proceedings described in paragraph (1) shall be concluded within a period of one year after the complaint is submitted unless the administrative law judge extends such period for good cause shown.

"(3) The order of the Secretary shall be final, except that the charged party may file an appeal within 15 days in the United States Court of Appeals for the District of Columbia and such court may stay an order of the Secretary under which a civil penalty or other sanction would be imposed. In an appeal filed under this paragraph, the count shall set aside any finding of fact for which the court finds there is not substantial evidence in the recorded and any conclusion of law which the court finds to be arbitrary, capricious, an abuse of descretion, or otherwise not in accordance with law, except that such court shall not have authority under this paragraph to review any action, finding, or determination pursuant to section 3, 4(c), 4(d), 4(f), 5(b), 5(d), 5(e), 5(f), 5(g), 5(h)(6), 5(k), 5(n), 6(b), 6(c), 6(d), 6(f), 6(g), 6(h), 6(j), 7(d), 7(e), 7(g)(1) and (2), 7(h), 7(i)(2), 9(b), 9(c), 10(f)(4), 10(g), 10(h), 10(i), or 12(c) of this Act.

"(d) Appeals From the Imposition of Temporary Denial Orders.—(1) In any case where necessary in the public interest to prevent an imminent violation of this Act or any rule or regulation thereunder, the Secretary may issue a temporary denial order without a hearing and such order may be effective no longer than 60 days unless renewed in writing by the Secretary for additional 60-day periods in order to prevent an imminent violation. A renewal may be granted only after notice and an opportunity for a hearing is provided.

"(2) A temporary denial order shall define the imminent violation and state why the order was granted without a hearing. The person or persons subject to the issuance or renewal of such an order may file an appeal with an administrative law judge who shall, within 10 working days after the appeal is filed, recommend that it be affirmed, modified, or vacated. Parties may submit briefs and other material to such judge. The administrative law judge's recommendation shall be made to the Secretary who shall either accept, reject, or modify it by written order within 5 working days after he receives it. The temporary denial order shall be affirmed only if it is reasonable to believe that the order is required in the public interest to prevent an imminent violation of this Act or any rule or regulation thereunder. All materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the Courts.

"(3) An order of the Secretary affirming, in whole or in part, the issuance of temporary denial order may be appealed within 15 days to the United States Court of Appeals for the District of Columbia. Such court shall have jurisdiction to issue an order vacating the Secretary's order if it finds that the Secretary's order is arbitary, capricious, an abuse of discretion, or otherwise not in accordance with law, except that such court shall not have authority under this paragraph to review any action, finding, or determination pursuant to section 3, 4(c), 4(d), 4(f), 5(b), 5(d), 5(e), 5(f), 5(g), 5(h)(6), 5(k), 5(n), 6(b), 6(c), 6(d), 6(f), 6(g), 6(h), 6(j), 7(d), 7(e), 7(g) (1) and (2), 7(h), 7(i)(2), 9(b), 9(c), 10(f)(4), 10(g), 10(h), 10(i), or 12(c) of this Act.

"(e) Appeals From License Denials.—A determination by the Secretary to deny a license pursuant to section 10(f) of this Act may be appealed by the applicant to an Administrative law judge who shall have the authority in a proceeding under this paragraph to determine only whether the item sought to be exported is in fact on the control list. Such proceedings shall be conducted within 90 days. Any determination by an administrative law judge under this subsection and all materials filed before him in the informal proceeding shall be reviewed by the Secretary who shall either affirm or vacate it in a written decision within 30 days. The Secretary's written decision under this subsection shall be final and is not subject to judicial review. Subject to the limitations provided in section 12(c) of the Act, the Secretary's decision shall be published in the Federal Register.

"(f) Appointment of Administrative Law Judges.—Any person who, for at least two of the ten years immediately preceding the effective date of this section has served as a hearing commissioner of the Department of Commerce, shall be considered as qualified for selection and appointment as an administrative law judge with the same status as if such appointment had been made under section 3105 of title 5, United States Code.

"(s) Definition.—For the purpose of subsections (c), (d), and (e), the term 'Secretary' means the Secretary of Commerce or the Secretary of the Treasury, as appropriate.".

Mr. DIXON. Mr. President, this amendment, offered by my distinguished senior colleague, Senator Percy, and myself, has a very simple purpose: it is an attempt to provide a small degree of fundamental due process and basic fairness to those accused of civil violations of the Export Administration Act. It is the product of lengthy negotiations between Senators Garn, Heinz, Proxmire, and myself, with substantial contributions by the business community, the Department of Commerce, and the Department of Justice. It is a compromise amendment, narrower than I would prefer, but it does represent, in my view, a significant step forward.

The amendment is greatly needed, because under current law, particularly as it would be modified by S. 979, those alleged to have committed civil violations of the act have almost no right to independent judicial review. Alleged criminal violations of the act are handled like alleged criminal violations of any other Federal statute; a full trial, judicial review, and all the usual procedural safeguards apply. However, the treatment of alleged civil violators of the act is far different than applies in most other areas of Federal law. Under the Export Administration Act, the Commerce Department essentially gets to act as prosecutor, judge, and jury, with essentially no right of independent judicial review.

Current law and regulations provide for the imposition of a number of types of civil penalties, including:

First, suspension or revocation of validated export licenses;

Second, general denial of export privileges, known as a denial order, or when imposed on a temporary basis, as a temporary denial order, or TDO;

Third, exclusion from practice before the Department of Commerce; and

Fourth, civil money penalties.

Administrative proceedings to impose sanctions are before a hearing commissioner, not an administrative law judge with a degree of independence. Interestingly enough, antiboycott cases under the Export Administration Act are now being heard by an administrative law judge, although alleged civil export control violations are not. There is ordinarily an on-the-record hearing before sanctions are imposed, but the Export Administration Act is specifically exempted from the Administrative Procedures Act, a statute designed to provide basic due process and procedural rights in administrative proceedings.

Temporary denial orders, on the other hand, are now being imposed on an ex parte basis, even though they can last for an indefinite period of time. While Commerce Department regulations do require an administrative hearing, there is no requirement as to when the hearing must be held. In other words, the penalty can be imposed without a trial or proceeding of any kind, and the affected party has no timely right to even contest the matter afterward.

Under section 11(f) of the Export Administration Act, a district court has the right to determine on a de novo basis whether a violation has occurred when commerce is trying to collect money damages. However, S. 979 would end even that right, making the court a mere collection mechanism. It should be noted that the Commerce Department has never, as I understand it, attempted to go to court in the past to collect a fine in any event. What the Department did instead, in some cases at least, was to impose temporary denial orders, which of course are not subject to judicial review, and then only remove the temporary denial order when the party paid the fine determined to be appropriate by the Department. What the Department essentially did was to blackmail parties out of their right to have a court decide whether a violation had in fact occurred by telling the parties they could not export at all or, alternatively, receive U.S. exports, until they paid the fine.

Now, of course, there is a type of judicial review available even though the courts are specifically barred from reviewing Export Administration Act-related matters. A court always has the ability to review constitutional issues, including constitutional due process issues. In all probability, the Federal courts can also review a party's contention that the Department had acted without statutory authority.

However, in my view, Mr. President, this is a very limited review indeed, and contrary to America's traditions and beliefs. Under our system, a person is entitled to his or her day in court before having a penalty imposed. My amendment is an attempt to provide that right, at least in a limited way, to those accused of civil violations of the Export Administration Act, while keeping in mind the special foreign policy and national security considerations that apply in this area.

The amendment sets up an administrative procedure for handling cases involving the imposition of civil sanctions, and provides for an explicit right of judicial review of the final departmental determinations. The amendment does not generally cover license denials, or departmental rulemaking proceedings. It also does not cover section 8 antiboycott cases, which would continue to be handled according to current procedures. It is basically directed at those cases where the Department believes a party has violated the Export Administration Act and wants to impose civil penalties.

The amendment insures that the charged party has a right to a hearing before an administrative law judge, rather than a hearing commissioner. The administrative process, while not covered by the Administrative Procedures Act, would be similar in most respects to the administrative process that would be followed in the absence of the statutory exemption from the Administrative Procedures Act. Parties will have the right to submit briefs, call witnesses, cross examine witnesses, and submit supporting materials to cite just a few examples.

The initial decision of the adminisrative law judge would be appealable to the appropriate secretary, who would be required, in a written decision filed within 30 days of receiving the adminisrative law judge's decision, to affirm, modify, or vacate the initial decision.

The order of the Secretary could be appealed to the U.S. Court of Appeals for the District of Columbia. The standard of review would be the substantial evidence test for factual questions. The court could also overturn any conclusions of law which the court finds to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. The amendment exempts from judicial review presidential or secretarial actions, findings, or determinations under a number of sections of the Export Administration Act because of the special national security and foreign policy considerations at stake here. The list is far longer than than I would prefer, is unnecessary to avoid judicial interference with Presidential conduct of foreign policy, and I believe, should be narrowly construed. However, the list of exceptions was an important part of the compromise that makes it possible to adopt this amendment here today, and I support it in that basis.

The issuance of temporary denial orders would be handled in a somewhat different manner. The Secretary, as under current law, would be able to issue a temporary denial order on an ex parte basis. A temporary denial order would last for a 60-day period and could only be issued where necessary to prevent an imminent violation of the Export Administration Act. While a temporary denial order could be issued initially without a hearing, a renewal could be granted only after an opportunity for a hearing was provided.

The persons subject to the order would have the right to file an appeal with an administrative law judge who, within 10 working days, would have to recommend that it either be affirmed, modified, or vacated. The administrative law judge's order could be appealed to the Secretary, who would have to issue a final decision within 5 days after receiving it. The Secretary's decision would be reviewable by the U.S. Court of Appeals for the District of Columbia. The court would have the right to vacate the Secretary's order if it found the order to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. However, as in the case for other civil sanctions, certain sections of the Export Administration Act would not be subject to judicial review.

The amendment provides a very limited type of review in the license denial situation. While a decision by the Department of Commerce to deny an export license would not be generally reviewable, this provision would permit a party to have the administrative law judge review the question of whether the item proposed to be exported is actually on the export control list. This provision is designed to help bring greater precision to the control list, and to provide additional guidance to the business community as to what is being controlled.

Finally, the amendment makes the current Commerce Department Hearing Commissioner, Tom Hoya, eligible to become the new administrative law judge. I do not know Mr. Hoya personally, but everyone I have talked to about him recommends him highly. I understand that he is very expert and professional in this area, and that he would make a first-rate administrative law judge.

Mr. President, I believe this is a very limited amendment. It is, however, a very important amendment—an important step forward. I do not believe that efforts to enhance our national security or foreign policy position need be at the expense of due process rights. My amendment provides a degree of due process for those accused of violating the Export Administration Act, without undermining the conduct of our foreign policy or endangering our national security.

Finally, let me conclude by saying again that this is a compromise amendment, and one that deserves the Senate's support. I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, this is an excellent amendment which has been carefully drafted to improve the procedures available to a party facing civil sanction under the act. I would ask my friend from Illinois if he would add me as a cosponsor.

Mr. DIXON. Mr. President, I am very happy to do that. I thank the manager of the bill for making that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, the amendment from the Senator from Illinois, I believe, can be accepted, but it raises two questions to my mind that I would like to address to the Senator for his clarification. First of all, in paragraph (d)(1) of the new amendment language, what does the Senator intend to be covered by the term "imminent violation?" Is it his belief that this term would cover the various purposes for temproary denial orders as currently provided in the Export Administration regulations?

Mr. DIXON. Mr. President, in response to the distinguished Senator, let me say that it is my belief that the imminent violation standard would continue to permit temporary denial orders to be issued in most situations where they are now issued in accordance with the standards in section 388.19 of the regulations on the Export Administration Act. The regulations now say that a temporary denial order can be issued upon a showing that the order is required in the public interest to permit or facilitate enforcement of the act, any applicable Executive order, or the regulations; to avoid circumvention of such administrative or judicial proceedings; or to permit the completion of such investigation.

The amendment states that a temporary denial order may be issued to prevent an imminent violation. That clearly encompasses applicable Executive orders and the regulations implementing the act.

Mr. GARN. I thank the Senator and I would direct to him one further question. Paragraph (d)(2) of the amendment language would require that the temporary denial order must define the imminent violation. I am concerned that this provision might be interpreted in such a way as to require information that could prejudice an ongoing investigation. Is it the Senator's understanding and intention that the requirement to define the imminent violation would not require the disclosure of information that would prejudice an ongoing investigation?

Mr. DIXON. Mr. President, in response to the distinguished Senator from Utah (Mr. Garn) let me simply say that it is not the intention of this amendment to require the Department to conclusively prove at the time a temporary denial order is issued the underlying violation, and to provide its entire factual case. The amendment says imminent violation, which means that the violation has not yet occurred, and the amendment sets out a fast-track review process. This would clearly not be necessary if the attempted violation was to be proved at the time a temporary denial order is issued. In fact, a requirement of this kind would defeat the reasons for having a temporary denial order in the first place.

Mr. GARN. I thank the Senator.

Mr. HEINZ. Mr. President, I just want to make one or two other points regarding Senator Dixon's amendment.

Let me just say by way of explanation that the act before us does provide for very strong civil sanctions, as is appropriate in view of the vital national security interests that are covered by the Export Administration Act. Nevertheless, it is also important that along with those strong sanctions there be adequate safeguards against abuse.

What this amendment does is to make it clear and make it possible for a charged party to get a hearing before an impartial administrative law judge and, moreover, where appropriate, to bring an appeal to the court of appeals.

This amendment includes expedited procedures to insure a timely judgment.

I only want to say one other thing. I said it was a carefully drafted amendment. We have discussed it with Senator Dixon and his staff for a number of weeks. It was formulated in consultation with the administration and their representatives, as well as judicial experts. I believe it is a very positive proposal and acceptable in its current form.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DIXON. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2732) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2733

(Purpose: To revise section 6(i) of the Act)

Mr. DIXON. Mr. President, I have another amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois (Mr. Dixon) proposes an amendment numbered 2733.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

TERRORISM

Sec. . Section 6(i) of the Export Administration Act of 1979 is amended to read as follows:

"(i)(1) Countries Supporting International Terrorism.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

"(A) Such country has repeatedly provided support for acts of international terrorism.

"(B) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

"(2) Any such determination which has been made with respect to a country under paragraph (1) of this subsection may not be rescinded unless the President, at least 30 days before the proposed rescission would take effect, submits to the Congress a report justifying the rescission and certifying that—

"(A) the country concerned has not provided support for international terrorism, including support or sanctuary for any major terrorist or terrorist group in its territory, during the preceding six-month period; and

"(B) the country concerned has made explicit assurances that it will not support acts of international terrorism in the future.

"(3) A determination under paragraph (1) of this subsection with respect to any country which was made prior to January 1, 1982, and which was no longer in effect on the date of enactment of this paragraph, shall be reinstated upon the expiration of 90 days after the date of enactment of this subsection unless the President submits a report containing the certification described in paragraph (2) with respect to that country within such 90-day period.".

Mr. DIXON. Mr. President, I am pleased to offer an amendment which will help strengthen American policy with respect to international terrorism. The amendment is a rewrite of section 6(i) of the Export Administration Act, the section of current law that covers export controls and international terrorism.

This amendment is based on an amendment I offered during consideration of S. 979 by the Senate Banking Committee. It reflects months of negotiations among Senator Garn, the chairman of the committee, Senator Heinz, the chairman of the International Finance Subcommittee, the State Department, and myself. It is a compromise amendment. It is perhaps not as strong as I would prefer: I am certain it is stronger than the State Department would prefer.

The basic purpose of the compromise amendment is very simple: It is an attempt to close a loophole in section 6(i). That section sets out the criterion for deciding whether to include a country on the list of those supporting international terrorism. If a country is on the list, important license applications must be sent to the Congress at least 30 days before they are finally approved.

However, the amendment provides no guidance on how to remove a country from the terrorism list or on what degree of congressional notification is appropriate. This amendment remedies those deficiencies. It provides that the State Department cannot remove a country from the terrorism list until it reports to the Congress and certifies that:

First, the country at issue had not supported international terrorism in the past 6 months; and

Second, the country involved has made explicit assurances that it will not support international terrorism in the future.

Mr. President, I wish this amendment were not necessary. However, the way the removal of Iraq from the list was handled provides more eloquent testimony on the need for it than anything I could say.

Congress was not timely or adequately informed of the determination to take Iraq off the list in March of 1982. Congress was not effectively consulted before the fact, or given any chance to question the rationale for the decision.

Now I do not pretend to know why Iraq was taken off the terrorism list in March 1982. I am told, though, that substantial evidence linked Iraq to continued support of international terrorism in the period immediately after it was taken off the list.

For example, 1 month—I repeat, 1 month—after Iraq was removed from the list, the Iraqis allowed the terrorist leader, Abu Nidal, to reestablish his base in Baghdad. Abu Nidal, let me remind the Senate, is clearly no candidate for sainthood. His followers were convicted of the attempted assassination of Israel's Ambassador to London, Shlomo Argov, in the summer of 1982, and that act lit the fuse that resulted in the explosion of civil war in Lebanon. It was that act which led to the military exchanges between the PLO and Israel, and the eventual fighting that took place in Lebanon.

Moreover, some reports at the time seemed to link one of those involved in the attempted assassination directly to the Iraqi Government.

Somewhat more recently, Abu Nidal was linked to the tragedy at Jo Goldenburg's Deli in Paris, which took the lives of several innocent victims, including an Illinoisan, and injured other people from my State.

Mr. President, this is not by any means a complete listing of the evidence that suggested continued Iraqi support for international terrorism after it was removed from the list. It does make the case, however, that we need to strengthen section 6(i) to insure that in the future countries are only removed from the terrorism list when they have truly stopped their policy of supporting terrorism.

I do not suggest that it is possible to know without a shadow of doubt that a country has ceased supporting terrorism and that it will not support terrorism in the future. This is a very grey area; I acknowledge the difficulties in trying to determine who is responsible for the increasing number of terrorist acts occurring around the world.

My amendment, therefore, does not require the State Department to be perfect. What it does require is that the Department exercise its best efforts. Under my amendment, the Department would have to do everything it could to determine whether a country had stopped supporting international terrorism and that it would no longer do so in the future before taking that country off the list. This was evidently not done in the case of Iraq, so my amendment requires the Department to make the same report with respect to Iraq that it would have to make to take any other country off the terrorism list. If the Department could not make the required certifications, Iraq would go back on the terrorism list 90 days after the enactment of S. 979.

It is beyond dispute that Iraq continued its support for terrorism after it was taken off the terrorism list in 1982. That fact severely calls into question the basis for the Department's decision removing Iraq from the list, and to my mind, at least, justifies requiring the Department to take another look at its 1982 decision.

As an aside, I was pleased to learn that the administration decided on January 22, 1984 to put Iran on the terrorism list. Some months ago, I drafted an amendment that would have had that effect, because of Iran's appalling and insidious links to international terrorism.

Passage of my amendment, as now written, would only serve to strengthen our national resolve to express condemnation of Iran's actions, for one primary reason: Under current law, this, or any other, administration could unilaterally remove Iran from the terrorism list, without any form of adequate notice to Congress or the American people—but, if this amendment were enacted into law, the President would have to certify to Congress, 30 days before removal, that Iran had not provided support for international terrorism during the past 6 months and that the United States had received assurances that Iran would not provide such support in the future.

If the administration were unable to provide Congress with these assurances, then Iran would stay on that list.

This amendment, therefore, serves to buttress our efforts to condemn international terrorism in a constructive manner in the case of Iran, as well as Iraq, and every other country on that list, now or in the future.

Before I conclude, let me remind the Senate what is at stake here. Being on the terrorism list does not mean that the United States will not sell even high-technology or dual-use items to the country involved: It simply means that Congress must be notified before the license authorizing the sale is issued. This is not much of a burden considering the impact that terrorism has had and continues to have around the world.

This administration says that terrorism is one of its top priorities. I agree with that ranking, and I suggest that this amendment is in accord with the thrust of that policy. It is a reasonable amendment. Again, it is a compromise amendment, one that deserves the Senate's support. I urge its speedy adoption.

Mr. President, I wish to advise Members of the Senate, as my friend the manager of this bill knows, that this is an agreed-upon amendment. There has been considerable discussion with the manager of the bill, the ranking member, the chairman of the committee, and others in the Banking Committee.

Mr. HEINZ. Mr. President, I believe the amendment of the Senator from Illinois is a useful one. Currently, the law is quite explicit as to the circumstances under which a country may be deemed to support terrorism and as to the economic controls that the United States may impose on such countries.

However, the law is unclear as to the circumstances under which a country may be removed from such status. The amendment the Senator has offered would clarify those circumstances and assure that just as the Congress was notified as to the reasons that a President added a country to the list of those countries deemed to support terrorism, it would be equally informed as to the reasons for which a country is removed from that list.

I would like to add my understanding for the record as regards several points in that amendment.

First, presumably, the retroactive date is designed to obtain great clarification from the President as to whether there were sound reasons to remove Iraq from the list. This country, in the past, certainly acted as the headquarters for some notorious terrorist groups and this amendment would require that the President inform the relevant committees as to his reasons. I assume that there would be instances in which such a certification might have to be at least partially communicated to the committees in classified form.

I would also regard the notion of support or sanctuary of terrorist groups as involving training, operations, or logistical support activities, or the financing of such activities, which are directly related to terrorism. Simply accepting refugees which had been associated with such groups in the past, particularly when such acceptance was in support of internationally agreed resettlement efforts, would presumably not be included in this definition.

Assuming my interpretations of this amendment are correct, I can accept that amendment as it stands.

Mr. DIXON. I thank the manager of the bill.

Mr. President, I move adoption of the amendment.

The **PRESIDING OFFICER.** Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2733) was agreed to.

Mr. **DIXON.** I move to reconsider the vote by which the amendment was agreed to.

Mr. **HEINZ.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **DIXON.** I want to say, Mr. President, I genuinely appreciate the consideration shown to this Senator by the manager, the chairman of the committee, and others on this amendment. I think the Senator from Pennsylvania knows this amendment has not gone as far as this Senator would like, but the courtesy afforded us throughout the entire proceedings is greatly appreciated, Mr. President. It has spanned a great many months and we are entirely satisfied with the courtesy accorded us and appreciate the adoption of these amendments.

Mr. **HEINZ.** Mr. President, I thank my colleague from Illinois for his excellent contribution to this bill, not just here on the floor. He has been an extraordinary active participant all the way through what to him must have seemed like an endless process. I heartily commend him not only for his insights but for his expertise. I welcome him as the interim floor manager for the minority on the bill.

AMENDMENT NO. 2734

Mr. **HEINZ.** Mr. President, I send two amendments to the desk and ask that they be considered en bloc.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The clerk will state the amendments.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes amendments numbered 2734.

Mr. **HEINZ.** I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 19, strike lines 18 through 20, and insert in lieu thereof the following:

"(A) A distribution license, authorizing exports of goods to approved distributors or users of the goods in countries other than countries to which exports are controlled pursuant to section 5(b) of this Act. The Secretary shall grant the distribution license primarily on the basis of the reliability of the applicant and foreign consignees with respect to the prevention of diversion of goods to proscribed destinations, and in doing so shall have the responsibility of determining, with the determining, with the assistance of all appropriate agencies, the reliability of applicants and their immediate consignees. Such determination shall be based on appropriate investigations of each applicant and periodic reviews of licensees and their compliance with the terms of licenses. Factors such as the applicant's products or volume of business, or the consignees' geographic location, sales distribution area or degree of foreign ownership, which may be relevant with respect to individual cases, shall not be determinative in creating categories or general criteria for the denial of applications or withdrawal of licenses."

On page 49, line 4, strike "and";

On page 49, line 13, strike the final period and insert in lieu thereof "; and" and add the following new paragraph:

"(4) by adding after subsection (b) as redesignated the following new subsection:

"(c) If the Secretary proposes to alter regulations issued pursuant to this Act he shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives of the intent and rationale of such alterations. Such report shall evaluate the cost and burden to U.S. exporters of the proposed regulations relative to any enhancement of licensing objectives. The technical advisory committees authorized under paragraph (h) of section 5 of this Act shall be consulted in the development of or alterations to regulations issued under this subsection. The concepts and procedures defined by regulations in existence as of June 29, 1983, with respect to sections 4 and 5 of this Act, shall remain in effect unless the Secretary determines, on the basis of a body of reliable evidence, that specific change is necessary to enhance the system's ability to prevent diversions endangering the national security or to streamline the licensing and paperwork burden on exporters and their distributors."

(Mr. **TRIBLE** assumed the chair.)

Mr. **HEINZ.** Mr. President, let me explain this issue. I am going to take more than just 30 seconds to do it, because this is an important issue.

One of the issues that has arisen since the bill was reported is that of proper oversight of the distribution license, a license which exists at present and which is explicitly authorized in S. 979. The purpose of this license is to accommodate fixed relationships between American suppliers of products and their distributors abroad, many of which products, Mr. President, will subsequently be resold to other end users by those distributors.

Last month, the Commerce Department proposed regulations to alter the criteria for distribution licenses. These proposed regulations, which have aroused substantial concern in the business community, impose serious categorial limits on the licenses, for example, by simply excluding them arbitrarily from many countries or from transactions below a required volume.

These proposed regulations are a response to a legitimate problem—a licensing system that had experienced grossly inadequate oversight by the Commerce Department in recent years and therefore was unable to follow adequately the process of a good to its ultimate, sometimes unreliable, end use.

In some respects, however, the regulations represent a cure worse than the disease. By arbitrarily excluding entire categories of otherwise eligible distributive relationships, the Department excludes the good with the bad. In fact, these are judgments that should be made on a case-by-case basis. The Department's critieria in the proposed regulations are relevant to the question of consignee reliability, but they should be applied case by case rather than collectively.

Second, the regulations appear to have been developed without much consultation with the Congress, other Government agencies, or private sector experts. The latter group in particular, well represented in the technical advisory committees created by the act, could have provided needed expertise in development of the regulations. I also understand there was little, if any, consultation with the Defense Department before the proposed regulations were issued.

Accordingly, Mr. President, I have sent to the desk two amendments that will rectify both these deficiences. One is strictly procedural and will apply to all forthcoming changes in the regulations, including the pending one. It requires a better, more extensive explanation of the proposed regulations and the reasons for them, and closer consultations with the elements I have mentioned.

The other amendment deals directly with the distribution license, making clear that the primary question in granting a distribution license is the reliability of the applicants and the consignees with respect to diversion to proscribed destinations. It further makes clear that the Commerce Department is responsible for making such a determination, with the assistance of other agencies, by investigating the reliability of applicants and immediate consignees. In making such determinations, factors such as the applicant's products or volume of business, or the consignees' geographic location, sales distribution area, or degree of foreign ownership may be taken into account on a case-by-case basis, but may not be used to develop categories or criteria for the denial of applications or the withdrawal of licenses.

Taken together these amendments will not only create a broader basis for the development of new regulations but will clarify congressional intent with respect to the distribution license. I urge their adoption.

Mr. President, one other comment. Under this amendment, the distribution license is expected to be available for most of the countries in the world, excluding only Communist-bloc countries and other countries subject to equally restrictive national security controls. The language of the amendment reaffirms the committee's conclusions regarding the distribution license expressed in our report.

I also would like to make clear, Mr. President, that the Secretary of Commerce can draw upon the resources and information of other appropriate agencies in exercising his responsibility to determine the reliability of applicants and their immediate consignees under this amendment. Specifically, he can utilize available intelligence and field information concerning applicants and the consignees and may consult at his discretion other appropriate agencies in making assessments of reliability.

Mr. President, I urge the adoption of the amendment.

Mr. **DIXON**. Mr. President, the amendments have been cleared on this side. They are both excellent amendments. They improve the bill and we are delighted to accept them.

Mr. **HEINZ**. I thank my colleague from Illinois for accepting the amendments on behalf of the minority. I move the amendment.

The **PRESIDING OFFICER**. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2734) was agreed to.

Mr. **HEINZ**. Mr. President, I move to reconsider the vote.

Mr. **DIXON**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2735

(Purpose: To establish accountability for delays in processing export license applications)

Mr. **HEINZ**. Mr. President, on behalf of the Senator from Illinois (Mr. PERCY), I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), on behalf of Mr. PERCY, proposes an amendment numbered 2735.

Mr. **HEINZ**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 41, strike out line 7.

On page 41, line 15, strike out the second period and insert in lieu thereof "; and".

On page 41, between lines 15 and 16, insert the following:

(8) by adding at the end thereof the following:

"(k)(1) Beginning 180 days after the date of enactment of this subsection and every six months thereafter, the Secretary shall submit to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report listing in two sections—

"(A) all applications the processing of which was completed during the preceding six months and which required a period longer than the period permitted by this section before notification of a decision was sent to the applicant, and

"(B) all applications which have been in process for a period longer than the period permitted by this section and upon which final action has not been taken.

"(2) Each listing shall identify—

"(A) the application case number;

"(B) the value of goods covered by the application;

"(C) the country of destination;

"(D) the date of the application was received by the department;

"(E) the date on which the Secretary granted or denied the application;

"(F) the date the notification was sent to the applicant; and

"(G) the total number of days which elapsed between receipt of the application in acceptable form and the cut-off date of the report, or the date that notification of decision was sent, whichever is earlier.

"(3) For an application which was referred to other agencies, the listing shall also include—

"(A) the agencies to which referral was made;

"(B) the date or dates of referral; and

"(C) the date or dates recommendations were received from these agencies.

"(4) For an application referred to any other agency which has taken a period longer than the period permitted by this section to provide its recommendations, the listing shall also include—

"(A) the office responsible for processing the application and the position of the officer responsible for the office; and

"(B) the period required for processing by the office.

"(5) The report shall also provide an introduction which contains (A) a summary of the number and value of applications listed by length of process delay beyond the period permitted by this section (0-15 days; 16-30 days; 31-45 days; 46-60 days; more than 60 days delay), and (B) a summary by country of destination of the number and value of applications requiring more than 60 days to process.".

Mr. **HEINZ**. Mr. President, as I said a moment ago, Senator PERCY's amendment relates to the notification of delayed processing of license applications.

By way of explanation, the bill before us, S. 979, makes important steps to streamline the license application process, including increased reliance on multiple export licenses, decontrol of certain classes of West-West trade, and a one-third reduction in license processing times.

Given these changes, it is appropriate to adopt reporting procedures to help insure that the changes prescribed in the legislation actually take place. This amendment is a helpful step in that regard. The periodic reporting to the Congress will help the Congress in its oversight role. Of course, this reporting requirement should not result in the divulging of proprietary information, and I do not believe that it will.

This is a good amendment, and I support it. I urge its adoption.

Mr. **PERCY**. This amendment corrects a serious gap in the ability of the Congress to conduct oversight of the promptness of export license application processing.

Despite efforts to reduce delays in export license application review by specifying time limits within which the administration must decide on applications, the Congress still has no way of determining compliance with these processing time limits on a regular and systematic basis. Complaints received from American business indicate that they encounter delays frequently and that some delays extend far beyond the permitted review time limits. This amendment would remedy the oversight problem by requiring semiannual reporting of all applications which have taken more than the permissible time to process. The report requirements permit Congress to determine quickly the number, value, country destination, and extent of delay encountered by the applicants on a twice yearly basis so that remedial action can be taken quickly where delays exceed acceptable bounds.

By requiring the listing by application case number, applicant companies can verify that the list includes cases in which they have experienced delay or have not yet received a decision within the period specified by law.

Mr. **DIXON**. Mr. President, this is an excellent amendment offered by my warm friend and colleague from Illinois which requires an annual report to the Congress of unnecessary delays on licenses. I am thrilled on behalf of the minority to offer my support for this amendment.

Mr. **HEINZ**. I commend the Senator from Illinois on an excellent statement.

Mr. **DIXON**. I thank the Senator very much.

The **PRESIDING OFFICER**. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 2735) was agreed to.

Mr. **DIXON**. Mr. President, I move to reconsider the vote by which this very excellent amendment was just adopted.

Mr. **HEINZ**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2736

(Purpose: To require a plan for small business assistance)

Mr. **HEINZ**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 2736.

Mr. **HEINZ**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, between lines 2 and 3, insert the following new section, and renumber succeeding sections accordingly:

SMALL BUSINESS ASSISTANCE

SEC. 15. Section 10 of the Export Administration Act of 1979 is amended by adding at the end thereof the following new section:

"(k) SMALL BUSINESS ASSISTANCE.—Not later than 120 days after enactment of this subsection, the Secretary of Commerce shall develop and transmit to the Congress a plan to assist small businesses in the export licensing application process. The plan shall include, among other things, arrangements for counseling small businesses on filing applications and identifying goods or technology on the control list, proposals for seminars and conferences to educate small businesses on export controls and licensing procedures, and the preparation of informational brochures.".

Mr. HEINZ. Mr. President, I want the RECORD to reflect that this is Senator PERCY's amendment which I sent to the desk on his behalf. It is the small business outreach amendment that was referred to a moment ago.

Let me explain what Senator PERCY's amendment does. I believe it addresses a very definite problem, namely, that very few small businesses are sufficiently aware of their rights and responsibilities under the Export Administration Act. To the degree to which their understanding and awareness of the act and the controls, both national security and foreign policy, can be improved, I believe it will take a major step forward in improving the effectiveness of export controls under this act.

Now, I do not think we should show some kind of extraordinary and special favoritism to small business in the way we administer the act, but where it is a question of their ability to obtain export licenses, and since, unfortunately, many illegal technology smuggling rings operate from behind the cover of small business operations, I want to be sure we do whatever we can, first, to help them deal with the legitimate problems of exporting, and, second, to make sure we do nothing to enhance the ability of unscrupulous operators to circumvent our export controls.

I do not believe this amendment will in any way enhance the ability of unscrupulous operators to circumvent our export controls, so, as I pointed out, I believe the amendment offered by Senator PERCY will enhance the effectiveness of our controls. I will be helpful to small business in other regards, and I compliment him on his amendment. I know of no objection to it.

Mr. PROXMIRE. Mr. President, in connection with the amendment that my good friend from Pennsylvania is now offering, which, as I understand it, requires Commerce to educate small business on how to apply for export licenses, it sounds like a very good amendment. I understand it is for an excellent purpose. I want to be sure, if there is a cost, is the cost nominal or what is it? How much would it be?

Mr. HEINZ. Mr. President, the amendment authorizes no additional funds to the Commerce Department for the purpose of carrying it out. As far as we have been able to determine, the Commerce Department is apparently able to do this with existing staff resources.

Mr. PROXMIRE. So there will be no additional cost to the Treasury?

Mr. HEINZ. That is my understanding, but I must tell the Senator that even though I believe that to be correct, we do not have a letter so stating from the Office of Management and Budget. Normally, it would be desirable to have such a letter, but it was judged to be such a minimal amount——

Mr. PROXMIRE. There is no objection by the Office of Management and Budget?

Mr. HEINZ. I do not know his position. The amendment would, however, incur an additional cost.

Mr. PROXMIRE. Mr. President, I have no objection.

Mr. PERCY. This amendment requires the Secretary of Commerce to develop and submit to Congress a plan to assist small business in understanding and complying with the complicated export licensing procedures which deter many small businesses from exporting. Many businesses are severely penalized because they attempt to ship products without understanding the paperwork requirements of the law. My amendment would require a concerted effort to educate small business exporters about export control regulations. If you have small business exporters in your State, you may have encountered this problem.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment of the Senator from Illinois (Mr. PERCY).

The amendment (No. 2736) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2737

(Purpose: To limit the use of distribution licenses and comprehensive operations licenses)

Mr. PROXMIRE. Mr. President, I sent an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an amendment numbered 2737.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, between lines 14 and 15, insert the following:

"(2) by adding at the end of subsection (a) the following:

"In no case may a distribution license or a comprehensive operations license be used in connection with exports to proscribed destinations."

Redesignate succeeding paragraphs accordingly.

Mr. PROXMIRE. Mr. President, I am offering this amendment to section 4(a) of the Export Administration Act. It will simply clarify the intent behind certain changes S. 979 makes to that section of existing law.

Section 4(a) sets forth the type of licenses which may be issued to exporters to carry out the short supply, foreign policy, and national security controls set forth in the act.

Our bill, S. 979, makes a major effort to protect the rights and interests of exporters by simplifying and expediting licensing processes where possible. It identifies two licenses for authorizing multiple exports that should be of special value to U.S. exporters who have demonstrated a sensitivity to U.S. national security concerns through their own effective security procedures and practices. These are the distribution and the comprehensive operations licenses. The former covers the multiple export of goods and the latter is to deal with the multiple export of technology and related goods. Neither license is to be issued as a matter of right. Both would be issued at the discretion of the Secretary of Commerce after an examination of the exporter's system of controls. Both could be issued even for items that are on the militarily critical technologies list.

The report on S. 979 makes clear the committee's intent that distribution and comprehensive operations licenses be issued only for items being exported to Western destinations. My amendment simply adds a sentence to S. 979's provisions dealing with these two multiple licenses and makes clear that they are not to be used in connection with exports to proscribed destinations such as Eastern Europe and the Soviet Union.

I urge your support for this amendment which is consistent with S. 979's dual purpose of streamlining export controls, but also preventing diversion of our technology to the Soviet Union.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to my friend from Pennsylvania.

Mr. HEINZ. Mr. President, let me ask my good friend from Wisconsin, as I understand his amendment, it deals with comprehensive operation licenses and distribution licenses, and the extent to which they are available to countries that we do not ship national security controlled items to.

Does his amendment change current practice in any way, or does it simply codify current practice?

Mr. PROXMIRE. It does not change current practice in any way. It codifies current practice.

Mr. HEINZ. That is my understanding of the amendment offered by the Senator. With that assurance, I wholeheartedly support his amendment and urge its adoption.

Mr. PROXMIRE. I thank my friend.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (No. 2737) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2738

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 2738.

Mr. HEINZ. Mr. President, this is a technical amendment. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

"AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961

"SEC. . Section 502B of the Foreign Assistance Act of 1961 is amended by deleting 'chairman of the Committee on Foreign Relations' and inserting in lieu thereof 'President'.".

Mr. HEINZ. Mr. President, there appears to be an incongruity in a provision of the law that affects the administration of foreign policy export controls. This technical amendment would correct that problem in the bill.

Specifically, the problem is this: Section 502B of the Foreign Assistance Act requires the President to submit a report to the Congress whenever an export is made to a country controlled under section 6(i) of the Export Administration Act. That is the provision of law governing exports to countries that give support to terrorism.

Section 501B requires that the report be submitted to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate. This is an inappropriate referral, Mr. President, since rule XXV of the Standing Rules of the Senate gives exclusive jurisdiction over export control matters to the Banking Committee.

Moreover, Mr. President, it seems inappropriate to name the Speaker of the House as the recipient of the report for one Chamber and the chairman of a committee as the recipient for the other. This amendment would substitute the President of the Senate as the recipient of the report in place of the chairman of the Foreign Relations Committee.

Mr. PROXMIRE. Mr. President, this is one technical amendment I can enthusiastically support, and I do so.

Mr. HEINZ. Mr. President, I thank the distinguished minority manager of the bill, the ranking member of the committee, Senator PROXMIRE, for his support of this excellent amendment. He thinks it is an excellent amendment, and that is the reason the Senator from Pennsylvania offers it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania (Mr. HEINZ).

The amendment (No. 2738) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2739

(Purpose: To restrict the export of horses)

Mr. HEINZ. Mr. President, on behalf of the Senator from Texas (Mr. TOWER), I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for the Senator from Texas (Mr. TOWER), proposes an amendment numbered 2739.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

EXPORT OF HORSES

SEC. 19. The Act of March 3, 1891 (46 U.S.C. 466a and 466b) is amended by adding at the end thereof the following:

"SEC. 3. (a) Notwithstanding any other provision of law, no horse may be exported by sea from the United States, or any of its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under subsection (b).

"(b) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue regulations providing for the granting of waivers, permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

"(c)(1) Whosoever knowingly violates this section or any regulation, order, or license issued hereunder shall be fined not more than five times the value of the consignment of horses involved or $50,000, whichever is greater, or imprisoned not more than 5 years, or both.

"(2) The Secretary of Commerce, after notice and opportunity for an agency hearing on the record, may impose a civil penalty not to exceed $10,000 for each violation of this section or any regulation, order, or license issued hereunder, either in addition to or in lieu of any other liability or penalty which may be imposed.".

● **Mr. TOWER.** Mr. President, section 7(j) of the current Export Administration Act prohibits the export of live horses intended for slaughter. This section was originally made effective by the Export Administration Act of 1979.

The Senate Banking Committee, as part of an effort to limit the language of the Export Administration Act to the subject of the general export licensing and enforcement process, has recommended in S. 979 that section 7(j) be deleted from the act. I support this effort to streamline the act. However, I believe that the ban on the export of live horses intended for slaughter should be continued intact. This ban has well served our national interest in two ways. First, it has advanced the highly important cause of more humane treatment for live animals. Second, it has corrected a problem that existed prior to the ban.

Prior to the 1979 act, many sellers would ship live horses to Europe as intended for slaughter, and then divert them and market them dishonestly as purebreds. In this way, the sellers avoided European duties and undermined American breeders who were trying to sell honestly.

My amendment moves the language of section 7(j) from the Export Administration Act to another section of the United States Code, 46 U.S.C. 466, entitled, "Rules as to Accommodations for Export Animals." The amendment also transfers the current penalties for violations of section 7(j) to the new section. The amendment has been cleared by the Banking, Agriculture, and Commerce Committees, and is supported by the American Humane Association, the American Horse Council, and the American Quarter Horse Association.

I might add that the House-passed reauthorization of the Export Administration Act, H.R. 3231, makes no changes in the language or location of section 7(j), and therefore recommends a continuation of the current law.

Mr. President, I ask that my amendment be adopted.●

Mr. HEINZ. Mr. President, Senator TOWER's amendment deals with the prohibition on the exportation of live horses intended for slaughter.

Basically, having examined the Senator's amendment, I believe the committee can and should support it. It was not the intention of the committee to terminate the prohibition on the exportation of live horses for slaughter. This amendment will continue that prohibition by placing it in a more appropriate part of the United States Code, and the change proposed by Senator TOWER will have the added advantage of making the prohibition permanent rather than part of a statute that must be renewed periodically.

Speaking for the majority, Mr. President, we accept the amendment. I urge its adoption by the Senate.

The PRESIDING OFFICER. Is there further debate?

Mr. PROXMIRE. Mr. President, I have had a chance to discuss this amendment with the staff and I have no objection.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2739) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, the able Senator from Wisconsin who serves the minority in this matter, and certainly the very constructive Senator from Pennsylvania who is handling, at least at this time, the measure for the majority, are discussing the extension, as I understand it, of legislation that has an expiration date of tomorrow night. Is that correct?

Mr. PROXMIRE. Mr. President, we were going to consider legislation extending the ban on credit card surcharges, but we are not going to consider that. That expired at noon today, as I understand it.

Mr. RANDOLPH. I see, Mr. President. That is not part of this discussion?

Mr. PROXMIRE. That is not part of the consideration now. We would have to set this bill aside and it will not be set aside until, perhaps, tomorrow.

Mr. RANDOLPH. May I inquire further? I am not acquainted in complete detail with the pending measure, the export administration amendments, as I am sure those who are participating in the debate are. However, there has been a controversial situation develop as to the high technology that we might send to other countries. This does not come as a result of congressional action, but through the program as it is administered by the Department of Commerce. Is that correct?

Mr. PROXMIRE. The Senator from West Virginia is absolutely correct. That is precisely what we are discussing, what we do about the present Export Administration Act which, the Senator is correct, is administered by the Department of Commerce. What we are concerned about, of course, is that our high technology, which is essential to our military advantage, has, in the past, become available to the Soviet Union, to their great advantage and our disadvantage. Therefore, we are pressing legislation which would limit that without seriously restraining our trade with our allies and with other countries. We certainly do not want to do anything that will benefit the Soviet Union militarily.

Mr. RANDOLPH. The Senator from Wisconsin feels, then, that there is a concern that if the equipment goes to so-called neutral countries, later, that equipment might be given to the Soviet Union. Is that a question that is concerning the Senate at this time?

Mr. PROXMIRE. Mr. President, let me make a correction, if I may interrupt my good friend from West Virginia, because I misinformed him. I said the credit card legislation expired at noon today. I find out now, talking to the expert, the Senator from Pennsylvania, that it expires at midnight tonight.

We shall not act on it, of course, until tomorrow and after we act, it goes to the House and the House will have to act, then it goes to the President. So we shall have a situation for at least a day or so in which there will be no ban on merchants making a surcharge on credit cards.

I apologize for having interrupted the Senator's question. Would he inquire again?

Mr. RANDOLPH. Mr. President, I was inquiring whether there is a danger when equipment goes to so-called neutral countries that it would be sent later from those countries to the Soviet Union?

Mr. PROXMIRE. Absolutely. We have a conspicuous example of a very important military computer that was made available to a company in South Africa. That company was a Soviet shell company and it tried to send it to the Soviet Union via Sweden. We intervened at just the last minute and, in a matter of literally 1 or 2 hours, we prevented that from falling into the hands of the Soviet Union. It is that kind of thing that we need to remedy.

In fact, the Soviet Union spends hundreds of millions of dollars trying to get our technology. They have a very well-organized system, extremely well managed and very productive, which spends a great deal of time and effort getting the technology of the United States of America in conventional and nuclear areas. The big advantage we have over the Soviet Union is not that we have more tanks and planes; we do not. We have tanks and planes that are better. That is where our advantage is. That is why this bill is important primarily from a military standpoint.

Mr. HEINZ. Will the Senator yield on that point?

Mr. PROXMIRE. Yes, Mr. President.

Mr. HEINZ. Mr. President, I just want to agree with what the Senator said and enlarge upon it to this extent: On the one hand, there have been provisions in the law, the Export Administration Act, prior to S. 979 and the amendments to it, that are supposed to deal with the issue of diversion, the issue that the Senator from West Virginia has just described, where an export goes to one country that is not hostile to us, but ends up soon going to the Soviet Union. We have a licensing system called validated [illegible] now in the law, which is [illegible] track that export, if you will, [illegible] cradle to the grave.

One of the big flaws [illegible] in this regard we are deeply in debt to the Senator from Georgia (Mr. Nunn) and the Governmental Affairs Subcommittee on Permanent Investigations—is that, frankly, the ability of the Department of Commerce to enforce current law to see through to their conclusion the export on the validated license has, frankly, been a good deal less than we had hoped. I am not being charitable about it. It has been a good deal less than we would have liked to see.

That is why, in this legislation, we adopt one of the recommendations of the Subcommittee on Permanent Investigations, namely, transfer of multienforcement authority to the Customs Service, which has a lot more expertise and experience in this area.

Mr. RANDOLPH. Mr. President, my understanding is clarified by the explanations of the Senators who are handling this legislation. I refer to the Senators now by name, Senator PROXMIRE of Wisconsin and Senator HEINZ of Pennsylvania. When doing so, it seems to me very important to indicate that many Members of the Senate, because of other commitments, committee meetings, working with delegations who are visiting them in Washington today, cannot be here in the Chamber.

I do know that this is a subject on which the staffs of Senators are watching developments here in anticipation of amendments which the Senators indicate are of a highly important and controversial nature. Is that right?

Mr. HEINZ. Mr. President, if I may say to my friend from West Virginia, it is not the Senate's intention to handle controversial amendments today. Those amendments will be brought up tomorrow. There is an understanding, apparently, between the majority and minority leaders, Senator BAKER and Senator BYRD, that there would be no record votes today. That precludes as a practical matter the consideration of the truly controversial amendments. Most of what we are doing today is really quite technical.

Indeed, the Senator from Pennsylvania, as the manager of the bill, has offered over a dozen noncontroversial technical amendments. We have one or two other amendments that, while important, will, nonetheless, I think, be judged to be of little controversy, which we shall take up. Hence, there is no particular reason why our colleagues, as we do these essentially housekeeping chores, should have to be in attendance.

Mr. RANDOLPH. But there will come tomorrow, as I understand it, the movement of this legislation into the area of important rollcalls on amendments and, hopefully, a final disposition of the pending measure. Is that correct?

Mr. HEINZ. The Senator is indeed correct.

Mr. RANDOLPH. I thank my able colleagues very much.

Mr. PROXMIRE. I thank the Senator.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, there are a number of us from the agricultural areas of this country that have been sensitive to what has been happening to prices in agricultural products. Generally speaking, agricultural prices for producers have been declining; they have been miserably low and have forced the farmers and ranchers of this country almost to the wall economically.

We have from time to time during the past several months discussed the administration's proposal on one phase of agriculture which, rather than add to agricultural income, would decrease agricultural income. That was a proposal made by the administration last fall and still advocated by the administration to lower the target prices for wheat for next year's crop and the 1985 crop.

Those of us from the Wheat Belt who have felt most concerned about the effects that would have on wheat producers have continually asked the administration, if that were to be the case, what could the wheat producers look forward to for the 1984 and 1985 crops which would be reassuring and reinvigorating in the marketplace to stabilize their income for wheat production.

As a result of that, the Department announced their wheat program for the 1984 crop and invited producers to sign up for the wheat program, and that signup has been, to put it mildly, miserably low. In some counties in wheat-producing areas of Montana, the signup is between 1 percent and 10 percent. I think it is fair to say that in the State overall, the signup by wheat producers is well below 10 percent.

However, we are no exception in Montana. Reports that have been circulated about the signup in Kansas, in the Dakotas, in Nebraska, Oklahoma, and Texas, the great Wheat Belt of the United States—I do not want to slight any State; there are other States that are also part of the great Wheat Belt—the signup has approximated less than 10 percent in the entire Nation.

What that means is that almost all the wheat producers for the 1984 crop would be outside the program. This has caused a great deal of concern to the Department of Agriculture, thinking that possibly there is going to be huge crop planting for the coming year, and there would be further price depressing surpluses of wheat produced. That is also of concern to wheat producers, and it is of concern to all of us who represent wheat producers in the U.S. Senate.

The House passed a wheat program bill last fall. The Senate has not acted upon it as yet. It is contrary to the policies of the administration, so there has been great reluctance in the Senate to consider the bill. However, in deference to the House and in deference to the administration and in deference to the wheat producers of this country, there are quite a few of us in the Senate who have felt that some effort should be made at some middle ground for a wheat program.

Senator ANDREWS and I are preparing an amendment in the nature of that middle ground which we hope to offer to this bill and have the Senate vote on it, to see whether or not we have sufficient votes in the Senate to modify the administration's wheat program and to find a middle ground between what the administration objects to in the House-passed bill and what might be acceptable to them.

I can say that we would concede on the target prices in our amendment to bring some reductions to about $4.40 for this year's crop and $4.50 for next year's crop. That concedes 5 cents of deficiency payments for this year's crop and 15 cents in deficiency payment for the 1985 crop.

It would be our approach in our amendment for no paid diversion but a 20 percent average reduction; that is, a set-aside by those producers who agree to the program. In addition, we are not calling for any advance payments and are leaving entirely alone the PIK program for wheat, as the administration recommended.

We would allow grazing and haying on those acres that are put into diversion. All in all, we would come up with a savings over what the administration has proposed. There would be no change for this year. It would be about the same. It would be a change from the House bill. It would be a modest increase for fiscal 1985, but projected over the next 5 years, it would be a $3.4 billion saving.

I think that is worth considering. If we can take the time of the Senate to make this last-ditch effort, on these last days of February, to provide for the wheat producers of this country an opportunity for a decent wheat program, they might be able to conscientiously consider signing up under the program and have a decent signup, in order to curb what might otherwise be a very unwieldy and untimely crop surplus.

We are now approaching the end of the marketing season for the 1983 crop, and it is apparent by all projections, including that of the Department of Agriculture, that there will be a carryover of wheat stocks of 1.4 billion bushels.

To put that in the proper perspective, that figure is estimated, as of June 30 for the 1983 crop, and 1.4 billion bushels is at least twice as much as is necessary for domestic consumption in any one year for the United States.

Also to put it in the proper perspective, come the first of June or the first week in June, harvesting will begin in Texas on the 1984 wheat crop.

So we are talking about a cinch carryover of 1.4 billion bushels, at least—more than twice what is necessary for domestic consumption in a given year. Further, that is coming at a time when the crop harvest starts in the southern part of the Wheat Belt, and that harvest will probably add in excess of 2 billion bushels to the 1.4 billion bushels on hand now.

Facing us also has been a diminishing export market. There will be other opportunities, in other legislation, to spur export of wheat sales, other agricultural products, and we will take those up at a later time in the Senate.

Nevertheless, if we are to offer the wheat producers of this country an opportunity for a better wheat program for the coming crop year, it is apparent that time is so short that we must take the unusual step of offering the amendment to this bill. Of course, it is a nongermane amendment, but other nongermane amendments may be offered to this bill.

It is one that I think is worthy of the Senate's consideration; and I have taken the time this afternoon to alert my colleagues and the public as to what may be offered as an amendment by me and Senator ANDREWS, in the next day or so, so that we can have a full debate and full consideration by the Senate of this very important subject matter.

I hope we will act favorably on the amendment and that we will be able to send to the President, for his signature, this obvious saving for cash outlay from the Treasury for wheat producers; but, in turn, also an encouragement to them to sign up in the wheat program of the Department of Agriculture for 1984.

Mr. President, I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER (Mr. SYMMS). The Senator from Missouri.

Mr. DANFORTH. Mr. President, I will send to the desk two amendments to the bill.

The PRESIDING OFFICER. The Senator may proceed.

AMENDMENT NO. 2740

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes amendment numbered 2740.

On page 33, strike out lines 8 through 13, and redesignate succeeding paragraphs accordingly.

Mr. DANFORTH. Mr. President, today I am introducing the Finance Committee amendment to section 6 of S. 979. This amendment is the product of hearings before the Finance Committee's Subcommittee on International Trade, of which I am chairman. The administration has actively supported this amendment and testified at our hearings that the President does not want and does not need the import control powers which this amendment would delete from S. 979. As reflected in the vote of its members, the Finance Committee believes that granting the President these totally unfettered and unprecedented import control powers as part of his export control authority is a serious threat to our international trading interests.

This amendment would delete that part of section 6 of the bill which authorizes the President to use import controls against any country which is the target of our foreign policy export controls under the Export Administration Act. Now, let us be clear about the meaning of this grant of authority. Foreign policy export controls are used not just against the Soviet Union, as was the case in the grain embargo, but against virtually the entire world for reasons as diverse as promoting human rights, regional stability, and nuclear nonproliferation, expressing displeasure with particular countries, preventing the spread of crime detection equipment, and penalizing assistance to international terrorists. So if we piggyback import control authority onto these broadly used foreign policy export controls, we have in effect given the President a blank check to use import controls against virtually the entire world as a foreign policy tool. And unlike the authority to use export controls under the act, which is subject to contract sanctity, time limits, and procedural constraints, the proposed grant of import control authority is totally open-ended.

Now, I know some of my distinguished colleagues on the Banking Committee argue that if the President is going to interfere with U.S. exports to a target country for foreign policy reasons, he ought to be able to interfere with imports from that country as added leverage and to force on their exporters the economic costs which, under current law, can only be placed on our own exporters. But this apparently appealing proposition is likely to turn into a trap which will inflict even greater losses on our exporters.

Use of import controls as an instrument of a nation's foreign policy is not justifiable under the GATT, and most countries, whether or not they are GATT members, would be sorely tempted to retaliate against U.S. exports if we used this tool. And because these import controls are totally open-ended, we can anticipate whole new constituencies urging the President to use export controls against particular countries in an effort to obtain import protection.

We have seen the economic costs which our foreign policy export controls have inflicted on American farmers and industry in the grain and pipeline embargoes directed at the Soviet Union. Trade sanctions have boomeranged too often in recent years for us to casually add such sweeping new and potentially damaging import authority to the President's arsenal. We should do nothing which either encourages the use of export controls or invites retaliation against our exports. I am sympathetic to the goals of the Banking Committee, but I fear that committee's grant of import control authority only makes it more likely that the United States will be drawn into the use of trade sanctions as a routine instrument of its foreign policy. We simply cannot afford that, and this Finance Committee amendment therefore deletes the import control authority contained in section 6.

The Senator from Missouri has followed with increasing alarm the acceleration in the use of export controls, and economic sanctions generally, as a tool of U.S. foreign policy. Admittedly, not all of these sanctions involve use of Export Administration Act authority. I am offering for the record a comprehensive listing by the Institute for International Economics of instances of economic sanctions in support of foreign policy goals. This listing is clear evidence of two points: The United States uses the trade weapon much more often than other countries, and the frequency with which this weapon is used by the United States has increased dramatically. The United States has become the champion user of economic sanctions for foreign policy goals.

Unfortunately, this distinction has been achieved at considerable cost to our trading interests. It is self-evident that trade sanctions entail immediate economic losses for our exporters and the jobs those exports generate. Perhaps of greater long-term importance is the damage which repeated trade sanctions inflict on this country's reputation as a reliable supplier. Foreign buyers who would, under normal circumstances, source their purchases in the United States, increasingly look to non-U.S. sources because of the continuing and accelerating propensity of the U.S. Government to use trade as a political weapon.

One example of the damage inflicted by trade sanctions is the sanctions imposed on the Soviet Union in 1978 for jailing dissidents. At that time, the Caterpillar Tractor Co. claimed 85 percent of the Soviet market for pipelayers, tractors, and special hoists that place oil and gas pipelines into trenches. That share helped that company to dominate the world market in pipelayers and these exports were worth between $50 and $100 million a year. Since the Soviet sanctions, Caterpillar's share of the Soviet market has fallen to 15 percent of the market, while the share of its principal competitor, Japan's Komatsu, Ltd., has risen to 85 percent. This Soviet business has also put Komatsu into a stronger position to challenge Caterpillar's world leadership. And this economic sacrifice has not been accompanied by any improvement in the treatment of Soviet dissidents or the Soviet human rights record in general.

If this damaging trend is to be reversed, we must place new emphasis on the value of our trading relationships and insist that trade sanctions be used sparingly and only when they will achieve a tangible objective. The way to do this is not to compound the problem through the use of import controls. Such controls will almost certainly invite retaliation against American exports, further damaging our trading interests. And import controls used in concert with foreign policy export controls will surely increase the difficulty of removing export controls, as domestic constituencies benefiting from such import controls learn to lobby against the removal of the export controls on which the import controls are based.

Trade sanctions have often been justified as a means of "sending a signal." I have never understood who it is that is receiving these signals, since our foreign competitors are quick to fill the orders we lose by using sanctions, and the countries which are the targets of sanctions rarely seem moved by them. I ask those who believe that trade sanctions are an expression of high moral principle and exemplary self-sacrifice, to consider whether it is moral to sacrifice American jobs and markets without achieving some tangible objective in exchange. Those Americans whose jobs are lost and whose aspirations for a better life are diminished as a result of trade sanctions have a right to expect their Government to conscientiously and deliberately weigh the price they are asked to pay against the perceived advantage. I submit that the symbolic sending of signals can rarely if ever be justified, as a matter of morality, where as a result Americans must face economic hardships. By adopting this amendment, the Senate can send its own signal of displeasure with symbolic trade sanctions which produce few tangible results other than to sacrifice our economic interests.

As chairman of the Finance Committee's Subcommittee on International Trade, I am concerned that a number of unresolved trade disputes with our trading partners will be unnecessarily inflamed by the use of trade sanctions. This is no time to be aggravating those very real tensions by introducing the use of import controls as a foreign policy tool. This is a bad idea which is made more troublesome by the timing of its proposed enactment. I urge my colleagues to join in support of this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD the administration's letter supporting this amendment and a compilation of economic sanctions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., September 20, 1983.

Hon. ROBERT J. DOLE,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in response to a request for our position on section 6(1) of S. 979, Export Administration Act Amendments of 1983.

Section 6(1) gives the President the authority to impose controls on imports from a country against whom foreign policy export controls are imposed.

We strongly oppose section 6(1) and recommend its deletion from the Senate bill.

We oppose this provision because it would risk challenge under the General Agreement on Tariffs and Trade (GATT) were it to be applied against a GATT signatory. Our allies have already voiced this concerned. This measure would substantially undercut U.S. efforts to maintain a coherent trade policy as well as our efforts to expand the GATT to services and other areas of international trade.

Additionally, this provision would most likely be regarded as a significant step toward protectionism by our trading partners. They fear that we might take import restricting actions outside the context of the GATT. Such action could invite retaliation.

The Office of Management and Budget advises that the submission of this letter is consistent with the Administration's program.

Sincerely,

LIONEL H. OLMER.

CHRONOLOGICAL SUMMARY OF ECONOMIC SANCTIONS FOR FOREIGN POLICY GOALS, 1914-83

Case No.	Principal sender	Target country	Active years	Goals of sender country
14-1	United Kingdom	Germany	1914-18	Military victory.
17-1	United States	Japan	1917	[illegible] shipping to help Allies in World War I.
18-1	United Kingdom	U.S.S.R.	1918-20	(1) Renew support for Allies in World War I; (2) Destabilize Bolshevik regime.
21-1	United Kingdom and League of Nations	Yugoslavia	1921	Block Yugoslav attempts to wrest territory from Albania; retain 1913 borders.
25-1	League of Nations	Greece	1925	Withdraw from occupation of Bulgarian border territory.
32-1	League of Nations	Paraguay, Bolivia	1932-35	Settle the Chaco War.
33-1	United Kingdom	U.S.S.R.	1933	Release 2 British citizens.
35-1	League of Nations	Italy	1935-36	Withdraw Italian troops from Ethiopia.
38-1	United Kingdom and United States	Mexico	1938-47	Settle expropriation claims.
39-1	Alliance Powers	Germany, later Japan	1939-45	Military victory.
40-1	United States	Japan	1940-41	Withdraw from Southeast Asia.
44-1	United States	Argentina	1944-47	(1) Remove Nazi influence; (2) Destabilize Peron government.
46-1	Arab League	Israel	1946	Create a homeland for Palestinians.
48-1	United States	Netherlands	1948-49	Recognize Republic of Indonesia.
48-2	India	Hyderabad	1948	Assimilate Hyderabad into India.
48-3	U.S.S.R.	United States, United Kingdom and France	48-49	(1) Prevent formation of a West German government; (2) Assimilate West Berlin into East Germany.
48-4	U.S.S.R.	Yugoslavia	1948-55	(1) Rejoin Soviet camp; (2) Destabilize Tito government.
48-5	United States and Cocom	U.S.S.R. and Comecon	1948-	Deny strategic materials.
49-1	West Germany	U.S.S.R.	1949-[illegible]	Concessions on [illegible].
49-2	United States and Chincom	China	[illegible]	(1) Retaliation for Communist takeover and subsequent assistance to North Korea; (2) Deny strategic and other materials.
50-1	United States	North Korea	1950-	Withdraw attack on South Korea.
51-1	United Kingdom and United States	Iran	1951-53	(1) Reverse the nationalization of oil [illegible]; (2) Destabilize Mossadegh government.
54-1	U.S.S.R.	Australia	1954	Return a Soviet defector.
54-2	India	Goa	1954-61	Assimilate Goa into India.
54-3	Spain	United Kingdom	1954-	Gain sovereignty over Gibraltar.
56-1	United States	Israel	1956-	(1) Withdraw from Sinai; (2) Implement U.N. Resolution 242; (3) Push Palestinian autonomy talks.
56-2	United Arab Republic	United States and Europe	1956	Pressure Israel, United Kingdom, and France to withdraw from Sinai and Suez Canal.
56-3	United States	United Kingdom and France	1956	Withdraw from Suez.
56-4	United States	Laos	1956-62	(1) Destabilize Prince Souvanna Phouma government; (2) Destabilize General Phoumi government; (3) Prevent Communist takeover.
57-1	Indonesia	Netherlands	1957-62	Control of West Irian.
58-1	U.S.S.R.	Finland	1958-59	Adopt pro-U.S.S.R. policies.
58-2	United States	North Vietnam, later Vietnam	1954-	(1) Impede military effectiveness of North Vietnam; (2) Retribution for aggression in South Vietnam.

CHRONOLOGICAL SUMMARY OF ECONOMIC SANCTIONS FOR FOREIGN POLICY GOALS, 1914-83—Continued

Case No.	Principal sender	Target country	Active years	Goal of sender country
60-1	United States	Dominican	1960-62	(1) Cease subversion in Venezuela. (2) Destabilize Trujillo government.
60-2	U.S.S.R.	China	1960-70	(1) Retaliation for break with Soviet policy. (2) Destabilize Mao government.
60-3	United States	Cuba	1960	(1) Settle expropriation claims. (2) Destabilize Castro government. (3) Discourage Cuba from foreign military adventures.
61-1	United States	Ceylon	1961-65	Settle expropriation claims.
61-2	U.S.S.R.	Albania	1961-65	(1) Retaliation for alliance with China. (2) Destabilize Hoxha government.
61-3	NATO Allies	East Germany	1961-62	Berlin Wall.
62-1	United States	Brazil	1962-64	(1) Settle expropriation claims. (2) Destabilize Goulart government.
62-2	United Nations	South Africa	1962	(1) End apartheid. (2) Grant independence to Namibia.
63-1	United States	United Arab Republic	1963-65	(1) Cease military activity in Yemen and Congo. (2) Moderate anti-U.S. rhetoric.
63-2	Indonesia	Malaysia	1963-66	Promote "Crush Malaysia" campaign.
63-3	United States	Indonesia	1963-66	(1) Cease "Crush Malaysia" campaign. (2) Destabilize Sukarno government.
63-4	African States	Portugal	1963-74	Leave Africa.
65-1	United States	Chile	1965-66	Roll back copper price.
65-2	United States	India	1965-67	Alter policy to favor agriculture.
65-3	United Kingdom and United Nations	Rhodesia	1965-79	Majority rule by black Africans.
65-4	United States	Arab League	1965	Stop U.S. firms from implementing Arab boycott of Israel.
65-5	U.S.S.R.	Romania	1965	Reduce diplomatic openings to the West.
67-1	Nigeria	Biafra	1967	End independence movement.
68-1	United States	Peru	1968	Forego aircraft purchases from France.
68-2	United States	Peru	1968-74	Settle expropriation claims.
68-3	United States	Brazil	1968-69	Restore democracy.
70-1	United States	Chile	1970-73	(1) Settle expropriation claims. (2) Destabilize Allende government.
71-1	United States	India and Pakistan	1971	Cease fighting in East Pakistan (Bangladesh).
S-1	United States	Countries supporting international terrorism	1972	Overview.
72-1	United Kingdom and United States	Uganda	1972-79	(1) Retaliation for expelling Asians. (2) Improve human rights. (3) Destabilize Amin government.
S-2	United States	Countries violating human rights	1973	Overview.
73-1	Arab League	United States and Netherlands	1973-74	(1) Retaliation for supporting Israel in October war. (2) Restore pre-1967 Israeli borders.
73-2	United States	South Korea	1973-77	Improve human rights.
73-3	United States	Chile	1973-81	Improve human rights.
74-1	United States	Turkey	1974-78	Withdraw Turkish troops from Cyprus.
74-2	Canada	India	1974-76	(1) Deter further nuclear explosions. (2) Apply stricter nuclear safeguards.
74-3	Canada	Pakistan	1974-76	(1) Apply stricter safeguards to nuclear power plant. (2) Forego nuclear reprocessing.
75-1	United States and Canada	South Korea	1975-76	Forego nuclear reprocessing.
75-2	United States	U.S.S.R.	1975	Liberalize Jewish emigration.
75-3	United States	Eastern Europe	1975	Liberalize Jewish emigration.
75-4	United States	South Africa	1975	(1) Adhere to nuclear safeguards. (2) Avert explosion of nuclear device.
75-5	United States	Cambodia	1975	(1) Retaliation for North Vietnamese aggression. (2) Improve human rights.
76-1	United States	Uruguay	1976	Improve human rights.
76-2	United States	Taiwan	1976-77	Forego nuclear reprocessing.
76-3	United States	Ethiopia	1976	(1) Settle expropriation claims. (2) Improve human rights.
77-1	United States	Paraguay	1977	Improve human rights.
77-2	United States	Guatemala	1977-82	Improve human rights.
77-3	United States	Argentina	1977-82	Improve human rights.
77-4	Canada	Japan	1977-78	Adhere to nuclear safeguards.
77-5	United States	Nicaragua	1977-79	(1) Destabilize Somoza government. (2) Improve human rights.
77-6	United States	El Salvador	1977-81	Improve human rights.
78-1	China	Albania	1978-83	Retaliation for anti-Chinese rhetoric.
78-2	United States	Brazil	1978-81	Adhere to nuclear safeguards.
78-3	United States	Argentina	1978-82	Adhere to nuclear safeguards.
78-4	United States	India	1978-82	Adhere to nuclear safeguards.
78-5	United States	U.S.S.R.	1978	Liberalize treatment of dissidents (e.g. Sharansky).
78-6	Arab League	Egypt	1978	Withdraw from Camp David process.
78-7	China	Vietnam	1978	Withdraw troops from Cambodia.
78-8	United States	Libya	1978	(1) Terminate support of international terrorism. (2) Destabilize Qadhafi government.
79-1	United States	Iran	1979-81	(1) Release hostages. (2) Settle expropriation claims.
79-2	United States	Pakistan	1979-80	Adhere to nuclear safeguards.
79-3	Arab League	Canada	1979-80	Retaliation for planned move of Canadian Embassy in Israel from Tel Aviv to Jerusalem.
80-1	United States	U.S.S.R.	1980	Withdraw Soviet troops from Afghanistan.
80-2	United States	Iraq	1980-82	Terminate support of international terrorism.
81-1	United States	Nicaragua	1981	(1) End support for El Salvador rebels. (2) Destabilize Sandinista government.
81-2	U.S.S.R.	Poland	1981-82	Maintain internal discipline.
81-3	United States	Poland	1981	Lift martial law.
81-4	United States	U.S.S.R.	1981-82	(1) Lift martial law in Poland. (2) Cancel USSR-Europe pipeline project. (3) Impair Soviet economic-military potential.
81-5	European Community	Turkey	1981-82	Restore democracy.
82-1	United Kingdom	Argentina	1982	Withdraw troops from Falkland Islands.
82-2	Arab League	Zaire	1982	Withdraw recognition of Israel.
82-3	Netherlands	Suriname	1982	(1) Improve human rights. (2) Limit alliance with Cuba. (3) Destabilize Bouterse government.
82-4	South Africa	Lesotho	1982	Return refugees suspected of antistate activities.
83-1	Australia	France	1983	Stop nuclear testing in the South Pacific.

Source: Institute for International Economics, Washington, D.C.

Mr. DANFORTH. Mr. President, to summarize these points, each of these amendments was considered by the Finance Committee. This bill, after it was reported by the Banking Committee, was then taken up by the Finance Committee and the Finance Committee agreed to two amendments and the first is the one that has been stated by the clerk.

This amendment would delete that portion of section 6 of S. 979 which authorizes the President to impose import controls against countries with respect to which he has imposed export controls.

Mr. President, the idea in the Banking Committee's bill of matching export controls with import controls has a certain immediate appeal. Why should we prohibit U.S. exports to a foreign country which we are trying to punish for one foreign policy reason or another when we do not also impose import controls against shipments of products from those countries into our markets?

The Finance Committee reasoned that this particular provision of the bill was a trap and that in fact the result of that trap would be to hurt U.S. exporters and U.S. business, in general.

The reason, Mr. President, is that to authorize the President to impose import controls as a kind of mirror image of export controls would create within the United States a whole new constituency on behalf of export controls. That is to say, that the most vocal advocates of export controls in the future would be those American businesses who are adopting a protectionist position. They would in effect say that, for example, the United States should take an active interest in alleged human rights violations in, for example, Korea, and that we should impose export controls prohibiting U.S. shipments of goods to Korea and, by the way, that we should have import controls against, say, steel coming in from Korea.

Therefore, the effect of including import controls in the bill that is now before the Senate is to encourage our Government to get more and more involved in the use of trade as a foreign policy tool.

Mr. President, whether or not trade is an effective tool of foreign policy and whether or not it should be used as a foreign policy weapon is a matter of great debate, and I have to say that, by and large, my position is that trade is overused as a tool of foreign policy and that when it is used it is very often to the detriment of American business and the detriment of American workers. But I think what would happen if this provision is allowed to stand in the bill is that the problem that we now have with using trade as a foreign policy tool would be exacerbated.

Furthermore, I would add, Mr. President, that the General Agreement on Tariffs and Trade makes no provision for the use of import sanctions against other countries for foreign policy reasons.

Therefore, the result of the use of such import controls, when they are used against countries that are a party to the GATT, is to invite retaliation against U.S. exports. Even when the import controls would not be used against countries which are members of GATT, when it would be used against nonmembers, at the very least it would lead to emulation by other countries throughout the world.

So it is not only my view but also the view of the Finance Committee that voted on this matter that this provision should be stricken from the bill because it would tend to encourage the continuation of the trade war which many of us fear is now in its beginning stages.

Mr. DOLE. Mr. President, the Finance Committee amendment introduced by the distinguished Senator from Missouri reflects our committee's reluctance to grant the President sweeping import control powers to carry out U.S. foreign policy. The Senator from Kansas is pleased to note that the administration shares the committee's concern over the granting of such import control authority. What this position reflects is a new skepticism about the utility of trade sanctions, particularly where our own citizens are hurt more than are the targets of such sanctions.

The Finance Committee's amendment would delete that part of section 6 of the bill which authorizes the President to use import controls against any country which is the target of our foreign policy export controls under the Export Administration Act. Foreign policy export controls are used not just against the Soviet Union, as was the case in the grain embargo, but against virtually the entire world for reasons as diverse as promoting human rights, regional stability and nuclear nonproliferation, expressing displeasure with particular countries, preventing the spread of crime detection equipment, and penalizing assistance to international terrorists. Granting import control authority whenever these broadly used foreign policy export controls thus constitutes a blank check to use import controls against virtually the entire world as a foreign policy tool. And unlike the authority to use export controls under the act, which is subject to contract sanctity, time limits and procedural constraints, the proposed grant of import control authority is totally open ended.

Use of import controls as an instrument of a nation's foreign policy is not justifiable under the GATT, and most countries, whether or not they are GATT members, would be sorely tempted to retaliate against U.S. exports if we used this tool. And because these import controls are totally open ended, we can anticipate whole new constituencies urging the President to use export controls against particular countries in an effort to obtain import protection.

Now, I know some of my distinguished colleagues on the Banking Committee argue that if the President is going to interfere with U.S. exports to a target country for foreign policy reasons, he ought to be able to interfere with imports from that country as added leverage and to force on their exporters the economic costs which, under current law, can only be placed on our own exporters. But this apparently apealing proposition is likely to turn into a trap which will inflict even greater losses on our exporters.

We have seen the economic costs which our foreign policy export controls have inflicted on American farmers and industry in the grain and pipeline embargoes directed at the Soviet Union. Trade sanctions have boomeranged too often in recent years for us to casually add such sweeping new and potentially damaging import authority to the President's arsenal. We should do nothing which either encourages the use of export controls or invites retaliation against our exports. I am sympathetic to the goals of the Banking Committee, but I fear that committee's grant of import control authority only makes it more likely that the United States will be drawn into the use of trade sanctions as a routine instrument of its foreign policy. We simply cannot afford that, and this Finance Committee amendment therefore deletes the import control authority contained in section 6.

The Senator from Kansas does not wish to dwell here on the costs which export controls, such as the Soviet grain embargo imposed by President Carter, have inflicted on our citizens. Rather, I would like to emphasize the importance of balancing the costs of trade sanctions against the advantage we seek to obtain through their use. It is essential that we avoid inflicting hardships on our citizens and our businesses where the only purpose to be achieved is symbolic.

The temptation to use trade sanctions is understandable, since they are a convenient middle ground between armed confrontation and patently weak diplomatic protests. But I would hope that this and future administrations would avoid the use of this tool unless some concrete and substantial result can be achieved through its use.

As Chairman of the Finance Committee, I am proud of the committee's role in fashioning our trade laws. As the committee that has worked long and hard to develop laws which provide import protection without inviting retaliation by our trading partners against U.S. exports, it is fitting that the Finance Committee should oppose granting the President unfettered import control authority. I urge my colleagues to join the committee in limiting the growth of trade sanctions.

Mr. HEINZ. Mr. President, I rise in opposition to the amendment of my friend, the distinguished Senator from Missouri, Senator DANFORTH. I happen to be very privileged to serve not only as a member of the Banking Committee but also as a member with him of the Finance Committee and as a member of the Subcommittee on International Trade which he so ably chairs.

My recollection of our debate on the Senator's amendment in the Finance Committee was that it was a controversial issue. The committee was not unanimous on the matter, as I recollect, by any means. I think the vote was maybe 13 to 7 in favor of Senator DANFORTH's position, if my memory serves me correctly. He won, but not by an overwhelming margin. I think the reason that the committee was divided was that many of us felt that his arguments were, in fact, contrary to what in fact would happen if the legislation became law. For example, my friend from Missouri has argued that this would create a new constituency for import controls.

The irony of that argument, Mr. President, is that the whole thrust of the amendments to the foreign policy section of the Export Administration Act in this committee is that we want foreign policy controls to be used with much more care, to be used much more rarely; indeed, we want them to be used much less than they have been used in the past. And that is why we have a series of requirements that must be met before any import control under the foreign policy section can be applied.

Now, the second point made by my friend from Missouri is that somehow this is going to be inconsistent with the GATT.

I frankly find it highly unlikely that, when we were pursuing a foreign policy import control against a country that had interests hostile to our own, we are likely to find that it was a GATT country; to the contrary, Mr. President, most of the GATT countries are our closest allies. We are talking about our NATO allies, we are talking about Japan, and we are talking about the developed countries who are part and parcel and friends of ours in the pursuit of our foreign policy objectives.

I would even go so far as to argue that what we are giving, when we give the President this authority, is in fact not authority to retaliate against some country with import controls. We are saying to the President:

> Look, you have a foreign policy objective that you believe is very important to this country, and you are willing to impose export controls affecting only American exporters to a third country that is going to be receiving exports from other countries including substitutes for those products that Americans might export. If it is really important to do that, if you really want to send that country a strong message by denying them products made by Americans and exported from America, maybe you should consider in addition to that the use of import controls against that country because that country, if it is really doing something hostile to our interests, maybe, just maybe, would be more influenced by that action—denying that country with that hostile interest access to our markets—than by controls on U.S. exports.

AMENDMENT NO. 2741

Mr. HEINZ. Mr. President, I do not want to take the Senate's time to debate this issue at length because I think there is a way of solving the problem that my friend, the Senator from Missouri, has and reconciling it with the objectives of the Banking, Housing, and Urban Affairs Committee in this bill.

So, I am sending to the desk an amendment to the amendment offered by the Senator from Missouri, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 2741 to amendment No. 2740.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

> "On page 33, line 13, before the period, insert the following: "if he determines and reports to the Congress, in advance of imposition of such controls, that such controls are consistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade." ".

Mr. HEINZ. Mr. President, I was in error. This is a substitute amendment.

The PRESIDING OFFICER. As drawn, it is a perfecting amendment to the language proposed to be stricken.

Mr. HEINZ. Mr. President, it is a perfecting amendment.

Mr. President, while we are checking over the details of the amendment, let me explain the amendment. What it would simply do is to emphasize that foreign policy import controls must be consistent with our international legal obligations, must be consistent with the GATT which I believe was the intent of the Banking Committee all along when we drafted the bill.

So this amendment, while it is in the form of a perfecting amendment, is nonetheless offered by way of a substitute to Senator DANFORTH's amendment. I think it is a good compromise between our two committees. I do not believe that the bill as drafted would confer import control authority to be used for protectionism for the reasons I stated earlier. But if it is reassuring to some to specifically prohibit the application of foreign policy import control to such countries, then I am willing to offer this amendment in that spirit of compromise.

Mr. PROXMIRE. Mr. President, will the Senator from Pennsylvania yield?

Mr. HEINZ. I am happy to yield.

Mr. PROXMIRE. I am happy to support the Senator from Pennsylvania. I think he is exactly right. I think he suggests a very reasonable compromise, a compromise that would achieve precisely what he says. It would meet the principal objections of the Senator from Missouri. It would permit the President to control imports from a nation that was engaged in activities that were clearly hostile to this Nation, but it would provide that such import restrictions could not be imposed on those nations that are signatories of the GATT.

Mr. HEINZ. The Senator is correct.

Mr. PROXMIRE. It is very hard to put something together here that would meet the problem completely from the standpoint of the distinguished Senator from Missouri. I understand exactly what his objections are. We certainly ought to be very careful in interfering with trade.

At the same time, it seems logical to me that we should have a restriction on imports as much as we should on exports. And if we are concerned in our foreign policy situation with the military action of an adversary that can cause death and destruction to another country of the kind that the Soviet Union is engaged in, for example, in Afghanistan, it would seem that this country needs every weapon we can possibly get. And our economic weapons are our most potent ones in such situations. I think the Senator from Pennsylvania is offering a very reasonable compromise. I am happy to support it.

Mr. HEINZ. I thank my friend from Wisconsin. Let me say that it is a compromise, because if the amendment is accepted by all of us, it will circumscribe the potential targets for the use of these import controls, and the principal remaining target would be the Soviet Union and several other nations where such controls will be useful for foreign policy purposes.

We have narrowed the scope of this provision, somewhat reluctantly on my part, rather significantly, but I think it still is a very helpful tool. I hope that we can reach agreement on it.

Mr. DANFORTH. Mr. President, the provision in the bill giving the President authority to impose import controls is strongly opposed by the administration. And it is my understanding that the modification that has now been proposed by Senator HEINZ is also strongly opposed by the administration.

My hope would be that when this bill is eventually passed, the Heinz version does not find its way into the legislation.

I do think that the Senator from Pennsylvania has offered us some step in the right direction. However, I would point out that many uses of trade sanctions are not against members of GATT. I think that the United States is going to be in an equally bad situation if we start getting into trade wars and using trade sanctions with non-GATT countries as we would be with GATT countries.

So I have to say that I am not exactly an enthusiastic supporter of the modification that has been proposed by the Senator from Pennsylvania and I hope in conference it would be deleted if it is adopted.

But, Mr. President, in order to get on with the legislation, I would be willing to have the Senate consider the Heinz amendment and, if not support it, to tacitly go along with it at least for the time being in the hopes that we can fight the matter at some future time.

So I would ask the Chair what the parliamentary situation is. Would it be in order for me to withdraw my amendment and then ask unanimous consent that the Heinz amendment be considered?

The PRESIDING OFFICER. If the Senator from Missouri withdraws his amendment, the Heinz amendment would then remain.

Mr. DANFORTH. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HEINZ. Mr. President, I thank my friend and colleague from Missouri, Senator DANFORTH, for his unenthusiastic support of this process. I suppose I can join him in my singular lack of enthusiasm, as well, inasmuch as we are both giving up a great deal. But I thank him sincerely.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania (Mr. HEINZ).

The amendment (No. 2741) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2742

(Purpose: To modify the import control authority under section 9 of the bill)

Mr. DANFORTH. Mr. President, I send a second amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposed an amendment numbered 2742.

On page 43, beginning with the comma on line 12, strike out all through "party" on line 14.

Mr. DANFORTH. Mr. President, I offer the second of the two amendments approved by the Finance Committee, which deletes the authority contained in section 9 of S. 979 to impose import controls against violators of allied controls intended to prevent high-technology exports to the Eastern bloc.

This amendment would not affect the grant of authority to impose import controls against violators of our own national security export controls; rather the amendment deletes import control authority as it relates to violations of another country's laws. It would seem entirely reasonable to leave enforcement of a foreign country's laws to that foreign country. But my distinguished colleagues on the Banking Committee argue that we must give the President the right to use import sanctions against violators of foreign laws in order to induce those foreign countries to enforce their laws.

This is really quite a remarkable proposition, for it totally disregards foreign, particularly European, sensitivities to American infringements on their sovereignty. It also disregards the fact that the President concluded, after reviewing this issue, that using, or threatening to use, this import authority would actually undermine allied cooperation in Cocom, the coordinating committee of NATO. Cooperation among the sovereign allied governments offers the best hope of enforcing controls on high-technology exports to the Eastern bloc. Accordingly, the Finance Committee amendment of section 9 eliminates this authority as counterproductive to our national security. Furthermore, as in the case of foreign policy import controls, the use of import controls against violators of foreign laws enforcing national security export controls exposes U.S. exports to retaliation. Import controls always raise the risk of retaliation, especially where they are used in response to activities that are outside of our jurisdiction. Use of import controls against Cocom violators makes no sense either from the point of view of U.S. national security or U.S. trade interests.

Let us be clear on the scope of this amendment. The United States currently claims jurisdiction over U.S. companies, including their foreign branches and subsidiaries, and U.S. goods and technology, wherever they may be located. Thus, violations of export control involving either U.S. persons, or U.S. goods, or technology would be punishable by the use of import controls under that part of section 9 of S. 979 which authorizes the use of import controls against violators of U.S. national security export controls. The amendment approved by the Finance Committee does not affect that grant of authority. Rather, the amendment would delete the additional authority granted in section 9 to use import controls against firms that have violated a regulation issued by a multilateral agreement, like Cocom, constituted to control exports for national security reasons. The margin affected by this amendment is limited to non-U.S. firms handling non-U.S. goods or technology.

Cocom is an informal arrangement by which the United States and its allies seek a common approach to high-technology trade with the Eastern bloc. Complaints about the effectiveness of Cocom tend to overlook its voluntary and informal nature. We should work toward making Cocom effective, but intimidation through the use, or the threatened use, of import controls is unlikely to enhance Cocom enforcement.

Indeed, the threatened or actual use of import controls against our allies is certain to work against the cooperation which is essential if Cocom is to become more effective. We are all familiar with European complaints over the extraterritorial application of U.S. law in the case of the Siberian natural gas pipeline sanctions. Using import controls against violators of another country's regulations is a more extreme example of extraterritoriality. In such cases, the United States confers upon itself the right to judge whether another country's laws are violated and the authority to punish such violations. Even by existing standards of U.S. extraterritorial jurisdiction, this reach is extraordinary, and the Europeans and Japanese cannot be expected to permit this assertion of jurisdiction to go unchallenged. Thus, legitimate issues about the most effective way to enforce Cocom controls will become muddied with extraneous issues about national sovereignty and the appropriate reach of U.S. law. This is no way to bolster the alliance. And, for all the reasons described in connection with the first of these Finance Committee amendment, this is no way to serve our trading interests.

Import controls against violators of Cocom regulations can be expected to attract domestic constituencies which are more interested in import relief than in protecting the national security. To the extent that such constituencies are successful in using this import control authority for their own purposes, our alliance will be undermined and our national security diminished. And since these controls, unlike those authorized in section 6 of the bill, are to be directed at firms located in countries which are our major trading partners, there is a real danger of damage to our trading interests.

I urge my colleagues to join in support of this amendment and ask unanimous consent to have the administration's letter supporting this amendment printed in the RECORD immediately following this statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF COMMERCE,
THE UNDER SECRETARY FOR INTERNATIONAL TRADE,
Washington, D.C., September 20, 1983.

Hon. ROBERT J. DOLE,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am responding to a request for our position on section 9(7) of S. 979, the Export Administration Act Amendments of 1983.

Section 9(7) authorizes the President to bar imports not only be any person who violates U.S. national security export controls, but also any person who violates and regulations issued by a COCOM country to implement COCOM multilateral controls.

We support that part of the provision which permits import sanctions on persons who violate U.S. national security controls. This is consistent with the Administration's proposal on import sanctions. The purpose of such a sanction is purely an enforcement tool to be used in strengthening our overall control system.

We cannot support, however, that portion of the Senate provision which authorizes U.S. import controls on violations of foreign laws or regulations which implement multilateral agreements. Providing a sanction under U.S. law for a violation of the laws of another country, even if related to multilaterally agreed controls, would be an unwarranted and questionable extention of jurisdiction. Rather than take upon ourselves the enforcement of foreign laws, we should continue our vigorous pursuit of enhanced enforcement measures by our allies.

The Office of Management and Budget advises that the submission of this letter is consistent with the Administration's program.

Sincerely,

LIONEL H. OLMER.

Mr. President, to summarize my statement, this is the second of the two amendments that was agreed to by the Finance Committee. This amendment also is very strongly supported by the administration. It would delete that portion of section 9 of S. 979 which section authorizes the President to deny U.S. entry to imports from whoever violates a regulation issued pursuant to multilateral agreement to control exports for national security reasons to which the United States is a party.

Mr. President, what the Banking Committee has done in the bill is to provide, in effect, for U.S. enforcement, on an extraterritorial basis, of foreign law. That is to say that if another country, pursuant to the so-called Cocom arrangement, has laws restricting exports of high technology, military-type products to an Eastern bloc country, an if a company located in that foreign country proceeds to violate that law and ship goods into an Eastern bloc country, then, under this bill, the United States would have the power to impose sanctions against that foreign company. In other words, the United States would be punishing actions where neither the product nor the company would be the United States in origin. It would be purely an extraterritorial arrangement, an extraterritorial enforcement of a U.S. policy position.

The bill, as it would be left if my amendment is adopted, would continue to provide that the United States could impose sanctions in the case of subsidiaries of U.S. companies selling high-tech goods to Eastern bloc countries.

It would also provide that if a U.S. product is transferred to the Eastern bloc by a foreign company, the U.S. could impose even more sanctions in that case.

But the issue that is posed by this amendment is, what happens when neither the company nor the product has its origin in the United States? Is it under those circumstances appropriate for the United States to be enforcing somebody else's law? The position of the Finance Committee and the position of the administration is that the answer to that question is in the negative.

Mr. President, the arrangement among the NATO members and other countries who are allied with the United States by which military-sensitive goods are agreed not to be shipped to the Eastern bloc is an informal relationship, the Cocom. Its efficacy depends upon the voluntary cooperation of the Cocom membership. Without that voluntary cooperation, without allied countries being able to sit down and decide what is in their security interests, then there would be no meaningful restraint on exports of military-sensitive goods to the Eastern bloc.

The problem with the Banking Committee's provision is that it undercuts that very cooperation, which is the heart of the Cocom.

I have heard so many times in the last year or so, since this bill has been considered, the comments by individuals and officials from countries allied with the United States who have expressed their bitter resentment to this provision in the law. They view this as a continuing rerun of the Siberian natural gas pipeline episode. They think this is a case of the United States attempting to take over their law enforcement, and they resent it.

It is my concern, Mr. President, that if this remains in the law, it will backfire. It will achieve precisely the opposite of the result which the Banking Committee intends.

Therefore, it would be my hope that we could strike this provision from the law. Again I express not only my hope but the hope of the Senate Finance Committee and the hope of the administration.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, there are several key measures in S. 979 that would reduce controls on West-West trade, and most of us want to reduce controls on West-West trade wherever possible. But those measures are really dependent on our making considerable progress in improving the effectiveness of multilateral controls; that is to say, the controls that are applied in common by the West through Cocom—the Coordinating Committee—to make our agreement on what should be proscribed technology to unfriendly countries a part of a control strategy.

The Coordinating Committee, Cocom, has, unfortunately, been far less effective than we would want it to be. Some countries do not even have felony penalties for violations of their own national security export controls. Let me say, Mr. President, that our national security is harmed just as severely if our adversaries obtain sensitive goods and technology from one of our allies as if they obtain it from us. So the compliance practices of our Cocom partners are just as much our concern as are our own priorities.

In sum, that makes the greater effectiveness of Cocom controls and enforcement authority truly and absolutely essential.

The way we achieve it in the bill, in part, is by providing the President the authority to deny access to the U.S. market to companies—not countries—that are violating our national security controls or the Cocom restrictions.

Let me give you just one example, Mr. President, of what we are talking about.

In this particular case, a representative of a front company set up by the Polish Government succeeded in obtaining several classified reports of prime importance to our national security, including the F-15 look down, shoot down radar system, the quiet radar system for the B-1 and the Stealth bombers, an all-weather radar system for tanks, an experimental radar system for the U.S. Navy, the Phoenix air-to-air missile, a shipboard surveillance radar, the Patriot surface-air missile, the improved Hawk surface-to-air missile, and a NATO air defense system—not an inconsiderable list for just one little Polish front company.

Let me tell you, that is bad enough. But the principal agent of this company for these services rendered to Poland and the Eastern bloc was actually made president of the Polish company that was the front here. Even after U.S. authorities apprehended him and convicted him for espionage, the company he had worked for, the company of which he was still president, continued its operations and continued to sell Polish machinery here in the United States. We could not put them out of business, in spite of the fact they had been trying to put us out of business in national security.

That is just one of many examples, Mr. President. I do not want to take the time of the Senate to go through every single one of them. We do not have that much time, I am sorry to say. What I really want to say to our colleagues is that we have to have a system where the enforcement of controls is uniformly effective among all the members. There are examples involving our Cocom allies that are very similar to this, where companies in Cocom member nations have gone about the same kinds of really reprehensible dealings with the Soviet Union.

Sometimes our Cocom allies have just been asleep at the switch or unwilling to do what has to be done, or they do not have the system to do it. Obviously, that, as I said a moment ago, is a threat to our national security and we need to find some mechanism for heightening their sensitivity to what should be and, on the record, supposedly are our mutual national security concerns.

That is where the import control provision in section 5, the national security control section, comes into play. It is a means, we in the Banking Committee believe, of getting us to the point where enforcement practices are uniform among our Cocom allies. We believe that it provides the necessary deterrent to potential violators while enforcement practices are being improved and that it will serve to encourage Cocom members to improve their enforcement systems and comply with the Cocom agreement.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD a number of quotes from

Reagan administration officials on Cocom and national security import sanctions, the essence of which is that we have been having a very difficult time getting our Cocom allies to make efforts similar to our enforcement efforts. These quotes are from Lionel Olmer, Under Secretary of Commerce for International Trade; Richard Perle, Assistant Secretary of Defense for International Security Policy; William Schneider, Under Secretary of State for Security Assistance, and there are some colloquies between the last two and myself.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Administration Quotes on Cocom and National Security Import Sanctions

Lionel Olmer. (Under Secretary of Commerce for International Trade): ". . . what we have to do is a far better job of convincing our allies in Cocom and so-called neutrals or nonaligned countries to agree with us that it makes little sense to accede to the transfer, either legally or through inattention, illegally, to potential adversaries. It's not going to be an easy process. . ." (IF&MP subcommittee of Senate Banking Committee, hearings, March 2, 1983, p. 150).

Lionel Olmer. "The United States has a control system. Whether it works or not, it's 100 times more elaborate than that of any other nation in Western Europe." (IF&MP subcommittee, hearings, March 2, 1983, p. 182).

Lionel Olmer. (Referring to multilateral cooperation) "The road to control is paved with good intentions. We hear them expressed all the time, in a lot of different places. The problem is in translating commitments at a policy level into action at a procedural level. That's where the burden exists, and that's where our efforts need to be placed. I cannot in this sort of hearing, elaborate on the experience to date, but in general I would be prepared to say it has not moved at the pace we should have a right to expect, and that our business community has a right to expect from its involvement in this process." (IF&MP subcommittee, hearings, March 2, 1983, p. 183).

Senator Heinz. "Would it be useful to have the power to deny exports to the United States for any company found to be violating either CoCom or U.S. reexport licensing structures?"

Lionel Olmer. ". . . I think that it could be a very useful instrument." (IF&MP subcommittee hearings, March 2, 1983, p. 188).

Richard Perle (Assistant Secretary of Defense for International Security Policy). "I think that you have made proposals . . . that would be a very powerful club in the closet. If the President had the authority to terminate imports from a Japanese machine tool building company which violated the regulations and, in violation of those regulations, sold machine tools to the Soviet Union, the company would have to think twice before putting at risk the American market, which is much larger for the Japanese machine tool building industry."

Senator Heinz. Do you think that sort of authority will really make a difference?"

Richard Perle. "I believe it would. This is a personal view. There's not yet an administration view on this. The alternative is to submit to the lowest common denominator, because there is a violator somewhere in the world, essentially disestablish controls. That, I think, would be irresponsible. So we've got to do the other thing and improve our ability to persuade the others." (IF&MP subcommittee hearings, March 2, 1983, p. 194).

Richard Perle. "The separate issue of the sharing of the defense burden within the Alliance will also require some attention. . . . In principle, there is broad agreement, but they're taking a very skeptical attitude. They're saying, 'Show us concrete results of profligate transfers.' We are doing so, and they're gradually coming around. It would help if we had additional leverage to persuade them." (IF&MP subcommittee hearings, March 2, 1983, p. 195).

Richard Perle. ". . . as against the embarrassment of the foreign government on the ability to stop imports from the company involved, you'd be better off if you had the ability to stop the imports." (IF&MP subcommittee hearings, March 2, 1983, p. 197).

William Schneider (Under Secretary of State for Security Assistance). ". . . it has become evident during our review that over the years the Soviet Union and the Warsaw Pact have obtained some equipment and technology of strategic and military importance for the West. This has occurred even through violations of CoCom controls, that is, illegal shipments of controlled items, or because such items have not been multilaterally controlled by CoCom at the time of acquisition. Through diversions and time lags, the multilateral system of export controls coordinated through CoCom, therefore, has not always met the challenge posed by the extensive efforts of the Soviet Union and the Warsaw Pact to obtain militarily significant and sensitive equipment and technologies." (IF&MP hearings, March 2, 1983, p. 173)

William Schneider. "One of the more serious problems CoCom faces in improving its effectiveness, is the difficulty of controlling the export or reexport of commodities from the non-CoCom countries to the Communist states. . . . Our CoCom allies cite legal and administrative reasons for not having similar reexport licensing requirements. Nevertheless, we have been urging them to institute other effective measures to deal with the problem of diversion from third countries." (IF&MP hearings March 2, 1983, p. 174)

Senator Heinz. "What mechanism, if any, exists to insure compliance on CoCom controlled products, once we've agreed to control technology?"

William Schneider. ". . . compliance is dependent upon the will of the individual countries to enforce decisions that they have jointly agreed to."

Senator Heinz. "Let's assume that they say they want to enforce the same kind of restrictions on a CoCom controlled item. Do they have the means to do it?"

William Schneider. "In many cases, they do not have the means in place at this point." (IF&MP subcommittee, hearings, March 2, 1983, p. 182).

Mr. DOLE. Mr. President, some of the same concerns for U.S. trade policy which were reflected in the first of the Finance Committee amendments of S. 979 are present in this second amendment deleting the power to use import controls against Cocom violators. But this second amendment is also based on the committee's concern that this power would actually undermine rather than enhance U.S. national security.

The Finance Committee amendment would not affect the grant of authority to impose import controls against violators of our own national security export controls; rather, the amendment deletes import control authority as it relates to violations of another country's laws. It would seem entirely reasonable to leave enforcement of a foreign country's laws to that foreign country. But my distinguished colleagues on the Banking Committee argue that we must give the President the right to use import sanctions against violators of foreign laws in order to induce those foreign countries to enforce their laws.

This is really quite a remarkable proposition, for it totally disregards foreign, particularly European, sensitivities to American infringements on their sovereignty. It also disregards the fact that the President concluded, after reviewing this issue, that using, or threatening to use, this import authority would actually undermine allied cooperation in Cocom, the Coordinating Committee of NATO. Cooperation among the sovereign allied governments offers the best hope of enforcing controls on high technology exports to the Eastern bloc. Accordingly, the Finance Committee amendment of section 9 eliminates this authority as counterproductive to our national security. Furthermore, as in the case of foreign policy import controls, the use of import controls against violators of foreign laws enforcing national security export controls exposes U.S. exports to retaliation. Import controls always raise the risk of retaliation, especially where they are used in response to activities that are outside of our jurisdiction. Use of import controls against Cocom violators makes no sense either from the point of view of U.S. national security or U.S. trade interests.

The administration testified at our hearing that it is making every effort to enhance Cocom enforcement. We support the President's efforts in this regard. But we should not in an excess of zeal, unleash the proverbial bull in this China closet of sovereign sensitivities.

Indeed, the threatened or actual use of import controls against our allies is certain to work against the cooperation which is essential if Cocom is to become more effective. We are all familiar with European complaints over the extraterritorial application of U.S. law in the case of the Siberian natural gas pipeline sanctions. Using import controls against violators of another country's regulations is a more extreme example of extraterritoriality. In such cases, the United States confers upon itself the right to judge whether another country's laws are violated and the authority to punish such violations. Even by existing standards of U.S. extraterritorial jurisdiction, this reach is extraordinary, and the Europeans cannot be expected to permit this assertion of jurisdiction to go unchallenged. Thus, legitimate issues about the most effective way to enforce Cocom controls will become muddied with extraneous issues about national sovereignty and the appropriate reach of U.S. law. This is no way to bolster the alliance. And, for all the reasons described in connection with the first of these Finance Committee amendments, this is no way to serve our trading interests.

I ask my colleagues to consider what would be our reaction if one of our trading partners unilaterally imposed restrictions on the entry of U.S. exports based on that partner's conclusion that a U.S. exporter had violated U.S. export controls (even though we might not agree that a violation had occurred). I dare say we would be outraged. I believe there is still some merit in the golden rule, especially as it applies to relations with our allies.

I urge my colleagues to join in supporting this amendment.

AMENDMENT NO. 2743

Mr. HEINZ. Mr. President, obviously, I cannot support the amendment of the Senator from Missouri. As we both agreed a moment ago, the legislative process is one of compromise and I intend to send to the desk an amendment to the amendment offered by the Senator from Missouri. Indeed, I have such an amendment right here. So, Mr. President, I send the amendment to the desk and ask unanimous consent that it be considered as a substitute for the amendment of the Senator from Missouri now pending before us.

The PRESIDING OFFICER (Mr. Abdnor). Is there objection to the request of the Senator from Pennsylvania? Without objection, it is so ordered.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Heinz), for himself and Mr. Garn, proposes an amendment numbered 2743 in the nature of a substitute for Danforth amendment No. 2742.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"On page 43, strike lines 10 through 17 and insert in lieu thereof the following:

"""(4) (A) Any person who violates any national security control imposed under section 5 of this Act, or any regulations, order, or license issued pursuant thereto may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe.

"""(B) Except as otherwise provided by law, any person who violates any regulation issued pursuant to a multilateral agreement, formal or informal, to control exports for national security purposes, to which the United States is a party, may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe only if

"""(i) negotiations with the government or governments, party to the multilateral agreement, with jurisdiction over the violation have been conducted and been unsuccessful in restoring compliance with the regulations of the multilateral agreement;

"""(ii) the President, subsequent to the failure of such negotiations, has notified such government or governments and the other parties to the multilateral agreement of any proposal to subject the person violating the regulations to specific controls on the importing of goods or technology into the United States upon the conclusion of sixty days from the date of such notification; and

"""(iii) a majority of the parties to the multilateral agreement (excluding the United States) prior to the expiration of such sixty day period, have expressed to the President concurrence in the import controls or have abstained from stating a position with respect to the proposed controls.";".".

Mr. HEINZ. Mr. President, let me take a moment just to explain this amendment. It is designed to take into account the concerns that Senator Danforth and others have raised with their objections to the import control sanction while preserving the essential elements of this key provision of the bill. In brief, the amendment would establish the following process: first, the United States would identify a violation of the Cocom regulations that has not been remedied. Then, the U.S. Government would take up the matter quietly through diplomatic channels with the government concerned. Then, only if that government failed to come into compliance with Cocom regulations, the President would have the option—I stress that that is discretionary authority—of applying import restrictions against the offending company.

Then the President would indicate his intention to apply such controls in 60 days and so notify the government involved, as well as the other members of Cocom.

Finally, such import controls would enter into effect at the end of the 60-day period only if a majority of the Cocom countries indicated their support for the controls or had stated no position on them.

Mr. President, what would that procedure, what would this amendment do? First, in order to meet Senator Danforth's concern about the United States trying to impose its single and sole will on our Cocom allies, it multilateralizes the enforcement effort, brings the issue directly to the attention of all the Cocom members. In particular, it makes the government of the offending country confront the problem of ineffective enforcement or noncompliance with Cocom rules and discuss the issue with other Cocom members. I believe that that process will result in correcting the problem and thereby enhance the enforcement of these export controls.

Finally, Mr. President, I think it avoids some of the trade policy concerns that Senator Danforth has raised, because what we have created is a process that should result in the import sanction never ultimately having to be imposed.

Obviously, every single Member of this body wants to see Cocom effective. None of us profits in any way, shape, or form from having an ineffective Cocom. We all know that the United States is the loser along with our allies.

It is my hope that our membership in this body will agree and that this compromise will, in fact, be agreed to.

Mr. GARN. Mr. President, first, let me compliment my friend from Missouri on his willingness last fall, when we thought we were going to be able to get the Export Administration Act up, to sit down in numerous conversations to talk about some compromise. The Senator from Utah appreciates that very much. On the other hand, I want the Record to show that I am unenthusiastic, too.

I did not want just the Senator from Missouri to say that he preferred the Finance Committee version. I want it in the Record that the Banking Committee, including this chairman, certainly preferred the Banking Committee version. I still think we are right, but nevertheless, in the spirit of compromise, as Senator Heinz said, we both have given something in order to produce this compromise. And I would also wish to let him know that the chairman of the Banking Committee will do everything he can to insist on the Senate version in the conference with the House. The House in many other respects, I believe, has a very bad bill that goes in just the opposite direction; rather than tightening up the controls, it take major steps toward loosening them.

I also would suggest, as he has, that many of our European allies are not happy. In fact, the Senator from Missouri used the term "bitter," and he is right. They are bitter about some of the things that we are trying to do.

I do not think that in my entire public career, I have ever seen so many European parliamentarians come to try to convince me of the error of my ways than I have in the past year. I have equally tried to convince them of my bitterness toward them for their lack of cooperation in stopping the high-technology trade to the Soviet Union and the Eastern bloc countries. This Senator understands their problems with extraterritoriality and also with export controls, but I have very little sympathy. It must be a two-way street of cooperation. Europeans almost always want it their way. For a mess of pottage, for a few jobs, they are willing to sell most anything they can sell to anybody without regard to security. It is easy to see why they were lulled into World War I and World War II. They seem to forget. They never seem to learn their lessons.

Normally, as a free trade man and not wanting to interfere with other countries, I would be taking a position that we should not be involved with an extraterritorial application of our law. But somehow, we have to send them a message. When they do not do their own share of their own defense, when we still maintain 200,000 troops in Europe, when we provide a nuclear umbrella that they do not have, when they ask us for Pershings, then decide that they really do not want them, do not put in nearly their fair share of gross national product on defense and rely on us to protect them from the Communist governments, and then continue to allow products and technology to be sold through them, that causes our defense budget to go up by billions of dollars.

Then we have Japan, where I lived for a year. I love the Japanese people.

But I am rather tired of their attitude as well. Less than 1 percent of their gross national product is spent for defense. We provide a whole umbrella for the Japanese while they take 25 percent of our car market. We helped them rebuild their country so they have nice, modern steel plants and they can have subsidized steel and automobiles and think nothing of it. I was elected to be a U.S. Senator even though I am Scotch, Welsh, Dutch, Norwegian, Danish, English, and German. I am more NATO than any of the NATO countries, but nevertheless I was not elected to represent any of those countries. I was elected to represent the State of Utah and the United States of America. I am tired of being tromped on, so I do not care about their bitter protests anymore. If I had my way, we would have an even tougher version, and we would say, "OK, start to shape up, start to recognize what you are doing to our defense budget and either do more for the defense of your own countries or at least do not aid and abet the Soviet Union."

So I have reached a point where I always hear from our businessmen that the problem is foreign availability: "If we won't sell it, somebody else will." And, boy, that is true; they will. The Yamal pipeline, what did we get there? We cut off Caterpillar and Kamatsu sells to the Soviets. So I frankly do not see anything wrong with saying, "All right, Japanese, if you want to sell tractors and earthmoving equipment and all that stuff, why not try and sell your cars in the Soviet Union, too? Why not see how many you can sell over there? Boy, there would be a great market for Nissan and all of them over there. Those Russians would really zap them up. All paid for in rubles."

So to put it bluntly, the hell with the Europeans until they come around a little bit to our way of thinking. Maybe we ought to pull some troops out of Europe and make them do more for their own defense. Maybe we ought to have the Japanese get all the way up to 1¼ percent of their gross national product for defense and quit asking big, rich United States of America to protect them. We are protecting the whole world and then we are in the midst of a deficit debate in our own country where we primarily hear that the solution to that problem is cut defense. Maybe we could cut a little bit if our allies wanted to be our friends instead of, like I say, for a few jobs here and a few jobs there, selling the Soviets our technology jewels—do not worry about the national security; the good old United States will take care of you.

I want the Senator from Missouri to know that I appreciate his efforts and his willingness to go along with these substitutes and fight another day, but I will keep trying to send a message to some of our friends and our allies who still somehow think we are a colony, and we are not. I am getting a little tired of pulling their chestnuts out of the fire over and over again. We cannot even get cooperation from our allies to quit selling our enemies strategic and technological goods that increase our defense budget.

So I do not know whether we will get an Export Administration Act. We will out of the Senate. There is not a great deal of difference of opinion here. But the House bill is so bad that I do not know if the House is willing to come as far as they are going to have to come in a compromise to be able to reach an Export Administration Act bill this year or not. We may be back with another extension.

I thank my friend from Pennsylvania.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. The Senator from Utah is so persuasive that he almost persuaded me.

Mr. GARN. But not quite.

Mr. DANFORTH. Not quite. I think he makes some very good points. I think both of us would agree that Cocom is very important. My point is that Cocom is a voluntary agreement. There is absolutely no requirement that the Japanese and the Europeans or anyone else do anything else with respect to Cocom. They do not have to do anything they do not want to do. I do not believe that it serves the purpose of strengthening a voluntary agreement to put a provision in this bill which is so bitterly resented by the very allies with whom we are attempting to work.

Now, I have considered the amendment that has been offered by Senator HEINZ, and I think that it is an improvement over the bill. I am willing to again go along with it at least for the present but pointing out that even it is opposed by the administration, as I understand it, and I would hope that the conferees would drop it from the bill. I think it improves the bill in that the extraterritorial enforcement would not likely ever be used given the procedures that have been set out by the Senator from Pennsylvania; I think it really renders the extraterritorial enforcement ineffective.

I suppose the remaining objection I would have to it is that it strikes me as a little bit peculiar for the U.S. Congress to take the position that the President of the United States has an authority to act in a certain area, which authority is subject to the veto of foreign governments. I am not sure that that is a particularly good policy for us to be adopting. But again, at least for the time being and for the purpose of the Senate version of this bill, I am willing to go along with the position of Senator HEINZ reluctantly and temporarily.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. There is an old saying: "Take what you can get regardless of how reluctantly you are given it," and I am more than willing to take what I have just been given by my friend and colleague from Missouri.

There are two points that I should like to make in closing, one regarding the last point made by Senator DANFORTH with respect to whether there is some kind of precedent here where the President of the United States cannot take action and is subject to a veto.

To a certain extent, that the Senator from Missouri has described it true; if a majority of members of Cocom decide that they do not like this approach, they can make it impossible for our President to take it under the Export Administration Act. But the choice, Mr. President, is between the President having no authority under any circumstances to do anything about Cocom and this amendment.

Now, if we want to tie the President's hands, so be it. I am delighted that at least insofar as the moment is concerned, the Senator from Missouri is willing to, if not applaud or welcome, at least acquiesce, however reluctantly, in this amendment.

The last point I should like to make regards our European allies. I think Senator GARN told it like it is when he said that our European and Japanese allies expect us to hold the defense umbrella for them and for us to pay the bill while they pay the piper, I suppose.

Mr. President, I had the privilege of visiting the European Economic Community, both visiting with members of the Commission and many parliamentarians last fall, and I was fascinated with the report that the European Commission had recently issued. The report concluded, after assessing the EC's standing across 24 areas of high-technology competition, that the European Community only was competitive to any extent in three or four of those areas, and that they were really worried about that. They were saying that as the world goes more and more in the direction of high technology they are going to be left farther and farther behind. They have a right to worry, and we should worry about that, too, because they are our friends and allies. But they cannot have it both ways. They cannot expect to have a sharing of our technology with them, through all the kinds of agreements and joint ventures and sharing of patents and trade secrets on a variety of highly sensitive technology if they are not going to enforce their responsibilities under Cocom. So either Europe meets the responsibilities that the Cocom agreement implies or it is just extremely unlikely that they will ever be competitive in more areas than they are right now, which are very few indeed.

I like to think that what we are proposing here is actually going to help our European allies in the long run. It will help them not only do a better job by defending themselves against the Soviet Union but also will help them project themselves into higher technology from which they can benefit.

So, Mr. President, I thank Senator GARN for his spirited remarks. I thank Senator DANFORTH, for his insight and great wisdom, particularly his wisdom in acquiescing in the substitute.

Mr. PROXMIRE. Mr. President, I will be very brief, because the hour is late and snow may be falling, and it may be necessary for us to leave shortly.

I am very reluctant about the Heinz substitute. I very strongly share the views of the distinguished chairman of the committee.

We have to recognize that this may be the first time we have a situation in which we are permitting other countries to determine whether we can block imports into this country. As I understand it, a majority of Cocom could say no, we cannot prevent a particular company from another Cocom country from importing into this country because they violated Cocom rules.

Nevertheless, in the interest of compromise, I will make no objection, and I hope we can get on with this and get on to the amendment of the distinguished Senator from North Carolina.

The PRESIDING OFFICER. Is there further discussion on the amendment? If not, the question is on agreeing to the second-degree amendment.

The second-degree amendment (No. 2743) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the second-degree amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment, as amended.

The first-degree amendment (No. 2742), as amended, was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the first-degree amendment, as amended, was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, in a moment, I shall call up an amendment which is at the desk and ask that it be stated.

Before I do that, I wish to express my appreciation to all concerned in this debate this afternoon. It has been very enlightening. As I was listening to it, I found myself wishing that more Senators could be present, not only to hear the debate but also to consider the importance of what we are discussing.

I say to my distinguished friend from Utah that I know exactly where he is coming from in dealing with the people from the European Community. The distinguished Senator is chairman of the Committee on Banking, Housing, and Urban Affairs, and I am the chairman of the Committee on Agriculture, Nutrition, and Forestry.

What the European Community is doing to the American farmer, a lot of people would not believe, in terms of export subsidizing and all sorts of things which they do, to put it bluntly, in an arrogant fashion. They will not even discuss the aspect of fair trade. I suggest, Mr. President, that there can be no free trade unless it is fair trade, and we tried to make that point to friends and allies in the European Community.

I am grateful for the comments of Senator GARN and others.

AMENDMENT NO. 2744

Mr. HELMS. I have an amendment at the desk, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 2744.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 16, strike "paragraph:" and insert in lieu thereof "paragraphs:".

On page 17, line 25, strike the last period and insert in lieu thereof a semicolon.

On page 17, after line 25, insert the following:

"'(11) Availability from foreign sources of goods and technology to destinations proscribed for national security purposes by the United States is a fundamental concern of the United States and should be eliminated whenever possible.

"'(12) Imports that contribute to the excessive dependence of the United States, its allies, or countries sharing common strategic objectives, on energy resources and other critical resources from potential adversaries can be harmful to those countries' mutual and individual security.

"'(13) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of goods and technology which could make a contribution to the military or economic potential of any country or combination of countries which would be detrimental to the national security of countries which would be detrimental to the national security of the United States.'".

On page 19, lines 4 and 5, strike "requires protecting" and insert in lieu thereof "involves sustaining".

On page 19, line 6, before "research" insert "nonsensitive".

On page 19, line 8, strike "exchange.'." and insert in lieu thereof "exchange.".

On page 19, between lines 8 and 9, insert the following:

"'(14) It is the policy of the United States to encourage countries who are allies of the United States to minimize their dependence on imports of energy resources and other critical resources from potential adversaries. Multilateral controls on exports of critical energy equipment and technology and promotion of other appropriate measures such as the development of alternative supplies can play an important role in the achievement of this objective. It is further the policy of the United States to minimize strategic threats posed by excessive hard currency earnings derived from such energy and critical resource exports by countries with policies adverse to the security interests of the United States.

"'(15) It is the policy of the United States, particularly in light of the Soviet massacre of innocent men, women, and children aboard KAL Flight 7, to maintain the policy instituted after the Soviet invasion of Afghanistan of disallowing United States exceptions to the Cocom list of the Union of Soviet Socialist Republics.'".

On page 21, line 1, strike "The Secretary and" and insert in lieu thereof "In complying with the provisions of this subsection the President shall give strong emphasis to bilateral or multilateral negotiations to eliminate foreign availability. The Secretary and".

"On page 33, line 4, strike "'.".

On page 33, between lines 4 and 5, inserts the following:

" 'CONTROL ON EXPORTS TO CERTAIN NUCLEAR POWERS.—(1) Notwithstanding any other provision of this section, the President shall require an individual validated license for export of United States goods or technology, or by persons subject to United States jurisdiction, the ultimate destination of which is a country possessing nuclear weapons, unless such country is a member of the North Atlantic Treaty Organization or has ratified and is in full compliance with the requirements of the Nuclear Non-Proliferation Treaty.

" '(2) The President may waive this requirement with regard to specific exports or classes of exports to such country if he certifies to Congress in writing that—

" '(A) such country, or any of its agents or representatives, for the preceding twelve-month period has not obtained or endeavored to obtain United States goods or technology, or exports directly or indirectly from persons subject to United States jurisdiction, in violation of this Act, the Arms Export Control Act of 1976, or the Atomic Energy Act of 1954, or any rules and regulations issued pursuant to any of these Acts;

" '(B) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of, nuclear weapons or the real or potential delivery systems of such weapons;

" '(C) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential antisubmarine warfare systems;

" '(D) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential electronic warfare systems;

" '(E) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential intelligence gathering systems; and

" '(F) it is in the national security and foreign policy interests of the United States that this requirement be waived, particularly that such waiver will not be detrimental to the security of our allies.

Any waiver of this paragraph shall remain in effect for not more than one year from the date of the President's certification to the Congress as provided for by this subsection and may be renewed for subsequent one-year periods should the President at the time of such renewal make the certification to the Congress as required by this subsection. The President may rescind such waiver at any time.

" '(3) The provisions of this subsection shall apply only to exports to such countries which are also controlled by validated licenses pursuant to this section for export to group Y countries as defined by the Export Administration Regulations.' ".

On page 48, line 21, strike "Officers.'." and insert in lieu thereof "Officers, and on the operation and improvement of the Government's efforts to eliminate foreign availability, including but not limited to bilateral and multilateral negotiations.

" '(e) REPORT ON EXPORT TO PROSCRIBED COUNTRIES.—The President shall include in each annual report a detailed report which lists every license during the year approved under the provisions of this Act for exports to countries to which exports are controlled by multilateral agreement, formal or informal, to which the United States is a party. Such report shall specify to whom such license was granted, the type of goods or technology exported, and the country receiving such goods or technology.

" '(f) REPORT ON DOMESTIC ECONOMIC IMPACT OF EXPORTS TO PROSCRIBED COUNTRIES.—The President shall include in each annual report a detailed description of the extent of injury of United States industry and the extent of job displacement caused by United States exports of goods and technology to controlled countries to which exports are controlled by multilateral agreement, formal or informal, to which the United States is a party. This report shall also include a full analysis of the consequences of exports of turnkey plants and manufacturing facilities to such countries which are used by such countries to produce goods for export to the United States or to compete with United States products in export markets.' ".

Mr. HELMS. Mr. President, I understand that snow is falling.

The amendment has been discussed by all parties concerned and our respective staffs. I know that the distinguished Senator from Pennsylvania and the distinguished Senator from Wisconsin would delight in hearing my dulcet tones as I explain the amendment, but I will forgo them that pleasure and ask unanimous consent that my statement be printed in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, this is one of the times I can remember being deeply disappointed by the Senator from North Carolina in depriving me and the rest of my colleagues of hearing his eloquence. But I am not going to complain at length about it.

Mr. HELMS. I appreciate that.

Mr. President, last Thursday I introduced S. 234 a bill to amend the Export Administration Act. Today, I am offering an amendment to S. 979, the Heinz-Garn bill, which contains a number of features from my bill which I consider most important. I am offering this amendment in a constructive spirit and I understand that the distinguished managers of the bill before us are supportive of my effort.

Mr. President, the central principle of the Export Administration Act in its original form in 1949 was to so control trade with Communist countries that the transfer of goods and technology to them would not contribute to the development of their military-industrial base. The Heinz-Garn bill is an important contribution to the process of controlling trade with Communist countries. My amendment would further strengthen S. 979 in the following ways.

In Section 2 of the act, my amendment would add a paragraph finding that the concept of "foreign availability" of goods and technology should be eliminated as a factor in granting licenses. Rather than accepting the existence of so-called foreign availability, we can eliminate it through closer cooperation with our friends and allies, particularly through bilateral and multilateral negotiations.

My amendment adds another paragraph to the "Findings" which states that imports that contribute to the excessive dependence on Soviet energy and critical resources harms the security of our Nation as well as the security of our allies and friends.

My amendment adds a final paragraph to the "Findings" which emphasizes that we must control goods and technology which would contribute to the military or economic potential of any country or combination of countries which could be detrimental to the national security of the United States.

In section 3 of the act, my amendment would add a paragraph stating that it is the policy of the United States to encourage countries who are our allies to minimize their dependence on imports of energy resources and other critical resources from potential adversaries.

My amendment also adds a paragraph to the "Declaration of Policy" which states that it is the policy of the United States to continue our policy instituted after the Soviet invasion of Afganistan of disallowing U.S. exceptions to the Cocom list for the Soviet Union.

In section 5 of the act, "National Security Controls," my amendment adds a provision relating to "Controls on Exports to Certain Nuclear Powers." This provision would require an individual validated license for export of U.S. goods or technology the ultimate destination of which is a country possessing nuclear weapons unless such country is a member of the North Atlantic Treaty Alliance or has ratified and is in full compliance with the requirements of the Nuclear Non-Proliferation Treaty.

Mr. President, we must bear in mind that export control is a type of arms control. In the matter of nuclear proliferation, the Export Administration Act can play an important role. My amendment would allow the President to waive the requirement for individual validated licenses if he certifies to Congress that such exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability of nuclear weapons, or the real or potential delivery systems of such weapons; antisubmarine warfare systems; electronic warfare systems; and intelligence gathering systems. This provision would apply only to such exports which are also controlled by validated licenses for export to group Y countries as defined by existing export administration regulations.

Mr. President, I feel strongly that Congress and the American people need more information about the consequences of trade with Communist countries. My amendment, therefore, strengthens the reporting provisions in the act by requiring two new reports.

The first new report that my amendment calls for is a report which lists the licenses granted to exporters for exports to controlled countries. This information would include the name of the person to whom the license was granted, the type of goods exported, and the country, or end-user, of such goods. In this manner, Congress and the American people will have clear access to the general structure to U.S. trade with Communist countries. Information concerning strictly proprietary matters, such as trade secrets relating to formulas and to specific prices, is not required.

The second new report that my amendment calls for relates to the economic impact of exports to controlled countries. Specifically, domestic consequences of such trade with Communist countries must be reported on in the area of job loss and injury to our industries here at home which result from such trade. Such a report would include a full analysis of the consequences of exports of turnkey plants and manufacturing facilities to such countries which use these plants and facilities to produce goods for export to the United States or to compete with U.S. products in export markets. We owe it to the working men and women of our Nation not to export their jobs to Communist countries in whose economies low wages and slave labor conditions are enforced at gunpoint.

Mr. President, I cannot emphasize too strongly the importance of controlling our exports to Communist countries. As I have said earlier, export control is a type of arms control and we simply must bend all of our efforts to control the export of goods which would build up the military-industrial capabilities of the Soviet Union and its allies.

My amendment would strengthen the Heinz-Garn bill and contribute to the process of export control which the distinguished managers of the bill have worked so hard to advance. I thank the distinguished managers of the bill once again for their support of my amendment and for the constructive manner in which we have been able to work together on this vital legislation.

Mr. HEINZ. Mr. President, I have had an opportunity to study the Senator's amendment, and I commend him for it. I know he has worked on it extremely hard. I know that he and Senator GARN and our staffs have been working on it diligently. I think it is an improvement to the legislation, and I want to do the best I can to support it in conference.

I know what is in the House bill. The House acted before we did. We are going to be up against a very different kind of legislative product from that which the House will send to conference. I do not want the Senator to think that we are just going to walk in and roll them over, but we will do the best we can.

Mr. HELMS. I understand, and I thank the Senator.

Mr. HEINZ. Mr. President, I urge the adoption of the amendment.

Mr. PROXMIRE. Mr. President, I join the manager of the bill in congratulating Senator HELMS on the amendment. I do have a question with regard to the amendment.

As I understand it, the amendment requires the Commerce Department to review each request for a license to export to any country possessing nuclear weapons that is not in compliance with the Nonproliferation Treaty, and it prohibits exports to those countries without specific license review.

The amendment also is very broadly drafted, so it might not just apply to military technology or nuclear transfers but to all goods or technology; and in this definition, it might apply to a strong ally of ours in the Middle East, specifically Israel, for whom we do have a lot of exports, including military technology.

Does the Senator from North Carolina agree with me that section 3 of his amendment restricts the definition of goods or technology to militarily useful technology, which restricts the amendment?

Mr. HELMS. I say to the Senator that Israel is not classified as a nuclear weapons State.

Mr. PROXMIRE. It is not classified, but that could happen any day, any week, any month. I think many people feel that Israel has a nuclear arsenal. She may or may not have it, but this is considered possible. This would be permanent law, or at least law that would last for a number of years. It is possible that Israel could be classified as a nuclear weapons State in the future.

Mr. HELMS. Let me consult on that for a moment. I want to be sure that I give the Senator a proper answer.

I am advised that the Senator is correct. Even though Israel is not now classified as a nuclear weapons State, if that gives the Senator some concern, we will be glad to modify the amendment to satisfy him in that regard.

Mr. PROXMIRE. I would appreciate that, because I do not think we would intend that. There are different views on Israel, of course. Many people would want it to apply to Israel. This Senator would not, because I feel very strongly that it is an important ally of ours, and it might fall into that category and be adversely affected.

Mr. HELMS. The Senator makes a good point, and I appreciate his bringing it up. Actually, we are directing our attention to Red China.

Mr. PROXMIRE. I certainly share the Senator's view in that respect.

Mr. HELMS. I am confident he does, and his past record shows it.

Mr. President, I ask unanimous consent that it be in order to modify the amendment, and we will do that, if it pleases the Chair, after the amendment has been acted upon, but it will take only a few words, unless the distinguished managers of the bill wish to put in a quorum call and do it now.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina?

Mr. HELMS. We will do it in the form of a technical correction. I will put it that way.

Mr. HEINZ. Mr. President, perhaps I might suggest the absence of a quorum.

Mr. HELMS. All right. I hate to delay Senators, but we will do that.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I wonder if I might inquire of the distinguished Senator from Wisconsin if he if satisfied with the modification. Mr. President, I was seeking the attention of the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Yes.

Mr. HELMS. On page 3, if we insert the words "or Israel" after the words "North Atlantic Treaty Organization," would that be satisfactory to the Senator?

Mr. PROXMIRE. May I say to my good friend from North Carolina, it certainly would be. That is precisely what I had in mind. I am delighted the Senator has modified his amendment.

Mr. HELMS. I thank the Senator.

And I ask that the amendment be so modified.

The PRESIDING OFFICER. The Senator from North Carolina has a right to modify his amendment.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The amendment is so modified.

(The modified amendment is as follows:)

On page 17, line 16, strike "paragraph:" and insert in lieu thereof "paragraphs:".

On page 17, line 25, strike the last period and insert in lieu thereof a semicolon.

On page 17, after line 25, insert the following:

""(11) Availability from foreign sources of goods and technology to destinations proscribed for national security purposes by the United States is a fundamental concern of the United States and should be eliminated whenever possible.

""(12) Imports that contribute to the excessive dependence of the United States, its allies, or countries sharing common strategic objectives, on energy resources and other critical resources from potential adversaries can be harmful to those countries' mutual and individual security.

""(13) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of goods and technology which could make a contribution to the military or economic potential of any country or combination of countries which would be detrimental to the national security of the United States."".

On page 19, lines 4 and 5, strike "requires protecting" and insert in lieu thereof "involves sustaining".

On page 19, line 6, before "research" insert "nonsensitive".

On page 19, line 8, strike "exchange."." and insert in lieu thereof "exchange.".

On page 19, between lines 8 and 9, insert the following:

""(14) It is the policy of the United States to encourage countries who are allies of the United States to minimize their dependence on imports of energy resources and other critical resources from potential adversaries. Multilateral controls on exports of critical energy equipment and technology and promotion of other appropriate measures such as the development of alternative supplies can play an important role in the achievement of this objective. It is further the policy of the United States to minimize strategic threats posed by excessive hard currency earnings derived from such energy and critical resource export by countries with policies adverse to the security interests of the United States.

""(15) It is the policy of the United States, particularly in light of the Soviet massacre of innocent men, women, and children aboard KAL Flight 7, to maintain the policy instituted after the Soviet invasion of Afghanistan of disallowing United States exceptions to the COCOM list for the Union of Soviet Socialist Republics."".

On page 21, line 4, strike "The Secretary and" and insert in lieu thereof "In complying with the provisions of this subsection the President shall give strong emphasis to bilateral or multilateral negotiations to eliminate foreign availability. The Secretary and".

On page 33, line 4, strike "".".

On page 33, between lines 4 and 5, insert the following:

""(q) Controls On Exports To Certain Nuclear Powers.—(1) Notwithstanding any other provision of this section, the President shall require an individual validated license for export of United States goods or technology, or by persons subject to United States jurisdiction, the ultimate destination of which is a country possessing nuclear weapons, unless such country is a member of the North Atlantic Treaty Organization or Israel or has ratified and is in full compliance with the requirements or the Nuclear Non-Proliferation Treaty.

""(2) The President may waive this requirement with regard to specific exports or classes of exports to such country if he certifies to Congress in writing that—

""(A) such country, or any of its agents or representatives, for the preceding twelve-month period has not obtained or endeavored to obtain United States goods or technology, or exports directly or indirectly from persons subject to United States jurisdiction, in violation of this Act, the Arms Export Control Act of 1976, or the Atomic Energy Act of 1954, or any rules and regulations issued pursuant to any of these Acts;

""(B) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of, nuclear weapons or the real or potential delivery systems of such weapons;

""(C) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential antisubmarine warfare systems;

""(D) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential electronic warfare systems;

""(E) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential intelligence gathering systems; and

""(F) it is in the national security and foreign policy interests of the United States that this requirement be waived, particularly that such waiver will not be detrimental to the security of our allies.

Any waiver of this paragraph shall remain in effect for not more than one year from the date of the President's certification to the Congress as provided for by this subsection and may be renewed for subsequent one-year periods should the President at the time of such renewal make the certification to the Congress as required by this subsection. The President may rescind such waiver at any time.

""(3) The provisions of this subsection shall apply only to exports to such countries which are also controlled by validated licenses pursuant to this section for export to group Y countries as defined by the Export Administration Regulations."".

On page 48, line 21, strike "Officers.", and insert in lieu thereof "Officers, and on the operation and improvement of the Government's efforts to eliminate foreign availability, including but not limited to bilateral and multilaterial negotiations.

""(e) Report on Export to Proscribed Countries.—The President shall include in each annual report a detailed report which lists every license during the year approved under the provisions of this Act for exports to countries to which exports are controlled by multilateral agreement, formal or informal, to which the United States is a party. Such report shall specify to whom such license was granted, the type of good or technology exported, and the country receiving such good or technology.

""(f) Report on Domestic Economic Impact of Exports to Proscribed Countries.—The President shall include in each annual report a detailed description of the extent of injury of United States' industry and the extent of job displacement caused by United States' exports of goods and technology to controlled countries to which exports are controlled by multilateral agreement, formal or informal, to which the United States is a party. This report shall also include a full analysis of the consequences of exports of turnkey plants and manufacturing facilities to such countries which are used by such countries to produce goods for export to the United States or to compete with United States products in export markets."".

The **PRESIDING OFFICER**. If there be no further debate, the question is on agreeing to the amendment, as modified, of the Senator from North Carolina.

The amendment (No. 2744), as modified, was agreed to.

Mr. **HELMS**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **HEINZ**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **HELMS**. Mr. President, I thank the Chair and thank the Senators from Pennsylvania, Wisconsin, and Utah.

Mr. **HEINZ**. Mr. President, the Senator from Pennsylvania knows of no other amendments to be offered to the bill at this time.

I make the same inquiry of the Senator from Wisconsin as to whether he has anyone on his side.

Mr. **PROXMIRE**. Mr. President, we have no other amendments on this side.

Mr. **HEINZ**. Mr. President, understanding that there are no amendments any Member wishes to offer or any remarks anyone wishes to make, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **BAKER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

EXPORT OF CRIME CONTROL EQUIPMENT

Mr. **PERCY**. Mr. President, prior to the August recess, it was brought to my attention that certain provisions of S. 979, the Export Administration Act Amendments of 1983, could be interpreted to lift the foreign policy controls over export of U.S. origin crime-control equipment to countries whose human rights practices do not accord with standards acceptable to our Government. Section 6 (g)(3) would provide that the issuance of export licenses for items controlled for foreign policy purposes would be permitted if we had failed to negotiate successfully for elimination of foreign availability of those items. This could appear to include crime control and detection equipment, as dealt with in section 6(j) of the act.

Human rights criteria for crime control licensing have always been understood, in the executive branch, the Congress, and the human rights organizations, as an important part of America's commitment to human rights.

Foreign availability is not relevant to the foreign policy purpose for which section 6(j) is intended. The controls on crime control and detection equipment are designed to dissociate the U.S. Government from abhorrent practices of other governments and to reinforce the commitment of the U.S. Government to internationally recognized human rights. Availability from other countries should not affect the principled stand of the United States.

Because these objectives of foreign policy controls have been central to our efforts to improve human rights, it is important that our intent be made unmistakably clear in this bill. This clarification could be accomplished by my amendment to exempt license applications for such equipment from a finding of foreign availability.

However, I am willing to accede to my Banking Committee colleagues in return for their strong and unequivocal assurance on this floor that this section is not intended to permit or authorize approval of licenses for export of crime control and detection equipment if that same or equivalent equipment can be obtained from foreign sources. Simply put, foreign availability shall not be a consideration. Rather, the continuing basis for reviewing and licensing of crime control equipment shall be the human rights record of the country to which such equipment may be exported. If you will assure me on these points I consent not to offer my amendment. I also respectfully request, if there is a conference committee report on this bill, that you agree to include this clarification in the record of the conference committee.

Thank you, Mr. President.

Mr. GARN. Mr. President, the Senator has correctly interpreted the provisions of S. 979 on the foreign availability criteria for foreign policy controls. I am pleased he has raised this highly important issue at this time.

He has our strong and unequivocal assurance that the new language of this section is not intended to diminish the effectiveness of current controls on crime control and detection equipment. Export controls on this equipment will continue to be based on a country's human rights record as provided for in the law; foreign availability would not be a consideration with regard to applications to license such equipment when the purpose of the controls is to separate the United States from unacceptable human rights policies pursued by other nations, which I understand to be the purpose of the crime control provision of section 6.

Accordingly, I agree with the Senator that his intention not to offer the amendment will not jeopardize the interpretation of this provision as he has described it. I further pledge our intention to have this understanding reflected in the statement of the managers, should a conference with the other body be required on this bill.

Mr. DURENBERGER. Mr. President, everyone here today agrees that the United States should not allow our international political adversaries to gain otherwise improbable industrial or military advantages by stealing technology advances developed in our fertile high technology industries.

At the same time, we hear every day about mounting international trade deficits and about the jobs Americans lose when once lucrative export markets are lost. In reauthorizing the export Administration Act, one means we have to deny the Soviets and others access to vital research secrets, it is essential we strike a balance between the often conflicting goals of preserving national security and maintaining a healthy U.S. export market.

Let me pause and commend both Senator **Garn** and Senator **Heinz** for their diligence and dedication in assembling a workable bill which reconciles these two very important yet occasionally incompatible policy perspectives.

In the ensuing debate over S. 979, both perspectives will no doubt be discussed at length. We will talk about the needs of American businesses who export and we will share intriguing stories about international trade espionage involving imaginative Soviet schemes to obtain American goods.

I want to take this opportunity to share a few horror stories of my own. The two newspaper articles I am submitting for the **Record** graphically reflect much of what we are going to hear about today and what S. 979 tries to remedy. These are stories of several small Minnesota companies who devoted a lot of time and financial resources in cultivating markets abroad for their products but found exporting an unprofitable endeavor after encountering cumbersome licensing and license enforcement procedures.

Not being an expert in computer technology, I am in no position to judge whether these particular exports were technologically sensitive. I know for a fact, however, that these companies had no desire to break the law or to supply vital secrets to the communists. They actually support maintenance of a strong Export Administration Act.

I also know that the redtape they encountered when trying to work out a solution with Federal agencies is unconscionable, especially when their exports have already been "frozen" at U.S. ports. In at least one case, this redtape actually cost Minnesota jobs. It seemed to me at the time and especially now that they should have been given a decision on their license applications in prompt fashion even if it meant license denial.

I ask that the following articles from the Minneapolis Tribune be printed in their entirety: A September 5, 1982, column by economic specialist Harold Chucker and an August 17, 1982, article by staff writer Steve Gross.

The material follows:

[From the Minneapolis Tribune, Sept. 5, 1982]

WHO'S IN CHARGE HERE?

(By Harold Chucker)

Who's in charge here? Whose voice in government should the owner of a small business be listening to?

If you're running a technologically oriented business and trying to sell your products in world markets, you'll find only frustration in a search for the answers to those questions.

You can listen to one office of the Department of Commerce that will encourage you to sell abroad and give you all the "how-to" information it can assemble. Another Commerce Department office, maybe down the corridor, is administering "Operation Exodus," which puts roadblocks in the way of such exports, especially if they are of high-technology products.

Operation Exodus, an offspring of the marriage of foreign policy and trade, was designed to keep American technology out of the hands of unfriendly countries. The program is administered by the Commerce Department, but implemented by U.S. Customs personnel at the point of export—an airport or seaport.

Several Minneapolis-area companies have been experiencing the frustrations created by Operation Exodus. Central Engineering Co., a privately held technologically oriented firm in St. Anthony, is one of them. The company, which has 85 employees, derives about two-thirds of its sales revenues from its export business.

Central Engineering's primary product is equipment—much of it custom-made—for ground testing of jet engines. Its customers are airlines around the world.

Early in April, Customs personnel detained a shipment of testing equipment, ordered by the Iraqi national airline, at Minneapolis-St. Paul International Airport. The agents said the equipment was "mislabeled" under the Commerce Department's complex labeling system. The shipment then was moved to a "seized" status under Operation Exodus. It was released for export Aug. 25.

Willard Jones, Central Engineerings's vice president for operations, said the firm was not aware of Operation Exodus until it ran afoul of the regulations. (The program was put in place about six months ago.) Meanwhile, three other shipments have been detained—in Portland, Oreg.; San Francisco and the Minneapolis-St. Paul airport.

As it has in the past, Jones said, the company examined the regulations to determine whether export licenses were needed for the shipments. Before Operation Exodus, a company generally could make such a determination on its own.

Once it ran into trouble, Central Engineering sent applications for licenses, along with the technological data, to the Commerce Department. That was months ago, Jones said. Inquiries about a ruling were met with the excuse that the Commerce Department was understaffed and its people too busy to deal with the applications immediately. The department wouldn't be able to review the applications before sometime next year, the company was old.

Normally, it takes about 45 days between the time an application is filed and its approval. The shipment has to match the license exactly. But in that 45 days, Jones said, design changes may have been made, making the license invalid.

Once a company makes a shipment, even with what it believes is a proper export license, it has to hope that Customs personnel will agree with the Commerce Department license.

"It's a guessing game with Customs," Jones said. "There is no way the Customs inspectors can be familiar with the product. They seem to be taking the tack that the safest thing they can do, especially if they don't understand the technology and its use, is to detain the shipment."

Jones is puzzled about the application of Operation Exodus to Central Engineering's products. "We don't want to ship strategic materials," he said. "Our products are not convertible to military uses." Equipment for testing the jet engines of a jumbo jet passenger plane, for instance, cannot be used in testing the engines of a fighter plane, he said.

Loren Swanson, president of Central Engineering, said such testing equipment is available in Britain and Japan. If the firm can't ship its products when promised, it will lose out to competitors.

"We've been in business 20 years," Swanson said. "If we can't define our products, nobody can. Just because they look technical, they're being held up."

Research, Inc., an Eden Praire firm with about 300 employees, has had an experience similar to that of Central Engineering. It has been in business 30 years and sells its technological products throughout the world.

For seven or eight years, research has been exporting instruments to India and Japan that measure the presence of oxygen in industrial processes. Recently a shipment of similar instruments to those countries was detained under Operation Exodus. Part of the shipment has been released, but the rest has been held up pending a "go-ahead" signal from Washington.

Wes Mader, manager of international marketing at Research, said, "We talked with the Customs people, and they told us the problem was at Commerce. Customs apparently has no latitude to make a decision on releasing a shipment. If anything looks suspicious to them, they hold it up."

Mader said his compliant is not with the intent of Operation Exodus. "We don't mind if our shipment is looked at, but we want to be able to give our customers some assurance about a delivery date."

With exporters tied up in knots by the delays in getting export licenses and by the propensity of Customs to detain or seize shipments, no such assurances are possible.

The Central Engineering or Research products sold to customers abroad have nothing to do with any cold or hot war or with the U.S. effort to cut off equipment that can help the Soviet Union build its natural gas pipeline. But as often happens, the Operation Exodus net has become so tangled that it grabs and holds most kinds of technological products, even if they have no military or strategic application.

In Washington, the concern is to keep American technology out of unfriendly hands. In Minnesota, the concern is far more mundane: It comes down to the loss of business that has been cultivated and nutured for years. On a more basic plane, it comes down to jobs. If that export business is lost, jobs wil be lost, too.

[From the Minneapolis Tribune, Aug. 17, 1982]

EXPORT LICENSE DELAYS, FORCE LAYOFF OF SEVEN WORKERS

(By Steve Gross)

A small St. Louis Park electronics firm has been forced to lay off seven of its 27 production workers because of lengthy delays in obtaining export licenses from the Commerce Department.

Bison Instruments, Inc., a maker of portable instruments for geological study, has $240,000 worth of orders from foreign customers that have been held up for two months awaiting action by the Commerce Department on export-license applications.

Included is a $46,000 order from a Brazilian customer who will cancel it if Bison is not allowed to ship before Aug. 30, said Bison President Bert Hazleton.

Moreover, the company has $20,000 worth of orders that might require an export license—but it has learned that it could take up to six months for the Commerce Department to rule on such a question.

All this has not exactly been a boon to Bison's export business, which last year accounted for 75 percent of the company's $1.5 million in revenues, Hazleton said.

His difficulties began when Customs Service inspectors at Minneapolis-St. Paul International Airport seized a $6,000 Bison digital tape recorder (used in the study of underground mineral formations) that is based on computer-chip technology. The instrument was to have been exported as part of a $17,000 equipment order on its way to China.

But customs officials told Bison it couldn't export any such scientific equipment—to either Communist or non-Communist nations—unless it first obtained export licenses for each shipment from the U.S. Department of Commerce.

There has been one bit of good news, however: By late last week, Bison had received Commerce Department approval for an export license for the $17,000 shipment to China, including the digital tape recorder.

Hazleton said the Commerce Department delays are related to the Customs Service's six-month-long "Operation Exodus," a nationwide crackdown on illegal exports. The crackdown included the seizure of $500,000 worth of high technology and other products at Minneapolis-St. Paul International Airport.

Bison is the only Twin Cities Company that has identified itself as one of the firms whose shipments were confiscated. Marjorie Maki, Twin Cities district director for the Customs Service, said the names of the companies involved aren't being released because the cases are still under administrative review.

Licenses to Communist countries take longer to get than others. Even before "Operation Exodus" it normally took 60 to 240 days to get an export license to ship to a Communist country, while others took 30 to 90 days to get, he said.

Hazleton conceded that Bison had not been hampered by its lack of export licenses in the past because, with a few exceptions, it simply had shipped its products without bothering to obtain them.

"We were wrong when we shipped this thing (the digital tape recorder destined for China), but we had shipped so many of them without a license that it didn't even cross our minds that we needed one," Hazleton said. Bison has shipped the Chinese four similar devices since 1980, he added.

The product has no military applications, and its computer-chip technology is about five years out of date, he said.

Hazleton said that following the seizure of the recorder, local customs officials wanted to know why Bison hadn't followed their earlier advice that the company check with the Commerce Department to learn whether a particular product required an export license. That advice was offered after a Bison computerized earth-movement detector was seized in January by New York Customs enroute to Iceland.

Hazleton said the firm had tried to do that, but gave up when the Commerce Department said it would take four to six months to issue such rulings. "That was absolutely ridiculous. We (Bison) would have gone under right there," he said.

When asked about Bison Instruments' struggle to obtain export licenses, Maki of the Customs Service was sympathetic, but said the agency couldn't ease the export regulations.

"I know this is one of the real problems. We cannot get Commerce to work fast enough," she said. "But we can only do what Commerce tells us to do."

Mr. ABDNOR. Mr. President, the serious threat to the national security of the United States posed by the illegal acquisition of United States and Western technology by the Soviet Union and other adversary nations is of great concern to me and many other Americans. This technology, having both military and civilian application and strategic value, has saved the Soviets billions of dollars in research and development costs and allowed them to increase their military strength in significantly less time than required for the normal development of such systems. The United States must strengthen its export controls to prevent further erosion of our precious strategic technological advantage over the Soviet bloc and maintain the value of our independently developed technology.

In October of 1981, the U.S. Customs Service implemented an export control enforcement program known as Operation Exodus in an effort to stem the illegal flow of high technology products to the Soviet bloc. To this end, the Customs Service has proven to be a most formidable asset in the effort to curb the loss of our precious technology. Most recently, the Customs Service, working through the Governments of West Germany, South Africa, and Sweden, was able to prevent the transshipment of a Digital Equipment Corp. VAX 11/782 computer system to the Soviet Union. The VAX computer, as described by senior Department of Defense officials, is a highly sophisticated system having distinct military applications.

Defense Secretary Caspar W. Weinberger, during a press conference with Treasury Secretary Donald T. Regan on December 19, 1983, stated that the VAX 11/782 would help the Soviets * * * "produce vastly more accurate * * * and more destructive weapons."

Secretary Regan said that the seizure of the VAX system "prevented what could have been an espionage coup by the Soviets."

Ironically, senior Defense officials said that the Cabinet-level news conference would have been unnecessary if the Commerce Department had done its job, and if the Department of Defense administration had the power to veto licenses for the export of militarily sensitive goods. "The law requires that the Defense Department be contacted in these cases. But the Commerce Department persistently has refused to do that * * *" the defense officials.

At the time the export license for the VAX computer system was issued by one division of the Commerce Department, another Commerce division was investigating the consignee in South Africa for possible diversion of high technology goods to the Soviet Union. Former Assistant Secretary of Commerce Lawrence E. Brady made mention of the problems inherent in the Commerce organization in his testimony before the Senate Committee on Governmental Affairs on September 24, 1980:

> I feel there are certain areas in which the Commerce Department, no matter what personalities are in authority, will always be deficient in its implementation of long-term export control policies as mandated by the Export Administration Act * * * [O]ne Department simply cannot be expected to simultaneously administer export promotion and control policies, the Commerce bureaucracy cannot—cannot be structured to omit the influence of export promotion pressures. At some level in the Commerce hierarchy an official is always to wear two hats, whether it is the Under Secretary, Assistant Secretary, or the Deputy Assistant Secretary's level.

These recent examples of Customs' accomplishments in the area of export enforcement only serve to reinforce the need for a strong national export control policy. I urge my colleagues here in the Senate to support S. 979 which will insure U.S. technological superiority in the decades to follow and help maintain our great Nation's military power and the security of the free world.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until not past the hour of 5 o'clock in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VOICE OF AMERICA

Mr. HATCH. Mr. President, I would like to draw to the attention of my colleagues an interview in the February 4 issue of Human Events conducted with Kenneth Y. Tomlinson, Director of the Voice of America. The interview relates the outstanding job Mr. Tomlinson has done at the Voice of America since his appointment in 1982. It also brings to light some of the ideals that have helped to improve the quality and credibility of VOA broadcasts. In the interview Mr. Tomlinson states:

> When I came in, I said we want to make sure the Voice of America represents the voices of America.
>
> It is difficult for many Americans to grasp what it is like to live and function in a totalitarian society, or even through much of the Third World in terms of gaining information about what is really going on in the world.
>
> * * * people depend on the Voice of America and a handful of other western broadcasters for access to the truth, access to what basically is happening in the world. There's also the importance of reaching the people even in strict totalitarian societies. It's important for us to be able to broadcast the truth to the people of the world. Where there is truth there is hope for a better tomorrow.

With this hope for a better tomorrow, and his insistence on what he calls ultimate journalistic professionalism, Ken Tomlinson is producing balanced radio programing which has won praise from both liberals and conservatives. He explains the value that the Voice of America has in simply educating groups of people who have no clear concept of what America is, and I quote:

> What makes this country different is ideas and concepts of freedom which have produced this dynamic economic system unmatched in the world.
>
> When I first went to the Voice of America, the leader of our African division happened to mention that the two most frequently asked questions in the tens of thousands of letters we receive from Africa are: Why does the United States not have governmental coups, and why is the United States so economically prosperous?
>
> If we answer those questions on the Voice of America, we will have served a great purpose both for Americans and the people of the world.

Mr. Tomlinson explains that to continue this service at the level of credibility he has attained, it is important to give the U.S. Government an opportunity to express its views. For this reason the VOA has instituted an editorial policy giving the Government a chance to speak in the grand tradition of a newspaper editorial page. Mr. Tomlinson sees danger, however, in Government controls on the content of broadcasts. He says:

> I think it is potentially hazardous to the Voice if our news and current affairs broadcasting is subject, for example, to State Department policy constraints. It is this type of governmental involvement in our product that gave us periods of time when broadcasts about Solzhenitsyn were alleged to have been ordered off the Voice of America. It is this kind of policy-oriented thinking that stops the flow of ideas and thoughts that will make our broadcasting of significant meaning to the people of the world.
>
> I think greater Government control of VOA broadcasts would be disastrous.

The interview also addresses the 6 year $1.2 billion modernization plan that has been proposed to improve the antiquated broadcasting facilities that the Voice of America is currently forced to use. Citing the support of newfound VOA ally, President Reagan, Mr. Tomlinson is optimistic about obtaining this much-needed financial support when he says:

> Much like building space vehicles in the 1960's, you can't press a button and immediately design and install transmitter facilities and antennas, and all you need for the kind of quality sound that we must have in American broadcasting. It will take years, but we must begin today. I don't believe that bureaucratic inertia will be able to stop our momentum.

Mr. President, this is an outstanding interview which serves to remind us of the support we should be giving to the Voice of America. I ask unanimous consent that this interview be printed in the Record.

There being no objection, the interview was ordered to be printed in the Record, as follows:

[From Human Events, Feb. 4, 1984]

We're Putting the Voices of America on the Voice of America

It is commonly agreed in Washington that one of the bright lights in the Reagan Administation is the director of the Voice of America, Kenneth Y. Tomlinson.

Liberals and conservatives alike give Tomlinson kudos for the adroit manner with which he has navigated the factional, ethnic and political minefields of the VOA and for the success he has had in setting a new course for this venerable and inertia-bound institution.

As the third director of the VOA in 11 months, Tomlinson faced a formidable task when appointed late in 1982. Broadcasting in some 42 languages, the VOA staff is composed of dozens of ethnic groups, many of whom, as the new director noted, "have a rich tradition of guerrilla warfare."

Policy and management responsibilities are further complicated by the fact that the staff also includes professional journalists resentful of any attempts to influence their coverage of the news, by career foreign service officers with all the baggage they carry and by political appointees of the Reagan Administration with a desire to reflect the President's agenda and views on world affairs.

The organization has also been buffeted in recent years by attacks from liberals that the Reagan Administration is attempting to politicize the VOA and turn it into a propaganda vehicle. Conservatives, on the other hand, have been critical of VOA professionals for their failure to broadcast hard-hitting news and feature programs that might offend the Soviet Union.

Finally, there is the staggering problem of the VOA's antiquated facilities. Incredibly, in an age of rapidly advancing communications technology, the Voice of America is still relying basically on 1950s-era broadcasting equipment and, in one case, continues to use a transmitter confiscated from the Nazis at the end of World War II.

By all accounts, Tomlinson has been quite successful in grappling with these problems.

VOA employes seems to have taken to heart his expressed desire to "put the divisions of the past behind us," the professional journalists have been reassured by the addition of more hard news programming and conservatives have applauded the weeding out of much of the left-wing bias in the broadcasts and inauguration of a series of hard-hitting editorials promoting the Administration's positions on domestic and international issues.

Tomlinson's stock with VOA employes also rose when he worked out an agreement with the leadership of the congressional correspondents that, for the first time, accredits Voice of America reporters to cover sessions of Congress.

Tomlinson and his boss, Charles Wick, director of the United States Information Agency, have also unveiled a comprehensive plan to modernize VOA broadcasting facilities at a projected cost of $1.2 billion over a six-year period.

Tomlinson, 39, came to the Voice of America from the Reader's Digest where he worked for 14 years, most recently as a senior editor. His easy-going personality is complemented by a firm commitment to principle acquired during many years of activity in the conservative movement. He is a longtime reader of Human Events, to which he granted the following exclusive interview.

Question. Mr. Tomlinson, a very basic question: Why the Voice of America? Specifically, could you give us a little historical background on the VOA and what its charter envisioned as the purpose of the service?

Answer. It's difficult for many Americans to grasp what it is like to live and function in a totalitarian society, or even through much of the Third World in terms of gaining information about what is really going on in the world.

We live in a media-saturated society, people get one or more newspapers a day, they subscribe to numerous periodicals, you have radio news during the day, television in the morning and evening. But it's not like that in major parts of the world and people depend on the Voice of American and a handful of other Western broadcasters for access to the truth, access to what basically is happening in the world. There's also the importance of reaching the people even in strict totalitarian societies. It's important for us to be able to broadcast the truth to the people of the world. Where there is truth, there is hope for a better tomorrow.

Voice of America went on the air during World War II. We said in our first broadcast that the news may be good from the standpoint of the United States—it may be bad—but we're going to broadcast the truth. Congress enshrined that concept in the charter, in a Public Law in the 1970s, and we are required at the Voice of America to give the news objectively and comprehensively.

We are required to broadcast about America and about its institutions; we are required to broadcast the views of the United States government and responsible opposition positions. I have no problem with this concept because through ultimate professionalism, through making sure that our news is balanced within the American political spectrum, we're performing a service that I think the vast majority of Americans want us to perform.

One problem at the Voice of America in the past has been what we have not always recognized what is truly important about America and its institutions. Sometimes we've spent a lot of time broadcasting about the splendor of the Rocky Mountains, or the Great Lakes, or natural resources—broadcasting about things instead of ideas. What makes this country different is ideas and concepts of freedom which have produced this dynamic economic system unmatched in the world.

When I first went to the Voice of America, the leader of our African division happened to mention that the two most frequently asked questions in the tens of thousands of letters we receive from Africa are: Why does the United States not have governmental coups, and why is the United States so economically prosperous?

If we answer these questions on the Voice of America, we will have served a great purpose both for Americans and the people of the world.

Question. The charge has been made that the VOA has an ambiguous mandate and that the staffing arrangement is somewhat schizophrenic in that the VOA is staffed by political appointees like yourself, by career foreign service officers and by professional journalists and that through the years there's been a lot of ambiguity as whether the mission of the VOA is to provide news, or whether it is to further the foreign policy aims of the American administration. How do you respond to that?

Answer. I think the greatest responsibility of the Voice of America is to practice what I call ultimate journalism. We have instituted during the Reagan Administration an editorial policy for the Voice of America. This government has a chance to speak in the grand tradition of a newspaper editorial page. During this Administration, those editorials have been what could be called tough: on East-West issues, on protecting our rights, on why the West is prosperous and totalitarian nations are not.

But we think it has been very important to isolate where the government has official input into the Voice of America to the editorial page. I think it's potentially hazardous to the Voice if our news and current affairs broadcasting is subject, for example, to State Department policy constraints. It is this type of governmental involvement in our product that gave us periods of time when broadcasts about Solzhenitsyn were alleged to have been ordered off the Voice of America. It is this kind of policy-oriented thinking that stops the flow of ideas and thoughts that will make our broadcasting of significant meaning to the people of the world.

There are many ramifications to this issue and it goes back to the law that governs VOA. What is meant when that law speaks of "balance"? I submit that balance does not lie somewhere between Washington and Moscow. I submit that balance is within the American political spectrum—within the spectrum of Western values.

When we say that our news should be comprehensive, does that mean we should dwell on the negatives about this country? Absolutely not. If we take a current affairs look at the issue of unemployment in this country, it should be in the context of the world economic situation. We should expect the full story to be covered—and that includes an indication of what economic system (i.e., the free market) has produced a measure of prosperity for the people and what economic system (i.e., socialism) has not achieved. But this can best be done by strict adherence to the truth—by calling the plays as they occur in strict adherence to journalistic professionalism.

Question. So I take it that you would not go along with those people who suggest that what is needed is greater government control over broadcasts of the VOA.

Answer. President Reagan has said on many occasions something to the effect that we shouldn't turn to government to solve all problems because too often government is the problem. I think greater government control of VOA broadcasts would be disastrous.

As I said, it was because of interference from elsewhere in government that people at least perceived in the 1970's that it was not healthy to have Alexander Solzhenitsyn on our Russian service. Now certainly, in our editorials, we are required to convey the policies of the United States. During the Reagan Administration those editorials are going to be forceful in advocating the values of the West. During another administration they might not be so hardline. But in news and current affairs, if you start tailoring that programming to conform with narrow policy considerations, you lose the spark of a free flow of ideas that will enable VOA to inspire audiences around the world.

When I came in, I said we want to make sure the Voice of America reflected the voices of America. That means when we have commentators, that we have, for instance, Allan Ryskind of Human Events and Rick Hertzberg of the New Republic.

This principle is an extension of the philosophy on which this nations was founded. The founders believed that people, when exposed to a diversity of information and opinion, could decide for themselves—and do it wisely. That is precisely what we propose to do in broadcasting facts and information and ideas to the people of the world.

Question. The Voice of America has two sister organizations, Radio Liberty and Radio Free Europe. What are the distinctions in the mandates of these three?

Answer. At the Voice of America we are reflecting the values and institutions of the U.S. to the world. FRE and RL are surrogate radios, broadcasting as if Radio Liberty were inside the Soviet Union, or Radio Free Europe Polish service were in Poland. They are broadcasting to those countries primarily about what has happened in those countries.

Question. You mentioned Alexander Solzhenitsyn. He has been, at least until recently, a very strong critic of the programming of the VOA, and I have here an extensive interview with him conducted, I think, 1981. I'd just like to read a few condensed versions of the charges that he made at that time.

He says, "Your radio broadcasts do not give our people the spiritual help they need." And he goes on to say that they don't give them the information they need to have about what's going on inside the Soviet Union.

Specifically, in regard to his book, Gulag Archipelago, he says, "What did the Voice of America do? They went with the agreement and forbade the reading of Gulag Archipelago to Russia. More than that, for several years it was forbidden to quote Solzhenitsyn on the Voice of America so as not to harm Communist progaganda. This means my book was written for Russians, millions of copies were read in the West, but it should not be read in our motherland because otherwise the Voice of America would spoil relations with the Soviet Union."

Would such a criticism still be accurate?

Answer. Heavens, no. I don't know the full details of what happened in the 1970s in terms of coverage of this most significant figure on the international and American scene, but I can certainly say this: The words and works of Alexander Solzhenitsyn are on the Voice of America today. Coverage of events involving him is on the Voice of America today and will continue. To do otherwise violates that law that requires VOA to engage in "comprehensive" coverage of the news.

We have increased serious programing focusing on the most important events and issues of the day. What is really happening in the Soviet Union? Afghanistan? What is the situation with minorities in the USSR? What about the problems of alcoholism in the Soviet Union? Journalistically speaking these are among the most significant stories in the world today.

I'm pleased to say that we've had an increase in religious broadcasting on the Voice of America, including programs to the Soviet Union. Last Christmas we had the first worldwide broadcast, in English, of a Christmas religious service. This past Thanksgiving we had the first worldwide broadcast of a religious service on that occasion.

Initially people thought that this would create controversy for VOA, and I said that's absurd. We're required to reflect America's institutions. We're required to reflect what's important about America, and religion plays a very, very important part in American society. The concept of freedom of religion and freedom of worship is absolutely essential to what this country is all about.

National Public Radio rushed into the Voice of America last Christmas just before we did that first Worldwide English broadcast and asked if people were not complaining at the Voice of America because of this religious service. And I said, yes, I did hear someone complaining in the hallways, but I didn't pay a great deal of attention to that person because he was also muttering, "Bah, humbug!" The NPR reporter broke up. Unfortunately we never heard the interview on the air.

We will continue to have an appropriate emphasis on religion at VOA. In Poland, for example, when the government, under martial law, removed Mass from Warsaw radio and television, we began weekly broadcasts to Poland of Polish Mass services conducted in this country. What we're doing is most appropriate to the traditions of the Voice.

Question. In another criticism, Mr. Solzhenitsyn says, "Your broadcasts are conducted so primitively that they give a false picture of your country. They speak about the most superficial, the most trite things, so that our people have a lower opinion of the American people than the American people deserve."

He continues, "For instance, I will tell you that there are three different jazz programs, then a separate program of pop music, a separate program on dance music, and a separate youth program on which all this is repeated. But it is such a mistake. Perhaps those people who are interested in jazz might turn it off five minutes later and hear something besides jazz. But the thing is that we have very few people who are interested in jazz. They don't need your programs which are jammed because they have at their disposal all the world jazz programs which no one jams. They can hear these programs perfectly. So you do not attract any listeners that way, you spend only valuable air time on nonsense and frivolousness."

Answer. I became interested in the issue of the Voice of America when I was living in Europe in the 1970s, traveling in Europe, Africa and the Middle East, with a shortwave radio as my constant companion.

I did not think that broadcasting on VOA was sufficiently relevant to what was happening in the world. I did not think that we had a proper emphasis on hard news and especially a proper emphasis on current affairs. I was also concerned that in listening to VOA, I didn't hear the significant voices of America.

Anyone who traveled around the world in recent years has heard complaints that VOA listeners could not count on receiving in-depth coverage of the most significant issues and events of the day. Instead, VOA programming all too often spotlighted features on roller skating in New York and the like—programming which simply did not live up to the purpose of VOA.

I think we've taken care of a good deal of that. We've had on our flagship station, Worldwide English, a significant change in our programming. For example, we've moved away from 1950s disc jockey shows in the morning to news and current affairs broadcasting. Our new program "Focus" each day delivers the voices of America on important issues of the time. Other program changes ensure that the most significant articles, books and trends are assessed by articulate representatives of the American political spectrum.

Pausing to focus, though, on Mr. Solzhenitsyn's comments in years past, I believe our broadcasting, in English and in Russian, is more relevant today.

In a jamming situation, where people are trying mightily to hear what is happening in the world, you obviously need a primary focus on serious programming. Music, though, has always been, and always will be, an important part of the Voice of America because the arts also reflect what this country is all about.

We have had literally a generation of people who have come to know and love jazz through Willis Conover and this important Willis Conover program must continue at VOA. We just have to make sure that people know when they can tune in to the Voice of America for news and current affairs, and know when they can tune in to Voice of America for music, and not try to mix them all together.

Question. One final criticism that Mr. Solzhenitsyn makes: He says, "You limit even simple information about current events. In matters of foreign policy you are being overscrupulous about your use of sources, and with Afghanistan, for instance, and insofar as the internal situation in the Soviet Union is concerned, you have been concentrating on material provided by dissidents from Moscow." He says that this scrupulousness about sources is limiting the news you can broadcast about the Soviet Union to the Soviet people.

Answer. I came to the Voice of America from the *Reader's Digest*, which in the last decade has been responsible for some of the most significant journalism produced in the Western world. John Barron's books on the KGB. The Barron-Paul book on Cambodia. Claire Sterling's book supplement on the plot to kill the pope—to name a few examples.

The *Reader's Digest* is far stricter about confirming sources and stories than is the Voice of America. The bottom line is that it's absolutely essential for accuracy and that you check sources. In fact, I frankly wish we had the resources here at the Voice of America to have further checks on our stories because my great concern is not dashing out with the news to the people of the world. My great concern is making sure that when we broadcast something that it's correct. That's always been the concern of *Reader's Digest* and it should be the concern of the Voice of America.

Let me say that I did have a recent and very pleasant visit with Mrs. Solzhenitsyn. We have significantly upgraded our broadcast at the Voice of America in our Russian service, and Mr. Solzhenitsyn said that that upgrading has been noted. The Solzhenitsyn family listens to Russian language broadcasts of the Voice of America. I believe we've moved to a period where the quality of broadcast at VOA is stronger than ever in its history, and I think people across the spectrum will be recognizing this.

In the Russian service, for example, we're going now with a series of programs called "Conversations with Rostropovich," the great Mstislav Rostropovich who is conductor of the National Symphony Orchestra, and who emigrated from the Soviet Union in the 1970s. He, too, has been a critic of VOA broadcasting in years past.

I just wish it were possible for a cross-section of Americans to listen to this program today. It's patterned after the significant Eric Sevareid interviews with Eric Hoffer in the mid-'60s. Mr. Rostropovich talks with Mark Pomar, the new head of our Russian service, about the differences in what is happening in the USSR, the difference in his life, the differences in music. These programs are absolutely extraordinary, and while you are in this building I hope you have a chance to glace at some transcripts. That's what international broadcasting is all about.

Question. It's government policy, I understand, to forbid the reproduction of broadcasts of Voice of America material inside the United States. What is the reason for this restriction?

Answer. The laws governing the Voice of America and its parent, the United States Information Agency, were passed in the early 1950s when the memories of the 1930s and Nazi Germany were still fresh in the minds of American lawmakers. It was a strict prohibition against any domestic dissemination of a VOA product.

If a reporter, if an American, writes me and says I understand you're broadcasting such and such, I'd like to take a look at it, incredibly, I have to say no. I can't mail it to you. You can come into this building and read the transcripts. Frankly, I think this law should be revised. We should be able to answer legitimate queries about what we're broadcasting on the Voice.

Question. We've talked a lot about the Voice of America. You have a counterpart in the Soviet Union in Radio Moscow. Can you describe Radio Moscow's purpose, its capabilities, its programming, etc.?

Answer. Well, Radio Moscow has softened a bit in recent years from something that was simply preposterous in propaganda to a product which was until recently slicker. Now it's moved back a bit in terms of its propaganda posture.

But Radio Moscow represents everything that ineffective international broadcasting symbolizes. It is pure propaganda for the Soviet system. You'll never hear anything about any problems in the Soviet Union. It's rare that any event in the Western world is accurately conveyed, and that's why Radio Moscow is far more powerful throughout the world—and has a far more powerful signal throughout the world—than the

Voice of America. It broadcasts in twice the number of languages around the world as the Voice of America, and on far more frequencies around the world than the Voice of America, but it cannot touch the influence and significance of the VOA.

Question. Regarding the quality of your broadcasting and the changes made, I note that the Solzhenitsyn family is not alone. The Financial Times of London, for instance, recently quotes Dean Watkins to the effect, "I find the leftwing, anti-business, anti-free market bias that pervaded news and features of the VOA during the Ford and particularly the Carter periods, has now largely disappeared. To me, the VOA has become approximately as neutral as the BBC is."

How did this happen?

Answer. Our broadcasts are better because we have, I think, a rising tide of professionals in this institution and I think we've also taken seriously our theme to put the voices of America on the Voice of America.

The traditional approach at VOA was what I called a one-microphone concept. What we needed at VOA was to have a balanced reflection of American thought and opinion. Then, of course, we needed to focus on the significant issues in the world today.

I say that we're going to institutionalize balance in my tenure at VOA—and that has surprised many people in the professional journalism community. A Reagan appointee, an appointee who for many years has made sure he had this weekly copy of Human Events, is institutionalizing balance and in doing so will ensure that the people of the world are given access to the ideas that have made this country great.

Question. During the past year we've heard a great deal about the Voice of America's antiquated broadcasting facilities. How did the facilities get to be in this sorry state and what's being done to change the situation?

Answer. You've heard the expression "benign neglect." I think that explains why the Voice of America has been allowed to deteriorate over the course of many years. It is astounding to think that more than 35 percent of our transmitters are over 30 years old and virtually all of our transmitters are older than 15 years. Out antennas, and other equipment, the same. We're sitting now in a studio which was built in the middle 1950's. You have few college stations in America which operate in anything like these conditions.

Why have these conditions not changed? Why has the Voice of America not kept up with the state of the art despite the importance of its mission? On thing I've learned in my service is that it is exceedingly difficult to bring change to government. Unlike the private sector, government is not prepared or structured for shifts in emphasis and change in the way things are done.

If, for example, the VOA construction budget has been virtually nonexistence over the course of years, then putting money into that budget proves to be exceedingly difficult because we've never done it that way before. Modernizing the Voice of America? We've never done that before is unfortunately the reaction in many corners of the federal bureaucracy.

But we have built up incredible momentum in these months to have a meaningful long-term modernization at the Voice of America. We've had that shift because my boss, Charles Wick, the director of USIA, is a very forceful man and he is able to shift government priorities in a very significant way. The ultimate weapon, of course, has been the President of the United States—going on nationwide radio, saying that we need the same kind of effort which enabled us to overcome the gap in the space race, to erase the gap in transmitter power and strength in international broadcasting.

Much like building space vehicles in the 1960s, you can't press a button and immediately design and install transmitter facilities and antennas, and all you need for the kind of quality sound that we must have in American broadcasting. It will take years, but we must begin today. I don't believe that bureaucratic inertia will be able to stop our momentum.

At the beginning of 1983, the VOA had among all the engineers involved in running its system only 20 engineers with college degrees, and not necessarily degrees in engineering. Now, granted, college degrees are not required to engineer and run an old system like VOA's. In fact, out people have done an amazing job with the equivalent of baling wire and chewing gum keeping the Voice of America on the air.

But if you look toward a futuristic state of the art system, you also need to add engineers who can plan that system. We now, thanks to the Reagan Administration's supplemental appropriation, have added more than 60 engineers, most of whom have graduate degrees, and we are adding more every week. This country would not have had a space program without futuristic engineers and we can't have VOA modernization without the same.

Question. Mr. Wick and you are said to have proposed a modernization plan entailing a $1.2-billion expenditure over six years. What are the prospects of this being approved?

Answer. I think the prospects are good. We have planned and are putting finishing touches on proposals for something like a six-year modernization program, something in the neighborhood of $1 billion or more. This will ensure that people do not have to strain and twirl their radio dials to get VOA in significant places.

Question. After a long struggle, President Reagan finally got Radio Marti approved by the U.S. Congress, and whether or not you wanted to have anything to do with that, you have been given the task of setting it up. What is the purpose of Radio Marti and how do you foresee managing it?

Answer. The President proposed that Radio Marti be placed under the Board for International Broadcasting, headed by Frank Shakespeare. We all would have preferred to see that happen because Radio Marti was designed for surrogate broadcasting, like Radio Free Europe and Radio Liberty.

In placing the Radio Marti Program in the Voice of America, it is going to be more difficult to get the service on the air because, unlike BIB, we are required to observe Civil Service rules. Sometimes we can find ways to make those rules a little more flexible, but still it's going to take longer to get on the air.

I think we can overcome all the administrative problems that will beset us, all the start-up problems that will hamper us, because the concept of broadcasting the truth, broadcasting of what is happening in Cuba, what is happening to Castro's forces around the world—all this is so exciting as to propel us to overcome the obstacles. Imagine how it would be for you if you lived in Cuba to be able to tune in to a radio station and find out what is really going on in areas affecting your personal interest. This is an extraordinary challenge and I think we'll fulfill it.

As is the case with engineers and modernization, the quality of Marti programs will depend in large part on the quality of people—especially the research people—we are able to involve in this effort.

Question. Castro has threatened to jam Radio Marti's broadcasts and fears have been expressed by some, including some members of Congress, that this jamming is going to seriously affect American broadcasting. Is there anything to that fear, do you think?

Answer. We will have to wait and see. I believe that it is important to broadcast the truth to the people of Cuba and that we must as soon as possible.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States announced that on February 22, 1984 he had approved and signed the following bill:

S. 1340. An act to revise and extend the Rehabilitation Act of 1973, to provide for the operation of the Helen Keller National Center for Deaf-Blind Youths and Adults, to extend the Development Disabilities Assistance and Bill of Rights Act, and for other purposes.

MESSAGES FROM THE HOUSE

At 2:28 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 2708. An act to further the national security and improve the economy of the United States by providing grants for the improvement of proficiency in critical languages, for the improvement of elementary and secondary foreign language instruction, and for per capita grants to reimburse institutions of higher education to promote the growth and improve the quality of postsecondary foreign language instruction.

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2708. An act to further the national security and improve the economy of the United States by providing grants for the improvement of proficiency in critical languages, for the improvement of elementary and secondary foreign language instruction, and for per capita grants to reimburse institutions of higher education to promote the growth and improve the quality of postsecondary foreign language instruction; to the Committee on Labor and Human Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2581. A communication from the Assistant Legal Advisor For Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60 days prior to February 9, 1984; to the Committee on Foreign Relations.

EC-2582. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued by the General Accounting Office during January 1984; to the Committee on Governmental Affairs.

EC-2583. A communication from the Assistant Secretary for Health, Department of Health and Human Services, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2584. A communication from the Secretary of Education, transmitting a draft of proposed legislation to extend programs under the Indian Education Act through fiscal year 1985; to the Select Committee on Indian Affairs.

EC-2585. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on procedures for the control and reclamation of surface mining on Indian lands; to the Select Committee on Indian Affairs.

EC-2586. A communication from the Director of the Administrative Office of the U.S. courts, transmitting, pursuant to law, a report on bankruptcy court matters transmitted to U.S. district courts during the 9-month period ended September 30, 1983; to the Committee on the Judiciary.

EC-2587. A communication from Judge McConnell, of the northern district of Texas, transmitting, pursuant to law, acceptance of his appointment as a judge of the bankruptcy court; to the Committee on the Judiciary.

EC-2588. A communication from the Secretary to the Railroad Retirement Board, transmitting, pursuant to law, the Board's long-range (1983-87) automation report; to the Committee on Labor and Human Resources.

EC-2589. A communication from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Tobacco Inspection Act to consolidate and provide additional authority for the Secretary of Agriculture to establish method for efficient and equitable marketing of tobacco; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2590. A communication from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 8(b) of the Soil Conservation and Domestic Allotment Act to improve procedures for the selection of ASCS county and local committees; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2591. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, the annual report of the National Forest Service for fiscal year 1983; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2592. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated February 1, 1984; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget and the Committee on Appropriations.

EC-2593. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on three violations of law as a result of overobligation of approved appropriations; to the Committee on Appropriations.

EC-2594. A communication from the Deputy Assistant Secretary of Defense (installations), transmitting, pursuant to law, the base structure annex to the defense manpower requirements report for fiscal year 1985; to the Committee on Armed Services.

EC-2595. A communication from the Chief of the Program Liaison Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a report on experimental, development, and research contracts of $50,000 or more, by company; to the Committee on Armed Services.

EC-2596. A communication from the Principal Deputy Assistant Secretary of the Navy (shipping and logistics), transmitting, pursuant to law, a report on the conversion of the Facilities Services and Supply Services function at the Naval Ordinance Station, Louisville, Ky., to performance by contract; to the Committee on Armed Services.

EC-2597. A communication from the Deputy Assistance Secretary of the Air Force (logistics and communication), transmitting, pursuant to law, a report on the conversion of the fuels management function at Tinker Air Force Base, Okla., to performance by contract; to the Committee on Armed Services.

EC-2598. A communication from the Deputy Assistant Secretary of the Air Force (logistics and communications), transmitting, pursuant to law, a report on the conversion of the source data entry function at Hill Air Force Base, Utah, to performance by contract; to the Committee on Armed Services.

EC-2599. A communication from the Acting Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a listing of contract award dates for the period March 1, 1984 to April 30, 1984; to the Committee on Armed Services.

EC-2600. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Turkey for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-2601. A communication from the Deputy Assistant Secretary of the Air Force (logistics and communications), transmitting, pursuant to law, a report on the conversion of the commissary shelf stocking and custodial services function at 24 Air Force installations to performance by contract; to the Committee on Armed Services.

EC-2602. A communication from the President and chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on loan, guarantee, and insurance transactions of the Bank during December 1983 to Communist countries; to the Committee on Banking, Housing, and Urban Affairs.

EC-2603. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the total itemized revenues and expenses and revenues and expenses of each train operated by the Corporation for October and November of 1983; to the Committee on Commerce, Science, and Transportation.

EC-2604. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report of the Maritime Administration for fiscal year 1982; to the Committee on Commerce, Science, and Transportation.

EC-2605. A communication from the chairman of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, the 1983 annual report of the Corporation; to the Committee on Energy and Natural Resources.

EC-2606. A communication from the chairman of the Federal Trade Commission, transmitting, pursuant to law, the report of the Commission on U.S. Oil Company Participation in the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2607. A communication from the Secretary of the Interior, transmitting, pursuant to law, notice of a proposed contract with the East Bench Irrigation District of Dillon, Mont.; to the Committee on Energy and Natural Resources.

EC-2608. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on Federal Government conservation programs for fiscal year 1982; to the Committee on Energy and Natural Resources.

EC-2609. A communication from the Secretary of State, transmitting a draft of proposed legislation to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, to authorize security and development assistance programs for the fiscal years 1984, 1985, and 1986, and for other purposes; to the Committee on Foreign Relations.

EC-2610. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-105 adopted by the Council on January 17, 1984; to the Committee on Governmental Affairs.

EC-2611. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-106, adopted by the Council on January 17, 1984; to the Committee on Governmental Affairs.

EC-2612. A communication from the Deputy Assistant Secretary of Defense (administration), transmitting pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2613. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled, "D.C. Auditor Observations of ANC Improvement Needs"; to the Committee on Governmental Affairs.

EC-2614. A communication from Judge Gibbons, of the middle district of Pennsylvania, transmitting, pursuant to law, acceptance of his appointment as a judge of the bankruptcy court; to the Committee on the Judiciary.

EC-2615. A communication from Judge Pagter, of the central district of California, transmitting, pursuant to law, acceptance of his appointment as a judge of the bankruptcy court; to the Committee on the Judiciary.

EC-2616. A communication from Judge Wolfe, of the northern district of California, transmitting, pursuant to law, acceptance of his appointment as a judge of the bankruptcy court; to the Committee on the Judiciary.

EC-2617. A communication from the chairman of the U.S. International Trade Commission, transmitting, pursuant to law the annual report of the Commission under the Freedom of Information Act for calendar year 1983; to the Committee on the Judiciary.

EC-2618. A communication from the chairman of the National Credit Union Administration, transmitting, pursuant to law, the annual report of the administration under the Freedom of Information Act for calendar year 1983; to the Committee on the Judiciary.

EC-2619. A communication from the Secretary of Education, transmitting a draft of proposed legislation to improve the operation of the chapter 1 program authorized under the Education Consolidation and Improvement Act of 1981, to improve the effectiveness of migrant education programs, to provide for use of the most recent available decennial census information, and for other purposes; to the Committee on Labor and Human Resources.

EC-2620. A communication from the Director of the National Science Foundation, transmitting a draft of proposed legislation to authorize appropriations for the National Science Foundation for fiscal years 1985 and 1986; to the Committee on Labor and Human Resources.

EC-2621. A communication from the Secretary of Education, transmitting a draft of proposed legislation to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs; to the Committee on Labor and Human Resources.

EC-2622. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Pell grant cost of attendance of 1984-85; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-531. A resolution adopted by the Association of Hawaiian Civic Clubs concerning the Hawaiian community; to the Committee on Energy and Natural Resources.

POM-532. A resolution adopted by the Association of Hawaiian Civic Clubs concerning the Hawaiian community; to the Committee on Energy and Natural Resources.

POM-533. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Energy and Natural Resources.

"RESOLUTION No. 388

"Whereas, the territory of Guam submitted to the Department of Interior its Capital Improvements Project for Fiscal Year 1985 as follows:

"Program category:	*Amount requested*
Agana Bay Development	$26,600,000
Power Plant Scrubber	20,000,000
Commercial Port/Cabras Island Development	31,255,000
Education	20,118,204
Water Utilities	6,662,000
Correctional/Rehabilitation Facilities	1,664,660
Tourism Facilities	13,500,000
Environmental Protection	2,000,000
Commercial Area Activities	12,000,000
Roads and Bridges	16,125,000
Agricultural Development	8,225,000
Health	9,175,185
Community Services	5,353,264
Public Safety	1,000,000
Total	173,678,313

"Whereas, the territory also submitted a Deficit Elimination Plan in the sum of $37,500,000; and

"Whereas, President Reagan omitted funds for Guam's Deficit Elimination Plan and Capital Improvement Projects in his proposed $212.9 Million Fiscal Year 1985 budget for the Office of Territorial and International Affairs submitted to Congress recently; and

"Whereas, the failure to submit to Congress the territory's Deficit Elimination Plan and Capital Improvement request will retard the planned improvements of the territory's infrastructure, development of existing facilities, and construction of non-existent facilities, necessary for economic development programs; now, therefore, be it

"*Resolved*, That the Seventeenth Guam Legislature respectfully request the United States Senate and the U.S. House of Representatives to favorably consider the territory's Deficit Elimination Plan and Capital Improvement Projects request and to provide funds for the implementation thereof; and be it further

"*Resolved*, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies be transmitted to the President of the United States Senate; the Speaker of the House of Representatives; the Honorable A. B. Won Pat; and the Governor of Guam."

POM-534. A concurrent resolution adopted by the House of Representatives of the State of Indiana; to the Committee on Finance.

"H.C.R. 17

"*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

"Section 1. That the Congress of the United States should promptly enact into law H.R. 4352, the Fair Trade in Steel Act of 1983, that will temporarily limit steel imports to not more than 15% of our domestic consumption in the United States and provide the industry with the means to modernize and become fully competitive in the world market.

"Section 2. That the monetary gain which results from the implementation of H.R. 4352 shall be used primarily to modernize the steel industry.

"Section 3. That the Clerk of the House transmit copies of this resolution to the President of the United States, the leadership of both political parties in both houses of Congress, and to each member of the Indiana Congressional delegation."

POM-535. A resolution adopted by the Senate of the State of West Virginia; to the Committee on Finance.

"SENATE RESOLUTION No. 13

"Whereas, The American steel industry has engaged in extraordinary self-help efforts including the commitment of millions of dollars to modernization and the reduction of employment cost; and

"Whereas, Foreign steel imports now account for approximately twenty percent of the steel consumed in the United States; and

"Whereas, The American steel and coal industries, and those particularly in West Virginia, are suffering from painfully high levels of unemployment which result in large measure from foreign steel imports; and

"Whereas, Most steel entering the United States is unfairly traded because it is dumped, subsidized or is the beneficiary of targeted foreign government development assistance; and

"Whereas, United States trade laws have been ineffective in stemming the ride of unfairly traded foreign steel; and

"Whereas, Unfair trade in steel is the single most serious threat to the survival of a healthy industry in West Virginia and in the United States; and

"Whereas, The American steel industry produces industrial material which is essential to the United States economy and necessary to our national defense; and

"Whereas, The steel industry is an important part of this state's economy, providing employment for thousands of the state residents; and

"Whereas, The American steel industry and West Virginia's coal mining industry are linked by an important and mutually beneficial customer-supplier relationship; therefore, be it

"*Resolved by the Senate*, That the Congress of the United States is hereby urged to support the Fair Trade In Steel Act of 1983 (HR4352) which limits imports of foreign steel to not more than fifteen percent of American steel consumption for a period of at least five years; and, be it

"*Resolved further*, That a copy of this resolution be sent to each member of the West Virginia Congressional Delegation, each member of the Congressional Steel Caucus, the presiding officers of each House of Congress, and the President of the United States."

POM-536. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Finance.

"JOINT RESOLUTION

"Whereas, the availability of affordable mortgage capital for the purchase of single family homes is critical to the social, economic and cultural fabric of the State and Nation; and

"Whereas, the availability of single family mortgage revenue bonds has provided an additional source of mortgage capital in a capital poor state; and

"Whereas, the availability of tax-exempt mortgage revenue bonds for the provision of single family mortgage capital has been a demonstrable effective tool in the State of Maine since its original use in 1972, providing mortgage financing to over 8,000 Maine families buying homes of their own, along with the attendant economic activities associated with the construction or sale of such homes; and

"Whereas, the State of Maine has acknowledged its joint responsibility with the Federal Government to address the problem of affordable mortgage capital through the creation of special housing programs, including the Housing Opportunities for Maine Program; and

"Whereas, it has been our experience in Maine that the benefits of this program outweigh the public cost whenever the increased economic activities resulting from the investments in housing associated with such bonds have been thoroughly examined; now, therefore, be it

"*Resolved*, That We, your Memorialists, express our strong support for the extension of the sunset provision in federal laws associated with tax-exempt mortgage revenue bonds for single family housing and respectfully urge the Congress and the Honorable Ronald W. Reagan, President of the United States, to take all actions necessary so as to permit the continued use of this affordable mortgage capital generating tool so necessary for the future well-being of this State and Nation; and be it further

"*Resolved*, That a duly authenticated copy of this resolution be immediately submitted by the Secretary of State to the Honorable Ronald W. Reagan, President of the United States; the President of the Senate and Speaker of the House of Representatives of the United States Congress; and to each member of the Maine congressional delegation."

POM-537. A petition from two citizens of Troy, Mich., relating to a draft peace treaty between the United States and Republic of Germany; to the Committee on Foreign Relations.

POM-538. A resolution adopted by the Commonwealth of Massachusetts; to the Committee on Foreign Relations.

"RESOLUTION

"Whereas, since its founding in nineteen hundred and twelve, the Republic of China has been and continues to be one of the most faithful allies of the United States and, in these days of international tension, the policy of the United States should be to continue to promote and foster better political and trade relationships between the two countries; and

"Whereas, in recognition of its pivotal, strategic position in the defense of East Asia and the Western Pacific which is vitally important to the interest and defense of the United States, the Republic of China is the deserved recipient of the thanks, respect and admiration of the citizens of this country; and

"Whereas, the Republic of China is a fellow democracy and a bulwark of strength to the free world, and the military security of this Nation would be significantly enhanced by the reestablishment of official diplomatic and military relations between the Republic of China and the United States; now therefore be it

"*Resolved*, That the Massachusetts Senate hereby urges the President of the United States to reestablish official governmental relations with the Republic of China and that the Congress of the United States take all necessary action to provide specific security guarantees for the Republic of China; and be it further

"*Resolved*, That copies of these resolutions be transmitted forthwith by the clerk of the Senate to the President of the United States, to the Presiding Officer of each branch of Congress, to the Members thereof from the Commonwealth, to President Chiang Ching-Kuo, Republic of China; Premier Sun Yun-Suan, Republic of China; Minister Fu-Sung Chu, Ministry of Foreign Affairs, Republic of China; Minister Kuo-Hwa Yu, Chairman of the Council for Economic Planning and Development, Republic of China; Minister Chao Yao-Tung, Ministry of Economic Affairs, Republic of China; Minister Hsu Li-Teh, Ministry of Finance, Republic of China; Minister Mo Sung-Nien, Overseas Chinese Affairs Commission, Republic of China, and Representative Frederick F. Chien, Coordination Council for North American Affairs."

POM-539. A resolution adopted by the Diocese of Central Florida relating to nuclear weapons; to the Committee on Foreign Relations.

POM-540. A resolution adopted by the Detroit Lithuanian Organizations Center urging the Soviet Union to withdraw its occupational forces from Lithuania, Latvia, and Estonia so that these Baltic States would regain their liberty and independence; to the Committee on Foreign Relations.

POM-541. A resolution adopted by the Council of the City of Wadsworth, Ohio calling for a halt in the nuclear arms race; to the Committee on Foreign Relations.

POM-542. A resolution adopted by the Association of Hawaiian Civic Clubs relating to the Hawaiian community; to the Committee on the Judiciary.

POM-543. A resolution adopted by the Association of Hawaiian Civic Clubs relating to the Hawaiian community; to the Committee on the Judiciary.

POM-544. A resolution adopted by the Council of the City of Berea, Ohio relating to cable television legislation; to the Committee on Commerce, Science, and Transportation.

POM-545. A resolution adopted by the Association of Hawaiian Civic Clubs relating to the Hawaiian community; to the Committee on Labor and Human Resources.

POM-546. A concurrent resolution adopted by the General Assembly of the State of Pennsylvania; to the Committee on Veterans' Affairs.

"CONCURRENT RESOLUTION

"Whereas, There are approximately 250,000 veterans in the United States, of whom approximately 14,000 reside in Pennsylvania, who were exposed to atomic radiation during the occupation of Japan and in conjunction with at least 235 atmospheric nuclear weapons tests conducted in the 1940's and 1950's and as recently as 1962; and

"Whereas, These veterans are now suffering myriad health problems, including cancer, degenerative bone and nerve diseases, intestinal disorders, blood and respiratory diseases, emotional problems and birth defects in children and grandchildren; and

"Whereas, Recent medical evidence indicates that many of these ailments are associated with exposure to atomic radiation; and

"Whereas, These veterans have typically been hesitant to come forward for fear of prosecution under secrecy statutes and possible loss of employee medical benefits and diminished employment potential; and

"Whereas, Current Veterans' Administration regulations have denied a number of claims by veterans for health care and compensation; and

"Whereas, Under these regulations, it is incumbent upon the veteran to prove his or her exposure to atomic radiation through his or her own intiative in securing records that often are incomplete or missing entirely; therefore be it

"*Resolved*, (the House of Representatives concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize the President and Congress of the United States to direct the Administrator of Veterans' Affairs to revise the current regulations of the Veterans' Administration regarding the provision of health care to veterans exposed to atomic radiation to fully recognize the body of medical evidence associating exposure to atomic radiation with a wide range of health effects; and be it further

"*Resolved*, That the General Assembly further respectfully request that other appropriate agencies and resources of the United States be brought to bear in an investigation of the health and genetic complaints of veterans exposed to atomic radiation and of the apparent loss of records and documentation pertaining to exposure of individuals and military units; and be it further

"*Resolved*, That copies of this resolution be transmitted to the President and Vice President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania and to the Administrator of Veterans Affairs."

POM-547. A concurrent resolution adopted by the General Assembly of the State of Pennsylvania; to the Committee on Veterans' Affairs.

"CONCURRENT RESOLUTION

"Whereas, all 11 United States military combat divisions located in the United States are located in sections outside the northeastern region of the United States; and

"Whereas, The northeastern region of the United States has the pertinent geographical and economical necessities for maintaining United States combat divisions; and

"Whereas, President Reagan has called for an additional 200,000 combat troops in the United States Armed Forces, thus necessitating additional military bases in this country; and

"Whereas, Present military installations in the Commonwealth of Pennsylvania are available to be adapted into military bases for combat divisions; therefore be it

"*Resolved*, (the House of Representatives concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize the Congress of the United States to establish and locate military bases for United States combat divisions in the northeastern region of the United States; and be it further

"*Resolved*, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 351. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 746.

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 354. An original resolution authorizing expenditures by committees of the Senate. (Rept. No. 98-359)

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

William A. Wilson, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Holy See (Exec. Rept. No. 98-21).

William A. Wilson, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Holy See.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William A. Wilson.

Post: Ambassador to the Holy See.

Contributions, amount, date, and donee:

1. Self.
2. Spouse.
3. Children and spouses names.
4. Parents names: None.
5. Grandparents names: None.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

Political contributions

1980:	
William A. Wilson:	
Presidential Transition Trust	$2,500
Reagan-Bush Compliance	1,000
Roberta Weintraub	100
The Republican Presidential Unity Dinner	1,000
YCFR Delegation Committee	100
The Young Republican National Federation	75
California Delegation	100
The Johnson Committee	25
National Democratic Policy Committee	100
Committee to Retain Supervisor Schabarum	200
Prelude to Victory	1,000
Total	6,200
Elizabeth Johnson Wilson:	
Citizens for the Republic	100
Reagan-Bush Compliance Fund	1,000
California Republican Delegation	18
Prelude to Victory	1,000
Roberta Fiedler	100
Presidential Transition Trust	2,500
Total	5,718
1981:	
William A. Wilson—Citizens for the Republic	1,500
Elizabeth Johnson Wilson—Citizens for the Republic	100
1982:	
William A. Wilson:	
Pete Wilson for Senator	1,000
Republican Senate Majority Fund	200
Tom Evans	100
Total	1,300
Elizabeth Johnson Wilson—Pete Wilson for Senator	1,000
1983:	
William A. Wilson—McClaughry Campaign	100
Elizabeth Johnson Wilson—Republican Senatorial Circle	1,000

Addendum A

1980:	
William A. Wilson:	
Presidential Transition Trust	$2,500
Reagan-Bush Compliance	1,000
Roberta Weintraub	100
The Republican Presidential Unity Dinner	1,000
YCFR Delegation Committee	100
The Young Republican National Federation	75
California Delegation	100
The Johnson Committee	25
National Democratic Policy Committee	100
Committee to Retain Supervisor Schabarum	200
Prelude to Victory	1,000
Total	6,200
1981:	
William A. Wilson—Citizens for the Republic	1,500
1982:	
William A. Wilson:	
Pete Wilson for Senator	1,000
Republican Senate Majority Fund	200
Tom Evans	100
Total	1,300
1983:	
William A. Wilson—McClaughry Campaign	100

(The above nomination was reported from the Committee on Foreign Relations with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

James G. Stearns, of Nevada, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1985.

(The above nomination was reported from the Committee on Banking, Housing, and Urban Affairs with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN:

S. 2345. A bill to provide an Individual Retirement Account credit in lieu of a deduction and to extend Individual Retirement Account benefits to nonworking spouses and divorced persons; to the Committee on Finance.

By Mr. PERCY (by request):

S. 2346. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize development and security assistance programs for fiscal years 1984 and 1985, and for other purposes; to the Committee on Foreign Relations.

By Mr. PERCY (by request):

S. 2347. A bill to establish a long-term framework to build democracy, restore peace and improve living conditions in Central America, to authorize assistance for the fiscal years 1984 through 1989, and for other purposes; to the Committee on Foreign Relations.

By Mr. QUAYLE:

S. 2348. A bill to authorize Federal grants to improve the quality of vocational education, to improve access to vocational education, to strengthen the involvement of the private sector in vocational education, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. METZENBAUM (for himself and Mr. CHILES):

S. 2349. A bill to amend the Internal Revenue Code of 1954 to deny loss deductions for stock in corporations functioning in the nature of political action committees; to the Committee on Finance.

By Mr. STEVENS:

S. 2350. A bill for the relief of Nicolo Nosslinger; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 2351. A bill for the relief of Lionel Maye and his wife Catherine Maye; to the Committee on the Judiciary.

By Mr. QUAYLE:

S. 2352. A bill to provide equitable treatment for certain hospitals in high wage areas; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2353. A bill to amend the Internal Revenue Code of 1954 to provide that one-half of the amounts paid by a self-employed taxpayer for his or her health insurance premiums will be allowed as a business deduction; to the Committee on Finance.

By Mr. McCLURE:

S. 2354. A bill to rename the "River of No Return Wilderness" in the State of Idaho as the "Frank Church—River of No Return Wilderness"; to the Committee on Energy and Natural Resources.

By Mr. EXON:

S.J. Res. 246. A joint resolution strongly urging the President to secure a full accounting of Americans captured or missing-in-action in Southeast Asia, and for other purposes; to the Committee on Foreign Relations.

By Mr. HUMPHREY:

S.J. Res. 247. A joint resolution to designate March 25, 1984, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MATHIAS (from the Committee on Rules and Administration):

S. Res. 354. An original resolution authorizing expenditures by the Committees of the Senate; placed on the calendar.

By Mr. HEINZ (for himself and Mr. GLENN):

S. Res. 355. A resolution authorizing the printing of additional copies of volume 1 of the Senate report entitled "Developments in Aging: 1983"; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN:

S. 2345. A bill to provide an individual retirement account credit in lieu of a deduction and to extend individual retirement account benefits to nonworking spouses and divorced persons; to the Committee on Finance.

INDIVIDUAL RETIREMENT TAX CREDIT ACT OF 1984

● Mr. MOYNIHAN. Mr. President, in the past decade the Congress has legislated a profusion of new tax deductions, exclusions, credits, and exemptions. In a period of record budget deficits, when any revenue foregone serves to increase Government borrowing, every tax expenditure must be scrutinized once again. Where flawed, they should be reformed; where unproductive, they should be eliminated.

One tax incentive which requires attention is the special deduction for contributions to an individual retirement account (IRA). Tax incentives for IRA's are a good idea; they should be retained; at the same time, they can be reformed to make them more efficient and more equitable. I rise today to introduce legislation to do just that.

First, my bill would extend current IRA incentives to nonworking spouses and divorced persons. Second, it would convert the present tax deduction to a tax credit, providing equal benefits to everyone who contributes to an IRA, regardless of his or her income.

Under current law, an individual may deduct his or her annual contributions to an IRA, up to a maximum of $2,000 or 100 percent of earned income, whichever is less. If the individual has a nonworking spouse, an additional $250 contribution may be deducted. If both spouses work, the allowable deduction is $4,000.

Under this arrangement, a working spouse is deemed to qualify for $2,000 a year in deductible retirement protection; while a homemaker, whose work is just as necessary to the family, qualifies for only a $250 annual IRA deduction. This inequity should be reformed. Current law also fails to include alimony in the definition of earned income. Divorced persons whose alimony comprises the whole of their incomes, therefore, cannot claim any tax benefit for IRA contributions. For them, the lesser of $2,000 or 100 percent of compensation is the latter, equal to zero. A divorced person who cannot find employment, or chooses to remain at home to raise a family, is denied the tax incentive for retirement saving that others receive.

In its 1985 budget submission, the administration recommended extending IRA tax incentives to nonworking spouses and divorced individuals. I concur.

What the administration has failed to do is to reform the tax treatment of IRA's, to provide equal incentives to all income groups. A $2,000 IRA deduction is worth $1,000 to a high-income taxpayer in the 50-percent tax bracket; but to a middle-income earner in the 35-percent tax bracket, the same $2,000 IRA deduction is worth only $700—$2,000 times 35 percent is $700. For taxpayers in the 25-percent bracket, a $2,000 IRA contribution is worth only $500 in tax incentives. Under current law, the Treasury provides high-income earners $1,000 for each $2,000 they invest in IRA's, while providing only $700 or $500 to middle-income taxpayers for the same investment. High-income taxpayers, have a greater incentive to provide for retirement than have middle and lower income taxpayers. Yet, it is the middle and lower income earners who should be most encouraged to save for retirement.

We can do so, by converting the present IRA tax deduction to an IRA tax credit. The new credit would be equal to 35 percent of IRA contributions up to $2,000 per person. Any taxpayer investing $2,000 in an IRA would receive a $700 tax credit; the affluent and the not-so-affluent would receive the exact same tax benefit. As compared to the current deductions favoring the wealthiest taxpayers, this proposal will increase tax incentives to save for all taxpayers with incomes of less than $45,000 to $50,000—couple filing joint return.

There is evidence—the latest available data from the Internal Revenue Service—that the current IRA deduction encourages wealthy taxpayers, far more than the average taxpayer, to save for retirement. In 1982, fully 57 percent of all taxpayers earning over $50,000 invested in IRA's. Their total investment of $7.4 billion represented an average investment of about $2,850 per return. In contrast, only 6 percent of those earning $30,000 or less invested in IRA's in 1982, and their total investment of $9.8 billion represented an average investment of only about $130 per return; 62 percent of all taxpayers who earned more than $100,000 in 1982 invested in IRA's, this is twice the rate of IRA investment of those taxpayers who earned between $30,000 and $50,000. These drastic differences in the frequency of IRA investments are based, in important part, on the different tax benefits available for IRA investment to different income groups. I include below a table based on preliminary IRS data for 1982:

Income group	Total number of returns filed (millions)	Returns claiming IRA deductions (millions)	Percent of returns with IRA deductions (percent)	Total payments (billions)
Under $10,000	35.3	0.5	1	$0.9
$10-15,000	14.0	0.7	5	1.3
$15-30,000	27.4	3.8	13	7.6
$30-50,000	14.3	4.4	31	11.0
$50-100,000	3.8	2.1	55	6.1
$100-200,000	0.6	0.4	67	1.0
Over $200,000	0.2	0.1	50	0.3

We can change it, just as we can change the provisions which may discriminate against homemakers and divorced persons. Mr. President, this is fair, sensible, and equitable legislation, I urge my colleagues to support it. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. COMPENSATION OF SPOUSE MAY BE TAKEN INTO ACCOUNT IN DETERMINING DEDUCTION FOR RETIREMENT SAVINGS.

(a) Paragraph (2) of section 219(f) of the Internal Revenue Code of 1954 (relating to retirement savings) is amended to read as follows:

"(2) MARRIED INDIVIDUALS.—

"(A) MAXIMUM DEDUCTION.—The maximum deduction under subsection (b) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws.

"(B) INDIVIDUALS WHO RECEIVE LESS COMPENSATION THAN THEIR SPOUSES.—If any individual has less compensation includible in gross income for the taxable year than the compensation includible in the gross income of the spouse of such individual for such year, the maximum deduction under subsection (b)(1) shall be determined as if such individual had compensation includible in gross income equal to the compensation includible in the gross income of the spouse of such individual."

(b) Subsection (c) of section 219 of such Code (relating to special rules for certain married individuals) is hereby repealed.

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 2. ALIMONY TREATED AS COMPENSATION IN DETERMINING DEDUCTION FOR RETIREMENT SAVINGS.

(a) Paragraph (1) of section 219(f) of the Internal Revenue Code of 1954 (defining compensation) is amended by inserting before the period at the end thereof "and amounts includible in gross income under section 71".

(b) Paragraph (4) of section 219(b) of such Code (relating to certain divorced individuals) is hereby repealed.

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 3. CREDIT IN LIEU OF DEDUCTION ALLOWED FOR CONTRIBUTIONS TO RETIREMENT SAVINGS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44H the following new section:

"SEC. 44I. CREDIT FOR RETIREMENT SAVINGS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 35 percent of the amount which would (but for section 219(g)) be allowed as a deduction under section 219 for such taxable year.

"(b) LIMITATIONS.—

"(1) NO CREDIT FOR AMOUNTS CONTRIBUTED AFTER INDIVIDUAL ATTAINED AGE 59½.—No credit shall be allowed under this section for any contribution for the benefit of any individual after such individual attains age 59½.

"(2) NO CREDIT FOR CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSIONS.—For purposes of this section, the amount allowable as a deduction under section 219 shall be determined without regard to any amount contributed to a simplified employee pension.

"(c) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(d) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (4), (5), and (6) of section 219(f) shall apply for purposes of this section.

"(e) The trustee or issue shall, as prescribed under Treasury regulations, maintain such records as may be necessary to account separately for creditable contributions made after the effective date of this section.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 219 is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) SECTION LIMITED TO SIMPLIFIED EMPLOYEE PENSIONS AND CONTRIBUTIONS AFTER AGE 59½.—No deduction shall be allowed under this section (other than subsection (b)(2)) for the benefit of any individual on or before the date such individual attains age 59½."

(2) Subparagraph (A) of section 72(o)(5) (defining deductible employee contributions) is amended to read as follows:

"(A) QUALIFIED EMPLOYEE CONTRIBUTIONS.—The term 'qualified employee contributions' means any qualified voluntary employee contribution (as defined in section 219(e)(2))—

"(i) made after December 31, 1981, in a taxable year beginning after such date and allowable as a deduction under section 219(a) for such taxable year, or

"(ii) made after December 31, 1984, in a taxable year beginning after such date and taken into account in computing the credit under section 44I for such taxable year."

(3) The following provisions of the Internal Revenue Code of 1954 are each amended—

(A) by striking out "deductible" and inserting in lieu thereof "qualified", and

(B) by striking out "Deductible" and inserting in lieu thereof "Qualified":

(i) Section 72(o) (relating to special rules for distributions from qualified plans to which employee made deductible contributions).

(ii) The last sentence of section 402(e)(4)(A) (relating to 10-year averaging and capital gains not to apply).

(iii) Subparagraphs (B), (D)(i)(III), and (D)(iv) of section 402(a)(5) (relating to rollover amounts).

(iv) Section 403(b)(8)(B)(i) (relating to rollover amounts).

(v) Section 402(a)(1) (relating to taxability of beneficiary of exempt trust).

(vi) The last sentence of section 402(e)(4)(J) (relating to tax on lump-sum distributions).

(vii) The last sentence of section 2039(c) (relating to exemption of annuities under certain trusts and plans).

(viii) The last sentence of section 2517(b) (relating to transfers attributable to employee contributions).

(4) Section 408 (relating to individual retirement account) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) TREATMENT OF PREMATURE DISTRIBUTIONS ATTRIBUTABLE TO CREDITABLE CONTRIBUTIONS.—

"(1) IN GENERAL.—If any portion of a premature distribution is attributable to creditable contributions—

"(A) notwithstanding any other provision of this section, section 72, or section 409, such portion shall not be included in gross income, but

"(B) there shall be added to the tax imposed by paragraph (1) or (2) of subsection (f) of this section, paragraph (2) of section 72(o), or subsection (c) of section 409 (whichever applies) a credit recapture amount equal to 35 percent of such portion.

"(2) PREMATURE DISTRIBUTION ATTRIBUTABLE TO CREDITABLE CONTRIBUTIONS—For purposes of this subsection—

"(A) IN GENERAL.—The portion of any premature distribution for any taxable year which is attributable to creditable contributions is the portion of such distribution which (when added to the amounts taken into account under paragraph (1) for prior taxable years) does not exceed the individual's creditable contributions.

"(B) PREMATURE DISTRIBUTION.—The term 'premature distribution' means the amount on which an additional tax is imposed for the taxable year under subsection (f) of this section, paragraph (2) of section 72(o), or subsection (c) of section 409.

"(C) CREDITABLE CONTRIBUTIONS.—The term 'creditable contributions' means the aggregate amount of the contributions made by or on behalf of the individual for the individual's benefit for which a credit was allowed under section 44I(a) for the taxable year or any preceding taxable year.

"(3) COORDINATION WITH OTHER PROVISIONS.—For purposes of subsection (f) of this section, subsection (o) of section 72, and subsection (c) of section 409, the determination of whether any amount is includible in gross income shall be made without regard to this subsection."

(5) Subsection (b) of section 6096 is amended by striking out "and 44H" and inserting in lieu thereof "44H, and 44I."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44H the following new item: "Sec. 44I. Credit for retirement savings."●

By Mr. PERCY (by request):

S. 2346. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize development and security assistance programs for fiscal years 1984 and 1985, and for other purposes; to the Committee on Foreign Relations.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1984

● Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to authorize development and security assistance programs for fiscal years 1984 and 1985.

This legislation has been requested by the Department of State and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Foreign Relations Committee.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis of the bill and the letter from the Secretary of State to the President of the Senate, dated February 14, 1984.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 1. This Act may be cited as the "International Security and Development Cooperation Act of 1984".

TITLE I—MILITARY SALES AND RELATED PROGRAMS

FOREIGN MILITARY SALES CREDITS AUTHORIZATION AND AGGREGATE CEILINGS

SEC. 101. (a) Section 31(a) of the Arms Export Control Act is amended by striking out "$800,000,000 for the fiscal year 1982 and $800,000,000 for the fiscal year 1983" and inserting in lieu thereof "$5,070,000,000 for the fiscal year 1985".

(b) Section 31(b)(1) of such Act is amended by striking out "$800,000,000 for the fiscal year 1982 and $800,000,000 for the fiscal year 1983" and inserting in lieu thereof "$5,070,000,000 for fiscal year 1985".

(c) Section 31(b)(3) of such Act is amended to read as follows:

"(3) Of the aggregate total of credits (or participations in credits) extended under section 23 of this Act, not less than $1,400,000,000 for the fiscal year 1985 shall be available only for Israel, and Israel shall be released from its contractual liability to repay the United States Government with respect to such credits (and participations in credits)."

(d) Section 31(b)(5) of such Act is amended to read as follows:

"(5) The principal amount of financing provided under section 23 at or above the current average interest rate for United States Government obligations of comparable maturity, or under section 24(a), with respect to Greece, Korea, the Philippines, Portugal, Somalia, Sudan and Turkey, shall (if and to the extent each country so desires) be repaid in not more than twenty years, following a grace period of ten years on repayment of principal.".

(e) Section 31(b)(6) of such Act is amended—

(1) by striking out "$465,000,000 for the fiscal year 1984" and inserting in lieu thereof "$1,175,000,000 for the fiscal year 1985"; and

(2) by striking out the last sentence.

(f) Sections 31(b)(7) and 31(c) of such Act are repealed.

CHARGES FOR TRAINING

Sec. 102. (a) Section 21(a)(3) of the Arms Export Control Act is amended by striking out "sold to a purchaser who is concurrently receiving assistance under chapter 5 of part II of the Foreign Assistance Act of 1961".

(b) Section 21(g) of such Act is repealed.

ADMINISTRATIVE SURCHARGE

Sec. 103. Paragraph (1)(A) of section 21(e) of the Arms Export Control Act is amended by inserting "(excluding a pro rata share of fixed base operation costs)" immediately after "full estimated costs".

CATALOG DATA AND SERVICES

Sec. 104. Section 21(h) of the Arms Export Control Act is amended—

(a) by inserting "(1)" immediately after "(h)";

(b) by striking out "(1) in connection with" and inserting in lieu thereof "(A) in connection with";

(c) by striking out "(2) in connection with" and inserting in lieu thereof "(B) in connection with"; and

(d) by adding at the end thereof the following:

"(2) In carrying out the objectives of this section, the President is authorized to provide (without charge) cataloging data and cataloging services to the North Atlantic Treaty Organization or to any member government thereof, if such Organization or member government provides such data and services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government.".

SALES CREDITS

Sec. 105. Section 23 of the Arms Export Control Act is amended to read as follows:

"Section 23. Sales Credits.—The President is authorized to finance procurement of defense articles, defense services and design and construction services by friendly foreign countries and international organizations, on such terms and conditions as he may determine. The President shall charge interest at a rate he shall determine and shall require repayment in United States dollars within a period not to exceed twelve years after the loan agreement is signed on behalf of the United States Government, unless a longer period is specifically authorized by statute for such country or international organization.".

REPORTING REQUIREMENT

Sec. 106. (a) Section 25(a) of the Arms Export Control Act is amended in the text above paragraph (1) by inserting "or, in the case of paragraph (4), no later than April 1 of each year" immediately after "each year".

(b) Section 25 of this Act is amended by striking out subsection (a)(4) and inserting in lieu thereof the following:

"(4) an estimate of the sale and delivery of weapons and weapons-related defense equipment by all major arms suppliers to all major recipient countries in the developing world during the preceding calendar year;".

GUARANTY RESERVE FUND

Sec. 107. (a) Chapter 3 of the Arms Export Control Act is amended by adding the following new section immediately after section 31:

"Section 31A. There are authorized to be appropriated to the President for the fiscal year 1985 $274,000,000 to maintain adequate reserves in the Guaranty Reserve Fund against defaults and rescheduling of outstanding loans guaranteed pursuant to the provisions of section 24(a) of this Act.".

(b) Section 24 of such Act is amended by striking out the second sentence of subsection (c) and inserting in lieu thereof "Funds made available pursuant to section 31A of this Act shall be credited to such reserve, shall be merged with the funds in such reserve, and shall be available for any purpose for which funds in such reserve are available.".

(c) Section 31(a) of such Act is amended by striking out "this Act" in the first sentence and inserting in lieu thereof "the provisions of section 23 of this Act".

INCREASE IN CRIMINAL PENALTIES FOR CERTAIN VIOLATIONS OF THE ARMS EXPORT CONTROL ACT

Sec. 108. (a) Section 38(c) of the Arms Export Control Act is amended by striking out "not more than $100,000 or imprisoned not more than two years, or both" and inserting in lieu thereof "for each violation not more than $1,000,000 or imprisoned not more than ten years, or both".

(b) Section 38(e) of such Act is amended by adding at the end thereof the following: "Notwithstanding Section 11(c) of the Export Administration Act of 1979, as amended, the civil penalty for each violation involving controls imposed on the export of defense articles and defense services under this section may not exceed $500,000.".

(c) The amendments made by this section apply with respect to violations occurring after the effective date of this section.

OFFICIAL RECEPTION AND REPRESENTATION EXPENSES

Sec. 109. Section 43 of the Arms Export Control Act is amended—

(a) in subsection (b) by inserting "and official reception and representation expenses" immediately after "administrative expenses"; and

(b) by adding at the end thereof the following new subsection:

"(c) Not more than $72,500 of the funds derived from charges for administrative services pursuant to section 21(e)(1)(A) of this Act may be used each fiscal year for official reception and representation expenses.".

MILITARY ASSISTANCE

Sec. 110. Section 504(a)(1) of the Foreign Assistance Act of 1961 is amended by striking out "not to exceed $238,500,000 for the fiscal year 1982 and not to exceed $238,500,000 for the fiscal year 1983" and inserting in lieu thereof "not to exceed $652,500,000 for the fiscal year 1985".

WAIVER OF NET PROCEEDS OF SALE OF MAP ITEMS

Sec. 111. Section 505(f) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"In the case of defense articles delivered more than five years prior to the President's determination, the President may waive the requirement that such net proceeds be paid to the United States Government if he determines that to do so is in the national interest of the United States.".

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

Sec. 112. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$130,000,000 for the fiscal year 1982 and $125,000,000 for the fiscal year 1983" and inserting in lieu thereof "$248,000,000 for the fiscal year 1985".

SECURITY ASSISTANCE ORGANIZATIONS

Sec. 113. Section 515(c)(1) of the Foreign Assistance Act of 1961 is amended by striking out "For the fiscal year 1982 and the fiscal year 1983" and inserting in lieu thereof "Pakistan, Tunisia, Yemen, Lebanon, Sudan, El Salvador, Honduras, Venezuela".

INTERNATIONAL MILITARY EDUCATION AND TRAINING

Sec. 114. Section 542 of the Foreign Assistance Act of 1961 is amended by striking out "$42,000,000 for the fiscal year 1982 and $42,000,000 for the fiscal year 1983" and inserting in lieu thereof "$57,010,000 for the fiscal year 1985".

EXCHANGE TRAINING

Sec. 115. Chapter 5 of Part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"Sec. 544. Exchange Training.—In carrying out this chapter, the President is authorized to provide for attendance of foreign military personnel at professional military education institutions in the United States (other than Service academies) without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one, reciprocal basis each fiscal year between those United States professional military education institutions and comparable institutions of foreign countries and international organizations.".

TRAINING IN MARITIME SKILLS

Sec. 116. (a) Chapter 5 of part II of the Foreign Assistance Act of 1961 is further amended by inserting the following new section:

"Sec. 545. Training in Maritime Skills.—The President is encouraged to allocate a portion of the funds made available each fiscal year to carry out this chapter for use in providing education and training in maritime search and rescue, operation and maintenance of aids to navigation, port security, at-sea law enforcement, international maritime law, and general maritime skills."; and

(b) Section 660(b) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "or" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting "; or"; and

(3) by adding the following new clause:

"(3) with respect to assistance, including training, in maritime law enforcement.".

AUTHORIZATION FOR PEACEKEEPING OPERATIONS

Sec. 117. Section 552(a) of the Foreign Assistance Act of 1961 is amended by striking out "$19,000,000 for the fiscal year 1982 and $19,000,000 for the fiscal year 1983" and inserting in lieu thereof "$49,000,000 for the fiscal year 1985".

PEACEKEEPING OPERATIONS EMERGENCIES

Sec. 118. (a) Section 552 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting in subsection (c) the number "(1)" immediately after "the President may";

(2) by inserting in subsection (c) immediately before the period at the end of the subsection "; and (2) in the event the President also determines that such unforeseen emergency requires the immediate provision of assistance under this chapter, direct the

drawdown of commodities and services from the inventory and resources of any agency of the United States Government of an aggregate value not to exceed $25,000,000 in any fiscal year"; and

(3) by inserting at the end thereof the following subsection:

"(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for commodities and services provided under subsection (c)(2) of this section.".

(b) Section 652 of such Act is amended by inserting ", 552(c)(2)," immediately after "under section 506(a)".

TITLE II—ECONOMIC SUPPORT FUND

AUTHORIZATION OF APPROPRIATIONS

Sec. 201. (a) Section 531(b)(1) of the Foreign Assistance Act of 1961 is amended by striking out "$2,623,500,000 for the fiscal year 1982 and $2,723,500,000 for the fiscal year 1983" and inserting in lieu thereof "$2,797,500,000 for the fiscal year 1985".

(b) Section 535 of such Act is amended—

(1) by striking out "1982" and inserting in lieu thereof "1985"; and

(2) by striking out "and up to $75,000,000 for the fiscal year 1983".

TITLE III—DEVELOPMENT ASSISTANCE

DEVELOPMENT ASSISTANCE POLICY

Sec. 301. Section 102(b) of the Foreign Assistance Act of 1961 is amended by adding the following new paragraphs:

"(13) United States encouragement of policy reforms is necessary if developing countries are to achieve economic growth with equity.

"(14) Development assistance should promote private sector activity in open and competitive markets in developing countries as a cost effective way to achieve long term economic growth.

"(15) United States cooperation in development should recognize as essential the need of developing countries to have access to appropriate technology in order to improve food and water, health and housing, education and employment, agriculture and industry.

"(16) United States assistance should focus on establishing and upgrading the institutional capacities of developing countries in order to promote long term development. An important component of institution building involves training not only to build physical infrastructure but to expand social infrastructure.".

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

Sec. 302. Section 103(a)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$700,000,000 for the fiscal year 1982 and $700,000,000 for the fiscal year 1983" and inserting in lieu thereof "$682,751,000 for the fiscal year 1985".

POPULATION AND HEALTH

Sec. 303. Section 104(g) of the Foreign Assistance Act of 1961 is amended by striking out paragraphs (1) and (2) of the first sentence and inserting in lieu thereof the following:

"(1) $235,002,000 for the fiscal year 1985 to carry out subsection (b) of this section; and

"(2) $118,138,000 for the fiscal year 1985 to carry out subsection (c) of this section.".

EDUCATION AND HUMAN RESOURCES DEVELOPMENT

Sec. 304. Section 105(a) of the Foreign Assistance Act of 1961 is amended by striking out "$103,000,000 for the fiscal year 1982 and $103,600,000 for the fiscal year 1983" and inserting in lieu thereof "$124,833,000 for the fiscal year 1985".

ENERGY, PRIVATE VOLUNTARY ORGANIZATIONS, AND SELECTED DEVELOPMENT ACTIVITIES

Sec. 305. Section 106(e)(1) of the Foreign Assistance Act of 1961 is amended by striking out "$147,200,000 for the fiscal year 1982 and $147,200,000 for the fiscal year 1983" and inserting in lieu thereof "$152,175,000 for the fiscal year 1985".

PRIVATE SECTOR REVOLVING FUND

Sec. 306. Section 108(b) of the Foreign Assistance Act of 1961 is amended by striking out "in fiscal year 1984, up to $20,000,000" and inserting in lieu thereof "for each of fiscal years 1984 and 1985, up to $20,000,000 per year".

SAHEL DEVELOPMENT PROGRAM

Sec. 307. The third sentence of section 121(c) of the Foreign Assistance Act of 1961 is amended by striking out "$86,558,000 for the fiscal year 1982 and $86,558,000 for the fiscal year 1983" and inserting in lieu thereof "$97,500,000 for the fiscal year 1985".

PRIVATE AND VOLUNTARY ORGANIZATIONS AND COOPERATIVES IN OVERSEAS DEVELOPMENT

Sec. 308. Section 123(e) of the Foreign Assistance Act of 1961 is amended—

(1) in the first sentence by inserting "on which it is determined" immediately after "prior to the date".

(2) in the third sentence by striking out "such date" wherever it occurs and inserting in lieu thereof "a decision is made to continue such support".

HOUSING GUARANTY PROGRAM

Sec. 309. (a) Section 221 of the Foreign Assistance Act of 1961 is amended—

(1) in the first sentence, by striking out "requirements are" and inserting in lieu thereof ", including essential urban development services, is"; and

(2) in the rest of the section, by striking out "housing" wherever it occurs (other than in the section title) and inserting in lieu thereof "shelter".

(b) Section 222(a) of such Act is amended—

(1) in the first sentence, by inserting "the Federal Financing Bank and" immediately before the phrase "eligible investors";

(2) in the second sentence, by striking out "$1,718,000,000" and inserting in lieu thereof "$1,958,000,000";

(3) by adding the following new sentence immediately after the second sentence: "Commitments to guarantee loans are authorized for any fiscal year only to such extent or in such amounts as provided in appropriation acts."; and

(4) in the third sentence, by striking out "1984" and inserting in lieu thereof "1986".

(c) Section 222 of such Act is amended to add the following:

"(d) Prior to issuing any guaranties under this section, the agency primarily responsible for administering this part shall obtain the concurrence of the Secretary of the Treasury with respect to the timing of issuance, interest rate, source of financing, and substantial terms and conditions of the guaranteed obligation. The Secretary of the Treasury shall ensure to the maximum extent feasible that the timing of issuance, interest rate, source of financing, and substantive terms and conditions of the guaranteed obligation will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.".

AGRICULTURAL AND PRODUCTIVE CREDIT AND SELF HELP COMMUNITY DEVELOPMENT PROGRAMS

Sec. 310. (a) Section 222A(c) of the Foreign Assistance Act of 1961 is amended by adding the following new sentence at the end thereof: "Commitments to guarantee loans are authorized for any fiscal year only to such extent or in such amounts as are provided in appropriations acts.".

(b) Section 222A(h) of such Act is amended by striking out "1983" and inserting "1985" in lieu thereof.

DISADVANTAGED CHILDREN IN ASIA

Sec. 311. Section 241(b) of the Foreign Assistance Act of 1961 is amended by striking out "$2,000,000" and inserting in lieu thereof "$3,000,000".

TITLE IV—ECONOMIC POLICY INITIATIVE FOR AFRICA

ECONOMIC POLICY INITIATIVE FOR AFRICA

Sec. 401. Part I of the Foreign Assistance Act of 1961 is amended by adding the following new chapter:

"CHAPTER 4—ECONOMIC POLICY INITIATIVE FOR AFRICA

"Sec. 401. Policy and General Authority.—The Congress finds that the problems of inadequate growth rates in food production and agricultural exports, and widespread poverty, hunger, illiteracy and disease in sub-Saharan African countries threaten the region's economic stability. In recognition that sustained economic growth and development of sub-Saharan African countries continues to be important to the economic and security interests of the United States, and that the economic policy framework of such countries is critical to maintain financial stability and to accelerate growth, the President is authorized to furnish assistance, on such terms and conditions as he may determine, in order to promote growth-oriented policy reforms in sub-Saharan Africa. Assistance provided under this chapter shall be used to assist countries that are pursuing or have shown a willingness to pursue policy reform in such key sectors as food and agriculture, education, health and family planning, as well as to strengthen institutional and skilled manpower capacities to implement such reforms.

"Sec. 402. Authorization.—There are authorized to be appropriated to the President for the purposes of this chapter, in addition to funds otherwise available for such purposes, $75,000,000 for the fiscal year 1985, which are authorized to remain available until expended.".

TITLE V—MISCELLANEOUS PROVISIONS

AMERICAN SCHOOLS AND HOSPITALS ABROAD

Sec. 501. Section 214(c) of the Foreign Assistance Act of 1961 is amended by striking out "$20,000,000 for the fiscal year 1982 and "$20,000,000 for the fiscal year 1983" and inserting in lieu thereof "$10,000,000 for the fiscal year 1985".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Sec. 502. Section 302(a)(1) is amended by striking out "$218,600,000 for the fiscal year 1982 and $218,600,000 for the fiscal year 1983" and inserting in lieu thereof "$191,800,000 for the fiscal year 1985".

INTERNATIONAL NARCOTICS CONTROL

Sec. 503. Section 482(a) of the Foreign Assistance Act of 1961 is amended by striking out "$37,700,000 for the fiscal year 1982 and $37,700,000 for the fiscal year 1983" and inserting in lieu thereof "$50,217,000 for the fiscal year 1985".

NARCOTICS REPORTING REQUIREMENT

Sec. 504. Section 481(b) is amended to read as follows:

"(b) Not later than forty-five days after the date on which each calendar quarter of each year ends, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report summarizing the major financial activities undertaken pursuant to this chapter, including new agreements signed during the preceding quarter, and the programming and obligation, on a calendar quarter basis, of funds under this chapter prior to such date.".

INTERNATIONAL DISASTER ASSISTANCE

Sec. 505. Section 492(a) of the Foreign Assistance Act of 1961 is amended by striking out "$27,000,000 for the fiscal year 1982 and $27,000,000 for the fiscal year 1983" and inserting in lieu thereof "$25,000,000 for the fiscal year 1985".

ANTI-TERRORISM ASSISTANCE PROGRAM

Sec. 506. Section 575 of the Foreign Assistance Act of 1961 is amended by striking out "$5,000,000 for the fiscal year 1984" and inserting in lieu thereof "$5,000,000 for the fiscal year 1985".

COMPLETION OF PLANS AND COST ESTIMATES

Sec. 507. (a) Section 611(a) of the Foreign Assistance Act of 1961 is amended by striking out "$100,000" and inserting in lieu thereof "$500,000".

(b) Section 611(b) of such Act is amended by striking out the phrase "the procedures set forth in the Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973, with respect to such computations" and inserting in lieu thereof "the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or acts amendatory or supplementary thereto".

PROHIBITIONS AGAINST ASSISTANCE TO THE PEOPLE'S REPUBLIC OF CHINA

Sec. 508. Section 620(f) of the Foreign Assistance Act of 1961 is amended—

(a) by striking out the period at the end of the first sentence of the subsection and adding at the end of that sentence "listed in this subsection.";

(b) by striking out in the third sentence of that subsection the phrase ", but is not limited to,"; and

(c) by striking from the list of countries set forth in that subsection the words "People's Republic of China," and "Tibet,".

STREAMLINING OF REPROGRAMMING REQUIREMENTS

Sec. 509. (a) Section 634A of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(a)" immediately before "None";

(2) by inserting "or the Arms Export Control Act" immediately after "disaster relief and rehabilitation)" and immediately after "this Act" the second place it appears;

(3) by inserting ", provided that such notification shall be required for funds appropriated to carry out the purposes of chapter 1 of part I only if the obligation will be in excess of the amount justified by more than 10 per cent" immediately after "such obligation"; and

(4) by adding at the end of the section the following new subsection:

"(b) The notification requirement of this section does not apply to the reprogramming of less than $25,000 for use under chapter 8 of part I or for use under chapter 5 of part II, for a country for which a program under that chapter for that fiscal year was justified to the Congress."

(b) Section 653 of the Foreign Assistance Act is amended—

(1) by inserting in subsection (a) "of the Arms Export Control Act" immediately after "sections 451 or 637)";

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

(c) Section 36(a)(5) of the Arms Export Control Act is amended by striking out the word "cash" and the phrase ", credits to be extended under section 23, and guaranty agreements to be made under section 24".

(d) Section 36(a)(6) of the Arms Export Control Act is amended by striking out the word "cash" and the phrase "and credits expected to be extended".

PROVISIONS ON USES OF FUNDS

Sec. 510. (a) Section 636(a)(14) of the Foreign Assistance Act of 1961 is amended by striking out "the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)" and inserting in lieu thereof "the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.)".

(b) Section 636(c) of such Act is amended by striking out "not to exceed $3,000,000 of the".

(c) Section 636(d) of such Act is amended by striking out "Not to exceed $2,500,000 of funds available for assistance" and inserting in lieu thereof "Funds available".

(d) Section 636 of such Act is amended by inserting the following at the end thereof:

"(j)(1) Notwithstanding any other provision of law, no earmark shall be required to be applied to any funds appropriated, or authority made available, to carry out the purposes of this Act or the Arms Export Control Act by any law making continuing appropriations, in excess of the amount which is the lesser of:

"(A) the amount of the earmark, or

"(B) the amount representing that proportion of the total funds appropriated to, or authority made available for, an appropriation account, which the amount of the earmark represents of the total amount authorized, appropriated, or made available for the same appropriation account in the law which established such earmark.

"(2) For the purposes of this subsection, an earmark is a statutory requirement that a minimum or definite amount of the total funds appropriated to, or authority made available for, an appropriation account be obligated, or used, only for a specific country or purpose."

TRADE AND DEVELOPMENT PROGRAM

Sec. 511. Section 661(b) of the Foreign Assistance Act of 1961 is amended by striking out "$6,907,000 for the fiscal year 1982 and $6,907,000 for the fiscal year 1983" and inserting in lieu thereof "$21,000,000 for the fiscal year 1985".

OPERATING EXPENSES

Sec. 512. Section 667(a)(1) of the Foreign Assistance Act of 1961 is amended by striking out "$335,600,000 for the fiscal year 1982 and $335,600,000 for the fiscal year 1983" and inserting in lieu thereof "$398,097,000 for the fiscal year 1985".

ILLEGAL EMIGRATION FROM HAITI

Sec. 513. Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961, funds made available under such Act may be used for programs with Haiti, which shall be consistent with prevailing United States refugee policies, to assist in halting significant illegal emigration from Haiti to the United States.

REPEAL OF PROVISIONS

Sec. 514. The Foreign Assistance Act of 1961 is amended as follows:

(1) Section 106(b)(1) is amended by striking out "(A)" and by striking out subparagraph (B).

(2) Section 110 is amended by striking out "(a)" and by striking out subsection (b).

(3) Section 113(c) is repealed.

(4) Section 306 is amended by striking out "(a)" and by striking out subsection (b).

(5) Section 496 is repealed.

(6) Section 497 is repealed.

TITLE VI—AMENDMENTS TO OTHER ACTS

PRESERVATION OF STATUS AND BENEFITS

Sec. 601. Section 2106(e)(2) of the Foreign Service Act of 1980 is amended by inserting "or section 625(e) of the Foreign Assistance Act of 1961" immediately after the "Foreign Service Act of 1946".

PARTICIPANT TRAINEE GRANTS

Sec. 602. Section 1441(c) of the Internal Revenue Code of 1954 is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) Scholarships, Per Diem, Etc. of Certain Aliens.—No deduction or withholding under subsection (a) shall be required in the case of amounts of scholarships or fellowship grants, or per diem for subsistence paid by the United States Government (directly or by contract) to any non-resident alien individual who is engaged in any program of training in the United States under the Foreign Assistance Act of 1961, as amended.".

TITLE VII—FISCAL YEAR 1984 SUPPLEMENTAL AUTHORIZATION

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Sec. 701. In addition to amounts otherwise authorized for the fiscal year 1984 to carry out chapter 3 of part I of the Foreign Assistance Act of 1961, there is authorized to be appropriated for the fiscal year 1984 $1,636,000 to carry out such chapter, for payment to the International Atomic Energy Agency.

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

Sec. 702. The value of additions to stockpiles in foreign countries shall not exceed $125,000,000 for the fiscal year 1984 for the purposes of section 514(b)(1) of the Foreign Assistance Act of 1961.

FOREIGN MILITARY SALES FINANCING

Sec. 703. Section 31(b)(5) of the Arms Export Control Act is amended by inserting "Korea," immediately after "Greece,".

HOUSING GUARANTY BORROWING AUTHORITY

Sec. 704. Section 223(e) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(1)" immediately after "(e)", and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) In order to meet obligations incurred for the payment of claims pursuant to loan guaranties described in subsection (d), the Administrator of the agency primarily responsible for administering part I may, to the extent that reserves are not sufficient, borrow from time to time from the Treasury such sums as may be necessary, provided that the Administrator may exercise the authority to borrow under this paragraph only to such extent or in such amounts as are provided in appropriations acts.

"(B) Any such borrowing shall bear interest at a rate determined by the Secretary of the Treasury, taking into account the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury shall make loans under this paragraph and for such purpose may borrow on the credit of the United States in accordance with subchapter I of chapter 31 of Title 31 of the United States Code.".

TITLE VIII

AUTHORIZATION FOR THE FISCAL YEAR 1986

SEC. 801. There are authorized to be appropriated for the fiscal year 1986 such sums as may be necessary to carry out programs and activities for which appropriations for the fiscal year 1985 are authorized by this Act.

EFFECTIVE DATE

SEC. 802. (a) Sections 102 and 108 of this Act shall take effect upon enactment or October 1, 1984, whichever date is later.

(b) Title VII of this Act shall take effect upon enactment.

(c) All other sections of this Act shall take effect on October 1, 1984.

THE SECRETARY OF STATE,
Washington, February 14, 1984.

Hon. GEORGE BUSH,
President of the Senate.

DEAR MR. PRESIDENT: I herewith transmit, on behalf of the President, a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, to authorize security and development assistance programs for the fiscal years 1984, 1985 and 1986, and for other purposes.

This bill will authorize $11,086,523,000 in fiscal year 1985 appropriations world-wide for international security and development assistance programs except for the Central American countries—e.g., Costa Rica, Belize, El Salvador, Guatemala, Honduras and Panama. A request for authorization of appropriations for these countries will be transmitted to the Congress separately.

The foreign assistance programs authorized by this bill are essential instruments of U.S. foreign and defense policy. They will also help developing countries achieve equitable economic growth and deal with problems of hunger, disease and poverty. The security and development assistance programs are mutually supportive. Security assistance helps countries to defend themselves against external threats and cope with the economic, social and political weaknesses that can cause instability. Development assistance, by meeting basic human needs, promoting the development of essential economic and political institutions, and productive, self-sustaining private sectors, contributes to improving the quality of life in those countries.

The proposed International Security and Development Cooperation Act of 1984 includes proposed amendments to the Foreign Assistance Act of 1961 (FAA), and the Arms Export Control Act (AECA). Titles I through VI authorize appropriations for international security and development assistance and related programs for fiscal year 1985 and make certain changes in the authorities governing these programs. Title VII authorizes $1,636,000 in additional appropriations for fiscal year 1984 and makes minor changes in applicable authorities for that year.

Title I contains amendments to the AECA to modify authorities applicable to the Foreign Military Sales (FMS) direct credit program. The President's fiscal year 1985 budget proposes to shift the entire FMS financing program onbudget and proposes that credits for selected countries be provided at a concessional rate of interest. Although both aspects of this proposal can be implemented under current authorities, the proposed amendments would adjust these authorities to reflect more clearly and accurately the changed nature of the FMS direct credit program and to allow the program to be managed more efficiently.

With respect to the authorizations requested in this bill for security assistance programs for Greece and Turkey, I hereby certify, in accordance with section 620C(b) of the FAA, that the furnishing of such assistance to Greece and Turkey will be consistent with the principles set forth in section 620C(d) of the FAA. The explanation of the reasons for this certification in each case is contained in the congressional presentation materials for the fiscal year 1985 security assistance programs.

Titles III and IV of the bill contain amendments to the Foreign Assistance Act of 1961 to authorize appropriations for Development Assistance programs. Title IV contains an initiative of paramount importance for our assistance programs in Africa. The Economic Policy Initiative for Africa authorizes economic assistance to countries that are willing to undertake the growth-oriented policy reforms that the Administration believes are necessary if economic development is to occur.

The foreign assistance programs authorized by this bill are essential to promote and maintain United States interests in key regions of the world by helping our allies and friends to develop economically, to establish and maintain internal stability, and to deter and defend against regional external threats. These programs are a highly cost-effective means to achieve United States objectives, and to complement our own military posture in preserving peace and stability. I urge prompt enactment of the bill.

The Office of Management and Budget advises that enactment of this legislation would be in accord with the program of the President.

Sincerely yours,
GEORGE P. SHULTZ.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1984

I. INTRODUCTION

The proposed International Security and Development Cooperation Act of 1984 ("the Bill") amends the Foreign Assistance Act of 1961 ("FAA") and the Arms Export Control Act ("AECA") in order to authorize appropriations to carry out international security and development assistance programs for the fiscal year 1985, to authorize an economic policy initiative for Africa, and to make certain changes in the substantive authorities governing those programs. The Bill also contains authorizations for the fiscal year 1986 in accordance with the requirements of the Congressional Budget Act of 1974.

The Bill is composed of eight titles. Title I consists of authorizations for military sales and related programs under the AECA and the FAA. Title II provides authorization for the economic support fund. Title III contains authorizations for the FAA development assistance provisions. Title IV provides for a new economic policy initiative for Africa. Title V contains miscellaneous amendments to the FAA and AECA, including authorizations for the international narcotics program and operating expenses for the Agency for International Development. Title VI contains amendments to the Internal Revenue Code of 1954 and the Foreign Service Act of 1980. Title VII contains supplemental authorizations and additional authorities for fiscal year 1984 for international organizations and programs, for stockpiling of defense articles in foreign countries and for the Foreign Military Sales financing program. Title VIII provides for authorizations for fiscal year 1986 in accordance with the requirements of the Congressional Budget Act of 1974 and for the effective dates for the various provisions of the Bill.

II. PROVISIONS OF THE BILL

Section 1. Short Title

This section provides that the Bill may be cited as the "International Security and Development Cooperation Act of 1984".

TITLE I—MILITARY SALES AND RELATED PROGRAMS

Section 101. Foreign military sales credits authorization and aggregate ceilings

This section amends section 31(a) of the AECA to authorize $5,070,000,000 in appropriations for fiscal year 1985 to carry out the foreign military sales (FMS) direct credit program. Section 31(b)(1) of the AECA is amended to establish at $5,070,000,000 for fiscal year 1985 the limit on the aggregate amount of FMS credits which may be extended under section 23 of the AECA. Section 31(b)(3) of the AECA is amended to provide that during fiscal year 1985 no less than $1,400,000,000 in FMS credits shall be available for Israel. Section 31(b)(5) is amended to add Korea, the Philippines, and Portugal to the list of countries which would be authorized to repay, in not more than twenty years following a grace period of ten years on repayment of principal, either loans under section 23, when these loans are provided at or above the current average interest rate for U.S. government obligations of comparable maturity, or loans guaranteed under section 24(a) of the AECA. Section 36(b)(6) is amended to provide that Egypt would be released from its contractual liability to repay loans extended under section 23 in an amount up to $1,175,000,000 for the fiscal year 1985. Sections 31(b)(7) and 31(c) are repealed.

Section 102. Charges for training sold under the AECA

This provision amends section 21(a)(3) concerning charges for training sold under the Foreign Military Sales program. This proposal would authorize the President to charge all purchasers of defense training the "additional cost" that would be incurred to provide this training. It thus will eliminate the current multi-tier price structure on sales of training. Thereafter there would be only two comparable pricing systems, one for grant IMET assistance and one for FMS sales. For example, under the current system the cost of FMS training for foreign students in the same course at the Army Command and General Staff College could range from $4,598 (the additional cost price) to $31,499 (the full cost price). Enactment of the provision would reduce discrimination among countries and U.S. administrative costs.

Section 103. Administrative surcharge

Paragraph 1(A) of section 21(e) of the AECA is amended to further explain the "costs" which must be recovered by the United States Government in carrying out the FMS program. This amendment would exclude a pro rata share of fixed base operation costs from the full estimated costs. Enactment of this amendment is not expected to result in a reduction of the current administrative surcharge percentage, but will avoid the necessity of an immediate increase in the percentage levied on all foreign military sales.

Section 104. Catalog data and services

The AECA permits in-kind reciprocal exchange of some services with NATO countries, but still requires that the U.S. charge for catalog data. In fiscal year 1982 such charges amounted to $850,000. Other countries are beginning to charge DOD in return, with DOD paying over $100,000 in fiscal year 1982. In future years, as efforts intensify to increase NATO standardization, there will be increasing requests for cataloging and codification services, which DOD performs pursuant to chapter 145 of title 10 United States Code. This amendment would avoid a series of sales cases for relatively minor transactions with those NATO countries that provide similar services free of charge to the United States.

Section 105. Sales credits

In view of the widespread concern in the Administration and the Congress about the mounting debt problems of countries which receive United States security assistance, it is in the national interest to provide concessional financing for defense procurement rather than continue to provide loans at the higher rate of interest for United States government borrowing. Although the President could implement a concessional loan authority under the current section 23 if funding were provided, this provision would revise section 23 of the Arms Export Control Act to allow the President the flexibility to manage the concessional loan program without the need for a Presidential certification whenever a lesser rate of interest is necessary. This flexibility would allow the President to tailor the concessional loan program more closely to current requirements and market conditions. In addition, this provision would provide that the twelve year maximum repayment period of FMS direct credits would begin when the loan agreement is signed on behalf of the United States, rather than when defense articles are delivered or defense services are rendered, as in existing law. This change conforms the procedures of section 23 with current practice on guaranteed loans provided under section 24(a).

Section 106. Reporting requirement

This section would revise the reporting requirement of section 25(a)(4) to apply only to sales and deliveries to receipient countries in the developing world. The section as amended would exclude from the required report estimates of sales and deliveries among NATO countries, Japan, Australia and New Zealand and among Warsaw Pact countries. This change would conform the statutory language to the intentions of the Congress. The amendment would also establish an April 1 deadline for this information rather than the current February 1 deadline for this report. This change would allow inclusion of full calendar year data on sales and deliveries in the information presented to Congress.

Section 107. Guaranty reserve fund

This section would authorize the appropriation of $274,000,000 for the fiscal year 1985 in order to maintain adequate reserves in the Guaranty Reserve Fund against defaults and rescheduling of outstanding loans guaranteed pursuant to the provisions of section 24(a) of the Arms Export Control Act. This amount was derived through a formula which reflects actual default and rescheduling experience, total receipts due and payable to the Fund in the upcoming fiscal year, and the need to increase gradually over time the size of the Fund. This formula establishes a long-term mechanism for maintaining the fiscal integrity of the fund. This section would also make necessary technical changes to sections 24 and 31 to reflect this authorization.

Section 108. Increase in criminal penalties for certain violations of AECA

Recent changes in the Export Administration Act imposed potentially greater penalties for persons violating commercial export laws and regulations than for those violating section 38 of the AECA. This provision would increase the maximum criminal penalty for certain violations of the AECA or implementing regulations from $100,000 or two years imprisonment or both, to $1 million or 10 years imprisonment or both. The ceiling for civil penalties for violations would be raised from $100,000 to $500,000. This amendment would apply to violations which occur after the effective date of this section.

Section 109. Official reception and representation expenses

Section 43(b) of the AECA is amended to provide that the United States is to recover "official reception and representation expenses" as well as administrative expenses for services calculated under section 21(e)(1)(A) of the AECA. The amendment will permit the use of not more than $72,500 of administrative funds derived from charges pursuant to section 21(e)(1)A) to augment military assistance (MAP) funds available for security assistance representational activities.

Section 110. Military assistance program

This section amends section 504 to authorize $652,500,000 for fiscal year 1985 in appropriations to carry out the military assistance program. Section 506(c) already authorizes that part of the President's budget request ($50,000,000) proposed to be used for reimbursement to the Department of Defense for previous drawdowns pursuant to section 506(a).

Section 111. Waiver of net proceeds of sales of MAP items

This section amends section 505(f) of the FAA to allow the President to waive the requirement that a country pay to the U.S. the net proceeds from the sale of defense articles delivered to the country on a grant basis under the military assistance program more than five years prior to the President's determination. Most of this equipment was programmed prior to 1975 under section 503(a)(1) of the Foreign Assistance Act of 1961. Countries which possess aging, obsolete MAP defense articles currently have an incentive to retain this equipment, even though retaining it requires increasing maintenance costs. This provision would allow the President to remove this disincentive to a country's modernizing its defense inventory when it is in the U.S. national interest to do so. All legal and policy controls applicable to third country transfers would continue to apply to any sales of this equipment.

Section 112. Stockpiling of defense articles for foreign countries

This section amends section 514(b)(2) of the FAA to establish a ceiling of $248,000,000 on the aggregate value of additions made in fiscal year 1985 to overseas stockpiles of defense articles (other than in NATO countries) which are designated as war reserve stocks for allied or other foreign forces. The United States retains title to any stocks so designated. Transfer of these stocks to a foreign country may take place only under the authority of the FAA or of the AECA, and within the limitations and funds available under those Acts.

Section 113. Security assistance organizations

Section 515 provides specific annual authorization to station permanently more than six military personnel in certain countries to manage security assistance programs. This section would add for fiscal year 1985 eight new countries to the twelve countries which are currently authorized in the statute to have more than six uniformed personnel assigned to them for managing security assistance programs.

Section 114. Grant training

Section 542 of the FAA is amended to authorize $57,010,000 for fiscal year 1985 in appropriations for the International Military Education and Training (IMET) program.

Section 115. Exchange training

This provision would provide for the establishment of a new section 544 in the FAA concerning exchange (barter) training. The President will be authorized to provide to foreign military personnel professional military education training only at U.S. war colleges and U.S. command and staff colleges in the United States. The training of each foreign student under this authority will be conditioned on the requirement that, commencing in the same U.S. fiscal year, a U.S. military student be trained in a foreign college which the U.S. military department involved determines to be comparable to its military colleges. Such exchanges would be negotiated with foreign countries and international organizations after enactment.

Section 116. Training in maritime skills

This section would authorize the President to provide assistance under the IMET program for education and training in maritime search and rescue, operation and maintenance of aids to navigation, port security, at-sea law enforcement, international maritime law, and general maritime skills. This section would also make conforming changes in section 660 to allow assistance or training in maritime law enforcement.

Section 117. Peacekeeping operations authorization

Section 552(a) of the FAA is amended to authorize $49,000,000 for fiscal year 1985 in appropriations to carry out peacekeeping operations and other programs. These programs would include the United States budgetary contribution to the Multinational Force and Observers (MFO) for the Sinai.

Section 118. Peacekeeping operations emergencies

Section 552(c) of the FAA is amended to provide that the President may draw down commodities and services of an aggregate value not to exceed $25,000,000 for each fiscal year from any United States Government agency for peacekeeping purposes, if he determines that an unforeseen emergency requires immediate assistance under the peacekeeping provisions of the FAA. A new subsection (d) authorizes appropriations to reimburse the applicable account for commodities and services provided pursuant to this section. Section 652 of the FAA is amended to require that the President notify the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing should he intend to exercise this authority, stating the justification for, and the extent of, the exercise of such authority.

TITLE II—ECONOMIC SUPPORT FUND

Section 201. Authorization of appropriations

Section 531(b) of the FAA is amended to authorize an appropriation for the Economic Support Fund of $2,797,500,000 for fiscal year 1985. The emergency assistance authority of section 535 is continued for fiscal year 1985.

TITLE III—DEVELOPMENT ASSISTANCE

Section 301. Development assistance policy

Section 301 amends section 102 of the FAA, which sets forth the policy under which bilateral development assistance is to be provided. New paragraphs (13) through (16) describe emphases, consistent with the mandate to address basic human needs, with which A.I.D. is especially concerned.

Paragraph (13) recognizes the importance of policy reforms in developing countries. Long term equitable development depends heavily on the nature of the policies followed by developing countries. A.I.D. is concerned with both the effectiveness and equity of such policies. A.I.D. recognizes that significant policy reforms can be achieved only through a process of dialogue with developing countries.

Paragraph (14) recognizes the need to promote private sector activity in developing countries. Governmental policies which assure businesses open and competitive markets are cost effective ways to maximize production and achieve long term economic growth.

Paragraph (15) recognizes the need of developing countries to have access to appropriate technology. Sustained development requires an indigenous capacity to adopt, create and apply a continuing stream of appropriate technologies to the problems of health, population growth, hunger, illiteracy, unemployment and labor productivity.

Paragraph (16) encourages the creation and improvement of the institutional capacities of developing countries. Faulty institutional frameworks can impede development. Therefore, A.I.D. assists in the establishment and upgrading of schools, cooperatives, markets, voluntary organizations, agricultural extencion services, agricultural research centers, management training institutes and health care delivery systems. An important component of institution building involves training to help build and expand both physical and social infrastructure.

Section 302. Agriculture, rural development, and nutrition

Section 302 amends section 103(a)(2) of the FAA, which authorizes funds for agriculture, rural development, and nutrition. Section 103(a)(2) is amended to authorize $682,751,000 for these programs for the fiscal year 1985.

Section 303. Population and health

Section 303 amends section 104(g) of the FAA, which authorizes funds for population and health. Section 104(g) is amended to authorize $235,002,000 for the population program for the fiscal year 1985 and to authorize $118,138,000 for the health program for the fiscal year 1985.

Section 304. Education and human resources development

Section 304 amends section 105(a) of the FAA, which authorizes funds for education and human resources development. Section 105(a) is amended to authorize $124,833,000 for these programs for the fiscal year 1985.

Section 305. Energy, private voluntary organizations, and selected development activities

Section 305 amends section 106(e)(1) of the FAA, which authorizes funds for energy, private voluntary organizations, and selected development activities. Section 106(e)(1) is amended to authorize $152,175,000 for these programs for fiscal year 1985.

Section 306. Private sector revolving fund

Section 306 amends section 108(b) of the FAA, which authorizes funds for deposit in the private sector revolving fund. Section 108(b) is amended to authorize $20,000,000 for deposit in this fund for the fiscal year 1985.

Section 307. Sahel development program

This section amends section 121(c) of the FAA, which authorizes the Sahel Development Program. Section 121(c) is amended to authorize $97,500,000 for that program for the fiscal year 1985.

Section 308. Private and voluntary organizations and cooperatives in overseas development

Section 308 amends section 123(e) of the FAA, which exempts from prohibitions on assistance to countries assistance in support of programs of private and voluntary organizations and cooperatives already being supported prior to the date the prohibition becomes applicable. Section 123(e) is amended to more easily define the date on which a prohibition becomes applicable for purposes of that section. Section 123(e) is further amended by requiring that the report to be prepared by the President and transmitted to the Speaker of the House of Representatives and to the Chairman of the Committee on Foreign Relations of the Senate setting forth the reasons for continuation of support shall be submitted within thirty days after the date that a decision has been made for the continuation of such support rather than thirty days after the date the prohibition becomes applicable. This latter change affords the President a more reasonable period of time to take into consideration whether continuation of support for programs of private and voluntary organizations and cooperatives is in the national interest of the United States, as required under section 123(e).

Section 309. Housing guaranty program

Section 309(a) amends section 221 of the FAA to reflect the fact that housing guaranties are available for urban development activities in addition to the construction of housing in the narrow sense of the term. The amendments are consistent with existing authority reflected in section 222, which authorizes activities such as slum upgrading. For example, under this existing authority, guaranty funds finance urban infrastructure projects, such as water and sanitation systems, designed to improve shelter for target group beneficiaries living in poor slum areas. However, the revised language will bring section 221. into harmony with the authority provided under section 222, which was amended in 1978 to broaden the scope of the housing guaranty program.

Section 309(b) amends section 222(a) of the FAA to increase the total amount of housing guaranties authorized to be outstanding from $1,718,000,000 to $1,958,000,000 and to provide that guarantee commitments are authorized for any fiscal year only to the extent provided in appropriations acts.

Section 309(b) further amends section 222(a) of the FAA to extend the authority for the housing guaranty program from September 30, 1984 to September 30, 1986. Because the loans for which guaranties are to be issued sometimes close after the end of the fiscal year, therefore delaying the issuance of the guaranties, the housing guaranty program needs authority that extends beyond the fiscal year in which the guaranty was authorized. This amendment provides the authority to issue guaranties after the close of fiscal year 1985 and conforms with past legislative practice in extending the program.

Section 309(c) amends section 222 of the FAA by adding a new subsection (d) which is designed to provide for the effective coordination and efficient financing of obligations which are backed by the full faith and credit of the United States. Program levels, project purposes and amounts, country allocations, or other matters under the existing authority of A.I.D. under the housing guaranty program will not be affected by this provision. The Treasury role will only involve financing and debt management issues related to the borrowings for projects authorized by A.I.D.

Section 310. Agricultural and productive credit and self-help community development programs

Section 310(a) amends section 222A(c) of the FAA to provide that commitments to guarantee loans under section 222A are authorized only to the extent provided in appropriations acts.

Section 310(b) amends section 222A(h) to extend the authority for the program from September 30, 1983 to September 30, 1985.

Section 311. Disadvantaged children in Asia

Section 311 amends section 241(b) of the FAA, which authorizes the use of funds to help meet the needs of disadvantaged children in Asian countries where there has been or continues to be a heavy presence of United States military and related personnel in recent years. Section 241 is amended to increase the maximum amount of funds available for such purposes to $3,000,000.

TITLE IV—ECONOMIC POLICY INITIATIVE FOR AFRICA

Section 401. Economic policy initiative for Africa

Section 401 amends part I of the FAA to add a new chapter 4. This new chapter authorizes an economic policy initiative for Africa which promotes growth oriented policy reforms in sub-Saharan African countries, especially in sectors such as food and agriculture, education, health and family planning. There will also be a focus on strengthening the institutional and skilled manpower capacity of these countries to implement policy reforms.

The new chapter recognizes the fundamental importance of policy reforms in the revitalization of sub-Saharan African economies. As appropriate, such reforms would move these countries from their present policy focus on the public sector and heavy government intervention in the economy toward greater reliance on the private sector and market forces in order to achieve significant economic growth. The economic policy initiative will support sectoral reforms undertaken by sub-Saharan African countries including government divestiture of parastatals and elimination or modification of commodity subsidies.

In order to carry out the Economic Policy Initiative for Africa, $75,000,000 is authorized to be appropriated for fiscal year 1985, to remain available until expended.

TITLE V—MISCELLANEOUS PROVISIONS

Section 501. American schools and hospitals abroad

Section 501 amends section 214(c) of the FAA, which authorizes funds for American Schools and Hospitals Abroad. Section 214(c) is amended to authorize $10,000,000 for the fiscal year 1985.

Section 502. International organizations and programs

Section 502 amends section 302(a)(1) of the FAA, which authorizes funds for International Organizations and Programs. Section 302(a)(1) is amended to authorize $191,800,000 for these programs for the fiscal year 1985.

Section 503. International narcotics control

Section 503 amends section 482(a) of the FAA, which authorizes funds for International Narcotics Control. Section 482(a) is amended to authorize $50,217,000 for that program for the fiscal year 1985.

Section 504. Narcotics reporting requirement

This section amends section 481 of the FAA to streamline reporting requirements concerning the international narcotics control program in light of the additional reporting requirements imposed by section 1003 of the Department of State Authorization Act, Fiscal Years 1984 and 1985.

Section 505. International disaster assistance

Section 505 amends section 492(a) of the FAA, which authorizes funds for International Disaster Assistance. Section 492(a) is amended to authorize $25,000,000 for that program for the fiscal year 1985.

Section 506. Anti-terrorism assistance program

This section amends section 575 of the FAA to authorize $5,000,000 for the fiscal year 1985 for the anti-terrorism assistance program.

Section 507. Completion of plans and cost estimates

Section 507(a) amends section 611(a) of the FAA, which requires that adequate plans and cost estimates be completed prior to the obligation of funds in excess of $100,000. That provision is amended to apply to a minimum amount of $500,000 rather than $100,000, to take account of the inflation that has occurred since the provision was enacted in 1958.

Section 507(b) amends section 611(b) of the FAA, which requires that cost/benefit analyses be conducted for water projects in accordance with the Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973. Section 611(b) is amended by eliminating the reference to the above standards and instead providing that such analyses shall be conducted in accordance with the principles, standards and procedures established pursuant to the Water Resources Planning Act. The 1973 Principles and Standards were designed to be applied to water projects constructed in the United States. They were found to be in-appropriate for the types of water projects financed by A.I.D.

Section 508. Prohibitions against assistance to the People's Republic of China

Section 620(f) of the FAA is amended to remove the People's Republic of China and Tibet (which is administered as part of China) from the category of countries to which assistance is prohibited. As a result of this amendment, the People's Republic of China would not be considered a "Communist-bloc" country for the purpose of section 620(h).

Section 509. Streamlining of reprogramming requirements

This section makes funds appropriated to carry out the provisions of the Arms Export Control Act subject to the reprogramming requirements of section 634A and the reporting requirements of section 653(a) of the FAA. This section also deletes certain reporting requirements for FMS financing which would be redundant in light of this amendment to sections 634A and 653(a). In addition, this section deletes the requirement that a section 653(b) report be filed in certain cases before assistance is provided. These changes streamline and make standard various overlapping report and reprogramming requirements, but do not materially change the type of information provided to the Congress.

Finally, this section eliminates the requirement under section 634A to notify Congress 15 days in advance of obligating development assistance funds in cases where the obligation will exceed the prior amount justified for the year by 10 percent or less. This change will permit needed flexibility to reallocate development assistance funds at the end of the fiscal year while not allowing signficant changes without prior congressional notification.

Section 510. Provisions on uses of funds

Section 510(a) amends section 636(a) (14) of the FAA to make a technical change. The "Foreign Service Act of 1980" is substituted for the "Foreign Service Act of 1946", which it replaced.

Section 510(b) amends section 636(c) of the FAA by eliminating the $3,000,000 ceiling on the use of funds to construct or acquire essential living quarters, office space, schools, and hospitals for use of U.S. Government personnel posted outside the United States. As a result of greatly increased leasing costs overseas, it is now often more economical over the long run for the government to purchase or construct living quarters than to lease them. Additionally, for security reasons and otherwise, in several countries no suitable quarters are available for leasing. The $3,000,000 limitation on use of funds for purchase or construction of overseas facilities no longer allows sufficient flexibility to provide these facilities in an economical manner.

Section 510(c) amends section 636(d) of the FAA by deleting the $2.5 million ceiling on the use of funds for supporting schools for dependents outside the United States. The $2.5 million limitation has been in effect since 1969. Inflation has greatly reduced the purchasing power of that amount since that time, while the number of schools being supported has increased from 43 to 57. The funds are no longer sufficient to provide adequate support to overseas schools. As a result, the quality of these schools is deteriorating.

Section 510(d) amends section 636 of the FAA by adding a new subsection (j) to allow statutory earmarks to be converted from fixed to proportionate requirements during periods when funds are appropriated by a continuing resolution. During periods when funding is made available by a continuing resolution, foreign assistance programs may operate at funding levels significantly below authorized levels. In these circumstances serious problems may be encountered in assisting countries which do not have funds earmarked for their benefit. This section would allow the Executive Branch to allocate to earmarked countries an amount in the same proportion to available continuing resolution funds as the original earmark was to the total level authorized or appropriated in the Act which established the earmark.

Section 511. Trade and development program

Section 511 amends section 661(b) of the FAA, which authorizes funds for the Trade and Development Program. Section 661(b) is amended to authorize $21,000,000 for this program for the fiscal year 1985.

Section 512. Operating expenses

Section 512 amends section 667(a) of the FAA, which authorizes funds for operating expenses of the Agency for International Development. Section 667(a) of the FAA is amended to authorize $398,097,000 for operating expenses for the fiscal year 1985.

Section 513. Illegal emigration from Haiti

This section would continue in effect the authorization to use funds under FAA for programs to assist Haiti in halting significant illegal emigration from Haiti to the United States.

Section 514. Repeal of provisions

Section 514 repeals provisions of the FAA which are obsolete. It also repeals section 110(b), which prohibits disbursement of grant assistance for a project over a period exceeding thirty-six months. At the time this prohibition was enacted, it provided a useful control for the Congress over large capital assistance projects. The Agency no longer participates much in that type of project, and the Congress now has a better review mechanism through the congressional notification process. Section 110(b), therefore, is no longer necessary.

In addition, this section also repeals section 306(b). Section 2 of P.L. 81-806 currently requires annual reporting of all contributions to international organizations, including voluntary contributions. That annual report will, in the future, include information required by section 306(b), making the latter section of law redundant and unnecessary.

TITLE VI—AMENDMENTS TO OTHER ACTS

Section 601. Preservation of status and benefits

Section 601 amends section 2106(e)(2) of the Foreign Service Act of 1980 to make mandatory retirement based on relative performance applicable to all tenured members of the Foreign Service.

Section 602. Participant trainee grants

Section 602 amends section 1441(c)(6) of the Internal Revenue Code of 1954 to exempt from withholding amounts received as scholarships or fellowship grants or per diem of non-resident aliens engaged in training programs in the United States under the FAA. Current provisions of the I.R.C. exclude income to A.I.D. participant trainees from U.S. tax liability up to specified dollar limitations. In the past these exclusions have been high enough to completely exempt the participants from U.S. tax liability, and no taxes have had to be withheld by A.I.D. or contractors and PVOs implementing the participant trainee programs. As a result of inflation, however, income under A.I.D. scholarship programs now exceeds the exclusion and the participants incur tax liability. Withholding income taxes for each participant trainee would result in high administrative costs to the implementing contractors and PVOs that would ultimately be passed on to A.I.D. It would also reduce the amount of funds actually available for the training programs themselves. This provision is intended to correct these problems.

TITLE VII—FISCAL YEAR 1984 SUPPLEMENTAL AUTHORIZATIONS

Section 701. International organizations and programs

Section 701 provides increased authorization for the fiscal year 1984 of $1,636,000 to carry out chapter 3 of part I of the FAA, for payment to the International Atomic Energy Agency.

Section 702. Stockpiling of defense articles for foreign countries

This section in accordance with the requirements of section 514(b)(1) of the FAA establishes a ceiling of $125,000,000 on the aggregate value in fiscal year 1984 of additions made to overseas stockpiles of defense articles (other than in NATO countries), which are designated as war reserve stocks for allied or other foreign forces. The United States retains title to any stocks so designated. Transfer of these stocks to a foreign country may take place only under the authority of the FAA or of the AECA, and within the limitations and funds available under those Acts.

Section 703. Foreign military sales financing

This section would amend section 31(b)(5) of the Arms Export Control Act to add Korea to the list of countries which would be authorized for fiscal year 1984 to repay loans guaranteed under section 24(a) of the AECA in not more than twenty years, following a grace period of ten years on repayment of principal.

Section 704. Housing guaranty borrowing authority

Section 704 amends section 223(e) of the FAA to supplement the reserves needed to assure prompt payment of housing guaranty loan claims which are anticipated because of developing country public sector debt reschedulings. The amendment authorizes A.I.D. to borrow funds from the Treasury to satisfy such claims. Since the rescheduled debt is primarily foreign government debt, it is expected that the rescheduled payments eventually will be forthcoming and permit repayment of Treasury borrowings and replenishment of reserves. Since the liquidity problem is expected to exist only in the short run pending payment of rescheduled LDC obligations, borrowing authority is being sought at this time rather than a permanent increase in reserves.

The interest rate of borrowings will be established by the Treasury on the basis of current market rates for comparable maturities of U.S. Government obligations. The maturities selected by A.I.D. for its borrowings are expected to match, insofar as possible, the terms fo rescheduled housing guaranty loans. Treasury public debt borrowings will be available as a source of funds for this authority as provided in Title 31 of the United States Code.

TITLE VIII—AUTHORIZATIONS FOR FISCAL YEAR 1986 AND EFFECTIVE DATE

Section 801. Authorizations for the fiscal year 1986

This section, in accordance with the requirements of section 607 of the Congressional Budget Act of 1974, authorizes appropriations for fiscal year 1986 for all programs and activities for which appropriations for the fiscal year 1985 are authorized by this Act.

Section 802. Effective date

This section provides that sections 102 and 108 would be effective upon the later of enactment or October 1, 1984, to allow adequate time to implement the change in pricing for training and to avoid the possibility that the change in penalties under the AECA would be retroactive. The effective date for title VII shall be upon enactment. All other sections would be effective on October 1, 1984.●

By Mr. PERCY (by request):

S. 2347. A bill to establish a long-term framework to build democracy, restore peace, and improve living conditions in Central America, to authorize assistance for the fiscal years 1984 through 1989, and for other purposes; to the Committee on Foreign Relations.

CENTRAL AMERICA DEMOCRACY, PEACE, AND DEVELOPMENT INITIATIVE ACT OF 1984

● **Mr. PERCY.** Mr. President, by request, I introduce for appropriate reference a bill to authorize assistance to Central America for the fiscal years 1984 through 1989.

This legislation has been requested by the President and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis of the bill. The letter from the President to the Congress dated February 17 was printed in the RECORD on February 21, 1984.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 1. This Act be cited as the "Central America Democracy, Peace and Development Initiative Act of 1984".

TITLE I—STATEMENT OF POLICY

SEC. 101. The Congress finds that the building of democracy, the restoration of peace, and the improvement of living conditions in Central America are important to the interests of the United States and the community of American States. The Congress further finds that the interrelated issues of social and human progress, economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America.

The achievement of democracy, human rights, peace, and equitable economic growth depends primarily on the cooperation and the human and economic resources of the people and governments of Central America. The Congress recognizes that the United States can make a significant contribution to such peaceful and democratic development through a consistent and coherent policy which includes a long-term commitment of both economic and military assistance. This policy should be designed to support actively democracy, political reform and human rights; to promote equitable economic growth and development; to foster dialogue and negotiations to achieve peace based upon the objectives of democratization, reduction of armament, an end to subversion, and the withdrawal of foreign military forces and advisors; and to provide a security shield against violence and intimidation. It is the purpose of this Act to establish the statutory framework and to authorize the appropriations and financing necessary to carry out the policy described in this section.

TITLE II—ECONOMIC AND HUMAN DEVELOPMENT

FINDINGS

SEC. 201. (a) The Congress finds that lagging economic growth and widespread poverty continue to plague most of the nations of Central America, and that inadequate and declining opportunities for economic betterment seriously undermine the peace and security of the region. Although the causes of the economic decline are several, the Congress believes that equitable economic growth can be achieved based on the following principles, which shall guide the furnishing of assistance under this title:

(1) development and implementation by the countries of Central America of appropriate, growth-oriented, economic policies that foster increased production, investment, trade, and regional cooperation;

(2) Increased participation and promotion of the private sector, including cooperatives, in development;

(3) Creation and improvement of private and public sector institutions in order to expand the access of the people of the region to the knowledge and tools for development;

(4) Recognition that the problems of hunger and malnutrition, health deficiencies, infant and child mortality, population growth, illiteracy and skill deficiencies, underemployment and unemployment, and financial instability are each related to the other, and each must be addressed if equitable economic growth is to occur.

(b) AGRICULTURAL DEVELOPMENT.—Increased development of the region's agricultural sectors will be required in order to expand employment oportunities, diversify and expand agricultural production, and increase incomes in areas which contain the majority of the region's poor. To achieve these purposes, assistance is required for agricultural development activities in Central America. Such activities may include: the provision of credit to make possible the purchase of land and necessary farm equipment and other inputs by small farmers; the distribution of land through comprehensive agrarian reform programs; the expansion of research and extension services, the promulgation of more production-oriented agricultural pricing policies; agricultural export promotion activities; and the expansion of roads, storage facilities, rural electrification, and other rural infrastructure.

(c) Education.—Improvement in the availability and quality of educational opportunities is necessary if the people of the region are to acquire the technical skills and information needed to increase productivity, solve health problems, and integrate the poor into the development process. In order to achieve these purposes, assistance is required for education activities in Central America. Such activities may include: expanded programs of secondary level technical and vocational education; primary education programs; training of professionals in public administration; scholarship programs; and university strengthening programs in Central America.

(d) Health and Population.—Universal access to primary health care, reduction of infant mortality, and population growth rates are important aspects of economic development in the Central American region. In this context, assistance is required for health and populations activities in Central America. Such activities may include: expansion of programs of oral rehydration and immunization; control of vector-borne diseases; training of primary health care workers, nurses, dental assistants and personnel in allied health skills; and family planning programs, consistent with section 104(f) of the Foreign Assistance Act of 1961.

(e) Housing.—With urbanization throughout Central America rapidly transforming the character of the region, national and local governments must be able to meet the social and economic strains attendant to such significant movements of people into urban areas. This trend has far outpaced the growth of shelter and the ability of governments to provide such basic services as water, sanitation, electricity and public transport. In order to meet these requirements, assistance or the provision of guarantees is required for infrastructure and housing activites in Central America. Such activities may include: construction of urban housing and infrastructure, support for housing banks and other financial associations, and extension of housing guarantees.

(f) Economic Stabilization.—Reduced revenues due to a combination of price declines for exports and oil price increases (compounded by inadequate availability of indigenous energy resources), increased spending as a result of rapid expansion of governmental programs and public-sector enterprises, spiraling interest rates, and severe external debt problems are several factors which have had serious detrimental effects on the economic and political stability of the region. In order to assist the countries of the region to undertake the economic adjustments necessitated by these conditions, assistance is required for economic stabilization programs in Central America.

(g) Humanitarian Relief.—Assistance is required to provide humanitarian relief and rehabilitation assistance for refugees and displaced persons in Central America.

(h) Investment Insurance.—Additional investment is critical to improved economic conditions in Central America. The Overseas Private Investment Corporation, therefore, consistent with its statutory mandate should make every effort to support projects in the region.

DEVELOPMENT ASSISTANCE

Sec. 202. (a) In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the President for Central American countries—

(1) $10,000,000 for the fiscal year 1984 and $69,800,000 for the fiscal year 1985 to carry out the provisions of section 103 of the Foreign Assistance of 1961;

(2) $5,000,000 for the fiscal year 1984 and $15,000,000 for the fiscal year 1985 to carry out the provisions of section 104(b) of the Foreign Assistance Act of 1961;

(3) $18,000,000 for the fiscal year 1984 and $40,000,000 for the fiscal year 1985 to carry out the provisions of section 104(c) of the Foreign Assistance Act of 1961;

(4) $10,000,000 for the fiscal year 1984 and $64,000,000 for the fiscal year 1985 to carry out the provisions of section 105 of the Foreign Assistance Act of 1961;

(5) $30,000,000 for the fiscal year 1984 and $84,000,000 for the fiscal year 1985 to carry out the provisions of section 106 of the Foreign Assistance Act of 1961;

(6) $10,000,000 for the fiscal year 1985 for purposes of the fund established by section 223 of the Foreign Assistance Act of 1961: *Provided*, That funds made available for such purposes shall be available for expenditure in discharge of guaranties extended prior to enactment of this Act;

(7) $2,489,000 for the fiscal year 1984 and $6,016,000 for the fiscal year 1985 to carry out the provisions of section 667 of the Foreign Assistance Act of 1961.

(b) Amounts appropriated pursuant to this section are authorized to remain available until expended.

ECONOMIC SUPPORT FUND

Sec. 203. (a) In addition to amounts otherwise available for such purposes, $290,500,000 is authorized to be appropriated to the President for the fiscal year 1984 to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 for Central American countries.

(b) In addition to amounts otherwise available for such purposes, $640,600,000 are authorized to be appropriated to the President for the fiscal year 1985 to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 for Central American countries.

(c) Amounts appropriated pursuant to this section are authorized to remain available until expended.

PEACE CORPS

Sec. 204. (2) In addition to amounts otherwise available for such purposes, $2,000,000 are authorized to be appropriated for the fiscal year 1984 to carry out the purposes of the Peace Corps Act for Central American countries.

(b) In addition to amounts otherwise available for such purposes, $18,200,000 are authorized to be appropriated for the fiscal year 1985 to carry out the purposes of the Peace Corps Act for Central American countries.

(c) Amounts appropriated pursuant to this section are authorized to remain available until expended.

UNITED STATES INFORMATION AGENCY

Sec. 205. (a) In addition to amounts otherwise available for such purposes, $7,000,000 are authorized to be appropriated for the fiscal year 1984 to carry out for Central American countries international information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Number 2 of 1977, and other purposes authorized by law.

(b) In addition to amounts otherwise available for such purposes, $36,400,000 are authorized to be appropriated for the fiscal year 1985 to carry out for Central American countries international information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Number 2 of 1977, and other purposes authorized by law.

(c) Amounts appropriated pursuant to this section are authorized to remain available until expended.

MIGRATION AND REFUGEE ASSISTANCE

Sec. 206. (a) In addition to amounts otherwise available for such purposes, $15,000,000 are authorized to be appropriated for the fiscal year 1985 for the Department of State to carry out for Central American countries the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law for "Migration and Refugee Assistance".

(b) Amounts appropriated pursuant to this section are authorized to remain available until expended.

HOUSING GUARANTY PROGRAM

Sec. 207. In addition to amounts otherwise authorized for such purposes, $40,000,000 of loan principal are authorized to be guaranteed under sections 221 and 222 of the Foreign Assistance Act of 1961 for Central American countries for the fiscal year 1985.

ADMINISTRATION OF JUSTICE

Sec. 208. Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 116 the following new section:

"Sec. 117. Administration of Justice.—(a) Notwithstanding section 660 of this Act, the President may furnish assistance to countries and organizations, including national and regional institutions, in order to strengthen the administration of justice in Central American countries and the countries of the Caribbean. Assistance under this section may include: support for specialized professional training, scholarships, and exchanges for continuing legal education; programs to enhance judicial, prosecutorial, investigative and enforcement capabilities and to provide protection for participants in judicial cases; strengthening professional organizations, to promote services to members and the role of the bar in judicial selection, enforcement of ethical standards, and legal reform; increasing the availability of legal materials and publications; seminars, conferences, training and educational programs to improve the administration of justice and to strengthen respect for the rule of law and human rights; and revision and modernization of legal codes and procedures.

"(b) Not more than $20,000,000 of the funds made available to carry out this chapter and chapter 4 of part II for any fiscal year shall be available to carry out this section, in addition to amounts otherwise available for such purposes.".

TRADE CREDIT INSURANCE PROGRAM

Sec. 209. Chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"Sec. 224. Trade Credit Insurance Program.—(a) Of the funds authorized to be appropriated for chapter 4 of part II of the Foreign Assistance Act of 1961, there are authorized to be made available such sums as may be necessary for payments by the Agency for International Development to discharge guarantees of liabilities incurred by the Export-Import Bank of the United States under the Export-Import Bank Act of 1945 (i) covering risks of loss or non-payment under short-term trade credits for the purpose of financing goods and services for the use of the private sector in Central American countries and (ii) which do not in the judgment of the Board of Directors of the Export-Import Bank of the United States offer reasonable assurance of repayment as required under Section 2(b)(1)(B) of the Export-Import Bank Act of 1945. Such short-term credits shall be repayable within a period not to exceed one year. Amounts appropriated under the authority of this section shall not be used to discharge guarantees of liabilities incurred by the Export-Import Bank of the United States under guarantees and insurance approved under the Export-Import Bank Act of 1945 after September 30, 1989.

"(b) Commitments to guarantee or insure under subsection (a) of this section are authorized only to the extent and in the amounts provided in appropriations acts, not to exceed $300,000,000 in the fiscal year 1985.

"(c) Recoveries, after deduction for expenses related thereto, accruing under guarantees and insurance authorized under subsection (a) of this section shall be deposited in the Treasury as Miscellaneous Receipts.".

LAND REFORM PROGRAMS

SEC. 210. Section 620(g) of the Foreign Assistance Act of 1961 is amended by inserting the following sentence at the end thereof: "This prohibition shall not apply to monetary assistance made available for use by a government or political subdivision or agency of such government to compensate nationals of that country in accordance with a land reform program, if the President determines that monetary assistance for such land reform program will further the national interests of the United States.".

CENTRAL AMERICAN DEVELOPMENT ORGANIZATION

SEC. 211. (a) The Congress finds that participation by Central American countries in an effective forum for dialogue on, and the continuous review and advancement of, Central America's political, economic, and social development would foster cooperation between United States and Central American countries in furthering the purposes of this Act.

(b) It is the sense of Congress that—

(1) the President enter into negotiations with those countries receiving assistance authorized by this Act in order to establish a Central American Development Organization, and

(2) the establishment of the Central American Development Organization be based upon the following principles:

(A) Participation in the organization be open to the United States, other donors, and those Central American countries that commit themselves to, among other things, progress on human rights, building democracy, and encouraging equitable economic growth through policy reforms.

(B) The organization be structured to include representatives from both the public and private sectors, including representatives from the labor and business communities.

(C) The organization meet periodically to carry out the functions described in subparagraphs D and E of this paragraph and should be supported by a limited professional secretariat.

(D) The organization make recommendations affecting Central American countries on such matters as:

(i) political, economic, and social development objectives, including the strengthening of democratic pluralism and the safeguarding of human rights;

(ii) mobilization of resources and external assistance needs; and

(iii) reform of economic policies and structures.

(E) The organization have the capacity for monitoring country performance on the recommendations issued in accordance with subparagraph D of this paragraph and for evaluating progress towards meeting such country objectives.

(F) For each fiscal year after that in which the President has completed negotiations and agreed to participate in such organization, the disbursement of 25 per centum of the economic funds authorized by title II of this Act and allocated by the United States directly for each Central American country be deferred until the United States and the organization have both approved disbursement.

(G) The President encourage other donors similarly to designate a percentage of their direct economic assistance for Central American countries for joint approval with this organization.

(c) The President is authorized to participate in the Central American Development Organization. The Administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, or his designee, shall be the chairman of the Central American Development Organization. The Administrator shall carry out his functions in that capacity under the continuous supervision and general direction of the Secretary of State to the end that United States participation in the Central American Development Organization is fully integrated with the foreign policy of the United States.

ECONOMIC ASSISTANCE

SEC. 212. (a) In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the President, for the purpose of furnishing non-military assistance for Central American countries, $1,200,000,000 for each of the fiscal years 1986 through 1989, to remain available until expended. The President is authorized to transfer funds authorized by this section for obligation in accordance with the authorities of part I of the Foreign Assistance Act of 1961 (including chapter 4 of part II of such Act), the Peace Corps Act, the Migration and Refugee Assistance Act of 1962, the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, the National Endowment for Democracy Act, and the State Department Basic Authorities Act of 1956, as amended.

(b) In addition to amounts otherwise authorized for such purposes, $40,000,000 of loan principal are authorized to be guaranteed under sections 221 and 222 of the Foreign Assistance Act of 1961 for Central American countries for each of the fiscal years 1986 through 1989.

(c) In addition to amounts otherwise authorized for such purposes, $200,000,000 of loan principal are authorized to be guaranteed or insured for Central American countries for the fiscal year 1986 under section 224 of the Foreign Assistance Act of 1961.

TITLE III—MILITARY ASSISTANCE, SALES AND RELATED PROGRAMS

FINDINGS

SEC. 301. The Congress finds that the restoration of peace in Central America is essential to economic and humanitarian progress in that region. The Congress believes that restoring peace and stability will require a combination of social and political reforms, economic advances, diplomatic efforts and measures to enhance security, based upon the following principles:

(1) military measures are needed to shield economic and social programs and are an essential adjunct to a diplomatic solution to conflict in the region;

(2) military measures will only aid in restoring peace if they are complemented by political, economic and social programs and reforms;

(3) assistance for military purposes should be furnished predictably, in amounts and over a period of time adequate to carry out a humane and effective anti-guerrilla strategy;

(4) assistance for military purposes should be employed actively to foster human rights objectives, particularly the goals of free elections, freedom of association, the establishment of the rule of law and an effective judicial system, and vigorous action against those guilty of crimes and the prosecution of past offenders;

(5) a diplomatic solution must be found that will stop the killing in the region and nourish freedom and progress.

MILITARY ASSISTANCE

SEC. 302. (a) In addition to amounts otherwise available for such purposes, $259,050,000 is authorized to be appropriated to the President for the fiscal year 1984 to carry out for Central American countries the provisions of chapter 2 of part II of the Foreign Assistance Act of 1961.

(b) In addition to amounts otherwise available for such purposes, $222,000,000 are authorized to be appropriated to the President to carry out for the fiscal year 1985 the provisions of chapter 2 of part II of the Foreign Assistance Act of 1961 for Central American countries.

(c) Amounts appropriated pursuant to this section are authorized to remain available until expended.

MILITARY EDUCATION AND TRAINING

SEC. 303. (a) In addition to amounts otherwise available for such purposes, $3,900,000 are authorized to be appropriated to the President for the fiscal year 1985 to carry out for Central American countries the provisions of chapter 5 of part II of the Foreign Assistance Act of 1961.

(b) Amounts appropriated pursuant to this section are authorized to remain available until expended.

FOREIGN MILITARY SALES FINANCING

SEC. 304. (a) In addition to amounts otherwise available for such purposes, $30,000,000 are authorized to be appropriated for the fiscal year 1985 to carry out for Central American countries the purposes of section 23 of the Arms Export Control Act.

(b) Amounts appropriated pursuant to this section are authorized to remain available until expended.

REPORTING REQUIREMENT

SEC. 305. (a) Not later than July 31, 1984, and no later than the end of each six month period thereafter, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report fully describing the policies of the Government of El Salvador for achieving political development, economic development and conditions of security. The report shall also include the President's detailed assessment of the strengths and weaknesses of such policies in meeting the objectives, described in section 101, which United States policy is designed to support, including the specific goals of human rights, free elections, freedom of association, dialog and negotiations to achieve peace, the establishment of the rule of law and an effective judicial system, the curtailment of extremist violence by both the left and the right as well as vigorous action to prosecute those guilty of crimes and the prosecution to the extent possible of past offenders. This report shall also review comprehensively the factors contributing to the political, economic and security situation in that country, including such factors as human rights, land reform, the economy of the country, refugees and displaced persons, the military situation and guerrilla activity.

(b) The President shall insure that assistance authorized by title III of this Act is provided to the Government of El Salvador in a manner which fosters progress of that government toward the objectives of political development, economic development and security. To this end, the President in every appropriate instance shall impose conditions on the furnishing to the Government of El Salvador of assistance authorized by title III of this Act in order to achieve these objectives, including the goals identified in subsection (a) of this section.

TITLE IV—MISCELLANEOUS PROVISIONS

DEFINITIONS

Sec. 401. For the purposes of this Act, including amendments to the Foreign Assistance Act of 1961 made by this Act, the term "Central American countries" shall be deemed to include Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama and regional programs which benefit such countries.

TRANSFER AUTHORITY

Sec. 402. Whenever the President determines it to be necessary for the purposes of this Act, in each of the fiscal years 1984 and 1985 not more than a total of $50,000,000 from funds made available for provisions authorized by this Act may be transferred to, and consolidated with, funds made available for provisions authorized by Title II of this Act.

COORDINATION

Sec. 403. Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of programs undertaken to carry out the purposes of this Act.

Section-by-Section Analysis of the Proposed Central America Democracy, Peace and Development Initiative Act of 1984

I. INTRODUCTION

The proposed Central America Democracy, Peace and Development Initiative Act of 1984 ("the Bill") establishes a long-term framework to build democracy, restore peace, and improve living conditions in Central America and authorizes assistance for the fiscal years 1984 through 1989. The Bill contains freestanding provisions and amends the Foreign Assistance Act of 1961 in order to carry out the recommendations of the National Bipartisan Commission on Central America.

The Bill is composed of four titles. Title I consists of a statement of policy concerning Central America. Title II consists of a statement of findings and authorizations for programs for economic and human development. Title III contains findings and authorizations for programs for military assistance, sales and related programs under the Arms Export Control Act and the Foreign Assistance Act of 1961. Title IV consists of provisions concerning definitions, transfer of funds, and coordination of policy.

The amounts which would be authorized by this Bill will be available for use for Central American countries, including regional programs which benefit such countries. Those amounts authorized for the fiscal year 1984 in this Bill would be in addition to amounts previously authorized, appropriated or otherwise made available for Central American countries for the current fiscal year. Those amounts authorized for the fiscal year 1985 through 1989 would be in addition to amounts authorized, appropriated or otherwise made available for such purposes for that fiscal year.

II. PROVISIONS OF THE BILL

Section 1. Short Title.—This section provides that the Bill may be cited as the "Central America Democracy, Peace and Development Initiative Act of 1984".

Title I—Statement of Policy

Section 101.—This section states the finding of Congress that the building of democracy, the restoration of peace, and the improvement of living conditions in Central America are important to the interests of the United States and the community of American states. The section further states the findings of Congress concerning the importance of effectively dealing with interrelated social, humanitarian, economic, political, diplomatic and security issues to assure a democratic and economically and politically secure Central America. In this section, Congress further recognizes that, although the achievement of democracy, human rights, peace, and equitable economic growth depends primarily on the people and governments of Central America, the United States can make a significant contribution through a long-term policy which includes a long-term commitment of both economic and military assistance. In this section, Congress further defines the goals which the policy of the United States should seek to achieve and indicates that the purpose of the Act is to establish the statutory framework and authorize the funding necessary to carry out this policy.

Title II—Economic and Human Development

Section 201. Findings.—In this section, the Congress defines basic principles which will guide furnishings of assistance for economic and human development. The principles which shall guide the development and implementation of programs of agricultural development, education, health and population, housing, and economic stabilization shall include growth-oriented economic policies, increased participation of the private section, development of energy resources, creation and improvement of private and public sector institutions, and recognition that basic human needs and economic stabilization must both occur if equitable growth is to take place.

Section 202. Development Assistance.—This section authorizes appropriations for development assistance programs, for the fiscal years 1984 and 1985, respectively, as follows:

Agriculture, rural development, and nutrition, $10,000,000 and $69,800,000;

Population, $5,000,000 and $15,000,000;

Health, $18,000,000 and $40,000,000;

Education and human resources development, $10,000,000 and $64,000,000;

Selected development activities, $30,000,000 and $84,000,000;

Housing guaranty reserve fund, $10,000,000 (for the fiscal year 1985);

Operating expenses, Agency for International Development, $2,489,000 and $6,016,000;

This section also provides that the amounts appropriated pursuant to this section are authorized to remain available until expended.

Section 203. Economic Support Fund.—This section authorizes for the Economic Support Fund $290,500,000 for the fiscal year 1984 and $640,600,000 for the fiscal year 1985. This section also provides that the amounts appropriated pursuant to this section are authorized to remain available until expended.

Section 204. Peace Corps.—This section authorizes for the Peace Corps $2,000,000 for the fiscal year 1984 and $18,200,000 for the fiscal year 1985. This section also provides that the amounts appropriated pursuant to this section are authorized to remain available until expended.

Section 205. United States Information Agency.—This section authorizes for the United States Information Agency $7,000,000 for the fiscal year 1984 and $36,400,000 for the fiscal year 1985. This section also provides that the amounts appropriated pursuant to this section are authorized to remain available until expended.

Section 206. Migration and Refugee Assistance.—This section authorizes for migration and refugee assistance $15,000,000 for the fiscal year 1985. This section also provides that the amounts appropriated pursuant to this section are authorized to remain available until expended.

Section 207. Housing Guaranty Program.—This section authorizes an increase in the limit on the total principal amount of loans for which guarantees may be issued under sections 221 and 222 of the Foreign Assistance Act of 1961. This increase would be $40,000,000 for the fiscal year 1985.

Section 208. Administration of Justice.—In accordance with the recommendations of the Bipartisan Commission that the United States help strengthen Central American judicial systems and that Congress consider authorizing the training and support of law enforcement agencies under carefully defined conditions, this section would authorize in any fiscal year the furnishing of not more than $20,000,000 of the funds appropriated for economic assistance programs in order to strengthen the administration of justice in Central American countries and the countries of the Caribbean. These projects would include activities for judges, prosecutors, and criminal investigation and law enforcement (including corrections) agencies.

Section 209. Trade Credit Insurance Program.—This section authorizes Economic Support Fund monies to be made available for payments by the Agency for International Development to discharge liabilities under certain guarantees and insurance issued by the Export-Import Bank. Such guarantees and insurance shall cover the risk of loss or non-payment under certain short-term trade credits used to finance goods and services for use by the private sector in Central American countries. These guarantees and insurance will not constitute loans made by the United States government to a foreign country.

Section 210. Land Reform Programs.—This section amends section 620(g) of the Foreign Assistance Act of 1961 to authorize the President to make available to governments assistance to compensate their nationals in accordance with a land reform program, if the President determines that monetary assistance for such land reform program will further the national interests of the United States.

Section 211. Central American Development Organization.—In furtherance of the recommendations of the Bipartisan Commission, this section states the finding of Congress that participation by Central American countries in an effective forum for dialogue on and the continuous review and advancement of Central America's political, economic and social development would foster cooperation between the United States and Central American countries in furthering the purposes of this Act. This section further states the sense of Congress that the President should enter into negotiations with representatives of Central American countries receiving assistance under the Act to establish a Central American Development Organization, based upon principles stated in the section. In addition, this section authorizes the President to participate in such an organization (with the Administrator of the Agency for International Development as chairman).

It is not the intention that this organization be established as a bureaucrat entity in competition with bilateral and multilateral donor organizations. The organization should be composed of public and private sector representatives from participating countries and should draw on the experience of the International Labor Organization with representatives from both the business and labor communities. The number of professional staff of the organization should be kept to a minimum.

Section 212. Economic Assistance.—This section authorizes $1,200,000,000 for each of the fiscal years 1986 through 1989 for the purpose of furnishing non-military assistance for Central American countries. The President would be authorized to transfer the funds made available pursuant to this section for obligation in accordance with the authorities of part I of the Foreign Assistance Act of 1961 (including the Economic Support Fund), the Peace Corps Act, the Migration and Refugee Assistance Act of 1962, the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, the National Endowment for Democracy Act, and the State Department Basic Authorities Act of 1956. In addition, this section authorizes an increase of $40,000,000 in the limit of the total principal amount of loans for which housing guarantees may be issued under sections 221 and 222 of the Foreign Assistance Act of 1961 for each of the fiscal years 1986 through 1989. Finally, this section authorizes for the fiscal year 1986, $200,000,000 of loan principal for guarantees or insurance under section 224 of the Foreign Assistance Act of 1961 for Central American countries.

Title III—Military Assistance, Sales and Related Programs

Section 301. Findings.—This section states the finding of Congress that the restoration of peace in Central America is essential to economic and humanitarian progress in that region and that restoring peace and stability will require a combination of social and political reforms, economic advances, diplomatic efforts, and measures to enhance security, in accordance with certain principles identified in the section.

Section 302. Military Assistance.—This section authorizes for the Military Assistance program $259,050,000 for the fiscal year 1984 and $222,000,000 for the fiscal year 1985. This section also provides that the amounts appropriated pursuant to this section are authorized to remain available until expended.

Section 303. Military Education and Training.—This section authorizes for the International Military Education and Training program $3,900,000 for the fiscal year 1985. This section also provides that the amounts appropriated pursuant to this section are authorized to remain available until expended.

Section 304. Foreign Military Sales Financing.—This section authorizes $30,000,000 for the fiscal year 1985 to carry out the purposes of section 23 of the Arms Export Control Act. This section also provides that the amounts appropriated pursuant to this section are authorized to remain available until expended.

Section 305. Reporting Requirement.—This section requires semiannual reports to Congress describing the policies of the Government of El Salvador for achieving political development, economic development and conditions of security. In the report, the president is to include a detailed assessment of the strengths and weaknesses of such policies in meeting the objectives which United States policy is designed to support, including the specific goals of free elections, freedom of association, dialogue and negotiations to achieve peace, the establishment of the rule of law and an effective judicial system, the curtailment of extremist violence by both the left and the right as well as vigorous action to prosecute those guilty of crimes. The report is also to review other factors contributing to the political, economic and security situation in that country. Finally, the President shall ensure that assistance authorized by the Act for military programs is provided to the Government of El Salvador in a manner which fosters progress of that government towards the objectives of political development, economic development and security, in accordance with the recommendations of the Bipartisan Commission.

Title IV—Miscellaneous Provisions

Section 401. Definitions.—This section states that the term "Central American countries" shall be deemed to include, for the purposes of this Act and the amendments this Act makes to the Foreign Assistance Act of 1961, Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama and regional programs which benefit such countries, such as regional training programs.

Section 402. Transfer Authority.—This section authorizes the President to transfer in each of the fiscal years 1984 and 1985 up to a total of $50,000,000 from accounts authorized by this Act to non-military accounts authorized by this Act, if he determines it to be necessary for the purposes of this Act. This authority is in addition to that available pursuant to sections 109 and 610 of the Foreign Assistance Act of 1961.

Section 403. Coordination.—This section states that, under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of programs undertaken to carry out the purposes of this Act.●

By Mr. QUAYLE:

S. 2348. A bill to authorize Federal grants to improve the quality of vocational education, to improve access to vocational education, to strengthen the involvement of the private sector in vocational education, and for other purposes; to the Committee on Labor and Human Resources.

VOCATIONAL EDUCATION ACT

● **Mr. QUAYLE.** Mr. President, today I am introducing a bill to reauthorize the Vocational Education Act. My interest in vocational education grew out of my work in developing the Job Training Partnership Act (JTPA). From the time that, as chairman of the Subcommittee on Employment and Productivity, I began exploratory hearings into the need for job training and ways of meeting that need, I have had a special interest in the vocational education system.

As the original sponsor of the Job Training Partnership Act, I see important similarities between the job-training system and the vocational education system. In fact, the job-training system relies very heavily on the resources and expertise of the vocational education system. These systems share the same goals: to prepare individuals for entry into the labor market by teaching the basic skills necessary throughout a person's worklife and through occupationally specific training. In addition to sharing the same goals, both are decentralized systems which need flexibility to meet the varying education and training needs of States and localities.

However, I also appreciate the differences between the two systems. Probably the most important distinction is that the vocational education system is open to all and must have the capacity to meet a much broader range of needs. There are other significant differences between the two systems. Whereas JTPA is 100-percent federally funded, vocational education is only 10-percent federally funded. Whereas JTPA establishes a relatively small separate system, vocational education is an integral part of a much larger State and local education system. These differences between the two programs highlight the need to clearly define the Federal purpose in vocational education. Any program design must maximize the impact of limited funds.

There is some concern that my proposal may emphasize occupational training at the cost of basic skills. Those who suggest that we must sacrifice basic skills for occupational training espouse a narrow view. Basic skills and occupational training are closely linked: basic skills lead to the development of more highly specialized skills and high-quality occupational training is built upon basic skills.

Vocational education has long been viewed as an alternative to the general or college-bound educational tract. To be an acceptable alternative, vocational education must offer opportunities of comparable quality and must have a unique raisonné d'etre. If not, we will have a discriminatory and redundant two-track system. I propose that we demand the same high-quality education from vocational education as we do from the rest of the education community and that we recognize that vocational education has a unique function in providing occupational training. I believe it is incumbent upon us to prepare students to be self-sufficient after completing their vocational education. I do not want them to need a second chance under the Job Training Partnership Act.

Since early last summer, I have been developing a proposal to reauthorize the Vocational Education Act. I have circulated many drafts of my proposal and made it available through the CONGRESSIONAL RECORD. I believe representatives of all the different groups who may be affected by this legislation have had a chance to review my ideas and discuss them with me or my staff. I have also attempted to incorporate the views of representatives of vocational education from my State. I want to thank all of those who have taken the time to review my proposal and offered suggestions and comments on it.

During this reauthorization, we have an opportunity to reassess the Federal role in vocational education. The Federal role must build on the accomplishments and strengths of vocational education, taking into account national priorities. In the broadest context, reauthorization is taking place against a background of traditionally strong Federal support, the development of strong State and local support, and tight fiscal constraints.

Historically, Federal support for vocational education has been a cornerstone upon which the existing vocational education system was built. First, the Morrill Act of 1862 established land-grant colleges, thereby recognizing vocational education as an essential component of our education and training system. Later, vocational education was greatly expanded and developed by the Smith-Hughes Act of 1917 which increased the level of Federal and State funds available for vocational education. Then, in 1965, the Vocational Education Act was enacted to restructure the vocational education system and improve access to underserved populations.

All the goals set out in earlier legislation have not been fully achieved, but vocational education has matured into a nationally decentralized system with strong State and local support. States and localities contribute about $7 billion annually for vocational education, which is about 90 percent of the total funds available for vocational education. The Federal share, about 10 percent of $700 million, is dwarfed by comparison.

The precarious health of our economy is another important factor. Funds appropriated for vocational education should not duplicate State and local efforts. There are too many competing interests for too few Federal dollars. Scarce dollars must serve purposes which will otherwise be unmet.

We are examining the vocational education system and current law within this context. These considerations have fostered the development of a very broad consensus in Congress about what the Federal role should be in vocational education.

Very briefly stated, the Federal role should be to assist States improve the quality of vocational education to make it more responsive to the needs of the labor market. A second, traditional responsibility of the Federal Government has been to improve access of the underserved to vocational education. And I believe the underserved should also have access to programs which are of high quality and relevant to the needs of employers. A third objective is to meet the training and retraining needs of adult workers.

There are many different ways of translating these broadly stated goals concretely into a redirection of the Federal role. My approach reflects my views regarding an appropriate division of responsibility between different levels of government and my expertise in the area of employment and training legislation.

Simply stated, in order to meet the goal of improving program quality, my proposal would give States maximum discretion in the use of funds to make programs more labor market relevant by increasing the involvement of representatives of business and industry in the planning process and by using performance standards to measure outcomes. In addition, I want to insure a minimum level of services to the handicapped, the economically disadvantaged, and adults in need of retraining.

My approach focuses on program improvement and development which will benefit all students, including the underserved. By increasing business involvement and by using performance standards, we can build in a system of checks and balances to improve overall program quality and make vocational education more responsive to labor market needs.

I propose that the States set goals for achieving performance standards that they develop. Performance standards include occupations to be trained for and the level of skills and competencies to be achieved. The purpose of performance standards is to measure the results of participating in vocational education. The standards would be adjusted to reflect the differences between the secondary and postsecondary levels. The role of the Federal Government is to monitor the progress of the States in moving toward achievement of their stated goals. This gives the States maximum flexibility in the use of funds while focusing on the Federal goal of improving program quality.

Performance standards include training-related placement, continuing education, and achievement of competency or skill levels. These performance standards are designed to take into account the different goals of vocational education at the secondary and postsecondary levels.

For example, skill levels and competency levels may be applied differently. Skill levels relate to training that is occupationally specific and are most appropriately applied to postsecondary vocational education programs. My proposal requires that postsecondary programs measure the attainment of skill levels. At the secondary level, the measurement of skill levels is only required when the vocational education program includes occupationally specific training. If secondary programs are not providing occupationally specific training, this outcome will not be measured.

Competency levels are basic educational attainments and attitudes necessary for entry level employment and this is an appropriate performance standard for the secondary level. It must be applied to all secondary vocational education programs.

A second major thrust of my proposal is to increase business involvement in the planning process. The private sector should be consulted in determining labor market needs. My proposal gives the private sector a separate opportunity to dissent from the plan if the occupations to be trained for do not reflect labor market needs or the skill and competency levels are set too low. And, if the State chooses to develop local or regional plans, representatives of the private sector should be guaranteed a role in the development of those plans as well.

To facilitate the involvement of the private sector and also to permit simplification and coordination between State and local advisory councils for related programs, my proposal requires the same composition for the advisory councils for vocational education that are required for JTPA. This coordination is not mandated, but a State may use the same council for both programs if it chooses to do so. Further, in regard to coordination between JTPA and the vocational education system, I require that both programs follow the same planning and funding cycles and use similar definitions where appropriate.

My bill earmarks funds for training and retraining adult workers. Funds may be used for providing additional services to dislocated workers under JTPA. Or they may be used for the costs of new programs for training adults or to pay the additional costs for existing programs to expand services for adults.

Vocational education plays a critical role in economic development by training and retraining the work force. This promotes two mutally dependent national priorities: promoting self-reliance and independence and, by developing our human resources, a stronger economy. The economy and the individual suffer mutual losses when the match between workers' skills and available jobs breaks down. These include: loss of purchasing power, loss of financial independence, loss of productivity, lost investment in human capital, and loss of government revenues. During the 1981-82 recession, we were painfully reminded of the waste in human resources and the drain on the economy that unemployment entails.

The recession combined with the rapid pace of technological change and increased foreign competition created an unprecedented growth in the number of dislocated workers. Although the majority of dislocated workers are concentrated in manufacturing industries located in the Midwest, the underlying causes of worker dislocation are not confined to the automobile, steel, and related industries. The growth in the number of dislocated workers has made us aware of the need to make training available to workers throughout their lives.

Not only do the unemployed need to retrain when jobs are terminated because they become unnecessary or obsolete, but those who are employed need to retrain in order to adapt to new technologies. Although large employers have the resources and facilities to provide training, most employers cannot do so. Small businesses must rely on the education system to train their work force. Vocational education is an important component of economic development.

In order to meet the traditional Federal responsibility of improving access to underserved populations my proposal includes a 10-percent set-aside for the handicapped and a 20-percent set-aside for the economically disadvantaged, with no State matching requirements. In addition to improving access for these groups, we should insure that vocational education programs for them are also of a high quality. So my bill requires that performance standards also be applied to these programs, taking into account the special circumstances of the populations being served.

I am pleased to introduce my bill to reauthorize the Vocational Education Act. I want to thank Senators Stafford and Pell, chairman and ranking minority member respectively of the Subcommittee on Education, Arts, and Humanities, for their leadership in this reauthorization. I appreciate their interest in this legislation and the willingness they have shown to accommodate me and other Senators, both on and off the committee.

The bill introduced by Senators Stafford, Pell, and others includes provisions that acknowledge the importance of the role of business and industry and the development of evaluation criteria, ideas I have supported. However, I decided to introduce my own bill because there are other aspects of our bills which differ significantly. I am introducing my proposal to put it on the record and to generate further debate on our approaches to reauthorization. I welcome the opportunity to be involved in this discussion.

I ask unanimous consent that the bill as introduced be printed in the Record following my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vocational Education Act".

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STATEMENT OF PURPOSE AND POLICY

Sec. 2. (a) It is the purpose of this Act—

(1) to authorize Federal grants to States so that individuals of all ages, including in-school youth, the existing labor force, and individuals who want to reenter the labor force, will have ready access to vocational training or retraining which is of high quality, which is realistic in the light of actual or anticipated opportunities for gainful employment, and which is suited to their needs, interests, and ability to benefit from such training; and

(2) to involve the private sector in assisting the vocational education system to provide a relevant education, both job specific and basic, that will meet a student's needs for long-term productive employment, thus recognizing that vocational education, and to recognize that vocational education is a system of education as well as skill training.

(b) It is the policy of the United States to assist the States—

(1) to improve the quality of vocational education programs and make them more responsive to the needs of the labor market;

(2) to improve access to and the quality of vocational education for groups of individuals with special problems in the labor market, such as the handicapped and the economically disadvantaged, and to promote sex equity in occupational training;

(3) to assist in dealing with economic dislocation through programs for retraining adult workers and by promoting training for occupations required by expanding industries; and

(4) to achieve these purposes by—

(A) involving the business community in the planning process; and

(B) developing meaningful performance standards related to successful outcomes.

DEFINITIONS

Sec. 3. As used in this Act—

(1) The term "community-based organizations" means private nonprofit organizations which are representative of communities or significant segments of communities and which provide job training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, National Council of La Raza, 70,001, Jobs for Youth, organizations operating

career intern programs, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in section 7(10) of the Rehabilitation Act of 1973), agencies serving youth, agencies serving the handicapped, agencies serving displaced homemakers, union-related organizations, and employer-related nonprofit organizations), and organizations serving nonreservation Indians (including the National Urban Indian Council), as well as tribal governments and Native Alaskan groups.

(2) The term "economically disadvantaged" means an individual who (A) receives, or is a member of a family which receives, cash welfare payments under a Federal, State, or local welfare program; (B) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level; or (C) is receiving food stamps, pursuant to the Food Stamp Act of 1977; (D) is a foster child on behalf of whom State or local government payments are made; or (E) in cases permitted by regulations of the Secretary, is an adult handicapped individual whose own income meets the requirements of clause (A) or (B), but who is a member of a family whose income does not meet such requirements.

(3) The term "Governor" means the chief executive of any State.

(4) The term "handicapped individual" means any individual who has a physical or mental disability which for such individual constitutes, or results in, a substantial handicap to vocational education and who, because of their handicapping condition, cannot succeed in the regular vocational education program without special education assistance or who require a modified vocational education program.

(5) The term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program.

(6) The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor based on the most recent "lower living family budget" issued by the Secretary of Labor.

(7) The term "private sector" means persons who are owners, chief executives or chief operating officers of private for-profit employers and major nongovernmental employers, such as health and educational institutions or other executives of such employers who have substantial management or policy responsibility.

(8) The term "private vocational training institution" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (A) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (B) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (C) has been in existence for two years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and (D) is accredited (i) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this clause, or (ii) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this clause, or (iii) if the Secretary determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards. For the purpose of this paragraph, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

(9) The term "Secretary" means the Secretary of Education.

(10) The term "State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

TITLE I—STATE VOCATIONAL EDUCATION PROGRAM

Part A—Authorization of Appropriations and Allotments

AUTHORIZATION OF APPROPRIATIONS; PROGRAM YEAR

Sec. 101. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for the fiscal year 1985 and for each of the succeeding fiscal years ending prior to October 1, 1990.

(b)(1) Beginning with fiscal year 1986 and thereafter appropriations for any fiscal year for programs and activities under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(2) Funds obligated for any program year may be expended by each recipient and subrecipient during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the program plan.

(3)(A) Appropriations for fiscal year 1985 shall be available both to fund activities for the period between October 1, 1984, and June 30, 1985, and for the program year beginning July 1, 1985.

(B) There are authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this paragraph for the transition to program year funding.

DISTRIBUTION OF FUNDS

Sec. 102. Of the amounts appropriated pursuant to section 101(a) for each fiscal year—

(1) 1 percent shall be available for Indian programs pursuant to part D of title II;

(2) not more than 3 percent shall be available for national activities pursuant to parts B and C of title II; and

(3) the remainder for allotments under section 103.

ALLOTMENT TO STATES

Sec. 103. (a) From—

(1) 80 percent of the amount of the remainder of the sums appropriated pursuant to section 101(a) and available for allotment under this section pursuant to section 102(3) for fiscal year 1985;

(2) 75 percent of the remainder of such sums for fiscal year 1986;

(3) 70 percent of the remainder of such sums for fiscal year 1987;

(4) 65 percent of the remainder of such sums for fiscal year 1988; and

(5) 60 percent of the remainder of such sums for fiscal year 1989;

The Secretary shall allot to each State for each fiscal year—

(A) an amount which bears the same ratio to 50 percent of the sums being allotted as the product of the population aged fifteen to nineteen inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount which bears the same ratio to 20 percent of the sums being allotted as the product of the population aged twenty to twenty-four, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount which bears the same ratio to 15 percent of the sums being allotted as the product of the population aged twenty-five to sixty-five, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount which bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under clauses (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under clauses (A), (B), and (C) for such year.

(b)(1) From 20 percent of the sums appropriated pursuant to section 101(a) and available for allotment under this section for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the number of long-term unemployed individuals in each State bears to the number of such long-term unemployed individuals in all States.

(2) For the purpose of this section, the term "long-term unemployed individuals" means individuals who have been unemployed 15 weeks or more.

(c) Of—

(1) 5 percent of the amount appropriated pursuant to section 101(a) and available for this title for fiscal year 1986,

(2) 10 percent of the amount appropriated pursuant to section 101(a) and available for this title for fiscal year 1987,

(3) 15 percent of the amount appropriated pursuant to section 101(a) and available for this title for fiscal year 1988, and

(4) 20 percent of the amount appropriated pursuant to section 101(a) and available for this title for fiscal year 1989,

the Secretary shall allot to each State an amount which bears the same ratio to the number of economically disadvantaged individuals and handicapped individuals actually served in the State in the year prior to the year in which the determination is made bears to the number of such individuals in all States.

PART B—STATE AND LOCAL ADMINISTRATIVE AND PLANNING PROVISIONS

CONDITIONS FOR STATE GRANTS

SEC. 111. In order to receive financial assistance under this Act, each State desiring to participate in the program authorized by this Act shall—

(1) establish or designate, consistent with State law, an educational agency or board of the State to be responsible for—

(A) the administration or the supervision of the administration of payments received under this Act; and

(B) the administration of the preparation and the submission of the State plan required by this part;

(2) submit the two-year plan in accordance with the provisions of this part;

(3) provide assurances that the State will meet performance standards established under part D of this title, or will take acceptable corrective measures to make progress toward achieving such performance standards; and

(4) provide assurances that the State will comply with the other provisions of this Act.

DEVELOPMENT OF THE STATE PLAN

SEC. 112. (a) Each State plan required by this part shall be developed, in accordance with the provisions of this section, with the active participation of the private sector, labor organizations, secondary and postsecondary educational institutions, representatives of groups of individuals targeted for assistance under this Act pursuant to section 122.

(b)(1) Each State shall establish a State advisory committee which shall be appointed by the Governor, or in the case of States in which members of the State board of education are elected (including election by State legislature) by such board. Each advisory committee shall be composed so that—

(A) at least one-third of its membership is from the private sector (including representatives of agriculture);

(B) individuals who are representative of secondary education and postsecondary education in the State are members, except that representation for secondary education and postsecondary education shall be equal;

(C) representatives of labor organizations are members;

(D) representatives of groups of individuals who are underserved, including handicapped individuals, economically disadvantaged individuals, and women are members; and

(E) such other members as the State may determine.

(2) The State advisory committee may establish subcommittees or task forces representing employers and labor organizations for particular industries or occupations to assist in the development of skill and competency standards in such occupations or industries.

(c)(1) The State advisory committee, established pursuant to subsection (b) of this section, shall actively participate in the development of the State plan required by this part.

(2)(A) A majority of the private sector representatives on the State Council may file separate views on the provisions of the State plan regarding—

(i) the occupations to be trained for, if such occupations do not reflect a realistic assessment of the labor market needs of the State;

(ii) the levels of skills to be achieved in particular occupations, if such skill levels do not reflect the hiring needs of employers;

(iii) the basic employment competencies to be used in performance outcomes, if such competency levels do not reflect the hiring needs of employers; or

(iv) the numerical performance standard for successful outcomes, if such standard is too low taking into account the potential of the vocational education system in the State.

(B) Any separate views prepared and submitted under subparagraph (A) of this paragraph shall be submitted to the Secretary with the State plan.

STATE PLAN CONTENTS

SEC. 113. (a) Each State desiring to receive funds from its allotment for any fiscal year shall submit to the Secretary a State plan for a two-year period.

(b) Each such plan shall—

(1) set forth the manner in which the State will use Federal funds to meet the purposes of this Act, together with assurances that the State will comply with restrictions on the use of funds under section 123;

(2) set forth a description of the objectives of the State for vocational education and how the objectives relate to the Federal objectives and policy described in section 2;

(3) in accordance with part D of this title, describe—

(A) the occupations to be trained for in relation to the labor market needs of the State;

(B) the levels of skills to be achieved in particular occupations;

(C) the basic employment competencies to be used in performance outcomes; and

(D) the numerical performance standard for successful outcomes;

(4) describe the expected performance outcomes for all participants and separately for the handicapped and for the economically disadvantaged, in accordance with part D of this title on the basis of past experience, together with a description of the appropriate remedial measures to be taken in the provision of vocational education to meet performance standards when and if necessary;

(5)(A) compare the prevailing wage rates of the occupations for which men and women are being trained taking into account the percentage of men and women in each occupation;

(B) describe plans for making progress toward sex equity, including comparisons of such plans with proposals made by the sex equity coordinator or other agencies concerned with achieving equity in wages between men and women;

(6) criteria for the within State allocation of at least 60 percent of its allotment which—

(A) assure that areas of the State with concentrations of high unemployment and of economically disadvantaged individuals receive an equitable share of Federal, State, and local funds for the provision of vocational education; and

(B) may provide incentives for the areas within the State exceeding performance standards described in the State plan; and

(7) describe criteria for the allocation of funds to postsecondary education programs within the State designed to assure that at least 30 percent of the funds allotted to the State in any fiscal year shall be available for the purpose described in this clause.

LOCAL OR REGIONAL PLANNING

SEC. 114. (a)(1) Each State shall determine regional or local planning areas within the State unless the State determines that the entire State will be a single planning area.

(2) The designation of areas pursuant to this subsection shall, to the extent feasible, relate to labor market areas or be coordinated with areas used for related functions.

(3) Nothing in this subsection shall preclude—

(A) the use of local educational agencies for the local planning functions; or

(B) require a single plan for secondary education and postsecondary programs if the State determines that such a single or regional plan would not be feasible.

(b) Each regional or local plan shall be developed with the active participation of the private sector, labor organizations, secondary and postsecondary educational institutions, and representatives of groups of individuals targeted under section 112 of this Act. In carrying out the provisions of this section, the regional or local plan shall be developed with the participation of an advisory panel. Each such panel shall be composed so that—

(1) a majority of the members are representatives of the private sector;

(2) individuals who are representative of secondary education and postsecondary education in the State (in any case in which the plan covers both secondary and postsecondary education) are members;

(3) representatives of labor organizations are members;

(4) representatives of groups of individuals who are underserved, including handicapped individuals, economically disadvantaged individuals, and women are members; and

(5) such additional members as are appropriate.

Nothing in this Act shall preclude the use of the same advisory panel for two or more plans.

(c)(1) The advisory panel, established pursuant to subsection (b) of this section, shall actively participate in the development of the plan required by this section.

(2)(A) A majority of the private sector representatives on the advisory panel may file separate views on the provisions of the local or regional plan regarding—

(i) the occupations to be trained for, if such occupations do not reflect a realistic assessment of the labor market needs of the area;

(ii) the levels of skills to be achieved in particular occupations, if such skill levels do not reflect the hiring needs of employers;

(iii) the basic employment competencies to be used in performance outcomes, if such competency levels do not reflect the hiring needs of employers; and

(iv) the numerical performance standard for successful outcomes, if such standard is too low taking into account the potential of the vocational education system in the area.

(B) Any separate views prepared and submitted under subparagraph (A) of this paragraph shall be submitted to the State agency designated under section 111 with the plan.

(3) In the development of the local or regional plan, acceptable skill levels may be developed through committees representing employers and labor organizations established for a particular industry or occupation.

(d) Each regional or local plan shall—

(1) set forth the manner in which the regional or local plan will use Federal funds to contribute to carrying out the purposes of this Act;

(2) set forth a description of how the use of funds under the plan will contribute to meeting the objectives of the State for vocational education consistent with clause (2) of section 113(b);

(3) describe—

(A) the occupations to be trained for;

(B) the levels of skills to be achieved in particular occupations;

(C) the basic employment competencies to be used in performance outcomes;

(D) the numerical performance standard for successful outcomes; and

(4) describe the expected performance outcomes for all participants and separately for the handicapped and for the economically disadvantaged, and in accordance with part D of this title on the basis of past experience, together with a description of the appropriate remedial measures to be taken in the provision of vocational education to meet the performance standards when and if necessary;

(5)(A) compare the prevailing wage rates of the occupations for which men and women are being trained taking into account the percentage of men and women in each occupation; and

(B) describe plans for making progress toward sex equity, including comparisons of such plans with proposals made by the sex equity coordinator or other agencies concerned with achieving equity in wages between men and women.

Part C—Use of Funds

IMPROVING VOCATIONAL EDUCATION PROGRAMS

Sec. 121. Funds under this title may be used for developing new, improved, or expanded vocational education programs that are responsive to labor market demands in the locality or region of the State. Such funds may be used for—

(1) promoting programs involving industry and education partnerships;

(2) modernizing curricula, instructional equipment and materials;

(3) teacher training and retraining;

(4) developing courses of teaching strategies to teach the fundamental principles of mathematics, sciences, basic literacy, and communication skills in relation to vocational goals of students;

(5) strengthening career counseling and guidance;

(6) establishing or expanding programs of cooperative vocational education and programs providing other kinds of on-site learning experience, conducted through eligible recipients with the participation of public and private employers, and (as appropriate) labor organizations;

(7) training for self-employment or other enterpreneurial activity;

(8) special exemplary and innovative programs designed to demonstrate effective methods of achieving one or more of the purposes of this Act;

(9) placement services for students who have successfully completed vocational education programs, if not available through other public or private means;

(10) vocational student organization activities carried out as an integral part of the secondary and postsecondary instructional program;

(11) the provision of vocational education through arrangements with private vocational education institutions, employers, nonprofit rehabilitation facilities, and community-based organizations, where such private institutions can make a significant contribution to attaining the objectives of this Act, and can provide substantially equivalent preparation at a lesser cost, or can provide equipment or services not available in public institutions; and

(12) such other programs or services as the State determines to be useful to carry out the purpose of this section.

IMPROVING VOCATIONAL EDUCATION FOR UNDERSERVED GROUPS OF INDIVIDUALS

Sec. 122. (a)(1) Funds under this title may be used to provide additional services which are necessary to enable underserved groups of individuals to participate successfully in vocational education programs or to strengthen the institutional capacity of the vocational education system to serve such individuals.

(2) For the purpose of this part, underserved groups of individuals include individuals who are economically disadvantaged, individuals who are educationally disadvantaged, individuals who are handicapped, individuals who have limited English-speaking proficiency, individuals who are single parents and heads of households, and women.

(b) Funds under this section may be used for—

(1) serving economically disadvantaged individuals who by reason of such disadvantage are unable to participate or succeed in the regular vocational programs without educational or financial assistance;

(2) serving educationally disadvantaged individuals who by reason of such disadvantage are unable to participate or succeed in the regular vocational programs without educational assistance;

(3) serving handicapped individuals who by reason of such handicap require special assistance, instruction, or programs in order to participate in or profit from vocational education;

(4) serving individuals of limited English-speaking proficiency who require instruction in English, or bilingual instruction until they are proficient in English, in order to participate in or profit from vocational education;

(5) serving single parents and heads of households, who need special assistance in preparing for employment;

(6) additional services for individuals described in clauses (1) through (5), including outreach, day care, remedial education, English language training, self-paced instruction, diagnostic assessment, and counseling including post-placement counseling;

(7) developing programs and procedures to promote sex equity in occupational training through methods such as hiring sex equity coordinators; and

(8) such other programs or services as the State determines to be useful to carry out the purpose of this section.

ADULT RETRAINING

Sec. 123. Funds under this title may be used to improve and expand the capacity of the vocational education system to train and retrain adult workers. Funds used for the purpose described in this section may only be used for programs developed in coordination with the State agency administering title III of the Job Training Partnership Act. The funds may be used for—

(1) providing additional training under title III of the Job Training Partnership Act;

(2) vocational education programs for training or retraining adults, including programs for displaced homemakers; and

(3) the costs of serving adults in other vocational education programs such as by paying the costs of instruction or the costs for keeping facilities open longer.

RESTRICTIONS ON USE OF FUNDS

Sec. 124. (a) Not less than the amount received pursuant to section 103(b) shall be available only for programs under section 123.

(b) Not less than 10 percent of the funds received by a State shall be used to expand and improve vocational education for the handicapped.

(c) Not less than 20 percent of the funds received by a State shall be used to expand and improve vocational education for the economically disadvantaged.

(d) Not more than 15 percent of the allotment of the State may be used for administration, planning and evaluation.

Part D—Performance Standards

FEDERAL POLICY

Sec. 131. It is the policy of the Federal Government that Federal funds for vocational education be used to make vocational education more responsive to labor market needs and to improve the access of traditionally underserved groups of individuals to quality vocational education while leaving States and localities maximum discretion in how to achieve these purposes. The dual objectives set forth in the preceding sentence can best be met by the States developing performance standards by which the achievement of the Federal purposes can be measured thus leaving maximum flexibility to the States in determining the appropriate use of the Federal funds in the light of local circumstances and needs.

OUTCOME STANDARDS

Sec. 132. (a) Each State plan shall contain performance standards expressed as a percentage of successful outcomes for all participants and for the handicapped and for the economically disadvantaged. These numerical standards may be different for secondary and for postsecondary programs.

(b)(1) Successful outcomes for secondary students shall include at least—

(A) training related placement (including enlistment in the armed services);

(B) achievement of skill levels that are acceptable to the local employer community;

(C) achievement of basic employment competencies (the basic educational attainments and attitudes necessary for entry level employment) as determined by the appropriate State education agency and which are acceptable to the employer community; and

(D) continuing education.

(2) Successful outcomes for postsecondary students shall include at least—

(A) training related placement; and

(B) achievement of acceptable skill levels.

(c)(1) It shall be the responsibility of State and local educational agencies, as determined by State law, to prescribe the basic employment competency levels used in determining successful outcome standards.

(2) The basic employment competency levels must be acceptable to the private

sector representatives on the appropriate councils and planning panels.

(d) The private sector through the State Advisory Committee, the local private industry council under the Job Training Partnership Act, or through committees representing employers and labor organizations established for a particular industry or occupation pursuant to section 114 shall determine acceptable skill levels.

(e) Each State plan may, for local or regional planning areas, contain provisions which apply numerical standards to the local or regional planning area so that overall State goals will be met, taking into account the differing demographic and economic characteristics of the area subject to the local or regional plans together with the population to be served under the area, or regional plan.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 133. No provision of this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

TITLE II—FEDERAL RESPONSIBILITIES

PART A—FEDERAL ADMINISTRATIVE PROVISIONS

PLAN APPROVALS

SEC. 201. (a)(1) The Secretary shall approve a State plan if the plan meets the requirements of this title.

(2) If the Secretary does not approve the State plan, the State may appeal the disapproval in accordance with the provisions of section 203.

(b) In carrying out the responsibilities under subsection (a), the Secretary may consider the separate views of the private sector representatives of the State advisory council and such views shall be deemed substantial evidence that the State plan does not meet the requirements of title I.

PAYMENTS

SEC. 202. The Secretary shall pay from its allotment under section 101 to each State for any fiscal year for which the State has a State plan approved in accordance with section 114 (including any amendment to such plan) the Federal share of the costs of carrying out the State plan.

JUDICIAL REVIEW

SEC. 203. A State which is dissatisfied with a final action of the Secretary under section 201 may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which action is based, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set aside such action, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his action. The findings of the Secretary as to the facts, if supported by the weight of evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by the weight of evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall, unless specifically ordered otherwise by the court, operate as a stay of the Secretary's action.

AUDITS

SEC. 204. (a)(1) Each State shall establish such fund control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the State and paid by the State under this Act.

(2) The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish guidelines for the proper performance of the audits required by this section. Such guidelines shall include a review of fiscal controls and fund accounting procedures established by the States under this section.

(b) Each audit shall be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Government Organizations, Programs, Activities and Functions issued by the Comptroller General of the United States.

PART B—RESEARCH AND DATA COLLECTION; SCHOOL TO WORK TRANSITION

RESEARCH AND TECHNICAL ASSISTANCE

SEC. 221. (a) The Secretary and the Secretary of Labor shall, from funds available under section 102(2) for this part and from funds available under sections 452 and 455 of the Job Training Partnership Act, jointly develop a research and technical assistance program, relating to education, training, and employment.

(b)(1) The program authorized by this section may include the establishment and operation of one or more centers for the development of specialized capacity for analyzing vocational education, training, and employment.

(2) No center may be assisted under this subsection unless a panel of experts has approved the application for such assistance and the application is approved by the Secretary and the Secretary of Labor.

VOCATIONAL EDUCATION DATA SYSTEM

SEC. 222. (a) The Secretary shall maintain a national vocational education data system, using uniform definitions prescribed by the Secretary and using sampling techniques where possible, to ensure a simplified system. Any State receiving assistance under this Act shall cooperate with the Secretary in supplying information required to maintain and update such a system, and shall comply in its reports with the information elements and uniform definitions prescribed by the Secretary.

(b) In maintaining and updating this system, the Secretary shall make agreements with the Secretary of Labor to make the system compatible with the occupational information data system established pursuant to section 302, and with other systems developed or assisted under part E of title IV of the Job Training Partnership Act. The Secretary shall be responsible for the operation of the system and for updating the data annually.

(c)(1) In carrying out the responsibilities imposed by section 463 of the Job Training Partnership Act, the Secretary shall cooperate with the Secretary of Labor to ensure that the data system operated under that section is compatible with and complementary to other occupational supply and demand information systems developed or maintained with Federal assistance.

(2) The Secretary shall take such action as may be necessary to secure data at reasonable cost about individuals enrolled by program, program completers, placement and followup, staffing, and expenditures by major purposes of this Act.

OCCUPATIONAL INFORMATION DATA SYSTEM

SEC. 223. (a) There is established a National Occupational Information Coordinating Committee which shall consist of the Assistant Secretary for Vocational and Adult Education and the Administrator of the National Center for Education Statistics of the Department of Education, the Commissioner of Labor Statistics and the Assistant Secretary for Employment and Training of the Department of Labor, the Undersecretary for Small Community and Rural Development of the Department of Agriculture, the Assistant Secretary for Economic Development of the Department of Commerce, and the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics). The Committee, with funds available to it under this Act and the Job Training Partnership Act, shall provide funds, on an annual basis, to State occupational information coordinating committees and shall—

(1) in the use of program data and employment data (which shall include agriculture employment data), improve coordination and communication among administrators and planners of programs authorized by this Act and by the Job Training Partnership Act, employment security agency administrators, research personnel, and personnel of employment and training planning and administering agencies at the Federal, State, and local levels;

(2) develop and implement, in cooperation with State and local agencies, an occupational information system to meet the common occupational information needs of vocational education programs and employment and training programs of the national, State, and local levels, which system shall include data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and standardized occupational classifications;

(3) conduct studies on the effects of technological change on new and existing occupational areas and the required changes in knowledge and job skills; and

(4) assist State occupational information coordinating committees established pursuant to subsection (b).

(b) Each State receiving assistance under this Act shall establish a State occupational information coordinating committee composed of representatives of the State board, the State employment security agency, the State economic development agency, the State job training coordinating council, and the agency administering programs under the Rehabilitation Act of 1973. This committee shall, with funds available to it from the National Occupational Information Coordinating Committee established pursuant to subsection (a), implement an occupational information system in the State designed to meet the needs for the planning and operation of programs of the State board assisted under this Act and of the administering agencies under the Job Training Partnership Act.

NATIONAL ASSESSMENT REQUIREMENT

SEC. 224. The Secretary, through the National Institute of Education shall, as part of the National Assessment of Education Progress required by section 405(k) of the General Education Provisions Act, identify vocational education students among the national sample of students who have attained 17 years of age to enable a comparison to be made over time of the achievements in reading, writing, and arithmetic, by region of the country, and by socioeconomic level of vocational education students and other students.

SCHOOL TO WORK TRANSITION PROGRAMS

SEC. 225. From the funds appropriated to carry out this title the Secretary is authorized to make grants or award contracts to consortia of private sector local employers to develop and implement innovative programs to assist vocational education graduates to make a transition into unsubsidized employment in the private sector. The programs authorized by this section will be established cooperatively with vocational educators in more than one State and will be based on programs of demonstrated effectiveness. The Secretary shall administer and coordinate the programs authorized by this section. The programs may include on-the-job training, support services, technical assistance, and placement services necessary to advance vocational education graduates in the skills and technology of the occupation.

PART C—PRESIDENT'S COUNCIL ON VOCATIONAL-TECHNICAL EDUCATION

COUNCIL ESTABLISHED

SEC. 231. (a) There is established the President's Council on Vocational-Technical Education. The Council shall consist of fifteen members appointed by the President, who shall serve at the pleasure of the President and for such terms (including initial terms of varying length) as the President shall determine. The members of the Council shall be individuals who are nationally prominent, at least eight of whom shall be representatives of the private sector. The remaining members shall be individuals with broad experience in education (including vocational education) and economic and human resources development, at least one of whom shall be a member of the National Commission for Employment Policy (established under part F of the Job Training Partnership Act). The Chairperson of the Council shall be selected by the President. The Council shall meet not fewer than six times each year at the call of the Chairperson.

(b) The Council shall advise the President, the Congress and the Secretary with respect to the implementation of this Act, the Job Training Partnership Act, and policies needed to expand and improve vocational-technical education programs in order to adquately prepare America's work force for employment.

(c) The Council is authorized to—

(1) prescribe such rules and regulations as may be necessary for conducting the business of the Council;

(2) appoint and fix the compensation of such personnel as the Chairperson deems necessary, and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to the classification and General Schedule pay rates, appoint (with the concurrence of the Council) a Director, who shall be the chief executive officer of the Council and perform such duties as are prescribed by the Chairperson, and not to exceed five additional professional personnel;

(3) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

(4) accept voluntary and uncompensated services of professional personnel, consultants, and experts, notwithstanding any other provision of the law;

(5) accept in the name of the United States and employ or dispose of gifts or bequests to carry out the functions of the Council under this section;

(6) enter into contracts and grants and make such other arrangements and modifications, as may be necessary;

(7) conduct such hearings, studies, and research activities as the Council deems necessary to enable it to carry out its functions under this section; and

(8) use the services, personnel, facilities, and information of any department, agency, or instrumentality of the executive branch of the Federal Government and the services, personnel, facilities, and information of State and local public agencies and private agencies and organizations, with the consent of such agencies, with or without reimbursement therefor.

(d) Upon request made by the Chairperson of the Council, each department, agency, and instrumentality of the executive branch of the Federal Government is authorized and directed to make its services, personnel, facilities, and information available to the greatest practicable extent to the Council in the performance of its functions under this section.

(e) The Council shall make a report of its findings and recommendations to the President, the Congress, and the Secretary every third year, and may make such interim reports and recommendations as it may deem desirable. The Council may include in such reports its evaluation of the status, progress, and needs of vocational education (including recommendations for Federal legislation and appropriations), and such report or reports shall include any minority, dissenting, or supplementary views submitted by any member of the Council.

(f) The Council is authorized to collect, analyze and disseminate information on the skill and competency levels developed to implement subpart D of title I.

PART D—INDIAN PROGRAM

PROGRAM AUTHORIZED

SEC. 241. (a) For purposes of this section, the term "Act of April 16, 1934" means the Act entitled "An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452-457).

(b)(1) From the funds reserved pursuant to section 102(1), the Secretary is directed, upon the request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, to enter into a contract or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the purposes of this Act, except that such contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this sentence. From any remaining funds reserved pursuant to section 101(a)(1), the Secretary is authorized to enter into an agreement with the Secretary of the Bureau of Indian Affairs for the operation of vocational education programs authorized by this Act in institutions serving Indians, aged 15 to 24, inclusive, eligible to receive educational benefits as Indians from the Bureau of Indian Affairs, and the Secretary of the Interior is authorized to receive these funds for those purposes.

(2) For the purposes of this Act, the Bureau of Indian Affairs shall be deemed to be a State board; and all the provisions of this Act shall be applicable to the Bureau as if it were a State board.

PART E—TRANSITIONAL AND CONFORMING PROVISIONS

EFFECTIVE DATE

SEC. 251. (a) The provisions of this Act shall take effect October 1, 1984, except that subpart D of title I shall become effective July 1, 1985.

(b) The Secretary is authorized to prescribe regulations under this Act upon the date of enactment of this Act.

CONFORMING AMENDMENTS

SEC. 252. (a) The Vocational Education Act of 1963 is repealed.

(b)(1) Section 4 of the Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(A) by striking out "section 195(10) of the Vocational Education Act of 1963" in paragraph (14) and inserting in lieu thereof "section 4(5) of the Vocational Education Act";

(B) by striking out "section 195(11) of the Vocational Education Act of 1963" in paragraph (23) and inserting in lieu thereof "section 1201(h) of the Higher Education Act of 1965"; and

(C) by striking out "in section 195(1) of the Vocational Education Act of 1963" in paragraph (28) and inserting in lieu thereof "by the Secretary of Education based upon the State plans approved under part B of title I and part A of title II of the Vocational Education Act".

(2) Section 122 of such Act is amended—

(A) by striking out paragraph (8) of subsection (a); and

(B) by striking out "section 105(d)(3) of the Vocational Education Act of 1963" in subsection (b)(7)(B) and inserting in lieu thereof "section of the Vocational Education Act".

(3) Section 125(b)(1) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act".

(4) Section 427(a)(1) of such Act is amended by striking out "section 104(a)(1) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 111(a)(1) of the Vocational Education Act".

(5) Section 461(c) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act".

(6)(A) Section 463(a) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 223 of the Vocational Education Act".

(B) Section 464(a)(1) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 223 of the Vocational Education Act".

(C) Section 464(c) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 223 of the Vocational Education Act".

(D) Section 463(a) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 223 of the Vocational Education Act".

(E) Section 464(b) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act".

(7) Section 472 of such Act is amended by striking out "National Advisory Council on Vocational Education (established under section 162 of the Vocational Education Act of 1963)" in subsection (a) and inserting in lieu thereof "President's Council on Vocational-Technical Education (established under section 231 of the Vocational Education Act)".

(8) Section 473 of such Act is amended—

(A) by striking out "National Advisory Council on Vocational Education" in paragraph (7)(A) and each place it appears in paragraph (7)(B) and inserting in lieu thereof "President's Council on Vocational-Technical Education"; and

(B) by striking out "section 162 of the Vocational Education Act of 1963" and inserting in lieu thereof "section 231 of the Vocational Education Act".

(c) Section 703(a)(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3223(a)(8)) is amended by striking out "section 122(a)(4) and part J of the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act".

(d)(1) Section 113(d) of the Higher Education Act of 1965 (20 U.S.C. 1013(d)) is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act".

(2) Section 114(b) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act".

(3) Section 1022(a) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act".

(e)(1) Section 305(b)(11) of the Adult Education Act (20 U.S.C. 1205(b)(11)) is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act".

(2) Section 318(a)(4) such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act".

(f)(1) Section 113(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking out "the Vocational Education Act of 1963 (77 Stat. 403)" and inserting in lieu thereof "the Vocational Education Act".

(2) Section 114(c) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational Education Act".

(g) Section 101(a)(11) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)) is amended by striking out "the Vocational Education Act" and inserting in lieu thereof "the Vocational Education Act.".

(h) Section 104 of the Vocational Education Amendments of 1968 is amended by striking out "section 102(a) of this Act (as such Act will be in effect on October 1, 1977)" and inserting in lieu thereof "section 3 of the Vocational Education Act".

TITLE III—COORDINATION OF JOB TRAINING ACTIVITIES

USE OF PRIVATE INDUSTRY COUNCILS

Sec. 301. No provision of any Federal law shall be construed to prohibit the use of a private industry council established under title I of the Job Training Partnership Act from being used for planning for, or advising on, programs under this Act, the Rehabilitation Act of 1973, or any other Federal law relating to employment or training.

ADVISORY COUNCILS

Sec. 302. (a) Notwithstanding any other provision of law, a Governor may combine two or more advisory councils whose functions relate to vocational education, employment or training or use one such council to perform the functions of more than one such council if—

(1) the combined council meets the essential elements regarding composition of all the councils subject to the consideration or use carried out under this Act; or

(2) a council performing any additional function meets the essential elements regarding composition of the council whose functions it is performing.

(b)(1) The Governor of any State wishing to merge or expand the use of an advisory council under subsection (a) shall give public notice of the intention to do so. The notice shall include the composition of the new or expanded council and its proposed functions.

(2) The notice required by paragraph (1) shall be transmitted to the head of each Federal department or agency having responsibility for the laws governing the advisory councils subject to the merger or expansion. The head of each such department or agency shall approve such new or expanded use unless he finds, for good cause shown, that such expanded council will not meet the essential purposes of the applicable Federal law. Any adverse decision by the head of a department or agency may be appealed to the Director of the Office of Management and Budget or to the head of any other agency designated by the President.

PERFORMANCE OF SERVICES BY STATE AGENCIES RECEIVING FEDERAL ASSISTANCE FOR TRAINING

Sec. 303. (a) Subsection (a) of section 7 of the Act of May 21, 1920 (commonly known as the Economy Act; 31 U.S.C. 686) is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) The provisions of paragraph (1) of this subsection (except the provisions of such paragraph) shall be applicable to any State agency receiving Federal financial assistance for vocational education, job training or related programs, as designated by the Governor of the State or the Mayor of the District of Columbia.".

(b)(1) Each State agency may contract with any other State agency to perform the services for which Federal assistance for job training or related programs is received if the Governor determines that such a contract will promote efficiency of operation.

(2) For the purpose of this subsection the term "State" includes the several States and the District of Columbia.●

By Mr. METZENBAUM (for himself and Mr. Chiles):

S. 2349. A bill to amend the Internal Revenue Code of 1954 to deny loss deductions for stock in corporations functioning in the nature of political action committees; to the Committee on Finance.

DENIAL OF CERTAIN DEDUCTIONS FOR STOCK IN CORPORATIONS FUNCTIONING AS POLITICAL ACTION COMMITTEES

● Mr. METZENBAUM. Mr. President, I am today introducing legislation to close a tax loophole which is forcing American taxpayers to subsidize the costs of political lobbying activities.

Congress decided long ago that contributions to political action committees (PAC's) should not be tax deductible. In addition, it has decided that corporations cannot deduct their grassroots lobbying expenses, and that nonprofit organizations cannot engage in substantial lobbying activities. This is how it should be. The American taxpayer should not be asked to subsidize political lobbying efforts.

But unfortunately, enterprising tax lawyers have discovered a method to force the American taxpayer to foot the bill for local ballot referendum fights.

How does this tax scheme work?

In Florida, backers of a referendum to legalize casino gambling have formed a corporation. The corporation will pay for the referendum battle, so instead of individuals making nondeductible contributions to the campaign, they purchase shares of stock in the new corporation. When the campaign is over, the stock will be worthless, so the investors will take a tax loss deduction.

To make the scheme sporting the backers of the referendum have even added a reward. In the event the referendum passes, the potential new casino operators will pay the company a fee which in turn will be paid out to shareholders as dividends.

Unless we put an end to this scheme now every political action committee will take advantage of this loophole. Corporation after corporation will be formed to finance political lobbying activities. And the American taxpayer will pay the bill.

The Tax Code is not an appropriate mechanism through which to subsidize political lobbying activities. And it certainly should not subsidize the proliferation of gambling.

My bill would eliminate this abuse by denying the loss deduction for stock in corporations which are established to act like PAC's. It will be effective for stock issued, and for losses that occur after today.

I urge my colleagues to support this measure.

I ask unanimous consent that the text of the bill, and an article from the

Washington Post, be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATE THE LOSS DEDUCTION FOR STOCK IN CORPORATIONS WHICH FUNCTION IN THE NATURE OF POLITICAL ACTION COMMITTEES.

(a) In General.—Section 1011 of the Internal Revenue Code of 1954 (relating to adjusted basis for determining gain or loss) is amended by adding the following new paragraph:

"(c) Corporations Functioning in the Nature of Political Action Committees.—The adjusted basis for stock acquired in a corporation, the substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, or participating in or intervening in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office, shall be zero."

SEC. 2. EFFECTIVE DATE.

The amendments made by this section shall apply to stock sold or losses or gains incurred after February 27, 1984.

Florida Corporation Set Up To Gamble

(By Martha M. Hamilton)

A Florida investment group has figured out how to improve the odds for backers of a referendum to legalize casino gambling in the state.

Instead of contributing directly to a political action committee, supporters of a proposed ballot measure can buy stock in Florida Casino Associates, a corporation registered with the federal Securities and Exchange Commission.

The corporation will contribute to the campaign.

If the measure is placed on the ballot in November and passes, and if a host of other conditions are met, investors may realize a profit from a percentage paid out by certain casino operators who have signed deals with the company.

That outcome is considered unlikely, but gambling supporters have been provided a cushion. Unlike other contributors to losing candidates and causes, investors in the corporation will be able to deduct their "investment" losses and reduce the taxes they pay rather than watching contributions go down the drain election night.

"That was the purpose of the stock offering. It's better than a contribution," said Florida Casino Associates President Charles Rosen.

Although the structure of the deal has provoked an outcry in Florida, it conforms with state election laws, according to Secretary of State George Firestone. "I think it is probably a bad precedent," he added.

Florida Gov. Bob Graham is even more outspoken. "It's a way of selling Florida's future in an under-the-counter method such as selling UFOs and swamp land," he said. The potential tax write-off aspect is "an abomination," Graham added.

According to the corporation's prospectus, the stock will be sold for $1 a share with a minimum purchase of 300 shares. The corporation hopes to sell 5 million shares, but must sell 1.5 million shares by Tuesday, or the offering will be canceled.

More than 1 million shares has been sold by mid-February, according to Joseph D'Angelo, who is working as an unpaid consultant to Earl W. Shomber & Co. Inc., the underwriting firm. "I'm pretty confident," he said.

The SEC-approved prospectus pulls no punches in outlining risks. "This offering involves a high degree of risk and shares should be purchased only by persons who can afford the complete loss of their investment. There is currently no market for these securities," according to its covering page.

Among the risk factors, which total a record 36, according to a newsletter which reports on new issues, are the fact that a 1978 proposal to legalize casino gambling was rejected by 71 percent of the voters, the fact that the principals in the corporation are not expected to devote "a substantial amount of their time to the company's affairs" until and unless the proposition passes and the fact that some of the properties which have agreed to share profits from gambling with the corporation may not qualify to become casinos.

Just to get on the November ballot, supporters of gambling must obtain about 300,000 signatures on petitions by August.

The company will not carry out its activities directly but will act through an incorporated political committee formed by Rosen named "Citizens for Less Taxes Inc."

The committee will solicit signatures on petitions to put the issue on the ballot, but the "principal funding . . . will be from the proceeds of this offering," the prospectus said. "Investors should note that if any of the foregoing steps is unsuccessful, the possibility of recovering any portion of their investment will be sharply reduced or eliminated," it noted.

"It's a gamble on gambling," Rosen said.

If an investor buys shares in the offering this month and the issue fails to make the ballot or loses in November, the loss would probably qualify as a short-term capital loss, which means that money invested and lost can be deducted from taxable income dollar for dollar. If the loss were over a longer period, only 50 percent of the loss would be deductible.

The offering is limited to Florida residents, but the "New Issues" newsletter noted, "If you want to bet on this one, ask a friend in Florida to order the shares for you, or use a Florida mail drop."

D'Angelo said that subscribers to the offering have included many unemployed or underemployed residents of southern Florida. "They're concerned about decay in the area," he said.

"Professional gamblers always hedge their bets." St Petersburg Times editorial writer Martin Dyckman said recently in a column critical of how the "members of the diamond cufflink crowd behind Florida's newest casino gambling initiative" are hedging theirs by potential tax write-offs.●

●**Mr. CHILES.** Mr. President, I am happy to join Senator Metzenbaum in introducing legislation to close a tax loop hole that has the potential of becoming a tax loopchasm. This bill, S. 2349, will deny the ability of corporations functioning as political action committees to pervert the Tax Code to their benefit and to make the American taxpayer subsidize their lobbying efforts. It will refuse their investors the tax breaks they seek through the back door. Under present law it appears that whether these PAC's disguised in corporate clothing win or lose their referendum or election, their contributor stockholders suffer no consequences. They just take a deduction for the loss or receive a dividend for the win.

This is not a hypothetical loophole. It has already been discovered in Florida as a method to let the taxpayers across the country foot the bill for a local referendum on gambling. Backers of a proposition to establish casino gambling in Florida have formed a corporation to pay the lobbying bills for their referendum fight. Generally, individuals make nondeductible contributions for such campaigns; and usually, the names of the contributors and the amount of the contributions are required by State laws to be disclosed in one way or another.

This newly employed tax loophole lets individuals circumvent both disclosure and tax laws and it allows them to purchase shares of stock in ad hoc campaign corporations instead. In the Florida case, when the campaign is over, the stock will be worthless, so the investors will take a tax loss deduction. In the event, however, the referendum passes, the investors will be shareholders and will be entitled to dividends.

Mr. President, we must stop this kind of tax abuse at the beginning. Every political action committee will try to take advantage of it. Political action corporations will proliferate. All at the expense of the American taxpayer. And at a time when any loss of revenue is a dangerous drain on the Treasury and an injurious blow to the economy.

I urge my colleagues to support S. 2349.●

By Mr. QUAYLE:

S. 2352. A bill to provide equitable treatment for certain hospitals in high wage areas; to the Committee on Finance.

URBAN AND RURAL DESIGNATION FOR HOSPITALS

● **Mr. QUAYLE.** Mr. President, last year I supported the adoption by Congress of the prospective payment system for medicare inpatient hospital services. There is little disagreement that the old cost-reimbursement system, under which medicare had been paying for care, provided hospitals with incentives which encouraged the inefficient use of hospital services. The prospective payment system is designed to pay at a single rate per case. This payment system will change the incentives for hospitals and lead to more efficient management of in-patient services for medicare beneficiaries.

Congress, in developing this new system, recognized that the per-case rate should be adjusted to account for differences between labor costs in urban and rural areas. For the purposes of the system, hospitals are considered urban if located in a standard metropolitan statistical area (SMSA) and rural if located outside an SMSA.

The distinction between urban and rural areas is useful and reflects legitimate differences in the cost of operating hospitals. Unfortunately, the distinction does not accommodate hospitals in high wage non-SMSA counties. Labor costs are the primary component of operating expenses in hospitals, therefore, institutions in high wage non-SMSA counties will be placed at a competitive disadvantage by prospective payment.

It is important that all hospitals compete under these new rules on a level playing field. The current definition of urban and rural used for medicare will not give hospitals in non-SMSA counties with high wage rates a fair shake. For example, projections made by one non-SMSA Indiana hospital indicate it will receive $8 million below its costs for the care it provides to medicare patients for the first 4 years of the new payment program alone. This same institution is in a county which in 1982 had an average wage rate of $18,824 compared to $17,056 for the neighboring SMSA.

The effect of such losses will be staggering both to the institutions in question and to their respective communities. I understand that similar results are anticipated for hospitals in many other States. The new system was adopted to encourage efficiency, not to harm otherwise well-run hospitals which happen to fall in non-SMSA areas with high wage rates.

I am today, therefore, introducing legislation to fine tune the designation of urban and rural for medicare prospective payment. S. 2352 provides that hospitals in non-SMSA counties which have a wage rate no less than the average wages for an SMSA in the State would, for purposes of medicare prospective payment, be considered urban. For hospitals in these counties an appropriate wage index will be derived as under current law for hospitals located within SMSA's. This simple amendment to the Social Security Act respects the spirit of objectivity and the principle of budget neutrality at the base of the new payment system without radically changing its criteria for classifying hospitals.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of Section 1886(d) of the Social Security Act is amended by inserting the following after "(as defined by the Office of Management and Budget)":

", a county whose average wage rate (based on the average of all wages subject to the Federal Unemployment Tax Act) is no less than the average of such wages for a Standard Metropolitan Statistical Area in the state."●

By Mr. GRASSLEY:

S. 2353. A bill to amend the Internal Revenue Code of 1954 to provide that one-half of the amounts paid by a self-employed taxpayer for his or her health insurance premiums will be allowed as a business deduction; to the Committee on Finance.

AMOUNTS PAID BY A SELF-EMPLOYED TAXPAYER FOR HEALTH INSURANCE PREMIUMS

● **Mr. GRASSLEY.** Mr. President, I rise to offer a bill to grant self-employed individuals the same health care premium deductions granted to employers for their employee coverage. Under current law, employers are permitted to fully deduct the cost of the medical insurance premium they pay for their employee's health coverage. Before the enactment of TEFRA, any individual taxpayer could deduct one-half the cost of their medical insurance premiums up to $150. Any premiums in excess of the permitted deductible could be applied to other medical expenses, if a taxpayer's total medical expenses exceeded 3 percent of adjusted gross income. In TEFRA, the medical expense threshold was raised from 3 percent of adjusted gross income to 5 percent of adjusted gross income.

The current tax treatment of medical insurance premiums creates strange results. If an individual works for an employer who provides medical insurance coverage as a fringe benefit, the employer may deduct the cost of the premium and the employee is not required to include the value of the premium in income. In contrast, an individual who is self-employed or employed by a corporation which does not provide medical coverage must earn wages, pay his income tax and buy medical insurance. The self-employed taxpayer cannot claim a deduction for this expense. If Congress has determined that health insurance coverage should be encouraged, why are we only rewarding employer-sponsored coverage?

Many of my constituents are self-employed individuals. They run farms or operate small businesses. If they elect to conduct business in the corporate form, they may deduct medical insurance premiums. Since most are sole proprietorships, they cannot deduct these premiums under current law. As self-employed individuals, they are facing higher social security taxes, since they are required to pay both the employer and employee portion of the tax. Nevertheless, in 1990, Congress granted self-employed individuals a deduction for one-half of the SECA tax paid to offset this dual burden. In my view, it is appropriate to extend this reasoning to the deductability of health insurance premiums.

This bill enables a self-employed individual to deduct one-half of the health insurance premium costs. While not as beneficial as the employer-provided tax treatment which excludes the value of the insurance from the employee's income, this provision will move toward parity in the tax treatment of health insurance.

The cost of health insurance is substantial. Blue Cross/Blue Shield comprehensive major medical group subscriber coverage with a $300 deductible will cost a self-employed 61-year-old farmer and his 59-year-old wife $2,479.80 annually. As health insurance costs increase, the inequitable tax treatment of medical insurance costs will spur more farmers and small businessmen to incorporate.

Logical taxation of health insurance premiums that is consistent among different types of employees should be Congress' goal. With new educational and employment opportunities opening for women and senior citizens, many of these talented individuals who have previously been unable to work a conventional 40-hour week are establishing their own businesses. Many of them are contributing their talents and skills as self-employed individuals. I can see no reason to deny this emerging group of workers, as well as the traditional classes of self-employed people, the right to a tax deduction for a portion of their health insurance premiums. We need to create parity for the taxation of health insurance premiums in recognition of the important contribution of self-employed people and the emergence of new work patterns in America which enhance our national productivity.●

By Mr. McCLURE:

S. 2354. A bill to rename the "River of No Return Wilderness" in the State of Idaho as the "Frank Church—River of No Return Wilderness"; to the Committee on Energy and Natural Resources.

FRANK CHURCH RIVER OF NO RETURN WILDERNESS

● **Mr. McCLURE.** Mr. President, I rise today to introduce legislation that justly commemorates the work of one of our colleagues, and a friend of mine, former Senator Frank Church of Idaho. The legislation commemorates his efforts in creating the largest wilderness area in the lower 48 States. This wilderness encompasses Idaho's magnificent Salmon River, the "River of No Return."

During a debate on Idaho wilderness in 1979, Senator Church told the following story:

I can remember my first introduction to the Salmon River Wilderness, Frank said. It came when he was a young child. Around a pine log fire, out under the canopy of the Milky Way, an old mountain man told him tall tales of that wonderful part of the world.

One of the stories that has been written in permanent ink in my memory, Frank explained, was the story of the bighorn sheep—one of the amazingly agile creatures that are native to the cliffs and crags of the Salmon River country.

The old man told Frank that one summer morning he was watching this bighorn ram when it decided to jump a great chasm, at least 50 feet wide. The chasm was deep—one slip would mean certain death for the ram. Well, the ram studied the gorge carefully. He backed away from the precipice about 200 feet, made a tremendous run, and took a great, arching leap out over the yawning abyss. He was almost to the other side when he realized he wasn't going to make it * * * so he simply turned around and went back.

Frank Church said this story for him typifies mountain humor and the magnificent Salmon River country which he said "stretches the imagination."

The Salmon River country, he pined, "is a vast stage for adventure, and for the nourishment of the spirit within each of us that yearns to be free."

Frank Church, throughout his career, has worked hard to make sure others would also have the opportunity to enjoy the magnificence of wilderness.

Senator Church was one of the original sponsors of the Wilderness Preservation Act of 1964. In both instances when the bill passed the Senate—in 1961 and 1963—he led the Senate to its passage.

Frank sponsored the Land and Water Conservation Act of 1965 as well as the Wild and Scenic Rivers Act of 1968.

Frank and I, along with the rest of the Idaho delegation, worked closely together to establish the Sawtooth National Recreation Area in Idaho in 1972, and the Hells Canyon National Recreation Area in 1975.

Frank shepherded the Endangered American Wilderness Act through Congress in 1978, which included wilderness designation for the Gospel Hump Wilderness in Idaho.

And after much hard work and perseverance, Frank Church was successful in passing a bill to designate 2.2 million acres along the Salmon River in Idaho as wilderness.

Called the "River of No Return" region, it was first officially recognized for its grandeur when it was designated the Idaho Salmon Breaks Primitive Area in 1931. At that time, it encompassed about 145,000 acres.

Following the Wilderness Act in 1964, the Forest Service studied the area for possible inclusion into the National Wilderness Preservation System. Based on their recommendations, President Nixon submitted to Congress on July 18, 1974, a proposal for a Salmon River Wilderness of approximately 1.1 million acres.

Congress did not act on this legislation. Subsequently, President Carter submitted a proposal that called for a 1.9 million acre central Idaho wilderness. Then in early 1979, 184,000 acres were added to the proposal after the second roadless area review and evaluation—known as RARE II—was completed by the Forest Service.

Senator Church submitted legislation to Congress designating 2.2 million acres as the "River of No Return Wilderness." Hearings were held in Salmon, Boise, Lewiston, and Washington, D.C., and after passage in the House and Senate, it was signed into law by President Jimmy Carter on July 30, 1980.

While Frank and I did not agree on various provisions of the River of No Return Wilderness, we did agree that this area is one of the jewels of our Nation and that it would be enjoyed for generations to come.

I recognize that Frank Church performed the very difficult task of getting this legislation through Congress with sincerity and skill, as he did with other wilderness legislation. For these reasons, Mr. President and because of Frank's love of the Salmon River back-country, I would like to introduce a bill to change the name of the River of No Return Wilderness to the Frank Church—River of No Return Wilderness.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the significant contributions and the tireless efforts of Frank Church in the establishment and designation of the River of No Return Wilderness in the State of Idaho, the "River of No Return Wilderness" established by the Act of July 23, 1980, P.L. 96-312 (94 Stat. 948) shall hereafter be known as the "Frank Church—River of No Return Wilderness".

SEC. 2. The Secretary of Agriculture is hereby authorized to take such actions as may be necessary to implement the provision of this Act.●

By Mr. EXON:

S.J. Res. 246. Joint resolution strongly urging the President to secure a full accounting of Americans captured or missing-in-action in Southeast Asia, and for other purposes; to the Committee on Foreign Relations.

FULL ACCOUNTING OF MISSING IN SOUTHEAST ASIA

Mr. EXON. Mr. President, today I am introducing a joint resolution urging the President to renew our Nation's efforts to secure a full accounting of Americans captured or missing-in-action in Southeast Asia.

Over a decade has elapsed since our military involvement in that region of the world ended. Yet 2,490 American servicemen and civilians remain unaccounted for long after their compatriots have returned home. To date there have been over 200 sighting reports of Americans being held against their will in Southeast Asia which remain unverified. The remains of only 88 Americans have been returned and the remains of an additional 40 U.S. servicemen reported to have died in captivity have not been returned.

Our Government, including the State Department, Defense Department, and National Security Council have been working to obtain the full accounting which must be made. Congress has been supportive of these efforts and I personally have kept up to date on developments in this area. The resolution I am introducing today calls upon the President to act immediately to secure from the governments of Southeast Asia a full accounting of our captured or missing Americans. It also calls for the President to work for the immediate release of each living POW or MIA and the return of the remains of all American POW's and MIA's. Additionally, it calls for Presidential reports to Congress on actions taken to date in this regard and actions to be taken in the near future to achieve these goals.

Mr. President, this resolution is simple and straightforward. It reflects the need for the Congress to remain involved in the POW/MIA issue. It states that Congress is keeping faith with those 2,490 families who do not know for sure the fate of their loved ones. It reiterates our heartfelt desire that this matter deserves priority attention within our Government and that the passage of time will not diminish its importance to all Americans. And it expresses the resolve of the Congress that these men will not be forgotten.

The 25 of these captured or missing Americans are from my State of Nebraska. I know some of the families and have some understanding of the uncertainty and despair they face with each passing day. Each of us should take a moment to reflect on how we would feel if we were an American prisoner-of-war for all these years. No stone must be left unturned in our Government's quest for a full accounting.

Mr. President, many dedicated people in our Government have been working to resolve this matter. This resolution is not meant to reflect adversely on those efforts. It does, however, reflect the desire of Congress to be kept informed of these efforts and work with and support the President of the United States in this endeavor. The nations of Southeast Asia should know of the mandate of Congress to achieve a full accounting. Hopefully, such a statement would also strengthen the hand of our negotiators.

As a nation, Mr. President, we must stand behind each and every man and woman who serves this country, especially in time of war. We must keep faith with them and their families. The American people want action. The President has stated his commitment to a full accounting. It is now time for Congress as a body to echo these sentiments and commitments in the form of this joint resolution.

I want to thank the Vietnam veterans MIA task force in Grand Island, Nebr. for their advice and work in this endeavor. A similar joint resolution was introduced recently in the House of Representatives and I urge my Senate colleagues to join with me in stating our commitment to this cause.

Mr. President, I ask unanimous consent that the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 246

Whereas 2,490 Americans captured or missing-in-action in Southeast Asia as a result of the Vietnam conflict remain unaccounted for;

Whereas the remains of 40 United States servicemen reported to have died in captivity in Southeast Asia have not been returned; and

Whereas there remain unverified and under continuing investigation more than 200 reports of sightings of Americans in Southeast Asia being held against their will: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby strongly urges the President—

(1) to act immediately and expeditiously to secure from the governments of the nations of Southeast Asia a full accounting of the 2,490 Americans captured or missing in Southeast Asia as a result of the Vietnam conflict; and

(2) to work for the immediate release of each living American listed by the Department of Defense as a prisoner of war (POW) or missing-in-action (MIA) in Southeast Asia and the immediate return of the remains of all American POWs and MIAs who have died in Southeast Asia.

Sec. 2. (a) Not later than 30 days after the date of enactment of this joint resolution, the President shall prepare and transmit to the Congress a report describing actions taken by the Federal Government before the date of enactment of this joint resolution to secure a full accounting of American POWs and MIAs in Southeast Asia.

(b) Not earlier than 90 days or later than 180 days after the date of enactment of this joint resolution, the President shall prepare and transmit to the Congress a report describing the actions taken by the Federal Government in carrying out the first section of this joint resolution.

By Mr. HUMPHREY:

S.J. Res. 247. A joint resolution to designate March 25, 1984, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy;" to the Committee on the Judiciary.

GREEK INDEPENDENCE DAY

● Mr. HUMPHREY. Mr. President, March 25 marks the 163d anniversary of the outbreak of the Greek War of Independence. Today, I am introducing a resolution that designates March 25, 1984, as "Greek Independence Day" and calls upon the President to issue a proclamation asking the people of the United States to observe this day with appropriate ceremonies and activities.

The anniversary of Greece's War of Independence serves as an important reminder of the high ideals of democracy and freedom upon which both the United States and Greece were founded. It is also an appropriate time to honor the close bonds and ties between the two nations and their peoples. As a Nation that successfully struggled for independence and freedom 45 years earlier, the United States feels a special kinship with the people of Greece. This relationship has further benefited and grown by the priceless contributions that have been made to American culture over the past century by Greek immigrants.

For these reasons, I believe that it is both fitting and proper to designate March 25 as "Greek Independence Day." I hope that my colleagues will join with me and support this resolution.

Mr. President, I ask unanimous consent that the text of this resolution be printed in the Record in its entirety.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S.J. Res. 247

Whereas the ancient Greeks developed the concept of democracy, whereby the power to govern was vested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming a representative democracy;

Whereas March 25, 1984, marks the one hundred and sixty-third anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;

Whereas democratic ideals have forged a close bond between the people of the United States and Greece; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles upon which the two great nations were founded: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1984, is designated "Greek Independence Day: A National Day of Celebration of Greek and American Democracy" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 128

At the request of Mr. Roth, the name of the Senator from Kentucky (Mr. Huddleston) was added as a cosponsor of S. 128, a bill entitled "The Equal Opportunity Retirement Act of 1983."

S. 1475

At the request of Mr. Wallop, the names of the Senator from Indiana (Mr. Quayle), the Senator from Alaska (Mr. Stevens), the Senator from Wisconsin (Mr. Kasten), and the Senator from West Virginia (Mr. Byrd) were added as cosponsors of S. 1475, a bill to amend the Internal Revenue Code of 1954 to repeal the highway use tax on heavy trucks and to increase the tax on diesel fuel used in the United States.

S. 1730

At the request of Mr. Dixon, the names of the Senator from Hawaii (Mr. Matsunaga), and the Senator from Montana (Mr. Baucus) were added as cosponsors of S. 1730, a bill to amend the Small Business Act to increase small business participation in the procurement process, thereby reducing costly noncompetitive procurements and increasing defense preparedness, and for other purposes.

S. 1756

At the request of Mr. Durenberger, the name of the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 1756, a bill to provide for assistance to State and local governments and private interests for conservation of certain rivers, and for other purposes.

S. 1935

At the request of Mr. Heinz, the names of the Senator from Minnesota (Mr. Boschwitz), and the Senator from Connecticut (Mr. Dodd) were added as cosponsors of S. 1935, a bill to establish an interagency task force on cigarette safety.

S. 1980

At the request of Mr. Murkowski, the names of the Senator from Michigan (Mr. Riegle), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. D'Amato), the Senator from New Jersey (Mr. Lautenberg), the Senator from Connecticut (Mr. Dodd), the Senator from North Dakota (Mr. Burdick), the Senator from South Dakota (Mr. Pressler), and the Senator from Michigan (Mr. Levin) were added as cosponsors of S. 1980, a bill to recognize the organization known as the Polish Legion of American Veterans, U.S.A.

S. 2001

At the request of Mr. Durenberger, the name of the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 2001, a bill to amend the Clean Air Act to reduce interstate transport of pollutants, control acid deposition, and for other purposes.

S. 2031

At the request of Mr. MOYNIHAN, the names of the Senator from New Jersey (Mr. BRADLEY), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of S. 2031, a bill relating to the residence of the American Ambassador to Israel.

S. 2083

At the request of Mr. ARMSTRONG, the name of the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 2083, a bill to amend the Internal Revenue Code of 1954 to exempt from Federal income taxes members of the Armed Forces of the United States who die as a result of hostile action.

S. 2159

At the request of Mr. DURENBERGER, the name of the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2159, a bill entitled the "Hazardous Air Pollutant Control Act of 1983."

S. 2185

At the request of Mr. HEINZ, the names of the Senator from Texas (Mr. BENTSEN), the Senator from Vermont (Mr. STAFFORD), and the Senator from South Dakota (Mr. ABDNOR) were added as cosponsors of S. 2185, a bill to amend the Internal Revenue Code of 1954 to extend the targeted jobs tax credit.

S. 2190

At the request of Mr. HUDDLESTON, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2190, a bill to amend the Agriculture and Food Act of 1981 to provide protection for agricultural purchasers of farm products.

S. 2219

At the request of Mr. BOREN, the names of the Senator from Nevada (Mr. HECHT), the Senator from North Dakota (Mr. ANDREWS), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 2219, a bill to amend the Internal Revenue Code of 1954 to remove requirements for filing returns regarding payments of remuneration for services, and for other purposes.

S. 2220

At the request of Mr. METZENBAUM, the names of the Senator from Montana (Mr. MELCHER), the Senator from Illinois (Mr. DIXON), the Senator from Florida (Mrs. HAWKINS), and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of S. 2220, a bill to amend title 38, United States Code, to provide for the treatment of Alzheimer's disease by the Veterans' Administration.

S. 2221

At the request of Mr. METZENBAUM, the names of the Senator from Montana (Mr. MELCHER), the Senator from Illinois (Mr. DIXON), and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of S. 2221, a bill to amend the Older Americans Act of 1965 to require that special consideration be given to providing assistance to older individuals who suffer from Alzheimer's disease and other neurological diseases, and for other purposes.

S. 2222

At the request of Mr. METZENBAUM, the names of the Senator from Montana (Mr. MELCHER), and the Senator from Illinois (Mr. DIXON) were added as cosponsors of S. 2222, a bill to provide a deduction from gross income for individual taxpayers who maintain a household which includes a dependent of the taxpayer who suffers from Alzheimer's disease.

S. 2229

At the request of Mr. BOSCHWITZ, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2229, a bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the deduction for retirement savings on the basis of the compensation of their spouses and to treat alimony as compensation for purposes of such deduction.

S. 2237

At the request of Mr. SASSER, the names of the Senator from Maryland (Mr. SARBANES), and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 2237, a bill to strengthen the Asbestos School Hazard Detection and Control Act of 1980.

S. 2258

At the request of Mr. MOYNIHAN, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 2258, a bill to grant a Federal charter to the 369th Veterans' Association.

S. 2274

At the request of Mr. BOREN, the name of the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 2274, a bill to amend title 38, United States Code, to authorize a service pension of $150 per month for veterans of World War I and for certain surviving spouses of such veterans.

S. 2300

At the request of Mr. COHEN, the name of the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 2300, a bill to amend the Federal Property and Administrative Services Act of 1949 to authorize multiyear contracts in certain cases.

S. 2310

At the request of Mr. LEVIN, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2310, a bill to establish senior citizen tutorial volunteer network programs which will provide opportunities for senior citizens to work in elementary and secondary schools and in the home with educationally disadvantaged children and their families.

SENATE JOINT RESOLUTION 129

At the request of Mr. PRESSLER, the name of the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of Senate Joint Resolution 129, a joint resolution calling upon the President to seek a mutual and verifiable ban on weapons in space and on weapons designed to attack objects in space.

SENATE JOINT RESOLUTION 181

At the request of Mr. BENTSEN, the names of the Senator from Ohio (Mr. METZENBAUM), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of Senate Joint Resolution 181, a joint resolution to provide for the awarding of a gold medal to Lady Bird Johnson in recognition of her humanitarian efforts and outstanding contributions to the improvement and beautification of America.

SENATE JOINT RESOLUTION 203

At the request of Mr. HUDDLESTON, the names of the Senator from Arizona (Mr. DECONCINI), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Idaho (Mr. SYMMS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. PRYOR), the Senator from New York (Mr. MOYNIHAN), the Senator from North Dakota (Mr. BURDICK), the Senator from Alaska (Mr. STEVENS), the Senator from Indiana (Mr. QUAYLE), and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of Senate Joint Resolution 203, a joint resolution designating the week beginning April 8, 1984, as "National Mental Health Counselors Week."

SENATE JOINT RESOLUTION 204

At the request of Mr. HATCH, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Hawaii (Mr. INOUYE), the Senator from Florida (Mrs. HAWKINS), the Senator from Mississippi (Mr. COCHRAN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Illinois (Mr. DIXON), the Senator from Oregon (Mr. PACKWOOD), the Senator from Pennsylvania (Mr. SPECTER), the Senator from California (Mr. WILSON), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of

Senate Joint Resolution 204, a joint resolution to designate "Women's History Week."

SENATE JOINT RESOLUTION 205

At the request of Mr. HEINZ, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Joint Resolution 205, a joint resolution authorizing and requesting the President to designate the second full week in March of each year as "National Employ the Older Worker Week."

SENATE JOINT RESOLUTION 210

At the request of Mr. TRIBLE, the names of the Senator from Arizona (Mr. DECONCINI), the Senator from Iowa (Mr. GRASSLEY), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Alabama (Mr. DENTON) were added as cosponsors of Senate Joint Resolution 210, a joint resolution to designate the period commencing January 1, 1984, and ending December 31, 1984, as the "Year of Excellence in Education."

SENATE JOINT RESOLUTION 213

At the request of Mr. D'AMATO, the names of the Senator from Alabama (Mr. DENTON), the Senator from Virginia (Mr. WARNER), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Joint Resolution 213, a joint resolution designating 1984 "The year of the Secretary".

SENATE JOINT RESOLUTION 223

At the request of Mr. MOYNIHAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of Senate Joint Resolution 223, a joint resolution relating to the rehabilitation of shelters for the homeless.

SENATE JOINT RESOLUTION 225

At the request of Mr. MOYNIHAN, the names of the Senator from California (Mr. CRANSTON), the Senator from Illinois (Mr. DIXON), the Senator from Kentucky (Mr. FORD), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of Senate Joint Resolution 225, a joint resolution designating the month of March 1984 as "National Eye Donor Month."

SENATE JOINT RESOLUTION 229

At the request of Mr. MOYNIHAN, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from Wisconsin (Mr. KASTEN) were added as cosponsors of Senate Joint Resolution 229 a joint resolution to proclaim the week beginning April 22, 1984 as "National Dance Week."

SENATE JOINT RESOLUTION 237

At the request of Mr. HATCH, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of Senate Joint Resolution 237, a joint resolution to designate the week of November 25, 1984, through December 1, 1984, as "National Home Care Week."

SENATE JOINT RESOLUTION 241

At the request of Mr. D'AMATO, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Indiana (Mr. LUGAR), the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Georgia (Mr. MATTINGLY) were added as cosponsors of Senate Joint Resolution 241, a joint resolution to authorize and request the President to issue a proclamation designating May 6 through May 13, 1984, as "Jewish Heritage Week."

SENATE CONCURRENT RESOLUTION 86

At the request of Mr. HEINZ, the names of the Senator from Arizona (Mr. DECONCINI), the Senator from Nevada (Mr. LAXALT), the Senator from Vermont (Mr. LEAHY), the Senator from Alabama (Mr. DENTON), the Senator from Vermont (Mr. STAFFORD), and the Senator from Kansas (Mrs. KASSEBAUM) were added as cosponsors of Senate Concurrent Resolution 86, a concurrent resolution expressing the sense of the Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran.

SENATE RESOLUTION 241

At the request of Mr. LEVIN, the name of the Senator from Kansas (Mr. DOLE) was added as a cosponsor of Senate Resolution 241, a resolution expressing the sense of the Senate that the foreign policy of the United States should take account of the genocide of the Armenian people, and for other purposes.

SENATE RESOLUTION 294

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Resolution 294, a resolution expressing the sense of the Senate that the Government of the Soviet Union should allow Igor V. Ogurtsov to be released from exile and allowed to emigrate to the West without renouncing his views, and for other purposes.

At the request of Mr. RIEGLE, the names of the Senator from Connecticut (Mr. DODD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Texas (Mr. BENTSEN), the Senator from Oregon (Mr. HATFIELD), and the Senator from Idaho (Mr. SYMMS) were added as cosponsors of Senate Resolution 294, supra.

SENATE RESOLUTION 306

At the request of Mr. ANDREWS, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of Senate Resolution 306, a resolution to preserve the food stamp program and other food assistance programs.

SENATE RESOLUTION 329

At the request of Mr. NUNN, the names of the Senator from Indiana (Mr. LUGAR), and the Senator from Indiana (Mr. QUAYLE) were added as cosponsors of Senate Resolution 329, a resolution expressing the support of the Senate for the expansion of confidence building measures between the United States and the U.S.S.R., including the establishment of nuclear risk reduction centers, in Washington and in Moscow, with modern communications linking the centers.

AMENDMENT NO. 2721

At the request of Mr. PERCY, the names of the Senator from Connecticut (Mr. WEICKER), the Senator from Indiana (Mr. QUAYLE), and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of amendment No. 2721 intended to be proposed to S. 979, a bill to amend and reauthorize the Export Administration Act of 1979.

SENATE RESOLUTION 354—AUTHORIZING EXPENDITURES BY COMMITTEES OF THE SENATE

Mr. MATHIAS, from the Committee on Rules and Administration reported the following original resolution: which was placed on the calendar.

S. RES. 354

Resolved, That this resolution may be cited as the "Omnibus Committee Funding Resolution of 1984".

AGGREGATE AUTHORIZATION

SEC. 2. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, and under the appropriate authorizing resolutions of the Senate, there is authorized in the aggregate $48,050,680, in accordance with the provisions of this resolution, for all Standing Committees of the Senate, the Special Committee on Aging, the Select Committee on Intelligence, and the Select Committee on Indian Affairs.

(b) Each committee referred to in subsection (a) shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than July 1, 1984, in the case of the Select Committee on Indian Affairs, and not later than February 28, 1985, in the case of any other such committee.

(c) Any expenses of a committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees of the committee who are paid at an annual rate.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 3. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,390,885, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON APPROPRIATIONS

SEC. 4. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on Appropriations is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $4,317,500, of which amount (1) not to exceed $95,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $8,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON ARMED SERVICES

SEC. 5. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,239,919, of which amount (1) not to exceed $15,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $6,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

SEC. 6. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,806,300, of which amount (1) not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON THE BUDGET

SEC. 7. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $3,197,971, of which amount not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

SEC. 8. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $3,648,174, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $16,960 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SEC. 9. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,524,777, of which amount (1) not to exceed $35,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $7,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 10. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,550,000, of which amount (1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON FINANCE

SEC. 11. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,379,000, of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

COMMITTEE ON FOREIGN RELATIONS

SEC. 12. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,732,275, of which amount (1) not to exceed $18,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $700 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON GOVERNMENTAL AFFAIRS

SEC. 13. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $4,964,523, of which amount (1) not to exceed $189,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,750 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c)(1) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practice, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents;

(iii) the adequacy of present intergovernmental relationships between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of Government with particular reference to the operations and management of Federal regulatory policies and programs:

Provided, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(2) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(3) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1984, through February 28, 1985, is authorized, in its, his, or their discretion (A) to require by subpena or otherwise the attendance or witnesses and production of correspondence, books, papers, and documents, (B) to hold hearings, (C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (D) to administer oaths, and (E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Permanent Subcommittee on Investigations specifically authorized by the chairman, by deposition.

(4) All subpenas and related legal processes of the committee and its subcommittees authorized under S. Res. 76 of the Ninety-eighth Congress, first session, are authorized to continue.

COMMITTEE ON THE JUDICIARY

SEC. 14. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $4,670,827, of which amount (1) not to exceed $36,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON LABOR AND HUMAN RESOURCES

SEC. 15. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Labor and Human Resources is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $4,852,500, of which amount not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

COMMITTEE ON RULES AND ADMINISTRATION

SEC. 16. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,340,195, of which amount (1) not to exceed $15,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON SMALL BUSINESS

SEC. 17. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,001,678.

COMMITTEE ON VETERANS' AFFAIRS

SEC. 18. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $935,357.

SPECIAL COMMITTEE ON AGING

SEC. 19. (a) In carrying out the duties and functions imposed by section 104 of S. Res. 4, Ninety-fifth Congress, agreed to February 4, 1977, and in exercising the authority conferred on it by such section, the Special Committee on Aging is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,159,720, of which amount (1) not to exceed $35,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SELECT COMMITTEE ON INTELLIGENCE

SEC. 20. (a) In carrying out its powers, duties, and functions under S. Res. 400, agreed to May 19, 1976, in accordance with its jurisdiction under section 3(a) of such resolution, including holding hearings, reporting such hearings, and making investigations as authorized by section 5 of such resolution, the Select Committee on Intelligence is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,064,000, of which amount not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SELECT COMMITTEE ON INDIAN AFFAIRS

SEC. 21. (a) In carrying out the duties and functions imposed on it by section 105 of S. Res. 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, as amended, and under a unanimous-consent agreement of November 18, 1983, and in exercising the authority conferred on it by such authority, the Select Committee on Indian Affairs is authorized from March 1, 1984, through July 1, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $275,079, of which amount not to exceed $667 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SENATE RESOLUTION 355—AUTHORIZING PRINTING OF ADDITIONAL COPIES OF SENATE REPORT ENTITLED "DEVELOPMENTS IN AGING: 1983"

Mr. HEINZ (for himself and Mr. GLENN) submitted the following resolution; which was referred to the Committee on Rules and Administration.

S. RES. 355

Resolved, That there shall be printed for the use of the Special Committee on Aging the maximum number of copies of volume 1 of its annual report to the Senate, entitled "Developments in Aging: 1983," which may be printed at a cost not to exceed $1,200.

AMENDMENTS SUBMITTED

EXPORT ADMINISTRATION ACT

HEINZ AMENDMENT NOS. 2724 AND 2735

Mr. HEINZ proposed two amendments to the bill (S. 979) to amend and reauthorize the Export Administration Act of 1979; as follows:

Amendment No. 2724

On page 46, line 4, after "Commissioner)" insert ", except with respect to section 8, and the Secretary of Commerce only with respect to section 8".

On page 35, line 24, strike "Notification of" and insert in lieu thereof "Consultation With".

On page 51, line 5, strike " "; and' " and insert in lieu thereof the following: "or

" '(C) any release of technology in the United States with the knowledge or intent that it will be shipped or transmitted to a foreign country;" and".

On page 51, strike lines 6 through 8 and insert in lieu thereof the following:

" '(7) the term 'United States' means the States of the United States, its commonwealths, territories, dependencies, possessions, and the District of Columbia, including foreign trade zones and the Outer Continental shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act." ".

On page 51, line 22, strike "through" and insert in lieu thereof "thorough".

On page 24, strike line 23 and insert in lieu thereof the following: "in section 4(a)(2) of this Act; and in the same paragraph by striking "a" after "in lieu of" and inserting in lieu thereof "an individual";".

On page 49, line 13, after the first period, insert the following: "The Secretary of Commerce shall designate three Assistant Secretaries of Commerce to assist the Under Secretary in carrying out such functions.".

On page 49, between lines 16 and 17, insert the following:

(c) Section 5315 of such title is amended by striking out "Assistant Secretaries of Commerce (8)." and inserting in lieu thereof "Assistant Secretaries of Commerce (10).".

Amendment No. 2725

On page 25, line 10, insert after (d) the following: "and included on the control list as provided for under subsection (d)(5)".

On page 17, line 5, strike "1983" and insert in lieu thereof, "1984".

On page 51, line 15, strike "1984" and insert in lieu thereof "1985".

HEINZ (AND GARN) AMENDMENT NO. 2726

Mr. HEINZ (for himself and Mr. GARN) proposed an amendment to the bill S. 979, supra; as follows:

On page 50, strike lines 7 through 11 and insert in lieu thereof the following: "services;".

HEINZ AMENDMENTS NOS. 2727 THROUGH 2729

Mr. HEINZ proposed three amendments to the bill S. 979, supra; as follows:

Amendment No. 2727

On page 43, line 17, strike "prescribe.";", and insert in lieu thereof "prescribe.".

On page 43, insert between lines 17 and 18 the following new paragraph:

" "(5) The President may provide by regulation standards for establishing levels of civil penalty as provided in this subsection based upon the seriousness of the violation, the culpability of the violator, and the violator's record of cooperation with the government in disclosing the violation." ".

Amendment No. 2728

On page 43, line 25, prior to the semicolon insert the following: "and inserting in lieu thereof "In any such action with respect to enforcement of section 8, the court shall determine de novo all issues necessary to the establishment of liability." ".

Amendment No. 2729

On page 30, line 25, delete "dence" and insert in lieu thereof "dence, as determined by the Secretary,".

On page 25, line 10, insert after (d) the following: "and included on the control list as provided for under subsection (d)(5)".

HEINZ (AND GARN) AMENDMENT NO. 2730

Mr. HEINZ (for himself and Mr. GARN) proposed an amendment to the bill S. 979, supra; as follows:

(1) On page 40, strike lines 18 and 19 and insert in lieu thereof the following: "mines on the basis of reliable evidence that goods or technology controlled pursuant to section 5 of this Act are likely to be diverted to proscribed destinations. Whenever";

(2) On page 40, line 23, strike the comma and all that follows through and including line 25, and insert in lieu thereof "the Secretary"; and

(3) On page 41, strike lines 3 through 6 and insert in lieu thereof the following: "(6) in paragraph (2) of subsection (g), in the second sentence, by striking the following: "to any country to which exports are controlled for national security purposes";".

GORTON AMENDMENT NO. 2731

Mr. GORTON proposed an amendment to the bill S. 979, supra; as follows:

On page 39, between lines 13 and 14, insert the following: Section 7 of the Export Administration Act of 1979 is amended—

(1) in paragraph (1) of subsection (i), by striking "validated" in the first sentence and inserting in lieu thereof "export";

(2) by redesignating paragraphs (2), (3) and (4) as paragraphs (3), (4) and (5), respectively, and inserting the following new paragraph:

"(2) To the maximum extent practicable, the Secretary shall utilize the multiple validated export licenses described in section 4(a)(2) of the Act in lieu of a validated license for exports under this subsection.";

(3) in paragraph (4) of subsection (i) by striking paragraph (A) and inserting in lieu thereof the following:

"(A) lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better;";

(4) by striking subsection (j) and inserting in lieu thereof the following:

"(j) EFFECT OF CONTROLS ON EXISTING CONTRACTS.—Any export controls imposed under this section shall not affect any contract to export entered into before the date on which controls are imposed, including any contract to harvest unprocessed western red cedar (as defined in subsection (i)(4) of this section) from state lands, the performance of which contract would make red cedar available for export. For purposes of this subsection, the term 'contract for export' includes, but is not limited to, an export sales agreement and an agreement to invest in an enterprise which involves the export of goods or technology."; and

(5) the amendment made by subsection (4) shall apply to export controls in effect on the date of the enactment of this Act and export controls imposed after such date.

DIXON (AND OTHERS) AMENDMENT NO. 2732

Mr. DIXON (for himself, Mr. PERCY, and Mr. HEINZ) proposed an amendment to the bill S. 979, supra; as follows:

On page 53, after line 9, insert the following new section:

ADMINISTRATIVE PROCEDURE

SEC. 19. Section 13 of the Export Administration Act of 1979 is amended by adding at the end thereof the following:

"(c) PROCEDURES RELATING TO CIVIL PENALTIES AND SANCTIONS.—(1) In any case where a civil penalty or other civil sanction (other than a temporary denial order or a penalty or sanction for a violation of section 8) is sought under section 11 of this Act, the charged party is entitled to receive a formal complaint specifying the charges and, at his request, to contest the charges in a hearing before an administrative law judge. Prior to such hearing the charged party may submit a response to the complaint, including briefs and other supporting materials. The charged party and the Government may present and cross-examine relevant witnesses. With the approval of the administrative law judge, the Government may present evidence in camera in the presence of the charged party or his representative. The charged party may argue orally his case in recorded proceedings before the administrative law judge who shall then make his findings of fact and conclusions of law in a written decision which shall be referred to the Secretary. The Secretary shall, in a written order, affirm, modify, or vacate the decision of the administrative law judge within 30 days after receiving it. All material submitted to the administrative law judge and the Secretary and all the recorded proceedings constitute the administrative record for purposes of review by the courts.

"(2) The proceedings described in paragraph (1) shall be concluded within a period of one year after the complaint is submitted unless the administrative law judge extends such period for good cause shown.

"(3) The order of the Secretary shall be final, except that the charged party may file an appeal within 15 days in the United States Court of Appeals for the District of Columbia and such court may stay an order of the Secretary under which a civil penalaty or other sanction would be imposed. In an appeal filed under this paragraph, the court shall set aside any finding of fact for which the court finds there is not substantial evidence in the record and any conclusion of law which the court finds to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, except that such court shall not have authority under this paragraph to review any action, finding, or determination pursuant to section 3, 4(c), 4(d), 4(f), 5(b), 5(d), 5(e), 5(f), 5(g), 5(h)(6), 5(k), 5(n), 6(b), 6(c), 6(d), 6(f), 6(g), 6(h), 6(j), 7(d), 7(e), 7(g)(1) and (2), 7(h), 7(i)(2), 9(b), 9(c), 10(f)(4), 10(g), 10(h), 10(i), or 12(c) of this Act.

"(d) Appeals From the Imposition of Temporary Denial Orders.—(1) In any case where necessary in the public interest to prevent an imminent violation of this Act or any rule or regulation thereunder, the Secretary may issue a temporary denial order without a hearing and such order may be effective no longer than 60 days unless renewed in writing by the Secretary for additional 60-day periods in order to prevent an imminent violation. A renewal may be granted only after notice and an opportunity for a hearing is provided.

"(2) A temporary denial order shall define the imminent violation and state why the order was granted without a hearing. The person or persons subject to the issuance or renewal of such an order may file an appeal with an administrative law judge who shall, within 10 working days after the appeal is filed, recommend that it be affirmed, modified, or vacated. Parties may submit briefs and other material to such judge. The administrative law judge's recommendation shall be made to the Secretary who shall either accept, reject, or modify it by written order within 5 working days after he receives it. The temporary denial order shall be affirmed only if it is reasonable to believe that the order is required in the public interest to prevent an imminent violation of this Act or any rule or regulation thereunder. All materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the Courts.

"(3) An order of the Secretary affirming, in whole or in part, the issuance of a temporary denial order may be appealed within 15 days to the United States Court of Appeals for the District of Columbia. Such court shall have jurisdiction to issue an order vacating the Secretary's order if it finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, except that such court shall not have authority under this paragraph to review any action, finding, or determination pursuant to section 3, 4(c), 4(d), 4(f), 5(b), 5(d), 5(e), 5(f), 5(g), 5(h)(6), 5(k), 5(n), 6(b), 6(c), 6(d), 6(f), 6(g), 6(h), 6(j), 7(d), 7(e), 7(g)(1) and (2), 7(h), 7(i)(2), 9(b), 9(c), 10(f)(4), 10(g), 10(h), 10(i), or 12(c) of this Act.

"(e) Appeals From License Denials.—A determination by the Secretary to deny a license pursuant to section 10(f) of this Act may be appealed by the applicant to an administrative law judge who shall have the authority in a proceeding under this paragraph to determine only whether the item sought to be exported is in fact on the control list. Such proceedings shall be conducted within 90 days. Any determination by an administrative law judge under this subsection and all materials filed before him in the informal proceeding shall be reviewed by the Secretary who shall either affirm or vacate it in a written decision within 30 days. The Secretary's written decision under this subsection shall be final and is not subject to judicial review. Subject to the limitations provided in section 12(c) of this Act, the Secretary's decision shall be published in the Federal Register.

"(f) Appointment of Administrative Law Judges.—Any person who, for at lease two of the ten years immediately preceding the effective date of this section has served as a hearing commissioner of the Department of Commerce, shall be considered as qualified for selection and appointment as an administrative law judge with the same status as if such appointment had been made under section 3105 of title 5, United States Code.

"(g) Definition—For the purpose of subsections (c), (d), and (e), the term 'Secretary' means the Secretary of Commerce or the Secretary of the Treasury, as appropriate.".

DIXON AMENDMENT NO. 2733

Mr. DIXON proposed an amendment to the bill S. 979, supra, as follows:

At the appropriate place, insert the following:

TERRORISM

Sec. . Section 6(i) of the Export Administration Act of 1979 is amended to read as follows:

"(i)(1) Countries Supporting International Terrorism.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

"(A) Such country has repeatedly provided support for acts of international terrorism.

"(B) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

"(2) Any such determination which has been made with respect to a country under paragraph (1) of this subsection may not be rescinded unless the President, at least 30 days before the proposed rescission would take effect, submits to the Congress a report justifying the rescission and certifying that—

"(A) the country concerned has not provided support for international terrorism, including support or sanctuary for any major terrorist or terrorist group in its territory, during the preceding six-month period; and

"(B) the country concerned has made explicit assurances that it will not support acts of international terrorism in the future.

"(3) A determination under paragraph (1) of this subsection with respect to any country which was made prior to January 1, 1982, and which was no longer in effect on the date of enactment of this paragraph, shall be reinstated upon the expiration of 90 days after the date of enactment of this subsection unless the President submits a report containing the certification described in paragraph (2) with respect to that country within such 90-day period.".

HEINZ AMENDMENT NO. 2734

Mr. HEINZ proposed an amendment to the bill S. 979, supra; as follows:

On page 19, strike lines 18 through 20, and insert in lieu thereof the following:

"(A) A distribution license, authorizing exports of goods to approved distributors or users of the goods in countries other than countries to which exports are controlled pursuant to section 5(b) of this Act. The Secretary shall grant the distribution license primarily on the basis of the reliability of the applicant and foreign consignees with respect to the prevention of diversion of goods to proscribed destinations, and in doing so shall have the responsibility of determining, with the assistance of all appropriate agencies, the reliability of applicants and their immediate consignees. Such determination shall be based on appropriate investigations of each applicant and periodic reviews of licensees and their compliance with the terms of licenses. Factors such as the applicant's products or volume of business, or the consignees' geographic location, sales distribution area or degree of foreign ownership, which may be relevant with respect to individual cases, shall not be determinative in creating categories or general criteria for the denial of applications or withdrawal of licenses."

On page 49, line 4, strike "and";

On page 49, line 13, strike the final period and insert in lieu thereof "; and" and add the following new paragraph:

"(4) by adding after subsection (b) as redesignated the following new subsection:

"(c) If the Secretary proposes to alter regulations issued pursuant to this Act he shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives on the intent and rationale of such alterations. Such report shall evaluate the cost and burden to U.S. exporters of the proposed regulations relative to any enhancement of licensing objectives. The technical advisory committees authorized under paragraph (h) of section 5 of this Act shall be consulted in the development of or alterations to regulations issued under this subsection. The concepts and procedures defined by regulations in existence as of June 29, 1983, with respect to sections 4 and 5 of this Act, shall remain in effect unless the Secretary determines, on the basis of a body of reliable evidence, that specific change is necessary to enhance the system's ability to prevent diversions endangering the national security or to streamline the licensing and paperwork burden on exporters and their distributors."

PERCY AMENDMENT NOS. 2735 AND 2736

Mr. HEINZ (for Mr. Percy) proposed two amendments to the bill S. 979, supra; as follows:

Amendment No. 2735

On page 41, strike out line 7.

On page 41, line 15, strike out the second period and insert in lieu thereof "; and".

On page 41, between lines 15 and 16, insert the following:

(8) by adding at the end thereof the following:

"(k)(1) Beginning 180 days after the date of enactment of this subsection and every six months thereafter, the Secretary shall submit to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report listing in two sections—

"(A) all applications the processing of which was completed during the preceding six months and which required a period longer than the period permitted by this section before notification of a decision was sent to the applicant, and

"(B) all applications which have been in process for a period longer than the period permitted by this section and upon which final action has not been taken.

"(2) Each listing shall identify—

"(A) the application case number;

"(B) the value of goods covered by the application;

"(C) the country of destination;

"(D) the date the application was received by the department;

"(E) the date on which the Secretary granted or denied the application;

"(F) the date the notification was sent to the applicant; and

"(G) the total number of days which elapsed between receipt of the application in acceptable form and the cut-off date of the report, or the date that notification of decision was sent, whichever is earlier.

"(3) For an application which was referred to other agencies, the listing shall also include—

"(A) the agencies to which referral was made;

"(B) the date or dates of referral; and

"(C) the date or dates recommendations were received from these agencies.

"(4) For an application referred to any other agency which has taken a period longer than the period permitted by this section to provide its recommendations, the listing shall also include—

"(A) the office responsible for processing the application and the position of the officer responsible for the office; and

"(B) the period required for processing by the office.

"(5) The report shall also provide an introduction which contains (A) a summary of the number and value of applications listed by length of process delay beyond the period permitted by this section (0-15 days; 16-30 days; 31-45 days; 46-60 days; more than 60 days delay), and (B) a summary by country of destination of the number and value of applications requiring more than 60 days to process.".

AMENDMENT No. 2736

On page 52, between lines 2 and 3, insert the following new section, and renumber succeeding sections accordingly:

SMALL BUSINESS ASSISTANCE

SEC. 15. Section 10 of the Export Administration Act of 1979 is amended by adding at the end thereof the following new section:

"(k) SMALL BUSINESS ASSISTANCE.—Not later than 120 days after enactment of this subsection, the Secretary of Commerce shall develop and transmit to the Congress a plan to assist small businesses in the export licensing application process. The plan shall include, among other things, arrangements for counseling small businesses on filing applications and identifying goods and technology on the control list, proposals for seminars and conferences to educate small businesses on export controls and licensing procedures, and the preparation of informational brochures.".

PROXMIRE AMENDMENT NO. 2737

Mr. PROXMIRE proposed an amendment to the bill S. 979, supra; as follows:

On page 20, between lines 14 and 15, insert the following:

"(2) by adding at the end of subsection (a) the following:

"In no case may a distribution license or a comprehensive operations license be used in connection with exports to proscribed destinations."

Redesignate succeeding paragraphs accordingly.

HEINZ AMENDMENT NO. 2738

Mr. HEINZ proposed an amendment to the bill S. 979, supra; as follows:

At the end of the bill, add the following new section:

"AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961

"SEC. . Section 502B of the Foreign Assistance Act of 1961 is amended by deleting "chairman of the Committee on Foreign Relations" and inserting in lieu thereof "President".".

TOWER AMENDMENT NO. 2739

Mr. HEINZ (for Mr. TOWER) proposed an amendment to the bill S. 979, supra; as follows:

At the end of the bill, add the following:

EXPORT OF HORSES

SEC. 19. The Act of March 3, 1891 (46 U.S.C. 466a and 466b) is amended by adding at the end thereof the following:

"SEC. 3. (a) Notwithstanding any other provision of law, no horse may be exported by sea from the United States, or any of its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under subsection (b).

"(b) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue regulations providing for the granting of waivers, permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

"(c)(1) Whosoever knowingly violates this section or any regulation, order, or license issued hereunder shall be fined not more than five times the value of the consignment of horsed involved or $50,000, whichever is greater, or imprisoned not more than 5 years, or both.

"(2) The Secretary of Commerce, after notice and opportunity for an agency hearing on the record, may impose a civil penalty not to exceed $10,000 for each violation of this section or any regulation, order, or license issued hereunder, either in addition to or in lieu of any other liability or penalty which may be imposed.".

DANFORTH AMENDMENT NO. 2740

Mr. DANFORTH proposed an amendment to the bill (S. 979), supra, as follows:

On page 33, strike out lines 8 through 13, and redesignate succeeding paragraphs accordingly.

HEINZ AMENDMENT NO. 2741

Mr. HEINZ proposed an amendment to the bill (S. 979), supra, as follows:

Strike lines 1 and 2 and insert in lieu thereof the following:

"On page 33, line 13, before the period, insert the following: "if he determines and reports to the Congress, in advance of imposition of such controls, that such controls are consistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade."".

DANFORTH AMENDMENT NO. 2742

Mr. DANFORTH proposed an amendment to the bill (S. 979), supra, as follows:

On page 43, beginning with the comma on line 12, strike out all through "party" on line 14.

HEINZ AND GARN AMENDMENT NO. 2743

Mr. HEINZ (for himself and Mr. GARN) proposed an amendment to amendment No. 2742 proposed by Mr. DANFORTH to the bill (S. 979), supra, as follows:

"On page 43, strike lines 10 through 17 and insert in lieu thereof the following:

""""(4)(A) Any person who violates any national security control imposed under section 5 of this Act, or any regulations, order, or license issued pursuant thereto may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe.

""""(B) Except as otherwise provided by law, any person who violates any regulation issued pursuant to a multilateral agreement, formal or informal, to control exports for national security purposes, to which the United States is a party, may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe only if

""""(i) negotiations with the government or governments, party to the multilateral agreement, with jurisdiction over the violation have been conducted and been unsuccessful in restoring compliance with the regulations of the multilateral agreement;

""""(ii) the President, subsequent to the failure of such negotiations, has notified such government or governments and the other parties to the multilateral agreement of any proposal to subject the person violating the regulations to specific controls on the importing of goods or technology into the United States upon the conclusion of sixty days from the date of such notification; and

""""(iii) a majority of the parties to the multilateral agreement (excluding the United States) prior to the expiration of such sixty day period, have expressed to the President concurrence in the import controls or have abstained from stating a position with respect to the proposed controls.";".".

HELMS AMENDMENT NO. 2744

Mr. HELMS. proposed an amendment to bill S. 979, supra, as follows:

On page 17, line 16, strike "paragraph:" and insert in lieu thereof "paragraphs:".

On page 17, line 25, strike the last period and insert in lieu thereof a semicolon.

On page 17, after line 25, insert the following:

"(11) Availability from foreign sources of goods and technology to destinations proscribed for national security purposes by the United States is a fundamental concern of the United States and should be eliminated whenever possible.

"(12) Imports that contribute to the excessive dependence of the United States, its allies, or countries sharing common strategic objectives, on energy resources and other critical resources from potential adversaries can be harmful to those countries' mutual and individual security.

"(13) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of goods and technology which could make a contribution to the miltiary or economic potential of any country or combination of countries which would be detrimental to the national security of the United States.".

On page 19, lines 4 and 5, strike "requires protecting" and insert in lieu thereof "involves sustaining".

On page 19, line 6, before "research" insert "nonsensitive".

On page 19, line 8, strike "exchange."." and insert in lieu thereof "exchange.".

On page 19, between lines 8 and 9, insert the following:

"(14) It is the policy of the United States to encourage countries who are allies of the United States to minimize their dependence on imports of energy resources and other critical resources from potential adversaries. Multilateral controls on exports of critical energy equipment and technology and promotion of other appropriate measures such as the development of alternative supplies can play an important role in the achievement of this objective. It is further the policy of the United States to minimize strategic threats posed by excessive hard currency earnings derived from such energy and critical resource exports by countries with policies adverse to the security interests of the United States.

"(15) It is the policy of the United States, particularly in light of the Soviet massacre of innocent men, women, and children aboard KAL Flight 7, to maintain the policy instituted after the Soviet invasion of Afghanistan of disallowing United States exceptions to the CoCom list for the Union of Soviet Socialist Republics.".

On page 21, line 4, strike "The Secretary and" and insert in lieu thereof "In complying with the provisions of this subsection the President shall give strong emphasis to bilateral or multilateral negotiations to eliminate foreign availability. The Secretary and".

On page 33, line 4, strike ".".

On page 33, between lines 4 and 5, insert the following:

"(q) Controls on Exports to Certain Nuclear Powers.—(1) Notwithstanding any other provision of this section, the President shall require an individual validated license for export of United States goods or technology, or by persons subject to United States jurisdiction, the ultimate destination of which is a country possessing nuclear weapons, unless such country is a member of the North Atlantic Treaty Organization or has ratified and is in full compliance with the requirements of the Nuclear Non-Proliferation Treaty.

"(2) The President may waive this requirement with regard to specific exports or classes of exports to such country if he certifies to Congress in writing that—

"(A) such country, or any of its agents or representatives, for the preceding twelve-month period has not obtained or endeavored to obtain United States goods or technology, or exports directly or indirectly from persons subject to United States jurisdiction, in violation of this Act, the Arms Export Control Act of 1976, or the Atomic Energy Act of 1954, or any rules and regulations issued pursuant to any of these Acts;

"(B) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability of effectiveness of, nuclear weapons or the real or potential delivery systems of such weapons;

"(C) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential antisubmarine warfare systems;

"(D) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential electronic warfare systems;

"(E) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability of effectiveness of real or potential intelligence gathering systems; and

"(F) it is in the national security and foreign policy interests of the United States that this requirement be waived, particularly that such waiver will not be detrimental to the security of our allies.

Any waiver of this paragraph shall remain in effect for not more than one year from the date of the President's certification to the Congress as provided for by this subsection and may be renewed for subsequent one-year periods should the President at the time of such renewal make the certification to the Congress as required by this subsection. The President may rescind such waiver at any time.

"(3) The provisions of this subsection shall apply only to exports to such countries which are also controlled by validated licenses pursuant to this section for export to group Y countries as defined by the Export Administration Regulations.".

On page 48, line 21, strike "Officers."." and insert in lieu thereof "Officers, and on the operation and improvement of the Government's efforts to eliminate foreign availability, including but not limited to bilateral and multilateral negotiations.

"(e) Report on Export to Proscribed Countries.—The President shall include in each annual report a detailed report which lists every license during the year approved under the provisions of this Act for exports to countries to which exports are controlled by multilateral agreement, formal or informal, to which the United States is a party. Such report shall specify to whom such license was granted, the type of good or technology exported, and the country receiving such good or technology.

"(f) Report on Domestic Economic Impact of Exports to Proscribed Countries.—The President shall include in each annual report a detailed description of the extent of injury of United States industry and the extent of job displacement caused by United States exports of goods and technology to controlled countries to which exports are controlled by multilateral agreement, formal or informal, to which the United States is a party. This report shall also include a full analysis of the consequences of exports of turnkey plants and manufacturing facilities to such countries which are used by such countries to produce goods for export to the United States or to compete with United States products in export markets."

PRESSLER AMENDMENT NO. 2745

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill S. 979, supra; as follows:

At the appropriate place in the bill insert the following:

"The Secretary of Agriculture is directed to submit to Congress a report on the status of federal programs relating to the barter or exchange of commodities owned by the Commodity Credit Corporation for materials and products produced in foreign countries and a plan for increasing such bartering. This report shall include details of any changes necessary in existing law to allow USDA to fully implement a barter program and shall be submitted within 90 days of enactment of the bill."

BAKER (FOR HATCH) AMENDMENT NO. 2746

Mr. BAKER (for Mr. Hatch) (for himself, and Mr. Leahy) proposed an amendment to the bill S. 774, entitled the "Freedom of Information Reform Act" as follows:

On page 3, line 10, strike out "or royalties, or both".

On page 16, line 16, strike out "semicolon" and insert in lieu thereof " "; or ' ".

One page 16, line 17, strike out "paragraphs" and insert in lieu thereof "paragraph".

On page 16, strike out lines 18 through 24.

On page 17, line 1, strike out "(11)" and insert in lieu thereof "(10)".

Beginning on page 20, line 15, strike out all through page 21, line 2.

On page 21, line 4; strike out "17" and insert in lieu thereof "16".

On page 23, line 12, strike out "18" and insert in lieu thereof "17".

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee will hold a hearing on March 6, 1984, on legislation to facilitate the development of a secondary market in the SBA's guarantee loan program, starting at 10 a.m., in room 428A, Russell Senate Office Building. For further information, please contact Mike Haynes of the committee staff at 224-5175.

Mr. President, I would like to announce that the Senate Small Business Committee will hold a hearing on March 7, 1984, on S. 1920, the Small Business Computer Crime Prevention Act, starting at 10 a.m., in room 428A, Russell Senate Office Building. For further information, please contact Mike Morris of the committee staff at 224-5175.

Mr. President, I would like to announce that the Senate Small Business Committee will hold a hearing on March 9, 1984, on S. 2084, a bill to amend the Small Business Act to restrict the authority of the Small Business Administration to deny financial assistance to small business concerns solely because the primary business operations of such concerns relate to the communication of ideas. The hearing will start at 9:30 a.m., in room 428A, Russell Senate Office Building. For further information, please contact Mike Haynes of the committee staff at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON TACTICAL WARFARE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Tactical Warfare, of the Committee on Armed Services, be authorized to meet during the session of the Senate on Monday, February 27, at 2 p.m., to receive testimony on the DIA threat.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ESTONIAN INDEPENDENCE

● Mr. DIXON. Mr. President, the Declaration of Estonian Independence, signed 66 years ago, continues to represent the beliefs and aspirations of the Estonian people. Sadly, the nation of Estonia is illegally occupied by the Soviet Union.

As a nation which supports self-determination for all people, America should focus international attention on this tragic denial of Estonian sovereignty.

In 1920, the young independent Republic of Estonia thwarted an attempted Soviet invasion and enjoyed freedom for 20 years. During that period, democratic institutions thrived.

The Republic was stolen from the Estonian people in 1940. Soviet troops occupied Estonia in flagrant violation of its territorial integrity. A Soviet-styled government followed. Domestic political opposition was quickly and effectively repressed, and Estonia was incorporated into the growing Soviet empire.

The strongest indicator of continuing Estonian opposition to Soviet domination is the refusal of the Estonian people to give up their national, cultural, and religious heritage. Soviet attempts to erode the Estonian national character have not been successful. The Estonian effort to maintain a national identity despite the Soviet takeover should not be underestimated.

Today, we recall these events of Estonian history, with the hope that the future will bring brighter days to the brave Estonians.●

PATRIOTISM AND PRINCIPLE: A TRIBUTE TO BILL KATS

● Mr. DOLE. Mr. President, during the recent congressional recess, one of this Senator's most trusted associates passed away.

Bill Kats was my administrative assistant for 13 years—four terms in the House of Representatives and one term in the Senate. His wife, Evelyn, is a close friend, and his son Bill, Jr., was on my staff for more than 3 years after his father's retirement.

His years of loyal duty will never be forgotten, nor will his sound advice and commonsense approach to public service. Beyond those outstanding qualities, however, it is Bill's friendship this Senator will remember and miss the most.

Although services for Bill were held in Washington while the Senator from Kansas was detained by Senate duties in his home State, the Honorable Secretary of Transportation, my wife, Elizabeth Dole, read a eulogy for my longtime friend.

Mr. President, I request that the eulogy be printed in the Record.

The eulogy follows:

Eulogy—William A. Kats

It is a sad duty we perform this morning, we friends and admirers of Bill Kats. It is an act of homage for one whose generosity was equaled only by his humility. It is a benediction pronounced by all who ever had the good fortune to know or work with a devoted husband, a loving father, a steadfast friend, a consumate professional. Yet tears are out of season. For the triumph of Bill's life will far outdistance the tragedy of his death. How long he lived is less important than how well he lived. And no words of tribute, however heartfelt, can begin to describe his accomplishments or extol his virtues.

He was born and raised on a farm in Phillips County, Kans.—and part of him will always remain on the prairie, as open and trusting as the rural landscape of the big first district itself. He took his inspiration from the land, and the values it nurtured. It taught him to work hard, to aim high, to pursue standards of excellence whether in business for himself or in serving the country he loved second only to Evelyn and Bill, Jr. Whether he wore the olive drab of an infantry clerk, or the comfortable suit of a Capitol Hill administrative assistant, Bill affirmed the faith that all of us have in the goodness and native intelligence of the grassroots American. These things he never lost, despite many years in this city so far removed from the ordinary men and women it was designed to serve. It is from that torch that each of us light our individual candles, dispelling the darkness and cynicism that sometimes threaten to extinguish the lamp we call popular government. Without such men embodying such qualities, the lights would begin to go out in America. Bill knew that—and he spent a lifetime lighting candles.

For 12 years, Bill served Wint Smith and the people of Kansas' old Sixth Congressonal District. When I arrived on the scene in 1961, he was as much a part of the local scene as the Capitol dome itself—and if it were not for his wise counsel, I could hardly have found my way around that imposing landmark. He proved to be an expert guide through the dense foliage of the legislative jungle—a place teeming with all sorts of strange and sometimes dangerous animals. Some wore reporters' hats. Others robed themselves in the august dignity of committee chairmen or administration officials. Bill, it seemed, knew them all, their talents as well as their titles. And they, in turn, instinctively liked the unassuming Kansan who played the political game as straight as he played his beloved golf—even if there were times when he might have liked to apply a nine iron to some self-important aide or pompous spokesman of his own self-interest.

When Bill Kats set foot in Kansas—and he did so often—problems seemed to melt away. There as here, he treated each person he met the same, and everyone alike with the graciousness of a simpler, more genial time. It is a doubly unfortunate irony that I should find myself in Kansas on this day, when I would so much prefer to be with my old friend and invaluable colleague.

But I am very much with you in spirit, and together with Elizabeth, I could not let the opportunity pass without saying a special word of condolence and affection to you, Evelyn, and you, Bill. For together, you were the greatest joy and most dependable support of a deeply blessed man.

Bill Kats lived long enough to see his country return to the values of patriotism and principled conservatism, values from which he never strayed. He lived to see a much loved son well-launched in life—and he grew old in the cherished company of the most selfless and devoted of women. For the rest of us, flooded in warm recollection, our hearts stand at attention as we recall the words of the poets, who wrote * * *

"Sunset and evening star
And one clear call for me;
Twilight and evening bell,
And after that the dark;
And may there be no sadness of farewell,
When I embark."

We can hardly hope to banish sadness this morning. But our sorrow is mixed with pride, and our regrets overcome by gratitude—for having known such a man, and for having shared so many times to remember.●

ESTONIAN INDEPENDENCE DAY

(By request of Mr. Byrd, the following statement was ordered to be printed in the Record:)

● Mr. GLENN. Mr. President, February 24, 1984, marks the 66th anniversary of the Declaration of Independence of the Republic of Estonia. However, what would for an independent country be a joyous day of celebration can only be commemorated here by a mixture of sadness over Estonia's fate and admiration for the courage of its people. For ever since World War II, Estonia—like its sister Baltic States of Lativa and Lithuania—has been cruelly occupied and illegally administered by the Soviet Union, its hope for freedom and independence ruthlessly suppressed.

It is estimated that between 1939 and 1959 up to 145,000 Estonians died as a result of Soviet executions, deportations, and service in the Soviet military. Soviet oppression continues to this day, making a mockery of Soviet international pledges to respect fundamental human rights. The State Department's Country Reports on Human Rights Practices for 1983 notes: "The pattern of harassment and imprisonment of Estonian national and human rights activists continued in 1983. Persecution of religious leaders was also widespread. Soviet restrictions on basic civil and political rights appear to have worsended during the past 3 years."

Particularly odious is the Soviet practice of Russification in an attempt to snuff out Estonian language and culture. Estonia is a small country, with a population of 1.5 million. Prior to World War II, Estonians comprised 92 percent of their country. Now however, because of the influx of Slavic settlers, the proportion is down to 63 percent. Furthermore, there is strong pressure on Estonians to use the Russian language at school and at work, while only token efforts are made to teach Russian-speaking children Estonian. It is all part and parcel of the Soviet policy of "social homogeneity" which is enshrined in the Soviet Constitution as a goal of the state.

On the economic front as well, Soviet totalitarian rule has only added to the hardships of the Estonian people. While industrial growth has slowed in all three Baltic States, it has declined most sharply in Estonia, where it fell to zero for the first half of 1982. During that year, there was also a reduction of food supplies, particularly meat and dairy products. While there was some upturn in production in 1983, there is no evidence that this was translated into any improvement in living standards.

To make matters even worse, the Soviets, while speaking of disarmament in Northern Europe, have turned Estonia and its sister Baltic States into enormous military bases, with the installation of atomic and conventional submarines, warships, missiles, et cetera. In Estonia alone, several new missile bases are now under construction. Estonia also has 122,000 Soviet troops on its soil. The equivalent number in the United States would be 16.5 million foreign troops.

It is extremely important, therefore, to commemorate the precious flower of independence which blossomed so briefly in Estonia. We in the United States must never forget the spirit and courage of the Estonian people who keep alive their sense of national identity despite a continuous and most ruthless Soviet campaign to destroy it. We must continue to speak out in international fora against this most blatant violation of the right to self-determination. I am proud that my Government has never recognized the illegal and forcible incorporation of Estonia into the Soviet Union. I am equally proud of the demonstrated commitment of the people of Estonian descent residing in the United States to the restoration of freedom in their homeland. Let us hope that some day their commitment will be rewarded.●

MICHAEL SANDOWSKI WINS JOHN F. KENNEDY MEMORIAL ESSAY CONTEST

● Mr. KENNEDY. Mr. President, it is not unusual for cities and counties to have essay contests which pit many of the area's best young writers against each other in an effort to win college scholarship money or other prizes. What is unusual is the quality of many of the essays submitted in the John F. Kennedy memorial essay contest held last fall in Dallas, Tex.

The winning essay, written by Michael Sandowski of Torah High School, is eloquent and moving. Michael was not even born when my brother was President, yet his essay is a vivid recreation of the special spirit of that time. Both I and my family appreciate his words, and the sentiments of so many other young people in Dallas, across the country, and throughout the world, who help to keep John Kennedy's memory young.

I ask that the full text of Michael Sandowski's essay, "The Legacies of the Kennedy Administration," be included at this point in the Record, along with the article about the contest by Kathy D. Jackson which appeared in the Dallas Morning News.

The text follows:

[From the Dallas Morning News, Nov. 22, 1983]

Winning Essay in JFK Memorial Competition

(The following is Michael Sandowski's winning essay—"The Legacies of the Kennedy Administration"—in the John F. Kennedy memorial essay contest, which was part of Dallas commemoration of the 20th anniversary of the President's assassination.)

(By Michael Sandowski)

The death of John Fitzgerald Kennedy on Nov. 22, 1963, brought about the end of a fresh optimism which had pervaded the country since his inauguration. As President of the United States, Kennedy strove for tangible progress towards the betterment of relations between nations and men. However, it was not the tangible progress which he made, but his intangible appeal to the hopes and dreams of the American people which caused the wave of shock and grief after his untimely death. Looking back at his presidency, one sees the changes in society which he helped to bring about and better appreciates the lasting effect he has had on the history of the world.

Kennedy stood firmly by his benefits, but recognized the necessity of compromise to attain the ultimate goals. He saw the United States with all its potential good, but he was a pragmatist who recognized the imperfection of reality. Through his practical yet idealistic approach to the presidency, JFK proved to millions of people that it is possible to have political status without sacrificing one's ideals.

A few of Kennedy's presidential goals which began to be realized before his death were the fight against Communism in South America and the enforcement of civil rights laws which gave American citizens rights which were previously denied to minorities because of race. Although Kennedy experienced difficulty and defeat early in his presidency (e.g. Bay of Pigs fiasco and building of the Berlin Wall), he continued to work for his goals undaunted by his adversaries. His determination and persistence bore fruit late in his term of office, as the United States saw great progress on the foreign and domestic scenes.

Shortly before Kennedy was inaugurated, Soviet leader Krushchev pledged his country's continued support for Communist revolutions. Kennedy, who perceived the Cold War politics as a conflict between superpowers, fought steadfastly to keep Communism in check throughout his term of office. Early during his presidency, he authorized the invasion of Communist Cuba by anti-Castro exiles. This failed attempt to rid the Western Hemisphere of Communism only helped to worsen relations between the U.S. and the Soviet Union. Later on in 1961, the Soviet Union erected a wall between East and West Berlin to stem the flow of refugees from Soviet-controlled East Berlin. This action by the Soviets, considered by many a direct attack against U.S.-Soviet relations, left many Americans with the feeling that the Soviets were free to do whatever they wanted unhindered. Those feelings were to be changed shortly thereafter when the U.S.S.R. attempted a nuclear build-up in Cuba.

The tide against American interests changed in October in 1962. When the U.S.S.R. attempted to install medium-range nuclear missiles in Cuba, the U.S. established a naval blockade on Cuba and threatened invasion if the missiles were not dismantled. With little choice, the Soviets retrieved their missiles as the U.S. established control over the Western Hemisphere. This unprecedented action by Kennedy established the United States' right to protect the Western Hemisphere from Soviet influence. Just recently the U.S. exercised this control over Latin America by invading the strategic island of Grenada to prevent Soviet control of the island.

On the national scene, JFK faced internal friction between segregationists and civil rights leaders. Kennedy, always a supporter of civil rights helped to ensure the continued progress of this movement by sending federal troops to Oxford, Miss., to protect admission of a black student to the University of Mississippi. Despite continued fighting against the civil rights of blacks, Kennedy stood firm in his fight for the equality of men and he helped to bring about lasting improvements for American blacks. Without Kennedy's presidential endorsement and unbending support for civil rights in the U.S., social conflict accompanied by an abundance of violence was a certainty.

When reviewing JFK's many accomplishments as a President, and remembering the very short time he served as President of the United States, one is prompted to ask how one man could bring about changes of the magnitude which he did. What was the key to his success? How was he able to deal effectively with a divided Congress? The answer to this question is that JFK's optimism for the future which is still evident today. His emphasis on the United States' space program reflected his optimism for the American people. Kennedy's fresh optimism was perhaps his biggest asset and greatest contribution to the United States, because through his optimism, he showed that Americans were and are capable of great things, provided they have conviction.

WINNER CREDITS BOOK FOR INTEREST IN JFK

(By Kathy D. Jackson)

When Michael Sandowski, a 16-year-old honor student at Torah High School of Texas, picked up a book about John F. Kennedy two years ago, he never dreamed it would develop into an interest that eventually would bring him $1,000.

Sandowski, a senior, decided to enter the John F. Kennedy Memorial Essay Contest when he heard about it from his school principal, Rabbi Yitzchak Charner. The contest was part of the local commemoration of the 20th anniversary of the president's assassination.

Sunday, Sandowski received a call at his dormitory from Lyssa Bossay, chairwoman of the John F. Kennedy Memorial Essay Contest committee. She informed him that he had won the contest and would be awarded $1,000 Tuesday at a luncheon at the Hyatt Regency Hotel after memorial services at the John F. Kennedy Memorial in Downtown Dallas.

"I called him up," Ms. Bossay said, "and he just said in this little small voice, 'You're kidding.' "

"I couldn't believe it," Sandowski said Monday afternoon. "I never really expected to win. I think I asked her several times if she was serious."

The teen-ager's mother, Norma Sandowski, and his grandmother, Peggy Foster, who live in Tulsa, Okla., will come to Dallas to attend the Tuesday luncheon.

Entrants to the contest—which was open to 8th- through 12-graders in Dallas County—were asked to write a 750- to 1,000-word essay telling what they believed to be the three most significant legacies of John F. Kennedy's presidency.

The essays numbered in the hundreds and were read by a group of judges. The group met several times, rating each. Sandowski's essay received the highest ratings.

"Everybody pretty much agreed that his essay was the best of all those entered," Ms. Bossay said.

Other judges for the contest were Hugh Aynesworth, a journalist who covered Kennedy's assassination and the shooting of Lee Harvey Oswald; Alice Barton, a specialist in child language acquisition; William Barr, English instructor and director of Southern Methodist University's Writing Center, Kay Bethune, SMU English professor and head of her department's Freshman Writing Program; William Barton, a publisher of educational materials for the legal and medical professions; Anthony Howard, an English instructor at SMU; Robert Klayman, vice president of Zale Corp.'s Willoughby and Taylor division; David Luebben, account executive for Berry-Brown Advertising; Margaret Putnam, a writer and critic; and Jim Schutze, a Dallas Times Herald columnist.

First honorable mention went to 13-year-old Eric Pittman, an 8th grader at Reed Junior High School in Duncanville. Second honorable mention went to Debra Whaley, a 16-year-old junior at H. Grady Spruce High School.

Those who entered the contest were not even born when the shots rang out in Dealey Plaza 20 years ago.

Sandowski, whose main interest is history, said, "My mother told me that she was on her way to the post office when she heard someone on the sidewalk say that President Kennedy had been assassinated. She told me what a shock it was."

Several of his teachers also have talked about their personal experiences regarding that day, he said.

Rabbi Zvi Novick, dean of Torah High School who has known the teen since the Jewish school first opened its doors four years ago, said, "He didn't show the essay to anyone before he turned it in, and he didn't even keep a copy of it to show us. I can't wait to read it."

And what does the essay-winner plan to do with his winnings?

"I plan to use it for college," Sandowski said. "I'll be graduating next spring, and I've applied at several places. I think I just might use it for a law school."●

PUBLIC WORKS IMPROVEMENT ACT

● Mr. DODD. Mr. President, I want to express my strong support for the Public Works Improvement Act which passed the Senate on February 9. This urgently needed legislation will provide for the long-range planning and management necessary to rebuild our public facilities and accommodate future growth. Senators STAFFORD and RANDOLPH deserve commendation for their efforts in advancing this important legislation.

I have been personally involved in this issue for the last 3 years. The bill that was passed last week incorporates many elements of legislation I have introduced to address the deterioration of our Nation's roads, bridges, and public facilities. In the previous session, my distinguished colleague from New York, Senator MOYNIHAN, joined me as a principal cosponsor of the Federal Capital Investment Act of 1983. The bill approved by the Senate prior to the recent recess is a refinement of our earlier proposal. I also introduced legislation in the 97th Congress to require a national inventory and needs assessment of our capital facilities and expand Federal budgetary information. I am pleased that the committee bill encompasses those same facets which Senator MOYNIHAN and myself considered crucial in correcting our Nation's infrastructure needs.

Mr. President, before discussing the specific provisions of S. 1330, I would like to discuss in general both the overwhelming inadequacy of our Nation's public facilities and the solutions I believe are contained in this new legislation.

While the infrastructure problem has received a great deal of publicity, I must stress the fallacy of treating it as a new concern or as one which is open to short-term solutions. We have allowed our roads, bridges, water supply, and mass transit systems—most of which, I might add, were built 40 years ago—to deteriorate at an unacceptable rate. Deferring these expenditures in the short term has cost us even more in human and economic terms in the long run.

We are all in agreement on the need to avert further disasters and repair our public facilities. S. 1330 reverses our long-running tradition of using expedient, short-term solutions instead of addressing the issue squarely, with a national plan based on input from our intergovernmental partners and the private sector. I believe we have not met this problem with resolve because of two main factors: Our failure to note the linkage between our diminished capital investment and potential for long-range economic development, and the Federal Government's inability to come up with a continuous and coherent plan.

We cannot drive home the urgency of the issue with vague references to infrastructure. Quite simply, infrastructure is the basis upon which all our goods and services are delivered. The cold, hard fact is that we will not be able to accommodate future economic growth if our roads are impassable and if waste treatment centers are operating at full capacity. To further illustrate the practical importance of capital investment, we must recognize the position of the construction industry in the Nation's economy, and share of public works investment in all construction activity. According to Bureau of Census statistics, of the $228 billion in new construction activity in 1980, approximately 25 percent was for public works. The Rand Corp., reports that every one onsite construction job generates three others in the economy. These figures show that efficient capital investment can be translated not only into paved roads but increased jobs and GNP. We know there are plenty of workers available to do the necessary work.

Roughly half of all public works investment in the United States comes directly or indirectly from the Federal Government. With States facing increasing difficulties in the bond markets and burdened with rising administrative costs, it is clear that the Federal Government must take the lead in planning our total capital investment expenditures.

This act allows us to revamp our approach to public works investment and build a consensus around a more efficient, long-range plan. Fixing potholes here and there and delaying major overhauls of highways will not solve the problem. Throwing more money into a badly organized system is not the answer either. What we need is an inventory assessment of all of our Nation's long-term needs and a rational, systematic procedure for coordinating and financing public capital investment.

I am pleased that S. 1330 supplies the solutions I have just mentioned, ones that I, Senator Moynihan and others have pressed for in the past. S. 1330 will establish a 2-year council made up of representatives of the five public agencies that administer public works programs, as well as representatives from the public and private sectors. This council is required by 1985 to produce a national public improvement plan which will establish priorities for construction, rehabilitation, and repair projects. It will also recommend changes in the Federal Government's share of responsibility in financing and coordinating construction activity.

The bill does not require Congress to spend one additional dollar on public works investment, but rather, it will help us to more efficiently utilize the money we invest in infrastructure.

In addition, S. 1330 will modify Federal budget procedures to allow long-run decisionmaking on public works. This legislation will require the President to submit a capital investment budget within the unified budget each year—something I have continually endorsed.

I want to emphasize that this legislation builds on rather than supplants efforts already underway to quantify and prioritize capital expenditures. My own State of Connecticut under the able leadership of Governor O'Neill is a leader in this effort and the work of the Governor's infrastructure task force can serve as a useful model for the broader national effort.

Mr. President, the deterioration of our infrastructure is a problem that will not go away and will not be solved through increased, unplanned expenditures. This bill provides us with an efficient use of our taxpayer's dollars and a national plan that insures our investment priorities will be realized. I commend my colleagues for approving this legislation.●

THE 66TH ANNIVERSARY OF ESTONIA'S INDEPENDENCE

● Mr. HEINZ. Mr. President, on February 24, Estonians throughout the world celebrated the 66th anniversary of their independence. On that day in 1918, the people of Estonia declared their independence from the Russian Empire. In so doing, they initiated a 22-year era of self-fulfillment. From 1918 until 1940, they attained an exceptionally high educational standard, as well as progress in agriculture and industrial production. During that period, Estonia was an excellent model of what a small country can achieve when it enjoys self-determination.

In 1940, the Soviet Union forcibly annexed Estonia, and suppressed all cultural, political, and economic freedoms. Most recently, the Soviets have turned Estonia into a military fortress on the Baltic coast, constructing enormous military bases for every kind of warfare. At the end of 1983, there were 122,000 Soviet troops occupying the Estonian homeland, a nation of 1.46 million. This is comparable to having 16.5 million foreign troops stationed on U.S. soil.

It is obvious to me that the Estonian spirit lives on and will not be crushed. A new generation of Estonians have grown up; they have not forgotten the suffering of their fathers, nor have they forgotten their fathers' dreams.

In 1981, a group of Estonian activists circulated a petition calling for a nuclear-free zone for their homeland. In their struggle for peace, they were answered with KGB interrogations, sentencing to labor prison camps, and internal exile.

As a people, the Estonians have suffered devastating human and material losses, but they have struggled bravely to retain their culture, their traditions, and most importantly their spirit. This heritage has not been forgotten by Americans of Estonian descent either, for they as well as native Estonians patiently await the day when Estonia will once again be free.●

JAPAN'S TRADE ADVANTAGE

● Mr. CHILES. Mr. President, I have long felt Japan enjoys a decidedly one-way trade relationship with the United States. Japanese products easily find their way into the U.S. markets while American products have a devil of a time finding their way in to the Japanese market. The best evidence of this is the $19 billion trade deficit we currently have with Japan. This is not exactly my idea of two-way trade. The plain fact of the matter is Japan carefully restricts and protects its own markets while enjoying easy access to other nation's markets, especially ours. They do this in two ways with regards to beef, a product of particular importance to Florida. The most direct barrier is the beef import quota system they employ. It limits American beef imports to 30,800 pounds per year or the equivalent of only one 10 ounce steak per year for each Japanese consumer. The other barrier is really a series of barriers that include a 25-percent tariff, an artificial pricing system, complex licensing requirements, and an exclusive importing agent requirement. In combination, these restrictions serve to quadruple the price of beef to the Japanese consumer above what an American consumer would pay for the same cut.

The question of increased access to Japanese markets for beef is particularly important now because the negotiated agreement between Japan and the United States regarding beef imports is due to expire on March 31. Talks are underway to liberalize the agreement but so far Japan has refused to accept any dismantling of the nontariff trade barriers, refused to reconsider the 25-percent tariff itself and has offered little more than a token increase in the beef quota. This attitude is very disconcerting in light of our markets ready access to their products and our huge trade imbalance with them.

I believe it's time for the Japanese to realize that trade is really a two-way street. Unfortunately the problems confronting the beef industry are not isolated and not unknown to other industries. Citrus faces many of the barriers and our high-tech industries have not even been allowed to scratch the surface of the enormously lucrative Japanese market. The time may fast be approaching when our otherwise good relations with Japan are adversely affected by their refusal to extend basic trade considerations to their No. 1 trading partner. I hope they realize this possibility and take actions immediately to show good faith in the current negotiations. I understand a number of my colleagues are willing to tie liberalization of the existing agreements to legislation currently pending in the Congress that would make it more difficult and more expensive for Japan to do business in some product lines in this country. I trust the Government of Japan appreciates the resolve of many in Congress on this matter and acts immediately to improve access to their markets.●

MILITARY EFFECTIVENESS

● Mr. TOWER. Mr. President, the mission of our armed services is to avoid war by deterring aggression. In order to accomplish this goal, however, our forces must be ready to respond quickly. Effective planning and implementation of these plans, in turn, is an essential element of readiness.

My distinguished colleague, Senator Mack Mattingly of Georgia, spoke most articulately of this need at the commissioning of the U.S.S. *Georgia* February 11.

Mr. President, I ask that Senator Mattingly's speech be printed in the Record.

The speech follows:

Commissioning of the U.S.S. "Georgia"

(Remarks by Hon. Mack Mattingly, U.S. Senator)

Governor Harris, Admiral Watkins, Congressman Thomas, men of the U.S.S. *Georgia* and other distinguished guests. I would like to say a special welcome to the 12 people who ran over 1,200 miles through the bitterly cold weather to bring a State flag up from Georgia. I wanted to run with you but I couldn't fit it into my schedule. Jogging through the Great Smoky Mountains during the winter is high on my list of fun things to do. It ranks right up there with filling out my income tax. Seriously, you are all to be commended for an incredible feat of endurance.

This is an appropriate day to commission the U.S.S. *Georgia* for it is the last day of Georgia's year-long celebration of the 250th anniversary of its founding. On February 12th of last year, we began to commemorate General James Oglethorpe's idealistic experiment in the new world.

During the past 12 months we have dwelled upon our proud heritage and the brave pioneers who risked everything for a new life and a new freedom. They came to Georgia crammed into a tiny ship, many times smaller than the one we commission today. They came because they wanted the freedom to work their small plot of land or practice a trade. A few had been thrown into English prisons for no crime other than poverty. Many came to escape religious persecution including German Lutherans. The United Brethen, and Jews. One young Anglican Priest was John Wesley who would eventually found the Methodist denomination.

The one thing they all had in common was a desire for peace and freedom and a willingness to work hard. They provided a solid foundation for what we are today.

As we study our history we see that the sons and daughters of Georgia have always proudly served their country during times of war. In World War Two 320,000 Georgians wore the uniform of their country and 6,754 gave their lives. In Korea, 75,000 Georgians served and 523 were lost in action. In our most recent war, Vietnam, 228,000 Georgians were in service and 1,703 made the ultimate sacrifice for their fellow citizens. The simple statistics cannot begin to convey the depth of our feeling for these heroes.

Though we owe a debt to our veterans of the past, we also owe a debt to the men and women now serving in our armed services. This country and its leaders have certain basic obligations to those wearing our uniforms.

We must remember the words of a great Georgian, Alexander H. Stephens. In 1846, he addressed a Congress burning with war fever. Stephens spoke these words of caution to his fellow Congressmen:

"I am far from holding that all wars are wrong. But I do hold that they ought never to be rushed into blindly or rashly. This last resort of nations to settle matters of dispute or disagreement between them, should always be avoided, when it can be done without sacrifice of national rights or honor. And the greatest responsibility rests upon those at the head of affairs, to whom are confided the interests and destinies of a country."

We must always heed those words of Alexander Stephens. We as a nation owe this to our defenders. And we should never send them into combat unless we as a nation will honor them when they return. We owe them that.

I believe there is a special obligation on those of us in Congress, in the executive branch, and in the military who support a strong defense for this country. In recent years, there have been great fluctuations in defense spending. We've been like an accordian in military readiness.

This is actually nothing new. Throughout our history, we have followed this pattern. We managed to survive in World War II until we rearmed. But because of modern weapons and strategy, we would never be able to do that today.

I know this is a subject Admiral Watkins has spoken out on many times. We cannot continue to have periods of cutbacks and then periods of crash build-ups.

We must plan carefully for our military needs of the future. There should be steady replacement and renewal of our defensive capabilities. We are now going through a period of rapid growth in our military budgets. We are paying now in a short space of time for our laxity of the past. We are playing catch-up and that is an expensive game. We can avoid the controversy we are experiencing now by planning better for the future.

The Trident program is a good example of what careful planning can bring forth. Controversy and debate have raged over the bomber and missle programs, but the one leg of the triad which is rarely if ever questioned is the Trident submarine.

It has become the keystone to America's stategic forces for the rest of this century. Aside from its four torpedo tubes, it has 24 launching tubes for the Trident missile. The missiles will carry eight warheads, each with a yield of 100 kilotons. The U.S.S. *Georgia* will carry more explosive power than was expended in all of World War II.

In many ways, the U.S.S. *Georgia* can be seen as a payment on a life insurance policy. We're paying this premium but all the while hoping there will never be a reason to collect on the policy. The Trident submarine is a powerful deterrant to the ambitions of unfriendly nations. There may come a day when nations will enjoy a peace bought with nothing more expensive than mutual good will. I pray that it will come in my lifetime. But for now, I will take comfort in the knowledge that somewhere at sea there is the U.S.S. *Georgia* with a highly trained crew ready to preserve liberty, justice, and freedom.

I believe our Nation will endure. We have come through too much to fail now. We have been seasoned by our past and current trials which give inspiration and hope for the future. We believe in our country. We have never lost faith in our Nation, its values, or our men and women in uniform. Patriotism is alive and well.

Finally, to the men of the U.S.S. *Georgia*, may you feel the same love for your new ship as we Georgians feel for our State. It is a proud name to sail under. I know you will give us new cause for pride as you do your duty and serve your country.

Let us all wish this ship godspeed and pray that it never sails in harm's way.

Presentation of Gifts by Hon. Mack Mattingly to the Crew of the U.S.S. "Georgia"

I have two gifts to present to the crew of the U.S.S. *Georgia*. The first is a framed picture of the last U.S.S. *Georgia*. This was a battleship commissioned in 1906 and was a part of the U.S. Navy fleet until 1923. The Battleship was rated at just under 15,000 tons and was 441 feet long. So she was over a hundred feet shorter and several thousand pounds lighter than the submarine we commission today.

The old *Georgia* was a part of the "great white fleet" that Teddy Roosevelt sent around the world to impress everyone with America's naval power. During World War I, the battleship was a convoy escort and troop transport.

So let me now present this framed picture to the officers and crew of the new U.S.S. *Georgia*.

My second gift is a bit more unusual. The U.S. Navy likes to forget this. But there were other ships named Georgia besides the 1906 battleship. For example, there is the CSS *Georgia*, an ironclad built and paid for by Georgians and turned over to the Confederate government in 1862.

The CSS *Georgia* was so heavy it was not very maneuverable. In fact, it did not have the power to fight the tides and currents in the channel leading out of the Savannah Harbor. So she was anchored at the narrowest point of the channel and guarded the harbor like a junkyard dog on a chain. She was so feared by the Union blockade that no Yankee ship attempted to enter Savannah Harbor as long as she was on duty.

The CSS *Georgia* was sunk by the Confederates in December 1864 just before the well-known arsonist Sherman arrived in Savannah. She is still sitting in the mud of the Savannah River about two miles below the city near the historic Fort Jackson.

What I have here is a 6.4 inch Brooke shell that was recovered by the U.S. Army Corps of Engineers. It weighs 73 pounds and is iron with brass fittings. When found it was still packed with black powder and the fuse was intact. Thankfully, that has been removed.

I would like to thank the Savannah office of the Corps of Engineers and Scot Smith and the other kind people at historic Fort Jackson in Savannah for making this projectile available.

So Captain Juester (Keaster) and Captain Gray, it is my pleasure to present you with this relic from the original ironclad Georgia. It was, after all, originally meant to be placed in a U.S. Navy ship. Although I doubt the original manufacturer had this presentation in mind.●

TRIBUTE TO BLACKS IN AMERICAN HISTORY

● Mr. **CHILES**. Mr. President, I know that my colleagues are well aware that February has long been designated as Black History Month. I am proud of the many observances held throughout the State of Florida in commemoration of the tremendous contribution of blacks to every aspect of American culture—contributions which are all the more noteworthy because of unique and often discouraging circumstances. The scope of black achievement reach across the spectrum of human endeavor in art, business, government, music, sports, entertainment, religion, literature, and science.

Black achievement in America is firmly rooted in American progress. Although many blacks came to these shores in chains, they stayed and prospered and significantly added to this Nation's greatness.

In 1492, among Columbus' crew was Pedro Alonzo Nino, a black sailor—a participant in the "voyage that changed the world." Four hundred and eighty-one years later, Lt. Col. Guion Bluford was among those brave Americans who challenged the last unknown frontier.

In 1619, black indentured servants were brought to the Jamestown settlement and after serving a period of "service" were freed.

The year 1760 was the birth of Richard Allen, founder and first bishop of the African Methodist Episcopal Church. He was born a slave in Philadelphia, became a Methodist minister and later formed an independent religious organization, the Free African Society. That was the parent body for the AME church. It was also during this year that Jupiter Hammond, a Long Island slave, published "Salvation by Christ with Penitential Cries." He was probably the first black poet in the colonies.

The Continental Congress of 1774 in its Articles of Association called for an end to all slave trade.

Lemuel Haynes enlisted as a minuteman and served at Lexington and with the Ticonderoga Expedition. A black Connecticut farmer, he fought throughout the Revolutionary War against the British. In fact, during the conduct of the Revolutionary War between 8,000 and 10,000 blacks served in the American Revolutionary Armies in various capacities, approximately 5,000 as regular soldiers.

Among the black soldiers who fought at Bunker Hill, were Titus Coburn, Seymour Burr, Grant Cooper, Cato Howe, Charleston Eads, Barzillai Lew, Sampson Talbert, Caesar Brown; who died in battle, Caesar Basom, Alexander Eames, Cuff Blanchard, Caesar Post, Salem Poor, and Peter Salem, who killed the British Commander, Major Pitcairn. Salem later fought at Saratoga and Stony Point.

In 1783, slavery was abolished by judicial decree in Massachusetts. In 1784, Rhode Island passed a gradual abolition act while Connecticut passed a gradual emancipation law. In 1785, New York banned slavery and other Eastern States followed. In 1791, Bengamin Banneker, mathematician and astronomer, was appointed by President Washington to a commission to survey the District of Columbia. Banneker ultimately produced final plans for the District.

From the period 1810 to 1860, black abolitionists were prominent and perhaps the most prominent was Harriet Tubman. Her exploits are legendary as she went time and time again into the South to free slaves and became known as the "Black Moses." There were others, of course, but none had the impact of Harriet Tubman. Sojourner Truth was also a suffragette in addition to being a powerful vocal force for the elimination of slavery. John C. Stanley was freed by a legislative act of the North Carolina Legislature, he later bought and freed dozen of slaves. Charles Lenox Remond, born a freeman in Massachusetts lectured extensively on the subject of slavery. Frederick Douglas, the legendary abolitionist was a forceful and articulate spokesman for freedom. Surely these early efforts paved the way for the emergence of the NAACP and other groups that dealt with the plight of blacks in America after the Civil War, indeed even to the present.

The settlement of the West was accomplished as a joint black-white effort. Contrary to movie portrayal, black cowboys were fairly commonplace in the "Old West."

As America moved toward an industrial society, black inventors were to play an important part in that dramatic shift from agriculture to industry. Perhaps the best known black inventor was Granville T. Woods (1856-1910), who developed an egg incubator, a system of telegraphing from moving trains, and improvement in electric railways, and the phonograph. General Electric and Bell Telephone bought many of his inventions, others he marketed through his own company. Elijah McCoy, an Afro-American was granted over 72 patents in his lifetime, most of which related to lubricating appliances for engines. Jan E. Matzeliger made a profound contribution to the leather industry. His machine was the first appliance which performed all the steps required to hold a shoe on its last, grip and pull the leather down around the heel, guide and drive the nails into place and then discharge the complete shoe from the machine.

Clearly, one of the over-riding priorities on the black agenda has always been education. James Weldon Johnson was born in Jacksonville, Fla., in 1871. He was a poet who took pride in his heritage without apology. He was a writer of great renown, a U.S. consul, a principal, and a teacher. Perhaps as the latter he served best.

Mary McLeod Bethune, the black educator who became a legend, in 1904 established the Daytona Normal and Industrial Institute for Negro Girls. It later became the Bethune-Cookman College. Mary McLeod Bethune served as Presidential adviser from 1930-44. She helped President Roosevelt organize the National Youth Administration and was later Director of the Division of Negro Affairs between 1936 and 1944. She authored a legacy for black Americans but it is of benefit for all Americans.

As America has progressed, black Americans have been an integral part of the advances we have made as a nation. Daniel Hale Williams and Charles Drew in medical research, Charles "Fats" Waller, W. C. Handy, Eubie Blake, in music. Paul Lawrence Dunbar, George Wylie Henderson, and Frank M. Davis added to America's literary accomplishments. Obviously, the list could go on and on.

In politics, there are now 253 black mayors in 31 States in this country. In my own home State of Florida, two of the most prominent members of the Florida Senate are Arnett Girardeau and Carrie Meek who became the first two blacks to serve in the State Senate since Reconstruction.

Black History Month has given us time to review many of the accomplishments of black Americans and rightly so. However, black history is not a history apart but rather a part of American history. A part and parcel of all that we have achieved as a nation.

When Dr. Martin Luther King, Jr. addressed the huge throng of civil rights supporters in 1963, he said it most eloquently "I have a dream and it is deeply rooted in the American dream." That American dream recognizes the reality of talent, determination, hard work, and the desire to achieve, such a recognition is done without respect to race, creed, or color.

Mr. President, I have noted only a few of the outstanding persons and achievements that have marked our country's history. I have failed to note others only because of a consideration for time and space.●

OUR ALLIES' INTERESTS IN HALTING WESTERN TECHNOLOGY TRANSFER

● Mr. TOWER. Mr. President, an important article by our colleague from Utah, and chairman of the Banking Committee, Mr. GARN, was published recently in the Christian Science Monitor. This article addresses issues involved in the Export Administration Act now being considered on the Senate floor. Senator GARN has long been involved in this issue, and he raises a number of excellent points in this most timely article. I ask that this article by Senator GARN be printed in the RECORD.

The article follows:

[From the Christian Science Monitor, Feb. 23, 1984]

TECHNOLOGY TRANSFER AND OUR ALLIES

(By Jake Garn)

Recent press accounts, as well as CIA and Defense Department analyses, have documented the extent to which the Soviet military buildup has been supported by Western high-technology exports. The evidence suggests that during the last decade the KGB, under then chief Yuri Andropov, made the acquisition of Western technology by fair means or foul—by legal sales or espionage—one of the primary tasks of the Soviet intelligence services. Although Mr. Andropov is no longer the head of the Soviet state, there is still reason to believe that the acquisition of Western technology will remain a top priority for the foreseeable future.

It is therefore clear that our export control policy directly affects our national security. It is less recognized but equally true that it also affects the security of those countries that depend upon the technological superiority of American-made weapons for their national survival.

Several countries in addition to NATO currently receive modern military hardware from the United States. One is Israel, who recently used that equipment with devastating effect against state-of-the-art Soviet equipment used by Syria. The results were 86 Syrian MIGs destroyed without a single Israeli jet downed.

Both arrays of weapons present in this clash in Lebanon are currently employed to maintain peace in Europe. Obviously, the ability to maintain our defenses in Europe is much different when the potential combat kill ratio is 86 to nothing than if that ratio were even or worse. Hence the need to preserve our advantage.

The Export Administration Act recognizes that while most American companies are patriotic, they are not disinterested parties when it comes to the question of what export sales should or should not be made.

As one example, nearly 50 tons of American-made high-technology equipment and software were recently stopped in Hamburg and Sweden on their way to the Soviet Union. Included was a powerful state-of-the-art VAX 11/782 computer, manufactured by Digital Equipment Corporation, capable of several highly significant military applications. While Digital is not directly responsible for the shipment of this equipment, this case raises serious questions about the assertion frequently made that companies know whom they are selling to, and if just left alone would not engage in commercial practices prejudicial to our national security. A strong export control law is our means of ensuring that national security is fully considered in our trading relationships.

When transfers of technology with military application occur, our technological advantage is eroded and the costs of defense increase.

In Europe, failure to preserve that advantage could mean the difference between deterring a Soviet annexation of West Berlin and the inability to stop a Soviet advance short of the English Channel. In the Middle East, where Israel's survival depends on technological superiority and the use of force is a daily occurrence, the costs would be equally catastrophic.

We should resist efforts to weaken our export control law. Wise export control policy allows us to overcome Soviet quantity with our quality; it can result in reduced defense costs over the long run while preserving our security and that of our friends. We dare not trade such a policy for short-term financial gain, the consequences of which no increase in defense spending could overcome.●

ESTONIAN INDEPENDENCE DAY

● Mr. D'AMATO. Mr. President, on February 24, 1984, Estonians around the world observed the 66th anniversary of the Declaration of Independence of the Republic of Estonia.

Estonian independence was declared on February 24, 1918, after German troops had entered Estonia, forcing the Russian Bolsheviks to flee. Although Germany refused to acknowledge this declaration, the Estonian leaders, who had fled the country, persuaded France, Britain, and Italy to accord de facto recognition of independence.

In November of 1918, the German troops withdrew and it appeared that Estonia would finally achieve sovereignty over its homeland. But the Soviets once again invaded. By February 24, 1919, the first anniversary of Estonian independence, the Soviets were successfully driven out. Whereupon the Soviet Union renounced its sovereign rights over the "peoples and territory of Estonia" in the Soviet-Estonian Peace Treaty of 1920.

The Estonian Constitution was modeled on the United States, French, and Swiss Constitutions, affirming independence, a republican form of government and emphasizing human rights and dignities of minorities. De jure recognition by almost all sovereign nations and admission to the League of Nations in 1921 brought Estonia to the fore in world affairs as a spokesman for the small democratic states.

Then on August 23, 1939, the Nazi-Soviet Nonaggression Treaty dissolved Estonian independence and placed Estonia under Soviet control. Upon German reconquest in 1941, the Estonian resistance movement flourished despite German atrocities until the Red Army overran Estonia in 1944 and purged "all enemies of the people." This purging resulted in the deportation, imprisonment, and execution of tens of thousands of innocent Estonians.

Today, while conditions have somewhat improved in Estonia, the people are still burdened with the effects of illegal Soviet rule. The United States has never accepted the validity of Soviet annexation of Estonia, and consequently has not invalidated the recognition it accorded to the Estonian Republic in 1922. After 44 years of Soviet domination, the people of Estonia have shown the world that their democratic spirit cannot be broken and that they will continue the struggle to regain their independence.

On February 24, Estonians from all over the free world, including over 20,000 Estonian Americans, joined in solidarity to commemorate the 66th anniversary of Estonian independence. As a nation dedicated to the principles of independence and the protection of human rights, it is appropriate that the United States must continue to speak out against the continued Soviet hegemony in the Baltic States. I urge my colleagues to join me in voicing support for the people of Estonia.●

OPEN GOVERNMENT

● Mr. CHILES. Mr. President, on February 10, the U.S. Circuit Court of Appeals for the District of Columbia rendered an important decision affirming the principle of open government. The case, Philadelphia Newspapers, Inc., against Nuclear Regulatory Commission, involved the controversial question of whether to restart portions of the Three Mile Island nuclear powerplant and the Government's obligation to reach that decision before the public.

In 1976, Congress passed the Government in the Sunshine Act, which requires multimember Federal agencies, like the NRC, to allow the public to attend its meetings and observe the collegial process at work. The act was passed in the belief both Government and the public would benefit if the people of this country were made privy to Government's decisionmaking processes.

Although the concept of letting the public look over the regulators' shoulders sounded radical when Sunshine was first introduced, the experience of the 48 States which had Sunshine laws demonstrated that Government could work effectively even if its door were open. The scandals of Watergate proved there was a need for the Federal Government to move away from its attitude of secrecy. So Congress passed the act and created a presumption that the business of Federal agencies would be conducted in public. Ten limited exemptions were included to protect national secrutiy, individual privacy, the security of financial markets, and the integrity of agency adjudications.

Despite this clear policy statement from Congress, in 1983 the Nuclear Regulatory Commission attempted to hold a closed door meeting to discuss the "Steps to Decision in the TMI Restart."

When the circuit court reviewed the NRC's decision to close the meeting it interpreted the Sunshine exemptions narrowly. While acknowledging that a limited portion of the meeting could be closed, the court found that Sunshine required most of the meeting's agenda to be open to the public. The court thus successfully barred the agency's efforts to expand the application of the Sunshine exemptions.

Perhaps no case could illustrate the need for the open government law as well. I can think of few agency decisions of greater interest to the public than the fate of the Three Mile Island facility. The people of the area understandably have strong views on the issue; maybe they are even a little bitter and cynical. So when the NRC finally reaches a decision on the powerplant, it is important that area residents be convinced that the decision was made in a responsible manner. They surely won't have confidence in the agency's decision if it is made behind closed doors.

Actually, the NRC's effort to close the meeting is not entirely unexpected. Some agency members have always opposed the Sunshine Act. And in recent months I have observed a growing tendency on the part of some to paternalistically argue the benefits of secrecy. As a strong advocate of open government, I was heartened to read Judge Wright's closing statement, harkening back to Congress goals in passing the Government in the Sunshine Act.

A decade ago revelations of secret abuse of official power shocked this nation and seared in our minds a lesson vital to the health of a democratic polity: government should conduct the public's business in public. In the Sunshine Act Congress moved to ensure that those in government do not forget that they are above all accountable to the people of this nation.

I commend the court for its decision. It serves as a timely reminder of the principles that are at stake.

Unfortunately, a reminder of another sort appeared a few days later in a U.S. News & World Report article on Sunshine and the Congress. Shortly before the enactment of the Sunshine Act both the House and Senate adopted Sunshine rules to govern committee meetings. The article points out instances where it appears that some committees are now trying to sidestep those rules. I would remind my colleagues here, and in the House of Representatives, that as the "people's branch" Congress has a special responsibility to make sure its doors are open to the public.

Mr. President, I ask that the following article be printed in the Record.

The article follows:

[From U.S. News & World Report, Feb. 20, 1984]

Report From Capitol Hill: How Lawmakers Are Dodging Those Sunshine Rules

(By Kathryn Johnson)

After a brief fling with open government, Congress once again is retreating behind closed doors to make its most important decisions.

Lawmakers still conduct more business openly than before they adopted "government in the sunshine" and other post-Watergate reforms designed to bolster public confidence by stripping away much of the secrecy from official decision making.

Increasingly, however, the public is being closed out of Capitol Hill discussions ranging from environmental matters to how tax dollars should be spent. "It seems to be a trend," says Nancy Drabble, head of Congress Watch, a consumers' lobbying group.

What's happening is that senators and House members are discovering that close scrutiny of their actions can prove embarrassing if not politically fatal. As a result, they are becoming adept at bypassing their own rules of openness. Among their techniques—

The Committee caucus. Members take their seats at the scheduled meeting time—then promptly disappear in threes and fours to a back room where they try to forge a compromise in private.

The huddle. Grouping together at the center or side of a committee room, lawmakers, conduct business in full view of the public—but in inaudible whispers.

The shuttle. Useful in working out differences between House and Senate bills, senators and representatives caucus separately in private, then send their staff members back and forth between camps with bargaining proposals.

The squeeze play. A committee purposely chooses a small meeting room, then fills it with staff—thus closing out lobbyists, the public and all but a handful of reporters.

Deals also are cut through telephone calls and conversations in Capitol corridors, elevators and restaurants—even in House and Senate gymnasiums.

Participants in such behind-the-scenes bargaining admit that they may be violating the spirit of the sunshine laws. But they contend that being able to resolve differences in private—particularly on sensitive tax and spending issues—saves time and results in sounder legislation.

That rationale is disputed by many lawmakers, including Representative Don Pease (D-Ohio), who warns: "There's a danger in closed meetings of making mistakes out of ignorance, if we are not aware of some particular nuance in the bill that a lobbyist or the press might point out. While it's more difficult to cast votes in public than in private, we have to screw up our courage and do what's right."

Traditionally, the House Ways and Means Committee, which sets tax policy, is one of the most closely watched panels on Capitol Hill. Lately, with federal deficits soaring, the committee has come under even closer scrutiny, a development that makes some panel members squirm. Result: The committee, invoking seldom-used House rules, has begun meeting in private to draft even the simplest legislation.

Argues Daniel Halperin, professor of law at Georgetown University and former deputy assistant secretary of the Treasury: "Having seen both systems in operation, I'm convinced that the public is better served when markups on tax legislation are in private. The time is cut in half, members talk more freely and there's a conspicuous lack of posturing and posing—the show that some lawmakers put on for lobbyists."

John J. Salmon, chief counsel for Ways and Means, adds: "In sensitive, highly pressurized meetings, lobbyists are the ones who benefit from open meetings, not the people."

A Washington lobbyist, who prefers anonymity, disagrees. Closed sessions, he contends, often do not allow "enough time for the legislation to have an impact on the public."

For example, he cites the 150-billion-dollar tax-and-spending package considered by the Senate Finance Committee late in the 1983 session in a week of closed-door deliberations. Says the lobbyist: "The action was so fast, not very many people understood what was done, much less had a chance to comment on it." The proposal eventually was laid aside in Congress's rush to adjourn. But it could be reconsidered this year.

Small-room strategy. A familiar sight at the Capitol are the lines of spectators and reporters waiting to get into the House Rules Committee's tiny meeting room. One member admits the room was deliberately chosen to "keep down the audience."

Rather than bar lobbyists and others from their meeting, members of the House Energy and Commerce Committee have been trying to settle their differences on a broadcast-deregulation bill in whispered conferences in full view of the public.

Senate Judiciary Committee members disappeared for more than an hour from a roomful of spectators awaiting action on a bill to revive the U.S. Civil Rights Commission. They eventually emerged with a compromise.

Another convert to secrecy is the House Democratic Caucus—policymaking body of the majority party—which last year ended its 5-year-old experiment with open meetings.

Critics attribute the defeat of a proposed equal-rights amendment in November partly to lawmakers' anger over a decision reached in a closed meeting of House Democrats to seek sharp restrictions on ERA debate.

Where will it end? Most observers believe Congress will push for secrecy as far as the electorate permits. Few share the optimism of one House staffer, who thinks the effort is bound to fail because "members of Congress are politicians—not one can keep a secret for more than 5 minutes."●

HONORING THE POLISH LEGION OF AMERICAN VETERANS

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 1980 and to urge my colleagues to join in honoring one of our country's most worthwhile and patriotic organizations, the Polish Legion of American Veterans. S. 1980, a bill introduced by the distinguished junior Senator from Alaska, would grant a national charter of the PLAV.

Mr. President, over 3 million American veterans of Polish descent served in the wars of the United States. This heritage of service began in the American Revolutionary War with the heroic efforts of Gens. Casimir Pulaski and Thaddeus Kosciusko. General Pulaski died on the battlefield while leading a calvary charge which drove the British out of Savannah, Ga. General Kosciusko was responsible for the ingenious fortifications at West Point, in my home State of New York, which made that fortress virtually impregnable to enemy assault. In every war since that time, Polish Americans have served with distinction.

This commitment to freedom is exemplified in the charter of the PLAV, which commits the organization to combat the destructive propaganda of communism and other alien influences endeavoring to weaken or destroy our American institutions and democratic form of government.

Following the First World War, veterans of Polish descent organized into what has become the Polish Legion of American Veterans. Its 112 chapters, including 15 in New York State, have served the Nation's hospitalized and disabled veterans and their families. They have also sponsored many patriotic, civic, community, and charitable programs.

This fine organization is complemented by an active ladies auxiliary, formed to bring moral and material support to hospitalized ex-servicemen, and aid widows and orphans of the PLAV. The ladies auxiliary has logged approximately 129,707 hours of volunteer service in 47 Veterans' Administration hospitals in the last 16 years.

Those Americans who have sacrificed their lives and futures in the service of their country deserve honor and recognition. Polish Americans have played a large part in the continuing struggle to defend America and our democratic way of life. To

show our appreciation for their efforts, I urge my colleagues to support this measure and grant a Federal charter to the Polish League of American Veterans.●

VISIT OF FILIPINO SENATOR SALVADOR LAUREL

● Mr. KENNEDY. Mr. President, Representative SOLARZ and I were pleased to welcome to Capitol Hill last week Filipino Senator Salvador Laurel at a luncheon attended by many of our colleagues. Senator Laurel, chairman of the United Nationalist Democratic Organization, is a prominent leader in the movement to bring greater democracy to the Philippines. He is also a close associate of the late Benigno Aquino, who was the victim of a political assassination last August.

At the February 23 luncheon, Senator Laurel spoke about a surging nationalism in the Philippines that is "bitter and sullen because it feels Benigno Aquino did not have to die." Of particular interest to Americans concerned with the prospects of democracy in the Philippines is Senator Laurel's statement that in his opinion most Filipinos believe "the regime which America continues to support is responsible for his death."

Senator Laurel posed a number of tough questions for U.S. policy toward the Philippines in the wake of this assassination and on the eve of the May 14 National Assembly elections. As we review proposed assistance to the Philippines, I urge my colleagues to consider the questions raised by Senator Laurel.

I request that Senator Laurel's February 23 remarks be printed in the RECORD.

The remarks follow:

A TIME FOR DECISION

(By Salvador H. Laurel)

Until a few days ago, I was not sure whether I could be with you this noon. But thanks to the powerful pressure exerted by an aroused public opinion at home and by concerned people all over the world, led by Senator Edward Kennedy and Congressman Stephen Solarz, Mr. Ferdinand Marcos reluctantly ordered the prosecuting officer of the Pasay City Court to withdraw the case against me. For this memorable gesture of friendship and solicitude, I shall always be grateful.

I come with the belief that your people and mine share certain values, that we both cherish freedom and democracy, and that we can talk to each other frankly and with genuine understanding.

Unhappily, these ideals are not always matched by action. With some bewilderment, we Filipinos have noted how promptly the American government has denounced violations of human rights in one country while openly supporting violations of human rights in another country. Thus, while the United States has imposed economic sanctions on Poland when that country was placed under martial law, it has supported and continues to support with money, arms and praises the Marcos dictatorship in the Philippines.

Spokesmen of the U.S. Government have explained that American support of repressive dictatorships abroad is necessitated by the presence of American military bases in those countries.

In the Philippines, American foreign policy seems to equate the US bases with the Marcos dictatorship.

It is the Marcos-US bases equation that has led many in the moderate opposition to take an anti-bases position. If the bases are there only because of the dictator, and if the dictator remains in power only because of the bases, then, if the bases go, so also would Marcos. Without American financial and military support, the Marcos dictatorship would collapse under the weight of the sufferings it has inflicted upon our people. If the American government believes in the US bases-Marcos dictatorship equation, Filipinos in increasing numbers believe in the converse: no US bases equals no Marcos dictatorship.

What has led to such thinking? None other than the perceived American support of the Marcos regime. That such support has been given and continues to be given to the dictatorship cannot be denied. Withdraw the support, and the thinking will change. It is significant to note that a prominent member of the moderate opposition used to call, on the one hand, for the removal of the US bases, and on the other, for American intervention to help restore democracy in the Philippines. Today, he has changed position. He is now prepared to accept the bases as a trade-off for the termination of the Marcos dictatorship.

The roots then of anti-Americanism in my country are not deep. It is only as old as the dictatorship that appears to draw its sustenance from the existence of the bases.

There is another factor which should dispel American fears of losing the bases in my country—the economic factor.

When Marcos assumed the Presidency in 1965, the Philippines had a foreign indebtedness of only half a billion dollars. By 1981, the official debt figure was $15 billion. In 1983, the officially admitted indebtedness was $25 billion, an increase of 60 percent in just two years. How much the Philippines will owe when Marcos goes, one can only imagine.

Whatever the debt at that time, the succeeding regime will have to assume a responsiblity for paying it, while asking for the restructuring of the debt and for more loans. Failure to pay its obligation will mean the cutting off of credit, leading to the economic and political collapse of the regime. As the economy goes, so goes the government.

How could the successor regime cope with the social upheaval that would follow the loss of credit?

And would such a regime persist in a demand for the removal of the bases? Such a regime would need all the friends it can get, and certainly could not afford any enemies; certainly not the United States.

If the regime that comes after Marcos is a democratic one, it should not maintain so inflexible a position on the bases as it confronts the inflation and mass unemployment that would surely follow the economic collapse occasioned by the loss of credit.

Meanwhile, the gross violation of human rights by the Marcos regime goes on.

Meanwhile also, the looting of the country goes on, in the midst of the dire poverty of the Filipino people. The dictatorship has been accused of almost every unbelievable corruption by responsible people. Add to this the insane extravagance of the dictatorship, then what prospect is there of its ever being able to pay its obligations? To mention one: when President Reagan was expected to visit Manila and meet with the Marcoses last year, a "palace in the sky" was hurriedly built in a mountain city at a reported cost of some $7 million, for a one-night stop-over.

How can the American government continue supporting such a regime with money and arms without showing contempt for the decent opinion of mankind, and without appearing to rival the Soviet Union in total disregard of human rights and freedoms?

How far will the United States go to maintain its bases in countries whose people are suffering under a tyrannical regime?

And when will it begin to question the correctness of equating its military bases with the dictatorship?

In the Philippine case, the dictator is of uncertain health. Certainly, he is not immortal. To base the foreign policy of a great power on a man's longevity is not the ultimate in political wisdom. Unless of course, if the American government expects the dictator's demise to be followed by another dictatorship that would be just as cruel, yet just as agreeable about the bases.

And will the U.S. Congress then be asked to appropriate more money to arm and support the new oppressors? Finally, and perhaps more immediately, what if the evidence now mounting becomes conclusive that it was one of the military escorts that Marcos provided who shot Ninoy Aquino in the head? What then would be the reaction of the American people and the American Congress?

Since the Aquino assassination, the dictatorship has put on a mask of liberalism, tolerating a limited degree of freedom of the press and public demonstrations, even offering concessions to the opposition to induce it to take part in the May elections. This is in order to comply with one of the conditions set by the U.S. Congress for the granting of further aid to the regime.

But once again the election is over, and the dictator gets the money he is asking, what will happen if "Operation Mad Dog", the contingency plan to liquidate all opposition leaders, is put to action? Will the American government just close its eyes? Will it support the mass slaughter of our people by a rabid regime? I raise these questions for your thoughtful consideration—while there is still time.

Let me now advert to the forthcoming National Assembly elections.

I would like at this point to say on behalf of the legitimate and nonviolent opposition in my country that we fully welcome House Resolution No. 187 and we will welcome just as intensely the approval of Senate Resolution No. 71.

It is clear that Mr. Marcos must hold an election. Mr. Marcos must win that election, so that he may get more American money and more American arms.

If the American government accepts the results of such an election, no matter how rigged, Filipinos who value freedom and decency and democracy will have to resign themselves to the reality of American foreign policy and take whatever last recourse is left.

There is now a surging nationalism in my country—a nationalism that feels it has been betrayed by its friend, America. A nationalism that is better, sullen and angry because it feels Benigno Aquino did not have to die the way he did: because there is no doubt in my mind, as in the minds of 52 million Filipinos, that the regime which America continues to support, is responsible for his death.

Like it or not, America has to come to terms with this nationalism, and you will have to obliterate the gap between democratic rhetoric and imperial performance, between upholding democracy and short-sighted foreign policies.

We who still love democracy want to give it one last chance during the elections in May. And if that last chance does not work, because the shameful and shameless tyranny once again cheats our people, then you and we who love democracy will reap the whirlwind."●

IGOR OGURTSOV

● Mr. D'AMATO. Mr. President, I rise today to offer my support and cosponsorship of Senate Resolution 294, which expresses the sense of the Senate that Igor Ogurtsov should be released from exile and allowed to emigrate from the Soviet Union.

Igor Ogurtsov, founder of the All-Russian Social Christian Alliance for the Liberation of the People (USKhSON), a religious-political opposition group, was sentenced to 15 years imprisonment and 5 years of internal exile in 1963 for treason along with three other members of USKhSON. Today, Mr. Ogurtsov is serving the 17th year of his sentence, while the other three persons sentenced with him have been released.

Igor Ogurtsov's health has been deteriorating recently to the point that it is questionable whether or not he will live through the final 4 years of his sentence. His continued imprisonment well represents the Soviet Union's blatant violations against human rights.

Since his imprisonment, several groups have campaigned for his release without success. Ogurtsov has renounced his Soviet citizenship and was granted honorary citizenship in France in 1980 along with an invitation to emigrate. But Soviet officials continue to refuse his emigration.

Mr. President, I implore you and my colleagues to protest this senseless and unjustified violation of one man's freedom. We must reaffirm our commitment to those basic freedoms on which the Helsinki accords rest—the right of the individual, the right of human dignity, and the right to individual freedom. All of these are being denied Igor Ogurtsov, injuring his good health.

I am calling on the Soviet Union to end the imprisonment of Igor Ogurtsov. He has suffered too long for a crime he did not commit. If Igor Ogurtsov betrayed anything, it was the Soviet Union's determined effort to quash all public dissent and to lower human dignity and freedom to the lowest degree.

Igor Ogurtsov must be allowed to emigrate to the West. We cannot ignore the plight of Igor Ogurtsov. We must speak out for the rights of those being persecuted in the Soviet Union.●

TAKE HEED THE WORDS OF ALAN PIFER

● Mr. MOYNIHAN. Mr. President, on February 7 of this year the New York Times printed an Op-Ed written by a distinguished American, Alan Pifer. In a manner to which all who know Alan have grown accustomed, he examines the perception of older Americans in our society. Too often persons over the age of 65 are seen as old and no longer productive, when in fact they are quite youthful and full of enormous resources.

Alan Pifer argues that we must examine these perceptions and look to the later years of life as a time for unlocking new potential. Older Americans must not be seen as over the hill; instead they should be looked upon as valued members of the community whose productive energies should be tapped.

Mr. President, I commend Alan Pifer's work to the attention of my colleagues and submit it for the RECORD.

The material follows:

PUT OUT TO PASTURE OUR IDEA OF AGE 65

(By Alan Pifer)

Age 65 is obsolete. It has become an anachronism as a basis of policy, as a result of improved health and startling increases in longevity for many Americans. And yet the prevailing belief is that age 65 has some special significance. In this view, people are just late middle-aged until they reach their 65th birthday, at which time they suddenly are considered elderly.

Age 65 is no longer a realistic dividing line between the middle-aged and elderly. The great majority of Americans don't age significantly until they are well into their 70's. On balance, they are still vigorous, sound of mind and body and keen to lead active, contributing lives. They are not at all like the elderly of earlier times, when nearly anyone who reached the age of 65 really was old.

But, someone will say, did we not raise the legal retirement age to 70? Yes, we did, but that act of political expediency had little significance for most Americans. The participation of older people in the labor force has continued to decline, partly as a result of personal choice but also because of the pervasive myths that encourage it.

The mystique of age 65 obscures a growing contradiction between the increased longevity and vigor of older Americans and attitudes and policies that encourage increasingly early retirement. We forbid discrimination in employment on account of age and say, at least publicly, that our aim is to keep people in the labor force as long as possible. And yet we allow Social Security benefits to be drawn at age 62 and impose a penalty on beneficiaries under the age of 72 who exceed the allowable earned income. Privately, many employers, through a subtle combination of pressure and financial inducement, are getting rid of older workers to make way for less senior, less costly and allegedly more adaptable younger workers.

We need to rethink our attitudes toward retirement age so that public and private-business policies for older Americans are better attuned to the realities of our time.

I propose a concept that might be called the "third quarter" of life, which embraces people from the ages of 50 to 75. While such a notion may be somewhat startling in its assumption that most of us are likely to live to be 100, it makes far more sense from a policy standpoint than the arbitrary classification of pre- and post-65-years-olds.

For most people, the early 50's are a major turning point. Their children have grown up and left home, they have reached their maximum real earning power, are unlikely to be promoted again and are restless and often bored with their jobs. They need a major change of career—a "repotting," so to speak—to stimulate new interests that they can pursue well into their 70's. During that span, the chances are high that they will remain vigorous, healthy and mentally alert, and, if given the chance, will continue to be productive.

Does this mean that they should continue in full-time, paid employment for the entire third quarter? Not at all. That concept of productivity is also obsolete. In the future, the notion of productivity must be broadened to include part-time as well as full-time paid work and full- and part-time volunteer jobs. Most important, there must be social expectation that people will remain productive throughout the third quarter of their lives and will be accepted by younger people as contributing, fully involved members of the community.

What is needed to enable third-quarter Americans to be productive in the broad sense is clear enough. First, society needs to look upon them as an asset, rather than a burden. Then, government and business should help them by providing equal access to retraining, phased retirement, greater flexibility in the use of both public and private pension benefits, greatly expanded public service employment similar to that presently existing under the Federal Senior Community Service Employment Program and better organized volunteer jobs.

Some of these changes would cost money, but they would also produce substantial savings by using older people's skills, experience and reliability and by cutting health costs. The more active and productive their lives, the healthier they will be. And as older workers, through the challenge provided by new careers, begin to reverse the trend toward early retirement, the growing burden on the Social Security system will be eased.

There are 50 million third-quarter Americans today—more than a fifth of the population. In another three decades, there will be 85 million—nearly a third of the expected population at that time. As a nation, we have no choice but to become concerned about the productivity of these citizens. Their capacity to contribute to the general welfare in the years ahead is enormous. It must not be ignored.●

NATIONAL HELEN KELLER WEEK

● Mr. D'AMATO. Mr. President, I rise today in support of a "National Helen Keller Week." As we all know, the seemingly insurmountable barrier of deaf-blindness was overcome by an outstanding individual—Helen Keller.

Today, thousands of Americans afflicted with deaf-blindness must face the same isolation, experiences, and barriers. All Americans should acknowledge the accomplishments of Helen Keller and those who currently suffer from both sight and hearing impairments. Proclaiming the last week of June 1984 as "Helen Keller Awareness Week" is one way to honor such accomplishments.

Helen Keller was able to persevere and succeed due to her incredible personal determination. Helen Keller lost her sight and hearing before she reached age 2, yet, with the aid of a dedicated friend, Anne Sullivan, she was able to learn to speak. Ultimately, she could function normally in society and used her valuable skills and experiences to help other similarly disabled individuals. In short, Helen Keller was an extraordinary woman.

Today, thousands of Americans are without their senses of sight and hearing. These individuals suffer from a handicap that is almost completely isolating. These people require extensive training and support in order to develop their natural skills and talents; training support that Helen Keller needed and then offered to others. The Helen Keller National Center, with headquarters in Sands Point, N.Y., and regional centers throughout the United States, offers such assistance. Congress in 1967 established this institution and we must join together once again today to call for the acknowledgment of the successes of this agency.

Simple tasks which we perform without thought are threatening challenges for a deaf-blind person. The national center provides social, emotional and physical aid on an individual basis. Vocational training and job placement assistance is also provided so that the individual may realize the full potential of his or her natural attributes. Most importantly, the Helen Keller National Center aids the deaf-blind individual in developing an increased sense of personal dignity, greater self-sufficiency, and hopes for a brighter future. The staff and volunteers of the Helen Keller National Center and its affiliated divisions throughout the United States provide an invaluable service. Their work, as well as the accomplishments of those they assist, should be noted and praised.

As Helen Keller said:

> The best and the most beautiful things in the world cannot be seen or even touched. They must be felt with the heart.

I urge my colleagues to join with me as cosponsors of this resolution.●

RULES OF COMMITTEE ON SMALL BUSINESS

● Mr. WEICKER. Mr. President, in conformance with Rule 26 of the Standing Rules of the Senate, I ask that the rules of the Senate Committee on Small Business, adopted on January 26, 1983, be printed at this point in the CONGRESSIONAL RECORD.

The rules follow:

COMMITTEE RULES

(As adopted in executive session January 26, 1983)

1. GENERAL

All applicable provisions of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the Committee and its Subcommittees. The Rules of the Committee shall be the Rules of any Subcommittee of the Committee.

2. MEETING AND QUORUMS

(a) The regular meeting day of the Committee shall be the first Wednesday of the month unless otherwise directed by the Chairman. All other meetings may be called by the Chairman as he deems necessary, on three days notice where practicable. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the office of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the Clerk of the Committee shall notify the Chairman of such request. If, within three calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within seven calendar days after the filing of such request, a majority of the Committee Members may file in the Office of the Committee their written notice that a special Committee meeting will be held, specifying the date, hour and place thereof, and the Committee shall meet at that time and place. Immediately upon the filing of such notice, the Clerk of the Committee shall notify all Committee Members that such special meeting will be held and inform them of its date, hour and place. If the Chairman is not present at any regular, additional or special meeting, the ranking majority Member shall preside.

(b)(1) Ten Members of the Committee shall constitute a quorum for reporting any legislative measure or nomination.

(2) Seven Members of the Committee shall constitute a quorum for the transaction of routine business, provided that one minority Member is present. The term "routine business" includes, but is not limited to, the consideration of legislation pending before the Committee and any amendments thereto, and voting on such amendments.

(3) In hearings, whether in public or closed session, a quorum for the taking of testimony, shall consist of one member of the Committee or subcommittee.

(c) Proxies will be permitted in voting upon the business of the Committee by Members who are unable to be present. To be valid, proxies must be signed and assign the right to vote to one of the Members who will be present. Proxies shall in no case be counted for establishing a quorum.

(d) The Chairman and Ranking Minority Member shall serve as ex officio members of all subcommittees on which they do not serve as members.

3. HEARINGS

(a)(1) The Chairman of the Committee may initiate a hearing of the Committee on his authority or upon his approval of a request by any Member of the Committee. The Chairman of any subcommittee may, after approval of the Chairman, initiate a hearing of the subcommittee on his authority or at the request of any member of the subcommittee. Written notice of all hearings shall be given, as far in advance as practicable, to Members of the Committee.

(2) Hearings of the Committee or any subcommittee shall not be scheduled outside the District of Columbia unless specifically authorized by the Chairman and the Ranking Minority Member or by consent of a majority of the Committee. Such consent may be given informally, without a meeting.

(b)(1) Any Member of the Committee shall be empowered to administer the oath to any witness testifying as to fact if a quorum be present as specified in Rule 2(b).

(2) Any Member of the Committee may attend any meeting or hearing held by any subcommittee and question witnesses testifying before any subcommittee.

(3) Interrogation of witnesses at hearings shall be conducted on behalf of the Committee by Members of the Committee or such Committee staff as is authorized by the Chairman or Ranking Minority Member.

(4) Witnesses appearing before the Committee shall file with the Clerk of the Committee a written statement of the prepared testimony at least 24 hours in advance of the hearing at which the witness is to appear unless this requirement is waived by the Chairman and the Ranking Minority Member.

(c) Witnesses may be subpoenaed by the Chairman with the agreement of the Ranking Minority Member or by consent of a majority of the Members of the Committee. Such consent may be given informally, without a meeting. Subpoenas shall be issued by the Chairman or by any Member of the Committee designated by him. Subcommittees shall not have the right to authorize or issue subpoenas. A subpoena for the attendance of a witness shall state briefly the purpose of the hearing and the matter or matters to which the witness is expected to testify. A subpoena for the production of memoranda, documents and records shall identify the papers required to be produced with as much particularity as is practicable.

(d) Any witness summoned to a public or closed hearing may be accompanied by counsel of his own choosing, who shall be permitted while the witness is testifying to advise him of his legal rights.

(e) No confidential testimony taken, or confidential material presented to the Committee, or any report of the proceedings of a closed hearing, or confidential testimony or material submitted voluntarily or pursuant to a subpoena, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee.

4. AMENDMENT OF RULES

The foregoing rules may be added to, modified or amended: provided, however, that not less than a majority of the entire Membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.●

THE PHARMACY CRIME BILL

● Mr. SASSER. Mr. President, I was pleased at the action of the Senate on February 23 in passing S. 422, the pharmacy crime bill.

The need for this legislation has long been recognized. Indeed, the National Association of Retail Druggists has advocated passage of legislation for over 12 years. During the debate on the Criminal Code Reform Act in the 95th Congress, the Senate unanimously adopted an amendment dealing with pharmacy crime. Similar provisions were contained in the reported version of the Criminal Code Reform Act in the 96th Congress. In 1982, the Senate passed pharmacy crime provisions as part of H.R. 3963. Unfortunately, these provisions were subsequently dropped in conference with the House. More recently, pharmacy crime legislation was included in S. 1762, the crime bill passed by this body on February 2.

I do not believe we should delay this legislation any longer.

In 1980, I held hearings in the Senate Small Business Committee during which the problem of pharmacy crime was discussed. I heard from pharmacists who live in fear, who have been victims, and had friends who have been victims. Some of them have been forced to set aside goody bags in an attempt to keep the criminal happy and prevent a shooting. Pharmacists have further testified before the Judiciary Committee that the situation is getting worse, not better.

In 1973, there were 737 robberies of pharmacies to obtain controlled substances. By 1981, that number had grown to 1,908—an increase of 160 percent. The total number of thefts of controlled substances from pharmacies since 1973 totals more than 13,000. In addition, Justice Department figures show that 1 in 5 of these robberies resulted in death or injury—a total of approximately 2,600 pharmacists, employees, or customers.

These statistics alone are alarming enough, but the real issue is that the Federal Government does not have enough enforcement power to control the theft of drugs from pharmacies. Presently the Federal Government controls who may prescribe drugs and under what circumstances those drugs may be prescribed. The Federal Government also sets the penalties for illegal drug use and possession, and decides what drugs are enrolled in schedules I through IV. But the Federal Government currently has no jurisdiction to assist the pharmacist when he is robbed of scheduled drugs.

Such discrepancies leads to some ironic and manifestly ridiculous situations. For instance, it is a Federal crime to obtain controlled substances from a pharmacy using a forged prescription: It is not a Federal crime to obtain those same substances using a gun instead. It is a Federal crime if a pharmacist does not report the theft of a controlled substance to the drug enforcement administration; the theft of the drug itself is not a Federal crime.

Mr. President, this is an absurb situation. When drug stores are robbed, the criminal is not looking for cash. He is looking for drugs. Drugs that are controlled by Federal law. Drugs that will be sold on our streets and compound an already serious national drug problem.

This legislation would enable the resources of the Federal Government to be brought to bear on the problem. Pharmacies are neighborhood institutions. A high proportion of them are family businesses. Pharmacists are justly proud of their independence, their reliability, and their public service. These small businessmen and women should be able to operate their businesses without living in fear of the next customer who walks through the door.

Finally, Mr. President, I would like to commend the National Association of Retail Druggists for their efforts on this bill. They have labored long and hard for this legislation and its passage is an important and well-earned victory for them.

Mr. President, I have here some material presented by the association at the House hearings on pharmacy crime as well as the opening statement by Congressman HENRY WAXMAN. I ask that this material be printed in the RECORD.

The material follows:

OPENING STATEMENT OF HON. HENRY A. WAXMAN, CHAIRMAN, SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT, HEARING ON PHARMACY THEFT LEGISLATION, FEB. 22, 1984

This morning the Subcommittee will receive testimony on legislation to make the theft of controlled substances from pharmacies a Federal crime. Four bills have been referred to the Subcommittee for consideration, including H.R. 3974, authored by Mr. Luken and six Members of the Subcommittee on Health and the Environment. I want to commend Mr. Luken, Ms. Mikulski, Mr. Shelby, Mr. Walgren, Mr. Wyden, Mr. Bliley and Mr. Dannemeyer for bringing this matter to the Subcommittee's attention.

The theft of dangerous drugs from pharmacies and the resulting injuries to pharmacy personnel and their customers are of concern to the Congress and the public. These acts, whether motivated by greed or addiction, pose a serious risk to human life and threaten our ability to assure the public an adequate supply of necessary medications.

These often violent acts are responsible for diverting millions of drug dosage units to the illicit street market, and have a chilling effect on the willingness of talented young men and women to enter a career in pharmacy. For safety, many pharmacists have been forced to restrict the variety of medications they stock and reduce the hours they remain open in the evening.

Passage of legislation extending Federal law enforcement protections to pharmacists and their customers is long overdue. It is a matter of simple equity.

The Controlled Substances Act allows a pharmacist to be arrested, prosecuted and imprisoned for improper handling of controlled substances. Yet, this same law will not protect the honest pharmacist from the theft of drugs in his care. This is a loophole which should be closed in 1984. The theft of controlled substances from legal registrants should be punishable under Federal law.

There is broad support in the Congress. Earlier this month the Senate passed S. 1762, which includes a pharmacy theft provision much like that contained in Mr. Luken's bill. Nine House bills have been introduced during the 98th Congress and referred either to the Commerce or Judiciary Committees. Over 150 Members, representing both parties, have indicated their support by cosponsoring pharmacy theft legislation. Even the Department of Justice, which for years has opposed this legislation, now acknowledges the wisdom of its enactment.

I will urge the Subcommittee to act on a bill this year. In so doing, this Committee and this Congress will expect the Department of Justice to become an active partner with local law enforcement personnel in stopping the phenomenon of drug store terror. It will be the charge of the Subcommittee to assure that passage of legislation represents a clear Federal commitment of will and resources.

Without objection, copies of H.R. 3974, H.R. 2944, H.R. 2929 and H.R. 113 will be printed in the Record at this point.

[From the American Medical News, June 24, 1983]

CANCER PATIENTS FACING DILEMMA OF PAIN

(By Lisa Krieger)

A young New York man hospitalized for terminal bone cancer on the side of his face wanted to go home for Christmas. Despite many phone calls, he was unable to find a pharmacy in his community that would stock oral morphine. He decided to go anyway.

The next morning, recalls his physician, Ronald Kanner, MD, of the Albert Einstein College of Medicine, the young man was back in the hospital. "He was in the emergency room, suffering from intractable pain," he says.

"Physicians can talk about new scientific approaches and prescribing techniques for cancer but there is one serious limiting factor narcotic analgesics are not available to patients," says oncologist Kathleen M. Foley, MD, of Memorial Sloan Kettering Cancer Center in New York.

A survey in the Bronx revealed that 17 of 33 pharmacies did not carry narcotic analgesics. Of those that did, only two carried methadone and two carried oral morphine in Manhattan, two major hospitals have closed their outpatient pharmacies that carried narcotic analgesics.

The inaccessibility of cancer drugs is not limited to New York Pharmacies in Miami, St. Louis, Detroit, Washington, D.C., and other large cities report that they are taking narcotic analgesics off their shelves. This trend has been supported by the American Pharmaceutical Assn. House of Delegates, which recently adopted a policy upholding the rights and responsibilities of individual pharmacists to determine their inventory, and dispensing practices based on patient need practice economics, practice security and professional judgment.

The problem, pharmacists complain, is crime. According to the Drug Enforcement Agency, there were 5,020 drug-related thefts of pharmacies in 1982; of these 9.96 were armed robberies. An estimated 155 dosage units were diverted from pharmacy shelves to addicts. One bottle of Dilaudid which costs $4,000 retail, can be sold on the street for $26,660. There is no pharmacist that would risk his life for drugs for a cancer patient." Dr. Foley says.

One reason cited for the upswing in pharmacy crimes is the decreased flow of illegal drugs into the country. But though the quantity of illicit drugs has dropped, the addictive need, street demand, and monetary incentives to steal have not. Addicts and drug traffickers now turn their attention to the manufacturers, distributors, and dispensers of pharmaceutical drugs.

"When word gets around that you have drugs, you are inviting crime. We used to carry Biphetamine (a dextroamphetamine and amphetamine complex) until two months ago. The last two bottles were stolen and probably ended up on the street. We decided to stop contributing to the Dallas drug problem," says Deborah Cartwright, a Dallas pharmacist.

One young pharmacy employe says she has been plagued with nightmares for three years, after a robbery in which her eyes were covered with adhesive tape, her hands were tied behind her back, and a gun was held to her head. "To this day, I cannot comfortably 'browse' in a drug store," she says.

Independent pharmacies are more common targets than the larger chain pharmacies, which can afford to pay for guards, security alarms, employe training programs, and architectural designs that ease supervision of the building. Any store that stays open during "off-hours", or serves a "bad" neighborhood, though, is vulnerable. "You have to seriously weigh the risks associated with these community services, in light of the increasing wave of violence," says Rhode Island pharmacist Thomas Gibson.

A community pharmacies take narcotics off their shelves, wholesale pharmacies find themselves caught with larger and larger inventories. The result, they claim, is an increasing incidence of warehouse theft. Last year, one of every four members of the National Wholesale Druggists Assn. reported an attempted crime.

One recent robbery spree by a 33-year-old drug addict spread across the country like a road map, targeting 12 wholesale pharmacies between California and Louisiana until he was caught and convicted. Trying to raise money for his bail, his wife burglarized a New Jersey Dilaudid wholesaler.

Hospital pharmacists say that they too, are becoming victims of attack. The pharmacy of one 494-bed hospital in Providence R.I. has been the site of two attempted hold-ups within the past two years.

Says Jackson, Calif., hospital pharmacist Lin Kokana. "If desperate addicts or criminals want the stuff, they will get it from us. Hospitals are obliged, by the nature of their function, to carry these high-risk products."

Pharmacist Roland P. Galley of Arlington Va., adds this point. "When a pharmacist closes the doors of his pharmacy because he fears for his life or because it is economically impossible for him to continue his practice because of crime, he is not the only loser. It is the community which also suffers. This problem must be viewed not merely as a law enforcement problem, but also as a real and substantial public health problem.

Faced with the dilemma, some physicians decide to assume the risk themselves. Unbeknownst to the public, they stock small personal pharmacies so that they can offer a ready supply of drugs to their patients. Sometimes they act as a "go-between," calling pharmacies around town to locate drugs.

Even legitimate physicians can encounter obstacles here: Oncologist Dr. Kanner recalls telephoning a pharmacy, only to have a suspicious pharmacist later call the hospital administrator to verify his identity. A patient trying to locate a drug, he says, will get no answer at all. "It's an enormous inconvenience," he says.

Once a pharmacy is located, some physicians will try to arrange a special monthly order for their patients. Pharmacies may ask that the prescription be placed as needed, then require that the patient pick it up when it arrives.

For the cancer patient, this may mean traveling to distant neighborhoods or through crime-riddled areas to a methadone clinic. Relatives picking up prescriptions for house-bound patients may be challenged, asked to wait for telephone verification from the physician, or rejected outright. Addicts sometimes imitate cancer patients—carrying lists of chemotherapeutic and narcotic drugs, in appropriate doses, on stolen prescription pads—so everyone must be checked, pharmacists say.

A legitimate patient may be eyed with suspicion. "The cancer patient looks like the classic drug addict: in pain, wasted, thin, chronically ill, and poor. Patients with sickle-cell anemia—young, black, with repeated bouts of pain—have a particularly hard time getting drugs," says Joanne Lynn, M.D., former staff member of the President's Commission on Bioethics.

"The patient is made to feel guilty about taking the drug. He feels like a local junkie," Dr. Foley says. Adds Dr. Lynn: "It adds a real stigma to be taking narcotics. It's a continual reminder of their cancer, underscoring the problem. They feel vaguely immoral or indecent."

Congress is showing serious interest in the problem: Four new bills (HR 605, HR 1032, HR 1255, and HR 1661) would make robbery of controlled drugs from pharmacies a federal offense. Hearings were held this year to rally support for the problem. Pharmacists says that this legislation would encourage investigation of pharmacy crimes by federal authorities; the National District Attorneys Assn. rebuffs such legislation, saying that staff shortage would regulate pharmacy crimes to low-priority status. The Justice Dept. supports the thrust of the legislation, but has proposed three limiting amendments.

Experts in the medical and pharmaceutical community each see other possible solutions.

"Pharmacists should be required to stock these drugs. What are drug stores for—to sell tampons? I understand their fears, but they have a responsiblity to relieve pain," say Harold S. Mirsky, MD, an oncologist with Washington internal Medicine Group.

Hospitals could become the central dispersal center for narcotics if kept very secure, Dr. Kanner says. "Make narcotics hospital-based, using four to six hospitals in a city, then keep them well-guarded," he suggests.

Pharmacists say that if they could "hold" prescriptions 24 to 48 hours, they could discourage addicts. "Just give us a tool, so we can refuse a prescription if we want to. Legitimate patients will come back, but addicts will get scared. Make it easier for a pharmacists to say, 'No,' says James P. Powers of the Florida Pharmacy Assn.

An increasing number of pharmacists have resorted to arming themselves with guns. "Anticipating the next robber, I have a bullet-proof glass in front of my typewriter, a double-barreled shotgun with buckshot, and concrete bricks lining my prescription case completely," pharmacist Carl Hubbs of Riverside, Calif., recently wrote in a letter to the magazine *American Druggist*. "The front counter is brick-lined. A pistol is under the cash register, and my wife has one in her office. We have to protect ourselves, I will not be intimidated by any criminal!"

Meanwhile, patients in their final days of disease are trying to find their own solutions. "These patients are already dying, and their families are trying to cope with that," Dr. Foley says, "Then they have to cope with the bureaucracy of the drug situation."

SUMMARY—NATIONAL ASSOCIATION OF RETAIL DRUGGISTS, TESTIMONY BEFORE HEALTH AND ENVIRONMENT SUBCOMMITTEE, FEBRUARY 22, 1984

LEGISLATION TO MAKE ROBBERY AND BURGLARY OF A PHARMACY TO OBTAIN CONTROLLED SUBSTANCES A FEDERAL OFFENSE

1. In the Controlled Substances Act of 1970 (Public Law 91-513), Congress provided extensive felony sanctions including the following:

(a) The unauthorized non-violent distribution, dispensing, or possession of a controlled substance.

(b) The non-violent retail diversion of a controlled substance; for example, misrepresentation, fraud, forgery, and other deceptions including improper dispensing by pharmacists or a pharmacist's employee.

(c) Failure by a pharmacist to report a robbery or burglary to obtain controlled substances to the DEA or failure to complete and submit appropriate pharmacy theft reports.

(d) Submission of false information by a pharmacist or other DEA registrant application.

(e) As the label reminds us, simple possession without a prescription is a serious federal offense.

2. NARD supported the enactment and implementation of the 1970 Act. We believe in the deterrent value of these and other provisions. In fact, NARD has cooperated extensively to assure proper implementation; for example, when the Department of Justice asks our members to post signs reminding our customers that it is a federal offense to obtain controlled drugs through non-violent forgery, we comply.

3. From day one in the development and consideration of bills that became the CSA, NARD stood alone in urging Congress to provide sanctions against the robbery of pharmacies to obtain dangerous drugs. In subsequent years, we have welcomed support of national and state pharmaceutical associations and national trade press who in time agreed with NARD's original pleadings.

4. Ironically, the successful enforcement of the Act's provisions, which were designed to deter non-violent forms of diversion, has increased both the street value of the drugs sought and the likelihood of robbery and burglary to obtain these drugs.

5. Since 1973, when subject legislation was first introduced in the House, such robberies have increased by 160 percent. In 1973 there were 737 such robberies and in 1981 there were 1,908; for a total of 13,000 such robberies since 1973. Undoubtedly, the tragic and growing injury and body count of pharmacists, their employees, and consumers has no doubt yielded the significant degree of support the robbery legislation has in the Congress today.

6. In addition to the obvious victims of federal neglect, the prospect of encountering a robbery has detrimental consequences: consumers fear for their safety; pharmacists refuse to stock controlled substances, pharmacists have closed or sold their stores and tragically a growing number of pharmacy school graduates, full of free enterprise and enthusiasm, have declined a marketplace career.

7. These crimes involve narcotics, dangerous drugs, dangerous weapons, and personal violence, all priorities of any national drug abuse strategy. The public and retail pharmacies deserve federal protection especially from the havoc created by those who violently seek to obtain federally controlled drugs.

8. NARD salutes each Representative who has authored or cosponsored a pharmacy crime bill, including those which are the subject of today's hearing. Naturally, we express a strong preference for features of the NARD Model Pharmacy Protection and Violent Offender Act.

(a) We solicit the Subcommittee's support for the Luken/Bliley bill, H.R. 3974, which incorporates many of the best features of the various crime bills;

(b) We recommend that the Subcommittee carefully review similar CSA pharmacy crime provisions which passed the Senate earlier this month, and consider incorporating several provisions which complement the Luken/Bliley bill; and

(c) We urge you to send the strongest possible bill to the House of Representatives.

9. Once enacted, NARD would expect the Department of Justice to pursue such robbery and burglary violations with at least the same enthusiasm that the agency has demonstrated regarding other non-violent violations of the 1970 Act.

Incidence of Pharmacy Robberies to Obtain Controlled Substances, 1973-81 (160 percent increase)

(Source: DEA)

1973—737; 1974—988; 1975—1,279; 1976—892; 1977—1,070; 1978—1,365; 1979—1,824; 1980—1,723; 1981—1,908.

STATEMENT OF THE NATIONAL ASSOCIATION OF RETAIL DRUGGISTS BEFORE THE HEALTH AND THE ENVIRONMENT SUBCOMMITTEE, ON ROBBERY AND BURGLARY OF FEDERALLY CONROLLED DRUGS (H.R. 3974 AND OTHER SIMILAR BILLS)

Witnesses: William E. Woods, Executive vice president; Joseph A. Mosso, executive committee member, Latrobe, Pa.; John M. Rector, Esq., director of government affairs.

Mr. Chairman, Members of the Subcommittee:* I am Joseph A. Mosso of Latrobe, Pennsylvania. I serve as a member of the National Association of Retail Druggists' Executive Committee. I am also a member of the DEA Pharmacy Working Committee and Chairman of the NARD Merchandising & Management Committee. May associates this morning are William E. Woods, our Executive President, and John M. Rector, our Director of Government Affairs.

The National Association of Retail Druggists (NARD) represents owners of more than 30,000 independent pharmacies, where over 75,000 pharmacists dispense more than 70 percent of the nation's prescription drugs. Together, they serve 18 million persons daily. NARD has long been acknowledged as the sole advocate for this vital component of the free-enterprise system.

NARD members are primarily family businesses. They have roots in America's communities. The neighborhood independent druggists typifies the reliability, stability, yet adventuresomeness, that has made our country great.

As owners of independent pharmacies, our members are committed to legislative and regulatory initiatives designed to provide them a safe and fair chance to compete. We especially appreciate the opportunity to appear before the Subcommittee and present our views and recommendations on a variety of bills, each with a common purpose: to provide a federal deterrent to the alarming expansion of violence spawned by vicious criminals seeking federally controlled dangerous drugs from these small businesses.

We would like to express our special appreciation to the Subcommittee, its Chairman, and staff for the cooperation that you have shown us in the planning of this legislative hearing. Additionally, we want to acknowledge the special commitment of Representatives Bliley, Fish, Fuqua, Hammerschmidt, Hyde, Lehman, Luken, Murphy, Parris, and Skelton in helping to fashion an appropriate federal response to such crimes. Their collective efforts and the numerous cosponsors of the various bills demonstrate that this is not a partisan matter and, in fact, never has been.

You have renewed our hope that our objective will be achieved during the 98th Congress by an appropriate amendment to the Controlled Substances Act of 1970 (CSA).[1]

When the proposals, which eventually became the CSA, were before the Congress, NARD supported this landmark reform. It was a major step forward in bringing together into a single statute the scattered and fragmented laws relating to controlled drugs.

In the intervening years, we have worked closely with the federal agencies responsible for its implementation to help assure that the law and its regulations were understood by pharmacists and that our communities were protected from drug diversion and abuse.

NARD early recognized the value of public awareness of and education on the problem and issues of drug abuse and misuse. The independent retail druggist has played and continues to play this vital role in each of our nation's communities.

Then, as today, NARD was deeply concerned over the growing abuse of dangerous drugs. In the mid-60s, as part of a national campaign in cooperation with the Department of Justice, we distributed more than 100,000 kites entitled "Never Abuse—Respect Drugs" to support pharmacists in their fight against drug abuse.

NARD has been working with First Lady Nancy Reagan and ACTION, the national volunteer agency, to explore ways voluntary associations and the private sector can work with parents and youth to alleviate drug abuse and its attended damages. In fact, it was in recognition of NARD's pioneering efforts in fostering such public awareness that NARD was selected to represent pharmacy at the two-day White House Strategy Session on Drug Abuse and the Family.[2]

In summary, NARD and its members have a long history of almost 100 years of cooperation with government officials responsible for the proper control of drugs that have a potential for abuse.

As mentioned, we support the Controlled Substance Act legislation when it was before this Committee and later the implementing regulations. We made substantial contributions during the formulation and molding of each. We believe that the true objectives of the federal government in this area and those of our members are identical where the practice of pharmacy is concerned: to eradicate drug diversion and drug abuse, and to support appropriate government controls over CSA drugs that have many important and beneficial uses in the medical care drug armamentarium of physicians and pharmacists.

It is ironic, therefore, that the one major dispute we have had for more than a decade with the federal government's drug control strategy is the failure to acknowledge and address the most serious modes of controlled substance diversion: Robbery and Burglary of CSA Registered Retail Pharmacies to obtain dangerous controlled drugs.

From day one in the development and consideration of the measures that became the CSA, NARD stood alone in urging the Department of Justice and Congress to provide sanctions against the robbery of pharmacies to obtain dangerous drugs. Before the Senate in 1969[3] and this Subcommittee in 1970[4] and in correspondence with department officials, we cautioned that failure to acknowledge such violence targeting our members would only return to haunt. Illustrative of our advice is the following quote from the testimony of William E. Woods, then our Washington representative, to the Subcommittee, then chaired by Representative Jarman of Oklahoma:

"Many retail pharmacies have been robbed by criminals searching for narcotics and dangerous drugs. Too many retail pharmacists have been murdered, blinded, or assaulted as a result. With enactment of the subject legislation, there will, hopefully, be a substantial reduction in drug abuse. We are concerned, however, that the robberies, assaults, and senseless murders in retail pharmacies may increase. It is our feeling that such criminal acts would be lessened if the Justice Department could take a greater interest in pursuing such cases. The deterrent would be accelerated. If only local authorities pursue these cases, the impact may not be great enough. Since the reason for the proposed legislation is the great national interest and social harm involved, the NARD recommends that consideration be given to ways for the Justice Department to become involved in cases where robberies of retail pharmacies are aimed at drugs and products which are the subject of these bills."

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* Rep. Henry Waxman (D-CA), Chairman. Majority: (12-D) Representatives Waxman, James Scheuer (NY), Thomas Luken (OH), Doug Walgren (PA), Barbara Mikulski (MD), Richard Shelby (AL), Ron Wyden (OR), Dennis Eckart (OH), Gerry Sikorski (MN), Richard Ottinger (NY), Timothy Wirth (CO), and Mickey Leland TX). Minority: (5-R) Representatives Edward Madigan (IL), Ranking: William Dannemeyer (CA), Bob Whittaker (KS), Thomas Bliley, Jr. (VA), and Howard C. Nielson (UT).

[1] Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, P.L. 91-513, 84 Stat. 1736, enacted 10/27/70, effective 5/1/71, is known as the Controlled Substances Act (21 USC 801 et seq.).

[2] White House Briefing on Drug Use and the Family coordinated by ACTION's Drug Use Prevention Program and held at the White House on March 21 and 22, 1982. In April 1983, the *NARD Journal* started a series entitled, "Ask Your Family Pharmacist—About Drug Abuse." The series features articles by world renown drug abuse expert Dr. Sidney Cohen, formerly the NIMH Director for Narcotics Addiction and Drug Abuse.

[3] Narcotics Legislation Hearings before the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary, U.S. Senate, Ninety-First Congress, First Session, September 26, 1969, pp. 485-549, at 491.

[4] Drug Abuse Control Amendments, Part 1, Hearings Before the Subcommittee on Public Health and Welfare of the Committee on Interstate and Foreign Commerce, House of Representatives, Ninety-First Congress, Second Session, February 19, 1970, at 415. In subsequent years, we have welcomed support of national and state pharmaceutical associations, and national trade press, who in time agreed with NARD's original pleadings.

Eventually, the 91st Congress did act by enacting the single most important statute relating to drug control since passage of the Harrison Act. Tragically, pharmacists, their staff, and customers were ignored and left unprotected from the violent diversion of dangerous drugs.

It appeared that Congress was so focused on the substances of abuse it was blinded as to the predictable victims of violent efforts to obtain these same substances.

If it was an awareness of victims and violence that would be necessary to get the attention of the federal government, as we had predicted, the passage of time would yield the body count.

NARD, each year, urged the Congress to act. During the Senate Judiciary 1974 Oversight Hearings on the Controlled Substances Act, for example, we testified: [5]

"NARD and its members are greatly concerned over the increased risk of crimes of violence in pharmacies. Crimes of violence in pharmacies related to controlled substances are increasing at an alarming pace. We have provided the Committee with many, many new stories concerning similar crimes throughout the country.

"As the CSA is effectively implemented to dry up the illicit source of controlled substances for pushers and users, there is a correspondingly increased pressure and threat upon legitimate outlets possessing quantities of these substances. Pharmacies are the primary target [6] for those in need of drugs for a number of reasons, not the least of which is that pharmacies are open and accessible to just about every segment of the population and are found in inner city areas when most other businesses have fled."

Each year, the National Association of Retail Druggists has adopted a policy statement regarding pharmacy crime. The following text, unanimously adopted at our Conventions, states our members' recommendation, and that of other pharmacists, as to why there is a problem and what can be done to remedy it:

Whereas, the pharmacy community, and NARD members in particular, are experiencing a record number of violent acts, usually robberies and burglaries, aimed at obtaining federally regulated drugs; and

Whereas, the effective enforcement of the 1970 Federal Controlled Substances Act, by the Federal Drug Enforcement Administration, has been a major contributor to the radical escalation in such pharmacy crime; and

Whereas, the owners of independent retail pharmacies, their staff, consumers, and families, as well as store neighborhoods, need federal investigation and prosecution to combat such terror and violence; and

Whereas, federal mandatory minimum penalities, without probation or suspended sentences, would serve to curb violence directed at pharmacies stocking federally controlled substances:

Resolved That NARD continue its leadership role in the Congress for passage of NARD's Pharmacy Protection and Violent Offender Control Act or for the enactment of similar legislation.

The anamoly, however, has remained. It is a serious volation of federal law if dangerous drugs are diverted from a pharmacy by fraud or by improper prescribing. Yet, when the same drugs are illegally obtained in burglaries or robberies by vicious assailants who terrorize customers, employees, and our members, there are no federal investigations or prosecutions.

In fact, enforcement of provisions of the 1970 Controlled Substances Act, designed to reduce non-violent forms of diversion, has increased both the street value of the drugs sought and the likelihood of robbery as a more preferred method for obtaining these drugs. The reality is that pharmacists are on the front line in the mutually cooperative effort to prevent diversion and abuse of legitimate drugs. Pharmacists do not, however, seek combat pay for participating in this risky joint venture whereby they provide highly dangerous, although oftentimes lifesaving, federally controlled substances. What we do want is a comparable amount of federal involvement in the protection of pahramacists, their families, employees, and customers from this violence.

Since passage of the Controlled Substances Act, criminals who in the past relied upon access to illegal drugs now rely upon nighttime break-ins and have, on an ever-increasing basis, been entering in the daytime through the front door, usually armed with a dangerous weapon.

NARD's 1969 prediction—that as illicit drug supplies were cut off, retail pharmacists would become targets for an increasing number of criminals seeking other sources of drugs—has regrettably become a reality. And the plague is spreading. Daytime robberies for Controlled Substances Act drugs are now even victimizing hospital pharmacies.

In cautioning that the failure to act in 1970 would return to haunt in the future, NARD accurately forecasted the grim, growing epidemic of terror and violence which today is engulfing our nation's retail pharmacies, from owners and staff to families, patients and customers.

Let there be no doubt about it, the record—the facts—are sad, but dramatic. The following NARD charts tells it all.

Since 1973, when NARD drafted the first corrective legislation which was introduced in the House, robberies of retail pharmacies to obtain controlled substances have increased an incredible 160 percent!

The trend continues unabated; in fact, it has accelerated. From 1976 to 1981, when robbery nationally increased by one third, the robbery of pharmacies to obtain controlled drugs increased by 113 percent! Pharmacy thefts increased by 19 percent. During this same period, robbery as a percent of total pharmacy theft, increased by almost 100 percent, from 15 percent to 28 percent.

Robbery generally—a fast-growing crime of violence—has increased nationally by 31 percent.[7]

What of the victims? Those terrorized, assaulted, maimed, and yes, murdered? We have done our level best, as has the American Druggist, since 1980, to accurately document this carnage.

Over the past decade, our NARD publishers have reported the growing incidence of this violence. Additionally, our newspaper clipping files have helped document the growing number of assaults, burglaries, and murders.

Referring again to the NARD Chart, what we do know is that since 1973, when legislation to make such robberies a federal offense was introduced in the House, more than 13,000 stores have been the victims of robberies to obtain controlled substances. Justice Department (FBI and LEAA) studies reveal that one in five robberies result in death or some injury to victims. Thus, during this period, it is estimated that approximately 2,600 NARD members, pharmacists, employees, or customers have been injured or killed in the course of such robberies.[8]

When our pharmacies are robbed, or burglarized, our members must file a form—DEA Form 106—as to the particulars of the crime. Item number eleven (11) mandates that any injury be reported as well as a comment as to the nature of the harm.

CSA pharmacists must file this theft form or face felony penalties ranging up to 8 years in prison or a $60,000 fine or both for not reporting to the federal government the particulars of a robbery which is not the subject of the CSA penalty.

As if to add insult to injury, these reports of woundings, brutal beatings, and murders committed in conjunction with these pharmacy crimes were never reported by the federal government.

Look long and hard through reports on drug abuse and drug related violence, but you will not find an accounting of these victims of pharmacy crimes seeking federally controlled drugs of abuse.

Even the illegal marketplace impact of such crimes is understated. If, for example, an armed assailant entered an independent retail pharmacy owned by one of our members, harassed and abused the staff and customers and left with three bottles of 100 tablets of dilaudid, never to be heard of again, DEA would record the robbery and assess its importance on the basis of the replacement cost of the drug stolen or approximately $80.00. On the other hand, if the same armed robber, one block away, was confronted by a DEA agent and arrested for illegal possession of the controlled substance, the agency would catalog such a case as one involving drugs with a street value in excess of $15,000.

Despite the long haul since 1969, we are—today—more optimistic than ever. The tragic and growing number of injuries and the body count of pharmacists and consumers in each of our communities has no doubt yielded the progress we can report today:

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[5] The Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513) and Its Relationship to the Pharmacists, Hearing Before the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary, U.S. Senate, Ninety-Third Coangress, Second Session, March 28, 1974, pp. 3-99, at 76-78.

[6] For example, in CY 1980, 1,723 of a total of 1,781 robberies to obtain controlled substances reported to DEA were perpetrated against Registrant Pharmacies. *See* DEA Drug Theft Analysis—CY 1980.

[7] FBI Chart: Crime in the United States, p. 17, 1981.

[8] "The DEA cautions that, due to mechanical problems, the 1982 figures are substantially underreported." "Robberies of persons registered under the Controlled Substances Act, S. 422," Senate Committee on the Judiciary, Senate Report No. 353, 98th Congress, 2nd Session, p. 6 (1984).

1. A record number of pharmacy crime bills introduced in the 97th Congress: a total of 16, including 7 in the Senate and 9 in the House, with 60 Senate and 212 House cosponsors.

2. 1982 Senate hearings and passage of the robbery of a pharmacy to obtain controlled drugs provision four times late in the Second Session of the 97th Congress.

3. At the outset of the Second Session of the 98th Congress, the Senate has already:

a. Included pharmacy crime provisions among the Controlled Substances Act Amendments included on S. 1762 which it passed 90-1 on February 2, 1984 (see S. 1762 Title X, Part N); and

b. Placed S. 422, the Robbery of Persons Registered under the Controlled Substances Act Amendments, on the Senate Calendar.

4. In the House, again numerous bills have been introduced with nearly two hundred total cosponsors.

Mr. Chairman, your interest as demonstrated, in part, by this hearing is another reason for our optimism.

Additionally, we salute each Representative who has authored or cosponsored the bills which are the subject of today's hearing and understandably express a strong preference for features of NARD's Pharmacy Protection and Violent Offender Act. These include:

1. Mandatory minimum penalties for the robbery of pharmacies to obtain federally controlled substances;

2. Additional mandatory penalties for repeat offenders;

3. Mandatory penalties for those who conspire to commit such robberies;

4. Denial of probation and suspended sentences to those convicted of such robberies; and

5. A requirement that the FBI include pharmacy crime, including robberies and its victims in its annual Uniform Crime Report; and that the Attorney General report to Congress on the implementation of the Act.

Congress has specifically provided that a person who manufactures, distributes, dispenses, or possesses a controlled substance, with illegal intent to distribute, is subject to federal criminal prosecution and penalties.

Similarly, if a person knowingly or intentionally diverts possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge, including by improper prescribing or dispensing, or outright diversion by a registrant's employee, federal jurisdiction and penalties are available.

In such cases, the extensive investigational resources of the U.S. Department of Justice are available.

These cases are pursued in Drug Enforcement Administration and U.S. Attorneys' offices throughout the United States. The statutory authority in such matters is not limited by special statutory criteria, and, of course, these sanctions coexist with concurrent jurisdiction of states and localities over such criminal conduct.

Thus, present law reflects appropriate federal interest when controlled substances are obtained through non-violent theft, such as forgery. As the label warning reminds us all, even simple possession without a prescription is a serious federal violation. Their deterrent impact is clear. Yet, there is no federal sanction for burglars or robbers, usually armed, who violently abuse customers, employees, or the owners we represent, as they seek these same controlled substances.

We believe in the deterrent impact. We agree with the DEA when it asks that we request our members to post signs that it is a federal offense to obtain controlled substances by forgery. It is a deterrent. But, what should we tell our members when they are shot, maimed, yes, and murdered by robbers attempting to obtain controlled substances? Sorry, the federal government is interested in forgery, and other diversions, but not brute violence to obtain narcotics.

We do not suggest that ordinary crime in pharmacies, like robbery and burglary, be blanketed into federal jurisdiction. However, we do request that crimes of violence—assault, robbery, murder, and the like—involving controlled substances be subject to federal jurisdiction. If a pharmacy were robbed and only money taken, that crime would rightly be a matter of local jurisprudence. However, if the felons clearly were motivated by the presence of, or a need to obtain, the federally controlled drugs, then we believe that federal jurisdiction and prosecution ought to be authorized.

We solicit the Subcommittee's support for the Luken/Bliley bill, H.R. 3974, which incorporates many of the best features of various pharmacy crime bills, all of which have been enthusiastically endorsed by NARD.

Additionally, we recommend that the Subcommittee carefully review similar CSA pharmacy crime provisions in S. 1762 (Title X, Part N), the Comprehensive Crime Control Act of 1984, which passed the Senate earlier this month. In particular, we recommend that you seriously consider incorporating the following provisions which in our view would complement H.R. 3974:

1. The title "Pharmacy Protection and Violent Offender Control Act of 1984" (§ 1015);

2. The "Findings" (§ 1016) and "Purposes" (§ 1017) sections;

3. The coverage of other "persons registered with the DEA" (§ 1018a—new Section 413(a)(1)); and

4. The inclusion of "request by state or local law enforcement official" as an additional basis for prosecution (§ 1018(a)—new Section 413(A)).

We solicit your support in obtaining House passage of the "Pharmacy Protection and Violent Offender Control Act." We stand ready to assist again, as we have on each past occasion. It would establish federal law enforcement as an essential aspect of any comprehensive pharmacy robbery and burglary prevention effort. We believe it would provide federal law enforcement equity to an entire class of health care professionals—retail pharmaicsts—whose number one crime problem associated with the handling of federally controlled drugs has been regretfully ignored by the federal government.

We recognize that enactment of the NARD bill would be no panacea; pharmacy crime is unlikely to magically disappear.

Once enacted, we would expect DEA to pursue such robbery and burglary violations with at least the same enthusiasm that the agency has demonstrated regarding other violations of the Act. For example, "A Study of Federal Arrests and Dispositions of Practitioners: 1972-1977" reviewed past efforts of DEA directed at medical practitioners, including doctors of medicine, doctors of osteopathy, veterinarians, dentists, and podiatrists. Seventy-seven (77) percent of these cases resulted in conviction and the majority received a prison term, with a median term of 36 months. Personnel and other costs of this and DEA's related drug diversion efforts, such as Project DART in northern California or DEA's Targeted Registrant Investigations Program (TRIP), are not available to us, but we would hope that at least comparable persons and dollars would be made available to deter those intent upon robbing or burglarizing pharmacies.

In fact, because of the violent nature of the target of NARD's legislation, even greater effort would be appropriate. After all, these would be felonies involving narcotics, dangerous drugs, weapons, and personal violence, each of the target of most proposed national drug control strategies.

Under the legislation, we envision our members working closely with local, state, and federal authorities to maintain a coordinated attack on pharmacy crime.

In fact, NARD is engaged in a variety of activities to assist its members to more effectively deal with pharmacy robbery and crime generally. Our Journal has featured articles on crime prevention, handgun safety, what to do during and after a robbery or burglary, and other related subjects.

As part of our state clearinghouse on pharmacy crime, we have worked closely with state legislators and pharmaceutical associations and are using the NARD Pharmacy Protection and Violent Offender Control Act as a model. California and Alabama are among several states that have enacted new state laws.

Likewise, we recommend and continue to work with congressional small business advocates including Mr. Dreier, Mr. Matsui, and Mr. Valentine, and to support legislation including their legislation, that would establish small business tax credits up to 15 percent of the purchase price of security devices designed to help deter burglaries and robberies.

Effective October 1, 1980, we have provided each NARD member—without added cost—coverage under our Felonious Assault Insurance Plan, which includes a $50,000 death benefit and a $25-50,000 benefit for loss of sight or limbs resulting from an armed robbery.

The family of a key member of the NARD Committee on National Legislation and Government Affairs, Howard Sudit, was among the beneficiaries of the felonious assault policy. Howard was murdered on October 21, 1981, by an armed assailant attempting to obtain controlled substances from his Avenue Pharmacy in Charleston, S.C. Prophetically, only weeks before his murder, Howard had again urged us to increase our effort for passage of the violent pharmacy robbery legislation.

Howard's case is hardly unique. At a recent NARD Annual Conference on National Legislation, when a member of the Senate Judiciary Committee inquired of pharmacy leaders from across the nation, almost every person had been recently terrorized by criminals seeking controlled drugs.

The increased threat of violence and crimes in pharmacies is a direct result of the stringent controls imposed by the CSA. It is only fitting that the resources and facilities of the federal government be made available to protect pharmacies and apprehend criminals bent on circumventing the controls of the law.

Government competition, with their businesses and recent high interest rates, are economically killing small business. At least our members will personally survive any economic assault on their livelihoods. It is a cold reality, however, that some—an ever increasing number—will not survive the robbers' assaults. Other pharmacists and their customers—your constituents—will live, yet carry the scars of wounds, actual and emotional, for life. Still others will no longer pursue a retail druggist profession that as recently as September, George Gallup found is held in high esteem—second only to clergy—by the American public.

The brutalization of our pharmacies has created other more subtle havoc: Customers denied access to essential pharmaceutical products; accelerated levels of stress and burnout, including some who have sold their stores; and tragically, a growing number of pharmacy school graduates, full of free enterprise enthusiasm who have declined a marketplace career.

We recently asked each member of the 98th Congress the following question:

"How long will you tolerate the lack of federal interest in the reign of terror that is being visited upon the drug stores in your district? How many more small business owners, their employees, or customers must be brutalized or killed before the Congress acts to provide appropriate federal protection to those whom you trust to dispense controlled drugs to your constituents, friends, and family?"

We hope that you answer by sending the strongest possible bill to the House of Representatives.

Again, on behalf of the Officers, Executive Committee, and members of NARD, we thank you for the opportunity to appear and to continue to participate in the formulation of the federal response to pharmacy crime.●

LUPUS AWARENESS WEEK

● Mr. D'AMATO. Mr. President, today I am pleased to cosponsor Senate Joint Resolution 239, designating the week of October 21 through October 27, 1984, as Lupus Awareness Week.

Lupus erythematosis is a chronic, inflammatory disease of the connective tissue. It is caused by antibodies attacking other cells of the body. Its many symptoms include: fever, joint pains, fatigue, heart problems, anemia, hair loss, and uncontrollable skin rashes. Close to 1 million people, predominately women, are afflicted with lupus erythematosis. Over 50,000 new cases are reported annually. There is no known cure for lupus, but, thanks to science, lupus sufferers may expect a normal lifespan and productive lives.

Lupus erythematosis is more common than muscular dystrophy or cystic fibrosis, yet it is a little known disease to the general public. For the reasons I cosponsored Senate Joint Resolution 102, which designated the week of October 16, 1983, as Lupus Awareness Week, I am again cosponsoring Senate Joint Resolution 236 in an effort to heighten public awareness of this tragic disease. Increased awareness will aid in the early diagnosis of lupus which is essential to effective treatment. This awareness week will aid in eliminating the naivete of the medical profession as well. I urge my colleagues to join me in this important effort.●

J. BONNIE NEWMAN, ASSISTANT SECRETARY OF COMMERCE FOR ECONOMIC DEVELOPMENT

● Mr. STAFFORD. Mr. President, on January 31, the Committee on Environment and Public Works, which I chair, held a confirmation hearing for Bonnie Newman—nominated by the President to be Assistant Secretary of Commerce for Economic Development—and later recommended to the Senate that her nomination be confirmed for this position. I know that Members are pleased at the prospect for improved management and a more perceptive understanding there.

Following the advice and consent of the Senate to the nomination February 9, Miss Newman officially took office last Friday. Her response to Secretary Baldrige at her swearing-in ceremony gives evidence to her enthusiasm, her humanity, and deep interest. We wish her well.

I ask that Miss Newman's remarks on this occasion be printed in the RECORD.

The remarks follow:

REMARKS OF J. BONNIE NEWMAN, ASSISTANT SECRETARY OF COMMERCE FOR ECONOMIC DEVELOPMENT

Thank you. To be appointed by the President of the United States as Assistant Secretary is a tremendous honor and a humbling experience. I am most grateful to President Reagan for the privilege of this opportunity and for his confidence.

For those of you in this room who take an interest in politics, and I expect there are a few, you may be aware that next week marks the occasion of the Presidential Primary in New Hampshire—a special place I call home.

I remember very well a day, 8 years ago in 1976, thinking it might be interesting to be involved in the Primary. I drove to Concord to meet with representatives of then Governor Ronald Reagan. I met that day with Governor Hugh Gregg and Jim Lake. I remember driving back to Durham knowing that something special was about to happen and life would never be the same. Through that campaign I met many special people, the kind of people Ronald Reagan especially attracts, people like Nancy Reynolds and Helene von Domm. People who have not only influenced my life which indeed has changed, but more importantly who are now good friends.

Someone once defined a friend as a present you give yourself. By any such measurement, I've been very generous indeed. For this occasion is made special by the presence of so many special people—friends all. I think of course of you, Helene, who gave me both an example to emulate and the encouragement to try. I think of Secretary Baldridge, who in a few short weeks I've come to regard, not only as a friend, but as a cherished colleague. I look around this room and I see dozens of other friends, all handsome presents I've given myself along the road from Lawrence.

Most of all, I think of two people who embody whatever I know to be good and generous and true. As a loyal daughter of New Hampshire, I could hardly let pass the opportunity to quote our poet laureate, Robert Frost. "Home," said Frost, "is the place where, when you have to go there, they have to take you in."

Well, Mom and Dad, because of you I'm never far from home. I should add, however, that barring unforeseen events this fall, you won't have to take me in anytime soon!

There's something else Frost wrote, something especially appropriate to this city and this profession of public service to which all of us have the privilege of belonging. It goes like this: "All those who try to go it alone, Too proud to be beholden for relief; Are absolutely sure to come to grief."

In this building, we wage war on hard times. We play cheerleader to the natural ingenuity of the American people. And we pledge ourselves daily to banishing hopelessness wherever it corrodes life, whether on the urban street corner, the shuttered assembly line, the rural community or corner business. Following the policies of a President who has restored hope to the Nation's vocabulary, we seek to lead and we intend to listen.

We will not go it alone, too proud to be beholden for relief. For the relief we seek comes from the grassroots of America. Our government will serve the governed. It will do so efficiently, effectively, by adhering to the standards of excellence that the American people have set for us. I have not served long in this building. But I have been here long enough to see and savor those standards wherever I turn. And so long as that continues, so long as we regard ourselves as what we are—friends united in a common cause—then none of us will ever come to grief.●

NATIONAL EYE DONOR MONTH

● Mr. D'AMATO. Mr. President, I rise today to cosponsor Senate Joint Resolution 225, designating the month of March 1984 as "National Eye Donor Month." Last year, I cosponsored a similar resolution, Senate Joint Resolution 15, which designated March 1983 as "National Eye Donor Month." The response generated from that action was encouraging. For that reason, I am again supporting a National Eye Donor Month.

Since the first eye bank was established in 1944, eye banks in the United States has helped thousands of children and adults. Today, there are 93 eye banks in this country.

An estimated 30,000 people each year have their sight severely impaired by corneal disease or injury. Sight often can be restored by means of a corneal transplant operation. This operation can only be performed following the donation, at death, of a human cornea. This procedure was successfully performed for the first time in 1909; today it ranks as the most reliable and frequent of all human transplants. Over the last 75 years, nearly 150,000 corneal transplants have been performed and the success rate for the operation has grown to 95 percent. The success of the operation has made it practically routine.

Corneal transplants face a much larger problem, not in technology, but in supply. The operation can be performed only when a corneal has been donated at death. If more Americans appreciated the importance of such donations, the necessary arrangements could be completed far in advance of a death, or at least, in the hours following the death of a relative.

In order to make people aware of the need, a broad public education program is necessary. The publicity surrounding a proclamation of National Eye Donor Month will, again, make an important contribution to this educational effort. Not only will increased public awareness enable greater numbers to have their sight restored by donor tissue, but a vital contribution to research into the causes of other blinding diseases can be made by the scientific studies that would be possible if eye donations become routine.

All those who are involved in eye donation programs serve our commendation, for their goal is a noble one. Mr. President, I urge my colleagues to join me in support of this resolution.●

THE CALENDAR

Mr. BAKER. Mr. President, Calendar Orders Nos. 658 through 674, with the single exception of Calendar Order No. 665, have been cleared for action by unanimous consent on this side. Is the minority leader prepared to consider those items?

Mr. BYRD. Mr. President, the minority is ready to proceed.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that Calendar Orders 658 through 674, with the exception of 665, be considered en bloc and agreed to en bloc, and that all amendments and preambles be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

HUGO LAFAYETTE BLACK DAY

The joint resolution (S.J. Res. 59) to authorize and request the President to designate February 27, 1986, as "Hugo LaFayette Black Day" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 59) and preamble are as follows:

S.J. Res. 59

Whereas Hugo LaFayette Black's reverence for the Constitution of the United States and the freedoms it guarantees led him to a career of dedicated public service in the State of Alabama, the United States Senate, and the United States Supreme Court, spanning over fifty years;

Whereas Hugo LaFayette Black's courageous leadership, devotion to wisdom and scholarship, and dedication to the cause of justice brought meaning to the concept of democracy and has had a far-reaching influence on the development of American jurisprudence;

Whereas Hugo LaFayette Black stood firm and unwavering in protecting and defending our cherished constitutional rights and freedoms, and contributed greatly to the strength and vitality of our Nation;

Whereas future generations will continue to benefit from Hugo LaFayette Black's devotion to the common good and sense of compassion for all;

Whereas February 27, 1986, is the one hundredth anniversary of the birth of Hugo LaFayette Black; and

Whereas it is fitting and proper to honor Hugo LaFayette Black as a defender of freedom, a patriot, and a dedicated public servant: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating February 27, 1986, as "Hugo LaFayette Black Day", and calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

NATIONAL SOCIAL WORK MONTH

The joint resolution (S.J. Res. 112) to proclaim the month of March 1984 as "National Social Work Month" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 112) and preamble are as follows:

S.J. Res. 112

Whereas a productive and rewarding life for all of our citizens is a major goal of our Nation; and

Whereas for millions of people in our society adverse economic and social conditions create severe stresses and an inability to cope with life situations; and

Whereas countless numbers of Americans through accidents, birth, or illness develop physical, emotional, and mental impairments; and

Whereas professional social workers are advocates for sound and humane public policies and services; and

Whereas professional social workers are in the vanguard of the forces working to provide protection for children and the aged, the reduction of racism and sexism and the prevention of the social and emotional disintegration of individuals and families; and

Whereas professional social workers constitute the largest group of professionals engaged in the treatment and recovery of those individuals who have become emotionally and mentally ill; and

Whereas in recognition of professional social workers continuing efforts to provide the opportunities for a life of accomplishment, dignity, and purpose for all people: Now, therefore, be it.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of March 1984, as "National Social Work Month," and calling upon the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

WORLD HEALTH DAY

The Senate proceeded to consider the joint resolution (S.J. Res. 137) to designate April 7, 1984, as "World Health Day."

Mr. RIEGLE. Mr. President, I wish to take this opportunity, on the passage of Senate Joint Resolution 137, to express my deep appreciation and my thanks to my colleagues for their support of this resolution, which I introduced last year with Senator **Kennedy**. Through this legislation, we designate April 7, 1984, as "World Health Day," and we acknowledge the importance of improving health conditions around the world.

I am very pleased to have sponsored this legislation for two reasons. First, although April 7 is celebrated around the world as "World Health Day," this is the first time we in the Senate have designated it as such. Second, Mr. President, the theme for this day in 1984 is: Children's Health—Tomorrow's Wealth. As a member of the Senate children's caucus and the Committee on Labor and Human Resources, I am particularly concerned about the health and well-being of children at home and abroad, for it is on these children that the future depends.

It has been said that the health of a nation lies in the health of its people, yet today many nations continue to be saddled with the problems of malnutrition, preventable disease, and unsanitary conditions. It is my belief that through the activities of "World Health Day, 1984" we will come closer to attaining the goal of minimal health conditions for all people of the world.

Again, I wish to thank my colleagues for their support of this resolution.

The joint resolution (S.J. Res. 137) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and preamble are as follows:

S.J. Res. 137

Whereas the health of a nation depends upon the health of its people;

Whereas improvement of the health of the people of our Nation contributes to world health, and world health contributes to the health of our Nation—a principle enunciated in the constitution of the World Health Organization and accepted by the United States;

Whereas the United States is an active member of the World Health Organization and has both benefited from and contributed to the achievements of the Organization;

Whereas the countries of the world, acting through the World Health Organization, are committed to the goal of health for all by the year 2000;

Whereas primary health care is recognized as a key to the attainment of health for all by the year 2000;

Whereas health education and health awareness, prevention and treatment of common diseases and illnesses, basic sanitation, and adequate nutrition are essential elements of primary health care;

Whereas the World Health Organization has established April 7 of each year as World Health Day to call attention to what individuals and government can do to further the health of human beings everywhere, and the American Association of World Health has sponsored and assisted in this endeavor; and

Whereas it has been the custom for the President to call attention to World Health Day each year in the form of a public message: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 7, 1984, is designated as "World Health day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

NATIONAL TUBEROUS SCLEROSIS WEEK

The joint resolution (S.J. Res. 148) to designate the week of May 6, 1984, through May 13, 1984, as "National Tuberous Sclerosis Week" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 148) and preamble are as follows:

S.J. Res. 148

Whereas tuberous sclerosis (hereafter in this joint resolution referred to as "TS") is a genetic disorder affecting as many as one in ten thousand Americans;

Whereas TS remains poorly understood and frequently misdiagnosed even though it is one of the more common genetic disorders;

Whereas TS affects both males and females and individuals of all races;

Whereas characteristics of TS include skin markings, seizures, motor difficulties, mental retardation, tumors of the brain and other organs, and behavioral abnormalities;

Whereas in any individual, the disease features and severity may vary from mild, when patients can live normal lives, to extreme, when TS in disabling and may be life threatening;

Whereas modern research technology has increased the knowledge of TS, there remains much to be learned;

Whereas only with continued, extensive research is there any chance of conquering this horrifying disease; and

Whereas establishing a National Tuberous Sclerosis Week would serve to increase public awareness of TS and stimulate research: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 6, 1984, through May 13, 1984, is designated as "National Tuberous Sclerosis Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

NATIONAL POW/MIA RECOGNITION DAY

The joint resolution (S.J. Res. 171) to provide for the designation of July 20, 1984, as "National POW/MIA Recognition Day" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 171) and preamble are as follows:

S.J. Res. 171

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;

Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;

Whereas many Americans missing in action remain unaccounted for and the uncertainty surrounding their fate has caused their families to suffer acute hardship; and

Whereas the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the twentieth day of July 1984 shall be designated as "National POW/MIA Recognition Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such day with appropriate activities.

NATIONAL BETA CLUB WEEK

The joint resolution (S.J. Res. 184) to designate the week of March 4, 1984, through March 10, 1984, as "National Beta Club Week" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 184) and preamble are as follows:

S.J. Res. 184

Whereas the Beta Club recognizes those high school students who have displayed outstanding qualities of leadership and the highest standards of honesty, achievement, and service to others;

Whereas the Beta Club significantly contributes to the motivation of students to acquire necessary education by rewarding such students for displaying such outstanding qualities, and thereby contributes to the development of responsible citizens;

Whereas January 9, 1984, marks the fiftieth anniversary of the founding of the Beta Club for the purpose of recognizing the meritorious achievements of exemplary students; and

Whereas it is appropriate to give recognition to the Beta Club for its significant accomplishments toward the development of the youth of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of March 4, 1984, through March 10, 1984, is designated as "National Beta Club Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

FROZEN FOOD DAY

The joint resolution (S.J. Res. 193) designating March 6, 1984, as "Frozen Food Day" was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 193) and preamble are as follows:

S.J. Res. 193

Whereas the United States of America is blessed with an impressive array of agricultural products that make the food production and distribution system of the Nation the envy of the world;

Whereas throughout history one of the primary goals of human effort has been the production of food;

Whereas the farm-to-city migration created a great demand for food supplies in dense population centers in which such supplies could not be grown;

Whereas the international frozen food industry started in the United States with vegetables, fruit, meat, and fish being first packaged and offered to consumers in 1930;

Whereas between 1935 and 1940 frozen foods were provided to the public on a large scale, and during World War II ration point values posted in stores and carried in newspapers focused public attention on frozen foods;

Whereas frozen food became a meaningful part of the space age when Apollo XII astronauts took frozen meals on board and seventy-two frozen food items were stored on skylab for a five-hundred-day supply of meals for the crew;

Whereas the American frozen food industry has worked closely with producers and has continued research and development for the purpose of seeking better ways to bring the nutrition, quality, and taste of American agricultural products to the American consumer; and

Whereas in March 1984 the frozen food industry in the United States will celebrate the fifty-fourth year of service to the American people and the people of the world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the significant contribution which the frozen food industry in the United States has made and continues to make to the nutritional well-being of the American people by enabling them to share in the agricultural abundance of the Nation, March 6, 1984, is hereby designated as "Frozen Food Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

YEAR OF WATER

The joint resolution (S.J. Res. 202) to designate 1984 as the "Year of Water," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 202) and preamble are as follows:

S.J. Res. 202

Whereas water is a vital resource essential to all life;

Whereas the purity, conservation and productive use of water are matters of immediate national and international concern;

Whereas agriculture is, worldwide, man's largest single user of water;

Whereas the development of water management systems and technologies has contributed to America's leadership in agricultural production;

Whereas in 1984 the United States will welcome the twelfth International Congress on Irrigation and Drainage to Fort Collins, Colorado, bringing together water management professionals from throughout the world;

Whereas the United States Committee on Irrigation, Drainage and Flood Control will host the forthcoming twelfth International Congress on Irrigation and Drainage, thereby continuing its distinguished tradition of national service begun in 1952; and

Whereas heightened public awareness and concern for the beneficial and productive use of water resources is deemed to be in the Nation's interest: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year 1984 is hereby designated as the "Year of Water". The President of the United States is authorized and requested to welcome the delegates from the seventy-nine member nations of the International Congress on Irrigation and Drainage as they assemble for their twelfth International Congress in Fort Collins, Colorado, and to issue a proclamation calling upon the people of the United States and all interested groups and organizations to observe the Year of Water with increased awareness and dedication to the interests of worldwide water resources and their immense importance to the welfare and well-being of mankind.

YEAR OF THE SECRETARY

The joint resolution (S.J. Res. 213) designating 1984 the "Year of the Secretary," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 213) and preamble are as follows:

S.J. Res. 213

Where as secretaries constitute the largest segment of the white-collar work force;

Whereas the Bureau of Labor Statistics has projected that the secretarial professional will be the career field with the most job openings in the 1980's;

Whereas the secretary has met and mastered the computer, becoming the most vital member of any organization;

Whereas secretaries provide a cohesive influence, fostering smooth office operations on all levels, both in public and private organizations;

Whereas secretaries are the focal point of information and productivity in any workplace;

Whereas secretaries are continually improving their technical skills, becoming even more valuable to the functioning of the organization;

Whereas secretaries conserve employers' valuable time by personally processing important information;

Whereas secretaries must be versatile and adaptable in today's fast-paced work environment;

Whereas secretaries must be constantly aware of, and well versed in, new technology;

Whereas people in secretarial positions must have a mastery of the fine points of grammar, spelling, and diction;

Whereas skilled secretaries are in constant demand; and

Whereas the productivity of the entire Nation depends on the employment of effective, knowledgeable secretaries: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That because secretaries are vital to the functioning of the economy, that 1984 will be designated as the "Year of the Secretary".

NATIONAL ARTS WITH THE HANDICAPPED WEEK

The joint resolution (S.J. Res. 220) to designate the week of May 20, 1984, through May 26, 1984, as "National Arts With the Handicapped Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 220) and preamble are as follows:

S.J. Res. 220

Whereas programs involving the arts enhance the learning and enrich the lives of disabled persons;

Whereas arts with the handicapped is a means of integrating disabled persons into the mainstream of education and cultural society;

Whereas programs bringing arts to the handicapped inform the general public, parents, volunteers, and the business community of the value of arts to the disabled;

Whereas emphasis is needed to expand support for arts programs with the handicapped and to increase participation and commitment of the community and educators to these activities;

Whereas the National Committee Arts With the Handicapped, an educational affiliate of the John F. Kennedy Center for the Performing Arts, will celebrate its tenth anniversary as the coordinating agency for arts programs for disabled children with a very special arts festival in Washington, District of Columbia, during the week of May 29, 1984; and

Whereas the committee conducts education programs in all fifty States, the District of Columbia, and Puerto Rico to assure that all disabled persons have access to programs which bring the arts into their lives: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 20, 1984, through May 26, 1984, is designated as "National Arts With the Handicapped Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

NATIONAL EYE DONOR MONTH

The joint resolution (S.J. Res. 225) designating the month of March 1984 as "National Eye Donor Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 225) and preamble are as follows:

S.J. Res. 225

Whereas one million four hundred thousand Americans suffer from serious disorders of the eye, many of which can be eased by the efforts of eyebanks;

Whereas eyebanks in the United States have grown from a single institution in 1944 to ninety-three in 1984;

Whereas eyebanks have sought to encourage research into the prevention and treatment of eye disease and injury in the United States;

Whereas some one hundred and fifty thousand Americans have had their vision restored and twenty-two thousand to twenty-five thousand such operations are performed annually in the United States; and

Whereas increased national awareness of the benefits of eye donations has lent impetus to expanded research activities, and helps Americans affected by blinding diseases: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of March 1984 is designated as "National Eye Donor Month", and the President is authorized and requested to issue a proclamation calling on all citizens to join in recognizing this humanitarian cause with appropriate activity.

NATIONAL DIGESTIVE DISEASES AWARENESS WEEK

The joint resolution (S.J. Res. 228) to designate the week of May 20, 1984, through May 26, 1984, at "National Digestive Disease Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 228) and preamble are as follows:

S.J. Res. 228

Whereas digestive diseases rank third in the total economic burden of illness in the United States and, measured in terms of human discomfort and pain, mortality, personal expenditures for treatment, working hours lost, and burden on the Nation's economy, digestive diseases represent one of the Nation's most serious health problems;

Whereas twenty million Americans suffer from chronic digestive disease and disorders, and in excess of fourteen million cases of acute digestive diseases are treated in this country each year, including one-third of all malignancies and some of the most common of acute infections;

Whereas such diseases cause more Americans to be hospitalized than any other, necessitate 25 per centum of all surgical operations, and comprise one of the most prevalent causes of disability in the working force;

Whereas digestive diseases cause a yearly expenditure of over $17,000,000,000 in direct health care costs and a total economic burden approaching $50,000,000,000 annually;

Whereas at least one hundred different diseases and disorders of the gastrointestinal tract cause more than two hundred thousand deaths every year;

Whereas research into the causes, cures, prevention, and clinical treatment of digestive diseases and related nutrition problems should become a national concern, and the people of the United States should recognize diseases of the digestive system as a major health priority;

Whereas national lay and professional digestive disease organizations, individually and collectively, through the Coalition of Digestive Disease Organizations and the Federation of Digestive Disease Societies, are committed to heightening awareness and understanding of digestive tract disorders among members of the general public and the health care community;

Whereas the National Digestive Diseases Advisory Board and the National Institutes of Health, through its National Digestive Diseases Education and Information Clearinghouse, are committed to encourage and coordinate these educational efforts; and

Whereas the week of May 20, 1984, through May 26, 1984, marks the first anniversary of the national digestive disease education program, a coordinated effort to mobilize and focus the activities of the digestive disease community to educate the public and health care community as to the seriousness of digestive diseases and to provide information relative to treatment, prevention, and control: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 20, 1984, through May 26, 1984, is designated as "National Digestive Diseases Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the week with appropriate programs and activities.

NATIONAL PHYSICAL FITNESS AND SPORTS MONTH

The joint resolution (S.J. Res. 232) to authorize and request the President to designate the month of May 1984 as "National Physical fitness and Sports Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 232) and preamble are as follows:

S.J. Res. 232

Whereas one of every two adults in our country is a regular participant in exercise and sports;

Whereas the number of physically active men and women has doubled in ten years and continues to grow rapidly;

Whereas today we recognize that physical activity is an important part of daily life for people of both sexes and of all ages;

Whereas physical activity is vital to good health and is a rich source of pleasure and personal satisfaction;

Whereas our physical fitness and sports programs are one of the primary means by which we strengthen our bodies and refresh our spirits; and

Whereas it is essential that we make fitness and sports programs increasingly available so that all of our citizens will be able to experience the joys and benefits they offer: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of May 1984 as "National Physical Fitness and Sports Month", and to call upon Federal, State, and local government agencies, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

NATIONAL ADOPTION WEEK

The joint resolution (S.J. Res. 238) to designate the week beginning November 19, 1984, as "National Adoption Week", was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 238) and preamble are as follows:

S.J. Res. 238

Whereas the week of November 19 has been privately commemorated as National Adoption Week for the past nine years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving, permanent family as every child's basic right;

Whereas approximately one hundred thousand children who have special needs—school age, in sibling groups, members of minorities or children with physical, mental and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would insure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as National Adoption Week is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 19 through November 25, 1984, hereby is designated "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

NATIONAL THEATER WEEK

The joint resolution (H.J. Res. 292) designating "National Theater Week," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

NATIONAL EMPLOY THE OLDER WORKER WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 205) authorizing and requesting the President to designate the second full week in March of each year as "National Employ the Older Worker Week," which had been reported from the Committee on the Judiciary with an amendment as follows:

On page 3, line 1, strike "of each year" and insert "1984".

So as to make the joint resolution read:

S.J. Res. 205

Whereas individuals aged fifty-five and over are a major national resource, constitute 22 per centum of the population of the United States at the present time, and are likely to constitute a larger percentage of the population in future decades;

Whereas a growing number of such individuals, being willing and able to work, are looking for employment opportunities, want to remain in the work force, or would like to serve their communities and their Nation in voluntary roles;

Whereas such individuals, who have made continuing contributions to the national welfare, should be encouraged to remain in, or resume, career and voluntary roles that utilize their strengths, wisdom, and skills;

Whereas career opportunities reaffirm the dignity, self-worth, and independence of older individuals by encouraging them to make decisions and to act upon these decisions, by tapping their resources, experience, and knowledge, and by enabling them to contribute to society;

Whereas the operation of title V of the Older Americans Act of 1965 has demonstrated that older workers are extremely capable in a wide variety of job roles;

Whereas recent studies conducted by the United States Department of Labor and the Work in America Institute indicate that, in many cases, employers prefer to retain older workers or rehire former older employees due to the high quality of their job performance and their low rate of absenteeism; and

Whereas the American Legion has sponsored a "National Employ the Older Worker Week" during the second full week of March in every year since 1959, focusing public attention on the advantages of employing older individuals: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate the second full week in March, 1984 as "National Employ the Older Worker Week", and to issue a proclamation calling upon—

(1) the employers and labor unions of the United States to give special consideration to older workers, with a view toward expanding career and employment opportunities for older workers who are willing and able to work and who desire to remain employed or to reenter the work force;

(2) voluntary organizations to reexamine the many fine service programs which they

sponsor with a view toward expanding both the number of older volunteers and the types of service roles open to older workers;

(3) the United States Department of Labor to give special assistance to older workers by means of job training programs under the Jobs Training and Partnership Act, job counseling through the United States Employment Service, and additional support through its Older Worker program, as authorized by title V of the Older Americans Act; and

(4) the citizens of the United States to observe this day with appropriate programs, ceremonies, and activities.

Amend the title so as to read: "Authorizing and requesting the President to designate the second full week in March 1984 as 'National Employ the Older Worker Week'.".

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The title was amended so as to read: Authorizing and requesting the President to designate the second full week in March 1984 as "National Employ the Older Worker Week."

Mr. BAKER. Mr. President, I move to reconsider the vote by which the several measures were passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. BAKER. Mr. President, next I am prepared to take up Calendar Order No. 655, which is S. 746, together with the budget waiver to accompany that measure, by unanimous consent, if the minority leader is prepared to clear that.

Mr. BYRD. Mr. President, we are ready to proceed on this side.

Mr. BAKER. I thank the minority leader.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate S. Res. 351, the budget waiver to accompany S. 746.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 351) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 746.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The resolution (S. Res. 351) was considered and agreed to, as follows:

S. Res. 351

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 746, "To establish the Illinois and Michigan Canal National Heritage Corridor in the State of Illinois, and for other purposes". S. 746, the "Illinois and Michigan Canal National Heritage Corridor Act of 1983", as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1984.

The waiver of section 402(a) of such Act is necessary to permit congressional consideration of S. 746. Such bill was not reported on or before May 23, 1983, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

ILLINOIS-MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR ACT OF 1983

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 655, S. 746.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 746) to establish the Illinois-Michigan National Heritage Corridor in the State of Illinois, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 3, line 7, strike "a policy of".

On page 3, line 8, strike "The actions taken under this Act to achieve such purpose shall emphasize voluntary cooperations."

On page 4, line 23, after "April 19, 1982," insert "and updated May 1983,".

On page 5, strike lines 19 through 23.

On page 6, strike lines 1 through 3, and insert "(2) Three individuals, nominated by the Governor and appointed by the Secretary who will represent the interests of State and local government." On page 6, line 7 strike "(5)" and insert "(3)".

On page 6, line 16, strike "(6)" and insert "(4)".

On page 6, line 22, strike "(7)" and insert "(5)".

On page 7, line 1, strike "(8)" and insert "(6)".

On page 7, line 4 insert: "The Secretary may request that additional names be submitted for members appointed pursuant to paragraphs (2) through (6). paragraphs.".

On page 7, strike lines 11 through 24.

On page 8, strike lines 1 through 4 and insert"

(b) Terms.—(1) Except as provided in paragraphs (2) and (3), members of the Commission shall be appointed for terms of three years.

(2) Of the members of the Commission first appointed under paragraphs (2), (3), (4), (5), and (6) of subsection (a)—

(i) six shall appointed for terms of one year;

(ii) six shall be appointed for terms of two years; and

(iii) six shall be appointed for terms of three years,

as designated by the Governor at the time of nomination.

(3) Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member of the Commission may serve after the expiration of this term until his successor has taken office.

On page 9, line 9, strike "paragraphs (7) and (8)" and insert "paragraphs (5) and (6)".

On page 12, strike lines 17 through 21 and insert"

(e) Use of Appropriated Amounts To Obtain Federal Funding.—Notwithstanding any other provision of law, for purposes of any law conditioning the receipt of Federal funding on a non-Federal contribution, any portion of the amounts appropriated pursuant to section 16 of this Act may, at the election of the Commission, be used as such non-Federal contribution.

On page 13, line 13, after "paragraph (2)" insert "of this subsection".

On page 13, line 14, after "subsection (c)" insert "of this subsection".

On page 15, line 19, after "organization in" insert "the appropriate preservation treatment and renovation (in accordance with the plan) of structures of".

On page 15, strike lines 21 through 24 and insert "the canal".

On page 16 strike lines 14 through 17 and insert "the corridor".

On page 17, line 10, strike "providing funds, and support in raising funds, to enable" and insert "cooperating with".

On page 17, line 12, strike "to acquire" and insert "in acquiring".

On page 18, line 5, strike "providing funds, or support in raising funds, to enable" and insert "cooperating with"

On page 18, line 7, strike "to acquire" and insert "in acquiring".

On page 18, line 13, strike "potential (A) by providing technical staff assistance for historic preservation and revitalization efforts; or" and insert "potential. Such assistance may include providing technical staff assistance for historic preservation and revitalization efforts."

On page 18, strike lines 19 and 20.

On page 19, line 22 strike "industrail" and insert "industrial".

On page 20, line 8, strike "private".

On page 20, line 13, strike "may".

On page 23, line 12, after "sites" insert "or transportation corridors".

On page 24, line 15, strike "1984" and insert "1985".

On page 25, line 1, strike "1985" and insert "1986".

On page 25, strike lines 22 through 25.

On page 26, strike lines 1 through 11.

On page 26, line 12 strike "(5)" and insert "(3)".

On page 26, line 19, before "activities" insert "significant".

On page 26, line 24, strike "extend" and insert "extent".

On page 27, strike lines 5 through 20 and insert:

CONVEYANCE OF CANAL TITLE BY UNITED STATES

Sec. 14. (a) Except as provided in subsection (b), the Secretary shall, on behalf of the United States, convey to the State by quitclaim deed any right, title, or interest of the United States to the real property described in the Act entitled "An Act relinquishing to the State of Illinois certain right, title, or interest of the United States of America, and for other purposes", approved July 1, 1947 (61 Stat. 237), comprising approximately two thousand six hundred acres: *Provided,* That such real property is used and occupied for highway, park, recreational, or other public purposes, including those provided for under this Act: *Provided further,* That the State may continue to lease any such real property currently leased to any person so long as the revenue from such lease is used by the State for park or recreational purposes within the corridor: *Provided further,* That if any of such real property is not so used and occupied, then any right, title, or interest in the real property not so used and occupied which was conveyed under this subsection shall revest in the United States: *And provided further,* That the conveyance by the United States shall be subject to the condition that the State of Illinois, its successors, and assigns agree to hold the United States harmless from claims arising from or through the operations of the lands conveyed by the United States due to conditions existing at the time of this conveyance.

(b) The interests in the canal prism and towpath lands (including reserved lands) in township 37 north, range 11 east, section 14; township 35 north, range 10 east, sections 9 and 16; township 35 north, range 10 east, sections 16, 20, and 21; township 34 north, range 9 east, section 31; and township 34 north, range 8 east, sections 22, 23, 25, 26, and 36, necessary for the operation and maintenance of the Illinois Waterway navigation project will be conveyed only with the concurrence of the Secretary of the Army with such conditions as necessary to protect the navigation project.

On page 30, after line 4 insert:

(5) Nothing in this Act shall necessitate any change in the use or operation of any public utility or common carrier located within the corridor.

(6) Actions taken under this Act to achieve the purposes described in section 2(b) shall emphasize voluntary cooperation.

So as to make the bill read:

S. 746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Illinois and Michigan Canal National Heritage Corridor Act of 1984".

FINDINGS; PURPOSE

Sec. 2. (a) Findings.—The Congress makes the following findings:

(1) An abundance of sites and structures within the corridor defined by the Illinois and Michigan Canal from Chicago, Illinois, to LaSalle-Peru, Illinois, symbolize in physical form the cultural evolution from prehistoric aboriginal tribes living in naturally formed ecosystems through European exploration, nineteenth century settlement, commerce, and industry right up to present-day social patterns and industrial technology.

(2) The corridor has become one of the most heavily industrialized regions of the Nation and has potential for further economic expansion and modernization. The area in which the corridor is located is currently experiencing high rates of unemployment and industrial migration. Establishment of the corridor as provided in this Act may provide the stimulus required to retain existing industry and to provide further industrial growth and commercial revitalization.

(3) Despite efforts by the State, political subdivisions of the State, volunteer associations, and private business, the cultural, historical, natural, and recreational resources of the corridor have not realized full potential social value and may be lost without assistance from the Federal Government.

(b) Purpose.—It is the purpose of this Act to retain, enhance, and interpret, for the benefit and inspiration of present and future generations, the cultural, historical, natural, recreational, and economic resources of the corridor, where feasible, consistent with industrial and economic growth.

DEFINITIONS

Sec. 3. For purposes of this Act—

(1) the term "canal" means the Illinois and Michigan Canal, as depicted on the map referred to in section 4(b);

(2) the term "Commission" means the Illinois and Michigan Canal National Heritage Corridor Commission established in section 5;

(3) the term "corridor" means the Illinois and Michigan Canal National Heritage Corridor established in section 4(a);

(4) the term "Governor" means the Governor of the State of Illinois;

(5) the term "National Park Service report" means the report of the National Park Service, dated November 1981, which contains a conceptual plan and implementation strategies for the corridor;

(6) the term "plan" means the goals, objectives, and action statements of the conceptual plan which—

(A) is contained in the National Park Service report; and

(B) may be modified by the Commission under section 8(h);

(7) the term "political subdivision of the State" means any political subdivision of the State of Illinois, any part of which is located in or adjacent to the corridor, including counties, townships, cities, towns, villages, park districts, and forest preserve districts;

(8) the term "Secretary" means the Secretary of the Interior; and

(9) the term "State" means the State of Illinois.

ESTABLISHMENT, BOUNDARIES, AND ADMINISTRATION OF CORRIDOR

Sec. 4. (a) Establishment.—To carry out the purpose of this Act, there is established the Illinois and Michigan Canal National Heritage Corridor.

(b) Boundaries.—(1) The corridor shall consist of the areas depicted on the map dated April 19, 1982, and updated May 1983, and numbered 1, entitled "Illinois and Michigan Canal National Heritage Corridor". Such map shall be on file and available for public inspection in the offices of the Commission and in the offices of the National Park Service.

(2) Upon a request of the Commission signed by not less than twelve members of the Commission, the Secretary may make minor revisions in the boundaries of the corridor.

(c) Administration.—The corridor shall be administered in accordance with this Act.

ESTABLISHMENT OF ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

Sec. 5. There is established a commission to be known as the Illinois and Michigan Canal National Heritage Corridor Commission which shall carry out the duties specified in section 9.

ORGANIZATION OF COMMISSION

Sec. 6. (a) Membership.—The Commission shall be composed of nineteen members as follows:

(1) The Director of the National Park Service, ex officio, or a delegate.

(2) Three individuals, nominated by the Governor and appointed by the Secretary, who will represent the interests of State and local government.

(3) One member of the board of a forest preserve district, any part of which is located in or adjacent to the corridor, who shall be nominated by the Governor and appointed by the Secretary. Appointments made under this paragraph shall rotate among the three forest preserve districts, parts of which are located in the corridor, in a manner which will ensure fairly equal representation on the Commission for each such district.

(4) One member of the county board of each county, any part of which is located in the corridor (other than the county which is represented on the Commission by the member appointed under paragraph (5)), who shall be nominated by the Governor and appointed by the Secretary.

(5) Five individuals, nominated by the Governor and appointed by the Secretary, who will represent the interests of history, archaeology, and historic preservation; of recreation; and of conservation.

(6) Five individuals, nominated by the Governor and appointed by the Secretary, who will represent the interests of business and industry.

The Secretary may request that additional names be submitted for members appointed pursuant to paragraphs (2) through (6). Members appointed under paragraphs (5) and (6) shall be selected with due consideration to equitable geographic distribution. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) Terms.—(1) Except as provided in paragraphs (2) and (3), members of the Commission shall be appointed for terms of three years.

(2) Of the members of the Commission first appointed under paragraphs (2), (3), (4), (5), and (6) of subsection (a)—

(i) six shall be appointed for terms of one year;

(ii) six shall be appointed for terms of two years; and

(iii) six shall be appointed for terms of three years,

as designated by the Governor at the time of nomination.

(3) Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member of the Commission may serve after the expiration of his term until his successor has taken office.

(c) Compensation.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) Chairperson.—(1) The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under paragraphs (5) and (6) of subsection (a).

(2)(A) Except as provided in subparagraph (B), the term of the chairperson shall be two years.

(B) If a member is appointed to a term on the Commission which is less than two years and is elected chairperson of the Commission, then such member's term as chairperson shall expire at the end of such member's term on the Commission.

(e) Quorum.—(1) Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

(3) The affirmative vote of not less than ten members of the Commission shall be required to approve the budget of the Commission.

(f) Meetings.—The Commission shall meet at least quarterly at the call of the chairperson or ten of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

STAFF OF COMMISSION

Sec. 7. (a) Director and Staff.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the minimum rate of basic pay payable for level GS-15 of the General Schedule.

(2) The Commission may appoint such additional staff personnel as the Commission considers appropriate and may pay such staff at rates not to exceed the minimum rate of basic pay payable for level GS-15 of the General Schedule. Such staff may include specialists in areas such as interpretation, historic preservation, recreation, conservation, commercial and industrial development and revitalization, financing, and fundraising.

(3) Except as otherwise provided in this subsection, such Director and staff—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Experts and Consultants.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) Staff of Other Agencies.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties under section 9.

(2) The Commission may accept the services of personnel detailed from the State or any political subdivision of the State and may reimburse the State or such political subdivision for such services.

POWERS OF COMMISSION

Sec. 8. (a) Hearings.—(1) The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpenas or exercise any subpena authority.

(b) Powers of Members and Agents.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

(c) Administrative Support Services.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) Use of Appropriated Amounts To Obtain Federal Funding.—Notwithstanding any other provision of law, for purposes of any law conditioning the receipt of Federal funding on a non-Federal contribution, any portion of the amounts appropriated pursuant to section 16 of this Act may, at the election of the Commission, be used as such non-Federal contribution.

(f) Gifts.—(1) Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) For purposes of section 170(c) of the Internal Revenue Code of 1954, any gift to the Commission shall be deemed to be a gift to the United States.

(g) Acquisition of Real Property.—(1) Except as provided in paragraph (2) of this subsection and except with respect to any leasing of facilities under subsection (c) of this section, the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3) of this subsection, the Commission may acquire real property, or interests in real property, in the corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in the corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public or private land managing agency, *with the consent of such agency*, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) Modification of Plan.—The Commission may modify the plan if the Commission determines that such modification is necessary to carry out the purpose of this Act. No such modification shall take effect until—

(1) the State and any political subdivision of the State which would be affected by such modification receives notice of such modification; and

(2) if such modification is significant (as determined by the Commission) the Commission—

(A) provides adequate notice (as determined by the Commission) of such modification by publication in the area of the corridor; and

(B) conducts a public hearing with respect to such modification.

(i) Cooperative Agreements.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the State, with any political subdivision of the State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State, such political subdivision, or such person which may affect the implementation of the plan.

(j) Advisory Groups.—The Commission may establish such advisory groups as the Commission deems necessary to ensure open communication with, and assistance from, the State, political subdivisions of the State, and interested persons.

DUTIES OF COMMISSION

Sec. 9. (a) Implementation of Plan.—The Commission shall implement and support the plan as follows:

(1)(A) The Commission shall assist the State, any political subdivision of the State, or any nonprofit organization in the appropriate preservation treatment and renovation (in accordance with the plan) of structures of the canal.

(B) In providing such assistance, the Commission shall in no way infringe upon the authorities and policies of the State or of any political subdivision of the State concerning the management of canal property.

(C) In providing such assistance or in carrying out any other provision of this Act, the Commission shall not be required to adopt the specifics recommended in the Historic American Engineering Record study published in April 1981.

(2)(A) The Commission shall assist the State or any political subdivision of the State in establishing and maintaining intermittent recreational trails which are compatible with economic development interests in the corridor.

(B) In providing such assistance, the Commission shall in no way infringe upon the authorities and policies of the State or of any political subdivision of the State.

(3) The Commission shall encourage private owners of property which is located in or adjacent to the corridor to retain voluntarily, as a good neighbor policy, a strip of natural vegetation as a visual screen and natural barrier between recreational trails established under paragraph (2) and development in the corridor.

(4) The Commission shall assist in the preservation and enhancement of Natural Areas Inventory, prepared by the Illinois Department of Conservation—

(A) by encouraging private owners of such natural areas to adopt voluntary measures for the preservation of such natural areas; or

(B) by cooperating with the State or any political subdivision of the State in acquiring, on a willing seller basis, any such natural area.

In providing such assistance, the Commission shall in no way infringe upon the authorities and policies of the State or of any political subdivision of the State.

(5) The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, architectural, and engineering structures in the corridor and the archaeological and geological resources and sites in the corridor—

(A) by consulting with the Secretary with respect to inventories to be completed by the Secretary under section 12(1);

(B) by encouraging private owners of structures, sites, and resources identified in such inventories to adopt voluntary measures for the preservation of such structures, sites, and resources; or

(C) by cooperating with the State or any political subdivision of the State in acquiring, on a willing seller basis, any structure, site, or resource so identified.

(6) The Commission shall assist the State, any political subdivision of the State, or any nonprofit organization in the restoration of any historic building in the corridor which has economic development potential. Such assistance may include providing technical staff assistance for historic preservation and revitalization efforts.

(7) The Commission shall assist in the interpretation of the cultural and natural resources of the corridor—

(A) by consulting with the Secretary with respect to the implementation of the Secretary's duties under section 12(2);

(B) by establishing visitor orientation centers in the corridor;

(C) by encouraging voluntary cooperation and coordination between the Federal Government, the State, political subdivisions of the State, and nonprofit organizations with respect to ongoing interpretative services in the corridor; and

(D) by encouraging the State, political subdivisions of the State, and nonprofit organizations to undertake new interpretative initiatives with respect to the corridor.

(8) The Commission shall assist in establishing recognition for the corridor by actively promoting the cultural, historical, natural, and recreational resources of the corridor on a community, regional, statewide, national, and international basis.

(b) ENCOURAGEMENT OF ECONOMIC AND INDUSTRIAL DEVELOPMENT.—The Commission shall encourage and promote, by appropriate means, enhanced economic and industrial development in the corridor.

(c) ACCESS ROUTES AND TRAFFIC.—The Commission shall take appropriate action to ensure that—

(1) access routes to the canal and related sites are clearly identified; and

(2) traffic in the corridor is routed away from industrial access routes and sites.

(d) PROTECTIVE FEATURES.—(1) The Commission may finance the installation of a fence, warning sign, or other protective feature in the corridor by the State, by any political subdivision of the State, or by any person if such fence, sign, or other feature is approved by the Commission, any affected governmental body, and the owner and any user of property located adjacent to the property on which such fence, sign, or other feature is to be installed.

(2) The Commission shall not require the installation of any fence, warning sign, or other protective feature.

(e) REDUCING EXCESSIVE LIABILITY.—The Commission shall encourage the State to take appropriate action to ensure that owners and users of property located in or adjacent to the corridor will not be subject to excessive liability with respect to activities which are carried out by such owners and users on such property and which affect persons and property in the corridor.

(f) ECONOMIC IMPACT ASSESSMENTS.—Before undertaking any major action (including the expenditure of funds) respecting any capital improvement and before providing any funds to any entity for the acquisition of any real property, the Commission shall prepare an economic impact assessment with respect to such major action or provision of funds. Such assessment shall include an analysis of—

(1) any anticipated adverse economic effect of such action or such provision of funds which cannot be avoided;

(2) any alternative to such action or provision of funds which could accomplish the same purposes, together with an estimate of the costs of any such alternative; and

(3) any economic or noneconomic benefit anticipated from such action or such provision of funds.

Such assessment shall be as brief and concise as practicable.

(g) ANNUAL REPORTS.—Not later than May fifteen of each year (other than the year in which this Act is enacted) the Commission shall publish and submit an annual report concerning the Commission's activities to the Governor and to the Secretary.

RESTRICTIONS ON COMMISSION

SEC. 10. (a) RESTRICTIONS ON COMMISSION'S DEVELOPMENT.—(1) The Commission may not develop any site or structure in any area described in paragraph (2) unless such development involves the restoration, rehabilitation, or preservation of a facility existing on the date of the enactment of this Act.

(2) The areas referred to in paragraph (1) are the following areas:

(A) Any area in the corridor designated by the political subdivision of the state which has primary responsibility for regulating land use in such areas (as determined by the Commission) as suitable for industrial development. Areas so designated may include any area adjacent to the Illinois and Michigan Canal State Park, a conservation site, a historical site, or other visitor area.

(B) The area of the corridor in Grundy County, Illinois, extending from Morris, Illinois, to the eastern boundary of section 22, Aux Sable Township, but not including—

(i) lock eight and lock tenders house (identified as sites 1 and 2, respectively, on the map described in section 4(b));

(ii) Rutherford tavern, the old mule barn, and the historic cemetery (identified as sites 3, 4, and 5, respectively, on such map); and

(iii) any trail in such area which follows the historic towpath of the canal.

(C) The area of the corridor in Will County, Illinois, which extends from a line created from Interstate 55 to the center of the sailing line in the Des Plaines River, west on center line of sailing line to the intersection of the line formed by the eastern edge of sections 30 and 31 of Channahon Township east through Brandon Pool, but not including the trail in such area which follows the historic towpath of the canal.

(D) The area of the corridor in Will County, Illinois, which extends from the southern boundary of section 14, Lockport Township, to the eastern boundary of section 25, DuPage Township.

(b) RESTRICTIONS ON DEVELOPMENT OF TRAILS.—The Commission may not develop any new trail along the canal or historic towpath of the canal through industrial sites or transportation corridors which—

(1) are located north of the city of Joliet, Illinois; and

(2) existed on the date of the enactment of this Act.

TERMINATION OF COMMISSION

SEC. 11. (a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the day occurring ten years after the date of the enactment of this Act.

(b) EXTENSION.—The Commission may extend the life of the Commission for a period of not more than five years beginning on the day referred to in subsection (a) if, not later than one hundred and eighty days before such day—

(1) the Commission determines such extension is necessary in order for the Commission to carry out the purpose of this Act;

(2) the Commission submits such proposed extension to the Committee on Interior and Insular Affairs of House of Representatives and to the Committee on Energy and Natural Resources of the Senate; and

(3) the Governor and the Secretary each approve such extension.

DUTIES OF THE SECRETARY

SEC. 12. To carry out the purpose of this Act, the Secretary shall have the following duties:

(1) Not later than September 30, 1985, and in consultation with the Commission, the Secretary shall complete—

(A) an inventory of sites and structures of historical, architectural, or engineering significance in the corridor; and

(B) an inventory of sites and resources of archaeological or geological significance in the corridor.

(2) Not later than September 30, 1986, in consultation with the Commission and in accordance with the plan, the Secretary shall—

(A) develop a thematic structure for the interpretation of the heritage story of the corridor; and

(B) design and fabricate interpretative materials based on such thematic structure, including—

(i) trail guide brochures for exploring such heritage story via private auto, bus, bike, boat, or foot, including brochures for exploring such heritage story in towns along the canal;

(ii) visitor orientation displays (including video presentations) at eight locations which are fairly distributed along the corridor;

(iii) a curriculum element for local schools, and

(iv) an appropriate mobile display depicting such heritage story.

(3) For each fiscal year during the life of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, two employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 9.

DUTIES OF OTHER FEDERAL ENTITIES

SEC. 13. Any Federal entity conducting or supporting significant activities directly affecting the corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Commission determines will not have an adverse effect on the resources cited in the National Park Service report.

CONVEYANCE OF CANAL TITLE BY UNITED STATES

SEC. 14. (a) Except as provided in subsection (b), the Secretary shall, on behalf of the United States, convey to the State by quitclaim deed any right, title, or interest of the United States to the real property described in the Act entitled "An Act relinquishing to the State of Illinois certain right, title, or interest of the United States of America, and for other purposes", approved July 1, 1947 (61 Stat. 237), comprising approximately two thousand six hundred acres: *Provided*, That such real property is used and occupied for highway, park, recreational, or other public purposes, including those provided for under this Act: *Provided further*, That the State may continue to lease any such real property currently leased to any person so long as the revenue from such lease is used by the State for park or recreational purposes within the corridor: *Provided further*, That if any of such real property is not so used and occupied, then any right, title, or interest in the real property not so used and occupied which was conveyed under this subsection shall revest in the United States: *And provided further*, That the conveyance by the United States shall be subject to the condition that the State of Illinois, its successors, and assigns agree to hold the United States harmless from claims arising from or through the operations of the lands conveyed by the United States due to conditions existing at the time of this conveyance.

(b) The interests in the canal prism and towpath lands (including reserved lands) in township 37 north, range 11 east, section 14; township 35 north, range 10 east, sections 9 and 16; township 35 north, range 10 east, sections 16, 20, and 21; township 34 north, range 9 east, section 31; and township 34 north, range 8 east, sections 22, 23, 25, 26, and 36, necessary for the operation and maintenance of the Illinois Waterway navigation project will be conveyed only with the concurrence of the Secretary of the Army with such conditions as necessary to protect the navigation project.

EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS; RESTRICTIONS; SAVINGS PROVISIONS

SEC. 15. (a) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.—(1) Nothing in this Act shall be deemed to impose any environmental, occupational, safety, or other rule, regulation, standard, or permit process which is different from those presently applicable, or which would be applicable, had the corridor not been established.

(2) The establishment of the corridor shall not impose any change in Federal environmental quality standards. No portion of the corridor which is subject to part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.), as amended by the Clean Air Act Amendments of 1977, may be designated as class 1 for purposes of such part C solely by reason of the establishment of the corridor.

(3) No State or Federal agency shall impose more restrictive water use designations or water quality standards upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the corridor solely by reason of the establishment of the corridor.

(4) Nothing in the establishment of the corridor shall abridge, restrict, or alter any applicable rule, regulation, standard or review procedure for permitting of facilities within or adjacent to the corridor.

(5) Nothing in this Act shall necessitate any change in the use or operation of any public utility or common carrier located within the corridor.

(6) Actions taken under this Act to achieve the purposes described in section 2(b) shall emphasize voluntary cooperation.

(b) RESTRICTIONS ON COMMISSION AND SECRETARY.—Nothing in this Act shall be construed to vest in the Commission or the Secretary any authority—

(1) to require the State, any political subdivision of the State, or any private person to participate in any project or program carried out by the Commission or the Secretary under this Act;

(2) to intervene as a party in any administrative or judicial proceeding concerning the application or enforcement of any regulatory authority of the State or any political subdivision of the State, including any authority relating to land use regulation, environmental quality, licensing, permitting, easements, private land development, or other occupational or access issues;

(3) to establish or modify any regulatory authority of the State or of any political subdivision of the State, including any authority relating to land use regulation, environmental quality, or pipeline or utility crossings;

(4) to modify any policy of the State or of any political subdivision of the State; or

(5) to establish or modify any authority of the State or of any political subdivision of the State with respect to the acquisition of lands or interests in lands.

(c) SAVINGS PROVISION.—Nothing in this Act shall diminish, enlarge, or modify any right of the State or of any political subdivision of the State—

(1) to exercise civil and criminal jurisdiction within the corridor; or

(2) to tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the corridor.

AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF AMOUNTS FOR CERTAIN PURPOSES

SEC. 16. (a) AUTHORIZATION OF APPROPRIATIONS.—(1) For each fiscal year, there is authorized to be appropriated—

(A) to the Commission a sum not to exceed $250,000 to carry out the Commission's duties under this Act; and

(B) to the Secretary such sums as may be necessary to carry out the Secretary's duties under this Act.

(2) Any sum appropriated under paragraph (1) shall remain available until expended.

(b) ALLOCATION OF AMOUNTS FOR CERTAIN PURPOSES.—Not less than 5 per centum of the aggregate amount available to the Commission from all sources for a fiscal year shall be used for carrying out each of the duties of the Commission specified in subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), and (b) of section 9.

Mr. BAKER. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The **PRESIDING OFFICER.** Without objection, the amendments are considered and agreed to en bloc.

Mr. PERCY. Mr. President, the Illinois and Michigan Canal, which was built between 1836 and 1848, linked the Illinois River with Lake Michigan and thus established a direct water transportation route between the Gulf of Mexico and the Great Lakes that led to the development of Chicago as the center of Midwestern commerce and trade. French-Canadian explorer Louis Joliet first discovered the opportunity for the waterway, and Abraham Lincoln, as a Member of the House of Representatives, used his influence to get the canal built.

The canal was completely abandoned for navigation in 1933, by which time it had fallen into disrepair from being unused for two decades. Since that time, however, citizens and public officials have urged that it be preserved for recreational use. Citizens from communities surrounding the canal have volunteered their time and energy to restore the canal, and the Illinois Department of Conservation developed portions of the waterway as a State park.

It was a little over 3 years ago that I stood before my colleagues on the floor of the Senate to urge that funds be earmarked for the National Park Service to study the feasibility of establishing a national park along the historic waterway. The Park Service involved some 100 conservationists, historians, public officials, and industrialists in developing the concept of the Heritage Corridor that is embodied in the legislation that is being considered today. This plan calls for the development of a recreational trail and the preservation of natural and historic sites along the canal from Chicago to LaSalle-Peru, Ill. The Park Service report found more than 200 historic structures, nearly 40 unique natural areas, and numerous archeologic and geologic sites.

Following completion of the Park Service report, I worked with local community leaders and members of the Illinois Congressional Delegation to draft legislation establishing the Heritage Corridor. The bill before us today in large measure reflects the contributions of Illinois environmental, business and government leaders, and it is for this reason that the measure has drawn enthusiastic support in Illinois. The Illinois General Assembly unanimously passed a resolution in support of the legislation. The Governor, Jim Thompson, has pledged $13 million over 10 years toward the project. Three local forest preserve districts have committed approximately $3 million over the next 3 to 5 years for trail improvements and land acquisition. Hundreds of local residents have formed an advocacy group, the Friends of the I&M Canal, and major industries in the corridor have formed the Upper Illinois Valley Association to promote the project.

S. 746 establishes a commission to market and promote the resources of the corridor along the 100-mile-long canal, as well as assist local land managing agencies—particularly park districts, forest preserves, and the State—in carrying out the recommendations of the Park Service. Under the legislation, no land or property will be acquired by the Federal Government, nor will existing Federal environmental standards be altered. The Federal role includes an authorization of $250,000 annually for the Commission and the provision of interpretative services and limited staff from the Department of the Interior.

As reported from the Senate Energy and Natural Resources Committee, S.

746 includes numerous amendments that, in the main, respond to the views submitted to the committee by the Departments of Justice, Army and Interior. In addition, several of the amendments are technical or clarifying in nature. In my judgment, none of these amendments violate the thrust of the proposal, and I am deeply appreciative of the committee for their support for the measure.

Mr. President, this unique legislation was introduced with the bipartisan cosponsorship of the entire Illinois congressional delegation and represents literally years of consensus building at the Federal, State, and local levels. I wish to take this opportunity to express my thanks to the Illinois Department of Conservation, Gerald Adelmann and the Upper Illinois Valley Association, Connie Fetzer and the Friends of the I&M Canal, Judith Stockdale and the Open Lands Project, Bob Stewart and the Three Rivers Manufacturing Association, and all of the others who have worked so vigorously on behalf of this important measure. Moreover, I appreciate the assistance of Senator DIXON, who is a cosponsor, our counterparts in the other body who have sponsored companion legislation, and the chairman and ranking minority members of the Senate Energy and Natural Resources Committee and its Subcommittee on Public Lands. I thank these Senators for their cooperation.

Mr. President, I take particular pride in this legislation. I initiated the Park Service study, gained the support of the administration for the legislation, and built consensus among the disparate interests in Illinois for the modifications to the bill. I am delighted that the measure is under consideration by my colleagues and I strongly urge their support.

THE ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR, THE PRIDE OF ILLINOIS

Mr. DIXON. Mr. President, I am delighted that my colleagues have given support to the Illinois and Michigan Canal National Heritage Corridor.

This project is an important and innovative project not only for my State, but also for the Nation.

The Illinois and Michigan Canal spans a four-county area in Illinois whose average unemployment rate in December was 10.5 percent.

I believe that, like the National Historic Park in Lowell, Mass., the I&M Canal National Heritage Corridor will have an extremely beneficial impact on the economy of the area. As I have discussed before, Lowell once was one of the most depressed areas in the country. In the late sixties, a revitalization plan, focusing on the city's historic past—its textile mills, and the fact that it is known as the birthplace of the Industrial Revolution—was launched. It, too, focuses on a system of canals.

The Lowell National Heritage Park was created in 1978. Today, after a great deal of work, the city has turned around economically and has attracted new businesses, such as Wang Laboratories and many high-technology industries. It has meant the creation of 10,000 jobs in an area that once was destitute. Tourism is proving to be a growing source of income and vitality to the city of Lowell because of the effort that has been put forth to establish its national historic importance. The quality of life has been improved there, which has had a major effect on the interest in the area.

The Illinois and Michigan Canal National Heritage Corridor will, I hope, do the same thing for the beleaguered State of Illinois. We have a State unemployment rate of 9.9 percent—second highest among the Nation's 10 large States.

The I&M Canal National Heritage Corridor will represent the ongoing history of an important region. It will incorporate historic aspects with the current industrial climate of the area. This, in conjunction with the natural beauty of the canal and surroundings, will provide an attraction for tourism, recreation, and new economic development. Image and the quality of life are among major considerations for industries staying in an area or moving into a locality.

The national recognition we have agreed to today is important for the project, not only for funding, which is minimal, but for the prominence that such a designation can bring to an area. The project appeals to the broadest interests and will have a significant impact on an area that could really use a boost.

The I&M Canal National Heritage Corridor enjoys a great deal of local support, the cooperation of the private business community, recreations, and historical interests, the State of Illinois and local governments. Each has made significant commitments to the project.

Outstanding work has been done by the Friends of the Illinois and Michigan Canal and that organization's president, Connie Fetzer. The group, which was organized in 1982, has grown to become a major force for the enhancement of the area. Now that the first goal, passage of S. 746, has been achieved, I know the Friends will continue their commitment to the development of this project.

There are many others to thank for the successful passage of this bill. The members of the Senate Subcommittee on Public Lands and Reserved Water and the Committee on Energy and Natural Resources and their staffs have been most patient and helpful through the long process of developing this project.

Gerald Adelmann and George Overton of the Upper Illinois Valley Association have provided technical expertise and enthusiasm whenever needed.

Bob Stewart and the Three Rivers Manufacturers Association and John Rogers of the Grundy County Industrial Development Corp. have shown a great deal of interest from the inception of the project and should be commended as well.

The open lands project and its executive director, Judith Stockdale, were early supporters of the I&M Canal.

Finally, the Illinois congressional delegation and staff deserve thanks, for this is truly a project which was supported by the entire State and all its representatives here in Washington. We can all be proud of this accomplishment, and look forward to a historic landmark to which we can point with pride in the years to come.

It has been a pleasure to work on a bill which has been surrounded by such enthusiasm and support. I am delighted that we have added the U.S. Senate to the list of friends of the Illinois and Michigan Canal.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there are no further amendments to be offered, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 746), as amended, was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO PLACE H.R. 4278 ON THE CALENDAR

Mr. BAKER. Mr. President, next, I have a consent order with respect to a discharge which I will state for the consideration of the minority leader.

Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 4278, a bill to provide for the temporary extension of the ban on credit card surcharges, and that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BAKER. Mr. President, would the minority leader be prepared at this time to consider Senate Resolution 352, Calendar Order No. 677, and Senate Concurrent Resolution 93, which is Calendar Order No. 678, both of which are cleared for action by unanimous consent at this time on this side?

Mr. BYRD. Mr. President, those items are cleared on this side.

Mr. BAKER. Mr. President, I ask unanimous consent that Senate Resolution 352 and Senate Concurrent Resolution 93 be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

GRATUITY TO JOYCE L. THISS

The resolution (S. Res. 352) to pay a gratuity to Joyce L. Thiss, was considered, and agreed to as follows:

S. Res. 352

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Joyce L. Thiss, widow of George R. Thiss III, an employee of the Senate at the time of his death, a sum equal to five months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

AUTHORIZING CEREMONY IN THE ROTUNDA

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 93) authorizing the rotunda of the U.S. Capitol to be used on April 30, 1984, for a ceremony commemorating the Days of Remembrance of Victims of the Holocaust.

Mr. LAUTENBERG. Mr. President, I know that the U.S. Holocaust Memorial Council is pleased that the Senate today will consider Senate Concurrent Resolution 93, a resolution to authorize the use of the Capitol rotunda for a ceremony on April 30, 1984. The Council has designated April 29-May 6, 1984, as "Days of Remembrance of Victims of the Holocaust." The ceremony in our Capitol rotunda will give these days a truly national focus.

I was honored to have the opportunity to introduce Senate Concurrent Resolution 93 earlier this month as a member of the U.S. Holocaust Memorial Council. I must express the deepest gratitude on behalf of myself and other cosponsors for the timely consideration of this resolution by the Committee on Rules and Administration and by the full Senate. That gratitude goes to the committee chairman, Mr. MATHIAS, and the committee's ranking minority member, Mr. FORD, and to the majority and minority leaders.

The Holocaust Memorial Council can now proceed in finalizing its plans for speeches, readings, and the music that will be a part of the April 30 program. Other observances across America will bring to millions of our people a renewed understanding of the events surrounding the Holocaust 40 years ago and the chance to commit themselves anew to insuring such gross inhumanity never happens again.

The concurrent resolution (S. Con. Res. 93) was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. Con. Res. 93

Whereas pursuant to the Act entitled "An Act to establish the United States Holocaust Memorial Council", approved October 7, 1980 (94 Stat. 1547), the United States Holocaust Memorial Council is directed to provide for appropriate ways for the Nation to commemorate the Days of Remembrance of Victims of the Holocaust, as an annual, national, civic commemoration of the Holocaust, and to encourage and sponsor appropriate observances of such Days of Remembrance throughout the United States;

Whereas pursuant to such Act, the United States Holocaust Memorial Council has designated April 29, 1984, through May 6, 1984, as "Days of Remembrance of Victims of the Holocaust"; and

Whereas the United States Holocaust Memorial Council has recommended that a one-hour ceremony be held at noon on April 30, 1984, consisting of speeches, readings, and musical presentations as part of the Days of Remembrance activities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on April 30, 1984, from 10 o'clock ante meridiem until 3 o'clock post meridiem for a ceremony as part of the commemoration of the Days of Remembrance of Victims of the Holocaust. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the measures were agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FREEDOM OF INFORMATION REFORM ACT

Mr. BAKER. Mr. President, next I am prepared to take up S. 774, which is Calendar Order No. 367.

Mr. BYRD. Mr. President, the minority leader is prepared to proceed.

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 367, S. 774.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 774) entitled "The Freedom of Information Reform Act."

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments as follows:

On page 15, line 10, strike "would" and insert "could reasonably be expected to".

On page 23, after line 10, insert:

PUBLICATION OF EXEMPTION 3 STATUTES

SEC. 18. Section 552 of title 5, United States Code, is amended by adding a new subsection (g) as follows:

"(g) Within two hundred and seventy days of the date of the enactment of this subsection, any agency which relies or intends to rely on any statute which was enacted prior to the date of enactment of this subsection, or during the thirty-day period after such date to withhold information under subsection (b)(3) of this section, shall cause to be published in the Federal Register a list of all such statutes and a description of the scope of the information covered. The Justice Department shall also publish a final compilation of all such listings in the Federal Register upon the completion of the two-hundred-and-seventy-day period described in the preceding sentence. No agency may rely, after two hundred and seventy days after the date of enactment of this subsection, on any such statute not listed in denying a request. Nothing in this subsection shall affect existing rights of any party other than an agency.".

So as to make the bill read:

S. 774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FEES AND WAIVERS

SEC. 2. Paragraph (4)(A) of section 552(a) of title 5, United States Code, is amended to read as follows:

(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedules shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies. Such regulations—

"(a) shall provide for the payment of all costs reasonably and directly attributable to responding to the request, which shall include reasonable standard charges for the costs of services by agency personnel in search, duplication, and other processing of the request. The term 'processing' does not include services of agency personnel in resolving issues of law and policy of general applicability which may be raised by a request, but does include services involved in examining records for possible withholding or deletions to carry out determinations of law or policy. Such regulations may also provide for standardized charges for categories of requests having similar processing costs,

"(b) shall provide that no fee is to be charged by any agency with respect to any request or series of related requests whenever the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee, and

"(c) in the case of any request or series of related requests for records containing commercially valuable technological information which was generated or procured by the Government at substantial cost to the public, is likely to be used for a commerical purpose, and will deprive the Government of its commercial value, may provide for the charging of a fair value fee or, in addition to or in lieu of any processing fees otherwise chargeable, taking into account such factors as the estimated commercial value of the technological information, its costs to the Government, and any public interest in encouraging its utilization.

Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

"(ii) With respect to search and duplication charges, documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public and not the commercial or other private interests of the requester. With respect to all other charges, documents shall be furnished without such charges where the agency determines that the information is not requested for a commercial use and the request is being made by or on behalf of (a) an individual, or educational, or noncommercial scientific institution, whose purpose is scholarly or scientific research; (b) a representative of the news media; or (c) a nonprofit group that intends to make the information available to the general public.

"(iii) One-half of the fees collected under this section shall be retained by the collecting agency to offset the costs of complying with this section. The remaining fees collected under this section shall be remitted to the Treasury's general fund as miscellaneous receipts, except that any agency determined upon an investigation and report by the General Accounting Office or the Office of Management and Budget not to have been in substantial compliance with the applicable time limits of paragraph (6) of this subsection shall not thereafter retain any such fees until determined by the agency making such finding to be in substantial compliance.".

TIME LIMITS

SEC. 3. Paragraph (6) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(6)(A) Except as otherwise provided in this paragraph, each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

"(i) determine within ten working days after the receipt of any such request whether to comply with such request and shall immediately notify the requester of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

"(ii) make a determination with respect to any appeal within twenty working days after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the requester of the provisions for judicial review of that determination under paragraph (4) of this subsection.

"(B) In unusual circumstances as defined in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the requester setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in extensions of more than an aggregate of thirty working days. As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request—

"(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

"(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request;

"(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein;

"(iv) a request which the head of the agency has specifically stated in writing cannot be processed within the time limits stated in paragraph (6)(A) without significantly obstructing or impairing the timely performance of a statutory agency function;

"(v) the need for notification of submitters of information and for consideration of any objections to disclosure made by such submitters; or

"(vi) an unusually large volume of requests or appeals at an agency, creating a substantial backlog.

"(C) Any requester shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. An agency shall not be considered to have violated the otherwise applicable time limits until a court rules on the issue.

"(D) Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to the requester, subject to the provisions of paragraph (7). Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

"(E) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, by which a requester who demonstrates a compelling need for expedited access to records shall be given expedited access.".

BUSINESS CONFIDENTIALITY PROCEDURES

SEC. 4. Section 552(a) of title 5, United States Code, is amended by adding after paragraph (6) the following new paragraph:

"(7)(A) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying procedures by which—

"(i) a submitter may be required to designate, at the time it submits or provides to the agency or thereafter, any information consisting of trade secrets, or commercial, research, financial, or business information which is exempt from disclosure under subsection (b)(4);

"(ii) the agency shall notify the submitter that a request has been made for information provided by the submitter, within ten working days after receipt of such request, and shall describe the nature and scope of the request and advise the submitter of his right to submit written objections in response to the request;

"(iii) the submitter may, within ten working days of the forwarding of such notification, submit to the agency written objection to such disclosure, specifying all grounds upon which it is contended that the information should not be disclosed; and

"(iv) the agency shall notify the submitter of any final decision regarding the release of such information.

"(B) An agency is not required to notify a submitter pursuant to subparagraph (A) if—

"(i) the information requested is not designated by the submitter as exempt from disclosure in accordance with agency regulations promulgated pursuant to subparagraph (A)(i), if such designation is required by the agency;

"(ii) the agency determines, prior to giving such notice, that the request should be denied;

"(iii) the disclosure is required by law (other than this section) and the agency notified the submitter of the disclosure requirement prior to the submission of the information;

"(iv) the information lawfully has been published or otherwise made available to the public; or

"(v) the agency is a criminal law enforcement agency that acquired the information in the course of a lawful investigation of possible violations of criminal law.

"(C) Whenever an agency notifies a submitter of the receipt of a request pursuant to subparagraph (A), the agency shall notify the requester that the request is subject to the provisions of this paragraph and that notice of the request is being given to a submitter. Whenever an agency notifies a submitter of final decision pursuant to subparagraph (A), the agency shall at the same time notify the requester of such final decision.

"(D) Whenever a submitter has filed objections to disclosure of information pursuant to subparagraph (A)(iii), the agency shall not disclose any such information for ten working days after notice of the final decision to release the requested information has been forwarded to the submitter.

"(E) The agency's disposition of the request and the submitter's objections shall be subject to judicial review pursuant to paragraph (4) of this subsection. If a requester files a complaint under this section, the administrative remedies of a submitter of information contained in the requested records shall be deemed to have been exhausted.

"(F) Nothing in this paragraph shall be construed to be in derogation of any other rights established by law protecting the confidentiality of private information.".

JUDICIAL REVIEW

SEC. 5. Section 552(a)(4) of title 5, United States Code, is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) On complaint filed by a requester within one hundred and eighty days from the date of final agency action or by a submitter after a final decision to disclose submitted information but prior to its release, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction—

"(i) to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the requester;

"(ii) to enjoin the agency from any disclosure of records which was objected to by a submitter under paragraph (7)(A)(iii) or which would have been objected to had notice been given as required by paragraph (7)(A)(i); or

"(iii) to enjoin the agency from failing to perform its duties under sections (a) (1) and (2).".

"(2) by redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (F), (G), (H), (I), and (J), respectively, and by adding after subparagraph (B) the following new subparagraphs:

"(C) In an action based on a complaint—

"(i) by a requester, the court shall have jurisdiction over any submitter of information contained in the requested records, and any such submitter may intervene as of right in the action; and

"(ii) by a submitter, the court shall have jurisdiction over any requester of records containing information which the submitter seeks to have withheld, and any such requester may intervene as of right in the action.

"(D) The agency that is the subject of the complaint shall promptly, upon service of a complaint—

"(i) seeking the production of records, notify each submitter of information contained in the requested records that the complaint was filed; and

"(ii) seeking the withholding of records, notify each requester of the records that the complaint was filed.

"(E) In any case to enjoin the withholding or the disclosure of records, or the failure to comply with subsection (a) (1) or (2), the court shall determine the matter de novo. The court may examine the contents of requested agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section. The burden is on the agency to sustain its action to withhold information and the burden is on any submitter seeking the withholding of information."; and

"(3) in redesignated subparagraph (H).

(A) by adding "or any submitter who is a party to the litigation" after "United States"; and

(B) by striking out "complainant" and inserting in lieu thereof "requester".

PUBLIC RECORD REQUESTS

Sec. 6. Section 552(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(8) In any instance in which a portion of the records requested under this subsection consists of newspaper clippings, magazine articles, or any other item which is a public record or otherwise available in public records, the agency may offer the requester a choice of (A) furnishing the requester with an index identifying such clippings, articles, or other items by date and source, provided that such index is already in existence, or (B) notwithstanding the waiver requirements contained in this section, furnishing the requester with copies of such clippings, articles, or other items at the reasonable standard charge for duplication established in the agency's fee schedule.".

CLARIFY EXEMPTIONS

Sec. 7. So much of section 552(b) of title 5, United States Code, as precedes paragraph (1) thereof is amended to read as follows:

"(b) The compulsory disclosure requirements of this section do not apply to matters that are—".

MANUALS AND EXAMINATION MATERIALS

Sec. 8. Section 552(b)(2) of title 5, United States Code, is amended by inserting a comma in lieu of the semicolon at the end thereof and adding the following: "including such materials as A) manuals and instructions to investigators, inspectors, auditors, or negotiators, to the extent that disclosure of such manuals and instructions could reasonably be expected to jeopardize investigations, inspections, audits, or negotiations, and (B) examination material used solely to determine individual qualifictions for employment, promotion, or licensing to the extent that disclosure could reasonably be expected to compromise the objectivity or fairness of the examination process;".

PERSONAL PRIVACY

Sec. 9. Section 552(b)(6) of title 5, United States Code, is amended to read as follows:

"(6) records or information concerning individuals, including compilations or lists of names and addresses that could be used for solicitation purposes, the release of which could reasonably be expected to constitute a clearly unwarranted invasion of personal privacy;".

LAW ENFORCEMENT

Sec. 10. (a) Section 552(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any natural person;".

(b) Section 552(a) of title 5, United States Code, is amended by adding after paragraph (8) thereof the following new paragraph:

"(9) Nothing in this section shall be deemed applicable in any way to the informant records maintained by a law enforcement agency under an informant's name or personal identifier, whenever access to such records is sought by a third party according to the informant's name or personal identifier.".

ADDITIONAL EXEMPTIONS

Sec. 11. Section 552(b) of title 5, United States Code, is amended by striking out "or" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof a "; or", and by adding the following new paragraph after paragraph (9):

"(10) records or information maintained or originated by the Secret Service in connection with its protective functions to the extent that the production of such records or information could reasonably be expected to adversely affect the Service's ability to perform its protective functions.".

REASONABLY SEGREGABLE

Sec. 12. Section 552(b) of title 5, United States Code, is amended by adding after the last sentence thereof the following: "In determining which portions are resonably segregable in the case of records containing material covered by paragraph (1) or (7) of this subsection, the agency may consider whether the disclosure of particular information would, in the context of other information available to the requester, cause the harm specified in such paragraph.".

PROPER REQUESTS

Sec. 13. Section 552(a)(3) of title 5, United States Code, is amended to read as follows:

"(3)(A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request by a requester who is a United States person for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to the requester.

"(B) The time limits prescribed in subparagraph (A) of paragraph 6 shall be tolled whenever the requester (or any person on whose behalf the request is made) is a party to any ongoing judicial proceeding or administrative adjudication in which the Government is also a party and may be requested to produce the records sought. Nothing in this subparagraph shall be construed to bar (i) a request for any records which are not related to the subject matter of such pending proceeding, or (ii) a request for any records which have been denied to a party in the course of a judicial proceeding or administrative adjudication that is no longer pending.

"(C) The Attorney General, in accordance with public rulemaking procedures set forth in section 553 of this title; may by regulation prescribe such limitations or conditions on the extent to which and on the circumstances or manner in which records requested under this paragraph or under section 552a of this title shall be made available to requesters who are persons imprisoned under sentence for a felony under Federal or State law or who are reasonably believed to be requesting records on behalf of such persons, as he finds to be (i) appropriate in the interests of law enforcement, or foreign relations or national defense, or of the efficient administration of this section, and (ii) not in derogation of the public information purposes of this section.".

ORGANIZED CRIME

Sec. 14. Section 552 of title 5, United States Code, is amended by adding a new subsection (c) as follows and redesignating the current subsections (c), (d), and (e) as (d), (e), and (f) respectively.

"(c) Nothing in this section shall be deemed applicable to documents compiled in any lawful investigation of organized crime, designated by the Attorney General for the purposes of this subsection and conducted by a criminal law enforcement authority for law enforcement purposes, if the requested document was first generated or acquired by such law enforcement authority within five years of the date of the request, except where the agency determines pursuant to regulations promulgated by the Attorney General that there is an overriding public interest in earlier disclosure or in longer exclusion not to exceed three years. Notwithstanding any other provision of law, no document described in the preceding sentence may be destroyed or otherwise disposed of until the document is available for disclosure in accordance with subsections (a) and (b) of this section for a period of not less than ten years.".

REPORTING UNIFORMITY

SEC. 15. Section 552(e) of title 5, United States Code (as redesignated), is amended—

(1) by striking out "calendar" the second and fourth places it appears and inserting in lieu thereof "fiscal";

(2) by striking out "March" each place it appears and inserting in lieu thereof "December";

(3) in paragraph (4), by striking out "subsection (a)(4)(F)" and inserting in lieu thereof "subsection (a)(4)(I)"; and

(4) in the next to last sentence, by striking out "subsections (a)(4) (E), (F), and (G)" and inserting in lieu thereof "subsections (a)(4) (H), (I), and (J)".

DEFINITIONS

SEC. 16. Section 552(f) of title 5, United States Code (as redesignated), is amended to read as follows:

"(f) For purposes of this section—

"(1) 'agency' means any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

"(2) 'submitter' means any person who has submitted to an agency (other than an intelligence agency), or provided an agency access to, trade secrets, or commercial, research, or financial information (other than personal financial information) in which the person has a commercial or proprietary interest;

"(3) 'requester' means any person who makes or causes to be made, or on whose behalf is made, a proper request for disclosure of records under subsection (a);

"(4) 'United States person' means a citizen of the United States or an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(20)), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association that is a foreign power, as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a));

"(5) 'working days' means every day excluding Saturdays, Sundays, and Federal legal holidays; and

"(6) 'organized crime' means those structured and disciplined associations of individuals or of groups of individuals who are associated for the purpose of obtaining monetary or commercial gains or profits, wholly or in part by illegal means, while generally seeking to protect and promote their activities through a pattern of graft or corruption, and whose associations generally exhibits the following characteristics:

"(A) their illegal activities are conspiratorial,

"(B) in at least part of their activities, they commit acts of violence or other acts which are likely to intimidate,

"(C) they conduct their activities in a methodical or systematic and in a secret fashion,

"(D) they insulate their leadership from direct involvement in illegal activities by their organizational structure,

"(E) they attempt to gain influence in government, politics, and commerce through corruption, graft, and illegitimate means, and

"(F) they engage in patently illegal enterprises such as dealing in drugs, gambling, loan-sharking, labor racketeering, or the investment of illegally obtained funds in legitimate businesses.".

PUBLICATION OF EXEMPTION 3 STATUTES

SEC. 17. Section 552 of title 5, United States Code, is amended by adding a new subsection (g) as follows:

"(g) Within two hundred and seventy days of the date of the enactment of this subsection, any agency which relies or intends to rely on any statute which was enacted prior to the date of enactment of this subsection, or during the thirty-day period after such date to withhold information under subsection (b)(3) of this section, shall cause to be published in the Federal Register a list of all such statutes and a description of the scope of the information covered. The Justice Department shall also publish a final compilation of all such listings in the Federal Register upon the completion of the two-hundred-and-seventy-day period described in the preceding sentence. No agency may rely, after two hundred and seventy days after the date of enactment of this subsection, on any such statute not listed in denying a request. Nothing in this subsection shall affect existing rights of any party other than an agency.".

Mr. BAKER. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

AMENDMENT NO. 2746

(Purpose: To modify the provisions regarding fees and additional exemptions under the Freedom of Information Act)

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the Senator from Utah (Mr. HATCH) and the Senator from Vermont (Mr. LEAHY) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of the Senator from Utah (Mr. HATCH) and the Senator from Vermont (Mr. LEAHY), proposes an amendment numbered 2746.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 10, strike out "or royalties, or both".

On page 16, line 16, strike out "semicolon" and insert in lieu thereof " '; or' ".

On page 16, line 17, strike out "paragraphs" and insert in lieu thereof "paragraph".

On page 16, strike out lines 18 through 24.

On page 17, line 1, strike out "(11)" and insert in lieu thereof "(10)".

Beginning on page 20, line 15, strike out all through page 21, line 2.

On page 21, line 4, strike out "17" and insert in lieu thereof "16".

On page 23, line 12, strike out "18" and insert in lieu thereof "17".

Mr. HATCH. Mr. President, the amendment which I am offering today accomplishes two things: it deletes the proposed 10th exemption from the bill and it clarifies that any fair value fees for commercially valuable technological information generated by the Government are not to be assessed as royality fees.

S. 774 contained a new exemption, (b)(10), which permitted Federal agencies to withhold release of certain technical data subject to export controls. Our committee heard testimony from the administration regarding the need for this exemption. Foreign governments and foreign competitors of U.S. companies are able to obtain very valuable unclassified technical information simply by submitting an FOIA request to the Federal agencies that have paid to have the data developed. In fact, cottage industries have sprung up to systematically obtain and catalog such technical data, which they then market throughout the world. It is my understanding that one of these data brokers is suing the Department of Defense right now under the FOIA to obtain technical data relating to virtually all of DOD's procurement activities.

Fortunately, since the committee reported S. 774, legislation has been enacted which covers just such situations at DOD. This legislation permits the Secretary of Defense to withhold export—controlled technical data with military or space application that is in the possession or control of the Secretary of Defense. Enactment of this provision, as part of the DOD authorization bill, addresses a major problem area at which the (b)(10) exemption was directed.

There remain other areas with the potential of creating a problem, for instance, technical data with military or space application in the possession of NASA. In light of time constraints on this bill, it would be wisest to pursue other potential problem areas at another time. Accordingly, with a major part of the problem addressed by the proposed 10th exemption already enacted, it is the intent of this amendment to defer other concerns in this technical data area until another time.

The other aspect of this amendment deals with the provision authorizing the assessment of fair value fees in the case of any request for commercially valuable technological information which was generated or procured by the Government at substantial cost to the public. This provision is intended to carry out the policy set forth in user fees statutes (see, e.g., 31 U.S.C. 9701) and is not intended to allow the

Government to claim copyright rights in this information. By striking the word "royalty" in this provision, fees will be assessed on the basis of the cost to the taxpayer to generate or procure the information, rather than on the basis of any potential value the information may hold in the marketplace. The former kind of assessment is a user fee, which recovers the taxpayer's cost, the later is a derivative of copyright law. This amendment will clarify that this provision is not designed to create a Government copyright, but a form of cost recovery.

With these amendments in place, I am enthusiastic to encourage the early passage of this bill.

Mr. President, at the outset of Senate consideration of S. 774, the Freedom of Information Reform Act, I would like to commend those members of the Judiciary Committee who have played a key role in the passage of this legislation. This allows me once again to praise the chairman of the Judiciary Committee and commend his dedication to improving the tools of our law enforcement community. In particular, however, I wish to express my deep appreciation to Senator PAT LEAHY. Without his tireless and indefatigable efforts, this bill could not be passing the Senate today. This bill garnered the unanimous vote of the Judiciary Committee because Senator LEAHY was dedicated to remedying the evident problems FOIA has created in the areas addressed by this bill. At the same time, he diligently insured that the basic strengths of the Freedom of Information Act were not compromised by these amendments. He deserves great credit for the successful balance struck by this bill.

Other Senators were also instrumental in the progress of this bill. Senator GRASSLEY, who also sits on the Constitution Subcommittee, was an important participant in the negotiations on this legislation, as was Senator DECONCINI, the ranking member of the subcommittee. Without their timely participation, I doubt we could be on the floor today. Other Senators were also significant in this process and I thank them all.

With that introduction of appreciation, I would now like to address the process and provisions of S. 774.

Two years ago the Senate Constitution Subcommittee undertook the most exhaustive examination of the Freedom of Information Act (FOIA) in the act's 17-year history. In the intervening period, now spanning two Congresses, the committee has held 9 hearings and entertained over 60 expert witnesses with the goal of drafting a bill that will improve the act without compromising its mission of providing our citizenry with a tool to learn about Federal Government activities. S. 774, the successor to S. 1730 in the 97th Congress, has now received the unanimous approval of the committee in two Congresses as an indication of the success of the bill in amending FOIA's most glaring weaknesses without compromising its vital strengths. In short, this bill will serve to correct flaws in the most important component of our Nation's information policy, a policy without peers among other nations of the world.

My presentation will briefly discuss the serious considerations that guided the Senate Judiciary Committee's unanimous adoption of the Freedom of Information Reform Act, S. 774.

During the committee's comprehensive oversight of FOIA, the witnesses expressed a warm appreciation for the policy of openness conveyed by FOIA. The witnesses also produced ample evidence, however, that FOIA has not always operated to produce a more efficient and more responsive Government. In those problem areas, the committee has attempted to correct the weakness while maintaining the beneficial policy.

LAW ENFORCEMENT

For example, FOIA has at times operated to jeopardize the confidentiality of law enforcement informants and investigations. This verifies the findings of the Senate Judiciary Subcommittee on criminal law in 1978:

> It can safely be said that none [of the sponsors of FOIA] foresaw the host of difficulties the legislation would create for the law enforcement community, nor did they foresee the utilization that would be made of the act by organized crime and other criminal elements or the damage it would do to the personal security of individual citizens * * * Informants are rapidly becoming an extinct species because of fear that their identities will be revealed in response to a FOIA request.

In that same year the General Accounting Office released a study citing 49 instances of potential informants refusing to cooperate with law enforcement authorities due to fear that FOIA could lead to disclosure of their identities. In 1979, FBI Director Webster supplied documentation of over 100 instances of FOIA interference with law enforcement investigations or informants. In 1981 his list was expanded to 204 examples. In fact, five different reports studying the impact of FOIA have concluded that the act has harmed the ability of law enforcement officers to enlist informants and carry out confidential investigations. Among these, the Attorney General's 1981 Task Force on Violent Crime found that FOIA should be amended because it is used by lawbreakers to evade criminal investigation or to retaliate against informants. A 1982 Drug Enforcement Administration study documented that 14 percent of DEA's investigations were aborted or significantly compromised by FOIA-related problems. Based on evidence of this character, the committee undertook numerous changes in the seventh exemption to enhance those specific protections as well as the addition of new provisions to FOIA designed to protect law enforcement informants and investigations. For example, in the particularly sensitive area of organized crime investigations, the committee bill allows for an exclusion from the provisions of FOIA any record generated within 5 years of a FOIA request.

LEGISLATIVE BACKGROUND

The final version of exemption 7 of the Freedom of Information Act of 1967, which exempted investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency (Public Law 90-23 (1967)), represented a compromise between a number of opposing viewpoints. The original Senate proposal read investigatory files compiled for law enforcement purposes except to the extent they are by law available to a private party, 112 CONGRESSIONAL RECORD 11768 (July 31, 1964), and in the commentary to the authoritative 1965 Senate report, exempt files are described as files prepared by Government agencies to prosecute law violators" the disclosure of which could harm the position of the Government in court. (S. Rep. 813, 89th Congress, 1st sess. 9 (1965).) The House generally took a broader view of the exemption. Under the House report, (b)(7) would have covered all kinds of laws, labor and security laws as well as criminal laws (H. Rep. 1497, 89th Congress 2d sess. 11 (1966)), and also include files prepared in connection with related Government litigation and adjudicative proceedings.

While the final version of the 1966 exemption was the product of a compromise between conflicting viewpoints, it lasted from 1966 through 1974. Nonetheless, critics of the then existing exemption 7, led by Senator Phillip Hart, were able to mount a successful drive on the floor of the Senate to amend the exemption. Their efforts limited coverage of (b)(7) to "investigatory records compiled for law enforcement purposes" only if the production of these records would result in one of the enumerated dangers provided by the amendment.[14]

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[14] 5 U.S.C. § 552(b)(7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel.

During the course of the Senate's consideration of the amendment of (b)(7), Senators Hart and KENNEDY spoke of the amendment as but a minor revision, but others such as Senator Hruska voiced concern that the broad disclosure of law enforcement files would cause FBI sources to dry up and become fewer and fewer as time goes on 120 CONGRESSIONAL RECORD 19,776—a prophecy fulfilled according to testimony in this committee's 1981 hearings.

The Senate passed the Hart amendment, Senator Hruska's objections notwithstanding, by a margin of 51-33. The conference committee adopted the amendment but added a clause protecting confidential information furnished only by the confidential source * * *[15] and also lowered the agency's burden of proof on privacy invasions from a showing that the privacy invasion was "clearly unwarranted" to a facially more lenient "unwarranted" standard.[16]

President Ford vetoed the FOIA amendments arguing that they would cause dilution of law enforcement activities but his veto was overridden in both Houses of Congress. Interestingly, an expert in the field of Federal information disclosure has noted. The veto message was correct, in retrospect, and the burden on law enforcement agencies was a severe one; but the societal and political judgment in favor of openness overcame the practical problems of the (b)(7) amendment.[17]

Exemption 7, as revised by the 1974 amendments, has also become the subject of increasing bipartisan criticism and dissatisfaction. For example the "Report of the Subcommittee on Criminal Laws and Procedures on the Erosion of Law Enforcement Intelligence and its Impact on the Public Security" stated that:

> The sponsors of the FOIA wanted to reinforce the citizen's right to know; * * * they wanted to put an end to the abuses perpetrated in the name of government secrecy and executive privilege. It can safely be said that none of them foresaw the host of difficulties the legislation would create for the law enforcement community, nor did they foresee the utilization of the Act that would be made by organized crime and other criminal elements or the damage it would do to the personal security of the individual citizen. (S. Rep. 51, 95h Cong. 2nd Sess.).

Though Congress overrode President Ford's veto, time has proven the legitimacy of the President's concerns about the 1974 FOIA amendments.

These comments are indicative of the concerns that have prompted the reform of the FOIA and reflective of the broad based support particularly for reform of (b)(7). Much of the testimony before the Constitution Subcommittee on the FOIA Reform Act can be characterized by a central and unifying theme; namely, that the reforms of 1974, while in many respects beneficial and consistent with the spirit of disclosure that has characterized the FOIA, have also resulted in unforeseen and untoward consequences which threaten society's interest in effective law enforcement and other governmental functions. The end product of these problems is unfortunately often an overemphasis upon disclosure at the expense of the confidentiality necessary to the efficient operation of some aspects of Government. Exemption 7, which deals with law enforcement, is representative of these problems. In fact, (b)(7) provides an especially poignant reminder of the dangers that may accompany a blind emphasis on disclosure because it entails the stark reality of danger to the life of an informant or a suspected informant whose identity may be revealed by piecing together released FBI files.[18]

One commentator presciently envisaged that the 1974 amendment could result in difficulties if the courts interpreted the changes in (b)(7) as mechanically as they have applied the 1966 language.[19] Indeed, this has often been the result and the intent of the framers to maintain effective law enforcement has been ignored by some courts in the exaltation of form over substance.

Section 11(a) of this bill would make a series of amendments to exemption 7 of the FOIA in an effort to remedy the shortcomings which have become manifest. The proposed amendments are designed to address three major concerns that have arisen from the present language of this exemption: (1) the fear among confidential sources that their identities will be revealed through Freedom of Information Act disclosures, and the resulting difficulties that law enforcement authorities have encountered in enlisting and using confidential sources; (2) the concern that sensitive law enforcement information will be disclosed to law enforcement suspects by Freedom of Information Act disclosures, thereby allowing criminals to avoid detection or prosecution; and (3) the concern that Freedom of Information Act disclosure will reveal law enforcement guidelines to suspects. These concerns were highlighted by the testimony of FBI Director Webster before the subcommittee:

> The violence and risk of reprisal in these areas are sufficiently great to increase the impact on informants whose perception is that we may not be able to protect the identity. * * * the FOIA permits the FBI and other law enforcement agencies to withhold informant's reports, but other information in the file can be withheld only if we can demonstrate it would identify a source. * * * Applying the exemption necessitates that human beings make judgment calls. * * * Thus, it is impossible to conclude with certainty that we are always correct. The lack of investigative activity in a particular place within a certain time frame announces we have no knowledge of what transpired there. Moreover, information that is released can form a blueprint of the Bureau's investigation and techniques. When it is necessary to reinstitute the investigation, the target is forewarned and forearmed. FOIA hearings, supra statement of William H. Webster.

Director Webster's is not the only persuasive voice commenting on this subject. In 1977, the Director of the Secret Service, Mr. Stuart Knight, testified that he had recommended that President Jimmy Carter refrain from traveling to two cities within the United States, because the Service did not have adequate information to guarantee his safety. In our 1981 hearings, the Service testified that conditions have deteriorated even further. The Attorney General's Task Force on Violent Crime concluded that FOIA must be amended because it is used by lawbreakers to "evade criminal investigation or to retaliate against informants." Citing law enforcement problems, syndicated columnist James J. Kilpatrick said: "Newsmen love the FOIA. But sad to say, our law is being sadly abused." "Freedom of Information for Whom?" (Washington Star, July 25, 1981). Reader's Digest commented: "Congress passed FOIA with best of intent, but criminals * * * have perverted that intent to hobble the work of our law enforcement agencies." Professor Allen Weinstein, now on the editorial board of the Washington Post, wrote: "The big users of the act aren't journalist and public-interest groups. They are businessmen and criminals who are driving up the cost—and adding to the security risks—of the public's right to know." "Open Season on Open Government," (New York Times Magazine, June 10, 1979). The Drug Enforcement Administration released a study in 1982 concluding that 14 percent of the Agency's drug investigations were jeopardized or significantly compromised by FOIA releases. Mr. Robert Saloschin, former Director of the Office of Information Law and Policy in the Carter administration, stated that "there is a real need for careful legislative attention and appropriate action on FOIA's effects upon law enforcement."

Although such a catalog of recognition of FOIA's flaws relative to law enforcement could go on indefinitely, just a few more observations will serve to document the wide spread concern that cuts across all disciplines. Deputy Attorney General Edward C. Schmults states that "targets of FBI investigations use requests under the act in an attempt to discover the idenity of FBI sources. "Viewpoint", U.S. Chamber of Commerce reports. The Drug Enforcement Administration issued a study documenting that 60 percent of all FOIA requests received by the Agency came from imprisoned felons or known drug traffickers. Mr. Geoff Stewart, Special Counsel for the Department of Justice, noted that:

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[15] C.F. 5 U.S.C. § 552(b)(7)(D).

[16] See 5 U.S.C. § 552(b)(7)(C).

[17] James T. O'Reilly, "Federal Information Disclosure: Procedures, Forms, and the Law," 17-17 (1977).

[18] O'Reilly, p. 17-4.

[19] Comment, "Amendment of the Seventh Exemption Under the Freedom of Information Act," William and Mary Law Review 697 1975).

> Year after year, the law enforcement community has presented evidence to Congress and the general public that the FOIA was being used by criminals, terrorists, and hostile foreign intelligence agencies to identify the government's confidential sources and thwart law enforcement investigations. However, in response to this very real problem, the media and similar interest groups who have sometimes benefitted from expanded disclosure of sensitive government files responded only with a cynical heads-I-win-tails-you-lose argument: when the FBI publicly disclosed that the FOIA was permitting criminals to identify confidential sources, the Bureau was accused of needlessly frightening informants and potential informants in an effort to sabotage the act. But when the FBI tried to minimize in public the adverse impact the FOIA was having, the media claimed that this very silence showed that the FBI could point to no factual evidence supporting a change in the law.

Even the General Accounting Office in a 1978 study and the Department of Treasury in a 1981 study substantiated these claims. Management Review of Performance of Department of Treasury, in connection with the March 30, 1981, assassination attempt on President Reagan. Perhaps most persuasive of all, however, is the unanimous vote of this committee to significantly revise the seventh exemption.

MOSAIC PROBLEM

A major complication with FOIA, as discovered in the Constitution Subcommittee hearings, is the jigsaw puzzle of mosaic effect. Aptly named, the effect occurs when small pieces of information, insignificant by themselves, are released and then pieced together with other previously released information and the requester's personal knowledge to complete a whole and accurate picture of information that should be confidential and protected, such as an informant's identity. The result is, of course, that information was specifically exempted by Congress actually is released. This effect can occur with material exempted under each one of the exemptions. This phenomenon has particularly egregious consequences, however, as it relates to exemption 7.

Many courts have recognized this effect and sought to avoid the harm that may result from disclosure. Judge Wilkey described the possible danger of partial disclosure in *Halperin* v. *Central Intelligence Agency*, 629 F. 2d 144 (1980):

> We must take into account, however, that each individual piece of intelligence information, much like a jigsaw puzzle, may aid in piecing together other bits of information even when the individual piece is not of obvious importance in itself. *Id.* at 140.

The jigsaw puzzle effect can occur any time there is material withheld under one of the exemptions. The courts have recognized this effect and have made allowance for it by requiring less disclosure. The committee recognizes and encourages the courts to continue the responsible application of this principal.

Another court also recognized the mosaic effect the possible resultant danger in an exemption (b)(1) case. In Hayden against National Security Agencys Tom Hayden and Jane Fonda each requested copies of all the files pertaining to them that had been compiled by the NSA. The NSA released a number of documents but claimed that certain documents contained information that had been obtained from foreign electromagnetic signals. The court found that withholding this information was justified under exemption (b)(1). The court also found that the NSA could not be compelled to disclose information obtained from channels that were not confidential because disclosure of this information might reveal sensitive information inadvertently sent over those channels. As stated by the court:

> [W]ith respect to NSA's signal intelligence operations, the sensitive material comprises more than just the substantive content of messages. Harm could follow from the disclosure of any material that might help to identify the communications intercepted by NSA, such as information about date, time, origin, or manner of transmission or receipt Id. at 1385.

Though the substantive information in the records was disclosable, the court recognized that the mere fact that the NSA had been monitoring those channels could, if the information were read by one familiar with intelligence operations, reveal more than should be safely revealed about the NSA's activities.

Moreover, a knowledgable requester may get a bit of information that is the key to unlocking the meaning of secrets obtained through other FOIA requests or independent of FOIA. This effect was also noted in *Malizia* v. *United States Department of Justice*, 519 F. Supp. 338 (1981). The court held that "since disclosing dates of interviews might well permit those familiar with the events under investigation to piece together the identity of sources * * * the date may be withheld." Id. at 351. Thus the court protected the informants and afforded the amount of confidentiality required to encourage other informants to come forth.

The Federal agencies called to release confidential material are acutely aware of the dangers posed by the mosaic effect. Robert L. Saloshin testified:

> The efficiency of law enforcement depends largely on cooperation in investigations by sources who have useful information. However, because of fears of embarrassment, reprisals, or even loss of time, such information will often only be provided to investigators if the source is guaranteed that his identity will remain secret. FOIA Hearings, supra.

FBI Director William Webster presented the committee with more than 204 incidents of recent refusals to provide information to the FBI because of the possibility of public disclosure of their identity. Id.

Release of an informant's name is not the only way that an informant's identity could be revealed. Surrounding circumstances and information revealed by the informant may also disclose an informant's identity, especially if several files are available. William Webster noted that convicts often request files simply to determine the identity of informants against them: "It's not just using one file, it's using several documents or several people putting their heads together to figure out who that person could be whose name was excised from an investigative file. Quoted in J. T. O'Reilly "Federal Information Disclosure." 9-12 (1981). Besides hindering investigations because informants are unwilling to cooperate, disclosure of identifying material can result in harm to informants.

The threat to the security of confidential matters posed by the jigsaw-puzzle effect is neither a judicial creation or an agency fable. It is, in fact, a well-known system that is used daily to uncover highly secret information. Gary Bowdach, who passed a lie detector test about his testimony, explained the way the criminal world applies the mosaic principles:

> I would like to make it very clear that if they deleted all the names where you couldn't see anything about it, just details of the report could also reveal the identity of the informant. If I know that I had a meeting with you on such and such a date, and in a certain restaurant in Miami, and I got a report a year later and it said a confidential informant who met with Bowdach at such and such restaurant on such and such a date, revealed to us that such and such happened, I don't have to know your name.
>
> I've just got to try to think, remember who I had a meeting with at that time and that place and I come up with you.
>
> So they could delete it, the way they are supposed to, but just details of the report itself can reveal to me the name of the informant.
>
> Hearings on Organized Crime Activities Before the Permanent Subcommittee on Investigations of Senate Committee on Government Affairs, 95 Cong., 2d sess., 1978.

Mr. Bowdach also noted that this practice is widespread and prevalent with organized crime figures in prisons.

It is the intention of the committee to acknowledge and correct the jigsaw puzzle or mosaic effect. The responsible application of this principle by the courts and by the agencies is fully within the scope of their discretion. The agencies and the courts should examine all information that is to be released with an understanding that a sophisticated requester, potentially an organized crime group, could sift through released documents with computers, and extract information to defeat the purpose of the act's exemptions.

THRESHOLD MODIFICATION

Under present law, records are eligible for the act under exemption 7 only if they are "investigatory records compiled for law enforcement purposes." Some courts have construed this threshold requirement strictly, holding that records prepared for law enforcement purposes are not within the scope of exemption 7 if they are not literally "investigatory" in nature. For example, in *Cox* v. *Department of Justice*, 576 F.2d 1302, 1310 (8th Cir. 1978), the court held that the mere fact that a staff manual of a law enforcement agency deals with investigative techniques and procedures does not place that manual within the scope of (b)(7) because the record was not compiled in the course of a specific investigation.[20] This undue emphasis on the literal meaning of the word "investigatory" is, in the committee's view, contrary to the overall purpose of exemption 7. The bill would therefore eliminate the requirement that records must be "investigatory," and would apply exemption 7 generally to all "records or information" compiled for law enforcement purposes. This language would make additional categories of documents besides "investigatory records" eligible for protection under exemption 7, such as various types of background information, law enforcement manuals, procedures, and guidelines. This more general threshold language also would properly focus the inquiry not on the nature of the records in which sensitive information happens to be contained, but on the substantive law enforcement interests which exemption 7 was intended to protect.

The change eliminates the outlandish result in a case where the requested information would "endanger the life * * * of law enforcement personnel" but would not be covered by (b)(7) because it is not found in a record generated during an investigation.

The following language in a Senate committee report illustrates the problem that inheres in the present "investigatory" threshold:

> The (b)(7)(D) exemption allow us to withhold from disclosure any mention of these techniques or devices, provided that the reference to the device or technique is contained in an investigative file.
>
> However, many of these techniques and devices were developed through the use of research contracts. The research files and the data contained therein relating to the development and use of the techniques or device, is not an investigative file.
>
> Therefore, although we will argue that the intent of Congress was to protect from disclosure these devices and techniques, the courts have shown a reluctance to accept "equity" arguments and claim our remedy is with Congress.
>
> We have experienced similar problems regarding material we utilize in our training programs.
>
> Any criminal who could gain access to the course material we provide during our training programs would have a decided advantage in avoiding apprehension and punishment.
>
> We have received several requests for this type of material and we are unsure of our ability to defend against its disclosure due to lack of specific language in the Act which protect it. Senate report, erosion of law enforcement, supra, at 60.

The bill would broaden the scope of exemption 7 by extending the protection for "records" to "records and information." This language was a particular point of controversy in the Supreme Court's recent decision in *Federal Bureau of Investigation* v. *Abramson*, to U.S.L.W. 4530 (U.S. May 24, 1982) (No 80-1735), the case involved a FOIA request for documents relating to the FBI's transmittal to the White House of information concerning individuals who criticized the Nixon administration. The Court clarified that the material supplied to the White House did not lose its status as a record when the information was extracted from an FBI record and then recompiled for an arguably non-law enforcement purpose. "[O]nce it is established that *information* was compiled pursuant to a legitimate law enforcement investigation and that disclosure of such information would lead to one of the listed harms, in exemption 7, the information is exempt." *Id.* at 4534 (emphasis added). This Supreme Court holding, announced following the committee's unanimous approval of S. 1730, the 97th Congress version of S. 774, recognizes that Congress intended to protect the substantive interests listed in (b)(7) regardless of the label put on the requested record.

INTERFERENCE WITH LAW ENFORCEMENT

S. 774 would also amend exemption (b)(7)(A) to provide exemption of all records or information which "could reasonably be expected to interfere with enforcement proceeding." At present, exemption (b)(7)(A) protects records from disclosure where disclosure would interfere with enforcement to the act to permit premature disclosure of investigative information or to allow the targets of law enforcement investigations to be able to use the act to harass, obstruct, or circumvent an investigation. See *NLRB* v. *Robins Tire & Rubber Co.*, 437 U.S. 214, 236 (1978).

At present, however, exemption 7(A) needs to be clarified in order to protect all information pertaining to pending investigations and to better ensure that investigations will not be harmed by FOIA. The present standard has engendered no small amount of uncertainty by requiring agencies and courts alike to speculate on whether not disclosure would "interfere with" a pending proceeding. It is often virtually impossible to determine prior to the conclusion of a law enforcement proceeding whether the release of particular investigative records "would" interfere with the Government's efforts, because it is frequently difficult to know what direction the investigation will take, or what use the target of the investigation—who is usually the requester—might make of the information. Moreover, even the very administrative task of responding to requests under the current 7(A) exemption has often resulted in severe disruption of enforcement proceedings, since agencies have frequently been required to create lengthy and detailed affidavits to justify the determination that disclosure would "interfere with" an investigation or proceeding.[25]

The bill would address these concerns by changing the "would" standard to "could reasonably be expected" to interfere with enforcement proceedings. As amended, exemption 7(A) would not require an agency to show a direct interference but only the reasonable possibility of an interference.

INFORMANT PROTECTION

A mainstay of law enforcement today is the volunteered testimony and background information provided to Federal agencies by confidential sources. Major societal plagues like narcotics, organized crime, and extremist violence can only be controlled with adequate informant cooperation. The tenuous link of information sharing between informant and enforcer becomes shattered, to society's grave detriment, if Federal law enforcement officers cannot protect the confidentiality of such sources. Indeed that link is already in jeopardy.

The loss of potential confidential sources and the fear of harm to sources due to FOIA releases were two of the most frequently voiced concerns highlighted in testimony before the Constitution Subcommittee. In 1978, a GAO study set forth 49 examples of informants refusing to cooperate with law enforcement authorities due to

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[20] See for example *Nationwide Mutual Insurance Co.* v. *Friedman*, 451 F. Supp. 736, 746 (D. Md. 1978).

[25] In fact, in one case the Internal Revenue Service was required to file a 13,000-page affidavit. *Kanter* v. *Internal Revenue Service*, 433 F. Supp. 812 (N.D. Ill. 1977), *dismissed*, 478 F. Supp. 552 (N.D. Ill. 1979).

FOIA.[26] The study was not confined to the FBI, the Drug Enforcement Administration, the Secret Service and other law enforcement agencies. In 1979, FBI Director Webster supplied documentation of over 100 instances of FOIA interference with law enforcement investigations or informants. In 1981, his list was expanded to 204 examples. Moreover, other more serious cases of the abuse of FOIA by criminal groups, terrorists, and foreign counterintelligence agents were detailed by Director Webster in a classified session before the committee. Although those details cannot be revealed, some of the sanitized fact patterns that the Director supplied are instructive:

> A group advocating the violent overthrow of the United States made FOIA requests to the FBI. Although the FBI could withhold most information in the file, it had to state that it was withholding information to protect an informant. This confirmed the group's suspicions that it had an informant in its midst. This terminated the long-time informant's effectiveness in the group and left the FBI with no reliable way to monitor this terrorist organization.
>
> Following a plot to blow up power installations to protest the Panama Canal Treaty, the leader of the plot was murdered. The FBI obtained information from informants about both the plot and the murder. A FOIA request for records pertaining to the matter, however allowed someone to write an article that practically identified the key informant. The informant began to receive anonymous death threats. Finally, the informant moved out of the state to escape the threats.
>
> A violent terrorist group has a small group who leads the organization. That group has been infiltrated by an informant. Just recently the group has begun to make FOIA requests to learn which of the group is the informant.

The Fraternal Order of Police explained that FOIA impedes cooperations between Federal and State law enforcement officers. FOIA hearings, supra, Mr. Gary Bowdach an admitted murderer, and convicted racketeer, testified graphically on his use of FOIA.

> Senator Nunn. Turning to the Freedom of Information Act, what was your motivation in filing the Freedom of Information requests on your own behalf.
>
> Mr. Bowdach. To try to identify the informants that revealed information to the agencies.
>
> Senator Nunn. Informants who testified against you?
>
> Mr. Bowdach. The ones that testified against me, I knew. I was concerned about the ones that didn't testify, the ones that were supplying confidential information.
>
> Senator Nunn. Why did you want to get their names?
>
> Mr. Bowdach. To know who they were, to take care of business later.
>
> Senator Nunn. To take care of business later on? You mean by that to murder them?
>
> Hearings on Organized Crime Activities before the Permanent Subcommittee on Investigations of Senate Committee on Governmental Affairs, 95th Cong., 2d Sess., 1978. Part I, page 233.

The Senate Subcommittee on Criminal Laws found in 1977 that "Informants are rapidly becoming an extinct species because of fear that their identities will be revealed in response to a FOIA request." "Erosion of Law Enforcement," supra.

The DEA recently produced a study which established that 14 percent of all DEA investigations were adversely affected by FOIA to the extent that investigations were "aborted, significantly compromised, reduced in scope, or required significant amounts of extra work."[27] The DEA study further noted that 40 percent of all FOI requests received by DEA are from prisoners and that a further 20 percent are from known or suspected drug traffickers. The Attorney General's Task Force on Violent Crime also made note of the deleterious effect that FOIA has had upon potential informants: "Decreases in the number of informants have been reported; it is believed by many that potential informants do not come forward out of fear of disclosure through FOIA requests from persons they helped convict."[28]

An important part of the public policy rationale for exemption 7(D) is the protection of the confidential source so he or she will continue as a future informant.[29] The excerpt from subcommittee testimony and other law enforcement data point out the need to remedy the serious shortcomings of the current exemption 7(D). This bill would make several important and needed changes to subparagraph (D) of exemption 7 to clarify and strengthen the existing exemption for information that would compromise a confidential source providing information or assistance to law enforcement authorities.

Exemption 7(D) presently protects against disclosure of information that, inter alia, "would . . . disclose the identity of a confidential source." The proposed amendment would broaden this exemption to include information that "could reasonably be expected to disclose the identity of a source." This broadening of the exemption is necessary because the release of information that does not itself identify an informant can, in many circumstances, result in such identification. When viewed in context with other information known to a requester, pieces of information obtained through the act that do not appear revealing on their face may enable a requester to piece together facts that reveal the identity of an informant.

The proposed change is consistent with the practical approach to source protection established in analagous cases. The courts have articulated the so-called "mosaic" or "jigsaw puzzle" approach to (b)(7)(D). In *Halperin* v. *Central Intelligence Agency*, 629 F.2d 150 (D.C. Cir. 1980), the court denied a requester access to CIA documents detailing legal bills and fee arrangements of private attorneys retained by the agency who were source of intelligence. Although the agency might arguably have been able to demonstrate potential harm sufficient to invoke the "would" standard, the court held the materials exempt because "[w]e must take into account, however, that each individual piece of intelligence information, much like a piece of a jigsaw puzzle, may aid in piecing together other bits of information even when the individual piece is not of obvious importance itself."[30] *Id.* at 150. The purpose of the broadening of exemption 7 is to make the approach followed in *Halperin* applicable to this exemption as well.

A good indication of the very real danger that may accompany the release of what appears on its face to be merely innocuous information is provided by the testimony of Director Webster:

> Groups of requesters seek the identity of government sources by collecting and carefully comparing the information released to them by FBI against information and records within their own knowledge and control. In addition, it can be anticipated that in many instances prison inmates, who make about 12 to 16 percent of our Freedom of Information Act requests, are doing so for the purpose of indentifying informants. We know that in one instance an organized crime group made a concerted effort to identify sources through the Freedom of Information Act. It must also be recognized that hostile foreign governments, terrorist and organized crime groups not only have the motive to subject our releases to detailed analysis, but also have the resources to finance such an examination by knowledgeable and skilled analysts.
>
> The FBI analyst may unknowingly assist the hostile analyst in responding to the requester. Seldom can an FBI employee learn the extent of a requester's knowledge of dates, places and events. The person most knowledgeable about what particular information may lead to a source's identity is, unfortunately for us, often times the requester who is the subject of investigation. What appears to our analysts to be innocuous or harmless information may provide the group a missing piece of the puzzle. When the records pertain to investigations of organizations and the members have the opportunity to pool and compare the infor-

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[26] Impact of the Freedom on Information, and Privacy Acts on Law Enforcement Agencies. GAO Report by Comptroller General, Nov. 12, 1978.

[27] The Effect of the Freedom of Information Act on DEA Investigation," U.S. Department of Justice, DEA Office of Planning and Evaluation 1982.

[28] "Attorney General's Task Force on Violent Crime." United States Department of Justice, Final Report, Aug. 17, p. 41.

[29] O'Reilly, 17-43.

[30] See also, *Center for National Security Studies* v. *Central Intelligence Agency*, No. 80-1235 (D.D.C. 1982).

mation furnished to them, the danger is magnified.[31]

Moreover, codification of the mosaic approach would conform the terms of the exemption more closely to the original intent of Congress. The author of the exemption, Senator HART, stated plainly:

> The amendment protects without exception and without limitation the identity of informers. It protects both the identity of the informer and information which might reasonably be found to lead to such disclosure. 120 Cong. Rec. 17,034 (1974).

The committee intends to carry out Senator HART's stated intent and recognize the "mosaic" principle with this amendment.

The bill would also amend the language of exemption 7(D) to identify more clearly the range of entities that may be considered "confidential sources." Under present law, foreign governments, State and local governments or agencies and private institutions have been afforded protection as "sources." For instance, the Second Circuit stated that "There appears to be no reason why a law enforcement agency . . . would not come within the plain meaning of the words confidential source. *Keeney v. Federal Bureau of Investigation*, 630 F.2d 114, 117 (2d Cir. 1980). In a similar fashion, the District of Columbia Circuit stated: "In view of Congress' close attention to the concern that investigatory functions of criminal law enforcement agencies not be impeded, it seems clear that Congress could not have intended to draw a distinction between individual and institutional sources of information." *Lesar v. United States Department of Justice*, 636 F.2d 472, 491 (D.C. Cir. 1980).[32]

The bill's amendments to exemption 7(D) would confirm this majority rule and would provide a clear statement on the face of the statute that institutional informants are included among the confidential sources protected by the act, thereby alleviating the concern among some of these institutions that law enforcement information they provide the Federal Government might be subject to release pursuant to a FOIA request. Because of the importance of these institutions as informants in the law enforcement process, the committee believes that they too are entitled to express protection on the face of the statute. Even those instances where courts have taken a more narrow view of the term "confidential source", have occasioned judicial concern about the legislative language that the court has felt obliged to construe as limiting coverage to human sources. This is the case in the dissent by Judge Clifford Wallace. *Church of Scientology v. Department of Justice*, 612 F.2d 417 (9th Cir. 1979) (Wallace J. dissenting). This bill responds to Judge Wallace's concern and logically extends the protection of (b)(7)(D) to financial and commercial interests.

The bill would also confirm that private businesses come within the definition of a "confidential source." While this issue has not generated a great deal of case law, the weight of authority includes financial and commercial institutions within the term "confidential source."[33]

Finally, the bill would grant greater protection to the information furnished to criminal law enforcement authorities by confidential sources. Currently, exemption 7(D) permits the withholding of "confidential information" furnished "only by a confidential source" in the course of a criminal investigation. The present terms of the act, if read literally, would appear to suggest that "non-confidential" information provided by a confidential informant is not exempt. This would be contrary to the evident intent of Congress.[34] Indeed, any attempt to segregate "confidential" from nonconfidential information received from any informant would be impossible since informants could be identified from even very circumstantial information that might appear on its face to be nonconfidential. The bill therefore would make it clear that all information provided by a confidential source is exempt, by eliminating qualifying terms that create confusion and ambiguity with respect to the scope of the exemption.

The apparent requirement that information must be furnished "only" by a confidential source to be exempt would also be eliminated by the bill to prevent the confusion which can result from a restrictive reading of the existing language. Professor Antonin Scalia, testifying before the Constitution Subcommittee, focused upon the problem created by a restrictive reading of this language:

> The exemption for law enforcement investigatory records sanctions the confidential information furnished by a confidential source in a criminal or national security investigation, but only if the information was "furnished *only* by the confidential source" (emphasis added). Obviously any confidential information furnished by a confidential source might serve to identify the source . . . [a restrictive reading would mean] that the confidential information could be withheld from the public (or the mob) only if the reviewer established, presumably from a review of the entire file, that the information was not obtained from anywhere else. That, it seems to me, is an extraordinarily strange weighing of the competing interests, when what rests on the one side may be the life of the informant, and on the other simply the general interest in disclosure. One can conceive of many situations in which the mere fact that the information was also obtained elsewhere would not adequately protect the identity of the informant. Suppose, for example, that the mob is not averse to harming both possible sources—or happens not to know that the other source possessed the information. FOIA, *supra*.

This precise problem arose in *Radowich v. United States Attorney*, 501 F. Supp. 284, 288 (D. Md. 1980). In this case, the lower court determined that this exemption was not applicable unless the information was available "only" from a confidential source and not available from another source. This was properly reversed by the court of appeals, which found no such congressional intent to restrict the exemption. There is not a single statement in the legislative history that suggests that Congress, by enacting the exemption, did not intend to cast a veil over *all* information furnished by a confidential source . . . irrespective of whether the information in whole, or in part, might have been available from another source." *Radowich v. United States Attorney*, 658 F.2d 957, 964 (4th Cir. 1981).[35]

The proposed amendment would make it clear that all information provided by a confidential source is exempt, regardless of whether it might also have been obtained from another source. This change would serve to further the legislative intent of the drafters of the 1974 amendments who awkwardly phrased the exemption. Senator EDWARD KENNEDY, who was in charge of the amendment during the Senate debate, assured the Senate that the only source information that would be available would be that compiled in civil investigations.[36]

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[31] The Freedom of Information Act Federal Law Enforcement Implementation. Hearing before a subcommittee of the Committee on Government Operations, House of Representatives, 96th Cong. 1st Sess. February 1979, 61-62 (Testimony of FBI Director William H. Webster).

[32] See also, *Nix v. United States*, 572 F.2d 998 (4th Cir. 1978); *Verone Pacheco v. Federal Bureau of Investigation*, 456 F. Supp. 1024 (D. P.R. 1978); *Church of Scientology v. Department of Justice*, 612 F.2d 417 (9th Cir. 1979); *Dorsen v. Federal Bureau of Investigation*, CA 81-2420 (D.D.C. 1982); *Pacheco v. Federal Bureau of Investigation*, 470 F. Supp. 1091 (D. P.R. 1979); *Dunaway v. Webster*, 519 F. Supp. 1059 (N.D. Cal. 1981); *Katz v. Department of Justice*, 498 F. Supp. 177 (S.D.N.Y. 1979); *Baez v. Department of Justice*, 647 F.2d 1328 (D.D.C. 1980); *Found. of Church of Scientology v. Regan*, 670 F.2d 1158, 1161-62 (1981), cert. den.; *Ferguson v. Kelly*, 455 F. Supp. 324, 326-27 (N.D. Ill. 1978); *Founding Church of Scientology v. Miller*, 490 F.2d 144 (D.D.C. 1980) (citing J. Clifford Wallace).

[33] *Dorsen v. Federal Bureau of Investigation*, CA 81-2420 (D.D.C. 1982); *Dunaway v. Webster*, 519 F. Supp. 1059 (N.D. Cal. 1981); *Pacheco v. Federal Bureau of Investigation*, 470 F. Supp. 1091 (D. P.R. 1979).

[34] Senator Hart explained that under his amendment an agency "can provide blanket protection for any information supplied by a confidential source" and that "all the FBI has to do is state that the information was furnished by a confidential source and it is exempt." Joint Committee Print, Senate Committee on the Judiciary and House Committee on Government Operations, Freedom of Information Act and Amendments of 1974 (Pub. Law 93-502, 94th Cong. 1st Sess. 451 (1975)).

[35] See also *Nix v. United States*, 572 F.2d 998 (4th Cir. 1978).

[36] Source Book: Legislative History, Texts, and other Documents, Freedom of Information Act and Amendments of 1974." Public Law 93-502, Joint Committee Print, March 1975 at 459.

The courts have interpreted these phrases in (b)(7)(D) consistently with this intent. In *Duffin v. Carlson*, 636 F. 2d 709 (D.C. Cir. 1980), the court denied a FOIA requester access to information that was provided by a confidential source although some of it was arguably not confidential because it was supplied by other individuals also. The court upheld the "blanket exemption theory" for any information provided by a confidential source and is precisely the result this bill should effect.

DISCLOSURE OF LAW INFORCEMENT TECHNIQUES

The bill would amend exemption 7(E) to grant broader protection to records containing statements of law enforcement or prosecutorial guidelines. At present, exemption 7(E) protects from disclosure only those investigatory records that would disclose "investigative techniques and procedures." This language has proven insufficient to protect a broad range of sensitive law enforcement materials from disclosure. The testimony of Director Webster is again helpful to an understanding of the inadequacy of (b)(7)(E):

> * * * concern has been broadly expressed that manuals such as an undercover agent manual might be the subject of a FOIA disclosure.
>
> We would very much like to see that these important tools of control of our operations be protected.
>
> It is important that our investigative agents * * * have this set out in writing. * * * These are the purposes of our manuals and guidelines.
>
> Recent FBI history tells us that reliance on oral approvals and assumed inherent authority contributed to some of the sad events that have been fully chronicled.
>
> And yet, if we provide specific investigative guides to our agents and they are available to outside requesters, the effectiveness of our investigations and the safety of our agents could be affected.
>
> Our undercover special agents, for example, on whom we are relying more and more, need detailed guidelines and instructions, as I have just mentioned. But the Act, as presently written, would not specifically exempt them from disclosure to a requester.
>
> Exemption 7 protects only investigatory records compiled for law enforcement purposes. Our manuals and guidelines, under present definitions, do not qualify as investigatory records. H. Rep. the Freedom of Information Act, supra, pp. 60-62.

Case law on the subject reflects the frequent inadequacy of (b)(7)(E) in protecting sensitive law enforcement information. For example, DEA was required to release portions of its agents manual which concerned aspects of the DEA's handling of confidential informants and its search warrant procedures because the investigatory threshold of (b)(7) was not met *Sladek v. Bensinger*, 605 F.2d 899 (5th Cir. 1979).[37] It has also been held that none of the exemptions of (b)(7) prevent the disclosure of guidelines for prosecutorial discretion. *Jordan v. United States Department of Justice*, 591 F.2d 753 (D.C. Cir. 1978)[38] the Internal Revenue Service Audit guidelines were also held not protected from disclosure. *Hawkes v. Internal Revenue Service*, 407 F.2d 787 (6th Cir. 1974).

The bill would modify the language of exemption 7(E) to include "techniques and procedures for law enforcement investigations or prosecutions" and to protect expressly "guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law." This change, in conjunction with the elimination of the requirement that exemption 7 apply only to "investigatory records," would alleviate the majority of the problems discussed above.[39] It should be noted that the revision of 7(E) is complemented by the proposed amendments to exemption 2, which would exempt "manuals and instructions to other from disclosure if their disclosure could reasonably be expected to jeopardize investigations."

ENDANGERMENT OF LIFE OR PHYSICAL SAFETY

The bill would expand exemption 7(F), which now authorizes the withholding of records where disclosure would endanger the life or physical safety only of law enforcement personnel. The bill would replace the words "law enforcement personnel" with the words "any natural person," thus extending exemption 7(F) to include such persons as witnesses, potential witnesses, and family members whose personal safety is of central importance to the law enforcement process.

In the words of Professor Scalia of Chicago Law School:

> The 1974 amendments to FOIA are a monument to failure. Another instance of the irrationality of the 1974 effort is the exemption for information that would endanger the life or physical safety of law enforcement personnel. Why, pray tell, only law enforcement personnel? Why not their spouses or children? Come to think of it, why not anyone? FOIA hearings, *supra*.

INFORMANT RECORDS REQUESTED BY THIRD PARTIES

Section 10 of the bill would add a subsection (a)(9) to the act to address a serious problem that has arisen for some law enforcement agencies, particularly for the Federal Bureau of Investigation, when requests have been received for the files of named individuals to see if those individuals are or have been confidential sources. The provision would provide that the act shall not apply to informant records maintained by a law enforcement agency under an informant's name or personal identifier, whenever access to such records is sought according to the informant's name or personal identifier by a third party.

Under current law, criminal organizations can use the act to attempt to uncover suspected informants in their midst, simply by asking for the records of individuals whom they suspect of being informants. In such cases, it is not sufficient that the Federal Bureau of Investigation could respond that it is withholding the informant's file under exemption 7(D), as the very step of specifying that exemption would compromise the source. New subsection (a)(10) would resolve this problem by excluding the informant files of law enforcement agencies from the ambit of the act whenever those records are requested according to the informant's name or personal identifier by a third party. In this way, the agency could properly limit its response to any collateral records or, if no such other records existed, properly respond that it has no records responsive to the FOIA request.

This problem does not exist in the context of an individual's request for his own records (including such requests made pursuant to the Privacy Act of 1974), even when at the direction of a third party. Because an individual remains free to modify or redefine his own request at any time, he would be free to contact the agency to reformulate his request so as not to cover the informant-related records. In response to the reformulated request, the agency could truthfully give a "no records" response without resorting to subsection (a)(10).

ORGANIZED CRIME

Section 14 of the proposed bill would serve to rectify many of the problems which now exist with regard to FOIA requests made by members of organized crime. The testimony of Director Webster before the Constitution Subcommittee highlighted the very real dangers which accompany FOIA requests by organized criminal groups who have both the incentive and the resources to use the act systemically—to gather, analyze and piece together segregated bits of information obtained for agency files.

There is much evidence of the existence of sophisticated networks of organized crime FOIA requesters. For example, organized crime members in the Detroit area have been instructed to submit FOIA requests to the FBI in an effort to identify FBI informants. In all, 38 members and associates of the Detroit organized crime family have made requests. "The list of requests reads like a Who's Who In

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[37] See also *Firestone Tire and Rubber Co. v. Coleman*, 423 F. Supp. 1359, 1365-66 (N.D. Ohio 1976) (guidelines for bringing tire safety investigations); *Cox v. United States Department of Justice*, 576 F.2d 1302 (8th Cir. 1978).

[38] A recent decision of the D.C. Circuit repudiates the logic of *Jordan* but in dicta notes that the result of *Jordan* would remain unchanged under the new approach. *Crooker v. Bureau of Alcohol, Tobacco & Firearms*, 670 F.2d 1051 (D.C. Cir. 1981).

[39] For example, to the extent that the rationale of *Jordan*, *supra*, retains any vitality in the wake of *Crooker*, *supra*, *Jordan* is repudiated.

Organized Crime in Detroit * * *. Through this concerted effort, the members and associates of this family have obtained over 12,000 pages of FBI documents" FOIA hearings (statement of William Webster), supra.

The withholding of information on the basis of one of the enumerated exceptions can often be ineffective in avoiding the anticipated harms that would accompany disclosure because invoking the exemption itself becomes a piece of the mosaic. To invoke (b)(7)(D) is to tell the requester, potentially a criminal seeking informants in his illicit organization, exactly what he may want to know—that his organization has an internal informant.

Currently the criminal element can use the FOIA to determine whether an investigation is being conducted. Although exemption (b)(7)(A) allows an agency to withhold records pertaining to a pending investigation, it does not allow an agency to deny the existence of records, thereby alerting the requester to an ongoing investigation. The same problem, as mentioned above, is encountered with regard to exemption (b)(7)(D). The intent of which is to protect the confidentiality of a source. The mere invocation of the exemption and the release of excised portions of the documents may be sufficient to reveal the source's identity or at a minimum inform the requester of the existence of an informant in his organization. One top organized crime chief, under investigation by the FBI and well-advised by his attorneys, filed a FOIA request with the FBI. He asked for information pertaining to whether the FBI or any other agency was conducting an electronic surveillance of him. FOIA hearings, *supra*. Any response other than "no records" would indicate to this sophisticated requester that he was indeed under such surveillance. He could adjust his activities accordingly.

This enables an agency to use a "no records" response to mitigate the danger that information which is innocuous on its face could be ultimately harmful when considered in connection with the totality of information which the requester possesses. Unfortunately, the agency often has no way of knowing how much the requester knows. The dates of documents, locations reporting investigations, the amount of material and even the absence of information are all meaningful when compiled in the systematic manner employed by organized crime.

The Freedom of Information Act presents the potential for damage to sensitive FBI investigations, even in cases where no release of substantive information is made. A requester with an awareness of the law's provisions, a familiarity with an agency's records systems, and whatever personal knowledge he brings to the situation, can gain insight into FBI operations regardless of his ability to procure a release of Bureau documents. For example, knowledge that a suspected informant's file has grown over a period of time is often enough to tip off the sophisticated criminal that the suspected informant has been talking to law enforcement officials too often.

Because of the mosaic problem with FOIA and the particular threat posed by organizations with historical continuity and an institutional memory and further because use of the exemptions themselves can become a "piece of the mosaic," simply broadening existing exemptions will not cure the problem of organized crime, abuse of FOIA. Accordingly, section 14 of the proposed bill would exclude from disclosure all documents compiled in a lawful investigation of organized crime which are specifically designated by the Attorney General for purposes of this section. This exclusion would apply to documents that were first generated or acquired by such law enforcement authority within 5 years of the date of the request, except where the agency determines pursuant to regulations promulgated by the Attorney General that there is an overriding public interest in earlier disclosure or in a longer exclusion not to exceed 3 years.

Similar concerns as those addressed by section 14 were also raised with regard to terrorism and foreign counter-intelligence at the subcommittee hearings. While section 14 does not directly address these concerns, Members of the Senate believe that they will no doubt require attention in the future. Again, the testimony of Director Webster is instructive:

> A person involved with an extremely violent terrorist network who suspected informants in the group stated that in an attempt to identify these informants, multiple FOIA requests would be submitted to the FBI and the responses then would be analyzed. The group has in fact begun submitting requests.
>
> A United States citizen declined to cooperate with the FBI in a unique opportunity to penetrate a hostile foreign intelligence establishment located in this country. Although otherwise willing to be cooperative, this citizen advised that he feared a future release of documents under the FOIA could reveal the extent of his cooperation and damage his financial livelihood.
>
> An FBI Agent, conducting a foreign counterintelligence investigation concerning possible loss of technology to a hostile foreign country, contacted an American businessman about a research program being conducted by his company. The individual was cooperative, but refused to release a copy of a company business report to the agent, fearing that business competitors could obtain the report through the FOIA and learn of the company's research activities. Hearings, *supra*.

Due to the threat posed to investigation of organized crime by FOIA disclosures of any kind section 14 requires that, during the suspense period, the act shall not apply to documents covered by the exclusion.

Our committee hearings have indicated also that FOIA is being misused by businesses in an effort to obtain valuable trade secrets. The testimonies are replete with such examples of abuse by business concerns of the spirit and original purpose of FIOA. For example, Mr. Jack Pulley, an attorney with the Dow-Corning Corp., told us of an article entitled "Freedom of Information Act: Strategic Opportunities and Threats," in which the authors described how FOIA could be used to gain what they called "a differential competitive advantage."

Currently the standard of protection, "trade secrets and commerical or financial information obtained from a person privileged and confidential," presumes that all confidential information will be protected, but supplies no statutory definition for confidential. Instead the 1966 Senate report specified that information "customarily not released to the public by the person from whom it was obtained" would be exempt. The House report extended protection to any information given the Government in confidence whether or not involving commerce or finance. Despite the breadth of protection intended by Congress, a Federal court unilaterally narrowed the exemption years later by requiring a submitter to demonstrate a substantial competitive harm in order to qualify for exemption. *National Parks* v. *Morton*, 498 F2d 765 (D.C. Cir. 1974). This broader test requires agencies and courts to guess about the economic impacts of disclosure and has led to numerous reverse FOIA lawsuits as submitters have attempted to protect proprietary data against release to commercial requesters who believe that the act, under current standards, can be used to learn valuable information about competitors.

The current standard has also been held to offer no protection to nonprofit submitters, such as hospitals, universities and scientific researchers, because they cannot show economic injury if the product of their research is disclosed.

Under FOIA's current statutory scheme, a submitter of confidential information does not even receive notice that the sensitive information in the possession of the Government has been requested under FOIA. S. 774 provides simple procedural fairness in granting such notice and an opportunity for submitters to appeal their case to the Government agencies and the courts on the same basis as requesters.

BUSINESS CONFIDENTIALITY PROCEDURES

Provisions for the protection of individual privacy were written into Federal law through the Privacy Act of 1974, which imposes certain procedural limitations on agency disclosure of individually identifiable records. The omission in the 1966 Freedom of Information Act of a comparable set of procedures to protect items of organizational privacy, such as membership lists, marketing information, and business data, has created problems for Federal agencies and for the private sector. The committee is aware, as a result of its intensive study of organizational and business privacy concerns, that organizational privacy interests merit better procedural consideration than they have received under current law.

Section 4 of the bill provides a fair procedural recourse for the assertion of organizational privacy interests. The Freedom of Information Act was at one time a part of the Administrative Procedure Act. It is fitting that these amendments will move the disclosure process into line with the customary procedural safeguards which the APA already provides for informal adjudications of private rights. Notice, an opportunity to object, and a fair opportunity to present one's case in an impartial forum are the rights provided by section 4 of the bill.

Additionally, this section should preclude the negligent or inadvertent release by Federal agency personnel of protected information. In recent years, agencies have released highly sensitive and confidential information to requestors. While high-level agency officials may apologize to submitters and send admonishing letters to staff for releasing clearly non-releasable trade secret chemical formulae, the underlying problem is not remedied and subsequent releases of protected information have not been precluded. I believe that prerelease notice to submitters is essential to remedy the problem. The committee urges agencies that do not provide prerelease notice to submitters in all cases, such as FDA, to promptly adopt procedural rules, which they may do under existing statutory authority, to require prerelease notification even where regulations may establish specific standards for release.

Beyond the procedural changes in section 4, the committee heard extensive testimony and received many written submissions concerning substantive changes to the current terms of exemption (b)(4). There was a great deal of discussion concerning alternative wording of the new text of the fourth exemption, which covers confidential private proprietary, research and commercial data. Agreement to specific alternative wording was not possible before the critical committee vote on May 20, 1982, so the issue of which words will best be used to revise exemption (4) has been reserved for future consideration.

By reserving the issue for further refinement, I do not discount the legitimate concerns raised about the weaknesses of current law. I expect that a consensus alternative wording can be determined, to replace the unsatisfactory and unpredictable case law standard which has currently been applied, that of "substantial competitive harm." *National Parks & Conservations Association* v. *Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974).

Case law developments under the nebulous "harm" standard have varied widely, and the Congress has not acted to ratify that standard since it was created by three judges of the D.C. circuit in the 1974 *National Parks* decision. The question is not whether that unpredictable standard is desirable, but whether an appropriate consensus can be formed as to the wording of its replacement. The private persons who submit information to agencies will be able to sue the agency or to intervene in litigation to prevent dissemination of that private data to competitors. Until "substantial competitive harm" test is replaced by new statutory language, submitters, agencies, requesters, and the courts will continue to struggle with issues of market displacement and economic possibilities, rather than the real issue of expectations of proper handling of private persons' and organizations' information.

Under section 4 of S. 774 agencies are directed to use informal rulemaking under section 553 of title 5 to specify their procedures for the handling of exempt private information. Many agencies already have such rules in place. The agency has the option to specify in its rules that the submitter must designate information which is within several classes.

The first designatable class is trade secret data or information which is an essential element thereof. The term "trade secret" has its usual common law meaning as interpreted by IV Restatement of Torts section 757, comment b (1938), and which is the dominant definition applied in Federal and State case law. See, *e.g.*, *Kewanee Oil Co.* v. *Bicron Corp.*, 416 U.S. 470 (1974), and 1 R. Milgrim, "Trade Secrets" ch. 2 (1967). That definition continues to predominate in the commercial arena, according to witnesses who appeared before the committee.

The second class which may be designated, if the agency chooses to require such designation is the class of "commercial, research, financial or business information." The terms "commercial" and "financial" carry over from the 1966 Freedom of Information Act and have been extensively defined in case law. See 1 J. O'Reilly, Federal Information Disclosures section 14.07 (1977). The term "research" is intended to permit designation of information by a research institution, regardless of its nonprofit status. The committee believes that witnesses for the American Association of Medical Colleges and others have made a strong case that protections should be available notwithstanding the absence of commercial profit orientation, an artificial distinction drawn in *Washington Research Project, Inc.* v. *Department of HEW*, 504 F. 2d 238, 244 n.6 (D.C. Cir. 1974). The term "business" refers to that class of information which does not necessarily have immediate value in commerce, but which is useful in a firm's dynamic competitive, *e.g.*, the "circumstantially relevant business information" class addressed by the academic economists who testified in the committee's 1981 hearings.

Timing of the designation will necessarily vary. The designation should be made in the submission of forms to the agency if the agency provides notice of the need for and opportunity for designation. The requirement that designation occur must, in fairness, be communicated adequately to those who would incur the financial consequences of a failure to designate. Where the agency inspects or audits the private firm and removes records, notes, photographs, et cetera, the agency has an obligation thereafter to provide fair opportunity for designation of the material which the submitter believes to be exempt. For example, an agency which inspects an electronics factory and photographs a new, as yet undisclosed machine, must give an opportunity later for designation of the confidential machine, prior to the agency disclosure. And the designation is intended to be as administratively simple as possible. The agency can require identification of portions which are confidential but it cannot require submission of legal briefs or evidence in support of confidentiality at the time of such designation. Some agencies now make the submission of information the equivalent of an adjudicated examination of its exempt status (40 C.F.R. § 2.204, EPA). Such a burden is not intended to be part of this designation requirement.

Notification that an agency is planning to take an adverse action is one of the most basic of administrative procedural rights, yet until this amendment it had by inadvertence been omitted from the procedures required under the Freedom of Information Act. Since notifications will not be required where the information will be either withheld or clearly must be disclosed, the number of notifications is not expected to be excessive. Enactment of this section carries through on the Supreme Court's statement concerning the Administrative Procedure Act, when the Court applied APA remedies in the FOIA context: "Congress made a judgment that notions of fairness and informed administrative decision making require that agency decisions be made only after affording interested persons notice and an opportunity to comment." *Chrysler Corp.* v. *Brown*, 441 U.S. 281, 316 (1979). Notification is not required under several circumstances, discussed under section 552(a)(7)(B) below.

Written objections may be made by the submitter, upon the agency's decision to disclose the private documents. These objections should specify all the grounds then known to the submitter upon which the submitter contends the information should not be disclosed. A submitter who learns of additional factual information relevant to the disclosure decision from an accounting or market study should present that information promptly for consideration by the agency.

The submitter who wishes to assert an objection to disclosure should submit the information within 10 working days after the postmark date of the agency notification. Where because of delays in mail or geographical distance from the agency, the submitter does not have sufficient opportunity to reply within the 10-day period, the submitter should communicate with the agency, informing it that the answer is being transmitted to the designated agency official and requesting an extension. An agency will balance the fair handling of submitter communications with the need to expedite the disclosure process. There may also be cases in which notification is not received by the submitter, but in which the submitter learns of the pending request for disclosure from a public log of requests or another source. Objections under this section may be filed with the agency prior to the receipt of a notification under subsection (a)(7)(A)(ii).

The submitter must be provided with notice of the agency's final decision regarding release. This provision must be read in connection with the waiting period described in subsection (a)(7)(C) below.

The provision for notifications to submitters may be excused under several defined circumstances. The agency has full discretion to provide the notification, notwithstanding the exception, if it chooses to do so.

If an agency decides that the request should be denied, notification need not be given. It would be given later if the agency changed its position upon a requesters administrative appeal of the denial. If the agency makes a finding that the information in fact has been lawfully made available to the public, then the claim to notification would not stand. Of course, an agency should give notification in case of doubts, for sometimes the information which appears to be public is merely misleading speculation about private commercial activity rather than lawful publication. Wrongful taking of the information, for example, disclosure by another commercial firm in breach of contractual obligations to the owner, does not constitute lawful availability to the public.

If an agency regulation requires designation of confidential information and the submitter fails to substantially comply with the rule, notice may be excused by the agency. The submitter's failing will be measured against the precision with which the agency has carried out its own responsibility to give notice of the requirements for designation of confidential information. Designation is optional with the agency.

Notification is also excused if a Federal statute, other than 5 U.S.C. 552, requires disclosure by law, if the agency has notified the submitter concerning the disclosure requirement prior to submission of the information. The term "by law" has the same content as its interpretation in *Chrysler* v. *Brown*, 441 U.S. 281 (1979). Such notice to the submitting person should be as explicit as possible and may take the same form as the Privacy Act statement required under 5 U.S.C. 552a(e)(3), or other express written notice. It is not permissible for an agency to collect private information and thereafter to retroactively declare it subject to a disclosure requirement by law, absent an intervening statutory amendment explicitly requiring such disclosure.

The final exception from notification occurs when a criminal law enforcement agency acquires the information in the course of a lawful criminal investigation. This exemption provision parallels the broad Privacy Act exemption for law enforcement operations; 5 U.S.C. 552a(j)(2). The committee intends that the principal function of the agency be enforcement of criminal laws, including police efforts to prevent, control or reduce crime or to apprehend criminals, such as the functions of the Federal Bureau of Investigation and the U.S. Secret Service. Many agencies have some statutory criminal sanctions in their otherwise civil enforcement schemes, but these are not within the narrow meaning of criminal law enforcement agencies for purposes of this exception from notification.

The agency should communicate to the requester on two occasions: When it notifies the submitter of a receipt of request for information and when it notifies the submitter of its final decision. After forwarding its final decision to disclose to a submitter who has objected to disclosure, the agency should wait for 10 working days before making disclosure of the records.

Exhaustion of administrative remedies and the appropriate location for lawsuits involving disclosure has been the subject for some confusion under current law. The Freedom of Information Act has never expressly required exhaustion of remedies as a precondition to suits. The situation is unchanged. Determination of whether the administrative steps for either requester or submitter should have been exhausted is a matter for determination by the courts. But to the extent that exhaustion is of concern, initiation of suit by either party, requester or submitter, will terminate any obligation on the other party to seek administrative remedies.

This section (a)(7) is purely procedural in nature. It has no effect on existing law which covers the substance of confidentiality decisions, including specific withholding statutes under Exemption 3, 5 U.S.C. 552(b)(3), such as the Census Act, 13 U.S.C. 214, the Trade Secrets Act, 18 U.S.C. 1905, and the Federal Trade Commission, 15 U.S.C. 57-2. The rights established by law protecting these private confidentiality interests continue unaffected by these procedural provisions.

Of the statutory provisions which remain unaffected by this section, one of the most significant is the Trade Secrets Act, 18 U.S.C. 1905, which has received much attention as a result of its use to support preservation of private data in *Chrysler Corp.* v. *Brown*, 441 U.S. 281 (1979). That statute represents the Criminal Code's intention to protect legitimate expectations, that Government will not disclose sensitive data unless Congress has made a specific statutory decision that certain types of confidential business information should be disclosed. This bill seeks to preserve expectations and leaves to section 1905 its current functional role as a determining factor in agency decisions regarding the release of business information, *Westinghouse Electric Corp.* v. *Schlesinger*, 542 F.2d 1190 (4th Cir., 1976), *cert. denied*, 4312 U.S. 924 (1977).

In addition, the extensive committee hearings revealed other aspects of FOIA in need of fine-tuning. The costs of the act to the taxpayer suggest that those who directly benefit by requesting information should readily accept the responsibility of paying the cost of producing the information, subject, of course, to an adequate waiver policy for requests made in the public interest. In this respect, the policy statements under consideration today closely parallel the Senate Judiciary Committee determinations Both contemplate the imposition of appropriate processing fees, provision for agencies to retain collected fees, authorization for collection of user fees in the case of commercially exploitable resources, and other important fee reforms.

FEES AND WAIVERS

Section 2 of the bill makes a number of important changes to subsection (a)(4)(A) of 5 U.S.C. 552, to improve the provisions relating to the collection of fees under the act. The purpose of these changes is to make agency fee schedules more uniform and to allow agencies to recover more nearly the true costs of complying with requests under the act, except where the public interest or the small nature of the request warrants a waiver or reduction of the fee.

UNIFORM SCHEDULE OF FEES

One problem identified by witnesses before the subcommittee is the current lack of uniformity of fee schedules at the various agencies. These variations can lead to confusion among members of the public who deal with different agencies. Although some of the variations in fees do appear to reflect real differences in the costs to the agencies, in most cases greater uniformity of fee schedules would be possible and desirable.

The bill accordingly authorized the Office of Management and Budget to promulgate, pursuant to notice and receipt of public comment, guidelines to all agencies to promote a uniform schedule of fees. Each agency would be subject to these guidelines in establishing its schedule of fees, and would be required to justify variation from the uniform schedule by rulemaking. This provision would promote uniformity of fee schedules throughout the Government while preserving the flexibility of particular agencies to take account of peculiar fee considerations.

RECOVERY OF PROCESSING COSTS

Existing law permits agencies to collect only the costs of searching for and copying requested documents. These costs are, however, only a fraction of the true costs of responding to the FOIA request. In fact, search and copying costs appear, on the average, to constitute no more than 4 percent of the cost of responding to requests, with the costs of reviewing documents, redacting exempt material, and other processing accounting for the remaining 96 percent of the total cost.

Clearly, one of the unexpected developments from the 1974 amendments to the act has been the great volume of requests and the expense of processing those requests, particularly requests which serve only commercial or private interests rather than the interests of the public. In contrast to Congress' estimate that the 1974 amendments to the act would cost no more than $40,000 to $100,000 annually to implement, the direct cost of compliance with the act by all agencies (not including litigation costs and other indirect costs) rose to at least $57 million by 1980. Many hundreds of Federal employees—over 300 at the FBI alone—devote all of their worktime to the processing of FOIA requests. Countless others spend part of their time reviewing documents in response to requests concerning specific agency projects they are working on.

Most often, the cost to the Government of search and review bears little coorelation to the public interest in disclosure. The majority of all Freedom of Information Act requests are filed by or on behalf of corporations for purely private commercial reasons. In many instances, individuals too have made excessive use of the act, at public expense, for reasons that are purely personal, serve no public interest, and may in some cases even be contrary to the public interest. In one case, a single Freedom of Information Act request for voluminous Central Intelligence Agency documents by an ex-agent, Mr. Philip Agee, cost the public more than $500,000 to process. *Agee* v. *Central Intelligence Agency*, 417 F. Supp. 1335, 1342 n.5 (D.D.C. 1981). The bill is intended to end public financing for the processing of requests where it is not in the public interest.

Accordingly, the bill would allow agencies to collect "all costs reasonably and directly attributable to responding to the request, which shall include reasonable standard charges for the costs of services by agency personnel in search, duplication, and other processing of the request." This provision would pass along to all requesters the true costs of processing their FOIA requests and would encourage all requesters to make reasonable efforts to narrow excessively broad requests.

The bill includes several provisions regulating an agency's authority to collect fees, in addition to the existing provision for waiver or reduction of fees in the public interest, as discussed below.

First, the bill provides that no charge may be made whenever the cost of routine fee collection and checks processing would be likely to exceed the amount of the fee itself. Second, the bill provides that any processing charges must be reasonable standard charges and must be limited to services directly attributable to responding to the request.

Third, the term "processing" is defined to exclude services of agency personnel in resolving issues of law or policy of general applicability in responding to a request. Thus, a requester would not be charged for an agency's costs in establishing or rethinking a policy of general applicability, even if the request triggers such agency action. However, a requester could be charged the costs of review and reduction of documents pursuant to established agency policy.

In adopting a procedure for charging processing fees to all requesters (except in the case of small or public interest requests), the subcommittee specifically rejected a proposal for a three tier system of fees. Under the three tier proposal, only requesters acting with a business or commercial interest would be subject to full processing fees, while noncommercial requesters would be charged only search and copying costs as at present, and public interest requesters would receive a waiver or reduction of the fees. Such a three-tier system is seriously flawed in many respects.

Most importantly, it would be completely impracticable to require the agencies to distinguish, for each of the thousands of requests received annually, between requesters who act for a business purpose and those who do not. Agencies simply lack the means to determine accurately the true purposes or motives of individual requesters. A business could well have individuals make requests on its behalf to qualify for the "noncommercial" rates. Agencies would be required to differentiate between those individuals who seek information in order to publish a book for profit and those who do not. Even a corporation might try to qualify for a "noncommercial" rate by demonstrating that its request does not relate to its business. Even these few examples demonstrate the complex problems that would be inherent on any attempt to differentiate between commercial and noncommercial purposes. Indeed, disputes over such agency determinations themselves could only engender greatly increased perceptions of inequity and resulting litigation.

Moreover, the direct assessment of different levels of fees merely because of the presence or absence of commercial interest is problematic. It is not clear why, for example, a small businessman attempting to learn about Government actions affecting him should be required to pay higher fees than an individual who files a far broader and burdensome request out of sheer curiosity. As the Agee case graphically illustrates, there is no public interest in subsidizing all "noncommercial" requests. Finally it should be noted that the bill would not affect at all the ability of individuals to obtain at no cost those records in which they have the greatest and most legitimate personal interest—that is, records about themselves—since those records are available under the Privacy Act.

For these reasons, the bill rejects a three-tier system of fees, and adopts essentially a two-tier system. Each requester should be charged the costs directly attributable to responding to his request, except in the case of small requests or where waiver or reduction of the fee would be in the public interest. The Administrative Conference of the United States, an official agency which has recently studied the subject of fees under the Freedom of Information Act at length, also rejected the three-tier proposal discussed above, and has endorsed an approach similar to that taken in the bill.

The Federal agencies now cannot charge for their actual costs of processing FOIA requests. They are limited to search and copying charges, many of which bear little relation to the actual processing costs incurred by the agency, particularly for larger document requests. The 1974 amendments withdrew from the agency the ability to charge for processing time and resources spent on such issues as the excision of exempt portions from a disclosable document. If an agency were requested to disclose criminal investigation records to an alleged leader of an organized crime syndicate, for example, the 500-page file could be readily retrieved and inexpensively reproduced. But the agency could not charge that requester for its prerelease examination of that file and for the time needed to delete sensitive law enforcement information from the documents released. Similar situations have arisen with foreign commercial requesters who have sought confidential business data files by U.S. firms. The Federal agency must, as a practical matter, take sufficient measures to excise commercial documents, but under current law the U.S. taxpayers must subsidize that service for the competitor.

The committee intends that the amount of fees to be set by agency regulations shall include actual retrieval costs, including location and transmission of the records from a regional office or Federal records center to the agency disclosure office. The costs of reproduction of records should be calculated by regulation to recoup overhead, equipment, and personnel costs of the duplication facility.

The bill shows that the charges for processing will accord with the customary practice of the agencies to screen the contents of requested documents to ascertain which portions are disclosable. Services involved in examining records for possible withholding or deletion include identification of personal or business privacy information, or other exempt information, deletion of the exempt material, examination of the deletions by a responsible official of the agency's disclosure staff or legal counsel, and recopying to produce the disclosable pages of documents.

These current sound practices may be supplemented by notification to the submitting person and consideration of objections by the agency, as provided in section 4 of the bill. Costs of that determination of possible withholding may be considered directly applicable to the request where the notification and objection process involves the carrying out of determinations of law or policy. The agency is not permitted to charge for costs incurred in the resolution of general applicable issues of law or policy, including those novel issues of precedential effect as to which interagency consultation is necessary. For example, a requester seeking disclosure of an import document may be charged the reasonable costs incurred by the Customs Service in locating the document, existing the exempt business information therefrom, notifying the submitting importer, determining the portions to be withheld, reproducing the pages to be released, and mailing the pages to the requester. Costs of that agency in interactions with the Department of Justice on precedential disclosure issues, the Office of Management and Budget on reports disclosure issue, or the Treasury Department on general departmental disclosure policies will not be chargeable to the requester.

An agency may provide for standardized charges for categories of requests having similar processing costs, for example, files on current license holders, permit applicants, prisoners, et cetera, if the agency determines that requests within the category are likely to have similar processing costs.

COMMERCIALLY VALUABLE TECHNOLOGICAL INFORMATION

The bill also would add a new provision to 5 U.S.C. 552(a)(4) to permit an agency to charge additional or alternative fees for technological information that has a commercial market value and that was generated by the Government at substantial cost to the public. These fees would reflect that fair market value of the information and would be determined by the agency.

The present act does not take into account the fact that such valuable technological information must now be turned over to private parties for fees that reflect little more than the cost of copying. That results in an unjustifiable windfall to a few people, who alone benefit from information that all taxpayers paid to develop.

This provision carries out Federal policy as enunciated in the Federal User Fee statute, 31 U.S.C. 483a. See *New England Power Co.*, v. *Federal Power Commission*, 467 F.2d 425, aff'd 379 U.S. 966 (1972). Thus, it allows the Government to recoup costs of developing the valuable technological information from "special beneficiaries" who received a commercial benefit. Nothing in the bill, however, would supersede a statute specifying the fees for obtaining particular types of records.

In summary, Government agencies generate or purchase a great deal of technological information each year, at a substantial cost to the public. Some FOI requests have sought access to this information in order to obtain commercially valuable portions for a commercial purpose.

This subsection will not override fees chargeable under user cost recovery statutes or other statutes setting levels of fees for particular types of records. See, e.g., *SDC Development Corp.* v. *Mathews*, 542 F.2d 1116 (9th Cir. 1976).

PUBLIC INTEREST WAIVER OR REDUCTION OF FEES

An exception from the normal cost recovery principle is provided for situations in which members of the public request documents and the costs of collection of fees for the request exceed or equal the amount of the fee. Where correspondence, calculations of fees, and financial processing involved with funds received, would cumulatively cost the Government more than the sums which the individual requester would pay, the agency should not charge a fee. The agency may set a threshold figure, such as $25, below which the agency will not charge for disclosure requests. The same requester sometimes makes similar requests on a repetitive basis in such a situation the person making that series of requests can be charged the actual costs of responding to that set of requests. Providing for actual cost recoveries should terminate the implicit subsidies which Federal agencies have been providing to the commerical services which make anonymous requests for disclosure of documents on behalf of unnamed clients, and then receive the benefit of agency search, selection, and excision cost for free. One such commercial organization, FOI Services, Inc., of Rockville, Md., charges several hundred dollars annually to each of its subscribers, who then pay $18.50 plus mailing for each document which the service anonymously requests from Federal agencies. The company was founded by several Washington lawyers in 1975 and has prospered to the extent that it now issues sales catalogs of all the copies of information which it has on file from Federal agency disclosure, which can be cheaply obtained by phone request at a flat fee. The subsidization of such services is not a useful expenditure of taxpayer funds, and the provisions on cost recovery will remedy that part of the commercial requesting service problem.

With regard to fee waiver policies, the use to which information is to be put upon its disclosure can be a rational basis for distinguishing between requesters. The charges for processing of disclosable information shall be absorbed by the agency and shall not be charged to the requester if the information is determined by the agency to meet each of two specific tests: First, its requester is not seeking disclosure for a commercial use; second, the person is within one of three classes stated in this subsection.

For example, information about a new Government furniture program may be requested by an academic researcher and by a commercial data retrieval service. The academic user would not pay for the review, excision and deletion costs, and may request that the agency recognize its primary benefit to the general public from dissemination of that information. Upon an agency determination that the furniture information disclosure primarily benefits the general public, the agency shall reduce or waive charges for search and duplication. But the commercial data retrieval service will pay all charges for the access. If the present and future use is indefinite, the agency may condition the waiver upon assurance of nonresale of the documents released or upon the determination of any other circumstances or conditions, which, in the agency's judgment, establishes the noncommercial use to which the information is intended to be put.

DISPOSITION OF FEE COLLECTIONS

A well-articulated comment was made, by several of those appearing before the committee, that agencies have no source of funds to compensate for the additional processing costs of FOI requests. That cost can sometimes strain the agency budget. This subsection permits the agency to retain half of its compliance costs, which the agency shall apply to offsetting its costs of compliance with FOIA disclosure requirements.

This provision also carries language giving the agencies an incentive to comply with this bill's time limits.

With respect to time limits, the committee's extensive hearings disclosed that the current limits can be unrealistic. S. 774 substantially retains existing time limits, but allows 30 instead of 10 working days in the case of certain specified "unusual circumstances."

TIME LIMITS

Section 3 of the bill recognizes the need for timely responses to requests for information. Accordingly, the bill retains the existing 10-day requirement for initial response to a request. This section also provides more realistic time limits in specifically defined, unusual circumstances and provides for expedited processing in the public interest.

APPLICATION OF EXISTING TIME LIMITS

The act currently provides that within 10 working days an agency must make an initial determination whether to disclose the requested documents and, if the decision is made not to disclose the requested documents, to notify the requester of the reasons why documents are exempt. Upon a requester's appeal of an adverse decision, the agency thereafter has 20 working days to determine the appeal. By notice to a requester, an agency may extend those time limits for 10 working days in "unusual circumstances," such as where there is a need for additional time to search for and collect the documents from distant offices, to examine a voluminous amount of records, or to consult other agencies on the records. If an agency fails to comply with these deadlines, the requester is deemed to have exhausted his administrative remedies and may file a suit in district court to compel disclosure. Section 552(a)(6)(c) nevertheless permits the court to allow, in "exceptional circumstances," additional time for agency processing, provided that the agency is exercising "due diligence."

The complexity and sheer volume of the requests received by many agencies often renders compliance with the current time limits impossible. Recognizing the inherent inability of many agencies to process requests within the specified time limits, many courts have freed agencies of the need to comply with such time limits by resorting to use of the "exceptional circumstances" and "due diligence" provisions in section 552(a)(6)(c). In the leading case, *Open America* v. *Watergate Special Prosecution Force*, 547 F.2d 605 (1976), the U.S. Court of Appeals for the District of Columbia Circuit rules that—

> "exceptional circumstances exist" when an agency, like the FBI here, is diluged with a volume of requests for information vastly in excess of that anticipated by Congress, when the existing resourses are inadequate to deal with the volume of such requests within the time limits of subsection (6)(A), and when the agency can show that it "is exercising due diligence" in processing the requests.

Id. at 616.[1] Accordingly, the court ruled that, under those circumstances, the Act's time limits "become not mandatory but directory." Id. It is then sufficient for the agency to process all requests on a first-in, first-out basis, unless the requester can demonstrate to a court "exceptional need or urgency" for preferential treatment. Id.

The unrealistic time limits in the current act cause serious problems for both agencies and requesters. For example, agencies are frequently pressed to engage in hasty processing, which increases the likelihood of premature denials, unnecessary litigation, and serious errors. Hasty agency processing to comply with an imminent deadline may result in improper release of trade secrets or other sensitive information. In his testimony before the Constitution Subcommittee, Pospere S. Virden, Jr., senior counsel of Honeywell, Inc., testified that:

> The time limits stipulated in the FOIA for responding to requests, usually ten days, are totally unrealistic for agency personnel to determine whether or not to withhold or release documents in the procurement process which, in each instance, may total hundreds or even thousands of pages. Faced with the overwhelming mass of material a tight deadline, the natural tendency is to release all the requested material as an expedient solution . . . If the wrong decision is made to release, the submitter has no effective remedy since FOIA provides no retrieval mechanism or restrictions on the use of documents once they leave the government.

For the requesters, on the other hand, the inability of many agencies to meet unrealistic expectations has often led to a general dissatisfaction with the act's operation, as well as needless litigation. Moreover, the present first-in-first-out system prevents agencies that have a backlog of requests for responding promptly even to small Freedom of Information Act requests when their processing is congested, except where the requester can demonstrate exceptional need or urgency. Members of the public and the news media are often unable to get timely responses from agencies that receive a large volume of requests.

UNUSUAL CIRCUMSTANCES

Section 3 of the bill would retain the existing requirements of the act for a response to a request within 10 working days and a determination of an appeal within 20 working days.

The bill, however, would revise the provisions dealing with unusual circumstances, both by extending the allowable time period and by specifying additional circumstances in which more time for completion of agency action would be allowed. In a great number of cases, it is simply impossible for agencies to search for, review, redact, and release documents in 10, or even 20, working days. The 10-day limit of extensions is simply too short to be realistic, and the list of unusual circumstances does not cover certain cases where additional time is legitimately needed. As Robert L. Saloschin, former Director of the Department of Justice's Office of Information Law and Policy [now Office of Information and Policy] testified before the Constitution Subcommittee:

> Two changes are, therefore, needed. First, there should be a more realistic list of circumstances that may warrant a time extension, including, for example, the need to obtain input from a private submitter of business information. Second, an agency should, by notice to the requester, be able to extend the limits to a specified date which it finds necessary because of circumstances listed in the statute, giving its reason for the extension, and subject, of course, to the requester's right to file suit challenging the extension as unwarranted or excessive.

The bill would increase the maximum extension allowed in the case of unusual circumstances from 10 to 30 days. Even a 30-day period is insufficient in cases where, for example, a request covers more than 1 million pages of documents and takes many months, even years, to process. In most cases though, an extension of no more than 30 days would be sufficiently long that the agency could realistically complete its processing of a request, yet sufficiently short that the requester would not be unduly inconvenienced. Indeed, it should be noted that in many cases courts applying the Open America rule have allowed extensions far longer than 30 days provided in the bill—in some cases far more than a year—because of backlogs.

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[1] See also, *Exner* v. *Federal Bureau of Investigation*, 542 F.2d 1121, 1123 (9th Cir. 1976).

In addition to extending the time periods, the bill adds three new provisions to the list of unusual circumstances. First, there is the case of a request for confidential business information submitted by a private party. In order to determine whether the submitted information is entitled to the protection of exemption 4 and to follow the procedures for notification set forth in section 4 of the bill, additional time to respond to the request is undoubtedly required.

Second, the bill codifies in part the existing case law by authorizing an extension in the case of "an unusually large volume of requests or appeals received by an agency, creating a substantial backlog." Although the problem has not occurred at every agency, there are numerous instances where agencies have received such a large volume of requests and appeals that it is impossible to meet the short time limits of the act. In the absence of a better mechanism in the act itself, the courts generally have allowed additional time, as long as the agency is exercising due diligence and is processing the requests on a first-in-first-out basis. The bill would provide a specific basis for such an extension while the court retains authority to review the agency's conduct and either allow additional time or require a response.

Third, the bill would allow an extension in those few cases where the head of the agency specifically determines that a request cannot be processed within the 10-day period without significantly obstructing or impairing the timely performance of a statutory agency function. In his testimony before the Constitution Subcommittee, Mr. Saloschin observed further that:

> The present time limits merit legislative attention for two reasons: (1) because they tend to indicate that FOIA work should always take precedence over other agency responsibilities, and (2) because they put government agencies in an apparent position, in the eyes of the public, of violating the law even when large backlogs or a large or difficult request prevents adherence to the statutory limits. (pp. 17-18 of his July 15, 1981 testimony.).

This provision would apply where the other unusual circumstances do not exist, yet the diversion of agency personnel to respond within 10 days would impair important agency functions. This provision would appropriately recognize that, although prompt response to FOIA requests is a high agency priority, there are certainly some specific instances in which key agency personnel should not be diverted from assigned agency functions. It is intended that this provision be applied sparingly, and only with the specific approval of the head of the agency.

EXCEPTIONAL CIRCUMSTANCES

In addition to the unusual circumstances of paragraph (6)(B), the act currently contemplates judicial extensions of time in exceptional circumstances, provided that the agency is exercising due diligence. If a requester files suit after receiving no response from the agency, the agency is free to request, and the court to grant, additional time. This bill does not alter this language or intend to affect its implementation in the slightest. However, there is still a gap in the current act, during the time period in which the agency is technically in violation of the statute, but has no means to rectify the situation or to validate its actions.

This requirement would keep requesters better informed of the status of their requests and should also reduce the filing of unnecessary lawsuits because of timing. Moreover, although a court would still be able to review an agency's explanation of exceptional circumstances, an agency would not be considered to be in violation of the law until a court ruled on the issue.

EXPEDITED ACCESS

The bill would also add subsection (a)(6)(E) to the act. This new provision would require each agency to promulgate regulations whereby a requester who can demonstrate a compelling need for expedited processing and whose request will primarily benefit the general public, may be given processing priority over other requesters. The occasional need for expedited access was elaborated by a recently released report by the American Bar Association. In their report, the ABA noted that:

> It is as inexcusable for agencies to take the full time period to respond to requests where the information is clearly available and releasable, as it is to bind agencies to the short timeframes when they cannot be practicably met. (Final draft of the Report of the American Bar Association, Section of Administrative Law, p. 4.)

Reform of the privacy exemption is also substantiated by the Judiciary Committee's hearings and bill. As it currently reads, the privacy exemption contains a threshold test that often frustrates the substantive content of the exemption. Thus, even if a release of a record would constitute unwarranted invasion of personal privacy, it does not apparently qualify for exemption unless the record is found in a personnel, medical, or similar file. Congress intended in 1966 to protect personal privacy, not file labels. Therefore, in accord with recent Supreme Court decisions, S. 744 eliminates this formalistic limitation on appropriate privacy protection and thus enhances privacy protections.

PERSONAL PRIVACY

LEGISLATIVE BACKGROUND

When the original Freedom of Information Act was reported out of the Senate Judiciary Committee in 1965, one of its nine exemptions provided that personal records could be withheld if disclosure would involve a "clearly unwarranted invasion of personal privacy." 5 U.S.C. 522(b)(6). In addition, the committee "decided upon a general exemption" covering all types of personal files "rather than a number of specific statutory authorizations for various agencies." S. Rept. No. 813, 89th Cong., 1st sess. 9 (1965). Thus the language of exemption 6 called for protection of "personnel and medical files and similar files." 5 U.S.C. 552(b)(6). Both the House and Senate reports implicitly suggested that the term "similar files" referred to those files, outside of medical and personnel records, which contain potentially harmful, personal information. The House report, for example, explained that "a general exemption for [this] category of information is much more practical than separate statutes protecting each type of personal record." H. Rept. No. 1497, 89th Cong., 2d sess. 11 (1966). This broad exemption for personal information was then tempered somewhat by the condition that disclosure would have to constitute a clearly unwarranted invasion of personal privacy.

Since passage of the FOIA with its nine exemptions, however, the Federal courts have rendered contradictory opinions which have often nullified the original intent of Congress. In some cases, for instance, the courts have given broad meaning to the definition of "similar files" while in other cases, its language has been narrowly and erroneously interpreted. Moreover, the courts have rendered varying definitions of what constitutes a "clearly unwarranted invasion of personal privacy." Some courts, for example, have construed the language as a

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See, *e.g., Department Air Force v. Rose,* (425 U.S. 352, 362-67 (1976); *Crooker v. Bureau of Alcohol, Tobacco, and Firearms,* No. 80-1278 D.C. Cir. Dec. 8, 1981) (en banc; *Sladek v. Bensinger,* 608 F.2d 899, 901-02 (5th Cir. 1979); *Jordan v. Department of Justice,* 591 F.2d 753, 767-71 (D.C. Cir. 1978) (*en banc*) *Ginsberg, Feldman & Bress v. Federal Energy Administration,* 591 F.2d 717, 721-31 (D.C. Cir.), *vacated and reheard (en banc)* 591 F.2d 752 (D.C. Cir. 1978) *(per curiam), aff'd by an equally divided court,* Civ. No. 76-27 (D.D.C. June 18, 1976), *cert denied,* 441 U.S. 906 (1979). This revision does not change the past disclosure practice for those administrative, noncriminal enforcement manuals which agencies such as the Food and Drug Administration or the Federal Trade Commission have heretofore released for guidance of the public. Beneficial advances in voluntary compliance among manufacturers, distributors, and other regulated forms have resulted, and should continue to flow, from sharing of already available administrative (noncriminal) documents. It would be retrogressive to undo that progress at this time.

qualifier that precludes almost any opportunity for exemption. Other court rulings, however, have taken a more practical approach, allowing significant exemption claims to stand.

Study of the major cases dealing with exemption 6 illustrates the inability of the courts to consistently interpret the language of the exemption and preserve the original intent of Congress when it passed the Freedom of Information Act. Indeed, Robert L. Saloschin, former Director of the Office of Information Law and Policy testified before the Subcommittee on the Constitution that some of the more recent court decisions "seriously reduce the ability of Federal agencies to protect information about individuals when release of the information may adversely affect the individuals and where there may be no public interest to be served by such release." FOIA Hearings supra. Moreover, Mr. Saloschin pointed out that such decisions "run counter to the intent of Congress in FOIA and the Privacy Act." Id. The section which follows illustrates how the courts have adhered to the purpose of Congress in some cases while straying from that intent in other cases.

JUDICIAL HISTORY

One of the first major appellate court cases concerning FOIA decided in 1969, dealt with medical files that were compiled by the Government under a pledge of confidentiality. Upon request for disclosure, the Food and Drug Administration invoked exemption 6, maintaining that the language of the exemption allowed them to withhold any medical or personnel files. The Court of Appeals for the District of Columbia circuit held in this case, *Ackerly* v. *Ley*, 420 F.2d 1336 (D.C. Cir. 1969), that exemption 6 could be invoked only if the requested information passed a two-tiered test. First, the record had to be a medical personnel, or similar file and second, disclosure of the file would have to constitute a "clearly unwarranted invasion of personal privacy." 5 U.S.C. 552(b)(6). The court found that although the medical files in question passed the threshold test they failed to satisfy the balancing requirement, because, the court said, disclosure would not have caused an invasion of privacy that was clearly unwarranted.

One decision affecting the Freedom of Information Act occurred 2 years later in *Getman* v. *NLRB* 450. F.2d 670 (D.C. Cir. 1971). In this case, two law professors doing research on the workings of union representation elections which had been contested by employers, requested NLRB lists of eligible workers in order to interview those who did or did not vote. The court stated that its finding of an invasion of personal privacy depended upon, de novo consideration of the balance between the privacy rights of the affected individuals and public interest in disclosure. Next, however, the court inferred that Congress intended a very narrow construction of this FOIA exemption. In other words, the court opinion created the presumption that when privacy concerns and the public interest are essentially equal, the balance should tilt in favor of disclosure. The court could just as easily have found that Congress intended a general protection for personal privacy, rather than a narrow application of the exemption's 20 words.

In an opinion concurring only in the judgment, Circuit Judge MacKinnon wrote that Congress did not foresee the negative effects that the somewhat ambiguous language of exemption 6 would precipitate. Although he did not favor disclosure of the names and addresses of the union voters, Judge MacKinnon felt obligated to follow the court's interpretation of the exemption:

> It seems to me that furnishing bare lists of various Government files is not the sort of disclosure that Congress basically had in mind in enacting the Freedom of Information Act. But in my opinion, the Act as it presently exists practically requires the disclosure of such lists on demand. One need not elaborate on the various abuses that could result if lists of people as classified by the Government for particular purposes became available on demand in wholesale lots. If this situation is to be corrected, it will require an amendment to the Act

Regarding the balancing test, Judge MacKinnon also wrote that he could not predict whether disclosure would constitute a "clearly unwarranted invasion" of privacy. Although he suspected as much, he felt obligated to allow disclosure since the extent of the privacy invasion could not be known beforehand. Id. Thus, the "would constitute" language was read literally to require the court to conclude that an invasion of personal privacy absolutely would occur before the protection of the exemption could be invoked. Once again, this reads narrowly Congress primary motivation to protect privacy.

A similar court ruling in *Kurzon* v. *Department of Health and Human Services*, 649 F.2d 65 (1st Cir. 1981), more recently held that names and addresses of unsuccessful applicants for research grants from the National Cancer Institute could not be withheld, despite possible injury to the professional reputations of those involved. In its opinion, the Court of Appeals for the First Circuit stated that "by restricting the reach of exemption 6 to cases where the invasion of privacy is not only unwarranted but clearly so, Congress had erected an imposing barrier to nondisclosure." Id. at 67. The court might have considered in more detail, however, that this type of record could clearly have harmed the individuals who were denied grants. If Congress had gone agency by agency, statute by statute, and considered all possible instances where a record's disclosure might jeopardize privacy rights, this instance of undue embarrassment or potential harm to a professional reputation would have been included. Instead, Congress enacted a general protection for privacy that should be read to include such privacy rights. In short, the individual right to privacy—often acknowledged by the Supreme Court as a fundamental guarantee [10] cannot be idly set aside whenever some member of the public may have an interest in seeing a record in Government files.

Access to Federal files is simply not a constitutional right, but a statutory opportunity provided when and if Congress chooses. As such, privacy rights, granted some degree of constitutional status according to the Supreme Court, should properly predominate over casual curiosity—inspired interests in access to sensitive information about an individual.

Wine Hobby USA v. *Bureau of Alcohol, Tobacco and Firearms* 502 F.2d 133 (3d Cir. 1974) is a decision more in line with the original purpose of the sixth exemption. In this case, a distributor of amateur winemaking equipment sought the names and addresses of families who make wine for their private use and thereby claim tax-exempt status. The lower court ruled that names and addresses are not as highly intimate and personal as medical and personnel files and that they should be disclosed, regardless of the severity of the privacy invasion. 363 F. Supp. 231 (E.D. Pa. 1973). The Court of Appeals for the Third Circuit, however, proceeded directly to the balancing test and held that the privacy rights involved outweighed the negligible public interest served by disclosure. Although names and addresses are not, strictly speaking, similar files, the court wisely rejected any overly legalistic interpretation. Instead, through study of the legislative history, the court determined that "disclosure of names of potential customers for commercial business in wholly unrelated to the purposes behind the FOIA and was never contemplated by Congress in enacting the Act." (Id. at 137). This holding gives proper weight to Congress basic objective of privacy protection.

Although an occasional district court finding has missed the significance of the Wine Hobby case, see *National Western Insurance Co.* v. *U.S.*, 512 F. Supp. 454 (N.D. of Texas 1980) the more authoritative weight of opinion follows the District of Columbia Circuit ruling. For example, in *Disabled*

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[10] See *Eisenstadt* v. *Baird*, 405 U.S. 438 (1972); *Griswold* v. *Connecticut*, 381 U.S. 479 (1965); *Stanley* v. *Georgia*, 394 U.S. 557 (1969); *Terry* v. *Ohio*, 392 U.S. 1 (1968); *Katz* v. *United States*, 389 U.S. 347 (1967); *Myer* v. *Nebraska*, 262 U.S. 390 (1923).

Officers Associations v. *Rumsfeld*, 428 F. Supp. 454 D.D.C. 1977), a case concerning disclosure of lists, the D.C. District Court aligned itself with the Wine Hobby court and clarified that public interest in disclosure must override privacy rights. Although it permitted names and addresses to be released to a nonprofit organization, the court explained that disclosure is allowed only when the plaintiff can show that the request is motivated by a strong overriding public interest.

In Rose v. Department of the Air Force, supra, the Supreme Court ultimately ordered disclosure of private information, although it gave some consideration to protection claims under exemption 6. In that case, the student editors of a law review requested name-deleted copies of confidential Air Force proceedings against cadets charged with violating the honor code. The Air Force withheld the proceedings on the grounds that reconstruction of deleted names could be made from circumstantial information that would be provided. The Supreme Court held that exemption 6 "is directed at threats to privacy interests more palpable than mere possibilities." Id. at 35. Once again the Court seemed to suggest that the "would constitute" language in exemption 6 requires a nearly certain showing of palpable damage to privacy. Since the negative effects of disclosure could not be fully known until after the proceedings were made public, the Court ordered their release to the law review. In its memorandum, however, the Court was troubled by the difficulty of predicting potential future privacy harms. If, for example, the vitality of this exemption hinged on an agency's temporal problem of attempting to show in advance of a disclosure that it might have future adverse consequences, Congress intent to protect privacy rights could be substantially frustrated.

The reasoning of the Supreme Court in Rose raises the temporal dilemma; that is, the problem of predictability through time, which has been adequately addressed by other courts. For instance, *Tuchinsky* v. *Selective Service System*, 294 F. Supp. 803 (N.D. Ill. 1969), recognized that the possibility of a clearly unwarranted invasion of privacy must also be considered before releasing information for public scrutiny. In that case, a draft counselor requested the names and personal data of officials serving on the Selective Service Board. The court agreed to release the names of the Board officials but not personal information unless those involved gave their consent. As a result, the individuals were allowed the option of protecting their own privacy. This is an excellent way to carry out the basic intent of the sixth exemption while also recognizing disclosure interests.

In *Rural Housing Alliance* v. *Department of Agriculture*, 498 F. 2d 73 (D.C. Cir. 1973) the Court of Appeals for the District of Columbia Circuit upheld a broad interpretation of the similar files test and maintained a proper balancing requirement. The Federal question arose from a request for a Department of Agriculture report on governmental housing discrimination. The Department withheld most of the report on the premise that it should not reveal information relating to marital status, legitimacy of children, identity of fathers of children, medical condition, welfare payments, alcoholic consumption, family fights, and personal reputations. The court agreed that such information fits the description of a "similar file" and that a broad interpretation was necessary "to protect individuals from a wide range of embarrassing disclosures." Id. at 77. The circuit court then remanded the case for further consideration of whether disclosure would cause a clearly unwarranted invasion of privacy. It instructed the district court to consider two factors when balancing interests under exemption 6. First, the court had to determine if disclosure would precipitate an invasion of privacy and, if so, how substantial that infringement would be. Second, the court had to decide the legitimacy and strength of the public interest in disclosure and whether the data could be obtained from other sources. Id. at 77-78. In addition, the court suggested that mere deletions of names is not always sufficient to protect personal privacy since positive identification can often be inferred from descriptive information Id. at 78.

The court also seemed to agree with a Department of Agriculture suggestion that the most equitable way to gain information would be through individual releases by the parties involved (see *Tuchinsky* v. *Selective Service System*, supra). This would permit proper control over one's personal life, allow substantial disclosure of information which serves the public interest, and thereby reduce litigation. As a last resort, if the affected individuals refused voluntary disclosure, court action either by the requester seeking access or the individual with privacy at stake seeking to enjoin disclosure could be the last recourse. Id. at 82-83. This bill endorses this recognition of the primacy of individual privacy among the other considerations weighed in the passage of exemption 6. If court action, as a last recourse, is necessary to protect individual privacy, the committee would endorse procedures similar to those created allowing court access for submitters of confidential business information in sections 5 and 6 of S. 730.

Other courts have not been as sensitive to the basic thrust of (b)(6), applying extremely narrow interpretations of the "similar files" language. In *Robles* v. *Environmental Protection Agency*, 484 F.2d 843 (4th Cir. 1973), the plaintiff sought information gathered by the EPA on homes where uranium tailings had been used for fill. The court ordered disclosure based on the premise that such information would not be sufficiently similar to medical and personnel data, a view the committee finds to be a misconstruance of congressional intent. In the first place, this assumes Congress meant to supply a limit on privacy protection with the "similar" language—a reading never suggested at any stage of congressional debate. On the contrary, Congress picked the vague and general term "similar" to insure a broad coverage for privacy regardless of the kind of file in question. Otherwise, as I have already noted, "this formalistic file limitation * * * may permit disclosure of 'clearly unwarranted invasions' of privacy simply because the invasion is found in the wrong kind of file." A reading more consistent with congressional intent would consider Congress overriding respect for privacy and consider any file similar to medical or personnel records if disclosure could be expected to reveal sensitive or intimate personal information. The test for exemption should focus on privacy, not file labels.

Moreover, the 4th Circuit in Robles set guidelines which rejected any balancing test whatsoever, claiming that the right to disclosure under FOIA is not to be resolved by (a) balance of equities or weighing need or even benefit. Id. at 848. In other words, the court attempted to invoke the "any person" rule of FOIA which states that any information given to one requester must be open to any other requester regardless of the purpose or motivations for the requests to limit a balancing of privacy against disclosure considerations. Proper protection for privacy should always invoke such balancing which necessitates an inquiry into the purposes, and potential disclosure impacts of requests. (See *Department of Air Force* v. *Rose*, *supra*; *Alliance* v. *Department of Agriculture*, *supra*; *Campbell* v. *U.S. Civil Service Commission*, 539 F.2d 58 (10th Cir. 1976); *Aug.* v. *National R.R. Passenger Corp.*, 425 F. Supp. 946 (D.D.C. 1976); *Tuchinsky* v. *Selective System*, *supra*.) The alternative view dangerously disregards Congress concern for privacy by innovatively asserting that disclosure was never to depend upon the interest or lack of interest of the party seeking disclosure (see *Outlaw* v. *Schultt*, 517 F.2d 168 (D.C. Cir. 1975) and Davis, supra. Section 3A.4 at 120). Such restrictive readings fail to appreciate sufficiently the importance of fundamental privacy rights.[10]

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[10] A more responsible reading of FOIA's "any person may request disclosure but subject to the

In *Board of Trade* v. *Commodity Futures Trading Commission*, 627 F.2d 392 (D.C. Cir. 1980), the Court of Appeals for the District of Columbia Circuit went against the method it employed to decide Getman, and its broad interpretation of the similar files test in Rural Housing. In this case, the Trading Commission refused to divulge some of its trade sources. Although disclosure may have constituted a clearly unwarranted invasion of privacy, the court held that trade sources cannot be classified as a "similar file" and therefore must be divulged. Thus, rather than considering the second half of exemption 6, that is, whether disclosure was a clearly unwarranted invasion of privacy, the court based its decision solely on an extremely legalistic interpretation of the similar files threshold test.

On the other hand, the Court of Appeals for the 5th Circuit in *Pacific Molasses Co* v. *NLRB*, 577 F.2d 1172 (5th Cir. 1978), rendered a more realistic interpretation of the similar files test. In this case, an employer at a nonunion company petitioned the NLRB for the names of his employees who carried union cards. Clearly the mere disclosure that certain employees possessed union cards did not meet the threshold test requirement that the information be similar to personnel and medical records. The fifth circuit rules, however, that union card information was highly personal in this case and thereby met the similar files requirements. This reading 'similar files" properly focuses on privacy rather than "similarity."

The next two cases represent the most significant examples of the dangers that can result from an interpretation of the similar files test that is too narrow. In *Simpson* v. *Department of State*, 648 F.2d 10 (D.C. Cir. 1980), diplomatic historians and scholarly organizations sought biographical data on foreign service personnel employed by the Department of State. Four years earlier the Department had begun classifying such information because of the threat this disclosure imposed on Americans employed in U.S. Embassies. The Department feared that disclosure would increase the probability that terrorists, using biographical information as a justification for violence, would attack foreign service personnel with imperialist, capitalist, or similar backgrounds. The U.S. District Court for the District of Columbia upheld the State Department contention on grounds that the biographical data fell within the "similar files" category and that disclosure would constitute a "clearly unwarranted invasion of personal privacy." The Court of Appeals for the District of Columbia Circuit, however, by virtue of a narrow construction of "similar files" following Board of Trade, ruled that information contained in files other than personnel and medical records must contain data that is as intimate and highly personal as that found in personnel and medical files. Despite the fact that public release of foreign service personnel biographies are far greater potential for harm than similar data about other U.S. citizens, the court found that such information could not be classified as a similar file. It refused, thereby, to consider the probability that disclosure would be a clearly unwarranted invasion of privacy that threatened the lives of those involved.

This contradictory doctrine should be put to rest by a recent Supreme Court ruling, *Department of State* v. *The Washington Post Co.*, No. 81-535 (— U.S. — May 17, 1982). In his opinion, released 1 day before S. 1730, the 97th Congress version of S. 774, was reported from full committee and months after subcommittee approval, the court significantly broadened the interpretation of the threshold requirement. The Federal question arose when the Washington Post requested any documents from the State Department which would verify whether two members of the Iranian revolutionary government were citizens of the United States or had applied for citizenship. The State Department denied the request because the conditions in Iran at the time were such that anyone in the revolutionary government "who is reputed to be an American citizen would "be in physical danger from some of the revolutionary groups that are prone to violence." Affidavit of Harold Saunders, January 14, 1980, app. 17. The D.C. Circuit, applying its narrow "similar files" rule from Board of Trade held that exemption 6 was unavailable.

On a grant of certiorari to the Supreme Court, the Court ruled in favor of the State Department, noting that Congress intended "a broad rather than a narrow meaning" of the term "similar files." Moreover, the Court wrote that "had the words 'similar files' been intended to be only a narrow addition to 'personnel and medical files,' there would seem to be no reason for concern about the exemption's being 'held within bounds'" by the balancing test, "and there surely would be clear suggestions in the legislative history that such a narrow meaning was intended. We have found none." Id. at 5. The Court made clear in its decision that potentially harmful information should not be released solely because of a failure to fall under the correct filing label. The Court wrote that "an individual should not lose the protection of exemption 6 merely because it is stored by an agency in records other than 'personnel' or 'medical' files." Id. at 6. This decision does maintain the threshold test, but it properly recognizes that this test should not frustrate the substantive content of the sixth exemption.

After reviewing the judicial history of exemption 6, it becomes obvious that the original intent of Congress has been obscured in a myriad of contradictory opinions. While some courts have probed the House and Senate reports of exemption 6 for an understanding of its meaning, other courts, in applying their own varied philosophies on personal privacy, have rendered narrow and often impractical interpretations of the exemption. Erroneous interpretations of the threshold requirement, for instance, have often precluded exemption of records that are intimate enough to cause a "clearly unwarranted invasion of personal privacy."

S. 774 will remedy this inequity and make certain that the threshold "similar files" standard, even after Post, will never again frustrate privacy protection by eradicating the threshold test altogether. The new language of the bill states that all "records or information concerning individuals" are exempt from disclosure if the requirements of the balancing test are met. As a result, the decision to grant a request for information directly rests upon the proper balance between the public interest and the individual's right to privacy. There is no need for a threshold test—filing level distinctions are eliminated.

Although some court rulings recognize Congress primary concern for privacy—see, for example, Department of State against The Washington Post Co., supra; Wine Hobby against Bureau of Alcohol, Tobacco and Firearms, supra, other courts have construed the balancing test to tilt in favor of disclosure. In other words, if the arguments favoring disclosure are approximately equal to those in favor of exemption, the courts have sometimes permitted disclosure. This construction of the balancing requirement does not comport, however, with the efforts of Congress to protect individual rights through passage of the Privacy Act (5 U.S.C. 552a), and the Right to Financial Privacy Act (12 U.S.C. 3401). Indeed, by definition, a test which purports to balance the public interest with personal privacy interests should not tilt in favor of either side.

S. 774 will provide a proper balance by specifying that records be protected if their release "could reasonably be expected to consitute a clearly unwarranted invasion of personal privacy". This change in the language of the balancing test operates in two ways to rectify past misunderstandings of the

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limitations of the exemptions. This may require, for example, inquiry into the requester's status, motivations, purposes, and potential uses for the requested record.

exemption. First, it solves the temporal problem. The addition of the phrase "could reasonably be expected" reduces the burden of having to demonstrate beyond doubt that a future disclosure would consitute a clearly unwarranted invasion of privacy. The reasonable expectation that such an invasion could possibly occur, rather than absolute certainty of its future occurrence, is all that should be necessary to protect precious privacy interests and it is all that will be necessary for exemption. Second, this change is intended to relax any rigid applications of the balancing test.

The Judiciary Committee bill also contains two new exemptions to protect technical data at—NASA predominantly national security information—that may not be lawfully exported without a license and to protect Secret Service records.

10. SECTION 11: ADDITIONAL EXEMPTIONS

TECHNICAL DATA

Section 12 of the bill adds a new exemption (b)(10) to the Freedom of Information Act to exempt from mandatory disclosure, technical data that may not be exported lawfully outside of the United States except in compliance with the Arms Export Control Act, 22 U.S.C. 2751, *et seq.*, and the Export Administration Act of 1979, 50 U.S.C. App. 2404.

Testimony from the Justice Department and the Department of Defense has made the committee aware that technical data in the form of blueprints, manuals, production, and logistics information formulas, designs, drawings, and other research data in the possession of agencies may be subject to release under the Freedom of Information Act. Much of this data was either developed by the Government or more typically submitted to the Government in conjunction with research and development or procurement contracts. An example of the type of problem not contemplated by Congress during formulation of the FOIA exemptions in 1966 is the request from a foreign national seeking 70 documents totaling more than 9,000 pages which deal with the internationally sensitive area of satellites and their use by military organizations. An expense of over $4,000 in U.S. taxes would be required by the Department of Air Force in addition to more than 1,000 mid-level management man-hours, on a nonreimbursable basis, just to prepare the material for review. Moreover, a substantial portion of this sensitive, defense information is technical material on the critical military technologies list which is subject to Federal export laws. In other instances, agencies such as the National Security Agency have been subjected to court battles which require the submission of lengthy and detailed affidavits justifying the withholding of cryptological information. Ann Caracristi, Deputy Director of the National Security Agency, testified before the Constitution Subcommittee that these affidavits "become even more sensitive than the requested information itself because of the need to place it in context and explain its significance." FOIA hearings, supra.

This new exemption would insure that Congress' intent to control the dissemination of sensitive technology could not be frustrated by a Freedom of Information Act request for information regarding technology subject to export control under these statutes. It would make clear that agencies such as the Department of Defense have the authority to refuse to disclose such information in response to a Freedom of Information Act request when the information is subject to export restrictions. This change would help effect Congress' desire to limit and control the dissemination of critical technology. In the same vein, however, exemption 10 does not address the issue of restricting the flow of research information to, from or within the scientific community or society in general. Moreover, the proposed exemption has nothing to do with technical information developed within the academic community. On the contrary, this exemption merely gives the Federal Government the discretion not to disclose pursuant to a FOIA request defense-related technical information which is in the possession of the Federal Government, usually pursuant to research and development of procurement contracts. The submitter of such technical data is not precluded from disseminating it to the scientific community or elsewhere.

It is the intent of this bill that exemption 10 encompass data covered by both general licenses and specific licenses, much as a significant amount of important technical data may be exported under general licenses or exemptions. Even though the term "general license" is used, such licenses often limit export authority to specific persons or specific destinations. Nonetheless, such a limited general license for the export of certain data would subject such data to unlimited release under the FOIA if exemption 10 did not cover general licenses. Thus, without such coverage it would be possible for a requester to circumvent the export laws through the FOIA.

It is anomalous to restrict export of data important to the United States on one hand, while allowing its public release under the FOIA on the other. Exemption (b)(10) will redress that anomaly.

SECRET SERVICE INFORMATION

Exemption 11 will protect the Secret Service from the release of information that "could reasonably be expected to adversely affect" its ability to carry out its protective mission. Following the assassination of President Kennedy, the Secret Service was asked by the Warren Commission to redouble its efforts to identify and guard against persons who threaten the safety of the President. Since that time, the Service has sought and obtained substantial amounts of information from State and local law enforcement agencies as well as from foreign sources. In 1975, for instance, the Service had access to data from nearly 1,100 informants via the FBI. Since the revised Freedom of Information Act took effect at the end of 1974, however, the quality and quantity of informant cooperation with the Service has diminished dramatically. Robert R. Burke, Assistant Director for Investigations at the Secret Service, testified before the Constitution Subcommittee that his agency has approximately 75 percent less informant information than it had before passage of the FOIA: Mr. Stewart Knight, Director of the Service, testified in 1977 that he had recommended that President Jimmy Carter refrain from traveling to two cities within the United States because the Service did not have adequate information to guarantee his safety. Mr. Burke's 1981 testimony noted that conditions have deteriorated even further since Mr. Knight's statement. Burke testified that the Freedom of Information Act has contributed to establishing a climate which has adversely affected our ability to perform our protective and criminal investigative missions. * * * Informants are increasingly reluctant to come forward because they are fearful their identities will be revealed. FOIA hearings, supra.

The problem is not restricted to domestic sources of information. Director Knight has been told by several senior foreign law enforcement officials that there is serious doubt abroad as to the Secret Service's ability to protect confidential information. Id. In specific terms, Burke cited evidence of convicted felons and others currently involved in criminal activities who make FOIA requests to several agencies, sift carefully through the responses, and then "discern the very information sources that the law enforcement agencies wish to protect." Id.

Despite a dramatic decline in data available to the Secret Service, Assistant Director Burke made clear in his testimony that:

> Intelligence information on individuals and groups is absolutely necessary for us to perform our protective role. The decrease in the quality and quantity of this information has forced us into a more reactive posture than we would like. Without adequate information on individuals and groups, we are less able to predict where to apply our limited resources. We, therefore, have to use more agents, more State and local police officers, and more equipment without the

focus on what may be the real danger areas." Id.

Exemption 11 insures that the Secret Service will receive the cooperation and confidentiality necessary for its mission. As a result, the ability of the Secret Service to safeguard the President and other important individuals as well as informants who provide vital information, will not be compromised. The exemption specifically enables, the Secret Service to better fulfill its functions in two ways. First, the Service will not be compelled to disclose significant security information already on file. Second, the Secret Service's information gathering capacity will be enhanced by the message conveyed to potential informants that any sensitive information that they provide will be protected.

The hearings also noted the need to reconsider the factors governing current determinations of types of information that may be released because they are reasonably segregable from classified or exempt portions of certain sensitive record. Another item covered was the propriety or requests from certain classes of requesters, including aliens, imprisoned felons, or parties in litigation with the Government who have access to information via the alternative route of discovery under the Federal Rules of Civil Procedure. Finally compiling a list of statutes which trigger withholding under exemption 3 also emerged as an important aspect of FOIA reform. These matters each became an element of the bill approved by the Judiciary Committee unanimously.

12. SECTION 13: PROPER REQUESTS

Section 13 of the bill would amend the provisions of subsection (a)(3) of the act to address several areas of use or abuse of the act not intended by Congress, and which undermine important govermental interests without serving the legitimate interests of the Freedom of Information Act.

REQUESTS LIMITED TO "UNITED STATES PERSONS"

Under carry law, an agency is required to comply with any request for records covered by 5 U.S.C. section 552(a)(3) made by "any person." Section 14 of the bill would amend the act to require the agency to make information available only to a requester who is a "United States person." The bill would add a definition of the term "United States person" in a new subsection (e)(4) of 5 U.S.C. section 552, to include a U.S. citizen, an alien lawfully admitted for permanent residence, and certain corporations and unincorporated associations. The definition of "United States person" follows the definition set forth in section 101(i) of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. 180(i), with certain exceptions.

Restricting the right to make requests to United States persons would reverse the present rule that "any person," including foreign nationals and governments can use the Freedom of Information Act to secure information.[40] This proposed amendment is consistent with the purpose of the Freedom of Information Act to inform the American public of Government actions. It would also prevent the use of the Freedom of Information Act by foreign nationals and governments for purposes which may be contrary to the national interest.

FREEDOM OF INFORMATION ACT NOT A DISCOVERY DEVICE

The bill would also amend the act to prevent a party to a pending judicial proceeding or administrative adjudication, or any requester acting for such a party, from using the Freedom of Information Act for any records which may be sought through discovery in the proceeding. Most Government agencies report significant numbers of such requests, whose purpose is to avoid applicable rules of discovery and sometimes, where the Government is a party, to harass and burden Government agencies. The prohibition would apply in either civil or criminal proceedings whenever a party files a request relating to the subject matter of a pending proceeding where existing discovery rights allow access.

The Supreme Court has recognized that the "FOIA was not intended to function as a private discovery tool." *NLRB* v. *Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978). Notwithstanding the fact that the Freedom of Information Act was not intended as a discovery device, a requester's rights under present law "are neither increased nor decreased" because of his status as a litigant. *NLRB* v. *Sears, Roebuck & Co.*, 421 U.S. 132, 143 n. 10 (1975). As a result, the Freedom of Information Act has been widely used to discover Government documents for use in judicial proceedings.

In civil cases, parties openly use the Freedom of Information Act to circumvent the judicial discovery requirements that they show a need for the requested information, that the information is relevant to the case, and that compliance with the request would not be unreasonably harassing, oppressive or burdensome. *See* Fed. R. Civ. P. 26. Government attorneys working on a case are often forced to divert their attention from preparing the case to complying with a Freedom of Information Act request filed by a party opponent. The resulting diversion of resources to respond to such requests substantially impairs the Government's capacity to prepare and successfully carry forward to a conclusion many of its cases.

Similarly, in criminal cases a defendant seeking discovery information must ordinarily demonstrate not only the relevance of the information sought, but also that the request is reasonable and within the scope of criminal discovery. See Fed. R. Crim. P. 16(a). In addition, a criminal defendant's request for discovery may trigger a Government right to reciprocal discovery. Fed. R. Crim. P. 16(b). In practice, however, criminal defendants have made frequent use of Freedom of Information Act requests, often close to scheduled trial dates, to disrupt the prosecutor's case preparation or delay the trial while disputes over the Freedom of Information Act request are resolved by the courts.

Some courts have ruled that the use of the Freedom of Information Act to supplant ordinary criminal discovery is improper.[41] However, courts have ruled that related Freedom of Information Act requests are acceptable during a criminal trial and that issues respecting such requests in the pending criminal action.[42] This ability to make requests before and during criminal trials disrupts trial proceedings and upsets the discovery scheme established under the Federal Rules of Criminal Procedure. This proposed provision seeks to limit such abuses of the Freedom of Information Act. This bill provides that no request be permitted to be maintained during the pendancy of related proceedings in which discovery rights for the requested information exist. It will be up to the requester to demonstrate, when requested to do so in accordance with agency regulations, that his request is not banned by this prohibition.

FELONS

Recent statistics indicate that over 40 percent of the requests received by the Drug Enforcement Administration are from persons in prison, and at least another 20 percent come from persons not in prison but known to be connected with criminal drug activities. An estimated 11 percent of the requests received by the FBI come from persons in prisons, and numerous others from persons with criminal records. Many of these FOIA requesters bring suit in Federal courts. These persons use—or actually misuse—the act to attempt to discover the identity of informants and other sensitive law enforcement information held by the Government. The large number of requests, including repeated requests numbering in the hundreds by some individuals, is clear testimony that there is something for criminals to gain through the use of the act.

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[40] E.g., *Stone* v. *Export-Import Bank of the United States*, 552 F.2d 132, 136-37 (5th Cir. 1977), *cert. denied*, 434 U.S. 1012 (1978); *Neal-Cooper Grain Co.* v. *Kissinger*, 385 F. Supp. 769 (D.D.C. 1974).

[41] *See United States* v. *Murdock*, 548 F.2d 599 (5th Cir. 1977; *Murphy* v. *Federal Bureau of Investigation*, *490 F. Supp. 1138 (D.D.C. 1980); see also United States* v. *Layton*, No. CR 80-0416 (N.D. Cal. August 6, 1981).

[42] *See United States* v. *Brown*, 562 F.2d 1144, (9th Cir. 1978; *United States* v. *Wahhr*, 384 F. Supp. 43, 47 (W.D. Wis. 1974).

Given that the FBI and DEA spent over $13.5 million in 1980 to comply with FOIA requests, and that review of requests from prisoners frequently requires extended review to protect law enforcement information, these two agencies alone spend 20 to 40 times more than Congress estimated the 1974 amendments would cost for the whole Government—just to respond to felons.

The bill would authorize the Attorney General to promulgate regulations to restrict the circumstances in which records shall be made available to felons or to persons acting on their behalf. The purpose of this provision is to prevent the use of the act from undermining legitimate law enforcement interests while respecting the proper public information purposes of the act and it is left to the sole discretion of the Attorney General to determine the most appropriate course in this particular area.

MANUALS AND EXAM MATERIALS

The changes provided by the act are long overdue with regard to exemption 2 which governs manuals and examination data. The proposed amendment would expressly protect confidential information in manuals and instruction to investigators, inspectors, auditors, and negotiators. This change would also complement the amendments to exemption 7(E) relating to guidelines or priorities for law enforcement investigations or prosecutions.

Negotiators are included in this list in recognition of the fact that the Government has a legitimate need to maintain the confidentiality of its instructions to staff in contexts other than law enforcement. Thus, the term "negotiators" is not limited to law enforcement personnel who are called upon to negotiate the settlement of pending and impending litigation, but applies as well to agency staff who conduct negotiations for the procurement of goods and services, and acquisition of lands, the resolution of labor-management disputes, the release of hostages, or any other negotiations conducted in the course of carrying out a legitimate Government function where the release of such instructions or manuals may jeopardize the success of any aspect of the negotiations.

Proposed subparagraph (B) is added to exemption 2 to exempt testing or examination materials used to determine individual qualifications for employment, promotion, and licensing. This amendment is intended to protect from disclosure material that would compromise the objectivity or fairness of the testing, examination or licensing process within various agencies. Such a provision exists now in the Privacy Act of 1974, 5 U.S.C. § 522a(k)(6), and inclusion of this paragraph in the Freedom of Information Act would promote consistency between the two statutes.

In short, section 8 of the bill would add two clarifying provisions to exemption 2, to make clear that materials whose confidentiality is necessary to effective law enforcement and other vital Government functions are exempt from disclosure. Such materials include manuals and instructions to investigators, inspectors, auditors, and negotiators, and testing materials used solely for employment, promotion, or licensing. Although materials of this nature are arguably protected under present law, the confusion engendered by judicial attempts to reconcile purported inconsistencies in the legislative history make the extent of the protection afforded by exemption 2 uncertain.

JUDICIAL REVIEW

Section 5 of the bill would make several procedural and substantive revisions to the judicial review provisions of 5 U.S.C. § 552(a)(4). First, the bill would amend subsection (a)(4)(B) to include a statute of limitations, and to provide equivalent jurisdiction in the district courts for suits by submitters of information to enjoin an agency's disclosure of information and requesters of information to compel disclosure.

Second, this section permits suits for injunctive relief against nonindexing of records covered by subsection (a)(1) or (a)(2).

Third, the bill would amend the attorney fees provisions of redesignated subsection (a)(4)(H) (currently subsection (a)(4)(E)) to allow requesters who substantially prevail to recover attorney fees from a submitter participating in litigation.

STATUTE OF LIMITATIONS

The present act contains no time limit for a requester to initiate a judicial action after and agency's final denial of a request. This bill would amend subsection (A)(4)(B) to require that suits by requesters must be brought within 180 days of the agency's final administrative action. This is the same period as that set forth in title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-5(e), 16(c); the Age Discrimination in Employment Act, 29 U.S.C. § 633(d); and the Fair Housing Act of 1968, 42 U.S.C. § 3613(a). The bill would not set a specific limitations period for actions by submitters. However, it would establish as an express prerequisite to district court jurisdiction that the submitter must file a complaint before the disclosure of the information.

This provision should promote judicial economy and ease administrative burdens without prejudice to requesters of information. Agency personnel would be able to close files instead of holding a requester's file indefinitely in anticipation of a lawsuit to compel disclosure at any time in the future. Requesters could simply file an identical request to reinitiate the process. This would initiate anew the request and give them a fresh cause of action if the new request is denied.

SUBJECT MATTER JURISDICTION

The bill would amend subsection (a)(4)(B) to vest the district courts with jurisdiction to enjoin an agency from any disclosure of trade secrets, or commercial, research, financial business information which was objected to by a submitter under subsection (a)(7)(A)(iii) (or which would have been objected to had the submitter received the required notice from the agency pursuant to subsection (a)(7)(ii)). Under the amended provision, the submitter may file a complaint at any time prior to disclosure of the information by the agency.

This provision would create a right of action for submitters within the structure of the Freedom of Information Act. Under present law, submitters have no such right of action, but must resort to section 10 of the Administrative Procedure Act, 5 U.S.C. § 706, in order to safeguard confidential business information from disclosure by the Government in possible violation of the Trade Secrets Act, 18 U.S.C. § 1905. *Chrysler Corp.* v. *Brown*, 441 U.S. 281, 285, 317-18 (1979). The rights of submitters as outlined by the Supreme Court in Chrysler are inadequate to protect against the disclosure of submitted information which should properly be kept confidential. For that reason, this bill would establish procedural rights in the Freedom of Information Act itself.

This section changes the judicial review provisions of the current Freedom of Information Act to establish equivalent causes of action for requesters and submitters. The bill intends that the courts will receive the judicial review requests of both requesters and submitters with equally adequate treatment.

Submitter actions to enjoin disclosure must be brought prior to release of the documents, and usually will be commenced within 10 days after the final agency decision. If the submitter has not been given notification but learns of the pending disclosure, suit may be brought upon that disclosure in the same manner as if such notice had been given.

This subsection also, for the first time, permits suits for injunctive relief against nonpublication or nonindexing of records covered by subsection (a)(1) or (a)(2) of this section. The bill intends that agencies may be required to index records within a reasonable time if they have not done so already under existing requirements, but that reasonable latitude be given in this difficult area.

PERSONAL JURISDICTION

Proposed subsection (a)(4)(C) would provide the district courts with personal jurisdiction, in any suit filed under the act, over all requesters and submitters of information. If a requester filed a complaint to compel disclosure of certain information, the district court in which the complaint was filed would have jurisdiction over any submitter of the information.[2]

Similarly, in a suit by a submitter, the court would have jurisdiction over any requester of the information. These proposed provisions would insure that an adverse party receives notice of the complaint, has the right to intervene, and will be bound by the court's decision.

While this provision allows a district court to consolidate submitter and requester causes of action into a single suit, it does not alter current law with regard to venue. In a consolidated suit, venue would be determined in accordance with the current standards of the Federal rules of civil procedure, 28 U.S.C. 1591.

The court to which the action is properly brought has jurisdiction over the necessary parties regardless of their physical location. This will permit intervention and impleading as necessary to effectively resolve all issues in the litigation. The committee considered but did not adopt a provision altering normal rules of venue and transfer, so usual venue and transfer provisions continue unaffected.

When the agency is served with a copy of the complaint filed by either requester or submitter, it must promptly give notice of the action to the opposite party or to multiple submitters or requesters, as the situation may warrant. This is already the practice of the better agencies, and it is endorsed.

NOTICE OF LITIGATION

Proposed subsection (a)(4)(D) would require agencies to notify requesters and submitters whenever a suit is brought concerning a particular request or submission. If a person who requested confidential business information exempt under exemption 4 filed a complaint to compel disclosure, the agency would be required to notify each submitter of that information that the complaint had been filed. Similarly, if a submitter filed a complaint to enjoin disclosure of such information, the agency would be required to notify each requester.

Subsection (a)(4)(E) provides equal treatment for requesters and submitters in the action, by requiring that cases brought by each party shall be determined de novo by the court. The judicial determinations made de novo under current law have operated to enhance the credibility of the decisions made about disclosure by agencies, since an impartial judge will consider the full merits of the case for disclosure unconfined by the agency's record. The same impartiality and thus the same credibility will be brought to cases seeking the nondisclosure of private information upon complaint of the private submitter. A great many submitter cases under current law have been reviewed de novo, and this codifies that practice.

Burdens of proof rest with the agency in a withholding case and with the submitter in a case seeking to enjoin disclosure.

ATTORNEY FEES

Subsection (3) of section 5 of the bill deals with attorney fees. It provides that the court may in its discretion award attorney fees and costs against a submitter who is a party to the litigation, in favor of the requester. This does not change the existing case law which permits such recoveries against the agencies themselves. But it would, for example, allow a requester of valuable private information who substantially prevails to receive both the submitter's information and the submitter's funding of the requester's legal fees in obtaining that information. Submitter interests objected to the amendment during its consideration because of the shifting of the equivalent of a double loss to the submitting person. A court retains discretion to award no fees or to award such fees only against the agency.

PUBLIC RECORD REQUESTS

Due to the flood of requests for information, Federal agencies spend enormous amounts of time and money retrieving, duplicating, and mailing records. Though much of the time and cost necessary to comply with these requests fulfills a legitimate responsibility of Government to its constituency, in many instances records are more readily available in the public domain. Public libraries, for example, have a wealth of newspapers and magazines on file which are easily retrievable and available to the public. Requests that agencies provide documents, on the other hand, often require employees to duplicate hundreds of pages of newspaper and magazine articles while sorting them out from exempt information. Indeed, as Antonin Scalia, professor of law at the University of Chicago, observed, Federal agencies have been compelled to act as "the world's largest library reference system." The FBI, for instance, employs 300 specialists to work with FOIA requests only. According to Attorney General William French Smith, those who request information pay less than 4 percent of the retrieval cost. As a result, the Senate Subcommittee on Criminal Laws and Procedures recommended in 1978 that:

> Where public record items such as newspaper clippings and court records are incorporated in the file, the agency should not be required to Xerox these for the requester, but should, instead simply be required to identify these items by date and source.

Senate Report No. 51, 95th Congress, 2d session 71 (1978).

The new language of section 6 is designed to remedy these problems. The revised section specifically allows agencies to offer a choice of an index identifying the date and source of public records, or copies of the documents for a fee. If the first option is selected, the FOIA workload of agency employees will in many cases be reduced. In no event, however, should a Federal agency be compelled to produce an index not already in existence at the time of the request. If requesters choose the second option, the authorization to collect processing fees in addition to search and duplication fees will insure that users of FOIA are not subsidized by taxpayers. Thus, public access to Government documents will be maintained at current levels while the overall cost and burden to Federal agencies and the taxpayer is reduced.

CLARIFY EXEMPTIONS

Section 7 of the bill is intended merely to clarify the effect of the exemptions listed in the paragraphs of section 552(b). In place of the current language stating that "This section (552) does not apply" to matters covered by the enumerated exemptions, the bill would make clear that "The compulsory disclosure requirements of this section (552) do not apply to matters so exempted.

REASONABLY SEGREGABLE

In 1974 Congress attached the "reasonably segregable" clause to subsection (b) of the Freedom of Information Act. The purpose of this clause was to require Government agencies to release any meaningful portion of a requested record that can be separated from portions that are specifically exempt from disclosure. The courts have often strictly enforced this policy. While much useful and nonconfidential information has been released under this clause, both the courts and the agencies have expressed concern that some "reasonably segregable" information may actually prove threatening to national security, law enforcement, and confidential Government informants when pieced together with other seemingly nonexempt information or information obtained independent of FOIA. It is this threat that the new proposal seeks to alleviate by allowing the agency to consider whether releasing portions of sensitive records could cause the harm that exemptions (b)(1) and (b)(7) are intended to avoid.

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[2] Such "nation wide" jurisdiction and service of process of a district court by the court itself is already provided for by statute in other contexts. See, e.g., Interpleader Procedure Statute, 28. U.S.C. § 2361; Sherman Antitrust Act, section 5, 15 U.S.C. § 5.

The extent of judicial review of an agency's nondisclosure or limited release of information is a hotly debated issue. In 1971, Congresswoman Patsy Mink requested copies of conflicting recommendations made to President Nixon on the advisability of an underground nuclear test to be performed that fall. After the request was denied, Congresswoman Mink and 32 other Members of the House initiated a FOIA suit to compel disclosure. The district court granted summary judgment in favor of the Environmental Protection Agency on the basis of an affidavit filed by EPA which claimed generally that certain reports were exempt from disclosure under exemption (b)(1). On appeal, the decision was reversed and the case remanded to the district court with instructions to release all information that could be disclosed. The Supreme Court reversed the decision of the court of appeals after finding that areas of national security were better left to the executive branch.

In a well reasoned opinion, the Supreme Court found that Congress clearly intended to place the burden of determining what was exempt under subsection (b)(1) on the President and that the FOIA "in no way affect[ed] categories of information which the President * * * has determined must be classified to protect the national defense or to advance foreign policy." 112 CONGRESSIONAL RECORD 13659. Therefore, after receiving an affidavit which generally but fully justified the withholding of the reports under (b)(1) exemption and the applicable Executive order, the Court declined to submit the reports to in camera inspection.

Though the Court found that an affidavit filed by the agency could generally allege exemption without specifically detailing each portion of the document, other courts refused to allow the Government the latitude the Supreme Court had found so necessary. In Vaughn against Rosen, in which a law professor requested copies of personnel policy reports prepared by the Bureau of Personnel Management, the Court of Appeals for the District of Columbia circuit defined a strict indexing and affidavit procedure which soon became a basic step in FOIA cases.

The amendment is not intended to prevent or limit the courts or agencies from considering the jigsaw puzzle effect before releasing information that is segregable from information exempted under one or more of subsection (b) exemptions. This bill recognizes that responsible application of this principle is essential to proper interpretation of the scope of the exemptions. The purpose of the amendment is to especially insure that this principle is considered in (b)(1) and (b)(7) cases because of the nature of the information exempted in those sections and the potential harm that could occur should highly confidential information be released.

This might raise the question of whether it would be wiser to alter the statutory requirement for de novo review in FOIA cases where sensitive information is at stake. This idea has won support for its advantages in terms of judicial policy as well. The distinguished Judge Carl McGowan, until recently Chief Judge of the U.S. Court of Appeals for the District of Columbia Circuit, has sharply questioned the appropriateness of de novo review for any cases under the Act:

> The fact is that in the Freedom of Information Act the Congress has dumped on the Federal Courts what is essentially an administrative function. Our District Courts are deluged with tasks which under any sensible allocation of Government resources should be performed at the administrative level. Any judicial review of the results should be confined to the administrative record and by reference to the arbitrary and capricious standard . . . You might as well put a sign out in front of the courthouse (saying) we're the agency administering the Freedom of Information Act. Access Reports, 141, 150 (Jan. 6, 1982).

In sum, the adoption of this provision will grant agencies added discretion to mitigate the potential harmful effect of segregating information out of sensitive records that can supply the pieces to complete a mosaic picture.

This bill enjoys broad bipartisan support and reflects the accumulated wisdom of many diverse interests, including media representatives, public interest groups, the Reagan administration, members of the business community, and law enforcement agencies. The FOIA Reform Act has been widely hailed as a reasonable and worthwhile compromise by these diverse and often divergent interests because it achieves the dual goals we set when embarking upon improving the act. Namely, the bill eliminates many of the current problems of the act without weakening its effectiveness as a valuable means of keeping the public informed about Government activities. As the Washington Post accurately noted:

> It is quintessentially American to believe that the people control the Government and that they have a right to know what the Government is doing. The Judiciary Committee bill preserves that right (Washington Post, May 25, 1982, page A16.)

Indeed, this right is preserved, and concomitantly the public is better served by the enhancements to the act which are included in this bill.

No one questions the obviously virtues of an open government; nor should anyone question the Government's obligation to protect the identities of confidential informants. No one questions the value of an informed citizenry; nor should anyone question the Government's obligation to respect the privacy of those same citizens. No one questions the merits of a free information policy; nor should anyone question the need to protect defense technical data.

S. 744 is a substantial step toward restoring the balance between public access to Government information and efficient execution of necessary, and occasionally confidential, Government functions. This bill achieves this balance in a manner that preserves both goals of the act: A more informed citizenry and a responsible and effective Government.

The brief summary of the actions of the Senate Judiciary Committee should provide some insight into the way the committee approached many of the same issues raised by the report under consideration by this body.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2746) was agreed to.

Mr. QUAYLE. Mr. President, S. 774, the latest in a series of bills to amend the Freedom of Information Act (FOIA), has had a long journey down a narrow path. Any amendments to the FOIA must balance the act's basic premise that the American people have the right to know the workings of their Government, with the necessity of having some information in the hands of the Government exempt from disclosure.

I speak today to address several concerns raised by representatives of the press. I became familiar with these concerns through my own experience as a publisher and newspaperman. It is a special honor for me to speak to the concerns of these groups because my grandfather, Eugene C. Pulliam, was a founder of Sigma Delta Chi back in 1909 at DePauw University in Greencastle, Ind.

Let me begin, Mr. President, by reiterating that the FOIA is an invaluable law in assisting journalists to fulfill their mandate to keep the American people informed about their Government. There are two sets of problems with S. 774. The first centers on needed improvements to the FOIA that are missing from S. 774. The second concerns provisions which, if enacted, could harm the flow of information about the Government to the public.

Let me begin by addressing several needed improvements to the FOIA that S. 774, does not address. Perhaps the most serious omission is the absence of a provision mandating that all fees and processing charges be waived for requested information that benefits the general public. While S. 774's report language is helpful, it is clearly not being heeded by the Justice Department whose January 1983 guidelines have discouraged the granting of fee waivers. Any package of amendments to the FOIA must address this problem; S. 774 does not.

S. 774 also fails to provide sanctions against agencies guilty of delays in complying with FOIA requests. The press experience is that often these inexplicable delays are so lengthy that they are tantamount to denial of the information. If the FOIA is to be as effective as its founders intended, this must be rectified.

Omission of amendments correcting these weaknesses means that an excellent opportunity to improve the FOIA is being wasted. But several provisions of S. 774, if enacted, could seriously weaken the FOIA.

Perhaps the most troublesome of these would permit the Government to collect the advanced payment of fees in some cases. This provision can effectively limit use of the FOIA to the wealthy and restrict the ability of the American citizen with average means from using the FOIA.

S. 774 would also add an exemption to the FOIA for technical data. Such an exemption could well spawn a de facto classification system for scientific data. Rather than adding needless exemptions to the FOIA, the Government should use its standard classification system to safeguard this information.

The expanded exemptions for law enforcement agencies are also of concern to the press, especially since the justification for such sweeping exemptions has not been bolstered by facts and specifics. Similarly, the new exemption for organized crime investigations granting the Attorney General the authority to prevent scrutiny of files for 8 years is too broad and not needed in light of the current law's exemption for enforcement proceedings.

In closing, Mr. President, we must remember, as we consider S. 774, that Congress created the FOIA for one very clear and distinct reason—to keep the American people aware of the workings of their Government. We need to be certain that we reinforce that purpose, not weaken it.

Mr. THURMOND. Mr. President, I support S. 774, the Freedom of Information Reform Act, of which I am a cosponsor, along with the distinguished chairman of the subcommittee (Mr. HATCH). This measure received wide, bipartisan support in the Committee on the Judiciary, following extensive efforts to develop a compromise proposal.

The purpose of S. 774 is to distinguish more precisely those permanent records which ought to be subject to public disclosure under the act from the small, but extremely important, class of records which ought to be protected from disclosure. Such a distinction is difficult to make precisely, but I believe that this has been achieved in this bill.

S. 774 is a complex and comprehensive bill designed to eliminate several abuses that are permitted under the present law. First, S. 774 would broaden the protection that law enforcement agencies can provide to those persons who supply confidential information. Under present law, a law enforcement agency can only exempt information on an informant if that information would conclusively disclose the identity of a confidential source. S. 774 would broaden the information protected by dropping the conclusive identity requirement and replacing it with a new test that the information could reasonably be expected to disclose the identity of an informant.

Current law provides that information is only eligible to be protected if it is contained in an investigatory file. This formalistic requirement would be removed under S. 774 through language which only refers to "records or information compiled for law enforcement purposes."

Furthermore, this bill, if enacted, would enlarge the scope of data that could be appropriately withheld from disclosure. In connection with the personal privacy exemption, it removes the requirement that the personal data be contained in a personnel or medical file. The Secret Service would receive additional protection under this measure, since it would not have to reveal data which could reasonably be expected to adversely affect its protective functions.

Finally, Government agencies would receive a tremendous benefit from the revised definition of a proper party for making a FOIA request. Under S. 774, a proper request could only be made by a "United States person," which would exclude nonresident aliens.

This proposed bill is responsive to needs expressed by a wide variety of agencies and organizations—national security agencies, journalism societies, law enforcement, and private individuals. I believe that S. 774 is legislation worthy of the support of Senators on both sides of the aisle and I urge its prompt passage.

Mr. GRASSLEY. Mr. President, I am pleased to support S. 774, the Freedom of Information Reform Act, which will have the effect if passed into law of clarifying and improving our Nation's information policy. This bill is the result of extensive input from, among others, representatives of business, media, law enforcement, and public interest groups. Their views, expressed publicly to Congress in 9 days of hearings, have enabled us to fashion a bill that contains improvements targeted to the interests of each of these groups.

I wish to especially commend Senator HATCH and his staff for their thorough research and earnest efforts in resolving the difficult issues involved in this act. It was the willingness of Senators HATCH and LEAHY to work together on these controversies, along with the aid of myself and Senators THURMOND and DECONCINI, that produced the compromise bill S. 1730, which garnered the unanimous support of the Judiciary Committee last Congress. S. 774, which is almost identical to the earlier compromise, has again gained the Judiciary Committee's support, and I anticipate the support of the full Senate will be voiced today.

When Congress first enacted the Freedom of Information Act in 1966, it was to assure our citizenry that as a democratic Government we should and will operate in the open. The express purpose then, and one that continues to hold today, is that facilitating an informed public is our best safeguard against ill-conceived Government policies.

Statutory guidance of the Government's disclosure policy is not a simple procedure though. A balance must be maintained between allowing public access to Government information and yet protecting the release of documents which may jeopardize lives of witnesses or informants, privacy of individuals, national security, or confidentiality of valid business concerns.

The Freedom of Information Act is very specific on these points, but is not specific on how these protections should be administered.

In tightening the exemptions for documents used in connection with legal investigations, this bill takes an important step in not only increasing the effectiveness of our law enforcement procedure, but also in protecting witnesses and informants from threat of identity disclosure.

Hearing testimony also indicated a need for fine-tuning of the trade secrets exemptions for businesses. While drafters of the current law intended to protect confidentiality of private enterprise information, commercial gatherers have discovered loopholes enabling them to obtain information which could compromise or endanger competition. S. 774 allows submitters prior notification when information which could be confidential is being requested. Both requester and submitter have an opportunity to set forth their reasons for release or nondisclosure.

Opening Government's doors to the public has not come without a price. As the volume of FOIA requests has increased, so has the cost and the time involved in filling the requests. This bill authorizes OMB to establish a uniform fee schedule that seeks to fairly charge those requesting materials for commercial purposes and waive the costs of those requesters representing the media or a public interest.

Receiving information in a timely manner is naturally one of the media's main concerns. While proper screening can delay the disclosure process, this bill further defines when delay is allowable and binds agencies to a final 60-day deadline for all processing, including appeals. This time limit protects requesters from the possibility of an indefinite waiting period.

As I stated at the outset, we have come a long way in forming a bill that is acceptable to verying interests. I believe this compromise is a fair and sensible response to requests for legislative change to provide an effective yet responsible policy of Government access.

Mr. LEAHY. Mr. President, the Freedom of Information Act is the vital link between the people of the United States and their Government. It was specifically designed to deter the evolution of a government by secrecy. In reporting the Freedom of Information Act in 1965, Senator EDWARD LONG of Missouri so correctly stated:

> A government by secrecy benefits no one. It injures the people it seeks to serve; it injures its own integrity and operations. It breeds mistrust, dampens the fervor of its citizens and mocks their loyalty.

The conflicts between government confidentiality, public oversight of government activities and privacy rights of individual citizens have been age-old, complex and persistent. They occur in every generation in every democratic nation of the world. The policy debates which arose during the formulation of the bill we are considering today focused on striking the appropriate balance between openness and secrecy and searching for the best ways to implement common objectives.

The Freedom of Information Act has generally been a success. In most cases, the nine exemptions in the act, when properly construed, protect the information that should be protected while still allowing the public to gain access to information imperative for an informed public.

Since the act was passed in 1966 and amended in 1974, there has been long and useful experience in applying the provisions of FOIA, and as a result, numerous ideas for improving the law have emerged.

Since its adoption, FOIA had proven to be an invaluable tool for disclosing Government waste and wrongdoing, and keeping the public informed on such wide-ranging areas as health, safety, the environment, respect for personal liberties, and efficiency in carrying out mandated Federal programs of all kinds. Through FOIA we have learned about discrimination in the administration of Federal contracts, major medicare fraud by private health organizations involving millions of dollars of public funding, defective and unsafe consumer products, and ineffective or harmful drugs and medical devices.

But FOIA is more than the sum of its specific achievements. It puts a mammoth government on the same plane as any citizen it serves. It makes available to that citizen the information to deal with the complexity of government and to understand its actions and purposes. The act is one of the most stabilizing forces in our democracy. It is not to be tampered with casually.

The history of S. 774, like the history of the Freedom of Information Act since 1966, is the history of careful compromise. Working with FOIA has taught those inside of Government and both submitters and requesters outside of Government much about how it works and how it can be made to work better.

That experience was the wellspring for the intensive debate and negotiations that transformed a repressive administration bill into the moderate and useful version now before us. The President's bill sought to hack away at the reach of FOIA and particularly the 1974 amendments. The present bill recognizes the legitimate complaints of some agencies and submitters, while maintaining FOIA's major premises and all of its principal features.

The battle over the scope of this legislation began 3 years ago when the principal spokesman for the Reagan administration declared in testimony before the Constitution Subcommittee that the Freedom of Information Act is a highly overrated instrument.

At the time, that statement shocked many of us who had seen FOIA turn the term open government from a catchphrase to a reality. After 3 years of experience, no one could any longer be surprised by the views of this administration towards open government.

From its earliest days, the administration has put the public on notice that it would dispense information only on a need to know basis.

This administration rewrote the Executive Order on Classification sweeping away a trend of nearly three decades aimed at better informing the public on defense and foreign policy issues.

This administration attempted to force over 100,000 Government employees with access to classified information to give up their first amendment rights and sign lifetime agreements to let the Government censor their writings or statements.

This administration, in the name of military security, barred all journalists from accompanying the invasion force on Grenada. No other administration in modern times has attempted to impose this kind of censorship on war correspondents.

This administration has barred the entry into the country of foreign speakers from both sides of the political spectrum whose views might be regarded as controversial or unfriendly to American interests.

This administration singled out and stigmatized with a propaganda label Canadian films dealing with acid rain and nuclear war, because the views expressed in those films differed from those of the administration.

This administration has tried to interfere with the free flow of unclassified scientific and technological information by threatening universities and individuals with dire consequences if they went ahead and published this unclassified information.

This administration has made it clear that, if left unrestrained by Congress, it will force its loyalty and secrecy directives through extensive use of the polygraph, although the results are doubtful and the intrusion into the lives of Government employees is severe.

This administration, through its grant regulations, has tried to gag nonprofit organizations and prevent them from communicating with Government at all levels.

This administration undertook a policy to restrict the release of industry data that would help expose pesticide threats to workers and consumers, after the House and Senate Agriculture Committees rejected a similar proposal.

This administration has stopped releasing information about underground nuclear weapons testing which routinely had been given out in previous administrations because it was too burdensome to keep the public fully informed.

Most importantly from the perspective of today's debate, this administration consistently has posed barriers to the fruitful use of the FOIA. Delays are longer. Fees are used to discourage requesters. Fee waivers are given out grudgingly. The Privacy Act is being interpreted in a way which deprives individuals of any access to files compiled about them by Federal law enforcement or intelligence agencies.

These assaults on the free flow of information are assaults on the viability of the first amendment. That is why I have fought so hard against the Reagan administration's policies and why I have devoted so much time to the fight to preserve the FOIA.

The Reagan administration's original proposals would have gutted the act. These proposals generated a long, vigorous, sometimes heated debate. Ultimately, a consensus emerged in the form of the bill now before the Senate.

S. 774 concedes the need for change to improve the operation of the act and to insure fairness between competing interests where there have been instances of unfairness in the past. But the consensus bill consists overwhelmingly of fine-tuning changes and not a wholesale departure from FOIA's presumption that openness should reign.

Perhaps no area was more difficult to resolve than how the act should handle law enforcement records. When the administration first sent its proposals forward in the last Congress, it proposed two new exemptions. First, it created a new exemption for any open investigatory file. This open file provision, which was contained in the 1966 act, was what led Congress to amend the law enforcement exemption in 1974. The administration proposal applied not only to FBI files but also to investigations of product and drug safety, such as the Pinto gas tank, the Firestone 500 tire, and the Pertussis vaccine, the dangers of which all came into the public view as a result of FOIA requests.

The other major new exemption the administration sought was a blanket exemption for files concerning organized crime, terrorism, and foreign counterintelligence. When I took a hard look at this new exemption, I discovered that it was not only overly broad, but it did not even solve most of the problems the FBI stated that it had as a result of FOIA. The basic case the administration had been making is that a sophisticated user could ferret out information about FBI investigations simply by making requests to which the FBI was required to respond that it had records but they were exempt. Without going into further detail on the techniques involved, I would just point out that creating a new exemption in no way solves that problem.

In addition, foreign counterintelligence was included in the law enforcement exemption, which might have had the ironic effect of narrowing the exempt status which these documents already receive under the broader national security exemption.

After literally months of work, Senator HATCH and I agreed to a number of changes which were carefully crafted and aimed at problems for which the FBI had made a case.

These changes make a positive contribution to the needs of both Government and the public in the handling of law enforcement records under FOIA. The protection of informants' identities is strengthened, and an 8-year moratorium is created for records relating to investigations of organized crime, an area where moratorium is appropriate. FBI training manuals will have added protection and the agency will have expanded time limits in which to meet FOIA requests. The agency will be able to protect from disclosure the fact that it has certain documents in its possession where the very fact would jeopardize an informer. These changes will make the work of the FBI easier and more secure. More importantly, these changes are narrowly aimed so that they will not interfere with the public's right to know where law enforcement is not seriously jeopardized.

This spirit of narrow change based on demonstrated need guided our negotiations over all points in the bill. As a result, many other needed technical changes in FOIA are contained in S. 774.

For example, there are procedures to allow submitters of information a reasonable opportunity to object to release of data.

Commercial users, who account for two-thirds of the cost to the Government for processing FOIA requests will bear their fair share of the cost for access.

Agency time limits under FOIA are made more realistic, with the Congress' firm expectation that they will be enforced more vigorously.

A new, carefully tailored exemption for Secret Service records generated in the course of the Service's protective functions is created.

A new procedural section is adopted which will prevent FOIA requests from interfering with ongoing judicial proceedings or administrative adjudications without eliminating litigants' rights to use the FOIA. Finally, the bill for the first time gives the public and Congress a complete picture of the recent growth of special legislative exemptions to the FOIA that could, in time, leave the act applying to nothing.

I had hoped that the bill would adjust several other major problems which requesters are having in obtaining information under FOIA. These include problems created by President Reagan's Executive order on classification which are addressed in legislation introduced by Senator DURENBERGER and myself, problems created by the administration's policy which interprets the Privacy Act as a withholding statute for FOIA purposes, which are addressed by legislation introduced in the House by Congressmen ENGLISH and ERLENBORN, and finally, problems created by the Department of Justice's 1983 policy guidelines on fees and fee waivers.

While the Judiciary Committee report on S. 774 repudiates the Justice Department's interpretation of the current and proposed fee waiver language, I think it would have been appropriate to go further and provide for greater judicial scrutiny of individual fee waiver decisions.

Because I think we have come so far in hammering out a compromise on this legislation, I am content to leave these issues to consideration by the Senate in the future. I am also confident that Congressman ENGLISH in the House Government Operations Committee will pay particular attention to these matters when they begin hearings on this legislation.

In that regard, I know that the House will examine all of the work we have done in developing S. 774, but I hope it pays particular attention to one area where an agreement has recently been struck, but where the Senate has not had the benefit of full hearings. The amendment we offer today deletes the word royalties from the provision which permits the Government to charge fair value fees for certain kinds of technical data. After the hearing process on S. 774 was completed, it came to the committee's attention that the original formulation of this provision might be at odds with the longstanding provision in the law which prohibits the U.S. Government from holding copyrights in most circumstances. Our amendment attempts to eliminate this conflict, but I think the issue deserves further hearing in the House.

But this one reservation should not obscure a large list of the bill's accomplishments. S. 774, building on nearly two decades of experience with the act, updates and tightens it, and yet maintains all of its essential features.

A great deal of the credit for reaching this sound compromise goes to Senator HATCH, chairman of the Constitution Subcommittee. The Senate is in his debt for his diligence in pursuing this goal and for his hard work and patience in talking through substantial differences between proponents and critics of current law.

Senator HATCH's dedication to the process of refining this important legislation is again demonstrated in the amendment he and I are offering today. This amendment drops the proposed new exemption for technical data. The original formulation of this exemption was quite broad and applied governmentwide. At the time the Judiciary Committee considered S. 774, I stated that while I thought the exemption was aimed at a real problem, especially in the defense area, I thought the language of the amendment was overly broad. The bulk of the problem presented to the committee was addressed by an amendment offered to the Department of Defense authorization bill by Senators THURMOND and JACKSON last August. It now appears that the unrestricted release of Government-generated technical data poses a problem for both the Government and American industry and only one other agency, NASA. I am pleased that Senator HATCH joins me in the view that this problem is best addressed by the NASA authorizing committees. We will both urge the Senate Subcommittee on Science, Technology and Space to closely examine this problem with an eye toward a narrow solution such as that incorporated into the Defense Department authorization.

If recent history provides any guidance, I am sure that the administration will view Senate passage of S. 774 as a vindication of its restrictive information policies and its call to radically alter the Freedom of Information Act. But if the President is suggesting that past disclosures under FOIA would have been sharply narrowed if S. 774 had been the law, he is in clear disagreement with the testimony of his own Justice Department.

In his testimony before the Judiciary Committee, former Assistant Attorney General Jonathan Rose discussed a book entitled "Former Secrets," which cites over 500 significant examples of information released through FOIA. In Rose's opinion, only four may have been affected by S. 774, and in two of those cases, release might have been delayed, but not prevented.

The President's agenda on a broad spectrum of issues is the narrowing of access to Government information. The agenda of this body in S. 774 is to make the Freedom of Information Act fairer and more workable. The bill before us is evidence that Congress can successfully deal with the issue of the public and Government information—an issue on which there is a wide philosophical divergence—and still come up with a result that preserves the presumption of openness.

We have answered the legitimate complaints of Government about the mechanics of the FOIA process. We must continue, through legislation and oversight, to fight to open the doors of Government and stand up for the people's right to know.

It is worth remembering the most often-sighted expression in the legislative history of the FOIA, which is an excerpt from a letter by James Madison to W. T. Berry, dated August 4, 1922. Madison reminds us that—

> A popular Government without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern ignorance; And the people who mean to be their own Governors, must arm themselves with the power, which knowledge gives.

In closing, and at the risk of leaving someone off the list, I would like to give special thanks to a number of organizations which have provided me enormous help during our consideration of the Freedom of Information Reform Act. These include the Society of Professional Journalists, Sigma Delta Chi, the American Newspaper Publishers Association, the National Newspaper Publishers Association, the Radio and Television News Directors Association, the Newspaper Guild, the Public Citizen Litigation Group, Common Cause, the American Civil Liberties Union, the Reporters Committee for the Freedom of the Press, the American Society of Newspaper Editors, the National Association of Broadcasters, and the National Coordinating Committee for the Promotion of History. The American public owes these groups and many others a great debt of gratitude for their interest in preserving the mechanics which make the first amendment a reality.

I also want to thank my Judiciary Committee staff, John Podesta, Ben Scotch, and Joyce Saadi for the literally thousands of hours of fine work which they have put in this effort. This is one piece of legislation where it is an understatement to say their professionalism and dedication was essential. Without them we would not be passing it today.

Mr. BINGAMAN. Mr. President, I am aware and appreciative of the great quantity of thoughtful work accomplished by my distinguished colleagues from Utah and Vermont, and others, on this bill; I am sure we are all grateful for their efforts. I do have one concern, however, which I would commend to the attention of my colleagues. This is in reference to section (4)(A)(i)(c) which deals with imposing fair value fees or royalties on information considered "commercially available technological information." These fees would be in addition to those imposed for normal search and duplication expenses.

It is clear that, if the Government imposes such fees on requestors of information under the Freedom of Information Act, the result could well be, in practice, to reduce the flow of information which the act is designed and intended to facilitate.

Government agencies would be required to determine the value of the information in question and will then be in the position of negotiating or assigning fees and royalties. This would undoubtedly create a new complex and cumbersome bureaucracy. Indeed, while large publishing concerns would be able to pay such fees, small publisher would be hindered by high fees and lengthy negotiations.

Although the Government is permitted by law and encouraged by the President to own patents, U.S. copyright law holds that "copyright protection * * * is not available for any work of the United States Government. * * *" While not directly contradicting this restriction, my feeling is that this provision would come close to circumventing the principle that work generated by Government efforts should be available for use by the public without limitations such as economic restrictions.

It is true that on at least one occasion, Government-funded work was made available to a friendly, foreign country, which may have had military as well as commercial significance. However, current rules and proposed rules on the restriction on the transmission of technical data, if properly applied, would be capable of preventing such incidents. It is preferable to leave FOIA clear of such restrictions, in my opinion.

Mr. President, in such matters as this, there is always a conflict between the security and economic well-being of the Nation, and the right of the American people to information which is produced by their own tax moneys. Here, my feeling is that ample legal restrictions already exist to protect our national interests and, therefore, the FOIA should not be burdened by an unnecessary limitation which may violate the intent of copyright law. Such an unnecessary restriction would also add an incentive for Government officials to become recalcitrant in responding to public requests for information, and would be virtually impossible to enforce and implement in an equitable way. I would encourage my colleagues to join me in opposing this provision of S. 774, which deserves further review and perfection before it becomes law.

Thank you, Mr. President.

The PRESIDING OFFICER. Are there further amendments? If there be no further amendments, the bill is ordered to be engrossed for a third reading.

The bill (S. 774) was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BAKER. I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, may I say to the minority leader that on this side, I have cleared for action by unanimous consent certain nominations on the Executive Calendar. I refer specifically to Calendar Nos. 463, 464, 465, 466, and 467, and ask if the minority leader is prepared to consider all of or part of those nominations.

Mr. BYRD. Mr. President, the minority is prepared to proceed to any or all nominations on the Executive Calendar.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering nominations on the Executive Calendar numbered 463 through 467.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

THE JUDICIARY

The assistant legislative clerk read the nomination of Pauline Newman, of Pennsylvania, to be U.S. District Judge for the Federal Circuit.

The PRESIDING OFFICER. The nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nominations of Robert C. Bonner, of California to be U.S. Attorney for the central district of California and of Errol Lee Wood, of North Dakota, to be U.S. Marshal for the district of North Dakota.

The PRESIDING OFFICER. The nominations are considered and confirmed.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of Robert F. Kane, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

The PRESIDING OFFICER. The nomination is considered and confirmed.

U.S. INFORMATION AGENCY

The assistant legislative clerk read the nomination of Woodward Kingman, of California, to be an Associate Director of the U.S. Information Agency.

The PRESIDING OFFICER. The nomination is considered and confirmed.

Mr. BAKER. I move to reconsider the vote by which the nominations were considered and confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL 11 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, three Senators be recognized on special orders not to exceed 15 minutes as follows in this order: Senator SYMMS, Senator DOMENICI, and Senator PROXMIRE.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TIME FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. I ask unanimous consent, Mr. President, that after the discussion of special orders, any time remaining be devoted to transaction of routine morning business in which Senators may speak for not more than 2 minutes each, to extend not past the hour of 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS BETWEEN 12 NOON AND 2 P.M.

Mr. BAKER. Mr. President, tomorrow is Tuesday, when usually, both parties have caucuses requiring the attendance of Members. It has become customary for the last few months to recess the Senate during that period. I ask unanimous consent that on tomorrow, the Senate stand in recess between the hours of 12 noon and 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 979

Mr. BAKER. Mr. President, at 2 p.m. tomorrow, the Senate will resume the unfinished business, which is S. 979, the Export Administration bill. May I say that because of an expiring deadline tonight at midnight on the credit card bills, tomorrow, the leadership on this side may ask the Senate to turn temporarily to the consideration of two items dealing with credit cards. That will be Calendar Nos. 675 and 676. I shall confer with the minority leader on that point before the convening of the Senate tomorrow, if possible, and have a further announcement to make. It is my understanding that both the distinguished chairman (Mr. GARN) of the committee which has jurisdiction in these matters, and the ranking member (Mr. PROXMIRE) have indicated they wish to proceed in this manner. Before I ask for an order for that, I shall consult with the principals and more particularly with the minority leader.

Senators should be on notice of the possibility that the Senate will take up both the substantive bill, as I understand it, dealing with credit card transactions and an extension, which are embodied in Calendars Nos. 675 and 676.

PROGRAM

Mr. BAKER. Mr. President, on tomorrow, the Senate will convene at 11 a.m. After the recognition of the two leaders under the standing order, three Senators will be recognized on special orders of not to exceed 15 minutes each, at the conclusion of which there will be a period for the transaction of routine morning business not past 12 noon in which Senators may speak for not more than 2 minutes each.

The Senate will stand in recess from 12 noon until 2 p.m. At 2 p.m., the Senate will resume consideration of the unfinished business, which is S. 979, the Export Administration Act.

Sometime during the day tomorrow, the leadership may ask the Senate to turn temporarily to the consideration of two bills dealing with credit card transactions, to wit: Calendar Order Nos. 675 and 676. A further announcement in that regard should be anticipated at the opening of the Senate tomorrow.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. BYRD. What can the majority leader say with respect to any rollcall votes tomorrow, if he is in a position to do that? If the majority leader will allow me, what does he expect to follow S. 979, the Export Administration Act?

Mr. BAKER. Mr. President, I thank the minority leader. I do anticipate votes tomorrow. There were no votes today. However, it was a good and productive day, I believe. There are Senators, however, who wish to offer their amendments tomorrow, and there will be rollcall votes. I know of at least two, perhaps three, that may occur during the day tomorrow.

In addition, Mr. President, we might have a vote or votes on either of two credit card bills. So tomorrow could be a reasonably busy day from the rollcall standpoint.

May I say, since the minority leader has kindly asked, and volunteer that if it is necessary to go a little past 6 o'clock tomorrow in order to accomplish what we have set out, I hope Senators will be willing to do that. I do not expect it to be a late evening, but the leadership on this side would like to see the Senate finish the Export Administration Act and the two credit card bills.

After that, Mr. President, I anticipate the Senate will be asked to turn to perhaps the reciprocity bill, perhaps the FTC authorization bill and, if there is some time left this week, consideration of a school prayer amendment. But if I were guessing right now, I would guess that the school prayer matter may be the first of the week rather than the end of this week.

That is the agenda as I see it at this time, Mr. President.

Mr. BYRD. Mr. President, I thank the majority leader.

Mr. BAKER. I thank the minority leader.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, if the minority leader is ready to go out, I am. I see no other Senator seeking recognition. I move, in accordance with the order previously entered, that the Senate now stand in recess until 11 a.m. tomorrow.

The motion was agreed to, and at 5:03 p.m., the Senate recessed until 11 a.m. tomorrow.

NOMINATIONS

Executive nominations received by the Senate February 27, 1984:

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provision of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. James H. Merryman (age 54), 432-44-0293, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Louis C. Wagner, Jr., 490-44-9852, U.S. Army.

IN THE MARINE CORPS

The following-named brigadier general of the Marine Corps Reserve for promotion to the permanent grade of major general, pursuant to title 10, U.S. Code, sections 5902 and 5912:

Ronald K. Nelson

The following-named colonel of the marine Corps Reserve for promotion to the permanent grade of brigadier general, pursuant to title 10, U.S. Code, Sections 5902 and 5912:

Jerome G. Cooper

CONFIRMATIONS

Executive nominations confirmed by the Senate February 27, 1984:

DEPARTMENT OF STATE

Robert F. Kane, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

U.S. INFORMATION AGENCY

Woodward Kingman, of California, to be an Associate Director of the U.S. Information Agency.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Pauline Newman, of Pennsylvania, to be U.S. circuit judge for the Federal Circuit.

DEPARTMENT OF JUSTICE

Robert C. Bonner, of California, to be U.S. attorney for the central district of California for the term of 4 years.

Errol Lee Wood, of North Dakota, to be U.S. Marshal for the district of North Dakota for a term of 4 years.

EXTENSIONS OF REMARKS

CONVENTION II 1984 FINDINGS

HON. PETE WILSON

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Monday, February 27, 1984

● Mr. WILSON. Mr. President, every year since 1976, an exciting youth program has assembled in the Halls of Congress to propose and deliberate upon possible amendments to the Constitution. Convention II annually issues a call for high school students from throughout the country to come to their Nation's Capitol and try to build upon that basic ordering documents the Founders wrought.

From February 8 to 11, 1984, some 125 young Americans from 16 States and the District of Columbia held the ninth annual session of Convention II. These delegates proposed more than 100 amendments to the Constitution. The five committees examined these proposed solutions to significant challenges confronting the country and reported 23 resolutions to the convention as a whole. Of these, 12 were considered in plenary meetings. Convention II defeated all amendments proposed this year. This deliberation included robust exchanges of ideas on many important topics. As a member of the Convention II Founders Committee, I have the honor of transmitting to the Senate the findings of the ninth annual session of Convention II, and include their report in the RECORD.

Mr. President, I invite my colleagues to join me in commending the delegates to Convention II for their clear demonstration of responsible citizenship. I also salute the leaders of Convention II, all of whom serve as volunteers, for providing this valuable service to the youth of America: Patricia Taylor, District of Columbia, director of operations; Robert Taub, New York, administrator; Jon Enriquez, New Jersey, convention secretary; Michael J. McGee, North Carolina, committee coordinator; Edmund Unneland, New York, parliamentarian; Stephen L. Gibson, Oregon, sergeant at arms; D. Nathan Sheets, Arizona, resources coordinator; Roseann Kitson, New York, clerk; Katherine A. Kyle, New York, clerk; Emily Beth Strauss, New York, clerk; Ellen Wasilewski, Pennsylvania, clerk; and Michelle Denise White, New Mexico, clerk. Support for these youth came from Boris Feinman, New York, founder of Convention II; W. Robert Higgins, Maryland, president of Southeastern University, institutional host for Convention II, Inc.; and Mervin K. Strickler, Jr., Maryland, president of Convention II, Inc. My appreciation goes also to the Speaker and Members of the House of Representatives who allow the delegates to convene on the floor of the House. Finally, I salute Tim Leighton of my staff, who was the first president of Convention II and served in that capacity for almost 6 years and continues today to counsel the program leadership.

The report follows:

FINDINGS OF THE NINTH ANNUAL SESSION OF CONVENTION II

CR 104: Relative to the abolition of the exclusionary rule. Defeated 70-46.

CR 162: Relative to the abolition of the death penalty. Defeated 50-46.

CR 545: Relative to limiting defense spending. Defeated 41-66.

CR 282: Relative to Presidential pardons and reprieves. Defeated 24-70.

CR 493: Relative to the impeachment of the President and Vice-President. Defeated 20-86.

CR 400: Relative to election procedures and length of service for members of Congress. Defeated 38-61.

CR 534: Relative to nuclear weapons. Defeated 15-77.

CR 252: Relative to permitting naturalized citizens to be President. Defeated 44-42.

CR 173: Relative to instituting voluntary school prayer. Defeated 47-60.

CR 200: Relative to the direct election of the President and Vice-President. Defeated 65-37.

CR 561: Relative to compulsory service. Defeated 30-73.

CR 110: Relative to the right of citizens to abortion. Defeated 49-50.

The Rules of Convention II require concurrence of two-thirds of those voting and present for passage. The failure of the Ninth Annual Session to adopt any of the proposed Amendments is perhaps testimony to the strength and durability of the document framed in 1787. Perhaps it reflects a national sense of satisfaction with the Constitution and a lack of a desire to change. Or perhaps the Delegates merely did not build adequate coalitions for passage of any Resolution.

The Official Journal of the Ninth Annual Session of Convention II will soon be available. For a copy of the Journal, and for further information on Convention II, please call or write:

Convention II, P.O. Box 44086, Washington, D.C. 20026, (202) 544-1789.

Respectfully submitted,

JON ENRIQUEZ,
Convention Secretary.●

DON'T TAKE FREEDOM FOR GRANTED

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. WINN. Mr. Speaker, on February 13, I was privileged to join my fellow Overland Park, Kans., Rotarians, at their weekly luncheon. Although I was not the speaker of the day, the program chairman did invite me to sit at the head table with the main speaker, Dr. Alexander Susan of the Midwest Research Institute in Kansas City, Mo.

Dr. Susan was born in Romania from where he defected to the United States in 1968. He received a master's degree in chemical engineering from the Polytechnic Institute of Bucharest, Romania, and Ph.D. degree from the University of Moscow, U.S.S.R. Before coming to Kansas City in 1977, he taught at the University of Illinois in Champaign-Urbana between 1968 and 1972 and worked for Mallinckrodt Nuclear in St. Louis, Mo. 1971-72, and New England Nuclear in Boston, Mass., 1972-77. He currently is associated with the Midwest Research Institute as a senior radiochemist and is the author of numerous scientific publications.

I took the liberty of asking Dr. Susan if I could put his remarks in the CONGRESSIONAL RECORD for as a naturalized citizen of the United States he believes it is his duty to this country to share some of his political views and personal experiences from behind the Iron Curtain for the sake of the preservation of our most important heritage—freedom. He has given me permission to share his views through this publication.

GEORGE ORWELL WAS RIGHT: DON'T TAKE FREEDOM FOR GRANTED

(By Dr. Alexander Susan)

Thank you for inviting me here today to give this talk about freedom. I am a naturalized citizen of this country and I believe that it is my duty to this country to share these thoughts with as many people as I can.

Let me first start with a political joke from behind the Iron Curtain. Over there, all eastern bloc countries are prefixed as "Free," i.e., Free Hungary, Free Poland, etc., in order to stress (wrongly) that they were liberated by the Soviet Union. So, a Soviet citizen, by name Ivan, takes a trip abroad. Several days later, a postcard arrives from him saying—"Greetings from Free Romania—signed: Ivan." Some days later, another card arrives saying—"Greet-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ings from Free Hungary—signed: Ivan." Finally after a few weeks, a third card arrives with—"Greetings from Austria—signed: Free Ivan!"

Well, I came to this country in the late sixties from my native Easter European country and eventually became a naturalized American citizen by choice. My choice was inspired by the Declaration of Independence ". . . all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. . ."

When I was born, my native country was ruled by a parliamentary monarchy. Then, as a result of the Second World War, it was occupied by Soviet troops who installed a communist government.

Losing a monarchy was no loss to the people, as far as I am concerned, but a communist government and a communist republic were installed and all freedom was taken away from them. The economy was nationalized, all weapons were taken away from the military as well as the civilians, the freedom of the press suppressed, the right to elect taken away. Other forms of human activities such as the Arts became a tool of the official propaganda rather than the expression of individual ideas and beliefs. Religious activities were seriously curtailed and officially discouraged and all basic human rights very seriously hindered. Finally, all contact with the Western culture and society were (in the '50s) completely curtailed and more or less restored from the mid 1960's on.

In 1950, as a teenager, in my own pursuit of happiness and search for knowledge and truth, I was caught in a raid by the communist police while watching a movie about Woodrow Wilson at a Library of the U.S. Embassy. After being taken "downtown" with 20 to 30 other people, we were told that, if caught again in such a, quote "decadent place" we would not go home for a while! . . . "Decadent" to them meant a place where people could get the truth!

Well, that's when I decided that this communist country was not the place I would like to be for the rest of my life. The lack of freedom and other basic human rights pushed me away. At the same time I was attracted to this country by its Constitution and I set my goal to become a citizen of the United States as soon as possible.

It took me 18 years to carefully build my own Mayflower. During these 18 years, I had the opportunity to spend 3 years in the USSR, where I went to get my doctorate degree. I met there a lot of very nice and loving people and only a few, "real Soviets" who were advocating the policy of their Government. One should make a distinction between Soviets and people in the Soviet Union as between Nazis and Germans. People are people everywhere in the world—unfortunately so many of them are not free like us.

There is no legal way to emigrate from a communist country for someone born and raised there. Defection is the only way, and this has been achieved by thousands of people in thousands of different ingenious and desperate ways.

In my case, I managed to slowly build confidence by traveling outside the country to Eastern and Western Europe and coming back while leaving my wife and child as undeclared hostages. Next, I took my wife with me, and we came back again to our son who had stayed with the grandparents. Finally, when I was given permission to go for one year to an American University. I took the biggest gamble of my life so far—I asked for permission for my wife and son to be allowed to accompany me. While waiting for this approval (or possibly the cancellation of this trip), I had to put my mother through upsetting moments by having to tell her that I would come back. I had to do this for the authorities who were watching me closely in the final moments before granting us the passport, and who might have exploited the fact that my mother being gullible could have confided into somebody who then would have given me away.

During the last days I spent there, my father never asked me anything about my plans. Over there you are afraid of eavesdropping, "bugs" in the wall, "big brother watching over you," but there is always a reason behind any paranoia. He knew me better and didn't ask questions I couldn't answer. However, at the airport, at the final hugging and kissing goodbye, the last words he whispered in my ears were—"Bye son, hope never to see you again!" He couldn't wish me any better but what a price we were both paying for the freedom for me and my wife and son! He passed away two years later and indeed I never saw him again.

This was the price that I paid for my own freedom. Some of you have paid an even higher price by defending this country or by losing loved ones in wars.

So, the first part of my message to you today is: "let's not take freedom for granted!"

I fully agree with President Reagan who said in a speech last December that "the price for losing our freedom would be so much higher than the price we pay to keep it."

You will find that most East European defectors or emigrants have an obsession with freedom. There are thousands of people like me who tell everybody when they come into the free world, "Don't take your freedom for granted and don't trust the Soviets." Sometimes hearing this again and again from people like me must be almost boring, but there is a reason behind it!

Most Americans, being raised in a free and God-loving society are naive when it comes to understanding the Soviets. It is hard for you to realize that 67 years ago (the Russian revolution of 1917), Lenin pronounced a sentence of death to freedom in the entire world. There are people who still ask me, "It can't be that bad over there!" or "Is it really so?" or "we do the same things as they do!", etc., etc.

Recently, the International Relations Council, hosted in this town a talk given by a former U.S. career diplomat. I couldn't believe that after having served at diplomatic posts in the Soviet Union and other countries of the Eastern Bloc, the speaker would make statements such as "there is an incorrect notion of the Soviet Union that life there is too grim and that people there are on the verge of revolution," or to say that he interviewed 50 Soviet citizens during his trip and that all of them expressed strong anti-President Reagan sentiments. If somebody had stopped me on the street in my native country I would have had to say the same thing, i.e., to answer only with the official government policy line or else to be arrested shortly after by plainclothes police who are tailing every western visitor over there. Well, with all due respect, this approach shows a lot of dangerous naiveté which is hardly excusable for a U.S. career diplomat.

Fortunately, there are also people who see the truth easier. A few weeks ago this club hosted a very well-informed speaker, *Dr. Robert Bathurst*, who stressed that: (1) the Soviets are—conspiratorial, secretive and deceptive, and (2) that the biggest mistake is to think that the Soviets react and think the same way we do.

Well, to my knowledge, there couldn't be better statements than these. Allow me to try to explain why is it so; the answer lies in the dogmatic philosophy from which the Soviets operate religiously in a conspiratorial, secretive and deceptive fashion.

How was the soviet communist dogma born and what is its essence?

First came Karl Marx, who postulated in his work "Das Kapital" that the solution to the conflict between labor (proletarians) and owners (capitalists) in sharing the profit would be by creating a communist society where ownership and profits would be commonly shared.

Next came Friedrich Engels who, in the "Communist Manifesto", called for a world revolution to achieve this goal. He made Marx's utopian economic doctrine into a utopian militant ideology but gave Lenin, an evil genius, the ideological tools to start conquering the world in the name of unifying the labor movements worldwide. Following Lenin came Stalin, and all of the succeeding politburos who by using this ideology expanded the Soviet occupied territories beyond the most ambitious dreams of the Russian czars toward world domination.

According to the official dogma of Lenin and his followers, the Soviet Union has an international duty to support any revolutionary movements in the world in the name of liberating the working class worldwide.

In reality, the Kremlin plays an international chess game by capitalizing upon economic, political, religious or racial conflicts in the world and using economical, political or military aid to take over the freedom in the world. Just listen to this quote from the Marxist dogma—"Capitalize upon the conflicts for the benefits of the Communist movement. If there are no conflicts to capitalize upon—create them!"

Now you know who might be behind so many extremists worldwide and why peace cannot be reached so many times in conflicts in which one half of a nation fights the other half in endless East-West or North-South confrontations!

So, what is the connection between communism and freedom? Why am I talking about communism on the subject of freedom? There is no connection, it is a contradiction.

Communism takes away all freedom, leads to nonproductive economies and fears truth the most.

Communism is the most degrading human activity and political system; it thrives upon people's fear of each other and it surrounds itself with secrecy and walls. Heat sensors around the Berlin wall trigger mines and kill those trying to escape to the free world. Their own body heat gives them away and kills them.

If people in communist countries are free, then why are the borders better guarded from within than from outside?

Let me take a quick glance at different aspects of the lack of freedom to communist countries:

Private Enterprise—It is nonexistent or limited to very small businesses in selected communist countries (such as Yugoslavia and Hungary for example). Otherwise everything is owned and mismanaged by incompetent and corrupt government bureaucracies. The main thrust of the economy in the Soviet Union goes toward the military buildup of the Soviet might. However, there is a huge underground economy—the black market. Ninety percent of the agricultural goods available on the market come from the little private land (10 percent overall) that people are allowed to own around their farmhouses.

Freedom to Vote—Communist countries are a one-party system--one choice. Sometimes they might go on being as "liberal" as offering a choice of two candidates—appointed anyway.

Freedom of Speech—Anything that is said contradicting or challenging the official party line and communist dogma is considered political agitation, conspiracy against the government or insanity. The secret police is very efficient and people are silenced in labor camps or insane asylums.

Freedom of Religion—Officially discouraged but allowed in instances to a certain extent, depending upon the compromises made by the religious establishment with the government and the nonpolitical or conciliatory attitude the given churches might be forced into.

Freedom of the Press—There is only one free press—the underground one. I read while in the USSR Dr. Zhivago chapter by chapter in a sloppy, typewritten manuscript put out by Samizdat. For that reason typewriters are registered like guns and their characters are fingerprinted. Wherever an illegal document is captured, it can be then traced to its author and especially to the typewriter which is destroyed immediately. Even to have a business card printed you must go through the red tape of the official censorship.

The official press is a propaganda tool for the government and its main role is to suppress the truth and to glorify the actions the government takes against their own people. The Soviet people didn't know for months that their own troops had invaded Czechoslovakia in 1968 or Afghanistan in 1980. They heard it first from the radio Free Europe or radio Liberty which are being broadcast in Russian from the free world.

Another function of the press is disinformation. When Yurii Andropov took office, he was depicted, I think on purpose, as a westernized Soviet leader who liked whiskey and smoked American cigarettes, implying this way that he might be more open for dialogue with us than others who liked vodka and the horrible Russian cigarettes "papirosy."

Needless to say that there is a process going on and on in the communist press and media, always pointing the finger towards the West as being the source of trouble in the world and emphasizing the need for the Soviet people to buckle-down in order "to help those poor people in the West to become free." It might be interesting for you to listen to radio Moscow broadcasts in English on your short wave radio sets.

Let me please share with you a personal experience I had last year when I went to listen here in town to a Soviet television newscaster who I think was also a guest of your club at that time.

In his short talk he stressed that the Soviet people are very much peace loving people and exagaerated that in World War II they have lost 5 million people versus only 250,000 lost by the United States. He went further in saying that we all have accumulated so many nuclear weapons that "we should now sit down and talk and disarm or face the dangers of total nuclear destruction." I guess he was implying that since the Soviets lost 20 times more people than us, they might be 20 times more peace loving than we are!

I got up and faced the man with several questions.

I asked him then—if people's lives are so important to his government then how about the over 40 million Russian people who died in labor camps and jails in order to keep those 11 or 12 politburo people from the Kremlin in power? His answer was quick but not believable—"Well, thank God, Stalin is not among us anymore!" . . . How about the current Gulags and psychiatric clinics where people who dare to argue with the current Soviet policy are still being silenced?

On his other point—"Let's sit down and talk and reduce nuclear weapons"—I told him that the United States had had for so many years full nuclear superiority but proved to the entire world and to the government of the Soviet Union that it would never use it for offensive purposes or military blackmail. Then why did the Soviet Union arm themselves to the teeth, by hiding behind "the detente" unless they intend to gain nuclear superiority and use it for military blackmail? He eluded the answer with a question.

Do you realize that if there were no more quote "people in the world to be liberated" then the soviet government would have a hard time to justify staying longer in power and running such an inefficient economy?

I personally believe that this is what they are after—world domination so there won't be anybody left to help their own people to become free again.

Solzhenitsyn said that—"the West has immensely strong allies of which it makes no use; the people of the Soviet Union and, indeed, of the other subject nations. It must stretch out its hands to those oppressed people."

What hope is there, then, for the West, for our freedom?

First, we must be firm with the Soviets in their attempt to take freedom away from more people. It is indeed a very risky situation of being constantly on the brink of a major confrontation—conventional or nuclear. However, "it's better to fight on your feet than on your knees" (Solzhenitsyn again). In this process we must be aware that the Soviet government does not contemplate the idea of disarming for even 1 minute. No one item of Soviet military equipment will ever be given up.

Next, we should aim at them the most feared weapon—spreading the truth about their own people and find the best ways to stretch out our hands to them. The Polish Solidarity is a miracle, but it is not strong enough to lead to major changes. Think of any way that the truth about the free western society could be spread among those oppressed and you will be doing something that is of a major value for the future of humanity. Let's put up satellites beaming at all Russia TV sets programs about us, our freedom as well as our faults in plain truth! Let's find more ways to counteract their propaganda of disinformation and to get the truth to their people by sending more American scientists, teachers, artists, businessmen and sportsmen over there. The Soviet or Eastern Bloc people love to mingle with Americans when big brother KGB can't watch. I had the feeling that they were happy to touch a free human being, maybe some would rub off! . . .

Finally, we need to do more soul searching and to change our ways of thinking to fit the realities of the 20th century in the nuclear age.

Let me close with another series of quotes from Solzhenitsyn: "If I were called upon to identify the principal trait of the entire 20th Century, here too I would be unable to find anything more precise and pithy than to repeat once again: Men have forgotten God."

and

"We hear a constant clamor for rights, rights, always rights, but so very little about responsibility. The need now is for selflessness, for a spirit of sacrifice, for a willingness to put aside personal gains for the salvation of the whole Western world."

To conclude on a happier tone, allow me to tell you a political joke I heard while in Russia: "Did you know that Adam and Eve were Soviets, living under communism? Well, they had no roof above their head, they wore no clothes, all they had to eat between the two of them was an apple . . . and called it Paradise!" Thank you.●

FUTURES MARKET IN CHICAGO'S BUSINESS COMMUNITY

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. **ROSTENKOWSKI**. Mr. Speaker, my good friend Tom Donovan, president of the Chicago Board of Trade has written an informative article that appeared in the Chicago Sun Times on February 15, 1984.

Tom accurately explains the role of futures market in Chicago's business community and I commend it to the readers of this RECORD.

The article follows:

FUTURES TRADE HERE HAS WORLDLY IMPACT

(By Thomas Donovan)

With the City of Chicago striving to expand its international position in commerce, business and tourism, the futures industry has emerged dynamically over the last four years as one of the single largest contributors to the city's status as a global financial center.

Chicago is the capital of futures markets, much as New York City is the major center for securities trading. On a typical day at the Chicago Board of Trade, for example more than a quarter million contracts, representing more than $12 billion worth of commodities, are traded. By way of comparison, an average day at the New York Stock Exchange involves the trade of $3 billion to $4 billion worth of securities. Clearly, the impact of futures trading radiates from La Salle Street to every corner of the globe.

Even as some economists predict slower growth for Chicago's economic base, the city's futures markets are booming, with annual trading volume growth rates averaging 20 percent in the last decade. To provide a perspective, consider that of the record 140 million futures contracts traded in the United States in 1983, more than 75 percent took place on Chicago's three commodity futures exchanges: The Chicago Board of Trade, the Chicago Mercantile Exchange and the Mid-America Commodity Exchange. The Chicago Board of Trade alone accounted for 46 percent of the U.S. total.

In 1983, the three Chicago futures exchanges set record trading volume, with the Board of Trade volume establishing an industry record of more than 64.5 million contracts traded.

The rapid growth of the futures markets is directly traceable to the ability of certain market users to offset the risk of price fluctuation by establishing a cost or price in increasingly uncertain world markets. Futures markets exist for these hedgers to help maintain orderly marketing procedures and price stability. Also, the diverse investment opportunities of the futures markets have further attracted speculator/investor participation, both domestic and foreign.

The Board of Trade and futures markets play a critically important role in the world's economic system. Trade in agricultural products by foreign governments and individual enterprises, for example, is based on CBOT futures prices. The CBOT's U.S. Treasury bond futures contract is used worldwide by institutional and other investors, as are agricultural futures, to establish prices or costs.

Over the last few years, foreign participation in the Board of Trade's markets began growing dramatically. For example, we estimate that one in seven outside orders for the futures market originates in Europe. Approximately 30 percent of these orders are filled at the Board of Trade in such areas as futures on soybeans, corn and U.S. Treasury bonds.

Very few industries exceed the significance of the futures industry in impact on the growth and development of the Chicago economy. The futures exchanges between 1980 and 1983 spent approximately $200 million for construction and $300 million for salaries and other operating expenses. In terms of employment, the futures industry in Chicago directly employs about 20,000 people and indirectly generates an additional 50,000 jobs.

Adding to its stature as the anchor of the La Salle Street financial district, the Board of Trade in 1982 completed a $111 million addition to its world-renowned landmark structure. This gave impetus to the now-blossoming South Loop development by others in the financial community, involving investment of additional tens of millions of dollars.

While Chicago futures exchanges report millions of dollars of assets in terms of facilities, on any evening financial institutions, primarily banks, have on deposit over $1.5 billion from the three Chicago futures exchanges and their clearing organizations located in Chicago, mainly funds deposited to ensure the financial integrity of futures contracts. This is an important asset to the banking industry and to the prosperity of the city.●

BETSY AND RAFER JOHNSON

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● **Mr. BERMAN.** Mr. Speaker, I rise today to honor two leaders in the fight for integration and equality. Betsy and Rafer Johnson will receive the board of directors' special award from the San Fernando Valley Fair Housing Council on March 3, 1984.

The Johnsons joined the council in 1973, they have been members of the board for 4 years. Betsy and Rafer were part of the team that organized the original Walk for Equality in October 1979. Rafer led that 6-mile march while Betsy coordinated the action as general chair for the walk. They continue to serve in those positions each year.

The Walk for Equality unites individuals, civic and political leaders, religious, ethnic, labor, and other organizations in mass demonstration of support for equality for all people in housing, jobs, and education. The Johnsons' dedication and effort led the way for unification in the San Fernando Valley.

Finally, the Johnsons have done the crucial and often unrewarded work of fundraising, cochairing sales, moving furniture and equipment, keeping books, and performing the other functions involved in such an endeavor. For their extraordinary devotion to the goals of the Fair Housing Council of the San Fernando Valley and to their community, I ask Members to join me in paying tribute to Betsy and Rafer Johnson.●

U.S. INVOLVEMENT IN CENTRAL AMERICA

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● **Mr. ALEXANDER.** Mr. Speaker, there has been substantial interest among the Members of this House in the GAO's efforts to obtain information about U.S. involvement in Central America. For that reason, I include the following documents in the RECORD: First, a letter dated November 14, 1983, from GAO to Secretary Weinberger; second, a letter dated November 28, 1983, from GAO to Mr. Weinberger; and third, a letter dated January 25, 1984, from me to GAO requesting a legal opinion of the expenditure of funds by the administration for permanent military installations in Honduras. These are documents referred to in my remark of February 23 under special orders.

CONGRESS OF THE UNITED STATES,
November 14, 1983.

Mr. CHARLES BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. BOWSHER: As a member of the Committee on Appropriations of the U.S. House of Representatives and of the Leadership of the House, I am deeply concerned about the direct and indirect overt and covert involvement of the United States Government in the Central American region whether via U.S. or foreign government agencies or institutions, quasi-government agencies, institutions or organizations, nonprofit, non-government entities or individuals, or private sector for-profit-entities or individuals.

I recognize that U.S. involvement is ongoing and as a result final, definitive evaluations, assessments, reports, or estimates as to the total range of involvement will not be possible so long as the situation is dynamic. Nevertheless, I am hereby requesting the GAO to undertake, to the best of its ability, a thorough and comprehensive investigation of the U.S. involvement with Central American nations and, where appropriate, with peripheral nations when such involvement may have relevance to U.S. involvement in Central America.

In this connection, I am requesting that GAO be prepared to provide me with a detailed briefing on or before February 1, 1984. And, should GAO encounter problems or delays in obtaining the information required to comply with this request, I want to be informed immediately so that I may be in a position to take appropriate action in a timely fashion.

As a part of this study, matters to be examined should include, but not be limited to—

U.S. government rules, regulations, guidelines, and statutes, as well as bilateral and multilateral U.S. treaty obligations affecting, allowing, mandating, prohibiting, limiting or restricting U.S. involvement in this region and the manner in which these relate to U.S. involvement in this region;

The legal justifications, to include legal analyses, briefs, memoranda, opinions, discussion papers, reports, etc., used by the Executive Branch and its departments agencies and/or subunits, to permit, support, authorize, mandate, allow, limit, restrict, prohibit, etc., U.S. direct or indirect activities in this region as discussed in this letter and the attached sample questions;

U.S. military and foreign policy as it relates to activities in this region;

U.S. involvement in construction of military facilities or of civilian facilities with a potential for military use;

U.S. involvement in training foreign nationals in military or military-style strategy, tactics, techniques, practices, maneuvers, procedures, logistics, protocols, etc.;

U.S. involvement in supplying, equiping, or supporting foreign military and quasi-military units and individuals;

U.S. involvement in establishing radar and signals and intelligence (SIGINT) collection facilities in Central America and, in particular, on an island in the Bay of Fonseca, Honduras.

I would emphasize that the preceding paragraph is not intended to limit the GAO examination of the U.S. involvement in Central America, but is illustrative of the breadth of the study which I am requesting GAO to undertake. Further, attached is a list of sample questions which you should consider a illustrative of the type of detail I am requesting. I would emphasize that GAO should not consider this list to be the limit of the questions which it will examine in responding to my request for a study. But, GAO should include responses to them as a part of its study.

In working with the list of questions, it is expected that GAO will develop responses to them to the best of its ability. It is also expected that, where appropriate, GAO will alter the terms and/or parameters of the questions in order to achieve the best, most accurate and most representative response possible.

If you or your staff have questions concerning this request, or reports relating to it, please contact me.

With kindest regards, I am,

Sincerely,

BILL ALEXANDER,
Member of Congress.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., November 28, 1983.

Attention: DOD Office of the Inspector General, Deputy Assistant Inspector General for GAO Report Analysis.

Hon. CASPAR W. WEINBERGER,
The Secretary of Defense.

DEAR MR. SECRETARY: We are reviewing certain aspects of United States involvement in Central America pursuant to a request from Representative Alexander. As part of that review we are examining United States participation in the Ahuas Tara II joint combined military exercises in Honduras. In connection with our work, we would like to obtain answers to the questions listed below for each of the following Ahuas Tara II operations and activities:

1. Preparation of C-130 capable airfields (through new construction or expansion of existing facilities) at San Lorenzo, Puerto Castilla, and Camayagua or at any other location on Honduran territory.

2. Preparation and/or construction of Tiger Island radar facilities.

3. Construction, modification and/or expansion of port facilities at Puerto Castilla.

4. The construction, expansion and/or modification of any other facilities on Honduras in connection with, or as a result of, the Ahuas Tara II exercise, e.g., storage facilities for the pre-positioning of equipment and the construction of housing to be subsequently turned over to the Honduran armed forces.

5. Civilian humanitarian assistance programs, e.g., medical aid and well drilling.

6. United States military training of members of the Honduran armed forces and quasi-military forces (Contras).

7. Transportation services for the Honduran armed forces and quasi-military forces, e.g., through the use of helicopters and amphibious vehicles.

8. Any other program, project or activity that provides for, or involves the transfer or use of, Department of Defense (DOD) funds, equipment, materials or other resources with respect to any Honduran government program, project or activity or any program, project or activity in Honduras.

Please furnish answers to the following questions for each of the matters listed above:

With respect to the Ahuas Tara II combined joint military exercises—

1. Identify the specific funding source or sources for each aspect or element of a U.S. operation or activity, including the account and appropriation from which paid (or it will be paid) and an explanation why such funding is authorized for such operation or activity.

2. Does the construction, expansion or modification of any facility as a result of Ahuas Tara II, or any program, project or activity, constitute permanent improvement(s) to the military infrastructure of Honduras?

3. Describe and provide copies of any arrangements or agreements providing for the reimbursement of costs and expenses to DOD for activities during the Ahuas Tara II exercise. In particular, detail

a. any arrangement with the Honduran government for the reimbursement of transportation services or military training to members of the Honduran armed forces or quasi-military forces; and

b. any arrangement or agreement with the Agency for International Development (AID) to reimburse DOD for civilian humanitarian assistance. Please also specify what AID account(s) and appropriation(s) were or will be used for this purpose. Please also provide a copy of any DOD-AID arrangement or agreement.

With respect to the situation after completion of Ahuas Tara II—

1. For any facilities, buildings, equipment, materials, goods or articles of any kind constructed, furnished, installed, or owned by the United States that will be left behind on Honduran territory, and turned over to the Honduran government or another party—

a. Please explain the statutory authority for any such transfer, and

b. Will the United States be reimbursed by the Honduran government or any non-government party or parties for such items and if so, under what arrangement(s) or agreement(s)?

2. If any facilities, buildings, equipment, materials, goods or articles continue to be utilized (or be available for utilization), maintained or safeguarded by the United States, please identify the specific funding source or sources for these activities, including the account and appropriation from which it will be paid and an explanation why such funding would be authorized for such an activity.

Because of intense congressional interest in this matter, we request your response to these questions before December 23, 1983. If members of your staff would like to discuss this request, please contact Mr. Alan Bennett of my staff (695-1713) or Mr. Richard Kasdan (275-5881) or Mr. Paul Edmondson (275-5544) or our Office of General Counsel.

Sincerely,

HARRY R. FINLEY,
Associate Director.

CONGRESS OF THE UNITED STATES,
January 25, 1984.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. BOWSHER: By letter dated November 14, 1983, I requested that GAO undertake a comprehensive investigation of United States involvement in Central America. Details of United States activities in the region, as reported by both GAO and DOD, raise certain legal questions concerning the funding of these activities, particularly in connection with DOD's joint combined military exercises in Honduras. I understand, for example, that the U.S. Department of the Army's Office of the Judge Advocate General specifically warned that a number of proposed activities (later actually carried out) were of questionable legality if funded as planned with exercise operation and maintenance (O&M) funds.

In order to resolve these legal questions, I request that you provide me with a formal legal decision regarding the propriety of funding the following activities with O&M appropriations, as part of DOD's joint combined exercises in Honduras:

1. Expansion of C-130 capable airfields to A-37 length;

2. Construction of wooden lodgings for use by Honduran military personnel, either immediately or after temporary use by U.S. military personnel;

3. Use of U.S. exercise personnel to provide support (transportation, facilities construction, medical assistance) for non-exercise related projects (i.e. radar stations);

4. Medical training of Honduran personnel that resulted in cancellation of scheduled Security Assistance training in this field;

5. Artillery training of Honduran military personnel inconjunction with delivery of artillery under an FMS case;

6. Provision of civilian humanitarian assistance (i.e., medical aid, well digging) in the absence of a reimbursement agreement with the U.S. Agency for International Development or the Honduran government.

Where appropriate, please advise me of any violations of the Antideficiency Act, 31 U.S.C., Sec. 1341(a), or of the funding purposes retrictions of 31 U.S.C. Sec. 1301(a).

In addition, where GAO can identify activities for which O&M funds were improperly used, please state whether reimbursement to the applicable O&M account is required, and from what source payment should be made. Finally, where DOD has carried out activities as a part of the joint combined exercises but later determines that those activities should be carried out under security assistance agreements, would the subsequent creation of such agreements "cure" any Antideficiency Act violations that may have occured at the time the assistance was provided?

I would appreciate a response as soon as possible.

With kindest regards, I am

Sincerely,

BILL ALEXANDER,
Member of Congress.●

STOPPING AN UNHEALTHY PASTIME

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. WYDEN. Mr. Speaker, last summer, with just a few taps of a computer keyboard, a group of adolescents placed in jeopardy the health of thousands of cancer patients at Memorial Sloane Kettering Cancer Center in New York.

These youngsters achieved this dubious goal by breaking into the radiation treatment computer at the center. In so doing, they gained access to the radiation treatment records for 6,000 past and present patients, and had at their fingertips the ability to control the radiation levels of every patient received.

Fortunately, this story has a happy ending. No patient suffered actual injury as a result of the break-in.

The next time, we may not be so lucky. And there almost certainly will be a next time—at some hospital or medical facility somewhere in this country—unless we take some action to insure that there is not.

What is astonishing is that some of our brightest young people, who would never think of knocking an elderly lady down on the street and stealing the money in her pocketbook, seem to think that there is nothing fundamentally wrong about playing with a few keys on a computer terminal, altering a hospital patient's medical file, and possibly causing irreparable physical harm.

What is equally astonishing is that, at present, there are no Federal laws designed to penalize such activity.

This dangerous gap in our laws must be closed. That is why today, Mr. WAXMAN is joining me in introducing a bill that will make this irresponsible pastime—unauthorized computer access to patients' medical records—a Federal crime. This bill will forcefully tell hackers who sit at their home computers and break into hospital computers that it is no game to jeopardize the health of vulnerable hospital patients; it is a crime.

The need for greater protection of hospital records is clear. With each passing year, more and more medical records are being computerized. At the same time, more and more American homes are becoming equipped with their own computers, and there isn't any doubt that hospital records can be accessed through home computers.

Responsibility for protecting these records falls first to the medical community, a fact which it acknowledges and which it is actively addressing. Hospital employees are being educated on how to spot and deter computer crime. More sophisticated security systems are being developed to keep computer whizzes from breaking in. And medical personnel recognize they must do even more to learn how to outsmart the hackers and better protect their files.

But the fact remains: No system, no matter how sophisticated, is tamperproof.

That is why the Federal Government needs to create a deterrent. And that is where our bill, the Medical Computer Crimes Act of 1984, comes in. This bill gives us the legal tools we need to check unauthorized computer access to medical files. It does so in a way that recognizes that while we need to make our laws consistent with the level of technology, we should do so by addressing specific problems, not by adopting a broad brush approach. It also does so without costing hospitals, taxpayers, or the Federal Government a single penny.

Here's how our bill works. It establishes a three-tier penalty system for persons who have absolutely no authority under any circumstances to make direct access to computerized patient files: one set of penalties for unauthorized access with no tampering, one set for unauthorized access with tampering and no injury, and one set for unauthorized access with tampering and injury.

The lesser crime can bring a maximum penalty of 6 months in jail or a fine of $1,000. For the second tier of access with tampering and no injury, a maximum penalty of 1 year in jail or $5,000 can be imposed. The most serious crime, tampering with injury, can bring a maximum penalty of 5 years in jail, or $25,000.

The Medical Computer Crimes Act of 1984 certainly is not the complete answer to stopping unauthorized access to medical records. A great deal of the work to stop these violations must be handled by the medical community itself, which its members recognize. There is also a need for our educational institutions to begin teaching computer ethics along with computer competency, so that youngsters who sit down at a computer keyboard will understand the difference between a game and a crime.

Nevertheless, I believe our bill is an important step in the right direction, and one which the Federal Government owes it to the millions of Americans who seek medical care each year to take.

In developing this legislation, my staff and I consulted with representatives of the medical community, including members of the American Hospital Association, the American Medical Records Association, the Oregon Hospital Association, and the American College of Hospital Administrators. These groups all expressed a need for this type of legislation and an interest in working with us to solve this problem.

In conclusion, Mr. Speaker, the problem of unauthorized access to medical records beckons for a solution before it becomes a crisis. This simple bill is that solution. I hope my colleagues will lend it their support.

H.R. 4954

A bill to penalize unauthorized direct access to individual medical records through a telecommunications device

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whoever knowingly uses a telecommunications device to obtain unauthorized direct access to a medical record shall—

(1) if no information in the record is altered, be fined not more than $1,000, or imprisoned not more than six months, or both,

(2) if information in the record is altered but no injury to any individual results from such alteration, be fined not more than $5,000, or imprisoned not more than one year, or both, or

(3) if information in the record is altered and injury to any individual results from such alteration, be fined not more than $25,000, or imprisoned not more than five years, or both.

Sec. 2. As used in this Act:

(1) The term "medical record" means recorded information that—

(A) is maintained by, or for the benefit of, any provider of health care services,

(B) relates to the health, examination, care, or treatment of an individual, and

(C)(i) contains the individual's name, or an identifying number, symbol, or other identifying particular assigned to the individual, or (ii) is in a form enabling the individual to be identified.

(2) The term "telecommunications device" includes any device that can be used to affect communications by wire or by radio.

(3) The term "direct access" means access directly to the information recorded in a medical record and does not include access obtained as a result of intervention of another person.●

WEST SIDE VA MARKING ITS 30TH YEAR

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. ROSTENKOWSKI. Mr. Speaker, I am enclosing a copy of an article that describes the achievements of the Veterans' Administration West Side Medical Center.

This article appeared in the At Chicago, a newspaper which is published by the University of Illinois at Chicago, marking the 30th anniversary of the center. I know that readers of the Record will find it informative.

Training 800 UIC Students This Year—West Side VA Marking Its 30th Year

The Veterans Administration West Side Medical Center, at 820 South Damen Avenue, is celebrating its 30th anniversary and its three-year full accreditation from the Joint Commission on Accreditation of Hospitals.

The VA West Side Medical Center, an affiliate of the University of Illinois College of Medicine at Chicago, has provided training for approximately 800 students from UIC this year, including 382 medical residents, 187 medical students and 215 allied health students.

The celebration was highlighted by an employee reception held Sept. 26. During the reception shared a newspaper article discussing the opening of the hospital, which appeared in the Sept. 1, 1953 issue of the *Chicago Tribune*. The article announced the dedication of the new $7 million facility on Sept. 27, 1953 and indicated that the first patient admitted to the hospital was a 70-year-old veteran of the Spanish-American War.

Carr noted that the VA West Side Medical Center has undergone many changes since its opening 30 years ago. The patient workload has grown to include more than 9,000 inpatients treated each year and more than 200,000 outpatient visits. Sophisticated programs such as cardiac catheterization, open heart surgery and hemodialysis are now available for the veteran population and enable the medical center to more effectively meet the health care needs of its patients.

The VA West Side Medical Center will continue to evolve in the future. The implementation of a medical center wide computer system is scheduled for the spring of 1984. Groundbreaking for a new $40 million outpatient building and associated renovation of existing buildings, is tentatively scheduled for the spring of 1984.

Carr thanked the staff for their efforts throughout the years which have resulted in the provision of superior clinical and support programs by the medical center. This recognition was culminated by Carr's announcement that notification had been received of a three-year full accreditation in all programs with no contingencies by the Joint Commission on Accreditation of Hospitals.

The accreditation is a result of a two-day site visit on July 18 and 19 by a JCAH survey team. This achievement is particularly significant in that less than 40 percent of all hospitals receive such a distinction.

Carr concluded by stressing that the medical center's recognition by the JCAH could not have been achieved without the dedication and hard work of its many employees.●

MARVIN ROWEN COMMENDED

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. BERMAN. Mr. Speaker, it is rare that I have an opportunity to recognize the efforts of an outstanding citizen who has given decades of service to his community who is also a close friend.

Marvin Rowen retires as president of the Anti-Defamation League's Pacific southwest region board on March 21, 1984. His involvement for more than 20 years with the Anti-Defamation League of B'nai B'rith is only one part of his contributions to the Jewish community and the community at large. As a national commissioner of the ADL, a member of the board of directors of Jewish Homes for the Aging of Greater Los Angeles, and the executive committee, community relations council, Los Angeles Jewish Federation Council, Marv has worked to make these organizations important forces in the community.

He is an active member of the Los Angeles County Bar Association, serving as a delegate to the State Bar Conference for the past 10 years. He is also involved in legal associations at the state and national level and lectures at several law schools in the area.

The record of Marv Rowen's community service extends to involvement in college athletics as the founder of the John Wooden Center and to a long commitment to UCLA which includes activities in the alumni association and with the UCLA School of Law.

Marv Rowen has given much of his energy to the community, but he has always kept a first priority with his family. Despite the long meetings and hard work that his many activities require, Marv has shared the experiences of his wife Carol and his four children as fully as many fathers who do not spend so much of their time on other endeavors.

Mr. Speaker, I commend Marvin Rowen for his selfless work in the past and wish him success in his future endeavors.●

ENVIRONMENTAL AND OCCUPATIONAL EXPLANATIONS FOR RACIAL DISPARITIES IN HEALTH

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. STOKES. Mr. Speaker, I would like to share with Members of the House two op-ed articles which my friend and distinguished colleague from Michigan, JOHN CONYERS, has recently written for the New York Times and the Los Angeles Times. These articles provide a first rate analysis of the mounting disparities in health between black and white Americans and the cause of these disparities which are largely environmental and occupational in origin. They also reveal the clearly inadequate response of the Reagan administration to these problems.

[From the New York Times, Dec. 28, 1983]

INSENSITIVE TO BLACKS' HEALTH

(By John Conyers, Jr.)

WASHINGTON.—In the 1950's, much of the sociological literature on poverty attributed the economic plight of blacks and other minorities to what it said was inherent laziness and intellectual inferiority. This deflected attention from the virtually insurmountable walls of segregation that blocked social and economic mobility. Today, the same thinking attempts to explain away the discrepancies in cancer and mortality rates.

The overall rate of increase in the incidence of cancer among blacks is twice that of whites; the rate is as much as fifteenfold with some of the more dangerous cancers, including cancer of the colon and rectum. Hypertension kills blacks 15 times more frequently than whites. In the workplace, blacks have a 37 percent higher risk of occupationally induced disease and a 20 percent higher death rate from occupationally related diseases.

Just as in the 50's, blacks are being told that their problems are largely self-inflicted, that their poor health is a manifestation of immoderate personal habits. Such blame-the-victim strategies—which receive tacit, if not explicit, support from current policies of the American Cancer Society and National Cancer Institute—serve to divert attention from the fact that blacks are the targets of a disproportionate threat from toxins both in the workplace, where they are assigned the dirtiest and most hazardous jobs, and in their homes, which tend to be situated in the most polluted communities.

The data on environmental and occupational dangers are chilling. Black children suffer from lead poisoning at a rate three times that of white children. DDT contamination of black Americans is three times greater than in white Americans. Last June, the Government Accounting Office found that 75 percent of hazardous-waste sites studied were situated in predominantly black communities. In the laundry and dry-cleaning industries, blacks' death rate from all causes is double that of whites. Steel industry studies have shown that black coke-plant workers have twice the expected cancer-death rate of whites and eight times the lung-cancer rate. This disparity is explainable by job patterns: 89 percent of black workers labor at coke ovens—the most dangerous part of the industry; only 32 percent of their white co-workers do.

Coupled with the disproportionate exposure to toxic substances in the workplace and the environment is a significantly lower survival rate from cancer among black Americans, as would be expected by the generally inferior health care available to ethnic minorities in the United States.

The Reagan Administration has displayed remarkable insensitivity to the particular health concerns of blacks, quite apart from general health concerns. Since taking office, the Administration has successfully developed a strategy for dealing with laws it does not like. Rather than going to Congress to repeal the health and safety mandates that it opposes, the Administration blocks enforcement of existing laws by dismantling the Federal regulatory apparatus.

In the Occupational Safety and Health Administration, for example, citations for workplace violations have fallen 49 percent since the last year of the Carter Administration; follow-up inspections, 55 percent; fines, 77 percent. OSHA also has attempted to prevent the adoption of workplace standards for use of 116 carcinogens, despite documentation of the need to do so. Regulations for one of these substances, ethylene oxide—a carcinogen that has induced a multitude of miscarriages among hospital workers, particularly blacks—were withdrawn after a meeting between manufacturers and OSHA officials. And despite modest improvements at the Environmental Protection Agency, thousands of hazardous-waste violators continue to operate with impunity.

Central to any political strategy aimed at reclaiming the basic right to a healthy workplace and environment is the coalescing of labor, minority groups, women, environmentalists and other citizens who share a common interest in preservation of occupational and environmental health. In the coming election year, in particular, such a coalition has an opportunity to raise the fairness issue in all its dimensions, including the toxic threat to poor, minority and workingclass Americans. There must be recognition, particularly in the labor movement, that the safeguarding of health and safety is fully compatible with economic growth, as Japan, Sweden and other countries have shown.

Ultimately, the impact of non-enforcement of health and safety laws cannot be confined to any particular interest group, for the spreading danger of contaminated air, water, food and workplaces heeds no boundaries.

[From the Los Angeles Times, Feb. 14, 1984]

A CRISIS IN HEALTH CARE FOR BLACK AMERICANS]

(By John Conyers, Jr.)

In the Health and Human Services Department's annual report on Americans' health, Secretary Margaret M. Heckler acknowledged that, while "some racial disparities exist," the outlook for blacks, as for all Americans, has vastly improved. Her formation of a task force on black/minority health, however, is a clever method of camouflaging the Administration's dismal track record in this area.

Contrary to Heckler's dismissal of "some racial disparities," there are serious and growing discrepancies in the quality of health of black and white Americans. These stem from the generally inferior health care available to minorities in this country, as well as their disproportionate-exposure to environmental and occupational hazards.

The statistics are chilling: Cancer among blacks is increasing at twice the rate for whites, black deaths resulting from cancer are increasing at four times the rate for whites. Lead poisoning afflicts black children at three times the rate of white children. Infant mortality is more than twice as high among blacks as among whites. Blacks have a 37% higher risk of work-related disease, and a 20% higher death rate from work-related illness. DDT contamination of blacks is at least three times higher than of whites.

The Reagan Administration has displayed remarkable insensitivity to these particular black health concerns, and a lack of concern about public health care in general. The major retreats in health programs and environmental and occupational safety regulations are perfect examples.

Blacks have paid a highly disproportionate price for the Administration's attitude.

Not surprisingly, infant mortality among blacks is increasing in more than 13 states and 30 major cities, in the predominately black community of Highland Park, Mich., where community health centers have been denied funding, infant-mortality figures approach those of Honduras—one of the world's most impoverished countries.

For black senior citizens, 50% of whom have fallen below the poverty line, the Administration's plan to raise the eligible age for Medicare to 68 would in effect prevent most otherwise eligible blacks from receiving such benefits, since the average life expectancy for blacks is 69.3 years. The life expectancy for whites is 74.5 years.

Too few doctors working in poor communities pose another problem that continues to block access to health care for minorities, particularly in inner cities—in part because less than 3% of health-care professionals are black or Latino.

Yet the Reagan Administration has led the battle to abolish the National Health Service Corps, a federal program that administers scholarships to medical students, many of whom are minority members, in exchange for a commitment to practice in medically underserved areas on completion of their training.

The elimination of the program would exacerbate the already serious shortage of physicians in predominately black and Latino areas like Watts, where there is approximately one doctor for every 3,500 residents. The national average is one doctor for every 440 residents. And lower Medicaid reimbursement rates mean that fewer and fewer of these scarce physicians are willing to accept Medicaid patients.

When asked about racial disparities in cancer rates, Manning Feinleib, director of the National Center for Health Statistics, attributed them to "a disproportionate exposure" to hazardous substances in the environment and the workplace.

Yet, in addition to the Administration's current policy of non-enforcement of existing environmental and occupational safety laws, it also has blocked adoption of standards for 116 suspected occupational carcinogens—despite adequate scientific evidence by the Occupational Safety and Health Administration of the need for such controls.

One of the substances, ethylene oxide, a carcinogen used to sterilize equipment in hospitals and other health facilities, has been linked to chromosome changes—considered a warning of cancer risk—and a high incidence of miscarriages among hospital workers. Certain levels of ethylene-oxide exposure also cause a number of symptoms, including mucous membrane irritation, nausea, headaches and numbness. Since a substantial number of hospital employees are minority members, a disproportionate number of blacks have been adversely affected by exposure to this chemical.

But federal regulations that would have imposed stricter controls on its use were withdrawn last year after a private meeting between the chemical's manufacturers and OSHA officials.

Despite modest improvements at the Environmental Protection Agency, thousands of hazardous-waste violators continue to operate with impunity. Last June the U.S. General Accounting Office found that 75% of hazardous-waste sites studied were in predominately black communities.

The insensitivity of these policies is compounded by excessive fiscal shortsightedness. An $11-million federal lead-screening program, for example, has been cut by 25% under the guise of "belt-tightening." Yet the costs of lead exposure—special education and medical care for lead-damaged children, plus the wages lost by afflicted adults—has been estimated at more than $1 billion annually.

Similarly, for every $1 that the government spends on prenatal health-care programs, an estimated $4 to $6 is saved on subsequent newborn intensive-care costs.

Heckler's announcement of a task force to study black health is merely a method of deferring action and defusing political accountability. Information on the causes and solutions for racial disparities in health is ample and readily available. What is needed is an Administration that is committed to providing quality health care for all Americans as a fundamental human right, not as a privileged commodity.●

ESTONIAN INDEPENDENCE DAY

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Ms. FERRARO. Mr. Speaker, It is my personal privilege to join the Estonian people around the world in the commemoration of the Estonian Independence Day. No people has suffered more at the hands of foreign occupation forces than the resilient and proud people of this small Baltic nation. And no people has more right to be proud of their heritage of freedom and self-determination than these descendents of the ancient Aesti. It is an inspiration to us all to learn about their uncompromising commitment to their national independence once again.

February 24, 1984, marks the 66th anniversary of the Declaration of Independence of the Republic of Estonia from over 100 years of Russian domination. This long cherished self-government was only a brief interval in a long foreign rule, however. For in 1940 the Soviets decided to regain their control of the country and installed a puppet regime which declared Estonia a Soviet republic. The scheme was conspired by Stalin with Hitler's acquiescence. The infamous conspiracy placed the fate of the Estonians in the hands of the Soviet authorities ever since.

Mr. Speaker, the free spirit of the Estonian people has not been dimmed by these successive regimes of foreign occupiers. Each year goes by with their hope renewed, their conviction strengthened and their dedication invigorated in their historical pursuit of self rule. It is imperative that we, the American people, do not forget the Estonians' quest for "life, liberty and the pursuit of happiness," the same noble ideals that our forefathers had fought for during our own war of independence.●

A&S VICE PRESIDENT CHALLENGES ESTIMATES ON ECONOMIC RECOVERY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. TOWNS. Mr. Speaker, I was very pleased that the House Banking Subcommittee on Domestic Monetary Policy selected Brooklyn as one of the sites for its field hearings on national credit conditions and the prospects for employment and continued recovery.

The Brooklyn hearing generally revealed that the recovery left many people and businesses behind in our borough. One of the most enlightening and persuasive arguments for this point of view was that of Francesco Cantarella, a vice president for Abraham & Strauss, the ninth largest department store in the Nation. His testimony raises important questions about the so-called recovery in areas like Brooklyn. In view of the impending hearing of the subcommittee on March 1, to assess whether the findings of their field hearings paint an accurate picture of national conditions, I want to share this excellent statement from Mr. Cantarella with my colleagues.

The statement follows:

TESTIMONY OF FRANCESCO CANTARELLA, VICE PRESIDENT, ABRAHAM & STRAUSS

My name is Francesco Cantarella. I am a vice president at A&S, and for the members of the subcommittee, who are not totally familiar with retailing, A&S is the ninth largest department store in the country. It maintains its flagship store and corporate headquarters in downtowm Brooklyn and has 14 suburban branch stores in the New York, New Jersey, Philadelphia area. We are a division of Federated Department Stores. With that out of the way.

Holding these hearings the week before Christmas provides its share of ironies. Many of the borough's residential streets and all of the commercial zones are brilliantly decked out with Christmas lights and decorations. But the glitter masks many of the harsh realities which are caused by flaws in Brooklyn's basic economic structure. I need but touch briefly on the institutionalization and growth of soup lines or the appearance of people waiting in the early morning chill for store fronts to open in hopes of receiving a handout of cheese, and a burdened social delivery system creaking under the weight of increased applicants.

Why should these developments be of concern to a department store? They are the traditional and historic humanitarian concern of an 118-year-old institution for the economic viability of one of the communities it serves. Also, because a business can only be as viable as is the community it is a part of. What I am talking about is the Crisis of Christmas, 1983. My remarks reflect the deep concern of A&S's senior management.

I know that many of you from Washington are thoroughly familiar with unemployment statistics, probably because there are so many of them around.

And we are gratified that you have come to Brooklyn to sit in these nice surroundings to ask about local economic conditions and about employment.

I would like to describe it to you in terms which I hope that can be easily understood in Washington, especially by those people there who take it as an article of faith that blacks and other American disadvantaged are lazy, do not want to work, and whose only ambition is to achieve yet another generation on welfare.

I am talking about those folk who sneeringly equate the indignity of standing in the rain for a bowl of soup with copping a free meal.

I am speaking of that seemingly all-pervasive mentality in Washington which was recently summed up by a high ranking Administration official who said that Scrooge was a victim of a bad press and that Cratchit was, in reality, well off.

I would like to make it clear to those people who have piously expressed concern about hungry Americans and shock about a problem whose roots are only three and a half years old, malnutrition and hunger having been wiped out earlier.

To make it very clear, I would like to take you back to 12:30 a.m. on the morning of October 17, 1983. The weather was mild as people began lining up on a street outside a door of an office A&S had established for the interviewing and hiring of temporary Christmas help. By 2 a.m., 200 people were lined up outside the locked doors of the employment office. As dawn began to break, there were several hundred more, standing or stooping. There were no provisions for sitting or any toilet facilities. By 9:45 a.m., when the doors opened, there were close to 1,000 men, women and youths lining the sidewalks for more then a block and a half.

A&S had geared up to hire 80 people a day until the store reached its full complement of 1,200 temporary hires. No advertisements had been placed in newspapers. People heard about job possibilities by word of mouth. The only mention of our Christmas hiring had been a sign which had gone up one week before in our personnel office. The jobs pay $3.35 an hour.

Who are these people? I will tell you who they are and I will tell you what our interviewers told me about the people they spoke with. 90 percent of the 11,000 people who showed up during the hiring period were black. A majority of them either had college degrees, were in college or had a high school degree.

A substantial number, said one interviewer, were well-dressed, had good communicative abilities, and many had previous sales or business experience. Sure there were some bad eggs in the crowd, another interviewer said, and cops had to be called in to quell a disturbance. But almost all the people in line were highly motivated and were excellent candidates.

It is definitely out of character for an employer to talk about an over abundant supply of workers. But, when 11,000 show up for 1,200 jobs, we do not view it as an asset to our business or to the community in which we do business.

Do you want to know what really troubles us most deeply at A&S? It is what happens to those ten thousand people who came to us in hopes of work, and who, despite their qualifications, despite their motivation, despite their job readiness and experience, and who, despite their personal and family needs, did not get a job.

We would like to know what answers or what concern they have in Washington about those individuals.

Or is the answer found in Mayor Koch's announcement the day before yesterday about the growth in numbers of people going on welfare in the past 16 months, to over 900,000. Or is the answer found in the comment by the city's Human Resources Commissioner James A. Krauskopf that many have gone on the city's welfare rolls because they were terminated from Social Security Insurance disability and because of the dismantling of CETA.

There is another myth I will comment on. It is the myth about black youth in urban America, about black youth in Brooklyn. In all fairness, I must allow that I have heard similar myths about Hispanic and chicano youth in other parts of the city and nation and about white and Oriental youth elsewhere.

It is the Potomac Notion that youth is not motivated. That they do not want to work. That they prefer ripping off the public, or sit back and pick up CETA checks, even though CETA checks are now a collectors' item.

Here again, the experience of a group of Brooklyn businesses may be instructive. We have been running, for the last three years, a vocational exploration program called Career Opportunities for Brooklyn Youth, or COBY for short. Of the 1,300 disadvantaged young men and women who completed the program, more than 57 percent of the youth who were either drop-outs or push-outs have gone on to permanent jobs with participating firms.

We cannot tell you what has happened to the hundreds of others who applied for jobs with COBY but were turned down because there were no more jobs. And that troubles us deeply, too.

I hope that these examples will tell you something about the employment scene in Brooklyn today where the economic recovery is badly trailing the rest of the greater New York-New Jersey region. By contrast, we have jobs going begging in our stores in Nassau, Suffolk counties on Long Island, and in our New Jersey branches.

A&S has, as other businesses in Brooklyn have done, followed the Administration's admonitions of facing up to competition and running our business more efficiently and, at the same time, better serving the needs of the less fortunate. We have initiated our own programs and are working in partnership with other firms, with the public and voluntary sectors and directly with the community to help improve the social and economic environment.

Yet, the missing partner is the federal government whose cutbacks in domestic spending has forced, and is forcing, tremendous hardships on a very large segment of the borough's population, many of whose problems are a consequence of present and past national policies.

Brooklyn's recession-struck private sector cannot replace the safety net for the borough's disadvantaged either through added capital investment or through increased charitable contributions, despite the fact that such funds have been marginally increased. Both are totally inadequate given the magnitude of the problems here.

As I indicated at the beginning of my comments, it is the week before Christmas and there is no reason why, like every other living American, A&S should not present a Christmas wish list of its own to this body.

The things we ask for are very few:

We ask for a increase in the federal funding of assistance to small and minority business, through the Small Business Administration and the Minority Enterprise Small Business Investment Corporation, two entities that were spoken about earlier.

Also we feel it is important to increase the supervision of compliance by defense contractors to award subcontracts to minority contractors to fulfill their nationally mandated affirmative action commitments.

We also ask for increased funding of the Job Training Partnership Act from its projected $3.6 billion, which you have to realize is down from CETA's $11 billion in 1980. This way disadvantaged youth might be better trained through the Private Industry Council programs for new opportunities opening up in small business.

We would also like to ask the members of this panel for a commitment by the members of Congress to block the anticipated $8 billion cut to be proposed by the Reagan Administration in "non-military" spending from the Fiscal Year 1985 budget.

I hope that the people in Washington will see the interrelationship between the items requested and how they tend to support each other while improving the social and economic fabric of this borough as well as that fabric in any other community in urban America which is afflicted with the same problems you have been hearing about today.

You know, it is sort of a modest list considering that the late Whitney M. Young, Jr., a frequent visitor to the nation's ghettoes, advocated a Marshall Plan for America. We hope that when your hearings are complete that you will agree that such a plan is necessary as much today as it was then.

As in the case with anybody who makes a Christmas wish list, we do this without any certainty that any of these wishes will be granted. This Christmas, 1983, we are less certain than before. Even though we know that the crisis is here.

You know, I understand that as we are sitting here today, that President Reagan is proclaiming today as National Care and Share Day and is appealing for contributions of canned goods to food banks and soup kitchens. This is deeply touching. It is even more touching especially in view of yesterday's front page article in the New York Times about the formidable obstacles blocking the distribution of surplus food for the needy.

We did forget to put canned foods on our Christmas gift list, but what we do want in

Brooklyn are jobs in 1984. We want jobs for that large group of citizens who want the dignity of work, who want to maintain the respect of their families, who want to hold their heads up with pride before their neighbors and friends.

Brooklyn's business community, its political organizations, its voluntary sector, its churches and the residential community are working hard to bring jobs to Brooklyn.

But without well-developed, carefully planned and adequately funded domestic assistance programs, from the federal government, our efforts will but barely provide our citizens with what they need and with what they justifiably want.

Thank you and Merry Christmas.●

LET US GET THE VOICE OF AMERICA BACK INTO BUSINESS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. BROOMFIELD. Mr. Speaker, I want to share with my colleagues in the House an interesting report on the Voice of America. The article brings to light some disturbing facts about America's voice to the world. I believe that all of us in Congress should realize how our country has neglected the Voice of America. Now is the time to do something about it. It is about time that we get back into the international broadcasting game.

It is ironic that the most powerful and technologically advanced nation on our planet should tell its story to the world with antiquated equipment, insufficient staff, and inadequate budgets. The powerful and modern transmitters operated by the Soviets, their Eastern European allies, and their surrogates in the Caribbean are literally overwhelming the Voice's weak signals and keeping America's message from reaching an increasingly growing overseas audience.

Millions of people around the world desperately want to hear the truth about America and what is happening outside their countries. A State Department officer who recently returned from North Africa told me that he frequently searched his radio bands for the Voice of America broadcasts, yet rarely heard its transmissions. Radio Moscow, however, could easily be heard. Why should we let this appalling situation continue when the remedy is at our fingertips? I would hope that my colleagues on the Senate side will restore the VOA modernization funds which they recently cut. I firmly believe that our assistance to America's voice to the world will be a wise and prudent investment.

With these sobering thoughts in mind, I recommend to my friends in the Congress this thought-provoking article.

[From the Heritage Foundation, July 15, 1983]

TIME TO TURN UP THE VOICE OF AMERICA

The Voice of America recently received a letter from a frustrated listener in Ghana, who asked, "Sometimes, listening to the news, the signal disappears altogether. Have your transmitters started to wear out?"

The answer, regrettably, is yes—and it is not VOA's transmitters that are wearing out. Yet in the competition of ideas with the communist world, the West's most direct and often most effective tool is international radio. The impact of such broadcasts as the Voice of America can be measured not only by the communists' continuous and costly efforts to jam them, but also by official reactions to the broadcasts. Only recently, the Polish regime filed a protest with the U.S. claiming that VOA broadcasts have served to "destabilize" that regime by encouraging "destructive elements working within Poland's constitutional order." In other words, the Voice is a continuing source of information, if not inspirational, to Polish listeners.

Ironically, this protest was filed the same week that funds to modernize the seriously understaffed and technically deteriorating Voice were effectively slashed from the budget by the Senate Foreign Relations Committee. The House of Representatives already had approved the 1984 budget request of the U.S. Information Agency, of which VOA is a part, which would allow the Voice to begin implementing modernization. The Senate Foreign Relations Committee, however, cut the total budgetary request of $701 million by $65 million and shifted $64 million from Administration requests. Without restoration of these funds, VOA modernization will have to be scrapped. Thus, just when the United States must be better prepared to join in the competition of ideas, the Voice is being allowed to deteriorate.

VOA's broadcasting and transmitting equipment is aging and, in many cases, is obsolete. Its technical staff woefully lacks qualified engineers. The news and editorial staff is seriously shorthanded. Neither the number of hours broadcast per week, nor the number of languages broadcast, adequately reflect the position of the United States, nor do they adequately serve the estimated 100 million listeners world wide who regularly turn to VOA for its news reports and its mix of informational and cultural program. The proposed VOA modernization plan addresses these shortcomings.

Of 107 VOA transmitters, more than 90 percent are 15 or more years old; more than one-third are twice that age. Some transmitters broadcasting to Eastern Europe and the Soviet Union actually date from World War II. VOA has only six 500-kilowatt superpower transmitters, all of them patched together from smaller units. The United Kingdom has eight such transmitters, West Germany nine, France eleven. The Soviet Union, the most prevalent voice on the international dial, has 37.

VOA's equipment is so old that its technicians constantly have to cope with burned-out generators and antennae that will not transmit a full signal. Spare parts for some equipment are no longer available; VOA must manufacture them. Even VOA's headquarters studios in Washington are antiquated and under increasing strain, as the Voice struggles to increase its number of hours of weekly broadcasts. These facilities regularly shock visiting foreign broadcasters, some of whom recently termed them "the world's most backward equipment."

VOA is currently on the air 956 hours per week, less than half of Radio Moscow's 2,158, less than either Taiwan or the People's Republic of China, and barely more than West Germany, Egypt, or the United Kingdom. VOA is fifth in number of hours broadcast to Africa, sixth to the Carribbean, Eastern Europe, and East Asia, and tenth to Western Europe.

VOA currently broadcasts in 42 languages, compared to the U.S.S.R.'s 82, Peking's 43, and Egypt's 30. In the Middle East alone, VOA broadcasts in eight languages, the U.S.S.R. in 20. When the U.S.S.R. marched into Afghanistan, VOA had no one on its staff able to speak the official Pashto language. For every hour VOA broadcasts in that tongue, the U.S.S.R. offers five. Of the 42 language services, 38 are understaffed. There is no correspondent in Pakistan to cover events in Afghanistan, nor a correspondent in Geneva to cover arms control matters.

VOA's modernization plan would replace the old equipment, strengthen the signal, fill 140 engineering positions and 141 language service positions (including a 25 percent increase in the Polish and Baltic staffs), and create 68 new positions to improve the quality of VOA news, features, and other programs. Construction of new transmitting sites would begin and the antiquated distribution system would be computerized.

VOA modernization is essential. As matters now stand, the Soviets spend more to jam Western broadcasts than the United States spends to reach the entire world. The battle for the loyalty of the uncommitted, as well as the necessity of giving information to those in closed societies, requires that the Voice of America be given high priority in the allocation of federal resources.●

TRIBUTE TO RON ROELKE

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. BERMAN. Mr. Speaker, the Fair Housing Council of the San Fernando Valley will honor its past president, Ron Roelke, at its annual dinner on March 3, 1984. A member of the council since 1971, Mr. Roelke is now a board member and has been ways and means chair for the past 2 years. This position involved numerous fundraising events; for example, the summer auction, the annual dinner, garage sales, and other efforts to generate funds for the council. Ron has taken his turn at chairing each of these events, and thus much of his tenure has been built around the hard work of keeping the council afloat financially.

Ron Roelke has spent much of his life working for a just society. He works for the creation of an integrated community by ending discrimination and by encouraging families to move into the valley. He was a founding member of Operation Bootstrap, an enterprise dedicated to economic development in the black community.

For his tireless work and for his selfless dedication to the achievement of integrated living in the San Fernando Valley, the council will present the Outstanding Service to the Fair Housing Council Award to Ron Roelke. I ask the Members to join me in paying tribute to this exceptional citizen of his community.●

TO ASSURE EFFECTIVE PRESIDENTIAL DEBATES

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. SMITH of Iowa. Mr. Speaker, I would like to bring to the attention of my colleagues the uncertainty every 4 years concerning an important aspect of our Presidential selection process—the televised debates between the nominees of the two parties.

These debates offer voters nationwide the best possible opportunity to hear the Presidential candidates side-by-side discuss their views and plans in depth. Yet during each campaign, the sponsorship, number of debates, and format is uncertain.

Whether or not debates will take place at all is also in doubt each time. This year a greatly improved format has been used in debates held in Iowa and President Reagan and the major Democratic contenders have all agreed in principle to debate, but no specific plans have been agreed upon, not even the sponsor. This haphazard process should not continue.

I would like to commend the nonpartisan "Twentieth Century Fund" for its efforts to bring various debate options before the public and to press for making well-organized debates a permanent part of American political life. I became aware of the fund's efforts from an article published in the Des Moines Register.

Long concerned with this issue, the "Twentieth Century Fund" held a bipartisan planning conference on debates last November. A Fund Steering Committee on Presidential Debates grew out of this meeting. Committee members are former Federal Communications Commission chairman Newton Minow, former Deputy Secretary of the Treasury Charles Walker, and Field Enterprises President Lee Mitchell.

This month the committee announced that it is forming a broad-based bipartisan commission to strengthen its efforts to institutionalize debates. At the same time, the fund also issued its latest report on the subject. "Beyond Debate," which gives the history of recent debates and sets out various options.

I now call attention to the following Associated Press article giving more details. It was published in the November 23 Des Moines Register.

EARLY PRESIDENTIAL DEBATES URGED

WASHINGTON.—An independent group urged the Republican and Democratic chairmen on Tuesday to commit their parties to debates between their presidential nominees next year.

"The Public is not well-served when debates are negotiated in the heat of the fall compaign and when the candidates' tactical advantage becomes more central to the negotiations than the public interest," the group said in a statement read by co-chairman Charles E. Walker.

Newton Minow, the other co-chairman, said, "In a matter of this vital importance it is astonishing how disorganized, how casual, how unplanned these debates have occured."

He said the alternative to early action was a repeat of the 1980 situation in which there was only one debate between Republican Ronald Reagan and Democrat Jimmy Carter. Earlier in the campaign, Reagan debated independent presidential candidate John Anderson.

Minow said the group would like to institutionalize debates so that "the party commits its candidates in advance of nomination to participate" in debates.

A major issue in the debate negotiations between the Carter and Reagan campaigns was whether Anderson should be allowed to participate. The League of Women Voters, sponsor of the debates, insisted on Anderson's right to participate as long as his support in opinion polls was at least 15 percent.

"We think that should not happen again in 1984," said Minow.

Instead the study group recommended that "the debate sponsor affirm as its principal aim the organization of debates between the two major candidates . . . If the two major party candidates are willing to debate together with other candidates, the debate sponsor should concur as well."

The appeal was issued by a 17-member bipartisan group sponsored by the Twentieth Century Fund, a New York-based public policy research foundation.

Minow, a Chicago lawyer and former chairman of the Federal Communications Commission, was co-chairman of the advisory committee for the 1976 and 1980 presidential campaign debates. Walker, a Washington lobbyist, was co-chairman of the 1976 debates.

Their group noted that while the League of Women Voters, as sponsor of the 1976 and 1980 debates, would be the most experienced group to play that role in 1984 "the league will face uncertain and difficult circumstances during the next year as it competes with other groups for sponsorship of the debates."

The FCC ruled recently that television networks could sponsor debates on their own without triggering the requirements of the Equal Time Act which requires that all candidates be given equal access. In 1976 and 1980, the networks were allowed to broadcast debates sponsored by other organizations on the ground that constituted coverage of a news event.

Minow said he felt "some intermediate group" should work with the parties and the debate sponsor to help work out details.

The Twentieth Fund group recommended that the 1976 pattern be followed next year, which would mean three presidential debates and one between the vice presidential candidates.●

THE 50TH ANNIVERSARY CELEBRATION FOR THE RIGHT REVEREND MONSIGNOR JOHN J. BIRCH

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. MOORHEAD. Mr. Speaker, on May 27, 1984, the city of Temple City and many, many of its residents will pay special tribute to a special man, the Right Reverend Monsignor John J. Birch.

The 50th anniversary celebration for Monsignor Birch is one of those near spontaneous, near unanimous outbursts of approbation that occur only rarely. It has happened in the case of Monsignor Birch because this fine man has given so generously and so lovingly to so many that to celebrate him and his goodness essentially becomes a natural and irresistible exercise.

Since his ordination in Springfield, Mass., at St. Michael's Cathedral on May 26, 1934, Monsignor Birch has faithfully served the emotional and spiritual needs of his fellow man. This gift of service was never more evident than during his 16 years with the CYO and the U.S. Bishops Committee for the Spanish speaking in Los Angeles.

In 1952, Monsignor Birch became the pastor of St. Philip Neri Parish in Lynwood, Calif., 3 years later, he became pastor of St. Luke's Church where he remains today. During this 28-year period he has touched many lives not only as the spiritual leader of St. Lukes, but as the founder and director of the church school and the adult education program. He has been involved also with the Boy Scouts, the Girl Scouts, AYSO soccer program, the Red Cross and the alcoholic recovery program, plus many others.

A man of warmth and compassion; a man of enduring charity, Monsignor Birch has been a blessing and a benefit to his friends and community.

Mr. Speaker, I appreciate this opportunity to call to the attention of my colleagues in the U.S. House of Representatives Temple City's 50th anniversary celebration of their beloved Monsignor Birch.●

UNCERTAIN FUTURE FOR SOVIET JEWS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. OTTINGER. Mr. Speaker, I have often spoken out in the House of Representatives on the subject of Soviet Jewry. Over the past several years, the plight of Soviet Jews has come to the front of national and international human rights debates. Last spring, this House unanimously passed a resolution I authored calling on the Soviet Union to release a Soviet refusenik, Anatoly Shcharansky, and allow him to emigrate to Israel. Just last month, on Shcharansky's 36th birthday, over 80 Members signed a proclamation reinforcing the message of the resolution; the proclamation was sent to Shcharansky and the leaders of the Soviet Union. Anatoly Shcharansky was arrested and imprisoned for daring to practice his faith and encourage others to do the same. He has been in prison for almost 7 years, and his mother says he is too ill to survive the brutality of that environment for the remainder of his setence.

Anatoly Shcharansky has come to represent more than 350,000 Jews in the Soviet Union who are waiting for a chance to emigrate. Some continue patiently with their lives while they wait for their application to be ruled upon. Some, particularly those like Shcharansky who speak out for the rights of Jews in the Soviet Union, have been arrested and jailed under harsh conditions for extended periods of time. Fewer and fewer Soviet Jews receive permission to leave. In 1983, only 1,314 were allowed to leave, an appalling drop from 51,320 in 1979.

For those who must remain, religious persecution has become a fact of life. Jews are subjected to slander in the press, repression in the classroom, and harassment by their fellow countrymen. Their religious materials are confiscated. Soviet Jews with the courage to speak out on behalf of their people are silenced.

Recently, the Soviet Government has become more overtly antagonistic, supporting the creation of the Anti-Zionist Committee, a group whose virulent anti-Semitic activities included condoning publication of "The Class Essence of Zionism," a book suggesting—among other things—that Jews helped the Nazis in the Holocaust. The committee also alleged that the reason Jewish emigration had dropped so dramatically was that all those wishing to leave have left.

We must protect the treatment and censure of Jews in the Soviet Union. With the new leadership in the Soviet Union, we have a chance again to bring this issue to the forefront of all our dealings with the Soviets. In the coming months, we will have numerous opportunities to raise the issue of Soviet Jews. There will be a special order on March 15 to give Members an opportunity to speak out against Soviet repression of its Jewish population, and many activities in connection with solidarity Sunday for Soviet Jews on May 6. I urge all my colleagues to join in this important effort.●

REARMING THE GUATEMALAN MILITARY

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. BARNES. Mr. Speaker, the Reagan administration's recent decision to resume the sale to Guatemala of spare parts destined to restore some of that country's combat helicopters is ill conceived and ill timed. This action clearly contradicts a history of congressional opposition to a resumption of military ties with a country that has consistently been among the worst violators of human rights in the Western Hemisphere. It also goes against the recommendations of the National Bipartisan Commission on Central America.

David B. Lawrenz, a staff researcher at the Council on Hemispheric Affairs, has prepared an analysis of U.S. support of the Guatemalan Military Government during the Reagan Presidency and the effects that this aid has had upon the people of that country. I would encourage each of my colleagues to read this report.

REARMING THE GUATEMALAN MILITARY: "REAGAN REFUGEES" FOR MEXICO AND THE UNITED STATES?

(COHA Memorandum by David B. Lawrenz, Staff Researcher)

Although the Reagan administration's decision to consummate a direct-cash sale to Guatemala of $2 million worth of helicopter parts goes against the findings of the president's Bipartisan Commission on Central America as well as strong Congressional sentiments, this move comes as little surprise given this administration's past efforts to beef up the Guatemalan armed forces. The methods used by the Reagan administration to send police and military equipment, spare helicopter and airplane parts and, reportedly, Green Beret advisers to Guatemala demonstrate the White House's determination to strengthen that country's military and counter-insurgency capacity, as well as to improve U.S. relations with the Guatemalan military leadership, in order to integrate the country into Washington's Central American security strategy. These means have ranged from covert activities (in the case of a Green Beret whose presence in Guatemala in October 1982 was revealed by a free-lance journalist) and apparent violations of a 1976 restriction on military assistance to gross human rights violators such as Guatemala, to reclassification of military-related vehicles that permitted evasion of the 1976 Congressional ban.

The recently announced sale of helicopter parts is the Reagan administration's first official transfer of military equipment to Guatemala, and will permit that country's armed forces to reactivate six helicopters from their aging fleet of Bell UH-1H "Huey" and Bell UH-1D craft. The State Department has stated that, as a direct cash sale, the transfer of these parts will not violate the 1976 Harkin Amendment to the Foreign Assistance Act of 1961. Moreover, Congress has no control over this type of transaction. In January 1983, when the Reagan administration first declared its intention of selling Guatemala $6.3 million worth of airplane and helicopter spare parts and communications devices, the transfer of these items did not come under Congressional review because they were not designated as military equipment.

Perhaps the cruelest irony involved in the announcement of the $2 million helicopter parts sale is the fact that the Reagan administration had blocked the transaction two months earlier, in late October 1983, following a spate of political violence that included the murder of two Guatemalans working under a U.S. Agency for International Development (AID)-financed program, and the death-squad-style slayings of a professor from the Univ. of San Carlos and a Franciscan priest. At that time, the White House temporarily froze the sale and announced that Ambassador Frederick Chapin, then in Washington, would not return to Guatemala for at least one month. While the State Department emphasized that this delay did not signify that U.S. approval for the $2 million sale would be reviewed, press reports did indicate that senior officials at State were advocating voiding the whole transaction.

The Reagan administration's placing the parts sale on hold was ostensibly designed to pressure the Guatemalan government to improve its human rights performance. Sadly, the delay of the sale does not seem to have effected any change in the violently repressive activities of government security forces or the officially condoned right-wing death squads. Based on Enfoprensa Press Agency's figures, drawn from Guatemalan police, press, court and relief organization sources, COHA has found that between Dec. 1, 1983 and Jan. 12, 1984, politically motivated murders totalled at least 133 and disappearances, 100. Of those persons kidnapped or "disappeared," during this period, 15 were under ten years old.

While the Reagan administration's approval of the helicopter parts sale does not represent a major military transfer compared to U.S. arms assistance to its other Central American allies, it does signify blatant rejection of the sentiments expressed by Congress and even the surprisingly harsh language utilized by the Kissinger Commission on Guatemala. The White House defiance of a document that otherwise legitimates the basic thrust of current U.S. regional policy may signal the initiation of further Reagan administration attempts to arm the Guatemalan military regime in the near future.

The Reagan reversal of President Carter's efforts to isolate Guatemala for its extremely poor record of human rights violations by cutting off all military assistance and commercial sales began in June 1981. At that time, the U.S. completed a $3.2 million sale of trucks, jeeps and spare parts with Guatemala, after the Commerce Department, on order from the administration, reclassified these items from the "Crime Control and Detention" category to "Regional Stability and Controls," thus sidestepping the 1976 Congressional ban. The 100 jeeps involved in this deal reportedly came equipped with 24-volt electrical systems, which would allow the installation of military communications equipment. A similar evasion of the 1976 restrictions on U.S. Government military aid to Guatemala occurred when the State Department licensed the commercial sale to that country of $750,000 worth of police arms and equipment in 1982.

The history of the sale of U.S. helicopters to Guatemala during the Reagan years commenced in 1980, when the Commerce Department, again under White House authorization, licensed the Bell Helicopter Company of Fort Worth, Texas to sell civilian choppers to the Guatemalan military government, then headed by Gen. Romeo Lucas Garcia. Between December 1980 and December 1982, Bell sold Guatemala $25 million worth of civilian helicopters: six Bell 412s, three Bell 212s, eight Bell 206-B's and six Bell 206-L's. A report by Mark Thompson that appeared in the Forth Worth Star Telegraph in December 1982 revealed that between January and April 1982, Bell had trained, at the company's Fort Worth facilities, at least 20 members of the Guatemalan air force to fly the 412s. Thompson also quoted Bell employees who indicated that "dozens" of Guatemalans received flight training in Fort Worth in 1981 and 1982.

The Bell 412s, civilian models of Bell's UH-1H "Huey" chopper—Guatemala bought nine Hueys between 1971 and 1977—were immediately converted for military use by installing machine guns from obsolete Hueys, once they reached the country. The Guatemalan army has also reportedly pressed the 412s into combat service by placing gun-wielding soldiers in the doors of the helicopters. The Guatemalan government also purchased sophisticated radio transmission equipment for the Bell helicopters during this period from the Southwest Vert-All, Inc. firm of Dallas. According to Thompson, a Vert-All employee traveled to Guatemala in 1982 to install the gear in air force planes.

The Commerce Department's authorization of these sales constituted a direct violation of the 1976 arms restrictions in spirit, if not in letter. The sales also violated a two-year-old standing "gentlemen's agreement" between the administration and members of Congress committing the administration to notify Congress of any intention to allow transfer of military goods to Guatemala.

Further evidence of clandestine U.S. support of the Guatemalan army was revealed in an Oct. 1982 report that appeared in the New York Times. It stated that a helicopter downed by Guatemalan guerrillas contained documents indicating that a Miami-based avionics firm, Conex, had contracted to repair a transponder from a Guatemalan air force plane and that a 200-pound package of unspecified contents was being held at Homestead Air Force Base in Florida for delivery to the Guatemalan air force.

Several studies have documented the Guatemalan security forces' routine use of U.S.-supplied helicopters in their attcks on Indian villages, in raids along the Mexican border and in conjunction with the National Police in the recently instituted search and control program, dubbed Operation octopus, in Guatemala City. Furthermore, there is a direct correlation between the intensity and frequency of the army's "scorched earth" assaults upon rural Indian towns and the volume of refugees fleeing to southern Mexico and, in growing numbers, to the U.S. In his November 1983 report to the General Assembly, the U.N. Special Rapporteur on the situation of human rights in Guatemala, Viscount Culville, wrote that "Some refugees in (the) Puerto Rico (refugee camp) did not arrive until May 1983, having been living on the fringes of the co-operatives . . . harassed at the time by the army, particularly by helicopters." The O.A.S.'s Inter-American Commission on Human Rights also recently singled out the army's use of helicopters against civilians: "The refugees invariably tell the Commission that they left their homes because they were afraid of the mass attacks launched by government officials. Many of them witnessed massacres and destruction of their homes, churches, community buildings, animals, crops and other private property through air and artillery attacks." One example of the Guatemalan military's indiscriminate helicopter assaults against noncombatants comes from a Committee for Peasant Unity report that on September 16 and 18 of 1983, the army repeatedly attacked and bombed refugee camps in several Guatemalan villages, causing the deaths of 77 men, 17 women and 26 children.

An issue of vital importance that the Reagan administration should consider is: "How will the reactivation of six Huey helicopters affect the refugee situation in Mexico, Guatemala and the U.S.?" While the use of these restored choppers will, in some instances, improve the armed forces capabilities to pursue and fight leftist insurgents effectively, the military government's common practice of whole-scale bombing and destruction of rural villages can now be expected to take place with greater frequency.

In its report to President Reagan, the Kissinger Commission lavished praise upon the Guatemalan government's civic action program, calling it a "positive aspect of the counter-insurgency" campaign. Another aspect of Guatemala's "counter-insurgency effort" which the Kissinger Commission lauded was the Civil Defense Forces, which in the words of the report, "provide security for villagers, go on patrol regularly and have taken heavy casualties in contacts with insurgents." What the Commission members failed to relate in their rosy depiction of the civil patrols is that the Guatemalan government has forced close to 700,000 men to abandon their work to "perform uncompensated counterinsurgency services for the army," according to one study. The country's military uses the civil patrols as unarmed vanguard forces to seek out and report on guerrilla presence. In a recently released American Friends Service Committee report, Nancy Peckenham states that "at times, because of local animosities or rivalries, people (who formerly supported the insurgents) may be denounced to the authorities in order to have them removed from the village. Exploiting these social tensions, the army prompts civil patrols to take revenge against their fellow villagers who were most supportive of the guerrillas."

The civic action and civil patrol programs form the two prongs of the Guatemalan government's brutal "beans and bullets" anti-insurgency effort in the countryside. Although the Kissinger Commission failed to see through the thin veneer of positive actions carried out under these campaigns, the reality is that these government programs lie at the base of the country's refugee crisis. Indian peasants, whose entire villages are destroyed by the armed forces to eliminate suspected bases of support for the guerrillas, often either flee directly to Mexico or gradually arrive there after spending months eking out a miserable existence in the Guatemalan countryside, where they are vulnerable to attacks from the army and/or civil patrols. In some cases, these displaced Indians live for a period in the "strategic hamlets" established by the government and jointly controlled by the army and the civil patrols, before making the dangerous journey to the Mexican refugee camps.

The problems which Guatemalan refugees in the southern Mexico state of Chiapas face due to the extremely poor standards of health, sanitation and nutrition in the camps there are compounded by the Guatemalan government's attitude toward their plight and status as refugees. Officials of the Mejia regime have claimed on several occasions that some of the refugees in Chiapas are actual members of, or lend assistance to the Guatemalan guerrillas. Enfoprensa reported that on January 12, 1984 the Guatemalan Minister of the Interior, Gustavo Adolfo Lopez Sandoval, described the Guatemalan refugees as "insurgents . . . (who) frequently raid Guatemalan border towns to cause trouble." This government claim, however, is refuted by statements such as one by Msgr. Prospero Penados del Barrio, Archbishop of Guatemala and President of the Guatemalan Bishops Conference, that most of the estimated 100,000 refugees in Mexico are women, children and elderly persons. Patrocinio Gonzalez Garrido, a senator from Chiapas, recently said that "It is a serious thing (for the Guatemalan government) to accuse 35,000 (refugees), the majority of whom are women, children and elderly, of being guerrillas."

The Mexican government has issued repeated assurances that the country's borders will remain open to the Guatemalan refugees and that no measures will be taken to deport these people against their will. But the Guatemalan army, in its seemingly endless and senseless efforts to track down insurgents among the refugees, has heightened latent fears within Mexico that refugee camps could become a source of serious social chaos. The chiapas-based Committee for Aid to Guatelmalan Refugees (CARGUA) has reported that 8,000 Guatemalan soldiers maintain a tight watch along the mexican border, harassing and intimidating Indians, who often travel in groups of 15-20 persons, attempting to flee their country. It should also be noted that up until a number of months ago, Guatemalan patrols made repeated incursions into refugee camps located in Chiapas and either murdered on the spot or dragged off some of the residents across the border.

One of the most ominous reported instances of Guatemalan army incursions into the Mexican refugee camps occurred last January, when soldiers invaded several camps in a sweep through the southern Mexico region between La Trinitaria, Santiago and La Sombra. In two separate cross-border attacks, over 160 Guatemalan soldiers entered camps and killed 5 refugees. Despite a vigorous protest of these incursions by the High Commissioner of the U.N. high Commission on Refugees, CARGUA states that the Guatemalan army has yet to quit this practice. In October 1983, the Guatemalan armed forces carried out large-scale operations along the Mexican border that forced 500 Indians to flee to the Ixcan refugee camp.

Since 1978, Guatemalan refugees have also come to the U.S. in large numbers. In a May 1983 American Friends Service Committee report, Angela Berryman listed Immigration and Naturalization Service (INS) figures showing that U.S. authorities apprehended 4,402 Guatemalan nationals in Fiscal Year (FY) 1979, 3,785 in FY 1980, 4,182 in FY 1981 and 3,994 in FY 1982. Based on INS estimates that for every undocumented entrant it apprehends in the U.S., four or five actually arrive in this country, Berryman puts the total number of Guatemalans who have entered the U.S. in the past four years at between 50,000 and 60,000. In fact, a highly reliable INS source told COHA that the actual figure may be as high as 75,000, with five to seven thousand residents in the Washington metropolitan area alone.●

SELECT COMMITTEE ON HUNGER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. TOWNS. Mr. Speaker, there is clear, undeniable and authoritative evidence of widespread and increasing hunger in America. More people are seeking food assistance on a regular basis. Social services agencies began to experience rapid growth in requests for food late in 1981 and those requests in most cases at least doubled in 1982.

A March 1983 report of the General Accounting Office found "the mounting number of 'new poor', individuals who were employed and financially stable a short time ago, are contributing to the increase in numbers seeking emergency food services." Those who cannot afford to buy food are finding with tragic regularity that there is not help available for themselves and their families.

In New York, one of the most generous States in terms of food aid, a survey conducted for the State department of health found that the average food energy provided for food assistance recipients was only 1,200 calories per day, a number that is below the bottom end of the food consumption identified by the National Academy of Sciences as essential for good health. The grim reality is that even those who do receive food aid are often on a permanent inadequate diet. In the New York study, those who were seeking food assistance were already spending an average of 70 percent of their income on food. In addition, there is no evidence in any authoritative study or report that people rely on soup kitchens even when they have sufficient funds to pay for their own food.

There is also extensive evidence of health problems due to malnutrition, especially among infants and pregnant mothers. In 1982, of all infants born in the State of New York, 7.3 percent had a low birthweight of less than 2,500 grams.

The Reagan administration's programs have contributed greatly to the increasing hunger crisis in America. The Reagan recession put more Americans out of work and in need while the Reagan budget cuts have made far less assistance available for the needy. The administration's budget for fiscal year 1984 once again calls on the poor, especially women and children, to bear the brunt of proposed cuts. Aid to families with dependent children (AFDC) will reduce benefit payments by $1.2 billion in fiscal year 1984 alone. The special supplemental food program for women, infants, and children (WIC) is included in the fiscal year 1984 budget at the same level of funding as in fiscal year 1983 while an estimated 7 million eligible women and children cannot be served because the available funds for the program are insufficient. The "level-funding" proposed by President Reagan amounts to a cut of about 5 percent after inflation, resulting in a loss of approximately 2.35 million women and children who are currently served by the WIC program.

Long-term unemployment is now double the level of November 1981. Today there are still 3.75 million long-term unemployed and discouraged workers who make up an entirely new class of Americans for whom hunger had never before been a possibility but who must now face this grim reality. For millions of Americans the Reagan administration has offered no recovery, but rather, a condition of continued hunger and hopelessness. Soup kitchens and food assistance centers continue to report steady increases in the total number of individuals who are in need. Emergency food pantries report that increased demand and limited supplies mean extreme hardship for recipients. In most instances, needy individuals and families are eligible to receive emergency food no more than once every 6 months.

Hunger is a disease on this Earth, but it is one that can be cured. The passage by the House of House Resolution 15 to establish the Select Committee on Hunger, is an important step toward addressing that disease. A select committee on hunger can provide the necessary impetus toward a cure for a disease that is taking more and more Americans as its victims.●

OATH OF OFFICE CEREMONY: J. BONNIE NEWMAN, ASSISTANT SECRETARY OF COMMERCE, ECONOMIC DEVELOPMENT

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. CLINGER. Mr. Speaker, last Friday morning, I attended the swearing-in ceremony for Bonnie Newman, the new Assistant Secretary for Economic Development in the Department of Commerce. Her sense of dedication and purpose were abundantly evident in her remarks on that occasion, and I want to share them with my colleagues. Ms. Newman impressed me with her determination to administer the Economic Development Administration effectively and energetically. I wish her well as she takes up her new challenge. The remarks of Assistant Newman were as follows:

Thank you.

To be appointed by the President of the United States as Assistant Secretary is a tremendous honor and a humbling experience. I am most grateful to President Reagan for the privilege of this opportunity and for his confidence.

For those of you in this room who take an interest in politics, and I expect there are a few, you may be aware that next week marks the occasion of the Presidential Primary in New Hampshire—A special place I call home.

I remember very well a day, 8 years ago in 1976, thinking it might be interesting to be involved in the primary. I drove to Concord to meet with representatives of then Governor Ronald Reagan. I met that day with Governor Hugh Gregg and Jim Lake. I remember driving back to Durham knowing that something special was about to happen and life would never be the same. Through that campaign, I met many special people, the kind of people Ronald Reagan especially attracts, people like Nancy Reynolds and Helen von Domm. People who have not only influenced my life which indeed has changed, but more importantly who are now good friends.

Someone once defined a friend as a present you give yourself. By any such measurement, I've been very generous indeed. For this occasion is made special by the presence of so many special people—friends all. I think of course of you, Helene, who gave me both an example to emulate and the encouragement to try. I think of Secretary Baldrige, who in a few short weeks I've come to regard, not only as a friend, but as a cherished colleague. I look around this room and I see dozens of other friends, all handsome presents I've given myself along the road from Lawrence.

Most of all, I think of two people who embody whatever I know to be good and generous and true. As a loyal daughter of New Hampshire, I could hardly let pass the opportunity to quote our poet laureate, Robert Frost.

"Home," said Frost, "is the place where, when you have to go there, they have to take you in."

Well, Mom and Dad, because of you, I'm never far from home. I should add, however, that barring unforeseen events this fall, you won't have to take me in anytime soon!

There's something else Frost wrote, something especially appropriate to this city and this profession of public to which all of us have the privilege of belonging. It goes like this:

"All those who try to go it alone,
Too proud to be beholden for relief;
Are absolutely sure to come to grief."

In this building, we wage war on hard times. We play cheerleader to the natural ingenuity of the American people. And we pledge ourselves daily to banishing hopelessness wherever it corrodes life, whether on the urban street corner, the shuttered assembly line, the rural community or corner business. Following the policies of a President who has restored hope to the Nation's vocabulary, we seek to lead and we intend to listen.

We will not go it alone, too proud to be beholden for relief. For the relief we seek comes from the grassroots of America. Our Government will serve the governed. It will do so efficiently, effectively, by adhering to the standards of excellence that the American people have set for us. I have not served long in this building. But I have been here long enough to see and savor those standards wherever I turn. And so long as that continues, so long as we regard ourselves as what we are—friends united in a common cause—then none of us will ever come to grief.●

ARCHBISHOP PIO LAGHI: AN AMBASSADOR WITH HEAVENLY CREDENTIALS

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● **Mr. WON PAT.** Mr. Speaker, few actions taken by President Reagan have given me more joy than the news that the United States would once again establish formal relations with the Vatican. The last time this Nation permitted the Vatican to send an ambassador to this country was 117 years ago, in 1867. The Vatican speaks on religious matters for millions of people around the world and it has been a mistake in my mind to block formal ties with the Vatican for all of these years.

Perhaps the best part of the decision is the news that the Holy Father has wisely chosen to be his new ambassador to the United States, Archbishop Pio Laghi, a man who has already been on the job here as Apostolic Delegate since December 1980. It has been my great honor and privilege to meet with His Excellency on several occasions, most recently to forward a formal request from Bishop Flores of Guam that an early Catholic priest who worked on the island be considered for sainthood.

Archbishop Laghi is a man of immense talents and his selection to be the Ambassador from the Vatican is a reflection of his great prestige both in Rome and here. He enjoys an unusual rapport with people from all walks of life in this complex town and has shown a remarkable skill for making friends at all levels of government and private life.

We are most fortunate to have Archbishop Laghi continue on in his capacity as representative of the Pope. I know that his elevation to the rank of Ambassador for the Church is viewed as a most welcome sign of continued good relations between the people of the United States and the Vatican.

I wish him the best of success in his new position as do my constituents in Guam—regardless of their religion.

Yesterday, the Washington Post carried an excellent article about Ambassador Laghi. I ask that it be placed in the RECORD at this time so that my colleagues may become more informed about this fascinating man whom I believe will have a very important role in the church for many years to come.

Thank you.

MESSENGER FROM THE VATICAN

PIO LAGHI: TO BE AMBASSADOR JUST MAKES IT OFFICIAL

(By James Conaway)

"What you see is what you get," says the young priest, crossing his legs and running a palm over a cushion in the receiving room of the Apostolic Delegation on Massachusetts Avenue. He is referring to his boss, Archbishop Pio Laghi, the pope's representative to the American church, and soon to be the pope's ambassador to the United States as well—the only ambassador from a church.

A telephone rings somewhere in the huge stone manse, across the avenue from the vice president's house. Oriental carpets mute the sound of footsteps; the formal furniture seems seldom used. The faces of the last 10 apostolic delegates, beginning with Cardinal Satolli, who served from 1893 to 1896, gaze out of ornate frames on the walls.

The priest leads a visitor up a broad staircase, guarded at the top by a bronze statue of a Roman centurion, and through paneled doors toward Laghi's office.

"On Monday," the priest says, discussing Laghi's schedule, "the archbishop goes to Dallas for a meeting of the American bishops. On Friday he will be in St. Louis for the ordination of the auxiliary bishops. In between, he will receive the archbishop of Brussels for dinner, and administer the sacrament of confirmation to 50 cadets in Annapolis . . ."

Laghi will also play squash with a former governor of New Jersey, at Georgetown University.

A lean, white-haired man in impeccably tailored black worsted, and a white collar, gets up from his desk and comes forward; he offers the hard palm of an inveterate courtsman. "The archbishop," Sen. John Heinz has said of Laghi, "has a frustratingly consistent forehand on the tennis court."

"People hear that I play," says Laghi, 61, shrugging. "They like to challenge me."

He seems an unlikely athlete, a more unlikely Redskins fan: "I love your American football," he says later. "It reminds me of the charging of the buffaloes."

He was invited to the Redskins-49ers game last month, but chose not to go. "I knew I would suffer if I went," he says. "I would get too involved, and the next day I would feel sick. I wouldn't show it on the outside, but I would feel it inside."

This is Laghi's first interview in years. He seems uncertain of the wisdom of his decision to grant it, but determined to see it through. He is, after all, about to become pro-nuncio.

Laghi wears a gold chain across his chest, and a gold ring with a cameo of the Virgin with the Christ Child, known as Our Lady of Confidence. In Rome he studied to be a parish priest, wanting to return to the diocese near Ravenna where he grew up. But instead he was asked to enter the Vatican's diplomatic school. Since then he has served the Vatican in Nicaragua, India, Jerusalem, Cyprus, Greece, Argentina and the United States. As pro-nuncio, he will be the official ambassador from the Vatican to the United States.

Pro-nuncio is one notch lower than nuncio, taken from the Latin word for messenger, an apostolic delegate who is automatically dean of the diplomatic corps in predominantly Catholic countries.

In Washington, however, Laghi will not be diplomatic dean.

"Thank God," he says.

The Vatican and the United States haven't had official diplomatic ties since 1867, when American Protestants protested. President Truman attempted to revive the ties in 1952, but Congress objected. Personal representatives were sent to the Vatican by subsequent American presidents, while the Vatican's delegate to the American bishops also looked after the church's relations with Washington. Now there will be an official exchange, after 117 years, with the president's friend William Wilson at the Vatican, and Laghi in Washington.

When Laghi was named apostolic delegate in December 1980, president-elect Reagan wrote him a congratulatory letter, and commented that they would take office at the same time. Laghi had diplomatic status as the Vatican's observer at the Organization of American States, and stood last in line at a reception for President Reagan at the Capitol.

"I was at the end of the diplomats' line," he recalls, "but at the beginning of the movie stars'. I got to exchange a few words with Bob Hope."

That, associates say, is typical of Laghi's optimistic view.

Shortly thereafter, Laghi went to the Oval Office with a group of scientists to present a paper on the devastating effects of nuclear war. "The president was very moved," Laghi says.

"When we speak about peace," he says of himself and other bishops, "we speak in an identical way. There is no double meaning. We use the same language about human life, or human rights. We are in full agreement with the Holy Father."

As ambassador, Laghi will officially do those things he has been doing unofficially for years. "I will just change my coat. No, no," he adds. "I will just wear a thicker coat." He pretends to adjust it. "I feel comfortable."

He should, considering the fact that he has represented the Catholic church in some of the most difficult assignments on earth, dealing with dictatorships and the antipathy between Arabs and Jews. He lived here from 1954 to 1961, and has a generous view of American society.

"I am excited to see how Americans can match the common good with the private good in their system. In other places, there is a gap between public conviction and private gain. Here, everyone is ready to give their share for the good of the community. I wonder if Americans realize how unusual this is.

"America is not a melting pot, but a rainbow. There are not seven colors, but one. To see each color, you have to pass the rainbow through a prism. Immigrants are not assimilated, but incorporated. This strikes me as wonderful."

The telephone on his desk rings. Laghi answers and carries on an animated conversation in Spanish that seems to have considerable diplomatic weight. *"Si, si, si . . . Con mucho gusto . . ."*

He hangs up. "An old lady," he says, "wanting some advice."

His father was a peasant. The name Laghi means "lake" in Italian. Laghi devised a family seal that includes a bishop's hat, and a net suspended over a lake, with the Latin inscription *"In verbo tuo,"* meaning "at thy word."

"My job here is to represent the Holy Father," he says, in case the celebration of his official ambassadorial status should receive too much attention. "The Holy Father always goes with the teaching of the gospel

. . . We will take political aspects into consideration, but we aren't politicians."

"He's a pro's pro," says a member of the Vatican desk at the State Department.

"A rara avis," says a member of the U.S. Conference of Catholic Bishops, "compared to most bishops, whose lives are relatively confined. His experience gives him a world view that's atypical. He's also a classic workaholic."

Laghi's day begins with mass at 7:30 a.m. for him and the three American and three Italian priests at the delegation. After breakfast there's common morning prayer in the chapel, then staff meetings and correspondence until 11. After that, he receives callers—lay people, priests, nuns, ambassadors. Alejandro Orfila, secretary general of the Organization of American States, recently dropped by to get Laghi's advice for a speech he had to deliver to labor secretaries from Latin America.

After lunch, there is an hour of prayer, then squash or racquetball at Georgetown University. He jogs in the neighborhood on afternoons when no match is scheduled.

Laghi travels a lot, keeping in touch with bishops around the country.

"The Vatican has always found it confusing," says Gerald Fogarty, a Jesuit priest and historian, "that a [Catholic] church could exist in the midst of our religious pluralism, and be so successful. Rome has never understood the notion of inalienable rights in our Constitution. They thought this was expressed through dissent and disloyalty. Laghi may have been sent here to implement a policy of more loyal bishops. But he seems to be pointing out that dissent is not really disloyalty."

Asked about his instructions from Rome, Laghi turns and pulls a stack of papers from a shelf.

"We have departments in the church, just as there are departments in the government. All the departments are giving me instructions. They know about the problems, and how I will deal with them."

He replaces the stack of paper, having diplomatically avoided discussing those instructions.

"After proper consultation, I had to make recommendations for the appointment of bishops and the creation of new dioceses."

Observers say those appointments indicate that Laghi is trying to placate divergent factions within the American church—primarily on the question of disarmament—without undermining the liberal thrust.

Any problems he might encounter in his new role would be bound up in the teachings of the church.

"This could irritate some groups here," Laghi says. "But we are committed to the gospel. We can't keep silent."●

STATEMENT IN SUPPORT OF SELF-DETERMINATION OF THE BALTIC STATES

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Ms. FERRARO. Mr. Speaker, on February 7, 1984, the House of Representatives considered and passed the Senate concurrent resolution to bring the question of self-determination of the Baltics States before the United Nations (S. Con. Res. 80). I rise today in support of that resolution which recognizes the great and heroic struggle of the peoples of the Baltic States of Estonia, Latvia, and Lithuania. Theirs is not a struggle driven by territorial desires or any need for ideological expansion. Rather they are inspired by the deepest yearning for freedom, self-determination, and independence.

For over 61 years now the U.S. Government has recognized the independence of these three states, and, in spite of the Soviet occupation since World War II, has refused to acknowledge the Kremlin's claim of mastery over them. We continue to accord diplomatic accredition to the representatives from the prewar governments of the Baltic nations.

Mr. Speaker, the ultimate goal of the Baltic peoples is to attain their full and precious independence from Soviet domination. But before that noble goal is attained, there is an urgent item on their national agenda: the protection of their human rights and cultural identity. The strong spirit of nationalism among the Balts has led Soviet officials to attempt to tighten their control over these fiercely independent peoples.

We must render full support, moral and political, to the peoples of the Baltic States in their continuous struggle against tyranny and foreign domination. We must also seek all effective diplomatic and political measures to restrain the Soviet authorities from violating their basic human rights and fundamental freedoms. The question of their ultimate self-determination must be brought before the U.N. Human Rights Commission and other international forums for prompt and judicious review.

Mr. Speaker, the freedom-loving and compassionate people of the United States shall never ignore or forget the peoples of the Baltic States in their hopeful pursuits of an independent future.●

HONORING THE JEANNETTE HIGH SCHOOL FOOTBALL TEAM

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. MURTHA. Mr. Speaker, it was my pleasure to join recently in a dinner honoring the Jeannette High School football team which won the 1983 WPIAL class AA football championship with a 12 to 0 undefeated record.

Beside the obvious championship accomplishment, it was a pleasure to join in the evening with some 575 other Jayhawk fans because the evening stressed the cooperation and teamwork that made their season such a success.

In preparing for the dinner, I went back and checked some comments that former President Dwight Eisenhower, a football player himself at West Point, once made. President Eisenhower said:

> I believe that football, perhaps more than any other sport, tends to instill in men the feeling that victory comes through hard—almost slavish—work, team-play, self-confidence, and an enthusiasm that amounts to dedication.

It would have been impossible for the Jayhawks to reach their success of the 1983 season without exhibiting those qualities.

Adding even more to Jeannette's success is the fact that they are a small school in terms of enrollment. And I think a great deal of the success for developing the team's talent rests with Coach Joe Mucci, who since 1968 has compiled a record of 131 wins, 31 losses, and 2 ties with the Jayhawks. Coach Mucci has won 10 conference titles, 3 WPIAL championships, and has had 3 undefeated, untied seasons.

As on any athletic team there were stars, there were players highly recruited by colleges throughout the Nation, and many of those players will go on to college stardom.

But whether members of the team go on with a football career, go on to college without playing football, or begin to pursue a career after high school, the experience of performing together as part of this marvelous team will help form their character and habits for whatever goals they pursue.

Sports at their finest produce not future athletes, but young men better prepared to go forward and star in their lives, whatever their pursuits. That is the legacy of this team, and Coach Mucci and the entire Jayhawk community can take great pride in having contributed to a remarkable season that is not an end in itself, but really a beginning for the young men on the team.

It is a pleasure to join in congratulating the success and teamwork of the Jeannette High School Jayhawks football team, excellent champions of the WPIAL class AA football program.●

YOUNG REINTRODUCES NONSMOKER RELIEF ACT

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. YOUNG of Florida. Mr. Speaker, this morning I presented testimony to the Civil Aeronautics Board (CAB) in support of its proposed regulations to ban smoking on small aircraft, the smoking of cigars and pipes on all U.S. airlines, all smoking when the air ventilation is not adequate, and to provide special protections for those especially sensitive to smoke. I strongly support CAB in its efforts, however since CAB is scheduled to be dismantled at the end of this year and may or may not achieve the desired result, I am reintroducing my bill, which would continue to insure the basic right to clean air on airlines and all forms of public transportation.

My legislation, the Nonsmoker Relief Act, requires the Department of Transportation to prescribe regulations for the separate seating of nonsmokers aboard planes, trains, and buses traveling in interstate commerce. Since first introduced in the 92d Congress, my bill has drawn overwhelming public support and many airlines have voluntarily adopted its provisions. However, the regulations do not have the force of law and can, of course, be changed at any time.

The right not to smoke should be basic and the trend toward protecting the health of nonsmokers must continue beyond the sunset of the CAB. Following my remarks, I am including a copy of my testimony before the CAB, as well as a copy of the Nonsmoker Relief Act. My legislation insures that we continue to strive for clean air on public transportation and I urge my colleagues to join me by supporting this measure.

TESTIMONY OF HON. C.W. BILL YOUNG BEFORE THE CIVIL AERONAUTICS BOARD

Mr. Chairman and members of the Board. I appreciate the opportunity to come before you and express my support for proposed regulations banning smoking on small aircraft, banning the smoking of cigars and pipes on all U.S. airlines, banning smoking when the air ventilation is not adequate, and providing special protections for those especially sensitive to smoke.

As a Member of Congress who has introduced legislation since the 92d Congress requiring separate seating for nonsmokers aboard aircraft, I support your efforts and urge that this regulation be implemented. My feelings now are the same as when I first introduced this legislation, because I still believe nonsmokers have the right to be protected from breathing undesired smoke. In fact, from personal experience, I know of the irritation such smoke causes a nonsmoker like myself. That irritation is increased in airline cabins because of the extremely confined air space.

Scientific evidence continues to support the fact that breathing smoke can be very harmful to the health of nonsmokers. Medical evidence I cited as far back as 1973, states that the inhalation of smoke can cause severe discomfort to nonsmokers and this discomfort is more accentuated for those people with respiratory and cardiovascular conditions. Both the American Medical association and the Surgeon General have issued reports attesting to the effects of breathing the smoke of others.

In a 1973 Civil Aeronautics Board (CAB) ruling, the Board echoed my sentiments when it stated: "Although smokers often refer to their 'right' to smoke, their freedom to smoke, as a court recently observed, 'may have to give way to the freedom of others to be unannoyed by smoke.'" The more we learn about the effects of breathing smoke, especially in close quarters, the more we agree that action must be taken to protect our health.

The CAB is scheduled to sunset by the end of 1985. Before that happens, we must ensure that the necessary steps are taken to protect the health and well-being of airline passengers. This regulation is an important part of that plan and I urge the Board to implement the proposed rule.

Thank you for your consideration of this matter.

H.R. 4955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Transportation shall prescribe such reasonable rules and regulations as may be necessary to require that—

(1) each air carrier certificated by the Department of Transportation,

(2) each rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code; and

(3) each motor carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of title 49, United States Code;

designate a portion of the seating capacity of each passenger-carrying aircraft, railroad car, or motor vehicle, as the case may be, operated by it in the carriage of passengers as a common carrier for hire in interstate commerce as seating capacity available only to nonsmoking passengers.●

WEAPONS IN SPACE

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. MAVROULES. Mr. Speaker, March 23 will mark the anniversary of the President's speech making public his proposal for a space defense system. As we debate the merits of this proposal, we must consider all the implications of introducing weapons into outer space.

Therefore, I would like to call your attention to an article by the well-known MIT physicist, Kosta Tsipis, that appeared in USA Today last November. In light of the recent space shuttle mission and the current space weapons debate, this article is particularly appropriate today.

We have come a long way in space exploration. Soon the discoveries we are making in space will help solve some of the problems we face on Earth. We can be very proud of these accomplishments.

But, how proud can we be if that fragile frontier is turned into a "military playground"? How would such a space defense program effect peaceful scientific research in space? Kosta Tsipis warns us of the implications a space defense system will have on the civilian research that has come to be such an important part of this Nation's progress.

Many of us understand the arms control implications of a space defense program. There are many dangers in such a proposal, and we cannot afford to ignore any of them. I hope you will take note of the insightful comments in the article below:

SPACE IS BECOMING A MILITARY PLAYGROUND

CAMBRIDGE, MASS.—Americans are cheering the successful space shuttle missions. But we ought to be mourning a tragedy—that the shuttle is becoming a military vehicle and space a military playground.

While the National Aeronautics and Space Administration is starved for funds, the military space budget is overfed. Since NASA must rely on military money, the shuttle has become primarily a military vehicle. NASA, which once put a man on the moon, is now the truck driver for the Pentagon.

The militarization of space is on a fast track. President Reagan has ask for a Star Wars defense system. The Air Force wants a space command, of becoming the Billy Mitchells of space.

The shuttle is a convenient, cost-effective way to provide military access to outer space. It can be used to pursue not only experiments but actual operations, such as the testing of space weapons and the deployment of military satellites.

I am not questioning the desire of the military to use space, but the wisdom of cutting NASA's budget so that the military can take over.

I am not opposed to military uses of space for communications, weather prediction, or the monitoring of arms control agreements. But I am opposed to putting weapons in space, endangering our security and our economic future.

An arms race in space would threaten our assets there. Who would want to pursue commercial projects if they were vulnerable to attack?

This week's shuttle mission is a rare example of what we should be doing—expanding high technology research. The space program is ripe for applications.

Pure and uniform crystals can be grown in space, offering enormous advantages for the manufacturing of integrated circuits. Drugs of exquisite purity can be developed in space, which could lead to advances in medicine.

Space also offers opportunities for pure scientific research. Instead, important projects—the large solar telescope, the exploration of other plants—have been postponed for lack of funds.

NASA has plans to build an $8 billion space laboratory. It would be wonderful if its research were essentially scientific. But it is more likely to be predominantly military.

I fear that as military space projects gobble up more funds. NASA will atrophy completely—and civilian work in space will atrophy with it. Already we are losing the edge to countries like Japan because we are not developing civilian industry.

Only America has the space shuttle. That gives us an advantage no other country has. But we won't maintain our lead long if we starve NASA, starve civilian research, and let the military take over in space.●

CALIFORNIA'S UNION CITY SCHOOLS: OUTSTANDING

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. STARK. Mr. Speaker, I am proud to report that for the second time in 2 years, school in the New Haven Unified School District—basically Union City, Calif.—has been singled out for high honors. This year, the honor goes to Alvarado Middle School.

Excellence is the name of the game, and the teachers and students of this school district are consistently among the Nation's very best. Superintendent Guy Emanuele, Principal Kevin Brodehl, the parents and taxpayers of Union City, and all the staff should be congratulated for setting an example for others—particularly those communities with diverse populations—in how to excel.

ALVARADO MIDDLE SCHOOL WINS STATEWIDE HONOR

(By Rhett Stuart)

UNION CITY.—Alvarado Middle School, one of two middle schools in the New Haven Unified School District, has been cited as one of the 18 finest secondary schools in California by the National Secondary School Recognition Program.

The recognition automatically nominates Alvarado for national honors. About 400 high schools and middle schools across the country will be nominated by their respective states, and from that list about 140 will be recognized as the finest secondary schools in the nation, according to Cindy Katz, analyst for the state Department of Education.

Alvarado's recognition marks the second time in two years that a New Haven school has been cited by the program. In 1983, James Logan High School was one of 10 secondary schools to represent California and eventually was recognized as one of the top 63 high schools in America.

"I couldn't be more pleased," said a jubilant Guy Emanuele, superintendent of New Haven schools. "It's just overwhelming."

Emanuele cited Alvarado's overall curriculum and student population as key factors in the school's being honored.

"One thing that really impresses people is our diverse student population at Alvarado," Emanuele said. He noted the school's high minority population and special programs that have been effective with minorities at the school.

Alvarado has 1,045 students enrolled this year in grades 5-8, according to Principal Kevin Brodehl.

"This rewards a lot of people who deserve it," Brodehl said. "One of our major advantages is being in the New Haven school district. They have been extremely supportive and a good source of direction."

Brodehl cited a positive attitude among students as a big plus, too.

"There is a lot of responsibility toward others here," he said. "It shows in the kids. They are very complimentary of their teachers and they know they have teachers who care about them."

Alvarado will soon be visited by a group of "evaluators" from the state Department of Education who will give the school a closer look and consider it for further honors, such as those received by Logan High last year.

Two other schools in the Bay Area were also cited by the program. Borel Middle School and Argon High School, both in San Mateo, were among the 18 schools recognized.●

PEACE IN LEBANON: WORDS FROM THE PAST

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. MINETA. Mr. Speaker, as our fighting forces depart from the shores of Lebanon, we would be myopic in our view if we did not continually ask the question: Why were the Marines sent there in the first place? Lebanon has been torn apart over the years by foreign armies invading this nation in the interest of "solving" the internal conflict that has, and will continue to exist. Over a half a century ago, the Lebanese poet Kahlil Gibran wrote:

WAR

You are my brother, but why are you quarreling with me? Why do you invade my country and try to subjugate me for the sake of pleasing those who are seeking glory and authority?

Why do you leave your wife and children and follow Death to the distant land for the sake of those who buy glory with your blood, and high honour with your mother's tears?

Is it an honour for a man to kill his brother man? If you deem it an honour, let it be an act of worship, and erect a temple to Cain who slew his brother Abel.

Should we not listen to these words and carefully consider how we should choose to deploy our forces in the future?

Indeed, I hope that all parties to the conflict in Lebanon will learn from these words, and work to resolve that nation's internal problems with wisdom, patience, and peace.●

DONALD K. SHELTON

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. CLAY. Mr. Speaker, from time to time an individual enters our life whose impact is quiet but lasting. One such person was Donald K. Shelton of Dorchester, Mass., who died on February 4, 1984, while jogging in Franklin Park.

Donald Shelton was committed to helping young people. At the time of his death, he was assistant principal of Bigelow Junior High School in Newton, Mass. In addition to pursuing graduate studies and meeting his professional and family responsibilities, Don also found time to involve himself with the youth of his community by serving as track coach in Boston's Metco program. He was a member of Omega Psi Phi fraternity and chairman of the board of the Sportsman Club of Greater Boston.

Donald was a life-long resident of Boston. Born in Roxbury, Mass., on January 6, 1932, the first son of Ruth and Howard Shelton, he was educated in the Boston public school system. He graduated from Roxbury Memorial High School where he excelled in track and won the State hurdles championship in 1949.

Don attended Virginia State College and, after graduation, he served our Nation for 7 years as a paratrooper. Following his discharge as a first lieutenant, Don returned to Boston, earned a master degree from Boston University and turned his attention to helping young people through the teaching profession.

Mr. Speaker, we sometimes take little note of the valued but unpublicized contributions made by some of our Nation's citizens. Donald Shelton was one such person. I hope that, through these remarks, we will all recognize Donald Shelton's contributions and that his life and work will stand as a model for generations to come.

In addition to his parents, Don is survived by his wife Simla (Pootoolal) of Dorchester; two sons, Donald, Jr., and Martin, and two daughters, Rayna and Desiree, all of Dorchester, and a brother, Howard J. Shelton, Jr., of Boston. Another child is expected shortly.

I extend my deepest sympathies to this surviving family.●

TRIBUTE TO SENATOR BARRY GOLDWATER

HON. JOHN McCAIN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1984

● Mr. McCAIN. Mr. Speaker, I would like to bring to the attention of my colleagues a recent column in the Wall Street Journal about Senator BARRY GOLDWATER.

The senior Senator from Arizona has served his State and country with great dedication and distinction, and he is deserving of the special recognition and high commendation accorded to him in this column. The author, Vermont Royster, clearly outlines the Senator's brilliant career in the U.S. Congress—a career which is an inspiration to us all as we strive to emulate his many noteworthy achievements. The column follows:

[From the Wall Street Journal, Feb. 15, 1984]

THINKING THINGS OVER—A 'RETIRING' BARRY GOLDWATER?

(By Vermont Royster)

Looking back on it, Sen. Barry Goldwater never had a chance of winning the presidency in 1964.

To begin with, the times were out of joint for a conservative president. The U.S. was still under the spell of the martyred John Kennedy and taken with Lyndon Johnson's promises of the "Great Society." It would be 20 years before disillusionment set in and the political pendulum swung.

Then Sen. Goldwater didn't help himself. He chose for his running mate Rep. William Miller of New York, lifted from total obscurity and destined to return to it. Sen. Goldwater also rejected advice to conciliate his opponents within his party, the so-called moderate wing. Instead he flung down the defiant words, "Extremism in defense of liberty is no vice . . . moderation in pursuit of justice is no virtue."

There was nothing retiring about Barry Goldwater, a trait that left him vulnerable to his enemies. There are many possible selections for the "dirtiest" presidential campaign, but 1964 certainly rivals the 1928 personal attacks on Al Smith.

Remember those "daisy" commercials on TV? They showed a child peacefully pulling petals off a daisy when suddenly the picture dissolved into a mushroom cloud. Sen. Goldwater, you see, had taken a tough stance on Vietnam and the intended implication was that he would casually toss around atom bombs.

Meanwhile, President Johnson scattered promises of peace about that far-off war. We wouldn't get tied down in a land war in Asia. "There can be, and will be as long as I am president, peace for all Americans." A year later, of course, we were mired more deeply in that Asian war. So much for his political promises.

These recollections are sparked by Sen. Goldwater's announcement that he will retire when his term expires in 1987. That's a while off but the news inspires some musings on the part this most unretiring man has played in our national life.

We forget sometimes the major roles played in our political history by men who never reached the White House. Webster, Clay, Calhoun come to mind.

Daniel Webster, who served in Congress from both Massachusetts and New Hampshire, was known as the great expounder of the Constitution and did as much as any man to inspire people to regard that document with reverence. He was twice secretary of state, respected by all, but the presidency eluded him.

So it also eluded Henry Clay, best remembered for his remark, "I would rather be right than be president." So renowned was he as an orator that one day the Senate adjouned so the members could go to the House to hear him speak on the Seminole War. He too made it to secretary of state but no further.

John Calhoun, a South Carolinian, was in public service for more then 40 years, as congressman, senator, secretary of war and—yes—secretary of state. He was vice president under two presidents, John Quincy Adams and Andrew Jackson. He resigned that office solely because he disagreed philosophically with President Jackson, who favored a more powerful federal government over the states.

No one would put Barry Goldwater down as a great orator, and all his career (save for that abortive run for the presidency) has been as a senator. But that career already spans more than 30 years.

When he first came to the Senate in 1952, he was regarded as one of those oddities—a businessman in politics; he was president of Goldwater's Department Store in Phoenix, Ariz. Before long he was regarded as even more of an oddity, an unashamed conservative in a country still dominated by the New Deal-Fair Deal politics of Presidents Roosevelt and Truman. By contrast, he made even President Eisenhower seem like a liberal.

In the beginning, of course, he was pretty much dismissed by the press and his fellow Republicans as a passing curiosity. But, curiously, more and more people began to pay attention to his views. While not a great speaker, he is a literate writer. He was already the author of two volumes of Arizona portraits and an account of a journey down the river of canyons. Anyway, in 1958 when the Republicans suffered a sweeping disaster, Barry Goldwater bucked the Democratic tide and won reelection decisively.

That propelled him into national attention. In 1960, he published "The Conscience of a Conservative," an articulate and rational presentation of that philosophy that gave it political respectability. That propelled him to the 1964 nomination.

Ever since then Barry Goldwater has been a respected spokesman for the political views that ultimately elected Ronald Reagan. But, as that 1964 campaign illustrated, Mr. Goldwater has also been something of a maverick, a man who has his own thoughts and goes his own way undeterred by what others may say. It's not too much to say that, like Henry Clay, he'd rather believe himself right than be president. He won't trim his opinions to the winds of public opinion. So he's never been "a good party man."

He isn't today. Though he's generally in sympathy with President Reagan, he doesn't hesitate to differ publicly when he differs. On Lebanon, for example, he says we should never have sent in the Marines and he urged their removal long before the president did so. That this may have aided Democratic critics of President Reagan didn't trouble him. Because that's what he thought, that's what he said.

Such men—the Websters, Clays, Calhouns—aren't destined for the White House. Possibly they wouldn't make good presidents if elected. I'm not sure Barry Goldwater would have. All the same, it will be a sad day when this most unretiring man retires to join the others in the history books. For such men are rare enough to be treasured.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, February 28, 1984, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 29

9:00 a.m.

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Railroad Retirement Board, National Labor Relations Board, National Mediation Board, OSHA Review Commission, and the Federal Mediation and Conciliation Service.
SD-116

9:30 a.m.

Banking, Housing, and Urban Affairs
To continue hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.
SD-538

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1985 budget.
SD-608

Labor and Human Resources
To continue oversight hearings on alleged corruption by officials of local chapters of the Operating Engineer's Union.
SD-430

10:00 a.m.

Appropriations
District of Columbia Subcommittee
To hold oversight hearings on the District of Columbia Department of Corrections.
SD-124

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the National Highway Traffic Safety Administration, Department of Transportation.
SD-138

Energy and Natural Resources
Business meeting, on pending calendar business.
SD-366

Environment and Public Works
Transportation Subcommittee
To hold oversight hearings on the implementation of the Surface Transportation Assistance Act (Public Law 97-424).
SD-406

Foreign Relations
International Economic Policy Subcommittee
To hold hearings on proposed legislation authorizing funds for U.S. contributions to the seventh replenishment of the International Development Association (IDA VII).
SD-419

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold oversight hearings on the activities of the General Accounting Office.
SD-342

Veterans' Affairs
To hold oversight hearings on the Veterans' Administration readjustment counseling program and the VA loan guaranty program.
SR-418

*Select on Indian Affairs
To hold hearings on S. 2166, authorizing funds through fiscal year 1988 for Indian health care programs.
SD-562

Joint Economic
To resume hearings in preparation of its forthcoming annual report, focusing on the economic outlook for 1984 and Federal economic policy.
SR-325

1:30 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1985 budget.
SD-608

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Foreign Relations
To resume hearings on proposed legislation authorizing funds for fiscal year 1985 and supplemental funds for fiscal year 1984 for foreign assistance programs.
SD-419

Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

2:30 p.m.
Governmental Affairs
To hold hearings on the nomination of John G. Keane, of Illinois, to be Director of the Census.
SD-342

MARCH 1

9:00 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of Labor, and the Employment and Training Administration, Department of Labor.
SD-116

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1985 for the National Aeronautics and Space Administration.
SR-253

9:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for foreign assistance programs.
SD-226

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1985 budget.
SD-608

Foreign Relations
African Affairs Subcommittee
To hold hearings to review the problems of hunger in Africa.
SD-419

Governmental Affairs
To hold oversight hearings to review the management and operation of the Defense Contract Audit Agency.
SD-342

Small Business
Innovation and Technology Subcommittee
To hold oversight hearings on the implementation of the Small Business Innovation Research Act (Public Law 97-219).
SR-428A

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the National Science Foundation.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Bureau of Land Management, Department of the Interior.
SD-138

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Environment and Public Works
To hold hearings on ground water contamination from underground storage tanks.
SD-406

Judiciary
To hold hearings on the nomination of Edwin Meese III, of California, to be Attorney General.
SD-106

Labor and Human Resources
*Education, Arts, and Humanities Subcommittee
Business meeting, to mark up S. 2341, authorizing funds for fiscal years 1985 through 1989 for vocational education assistance programs.
SD-430

1:00 p.m.
Select on Intelligence
Budget Subcommittee
To hold closed hearings on proposed legislation authorizing funds for fiscal year 1985 for the intelligence community.
SD-407, Capitol

1:30 p.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture.
SD-192

MARCH 2

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold oversight hearings to review the process of recovering oil by mining.
SD-366

Judiciary
Constitution Subcommittee
To hold hearings to discuss legislative veto issues.
SD-226

Special on Aging
To hold hearings to review energy problems of the aged, focusing on strategies for improvements in the Federal weatherization program.
SD-628

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the U.S. Representative to the United Nations, and for voluntary contributions to international organizations and programs.
SD-192

Environment and Public Works
To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the Environmental Protection Agency.
SD-406

Judiciary
To continue hearings on the nomination of Edwin Meese III, of California, to the Attorney General.
SD-106

2:00 p.m.
Finance
Economic Growth, Employment and Revenue Sharing Subcommittee
To hold hearings on S. 2185, to extend through fiscal year 1989 the credit provisions of the targeted jobs tax credit, which focuses tax incentives for employment on specific target groups that are found to experience high unemployment rates.
SD-215

MARCH 5

9:30 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Commerce, Justice, State, the Judiciary, and certain related agencies.
S-146, Capitol

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings to review proposed budget requests for fiscal year 1985 for environment and safety programs of the Department of Energy.
SD-366

2:00 p.m.

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Committee for Purchase from the Blind, Federal Elections Commission, Merit Systems Protection Board, Office of Special Counsel, Federal Labor Relations Authority, U.S. Tax Court, Administrative Conference of the United States, and the Advisory Committee on Federal Pay.
SD-124

Finance
Energy and Agricultural Taxation Subcommittee
To hold joint hearings with the Subcommittee on Oversight of the Internal Revenue Service on S. 152 and S. 2180, bills to allow farmers an investment tax credit for soil and water conservation expenditures not treated as deductible expenses.
SD-215

MARCH 6

9:00 a.m.

Armed Services
Tactical Warfare Subcommittee
To hold closed hearings on proposed legislation authorizing funds for fiscal year 1985 for the Department of Defense, focusing on Army tactical programs.
SR-222

9:30 a.m.

Banking, Housing, and Urban Affairs
To resume hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.
SD-538

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the National Bureau of Standards.
SR-253

Judiciary
Juvenile Justice Subcommittee
To continue hearings on S. 2014, proposed Missing Children's Assistance Act, focusing on the reauthorization provisions for juvenile justice assistance.
SR-418

Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Taft-Hartley Act.
SD-430

10:00 a.m.

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on Navy programs.
SD-192

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of State, focusing on international security assistance programs.
S-126, Capitol

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Architectural and Transportation Barriers Compliance Board, and the Office of Inspector General, Department of Transportation.
SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Internal Revenue Service Department of the Treasury, and the General Services Administration.
SD-124

Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 1084, to designate portions of specified rivers as components of the National Wild and Scenic Rivers System, S. 416, to designate segments of the Illinois River and Owyhee River, both in Oregon, as components of the National Wild and Scenic Rivers System, S. 2095, to designate the Wildcat River, New Hampshire, for study as a National Wild and Scenic River, and S. 1756, to establish a Federal grant program, provide for the use of volunteers, and to authorize charitable contribution of land by private landowners for river conservation purposes.
SD-366

Environment and Public Works
Business meeting, to consider those items in the President's budget for fiscal year 1985 which fall within its legislative jurisdiction and consider recommendations which it will make thereon to the Budget Committee.
SD-406

Small Business
To hold hearings on proposed legislation to facilitate the development of a secondary market in the Small Business Administraton's guarantee loan program.
SR-428A

11:30 a.m.

Veterans' Affairs
To hold hearings to review the legislative priorities of the Veterans of Foreign Wars.
SD-106

2:00 p.m.

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Commerce, Science, and Transportation
To hold hearings on the nominations of Sidney L. Jones, of Maryland, to be Under Secretary of Commerce for Economic Affairs, and Irving P. Margulies, of Maryland, to be General Counsel of the Department of Commerce.
SR-253

3:00 p.m.

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for conservation programs of the Department of Energy.
SD-138

MARCH 7

9:00 a.m.

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Labor-Management Services Administration, Employment Standards Administration, and Bureau of Labor Statistics, all of the Department of Labor, and the Pension Benefit Guaranty Corporation.
SD-116

Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of the Senate, Office of the Senate Sergeant At Arms, Congressional Budget Office, and Office of Technology Assessment.
S-128, Capitol

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

9:30 a.m.

Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Agricultural Research Service, Cooperative State Research Service, Extension Service, and the National Agricultural Library.
SD-192

Banking, Housing, and Urban Affairs
To continue hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.
SD-538

Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for fiscal years 1985 and 1986 for the U.S. Coast Guard.
SR-253

10:00 a.m.

Agriculture, Nutrition, and Forestry
Business meeting, to mark up S. 2085, to extend authority through fiscal year 1988 for the Secretary of Agriculture to recover costs associated with cotton classing services to producers, H.R. 3960, to designate specified lands in North Carolina as wilderness and wilderness study areas as additions to the National Wilderness Preservation System, H.R. 4198, to designate certain lands in the State of Vermont for inclusion in the National Wilderness Preservation System, H.R. 3921 and S. 1851, bills to establish additional wilderness areas in the White Mountain National Forest in New Hampshire, and H.R. 3578 and S. 1810, bills to establish certain wilderness areas in Wisconsin.
SR-328A

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the United States Railway Association, and CONRAIL.
SD-138

Environment and Public Works
Business meeting, to mark up S. 768, to authorize funds through fiscal year 1987 for and to extend certain programs of the Clean Air Act (Public Law 95-95), and other pending calendar business.
SD-406

Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for health programs administered by the Public Health Service, Department of Health and Human Services.
SD-430

Small Business
To hold hearings on S. 1920, to establish a Small Business Computer Crime and Security Task Force.
SR-428A

Veterans' Affairs
Business meeting, to mark up proposed legislation authorizing funds for fiscal year 1985 for the Veterans' Administration.
SR-418

1:30 p.m.
Finance
To hold hearings to review the Social Security Advisory Council's recommendations on medicare trust solvency.
SD-215

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of State, focusing on international narcotics control, migration and refugee assistance, and antiterrorism programs.
S-126, Capitol

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Armed Services
Tactical Warfare Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on Marine Corps tactical programs.
SR-222

2:30 p.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Board for International Broadcasting, Securities and Exchange Commission, Equal Employment Opportunity Commission, and the Civil Rights Commission.
S-146, Capitol.

MARCH 8

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Occupational Safety and Health Administration, Mine Safety and Health Administration, and Departmental Management, all of the Department of Labor, and the President's Committee on Employment of the Handicapped.
SD-116

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1985 for the National Aeronautics and Space Administration.
SR-253

9:30 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Government Printing Office, General Accounting Office, Library of Congress, and the Congressional Research Service.
S-128, Capitol

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Business meeting, to resume markup of S. 2341, authorizing funds for fiscal years 1985 through 1989 for vocational education assistance programs.
SD-430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed supplemental funds for fiscal year 1984 for the Department of Defense, and for assistance to Grenada.
SD-192

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs administered by the Agency for International Development.
S-126, Capitol

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Science and Technology Policy, Selective Service System, and the Consumer Product Safety Commission.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Indian Health Service, Department of Health and Human Services, and the National Gallery of Art.
SD-138

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on H.R. 3169, to facilitate commerce by the domestic renewable energy industry and related service industries.
SD-366

Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold hearings on proposed legislation to extend the Safe Drinking Water Act (Public Law 95-190), and to further protect ground water supplies.
SD-406

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs administered by the Agency for International Development.
S-126, Capitol

MARCH 9

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the Federal Railroad Administration, Department of Transportation, and to review rail safety activities.
SR-253

Small Business
To hold hearings on S. 2084, to prohibit the Small Business Administration from denying financial assistance to a small business solely because its primary operation concerns the communication of ideas.
SR-428A

10:00 a.m.
Finance
Health Subcommittee
To hold hearings to review capital financing under the medicare program's existing provision for reasonable cost reimbursement.
SD-215

MARCH 12

9:30 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Commerce, and the International Trade Commission.
S-146, Capitol

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings to review proposed budget requests for fiscal year 1985 for fossil programs of the Department of Energy.
SD-366

2:00 p.m.
Armed Services
Tactical Warfare Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on Air Force tactical programs.
SR-222

2:30 p.m.
Finance
International Trade Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the U.S. International Trade Commission, U.S. Customs Service, and the Office of the U.S. Trade Representative.
SD-215

MARCH 13

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of Education, Departmental Management, salaries and expenses, Office of Civil Rights, and Office of Inspector General, all of the Department of Education.

SD-116

9:30 a.m.

Banking, Housing, and Urban Affairs

To resume hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.

SD-538

Labor and Human Resources

Aging Subcommittee

To hold oversight hearings on the implementation of the Older Americans Act (Public Law 89-73), focusing on title V, community services employment provisions.

SD-430

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on research and engineering programs.

SD-124

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Panama Canal Commission, and the St. Lawrence Seaway Development Commission, Department of Transportation.

SD-138

Environment and Public Works

Business meeting, to resume markup of S. 768, to authorize funds through fiscal year 1987 for, and extend certain programs of, the Clean Air Act (Public Law 95-95), and other pending calendar business.

SD-406

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings on S. 2300, to authorize civilian procuring agencies to enter into multiyear contracts when such contracts are determined to be in the Government's best interest.

SD-342

2:00 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for Multilateral Development Banks.

S-126, Capitol

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Surface Mining, Department of the Interior, and the U.S. Holocaust Memorial Council.

SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Postal Service, and the Office of Personnel Management.

SD-124

Armed Services

Tactical Warfare Subcommittee

To hold closed hearings to receive testimony on the joint surveillance and target acquisition radar system (JSTARS), and on the joint tactical missile system (JTACMS).

SR-222

MARCH 14

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Education, including elementary and secondary education, education block grants, and impact aid.

SD-116

Appropriations

Legislative Branch Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Architect of the Capitol.

S-128, Capitol

Labor and Human Resources

To hold hearings on pending nominations.

SD-430

9:30 a.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Communications Commission, District of Columbia Courts, and the U.S. Courts of Appeals.

S-146, Capitol

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Executive Office of the President, and the Advisory Commission on Intergovernmental Relations.

SD-124

Commerce, Science, and Transportation

Merchant Marine Subcommittee

To hold oversight hearings to review U.S. Coast Guard polar icebreaking operations.

SR-253

Environment and Public Works

Business meeting, to resume markup of S. 768, to authorize funds through fiscal year 1987 for, and extend certain programs of, the Clean Air Act (Public Law 95-95), and other pending calendar business.

SD-406

Governmental Affairs

Intergovernmental Relations Subcommittee

To hold oversight hearings on the Office of Management and Budget Circular A122, to restore use of Federal funds for lobbying by contractors and grantees.

SD-342

Labor and Human Resources

To resume hearings on proposed legislation authorizing funds for health programs administered by the Public Health Service, Department of Health and Human Services.

SD-430

2:00 p.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD-192

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Inspector General, Agency for International Development, General Accounting Office, and the Inter-American Foundation.

S-126, Capitol

MARCH 15

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Education, including vocational and adult education, education for the handicapped, and rehabilitation services and handicapped research.

SD-116

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for local rail service assistance programs of the Department of Transportation.

SR-253

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on spare parts procurement and acquisition management.

SD-192

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the

U.S. Fish and Wildlife Service, Department of the Interior.

SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Civil Aeronautics Board.

SD-124

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on restoring classroom discipline in public schools.

SD-430

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Export-Import Bank.

S-126, Capitol

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of the Treasury.

SD-124

MARCH 16

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings on proposed budget request for fiscal year 1985 for conservation and renewable energy programs of the Department of Energy.

SD-366

Finance
Taxation and Debt Management Subcommittee
To hold hearings on miscellaneous tax proposals, including S. 146, S. 1332, S. 1768, S. 1809, and S. 2080.

SD-215

MARCH 19

2:00 p.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the National Oceanic and Atmospheric Administration, Marine Mammal Commission, and the Small Business Administration.

S-146, Capitol

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Bureau of Government Financial Operations, Bureau of the Public Debt, Bureau of the Mint, and U.S. Savings Bonds Division, all of the Department of the Treasury.

SD-124

MARCH 20

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Education, including student financial assistance, student loan insurance, higher and continuing education, higher education facilities loan and insurance, and educational research and training activities overseas.

SD-116

9:30 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on Senate Joint Resolution 10, proposing an amendment to the Constitution of the United States relative to equal rights for women and men, focusing on the impact of the amendment on social security.

SD-226

Labor and Human Resources
Labor Subcommittee
To hold hearings on termination of overfunded defined benefit pension plan and reversion of assets to plan sponsors.

SD-430

Labor and Human Resources
Aging Subcommittee
To hold oversight hearings on the implementation of the Older American Act (Public Law 89-73).

SD-628

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense.

SD-192

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Peace Corps.

S-126, Capitol

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Council on Environmental Quality, and the Environmental Protection Agency.

SD-124

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Library Services and Construction Act.

SR-485

1:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for foreign assistance programs.

S-126, Capitol

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Navajo Hopi Relocation Commission, and the Institute of Museum Services.

SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of the Treasury, U.S. Postal Service, and general government programs.

SD-124

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings to review proposed budget requests for fiscal year 1985 for energy research programs of the Department of Energy.

SD-366

MARCH 21

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Education, including college housing loans, special institutions, Howard University, the National Institute of Education, education statistics, bilingual education, and libraries.

SD-116

Commerce, Science, and Transportation
To hold hearings on the nomination of William Evans, of California, to be a member of the Marine Mammal Commission.

SR-253

Labor and Human Resources
To hold hearings on pending nominations.

SD-430

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.

SD-538

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Highway Administration, and the Office of the Secretary of Transportation.

SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Federal Procurement, Office of Management and Budget, and the U.S. Customs Service, U.S. Secret Service, Bureau of Alcohol, Tobacco, and Firearms, and the Federal Law Enforcement Training Center, all of the Department of the Treasury.

SD-124

Environment and Public Works
Business meeting, to consider pending calendar business.

SD-406

Labor and Human Resources
Business meeting, to consider pending calendar business.

SD-430

2:00 p.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Soil Conservation Service, and the Agricultural Stabilization and Conservation Service.
SD-192

3:00 p.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Commodity Credit Corporation, Foreign Agricultural Service, Office of International Cooperation and Development, and the provisions of Public Law 480.
SD-192

MARCH 22

9:00 p.m.
*Office of Technology Assessment
The Board to hold a general business meeting.
S-207, Capitol

10:00 p.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Veterans' Administration.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Minerals Management Service, Department of the Interior.
SD-138

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings to review the educational needs of native Hawaiian children.
SD-430

Labor and Human Resources
Family and Human Services Subcommittee
To hold hearings on proposed legislation authorizing funds for Head Start programs.
SD-562

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings to review proposed budget requests for fiscal year 1985 for nuclear energy programs and nuclear waste activities of the Department of Energy.
SD-366

MARCH 23

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of Health and Human Services.
SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the National Transportation Safety Board
SD-138

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on proposed legislation authorizing funds for adult education assistance.
SD-430

MARCH 27

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Health and Human Services, including the Health Resources and Services Administration, and the Office of the Assistant Secretary for Health.
SR-428A

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.
SD-538

Labor and Human Resources
To hold oversight hearings on U.S. relations with the International Labor Organization.
SD-430

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-116

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Railroad Administration, Department of Transportation, and the National Railroad Passenger Corporation (Amtrak).
SD-138

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

2:00 p.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Farmers Home Administration, Department of Agriculture.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Bureau of Indian Affairs, Department of the Interior.
SD-138

MARCH 28

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Health and Human Services, including the Health Care Financing Administration, Social Security Administration, and refugee programs.
SD-116

Commerce, Science, and Transportation
To hold hearings with the National Ocean Policy Study on S. 2324, to insure that all Federal activities directly affecting a State's coastal zone will be fully consistent with that State's coastal management plan.
SD-253

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative priorities of AMVETS, Blinded Veterans Association, Paralyzed Veterans of America, Military Order of the Purple Heart, and Veterans of WWI.
SD-106

9:30 a.m.
Labor and Human Resources
Aging Subcommittee
Business meeting, to consider proposed legislation authorizing funds for fiscal years 1985, 1986, and 1987 for programs of the Older Americans Act (Public Law 89-73).
SD-430

10:00 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of State, and the U.S. Information Agency.
S-146, Capitol

MARCH 29

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings in closed session on proposed legislation authorizing funds for fiscal year 1985 for the National Aeronautics and Space Administration, to be followed by open hearings.
SR-253

Labor and Human Resources
Aging Subcommittee
Business meeting, to consider proposed legislation authorizing funds for fiscal years 1985, 1986, and 1987 for programs of the Older Americans Act (Public Law 89-73).
SD-430

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the National Aeronautics and Space Administration.

SD-124

Appropriations
Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of the Interior, and the Bureau of Mines, Department of the Interior.

SD-138

Environment and Public Works

Business meeting, to consider pending calendar business.

SD-406

2:00 p.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Federal Crop Insurance Corporation, and the Rural Electrification Administration.

SD-124

MARCH 30

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimated for fiscal year 1985 for programs of the Department of Health and Human Services, including Human Development Services.

SD-116

APRIL 2

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

APRIL 3

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the National Institutes of Health, Department of Health and Human Services.

SD-116

9:30 a.m.
*Banking, Housing, and Urban Affairs
Securities Subcommittee

To hold hearings on S. 910 and H.R. 559, bills to permit the Securities and Exchange Commission to assess civil penalties for trading in securities while in possession of material nonpublic information.

SD-538

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Appropriations
Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Aviation Administration, Department of Transportation.

SD-138

Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee

To hold hearings on proposed legislation authorizing funds for the National Institute on Drug Abuse, and the National Institute on Alcohol Abuse and Alcoholism.

SD-430

Labor and Human Resources
Family and Human Services Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on title X (family planning).

SD-562

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the U.S. Forest Service, Department of Agriculture.

SD-138

Appropriations
Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

APRIL 4

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1985 for the National Institutes of Health, Department of Health and Human Services.

SD-116

9:30 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Bureau of Investigation, Department of Justice, the Federal Trade Commission, and the Office of U.S. Trade Representative.

S-146, Capitol

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Appropriations
Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Interstate Commerce Commission.

SD-138

Veterans' Affairs

To hold hearings to review veteran's health programs.

SR-418

2:00 p.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 the Food and Drug Administration, Department of Health and Human Services, and the Commodity Futures Trading Commission.

SD-124

Appropriations
Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

APRIL 5

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Health and Human Services, including the Centers for Disease Control, and the Alcohol, Drug Abuse and Mental Health Administration.

SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Neighborhood Reinvestment Corporation, National Credit Union Administration, and the Office of Revenue Sharing (New York City loan program), Department of the Treasury.

SD-124

Appropriations
Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the National Endowment for the Humanities, and the Economic Regulatory Administration, Department of Energy.

SD-138

Appropriations
Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Labor and Human Resources
Family and Human Services Subcommittee

Business meeting, to consider proposed legislation authorizing funds for low income energy assistance and Head Start programs.

SD-430

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

APRIL 6

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on S. 50 and S. 1672, bills to streamline trade relief procedures and make trade relief more accessible to small businesses.
SD-215

APRIL 9

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1278, to provide for a program of megnetohydrodynamic research, development, and demonstration with respect to the production of electricity, and S. 1925, to establish a national coal science, technology, and engineering program within the Department of Energy.
SD-366

APRIL 10

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Health and Human Services, including the Office of Inspector General, Office for Civil Rights, Policy Research, and Departmental Management, Salaries and Expenses.
SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Coast Guard.
SD-138

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for fossil energy research and development programs of the Department of Energy.
SD-138

APRIL 11

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Urban Mass Transportation Administration, Department of Transportation.
SD-138

Labor and Human Resources
To resume oversight hearings on certain activities of the Legal Services Corporation, focusing on past and present policies at the corporation, including political activity.
SD-430

APRIL 12

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Emergency Management Agency, and the Federal Home Loan Bank Board.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Strategic Petroleum Reserve, and the Naval Petroleum Reserves.
SD-138

APRIL 24

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

10:00 a.m.
Labor and Human Resources
Family and Human Services Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on title XX (adolescent family life demonstration projects).
SD-430

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Geological Survey, Department of the Interior.
SD-138

APRIL 25

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

APRIL 26

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Housing and Urban Development.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Smithsonian Institution.
SD-138

Labor and Human Resources
Family and Human Services Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on Title XX (adolescent family life demonstration projects).
SD-430

APRIL 30

2:00 p.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Supreme Court, and the Arms Control and Disarmament Agency.
S-146, Capitol

MAY 1

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Transportation and certain related agencies.
SD-138

Labor and Human Resources
Family and Human Services Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on title X (family planning).
SD-430

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the National Park Service, Department of the Interior.
SD-138

MAY 2

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Transportation and certain related agencies.
SD-138

Veterans' Affairs
Business meeting, to mark up proposed legislation authorizing funds for veteran's health benefit programs.
SD-418

MAY 3

10:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for U.S. Territories.
SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Transportation and certain related agencies.
SD-124

Labor and Human Resources
Family and Human Services Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on Title X (family planning).
SD-430

MAY 7

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for certain programs of the Department of Housing and Urban Development and related agencies.
SD-124

MAY 8

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for certain programs of the Department of Housing and Urban Development and related agencies.
SD-124

Labor and Human Resources
Family and Human Services Subcommittee
Business meeting, to consider proposed legislation authorizing funds for programs of the Public Health Service Act, including Title X (family planning), and Title XX (Adolescent Family Life Act).
SD-430

MAY 9

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

Veterans' Affairs
To hold hearings on veterans' compensation programs.
SD-418

MAY 15

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2329, to improve retirement income security under private multiemployer pension plans and to remove unnecessary barriers to employer participation in those plans by modifying the rules relating to employer withdrawal liability, asset sales, and funding.
SD-430

MAY 17

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2329, to improve retirement income security under private multiemployer pension plans and to remove unnecessary barriers to employer participation in those plans by modifying the rules relating to employer withdrawal liability, asset sales, and funding.
SD-430

MAY 22

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on alleged corruption by officials of the Boilermaker's Union.
SD-430

MAY 23

10:00 a.m.
Veterans' Affairs
To hold oversight hearings on the interagency agreement between the Veterans' Administration and the Department of Defense, focusing on sharing and supply and procurement policies.
SR-418

JUNE 13

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JUNE 19

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on the civil rights of victims in labor disputes, focusing on existing agencies ability to protect rank and file employees and the general public during labor disputes.
SD-430

JUNE 20

9:30 a.m.
Labor and Human Resources
To continue oversight hearings on the civil rights of victims in labor disputes, focusing on existing agencies ability to protect rank and file employees and the general public during labor disputes.
SD-430

CANCELLATION

MARCH 5

10:00 a.m.
Environment and Public Works
Regional and Community Development Subcommittee
To hold oversight hearings to review the cost of Tennesssee Valley Authority power purchased by the Department of Energy.
SD-406

HOUSE OF REPRESENTATIVES—*Tuesday, February 28, 1984*

The House met at 12 o'clock noon.

The Reverend Dr. J. H. Flakes, Jr., Fourth Street Baptist Church, Columbus, Ga., offered the following prayer:

Most gracious Father, great is Your name and greatly to be praised in all the Earth.

We thank Thee for all life upon this Earth, and give thanks for life in our country.

As we assemble in this sacred Chamber of laws, wouldest Thou come today, and touch us as we wait upon Thee. Banish every evil thought; purge and cleanse us according to our need.

O, teach us how to:
Trust You for Your wisdom.
Love You for Your goodness.
Believe You for Your faithfulness.

We lift to Thee, these men and women who adorn this Chamber that Thou wouldest endow them with wisdom and keen perception as they give birth to new laws, amend, or change old laws that govern this Nation. Engender in each of them the courage to stand for what is true, just, and right. For these causes we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates, the President approved and signed bills and a joint resolution of the House of the following titles:

On February 14, 1984:

H.R. 2727. An act to codify without substantive change recent laws related to money and finance and transportation and to improve the United States Code; and

H.R. 3969. An act to amend the Panama Canal Act of 1979 to allow the use of proxies by the Board of the Panama Canal Commission.

On February 17, 1984:

H.R. 2898. An act to declare certain lands to be held in trust for the benefit of the Paiute Indian Tribe of Utah, and for other purposes; and

H.J. Res. 290. Joint resolution to permit free entry into the United States of the personal effects, equipment, and other related articles of foreign participants, officials, and other accredited members of delegations involved in the games of the XXIII Olympiad to be held in the United States in 1984.

On February 22, 1984:

H.R. 1557. An act for the relief of William D. Benoni.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 292. Joint resolution designating "National Theatre Week."

The message also announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 746. An act to establish the Illinois and Michigan Canal National Heritage Corridor in the State of Illinois, and for other purposes;

S.J. Res. 112. Joint resolution to proclaim the month of March 1984, as "National Social Work Month";

S.J. Res. 202. Joint resolution to designate 1984 as the "Year of Water";

S.J. Res. 205. Joint resolution authorizing and requesting the President to designate the second full week in March 1984 as "National Employ the Older Worker Week";

S.J. Res. 213. Joint resolution designating 1984 the "Year of the Secretary"; and

S.J. Res. 225. Joint resolution designating the month of March 1984 as "National Eye Donor Month."

REV. JOHNNY H. FLAKES, JR.

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, it is both a pleasure and a privilege to introduce our visiting chaplain today, Rev. Johnny Flakes, Jr.

Reverend Flakes has been a significant influence in the Columbus, Ga., community for the last 25 years. His humanitarian efforts have benefited many of the citizens of Columbus, especially the needy and the helpless. He has devoted his life to his fellowman and his daily sacrifices are a reminder of the words of Jesus in the Gospel of Matthew: "Inasmuch as you did it for one of the least of these My brethren, you did it for Me."

One of the many projects which Reverend Flakes works with is a food program which he has organized in the Fourth Street Baptist Church. This program provides meals for hundreds of area residents each day that are unable to buy food. His inspiration has led the members of his church to fund this program almost entirely from their own pockets and he donates much of his time and resources to this cause. Reverend Flakes is truly one of those outstanding persons who lives a life that is an example to all who meet him, and we are honored by his presence today.

STRENGTHEN SOCIAL SECURITY DISABILITY REVIEW PROCEDURES

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, the Aging Committee today will consider testimony from the Nation's Governors concerning the procedures for the review of social security disability benefits.

Clearly, too many people were cut off from their disability benefits, and I think the problem is too great to handle administratively.

Mr. Speaker, I am supporting legislation to strengthen the social security disability review procedure. No person should be cut off without a personal examination, not just a computer check. One should also be able to handle gainful employment before one's disability benefits are ended.

Mr. Speaker, the proposed legislation does much to correct an injustice that was repeated countless times in the past few years, and I look forward today to hearing from the Governors today on this important matter.

MINERALS: NEED FOR NATIONAL INDEPENDENCE

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REID. Mr. Speaker, we Americans take special pride in our independence and self-sufficiency. Yet, a crisis, like the energy crunch of the seventies, is a prompt and strong reminder that our country has become resource dependent.

As a Congressman from Nevada, a State where mining is the second-largest industry, I am aware of the vital role minerals play in maintaining our national well-being and independence. I realize that the economic and military strength of our country correlates directly to our mineral wealth and availability.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Though foreign dependencies are not new, we must realize that what has changed are the conditions and relationships that accompany our need for foreign resources.

Along with these changes, the transactions for these resources have become more unpredictable and unreliable.

Therefore, in order to preserve our Nation's strength, we must turn to our own geography and our own manpower to retrieve our own minerals and energy sources.

Only in this way will we be able to provide for today and plan for tomorrow.

THE PRACTICE OF FREEZING PENSION BENEFITS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, as one who helped lead the fight which resulted in the abolition of mandatory retirement at age 65, I rise today to indicate that further legislation is urgently needed if we are to end a related and equally invidious form of age-based discrimination.

While the law allows persons employed in private industry to work until age 70, current regulations of the Equal Employment Opportunity Commission permit employers to freeze the pension benefits of those who elect to work past age 65. This means that a person who may work an additional 5 years does not get 1 additional cent in pension benefit accrual.

According to the American Association of Retired Persons, more than half of all employers engage in this discriminatory practice and it is equally divided between small businesses and large corporations.

I will shortly propose remedial legislation to end this practice so there is no further diminishing of the value of work for persons over 65.

SUPREME COURT MISINTERPRETS TITLE IX

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, Thomas Jefferson so rightly, before he died, wrote his own epitaph so that no one would mess it up. And the reason he wanted to write it was because he wanted to tell the American people that one of the most important things he did was found the University of Virginia, because he felt public education was much more important to the future of this Nation than the fact that he had been President.

Well, today the Supreme Court has tarnished that heritage, especially for women, as it came down from Thomas Jefferson. Today, the Supreme Court sided with the Reagan administration in its interpretation of title IX. Today the Supreme Court said: No, there is no such thing as equal opportunity for women, that if we collect taxes equally from both men and women and we use those taxes equally for men and women to have financial aid to go to school, the only place where there must be equality of educational opportunities is in the finance office of that educational institution where the young women are going to school.

I think this is incredible. It is not what the Congress said title IX meant; it is not what the Congress reaffirmed title IX to mean last year, and I hope we act in all due haste to prove the Reagan administration and the Supreme Court will not have equal education for males only.

BALANCED BUDGET AMENDMENT

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, tomorrow, I have requested a special order, and I hope my colleagues will join me, to discuss the necessity of a balanced budget amendment.

Over 44 of my colleagues have now joined in Congressional Leaders United for a Balanced Budget, encouraging States to once again impress upon this Congress the need for bringing forth that balanced budget amendment.

Today, though, Mr. Speaker, I would hope to offer a unanimous-consent request calling for consideration of an amendment to require a balanced budget. The Chair has ruled that in order to make this request, I must have the clearance of the majority and the minority leadership. This request has been cleared by the minority leadership, Mr. Speaker. I would now yield to a spokesman of the majority leadership for appropriate clearance.

Mr. Speaker, I hear no response from the majority. That would make it clear to the American people who stands in the way of a balanced budget: The Democratic leadership of this House.

I now hope that the citizens of this Nation and those States that are currently considering petitioning Congress for a balanced budget will bring forth that vote and force this body to be responsive not only to the Constitution but to the wishes of over 70 percent of our citizens.

FARM CREDIT ADMINISTRATION INVESTIGATION

(Mr. McEWEN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, today I have written Congressman Ed Jones, chairman of the Subcommittee on Conservation, Credit, and Rural Development of the House Agriculture Committee requesting that his subcommittee hold hearings to review the operations of the Farm Credit Administration.

As we all know, there is a critical credit crunch facing agricultural producers across the Nation. However, in the midst of this crisis, many farmers in central Ohio have begun to lose confidence in the management of the Farm Credit System.

There are concerns the Farm Credit System is not operating as the Congress originally intended. It should be remembered that with the Farm Credit Act of 1971, Congress converted the Farm Credit System into a privately owned institution with no government capital. It is an autonomous system operating independently of the Federal Government except for the executive branch's appointment powers to the Federal Farm Credit Board.

That act also states, however:

> It is the objective of this act to continue to encourage farmer- and rancher-borrowers participation in the management, control, and ownership of a permanent system of credit for agriculture. . . .

Participating farmers are, therefore, to be actual equity owners in the system. However, many farmers in central Ohio now feel that the benefits of FCA investments are not being distributed fairly to the farmer. The farmer-owners are believed to have lost much of the control they were originally intended to retain over the system.

Mr. Speaker, responsiveness and accountability in our Government are fundamental to its legitimacy. My request is simply that the Congress, through its committee system, examine the accountability of the Farm Credit Administration as it presently exists. At this time of tight farm credit, the least this body can do is insure that the Farm Credit Administration is acting according to its original congressional mandate.

ROADBUILDING FUNDS BEING HELD UP

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the roadbuilding season is at hand in most parts of the Nation, and indeed, in some parts it has already reached its pinnacle, or about to begin in others.

While this is going on, there are over $5 billion in potential roadbuilding funds being held up because of squabbling among individuals of the membership of this Congress as to pet projects—$5 billion that could be used immediately for pumping into the economy at a time when it can use it to assure its continued reentry into prominence.

The interstate cost estimate process has been held up because of this bickering and this individual fighting for pet projects.

I would hope that men of good sense would now sit down and work out those individual differences so that the roadbuilding season and the economy can both come to the fore again.

□ 1220

WHO STANDS IN THE WAY OF LINE-ITEM VETO?

(Mr. LOEFFLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOEFFLER. Mr. Speaker, the line-item veto, contrary to the claims of its opponents, does not constitute a breach of some inviolate balance of power between the Congress and the executive branch. The budget and appropriations process and procedures have continually evolved and have been adapted to changing circumstances and requirements as the times dictated.

Line-item veto authority is a much needed tool of discipline for the Congress which can have a meaningful impact on controlling Federal expenditures. Some critics have argued that the line-item veto would only be applicable to a small portion of the Federal budget. However, this is the same ill-founded logic used by those who cry that $100 billion in deficit reductions over 3 years is not worth the effort.

Deficits will never be reduced, and the budget will never be brought into balance, if we do not examine all aspects of the budget and all mechanisms available for enhancing discipline. Providing the President with line-item veto power is a responsible step in that direction.

Mr. Speaker, at this time I would hope to offer a unanimous-consent request calling for consideration of a line-item veto constitutional amendment.

The Chair has ruled that in order to make this request I must have the clearance of the majority and minority leaderships.

This request has been cleared by the minority leadership.

I would now yield to a spokesman from the majority leadership for appropriate clearance.

Mr. Speaker, I hear no response. That should make it clear to the American people who stands in the way of the line-item veto and cutting Federal spending—the Democratic leadership of this House.

WHO STANDS IN THE WAY OF THE VOLUNTARY SCHOOL PRAYER AMENDMENT?

(Mr. PHILIP M. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PHILIP M. CRANE. Mr. Speaker, at this time I would hope to offer a unanimous-consent request calling for consideration of the voluntary school prayer constitutional amendment.

The Chair ruled that in order to make this request I must have the clearance of the majority and minority leaderships.

This request has been cleared by the Republican minority leadership.

I would now yield to a spokesman from the Democratic majority leadership for appropriate clearance.

Mr. Speaker, I hear no response. That should make it clear to the American people who stands in the way of voluntary school prayer—the Democratic leadership of this House.

INGENUITY AND THE LACK OF A FREE LUNCH

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, the United Press International News Service carried a rather remarkable story on its wire several weeks ago. It seems that the New Hampshire Democratic Party said it would be charging reporters $25 apiece to attend a news briefing on a recent Saturday concerning delegate selection in the campaigns of the Democratic Presidential candidates.

The State Democratic chairman defended the fee charged to the newspeople by saying, "There is no such thing as a free lunch."

I want to commend the Democrats for their ingenuity; whatever they may lack in policy and programs they obviously make up for in imagination. Mr. Speaker, think of the possibilities inherent in the Democrats running a news operation: The House Democratic leadership can start charging newsmen to cover debates in the Chamber, credit cards accepted. Interviews with Congressmen can be advertised. You certainly have to hand it to the Democrats, for in Washington we have learned one thing: If you do not hand it to them, they will take it away anyway.

THE TIME IS NOW FOR A BALANCED BUDGET

(Mr. McCANDLESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCANDLESS. Mr. Speaker, in the private sector, successful personal finance requires a balanced budget. All successful business enterprises must have a balanced budget. In the public sector, every school district must have a balanced budget. Every special district must have a balanced budget. Every city must have a balanced budget. Every county must have a balanced budget, and in the State of California, it must have a balanced budget.

It is now time for the United States to adopt a balanced budget.

MORE OVERSIGHT IS NEEDED AT THE DEPARTMENT OF DEFENSE

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, it is the Reagan administration that has given us the most unbalanced budget in history. It is hard for the constituents back home to understand the megabucks that are involved in the Reagan unbalanced budget of more than $200 billion. This kind of deficit most people cannot comprehend, but I find back home they can easily understand situations which involve the expenditure of hundreds of dollars for wrenches, for nuts and bolts, and other spare parts in the Department of Defense.

Mr. Speaker, all you need is commonsense and mother wit to be able to understand these gigantic wastes. In the drive to cut the deficit, there is a great fear back home, and I think rightly so, that we are going to bully the people who can least afford to be bullied and make the cuts in all the places where they should not be made while leaving the Department of Defense untouched.

We are going to require that children eat catsup for a vegetable while we refuse to outlaw cost overruns, while we refuse to mandate warranties for weapons. Traditionally, the Defense Department has been treated like a sacred cow. The kind of review that is taking place for other departments and other programs has never taken place.

Mr. Speaker, we need to have a caustic review of Defense Department expenditures and we need to ban cost overruns once and for all. They are not consistent with American capitalism. We need to require that weapons meet warranty conditions and that defense contractors be willing to offer warranties. We need to look at the Defense Department like we look at no other Department because that is where most of the money is; that is the place where we have the least oversight, the least audits, and that is the place probably where we have the greatest amount of waste.

WE MUST PRESS SOVIET OFFICIALS FOR RELEASE OF ELENA BONNER

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FEIGHAN. Mr. Speaker, all of us are familiar with the saga of Andrei Sakharov and his courageous wife, Elena Bonner, who have become eloquent and powerful symbols of the struggle for freedom in the Soviet Union. Their work and words have been a beacon of hope to millions around the world who are fighting for basic human rights—the chance to live, speak, and think freely.

But the Sakharovs are deteriorating in the lonely reaches of Gorky. Ms. Bonner has suffered several heart attacks, and an official campaign of hate and harassment prevents her from receiving effective and compassionate medical care.

In a recent letter smuggled out of Russia, Dr. Sakharov urged the West to press Soviet officials for the release of Elena Bonner. Over 100 Members of Congress have joined me in a letter to Soviet General Secretary Chernenko, urging him to grant Ms. Bonner an exit visa.

Elena Bonner's life is in danger. On behalf of her and her husband, Andrei Sakharov, I appeal to all of my colleagues to join our letter and help secure the release of the Sakharovs.

CONGRESS WILL MISS MR. FORSYTHE

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, I take the floor today with great sadness, following the announcement that my long-time friend and colleague from New Jersey, the Honorable Ed Forsythe, will be retiring from Congress at the end of this session.

Ed Forsythe has spent his lifetime in public service, first in local government, then as a New Jersey State senator, Acting Governor, and 13 years in the U.S. Congress.

Throughout his career, Ed has maintained the highest standards as an honest, hardworking, and compassionate lawmaker. He is a quiet person, who most often lets his actions speak louder than his words.

Although we serve on different sides of the aisle, Ed and I have worked together on countless occasions over the years on issues of mutual concern to our neighboring districts in southern New Jersey.

I have also had the privilege of serving with Ed on the Merchant Marine and Fisheries Committee, where he has been a great leader in the fields of conservation and environmental protection.

At a time when there is so much public cynicism toward government, Ed Forsythe has always stood out as an example of what is right about the government. He is a man of great honesty and integrity.

Ed has not been feeling very well lately, and I know this is the reason behind his decision to retire from Congress. I hope and pray that Ed will recover his health completely, and I want to wish him and his lovely wife Mickey the very best of luck in the years ahead. We are going to miss them here in Washington.

SEVENTEENTH ANNUAL REPORT RELATING TO DEVELOPMENTS DURING 1982 RELATING TO AUTOMOTIVE PRODUCTS TRADE ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means:

(For message, see proceedings of the Senate of today, Tuesday, February 28, 1984.)

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

☐ 1230

EXTENSION OF EXPORT ADMINISTRATION ACT OF 1979

Mr. BONKER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4956) to extend the authorities under the Export Administration Act of 1979.

The Clerk read as follows:

H.R. 4956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Export Administration Act of 1979 (50 U.S.C. App. 2419) is amended by striking out "February 29" and inserting in lieu thereof "March 30".

The SPEAKER. Is a second demanded?

Mr. ROTH. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Washington (Mr. Bonker) will be recognized for 20 minutes and the gentleman from Wisconsin (Mr. Roth) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. Bonker).

Mr. BONKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4956 is a simple, temporary extension of the Export Administration Act until March 30, 1984. The Export Administration Act, as it is presently extended, will expire on Wednesday, February 29.

The House passed H.R. 3231, to revise the EAA and continue it for 2 years, on October 27, 1983. But the Senate has just begun consideration of its companion to H.R. 3231.

A simple extension of 30 days will allow time for the Senate to complete its work, and conferees to meet. Extension of the President's authority under EAA is essential to U.S. national security and foreign policy.

Mr. Speaker, I trust that since the Senate currently is taking up this vital legislation that it should complete its work before the end of the week, and I believe the 30-day extension we are asking for will enable the conferees to complete their work and present to the respective bodies a conference report.

Mr. Speaker, I yield to the ranking member of the subcommittee, the gentleman from Wisconsin.

Mr. ROTH. Mr. Speaker, each of us involved in the reauthorization of the Export Administration Act know full well the complexity of the statute. We have been in this position several times since September 30 when the 1979 act expired.

On one occasion the President was compelled to use his emergency to declare a national emergency to continue export controls because Congress failed to extend the act. Now, for the fourth time, we are again on the floor attempting to pass an extension for another brief time period.

Mr. Speaker, it is beyond reasonable expectation that Congress will complete the reauthorization of the Export Administration Act within the next 30 days. The simple mechanics of the legislative process, let alone the fundamental differences between the bill passed by the House and the legislation being considered in the other body require longer than 30 days.

Let us act with deliberation to complete the reauthorization of the EAA, but let us also allow sufficient time to consider carefully each issue involved.

I would rather deal with the substantive issues in the legislation, rather than be compelled to return to the floor again and again and face a possibility of extending the act another time.

I ask the gentleman from Washington to consider a 60-day extension. Imposing an unreasonable deadline on the upcoming conference will not produce an improved system of export controls.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. ROTH. I will be happy to yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding.

Mr. Speaker, I realize the gentleman, as the ranking member of the subcommittee, is well aware of the complexity of this legislation and both of us have endured now, over the course of the last 3 or 4 months, as we have attempted to act favorably upon extending the current Export Administration Act.

Therefore, I take very seriously the gentleman's comment and suggestion for a 60-day extension. However, I am confident that we can complete our work on this legislation within 30 days that is requested in this current extension. I say that because the delay has been on the Senate side for a variety of reasons and the bill has simply not reached the Senate floor, but given the fact that the bill is now currently before the Senate, I am convinced that we will see passage some time this week and that 30 days will enable both the House and the Senate to have ample time to reconcile their differences and finally get a conference report before the respective bodies.

Mr. ROTH. I hope that the gentleman from Washington is correct. I hope that we can finish the work in 30 days, but this is the fourth time that we have asked for an extension and I hope that we do not have to come here for the fifth time. My opinion is that if we have it for only 30 days, we will be back here for a fifth time asking for an extension. On the other hand, if we ask for 60 days, maybe we can complete the work.

Mr. BONKER. If the gentleman will yield further, I simply would note that I may set a record for the number of bills passed in this session of Congress, since we have had five extensions and the actual bill itself all pass in the last year.

Mr. ROTH. Mr. Speaker, if I may reclaim my time, as I see it, every Congressman should be in the "Guinness Book of World Records" for something, and maybe this will be the gentleman's claim.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. I thank the distinguished gentleman from Wisconsin for yielding to me.

Mr. Speaker, I feel a little differently than the gentleman from Wisconsin. When I heard this bill was coming up, I was tempted to try to vote it down, and the reason is, I think there has not been nearly enough pressure on the other body to move their bill along swiftly.

So I would concur with the gentleman from Washington that 30 days is the maximum that we should have without relieving pressure on the other body to act. I think that should give enough time for that body and for the gentleman from Wisconsin and the gentleman from Washington to work something out in conference committee. I am hopeful that they can do that.

So for my part, I will support the motion and I wish the gentleman from Wisconsin and the gentleman from Washington the best of luck.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman for his comments and his support on the 30-day extension, and also for the considerable effort he has made in behalf of this legislation. There are few members in this body who really understand all of the complex issues associated with the Export Administration Act, but the gentleman certainly does and he has been a valued asset in our consideration of the bill.

Mr. FRENZEL. I thank the distinguished subcommittee chairman from Washington, and also the distinguished ranking member from Wisconsin and hope that the conference report will be swiftly completed.

Mr. ROTH. Mr. Speaker, I will reclaim the balance of my time and tell the gentleman from Minnesota I appreciate his input, but the gentleman has probably seen the CONGRESSIONAL RECORD for yesterday where the Senate is starting to move. I want to compliment the other body, because I think they are moving in the right direction. I would hope that the gentleman from Minnesota would endorse their action at the appropriate time, as I am sure he will.

Mr. Speaker, I yield back the balance of my time.

Mr. BURTON of Indiana. I thank the Speaker.

Mr. Speaker, the Export Administration Act extension probably cannot alter the situation the way it is right now, Mr. Speaker, but late last year I found that a U.S. company had sold some strategic materials to a company in West Germany, and this strategic material was used to produce bulletproof vests which were going to be in turn sold to the Syrian Government.

At that time we were in a very tenuous military situation in the Middle East and some say we still are. I could not for the life of me figure out why strategic materials were being sold to what could be considered our enemy.

And I wrote to the Secretary of Commerce to try to find out why these strategic materials were being sold to a considered enemy of the United States during a time of military conflict. I received this letter back and I would like to read it into the RECORD.

This is from Malcolm Baldrige, Secretary of Commerce:

THE SECRETARY OF COMMERCE,
Washington, D.C., February 16, 1984.

Hon. DAN BURTON,
House of Representatives,
Washington, D.C.

DEAR MR. BURTON: Thank you for your letter regarding the export of bulletproof material to West Germany.

The export of the U.S. material to Germany, as well as its re-export as German-made clothing to Syria, is subject to U.S. national security controls to prevent diversion to the USSR or other communist countries. Under the Export Administration Regulations, re-export of the German-made clothing to Syria is subject to anti-terrorism foreign policy controls if the U.S. content of a shipment is valued at $7 million or more.

The two re-export applications, which did not independently reach the $7 million limit, were submitted separately (in March and July) to the Office of Export Administration (OEA) under the national security criteria. Without any apparent basis for the applications to be considered together under the foreign policy criteria, approval without Department of State referral was consistent with the Regulations.

Regarding this matter, the Department of Commerce has suspended re-export authorization pending review. In addition, all export license applications to Syria are subject to additional internal review by OEA's Policy and Planning Division. This review ensures referral of cases to the Department of State or other agencies if appropriate. Cases of special significance will be accorded high-level review.

It is hoped that the delicate issue of re-export to Syria can be resolved to the satisfaction of all concerned. If you have further questions on this matter, you or your staff may wish to contact Kristin Paulson, Acting Director, Office of Congressional Affairs, International Trade Administration, 377-3015.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

This is a severe problem, Mr. Speaker, in that we have a policy right now; a rule or regulation whereby if any export license is under $7 million it is not scrutinized by the Secretary of State's office. As a result, we have strategic material that was about to reach an adversary of the United States during a time of military conflict and that is unthinkable.

And I would like to talk specifically to the Senate and House conferees who will be working on the Export License Administration legislation in the not-too-distant future, and urge them to lower from $7 million down to zero those items that will be scrutinized by the Secretary of State's office before they are sold to a foreign power. I think that is the only way we are going to be able to keep track of strategic materials getting into the hands of enemy or possible enemies of the United States.

Mr. BONKER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Richardson). The question is on the motion offered by the gentleman from Washington (Mr. Bonker) that the House suspend the rules and pass the bill, H.R. 4956.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BONKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING ADDITIONAL LONG-TERM LEASES IN THE EL PORTAL ADMINISTRATIVE SITE ADJACENT TO YOSEMITE NATIONAL PARK, CALIF.

Mr. SEIBERLING. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 3506) to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, Calif., and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize the Secretary of the Interior to grant long-term leases with respect to lands in the El Portal administrative site adjacent to Yosemite National Park, California, and for other purposes", approved July 21, 1968 (82 Stat. 393; 16 U.S.C. 47-2), is amended—

(1) by striking out "fifty-five years to any operator of concession facilities in the park, or its successor for purposes of providing employee housing.", in the first sentence of the first section and inserting in lieu thereof "not to exceed ninety-nine years to any individual, including an employee of the United States Government, to any operator of concession facilities in the park, or the administrative site, or its successor, or to any public or private corporation or organization (including a nonprofit corporation) for purposes of providing employee housing, community facilities, administrative offices, maintenance facilities, and commercial services.";

(2) by striking out "the concessioner may sublease the property to its employees" in the second sentence of the first section and inserting in lieu thereof "if the lessee is a concessioner, corporation, or other organization (including a nonprofit corporation) such lessee may sublease the property to its employees, employees of the United States Government, or other individuals whose residence on the leased premises is solely in support of Yosemite National Park or the El Portal administrative site;

(3) in the proviso to the first section by striking out "an annual", inserting a period after "him", and deleting the remainder of the sentence; and

(4) by redesignating "Sec. 2." as "Sec. 3." and inserting the following new section after the first section:

"Sec. 2. (a) Notwithstanding any other provision of law, the proceeds from any leases issued by the Secretary pursuant to the first section of this Act may be credited to the appropriation bearing the cost of administering (directly or by contract) the leases and of constructing, improving, and maintaining roads, utilities, buildings, and other facilities within the El Portal administrative site. In the administration of the leases, the Secretary may contract for the management of the leases and of the leased premises, subject to such terms and conditions, including the right of the Secretary to purchase and sell the unexpired terms of leases and subleases, as will protect the interests of the United States. The Secretary may also contract for the use by him of any improvements to leased property for purposes of the El Portal administrative site or for purposes of Yosemite National Park, and he may use the proceeds from any leases for the purpose of making payments under any such contract.

"(b) The Secretary may at any time acquire the unexpired term of any lease or sublease issued or entered into pursuant to this Act by purchase with funds available from the proceeds of leases, or with donated or appropriated funds, or by donation or exchange."; and

(5) by adding at the end thereof the following new sections:

"Sec. 4. After the date of enactment of this section, no lease may be issued for the purpose of providing housing or other facilities in the El Portal administrative site except in accordance with regulations promulgated by the Secretary of the Interior. Such regulations shall establish the qualifications of natural persons and corporations who may be eligible to acquire a lease and a sublease, and they shall set forth the circumstances under which the Secretary may elect to acquire any unexpired lease or sublease. Such regulations shall become effective only after sixty calendar days from the day on which they have been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

"Sec. 5. Concurrent with the submission of the regulations referred to in section 4, the Secretary shall submit a summary report on the El Portal administrative site including existing and projected lease arrangements at that time contemplated to be exercised under the provisions of this Act, along with a timetable for the consequent removal of specific facilities in Yosemite National Park (with particular emphasis on Yosemite Valley). On January 1 of each of the ten calendar years thereafter, the Secretary shall submit to the committees referenced in section 4, an annual fiscal year report for the previous year as to the progress achieved in the development of the El Portal administrative site pursuant to the provisions of this Act. The report also shall include information as to the progress achieved in removal of facilities from Yosemite National Park. Implementation of the provisions of this Act shall at all times be in full accord with the then current general management plan for the park.

"Sec. 6. Any new spending authority (within the meaning of section 401 of the Congressional Budget and Impoundment Control Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts or to the extent that proceeds are available from any leases issued by the Secretary pursuant to the first section of this Act.".

The SPEAKER pro tempore. Is a second demanded?

Mr. EMERSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. Seiberling) will be recognized for 20 minutes and the gentleman from Missouri (Mr. Emerson) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Seiberling).

□ 1240

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the El Portal administrative site of about 1,200 acres was authorized by the act of September 2, 1958, for the purpose of establishing an administrative site for Yosemite National Park to be located just outside the park boundaries.

The legislation was designed to encourage both the concessioner and the National Park Service to move nonessential personnel and housing and administrative facilities out of Yosemite Valley.

The concessioner has been unable, however, to obtain adequate construction financing because the maximum lease term is 55 years. Banking institutions in the area require a longer lease term as a basis for loans. The Park Service has not been successful in obtaining the needed levels of appropriated Federal funding for employee housing and administrative facilities at the El Portal site. However, Federal funds have been provided for infrastructure construction of roads, water system, and sewage treatment facilities. As a consequence, the Park Service is currently housing many of its employees in temporary structures which have been determined by the State of California Department of Housing and Community Development as the most critical substandard housing in central California. It appears unlikely that sufficient funding to construct adequate housing for the park employees will be obtainable by appropriations in the foreseeable future.

H.R. 3506 would amend the authority of the Secretary of the Interior within the El Portal administrative site in two respects. First, it would permit leases to be granted for up to 99 years, and, second, to make qualified Park Service employees eligible, along with park concessioner employees, to acquire such leases. In that way they could get financing for building houses, and the private sector could provide the necessary housing.

So the legislation is intended to encourage lending institutions to finance development within El Portal to encourage both concessioner and Park Service employees to build their own housing rather than attempting to obtain Federal appropriations for that housing and thereby stimulate the removal of incompatible structures from the Yosemite Valley itself.

H.R. 3506 was introduced by my friend, the gentleman from California (Mr. Coelho), a member of the Committee on Interior and Insular Affairs, and I wish to compliment him for working out a bit of legislation which will result in the removal of some of the incompatible developments from the beautiful Yosemite Valley while at the same time avoiding the Federal Government having to expend taxpayers' funds.

Mr. Speaker, I urge all our colleagues to support this legislation which has passed the House in previous Congresses, and I reserve the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Missouri (Mr. Emerson).

Mr. EMERSON. Mr. Speaker, I yield back the balance of my time.

● Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of the suspension of the rules for consideration of H.R. 3506, a bill to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park.

I commend my good friend and colleague, Mr. Tony Coelho, for his leadership in bringing this legislation to the floor of the House. Mr. Speaker, there is much legislation which comes from the Committee on Interior which is superfluous to the national interest and burdensome to our Federal estate managers. This legislation represents what can be done if the committeee keeps its mind on the management of Federal lands, rather than the expansion of the estate. The legislation would allow for the removal of the nonessential housing and administrative facilities from the Yosemite Valley to the El Portal administrative site, located on some 1,200 acres directly adjacent to the park. Congress has previously expressed its interest in this program but due to the nature of the leases previously authorized, those wishing to relocate within the site have been unable to obtain funding for their improvements and/or construction of facilities. Through this legislation, leases will be granted on a 99-year basis, increasing both the number and the quality of lessees in the site. The result will ultimately be increased revenues to the Federal Government, due to an increased interest in leasing in the site due to the extended leases. This will result in less congestion in Yosemite Valley, improved utilization of the site, and increased revenues to the U.S. Treasury. Mr. Speaker, this is the type of legislation I can heartily endorse, and I urge my colleagues to do the same. Thank you Mr. Speaker.●

● Mr. COELHO. Mr. Speaker, today, the House of Representatives will be considering H.R. 3506, a measure which will authorize additional long-term leases in the El Portal administration site which is adjacent to Yosemite National Park, Calif., which lies in my congressional district. This measure will strengthen and protect the natural beauty of Yosemite National Park and assist those employed with the park—concessionaire and National Park Service employees to improve their living conditions.

The priceless value of the Yosemite National Park and the Yosemite Valley in California is recognized by over 2.5 million people each year. This natural beauty is visited by the people from all over the world who come to the Yosemite National Park to view the spectacular and stunning sites. It is the unique landscape which encourages and pulls over 2 million of these visitors to stay overnight and again view these sights which are world renown. Yosemite National Park has the highest overnite visitation of all of the national parks. Its numbers are only equaled by the Yellowstone National Park which is open only a short period of the year, in contrast to the Yosemite National Park which is accessible to visitation year round.

Perhaps a quick review of the origin and the purpose of this legislation will assist my fellow colleagues in recognizing the uniqueness of the Yosemite National Park employee housing and the important need to those employees. Congress realized the need to alleviate the environmental pressure on the Valley of Yosemite in 1958, and created legislation to acquire the El Portal site outside of the park with the desire that this area would be developed to meet the housing needs for those employed within the park. In 1980, a publicly endorsed general management plan again endorsed development of a housing facility at El Portal.

The El Portal site has not provided the housing as originally intended because special use permit holders in this area have found it virtually impossible to obtain financing from financial institutions for new home construction or improvements on existing structures. This is due to the current statute which only allows leases to extend from 30 to 55 years. Banks are hesitant to provide mortgage loans if lands cannot be leased for as much as 100 years.

As you can see this legislation will alleviate the financial problems faced by park employees who wish to invest at the El Portal site, and reduce the employee housing problems faced by Yosemite National Park, as well as by the concessionaire. In addition, it will lessen the overcrowded conditions on the floor of Yosemite Valley which is one of the most beautiful sites in California and the world.

There are unique circumstances surrounding the Yosemite National Park. It is the only park which has the opportunity to upgrade substandard housing and remove administrative sites from a heavy visitation area for the benefit of maintaining the spectacular Yosemite Valley. Furthermore, if these leases were extended, Government and concessionaire housing expenditures could be reduced, a climate for potential return on a housing investment for National Park Service employees could be provided, and opportunities for employees to own their own homes could occur. This could only benefit the Yosemite National Park by attracting quality employees and creating a highly active local community. But, most importantly the adoption of the lease extension could strengthen the protection of the natural beauty of the Yosemite National Park.●

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. Seiberling) that the House suspend the rules and pass the bill, H.R. 3506, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR ACT

Mr. SEIBERLING. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 2014), an act to establish the Illinois and Michigan Canal National Heritage Corridor

in the State of Illinois, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE

Sec. 101. This title may be cited as the "Illinois and Michigan Canal National Heritage Corridor Act of 1984".

FINDINGS; PURPOSE

Sec. 102. (a) Findings.—The Congress makes the following findings:

(1) An abundance of sites and structures within the corridor defined by the Illinois and Michigan Canal from Chicago, Illinois, to LaSalle-Peru, Illinois, symbolize in physical form the cultural evolution from prehistoric aboriginal tribes living in naturally formed ecosystems through European exploration, nineteenth century settlement, commerce, and industry right up to present-day social patterns and industrial technology.

(2) The corridor has become one of the most heavily industrialized regions of the Nation and has potential for further economic expansion and modernization. The area in which the corridor is located is currently experiencing high rates of unemployment and industrial migration. Establishment of the corridor as provided in this Act may provide the stimulus required to retain existing industry and to provide further industrial growth and commercial revitalization.

(3) Despite efforts by the State, political subdivisions of the State, volunteer associations, and private business, the cultural, historical, natural, and recreational resources of the corridor have not realized full potential social value and may be lost without assistance from the Federal Government.

(b) Purpose.—It is the purpose of this title to retain, enhance, and interpret, for the benefit and inspiration of present and future generations, the cultural, historical, natural, recreational, and economic resources of the corridor, where feasible, consistent with industrial and economic growth.

DEFINITIONS

Sec. 103. For purposes of this title—

(1) the term "canal" means the Illinois and Michigan Canal, as depicted on the map referred to in section 104(b);

(2) the term "Commission" means the Illinois and Michigan Canal National Heritage Corridor Commission established in section 105;

(3) the term "corridor" means the Illinois and Michigan Canal National Heritage Corridor established in section 104(a);

(4) the term "Governor" means the Governor of the State of Illinois;

(5) the term "National Park Service report" means the report of the National Park Service, dated November 1981, which contains a conceptual plan and implementation strategies for the corridor;

(6) the term "plan" means the goals, objectives, and action statements of the conceptual plan which—

(A) is contained in the National Park Service report; and

(B) may be modified by the Commission under section 108(h);

(7) the term "political subdivision of the State" means any political subdivision of the State of Illinois, any part of which is located in or adjacent to the corridor, including counties, townships, cities, towns, villages, park districts, and forest preserve districts;

(8) the term "Secretary" means the Secretary of the Interior; and

(9) the term "State" means the State of Illinois.

ESTABLISHMENT, BOUNDARIES, AND ADMINISTRATION OF CORRIDOR

Sec. 104. (a) Establishment.—To carry out the purpose of this title, there is established the Illinois and Michigan Canal National Heritage Corridor.

(b) Boundaries.—(1) The corridor shall consist of the areas depicted on the map dated May 1983, and numbered IMC-80,000, entitled "Illinois and Michigan Canal National Heritage Corridor". Such map shall be on file and available for public inspection in the offices of the Commission and in the offices of the National Park Service.

(2) Upon a request of the Commission signed by not less than twelve members of the Commission, the Secretary may make minor revisions in the boundaries of the corridor. Any such revision shall take effect upon publication by the Secretary in the Federal Register of a revised boundary map.

(c) Administration.—The corridor shall be administered in accordance with this Act.

ESTABLISHMENT OF ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

Sec. 105. There is established a commission to be known as the Illinois and Michigan Canal National Heritage Corridor Commission which shall carry out the duties specified in section 109.

ORGANIZATION OF COMMISSION

Sec. 106. (a) Membership.—The Commission shall be composed of nineteen members as follows:

(1) The Director of the National Park Service, ex officio, or a delegate.

(2) Three individuals, nominated by the Governor and appointed by the Secretary, who will represent the interests of State and local government.

(3) One member of the board of a forest preserve district, any part of which is located in or adjacent to the corridor, who shall be nominated by the Governor and appointed by the Secretary. Appointments made under this paragraph shall rotate among the three forest preserve districts, parts of which are located in the corridor, in a manner which will ensure fairly equal representation on the Commission for each such district.

(4) One member of the county board of each county, any part of which is located in the corridor (other than the county which is represented on the Commission by the member appointed under paragraph (5)), who shall be nominated by the Governor and appointed by the Secretary.

(5) Five individuals, nominated by the Governor and appointed by the Secretary, who will represent the interests of history, archaeology, and historic preservation; of recreation; and of conservation.

(6) Five individuals, nominated by the Governor and appointed by the Secretary, who will represent the interests of business and industry.

The Secretary may request that additional names be submitted for members appointed pursuant to paragraphs (2) through (6). Members appointed under paragraphs (5) and (6) shall be selected with due consideration to equitable geographic distribution. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) Terms.—(1) Except as provided in paragraphs (2) and (3), members of the Commission shall be appointed for terms of three years.

(2) Of the members of the Commission first appointed under paragraphs (2), (3), (4), (5), and (6) of subsection (a)—

(A) six shall be appointed for terms of one year;

(B) six shall be appointed for terms of two years; and

(C) six shall be appointed for terms of three years, as designated by the Governor at the time of nomination.

(3) Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member of the Commission may serve after the expiration of his term until his successor has taken office.

(c) Compensation.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) Chairperson.—(1) The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under paragraphs (5) and (6) of subsection (a).

(2)(A) Except as provided in subparagraph (B), the term of the chairperson shall be two years.

(B) If a member is appointed to a term on the Commission which is less than two years and is elected chairperson of the Commission, then such member's term as chairperson shall expire at the end of such member's term on the Commission.

(e) Quorum.—(1) Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

(3) The affirmative vote of not less than ten members of the Commission shall be required to approve the budget of the Commission.

(f) Meetings.—The Commission shall meet at least quarterly at the call of the chairperson or ten of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

STAFF OF COMMISSION

Sec. 107. (a) Director and Staff.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the minimum rate of basic pay payable for level GS-15 of the General Schedule.

(2) The Commission may appoint such additional staff personnel as the Commission considers appropriate and may pay such staff at rates not to exceed the minimum rate of basic pay payable for level GS-15 of the General Schedule. Such staff may include specialists in areas such as interpretation, historic preservation, recreation, conservation, commercial and industrial devel-

opment and revitalization, financing, and fundraising.

(3) Except as otherwise provided in this subsection, such Director and staff—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Experts and Consultants.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) Staff of Other Agencies.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties under section 109.

(2) The Commission may accept the services of personnel detailed from the State or any political subdivision of the State and may reimburse the State or such political subdivision for such services.

POWERS OF COMMISSION

Sec. 108. (a) Hearings.—(1) The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpenas or exercise any subpena authority.

(b) Powers of Members and Agents.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this title.

(c) Administrative Support Services.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) Use of Appropriated Amounts To Obtain Federal Funding.—Notwithstanding any other provision of law, for purposes of any law conditioning the receipt of Federal funding on a non-Federal contribution, any portion of the amounts appropriated pursuant to section 116 of this title may, at the election of the Commission, be used as such non-Federal contribution.

(f) Gifts.—(1) Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) For purposes of section 170(c) of the Internal Revenue Code of 1954, any gift to the Commission shall be deemed to be a gift to the United States.

(g) Acquisition of Real Property.—(1) Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c) of this section, the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3) of this subsection, the Commission may acquire real property, or interests in real property, in the corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public or private land managing agency with the consent of such agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes, consistent with the plan.

(h) Modification of Plan.—The Commission may modify the plan if the Commission determines that such modification is necessary to carry out the purpose of this Act. No such modification shall take effect until—

(1) the State and any political subdivision of the State which would be affected by such modification receives notice of such modification; and

(2) if such modification is significant (as determined by the Commission) the Commission—

(A) provides adequate notice (as determined by the Commission) of such modification by publication in the area of the corridor; and

(B) conducts a public hearing with respect to such modification.

(i) Cooperative Agreements.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the State, with any political subdivision of the State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State, such political subdivision, or such person which may affect the implementation of the plan.

(j) Advisory Groups.—The Commission may establish such advisory groups as the Commission deems necessary to ensure open communication with, and assistance from, the State, political subdivisions of the State, and interested persons.

DUTIES OF COMMISSION

Sec. 109. (a) Implementation of Plan.—The Commission shall implement and support the plan as follows:

(1)(A) The Commission shall assist the State, any political subdivision of the State, or any nonprofit organization in the appropriate preservation treatment and renovation (in accordance with the plan) of structures of the canal.

(B) In providing such assistance, the Commission shall in no way infringe upon the authorities and policies of the State or of any political subdivision of the State concerning the management of canal property.

(C) In providing such assistance or in carrying out any other provision of this Act, the Commission shall not be required to adopt the specifics recommended in the Historic American Engineering Record study published in April 1981.

(2)(A) The Commission shall assist the State or any political subdivision of the State in establishing and maintaining intermittent recreational trails which are compatible with economic development interests in the corridor.

(B) In providing such assistance, the Commission shall in no way infringe upon the authorities and policies of the State or of any political subdivision of the State.

(3) The Commission shall encourage private owners of property which is located in or adjacent to the corridor to retain voluntarily, as a good neighbor policy, a strip of natural vegetation as a visual screen and natural barrier between recreational trails established under paragraph (2) and development in the corridor.

(4) The Commission shall assist in the preservation and enhancement of Natural Areas Inventory, prepared by the Illinois Department of Conservation—

(A) by encouraging private owners of such natural areas to adopt voluntary measures for the preservation of such natural areas; or

(B) by cooperating with the State or any political subdivision of the State in acquiring, on a willing seller basis, any such natural area.

In providing such assistance, the Commission shall in no way infringe upon the authorities and policies of the State or of any political subdivision of the State.

(5) The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, architectural, and engineering structures in the corridor and the archaeological and geological resources and sites in the corridor—

(A) by consulting with the Secretary with respect to inventories to be completed by the Secretary under section 12(1);

(B) by encouraging private owners of structures, sites, and resources identified in such inventories to adopt voluntary measures for the preservation of such structures, sites, and resources; or

(C) by cooperating with the State or any political subdivision of the State in acquiring, on a willing seller basis, any structure, site, or resource so identified.

(6) The Commission may assist the State, any political subdivision of the State, or any nonprofit organization in the restoration of any historic building in the corridor.

Such assistance may include providing technical staff assistance for historic preservation and revitalization efforts.

(7) The Commission shall assist in the interpretation of the cultural and natural resources of the corridor—

(A) by consulting with the Secretary with respect to the implementation of the Secretary's duties under section 12(2);

(B) by establishing visitor orientation centers in the corridor;

(C) by encouraging voluntary cooperation and coordination between the Federal Government, the State, political subdivisions of the State, and nonprofit organizations with respect to ongoing interpretative services in the corridor; and

(D) by encouraging the State, political subdivisions of the State, and nonprofit organizations to undertake new interpretative initiatives with respect to the corridor.

(8) The Commission shall assist in establishing recognition for the corridor by actively promoting the cultural, historical, natural, and recreational resources of the corridor on a community, regional, statewide, national, and international basis.

(b) Encouragement of Economic and Industrial Development.—The Commission shall encourage, by appropriate means, enhanced economic and industrial development in the corridor consistent with the goals of the plan.

(c) Access Routes and Traffic.—The Commission shall take appropriate action to ensure that—

(1) access routes to the canal and related sites are clearly identified; and

(2) traffic in the corridor is routed away from industrial access routes and sites.

(d) Protective Features.—(1) The Commission may finance the installation of a fence, warning sign, or other protective feature in the corridor by the State, by any political subdivision of the State, or by any person if such fence, sign, or other feature is approved by the Commission, any affected governmental body, and the owner and any user of property located adjacent to the property on which such fence, sign, or other feature is to be installed.

(2) The Commission shall not require the installation of any fence, warning sign, or other protective feature.

(e) Reducing Excessive Liability.—The Commission shall encourage the State to take appropriate action to ensure that owners and users of property located in or adjacent to the corridor will not be subject to excessive liability with respect to activities which are carried out by such owners and users on such property and which affect persons and property in the corridor.

(f) Annual Reports.—Not later than May fifteen of each year (other than the year in which this Act is enacted) the Commission shall publish and submit an annual report concerning the Commission's activities to the Governor and to the Secretary.

RESTRICTIONS ON COMMISSION

Sec. 110. (a) Restrictions on Commission's Development.—(1) The Commission may not develop any site or structure in any area described in paragraph (2) unless such development involves the restoration, rehabilitation, or preservation of a facility existing on the date of the enactment of this Act.

(2) The areas referred to in paragraph (1) are the following areas:

(A) Any area in the corridor designated by the political subdivision of the State which has primary responsibility for regulating land use in such areas (as determined by the Commission) as suitable for industrial development. Areas so designated may include any area adjacent to the Illinois and Michigan Canal State Park, a conservation site, a historical site, or other visitor area.

(B) The area of the corridor in Grundy County, Illinois, extending from Morris, Illinois, to the eastern boundary of section 22, Aux Sable Township, but not including—

(i) lock eight and lock tender's house (identified as sites 1 and 2, respectively, on the map described in section 4(b));

(ii) Rutherford tavern, the old mule barn, and the historic cemetery (identified as sites 3, 4, and 5, respectively, on such map); and

(iii) any trail in such area which follows the historic towpath of the canal.

(C) The area of the corridor in Will County, Illinois, which extends from a line created from Interstate 55 to the center of the sailing line in the Des Plaines River, west on center line of sailing line to the intersection of the line formed by the eastern edge of sections 30 and 31 of Channahon Township east through Brandon Pool, but not including the trail in such area which follows the historic towpath of the canal.

(D) The area of the corridor in Will County, Illinois, which extends from the southern boundary of section 14, Lockport Township, to the eastern boundary of section 25, DuPage Township.

(b) Restrictions on Development of Trails.—The Commission may not develop any new trail along the canal or historic towpath of the canal through industrial sites or railroad rights of way without concurrence of the owner, which—

(1) are located north of the city of Joliet, Illinois; and

(2) existed on the date of the enactment of this Act.

TERMINATION OF COMMISSION

Sec. 111. (a) Termination.—Except as provided in subsection (b), the Commission shall terminate on the day occurring ten years after the date of the enactment of this Act.

(b) Extension.—The Commission may extend the life of the Commission for a period of not more than five years beginning on the day referred to in subsection (a) if, not later than one hundred and eighty days before such day—

(1) the Commission determines such extension is necessary in order for the Commission to carry out the purpose of this title;

(2) the Commission submits such proposed extension to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate; and

(3) the Governor and the Secretary each approve such extension.

DUTIES OF THE SECRETARY

Sec. 112. To carry out the purpose of this Act, the Secretary shall have the following duties:

(1) Not later than September 30, 1985, and in consultation with the Commission, the Secretary shall complete—

(A) an inventory of sites and structures of historical, architectural, or engineering significance in the corridor; and

(B) an inventory of sites and resources of archaeological or geological significance in the corridor.

(2) Not later than September 30, 1986, in consultation with the Commission and in accordance with the plan, the Secretary shall—

(A) develop a thematic structure for the interpretation of the heritage story of the corridor; and

(B) design and fabricate interpretative materials based on such thematic structure, including—

(i) trail guide brochures for exploring such heritage story via private auto, bus, bike, boat, or foot, including brochures for exploring such heritage story in towns along the canal;

(ii) visitor orientation displays (including video presentations) at eight locations which are fairly distributed along the corridor;

(iii) a curriculum element for local schools; and

(iv) an appropriate mobile display depicting such heritage story.

(3) The Secretary shall, upon request of the Commission, provide technical assistance to the Commission in carrying out the provisions of section 109(a)(6). Such assistance may include recommendations concerning appropriate preservation treatment, adaptive reuse potential, strategies for finding private investors, and tax advantages available with respect to such rehabilitation.

(4) The Secretary shall make available to interested persons information which explains tax advantages available with respect to the rehabilitation of historical structures in the corridor.

(5) For each fiscal year during the life of the Commission, the Secretary shall make available to interested persons brochures which explain tax advantages available with respect to the rehabilitation of historical structures in the corridor.

(5) For each fiscal year during the life of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, two employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 9.

DUTIES OF OTHER FEDERAL ENTITIES

Sec. 113. Any Federal entity conducting or supporting significant activities directly affecting the corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Commission determines will not have an adverse effect on the resources cited in the National Park Service report.

CONVEYANCE OF CANAL TITLE BY UNITED STATES

Sec. 114. (a) Conveyance to State.—(1) Except as provided in subsection (b), the United States shall convey to the State by quitclaim deed any right, title, or interest of the United States to the real property described in the Act entitled "An Act relinquishing to the State of Illinois certain right, title, or interest of the United States of America, and for other purposes", approved July 1, 1947 (61 Stat. 237), comprising approximately two thousand six hundred acres. The instrument of conveyance shall require that, except as provided in paragraph (2) such real property be used and occupied only for highway, park, recreational, or other public purposes, including those provided for under this Act. Such real property may be leased for utility or transmission purposes (or may be transferred or leased for park, recreation, or other public purposes consistent with the plan) if the revenue from any such lease or transfer is used for park and recreational purposes within the corridor.

(2) The State, or its successors or assigns, may continue to lease for any purpose any portion of the real property described in subsection (a) which was leased on or before February 9, 1984, so long as the revenue from such lease is used for park or recreational purposes within the corridor. Any private person occupying any portion of the real property described in subsection (a) may continue to occupy such real property with the written permission of the State (or of any successor or assign of the State in the case of any property which has been transferred to a successor or assign.)

(3) Except as provided in paragraph (2), if any real property conveyed to the State under this section ceases to be used and occupied as provided in paragraph (1), then any right, title, or interest in the real property not so used and occupied shall revert to the United States. The conveyance by the United States under this subsection shall be subject to the condition that the State of Illinois, its successors, and assigns agree to hold the United States harmless from claims arising from or through the operations of the lands conveyed by the United States due to conditions existing at the time of this conveyance.

(b) Consent of Secretary of Army.—The interests in the canal prism and towpath lands (including reserved lands) in township 37 north, range 11 east, section 14; township 35 north, range 10 east, sections 9 and 16; township 35 north, range 10 east, sections 16, 20, and 21; township 34 north, range 9 east, section 31; and township 34 north, range 8 east, sections 22, 23, 25, 26, and 36, necessary for the operation and maintenance of the Illinois Waterway navigation project may be conveyed under subsection (a) only with the concurrence of the Secretary of the Army with such conditions as necessary to protect the navigation project.

EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS; RESTRICTIONS; SAVINGS PROVISIONS

SEC. 115. (a) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.—(1) Nothing in this Act shall be deemed to impose any environmental, occupational, safety, or other rule, regulation, standard, or permit process which is different from those presently applicable, or which would be applicable, had the corridor not been established.

(2) The establishment of the corridor shall not impose any change in Federal environmental quality standards. No portion of the corridor which is subject to part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.), as amended by the Clean Air Act Amendments of 1977, may be designated as class 1 for purposes of such part C solely by reason of the establishment of the corridor.

(3) No State or Federal agency shall impose more restrictive water use designations or water quality standards upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the corridor solely by reason of the establishment of the corridor.

(4) Nothing in the establishment of the corridor shall abridge, restrict, or alter any applicable rule, regulation, standard or review procedure for permitting of facilities within or adjacent to the corridor.

(5) Nothing in the establishment of the corridor shall affect the continuing use and operation, as presently located, of all public utilities and common carriers.

(6) Actions taken under this title to achieve the purposes described in section 102(b) shall emphasize voluntary cooperation.

(b) RESTRICTIONS ON COMMISSION AND SECRETARY.—Nothing in this title shall be construed to vest in the Commission or the Secretary any authority—

(1) to require the State, any political subdivision of the State, or any private person to participate in any project or program carried out by the Commission or the Secretary under this title;

(2) to intervene as a party in any administrative or judicial proceeding concerning the application or enforcement of any regulatory authority of the State or any political subdivision of the State, including any authority relating to land use regulation, environmental quality, licensing, permitting, easements, private land development, or other occupational or access issues;

(3) to establish or modify any regulatory authority of the State or of any political subdivision of the State, including any authority relating to land use regulation, environmental quality, or pipeline or utility crossings;

(4) to modify any policy of the State or of any political subdivision of the State; or

(5) to establish or modify any authority of the State or of any political subdivision of the State with respect to the acquisition of lands or interests in lands.

(c) SAVINGS PROVISION.—Nothing in this title shall diminish, enlarge, or modify any right of the State or of any political subdivision of the State—

(1) to exercise civil and criminal jurisdiction within the corridor; or

(2) to tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the corridor.

AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF AMOUNTS FOR CERTAIN PURPOSES

SEC. 116. (a) AUTHORIZATION OF APPROPRIATIONS.—(1) For each fiscal year which commences after September 30, 1984, there is authorized to be appropriated—

(A) to the Commission a sum not to exceed $250,000 to carry out the Commission's duties under this title; and

(B) to the Secretary such sums as may be necessary to carry out the Secretary's duties under this title.

(2) Any sum appropriated under paragraph (1) shall remain available until expended.

(b) ALLOCATION OF AMOUNTS FOR CERTAIN PURPOSES.—Not less than 5 per centum of the aggregate amount available to the Commission from all sources for a fiscal year shall be used for carrying out each of the duties of the Commission specified in subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), and (b) of section 109.

COMPLIANCE WITH BUDGET ACT

SEC. 117. Any new spending authority described in subsection (c)(2)(A) of section 401 of the Congressional Budget Act of 1974 which is provided under this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE II

SEC. 201. (a) The Act of May 17, 1954 entitled "An Act to provide for the construction of the Jefferson National Expansion Memorial at the site of old Saint Louis, Missouri, in general accordance with the plan approved by the United States Territorial Expansion Memorial Commission, and for other purposes" (68 Stat. 98; 16 U.S.C. 450jj), is amended by inserting after section 3 of the Act the following new sections:

"SEC. 4. (a) The Secretary of the Interior is further authorized to designate for addition to the Jefferson National Expansion Memorial (hereinafter in this Act referred to as the 'Memorial') not more than three hundred and fifty acres in the city of East Saint Louis, Illinois, contiguous with the Mississippi River and between the Eads Bridge and the Poplar Street Bridge, as generally depicted on the map entitled 'Boundary Map, Jefferson National Expansion Memorial', numbered MWR-366/80,004, and dated February 9, 1984, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The additional acreage authorized by this section is in recognition of the historical significance of the Memorial site to the westward expansion of the United States and the historical linkage of this site on the Mississippi in both Missouri and Illinois to such expansion, the international recognition of the Gateway Arch, designed by Eero Saarinen, as one of the world's great sculptural and architectural achievements, and the increasing use of the Memorial site by millions of people from all over the United States and the world.

"(b) Within the area designated in accordance with this section, the Secretary of the Interior may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange, except that lands owned by the State of Illinois or any political subdivision thereof may be acquired only by donation. The Secretary may not acquire by purchase (with donated or appropriated funds) fee title to more than one hundred acres within the area. If additional lands are acquired in fee by the Secretary by donation or exchange, the Secretary shall, in accordance with section 5 of this Act, transfer lands or interests in lands within the area until the Secretary does not have ownership in fee of more than one hundred acres within the area.

"SEC. 5. Where appropriate in the discretion of the Secretary of the Interior, he may transfer by lease or otherwise, to any appropriate person or governmental entity, land owned by the United States (or any interest therein) which has been acquired by the Secretary under section 4. Any such transfer shall be consistent with the management plan for the area and with the requirements of section 5 of the Act of July 15, 1968 (82 Stat. 356; 16 U.S.C. 4601-22) and shall be subject to such conditions and restrictions as the Secretary deems necessary to carry out the purposes of this Act, including terms and conditions which provide for—

"(1) the continuation of existing uses of the land which are compatible with the Memorial,

"(2) the protection of the important historical resources of the leased area, and

"(3) the retention by the Secretary of such access and development rights as the Secretary deems necessary to provide for appropriate visitor use and resource management.

In transferring any lands or interest in lands under this section, the Secretary shall take into account the views of the Advisory Commission established under section 8.

"SEC. 6. Lands and interests in lands acquired pursuant to section 4, shall, upon acquisition, be a part of the Memorial. The Secretary of the Interior shall administer the Memorial in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act entitled 'An Act to establish a National Park Service, and for other purposes', approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). In the development, management, and operation of that portion of the Memorial which is added to the Memorial under section 4, the Secretary shall, to the maximum extent feasible, utilize the assistance of State and local government agencies and the private sector. For such purposes, the Secretary may, consistent with the management plan for the area, enter into cooperative agreements with the State, with any political subdivision of the State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Secretary of any action proposed by the State, such political subdivision, or such person, which may affect the area.

"SEC. 7. (a) Within eighteen months after the date of enactment of this section, the Secretary of the Interior, in consultation with the Jefferson National Expansion Memorial Advisory Commission established in section 8, shall develop and transmit to the Congress a general management plan for the Memorial. The Memorial management plan shall include—

"(1) measures for the preservation of the area's resources;

"(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems, and modes) associated with public enjoyment and use of the area, including general locations, timing of implementations, and anticipated costs;

"(3) identification of any implementation commitments for visitor carrying capacities for all areas of the area;

"(4) indications of potential modifications to the external boundaries of the area, and the reasons therefor; and

"(5) measures for insuring that the development, management, and operation of the area in the State of Illinois is compatible with the portion of the Memorial in the State of Missouri.

"(b)(1) The Memorial management plan shall identify—

"(A) opportunities for cooperative activities in the development, management, and operation of the East Saint Louis portion of the Memorial with other Federal, State, and local agencies, and the private sector; and

"(B) effective and appropriate ways to increase local participation in the management of the East Saint Louis portion of the Memorial to help reduce the day-to-day administrative responsibilities of the National Park Service and to increase opportunities for local employment.

"(2) In preparing the management plan, the Secretary shall take into account other Federal, State, and local plans and studies which are being carried out respecting the area, including the study being conducted by the National Park Service on the feasibility of a museum of American ethnic culture to be a part of development plans for the Memorial.

"Sec. 8. (a) There is hereby established the Jefferson National Expansion Memorial Advisory Commission (hereinafter in this Act referred to as the 'Commission').

"(b)(1) The Commission shall—

"(A) advise the Secretary of the Interior on the planning, development, management, and operation of the Memorial;

"(B) during the development of the management plan required by section 7, identify needs and opportunities for the esthetic and economic rehabilitation of the entire East Saint Louis, Illinois, waterfront and adjacent areas, in a manner compatible with, and complementary to, the Memorial, including the appropriate roles of the Federal, State, and local governments, and the private sector; and

"(C) prepare cost estimates and recommendations for Federal, State, and local administrative and legislative actions.

In carrying out its duties under subparagraph (B), the Commission shall take into account Federal, State, and local plans and studies respecting the area, including the study by the National Park Service on the feasibility of a museum of American ethnic culture to be a part of development plans for the Memorial.

"(2) The Commission's findings and recommendations shall be incorporated in a report to be submitted to the Secretary of the Interior, the Governor of the State of Illinois, the Governor of the State of Missouri, and the Congress within two years of the date of enactment of this section.

"(c) The Commission shall be composed of nineteen members as follows:

"(1) The county executive of Saint Louis County, Missouri, ex officio, or a delegate.

"(2) The chairman of the Saint Clair County Board of Supervisors, Illinois, ex officio, or a delegate.

"(3)(A) The executive director of the Bi-State Development Agency, Saint Louis, Missouri, ex officio, or a delegate.

"(B) A member of the Bi-State Development Agency, Saint Louis, Missouri, who is not a resident of the same State as the executive director of such agency, appointed by a majority of the members of such agency, or a delegate.

"(4) The mayor of the city of East Saint Louis, Illinois, ex officio, or a delegate.

"(5) The mayor of Saint Louis, Missouri, ex officio, or a delegate.

"(6) The Governor of the State of Illinois, ex officio, or a delegate.

"(7) The Governor of the State of Missouri, ex officio, or a delegate.

"(8) The Secretary of Housing and Urban Development, ex officio, or a delegate.

"(9) The Secretary of Transportation, ex officio, or a delegate.

"(10) The Secretary of the Treasury, ex officio, or a delegate.

"(11) The Secretary of Commerce, ex officio, or a delegate.

"(12) The Secretary of the Smithsonian Institution, ex officio, or a delegate.

"(13) Three individuals appointed by the Secretary of the Interior from a list of individuals nominated by the mayor of East Saint Louis, Illinois, and the Governor of the State of Illinois.

"(14) Three individuals appointed by the Secretary of the Interior from a list of individuals nominated by the mayor of Saint Louis, Missouri, and the Governor of the State of Missouri.

Individuals nominated for appointment under paragraphs (13) and (14) shall be individuals who have knowledge and experience in one or more of the fields of parks and recreation, environmental protection, historic preservation, cultural affairs, tourism, economic development, city planning and management, finance, or public administration. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(d)(1) Except as provided in paragraphs (2) and (3), members of the Commission shall be appointed for terms of three years.

"(2) Of the members of the Commission first appointed under paragraphs (13) and (14) of subsection (c)—

"(A) two shall be appointed for terms of one year;

"(B) two shall be appointed for terms of two years; and

"(C) two shall be appointed for terms of three years;

as designated by the Secretary of the Interior at the time of appointment.

"(3) Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member of the Commission may serve after the expiration of his term until his successor has taken office.

"(e) Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(f) The chairperson of the Commission shall be elected by the members of the Commission.

"(g) Upon request of the Commission, the head of any Federal agency represented by members on the Commission may detail any of the personnel of such agency, or provide administrative support services to the Commission to assist the Commission in carrying out the Commission's duties under subsection (b).

"(h) The Commission may, for the purposes of carrying out the Commission's duties under subsection (b), seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

"(i)(1) Except as provided in paragraph (2), the Commission shall terminate on the day occurring ten years after the date of enactment of this section.

"(2) The Secretary of the Interior may extend the life of the Commission for a period of not more than five years beginning on the day referred to in paragraph (1) if the Commission determines that such extension is necessary in order for the Commission to carry out this Act.

"Sec. 9. Pending submission of the Commission's final report, any Federal entity conducting or supporting significant activities directly affecting East Saint Louis, Illinois, generally and the site specifically referred to in section 4 shall—

"(1) consult with the Secretary of the Interior and the Commission with respect to such activities;

"(2) cooperate with the Secretary of the Interior and the Commission in carrying out their duties under this Act, and to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

"(3) to the maximum extent practicable, conduct or support such activities in a manner which the Secretary determines will not have an adverse effect on the Memorial.".

(b) Section 4 of the Act of May 17, 1954 entitled "An Act to provide for the construction of the Jefferson National Expansion Memorial at the site of old Saint Louis, Missouri, in general accordance with the plan approved by the United States Territorial Expansion Memorial Commission, and for other purposes" (68 Stat. 98; 16 U.S.C. 450jj), is amended by—

(1) redesignating "Sec. 4." as "Sec. 10. (a)"; and

(2) adding at the end thereof the following new subsections:

"(b)(1) There is hereby authorized to be appropriated to carry out the provisions of section 4 of this Act, not to exceed $1,000,000.

"(2) There is hereby authorized to be appropriated for the development of visitor facilities, not to exceed $750,000.

"(c) Funds appropriated under subsection (b) of this section shall remain available until expended.

"(d) Authority to enter into contracts or make payments under this Act shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.".

Sec. 202. Any provision of this title (or any amendment made by this title) which, directly or indirectly, authorizes the enactment of new budget authority described in section 402(a) of the Congressional Budget Act of 1974 shall be effective only for fiscal years beginning after September 30, 1983.

Sec. 203. This title may be cited as the "Jefferson National Expansion Memorial Amendments Act of 1984".

The SPEAKER pro tempore. Is a second demanded?

Mr. EMERSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes and the gentleman from Missouri, (Mr. EMERSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the floor H.R. 2014, a bill to establish the Illinois and Michigan Canal National Heritage Corridor in the State of Illinois.

As reported by the Committee on Interior and Insular Affairs, title I of the bill would establish a 100-mile national heritage corridor along the historic Illinois and Michigan Canal between Chicago and LaSalle/Peru, Ill. Although highly urbanized, the area is rich in cultural and natural resources that deserve the attention and protection that this bill would provide.

Basically, title I would designate the national heritage corridor and establish a 19-member commission to oversee activities in the area. The corridor would not be a unit of the national park system. The National Park Service should simply provide technical and minor financial assistance to the commission, which would terminate in 10 years unless extended by the Secretary of the Interior. The bill specifies the duties of the commission, places certain limits on its authorities, provides a commission staff, and authorizes funds of up to $250,000 per year. The bill also provides for the conveyance of certain Federal land to the State for specified purposes.

The intent of title I is to protect and enhance the cultural and natural resources of the corridor while assuring that economic growth is encouraged and that existing industrial activities are not impaired. While the bill states in several instances that it does not of itself change any environmental or other regulations, it is also not intended to indicate congressional approval or disapproval of any particular project proposed now or in the future.

Title II of the bill would incorporate an amended version of H.R. 2107 to authorize the expansion of the Jefferson National Expansion Memorial (JNEM) in St. Louis, Mo., to include land across the Mississippi River in East St. Louis, Ill. Authorized in 1935, the existing memorial is the site of the world famous Gateway Arch, designed by Eero Saarinen, which commemorates the Louisiana Purchase and the opening of the western frontier. Plans have long been underway to include a compatible park on the east bank of the river, such as the one proposed in this bill.

Basically, title II would authorize the Secretary of the Interior to designate up to 350 acres on the waterfront of East St. Louis, Ill., for addition to the JNEM. However, the Secretary's authority to acquire land by purchase would be limited to 100 acres and $1 million. Up to $750,000 could be spent to develop visitor facilities. Lands within the designated area could be acquired by donation or exchange, but only 100 acres would be retained in fee and managed by the National Park Service. The remaining 250 acres would be developed privately in a manner compatible with the memorial.

The bill would also establish a 19-member JNEM advisory commission, composed of State and local officials and private citizens from both Missouri and Illinois as well as Federal designees. State and local participation in the development, management and operation of the area would be encouraged.

Before closing, I would like to thank several Members who have worked so long and hard on this legislation, including (the gentlemen from Illinois, Mr. PRICE, Mr. SIMON, Mr. CORCORAN, and Mr. O'BRIEN) and the gentleman from Missouri (Mr. EMERSON).

Also, a number of individuals and organizations have been helpful with the legislation, including Gerald Adelmann, George Overton, and Edmund Thornton of the Upper Illinois Valley Association; Constance Fetzer, Friends of the Illinois and Michigan Canal; Judith Stockdale, Open Lands Project; John Comerior and Robert Thornberry, Illinois Department of Conservation; Malcolm Martin and Myron Levy, Gateway Center of Metropolitan St. Louis; John Poelker, chairman, Jefferson National Expansion Memorial Committee; Earl Lazerson, president, Southern Illinois University at Edwardsville; and Carl Officer, mayor of East St. Louis, Ill.

Several congressional staff members have also worked hard on this legislation and deserve our thanks; included are Loretta Neumann, Dora Miller, Clay Peters, and Dan Kish for the Interior Committee; Gail Brown for Mr. CORCORAN; Joan Bretsch for Mr. SIMON; Debbie Allen for Mr. PRICE; Sam Story, Jr., for Mr. EMERSON; and Pope Barrow and Michael DeBord for the Office of the Legislative Counsel.

Mr. Speaker, H.R. 2014 represents a carefully crafted compromise that meets a variety of needs and resolves a number of issues. That we have succeeded in doing so is attested by the strong, bipartisan support the bill has received. I urge all Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. EMERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 2014. This bill would establish the Illinois and Michigan Canal National Heritage Corridor in Illinois and would expand the grounds of the Jefferson National Expansion Memorial into East St. Louis, Ill. Currently, the entire Jefferson National Expansion Memorial area is located in Missouri. I would like to take a few moments to explain to my colleagues the sections of H.R. 2014.

Section I of this bill would establish the Illinois and Michigan Canal National Heritage Corridor and a commission to coordinate activities in the area. The corridor would not be a unit of the national park system, but the National Park Service would provide technical and financial assistance. The bill provides that most Federal lands and interests associated with the canal would be released to the State of Illinois. The bill specifies that designation of the corridor does not itself impose any change in current environmental standards and other regulations. It also provides for a commission and a commission staff and $250,000 per year for that commission for a maximum of 10 years. Federal entities are directed to coordinate their activities with the secretary and the commission so as not to have an adverse effect on the corridor.

The I&M Canal was built in 1846 to link Lake Michigan with the Illinois River. Abraham Lincoln, as a member of the Illinois House, used his influence to get the canal completed. It was later replaced by the larger Chicago Sanitary and Ship Canal. The area contains many historical structures, natural areas, archeological sites, and recreational resources. It also contains examples of American engineering and technology from the early industrial revolution to the present. The canal itself is a registered national historic landmark, and other national historic landmarks and designated historic sites and natural areas are within the corridor.

This proposal has the support of the entire Illinois delegation and it is also supported by various State and local governments, private organizations, businesses and industries, as well as by national groups representing historic preservation, conservation, and recreation. The administration supports this proposal and made a number of suggested modifications.

Section II of H.R. 2014 would expand the grounds of the Jefferson National Expansion Memorial—better known as the Gateway Arch—into East St. Louis, Ill. The bill would authorize the Secretary of the Interior to purchase not more than 100 acres in East St. Louis, Ill. to be used to expand the grounds of the memorial and would authorize $1 million to be used for that purpose. This bill would also create a 19-member commission of officials from Missouri, Illinois, and the Federal Government to advise the Secretary of the Interior on the planning, development, management, and operation of the memorial. Finally, this bill would authorize an expenditure of $750,000 for the renovation of an abandoned freight building to be used as a visitors' center.

The Jefferson National Expansion Memorial, located in St. Louis, Mo., was established in 1935 to commemorate many events of historical significance, such as the site of the conveyances from France and Spain to the United States of the Louisiana Purchase; the origins of the Santa Fe and Oregon Trails; the site where Lewis and Clark prepared for their mapping expeditions; and the courthouse in which the Dred Scott case was tried. In 1954, construction on the famous Gateway Arch finally began. The arch, which was designed by Eero Saarinen, is the focal point of the Jefferson National Expansion Memorial. The memorial, serviced over 2.9 million visitors in 1982.

The expansion proposal has the support of the cities of St. Louis, Mo., and East St. Louis, Ill., individuals and groups from the surrounding area and from the railroad industries that are located on the left bank of the river.

Mr. Speaker, I urge my colleagues to support this bill and I ask for its adoption by the whole House.

□ 1250

Mr. SEIBERLING. Mr. Speaker, I have no requests for time at this time.

Mr. EMERSON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. Corcoran).

Mr. CORCORAN. Mr. Speaker, first of all, I want to thank my friend and colleague, the gentleman from Missouri for yielding to me to discuss H.R. 2014. This, Mr. Speaker, is legislation I am pleased to report to the House that I introduced on March 9, 1983, with the entire Illinois delegation as cosponsors.

I think that the ability of our delegation to work together was an important factor in the development of the hill to this point where the House is now considering this important legislation.

I, of course, rise in strong and enthusiastic support of H.R. 2014.

Mr. Speaker, I suppose as we grow older or as we contemplate important changes in our lives, we tend to think about memories from our childhood. I must say that 1984, come what may, will be a year of important change for this gentleman from Illinois.

For that reason, this legislation has important and very special meaning to me. As a youngster going to school every morning, we had the occasion to travel first in a jeep and then, as more children came in from the country, in a bus over an abandoned canal. This was something that was imbedded in my memory for quite some time. Like all children growing up, I was impressed by things that were small and large as well as ugly and beautiful. There is no question about the fact that what I saw or at least noticed the old Illinois-Michigan Canal was certainly something that was not only ugly, but clearly an eyesore, except on those special occasions in the wintertime when we would get some water and do some ice skating.

Mr. Speaker, I do not know when it was that I first decided that if I ever had the opportunity to clean up that abandoned canal, I would try to do that, but I do know this: When I was elected to the Congress back in 1976, defeating an incumbent Democrat, I resolved then—based on discussions with numerous volunteers in the community—that I would do whatever I could do to solve the problems associated with cleaning up the Illinois-Michigan Canal. It was then in 1977 during my first term, Mr. Speaker, that I introduced legislation to do just that, focusing on the question of title, focusing on the question of what form, whether a trail or a park or whatever would be appropriate in order to overcome the legal obstacles and to develop the kind of coordination so that the dispute involving the State of Illinois and the U.S. Federal Government could be resolved in favor of cleaning up and promoting this canal which is so rich in resources, so rich in history and so rich in economic development. Without the canal, it may be that Chicago as an important commercial center in the last century would never have got its start.

More important, Mr. Speaker, as we continued to evaluate what needed to be done, we began to discuss this problem with the National Park Service. I am pleased to report that at the end of 1979 and early in 1980, the National Park Service did complete a reconnaissance survey which showed that we had something which was priceless, something that ought to be preserved, something that ought to be promoted.

The favorable results of that reconnaissance survey led to a more exhaustive detailed study, led by Dr. John Peine, which was the basis of title I of the legislation that is before us today.

Mr. Speaker, my good friend and colleague, the gentleman from Ohio, as well as my colleague, the gentleman from Missouri, have already explained the contents of both title I and title II of this legislation. I am not at this point, Mr. Speaker, going to go over that same ground; but let me take this opportunity to emphasize the unique character of what we propose here today.

The Illinois-Michigan Canal National Heritage Corridor concept is something that is new within the framework of the Interior Department. I think it builds upon the existing approach to the Federal aquisition and Federal management of historical and recreational public lands and it does so in a way which is not a great expense to the Federal Government.

In fact, I think one of the very surprising and encouraging aspects of this development in terms of the legislation is not only the way in which Members of Congress worked together to bring us to this point today for the consideration of H.R. 2014, but also the tremendous cooperation of people, back in Illinois particularly, who wanted to promote, who wanted to develop this legislation; so on that basis, Mr. Speaker, let me urge my colleagues to support this legislation.

Let me as a final note congratulate the chairman of the subcommittee who took of his busy time to come to Illinois for a field inspection. I think that field inspection was the primary consideration in the development of this legislation. I urge my colleagues to support it.

Mr. Speaker, I am delighted to speak today on behalf of my bill, H.R. 2014—the Illinois and Michigan Canal National Heritage Corridor Act of 1983. This legislation represents a fine blend of two bills for Illinois: H.R. 2014, now title I, to create a national heritage corridor, and title II, formerly H.R. 2107 sponsored by my friend and colleague the gentleman of Illinois (Mr. Price), the Jefferson National Expansion Memorial Act. Both bring to Illinois a long-needed focus to sites rich in history while at the same time fulfilling a need for recreation areas in the Midwest.

I would like to extend my warmest thanks to the gentleman from Ohio (Mr. Seiberling) who in his role as chairman of the Interior Committee's Subcommittee on Public Lands and National Parks became a strong supporter of H.R. 2014 and was extremely effective in getting a quality bill reported out of committee quickly. I would also like to extend my thanks to the gentleman from Arizona (Mr. Udall) for his support of the bill as chairman of the Interior and Insular Affairs Committee. Finally, I would like to commend the gentlemen from Illinois, (Mr. O'Brien and Mr. Simon) for their assistance with this bill.

Ever since I was elected to Congress in 1976, I have introduced measures to promote the historical and recreational potential of the Illinois and Michigan Canal, which runs through my hometown in Ottawa, Ill. Credit for my initial involvement goes to a group of active volunteers in LaSalle-Peru, Ill., who have dedicated hundreds of man-hours renovating the canal, and some historically minded people who recognized the recreational and historic potential of the area. In addition to my legislative initiatives, I requested a reconnaissance survey by the National Park Service which marked the beginning of title I of the bill before you today.

The resulting favorable report led to a further, more detailed study of the canal as well as the Des Plaines River Valley. Released in 1981, this excellent study was directed by Dr. John Peine of the National Park Service and formed the basis for title I. Working closely with Illinoisans interested in the development of the national heritage corridor plan identified in the study, title I calls for a partnership among Federal, State, and local governments and the private sector to develop the recreational, historic, and economic potential of the area.

The national heritage corridor concept, as provided for in title I, proposed a unique concept for a significant collection of resources—significant not only to Illinois but to the Nation as well. The major identifying element within the corridor is the Illinois and Michigan Canal, which extends from Chicago westward to LaSalle-Peru. The Illinois and Michigan Canal was built—largely on the urgings of Abraham Lincoln—to enable water transport between Lake Michigan and the Illinois River. From the mid-1800's to early in this century, the canal contributed to the growth of Chicago as North America's largest inland city. How the industrial revolution transpired in the Midwest—now an untold story can be related through the interpretation of historical sites and structures within the corridor. Today, the area contains many historical structures, natural areas, archeological sites and recreational resources. The canal is a registered national historic landmark, and other national historic landmarks and historic sites and natural areas abound.

Briefly, title I would establish the National Heritage Corridor and a Commission to coordinate activities within the area. the National Park Service would provide technical and financial assistance. The bill also releases most Federal lands and interests associated with the canal to the State of Illinois. Additionally, the bill provides for a Commission staff and a $250,000 annual authorization for the 10-year life of the Commission. The bill specifies that designation of the corridor does not impose any change in current environmental standards or other regulations.

We already have a commitment by the State for the loan of two staff people, one each from the department of conservation and the department of commerce and community affairs. The Governor of Illinois, James Thompson, has fully endorsed the bill along with the Illinois General Assembly. The amount of State involvement has been tremendous, especially the assistance from the department of conservation.

The forest preserve districts of Cook, Will, and DuPage Counties have taken a leadership role in the development of the corridor by committing funds and moving forward with development plans in their respective areas. Members of the private sector as well as prominent industries located in the corridor have expressed an interest in assisting the development of the Heritage Corridor.

There is a lot of enthusiasm and support at the local level, too, with canal towns endorsing the bill along with other grassroots organizations and individuals. As a measure of the community's support, I am pleased to mention two nonprofit organizations that were formed to provide a support system for the legislation. First, the Upper Illinois Valley Association was organized to bring together industrial interests in the area for the support of the national designation. This group, led by the Ottawa-Silica Co. and the Material Service Corp., has been actively involved in promoting the bill and has successfully provided a focal point for industrial support. Specifically, I would like to commend Gerald Adelmann, executive director, for his leadership role in local negotiations on the legislation and in promoting the bill.

In addition, the Friends of the Illinois and Michigan Canal National Heritage Corridor was formed by interested individuals and conservation, historic, recreation, and other involved groups to display a broad grassroots spectrum of involvement from many communities working for the preservation of the historic corridor. Constance Fetzer, president, and her fellow members have done an exemplary job in providing support for educating the community about the heritage corridor concept.

Several endorsements of support have been garnered, including the entire Illinois delegation, the Sierra Club, the Audubon Society, National Trust for Historic Preservation, Isaac Walton League, and the Nature Conservancy.

I am pleased to report that the Illinois business community has been actively involved from the beginning in helping to make the legislation sensitive to their needs also. Three Rivers Manufacturers' Association and the Grundy County Industrial Development Corp. have displayed excellent leadership during the shaping of the bill. Illinois Bell is also to be commended for its role in coordinating key meetings on the bill and in conducting market surveys in the corridor.

I would also like to commend the open lands project which was responsible for insuring successful mediation between conservation groups and the business community. This organization has played a key role in the development of the National Heritage Corridor concept and I hope it will continue its leadership role in providing northeastern Illinois with more recreational and historic sites for the enjoyment of Illinoisans.

Finally, I would like to thank John Husar of the Chicago Tribune for his excellent descriptive series on the Heritage Corridor, the Hidden Wilderness, which generated much public support for the bill.

The National Heritage Corridor is an exciting new concept in park developments, and it reflects the new federalism philosophy supported by President Reagan, as it relies heavily upon cooperation among Federal, State, local, and private entities for its success. The administration strongly supports title I and I urge my colleagues to support H.R. 2014, the Illinois and Michigan Canal National Heritage Corridor Act of 1983.

Mr. EMERSON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, I rise today in support of H.R. 2014, a bill to establish an Illinois and Michigan Canal National Heritage Corridor.

This bill would create a 100-mile-long national heritage corridor along the historic Illinois and Michigan Canal, which stretches from Chicago to LaSalle-Peru. It is enthusiastically supported by a number of diverse groups in my district and is backed by the entire Illinois congressional delegation, Governor Thompson, and the Illinois General Assembly. Mr. Speaker, this bill, the culmination of many years of hard work, would be of enormous benefit to the State of Illinois—and I urge its passage.

The canal, with its unique history and heritage, marks an important chapter in the history of Illinois and our Nation as a whole. In its heyday, the 60-foot-wide canal carried people from Chicago to LaSalle and back. As the main artery of commerce in the 19th century, the canal was the connecting link that united the Great Lakes with the Mississippi River and the Gulf of Mexico. Its colorful history is tied to the many areas it served—and helped to create. The canal left us with a rich legacy: In my district, the buildings in the old canal town of Lockport remind us of this legacy.

Preserving the culture and heritage of areas like Lockport, Mr. Speaker, is an important aim of this legislation. Specifically, H.R. 2014 would establish a Federal Commission to coordinate the efforts of State and local governments, in partnership with private interests, to preserve and develop the I&M area. It would also give a national designation to the corridor. The designation would help to spotlight the many unique resources located within the corridor—an area of opportunity which, I think, is one of the Midwest's best kept secrets.

Economic development of the corridor is another important objective in H.R. 2014, and one which is compatible with developing the area's recreational and cultural potential. Over the years, the corridor has become one of the most heavily industrialized areas in the Nation and has, I think, room for even more growth. At the same time, however, it has been beset with high unemployment. The Fourth District has not been immune to this problem.

My support of the I&M bill has, therefore, been conditioned upon the inclusion of provisions that protect current jobs in corridor industries and also lay the foundation for new job opportunities. Passage of this bill, in my view, could very well lead to the creation of a number of new jobs.

Mr. Speaker, for all of the benefits that flow from H.R. 2014, the only new Federal money authorized is that which is needed to run the corridor commission. All told, this would amount to only $250,000 a year for 10 years. To my mind, this is a small price to pay for a bill that is critically needed and would do so much good in Illinois.

Mr. Speaker, I would like to commend my colleague, the gentleman from Illinois (Mr. CORCORAN) for his leadership on this bill, and I particularly appreciate the help and assistance given us by the chairman of the committee, the gentleman from Ohio (Mr. SEIBERLING) and thank him for his painstaking efforts in coming to our district and looking over the area and really seeing to it that something good was done for Illinois.

□ 1300

Mr. EMERSON. Mr. Speaker, in conclusion on this subject, I want to thank the gentleman from Ohio (Mr. SEIBERLING), the chairman of the subcommittee, the Illinois delegation, and all of the interested parties in Missouri for their fine cooperation in this matter.

Mr. PRICE. Mr. Speaker, I rise in support of H.R. 2014, to establish the Illinois and Michigan Canal Heritage Corridor.

Mr. Speaker, this legislation is very important for the State of Illinois, which has little national park area within its boundaries. I commend Mr. CORCORAN for his efforts in bringing this bill to the House floor, and I thank the distinguished chairman of the subcommittee, Mr. SEIBERLING, for his support.

I would like to point out my special pleasure in seeing title II of the bill finally reaching the floor. This provision supersedes H.R. 2107, which I introduced to authorize the Secretary of the Interior to complete the original plan of the Jefferson National Expansion Memorial National Park in St. Louis, Mo. The bill would provide $1 million for land acquisition and $750,000 for rehabilitation for a visitors center. I had the pleasure of working with our former colleagues John and Lenore Sullivan of Missouri who first introduced legislation to establish this park, which is the site of Eero Saarinen's great Gateway Arch. As an original cosponsor of the legislation that became Public Law 83-361, I knew that the day would come when the authorization to extend the park across the Mississippi River to the Illinois waterfront would be approved. I did not know it would take quite so long. But, in light of the President's pledge in the state of the Union address to ask the Congress for $157 million for new park and conservation lands, I think the time has finally come. I urge my colleagues to join me in support of this bill.●

● Mr. LIPINSKI. Mr. Speaker, I rise in strong support of H.R. 2014, the Illinois and Michigan Canal National Heritage Corridor Act of 1983. I want to commend the chairman of the Public Lands and National Parks Subcommittee, Mr. SEIBERLING, for all his efforts and work on this legislation. The chairman took the time to come out to the Chicagoland area to observe firsthand what the I&M canal is all about. I have heard that he was kept on a very busy schedule visiting all of the major sights along the canal corridor from the downtown Chicago area of the Loop, through the Bridgeport area of the Fifth Congressional District, which I represent, all the way out to Ottawa and Peru-LaSalle. Finally, he is also to be commended for bringing this legislation of utmost importance to northeastern Illinois to the House floor so quickly and expeditiously for a vote.

H.R. 2014 was cosponsored by the entire Illinois congressional delegation and this is an example of the widespread support this legislation enjoys in my State. The area surrounding the I&M Canal has a long and colorful history and is a prime example of how the industrial revolution changed our Nation into the world power that we are today. The canal was first opened in 1846, completing the link between Lake Michigan and the Mississippi River. It was the most efficient and affordable means of transportation available at the time for the shipment of bulk goods. As years went by and traffic increased along the canal, towns sprang up where industries became established along the route. In the late 19th century another larger canal was built and use of the Illinois and Michigan Canal declined. Over the years, many major industries have left this area and I am hopeful that this legislation will help breathe new economic life into the region. I am particularly proud of the fact that the I&M Canal starts in Bridgeport in the heart of the Fifth Congressional District. The Bridgeport area of the city of Chicago is filled with history. It is the home of Comiskey Park, the oldest professional baseball park in operation, and the site of the old Chicago stockyards. In addition, many of Chicago's most well-known political leaders come from this region, including the late great Mayor Richard Daley.

Today this area is attempting to start an economic rebirth to stimulate industries, recreational areas, and historic preservation. Residents that live all along the canal have grouped together to try to formulate a coordinated plan for developing and improving the canal corridor. This is where the idea for Federal legislation for the canal corridor first began. The region needs to have a plan to put all the various parts together to begin this rebirth.

H.R. 2014 will establish a commission to coordinate public and private involvement in the implementation of the legislation. The commission will focus its work on marketing and promoting improvements in current business activities as well as new ventures. Two employees from the National Park Service will be detailed to conduct an inventory of the historic and cultural sites in the corridor. In addition the Park Service will help in the promotion of the region as a tourist area.

Federal designation of the canal corridor will be of immense help to the success of the project. It will focus national attention to this historic area. The National Park Service will help provide the needed expertise in promoting development and tourism in the area.

I urge all of my colleagues to support this legislation which will cost very little in Federal funds but will be of great assistance in helping to revitalize an old and historic corridor in the Midwest.●

● Mr. SIMON. Mr. Speaker, today, we are voting on H.R. 2014. Title I of the bill would establish the Illinois and Michigan Canal National Heritage Corridor in northeastern Illinois while title II of the bill would authorize the expansion of the Jefferson National Expansion Memorial in St. Louis, Mo., to the Illinois side of the Mississippi River. I was a cosponsor of both bills when they were separate pieces of legislation, and I am in strong support of H.R. 2014, as reported by the Committee on Interior and Insular Affairs.

The administration has expressed its opposition to title II of the bill, to authorize the expansion of the Jefferson National Expansion Memorial. But in the past, the National Park Service has supported the need for the development of the Illinois side of the Mississippi River. A 1969 report, "The East St. Louis, Ill., Waterfront: Historical Background," by John W. Bond, National Park Service Division of History, stated:

> As the following report demonstrates, the historical values are there. Even though not tangibly expressed in historic remains, they can be recalled and interpreted in an appropriate memorial development. Their historical significance warrants such an undertaking. The development of the St. Louis waterfront demonstrates what could be accomplished. More compelling, it dramatizes the need for a complementary development on the opposite shore.

Similar statements can be found in many other studies concerning development of the East St. Louis riverfront, conducted by the Park Service.

For several decades, the St. Louis Metropolitan area, incorporating communities on both sides of the Mississippi River, has envisioned a major development on the Illinois side of the Gateway Arch to complete the dream of Eero Saarinen, designer of the arch, of a "great green park on both banks of the river." We are finally on our way to seeing that dream fulfilled.

Along with others in Illinois, Missouri, and elsewhere, I firmly believe that this location—directly across from the St. Louis Gateway Arch—is ideally suited for development of a park. My personal dream is to see a museum of American ethnic culture, which would spotlight the variety of cultures, religious, and ethnic backgrounds which are part of our national heritage and character, as part of the memorial. Both the Secretary of the Interior and the advisory commission, established in title II of the bill, would take into account the National Park Service study now being conducted on the feasibility of such a museum.

The extension of the Jefferson National Memorial would bring a major new tourist and convention attraction to southern Illinois and St. Louis; it would bring to the area a prime attraction for tourists from the United States and abroad; and would help to spark the revitalization of East St. Louis' depressed economy. The site is within the city of East St. Louis, and local leaders welcome this proposal. All of us in southern Illinois understand the great potential this memorial will have for turning around the area's depressed economy.

Today, you will hear many statements in support of H.R. 2104. I wholly support both title I and title II of the bill.

Finally, I want to thank some of my colleagues who have been so helpful and who have taken leadership positions on the bill, including my friend, JOHN SEIBERLING, chairman of the Subcommittee on Public Lands and National Parks, fellow Illinoisans TOM CORCORAN and MELVIN PRICE for their leadership on titles I and II of the bill, respectively, and BILL EMERSON from southern Missouri, for making title II of this legislation a truly bipartisan effort.●

● Mr. GEPHARDT. Mr. Speaker, I rise in support of H.R. 2014, the Illinois and Michigan Canal National Heritage Corridor Act, title II of which provides for extension of the Jefferson National Expansion Memorial to the east side of the Mississippi River at St. Louis.

Almost 50 years ago, the Congress authorized a memorial to commemorate the westward expansion of our Nation and the rich history of St. Louis. The Congress has been most supportive of the many steps involved in creating this historic park—constuction of the Gateway Arch, establishment of the Museum of Westward Expansion, and restoration of the Old Courthouse where the Dred Scott case was tried.

The memorial, however, remains unfinished as long as the acreage directly across the Mississippi is left as abandoned railroad yards. A local nonprofit group—Gateway Center of Metropolitan St. Louis, Inc.—has now developed a marvelous plan for integrating that land into the park which has, so far, been limited to the west bank. The proposed redevelopment will greatly enhance the Jefferson National Expansion Memorial and will make an invaluable contribution to the revitalization of the St. Louis area.

This National Park Service memorial to our Nation's westward expansion has already leveraged millions of dollars of investment in our city. Since the arch was built as the Gateway to the West, over $1.25 billion in new and redeveloped construction has taken place in downtown St. Louis, including seven new hotels, six new office buildings, and Busch Memorial Stadium, home of the St. Louis Cardinals football and baseball teams. The historic site, which attracts 2.5 million visitors a year, has been the undisputed spark that turned around the declining city and brought it back to life.

The proposed east side riverfront redevelopment can assure a similar rejuvenation for East St. Louis, as our colleagues from Illinois can surely attest.

As a Missourian, I value this proposal for the benefits it will provide to both sides of the river. They cannot be calculated with certainty but initial estimates conclude it could attract as many as 5 million more visitors a year to the St. Louis area. The impact of that on development of service-oriented industries and creation of jobs is obvious. The ripple effect throughout the St. Louis economy will be spectacular.

The benefits, however, are not exclusively financial. The east side view has detracted from the beauty which the Jefferson National Expansion Memorial has brought to our city. The extension of the park across the river will certainly correct that deficiency and bring esthetic benefits to both the Missouri and Illinois banks.

It is important and appropriate for this development to be brought into the memorial. The concept, as originally envisioned by renowned architect Eero Saarinen, called for a park spanning both sides of the Mississippi. As he wrote in 1961, "the other side of the river—East St. Louis—must be brought into the whole composition. We must make this a great, green park." The projects that have been planned by Gateway Center will complement the memorial as it has been developed on the Missouri side and deepen its historical significance.

In approving this valuable measure, the Interior Committee has made some meaningful improvements which should benefit the expanded Jefferson National Expansion Memorial. In particular, the bill now provides for an advisory commission of officials and individuals from both Missouri and Illinois to help operate the facility and develop the east side acreage. It also combines Federal and private financing of the expansion by limiting Park Service acquisition to 100 acres and authorizing private development of the remaining 250. These two provisions recognize the substantial local interest in the memorial and will assure continued community involvement in its development and operation in the years to come.

Mr. Speaker, this bill will make sure any development of the east bank is reserved for public use and is compatible with the national park on the Missouri side. Above all, it will see that this historic memorial is at last completed. I urge my colleagues to join in supporting H.R. 2014.●

● Mr. CLAY. Mr. Speaker, today, the House is considering the Illinois and Michigan Canal National Heritage Corridor Act to provide the State of Illinois, which has no major national recreation or park areas, the opportunity to establish the National Heritage Corridor and to extend the Jefferson National Expansion Memorial. I am happy to give this important bill my unyielding support.

Just three decades ago, the city of St. Louis sought to develop its riverfront to the cultural and esthetic advantage of the entire community. Its plan called for removing the industrial blight near the waterfront and establishing a memorial. The Jefferson National Expansion Memorial was planned to commemorate the western migration of pioneers following the Louisiana Purchase and to honor Thomas Jefferson for his vital role in the development of this region of our country. After considerable controversy and debate, Congress finally saw fit to give support to the Jefferson National Expansion Memorial in St.

Louis. Today, this memorial is by all accounts a resounding success and a great benefit both to the St. Louis metropolitan region and the entire Nation. The Jefferson National Expansion Memorial has spurred the rejuvenation of downtown St. Louis and greatly benefited the stable economic growth and development of the region.

I believe it is vitally important to extend the Jefferson National Expansion Memorial Historic Site to include the Illinois side of the Mississippi River, across from the Gateway Arch. The original plan for the St. Louis arch, as designed by Eero Saarinen in 1947, included references to a compatible park in Illinois. Title II of the Illinois and Michigan Canal National Heritage Corridor Act would enable this plan. The St. Louis metropolitan community has invested a great deal of time and effort on behalf of the extension of the Jefferson National Expansion Memorial and the dedication and determination of the citizens will make this park a reality. I urge my colleagues to support this legislation and to help create a new cultural attraction that will benefit generations of American citizens.●

Mr. EMERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 2014, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 746) to establish the Illinois and Michigan Canal National Heritage Corridor in the State of Illinois, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Illinois and Michigan Canal National Heritage Corridor Act of 1984".

FINDINGS; PURPOSE

SEC. 2. (a) FINDINGS.—The Congress makes the following findings:

(1) An abundance of sites and structures within the corridor defined by the Illinois and Michigan Canal from Chicago, Illinois, to LaSalle-Peru, Illinois, symbolize in physical form the cultural evolution from prehistoric aboriginal tribes living in naturally formed ecosystems through European exploration, nineteenth century settlement, commerce, and industry right up to present-day social patterns and industrial technology.

(2) The corridor has become one of the most heavily industrialized regions of the Nation and has potential for further economic expansion and modernization. The area in which the corridor is located is currently experiencing high rates of unemployment and industrial migration. Establishment of the corridor as provided in this Act may provide the stimulus required to retain existing industry and to provide further industrial growth and commercial revitalization.

(3) Despite efforts by the State, political subdivisions of the State, volunteer associations, and private business, the cultural, historical, natural, and recreational resources of the corridor have not realized full potential social value and may be lost without assistance from the Federal Government.

(b) PURPOSE.—It is the purpose of this Act to retain, enhance, and interpret, for the benefit and inspiration of present and future generations, the cultural, historical, natural, recreational, and economic resources of the corridor, where feasible, consistent with industrial and economic growth.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "canal" means the Illinois and Michigan Canal, as depicted on the map referred to in section 4(b);

(2) the term "Commission" means the Illinois and Michigan Canal National Heritage Corridor Commission established in section 5;

(3) the term "corridor" means the Illinois and Michigan Canal National Heritage Corridor established in section 4(a);

(4) the term "Governor" means the Governor of the State of Illinois;

(5) the term "National Park Service report" means the report of the National Park Service, dated November 1981, which contains a conceptual plan and implementation strategies for the corridor;

(6) the term "plan" means the goals, objectives, and action statements of the conceptual plan which—

(A) is contained in the National Park Service report; and

(B) may be modified by the Commission under section 8(h);

(7) the term "political subdivision of the State" means any political subdivision of the State of Illinois, any part of which is located in or adjacent to the corridor, including counties, townships, cities, towns, villages, park districts, and forest preserve districts;

(8) the term "Secretary" means the Secretary of the Interior; and

(9) the term "State" means the State of Illinois.

ESTABLISHMENT, BOUNDARIES, AND ADMINISTRATION OF CORRIDOR

SEC. 4. (a) ESTABLISHMENT.—To carry out the purpose of this Act, there is established the Illinois and Michigan Canal National Heritage Corridor.

(b) BOUNDARIES.—(1) The corridor shall consist of the areas depicted on the map dated April 19, 1982, and updated May 1983, and numbered 1, entitled "Illinois and Michigan Canal National Heritage Corridor". Such map shall be on file and available for public inspection in the offices of the Commission and in the offices of the National Park Service.

(2) Upon a request of the Commission signed by not less than twelve members of the Commission, the Secretary may make minor revisions in the boundaries of the corridor.

(c) ADMINISTRATION.—The corridor shall be administered in accordance with this Act.

ESTABLISHMENT OF ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

SEC. 5. There is established a commission to be known as the Illinois and Michigan Canal National Heritage Corridor Commission which shall carry out the duties specified in section 9.

ORGANIZATION OF COMMISSION

SEC. 6. (a) MEMBERSHIP.—The Commission shall be composed of nineteen members as follows:

(1) The Director of the National Park Service, ex officio, or a delegate.

(2) Three individuals, nominated by the Governor and appointed by the Secretary, who will represent the interests of State and local government.

(3) One member of the board of a forest preserve district, any part of which is located in or adjacent to the corridor, who shall be nominated by the Governor and appointed by the Secretary. Appointments made under this paragraph shall rotate among the three forest preserve districts, parts of which are located in the corridor, in a manner which will ensure fairly equal representation on the Commission for each such district.

(4) One member of the county board of each county, any part of which is located in the corridor (other than the county which is represented on the Commission by the member appointed under paragraph (3)), who shall be nominated by the Governor and appointed by the Secretary.

(5) Five individuals, nominated by the Governor and appointed by the Secretary, who will represent the interests of history, archaeology, and historic preservation; of recreation; and of conservation.

(6) Five individuals, nominated by the Governor and appointed by the Secretary, who will represent the interests of business and industry.

The Secretary may request that additional names be submitted for members appointed pursuant to paragraphs (2) through (6). Members appointed under paragraphs (5) and (6) shall be selected with due consideration to equitable geographic distribution. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members of the Commission shall be appointed for terms of three years.

(2) Of the members of the Commission first appointed under paragraphs (2), (3), (4), (5), and (6) of subsection (a)—

(i) six shall be appointed for terms of one year;

(ii) six shall be appointed for terms of two years; and

(iii) six shall be appointed for terms of three years,

as designated by the Governor at the time of nomination.

(3) Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member of the Commission may serve after the expiration of his term until his successor has taken office.

(c) Compensation.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) Chairperson.—(1) The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under paragraphs (5) and (6) of subsection (a).

(2)(A) Except as provided in subparagraph (B), the term of the chairperson shall be two years.

(B) If a member is appointed to a term on the Commission which is less than two years and is elected chairperson of the Commission, then such member's term as chairperson shall expire at the end of such member's term on the Commission.

(e) Quorum.—(1) Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

(3) The affirmative vote of not less than ten members of the Commission shall be required to approve the budget of the Commission.

(f) Meetings.—The Commission shall meet at least quarterly at the call of the chairperson or ten of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

STAFF OF COMMISSION

Sec. 7. (a) Director and Staff.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the minimum rate of basic pay payable for level GS-15 of the General Schedule.

(2) The Commission may appoint such additional staff personnel as the Commission considers appropriate and may pay such staff at rates not to exceed the minimum rate of basic pay payable for level GS-15 of the General Schedule. Such staff may include specialists in areas such as interpretation, historic preservation, recreation, conservation, commercial and industrial development and revitalization, financing, and fundraising.

(3) Except as otherwise provided in this subsection, such Director and staff—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Experts and Consultants.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) Staff of Other Agencies.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties under section 9.

(2) The Commission may accept the services of personnel detailed from the State or any political subdivision of the State and may reimburse the State or such political subdivision for such services.

POWERS OF COMMISSION

Sec. 8. (a) Hearings.—(1) The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpenas or exercise any subpena authority.

(b) Powers of Members and Agents.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

(c) Administrative Support Services.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) Use of Appropriated Amounts To Obtain Federal Funding.—Notwithstanding any other provision of law, for purposes of any law conditioning the receipt of Federal funding on a non-Federal contribution, any portion of the amounts appropriated pursuant to section 16 of this Act may, at the election of the Commission, be used as such non-Federal contribution.

(f) Gifts.—(1) Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) For purposes of section 170(c) of the Internal Revenue Code of 1954, any gift to the Commission shall be deemed to be a gift to the United States.

(g) Acquisition of Real Property.—(1) Except as provided in paragraph (2) of this subsection and except with respect to any leasing of facilities under subsection (c) of this section, the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3) of this subsection, the Commission may acquire real property, or interests in real property, in the corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in the corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public or private land managing agency, with the consent of such agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) Modification of Plan.—The Commission may modify the plan if the Commission determines that such modification is necessary to carry out the purpose of this Act. No such modification shall take effect until—

(1) the State and any political subdivision of the State which would be affected by such modification receives notice of such modification; and

(2) if such modification is significant (as determined by the Commission) the Commission—

(A) provides adequate notice (as determined by the Commission) of such modification by publication in the area of the corridor; and

(B) conducts a public hearing with respect to such modification.

(i) Cooperative Agreements.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the State, with any political subdivision of the State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State, such political subdivision, or such person which may affect the implementation of the plan.

(j) Advisory Groups.—The Commission may establish such advisory groups as the Commission deems necessary to ensure open communication with, and assistance from, the State, political subdivisions of the State, and interested persons.

DUTIES OF COMMISSION

Sec. 9. (a) Implementation of Plan.—The Commission shall implement and support the plan as follows:

(1)(A) The Commission shall assist the State, any political subdivision of the State, or any nonprofit organization in the appropriate preservation treatment and renovation (in accordance with the plan) of structures of the canal.

(B) In providing such assistance, the Commission shall in no way infringe upon the authorities and policies of the State or of any political subdivision of the State concerning the management of canal property.

(C) In providing such assistance or in carrying out any other provision of this Act, the Commission shall not be required to adopt the specifics recommended in the Historic American Engineering Record study published in April 1981.

(2)(A) The Commission shall assist the State or any political subdivision of the State in establishing and maintaining intermittent recreational trails which are compatible with economic development interests in the corridor.

(B) In providing such assistance, the Commission shall in no way infringe upon the authorities and policies of the State or of any political subdivision of the State.

(3) The Commission shall encourage private owners of property which is located in or adjacent to the corridor to retain voluntarily, as a good neighbor policy, a strip of natural vegetation as a visual screen and

natural barrier between recreational trails established under paragraph (2) and development in the corridor.

(4) The Commission shall assist in the preservation and enhancement of Natural Areas Inventory, prepared by the Illinois Department of Conservation—

(A) by encouraging private owners of such natural areas to adopt voluntary measures for the preservation of such natural areas; or

(B) by cooperating with the State or any political subdivision of the State in acquiring, on a willing seller basis, any such natural area.

In providing such assistance, the Commission shall in no way infringe upon the authorities and policies of the State or of any political subdivision of the State.

(5) The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, architectural, and engineering structures in the corridor and the archaeological and geological resources and sites in the corridor—

(A) by consulting with the Secretary with respect to inventories to be completed by the Secretary under section 12(1);

(B) by encouraging private owners of structures, sites, and resources identified in such inventories to adopt voluntary measures for the preservation of such structures, sites, and resources; or

(C) by cooperating with the State or any political subdivision of the State in acquiring, on a willing seller basis, any structure, site, or resource so identified.

(6) The Commission shall assist the State, any political subdivision of the State, or any nonprofit organization in the restoration of any historic building in the corridor which has economic development potential. Such assistance may include providing technical staff assistance for historic preservation and revitalization efforts.

(7) The Commission shall assist in the interpretation of the cultural and natural resources of the corridor—

(A) by consulting with the Secretary with respect to the implementation of the Secretary's duties under section 12(2);

(B) by establishing visitor orientation centers in the corridor;

(C) by encouraging voluntary cooperation and coordination between the Federal Government, the State, political subdivisions of the State, and nonprofit organizations with respect to ongoing interpretative services in the corridor; and

(D) by encouraging the State, political subdivisions of the State, and nonprofit organizations to undertake new interpretative initiatives with respect to the corridor.

(8) The Commission shall assist in establishing recognition for the corridor by actively promoting the cultural, historical, natural, and recreational resources of the corridor on a community, regional, statewide, national, and international basis.

(b) Encouragement of Economic and Industrial Development.—The Commission shall encourage and promote, by appropriate means, enhanced economic and industrial development in the corridor.

(c) Access Routes and Traffic.—The Commission shall take appropriate action to ensure that—

(1) access routes to the canal and related sites are clearly identified; and

(2) traffic in the corridor is routed away from industrial access routes and sites.

(d) Protective Features.—(1) The Commission may finance the installation of a fence, warning sign, or other protective feature in the corridor by the State, by any political subdivision of the State, or by any person if such fence, sign, or other feature is approved by the Commission, any affected governmental body, and the owner and any user of property located adjacent to the property on which such fence, sign, or other feature is to be installed.

(2) The Commission shall not require the installation of any fence, warning sign, or other protective feature.

(e) Reducing Excessive Liability.—The Commission shall encourage the State to take appropriate action to ensure that owners and users of property located in or adjacent to the corridor will not be subject to excessive liability with respect to activities which are carried out by such owners and users on such property and which affect persons and property in the corridor.

(f) Economic Impact Assessments.—Before undertaking any major action (including the expenditure of funds) respecting any capital improvement and before providing any funds to any entity for the acquisition of any real property, the Commission shall prepare an economic impact assessment with respect to such major action or provision of funds. Such assessment shall include an analysis of—

(1) any anticipated adverse economic effect of such action or such provision of funds which cannot be avoided;

(2) any alternative to such action or provision of funds which could accomplish the same purposes, together with an estimate of the costs of any such alternative; and

(3) any economic or noneconomic benefit anticipated from such action or such provision of funds.

Such assessment shall be as brief and concise as practicable.

(g) Annual Reports.—Not later than May fifteen of each year (other than the year in which this Act is enacted) the Commission shall publish and submit an annual report concerning the Commission's activities to the Governor and to the Secretary.

RESTRICTIONS ON COMMISSION

Sec. 10. (a) Restrictions on Commission's Development.—(1) The Commission may not develop any site or structure in any area described in paragraph (2) unless such development involves the restoration, rehabilitation, or preservation of a facility existing on the date of the enactment of this Act.

(2) The areas referred to in paragraph (1) are the following areas:

(A) Any area in the corridor designated by the political subdivision of the state which has primary responsibility for regulating land use in such areas (as determined by the Commission) as suitable for industrial development. Areas so designated may include any area adjacent to the Illinois and Michigan Canal State Park, a conservation site, a historical site, or other visitor area.

(B) The area of the corridor in Grundy County, Illinois, extending from Morris, Illinois, to the eastern boundary of section 22, Aux Sable Township, but not including—

(i) lock eight and lock tenders house (identified as sites 1 and 2, respectively, on the map described in section 4(b));

(ii) Rutherford tavern, the old mule barn, and the historic cemetery (identified as sites 3, 4, and 5, respectively, on such map); and

(iii) any trail in such area which follows the historic towpath of the canal.

(C) The area of the corridor in Will County, Illinois, which extends from a line created from Interstate 55 to the center of the sailing line in the Des Plaines River, west on center line of sailing line to the intersection of the line formed by the eastern edge of sections 30 and 31 of Channahon Township east through Brandon Pool, but not including the trail in such area which follows the historic towpath of the canal.

(D) The area of the corridor in Will County, Illinois, which extends from the southern boundary of section 14, Lockport Township, to the eastern boundary of section 25, DuPage Township.

(b) Restrictions on Development of Trails.—The Commission may not develop any new trail along the canal or historic towpath of the canal through industrial sites or transportation corridors which—

(1) are located north of the city of Joliet, Illinois; and

(2) existed on the date of the enactment of this Act.

TERMINATION OF COMMISSION

Sec. 11. (a) Termination.—Except as provided in subsection (b), the Commission shall terminate on the day occurring ten years after the date of the enactment of this Act.

(b) Extension.—The Commission may extend the life of the Commission for a period of not more than five years beginning on the day referred to in subsection (a) if, not later than one hundred and eighty days before such day—

(1) the Commission determines such extension is necessary in order for the Commission to carry out the purpose of this Act;

(2) the Commission submits such proposed extension to the Committee on Interior and Insular Affairs of House of Representatives and to the Committee on Energy and Natural Resources of the Senate; and

(3) the Governor and the Secretary each approve such extension.

DUTIES OF THE SECRETARY

Sec. 12. To carry out the purpose of this Act, the Secretary shall have the following duties:

(1) Not later than September 30, 1985, and in consultation with the Commission, the Secretary shall complete—

(A) an inventory of sites and structures of historical, architectural, or engineering significance in the corridor; and

(B) an inventory of sites and resources of archaeological or geological significance in the corridor.

(2) Not later than September 30, 1986, in consultation with the Commission and in accordance with the plan, the Secretary shall—

(A) develop a thematic structure for the interpretation of the heritage story of the corridor; and

(B) design and fabricate interpretative materials based on such thematic structure, including—

(i) trail guide brochures for exploring such heritage story via private auto, bus, bike, boat, or foot, including brochures for exploring such heritage story in towns along the canal;

(ii) visitor orientation displays (including video presentations) at eight locations which are fairly distributed along the corridor;

(iii) a curriculum element for local schools; and

(iv) an appropriate mobile display depicting such heritage story.

(3) For each fiscal year during the life of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, two employees of the Department of the Interior to enable the Commission to

carry out the Commission's duties under section 9.

DUTIES OF OTHER FEDERAL ENTITIES

Sec. 13. Any Federal entity conducting or supporting significant activities directly affecting the corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Commission determines will not have an adverse effect on the resources cited in the National Park Service report.

CONVEYANCE OF CANAL TITLE BY UNITED STATES

Sec. 14. (a) Except as provided in subsection (b), the Secretary shall, on behalf of the United States, convey to the State by quitclaim deed any right, title, or interest of the United States to the real property described in the Act entitled "An Act relinquishing to the State of Illinois certain right, title, or interest of the United States of America, and for other purposes", approved July 1, 1947 (61 Stat. 237), comprising approximately two thousand six hundred acres: *Provided*, That such real property is used and occupied for highway, park, recreational, or other public purposes, including those provided for under this Act: *Provided further*, That the State may continue to lease any such real property currently leased to any person so long as the revenue from such lease is used by the State for park or recreational purposes within the corridor: *Provided further*, That if any of such real property is not so used and occupied, then any right, title, or interest in the real property not so used and occupied which was conveyed under this subsection shall revest in the United States: *And provided further*, That the conveyance by the United States shall be subject to the condition that the State of Illinois, its successors, and assigns agree to hold the United States harmless from claims arising from or through the operations of the lands conveyed by the United States due to conditions existing at the time of this conveyance.

(b) The interests in the canal prism and towpath lands (including reserved lands) in township 37 north, range 11 east, section 14; township 35 north, range 10 east, sections 9 and 16; township 35 north, range 10 east, sections 16, 20, and 21; township 34 north, range 9 east, section 31; and township 34 north, range 8 east, sections 22, 23, 25, 26, and 36, necessary for the operation and maintenance of the Illinois Waterway navigation project will be conveyed only with the concurrence of the Secretary of the Army with such conditions as necessary to protect the navigation project.

EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS; RESTRICTIONS; SAVINGS PROVISIONS

Sec. 15. (a) Effect on Environmental and Other Standards.—(1) Nothing in this Act shall be deemed to impose any environmental, occupational, safety, or other rule, regulation, standard, or permit process which is different from those presently applicable, or which would be applicable, had the corridor not been established.

(2) The establishment of the corridor shall not impose any change in Federal environmental quality standards. No portion of the corridor which is subject to part C of title I of the Clean Air Act (42 U.S.C. 7470 et seq.), as amended by the Clean Air Act Amendments of 1977, may be designated as class 1 for purposes of such part C solely by reason of the establishment of the corridor.

(3) No State or Federal agency shall impose more restrictive water use designations or water quality standards upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the corridor solely by reason of the establishment of the corridor.

(4) Nothing in the establishment of the corridor shall abridge, restrict, or alter any applicable rule, regulation, standard or review procedure for permitting of facilities within or adjacent to the corridor.

(5) Nothing in this Act shall necessitate any change in the use or operation of any public utility or common carrier located within the corridor.

(6) Actions taken under this Act to achieve the purposes described in section 2(b) shall emphasize voluntary cooperation.

(b) Restrictions on Commission and Secretary.—Nothing in this Act shall be construed to vest in the Commission or the Secretary any authority—

(1) to require the State, any political subdivision of the State, or any private person to participate in any project or program carried out by the Commission or the Secretary under this Act;

(2) to intervene as a party in any administrative or judicial proceeding concerning the application or enforcement of any regulatory authority of the State or any political subdivision of the State, including any authority relating to land use regulation, environmental quality, licensing, permitting, easements, private land development, or other occupational or access issues;

(3) to establish or modify any regulatory authority of the State or of any political subdivision of the State, including any authority relating to land use regulation, environmental quality, or pipeline or utility crossings;

(4) to modify any policy of the State or of any political subdivision of the State; or

(5) to establish or modify any authority of the State or of any political subdivision of the State with respect to the acquisition of lands or interests in lands.

(c) Savings Provision.—Nothing in this Act shall diminish, enlarge, or modify any right of the State or of any political subdivision of the State—

(1) to exercise civil and criminal jurisdiction within the corridor; or

(2) to tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the corridor.

AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF AMOUNTS FOR CERTAIN PURPOSES

Sec. 16. (a) Authorization of Appropriations.—(1) For each fiscal year, there is authorized to be appropriated—

(A) to the Commission a sum not to exceed $250,000 to carry out the Commission's duties under this Act; and

(B) to the Secretary such sums as may be necessary to carry out the Secretary's duties under this Act.

(2) Any sum appropriated under paragraph (1) shall remain available until expended.

(b) Allocation of Amounts for Certain Purposes.—Not less than 5 per centum of the aggregate amount available to the Commission from all sources for a fiscal year shall be used for carrying out each of the duties of the Commission specified in subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), and (b) of section 9.

MOTION OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SEIBERLING moves to strike all after the enacting clause of the Senate bill, S. 746, and to insert in lieu thereof the provisions of the bill, H.R. 2014, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2014) was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three bills just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3050, RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND SELF-SUFFICIENCY ACT OF 1983

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 98-602) providing for the consideration of the bill (H.R. 3050) to amend the Rural Electrification Act of 1936 to insure the continued financial integrity of the Rural Electrification and Telephone Revolving Fund, and for other purposes, which was referred to the House Calendar and ordered to be printed.

UNIFORM PATENT PROCEDURES ACT OF 1984

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, I am today introducing, with the gentleman from New Hampshire (Mr. Gregg), the second in a series of legislative initiatives that will insure the economic competitiveness of this country, while at the same time maintaining the essence of our competitive economic system.

On June 22, 1983, I introduced H.R. 3393, the High Technology Research and Development Joint Venture Act of 1983. This legislation attempts to overcome the potential structural barriers, inherent in the antitrust laws, and allow a wide range of businesses to carry out productive research on a joint basis. The provisions of this legislation has been incorporated into H.R. 4043, which was approved unanimously by the House Science and Technology Committee and is awaiting action by the House Judiciary Committee.

The legislation I am introducing today, the Uniform Patent Procedures Act of 1984, will stimulate increased industrial innovation and productivity by encouraging the commercialization of technologies developed under Federal support.

The economic and social vitality of this country is linked to our innovative capacity. New innovations increase our productivity in services, manufacturing, and agriculture. It has been estimated that technological innovation was responsible for about one-third of the economic growth of this country from 1929-69 and about 48 percent between 1948 and 1969. In addition, the positive trade balance in advanced technology products, in 1980, a positive trade balance of $31 billion, contributes to domestic employment and economic health.

While recent studies have concluded that the United States still retains technological leadership, concerns are being expressed over the apparent decline in U.S. innovation relative to past levels and to foreign competition.

Domestic patenting by U.S. inventors declined by 34.2 percent during the period 1972-82, while U.S. patents to foreign inventors increased.

Foreign patenting has increased every year from 1965 to 1982, except for 1975.

In 1982, 41 percent of all U.S. patents granted will be to foreign inventors.

During the period 1971-81, the rate of patenting dropped in almost every product field, so that the rate of patenting for all fields together decreased by an average 4.6 percent per year.

In 1982, 3 percent of all U.S. patents granted, were issued to the Federal Government.

Only about 5 percent of the more than 28,000 patents owned by the Federal Government are utilised in the private sector.

The Federal Government's outlays for research and development were an estimated $42.4 billion in 1983. This is 5.6 percent of the total outlays in the 1983 budget. While it is difficult to measure, the results of this expenditure produced new products or processes, which, if patented, are retained by the Federal Government.

The retention by the Federal Government of the title to any patents developed by federally sponsored research and development is counterproductive, since the Federal Government cannot commercialise and market products or processes and the absence of exclusivity, which is secured through a patent, prevents the private sector from investing the capital necessary to market the products or processes. Consequently, the economic benefits from the federally sponsored research and development are not realised.

The legislation that I am introducing will realise our investment in federally sponsored research and development by placing the title to any inventions, except in special circumstances, in the contractors who conduct the federally sponsored research and development, while at the same time preserving the right of the Federal Government to utilise the discovery royalty free. Thus, the commercialisation of patents developed under federally sponsored research and development will be encouraged, by providing the private sector with an incentive to invest their financial resources, thereby stimulating the increased use of these new concepts, processes, and technologies. Further, retention of title will encourage many industrial scientists and engineers to participate in Federal research efforts, thereby broadening and strengthening our research efforts.

Finally, this legislation builds upon the University and Small Business Patent Procedures Act of 1980, by removing certain limitations placed upon university licensing in that act, in order to encourage more collaboration between industry and universities.

Mr. Speaker, I urge my colleagues to support this effort to enhance the economic competitiveness of this country without sacrificing the economic principles upon which it was founded.

A section-by-section analysis follows:

Sec. 1. Title.

Sec. 2. Conforms Pub. L. 96-517 chapter designations to U.S.C.A. codification.

Sec. 2A. Adds a new chapter to Title 35, USC, the provisions of which would do the following:

Sec. 212. States the policy objective of the Act, to "insure that all inventions made with Federal support are used in a manner to promote free competition and enterprise."

Sec. 213. Definitions used in the Act.

Sec. 214. Authorizes the Secretary of Commerce to issue implementing regulations for the Act.

Sec. 215. Provides that Federal contractors may automatically own inventions they make under Government R&D unless:

(1) it is determined that the discovery is needed for foreign intelligence or counterintelligence purposes;

(2) the contractor is not located in the U.S., or is a foreign government; or

(3) it is determined on a case-by-case basis that exceptional circumstances require Federal ownership.

Such determinations will be made in writing and filed with the Secretary of Commerce to prevent abuse of these exceptions to contractor ownership. In cases of abuse, the Secretary shall notify the Administrator of the Office of Federal Procurement Policy who may issue guidelines ending such practices.

This section also provides that, in instances where the contractor does not elect to file a patent application in the United States or abroad, the agency may then assert ownership if it desires to do so.

In addition, Section 215 also stipulates that the agency may use a subject invention royalty free and can require that it be kept updated on utilization of the contractor.

Sec. 216. Provides that agencies may force contractors to grant licenses to competitors for using an invention made under Federal R&D if effective steps are not being taken toward commercialization; to alleviate serious health or safety needs not being satisfied by the contractor; or to meet requirements for public use specified by Federal regulations not being satisfied by the contractor. Agency determinations on mandatory licenses may be appealed by the contractor within 60 days to the United States Claims Court.

Sec. 217. Protects contractors from the threat agencies might require them to give up privately developed technologies to competitors in order to secure a contract, unless specifically approved by the agency head. Such determinations can be made only after an agency hearing with prompt notification to the contractor.

Sec. 2b. Chapter headings redesignated.

Sec. 2c. Repeals certain limitations placed upon university licensing by present law, in order to encourage more collaboration between industry and universities.

Sec. 3. Repeals old patent policies so that the Act may be implemented uniformly.

Sec. 4. Specifies that nothing in this Act shall be construed to grant any civil or criminal immunity from any antitrust law of the United States.

Sec. 5. Provides that the Act becomes effective six months after enactment, and authorizes agencies to apply its provisions to preexisting contracting where deemed appropriate.

Sec. 6. Provides that the Secretary of Commerce shall report to the Congress within 24 months, and every two years thereafter, on the implementation of this Act along with any recommendations for legislative or administrative changes.

Mr. Speaker, I yield back the balance of my time.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3795

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 3795.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SALUTING ARMY COMMUNICATIONS COMMAND AND ITS 20TH BIRTHDAY

(Mr. McNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McNULTY. Mr. Speaker, it is a pleasure to call to the attention of my colleagues a recent military event of significance—the 20th anniversary of the U.S. Army Communications Command—a worldwide military organization commanded by Lt. Gen. D. E.

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McKnight headquartered at Fort Huachuca, Ariz.

Named the Strategic Communications Command at its inception as a major Army command on March 1, 1964, ACC currently has 30,000 military and civilian members serving around the clock around the world in the United States and 14 foreign countries.

In one sense it is a little difficult to describe in few words the mission of this command. In simplistic terms ACC operates and maintains Army post camp and station communications; it provides the Army part of the Defense Communications System; and it manages Army air traffic control equipment and people both in the United States and abroad.

The quality of the Army's air traffic controllers became evident in 1982 when ACC controllers were called upon to replace striking FAA controllers to insure the safety of commercial airways in the United States. The Army controllers were able to move on short notice into FAA facilities and become fully operational in very short periods of time.

ACC's three simple sounding missions require very efficient use of people and money to maintain a level of communications satisfying the requirements of the entire Army, other Department of Defense organizations and Government entities outside the military.

ACC's mission is quite similar to that of AT&T, all the Bell operating companies, Western Union, and a bit of Satcom for good measure. The command uses communications media from plugin switchboards to multiplexed digital satellite systems in a network that is virtually transparent to its users. This would be a simple accomplishment with unlimited fiscal and personnel resources.

Army communications media are as ubiquitous to military people as our telephones are to us. Budget and personnel limits notwithstanding, the Army Communications Command has, through its 20 years, a history of intensive management leading to continually improving communications.

In addition to actually insuring the constant availability of communications, subelements of the command engineer, acquire and install required systems.

Currently the command is exploring ways of weaving its network of sophisticated communications even tighter with much attention being given more improvements in connections between and through computerized equipment.

More and more attention, too, has been given to the command's increasingly important resonsibility in managing and operating the famed Washington-Moscow Hotline as well as further improving support to the President, the State Department, and Army commanders throughout the world.

With its capabilities of providing immediate connections literally between the commander in the field and national command authorities, ACC has completed 20 years of remarkable progress as the "Voice of the Army."

I am most happy and exceedingly proud to acknowledge this significant anniversary observance.

CHURCH LEADERS MAKE STATEMENT ON CENTRAL AMERICA

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MILLER of California. Mr. Speaker, over the weekend the leaders of 12 major Protestant denominations made a very important statement about Central America. They echoed a sentiment which is growing among the American people and religious organizations which oppose President Reagan's policies in Central America. The time has come to say "no more" to that policy.

These church leaders called our policy of military aid to the Government of El Salvador an immoral one. They said that current policy is distorted and based on false premises. They said that Reagan's policies are leading toward direct U.S. intervention.

The Congress would do well to listen to the conclusions of these religious leaders, which I want to share with my colleagues today. Scarcely a day goes by without reports of a new scandal involving our aid programs in El Salvador; new evidence of coverup by the Salvadoran Government in the prosecution of the murderers of four U.S. churchwomen; new information about "maneuvers" in Honduras which are nothing more than a pretext for a massive U.S. military buildup in Central America.

The time has come to oppose that policy. It is no longer sufficient to write conditions into our foreign aid bill, hoping that the Salvadoran Government will behave as we would wish. We must deny the administration the means to pursue a military solution in El Salvador by cutting military aid. Instead, the Reagan administration and the Salvadoran Government must take the necessary steps to find a negotiated solution to the war and to punish those responsible for massive brutality.

I am bringing this to the attention of the House because I am greatly concerned about the speed with which we are moving ahead to authorize $8.9 billion in assistance to Central America requested by the Reagan administration.

It is up to the Congress to take strong action to halt the escalation of the war in Central America, a war which is expanding under the cloak of "human rights certification." The $8.9 billion aid bill requested by the Reagan administration for Central America would compound all of the problems related to our involvement in El Salvador, and solve nothing.

I hope that Members will give their full attention to the following statement:

A MORAL APPEAL TO CONGRESS FROM RELIGIOUS LEADERS: REPUDIATE CURRENT U.S. POLICY IN CENTRAL AMERICA

As members and leaders of churches in the United States that have a strong sense of unity with the churches in Central America, long histories of partnership in mission with them, a demonstrated concern for the well-being of all the people in the region, and a passionate zeal for the moral integrity of our own nation, we appeal to the members of Congress to repudiate current U.S. policy in Central America; to reject the requests for more aid, other than humanitarian aid; and to insist on a radical change of course in U.S. policy.

We believe that the current policy of providing military assistance to a Salvadoran government that brutally slaughters its own people is immoral.

We believe that current policy is based on false premises and a distorted reading of current history.

Finally, we believe that current policy increases the likelihood of direct U.S. military intervention in Central America.

In our view, unless Congress is prepared to see large numbers of U.S. troops dispatched to El Salvador or Nicaragua, it must repudiate current policy, reject the request for more military assistance, and insist on a negotiated rather than a military solution to the conflicts in the region. Such action by Congress would be both courageous and prudent. In our judgment, such action is also morally required.

Our appeal is prompted by the recent publication of the Kissinger Commission report and the request of the administration, in light of the report, for increased assistance for certain nations in Central America. Our appeal is based on our moral and political assessment of current policy.

The thesis of the Kissinger Commission is that while centuries of poverty, exploitation, injustice and oppression in Central America make the demands for radical social change in the region legitimate, Soviet and Cuban exploitation of the social unrest there poses a threat to U.S. security interests. The commission's proposed solution is for the United States to strengthen the military-dominated governments of El Salvador, Honduras, and Guatemala by providing them significantly increased military and economic assistance, and to further isolate the government of Nicaragua, which the commission alleges is a Marxist-Leninist regime becoming totalitarian.

The report's thesis and major recommendations reflect and seek to justify current U.S. policy. Upon receiving the report in mid-January the President called it "magnificent." In early February he made the thrust of the report's recommendations his own. According to press reports, he called for $179 million more in military aid for El Salvador this year as a FY 1984 supplemental, and $133 million for FY 1985. He also asked for $80 million more for this year in supplemental military aid and $123 million for FY 1985 for other nations in Central America, including Guatemala. He further called for $400 million in supplemental economic aid for FY 1984, and for $1.7 billion in economic aid for FY 1985 ($1.1 billion in cash and $600 million in insurance guarantees); and announced that he would seek $8 billion in economic aid over the next five years as recommended by the commission.

The matter now rests in the hands of the elected representatives of the people in Congress. That body must decide whether to continue its current level of support for U.S. policy in Central America; to grant the President's request for radically increased military and economic assistance; or to insist on a change in U.S. policy.

We appeal to Congress for a repudiation of current policy, a rejection of the request for more assistance, and a demand for a new policy for three reasons:

1. We believe that the current policy of providing military assistance to a Salvadoran government that brutally slaughters its own people is immoral.

There can be no doubt that the government of El Salvador engages in systematic brutality against its own people. According to Tutela Legal, the human rights monitoring office of the archdiocese of San Salvador, government forces and paramilitary forces allied with them murdered 5,142 civilians last year alone. Since 1979 they have committed more than 38,000 such murders and caused the "disappearance" of more than 2,400 additional persons (Americas Watch Report, January 1984). Terror is an instrument of policy in El Salvador.

Even the administration seems to recognize this. In his address to a joint session of Congress on April 27, 1983, the President acknowledged of El Salvador, "Yes, there are still major problems regarding human rights, the criminal justice system, and violence against non-combatants." And the Kissinger Commission, in addition to claiming that progress has been made in many fields, acknowledges that "there is, of course, a darker side as well in El Salvador." "Certain reactionary forces in Central America," the commission says, practice brutal methods of counter-insurgency. "Their common denominator is the systematic use of mass reprisals, and selective killing and torture to dissuade the civil population from participating in the insurgency or from providing any help for the insurgents." "These methods," the commission declares, "are totally repugnant to the values of the United States."

Yet the commission recommends significantly increased military assistance for El Salvador, and the President has called for a five-fold increase in military aid for this year and next over what Congress has already granted for this year.

How is this possible? The commission proposes a way it hopes will avoid the moral repugnance of providing the Salvadoran regime guns with which to kill its own people. It recommends that military assistance be made contingent upon demonstrated progress in respect for human rights and other reforms. And the President has promised to link the assistance to progress on human rights provided that the White House continues to "control the spigot" on the funds.

We believe that the hope that these conditionality requirements will transform the Salvadoran government and its security forces is without basis. Our government has tried that escape hatch for over two years without success. In historical experience, the legislative requirement for certification of progress has not so much effected reform in El Salvador as it has tested the ingenuity of the administration in certifying reform. So long as our government interprets the revolution in El Salvador as a superpower confrontation that threatens our national security and credibility, the government of El Salvador can always count on our assistance.

If it is morally repugnant for the government of El Salvador to engage in systematic brutality against its own people, it is surely morally repugnant for the United States to assist it in such brutality. Here moral considerations must outweigh all other types of considerations. Even if all the arguments so reminiscent of Vietnam about threats to U.S. security, falling dominoes, and tests of U.S. worldwide credibility were true (and we do not find them persuasive), it would still be morally wrong for the United States to provide the Salvadoran government the instruments with which to terrorize, torture, and murder its own people. No end, however "strategic," justifies the torture of one little child. For our moral integrity as a nation, we dare not support further bloodshed.

2. We believe that current policy is based on false premises and a distorted reading of current history.

The administration interprets the social upheaval in Central America as a "Soviet and Cuban backed Sandinista campaign to overthrow the other Central American countries and eventually to incorporate the region into the Soviet orbit" (*White House Digest*, June 1, 1983). The Kissinger Commission declares "the Soviet-Cuba thrust to make Central America part of their geostrategic challenge is what has turned the struggle in Central America into a security and political problem for the United States and for the hemisphere."

We reject this reading of the historical situation on five grounds.

First, it fails to distinguish adequately between the social conditions of injustice and oppression out of which the revolution has emerged, and the Marxists who have helped organize and defend the revolution. To its credit, the Kissinger Commission acknowledges the indigenous roots of Central American unrest. It admits that the Somoza regime in Nicaragua was "hated." It shows modest sensitivity to the years of U.S.-supported right-wing dictatorships that resulted in poverty and inequality. It even declares that we as a nation are not threatened "by indigenous revolutions that use local resources and appeal to local circumstances." But the commission is so consumed by fear of foreign Marxist influences that it subordinates concern for justice to that fear. In the commission's and the administration's view, the presence of foreign influence within a revolution requires that the first objective of U.S. policy be to insure that the insurgents are militarily defeated. We are not persuaded that the "poison" of foreign influence, however extensive, is such as to justify counterinsurgency as the primary response to the demand for revolutionary social change.

Second, this reading of the situation does not perceive and will not entertain the possibility of a Central American government being both Marxist and non-aligned. There is no place in this way of thinking for the type of regime that many scholars of the region believe that the Sandinistas not only are but, if left alone, will continue to be: highly nationalistic and internally-oriented Marxists presiding over a mixed economy in which U.S. trade and investment could continue to play a role, a regime not anxious to be embroiled in foreign disputes. Moreover, this reading ignores the fact that the United States trades with the Soviet Union, seeks military cooperation with China, and guarantees loans to communist countries in Eastern Europe. Current policy recognizes the diversity of Marxist states on the world scene, but asserts that the emergence of a Marxist state in this hemisphere represents a security threat to the United States.

Third, this reading ignores the self-interests of the nationalistic revolutionary forces in Central America. Nationalistic movements struggling to free themselves from domination by one superpower are not likely to submit willingly to domination by another. It would not be in the interests of the government of Nicaragua or the revolutionary forces in El Salvador to become satellites of the Soviet Union, knowing that to do so would invite the powerful wrath of the U.S.

Fourth, this reading ignores the character of the political opposition to the regime in El Salvador, the Democratic Revolutionary Front (FDR). Formed early in 1980, this political counterpart to the Farabundo Marti National Liberation Front (FMLN) includes dissident Christian Democrats, Social Democrats, members of popular organizations, trade unions, professional organizations, student and religious groups. Many of its leaders were in an earlier day praised by Washington as "the moderate center." The commission ignores the platform of the FDR which espouses strict respect for human rights, political pluralism, and popular participation in the management of government. It overlooks the murder of five leaders of the FDR in November 1980, which convinced many who had tried reform from within the system that insurgency was the only option left. And it fails to mention that on August 28, 1981, Mexico and France jointly recognized the FDR and the FMLN as "a representative political force" that must take part in future negotiations to end the conflict.

Finally, current policy is based on a distorted view of U.S. national security. It assumes that the emergence of a Marxist state anywhere constitutes a threat to our security. It does not distinguish vital interests from the peripheral ones, the necessary from the desirable. We concur in the judgment of the scholars associated for Policy Alternatives for the Caribbean and Central America (PACCA) in their new book, Changing Course: Blueprint for Peace in Central America and the Caribbean, that our fundamental security requirement is "the ability to secure our own social experiment at home and pursue it free from external threat." We do not believe that successful revolutions in Central America—in and of themselves—threaten U.S. security.

In sum, we believe that just as in Central America the spectre of communism is being used to justify terrible actions of brutality and inhumanity, so in this country the possibility of expanding Soviet and Cuban influence is being used to justify continuing support for governments that engage in systematic brutality against their own people.

3. Finally, we believe that current policy increases the likelihood of direct U.S. military intervention in Central America.

Recognizing that economic development is impossible in the midst of civil war, the Kissinger Commission recommends increased military assistance so that pro-U.S. regimes can win the war. But during the past four years, the United States has provided the government of El Salvador over $200 million in military assistance, and, in the view of many, at the end of 1983 the Salvadoran military was in the worst shape since the war began. We have little reason to believe that increased military aid would turn the tide of the war militarily, no reason to believe that it would enable the Salvadoran regime to win the hearts and minds of its people. The commission's neat distinction between "brutal" methods of anti-insurgency and "modern, humane" ones, and its appeal for more military assistance on the grounds that it would enable the military to fight a humane counter/insurgency should be recognized by all as rubbish. It is not the lack of adequate equipment that leads the Salvadoran security forces to slaughter noncombatants.

Current policy and the increasingly heavy rhetoric that seeks to justify it are leading our nation deeper into a quagmire. The more the administration magnifies what is at stake in Central America, the more it constricts U.S. policy options. The more it contends that the "triumph of hostile forces" in Central America "would be read as a sign of U.S. impotence," the more it commits itself to insuring a military victory for "our" side. The almost inevitable implication of current rhetoric and policy is that if increased U.S. military assistance does not enable our surrogates to defeat those who threaten our security and credibility, we must do the job ourselves. Current policy is leading us straight toward a tragic choice of our own making—a self-proclaimed defeat of major proportion or a direct U.S. military intervention.

Bishop John Hurst Adam, African Methodist Episcopal Church.

Dr. James E. Andrews, Co-stated Clerk, Presbyterian Church (U.S.A.)

James Mase Ault, Bishop, The United Methodist Church, Pittsburgh, PA.

Dr. Robert C. Campbell, General Secretary, American Baptist Churches, U.S.A.

The Reverend C. J. Malloy, Jr., General Secretary, Progressive National Baptist Convention, Inc.

The Reverend Dr. Edwin G. Mulder, General Secretary, Reformed Church in America.

Dr. Robert W. Neff, General Secretary, Church of the Brethren.

Vern Preheim, General Secretary, General Conference Mennonite Church.

Dr. Avery D. Post, President, United Church of Christ.

The Most Reverend Metropolitan Philip Saliba, Antiochian Orthodox Christian Archdiocese of North America.

Dr. Kenneth L. Teegarden, President, Christian Church (Disciples of Christ).

Dr. William P. Thompson, Co-stated Clerk, Presbyterian Church (U.S.A.).

MEMBERS INVITED TO COSPONSOR A BILL TO AMEND THE HAZARDOUS MATERIALS TRANSPORTATION ACT

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WEISS. Mr. Speaker, the intent of Congress in enacting the Hazardous Materials Transportation Act (HMTA), as expressed in its preamble, was "to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce." Yet, when the Department of Transportation (DOT) issued a rulemaking designated as HM-164 in early 1982 to implement the requirements of this law as it related to radioactive material, the result seemed intended to minimize the inconvenience to commerce by streamlining transportation routes. Safety became a secondary consideration.

The rulemaking, to be referred to here by its docket designation, HM-164, was expressly designed to preempt State and local regulations which do not conform to Federal laws and regulations. DOT's interpretation of HMTA paid little attention to the delicate balance between Federal, State, and local regulatory responsibilities I believe Congress intended to establish.

In place of stringent local rules governing the transport of radioactive, flammable, explosive, and combustible materials into and through urban areas, DOT offered weak guidelines for routing with virtually no safety provisions. No consideration was given to alternatives to highway transportation. No special dispensation was awarded to non-Federal rules providing greater protection to the public without unreasonably burdening commerce.

Mr. Speaker, I am today introducing a package of amendments to the Hazardous Materials Transportation Act which attempt to restore that safety priority. The legislation would also provide State and local governments with additional resources to adequately meet their enforcement and emergency response responsibilities.

The cornerstone of the bill is language shifting the burden of proof in inconsi [illegible] mption proceedings from [illegible] local authority to DOT. The language, based in part on a ruling by a U.S. District Court in New York, creates a presumption in favor of local, safety-oriented regulations which provide a level of protection to the public equal or greater than that provided by HMTA or regulations developed under the act, and which do not unreasonably burden commerce. The intent is to allow local officials to enhance safety by addressing unique situations within their jurisdictions without permitting the proliferation of unwarranted rules.

The experience of New York City perfectly illustrates the need for this corrective action. HM-164 allows, for example, Brookhaven Laboratories on Long Island to choose to truck its nuclear wastes through downtown Manhattan if the route minimizes transit time. The route used by Brookhaven until city officials challenged HM-164 in court ran along the Long Island Expressway through Queens, over the 59th Street Bridge into Manhattan, and then up either Third Avenue or Amsterdam Avenue and over the George Washington Bridge. HM-164 does not require the shipper in this instance to consider the alternate mode proposed by the city, barging the wastes around the city.

In a culmination of litigation extending over several years, the city took its court challenge of HM-164 to the U.S. Supreme Court, which just yesterday declined to consider the case.

But New York City is not alone among local governments lacking confidence in DOT's willingness to protect the public. More than 260 new State or local restrictions on transportation of radioactive substances have been proposed since HM-164 went into effect about 2 years ago. Some 200 State and local jurisdictions have imposed such regulations. Many of those, including a New York City health code provision limiting radioactive transport within the city, provide for greater safety than does HM-164. We are clearly witnessing an effort by local and State authorities to fill a leadership vacuum.

Needs exist in other areas as well. Section 4 of my bill directs the Secretary of Transportation to establish regional training centers to meet the widespread demand for comprehensive enforcement and emergency-response training. This provision was passed by the House in 1981, but the legislation died in the Senate.

The measure directs the instructors, in addition to teaching classes at the centers, to conduct outreach training programs and disseminate information within the communities served. The centers are in no way intended to weaken or eliminate private training enterprises, but simply to fill a clear need for high-quality instruction in areas not served by private programs.

Section 5 directs the Secretary to register hazardous materials shippers, transporters, and container manufacturers. HMTA authorizes the creation of such a program, but DOT has declined to do so to date. Registration would provide authorities at all governmental levels with basic and essential information—not currently available—for developing and improving enforcement and emergency response programs.

Section 6 of the bill instructs the Secretary to study the most effective, equitable, and cost efficient method of imposing a user fee on participants in the registration program. The present fiscal climate has left States and localities with minimal funds for vigilant enforcement of safety regulations and development of emergency response

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programs. Any fund resulting from this study would help finance those local efforts.

As a Member of Congress representing one of the many urban areas which would benefit, I urge and invite my colleagues to cosponsor this bill. Commonsense dictates that strong safety initiatives should not be automatically rejected for uniformity's sake. Our local officials deserve support in their effort to protect the health and well-being of our citizens.

The text of the bill follows

H.R. 4965

A bill to amend the Hazardous Materials Transportation Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

SECTION 1. This Act may be cited as the "Hazardous Materials Transportation Act Amendments of 1984".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the transportation of hazardous materials can create severe hazards to the public safety;

(2) State and local governments have both enforcement and emergency response responsibilities;

(3) uniformity of Federal, State, and local governmental regulation of hazardous material transportation, as encouraged in the Hazardous Materials Transportation Act should not be achieved through the exclusion of adequate safety precautions;

(4) certain rules contained in parts 171, 172, 173, and 177 of title 49 of the Code of Federal Regulations were issued by the Department of Transportation to preempt many valid and necessary State and local regulations, especially those dealing with routing, curfews, and prenotification of certain hazardous materials shipments;

(5) amending the Hazardous Materials Transportation Act to remove the likelihood of Federal preemption of valid and necessary State and local regulations would decrease the threat to health, safety, and property created by the transportation of hazardous materials;

(6) there is a need to strengthen the available resources for State and local enforcement and emergency response;

(7) the establishment of several regional training centers would increase the number and improve the caliber of properly trained personnel for responding to hazardous materials transportation accidents and enforcing hazardous materials transportation laws and would allow for specialized training of such personnel to reflect the various needs and characteristics of the region;

(8) the prompt registration of all shippers and transporters of hazardous materials and manufacturers of containers used in such transportation would provide authorities at all governmental levels with basic and essential information for developing and improving enforcement and emergency response programs; and

(9) assessing such registrants with a fee for the purpose of generating funds for assistance grants to States and localities would be the most equitable means of financing enforcement and emergency response programs at those governmental levels.

(b) The purpose of this Act is to promote the public safety by providing State and local governments with the authority and resources to adequately meet their enforcement and emergency response responsibilites.

INCONSISTENCY AND NONPREEMPTION DETERMINATIONS

SEC. 3. Section 112 of the Hazardous Materials Transportation Act (49 U.S.C. 1811) is amended—

(1) by adding at the end of subsection (a) the following new sentences: "A State or political subdivision thereof or any person affected by a requirement of a State or political subdivision thereof pertaining to the transportation of hazardous materials may apply to the Secretary for a ruling as to whether the requirement of the State or political subdivision is inconsistent with any requirement set forth in this title or in a regulation issued under this title. The Secretary shall issue a finding that the requirement is not inconsistent unless the Secretary finds that (1) compliance with both the requirement of the State or political subdivision and this title or regulations issued under this title is impossible, or (2) the requirement of the State or political subdivision would make impossible the accomplishment of the purposes of this title or regulations issued under this title. Any requirement of a State or political subdivision thereof which is found not to be inconsistent with this title or a regulation issued under this title by a final determination of a Federal court made prior to the date of the enactment of the Hazardous Materials Transportation Act Amendments of 1984 is consistent with the requirements of this title and the regulations issued under this title."; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) INCONSISTENT STATE PROVISIONS.—(1) Any requirement of a State or political subdivision thereof which is found by the Secretary to be inconsistent with any requirement set forth in this title or any regulation issued under this title is not preempted if such requirement (A) affords an equal or greater level of protection to the public than is afforded by the requirements of this title or of regulations issued under this title, or (B) such requirement does not unreasonably burden commerce.

"(2) Any State or political subdivision thereof may apply to the Secretary for a determination that a requirement of such State or political subdivision which is found to be inconsistent with this title or regulations issued under this title in accordance with subsection (a) of this section is not preempted. The Secretary shall issue an order of nonpreemption under this subsection unless the Secretary finds that (A) the requirement of the State or political subdivision does not afford a level of protection at least equal to that afforded by the requirements of this title and regulations issued under this title, or (B) the requirement of the State or political subdivision unreasonably burdens commerce. Such requirement of a State or political subdivision thereof shall not be preempted to the extent specified in such determination by the Secretary for so long as such State or political subdivision thereof continues to administer and enforce effectively such requirement.".

REGIONAL TRAINING CENTERS

SEC. 4. The Hazardous Materials Transportation Act is amended by adding at the end thereof the following new section:

"REGIONAL TRAINING CENTERS

"SEC. 116. (a) PURPOSE OF AGREEMENTS.—The Secretary shall enter into cooperative agreements or contracts under this section (hereinafter referred to as 'agreements') for the establishment of regional training centers for purposes of providing an effective and efficient means for training State and local personnel in order to improve the capability of such personnel (1) to respond to hazardous materials transportation accidents, and (2) to enforce State and local hazardous materials transportation requirements that are not preempted under this title. Such training shall address all modes of transportation, inspection, emergency response, and compliance. Such training shall be provided primarily through programs conducted at the site of the regional training center, but shall also include the dissemination of teaching materials to and the conduct of training programs in the local communities to be served by such center.

"(b) APPLICATIONS.—(1) Any State, group of States, local or regional government agency, or private nonprofit entity, or any combination of the foregoing (hereinafter referred to as an 'applicant') may submit an application to the Secretary requesting that the Secretary enter into an agreement with the applicant under this section for the establishment of a regional training center.

"(2) An application to enter into an agreement under this subsection shall be submitted at such time and in such form as the Secretary may require and shall contain—

"(A) a description of the hazardous materials transportation training program that the applicant proposes to provide in the regional training center to be established, including (i) an explanation of how such program will accomplish the purposes set forth in subsection (a) of this section, and (ii) an estimate of the cost of such program.

"(B) a statement that the applicant agrees to provide not less than 60 percent of the estimated cost of providing training in the first year of operation of the regional training center and not less than 75 percent of such cost in the second and third years;

"(C) a statement that the applicant will make available one or more physical facilities that are satisfactory for use as a site for the regional training center; and

"(D) such other information with respect to the applicant or the proposed training program as the Secretary may require.

"(c) ACTION ON APPLICATIONS.—(1) The Secretary shall select for approval those applications submitted under subsection (b) of this section which the Secretary determines in his or her discretion best promote the purposes of this section, taking into account the need for the establishment of regional training centers in different regions of the Nation. In making a selection, the Secretary shall consider whether—

"(A) the program that the applicant proposes to provide in the regional training center will accomplish the purposes set forth in subsection (a) of this section;

"(B) the applicant is capable of paying its share of the costs as described in subsection (b)(2)(B) of this section; and

"(C) the applicant is capable of making available one or more physical facilities that are satisfactory for use as a site for the regional training center.

"(2) The Secretary shall act to approve or deny an application under this subsection within 60 days after the date such application is submitted.

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"(d) Duration and Termination.—(1) An agreement entered into by the Secretary and an applicant under this section shall be for a term of three years.

"(2) The Secretary may terminate any agreement entered into under this section upon 30 days' notice if the Secretary finds that the program operated under such agreement is not accomplishing the purposes set forth in subsection (a) of this section.

"(e) Physical Facilities.—Any cost of constructing a facility for use as a site for a regional training center shall be borne by the party to the agreement with the Secretary and shall not be included as a cost of providing training for purposes of subsection (b)(2)(B) of this section.

"(f) Participants.—Training provided by a party to an agreement with the Secretary in a regional training center established under this section may be available to private industry personnel only if such personel provide reimbursement or make contributions (either monetary or in kind) to such party at least equal to the full cost of such training.

"(g) Assistance by the Secretary.—The Secretary, upon the request of a party to an agreement under this section, shall provide such party with training materials and such other assistance as may be appropriate to carry out the purposes of this section.

"(h) Coordination.—In developing training materials and conducting training pursuant to this section, a party to an agreement with the Secretary shall take into consideration the procedures and standards for responding to hazardous substance releases set forth in the national contingency plan required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, at such time as such plan becomes effective.".

REGISTRATION

Sec. 5. Section 106 of the Hazardous Materials Transportation Act (49 U.S.C. 1805) is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "The" and inserting in lieu thereof "Not later than 12 months after the date of the enactment of the Hazardous Materials Transportation Act Amendments of 1984, the";

(B) by striking out "is authorized to" and inserting in lieu thereof "shall"; and

(C) by inserting before the period at the end of such sentence the following: "and shall establish minimum levels of insurance coverage sufficient to meet injury or damage claims resulting from transportation of such materials"; and

(2) in the first sentence of subsection (b) by striking out "may" and inserting in lieu thereof "shall";

(3) in subsection (b) by inserting after the third sentence the following new sentence: "Not later than 12 months after the date of the enactment of the Hazardous Materials Transportation Act Amendents of 1984, the Secretary shall require registrants to submit an amended registration statement at any time the registration information included in the statement is no longer accurate."; and

(4) in the fourth sentence of subsection (b) by inserting after "any person" the following: "(including any governmental entity)".

STUDY OF FUNDING METHODS

Sec. 6. The Hazardous Materials Transportation Act is amended by adding at the end thereof the following new section:

"FUNDING STUDY

"Sec. 117. The Secretary shall (1) study the most effective, equitable, and cost-efficient methods for imposing a fee on all participants in the registration program mandated by section 106 of this Act for the purpose of determining the most effective, equitable, and cost-efficient method of imposing such a fee and assisting States or political subdivisions thereof in developing and conducting enforcement and emergency response programs related to transportation of hazardous materials, and (2) submit after the date of the enactment of this section. In conducting the study, the Secretary shall consult State and local governments which have successfully implemented similar fee programs within their jurisdictions.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 7. Section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended by adding at the end thereof the following new sentence: "There is authorized to be appropriated for the purposes of sections 106, 112, 116, and 117 of this title such sums as may be necessary for the fiscal year ending September 30, 1985.".

GUNBOAT DIPLOMACY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, the ill-advised deployment of U.S. Marines to the shores of Lebanon is over, but indiscriminate off-shore shelling continues: Gunboat policy blunders on.

In Central America, the administration is playing fast and loose with taxpayers dollars to build a would-be military juggernaut in Honduras.

This ever-escalating policy of gunboat diplomacy in Central America has so far got us nothing but a stalemate; but it goes on.

I can only concur with the distinguished former Foreign Service Officer Wayne S. Smith, who observed in the New York Times this week:

> Peace is further away than ever and the increased military aid requested by the administration can only escalate the stalemate. One begins to suspect that the administration is simply blundering ahead, as it did in Lebanon, without any clear idea where it is going.

I am inserting the entire New York Times article in the Record at this point:

[From the New York Times, Feb. 27, 1984]

Adrift in Salvador, Without a Rudder

(By Wayne S. Smith)

Washington.—Even as one of President Reagan's policies collapses, in Lebanon, another carries us more deeply into the morass of El Salvador. Optimistic spokesmen acknowledge that we are in for a long struggle, but insist we are on the right road and making progress.

One searches in vain for any reason for optimism. Certainly, we are not winning the war. In January 1981, the Salvadoran Army, without any United States military assistance, handily turned back an all-out guerrilla offensive. In the months that followed, military briefers said that there were 3,000 to 5,000 guerrillas and that victory was near at hand. Two years later, those briefers counted 5,000 to 6,000 guerrillas but said that we had turned a corner. Now, they speak of 9,000 to 12,000 guerrillas.

Not to worry, they say: We will shortly turn a corner—another one—as Washington provides drastically increased military aid. Until now, they say, the army hasn't had enough troops to give it the numerical advantage needed in a war against guerrillas. But another 20,000 men, most of them armed and trained by us, would do the trick.

Would it? Not likely. The more arms we send in, the more the guerrillas will capture, and, thus, the more men they will be able to put in the field. By the time the army has 60,000 men, the guerrillas will have 18,000. We will have increased the magnitude of the war, but will not have broken the stalemate.

Nor is there much reason for optimism about the human rights situation. True, Vice President Bush and Ambassador Thomas R. Pickering have warned the Salvadoran Government that it must clean up its act. A few officers believed to have been involved with the death squads were transferred to new jobs, and the number of deaths attributed to those squads declined in December.

But neither of these developments necessarily means very much. The transfers did not involve demotions, and they can always be reversed. As for the body count, it is down, but the same number of people are perhaps being murdered. According to the unofficial Salvadoran Human Rights Commission, the number of people who "disappeared" in December was roughly equivalent to the number for each of the three previous months. The difference is that they did not turn up as corpses. In the past, the death squad dumped their victims in parking lots and ditches. Now, in deference to Washington's concern, they may be burying them in unmarked graves. The families of the victims aren't likely to consider that progress.

Meanwhile, the Administration's refusal to attach human rights conditions to its request for military assistance sends a conflicting signal, suggesting we aren't as serious as Mr. Bush and Mr. Pickering indicated. Thus, even if there has been some progress, it may not prove lasting.

Next month's presidential elections will solve nothing and are likely to make a bad situation worse, no matter who wins. Roberto d'Aubuisson, the ultra-conservative candidate of the Nationalist Republican Alliance, known as Arena, would be inclined to give the death squads free rein. He would also emasculate the agrarian reform program and impede other social and economic measures. Certainly, there would be no hope of a negotiated end to the war?

José Napoleón Duarte, the candidate of the Christian Democrats, may have his heart in the right place, but he is trusted by neither left nor right. He would be hard pressed to hold the army in line and would have to contend with the National Assembly, which is controlled by the right. Francisco José Guerrero, of the conservative National Conciliation Party, would also be hostage to the hard right, for he would have little chance of winning without its support.

The Reagan Administration is clearly concerned about the outcome of the elections: Why else would it have presented a major new aid package to Congress and insisted that it be approved even before the results of elections are known?

It should now be clear that the Salvadoran war can be ended only in one of two ways: through a military victory or a negotiated settlement implying compromises on both sides. Washington should all along have emphasized negotiations. It has not. At this point, United States policy seems to lead toward neither one nor the other. Indeed, it seems to have no rational direction at all.

Peace is further away than ever and the increased military aid requested by the Administration can only escalate the stalemate. One begins to suspect that the Administration is simply blundering ahead, as it did in Lebanon, without any clear idea where it is going.

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THE EFFECT OF ERA ON OUR LAWS AND SOCIETY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Sensenbrenner) is recognized for 60 minutes.

Mr. **SENSENBRENNER**. Mr. Speaker, this is the fifth in a series of nine special orders exploring the impact that House Joint Resolution 1, the proposed equal rights amendment, will have on our laws and society. The first four special orders covered the subjects of the effect the ERA will have on rights relating to abortion; our armed services; veterans preference programs; and private and parochial schools. This special order will be devoted to the impact of the ERA on insurance rates and how they are calculated.

That the ERA will mandate changes in insurance is without question. Both proponents and opponents of the ERA acknowledge this.

For example, Judy Goldsmith, president of the National Organization for Women [NOW] when testifying before the House Judiciary Subcommittee on Civil and Constitutional Rights stated:

> As a constitutional ban on sex discrimination law, the Equal Rights Amendment will outlaw, or support legal challenges to end, sex discriminatory price and payout abuses by insurers, employers, and government.

Mary Frances Berry of the Civil Rights Commission had this to say about insurance in her July 1983 testimony before the subcommittee:

> The ERA would strengthen women's economic status by prohibiting sex-based discrimination in insurance, pensions, and retirement security programs that involve governmental action.
>
> The recent decision by the Supreme Court of the United States in *Arizona Governing Committee* v. *Norris* held that such (discriminatory) practices in employer-sponsored pension plans violate Title VII prohibitions against sex discrimination in employment. But the ruling does not apply to all pension plans and does not affect other discriminatory practices based on insurance companies' actuarial tables.

Elaine Donnelly, who testified before the subcommittee on October 20, 1983, agreed with Mrs. Goldsmith, and I quote:

> Ms. Goldsmith is absolutely right in her prediction that unisex insurance would be one of the inevitable results of ERA, but she is absolutely wrong in implying the results would be beneficial to women.

Mrs. Donnelly testified on the effect of the unisex insurance law that recently became law in Michigan. Using rates compiled by the State of Michigan, Mrs. Donnelly found that:

> Rate increases for young single women ranged between 13 percent and 127 percent, while young married women have had to choose between whopping increases like these: Auto Owners, 103 percent; Trans America, 140 percent; State Farm, 150 percent; Allstate, 242 percent; and topping them all, Citizens Insurance, 327 percent—more than four times as much as the policyholder would have paid before the law went into effect (married female, principal operator, under age 18).
>
> What possible "social good" is served by rigging the market against young women? It is a violation of the very essense of "civil rights" to inflict arbitrary, unjustified economic penalties on whole classes of unsuspecting, innocent people—in the name of equality.

Mrs. Donnelly directly challenged the statistics used by Judy Goldsmith of NOW when she stated that women pay $16,000 more than men over their lifetime for insurance. She cites a letter to Business Week, by Richard Minck of the American Council of Life Insurers. His figures show that women spent $4,850 less during their lifetime than men for purchasing insurance.

Every witness who commented on unisex insurance agreed it would be mandated by the ERA. The question arises as to whether unisex insurance is a benefit or a detriment to the women and men of our society.

Currently, the setting of insurance rates is left to State governments, and several States have enacted insurance statutes requiring unisex insurance. In Michigan, according to statistics compiled by the Michigan Insurance Bureau, the experience has been a massive increase in rates for young single women and young married women.

The rate increase for young single women ranged from 13 to 127 percent. Unisex insurance rates, which would be required by the ERA, represent an artificial rigging of the insurance market against young women. It inflicts unnecessary and severe economic penalties against the very class of persons it is designed to protect—women, especially young women, who, according to casualty tables of insurance companies, represent a low-risk category of individuals.

Both the hearing record and the markup features an excerpt of a letter submitted by a victim of Michigan's Essential Insurance Act. To Kim Dove, this new law meant, "despite a near perfect driving record, an increase in insurance rates from $156 per year to $355 per year." Because Kim Dove could not afford the insurance, she was forced to settle for minimum coverage with a high-risk company. In her letter, she asks the question:

> Who is going to take care of my family and pay the bills if I should have a serious accident with this kind of minimum coverage? The answer is—no one.

In testimony presented to the subcommittee by Mr. Paul Barnhart, an independent consulting actuary, it was stated:

> A grave change of the Equal Rights Amendment is that it may establish an artificial, forced "equality" in areas where fairness and common sense must prevail if the economic interests of women are to be safeguarded. In the field of private voluntary insurance, "equality" must be tempered and interpreted in the context of fairness; or women will suffer; in many instances severely and unjustly.
>
> In considering the insurance implications of the ERA, the Congress must be guided by the facts, in spite of determined propaganda you have heard to the contrary.

Mr. Barnhart also challenged the statement that women are overcharged for medical and disability insurance. He notes that the ratio of female to male costs vary strongly by age; around age 35-40, female costs generally equal or exceed 200 percent of male costs, but they are lower, compared to male costs, both below and above this middle range. Above about age 65, female costs become lower than male costs and remain so at all higher ages.

We should be very careful about not making women victims of the equal rights amendment while supposedly protecting their economic rights. In committee, an amendment was offered by the gentleman from Michigan, Mr. Sawyer, to allow sex-based classifications to be used by insurers. Unfortunately, it was defeated. If adopted, it would have gone a long way toward resolving this important issue.

I include the testimony of Elaine Donnelly to be made part of the Record.

Statement of Elaine Donnelly, Donnelly Media Associates, Livonia, Mich., Accompanied by Paul Barnhart

Ms. Donnelly. Mr. Paul Barnhart is an expert, in independent consulting actuary who is regarded by his professional colleagues as a leading health insurance actuary in the United States. He is an expert on the rights of the buyers of insurance and I ask that his statement be included along with my full testimony that you received earlier.

I'm Elaine Donnelly from Livonia, Michigan and I greatly appreciate this opportunity to speak to you as a woman who has been researching and debating issues of concern to women for more than 11 years.

Five weeks ago, on September 14, I listened while Ms. Judy Goldsmith, president of the National Organization for Women, testified on behalf of H.J. Res. 1. Although there were many controversial issues raised during the course of that hearing, I would like to zero in on one statement in particular. On page 12 of Ms. Goldsmith's written testimony, it reads: "As a constitutional ban on sex discriminatory laws, the Equal Rights Amendment will outlaw, or support legal challenges to end, sex discriminatory price and payout abuses by insurers, employers, and government."

Ms. Goldsmith is absolutely right in her prediction that unisex insurance would be one of the inevitable results of ERA, but she is absolutely wrong in implying that the results would be beneficial to women.

Back in 1972, when the first ERA was voted on by Cognress, statements like this one were made and often quoted without anyone knowing what the meaning would actually be in the real world. But 11 years later, we no longer have to speculate. I am here to bring you some hard information about how the grand-sounding concept of unisex insurance works in actual practice.

I am a resident of Michigan, one of the four States with a unisex insurance law that is in effect. Michigan's 1979 Essential Insurance Act forbids auto insurance companies to use sex and marital status as factors in setting auto insurance rates.

One of the young women affected by this law, Kim Dove, of Detroit, wrote a letter last May to Congressman John Dingell of Michigan, describing what the unisex insurance law meant to her. A copy of her letter is attached to my statement. Please include it in the record. Kim is married, the mother of two children, and living on a low income. Although she has an almost perfect driving record, her insurance company informed her that because of Michigan's unisex insurance law, her rate would be raised from $156 per year to $365 per year, an increase of over 125 percent.

Mrs. Dove shopped around, but all of the companies she talked to quoted the same high rates for the comprehensive coverage that she used to have. She has therefore been forced to settle for minimum coverage with a high risk company. She is now dangerously underinsured. If she has an accident, the other party would be covered, but she and her family would not be.

In her letter she asks: "Who is going to take care of my family and pay the bills if I should have a serious accident with this kind of minimum coverage?" The answer is no one.

Mrs. Dove has found out the hard way that unisex legislation mandates unfairness to women in the setting of auto insurance rates. Her personal experience demonstrates why it is one of the great mysteries of modern political science that ERA is being sold as an amendment for women when it clearly is not.

Your have in front of you, or with my testimony, an enlarged copy of a page from this report. This is the Michigan Insurance Bureau's official report entitled, "A Year of Change—the Essential Insurance Act in 1981." To my knowledge, it is the first report of its kind. It shows that rate increases for young single women have ranged between 13 percent and 127 percent, while young married women have had to choose between whopping increases like these—Auto Owners, 103 percent; Trans-America, 140 percent; State Farm, 160 percent; Allstate, 242 percent; and topping them all, Citizens Insurance, 327 percent, more than four times as much as the policyholder would have paid before the law went into effect.

What possible social good is served by rigging the insurance market against young women? It is a violation of the very essence of civil rights to inflict arbitrary, unjustified, economic penalites on whole classes of unsuspecting, innocent people in the name of equality.

As Kim Dove wrote in her letter: "I feel that many young women in this state are being unjustly overcharged like I am. And yet, the women's liberationists are saying that I should be happy because of my new equal rights to pay high insurance premiums. I am all for women's rights, but I can't afford this kind of equality, which is costing me a lot in terms of security and peace of mind."

True equity in insurance requires that companies base their rates on the principle of equal costs for equal risks, but unisex insurance imposes a higher cost on those who represent a lower risk. How can this be fair?

I believe that the credibility of the National Organization for Women should be questioned on other statements that they have made also of unsupported or grossly exaggerated claims about the projected benefits of unisex figures in all kinds of insurance. Here are some examples.

Number one, contrary to statements made by NOW, there is evidence to show that mileage is not an effective substitute for sex in setting auto insurance rates, since females have a demonstrably lower accident rate than males within each category of miles driven. Please review Mr. Barnhart's statement for expert information on this point and other distortions of the facts as presented by NOW with regard to life and health insurance.

Second, NOW also argues that insurance costs for women over 25 are the same as those for adult men, even though their accident experience would justify a lower rate. The implication is, of course, that ERA will somehow resolve this discrepancy. The fact is that it would do just the opposite. The reason is if women's lower accident experience below age 25 counts for nothing under the ERA, then it follows that the same injustice would simply have to be continued for women over age 25 as well.

The trend for companies to identify lower risk groups and offer lower rates than competing companies would be completely derailed if the companies no longer have to base their rates on actual costs.

Number three, NOW maintains that women presently pay almost $16,000 more than men for a full range of insurance over their lifetimes. But the table on page 5 of my statement points out several errors in NOW's calculations. First of all, NOW's figures fail to recognize that employers must provide all employees with the same and disability benefits, so there is no cost differential for women.

Second, the life insurance policy cited by NOW is most unusual. Only three such policies were sold by the company named during 1982. A more typical whole life policy, 300,000 of which were sold in 1981, would yield a savings of $3,210 on life insurance for women between ages 35 and 65. Combined with an estimated savings of $1640 for auto insurance, individual women are actually saving almost $5000 in insurance costs.

Number four NOW's testimony with regard to pension plans deserves closer scrutiny as well. Up until the recent Supreme Court decision in the case of *Arizona* v. *Norris* last July, about 2 percent of working women were receiving smaller monthly pension benefits than male retirees. But the Norris decision has taken care of the problem for that 2 percent of women without striking down cost-based pricing for individually purchased life and auto policies. NOW calls this an injustice, but please take a closer look.

Remember that most employer-provided pension and health insurance plans can use the advantage of a group rate to blend the actuarial differences between males and females. On the other hand, auto and life policies are usually purchased by individuals without the advantage of group rates.

Therefore, if the Supreme Court had decided the case using NOW's ERA standard, women buying life and auto policies would have to pay much more in individual premiums, while gaining almost nothing in the area of pension or medical benefits.

But let's consider the numbers in human terms. Under ERA, a 35 year-old divorced mother would have to pay about $350 more for a $50,000 term policy for one year. Now her standard of living has been reduced already by divorce, so she will most likely have to drop her life insurance altogether, or reduce its value rather than bear that additional burden.

Just as the case with Kim Dove in Michigan, her family would be put in jeopardy. Will NOW step forward to pay the difference?

Number five, NOW complains because the Norris decision didn't force the payment of retroactive costs. But according to New York's Mayor Edward Koch, the cost of a topped up, retroactive unisex pension plan would cost his city about $862 million, $82 million in 1984 alone. That's the equivalent of 3000 police officers of firefighter jobs.

In my opinion, it would make much more sense to increase the number of women workers and dependents who are covered under pension plans by specific amendments to ERISA, the Federal pension law. But NOW's unreasonable approach would simply encourage many employers to drop annuity options altogether. That would be most harmful to female retirees and dependents alike, but the leaders of NOW don't seem to understand economic realities.

In summary, a constitutional amendment requiring unisex insurance would mandate unfairness, especially for women. Application of the unisex principle to all kinds of insurance would increase costs for everyone, not reduce them. Anyone who favors the ERA, but does not want it to impose unfair burdens on women in the area of insurance, should certainly support an amending language or an amendment that would prevent that unfortunate result.

Your responsibility is great and women all over the country are counting you to analyze this issue and the others very carefully.

Please cast your vote for a true definition of the equity in insurance, not a false one.

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INITIAL IMPACTS OF ELIMINATION OF SEX AND MARITAL STATUS PRE- AND POST-ESSENTIAL INSURANCE YOUNG DRIVER FACTORS APPLIED TO BASE RATES

	Age 16			Age 18			Age 20			Age 23 to 24		
	1980	Jan. 1, 1981	Percent change	1980	Jan. 1, 1981	Percent change	1980	Jan. 1, 1981	Percent change	1980	Jan. 1, 1981	Percent change
SINGLE FEMALES												
Principal operators:												
Auto Club	2.00	2.95	+47	2.00	2.95	+47	2.00	2.55	+27	1.70	1.65	−1
State Farm	1.55	2.60	+67	1.55	2.60	+67	1.55	2.60	+68	1.35	1.70	+26
Auto Owners	1.35	2.03	+50	1.35	2.03	+50	1.35	1.95	+44	1.00	1.20	+2
Citizens	1.88	4.27	+127	1.88	4.27	+127	1.79	3.85	+115	1.00	1.00	
TransAmerica	2.12	2.40	+13	2.12	2.05	−3	1.82	1.65	−1	1.00	1.25	+25
Allstate	1.85	3.42	+84	1.85	2.97	+60	1.85	2.52	+36	1.58	1.92	+21
Occasional operators:												
Auto Club	1.60	2.00	+25	1.60	2.00	+25	1.60	1.80	+12	.30	1.45	+11
State Farm	1.55	1.85	+19	1.55	1.85	+19	1.55	1.85	+19	1.35	1.45	+7
Auto Owners	1.35	1.54	+14	1.35	1.54	+14	1.35	1.36		1.00	1.08	
Citizens	1.44	1.98	+37	1.44	1.98	+37	1.35	1.71	+27	1.00	1.00	
TransAmerica	2.12	1.70	−24	2.12	1.50	−29	1.82	1.20	−34	1.00	1.05	
Allstate	1.51	2.45	+62	1.51	2.32	+54	1.51	2.12	+40	1.41	1.92	+36
SINGLE MALES												
Principal operators:												
Auto Club	3.40	2.95	−13	3.40	2.95	−13	3.40	2.55	−25	2.60	1.65	−36
State Farm	3.65	2.60	−28	3.65	2.60	−28	3.65	2.60	−29	2.80	1.70	−39
Auto Owners	2.64	2.03	−23	2.64	2.03	−23	2.64	1.95	−26	1.80	1.20	−33
Citizens	2.99	4.27	+43	2.99	4.27	+42	2.56	3.85	+50	1.00	1.00	
TransAmerica	3.82	2.40	−37	3.82	2.05	−46	3.41	1.65	−52	3.00	1.25	−58
Allstate	3.20	3.42	+6	3.20	2.97	−7	3.20	2.52	−21	2.36	1.92	−19
Occasional operators:												
Auto Club	2.25	2.00	11	2.25	2.00	−11	2.25	1.80	−2	1.60	1.45	−9
State Farm	2.30	1.85	−19	2.30	1.85	−19	2.30	1.85	−19	1.80	1.45	−19
Auto Owners	1.80	1.54	−14	1.80	1.54	−14	1.80	1.36	−24	1.48	1.08	−27
Citizens	1.93	1.98	−2	1.93	1.98	−2	1.83	1.71	−6	1.60	1.00	−39
TransAmerica	2.88	2.40	−16	2.88	2.05	−29	2.59	1.65	−36	2.06	1.25	−39
Allstate	2.01	2.45	+21	2.01	2.32	+15	2.01	2.12	+5	1.53	1.92	+25
MARRIED MALES												
Principal operators:												
Auto Club	1.95	2.95	+51	1.95	2.95	+51	1.95	2.55	+31	1.65	1.65	
State Farm	1.85	2.60	+40	1.85	2.60	+40	1.85	2.60	+40	1.30	1.90	+46
Auto Owners	1.65	2.03	+23	1.65	2.03	+23	1.65	1.95	+18	1.65	1.20	−27
Citizens	1.71	4.27	+150	1.71	4.27	+150	1.71	3.85	+125	1.00	1.00	
TransAmerica	2.23	2.40	+7	2.23	2.05	−8	2.12	1.65	−22	1.82	1.25	−31
Allstate	2.20	3.42	+55	2.20	2.97	+35	2.20	2.52	+14	1.71	1.92	+12
Occasional operators:												
Auto Club	1.95	2.00	+2	1.95	2.00	+2	1.95	1.80	+2	1.65	1.45	−12
State Farm	1.85	1.85		1.85	1.85		1.85	1.85		1.30	1.45	+11
Auto Owners	1.65	1.54	−6	1.65	1.54	−6	1.65	1.36	−17	1.65	1.08	−34
Citizens	1.71	1.98	+16	1.71	1.98	+16	1.71	1.71		[illegible]	1.00	−42
TransAmerica	2.23	1.70	−24	2.23	1.50	−33	2.12	1.20	−43	1.82	1.05	−42
Allstate	2.20	3.42	+55	2.20	2.97	+35	2.20	2.52	+14	2.20	1.92	−11
MARRIED FEMALES												
Principal operators:												
Auto Club	1.00	2.95	+195	1.00	2.95	+195	1.00	2.55	+155	1.00	1.65	+65
State Farm	1.00	2.60	+160	1.00	2.60	+160	1.00	2.60	+160	1.00	1.90	+90
Auto Owners	1.00	2.03	+103	1.00	2.03	+103	1.00	1.95	+95	1.00	1.20	+20
Citizens	1.00	4.27	+327	1.00	4.27	+327	1.00	3.85	+285	1.00	1.00	
TransAmerica	1.00	2.40	+140	1.00	2.05	+105	1.00	1.65	+65	1.00	1.25	+25
Allstate	1.00	3.42	+242	1.00	2.97	+197	1.00	2.52	+152	1.00	1.92	+92
Occasional operators:												
Auto Club	1.00	2.00	+100	1.00	2.00	+100	1.00	1.80	+80	1.00	1.45	+45
State Farm	1.00	1.85	+85	1.00	1.85	+85	1.00	1.85	+85	1.00	1.45	+45
Auto Owners	1.00	1.54	+54	1.00	1.54	+54	1.00	1.36	+36	1.00	1.08	+8
Citizens	1.00	1.98	+98	1.00	1.98	+98	1.00	1.71	+71	1.00	1.00	
TransAmerica	1.00	1.70	+70	1.00	1.50	+50	1.00	1.20	+20	1.00	1.05	+5
Allstate	1.00	3.42	+242	1.00	2.97	+197	1.00	2.52	+152	1.00	1.92	+92

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

THE 66TH ANNIVERSARY OF ESTONIAN INDEPENDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 5 minutes.

● Mr. STRATTON. Mr. Speaker, I am pleased to join my colleagues in the Congress in commemorating the 66th anniversary of Estonian independence. As a member of the Ad Hoc Congressional Committee on the Baltic States and the Ukraine, I am committed to the cause of freedom and self-determination for Estonia, Latvia, Lithuania, and all the other captive nations that have fallen under the cruel yoke of Soviet rule.

The annual observance of Estonian Independence Day serves to remind us that Estonia was once a free and prosperous nation. Sixty-six years ago, on February 24, 1918, the small, brave country declared its independence amidst the smoke and din of the Russian Revolution and World War I. Although the Red Army soon invaded Estonia, the people were able to repulse the attack and conclude a peace treaty with the Soviet Union in 1920. There ensued a generation of economic, cultural, and literary growth for the people of Estonia, which was tragically brought to an end during the dark days of June in 1940 when the Soviet armies, in the wake of the infamous Hitler-Stalin pact, occupied and forcibly annexed Estonia and the other Baltic States to the Soviet Empire.

Yet, Mr. Speaker, in the face of this dramatic and often violent history, the strength, will and character of the Estonian people has not diminished. Throughout over 40 years of Soviet rule, the Estonians have fought Soviet efforts to subjugate their language, culture, and religion to Russian practices. The importation of foreign workers, the brutal industrialization of the country, and the presence of thousands of Soviet soldiers have made this a tough fight.

Many Estonians have managed to escape from the political oppression of their homeland, and today there are many vigorous Estonian-American communities in the United States, who have not forgotten the struggle of their people. Today I am proud to join with them and Estonians throughout the world in calling for individual freedom and self-determination for Estonia and the Baltic States, and to reaffirm our pledge that we in the Congress will continue to support their cause until Estonia is once again free.●

□ 1320

FED'S CREDIT CARD SURCHARGE TUNE FALLS ON DEAF EARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the Federal Reserve Board's proposal regarding credit card surcharges and cash discounts embodied in S. 2336 is an ill-advised and ill-timed attempt to change the tune that Congress has consistently called in this area. The Federal Reserve musicians are trying to play "New Wave" music at a Beethoven concert, and Congress should turn a deaf ear on this blast of noise.

In 1976 Congress sought to encourage merchants to offer discounts to their customers who pay by cash rather than credit card. The purpose of this exemption was simple—to enable merchants to share the lower costs of cash transactions with their customers. However, cash discounts were not as successful as we had hoped in that they were limited to 5 percent, and the Federal Reserve promulgated burdensome regulations, making it virtually impossible for merchants to offer cash discounts.

In 1981 we recognized that problem and removed the 5-percent limitation and voided the Federal Reserve's burdensome regulations. This action has resulted in a great surge in the number of retailers who offer cash discounts. According to a study of the Federal Reserve, 10.7 percent of all retailers who accept credit cards now offer cash discounts. Many of those merchants offer discounts greater than 5 percent. In fact, for merchants whose sales are under $1 million annually, the average discount is 6.75 percent, or 35 percent larger than that permitted under the prior law.

The Federal Reserve, however, wants to turn back the clock and once again put roadblocks in the way of those merchants who want to offer cash discounts. Under its proposal, merchants whose discounts are larger than 5 percent would have to slash their discounts back to the 5-percent level. In addition, the Federal Reserve also proposes to permit credit card surcharges of up to 5 percent.

Congress first banned surcharges in 1976 for a 3-year trial period. The ban was extended for an additional 2-year period in 1979 and was further extended in 1981 for another 3 years. Last November the House passed a further extension of the credit card surcharge ban. Not only has Congress repeatedly extended the credit card surcharge ban, but it has also typically done so by an overwhelming margin. In November, for example, the House vote on extending the ban was 349 to 73. In 1981 the vote was 372 to 4.

One would think it would be clear by now to the Federal Reserve that Congress is opposed to credit card surcharges. Nevertheless, when Federal Reserve Gov. Nancy H. Teeters testified before the Senate earlier this month, she rolled out the same old tired arguments that surcharges and discounts are fundamentally equivalent and that permitting surcharges would encourage merchants to offer cash customers lower prices.

Not only do the Federal Reserve's recommendations fly in the face of consistent and overwhelming congressional opposition to credit card surcharges, but they also fly in the face of the Federal Reserve's own study of credit cards. In its own study the Federal Reserve found that 71 percent of merchants thought that surcharges were a bad idea. Nevertheless, the Federal Reserve continues to march to the beat of its own drum while insisting that it is not the Board who is out of step but everyone else.

I sincerely hope that no one will be misled by the out-of-sync song of this misguided Pied Piper. This song, played over and over again by the tuneless Board, is one that, had it appeared on the Gong Show, would not have gotten past the first few notes. The congressional orchestra has wisely kept this bizarre song out of its classic credit card repertoire, and consumer, credit, and retail audiences have applauded the performance. It is not the time to dye our hair green, wear chains for belts, put safety pins in our cheeks, and join the Federal Reserve's new wave credit card surcharge band. This is one audition we can safely and sanely reject.●

THE FREEDOM OF INFORMATION REFORM ACT (S. 774)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. ENGLISH) is recognized for 5 minutes.

● Mr. ENGLISH. Mr. Speaker, I note with interest that the Senate has passed the Freedom of Information Reform Act (S. 774). The Senate bill proposes many procedural and substantive changes to the FOIA.

As chairman of the Subcommittee on Government Information, Justice, and Agriculture, I am deeply aware of the responsibility that my subcommittee has for the Freedom of Information Act. Shortly after I became chairman in the 97th Congress, the subcommittee held 3 days of oversight hearings in order to assess how well the FOIA was working. I came away unconvinced that major changes were needed.

During both the 97th and 98th Congresses, interest in amending the FOIA has been much stronger in the Senate than in the House. Accordingly, I have taken the position that my subcommittee would take no action on FOIA legislation until the Senate had sent a bill to the House.

Now that the Senate has acted, I will fulfill my promise to consider the Senate proposal. As I have said consistently during the last several years, I will be guided by several principles.

First, those seeking to change the FOIA bear the burden of proof. Unsubstantiated or documented allegations of problems resulting from the operation of the FOIA will not be sufficient to justify a change in the law. I do not intend to set unreasonably high standards of proof, but I will insist on hard evidence.

Second, we must proceed very carefully and thoughtfully in considering amendments. The FOIA is a very delicate statute. Its text and its legislative history have been reviewed, examined, and dissected in as much detail as any law ever passed. As a result, even a seemingly minor change has the potential for an unexpectedly large impact.

Third, I have promised those who oppose major changes to the FOIA an opportunity to be heard. I fully intend to keep this promise.

It is my hope that the subcommittee's consideration of amendments to the FOIA will be diligent and deliberate rather than dilatory. However, all of those who have followed the FOIA amendment process are aware that the current Senate bill is the result of efforts over two Congresses. While I do not anticipate that House action will necessarily take as long, we must be allowed the opportunity for full consideration of the issues.

The subcommittee will hold hearings on the Senate bill. I expect that the hearings will also include a review of administrative changes in FOIA practices and the effect of those changes on the availaility of information.

After the hearings, the subcommittee may decide to; First, proceed directly to markup S. 774; second, draft a different bill; or third, select an alternative course of action.

A schedule of hearings will be announced soon. Everyone with an interest in the Freedom of Information Act is invited to contact the subcommittee.●

EXPLANATION OF ABSENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. GUARINI) is recognized for 5 minutes.

● Mr. GUARINI. Mr. Speaker, if I had been present for the vote on final passage of House Resolution 15 to establish a Select Committee on Hunger, I would have voted "yea."●

THE FISCAL 1985 BUDGET AND THE CITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. COYNE) is recognized for 5 minutes.

● Mr. COYNE. Mr. Speaker, our Nation's cities have been among the hardest hit by the Reagan administration's budget reductions. As Mr. John Gunther of the U.S. Conference of Mayors has noted, cities and the people who live in them are expected to accept less than a fair share of the Nation's resources so that the military can take more.

Earlier this month, Mr. Gunther summarized the U.S. Conference of Mayor's critique of the administration's budget. I would like at this point to share that summary with my colleagues:

THE FY 85 FEDERAL BUDGET AND THE CITIES

(By John J. Gunther, Executive Director, U.S. Conference of Mayors)

The Conference of Mayors, for 52 years, has looked at the budgets of the Presidents as they affect state and local governments. This is the 26th year that I personally have sent to the Congress and the Nation's mayors an assessment of a Presidential budget. This was not an easy budget to analyze. It uses shifting base years but seems to view 1971 as a good base to return to.

Some might mark this as progress, for when the President signed the tax and reconciliation bills in the summer of '81, he characterized the two measures as the start on a roll-back of five decades of misdirection. A goal of returning to 1971 is better than a goal of returning to 1931, but it is not progress worthy of this nation.

For the fourth year in a row this Administration expects the cities and the people in them to accept less that a fair share of this nation's resources—so that the military can take more. It expects the cities and their people to accept less so that current taxing and spending policies will look more effective than they actually are.

An election year budget attempts to be all things to all people. But what we have this election year is a budget that is some things to some people—but nothing to many, many others.

The words "flat funding" and "freeze" have been used by Administration officials to describe the proposals for domestic spending this year and for the remainder of the '80s. But let's keep the Administration's budget policies in perspective this morning: Since Fiscal Year '80, grants to state and local governments, after accounting for inflation, have been cut nearly in half. If you live in a city you know what this has meant. City employees have been laid off, public services have been cut back, and taxes and fees have gone up. If you are poor you have felt the federal cuts more directly, more intensely. And if this budget goes forward, you feel them even more.

There are reductions in food stamps and nutrition programs, and in the WIC feeding program.

There are reductions in AFDC, and elimination of the Work Incentive Program.

There is the elimination of the Community Services Block Grant and the Legal Services Corporation.

There is no funding for emergency food and shelter programs.

There is a reduction of over $1 billion in the Medicaid program.

The President's own Task Force on Food Assistance—a bi-partisan Task Force containing one Democrat—has recommended modest restorations in food stamps, and continuation of the WIC program at current levels, but none of those recommendations have shown up in this budget request.

We are not expressing surprise at these proposals for we have heard from the White House an expression of belief that hungry people go to soup kitchens because it is easier than paying for food, and that homeless people who live on city grates are choosing to live on city grates. We are not surprised, but we are discouraged.

But only discouraged—not defeated, because we know that in past years, the proposals to cut and eliminate many of our essential urban programs have been turned away by the Congress.

This year we are calling upon Congress to reject:

A 35 percent reduction in assisted housing funds, and almost complete reliance on an untried voucher system of housing assistance for low and moderate income people;

The elimination of the Economic Development Administration;

The elimination of all key Interior programs to aid urban environmental quality;

A 35 percent reduction in public transportation operating assistance, and a transportation block grant funded at nearly $600 million below its authorized level;

A 65 percent reduction in energy conservation, weatherization and renewable resource programs;

Major cuts in education programs for low income students, and elimination of juvenile justice and delinquency prevention programs.

This budget offers cities no help in coping with some very serious infrastructure problems. It is hard for mayors to understand the Administration's view that the budding economic recovery can be preserved through federal spending cuts. This ignores the fact that a private economic recovery requires strong public infrastructure to sustain and support it. Infrastructure problems, if they are not remedied, can weaken the recovery that we all agree is so desperately needed.

There are some good recommendations in this budget, some programs that will help cities help their citizens. But on balance this budget is the cause of great concern for the nation's cities—now and in the future—for this budget proposal is a reflection of a policy, an indication of a direction, and expression of a will to withdraw from the long-established federal-city relationship. The Administration has acknowledged that it has made half of the cuts it intends to make in domestic spending; the other half can be expected to come later—after this election year.

The urban cuts we have identified in this year's budget analysis will be strongly opposed by the Conference of Mayors in the weeks and months ahead, as we work with the Congress to bring balance, fairness and humaneness to this budget.●

SENATOR SAM NUNN CHOSEN AS CANDIDATE FOR MINUTEMAN AWARD

(Mr. NICHOLS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter).

● Mr. NICHOLS. Mr. Speaker, on the night of February 22 it was my pleasure to attend the annual Reserve Officers Association banquet.

Each year this prestigious Association of Reserve Officers selects an outstanding American, who because of his leadership in the fields of duty, honor, and country has been chosen as a candidate for their coveted Minute Man Award. This year's recipient is our distinguished colleague from the other body, the Honorable SAM NUNN, senior Senator from the great State of Georgia.

Their selection of Senator NUNN is in keeping with the ROA's high ideals of duty, patriotism, and dedication to strengthening this Nations defense and it is an honor most deserved by my distinguished friend from Georgia.

I am placing in today's CONGRESSIONAL RECORD Senator NUNN's remarks in which he offers his suggestions for securing the Nations defenses through the use of the well trained Reserve and National Guard components of this Nation.

I would hope that Senator NUNNS remarks might be read by every Member of this House of Representatives. His remarks follow:

Tonight you have placed me in the company of some of America's giants:

Leaders such as Carl Vinson, Richard Russell and Margaret Chase Smith who dedicated their public careers to the defense of this nation;

Leaders such as Charlie Bennett, Sam Stratton, Sonny Montgomery, Bob Wilson and Bob Sikes who have kept the House of Representatives ever mindful of its responsibility to provided for the common defense;

Leaders such as Scoop Jackson, John Stennis, Strom Thurmond and John Tower whose leadership and friendship have taught and inspired me in the U.S. Senate; and

Leaders such as Gerald Ford and Ronald Reagan, who have served our country in its highest office.

And so I am deeply honored by this coveted award. Most of all, I am deeply grateful because this Minuteman award is bestowed by the men and women of the ROA whose service to our nation personifies the highest ideals of duty and patriotism.

Our country owes a great debt of gratitude to you who stand ready to defend your fellow citizens every day.

One of ROA's founders, a distinguished citizen soldier and later President of the United States, Harry S Truman, said:

"The backbone of our military force should be the trained citizen who is first and foremost a civilian, and who becomes a soldier or a sailor only in time of danger and only when the Congress considers it necessary. . . . In such a system, the citizen reserve must be a trained reserve."

For the past 61 years, the trained citizens of the ROA have been the backbone of our military force in times of danger.

In the 1920s and the 1930s, when some Americans retreated under the cloaks of isolationism and unilateral disarmament, the young ROA campaigned tirelessly for military preparedness—the preparedness needed to deter, and if necessary defeat, foreign aggression.

In the 1940s and the 1950s, when America's survival was threatened, hundreds of thousands of reservists served on active duty in both World War II and Korea.

In the 1960s and 1970s, when some Americans rejected patriotism as old fashioned, thousands of reserve officers risked their lives in combat—and many made the ultimate sacrifice for their country.

In the 1980s, Reservists continue to lead:

The U.S.S. *New Jersey's* recent call for volunteers to relieve its crew during the Christmas holidays was answered with an overwhelming response from Naval Reservists—a response that will allow all the original crew members to have stateside leave;

A Naval Reserve C-9 aircraft evacuated servicemen wounded in the terrorist attack on the Marine barracks in Beirut;

Army Reservists participated in the Grenada rescue operation while the Navy Reserve flew support missions during the same operation;

Air Force Reserve crews flew strategic airlift, tactical airlift and tanker missions during he Grenada operation—and brought back the first American medical students to Charleston.

And so the important work of America's trained civilian Reservists continues today.

In the years ahead our nation and our Reserve forces will face formidable challenges in a changing world.

In the aftermath of World War II, the U.S. clearly possessed the most potent military and economic capability on the globe. In the 1950s and 1960s, the U.S. enjoyed nuclear advantage, and the threat of escalation to nuclear weapons in response to a Soviet conventional attack was the pillar of defense of the Western world.

During the 1970s, America and its allies were confronted with significant changes:

First, the advent of nuclear parity,

Second, vastly improved Soviet conventional military forces, and

Third, greater American dependence on foreign resources and foreign trade.

Since 1979, the announced purposes of U.S. military strategy have been substantially increased, reversing the trend in the post-Vietnam era. Starting with President Carter's commitment to protect U.S. interests in the Persian Gulf, a commitment reiterated by President Reagan, we have asked our military forces to take on new and demanding tasks including Lebanon and Central America in addition to traditional U.S. military obligations in Europe and the Far East. Without any doubt our military commitments around the world have expanded significantly in the last five years.

In this same time frame, we have initiated considerable improvements in our strategic nuclear forces, and conventional modernization is well under way. We have also improved the readiness, the quality, and the morale of our military personnel. We can be proud of these enhanced capabilities.

Despite these improvements, which were long overdue, U.S. force levels have remained essentially static in a period of growing defense commitments around the world. In short—our military capabilities have grown since 1979, but our military commitments have grown at a much more rapid rate. The inevitable result has been a widening gap between forces on hand and forces needed to implement our military strategy. General David Jones, former Chairman of the Joint Chiefs, recently stated: "The mismatch between strategy and forces to carry it out is greater now than it was before, because we are trying to do everything."

A large increase in force levels would be needed to provide reasonable assurance that the U.S. could carry out the military strategy we now have. But these additional forces would cost many billions more than we can expect to allocate to defense spending. We will be fortunate in the current economic circumstance to maintain real growth in defense spending of between 3 and 7 percent per year over the next few years.

This obviously poses a serious dilemma.

A sound military strategy must be predicated on a calculated relationship between ends and means. Based on this definition, there would appear to be three alternatives:

(1) Alter our global national security objectives,

(2) Increase the resources for defense, or

(3) Make significant changes in our military strategy.

Are we prepared as a nation to redefine our vital interests, and, therefore, our military objectives? Do we write off Europe, or the Persian Gulf, or Northeast Asia?

If we are not so inclined—and I submit that we are not—are the Congress and the American people prepared to increase greatly the military budget over the current Reagan plan—with $200 billion deficits staring us in the face and sending shudders through Wall Street? The answer to this is an obvious no.

If we cannot afford to give up our national security objectives and we are not willing to spend huge additional funds for defense, then we must begin to consider seriously the third alternative: Making substantial changes in our military strategy.

Significant changes in military strategy require careful consideration of our foreign policy objectives, input from our best military minds and close consultation with our allies. It is a formidable undertaking, but I believe that we must begin serious discussions now. In my view, any new military strategy must be based on a few important concepts.

First, any new strategy must be comprehensible and convincing to the American people and their elected representatives. It must be understandable and clearly related to what this nation wants to protect and to the means available to do so.

Second, the threat of nuclear responses to non-nuclear aggression is becoming less credible.

The advent of nuclear parity means that we can not continue to tolerate long-standing deficiencies in our conventional forces.

We must prepare our conventional forces to deter and defeat conventional aggression. While maintaining our nuclear deterrent, we must provide a much broader firebreak between conventional and nuclear war.

Such a strategy would confront the Soviets rather than ourselves with the grim choice of being denied the fruits of military success or assuming the terrible risk of crossing the nuclear threshold.

Third, any new U.S. strategy must be based on a strengthened partnership with our allies. Indeed, no discussion of U.S. military strategy can ignore America's historic and continuing dependence on powerful allies as a means of fulfilling our national security objectives. Today, the United States enjoys in Europe and Asia a network of allies whose combined present economic power and potential military power exceeds our own, although none devotes as much of its national wealth to defense as the United States.

We should clearly insist on a greater contribution from the Japanese to their own security close to their homeland which, after all, is their own newly announced goal.

We should clearly insist that our European allies increasingly provide the basic ingredients for Europe's initial forward defense, including most of the heavy ground forces and more effective utilization of their vast pool of trained reserves.

Fourth, developing these concepts of strategy, we must focus on Soviet weaknesses and Western strengths. We often overlook or treat lightly the very serious problems facing the Soviet armed forces.

In wartime, Soviet force planners would confront a number of inherent weaknesses, including:

The tenuous land lines of communication connecting European Russia with Soviet forces in the Far East,

The unreliability of their Warsaw Pact allies, and

The lack of easy Soviet naval access to the high seas.

We should establish a new set of military goals that would exploit these weaknesses.

We must also take better advantage of our own military strengths. The U.S. and our allies possess marked advantages over the Soviet Union in:

Ocean access,

Tactical airpower,

Anti-submarine warfare capabilities,

The training of our military manpower, and

Advanced technology such as precision guided munitions, microelectronics and cruise missiles.

Finally, there is another area where we possess marked potential advantages, and that is in our Reserve and Guard components. The Guard and Reserves in all four services have demonstrated repeatedly that it is possible to maintain the degree of readiness and combat skills equivalent to or even superior to that of their active duty counterparts.

If we truly want to increase U.S. defense capabilities within reasonable budget resources, we must plan to increase the role of our Reserve and Guard forces in many areas. The time has come to stop parroting the virtues of the total force concept and make it a reality. Truly ready Reserve forces are the best defense bargain available.

(1) If we are serious about using the Reserve forces, why not allow Army Reserve units to train part-time with regular Army units and be fully prepared to use the more modern equipment which would be left behind when the regular units deploy to their prepositioned equipment? This would extend the associate concept of sharing

equipment used by the Air Force in airlift to Reserve ground forces.

(2) If we are serious about new roles for the Reserves, why not study opportunities in the peacetime functions of our strategic forces? Reserves could be used effectively in many warning and surveillance functions. We might give a much larger role to the Reserve and Guard in air defense and even in helping man ICBM silos.

(3) If we are serious about a more effective role for the Reserves, why not try structuring some Reserve units as highly mobile but nonetheless relatively light forces. There have been many proposals for ways to lighten up ground forces to make them more readily available. The Army is about to try one way—and Reserves should be a major part of any move in this direction.

(4) If we are serious about relying on the Reserves, why not expand the excellent start made by the Navy in placing first-line aircraft and surface combatants into the Reserves?

These tasks will not be easy. They will require a renewed and sustained commitment on the part of the Defense Department leadership and the Congress to provide the resources—especially the modern equipment—to allow the reserve units to achieve and maintain their full potential in combat capability and combat readiness.

In conclusion, the U.S. political, economic and military margin for error has diminished significantly since World War II. Our principal adversary is stronger but so are our allies. We now face the need to reshape our military strategy. In so doing, we need to engage our minds as well as our pocketbooks. More money for defense is a necessity; but spending more money without a clear sense of ultimate purpose or priority will not result in a sound strategy or an adequate security.

Our Reserve and Guard Forces must play an important role in formulating and implementing a sound national security strategy.

As Reservists, you live by Admiral Hyman G. Rickover's creed: "The more you sweat in peace, the less you bleed in war."

You sweat so that your fellow Americans will not have to bleed in war.

In an era of nuclear parity, defense and deterrence are inseparable. The ability, actual or perceived, to wage war successfully is the best means of avoiding the necessity to wage it all. This should be the driving force behind our objectives, our goals and our strategy.

As George C. Marshall observed,—"If man does find the solution for world peace, it will be the most revolutionary reversal of his record we have ever known."

In a nuclear age our task is clear but awesome—we must reverse the record of history.●

KEEP AMERICAN JOBS IN AMERICA

(Mr. NICHOLS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. NICHOLS. Mr. Speaker, there recently appeared in the Sunday, February 19, 1984, edition of the Washington Post an article about an outstanding business firm, National Industries, Inc., located in the State of Alabama. This company is owned and operated by June and Ben Collier and it is the single largest employer in the Montgomery/Elmore County area; employing some 2,000 people with gross sales in 1983 amounting to $63 million.

This article points out that labor-intensive companies, such as National Industries, Inc., which assembles wires and electrical connectors used primarily in cars and trucks, are finding it difficult if not impossible to compete against foreign firms. For example, National Industries' hourly pay for employees is $6 versus the basic pay for Mexican workers which is about 85 cents an hour. Mexican Government officials have invited the Colliers to relocate their plant there, the Colliers do not wish to make this move in spite of increasing economic pressure to force them to relocate.

As June Collier states:

> These people have families, and they want to live and work right here in Montgomery. I'd like to know what's wrong with that. About 400 of them bought cars last year from local dealers. Who would have bought those cars if my people didn't have jobs?

I commend this article to my colleagues here in the House of Representatives and hope they will consider the solutions which she suggests. Keep American jobs in America.

AUTOMAKERS' SUPPLIERS URGED TO MOVE TO FOREIGN PLANTS

(By Warren Brown)

MONTOGOMERY, ALA.—June M. Collier should be happy.

Her automotive supply company is doing well—sales last year were a record $63 million and they are expected to grow to $100 million in 1984.

She is this Deep South town's biggest manufacturing employer. Some 2,200 people work for her here. She employs 200 more in Jackson, Miss.

Collier is president and chief executive officer of National Industries Inc., which assembles wires and electrical connectors used primarily in cars and trucks.

Money, power, prestige: She has it all. But she is worried.

Life in the $100 billion U.S. automotive supply industry always has been tough and is getting tougher.

Domestic producers of new cars and trucks, the so-called original equipment manufacturers, or OEMs, are buying more foreign parts. They also are pouring millions of dollars into research and development to eliminate the need for many of the parts, such as wires, that they now must buy.

The objective is to cut production costs, lowering break-even points to make profits more reachable in this globally competitive environment.

That strategy has paid off handsomely for General Motors Corp. and Ford Motor Co., the nation's two largest automakers, whose collective 1983 profits were a record $5.57 billion. Ford's posted 1983 earnings of $1.87 billion came even though it sold 1 million fewer vehicles last year than in 1979—its last profitable year before the recession.

Forcing suppliers to reduce their costs is a key tactic in the cost/cutting campaign. There is a saying in the auto business: "Overhead walks in on two feet." That means the squeeze is on labor-intensive companies such as NII.

Nearly 50 percent of NII's expenses are for labor—and the company is nonunion. The average hourly pay for NII workers is $6. They have relatively modest benefits. And they often work overtime without extra pay to meet special orders—or, as it happened here one day, to help an automaker correct an engineering mistake.

The car companies appreciate the effort, but say it is not enough. They have their own problems—chief among them, foreign competition.

Imports now occupy about 25 percent of the domestic car market, largely because foreign manufacturers are producing quality cars at lower cost. The import share is likely to grow if, as expected, Japanese automakers are freed next year from the "voluntary restraints" that have limited their annual passenger car exports to the United States to 1.68 million units over the last three years.

Automakers, who rarely comment on the record about relations with individual suppliers, say that they want Collier to cut her costs even further. They say she could do that by moving her operations to Mexico, where the basic pay for NII's kind of work is about 85 cents an hour.

Gov. Oscar Ornelas of the Mexican State of Chihuahua has invited Collier to relocate there. "You will be able to see . . . and experience firsthand the culture and environment that have brought so many of your colleagues to Mexico," Ornelas said in a form letter dated Oct. 19, 1983. "Find out what Magnavox, Honeywell, Johnson & Johnson, TRW and many others are doing to maintain quality and reduce manufacturing costs and retain a competitive edge in the world market," Ornelas wrote.

"Almost every one of the other companies in our business have plants in places like Taiwan and Mexico," said Roy Kitchens, NII vice president in charge of research and development. "We've had Chrysler and other customers come to us and say: 'We love you guys. We think you're great. But, why aren't you in Mexico? You guys can't compete against 85 cents an hour.'

"It's sort of like a black mark against us, because we're not in a low-labor-rate country like Mexico," Kitchens said.

Collier, who has inspired fierce loyalty from her staff and hourly workers, most of whom are women, says she won't leave.

"These people have families, and they want to live and work right here in Montgomery," she said. "I'd like to know what's so wrong with that. About 400 of them bought cars last year from local dealers. Who would have bought those cars if my people didn't have jobs? The Mexicans? Hah!

"I tell you what," Collier said. "If basic American industries keep shipping American jobs to foreign countries, America is going to have the cheapest unsold cars, shirts and shoes in the world."

But even those who are sympathetic with Collier say that the trend is against her.

U.S. car companies "have been relying on overseas sources for supplies for the last 20 or 30 years," said William A. Raftory, longtime president of the Motor Equipment and Manufacturers Association, which is based in Teaneck, N.J. "Production-cost pressures mean that trend will increase, not decrease."

In fact, "For the first time in U.S. automotive history, we're importing more vehicle parts than we're exporting," said Raftery, who offered figures to support his claim.

In terms of motor vehicle parts and supplies, U.S. automotive parts manufacturers had positive trade balances of about $614 million in 1978, nearly $2 billion in 1980, and $1.6 billion in 1982, Raftery said. But that picture changed drastically last year, when they wound up with a negative trade balance of $1.5 billion, Raftery said:

Collier said her company already has felt the effects of that turnabout. "We're losing lucrative, high-volume wiring assemblies to competitors from Taiwan and other low-labor-rate countries," she said. "They're leaving us with the complicated, low-volume wiring harnesses"—bundled wires and connectors used to link electrical components.

The full effect of that change has been cushioned momentarily by the overall prosperity of the resurgent domestic auto industry. But the pain could become unbearable as soon as car sales cool off, Collier said.

Still, neither she nor Raftery supports domestic-content legislation, which would require companies selling cars in the United States to use fixed percentages of U.S. parts and labor. A bill to accomplish that goal is now before the Senate Commerce Committee.

"A domestic-content law would totally eliminate competition and make car prices unreasonable. Besides that, it wouldn't do anything to help other American businesses in our situation. It would just make car prices totally unreasonable, and that wouldn't be any good for anybody," said Collier, who also is a member of the Reagan administration's Industrial Policy Advisory Committee.

Collier said she would prefer a 20 percent tariff on all imported goods. "That would help to make their prices fairer in our market. And American companies would still have to work hard and remain competitive under that system. The point is, there's no reason why we should have to ship Montgomery jobs to Mexico," she said.

There may be no wiring assembly jobs to ship at all, because of something called Micro-LAN (local area network), which is being developed by a division of Intel Corp. in Chandler, Ariz.

Simply put Micro-LAN would allow computer chips to send multiple "messages" to one another—turn on the lights, start your engine—along a single encoded wire. That technology would eliminate the cumbersome, complicated, multiple-route electrical wiring systems found in most of today's cars, according to Richard Andrade, product marketing manager for Intel's automotive electronics division.

GM, Ford and Chrysler Corp. have expressed interest in Intel's research. Most auto industry analysts say—and NII executives agree—that it's just a matter of time before Micro-LAN or some similar technology opens the era of the "wireless car." "Within the next 20 years, the car will become a computer on wheels," Andrade said.

As a result, Collier has directed her staff to develop high-technology goods, and to emphasize research that would be useful to the automotive and aerospace industries in a computerized future. Her staff already has experienced some success. It has produced a computerized circuit analyzer, called the Model 2500, that has been used by some of NII's competitors to assemble complicated wiring arrangements quickly and with few, if any, mistakes.

"By selling that equipment, we're sharpening the teeth of the wolves to bite us," Collier conceded. "But we don't have any choice. We have to move in this direction. If we don't develop and sell this kind of equipment, the Japanese or someone else will do it. And then where would we be?"

But what about those 2,400, mostly assembly jobs, the bulk of which won't be needed if NII concentrates on high-technology research?

Collier swallowed an aspirin and lit a cigarette. "I'm going to keep my people with me as long as I can," she said. "But the country had better do something. The government, the politicians, business people—all of us—had better do something to keep people working. Somebody has to be around to buy the cars."●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FORSYTHE (at the request of Mr. MICHEL), for today and until further notice, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PARRIS) to revise and extend their remarks and include extraneous material:)

Mr. GREEN, for 60 minutes, on March 7.

Mr. BURTON of Indiana, for 30 minutes, today.

(The following Members (at the request of Mr. SEIBERLING) to revise and extend their remarks and include extraneous material:)

Mr. STRATTON, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. ENGLISH, for 5 minutes, today.
Mr. COYNE, for 5 minutes, today.
Mr. GUARINI, for 5 minutes, today.
Mr. GONZALEZ, for 60 minutes, today.
Mr. STOKES, for 60 minutes, on February 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BURTON of Indiana, to appear immediately prior to passage of H.R. 4956.

(The following Members (at the request of Mr. PARRIS) and to include extraneous matter:)

Mr. DANNEMEYER.
Mr. LOTT.
Mr. GILMAN in two instances.
Mr. YOUNG of Alaska.
Mr. MCCAIN.
Mr. MCGRATH.
Ms. FIEDLER.
Mr. PARRIS.

(The following Members (at the request of Mr. SEIBERLING) and to include extraneous matter:)

Mr. LANTOS in four instances.
Mr. ADDABBO in two instances.
Mr. STARK in four instances.
Mr. FAUNTROY.
Mr. RODINO in two instances.
Mr. COELHO.
Ms. OAKAR in two instances.
Mr. SKELTON.
Mr. MATSUI.
Mr. OWENS.
Mr. GEPHARDT.
Mr. MONTGOMERY.
Mr. SOLARZ.

SENATE JOINT RESOLUTIONS REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 112. Joint resolution to proclaim the month of March 1984, as "National Social Work Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 202. Joint resolution to designate 1984 as the "Year of Water"; to the Committee on Post Office and Civil Service.

S.J. Res. 205. Joint resolution authorizing and requesting the President to designate the second full week in March 1984 as "National Employ the Older Worker Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 213. Joint resolution designating 1984 the "Year of the Secretary"; to the Committee on Post Office and Civil Service.

S.J. Res. 225. Joint resolution designating the month of March 1984 as "National Eye Donor Month"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 20 minutes p.m.), the House adjourned until tomorrow, Wednesday, February 29, 1984, at 3 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2723. A communication from the President of the United States, transmitting an assessment of each foreign government's degree of support of U.S. foreign policy during preceding 12 months, along with a comparison of overall United Nations voting practices, pursuant to 22 U.S.C. 2414a (Public Law 98-151, section 101(b)(1)); to the Committee on Appropriations.

2724. A letter from the Comptroller General of the United States, transmitting his review of the proposed rescissions and deferrals contained in the message from the President dated February [illegible], 1984 (H. Doc. No. 98-167), pursuant to Public Law 93-344, section 1014 (b) and (c) (H. Doc. No. 98-177); to the Committee on Appropriations and ordered to be printed.

2725. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to provide authority for the Armed Forces to recover and examine certain remains; to the Committee on Armed Services.

2726. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed license for the export of major defense equipment sold commercially under a contract to the Government of the United Arab Emirates (Transmittal No. MC-10-84), pursuant to AECA, section 36(c) (90 Stat. 743; 94 Stat. 3136; 95 Stat. 1520); to the Committee on Foreign Affairs.

2727. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter of Offer to Canada for defense articles and services (Transmittal No. 84-33), pursuant to AECA, section 36(b) (90 Stat. 741; 93 Stat. 708, 709, 710; 94 Stat. 3134; 95 Stat. 1520); to the Committee on Foreign Affairs.

2728. A letter from the Assistant Secretary of Defense for Public Affairs, transmitting a report on the Department's activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2729. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2730. A letter from the Federal Inspector, Alaska Natural Gas Transportation System, transmitting a report on the office's activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2731. A letter from the Secretary to the Board, Railroad Retirement Board, transmitting a report on the Board's activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2732. A letter from the Governor of American Samoa, transmitting a copy of the proposed revised Constitution of American Samoa; to the Commission on Interior and Insular Affairs.

2733. A letter from the Secretary of the Interior, transmitting notification of a delay in determining the present fair market value of the coal deposits within the boundaries of the Cranberry Wilderness; to the Committee on Interior and Insular Affairs.

2734. A letter from the Secretary of the Interior, transmitting a report on the regulation of surface mining on Indian lands, pursuant to Public Law 95-87, section 710; to the Committee on Interior and Insular Affairs.

2735. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a copy of the 1983 annual report of the Office, along with the reports of the proceedings of the Judicial Conference of the United States, held during 1983, pursuant to 28 U.S.C. 604(a)(4) & (h) (94 Stat. 2040); 28 U.S.C. 2412(d)(5) (94 Stat. 2329); to the Committee on the Judiciary.

2736. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report on the agreements between the Army and non-Federal interests regarding construction of water resources projects, pursuant to Public Law 91-611, section 221(e); to the Committee on Public Works and Transportation.

2737. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report on whether the existing project for Olcott Harbor, N.Y., should be modified; to the Committee on Public Works and Transportation.

2738. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report on the survey conducted of the shores of Charlotte County, Fla., with respect to beach erosion control, hurricane protection, and related purposes; to the Committee on Public Works and Transportation.

2739. A letter from the Assistant Secretary of the Army (Civil Works), transmitting the results of the review to determine whether any modification of the existing projects on the Mississippi River between Coon Rapids Dam and the mouth of the Ohio River should be made at this time; to the Committee on Public Works and Transportation.

2740. A letter from the Secretary of Agriculture, transmitting a report on the production of surplus crops on acreage served by irrigation, pursuant to Public Law 97-293, section 222(a); jointly, to the Committee on Agriculture and Interior and Insular Affairs.

2741. A letter from the Comptroller General, General Accounting Office, transmitting an audit of the Overseas Private Investment Corporation's financial statements for the years ended September 30, 1983 and 1982, pursuant to 31 U.S.C. 9106(a); jointly, to the Committee on Government Operations and Foreign Affairs.

2742. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the National Ocean Pollution Planning Act of 1978, as amended, to authorize appropriations to carry out the provisions of such act for fiscal years 1985 and 1986; jointly, to the Committees on Merchant Marine and Fisheries and Science and Technology.

2743. A letter from the Secretary to the Board, Railroad Retirement Board, transmitting an addendum to the Board's fiscal 1985 budget request, pursuant to 45 U.S.C. 231f (Public Law 93-445, title I, section 7(f) (97 Stat. 436)); jointly, to the Committees on Appropriations, Energy and Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. House Resolution 447. Resolution providing for the consideration of H.R. 3050, a bill to amend the Rural Electrification Act of 1936 to insure the continued financial integrity of the Rural Electrification and telephone revolving fund, and for other purposes (Rept. No. 98-602). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BONKER:

H.R. 4956. A bill to extend the authorities under the Export Administration Act of 1979; to the Committee on Foreign Affairs.

By Mr. HOWARD:

H.R. 4957. A bill to apportion certain funds for construction of the National System of Interstate and Defense Highways for fiscal year 1985 and to increase the amount authorized to be expended for emergency relief under title 23, United States Code, and for other purposes; to the Committee on Public Works and Transportation.

By Mrs. BOXER:

H.R. 4958. A bill to permit persons who will be 18 years of age on the date of a Federal election to vote in the related primary election; to the Committee on House Administration.

By Mr. CONTE:

H.R. 4959. A bill to amend the Impoundment Control Act of 1974 to provide for the disapproval, by law, of deferrals, and to amend the Rules of the House of Representatives with respect to the jurisdiction of the Committee on Appropriations; jointly, to the Committees an Rules and Government Operations.

By Mr. DANNEMEYER:

H.R. 4960. A bill to amend the Clean Air Act to promote competitiveness in the motor vehicle aftermarket and to preserve consumer freedom of choice to select parts and service, and for other purposes; to the Committee on Energy and Commerce.

By Mr. EDWARDS of Oklahoma:

H.R. 4961. A bill to provide equitable treatment for certain hospitals in high-wage areas; to the Committee on Ways and Means.

By Mr. EMERSON (for himself, Mr. Cheney, Mr. Davis, Mr. Gunderson, Mr. Skelton, and Mr. Vander Jagt):

H.R. 4962. A bill to specifically permit trapping in certain units of the national park system, subject to such reasonable rules and regulations as may be prescribed; to the Committee on Interior and Insular Affairs.

By Mr. RODINO (for himself, Mr. Fish, Mr. Edwards of California, Mr. Moorhead, Mr. Hughes, Mr. Hyde, Mr. Frank, Mr. Crockett, Mr. Feighan, Mr. Zschau, Mr. Chandler, and Mr. Ridge):

H.R. 4963. A bill to promote research and development, encourage innovation, and make necessary and appropriate amendments to the antitrust laws; to the Committee on the Judiciary.

By Mr. SENSENBRENNER (for himself and Mr. Gregg):

H.R. 4964. A bill to amend title 35 of the United States Code for the purpose of creating a uniform policy and procedure concerning patent rights in inventions developed with Federal assistance, and for other purposes; to the Committee on the Judiciary.

By Mr. WEISS:

H.R. 4965. A bill to amend the Hazardous Materials Transportation Act; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. WHITEHURST:

H.R. 4966. A bill to recognize the organization known as the Women's Army Corps Veterans' Association; to the Committee on the Judiciary.

By Mr. WHITTEN:

H.J. Res. 492. Joint resolution making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture; to the Committee on Appropriations.

H.J. Res. 493. Joint resolution making an urgent supplemental appropriation for the Department of Health and Human Services for the fiscal year ending September 30, 1984; to the Committee on Appropriations.

By Mr. HALL of Ohio (for himself and Mr. Williams of Ohio):

H.J. Res. 494. Joint resolution to designate the week beginning June 3, 1984, as "Management Week in America"; to the Committee on Post Office and Civil Service.

By Mr. HARRISON:

H.J. Res. 495. Joint resolution designating the year of 1984 as the "Year of the Secretary"; to the Committee on Post Office and Civil Service.

By Mr. KRAMER:

H.J. Res. 496. Joint resolution providing for the convening, whenever the legislatures of two additional States pass a resolution to hold such a convention, of a constitutional convention for the purpose of proposing an amendment relating to the balancing of the Federal budget; to the Committee on the Judiciary.

By Mr. MONTGOMERY (for himself, Mr. Hammerschmidt, Mr. Leath of Texas, and Mr. Solomon):

H.J. Res. 497. Joint resolution to designate the month of June 1984 as "Veterans' Preference Month"; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Alaska:

H. Res. 448. Resolution expressing the sense of the House of Representatives that the President should take such steps as may be necessary to bring before the General Assembly of the United Nations the question of the eligibility of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic for membership in the United Nations to seek their expulsion; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

330. The SPEAKER presented a memorial of the Legislature of the State of Vermont, relative to imposing an assessment on imported dairy products; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

BY Mr. DONNELLY:

H.R. 4967. A bill for the relief of James L. Cadigan; to the Committee on Armed Services.

By Mr. NICHOLS:

H.R. 4968. A bill to provide for the conveyance by the Secretary of Energy of surface rights to certain parcels of land located on Naval Petroleum Reserve No. 2 in the State of California on which private residences are located; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2053: Mr. Andrews of North Carolino, Mr. Bevill and Mr. Schaefer.

H.R. 2382: Ms. Mikulski, and Mr. Bilirakis.

H.R. 2732: Mr. Robinson.

H.R. 2882: Mr. Evans of Iowa, Mr. Harkin, Mr. Bedell, Mr. Tauke, Mr. Leach of Iowa, Mr. Smith of Iowa, and Mr. Glickman.

H.R. 2929: Mr. Martin of North Carolina.

H.R. 3746: Mr. McHugh, Mr. Hightower, Mr. Martin of North Carolina, Mr. Long of Louisiana, and Mr. Matsui.

H.R. 3783: Mr. Thomas of Georgia.

H.R. 4150: Mr. Marlenee and Mr. Brown of California.

H.R. 4214: Mr. Murtha, Mr. Murphy, Mr. Coyne, and Mr. Walgren.

H.R. 4287: Mr. Hance.

H.R. 4290: Mr. Richardson.

H.R. 4291: Mr. Richardson.

H.R. 4428: Mr. Bedell, Mr. Bilirakis, Mr. Bonior of Michigan, Mr. Borski, Mr. Boucher, Mrs. Burton of California, Mr. Conyers, Mr. Coyne, Mr. Dellums, Mr. Dwyer of New Jersey, Mrs. Hall of Indiana, Mr. Howard, Mr. Kogovsek, Mr. Kostmayer, Mr. LaFalce, Mr. Markey, Mr. Martinez, Mr. Mitchell, Mr. Nowak, Mr. Ortiz, Mr. Rangel, Mr. Roe, Mr. Roybal, Mr. Simon, Mr. St Germain, Mr. Stokes, Mr. Torricelli, Mr. Williams of Montana and Mr. Wise.

H.R. 4447: Mr. Sabo, Mrs. Boxer, Mr. Schumer, Mr. Brown of California, Mr. Panetta, Mr. Moody, Mr. Miller of California, and Mr. Luken.

H.R. 4485: Mr. Leland, Mr. Won Pat, Mr. Ford of Tennessee, Mr. Mitchell, Mr. Gray, Mr. Ratchford, Mr. Dwyer of New Jersey, Mr. Conyers, Mr. Roe, Mr. Richardson, Mr. Fish, Mr. Siljander, Mr. Bonior of Michigan, Mr. Stokes, Mr. Owens, Mr. Simon, Mr. Mollohan, Mr. Pepper, Mr. Smith of Florida, Mr. Solarz, Mr. Lewis of Florida, Ms. Mikulski, Mr. Rangel, Mr. Weiss, Mr. Hertel of Michigan, and Mr. Levine of California.

H.R. 4571: Mr. Clinger, Mr. Daub, Mr. Edwards of Alabama, Mr. Sam B. Hall, Jr., Mr. Marriott, Mr. Neilson of Utah, Mr. O'Brien, Mr. Penny, Mr. Stark, Mr. Whittaker, and Mr. Lagomarsino.

H.R. 4587: Mr. Erdreich, and Mr. McEwen.

H.R. 4659: Mr. Moody, and Mr. Harrison.

H.R. 4813: Mr. Savage.

H.R. 4877: Mr. Berman, Mr. Bevill, Mr. Coelho, Mr. Corcoran, Mr. Erdreich, Mr. Fascell, Mr. Fazio, Mr. Feighan, Mr. Kasich, Mr. Kemp, Mr. Kogovsek, Mr. Leland, Mr. Lent, Mr. Matsui, Mr. Ottinger, Mr. Rangle, Mr. Ratchford, Mr. Rinaldo, Mr. Schumer, Mr. Sisisky, Mr. Smith of Florida, Mr. Solarz, Mr. Sunia, Mr. Torricelli, Mr. Wolpe, Mr. Won Pat, and Mr. Yatron.

H.R. 4884: Mr. Biaggi, Mr. Edgar, Mr. Donnelly, Mr. Barnes, and Mr. Weiss.

H.J. Res. 309: Mr. Bates, Mr. Fauntroy, Mr. Leland, Mr. Levitas, Mr. Lowry of Washington, Mr. Mavroules, Mr. Moody, Mr. O'Brien, Mr. Rogers, and Mr. Volkmer.

H.J. Res. 344: Mr. Bartlett, Mr. Bethune, Mr. Biaggi, Mr. Daniel B. Crane, Mr Early, Mr. Florio, Mr. Green, Mr. Gore, Mr. Hopkins, Mr. Hutto, Mr. Jenkins, Mr. Lantos, Mr. Mrazek, Mr. Pashayan, Mr. Paul, Mr. Pepper, Mr. Schaefer, Mr. Stump, Mr. Taylor, Mr. Young of Florida, Mr. Edwards of Oklahoma, Mr. Clinger, Mr. Daniels, and Mr. Mavroules.

H.J. Res. 423: Mr. Ritter, Mr. Smith of Florida, Mr. Carr, Mr. Levin of Michigan, Mr. Lipinski, Mr. Skeen, Mr. Roemer, Mr. Hoyer, Mr. Daub, Mr. Lujan, Mr. Andrews of Texas, Mr. Stump, Mr. Rudd, Mr. Wolpe, Mr. Derrick, Mr. Campbell, Mr. Roberts, Mr. Boucher, Mr. Rowland, Mr. Anthony, Mr. Badham, Mr. Bliley, Mr. Feighan, Mr. Dingell, Mr. Alexander, Mrs. Byron, Mr. Chappie, Mr. Courter, Mr. Foglietta, Mr. Clinger, Mr. Carper, Mr. Chandler, Mr. Fuqua, Mr. Heftel, Mr. Smith of New Jersey, Mr. Torricelli, Mr. Rinaldo, Mr. Clarke, Mr. Kolter, Mr. Pickle, Mr. Latta, Mr. Leach of Iowa, Mr. Lewis of California, and Mr. Jenkins.

H.J. Res. 427: Mr. Howard and Mr. Snyder.

H.J. Res. 454: Mr. Alexander, Mr. Barnes, Mr. Bilirakis, Mrs. Boxer, Mr. Broyhill, Mr. Bryant, Mrs. Burton of Califonia, Mr. Carper, Mr. Daub, Mr. de Lugo, Mr. Dowdy of Mississippi, Mr. Downey of New York, Mr. Durbin, Mr. Feighan, Ms. Ferraro, Mr. Foglietta, Mr. Frank, Mr. Fuqua, Mr. Guarini, Mr. Hall of Ohio, Mr. Horton, Mr. Hyde, Mr. Kastenmeier, Mr. Kostmayer, Mr. Lewis of Florida, Mr. Long of Maryland, Mr. McCurdy, Mr. Matsui, Mr. Mavroules, Ms. Mikulski, Mr. Moakley, Mr. Molinari, Mr. Murphy, Ms. Oakar, Mr. O'Brien, Mr. Price, Mr. Rangel, Mr. Ritter, Mr. Robinson, Mr. Roemer, Mr. Rowland, Mr. Sabo, Mr. St Germain, Mr. Savage, Mr. Scheuer, Mr. Sikorski, Mr. Sisisky, Mr. Stenholm, Mr. Sundquist, Mr. Tauke, Ms. Snowe, Mr. Traxler, Mr. Udall, Mr. Vander Jagt, Mr. Weiss, Mr. Wheat, Mr. Williams of Ohio, Mr. Wilson, Mr. Winn, Mr. Yatron, Mr. Mineta, Mr. Roybal, Mr. Schumer, Mr. Brook, Mr. Akaka, Mr. AuCoin, Mr. Albosta, Mr. Anderson, Mr. Biaggi, Mr. Corrada, Mr. Evans of Illinois, Mr. Fazio, Mr. Gore, Mr. Hammerschmidt, Mr. Hightower, Mr. Luken, Mr. McCloskey, Mr. Madigan, Mr. Oberstar, Mr. Oxley, Mr. Petri, Mr. Smith of Florida, Mr. Wortley, Mr. Yates, Mr. Miller of California, Mr. Bartlett, Mr. Heftel of Hawaii, Mr. Dannemeyer, Mr. Rahall, Mr. Nichols, and Mr. Lewis of California.

H.J. Res. 459: Mr. Mrazek.

H.J. Res. 468: Mr. Annunzio, Mr. Bennett, Mr. Boland, Mr. Boner of Tennessee, Mr. Bonior of Michigan, Mr. Britt, Mr. Brooks, Mr. Carney, Mr. Corcoran, Mr. Crockett, Mr. D'Amours, Mr. Dyson, Mr. DeWine, Mr. Edgar, Mr. Feighan, Mr. Florio, Mr. Frost, Mr. Horton, Mr. Leland, Mr. Levin of Michigan, Mr. Levitas, Mr. Long of Maryland, Mr. McGrath, Mr. McNulty, Mr. Mavroules, Ms. Mikulski, Mr. Owens, Mr. Patterson, Mr. Pepper, Mr. Rangel, Mr. Ratchford, Mr. Regula, Mr. Roe, Mr. Sawyer, Mr. Scheuer, Mr. Simon, Mr. Smith of New Jersey, Mr. Stark, Mr. Won Pat, Mr. Wortley, Mr. Rahall, Mr. Valentine, Mr. Rose, Mr. Martin of North Carolina, Mr. Biaggi, Mr. Jones of North Carolina, and Mr. Barnes.

H.J. Res. 487: Mr. BETHUNE, Mr. BENNETT, Mr. BONER of Tennessee, Mr. FROST, Mr. FLORIO, Mr. SOLARZ, Mr. ARCHER, Mr. LIPINSKI, Mrs. MARTIN of Illinois, Mr. EDWARDS of Oklahoma, and Mr. BILIRAKIS.

H. Con. Res. 152: Mrs. KENNELLY.

H. Con. Res. 225: Mr. McKINNEY, Mrs. BOXER, and Mr. BROWN of Colorado.

H. Res. 396: Mr. SIMON, Mr. OWENS, Mrs. MARTIN of Illinois, Mr. FISH, Mr. WALGREN, Mr. GOODLING, Mr. LIPINSKI, Mr. OBERSTAR, Mr. CLINGER, and Mr. JEFFORDS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3795: Mr. SENSENBRENNER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3050

By Mr. DE LA GARZA:

—Page 5, line 11, insert: ", after obtaining the prior approval of the President of the Federal Financing Bank," immediately after "the Administrator is authorized".

SENATE—*Tuesday, February 28, 1984*

(Legislative day of Monday, February 27, 1984)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Loving Heavenly Father, many in our large Senate family are hurting and we commend them to Thy gracious, fatherly care. We pray for those who have lost loved ones, that Thou wilt fill their hearts with consolation and peace and comfort them in their grief. We pray for spouses who have lost their love and struggle an eroding relationship. Give them courage to honor the sacred covenant which binds them and bring healing to their love.

We remember parents frustrated by rebellious children. Grant them wisdom in parental responsibility and remind them of the unconditional love which Thou dost show toward us. For those who suffer financial difficulty, we pray for Thy wisdom and provision. For those who are discouraged and depressed, we pray renewed hope. Help us to love and serve one another. Make us sensitive and compassionate so that we may be agents through which Thou dost answer this prayer.

We pray in the name of Jesus, who never failed to respond to human need. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

REALLOCATION OF SPECIAL ORDER

Mr. BAKER. Mr. President, I am advised that the distinguished Senator from New Mexico (Mr. DOMENICI) will not be available to claim his special order this morning. I may add that I know why: He is at the White House at this moment as a part of a team representing me in negotiations on the budget situation.

I am also advised that Senator SPECTER would like to have that special order. If the minority leader has no objection to it, I ask unanimous consent that Senator SPECTER be substituted for Senator DOMENICI in that special order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, today, after the two leaders are recognized and the three special orders are executed, we will have morning business until 12 noon.

At 12 o'clock, the Senate once again will stand in recess until 2 p.m., as has been our custom on Tuesdays, in order to accommodate the need for meetings away from the Senate floor by Members on both sides of the aisle.

At 2 p.m., we will resume consideration of S. 979, the Export Administration bill, which is the unfinished business. I hope we can finish that bill today in time to do the two credit card bills.

I believe that negotiations are still underway in an attempt to get a time agreement on the two credit card bills. That has not been completed yet, I am afraid, but I hope we can do that.

The leadership on this side is willing to break into the Export Administration bill in order to take up the two credit card bills, if we can get a time agreement on them, so that we will know roughly how much time that will take. In any event, I hope we can finish those two measures today.

Yet to be done this week are the reciprocity bill and the FTC authorization bill; and either at the end of this week or the beginning of next week, it is the hope of the leadership on this side that we can take up a prayer amendment, which I anticipate will take a little while.

We may be in a little later than 6 o'clock today, Mr. President, in order to do those three things. I do not expect it to be a late evening; but if we have to run over a little, I am prepared to ask the Senate to do that.

As I see it now, we will be in session on Friday, and will have votes on Friday. So I urge Senators today, early in the week, to take account of that. I do expect us to be in session on Friday in order to complete the agenda I have described and to have votes every day this week, including Friday.

So, once again, may I say to Members who may be listening in their offices that I do expect a session on Friday and do expect rollcall votes on Friday. I do not anticipate a Saturday session.

I believe that is all the bad news I can impart at one time, Mr. President.

There is a messenger here, and before admitting him, I inquire of the minority leader if he would prefer to claim his time now, in which event I will ask him to let me reserve a minute.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. MATTINGLY). The minority leader is recognized.

Mr. BYRD. Mr. President, I thank the majority leader.

SENATOR PELL ON FOREIGN AID

Mr. BYRD. Mr. President, on Wednesday, February 22, Secretary of State George Shultz appeared before the Senate Committee on Foreign Relations to discuss the administration's fiscal year 1985 foreign aid requests.

In his opening statement, our distinguished colleague and ranking member of the committee, Senator PELL, outlined concerns shared by many of us. In his remarks, Senator PELL got straight to the point when he raised two questions. Can we afford the substantial increases in foreign aid the administration is requesting and does that aid work?

As the Committee on Foreign Relations continues its deliberations on the fiscal year 1985 foreign aid requests, I am confident that Senator PELL will pursue with his usual diligence the questions he raised on February 22 with the Secretary of State.

I commend to my colleagues Senator PELL's concise views on the state of our foreign policy.

I ask unanimous consent that Senator PELL's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OPENING STATEMENT OF SENATOR CLAIBORNE PELL

I want to join with the Chairman in welcoming you this morning, Mr. Secretary. Your appearance before this Committee occurs against a backdrop of continuing crisis in Lebanon. As we witness the departure of the British and Italian MNF contingents from Beirut and as we see the U.S. marine withdrawal begin, the question arises: was our sacrifice in vain? After 17 months in Beirut, and at the tragic price of 264 U.S. military men dead, what has the United States gained? What have we accomplished? And amidst the disintegration of the Lebanese army we trained, and the Ge-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

mayal presidency we supported can anything be salvaged? Like most Americans, Mr. Secretary, these are some of the questions that continue to trouble me about our involvement in Lebanon.

In Central America while the United States still funnels millions and millions of dollars to the Salvadoran military, the estimates of guerrilla strength continue to climb. The Administration continues to pour millions of dollars worth of covert assistance to the "contras" seeking to overthrow the Sandinista regime in Managua, while at the same time it expands our military role in neighboring Honduras far beyond anything contemplated by this Congress. In terms of aid, the Administration is seeking an additional $2.5 billion for this and the next fiscal year as part of the $8.4 billion in aid recommended by the Kissinger Commission. Like so many Americans concerned about our own budget deficits, I wonder: will the infusion of $8.4 billion in additional economic aid buy peace and stability in this region? And can we accomplish our objectives without deepening our own involvement, and ultimately without the direct introduction of U.S. troops?

Finally, Mr. Secretary, you come here this morning to testify on behalf of the President's request for a $15.2 billion aid program for fiscal 1985. This request represents a significant increase above the current levels of funding, and maintains a trend of higher security assistance for most regions of the world. If the fiscal year 1985 request is enacted, overall aid will have grown 46 percent since President Reagan took office, while military aid will have doubled. Two questions occur to this Senator when contemplating such substantial increases in foreign aid: can we afford them, and does the aid work? The American public has always preserved a healthy skepticism when it comes to any kind of foreign aid but when we are asked to approve a doubling of military aid in only four years we owe it to them to examine carefully the purposes, uses and effectiveness of such enormous sums of money. I look forward to engaging you in a discussion on these and related questions, Mr. Secretary.

Mr. BYRD. Mr. President, I yield my remaining time to the majority leader, if he should need it.

Mr. BAKER. I thank the minority leader.

COMMITTEE MEETINGS

Mr. BAKER. Mr. President, I have two unanimous-consent requests dealing with committee meetings which bear the approval initials of the minority leader, and I will put the requests.

Mr. President, I ask unanimous consent that the Budget Subcommittee of the Select Committee on Intelligence be authorized to meet in closed session during the session of the Senate on Tuesday, February 28, at 10 a.m., and 2 p.m., to consider the fiscal year 1985 intelligence budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, February 28, at 10 a.m., to receive testimony on the warranties on weapons systems.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I amend my request in each instance so the committees will be deemed to have been authorized to meet at 10 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, may I say I am sure it is not always possible to make these requests earlier, but the minority leader has always been very diligent in trying to supply them with his approval before the committees meet. I urge the Members, when they anticipate a need for a meeting of a committee or subcommittee under the standing rules, they make those requests early enough so the minority leader and I may address the question before the event rather than after the event, as we sometimes have to do.

Mr. President, I have nothing else. I yield back the time remaining of the consolidated leader time.

RECOGNITION OF SENATOR SYMMS

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is recognized for not to exceed 15 minutes.

S. 2355—FEDERAL HIGHWAY FUNDING

Mr. SYMMS. Mr. President, it was just a little more than 1 year ago that President Reagan signed the Surface Transportation Assistance Act (STAA) of 1982. That landmark legislation was the product of over 2 years of hearings by my Environment and Public Works Subcommittee on Transportation, and Senator DOLE's Finance Committee, focusing on the country's deteriorating road and bridge system and how to fund the Federal highway program, respectively.

After passage of the highway bill, Mr. Ray Barnhart, Les Lamm, and the Federal Highway Administration did an excellent job in apportioning the funds quickly to the States and implementing new requirements for the STAA in a way that did not disrupt the Federal-aid highway program. Nevertheless, I am deeply disturbed that Congress has not approved an interstate cost estimate (ICE) and interstate substitution cost estimate (ISCE) which allocates trust fund moneys to the States. Though the Congress acted responsibly in addressing our national highway needs, this Congress seems to have lost sight of the national good, and attempts to further provide for highway and emergency needs have dissolved into partisan shortsightedness.

As chairman of the Subcommittee on Transportation with major jurisdiction over the Federal highway-aid program, it is incumbent upon me to point out that due to parochial bickering, the integrity and future of a national highway program is in jeopardy. In addition, the Congress is working an injustice upon all highway users. Because of that, today, with the cosponsorship of the distinguished Senator from Minnesota (Mr. BOSCHWITZ) I introduce legislation to repeal the fuel and heavy vehicle tax presently in law. As a supporter of the STAA, I do this with extreme reservation. We have asked highway users to pay additional taxes and we currently have less money available to the States than we did before the passage of the STAA of 1982.

Mr. President, this is not the fault of the Federal Highway Administration. This is the fault of the Congress in its opposition to the law and our inability to move forward with legislation. For Congress to raise new revenues and then fail to grant the Federal Highway Administration the authority to allocate the funds is absolutely totally unacceptable.

For the last 8 months, the Senate, through the Environment and Public Works Committee and the Subcommittee on Transportation, has been working to pass a new highway bill. The original bill contained two major items: An emergency relief provision for the flood-damaged States of California, Utah, and Arizona, and approval of the ICE-ISCE.

It is now almost March 1—5 months past the date when the funds should be flowing to the States. Our action, or better described as our inaction, has locked up over $5.5 billion in badly needed funds for the Federal-aid highway program. Ironically, that $5 billion equates to nearly all the new money provided to the Federal-aid highway program by the Surface Transportation Assistance Act (STAA) of 1982, money that this Congress recognized as being immediately needed to halt the deterioration of our country's highways and bridges.

The lack of an approved ICE-ISCE thus far in fiscal year 1984 has already delayed some 475 highway projects nationwide, involving about $1.24 billion that should have been at work providing safer roads, supporting business recovery, and creating jobs. Experts estimate that for every $1 billion in construction, 32,000 jobs are created.

Mr. President, we can make the other side of that coin, and that is exactly why I introduce this legislation today: Those construction jobs probably would have gone into some other sector of the economy if it were not for the fact that the citizens of this country are asked to pay additional highway taxes. The money would have been available for some other use. But since the money has been allocated, directed, and taxed from people to spend it on the construction of the highways, it is totally unacceptable if the money is not spent that way, so those construction jobs can move forward.

In my State of Idaho, Interstate Highway completion has been completely halted. In California and Texas alone, construction on $450 million of new highway projects could begin if the ICE were approved. This would take 15,000 more construction workers to do this job. Otherwise, the money lies idle in the Federal highway trust fund.

Mr. President, approval of the ICE-ISCE will not undo the damage already done as a result of missed opportunity, but it will certainly act to prevent further delays nationwide. My concern is not just for the 1984 year. The Federal Highway Administration is scheduled to provide advance notification of their probable apportionments for fiscal year 1985 just 4 months from now.

On October 1, distribution of the apportionments must occur, if State highway officials are to avoid repetition of what is currently taking place in fiscal year 1984. Congress should approve a multiyear ICE-ISCE to assure a rational, well-planned highway program. Meanwhile, not even a 6-month ICE has passed Congress so some funds can be released.

To give one a better perspective of this entire scenario, I believe it would be beneficial to recount the steps that have occurred since the passage of the Surface Transportation Act in December of 1982, and it was signed into law in January 1983.

On June 14, 1983, the House passed H.R. 3103, highway emergency relief legislation. On October 25, 1983, the Senate amended and passed H.R. 3103, the Surface Transportation Technical Corrections Act of 1983, by a vote of 91 to 2, and requested a conference with the House and named conferees. The Senate-passed bill also addressed the emergency relief funding needs, and in addition it provided for approval of the ICE-ISCE required for the apportionment of highway funds authorized for fiscal years 1985 and 1986. The Senate-passed bill created no new spending authorities. In other words, we stayed within the framework of passed legislation.

Once again, I thank my colleagues on this side of the Capitol for recognizing the critical and time-sensitive nature of H.R. 3103. I promised to address their concerns in highway legislation during this year, and the subcommittee continues to work toward that goal.

However, the House did not agree to go to conference at the time requested and instead amended the bill further on November 1, 1983. In the House version, a number of demonstration projects and other controversial provisions were added to the bill.

The House-passed bill, in addition to more than doubling the spending levels of the Senate-passed bill, would also extend antitrust immunity for truck ratemaking bureaus, plus 10 additional provisions.

These actions prompted the Senate Environment and Public Works Committee to pass a joint resolution, Senate Joint Resolution 195—a "clean ICE-ISCE" with no amendments or other provisions. However, because of numerous objections by Senators who had provisions already passed in H.R. 3103, such a joint resolution designed to meet the pressing needs of our national highway program, could not obtain clearance to the floor, and therefore could not be passed during the final days of the 1st session of the 98th Congress.

Since the November recess, Senate and House staffs of the two committees of jurisdiction have met on a regular basis to attempt to resolve the controversies. In fact, on February 8, 1984, the Senate Environment and Public Works Committee, represented by Senators STAFFORD, RANDOLPH, BENTSEN, and myself, caucused with the House Public Works and Transportation Committee of Congressmen HOWARD, SNYDER, ANDERSON, and SHUSTER. We generally agreed on a 6-month "clean ICE." Our concept, which had strong bipartisan support, involved passing an ICE bill unencumbered with extraneous, parochial matters. However, problems caused by a controversial interstate project in Boston, Mass., could not be resolved.

H.R. 3103, Senate Joint Resolution 195, or any other highway transportation bill which would release the ICE-ISCE funds appear stalled. The effect of a continuing delay impacts the States severely, bidding schedules are being delayed and unless States receive funding soon, I fear an entire construction season will be lost to the country. The reasons for this relate to the length of time it takes to adequately plan, advertise for bids, let contracts, comply with Federal and State bidding requirements and then actually start construction before the winter season arrives.

During a speech in October of last year, I mentioned my fears concerning the future of the highway trust fund. Those fears come closer to reality every day. Currently, there exists 5.5 billion taxpayer dollars in the U.S. Treasury designated for the highway-aid program which has not been allocated to the States. If we in the Congress levy a burden on highway users based upon the promise that funds so raised will be spent in a timely manner in maintaining and repairing our roads and highways, then the funds should be so spent according to the approved method.

Today, we run the risk of turning the highway program into a variety of pork barrel projects with no sound policy or program for allocating Federal aid funds. Special Federal funding becomes based strictly on the ability of politically powerful Members being able to ram big ticket projects in their State or congressional district through Congress at the expense of, not only other Members, but our national highway program.

At this juncture, because of the impasse which has occurred, I believe the only responsible action Congress can take is to repeal the revenue provisions of the STAA until such time as Congress approves the apportionment of the highway trust funds.

I base this legislation on a simple premise: The most appropriate method to fund the Federal-aid highway program is through user fees related to the actual level of funds apportioned for that program. And, as is happening now, because of Congress inability to apportion the funds, the American taxpayer should not be asked to see their highway taxes unused. In my State of Idaho, people pay their taxes and expect to receive a just return. I believe the American taxpayer deserves no less.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2355

A bill to amend the Internal Revenue Code of 1954 to reduce highway taxes

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Highway Tax Reduction Act of 1984."

SEC. 2. FINDINGS.

The Congress hereby finds and declares that the most appropriate way to fund the Federal-aid highway program is through user taxes related to the actual level of funds apportioned for that program.

SEC. 3. AMENDMENT OF 1954 CODE.

Except as otherwise provided herein, whenever an amendment is expressed in terms of amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 4. MOTOR FUEL TAXES.

(a) TAXES ON GASOLINE.—Section 4081 is amended by adding the following:

"(d) TAX REDUCTION.—Under regulations prescribed by the Secretary taxes imposed by this section shall be reduced from 9 cents a gallon to 4 cents a gallon during any fiscal year in which apportionments have not been made for the Federal-aid highway program under sections 103(e)(4) and 104(b)(5)(A) of title 23, United States Code, for a period beginning November 1 of such fiscal year and ending 30 days after such apportionments are made."

(b) TAXES ON DIESEL FUEL AND SPECIAL MOTOR FUELS.—Section 4041(a) is amended by adding the following:

"(4) TAX REDUCTION.—Under regulations prescribed by the Secretary taxes imposed by this subsection shall be reduced from 9 cents a gallon to 4 cents a gallon during any fiscal year in which apportionments have not been made for the Federal-aid highway program under sections 103(e)(4) and 104(b)(5)(A) of title 23, United States Code for a period beginning November 1 of such fiscal year and ending 30 days after such apportionments are made."

(c) SPECIAL RULE.—During the fiscal year in which this section is enacted, the period of tax reduction under subsections (a) and (b) of this section shall be for a period beginning 30 days after the enactment of this section and ending 30 days after the apportionments are made.

SEC. 5. HEAVY TRUCK USE TAX.

(a) TAX REDUCTION.—Section 4481 is amended by adding the following:

"(f) TAX REDUCTION.—Under regulations prescribed by the Secretary taxes imposed by this section shall be reduced to the rate prescribed by this section on June 30, 1984 during any fiscal year in which apportionments have not been made for the Federal-aid highway program under sections 103(e)(4) and 104(b)(5)(A) of title 23, United States Code, for a period beginning November 1 of such fiscal year and ending 30 days after such apportionments are made."

(b) EFFECTIVE DATE AND SPECIAL RULE.—The amendments made by this section shall take effect on July 1, 1984. During the fiscal year in which this section is enacted, the period of tax reduction under subsection (b) of this section shall be for a period beginning 30 days after July 1, 1984, or 30 days after the enactment of this section, whichever is later, and ending 30 days after the apportionments are made.

SEC. 6. MASS TRANSIT ACCOUNT.

Section 9503(e)(2) is amended by adding the following:

"No transfers shall be made during any period of tax reduction under sections 4081(d), 4041(a)(4) or 4481(f)."

● Mr. BOSCHWITZ. Mr. President, today, Senator SYMMS and I, along with several of our colleagues, are introducing the Highway Tax Reduction Act of 1984.

This legislation is in response to our concern that while increased highway user fees are being collected, the actual money for the corresponding programs is not being spent.

I believe in a very simple recipe for user taxes: Spend out in relation to revenues and if you cannot do this, then cut taxes or spending accordingly.

Unfortunately, this simple principle is not being followed with the highway trust fund, as over $5 billion in highway dollars are being withheld from the States. So, our bill mandates an equal reduction in gasoline and truck taxes.

Mr. President, most of my colleagues are well aware of the urgent problems caused by Congress' inability to pass the interstate cost estimate legislation. The ICE bill has been mired in controversy since last October, and although many Members have heroically attempted to reach an agreement, we remain at an impasse.

And this impasse is costing us. As of February 1, my State of Minnesota has had $76 million worth of projects held up, equating to over 3,000 jobs. And with our short construction season, every further day of delay imperils our entire year's construction plans.

Mr. President, I have become increasingly concerned that the interstate cost estimate legislation, so important to most of the States in this Nation, has become just a pawn in a larger struggle that has little to do with States receiving their highway moneys. If this is the case, I certainly hope those involved in the delay will look around and see the effect their actions are having on hostage States such as mine. Until they do, and are able to resolve things, I will continue to push for rapid enactment of this bill.

I was an early and strong supporter of the 5 cent gas tax bill because I firmly believed the additional revenue was imperative to repair our crumbling roads and bridges. I was not as supportive of the increased taxes on trucks and, in fact, tried to lessen their impact. But I certainly supported the overall package in the end and I believe just as strongly today that these additional funds are needed.

However, I am willing to eliminate all of these new revenues—both the nickel increase in the gas tax and the increases in the truck taxes—unless we can break the deadlock on the ICE and free the States to spend the new funds.

Mr. President, I have sent letters to Speaker O'NEILL and Chairman JAMES HOWARD urging their cooperation in forging an ICE bill compromise. And I have cosigned a Minnesota delegation letter to all the conferees of H.R. 3103. But to this point, no one has budged. Therefore, I feel this legislation may be the only answer. If we cannot agree now to spend it—or whether to spend it—we should simply repeal the increases. The logic is compelling; unfortunately, this institution is not always guided by logic.

I hope my colleagues will joint us in our effort to spring the ICE bill or, failing that, to restore the user fee concept to its original premise.●

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized for not to exceed 15 minutes.

S. 2356—URBAN RADIOACTIVE MATERIALS PROTECTION ACT OF 1984

Mr. SPECTER. Mr. President, I rise today to introduce a bill, the Urban Radioactive Materials Protection Act of 1984, to amend the National Environmental Policy Act relating to radioactive materials. The bill is in response to an important decision yesterday by the Supreme Court of the United States which has refused to hear New York City's challenge to a Federal regulation which would require the city to open its highways to trucks carrying nuclear wastes.

Representing the State of Pennsylvania, which has many major cities which would be subjected to substantial risks if this decision is to stand, and recognizing the very grave risks to the citizens in Pennsylvania and around the Nation, I believe Congress should make a clear-cut statement of policy through appropriate legislation. It should amend the National Environmental Policy Act to require that henceforth an environmental impact statement be filed and given due weight before the U.S. Department of Transportation or any other agency of the Federal Government may approve the highway routing through any standard metropolitan area of vehicles carrying radioactive waste materials which, if released in the atmosphere and populated areas, could be dangerous to human health.

The second feature of the bill would require that the U.S. Department of Transportation must study and consider alternative routing such as the use of barges, before approving any highway routing which in part or in whole traverses a standard metropolitan area.

On the conclusion of the Department of Transportation that there would not be a "significant effect" on the human environment, a formal impact statement was not required.

The Department postulated the so-called worst case scenario, which it defined as a severe accident in a densely populated area leading to the release of radiation, being likely to occur no more than once every 300 million years. I suggest that there is grave doubt that the estimate is correct as to the minimal danger involved. Even if so, that is a significant risk. It could be catastrophic for a big city, or a small city, and for the residents therein. In my opinion, there should be an environmental impact statement and a review of alternate routing. For these purposes, I submit this legislation.

Mr. President, I ask unanimous consent for the bill to be printed in the RECORD in its entirety.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2356

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(a) Highway accidents involving vehicles transporting dangerous radioactive waste materials through populated areas could have significant effects on the environment and on public safety and in many cases could prove catastrophic.

(b) Even though the odds of an accident causing the release of dangerous radioactive waste materials harmful to human life might be relatively low, the possible consequences are extraordinary harmful and could include many deaths from latent cancer, large numbers of injuries and billions of dollars in property damage.

SEC. 2.

To modify the National Environmental Policy Act (P.L. 91-190) Title 1, Sec. 102:

Change Paragraph "(C)" to read "(C)(1)", and add:

"(C)(2) For purposes of paragraph (C)(1), approval, directly or indirectly, by the United States Department of Transportation or any other agency of the Federal Government of the highway routing through any Standard Metropolitan Area of vehicles carrying radioactive waste materials which if released into the atmosphere in populated areas could be dangerous to human health shall be considered a major Federal action significantly affecting the quality of the human environment for which a detailed statement is required. Pursuant to subparagraph (C)(1)(iii) the United States Department of Transportation shall study and consider alternative routing of such shipments, such as use of barges, before approving highway routing which traverses a Standard Metropolitan Area."

SEC. 3. TO AMEND THE HAZARDOUS MATERIALS TRANSPORTATION ACT (P.L. 93-633)

Add at the end of 49 U.S.C. 1804(a): "The Secretary of Transportation shall withdraw all regulations within Department of Transportation regulatory docket HM 164 that pertain to routing requirements and shall issue new regulations after filing and considering an environmental impact statement and making an environmental and safety assessment of alternative routes for shipment of all materials previously covered in HM 164, including consideration of alternative modes of transportation, such as barges."

S. 2357—RELATING TO MICHAEL O'ROURKE

Mr. SPECTER. Mr. President, I take the floor today to introduce a bill to permit Mr. Michael O'Rourke to stay in the United States for 6 months, and intend that the introduction of this bill will serve as a vehicle to provide for hearings before the Committee on the Judiciary of the U.S. Senate.

My request for a hearing has been approved in advance of the submission of this bill by the chairman of the committee, the distinguished senior Senator from South Carolina (Mr. THURMOND) and, in turn, approved by the chairman of the appropriate subcommittee, the distinguished Senator from Wyoming (Mr. SIMPSON).

I am proceeding in this formalistic way with reluctance and regret, but it is the only way to obtain relevant answers to important questions.

In introducing this bill, I make no comment on the underlying charges against Mr. O'Rourke. As a former prosecuting attorney, having spent most of my professional life in law enforcement, and based on my public and private record in fighting crimes of violence, I defer to no person. The matter involved in this proceeding, however, relates to fundamental questions on the integrity of the judicial proceedings.

Mr. O'Rourke has spent more than 4 years, in a detention center in New York City, awaiting deportation to Ireland on charges that he violated U.S. immigration laws and that he faced charges in Ireland for certain acts of violence. The gravamen of the concern I have in this matter relates to allegations that the administrative law judge who was hearing Mr. O'Rourke's case, recused himself, which is a technical legal term for disqualifying himself, after he was followed by investigators from the Immigration and Naturalization Service. It was a most unusual circumstance, later explained or attempted to be explained by the investigators from the Immigration and Naturalization Service that the following of Administrative Law Judge Hupp was occasioned by allegations that he had been leaving work early. In connection with that following, I have received no complete explanation as to what practices or procedures the investigation was pursuant to, what the necessity was to follow Administrative Law Judge Hupp for such a protracted period of time, and whether this was the standard practice of the Immigration and Naturalization Service. The issue of Judge Hupp's recusal is of particular concern because of the likelihood or possibility that Administrative Law Judge Hupps would have found in Mr. O'Rourke's favor. Congressman ROBERT BORSKI advised me that he had a telephone conversation with Administrative Law Judge Hupp on February 9 of this year in which Administrative Law Judge Hupp told Congressman BORSKI that Administrative Law Judge Hupp was about to rule in O'Rourke's favor before he recused himself or took himself off the case.

I emphasize that in submitting this bill I make no comment as to the underlying conduct of Mr. O'Rourke. However, the strenuous efforts which I have undertaken for the past 10 months have resulted in no reasonable response by the appropriate officials of the Department of Justice on the relevant questions concerning the recusal of Administrative Law Judge Hupp.

I will ask consent to have printed in the RECORD a sequence of what I have done to try to ascertain these questions without proceeding to the submission of this private bill and without proceeding to the request for the hearing, which I previously noted has been granted by the chairman of the Committee on the Judiciary.

On May 10, 1983, I wrote to Attorney General Smith advising him that a number of my constituents had contacted me concerning Michael O'Rourke, an Irish citizen who was arrested in Philadelphia on October 30, 1979, and charged with violating U.S. immigration laws. One of those who brought the matter to my attention was Mrs. O'Rourke, who is a constituent of mine in the Commonwealth of Pennsylvania.

I ask unanimous consent that the full text of the letter of May 10, 1983, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., May 10, 1983.

Hon. WILLIAM FRENCH SMITH,
Attorney General of the United States, U.S. Department of Justice, Washington, D.C.

DEAR ATTORNEY GENERAL SMITH: A number of my constituents have contacted me concerning Michael O'Rourke, an Irish citizen who was arrested in Philadelphia on October 30, 1979 and charged with violating United States immigration laws. According to information they have supplied to me, Mr. O'Rourke, who is married to a United States citizen and Philadelphia resident, has been held in a federal correctional facility in New York for the last three years while the Immigration and Naturalization Service pursues deportation proceedings.

One issue which Mr. O'Rourke's representatives raised with me was the recusal of Immigration Judge Ernest J. Hupp from the case. In his order of recusement, Judge Hupp stated that he was recusing himself because he believed that he was being unjustly harassed and intimidated because of his involvement in the O'Rourke case.

In an effort to assure myself that the integrity of the administrative process was not undermined by the Hupp incident, I directed my staff to review the relevant INS files. However, my staff reports that neither the Office of Professional Responsibility nor the trial staff at the INS will make background information concerning the Hupp incident available.

Accordingly, I am requesting that you make such arrangements as are necessary for me and my staff to review the INS files relevant to Judge Hupp and Michael O'Rourke.

Further, Mrs. O'Rourke expressed to me a concern that her husband might be deported before the exhaustion of her husband's rights of judicial appeal. I would appreciate receiving assurances from your Department that this will not occur.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. I received a brief acknowledgment on May 12, 1983, and no further response from Attorney General Smith.

On July 14, 1983, I wrote to Hon. STROM THURMOND, chairman of the Committee on the Judiciary, advising him of the important questions raised in the O'Rourke case, and requesting that a hearing be held by the Judiciary Committee. Senator THURMOND suggested that I propound some specific questions to the Department of Immigration and Naturalization before proceeding with the request for a hearing, which I then undertook to do.

In my letter dated July 19, 1983, I wrote to Attorney General Smith and also to Commissioner Nelson, propounding those specific questions.

There was no response by the Department of Justice or the Department of Immigration and Naturalization except for some telephone calls and meetings from staff to staff which did not result in any specific answers to my questions about the recusal of Administrative Law Judge Hupp. This led me again to write to Attorney General Smith on September 28, 1983. I received no response to that letter until Commissioner Nelson wrote to me on October 26, assuring me that Mr. O'Rourke would not be deported until there was a completion of the appellate process with respect to his case.

Finally, on November 30, 1983, Mr Greg Leo, Director of Congressional and Public Affairs, wrote to my staff counsel, Ms. Mary Louise Westmoreland, including a very brief memorandum from the Office of Professional Responsibility to the Director of Professional Responsibility of Immigration and Naturalization Service, which states simply that:

> This memorandum will confirm the telephonic notification given you on September 22, 1983, by assistant counsel Thomas Ezell of the results of our review of the INS/OPR investigation of leave abuse by Ernest Hupp. Based on our review of the INS/OPR investigative file and an interview of the case agent, we determined that there was no evidence whatsoever that the investigation has been mishandled in any way. Moreover, we were satisfied that there was no connection between the INS/OPR inquiry and the proceeding Hupp was conducting involving Michael O'Rourke. Accordingly, we consider the matter closed.

That response, in my judgment, and I think any fair reading of the question proposed in the sequence of letters which I shall put into the RECORD, did not resolve the questions at all. I again wrote to Attorney General Smith on December 9, 1983, asking him to make available to me and my legal staff the records relating to the Department's investigation of the circumstances leading to the recusal of Administrative Law Judge Hupp.

When I received no reply, I again wrote to Senator THURMOND on February 2, 1984, renewing my request that the Judiciary Committee schedule a hearing.

Some 12 days later, as confirmed by a date stamp in my office, on February 14, I received a letter from Michael E. Shaheen, Jr., dated February 2, 1984, purporting to respond to my letter of December 9, 1983, to Attorney General Smith, again a response which was totally insufficient.

On February 21, the Court of Appeals for the Second District affirmed Mr. O'Rourke's deportation, and late that afternoon Mary Louise Westmoreland was notified by Mr. Greg Leo that he expected that the service would seek to deport Mr. O'Rourke immediately. On the morning of February 22, Mr. Leo subsequently confirmed to Ms. Westmoreland that plans were underway to deport Mr. O'Rourke that evening.

I then called Commissioner Nelson and reminded him of his commitment to me that there would not be deportation until the appellate proceedings had been concluded.

Commissioner Nelson said that he would advise me as to what position INS intended to take. I told him I was concerned because of the information which had come to me that O'Rourke was scheduled for deportation later that day.

On February 22, I then conferred with Senator THURMOND and Senator SIMPSON. I brought them up to date on what had occurred, and I received the agreement by Senator THURMOND and Senator SIMPSON that this would be an appropriate matter for a Judiciary Committee hearing, which has led us to the proceedings of the moment.

I should say in addition, Mr. President, that I was later advised by staff from Immigration and Naturalization Service that before Mr. O'Rourke was deported, there would be an awaiting of the completion of legal proceedings, and ultimately a stay was entered by the Federal court, giving Mr. O'Rourke an opportunity to proceed with the matter through the appellate litigation channels.

On September 12 of 1983, I took the time to go to the New York City Metropolitan Corrections Center. I met with Mr. O'Rourke to get a fuller picture as to the background of the matter. So, as of this moment I have explored the matter in some substantial detail in order to determine what an appropriate course would be.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPECTER. Mr. President, I ask unanimous consent that all of the documents which I have referred to be printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., May 12, 1983.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SPECTER: This is to acknowledge receipt of your letter of May 10, 1983, to the Attorney General, received by the Department May 12, 1983, requesting a review of relevant Immigration and Naturalization Service files regarding the Michael O'Rourke matter.

A further response will be forthcoming as soon as possible.

Sincerely,

C. MARSHALL CAIN,
(for Robert A. McConnell,
Assistant Attorney General).

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., July 14, 1983.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR STROM: A number of my constituents have contacted me concerning Michael O'Rourke, an Irish citizen who was arrested in Philadelphia on October 30, 1979 and charged with violating United States immigration laws.

Mr. O'Rourke is married to a woman who resides in Philadelphia, Pennsylvania.

According to information supplied to me, Mr. O'Rourke has been held in a federal correctional facility in New York for the last three years while the Immigration and Naturalization Service pursues deportation proceedings.

One issue which Mr. O'Rourke's representatives raised with me was the recusal of Immigration Judge Ernest J. Hupp from the case. In his order of recusement, Judge Hupp stated that he was recusing himself because he believed that he was being unjustly harassed and intimidated because of his involvement in the O'Rourke case.

In an effort to assure that the integrity of the administrative process was not undermined by the Hupp incident, I directed my staff to review the relevant INS files. However, my staff reports that neither the Office of Professional Responsibility nor the trial staff at the INS will make background information concerning the Hupp incident available.

Accordingly, on May 10, 1983, I requested that the Attorney General allow my staff access to the Immigration and Naturalization Service files relevant to Judge Hupp and Michael O'Rourke. My staff has received indication that the request will be denied.

As a member of the Senate Committee on the Judiciary, I am concerned that we be allowed independently to evaluate these charges. I would, therefore, appreciate your scheduling a hearing on this matter. I, of course, would be present at any such hearing and would be responsible to preside, if you wished me to do so.

Thank you very much for your consideration of this matter.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., July 19, 1983.

Hon. WILLIAM FRENCH SMITH,
Attorney General of the United States,
U.S. Department of Justice,
Washington, D.C.

DEAR ATTORNEY GENERAL SMITH: By letter dated May 10, 1983, I requested that the Department of Justice provide my staff access to the INS records concerning Michael O'Rourke. Although I received an acknowledgment that my letter was received, no reply has yet been received.

I continue to request access to these files. In addition, I have today written to Alan C. Nelson, Commissioner of the Immigration and Naturalization Service, and asked him to provide me with specific information concerning Mr. O'Rourke's case. I am enclosing a copy of the questions I asked Commissioner Nelson and would appreciate your assistance in this matter.

Sincerely,

Arlen Specter.

U.S. Senate,
Committee on the Judiciary,
Washington, D.C., July 19, 1983.

Mr. **Alan C. Nelson,**
Commissioner, Immigration and Naturalization Service, Washington, D.C.

Dear Commissioner Nelson: A number of my constituents have contacted me concerning Michael O'Route, an Irish citizen who was arrested in Philadelphia on October 30, 1979, and charged with violating United States Immigration laws. Mr. O'Rourke is married to a woman who resides in Philadelphia.

Information they have supplied to me raises questions in a number of areas. My staff has been denied access to INS files; accordingly, I must direct my inquiries to you.

What charges have been lodged against Mr. O'Rourke?

Has Mr. O'Rourke been charged with committing any acts of violence in the United States?

What crimes is Mr. O'Rourke charged with committing in Ireland?

Has Mr. O'Rourke requested any adjustment of status? Have such requests been denied?

Has the Irish government requested that the United States deport or extradite Mr O'Rourke or that the United States refuse to grant him the right to remain in this country?

Has the British government made any statement to the United States concerning Mr. O'Rourke?

In what United States facilities has Mr. O'Rourke been detained and for how long?

It is my understanding that Mr. O'Rourke has been detained for some time at the Metropolitan Correctional Center in New York. What type of individuals are typically housed at this facility? Are other INS prisoners currently being detained at the Metropolitan Center?

How many persons is the INS currently detaining?

What is the longest period of time any INS prisoner has been detained? What is the average detention period?

It is my understanding that Mr. O'Rourke has been denied bail. How many requests, if any, has Mr. O'Rourke made for bail? When was each such request made? To whom? What was the result? If bail was denied, on what grounds?

Since January 1, 1981, how many INS prisoners married to American citizens have been denied bail?

It is my understanding that INS Judge Ernest Hupp recused himself from Mr. O'Rourke's case following an incident in which he was followed by other INS employees. Did an incident occur where INS employees followed Judge Hupp? When?

Why was Judge Hupp followed? On whose orders? Please identify the INS employees who followed Judge Hupp. Who was their supervisor at the time? If Judge Hupp was followed in connection with any internal INS investigation, please describe the reason for such investigation? Please identify any individual whose complaint led in whole or part to the investigation and describe such complaint. What was the outcome of the investigation?

How many similar investigations has the INS conducted since January 1, 1981?

What is the procedure to be followed in authorizing an investigation such as that conducted of Judge Hupp?

Prior to his recusal, what statements, if any, had Judge Hupp made concerning the issue of Mr. O'Rourke's remaining in the United States?

I look forward to your prompt reply.

Sincerely,

Arlen Specter.

U.S. Senate,
Committee on the Judiciary,
Washington, D.C., September 28, 1983.

Hon. **William French Smith,**
Attorney General of the United States,
U.S. Department of Justice,
Washington, D.C.

Dear Bill: By letter dated May 10, 1983, I requested on behalf of my constituent Margie Lieb O'Rourke, that you provide an assurance that the Department of Justice would make no effort to deport her husband, Michael O'Rourke, until he has exhausted his right of judicial appeal.

INS Commissioner Alan C. Nelson responded to this request by letter dated August 29, 1983, in which he stated that "no efforts will be made to remove Mr. O'Rourke from the United States until he has completed the appellate process and a final decision has been made in the case."

As I informed you in my earlier letter, I believe that Judge Ernest J. Hupp's recusal from the O'Rourke case has raised concerns about the integrity of the administrative process. I am informed that the Department is currently investigating the circumstances surrounding Judge Hupp's recusal, and that this investigation should be completed within the next three months.

I would therefore appreciate your continued assurances that in addition to allowing Mr. O'Rourke the opportunity to complete the appellate process (including the possibility of appeal to the United States Supreme Court) the Department of Justice will make no effort to deport Mr. O'Rourke until the Department's investigation of Judge Hupp's recusal has been completed, and I have had an opportunity to review the final report.

Sincerely,

Arlen Specter.

Immigration and
Naturalization Service
Washington, D.C., October 26, 1983.

CO 703.1530.

Hon. **Arlen Specter,**
U.S. Senate,
Washington, D.C.

Dear Senator Specter: This is in response to your letter of September 28, 1983, addressed to the Attorney General, with the attached enclosures, concerning the case of Mr. Michrel O'Rourke and the recusal of Immigration Judge Ernest Hupp from that case. Your letter was referred to this Service for reply.

Please be assured that, in addition to allowing Mr. O'Rourke the opportunity to complete the appellate process, no effort will be made to deport him until the Department of Justice has completed its investigation of Judge Hupp's recusal from Mr. O'Rourke's case.

If I can be of further assistance in this matter, please let me know.

Sincerely,

Alan C. Nelson,
Commissioner.

(Memorandum)

November 22, 1983.

Subject: Allegations of Misconduct Against INS/OPR Personnel Arising from their Investigation of Ernest Hupp.

To: Walter P. Connery, Director, Office of Professional Responsibility, Immigration and Naturalization Service.

Michael E. Shaheen, Jr., Counsel, Office of Professional Responsibility

This memorandum will confirm the telephone notification given you on September 22, 1983, by Assistant Counsel J. Thomas Ezell of the results of our review of the INS/OPR investigation of leave abuse by Ernest Hupp.

Based upon our review of the INS/OPR investigative file and an interview of the case agent, we determined that there was no evidence whatsoever that the investigation had been mishandled in any way. Moreover, we were satisfied that there was no connection between the INS/OPR inquiry and the proceeding Hupp was conducting involving Michael O'Rourke. Accordingly, we consider the matter closed.

U.S. Department of Justice, Immigration and Naturalization Service.
Washington, D.C., November 30, 1983.

Ms. **Mary Louise Westmoreland**
Special Counsel, Subcommittee on Juvenile Justice, Committee on the Judiciary, Washington, D.C.

Dear Mary Louise: Please find attached a November 22, 1983 memorandum issued by the Counsel to the Office of Professional Responsibility, Department of Justice, regarding allegations of misconduct against INS/OPR personnel arising from their investigation of Judge Ernest Hupp. I think the memorandum is self-explanatory and this should determine beyond doubt that there was no connection whatsoever between the INS/OPR inquiry and the proceeding Judge Hupp was conducting concerning Michael O'Rourke.

I hope this will resolve any questions you or Senator Specter have regarding this. Please be in touch if I can be of further assistance.

Sincerely,

Greg Leo,
Director, Congressional and Public Affairs.

Committee on the Judiciary,
Washington, D.C., December 9, 1983.

Hon. **William French Smith,**
Attorney General of the United States, U.S. Department of Justice, Washington, D.C.

Dear Attorney General Smith: By letter dated May 10, 1983, I informed you of my interest in a deportation proceeding involving Michael O'Rourke, an Irish citizen who is married to one of my constituents.

As I noted in this letter, questions had been raised concerning an Immigration and Naturalization investigation of Immigration Judge Ernest J. Hupp which led to Hupp's recusal from the O'Rourke case. In July, my staff was informed that the Office of Professional Responsibility of the Department of Justice was undertaking an investigation of the circumstances surrounding the Hupp recusal.

By letter dated November 30, 1983, my staff was informed that this investigation was completed and that the Department had determined that there was no connection between the O'Rourke case and the

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INS investigation of Judge Hupp. Unfortunately, neither the November 30 letter, nor an accompanying one paragraph explanation provided any factual background to support this conclusion.

Accordingly, in order to assure myself and my constituents that the integrity of the administrative process was not undermined by this incident, I would appreciate your making available to me and my legal staff the records relating to the Department's investigation.

Sincerely,

ARLEN SPECTER.

COMMITTEE ON THE JUDICIARY,
Washington, D.C., February 2, 1984.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR STROM: On July 14, 1983, I wrote to inform you of my concern that charges were being made that the circumstances surrounding the recusal of Judge Ernest Hupp from Immmigration and Naturalization Service deportation hearings involving Michael O'Rourke had underminded the integrity of those proceedings. As you may recall, I also requested that a hearing be scheduled before the Committee on the Judiciary to evaluate those charges, and noted that my efforts to obtain access to the relevant files at the Department of Justice had been unsuccessful.

At the time, you suggested that I propound specific questions to the Department concerning the O'Rourke case. By letter dated July 19, 1983, I did so. In response, officials of the INS and the Department met with a member of my staff and informed her that the Department was undertaking an investigation of Judge Hupp's recusal.

By letter dated November 30, 1983, the INS provided my staff a conclusory three sentence Department of Justice memorandum stating that the investigation was complete and that there was no connection between the INS action which led to Judge Hupp's recusal and the O'Rourke case. Accordingly, on December 9, 1983, I wrote the Attorney General and requested that he make available to me and my legal staff the records relating to the Department's investigation. I still have not received a response to my inquiry.

Therefore, I am renewing my request that the Senate Committee on the Judiciary schedule a hearing on this matter. I, of course, would be present at any such hearing and would be happy to preside, if you wished me to do so.

Thank you very much for your consideration of this matter.

Sincerely,

ARLEN SPECTER.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF PROFESSIONAL RESPONSIBILITY,
Washington, D.C., February 2, 1984.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SPECTER: This is in response to your December 9, 1983 letter to the Attorney General concerning the Immigration and Naturalization Service investigation of Ernest Hupp. I apologize for the delay in responding to your letter; it was not, however, received by this Office until January 27, 1984.

At the outset, there appears to be a misunderstanding as to this Office's role in this matter. At the request of the Office of Professional Responsibility at INS, we agreed to review that Office's file on the Hupp investigation in the light of the concerns expressed by Professor Rice. We did review that file and also conducted a limited inquiry, which consisted of interviews of the agent assigned to the Hupp matter and the Director of the Office of Professional Responsibility at INS.

Based upon the file review and our inquiry, we concluded that there was simply no evidence to support any allegations that the OPR investigation of allegations of time and attendance fraud by Ernest Hupp was in any way related to the fact that Hupp was presiding at a hearing involving Michael O'Rourke. The case agent stated that he was unaware of the O'Rourke matter until at least four days following the surveillance. On that date, Hupp forwarded a memorandum to the Acting Deputy Commissioner which first raised the alleged connection: "I felt these men [following his car] may mean harm for me and may be sympathizers of the Irish Republican Army trying to intimidate me in reaching a decision on Michael O'Rourke." Likewise, the Director of the Office of Professional Responsibility at INS had no knowledge that Hupp was involved with the O'Rourke case until Hupp's May 26, 1981 memorandum was received by the Deputy Commissioner.

Our inquiry disclosed no connection whatsoever between the INS/OPR inquiry and Hupp's statements allegedly manifesting an intention to render a decision favorable to O'Rourke. Moreover, there was no other evidence such as any irregularity in other aspects of the investigation, which would tend to support Professor Rice's allegations, nor were there any investigatory leads which would conceivably adduce any such evidence. Finally, our conclusion is bolstered by Hupp's own statement to the Acting Deputy Commissioner in a memorandum dated June 8, 1981:

". . . I was mistaken in my first report as to the fact that I had been under the impression that Irish Republic [sic] Army agents or sympathizers were following me in an attempt to intimidate and perhaps influence my decision in the Michael O'Rourke case now pending in New York City."

Based upon the complete lack of evidence of any attempt by INS to influence the outcome of the O'Rourke case, we closed our file on the matter and informed the Office of Professional Responsibility at INS.

I trust this information will resolve any questions you may have had concerning this matter.

Sincerely,

MICHAEL E. SHAHEEN, Jr.,
Counsel.

To: Senator Specter.
From: Mary Louise Westmoreland.
Re: Michael O'Rourke.
Date: February 22, 1984.

On February 10, 1984, I met with Greg Leo, Director, Congressional and Public Affairs of the Immigration and Naturalization Service to discuss with relevant INS personnel the circumstances surrounding the Service's investigation of Judge Hupp. At the close of that meeting, I requested that Mr. Leo arrange to have Judge Ernest J. Hupp available to meet with you.

Late in the afternoon on February 21, I telephoned Mr. Leo to ask what progress he had made on this request. He told me that because he had been out of town, he had not yet acted upon the request. He assured me that he would begin action immediately. Mr. Leo noted that he had been trying to reach me to tell me that the Second Circuit had issued a decision upholding the Board of Immigration Appeals order authorizing O'Rourke's deportation.

I reminded Mr. Leo that you had received assurances from INS Commissioner Alan Nelson that Mr. O'Rourke would not be deported until the appellate process was completed and until the Department of Justice investigation of Judge Hupp's recusal was completed. Mr. Leo said that he had a general recollection of that, but that I had caught him on his way out of the office and asked if we could talk further the next day.

I again talked by telephone with Mr. Leo at approximately 10:00 a.m. on February 22. I referred Mr. Leo to your letter of September 28, 1983 and to Commissioner Nelson's reply of October 26, 1983 in which the Commissioner assured you that Mr. O'Rourke would not be deported until O'Rourke had the opportunity to complete the appellate process or until the Department had completed the Hupp investigation. Mr. Leo responded that he understood the plans were underway to deport Mr. O'Rourke this evening. He then asked what you wanted the INS to do. I told him that I planned to immediately report the deportation plans to you.

Mr. SPECTER. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Michael O'Rourke shall be permitted to remain in the United States for a period of time up to six months as if he has been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized.

WHAT WE SHOULD AND SHOULD NOT DO TO PREVENT A NUCLEAR WAR

Mr. PROXMIRE. Mr. President, I rise to speak on what I think is a most significant issue that faces Members of this body, what we should do and should not do to prevent a nuclear war.

Mr. President, I challenge any Senator to find a more urgent priority for the U.S. Federal Government than preventing the ultimate disaster that haunts people all over the world—a nuclear war. What should this country do and what should we not do to save this country we love from total and complete destruction? Here's my answer: No. 1, we should recognize and speak out on the full consequences of nuclear war. Let us start with a recognition that the single ringing justification for fighting a war, any war, is to protect our freedom by death if necessary. Could freedom possibly survive a nuclear war? Well, let us recognize that justification evaporates in a nuclear war. No! No way. Freedom would be the first and most certain casualty. Some Americans might or might not survive. Could they be free? Consider that if we survived, we would have to live with an intense bitterness against those who had poured such destruction down upon our country and destroyed so many of our loved ones. Hatred and fear are the arch enemies of freedom. When we do not trust others, we cannot live freely. And this hatred would be more monumental than any hatred Americans had ever endured. Consider the physical plight of the survivors. Cities would lie dead, smoking, smouldering radioactive garbage heaps. Many homes outside cities and most utilities and hospitals would vanish—blasted or burned to the ground.

Would we still have buses, trains, and other transportation facilities? Forget it. A few radio and television signals might flicker for a while if they survived the blast, fire, and electromagnetic pulse. Freedom might still endure even this but then comes the nuclear winter. Scientists tell us that even a small nuclear war would pour so much smoke and soot into the atmosphere that the Sun's rays would shut down to a pitch black 1 percent of normal for weeks.

And then something even worse—stumbling around in this darkness survivors would suffer temperatures that would drop and stay far below zero-Farenheit even in the summer and even in Georgia, the home State of the distinguished Presiding Officer and stay icy cold for months. Survivors huddling in homes without electricity or oil or coal would literally freeze to death. Plants and animals would die.

Freedom is strong in the heart of Americans. We can be tough, indeed. In adversity, some Americans would temporarily survive, but how? Survivors would have to fight, steal, and kill for the pitifully little food and water available. Any community that could expect to make it would have to crack down with the toughest kind of absolute discipline. So freedom would vanish. The first action we should take to prevent nuclear war is to face squarely and fully the consequences of nuclear war and take from the understanding the resolution to prevent it.

The second action we must take to prevent nuclear war is to recognize the necessity for our nuclear deterrent. What an ironic contradiction. We maintain an immense nuclear arsenal to prevent a nuclear war. Many thoughtful people throughout the world cannot and will not accept this. But the grim fact is that we have maintained a superpower peace for 30 years with both the Soviet Union and the United States armed to the nuclear teeth, each able to utterly destory the other. Why? Because each side knows that any strike against the other would bring certain and swift devastation. A planned, premeditated nuclear strike by either superpower is very unlikely. I think it is the least likely cause of a nuclear war, although we are spending 99 percent of what we are devoting to preventing war to the deterrent. I think the deterrent is necessary but it certainly is not enough.

Why not? Why do we need a nuclear freeze? For two reasons. First, the nuclear arms race continues to enhance the already devastating nuclear power of both sides. It also increases its complexity and computer reliance. In some cases, as with the MX, it enhances hair trigger "use'em or lose'em" weapons. An error by either side—mistakenly interpreting adversaries actions as launching a nuclear attack—could result in an erroneous retaliation. Thousands of Russians and thousands of Americans man the sites of the nuclear missile launchers. They are fallible human beings. We have had close calls in the past. Someday a mistake could be fatal.

So, yes, a planned, premeditated superpower attack is unlikely. A nuclear war initiated in error is more likely but perhaps not a probability. But we have to stop the nuclear arms race for a far more urgent reason. The virtually certain eventual cause of nuclear war flows from the continuation of the technological rush to nuclear modernization combined into the rapid proliferation of nuclear knowhow, nuclear materials and nuclear equipment. If this continues, a nuclear war is inevitable. This I will discuss on the floor in a later speech.

THE SYNTHETIC FUELS CORPORATION FISCAL ACCOUNTABILITY ACT OF 1984

Mr. PROXMIRE. Mr. President, I send to the desk a bill and ask for its appropriate referral. This bill is cosponsored by Senators Kassebaum, Bradley, Humphrey, Hart, Exon, Grassley, Hawkins, Nickles, Cochran, and Cranston.

Mr. President, I send the bill to the desk.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

SYNFUELS: THE FADING PROMISE

Mr. PROXMIRE. Mr. President, today my colleagues and I are introducing legislation which postpones any further commitment by the Synthetic Fuels Corporation, SFC, of the $14.8 billion available to it until a comprehensive strategy document is reviewed and approved by the Congress. The SFC, established by the Energy Security Act of 1980, was provided with almost $15 billion in authorized and appropriated funds to use in the development of an independent and commercially viable synthetic fuels industry. What we thought were mature, successful energy technologies turned out to be not so mature. While no responsible American would suggest that the need to wean the United States from dependence on foreign oil is not great, the question, in an age of limited fiscal resources and a rising Federal deficit, is: Are we spending our taxpayers' money wisely?

A review of the synthetic fuels dream of 1980 and the reality of 1984 reveals much about the failure of synthetic fuels. In 1980, pundits forecast oil prices of $100 a barrel or more. Today, the price of oil hovers around $29. In 1980, the SFC promised daily oil production goals of 500,000 barrels by 1987 and 2 million barrels by 1992. Today, synthetic fuels advocates tender predictions of approximately 150,000-200,000 barrels a day produced from synthetic fuels at $60 to $90 dollars a barrel, by the end of the decade, or roughly 10 percent of the original promise, at two to three times the market price of competing conventional fuels.

In 1980, SFC promoters envisioned a cornucopia of alternative fuel sources at no Federal cost. With loan and price guarantees, they claimed that plants would be economically self-sufficient in a few years. Today, nearly all the oil industry leaders involved in the synthetic fuels industry, including Exxon and Colony, have abandoned their projects as uneconomical, despite the SFC's eagerness to distribute millions in taxpayer's money. In fact, according to a report from the Office of Technology Assessment, the production goals established in the 1980 act "appear unattainable without a crash program that would involve extraordinary technological and economic risks and extensive Government intervention."

Mr. President, of the 11 projects that have been considered for or received loan or price guarantees from the SFC, 6 have been canceled outright. In addition, the two oil shale projects are experiencing technical difficulties that may prove insurmountable and will undoubtedly require further Federal aid.

The Great Plains gasification project, already the recipient of $2 billion in loan guarantees, has threatened, in the face of tremendous losses, to go belly up without an additional $1 to $2 billion in price supports. Finally, the Coolwater Coal gasification project, a small R&D project whose sponsors originally declared would not need SFC help, has received $120 million in price guarantees despite the fact that the project has been duplicated, at no Federal cost, by the private sector.

In short, 4 years of effort have produced nothing. However, technical problems and uneconomical technologies are just some of the problems with the SFC. As if there were not justification enough for stopping this free-spending behemoth, the SFC also is plagued by mismanagement, ineffective leadership, and great instability. Exempted from the usual open meeting and conflict of interest requirement applicable to other Federal agencies, the Synthetic Fuels Corporation executives have taken full advantage.

Mr. President, the turnover of executives at the highest level of the SFC hierarchy is revealing. Since May 1983, the upper echelons of the SFC has resembled nothing so much as a sinking ship. The SFC President, Victor Schroeder, resigned last year amid charges of political favoritism and conflict of interest. He remains on the Board of Directors since May 1983, three board members have resigned. In addition the Executive Vice President resigned. Two executives resigned in quick succession from the position of Vice President for Planning and Policy. The Vice President for Finance resigned. The General Counsel resigned. The Vice President for External Relation resigned.

Amid such a management merry-go-round, it is surprising that anything gets done at the SFC. Yet in January, Chairman Noble announced his intention to distribute $13 billion of the taxpayers, money in the next year. Dare I ask to whom? To fund any project, the SFC has been forced to weaken and waive its selection criteria. The wholesale abandonment of the SFC on the part of the oil industry leaves a dearth of deserving projects. Mr. President, I can only hope that Congress moves to establish a modicum of oversight over this Corporation run wild before $13 billion is dispersed willy-nilly.

Mr. President, the proposed legislation that my colleague and myself are submitting today is simple and straightforward. The Synthetic Fuels Corporation would be prohibited from making further project commitments until Congress has had the opportunity to review and approve the comprehensive strategy that is due in June of this year. Critics will charge that this represents the lack of will, that we are not serious about working toward an energy-independent America. Nothing could be further from the truth. Enormous expenditures on high risk speculative ventures can only serve to prolong our energy-dependence by diverting money and time away from more promising and productive investments. This legislation reflects a pragmatic and logical approach to problem solving in the face of limited resources and a burgeoning Federal deficit.

Synthetic Fuels technologies have proven to be far less economic than predicted in 1980 when the SFC was envisioned. The current 10-million-barrel surplus of worldwide oil production capacity should be viewed as an opportunity to rationally compare the costs and the benefits of the SFC with competing energy investments to determine if there are quicker and less expensive ways to displace 150,000 to 200,000 barrels of oil per day than the $15 billion SFC.

Congress cannot abdicate its responsibility for the oversight of an enormously costly program that lacks any comprehensive strategy for the expenditures of billions of taxpayers dollars. The Synthetic Fuels Corporation has strayed so far from its original goal of contributing to energy security that its only effect is to contribute to fiscal insecurity. Thus, Mr. President, in the interest of sound fiscal and energy policies as well as national security, I urge you to support this effort to reexamine and reassess the Synthetic Fuels Corporation.

Mr. President, I ask unanimous consent that this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Synthetic Fuels Corporation Fiscal Accountability Act of 1984".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the large budget deficits projected for the next several years threaten the economic health of the Nation;

(2) the United States Synthetic Fuels Corporation does not have a plan to guide its expenditure of the $15,000,000,000 in taxpayers' dollars now available to it;

(3) the synthetic fuels projects which have been proposed to the United States Synthetic Fuels Corporation will not improve the energy security of the Nation; and

(4) even with the expenditure of the entire $15,000,000,000 available to the United States Synthetic Fuels Corporation, the Corporation cannot attain the original production goals set forth in the Energy Security Act.

(b) PURPOSE.—The Congress declares its purpose to prevent the expenditure of billions of dollars to subsidize the construction of commercial synthetic fuels plants until the Congress has had the opportunity to review the Nation's synthetic fuels program and determine its future direction.

SEC. 3. PROHIBITION AGAINST MAKING AWARDS OF FINANCIAL ASSISTANCE BEFORE THE COMPREHENSIVE STRATEGY IS APPROVED.

Section 131 of the United States Synthetic Fuels Corporation Act of 1980 (42 U.S.C. 8731), relating to authorization of financial assistance, is amended by adding at the end thereof the following new subsection:

"(v)(1) Except as provided in paragraph (2), the Corporation may not, after the date of the enactment of the Synthetic Fuels Corporation Fiscal Accountability Act of 1984 and before the date of approval of the comprehensive strategy under section 126(c), make new awards or commitments for financial assistance.

"(2) Paragraph (1) shall not prevent the Corporation from making awards or commitments under subsection (u) or section 137.".

SEC. 4. PROHIBITION AGAINST UNDERTAKING OR EXPANDING CORPORATION CONSTRUCTION PROJECTS.

Section 142 of the United States Synthetic Fuels Corporation Act of 1980 (42 U.S.C. 8742), relating to limitations on Corporation construction projects, is amended by striking out "approval of a comprehensive strategy pursuant to section 126(c)," each place it appears and inserting in lieu thereof "date of the enactment of the Synthetic Fuels Corporation Fiscal Accountability Act of 1984,".

● Mr. BRADLEY. Mr. President, I am pleased to introduce today a bill that would prohibit the Synthetic Fuels Corporation from making any additional financial awards until the Congress is able to review and approve a comprehensive strategy for the Corporation. The promise of the SFC has not been fulfilled. To continue on a failed course is neither economically sensible nor fiscally responsible.

In 1979, the Nation faced a disruption in the world's supply of oil. The prospect of being immobilized by an energy shortage seemed all too real. We looked to our strategic petroleum reserve and found that years of delay had left us with too little oil to be at all useful. Congress felt it had to do something. The result was the Energy Security Act, which authorized a $20 billion budget for the Synthetic Fuels Corporation. The SFC opened for business in 1980 intending to create a competitive commercial industry that would convert the Nation's vast reserves of coal and shale oil into liquid transportation fuel. The congressionally mandated production goal was set at 500,000 barrels per day by 1987, and 2 million barrels per day by 1992.

SFC proponents contended at the time that it was possible that no Federal funds would actually be spent by the Corporation since financial incentives for synfuels production were to be provided in the form of price and loan guarantees. These subsidies were to be supplied until the projects were able to compete with the marketplace price of oil, which at that time seemed destined to rise forever. To many, synfuels looked like the technological answer to our energy problems.

Now, 4 years later, the Nation's energy situation has changed considerably. Higher prices and slower economic growth have caused our oil imports to drop below what we had expected and the world oil surplus has kept prices stable and even declining through the 1980's. Further, the declining price has changed the prospects for synfuels. The 500,000 barrel per day production goal for 1987 is clearly unattainable. For all the billions spent, we are likely to get no more than 60,000 barrels per day in production. It is time to take a step back and seriously reevaluate the SFC.

The technologies to create synthetic fuels have proven to be quite immature. The original cost estimates for synfuels production are not realistically attainable. With oil prices at $30 a barrel, synfuels are clearly not competitive at their current price of $60 to $90 per barrel. This has become evident to large investors such as Exxon and Mobil, who have abandoned synfuels production projects, even with the lure of large sums of Federal assistance. It is obvious that, far from the original assumption that synfuels would eventually pay for themselves, the taxpayers will be stuck with a $30 to $60 tab for each barrel of oil that is produced. The synfuels industry is not ready to move from the research stage into the production stage. Unfortunately, the law requires large production projects.

As a result of the declining commercial interest in synthetic fuels, the SFC has had a lack of adequate production projects to fund. This has resulted in the SFC's relaxing the criteria by which it evaluates projects just in order to spend money. I believe many of those synfuels projects are not worthy of public funds.

The problems of the SFC extend beyond that of immature technologies. Since its inception, the SFC has been plagued by mismangement, a lack of effective leadership, and internal conflict. The SFC has been pressured by both the White House and Congress to fund various pet projects. Further, many SFC officials have left their positions. The Corporation has operated for the last 6 months without a president. I think it is clear that the SFC has much to overcome, and very little to do it with.

While it is clear that the SFC as currently structured is a failure, the need to conduct research on alternative energy sources remains. Research on waste-to-energy systems and clean coal burning techniques could provide the knowledge base that could then be commercialized. By continuing to fund the SFC as it is now structured, resources will be wasted. The bill we introduce today merely suspends new project funding until the statutorily required comprehensive plan is submitted and approved.

Mr. President, we need a rational energy program in this country. Such a program is not difficult to discern; it would include: Rapid fill of the strategic petroleum reserve; development of plans to use the SPR early in a supply disruption using SPR auctions and the sale of SPR futures options; development of a plan to provide financial assistance to low-income people, small farmers, and State and local governments during oil supply disruption; and funding of basic and applied research into—but not production of—promising energy technologies.

The SFC as now structured does not fit into a rational energy policy. The Congress should make the time to reevaluate this program. Until that time we should not throw away precious public funds.

I urge my colleagues to examine and support this bill.●

● Mrs. KASSEBAUM. Mr. President, in 1980, with memories of agonizing gas lines fresh in the minds of many Americans, the Energy Security Act set out to create a new fuels industry that would replace imported energy with fuel produced from domestic reserves of coal and oil shale. An initial $14.9 billion was appropriated for loan and price guarantees to technologies that would, it was predicted, prove competitive with expensive foreign oil. This industry was expected to yield 500,000 barrels of fuel per day by 1987, at little cost to the Government.

There were those of us who were skeptical of this approach at the time. Now the Congressional Research Service estimates that the U.S. synthetic fuels industry will be capable of producing only one-tenth of the original estimate—from 30,000 to 60,000 barrels a day by 1987. And the synthetic fuels now being produced cost two to three times more than oil.

In addition, rather than providing funds to help boost mature technologies into commercialization, it appears that the Synthetic Fuels Corporation now may be financing questionable projects that will provide very little return.

The SFC recently informed Congress that its comprehensive strategy will not be available for congressional review until mid-1985. Yet the Corporation intends to commit from $10 billion to $15 billion to synfuels projects by the end of this year. Most of these projects will have been judged unworthy by private industry. Some may have been previously rejected for funding by the Synthetic Fuels Corporation itself.

We are coping with a massive budget deficit. Allowing a Federal agency to fritter away $15 billion on projects of questionable merit would defy common sense. I support complete elimination of the SFC. I have cosponsored legislation to that effect. But if we are unwilling to take that step, the very least we can do is prevent the Corporation from making major expenditures until Congress has the chance to review its long-range strategy.

I recently joined 11 other members of the House and Senate Budget Committees in requesting that the President defer the $14.8 billion that the SFC currently has at its disposal. Today I am pleased to join in cosponsoring the Synthetic Fuels Corporation Fiscal Accountability Act, which would prohibit further Corporation spending until Congress can review the agency's plans.

We all recognize the need to plan ahead for this Nation's energy security. It seems to me, however, that the current stability in oil prices and supply provides an excellent opportunity to do that. By acting now to reassess the intent and contribution of the Synthetic Fuels Corporation, we can make sure that our limited economic resources are being channeled into those technologies that show the most promise. Taking this responsible action now will work to our advantage in any energy crisis in the future. And it is essential in facing the budget crisis that confronts us today.●

Mr. EXON. Mr. President, I am pleased to join my colleagues as an original sponsor of the Synthetic Fuels Corporation Fiscal Accountability Act, a measure which could reduce Federal spending by up to $15 billion. It is imperative that the Congress scrutinize Federal spending in light of the budget deficits facing future generations of this Nation. The responsibility to begin to address this problem today is ours, and this legislation is certainly an important step in this direction.

Created in 1980, the Synthetic Fuels Corporation is required by law to submit to the Congress its comprehensive strategy for commercialization of a synfuels industry by June 30 of this year. Yet, SFC officials have expressed uncertainty about meeting that deadline and plan to commit $10 billion to $15 billion in assistance before the end of this year.

It would be totally irresponsible for the Congress to allow the SFC to spend billions of dollars when that agency has no idea of its long-term strategy. No further spending by the SFC should be allowed until the Congress is convinced that the agency knows where it is going, what it is doing, and whether the projects are genuinely worth the effort.

This bill which I am introducing today with my colleagues would prohibit the Synfuels Corporation from making any further financial commitments until the Congress has had the opportunity to review and approve or disapprove the Corporation's comprehensive strategy. A close review of the SFC's long-term plans may give Congress the opportunity to make significant budget savings in out years of up to $15 billion.

This bill would not abolish the Nation's synthetic fuels effort. There may very well come a time in the future where synthetic fuels will play

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an important role in our Nation's energy needs. However, with our Nation facing $200 billion deficits in the immediate future and in the years ahead, we must insure that any further dollars spent to encourage a private, commercial synfuels industry are dollars well spent and not simply dollars spent.

I urge my colleagues to support this legislation which is a fiscally responsible effort to control Federal spending in one area of the budget. It would be fiscally irresponsible to allow any further spending without first determining if the SFC has a sound and justifiable long-term strategy.

● **Mr. GRASSLEY.** Mr. President, I am pleased to join my distinguished colleagues in introducing legislation which forces a reexamination of the Synthetic Fuels Corporation.

Up to now, the Synthetic Fuels Corporation has been able to operate without a clearly defined strategy for fulfilling its mandate to create a commercial synfuels industry. The amount of money at stake here is too large for us to delay action. Absent congressional activity, it is very possible that the SFC will commit $10 to $15 billion for various projects in the near future.

The Synthetic Fuels Corporation Fiscal Accountability Act will guarantee that prior to any authorization of Federal funds for commercial projects, Congress has had the opportunity to review and approve the Corporation's comprehensive strategy. The overall plan must be submitted to the Congress in June of this year.

This legislation does not signal a retrenchment from the goal of energy independence, nor does it question the value of looking at new energy technologies. Rather, it is a recommitment to financial accountability within all categories of Federal spending.

Changes in both technology and the energy environment have occurred since passage of the Energy Security Act in 1980. While the price of oil has dropped, the per barrel equivalency of synthetic fuels has climbed. It is no wonder that much of the private sector's enthusiasm about synthetic fuels is dwindling with its ability to compete in the marketplace. This waning public interest has forced the SFC to consider projects of an undistinquished nature for funding. Unfortunately, in addition to technology concerns, reports of mismanagement and inefficiencies within the SFC run rampant, and a recent flurry of resignations from the Corporation does little to commend the Corporation's current policymaking abilities. It is in this atmosphere we are suggesting congressional scrutiny of the SFC.

It is apparent that a reevaluation of the Corporation is essential particularly in this period of snowballing deficits. We have a responsibility to make sure that Federal dollars are wisely spent, and that Congress has the wisdom to review past actions.●

APRIL 24, 1984—REMEMBERING GENOCIDE VICTIMS

Mr. PROXMIRE. Mr. President, our distinguished colleague, Senator TSONGAS, has recently introduced Senate Joint Resolution 87, which designates April 24, 1984, as a day of remembrance for all genocide victims.

I salute Senator TSONGAS and his resolution, and I am proud to be a cosponsor. The Tsongas resolution honors those who have died from the act of genocide, and pays tribute to those who have survived its horrors. No one who has managed to survive the unspeakable misery of genocide will ever lose the emotional scars inflicted by that experience. And images of family and friends who did not survive will always burn in their memories.

The Tsongas resolution especially recognizes those victims who were of Armenian ancestry. April 24, 1984, will mark the 68th anniversary of what has become known as the first genocide of the 20th century, which cost the lives of more than 1 million Armenians in Turkey from 1915 to 1923.

Unfortunately, Mr. President, there have been other occasions in this century where ruling groups have come dangerously close to achieving their goal of wiping out entire cultures and social groups through incessant threats and murder. Notable examples of the victims of genocide in the 20th century are the Russians in the 1930's, the millions of Jews during World War II, Cambodians during the last decade, and most recently, the Baha'is of Iran.

Senate approval of the Tsongas resolution would demonstrate our strong awareness and concern regarding the heinous act of genocide. I urge that we give our full support to this resolution.

Moreover, I urge that we go beyond reflection and remembrance on April 24, 1984. Let us make an enduring commitment by designating genocide an international crime. We can do this by ratifying the Genocide Convention.

ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER.** There will now be a period for the transaction of routine morning business.

ENDORSEMENT OF LIMITED EXPORT

Mr. MURKOWSKI. Mr. President, I should like to bring to the attention of my colleagues two recent endorsements of the limited export of Alaska crude oil—one by the President and one by the New York Times.

Last Wednesday night, in a nationally televised press conference, the President stated that he shared the view that Alaska oil exports would be in the national interest—or in his words, "an asset to the United States."

Last Thursday, on its editorial page, the New York Times articulated its support for freer trade in Alaska crude oil.

The New York Times editorial takes direct aim at the confusion surrounding this issue, that being the fact that many people ask why others should be allowed to buy Alaska oil when it can be used only in this country. As the Times notes this reasoning turns the issue "upside down" and asks that we consider the following two facts.

Exporting Alaska oil to Asian allies would provide them with a secure supply of oil—which is as vital to their interests, as their security is vital to our interests.

Exporting Alaska oil would also enhance this country's security in another way—it would encourage further development in Alaska by eliminating the high transportation cost penalty associated with the export ban. The Times describes this artificial transportation scheme as a "waste, and discouragement, to Alaska's oil development."

As we consider the Export Administration Act this week, I hope we will seriously weigh the merits of the amendment which I plan to offer. As the Times says, this amendment is "the only hope" for reducing the harm imposed by this "senseless embargo."

I think that the time has come to put aside purely political considerations and to support a change in policy which places the Nation's interest above those of groups which solely seek to protect themselves from competition in the world arena.

I agree with the President that crude oil export would be an asset to this country. I also agree with the New York Times that the time has come to "let Alaska's oil flow naturally."

I ask unanimous consent that the New York Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 23, 1984]

LET ALASKA'S OIL FLOW NATURALLY

By law—indeed, five laws—the United States prohibits exports of Alaskan oil. The nominal reason is national security. The controlling reason is protectionist politics. The ban should be repealed.

Alaska's Senators, Frank Murkowski and Ted Stevens, want to amend the Export Administration Act to authorize at least some sales abroad. To win votes, they've conceded too much to protectionism. Nonetheless, because the House has already voted to extend this senseless embargo, their amendment offers the only hope for reducing its harm.

Alaska currently pumps out 1.6 million barrels a day. The idea behind the ban was that it's more efficient—and serves the national interest—to direct that oil to West Coast refineries, a short run down the coast.

In fact, those refineries have been able to use only half of it. The rest goes through the Panama Canal and a Panama pipeline to refineries on the Gulf of Mexico, or all the way around South America to the Virgin Islands. What a waste, and discouragement, to Alaska's oil development.

The cost of the long-distance transportation runs as high as $5.25 a barrel. Shipment to the logical buyers in the Pacific basin—Japan, South Korea and Taiwan—would cost $1 or less.

The benefit would be twofold. Gulf and Caribbean refineries could get their crude oil at lesser cost from Mexico, Venezuela and Nigeria. And Alaskan oil across the Pacific would become more competitive, and thus stimulate more exploration.

What about national security? It is said that the Arab oil embargo and resulting escalation of oil prices proved the value of holding on to every drop of American oil. So why let others buy it?

The question turns the issue upside down. Exporting Alaska's oil would enhance national security, not hurt it. The countries that would buy this oil are important allies whose access to oil is vital to American security interests. They have no oil of their own. An assured supply is especially necessary for Japan. By reducing Japanese dependence on the Middle East and also stimulating more production in Alaska, two important interests would be served.

The Murkowski-Stevens amendment would permit exports of 200,000 barrels a day and let the President stop all exports if ever the oil is needed in the United States. That's a reasonable concession to get the amendment approved but of no realistic consequence. If cut off by the Persian Gulf, Japan is not likely to be cut off also by Americans.

What is objectionable is the Murkowski-Stevens requirement that all exports be shipped in American vessels and that the vessels be maintained and repaired in American shipyards. These concessions, to win over the maritime unions, would increase the cost of shifting transportation patterns and reduce their value. But the ban offends economics in larger ways and violates security. Even at that price, it's worth relaxing.

THE ROAD AFTER LEBANON

Mr. BAUCUS. Mr. President, our colleague, Senator EAGLETON, gave an excellent, thoughtful speech on Lebanon last Saturday, which speech I want to share with the entire body.

I ask unanimous consent that Senator EAGLETON's speech be printed at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE ROAD AFTER LEBANON

(By Thomas F. Eagleton)

The situation in Lebanon remains extremely fluid; the precise outcome is as yet unknown. However, even now, as we sort through the diplomatic, military, and tragically human debris of Lebanon, we can, with the marvelous benefit of 20-20 hindsight, begin to see what went wrong and why.

Any reassessment has to begin with an acknowledgement of some rather fundamental errors in policy on the part of the Israelis, ourselves and the Gemayel government in Lebanon.

Israel's 1982 invasion of Lebanon had three principal objectives. First, "Operation Peace for Galilee" sought to clear out the PLO from the southern region of Lebanon and secure the northern villages of Israel. At the outset, this was Israel's only avowed purpose. But as the military campaign moved beyond the Litani River and northward towards Beirut, the other two purposes became clear: to cripple irreparably the PLO and to establish, in General Sharon's curious words, a "new order" in Beirut: a pro-Israel, Christian regime featuring a Christian-run and controlled military, financed, trained, and equipped by the United States.

The first and original Israeli objective was strategically attainable and totally justifiable.

We have been fortunate enough to have friendly neighbors on our borders for over a century, so it is hard to analogize, about how we would react if some of our northern or southern communities were subject to occasional bombardment and terrorism from Canada or Mexico. No nation can or should tolerate for very long attacks from across its borders. A peaceful southern Lebanon was and remains a vital national interest for Israel.

The second objective was more problematical. The temptation for Israel to deal the PLO a mortal blow was understandably great, but such a campaign required going on the offensive, waging what came to be called, in an agonizing phrase, a "war of choice"—a radical departure from Israel's previous military efforts where the survival of the nation was clearly and imminently at stake. Because the PLO was holed up in Beirut, with hiding places and ammunition caches in the midst of civilians, hospitals and schools, going ahead meant the certainty of civilian casualties. The decision to push on to Beirut and accomplish this further objective tore Israel like nothing since the country was founded. Who can forget Israel's agony after massacres in the Sabra and Shatila refugee camps? Or the courage and national character it took for Israel to acknowledge some degree of responsibility as it did in the Kahan Report, although the slaughter itself was carried out by Lebanese Christian militias?

The third objective—a pro-Israel, Christian regime in Lebanon was a flight of fantasy. As I stated in a speech on September 28, 1983:

"(Lebanon's) politics, economy and its military have been dominated by the Christian community (once a presumed majority, but now a definite minority) with the entire Moslem community—Sunni, Shiite and Druze—left out in the cold * * *

"Linking our hopes to Gemayel and excluding the Moslems from meaningful power-sharing is a policy destined to failure . . . Peace will never come to Lebanon with an excluded Moslem community."

As the Moslem population grew and became a clear majority, the old order of total Christian political dominance became untenable. This is a central fact in Lebanon, yet to the Christian clans, especially the Phalange headed by Pierre Gemayel (father of Amin), any thought of power-sharing with the Moslems was tantamount to treason. Civil war broke out with a fury in 1975 and has continued through 200 or so cease-fires up to this very moment. For a warring faction to resist reality is perhaps understandable. For Israel, and ultimately the United States, to do so was disastrous.

As for the United States: we backed into Lebanon by happenstance, innocence, reflexiveness and inadvertence.

U.S. ground troops were first committed to Lebanon in August, 1982, to assist in the evacuation of the PLO—a limited, identifiable mission. The mission was accomplished and the troops were withdrawn.

Then in September, following the massacres at Sabra and Shatila and the assassination of Bashir Gemayel, the Marines were sent back to Beirut by reflex and in anguish. It was this second deployment that many members of the Senate, including myself and Republican Leader Howard Baker, opposed. We opposed it on legal War Powers grounds and on strategic and military grounds. The Administration never could state a purpose or define a mission which justified sending back the Marines. "Peace-keeping" is an amorphous phrase, not an assigned military mission. 1,200 to 1,600 Marines at the Beirut airport could not "keep the peace" in the middle of a hot civil war with Syria backing the Shiite and Druze combatants. As Congressman Sam Gibbons later put it: "If we are there to keep the peace, then we are far too few. . . If we are there to die, then we are far too many."

Moreover, we were particularly inappropriate peacekeepers. We were strongly identified with one side of the conflict—the Gemayel government. Our self-intended military role as "peacekeepers" turned too quickly into a role as belligerents. We seemed more and more committed to imposing a minority-based Gemayel government which many Moslems saw as a tool of U.S. and Israeli policy. We became direct participants in a civil war—pinned down in deep bunkers at the airport.

In my mind, the two biggest mistakes we made once we went into Lebanon were: (1) We did not bring immediate pressure on the Gemayel government to broaden its political base; and (2) we opened no line of diplomatic negotiation with Syria.

There was a window of opportunity for a period of time when Amin Gemayel took office as President that a genuine offer of power sharing to the Moslems might have been entertained. His father strenously opposed such an offer and we did nothing to encourage it. A year later, he was to begin to move in that direction, but it was year too late.

When the history of the period is written, it will be very harsh, I suspect, on Amin Gemayel. Gemayel is the kind of tragic historical figure who chases after events, but never has the foresight or stomach to shape events. At every key juncture in the events of Lebanon, he equivocated, hesitated, paused, or stumbled. His one memorable act, the November 4 Reconciliation Conference in Geneva, came very late in the game and, once held, there was no high-level follow-up.

In retrospect, tragically, our presence in Lebanon may have been counterproductive. We became a lighting rod for Gemayel's enemies, as well as our own. We also may have disserved his interest, leading him to believe that as long as he had American support, he could persevere without making a sincere offer to the Moslems.

Nor, I'm afraid, will history treat kindly the diplomatic efforts of the United States, however well-intentioned.

Our singular diplomatic preoccupation became the negotiation of a Lebanon-Israel peace treaty. This became Secretary of State Shultz's all-consuming mission.

During all of this time, Syria was ignored. The naive assumption was, once Lebanon and Israel signed a treaty and Israel agreed to withdraw, that Syria would obligingly and benignly follow suit. This was a blunder of historic magnitude.

Our policy overlooked the fact that Syria had been deeply involved in strifetorn Lebanon since 1975, when it entered the fray at the request of the then-Lebanese government and the Arab League for the purpose of aiding a Christian government in putting down the PLO. For extended periods of time, both Israel and the United States condoned Syria's presence, regarding it as a stabilizing force. Against this history, a policy which seemed to treat Israel's presence in Lebanon as preeminent and Syria's as secondary, was not realistic.

Peace in Lebanon could not be negotiated without a recognition of Syria's presence and interests, particularly while the Syrians continued to subsidize and support some of the critical warring ethnic groups and leaders who are essentially under Syrian control. In the months between the invasion and the May 17 agreement, we had opportunities to open effective lines to Syria. After the May 17 agreement, the opportunity was gone as positions hardened. The attack in the American embassy; the tragic death of 241 Marines at the compound in October, the clear evidence that Syria was condoning, perhaps encouraging, acts of terrorism—all came after the May 17 agreement.

History is filled with "what ifs," and Lebanon has had more than its share. What if a neutral U.N. force rather than the multinational force had been deployed? What if Gemayel had immediately moved to share power with the Moslems? What if we had opened discussions with Syria in September, 1982, just after it had been embarrassed by Israel and had not been resupplied by the Soviet Union?

What we are left with in a much different picture than General Sharon contemplated. Galilee is reasonably secure; however, I note that the other day, three Katyusha rockets were fired from Southern Lebanon into the Galilee panhandle. The PLO is deeply divided, but not totally obliterated. 8,000 PLO fighters remain behind Syrian lines in the Bekaa Valley and some have drifted into Beirut. The "new order" in Lebanon is not a pro-Israel state, but one which will probably tilt strongly toward Syria, even if it somehow manages to avoid total domination. Syria has been rearmed by the Soviets at even higher and more sophisticated levels. The worthwile Reagan peace initiative of September 1, 1982, is in the ash heap.

For the foreseeable future, one cannot be very optimistic about the Middle East. Syria, embarrassed in the 1982 war by Israel, emerges as the political victor in Lebanon. Everyone claims that President Assad is cunning, but is he wise, wise enough to pick the time of strength as a time to think in terms of peace? Probably not.

King Hussein of Jordan, ever cautious, ever worried about Syria, ever conscious of the PLO, still can be expected to do nothing bold.

Israel, torn internally by its "war of choice," facing staggering economic problems, and seething discontents on the West Bank, seems temporarily demoralized.

Not a pretty picture. There is always a sense of fatalism in the Middle East.

What can the United States do? Something better than the mindless lobbing of shells from the battleship New Jersey. We must start picking up the diplomatic pieces and not worry so much about our wounded pride. We cannot allow our mistakes in Lebanon to become a lasting trauma. The stakes are too high, and our role remains indispensalbe. We should not permit our recent failures to block the memory of notable past successes: the disengagement between Israel and Egypt, and Israel and Syria, engineered by Secretary Kissinger after the 1973 War, and the Camp David Accords, in which President Carter helped bring about peace between Israel and Egypt.

Those triumps involved painstaking, tortuous, even heart-breaking diplomatic efforts, and the road from here on, will only be harder. Nevertheless, we must travel it, and we can travel it more effectively if we keep several guiding principles clearly in mind:

1. Our commitment to Israel cannot be compromised. Israel is also a vital strategic asset in a troubled region—but the overriding consideration is a moral commitment of the highest order.

2. The main obstacle to peace is as it has been: Arab rejectionism of the right of Israel to exist. When Anwar Sadat broke with the past and recognized Israel's right to exist, peace followed—not easily or quickly, but inexorably. There will be no further peace until other Arabs accept the basic right of Israel to exist; and no United States pressure on Israel to make peace is justified while many of the Arabs remain rejectionist.

3. Israel must take stock of itself. If the Sharon-planned war beyond the Litani and up to Beirut was a miscalculation, then acknowledge it at least within the inner councils of government and not let future policy be pegged to the perpetuation of error. Further, if the Palestinian question goes unaddressed, there will be no peace for Israel.

Despite the bleak outlook, the United States must press ahead diplomatically in the Middle East. If ever there are to be peace talks, either single-track or parallel, the United States, scars and disappointments notwithstanding, has to be the broker. The road may be long, painful, and frustrating, but it is the road we must once again begin to travel.

DR. NIELS RORHOLM—SEA GRANT PIONEER

Mr. PELL. Mr. President, this week will mark the retirement as director of the sea-grant college program at the University of Rhode Island of Dr. Niels Rorholm, one of a handful of pioneers who participated in the planning, the establishment and the development of the sea-grant college program both in Rhode Island and national.

Dr. Rorholm was a faculty member at the University of Rhode Island when I first began to explore, with Dr. John Knauss, dean of the URI Graduate School of Oceanography, the concept of legislation to establish a national program to spur development and conservation of our Nation's marine resources, just as the land-grant college system had spurred development of the world's most successful agricultural system.

Niels Rorholm was appointed by Dean Knauss to a committee which played a central role in developing the sea-grant concept. He was among the planners and participants in a national, URI-sponsored conference on the sea-grant concept held in Newport, R.I., in 1965. That conference provided the impetus that led to enactment by the Congress of the Sea-Grant College Program Act the following year in 1966.

As the sea grant college program grew at the University of Rhode Island, Dean Knauss decided it required the attention of a full-time director and he appointed Dr. Rorholm in 1971 as the first director of the URI sea-grant college program.

For the past 13 years, Niels Rorholm has guided the growth and development of the URI sea-grant program as one of the largest, and most successful programs of applied research, education and extension services in marine sciences and resource development in the Nation. In addition, he has been an active participant in the valuable work of the national Sea-Grant College Association, and through the years he has been consistently a source of sound advice and good counsel on the problems, the opportunities and the challenges that have confronted the national sea-grant college program.

His contributions to the program through the years have been significant and his service to the State of Rhode Island, the University of Rhode Island and to the marine industries of the New England region have been outstanding.

After a well-earned sabbatical Dr. Rorholm will resume his work as a senior faculty member at the URI Graduate School of Oceanography continuing his work in the field of marine economics.

I commend and congratulate Dr. Rorholm on his outstanding service to the University of Rhode Island and indeed to our Nation's marine resource and sciences programs.

NATURAL GAS PRICE INCREASES IN KANSAS CITY

Mr. EAGLETON. Mr. President, last Friday Senator KASSEBAUM and I released the results of a year-long Government probe of the natural gas industry that serves Missouri and parts of Kansas, Nebraska, and Oklahoma.

At our request the General Accounting Office (GAO) analyzed the cost of gas to roughly 1 million consumers—from residential furnaces and industrial boilers all the way back to producers. Along the way, GAO dissected the books of western Missouri's gas distributor, the Gas Service Co., and the major pipeline serving the area, Northwest Central Pipeline Co.

Mr. President, to my knowledge, the GAO investigation is the first of its kind and I would like to share some of its findings with my colleagues.

The Kansas City gas situation was analyzed between January 1981 and January 1983. During that time, gas prices exploded, doubling in 24 months and devastating residential and industrial gas consumers.

GAO proved what has been said for years—the recent surge of gas prices was due in small part to distribution and transportation costs and in large part to pipeline gas purchase costs.

GAO concluded that 75 percent of the gas price jump in western Missouri was due to the pipeline's cost of purchasing gas from producers and other pipelines. Only 18 percent of the increase came from the pipeline itself and 7 percent was attributable to the gas distributor.

The 45 percent of Northwest Central's increased gas purchase cost resulted from the pipeline taking proportionately less cheap old gas and more expensive new and decontrolled gas. This, in turn, was due primarily to the action of take-or-pay gas contract clauses, which force the pipeline to pay for costly gas even if it does not need or take the gas.

Permanently price-controlled old gas made up 54 percent of Kansas City's gas mix in 1981. That figure dropped to 32 percent by 1983, and gas users were out in the cold. These harsh facts emphasize the importance of the old gas price cushion, and the need for Congress to defy efforts by President Reagan and the gas industry to decontrol cheap old gas. The facts also give Congress the clear mandate to limit the operation of noncompetitive, harmful gas contract clauses such as the take-or-pay.

During the 2 years studied, gas use in homes and small businesses dropped 19 percent while gas use in industry plummeted an incredible 39 percent. Thousands of homes had their gas disconnected due to nonpayment, two huge Kansas City oil refineries were forced to close their doors, and many other industries switched to cheaper fuels or closed as well.

GAO found that a significant portion of the Northwest Central's increased transmission costs and Gas Service's increased distribution costs were due to the lower level of gas sales. In effect, as consumption fell, fixed operation costs were shifted to remaining customers.

As an addendum to the study, GAO noted that the price of gas on the gas service system decreased during 1983. GAO also noted that roughly 67 percent of the price cut related to "routine surcharge adjustments for past overcollections and undercollection of gas purchase costs." Credit for the remaining cut must go to efforts by Northwest Central to decrease their purchased gas cost.

The Kansas City report is the first in a series of GAO studies of gas price increases in major metropolitan areas.

I invite my colleagues to review "Natural Gas Price Increases in Kansas City" (GAO/RCED-84-77).

I ask unanimous consent that two tables from the study be printed in the RECORD immediately following my statement. The first details the shift from cheap old gas to expensive new and decontrolled gas. The second breaks out the various gas costs in the distribution and pipeline companies.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—SUMMARY OF CHANGES IN REPRESENTATIVE PRICES TO KANSAS CITY END-USERS FOR THE 2-YR PERIOD ENDING JANAUARY 1983

Cost category	Cost per Mcf				Increase (decrease)		Percentage of increase	
	January 1981		January 1983					
	MO	KS	MO	KS	MO	KS	MO	KS
Gas purchases [1]	$1.80	$1.80	$3.73	$3.73	$1.93	$1.93	75	74
Transmission								
Operation and maintenance	12	12	37	37	25	25	10	10
Depreciation	05	05	08	08	03	03	1	1
Interest	04	04	06	06	02	02	1	1
Income taxes	07	07	14	14	07	07	3	3
Other taxes	03	03	04	04	04	01	(2)	(2)
Return on equity	05	05	13	13	08	08	3	3
Sundry revenues	(02)	(07)	(03)	(03)	(01)	(01)	(2)	(2)
Total	34	34	79	79	45	45	18	[3] 17
Distribution								
Operation and maintenance	25	26	37	41	12	15	5	6
Depreciation	05	05	07	07	02	02	1	1
Interest	04	04	04	05		01		(2)
Income taxes	05	05	05	06		01		(2)
Other taxes	02	04	03	06	01	02	(2)	1
Dividends on preferred stock	01	01	01	01				
Return on equity	03	06	06	07	03	01	1	(2)
Total	45	51	63	73	18	22	7	8
Representative price to Kansas City end user	2.59	2.65	5.15	5.25	2.56	2.60	100	[3] 100

[1] Represents cost of purchases by Northwest Central from producers and 3 other pipelines.

[2] Less than 0.5 percent.

[3] Components do not equal total because of rounding.

Source: Derived by GAO based on information from records of Gas Service Co. and Northwest Central Pipeline Corp.

TABLE 2.—GAS PURCHASES BY TYPE, JANUARY 1981 AND JANUARY 1983

Type	January 1981		January 1983	
	Volume in Bcf	Cost per Mcf	Volume in Bcf	Cost per Mcf
Old gas (secs. 104 and 106)				
Contract date 1972 or earlier	15.7	$0.44	6.5	$0.63
Contract date 1973 or later	4.5	1.94	2.4	2.35
Contract date unknown	1.0	.93	.7	1.08
Total	21.2	.78	9.6	1.09
New gas				
Sec. 102	3.9	3.05	2.9	3.57
Sec. 103	3.9	2.75	4.4	3.28
Secs. 108 and 109	1.8	2.48	1.4	3.34
Total	9.6	2.91	8.7	3.37
High-cost gas (sec. 107)			1.7	6.61

TABLE 2.—GAS PURCHASES BY TYPE, JANUARY 1981 AND JANUARY 1983—Continued

Type	January 1981		January 1983	
	Volume in Bcf	Cost per Mcf	Volume in Bcf	Cost per Mcf
Purchases from transmission companies	8.5	2.54	8.8	3.66
Other	3	1.70	8	1.95
Total	39.6	[1] 1.66	29.6	[1] 2.86

[1] Weighted average

Source: Northwest Central Pipeline Corp.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. The Senate will now stand in recess until 2 p.m. today.

Thereupon, at 12 noon, the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HECHT).

EXPORT ADMINISTRATION ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 979) to amend and reauthorize the Export Administration Act of 1979.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, while Members are on their way to the floor from their respective caucuses, I am advised that the distinguished Senator from New Mexico (Mr. DOMENICI) and the distinguished Senator from Florida (Mr. CHILES) wish to introduce a bill and to talk about it as in morning business. I do not think we will be able to get on with the business at hand for a moment, anyway. So I ask unanimous consent that the Senator from New Mexico may be recognized, as in morning business, for not to exceed 5 minutes, and the Senator from Florida for 5 minutes, at which time the Senate will resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the distinguished majority leader. I yield myself 4 of my 5 minutes.

VOCATIONAL TECHNICAL EDUCATION AND QUALITY ACT OF 1984

Mr. DOMENICI. Mr. President, I rise today on behalf of Senator CHILES and myself, to introduce the Vocational Technical Education Quality and Equity Act of 1984. I am pleased that the principal coauthor of this legislation is Senator CHILES of Florida, a most valuable and respected ranking minority member of the Senate Budget Committee, which I chair.

This legislation focuses the Federal vocational education program on improving the quality of vocational education programs and expanding access to vocational education for students with special educational needs.

This bill creates two State block grants: The first is for activities to modernize vocational education programs so that they meet the needs of a changing economy and labor market; the second is for programs for vocational education students who need special services, such as the economically disadvantaged, the handicapped, minorities, and women. The Vocational Technical Education Act authorizes these two new block grant programs through fiscal year 1990 to provide some stability to the vocational education system.

At the national level, the bill also authorizes a fund for the improvement of vocational education. This discretionary fund is modeled on the highly successful fund for the improvement of postsecondary education which has had far-reaching effects in improving the quality of higher education. This fund will further efforts to bring vocational education into the high-technology age, will promote industry-education partnerships, and will help develop innovative methods of adult retraining. I also note that this legislation doubles the Federal financial commitment to vocational education programs for children in Indian schools.

I understand that the vocational education reauthorization bill introduced by the chairman and the ranking minority member of the Education Subcommittee, Senators STAFFORD and PELL also focuses on improving the quality of vocational education programs and expanding access to vocational education for all students. The primary difference between the bill introduced by Senators STAFFORD and PELL and the one I am introducing today is that my bill increases the amount of flexibility and administrative control granted to individual States and school districts. The Vocational Technical Education Quality and Equity Act allows each State to plan the best use of Federal vocational money for its own individual needs. Each State will also have the flexibility to direct Federal money to the areas and programs which are of the highest priority and greatest need.

I believe that this emphasis on State planning and flexibility will further our goals of improving the quality of vocational education and expanding access to these programs. States will be able to integrate vocational education with their plans for industrial and economic development, with their needs to upgrade and update the skills of their local work forces, and with their plans to improve the quality of education generally in their public schools. This flexibility will also allow States to address the needs of specific populations within their State. In my State of New Mexico, for example, the proportion of students enrolled in school from Hispanic and native American families is much higher than in most other States. The flexibility allowed in this legislation will allow my State to address the special needs of these students.

Mr. President, reauthorization of the Federal vocational education legislation is long overdue. My understanding is that reauthorization was first scheduled for 4 or 5 years ago, and that the recent focus on budget issues and science and math education have delayed the consideration of the vocational education reauthorization.

The Education Subcommittee plans to move ahead in a timely manner with the reauthorization of this vital legislation. Currently, a subcommittee markup is scheduled for March 1, and a full committee markup is scheduled for March 7. I comment the chairman and his staff for moving ahead so promptly with their responsibilities.

It is certainly not my intent, by introducing a separate measure, to delay in any way the consideration of the vocational education reauthorization. Rather, I look forward to working with the chairman of the Education Subcommittee, Senator STAFFORD, and the chairman of the full committee, Senator HATCH, to complete reauthorization of vocational education in a timely manner.

Mr. President, it is my privilege to work with the distinguished Senator from Florida, who has been a leader in vocational educational matters for a long time.

As I think about vocational education as part of the overall educational system, it seems to me that there is no other area of education for our young people that requires flexibility at the State level as much as vocational education.

The PRESIDING OFFICER. The Senator from New Mexico has used 4 minutes.

Mr. DOMENICI. Is the Senator from Florida ready with his remarks?

Mr. CHILES. I thank the Senator from New Mexico. Mr. President, I am pleased to join Senator DOMENICI in introducing the Vocational-Technical Quality and Equity Act of 1984.

Our version of legislation to reauthorize the Vocational Education Act of 1963 is designed to focus the Federal program on two purposes: To improve the quality of vocational programs to meet the needs of a changing economy and labor market, and to provide access to special needs populations that are currently underserved.

The 1963 act has been a tremendous success in establishing a network of secondary and postsecondary vocational training programs by attracting State and local resources and broad public support. It is now time to realize the full potential of the vocational educational system to meet our most pressing training needs.

This legislation seeks a balance between the goal of excellence in vocational education programs and the goal of equity for all individuals in those programs. It aims at a balance between vocational education as an education program and a job training program. Finally, it strikes a balance between the needs of vocational programs and students in the secondary schools and the postsecondary system.

The Vocational-Technical Education Quality and Equity Act offers a mechanism for achieving these goals that will effectively target Federal funds to specific national priorities for improving the quality and equity of vocational programs. This mechanism also offers maximum flexibility and accountability on the part of the States and local recipients to meet the national priorities according to the State and local situation.

The mechanism works like this: State and local recipients would assess their needs in six national priority areas to improve the quality of vocational education and in four areas to increase the equity in vocational education. The priorities for quality improvement include the pertinence of programs to the technology and practice of the workplace; the capacity of programs to permit students to apply basic academic and technological skills; the strength of programs in developing local economies and helping economically depressed areas; the adequacy of programs in easing career and educational planning and the school-to-work transition; the capacity to train and retrain employed and unemployed adults; and the adequacy of consumer and homemaking education programs. The priorities for equity include the needs of the disadvantaged, the handicapped, minorities, and women.

State and local recipients would then set specific goals to be achieved, through the use of Federal, State, local and private dollars in each of the quality and equity priority areas. The goals would be established on the basis of the assessed needs in each priority areas and the capacity of existing programs to address those needs. All uses of funds by the States and local recipients, allocation of funds between statewide activities and grants to local agencies and institutions, distribution of funds among secondary and postsecondary institutions, and allocation of funds among the priorities within both the quality and equity grants would have to be justified on the basis of assessed need, the goals, and the plan for reaching those goals. Participating States and local recipients would be evaluated in terms of the outcomes achieved in the quality and equity priority areas.

This mechanism relies heavily on the active participation of State and local advisory groups, representing business and labor, secondary and postsecondary education institutions, individuals involved in the job training coordinating council and vocational rehabilitation, State legislatures and representatives of special needs groups to be served by vocational education. These advisory groups would be heavily involved in the assessment, planning and goal-setting process, as well as have the right to review and comment on the final plan.

The funding mechanism presented in the Vocational-Technical Quality and Equity Act offers many advantages:

There would be a clearly stated purpose, and specific national objectives, for Federal support to vocational education. This is critical for any program that is essentially the responsibility of State and local education agencies, where the Federal role is to leverage attention to national priorities like quality and equity in those programs.

Goal-setting gives us an opportunity to measure the effectiveness of the Federal dollar in buying improved quality and access in State and local vocational programs, without having to track the Federal versus State, local and private dollars. It also gives us a measure of the additional Federal resources that are needed.

It achieves targeting of Federal funds in a way that maintains State and local accountability and flexibility. There is no need for set-asides and pass-through formulas that ignore the different needs and institutional capacity in the States. National priorities for quality and equity would have to be met in each State, yet the allocation of dollars would reflect the differences between heavily industrialized States with large numbers of dislocated workers and disadvantaged youth in economically depressed areas, versus high growth areas of the Sun Belt.

The mechanism assures that we are looking toward the end results that can be achieved through vocational education rather than just counting heads in programs and tracking dollars spent. Programs to increase equity would be evaluated in terms of reducing minority unemployment, increasing the participation of women in higher-skilled, higher-paying jobs, and permitting handicapped and disadvantaged students to gain full access to vocational training and job opportunities. Likewise, programs to improve the quality of vocational education would be given benchmarks in terms of their pertinence to the technology and practice of the workplace and ability to ease the school-to-work transition for example, rather than the vague "program improvement" objective.

Our bill has other innovative features, such as the creation of a fund for the improvement of vocational education (FIVE), based on the highly successful FIPSE program, to encourage and support innovative vocational education projects and national activities. The National Center for Research in Vocational Education is designed to support research on the future needs of vocational education and populations that should benefit from the program recognizing the important role of vocational education in restoring excellence in education, particularly at the high school level, the bill authorizes a President's Commission on Vocational-Technical Excellence to study and make recommendations to Congress and the executive branch on long term reforms and improvements needed in the program to meet ongoing training and labor market needs.

Although restructured and more tightly targetted, this bill is similar in many ways to the Perkins bill in the House of Representatives. We look forward to working with the education Subcommittee on ways that this goal-oriented approach can be incorporated in the Senate version of the vocation education reauthorization bill.

Mr. President, I am pleased to join my friend and colleague, the senior Senator from New Mexico (Mr. DOMENICI) in the introduction of this legislation.

Mr. DOMENICI. Mr. President, I send the bill to the desk and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vocational-Technical Education Quality and Equity Act of 1984".

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STATEMENT OF PURPOSE AND PRIORITIES

SEC. 2. (a) It is the purpose of the Act to assist the States in addressing national priorities that will improve the quality of vocational education programs by meeting the needs of a changing economy and labor market, and that will increase equity in such programs by providing access to populations of students with special educational needs.

(b) The national priorities for improving the quality of vocational education to meet the needs of a changing economy and labor market are—

(1) to make programs pertinent to the technology and practice of the workplace through industry-education partnerships and collaboration with the private sector;

(2) to enhance the capacity of programs to permit students to develop and apply basic skills in mathematics, science, and written and verbal communication, as well as high technology skills;

(3) to improve the capacity of programs to develop local economies and to assist economically depressed areas as part of a comprehensive effort to revitalize their economies;

(4) to ease students' career planning and educational preparation, the secondary-to-postsecondary and school-to-work transition through a full range of guidance, counseling, career education, and vocational support services;

(5) to train and retrain employed and unemployed adults with marketable skills and jobs of the future; and

(6) to prepare both males and females for the work of the home and enhance the capacity of consumer and homemaking education to reach underserved individuals with special needs in the community.

(c) The national priorities to increase equity in vocational education by expanding access to programs and providing services for students with special educational needs are—

(1) to assist individuals who are disadvantaged educationally, economically, or due to lack of proficiency in English language skills in taking full advantage of vocational education and opportunities for employment, through programs and services to meet their special needs;

(2) to assist individuals with handicaps in taking full advantage of vocational education and opportunities for employment through programs and services to meet their special needs;

(3) to assist minorities in gaining marketable skills and opportunities for employment that will combat both high minority unemployment and enhance their capacity to obtain higher-skilled, higher paying jobs, and

(4) to assist women in gaining marketable skills and opportunities for nontraditional employment that will enhance their ability to obtain higher-skilled, higher paying jobs.

TITLE I—STATE ADMINISTRATION, PLANNING AND EVALUATION

PART A—STATE ADMINISTRATIVE RESPONSIBILITIES

FUNCTIONS OF THE STATE BOARD

SEC. 101. (a) Any State desiring to participate in the programs authorized by this Act shall, in a manner consistent with State law, establish or designate a State board of vocational education which shall be the sole State agency responsible for the administration, or for the supervision of the administration, of such programs. The responsibility of the State board shall include—

(1) appointment of a State director of vocational education and of other personnel required to administer this Act (in accordance with practices and procedures prescribed by State law);

(2) coordination of the development, submission, and implementation of the State plan and any amendments thereto (pursuant to sections 111 and 121), and the State progress report and evaluation (pursuant to sections 121 and 122); and

(3) the development and coordination of policies designed to ensure that programs funded under this Act are consistent with the intent and purposes of the Act, the Job Training Partnership Act, and with the State plan approved under such section;

(4) consultation with the State council established pursuant to section 102, and other appropriate agencies, groups, and individuals involved in and affected by the planning, administration, evaluation, and coordination of programs assisted under this Act;

(5) the submission of the State plan to the State council for review and comments in accordance with section 111(e); and

(6) convening and meeting as a State board (consistent with State law and procedure for the conduct of such meetings) at such time as the State board determines necessary to carry out its functions under this Act, but not less than four times annually.

Except with respect to those functions set forth in the preceding sentence, the State board may delegate any of its other functions involved in the administration of this Act to one or more State agencies, as it may deem appropriate.

(b) Each State board shall include a description of any delegation of its functions under subsection (a) in its State plan, or amendments to such plan, submitted to the Secretary.

(c)(1) Any State desiring to participate in the programs authorized by this Act shall assign at least one full-time individual to assist the State board to fulfill the purposes of this Act by—

(A) gathering, analyzing, and disseminating data on the adequacy and effectiveness of vocational education programs in the State in meeting the education and employment needs of women (including preparation for employment in technical occupations, new and emerging occupational fields, and occupations regarded as nontraditional for women), and on the status of men and women students and employees in such programs;

(B) reviewing vocational education programs (including career guidance and counseling) for sex stereotyping and sex bias, with particular attention to practices which tend to inhibit the entry of women in high-technology occupations, and submitting (i) recommendations for inclusion in the State plan and the progress reports of programs and policies to overcome sex bias and sex stereotyping in such programs, and (ii) an assessment of the State's progress in meeting the purposes of this Act with regard to overcoming sex discrimination and sex stereotyping;

(C) reviewing proposed actions on grants, contracts, and the policies of the State board to ensure that the needs of women are addressed in the administration of this Act;

(D) developing recommendations for programs of information and outreach to women concerning vocational education and employment opportunities for women (including opportunities for careers as technicians and skilled workers in technical fields and new and emerging occupational fields);

(E) providing technical assistance and advice to local educational agencies, postsecondary institutions, and other interested parties in the State, in expanding vocational opportunities for women; and

(F) assisting administrators, instructors, and counselors in implementing programs and activities to increase access for women (including displaced homemakers and single heads of households) to vocational education and to increase male and female students' enrollment in nontraditional programs.

(2) From the funds allotted to the State and available to carry out part A of this title, each State shall reserve not less than $50,000 in each fiscal year to carry out this subsection.

(3) For the purpose of this subsection, the term "State" means any one of the fifty States and the District of Columbia.

STATE ADVISORY COUNCIL ON VOCATIONAL-TECHNICAL EDUCATION

SEC. 102. (a) Any State which desires to participate in programs under this Act for any fiscal year shall establish a State advisory council on vocational-technical education, appointed by the Governor or in the case of States in which the members of the State board are elected (including election by the State legislature), by such board, except as provided in clause (7) of this subsection. The membership of the State council shall not exceed fifteen individuals, shall be broadly representative of citizens and groups within the State having an interest in vocational education, and shall consist of—

(1) representatives of the private sector who shall constitute at least one-third of the membership of the State council and who shall be—

(A) representatives of business, industry, and agriculture in the State, including owners of business enterprises and chief operating officers or personnel officers;

(B) officers or individuals nominated by recognized State labor organizations or building trades councils; and

(C) other private sector personnel who have substantial management, policy, or training responsibilities for employment or for employment training programs of private business enterprises, trade associations, or organized labor;

(2) individuals who have special knowledge and qualifications with respect to the special educational and career development needs of the disadvantaged, the handicapped, minorities, and women in preparing for employment and who shall constitute at least one-third of the membership of the State council;

(3) one or more individuals representing State economic development agencies and other public agencies and institutions involved in economic development activities;

(4) a representative of the State job training coordinating council, established under section 122 of the Job Training Partnership Act;

(5) a representative of the agency responsible for the administration of vocational rehabilitation programs under the Rehabilitation Act of 1973;

(6) representatives of secondary and postsecondary education agencies and institutions in the State (including private nonprofit and proprietary institutions) which shall include representation in equal number of secondary and postsecondary agencies and institutions, including, where appropriate, community, technical, and junior colleges which conduct vocational education programs eligible for assistance under this Act; and

(7) members of the State legislature, appointed by the legislature.

(b)(1) Business, industry, and agriculture representatives on the State council shall include appropriate representation of small business and minority business firms. Such representatives shall be appointed after consultation with business organizations, trade associations, and professional associations, one of which shall be a general purpose business organization in the State.

(2) The State shall ensure that there is appropriate representation on the State council of women, racial and ethnic minorities, and major geographic regions of the State.

(c) The State shall certify the establishment and membership of the State council to the Secretary prior to the beginning of any fiscal year in which the State desires to receive a grant under this Act.

(d) A member of the State council representing the private sector shall serve as chairperson. The State council shall determine its own procedures, staffing, and the number, time, place, and conduct of meetings, except that it shall hold at least one public meeting each year at which the public is given an opportunity to express views concerning vocational education programs in the State.

(e) Each State council shall—

(1) meet with the State board or its representatives during the planning year to advise on the development of the State plan;

(2) review and comment on the State plan in accordance with section 111(e);

(3) advise the State board and make reports to the Governor, the economic community, and general public of the State, concerning—

(A) policies the State should pursue to improve the quality of vocational education programs and the access to such programs; and

(B) initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

(4)(A) evaluate at least once every two years (i) the vocational education program delivery systems assisted under this Act, and under the Job Training Partnership Act, in terms of their adequacy and effectiveness in achieving the various purposes of each of the two Acts, and (ii) the adequacy and effectiveness of the Federal, State, local, and private efforts to strengthen and improve vocational education in the State, and (B) advise the Governor, the State board, the State job training coordinating council, the Secretary, the Secretary of Labor, and the general public of the State of its findings and recommendations;

(5) comment on the reports issued by the State job training coordinating council under section 122(b) of the Job Training Partnership Act;

(6) provide such technical and other assistance to the advisory councils established by eligible recipients as may be requested; and

(7) be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions under this Act, and to contract for such other services as may be necessary to carry out its evaluation functions independent of programmatic or administrative control by other State boards, agencies, or officials.

(f)(1) From the sums available to carry out this section, the Secretary shall, subject to the provisions of the following sentence, make grants to State councils, from amounts allotted to such councils in accordance with the method for allotment contained in section 403, to carry out the functions specified in this section, and shall pay to each State council an amount equal to the reasonable amounts expended by it in carrying out its functions under this Act in such fiscal year, except that no State council shall receive an amount to exceed $225,000 or an amount less than $125,000, in the case of Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The Secretary may pay the State council in each such jurisdiction an amount less than the minimum specified in the preceding sentence if the Secretary determines that the State council can perform its functions with a lesser amount.

(2) The expenditure of the funds authorized by this section is to be determined solely by the State council for carrying out its functions under this Act, and may not be diverted or reprogramed for any other purpose by any State board, agency, or individual. Each State council shall designate an appropriate State agency or other public agency, eligible to receive funds under this Act, to act as its fiscal agent for purposes of disbursement, accounting, and auditing.

PART B—PLANNING AND APPLICATIONS

STATE PLAN

SEC. 111. (a) Any State desiring to receive funds under this Act shall submit to the Secretary, during the fiscal year 1985 and during each third fiscal year occurring thereafter, a State plan for vocational education for the three fiscal years succeeding each fiscal year in which the State plan is submitted. In developing the State plan, the State board shall meet with and utilize the State council, established pursuant to section 102 of this Act.

(b) The State board shall conduct public hearings in the State, after appropriate notice, for the purpose of affording the general public and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State board's response shall be included with the State plan.

(c)(1) In developing the State plan, each State shall—

(A) make a thorough assessment of the quality of vocational education programs to meet the needs of the changing economy and labor market including—

(i) the pertinence of programs to the technology and practice of the workplace;

(ii) the capacity of programs to permit students to develop and apply basic skills in mathematics, science, written and verbal communication, and high technology,

(iii) the capacity of programs to develop local economies and to assist economically depressed areas;

(iv) the degree to which programs ease students' career planning and educational preparation, the secondary-to-postsecondary and school to work transition;

(v) the capacity of programs to train and retrain employed and unemployed workers with marketable skills and future jobs; and

(vi) the capacity of consumer and homemaking education programs to prepare both males and females for the work of the home and to reach underserved individuals with special needs in the community; and

(B) make a thorough assessment of the equity of vocational education programs, including—

(i) the degree to which programs assist individuals who are disadvantaged educationally, economically, or due to a lack of proficiency in English in taking full advantage of vocational training and opportunities for employment;

(ii) the degree to which programs assist persons with handicaps in taking full advantage of vocational training and opportunities for employment;

(iii) the degree to which programs assist minorities in gaining marketable skills and opportunities for employment, both to combat minority unemployment and underrepresentation of minorities in higher skill, higher salaried jobs; and

(iv) the degree to which programs assist women in gaining marketable skills and opportunities for nontraditional employment, to increase representation of women in higher skill, higher-salaried occupations.

(2) The assessment required by paragraph (1) of this subsection shall—

(A) identify and establish priorities for needs in each of the areas described in paragraph (1);

(B) describe the degree to which current and anticipated State, local, and private efforts (including curriculum, the quality of teachers, and the adequacies of facilities and equipment) can be expected to meet the needs in each priority area;

(C) establish objective, measurable goals for each priority area where there is remaining need and describe the progress the State expects to make during the three-year period of the plan using Federal, State, local, and private resources; and

(D) describe how the programs and activities and allocation of funds under this Act among secondary and postsecondary institutions and statewide activities can be expected to enable the State to meet its three-year goals.

(d) Each State plan required by this section shall be based upon the assessments required in subsection (c), and shall—

(1) set forth the criteria the State board will use in approving plans of eligible recipients and allocating funds made available under this Act to such recipients, which shall ensure that States will allocate more Federal funds to eligible recipients in units of local government which are economically depressed (including both urban and rural units) or which have high unemployment, as determined by the State;

(2) describe the methods proposed for coordinating programs carried out under this Act with those conducted under the Job Training Partnership Act, but such coordination shall not be used to establish priority for funding to eligible recipients under this Act;

(3) describe the measures to be taken to ensure that vocational education programs, services, and activities assisted under this Act will take into account the findings of program reviews and evaluations carried out pursuant to section 122; and

(4) outline the measures to be taken to bring about a better articulation of vocational education programs at various levels of education and among various types of institutions, and to eliminate unnecessary duplication of vocational education and related occupational training programs.

(e)(1) The State plan required by this section shall be submitted to the State council for review not less than 45 days prior to the submittal of the State plan to the Secretary. Whenever the State council comments on a portion of the State plan and the State board does not modify the State plan to address the matter to the satisfaction of the State council, the State council shall prepare additional comments relating to such matter.

(2) Whenever any portion of the State plan is not modified under this paragraph in accordance with the comments of the State council, the additional comments of the State council shall be submitted to the Secretary with the State plan.

(f) Each State plan shall, in accordance with the provisions of this subsection, be submitted to the Secretary by May [illegible] preceding the beginning of the first fiscal year for which such plan is to be in effect. The Secretary shall approve, within sixty days, each State plan which is formulated in accordance with subsection (a) and which meets the requirements of subsections (b) and (c), and shall not finally disapprove a State plan except after giving reasonable notice, an opportunity for a hearing to the State board, and technical assistance in improving the plan.

STATE APPLICATION

SEC. 112. (a) Any State desiring to receive the amount for which it is eligible for a fiscal year under this Act, and which has a State plan approved by the Secretary under section 111, shall submit an application to the Secretary through its State board which provides assurances—

(1) that the State will provide such methods of administration as are necessary for the proper and efficient administration of the Act;

(2) that the State board will cooperate with the members of the State council in ensuring their active participation in the planning process, in accordance with this Act;

(3) that all funds will be used to meet the goals established in the State plan and for allowable activities according to section 303;

(4) that programs and services cited in the State plan as current or anticipated efforts to meet the needs in each priority area will be maintained and that funds appropriated under this Act will not be used to supplant support for these programs;

(5) that the State will provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act);

(6) that the State has instituted policies and procedures to ensure that copies of the State plan and the progress report and all statements of general policy, rules, regulations, and procedures will be made available to the public;

(7) that in compiling data necessary for planning, evaluating, and reporting on vocational education programs, the State board and eligible recipients assisted under the State plan will use the nationally uniform definition and information elements which have been developed pursuant to section 301;

(8) that programs, services, and activities for handicapped individuals funded under this Act are consistent with the State plan submitted pursuant to section 413(a) of the Education of the Handicapped Act;

(9) that programs of research, personnel development, and curriculum development shall be funded to further the goals identified in the three-year State plan (except that this requirement shall not be construed to mandate funding in each area for each fiscal year); and

(10) that for each fiscal year, expenditures for vocational education programs, services, and activities for the handicapped and disadvantaged will not be less than the expenditures for the handicapped and disadvantaged in the State for the last fiscal year funded by section 110(b)(1) of the Vocational Education Act of 1963.

(b) Each application submitted under this section shall be considered to be the general application required to be submitted by the State for funds received under this Act for purposes of the provisions of section 434(b) of the General Education Provisions Act.

LOCAL PLAN

SEC. 113. (a) Any eligible recipient or combination thereof desiring to receive assistance under this Act shall, according to requirements established by the State board, submit to the State board a three-year plan, covering the same period as the State plan, for the use of such assistance, formulated with the active participation of an advisory council established pursuant to subsection (c). The State board shall determine requirements for local plans, except that each such plan shall—

(1) assess and establish priorities for local need in each of the national priority areas for quality and equity described in section 111(c);

(2) describe how current and anticipated programs at the local level can be expected to meet those needs;

(3) set forth the specific goals the plan is designed to attain in each national priority area based upon the assessment of the status of vocational education in the area served, and the progress the recipient expects to make toward achieving the goals in the three years for which the application is made through the combined use of Federal, State, local, and private resources;

(4) describe how the vocational education programs, services, and activities proposed to be funded under the plan will make it possible for the recipient to meet its goals for the local area;

(5) describe how the vocational education programs, services, and activities proposed to be funded under the plan reflect the views and recommendations of the advisory council established pursuant to subsection (c);

(6) contain such suggestions as the recipient may wish to make concerning ways in which the State and the State board can more effectively utilize funds made available under this Act, or utilize other resources to assist eligible recipients in planning and implementing programs that will better achieve the purposes of this Act; and

(7) provide such information as the State board reasonably may require to carry out its functions under this Act.

(b) The State board may utilize funds under this Act to encourage regional planning among eligible recipients.

(c)(1) The advisory council required for purposes of this section shall be appointed by the eligible recipient and shall consist of—

(A) representatives of the private sector, who shall constitute a majority of the membership of the advisory council and who, if present in the community, shall be (i) owners of business concerns or chief executives or chief operating officers of nongovernmental employers (including agricultural enterprises), (ii) officers of or individuals designated by recognized State and local labor organizations or appropriate building trades councils, and (iii) other private sector personnel who have substantial management, policy, or training responsibility in private business, trade associations or organized labor;

(B) representatives of public employers and of institutions and organizations that are not eligible recipients but provide job training for residents of the community or area, economic development agencies, and the public employment service; and

(C) representatives of groups concerned with equal education and employment opportunities for women, the disadvantaged, and the handicapped.

(2) The chairperson of the advisory council shall be selected from among the members who represent the private sector.

PART C—EVALUATION AND REVIEW

PROGRESS REPORT AND STATE PLAN AMENDMENTS

SEC. 121. (a) Each State having a State plan approved under section 111 shall submit to the Secretary by January 1 of the third fiscal year and every two years thereafter, when such plan is in effect, a progress report. When changes are necessary in the State plan, a State shall submit by May 1 preceding the fiscal year of operation, amendments to its State plan.

(b) The progress report required by this section shall be made available to the State job training coordinating council (established under section 122 of the Job Training Partnership Act), the State legislature and the general public at the same time it is submitted to the Secretary, and such report shall—

(1) describe and present evidence showing the progress made under the State plan toward achieving the goals set forth under section 111; and

(2) describe the problems encountered and the changes to be made in the goals and strategies approved in the State plan, together with the reasons therefor.

(c)(1) The progress report shall include dissenting or supplementary views submitted by the council on vocational-technical education, together with any comment the State board may choose to make.

(2) The Secretary shall approve, within sixty days of submission, the State plan amendments which meet the requirements of this section, unless such amendments propose changes that are inconsistent with the requirements and purposes of this Act. The Secretary shall not finally disapprove such amendments except after giving reasonable notice, an opportunity for a hearing to the State board, and technical assistance to bring the progress report into compliance with this Act.

PROGRAM EVALUATION

SEC. 122. (a) In order to assist local educational agencies and other eligible recipients receiving funds under this Act in planning and operating the best possible programs of vocational education, each State board during the three-year period of the State plan shall—

(1) arrange a program review each year of at least 20 per centum of the eligible recipients within the State receiving funds under this Act, which reviews shall be conducted by teams which include individuals who are engaged in the type of work for which students are being prepared and shall evaluate:

(A) the planning and content of the program;

(B) the curriculum, qualification of teachers and counselors, equipment, and instructional materials;

(C) the effect of the program on the subsequent work experience of graduates; and

(D) such other factors as are determined to affect program operation and relevance to labor market needs;

(2) gather and analyze data to determine the extent to which the vocational programs are achieving the goals set forth in the plan, and the extent to which eligible recipients are making progress toward the goals in the local plan and to achieve the purposes of this Act as set forth in section 101; and

(3) gather and analyze data relating to outcomes of programs assisted under this Act in terms of the extent to which program completers—

(A) find employment in occupations in which the skills acquired in vocational education programs are utilized or participate in further education;

(B) demonstrate knowledge and skills necessary and common to occupationally specific and nonoccupationally specific programs, including basic academic and technological competencies; and

(C) are considered by their employers to be well trained and prepared for employment as a result of their vocational education,

which data may be gathered by use of statistically valid samples.

(b) The Secretary shall assist States in evaluating the progress and effectiveness of vocational education in achieving the purposes of this Act, and activities designed to provide such assistance shall include—

(1) an analysis of State plans and of annual progress reports, and of the findings of evaluations conducted pursuant to subsection (a), with suggestions to State boards for improvements in planning or program operation;

(2) an information network in conjunction with the National Center on Research in Vocational Education on the results of research in vocational education, the operation of model or innovative programs, successful experiences in the planning, administration, and conduct of vocational education programs, advances in curriculum and instructional practices, and other information useful in the improvement of vocational education; and

(3) a series of longitudinal studies in conjunction with the National Center on Research in Vocational Education initiated every five years (beginning within six months after the enactment of this Act) to determine the outcomes of vocational education for a national sample of students.

(c) The Secretary shall submit a report every two years to the Congress on the status of vocational education in the Nation, including a summary of the program evaluations conducted pursuant to this section and conclusions drawn therefrom regarding progress toward meeting the goals and purposes of this Act, together with such recommendations as the Secretary may wish to make.

LOCAL PROGRESS REPORT AND AMENDMENTS TO LOCAL PLAN

SEC. 123. (a)(1) Each eligible recipient or group of recipients having an approved three-year plan under section 113 shall also submit to the State board an annual progress report, for the preceding fiscal year and proposed amendments to the local plan when needed, prepared with the active participation of its advisory council. Each such report shall—

(A) describe the progress made under the local plan toward meeting the needs identified, and in attaining the goals set forth, in the approved plan required by section 113(a);

(B) describe any problems encountered and changes in goals and strategies proposed to be made in its approved plan, and the reasons therefor;

(C) describe the findings of any program review conducted pursuant to section 122, and describe the measures to be taken to implement recommendations; and

(D) include a certification by the chair of the advisory council that the council has participated in formulating the report, together with such comments as the council or any member thereof may choose to make.

(2) The State board shall not approve funding for a local plan under this section for any year (after the initial year of funding under this Act) unless it finds that the amendments propose changes that are consistent with the purposes and requirements of the Act, and with the three-year State plan approved by the Secretary (including any amendments thereto), and after the first two years, unless the State board finds the recipient to be making steady progress toward its goal.

(d) The State board shall give reasonable notice and opportunity for a hearing to any eligible recipient which is dissatisfied with its final action with respect to approval of plans (or amendments thereto) or with respect to the allocation of funds under this Act.

TITLE II—STATE PROGRAMS

BASIC STATE GRANTS

SEC. 201. From the amount allotted to States for this part pursuant to section 403, the Secretary is authorized to make grants to States to assist them in carrying out vocational education programs, services, and activities carried out by State boards and eligible recipients to achieve the purposes of this Act, in accordance with the requirements of this part and parts A, B, and C of title I.

USE OF FUNDS

SEC. 202. (a) Grants to States under this part shall be used, in accordance with the State plan (and amendments to the plan) approved under section 111—

(1) to improve the quality of vocational education programs to meet the needs of the changing economy through strategies consistent with the priorities described in section 2(b); and

(2) to provide equal access to, and benefit from, vocational education programs for underserved groups of individuals and groups of individuals with special needs through strategies consistent with the priorities described in section 2(c).

(b)(1) Each State may transfer not to exceed 10 percent of its allotment made under section 403(a)(1) for the uses described in clause (2) of subsection (a).

(2) Each State may transfer not to exceed 10 percent of its allotment made under section 403(a)(2) for the uses described in clause (1) of subsection (a).

AUTHORIZED ACTIVITIES

SEC. 203. In carrying out the required uses of funds pursuant to section 202, authorized activities may include—

(1) designing and implementing new, improved, expanded, or intensified programs that respond to labor market demands and technological changes, including high technology programs involving an industry-education partnership;

(2) designing and implementing special programs and services for underserved and special needs populations (including adult workers in need of training and retraining, disadvantaged, handicapped, minorities, and women);

(3) designing and implementing postsecondary and adult vocational programs and related services for out-of-school youth and adults in need of training or retraining, whether employed or unemployed;

(4) strengthening the institutional base of vocational education in the State by modernizing curricula, providing up-to-date instructional equipment and materials, improving local and State planning, updating the skills of the instructional and guidance staff, and similar means;

(5) assigning personnel to work with employers and eligible recipients to insure programs are responsive to the labor market;

(6) making arrangements with private vocational training institutions, employers, and community-based organizations for vocational training whenever such private institutions can make a significant contribution to attaining the objectives of this Act, and can provide substantially equivalent preparation at a lesser cost, or can provide equipment or services not available in public institutions;

(7) designing and implementing planned sequential vocational education programs between the secondary and postsecondary levels;

(8) designing programs, training vocational instructors, and modernizing curricula to reach and apply the principles of mathematics, science, written and verbal communications, and technology related to the occupational goals of students;

(9) improving the qualifications of individuals serving or preparing to serve in vocational education programs, including teachers, administrators, supervisors, and vocational guidance and counseling personnel, including training or retraining teachers, supervisors, and trainers of teachers in new emerging occupations in high technology;

(10) prevocational programs and industrial arts programs to fulfill the purposes of this Act and the goals established in the State plan;

(11) vocational student organization activities carried out as an integral part of the instructional program to fulfill the purposes of this Act and the goals established in the State plan;

(12) placement services for students who have successfully completed vocational programs;

(13) entrepreneurship programs consistent with the purposes of this Act and the goals established in the State plan;

(14) special vocational education programs and support services which include—

(A) career education, guidance, and counseling;

(B) work-study programs;

(C) cooperative vocational education programs, onsite learning experiences, and apprenticeship programs;

(D) technical education;

(E) research programs;

(F) activities and personnel to overcome sex bias and stereotyping or to assist minorities in more successful participation on vocational training and job opportunities; and

(G) special exemplary and innovative programs to achieve the purposes of this Act and other support services;

(15) construction of, equipment for, and operation of residential vocational-technical schools for students at least 15 years old who require a residential facility to benefit from vocational education;

(16) construction of area vocational education school facilities;

(17) day care services for students' children in secondary and postsecondary programs;

(18) the cost, not to exceed 50 percent, of the administration and supervision of vocational education programs and services by eligible recipients and administration of the State plan;

(19) cost of planning, evaluating, and reporting required by the three-year local plan and the progress; and

(20) entering into consortia with other States where such efforts would result in cost savings and improved effectiveness of programs.

LIMITATION

SEC. 204. No funds may be used for activities described in clause (15), (16), or (17) of section 203 unless the State board determines that—

(1) it would be impossible, without expenditures for activities described in clause (15), (16), or (17), to carry out the purposes of this Act and the goals described in the State plan; and

(2) adequate funds are not available from other sources for such activities.

TITLE III—NATIONAL PROGRAMS

VOCATIONAL EDUCATION DATA SYSTEM

SEC. 301. (a) The Secretary shall maintain a national vocational education data system, using uniform definitions prescribed by the Secretary and using sampling techniques where possible, to ensure a simplified system. Any State receiving assistance under this Act shall cooperate with the Secretary in supplying information required to maintain and update such a system, and shall comply in its reports with the information elements and uniform definitions prescribed by the Secretary.

(b) In maintaining and updating this system, the Secretary shall endeavor to the fullest extent feasible to make the system compatible with the occupational information data system established pursuant to section 302, and with other systems developed or assisted under part E of title IV of the Job Training Partnership Act. The Secretary shall be responsible for the operation of the system and for updating the data annually.

(c)(1) In carrying out the responsibilities imposed by this section, the Secretary shall cooperate with the Secretary of Labor in implementing section 463 of the Job Training Partnership Act to ensure that the data system operated under this section is compatible with and complementary to other occupational supply and demand information systems developed or maintained with Federal assistance.

(2) The Secretary shall take such action as may be necessary to secure data at reasonable cost about individuals enrolled by program, program completers, placement and followup, staffing, and expenditures by major purposes of this Act.

OCCUPATIONAL INFORMATION DATA SYSTEM

SEC. 302. (a) There is hereby established a National Occupational Information Coordinating Committee which shall consist of the Assistant Secretary for Vocational and Adult Education and the Administrator of the National Center for Education Statistics of the Department of Education, the Commissioner of Labor Statistics and the Assistant Secretary for Employment and Training of the Department of Labor, the Undersecretary for Small Community and Rural Development of the Department of Agriculture, the Assistant Secretary for Economic Development of the Department of Commerce, and the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics). This Committee, with funds available to it under section 401(b)(2), shall provide funds, on an annual basis, to State occupational information coordinating committees and shall—

(1) in the use of program data and employment data, improve coordination and communication among administrators and planners of programs authorized by this Act and by the Job Training Partnership Act, employment security agency administrators, research personnel, and personnel of employment and training, planning and administering agencies at the Federal, State, and local levels;

(2) develop and implement, in cooperation with State and local agencies, an occupational information system to meet the common occupational information needs of vocational education programs and employment and training programs at the national, State, and local levels, which system shall include data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and standardized occupational classifications;

(3) conduct studies on the effects of technological change on new and existing occupational areas and the required changes in knowledge and job skills; and

(4) assist State occupational information coordinating committees established pursuant to subsection (b).

(b) Each State receiving assistance under this Act shall establish a State occupational information coordinating committee composed of representatives of the State board, the State employment security agency, the State economic development agency, the State job training coordinating council, and the agency administering programs under the Rehabilitation Act of 1973. This committee shall, with funds available to it from the National Occupational Information Coordinating Committee established pursuant to subsection (a), implement an occupational information system in the State designed to meet the needs for the planning and operation of programs of the State board assisted under this Act and of the administering agencies under the Job Training Partnership Act.

PRESIDENT'S COMMISSION ON VOCATIONAL-TECHNICAL EXCELLENCE

SEC. 303. (a) There is established the President's Commission on Vocational-Technical Education. The Commission shall consist of fifteen members appointed by the President, who shall serve at the pleasure of the President and for a 2-year term. The members of the Commission shall be individuals who are nationally prominent, at least eight of whom shall be representatives of the private sector of the economy, including individuals engaged in industry, agriculture, business, organized labor, and in high-technology fields. The remaining members shall be individuals with broad experience in education (including vocational education) and economic and human resources development, at least one of whom shall be a member of the National Commission for Employment Policy (established under part F of title IV of the Job Training Partnership Act). The chairperson of the Commission shall be selected by the President. A majority of the members of the Commission shall constitute a quorum (but a lesser number may conduct hearings on behalf of the Commission), and recommendations may be made, or other actions taken, only by a majority of the members present.

(b) The Commission shall—

(1) assess the occupational needs of the Nation with respect to occupations requiring less than a baccalaureate degree;

(2) identify ways to encourage a cooperative effort between the private sector of the economy and vocational-technical education;

(3) examine and evaluate the needs of vocational-technical education programs for updated equipment, curricula, competent staff, and other components necessary to prepare students and train and retrain workers for the workplace;

(4) examine the role of, and make recommendations for changes in, vocational education in the improvement of secondary education system, particularly as it relates to—

(A) opportunities for students in both academic and vocational programs to prepare for mid-level technical careers;

(B) opportunities for both academic and vocational students to develop and apply technological skills; and

(C) easing career planning and educational preparation for work, the secondary-to-postsecondary, and school-to-work transition.

(5) develop and make appropriate recommendations designed to meet the needs and goals described in clauses (1), (2), (3) and (4); and

(6) advise the President, the Congress, and the Secretary with respect to the implementation of this Act, the Job Training Partnership Act, and policies needed to expand and improve vocational-technical education programs in order to build a coordinated capacity to adequately prepare America's work force for employment.

(c) Subject to such rules and regulations as may be adopted by the Commission, the chairperson is authorized to—

(1) prescribe such rules and regulations as may be necessary for conducting the business of the Commission;

(2) appoint and fix the compensation of such personnel as the chairperson deems necessary, and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to the classification and General Schedule pay rates, appoint (with the concurrence of the Commission) a Director, who shall be the chief executive officer of the Commission and perform such duties as are prescribed by the chairperson, and not to exceed five additional professional personnel;

(3) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

(4) accept voluntary and uncompensated services of professional personnel, consultants, and experts, notwithstanding any other provision of the law;

(5) accept in the name of the United States and employ or dispose of gifts or bequests to carry out the functions of the Commission under this section;

(6) enter into contracts and grants and make such other arrangements and modifications, as may be necessary;

(7) conduct such hearings, studies, and research activities as the Commission deems necessary to enable it to carry out its functions under this section;

(8) use the services, personnel, facilities, and information of any department, agency, or instrumentality of the executive branch of the Federal Government and the services, personnel, facilities, and information of State and local public agencies and private agencies and organizations, with the consent of such agencies, with or without reimbursement therefor; and

(9) make advance, progress, and other payments necessary under this section without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529).

(d) Upon request made by the chairperson of the Commission, each department, agency, and instrumentality of the executive branch of the Federal Government is authorized and directed to make its services, personnel, facilities, and information available to the greatest practicable extent to the Commission in the performance of its functions under this section.

(e)(1) The Commission shall make a final report of its findings and recommendations to the President, the Congress, and the Secretary not later than 2 years after the first meeting of the Commission, and may make such interim reports and recommendations as it may deem desirable. The Commission may include in such reports its evaluation of the status, progress, and needs of vocational education (including recommendations for Federal legislation and appropriations), and such report or reports shall include any minority, dissenting, or supplementary views submitted by any member of the Commission.

(2) The Commission shall cease to exist 90 days after the submission of its final report.

NATIONAL CENTER FOR RESEARCH IN VOCATIONAL EDUCATION

SEC. 304. (a)(1) The National Center for Research in Vocational Education established pursuant to section 171(a)(2) of the Vocational Education Act of 1963 shall continue to be operated with funds made available under this Act.

(2) The Secretary shall provide support for the National Center through an annual grant for its operation. The National Center shall be a nonprofit entity associated with a public or private nonprofit university which has made, or which is prepared to make, a substantial financial contribution toward its establishment. The Secretary shall, on the basis of solicited applications, designate the entity to be the National Center once every five years, acting with the advice of a panel composed of individuals appointed by the Secretary who are not Federal employees and who are recognized nationally as experts in vocational education administration and research.

(3) The National Center shall have a Director, appointed by the university with which it is associated, who shall be assisted by the advisory committee established pursuant to section 306. The advisory committee shall advise the Director and the Secretary with respect to policy issues in the administration of the National Center and in the selection and conduct of major research and developmental projects and activities.

(b) The National Center shall have as its primary purposes the design and conduct of research and developmental projects and programs, including longitudinal studies, which extend over a period of years (with such supplementary and short-term activities through other grants and contracts as the Director may choose to undertake consistent with the purpose of this Act). Such projects, programs, and activities shall be conducted by the National Center directly and through subcontracts (subject to the availability of appropriations therefor) with other public agencies and public or private institutions of higher education. The National Center shall—

(1) conduct applied research and development on problems of national significance in vocational education at the secondary, postsecondary, and adult levels;

(2) provide leadership development through an advanced study center and inservice education activities for State and local leaders in vocational education;

(3) disseminate the results of the research and development projects funded by the Center;

(4) develop and provide information to facilitate national planning and policy development in vocational education;

(5) act as a clearinghouse for information on contracts or grants made by the States to carry out research, curriculum, and personnel development activities and on contracts or grants made by the Secretary pursuant to this title; and

(6) work with States, local educational agencies, and other public agencies in developing methods of planning and evaluating programs, including the followup studies of individuals who complete the program, as required by section 422, so that such agencies can offer vocational education programs which are more closely related to the types of jobs available in their communities, States, and regions.

FUND FOR THE IMPROVEMENT OF VOCATIONAL EDUCATION

SEC. 305. (a) The Secretary is authorized to make grants to States, public and private nonprofit organizations, secondary and postsecondary education institutions (including combinations of such institutions), and other public and private educational institutions and agencies to improve vocational education and technical education by providing assistance for—

(1) improving the quality of vocational education through innovative industry-education partner-programs, technical education, and other programs to train skilled workers and technicians for high-technology occupations;

(2) the creation of institutions and programs involving new paths to career and vocational training, and new combinations of academic and experiential learning with vocational education;

(3) the expansion and improvement of vocational education programs for adults who have been dislocated from industries, who are entering or reentering the work force, or who require training, retraining, or upgrading their skills;

(4) programs improving access to quality vocational education and employment opportunities for youth with special needs, including minorities, young people who are economically or educationally disadvantaged, who lack proficiency in English, or who are handicapped;

(5) improving the quality of secondary education through innovative linkages between academic and vocational programs to prepare students for technical careers, to permit both academic and vocational students to develop and apply technological skills, and to ease career planning and educational preparation for work, the secondary-to-postsecondary, and school-to-work transition; and

(6) improving the quality and equity of vocational education programs through the creation and development of new and expanded curricula or advanced training programs for vocational administrators and instructors.

(b)(1) Any grant or contract under this section to an entity that is an eligible recipient of funds under title II of this Act shall be submitted to the appropriate State board for review, comment, and recommendations, which shall be forwarded to the Secretary.

(2) The Advisory Committee on Research and Program Improvement established under section 306 will advise the Director and the Secretary on the award of grants under this section.

(c) The Fund shall have a Director appointed by the Secretary.

ADVISORY COMMITTEE ON RESEARCH AND PROGRAM IMPROVEMENT

SEC. 306. (a) The Secretary shall appoint an advisory committee on research and program improvement—

(1) to advise the Secretary on the selection and management of programs funded under this title,

(2) to advise the Secretary and the Director of the National Center for Research in Vocational Education and the Director of the Fund for Improvement of Vocational Education with respect to policy issues in the administration of the National Center and in the selection and conduct of research and demonstration projects and activities by the National Center, and

(3) to advise the fund for the improvement of vocational education.

(b) The advisory committee shall consist of not more than ten members, who shall not be employees of the Federal Government and who shall include—

(1) a member designated by the university with which the National Center is associated;

(2) members selected from individuals nominated by national organizations representing State and local administrators and teachers;

(3) one member who is an individual recognized nationally for work in the field of vocational education research;

(4) one member who is the owner or chief executive officer of, or has major managerial responsibilities in, a private business concern which employs skilled workers and technicians in high-technology occupations;

(5) one member who is an individual recognized nationally for work in the field of labor market economics;

(6) one member who is recognized nationally for work in curriculum in vocational education; and

(7) one member who represents labor organizations.

(c) The advisory committee established pursuant to this section shall meet at least three times annually, and at the call of the Secretary, including at least one meeting held at the site of the National Center and concerned primarily with its program and operation.

TITLE IV—GENERAL PROVISIONS, AUTHORIZATIONS, AND ALLOTMENTS

PART A—AUTHORIZATION AND ALLOTMENTS

AUTHORIZATION OF APPROPRIATIONS

SEC. 401. (a)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 202(a)(1) for the fiscal year 1985 and for each of the succeeding fiscal years ending prior to October 1, 1991.

(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 202(a)(2) for the fiscal year 1985 and for each of the succeeding fiscal years ending prior to October 1, 1991.

(3) There are authorized to be appropriated $10,000,000 for the fiscal year 1985, and for each of the succeeding fiscal years ending prior to October 1, 1991, to carry out the provisions of title I.

(4) The amount approriated in each fiscal year pursuant to paragraphs (1) and (2) of subsection (a) shall be substantially equal.

(b)(1) There are authorized to be appropriated for the fiscal year 1985 and each of the succeeding fiscal years ending prior to October 1, 1991, such sums as may be necessary to carry out the provisions of title III, except for sections 302, 303, and 305.

(2) There are authorized to be appropriated $5,000,000 for the fiscal year 1985 and for each of the succeeding fiscal years ending prior to October 1, 1991, to carry out the provisions of section 302, relating to the Occupational Information Data System.

(3) There are authorized to be appropriated $500,000 for each of the fiscal years 1985 and 1986 to carry out the provision of section 303, relating to the President's Commission on Vocational-Technical Education.

(4) There are authorized to be appropriated $25,000,000 for the fiscal year 1985, $30,000,000 for the fiscal year 1986, and $35,000,000 for the fiscal year 1987 and for each of the succeeding fiscal years ending prior to October 1, 1991 to carry out the provisions of section 305, relating to the fund for the improvement of vocational education.

REQUIREMENTS FOR RECEIPT OF ALLOTMENT

SEC. 402. In order to receive any allotment under section 403, a State shall—

(1) establish a State board and a State council in accordance with part A of title IV;

(2) have an approved State plan and an approved State application under part B of such title; and

(3) not have failed to comply with part C of such title and with the other provisions of this Act.

ALLOTMENT

SEC. 403. (a)(1) From the sums appropriated pursuant to paragraphs (1), (2), and (3) of section 401(a) for each fiscal year the Secretary shall reserve 2 per centum for the purpose of subsection (d).

(2) Subject to the provisions of paragraph (3), from the remainder of the sums appropriated pursuant to paragraphs (1), (2), and (3) of section 401(a), the Secretary shall allot to each State for each fiscal year—

(A) an amount which bears the same ratio to 50 per centum of the sums being allotted as the product of the population aged fifteen to nineteen inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount which bears the same ratio to 20 per centum of the sums being allotted as the product of the population aged twenty to twenty-four, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount which bears the same ratio to 15 per centum of the sums being allotted as the product of the population aged twenty-five to sixty-five, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount which bears the same ratio to 15 per centum of the sums being allotted as the amounts allotted to the State under clauses (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under clauses (A), (B), and (C) for such year.

(3)(A) If the sum of any State's allotments under subsection (a) for any fiscal year which is less than $200,000, each of such State's allotments shall be ratably increased to the extent necessary to increase such sum to $200,000. The total of the increases thereby required shall be obtained by proportionally reducing the allotments to each of the remaining States, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than $200,000.

(B) Notwithstanding any other provision of this section, the sum of any State's allotments under this section for any fiscal year shall not be less than the total amount of payments made to the State under allotments determined under the Vocational Education Act of 1963 for fiscal year 1983. Any amounts necessary for increasing the sum of the allotments of certain States to comply with the preceding sentence shall be obtained by ratably reducing the sums of the allotments of the other States, but no such sum shall be thereby reduced to an amount which is less than the total amount of payments made to the State under allotments determined under the Vocational Education Act of 1963 for fiscal year 1983.

(4) The Secretary shall furnish to each State the amount of its allotment attributable to sums appropriated pursuant to section 401(a)(1), 401(a)(2), and 401(a)(3), separately, in each fiscal year.

(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year for carrying out the program for which such amount has been allotted shall be available, from time to time, for reallotment, on such dates during such year as the Secretary shall fix, on the basis of criteria established by regulation, among other States. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the next succeeding fiscal year and shall be deemed to be part of its allotment for the year in which it is obligated.

(c)(1) The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), except that (i) the allotment ratio in no case shall be more than 0.60 or less than 0.40 and (ii) the allotment ratio for Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be 0.60.

(2) The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the three most recent consecutive fiscal years for which satisfactory data are available.

(3) The term "per capita income" means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department.

(d)(1) For purposes of this section, the term "Act of April 16, 1934" means the Act entitled "An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452-457).

(2)(A) From the funds reserved pursuant to subsection (a)(1), the Secretary is directed, upon the request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, to enter into a contract or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the purposes of this Act, except that such contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this sentence. From any remaining funds reserved pursuant to subsection (a)(1), the Secretary is authorized to enter into an agreement with the Secretary of the Bureau of Indian Affairs for the operation of vocational education programs authorized by this Act in institutions serving Indians described in division (i) of this subparagraph (B), and the Secretary of the Interior is authorized to receive these funds for those purposes.

(B) For the purposes of this Act, the Bureau of Indian Affairs shall be deemed to be a State board; and all the provisions of this Act shall be applicable to the Bureau as if it were a State board.

Part B—Federal Administrative Responsibilities

ADMINISTRATIVE COSTS, PAYMENTS, MAINTENANCE OF EFFORT

Sec. 411. (a) The Secretary shall pay to each State, for any fiscal year for which such State has a State plan approved in accordance with section 111 or an update and progress report approved in accordance with section 121(c), the amount of its allotment or allotments under section 403 from appropriations made to carry out this Act, except that from such allotment—

(1) a State shall not expend for the cost of State administration of the State plan an amount in excess of 50 per centum of such cost; and

(2) payments by the State to eligible recipients (in accordance with plans approved under section 113) for the costs of administration of vocational education programs shall not exceed 50 per centum of such cost.

(b)(1) Payments for any fiscal year under this Act to a State shall be reduced in accordance with paragraph (2) unless the Secretary finds that the fiscal effort per student, or the aggregate expenditures for vocational education, in that State for the fiscal year preceding the fiscal year for which the determination was made was not less than 90 per centum of such fiscal effort per student or the aggregate expenditures for vocational education for the second preceding fiscal year.

(2) The Secretary shall reduce the amount of the payment of funds under this Act, to which the State otherwise would have been entitled under its allocation, in the exact proportion to which a State fails to meet the requirements of paragraph (1) by falling below 90 per centum of both the fiscal effort per student and the aggregate expenditures for vocational education (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) subsequent years.

(3) The Secretary may waive the requirements of this subsection for one fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources.

WITHHOLDING OF FUNDS; JUDICIAL REVIEW

Sec. 412. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State board, finds that—

(1) the State plan or update approved under section 111(f) or section 121(c) has been so changed that it no longer complies with the provisions of this Act; or

(2) in the administration of the State plan or of programs conducted pursuant to it there is a failure to comply substantially with any such provision,

the Secretary shall notify such State board that no further payments will be made to the State under this Act (or, further payments to the State will be limited to programs under or portions of the State plan not affected by such failure) until satisfied that there will no longer be any failure to comply. Until so satisfied, the Secretary shall make no further payments to such State under this Act (or shall limit payments to programs under, or portions of, the State plan not affected by such failure).

(b) A State board which is dissatisfied with a final action of the Secretary under this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which action is based, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set aside such action, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his action. The findings of the Secretary as to the facts, if supported by the weight of evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by the weight of evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall, unless specifically ordered otherwise by the court, operate as a stay of the Secretary's action.

(c)(1) If any eligible recipient is dissatisfied with the final action of the State board or other appropriate State administering agency with respect to approval of its local plan, such eligible recipient may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the State board or other appropriate State administering agency. The State board or such other agency thereupon shall file in the court the record of the proceeding on which the State board or such other agency based its action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the State board or other appropriate administering agency, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the State board or such other agency to take further evidence, and the State board or such other agency may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings.

(3) The court shall have jurisdiction to affirm the action of the State board or other appropriate administering agency or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari certification as provided in section 1254 of title 28, United States Code.

(d)(1) The Secretary shall prescribe and implement rules to assure that any hearing conducted under section 434(c) of the General Education Provisions Act in connection with funds made available from appropriations under this Act shall be held within the State of the affected unit of local government or geographic area within the State.

(2) For the purposes of paragraph (1)—

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

Part C—Transitional and Conforming Provisions

EFFECTIVE DATE

Sec. 421. (a) This Act shall take effect for fiscal years beginning on or after October 1, 1984, except that the authority of the Secretary to prescribe regulations under this Act and the responsibility of States to submit State plans are effective upon the date of enactment of this Act.

(b) Not later than 90 days after the date of the enactment of this Act, the Secretary shall prescribe regulations for carrying out the provisions of this Act.

TRANSITION PROVISIONS

Sec. 422. (a) Each State and eligible recipient of financial assistance under this Act, or under the Vocational Education Act of 1963, may expend funds received under this Act or under the Vocational Education Act of 1963 to—

(1) conduct planning for any program or activity authorized under this Act; and

(2) conduct any other activity deemed necessary by the recipient to provide for an orderly transition to the operation of programs under this Act.

(b) On the effective date of this Act, the personnel, property, and records of the National Occupational Information Coordinating Committee established under section 161(b) of the Vocational Education Act of 1963 shall be transferred to the National

Occupational Information Coordinating Committee established pursuant to section 421 of this Act.

CONFORMING AMENDMENTS

Sec. 423. (a) The Vocational Education Act of 1963 is repealed.

(b)(1) Section 4 of the Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(A) by striking out "section 195(10) of the Vocational Education Act of 1963" in paragraph (14) and inserting in lieu thereof "section 431(13) of the Vocational-Technical Education Quality and Equity Act of 1984";

(B) by striking out "section 195(11) of the Vocational Education Act of 1963" in paragraph (23) and inserting in lieu thereof "section 1201(h) of the Higher Education Act of 1965"; and

(C) by striking out "section 195(1) of the Vocational Education Act of 1963" in paragraph (28) and inserting in lieu thereof "section 403(26) of the Vocational-Technical Education Quality and Equity Act of 1984".

(2) Section 122 of such Act is amended—

(A) by striking out paragraph (8) of subsection (a); and

(B) by striking out "section 105(d)(3) of the Vocational Education Act of 1963" in subsection (b)(7)(B) and inserting in lieu thereof "section 102(e) of the Vocational-Technical Education Quality and Equity Act of 1984".

(3) Section 125(b)(1) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational-Technical Education Quality and Equity Act of 1984".

(4) Section 427(a)(1) of such Act is amended by striking out "section 104(a)(1) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 101(a)(1) of the Vocational-Technical Education Quality and Equity Act of 1984".

(5) Section 461(c) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational-Technical Education Quality and Equity Act of 1984".

(6)(A) Section 463(a) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 302 of the Vocational-Technical Education Quality and Equity Act of 1984".

(B) Section 464(a)(1) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 302 of the Vocational-Technical Education Quality and Equity Act of 1984".

(C) Section 464(c) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 302 of the Vocational-Technical Education Quality and Equity Act of 1984".

(D) Section 463(a) of such Act is amended by striking out "section 161(b) of the Vocational Education Act of 1963" and inserting in lieu thereof "section 302 of the Vocational-Technical Education Quality and Equity Act of 1984".

(E) Section 464(b) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational-Technical Education Quality and Equity Act of 1984".

(7) Section 472 of such Act is amended by striking out "National Advisory Council on Vocational Education (established under section 162 of the Vocational Education Act of 1963)" in subsection (a) and inserting in lieu thereof "President's Commission on Vocational-Technical Excellence, established under section 303 of the Vocational-Technical Education Quality and Equity Act of 1984".

(8) Section 473 of such Act is amended—

(A) by striking out "National Advisory Council on Vocational Education" in paragraph (7)(A) and each place it appears in paragraph (7)(B) and inserting in lieu thereof "President's Commission on Vocational-Technical Excellence, established under section 303 of the Vocational-Technical Education Quality and Equity Act of 1984"; and

(B) by striking out "section 162 of the Vocational Education Act of 1963" and inserting in lieu thereof "President's Commission on Vocational-Technical Excellence, established under section 303 of the Vocational-Technical Education Quality and Equity Act of 1984".

(c) Section 703(a)(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3223(a)(8)) is amended by striking out "section 122(a)(4) and part J of the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational-Technical Education Quality and Equity Act of 1984".

(d)(1) Section 113(d) of the Higher Education Act of 1965 (20 U.S.C. 1013(d)) is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational-Technical Education Quality and Equity Act of 1984".

(2) Section 114(b) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational-Technical Education Quality and Equity Act of 1984".

(3) Section 1022(a) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational-Technical Education Quality and Equity Act of 1984".

(e)(1) Section 305(b)(11) of the Adult Education Act (20 U.S.C. 1205(b)(11)) is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational-Technical Education Quality and Equity Act of 1984".

(2) Section 318(a)(4) such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational-Technical Education Quality and Equity Act of 1984".

(f)(1) Section 113(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking out "the Vocational Education Act of 1963 (77 Stat. 403)" and inserting in lieu thereof "the Vocational-Technical Education Quality and Equity Act of 1984".

(2) Section 114(c) of such Act is amended by striking out "the Vocational Education Act of 1963" and inserting in lieu thereof "the Vocational-Technical Education Quality and Equity Act of 1984".

(g) Section 101(a)(11) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)) is amended by striking out "the Vocational Education Act" and inserting in lieu thereof "the Vocational-Technical Education Quality and Equity Act of 1984.".

(h) Section 104 of the Vocational Education Amendments of 1968 is amended by striking out "section 102(a) of this Act (as such Act will be in effect on October 1, 1977)" and inserting in lieu thereof "section 3 of the Vocational-Technical Education Quality and Equity Act of 1984".

PART D—DEFINITION OF TERMS

DEFINITIONS

Sec. 431. As used in this Act:

(1) The term "administration" means activities of a State necessary for the proper and efficient performance of its duties under this Act, including supervision, but not including ancillary services.

(2) The term "area vocational education school" means—

(A) a specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market,

(B) the department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market,

(C) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market, or

(D) the department or division of a junior college or community college or university operating under the policies of the State board and which provides vocational education in no less than five different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if it is available to all residents of the State or an area of the State designated and approved by the State board, and if, in the case of a school, department, or division described in (C) or (D), if it admits as regular students both persons who have completed high school and persons who have left high school.

(3) The term "career guidance and counseling" means those programs (A) which pertain to the body of subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decisionmaking, placement skills, and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities, and (B) which assist them in making and implementing informed educational and occupational choices.

(4) The term "community-based organization" means any such organization described in section 4(5) of the Job Training Partnership Act.

(5) The term "construction" includes construction of new buildings and acquisition, and expansion, remodeling, and alteration of existing buildings, and includes site grading and improvement and architect fees.

(6) The term "cooperative education" means a program of vocational education for individuals who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field, but the two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

(7) The term "curriculum materials" means materials consisting of a series of courses to cover instruction in any occupational field which are designed to prepare persons for employment at the entry level or to upgrade occupational competencies of

those previously or presently employed in any occupational field.

(8) The term "disadvantaged" means individuals (other than handicapped individuals) who have economic disadvantages and who require special services and assistance in order to enable them to succeed in vocational education programs.

(9) The term "eligible recipient" means a local educational agency or a postsecondary educational institution, and for the purpose of carrying out section 203(6) includes a community-based organization.

(10) The term "general purpose business organizations" means organizations which admit to membership any for-profit business operating within the State or an area of the State.

(11) The term "handicapped", when applied to individuals, means individuals who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons, or persons with specific learning disabilities, who by reason thereof require special education and related services, and who, because of their handicapping condition, cannot succeed in the regular vocational education program without special education assistance or who require a modified vocational education program.

(12) The term "industrial arts education programs" means those education programs (A) which pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and related courses, including learning experiences involving activities such as experimenting, designing, constructing, evaluating, and using tools, machines, materials, and processes, and (B) which assist individuals in the making of informed and meaningful occupation choices or which prepare them for entry into advanced trade and industrial or technical education programs.

(13) The term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program.

(14) The term "low-income family or individual" means such families or individuals who are determined by the Secretary to be low-income according to the latest available data from the Department of Commerce.

(15) The term "National Center" means the National Center for Research in Vocational Education.

(16) The term "postsecondary educational institution" means a nonprofit institution legally authorized to provide postsecondary education within a State for persons sixteen years of age or older, who have graduated from or left elementary or secondary school.

(17) The term "private vocational training institution" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (A) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (B) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (C) has been in existence for two years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and (D) is accredited (i) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this clause, or (ii) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this clause, or (iii) if the Secretary determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards. For the purpose of this paragraph, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

(18) The term "school facilities" means classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed. Such term shall not include any facility intended primarily for events for which admission is to be charged to the general public.

(19) The term "Secretary" means the Secretary of Education.

(20) The term "small business" means for-profit enterprises employing five hundred or fewer employees.

(21) The term "State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(22) The term "State board" means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

(23) The term "State council" means the advisory council on vocational-technical education established in accordance with section 102.

(24) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary or secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(25) The term "technical education" means a program that prepares an individual at the technical or specialist level in specialized fields of technology in the physical, related engineering, biological, and social sciences; and prepares individuals to be support personnel for professional scientists, engineers, physicians, or to be technical managers, and supervise skilled or unskilled workers in their occupational area.

(26) The term "vocational education" means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree; and, for purposes of this paragraph, the term "organized education program" means only (A) instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training, and (B) the acquisition, maintenance, and repair of instructional supplies, teaching aids and equipment; and the term "vocational education" does not mean the construction, acquisition or initial equipment of buildings, or the acquisition or rental of land.

Mr. DOMENICI. Mr. President, I truly believe that this year we should reauthorize vocational education. It is very important to our country. It has had a marvelously beneficial effect. I think the ideas contained in this bill—State flexibility and maximum access to vocational education, while we upgrade its quality, are absolutely essential. I hope that our ideas will be given consideration as the committee moves through the process. We will do our share to help them. They have a difficult job this year, but we will attempt to be helpful. In no way is this intended on the part of the Senator from Florida and the Senator from New Mexico to be anything but that.

Mr. EXON. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. EXON. I thank my friend from New Mexico.

Mr. President, I wish to compliment the excellent statements that I have heard from the chairman of the Budget Committee and the ranking minority member on vocational education.

I wish to add my voice of support to the excellent remarks that they have made and I hope that the bill as introduced can go forward as quickly as possible.

EXPORT ADMINISTRATION ACT AMENDMENTS

The Senate continued with the consideration of the bill (S. 979).

Mr. HUMPHREY. Mr. President, what is the parliamentary situation? Is the bill now open to amendment?

The PRESIDING OFFICER. The bill, S. 979, is open to amendment.

AMENDMENT NO. 2747

(Purpose: To restrict further the export or retransfer of certain nuclear components, items, or substances)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Hampshire (Mr. Humphrey), for himself, Mr. Roth, Mr. Hatfield, Mr. Proxmire, Mrs. Kassebaum, Mr. Levin, Mr. Hart, Mr. Danforth, Mr. Glenn, Mr. Boschwitz, Mr. Bingaman, Mr. Bumpers, Mr. Heflin, Mr. Riegle, Mr. Jepsen, Mrs. Hawkins, Mr. Leahy, and Mr. Cohen proposes an amendment numbered 2747.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 53, add the following:

RESTRICTIONS ON THE EXPORT OR RETRANSFER OF CERTAIN NUCLEAR COMPONENTS

SEC. 19. Notwithstanding any other provision of law, the United States Nuclear Regulatory Commission shall not license for export, and the Secretary of Energy shall not approve the retransfer of, any nuclear component, item, or substance which the Commission has determined, under section 109 of the Atomic Energy Act of 1954, to be especially relevant from the standpoint of export control because of its significance for nuclear explosive purposes if such export or retransfer is to any non-nuclear-weapon state, within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow on July 1, 1968), unless such state maintains International Atomic Energy Agency safeguards on all of its nuclear facilities and such export or retransfer is under the terms of an agreement for cooperation arranged pursuant to section 123 of such Act, except that—

(1) the prohibition contained in this section shall not apply beginning on a date 60 days after the President—

(A) determines and so states in an Executive Order that withholding the export or retransfer of such component, item, or substance would be seriously prejudicial to the national security of the United States; and

(B) submits to the Congress a report setting forth such determination, together with his reasons therefor; and

(2) nothing in this section shall preclude the licensing for export or the approval of retransfer of graphite contained in fabricated non-nuclear commercial products or up to 25 kilograms of heavy water per year to any country for medical or non-nuclear enduses.

Mr. **HUMPHREY**. Mr. President, the underlying concern we have is the concern which everyone shares over the proliferation of military nuclear technology, that is, nuclear weapons, beyond the nations which presently possess them.

There has been a great deal of talk and debate in this country in recent years about the possibility of nuclear catastrophe between the superpowers. That is not a concern to be lightly dismissed. But at the same time it seems to this Senator at least that far too little attention has been paid to what is perhaps the greater risk of nuclear catastrophe, and that is through the proliferation of nuclear weapons to Third World and other nations, such as Libya, for instance.

The amendment that Senator ROTH, our cosponsors, and I are offering this afternoon will close a loophole which presently exists in U.S. statute with regard to the export of a certain category of nuclear equipment and materials which are classified by the Nuclear Regulatory Commission as "significant for nuclear explosive purposes."

Mr. President, I would characterize the present U.S. policy regarding export of nuclear technology which is convertible to military use as a two-tiered policy.

At the top we have the major items such as nuclear reactors and their fuels. We simply do not export or license for export or approve the retransfer of any of these major items to nations which are not signatories of the Nuclear Nonproliferation Treaty. We simply do not do it.

Just below that category of major items, if you will, is this next category which the Nuclear Regulatory Commission classifies as significant for nuclear explosive purposes. This is a specified and specific list of components that can have a military use, and that is why they are classified in that fashion.

What is our policy in regard to this second category of equipment and technology and materials? We have no statutory policy, no policy in statute. We can export, license for export, and approve the retransfer of this category significant for nuclear explosive purposes to nations which are not signatories of the Nuclear Nonproliferation Treaty.

It happens that our country has maintained a policy for some years of not exporting this category of materials and equipment to nonsignatory nations, but that policy is only informal and is not statutory, and at bottom line, what we seek to do here today is to make statute and permanent that policy.

Let me say in the same breath that our language contains a provision which will permit the President to override this statutory stricture in the event he finds that in the national security interest to do so.

So we are by no means placing a straitjacket on this administration or on any future administration in cases where it thinks the national security to be an overriding interest.

Mr. President, unfortunately, the State Department opposes this amendment, and I will let others argue in detail that position. But, as I understand the State Department's position, they object to the Humphrey-Roth amendment on the grounds that it might undermine certain negotiations which are underway with nonsignatory nations. And, as I understand those negotiations, their purpose is to encourage and in fact require these nonsignatory nations to open to international inspection the facility which would use the material or the equipment exported to that nation.

At first glance, this sounds like a pretty good idea, but what it constitutes really, when you look at it in perspective, is an attempt by the United States to arrange bilateral deals, if you will, outside of the Nuclear Nonproliferation Treaty. That alone, that it is outside of the treaty, that it would be bilateral in nature—these agreements would be bilaterial in nature between the United States and other countries—is reason enough to reject the State Department's point of view.

After all, is this not U.S. policy, to not only embrace but to promote the Nuclear Nonproliferation Treaty? Is it not antithetical to that policy to be encouraging bilateral ad hoc arrangements and agreements with nations which refuse to sign the treaty? Are they not more likely to continue to refuse the treaty if we are willing to arrange special bilateral deals with them?

I think the question answers itself.

So, as a matter of nuclear nonproliferation policy, it seems to me that to promote separate agreements outside of the treaty will simply encourage nations to continue to refuse to sign the treaty itself.

Furthermore, there is the whole issue of whether we should be engaged in this kind of business, the selling of materials and equipment to nations which are not signatories—materials and equipment which are classified by the Nuclear Regulatory Commission as significant for nuclear explosive purposes. In my view, we should not be engaged in that commerce under any circumstance and what is certain is that we can never prevail upon our allies and other nations to disengage from that line of business if we ourselves are promoting deals on the side and if we ourselves are not above reproach.

So I suggest to my colleagues that the point of view expressed by the State Department is not weighty and is not valid in the view of this Senator.

We hear it always over and over again, it seems to me, whenever anyone undertakes an initiative, the argument is always created and proposed that, wait just a moment, do not do what you propose to do because we have something better cooking. We have heard it many, many times over and over again. Do not do what you propose to do because really we have something better that we are working on and if you do what you propose to do, then you are going to impede progress.

It is an argument that we have seen over and over again. It is a poor argument because in the end, more often than not, nothing happens. The Member who proposes an initiative withholds and forbears and in the end, nothing comes of it on either end.

So I suggest it is an old argument, the argument that there is something better coming if we just wait a little while.

Mr. President, there is no need to say a great deal on this subject. It is a subject of familiarity to all of the Members, I think.

Let me just reiterate: the point of the amendment is to further close the door by statute to the nuclear weapons club. The sponsors of this amendment seek to forbid commerce, forbid export, licensing for export, and the retransfer of materials and equipment which are classified by the NRC as significant for nuclear explosive purposes.

We are not talking about inconsequential items. We are not talking about things that have only a peaceful use. We are talking about things which, clearly by the designation of the NRC itself, have a military potential, and that is why they are classified as significant for nuclear explosive purposes.

Mr. President, I believe that this amendment is significant and I believe that we should have a rollcall vote on it and I would at this point then ask for the yeas and nays on the amendment.

Mr. BOSCHWITZ addressed the Chair.

Mr. PROXMIRE. Mr. President, will the Senator from New Hampshire yield?

The PRESIDING OFFICER. Is the Senator requesting the yeas and nays?

Mr. HUMPHREY. I do not wish to rush anyone, Mr. President.

I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I wish to make a brief statement.

I apologize to the Senator from Minnesota who wishes to speak.

I wish to make a brief statement in support of the Humphrey amendment as long as it is pending. I have a short statement. If the Senator from Minnesota will permit, I shall make a 3- or 4-minute statement supporting the Senator from New Hampshire.

Mr. BOSCHWITZ. All right.

Mr. PROXMIRE. Mr. President, I rise in support of the amendment offered by Senator Humphrey. I cosponsor that amendment.

That amendment is extraordinarily important because in the judgment of this Senator the greatest problem to avoidance of nuclear war is the threat of nuclear proliferation.

We have a deterrent which I think is believable and effective and is very likely to prevent the Soviet Union from engaging in a strike against this country. Certainly a preemptive strike would be suicidal for both countries.

On the other hand, the proliferation of nuclear weapons means that the prospect of nuclear war arising in some other way by a third country initiating a nuclear war in some part of the world is very considerable and represents, in my judgment, the greatest threat that we face. This amendment strengthens our nonproliferation efforts.

Currently sections 127 and 128 of the Atomic Energy Act prohibit the Nuclear Regulatory Commission from licensing the export of: First, complete reactors; second, complete reprocessing and enrichment plants; and third, special nuclear materials—that is, enriched uranium, plutonium, and nuclear byproducts—to nonnuclear weapons states as defined by the Nuclear Nonproliferation Treaty, such prohibitions remain in effect unless and until the country in question places all of its nuclear facilities under International Atomic Energy Agency (IAEA) safeguards (sometimes referred to as full-scope safeguards or inspection).

Other U.S.-origin components and certain materials for the nuclear facilities, however, can be licensed for export or retransferred to nonnuclear weapons states under existing law so long as the U.S. Government secures assurances from the country that these components or materials will be used in a specific facility that is safeguarded and that the components or materials will not be used to help develop a nuclear explosive. This means that there is no requirement that a nonweapons nation have all of its facilities under IAEA safeguards before the NRC can approve the export of nuclear components or materials crucial to the operation of a reactor, enrichment plant, or a reprocessing plant or consent to their retransfer.

The present amendment, the Humphrey amendment, would remedy this. It would prohibit NRC from approving the licensing of the export of such components or materials, or the Department of Energy from consenting to their retransfer to nonnuclear weapons states, as defined by the Nuclear Nonproliferation Treaty unless they maintain IAEA safeguards on all of their nuclear facilities and have entered into an agreement for nuclear cooperation with the United States.

The amendment explicitly provides the President with authority to overrule the Department of Energy or NRC if he believes that the export or retransfer is essential for national security purposes.

Mr. President, this is a good amendment. As I say, I cannot think of a more serious, more grave, more important issue than this issue of preventing nuclear war. I think that every thoughtful person recognizes, even if they do not agree with me, that it is the most likely cause of nuclear war, must certainly agree that proliferation makes such a war more likely. For that reason, I am very hopeful that Members of the Senate will support the Humphrey amendment. Certainly in voting for it, we are voting to reduce the danger of nuclear proliferation and voting for a better opportunity for this Nation and, for that matter, mankind to survive.

I think it is extraordinarily important. I congratulate my friend from New Hampshire for offering the amendment.

Several Senators addressed the Chair.

Mr. HUMPHREY. Mr. President, who has the floor?

The PRESIDING OFFICER. The floor is available.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, if the Senator from New Hampshire has a question, I would yield for a question or a comment to the Senator.

Mr. HUMPHREY. I believe Senator Roth has a statement he wishes to make.

Mr. ROTH. Mr. President, I am always deeply disturbed to learn of any projected sale of U.S. nuclear supplies which conceivably, could accelerate the international proliferation of nuclear weaponry.

Traditionally, the State Department has sought to justify controversial nuclear sales on three separate grounds. First, we are told that such sales induce good will toward the United States on the part of the recipient nation. Second, such sales, supposedly, encourage recipient nations to open their nuclear facilities to full-scope international inspection where, previously, they had refused to do so. Third, we are assured that, should the United States refuse to freely sell these nuclear items, some other power will.

I am quite certain that the above arguments are made in all sincerity. Nevertheless, I must disagree with all of them. First, I do not believe that the sale of weapons-significant nuclear supplies does add to the number of America's friends in the world. We must recognize that true friendship is based upon a commonly perceived community of goals and interests. True national friendships cannot be bought. No number of preferential agreements, no bending of U.S. law will serve to win over nations which habitually express their hostility to U.S. international policies. On the contrary, U.S. attempts to cajole foreign nations into its camp by offering them controversial nuclear supplies serves only to breed contempt for the donor on the part of the recipient.

Second, I would point out that we have yet to witness a single example of a nation opening its nuclear facilities to full-scope inspection in response to receiving U.S. nuclear exports. We should ask ourselves a very simple question—why do countries choose to hide their nuclear facilities from international scrutiny? Does Argentina or India sincerely believe that it boasts a level of nuclear technology which could vaguely interest prying American or European eyes? No, we can rest assured that, in the vast majority of cases, facilities are barred from inspection for one reason only, to disguise the owner's ultimate ambition to manufacture nuclear weapons. Until that fundamental ambition is abandoned, no amount of U.S. persuasion or propitiation will serve to open up those facilities.

To those who assert, "If we do not, somebody else will," I would reply that, in this field, the United States bears a particular moral responsibility. We must never allow ourselves to forget that, potentially, we are discussing weapons of awesome destructive power, capable of causing the suffering and death of millions. With the stakes so high, we cannot allow ourselves to discuss the export of nuclear material as if this could be equated with regular farm or industrial exports.

Let us make no mistake, each export of weapons-significant nuclear material heightens the danger of nuclear war in the Third World. It seems strange to me that, while we almost daily wrestle with the problem of how to avoid nuclear confrontation with the Soviet Union, we consistently fail to recognize the danger of such a conflict occurring elsewhere in the world.

As the advocates of the nuclear freeze movement continually point out, neither the United States nor the Soviet Union can hope to win a nuclear war. Nuclear war would signal the societal annihilation of both. Under these circumstances, both superpowers have ample motive to exercise restraint. However, similar constraints do not apply in many parts of the Third World where nuclear armories, if acquired, would be of sufficient size to kill terrifying numbers of people, but not large enough to actually annihilate the combatant states.

All too often, in our determination to view the world in purely East-West terms, we fail to recognize the depths of the hatreds separating many developing nations from each other. If we now choose to introduce the potential for nuclear weaponry into those hatreds, there is a high likelihood that those weapons will be used. Imagine the dangers:

India and Pakistan seem to be engaged in almost perennial border conflicts. Who can say that neither of these parties would use nuclear weapons if it began to fare badly in a border confrontation? Only a few years ago, Pakistan lost a huge area of territory, which now is independent Bangladesh. Who can say that the Government in Islamabad, faced with de facto dismemberment of the national state, would not have used nuclear weapons when Indian troops entered Western Pakistan, had it had the opportunity to do so?

The former Argentine military junta sustained a humiliating defeat at the hands of the British Armed Forces when it attempted to seize the Falkland Islands. That defeat directly resulted in the fall of that junta and the possible imprisonment, and even execution, of some of its members. Under such circumstances, we can be sure that the Argentina military would have at least considered using nuclear weapons on the Falklands had they been at its disposal.

It is widely believed among nuclear proliferation experts that Colonel Qadhafi has financed a major nuclear weapons drive in Pakistan. Presumably, he has not done so without prospect of reward. What price can we place on the safety of Israel if a nuclear device ever were to find its way into Libyan hands.

The military government in Pakistan clearly fears for its safety and is seeking to insure its survival by affirming its fundamentalist Islamic credentials. A nuclear-capable Pakistan might, eventually, feel obliged to establish its credentials with that final authority on fundamentalism, Iran. What price can we place on anyone's safety, with a nuclear device in the hands of the Ayatollah Khomeini? Nonetheless, for so long as we, and others, continue to supply nuclear materials to India, the Pakistani search for nuclear capability will continue.

It would be unfair and inequitable to single out any particular developing nation as a target for a nuclear embargo. Rather, we must adopt an even-handed, bipartisan policy which aims to halt the export of all weapons related material and technology to all developing countries. I believe that the signatures on this amendment demonstrate that we have begun to formulate such a bipartisan policy. We must move forward and take this vital first step toward halting the deadly international proliferation of nuclear weapons.

Again, Mr. President, I want to express my appreciation to the distinguished Senator for giving me the opportunity to present these remarks.

● Mr. BINGAMAN. Mr. President, I rise to express my support for the amendment offered by my distinguished colleagues from New Hampshire and Delaware, which I am cosponsoring.

Under current law, several loopholes exist in the control of nuclear-related exports. For example, some items which are significant in terms of the ability to manufacture nuclear explosives can be authorized for export by the Nuclear Regulatory Commission (NRC) to countries which do not have full-scope safeguards. Also, some forms of nuclear technology transfer can be approved for such countries by the Department of Energy without NRC concurrence and without full-scope safeguards. Further, although the NRC cannot license the export of special nuclear material to nations which have not accepted full-scope safeguards on all their nuclear facilities, the Department of Energy can authorize retransfer from third countries of heavy water and nuclear grade graphite which could be significant aids to the manufacture of nuclear weapons. Heavy water in large quantities can enable a natural-uranium-fueled reactor like the Canadian CANDU to transform a part of the naturally occurring material into the element plutonium. While natural uranium cannot be made into a nuclear weapon, plutonium can.

Last September, the Department of Energy published its intention in the Federal Register to agree to the retransfer of U.S.-manufactured heavy water from the Federal Republic of Germany to Argentina. On the next day, clearly before any comment from the NRC or concerned committees of the Congress, the DOE actually authorized the transfer. Argentina has not signed the Non-Proliferation Treaty, and it has not ratified the Treaty of Tlatelolco, which is intended to make Latin America a nuclear-weapons-free zone, although it is a signatory. Today, Argentina does not have the capability to produce nuclear weapons material in significant quantities from its unsafeguarded facilities. But this situation may change in a few years. Dr. Castro Madero, until recently president of Argentina's Atomic Energy Commission, made it very clear in several statements that he wished to reserve the right of his country to produce "peaceful" nuclear explosions.

Mr. President, this amendment will, among other provisions, make it impossible in the future for the DOE to act in this cavalier way regarding the retransfer of heavy water. I must add that I do not mean to single out Argentina. I am equally concerned about recent nuclear export cases involving India and South Africa. In fact, now Argentina has a new, democratic and freely elected government and there is some hope that a more favorable attitude toward proliferation may exist. I would hope, in this connection, that the State Department will continue to try to gain more adherents to the Non-Proliferation Treaty and to local arrangements, such as the Treaty of Tlatelolco. Serious attempts should be made, in discussions with the new Argentine Government, to urge President Alfonsin to reconsider the decision of previous military government not to sign the Non-Proliferation Treaty and not to ratify the Treaty of Tlatelolco. Argentine adherence to the NPT or even ratification of the Treaty of Tlatelolco would be a real and significant breakthrough in improving the effectiveness of the whole international nonproliferation regime. President Alfonsin has made some positive statements recently on the latter accord. We should make it clear that such actions on Argentina's part would lead to tangible cooperation with the United States on development of Argentina's nuclear industry.

There are, as we all know, Mr. President, several nations which possess significant nuclear technological capabilities and which have decided not to sign the NPT and not to accept full-scope safeguards on all their nuclear facilities. My belief is that we should not reward those nations for their recalcitrance by sharing our nuclear technology with them while, at the same time, browbeating cooperative nations, such as Japan and the Federal Republic of Germany, concerning their domestic plans for development of their nuclear industries. We and other supplier nations need to strengthen technical assistance programs for countries with strong nonproliferation commitments. It should be noted that under this amendment, we will be able to continue to act as reliable nuclear suppliers to all of the signatories of the NPT if we have an agreement of cooperation with them.

There must be real benefits to participating in the international nonproliferation regime and real costs to staying outside it. At the moment, the administration seems unduly anxious to provide benefits to those outside the system. Those nations which choose not to cooperate in the international nonproliferation arrangements should not be rewarded for such actions, either by us or by other supplier nations. We should not help them, even in a small way, by giving them any aid which could contribute to letting the genie of nuclear weapons proliferation out of the bottle any further.

It should also be noted that without the cooperation of other supplier nations, this part of the effort to control proliferation could be frustrated. Therefore, it is incumbent upon the administration to take up this question with our friends and allies, assuring them that the goal of impeding the further spread of nuclear weapons is at least as much in their interest as in ours.

The amendment still allows the President to waive requirements on the importing nation, as under the Nuclear Non-Proliferation Act, if he determines it to be in the interest of national security to do so.

Although this amendment does not guarantee an embargo of nuclear exports on those nations which do not have full-scope safeguards, it does bring to the attention of the public those occasions when this may happen, and it therefore puts pressure on the executive branch to be more aggressive in promoting the international nonproliferation regime. I think that this is a worthwhile goal, and, for this reason, I urge the passage of the amendment.●

Mr. PERCY. Mr. President, I have long been a supporter of strong legislation to prevent the spread of nuclear weapons to countries that do not now have them. I am proud of the achievement we made in passing the Nuclear Non-Proliferation Act in 1978. At that time, we heard from many who said that the United States would have little success in getting other nations to follow our lead on this issue. There have been problems in doing so. But I am highly gratified, not only that we took the leadership in 1978, but also that we have had great success as a nation, through diplomacy, in persuading many of our important trading partners to endorse similar restrictions on major nuclear commerce with countries that in fact represent serious proliferation risks.

I think the President's recent initiative calling for comprehensive safeguards is an important one, a very beneficial one, that is in the spirit of the Non-Proliferation Act. Our efforts to expand the international trigger list of nuclear commodities are also steps in the right direction, and they deserve the strong endorsement of everyone in this Congress. But late last summer, I was troubled when I discovered that retransfer of a large quantity of heavy water from West Germany to Argentina had been approved by the administration, and that this had happened without any mention whatsoever to the Congress. In fact, I was startled by this because on other matters, the administration has consulted with the Congress and has taken serious note of the objections and concerns I and other Senators expressed. For instance, they stopped the proposed exports of helium 3 and hot isostatic presses to South Africa, after we voiced our great concern.

Now I think the Congress has played a very beneficial role in implementation of this country's nonproliferation policy. One of the provisions of the amendment offered by Senator McCLURE would, in fact, call for notification of the Congress, prior to the export or retransfer of any component to a nonweapons state that does not have full-scope safeguards. Based on my experience, we need this kind of notification provision. It represents an important toughening of existing law. Furthermore, I am pleased that the administration is willing to support enactment of a new requirement that whenever such an export is proposed, the Secretaries of State and Energy would have to make a determination that it would result in no significant increase in the risk of proliferation.

These are important benefits. They further toughen the already demanding provisions of our nonproliferation laws. So I intend to vote for them. Furthermore, if the Senate does not agree that these further restrictions are sufficient, I intend to vote for the measure offered by my colleagues Senators ROTH, HUMPHREY, and others. I am optimistic that other nuclear exporting countries will follow our lead and also move to strengthen their own criteria for the export of components and materials which may be of significance for nuclear explosive purposes.

AMENDMENT NO. 2748

(Purpose: To restrict further the authorization of production of special nuclear material in non-nuclear-weapon states)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the Humphrey-Roth amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota (Mr. BOSCHWITZ) for himself, Mr. LEVIN, Mr. BINGAMAN, Mr. GLENN, Mr. PROXMIRE, Mr. RIEGLE, Mr. COHEN, Mr. JEPSEN, and Mrs. HAWKINS proposes an amendment numbered 2748 to amendment No. 2747.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Humphrey-Roth amendment, insert the following new section:

RESTRICTIONS ON THE EXPORT OF NUCLEAR TECHNOLOGY

SEC.   . Notwithstanding any other provision of law, the Secretary of Energy shall give no authorization under section 57b. of the Atomic Energy Act of 1954 to engage, directly or indirectly, in the production of any special nuclear material in any non-nuclear-weapon state, within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow on July 1, 1968), unless such state maintains International Atomic Energy Agency safeguards on all of its nuclear facilities and such production is under the terms of an agreement for cooperation arranged pursuant to section 123 of such Act, except that—

(1) the prohibition contained in this section shall not apply beginning on a date 60 days after the President—

(A) determines and so states in an Executive order that withholding the authorization of such production would be seriously prejudicial to the national security of the United States; and

(B) submits to the Congress a report setting forth such determination, together with his reasons therefore.

Mr. BOSCHWITZ. Mr. President, the perfecting amendment to the Humphrey-Roth amendment which I have submitted is submitted on behalf of myself, Senator LEVIN, coauthor of it; Senator BINGAMAN; Senator GLENN; Senator PROXMIRE; SENATOR Riegle; Senator COHEN; Senator HAWKINS; and Senator JEPSEN.

Mr. President, I rise today to lend my support to the amendment offered by my colleagues Senator ROTH and Senator HUMPHREY, and also to suggest an additional area of nuclear trade with which we ought to concern ourselves.

As currently drafted, the Humphrey-Roth amendment would add two categories of nuclear trade to the list of those that can only be conducted with nations which have signed the Non-Proliferation Treaty. The first of these is component or spare parts The Nuclear Non-Proliferation Act banned sales of reactors and fuel to countries which have not signed the Non-Proliferation Treaty. It seems perfectly sensible then to me to be similarly cautious about selling NPT rejectionists the component parts without which the reactors and fuel are useless.

The second area covered by the Humphrey-Roth amendment concerns "subsequent arrangements" or retransfers of U.S.-origin parts from the original buyer to some third party. I think I speak for many of my colleagues when I express the consternation with which I view the recently promulgated DOE regulations concerning such retransfers.

Under existing law we have an odd situation indeed. Direct transfer to certain NPT nonparticipation (Argentina) of heavy water, a component in nuclear reactors, is not possible under NRC regulations. A direct transfer to Argentina is not possible. Indeed, even requests for small kilogram quantities have been effectively denied.

Approximately 20 kilograms, or 45 pounds, have been requested and the Department of Energy has denied that request. But retransfers of U.S.-origin heavy water are approved by DOE rather than NRC. And while the NRC denies even these small quantities of heavy water, the DOE approves the retransfer of 143 metric tons.

That is 314,000 pounds, Mr. President, while 40 or 45 pounds is denied. So by retransferring through second-hand transfers, so to speak, these transfers are able to skirt existing rules, regulations and laws.

It seems reasonable that the same standard should apply to our nuclear trade whether it is conducted directly or through third parties, and I congratulate the authors of this amendment, Senators ROTH and HUMPHREY, for their efforts at synchronizing these standards.

Finally, I think the amendment is commendable for the innovation it proposes regarding agreements for nuclear cooperation. We already have such agreements with most of our nuclear trading partners, of course. But we have also engaged in a certain amount of nuclear commerce with nonnuclear weapons states without such an agreement. The signatories of the Non-Proliferation Treaty who have not signed such agreements include nations like Libya or Iran, as well as East bloc nations like the German Democratic Republic and Rumania.

Insuring that any future nuclear commerce is carried on with these nations under the terms of an agreement for cooperation which is submitted to the Congress seems an obvious step toward insuring that our nonproliferation policy is conducted in an open manner which enjoys bipartisan support.

I think it is also worth noting what the amendment does not do. It does not tie the President's hands. If deviation from these transfer policies is deemed worthwhile in a particular instance, for some reason, the President can waive the requirement with ease.

The administration argues that a limited amount of nuclear trade with NPT rejectionists is desirable from our point of view since it gives us some leverage to try and coax them into the NPT fold. To the extent that this is true, this provision of a Presidential waiver should enhance the leverage we gain by dealing with nations that present a proliferation threat since items they receive by virtue of a Presidential waiver ought to engender greater reciprocal concessions than those which they are fully entitled to receive under U.S. law.

The Roth-Humphrey amendment does not deal with dual-use items licensed by the Commerce Department. Only those items which have no conceivable use outside a nuclear reactor are covered, leaving aside things like computers and such which have multiple applications.

And the amendment is not retroactive. Approvals which have been granted and deals which U.S. companies have made will not be revoked by this amendment. It sets future policy, but does not attempt to undo past practices or contracts which were permissible under the previous legal regime.

There is, however, one further category of nuclear industry trade with non-NPT countries which concerns me, that of nuclear technology transfer. What we are talking about here can be summarized as know-how. Specific parts are not involved; instead it is things like blueprints, technical training for operators, engineering, and design services, inspection and maintenance services, and the like.

It would be possible for American engineers and construction companies to construct an entire reactor facility, using American know-how, provided the components themselves were actually constructed outside of the United States.

Now I am not suggesting that the administration would allow the transfer of all that technology to build a facility in Argentina or India. But this example illustrates the difficulty of maintaining a distinction between technology and the facilities which cannot be constructed or operated without that technology. It seems reasonable then to include this category of trade along with these others that will require full scope safeguards in the future.

The effect of this perfecting amendment, if adopted, would not be as large as might be supposed. Although we do OK the transfer of considerable nuclear technology, most of it is sent to nations which have signed the NPT and an agreement of cooperation like Switzerland, Japan, and Canada, or nuclear weapon states like France, the Soviet Union, or the People's Republic of China. All these transfers will be unaffected by the perfecting amendment.

Its effect will only be felt by nations which have refused to sign the NPT, like India, Brazil, and Argentina, or NPT signatories who have not signed an agreement for nuclear cooperation, like Rumania or East Germany. And I feel compelled to emphasize once again that even these deals could be approved by the simple mechanism of a Presidential waiver.

Mr. President, it has been argued that this amendment would swamp the regulatory agencies with a flood of minutae which would preclude effective case-by-case analysis of more serious requests. The facts do not support such a contention.

From 1980-83 only 16 of the approved applications for nuclear technology would have been questioned by this amendment, and 12 of those 16 applications were from competing firms that all wanted to provide the same services to the South African reactors at Koeberg. The other four involved Rumania and East Germany.

Similarly, of the 19 technology transfer applications currently pending, only five would be effected by the amendment, those to Argentina, Brazil, India, and Rumania. If nonproliferation is really a high priority for our national security, I respectfully submit that nuclear technology transfers to these countries ought to receive some extra attention.

Mr. President, I want to identify myself with the remarks by the distinguished senior Senator from Wisconsin who pointed out that nuclear proliferation is perhaps the greatest danger that we face. The two superpowers are so powerful that they almost cancel one another out. On the other hand, if we do have proliferation to other countries, I am certain that in our lifetime we will see a nuclear weapon used in anger somewhere in the world.

Where that goes and what the second and third steps are after that no one can tell us.

Mr. President, I have no desire to detain this body any longer. I think the intent and the effect of the perfecting amendment, as well as the underlying amendment, is clear and I urge their adoption into the codified portion of nonproliferation policy.

Mr GORTON. I would like to ask the Senator from Minnesota a question I earlier posed to the Senator from New Hampshire. The second degree amendment being offered by the Senator from Minnesota would broaden somewhat the scope of the restrictions contained in the first degree amendment. Is there anything in this second degree amendment which would bring about any change in Department of Commerce licensing procedures, or in policy with respect to dual-use commodities?

Mr. BOSCHWITZ. There is not. Our intention with this second degree amendment is simply to expand the scope to cover technology—that is, know-how—licensed under the jurisdiction of the Department of Energy. Furthermore, since the Department of Energy's jurisdiction is over know-how, rather than commodities per se, my amendment does not extend the restrictions to any specific new commodities not covered by the first degree amendment. Just as with the amendment to the State Department authorization bill which I offered last year, no change with respect to Commerce Department procedures is implied.

Mr. GORTON. I thank the Senator.

Mr. HUMPHREY. Mr. President, I have spoken with Senator ROTH on the matter. We are willing to accept the Boschwitz amendment as a modification to our amendment.

The PRESIDING OFFICER. Is the Senator from New Hampshire modifying his amendment?

Mr. HUMPHREY. He is.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

At the bottom of page 53, add the following:

RESTRICTIONS ON THE EXPORT OR RETRANSFER OF CERTAIN NUCLEAR COMPONENTS

SEC. 19. Notwithstanding any other provision of law, the United States Nuclear Regulatory Commission shall not license for export, and the Secretary of Energy shall not approve the retransfer of, any nuclear component, item, or substance which the Commission has determined, under section 109 of the Atomic Energy Act of 1954, to be especially relevant from the standpoint of export control because of its significance for nuclear explosive purposes if such export or retransfer is to any non-nuclear-weapon state, within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow on July 1, 1968), unless such state maintains International Atomic Energy Agency safeguards on all of its nuclear facilities and such export or retransfer is under the terms of an agreement for cooperation arranged pursuant to section 123 of such Act, except that—

(1) the prohibition contained in this section shall not apply beginning on a date 60 days after the President—

(A) determines and so states in an Executive order that withholding the export or retransfer of such component, item, or substances would be seriously prejudicial to the national security of the United States; and

(B) submits to the Congress a report setting forth such determination, together with his reasons therefor; and

(2) nothing in this section shall preclude the licensing for export or the approval of retransfer of graphite contained in fabricated non-nuclear commercial products or up to 25 kilograms of heavy water per year to any country for medical or non-nuclear enduses.

RESTRICTIONS ON THE EXPORT OF NUCLEAR TECHNOLOGY

At the end of the Humphrey Roth Amendment, insert the following new section:

SEC. Notwithstanding any other provision of law, the Secretary of Energy shall give no authorization under section 57b. of the Atomic Energy Act of 1954 to engage, directly or indirectly, in the production of any special nuclear material in any non-nuclear-weapon state, within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow on July 1, 1968), unless such state maintains International Atomic Energy Agency safeguards on all of its nuclear facilities and such production is under the terms of an agreement for cooperation arranged pursuant to section 123 of such Act, except that—

(1) the prohibition contained in this section shall not apply beginning on a date 60 days after the President—

(A) determines and so states in an Executive Order that withholding the authorization of such production would be seriously prejudicial to the national security of the United States; and

(B) submits to the Congress a report setting forth such determination, together with his reasons therefore.

Mr. GORTON. Mr. President, one question I would like to ask of the Senator from New Hampshire concerns the scope of his amendment. Does the scope of the amendment offered by the Senator extend to Department of Commerce-licensed or "dual-use" type items? Would this amendment have any affect on current Commerce Department licensing procedures or rules?

Mr. HUMPHREY. It would not. This amendment is focused narrowly, on the items licensed by the Nuclear Regulatory Commission which are significant for nuclear explosive purposes. It would have no effect on commerce-licensed items, and does not break any new policy ground in this area.

Mr. GORTON. I thank the Senator.

Mr. HEINZ and Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, yesterday, during the discussion of this measure, I said it would be my intention to oppose all nongermane amendments. Indeed, I intend to do so, and this is one of them. This is legislation that is not germane to the Export Administration Act. It is a subject over which the Banking, Housing, and Urban Affairs Committee has no jurisdiction. It does not fit on this measure. It is not part of our brief in any way, shape, or form. So I am going to oppose this measure for those as well as other reasons. I state that up front. But I do want to ask Senator HUMPHREY, the author of this amendment, one or two questions so that I might develop the record further.

May I ask the Senator from New Hampshire if any hearings have been held on either the original amendment or the amendment incorporating the perfecting language of Senator BOSCHWITZ?

Mr. HUMPHREY. The answer, of course, is no. This is not a new topic or subject to Members of this body. If the Senator will permit me to say in addition, the reason we chose this vehicle was we felt that this was a timely matter and that a bill to which it would be most germane simply is not in sight.

Mr. BOSCHWITZ. Will the Senator yield?

Mr. HEINZ. I would be pleased to yield to the Senator from Minnesota.

Mr. BOSCHWITZ. While this specific amendment has not been the subject of hearings, it, of course, having just now been introduced, has often been the subject of hearings in the Foreign Relations Committee while I have been present there together with Ambassador Kennedy, who is charged with these matters. It is my understanding that approximately 10 different hearings have been held before the Foreign Relations Committee on this subject since the 95th Congress. I was present at at least two. These specific amendments, of course, which are now just being introduced were not considered at those hearings. However, the subject has been quite extensively debated in committee.

Mr. LEVIN. Will the Senator from Pennsylvania yield on that same subject?

Mr. HEINZ. If the Senator from Michigan wishes to make a comment or ask a question or if I can yield without losing my right to the floor, I would be happy to do so.

Mr. LEVIN. I should like to just supplement the answer of my friend from Minnesota. There has, in addition, been many, many days of hearings before the Governmental Affairs Energy Subcommittee on this subject. I just wanted to supplement the answer which reflected the many days of hearings in the Foreign Relations Committee.

Mr. HEINZ. I thank my friend from Michigan. Let me ask my friend from New Hampshire one other question. By way of preamble, let me say that one of the concerns reflected in this particular bill which is before us, the Export Administration Act, is that we, the United States, have often shot ourselves in the foot when it comes to using export controls for some purposes. I do not know whether the Senator from Minnesota would agree with this or not, but it struck me that we shot ourselves in the foot and kept firing for months at a time during the grain embargo. As a result, we observed the unilaterally imposed grain embargo and the Argentines did not and proceeded to make, if you will excuse the analogy, hay while our barn burned down. There are many cautions and many procedures in the Export Administration Act. I cannot speak as an expert on the amendment offered by the Senator from New Hampshire as perfected by the Senator from Minnesota, but it is my impression that this amendment runs some of the same risks as the grain embargo because it really does not on its face appear to demand any kind of restraint from the other people who could replace us as suppliers, just as the Argentines replaced us as suppliers.

Let me ask either Senator HUMPHREY or Senator BOSCHWITZ, are there any foreign countries which have companies that could indeed supply some of the things that we would not supply as a result of his amendment and, if so, what countries would they be and would they be likely or unlikely to simply move in where we moved out?

Mr. HUMPHREY. To respond to the question, yes, of course, there are other suppliers, but we will never be in a position to use moral suasion or any other kind of suasion if we are the suppliers in the first instance, and that is part of our effort, to place the United States in a position where it is beyond reproach and it can then effectively work to dry up this trade which is so dangerous to world safety.

Mr. HEINZ. Does the Senator believe then that it is appropriate for this body to endorse actions on strictly moral grounds, even though they may not be effective?

Mr. HUMPHREY. It is the opinion of this Senator that this would be an effective measure, but there is far more involved here than morality. I think this is a very practical amendment.

Mr. HEINZ. Does the Senator maintain, however, that those other countries which supply will be in some way deterred from moving in and supplying the countries which will not get these items from us? Will those countries be in any way deterred?

Mr. HUMPHREY. What is clear is if the United States appears to be willing to engage in this kind of commerce other nations likewise are going to be willing, but to answer the Senator's question more specifically, in fact, there is such a case. The French Government is contemplating whether to allow a French firm to export compressors for a jet nozzle plant to be built in Brazil.

Mr. ROTH. Will the Senator yield just for a minute?

Mr. HEINZ. Well, let me ask a different question then. It might be an easier one. I gather there are some countries—France is one of them—that can supply this. Are there other countries that supply this kind of equipment and material? We are not talking about weapons material, we are not talking about fuel rods; we are talking about material of a different nature which I understand you cannot make nuclear weapons out of but which might be useful to somebody who had the capability. Are there some other people besides the French who supply those?

Mr. HUMPHREY. The answer is yes, of course.

Mr. HEINZ. Yes. Well, I say to my friend, the Senator from New Hampshire, I am not an expert in this area. I see that Senator McCLURE is on the floor. He is chairman of the Energy and Natural Resources Committee. He is, I am sure, far more expert than I in this area. But let me just say that based on my experience with the Export Administration Act and some of the things that have been done using the authorities under that act, which have been very prejudicial to this country and to many of our interests, this strikes me—even if I was not going to oppose it because it is nongermane—I think I would oppose it anyway in substance.

Mr. BOSCHWITZ. Will the Senator from Pennsylvania yield for further comment or a question?

Mr. HEINZ. Yes, I would be pleased to yield.

Mr. BOSCHWITZ. Grain that is now produced in perhaps 120 or 130 or 140 nations of the world and whose production can easily be expanded or contracted is really not analogous to nuclear components, nuclear parts, and nuclear technology. First, the number of nations that can provide this technology is very few. In the event that we are going to restrain the proliferation of nuclear weapons, we simply have to lead the way in restraining the proliferation of nuclear technology and materials. There are perhaps a half-dozen nations with this capability in the world. The Senator from Pennsylvania has mentioned several of them in his statement. They are not all easy to deal with. I agree with that as well. But if we do not give some leadership in this issue, there is no question that there is going to be a proliferation of nuclear weaponry which will bring disaster to this world. There are just a few nations that can provide the technology and materials that we can. As a matter of fact, if you buy other than American, you are buying second rate because the nations that are now proscribed from purchasing our materials come to us first to see if they can get waivers, to see if they can get some form of exemption. There is no question that this technology and these materials are in the hands of a very few and that we lead that select field. As long as that situation continues, the world is safer than it will be if this technology and material proliferates around the world.

That is the objective of this amendment. I understand this amendment is not germane to the Banking Committee. It certainly is germane to the idea of exports of material from this country, and therefore we felt it proper and appropriate to add it as an amendment to this bill.

To make the analogy between grain and some other item that can be commonly bought and nuclear technology and nuclear material is not an appropriate analogy.

Mr. HEINZ. I thank the Senator from Minnesota for his comments, and I will yield the floor in about a minute.

I would not want anybody to misunderstand my analogy on grain. Certainly grain is not a critical item in the same sense as nuclear materials. However, the question of whether a course of action, whether decreed by legislation or taken by administrative action, is effective is very germane.

I might just as easily have pointed to the provisions of section 5 of this bill, the so-called national security section, where we say that, under certain circumstances, if critical items on the control list are not being controlled by our Cocom allies, foreign availability will be taken into account, as to whether they should be licensed and sold to non-Cocom nations.

That is a direct analogy. But the grain embargo is known to all Americans. The intricacies of the Export Administration Act in section 5 is not, and I would not want anybody to think I believe the analogy to be farefetched. I believe it to be accurate, not with respect to the nature of the items. I could give the Senator 200 critical items he would not want to fall into anybody's hands who was not on our side; but, for the most part, nobody has heard of those items.

Mr. President, I have received a communication from the Secretary of Energy, Mr. Hodel, who has written the chairman of our committee, Senator GARN, in opposition to this amendment, and I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, D.C., February 24, 1984.

Hon. JAKE GARN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GARN: Earlier this year, I joined Secretaries Shultz and Baldridge in writing to Chairman GARN of the Senate Banking Committee to express our strong opposition to an amendment intended to be offered by Senator Humphrey to the Export Administration Act which would further limit this country's ability to participate in the worldwide trade of nuclear technology. I believe Senator GARN has sent you a copy of our letter.

Because I believe this matter is of such critical importance to our country's interests, I am writing to reiterate my grave concerns about the impact of this amendment. The United States does not make a positive contribution in the area of nonproliferation by withdrawing itself further from the international nuclear community. The more we isolate ourselves, the less our voice will be heard.

Many countries have the same objectives as we have, but we are not able to reach agreement with them because they are unwilling to turn over their national sovereignty in a contract, the terms of which are dictated unilaterally by our laws. They will be further deterred from dealing with us, preferring to buy the same technology and the same commodities from somebody else, because we impose such stringent conditions. Even though this amendment affects relatively few nations, by unilaterally changing the rules again, it would further demonstrate to the world that the United States is no longer either a reliable trading partner or a rational participant in the international nuclear community. It further reduces our leverage to influence that community.

The basic objective of the amendment's sponsors is good, but I firmly believe we can find a better way to go about solving the problem.

At the very least, the serious questions raised by the amendment should be the subject of hearings, but none have been held in either body. I am certainly willing to meet with those who are interested to discuss the subject. but as the situation now stands, I strongly encourage you to oppose this amendment.

With best wishes,
Sincerely,
DONALD PAUL HODEL.

Mr. HEINZ. Mr. President, I also ask unanimous consent to have printed in the RECORD a letter to Senator GARN dated January 30, from Secretary Shultz, Secretary Baldrige, and Secretary Hodel, in opposition to this amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., January 30, 1984.

Hon. JAKE GARN,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During Floor consideration of S. 979, Senators Humphrey and Roth may offer an amendment which would prohibit the licensing for export or retransfer to certain countries of nuclear commodities identified under Section 109 of the Atomic Energy Act. We strongly oppose this amendment.

This proposal would have far-reaching impacts which have not received adequate congressional review in the relevant committees.

The range of commodities or transfers covered by the amendment, though meriting control because of their nuclear relationship, does not present dangers from the point of view of nuclear weapons proliferation because of their minor character. Significant U.S. nuclear trade with countries that do not accept safeguards on all their nuclear facilities is already precluded by the Nuclear Non-Proliferation Act (NNPA) of 1978. This statute requires nations to accept comprehensive safeguards in order to be eligible for major nuclear exports or retransfers. The Administration strongly supports such comprehensive safeguards. The President is undertaking a new initiative to convince other nuclear suppliers to require comprehensive safeguards as a condition for major new nuclear supply commitments. We believe such a change in international nuclear export rules should be achieved through negotiation, and not dictated unilaterally in U.S. legislation.

Moreover, enactment of this amendment would damage our efforts to achieve the very non-proliferation goals which are the basis of this amendment. If our ability to conduct non-sensitive nuclear commerce is denied, the U.S. will be unable to provide concrete incentives for countries of proliferation concern to accept broader safeguards and to act in ways consistent with non-proliferation goals.

Finally, adoption of the proposed amendment would disrupt the present regulatory structure established by the NNPA without compensating benefit. This system of controls was carefully developed to permit a determination on a case-by-case basis as to which types of nuclear cooperation pose unacceptable proliferation risks. By treating minor nuclear exports and retransfers in the same fashion as major items having real proliferation significance, the Humphrey-Roth amendment upsets a balanced and sensible system which is working well to advance both U.S. national security and trade interests.

For these reasons, we urge you to oppose this amendment and any other nuclear trade restrictions which would injure gravely United States foreign, nuclear non-proliferation, and trade interests.

Sincerely yours,
GEORGE P. SHULTZ,
Secretary of State.
MALCOLM BALDRIGE,
Secretary of Commerce.
DONALD P. HODEL,
Secretary of Energy.

Mr. HEINZ. Mr. President, I do oppose this amendment, and I urge its defeat.

(Mrs. HAWKINS assumed the Chair.)

Mr. LEVIN. Madam President, I should like to supplement the comments of my friend from Pennsylvania on the question he asked.

We presently have a prohibition against the sale of nuclear reactors. That provision is already law. I assume that our friend from Pennsylvania is not suggesting that we back away from that prohibition in the law, even though there is another country, at least one, that ignores that and does create powerplants in countries that have not accepted full scope safeguards.

I just want to repeat this because it is important: France will build a powerplant reactor in South Africa, although we will not. Under existing law, the primary components cannot be sold to South Africa.

All we are doing in this amendment is saying that in addition to prohibiting the primary components from going to South Africa—and they can get them from France—we do not want the secondary components or the technology to be able to go to countries like South Africa.

So, in answer to my friend's question, this will be just as effective as our prohibition on the primary components. If you want to argue that our prohibition on the primary components is not effective, then I suggest that at least we are forcing those countries to pay more and get lesser grade in technology when they go elsewhere. That is more than just a moral price. It is more than a moral point we are making by putting these extra items on the list in this amendment. We are saying: "You cannot get secondary components and you cannot get technology, either, the way you cannot get primary components in the absence of a waiver by the President, unless you accept the full scope safeguards."

Madam President, I am proud to support the perfecting amendment of the Senator from Minnesota, which has been accepted, and to support the amendment of Senators HUMPHREY and ROTH. This is a critical amendment. To provide nuclear materials and technology to countries that refuse to sign the nonproliferation treaty is simply dangerous to the world health. To provide nuclear materials or technology to nonnuclear weapons nations that do not accept international Atomic Energy Agency Fullscope safeguards is inviting disaster.

In August 1983, the Department of Energy authorized the retransfer of 143 tons of U.S. origin heavy water from West Germany to Argentina, but Argentina has refused to put all of their nuclear facilities under IAEA safeguards. The purpose of the IAEA safeguards program is to maintain control of plutonium and other materials that could be diverted to the production of nuclear explosives. The Congressional Research Service has issued a report which indicates that Argentina might acquire the technology and materials necessary for nuclear explosives within 2 years. During the

Falklands War, the head of the Argentine program stated that Argentina would consider pursuing "military applications" of nuclear technology.

On November 18, 1983, Argentina announced the completion of a "medium-sized" uranium-enrichment plant, which they refuse to place under IAEA safeguards. Furthermore, Argentina and Libya are discussing nuclear cooperation for "medical isotopes." And still Argentina refuses to sign the Nuclear Non-proliferation Treaty or agree to fullscope safeguards.

In the face of all of that, the administration and the DOE still authorized the retransfer of 143 tons of heavy water, a material that is essential for converting uranium to plutonium.

On Setember 30, 1983, the DOE also authorized 12 U.S. firms to export nuclear technology to South Africa's French-built Koeburg power reactors. South Africa is a non-NPT nation that operates an unsafeguarded uranium enrichment plant capable of producing atom-bomb material. Several years ago, there were unconfirmed U.S. satellite indications of a nuclear test in the South Atlantic off the South African coast.

In both incidents, the administration was able to approve these transactions without consulting Congress and there is no effective requirement in the law that Congress be given the opportunity to review these transfers.

The 5 years since the Nuclear Nonproliferation Act was signed into law have illuminated some of the loopholes and inconsistencies that must be corrected in order for us to effectively continue our leadership role in prevention of the spread of nuclear weapons.

We properly give a lot of attention to limiting and controlling technology transfers to the Soviet Union. But it is equally urgent to give serious attention to reducing the likelihood that some smaller nation, such as Iran, Libya, South Africa might obtain nuclear weapons? The results could be catastrophic.

I am proud to be a cosponsor of this perfecting amendment to the Humphrey-Roth amendment that will help us avoid such a disaster. Our amendment will close the door further on nuclear proliferation. By requiring that technology transfers covered by section 57b of the Atomic Energy Act meet the fullscope safeguards requirement, we can reaffirm our commitment to nuclear nonproliferation.

Our amendment impacts future technology transfers for a very few nations. Only six nations with nuclear facilities have yet to sign the NPT or agree to fullscope safeguards.

There are several other nations (including Iraq, Libya, and Iran) that have signed the NPT, but who continue to express an interest in acquiring nuclear explosives. We do not have an agreement for cooperation with these nations and we do not believe that we should pursue nuclear commerce with them.

By acceding to the demands of countries like South Africa, who refuse to join in the international nonproliferation treaty, we are providing nuclear technology that supports their efforts to acquire the very thing that we wish to prevent: nuclear weapons capability.

Madam President, there are those that say that this amendment will hurt our image as a reliable supplier. They are wrong.

This amendment is prospective, not retroactive. No existing contractual agreement between us and another nation will be affected.

Furthermore, by signing the Nuclear Non-Proliferation Treaty and agreeing to fullscope safeguards, other nations will assure themselves of reliable support from the nuclear supplier states.

Why do nations still refuse to accept fullscope safeguards? The only obvious reason is a desire to maintain the flexibility to develop nuclear explosives.

Even so, if the administration determines that withholding a particular technology authorization would be seriously prejudicial to the national security of the United States, the President may present his waiver to Congress. I am certain Congress would support waivers to allow for nuclear commerce when it is in our best interest.

Madam President, the administration says that this legislation will lessen their ability to negotiate, that cooperation is better than unilateral decisions by the United States. But I ask you:

What have we gained by continuing to make exceptions for the few non-NPT signers? I have yet to find a concrete reason for our capitulation to this form of blackmail. Each of these countries are continuing to expand and develop their nuclear weapons capability, and we have yet to gain a single significant concession for our "rule bending."

The only leverage we have is our superior technology. Ultimately, with our help, these countries will have gained the benefit of our support, and then we will not even have that bargaining ability. We will have given it away, for nothing, in terms of our goal of reducing the proliferation of nuclear weapons.

The administration argues that we should have hearings on these issues before we proceed with this legislation.

Since the 95th Congress, Senator PERCY's Subcommittee on Energy Nuclear Proliferation, and governmental processes has held 10 days of hearings on this topic.

Just last fall, on September 30, 1983, a joint hearing was held before the Committee on Foreign Relations and the Governmental Affairs Subcommittee on Energy, Nuclear Proliferation, and Government Processes on the very issues that are before us today.

As Chairman PERCY said then, "The threat of a world filled with nuclear armed nations is just too great for a business as usual approach to nonproliferation."

It seems to me that a call for more hearings is business as usual.

Senator PERCY also said:

> I hope I never see the day when South Africa explodes a nuclear weapon . . . I especially do not want the United States to be viewed by the rest of Africa and the world as an accomplice if this occurred . . .
>
> I am concerned that we, as a Nation, and, in particular, we in the Congress, may be losing our grip on nonproliferation.

Another quote:

> Argentina, engaged in nuclear commerce with a nation with openly aggressive, even terrorist intentions, that is Libya. Here comes the United States drifting into the picture offering a little help here and a little help there. It makes no sense.

It is time to make sense out of our nonproliferation policy. We need consistent legislation across the entire spectrum of nuclear export licensing—whether it be by the NRC or DOE.

Let us be careful to avoid the pitfalls of allowing unsafe-guarded non-weapon states to acquire nuclear weapons. It is often said that "an ounce of prevention is worth a pound of cure." In this case, there is no cure. Prevention is our only option. We cannot afford to continue to support the nuclear programs of nations that do not accept fullscope safeguards, at least in the absence of a conscious waiver by the President and Congress.

Each of us must consider the ramifications of allowing continuous use of loopholes in the existing laws. None of the small potential commercial gains that the administration hopes to achieve through its course of action can be defended as being worth the incalculable risk we are taking. The Humphrey-Roth amendment is an admirable move toward nonproliferation, but I believe we should go one step further to insure that we do not continue to support the nuclear programs in nations which refuse fullscope safeguards.

The Humphrey-Roth amendments says we should require fullscope safeguards for components. Our amendment would provide for technology transfers to also be covered by those safeguards.

Madam President, I should like to comment briefly on the germaneness point that has been raised by the Senator from Pennsylvania.

This amendment has been added to this bill in the House. The House has a much more severe and strict germaneness requirement. So, clearly, this is not a sudden add-on to a bill where it is not expected. This was all debated in the House, was added to the House bill, which is before us. This has been the subject of day after day of hearings before the Senate, both in the Governmental Affairs Commmittee and in the Foreign Relations Committee, so that we have had many days of hearings on the subject of these amendments. It catches nobody by surprise. They have been well debated and discussed. They have been added in the House bill.

I think it is totally appropriate that we take this step. Unless we do it now, there will not be an opportunity for us to reduce the threat of nuclear materials to the survival of this world.

(By request of Mr. LEVIN, the following statement was ordered to be printed in the RECORD:)

● Mr. HART. Madam President, I support the Humphrey-Roth amendment to the Export Administration Act.

Madam President, we live in troubled times. The threat of nuclear war hangs over all our heads, regional wars seem commonplace and strife in the Middle East almost the status quo. Domestic conflict threatens the stability of governments around the world and terrorism is an increasingly popular form of political expression. The turmoil requires us to be all the more alert in protecting our national security interests. National security means much more than enormous Pentagon expenditures and the arms race. Protecting our vital interests means protecting ourselves against terrorist threats and nations that would foment disorder. We have been sadly reminded of the penalty for failing to take proper precautions against terrorist attacks—such as the bombing of the Marine Headquarters in Beirut. Yet, the bomb that cost the lives of our marines was but a firecracker compared to the devastation a small and crude nuclear device would wreak.

It is not too difficult to imagine a nation held hostage by a nuclear device in this day and age. And it is even less difficult to imagine the specter of a Third World nation building nuclear weapons from technology and material diverted from their civilian nuclear power program or obtained illicitly. It is not unrealistic to suppose that a terorist group might acquire or build a nulear device or that a Third World nation might attack a neighbor with a nuclear weapon to settle an historical rivalry. Such scenarios are not vague and poorly defined threats. They are real and immediate.

Madam President, India has exploded a "peaceful" nuclear device and plans to explode another in defiance of the international community. South Africa may have exploded a nuclear bomb in the South Atlantic. Libya has announced its intention to acquire nuclear weapons and Argentina, Brazil, and Pakistan, among others, are on the verge of bridging the gap between atoms for peace and atoms for devastation.

Despite our historic commitment to controlling the proliferation of nuclear weapons, the policies of this administration are contributing to the indiscriminate spread of nuclear weapons capability. The administration contributes to proliferation in two ways: Through neglect by abandoning the U.S. role as the international leader in efforts to control the flow of nuclear technology and material; and actively, by selling nuclear technology and material to almost any one who asks for it without requiring safeguards agreements.

Over the past year, the administration has approved the transfer of spare parts to India for its Tarapur reactors, of heavy water to Argentina, and the sale of maintenance and service contracts for the Koeburg reactors in South Africa. None of these nations have agreed to full-scope safeguards, none have signed the Nonproliferation Treaty, and none have signed mutual cooperation agreements. Such transfers and sales are inconsistent with efforts to contain nuclear weapons and with the stated policy of the Reagan administration.

The Humphrey-Roth amendment to the Export Administration Act as perfected by the Levin-Boschwitz amendment is simple and straightforward. But it closes important loopholes in current nonproliferation law and makes consistent export policies for nuclear component materials, and technology.

At this time, the Nuclear Regulatory Commission may license sales or transfers of components for nuclear facilities such as electricity generating stations and uranium enrichment plants, retransfers of nuclear materials, and nuclear technology transfers if the receiving nation agrees to use such imports only in facilities with full-scope safeguards and that the imports will not be used to support nuclear weapons programs. The Humphrey-Roth amendment would require that nations wishing to receive nuclear component, technology, and materials imports further demonstrate their commitment to controlling the spread of nuclear weapons by ratifying the Nuclear Nonproliferation Treaty. While passage of the amendment would be a significant step forward in efforts to reduce the threat of nuclear terrorism around the world, it leaves in place the power of the President to waive sections of nonproliferation law in the interests of national security.

Madam President, we have few tools at our disposal to control the spread of nuclear weapons technology. Bilaterally we can negotiate mutual cooperation agreements, we can establish ourselves as a "reliable supplier" of solely nonweapons usable low-enriched uranium and related technology, and we can refuse to supply to any nation that does not sign nonproliferation agreement and treaties on nuclear materials and components. Internationally, we can do little but rely on existing international institutions such as the International Atomic Energy Agency (IAEA), and multilateral agreements. At times the measures available seem ineffective and efforts to control proliferation a losing battle. Yet, we cannot abandon the fight.

The IAEA is the only international institution dedicated to setting nonproliferation standards and to monitoring compliance with established safeguards. No nation can be forced to sign agreements or treaties, nor can any nation be forced to admit IAEA inspectors to its nuclear facilities. But no nation has the right to continue to receive nuclear technology and material if it refuses to cooperate with the international community's efforts to arrest the spread of nuclear terror.

Madam President, the Humphrey-Roth amendment is simple and direct. It is a step in the right direction. To pass the amendment is an important signal, the least the Senate can do to send a signal to the President, to the American people, and to the world that we are concerned about the specter of nuclear terrorism. I urge my colleagues to join in support of this amendment.●

Mr. TSONGAS. Madam President, I would like to offer my support for S. 979 which amends and reauthorizes the Export Administration Act of 1979. While in some areas it does not go as far in reducing Government regulations as I would have liked, I do think the bill strikes a reasonable overall compromise between the need to protect our national security and the need to help American exporters by reducing the barriers to legitimate international trade. Under current law, the export of commercial technology has become increasingly difficult, costly, and slow because of elaborate licensing procedures and the vast number of goods subject to licensing requirements. S. 979 should improve the situation in many ways.

The Export Administration Act as amended by this bill is particularly important for exporters in Massachusetts and the New England region generally, because of the dependence of our region on exports of high technology products. For New Englanders, these exports mean jobs. An estimated 200,000 workers depend on export sales. And, because the development and sale of high technology products is one of the fastest growing sectors of the region, reducing export barriers is important to the health of our region's economy in coming years.

It was because of my growing concern about the adverse impact of certain provisions of the present law on exports that I introduced my bill, S. 1299, the Export Administration Improvement Amendments of 1983, with Senator GORTON of Washington. Briefly, our bill included changes designed to streamline the export licensing process and reduce delays. In many cases, the long timelag between the application for a license and approval was tantamount to a loss of sales as potential customers grew impatient and placed their orders with alternative suppliers. To address this problem, our bill established a comprehensive operations license and expanded the use of bulk and distribution licenses. It also required the Secretary of Commerce to give greater consideration to foreign availability of products in the determination of which products should be subject to licensing and to justify the continuation of controls on products on which all licenses had been approved during the previous year. Responding to the needs expressed by exporters of technology products, the bill prevented the imposition of controls on goods simply because they contained microprocessors or microcomputers. Control efforts, we believe, should focus on technical capabilities rather that the fact a given product has a computer chip in it.

S. 979 incorporates many of the features of our bill. It significantly reduces the licensing requirements for exports to our allies in CoCom. At present, about one-third of the 75,000 license applications filed yearly are for shipments to our NATO allies. Almost without exception, they are approved, but the process costs exporters time and money. This provision should save exporters these costs while at the same time allowing Government officials to focus their attention on areas of greater national security concerns. The bill also expands bulk general distribution licensing and creates a comprehensive operations license that will facilitate trade to free world markets.

In addition, S. 979 provides for contract sanctity so that contracts already in effect before the imposition of export controls for foreign policy reasons may not be revoked in whole or in part. This provision is of key concern to many equipment makers who provide maintenance on their equipment on an ongoing basis. It should also reduce the uncertainty among potential buyers of American products.

In a number of areas, however, the bill does not go as far as I would have liked in streamlining the cumbersome licensing system. No provision was made for lifting controls over routinely approved exports, and while the legislation recognizes the need to consider the foreign availability of similar products and shifts the burden of proof from industry to Government, it places no time limit on the process for those goods subject to national security controls. Moreover, by giving the Department of Defense broader authority to review any proposed export of any goods or technology than under current law, it creates the potential for new delays in exports to other Western nations. This is unfortunate because the current division of responsibility between the Departments of Defense and Commerce has proven effective. Finally, although the bill's accompanying report contains language which recognizes that controls need not be imposed on products simply because they contain a microprocessor, the bill itself does not explicitly address the issue.

Madam President, the House-passed version of the reauthorization of the Export Administration Act, H.R. 3231, resolves the issues of concern that I have raised in connection with S. 979. I would, therefore, hope that the conference committee members would adopt legislation closer to that version because I believe we can and should go further in reducing the redtape facing exporters without jeopardizing our national security. It is both counterproductive, and, in the end, against our national security to impose unnecessary restrictions. Our trade deficit is at a record high and international competition in world markets is fierce. The economy's future health—and its security—depends in part on our ability to increase America's competitiveness and an aggressive export effort must be recognized as a key to success.

Mr. PROXMIRE. Madam President, I support the amendment offered by Senator BOSCHWITZ as it modifies the amendment offered by Senator HUMPHREY, which I have already discussed.

The Humphrey amendment requires full-scope safeguards. And an agreement for nuclear cooperation between the United States and any country before we ship or retransfer nuclear components.

The Boschwitz amendment, a perfecting amendment, will require the same safeguards for nuclear technology transfers. Nuclear technology transfers involve the export of know-how, as opposed to reactor components. It includes things like blueprints, manuals, engineering and design services, and even the manufacture of the reactor itself, as long as the actual construction and assembly take place outside the United States.

Technology transfer is in many ways the most dangerous form of nuclear commerce, since it make all others possible. A fully operational nuclear reactor would be useless to virtually any nation outside the nonproliferation regime without the technology in the form of training, maintenance, and consultative services necessary to run it. This amendment recognizes the importance of that technology and imposes safeguards on its transfer.

We already require full-scope safeguards for sales of reactors and fuel. Adding reactor components to that group as proposed by Senator HUMPHREY's amendment makes sense. As another step in the process, we need to control the flow of nuclear technology to the few countries which represent threats to our nuclear nonproliferation policy. This perfecting amendment accomplishes that and I urge its adoption.

Madam President, I should like to say one thing in response to the Senator from Pennsylvania.

It seem to me almost incredible to compare our shipment of wheat with a shipment of nuclear reactors and nuclear parts that can be converted to nuclear weapons. I think all of us recognize that wheat will not come back to destroy Minneapolis or Detroit or Pocatello or any other city in this country. We know that the nuclear materials and know-how could come back as bombs, unless we provide the kind of safeguards which this amendment offers. It is hard for me to understand how there can be any argument that we should permit the shipment of nuclear materials or equipment that can be used to build nuclear weapons without adequate safeguards.

These two amendments simply provide that we require that any country which receives U.S. nuclear technology agree to the inspection by the International Atomic Energy Agency. That is what we are requiring. The inspection would made sure that technology is not diverted to military purposes.

Madam President, I am confident that if the American people had an opportunity to consider this amendment and to vote on it, the vote would be overwhelming. We had a nuclear-freeze resolution offered in Wisconsin, on a referendum, and it passed by a vote of 3 to 1.

Many people might oppose the nuclear freeze. The matter before us is far more modest. It would simply say that we should not take our own technology and make it available, in effect, for military purposes.

I am really shocked and surprised that this is not simply accepted unanimously by the committee. All of us recognize the dangers of nuclear proliferation. I cannot, for the life of me, understand how there can be any objection to providing safeguards which will make sure that, when countries receive the nuclear technology of the United States of America, it does not end up in a nuclear weapon which could destroy us.

AMENDMENT NO. 2749

(Purpose: To advance the Nuclear Non-Proliferation Policy of the United States by Broader Application of Full-Scope Safeguards)

Mr. McCLURE. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McClure) proposes an amendment numbered 2749.

Mr. McCLURE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by the Humphrey amdt. 2747, as modified, insert the following:

Section . (a) Pursuant to section 201 of the Nuclear Non-Proliferation Act of 1978, the President shall work with other nations to extend safeguards to all peaceful nuclear activities in all non-nuclear weapons states that do not accept such safeguards and shall work with other nations to strengthen the safeguards program of the IAEA, so that the IAEA will be in a position to apply such safeguards effectively.

(b) Pursuant to section 128(a)(2) of the Atomic Energy Act and section 403(a)(2) of the Nuclear Non-Proliferation Act of 1978, the President shall take immediate and vigorous steps to achieve adherence to safeguards on all peaceful nuclear activities in, under the jurisdiction of, or under the control of all non-nuclear-weapon states, and shall seek agreement from all nations and groups of nations to require acceptance of such safeguards as a condition for approving nuclear exports to such states.

(c) Within 12 months of enactment of this section, and each year thereafter in the annual report required by section 601 of the Nuclear Non-Proliferation Act of 1978, the President shall report to the Congress on the implementation of its provisions. The first report shall also analyze the anticipated impact of enacting, as requirements for United States Government export licensing or retransfer approval of components, items or substances determined to be especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes under section 109(b) of the Atomic Energy Act: (1) that the recipient non-nuclear weapon state maintains International Atomic Energy Agency safeguards with respect to all its peaceful nuclear activities, and (2) that the recipient nation has entered into an agreement for peaceful nuclear cooperation with the United States.

(d) Section 109 of the Atomic Energy Act, as amended by the Nuclear Non-Proliferation Act of 1978, is amended by adding the following at the end thereof:

"d. The Department of Energy may approve the retransfer of nuclear components, items or substances controlled pursuant to subsection b. only if the Secretary of Energy, with the concurrence of the Secretary of State and after consulting the Director, the Commission and the Secretaries of Commerce and Defense, finds that the criteria set forth in subsection b. or their equivalent are met with respect to the nation or group of nations designated to receive such retransfer and that the retransfer will not be inimical to the common defense and security. The Secretary of Energy shall establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understandings which are mutually agreeable to the Secretaries of State, Defense, and Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, for the consideration of requests for retransfer approval under this subsection.

"e. (1) In addition to the requirements in subsection b. or d., the Nuclear Regulatory Commission shall not license the export, and the Department of Energy shall not approve the retransfer, of a component, item or substance controlled pursuant to those subsections to a non-nuclear-weapon state that has not accepted IAEA safeguards on all its peaceful nuclear activities unless, in the judgment of the Secretaries of State and Energy, such export or retransfer will not result in a significant increase of the risk of proliferation beyond what which exists at the time that the license is issued or retransfer is approved. Among all the factors in making this judgment, foremost consideration will be given to whether or not the export or retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear-weapons state could transform diverted material produced through the use of the item in question into a nuclear explosive device.

(2) For any proposed export or retransfer subject to paragraph (1), the Director shall prepare an unclassified Nuclear Proliferation Assessment Statement with regard to such export or retransfer regarding the adequacy of the safeguards and other control mechanisms and the application of peaceful use assurances to ensure that the assistance to be furnished will not be used to further any military or nuclear explosive purposes. Such statement shall be prepared within sixty days of his receipt of the proposed export license application or retransfer approval, during which period the export or retransfer shall not be licensed or approved.

(3) No license or retransfer subject to paragraph (1) shall be issued or approved until the Nuclear Regulatory Commission or Department of Energy, respectively, has transmitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate the judgment required by this subsection and a period of 15 days of continuous session (as defined in subsection 130 g. of this Act) has elapsed: *Provided, however,* That if in the view of the President an emergency exists due to unforeseen circumstances, such period shall consist of fifteen calendar days."

Mr. McCLURE. Madam President, this is an amendment by way of substitute for the existing amendment.

The amendment I have sent to the desk is submitted on behalf of myself and Senators Johnston, Baker, Garn, Wilson, Symms, and Helms. It is a substitute for the pending Humphrey-Roth amendment, as modified by the Boschwitz-Levin amendment.

Madam President, this full-scope safeguards amendment which we are offering as a substitute for the Humphrey-Roth amendment was the subject of a "Dear Colleague" letter distributed earlier today, which included the text of the amendment, a description and explanation of the amendment, and a letter from the Office of Management and Budget stating that the administration supports the amendment. I hope that all Senators and their staffs in the offices will review that "Dear Colleague" material carefully while this debate proceeds.

Madam President, let me now state the very persuasive case for the substitute and against the pending Humphrey-Roth amendment.

Although the objective of the Humphrey-Roth amendment is meritorious—to reduce the risks of nuclear proliferation—its actual effect will be precisely the opposite, for the following reasons:

It will offend friendly nations and may set back ongoing U.S. nonproliferation initiatives. In a letter of January 30, 1984, the Secretaries of State, Commerce, and Energy indicate their strong opposition to the Humphrey-Roth amendment. They state "* * * enactment of this amendment would damage our efforts to achieve the very nonproliferation goals which are the basis of this amendment." Among the nations potentially most affected are Argentina, Brazil, and Israel, none of which can be defined as unfriendly nations.

Madam President, I ask unanimous consent to have printed in the Record the text of that letter.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Secretary of State,
Washington, D.C., January 30, 1984.

Hon. Jake Garn,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: During Floor consideration of S. 979, Senators Humphrey and Roth may offer an amendment which would prohibit the licensing for export or retransfer to certain countries of nuclear commodities identified under Section 109 of the Atomic Energy Act. We strongly oppose this amendment.

This proposal would have far-reaching impacts which have not received adequate congressional review in the relevant committees.

The range of commodities or transfers covered by the amendment, though meriting control because of their nuclear relationship, does not present dangers from the point of view of nuclear weapons proliferation because of their minor character. Significant U.S. nuclear trade with countries that do not accept safeguards on all their nuclear facilities is already precluded by the Nuclear Non-Proliferation Act (NNPA) of 1978. This statute requires nations to accept comprehensive safeguards in order to be eligible for major nuclear exports or retransfers. The Administration strongly supports such comprehensive safeguards. The President is undertaking a new initiative to convince other nuclear suppliers to require comprehensive safeguards as a condition for major new nuclear supply commitments. We believe such a change in international nuclear export rules should be achieved through negotiation, and not dictated unilaterally in U.S. legislation

Moreover, enactment of this amendment would damage our efforts to achieve the very non-proliferation goals which are the basis of this amendment. If our ability to conduct non-sensitive nuclear commerce is denied, the U.S. will be unable to provide concrete incentives for countries of proliferation concern to accept broader safeguards and to act in ways consistent with non-proliferation goals.

Finally, adoption of the proposed amendment would disrupt the present regulatory structure established by the NNPA without compensating benefit. This system of controls was carefully developed to permit a determination on a case-by-case basis as to which types of nuclear cooperation pose unacceptable proliferation risks. By treating minor nuclear exports and retransfers in the same fashion as major items having real proliferation significance, the Humphrey-Roth amendment upsets a balanced and sensible system which is working well to advance both U.S. national security and trade interests.

For these reasons, we urge you to oppose this amendment and any other nuclear trade restrictions which would injure gravely United States foreign, nuclear non-proliferation, and trade interests.

Sincerely yours,

George P. Shultz,
Secretary of State
Malcolm Baldrige,
Secretary of Commerce.
Donald P. Hodel,
Secretary of Energy.

Mr. McCLURE. Madam President, for example, one of the stated targets of Humphrey-Roth is Argentina. Argentina's newly elected, democratic government appears to be moving toward the U.S. position with respect to proliferation. The adoption by Congress of language targeting Argentina could well disrupt future negotiations with that nation, thus damaging our nonproliferation goals severely. In addition, Israel would be cut off from access to nonsensitive U.S. nuclear power technology by Humphrey-Roth and proposed perfecting language.

The Humphrey-Roth amendment also would have a negative impact on the Presidential initiative announced by President Reagan at the United Nations last year to get other important supplier nations to require "full-scope" international safeguards as a condition for their exports of major nuclear equipment and materials. It attempts to substitute U.S. unilateral legislating action for what is needed—patient and nonpublicized multilateral diplomatic effort involving the other supplier nations.

The attached substitute amendment would advance the nuclear nonproliferation policy of the United States by seeking broader application of full-scope safeguards, but without the denial-embargo approach of the Humphrey-Roth amendment. Our substitute would accomplish that objective by utilizing the approaches already in U.S. law and policy in the Nuclear Non-Proliferation Act of 1978. The substitute also would apply the carefully crafted concepts of the Nuclear Non-Proliferation Act of 1978, including the same specific timely warning procedures and standards developed for weapons-grade plutonium produced by reprocessing. These concepts were formulated in the Senate with the Carter administration in 1977 and 1978, and are now well settled diplomatically and legally.

The substitute has been developed with the assistance of the administration, to strengthen our nonproliferation legislation but avoid the damaging impact of Humphrey-Roth. The administration officially supports the substitute amendment by letter from the Office of Management and Budget of February 27, 1984.

Madam President, I ask unanimous consent to have printed in the Record a letter signed by Dr. Kell from OMB.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Executive Office of the President, Office of Management and Budget,
Washington, D.C., February 27, 1984.

Senator James A. McClure,
U.S. Senate,
Washington, D.C.

Dear Senator McClure: This letter is in response to your request for the Administration's position on your substitute amendment for the anticipated Humphrey-Roth amendment on nuclear non-proliferation to S. 979. That substitute amendment would:

Emphasize two provisions in the Nuclear Non-Proliferation Act by calling for the President to work to extend coverage of IAEA safeguards to all peaceful nuclear activities in non-nuclear weapons states, and to work with other suppliers to adopt a common policy of comprehensive safeguards.

Call for a report within 12 months on the implementation of this section of the Export Administration Act. In addition, that report is to include an analysis of the "anticipated impact" of a law that would require comprehensive safeguards and an agreement for cooperation before any peaceful nuclear components or heavy water exports would be licensed.

Legislatively mandate procedures for approving the retransfer of components and heavy water, and mandate an ACDA Nuclear Proliferation Assessment Statement on any proposed export or retransfer of a component or heavy water to a non-nuclear weapon state that has not accepted full-scope safeguards. It also would mandate prior notice to Congress of any such proposed transactions.

This is to inform you that the Administration supports your amendment in the form of a substitute.

Sincerely,

Alton G. Keel, Jr.,
Associate Director for National Security and International Affairs.

Mr. McCLURE. Madam President, the first two paragraphs provide new emphasis to two current provisions in the Nuclear Non-Proliferation Act by calling for the President to work to extend coverage of IAEA safeguards to all peaceful nuclear activities in non-nuclear weapons states, and to work with other suppliers to adopt a common policy of comprehensive safeguards. The third paragraph calls for a report within 12 months on the implementation of this section of the Export Administration Act. That report is to include an analysis of the "anticipated impact" of a law that would require comprehensive safeguards and an agreement for cooperation before any components or heavy water would be licensed (that is, essentially Humphrey-Roth). The fourth paragraph would legislatively mandate procedures for approving the retransfer of components and heavy water, and would mandate an ACDA nuclear proliferation assessment statement on any proposed export or retransfer of a component or heavy water to a nonweapon state that had not accepted full-scope safeguards. It also would mandate prior notice to Congress of any such proposed transactions.

The amendment would give further emphasis to those provisions of the Non-Proliferation Act that deal with full-scope safeguards, by directing the President to work to improve safeguards and the acceptance of full-scope safeguards. It would permit a thorough review of the anticipated impact of the major change in the structure of U.S. nuclear export law that Senators Humphrey and Roth are proposing. We should not change procedures legislated by Congress in 1978 unless we are fully aware of the impact.

The proposed substitute would fill what some have called a loophole in existing procedures for reviewing nuclear export transactions by legislatively mandating procedures to assure a stringent nonproliferation review of component and heavy water exports. All relevant agencies, including the NRC, would be given a major role in this review. It also would establish strict new requirements for component exports to countries that have not accepted full-scope safeguards, including requiring a judgment that the transaction would not create a significant proliferation risk, the foremost element of which would be timely warning. It would also provide prior notification to Congress of these proposed transactions.

The new requirements are the same specific procedures and standards applied now by the Nuclear Non-Proliferation Act of 1978 for the review of reprocessing which produces weapons-grade plutonium. Consequently, the less significant (in a nonproliferation context) components and technology under the substitute would be controlled just as direct nuclear weapons material. The U.S. Arms Control and

Disarmament Agency would be required to prepare a nuclear proliferation assessment statement for specified exports to states which do not accept full-scope safeguards. This would provide an additional check to insure that any such exports would not be diverted for use in a nuclear explosive program.

We urge you to give the substitute amendment your consideration, as the preferred alternative to the Humphrey-Roth amendment, to advance this Nation's nuclear nonproliferation policy. We must not abandon the very promising progress now underway diplomatically with Argentina, South Africa, and others, as the Humphrey-Roth amendment would do. Support for the substitute will be a vote for a vigorous, yet carefully measured and reasoned, initiative seeking broader application of full-scope safeguards throughout the world.

Madam President, let me now explain in more detail for purposes of legislative history how the substitute amendment would operate as an amendment to existing law.

Proposed subsection (d) of section 109 of the Atomic Energy Act would essentially require that the same substantive standards that apply to approving exports of components and other items licensed for export under section 109(b) also be applied to approving retransfer of these items.

Under subsection (d), the executive branch would have to establish procedures for considering these retransfer requests—the language I am proposing is parallel to that I proposed for, and was adopted in, several provisions adopted in 1978 in the Nuclear Non-Proliferation Act. The executive branch adopted NNPA procedures in June 1978, and I expect that these procedures will be revised to cover component retransfers. In fact, I understand that the executive branch is currently revising the 1978 procedures and this will provide an opportunity to incorporate provisions on component retransfers.

In addition to other requirements, subsection (e)(1) requires that the Secretaries of State and Energy find that an export or retransfer of a section 109(b) item to a nonnuclear-weapon state that does not accept full-scope safeguards not result in a significant increase of the risk of proliferation, giving foremost consideration to the factor of "timely warning." The language is parallel to that in section 131(b) of the Atomic Energy Act—the findings required for retransfers for reprocessing, reprocessing approvals, and retransfers of resulting separated plutonium. In this regard, I note that pages 11-12 of Senate Report 95-467, on the NNPA, contain a discussion of factors relevant to making judgments on significant increase of the risk of proliferation and timely warning. These judgments would be made by the Secretaries of State and Energy, as they are for subsequent arrangements.

For export licensing cases, the findings the Nuclear Regulatory Commission needs to make are set forth in section 109(b)—my proposal would not change those findings. For retransfer cases, the findings the Secretary of Energy needs to make are set forth in new section 109(d). New section 109(e)(1) establishes yet an additional requirement applicable only to exports or retransfers to nonnuclear-weapon states that do not accept full-scope safeguards—a judgment to be made solely by the Secretaries of State and Energy.

Proposed subsection (e)(2) requires that the ACDA Director prepare an unclassified proliferation assessment statement for any proposed exports or retransfers of section 109(b) items to nonnuclear-weapons states not accepting full-scope safeguards. This is far more stringent than section 131(a)(2), which provides an optional statement for subsequent arrangements. However, subsection (e)(2) would only require a proliferation assessment statement for a proposed export or retransfer—one that the executive branch intends to support. It is a prerequisite to positive action. But if the executive branch receives from the NRC an export license application or receives from a foreign government a retransfer approval request which the executive branch does not intend to process—for example, where the application or request does not meet the requirements in subsection (b) or (d)—there is no requirement for an ACDA statement.

In such a case, a statement would constitute needless governmental activity, since the export or retransfer was not going to occur. In this case, the provision does not apply, since it is not considered a proposed export or retransfer. If, at a later time, the executive branch decides circumstances have changed and it has become appropriate to process the case, then the requirement of subsection (e)(2) becomes applicable, with the time limits running from when ACDA is informed by the State or Energy Department that the transaction is to proceed.

Subsection (e)(2) provides that the export or retransfer will not be approved until the ACDA statement is completed. The statement would be made available to the Secretaries of State and Energy. The intent of the provision is that it would be available to State and Energy when they consider making the judgment required under subsection (e)(1). As with these statements under other sections in the Atomic Energy Act (sections 123 and 131 of the Atomic Energy Act), they are unclassified but not open to public comment, regulatory or judicial challenge. This is made clear in section 406 of the Nuclear Non-Proliferation Act.

Finally, proposed subsection (e)(3) will insure advance congressional notice of exports or retransfers of section 109(b) items to nonnuclear-weapon states that do not accept full-scope safeguards. This responds to criticisms that have been voiced about lack of notice to Congress of previous transactions involving Argentina and South Africa. The notice period would be identical to that under section 131 (b)(1) of the Atomic Energy Act—which applies to retransfers for reprocessing, and retransfer of resulting separated plutonium. Since the special judgment needed for these transactions is the one subsection (e)(1) would require—the judgment of the Secretaries of State and Energy that the transaction would not result in a significant increase in proliferation risk—I believe it would be most relevant for Congress to receive that judgment. In the case of an export, the NRC would make the legal findings necessary for licensing, with a delayed effective date for issuance, and would transmit the State-Energy judgment to Congress. After the required period had passed, the license would be issued. For a retransfer, the Department of Energy would transmit the judgment to Congress, and the retransfer request would only be approved after the required waiting period.

Madam President, in conclusion, let me compliment the Senator from Pennsylvania for the statement that he has made. I think he has touched on one of the very essential points that must be made.

I also say to my friend, the Senator from Minnesota, in respone to the Senator from Pennsylvania with respect to the analogy to the embargo on grain trade, the Senator from Minnesota has perhaps unwittingly put his finger on one of the major misconceptions and that is that we are still a monopolist in nuclear technology, that other people do not have an alternative; therefore, we can call the tune whether we are participants in that or not.

I suggest to the Members of the Senate that that simply is not the case and the record would indicate that we are making progress by working patiently with the countries that are involved simply because we can participate.

Mr. PROXMIRE. Madam President, will the Senator yield on that subject?

Mr. McCLURE. In just a moment I will be happy to yield.

If, as a matter of fact, the pending Humphrey-Roth amendment, as amended, is adopted, we will have cut off dialog with the very nations whose conduct we hope to influence and guarantee that they will deal with someone else that does not have the same concerns and will therefore not affect the policy in as positive a direction as all of us desire that it be done.

Madam President, I am happy to yield to the Senator from Wisconsin for a question if he desires.

Mr. PROXMIRE. The Senator, I think, apparently did not hear completely what the Senator from Minnesota and the Senator from Michigan both said. They both agreed we do not have a nuclear monopoly. We know that. The fact is, though, there is a world of difference between the competition to sell wheat, on one hand, and the competition to sell nuclear technology, on the other. They made that very clear.

Mr. McCLURE. Does the Senator have a question?

Mr. PROXMIRE. My question is: Did the Senator say that anyone has alleged we have a monopoly on nuclear technology?

Mr. McCLURE. I heard and noted very carefully what the Senator said and indeed the exchange of conversations between the several Senators who spoke to that subject. But I will reiterate what I said. It is based upon the false notion that somehow by refusing to be a part of the transaction we can influence that transaction as though we were the monopolists. As a matter of fact, we are not the monopolists in that techonolgy any longer, and the best way to influence the course of trade is to be a participant in it, not an outside critic of it.

Mr. PROXMIRE. The Senator is apparently arguing that if we sell nuclear technology without requiring international inspection to determine if that technology will be diverted to military purposes, we are somehow providing for a useful dialog, which is going to restrain the use of nuclear technology for military purposes. It does not make any sense.

Mr. McCLURE. The Senator mistakes my statement and misunderstands the context. I regret that, because I think it is essential to understand that we do influence the conduct in the recipient state, the state with which we do now conduct trade in the areas where we do trade, and we are making some substantial progress in getting them as a condition of the continuation of that relationship to move farther in the direction that both the Senator and I wish them to go.

Mr. PROXMIRE. Is the Senator arguing that nuclear proliferation has been halted by present policy? Does the Senator argue that they are not in the process of building nuclear arsenals very possibly in India, Pakistan, South Africa, Argentina, Brazil, and all of those areas? Is there not evidence in those areas that the nuclear technology that they are getting may be diverted toward that purpose? Is there any other reason why they denied international inspection to determine whether, in fact, there is diversion?

Mr. McCLURE. If the Senator is aware of our current condition of trade with India, I think he would know that we have, because of our concern with their nuclear programs, indicated that we will make no further shipments to them for their reactors because of that concern.

If the Senator is aware of our current negotiations in Argentina and South Africa and some of the other nations which he just mentioned, I think he would know that we are moving very substantially toward an extension of safeguards in a very positive way.

No, I think it would be wrong for us to say that the sole and only reason for them to resist the signing of dual scope safeguards is because they want to be or are a weapons state. I think the Senator would know that, for example, Israel has never signed and yet we have not cut off relations with Israel. We have not refused to trade with Israel. We are not suggesting that we refuse to trade with Israel.

We are concerned about what may happen in the development of nuclear technology in some of these other nations, and we are moving them in the direction of safeguarding all of the materials and the operations in those countries. We believe that we are more likely to influence those decisions in those countries favorably by continuing to negotiate with them rather than pulling down the curtain and say, "Nyet, we won't talk to you."

Mr. PROXMIRE. Is it not true that India did divert? We sold to India and they did divert. We sold to India at a time when they refused to accept international safeguards. Furthermore, we have no way of knowing——

Mr. McCLURE. The Senator stated a fact that we believe we cannot prove, and therefore, if we believe, but we cannot prove a diversion, we should suspend that trade. But it is not because we know that they are a weapons state or have diverted, but because we want to make certain that they are not doing that.

Mr. PROXMIRE. Is it not true that what the distinguished Senator from Idaho is doing is simply requiring reporting, notification, and review requirements which are largely status quo. His amendment does nothing to address the fundamental proliferation problem and, therefore, the Senator is really attempting to gut Senator HUMPHREY's amendment and is providing in its place a toothless, empty gesture. We will have the same old thing—reports, and nothing else. Where is the discipline?

Mr. McCLURE. No. Apparently the Senator did not listen to my statement or did not understand it or he would not have made that rhetorical question. Because, as a matter of fact, it does move positively toward the restriction of the trade that might be used in proliferation of nuclear weapons materials. As a matter of fact, it does require precisely the same kind of procedures that we apply to trade with weapons states in plutonium or weapons grade materials which the Senator, I believe, has supported. Why would we establish more strict prohibitions against these components or technology than we would against trade in plutonium?

If you are talking about rational or irrational policies, it seems to me we have stood rationality on its head.

Mr. PROXMIRE. Those policies have not worked. If the Senator was asking me a question——

Mr. McCLURE. No; I was not asking the Senator a question.

Mr. PROXMIRE. The Senator asked me whether we should not apply these same standards to plutonium as we are applying elsewhere. Was the Senator asking me that question?

Mr. McCLURE. No; I was not asking the Senator that question. I was saying it would stand our policy on its head to require a different standard here, a more strict prohibition here, than we do in materials of that nature. And we have not applied that prohibition in that instance, as a matter of fact.

Mr. BOSCHWITZ. Will the Senator yield for a question?

Mr. McCLURE. Will the Senator refrain for a moment? The Senator from Louisiana has indicated he wished to make a statement and I told him I would yield to him momentarily.

Mr. BOSCHWITZ. I would like to point out to the Senator from Idaho that plutonium cannot be freely traded. Its transfer is subject to restrictions identical to those contained in this amendment.

Mr. McCLURE. Madam President, I will return to that point in a moment after I have had an opportunity to yield to the Senator from Louisiana, as he has requested.

But, again, I want to stress that we are in the substitute suggesting that we tighten up on the processes exactly as we do in other areas in exactly the same manner and add to the current regime the issues of findings and prior notifications that are now imbedded in the law with respect to other components.

I think it is substantially stronger than existing law but it does not simply pull down the shade between ourselves and some countries that are admittedly friendly to the United States with whom we are carrying on commerce and may, indeed, carry on commerce in nuclear components or technology.

It seems to me we ought to be able to continue to negotiate with them in a friendly fashion, as we have, while we further our concerns and the restrictions that lead toward full-scope safeguards and making this world a safer place in which to live.

I am happy to yield the floor at this time.

Mr. JOHNSTON. Madam President, I rise in opposition to the amendment offered by the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from Delaware (Mr. ROTH) on the subject of nuclear exports. The administration strongly opposes the Humphrey-Roth amendment, and for excellent reasons. Enactment of the amendment would substantially disrupt promising U.S. efforts to limit the spread of nuclear weapons capability.

Everyone agrees that the proliferation of nuclear weapons is a potential disaster for the people of the world. The argument is over how to prevent this proliferation, not whether to prevent it. Our experience with prevention mechanisms under the Nuclear Non-Proliferation Act of 1978 has shown clearly that we can only make progress by persistent, creative diplomacy. It is an enormously difficult problem that does not respond to heavy-handed methods.

Heavyhanded is a good description of the Humphrey-Roth amendment. It amends the NNPA implicitly, introducing new statutory standards for review of exports of a broad range of major and minor items. It would remove the last flexibility for the United States to influence the countries we most need to stay in touch with: That is, those countries that have the technical potential to develop a real nuclear weapons program, but have not yet done so.

The most important of these countries are Argentina, India, Brazil, and South Africa. There are opportunities and serious problems in our relationships with each of these countries with respect to nuclear power and nuclear proliferation. The Humphrey-Roth amendment gives these subtleties short shrift and does the cause of nonproliferation a grave disservice.

The amendment has not been considered by the relevant committees of Congress. It has not been thought through. Its enactment would be premature and almost certainly counterproductive.

The simple fact is that we are not the only nation in the world capable of producing advanced nuclear technology for export. By turning our back on evolving nuclear programs in the developing nations, we leave the influential role of supplier to other nations whose commitment to nonproliferation is far less serious than our own. And, of course, we do absolutely nothing to deal with the fundamental reason that these countries are trying to develop nuclear power—their need for energy for development.

Consider the effect of this amendment on our relationship with Argentina. They have a new, democratic government in Argentina that is interested in civilian control of nuclear energy. There is a willingness to take a new, more open-minded look at nuclear nonproliferation. There is a chance that things will improve significantly if we are firm, but reasonable.

The Humphrey-Roth amendment would interject a very rigid limitation into our relationship with this very important country at precisely the wrong time. The Argentines are going to have a fairly sophisticated nuclear power program no matter what we do. Nevertheless, we have a chance to become much more relevant to that program so as to have some hope of influencing it in a way that reduces the risks of proliferation.

That opportunity will disappear if we enact Humphrey-Roth. There is no way we should expect the Argentines to regard the amendment as anything but hostile. And it is foolish to think that the amendment will make them forget about nuclear power. It will just make everything a lot more difficult with no compensating benefit.

In the case of India we have a continuing difficulty with the General Electric reactor at Tarapur. The Indians will need replacement monitoring and safety devices to insure the safe operation of that reactor. This amendment would almost certainly deny them these replacement parts. India then has the choice of operating one of our reactors unsafely or further exacerbating the power shortages that are limiting that nation's ability to provide for its people. This kind of treatment of a very important nation with whom we have a lot in common cannot be called diplomacy. It is not going to make the Indians any more interested in our views on nuclear nonproliferation.

On January 30, 1984, the Secretaries of State, Energy, and Commerce wrote to Members of Congress expressing their strong opposition to the Humphrey-Roth amendment. Their letter says, in part:

> Enactment of this amemdment would damage our efforts to achieve the very nonproliferation goals which are the basis of this amendment. If our ability to conduct nonsensitive nuclear commerce is denied, the U.S. will be unable to provide concrete incentives for countries of proliferation concern to accept broader safeguards and to act in ways consistent with nonproliferation goals.

Madam President, I ask unanimous consent that a copy of the administration letter of January 30, 1984, and a copy of the February 17, 1984, Science magazine article about Argentina's nuclear policy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., January 30, 1984.

Hon. JAKE GARN,
Chairman, Committee on Banking, Housing, and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: During Floor consideration of S. 979, Senators Humphrey and Roth may offer an amendment which would prohibit the licensing for export or retransfer to certain countries of nuclear commodities identified under Section 109 of the Atomic Energy Act. We strongly oppose this amendment.

This proposal would have far-reaching impacts which have not received adequate congressional review in the relevant committees.

The range of commodities or transfers covered by the amendment, though meriting control because of their nuclear relationship, does not present dangers from the point of view of nuclear weapons proliferation because of their minor character. Significant U.S. nuclear trade with countries that do not accept safeguards on all their nuclear facilities is already precluded by the Nuclear Non-Proliferation Act (NNPA) of 1978. This statute requires nations to accept comprehensive safeguards in order to be eligible for major nuclear exports or retransfers. The Administration strongly supports such comprehensive safeguards. The President is undertaking a new initiative to convince other nuclear suppliers to require comprehensive safeguards as a condition for major new nuclear supply commitments. We believe such a change in international nuclear export rules should be achieved through negotiation, and not dictated unilaterally in U.S. legislation.

Moreover, enactment of this amendment would damage our efforts to achieve the very non-proliferation goals which are the basis of this amendment. If our ability to conduct non-sensitive nuclear commerce is denied, the U.S. will be unable to provide concrete incentives for countries of proliferation concern to accept broader safeguards and to act in ways consistent with non-proliferation goals.

Finally, adoption of the proposed amendment would disrupt the present regulatory structure established by the NNPA without compensating benefit. This system of controls was carefully developed to permit a determination on a case-by-case basis as to which types of nuclear cooperation pose unacceptable proliferation risks. By treating minor nuclear exports and retransfers in the same fashion as major items having real proliferation significance, the Humphrey-Roth amendment upsets a balanced and sensible system which is working well to advance both U.S. national security and trade interests.

For these reasons, we urge you to oppose this amendment and any other nuclear trade restrictions which would injure gravely United States foreign, nuclear non-proliferation, and trade interests.

Sincerely yours,

GEORGE P. SHULTZ,
Secretary of State.
MALCOLM BALDRIGE,
Secretary of Commerce.
DONALD P. HODEL,
Secretary of Energy.

ARGENTINA FORMULATES NUCLEAR NEW DEAL

(By John Walsh)

In coming months, actions by Argentina are likely to provide a major test of the Reagan Administration's policies to prevent the spread of nuclear weapons. Last November, the Argentines revealed that they were secretly building a plant to enrich uranium, which would give them a greater potential for producing weapons-grade nuclear materials than had previously been known. But the new civilian government of President Raul Alfonsin seems to be moving toward acceptance of more international safeguards on the nation's nuclear activities, which would impede Argentina's developing a nuclear weapons capability. And U.S. officials are particularly encouraged by the new government's decision to shift the nuclear program from military to civil authority. The United States will have to weigh these contrasting developments as it considers requests from Argentina for U.S. nuclear exports.

Disclosure of the enrichment project provided not only a rude surprise for the United States but also evidence of an embarrassing lapse in the global intelligence effort intended to keep tabs on developments relevant to nuclear proliferation.

Argentina has been numbered among the "problem" countries in respect to nuclear proliferation. Because Argentina has its own deposits of uranium and is technically advanced, the country has been regarded as capable of accomplishing its avowed aim of achieving nuclear independence by creating a complete nuclear fuel cycle. Argentina is known to be constructing a reprocessing plant that would enable it to separate plutonium from irradiated nuclear fuel. Completion of an enrichment plant would enable the Argentines to produce nuclear explosives either by enriching natural uranium to weapons grade or providing nuclear fuel free of international safeguards which could be irradiated in Argentine reactors and then reprocessed to extract plutonium. Argentina has consistently denied any intention of developing nuclear weapons, stressing its aim of achieving self-sufficiency in peaceful nuclear activities.

State Department officials affirm that announcement of the enrichment plant near Pilcaniyeu in Rio Negro province some 600 miles from Rio de Janeiro came as a surprise to them. They were aware of a building there, they say, but not that it was an enrichment plant. Apparently it was too small for its purpose to be suspected since the gaseous diffusion process, which the plant is said to employ, usually requires facilities on a considerably grander scale. It was also thought that Argentina had no need for enriched uranium because the country's nuclear power program has concentrated on a type of reactor that uses natural uranium fuel. Perhaps the major question left by the slip-up, however, is that of what might have been overlooked elsewhere.

The revelation of the enrichment plant project in November occurred at a time when critics in the country were taking the Reagan Administration to task for approving the retransfer by West Germany to Argentina of 143 tons of heavy water of U.S. origin. The heavy water is designated for use in a power reactor of Canadian design which employs heavy water to moderate the fission reaction and is now being built in Argentina by West German contractors.

The heavy water is subject to the international nuclear safeguards administered by the International Atomic Energy Agency (IAEA) in Vienna, which means the IAEA inspectors keep tabs on facilities and materials to prevent prohibited uses. The implications for nuclear nonproliferation in a system only partially under safeguards, nonetheless, are seen as serious by U.S. critics. At a House hearing, for example, Paul Leventhal, president of the Nuclear Control Institute, a nonprofit research organization that concentrates on nuclear proliferation issues, argued that heavy water, like enriched uranium, is an essential ingredient for converting nonexplosive uranium into explosive plutonium.

Critics in Congress and in organizations concerned with nonproliferation matters have attacked the Reagan Administration for permitting exports of nuclear components and technology which are not covered by the U.S. Nuclear Non-Proliferation Act, which does mandate that recipients of U.S. reactors and nuclear fuel accept full-scope safeguards—those covering all of a country's nuclear facilities and materials.

Critics are striving to close what they see as the major loophole in U.S. nonproliferation laws. The House last year passed an amendment introduced by Representative Howard Wolpe (D-Mich.), which forbids the export of nuclear components and technology to countries that do not accept full-scope safeguards. In the Senate, a comparable amendment has been sponsored by Senators Gordon J. Humphrey (R-N.H.) and William V. Roth (R-Del.). The issue is expected to be thrashed out in the coming session and U.S. dealings with Argentina could well be affected.

Argentina's nuclear policies are now undergoing a major review. President Alfonsin has reaffirmed his intention to place Argentina's National Atomic Energy Commission (CNEA) under civil authority and named a commission headed by the foreign minister to recommend changes in the country's nuclear program including nonproliferation policies. Alfonsin has also suggested that his government is willing to accept more safeguards on nuclear facilities. However, a number of obstacles remain before the United States could freely export nuclear technology to Argentina.

Argentina declined to sign the Nuclear Nonproliferation Treaty (NPT) and has refused to accept full scope of safeguards on its nuclear facilities. Argentine officials now say that the country may be willing to ratify the Treaty of Tlateloco, which provides for a nuclear free zone in Latin America. Argentina has signed but not ratified the treaty. In the past, the Argentine unwillingness to ratify was attributed to the failure of some countries in the area, including Brazil and Cuba, to accede to it. Unlike the NPT, Tlateloco permits development of peaceful nuclear explosives, which Argentina has not been willing to forgo.

The Argentine atomic energy authority has traditionally been controlled by the military and that association strengthened a presumption that the program had a military orientation. The CNEA's longtime chief, Vice Admiral Carlos Castro Madero, exercised a major influence on the country's nuclear program. Castro Madero, however, resigned after Alfonsin took office in early December, and the new government has reiterated its intention to put the nuclear program under civilian control.

The shift to civilian control does not however, necessarily indicate that the Argentines will make a full reversal of past policies on nonproliferation. Castro Madero in announcing construction of the enrichment plant placed the responsibility for the Argentine decision to build it at least indirectly on U.S. actions which were viewed as frustrating Argentine plans for its nuclear industry. Argentina's ambitions for its nuclear industry are obviously substantial as is the investment it has made in it. Some American observers believe that costs and technical difficulties facing the Argentines in completing the plant may deter them from carrying through on it. But politically, abandoning the country's aspirations to nuclear independence would be difficult because the policy is popular in Argentina, particularly with the Peronists and the military, who form the new government's most serious potential opposition. It is not clear, as one State Department source put it, how far the government "would be willing to expend political capital."

Another factor working against U.S. nonproliferation aims is the charge increasingly made by Argentina and other nonweapons countries that the United States and the Soviet Union have not fulfilled the obligation explicit in the NPT that the superpowers would work effectively to reduce the number of nuclear weapons in their arsenals and to assist nonweapons countries with their civil nuclear programs. The nonweapons states indicate that they, therefore, feel less impelled to accept safeguards.

The Reagan Administration's strategy on nonproliferation is based on the view that the best way to influence countries to accept nonproliferation measures is for the United States to cooperate with them in their efforts on condition that they accept adequate safeguards. The Administration rejected Carter Administration tactics of denying U.S. nuclear technology and assistance to nonweapons countries in the cause of preventing their development of facilities capable of producing nuclear explosives. The Reagan Administration is dealing with an Argentine government evidently more disposed than its predecessors to negotiate safeguards as part of a nuclear quid pro quo. Skeptics in this country contemplating the prospect of a complete nuclear fuel cycle in Latin America worry that both governments and policies can change.

Mr. JOHNSTON. I am cosponsoring—with Senator McCLURE and others—a substitute for the Humphrey-Roth amendment. Any congressional action at this time will be misinterpreted and could therefore be potentially disruptive of our ongoing nonproliferation efforts. However, I believe that the substitute is much preferable to the negative approach of Humphrey-Roth and has the decided advantage of meshing smoothly with the existing machinery of the Nuclear Non-Proliferation Act of 1978. The substitute would tighten existing procedures as they apply to components, replacement parts, and related supplies and materials. It would do so within the framework of the NNPA, making use of procedures and terms of art from that law. The substitute is a far more workable approach to the problem the drafters of Humphrey-Roth are trying to address. The administration supports the substitute. I urge my colleagues to support it too.

Madam President, I support the McClure amendment and I do so with agreement with the Humphrey-Roth forces on a number of issues. Let me start with what I think we all agree on.

Agreement No. 1: Nuclear proliferation is one of the most serious problems that this world faces and the United States faces. It is a problem which is not being adequately addressed by the nations of the world or by U.S. law. We agree on that.

No. 2: We agree that the IAEA, International Atomic Energy Agency, safeguards are an appropriate, useful, and effective means for safeguarding our nuclear proliferation. They provide not only for inspection but for recordkeeping, for dealing with quantities of uranium or whatever the fissionable source is so that you account for everything that goes in and everything that comes out. And if all countries would agree with it, it would be effective. We all agree on that.

No. 3: We agree that if the Humphrey-Roth amendment were a practical way to assure compliance with the IAEA safeguards, it, too, would be a good thing.

But therein lies my disagreement, because, in a word, Humphrey-Roth will not work, has not worked, and does not have a real chance of working.

First of all, Madam President, let us look at the difference between Humphrey-Roth and the McClure-Johnston amendment. Humphrey-Roth says that you may not deliver these nuclear materials or parts unless first of all you have an Executive order and secondly that that Executive order says that withholding of these items would be seriously prejudicial to the national security of the United States. That is almost no flexibility at all, Madam President. In the first place, an Executive order is an unusual step for the President. He rarely takes such a step.

But if you want to get beyond that argument, to say that it would be prejudicial to the national security of the United States not to ship uranium or some nuclear part to India or Argentina or Brazil would simply not be arguable. It might be against national policy, it may be against the long-run interests, but no President it seems to me, could ever find that it would be prejudicial to the national security of the United States. And no President, I believe, would make that finding.

So, essentially what this amendment says is that you get no materials, no parts from the United States unless you sign up for everything on IAEA for the full court press on inspection. Now it would be wonderful if they would do that, Madam President, but they are not going to do it. They have not done it so far. We know the situation with India, for example, and their Tarapur reactor, which is an American-made reactor. They have agreed to let Tarapur be inspected. And indeed it is under inspection right now.

What they will not agree to do is have other nuclear facilities which they themselves constructed, or which they have gotten from other foreign sources, come under IAEA inspection. In effect, Madam President, it is simply an exercise of and a feeling of national sovereignty that motivates these countries as much as anything else.

Now we do not want them to have nuclear explosive devices, as the Indians call theirs. We do not want the Argentines or Brazilians to have it. And that is fine. I agree. They should not have it. But we are not going to prevent it with this bill, Madam President. All we are going to do is once again shoot ourselves in the foot.

There are some 40 countries that have nuclear power reactors operating, under construction or ordered in some stage of planning. I ask unanimous consent to have that list printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NONPROLIFERATION IMPLICATIONS OF A REDUCTION IN U.S. NUCLEAR EXPORTS

The attached tables illustrate that the United States does not control the supply of any equipment, materials or services required for the construction and operation of nuclear powerplants. On the contrary, a growing number of countries presently have or will soon have the capability to produce for export sale to countries developing commercial nuclear power programs.

Currently there are 40 countries outside the United States that have nuclear power reactors operating, under construction, on order or in some stage of planning. Two countries in particular have targeted this growing world nuclear market. Both France and Japan are expected to move aggressively to replace the United States as the major supplier of nuclear technology. These and other countries have already captured a large share of a world market which was previously dominated by the United States.

The United States now applies more restrictions and a higher level of safeguards to its nuclear exports than does any other country. This means that any shifts from the United States to other suppliers will result in the affected commodities being subject to a lower level of safeguards. To the extent, therefore, that additional restrictions applied by the United States to minor components and nonsensitive materials that are widely available from other sources cause buyers to turn to other suppliers, the result will be a net reduction in the level of safeguards applicable to international nuclear commerce. Even the prospect of the adoption by the United States of additional unilateral and possibly retroactive restrictions that are not required by any other nuclear supplier will discourage potential buyers of these materials from doing business with the United States.

The effect of these changes will be to seriously weaken current U.S. nonproliferation policy and to undermine efforts to control the spread of nuclear weapons.

SUPPLIERS TO THE INTERNATIONAL COMMERCIAL NUCLEAR MARKET

	United States	Australia	Argentina	Belgium	Brazil	Canada	China	France	Germany (FRG)	India	Italy	Japan	Korea	South Africa	Spain	Sweden	Switzerland	U.S.S.R.	United Kingdom	Netherlands
Complete reactors	X					X		X	X			X				X		X	X	
Major reactor components	X		X	X	X	X		X	X		X	X	X		X	X	X	X	X	X
Design engineering	X		X	X	X	X		X	X			X			X	X	X		X	X
Fuel fabrication	X		X	X		X		X	X	X	X	X				X		X		
Uranium	X	X				X	X	X						X						
Uranium processing	X		X			X	X	X	X			X		X				X	X	
Uranium enrichment	X		*				X	X	X			*		*				X	X	X
Reprocessing			*					X	*	*		*						X	X	

[X—Regularly offer commodity or service in commercial export market. *—Have technical capability but have not yet made commercial offering]

POLICIES AND CONDITIONS FOR NUCLEAR EXPORTS OF MAJOR NUCLEAR SUPPLIER NATIONS

[Policy or requirement as a condition of export]

	NUCLEAR SUPPLIER NATIONS							
	United States	Australia	Canada	Federal Republic of Germany	France	Japan	United Kingdom	U.S.S.R.[1]
IAEA safeguards on the material or facility in which it is used	X	X	X	X	X	X	X	X
Assurance of nonexplosive use by recipient	X	X	X	X	X	X	X	X
Effective physical protection	X	X	X	(2)	(2)			

POLICIES AND CONDITIONS FOR NUCLEAR EXPORTS OF MAJOR NUCLEAR SUPPLIER NATIONS—Continued

[Policy or requirement as a condition of export]

	NUCLEAR SUPPLIER NATIONS							
	United States	Australia	Canada	Federal Republic of Germany	France	Japan	United Kingdom	U.S.S.R.[1]
Moratorium on transfers of reprocessing equipment and technology	X			X	X			
Government level cooperation agreement	X	X	X	([2])	([2])		X	([2])
Reserves prior consent rights for retransfers	X	X	X					
Reserves prior consent rights for reprocessing	X	[3] X	[3] X					
Full-scope safeguards on all nuclear facilities [4]	X	X	X					
Full-scope safeguards on all nuclear facilities as a condition for the export of minor components [5]								

[1] Requires return of spent fuel for Comecon countries.

[2] Depends on a number of considerations, including nature of cooperation and date of its initiation.

[3] But has given long-term blanket approvals of European Community, Japan and other nations with good nonproliferation credentials such as Sweden, Switzerland, etc.

[4] As a condition for the export of nuclear reactors, enrichment and reprocessing facilities, natural and enriched uranium, U-233 and plutonium and on major reactor components, to the extent supplied. With the exception of India and Pakistan, Canada applies this requirement only to commitments for supply made after the policy came into force in December 1976. Australia limits exports to countries that are NPT parties.

[5] Proposed amendments to Export Administration Act would extend the requirement of full-scope safeguards on all a country's nuclear facilities as a condition for the export of minor components, transfers of technology and retransfers of minor components manufactured by foreign licensees of U.S. nuclear industry.

Mr. JOHNSTON. Now, I am not saying that all 40 of these countries would be at this point in time proper subjects for export of nuclear devices, parts, or fuel to some foreign country, but I can tell you that there are some countries that do compete with the United States. And I confidently predict that it will be a very short period of time before the Japanese will not only be the equal of the United States but will be as in automobiles a step ahead of the United States on nuclear matters.

Indeed, I was speaking just today at noon with an executive of a nuclear company who pointed out to me that the Japanese are going to build the Clinch River breeder reactor. They are going to take over the parts, take over the process, and build it in Japan. That may or may not be a good thing, depending on your point of view. But it is clearly an indication that the Japanese intend to be the leaders in nuclear export technology just as they are today in the fifth generation computer, as they are in automobiles, as they are in steel, and as they are rapidly becoming in the nuclear field.

How do you think the Argentines feel about the United States as it is, us having supported the British in the Falkland invasion?

To be sure, we are very pleased with the steps that Argentina is taking under its new democratic government. The light of democracy is shining through the land. There are better relations with the United States. But, Madam President, to think that the Argentines do not have a very strong feeling of resentment toward the United States today is not to face reality.

Of course, they resent the United States. We supported their enemy in their war, where their sons died and shed blood.

Mr. BUMPERS. Will the Senator yield?

Mr. JOHNSTON. Yes, indeed.

Mr. BUMPERS. Is that the reason to deprive the Argentines of heavy water and other items?

Mr. JOHNSTON. I am saying why the Argentines would not knuckle under to submit to IAEA pressure when they can get the parts elsewhere. They strongly feel national sovereignty for the United States to put their conditions on the export of this techology. Indeed, you understand we cannot ship plutonium or parts right now without being under inspection. That is not really what is involved in the Humphrey-Roth amendment.

Mr. BUMPERS. The Senator, I know, is aware that well over 100 nations have signed the Non-Proliferation Treaty. Argentina, I think, is one of the nations that has not. Does the Senator think they should be rewarded because they have refused to sign the Non-Proliferation Treaty?

Mr. JOHNSTON. No, of course. I think they should sign it. If I thought Humphrey-Roth would cause them to sign it, I would support Humphrey-Roth.

I am not saying that IAEA is not a good regime that all countries should not adopt. I think they should. I wish we could eradicate sin from the world. We have had IAEA for some time now. Our Israeli friends, over whom we have great influence, have not signed it. Why can we not get them to sign it? Because they feel their national sovereignty as well as the Brazilians.

"You can summon up the witches from the briny deep, but will they come?" In this instance, they will not come. You can make the order and they simply will not deliver.

The McClure-Johnston amendment is a more realistic way to get compliance because it says you may not make these transfers unless the Secretary determines that it will not result in a significant increase in the risk of proliferation beyond that which exists.

We are trying to be realistic and analyze what the risk is today. If it would not increase that risk, then you should be able to send the parts. That is the very reason that the administration so strongly opposes the Humphrey-Roth amendment.

I have disagreed very strongly with this administration on any number of things, but I do not think anybody would accuse this administration, or indeed any administration, of being for nuclear proliferation and of not wanting to do everything possible for nonproliferation.

This administration feels, as I do, after analyzing the risk, that Humphrey-Roth simply will not work, that indeed it will exacerbate the situation; it will ruin the relationship in nuclear matters between the United States and other countries; it will send these countries to another supplier and if they are not the superior of the United States right now in these matters, they soon will be. Certainly, we are not the sole source for acquiring nuclear reactors.

Madam President, I think it would be a tragedy if in the name of nuclear nonproliferation we make proliferation more likely; if out of a feeling for world peace and a feeling for doing away with the nuclear threat, we increase that threat. It is my fear that that is exactly what the Humphrey-Roth amendment will do.

Mr. McCLURE. Will the Senator yield for a brief comment?

Mr. JOHNSTON. I yield.

Mr. McCLURE. With respect to the question of the Senator from Arkansas relative to Argentina, I think the record should reflect that indeed the new Government of Argentina is moving toward our position. They are doing so not under the threat of complete lack of cooperation between them and us from our side, but under the urging of administration officials who are in contact with them. I think it is well to note that the new government in Argentina is already redirecting that country's nuclear program, that the President has moved the program from the military to civilian hands, completely separating it from the military as a move toward the position we think is important. They have also declared that Argentina would not develop nuclear weapons. They have ordered a thorough review and study of the nuclear question from top to bottom. That has all come about as a result of the contacts between our special representatives and their government, because we are permitted to negotiate with them with respect to these components and technologies. We would have no such contacts in the absence of that contact.

Mr. JOHNSTON. I would agree with my colleague. I would put the Humphrey-Roth amendment in the same bracket as I would the embargo on the sale of wheat to the Soviet Union. Everybody was for that. The idea was to make the Soviet Union come to its knees and do our bidding. It just did not work, that is all. This will not work either, not any better than the embargo with the Soviet Union did. It is just shooting ourselves in the foot.

Mr. McCLURE. Just as many people here would regard that as being a punitive step against that government, so would it be regarded by people in that government as being a punitive step toward them. It would simply freeze them into a position of hostility toward our policy.

Mr. JOHNSTON. That is correct.

There is one more point I wish to make so our colleagues are sure about the McClure-Johnston amendment and the Humphrey-Roth amendment: Neither amendment relaxes present law, which says any time you ship nuclear materials from this country to a foreign country it must be pursuant to IAEA safeguards.

What this amendment deals with is really shipments from other countries or the indigenous development of nuclear facilities by the countries themselves. That ought to be clear on the record.

Madam President, I yield the floor.

Mr. HUMPHREY. I would like to direct a question to the Senator from Idaho. He has twice stated that the Argentine Government is moving toward our position on nonproliferation. Does that mean that they are moving toward signing the NonProliferation Treaty?

Mr. McCLURE. Will the Senator yield?

Mr. HUMPHREY. Of course.

Mr. McCLURE. The Argentine Government has said that ratifying the Treaty of Tlatelolco and accepting full-scope safeguards are open questions. That indicates a change of position on their part which is a movement in the direction we wanted to move them, from open hostility to this suggestion and absolute rejection. They have not yet gotten to the point of full-scope safeguards but they are moving toward that position by their public statements as well as their private assurances.

Mr. HUMPHREY. Is the Senator saying that the Argentine Government is participating in moving toward becoming a full signatory to the Nonproliferation Treaty?

Mr. McCLURE. I think they are moving in that direction. I cannot tell the Senator how far they have come but they are moving in that direction.

Mr. HUMPHREY. I cannot imagine why they would go so far if they were so willing and able to make a separate deal outside of the treaty. That is what we are trying to control, the closing of this loophole. It is the ability of the United States to make outside bilateral agreements to do business in these kinds of significant technology which can be converted to military use.

The McClure amendment really takes the teeth out of Humphrey-Roth. It allows for reports, but there is nothing in that to curtail trade that we seek to curtail. Indeed, a letter passed around signed by Kenneth Adelman of the Arms Control Agency supporting the McClure amendment says that, in effect, the McClure amendment allows us to continue our dialog with those countries. In other words, it allows us to continue to seek separate bilateral agreements outside the Nuclear Non-Proliferation Treaty, which is precisely what we are trying to cut off in our amendment.

It is quite clear that the McClure amendment which would substitute for Humphrey-Roth will allow that to continue. It is a very distinct difference. It is the difference between night and day. Under Humphrey-Roth we would cut off U.S. trade in these kinds of materials except in the case where nations signed a nuclear nonproliferation treaty. The substitute McClure amendment would gut the Humphrey amendment, substitute for it and would permit the status quo to continue. So, if you are for the status quo, if you are for the United States continuing to export and license for export and to authorize the retransfer of technology and materials that are deemed to be significant for nuclear explosive purposes, if Members like the status quo—and that is what it is—then perhaps the McClure amendment would be attractive. If the Members do not like the status quo and want to change it, then they should recognize the distinct difference in McClure and Humphrey-Roth and oppose the McClure amendment.

Mr. JEPSEN and Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. JEPSEN. Madam President, I rise in opposition to the McClure substitute amendment and in support of the amendment offered by my good friend, the distinguished Senator from New Hampshire. The McClure amendment, as the Senator from New Hampshire just so ably stated, will add some paperwork but does very little to close loopholes in the Nuclear Non-Proliferation Act. The amendment by the Senator from New Hampshire, myself, and others will, in fact, close a loophole in the Nuclear Non-Proliferation Act and erect a further obstacle to the spread of nuclear weapons around the world.

For the past several years, Madam President, there has been an understandable resurgence of concern about the possibility for nuclear war. Unfortunately, while a great deal of attention and demonstrating has been focused on the bilateral negotiations with the Soviet Union to reduce or freeze our nuclear arsenals, very little attention has been paid to what is the most likely cause of a nuclear war, and that is the spread of nuclear weapons to other countries, especially those countries such as Libya, Iran, and others that are closely linked with international terrorism.

There are thousands of Americans, Madam President, who are concerned about nuclear war and have quite innocently participated in activity—and understandably so—for a nuclear freeze. A freeze is simple and easily promoted through rather loose regard for the facts and great exploitation of emotion. The leaders of the nuclear freeze have promoted their cause and have misled thousands of well-meaning Americans, but they have ignored the most serious threat by their indifference to the danger of nuclear proliferation. Madam President, they have focused on emotional projects like "The Day After," when the real focus and activity ought to be on the day before. That is what we are talking about with this amendment, addressing the day before.

The Humphrey amendment would go beyond current nuclear export law by prohibiting the Nuclear Regulatory Commission or the Department of Energy from exporting or transferring any component item or substance or technology that is defined under the Atomic Energy Act as being significant for nuclear explosive purposes to those countries which do not allow the complete inspection of their nuclear facilities by the International Atomic Energy Agency.

Madam President, we have had nearly 40 years of a virtual superpower control on nuclear weapons and nuclear technology. During this period, the relationship between the United States and the Soviet Union has been characterized by varying levels of tension, but both sides have repeated the basic view that these weapons must never be used. We have negotiated arms control agreements. We are working on restarting arms control agreements at this time, both for a builddown and eventual elimination. We have developed a dialog at many levels on this issue. The framework of nuclear deterrence is far from ideal, but from 1945 it has worked to prevent a war between the superpowers.

But nuclear technology has proliferated and our control over it has been eroded. It is the spread of nuclear weapons that is undermining the deterrence that has prevented the outbreak of nuclear war. The Humphrey amendment is an important first step in halting the transfer of nuclear technology and materials to those countries who refuse International Atomic Energy Agency controls on all of their nuclear facilities.

In closing, Madam President, I want to emphasize that it is only a first step, necessary perhaps but not sufficient, to halt the spread of nuclear weapons. The administration must build on this amendment and initiate an effort to negotiate multilateral controls over the export or transfer of the technology and components that are covered in the Humphrey amendment. Our action today should send a strong signal to the administration that this effort must have the highest priority.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. Madam President, I listened with care to most of the statements of my good friend from Idaho, who I greatly respect and who I know is as much in favor of reducing nuclear weapons as anybody in this Chamber. The Humphrey amendment, as perfected by an amendment I and the Senator from Michigan (Mr. LEVIN) introduced, is not without its own loophole, however. It is not without ability for the President to negotiate, in that there is a Presidential waiver. The President can, in the example of Argentina, which is moving toward acceptance of democratic standards and toward acceptance of the NPT or some of the other restrictive agreement with respect to proliferation of nuclear technology, give a waiver. I believe the Senator also spoke about Israel; the President could also give a waiver in that instance. The Humphrey amendment, as perfected, is not without flexibility to negotiate and, indeed, strengthens the hand of the President to do so by giving the President the option of a waiver.

Mr. President, I also listened with care to my friend from Louisiana, who made the analogy once again to the grain embargo, saying that this restriction is analogous to embargoing grain; that we shot ourselves in the foot; that somebody else will supply it if we do not. Well, grain, of course, is produced in every corner of the Earth. As I said earlier, perhaps 130 or 140 or 160 nations of the world produce grain. Yet nuclear technology, particularly the type of technology that we are speaking about here, is in the hands of only a few, perhaps a half dozen nations. The reprocessing technology, as it applies to plutonium, is in the hands of even fewer.

If we are to obtain any type of agreement among those nations that we should not proliferate nuclear technology, we simply have to lead the way. By and large, the six or seven nations that have the capability or have the technology are free nations; they are democratic nations with the exception of the Russians. And to give the Russians their due, they are extraordinarily restrictive with respect to nuclear technology and allow virtually no proliferation of it, not even to some of their satellites. We could even take them as our guide in this matter. If we did so, we would not proliferate nuclear technology and the ability to construct nuclear weapons to Third World powers, to other powers of the world, because, Madam President, the possibility of a nuclear weapon being exploded in anger, between the two superpowers, in my judgment, is extraordinarily remote. Each side is just so strong that it could respond with awesome force if the other one decided to attack first. There is no way that either side could survive such an attack. So there is something of a standoff. But should nuclear technology, should nuclear weapons fall into the hands of less responsible nations, should they fall into the hands of nations we need not mention, there is no question in my mind that nuclear weapons would then be used in anger and that nuclear weapons would be used again.

It is important, Madam President, that we lead the way toward the restriction of nuclear technology transfer, not only technology but nuclear components as well. If we do, I believe that we can then hope to negotiate successfully with the handful of countries that have the ability to supply that technology at the present time. As long as our own standards are loose, we can expect nothing from the other nations of the world. I yield the floor.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Madam President, the Senator from Minnesota a moment ago had asked me a question which I said I would answer after the Senator from Louisiana had had an opportunity to make his statement. If I recall correctly, the Senator asked me if I was referring to the export of plutonium.

What I was referring to is the export of technology and components for reprocessing which can produce the plutonium of weapons grade. That is provided for in existing law, and the amendment which the Senator from Minnesota and others have proposed here would apply to technology and components in peaceful nuclear trade, a stricter standard than is now required under existing law with respect to that reprocessing technology and components of such equipment. That is the nature of my statement.

Mr. BOSCHWITZ. That is correct. However, I understood the Senator from Idaho to state that plutonium could be used.

Mr. McCLURE. Either I misstated myself or the Senator misunderstood, because I did not intend to make that statement.

Mr. BOSCHWITZ. Perhaps I misunderstood the Senator.

Mr. McCLURE. I think it is important to note, however, that we are dealing with the processes, the equipment, the components, and the approval of reprocessing technology in a foreign country.

Mr. BOSCHWITZ. That is correct.

Mr. McCLURE. Which is under a standard less strict under existing law than the one proposed by the Senator from Minnesota for less critical components and technology.

It seems to me that we have turned that on its head if we have done so.

Madam President, I am in receipt of a letter addressed to me, dated today, stating as follows:

> Your substitute amendment to the Export Administration Act (S. 979) strengthens our nuclear export controls, checks, and procedures. It also provides an expanded opportunity for Congressional involvement.
>
> At the same time, your amendment retains the flexibility provided in the Nuclear Non-Proliferation Act for limited peaceful nuclear commerce with non-nuclear weapons states that do not yet accept safeguards on all their nuclear activities. This allows us to continue our dialogue with those countries to further our non-proliferation goals.
>
> Your amendment also recognizes that before further significant changes in the law are considered, it would be wise to evaluate them with great care through the committee hearing process to ensure that all of the pros and cons are debated and weighed.
>
> I strongly support your amendment as an important measure in strengthening United States nuclear export controls and contributing United States nuclear export controls and contributing to our national nuclear non-proliferation objectives.
>
> Sincerely,
>
> KENNETH L. ADELMAN.

Madam President, reference has been made to several areas of non-weapons states that have not yet signed or become active in the full-scope safeguards programs. We have talked about nations such as Argentina, Brazil, and South Africa.

Over this weekend, our Special Representative to the IAEA and Special Negotiating Representative has returned from Vienna, where they have been involved in such discussions, both on an individual and on a bilateral basis.

I think we have made significant progress in moving toward full-scope safeguards in each of those countries. I think it is also fair to say that we believe some progress is being made with respect to the situation in India. We cannot report a positive and conclusive statement to that effect, as I can with respect to those other countries, but I believe that under the current regime, under the current statute, we are making progress. The amendment which I and others have offered this afternoon will tighten the standards and further the objective of continuing the progress we are going through right now which has yielded results.

(Mr. SPECTER assumed the Chair.)

Mr. BUMPERS. Mr. President, it seems to me that this substitute amendment is directed toward an acceptance of the proposition that the genie is out of the bottle; that nothing can be done about it; that, therefore, we must use our technology and our components in order to try to make friends with people and enjoy the benefits of international commerce, perhaps to lower our trade deficits.

Nobody here can deny that the genie is out of the bottle so far as technology is concerned. It is, indeed. You will never be able to undo the formula for developing atomic weapons because too many people know how. What the debate that has been raging in this country now—and I say "raging" advisedly—for the past 3 years is that we want to rid this Earth of as many nuclear weapons as possible and avoid what everybody feels is an inexorable path toward nuclear annihilation.

It occurs to me that the Humphrey-Roth amendment—incidentally, coming from two of the most conservative Senators in the U.S. Senate—speaks volumes. It occurs to me that there is not that much room for disagreement on the thrust of the amendment.

In 1977, I took a very useful trip to the Middle East, with 11 other Senators, headed up by the then very distinguished, still a very distinguished gentleman and former Senator, Abe Ribicoff. There were two primary purposes for this trip. One was to go to Vienna and visit the International Atomic Energy Agency and see how well they were functioning, let them give us a report on the way they were inspecting, how many countries they felt were in compliance, whether anybody was trying to cheat among those people who had signed the Non-Proliferation Treaty or among nations which were allowing their atomic facilities to be inspected.

I found one thing in Vienna—that even though we were putting up the lion's share of the money to keep that agency going, there were other countries contributing and participating; but I found that their inspection procedures at that time left a lot to be desired, and they knew it, and they admitted it.

My point is simply this: Under the very best of circumstances, there is the possibility of cheating. But that does not make it right, nor does that justify the United States saying that since people are going to cheat, we are going to send components, or our technology, to countries which cheat or which have not signed the Non-Proliferation Treaty. That is not the way the mentality of this country is supposed to operate.

It has been only 10 years since India became the sixth nation to join the nuclear club. Ten years ago, in 1974, India exploded her first atomic bomb, and here is one Senator who has voted consistently against India ever since. Tarapur or no Tarapur; inspection of Tarapur, no inspection of Tarapur; and that, by the way, is not their only facility.

Ten years before that, China became the fifth nation to join the nuclear club, and that sent a lot more chills up the spines of the Soviets than it did in this country. But that is small comfort for anybody, anytime any country joins the club.

So everybody is sitting around wondering who is going to be No. 7.

We shipped 143 tons of heavy water to Argentina. I do not wish to stand on the floor of the U.S. Senate and denigrate Argentina, but who here considers Argentina the most stable democracy in the world? I wish them well. I am pleased by the political and social progress that is being made in Argentina, and I applaud them. But if their democracy lasts another 20 years, I will applaud a lot louder. They have not signed the Non-Proliferation Treaty, nor have they agreed to allow their facilities to be inspected. The administration says, "We really did slip up on that one, and we are sorry."

The second reason I went on this trip to the Middle East back in 1977 was to go to Egypt, which wanted to buy two nuclear reactors from the United States. We did not sell the reactors to Egypt, but we talked to them endlessly about it.

We went to Iran because the Shah at that time also wanted to buy a couple of nuclear reactors. Incidently, "ain't it a shame" that we did not go through with that one? He had the cash.

Anwar Sadat sat with us for 2 or 3 hours and told us that he had absolute proof that Qadhafi was offering tens of millions of dollars to anybody who would deliver him a nuclear weapon.

That is not classified. I have never said that before on the Senate floor. I am just telling you what President Sadat told us in that conference.

Does anybody here doubt that unless this kind of legislation passes that Qadhafi will almost certainly be the 7th, 8th, 9th, or 10th member of the club if he lives long enough?

He may get it with or without this legislation. But what I am saying is how can the United States assert moral leadership on the nuclear weapons issue and say just a little component here and there and just a little heavy water here and there does not really make any difference?

I would like to know how we can justify selling components to a nation which says "We will not let the International Atomic Energy Agency inspect our facilities."

Why not? Why do they not want us to inspect their facilities? They leave us no alternative but to ascribe the very worst motives. It is like saying "All those stories you have heard about me having a terrible virus and a high fever are not true; kiss me, you fool."

To my colleagues, those of us who talk almost daily about the START talks and nuclear proliferation and arms negotiations, and so on, and who consider it the overriding issue on this planet, most of us believe that the nuclear holocaust is very likely to start not from a bomb with U.S.A. marked on it, or from a bomb marked with the red star of the Soviet Union on it. There are an awful lot of people who believe that the terrorists or an irresponsible nation such as Libya are very likely to start the whole thing in action.

Senator NUNN deserves the praise of all of us because for years he has championed the cause of establishing a body, a group of people, or some kind of an organization or system by which we cannot start the war by accident.

I could stand here and give you 20 scenarios of how it could happen.

What if Qadhafi lays his hands on an F-15? Or what if the Iranians give Qadhafi an F-14? They have a bunch of them. We sold the Shah about 87 before the Shah bit the dirt. So let us use that scenario—that would be a little more realistic—that the Iranians tell Qadhafi, "Yes, we do have all these F-14's and we will sell you a few of them. We are about broke. The Iraqis have bombed Kharg Island. We need all the cash we can get." So they send some F-14's to Qadhafi. Meanwhile, he for $100 million has laid his hands on a nuclear device that has been built by a country to whom we sold just enough technology and just enough components to get the job done. They take one of those F-14's, put the star of the United States Air Force on it, paint it just exactly like it came off the assembly line in this country, and they start flying into the Soviet Union and they drop this device on Kiev, or Moscow, or wherever. Now maybe Secretary Chernenko will get on the hot line and say, "Please tell me you didn't intend to do this." But the Soviets have a trail of eyewitnesses from the Black Sea to Moscow saying they saw this plane clearly with American markings on it.

Well, those kinds of scenarios are endless. Book after book has been written on a particular concept of how that might happen.

Back to the amendment, the amendment says we may not license for export, or approve retransfer of components, which the Nuclear Regulatory Commission has listed as "significant for nuclear explosive purposes."

What is the opposite of that? The opposite of that is that we may license for export or approve retransfer of components which NRC has listed as significant for nuclear explosive purposes.

It seems to me that when we get ready to vote up or down on the McClure amendment, or table, or whatever else, in order to try to get to the Humphrey-Roth amendment, you have a choice. If you vote for Humphrey-Roth, you are saying that you do not want anything licensed for export or component retransferred to any nation which has refused to allow its nuclear facilities to be examined, if the NRC has listed it as being significant for nuclear explosive purposes.

If you vote no, you are saying "I favor the licensing for export and the retransfer of components to a nation whether it has signed the Non-Proliferation Treaty or not, whether it has allowed its facilities to be examined by the IAEA, even though it is significant for nuclear explosive purposes."

How could any amendment be any clearer than that? I must confess I rarely see something on the floor of the Senate offered which has as few gray areas as this has.

Mr. President, I have the feeling that a lot of the arguments going on here today, that if we do not they will—you hear that on defense, if we do not build this weapon the Soviets are going to build it; if we do not sell plutonium and nuclear components, someone else will—I bet you that if you spent a year in the Parliament of England, or France, or the German Bundestag, you would hear the very same arguments. This is a commercial argument. "If we do not sell them, the United States will."

How do we go to France and say "Please do not sell any more nuclear equipment to Brazil," or go to Germany, or to Canada and ask the same? How do we take the moral high ground and argue that you should not do this if we are busily engaged in it? The truth of the matter is you cannot. That is to cave into what may be the inevitable.

But it is also to abdicate everything that we as human beings, as good citizens who love our country and love the planet Earth say that we believe in.

Even the Soviet Union, that evil empire, has only sold one reactor that is not under their firm control and that is to Finland. Incidentally, Finland is right next door to the Soviet Union, and Finland is a great nation, they are a great people, but you know they have to accommodate their political policy, their economic policy, and their social policy to accommodate the Soviets. The Soviets have given Finland considerable latitude in all of those areas, but Finland knows she cannot step over the bounds.

But the only things the Soviet Union has sold outside her own borders are to the Warsaw Pact powers where they are in absolute control.

So here we are arguing about an issue on which the Soviets have been more responsible than we have been.

I tell you I would be worried about the politics of this if I were the President. The President says that he wants to negotiate. He is saying to the Soviets, "please come back to the table."

He is saying to the American people, "I do not care what all the peace groups say; I do not care what all my Democratic opponents say. I am as opposed to nuclear weaponry, I am as much in favor of nuclear arms reductions as anybody in this country."

And if you take that at face value I have no reason to doubt him.

But how do you square that? How do you square that with opposing a very simple amendment that says you may not export components that have a significant explosive capability and relevant technology to nations that do not accept simple safeguards?

I would not want to run on that platform this fall.

The opposite of that is, "I am for eliminating nuclear weapons as long as it does not interfere with our sales of the ability to make nuclear weapons, to other countries even though they have already demonstrated the height of irresponsibility by refusing to sign the Nuclear Non-Proliferation Treaty and by refusing to allow their nuclear facilities to be inspected.

I would plead with my colleagues to reject the McClure amendment and vote resoundingly for the Humphrey-Roth amendment, in the name of simple mankind.

If I could coin a phrase: "Don't throw your conscience away on this one."

Mr. President, I yield the floor.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, the substitute that is being offered to the Humphrey-Roth amendment is one which, as the distinguished Senator from Idaho has already acknowledged, has a common goal. The goal obviously is to achieve the best and most practical policy to achieve the stated objectives of the 1978 nonproliferation legislation.

But, specifically, the amendment, which Senator McCLURE and I and others have offered as a substitute, not only affirms our commitment to achieve nonproliferation through international agreement, but to provide a review mechanism that will help to identify any needed modifications in U.S. policy.

It does not deny that there may be possible virtue in what is being proposed but it does say that such a far-reaching step, one that may have the most unfortunate and counterproductive ramifications, be submitted to the process of thorough scrutiny so that we not, with the best intentions in the world, engage in a mistake that will in fact result not in less proliferation but in more, as offended nations circumvent the protections that we all seek and achieve from less scrupulous suppliers the components, the heavy water, the kind of reprocessing elements that they in fact can if they choose to do so.

Mr. President, existing policy has worked well in that it has uniformly prevented the export of major nuclear technologies to nations refusing to fully comply with IAEA safeguards, while protecting the much-needed flexibility of the United States to export lesser significant technologies on a case-by-case basis. In conducting this trade only after important licensing agreements have been achieved with a recipient nation, the United States has asserted a powerful voice in gaining new antiproliferation concessions.

I would remind those tempted to vote for the Humphrey-Roth amendment that only 4 component exports have been approved during the entire Reagan term, as compared to 17 during the final 2 years of the prior administration.

This administration has used the flexibility afforded by current law prudently and constructively to gain concessions from nuclear trade partners. The recent South African announcement on export controls and safeguards on their new enrichment plant is an example of the gains which can be made through this kind of constructive dialog.

The amendment which Senator McCLURE and I are offering affirms the U.S. commitment to an active policy of nonproliferation. It acknowledges the need to review and modify guidelines as needed after reasoned investigation and debate has occurred. It avoids the appearance of knee-jerk policymaking associated with those who would seek to change sensitive export laws without the benefit of adequate congressional hearings to fully explore perceived and suspected shortcomings in existing law or the likelihood for success or failure which their proposed amendments would have.

Our substitute, I suggest, permits a far more favorable environment for continuing efforts by this administration to gain international consensus among nuclear-supplier nations to achieve comprehensive safeguards. Sharp, hastily made policy changes can only risk hurting the prospects of these important negotiations. And it is through these negotiations that we indeed enjoy the best hope of nonproliferation.

I commend the energies and the very meritorious objectives sought by the proponents of the Humphrey-Roth amendment. The Senator from New Hampshire and the Senator from Delaware have put forward ideals to which we can all subscribe; indeed, we all do subscribe.

The argument here is on how best to achieve those objectives, those terribly important objectives. I submit that we should be concerned with the judgment of those who are in the business daily of attempting to see to it that in fact the world is kept safe from the threat of nuclear proliferation. We cannot ignore, it seems to me, the urgent admonition from the Secretary of Defense, the Secretary of Energy, or from Mr. Adelman and his associates at ACDA. It is their daily business to take the precautions necessary to achieve the very objectives which my friend from New Hampshire and my friend from Delaware so urgently implore upon us.

I would only say to my colleagues that good intentions in this body are not enough. This is the most serious of subjects. We cannot afford to be guilty of haste. We cannot afford to be guilty of mistakes which a prudent, careful investigation could avoid.

I thank the Chair.

Mr. HUMPHREY. Mr. President, the amendment Senator ROTH and I would like to attach to the Export Administration Act would close an existing loophole in our Nation's nuclear export law concerning sensitive nuclear components. This loophole has generated a considerable amount of controversy, and is especially deserving of our timely attention.

Existing law prohibits the Nuclear Regulatory Commission (NRC) or the Department of Energy (DOE) respectively, from licensing for export or approving for retransfer special nuclear materials and components to any nonnuclear weapons state that has not agreed to open all of its nuclear facilities to International Atomic Energy Agency inspections. Thus, in 1980, the Nuclear Regulatory Commission refused to license the export of enriched uranium reactor fuel to India. It was only after the President determined that withholding the export would be prejudicial to the security interests of the United States that the export license for this fuel was approved.

Existing law, however, is much less restrictive concerning the licensing of important nuclear materials and equipment determined to be significant from a nuclear explosive standpoint. The law requires the NRC to keep a list of materials and equipment determined to be especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Yet, the Commission can license the export of these items to countries that refuse to open all of their facilities to International Atomic Energy Agency inspection.

This inconsistency has been the source of considerable mischief. The administration's announced policy has attempted to deal with the inconsistency by requiring nonnuclear weapons states to place all of their nuclear facilities under international safeguards as a condition of receiving significant new—nuclear—supplies. However, just what exactly is significant has been left unclear.

Recently the Secretary of State offered to help India purchase control rod components for its reactor at Tarapur. India is a nation that has exploded a nuclear device and that has refused to open its facilities to full-scope safeguards.

Likewise, the recent retransfer approval of 143 tons of heavy water of U.S. origin from the Federal Republic of Germany to Argentina has raised eyebrows. Argentina has refused to allow all of its facilities to be inspected by the International Atomic Energy Agency, is reported to be discussing helping the Libyans acquire heavy water reactor know-how, and has publicly reserved its right to explode a peaceful nuclear explosive. Heavy water reactors are the kind we use to make nuclear weapons material for our armed services, and heavy water is listed by the Nuclear Regulatory Commission as being especially significant for nuclear explosive purposes.

Particularly disturbing is a New York Times report that our intelligence services have been circulating a report among key administration officials, contending that Argentine officials have a secret plan to divert a ton of uranium from under the noses of international inspectors to be used to make nuclear fuel elements that, in turn, could be clandestinely loaded into Argentina's heavy water reactors to produce plutonium.

I mention these examples not because they are common. They are not. Almost all of the U.S. nuclear exports to nonnuclear weapons states are to countries that are signatories of the Nuclear Nonproliferation Treaty who have placed all of their nuclear facilities under safeguards. What these examples demonstrate, then, is not some clear-cut trend but rather the clear-cut need for greater guidance concerning what constitutes exports of significant new—nuclear—supplies to nonsignatories of the Nuclear Nonproliferation Treaty.

The amendment Senator ROTH and I are offering would help clarify the meaning of significant supplies by adopting the Nuclear Regulatory Commission's own list of sensitive components. Under this amendment the NRC would be generally prohibited from approving the licensing of section 109 components or materials for export to nonweapons states refusing full-scope safeguards. Likewise, the Secretary of Energy would be prohibited from approving their retransfer. However, other agencies of Government, particularly the State Department, would be free to make their own recommendations. If necessary, the President could overrule the NRC or DOE if he determined that withholding export or retransfer approval would be prejudicial to U.S. national security interests. In other words, with respect to nonweapons states, we would treat all sensitive nuclear components and materials essentially the same.

Therefore this amendment would bring to an end a double standard applied to Nonproliferation Treaty (NPT) states and non-NPT states. The Departments of State and Energy have argued that we stand to lose our leverage in pushing NPT states to accept and sign the treaty if we halt sensitive exports. Yet as early as last week, a State Department briefing made clear that the very countries involved in the sensitive sales at which our amendment is addressed, remain, even in light of our accommodations unlikely signatories to the treaty. In fact, there are reliable reports that future sales to Brazil will prompt clearance for sensitive French shipments to Brazil—clearance previously withheld by Paris so as not to upset U.S. nonproliferation policy.

I should mention that the amendment at the desk reflects a technical change not incorporated in the language attached to the January 25 dear colleague. This change reflects the addition of a proviso that any executive decision to overrule the NRC or DOE would not become effective until Congress has 60 days prior notice. This language brings our amendment even closer into line with the treatment existing law affords major nuclear components.

Although our amendment is modest, it would send the clear signal that only binding law can send. Certainly, sense of the Senate resolutions help as do hearings. But Congress has passed several sense of the Congress resolutions and has held numerous nonproliferation oversight hearings to no lasting effect. Indeed, arms control critics both left and right have noted that Congress has always talked about stopping the spread of nuclear weapons, but has generally been unwilling to act in a timely fashion—even in the smallest of ways.

I believe that now is the time for action, particularly in light of the recent Supreme Court decision that casts doubts on the validity of many important aspects of the Nuclear Nonproliferation Act of 1978. If you are opposed to the further spread of nuclear weapons technology, as I believe we all are, I would ask that you join in approving this simple but important step to promote consistency in our nuclear export policy.

Mr. McCLURE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho (Mr. McCLURE). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN) and the Senator from New Hampshire (Mr. RUDMAN), are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Colorado (Mr. HART), would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 38, nays 55, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—38

Abdnor
Baker
Chafee
Chiles
Cochran
DeConcini
Denton
Dole
Domenici
East
Evans
Garn
Goldwater
Gorton
Hatch
Hecht
Heinz
Helms
Johnston
Kasten
Laxalt
Long
Lugar
McClure
Murkowski
Percy
Quayle
Sasser
Simpson
Specter
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Wilson
Zorinsky

NAYS—55

Andrews
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
D'Amato
Danforth
Dixon
Dodd
Durenberger
Eagleton
Exon
Ford
Grassley
Hatfield
Hawkins
Heflin
Humphrey
Inouye
Jepsen
Kassebaum
Kennedy
Lautenberg
Leahy
Levin
Mathias
Matsunaga
Mattingly
Melcher
Metzenbaum
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Stafford
Stennis
Tsongas
Warner
Weicker

NOT VOTING—7

Cohen
Cranston
Glenn
Hart
Hollings
Huddleston
Rudman

So Mr. McCLURE's amendment (No. 2749) was rejected.

Mr. BOSCHWITZ. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays on the Humphrey amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, parliamentary inquiry. I could not—may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order. Will the Senators in the well please clear the well?

Mr. HEINZ. Did a Member of this body ask for the yeas and nays?

The PRESIDING OFFICER. The yeas and nays were requested.

Mr. MATHIAS. Mr. President, is the amendment open to further amendment?

The PRESIDING OFFICER. The amendment is open to further amendment.

AMENDMENT NO. 2750

Mr. MATHIAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an amendment numbered 2750:

On page 53, after line 9, add the following:

"Policy on Nuclear Nonproliferation.

"Section 19. It is the sense of the Congress that the President should take immediate action to: (1) confer on an urgent basis with other nuclear suppliers as a first step towards achieving a new worldwide consensus on nuclear transfers regarding tightening restrictions on dangerous nuclear trade through measures which—

The PRESIDING OFFICER. Will the clerk withhold? The amendment is not in order. It is drafted to a different part of the bill. It is not drafted to this amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the amendment be in order as a part of the pending amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on the unanimous-consent request of the Senator from Maryland that his amendment be in order. Is there objection?

Mr. MATHIAS. Mr. President, I have had some conversations with the sponsors of the Roth-Humphrey amendment, and as a result of those conversations, I am willing to withdraw my unanimous-consent request and to withdraw the amendment. I will send it to the desk to be considered as a freestanding amendment on the bill, after the adoption of the Roth-Humphrey amendment. So, I withdraw my request, and I withdraw my amendment.

The PRESIDING OFFICER. The request is withdrawn, and the amendment is withdrawn.

The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (No. 2747), as modified, was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the amendment I offered to the Export Administration Act be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 53, after line 9, add the following:

POLICY ON NUCLEAR NONPROLIFERATION

SEC. 19. It is the sense of the Congress that the President should take immediate action to—

(1) confer on an urgent basis with other nuclear suppliers, as a first step toward achieving a new worldwide consensus on nuclear transfers, regarding tightening restrictions on dangerous nuclear trade through measures which include—

(A) establishing, while discussions on a new regime for nuclear trade proceed, a temporary worldwide moratorium on transfers of enrichment and reprocessing equipment and technology, even at the experimental level, to sensitive areas, including the Middle East and South Asia;

(B) limiting the size of all research reactors transferred, eliminating the use of high enriched uranium in such reactors, and obtaining the return of spent research reactor fuel to the country of origin;

(C) extending the list of sensitive nuclear equipment, including components and dual use items, whose export the suppliers only permit under safeguards, with public recording of all sales of such items;

(D) making nuclear transfers only to nations which have accepted full-scope safeguards; and

(E) imposing established sanctions in the event of violation of safeguards;

(2) develop with other members of the International Atomic Energy Agency (hereafter in this section referred to as the "IAEA") a strong and effective program for the improvement of the IAEA safeguards regime, specifically considering the practicality of—

(A) extending the concept of full-scope safeguards to mean safeguards on all nuclear materials, equipment, and facilities within a non-nuclear-weapon state whether or not such materials, equipment, and facilities have been formally declared to the IAEA;

(B) Increasing the quality and quantity of IAEA inspections;

(C) publishing inspection reports; and

(D) extending and upgrading surveillance and containment measures;

(3) formulate a clear United States policy on enhanced international restrictions on dangerous nuclear trade and on improving the International safeguards regime, and use all feasible leverage to induce others to adopt similar policies;

(4) call for a prompt reevaluation or world nuclear energy policy, culminating in a conference in order to agree upon ways both to reduce security concerns and to strengthen the nonproliferation regime; and

(5) reaffirm United States policy to cooperate with other countries, particuarly in the developing world, to assist them in meeting their energy needs, with nonnuclear energy alternatives considered on an equal basis with nuclear energy in providing such cooperative assistance.

Mr. GRASSLEY. Mr. President, S. 979 goes a long way toward establishing a much needed balance between the legitimate foreign policy and national security concerns of our country and the increasingly critical need to protect U.S. exports and export-related jobs.

Of utmost importance is for all of us not to forget the devastating effect both the agricultural and business communities experienced in the last two instances in which we used U.S. exports as a foreign policy tool. In the case of the grain embargo and the pipe line sanctions we saw not only our credibility eroded, but export markets held by U.S. business lost in some cases forever to other countries.

While there are provisions in this bill which are not going to be to the total satisfaction of all Members, this Senator included, it is important for us to make sure that we do not allow the export controls for foreign policy to apply retroactively.

Specifically, we must protect the contract sanctity provision in S. 979 which is similar to the contract sanctity provision for agricultural exports signed into law last year by the President. At that time the President said:

> There must be no question about our respect for contracts. We must restore confidence in the United States' reliability as a supplier.

It is essential that S. 979 contain the contract sanctity provision to restore the reliability of all U.S. businesses operating internationally. For market share, once lost, is seldom regained and usually has a multiplier effect on lost follow-on and support sales, on U.S. employment and balance-of-payments and, ultimately, on our country's technology leadership and industrial and agricultural base.

With our current trade deficit at the $80 billion mark and projected to reach $100 billion, we can no longer afford to ignore this serious problem. I commend the sponsors of this legislation for carefully crafting a piece of legislation that strikes an appropriate balance between this country's foreign policy and national security needs and the need to free up agriculture and industry to once again compete in the international arena without unwarranted Government intervention.

Mr. BOSCHWITZ. Mr. President, I am concerned about the licensing problems U.S. companies face when exporting goods containing embedded microprocessors. The basic problem lies with the unilateral imposition of U.S. export controls on instruments which, by themselves, are not considered to be of military significance, even by the Department of Defense. Only the presence of a microprocessor in the instrument puts the instrument in a category for which the United States requires licenses.

Microprocessors are widely available at low cost from other international sources, are very difficult to manufacture and costly to reverse engineer. The U.S. Government is the only country to impose national security controls on instruments, which otherwise would not be required a license, when they incorporate microprocessors. What provisions are in the committee bill that would take care of this problem?

Mr. HEINZ. The committee recognizes that there are many problems associated with the administration of U.S. exports and have tried through provisions in S. 979 to streamline the system while seeking to strengthen our national security. The bill does seek to focus U.S. national security controls on items of truly military significance. In particular, in cases where items are available from foreign sources, such as equipment containing embedded microprocessors, we have directed the Government to consider specific factors in determining foreign availability. This determination would be based on the representation of license applicants unless such representations are contradicted by reliable evidence, including scientific or physical examination, expert opinion, or intelligence information.

Our bill also directs the President to actively pursue negotiations with other countries to eliminate foreign availability in cases where the United States imposes unilateral controls. The committee also recognizes that there is a need for an annual review of U.S. national security controls. The goal is to remove items from the list of controls which no longer serve the purpose of the act. It would also provide the opportunity to have prompt inclusion of items which would pose a danger to the national security as specified in the act.

The intent of the committee is that this review would also include an updating of the Cocom list. Once an item containing an embedded microprocessor is determined to be nonmilitarily significant and representations of foreign availability are accepted by our Government, under S. 979 these items should be decontrolled. Controls can be an effective tool to help protect U.S. national security, but they need to be applied consistently and to be firmly coordinated with the controls of other Cocom countries. We feel that this legislation provides guidance to insure that export controls focus on items that are truly militarily significant.

Mr. BOSCHWITZ. In the committee report it states that:

> The Committee believes that national security export controls need not, as a general rule, be imposed on a scientific or analytical instrument solely because it contains an embedded microprocessor. The Committee believes that requiring a validated license is generally inappropriate where the microprocessor's capabilities do not exceed the COCOM general exception levels established for computer devices, or if the microprocessor has been rendered non-reprogrammable for uses other than with the good being exported.

Mr. HEINZ. That is correct. We intend that licensing requirements be eliminated for goods which contain embedded microprocessors but which would not make a significant contribution to the military capability of an adversary country.

Mr. BOSCHWITZ. Is it true that the Department of Commerce and Department of Defense have been studying the licensing problem of equipment containing embedded microprocessors for some time now? It is my understanding that technical representatives in the Department of Commerce and the Department of Defense reached an agreement on proposed changes 2 years ago, yet there have been no changes in policy at this time.

Mr. HEINZ. Yes, the Departments of Commerce and Defense have been negotiating on a resolution of the embedded microprocessor issue for that past several years. They have yet to come to an aggreement on how the matter should be handled. Early this year the Department of Commerce provided a preliminary list of 96 generic types of scientific or analytical instruments the export of which, in view of Commerce, did not represent any national security threat. This list is still being reviewed by the Department of Defense.

Mr. BOSCHWITZ. While Commerce has identified 96 generic items for decontrol, is it not true that there are still some items that would not be given relief even though they have no military significance.

Mr. HEINZ. The 96 products identified by the Department of Commerce represent only about one-half of those presently caught under the category of this 4529B classification. Under this agreement many items would still be required to obtain licenses because of this U.S. unilateral control that is not agreed to by other Cocom member countries. While the Departments of Commerce and Defense have agreed to address the problem, it has been a lengthy process. Meanwhile foreign companies, because they have no licensing restrictions, have been freely shipping those types of equipment throughout the world.

Mr. BOSCHWITZ. How can this be resolved?

Mr. HEINZ. The Departments of Commerce and Defense should be encouraged to expedite their study and come to some satisfactory agreement. However, through passage of S. 979 we can insure that manufacturers of equipment containing embedded microprocessors do not have to operate under disincentives because of the provisions previously outlined. The committee recognizes, as you do, that goods containing embedded microprocessors should be controlled only if the function of the equipment would make a significant contribution to the military capability of a potential adversary. However, we do not feel that such goods should be controlled simply because they contain an embedded microprocessor, when that microprocessor is nonreprogrammable, cannot be used to perform functions other than those it performs in which it is embedded, and its capabilities do not exceed Cocom general exception levels established for computer devices.

Mr. BOSCHWITZ. Thank you. Mr. President, I agree that S. 979 will help to correct the problems faced by exporters wishing to sell goods containing embedded microprocessors.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I have not yet had an opportunity to consult with the minority leader, but we have had a general conversation about this.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. Mr. President, the leadership on this side would like to proceed now to the credit card bills, temporarily. I propose, first, to ask the Senate to go the substantive bill, S. 2336, and if that is passed, then to go to the temporary extension, S. 2335.

There is not a time limitation on either of those bills, but it is my guess—it is my hope—that we can finish both of them today, and I would like to try to do that.

I inquire of the minority leader whether he would object to a unanimous-consent request I might propound which would permit us to temporarily lay aside the pending measure and proceed to the consideration of S. 2336, to be followed by S. 2335.

Mr. BYRD. Mr. President, in response to the distinguished majority leader, there will be no objection on this side. We have discussed this matter, and we are ready to proceed.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the Senate temporarily put aside the pending measure and proceed to the consideration of S. 2336.

I further ask unanimous consent that upon the disposition of S. 2336, the Senate then proceed to the consideration of S. 2335; that after disposition of that measure, the Senate return to the consideration of the unfinished business, which is the Export Administration bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. D'AMATO. Mr. President, a point of inquiry. Would that preclude me from offering additional amendments to S. 2336?

Mr. BAKER. No. S. 2336 would be open to amendment.

PRICE DIFFERENCES FOR CREDIT CARDS

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2336) to permit price differences with respect to credit card sales transactions.

The Senate proceeded to consider the bill.

Mr. GARN. Mr. President, as I think everyone knows, we have two bills before the Senate today. One is a substantive bill dealing with surcharges and cash discounts with the use of credit cards. That is the first bill before us for consideration. This was approved by the full Banking Committee last week.

In addition, there is an extension bill before the Senate. Because of the fact that the current law expired at midnight last night, there is no law at this time. So, in accompaniment with the bill on the substance of the measure, we also intend to pass an extension until May 15, which will give the House of Representatives time to hold hearings, time for them to pass a bill, time for use to get to a conference with them on the substance of the matter.

Mr. President, the first thing I want to comment upon in connection with S. 2336 is the fine job the senior Senator from Washington has done. He jumped into this issue as the brand-new chairman of the Consumer Affairs Subcommittee of the Senate Banking Committee, and very quickly organized hearings and facilitated full committee action to report out this bill. He has quickly grasped an issue fraught with the technical complexities of the Truth in Lending Act, and its relationship to various State credit laws. I concur with his analysis of this issue. I commend him for his efforts. And I support S. 2336.

During the past several years, I have participated in two debates on this issue involving extensions of the ban on surcharges. Congress has not decisively acted on this issue, because convincing evidence was not available to support the arguments being made on either side of this issue. Therefore, Congress extended the surcharge ban again in 1981, to give the Federal Reserve Board time to study the costs and effects of credit cards.

The Board study was published and submitted to Congress in July 1983. It is the most detailed, thorough, and comprehensive study to date on these issues. Many of the pro-and-con arguments that have sparked the surcharge debate for years are addressed by the study's conclusions. For example, in the 1981 debate surcharge-ban proponents argued that there was no available evidence to support the notion that credit cards are more costly than other forms of payment. The Federal Reserve Board study concluded that credit, in fact, costs more than cash by about 2 to 3 percent of the transaction amount. The study flatly rejected the argument that the higher cost of credit is offset by higher retail sales volume. Instead, it concluded that the higher costs for credit are incorporated in prices, and therefore cash buyers subsidize credit card purchasers.

The Board study, and the testimony of witnesses before the Consumer Affairs Subcommittee were instrumental in helping us to fashion a legislative solution to an issue that—until now—has been extended, and extended, and extended again. We should support S. 2336. I think it is the right answer to this issue. I commend it to my colleagues in the Senate.

While I believe that S. 2336 represents the best permanent solution to this issue, I also recognize that a variety of problems will arise if the current surcharge prohibition should simply expire. Therefore, I wholeheartedly endorse S. 2335, which would temporarily extend the surcharge ban until May 15, 1984. As I stated, this very short, simple extension would provide the other body with time to hold hearings and legislatively proceed on this issue.

Mr. GORTON. Mr. President, I thank the distinguished chairman of the Banking Committee for his confidence and for his support.

I present for the consideration of the Senate this afternoon S. 2336, a bill which would permit merchants to charge differences in prices to consumers who pay with credit cards, as against customers who pay by cash or by check.

Credit card transactions cost retailers 2 percent to 3 percent more than cash, according to a 1983 Federal Reserve Board study. That study concluded that the higher costs for credit are reflected in retail prices and are thus paid for by cash purchasers.

Since 1974, the Cash Discount Act has permitted merchants to pass on the higher price for credit by offering a credit price, and a lower cash discount price. This law draws a distinction between a legal cash discount and an illegal surcharge. This distinction, in our minds, is similar to permitting the glass to be half full but prohibiting the glass to be half empty. The Federal Reserve Board and other witnesses before the Senate Banking Committee pointed out that discounts and surcharges are economically equivalent. S. 2336 simply proposes that they be treated the same. It abandons the surcharge/cash discount terminology and states that any differences in price for credit and cash will enjoy the same legal treatment currently applicable to cash discounts, if those differences do not exceed 5 percent of the cash price of an item, are clearly and conspicuously disclosed, and are available to all customers equally.

Specifically, this proposal is appropriate for passage because, first, it benefits consumers. The Consumer Federation of America points out that the current ban on surcharges obscures the true cost of credit and forces cash customers to subsidize credit purchasers. Low-income customers, who do not have credit cards and must pay cash, pay for the credit cost buried in prices.

Second, this provides for flexibility for merchants. Congress has already approved one method for merchants to adopt a two-tier pricing mechanism for cash and credit purchasers—the cash discount. However, the cash discounts have proven nightmarishly difficult to implement. Assessing a direct charge for credit is administratively much easier for merchants.

Third is a fundamental free-market argument. The ban on surcharges constitutes an unwarranted Government interference in private business decisions. Congress does not prohibit merchants from charging for parking lots. Why should the Government obstruct the recovery of costs for credit?

At this point, Mr. President, this proposal is supported by the Comptroller of Currency, by the Federal Deposit Insurance Commission, by the American Retail Federation, by the Federal Reserve Board, by J. C. Penney, by the Service Station Dealers of America, and by the American Petroleum Institute.

It is supported essentially by the Consumer Federation of America because it is in the interests of truth in pricing, and it is in the interests of allocating the costs for various kinds of transactions to those who engage in those transactions.

This matter has been under study for literally 10 years. Congress, on a number of occasions, has passed the ban or a temporary extension of the ban. Now we know enough about this subject so that we should make a substantive decision and permit the free market to work this matter out to the benefit of consumers and the interests of those who use credit services.

Mr. PROXMIRE. Mr. President, this so far is a very happy day for this Senator. I am delighted to see that at long last, after waiting for 10 years, Congress is debating the issue whether retail merchants may impose a surcharge on credit card customers. At long last, the Banking Committee has come around to a view I have held for a long time. I am glad to be in position to support this particular bill, because, for the first time, the committee has had the good judgment to end the ban on credit card purchases.

Since 1974, Congress has agreed that it costs merchants more to process credit cards, including the card issuers' servicing fees, than to process cash. This reality has been reflected in the legislation that authorizes two-tier pricing, the Cash Discount Act. A 1983 Federal Reserve Board study confirmed the correctness of that assumption by determining that credit cards cost about 2-3 percent more to process than cash.

That was a study, let me repeat, made by the Federal Reserve Board, not by any credit card company, not by any consumer group, but by the Federal Reserve Board at the direction of the Banking Committee. It was done on a dispassionate, objective, highly competent basis. I do not think anyone questions either the integrity or the competence of the Federal Reserve Board. They have had the responsibility for administering in truth in lending for many years and I have heard no criticism of their competence in this regard.

However, the proponents of cash discounts have stubbornly insisted that discounts would reduce prices for customers while surcharges would raise them. This is the logic of the believers in a free lunch. Nothing in the Cash Discount Act would prevent a merchant from raising his prices first and then offering a "discount" for cash. In fact, according to the Fed study, that is exactly what a merchant would have to do in order to maintain his present profit margin. On the other hand, if a merchant had sufficient market leverage to use a two-tier pricing system to raise his profit margin, there would be nothing to prevent that merchant from doing so now, either under the guise of a cash discount or by simply raising the single price on any given item. In short, two different prices—one for cash and one for credit—are two different prices, regardless of whether you call the difference a discount or a surcharge.

This legislation would not require merchants to charge different prices. It would merely free them to charge different prices if they wish.

I should make that clear. Some people argue that if we let the ban expire, merchants are all going to make surcharges. Some will, some will not. And if they do, it will mean that they will reflect, because of the competition, and the testimony before the committee was very clear on that, a lower price for the merchandise they sell.

The amazing thing is that merchants cannot legally use surcharges now. They can charge for parking. Why can they not charge for a cost they incur when they accept credit cards? They can charge for altering clothes. They can even charge customers for using escalators if they wanted to. But the Government says that merchants cannot impose a surcharge on credit, no matter how much more costly the use of credit is.

Who is calling for this continuation of governmental price control? Is the demand coming from wild-eyed consumer advocates hostile to our free enterprise system? On the contrary, consumers groups are opposed to this governmental regulation.

There is not one single consumer group that supports the proposal that merchants should not be allowed to make the surcharges. They favor giving the merchants that option. I might say that this is a change in position for the consumer groups. They have changed their position because, as they indicated in their testimony before the committee, they had a chance to study this situation, to consider it, and they found that the sound system is to permit the merchant to make that charge because that will mean that the overall price of the merchandise will be less.

Those who are calling for the continuation of price controls are the very groups who have generally opposed price controls and who have advocated a Federal law nullifying State usury ceilings—American Express, Visa, Mastercard, and the American Bankers Association.

What accounts for this curious turnabout? I think the explanation is fairly simple. The Nation's giant credit card companies want to perpetuate the myth that credit is free. Logic—and now the Federal Reserve Board—tell us that it cannot really be free. In addition to the annual membership fees and monthly finance charges if you do not fully pay off your card balance, card issuers make money by charging the merchant a so-called "discount fee" everytime he processes a credit card.

That means when you go in to buy something and use your credit card, the merchant has to pay the credit card company $1, $2, $3, $4, or even $5 if it is a $100 purchase. Usually it is around $4 to $5 that he has to pay. What does he do? He is in business to make money. He has to find a way of pushing that additional cost on to the merchandise. Otherwise, of course, he loses money. He cuts his profit.

Such an additional cost is not offset by a greater volume of sales overall. Who pays for the added cost? The answer is that everyone, both cash and credit card customers alike.

If practically everyone used credit cards, this would not be so bad. But many people cannot qualify for credit cards or do not want to use them. So what we have is a system where the poor subsidize the rich, to the tune of as much as $4 billion a year.

If you have an income of $15,000 a year or less for your family, you simply cannot qualify for a credit card under most circumstances. The poor do not have a credit card, but they have to pay more for the merchandise they buy because, of course, the credit card transactions that the well-to-do engage in raises the price of the merchandise that the poor buy.

Mr. D'AMATO. Mr. President, I wonder if the distinguished Senator from Wisconsin will yield for a question just on that one point.

Mr. PROXMIRE. I am delighted to yield for a question.

(Mr. JEPSEN assumed the chair.)

Mr. D'AMATO. I am wondering where my distinguished colleague from Wisconsin got the information that people with less than $15,000 in income, and most Americans in general, do not have the ability to obtain credit cards. Did he have the opportunity to read the study done by the Federal Reserve Board, the one to which he has alluded?

I call to your attention the fact that the Fed study itself makes the point that 7 out of 10 American families have credit cards. This totally contradicts the statement that most Americans do not have them? According to this study 7 out of 10 Americans families do have credit cards and, in fact, this is the study on which the committee places such great weight. And, by the way, this Senator says that if you read the entire study carefully, not just its conclusions, the report's arguments about excessive costs being passed on to consumers will fall by the wayside.

I will elucidate this point later in greater detail.

I am wondering if my distinguished colleague from Wisconsin would address the fact that 7 out of 10 families in this report are said to have credit cards.

Mr. PROXMIRE. What the Senator from Wisconsin said was that families with incomes of less than $15,000 by and large do not have access to credit cards. The fact is that the average family in this country has about $21,000. I am talking about the people who are the 30 percent of the people who have the low income. They do not have credit cards.

Mr. D'AMATO. But then are we to suggest that 30 percent of the low-income families are paying for credit card purchases made by the 70 percent of Americans in the upper-income brackets. I suggest that if that were true the cost being passed on would be astronomical. It would not be 3 percent, as my distinguished colleague from Washington said. It would be maybe 5, 6, or 7 percent.

Mr. PROXMIRE. May I say to my good friend from New York he knows it is not that simple. I have a credit card which I almost never use. I use it about 5 percent of the time.

I have seen studies that indicate that credit card purchases account for about 30 percent of our retail sales. They do not account for 70 percent. Seventy percent of the families may have a credit card. Seventy percent can afford it; 30 percent cannot. What I said is that the poor do not have credit cards, by and large.

Mr. D'AMATO. I am wondering if there is any definitive cost? I have heard the 3 percent or 4 percent figure raised in terms of the amount cash purchasers subsidize credit purchasers. Do we have a more precise number?

Senator GORTON referred to the fact that there were 3 percent or 4 percent.

Mr. PROXMIRE. I suggest we do have. We certainly do.

Mr. D'AMATO. What is the estimate on that?

Mr. PROXMIRE. We have the study by the Federal Reserve Board that shows that the cost of credit cards is about $6 billion.

Mr. D'AMATO. What percentage does that come out to?

Mr. PROXMIRE. In overall sales that amounts to about 1 percent, but of credit card transaction costs it is about 2 to 3 percent.

Mr. D'AMATO. I am wondering. On page 61 in this same report I have been hearing about the 2 to 3 percent figure of subsidy being provided by the cash customers. Yet I read on page 61 of the Fed study in the middle of the page that: Total sales might be expected to incorporate a premium for credit costs, uncovered by revenues ranging from, and I quote less than one-half percent to perhaps 1¼ percent, some part of which would still be borne by credit card users in proportion to the 15 to 20 percent.

Mr. PROXMIRE. May I say to my friend from New York what he is talking about is all sales, total sales. That was the subject of that sentence, the total sales. He is talking about all sales. It confirms precisely what the Senator has just said, one-half to perhaps 1¼ percent. I said it is about 1 percent of total sales, it is about 3 percent of the total credit card sales.

Mr. D'AMATO. I refer to the Fed study, which said that it actually costs 3 percent more to use cash than credit cards to purchase a given commodity. This so-called detailed study does not address the costs associated with merchants handling cash, checks, bank fees, cashing checks, employee frauds, funds lost, delays, and check guarantees. The Fed study is clearly flawed and should not be the basis of legislation. More expirical data is reguired.

In fact, the Fed study claims that the use of credit cards has no positive impact on sales. This is ludicrous and runs counter to commonsense.

But I thank the Senator for having yielded so graciously.

Mr. PROXMIRE. I thank my good friend from New York, who I enjoy discussing all matters with, and who is always extraordinarily intelligent and articulate.

I wish to point out that for total sales I am talking about 1 percent, for credit card sales 3 percent, because about one-third of your purchases are credit card.

Now, let me proceed. Credit card users are opposed to surcharges because they are worried that some credit card users might pay with cash if they had to pay a surcharge every time they use their credit cards.

Incidentally, Mr. President, the lobbying on this has been done very enthusiastically and powerfully by the credit card companies. Brother, do they have the PAC's and are they active, and they are big. They have an enormous amount at stake. And they are not pikers when it comes to paying those lobbyists.

Mr. D'AMATO. Mr. President, will the Senator from Wisconsin yield? I think that last remark by the Senator was unfortunate. It implies that the credit card companies have exerted influence here in the Senate.

Mr. PROXMIRE. Unfortunate?

Mr. D'AMATO. Yes.

Mr. PROXMIRE. Does the Senator deny the facts? I am not making any charges that anybody in the Senate——

Mr. D'AMATO. Who really represents the credit cardholders; the 70 percent of all adult Americans who are cardholders? I want to assure the Senator from Wisconsin the Senator from New York is not here because of a PAC. The Senator is here to ask the question: "who is talking for the credit cardholder, the working middle-class people, the people who have no other recourse than to use these credit cards?" The use of credit cards has become a part of Americana. I think you do a great disservice to the process when you say it is political action committees. I am representing the interests of the cardholders. No organization is doing that. This is my purpose.

I am not going to stand still on this floor and have this kind of inuendo pass without some objection. I am speaking on behalf of the tens of millions of people who have credit cards. I am speaking about the tens of millions of people who must use credit cards from time to time.

To subject the middle class to a 5-percent surcharge, on the basis of the Fed report is irresponsible. There were significant dissenting votes among the Fed Governors on the issues of surcharges. The Members of the Senate should analyze the dissenting viewpoints. In fact, the committee studying this issue opposed the imposition of surcharges.

Mr. PROXMIRE. Mr. President, may I say to my friend from New York that I think he is protesting when he is not being pursued. There is a Shakespearean quotation I am trying to recall that I cannot remember. "Methinks the lady doth protest too much." No; that is not it.

But I was not pursuing the Senator from New York at all. I do not know if he accepts PAC contributions or not. I have no idea. I know he is a Senator of great integrity and of great honor and of great intelligence. I have said that many times and I believe it.

But the fact is that the PAC's do have a lot of influence. The fact is that the credit card companies also have an enormous interest in this and that they do have lobbyists working very hard on it. That is their right as American citizens. But I just point that out that I think we ought to be aware of that.

Mr. President, I say, let the market decide whether consumers pay by cash or by credit card. Retail merchants should not be told by the Federal Government that they cannot assess a charge on credit card customers if they think it makes business sense. We are interfering in the operations of private businesses here, millions of them, because I think there are more businesses in retail selling than anything else. We are telling them what they can do and cannot do. It is none of our business.

If they want to put a surcharge on a cost they legitimately incur on somebody who makes them incur it, they ought to have a right to charge for it.

If I go in and buy something and it costs the merchant who sells it to me $3, or $4, or $5, or $10 more, he should be able to charge me that if he wants to do it. Of course, if he does it, he risks the prospect of losing my business. That ought to be his right.

The Federal Government butts in to too many cases as it is and it certainly should not butt in and regulate what a merchant charges his customers. What public policy purposes are served by protecting VISA, MasterCard, and American Express from the rigors of the competitive marketplace?

Mr. President, I am delighted that other members of the Banking Committee have joined me in this position and I trust the full Senate will pass S. 2336 so that the marketplace will be free to charge credit card users for the true cost of their credit.

Mr. President, I also wish to congratulate the distinguished chairman of the subcommittee, Senator GORTON, who I think has done an extraordinarily fine job here in handling this bill. He is the first chairman, as I say, who has been able to win in the committee. I am very hopeful he can win on the floor.

I also wish to congratulate the distinguished ranking minority member of the committee, who knows far more about this issue than I ever will and who is the ranking member and who is about to speak. I cannot tell you how much it means to me to have CRIS DODD on our side on this, because he is somebody who understands the issues and he is somebody who also understands the politics of the situation far better than almost anyone I know.

Mr. DODD. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield.

Mr. DODD. Mr. President, I thank my colleague for yielding. I thank him for those very kind remarks.

Let me just say at the very outset, Mr. President, that I want to be associated with the distinguished chairman of the subcommittee, Senator GORTON, for taking the lead on this legislation and, of course, with the distinguished Senator from Wisconsin who has for years been dealing with these issues, like issues, and is, of course, recognized from one end of the country to the other as one of the best defenders of consumer interests that this body has ever had, and to also be associated with the chairman of the full committee, the distinguished Senator from Utah, who is also a sponsor of this bill.

Mr. President, I will just take a minute or two. There seems to be a lot of confusion about this. It is not an easy issue for our colleagues to distinguish. None of us, of course, want to be associated with charging that poor consumer out there with an additional cost. None of us want to go home and have to say that we have just voted to increase the price of consumer products by 4 or 5 or 10 percent.

If you listen to this debate only in a peripheral way, you could be left with the impression that that is what we are doing here. I think if we spend a little bit more time in just focusing for a few moments on this issue, it will begin to become a little more clear, I think, to people.

First of all, it is obvious—it should be—that credits cards are more costly. That is no secret. If you use a credit card, you are borrowing money. There is an administrative cost that small businesses, midsized businesses, large businesses have to go through to process the paperwork. That is no magic.

If I give you a dollar bill, it goes into the cash register and it goes to the bank. If I give you a piece of plastic, that involves people; it involves costs. You cannot get away from it. I wish it were otherwise. But if you are going to do business that way, then there is a cost associated with it. That should be no great secret.

And of course, it has been a great advantage to consumers who did not have cash on hand to be able to afford things they may have needed—food, clothing, the basic necessities of life. So we have credit cards that allow people to purchase items that they might not otherwise be able to purchase or who do not have the cash on hand—a variety of circumstances that can provoke the necessity for an individual to go in and utilize that means of purchasing a product.

But there is a cost associated with it. Now we have to decide whether or not we are going to allow that retailer, that business person, to be able to handle that cost, to be able to do something about it, other than just swallow it.

So, how much more expensive is credit? That really is what the issue is. How much more expensive is credit than cash?

The Federal Reserve Board—and God knows everybody in this body at one time or another has criticized the Federal Reserve Board, but if there is a more objective body that would assess the difference of cost, I am willing to listen to one. I think most believe that the Fed did an objective analysis in trying to determine the cost of credit versus cash.

They have come back and they have told us that it is about 2 or 3 percent per transaction. That is in their analysis. As my distinguished colleague from Wisconsin said, that was not done by American Express or VISA or Mastercard or some other big store outlet or chain. It is the Federal Reserve coming back and saying that our analysis tells us that it is about the difference.

However, most people pay with cash—and that is a fact. Seventy percent of the families in this country have those little plastic cards—they never leave home without them—but only about 30 percent of the time are they used to purchase goods. That translates into a price increase, again, as has been noted, of about 1 percent.

Before you say, what is the difference, you should consider the fact that 1 percent, obviously, of annual retail sales is not a small amount. It is about $6 billion. Since about one-third of that cost would be paid by credit card users, that means that cash customers are paying about $4 billion a year more than their fair share—that is a fact—as a result of this.

Second, some people argue that authorizing surcharges are going to result in higher prices than permitting cash discounts. I do not think anyone would argue that the most competitive area of our economy in this country is at the retail level. You will never find a more competitive environment than retail stores. There is hardly any monopoly at the retail level. If the marketplace were noncompetitive, if a retailer has market leverage to raise prices under a two-tier system, then is anyone going to argue that the retailer could not raise all prices under a single-tier pricing system? If that exists, it does not make any difference whether it is dual-tier or single-tier.

Now, I do not think anyone would argue it is not a competitive environment. So whether it is a two-tier or one-tier system really is not the issue. I think too often we get confused with that a bit. It is a very competitive environment.

As a matter of fact, if one is truly concerned about the unscrupulous merchants that are out there—wherever they may be—this bill that we are bringing up today affords far better protection than the present Cash Discount Act would. This legislation would limit cash and credit price differences, as we know, to 5 percent.

On the other hand, the Cash Discount Act contains no limit whatsoever. Thus—and use this example if you will—if a merchant could post a credit price, let us say for gasoline at $2 a gallon and then offer a 50-percent discount to the cash purchaser, but to the fellow who does not have enough cash in his pocket, who gets paid and goes home from work and pays for his groceries and who needs to use that credit card, that Exxon or Mobil or Gulf card, to get gas in his car, he goes to that station and the price up there says it is $2 for the credit card but only $1 for cash, he does not have any cash in his pocket, what is the surcharge? The surcharge is 100 percent.

So the very individuals that some people claim they are actually helping here, in effect, are being charged a surcharge under the present situation.

What is a discount to one person is a surcharge to the other. It just depends where you come into this thing.

So that poor family out there, that poor individual who is riding along at night with no cash in his pocket that a former colleague of mine in the House likes to talk about, goes up to that situation running out of gas: "How am I going to get home? No cash in my pocket. The only thing I can do is pay for it with a credit card." He is actually paying a surcharge, in effect.

Of course, under the law, you can have up to a 99-percent cash discount under the present situation. I think we get things a bit confused. Again, one person's discount is another person's surcharge.

Of course, I think it is important to recognize that if we do not deal with the situation as we are proposing here today, then we do really allow tremendous gouging. In certain rural areas of this country, you do not have competition, or in poor areas. You get into small towns in this country, and you do not have a lot of variety in which to shop. You may only have one grocery store or one gasoline station in town. You do not have a competitive environment. There someone can take advantage.

This 5 percent is not perfect at all, but it does allow, I think, for a far more equitable situation than to allow the present situation to exist where you can have tremendous potential gouging.

Mr. President, I yield the floor.

The **PRESIDING OFFICER**. The Senator from New York is recognized.

AMENDMENT NO. 2751

Mr. **D'AMATO**. Mr. President, I send an amendment to the desk and ask for its immediate consideration. The amendment is offered for myself, Mr. Dixon, Mrs. Hawkins, and Mr. Moynihan.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. D'Amato), for himself, Mr. Dixon, Mrs. Hawkins, and Mr. Moynihan, proposes an amendment numbered 2751.

Strike all after the enacting clause and insert in lieu thereof the following:

"That section 3(c)(2) of Public Law 94-222 (15 U.S.C. 1666f note) is repealed."

Mr. **D'AMATO**. Mr. President, this legislation is controversial and is an issue that has been studied for years. It is an issue in which reasonable people can disagree. There are some valid points to be considered on both sides. Like my colleagues in the House, I hoped we could continue the moratorium until questions raised in the Federal Reserve report could be answered. But that is not what has occurred.

The Banking Committee passed S. 2336 without sufficient consideration. It was passed in committee in a hasty manner. More importantly, the legislation is based on a flawed report issued by the Federal Reserve. It is the poor and middle class that will pay for the folly of this legislation.

The fact of the matter is we cannot have it two ways. We cannot say on one hand that the poor do not have access to the credit cards, and, on the other force the poor to pay surcharges. This is irrational. The poor will be unable to pay the surcharges and, thus, will lose access to credit cards. This would be a tragedy.

The fact is that, many gasoline stations allow cash discounts. These discounts do not raise the cost for the poor. It is not the wealthy that are being subsidized by the poor. This is the free market at work.

What takes place if we now permit a surcharge of up to 5 percent for the use of credit cards? Will cash discounts continue? I suggest to you that the very rich people will not be the losers. The wealthy will escape the surcharges by using cash. The poor and middle class will not have this luxury.

I also think that if we are going to rely so heavily on the Fed report, we should read it throughly. Let us not just take segments of the report out of context. The fact is that credit card charges cost only between 0.5 percent and 1.25 percent. This is significantly less than the cost to the merchant of handling cash.

We should consider S. 2336 very carefully. The use of credit cards is enormous. We are talking about roughly $250 billion annually We need to study the issue of credit card surcharges very carefully.

How does a middle-class husband take his wife out for an anniversary dinner without the use of a credit card? Does he purchase gas for cash? I do not think so. How does he make purchases? Credit card surcharges may force the middle class to carry enormous amounts of cash. Surcharges would be a tremendous burden.

Go to any large department store in an urban center and see the guards who are there, see the security provisions that are imposed. Credit card surcharges would increase the use of cash. Crime is already so pervasive. This legislation will give criminals an added incentive to commit felonies.

So we have a study by the Fed that says maybe the costs are 0.5 percent to 1.25 percent for credit card purchases, but we did not consider what the cost is for imposing surcharges. The costs will be measured in terms of increased crime and increased costs for the poor and middle class.

We currently have a two-tiered pricing system. It does not fully work. But having surcharges will not solve the problem, but will only multiply the problems and the costs.

But for the Congress to come and say we are going to impose a law to permit credit surcharges, irrespective of the desires of the States, I think is folly. What happened to States' rights?

Mr. President, there are others of my colleagues who would like to speak on behalf of this amendment. Before I yield the floor to my distinguished colleague from the State of Florida, Senator HAWKINS, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. I yield to Senator HAWKINS.

Mrs. HAWKINS. Mr. President, I rise in support of the amendment offered by Senator D'AMATO to put a permanent ban on the credit card surcharge that expired at the end of this month.

I am intrigued with what I am hearing today on the floor about a free market. There is no free market in credit cards. They are regulated by the Fair Credit Billing Act and by the Truth in Lending Act. They place conditions under which merchants may offer credit card services.

So, No. 1, there is no free market. Let us put that notion away.

I am intrigued about the lobbyists. Not one lobbyist called my office on this subject, not one on the subject of the ban, not one on the subject of a discount.

Let me tell you, Mr. President, what we did get in my office. Let me read some mail for some of those Senators who do not get as much mail as the Senators from Florida do. I read part of a letter.

> The reason that I am opposed to this repeal is as follows The Visa and Master Card credit cards are very convenient if you know how to use them. The credit cards save the merchant money. He doesn't have to send out a statement every month. He just turns over the credit card invoice to the bank. Of course the bank charges him a fee. A person is willing to buy more items with a credit card then he would with cash. Also this repeal could hurt the economy. People might not buy a item just because they don't want to pay a surcharge that would be charged to them if they use a credit card. The Federal Reserve Board seems to think that credit card customers get a free ride. I disagree. A credit card customer has to pay $20 a year for the right to use the credit card.

Another constitutent wrote:

> I would imagine Florida's economy—primarily because of the tourist business—is heavily skewed toward to the use of credit cards. I fail to see how anybody down here will benefit from such a counterproductive piece of legislative tinkering.

Another constitutent expresses this concern:

> There are many legitimate reasons to discourage use of credit cards—but in reading the account of the Senate Banking Committee nowhere do I find any mention of the obvious fact that thousands of people would carry more cash—ego—huge increase in the sale of blackjacks and Saturday Night specials. Every life would be further endangered and we are not exactly crime-free at the moment.

Another consumer from Florida said:

> What does the senate find so fascinating about making things cost more? Frankly, if you succeed in adding to the cost of doing business with a credit card. I will cut my discredionary purchases.

This mail was not prompted by any special interest group. It was prompted by the few stories that were printed in the Florida papers and a little bit of news that they heard over the air that the surcharge ban may expire. It was not inspired by economists who theorize that one group of subscribers is subsidizing another group. It was prompted by the intuition of consumers. Consumers have good intuition. They are shopping in the market while the economists view the market only through their computers and macroeconomic models.

Let us talk a little bit about cash customers subsidizing the credit card customers. This is based on the premise that consumers should only pay for the services they utilize. Now, if we are going to extend this logic, it would follow that customers who use the department store's parking lot should pay for the parking lot; those using the restroom should pay for using the restroom. All of these services are treated as overhead by the merchant to induce the customer to buy merchandise, to make it more comfortable. Now, these collective service costs are built in the price of the goods. Merchants do raise prices for the customer who gets free parking. Generally, a merchant will look at the competition to set prices.

There are several problems with S. 2336. First, it introduces a new and novel concept to the approach of allowing merchants to recoup the merchant's discount when a credit card is honored. A very limited hearing was held before the legislation was introduced.

Second, it limits the card user's ability to protect consumers from predatory pricing practices of unscrupulous merchants. Third, although it is touted as a major protection of the consumer, there are serious questions whether the consumer wants to have surcharges added to the credit cost. The mail I have received and have shared here favors retention of the ban.

Now, when you want to talk about lobbyists, let me tell you who are the lobbyists in favor of having the ban lifted—the oil companies. I mean the big boy oil companies. They are the only ones that have contacted my office about having the ban lifted.

The little fellow who has the credit card needs them. Can you imagine how much cash you would have to take with you for 2 weeks in Florida? Can you imagine your exposure to robbery with that much cash?

One of the Senators discussed the savings to the merchant when one pays cash. The cash goes in the cash register, the cash goes out of the cash register to the bank. I wish that was the way it worked.

That is not the way it works. The cash goes in the cash register and too many times the cash is taken out of the cash register by a criminal.

Now, the Bankcard Holders of America of Washington, D.C., have issued a release which I would like to enter in the RECORD at this time. It says that "Bankcard Holders of America calls for extension of the Federal ban on credit card surcharges." They are a consumer organization. It has been argued that no consumer organization has come out for the extension. But the Bankcard Holders of America, a consumer organization, on January 31 called on the Senate to extend the ban on credit card surcharges to provide time to assess the true cost of the surcharge to consumers.

I ask unanimous consent at this time of place in the RECORD a three-page document by the Bankcard Holders of America, which is a national nonprofit membership organization, the first and only public interest consumer group focusing exclusively on the interests of bank card and credit card holders.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BANKCARD HOLDERS OF AMERICA CALLS FOR EXTENSION OF FEDERAL BAN ON CREDIT CARD SURCHARGES

WASHINGTON, D.C., January 26.—Bankcard Holders of America today called on the Senate to extend a ban on credit card surcharges to provide time to assess the true cost of the surcharge to consumers. The prohibition, due to expire in February, has made it illegal up to now for retailers to charge more for credit card than for cash purchases. Congress will address the surcharge issue in the next two weeks.

"The public simply does not know about the impending change or how much it will cost them. A more comprehensive investigation of how surcharges will affect consumers is needed before the ban is lifted," commented Mark Hannaford, former member of Congress and president of Bankcard Holders of America, a private nonprofit consumer group that conducts research and education on the wise use of credit. "With over 600 million credit cards now in circulation and seven out of every ten households using at least one credit card, surcharges may simply have the effect of higher prices for most consumers," Hannaford added.

The House passed a surcharge extension. But unless the Senate acts, merchants nationwide could institute surcharges as early as the end of February. Senator William Proxmire, the ranking minority leader of the Senate Banking, Housing, and Urban Affairs Committee, who would review the legislation, has already stated his opposition to granting an extension.

"There are reasons to believe consumers will be badly hurt when the ban expires," commented Maria Kaplan, BHA's associate director. "Surcharges may lead to a three-tiered pricing system: a cash discount price, a regular price, and a credit surcharge price. The potential for 'bait-and-switch' abuses by advertisers could be enormous, and who can guess what might happen to comparsion shopping given all price variables consumers will have to sort out," Kaplan added.

Bankcard Holders of America, arguing that retailers can now give cash discounts without the surcharge, fear that merchants—unable to calculate costs for extending credit separately from overhead for other services—will simply give up and impose surcharges without offering cash discounts.

Researchers at BHA assert it is unfair to segregate credit services from other conveniences a store might offer as part of doing business. The surcharge is based on the premise that consumers should only pay for services rendered. If the logic of this argument were extended, it might be fair to assert that shoppers who return merchandise should pay extra for that service, or those riding escalators should pay more than those climbing the stairs.

"Congress extended the ban in 1981, over three years ago, to allow time for a Federal Reserve Board study to be conducted. As of today, Congress has yet to make a thorough analysis of the issues. Congress should act quickly to determine if surcharges are in the best interest of consumers, or should make the ban on surcharges permanent," Kaplan added.

Bankcard Holders of America is a national, nonprofit membership organization—the first and only public interest consumer group focusing exclusively on the interests of bank card and credit card holders. Founded in October 1980, Bankcard Holders of America is not associated with any credit card company or financial institution. Neither is it a lobbying organization. It was formed to educate credit card holders on the wise and careful use of credit. It has 100,000 members nationwide.

Mrs. HAWKINS. It seems to me that we have so many things to address before this body today, tomorrow, and the next day that we absolutely must stop to think just a moment about what we are doing to the price of goods. I would like each Senator within the sound of my voice to write down on a piece of paper how many times they have made a transaction when they were offered a cash discount in a restaurant, grocery store, or anywhere. Just for the last 30 days tell me how many discounts you have been offered. Obviously, my list is very short.

It seems to me that we have been too rapid in making up our mind in what these charges are, if any, what these costs are, if any, and we would be well advised at this point in time to extend the ban as the D'Amato amendment would do.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, I rise in support of the amendment offered by my colleague from New York, amendment No. 2761 to S. 2336. I think one of the interesting things about the Senate is that we seem to spend so much time trying to fix things that are not broken. We have spent a lot of time in this session addressing the problems created by the Federal courts that ordered divestiture in the telephone company case when we had the finest telephone system in the world. Now we are going to solve the credit card problem that has never been a problem. We are going to solve a problem that nobody ever told me was a problem. I received 650,000 pieces of mail from Illinois last year and nobody said this was a problem. The law expired yesterday. Now, the House extended the old law to the end of July. That is what we ought to be doing. The experience in respect to the old law has been quite good. The law up until yesterday said that a merchant could grant a 5-percent cash discount, giving you a break for paying cash, but could not charge you extra for using a credit card.

I think people like the law that way. If you went back home and stopped 100 people on the street and said, "How do you like the law that says if you pay cash you get 5 percent off?" they would say, "I love it." You would say, "How do you like a law that says if you pay with a credit card, they add on 5 percent?" They would say, "I hate it." But that is what we want to do.

If you believe that giving the merchant a right to put on a 5-percent surcharge is going to lower the cost to the consumer, that amazes me. I do not see any prices coming down. I do not see anybody cheering when you go back home and say, "I did a grand thing for you this week; I passed a law that says they can put a 5-percent surcharge on your credit card." I can just hear the folks saying, "Oh, thanks a bunch; we really appreciate that."

If you pass this bill, what you are going to find, in effect, is that the merchants are going to add on the 5 percent for the use of the credit card, and the prices to the consumer, in effect, are going to go up.

You are also preempting the authority of the States again. We have repealed the usury laws in Illinois, so we can be out there competing in the money market for the money. My friend from New York knows that his State has done the same, but a lot of States have not done that. Across the river from where I live, in Belleville, Ill., in St. Louis, Mo., they still have their usury law. In Arkansas, in the constitution, they have a 10 percent usury law, and this bill would preempt it.

Have you ever thought how much a 5-percent surcharge is? Let us think about that a minute. With a 5-percent surcharge, if the customer pays a merchant every month, it is, in effect, 60 percent a year. A 5-percent surcharge, if the credit card company pays back to the merchant in 5 days, believe it or not, is 360 percent a year.

That is what we are saying at the Federal level, that those kinds of charges can obtain in Missouri and Arkansas and other States, not my own, that have usury ceilings. I do not think we should do that.

Why do we not let the States decide that? They have been competent to do it for a long time.

Finally, my distinguished friend from Wisconsin, whom I have admired for many years prior to my coming here—one of the giants in this place—is responsible for the truth-in-lending law. He should be congratulated. It is good legislation. In effect, we abrogate that law by the passage of this one.

The Fed brought us back this report in early February. There was one hearing in the Banking Committee. We rushed to markup a few days ago, right before the law was going to expire yesterday, Monday, and now we are rushing to pass something else. What is the rush? There is no demand by our constituency, no demand by the public at large.

The chairman of the jurisdictional subcommittee, the Banking Committee in the House, has promised that there will be hearings. If there is an extension to the middle of the year or until May 15, as we are providing in the next piece of legislation, there will be hearings in the House. There is no rush for this.

To sum up, we have legislation before us that, No. 1, is not the most important thing we are going to discuss this year. Yet, we are rushing to pass it. We are going to fix something that is not "broke." We are going to increase the charge to the consumer.

We are going to preempt the usury laws of the respective States. We are going to abrogate the truth-in-lending law that protects the consumer—all for something nobody has asked us to do, all to accomplish a result that nobody in the world has demanded.

So I urge the support of the Senate for amendment No. 2761. I think it is the right thing, and in doing that, in the long run, we can let the hearings take place and determine what the law should be.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DIXON. It is my pleasure always to yield to my warm friend from Wisconsin, whose talent here is without peer.

Mr. PROXMIRE. I thank my good friend from Illinois. I feel exactly the same way about him, only maybe more enthusiastically. [Laughter.]

Mr. DIXON. I am enthusiastic.

Mr. PROXMIRE. I say to my friend that he just said—and I am not sure I understand him correctly to say this—that we should adopt the D'Amato amendment.

Mr. DIXON. Yes.

Mr. PROXMIRE. And then have hearings in the House.

Mr. DIXON. Pass the extension law which would follow.

Mr. PROXMIRE. If we adopt the D'Amato amendment, that is the permanent change. Then we are rushing to do something.

As I understand the D'Amato amendment—maybe the Senator from New York can correct me—it provides a permanent ban on surcharges forever. That is the end of the ball game. There is no point in having hearings after that.

Mr. DIXON. Nothing is forever. We can pass another law tomorrow.

Mr. PROXMIRE. Nothing is forever, but the Senator from New York has the final conclusion. There is no point in having hearings in the House. It is all over.

Mr. DIXON. The state of the law before yesterday was that you can have a 5-percent discount. If you adopt this amendment, it is the state of the law again. If they want to change it later, after hearings, we can change it later.

Mr. PROXMIRE. In the past, we have always extended this thing, and now we are extending it once again.

The position taken by the chairman of the committee and the ranking minority member and the majority of the committee is that we simply provide for an extension and send the bill over for hearings. The Senator from New York is changing that. The Senator from New York says no, we should have a permanent ban. No hearings. It goes back to the old Alice in Wonderland: a verdict first, trial later.

Mr. DIXON. I say to the Senator that it is a matter of semantics. The end result of what the Senator from New York is suggesting in this amendment is to leave the law as it was the day before yesterday.

Mr. PROXMIRE. No, indeed.

Mr. DIXON. Subject to hearings.

Mr. PROXMIRE. No; it is a permanent ban.

Mr. DIXON. You did not have a surcharge before, and you will not have one if we adopt this amendment.

Mr. PROXMIRE. What we had before was a limit in time. This has no limit in time. This is the end of the ball game.

Mr. DIXON. Every day is another day in the legislative Chambers of Congress.

Mr. D'AMATO. Mr. President, I wonder if my friend from Illinois would yield the floor.

Obviously, S. 2336 would preempt State usury laws by allowing a surcharge of up to 5 percent on the use of credit cards.

I would be delighted to withdraw my amendment and in its place offer an extension of the moratorium. Unfortunately, this failed in the Banking Committee. For this reason I am offering an amendment to make permanent the moratorium.

If this amendment is not adopted, I have several other amendments that will extend the ban on the imposition of credit card surcharges.

I feel that a continuation of the moritorium would allow for further study of the issue of credit card surcharges. The Fed study is flawed. More work must be done. I do not have all the answers. I would suggest that the Senator from Wisconsin also does not have all the answers. It is important for the Members of the Senate to have all the facts. The Fed study does not give us the necessary data.

If we do not extend the moratorium, the phones on our congressional offices will ring off the walls. The mail will come pouring in. I think we do a terrible disservice to the legislative process by not studying this issue more carefully. Thank God the House of Representatives will not permit the passage of legislation imposing credit card surcharges.

I hear the poor and middle class say they are worried about the surcharges. They are right. It is the poor and the middle class who are going to pay for the use of credit cards, not the wealthy people, if surcharges are imposed. The wealthy people will write their checks or come up with the cash to avoid the surcharges. They can afford to take advantage of the cash discounts. But there are too many Americans who will not be able to; people must have the flexibility of credit cards.

There are at least $250 billion worth of credit card transactions annually. You know this economy is powered by credit. Why do we want to destroy the use of credit? Why do we want to destroy the ability of working people to have the flexibility of credit cards? They are currently paying 18 percent if they borrow on their credit cards. We in the Senate should not force them to pay more.

We should allow for another 6 months of study. If the facts prove the Senator from Wisconsin's point, so be it. But I think the facts will prove me right. Why the rush? Six months I think is a reasonable period of time. Further study will ultimately protect lower income people, working middle-class people who I think are going to be outraged if the Congress imposes credit card surcharges.

Mr. GORTON. Mr. President, I have listened with great care and interest to the arguments in favor of this amendment set forth by my friend and seatmate from New York, by the distinguished Senator from Florida, and by my friend from Illinois.

I must say that I would have found those arguments not only impressive but persuasive if they were directed at the bill that those Senators wish they were arguing against but is not before us.

They have made a totally persuasive argument against a proposal which would mandate a 5-percent surcharge on all use of credit cards. They have treated the bill which is before the Senate at the present time as though it mandated a 5-percent charge for the use of credit cards. Unfortunately, for the validity of their argument that is not the bill which is before the Senate today. It is not the bill to which this amendment is addressed.

The bill which the Banking Committee has brought forth here today is the purest of free-market exercises. It simply states that a retail merchant, if that retail merchant wishes to do so, can impose a charge of up to 5 percent for the costs, if any there be to that retail merchant, of using a credit card.

Now, the arguments, to the extent that they apply to this bill at all, made by the Senators from New York, Florida, and Illinois, are dual in nature and essentially inconsistent with one another. Part of the argument of the Senator from New York is that there is no cost to the use of credit cards over and above the cost of engaging in other kinds of transactions, whether they are cash or by check, or some other form of credit.

If that is true, the freest of all free markets in the United States, the literally millions of retailers, will not in fact avail themselves of the right to impose charges for the use of credit cards for the very simple reason they will not be able to get away with it. And, if a handful wish to do so, their competition will see will see that since there is no cost, they can get business by accepting credit cards without any such charge.

The other half of the argument made by the Senator from New York, most eloquently, perhaps in his last set of remarks, is there may well be a real cost to retailers in accepting credit cards but that it is just and right that cash customers defray that cost, that we ought to have an economy in which one class of purchasers subsidizes another class of purchasers. The Senator from New York has tended to play with mirrors in that argument by somehow or other claiming that this is a subsidy which the rich now pay to the poor, when in fact it is exactly the opposite, a subsidy which the poor pay to the rich, by and large. The idea that if there is a modest charge for the use of credit that wealthy people will instantly abandon all use of credit cards and pay nothing but cash is truly an Alice in Wonderland argument.

In fact, of course, we contest whether or not the horror stories presented by the proponents of this amendment will in fact come true.

For at least the last 10 years, we have permitted the precise functional equivalent of what this bill will allow, that is to say, the offering of cash discounts on the part of merchants as an inducement not to use credit cards, and I must say that while I think in principle this bill is quite an excellent idea that the net effect of its passage will probably be much what resulted in 1974 when we first allowed cash discounts.

Only a relatively few merchants will move into this field and then probably relatively slowly and relatively cautiously. The great bulk of retail transactions are not likely to change very much except for the fact that there will be a new method by which merchants can compete with one another for the business of consumers, a proposition which is generally thought to be what is at the heart of the free enterprise system here in the United States.

Let us take a look right now at the relatively few areas in which cash discounts are widely available. I must confess that when the Federal Reserve Board study indicated that 6 percent of retailers in general now allow cash discounts, as to be unable to name any or many of those 6 percent. I doubt that any Member on this floor really knows of more than a handful of stores, if any, which have a general publicized policy of offering cash discounts. I think a very smart purchaser may very well be able to talk small retailers into such discounts by pulling out a credit card and offering to write a check instead if the discount is offered, but only a very, very shrewd consumer is going to be able to utilize himself or herself of that right. There is, however, one field in which cash discounts are becoming relatively prevalent, and that is in the sale of gasoline. And what do we see? What does the Senator from New York, if he is interested in this, or the Senator from Florida, or the Senator from Illinois, or the Senator from Wisconsin see? I suspect they see exactly what I do, either here in Washington, D.C., or in my home State of Washington. There are now three kinds of gasoline stations as they deal with credit. By and large, I think the Senator from New York will find that gasoline is now cheapest at those stations which do not offer credit, which sell for cash only. ARCO, I believe has abandoned the use of credit cards entirely and sells simply for cash as it has the right to do. Generally speaking——

Mr. D'AMATO. Mr. President, will the Senator yield?

Mr. GORTON. I wish to finish my argument if I may.

Mr. D'AMATO. I would be delighted to answer.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. GORTON. By and large, the least expensive gasoline is found in that kind of station. The next least expensive is found in those stations which offer a choice, in which there is a posted price but also a big sign saying, "Four Cents Less for Cash." You get a fairly good deal there but usually not as inexpensive as you do at a gas station which offers no credit at all. And the most expensive gas is that found in one-price gasoline stations in which credit is relatively freely available.

Now I agree with the interpretation of the Senator from New York. I think this is a great idea. I think that the fact that there are three different kinds of stations offering the services they offer and the credit or noncredit terms which they offer is exactly what the free market is all about. It is precisely what we ought to allow. The question then is, why not allow it in the other direction as well? Why now allow that Mobil station, in my home State, which now offers a 4-cent discount for gas and requires me to figure out when I go in there what that difference is and take it off the pump and try to pump to the nearest even gallon to get the maximum discount, to say 4-cent surcharge for the use of credit and let the cash purchaser know exactly what he or she is paying?

The answer, of course, is that it is precisely the functional equivalent of the cash discount which can be offered at the present time which has not resulted in increased prices for consumers, which, if anything, gives consumers more choice than they have at the present time. And it is that greater choice that consumers have at the present time which is a goal of this bill, that the free market ought to set prices, that there should not be subsidies which are hidden and disguised from one group of consumers to another.

It may very well be that some of the criticisms made by the Senator from New York regarding the exact cost of using credit cards are correct. But if his arguments are correct, the surcharge will not be made because a free market in retailing, a competitive market in retailing, simply will not bear the cost of those surcharges.

In fact, I think what we will have is something very much like what we have now in the retail sale of gasoline, spread to many other retailers. Some merchants will say there is just one price and you can pay cash or credit; some will say there is a specific and a charged cost for credit in our store; and others perhaps dealing mostly with less expensive goods and merchandise will say, "We are cash only," as the grocery business handles 99 percent of all its business today.

But I feel far more confident, I must say, than does the Senator from New York, the Senator from Florida, or the Senator from Illinois in the ability, and in the flexibility of a free market to set these things in the most efficient fashion. I believe that by interfering in this free market we have been costing consumers more. And I may say that the only consumer organization which has dealt with this issue agrees with us that this is a decision which should be made by the free market itself.

The distinguished Senator from Florida may very well have heard from constituents, most of whom heard radio broadcasts that indicated that we are going to require surcharges on credit cards and thus are writing about something which is not before the Senate.

But in fact, this proposal as initiated by its sponsors, is very much in the consumer interests. It is very much in the interests of competition, is very much in the interests of allocating costs where costs take place. The free market, far more wisely than credit card companies, than banks, or, for that matter, than retailers, the free market economy can settle this best of all most favorably to consumers and most inexpensively to those who are searching for low prices.

Mr. PROXMIRE. Mr. President, the hour is late. I know that Senators want to vote and leave. So I will be very, very brief.

First, I want to congratulate my good friend from Washington who made one of the most thoughtful and prudent and reasonable speeches I have heard in a long, long time. It was an excellent statement and I agree with it wholeheartedly.

Second, Mr. President, I ask unanimous consent that an editorial from the Washington Post and an editorial from the New York Times on this subject be printed in the Record at this point.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Washington Post, Jan. 6, 1984]

Credit Cards: Who Pays?

If you made your Christmas shopping (and gift returning) easier by using a credit card for your transactions, the stores you dealt with didn't make you pay for the convenience—even though the stores themselves must pay the credit card company some part of their proceeds to cover administrative costs. That free ride may come to an end, however, if Congress—as it should—allows a law to expire that prevents merchants from charging higher prices to credit card users.

Naturally the credit card companies don't want the ban to expire, as it is scheduled to next month. They like the current arrangement in which the cost of using credit is shifted to all consumers—both those who pay cash and those who do not. That's understandable in terms of the credit card companies' own interests. Extending credit involves much paper work, delay in being reimbursed and the risk that the bill won't be collectable. Interest charges to late payers cover only the direct costs of borrowing. If all these other transaction costs were made obvious to consumers, many might not reach for their credit cards so readily.

But certain consumer advocates are also wary of letting the ban expire, on grounds that it will raise retail prices. They're not thinking very hard. The current ban does nothing to reduce the real costs of using credit, and eliminating it will do nothing to increase total retail costs. It will simply allow merchants to recover those costs directly from the consumers who use credit rather than raising their prices across the board as they now do.

Many stores would probably not take advantage of their new freedom in any case. The law already allows merchants to offer discounts for cash purchases—which, practically speaking, is the same thing as charging a premium to credit users—and most have chosen not to. Merchants, after all, also benefit from credit card use since it encourages people to buy things they otherwise wouldn't.

As for the possibility—being warned of by certain credit companies—that allowing premium charges would encourage merchants to jack up prices by more than their actual credit costs, it's just not likely in the highly competitive retail field. If merchants could get away with charging more for their goods, they would do it now. A store that starts taking undue advantage of the premium price opportunity will soon find itself with few customers—and those that remain will deserve to pay more.

[From the New York Times, Feb. 28, 1984]

Plastic Credit for Uncle

"Credit cards have become part of Americana," says New York's Senator D'Amato to justify a further Federal ban on surcharges for their use. Omnipresent they are: 600 million of them in American wallets. But it's hard to understand why the apostles of free enterprise would therefore legislate against merchants who want to charge customers the cost of using plastic money.

Under the law that expired yesterday, credit card purchases were exempt from the elaborate disclosure requirements of the Truth-in-Lending Act. Restaurants, for example, were quite sensibly spared the need to include on their menus the warning that failure to pay Visa promptly for the pot roast charged to its card would incur interest at the rate of 18 percent a year. But in return, merchants were prohibited from adding any surcharge of their own for taking payment by credit card.

Senator D'Amato and Representative Frank Annunzio, chairman of the House subcommittee on consumer affairs, want to reinstate the ban. And Connecticut's Senator Dodd supports a proposal by the Federal Reserve to limit the "differential" between the cash and credit-card price of any product to 5 percent. We aren't sure which is worse.

A D'Amato-style ban would be economic nonsense. On average, credit cards add 3 percent to the cost of purchases and there is no reason why cash customers should be *required* to help pay that cost. The best to be said for the ban as currently written is that it is easily evaded. Since any size *discount* for cash would remain legal, merchants can in effect charge as much as they want for credit card use.

The Fed's approach at least dispenses with this semantic trickery. And it is right to believe that in practice, the maximum differential that any merchant is likely to charge for cash and credit sales would rarely exceed 5 percent.

But the Fed's proposal is an unacknowledged form of price control. Under the old law, a merchant wanting to demonstrate independence of the credit card companies could offer even a 10 percent discount for cash. Why should the banking citadel of America insist on only 5 percent independence?

The wise course would be no controls of any kind except to make stores and restaurants prominently post their discount/surcharge policy. But the spreading fever in Washington seems to be that consumers can't be trusted to make the best deal without help from Uncle.

Mr. PROXMIRE. Mr. President, I would like to point out that the distinguished Senators who favor the pending amendment argue that merchants would add on a surcharge and then would fail to reduce their prices. Now that I think is the crux of this whole debate. The fact is that we have an extraordinarily competitive retail system. There is no way a merchant can get out of line with his competition. If he adds on a surcharge of 1, 2, 3, 4, or 5 percent, he is going to be in competition with his opposition. And, as I say, we know that that competition is very, very intense.

Now, the distinguished Senators who have spoken in favor of the amendment argue that there is no way it can be fairly handled, that it is ridiculous to argue that the merchants would reduce their price.

Mr. President, the Consumer Federation of America disagrees with that. And there is no consumer group that does not oppose the D'Amato amendment, and favor the position taken by the administration. The Consumer Federation of America was very emphatic in this. I have a letter, and the documentation in the hearings was very clear. The consumers are on the side of permitting the surcharge on credit cards.

Furthermore, the New York Times, which certainly has no ax to grind is on the side of the committee. The Washington Post is on the side of the committee. The Federal Reserve Board, which made the only thorough study on this—and nobody can argue they have any ax to grind—is on our side. The Federal Reserve says we should permit the surcharge and certainly not have a permanent ban with no expiration date whatsoever, which is what the distinguished Senator from New York is offering.

● **Mr. LAUTENBERG.** Mr. President, I rise in opposition to this amendment which would establish a permanent ban on credit card surcharges. The effect of this amendment would be to kill the reforms incorporated in the Banking Committee's bill, S. 2336. In practical terms, I believe this would mean that consumers who pay cash for their purchases would continue to subsidize customers who use credit cards.

It is important to understand what the real issues are here. The committee's bill is designed to encourage retailers to remove the costs of credit card services from the prices charged the general public so that cash customers are not compelled to subsidize those who prefer to use credit cards. It would do so by eliminating the distinction maintained in prior law between cash discounts and surcharges, treating both the same, that is, as simple differences in price. The bill would limit these differences for purposes of credit disclosure and usury requirements to 5 percent.

Now, Mr. President, from an economic point of view, discounts and surcharges are the same; they are economic equivalents. A simple example shows why:

Let us start with an item priced at $100. Suppose that this price reflects all the costs associated with the production and marketing of this good, including a competitively determined retail markup, except for the fees charged by credit card issuers for their service. Call this the market cash price for the item. Suppose further that the average of the fees charged by credit card issuers is 3 percent. The difference in costs to the retailer between a cash transaction and an average credit card transaction, then, would be 3 percent. Suppose a merchant wants to reflect this difference in his pricing policy. That is, suppose he wants to charge his cash customers the market cash price and his credit card customers a price that reflects the 3-percent average cost of card issuers' fees. What are his choices?

If he chooses to post the market cash price as the regular price for the item—in this case $100—he would charge credit card customers $103. This would be a surcharge of $3.

The alternative would be to raise the posted regular price by the necessary amount and provide an offsetting discount for cash customers. This would be a cash discount. In our example the posted price would be $103 and the cash discount would be $3.

Thus it is clear that, in a strictly economic sense, there is no difference between a surcharge and a cash discount. All you're really talking about in either case is a price difference.

The flexibility provided by the committee bill, though, is important. The fact is that cash discounts are in practice more difficult to administer than surcharges. It is much easier to compute a direct charge for credit transactions. It is always a certain percentage of the cash price. Discounts are less straightforward.

As a result, cash discounts are rarely offered. A recent survey by the Federal Reserve Board, in fact, indicates that only 6 percent of nonpetroleum retailers offer cash discounts. Even among gasoline retailers, where they are most prevalent, cash discounts are available at only about a quarter of the service stations across the country.

Thus continuation of a ban on surcharges as this amendment proposes means that the cost of credit card issuers' fees will remain hidden in the general price structure. It means that cash customers will continue to subsidize credit card users. Moreover, low income persons can seldom qualify for a credit card. I fail to see why they should be required to subsidize the convenience of more affluent shoppers.

The committee bill will also promote competition among credit card issuers because it will make it possible for merchants to charge issuers' fee directly to card users. These fees—the merchant discount—vary from company to company by as much as 4-5 percent. Exposing these differences should help to drive down these cost and should benefit all consumers—card users and cash customers alike—in the long run.

It is for these reasons, Mr. President, that the committee bill has the endorsement of the Consumer Federation of America as well as the American Retail Federation and the American Petroleum Institute. Those who are committed, as I am, to protecting consumer interests and promoting greater competition in the marketplace, in my judgment, will support the committee bill and reject this amendment.●

Mr. LEVIN. Mr. President, I will vote against this amendment for two reasons: First, the distinction between a cash discount, which is legal under the ban, and a surcharge, which is illegal, is one of form over substance. In my mind, there is no difference conceptually between the two—it is an artificial distinction. And if the two are conceptually the same, they should not be distinguished under the law.

Second, the ban permits subsidization of credit transactions by cash customers. The Federal Reserve Board, in a report published in July of last year, indicates that the prices of products have been structured under the ban to include the transaction costs of using credit cards. The price increases are probably around 1 percent and this could amount to as much as $6 billion subsidy a year. Although approximately two-thirds of all purchases are with cash, only 25 percent of gasoline stations and some 6 percent of other retailers offer the legally allowed cash discount option. In short, the existing pricing of products tends to obscure the true cost of credit transactions and could result cash customers subsidizing credit purchasers.

Because of these reasons—that discounts and surcharges are conceptually the same, and the ban tends to promote increased prices for cash purchasers—I must oppose this amendment.

Mr. D'AMATO. Mr. President, the hour is late. I will simply say that I truly believe that we are going to work a tremendous hardship on the very people my colleagues are concerned about, those who are shouldering a disproportionate burden, the middle-class families who have no other alternative but to use credit cards for many of their purchases. They do not use them day in and day out, but there comes a time when it is necessary. We are going to subject them to an unfair and unnecessary surcharge.

I agree with my friend, Senator Gorton, that the two-tier price system which exists at the present time works and that it works well. Those industries and those retailers that want to avail themselves of it are able to do so under the present system. But once we permit surcharges to be imposed at the retail level, it is going to be the end of any discounts for cash purchases.

I suggest to you that the gas prices are not going to go down. All we will succeed in doing is eliminating cash discounts at the 6 percent of retailers currently offering cash discounts. By the way, if the 15 to 30 percent is so minuscule in terms of total dollars transacted, what is 6 percent? We are talking about billions and billions of dollars in cash discounts that are currently made available. You cannot have it two ways. You cannot say, on one hand, that the system is not working and that cash discounts do not amount to much then say on the other hand that surcharges on purchases of credit card purchases is insignificant. We are talking about sizable discounts that will be lost because there will not be an incentive for the merchant to give that cash discount. By the same token, I think we are going to create an economic burden on those least able to afford it.

Mr. President, I also wish to point out that the U.S. Government is now issuing Diner's Club cards for travel and expenses related to travel on official Government business. They have determined that this is a more efficient way to reimburse employees for their expenditures. GAO estimates that $3.8 billion will be spent on travel in 1984, 90 percent of that on their Diner's Club cards. If you impose a surcharge of 3 percent of $3.8 billion, we are talking about over $90 million that the United States will be paying from the Treasury as a result of permitting credit card surcharges.

So, Mr. President, for those reasons, I think we are moving hastily into this action today. I would have preferred that we extended the surcharge ban for another year. I was compelled to offer this amendment and I certainly hope that it is adopted.

The PRESIDING OFFICER. Is there any further discussion? The Chair hears none.

The question is on agreeing to the amendment of the Senator from New York (Mr. D'Amato.) The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maine (Mr. Cohen), the Senator from Arizona (Mr. Goldwater), the Senator from Idaho (Mr. McClure) and the Senator from New Hampshire (Mr. Rudman), are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. Cranston), the Senator from Ohio (Mr. Glenn), the Senator from Colorado (Mr. Hart), the Senator from South Carolina (Mr. Hollings), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Ohio (Mr. Metzenbaum) and the Senator from Mississippi (Mr. Stennis), are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber who desire to vote?

The result was announced—yeas 22, nays 66, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—22

Abdnor
Andrews
Burdick
D'Amato
Denton
Dixon
Eagleton
Hatfield
Hawkins
Hecht
Jepsen
Kasten
Mitchell
Moynihan
Murkowski
Pressler
Riegle
Specter
Stevens
Thurmond
Weicker
Wilson

NAYS—66

Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Byrd
Chafee
Chiles
Cochran
Danforth
DeConcini
Dodd
Dole
Domenici
Durenberger
East
Evans
Exon
Ford
Garn
Gorton
Grassley
Hatch
Heflin
Heinz
Helms
Humphrey
Inouye
Johnston
Kassebaum
Lautenberg
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
Melcher
Nickles
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Quayle
Randolph
Roth
Sarbanes
Sasser
Simpson
Stafford
Symms
Tower
Trible
Tsongas
Wallop
Warner
Zorinsky

NOT VOTING—12

Cohen
Cranston
Glenn
Goldwater
Hart
Hollings
Huddleston
Kennedy
McClure
Metzenbaum
Rudman
Stennis

So Mr. D'AMATO's amendment (No. 2751) was rejected.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2752

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO) on behalf of himself and Mr. DIXON, Mrs. HAWKINS, and Mr. MOYNIHAN, proposes an amendment numbered 2752:

At the end of the bill, insert the following:

"Notwithstanding any other provision of this Act, within three years of the effective date of this Act, any state may enact a prohibition of, or additional limitation upon, any transaction involving a difference in price which is otherwise subject to the provisions of section 167 or section 171 of this Act."

Mr. D'AMATO. Senator GORTON, is it the Senate's intention in allowing States to enact legislation regarding the provisions of S. 2336 to allow States to exempt from disclosure requirements those differences in price above 5 percent?

Mr. GORTON. No, this amendment makes it clear that a State can act to prohibit price differences entirely, or to allow price differences more limited than those allowed by this act to enjoy the exemptions granted by this act. A State, for example, could prohibit price differences altogether or permit differences of up to 5 percent, 4 percent or any other limit more restrictive than this act.

In addition, the amendment is not intended to allow States to give retailers the option to impose different surcharges on different individuals using the same type of credit card.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. D'AMATO. Mr. President, I believe that the manager of the bill and the distinguished ranking minority member of the Banking Committee and the chairman of the Banking Committee have agreed to accept this amendment, and I see no need for a debate.

Mr. GORTON. The Senator from New York is correct. We think this amendment should be accepted.

The PRESIDING OFFICER. Is there further discussion?

Mr. PROXMIRE. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment (No. 2752) is agreed to.

Mr. GORTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. BAKER. Mr. President, it is my understanding that the managers of the bill wish to substitute the language of S. 2336 for the body of H.R. 4278. Is that correct?

Mr. GARN. Yes.

Mr. BAKER. I ask the Chair to lay before the Senate Calendar No. 682, H.R. 4278.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4278) to provide for the temporary extension of the ban on credit card surcharges.

Mr. BAKER. Mr. President, it is the desire of the managers to substitute the substance of S. 2336, which is the bill just passed, for the language of H.R. 4278, which is now pending. I move to strike all after the enacting clause of the pending measure, H.R. 4278, and insert in lieu thereof the substance of S. 2336, as amended, and passed by the Senate.

The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4278) as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 4278) entitled "An Act to provide for the temporary extension of the ban on credit card surcharges", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That (a) section 167 of the Truth in Lending Act (15 U.S.C. 1666f) is amended to read as follows:

"§ 167. Price differences for credit cards

"(a) With respect to credit cards which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract or otherwise, prohibit any such seller from charging different prices to induce a cardholder to pay by cash, check, or other means not involving the use of a credit card.

"(b) With respect to any sales transaction, any difference in price offered by the seller to induce payment by cash, check, or other means not involving the use of a credit card is not a finance charge as determined under section 106 if—

"(1) the difference does not exceed 5 per centum of the cash price of the property or service;

"(2) the same difference is available to all cash customers or is applicable to all credit card customers using the same card; and

"(3) the fact that the price will differ depending on the means of payment is disclosed clearly and conspicuously at the seller's place of business and in any advertisement that includes a price.

"(c) Where the requirements of subsection (b)(1), (b)(2), or (b)(3) are not met, the entire price difference is a finance charge.

"(d) A card issuer other than the seller is not required to treat a price difference offered by the seller as a finance charge, even though the seller fails to comply with the requirements of subsection (b).".

(b) The table of sections at the beginning of chapter 4 of such Act is amended by striking out the item relating to section 167 and inserting in lieu thereof the following:

"167. Price differences for credit cards.".

(c) Section 103 of such Act (15 U.S.C. 1602) is amended by striking out subsections (p), (q), and (x).

(d) Section 171(c) of such Act (15 U.S.C. 1666j(c)) is amended—

(1) by striking out "discount" and inserting in lieu thereof "price difference"; and

(2) by adding at the end thereof the following: "With respect to a card issuer who is not the seller, a price difference imposed by the seller is not considered a finance charge or other charge for credit even though the difference fails to meet the requirements of section 167(b).".

(e) Section 3(c)(2) of Public Law 94-222 (15 U.S.C. 1666f note) is repealed.

SEC. 2. Notwithstanding any other provision of this Act, within three years of the effective date of this Act, any State may enact a prohibition of, or additional limitation upon, any transaction involving a difference in price which is otherwise subject to the provisions of section 167 or section 171 of this Act.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Conclusion of later proceedings:)

EXTENSION OF CREDIT CARD SURCHARGE PROHIBITION

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 2335, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2335) to provide a temporary extension of the credit card surcharge prohibition.

Mr. BAKER. Mr. President, this is the second bill, which is the temporary extension, and I understand there will be a request for a rollcall vote on final passage. I do not think it will take very long to deal with it, maybe a minute or so. Senators should be on notice that there will be a rollcall vote on final passage of this measure.

Mr. GARN. Mr. President, I do not think this requires any time, just to explain the matter.

The House has not held hearings on this issue. The current law expired last night at midnight and leaves a lot of businesses in limbo across the country.

The second bill is the simple extension of current law until May 15, to give the House of Representatives an opportunity to hold their hearings and pass a bill of their own and go to conference with us. That is all the bill is. It is necessary that we pass it. I recommend that everybody vote "yes" for a simple extension of the current law until May 15.

Mr. President, are there any amendments?

The PRESIDING OFFICER. Are there any amemdments? If there be no amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the passage of the bill.

Mr. BAKER. Mr. President, this will be the last vote for this evening.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. ABDNOR), the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), and the Senator from New Hampshire (Mr. RUDMAN) are necessarily absent.

Mr. BYRD: I announce that the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 86, nays 0, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—84

Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Evans
Exon
Ford
Garn
Gorton
Grassley
Hatch
Hawkins
Hecht
Heflin
Heinz
Helms
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Kasten
Lautenberg
Leahy
Levin
Lugar
Mathias
Matsunaga
Mattingly
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Sarbanes
Sasser
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Tower
Trible
Tsongas
Wallop
Warner
Weicker
Wilson
Zorinsky

NOT VOTING—16

Abdnor
Cohen
Cranston
Glenn
Goldwater
Hart
Hatfield
Hollings
Huddleston
Kennedy
Laxalt
Long
McClure
Metzenbaum
Rudman
Stennis

So the bill (S. 2335) was passed, as follows:

S. 2335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(c)(2) of Public Law 94-222 (15 U.S.C. 1666f note) is amended by striking out "February 27, 1984" and inserting in lieu thereof "May 15, 1984".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Iowa, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. JEPSEN). The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276(d)-276(g), as amended, appoints the Senator from Iowa (Mr. GRASSLEY) as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the 2d session of the 98th Congress, to be held in Puerto Rico, on March 8-12, 1984.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON OPERATION OF THE AUTOMOTIVE PRODUCTS TRADE ACT—MESSAGE FROM THE PRESIDENT—PM 120

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To The Congress of the United States:

In accordance with the Automotive Products Trade Act of 1965 (Public Law 89-283), I transmit herewith the seventeenth annual report relating to developments during 1982.

RONALD REAGAN.

THE WHITE HOUSE, *February 28, 1984.*

MESSAGES FROM THE HOUSE

At 2:29 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4956. An act to extend the authorities under the Export Administration Act of 1979.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent and placed on the calendar:

H.R. 4956. An act to extend the authorities under the Export Administration Act of 1949.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2623. A communication from the Under Secretary of Defense for Research and Engineering transmitting, pursuant to law, a report on funds obligated for chemical warfare and biological defense research programs during fiscal year 1983; to the Committee on Armed Services.

EC-2624. A communication from the Under Secretary of the Navy transmitting, pursuant to law, a report defining offshore zones in which oil and gas drilling would appreciably impact on naval operations; to the Committee on Armed Services.

EC-2625. A communication from the President and Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on loan guarantees supported by Eximbank during January 1984 to Communist countries; to the Committee on Banking, Housing, and Urban Affairs.

EC-2626. A communication from the Secretary of Commerce transmitting, pursuant to law, the annual reports on the marine sanctuary program for fiscal years 1981 and 1982; to the Committee on Commerce, Science, and Transportation.

EC-2627. A communication from the Secretary of Commerce transmitting, pursuant to law, the annual report on ocean pollution monitoring and research for fiscal year 1982; to the Committee on Commerce, Science, and Transportation.

EC-2628. A communication from the Secretary of Commerce transmitting a draft of proposed legislation to authorize appropriations for the operation of the civil land remote sensing satellite system; to the Committee on Commerce, Science, and Transportation.

EC-2629. A communication from the Secretary of Commerce transmitting, pursuant to law, the report on implementation of the Stevenson-Wydler Technology Innovation Act; to the Committee on Commerce, Science, and Transportation.

EC-2630. A communication from the Secretary of Transportation transmitting a draft of proposed legislation to authorize appropriations for pipeline safety programs for fiscal years 1985 and 1986; to the Committee on Commerce, Science, and Transportation.

EC-2631. A communication from the Secretary of Transportation transmitting a draft of proposed legislation to amend the Federal Railroad Safety Act; to the Committee on Commerce, Science, and Transportation.

EC-2632. A communication from the Chairman of the Commission on Fair Market Value Policy for Federal Coal Leasing transmitting, pursuant to law, the final report of the Commission; to the Committee on Energy and Natural Resources.

EC-2633. A communication from the Deputy Associate Director for Royalty Management Operations, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on 10 refunds of excess royalty payments to various oil companies; to the Committee on Energy and Natural Resources.

EC-2634. A communication from the Executive Director of the U.S. Holocaust Memorial Council transmitting a draft of proposed legislation to authorize appropriations for the Council; to the Committee on Energy and Natural Resources.

EC-2635. A communication from the Secretary of Transportation transmitting, pursuant to law, revised estimates of the cost of completing substitute highway projects and transit projects for use in apportioning funds for fiscal years 1985 and 1986; to the Committee on Environment and Public Works.

EC-2636. A communication from the President of the United States transmitting, pursuant to law, a waiver for 12 months of the relevant export criterion of the Nuclear Non-Proliferation Act to facilitate nuclear cooperation with Euratom; to the Committee on Foreign Relations.

EC-2637. A communication from the Director of the Peace Corps transmitting, pursuant to law, a report on the Corps freedom of information activities for 1983; to the Committee on the Judiciary.

EC-2638. A communication from the Director of the Peace Corps transmitting a draft of proposed legislation authorizing appropriations to enable the Corps to continue its efforts on behalf of world peace and friendship for fiscal years 1985 and 1986; to the Committee on Foreign Relations.

EC-2639. A communication from the Assistant Legal Adviser for Treaty Affairs transmitting, pursuant to law, international agreements, other than treaties, entered into by the United States within the 60 days previous to February 16, 1984; to the Committee on Foreign Relations.

EC-2640. A communication from the Chairman of the District of Columbia Council transmitting, pursuant to law, a copy of D.C. Act 5-110; to the Committee on Governmental Affairs.

EC-2641. A communication from the Chairman of the District of Columbia Council transmitting, pursuant to law, a copy of D.C. Act 5-109; to the Committee on Governmental Affairs.

EC-2642. A communication from the Chairman of the District of Columbia Council transmitting, pursuant to law, a copy of D.C. Act 5-108; to the Committee on Governmental Affairs.

EC-2643. A communication from the Chairman of the District of Columbia Council transmitting, pursuant to law, a copy of D.C. Act 5-107; to the Committee on Governmental Affairs.

EC-2644. A communication from the Employee Benefits Administrator, Farm Credit Banks of Wichita, transmitting, pursuant to law, a statement of general information for the banks' retirement plan; to the Committee on Governmental Affairs.

EC-2645. A communication from the Director of the Federal Emergency Management Agency transmitting, pursuant to law, a report on activities under the Freedom of Information Act for 1983; to the Committee on the Judiciary.

EC-2646. A communication from the Chairman of the Depository Institutions Deregulatory Committee transmitting, pursuant to law, the Committee's annual freedom of information report for 1983; to the Committee on the Judiciary.

EC-2647. A communication from the U.S. Bankruptcy Court Judge Britton, Southern District of Florida, transmitting, pursuant to law, notice of his acceptance of appointment; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

David C. Jordan, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States to Peru.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: David C. Jordan.

Post: Peru.

Contributions, amount, date, and donee:

1. Self: $25, 1978, Republican National Committee.

2. Spouse: None.

3. Children and spouses names: None.

4. Parents names:

Edwin Pratt Jordan, $20, 1982, Republican National Committee; $20 1982, Robinson, MC 7th District, Va.

Marjorie Jordan: None.

5. Grandparents names: NA.

6. Brothers and spouses name: NA.

7. Sister and spouses names: Debby Spiller, divorced, none; Mary Balcer, none; Lee Balcer, none.

Richard D. Imus, of California, a Foreign Service Officer of Class one, for the rank of Ambassador during his tenure of service as U.S. Negotiator on Textile Matters.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard Imus.

Post: Chief Textile Negotiator, rank of Ambassador, nominated October 6, 1983.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and spouses names: None.

4. Parents names: None.

5. Grandparents names: None.

6. Brothers and spouses names: None.

7. Sisters and spouses names: None.

Priscilla L. Buckley, of Connecticut, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1986;

Richard M. Scaife, of Pennsylvania, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1985; and

Herbert Schmertz, of New York, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring April 6, 1985.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Charles G. Hardin, of Maryland, to be an Assistant Secretary of Transportation; and

Jim J. Marquez, of Kansas, to be General Counsel of the Department of Transportation.

(The above nominations were reported from the Committee on Commerce, Science, and Transportation with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PACKWOOD. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably nomination lists in the Coast Guard and the National Oceanic and Atmospheric Administration which appeared in full in the CONGRESSIONAL RECORDS of January 27, February 21, and February 22, 1984, and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that they lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. TOWER, from the Committee on Armed Services:

Pringle P. Hillier, of Virginia, to be an Assistant Secretary of the Army; and

Robert H. Conn, of Virginia, to be an Assistant Secretary of the Navy.

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: In the Army Reserve there are 24 appointments to the grade of major general and below (list begins with Max Baratz), in the Army there are 3 appointments to the grade of major general and below (list begins with Frank F. Ledford, Jr.), Col. William K. Suter, U.S. Army, to be brigadier general, Maj. Gen. Edward C. Peter II, U.S. Army, to be lieutenant general, in the Marine Corps there are 3 promotions to the grade of major general (list begins with John I. Hudson), Lt. Gen. Larry D. Welch, U.S. Air Force, to be major general, in the Navy there are 8 permanent promotions to the grade of commodore (list begins with Robert P. Caudill, Jr.), in the Navy there are 37 permanent promotions to the grade of commodore (list begins with Thomas J. Johnson), in the Army National Guard there are 36 appointments as Reserve Commissioned Officers to the grade of major general and below (list begins with Joseph W. Griffin), and in the Marine Corps there are 5 permanent promotions to the grade of brigadier general (list begins with Frederick E. Sisley). I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, in addition, in the Air Force there are 50 appointments to the grade of colonel and below (list begins with Stanley L. Betts), in the Air Force there are 8 permanent promotions to the grade of lieutenant colonel and below (list begins with Raymond M. Ross), in the Air Force there are 38 appointments to the grade of lieutenant colonel and below (list begins with Thomas N. Gallagher), in the Air National Guard there are 16 promotions into the Air Force Reserve to the grade of lieutenant colonel (list begins with Robert T. Cates), in the Air Force there are 3 appointments to the grade of major and below (list begins with Lewill C. Smith), in the Air Force there are 2,286 permanent promotions to the grade of lieutenant colonel (list begins with Nicholas Abate), in the Naval Reserve there are 5 permanent appointments to the grade of captain and below (list begins with George S. M. Cowan), in the Navy there are 34 permanent appointments to the grade of ensign and below (list begins with Otis E. Butler III), in the Marine Corps there are 382 permanent appointments to the grade of second lieutenant (list begins with Thomas G. Avey), in the Marine Corps there are 299 transfers from the Marine Corps Reserve to the grade of colonel and below (list begins with John L. MacFarlane), in the Marine Corps there are 8 permanent appointments from the NROTC to the grade of major and below (list begins with Mark A. Davis), and in the Navy and Air Force there are 4 promotions to the grade of captain/colonel and below (list begins with Daniel C. Brandenstein). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of February 21, 1984 at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS (for himself and Mr. BOSCHWITZ):

S. 2355. To amend the Internal Revenue Code of 1954 to reduce highway taxes; to the Committee on Finance.

By Mr. SPECTER:

S. 2356. A bill entitled the "Urban Radioactive Materials Protection Act of 1984"; to the Committee on Environment and Public Works.

By Mr. SPECTER (for himself, Mr. HEINZ, and Mr. D'AMATO):

S. 2357. A bill for the relief of Michael O'Rourke; to the Committee on the Judiciary.

By Mr. PROXMIRE (for himself, Mrs. KASSEBAUM, Mr. BRADLEY, Mr. HUMPHREY, Mr. HART, Mr. EXON, Mr. GRASSLEY, Mrs. HAWKINS, Mr. NICKLES, Mr. COCHRAN, and Mr. CRANSTON):

S. 2358. A bill to prohibit the U.S. Synthetic Fuels Corporation from making new awards of financial assistance before the comprehensive strategy (as set forth in the Energy Security Act) is approved; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEINZ (for himself, Mr. RIEGLE, Mr. SARBANES, Mr. LEVIN, Mr. ROTH, Mr. D'AMATO, and Mr. PERCY):

S. 2359. A bill to amend the Housing and Community Development Act of 1974 to provide that the jurisdictions having no or few areas where a majority of the residents are persons of low and moderate income target Community Development Block Grant funds to those areas with the highest proportion of such persons; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI (for Mr. CHILES) (for himself and Mr. DOMENICI):

S. 2360. A bill entitled the "Vocational-Technical Education Quality and Equity Act of 1984"; to the Committee on Labor and Human Resources.

By Mr. MITCHELL:

S. 2361. A bill to provide for Federal recognition of comprehensive State plans to promote the wise use and management of outstanding river resources; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON:

S. 2362. A bill to amend the Mineral Lands Leasing Act of 1920, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PACKWOOD (for himself, Mr. DURENBERGER and Mr. DODD):

S. 2363. A bill entitled the "Sex Discrimination in Education Reform Act of 1984"; to the Committee on Labor and Human Resources.

By Mr. THURMOND (for himself and Mr. BINGAMAN) (by request):

S. 2364. A bill to authorize certain construction at military installations for fiscal year 1985, and for other purposes; to the Committee on Armed Services.

By Mr. ARMSTRONG:

S. 2365. A bill entitled the "Credit Amendments of 1984"; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S.J. Res. 248. Joint resolution designating August 21, 1984, as "Hawaii Statehood Silver Jubilee Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS (for himself and Mr. BOSCHWITZ):

S. 2355. A bill to amend the Internal Revenue Code of 1954 to reduce highway taxes; to the Committee on Finance.

(The remarks of Mr. Symms on this legislation appear earlier in today's Record.)

By Mr. SPECTER:

S. 2356. A bill entitled the "Urban Radioactive Materials Protection Act of 1984"; to the Committee on Environment and Public Works.

S. 2357. A bill for the relief of Michael O'Rourke; to the Committee on the Judiciary.

(The remarks of Mr. Specter on this legislation appear earlier in today's Record.)

By Mr. PROXMIRE (for himself, Mrs. Kassebaum, Mr. Bradley, Mr. Humphrey, Mr. Hart, Mr. Exon, Mr. Grassley, Mrs. Hawkins, Mr. Nickles, Mr. Cochran, and Mr. Cranston):

S. 2358. A bill to prohibit the U.S. Synthetic Fuels Corporation from making new awards of financial assistance before the comprehensive strategy (as set forth in the Energy Security Act) is approved; to the Committee on Banking, Housing, and Urban Affairs.

(Remarks on this legislation appear earlier in today's Record.)

By Mr. HEINZ (for himself, Mr. Riegle, Mr. Sarbanes, Mr. Levin, Mr. Roth, Mr. D'Amato, and Mr. Percy):

S. 2359. A bill to amend the Housing and Community Development Act of 1974 to provide that jurisdictions having no or few areas where a majority of the residents are persons of low and moderate income target Community Development Block Grant funds to those areas with the highest proportion of such persons; to the Committee on Banking, Housing, and Urban Affairs.

TARGETING COMMUNITY BLOCK GRANT FUNDS

● Mr. HEINZ. Mr. President, today I am introducing on behalf of myself and others legislation to assure the continued effectiveness of the community development block grant (CDBG) program in urban counties across the country. This bill corrects a technical flaw in the drafting of a section of the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181) which amends section 105(c)(2)(B) of the Housing and Community Development Act of 1974. If left in its present form, that section of Public Law 98-181 would render many urban counties incapable of providing benefits to the vast majority of their lower income residents—the very same citizens that we all agree this legislation was designed to protect.

In a good faith effort to assure that CDBG funds are spent in accordance with long-standing congressional intent, section 105(c)(2)(B) as enacted contains an explicit definition of what constitutes a low income neighborhood eligible for CDBG improvements. The purpose of this new restrictive language is to insure that CDBG funds are spent principally to benefit lower income citizens, an objective I support and have spoken out in favor of.

Specifically, the recently enacted legislation insures that at least 51 percent of all community development block grant funds are used to benefit low- and moderate-income persons, and requires that areawide activities be located in neighborhoods where a majority of the residents are of low and moderate income. The law recognizes that some counties receiving block grant funds may have no areas which have a majority of low- and moderate-income households. In such circumstances, section 105(c)(2)B) provides that such a county target its funds to those areas within the county with the highest concentration of low- and moderate-income persons. The county may use CDBG funds for improvements in those areas which rank in the highest 25 percent of areas within the county according to percentage of lower and moderate income persons. This provision attempts to incorporate current regulatory policy, with one critical oversight. Current HUD regulations apply not only to those jurisdictions having no areas with a majority of low- and moderate-income residents, but also include grantees with few such areas. By dropping the word "few," the new law would require many urban counties to concentrate all of their CDBG funds in a handful of low density census block groups with 51 percent lower income residents. I have been assured by those responsible for drafting this legislation in the closing days of the last session, that this was indeed an oversight.

The practical effect of the language is that in at least 17 urban counties in eight States, including eight counties in my own State of Pennsylvania, large sums of CDBG entitlement funding would have to be spent contrary to the intent of Congress. Furthermore, a significant amount of money is involved. The eight urban counties adversely impacted in Pennsylvania (Berks, Bucks, Chester, Delaware, Lancaster, Luzerne, Montgomery, and York Counties) received $26.3 million in CDBG funds in 1983. Six of those counties sent me data indicating that they will only be able to provide benefits to 125,702—or just 19 percent—of their 650,000 lower income residents.

For instance, in York County, Pa., there are 267 census bloc groups or areas. Only 10 of those areas have at least 51 percent lower income persons and those 10 areas contain only 2.5 percent of the county's total lower income population. That means that 97.5 percent of York County's lower income citizens will receive no benefits from the CDBG program under the current overly restrictive language in Public Law 91-181. All of the county's $2,413,000 in CDBG entitlement funds would have to be spent in those 10 areas, which have a grand total of 3,255 of the county's 266,000 residents. In other words, this language is so unreasonably restrictive that it not only renders York County incapable of providing benefits to the vast majority of its low-income citizens, it also essentially mandates fiscally unsound allocation of Federal dollars.

Our bill changes section 105(c)(2)(B) so that urban counties with no areas of 51 percent lower income population or few such areas can use their CDBG funds in other areas within the county. Those newly eligible areas would again be the ones ranking in the highest 25 percent of districts according to proportions of lower income residents. With the new language in this bill, York County would be able to fund improvements in 67 areas within the county. Those areas contain 25,413 low-income residents—35 percent rather than just 2.5 percent of the county's total low-income population. For the six Pennsylvania counties providing data to me, the total number of low-income citizens able to benefit from CDBG-funded improvements would rise to 227,371—35 percent rather than just 19 percent of the six counties' total low-income population.

This is the type of legislative change that Federal policymakers are only too rarely able to propose—it is simple: It promotes more effective use of Federal dollars; and it better serves the basic Federal objective of targeting funds to those most in need of assistance. It follows, then, that the distinguished chairmen of both the House and Senate Banking Committees, Mr. St Germain and Mr. Garn, as well as the administration support this proposal. The National Association of Counties (NACo) with whom we have been working closely, also endorses the change.

I ask unanimous consent that the bill and a statement by Mr. D'Amato be inserted in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

Section 1. (a) The Congress finds and declares that—

(1) While it is the intent of the Congress that the community development block grant program should principally benefit low and moderate income persons and areas where a majority of low and moderate income individuals reside, section 105(c)(2)(B) of the Housing and Urban-Rural Recovery Act of 1983 amended title I of the Housing and Community Development Act of 1974 and limited the capacity of

entitlement jurisdictions without concentrated, high density development to carry out this congressional intent;

(2) the provision as currently stated in the law significantly departs from longstanding program policy and in some cases, may result in fewer rather than greater numbers of low- and moderate-income persons being served; and

(3) a technical adjustment to this section of the law is necessary to clarify congressional intent.

(b) The purpose of this Act, therefore, is to reaffirm and clarify congressional intent and amend the Housing and Community Development Act of 1974.

AMENDMENT TO 1974 ACT

SEC. 2. Section 105(c)(2)(B) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(B) in any jurisdiction having no areas meeting the requirements of subparagraph (A) or few such areas or such areas that are so small that the jurisdiction would be unable to address the needs of its low- and moderate-income residents by limiting activities to such areas, the area served by such activity has a larger proportion of persons of low and moderate income than not less than 75 percent of the other areas in the jurisdiction of the recipient.".●

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation introduced today by my distinguished colleague from Pennsylvania, Senator HEINZ, that would make an important technical change in the community development block grant program (CDBG).

In the Housing Act of 1983, section 105(c)(2)(B) redefined what districts are eligible for CDBG assistance. As stated in this provision, CDBG funds must be distributed in areas of a county where at least 51 percent of the residents are qualified as poor. Only if there are no such districts, may other areas of a county receive CDBG funding. Of course, the purpose of this strict definition is to guarantee that only the most needy benefit from CDBG assistance. I applaud the intent of the legislation.

However, an unintended effect of section 105(c)(2)(B) is that poor people in more heavily populated areas are precluded from CDBG funding while sparsely populated areas receive all of a county's CDBG financing. Allow me to explain this anomaly by way of an example. In New York State, Onondaga County has a total population of 293,815, excluding the city of Syracuse. In Onondaga County, 28 block groups would currently qualify for all of the county's CDBG assistance. These 28 bloc groups have a total population of 21,918, or 7.5 percent of Onondaga's total population. These areas are sparsely populated and would not fully benefit from CDBG funding designed to support major capital projects. In Onondaga County, CDBG assistance could be more effectively allocated in more densely populated areas. But these areas cannot receive any such assistance under current law.

The legislation introduced today by Senator HEINZ would allow counties with no areas of 51 percent low-income population or few such areas to be eligible for CDBG assistance. In this way, CDBG funding will be more effectively utilized while still benefiting only those districts with low-income residents.

Mr. President, I urge my colleagues in the Senate to join in support of this important legislation.●

By Mr. DOMENICI (for Mr. CHILES) (for himself and Mr. DOMENICI):

S. 2360. A bill entitled the "Vocational-Technical Education Quality and Equity Act of 1984"; to the Committee on Labor and Human Resources.

(The remarks of Mr. DOMENICI and Mr. CHILES on this legislation appear elsewhere in today's RECORD.)

By Mr. MITCHELL:

S. 2361. A bill to provide for Federal recognition of comprehensive State plans to promote the wise use and management of outstanding river resources; to the Committee on Energy and Natural Resources.

STATE COMPREHENSIVE RIVER PLANNING ACT

● Mr. MITCHELL. Mr. President, I am today introducing legislation which will enable States and the Federal Government to work together in promoting the effective utilization and sound management of river resources.

I am introducing this legislation at the request of Maine's Governor, Joseph E. Brennan, who has taken a leadership role in the development of a sound, coherent government rivers policy.

Governor Brennan's efforts began when he offered, during his first term, a series of legislative proposals which sought to provide a reasoned mechanism which State and local planners could use to chart the future of valuable waterways. The Governor's legislative proposals became State law in Maine when on June 17, 1983, he signed "An Act to Promote the Wise Use and Management of Maine's Outstanding River Resources." Included in this landmark State statute are provisions which set aside almost 1,100 miles of Maine rivers from hydropower development; streamline the State's hydropower development permitting process; protect another 700 miles of river shorelands from incompatible development, and require fish passage facilities on dams.

The successful passage of this act was not a victory for environmentalists or for proponents of increased development of hydropower; it was a victory for all of us who recognize the need for rational, balanced approach to a State's use of its river resources.

Although other States, such as Vermont, Connecticut, and Idaho, are following Maine's lead in developing mechanisms to facilitate comprehensive river planning, a major Federal obstacle stands in the way of these efforts. That obstacle is the Federal Power Act, certain provisions of which provide the Federal Energy Regulatory Commission, FERC, with authority to override State decisions made after vigorous study and extensive public involvement and debate. Governor Brennan now is directing his energy toward overcoming, in a responsible way, this serious impediment to the effective implementation of a State's rivers policy.

The National Governor's Conference, consisting of the chief executives of all 50 States has endorsed Governor Brennan's approach. It adopted the following policy position on the problem at their February, 1983 meeting:

> The Governors recommend that the Federal Power Act and relevant FERC regulations be amended to require that all applicants for permits and licenses, or renewals thereof, for hydropower development present evidence of consistency of the proposed project with a comprehensive state or regional hydropower plan, submitted by the state or region in accordance with the Federal Power Act. Only in cases of overriding national interest shall FERC depart from the comprehensive State hydropower plans, as submitted.

The bill I am introducing today will allow each State to prepare a comprehensive plan for its river resources, and to submit the plan to the FERC for approval. If approved by FERC, the comprehensive plan would be controlling in Federal licensing proceedings for hydropower projects in that State, similar to the Federal-State relationship that exists under section 307 of the Coastal Zone Management Act.

The bill amends title 16 of the United States Code. The specific sections which the legislation would amend are part of the Federal Power Act. The bill would require a developer to certify that his or her project complies with the FERC-approved State comprehensive plan. The State would have to concur with this certification.

The heart of the proposal is a new section 803(a) to title 16. The new section allows, but does not require, each State to develop a comprehensive plan, to be submitted to FERC for review and approval. The plan's contents have been specified in the legislation. Before approving a comprehensive plan, FERC must make certain findings. For instance, FERC would have to determine that the State has developed the plan in accordance with the rest of the act, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments and other interested public and private parties.

The bill's approach to river resource planning is conservative. It amends an existing law rather than establishing a whole new statutory structure.

It maintains Federal control, and reserves to FERC the ultimate authority to license dams, in that the Commission may disapprove a State comprehensive plan. A key point to keep in mind is that the so-called State comprehensive plan is without effect unless approved by FERC. In other words, FERC will make the final judgment on whether a proposed State plan is compatable with the national interest. A plan which places too much of the hydro resource "off limits" can be rejected by FERC. This process is similar to that contained in the Coastal Zone Management scheme.

Under this bill, no State is required to prepare a comprehensive plan. States without approved plans will continue to be treated as FERC now treats all States. However, if a State chooses to prepare a comprehensive plan, such a plan must meet certain minimum criteria set out in the bill. A review of the criteria shows that they are designed to establish the information necessary for the State and FERC to make an informed decision about where to strike the balance between river protection and development. For example, an inventory of outstanding river stretches is required, but so too is a projection of the State's energy needs for 10 and 20 years, and an explanation as to how such needs can be met at a reasonable cost.

In many respects, this bill should be viewed as an aid to FERC. Although the existing Federal Power Act (section 10(a)) requires FERC to license dams in accordance with a "comprehensive plan," no where in the existing statute is the term "comprehensive plan" defined, and, as a result, the requirement now is largely ignored. By giving meaning to the term, this bill will encourage long-range planning while it will discourage the current practice of licensing facilities on an ad hoc basis, dam by dam. The bill will enable FERC to look at hydropower development in a broader, more reasoned context.

Finally I wish to note that the legislation I am introducing today is similar to the process it seeks to establish. It strikes a beneficial public policy balance by allowing the States to undertake greater river resource conservation planning, and the Federal Government to retain the ultimate licensing power it must possess to preserve the integrity of important Federal environmental laws. These laws include the National Environmental Policy Act, the Fish and Wildlife Coordination Act, the Clean Water Act, and more than 20 other statutes. Such Federal authority, in my judgment, is necessary if we are to maintain the quality and use of water flowing from one State into another.

In short, this bill—which I ask unanimous consent be printed following these remarks in the RECORD—gives the States the greater planning role to which they are entitled, without undermining Federal authority necessary to enforce the important national environmental legislation to which I have referred.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Comprehensive River Planning Act."

SEC. 2. 16 U.S.C. 802 is amended by striking subsection (c) and inserting in lieu thereof the following new subsections:

"(c) A certification that the proposed project complies with the state's comprehensive plan, and that such activity will be conducted in a manner consistent with the plan, where the proposed project is within a state or states which have a comprehensive plan which has been approved in accordance with section 803(a). At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each state shall establish procedures for public notice in the case of all such certifications and, to the extent that it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state, or its designated agency shall notify the Commission that the state concurs with or objects to the applicants certification. If the state or its designated agency fails to furnish the required notification within 90 days of receipt of its copy of the applicant's certification, the state's concurrence with the the certification shall be conclusively presumed. No license or exemption shall be granted by the Commission until the State or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed.

"(d) Such additional information as the Commisssion may require.".

SEC. 3. 16 U.S.C. 803 is amended by striking subsection (a) and inserting in lieu thereof the following new subsection:

"STATE COMPREHENSIVE PLANS

"(a)(1) That in order to facilitate the licensing of water power projects under this Act, while at the same time according to the states their legitimate role in controlling the future of their waterways, any state may submit to the Commission for its approval a comprehensive plan allocating the use of its waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial uses, including flood control, industrial and agricultural water use, recreational ecological, historical, commercial fishery, and esthetic purposes. Within 90 days of receipt by the Commission of a certified copy of such plan, the Commission shall approve or disapprove the plan. In order for a state comprehensive plan to be approved by the Commission, the plan shall include at a minimum:

"(A) the identification of rivers and river segments deserving special protection based upon an analysis of each river's composite recreational ecological, geologic, hydrologic, historic, commercial fishery and esthetic resource values, in at least two categories:

"(i) rivers and river segments which are of greater than statewide significance because the aforementioned values are outstanding or rare when considered in a regional or national context; and

"(ii) rivers and river segments which are of statewide significance because the aforementioned values are outstanding or rare when considered in a statewide context.

"(B) a state hydropower plan which shall include:

"(i) a description of current and projected energy supplies which may include consideration of applicable interstate energy plans;

"(ii) energy demand projections for the succeeding 10 and 20 years including the assumptions on which such projections are based;

"(iii) an analysis of the contribution new hydropower will make to the state's energy supply and the likely alternative energy sources to new hydropower;

"(iv) identification of existing and potential hydropower project sites; and

"(v) identification of possible state actions to facilitate the development of hydropower wherever appropriate.

"(C) a fisheries management plan which shall include the identification of existing and potential hydropower sites, the expected fish passage requirements necessary to support a substantial commercial or recreational fishery, and the water flows necessary to maintain and protect water habitats.

"(D) the provision that no new dams shall be built on river segments of greater than statewide significance and that additional development or redevelopment of dams existing on these segments be designed and executed in a manner that does not diminish the significant values of these river segments; and the consideration of protective measures to enhance the resource values of river segments of outstanding statewide significance.

"(E) the identification of any state actions necessary to implement the plan and a schedule for taking such actions.

"(2) That prior to granting approval of a comprehensive plan, the Commission shall find that:

"(A) the state has developed the plan in accordance with this Title, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, and other interested parties, public and private;

"(B) the state has held public hearings in the development of the comprehensive plan;

"(C) the plan and any changes thereto have been reviewed and approved by the Governor; and

"(D) the state has the authorities necessary to implement the plan.

"(3) That comprehensive plans shall be reviewed and updated at least every five years though a state may amend its plan subject to approval by the Commission at any time. Any amendment must be the subject of a public hearing conducted by the state before it may be submitted to the Commission for approval."●

By Mr. JOHNSTON:

S. 2362. A bill to amend the Mineral Lands Leasing Act of 1920, and for other purposes; to the Committee on Energy and Natural Resources.

LEASING OF PUBLIC LANDS TO MERGER PARTIES

Mr. JOHNSTON. Mr. President, the bill I am introducing today is a very simple one. It reflects my concerns with the very rapid pace of mergers in the energy industry. You practically cannot pick up a newspaper, or turn on a news report, without hearing about one energy company taking over another one, or threatening to take over another one.

I am certainly not convinced that all of this merger activity is bad. But I am concerned that some very significant changes are taking place in the industry and that Congress ought to give them greater scrutiny and be assured that the long-term effects of these mergers are in the public interest.

My bill would not prohibit the mergers from taking place. Rather it would prohibit parties to a merger consummated in the next 6 months from having access to the oil and gas resources on the public lands. It would amend the Mineral Lands Leasing Act and the Outer Continental Shelf Lands Act to prohibit the Secretary of the Interior from issuing any lease or granting any right-of-way under the provisions of those acts to any party: First, who is a party to a merger consummated within the next 6 months (assuming the bill were enacted today); and second, who is a substantial energy reserve holder.

The term "substantial energy reserve holder" is defined to include any person who, individually or together with his affiliates, owns or has an interest in, 10 million barrels or more of proved reserves of crude oil, natural gas liquids equivalents, or natural gas equivalents.

Holdings of energy reserves are required to be reported to the Securities and Exchange Commission. The Financial Accounting Standards Board issued statement No. 69, "Disclosures About Oil and Gas Producing Activities," in November 1982. It is required to be adopted for fiscal years beginning after December 15, 1982, and was already in use by many companies for 1982. Therefore, the test of whether one is a "substantial energy reserve holder" would be an easy one, and would be based upon publically available information. No new reporting burden would be imposed by the bill.

Based upon information compiled by Arthur Anderson & Co., and included in the publication "Oil and Gas Reserve Disclosures—Survey of 300 Public Companies, 1980-1982" it would affect about 150 companies, including majors, independents, integrated, pipeline and diversified energy reserve holders. It would cover companies holding nearly 100 percent of this Nation's energy reserves.

Mr. President, there are serious public policy issues involved in the merger trend. Whether merger parties should have access to the resources on the public lands is a very important issue. I am looking forward to the Energy and Natural Resources Committee's examination of it. Perhaps companies are spending too much for reserves on the floor of the New York Stock Exchange rather than out in the oil patch. They may well find themselves unable to finance necessary oil and gas exploration and development after they complete their stock transactions. I certainly have an open mind on the subject, and am looking forward to a discussion of it in the weeks ahead.

I ask unanimous consent that a copy of my bill and a table on reserves be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Mineral Lands Leasing Act of 1920, as amended, (30 U.S.C. 181 et. seq.) is further amended by inserting a new section as follows:

"LIMITATION ON AUTHORITY WITH RESPECT TO MERGER PARTIES

"SEC. 43. GENERAL PROHIBITION.—Notwithstanding any other provision of this Act, the Secretary is prohibited from issuing any lease or granting any right-of-way under the provisions of this Act to any person who is subject to the provisions of this section.

"(a) APPLICABILITY.—The provisions of this section shall apply to any person—

"(1) who is a party to a merger consummated after February 28, 1984, and prior to six months following the date of enactment of this section, and

"(2) who is a substantial energy reserve holder.

"(b) DEFINITIONS.—For purposes of this section, the term—

"(1) 'merger' includes mergers, consolidations, or acquisitions whereby one person acquires control or a majority of the assets of any other person;

"(2) 'substantial energy reserve holder' means any person who, individually or together with his affiliates, owns or has an interest in, ten million barrels or more of proved reserves of crude oil, natural gas liquids equivalents, or natural gas equivalents.".

SEC. 2. The Outer Continental Shelf Lands Act, as amended, (43 U.S.C. 1331-55) is further amended by inserting a new section as follows:

"LIMITATION ON AUTHORITY WITH RESPECT TO MERGER PARTIES

"SEC. 31. GENERAL PROHIBITION.—Notwithstanding any other provision of this Act, the Secretary is prohibited from issuing any lease or granting any right-of-way under the provisions of this Act to any person who is subject to the provisions of this section.

"(a) APPLICABILITY.—The provisions of this section shall apply to any person—

"(1) who is a party to a merger consummated after February 27, 1984, and prior to six months following the date of enactment of this section, and

"(2) who is a substantial energy reserve holder.

"(b) For purposes of this section, the term—

"(1) 'merger' includes mergers, consolidations, or acquisitions whereby one person acquires control or a majority of the assets of any other person;

"(2) 'substantial energy reserve holder' means any person who, individually or together with his affiliates, owns or has an interest in, ten million barrels or more of proved reserves of crude oil, natural gas liquids equivalents, or natural gas equivalents.".

SURVEY DOMINANCE—WORLDWIDE

Industry grouping	Number of companies	Year end 1982 reserves		3-year share of NEB's	
		MMNEB's [1]	Percent	Production (pct)	Additions [2]
Majors	16	55,472	79	77	65
Independents	154	3,697	5	6	10
Integrated	23	1,863	3	3	4
Pipeline/utility	30	1,795	2	3	5
Diversified	77	7,507	11	11	16
Total	300	70,334	100	100	100

Equivalent barrels (NEB's) [1] of year end 1972 proved reserves	Number of companies	Percent of year end 1982 reserves	3-year share of NEB's	
			Production (pct)	Additions [2]
Over 1 billion	19	85	81	70
200 million to 1 billion	11	6	7	11
100 million to 200 million	19	4	5	6
50 million to 100 million	29	3	3	5
10 million to 50 million	74	2	3	6
Under 10 million	148	—	1	2
Total	300	100	100	100

[1] Gas converted at 6 mcf/barrel.

[2] Additions include extensions and discoveries of reserves plus improved recoveries.

By Mr. PACKWOOD:

S. 2363. A bill entitled the "Sex Discrimination in Education Reform Act of 1984; to the Committee on Labor and Human Resources.

SEX DISCRIMINATION IN EDUCATION REFORM ACT OF 1984

● Mr. PACKWOOD. Mr. President, I rise today in disappointment and consternation regarding the decision of the U.S. Supreme Court in Grove City College against Bell. Despite my real belief that title IX of the Education Amendments of 1972 was intended to cover any educational institution that received Federal assistance in any form, the court has opted for a much more narrow interpretation of the law. The court has held, unfortunately, that the receipt of financial assistance by a particular program does not trigger institution-wide coverage under title IX; rather, only a specific program or activity will be subject to title IX's antidiscrimination prohibitions. This decision insures that sex discrimination in education will continue—rather than be ameliorated by title IX as was our original intent.

Accordingly, I am introducing the "Sex Discrimination in Education Reform Act of 1984." It is a very simple bill. It merely clarifies that educational institutions, along with their programs or activities, fall under tha ambit of title IX protection. I want to make crystal clear that any receipt of financial assistance by a college or a university will require that institution to comply with Federal antisex discrimination provisions.

It is and must be a matter of principle that women not be denied educational rights that exist for every other citizen. Discrimination in education is a subtle but pernicious form of discrimination, affecting its victims for the entirety of their lifetimes. It is of little use to bar discrimination in employment if a woman cannot attain the necessary education to obtain that employment. It is equally of little use to bar discrimination in any specific program in the institution if a woman cannot gain admittance to or participate in the institution because of its discriminatory policies and practices. Our purpose in enacting title IX was to ensure that Federal resources would not be used to support discriminatory practices and that those practices would cease to exist. At a time when we spend billions to fund educational programs, we cannot continue to permit discrimination against the beneficiaries of any of those moneys.

Let me compliment Senator **Dodd** for introducing a resolution that would restate congressional intention with respect to title IX: That title IX not be amended or altered in any manner which will lessen the comprehensive coverage of that statute in eliminating gender discrimination throughout the American educational system. That effort complements my own, but, a statute is now necessary.

Let me also commend Congresswoman **Schneider** for her extraordinary efforts both in coordinating the amicus brief, of which I was a signator, in the Supreme Court and for her efforts in the House of Representatives that will also complement our own.

I urge speedy passage of the "Sex Discrimination in Education Reform Act" to insure that women no longer suffer any discrimination in education when Federal financial assistance is involved.

Mr. President, I request unanimous consent that the text of the bill appear in the Congressional Record following these remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2363

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

The matter preceding clause (7) of section 901(a) of the Education Amendments of 1972, relating to the prohibition of sex discrimination, is amended by striking out "education program or activity," and inserting in lieu thereof "educational program, activity or institution."●

By Mr. THURMOND (for himself and Mr. Bingaman) (by request):

S. 2364. A bill to authorize certain construction at military installations for fiscal year 1985, and for other purposes; to the Committee on Armed Services.

MILITARY CONSTRUCTION AUTHORIZATION ACT, 1985

Mr. THURMOND. Mr. President, by request, for myself and the junior Senator from New Mexico (Mr. Bingaman), I introduce for appropriate reference a bill to authorize certain construction at military installations for fiscal year 1985, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining the purpose be printed in the Record immediately following the listing of the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Construction Authorization Act, 1985".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

Sec. 101. The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

United States Army Forces Command

Fort Bragg, North Carolina, $60,910,000.
Fort Campbell, Kentucky, $21,590,000.
Fort Carson, Colorado, $31,800,000.
Fort Devens, Massachusetts, $4,730,000.
Fort Drum, New York, $4,740,000.
Fort Hood, Texas, $31,390,000.
Fort Irwin, California, $17,920,000.
Fort Lewis, Washington, $359,730,000.
Fort Meade, Maryland, $5,900,000.
Fort Ord, California, $14,960,000.
Fort Polk, Louisiana, $39,250,000.
Fort Richardson, Alaska, $7,350,000.
Fort Riley, Kansas, $33,800,000.
Fort Stewart, Georgia, $66,450,000.
Presidio of San Francisco, California, $21,200,000.

United States Army Western Command

Hawaii, Various, $2,980,000.
Helemano Military Reservation, Hawaii, $4,650,000.
Schofield Barracks, Hawaii, $37,070,000.

United States Army Training and Doctrine Command

Fort Belvoir, Virginia, $42,400,000.
Fort Benning, Georgia, $37,650,000.
Fort Bliss, Texas, $24,550,000.
Fort Dix, New Jersey, $17,650,000.
Fort Eustis, Virginia, $3,300,000.
Fort Gordon, Georgia, $12,400,000.
Fort Jackson, South Carolina, $24,960,000.
Fort Knox, Kentucky, $14,400,000.
Fort Leavenworth, Kansas, $11,000,000.
Fort Lee, Virginia, $1,150,000.
Fort Leonard Wood, Missouri, $6,450,000.
Fort McClellan, Alabama, $6,300,000.
Fort Rucker, Alabama, $2,600,000.
Fort Sill, Oklahoma, $27,400,000.
Fort Story, Virginia, $6,100,000.

Military District of Washington

Fort Myer, Virginia, $700,000.

United States Army Materiel Development and Readiness Command

Aberdeen Proving Ground, Maryland, $47,600,000.
Anniston Army Depot, Alabama, $4,500,000
Corpus Christi Army Depot, Texas, $650,000.
Crane Army Ammunition Activity, Indiana, $3,600,000.
Fort Monmouth, New Jersey, $15,650,000.
Hawthorne Army Ammunition Plant, Nevada, $3,400,000.
New Cumberland Army Depot, Pennsylvania, $7,800,000.
Picatinny Arsenal, New Jersey, $9,780,000.
Pine Bluff Arsenal, Arkansas, $2,550,000.
Radford Army Ammunition Plant, Virginia, $26,000,000.
Red River Army Depot, Texas, $830,000.
Redstone Arsenal, Alabama, $1.900,000.
Rock Island Arsenal, Illinois, $50,900,000.
Seneca Army Depot, New York, $6.900,000
Sharpe Army Depot, California, $49,000,000.
Sierra Army Depot, California, $4,150,000.
Tobyhanna Army Depot, Pennsylvania, $810,000.
White Sands Missile Range, New Mexico, $2,250,000.
Yuma Proving Ground, Arizona, $1,300,000.

Ammunition Facilities

Holston Army Ammunition Plant, Tennessee, $19,840,000.
Indiana Army Ammunition Plant, Indiana, $1,900,000.
Iowa Army Ammunition Plant, Iowa, $1,790,000.
Louisiana Army Ammunition Plant, Louisiana, $1,600,000.
Radford Army Ammunition Plant, Virginia, $2,940,000.
Scranton Army Ammunition Plant, Pennsylvania, $2,050,000.

United States Army Communications Command

Fort Hauchuca, Arizona, $5,670,000.

United States Military Academy

United States Military Academy, New York, $950,000.

United States Army Health Services Command

Fitzsimons Army Medical Center, Colorado, $650,000.
Fort Detrick, Maryland, $18,400,000.
Tripler Army Medical Center, Hawaii, $115,000,000.
Walter Reed Army Medical Center, Washington, District of Columbia, $4,800,000.

Military Traffic Management Command

Bayonne Military Ocean Terminal, New Jersey, $570,000.
Oakland Army Base, California, $2,740,000.

United States Army Corps of Engineers

Cold Regions Laboratory, New Hampshire, $3,600,000.

Ballistic Missile Defense System Command

Various Locations $12,800,000.

Classified Projects

Various Locations $3,800,000.

OUTSIDE THE UNITED STATES

United States Army, Japan

Japan, $1,900,000.

Eighth United States Army

Korea, $121,340,000.

United States Army Forces Command Overseas

Various Locations, $69,200,000.

United States Army, Europe

Germany, $322,550,000.

Greece, $9,730,000.

United States Army Western Command

Johnston Island, $67,000,000.

United States Army Intelligence and Security Command Overseas

Korea, $2,400,000.

Family Housing

SEC. 102. The Secretary of the Army may construct or acquire family housing units (including land acquisition) at the following installations, in the number of units shown, and in the amount shown, for each installation:

Sierra Army Depot, California, one hundred twenty-five units, $1,253,000.

Sierra Army Depot, California, eighty units, $5,721,000.

Babenhausen, Federal Republic of Germany, one hundred and six units, $8,856,000.

Mainz, Federal Republic of Germany, one hundred and eighty-six units, $18,233,000.

Improvements to Military Family Housing Units

SEC. 103. (a) Subject to section 2825 of title 10, United States Code, the Secretary of the Army may make expenditures to improve existing military family housing units in an amount not to exceed $108,822,000, of which $17,546,000 is available only for energy conservation projects.

(b) The Secretary of the Army may, notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, carry out projects to improve existing military family housing units at the following installations, in the number of units shown, and in the amount shown, for each installation:

Aberdeen Proving Ground, Maryland, two hundred and six units, $7,746,000.

Fort Hamilton, New York, one hundred and eight units, $3,996,000.

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

SEC. 201. The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Logistics Base, Barstow, California, $5,670,000.

Marine Corps Air Station, Beaufort, South Carolina, $3,490,000.

Camp H. M. Smith, Oahu, Hawaii, $1,910,000.

Marine Corps Base, Camp Leujeune, North Carolina, $36,370,000.

Marine Corps Base, Camp Pendleton, California, $54,580,000.

Marine Corps Air Station, Cherry Point, North Carolina, $14,810,000.

Marine Corps Air Station, El Toro, California, $17,610,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $16,540,000.

Marine Corps Air Station, New River, North Carolina, $340,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $11,220,000.

Marine Corps Development and Education Command, Quantico, Virginia, $3,710,000.

Marine Corps Recruit Depot, San Diego, California, $18,570,000.

Marine Corps Air Station, Tustin, California, $15,050,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, $7,830,000.

Marine Barracks, Washington, District of Columbia, $2,540,000.

Marine Corps Air Station, Yuma, Arizona, $14,090,000.

Chief of Naval Research

Naval Research Laboratory, Washington, District of Columbia, $31,650,000.

Chief of Naval Operations

Naval Academy, Annapolis, Maryland, $1,960,000.

Naval Safety Center, Norfolk, Virginia, $3,640,000.

Naval Regional Data Automation Center, San Diego, California, $15,700,000.

Personnel Support Activity, Washington, District of Columbia, $250,000.

Commandant Naval District Washington, District of Columbia, $19,750,000.

Commander in Chief, Atlantic Fleet

Naval Air Station, Brunswick, Maine, $2,510,000.

Naval Station, Charleston, South Carolina, $5,630,000.

Naval Air Station, Jacksonville, Florida, $7,400,000.

Naval Amphibious Base, Little Creek, Virginia, $27,920,000.

Naval Station, Mayport, Florida, $9,940,000.

Naval Submarine Base, New London, Connecticut, $23,000,000.

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, $24,700,000.

Naval Air Station, Norfolk, Virginia, $3,600,000.

Naval Station, Norfolk, Virginia, $30,615,000.

Personnel Support Activity, Norfolk, Virginia, $3,470,000.

Naval Air Station, Oceana, Virginia, $11,265,000.

Commander in Chief, United States Pacific Fleet

Naval Facility, Adak, Alaska, $3,900,000.

Naval Station, Adak, Alaska, $5,140,000.

Naval Air Station, Alameda, California, $5,810,000.

Naval Submarine Base, Bangor, Washington, $440,000.

Naval Air Station, Barbers Point, Hawaii, $6,630,000.

Naval Amphibious Base, Coronado, California, $8,740,000.

Naval Air Facility, El Centro, California, $1,700,000.

Naval Air Station, Fallon, Nevada, $4,740,000.

Naval Air Station, Lemoore, California, $580,000.

Naval Station, Long Beach, California, $1,100,000.

Shore Intermediate Maintenance Activity, Long Beach, California, $11,700,000.

Naval Magazine, Lualualei, Hawaii, $3,130,000.

Naval Station, Mare Island, Vallejo, California, $1,090,000.

Naval Air Station, Miramar, California, $3,460,000.

Naval Air Station, Moffett Field, California, $6,370,000.

Naval Air Station, North Island, California, $6,380,000.

Commander, Oceanographic System Pacific, Pearl Harbor, Hawaii, $17,000,000.

Naval Station, Pearl Harbor, Hawaii, $545,000.

Naval Submarine Base, Pearl Harbor, Hawaii, $18,815,000.

Naval Station, San Diego, California, $17,300,000.

Naval Submarine Base, San Diego, California, $28,850,000.

Personnel Support Activity, San Diego, California, $2,270,000.

Naval Station, Treasure Island, San Francisco, California, $17,600,000.

Naval Air Station, Whidbey Island, Washington, $27,880,000.

Naval Education and Training Command

Fleet Ballistic Missile Submarine Training Center, Charleston, South Carolina, $710,000.

Naval Air Station, Chase Field, Texas, $3,315,000.

Naval Air Station, Corpus Christi, Texas, $4,675,000.

Personnel Support Activity, Corpus Christi, Texas, $710,000.

Naval Training Center, Great Lakes, Illinois, $11,950,000.

Naval Air Station, Kingsville, Texas, $1,470,000.

Naval Amphibious School, Little Greek, Virginia, $725,000.

Fleet Training Center, Mayport, Florida, $6,510,000.

Naval Air Station, Memphis, Tennessee, $10,360,000.

Naval Education and Training Center, Newport, Rhode Island, $5,360,000.

Fleet Training Center, Norfolk, Virginia, $4,450,000.

Naval Training Center, Orlando, Florida, $3,720,000.

Naval Diving and Salvage Training Center, Panama City, Florida, $1,250,000.

Naval Air Station, Pensacola, Florida, $1,410,000.

Personnel Support Activity, Pensacola, Florida, $2,510,000.

Naval Construction Training Center, Port Hueneme, California, $4,580,000.

Fleet Anti-Submarine Warfare Training Center, Pacific, San Diego, California $6,470,000.

Fleet Training Center, San Diego, California, $5,250,000.

Naval Tranining Center, San Diego, California, $8,300,000.

Naval Air Station, Whiting Field, Florida, $1,850,000.

Naval Medical Command

Naval Hospital, Bremerton, Washington, $6,220,000.

Naval Hospital, Camp Lejeune, North Carolina, $970,000.

Naval Hospital, Camp Pendleton, California, $1,410,000.

Naval Hospital, Millington, Tennessee, $410,000.

Naval Hospital, Oakland, California, $29,140,000.

Naval Hospital, Orlando, Florida, $1,760,000.

Naval Hospital, Portsmouth, Virginia, $410,000.

Naval Material Command

Naval Air Rework Facility, Alameda, California, $3,820,000.

Naval Supply Center, Bremerton, Washington, $6,160,000.

Naval Supply Center, Charleston, South Carolina, $5,630,000.

Charleston Naval Shipyard, Charleston, South Carolina, $570,000.

Naval Weapons Station, Charleston, South Carolina, $1,630,000.

Naval Weapons Center, China Lake, California, $630,000.

Naval Surface Weapons Center, Dahlgren, Virginia, $4,980,000.

Navy Public Works Center, Great Lakes, Illinois, $2,740,000.

Naval Construction Battalion Center, Gulfport, Mississippi, $20,815,000.

Naval Air Rework Facility, Jacksonville, Florida, $1,410,000.

Supervisor of Shipbuilding, Jacksonville, Florida, $1,270,000.

Naval Submarine Base, Kings Bay, Georgia, $231,960,000.

Long Beach Naval Shipyard, Long Beach, California, $3,010,000.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, $16,270,000.

Naval Underwater Systems Center, Newport, Rhode Island, $24,840,000.

Naval Air Rework Facility, Norfolk, Virginia, $10,000,000.

Naval Supply Center, Norfolk, Virginia, $1,420,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, $11,330,000.

Navy Public Works Center, Norfolk, Virginia, $4,050,000.

Naval Air Rework Facility, North Island, California, $560,000.

Naval Supply Center, Oakland, California, $9,510,000.

Naval Training Equipment Center, Orlando, Florida, $23,500,000.

Naval Air Test Center, Patuxent River, Maryland, $4,620,000.

Naval Supply Center, Pearl Harbor, Hawaii, $6,680,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $5,270,000.

Naval Air Rework Facility, Pensacola, Florida, $5,190,000.

Navy Public Works Center, Pensacola, Florida, $7,830,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $3,890,000.

Pacific Missile Test Center, Point Mugu, California, $21,030,000.

Fleet Combat Direction Systems Support Activity, San Diego, California, $11,250,000.

Naval Supply Center, San Diego, California, $4,150,000.

Navy Public Works Center, San Diego, California, $4,870,000.

Navy Public Works Center, San Francisco, California, $13,420,000.

Naval Electronic Systems Engineering Activity, St. Inigoes, Maryland, $2,110,000.

Naval Air Development Center, Warminster, Pennsylvania, $2,290,000.

Naval Weapons Station, Yorktown, Virginia, $1,140,000.

Naval Oceanography Command

Naval Oceanographic Office, Bay St. Louis, Mississippi, $1,570,000.

Naval Oceanographic Command, Bay St Louis, Mississippi, $375,000.

Naval Telecommunications Command

Naval Communication Area Master Station, Atlantic, Norfolk, Virginia, $1,160,000.

Naval Security Group Command

Naval Security Group Activity, Adak, Alaska, $320,000.

Naval Security Group Activity, Northwest Chesapeake, Virginia, $4,600,000.

Naval Security Group Activity, Winter Harbor, Maine, $220,000.

OUTSIDE THE UNITED STATES

Marine Corps

Marine Corps Air Station, Iwakuni, Japan, $6,320,000.

Marine Corps Base, Camp Butler, Okinawa, Japan, $2,330,000.

Commander in Chief, Atlantic Fleet

Naval Station, Guantanamo Bay, Cuba, $6,480,000.

Naval Station, Keflavik, Iceland, $36,720,000.

Naval Facility, Keflavik, Iceland, $2,620,000.

Naval Station, Panama Canal, Panama, $1,580,000.

Naval Station, Roosevelt Roads, Puerto Rico, $2,550,000.

Atlantic Fleet Weapons Training Facility, Roosevelt Roads, Puerto Rico, $600,000.

Commander in Chief, Pacific Fleet

Naval Air Station, Cubi Point, Republic of the Philippines, $24,260,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $6,425,000.

Naval Air Station, Guam, Mariana Islands, $300,000.

Naval Ship Repair Facility, Guam, Mariana Islands, $2,340,000.

Naval Air Facility, Misawa, Japan, $9,300,000.

Naval Station, Subic Bay, Republic of the Philippines, $6,520,000.

Naval Ship Repair Facility, Subic Bay, Republic of the Philippines, $710,000.

Fleet Activities, Yokosuka, Japan, $990,000.

Commander in Chief, Naval Forces, Europe

Fleet Operations Control Center Europe, London, England, $2,620,000.

Naval Activities, London, England, $6,620,000.

Naval Station, Rota, Spain, $25,020,000.

Naval Air Station, Sigonella, Italy, $20,110,000.

Naval Material Command

Navy Public Works Center, Guam, Mariana Islands, $230,000.

Naval Medical Command

Naval Hospital, Rota, Spain, $18,400,000.

Naval Telecommunications Command

Naval Communication Area Master Station Western Pacific, Guam, Mariana Islands, $3,210,000.

Naval Communication Station, Nea Makri, Greece, $3,950,000.

Naval Communication Station, San Miguel, Republic of the Philippines, $300,000.

Naval Communication Station, Yokosuka, Japan, $980,000.

Naval Security Group Command

Naval Security Group Detachment, Diego Garcia, Indian Ocean, $380,000.

Naval Security Group Activity, Edzell, Scotland, $340,000.

Naval Security Group Detachment, Guam, Mariana Islands, $320,000.

Host Nation Infrastructure Support

Various Locations, $2,790,000.

SANTA MARGARITA WATER PROJECT

SEC. 202. The Secretary of the Navy may carry out a military construction project in the amount of $142,000,000 for water supply and flood control of the Santa Margarita River, Marine Corps Base, Camp Pendleton, California.

FAMILY HOUSING

SEC. 203. The Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the following installations, in the number of units shown, and in the amount shown, for each installation:

Naval Station, Adak, Alaska, four hundred and five units, $61,107,000.

Marine Corps Base, Camp Pendleton, California, three hundred and sixty units, $26,004,000.

AEGIS Communications Systems Center, Wallops Island, Virginia, twenty-eight units, $2,400,000.

Naval Station, Guantanamo Bay, Cuba, one hundred units, $12,430,000.

IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

SEC. 204(a) Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may make expenditures to improve existing military family housing units in an amount not to exceed $9,000,000.

(b) The Secretary of the Navy may, notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, carry out projects to improve existing military family housing units at the following installation, in the number of units shown, and in the amount shown:

Naval Air Station, Whidbey Island, Washington, two hundred and sixty-eight units, $13,300,000.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

SEC. 301. The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

Air Force Logistics Command

Hill Air Force Base, Utah, $49,433,000.

McClellan Air Force Base, California, $13,501,000.

Newark Air Force Station, Ohio, $840,000.

Robins Air Force Base, Georgia, $18,390,000.

Tinker Air Force Base, Oklahoma, $27,199,000.

Wright-Patterson Air Force Base, Ohio, $36,350,000.

Air Force Systems Command

Arnold Engineering Development Center, Tennessee, $7,700,000.

Brooks Air Force Base, Texas, $4,450,000.

Cape Canaveral Air Force Station, Florida, $2,750,000.

Edwards Air Force Base, California, $18,180,000.

Eglin Air Force Base, Florida, $2,680,000.

Various Locations, Florida, $6,300,000.

Goodard Space Flight Center, Maryland, $3,500,000.

Hanscom Air Force Base, Massachusetts, $5,200,000.

Patrick Air Force Base, Florida, $910,000.

Various Locations, $1,200,000.

Air National Guard

Base 10, Classified Location, $2,150,000.

Otis Air National Guard Base, Massachusetts, $810,000.

Air Training Command

Chanute Air Force Base, Illinois, $11,350,000.

Goodfellow Air Force Base, Texas, $17,150,000.

Keesler Air Force Base, Mississippi, $13,555,000.

Lackland Air Force Base, Texas, $9,290,000.

Laughlin Air Force Base, Texas, $7,400,000.

Lowry Air Force Base, Colorado, $3,820,000.

Mather Air Force Base, California, $3,500,000.

Randolph Air Force Base, Texas, $9,740,000.

Reese Air Force Base, Texas, $4,900,000.

Sheppard Air Force Base, Texas, $6,300,000.

Williams Air Force Base, Arizona, $2,500,000.

Air University

Gunter Air Force Station, Alabama, $9,500,000.

Maxwell Air Force Base, Alabama, $480,000.

Alaskan Air Command

Burnt Mountain Air Force Station, Alaska, $1,400,000.

Eielson Air Force Base, Alaska, $24,850,000.

Elmendorf Air Force Base, Alaska, $12,313,000.

Galena Airport, Alaska, $11,800,000.

Military Airlift Command

Andrews Air Force Base, Maryland, $960,000.

Charleston Air Force Base, South Carolina, $14,840,000.

Eglin Auxilary Field 9, Florida, $7,830,000.

Kirtland Air Force Base, New Mexico, $1,500,000.

Little Rock Air Force Base, Arkansas, $1,890,000.

McChord Air Force Base, Washington, $3,190,000.

McGuire Air Force Base, New Jersey, $440,000.

Norton Air Force Base, California, $6,650,000.

Pope Air Force Base, California, $710,000.

Scott Air Force Base, Illinois, $19,400,000.

Travis Air Force Base, California, $204,890,000.

National Military Command Center

Pentagon, Virginia, $4,750,000.

Pacific Air Forces

Hickam Air Force Base, Hawaii, $3,800,000.

Space Command

Clear Air Force Station, Alaska, $4,400,000.

Falcon Air Force Station, Colorado, $3,000,000.

Peterson Air Force Base, Colorado, $25,000,000.

Special Project

Various Locations, $53,700,000.

Strategic Air Command

Barksdale Air Force Base, Louisiana, $26,995,000.

Base 4, Classified Location, $14,000,000.

Base 17, Classified Location, $45,740,000.

Beale Air Force Base, California, $2,675,000.

Blytheville Air Force Base, Arkansas, $2,640,000.

Carswell Air Force Base, Texas, $24,650,000.

Castle Air Force Base, California, $4,100,000.

Conrad Air Station, Montana, $4,260,000.

Dickinson Air Station, North Dakota, $3,710,000.

Dyess Air Force Base, Texas, $58,610,000.

F. E. Warren Air Force Base, Wyoming, $49,220,000.

Fairchild Air Force Base, Washington, $11,500,000.

Grand Forks Air Force Base, North Dakota, $4,420,000.

Griffiss Air Force Base, New York, $3,400,000.

Grissom Air Force Base, Indiana, $920,000.

K. I. Sawyer Air Force Base, Michigan, $2,350,000.

Loring Air Force Base, Maine, $31,370,000.

Malmstrom Air Force Base, Montana, $1,500,000.

March Air Force Base, California, $9,150,000.

Minot Air Force Base, North Dakota, $13,060,000.

Offutt Air Force Base, Nebraska, $47,100,000.

Pease Air Force Base, New Hampshire, $5,950,000.

Plattsburgh Air Force Base, New York, $3,650,000.

Vandenberg Air Force Base, California, $34,910,000.

Whiteman Air Force Base, Missouri, $4,320,000.

Wurtsmith Air Force Base, Michigan, $1,125,000.

Tactical Air Command

Base 16, Classified Location, $11,000,000.

Bergstrom Air Force Base, Texas, $10,900,000.

Cannon Air Force Base, New Mexico, $1,100,000.

Davis-Monthan Air Force Base, Arizona, $12,400,000.

England Air Force Base, Louisiana, $5,250,000.

George Air Force Base, California, $17,930,000.

Holloman Air Force Base, New Mexico, $8,810,000.

Homestead Air Force Base, Florida, $2,950,000.

Langley Air Force Base, Virginia, $29,030,000.

Luke Air Force Base, Arizona, $13,660,000.

MacDill Air Force Base, Florida, $6,120,000.

Moody Air Force Base, Georgia, $2,030,000.

Mountain Home Air Force Base, Idaho, $1,490,000.

Myrtle Beach Air Force Base, South Carolina, $2,795,000.

Nellis Air Force Base, Nevada, $12,390,000.

Seymour-Johnson Air Force Base, North Carolina, $9,490,000.

Shaw Air Force Base, South Carolina, $4,970,000.

Tyndall Air Force Base, Florida, $4,330,000.

United States Air Force Academy

United States Air Force Academy, Colorado, $23,805,000.

Outside the United States

Military Airlift Command

Lajes Field, Portugal, $4,550,000.

Sidi Slimane, Morocco, $2,050,000.

Rhein-Main Air Base, Germany, $2,940,000.

Pacific Air Forces

Kadena Air Base, Japan, $20,680,000.

Misawa Air Base, Japan, $20,000,000.

Yokota Air Base, Japan, $3,000,000.

Kimhae Air Base, Korea, $12,853,000.

Kunsan Air Base, Korea, $12,300,000.

Kwang-Ju Air Base, Korea, $4,460,000.

Osan Air Base, Korea, $35,690,000.

Sachon Air Base, Korea, $1,100,000.

Suwon Air Base, Korea, $4,090,000.

Taegu Air Base, Korea, $5,950,000.

Diego Garcia Air Base, Indian Ocean, $16,100,000.

Clark Air Base, Republic of the Philippines, $42,425,000.

Base 11, Classified Location, $6,100,000.

Base 14, Classified Location, $1,700,000.

Wake Island Airfield, Wake Island, $1,235,000.

Space Command

Thule Air Base, Greenland, $25,000,000.

Strategic Air Command

Andersen Air Force Base, Guam, $13,342,000.

Tactical Air Command

Palmerola Air Base, Honduras, $1,500,000.

Howard Air Force Base, Panama, $360,000.

Oman, Various Locations, $42,000,000.

United States Air Forces in Europe

Florennes, Belgium, $4,640,000.

Camp New Amsterdam, The Netherlands, $5,310,000.

Woensdrecht Air Base, The Netherlands, $81,650,000.

Alzey Radar Site, Germany, $3,150,000.

Bitburg Air Base, Germany, $8,910,000.

Classified Location, Germany, $600,000.

Various Locations, Germany, $14,600,000.

Hahn Air Base, Germany, $4,150,000.

Ramstein Air Base, Germany, $8,650,000.

Spangdahlem Air Base, Germany, $620,000.

Wenigerath Air Base, Germany, $3,065,000.

Wiesbaden Air Base, Germany, $650,000.

Zweibrucken Air Base, Germany, $4,055,000.

Aviano Air Base, Italy, $1,600,000.

Comiso Air Station, Italy, $6,075,000.

San Vito Air Station, Italy, $2,250,000.

Torrejon Air Base, Spain, $13,350,000.

Zaragoza Air Base, Spain, $1,100,000.

Ankara Air Station, Turkey, $1,100,000.

Incirlik Air Base, Turkey, $9,780,000.

RAF Alconbury, United Kingdom, $5,510,000.

RAF Chickands, United Kingdom, $3,550,000.

RAF Greenham Common, United Kingdom, $12,000,000.

RAF Lakenheath, United Kingdom, $2,100,000.

RAF Mildenhall, United Kingdom, $14,100,000.

RAF Upper Heyford, United Kingdom, $5,210,000.

RAF Welford, United Kingdom, $740,000.

RAF Wethersfield, United Kingdom, $4,300,000.

RAF Woodbridge, United Kingdom, $2,050,000.

RAF Molesworth, United Kingdom, $15,004,000.

Base 13, Classified Location, $2,050,000.

Base 19, Classified Location, $2,850,000.

Classified Locations, $9,950,000.

Various Locations, Europe, $16,400,000

FAMILY HOUSING

Sec. 302. The Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the following installations, in the number of units shown, and in the amount shown, for each installation:

Fort MacArthur, California, one hundred and forty units, $16,500,000.

Hanscom Air Force Base, Massachusetts, Trailer Park Expansion, $500,000.

Conrad Air Force Station, Montana, forty units, $3,705,000.

F. E. Warren Air Force Base, Wyoming, two hundred sixty-five units, $17,343,000.

Florennes, Belgium, four hundred units, $37,509,000.

Comiso, Italy, five hundred seventy-six units, $50,070,000.

Osan Air Base, Korea, Utilities Expansions, $2,700,000.

RAF Greeham Common, United Kingdom, two hundred and fifty units, $22,441,000.

RAF Alconbury, United Kingdom, three hundred units, $27,410,000.

RAF Bentwaters, United Kingdom, two hundred units, $21,963,000.

Classified Location, Federal Republic of Germany, two hundred and fifty units, $24,086,000.

IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

SEC. 303. (a) Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may make expenditures to improve existing military family housing units in an amount not to exceed $62,173,000, of which $23,751,000 is available only for energy conservation projects.

(b) The Secretary of the Air Force may, notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, carry out projects to improve existing military family housing units at the following installations, in the number of units shown, and in the amount shown, for each installation:

Bergstrom Air Force Base, Texas, one hundred and fifty-six units, $4,642,000.

Moody Air Force Base, Georgia, one hundred a six units, $2,772,000.

Scott Air Force Base, Illinois, two hundred and fifty units, $8,820,000.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS AND LAND ACQUISITION FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

Defense Logistics Agency

Defense Fuel Support Point, Adak, Alaska, $6,730,000.

Defense Fuel Support Point, Whittier, Alaska, $12,170,000.

Defense Property Disposal Office, Fairbanks, Alaska, $1,800,000.

Defense Property Disposal Office, San Diego, Imperial Beach, California, $900,000.

Defense Property Disposal Office, Pearl Harbor Naval Shipyard, Hawaii, $1,950,000.

Defense Fuel Support Point, Grand Forks, North Dakota, $475,000.

Defense Fuel Support Point, Cincinnati, Ohio, $2,600,000.

Defense Depot, Mechanicsburg, Pennsylvania, $18,000,000.

Defense Fuel Support Point, Mukilteo, Washington, $500,000.

Defense Mapping Agency

Hydrographic/Topographic Center, Brookmont, Maryland, $20,100,000.

National Security Agency

Fort Meade, Maryland, $34,300,000.

Rosman, North Carolina, $500,000.

Baltimore, Maryland, $7,500,000.

Classified Location, $500,000.

Office of the Secretary of Defense

Presidio of Monterey, California, $22,475,000.

National Defense University, Fort McNair, Washington, District of Columbia, $5,022,000.

White Sands Missile Range, New Mexico, $9,000,000.

Classified Activity, Fort Belvoir, Virginia, $28,400,000.

Classified Location, $5,900,000.

Defense Investigative Service

Fort Holabird, Maryland, $220,000.

Defense Nuclear Agency

Fort McClellan, Alabama, $1,000,000.

Department of Defense Dependents Schools

Maxwell Air Force Base, Alabama, $1,700,000.

Fort Benning, Georgia, $5,600,000.

Fort Campbell, Kentucky, $7,500,000.

Fort Knox, Kentucky, $21,961,000.

United States Military Academy, West Point, New York, $3,650,000.

Fort Bragg, North Carolina, $5,600,000.

Fort Jackson, South Carolina, $7,372,000.

OUTSIDE THE UNITED STATES

Defense Logistics Agency

Defense Fuel Support Point, Pohang, Korea, $15,800,000.

Defense Fuel Support Point, Roosevelt Roads, Puerto Rico, $10,675,000.

Office of the Secretary of Defense

Classified Location, $12,900,000.

National Security Agency

Classified Locations, $5,200,000.

Department of Defense Dependents Schools

Florennes, Belgium, $10,100,000.

Amberg, Germany, $1,860,000.

Bad Kreuznach, Germany, $3,660,000.

Bad Nauheim, Germany, $1,200,000.

Bindlach, Germany, $1,750,000.

Crailsheim, Germany, $1,660,000.

Frankfurt, Germany, $11,620,000.

Germersheim, Germany, $1,680,000.

Goeppingen, Germany, $2,060,000.

Hahn Air Base, Germany, $2,840,000.

Katterbach, Germany, $3,780,000.

Ludwigsburg, Germany, $2,110,000.

Mannheim, Germany, $3,780,000.

Neubrueke, Germany, $2,700,000.

Osterholz-Scharmbeck, Germany, $940,000.

Rhein-Main Air Base, Germany, $2,120,000.

Ulm, Germany, $2,970,000.

Wiesbaden, Germany, $830,000.

Wertheim, Germany, $2,080,000.

Worms, Germany, $2,230,000.

Wuerzberg, Germany, $2,650,000.

Naval Station, Keflavik, Iceland, $3,440,000.

Comiso, Italy, $13,600,000.

Camp Kinser, Japan, $5,410,000.

Camp McTureous, Japan, $6,520,000.

Zukeran, Japan, $2,820,000.

Seoul, Korea, $1,410,000.

Brunssum, Netherlands, $2,650,000.

Subic Bay, Republic of the Philippines, $3,500,000.

Clark Air Base, Republic of the Philippines, $5,920,000.

RAF Chicksands, United Kingdom, $1,010,000.

RAF Greenham Common, United Kingdom, $13,600,000.

RAF High Wycombe, United Kingdom, $6,270,000.

RAF Woodbridge, United Kingdom, $1,730,000.

FAMILY HOUSING

SEC. 402. The Secretary of Defense may construct or acquire family housing units (including land acquisition) at the following installations, in the number of units shown, and in the amount shown, for each installation:

Classified Locations, six units, $693,000.

IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

SEC. 403. Subject to section 2825 of title 10, United States Code, the Secretary of Defense may make expenditures to improve existing military family housing units in an amount not to exceed $107,000.

DEFICIENCY AUTHORIZATION FOR APPROPRIATIONS

SEC. 404. Section 604(a) of the Military Construction Authorization Act, 1984 (Pub. L. No. 98-115, 97 Stat. 779), is amended by deleting the phrases "$306,386,000" and "$90,572,000" and inserting in lieu thereof the phrases "$321,386,000" and "$105,572,000", respectively.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

AUTHORITY OF THE SECRETARY OF DEFENSE TO MAKE CONTRIBUTIONS

SEC. 501. The Secretary of Defense may make contributions for the North Atlantic Treaty Organization infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the amount authorized to be appropriated in section 605.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND RECURRING ADMINISTRATIVE PROVISIONS

AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 601. (a) Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1984, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $3,687,174,000 as follows:

(1) For projects authorized by section 101 that are to be carried out inside the United States, $1,444,100,000.

(2) For projects authorized by section 101 that are to be carried out outside the United States, $594,120,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $33,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $190,000,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $500,000.

(6) For military family housing functions.

(A) For construction and acquisition of military family housing and facilities, $156,800,000; and

(B) for support of military family housing, $1,268,654,000, of which not more than $129,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $107,249,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 101 may not exceed the total amount authorized to be appropriated under subsections (1) and (2) of subsection (a).

AUTHORIZATION OF APPROPRIATIONS, NAVY

Sec. 602. (a) Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1984, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,509,086,000 as follows:

(1) For projects authorized by section 201 that are to be carried out inside the United States, $1,262,485,000.

(2) For projects authorized by section 201 that are to be carried out outside the United States, $195,815,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $19,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $157,900,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $4,000,000.

(6) For the Santa Margarita Water Project authorized by section 202 that is to be carried out inside the United States, $142,000,000.

(7) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $119,500,000; and

(B) for support of military family housing, $608,386,000, of which not more than $28,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $20,052,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 201 may not exceed the total amount authorized to be appropriated under subsections (1) and (2) of subsection (a).

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

Sec. 603. (a) Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1984, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $3,136,742,000 as follows:

(1) For projects authorized by section 301 that are to be carried out inside the United States, $1,318,116,000.

(2) For projects authorized by section 301 that are to be carried out outside the United States, $550,544,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $21,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $163,900,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $24,550,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $292,400,000; and

(B) for support of military family housing, $766,232,000, of which not more than $57,239,000 may be obligated or expended for leasing of military family housing units in foreign countries.

(b) Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 301 may not exceed the total amount authorized to be appropriated under subsections (1) and (2) of subsection (a).

AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

Sec. 604. (a) Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1984, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $479,300,000 as follows:

(1) For projects authorized by section 401 that are to be carried out inside the United States, $233,425,000.

(2) For projects authorized by section 401 that are to be carried out outside the United States, $177,075,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $4,000,000.

(4) For construction projects under the contingency construction authority of the Secretary of Defense under section 2804 of title 10, United States Code, $15,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $30,000,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $800,000; and

(B) for support of military family housing, $19,000,000, of which not more than $15,773,000 may be obligated for expended for the leasing of military family housing units in foreign countries.

(b) Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 401 may not exceed the total amount authorized to be appropriated under subsections (1) and (2) of subsection (a).

AUTHORIZATION OF APPROPRIATIONS, NATO

Sec. 605. Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1984, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of construction projects for the North Atlantic Treaty Organization Infrastructure program, as authorized by Title V, $296,700,000.

ACTIVITIES INCLUDED WITHIN AUTHORIZATION FOR MILITARY FAMILY HOUSING

Sec. 606. (a) Amounts authorized under sections 601 through 604 for construction and acquisition of military family housing and facilities include amounts for minor construction, improvements to existing military family housing units and facilities, relocation of military family housing units under section 2827 of title 10, United States Code, and architectural and engineering services and construction design.

(b) Amounts authorized under sections 601 through 604 for support of military family housing include amounts for operating expenses, leasing expenses, maintenance of real property expenses, payments or principal and interest on mortgage debts incurred, and payments of mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m).

EXPIRATION OF AUTHORIZATIONS: EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Sec. 607. (a)(1) Except as provided in paragraph (2), all authorizations contained in titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects, and contributions to the NATO Infrastructure program (and authorizations of appropriations therefor contained in sections 601 through 605), shall expire on October 1, 1986, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1987, whichever is later.

(2) The provisions of paragraph (1) do not apply to authorizations for military construction projects, land acquisition, family housing projects, and contributions to the NATO Infrastructure program, (and authorizations of appropriations therefore), for which appropriated funds have been obligated before October 1, 1986, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1987, whichever is later, for construction contracts, land acquisition, family housing projects, or contributions to the NATO Infrastructure program.

(b) Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1983 (Pub. L. No. 97-321, 96 Stat. 1567), authorizations for the following projects authorized in Sections 101, 201, and 301 of such Act shall remain in effect until October 1, 1985, or the date of enactment of the Military Construction Authorization Act for fiscal year 1986, whichever is later:

(1) Consolidated Heating Facility in the amount of $1,300,000 at Giessen, Germany.

(2) Barracks in the amount of $9,300,000 at Vilseck, Germany.

(3) Battalion Headquarters and Classroom in the amount of $3,000,000 at Vilseck, Germany.

(4) Dining Facility in the amount of $3,600,000 at Vilseck, Germany.

(5) Barracks in the amount of $10,600,000 at Vilseck, Germany.

(6) Standby Generator Plant in the amount of $4,500,000 at the Naval Communications Area Master Station Eastern Pacific, Honolulu, Hawaii.

(7) Rapid Deployment Force Facilities in the amount of $55,000,000 at Ras Banas, Egypt.

ESTABLISHMENT OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

Sec. 608. For projects or contracts initiated during the period beginning on the date of the enactment of this Act or October 1, 1984, whichever is later, and ending on the date of the enactment of the Military Construction Authorization Act for fiscal year 1986 or October 1, 1985, whichever is later, the following amounts apply:

(1) The maximum amount for an unspecified minor military construction project under section 2805 of title 10, United States Code, is $1,000,000.

(2) The amount of a contract for architectural and engineering services or construction design that makes such a contract subject to the reporting requirement under section 2807 of title 10, United States Code, is $300,000.

(3) The maximum amount per unit for an improvement project for family housing units under section 2825 of title 10, United States Code, is $30,000.

(4) The maximum annual rental for a family housing unit leased in the United States, Puerto Rico, or Guam under section 2828(b) of title 10, United States Code, is $6,000.

(5)(A) The maximum annual rental for a family housing unit leased in a foreign country under section 2828(c) of title 10, United States Code, is $16,800.

(B) The maximum number of family housing units that may be leased at any one time in foreign countries under section 2828(c) of title 10, United States Code, is 31,000.

(6) The maximum rental per year for family housing facilities, or for real property related to family housing facilities, leased in a foreign country under section 2828(f) of title 10, United States Code, is $250,000.

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

Sec. 609. Titles I, II, III, IV, and V of this Act shall take effect on October 1, 1984.

TITLE VII —GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

Sec. 701. There are authorized to be appropriated for fiscal years beginning after September 30, 1984, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under Chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States $88,900,000, and

(B) for the Army Reserve, $70,400,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $60,800,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States $102,900,000, and

(B) for the Air Force Reserve, $67,800,000.

MODIFICATION OF GUARD AND RESERVE MINOR CONSTRUCTION AUTHORITY

Sec. 702. Subsection 2233a(b) of title 10, Unitd States Code, is ammended by deleting the phrase "$50,000" and inserting in lieu thereof the phrase "$100,000".

FEDERAL CONTRIBUTION FOR CONSTRUCTION TO UPGRADE CRITICAL PORTIONS OF ARMORIES

Sec. 703. Subsection 2233(a)(6) of title 10, United States Code, is amended by deleting the phrases "arms storage rooms" and "standards related to the safekeeping of arms" and inserting in lieu thereof the phrases "critical portions of facilities" and "construction criteria or standards related to the execution of the Federal military mission assigned to the unit utilizing the facility", respectively.

TITLE VIII—GENERAL PROVISIONS

OCCUPANT LIABILITY

Sec. 801. (a) Section 2775 of title 10, United States Code, as amended, is further amended to read as follows:

"§ 2775. Liability of member for damages to housing, equipment, and furnishings.

"(a) A member of the armed forces shall be liable to the United States for damage to any family or unaccompanied personnel housing unit, or damage to or loss of any equipment or furnishings of any family or unaccompanied personnel housing unit, assigned or provided to such member if it is determined, under regulations to be prescribed by the Secretary of Defense, that such damage or loss was caused by the abuse or negligence of such member, any dependent of such member, or their guests.

"(b) The Secretary of Defense may establish limitations of liability or compromise or waive a claim under this section.

"(c)(1) The Secretary concerned may deduct from a member's pay, or provide for the collection by means other than the checkage of pay, an amount sufficient to pay for the cost of the repair or replacement made necessary as the result of any abuse or negligence referred to in subsection (a) on the part of such member, any dependent of such member, or their guests.

"(2) The final determination of an amount to be deducted from the pay of an officer of an armed force in accordance with regulations issued under this section shall be deemed to be a special order authorizing such deduction for the purposes of section 1007 of title 37.

"(d) Amounts deducted from a member's pay under this section, or any other amounts collected, shall be credited to the family housing operations and maintenance account, or the operations and maintenance account of the military department or defense agency concerned and shall be available for use for the same purposes and under the same circumstances as other funds in such accounts.

"(e) The Secretary of Defense shall issue regulations to carry out the provisions of this section, including regulations for determining the cost of repairs or replacements made necessary as the result of abuse or negligence on the part of a member, dependent of a member, or their guests, and regulations providing for limitations of liability, the compromise or waiver of a claim, and collection by means other than the checkage of pay."

(b) The table of sections at the beginning of Chapter 165 is amended by amending the item referring to section 2775 to read as follows:

"§ 2775. Liability of member for damages to housing, equipment, and furnishings."

OCCUPANCY OF SUBSTANDARD FAMILY HOUSING UNITS

Sec. 802. Subsection 2830(a) of title 10, United States Code, is amended by deleting paragraph (2) and inserting in lieu thereof: "(2) Occupancy of a family housing unit under paragraph (1) shall subject such member to a charge equal to 75 percent of the member's basic allowance for quarters."

ACQUISITION OF REAL PROPERTY; COST VARIATIONS

Sec. 803. Section 2676 of title 10, United States Code, is amended: (1) by inserting in subsection (c)(2) the phrase ", or for condemnation actions, the amount to be deposited with the court as just compensation for the land" immediately after the phrase "upon the agreed price for the land", (2) by inserting in subsection (c)(2)(B) the phrase ", or for condemnation actions, the amount to be deposited with the court as just compensation for the land," immediately after the phrase "the agreed price for the land," and (3) by adding at the end thereof the following new subsection:

"(e) Nothwithstanding the foregoing, deficiency judgments awarded by a court in condemnation actions, or resulting from a final settlement of a condemnation action, shall be paid promptly from funds available for land acquisition projects.".

ACQUISITION OF OPTIONS ON PROPERTY

Sec. 804. Subsection 2677(b) of title 10, United States Code, is amended by deleting the number "5" and inserting in lieu thereof the number "12".

RESTORATION OF PERMITTED LAND

Sec. 805.(a) Chapter 159 of title 10, United States Code, is amended by adding the following new section at the end thereof:

§ 2691. Restoration of Permitted Land

"The Secretary of the Military Department concerned is authorized, from funds available for operations and maintenance or construction, to remove improvements, clear, reseed, and replant the site, and to take any other action necessary in his judgment to restore land permitted to his department by another military department or Federal agency when required by the terms of the permit making such land available. Unless otherwise prohibited by law or the terms of the permit, such land shall first be screened with other military departments and Federal agencies for re-use in its improved state, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, prior to commencing restoration. Maintenance and repair of the improvements, to the standards established for excess property by the General Services Administration may continue during the screening process."

(b) the table of sections at the beginning of such chapter is amended by adding at the end thereof, the following new item:

"2691. Restoration of Permitted Land"

LAND EXCHANGE FOR CONSOLIDATED SPACE OPERATIONS CENTER

Sec. 806. (a) The Secretary of the Air Force is authorized to acquire title to, or easements or rights-of-way over, lands in the vicinity of the Consolidated Space Operations Center, Falcon Air Force Station, Colorado. Such lands or interests therein shall be acquired by exchanging land at the former Ent Air Force Base, Colorado Springs, Colorado, or other Federal lands in Colorado, with the State of Colorado Board of Land Commissioners. Conveyance of lands at the former Ent AFB to the state shall be subject to the existing lease to the U.S. Olympic Committee, Inc.

(b) The Secretary shall adjust the amount of land and the nature of the interests acquired so that the fair market value of the lands conveyed and received, as determined by the Secretary, are substantially equal.

(c) The exact acreages to be acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such surveys shall be borne by the Air Force.

(d) The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

PREMOBILIZATION AUTHORITY

Sec. 807. Section 2808 of title 10, United States Code, is amended as follows: (1) by inserting in the first sentence of subsection (a), immediately after the phrase "requires use of the armed forces," the phrase "or when the President determines that there is an imminent threat to the national security of such a nature that existing facilities would be inadequate to meet a mobilization effort," and (2) by adding at the end of subsection (c) the following sentence: "With respect to a Presidential determination of an imminent threat to the national security of such a nature that existing facilities are inadequate to meet a mobilization effort, the authority described in subsection (a) shall terminate six months after such determination unless the President issues a declaration of national emergency or war is declared, in which case the authority described in subsection (a) shall terminate at the end of the war or national emergency."

AUTHORIZED COST VARIATIONS

SEC. 808. Subsection 2853(e) of title 10, United States Code, is amended by inserting the phrase "is more than the amount specified by law as the maximum amount for a minor military construction project and" after the phrase "under the contract".

EXPEDITING CONTINGENCY AND EMERGENCY CONSTRUCTION

SEC. 809. Subchapter I of chapter 169, of title 10, United States Code, is hereby amended by (1) inserting in the first sentence of subsection 2803(b) the phrase ", prior to the obligation of funds for such projects," immediately after the word "shall" and deleting the last sentence of such subsection, and (2) inserting in the first sentence of subsection 2804(b), the phrase ", prior to the obligation of funds for such project," immediately after the word "shall" and deleting the last sentence of such subsection.

TITLE IX

SEC. 901. There are authorized to be appropriated for fiscal year 1986 such sums as may be necessary for the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force to establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment.

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, D.C., February 3, 1984.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of legislation "To authorize certain construction at military installations for Fiscal Year 1985, and for other purposes." This legislation is consistent with the Budget of the United States for Fiscal Year 1985. Appropriations in support of Titles I through IX of this legislation are discussed in that Budget.

Titles I, II, III, and IV of this proposal would authorize new construction and family housing support for the Active Forces as follows: $3,687,174,000 for the Department of the Army, $2,509,086,000 for the Department of the Navy, $3,136,742,000 for the Department of the Air Force, and $479,300,000 for the Defense Agencies. Also included in Title I is authorization for construction of production base support at Army Ammunition Facilities. Title V would authorize $296,700,000 for the United States' share of the NATO Infrastructure Program.

Title VI contains authorizations for appropriations and recurring administrative provisions applicable to the Military Construction Program in accordance with Chapter 169 of title 10, United States Code. Title VIII contains nonrecurring general provisions.

Title VII, totaling $390,800,000 would authorize construction for the Guard and Reserve Forces as follows: $88,900,000 for the Army National Guard, $70,400,000 for the Army Reserve, $60,800,000 for the Naval and Marine Corps Reserve, $102,900,000 for the Air National Guard, and $67,800,000 for the Air Force Reserve. These authorizations are in lump sum amounts, and will be utilized in accordance with Chapter 133, of title 10, United States Code.

Title IX provides authorization for Fiscal Year 1986 to meet the basic requirements of the Congressional budget and Impoundment Control Act of 1974 (Public Law No. 93-344).

The projects that would be authorized by this proposal have been reviewed to determine if environmental impact statements are required by Public Law No. 91-190; required environmental statements will be submitted to the Congress by the Military Departments.

Sincerely,

L. NIEDERLEHNER,
Acting General Counsel.

By Mr. ARMSTRONG:

S. 2365. A bill entitled the "Credit Amendments of 1984"; to the Committee on Finance.

CREDIT AMENDMENTS OF 1984

● Mr. ARMSTRONG. Mr. President, roughly 600 billion barrels of oil are recoverable from oil shale deposits in Colorado, Utah, and Wyoming. Yet, America's oil shale industry is limited to a handful of companies experimenting cautiously with several uncertain, risky, and terribly expensive technologies. Our failure to establish permanent incentives for the orderly and gradual development of this critical natural resource has prevented us from moving toward energy independence and an improved economy.

Currently, oil shale plants may qualify for a 10-percent tax credit in addition to the standard 10-percent investment tax credit. To receive the additional credit, oil shale companies must meet two conditions. First, all permits necessary for construction must be obtained by 1983. Second, contracts for 50 percent of the construction must be approved within the next 3 years. Today I am introducing legislation that would extend that period in which oil shale companies can qualify for the additional 10-percent energy tax credit for another 2 years.

The extent of this country's oil shale resources is nothing short of incredible. The bulk of these resources are located in Colorado so I am obviously concerned that they be developed in a responsible, orderly way that recognizes the danger of serious environmental, social, and economic disruptions in my State and its neighbors. I believe we may have tarried too long already, thereby increasing the danger that we may have to embark on a massive crash development program during another major energy crisis, brought on by an embargo, revolution, or war in the Middle East or elsewhere in the unstable world that supplies so much of our oil.

This legislation is vital and is not controversial. Similar legislation passed the Senate last year as an amendment to the gas tax bill, but was deleted in conference. Mr. President, I call for the early enactment of this bill.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S.J. Res. 248. Joint resolution designating August 21, 1984, as "Hawaii Statehood Silver Jubilee Day"; to the Committee on the Judiciary.

HAWAII STATEHOOD SILVER JUBILEE DAY

● Mr. INOUYE. Mr. President, I am proud to introduce a Senate joint resolution with my colleague, Senator SPARK MATSUNAGA, commemorating the silver anniversary of the entry of the State of Hawaii as a full and equal partner in our Nation.

On August 12, 1898, the Republic of Hawaii was annexed into the United States. In the succeeding years, the people of Hawaii, who had come from many different nations and cultures, came to consider themselves as Americans. Recognition of this loyalty and of the values to the United States of what Mark Twain called the "loveliest fleet of islands anchored in any sea" came finally on March 18, 1959, when President Dwight David Eisenhower signed into law "An act to Provide for the Admission of the State of Hawaii into the Union." The act required that a special election be held so that the people of the territory might vote on whether or not to become a State. They voted to do so by a 17-to-1 margin and on August 21, 1959, the President certified the election results and Hawaii was officially admitted into the Union.

Statehood had been delayed for many years because of what today can only be characterized as prejudice. Some feared that the distance between Hawaii and the 48 contiguous States would prevent us from ever becoming truly a part of America—today, no one would question our concern for, and identification with, our Nation of States. Others, quite frankly, feared the effects of our racial diversity—today, Hawaii stands as something of a model of the American ideal of cultural pluralism.

The leadership that was necessary to look past these fears to the genuine realities and possibilities of the Hawaiian Islands came in Washington, D.C., from, among others, Senate Majority Leader Lyndon Johnson, Speaker of the House Sam Rayburn, Congressman Leo O'Brien of New York, and Senator Scoop Jackson. And the interests of the people of our islands were superbly represented here by a man who was later to become Governor of our State, John A. Burns. Their insights and efforts have enabled a generation of Hawaii's citizens to participate in every element of the economic, political, and social affairs of our Nation. I believe that this participation has been to the benefit of all.

I, therefore, ask that this distinguished body join the State of Hawaii in celebrating the silver anniversary of it admission to statehood by designating August 21, 1984, as "Hawaii Statehood Silver Jubilee Day."

Mr. President, I request unanimous consent the the text of the resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 248

Whereas, on March 12, 1959, Americans were thrilled to learn that the U.S. House of Representatives, by a vote of 323 to 89, had approved statehood for Hawaii, following the favorable U.S. Senate vote of 76 to 15 the day before; and

Whereas, President Dwight D. Eisenhower signed the Hawaii Statehood Bill on March 18, 1959; and

Whereas, pursuant to the provisions of the Hawaii Statehood Act, a plebiscite was held in the Territory of Hawaii and on June 27, 1959, the people of Hawaii voted 132,900 to 7,800 in favor of statehood; and

Whereas, President Eisenhower proclaimed Hawaii the 50th State on August 21, 1959; and

Whereas, the admission of Hawaii to the Union has proven to be of immense benefit both to the United States itself and the State of Hawaii; and

Whereas, Hawaii is essential to our national security as the site of the headquarters of U.S. military and naval forces in the Pacific at Pearl Harbor, and is the location of the Army's Schofield Barracks, the Air Force's Hickam and Wheeler Air Force Bases, the Kaneohe Marine Corps Air Station and other defense facilities; and

Whereas, Hawaii is our nation's largest producer of sugarcane and pineapple and its only major domestic source of coffee, macadamia nuts, and certain species of decorative flowers, and is a leader in the development of commercial aquaculture; and

Whereas, Hawaii is also outstanding as a leader in astronomy, in ocean science and alternate energy research and development, and in the extent and quality of its tourism industry; and

Whereas, the State of Hawaii contributes significantly to the national balance of trade, operating Hawaii Foreign-Trade Zone No. 9 and Subzone No. 9-A, welcoming hundreds of thousands of foreign tourists, and serving as a mid-Pacific base for U.S. and foreign commercial interchange; and

Whereas, Hawaii is the site of the unique, Congressionally-funded Center for Cultural and Technical Interchange between East and West; and

Whereas, Hawaii is blessed with great natural beauty, clean waters, pure air, and extraordinary scenery; and

Whereas, Hawaii's multi-ethnic people, in their personal lives and in the various social and civic institutions and policies they have formed, show a warm spirit of aloha, and have expressed this spirit in their Constitution's Preamble, ". . . with an understanding and compassionate heart toward all the peoples of the earth . . ."; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 21, 1984, be known throughout our Nation as "Hawaii Statehood Silver Jubilee Day" in honor of the 25th anniversary—the Silver Jubilee—of Hawaii's Statehood; and

Be it further resolved, That the President be requested and authorized to issue a Proclamation calling upon the people of the United States and all Federal, State, and local governments to observe "Hawaii Statehood Silver Jubilee Day" with observances and ceremonies appropriate to its importance.●

ADDITIONAL COSPONSORS

S. 627

At the request of Mr. Packwood, the name of the Senator from Wisconsin (Mr. Kasten) was added as a cosponsor of S. 627, a bill to authorize the establishment of a national scenic area to assure the protection, development, conservation, and enhancement of the scenic, natural, cultural and other resource values of the Columbia River Gorge in the States of Oregon and Washington, to establish national policies to assist in the furtherance of its objective, and for other purposes.

S. 1475

At the request of Mr. D'Amato, his name was added as a cosponsor of S. 1475, a bill to amend the Internal Revenue Code of 1954 to repeal the highway use tax on heavy trucks and to increase the tax on diesel fuel used in the United States.

S. 1792

At the request of Mr. Levin, the name of the Senator from Maine (Mr. Cohen) was added as a cosponsor of S. 1792, a bill to amend title XIX of the Social Security Act to extend medicaid coverage of home care to certain disabled individuals over 18 years of age.

S. 1898

At the request of Mr. Armstrong, the name of the Senator from South Dakota (Mr. Abdnor) was added as a cosponsor of S. 1898, a bill relating to deposit relief of small business.

S. 1910

At the request of Mr. Pressler, the name of the Senator from North Carolina (Mr. Helms) was added as a cosponsor of S. 1910, a bill to adapt principles of the Administrative Procedures Act to assure public participation in the development of certain positions to be taken by the United States in international organizations, and for other purposes.

S. 1992

At the request of Mr. Chafee, the names of the Senator from Alaska (Mr. Stevens) and the Senator from South Dakota (Mr. Abdnor) were added as cosponsors of S. 1992, a bill to amend the Internal Revenue Code of 1954 to simplify and improve the income tax treatment of life insurance companies and their products.

S. 2031

At the request of Mr. Moynihan, the name of the Senator from Maryland (Mr. Sarbanes) was added as a cosponsor of S. 2031, a bill relating to the residence of the American Ambassador to Israel.

S. 2046

At the request of Mr. Tower, the name of the Senator from California (Mr. Wilson) was added as a cosponsor of S. 2046, a bill to amend the Internal Revenue Code of 1954 to provide capital gain treatment for sales of certain condominiums.

S. 2099

At the request of Mr. Jepsen, the name of the Senator from Indiana (Mr. Quayle) was added as a cosponsor of S. 2099, a bill to delay for 2 years the mandatory coverage of employees of religious organizations under social security.

S. 2102

At the request of Mr. Roth, the names of the Senator from Colorado (Mr. Hart), the Senator from West Virginia (Mr. Randolph), and the Senator from Mississippi (Mr. Stennis) were added as cosponsors of S. 2102, a bill to charter the National Academy of Public Administration.

S. 2145

At the request of Mr. Hatch, the names of the Senator from Iowa (Mr. Grassley) and the Senator from North Carolina (Mr. East) were added as cosponsors of S. 2145, a bill to amend the Fair Labor Standards Act of 1938 to facilitate industrial homework, including sewing, knitting, and craftmaking, and for other purposes.

S. 2165

At the request of Mr. Danforth, the name of the Senator from Kentucky (Mr. Ford) was added as a cosponsor of S. 2165, a bill to amend the Internal Revenue Code of 1954 to increase research activities, to foster university research and scientific training, and to encourage the contribution of scientific equipment to institutions of higher education.

S. 2185

At the request of Mr. Heinz, the name of the Senator from Virginia (Mr. Trible) was added as a cosponsor of S. 2185, a bill to amend the Internal Revenue Code of 1954 to extend the targeted jobs tax credit.

S. 2241

At the request of Mr. Denton, the name of the Senator from Arizona (Mr. Goldwater) was added as a cosponsor of S. 2241, a bill to clarify the obligations of broadcasters to legally qualified candidates for public office, and for other purposes.

S. 2247

At the request of Mr. DeConcini, the names of the Senator from Oklahoma (Mr. Nickles), the Senator from South Dakota (Mr. Pressler), the Senator from North Dakota (Mr. Burdick), and the Senator from New York (Mr. Moynihan) were added as cosponsors of S. 2247, a bill to provide for the payment of certain burial benefits for veterans who were former prisoners of war.

S. 2254

At the request of Mr. GORTON, the name of the Senator from Nebraska (Mr. EXON) was added as a cosponsor of S. 2254, a bill to promote the use of food irradiation as a post-harvest treatment for agricultural commodities, and for other purposes.

S. 2257

At the request of Mrs. KASSEBAUM, the names of the Senator from Maine (Mr. COHEN), the Senator from North Dakota (Mr. ANDREWS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Wisconsin (Mr. KASTEN) were added as a cosponsors of S. 2257, a bill entitled the "Senior Citizens' Tax Improvement Act."

S. 2307

At the request of Mr. DANFORTH, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2307, a bill making a supplemental appropriation to carry out title II of Public Law 480.

S. 2338

At the request of Mr. HEINZ, the name of the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2338 a bill to amend title XVIII of the Social Security Act to allow medicare coverage for home health services provided on a daily basis.

SENATE JOINT RESOLUTION 87

At the request of Mr. TSONGAS, the names of the Senator from New Jersey (Mr. BRADLEY), the Senator from California (Mr. CRANSTON), the Senator from Kansas (Mr. DOLE), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Michigan (Mr. LEVIN), the Senator from Rhode Island (Mr. PELL), the Senator from Indiana (Mr. QUAYLE), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Joint Resolution 87, a joint resolution designating a day of remembrance for victims of genocide.

SENATE JOINT RESOLUTION 204

At the request of Mr. HATCH, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of Senate Joint Resolution 204, a joint resolution to designate "Women's History Week."

SENATE JOINT RESOLUTION 206

At the request of Mr. TSONGAS, the names of the Senator from California (Mr. CRANSTON) the Senator from Illinois (Mr. DIXON), and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of Senate Joint Resolution 206, a joint resolution designating the first Sunday of every August as "National Day of Peace."

SENATE JOINT RESOLUTION 215

At the request of Mr. THURMOND, the names of the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. SARBANES), the Senator from Utah (Mr. HATCH), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Mexico (Mr. DOMENICI), the Senator from Montana (Mr. BAUCUS), the Senator from Arkansas (Mr. BUMPERS), the Senator from Oklahoma (Mr. BOREN), the Senator from Alabama (Mr. HEFLIN), and the Senator from Maine (Mr. MITCHELL) were added as cosponsors of Senate Joint Resolution 215, a joint resolution to designate the week of April 23-27, 1984, as "National Student Leadership Week."

SENATE JOINT RESOLUTION 222

At the request of Mr. LAUTENBERG, the names of the Senator from Kansas (Mr. DOLE), the Senator from Rhode Island (Mr. PELL), the Senator from North Dakota (Mr. BURDICK), the Senator from Nebraska (Mr. EXON), the Senator from Vermont (Mr. LEAHY), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of Senate Joint Resolution 222, a joint resolution designating the month of June 1984 as "Student Awareness of Drunk Driving Month."

SENATE JOINT RESOLUTION 232

At the request of Mr. THURMOND, the name of the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of Senate Joint Resolution 232, a joint resolution to authorize and request the President to designate the month of May, 1984, as "National Physical Fitness and Sports Month."

SENATE JOINT RESOLUTION 235

At the request of Mr. PELL, the names of the Senator from Montana (Mr. MELCHER), and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of Senate Joint Resolution 235, a joint resolution to authorize the Law Enforcement Officers Memorial Fund, Inc., to establish a "National Law Enforcement Heroes Memorial."

SENATE JOINT RESOLUTION 237

At the request of Mr. HATCH, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Iowa (Mr. JEPSEN), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. WILSON), the Senator from Florida (Mrs. HAWKINS), the Senator from Kansas (Mr. DOLE), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of Senate Joint Resolution 237, a joint resolution to designate the week of November 25, 1984, through December 1, 1984, as "National Home Care Week."

SENATE JOINT RESOLUTION 239

At the request of Mr. CHILES, the name of the Senator from Illinois (Mr. DIXON) was added as a cosponsor of Senate Joint Resolution 239, designating the week of October 21 through October 27, 1984, as "Lupus Awareness Week."

SENATE JOINT RESOLUTION 244

At the request of Mr. DOLE, the names of the Senator from Florida (Mr. CHILES), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Indiana (Mr. LUGAR), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Joint Resolution 244, a joint resolution designating the week beginning on May 6, 1984, as "National Asthma and Allergy Awareness Week."

SENATE CONCURRENT RESOLUTION 96

At the request of Mr. CHILES, the names of the Senator from Louisiana (Mr. LONG), the Senator from Maine (Mr. MITCHELL), and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of Senate Concurrent Resolution 96, a concurrent resolution expressing the sense of Congress that the President should submit a revised budget proposal which contains provisions to reduce the Federal deficit by at least $200 billion over the next 3 years.

AMENDMENT NO. 2655

At the request of Mr. GRASSLEY, the names of the Senator from Minnesota (Mr. DURENBERGER), the Senator from North Carolina (Mr. HELMS), the Senator from Utah (Mr. GARN), the Senator from Virginia (Mr. WARNER), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of amendment No. 2655 intended to be proposed to S. 1080, a bill to amend the Administrative Procedure Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs, to provide for a periodic review of regulations, and for other purposes.

AMENDMENT NO. 2723

At the request of Mr. KENNEDY, the names of the Senator from Connecticut (Mr. DODD) the Senator from Michigan (Mr. LEVIN), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of amendment No. 2723 intended to be proposed to S. 979, a bill to amend and reauthorize the Export Administration Act of 1979.

AMENDMENTS SUBMITTED

EXPORT ADMINISTRATION ACT

HUMPHREY (AND OTHERS) AMENDMENT NO. 2747

Mr. HUMPHREY (for himself, Mr. ROTH, Mr. HATFIELD, Mr. PROXMIRE, Mrs. KASSEBAUM, Mr. LEVIN, Mr. HART, Mr. DANFORTH, Mr. GLENN, Mr. BOSCHWITZ, Mr. BINGAMAN, Mr. BUMPERS, Mr. HEFLIN, Mr. RIEGLE, Mr. JEPSEN, Mrs. HAWKINS, Mr. LEAHY, Mr. COHEN, and Mr. PRESSLER) proposed and amendment to the bill (S. 979) to amend and reauthorize the Export Administration Act of 1979; as follows:

At the bottom of page 53, add the following:

RESTRICTIONS ON THE EXPORT OR RETRANSFER OR CERTAIN NUCLEAR COMPONENTS

Sec. 19. Notwithstanding any other provision of law, the United States Nuclear Regulatory Commission shall not license for export, and the Secretary of Energy shall not approve the retransfer of, any nuclear component, item, or substance which the Commission has determined, under section 109 of the Atomic Energy Act of 1954, to be especially relevant from the standpoint of export control because of its significance for nuclear explosive purposes if such export or retransfer is to any non-nuclear-weapon state, within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow on July 1, 1968), unless such state maintains International Atomic Energy Agency safeguards on all of its nuclear facilities and such export or retransfer is under the terms of an agreement for cooperation arranged pursuant to section 123 of such Act, except that—

(1) the prohibition contained in this section shall not apply beginning on a date 60 days after the President—

(A) determines and so states in an Executive Order that withholding the export or retransfer of such component, item, or substance would be seriously prejudicial to the national security of the United States; and

(B) submits to the Congress a report setting forth such determination, together with his reasons therefor; and

(2) nothing in this section shall preclude the licensing for export or the approval or retransfer of graphite contained in fabricated non-nuclear commercial products or up to 25 kilograms of heavy water per year to any country for medical or non-nuclear end-uses.

BOSCHWITZ (AND OTHERS) AMENDMENT NO. 2748

Mr. BOSCHWITZ (for himself, Mr. Levin, Mr. Bingaman, Mr. Glenn, Mr. Proxmire, Mr. Riegle, Mr. Cohen, and Mr. Jepsen) proposed an amendment to amendment No. 2747 proposed by Mr. Humphrey (and others) to the bill S. 979, supra; as follows:

At the end of the Humphrey-Roth Amendment, insert the following new section:

RESTRICTIONS ON THE EXPORT OF NUCLEAR TECHNOLOGY

Sec. . Notwithstanding any other provision of law, the Secretary of Energy shall give no authorization under section 57b. of the Atomic Energy Act of 1954 to engage, directly or indirectly, in the production of any special nuclear material in any non-nuclear-weapon state, within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow on July 1, 1968), unless such state maintains International Atomic Energy Agency safeguards on all of its nuclear facilities and such production is under the terms of an agreement for cooperation arranged pursuant to section 123 of such Act, except that—

(1) the prohibition contained in this section shall not apply beginning on a date 60 days after the President—

(A) determines and so states in an Executive Order that withholding the authorization of such production would be seriously prejudicial to the national security of the United States; and

(B) submits to the Congress a report setting forth such determination, together with his reasons therefor.

McCLURE (AND OTHERS) AMENDMENT NO. 2749

Mr. McCLURE (for himself, Mr. Johnston, Mr. Baker, Mr. Wilson, Mr. Symms, Mr. Helms, and Mr. Garn) proposed an amendment to amendment No. 2747 as proposed by Mr. Humphrey (for himself and others), as modified; as follows:

Section . (a) Pursuant to section 201 of the Nuclear Non-Proliferation Act of 1978, the President shall work with other nations to extend safeguards to all peaceful nuclear activities in all non-nuclear weapons states that do not accept such safeguards and shall work with other nations to strengthen the safeguards program of the IAEA, so that the IAEA will be in a position to apply such safeguards effectively.

(b) Pursuant to section 128(a)(2) of the Atomic Energy Act and section 403(a)(2) of the Nuclear Non-Proliferation Act of 1978, the President shall take immediate and vigorous steps to achieve adherence to safeguards on all peaceful nuclear activities in, under the jurisdiction of, or under the control of all non-nuclear-weapon states, and shall seek agreement from all nations and groups of nations to require acceptance of such safeguards as a condition for approving nuclear exports to such states.

(c) Within 12 months of enactment of this section, and each year thereafter in the annual report required by section 601 of the Nuclear Non-Proliferation Act of 1978, the President shall report to the Congress on the implementation of its provisions. The first report shall also analyze the anticipated impact of enacting, as requirements for United States Government export licensing or retransfer approval of components, items or substances determined to be especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes under section 109(b) of the Atomic Energy Act; (1) that the recipient non-nuclear weapon state maintains International Atomic Energy Agency safeguards with respect to all its peaceful nuclear activities, and (2) that the recipient nation has entered into an agreement for peaceful nuclear cooperation with the United States.

(d) Section 109 of the Atomic Energy Act, as amended by the Nuclear Non-Proliferation Act of 1978, is amended by adding the following at the end thereof:

"d. The Department of Energy may approve the retransfer of nuclear components, items or substances controlled pursuant to subsection b. only if the Secretary of Energy, with the concurrence of the Secretary of State and after consulting the Director, the Commission and the Secretaries of Commerce and Defense, finds that the criteria set forth in subsection b. or their equivalent are met with respect to the nation or group of nations designated to receive such retransfer and that the retransfer will not be inimical to the common defense and security. The Secretary of Energy shall establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understandings which are mutually agreeable to the Secretaries of State, Defense, and Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, for the consideration of requests for retransfer approval under this subsection.

"e. (1) In addition to the requirements in subsection b. or d., the Nuclear Regulatory Commission shall not license the export, and the Department of Energy shall not approve the retransfer, of a component, item or substance controlled pursuant to those subsections to a non-nuclear-weapon state that has not accepted IAEA safeguards on all its peaceful nuclear activities unless, in the judgement of the Secretaries of State and Energy, such export or retransfer will not result in a signficant increase of the risk of proliferation beyond that which exists at the time that the license is issued or retransfer is approved. Among all the factors in making this judgment, foremost consideration will be given to whether or not the export or retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear-weapons state could transform diverted material produced through the use of the item in question into a nuclear explosive device.

(2) For any proposed export or retransfer subject to paragraph (1), the Director shall prepare an unclassified Nuclear Proliferation Assessment Statement with regard to such export or retransfer regarding the adequacy of the safeguards and other control mechanisms and the application of peaceful use assurances to ensure that the assistance to be furnished will not be used to further any military or nuclear explosive purposes. Such statement shall be prepared within sixty days of his receipt of the proposed export license application or retransfer approval, during which period the export or retransfer shall not be licensed or approved.

(3) No license or retransfer subject to paragraph (1) shall be used or approved until the Nuclear Regulatory Commission or Department of Energy, respectively, has transmitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate the judgment required by this subsection and a period of 15 days of continuous session (as defined in subsection 130 g. of this Act) has elapsed: *Provided, however,* That if in the view of the President an emergency exists due to unforeseen circumstances, such period shall consist of fifteen calendar days."

EXPORT ADMINISTRATION ACT OF 1979

MATHIAS AMENDMENT NO. 2750

Mr. MATHIAS proposed an amendment to the bill S. 979, supra, as follows:

On page 53, after line 9, add the following:

POLICY ON NUCLEAR NONPROLIFERATION

Sec. 19. It is the sense of the Congress that the President should take immediate action to—

(1) confer on an urgent basis with other nuclear suppliers, as a first step toward achieving a new worldwide consensus on nuclear transfers, regarding tightening restrictions on dangerous nuclear trade through measures which include—

(A) establishing, while discussions on a new regime for nuclear trade proceed, a temporary worldwide moratorium on transfers of enrichment and reprocessing equipment and technology, even at the experimental level, to sensitive areas, including the Middle East and South Asia;

(B) limiting the size of all research reactors transferred, eliminating the use of high enriched uranium in such reactors, and obtaining the return of spent research reactor fuel to the country of origin;

(C) extending the list of sensitive nuclear equipment, including components and dual use items, whose export the suppliers only permit under safeguards, with public recording of all sales of such items;

(D) making nuclear transfers only to nations which have accepted full-scope safeguards; and

(E) imposing established sanctions in the event of violation of safeguards;

(2) develop with other members of the International Atomic Energy Agency (hereafter in this section referred to as the "IAEA") a strong and effective program for the improvement of the IAEA safeguards regime, specifically considering the practicality of—

(A) extending the concept of full-scope safeguards to mean safeguards on all nuclear materials, equipment, and facilities within a non-nuclear-weapon state whether or not such materials, equipment, and facilities have been formally declared to the IAEA;

(B) increasing the quality and quantity of IAEA inspections;

(C) publishing inspection reports; and

(D) extending and upgrading surveillance and containment measures;

(3) formulate a clear United States policy on enhanced international restrictions on dangerous nuclear trade and on improving the international safeguards regime, and use all feasible leverage to induce others to adopt similar policies;

(4) call for a prompt reevaluation of world nuclear energy policy, culminating in a conference in order to agree upon ways both to reduce security concerns and to strengthen the nonproliferation regime; and

(5) reaffirm United States policy to cooperate with other countries, particularly in the developing world, to assist them in meeting their energy needs, with nonnuclear energy alternatives considered on an equal basis with nuclear energy in providing such cooperative assistance.

CREDIT CARD SALES TRANSACTIONS

D'AMATO (AND OTHERS) AMENDMENT NOS. 2751 AND 2752

Mr. D'AMATO (for himself, Mr. DIXON, Mrs. HAWKINS, and Mr. MOYNIHAN) proposed two amendments to the bill (S. 2336) to permit price differences with respect to credit card transactions; as follows:

AMENDMENT No. 2751

Strike all after the enacting clause and insert in lieu thereof the following:

"That section 3(c)(2) of Public Law 94-222 (15 U.S.C. 1666f note) is repealed."

AMENDMENT No. 2752

At the end of the bill, insert the following:

"Notwithstanding any other provision of this Act, within three years of the effective date of this Act, any state may enact a prohibition of, or additional limitation upon, any transaction involving a difference in price which is otherwise subject to the provisions of section 167 or section 171 of this Act."

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Subcommittee on Energy Research and Development to consider S. 1278, to provide for an accelerated program of research, development, and demonstration with respect to the production of electricity from magnetohydrodynamics, leading to the construction and operation of at least one major proof of concept demonstration project in connection with an existing electric powerplant, and for other purposes; and S. 1925, to establish a national coal science, technology, and engineering development program.

The hearing will be held on Monday, April 9, beginning at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing RECORD should write to the Subcommittee on Energy Research and Development, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510.

For futher information regarding this hearing you may wish to contact Mr. Paul Gilman of the subcommittee staff at 224-4431.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Public Lands and Reserved Water hearing regarding wild and scenic rivers legislation (S. 1084, S. 416, S. 2095, and S. 1756) scheduled for Tuesday, March 6 will begin at 10 a.m. instead of 2 p.m., as previously scheduled.

For further information regarding this hearing please contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

DEFENSE APPROPRIATIONS SUBCOMMITTEE

Mr. STEVENS. Mr. President, I wish to announce the Defense Appropriations Subcommittee will hold hearings for non-Government witnesses this year on March 20 and 22. Outside witnesses will be heard both days in room SD-192 of the Dirksen Senate Office Building.

I make this announcement at this time so that any interested members of the public will have time to contact the subcommittee if they desire to appear and testify on defense and military spending issues in the context of the President's fiscal year 1985 budget request and fiscal year 1984 supplemental proposal. There are no plans to schedule any additional hearings for outside witnesses this session.

Anyone wishing to testify may write to me as chairman of the Subcommittee on Defense, Committee on Appropriations, or telephone the subcommittee staff directly at 224-7255.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will be holding the following hearings:

On March 7, 1984, beginning at 10 a.m., in Senate Russell 385, a hearing on S. 1871, to allow restricted Indian lands to be leased for 99 years with approval of the Secretary of the Interior; and, S. 1967, to compensate the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community for irrigation construction expenditures. Those wishing additional information should contact Max Richtman of the committee at 224-2251.

On March 8, 1984, beginning at 10 a.m., in Senate Dirksen 562, a hearing on S. 2177, to provide for the use and distribution of the Lake Superior and Mississippi Bands of Chippewa Indians judgment funds in docket 18-S and the Lake Superior Band of Chippewa Indians judgment funds in docket 18-U, before the Indian Claims Commission, and for other purposes; and, S. 2061, to declare certain lands held by the Seneca Nation of Indians to be part of the Allegany Reservation in the State of New York. Those wishing additional information should contact Paul Alexander of the committee at 224-2251.

ADDITIONAL STATEMENTS

LISTENING TO FARMERS

● Mr. DOLE. Mr. President, Kansas is the largest wheat producing State in the Nation and is often referred to as the breadbasket of the world. As such, Kansas farmers have a vital stake in farm policy. And as Kansas is the largest wheat State in the United States, Sumner County in the south central part of the State is often the largest wheat producing county in Kansas.

I was pleased to recently receive a letter from Mr. Wayne Harris, chairman of the Sumner County Chapter of the Kansas Association of Wheat Growers. In his letter, Mr. Harris refers to the basic difficulty facing rural America today—that of surviving on the family farm. It is no surprise that high interest rates and a strong dollar, both driven by huge budget deficits, make every day a challenge to the men and women who produce our Nation's food.

Mr. Harris' letter refers to land sales advertised in the classified section in a recent edition of the Wellington Daily News. In Sumner County alone, there were 36 quarters of land for sale. Besides land, farmers were advertising cattle and equipment for sale. As several of my colleagues are agonizingly aware, similar situations exist in their own States. There may be no quick and easy answers to these farm problems, but we need to help whenever and however we can.

ADDED INCENTIVES FOR 1984

Mr. Harris' letter also repeats a concern of many farmers in Kansas relating to needed changes in the wheat program to entice a higher rate of participation in this year's program. Secretary Block has since responded by extending the signup period by 3 weeks—from February 24 to March 16. This will give winter wheat farmers in Kansas and other Great Plains States more time to evaluate production plans as they get a better feel for crop prospects, and hopefully result in a significant increase in participation.

Secretary Block also has changed the summer-fallow provisions which will allow producers in these areas to plant a nonprogram crop such as barley or sorghum on a portion of their regularly planted acreage.

A NEED FOR CONSENSUS

Mr. President, I will be the chairman of the platform committee on agriculture at the Republican Party Convention in Dallas, Tex., this August. The platform is wide open for suggestions and needs input from as many groups and individuals as possible. In other words, what is true for the 1984 wheat program is true for the debate on future farm policy: Both need participation to be effective.

As we consider the outlook for a 1985 farm bill, and the problems farmers are now faced with, we would do well to keep in mind the points Mr. Harris makes in his letter. Mr. President, I ask that Mr. Harris' letter be printed in the RECORD.

The letter follows:

A LETTER FROM SUMNER COUNTY, KANS.

SENATOR DOLE: My name is Wayne Harris. I farm in the southeast corner of Sumner County and am the Chairman of the Sumner County chapter of the Kansas Association of Wheat Growers (KAWG). Our KAWG board of directors met last night to discuss what we consider to be vital concerns for our county wheat farmers. We appreciate the opportunity to present them to you this morning.

A subject that brought into focus the urgency of seeking your support is the amount of farm land for sale in rural America. The classified advertisement section of the January 24 Wellington Daily News lists thirty-six quarters of Sumner County land for sale and several cattle sales. Several people have commented this is the largest amount of land for sale in this area they could ever recall. I believe it is fair to say most of this land is being sold because of an insufficient return on investment and the difficulties in meeting principal and high interest payments in today's agricultural economy.

The list of machinery sales is growing. The list isn't particularly from farmers who are retiring, but from younger farmers who have seen their dreams, hopes, and equity disappear during the past few years.

We appreciate your efforts on behalf of wheat farmers to make the 1984 wheat program more acceptable. Larry Steckline on KSN showed the results of a survey of expected wheat program participation in midwestern states. Only a week before the final sign up date his figures for participation in Kansas were five to six percent. We ask you to continue to seek an extension on the sign up period. While some may decide in 30 days to stay out of the program even with an extension, it appears at the current rate the present program will fail to cut production significantly in Kansas.

Haying and grazing privileges would entice some to participate in the program. Feed costs have been extremely high this winter and we would welcome some relief from high feed costs.

It is our hope Congress will stop making farm programs into political footballs and develop a long term program that could provide more stability to agriculture. It causes confusion when each administration has a new farm program. Developing farm programs after a surplus is on hand has proven ineffective. We are well aware of the tremendous cost of the farm programs to the Nation last year and we are even more vividly aware of the cost to the agriculture community.

We are asking for effective supply management. Rural America can produce far more food than we can consume and export. We must not continue to export our wealth on a deficit basis. We believe the U.S. farmer can keep our Nation the best fed nation in the world, but we cannot regulate the supply sufficiently to avoid economic chaos as we are now experiencing.

We believe the Federal Government is the only means we have of achieving and maintaining a balance between supply and demand. If proper consideration was given to carryover and production versus consumption, exports and needed carryover, we could more adequately feed our Nation and others and experience a health economy in rural America.

If the Sumner County Association of Wheat Growers can be of further assistance to you, we would be glad to do so.

We appreciate your concern for agriculture and wish you well as you serve in the U.S. Senate. Thank you.

WAYNE HARRIS, *President*.●

COVERING A MISERABLE LEBANON POLICY

● Mr. MELCHER. Mr. President, I take strong exception to the Washington Post's efforts to cover their tracks on their positions on U.S. involvement in Lebanon. The United States cannot disassociate itself with the genesis of a miserable Lebanon policy that started in 1982.

With statements I made in the Senate in June and July of 1982, I voiced opposition to Israel's massive invasion of Lebanon, citing the U.S. responsibility to restrain Israel, and warned that the Begin proposal for a U.S. military force in Lebanon should be rejected out of hand. We owed it to our own people as well as the Israelis to enforce restraint on their Government and attempt to set the stage through Saudi Arabia, Jordan, and other Middle East countries for the necessary negotiations of peaceful accommodations.

But the Post rationalized then that Israel's action was understandable, which led to the quiet Reagan policy of responding to the Begin proposal by landing 1,600 marines. I communicated to Meg Greenfield my strong exception to deputy editorial editor Stephen Rosenfeld's article in the February 5, 1984, Post wherein he stated, "The Democrats' call for a 'prompt and orderly' withdrawal * * * from here looks morally squalid and politically bankrupt."

Rosenfeld's statement dovetailed with Israeli Prime Minister Yitzhak Shamir's statement, reported the same day, that removal of the U.S. peacekeeping force from Beirut would give Syria and the Soviet Union a victory with "great repercussions." That repeated the Reagan line, notwithstanding which, was reversed 2 days later when President Reagan announced the marine pullout.

So, the mistaken policy decisions of 1982 and 1983 caught up with us in 1984. Now the Post, through associate editor Robert Kaiser's opinion piece (February 26), rationalizes:

> Reagan was right in step with his recent predecessors * * * we went into Lebanon on a classic American impulse * * * to provide a shield for the withdrawal of Palestinians, then to protect vulnerable civilians—our initial objectives were practical and humanitarian.

That judgment is full of fault. The immediate predecessors in the White House kept us out of all direct involvement with Israeli wars. President Reagan, despite all military advice to the contrary, made a political decision agreeing to Begin's proposal for direct U.S. involvement. It would have been "practical and humanitarian" to have restrained Israel's extensive invasion to "protect vulnerable civilians." It would have been "practical and humanitarian" to do at the outset what we must do now—assist the Saudis and other moderate Arab states to arrange peaceful negotiations. As Israel's loyal ally we can assist the vast number of Israel's people who have realized from the start that the Begin government jeopardized Israel's future by the massive military assault to Beirut. We should insist that Shamir be practical now.●

VALLEYS OF DECISION

● Mr. HEINZ. Mr. President, Robert J. Buckley, chairman and chief executive officer of Allegheny International, Inc., recently delivered a thoughtful speech, calling on the country to com-

pete in the new world economic order. In a speech before the Town Hall of California entitled "America's Economic 'Valleys of Decision'—the Mon, the Silicon, the Potomac," Mr. Buckley bemoaned the absence of government-industry cooperation in the United States and the attitudes in the "Valley of the Potomac" over the past 50 years, that have set back America's economy in the face of world competition, stifled initiative, and driven the United States into monumental deficits, both in domestic accounts and in the balance of trade.

Mr. Buckley also stressed the viability of the American manufacturing sector, pointing out the threefold increase in industrial output from 1950-81 as well as its importance as a base for new industries. Mr. Buckley also rightly dismissed the popular distinction between "smokestack" and "high technology" industries arguing that numerous companies in basic manufacturing make extensive use of advanced technology. In order to remain in the vanguard of global economic growth, he concludes, the Nation must rally its entrepreneural genius and focus attention on technological change in all industries.

Mr. President, these remarks take a needed fresh look at some old myths. I commend it to Senators' attention and ask that it appear at this point in the RECORD.

AMERICA'S ECONOMIC "VALLEYS OF DECISION"—THE MON, THE SILICON, THE POTOMAC

(By Robert J. Buckley)

It is wonderful to be back in California and with all of you in Town Hall once again.

I am glad I got here early because I understand that nobody will be able to get within 200 miles of Los Angeles once the Olympic Games get under way.

Allegheny International is bullish on California.

We have a number of plants here, one within a couple of miles of anywhere here in the Los Angeles region.

And we are bullish on the long-term economic prospects for our nation. Short-term . . . well, we have some problems with the outlook, despite the generally good predictions for 1984. We think the economic expansion may be spotty; in short, we don't think "1984 is in the bag." There are three major elements of a society's welfare—economic, social, and political. I'm afraid that the last two, especially in an election year, may tend to delay America's absolutely certain march back to the top.

America has assets and potential that exist nowhere else in the world. Our basic challenge is to employ them more effectively—to find the will and the attitude to reverse our 50-year record of social, political, and economic experiments that have brought us little but trouble and very great problems. While the people were resolved to achieve a "better society" we wound up in the 60s and 70s in a "bitter society." And even today, confusion and dismay where it need not be.

Now we have a chance.

A few decades ago, a novel called "The Valley of Decision" became popular. It told the stories of the careers and lives of the men and women who created the great industries—such as steel, heavy equipment, etc.—that made America the brightest star in the crown of the Industrial Revolution. That valley was the Monongahela, in the Pittsburgh area—popularly called "The Mon."

It has been said that the cradle of civilization is Mesopotamia, in the Near East, literally, "the land between the rivers." Since that dawn of time to this, "valleys of decision" have fostered the progress of man.

The Mon today is in economic shambles.

Yet, I submit that it is the Mon Valley—and other critical "valleys of decision": The Silicon Valley here in California; the Hudson Valley in New York; the Ohio Valley in West Virginia and Ohio; the Rhine Valley in Germany; the Midland Plain in Great Britain; The Loire in France; and scores of others like them throughout the world—where the decisions will be made that will determine the economic future of mankind.

For mankind is on an historic economic march that is changing the world.

It is a global phenomenon.

It has brought unprecedented economic progress and much social and political pain.

There is a Chinese proverb—some say it is a curse—that says: "May you live in interesting times."

We are living, we have been living, and we will continue to live in interesting times—all of us; but now—more than ever.

Since the end of World War II, there has grown something many are now calling "a world economy." California is a microcosm of this. You have seen a great influx of population, not only from other areas of the United States, but from other countries. You have seen the impact that changing times, changing technologies, and new world competition can have on your industries and institutions. You have seen the decline of older industries like steel and the rise of your marvelous semiconductor industry. Multiply your experience by a factor of 1,000 and you will have some concept of what is happening in a global sense.

In the world's "valleys of decision," similar experiences are taking place. In the Rhine, there has been much ferment about its classic steel industry, victim—along with others in the world—of the massive overbuilding and technological change of the last four decades. The Germans have sought to rationallize their steel industry with the creation of essentially two large steel complexes. To date, this has not been accomplished—primarily because of social and political pressures. The same is true in France, England, Japan, and recently in Sweden.

But change will come—to those valleys and many others—because free people will make it come.

This is not to say, however, that the manufacturing sector in the U.S. economy or in other industrialized economies is "completely finished," as some assert.

The popular dichotomy that is bending our thinking about American industry—summarized in the words "smokestack" and "high technology"—is invalid. Some of America's high priests of public opinion—politicians, columnists, economists, and even editorial cartoonists—have expounded on this misleading notion much too long. As Dr. Edwin A. Gee, Chairman of the International Paper Company, recently said:

"I believe the suggested differences between high technology industries and smokestack industries are false and perhaps even dangerous. They're false because there are numerous companies in basic manufacturing that make extensive use of advanced technology—and there are large segments of so-called high-tech industries that involve simple operations requiring low levels of skill. The payrolls of electronics firms include thousands of high school graduates with two weeks of special training for chip insertion or soldering. And those jobs have no guarantee on security, either. In February of 1983, one so-called high technology company transferred 1,700 jobs to Hong Kong and Taiwan." And many of those hand tasks have been transferred to automatic machines.

The "high-tech versus smokestack" concept is dangerous because it is also being used by economists and politicians to promote a "national economic policy" to encourage one while the other is allowed to wither and die. The simple truth is that each needs the other. And no one is being more misinformed and misled on this matter than the workers in each of those industries.

It is difficult to envision America, or any other major nation, without basic industries. So the fundamental question that must be dealt with in the Mon Valley and in other similar valleys, as Dr. Gee says, is this: "How do some companies in basic industries succeed while their competitors are just scraping by, or failing?"

There seem to be two principal routes to success:

1. Become the lowest-cost producer, and
2. carve out a market share in which you sell specialized products at above-average profit margins.

The French writer, Georges Bernanos, once wrote that "the worst, the most corrupting of lies are problems poorly stated."

And we have had more than our fill of this in America and in other nations.

Claims that American manufacturing industry is in an irreversible decline are absolutely false. Dr. Thomas DiLorenzo, a university economist, says: "It is a myth that the manufacturing sector, long the major source of jobs and products, is experiencing a precipitous decline. The manufacturing sector is, in fact, continuing to evolve along its historical path."

There has been a three-fold increase in industrial output from 1950 to 1981—from 45 to 151 (using the year 1967 as a base of 100.) The figures show that volume of production has continued upward, recovering from every downturn in the business cycle.

Manufacturing output represented 24 percent of the Gross National Product in 1981, only one percent less than in 1950. Service output represented 13 percent of GNP in 1981, only a 2 percent increase in its share of GNP over the same period. This small degree of shift suggests that those who claim there has been a very large shift from the traditional manufacturing base to the service industries are in error. Employment in manufacturing has continued to rise, from 16.7 million jobs in 1960 to 21.8 million in 1981. Recent figures are even higher.

The rate of growth of industrial production did decline during the past decade, as many expected, in light of vastly expanded costs of regulation and the inflation of the 1970s, but this is quite different from saying the "bottom dropped out" of the manufacturing sector.

Technological change is the main determinant of economic growth. There are numerous examples—going back to the invention of the wheel and the steam engine—of how technology and automation alter relative prices and incomes and generate economic growth and change. There are, of course, transitional problems—such as temporary unemployment due to technological change—but the overall effect has always been beneficial. The sector we call "manufacturing" looks different today, but it is still more importantly our greatest strength:

And I am sure that it always will.

With the United States being the undisputed technological leader in the wrold, I cannot see how predictions of economic doom can come true.

In the "valleys of decision," like the heavy industry Mon, there is reason for both concern and confidence. There is no reason, however, for utter despair—since the people in the Mon and similar valleys today are the technological and intellectual heirs of those who originally succeeded there. They can be counted on to address their problems with courage, innovation, hard work, and skill.

The first thing they must know, of course, is that they are not alone in this world—that Americans always have fought their way out of their problems together. Those who polarize the Mon Valley's people are truly doing them a grave disservice—since the problems are to be addressed not by "we" and "they"—but by "us." This polarization is unexcusable and virtually criminal—yes, even in an election year!

Again and again, history has shown that the imagination and creativity of individuals working together move mankind forward.

George Gilder, author of Wealth and Poverty, says:

"The real revolution of the post-World War II era occurred not in lifestyles or Third World consciousness but in semiconductor technology. Through a vast and mostly unmeasured burst of creativity in the use and miniaturization of transistors, the human race has projected its computational technology beyond all the assumed limits of time and size."

The marvel and mystery of your Silicon Valley is how a relatively small group of individual engineers and entrepreneurs succeeded in creating the world's most important industry. Clearly—though some governments take the credit—it was not government that did this.

The three most critical technologies in the early stages of the semiconductor industry all occurred independently of, and to some degree, in spite of government and its agencies.

The transistor was invented by William Shockley, John Bardeen, and William Brattain, all of the Bell Labs in New Jersey, in 1948. It was a technological phenomenon: smaller, lighter, cooler, and more durable than the unwieldy glass, tungsten, and copper vacuum tubes. It was not long before the word "transistor" had become a synonym for the small radio, which it made possible. Next came the use of silicon to achieve reliability—and we went quickly to the integrated circuit, invented first at Texas Instruments and then at Fairchild, in research programs motivated by industrial and consumer markets. When the military and space markets declined between 1963 and 1973 in proportion to industrial and consumer markets, the industry took off. Some 55 companies sprang from the Fairchild family tree alone.

It is a historical fact that in that 1963 to 1973 period—incidentally a time for governmental neglect of the industry—semiconductors became the driving force of growth and progress on the frontiers of the world economy—and California's Silicon Valley became world famous.

America, however, is not the only nation now to have a "silicon valley." Such is the force of technology and world competition and such is the nature of the new worldwide economy that the growth of global "silicon valleys" became inevitable.

Some people, schooled in the old economic tradition, saw this as a danger to America's pre-eminence in this field. And though Japan, for example, has achieved, largely through private entrepreneurship and government cooperation, a significant edge in manufacturing efficiency, it is important to note that all personal computers in Japan, as well as most Japanese robots, use American-designed microprocessors.

Clearly, the Silicon Valleys of this world—especially the one here in California—are key "valleys of decision" that will greatly alter economics, society, and politics. Allegheny International is delighted to be here, though a very small part of it.

I do not understand, for the life of me, why so many in politics, the press, and in other important segments of our society fear the arrival of the global economy. Perhaps it is because they do not understand that it is a natural development in economics—from national to regional to international expansion, brought about mainly by technological advance but no less importantly by the application of America's greatest assets: technology and entrepreneurial skill. Most of all, we must recognize it is not coming—it is here!

When one asks, "Who are California's major international trading partners?", is it any surprise that the answer is: Japan, South Korea, and Taiwan?

Other regions of this country have their success stories, too—literally thousands of them, though they have remained largely unheralded on TV and in the Press. Here is one small example:

In 1957, 10 years after the invention of the transistor, Western Electric's semiconductor manufacturing plant in Allentown, Pennsylvania, employed 4,000 workers. They produced about five transistors a day per worker. In 1983, that plant still employed about 4,000 workers and they were still manufacturing transistors. But they produced 6.4 trillion of them, or 5.3 million transistors per worker per day. This presents a productivity increase of a factor of 1.06 million!

Look what happened to the price: the transistors produced in 1957 sold for $2.50 each. In 1983, they sold for thousandths of a penny each!

Though the "industrial imperative" inevitably moves nation after nation toward democratic forms of government rather than into "command economies," that "valley of decision" which is the Potomac still appears to yearn longingly for centralized control.

Unmindful, of course, that this flies in the face of American history and recent world experience.

The absence of government-industry cooperation in the U.S. shows that the decisions in the "Valley of the Potomac" over the past 50 years have served to set back America's economy in the face of world competition, have tended to stifle initiative and encourage dependence on central government, and have driven the U.S. into monumental deficits, both in our domestic accounts and in our balance of trade.

I regret to say that, on Capitol Hill, throughout the vast bureaucracy, and among the tens of thousands of representatives of special interest groups that now center along the Potomac, those tendencies persist.

It is in the social and political aspects of America that we are likely to founder—unless we recognize that we must compete in a new world economic order, where old rules and old politics and old attitudes no longer hold.

The President's Private Sector Survey on Cost Control, in which I was privileged to co-chair a Task Force, recently reported that the President could wipe out at least half of the nation's $200 billion deficit with just a stroke of the pen. Our Task Force on Federal Construction showed that 30 to 35 percent of the public's federal taxes are wasted. The government should implement the recommendations of the Commission before time runs out on the economy. Will it do so? Do pansies grow at the North Pole?

Governments—national or supra-national—can delay the worlds's economic march forward, but they cannot stop it.

In many industries in the United States, our line of products and services reflect what the government regulators permitted us to offer rather than what the market required. The Potomac Valley of Decision demonstrably not only has held back economic progress and failed to keep prices stable, but has frightfully debased our currency. Fortunately, there have been notable efforts in the last three years to halt those trends—especially in the fight against inflation and in deregulation.

In the arena of bank deregulation, for instance, that very important institution here in California, the Bank of America, can now offer financial services to the public that were impossible to obtain only a short time ago not only here but in banks throughout most of the United States. In fact, with so many others getting into the financial services business, and Sears Roebuck representing the biggest of them, an officer at Bank America recently paraphrased President Roosevelt and said: "We have nothing to fear but Sears itself!"

As we achieve a larger share of the fruits of a global economy, America's financial strength and acumen, and its entrepreneurial skills, once again will come to the fore. And our global enterprises will prosper.

My company, Allegheny International—a relatively recent phenomenon as a global enterprise—already derives 37 percent of its sales and 39 percent of its profits from the international scene.

What can the global investment market mean to the individual—you and me—in the United States? Forty percent of our workers hold jobs that depend on exports of goods and services. The stockholder/owner of a global corporation, in his ownership of the securities in that corporation, participates in foreign investment and in the international diversification of his investment. Further, the institutions in which his pension funds and other savings funds are invested also are moving heavily into the international market for investment. The overall pool of ERISA assets invested in non-U.S. stocks and bonds rose to $6.9 billion at year-end 1982, from $5.2 billion 12 months earlier and from $3.3 billion at year-end 1980. It is estimated that another $3 billion was invested in 1983.

And while there is an element of political risk—from the "Potomac Valleys" of some nations—the foreign investment trend is growing, for individuals in the U.S., their corporations, and their financial institutions.

With technology making it possible to transfer billions of dollars, pounds, marks, francs, yen, and pesos in a millisecond, how can there be any doubt tht the global economy, and its financial understructure, not only will succeed but grow?

In facing up to the future growth of the global economy, we must remember that there isn't enough automobile manufacturing capacity in the entire West to produce the cars one nation, China, alone will need in its economic reawakening going into the next century. And you can say that about any other manufactured item, or commodity, when you take in the remainder of the Third and Fourth Worlds.

And I say to you that America can lead the way.

The two decades after World War II were called a golden age of economic growth and stability in the U.S. and the rest of the industrialized world. Then we fell on our faces in the 60s and 70s with political decisions, here and abroad, (President Johnson's guns-and-butter decision, OPEC's pricing increases, etc.) wreaking havoc on national economies everywhere. They even prostrated the Third World with mammoth international debts.

Now, as Paul Volcker, Chairman of the Federal Reserve Bank, told a San Francisco audience last month, "We have a rare opportunity—an enormous opportunity—to set in train a long period of growth and greater stability. We must negotiate not only economic recovery—but lasting expansion. Such an economic expansion will bring in its train rising real incomes, investment and opportunity, and the sense of economic stability that we all want."

I have disagreed with Chairman Volcker several times in the past—but I say a hearty Amen to that statement.

Despite the enormous economic treats we face—the large budget deficits, the international debt problem, the growing imbalance in our international trade accounts, and the temptation to return to the social and political behavior patterns bred in the years of inflation, I believe the vast majority of Americans has, in fact, learned from the bitter experiences of the past and will draw practical lessons for the future.

We have in place some important elements—like lower inflation, growing restraint on costs, great emphasis on efficiency and productivity in our manufacturing industries, less government regulation, and a greater economic self-interest on the part of our people—that will carry us into the future of the global economy.

If we could have ten years of business decision-making on the basis that "real" and "nominal" values are substantially the same over the business-planning horizon—then there is no limit to what the businesses and workers of America can accomplish!

We must, at the same time, build bridges with the government and the media which will turn our minds and wills to positive ways to improve American life.

We must end quickly the damaging political infighting and the polarization of our people. We must not just continually be asking questions of each other—often bitter questions. We're going to have to get some answers. And the answers are to be found in the competitive free market place, not in a command economy.

President Reagan told a story the other day with which I would like to close.

He said that when he was a schoolboy he studied French for a couple of years. Then in 1949, the first time he ever set foot in France, he found himself traveling with an English couple. The three of them were driving across France. Reagan soon discovered that the English couple did not know one word of French.

So when they came upon a town and stopped for lunch, Mr. Reagan tried to remember some of the French he learned in school and said to the gendarme: "Pardon, monsieur; J'Ai grand faim. Ou est le meilleur cafe?" And the gendarme proceeded to tell him where were the best eating places.

Mr. Reagan's friend, who was driving, said: "What did the policeman say?" And Mr. Reagan answered: "I haven't the slightest idea, in school I memorized the questions, never the answers!"

In the global economy, we Americans perhaps have memorized the questions—in Japanese, Korean, Taiwanese, Chinese, and even French, German, and Spanish.

We ought now to learn some of the answers!

The Pacific Rim presents America's biggest challenge and opportunity in the global economy of tomorrow. You, here on this frontier—and we throughout industrial America—must recognize this and help rally the nation's entrepreneurial genius in a gigantic effort to be in the vanguard of global economic growth. Thank you.●

JEREMIAH THOMAS O'SULLIVAN AND THE NEW ENGLAND ORGANIZED CRIME STRIKE FORCE

● Mr. TSONGAS. Mr. President, much attention has recently been given in this Congress to the public's continuing concern regarding criminal activity, and efforts to draft a comprehensive reform of the Federal Criminal Code. One particular aspect of this national concern is the persistent and pervasive nature of organized crime within our society.

As we dwell on the legislation needed to combat crime, it is also important to note the impact individual prosecutors can make when Government law enforcement agencies cooperate in the establishment of innovative and effective forms of interagency organization. I submit for my colleagues' attention an article that appeared last December 1 in the Boston Globe by William F. Doherty. The article features the efforts of Justice Department prosecutor Jeremiah Thomas O'Sullivan, who has fought organized crime as head of the New England Organized Crime Task Force since 1979.

Earlier in my own career I had the pleasure of working with Mr. O'Sullivan, within the Attorney General's Office of the Commonwealth of Massachusetts. Since that time Mr. O'Sullivan has distinguished himself in the Nation's service by his uncompromising pursuit of organized crime leaders and corrupt public officials. I commend the New England Organized Crime Task Force and Jeremiah T. O'Sullivan for their efforts on the behalf of the public which we all serve.

The article follows:

THE NEW ENGLAND ORGANIZED CRIME STRIKE FORCE

Alleged Mafia boss Gennaro J. Angiulo's eyes searched the crowded Boston courtroom until they spotted the short, slightly built prosecutor with the choirboy face.

"Hey, Mr. O'Sullivan, you don't say hello? No football cards for you today. . . . It's been a long time since that pool hall in Watertown," Angiulo shouted, sarcasm dripping from his voice.

"We've both come a long way," prosecutor Jeremiah T. O'Sullivan responded to the man he had just indicted on racketeering charges in Boston's most significant organized crime case in several generations.

Gesturing at O'Sullivan, Angiulo launched into a stream of Italian phrases, which he said meant "good luck to me."

"You'll need it," O'Sullivan retorted.

That barbed exchange two months ago is indicative of the drive of the prosecutor who developed the massive case against Angiulo and six co-defendants who allegedly make up the top echelon of the Mafia in Boston.

FOE OF CORRUPTION

Jeremiah Thomas O'Sullivan, 41, is a career Justice Department prosecutor. He has headed the department's New England Organized Crime Strike Force since 1979, much of that time spent laboriously developing the Angiulo case. The underlying charges include six murders, two planned murders, loansharking, illegal gambling and threatening witnesses.

Former colleagues describe O'Sullivan as an intense, demanding prosecutor, genuinely bothered by political corruption and organized crime. Many defense lawyers depict him as humorless, rigid, almost fanatical about what he perceives as his mission.

One lawyer who worked in the US Attorney's office with O'Sullivan calls him "a force of nature." Attorney D. Lloyd Macdonald said O'Sullivan "is one of the most extraordinary people I have ever met and worked with. He has an incredible amount of intensity combined with a great deal of native intelligence, a strong moral sense and a highly developed competence in the courtroom.

"He is somewhat like a pit dog," Macdonald said. "Once he is onto something, once he gets his teeth into it, there is no way you are going to stop him unless you take a hatchet and chop his head off. He feels very deeply about success on a case."

Albert F. Cullen, a Boston defense lawyer who in the early 1970s was one of O'Sullivan's superiors in the state attorney general's office, describes him as "a hard, inflexible fellow. He has blinders on. He is very difficult to persuade."

John Wall, another former prosecutor turned defense lawyer, said O'Sullivan "sees the world in black and white, as I used to before I got a look at the other side and found there is a lot of gray. He has an almost religious missionary zeal about his job, which can be dangerous."

O'Sullivan, who declined to be interviewed for this profile, and his wife, Karen, live in Winchester. He grew up in a three-decker in Cambridge and was graduated from Boston College High, Boston College and Georgetown Law School.

The Angiulo case will be his first major trial since the successful prosecution of reputed Somerville organized crime leader

Howard Winter on horserace-fixing charges in 1979.

THE PERSONAL SIDE

Friends says O'Sullivan is a voracious reader, loves Italian food and shops regularly in the North End for pasta and bread.

"He goes to the Athenaeum twice a week to pick up reading material in English literature," said Boston lawyer Douglas P. Woodlock, who worked with O'Sullivan in the US attorney's office. "He also does a lot of fantasy-type reading, and I don't know anyone who has done more espionage reading. He spends Saturday mornings in used bookstores in Harvard Square.

"His reading goes through stages. Now it's Walker Percy novels. He is a very devoted Catholic, and the religious dimension is an important part of his reading," Woodlock said. O'Sullivan owns a subscription to the Boston Symphony and possesses what Woodlock calls an "incredible collection of classical music."

"He keeps that part of his life private. What you see in the courtroom is all businesss," Woodlock said.

Following graduation from law school, O'Sullivan worked briefy for the state Committee on Criminal Justice before joining the staff of then Massachusetts Atty. Gen. Robert H. Quinn. There he shared an office with another young lawyer, Paul TSONGAS, now the state's junior senator. O'Sullivan tried a number of political corruption cases involving the state real estate brokers licensing board.

O'Sullivan joined the federal Strike Force as staff lawyer in 1973. Four years later he left to head the political corruption unit in the office of then U.S. Atty. Edward F. Harrington, where he developed the extortion case against former state senator James A. Kelly Jr. O'Sullivan returned to the Strike Force as chief attorney in 1979.

In court, he has demonstrated a capacity for the dramatic.

During the Winter trial, a witness testified he received a $100,000 cash payoff in a paper bag at a Las Vegas casino without attracting any attention.

A defense lawyer argued that the payoff must have attracted attention in the busy casino and brandished a large shopping bag the like of which he contended was needed to carry the cash.

O'Sullivan engaged in some gamemanship of his own to rebut the defense argument.

Walking around the courtroom as he questioned the witness, O'Sullivan suddenly pulled out from under his suit jacket a tightly folded paper bag. He had the witness open the bag and count the bills inside. Although O'Sullivan used $1 bills instead of $100 bills, the bag contained the same number of bills as the alleged $100,000 payoff.

"That was very effective. It caught the defense flat-footed," Alan D. Rose, a Boston lawyer, recalled.

As an administrator, O'Sullivan is described as demanding and as requiring loyalty from his staff.

THE THOROUGH APPROACH

One former strike force lawyer recalls "moans and groans" among the staff when O'Sullivan took charge in 1979 and installed a new regimen.

Rose, who worked with O'Sullivan in the U.S. attorney's office, said he "demanded precision. He demanded you look under every stone. He always wanted to make sure before an indictment was returned we had the goods on the defendant.

"Jerry never shied away from the fact he represented the United States and expected you not to forget it," Rose said. "In an opening statement or closing argument, he expected you to say something to the effect: 'You heard what the defense said about the evidence. Now I want to tell you what the United States thinks the evidence shows.' He wanted you to make clear to the jury that you represented the United States and were damn proud of it."

The federal organized crime strike force O'Sullivan heads is one of 14 throughout the country. They operate independently of the local U.S. attorney and draw expertise from several agencies. In Boston, the unit includes seven lawyers and investigators from the Federal Bureau of Investigation, the Internal Revenue Service and the Boston Police Department, among others.

Supporters of the strike force concept point to the continuity of staff, which survives changes in the national administration, and say it is insulated from the political pressures that abound in many federal agencies.

His persistence is a recurrent theme when lawyers discuss O'Sullivan. Cullen recalled the trial of former Boston Common Garage Authority chairman George Brady, where O'Sullivan had difficulty getting the court to order a reluctant out-of-state witness to come to Boston to testify.

"One Friday night," Cullen recalled, "he flew down to New Jersey, went to a judge's home after midnight and got him to sign the order."

But Cullen says that at times, O'Sullivan is inflexible to a fault. At one point during the Winter trial, according to Cullen, the chief prosecution witness, Anthony Ciulla, "was caught in a fabrication. Jerry would not admit it. He did not mention it in his final argument. That is one of his weaknesses."

"When he relaxes," Woodlock said, O'Sullivan "is a fairly funny person, but ultimately he takes it very seriously.

"When he came back to Massachusetts after graduating from law school, the first thing he did was get himself a copy of the Crime Commission report. Corruption fundamentally bothers him. He finds it difficult to joke about Marty Hanley breaking down John Thompson's door with a tire iron."

Thompson, a former House speaker, and Hanley, a former deputy banking commissioner, were both indicted on corruption charges in the 1960s.

"One of his heroes, in a way, is (U.S. District Court Magistrate Robert J.) DeGiacomo," Woodlock said.

In a "Farewell to Massachusetts" speech in the 1962, DeGiacomo, then first assistant state attorney general, announced he was leaving the state because of his frustration with pervasive corruption here. DeGiacomo moved to Europe for several years.

"Jerry keeps focusing on that incident." Woodlock said.●

HIGHWAY USER TAXES

● Mr. D'AMATO. Mr. President, I support S. 1475, legislation to repeal the highway use tax on heavy trucks and replace it with an increase in the tax on diesel fuel used by heavy trucks.

All highway users agree that our Nation's highway system, an essential component of our transportation network, is sorely in need of repair. In 1982, Congress passed the Surface Transportation Assistance Act (STAA) with the intention of raising funds to partially rehabilitate and maintain our deteriorating highways and bridges. Like my distinguished colleague from Wyoming, however, I question whether that objective can best be achieved, in part, through the heavy vehicle user fees enacted in STAA.

Under STAA, the lump-sum use tax paid by truckers will increase from $240 to $1,900 by 1988. While this change represents a staggering 800 percent increase, it was believed to be necessary in order to make highway users pay for required repairs. Clearly, this fee structure is very onerous for small independent truckers. A trucker that does not use the highway system to a great extent must pay the same taxes as a trucker who makes many long interstate hauls. There is little or no equity in the truck taxes mandated in STAA.

A more fair system, by far, is one which employs a pay-as-you-go ideology, such as that included in S. 1475. This proposal would replace the current tax on the gross weight of a vehicle with an increase in the diesel fuel tax of 5 cents per gallon for heavy vehicles over 10,000 pounds. Such a change would mean that the truckers actually on the road would be the truckers who pay the taxes to maintain our interstate highway system.

The truck tax mandated in STAA is inequitable. If this situation is allowed to persist, many truckers will be forced out of business, a result which will reduce truck taxes and, thus, maintenance of our highway system.

Mr. President, I am proud to add my name as cosponsor of S. 1475. It is my hope that my colleagues in the Senate will join me in support of this vital legislation.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

Defense Security Assistance Agency,
Washington, D.C., February 24, 1984.

In reply refer to: I-01207/84.

Hon. Charles H. Percy,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 84-33 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Canada for defense articles and services estimated to cost $47 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

Philip C. Gast,
Director.

Transmittal No. 84-33

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Canada.

(ii) Total Estimated Value:

	Millions
Major Defense Equipment [1]	$35
Other	12
Total	47

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: A quantity of 34 RGM-84D-4 HARPOON missiles with canisters and containers, two RTM-84D-4 HARPOON training missiles, one blast test vehicle, missile maintenance equipment, and technical publications.

(iv) Military Department: Navy (AIY).

(v) Sales Commission, Fee, etc., Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending 31 December 1983.

(viii) Date Report Delivered to Congress: 24 February 1984.

Policy Justification

Canada—Harpoon Missiles and Ancillary Equipment

The government of Canada has requested the purchase of a quantity of 34 RGM-84D-4 Harpoon missiles with canisters and containers, two RTM-84D-4 Harpoon training missiles, one blast test vehicle, missile maintenance equipment, and technical publications at an estimated cost of $47 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Canada; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

The Harpoon missile systems are planned to be installed on Canadian patrol frigates and thereby will improve the combat effectiveness of these ships.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the McDonnell Douglas Astronautics Company of St. Louis, Missouri.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives of Canada.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

ADVANCE NOTIFICATION—PROPOSED ARMS SALES

● **Mr. PERCY.** Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that two such notifications have been received.

Interested Senators may inquire as to the details of these advance notifications at the office of the Committee on Foreign Relations, room SD-423.

Defense Security Assistance Agency,
Washington, D.C., February 27, 1984.

In reply refer to: I-00004/84ct.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an East Asian country for major defense equipment tentatively estimated to cost in excess of $14 million.

Sincerely,

Philip C. Gast,
Director.

Defense Security Assistance Agency,
Washington, D.C., February 27, 1984.

In reply refer to: I-00517/84ct.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country tentatively estimated to cost in excess of $50 million.

Sincerely,

Philip C. Gast,
Director.●

THE DROUGHT IN AFRICA

● **Mr. BOSCHWITZ.** Mr. President, in response to the needs of the drought-stricken countries in Africa I introduced legislation (S. 2307) on February 9 to appropriate $150 million in food aid under title II of Public Law 480. I am pleased to say that the response to my bill has been positive and at this time it has 15 cosponsors. However, I wish to stress to my colleagues the importance of quick action on our part to save many Africans from starvation.

The current situation in Africa is growing worse every day. I call to your attention an article from the Washington Post of Sunday, February 26, that describes how the impact of the drought is spreading. It lists 31 countries where many people are now facing starvation. I commend the Washington Post on continuing its coverage of this tragedy and I submit this article to the Record and to the attention of the Nation.

The article follows:

Drought Maims, Kills in Growing Swath of Africa

Thousands of African adults and children are dying daily and millions more are facing death by starvation in what may be the most widespread and devastating drought in the continent's recent history, according to American, African and international emergency relief officials.

In two of the four countries most severely affected by the drought, Mozambique and Ghana, there are reports of parents abandoning young children because they can no longer feed them—a highly unusual occurrence in societies where family loyalties are held sacred.

Streams of refugees have left their villages in Mozambique's isolated interior, crowding into government relief camps or crossing into neighboring Zimbabwe, draining resources in a country struggling with its own three-year drought.

One of the estimated 90,000 Mozambicans now taking refugee in Zimbabwe watched two of his four children die as they made a 75-mile trek through devastated countryside.

"The people who lost their sight followed us by touching our backs," the Mozambican refugee told Agence France-Presse. "There is nothing there. We were walking through villages of death. If we didn't leave, we would just die there."

Tales of famine, suffering and death are heard through most areas of sub-Saharan Africa, relief officials say. The Sahel-belt country of Mauritania and the guerrilla-controlled regions of northern Ethiopia have also been badly decimated by the current drought.

In the Ethiopian famine of the early 1970s, an estimated 200,000 died. About 100,000 died in the six-year Sahelian drought, which also ended in the early 1970s. So far, in Mozambique alone, just one out of two dozen drought-stricken African countries, an estimated 100,000 people have already died from malnutrition and other drought-related causes, and the death toll is still rising rapidly.

The two-year-old drought has spread south from Mauritania down West Africa's tropical belt into Nigeria, east across the Sahelian countries from Senegal to the Sudan, and encompasses southern Africa from Zaire's Shaba Province to South Africa's Cape of Good Hope. More than 150 million Africans live in the drought-affected areas, according to the United Nations Economic Commission on Africa.

The growing magnitude of the drought is illustrated by the grim official estimates of expected child mortality and the irrevocable damage children will suffer from chronic malnutrition. In the Sahelian country of Mali, which is not one of the worst affected countries, the United Nations Children's Fund estimates that 100,000 children will starve to death this year and more than 200,000 will suffer irredeemable damage to their health from chronic malnutrition.

In the 24 most severely affected of the 31 African countries hit by the drought, "we know there is really between 3 to 4 million [Africans] facing starvation," said M. Peter McPherson, administrator of the U.S. Agency for International Development.

"I don't think anybody really knows the actual numbers of deaths. Nor can anyone predict how high the death rate will climb. There clearly will be people who will die," McPherson said.

While thousands of tons of emergency relief food from the United States, Western Europe, the Soviet Union, Japan and, in the case of Mozambique, Vietnam have arrived in Africa, government and relief officials are having difficulty distributing the sorghum, corn, vegetable oil and dried milk to the worst affected areas. In several cases, distribution has been hampered by civil wars, compounding more widely shared problems such as poor transportation systems, shortages of trucks and tottering domestic economies common in recession-wracked Africa.

In at least two drought-stricken countries, Mozambique and Ethiopia, antigovernment insurgent forces are keeping large volumes of food supplies from reaching some of the neediest regions. The same problem exists to a lesser extent in war-torn Chad.

In the southern Mozambique provinces of Inhambane and Gaza, where antigovernment guerrillas of the Mozambique National Resistance Movement are most active, the country's government officials have said that "there are 300,000 people that are totally without resources," according to AID emergency food relief official Hunter Farnham. The guerrillas have attacked farmers who try to grow crops, destroyed rural seed and fertilizer distribution stations and made it difficult for food relief convoys to come into the most destitute areas, several relief officials said.

"I'm, concerned about Tigray," said AID administrator McPherson, referring to a northern Ethiopian province virtually controlled by secessionist guerrillas. "It is clear that there are sizable numbers of people who can't be reached" because government relief truck convoys cannot penetrate the northern rural areas off the main roads, he added. The areas of Ethiopia south of Tigray had an adequate harvest this year, American relief officials said.

One top emergency relief official said, however, that International Committee of the Red Cross officials have recently had some "modest success" in negotiating safe passage with the insurgents allowing them to bring food convoys into Tigray Province unmolested. Nevertheless, relief officials add that in Tigray and the three other northern provinces affected by drought and guerrilla activity—Eritrea, Wollo and Gondar—they are only sure of reaching one-third of the 3 million people they estimate are in desperate need of food.

In Ghana, the drought has been compounded by the country's economic deterioration over the past two decades, crop-destroying brush fires and the massive influx of hundreds of thousands of Ghanaian nationals expelled from Nigeria a year ago.

"The nutrition situation throughout Ghana is severe," said Catholic Relief Services official Ken Hackett. "The north is facing starvation but we hope we will be able to relieve it."

Hackett said Catholic Relief Services is currently moving some of the 19,000 tons of emergency food donations from Ghana's southern ports to the most afflicted areas in the north. The process is slow and difficult, he said, because the road system is in such disrepair. The worst part of Ghana's "famine will be from March to October," he added.

"We hope we can stop any of the type of thing that is happening in Tigray [Ethiopia] and Mozambique," Hackett said. "I think we're in time, but the situation in Ghana is worse than the Sahel."

The Sahel became widely known during the 1968-1974 drought when tens of thousands of people starved before food-rich countries in the West mounted a massive emergency relief effort into the long-neglected, proverty-stricken area. A semi-arid belt of land between the Sahara Desert to the north and tropical Africa to the south, the Sahel stretches across Africa from Senegal and Mauritania on the Atlantic Ocean east to Chad in central Africa.

Since the end of that drought, the Sahel as a whole has only received between 20 percent and 60 percent of its normal rainfall. Annual food donations and development programs in the intervening decade, however, have put the eight countries in a better position to deal with the present drought than their neighbors further south.

Besides Mozambique, all of the countries of southern Africa are suffering drought-related crop failures as well. Zimbabwe will be fortunate if it manages to harvest half of the 1.2 million metric tons of corn its population annually consumes. South Africa, usually corn-rich, is expected to produce as little as 4 million metric tons, well under its domestic needs of 7.5 million metric tons. (A metric ton is about 2,200 pounds.)

The neighboring African countries that are members of the South African-dominated customs union and who normally purchase South African corn to feed their populations—Botswana, Lesotho, Swaziland and Namibia—will be able to do so again this year at commercial market prices, said AID relief official Farnham. The other southern African countries that buy corn from Zimbabwe and South Africa—Angola, Zambia, Zaire, and Mozambique—will probably have to buy more expensive grain overseas, he said.●

HONORING KALMAN TILLEM ON RETIREMENT

● Mr. LEVIN. Mr. President, the Jewish Vocational Service and Community Workshop of Michigan, will honor Kalman Tillem at a retirement dinner on March 7, 1984. Mr. Tillem has served these organizations for 30 years and been involved in a variety of activities of vital importance to the Jewish community. He has been the scholarship coordinator for the Jewish Educational Loan Service—a program that made it possible for hundreds of young men and women to complete their undergraduate and professional education.

The Jewish Educational Loan Service is a coordinating agency for about 50 communal funds working in conjunction with Jewish Vocational Service, Hebrew Free Loan Association, and Jewish Welfare Federation. The program has grown into one of the largest of its kind in the country. Among the communal groups working within the Jewish Educational Loan Service are the National Council of Jewish Women—Greater Detroit section, Maimonides Medical Society Women's Auxiliary, Ruth Franklin Einstein Educational Fund of Temple Beth El, and the Probus Club. This program has been particularly helpful to families in recent years when tuition costs have increased and the economy has been depressed.

Kalman Tillem has devoted himself to assisting others. Under his guidance the work adjustment program and placement of disadvantaged has grown consistently. This program serves many residents including the psychologically disabled who have had difficulty in finding employment. More recently he has been working with the newly arrived Russian immigrants and has been successful in finding employment for many of these newcomers.

Prior to coming to the JVS, Mr. Tillem was a research analyst for the U.S. Marine Corps where he conducted research projects for more effective utilization of military personnel and developed testing programs.

Mr. Tillem has been an active volunteer. Among his many efforts, he served on the Citizens Advisory Committee for the Oak Park, Mich., Board of Education.

I congratulate Kalman Tillem for his dedication to his community and public services, and wish him continued fulfillment in this retirement.●

EDWIN MEESE AS ATTORNEY GENERAL OF THE UNITED STATES

● Mr. WALLOP. Mr. President, this distinguished body has before it the privilege of confirming for the office of Attorney General of these United States one of the preeminent law enforcement figures of our time: Edwin Meese III. He is a man of integrity, stability, and strength. As an individual who has worked extensively within the bounds of criminal justice, Mr. Meese not only has a unique grasp of the inner workings of the legal system, but an appreciation of the human element as well.

The Justice Department needs Edwin Meese. He is a man possessed of both a keen sense of fairness and the strength of character necessary to impose that fairness on our system of justice. His hard-line stance against the lawless in this country, his close working relationship with President Reagan, and proven track record in the realm of criminal law, all point to an individual who will be the greatest Attorney General this Nation has seen in the last 25 years.

Mr. Meese's virtues need not be recounted to this company. His past accomplishments have already provided my distinguished colleagues with more than enough evidence of his self-worth. These contributions are both extensive and diverse. As an assistant district attorney in Alameda County, Calif., Mr. Meese fought hard to protect the citizens of that area from the rampant abuses of crime. As head of the Justice Department, it is clear that he will continue to focus on the protection of the victim while subduing the offender.

During his years as chief aide to the Governor of California, Edwin Meese advocated a program of prison reform which is proof of his progressive approach to the criminal justice system. In point of fact, he is a caring, compassionate man who seeks to defend from harm those incapable of defending themselves. With the crime rate at its present level, we may all fall into that category of the vulnerable and victimized.

It should not go unnoticed that Mr. Meese is not only a seasoned veteran of many courtroom battles, but an acknowledged scholar of criminal law as well. His position as a law professor at the University of California at San Diego gave him an additional framework for structuring his political ideologies, augmenting his hands-on experience in law with the philosophic approach of the classroom.

It is perhaps this last, Mr. Meese's credit as a legal scholar, which will prove most valuable to this administration. The academic world has endowed Edwin Meese with an extraordinary ability to perceive all facets of an issue, to formulate arguments, and present concise options in response. This talent, possessed in some degree by all students of the law, is enhanced in Mr. Meese by his own firsthand knowledge of the way the justice system works.

An essential component of any government is the ability of its top officials to work together in an effective manner. As one who has dealt closely with President Reagan for the last 17 years, Edwin Meese demonstrates the clearest example of the efficiency that such a relationship can provide. Under the leadership of William French Smith, the Justice Department enjoyed a close relationship with the White House that will see a smooth transition with the appointment of Mr. Meese. His positions on key issues are compatible with the President's own, and his proven ability to combine efforts with President Reagan on a variety of topics will be an added benefit to his leadership.

Above all else, Edwin Meese will bring to the Justice Department a steely backbone that refuses to buckle beneath the weight of escalating crime rates. He has taken a tough stand in the past, as illustrated by the task forces on violent crimes and victims of crime which he was instrumental in developing and implementing. There is no doubt that under his direction, the Justice Department will continue to make use of these retaliatory weapons against the lawbreakers in our society.

The judgment is clear: Edwin Meese is presently the individual best qualified to carry out the mandate for effective justice in America that was given overwhelmingly to Ronald Reagan by the voters in 1980. Under Mr. Meese's leadership, as with the leadership of William French Smith, the justice system will stick to its first order of business—protecting the innocent, and punishing the guilty.

No Attorney General or law enforcement official could aspire to any greater achievement.●

SCHOOL'S OUT AND HE'S HOME ALONE

● Mr. RIEGLE. Mr. President, recently, the Detroit Free Press printed an article entitled "School's Out and He's Home Alone." The article describes the problems facing our Nation's "latchkey" children and the efforts being made in my home State of Michigan to assist children in self-care.

The health risks to children in self-care are substantial and have been presented to the Senate through a forum on latchkey children conducted by the Senate Children's Caucus. Additionally, in June of 1983 I introduced, along with Senator Pell, S. 1531—the School Facilities Child Care Act—which would authorize money for grants from the Department of Health and Human Services for school-age child care. Yet, despite a wide body of information, only slightly more than 100 of the 15,000 American public school systems currently provide some sort of before and/or after school-age child care, and the number of these children continues to increase.

Mr. President, I urge that my colleagues take a few moments to review this article and lend their voices in constructing a dialog about school-age child care.

I ask that the text of the article be printed in the Record.

The article follows:

[From the Detroit Free Press, Feb. 26, 1984]

School's Out and He's Home Alone

(By Jean Heller)

Imagine thousands of children aged six to 12, left alone without a parent or guardian, who must feed themselves, amuse themselves and keep themselves out of trouble. They also might be responsible for the welfare and safety of younger brothers and sisters.

It's a fairly typical profile of thousands, by some estimates 100,000, schoolchildren in the Detroit area and 15 million nationwide who, for a significant part of every day, are home alone while the adults in the house work.

In today's idiom, they're called latchkey children, symbolized by the house keys they wear on chains or cords around their necks. It's the new jewelry of a generation growing up in a world where two working parents or a single parent on the job are becoming the rule, not the exception.

Though many educators, child development officials, parents and children believe the experience can benefit children, instilling a sense of responsibility for oneself, these children face plenty of potential problems.

Primary is the concern for the physical safety of these children—how parents and others can teach them to protect themselves from individuals who might prey on children known to be home alone, or from simple household accidents which can take on emergency proportions if the response to them is not swift and appropriate.

There's also concern about the psychological impact on those children whose concerned parents order them to stay alone inside a locked house letting no one, not even young friends, inside.

"There are inherent stresses in self-care for children," write Lynette and Thomas Long, authors of "The Handbook for Latchkey Children and Their Parents" (Arbor House: cloth, $15.95; Priam Books, paper, $7.95).

"For those children who cannot master them, they can become destructive; for those who can, they can become hurdles on the pathway to personal growth."

The Longs estimate at least a third of America's urban latchkey kids spend their afternoons totally isolated at a time of their lives when they should be learning to interact with their peers.

The Longs also point out the potential for straining the parent-child relationship if the parents fail to realize the latchkey experience gives a child a sense of self-sufficiency, that can't be turned on and off like hot water. The child required to act like an adult for a part of each day and forced to return to a subservient child role at night is likely to develop a good deal of stress and resentment.

According to a poll of 709 middle-class youngsters aged six to 14 released this month by Working Mother magazine, middle-class, suburban latchkey children generally enjoy their independence and are comfortable and content with the latchkey life. Fewer than five percent said they disliked being alone and nearly 60 percent said it never bothered them.

Some of the biggest complaints cited to the survey were about siblings. The older ones complained about younger brothers and sisters not listening to them; the younger ones responded, as did one Howell, Mich., 12-year-old. "The worst thing about my afternoons is when my older brother comes in and says, 'Shut up,' and I don't even say anything."

For some children, the latchkey experience can be devastating, even ruinous, officials report.

Emeral Crosby, principal of Northern High School and member of the President's Commission on Education, sees many of the teenagers who grew up as latchkey children, and he doesn't like the results at all.

"I don't have hard statistics, but I feel there is a strong correlation between the troubles we have as a society with our children and the latchkey situation," he said.

"One of every five families in this country is a single-parent family and most are headed by working women. About 53 percent of two-parent families have both parents working. That leaves a frightening number of youngsters in latchkey situations.

"These are youngsters without adult supervision, warned constantly about their safety and welfare. They grow up anxious, and that's terribly damaging to them. What's influencing them during this time alone? What kind of TV are they watching? What influence are they getting from their peers? They're growing up spending a lot of time without the role models we'd like them to have."

The problem, then, is more easily defined than the solutions especially in Detroit and throughout the state where latchkey programs caring for children before and after school are scarce.

No more than 20 or 25 latchkey programs have been licensed for operation, said Ted DeWolf, director of child day-care licensing for the state Department of Social Services.

Detroit has only three licensed latchkey programs for children and just last Wednesday, Chrysler Elementary School was notified that federal support for its program would end with this school year.

"Unless we can find present funding to pick up the costs, the program we have for our children will be over permanently in June," said Olivia Coleman, who runs the Chrysler program.

Charles Russell, director of the federal government's Lighted Schoolhouse Program, which supplies money for latchkey programs, said new HUD criteria prohibit aid to schools which serve areas in which the median family income exceeds $17,000 a year. The Chrysler School doesn't meet that guideline. Federal aid to the Golightly Education Center would continue, he said, and efforts were being made to save the program at Duffield Elementary School.

"You've got to have a very aggressive community involvement to get a program started, and most of the schools don't have that yet," Russell said.

Detroit school officials blame the lack of latchkey programs on both inadequate government funding and union contracts which require additional personnel whenever programs extend beyond the actual school day.

Ironically, union contracts don't appear to stand in the way of such programs in many Detroit suburbs, and they're flourishing.

In Grosse Pointe, Birmingham and parts of Macomb County, parents who don't want their children coming home after school to empty houses can enroll them in latchkey programs right at their schools. The programs cost very little, start as early as 7 a.m. for children whose parents leave for work early, and run as late as 6:30 p.m.

The programs fill the non-school hours for latchkey children with games, recreation, supervised study, some tutoring and critical social interaction.

At Pembroke School in Troy, which is part of the Birmingham school system, Mary Spencer has been running a latchkey program for nearly eight years. Parents pay $1 an hour for one child and $1.50 an hour for two or more children. Those fees fully cover the cost of the food the children eat, the games and toys bought for the program, salaries for Spencer and two teenagers who assist her. And there is enough left to subsidize several other programs in the Birmingham system's Community Education Division.

With declining enrollment in the school system, the room occupied by Spencer's program otherwise would have been vacant. She and her staff maintain it and the contents leaving only the trash for the school's custodians to pick up. The children do small chores for the school, like hanging decorations for the holidays, and in return, the school charges no rent for the program.

It is as much a labor of love as a job for Spencer, and both the children and parents are delighted with the results.

Tara Moore, 11, has been in the program nearly three years. Before transferring to Pembroke, she said, she had to stay home alone about three hours a day.

"When I was home alone, I was never allowed to leave the house because my mother was afraid to have me go out," she recalled. "It was hard to have any fun that way. I was bored a lot because there wasn't anything I was really allowed to do. And I was afraid sometimes. Nothing bad ever happened. I guess I was just afraid to be alone."

Gregg Salame, 8, is glib in describing what the Pembroke program means to the children.

"I know a couple of kids who asked their parents to go to work so they could latchkey," he said. "Some kids who aren't in the program come over to play with us because it's so much fun. And our parents are happy because Mrs. Spencer takes such good care of everybody. If there are any kids whose parents haven't picked them up when the program is over, Mrs. Spencer takes them home and leaves a note to tell the parents where they can pick up their kids. It's really nice."

Gregg's mother D'Anne Salame, echoed her son's opinion.

"The kids think it's really cool to be here," she said. "It's almost a status thing in this community. There have been times I've come for Gregg that he's been involved in something he wants to finish, so I leave and come back for him later. The kids really don't want to go home earlier than they have to. It's really a load off our minds knowing the children are safe and happy."

All 10 elementary schools in the Birmingham system offer similar latchkey programs, and for both the system and the community, it seems a perfect symbiotic relationship.

But at Chrysler Elementary in Detroit, where Olivia Coleman has been running a latchkey program for seven years the charge is $2.50 per child—more than double the fee at Pembroke. That pays only staff salaries, snacks and supplies. It doesn't begin to cover the fees the Detroit Public School system charges the program for daily use of the gymnasium. That fee, based on heating the school longer hours and keeping engineers, boiler operators and custodians before and after regular hours, can run as much as $1,000 a week.

"It's an outrageous fee. It's exorbitant and it's wrong," Coleman said. "Families in Detroit can't afford . . . a fee like that. We've had a couple of schools call us and ask us about starting up a latchkey program, but when they find out what it costs, they have to drop the idea. People just can't afford to give it to most of them."

Detroit school officials acknowledge it is virtually impossible to develop latchkey programs because of the cost, and it is a problem they say they are powerless to overcome.

"We want community groups to use the schools because their taxes paid for them," said Bernadine Denning, director of school-community relations "But we have labor contracts, and when the school buildings are open, we have to have engineers, boiler operators and custodians there, and we have to pay them. The rates are set by the bargaining units during contract negotiations. We can't absorb those costs. It's sad, I know, but it's out of our hands."

DeWolf, with the state Department of Social Services, said Detroit is not the only community that has found it difficult to set up latchkey programs.

"State law requires that latchkey programs be regulated in the same way that all day-care and child-care programs are, in terms of staff qualifications, programs, space requirements, fire safety and sanitation," said DeWolf.

"We've seen a great need and a big interest in latchkey programs, but not a lot of actual program development."

The Department of Social Services is reevaluating its regulations on latchkey programs to see if they are overly complex and restrictive, or if they are so intimidating to school districts that the districts choose to operate unlicensed latchkey programs.

"Some sure are operating outside the law," DeWolf said. "We hear about them occasionally, and when we do, we start working with the school district to try to get them into the licensing process. We frequently find they know about the rules and regulations and have chosen to ignore them."

If the Department of Social Services finds a program that violates guidelines, the state Department of Education is informed, and that department ultimately can withhold state funds from that district until the latchkey program is brought into compliance. When Social Services discovers an unlicensed privately run latchkey program, it can go to court to have it shut down.

Sen. Don Riegle, D. Mich., has introduced legislation to provide as much as $15 million in federal funds for latchkey programs, but the measures appear a long way from enactment. Similar bills have been introduced in the House. One would allow for other community centers, like YMCAs, to be used as sites for after-school programs when schools aren't available.●

ORDER THAT THE YEAR-END REPORT OF THE MAJORITY LEADER BE PRINTED AS A SENATE DOCUMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the year-end report of the majority leader be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 11 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS

Mr. BAKER. Mr. President, I ask unanimous consent that, after the recognition of the two leaders under the standing order, three Senators be recognized on special orders of not to exceed 15 minutes in the following order: Senators PROXMIRE, SPECTER, and ROBERT C. BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that, after the execution of the special orders, the time remaining before the hour of 12 noon be devoted to the transaction of routine morning business in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, on tomorrow the Senate will convene at 11 a.m. After the recognition of the two leaders under the standing order, three Senators will be recognized on special orders and the time remaining after the execution of the special orders until 12 noon shall be devoted to the transaction of routine morning business. At the expiration of the time for the transaction of routine morning business, the Senate will resume consideration of S. 979, the export administration bill.

Mr. President, it is assumed that there will be several rollcall votes tomorrow.

After the completion of the export administration bill, the leadership on this side anticipates the Senate will be asked to turn to the consideration of the miscellaneous tariff bill, H.R. 3398, and/or the FTC authorization bill, S. 1714.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, seeing no other Senator seeking recognition, I move, in accordance with the order previously entered, that the Senate now stand in recess until the hour of 11 a.m. tomorrow.

The motion was agreed to; and, at 7:26 p.m., the Senate recessed until Wednesday, February 29, 1984.

NOMINATIONS

Executive nominations received by the Senate February 28, 1984:

IN THE COAST GUARD

The following-named lieutenant commanders of the Coast Guard Reserve to be permanent commissioned officers in the Coast Guard Reserve in the grade of commander:

William G. Boyce
William J. Gehrke
Kenneth J. Mraz
Gary L. Siegle
Jon S. Beasley
John T. Hannigan
John F. Curtis
Bruce E. Griffiths
James O. Hughes
David A. White
John J. Kern
Stuart D. Charles
Stanley A. Nasitka
Charles W. More
Frederick R. Adamchak
Harold F. Watson

IN THE AIR FORCE

The following students of the Uniformed Services University of the Health Sciences class of 1984, for appointment in the Regular Air Force in the grade of captain effective upon their graduation under the provisions of section 2114 title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force:

Charles W. Beadling, 263-04-0823
Timothy Y. Chou, 147-54-1177
Melissa H. Coker, 263-02-8718
Mauri L. J. Cole, 518-78-3552
Scott C. Cole, 225-90-4712
Timothy W. Cooper, 262-15-7924
Timothy S. Corcoran, 046-58-2512
Brad L. Dansky, 049-62-9963
Aram M. Donigian, 031-48-1570
John A. Engelmann, 111-42-5651
John F. Gillis, 566-80-5239
David A. Goodwin, 456-80-5065
Vincent M. Gore, 550-15-9897
Sharon G. Harris, 498-68-0098
Laura K. Heid, 112-48-3502
Robert Johnson, 044-48-1820
Katherine Komendowski, 084-46-5107
Thomas M. Koroscil, 139-44-6345
Stephen F. Lovich, 209-50-6596
Deborah S. Lyon, 265-29-9424
Eron G. Manusov, 572-27-3739
Debra L. Moorman, 294-52-7898
Kent R. Murphy, 048-58-5376
Peter C. Muskat, 518-84-4837
James S. Neville, 526-41-2185
Jeffrey J. Pelton, 560-25-8019
Bradley R. Plaga, 529-02-4752
Michael W. Restey, 064-46-6830
Mark Seibel, 070-54-6310
Kimberly A. Slawinski, 522-94-8528
Ken M. Tashiro, 218-52-6843
Thomas F. Taylor, 057-40-0754
David J. Tipton, 528-90-5278
Terry L. Tomlinson, 526-37-9214
Gary M. Walker, 313-62-9049
Douglas C. Warren, 547-25-2358

IN THE ARMY

The following-named officers for permanent promotion in the U.S. Army in accordance with the appropriate provisions of title 10, United States Code, Section 624:

To be colonel

Robert W. Thompson, 440-40-1576

To be lieutenant colonel

Paul G. Gillenwater, 574-14-7552
James W. Strye, 377-44-8268

To be major

Tyce L. Simmons, 241-62-2960

ARMY NURSE CORPS

To be major

Rose A. Pumphrey, 232-86-1093

IN THE NAVY

Russell L. Robinson, Naval Academy Midshipman, to be appointed permanent ensign in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531.

The following-named naval reserve officers to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Matthew G. Bouzek
Michael S. Bustin
Richard R. Crain
Glen J. D'Arcangelo
John E. Deordio
Michael P. Malone
Mark G. Mathews
George W. Rothweiler
Raymond L. Waurio

The following-named Navy enlisted candidates to be appointed permanent Chief Warrant Officer, W-2, in the U.S. Navy, pursuant to title 10, United States Code, section 555:

David E. Bouchey
Lonnell Childred

John F. Fisher, ex-Naval Reserve officer, to be appointed permanent Commander in the Medical Corps in the Reserve of the U.S. Navy, pursuant to title 10, United States Code, section 593.

The following-named Medical College graduates to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, pursuant to title 10, United States Code, section 593:

Frederick N. Firestone
Patrick F. Golden

David A. Ingrum, commander, U.S. Navy, to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, pursuant to title 10, United States Code, section 593.

IN THE NAVY

The following-named commanders of the line of the Navy for promotion to the permanent grade of captain, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

Allen, Lloyd Edward, Jr.
Allin, John Wilfrid
Amos, Robert, Edward
Anderson, Harold Murray
Andrews, Edward Keith
Arrison James Matthew, III
Athanson, John Wayne
Axtman, Darold Steven
Balian, Alexander George
Bard, Albert Eugene
Barker, Kenneth Dale
Barker, Ross Daniel
Barnett, Thomas Joseph
Baumstark, James Schilling
Baxter, Peter Crockett
Beal, Richard Frank
Beall, James Mandaville, Jr.
Bennett, David Cushing
Bobo, Wilton Cornelius, Jr.
Bookhultz, John Wesley

Boyce, Robert William
Boydston, James Laymance
Boyer, Philip Albert, III
Brackx, Omer Maurits
Brady, Timothy Sterling
Brooks, Leon Preston, Jr.
Brough, Robert Franklyn
Brown, David Melton
Brown, Jeffrey Lynn
Browne, Joseph Majette
Burch, Othney Phelps
Burlingame, Anson H., Jr.
Burrows, John Shober, III
Burton, Hurshel Bruce, Jr.
Butler, Richard Montague
Byerly, Kellie Sylvester
Canepa, Louis Robert
Carey, James Robert
Carlton, Raymond M.
Carroll, Hugh Edward, II
Cebrowski, Arthur Karl
Cepek, Robert Joseph
Chandler, James Francis
Chernesky, John Joseph, Jr.
Chotvacs, Charles Julius
Christensen, Ernest E., Jr.
Clime, Robert Henry
Cloward, Richard Stuart
Cole, Robert S.
Combe, Andrew John
Cook, Douglas Watkins
Coward, Asbury, IV
Crawford, Frederick Robert
Dantone, Joseph John, Jr.
Darsey, Edgar Bruce
Davis, Gerald, Jr.
Davis, James Willard, Jr.
Denbow, Kenneth Duane
Dennis, James Augustin, Jr.
Diaz, Donald Gilbert
Dickson, James William
Dirren, Frank Matthew, Jr.
Dorman, Merrill Herrick
Dougherty, Nancy Jeanne
Drennan, Arthur Paul
Dunne, Gerald William
Dur, Philip Alphonse
Dyer, Donald Alvin
Dykeman, Paul Richard
Evans, John Morgan
Farmer, Michael Arthur
Finney, James Hardin
Fladd, Wirt Ross
Fletcher, Paul Reed
Francis, Sandra Lindsay
Friedman, Marcus Velvil
Fuge, Douglas Paul
Gay, John Phillip
Genet, Richard Paul
Gilmartin, John Thomas
Gist, David Moore
Goodwin, James Harvey
Grabowsky, Theodore Eron
Grant, Richard
Greeson, Bernard Dandridge
Griffin, Paul Adolph
Hamilton, Gerald Kent
Hancock, William John
Harlan, Richard Lavergne
Harris, Michael Jon
Harrison, Gilbert Arthur
Hauert, Patrick Charles
Heinecke, Walter Richard
Herron, Francis Joseph
Hess, Donald Robert
Hewitt, George Michael
Hickey, Robert Philip
Hodell, John Charles
Hood, John Timothy
Hood, William Thomas Tayl, Jr.
Hudnor, Francis Lee, III
Hutmaker, Matthew Aaron, Jr.
Jarecki, Stephen Allen
Jarratt, John Marshall
Johnston, Jasper Brinson, Jr.
Jones, James Voland
Jones, Stephen Howe
Joyce, Robert Howard
Kaeser, Karl Heinz
Kaiser John Martin
Kemple, Morris Michael, Jr.
Kenneally Thomas Caniel
Killian, James Edward
Koss, Howard Edward
Krieger, Eric Weston
Laabs, Stephen Kermit
Lamay, Thomas Vincent
Laughton, Katharine Lenora H.
Lautenbacher, Conrad C., Jr.
Lee, Kenneth Arthur
Lefavour, David Anthony
Levien, Henry A.
Litvin, Frederick Daugherty
Lockard, John Allen
Logan, Royal Hampton, Jr.
Losure, Edward Ronald, Jr.
Loucks, Steven Jay
Lovett, Billy Ray
Lyman, Melville Henry, III
Mackin, Jere Gene
Malchiodi, Michael Anthony
Manley, Jerry Bell
Marchetti, Michael Joseph
Martin, Jerome Lawrence
Martin, Ralph Kenneth
Masten, Robert L.
Mazach, John James
Mcdanel, Brinley Kent
McDaniel, Howard Ray
McDonald, Jay Gale
McFeely, Thomas Edward
McGee, Robert Thomas
McKinley, David Howard
Meneeley, William Thomas
Meserve, John Shackford, II
Miller, Thomas Hayes
Millis, Archibald Edward, Jr.
Mitchell, Albert Hoyt, Jr.
Mondul, Steven Michael
Moore, Charles Leighton, III
Morford, James Richard, III
Morris, James Howell
Morris, Ricky King
Morrissey, Thomas Kevin
Morrow, Emil David
Moser, Alan Brown
Murphy, Thomas Ernest
Myers, Richard Timothy
Nelsen, Lynn Howard
Newell, Robert Bruce, Jr.
Nicholson, Edwin Parmelee
Nickel, Hilary J.
Norris, Jerry David
Norton, Douglas Marvin
Norton, James Larry
Nuernberger, John Allan
Nute, Charles Carter
Nutwell, Robert Michael
Oden, Leonard Nelson
Oliver, Michael Frederick
Olsen, Dieter Heinz
Palen, Don Gilbert
Parker, Brance James
Parkinson, Robert
Paron, John Richard
Parry, Thomas Leighton, Jr.
Pattarozzi, Norman Joseph
Pearsall, Richard E.
Perron, Robert Arthur
Perry, Harold Eugene
Pewett, Robert Haywood
Phelan, Richard Harris
Phillips, Alexander Martin
Pickett, Larry James
Pivonka, Leo Michael
Plott, Barry Merrill
Powers, Danny Jay
Powers, Robert Lawrence
Prath, Robert Lee Emerich
Prueher, Joseph Wilson
Purrington, Frederick R.
Rackowitz, Marion Rex
Ray, Norman Wilson
Rees, Bob Gary
Renninger, Jane Frances
Reuthinger, Richard C., Jr.
Rhode, John R.
Rhodes, Gerry Baxter
Riggle, Gordon Grant
Ritchey, Glenn Wendell, Jr.
Rogers, Will Chapel, III
Rubeck, James Thomas
Sanford, Richard Martin
Saulneir, Steven Craig
Schantz, John Malcolm
Schlichter, Ralph
Schmitt, Stuart Orin
Scott, Norman Stuart
Seay, Marvin Eugene, Jr.
Seligson, Harold Edward
Shiffer, William Thurston, Jr.
Shipway, John Francis
Shurts, Richard Layne
Smith, John Monroe
Smith, Ralph Frederick
Spruitenburg, Frederick H.M.
Stone, William Charles
Storms, Kenneth Robert
Stowell, Ralph Henry, Jr.
Suarez, Ralph
Sutton, Robert
Swinger, Alan William
Taylor, Thomas Lee
Teague, Reginald Bailey
Thompson, Melvin Ellis, Jr.
Tisaranni, James
Triebel, Theodore Wallace
Tsukalas, Denis Nickolas
Tucker, Ronald Dewey
Tuma, David Foster
Turner, Lawrence Hay, Jr.
Turner, Thomas Willard
Twomey, Daniel Timothy
Vanwinkle, Pieter Kingsland
Vernon, Larry Jay
Vonsydow, Vernon Hans
Walden, Kenneth Allen
Walker, Joseph Scott
Wall, James Herbert
Watkins, Edison Lee, III
Weed, Wilson Geoffrey
Werner, Robert Mitchell
White, Raymond Monroe
Wilbourne, David Garner
Williams, Richard David, III
Witzenburg, Gary Martin
Wright, Daniel Andrew
Wright, William Harry, IV
Yankura, Thomas William
Zerr, John Joseph
Zuberbuhler, William John

ENGINEERING DUTY OFFICER (14XX)

To be captain

Andersen, Robert Viggo
Bosworth, Robin
Fenton, Paul Herbert
Fugard, William Harvey
Graham, Clark
Grostick, John Larsen
Harris, William Ronald
Kell, Richard Edward
Kelley, Thomas James
Klein, Karl Manly, Jr.
Kruse, Dennis Keith
Luck, David Lee
Monell, Gilbert Finley, Jr.
Nickelsburg, Michael
Perkinson, Brian Thomas
Robinson, Paul Matthew
Shackelton, Norman John, Jr.
Stark, William Carleton

Whitehead, Albert Edward
Witter, Ray Cowden

AERONAUTICAL ENGINEERING DUTY OFFICER (151X) (AERONAUTICAL ENGINEERING)

To be captain

Chalkley, Henry George
Charles, James R., Jr.,
Collier, Arthur Hugh
Costello, John Patrick, II
Hollinger, Merlin Bruce
Marsden, Richard Alan
Mullowney, Penn Evans, Jr.
Murphy, Richard Lawrence
Sjiggerud, David Milton
Small, Selden Matthew
Strong, Barton Dale
Tinston, William John, Jr.
Wynne, David Cowgill

AERONAUTICAL ENGINEERING DUTY OFFICER (152X) (AVIATION MAINTENANCE)

To be captain

Brannon, Michael Lee
Hall, John Preston, Jr.
Listol, Lavern Duwane
Lockhart, Albert Lewis
Mosher, Richard Lee
Robertshaw, Donald George
Timpson, Donald George

SPECIAL DUTY OFFICER (CRYPTOLOGY) (161X)

To be captain

Carpenter, Robert Alphonsus
Hinkley, William Leslie
Moffat, Hohn Wieber
Moran, William Patrick, Jr.
Stevens, Thomas Francis
Werner, Michael Charles

SPECIAL DUTY OFFICER (INTELLIGENCE) (163X)

To be captain

Abbate, Robert Philip
Albers, Steven Conn
Creely, Allan John
Estes, Donald Harold
Hack, David Faustin
Helm, Larison F.
Huchthausen, Peter Anthony
Leon, Kenneth Francis
McMunn, David James, Jr.
Millard, August Vonborn, Jr.
Rogers, Howard William
Smith, Esmond Douglas, Jr.
Smith, Herbert Clive L.
St Martin, Ronald Clayton
Vosilis, Robert Bruce
Weiss, John Nickolas

SPECIAL DUTY OFFICER (PUBLIC AFFAIRS) (165X)

To be captain

Litrenta, Peter Louis
McCurrach, Douglas Seely
Schrock, Edward Lee
Vercessi, George Peter

SPECIAL DUTY OFFICER (GEOPHYSICS) (180X)

To be captain

Carlmark, Jon William
Chubb, John Everson, Jr.
Harder, Ronald Erwin
Tipper, Ronald Charles

EXTENSIONS OF REMARKS

FREEDOM OF INFORMATION REFORM ACT

HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Tuesday, February 28, 1984

● Mr. MATHIAS. Mr. President, the fact that the Senate addresses the Freedom of Information Reform Act, S. 774, is a tribute to the energy and persistence of my colleague from Utah, Senator Hatch. He has guided this highly controversial bill through troubled waters for nearly 3 years. With the active cooperation of several of his colleagues, most notably the junior Senator from Vermont, Mr. Leahy, he has forged a compromise bill which I am pleased to support. I know that most of my colleagues share my view of this legislation.

However, Mr. President, there is one provision of this bill which troubles me. It is a provision which hardly created a stir in the early period of consideration of Freedom of Information Act (FOIA) reform. But in recent months, I have received expressions of concern about this provision from many quarters. I refer to proposed paragraph (4)(A)(i)(c) of section 552(a) of title 5, United States Code. This proposal would authorize the United States to charge "a fair value fee, or royalties, or both, in addition to or in lieu of any processing fees otherwise chargeable" under the Freedom of Information Act, for the release of certain commercially valuable technological information.

I understand that Senator Hatch is prepared to modify the language of this section somewhat, in order to delete some of its confusing terminology, such as the reference to "royalties." I know that the report on S. 774 includes some language intended to limit the applicability of the fair value fee provisions. These are improvements, and I applaud the Senator from Utah for including them. But after some reflection on the matter, I have concluded that this bill would be even further improved if this section were deleted altogether.

Mr. President, this provision troubles me for several reasons. I do not think that a case has been made that it is needed to prevent the improper free disclosure of information which may have some commercial value. I do not think that it is sufficiently clear to what information this provision ought to apply. I am concerned that neither in the language of the bill itself, nor in the legislative history, are there sufficient safeguards to insure against agency abuse of discretion in administering this provision. I question whether we have adequately considered the economic effect of this proposal on legitimate business enterprises which depend upon access to Government data bases.

One concern in particular is of importance to me in my capacity as chairman of the Subcommittee on Patents, Copyrights and Trademarks of the Committee on the Judiciary. That is the friction between the fair value fee provision of this bill, and the historic policy against copyrights on Government information. That policy was reaffirmed in 1976, when we passed the revision of the Copyright Act, which included title 17, United States Code, section 105. This section declares that "copyright protection under this title is not available for any work of the U.S. Government." Yet the fair value fee provision of S. 774 would seem to give the Government one attribute of copyright: The ability to condition the dissemination of information upon payment of a fee determined by the market value of the information.

I should point out, Mr. President, that this policy would mark a sharp departure from familiar principles of Government information policy, as embodied in the Freedom of Information Act. The fundamental idea underlying that act is that the Government's information ought to be freely available to the people, subject only to narrowly drawn exceptions. By making information "freely available," the policy underlying FOIA calls for the elimination, not only of legal barriers to access to public information, but also of excessive economic barriers. As a rule, a requester under FOIA may be charged only reasonable search and duplication fees. That is the long-established policy from which the fair value fee provisions of this bill would dramatically depart. In terms of the Freedom of Information Act alone, this provision is a substantial change.

But what about the impact of the change on copyright policy? After this apparent inconsistency between the proposed fair value fee provisions of S. 774, and section 105 of the Copyright Act, was brought to my attention, I decided to pose the question to someone far more learned in the intricacies of copyright law than I am. I asked David Ladd, the Register of Copyrights in the Library of Congress. Mr. Ladd is not only charged with administering the Copyright Act through the Office of the Register; he is also widely recognized as an experienced and perceptive expert in intellectual property law matters generally. I could hardly turn to a more authoritative source.

On October 11, Mr. Ladd answered my request. Let me hasten to say that the Register of Copyrights does not oppose the fair value fee provisions of S. 774. He does not take any position on it. But he does think that enactment of this bill, in its present form, may have some indirect implications for the policy against Government copyrights embodied in section 105 of the Copyright Act.

Mr. President, I will ask that the full text of Register Ladd's letter be printed in the Record at the conclusion of my remarks. But for now I would like to call the Senate's attention to the following paragraphs of his letter:

> The Copyright Office sees questions and uncertainties in the policies embodied in section (4)(A)(i)(c) of S. 774 which may indirectly conflict with the policies expressed in section 105 of the copyright law. Conditioning public access pursuant to section (4)(A)(i)(c) of S. 774 upon the payment of fees (beyond reproduction and search charges) is a form of control over the methods and terms of redissemination FOIA requestors may engage in. These fees may be keyed to particular uses a requestor may contemplate. The fees themselves, and the process for establishing them, either for a class of work or class of users, could operate as a restraint on dissemination.
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> If, as the Committee Report states, a purpose of section (4)(A)(i)(c) of S. 774 is to avoid depriving the government of the "commercial value" of information sought under FOIA, how does this purpose modify the statutory decision embodied in section 105 of the copyright law that limits the government's right to exploit "commercial value" by placing U.S. Government works in the public domain? If FOIA fees are based upon anticipated uses by a requestor, what are the consequences of the requestor violating the understanding with a federal agency under which the FOIA request was originally filled? If a use involves the creation of a new copyrighted work, is the agency entitled to share in the proceeds from this mixed use of federal and private creative authorship?
>
> The equitable pricing of government information services to avoid unfairness to taxpayers who pay for the generation of such information is an important administrative issue, particularly with the growth of new information services and changes in the kinds of information available through FOIA procedures. However, the principle of no copyright protection for U.S. Government works has been so broadly accepted for so long that care should be taken to

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

avoid modifying its practical effects without confronting the question of modifying section 105 itself.

Mr. President, I believe that the views expressed by the Register of Copyrights deserve our careful consideration. Beyond the specific issues that he raises in his letter, I think it is significant that when I wrote to the Register for an answer to this problem, I got back a letter filled with questions. That by itself should tell us something. It should tell us that a Freedom of Information Act bill is not the appropriate context for making such a consequential change in longstanding Government information policies.

Before we authorize the Government to charge a royalty for the release of information that the public has a right to know, we should hear the considered views of the Register of Copyrights. We should examine carefully the impact of this shift upon a sector of our economy that is of ever growing importance to our prosperity: the information industry. We should ponder whether conditions have changed so dramatically in the past few years that we should abandon our policy that generally keeps the Government out of the commercial market for information, leaving it to the private sector. But as this bill comes before us for final passage, we have done none of these things. That is why I am troubled by the inclusion of this provision in S. 774.

Mr. President, I must emphasize that I do not know the answers to the questions posed by the Register of Copyrights, or to the more general questions about Government policy toward intellectual property which are raised by the fair value fee provision. The Senator from Utah has demonstrated, over the past 3 years, his remarkable mastery of the issues surrounding the Freedom of Information Act; but I suspect that even he does not have clear answers to these tough questions. That is why we ought to look at this provision in a context which focuses our attention on the intellectual property issues involved.

We may well conclude, at the end of that process, that some deviation from the traditional policy is needed. We may well decide that in certain narrowly circumscribed cases the Government ought to seek to extract commercial market values from information that is otherwise within the public domain and subject to the people's right to know. Certainly, when ever-widening budget deficits loom before us, we ought to give serious consideration to any legitimate way to make government services—including information services—pay their own way. But when we have given the issue that consideration, when we reach that conclusion and make that decision at the end of the investigation I have described, we will have before us a far better answer to these new questions than we have today.

The letter follows:

LIBRARY OF CONGRESS,
Washington, D.C., October 11, 1983.

Hon. CHARLES McC. MATHIAS, Jr.,
Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR MATHIAS: Thank you for your letter of September 21 requesting the views of the Copyright Office on Section (4)(A)(i)(c) of S. 774 and any implications of that provision upon the copyright law and its policies.

As you observed, this legislation does not directly bear on the copyright law, and for that reason the Copyright Office has to date not expressed an opinion on it. The purpose of this letter is to respond to your request and thereby to provide the perspective of the Copyright Office as to whether and how charges might be imposed for information and publications by U.S. government agencies and the indirect implications of this legislation on policies expressed in Section 105 of the copyright statute.

Section 105 of the copyright law provides that "copyright protection under this title is not available for any work of the United States Government. . . ." Read with the definitions of section 101, this means that copyright cannot be claimed in works prepared by an officer or employee of the United States Government as part of that person's official duties. The federal govenment may in certain instances, however, receive and hold copyright's transferred to it by gift, purchase, or agreement with an author who creates a work under government contract or grant.

The statutory prohibition against copyright in works of the federal government is almost 75 years old. It was formerly embodied in section 8 of the 1909 Copyright Act. It represents a conclusion by Congress that the public interest is served by keeping governmentally created works as free as possible of potential restrictions on dissemination.

Although Congress has in the past provided copyright protection for U.S. Government works in two narrow instances—publication under the Standard Reference Data Act and works of the United States Postal Service—it generally has rejected other specific proposals for federal copyright offered between 1965 and 1975 during consideration of the copyright revision bills. The last of these proposals was made during the final days of consideration of S. 22; it sought a specific exemption so that a limited five-year copyright could be asserted in publications generated by the National Technical Information Service (NTIS) in the Department of Commerce. While the House of Representatives at one point adopted this exemption for NTIS, the Senate, without the opportunity to hold hearings on the issues, was unwilling to agree in conference. Subsequent Senate hearings on this issue were anticipated but never held.

The Copyright Office sees questions and uncertainties in the policies embodied in section (4)(A)(i)(c) of S. 774 which may indirectly conflict with the policies expressed in section 105 of the copyright law. Conditioning public access pursuant to section (4)(A)(i)(c) of S. 774 upon the payment of fees (beyond reproduction and search charges) is a form of control over the methods and terms of redissemination FOIA requestors may engage in. These fees may be keyed to particular uses a requestor may contemplate. The fees themselves, and the process for establishing them, either for a class of works or class of users, could operate as a restraint on dissemination.

If, as the Committee Report states, a purpose of section (4)(A)(i)(c) of S. 774 is to avoid depriving the government of the "commercial value" of information sought under FOIA, how does this purpose modify the statutory decision embodied in section 105 of the copyright law that limits the government's right to exploit "commercial value" by placing U.S. Government works in the public domain? If FOIA fees are based upon anticipated uses by a requestor, what are the consequences of the requestor violating the understanding with a federal agency under which the FOIA request was originally filled? If a use involves the creation of a new copyrighted work, is the agency entitled to share in the proceeds from this mixed use of federal and private creative authorship?

The equitable pricing of government information services to avoid unfairness to taxpayers who pay for the generation of such information is an important administration issue, particularly with the growth of new information services and changes in the kinds of information available through FOIA procedures. However, the principle of no copyright protection for U.S Government works has been so broadly accepted for so long that care should be taken to avoid modifying its practical effects without confronting the question of modifying section 105 itself.

Should you wish to consider the matter further, the Copyright Office is prepared to provide you and your staff with detailed background material identifying past proposals regarding protection for works of the U.S. Government, positions taken by interested groups, and the practices of foreign governments with respect to copyright in governmentally created or acquired works.

Sincerely,

DAVID LADD,
Register of Copyrights.●

ANTHONY GAGLIOTI "MAN OF THE YEAR" BY UNICO CHAPTER

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. RODINO. Mr. Speaker, I am very proud to recognize the achievements of Mr. Anthony Gaglioti, who will be honored this Saturday as man of the year by the Palisades Park chapter of UNICO.

In addition, Mr. Gaglioti is to be installed as the national president of UNICO this August for the 1984-85 term. UNICO, the largest Italian-American national service organization, has made important contributions to community activities all over the country, and as a longtime member, I am especially pleased to offer my congratulations to Mr. Gaglioti today.

The spirit and dedication of this fine organization are personified by Mr. Gaglioti, who has given so generously of his time and energy for charitable activities. His tireless efforts and many years of volunteer work are most deserving of this recognition by UNICO.

I am certain that my colleagues will join me in offering best wishes and congratulations to Mr. Gagliotl and to all the members of UNICO on this very special occasion.●

GRANDPARENTS RIGHTS: CONGRESSIONAL ACTION STILL NEEDED

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. LANTOS. Mr. Speaker, I would like to share with my colleagues a recent New York Times article describing the plight of two New York grandparents who were not allowed to see their 6-year-old grandchild for over 2 years. As a grandparent, I understand the feelings of this couple.

House Concurrent Resolution 45, which was unanimously approved by the House of Representatives, urges the States to adopt uniform acts permitting grandparents to petition State courts for privileges to visit their grandchildren following the death or separation of the natural parents.

I am pleased to report that the Senate Subcommittee on the Separation of Powers of the Judiciary Committee has reported that bill out of committee and we hope to see Senate action soon.

When the Senate acts on this legislation, grandparents rights will be protected and they will be better able to to help provide responsible, stable family relationships for the grandchildren of a broken home. More important, the rights, needs, and wants of the child, the one who often suffers the most, are now also given consideration. Broken homes in the United States have left many children devoid of the proper upbringing that will contribute to future stability. The grandparent is often in a unique position to provide the child with a sense of continuity as well as an emotional nuturing that most likely is missing in the chaos and upheaval which follows the breakup of a nuclear family.

One-third of a child's biological inheritance comes from one set of grandparents. A child needs to have an opportunity to know his living ancestors and to receive the love and security which they can give through a vital relationship with his or her grandparents.

The following article indicates the dilemma facing many grandparents and the sense of rejection experienced by the child when such a vital relationship is artificially broken up by the custodial parents:

COUPLE WINS COURT BATTLE TO SEE GRANDSON, 6

(By David Margolick)

BINGHAMTON, N.Y., Jan. 26—On Sunday, George and Catherine Layton plan to pick up their 6-year-old grandson, Mark Foster, and take him to the nearby Oakdale Mall. They want to visit a toy store, watch the fountain, then cap off the afternoon at Burger King or the Friendly Ice Cream Shop.

For Mr. and Mrs. Layton, however, this is not just an ordinary weekend outing. It is the first time they have been allowed to see their grandson in more than two years, and it marks the culmination of a bitter court battle that began shortly after Mark's parents were divorced.

Last week, the state's highest court ruled, over the objections of the boy's mother and adoptive father, that the Laytons had a right under state law to visit their grandson. In effect, the court granted the Laytons visiting rights no longer enjoyed by their son, Mark's natural father. The Layton case is the most recent example of how, as the divorce rate and human longevity have increased, courts in New York State and elsewhere have had to grapple with the special bond between grandparent and grandchild.

It is a bond that, while relatively new to the law, was captured long ago in an Italian adage the Laytons quoted in court papers.

"Si niente va bene, chiama nonno e honna," it states. "If nothing else is going well, call your grandfather and grandmother."

According to Harry D. Krause, a family law expert at the University of Illinois Law School, at least 42 states, including New York, now have laws that protect the rights of grandparents in the event of a parent's death or divorce.

Under these statutes, family law authorities say, courts have held that the rights of grandparents and grandchildren can limit the autonomy traditionally given to parents in the rearing of children.

Put another way, the laws mark the legal system's growing commitment to the preservation of the extended family where it is in child's best interests.

"We've had men's lib, women's lib, and now we have kid's lib," said Doris Jonas Freed, a New York lawyer and an authority on family law. "Even little children have rights that cannot be abrogated. They're not chattels anymore."

For the Laytons, who live here in Binghamton, only a few miles from their grandson, the decision means the end of years of anguish spent looking for "Marky" wherever they went and sending birthday cards that were never acknowledged. It is also a second chance of sorts.

"I worked my whole life to get where I am, and I didn't have very much time with my children," said Mr. Layton, 64, who will retire this year after 34 years at a nearby General Electric Company plant. "We got time on our hands now."

The Laytons' son, also named Mark, married Cheri-Gay LaFrance in March 1975. He was 18 at the time: she was 20. Two years later, their son, Mark Layton Jr., was born. The couple divorced in May 1978, with the mother retaining custody of the child. A year later, she married another Binghamton man, Roger Foster.

Even after the divorce, George and Catherine Layton continued to see their grandson every other weekend. The visits abruptly stopped, however, in September 1981, when Mr. and Mrs. Foster adopted the child, renamed him Mark Foster and forbade the grandparents from seeing him. The boy's natural father approved the move; Mr. and Mrs. Layton did not learn of it until afterward.

"It hit me like a bolt of lightning," Mrs. Layton said.

In the last three years, the Laytons have seen their grandson for only a few seconds. In December 1981, Mr. Layton saw him briefly when he tried, without success, to take him to the General Electric Christmas party. Several months later, Mrs. Layton ran into the boy, with the Fosters, at the meat counter of a local supermarket. She says he waved to her before the Fosters whisked him out to the car.

Mr. and Mrs. Foster have declined to be interviewed.

In late 1981, the Laytons sued for visiting rights in Broome County Family Court. The Fosters resisted, arguing that the grandparents' relationship with Mark was too tenuous to justify the disruptive effect the visits would have, particularly since the Fosters did not want Mark to know that he had been adopted.

Early last year, Judge Daniel S. Dickinson Jr. ruled in favor of the Fosters. He called the proposed visits "an invasion of privacy and embarrassment to the natural as well as the adoptive parent."

The Laytons appealed, and the Appellate Division of State Supreme Court reversed the ruling. Last week, Court of Appeals, the state's highest court, unanimously upheld the appellate ruling, saying that the state's Domestic Relations Law intended "to continue the familial relationship between grandparents of an adopted child and the child, provided that doing so is not contrary to the best interests of the child."

The Laytons are now preparing themselves for Mark's visit, retrieving all of his favorite pictures and toys.

"If he reaches for my hand, that will be great," said Mr. Layton. "But if I ask him to go with us and he says 'no', I'm going to have a broken heart. Why should I make a little boy suffer?"●

WELCOME TO OUR NEWLY NATURALIZED AMERICANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the residents of New York's 22d Congressional District who have recently chosen to become citizens of the United States, with all of the privileges, freedoms, and responsibilities that American citizenship entails.

Our Hudson Valley region in New York State is proud of its newest citizens, and I invite my colleagues to join in welcoming the following newly naturalized Americans and extending to them our best wishes for a happy and prosperous life in their new homeland:

Mr. Mohammed Abdul-Quader, Ms. Rashmi Anne Aggarwala, Ms. Nahyr Alba, Ms. Chantal Alexander, Mrs. Neela Anam, Mr. Angel George Angelov, Ms. Olga Valerie Angelov, Mr. Julio Ceasar Aria, Ms. Gladys Aurelien, Mr. Alexander Samuel Berg, Ms. Myrlande Moussignac Boursiquot, Ms. Dulcelina Verdeflor Breithaupt, Mr. Pedro Bueno, Mr. Stefan Buschbacher, Ms. Amalfi Antonia Cabrera, Ms. Irene Campos, Ms. Ethna Philomena Carty.

Mr. Carl Henry Charles, Ms. Marie Therese Chatelain, Mr. Michael Chatelain, Jiin Long Chen, Mr. Joseph Chery, Ms. Merian M.A. Clemente, Mr. Roger Darbouze, Ms. Ninie Charlotte Dazulma, Mr. Pierre Victor Hector Dazulma.

Ms. Iluminada Diato DeCastro, Annette and Denise Dillon, Mr. Kulbir Singh Dodd, Mrs. Mira Kulbir Dodd, Ms. Elizabeth Valenzuela Domingo, Mr. Jocelin Domond, Mr. Jack Hagop Douzjian, Ms. Mary Elizabeth Douzjian, Mr. Igor Drapkin, Ms. Consuelo Teano Fajardo, Ms. Chrisopil Farcas, Ms. Wela Cajuelan Fernando, Ms. Piangchai Ferstand.

Ms. Moucile Fils, Marian Fleischer, Mrs. Maria Fortunato, Ms. Ase-Lill Frivoll, Ms. Bergliot Frivoll, Mr. Normann Randemar Frivoll, Ms. Valerie Marie Fuentes, Ms. Francesca Abordo Geronimo, Kimberly & Andrew Gregory, Ms. Anjali Pradeep Gupte, Ms. Amarilis Acosta Guzman, Mrs. Margarete Hachigian, Jean and Thomas Hanley, Ms. Poori Francine Hemmati.

Mr. Michael Anthony Hendriks, Mrs. Eribeta Calingo Ignacio, Mrs. Jaishree Sudhir Jagirdar, Haider Jala, Daulat Jalal, Ms. Ghislaine Jean-Pierre, Mrs. Chandrika Prasad Katragadda, Ms. Anjum Muzaffar Khan, Mr. Jae Nam Kim, Ms. Jeong Yeon Kim, Joel & Jaimie Kornreich, Miss Melodie Youn-Hee Ksoman, Mr. Jack Sung Kwan Lee, Mr. Mohamed Lamarti, Giancarlo Landi & Son, Mr. Schubert Lartigue, Henry & Samantha Levy, Ms. Remedios So Licup, Mr. Oswald Louis, Ms. Marie Maude Lubin, Mr. Vito Luongo, Mr. Zdenek Machacek, Ms. Catherine Bernadette Magee, Ms. Hosneara Malik, Mr. Muhammed Enamul Malik, Mr. Abraham Mathew.

Ms. Yvette Solange Maurice, Mr. Canio Mauro, Ms. Giuseppina Mauro, Mr. Paul Bernard McGovern, Mr. Morris Glaster McLean, Ms. Varda Mei-Tal, Mrs. Vera Josephine Mendoza.

Miss Stephena Louise Mitchell, Mr. Jose Montenegro, Mr. James Joseph Murray, Mr. Ashok Nagrath, Mr. Jose Andre Olivo, Mrs. Evelyn Paul, Mr. Felix Ramos, Carmen Altagracia Rijo, Mr. Radhames D. Rodriguez, Sherry & Amy Rothberg, Miss Fiona Michelle Joye Rowe, Mr. Sergio Manuel Saiz, Ms. Ann-Marie Sakal, Mr. Alexander Sanchez, Ms. Surinder Pal Kaur Sandhu, Mr Cheddie Sarju, Mr. Khemraj Sarju, Ms. Mildred Sarju, Ms. Sonita Bhaarati Sarju.

Ms. Evelyne Savaria, Ms. Alfonsa Scandura, Mr. Henri Daniel Schnurmann, Ms. Rhoda Flora Schoenberger, Mr. Francesco Scianna, Ms. Juana Alicia Garcia Segura, Linda & Daniel Shaw, Mr. James Franklin Kwok Sheung Wong, Ms. Rivka Aorelia Stern, Ms. Thelma Mariano Talusan, Mr. Mohamed Bassem Tolba, Ms. Nadia Mahmoud Tolba, Mr. Chiapang Steve Tsang, Ms. Jospehine Maricela Vargas, Ms. Kay Elaine Murray Vernon, Mr. Leon Duen-Liang Wang, Patricia & Mervinie Wellington, Mr. Cyril Augustine Wyse, Ms. Clara Carbonell Yabes, Mr. Eligio Fabonan Yabes, Ms. Seema Shabnam Zakiullah, Ms. Emma Zayas, Mr. German Zhitlovsky.●

THE JOINT RESEARCH AND DEVELOPMENT ACT OF 1984

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. RODINO. Mr. Speaker, I am pleased to join with several of my colleagues in introducing the Joint Research and Development Act of 1984.

The bill is a bipartisan product of the hard work and analysis that have gone on in this area beginning in the 97th Congress, when Mr. EDWARDS introduced the first joint research and development bill. It borrows heavily from the bill introduced earlier this session by the ranking minority member of the committee, Mr. FISH, and from the administration proposal introduced by Congressman MOORHEAD.

The concerns underlying this legislation have been detailed by others. It is sufficient here simply to reaffirm the conviction that joint research and development can be an important tool for maintaining or reasserting our technological leadership in many industries. Rightly or wrongly, the antitrust laws are perceived by many businesses as a threat to legitimate joint research and development activity. We can address this problem through a strong affirmation of the social and economic worth of joint research activity.

The bill has two operative features. It will codify the application of the rule of reason in all antitrust cases involving a joint research and development program as described in the definitions. And it will limit the potential damage exposure of such a joint venture to actual damages if the venture has been properly reported to the antitrust agencies.

This legislation will not be a panacea for the economic and trade problems the United States has encountered in the world marketplace. Despite setbacks, the record suggests that this Nation has continued its technological leadership in many areas. In some industries, the problems we have confronted have been less from outdated technology and more from competitive weaknesses in production and marketing. Nonetheless, I am pleased that we are able to move affirmatively in this area to clear away any unnecessary obstacles to jointly conducted research and development. And, most importantly, we are able to do so without damaging the protections provided by antitrust enforcement—a longstanding national policy that, over the years, has contributed substantially to maintaining the competitive fitness of American industry in international markets.

The Subcommittee on Monopolies and Commercial Law held 2 days of hearings on joint research and development proposals last fall, and received testimony on the subject on two other occasions in the first session. Now it is time to act. The subcommittee plans to mark up this legislation on March 1. I hope that this proposal can move promptly through the full committee and be enacted by the Congress before the end of the summer.●

CONGRESSMAN FISH SUGGESTS CONGRESSIONAL RESPONSE TO CHADHA

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. LOTT. Mr. Speaker, on February 23 our distinguished colleague from New York (Mr. FISH), who is the ranking Republican on the House Judiciary Committee, testified before the Rules Committee on the impact of the Supreme Court's decision in INS against Chadha holding the legislative veto unconstitutional. I found the gentleman's testimony especially useful both from the standpoint of historical background and insight into the growth of the legislative veto. While I differ with the gentleman's concurrence in the Supreme Court's reasoning in Chadha, I think his review of the options for the future is particularly helpful to the House and its committees as we decide what to do about the 200-plus now invalid legislative veto statutes.

I would especially call the attention of my colleagues to his discussion of H.R. 3939, the Regulatory Oversight and Control Act, which I have introduced with 78 cosponsors. The gentleman from New York is one of those cosponsors and urges close consideration of this approach because it would give Congress authority to approve major regulations by the enactment of joint resolutions, and to disapprove nonmajor regulations by the same form. As the gentleman points out, fewer than 100 rules a year are considered major, and therefore Congress would not be overburdened. At the same time, these represent important policy choices which the Congress should consider and agencies should be forced to justify.

Mr. Speaker, at this point I insert the statement of the gentleman from New York and commend it to the reading of my colleagues. The statement follows:

STATEMENT OF HON. HAMILTON FISH, JR., BEFORE THE HOUSE COMMITTEE ON RULES: "CONGRESSIONAL RESPONSE TO THE CHADHA DECISION"

Thank you, Mr. Chairman, I appreciate this opportunity to testify on the legislative veto concept and discuss the issue of how Congress ought properly respond to the recent *Chada* decision.

The "legislative veto," or "Congressional veto" as it has sometimes been called, is not a new idea. It has been the source of controversy and conflict between the legislative and executive branches dating back to the New Deal era. Its use can be traced to 1932—with enactment of the 1933 Fiscal Appropriation bill. Furthermore, the idea is not unique to the Federal level of government, nor even to the United States.

I am advised that some thirty-four State legislatures use some form of a regulations review procedure. Some, but not all of these, permit the repeal of regulations by the legislature or a committee of the legislature. Great Britain, Austrialia, and other countries have also utilized procedures analogous to the legislative veto. But, of course, in parliamentary systems of government the separations of powers principle is not present. Thus, the constitutional infirmities relied on by the Supreme Court in *Chadha* are not present in those countries.

Since 1932 some 210 different statutes, utilizing some form of Congressional review, have been enacted into law. For many years, the most notable Congressional review procedure was that contained in the Reorganization Act of 1935. It required the President to transmit to Congress any plans for the transfer, abolition, consolidation, or coordination of executive branch agencies or functions. Either House of Congress, then, had sixty days to disapprove the proposed reorganization plan.

The use of the legislative veto device by Congress has greatly intensified in recent years. Of the 210 provisions that existed prior to Chadha, more than one-half of these were adopted since 1970. Nearly one-half of these were adopted in the last five years. Some of the more prominent examples of recently enacted statutes containing a Congressional veto or Committee veto feature, include: (1) the Congressional Budget Impoundment Control Act of 1974 (Public Law 93-334); (2) the War Powers Act (Public Law 93-148); (3) the Natural Gas Policy Act of 1978 (Public Law 95-621); (4) the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252); and (5) the Nuclear Waste Policy Act of 1982 (Public Law 97-425).

The veto, as we know, has manifested itself in different forms. The most common of these being a one-house veto, allowing for disapproval by passage of a simple resolution. Also frequently used was the two-house veto, requiring disapproval through a concurrent resolution. Variations included the committee veto approach and mechanisms requiring affirmative approval (as opposed to disapproval). The Chadha decision found all of the above forms to be constitutionally lacking, except approval requirements which utilize a joint resolution (which is "presented" to the President).

What are the reasons why the legislative veto became so popular in Congress? First, it reflected an institutional reaction to, and frustration with, the growing complexity of the Federal Government itself. Congress felt it was outmatched by the size, power and expertise of the executive branch. Here, I would also include the so-called "Fourth Branch"—the independent regulatory agencies. Second, the veto was used by Congress as a means of retaining a voice in important foreign policy questions (the War Powers Act and the Arms Export Control Act are good examples). Third, the veto was used as an adjunct of our Constitutional appropriations and budget responsibilities. Simply put, the veto has been used as a means of demonstrating the desire to arrest the growth of government spending. Finally, with those vetos focusing on final rules or regulations, it allowed Congress to re-claim a portion of the power it had too broadly delegated to agencies in organic statutes.

On this last point, allow me to elaborate. How often, as Members of Congress, have we heard the frustrated complaints of our constituents about unreasonable or unrealistic bureaucratic regulations? People in all walks of life—education, business, medicine, farmers, senior citizens—continuously express dissatisfaction with over-regulation in our society. Also, as legislators, we came to recognize that the intent of the laws which we had enacted was often altered, distorted, or ignored in the "implementing" regulations.

The legislative veto or Congressional veto represented an institutional effort by Congress to reverse this trend. While all the veto provisions that were enacted into law were issue specific, there also has been strong Congressional interest in legislation to establish a general veto procedure. This was done both in the context of omnibus regulatory reform legislation and in proposals such as that advocated by Congressman Elliott Levitas and others, taking the form of amendments to the Administrative Procedure Act. The broad support for a generally applicable veto procedure reflected and reflects a view, irrespective of politics or philosophy, that the growth of regulatory activity demands closer monitoring. Proponents of legislative veto have argued that administrative rulemaking—I.E., regulation writing—is in the nature of legislation. The legislative veto displayed a valid desire in Congress to recapture or recall a portion of the power delegated.

Perhaps the high-water mark of support for a generally applicable veto procedure in the House of Representatives came in 1976, during the 94th Congress. At that time, the Subcommittee on Administrative Law and Governmental Relations of the House Judiciary Committee gave the Congressional veto idea very thorough consideration. Extensive hearings were held over a two-month period. The Subcommittee heard from Congressional and Administration witnesses, Constitutional-legal scholars, interested private organizations, and members of two State legislative committees which conduct such a review of regulations.

The result of these deliberations was a clean bill—H.R. 12048. It would have applied the Congressional review procedure to all rules and regulations issued by agencies subject to the provisions of the Administrative Procedure Act, 5 U.S.C. Sections 551-559. Under the key procedure of the bill, either House could adopt a concurrent resolution disapproving a proposed rule or regulation within 60 calendar days after its promulgation and prior to its going into effect. Then, unless the second House acted in disagreement with the action of the first House within 30 days thereafter, the regulation was disapproved and did not go into effect.

This "Administrative Rule Making and Reform Act of 1976" was considered in the House, under suspension of the rules, on September 21, 1976. Two hundred sixty-five Members voted "aye" and 135 voted "no". The measure failed to get a two-thirds vote, by just *one* vote! This historic footnote demonstrates the broad, bipartisan support for the veto that had occurred.

As this example demonstrates, the House Judiciary Committee has been in the forefront on this issue for some years. Since our jurisdiction extends to the Administrative Procedure Act and the various regulatory reform proposals, we have spent extensive amounts of time analyzing this problem. At the same time, we are affected by the *Chadha* decision in a more specific way. Three of the vetoes invalidated by the *Chadha* ruling are contained in laws directly under our jurisdiction. These are the National Emergencies Act (Public Law 94-412) and two distinct provisions in the Immigration and Nationality Act (Public Laws 82-414 and 85-316).

The *Chadha* decision has called a halt to use of the veto as a legislative shortcut for reaching otherwise valid congressional goals. The precise issue in Chadha was the constitutionality of section 244(c)(2) of the Immigration and Nationality Act of 1952, providing for a one-House veto of agency suspensions of deportation. But while the case dealt with a particular form of the one-House veto, the opinion is clearly broad enough to negate the two-House veto as well.

The Constitution, the Court said, provided for only one legislative process—passage of legislation by both the House and Senate and "presentment" to the President for his approval or disapproval. The Court took note of the simple but inescapable fact that Article I of the constitution requires that bills must be passed by both Houses of Congress and presented to the President of the United States.

I cannot say that I was surprised by the Court's decision; nor can I fault the Court's reasoning. While the short-term consequences of this ruling have caused some discomfort, I do not see the dramatic alteration of the balance of power between the two branches that some in the media instantly proclaimed. Hearings such as this reflect a calm, responsible Congress—seeking to explore options, alternatives and new approaches. But, clearly, if Congress is to reclaim control over the bureaucracy it has created, and cut back on the vast delegations of authority that we have granted, then it must now do so through the normal legislative process.

Before leaving the Chadha holding itself, two other important aspects of the case should be noted. These are the severability question and the apparent constitutional validity of the "report and wait" approach.

With the large number of laws containing veto provisions, the obvious question is what happens to the remaining provisions of these laws. If Congress does not act specifically to repeal the various veto provisions from these statutes, then the Federal courts will be left to decide which statutes stand and which will fall. Whether or not a particular statute contains a boilerplate severability clause, does not alone dispose of the question. On a case-by-case analysis, the courts will be left to determine whether or not Congress would have enacted the overall statute itself, with or without a legislative veto provision. *Buckley* v. *Valeo*, 424 U.S. 1, 108 (1976). As the Court states in the majority opinion this is, at best, an "elusive inquiry." This "elusive" chase after legislative history could result in confusing and mixed results. In my view, each standing Committee of the House should undertake a formal review of those statutes within its jurisdiction and make a recommendation to the whole House regarding the remaining portion of those laws.

A footnote in the majority decision points to another alternative available to Congress, fully consistent with the bicameral action requirement. In footnote 9, the Court appears to look with favor on the so-called "Report and wait" approach upheld in *Sibbach* v. *Wilson*, 312 U.S. 1 (1941). Under this approach, Congress does not unilaterally veto rules. Rather, the effectiveness of administrative action is delayed so as to give Congress the opportunity to review the rules *before* they become effective. Congress can then pass legislation to bar (or further delay) the rules from going into effect if they are found objectionable. This is the exact approach taken in the so-called "Rules Enabling Acts"—28 U.S.C. 2072 (Federal Rules of Civil Procedure); 18 U.S.C. 3771 (Federal Rules of Criminal Procedure); and 28 U.S.C. 2076 (Federal Rules of Evidence).

Senator Levin has introduced legislation (S. 1650) that would institutionalize this report and wait procedure. However, some including the Justice Department caution that even the "report and wait" approach becomes constitutionally suspect if the bill contains procedures allowing a Committee, one or both Houses of Congress to delay the effective date of administrative action. An unencumbered report and wait provision is contained in H.R. 2327—an omnibus regulatory reform bill introduced by Congressman Sam Hall, which is now pending in the House Judiciary Committee.

Unlike some of my colleagues, I do not believe that the *Chadha* decision inevitably means a weaker Congress. What it should mean is that Congress will be much more cautious and explicit in enacting future legislation. Broad delegations of power to the agencies should no longer be the pattern. I feel confident that Congress will react to this decision by becoming a more precise legislative body, more attentive to the detail of legislative language than ever before.

What, specifically, are our options? Well, as with any ruling as to unconstitutionality, a logical first suggestion is a constitutional amendment. Proposed constitutional amendments authorizing one-House vetoes of regulations have been introduced both in the House (H.J. Res. 313—Congressman Jacobs) and in the Senate (S.J. Res. 135—Senator DeConcini). Constitutional amendments, of course, are referred to the Committee on the Judiciary. Frankly, however, I do not view this option as either advisable or politically practical. The constitutional amendment process is complicated and time consuming. We have other alternatives available to us that are preferable both in terms of time and temperate response.

I have already discussed two other such options—both of which I believe have substantial merit. I refer, first, to an organized review of existing statutes containing invalid veto provisions by the various committees of jurisdiction. This should be undertaken promptly and irrespective of whether other responsive options are explored. We should not, by inaction, leave the severability question on many important laws (such as War Powers and Impoundment Control) solely in the hands of the courts.

The other option, to which I have already alluded, is the "report and wait" approach advocated by Senator Levin and others.

This mechanism is fully consistent with the bicameral mandate of the *Chadha* decision. Congress by law can delay the effective date of regulations or other forms of administrative action. Once the proposed regulation or action is made known and studied, we can then pass legislation to prevent or further delay its implementation. Such legislation would have to pass both Houses and be presented to the President. If we choose this route we must be careful not to grant powers solely to committees or solely to Congress that would be inconsistent with the full legislative process requirements of *Chadha*. So, for example, a particular committee could not be allowed to extend the review period. Final disapproval or extension could not occur but through bicameral action and presentment to the President.

Other options also come to mind. In the past, members of this House have urged that Congress set aside one session of Congress, or an entire Congress, to re-examine existing laws. No one argues that over-delegation has, in large part, contributed to the attractiveness of the legislative veto mechanism. Perhaps now is the time for a genuine "oversight Congress" that, aside from the essential budget and appropriations items, takes a critical look backward at what is already on the books. Most committees would have more than enough material to review, and, hopefully, needed revisions and repeals would result. What I am suggesting is analogous to the theory that prompted and continues to prompt support for sunset legislation. It is an idea even more worthwhile in light of *Chadha*.

Another idea deserving of consideration is contained in the "Regulatory Oversight and Control Act of 1983" (H.R. 3939), sponsored by our distinguished colleague, Trent Lott. I am a co-sponsor of this measure, which is currently pending in both the Rules Committee and the Judiciary Committee. H.R. 3939 contains variations on many of the concepts contained in previous regulatory reform bills. This includes: (1) requiring a cost-benefits analysis of "major rules" (a defined term in the bill); (2) a semi-annual regulatory agenda of proposed rules; (3) mandatory agency review of existing rules; and (4) a modified Bumpers amendment.

But, in the context of our discussion, the most interesting provision in H.R. 3939 is contained in section 201. It states that no major rule can take effect unless Congress adopts a joint resolution of approval within 90 days after its transmittal by the relevant agency. This variation on the "report and wait" procedure, mandates an affirmative act by the Congress before a particular regulation can go into effect. (Usually, Congress must act to stop a regulation or other administrative decision.)

This approach merits close consideration for two principal reasons. First, while most major rules present important policy choices, the average annual number of such is not large. Estimates are that, on the average, the Federal Agencies promulgate less than 100 major rules a year. Thus, Congress and its various committees would not be seriously overburdened by this new workload. Second, the burden of proof in justifying the statutory authority and need for specific major regulation would be placed squarely on the agency. Congress would have to be convinced of its merits or else the regulation simply would not take legal effect. This idea deserves further inquiry by both this Committee and the Committee on the Judiciary.

Finally, we can just do a better job as legislators. Better, more exacting drafting of statutes is demanded. Broad delegations of power should be discouraged or carefully considered. We should become even more aggressive in implementing our constitutional taxation and appropriations responsibilities. Oversight is a much discussed element of our role—but all too often it is superficial in nature and lacks follow-up. Quite aside from the availability of the veto, and substitute mechanisms that must pass constitutional muster, we already have in place the powers to achieve parity in the separation of powers struggle.

This completes my prepared remarks. Again, thank you for the opportunity to share my views on this important subject. I would be happy to try and answer an questions you may have.●

WHERE THERE IS SMOKE, THERE IS FIRE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. LANTOS. Mr. Speaker, recently, my colleagues and I have read accounts in the Washington Post and New York Times of the battle between three leading health organizations and the R. J. Reynolds Tobacco Co. regarding misleading and irresponsible advertising that presented a false picture of the well-established health hazards of smoking.

Reynolds' new advertising campaign contends that the health impact of smoking is still an open question; that there was "significant evidence" to contradict the assumption that smoking causes disease. This new ad campaign states that Reynolds will cite such evidence in the near future. The tobacco giant states that no causal link has been established between smoking and cancer, emphysema, or heart disease.

There is absolutely no question in my mind or in the minds of these distinguished health organizations—the American Heart Association, the American Cancer Society, and the American Lung Associations—that an overwhelming amount of scientific evidence demonstrates beyond reasonable doubt that cigarettes are this country's major health hazard.

Today we know much more about the adverse health effects of smoking than we did when the first report of the Surgeon General was issued in 1964. We know that smoking is our Nation's most preventable cause of premature death and illness. We know that smoking is a major risk factor in cancer, heart disease, and emphysema. We know that cigarettes are directly responsible for the needless and preventable deaths of more than 300,000 Americans each year. The costs in terms of loss of life, unnecessary health care expenses, and lost productivity to our economy is absolutely staggering.

If we are to make smoking prevention a public priority, it is time to tell the full truth about smoking and to characterize cigarettes for what they are—a leading cause of cancer, heart, and lung disease.

I have joined a large number of my colleagues in the House in cosponsoring H.R. 1824, the Comprehensive Smoking Prevention Act to establish a national program to increase the availability of information on the health consequences of smoking and to change the label requirements for cigarettes. It replaces the current cigarette warning label with new, stronger health warnings. Unlike the current label, which 54 million American smokers are familiar with, the new warnings are specific and reflect the most current scientific knowledge about the relationships between smoking and disease. The warnings will rotate among cigarette packages and advertising in a manner to enhance their visibility and to assure the widest dissemination of the health message. In addition, the bill strengthens the smoking prevention activities of the U.S. Department of Health and Human Services, requires the publication of tar, nicotine, and carbon monoxide content of cigarettes, and the disclosure of chemical additives.

The level of public ignorance and misunderstanding about the health effects of smoking is staggering and it is reflected in the trend of smokers to start at younger and younger ages. Steps must be taken to make smokers and potential smokers aware that smoking is a certain and potent killer. Now is the time to develop more effective smoking prevention activities, not smoking promotion activities.●

CHARLES ZEMEL CELEBRATES 100TH BIRTHDAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. RODINO. Mr. Speaker, this Sunday a celebration will be held to honor one of Newark's most impressive and inspiring native sons. The "party of the century" will take place at New York's Waldorf-Astoria Hotel to celebrate the 100th birthday of Charles Zemel.

There is a great deal to celebrate in Charles Zemel's life. His business skills made him one of the most successful entrepreneurs in New Jersey. He began his business career at the age of 5, selling sheet music in the streets of Newark for a penny a sheet. To supplement his income, he sang and danced to the tunes for an additional penny. The sheet music business lead him to the more lucrative activity of selling newspapers, picking up his stack of papers at 4 a.m. each morning.

Later, when the Zemel family entered the charcoal business, it was Charles Zemel's drive and courage that allowed him to break the New York charcoal trust's monopoly and to compete in a very difficult business. The Zemel family's enterprises expanded, and they eventually built one of the largest real estate empires in New Jersey.

But with all of his success, Charles Zemel never abandoned the driving principles of compassion and fairness that stem from his deep religious spirit. The Zemel family started the only Orthodox Jewish synagogue in Newark, and their eldest son, Rabbi Horace Zemel, was the first native Newarker to join the rabbinate.

As Charles Zemel's many friends and family gather to mark a century of achievement, I offer my best wishes for a joyous celebration of a truly remarkable life.●

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND SELF-SUFFICIENCY ACT OF 1983

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. BETHUNE. Mr. Speaker, I wish to submit for the RECORD this analysis by CRS offering an evaluation of my substitute amendment to H.R. 3050 and a comparison of both, my amendment and the bill, H.R. 3050, as reported:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND SELF-SUFFICIENCY ACT OF 1983

This reponds to your request for review and analysis of your draft bill to restore solvency to the Rural Electrification and Telephone Revolving Fund and a comparison of your bill with H.R. 3050/S. 1300 (98th Congress).

Generally, it can be said that the bill you have sent CRS for review contains a formula that would reduce loan subsidies and be more likely to restore solvency to the Rural Electrification and Telephone Revolving Fund on an enduring basis than the formula embodied in H.R. 3050/S. 1300; that the provisions of your bill will cost the Treasury less but the Revolving Fund and the rural cooperatives more than the provisions proposed in H.R. 3050/S. 1300; and that your bill grants the Administrator of the Rural Electrification Administration (REA) considerably greater use of his or her discretion in setting the size and rates of Federal loans to rural electric cooperatives than does H.R. 3050/S. 1300 or present law.

ELEMENTS OF THE BETHUNE BILL

Both the Bethune bill and H.R. 3050/S. 1300 propose formulas[1] geared to:

Raise the interest rate on REA Revolving Fund loans above the current 5 percent rate in order to stop the drain on the Fund's resources; and

Vary the rate periodically in order to adjust it to changing financial circumstances.

REA models indicate that, unlike the formula proposed by H.R. 3050/S. 1300, the Bethune formula would make the Revolving Fund enduringly solvent without Treasury forgiveness of the Fund's obligations to it. However, it would do so by charging borrowers (which are cooperatives, not individuals) a substantially higher rate of interest in most years.

Table 1 displays REA's modeling of the stream of interest rates from 1984 through 2016 under the H.R. 3050 formula in its original application (and as it still stands in S. 1300), in its present formulation under H.R. 3050 (which began as identical to S. 1300 but was amended by the House Committee on Agriculture) as well as under the Bethune formula. Table 1 shows that the original H.R. 3050 formula (in the column marked S. 1300) maintains a low and fairly stable stream of rates at least until 2010, but, REA modelers say, drives the Fund to zero balance in 2016 unless Congress intervenes with appropriations. The amended formula (in the column marked H.R. 3050) keeps the Fund balanced (in the sense that interest expense does not exceed interest income) but in debt to the Treasury at interest rates which are slightly higher than S. 1300 would impose in most years. While the formula effected by H.R. 3050 (amended) keeps the Fund balanced, its rate stream is somewhat more erratic than that of S. 1300 or that of the Bethune bill. The Bethune bill stabilizes the rate stream after the first 3 years of phasing in the extra costs to the Fund, and pays the Fund's debts in full by 2018, but at a higher cost to borrowers.

It may be that a high degree of stability in the interest rate is a significant consideration in a credit program in which long-term planning and serial applications for loans are basic elements.

A second provision of the Bethune bill "levels" (amortizes) the Revolving Fund's CBO payments to the Treasury to include principal as well as interest on loans which the Treasury made to the Revolving Fund in the years 1976-1983, when the amount Congress authorized the Revolving Fund to lend exceeded the Fund's income.[2] Amortization will preclude the expense of refinancing the CBOs at maturity, which H.R. 3050/S. 1300 assumes will happen. On the other hand, the requirement that the Revolving Fund pay CBO principals as well as CBO interest to the Treasury underlies the higher interest rates to cooperative borrowers this bill proposes.

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[1] The formula proposed by the Bethune bill is: Standard rate equals interest and principal expense on CBOs divided by interest income from borrowers times certificate of beneficial ownership (CBO) rate. The formula proposed by H.R. 3050/S. 1300 is: Standard rate equals loan advances plus CBO interest expense minus borrower payments divided by loan approvals times certificate of beneficial ownership (CBO) rate.

[2] Since the Treasury loans to the Revolving Fund are secured by REA Certificates of Beneficial Ownership (CBOs), these REA repayments of Treasury loans are referred to as "CBO payments."

TABLE 1.—INTEREST RATE PROJECTIONS FOR THE RURAL ELECTRIFICATION REVOLVING FUND UNDER H.R. 3050 (AMENDED), S. 1300, AND THE BETHUNE BILL, 1984-2016

[Electric program only, in percentages]

Year	S. 1300 [1]	H.R. 3050 [2]	Bethune [3]
1984	5.00	5.00	6.52
1985	6.01	6.25	8.16
1986	6.23	6.41	8.64
1987	6.61	6.77	9.02
1988	6.30	6.71	9.32
1989	6.09	7.93	9.47
1990	5.86	8.50	9.55
1991	5.84	8.19	9.57
1992	5.83	7.44	9.57
1993	5.82	6.65	9.55
1994	5.82	6.28	9.59
1995	5.81	6.45	9.57
1996	5.80	6.92	9.56
1997	5.80	7.31	9.53
1998	5.81	7.34	9.62
1999	5.84	7.00	9.67
2000	5.92	6.55	9.52
2001	5.99	6.22	9.49
2002	6.07	6.18	9.52
2003	6.16	6.35	9.31
2004	6.27	6.59	9.30
2005	6.37	6.66	9.45
2006	6.51	6.52	9.48
2007	6.76	7.52	9.04
2008	6.97	6.99	9.01
2009	7.46	7.14	9.03
2010	8.10	7.86	8.65
2011	8.68	6.17	7.91
2012	9.22	5.00	7.68
2013	9.83	5.00	7.00
2014	10.61	5.00	6.51
2015	11.37	5.66	5.90
2016	11.97	7.67	5.02

[1] Assumptions of model for S. 1300: Program level $850,000,000 each year (no growth). Certificate of beneficial ownership (CBO) rate 11 percent, no repayment of $7,900,000,000 debt to Treasury. CBO principal rolled over at maturity. Refinancing downward only of CBO's. Fund runs out of money in 2016 without congressional appropriations.

[2] Assumptions of model for H.R. 3050: Program level $850,000,000 each year (no growth). CBO rate 11 percent, no repayment of $7,900,000,000 debt to Treasury. CBO principal rolled over at maturity. Interest expense does no exceed interest income in any year (Stenholm amendment). No refinancing downward of CBO's (by agreement between the House Agriculture and Ways and Means Committees).

[3] Assumptions of model for Bethune bill: Actual rate from 1984-93 equals standard rate times reduction factor of 80 percent in the 1st year, 82 percent in the 2d year, 84 percent in the 3d year, increasing by 2 percent each year until the 10th year. Program level $850,000,000 each year, CBO rate 11 percent. Revolving fund pays the Treasury $7,900,000,000 debt, plus principle of CBO's so that by 2018, the fund's obligations are paid in full.

Source: Rural Electrification Administration.

A third provision of the Bethune bill authorizes the REA administrator to lend Revolving Fund money to selected cooperative borrowers at a rate lower than the standard rate, but at not less than half of the standard rate. This third provision would, in effect, replace the present 2 percent rate (reserved for cooperatives in hardship circumstances) with a rate that would vary with the standard rate. Since the standard rate could not be less than 5 percent under the terms of the Bethune bill, the hardship rate could not be less then 2.5 percent.

The only criterion specified in the Bethune bill for guidance to the administrator in choosing candidates for the loans given below the current interest rate is that the cooperative must be experiencing "extreme financial hardship." This element of the Bethune bill changes the present practice (and the practice advocated by H.R. 3050/S. 1300) of citing specific standards by which a cooperative can be classified a hardship case.

Under a subsequent Bethune provision, the administrator of the REA would also decide what percent of approved financing the REA would lend the cooperative borrower. The bill cites as the criterion for this decision the administrator's judgment that the borrower can qualify to borrow the balance of the needed financing "from a responsible credit source at reasonable rates and terms consistent with the loan applicant's ability to pay." Neither "reasonable rates" nor "ability to pay" are any more precisely defined by the bill.

Permitting the administrator to decide what percentage of its approved loan a borrower will get from the Revolving Fund would be another significant change from the regulation that has been in effect over the past fiscal year. The present regulation requires the REA administrator to lend at least 70 percent of any approved loan at a maximum rate of 5 percent. The Bethune bill requires that the administrator continue to give every applicant some portion of his loan in subsidized funds, but permits the administrator to decide how large a portion.

The change proposed in the Bethune bill could have the advantage of preserving the available subsidized loan money for use by those cooperatives that need Federal subsidies, whether because of extremely sparse population, low-income population, or weather conditions that damage equipment. Some feel that giving the REA administrator broader latitude to use discretion in approving the subsidized loans is appropriate since U.S.D.A. data demonstrate that a number of cooperatives have financial characteristics which would appear to make large subsidies for them unnecessary.[3] Others would say, however, that the proposed rule would have the disadvantage that it would permit an administrator to exercise upon the Revolving Fund his personal outlook concerning Federal credit to rural cooperatives.

Another provision of the Bethune bill caps the annual lending authority of the Revolving Fund at $850 million for the electric cooperatives and $250 million for the telephone cooperatives for all future years unless new legislation should remove the cap. This provision would create an incentive to borrowers to keep loan requests to the minimum absolutely required to meet their needs. It would have this effect because a high volume of borrowing by cooperatives would result in the borrowers competing for any funds requested beyond the cap in the private capital market where interest rates are considerably higher than those of the Revolving Fund. (It may be noted here that the formulas proposed by both H.R. 3050/S. 1300 and the Bethune bill would create an additional incentive to keep funding requests low because under both formulas the interest rate would rise along with the loan level. This is not the case under the present law, which caps the interest rate at 5 percent regardless of the loan level).

Finally, like H.R. 3050/S. 1300, the Bethune bill separates the telephone and electric accounts of the Revolving Fund, assigning monies collected in repayment of prior loans from electric cooperatives to new electric loans and monies collected on prior loans to telephone cooperatives to new telephone loans. This is a provision about which there appears to be little controversy.

ELEMENTS OF H.R. 3050 AND S. 1300

H.R. 3050, reported by the House Committee on Agriculture in October 1983 and now awaiting action by the full House, proposes a formula for varying the interest rate on Revolving Fund loans different from the Bethune formula. The formula proposed in H.R. 3050/S. 1300, if amended as Representative Stenholm suggested and the House Committee on Agriculture recommended, raises the interest rate on Revolving Fund loans sufficiently to pay the Fund's interest expenses (only) on CBOs, but requires, in order to do so, forgiveness by the Treasury of a $7.9 billion loan it made to the Revolving Fund for its initial capitalization as well as refinancing of the CBOs as they fall due 30 years from issuance.

H.R. 3050/S. 1300 includes several other provisions intended to keep the rate of interest to cooperative borrowers at a minimum. These provisions of H.R. 3050/S. 1300 which are not part of the Bethune bill, include the following:

The REA administrator would be required to subordinate the Federal first lien on cooperative property in favor of any lender providing financing for any project which the cooperative felt would improve its financial position.

The Secretary of Agriculture would be required to request Congress to appropriate sufficient money to compensate the Fund for any loans made at the hardship rate.

In any year when the total electric program is less than $1 billion, REA would be required to provide a minimum of 70 percent of any approved loan at the standard rate.

In order to qualify for loans at the hardship (2 percent) rate, a cooperative would have to be in one of the following categories: cooperatives which charge their ratepayers twice the national average cooperative rate, those which have an average consumer density of two or fewer per mile, those which have suffered financial losses due to natural disasters, and those which serve areas having unusually low per capita income, or which are experiencing financial hardship for an "extenuating circumstance." (Cooperatives in these categories would be eligible to receive from REA up to 100 percent of their approved loan at the 2 percent rate).

In any period when the Treasury rate is as much as one percent lower than the rate on any Federal Financing Bank loan the REA has guaranteed, the borrower would be authorized to request the Treasury to refinance the loan at the lower Treasury rate. (There is no provision to refinance upward when interest rates rise).

In any period when the Treasury (CBO) rate is as much as one percent lower than the rate on any CBO the REA has sold to Treasury, Treasury would have to refinance the loan at the lower Treasury rate upon request of the administrator. (There is no provision to refinance upward when interest rates rise.)[4]

COMPARING THE EFFECTS OF THE TWO BILLS

In general, the Bethune bill can be said to be substantially less generous to borrowers and more apt to restrain Federal borrowing. In its plan to cap the REA program in order to reduce and eventually eliminate the selling of CBOs, in its omission of the clauses in H.R. 3050/S. 1300 which require the Treasury to forgive the $7.9 billion owed it by the Revolving Fund and refinance at a lower rate loans for which it has borrowed at a higher rate, as well as the clauses which require that the REA subordinate the Federal first lien on cooperative property and that

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[3] Rural Electrification Administration, U.S. Department of Agriculture, Audit Report: Loan-Making Policies for Electric Distribution Cooperatives, Washington, D.C., August, 1983.

[4] Though this provision is in the original House bill, H.R. 3050, in this form, an agreement is reported to have been made between the House Committee on Agriculture and the House Ways and Means Committee to amend the bill to provide that refinancing of CBOs would have to be approved by the Director of the Federal Financing Bank.

Congress replenish the Fund for loans made at the hardship rate, the Bethune bill toughens the circumstances for rural borrowers and "defends" the Treasury.

Proponents of H.R. 3050 and S. 1300 will point out that the Bethune bill assigns the cost of the deficit financing the Revolving Fund has been carrying out under Congressional mandate over the past decade to the cooperatives. The Bethune bill not only raises the subsidized interest rate charged directly to cooperatives (by means of the formula) an average of 4 percentage points above the present level, but includes provisions which will work indirectly to raise costs to borrowers over time. This is, in requiring the Revolving Fund to repay its $7.9 billion loan from the Treasury, make loans at the hardship rate without reimbursement from the Treasury, pay off the CBOs at the rates at which they were sold, pay principal as well as interest on the CBOs, and cap its loan level, passage of the Bethune bill will, over time, reduce in size the pool of money available for lending at a subsidized rate by the Revolving Fund. Under such circumstances, cooperative borrowers will either have to reduce the amounts they borrow, or borrow the balance of their funding from non-REA sources at somewhat higher rates. In short, it is likely that passage of the Bethune bill will raise the average cost of money to rural cooperative borrowers.

In conclusion, it should be noted that at an average 9 percent rate (under Bethune), the Revolving Fund's interest rate would still be 2 percentage points below the Treasury rate, constituting a continued though reduced subsidy to rural electric borrowers.●

TURKEY AND CYPRUS

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. WILSON. Mr. Speaker, on January 20, 1984, the American Public Research Council, an educational organization in the greater Washington, D.C., area, sponsored its first congressional luncheon on Capitol Hill. The subject discussed was "Turkey and Cyprus," and the speakers were former Ambassador to Turkey and Tanzania, James Spain, and Prof. Pierre Oberlin from Hunter College in New York.

Ambassador Spain pointed out the importance of preserving NATO interests and military aid to Turkey despite the recent declaration of independence by the Turkish Cypriots. He suggested that a solution could lie in a federated, united Cyprus based upon the cofounding Greek and Turkish nationalities.

Professor Oberlin, author of "The Road to Bellepais," a description of the lives of the Cypriot Turks in the 1960's and 1970's, spoke about the situation of the Cypriot Turks today. The text of his remarks follow:

STATEMENT OF PROF. PIERRE OBERLIN

The Turkish Cypriots declared their independence partly because of their belief that the negotiations with the Greek Cypriots were getting nowhere. The Greek Cypriot Government has rejected proposals which would guarantee the security of the Turkish Cypriot population. In recent months, the Greek Cypriot government has even refused to negotiate at all.

The Turkish Cypriots have also declared their independence because of President Kyprianou's efforts to alienate the Turkish Cypriot economy. Arguing that his government is the only legitimate authority in Cyprus, he has done everything in his power to discourage or prevent other countries from trading with the Turkish Cypriots. The only way the Turkish Cypriots could overcome this obstacle is by formally seceding from the rest of Cyprus and seeking world recognition as an independent state.

Because the Turkish Cypriots regard their declaration of independence as merely the culminating point in a long and painful process, it might be worth our while to look briefly at the major events which preceded it. Only thus can we understand the Turkish Cypriot point of view.

The Turkish Cypriots argue that the Cyprus problem did not arise out of the Turkish intervention of 1974, but out of difference in outlook between the Greek Cypriots and Turkish Cypriots in the days following the establishment of the Republic of Cyprus in 1960. The Turkish Cypriots wanted a fully independent, bi-communal republic in which their rights would be protected (in keeping with the stated intent of the 1960 Constitution). The Greek Cypriots regarded independence as but a stepping stone towards union with Greece (or *Enosis*) and openly sought the complete Hellenization of the island. As Archbishop Makarios put it, "Unless this small Turkish community forming a part of the Turkish race . . . is expelled, the duty of the heroes of EOKA can never be considered as terminated.

In order to establish the legal framework for achieving *Enosis* and neutralize all opposition to his scheme, Archbishop Makarious first forced the resignation of the distinguished German jurist who was the president of his Supreme Constitutional Court. Then he proposed a list of amendments to the 1960 Constitution which would have deprived the Turkish Cypriots not only of their veto power over legislation but also of their own municipalities.

When the Turkish Cypriots refused to accept these amendments, Makarious fired all the Turkish Cypriot officials and members of the Cypriot House of Representatives. He also put into effect a plan—the so-called Akritas Plan—to intimidate the Turkish Cypriots into submission. The Turkish Cypriot quarters of the towns and isolated Turkish Cypriot villages were attacked, 364 Turkish Cypriots were killed, 25,000 Turkish Cypriots were forced to flee from their homes, and 103 Turkish Cypriot villages were looted and burned. But the Turkish Cypriots refused to accept defeat.

In 1967, General George Grivas, the old EOKA firebrand, who had returned to Cyprus, launched a new wave of attacks on Turkish Cypriot villages. The Turkish Cypriots were gradually forced to move into small enclaves which were then surrounded by barbed wire and fortifications to prevent supplies from reaching them. The Turkish Cypriots were also forced to form their own administration. Thus several years before the Turkish intervention, the Greek Cypriots had already divided their own nation into two separate, ethnically distinct zones, each with its own government.

By 1974, the Greek military junta lost patience with Makarios, whose attempts to bring the Turkish Cypriots to their knees had consistently failed. Needing an immediate triumph to offset its declining popularity, it organized a coup, the aims of which were to eliminate Makarios and replace him with an EOKA member by the name of Nikos Sampson. Although the Greeks did not succeed in eliminating Makarios, they nonetheless managed to place Sampson in the Presidential Mansion in Nicosia.

Sampson at once embarked upon a purging of Makarios' followers. At least 700 Greek Cypriots were killed in less than a week. Because Sampson had a long history of violence against the Turkish Cypriot community and had been elected a member of the Greek Cypriot House of Representatives with the slogan "Death to the Turks", his rise to power was looked upon with alarm and dismay by both the Turkish Cypriots and the Turks. It is at this point that the Turkish intervention took place. As Sir Alec Douglas-Home, the former British Foreign Secretary, commented: "Turkey has been provoked beyond endurance". In any case, the Turkish intervention was perfectly legal according to the Treaty of Guarantee, which Makarios himself had signed. Its legality has even been acknowledged by a court of law in Athens.

It must be added that the Turkish intervention was by no means the first military intervention in Cyprus since 1960. As early as 1964, the Greek Army had made itself at home on the island. During that year, 9,000 Greek soldiers and 950 Greek officers were secretely landed in Cyprus to help Makarios subdue the Turkish Cypriot villager Petros Garoufalias, the Greek Defense Minister, later boasted of his skill in carrying out this operation. By 1967, as many as 20,000 Greek troops had been smuggled into the island. Then, it must be remembered that George Grivas was a general in the Greek Army. Finally, the Greek Cypriot National Guard, which was commanded by Greek officers and received its orders from the junta in Athens, was, to all intents and purposes, a Greek force.

The Turkish intervention not only saved the Turkish Cypriot population, but it also caused the downfall of the dictatorship of Nikos Sampson and put an end to his purging of Greek Cypriots. Moreover, it led to the resignation of the unpopular Greek colonels and the reestablishment of democracy in Greece.

Since the Turkish intervention, the Turkish Cypriots have made new lives for themselves in the North. For the first time in their existence they feel safe and free. Therefore, they have strenuously opposed any solution to the Cyprus problem which would lead once more to their dispersal in Greek Cypriot-controlled territory and to the formation of a strong, Greek Cypriot-dominated government. For them there can be only two possible solutions to the Cyprus problem:

1. The creation of a loose, bi-zonal federation with the Greek Cypriots, and
2. The creation of an independent Turkish Republic of Northern Cyprus.

Inasmuch as President Kyprianou rejected the first of these two alternatives, the Turkish Cypriots had no choice but to opt for the second. The economic boycott by the Greek Cypriots made that decision all the more urgent.

In conclusion, I would like to make the following points:

1. The failure of the Greek Cypriots in the Cypriot tragedy has not only been political but also moral. As long as the Greek

Cypriots refuse even to recognize that during the 1963-64 and 1967 periods they carried out large-scale attacks upon their Turkish Cypriot neighbors, they will never understand the Turkish Cypriots' profound concern for their own safety and their distrust of Greek Cypriot leadership. Consequently, they will never negotiate on a realistic basis and the Cyprus problem will never be solved.

2. The argument that the Turks have always wanted Cyprus and could not wait to intervene militarily in that island is a false one. Until 1959, they wanted the island to remain part of the British Empire, so that the Turkish Cypriot community would be protected. When the British decided to withdraw, they advocated the setting up of an independent, bi-communal republic and were instrumental in drafting the Zurich-London accords, which led to the formation of the Republic of Cyprus. It was only when the independence and national integrity of that state was threatened that they finally intervened. In a recent article, Mr. Christopher Hitchens, columnist for *The Nation*, stated that the Turkish Republic of Northern Cyprus is "in reality, a colony of mainland Turkey". But if it were so, it would not have declared its independence and it would not be trying its best to achieve economic self-sufficiency.

3. It is not only Turkish Cypriots who think that the Greek Cypriot government refuses to bargain in good faith. In April 1976, Glafkos Klerides, the Greek Cypriot government's chief negotiator at the intercommunal talks, was forced to resign because he could not accept President Makarios's rigid stance in the negotiations. In July 1978, Klerides's successor as chief negotiator, Tassos Papadopoulos, was, in turn, dismissed after he had castigated President Kyprianou for refusing to abide by the Makarios-Denktas Agreement of February 12, 1977. Finally, in September 1983, Nikos Rolandis, the Greek Cypriot Foreign Minister, resigned when President Kyprianou rejected UN Secretary-General Perez de Cuellar's invitation to resume negotiations. A few days later, Rolandis went so far as to accuse Kyprianou of being "the enemy of Cyprus".

The Turkish Cypriot declaration of independence has not put an end to dreams of reconstituting a unified Cypriot republic. Indeed, nothing would please the Turkish Cypriots more than to form a loose federation with Southern Cyprus. But the declaration has made it clear that, as far as the Turkish Cypriots are concerned, a true federation between the Greek Cypriots and the Turkish Cypriots can only be negotiated between two equals.●

THE AGING MIND PROVES CAPABLE OF LIFELONG GROWTH

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Ms. OAKAR. Mr. Speaker, today I would like to submit an article, "The Aging Mind Proves Capable of Lifelong Growth," which appeared in the New York Times on Tuesday, February 21, 1984. This article contradicts the popular belief that intellectual ability declines with the advance of years. Society's mores stereotypes the elderly as those who cannot contribute intellectually because advanced age is considered synonymous with dotage. I would like to insert this scientific study into the RECORD.

The article follows:

THE AGING MIND PROVES CAPABLE OF LIFELONG GROWTH

(By Daniel Goleman)

Researchers can now demonstrate that certain crucial areas of human intelligence do not decline in old age among people who are generally healthy.

Moreover, although some other aspects of intelligence do dimish, the decline is relatively inconsequential and has been exaggerated in the past, the experts assert.

The new research challenges beliefs long held by scientists and the public and suggests that, among people who remain physically and emotionally healthy, some of the most important forms of intellectual growth can continue well into the 80's. It also suggests that declines in intelligence can be reversed in some instances and that earlier notions about the loss of brain cells as a person ages were in error.

This more optimistic view of the mental capacities of the aged emerges from a broad range of current studies, from recent literature in the field and from interviews with gerontologists, psychologists and experts in related health sciences.

Some of these experts suggest the old ideas about aging and intelligence may have had tragic consequences: Countless intellectually vigorous lives may have atrophied on the mistaken assumption that old age brings an unavoidable mental deterioration.

"The expectation of a decline is a self-fulfilling prophecy," said Warner Schaie, an eminent researcher on aging. "Those who don't accept the sterotype of a helpless old age, but instead feel they can do as well in old age as they have at other times in their lives, don't become ineffective before their time."

In recent years, accumulating data have firmly shown that one key mental faculty, called crystallized intelligence, continues to rise over the life span in healthy, active people. Healthy in this context means an absence of diseases that affect the brain, such as a stroke.

Crystallized intelligence is a person's ability to use an accumulated body of general information to make judgments and solve problems. In practical terms, crystallized intelligence comes into play, for example, in understanding the arguments made in newspaper editorials, or dealing with problems for which there are no clear answers, but only better and worse options.

John Horn, a psychologist at the University of Denver who has done the main research, said crystallized intelligence continues to increase steadily throughout life, although in old age the increments become smaller.

As for the intelligence that may be lost, said Dr. Jerry Avorn of the Division on Aging at Harvard Medical School, "the deficits found in the healthy aged are in a minor range, not at all clinically impairing.

"At worst they're a nuisance," he said, "like not being able to remember names or phone numbers as well. They present no real problem for daily living."

History offers ample instances of brilliance in life's later years from Michelangelo to Martha Graham.

The new research provides a better understanding of what, apart from a lucky genetic endowment, might allow such people to maintain ther mental capabilities through old age.

The key factors included these:

Staying socially involved. Among those who decline, deterioration is most rapid in old people who withdraw from life.

Being mentally active. Well educated people who continue their intellectual interests actually tend to increase their verbal intelligence through old age.

Having a flexible personality. A longitudinal study found that those people most able to tolerate ambiguity and enjoy new experiences in middle age maintained their mental alertness best through old age.

"The ability to bring to mind and entertain many different facets of information improves in many people over their vital years," Dr. Horn said. "One way this shows up is in the ability of older people to wax eloquently. They have a rich, evocative fluency; they can say the same thing in five different ways. In our research, they're better in this sort of knowledge than the young people we see."

This increase occurs despite the simultaneous decline from early adulthood onward of "fluid intelligence," a set of abilities involved in seeing and using abstract relationships and patterns, such as in playing chess. Fluid intelligence, Dr. Horn believes, may be more vulnerable to changes in the nervous system as a person ages than is crystallized intelligence.

According to Martha Storandt, a psychologist at Washington University in St. Louis, "The fluid intelligence drop has some impact, but people learn to compensate, even in later life. You can still learn what you want to; it just takes a little longer."

Researchers also report finding mental abilities closely related to crystallized intelligence that improve throughout old age. Roy and Janet Lachman at the University of Houston measured age differences in "world knowledge," the information people acquire in both their formal education and day-to-day experience. This knowledge ranges from facts like the name of Britain's Prime Minister to knowing signs of danger in the street. The total store of such information, they found, increased with age through the 70's. What's more, the oldest group tested was more efficient in recalling these facts than groups in middle age or in their 20's.

Memory loss that does occur in old age appears, in some measure, to be exaggerated because it is awaited with such dread. Marion Perlmutter, in "New Directions in Memory and Aging" (Lawrence Erlbaum Associates), observes a decline in some memory ability appears in early adulthood, too, but it is not so alarming then. It is possible, she writes, that "age merely increases sensitivity or awareness and disturbance about memory problems."

"When people say 'Old Granny's lost her memory,'" Dr. Horn added, "there's generally a little truth in it, but not as much as poeple make out."

In the forefront of the current research has been Dr. Schaie, who for several years directed a study of aging in Seattle. That project was one of the first to show how various mental capacities changed as people aged. Begun in the mid-1950's, the study has had more than 3,000 participants, some retested every seven years for as long as 21 years, and has followed some into their late 80's.

Dr. Schaie, writing in Longitudinal Studies of Psychological Development (Guilford

Press), reports that, on average, the declines in such mental abilities as fluency and spatial relations, while clear from test results, have little practical significance until the mid-70's or early 80's.

"For some mental capacities," he said in an interview, "there begin to be slight declines in the 60's, and, for most people there are meaningful declines by the 80's. But some mental capacities decline very little, or can even improve in old age."

As people reach their 70's, the Seattle study shows, there is increasingly great variability in mental capacities, some people faring quite poorly, while others retain their abilities well.

"Some of our people have shown no declines that interfere with daily living into their 80's," he said.

One of the major factors in maintaining or improving mental capacities was social involvement. Elderly people who lived with their families and were actively engaged with life actually showed an increase in mental abilities over a 14-year-period, while those who lived on their own and were withdrawn from life had a decline. The greatest decline was among widowed housewives who had never had a career of their own and led restricted lives.

The study found, too, people who in midlife had more flexible personalities and were able to see life from differing points of view performed at higher intellectual levels in old age.

Dr. Schaie's research has shown that declines in such abilities as spatial orientation can be reversed in the elderly with simple tutoring. "The use-it-or-lose-it principle applies not only to the maintenance of muscular flexibility, but to the maintenance of a high level of intellectual performance as well," Dr. Schaie said.

Others agree the faculties people use most are likely to hold up best in old age. Nancy Denney, a psychologist consulting at the Institute on Aging at the University of Wisconsin, said, "What one does during one's life makes all the difference." The reason verbal abilities can increase over the lifetime is that people exercise that capacity all the time.

Gerontology texts in the past contained a litany of studies showing a relentless decline in mental abilities of the aged. It now appears much of that research may have been inadvertently biased against the elderly.

"Many tests that were used to assess the cognitive abilities of the elderly are biased in favor of younger people with whom they are compared," said Leonard Poon, a psychologist at Harvard Medical School. "One test involved remembering pairs of nonsense words. College students are motivated to try their best on such tests. But older people just don't care much about nonsense words. What looks like a diminished ability in the elderly may partly be lack of interest."

Writing in The Journal of the American Geriatrics Society, Dr. Avorn of Harvard criticized much of the scientific literature comparing mental abilities of aged and young groups. While nearly all college students are free of major illness, Dr. Avorn noted, the same assumption cannot be made about people in their 70's. Nonetheless, researchers have often asked the aged only if they were in good health, thus failing to weed out people whose conditions could impair mental performance. Such performance lags may be erroneously attributed to aging rather than to disease. Another hidden bias, Dr. Avorn said, is that many elderly people take medications that can diminish mental function.

Still another cause of distortion is the practice of comparing people in their 70's who have had little education with college students. The older group is thus at a disadvantage both by virtue of educational status and unfamiliarity with test-taking.

In studies in which researchers used such incentives as Green Stamps to motivate elderly subjects, there were significant gains in scores on abilities like reaction time, which are typically listed among the faculties that undergo inevitable decline with age. Such studies are among those suggesting that many cognitive deficits in the aged are largely a result of social or psychological factors rather than of aging itself.

The new view is accompanied by data attacking the notion that the brain degenerates precipitously with aging. The widespread belief that there is devastating cell loss in the elderly brain—and the related claim that each drink of liquor destroys a large amount of brain cells—seem now to unfounded. Marian Diamond, a neuroanatomist at the University of California at Berkeley, tried to track down the source of the belief and could find no definitive study providing it.

Dr. Diamond's own research was one of the few studies ever done to directly assess cell loss rates as the brain ages. Her results indicate that, while there is some cell loss, the greatest decrease is early in life and subsequent losses are not significant, even into late life.

A recent study of brain chemistry at the National Institute of Aging, using a brain scan to study men whose ages ranged from 21 to 83, found that "the healthy aged brain is as active and efficient as the healthy young brain," based on the direct assessment of metabolic activitiy in various parts of the brain.

The researchers also propose that declines in vision or hearing may account for changes in the level of brain activity that some investigators have attributed to brain aging.

It might also mean, they suggest, that the developing human brain acquires more brain cells than it will ever need, and that whatever brain cell loss there might be, there are still more than enough surviving cells to support efficient functioning.

"The belief that if you live long enough you will become senile is just wrong," said Robert Butler, a psychiatrist who was the founding director of the National Institute on Aging and is now head of the program in geriatric medicine at Mount Sinai Hospital. "Senility is a sign of disease, not part of the normal aging process."

The widespread belief in an inevitable mental decliine in old age, though, has sometimes led people to mistake a reversible mental deterioration in an older person for the beginnings of senility.

"What can happen," Dr Avorn said, "is that an older person who is admitted to a hospital for something like a broken hip or heart attack can become confused as a side effect of drugs or simply from the strangeness of the hospital routine. The condition is reversible, but the family, or even the physician, doesn't recognize that fact. They assume this is the beginning of senile dementia, and pack the person off to a nursing home."

"No one knows what exact proportion of people in nursing homes needn't be there," he said, "but we have ample clinical evidence that the numbers are large."●

BREAKING UNION CONTRACTS MADE EASIER

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. OWENS. Mr. Speaker, my lawyer friends tell me that there is not a contract in the world that cannot be broken if one but works at it hard enough. It would now appear that the Supreme Court, in NLRB against Bildisco & Bildisco has made it so that the lawyers will not have to work quite so hard to break union contracts.

When the Congress was considering the bankruptcy law in 1978, the principle enunciated in *Brotherhood of Railway and Airline Clerks v. REA Express, Inc.* (523 F.2d 164, 167-169 (CA2), cert. denied, 423 U.S. 1017 (1975)) were applied when a company in bankruptcy sought to reject a union contract. This strict standard was overruled by Bildisco on February 22, 1984.

It is now possible to reject a union contract in bankruptcy when that contract is merely "burdensome" to the estate and the equities can be said to be balanced against the contract. This principle has been eagerly sought by the companies who have entered bankruptcy for the sole purpose of reopening their freely made contracts with unions.

It is clear to any reasonable person that a company's wealth will be increased if it pays less to labor. This is even more the case in labor-intensive industries. However, it has long been the policy in this country to encourage the development of contracts between labor and management that strike a balance that both can agree upon. After the struggle of negotiations, both sides can pause and set about the business of getting along together until the next contract, the next round of negotiations.

Now, Bildisco ends this state of affairs by making it possible for management to open, or threaten to open, negotiations at any time by going into chapter 11 bankruptcy or threatening to go into chapter 11 bankruptcy. A deal is no longer a deal. There is the ever-present threat by management to welsh on its deal through legal maneuvers which have now been encouraged by the Supreme Court.

Labor and management can work best together when there is a sense of stability and trust in the relationship. The ruling in Bildisco creates a climate of uncertainty and distrust which will ultimately ill serve both labor and management. It is our responsibility to end this forthwith through the passage of H.R. 4908 which has been introduced by Mr. RODINO.●

THE CALIFORNIA YOUTH SYMPHONY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. LANTOS. Mr. Speaker, I would like to express my support and appreciation for a most worthwhile organization—the California Youth Symphony. Currently in its 32d year, this symphony has provided 1,500 young people the unique opportunity to learn to play great music together, to love the music, and to enjoy the challenge of performing at the highest level. These young people have learned these lessons so well that they carried their music into adult life as performers, teachers, and audiences. They have contributed greatly to the cultural life in the San Francisco Bay area as well as throughout the United States.

This year, the orchestra takes on a new challenge and a new horizon. The California Youth Symphony in June will perform in the Mexican capital as well as in the cities of Guadalajara, Guanajuato, and Puerta Vallarta. All of the performances will charge admission, the entire proceeds of which will be turned over to the United Nations International Children's Educational Fund (UNICEF).

These young ambassadors will foster good relations with our neighbor and friend to the south, and perform before the United Nations community in Mexico City, as well as before Mexican Government officials and representatives of major American corporations doing business in Mexico.

Their Mexican hosts share my tremendous enthusiasm for these young performers since their June visit will be one of the major social events of the year in the performance cities. KCSM-TV has indicated its interest in developing a 1-hour special covering this historic event, to be released over the National Public Television Network. They are also to be specially recognized for their interest and support.

Mr. Speaker, I know that my colleagues who also represent these talented youth share my pleasure in commending the California Youth Symphony.●

MAPLE HEIGHTS SENIOR PROGRAM

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Ms. OAKAR. Mr. Speaker, one of the finest programs for seniors in the country is in Maple Heights, Ohio. Under the outstanding direction of Bunny Justin, this program has served as a model for all.

The following is an article which appeared recently in the Maple Heights Press by Dan Santos:

"This is the closest thing to a family that some of our people have," said Bunny Justin, director of the department of Human Services for the city and former coordinator of the Senior Citizens Program.

"Some of our seniors do have families that love them but they may be far away; across the country," she said. "Some of our seniors have been abused and mistreated and we try to help them. Some of them find themselves newly retired and it's a retirement they didn't plan for. We try to enrich their retirement for them. Some of our seniors are gregarious and feel the need to be outgoing and to be surrounded by other people. We fill many needs here.

"What we are all about here is touching someone else's life to help make it meaningful. The reward is that once in a blue moon if you are able to make a difference it's all worth it."

The city's Senior Citizen Program, under the umbrella of the new Human Services Department, is marking its tenth year of existence this year. According to Justin, the new human services designation more accurately fits what the department will be trying to offer. It will still provide the same services to senior citizens, she said, but other people who find they need help, with personal or medical problems, will also benefit from the expanded service offerings. Of course, the seniors in the program will also benefit from the new areas of service.

The Senior Citizen Program started in 1973 when resident Ray Seilinski requested that Mayor Emil J. Lisy Jr. form an organization so seniors in the city could congregate and play cards and, generally, share some time with each other.

The seniors first started meeting at the City Hall Annex that year and the nutrition program originally started in 1974. Justin first became coordinator of the Senior Citizen Program in 1976 and the program added more services to the nutrition program.

In 1976 there were 250 senior citizens who participated in the program, Justin said. Today, approximately 3,000 area people age 60 and over call themselves members of the Maple Heights Senior Citizen Program.

Assisting the Senior Citizen Program staff are 250 volunteers, many who are also members of the program. "Volunteers are not hard for us to get," Justin said. "Many of our volunteers are over age 60 and are more than willing to help out."

The Senior Citizen Program operates under an open door policy; anyone over 60 is invited (except for transportation service), as required through the Older Americans Act, which defines the types and amounts of federal funds the program receives.

As the population in the area increases in age, Justin said, "we can see that the program is needed; we do provide a worthwhile service here."

Following is a review of the different services offered by the Senior Citizen Program:

Nutrition program.—Offers a hot lunch Monday through Friday. Meal reservations are taken one week in advance on a Monday or Tuesday.

Transportation.—Van service is available for area shopping trips and visits to the Senior Citizen Center and the doctor's office.

Telephone reassurance.—A daily call to homebound elderly to keep in touch with the community and provide a security link. Senior Citizen Program staff and volunteers make about 200 such calls daily.

Outreach.—An outreach visit may be arranged for frail or isolated elderly who need assistance and information.

Health programs.—Blood Pressures are taken twice a month. Also offered are hearing screenings and glaucoma testing.

Continuing education.—Courses in conjunction with Cuyahoga Community College's Elder's Campus are offered at the center every semester. Featured are lecture series, book discussions, photography, workshops, consumer information and updates on state and federal legislation affecting senior citizens.

Recreational activities.—Bowling, swimming, crafts, bridge, holiday programs, summer picnics and tours are both regular features and special events in the program.

Additionally, staff and volunteers in the program can help seniors and anyone else needing information about Social Security, Homestead Exemption, water bill discounts, Ohio Energy Credits Program, Home Energy Assistance Program, Meals on Wheels, Medicaid, Medicare, and the Legal Aid Society.

The Senior Citizen Program and Human Services Department are currently housed in the old Maple Heights Library, 15901 Libby Road, which has been extensively remodeled and redecorated.

The building has kitchen facilities, meeting rooms and offices for staff members. Previously, the staff was located at City Hall and seniors met at the civic center of the new Maple Heights Library.

Justin said the new building will allow her and the staff to be more accessible to the senior citizens and make it possible to offer the expanded services.

"We hope (that with the new building) we will be able to offer more help to people with personal problems," Justin said. "We might offer a preventative health clinic, a free podiatrist service, more advocacy on Social Security, and more programs with the Society for the Blind."

"We will have to prioritize the services we offer so as not to neglect senior citizens," Justin said. "We don't want that to ever happen. When we develop the new programs, we hope to enhance our present program."

Justin herself became involved in the Senior Citizen Program due to what she terms a natural development of her upbringing.

"When I was being brought up, I was very close to my grandparents; they were very special people. I still have a great affection for older people. I look at my work here as almost like paying homage to the memory of my grandparents; sort of repaying them for helping me," she said.

"My grandmother was very active politically and very well-read. When I was growing up, she showed me a lot of the things that my parents didn't approve of. My mother didn't drink or smoke, but my grandmother showed me the ropes in that area. The thing about her, though, is that she always had to have the best. If you're going to drink, she figured, you might as well drink the top shelf stuff.

"I guess I got into social services because my family has always been involved with that area."

Before being named senior citizens coordinator, Justin coordinated the city's Bicentennial effort. She was also active in Headstart as a bilingual translator, as a volunteer with the Red Cross Blood Bank, the Girl Scouts, the PTA and as a church volunteer.

"I've always been involved in one way or another as a volunteer," she said. "I've always been doing some type of service."

The staff and volunteers at the Senior Citizen Program are involved in constantly updating and revising the offerings to make them available to more persons, Justin said.

"We have to assess the needs of our senior citizens and then be honest with ourselves about what we can do with the resources we have," she said. "We also have to be careful to respect people's rights at whatever age they are. We can't force what we think is right on people at any age."

Justin said although 3,000 people are members of the Senior Citizen Programs, the new center is not equipped to handle that many people at one time. "The members divide their time depending on what specific services they need," she said. "Some people need the nutrition program; for many it's their only hot meal of the day. Some only participate in the Elder's Programs and some people come just to play bridge."

Justin said that although the program tries to reach as many people as possible and meet their needs, the service cannot be provided 24 hours a day, which some people may need.

"The hardest time for us and some of our seniors to handle are the holidays of Thanksgiving, Christmas and New Years," she said. "Because of the holidays, we are closed an extra day and some people don't get the hot meal that day, or they go without companionship an extra day. It's very painful for some people. I know if I didn't have a family myself, I'd be right here (at the center) with them."

Justin said at a time when the elderly population is increasing, the trend for the federal government is to divert funds from services for senior citizens. She termed President Reagan's policies regarding senior citizens "insensitive."

"How can someone who has never suffered feel the need for help?" she asked. "He's rich. If his wrinkles get to him, he can afford to get a facelift. With our senior citizens, their worries are basic—how to pay for food and heat."

Since 1980, Justin said, funding for programs covered by the Older Americans Act has not increased, except for a yearly 5 percent cost of living adjustment. "It's difficult, because we have to reach out to more people," Justin said. "Luckily, we have a lot of dedicated volunteers and the city administration is committed to making the program the best possible. They see the need."

Justin said two federal legislators who have been helpful regarding the needs of senior citizens are Congresswoman Mary Rose Oakar and Senator John Glenn.

One major obstacle the Senior Citizen Program faces is insensitivity among both legislators and the general public, Justin said. "We're up against a lot of insensitivity," she said. "A lot of people think that senior citizens are getting too much already. But they probably have never come into contact with a senior citizen or a person who needs help."

Anyone wishing more information about the Maple Heights Senior Citizen Program can call the center at 587-0015.●

TRAINING IN TECHNICAL SKILLS OF LITTLE HELP IF THERE ARE NO JOBS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. WALGREN. Mr. Speaker, on February 10, the Subcommittee on Science, Research and Technology, which I chair, held a hearing in Pittsburgh on the needs of math-science education. Dan Swickline, president of Local 2591 of the Communications Workers of America, presented a compelling extemporaneous view of the fact that, even in the communications industry, skilled workers are finding no employment. I would like to share his testimony with my colleagues. He provides a firsthand look at the effects of the recession on western Pennsylvania for employees with technical skills who are out of work.

The testimony follows:

STATEMENT OF DAN SWICKLINE, COMMUNICATIONS WORKERS OF AMERICA, LOCAL 2591

Mr. SWICKLINE. Thank you, Chairman Walgren, Ms. Bach, Dr. Brown. I was sort of hoping that your aide, Ms. McCormick would be here. She wouldn't take no for an answer.

I felt at the time when she asked me to come that I might not be able to add substantially to the information you were receiving. After listening to the three preceding gentlemen I am convinced of that, but I would still like to sign her up as a steward for my local. She is quite convincing.

A little background on myself. I am the president of CWA Local 2591. I represent 5 separate contracts. I negotiated primarily Western Electric employees and the shop and warehouse and installation divisions.

I also represent an interconnect company which deals in installations of telephone and telecommunications equipment, an electrical company, an electrical contractor and a construction firm. So I have sort of a wide range of work groups.

In all of those work groups the basic education requirements are a high school education. The electrical contractor himself at times, has hired employees that have technical training at one of the local technical schools. In the Western Electric groups, as has been the practice in the whole Bell System, which I am familiar with, they like to mold their own employees in their own fashion.

The groups that I presently represent have been reduced so much in size. At one time the Western Electric installation group that I represented was 550 installers. There are presently 96 left. Of the warehouse and shop men only 18 of the original 220 are left.

In the State, with my brother local in Philadelphia, we at one time 10 years ago represented approximately 1,800 employees just in the Bell System alone. We now represent about 330 combined in both locals.

Again, to get back to my background, I have been an officer and a steward for 30 years and a president for 17 years, and I have never seen our industry so distraught. It is not quite chaos but confusion especially because of divestiture.

In particular the installation division, probably the most skilled employees in the Bell System, their skills were acquired through the Western Electric Company sending individuals to various schools throughout the country.

The types of equipment that they presently install basically don't wear out. If something does require maintenance a computer tells the maintenance people what has to be replaced. It is not repaired; it is replaced as a unit. This requires even less skill.

At one time, and just 10 or 15 years ago, it used to take my men upwards of a year to install a central telephone office. The maximum time today for the latest electronic switching systems equipment is no more than 17 weeks. Depending on the amount of telephone lines that go into a central office, sometimes it may take as little as 6 and 9 weeks.

I also represent workers in a small interconnect company. The interconnect company itself has changed hands at least a half dozen times in the 10 years I have had them under contract. They are presently owned by a conglomerate.

My own personal opinion is that the only reason they bought them is for tax purposes, because the telecommunications market rises and falls so quickly, and there is so much competition, that they have a hard time keeping their noses, so to speak, above financial water.

Your letter asked that I discuss the current and future personal needs of your company and industry. The group that I am most familiar with is the Western Electric group. In Pennsylvania, they haven't hired since 1970. In 1970 we had 32,000 employees in the installation division alone nationwide. Today we have only 11,500 nationwide.

As I told you, in the warehouse and shop in the Pennsylvania Avenue plant there are 18 employees left there out of 220. That building has been sold and I expect the 18 employees to be phased out within the next few months.

In the interconnect industry, and I am pretty familiar with that, there is such a glut of electronic skilled ex-employees skilled in electronics that have been laid-off in Pennsylvania that companies in the area have very little trouble getting skilled employees.

In particular, the MCI Corporation is picking the cream of the crop of my laid-off Western Electric employees. There is hardly any need to retrain them and most of the interconnect companies throughout the country are doing just that. If a Bell unit has a layoff, the interconnects are eager for those people because they are so skilled and have been trained so well.

As far as future hiring, I doubt it if Western Electric will do any more hiring. The 11,500 we have nationwide are more than sufficient.

Lately I have been negotiating with management just on bringing in temporary help. They don't want to hire full-time or even part-time help because, even with part-time help, they would be required to give fringe benefits.

What they want to hire now is temporary help—hands to do the heavy labor work, which there is not much of—and then terminate them as quickly as the job is done on a one-job basis. Some of our locals have gone through this process. They have agreed to hire temporary help for no more than 6 months, and on a job-by-job basis.

The only fringe benefit they are entitled to is a holiday. If a holiday should fall any time during their work period. They start at the minimum and if they should stay long enough to reach 3 months, they would acquire another upgrade in pay, which is only about a dime.

With respect to necessary work skills, I am familiar with every phase of the telephone industry and I know the type of hiring that did occur at one time in the Bell System.

The Bell System likes to train their own, regardless of whether it's a Bell line man or a Western Electric installer or an AT&T crafts person. They prefer to train their employees in their own mold and at their own schools with hands-on types of training.

As far as the other companies that I represent are concerned, if the electrical firm I told you about hires in this market in Pittsburgh, they have no trouble hiring electricians that have been laid off in the mills and factories with lots of service and a lot of electrical skills. So they've got a free market, an open market to pick out the best.

I just recently negotiated a contract with them and their major demand was to reduce the starting rate so that he could hire these people at a lower rate than I normally had written into the contract.

As far as potential improvement through cooperative training programs with local schools is concerned, Western Electric Company never did associate in any way with the local schools. That's unfortunate because it probably would have helped the company more than the schools. I am not that familiar with the Bell system approaching local schools. I know that both Bell and Western Electric do have a national scholarship program and I remember there was one local resident, one time in all the 30-some years that I have been associated with Western Electric, that has won the scholarship.

I hate to be so depressing. That was one of the reasons why I didn't think I should be here, but it's the truth in our industry, the electronics industry especially in telephone and telecommunications.

We have got too many employees. I can't add much more to that.●

PRESERVING COMPETITION IN THE AUTO REPAIR INDUSTRY

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. DANNEMEYER. Mr. Speaker, much has been said and volumes have been written about competition lately. Every time there is a major corporate merger, or even a sizable joint venture, the need to safeguard competition is extolled by those who are suspicious of business in general and big business in particular. However, I note there has been remarkably little concern evidenced lately about the threat to competition being posed by the federally mandated, extended auto emission control system warranties—a threat that hangs like a cloud over the heads of thousands of small, independent auto parts dealers, repair shops and garages. Perhaps some of those who have been holding their tongues were thinking that the courts would uphold the 95th Congress effort to preserve what is known as the auto aftermarket industry. But if that is the case, I would suggest that they examine the recent U.S. Court of Appeals for the District of Columbia's decision in APRA and ASIA against EPA (1983); those expectations have not been realized.

Mr. Speaker, this problem is not a new one; indeed, it dates back to 1970, when Congress, in the Clean Air Act of that year, mandated a 5-year, 50,000-mile (5/50) warranty on all auto emission control system equipment and parts. Nor is it a problem that Congress has ignored entirely; in 1977, the Clean Air Act amendments of that year specifically reduced the duration of that warranty to 2 years or 24,000 miles (2/24) for all emission control system parts except the catalytic converter, thermal reactor and parts whose sole or primary purpose was the control of auto emissions. The principal source of the difficulty in this case is that EPA has chosen to define the term "primary" in such an expansive way that the action Congress took in 1977 has been effectively repealed. And nothing has been done about it. While the Court of Appeals has upheld the EPA's position, Congress put off consideration of the matter pending development of a comprehensive reform of the Clean Air Act.

As a member of the House Energy and Commerce Committee, which has jurisdiction over clean air legislation, I am only too aware of the difficulties in dealing with one Clean Air Act issue independent of all the others. However, I am also aware that it has been estimated that failure to deal with this issue will not only cost motorists an extra $1.7 billion in the years ahead but that thousands of people working in the auto aftermarket industry will lose their jobs if something is not done soon. Indicative of the difficulty are the results of a 1980 study conducted by the Champion Spark Plug Co. in my home State of California, which has a 5/50 warranty on all emission control system parts. That study showed that new car dealers enjoyed a 52.7 percent share of the spark plug market in California compared to a 39.1 percent market share for new car dealers nationally. From those figures, it can easily be extrapolated that independent parts dealers and repair shops would suffer a similar disadvantage with respect to a whole host of other auto parts if EPA's expansive emissions control warranty policy remains intact.

Another aspect of the problem involves what is known as "add-on" business. Inasmuch as most Americans do not like to take their cars in for repairs any more than they have to, those who go back to the dealer for emissions system work under warranty frequently have the dealer's service department make other repairs on the car at the same time. Those repairs might involve tires, brakes, the transmission, windshield wipers, or other items not related to emission control, but they all represent lost business opportunity for the independent parts dealers or garage. And from what southern California independent garages have shown me, those lost business opportunities can really add up.

Bemoaning the losses will not solve the problem and, from the looks of it, neither will the courts. Thus, it is up to Congress to offer alternative solutions and, hopefully, to act upon them as soon as possible. In the 97th Congress, I offered two bills dealing with this subject—H.R. 2258 and H.R. 2259—but, while one of them (H.R. 2259) was partially incorporated into the comprehensive clean air bill (H.R. 5252) considered by the Energy and Commerce Committee 2 years ago, neither they or any other auto emission system warranty bill became law. So this year, I introduced another measure—H.R. 3476—which I hoped, and still hope, might be a solution to the problem. For all States, including California, H.R. 3476 would eliminate the production warranty and would roll back the performance warranty to 2 years, 24,000 miles, for all emission system parts. However, I recognize that there is some sentiment for retaining a 2/24 production warranty, some need to clarify that the elimination of the so-called "California waiver" would apply to the emission system warranty portion of that waiver and some rationale for tightening up troublesome terminology. Therefore, I have decided to introduce another bill for consideration as a potential solution to the dilemma currently facing us as a result of long-term, federally mandated auto emission control system warranties. That bill, which I am introducing today, would deal with the anticompetitive effects of the current law as interpreted by the EPA in several ways. First, it would limit the production as well as the performance warranty (on auto emission systems) to 2 years or 24,000 miles and, to make sure the list of parts covered is not subsequently expanded, it would specifically limit the parts to which those warranties would apply to the catalytic converter, the thermal reactor and parts solely used for emissions control. EPA would retain the right to recall emissions failures for up to 5 years, 50,000 miles. Second, it further increases competition by repealing the counterproductive parts certification program (which few businesses are likely to comply with) and by doing away with the waiver that allows auto manufacturers to specify the use of one of their own part(s). Third, it puts independent California auto parts dealers and repair shops under the same warranty requirements (2/24) that would apply to their counterparts in other States. And finally it brings the antitampering provisions of the law closer to reality by permitting the removal of auto pollution control equipment for purposes of routine maintenance (only). In short, this bill represents an effective, yet balanced, approach to the problem at hand. Moreover, it is one that should garner considerable support if the deliberations over the warranty sections of H.R. 5252 are any guide.

Mr. Speaker, in closing, just let me add one final thought. What we are confronted with here—this threat to competition—is yet another example of good intentions gone astray. All of us want cleaner air, but the cleanup program these warranties are designed to facilitate—the auto emission inspection and maintenance (I/M) program—will not reduce air pollution all that much (5 percent at most) now and, thanks to improving auto emission control technology, even less in the future. That being the case, the adverse effects of these warranties cannot be either justified or overlooked. They must be taken into account if we are interested in preserving competition and an important sector of the American small buisness community. The legislation I have introduced today, as well as the bills I have introduced earlier, will restore and preserve that competition and, in the long run, provide the best guarantee of protection that consumers can expect to obtain.●

MR. CHERNENKO, FREE ESTONIA AND WORK FOR WORLD PEACE

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1984

● Mr. ADDABBO. Mr. Speaker, the Soviet Union has failed to break the spirit of the Estonian people. For over 40 years the Soviets have tried and tried and tried some more to eradicate the culturally diverse Estonian heritage. KGB death squads, Soviet troop maneuvers on the village greens of towns, and local police raids which employ the most up-to-date torture techniques have not been able to mold Estonians into a nation of Soviet puppets. Why does Mr. Chernenko fail to understand that you cannot build a nation by denying men their human rights? You can tie a man's hands behind his back, you can shackle his feet with electrical cord, you can probe the private parts of his body, but you cannot rape him of his desire to be free. This is the heart and soul of the Estonian people, and an inalienable right of all men.

Today, the Estonian people celebrate the 66th anniversary of their independence even though their homeland remains bound in a Soviet straitjacket. I stand with the Estonian people and reinforce the commitment I have made on behalf of their movement to regain their homeland. I would like to pay tribute to Estonians by broadcasting the current state of the union in that country. By doing so the world will be forced to deal with the facts this reality confronts us with on a daily basis. I hope that it will result in all nations applying pressure to the Soviet Union on behalf of the Estonian people.

Soviet occupation of Estonia is not diminishing, it is increasing. At last count there were 122,000 Soviet troops in that land. That amounts to almost 1 soldier for every 12 citizens. These soldiers are not officers of peace stationed to enforce the free rights of men. They are combat ready troops invading the privacy of Estonians in cities, towns, and villages.

Their mission in Estonia has been a failure. Not only have these Darth Vaders failed to suppress the resolve of the Estonian nationalists to be free, they have failed to silence the call for Soviet peace.

In the fall of 1981, a responsible group of Estonian, Latvian, and Lithuanian activists, alarmed at the buildup of troops, and the expansion of military bases in the Baltic States signed a petition for a nuclear free zone to be established in Northern Europe. They cited the construction of a military harbor at Muuga, and the appearance of missile bases at Suurupi, as well as the development of several atomic and conventional weapons munitions within Estonia, as evidence of Soviet aggression. They called for a complete disarmament.

The Soviet response to the concerns of these citizens was characteristic; their homes were searched, their families were disrupted, and they were thrown into prison. The iron message is that at the same time, the Soviet diplomats were accusing the United States of escalating world tensions by refusing to recognize our peace movements at home.

On December 16, 1983, three of the Estonian signers of this peace document were sentenced to labor camps for their crimes against the Soviet Government. Heiki Ahonen, Arvo Pesti, and Lagle Parek, are all young professionals that have been fighting Soviet repression all their lives. Their sentences include hard labor in concentration camp prisons followed by domestic exiles.

Mr. Speaker, is it impossible for the Soviets to recognize the contributions that these well-educated, concerned, Estonian nationalists offer to their society? They offer a chance for peace. There is no denying that their message is world peace. But at a recent conference on "Confidence and Security Building Measures and Disarmament in Europe," the Soviet Union accused these Baltic nationalists and the United States of threatening world peace. It is so inconceivable to me how the Soviets can offer such a charge that I must ask Mr. Chernenko directly to respond to me on this matter. I want to know why he continues to deny these Estonian nationalists their human rights.

The plight of the Soviets involvement in Estonia is indeed confusing. They are preaching world peace and then building up armaments. What is even more disturbing is the Estonian nationalists who are suffering as a result of their policies. The day has come for Mr. Chernenko to get his house in order and release Estonia and work together with the United States for world peace. This policy must start with providing all men with their rights to be free.●

JERUSALEM IS THE CAPITAL OF ISRAEL AND OUR EMBASSY IN ISRAEL SHOULD BE IN ITS CAPITAL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. LANTOS. Mr. Speaker, in hearings held before the Senate Foreign Relations Committee last week, my good friend Senator MOYNIHAN of New York presented testimony on behalf of the bill he introduced in the Senate to move our Embassy in Israel from Tel Aviv to Jerusalem.

My distinguished colleague BEN GILMAN and I have introduced identical legislation in the House of Representatives, and nearly 100 of the Members of this body have joined us in cosponsoring that legislation.

For the benefit of my colleagues in the House, I would like to include in the RECORD Senator MOYNIHAN's excellent statement.

STATEMENT BY SENATOR DANIEL PATRICK MOYNIHAN IN SUPPORT OF S. 2031

(A bill to require that the U.S. Embassy in Israel be located in Jerusalem)

Jerusalem is the capital of the State of Israel and our embassy in that State should be in its capital.

This would seem an unexceptional statement. That it is not is the result of actions the United States has taken and not taken.

In the first category is the unprecedented and bewildering practice of the United States Government in its official publications to record that there is a "country" named Israel in which our embassy is located in Tel Aviv, and another "country" named Jerusalem in which we are represented in a "post" named Jerusalem.

On page 167 of the "United States Department of State Telephone Directory" (dated January 1984), there appear in columns the names of all the American diplomatic posts abroad. The first column is titled "Country," the second "Post." In the first column, one reads alphabetically midway down the page, Ireland, Israel, Italy, Ivory Coast Jamaica, Japan, Jerusalem, Jordan, Kenya. Next to each of them in the second column are listed all of the posts in each of these countries. In Ireland, we have a post in Dublin; in Israel a post in Tel Aviv; in Italy, several posts, in Rome, Genoa, Milan, Naples, Palermo, Florence, Trieste, and Turin; in the Ivory Coast, Abidjan; in Jamaica, Kingston; several in Japan; and then, in the "country" of "Jerusalem" we have a "post" also called Jerusalem.

The Department of State also publishes a booklet titled "Key Officers of Foreign Service Posts: Guide for Business Representatives" (dated May 1983), for American businessmen who travel abroad. One finds the same principal at work: On page 34, under the entry for Israel, there is recorded the address of an embassy in Tel Aviv, the phone number, and the names of the Foreign Service Officers who work there. The same is done for Italy's several posts; and the Ivory Coast; Jamaica; Japan, with our seven posts there. Then, on page 39 one comes to the "country" of Jerusalem, where the United States apparently maintains one "post," also called Jerusalem. Jordan, Kenya, and the rest follow.

When a young person writes to the State Department for information about the examination to become a Foreign Service Officer, he or she will be sent another publication, "Foreign Service Careers." Included, once again, are all our diplomatic offices abroad. If the aspiring diplomat does not know it already, he learns here that the United States State Department maintains an office in a "country" called Jerusalem.

By contrast, the "Diplomatic List" of foreign diplomats accredited to the United States records an Ambassador from the State of Israel residing in our capital of Washington. But no one from from Jerusalem.

In the second category - things not done—I would list foremost the United States acquiescence in an extraordinary series of United Nations Security Council resolutions in the course of 1980 which addressed themselves to "Arab territories occupied by Israel, including Jerusalem." The final resolution in the series, adopted on August 20, 1980, when the United States declined to veto it, called on all member nations to withdraw their embassies from that city. In consequence 13 nations that had established their embassies to Israel in the capital of Israel withdrew. Only Costa Rica subsequently returned. This honorable committee is fully aware of the vicious anti-Israel measures which are routinely—and at ever higher levels of hostility and assertion—adopted by the United Nations. But I would call particular attention to the inane nature of this particular grotesquery.

What is this thing called "Arab territory" which Israel is alleged to occupy. Is there a nation named Arab? If so, it does not appear in the Diplomatic List or any of the other publications I have mentioned. Is this the mythic country of Araby once said to be inhabited by the Sheik thereof? Perhaps so. But there is surely no sovereign nation named Arab whose territory is capable of being occupied by another sovereign.

I have had more than a few occasions in recent years to remark on the decline in the attention paid to principles of international law in the conduct of American foreign policy. But in this matter we lapse into incoherence.

More importantly, we give succor and encouragement to avowed enemies of the State of Israel, with which we have the closest ties of shared interest and conviction.

Whether we intend it or not, our refusal to locate our embassy in Jerusalem, and our acquiescence in a Security Council resolution calling on other nations to withdraw theirs, is seen as a statement by the United States that our attachment to the permanence of the State of Israel is tentative and subject to change. This denies reality. Jerusalem is and will remain the Capital of Israel. And our refusal to acknowledge this causes pain and concern in an embattled and beleaguered democratic friend.

There have been a succession of reports that President Reagan is privately of this view. It may be that State Department policy inhibits his taking the simple action that would resolve the matter.

I would respectfully suggest that if the Congress were to enact legislation directing the executive branch in this matter, the President would be enabled to act without fear of his action being misunderstood in other capitals.

On the other hand, I would dismiss with a measure of contempt the proposition that standing by Israel in this matter would cause grave damage to our relations with other states in the region. I would note that only last August, the government of Kuwait refused to receive as our ambassador there a career Foreign Service Officer, an experienced diplomat, on the stated grounds that he had once been the American Consul General in what our State Department Telephone Directory describes as the "country" of Jerusalem. What do we gain, then, for having kept our embassy out of Jerusalem?

I would note in closing that the government of the Kingdom of Saudi Arabia, having until recently declined to have embassies located in its capital of Riyadh, has now reversed this policy, and indicated that it would like embassies to be established in Riyadh. And the United States Government, in the normal way that applies to every country in the world save one, is now proceeding to build an embassy in that capital.●

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. JOHN McCAIN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. McCAIN. Mr. Speaker, thank you for giving me this opportunity to bring to the minds of my colleagues and the American public the plight of Soviet Jews who are seeking the freedom of religion and the right to emigrate. As a participant in the 1984 Congressional Call to Conscience Vigil for Soviet Jews, I would like to call attention to not just one Soviet citizen who is being denied his inherent human rights, but to 11 Soviet Jews who have asked for nothing more than to join their loved ones in Israel; and yet, have been denied.

Ilya-Shaya Vaitzblit, Inna Gonorovskaya, Evgeny Vaitzblitm, Judith Ratner-Bialy, Leonid and Alexander Bialy, Valery and Eva Sherbaum, and Alexander and Vladimir Lerner, have all asked not once, but time and again, to emigrate to Israel where members of their families reside. These people are not dissidents. They are not refusing to obey Soviet laws. They are not attempting to change the Soviet system. They do not criticize the system. These Soviet citizens are asking only that they be allowed the right of family reunification.

The Soviet Government has said that all those wishing to emigrate have already done so. Yet these 11 Jewish refusniks, and countless others, are still living against their wishes in the Soviet Union. Not only have they been refused permission to leave the Soviet Union, but they are constantly harassed, persecuted, arrested, dismissed from positions of employment, and often imprisoned. Prof. Alexander Lerner, a prominent cyberneticist once on the staff at the Moscow Physical-Technical University, has been forbidden to teach and is isolated from his colleagues because he has sought to emigrate. His son, Vladimir, has worked hard to find employment after being repeatedly fired on the basis that he also has sought emigration. Ilya Shaya is half-blind, nearly deaf, paralyzed, and confined to bed. His wife, Inna, must work full- time caring for him. Their son, Evgeny, is not allowed to work in his professional occupation as an engineer, and is hounded from odd job to odd job. Again, this is due to his refusnik status. Members of the Bialy family have been fired from their various jobs, and Judith and Leonid Bialy are both gravely ill. Valery Sherbaum, who completed his doctoral thesis in 1972, has been refused a visa on the pretext that seven pages of his thesis were based on classified material. Consequently, because these individuals are not permitted to work, there is every possibility that they will be imprisoned as "parasites"—a term Soviet officials use for one who is not a productive member of society.

Unfortunately, Soviet persecution of the Jewish people is not new. The Communist Government of the U.S.S.R. has done its best to eradicate all the distinctive features of the Jewish culture and religion, and only the sturdy character and faith of the Jewish people has kept their cultural identity alive. These flagrant acts of injustice and inequity against the Jewish people for their attempts to exercise inherent human rights stand as further proof that the Soviet Union has failed to live up to its pledge to honor the understandings embodied in the Helsinki accords and the Declaration of Human Rights.

It is important that we continue to let the leadership of the Soviet Union know that it must live up to these pledges. It must honor the understandings expressed in the Helsinki accords, the United Nations Charter, the Universal Declaration of Human Rights, as well as the Soviet Constitution. We have the responsibility for continuing to call attention to the failure of the U.S.S.R. to honor the international commitments it has agreed upon.

These 11 people, captives in the Soviet Union, depend on us. They need us. We, in the free world, are their spokesmen. They count on us to speak out for them. They have indicated their desire to live freely and to join their families in the Jewish state. We have a great responsibility. We must be certain their voices are heard and their wishes fulfilled.●

PATRIOTISM

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. COELHO. Mr. Speaker, some say it is hard to find patriotism in this country anymore. But, youngsters in Atwater, Calif., feel that America is something to sing about—and they plan to do the singing!

I would like to take this opportunity to commend a class of 29 fifth graders at the Olaeta School in Atwater. This creative young group will hold a Patriotic Sing-a-thon from April 13 through 16—72 nonstop hours of singing about America. The children have elaborately devised rules to govern the Sing-a-thon; for example, the students plan to sing in groups of three, and they insist that there be no more than 1 minute of rest between songs and that the National Anthem be sung once every hour.

The Sing-a-thon will have judges officiating, to make sure all these rules are followed, and even "The Guinness Book of World Records" has been called on to attend and recognize a new record for continuous patriotic singing.

The students want media attention, and they want the attention of other students. In fact, they have sent letters to every school superintendent in Merced County, suggesting that their schools hold their own Sing-a-thons. Someday, they wonder if there might not be Patriotic Sing-a-thons all over the country. After all, the National Spelling Bee had to start somewhere also.

These young citizens are trying to revive interest in America and promote more widespread appreciation of this "Land of the Free." In their opinion, too many citizens take their freedom and the beauty and opportunity of this country for granted. And the students feel that this lack of appreciation is apparent in the fact that many citizens do not even know the words of the National Anthem.

Although the students in this group are no more than 10 or 11 years old, each of them has already seen, firsthand, how this land can afford opportunities to those who would otherwise have little chance to become educated or improve their status in life. Their own teacher, Joe Rivera, has told the children he would have had to work in fruit orchards all his life if the United States had not afforded him the opportunity to get an education and develop his potential.

Although Mr. Rivera has not forgotten the debt he feels he owes this country, his students feel many others, both adults and kids, have stopped appreciating how lucky they are to live in the United States.

I applaud these youngsters for reminding us all of America's greatness. When a group of motivated and truly patriotic citizens like these sing America's praises, it makes me proud to know that they are not just whistling Dixie.●

AMERICAN HEART MONTH

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. HOYER. Mr. Speaker, both the Congress and the President have designated February 1984 as "American Heart Month." In taking this action, we recognized the critical need to maintain public attention and support for the efforts underway to minimize the enormous risk many Americans face as a result of heart disease. Because of public awareness on this issue, we have seen significant improvements over the past three decades toward prevention of cardiovascular disease through proper diet, exercise and social habits. This public attention came as a direct result of the efforts and research achievements of the American Heart Association (AHA) and the National Heart, Lung and Blood Institute (NHLBI). Since 1948, these two organizations have been active partners in the battle against cardiovascular disease. Throughout this 35-year partnership, research, training, education and community programs have made a significant impact on this Nation's leading cause of death—heart disease.

It is estimated that over 42 million Americans have one or more forms of cardiovascular disease. High blood pressure afflicts an estimated 37 million adults. Diseases of the heart and blood vessels combined took the lives of almost a million Americans in 1981. Heart attacks killed approximately 559,000 that year. Strokes were fatal to 164,000. And the total cost of cardiovascular disease in 1984—including physician and nursing care, hospital and nursing home services, cost of medication, and lost output due to disability—is expected to exceed $64 billion. As alarming as these statistics may seem, there are some positive trends as well. Since 1968, the death rate from coronary heart disease has declined by 33 percent and the death rate from stroke has plummeted by 46 percent.

American Heart Association and NHLBI research efforts have contributed significantly to this remarkable decline in the mortality rate from coronary heart disease and stroke. AHA-sponsored research contributions include the development of heart-lung machines, artificial valves, bypass surgery, pacemakers, coronary care units, improved diagnostic techniques, new drugs, and control of acute rheumatic fever.

NHLBI has been at the forefront of such research advances as studies into the causes of heart attacks, the treatment of electrical disorder and heart failure, the opening of blocked vessels, advances in heart transplantation procedures and new treatment methods after heart attacks. Most recently, the NHLBI announced the results of its 10-year study of 3,806 men that offered the first conclusive evidence that lowering blood cholesterol can prevent heart attacks. The study showed that men who lower their blood cholesterol by 25 percent can cut their risk of having a heart attack by 50 percent.

The potential for further impact on the decline in death rates due to cardiovascular disease is evident in emerging applications of research findings and new technologies. Furthermore, the scope and magnitude of cardiovascular diseases include studies into the causes and treatment of sudden cardiac death; research on various ways to reduce the damage from heart attacks; the study of new techniques for the visualization of arteries to the limbs and head by noninvasive X-ray and ultrasound techniques; and studies regarding the benefit of exercise as a treatment and rehabilitation method for patients with coronary artery disease.

Mr. Speaker, the partnership between the American Heart Association and the NHLBI is a shining example of the ability of the public and private sectors to work together toward the unified goals of research into the causes, treatment, and prevention of cardiovascular disease and the transfer of knowledge gained from research in

meaningful public education campaigns. The continuation of this unique partnership offers the hope that incidence of all forms of cardiovascular disease will further decline in the years ahead.●

THE RIGHT TO EMPLOYMENT OPPORTUNITY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. OWENS. Mr. Speaker, on March 16, 1983, I introduced House Joint Resolution 202 proposing an amendment to the Constitution which provides that the United States shall guarantee to each person the right to employment opportunity. The following description of that bill and the reasons why it is needed appeared in Social Policy, Summer 1983.

Token job-creation programs have existed in a political vacuum since the Great Depression. We have seen bills from the "Employment Act of 1946" to the Humphrey-Hawkins "Full Employment and Balanced Growth Act of 1978" defanged in the legislative process, and then unenforced after their passage in watered-down versions. For example, the Humphrey-Hawkins bill *mandates* a 4 percent unemployment level for 1983. When President Reagan took office, he optimistically predicted a 6.6 percent rate for this year, which has proven minimal compared to the actual 10+ percent rate of mid-1983.

For too many elected decision makers, structural unemployment has become a fact of economic life in the United States. Caused basically by a failure to plan for full employment within the context of changing industrial and human needs, the level of "acceptable" unemployment rises with each succeeding economic cycle. We can all recall when 2 percent unemployment was considered "full employment." The acceptable rate has now risen to 7 percent in some quarters and may well increase as it becomes clearer that the U.S. economy can expand, while the number of U.S. jobs actually decreases.

The need for an employment-centered economic policy is painfully obvious. Piecemeal programmatic solutions have fallen short of the mark because the mandate to create government jobs has been unclear and inconsistent. If the government's responsibility for employment-centered planning and policy was set forth explicitly in our Constitution, however, Congress and the Executive branch would not be able to keep job-creation efforts off their legislative agendas.

In March, 1983, I introduced H.J. 202, the legislation that would add the right of employment opportunity to the Constitution. By giving the unemployed a means to address indifference and hostility to their basic need to work, H.J. 202 raises the central issue of the government's role in shaping the U.S. economy.

In recent years the Congressional right wing has honed the constitutional amendment approach into an organizing tool enviable for its ingenuity and clarity. After all, what could be grasped more easily by the public-at-large than the concept of constitutional amendments for school prayer, a balanced budget, and against abortion? A constitutional amendment gets right to the heart of a matter, putting one's morality right on the line. It is designed to endure, to end annual squabbles about, say, Medicaid funding for abortion by closing the door on abortion permanently. None of these right-wing amendments have even gotten to the state ratification stage, but passage is not the immediate aim of their sponsors: the goal is public education and a focal point for organizing.

Not that liberals have completely shunned the constitutional amendment as a way of achieving their goals. Remember the Equal Rights Amendment? The experience of ERA has left liberals and the left wary of bringing up broad principles in legislation, on the supposition that we are more likely to win fights on narrow points, without any mention of morality or ideology.

It is time for us to overcome that lack of ease in the face of evidence that the traditional programmatic approach has failed. In fact, the constitutional amendment guaranteeing each person an employment opportunity may well prove to be one of the best organizing tools of the nascent full-employment movement, as well as potentially one of the best solutions to structural unemployment.

There has been no sense of urgency in Congressional approaches to unemployment this year, no underlying assumption that private capital alone will not ease the national pain of massive joblessness. Without addressing this basic economic misapprehension, solutions to structural unemployment are impossible.

There have been times in our history when population, resources, and the level of technological development interacting freely in the marketplace might have ensured a decent living for all Americans without planning. Those times have been infrequent and it now appears that they will never come again. We have all seen that with each economic decline more and more people are driven to the despair of not being able to provide a living for themselves and their families.

The "right to employment opportunity" constitutional amendment is not going to become law overnight. It is intended to stimulate debate, to challenge the shape of the pie rather than to ask for more of the crumbs, to spur on organizing at the local level around the issue of unemployment. More than 1,000 delegates to the national Coalition of Black Trade Unionists convention in May endorsed H.J. 202; it was a major feature of the August 27 Martin Luther King 20th Anniversary March on Washington.

In short, H.J. 202 is a way of letting the Reagan right know that U.S. workers are serious about beating them at one of their own games.●

LITHUANIA'S INDEPENDENCE DAY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mr. ADDABBO. Mr. Speaker, Konstantin Chernenko may not be listening to this speech but its message undoubtably confronts him daily. Lithuanians are standing strong in their opposition to Soviet occupation. Today, we celebrate the 66th anniversary of Lithuania's independence with renewed determination that over four decades under the Soviet yoke have not quelled freedom's voices.

The courage and faith of the Lithuanian people in the face of Soviet tyranny and subjugation is ever powerful. Their spirit of independence, and the firm belief in the eventual liberation of their homeland is shared by thousands of Lithuanian Americans. We pledge our moral support. After 24 years in Congress, I believe there continues to be no greater cause to fight for than the freedom of oppressed peoples.

The world is repulsed by the Soviet Union's blatant disregard for human rights. We know the truth. Their official tools of torture are out in the open. Mind games involving hallucinogenics, shock therapy for offering opposing views, and concentration camps for political figures who dissent from "acceptable" ideologies of the Communist Party. These are the tools of the Soviet force. Freedom fighters like Antanas Terleckas, a Lithuanian political prisoner of the Soviet regime, are subjected to exile in concentration camps that have no forwarding addresses. Their families are routinely threatened to conform by the KGB's fear tactics.

Our message to the Soviets is that we are wise to their violations of human rights and it has not stopped the struggle for independence in Lithuania.

Lithuania's struggle for national sovereignty and individual freedom has been a long tough battle. Since 1940, when the Soviet Union seized power of the country, Lithuanian nationalists have fought this outside domination. The cost in human lives has been high but the Soviets have not been able to silence the determination of the Lithuanian people.

National consciousness is not diminishing in Lithuania or among citizens who live outside their homeland. It is growing more resolute, even in the face of increased aggression and imperialism. The children of men like Antanas Terleckas are growing up with their parents' convictions. They are a new generation of freedom fighters. In the United States, we continue to meet these individuals with support and recognize them as spokesmen for Lithuania.

I find there is no greater celebration than one that marks a people's independence; 66 years ago Lithuania was free. The dedication to national identity and the heritage of Lithuania serves as an example for other oppressed peoples. I am happy to reaffirm our moral commitment to Lithuania's struggle for liberty. I look forward to the day when the Lithuanian national anthem, "Lietuva Tevyne Musu," sounds the song of freedom throughout that homeland.●

THE 40TH ANNIVERSARY OF THE VETERANS' PREFERENCE ACT

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. MONTGOMERY. Mr. Speaker, one of the historic veteran's laws passed by the Congress during World War II was the Veterans' Preference Act of 1944. The legislation was signed by President Roosevelt on June 27, 1944, as Public Law 78-359. To commemorate this event, I am introducing legislation today to designate the month of June 1984 as "Veterans Preference Month."

Veterans preference in Federal employment has been a veterans benefit since 1865. In 1944, President Roosevelt recommended to Congress that the Federal Government put into one basic law all of the then existing laws, rules, regulations, and Executive orders relating to veterans preference. In doing this, President Roosevelt stated:

> "I believe that the Federal Government, functioning in its capacity as an employer, should take the lead in assuring those who are in the Armed Forces that when they return, special consideration will be given to them in their efforts to obtain employment.

The House approved the Veterans' Preference Act by a vote of 375 to 1, and it was approved unanimously by the Senate. Today the provisions of the act have been codified as part of title 5, United States Code.

Over the years, the Veterans Preference Act has helped millions of veterans and their dependents in Federal employment. For example, today, of the 2.7 million employees of the executive branch of the Government, 43 percent are veterans preference eligibles. My legislation, therefore, will call upon the President to issue a proclamation to departments and agencies of the Government and interested organizations and groups to observe the month of June with appropriate programs, ceremonies, and activities in commemoration of the Veterans' Preference Act.●

AMERICAN HEART MONTH

HON. JAMES F. McNULTY, JR.

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. McNULTY. Mr. Speaker, the old adage, "ask not what your country can do for you, ask what you can do for your country," has rung in the ears of the American people for 24 years since JFK's inauguration. But today, the statement should be amended to "ask not what your doctor can do for you, ask what you can do for your health."

At first glance, that may seem hokey, but it is not. February is American Heart Month. It is a month when 2 million Americans band together to raise money for heart disease research, and it is a month when the American Heart Association intensifies its effort to educate the American people to the causes, prevention, and cures of heart disease.

Let me take this opportunity to discuss these activities with you because if you attend programs that are being held in your community, you, too, can reduce the risk of heart disease, and limit those dreaded visits to the doctor. The major preventable risk factors to heart disease are, stop cigarette smoking, controlling high blood pressure, controlling blood cholesterol levels, and maintain a regular exercise program.

Stop smoking, if you do smoke. If you cannot stop smoking yourself, attend a smoke-enders class. Every community in the country has numerous programs sponsored by private physicians, religious orders (Seventh Day Adventist) and voluntary organizations (American Heart Association, American Lung Association, and the American Cancer Society) to stop smoking.

After all, the heart attack death rate among people who do not smoke cigarettes is considerably lower than for people who do smoke. For those who have given up the habit, the death rate eventually declines almost to that of people who have never smoked. Do yourself a favor and attend one of the clinics.

Another major controllable factor is high blood pressure. Again, every community in the United States has blood pressure screening activities going on year round. High blood pressure usually can be detected by a simple, painless test. A person with mild elevations of blood pressure often begins treatment with a program of weight reduction, if overweight, and salt restriction before drugs are recommended. In other words, if you know you have the problem, then you can take steps to help yourself.

Blood cholesterol levels too can be controlled. Too much cholesterol can cause buildups on the walls of the arteries, narrowing the passageway through which blood flows, and leading to heart attack and stroke. A doctor can measure the amount of cholesterol in the blood by a simple test. But you have to moderate your cholesterol intake through a diet low in saturated fat and cholesterol (whole milk, red meat, butter, and organ meats, etc.). If all else does not work, then medication may be necessary. But studies are showing those people who eat right are healthier; we are what we eat.

One last bit of advice: Keep that weight down, and exercise. Lack of exercise has not been clearly established as a risk factor for heart attack. But when combined with overeating, lack of exercise may lead to excess weight, which is clearly a contributing factor.

What all this advice boils down to is that you must take control of your life. If you take control, you will lead a happier, healthier, and heartier life.●

AMERICAN SCIENTISTS APPEAL FOR RELEASE OF VALERY SENDEROV AND YOSEF BEGUN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28 1984

● Mr. SOLARZ. Mr. Speaker, recently, at the annual meeting of the American Mathematical Society, concerned mathematicians sent three petitions to Soviet officials on behalf of their colleagues who are suffering from oppression in the Soviet Union. These messages appealed for the release of Prisoners of Conscience Valery Senderov and Yosef Begun, and for the granting of exit visas for seven mathematicians denied permission to emigrate, some for more than 10 years.

The American mathematicians are very disturbed by the deteriorating human rights situation among academics in the Soviet Union. This condition has manifested itself in the form of increased assaults against scientists who seek to emigrate or to exercise fundamental freedoms, and by the growth of anti-Semitism in Soviet academic circles.

It was the onslaught of anti-Semitism that Valery Senderov sought to expose in his statistical study entitled "Intellectual Genocide." This paper, which disclosed the fact that Jewish applicants are being given different and markedly more difficult admissions exams, caused Senderov to be sentenced to 12 years of hard labor and internal exile.

In their petitions, the American Mathematical Society appealed to the overseer of the penal system to allow Senderov to "send out his scientific papers and to continue his research in mathematics for the duration of his imprisonment."

The mathematicians have also demonstrated their strong support for their Soviet colleague Yosef Begun, who recently received the same sentence as Senderov because he, too, persisted in seeking emigration and openly practicing his religion. The petition sent by this group asked the Soviets to release Begun and to allow him to emigrate to Israel.

In their final appeal, directed at the chief of the Soviet Office of Visas and Registration, the petitioners called on him to permit the emigration of seven other mathematicians. These scientists have been repeatedly refused permission to leave the country and have also been forbidden to pursue their professions.

Mr. Speaker, I would like to add my voice to the protests of these American scientists. I am sure that my colleagues share with me a deep concern for the courageous individuals and refuseniks such as Senderov and Begun, who are not afraid to fight for their rights of scientific and religious freedom. I hope that all of us will be inspired by their example to intensify our efforts on behalf of those brave men and women subjected to continous repression.●

IN TRIBUTE TO MINORU YASUI

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. MATSUI. Mr. Speaker, on March 3, 1984, the community of Denver will be hosting a testimonial dinner to honor one of their finest citizens, Mr. Minoru Yasui. Anyone familiar with the abilities and achievements of Min Yasui would agree that it is most appropriate that we pause and pay tribute to Min's selfless philosophy of community service.

While Min's career has spanned several professions, he has dedicated his efforts to insuring the equal sharing of human dignity by all people. This commitment is demonstrated by his involvement in all facets of life in the Denver community. His activities range from serving as a founding member of the Urban League, the chairman of the Japanese American Citizens League, and a member of the International Association of Human Rights Agencies, to serving on the superintendent of schools executive advisory board, the Denver Anti-Crime Council and the Boy Scouts of American Council. The great variety of his accomplishments attest to his concern for all aspects of Denver's civic needs.

Among Min's noteworthy achievements, in his establishment of the commission on community relations in 1967. Under Min's guidance, the commission has served as a springboard for expanding cultural and community oriented programs and acts as a continuing forum to communicate a better understanding of the numerous ethnic, religious, and neighborhood groups that make up the Denver community.

Given this outstanding record of public service, I am sure that all Members of the House will join me in extending best wishes to Min Yasui.●

HOW THE B-1 MAFIA OVERPOWERED OPPONENTS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. SEIBERLING. Mr. Speaker, last week I placed in the RECORD the first two of a series of three articles by Frank Greve of Knight-Ridder newspapers on the methods used by the Pentagon and North American Rockwell Corp. to keep the B-1 bomber project alive and to manipulate the Congress into reauthorizing it after it had been canceled by President Carter. Today, I am offering the third of the articles in the series, which constitute a classic story of the inner workings of the military industrial complex to the end that they succeeded in obtaining tens of billions of dollars for a weapons system of only marginal value and which was even detrimental to our overall military preparedness.

Today's installment is about the resourceful and ruthless Air Force officers who won stars and eagles fighting for the B-1 and won a Pentagon nickname of "the B-1 Mafia." It is a story that can only bring one to the depressing conclusion that deception of Congress and top civilian officials in the Defense Department, and conflicts of interest by high military and civilian officials, have become a way of life at the Pentagon. It is a story of the stacking of a supposedly objective Science Advisory Board to produce biased results, of the exclusion from its sessions of civilians and generals alike who dissented from its preordained conclusion, of the diversion of money from the Stealth bomber project to make the B-1 budget look smaller than it really is and even of the development of two different cost estimates, one that showed the "official" cost and the other what the planners really thought it would cost. The technique is reminiscent of the "dual system" of reporting which the military used during the Vietnam war to deceive Congress and the public and conceal the fact that the Air Force was secretly bombing Cambodia.

All in all, the article says, $5 to $7 billion have been shifted from the B-1 to other accounts or obtained from the top secret Stealth technology accounts to conceal the true cost of the B-1 project.

The article points out that Lt. Gen. Kelly Burke, who masterminded the project, has since retired and is now a consultant for Rockwell International, the prime contractor on the B-1, although he failed to report that fact for 9 months after becoming a consultant while he was an adviser to White House Science Adviser George Keyworth on military uses of outer space.

Most discouraging of all, the article points out that if Secretary Weinberger, who initially opposed the B-1, had ever decided to challenge the project, he would have found it difficult to find the resources, accountants, or military experts to develop a case, since he himself downgraded the Defense Department's Planning, Analysis and Evaluation Office and demoted its chief executive from an Assistant Secretary to a mere Director. That office had come under attack in the 1980 Republican Party platform in a section written by John Lehman, then a consultant for several defense contractors and now Secretary of the Navy.

Mr. Speaker the full text of the sad story follows these remarks:

B-1 MAFIA OVERPOWERED OPPONENTS

(By Frank Greve)

WASHINGTON.—The resourceful and ruthless Air Force officers who won stars and eagles fighting for a new manned bomber also won a Pentagon nickname: the B-1 Mafia.

They earned the sobriquet by ignoring a presidential decision to kill the B-1 and raiding the budgets of other Air Force programs to keep the airplane alive. They earned it by creating and promoting a clique of B-1 loyalists, by fudging figures in their bomber's favor and by playing bolder politics than their political bosses.

That's not shocking; it's what keeps people busy in the peacetime Pentagon. Nor is it shocking that Congress and the administration failed to analyze closely and independently the wisdom of building a new bomber; neither body has the time or the resources.

Rather, Congress accepted the Air Force's arguments that it was a wise thing to do, despite two decades of warnings from many defense professionals that the B-1 bomber was an overpriced aircraft whose time had come—and gone.

This article explores the sophisticated and successful politicking at the Pentagon on behalf of the B-1. It shows how the B-1's Pentagon friends often wound up on the payroll of the plane's builder, Rockwell International Corp. And it explains why the Pentagon's civilian bosses were no match for the B-1 Mafia and its industrial allies.

Defense Secretary Caspar Weinberger and his deputy secretary at the time, Frank Carlucci, "pretty much left it to the Air Force," said an officer directly involved with selling Weinberger on the bomber. One possible reason: Neither had been intimately involved with defense weapons programs before, so "there was a total unfamiliarity with all the issues on the part of Weinberger and Carlucci," a pro-B-1 administration insider noted in a recent interview.

Actually, the demonstration for Weinberger and Carlucci that they didn't really run the Defense Department began on the day they decided they didn't like the B-1 bomber. That occurred two months after they entered office, in March 1981, during the course of their first briefing on the plane.

Air Force leaders, directed by Lt. Gen. Kelly Burke, deputy chief of staff for research development and acquisition, the godfather of the B-1 Mafia, had figured it would be a piece of cake. Ronald Reagan had pledged during his presidential campaign that he would build the B-1, so Weinberger's endorsement, according to officials intimately involved with Pentagon procurement, was taken for granted by the Air Force.

"Disastrous" is how one participant recently characterized the session, which he and several other participants described in detail.

First, the B-1 program manager, Brig. Gen. Melvin Chubb Jr., displayed the wrong slide—one showing that the Air Force really was out to get 200 B-1 bombers, not the 100 Weinberger had been told were being requested. Then there was the price: Not $17 billion for 100 bombers, which had been the last figure discussed with Congress and with Weinberger, but $27 billion in 1982 dollars, or $32 billion to $34 billion by the time the 100 bombers were finished in 1988.

To make matters worse, Gen. Richard Ellis, then chief of the Strategic Air Command, heavily influential because his fliers would pilot any new bombers, rose to tell Weinberger he didn't want the B-1. Ellis wanted the Northrop-Boeing Advanced Technology Bomber known as "Stealth" for its abilities to avoid enemy radar. Until Stealth was ready, he preferred a modified FB-111 bomber made by General Dynamics.

"Hey, you guys had better do a better job than that, or we're not going to support the B-1," Carlucci told the Air Force leaders after the session. In a later interview, he characterized the Air Force's briefing as "a pretty fast sell."

Weinberger had even more basic reservations. He had expected a briefing in which all the bomber alternatives were weighed, he told the assembled Air Force generals and staff. Instead, Ellis's dissent aside, he'd simply been told why the Air Force wanted the B-1. Weinberger directed Burke to undertake a new and objective analysis of the merits of the B-1, the Stealth, the FB-111, and the B-52, the bomber they might replace.

The B-1 Mafia's red-letter day had turned into a bummer. But Weinberger had underestimated the resourceful tenacity of his nominal subordinates.

After Reagan's election and before his inauguration, according to sources at Air Force headquarters, Burke had encourage Rockwell to place the biggest machine tool order in U.S. history, to break ground for a new $40 million engineering facility and to conclude hand-shake agreements with major subcontractors—all for the B-1.

After polling other defense leaders in the Pentagon and the administration, and finding them as encouraging as Burke, Rockwell went ahead with its B-1 production groundwork. All these steps were taken prior to Defense Department or congressional approval, thereby building political pressure in both arenas for a decision in favor of the B-1.

A crash program to build Stealth, which Weinberger at one point reportedly favored, was one alternative that threatened the B-1 program in early 1981. Another strategy, also threatening to the B-1, was to modernize the existing B-52 strategic bomber fleet as much as possible and, if necessary, convert the shorter-range FB-111 bomber to an interim penetrator role until Stealth became available.

One way of arbitrating such competing options is to convene a Science Advisory Board: a gathering of independent technical experts from industry and consulting firms who recommend the course of wisdom to the defense secretary.

Burke actually had impaneled such a board in 1980, and it was scheduled to report in the spring of 1981 just as the B-1 decision was being made by Weinberger. As the service's research and development chief, Burke also guided the selection of panelists—and made selections that disturbed opponents of the B-1.

The board's leadership included, in addition to Burke, Dr. Grant L. Hansen, an outspoken B-1 advocate during his Nixon administration term as assistant secretary of the Air Force for research and development; Dr. Edward Teller, a leading defense nuclear physicist and a forceful and respected B-1 advocate; Dr. Seymour Zeiberg, a leading B-1 backer during his Carter administration term as deputy undersecretary of defense for strategic and nuclear systems; and Col. August J. Caponecchi, officially an assistant to Burke for special support services and said by his colleagues to be one of the best trouble-shooters and Pentagon political strategists in the Air Force.

"The deck was so stacked with B-1 people that General Dynamics never even got to pitch their FB-111 option," recalled a Pentagon bomber expert partial to that aircraft. To almost no one's surprise, the Advisory Board liked the B-1—and, according to sources who have read the still-classified report, concluded Stealth might not be ready for production until 1992 or later.

Some dissenters from that conclusion—including Air Force generals—were locked out of the advisory board's sessions by security clearance requirements, imposed once discussion of the top-secret Stealth program got under way.

The Advisory Board also ratified the B-1 Mafia's intention to exploit for the B-1 much of the technology developed for the Stealth bomber. That technology makes Stealth less detectable on Soviet radars and would extend the useful lifetime of the B-1 as a penetrating bomber. And, for the B-1 Mafia, using Stealth technology had two other advantages:

First, Stealth technology budgets are secret, providing the B-1 program with a source of additional money—$2 billion to $3 billion is a common estimate among defense analysts—that never has to be accounted for in public. For a program in which costs are firmly and publicly fixed at $20.5 billion, a secret money source is useful indeed.

Second, by drawing off Stealth money for the B-1, the Air Force also slowed down production of a distinct Stealth bomber as a competitor. At the same time, by using the electronic defenses originally intended for Stealth, the B-1 program was consuming the rival airplane's competitive advantages.

Meanwhile, money for programs to modernize the Air Force's B-52 fleet was "reprogrammed" by Air Force headquarters instead to pay for a B-1 avionics test program at Edwards Air Force Base in California's Mojave Desert. The avionics tested in that program now have been replaced by a new system, suggesting that funds were shifted, not just to test avionics, but to keep the B-1 alive at a time when other sources of money were absent.

"Reprogramming" is a common auditor's tactic to find money for a high-priority program. Congress does not protest "reprogramming" if sums involved are relatively small. They were in the B-1 case—between $50 million and $100 million between 1978 and 1980.

In another instance in 1979-80, Air Force headquarters, faced with a demand from the defense secretary for budget cuts, offered about $100 million intended for B-52 upgrading programs. Not surprisingly, those programs were cut.

Although Weinberger eventually came to accept the Science Advisory Board's findings, he first wanted an independent analysis of the bomber options by the Air Force headquarters staff. This amounted to expecting independent judgment from colonels after their generals had picked the B-1. And the generals were in a position to pick the analysts. To no one's surprise, they tended to be B-1 partisans.

Helping to evaluate Stealth's potential, for example, was Lt. Col. James Evatt, an assistant to Burke who had been a B-1 analyst before putting in a short stint on the "Stealth" program. According to Pentagon fans of Stealth, Evatt never fought for that program; instead, they claim, he used his inside knowledge of Stealth's weaknesses to make the B-1 look better.

Shortly after Weinberger endorsed the B-1, Evatt was named, with Burke's recommendation, to head the B-1's Washington program office, where he was promoted to full colonel. Evatt, through a spokesman, acknowledged his role in the B-1 study and declined further comment.

Another key officer was Lt. Col. Louis Montulli, a nuclear effects specialist working under Burke. He had the difficult job of determining whether the B-1 would withstand the Electro-Magnetic Pulse, a post-nuclear blast shock wave that can be fatal to electronics. Money to test a prototype B-1 had been diverted to other B-1 research efforts, so the question became, for Montulli, theoretical.

Montulli decided the B-1 passed, and also decided that the B-52 flunked, which helped to disable the argument that the B-52 could hold out until Stealth came along. Montulli later was promoted, at Burke's urging, to full colonel. Burke also recommended Montulli for a prestigious position in the White House Office of Science and Technology.

There, starting in the summer of 1981, Montulli advised OST director George Keyworth on the merits of the B-1 bomber vs. Stealth. Montulli accepted this account as factually accurate, adding that he favored the B-1 because its nuclear blast protections were more modern than those of the B-52.

According to one participant whose choice lost out, the whole review of bomber options was a sham because the B-1 had the Air Force's nomination sewn up before the evaluation began. "What we did was fool with the survivability and penetrability numbers whenever the B-1 didn't win. If we said the FB-111 had a probability of penetration of 0.9 in 1992, and was closing in on the B-1, the B-1 boys would change their probability to 0.93. How much they came up with depended on how much it took to keep the B-1 ahead."

Nowhere was the Air Force's sleight-of-hand more artful than on the matter of the B-1's price. For several years, the B-1 systems program office at Wright-Patterson Air Force Base near Dayton had developed two different cost estimates, according to a source privy to the process.

"One (estimate) showed what we'd said the B-1 would cost," the source said. "The other showed what we really thought it would cost.

"That, in itself, is not unusual. But on a big program like the B-1, people get very protective of the second. And that showed the B-1 costing $26 billion to $27 billion (for 100 aircraft) in 1982 dollars."

That secret figure, Burke told subordinates, was "a killer." He said, according to several sources, that Congress would never buy it and that he could never defend such a figure before Congress because his estimates only three months before had been $10 billion lower.

Immediately, the B-1's backers decided to express the cost in 1981 dollars, "to give ourselves some breathing room." That accounting gimmick, by deducting for the effect of inflation between 1981 and 1982, dropped the B-1's theoretical price more than $1 billion. Not enough, the backers decided.

"So they moved the simulators off line," explained an Air Force auditor. Translation: The Air Force took the $300 million worth of B-1 cockpit training devices out of the overall B-1 program, thereby reducing, on paper, its cost. But they still needed the simulators, so they set up a separate account, not part of the B-1 program, to provide them. Thus, the B-1 program officially, saves money. But taxpayers don't save a dime.

Also eventually dropped or shifted to other accounts were programs for improved electronic countermeasures (now part of the Stealth technology account), new weapons-carriage systems (also now an independent program), new defensive weapons and a forward-looking infrared radar (even though space remains in the B-1's nose for such a system).

All this number-juggling appears to have the same point: to enable administration defense authorities to assure Congress that the B-1 program won't exceed the $20.5 billion (in 1981 dollars) currently budgeted. Dr. Richard DeLauer, the administration's top defense research and development official, for example, recently testified before a Senate subcommittee that "Yes, sir," $20.5 billion was the full cost of the B-1 program, and that all B-1 related costs were included in the B-1 budget, "or in another line element in some other part of the Air Force budget."

Both Burke and his boss, Air Force Chief of Staff Gen. Lew Allen, began their consideration of B-1 pricing in the spring of 1981 with the same conviction: "They felt you couldn't sell a bomber for over $20 billion," according to a source involved with their deliberations. His account was confirmed in substance by other sources. Emerging from the meeting was this estimate: $19.7 billion. "At that moment, there wasn't one scrap of paper to justify it," the source said. "It was just a number."

Originally, according to Gen. David Jones, at the time chairman of the Joint Chiefs of Staff, "There was no intention to lock in on that number." But Weinberger and Carlucci "were getting a lot of heat from the Congress on the B-1's costs," Jones explained in a recent interview, "so they decided to lock it in."

Translation: Weinberger and Carlucci made the Air Force brass pledge that they would live with the $19.7 billion price and never ask for more. (Actually, that price has risen to $20.5 billion. The $19.7 billion Air Force figure omitted $800 million for adaptation of the B-1 to carry air-launched cruise missiles, as demanded by Congress.)

Considering the $5 billion to $7 billion shifted to non-B-1 accounts, or obtained from invisible Stealth technology accounts, it may be possible for the Air Force to hit its price goal. Jones worries, however, that adhering rigidly to the price tag may lead the B-1's developers to reject justifiable real improvements to the aircraft just because they'd break the price ceiling.

Even so, it "doesn't seem very plausible" to Jones that the Air Force will meet its target price. "Our past record hasn't been so good, and the projected cost reductions for the end of the program are optimistic."

Most of the figures Burke used to beat down the high cost estimates of Gen. Chubb, the B-1 project manager, came from a non-Air Force source with a profound interest in the outcome: Rockwell International. In sessions with Burke, Bastian Hello, president of Rockwell's North Amereican Aviation division, had insisted that 100 B-1Bs could be produced for about $18 billion. Burke used the computations and etimates he provided to argue for a lower price than Chubb's, despite Rockwell's obvious interest in winning the contract.

The one standing Defense Department agency whose business it is to arbitrate the claims of self-interested military services—the Office of Program Analysis and Evaluation—which reports directly to the defense secretary, was locked out of the action.

"We were forbidden by Burke to share our members with PA and E," said a member of the Air Force's "independent" analysis group.

Burke, now retired, declined any on-the-record discussion of his key role in promoting the B-1. Nor would Burke, now a consultant to several defense contractors, discuss his relationship with one of them: Rockwell International. In a separate, earlier interview, Burke had said he advised clients on "what their strenghts were, their weaknesses, and what the military marketplace was likely to seek in the future that they could produce."

Burke also has lobbied for the B-1 since his August 1982 retirement, according to congressional staff members who have met with him. Burke declined to discuss his relationship to Rockwell or his fee. Typically, according to several Washington defense consultants, defense contractors pay between $30,000 and $100,000 annual retainers, plus daily fees, for such services. Although the only legal constraint on Burke is that he not sell anything to the Air Force, he is in a position to attempt to influence what the services buy while representing contractors who are sellers.

This comes about because Burke, while representing contractors, also serves as a consultant on military matters for the White House adviser on Science and Technology, the Defense Science Board, the Air Force Scientific Advisory Board and the National Academy of Sciences. All of these groups provide guidance, from time to time, about which weapons technologies should be pursued and which dropped.

In at least one instance, while advising White House Science Adviser Keyworth on military uses of outer space, Burke failed to disclose his relationship to Rockwell, the nation's biggest space contractor. A listing of all other outside employment and financial interests is required of White House consultants, as is prompt amendment of the disclosure form when additional new employment is undertaken.

Nine months after becoming a Rockwell consultant in January 1983, Burke still had not reported it to the White House. He did so after a Knight-Ridder Newspapers inquiry to the executive director of the agency.

Burke is not the only Air Force officer closely involved with the B-1 decision to have retired and gone to work for Rockwell. Col. Gene Burbey, for example, was manager of the B-52 upgrading program whose funds were raided to keep B-1 research alive. He works for Rockwell in Los Angeles now, coordinating B-1 subcontractors.

Lt. Col. Lynn Gulick developed the B-1's testing and evaluation standards for the Air Force. Now he's working for Rockwell to assure that the B-1's weapons-carriage system meets Air Force requirements.

Maj. Daniel Viney served as the Air Force's B-1 monitoring representative at Rockwell. Now he is a Rockwell industrial engineer on the B-1 program.

And there are others who've retired as bomber buyers to become bomber builders for Rockwell: the former chief of the Air Force B-1 Configuration Identification Division, the former comptroller of the Los Angeles office of the Air Force Contract Management Division and the former Air Force director of Procurement Policy.

Jones, retired chairman of the Joint Chiefs, says he considers the whole system "an arcane way to procure weapons." He also says he is skeptical of the nearly incessant assertion by Rockwell and the Air Force that the B-1B program is on time and within its budget. That, at the moment, appears to be true, but the real challenges lie ahead. Here's why:

Under its contract, Rockwell must produce only one B-1 by December 1984. Because it is the first aircraft to come off the line, it undoubtedly will be the most costly to produce. The budget for it is more than $1 billion. The next four B-1s also are expected to be extremely expensive—more than $500 million each. Thereafter, the theory goes, Rockwell and other B-1 contractors will get better and better at bulding airplanes and the price per bomber will drop dramatically.

But the estimated production improvement rate, on which the $20.5 billion figure depends, is a very sharp one, called in the jargon a 79 percent learning curve. In effect, it requires the B-1 manufacturers, if they are to meet their budget projections, to spend $16.2 billion on the first 52 B-1s and only $4.25 billion on the last 48. That's why having the B-1 program under budget—now—isn't very important. The important time to be under budget is in the last half of the B-1 buy.

At one time in March 1981, Defense Secretary Weinberger appeared to worry about the B-1's cost and utility, too.

His former deputy, Frank Carlucci, Air Force brass involved with selling the B-1, congressional defense specialists and journalists all recall that in the spring of 1981 Weinberger was very skeptical about the B-1. He asked Senator John Tower, D-Texas, chairman of the Armed Services Committee, what the effects would be of not producing the B-1, according to aides present at the time. He asked State Department officials whether U.S. allies would be dismayed if he never built the B-1. He mused to reporters that the Air Force was irrationally attached to manned bombers.

According to several Pentagon officials, Weinberger appeared to prefer a crash Stealth program over the B-1. This was no

secret. Indeed, when word of Weinberger's reported feelings about Stealth reached Wall Street in June 1981, Rockwell International stock fell from $43 to $36.25 a share in 10 days.

And, according to his own testimony in October 1981 before the Senate Armed Services Committee, Weinberger still seemed to be leaning toward quick development of Stealth. He said that plane could be ready for deployment "beginning in 1989," a development that would virtually eliminate the need for the B-1.

Asked recently about that testimony, Weinberger responded, "I really misspoke if that is what I said." He said in an interview that Stealth could not be deployed before the "mid to late 1990s."

Weinberger now denies that he ever had any reservations about the B-1. Nor, he said, does he regard the B-1 as competitive with Stealth.

There are two possible explanations for Weinberger's apparent shift on the B-1:

One is offered by some administration officials, who insist that Weinberger feigned or exaggerated his skepticism about the B-1 in order to soften up the defense contractors' bargaining positions and show the Air Force who was boss.

The other is more complicated. Weinberger may have been "told he had to like it," as one Pentagon official said, by President Reagan or other top White House officials. Within the small community intimately involved in the B-1 program, that's the predominant view. As one skeptic of the B-1 put it, "We'd send him over to the White House with objective data and he'd come back with political reaction. Over time, the questions he asked us became narrower and presumed, more and more, that we had to have the B-1."

If Weinberger ever had decided to attack the B-1, he would have found it difficult to find the resources, accountants or military experts to develop the case. The likeliest agency within the Pentagon for that role would have been the Defense Department's Planning, Analysis and Evaluation Office, created by former Defense Secretary Robert MacNamara to give the Pentagon's civilian leadership the tools to evaluate independently the claims of self-interested military services.

But that office has come upon bad times.

It came under attack in the 1980 Republican Party platform, in a section written by John Lehman, then a consultant for several defense contractors and now secretary of the Navy. The office's judgments, Lehman wrote, had constituted "ill-informed, capricious intrusions" in defense planning in the Carter administration. So disruptive was the interference that "orderly planning by the military services has become impossible," he wrote.

So, when Weinberger became defense secretary, he downgraded the Planning, Analysis and Evaluation Office by reducing the authority of its chief executive. The office's head, who had been an assistant secretary, one of 13 top positions in the department, was made a director, of which there are hundreds.

Although he was unable to replace the office's analysts who were protected by Civil Service, the authority of the office had been substantially lessened. No B-1 critics there, thanks to the Republican platform. For good measure, Burke had barred "independent" Air Force analysts appraising the B-1 and its alternatives from sharing their figures with the remaining analysts in the office.

It is too early to know whether the United States needs the B-1 or discovers it to be yesterday's bomber for tomorrow. It is not too soon to discover that America buys its weapons strangely. In fact, it may be late in a deadly, wasteful game.●

TRIBUTE TO TED PETERSON

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. HARRISON. Mr. Speaker, a very extraordinary human being, Frederick J. "Ted" Peterson, has retired after 35 years of public service, and it is my privilege to rise today to pay him tribute.

Ted Peterson served in the Second World War as a captain in the U.S. Army. When it was over, he returned to his native borough of Berwick, in Columbia County, Pa. He joined the American Legion, became active in his church, the Calvary Methodist Church of Berwick, and began a career of public service by his appointment as chief voter registration officer for Columbia County. He held that position for 8 years. In 1956, Ted was appointed chief deputy treasurer of Columbia County. Four years later, he was elected to the office of treasurer.

Four years after that, Ted was elected to one of the most important offices in Pennsylvania municipal government. He became prothonotary and clerk of courts of Columbia County. In that position, it was his responsibility to maintain the records and insure the orderly proceedings of the civil and the criminal courts of the entire county. That he did, with efficiency, dignity, and an uncommon empathy for his fellow man until he retired in January of 1984. During his 20 years as prothonotary, he served on the executive board of the State organization and he was President of the State association of prothonotaries and clerks of court for 1973 and 1974.

He also found time to continue his affiliation with the American Legion, of which he is a past commander of the Berwick Post, with the Berwick Masonic Lodge, of which he is a past master, and with the Berwick Order of Elks.

But even more than his public service, his professional associations and his community involvement, I rise today to pay tribute to Ted Peterson as a man of warmth, understanding, compassion, and of a deep religious faith. He is one of those few people who enrich others by the mere fact of their company. He thinks the best of his fellow man and works to bring those thoughts to reality.

He has been for many years, and for thousands upon thousands of citizens of Columbia County, a listening ear, a consoling voice, a helping hand, and an understanding heart.

And so it is my honor, today, Mr. Speaker, to rise in tribute to my friend and colleague, Ted Peterson. And to say to him that we understand he has retired from public life but we understand, also, that he will never retire from the life of the community. He has graduated, as he puts it, so that he may spend more time with his beloved wife, Mary, and with his daughter, Mary Ruth.

That is as it should be. Ted Peterson has given so much of himself over so many years that it is time he took a little while and let others return to him the love and understanding he has so generously given.●

HONORING ROBERT E. NISBET

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. STARK. Mr. Speaker, on March 2, the board of directors of the Alameda-Contra Costa Transit District is hosting a celebration honoring Mr. Robert E. Nisbet's outstanding achievements in public transit.

Mr. Nisbet is retiring after a distinguished career spanning more than 30 years. During this time he furthered the goals of public transit, most recently as general manager of the transit district. He has served as a model of excellence through his efforts in drafting transit legislation along with his service on transportation advisory committees and commissions.

The University of California, Berkley, is Bob Nisbet's alma mater. After serving in the Navy, he received his LL.B. degree from Hastings.

In 1957, Bob Nisbet became the first employee of the Alameda-Contra Costa Transit District. He served as attorney for the district before becoming general manager, a post he held from 1978 to 1983. During this time, Mr. Nisbet's contributions to transportation were profound and will be felt for years to come. He assisted in the drafting of the San Francisco Bay Area Rapid Transit District Act (BART). He was deeply involved in the drafting and passage of the transit district law, enabling legislation which created the Alameda-Contra Costa Transit District. He assisted in the formation of the California Association of Public Owned Transit Systems (CAPOTS) of which he was an executive director.

Bob Nisbet has worked with all levels of government to serve the goals of public transportation. He has been involved with the League of California Cities, the Bay Area transportation Study Commission, the Public Utilities Commission, Association of Bay Area Government (ABAG). Also, Mr. Nisbet served as an adviser to State and Federal legislators on transportation matters.

Mr. Speaker, I have listed only a few of Robert E. Nisbet's numerous contributions. He has left a lasting impact on transportation in California and I am pleased to have this opportunity to acknowledge his accomplishments and to wish him and his family all the very best in the future.●

GETTING MORE DEFENSE WITH MORE EFFECTIVE RESERVES

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. ASPIN. Mr. Speaker, the U.S. military has relied to a significant degree on its Reserve Forces—from the Minuteman of the Revolution to the weekend warriors of today. The role of the Reserve Forces has changed through history, and the degree of reliance on the Reserve Forces has seen its ebb and flow. The Reserve Forces have been affected by international relations and internal political perspective. They have been ignored at times when America seemed at peace with the world, and they have become a favorite child in the times of America's greatest need. The tide is about to turn again.

The active military forces are about to face two new constraints that make an increased reliance on the Reserve Forces not only desirable but virtually mandatory. First, the declining birth rate of the postbaby boom era means that fewer and fewer young men and women are coming of age each year this decade, imposing a severe demographic constraint and limiting the ability of the active forces to attract as many recruits as they would like. Second, the forecasts for future Federal budgets indicate deficits of such massive proportions that pressure to reduce all Federal spending is likely to rise substantially—and defense is the largest pool of discretionary spending available for reductions.

BACKGROUND

Reserve component manpower is divided into three categories: The Ready Reserve, the Standby Reserve, and the Retired Reserve. The Ready Reserve, which is the major source of immediate manpower augmentation for the active forces in case of mobilization, is further divided into two categories: The Selected Reserve and a pool of pretrained individuals, designated the Individual Ready Reserve (in National Guard components, this category of personnel is referred to as the inactive National Guard).

There are six Ready Reserve components: the Army National Guard (ARNG), Army Reserve (USAR), Naval Reserve (USNR), Marine Corps Reserve (USMCR), Air National Guard (ANG), and Air Force Reserve (USAFR). Each of these Reserve components has its own selected reserve units, consisting almost entirely of reservists who are assigned to units that train and who will be mobilized as units. These paid reservists generally perform approximately 2 weeks of active duty training annually and one weekend of inactive duty training (drill) each month.

As of October 31, 1983, nearly 2.3 million men and women were serving in the Reserves. More than 1,422,000 in the Ready Reserve, 43,000 in the Standby Reserve, and 833,300 in the Retired Reserve. By component, the breakout was as follows:

ARNG	425,115
USAR	985,884
USNR	325,237
USMCR	99,275
ANG	101,610
USAF	361,095

CURRENT RELIANCE ON RESERVES

Current defense plans rely heavily on the Reserves.

The Army is especially dependent on its Reserve components for total mission capability. In fiscal year 1984, the Reserves will comprise approximately 40 percent of the Army's divisional combat forces (9 out of 25), 69 percent of nondivisional combat forces, 69 percent of tactical support forces, 51 percent of special theater forces and 33 percent of general support forces. The Army's Active component-Reserve component mix was 49 percent to 51 percent in fiscal year 1983; by the end of the decade, the Reserves will take on an even greater role as evidenced by the projected 47 percent to 53 percent mix of Actives to Reserves. All but two active Army divisions in the United States will have roundout units in fiscal year 1985, that is, attached Reserve units necessary to bring the division up to full strength.

The other services have not relied as heavily on their Reserves for manning the force. At the end of fiscal year 1983, total Navy manning was approximately 84 percent Active and 16 percent Reserve. By fiscal year 1989, the Active-Reserve split is expected to be 81 percent to 19 percent. Nevertheless, the Naval Reserve is charged with all or most of certain Navy responsibilities. As a percentage of total mission, the Naval Reserve is tasked with 100 percent of U.S.-based logistic airlift, 100 percent of inshore undersea warfare units, 99 percent of Navy control of shipping organization, and 88 percent of ocean minesweepers.

Total Air Force manning is approximately 78 percent active and 22 percent Reserves (this ratio is expected to remain fairly constant throughout the rest of the 1980's). The Air National Guard and the Air Force Reserve comprise approximately two-thirds of continental air defense capability and more than half of U.S. tactical airlift capability. Air National Guard nonflying units represent 70 percent of total Air Force combat communications units and 27 percent of deployable civil engineering and services personnel. Air Force Reserve nonflying units provide 58 percent of Air Force combat logistics support squadrons, 47 percent of aerial port units, and 40 percent of strategic airlift

The Reserve components are also an integral part of the mobilization plan. In a European scenario approximately 13 percent of the Army Reserve components are scheduled to be deployed by D plus 30 days. Eighty-two percent are scheduled to be deployed by D plus 60 days.

Consequently, Reserve Forces must be brought to and maintained at a high level of effectiveness if our forces are to be ready to fight. Confidence in the total force must be high if the military forces are to provide the most fundamental of their missions—deterrence. Unfortunately, compelling evidence supporting such confidence does not now exist. Shortages in equipment, personnel, and training are recognized by many. Unready Reserve Forces will erode the readiness of the Active Forces with which they are associated.

In other words, the more the Reserves are relied on to support Active Force missions, the more effective they must be.

MANPOWER CONSTRAINTS

The second reason for attempting to increase the effectiveness of the Reserves arises within the context of the current defense program. Manpower constraints in the late 1980's will become one of the major obstacles in achieving the program.

Today, manpower constraints appear the least binding of any of the constraints faced. Active Force recruiting and retention exceed goals, and quality, by any measure, is higher than it has ever been—far higher than under the draft. However, the pool from which recruits are drawn will decline by about one-quarter during the 1980's and, at the same time, the requirement will increase. This effect alone is worrisome. For example, today, from the population of 18- and 19-year-old males who are not disqualified for military service because of physical, mental, or moral reasons, the military must recruit 1 out of 5. Excluding those who enter college from the population, the military must recruit 1 out of 3.5—today.

Under the current 5-year plan, by 1989, the military will need to recruit 1 out of 2.7 of those 18- and 19-year-old males who are not disqualified for military service and who are not in college.

In addition, some have suggested that the current program is insufficient to insure a satisfactory level of risk in view of the total range of national commitments. The Joint Chiefs of Staff, for example, were widely reported to have called for spending $750 billion above the administration program over the next 5 years. They concluded that the active military force needed to produce a satisfactory level of risk would require an increase in the number of Army divisions from 16 to 23, the number of Navy carrier battlegroups from 15 to 24, the number of tactical air wings from 27 to 44, and the number of Marine amphibious units from 3 to 4.

Manpower needs would grow commensurate with such a force expansion. Assuming force size grows proportionate to the increase in the number of divisions, battlegroups, air wings, and amphibious units, the force needed to reduce what the JCS reportedly said was the mismatch between capabilities and commitments would require an active duty enlisted strength of over 2.8 million, up over 900,000 from current levels. The number of nonprior service accessions (recruits) needed to support such a force would increase from the current level of about 300,000 per year to over 500,000 per year. Recruiting these numbers would become exceedingly difficult. The military would need to recruit 1 out of 2 of those 18- and 19-year-old males who are not disqualified for military service and 1 out of 1.3 of those 18- and 19-year-old males who are not disqualified and who are not in college.

The impact on recruiting requirements under the different scenarios discussed above is summarized in the following table:

	Number of 18- and 19-year-old males required from—	
	Those not disqualified for military service	Those not disqualified for military service and not in college
Current requirement	1 out of 5	1 out of 3.5
Requirements in 1989 under current plan	1 out of 4	1 out of 2.7
Requirements in 1989 under JCS "low risk" plan	1 out of 2	1 out of 1.3

The JCS plan, of course, is unlikely to be funded—such a plan has not been funded in the past. But even the current administration plan will put a real strain on recruitment.

One way to address this problem of future manpower constraints is to increase the size of the Reserves. The Reserves may appeal to many people who would not be attracted to an extended period of service on active duty. In addition, an active force of 2 million generates a huge pool of prior-service personnel who possess experience and may be attracted to service in reserve units after they leave active duty.

BUDGET CONSTRAINTS

The third reason Reserves must be made more effective is constraints on future defense budgets.

The 5-year defense program presented in conjunction with the fiscal year 1984 defense budget totaled over $1.7 trillion. Some experts in the defense field believe that even that 5-year defense plan is underfunded in terms of the resources needed to buy the planned force. Some say operation and maintenance is underfunded—Brookings says by $240 billion. Others—for example, Chuck Spinney—point out that past estimates of procurement costs have proved too low.

In addition, others—such as the JCS—say that more is required over this 5-year period to buy a larger force structure to insure a lower level of risk.

Defense spending levels have come under increased scrutiny which, with $200 billion deficits, is likely to increase. With limited budgets, trade-offs can be made between Active and Reserve Forces. These trade-offs can and should be made whether the goal is to reduce the defense budget, or increase the effectiveness of the force within a defense budget level. To make full use of these trade-offs, the effectiveness of the Reserves must be increased to the greatest extent possible.

A Reserve unit generally costs less than a similar Active unit. A fully equipped Reserve unit that is ready for deployment would require the same equipment as an active force unit; so no savings result from that source. However, Reserve units have lower operating costs and lower personnel costs—in large part because reservists do not receive the same retirement benefits as members of the active forces.

The Congressional Research Service recently compared the relative costs of an active, a Guard, and a Reserve A-7D squadron and found that, in that specific example, a Reserve component unit costs between 32 and 39 percent less than an Active unit. The specific comparison is shown below:

A-7D SQUADRON

[In 1976 constant dollars, millions]

	Active cost	Guard cost	(Percent of active)	Reserve cost	(Percent of active)
Capital equipment cost	$107.2	$107.2	100	$107.2	100
Total unit annual operating cost	21.2	11.0	52	10.1	48
Equipment and facilities related annual cost	8.4	5.8	69	5.3	63
Personnel related annual cost	12.8	5.2	41	4.8	38
Capital equipment plus 10 years annual operating cost	319.2	217.2	68	208.2	65
Capital equipment plus 15 years of annual operating cost	425.2	272.2	64	258.7	61

Of course, the magnitude of the saving depends on the type unit being considered. Generally, those requiring a higher operating tempo exhibit higher costs and lower savings; those less equipment intensive, the reverse.

Recognizing the difference in costs between Active and Reserve units, a greater number of Reserve units could be bought for a fixed dollar amount. Although an individual Reserve unit might not be as effective as an individual Active unit, the larger number of units could be used to offset this disadvantage.

Alternatively, Reserve units could be used in place of Active units on a 1-for-1 basis. Although the Reserve units would, in many cases, be less effective, they would also be less expensive. This might be worth it if the resources saved could be devoted to some other activity in order to compensate for the loss of effectiveness resulting from a change-in-force mix—for example, cost savings from use of Reserves could be used to fully fund the acquisition and operating programs for the remaining Active Forces.

In summary, reserve forces will necessarily play a larger role in the future because current reliance on the Reserves is heavy and growing, because manpower contraints in the later part of the decade will restrict the growth of the Active Force, and because the level of the defense budget overall and the portion of the defense budget that will be devoted to manpower will continue to be limited. Because the Reserves are necessary, their effectiveness must be improved.

MEASURES OF EFFECTIVENESS

The principal precondition that must be satisfied before more reliance can comfortably be placed on reserve forces is an objective and uniform measure of the effectiveness of Reserve and Guard units. Today, no such measure exists.

The major readiness report used by the services is a rating system that is reported to the Joint Chiefs of Staff and becomes part of the force status and identity report, or Forstat. Under this system, the services assign "C-ratings" of overall readiness that vary from C-1 (fully ready) to C-4 (not ready). These overall ratings (applicable to Active and Reserve) are based on separate ratings for personnel, equipment, and training.

There are major problems with these C-ratings that affect their accuracy—particularly as they are applied to the Reserve components. Perhaps the most important problem with the C-ratings is their subjectivity, especially in the measure of training readiness. Except in the Air Force, the measure is based largely on a commander's evaluation of his own unit's readiness, and thus may reflect his "can do" attitude as much as his unit's actual readiness. (The Air Force has a more objective measure based on the number of mission-ready crews that have qualified against a specific checklist.) Less subjectivity enters into measurement of strength and equipment readiness, though there are problems here, too. For example, a unit may have the right number of people, but not the right mix of skills.

Subjectivity has eroded confidence in the C-ratings. Sixty-two percent of the reserves responding to a recent Army survey stated that the C-ratings were not a true reflection of their unit's readiness.

The C-rating system is also uneven. Both the proportion of units reporting and the criteria for the ratings vary among services. Less than 40 percent of the Naval Reserve, for example, reports through the C-rating system. The Marine Corps determines its equipment readiness by comparing actual levels against training requirements, while the other services compare actual levels against wartime requirements. Finally, while the Navy can be C-3 (marginally ready) in personnel with 65 to 84 percent of its wartime personnel complement, the Army requires 75 to 84 percent. These and other differences suggest that ratings should be standardized if they are to be useful.

The Army Reserves (as well as the Active Forces) have another readiness type indicator, the Army training and evaluation program (ARTEP). ARTEP consists of mission-oriented tasks required of a unit during combat operations that are used to evaluate the capabilities of every type of Army unit. A mechanized infantry unit, for example, would be evaluated on such activities as a daylight attack, night withdrawal, and tactical road march. Tasks, standards, and conditions are set for each activity.

Normally, the ARTEP is used by the unit commander as a diagnostic tool to identify areas where further training is needed; but periodically a formal (or external) ARTEP is administered. During a formal ARTEP, observers from outside the unit (two levels above the unit) identify those activities where standards are met and those where they are not.

The use of the ARTEP system by the Army suggests ways in which measurements of Reserve (and Active) unit effectiveness can be improved. In fiscal year 1983, 439 National Guard units participated in formal ARTEP's. Eventually, each Reserve unit will take a formal ARTEP every 2 years.

Readiness reporting methods in the other services also suggest improvements that could be made. The Navy already requires that, in addition to determining readiness in terms of inputs such as personnel and equipment, commanding officers rate their units' ability to accomplish specifically defined missions. These mission ratings then influence the overall C-rating and may provide more objectivity. The Air Force has a unit capability measurement system which expresses readiness more objectively in terms of potential number of aircraft sorties.

Recommendation: Congress should consider directing the Secretary of Defense, in coordination with the service Secretaries, to conduct a review of the application of the C-rating system, to conduct a review of the other readiness reporting and diagnostic methods used by each of the services (such as ARTEP) and to implement a measurement system for all the components providing an objective and uniform evaluation of a unit's readiness. The measurement system should be the same for Active and Reserve units, and the evaluation of an Active unit should incorporate the performance of any Reserve unit affiliated with that Active unit, including its impact on the Active unit's mobilization capability (as is now true for the Army).

ALTERNATIVES FOR IMPROVING EFFECTIVENESS

Although exceptions exist, Reserve units generally do not reach and sustain the same high level of effectiveness as many Active units. This is because of a lower operating tempo in the Reserves, less frequent training opportunities and a lack of resource allocations. The exceptions, such as Air Force Reserve and Air National Guard units, are often colocated with Active units, receive full-time support to keep the unit ready to train, have modern equipment and train in a realistic environment. The Army and Navy Reserve components need to be brought to the same level of readiness as the Air Force components.

Once a measure of effectiveness is implemented, it can be used to evaluate a variety of alternatives for improving Reserve effectiveness. What alternatives should be considered?

The overall effectiveness of the Reserves is limited by mobilization capabilities and training. Training, in turn, is constrained by the status of equipment and the level of manning. The status of equipment is limited by the availability of spares.

Additional resources can improve the situation. However, the problems that exist in the Reserves today are too extensive to solve all at once with a massive infusion of resources. Although substantial resources have been allocated to the Reserve forces in the recent past (manpower incentives and equipment), much remains to be done. Further, there are efficient and inefficient ways to improve the Reserve Forces. The major task is to develop a process within which resources can be allocated in such a way as to most rapidly improve the capabilities of the Reserve Forces.

LINKING RESOURCES TO PERFORMANCE

Additional resources must be made available to Reserves. However, the effectiveness of Reserve units varies widely. Giving the best units additional resources could result in the better units getting better and the poorer units eroding further in quality. The rich would get richer and the poor would get poorer. On the other hand, allocating proportionately more resources to the lower quality units at the expense of the higher quality units might improve the former but would offer no incentive to the latter, with the end being mediocrity across the board.

An alternative is to be selective—to give priorities in resources to units and individuals demonstrating the greatest marginal improvement.

One such approach would compete similarly situated units against each other. For example, partially equipped units (say those with only one-half of their required equipment) could be evaluated on the basis of how well they performed. The highest performing units would receive the highest priority for the next allocation of equipment. Similarly, units undermanned at some specified level could compete for additional recruiting or retention resources.

Fully manned, fully equipped units would compete among themselves for the most modern equipment as it becomes available to the Reserves.

A decentralized, structured approach, such as suggested above, would provide a more effective means of focusing on ineffective units. Similarly situated units would be afforded equal opportunity to improve and those failing would have only themselves to blame. The approach could provide, moreover, a rationale for scaling down or reorienting the mission of some units.

Recommendations: Congress should consider directing the Assistant Secretary of Defense for Reserve Affairs to design a realistic test program utilizing this approach. The test program should include both roundout and other units that are expected to deploy early, and let them actually compete for personnel, equipment and operating funds (based on the above allocation procedures). The test program should be integrated with the measure of effectiveness to be developed.

FULL-TIME MANNING

The quality of a unit training period is substantially affected by the amount of time that must be devoted to getting ready to train. Substantial time can be lost in training because equipment needs to be readied for use or repaired. In addition, administrative chores preparatory to the training period must be accomplished.

The Reserves have addressed this issue with full-time manning personnel. These are individuals who are assigned full time to a Reserve unit and who perform these preparatory activities when the unit is not meeting. Two categories of individuals principally perform these full-time functions: Reservists voluntarily called to active duty for extended periods of time (2, 3, or 4 years); and Federal civilians who are members of the Reserve and whose civilian job is to assist the Reserve unit. In effect one category is full-time military; the other category is full-time civilian, part-time military.

Full-time personnel from either category have had a substantial positive impact on the quality of training and, in turn, on effectiveness. This is particularly evident in Air Force Reserve and Air National Guard where full-time manning exceeds 20 percent. Experienced observers have concluded that this level of full-time manning is one of the major reasons these units exhibit higher levels of performance than Army Reserve components—which only provide 7 percent full-time manning. The Navy TAR program (similar in most respects to the full-time manning program in the Army and the Air Force) represents 11 percent of the Naval Reserve.

Recommendations: Congress should support an increase in the level of full-time manning for the Army reserve components to 14 percent by 1989 from the current level of 7 percent.

TRAINING TIME

The length of the training period also has an impact on the effectiveness of Reserve units. The normal training opportunities for a Reserve unit are limited to the 48 weekend drill periods and the 2 weeks of active duty for training (summer camp). Recognizing that training is most effectively conducted over longer periods of time, the weekend drills are usually grouped together on a monthly basis. In effect, the unit meets once a month on a Saturday and Sunday.

Only certain types of training can be conducted during the course of a weekend, and in fact, even the 2-week summer camp imposes limitations on the scope of the training that can be provided. In addition, some Reserves participate in only 24 weekend drills and others only train during the 2-week summer camp.

A program in which the training period is longer than 2 weeks, say 1 month or more, may capture the benefits of concentrated training enough to offset a hiatus in training between the training periods. A particular advantage of a longer training period is the ability to provide interesting tasks and the ability to perform missions currently performed by the Active Force.

In addition, advantage could be taken of "learning curve" effects of a concentrated training period. A portion of the time at a monthly drill is used to bring individuals up to speed from the last meeting. To prevent the individual's learning curve from falling too low between longer annual training periods, new training techniques may be required.

Longer training periods could also alleviate several problems that exist in the Reserve system today. Although the active duty force generates a huge pool of experienced and trained personnel, when these individuals leave the Active Force they distribute themselves relatively uniformly throughout the country. Navy personnel, for example, do not necessarily gravitate to the coasts, particularly to those coastal areas with naval installations, where Naval Reserve units would have the greatest training opportunities. Similarly, former Army and Air Force personnel do not gravitate to locations at which the resources of the Active Force are available.

Further, in large metropolitan areas relatively large Reserve units can be supported, but in sparsely populated areas the viability of a unit can be questionable. Sufficient personnel must be available to generate a critical mass before other resources can be efficiently allocated to a unit. With a longer training time and meeting once a year, members of a unit could reside in geographically separated areas, coming together annually for their training period. In addition, existing units that are judged to be ineffective because of the inability to recruit sufficient personnel in a particular area could be grouped together to form a larger unit where the individual inadequacies of one unit would be offset by the strengths of others.

Two issues arise when considering a longer training period: The ability to attract participants and the impact on the employers. Certainly, tensions exist today, caused even by the 2-week training period. The employer is asked to forgo an employee's services for 2 weeks in addition to normal paid vacation. Significantly longer training periods could exacerbate this tension.

With regard to the ability to attract participants, the naval reservists who volunteered to replace the crew of the U.S.S. *New Jersey* during the holidays indicate that a pool of some size exists to support such a program. In addition, reservists volunteer for active duty for even longer periods—2 to 4 years—to fill statutory positions in support of the Reserve components or as active Guard and Reserve personnel or to attend training programs. Others are called to active duty to perform specific tasks of varying lengths for which they possess particular expertise.

As for the employers, they will be extremely reluctant to provide substantial numbers of employees with a long sabbatical every year. These disadvantages must be overcome; employer support is essential if the program is to work. Financial incentives, such as various types of tax incentives available to employers who support the program, might prove effective.

Clearly more work needs to be done on the feasibility of extending the training time, but it might work for certain types of employment. Blue collar jobs in the private sector may be the primary source of individuals who would be available for extended periods of active duty for training. Construction workers, mechanics, assembly line workers, and technicians would be likely candidates. These jobs are relatively fungible. In addition, teachers, physicians, and other professionals are often in positions that would permit extended sabbaticals.

Recommendation: Congress should consider directing the Assistant Secretary of Defense for Reserve Affairs to research a longer training program, such as outlined above, and to conduct a test of the program. The Secretary also needs to focus on more innovative training technologies, techniques, and schedules that recognize the limitations on time and the geographic dispersion of the Reserve components.

MOBILIZATION

The raison d'etre for the Reserves is their ability to be mobilized.

There have been four major Reserve callups since World War II—Korea, the Berlin crisis, the Cuban missile crisis and *Pueblo*/Vietnam. Although examples of high levels of readiness can be recalled, particularly for specific units, other indications are not as favorable. For example, during Korea, eight Army National Guard divisions were called up. Prior to being called to active duty, however, these units required 7 months of stateside training before deployment, according to the Congressional Research Service. During the Berlin crisis, over 100,000 reservists and National Guard personnel were called to active duty. Units averaged only 68 percent of their wartime manpower requirements, and many units did not have sufficient amounts of equipment.

In order to improve previous shortcomings, various steps have been taken. These have ranged from full scale mobilization exercises (partly conducted on paper and partly conducted in real time) to spot mobilizations focused on specific units or individuals.

Past simulated mobilization exercises, such as MOBEX 76, Nifty Nugget in 1978, Proud Spirit in 1980, and Proud Saber in 1983 revealed a number of shortcomings in the ability of the United States to respond with military force during a crisis. The problems reported are the type that could adversely affect not only Reserve Forces but active duty units as well. Consequently, the mobilization exercises are important in order to learn the weaknesses of the system.

Large-scale, actual mobilizations are clearly the best way to test the system, but the cost, both directly to the Defense Department and indirectly to the economy, would be too high.

The cost might be reduced by randomly selecting units for mobilization tests when they are participating in drills or scheduled to participate in their summer camp. A major element in any mobilization test is demonstration of the capability to match personnel to their equipment and to provide the necessary airlift on schedule, not just demonstration that the personnel can be called up. To demonstrate the ability to airlift a unit from the United States to a base overseas, it would not be necessary actually to require the unit to fly to the overseas base. The unit might arrive at the departure point, board the plane and then offload. The plane could then fly the mission assigned.

Exercises that require units actually to appear at their mobilization point with most of their logistic and air support appearing only on paper could also provide some degree of confidence in the entire system or at least large parts of the system.

Recommendation: Congress should consider directing the Secretary of Defense to conduct at least one major mobilization exercise each year. The exercise should address the issues discussed above, as well as other areas where problems appear. All exercises should include the participation of associated Active and Reserve units and should be as comprehensive and as realistic as possible. A plan should be developed and presented to Congress that would, periodically, test all elements individually and all interactions, as well as the sustainment of the mobilized forces. The objective of such a plan should be to permit an evaluation of the adequacy of resource allocations and planning.

INDIVIDUAL READY RESERVE

Mobilization capabilities are also affected by the status of the Individual Ready Reserve. The Individual Ready Reserve provides individual roundout in Active or Selected Reserve units and casualty replacement. As such, it is an essential component of the Reserve Force. The Department of Defense has less contact with the individual ready reservist because they generally do not drill or participate in active duty for training. Members of the Individual Ready Reserve are required to maintain current information—address, for example—in their records; however, the degree to which this requirement is met is questionable.

Utilizing other Government information sources would help to keep the records current. Access to address information from such sources as the Internal Revenue Service from tax returns, would require a modification to the Privacy Act.

Recommendation: Congress should consider enacting legislation to permit use of other Government information sources to verify the current address of members of the Individual Ready Reserve.

Although action has been taken recently to increase the future size of the Individual Ready Reserve by extending the military service obligation—active duty plus IRR time—from 6 to 8 years, this extension only applies to those newly entering military service. Consequently, no impact will be felt for 6 years.

Currently, individuals who enlist or reenlist for at least 3 years in a combat or a combat support skill in the Individual Ready Reserve may be paid a bonus of up to $900. This bonus will provide incentive for current members of the Armed Forces who are only obligated for 6 years to extend their military service obligation voluntarily. This payment is made as a lump sum at the beginning of the enlistment period.

Recommendation: The services should use this provision to encourage service members whose 6-year tours are now expiring to extend their tours in the Individual Ready Reserve. The Congress should consider requiring that the bonus be paid in installments over the life of the contract in order to provide periodic contact and to insure that the member's address remains current.

GREATER LEVERAGE FOR THE RESERVES

In the past, no delineation of equipment for the Reserve components has been included in the request, authorization and appropriation for the Department of Defense; the funding is simply provided for the total force. Of course, the request—and presumably the level of authorization and appropriation—is based on a plan that allocates the equipment procured between Active and Reserve units. Approximately $2 billion of new equipment for the Reserve components was funded in fiscal year 1984; only half that amount was requested.

Currently, the Defense Authorization Act contains a specific line item for the Reserve components for operation and maintenance and for Reserve strength levels. With the exception of a specific line item of $100 million for procurement of Army National Guard equipment and of $25 million for procurement of Air National Guard equipment, no specific statutory reference is made to procurement of equipment for the Reserve Forces.

The Committee on Appropriations has directed the Department of Defense to submit a detailed breakout of Reserve component equipment in fiscal year 1985. This presentation is to be modeled on the P-1 document currently submitted as part of the justification for all procurement requests. Although this presentation will facilitate understanding the content of the request, a specific line item in the authorization and appropriation bills would provide the kind of visibility needed to focus executive branch and congressional attention. In addition, such a presentation will highlight for the individual Reserve units the equipment that will be made available to them if they can successfully demonstrate their effectiveness.

Recommendation: The Congress should consider directing the Secretary of Defense to submit the request for the fiscal year 1986 defense budget with a specific line item for equipment for each Reserve component. The Congress should then authorize and appropriate funds for Reserve component equipment within this framework.

SUMMARY

The above discussion has focused on a variety of suggestions to improve the readiness of Reserve Forces and, thereby, to permit increased utilization of Reserves to meet commitments. These suggestions require considerably more discussion. Some are easier to achieve than others; some may not be practical in the near term. However, the discussion may lead to a better understanding of the constraints on current operations and suggest other means of improving the Reserves.

The discussion is intended to seek out ways in which the Reserve Forces can assist in reducing the mismatch between commitments and capabilities. Deterrence is the principal objective of military forces with respect to all commitments. If the Reserve Forces are perceived to be capable of meeting a commitment, they will contribute to deterrence as much as an Active unit. Using Reserves, however, may achieve the objective at less cost.●

TRIBUTE TO RABBI DONALD WEBER

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. MRAZEK. Mr. Speaker, I would like to take this opportunity to bring to your attention the remarkable work of a distinguished American citizen. Rabbi Donald Weber, of Temple Beth David in Commack, N.Y., has long been recognized as a leading citizen and spiritual leader who has gained the respect and admiration of his congregation and community. It gives me great pleasure to recognize the many contributions he has made to both religious and secular life on Long Island.

In addition to being an inspiring spiritual leader and teacher, Rabbi Donald Weber is widely viewed as the social conscience of his congregation. His dynamic presence within his synagogue has led to the implementation of a number of social reforms and actions that have helped scores of individuals within his community.

Rabbi Weber has devoted his time and effort toward the advancement of the rights of the handicapped and disadvantaged. Under his direction and guidance, teenagers in his congregation raised sufficient funds to make the sanctuary amenable to the hearing and visually impaired. With his support and leadership, these individuals are currently raising funds to make the synagogue accessible to the handicapped.

Yet, Rabbi Weber's contribution to his community is not limited to these humanitarian acts within his congregation. In the past, he has organized volunteers to help staff several local hospitals on Christmas Day, so that Christian employees would have time to celebrate this holiday with their families. Notwithstanding these many commitments, Rabbi Weber even finds time to volunteer regularly at a local nursing home.

Mr. Speaker, Rabbi Donald Weber's life stands as a testament to the importance of generosity and caring in an increasingly complex and impersonal world. I am proud to pay tribute to Rabbi Weber, a distinguished citizen and an asset to his congregation and community.●

TRIBUTE TO "UNCLE PETER" DeSIBIO

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. McGRATH. Mr. Speaker, I rise to pay homage to a man in my district, Peter DeSibio, who was born 76 years ago today in a converted garage at 82 Fern Place, Inwood, N.Y. To generations of neighbors, residents of Nassau County and all of Long Island, he is more affectionately known as "Uncle Peter." From that former garage, Uncle Peter built a modest home. He lives there to this day.

Over the nearly fourscore years, Uncle Peter has also built a reputation for helping neighbors, friends, and even strangers in need; for his readiness to champion worthy causes; and for rallying support to win over community projects.

Recently, Uncle Peter's neighbors went before the town board and successfully petitioned to have the street on which he was born and has lived for 76 years renamed DeSibio Place. Such is the esteem in which this man is held.

Peter DeSibio has long been retired from his job as deputy commissioner of highways for the town of Hempstead. But, he remains active in public life as chairman of the Nassau County Bridge Authority. And, he continued to be the Republican leader from Inwood. That is not to say that Peter DeSibio is a partisan good samaritan. He helps out anyone and everyone who approaches him with a legitimate need.

Such assistance includes, but is not limited to, writing letters of recommendation, acquiring summer jobs for youths, and raising funds to build schools, churches, and temples. His latest effort resulted in raising $60,000 to construct a psychiatric roof garden at Franklin General Hospital in nearby Valley Stream. It was named in his honor.

While retired from his gainful employment, Uncle Peter DeSibio is far from giving up his social and charitable activities. Actually, requests for him to head campaign fund raisers increase with each year. It is hard to imagine what Inwood and surrounding areas would be like if Peter DeSibio had not chosen to live there. But, it is certain we are far better off for his making us his neighbors.●

WHY SHOULD RUSSIA HAVE THREE VOTES IN THE UNITED NATIONS?

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. YOUNG of Alaska. Mr. Speaker, I am introducing legislation which would correct an inequity in the voting strength of the U.S.S.R. in the United Nations that has existed since the United Nations was established in 1945. The admission of Byelorussia and the Ukraine into the world body as free and independent states is a historical anomaly that must not be allowed to persist.

It is helpful at this point to examine the historical underpinnings of this issue. During the negotiations at Dumbarton Oaks and Yalta that preceded the formation of the United Nations in 1945, Joseph Stalin argued that the Soviet Union was entitled to 16 votes—one for each of the 16 Soviet republics. Following this logic, the United States should have been entitled to 50 votes for each of the 50 States. President Roosevelt opposed the idea of any additional seats for the Soviets but was finally coerced into accepting Byelorussia and the Ukraine in order to appease Stalin, preserve the alliance, and defeat Nazi Germany.

It is a blatant misnomer to refer to the Ukraine and Byelorussia as free and sovereign states. They relate to the U.S.S.R. in roughly the same way that Florida and California relate to the United States. They form integral parts of the Soviet empire and exercise no self-determination in the conduct of diplomacy. Their voting records have been identical with the Soviet Union's over the past several years. Like the Soviet Union, they are behind in their assessed contributions to the United Nations, owing over $30 million as of June 30, 1983. The serious implications involved in allowing the Soviets three votes in the United Nations can be seen in the recent election of the Ukraine to the Security Council. The Soviets can now be assured of at least two votes on all measures before the Council.

There is an increasing awareness in the United States that the United Nations has failed to live up to its role as a peacemaker in the world and has been manipulated by special interest coalitions. As a result, a basic reassessment of United States involvement in the organization has begun. Congress voted to freeze United States contributions to the United Nations at the 1983 level and directed the President to conduct a review of "the benefits derived by the United States from participation in the United Nations." Furthermore, the administration has indicated that the United States will withdraw from UNESCO at the end of 1984.

There are other steps that the United States can and should take to restore the United Nations to its proper role as a fair and open forum for international debate and conflict resolution. Expulsion of Byelorussia and the Ukraine and a return to the principle of "one country, one vote" is one such necessary step. The resolution I am introducing urges the President to seek the expulsion of the Ukraine and Byelorussia. I invite my colleagues in the House to join me in this effort.●

TIME TO ACT ON DRUG DIVERSIONS

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. PARRIS. Mr. Speaker, as a member of the Select Committee on Narcotics, I have long been concerned over the need to control the illegal diversion of drugs. Recent testimony by the Drug Enforcement Administration and others lends a new urgency to the problem.

Nearly 7 of every 10 deaths and injuries related to illegal drug use are now being caused by drugs criminally diverted from legal channels. Theft is a major, and growing, source of supply for this illegal market.

I have introduced H.R. 2929, which provides felony penalties for the theft, under any circumstances, of controlled substances. Existing Federal laws provide penalties for illegally manufacturing, possessing or distributing drugs, but not for stealing them.

My bill is broader in scope than others that address this problem, in that they deal only with thefts from pharmacies. H.R. 2929 brings a theft or extortion of a controlled substance, from any legal source of supply, under Federal jurisdiction. I trust this approach will be given serious attention as the Commerce and Judiciary Committees begin action on the problem.●

WHITEMAN AFB ACHIEVEMENT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. SKELTON. Mr. Speaker, on numerous occasions I have had the distinct pleasure of visiting Whiteman Air Force Base in Johnson County, Mo., home of the 351st Strategic Missile Wing. The 150 Minuteman II intercontinental ballistic missiles, spread out over an area of approximately 10,000 square miles, play an important role in the deterrent strategy of the United States.

Late last year, an evaluation team from Vandenburg Air Force Base, Calif., looked at 36 areas involving operations, missile maintenance, and communications. Whiteman, one of six Minuteman bases, scored above the Strategic Air Command's standards in 32 of the areas. According to the officer in charge of the evaluation team, Col. Joseph A. Friedman, the overall results were the best ever achieved by a Minuteman unit.

The credibility of the U.S. strategic forces to respond promptly to a direct attack on the United States and its allies reduces the likelihood that such an attack will ever take place. The readiness of the 351st at Whiteman contributes to the credibility of the U.S. nuclear deterrent.

Today, I salute the officers and enlisted personnel of the 351st for the high standards they have set. Their knowledge, proficiency, hard work, and dedication is an example and an inspiration to all Americans.●

THE BARTENDERS' BALL IS A SUCCESS

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. FAUNTROY. Mr. Speaker, 10 local charities and nonprofit organizations were beneficiaries of the proceeds of the sixth annual Bartenders' Ball held February 25. Chosen by the Bartenders' Ball Foundation, these recipients were: So Others Might Eat; St. John's Child Development Center; Whitman Walker Clinic; higher achievement program; Shaw Community Center Food Committee; Arena Stage; Capital Children's Museum; Gallaudet College; Spinal Cord Injury Association; and the Hospital for Sick Children.

The Bartenders' Ball Foundation, Inc., was created in 1982 to formally organize and direct the efforts of what had become one of Washington's largest single-event fundraisers. Proceeds from the 1979 to 1981 balls had been donated to the Leukemia Society of America. However, the foundation felt strongly that the money raised from the ball should be channeled back into the Washington community. Consequently, the 1982 ball proceeds of $77,000 were distributed to the Leukemia Society and also to five locally based charities. Funds raised by the 1983 ball totaled over $75,000 benefiting 10 local agencies.

The board of directors of the Bartenders' Ball Foundation is comprised of past ball chairpersons and leading supporters of the ball. This year's directors are: Steven Micheletti, Rumors; Craig Goodman, New York, N.Y.; Gordon King, Bullfeathers; Eda Boyle Edgerton, formerly of Capitol Hill Management Corp.; Tommy Goss, Sign of the Whale; Jeffrey Dieringer, Forman Bros.; Peter Alafoginis, Bay State Beef; and Andy Ockershausen, WMAL Radio.●

DR. VIRGINIA MULROONEY HONORED AT TESTIMONIAL DINNER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. BERMAN. Mr. Speaker, on March 2, 1984, Dr. Virginia Mulrooney will be honored at a testimonial dinner given by the AFT College Guild, Local 1521, the American Federation of Teachers, the California Federation of Teachers, and the AFL-CIO.

Dr. Mulrooney has distinguished herself in her profession. She has been president of AFT-College Guild, Local 1521 since 1982, president of the Community College Council of the California Federation of Teachers since 1980, and senior vice president of the California Federation of Teachers since 1980. She is presently on leave from the Los Angeles Valley College Department of History, where she is professor of history.

Virginia Mulrooney was born in Rochester, N.Y., in 1939. She received her education in California, earning the degrees of AA from Santa Monica City College in 1959, BA from UCLA in 1961, and MA, also from UCLA, in 1963.

In connection with her chosen field, Dr. Mulrooney is a member of the American Historical Association, of the Organization of American Historians, and of the Pacific Coast Branch, American Historical Assocation. She received a Ph. D. from the University of California at Los Angeles in 1975, in history. Her dissertation topic was "American Military Government in the Philippine Islands, 1898-1901."

Dr. Mulrooney's civic activities have been important contributions to her community. She is a past member of the California State Attorney General's Task Force on Women's Rights, past member and founding member, American Federation of Teachers Women's Rights Committee, past member and founding member, California Federation of Teachers Women's Rights Committee, past executive board member, American Civil Liberties Union of Southern California, past executive board member, California Tax Reform Association, past executive board member, Coalition of Labor Union Women (Los Angeles), national executive board member, Coalition of Labor Union Women, and a member of the Rules Committee, National Democratic Party, 1972.

On a personal note, I have had the privilege of working with Dr. Mulrooney from the time I was a practicing attorney to now in Congress. I consider her a friend and a trusted adviser on educational issues. For her dedication in the field of education and for her generous contributions of time and energy for the benefit of others, I ask the Members to join me in honoring Virginia Mulrooney, Ph. D.●

ALFRED E. KEMPENICH, SR.

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. RICHARDSON. Mr. Speaker, recently, Mr. Alfred E. Kempenich, Sr., of Santa Fe, N. Mex., celebrated his 89th year. At his B'nai B'rith Lodge No. 1242 in Santa Fe, Mr. Kempenich was honored not only for his birthday, but for his outstanding civic achievements as well.

Mr. Kempenich has been a civic and community leader in New Mexico for many years, and I only thought it appropriate to share this honor with my colleagues in the House of Representatives.●

COMMEMORATING OUR FALLEN SERVICEMEN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1984

● Mr. HOYER. Mr. Speaker, memorial ceremonies were recently held in Mt. Rainier, Md., in my congressional district, commemorating our fallen servicemen in Lebanon and Grenada.

At those ceremonies, Mr. George Ganim, president of the Mt. Rainier Brentwood Lion's Club, presented a very inspirational message honoring the marines which I wish to share with my colleagues. Simply put, the marines' acts of charity and courage set an example for a desired brotherhood of the world where "Love, not Hate, Ranks Supreme."

I convey my deep feelings of gratitude to the town of Mt. Rainier and Mr. George Ganim for their continuing concern over our fallen heroes. It is just this kind of caring throughout the Nation, exemplified by Mr. Ganim's words, which reaffirms our goal toward attaining true peace in this troubled time.●

SENATE—*Wednesday, February 29, 1984*

(Legislative day of Monday, February 27, 1984)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Blessed is the nation whose God is the Lord.—Psalm 33: 12.

Almighty God, Sovereign of history, let us never forget that Thou art the source of our strength. We are grateful for strong Senate staffs. We are grateful for strong Senators. We are grateful for strong leadership. We are grateful for strong diversity. But help us, Lord, to remember that combined strengths are weakness when there is divisiveness.

Make us to see that our greatest strength is in our unity. Save the Senate, Lord, from fragmentation and impotence. Above all, gracious God, may we remember that our strength comes from Thee. Deliver us from the delusion that we can get along without Thee. We pray in the name of the most powerful man in history who found His strength in Thee. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SENATE SCHEDULE

Mr. BAKER. Mr. President, three Senators have special orders this morning for 15 minutes each and then an order has been provided to have time for the transaction of routine morning business until not later than 12 noon today, in which Senators may speak for not more than 5 minutes each. At noon we will resume consideration of S. 979, which is the export administration bill.

I do not know how many amendments there are to the export administration bill, Mr. President, but I am beginning to get the feeling that there may be a number. I should say that it is the intention of the leadership on this side to try to finish this bill this week. I have previously announced that this week we will also plan to consider the miscellaneous tariff bill and/or the FTC authorization bill. This is still my hope and desire.

May I say that our first requirement is to deal with the matter at hand. I hope Senators will be sparing in offering their amendments, and that we can pass this measure today and get on with the other two measures that I have mentioned.

In any event, Mr. President, I will say that it looks as if the export administration bill may require a little longer than I had originally planned for.

Mr. President, in view of that, I wonder if the minority leader is in a position to consider the possibility of addressing Calendar Order No. 683, H.R. 4956, which is a 30-day extension of the Export Administration Act of 1979, with an order that no amendments would be in order to that measure.

Mr. BYRD. Without amendment?

Mr. BAKER. Without amendment.

Mr. BYRD. I would have no objection.

EXTENSION OF EXPORT ADMINISTRATION ACT OF 1979

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 4956, that no amendments be in order to that measure, and that the time for the consideration of that measure be limited to 1 minute.

The PRESIDING OFFICER (Mr. TRIBLE). Is there objection to the request of the Senator from Tennessee? Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 4956) to extend the authorities under the Export Administration Act of 1979.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4956) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I do not expect today to be a late day. We will stay as late as reasonably necessary to accommodate the requirements of Senators, but there are a number of functions this evening that I am aware of that will probably affect Members on both sides.

I do warn Senators, however, that Thursday, which is the usual and regular late evening, may be a late evening this week.

Mr. President, I am prepared to yield so that the minority leader may claim his time under the standing order.

I yield back my remaining time or yield it to the control of the minority leader.

Mr. BYRD. I thank the majority leader.

Mr. BAKER. Mr. President, I thank the minority leader.

Mr. BYRD. The majority leader is welcome.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

THE ROADBLOCK TO DEFICIT REDUCTION

Mr. BYRD. Mr. President, the cover of the latest issue of Time magazine visually dramatizes what many people believe to be the most serious domestic problem facing this country; namely, our soaring budget deficit, or, as the Time cover puts it, "Our Economic Black Hole."

The seriousness of these deficits was, I thought, not lost on the President. Just hours, however, before he delivered his State of the Union address in January, he called me to say he was calling on the Speaker of the House, the majority leader of the Senate, the minority leader of the House, and me, to designate someone among our respective memberships who would attend meetings downtown with administration representatives to discuss the budget deficits. I indicated that I would appoint someone.

At that time, I said to the President, "Mr. President, there is only one man in this country who can convince the American people that deficits are dangerous, and that man is the President of the United States."

I said, "There is only one man in the country who can persuade the American people that it may be necessary to take some bitter medicine, and that

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

one person is the President of the United States."

I said, "Mr. President, you will have to provide the leadership if we are to be successful in this effort."

He said, "OK, if you will designate someone, I shall 'do the other part'," as I recall.

I responded by naming Senator DANIEL INOUYE, who is an elected member of the Democratic leadership, and the Speaker responded to the President by naming House majority leader JIM WRIGHT. The distinguished majority leader of the Senate, Mr. BAKER, responded by designating a Senator or Senators, and the distinguished minority leader of the House, Mr. MICHEL, made his appointment.

The first meeting of that group was held just 1 week after the President's budget was unveiled. While I, along with many of my colleagues, was disappointed with the huge deficit in the President's budget and his failure to recommend meaningful and substantial and real reductions, we were anxious to do what we could, and still are, to reduce the deficits in a fair and equitable manner. Clearly, reaching a substantial reduction of the deficits will not be easy, but we Democrats approached the White House meeting with the belief that successful deficit reduction efforts will have to address those areas of the budget which most caused the astronomical deficit growth to begin with. The CBO told us that the recession was largely responsible for turning a fairly bright budget picture in January 1981 into a morass of deepening deficits in January 1984. That recession is now a bitter fact of life. During those 3 years, the administration also made a number of policy changes contributing further to deepening the deficits.

During the administration's first 3 years, its military spending binge added some $79 billion to the deficits over the fiscal year 1982-85 period, and the tax program added $323 billion more in red ink. When combined with the added interest costs of this larger debt, the total deficit increases completely overwhelmed the $192 billion in nondefense savings that had been made by the Congress. So, contrary to many people's impressions, this administration's policies have directly added $240 billion to the cumulative deficits during those years.

This is hardly a State secret. Even some Republican leaders acknowledge that significant deficit reductions must include reductions in the planned increase in Pentagon spending and recovering some of the revenues lost to the wealthy in the 1981 tax bill.

During, I believe it was the first meeting of the White House group, I am advised that Congressman WRIGHT proposed a plan to reduce military spending first advanced by former President Gerald Ford, stretching out the planned 5-year military buildup over 6 years. At the second meeting, Mr. WRIGHT again put forward this plan as a means of reducing the deficit. He was joined by Mr. INOUYE, who also suggested that the White House provide the participants with a priority list of various systems so that Congress would know where to cut fat and where to cut muscle.

Incidentally, Senator INOUYE and I joined in writing a letter to Mr. Jim Baker at the White House urging that the administration provide the participants with a priority list of various defense items. I added a postscript referring also to foreign aid. Thus far, no response has been received from the White House to even acknowledge the receipt of those two letters.

At the third meeting, I am advised that Senator DOMENICI advanced a plan to reduce real Pentagon growth to 5 percent of fiscal year 1985, 4.5 percent in fiscal year 1986, and 4 percent in fiscal year 1987. According to all reports, Mr. DOMENICI's proposal was shot down quickly, with the White House participants indicating, when it came to Pentagon spending, that they, the administration people, were only "observers" and not "participants"—even though the President had earlier said on national television that everything would be on the table.

Even the bipartisan National Governors Association, at their annual meeting here, recommended a limit on defense growth of 2 to 4 percent for the next 25 years.

After all these proposals, what was the reaction of the people at the White House? They rejected them all. While continuing to profess that all subjects were on the table, they were rejecting any and all proposals for serious deficit reductions at the Pentagon. It matters not whether those proposals were advanced by Democrats or by Republicans or by bipartisan groups. The result was and is the same: A solid "No."

The President is stonewalling the American people on deficit reduction. He rejects serious alternatives, and yet presents none of his own. He focuses on further domestic spending cuts and ignores the true cause of the deficit problem as described by his own economic adviser, Martin Feldstein, as "defense spending, interest on the national debt, and the tax reduction." So, the President has become the roadblock to deficit reduction.

In his economic report to Congress this year, the President states clearly that he will wait until next year to propose deficit reductions. On page 9 of the Economic Report of the President, he states, "In 1985, I will submit a budget that can achieve this goal"—making reference to a balanced budget.

So while paying lip service to deficit reduction this year, the President is apparently preparing a behind-the-scenes plan for next year, keeping this plan out of sight until the election is safely behind him.

Mr. President, a President is elected to provide leadership on the issues important to our people and our country. Certainly, the burgeoning deficits are an issue which the people want resolved and which the country needs resolved. But, as I have asked before, where is the President? He gives Congress a budget that, in actuality, proposes rising deficits at a time when we have already experienced 3 years of the largest deficits in our history.

He proposes a budget that provides for a $50-billion increase over last year in Pentagon spending authority while there is increasing evidence of $450 hammers, $1,100 plastic stool caps, and $44 light bulbs purchased by the Pentagon.

The Democrats—and, I am sure, Republicans—from the Hill are making good faith efforts at the table downtown to try to reduce the Federal deficits, but we must not wait on this group. The real work of reducing the deficit must be done through the legislative process. That work has begun. Mr. DOLE is moving forward as chairman of the Finance Committee. Mr. HATFIELD is moving forward as chairman of the Appropriations Committee. Mr. DOMENICI is moving ahead as chairman of the Budget Committee. Their counterparts for the most part, as I can understand it, on the House side are likewise moving ahead, so that the legislative process is getting underway. The distinguished majority leader of the Senate has been quoted as saying we must get on with the legislative process. And he also, according to news reports, has been working with the chairmen of the committees in the Senate, those committees which have major responsibilities in this field. I personally feel that that is the way it should be done; it is the way it always has been done, and I trust that this legislative process will continue.

Unlike the President, most people do not believe that deficit reductions can wait until next year. I think that we must do whatever we can that is fair and equitable, reasonable, and meaningful. I think that is what we have to do now. As I said before, the way to do it is through the legislative process, and that process is not standing still. It is moving. But only the President can provide the kind of leadership we and the country need in reducing the budget deficits—deficits brought about largely by his own policies.

I congratulate the chairmen and the ranking members and members of the Senate committees to which I have referred, and I commend the majority leader of the Senate for his efforts to get the legislative process moving.

That process will allow hearings to be held, witnesses to appear and answer questions on the record, and each Member of the Senate may then vote up or down on the issues presented. It is not possible for any number of persons to sit behind closed doors downtown and commit 535 Members of both Houses to support or oppose any particular question or position involved.

JAPAN BEEF

Mr. BYRD. Mr. President, prior to the President's trip to Asia last November, I wrote to him to express my deep concern about our trade deficit with Japan. That deficit was in excess of $19 billion last year and stands as the largest trade deficit between any two countries in the world. Ambassador William Brock reports that as much as $5 billion of this amount is the result of discriminatory application of nontariff barriers to U.S. goods. Prior to the President's departure, I introduced, and the Senate passed, a resolution calling for the reduction of such barriers to free trade.

Senator BAUCUS reminded us last week that Japanese import quotas also represent a formidable barrier to U.S. products. Senator BAUCUS has done a superb job of highlighting this problem as it pertains to U.S. beef products. The people of Montana are rightly proud of MAX BAUCUS' leadership on this issue of importance. We in the Senate have benefited from Senator BAUCUS' hard work in this regard. He has met with the Japanese Ambassador to the United States, and taken many constructive steps toward changing the quota and establishing fair trade in beef products between the United States and Japan. I commend my colleague from Montana for his diligence and commitment to a regime of fair trade.

Mr. President, if I have any time left, I will be glad to yield it to the first Senator who has an order.

Do I have any time left?

The PRESIDING OFFICER. The Senator's time under the standing order has expired.

Mr. BYRD. Even that which the majority leader so kindly yielded to me?

The PRESIDING OFFICER. That time has also expired.

Mr. BYRD. I thank the Chair. I am longer winded that I realized.

I cannot yield any time to the Senator from Pennsylvania. Does he have an order?

Mr. SPECTER. I thank the distinguished leader for his suggestion. I do have an order following Senator PROXMIRE.

Mr. BYRD. Does the Senator need more than 15 minutes? I do have an order.

Mr. SPECTER. I may. I may, but I think——

Mr. BYRD. All right. Mr. President, I want to save some time for Mr. INOUYE, should he come to the floor. He indicated to me earlier today that he would like some time, so I yield 5 minutes to Mr. SPECTER, if he should need it.

I ask unanimous consent that I may reserve the final 10 minutes in my order for use by the distinguished Senator from Hawaii (Mr. INOUYE).

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

PROGRAM FOR PREVENTING NUCLEAR WAR

Mr. PROXMIRE. Mr. President, let us first summarize where we are in these speeches on the development of national policies that we should pursue to prevent nuclear war—the positive policies. On a later occasion I will set forth national policies we must avoid to prevent nuclear war the nonoes.

A nuclear war is likely to start—not from a superpower strike. Such a strike would be an act of suicide. It might come from a mistaken judgment by either superpower that it was under attack. But it is most likely—in fact given time and the continuation of nuclear proliferation—it will very likely come from the initiative of a third country, such as Libya or Iran. The superpowers now face each other in a nuclear standoff. Deterrence has worked for 30 years. It may work indefinitely. But a newly nuclear armed country confronting a traditional adversary which had not yet acquired a nuclear arsenal would not face deterrence. It would not fear the kind of retaliation that a nuclear aggressor against either superpower would face. In fact, consider the inviting options open to a third country lead by a Khomeni or a Qadhafi, or some other dictator who might arise in the future and have the same disregard for human life. It could in the flash of a few minutes utterly demolish any nonnuclear adversary without fear of retaliation. Now, Mr. President, I come to a much more serious possibility. It could through the use of terrorists even decapitate a superpower—wipe out its entire leadership. Imagine what a single explosion when the President delivers his annual state of the Union message only a few feet away from here in the House Chamber could do to the leadership of our country. It would eliminate the President, Vice President and Cabinet, the Joint Chiefs of Staff, the Supreme Court and the Members of the Congress—the entire Senate and House. A single, small nuclear weapon exploded within a mile of the Capitol any time in the future—5, 10, 20 years from now—could do all this. If proliferation continues at its present pace, a country perpetrating such an act might well be confident that it would not suffer retaliation.

Now, assume that decapitation should occur in January 1994. Assume that somehow we restored a government authority very promptly. Could such a government punish the perpetrators of the greatest political crime in the Nation's history? How? Where would we strike back? How could we determine responsibility for sure? With a score or more of countries possessing a nuclear arsenal at that time, with the obvious possibility that the nuclear weapons that destroyed the country's leadership had been seized by a terrorist group, we would face the possibility, perhaps the probability, that no country was responsible.

Mr. President, what I describe is not a remote hypothesis from never-never land. Sure, it sounds far out. But why is it not the logical consequences of an indefinite proliferation of nuclear weapons? Why is it not the consequence of our feeble, full-of-holes restraint against selling nuclear materials and equipment to nations that have refused to sign the nonproliferation treaty? After all, by refusing to sign that treaty, these nations that receive our heavy water and metallurgical presses especially designed for nuclear weapons have, in fact, rejected international inspection to determine whether or not they diverted the materials and equipment to military purposes. Why do they refuse to sign? You know why: Because they are building nuclear arsenals.

Mr. President, we not only need to recognize the terrible consequences of nuclear war, we not only need to maintain our deterrent, we not only need to push hard for a mutual, verifiable freeze agreement with the Soviet Union, we not only need to make our fight against nuclear proliferation our No. 1 national priority, but we need one other fundamental change. We need to find ways to cooperate and work with the Soviet Union at every level—in cultural relations, in business and trade, in agriculture, in science, even in sports. We can have a far more profound influence on that closed society than they can have on our open society. President Reagan has pointed out that our countries have never really been at war with each other in any major way. We both have everything to gain from cooperation and nothing to lose. Sure, the Soviet Union is a Communist, Marxist, atheist dictatorship. Yes, indeed, they have a long and bloody history of disregard for human freedom. They have preached world revolution by force and violence, but gradually and peacefully they can change. There is no way that cooperation with Russia can subvert our open institutions. We welcome and thrive on criticism and debate. Our genius is that we welcome change as long as it keeps the future open for freedom and democracy.

Mr. President, this is the positive agenda for peace in the nuclear world. There is a negative agenda, too: A series of actions we should identify and avoid if we are to maintain peace. This body should move forward with the positive agenda I have outlined. In a later speech I will set forth the negative side, how we must avoid the pitfalls in this treacherous nuclear armed world that could lead to the certain destruction of our blessed country and the possible extermination of the human race.

PERSECUTING THE INNOCENT

Mr. PROXMIRE. Mr. President, in February of last year, 22 Baha'is were condemned to death by the Islamic Revolutionary Court of Shiraz.

The sentences were approved by the Supreme Court of Iran. The trials were carried out in secret, no formal charges were preferred, and the names of the condemned were not disclosed.

During an interview with the president of this court, he said:

> It is absolutely certain that in the Islamic Republic of Iran there is no place for Baha'is or Bahaism. . . . Before it is too late, the Baha'is should recant Bahaism, which is condemned by reason and logic. Otherwise, the day will soon come when the Islamic nation will deal with them in accordance with its religious obligations.

Since the beginning of the 2d session of this 98th Congress, I have on several occasions denounced the systematic persecution of this religious minority. My repetition is not without purposes, for in remembering, one may act to prevent a recurrence.

The Baha'is are not political activists or subversives who look with selfish intentions to gain from their homeland. They neither clamor for leadership nor desire to accumulate wealth. They are peace-loving people who are dedicated to obeying the instructions of their government.

I ask you, why are hundreds of Baha'is cemeteries bulldozed and the graves desecrated? Why are their clinics dynamited and their holy shrines destroyed by Iranian officials? Why are hundreds of Baha'is cruelly beaten and driven from their villages? And most important, why are innocent lives being snuffed out by a hangman's noose?

The simple answer is religious faith—a faith that if not recanted at the feet of the Iranian justices, may lead to the elimination of this religious minority.

What has emerged is a systematic campaign of persecution with an aim of nothing less than the eradication of the Iranian Baha'i community.

Mr. President, the Baha'is have made a worldwide appeal for relief from this inhuman policy of persecution. The United States, as the global leader in human rights, has an obligation to respond.

If we are to denounce possible acts of genocide, we must ratify the treaty which stands for that very cause. Strengthening our position through international law is a necessity in this instance because a total commitment to human rights must include the Genocide Convention. I urge its ratification.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania (Mr. SPECTER) is recognized for not to exceed 20 minutes.

Mr. SPECTER. Mr. President, I yield at this time to the distinguished Senator from Hawaii.

Mr. INOUYE. I thank my colleague from Pennsylvania very much.

NOTES ON THE REPORT OF THE NATIONAL BIPARTISAN COMMISSION ON CENTRAL AMERCIA

Mr. INOUYE. Mr. President, what I must now do is not pleasant.

I trust that does not astonish anyone, for today I am presenting my views on the report of the Kissinger Commission and on present conditions in Central America, and I think, if I speak directly and openly, there will be no surprises—I will state what Senators already know.

I came late to the Kissinger Commission. As Senators know, after the death of our colleague, Senator Henry M. Jackson, I was honored to be appointed to serve in his place as a senior counsellor to the Commission. Unfortunately, the commitments of a legislative schedule, established long before my appointment, precluded me from joining the Commission on its foreign travel. I have, however, had lengthy discussions and explored the work of the Commission with its chairman, Henry Kissinger, and with Robert Strauss and other members.

Furthermore, my work on the Appropriations Subcommittee on Foreign Operations, as well as on the Intelligence Committee, has kept me abreast of the situation. In addition, because I knew that I would be unable to travel, in September of last year, I sent a member of the professional staff of the Committee on Appropriations to Central America to gather information and to provide me a firsthand report on economic, military, and political conditions in the region. In January of this year, after the release of the Kissinger Commission report, I again sent him to Guatemala, El Salvador, Honduras, and Nicaragua. I have now completed my review of the information gathered in the past several weeks.

I would like to underscore that this is a personal report. I am not speaking on behalf of the Democrats on the Appropriations Subcommittee on Foreign Operations, nor do I speak for my colleague who was also a senior counsellor, Senator BENTSEN. I speak only for myself and only in the hope that we can act in unity to spare our country from what I perceive to be an imminent—but emphatically not an inevitable—tragedy.

Mr. President, I fear that America is stumbling blindly toward the abyss. Military assistance to a bloody regime in Guatemala, military maneuvers which trample on an infant democracy in Honduras, and the failure to effectively confront military complicity in death squads in El Salvador, all of these are signs which mark the way, yet those in power do not see them. The policies of the Reagan administration in Central America have heightened tensions and have served to encourage those who would seek to quell by force the urges for freedom and dignity they have long failed to resolve through peaceful social change. The United States is, today, contributing to the creation of an increasingly dangerous configuration of political and military forces in Central America, and I am gravely concerned that, if we follow the course charted by the Reagan administration, the United States will be caught up in the maelstrom of violence. And the tragedy which awaits us, unless we exercise the courage and wisdom to avert it, is that the forces of our democracy will be employed in the service of tyranny and repression.

Those of you who know me well know that these words do not come easily to me. I am still reluctant to give the full measure of my concerns, but I can no longer remain silent. I shall try to give you an objective analysis, devoid of excesses of rhetoric, but I will not limit myself to a mind-numbing recitation of statistics. If my analysis is not uniformly dispassionate, it is because I fervently believe that the strength of this Nation rests on its adherence—particularly in times of adversity—to fundamental moral principles. In this, I am in agreement with the Kissinger Commission, which declared, "To be perceived by others as a nation that does what is right because it is right is one of this country's principal assets." Therefore, let me be direct. The United States must be prepared to terminate our military assistance program to El Salvador, if the leaders of that country do not curb corruption and dismantle death squad structures. Before our adherence to fundamental moral principles is further debased, before we lose sight of who we are, we must put an end to this sordid affair.

Mr. President, I ask unanimous consent that my report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Notes on the Report of the National Bipartisan Commission on Central America

(By Daniel K. Inouye)

In my view unquestionably the strongest element of the report of the National Bipartisan Commission on Central America is its command of historical perspective. The candor and compassion with which the Commission members addressed the historical framework for contemporary problems in Central America is testimony to the seriousness of purpose with which they approached their task. Their historical review is impressive, and it should give us pause. Fear of "economic imperialism," the report notes, "to some degree still persists among Central Americans." Moreover, one of the significant findings in the report is that past military interventions and other forms of pressure are part of the legacy of U.S. involvement. In the words of the Commission, "None of these policies worked very well, and they aroused considerable resentment." On the other hand, the Commission found that Franklin Roosevelt's Good Neighbor Policy of friendship and non-intervention "had the paradoxical effect of continuing to identify the United States with established dictatorships."

The historical review should give to us a humble appreciation of the limits of U.S. political or military intervention. So, too, should the review of the historical antecedents to the social, economic, and political crises of today give us an appreciation of the difficulty of achieving peaceful social change in Central America. Indeed, the stark reality of contemporary life for many in Central America—in economic terms alone—is so grim and the obstacles to change so formidable, that it appears at least some of the Commissioners drew back from their own conclusions on the dim prospects for peaceful social change and, instead, turned their attention to military threats to United States vital interests.

I will not review and comment on all of the findings of the Kissinger Commission. Nor will I challenge the goals expressed in its report; these are indeed laudatory. In point of fact, the expressed goals are those of the Alliance for Progress: economic growth, structural change in societies, and political democratization. The Commission rightly points out, however, that, despite the promise of the Alliance for Progress, "it was only in the first area that significant progress was made." In this regard, it quotes the findings of the Economic Commission for Latin America—"the fruits of the long period of economic expansion were distributed in a flagrantly inequitable manner." The example chosen by the Kissinger Commission underscores the ultimate failure of the Alliance for Progress: "in El Salvador in 1980 66 percent of the national income went to the richest 20 percent of the population, 2 percent went to the poorest 20 percent."

It has been said that the period of modernization and national geographic growth brought on by the Alliance for Progress was a revolution. It aroused expectations and held forth the promise that the quality of life would improve. For the majority, however, the burdensome struggle for human existence was not relieved. In Guatemala, for example, the real incomes of poor families were actually lower in 1980 than in 1970. For the majority, it was a revolution without change.

Why should we now expect that the outcome would be different? The Commission itself recognized the requirement for systemic change:

"Ultimately, the effectiveness of increased economic assistance will turn on the economic policies of the Central American countries themselves . . . unless these reforms are extended, economic performance will not significantly improve, regardless of the money foreign donors and creditors provide. In too many other countries, increased availability of financial resources has undermined reform by relieving the immediate pressure on policy makers. This must be avoided in Central America."

Having said this, the Commissioners appear to disregard the consequences of their finding and instead, in direct contradiction, propose to relieve the immediate pressure by providing $400 million in an immediate increase in U.S. bilateral assistance along with new trade guarantees and emergency credits.

I believe that economic recovery and economic development of benefit to all segments of society in Central America can best be achieved if we seize the Commission's finding and take the necessary measures to ensure that increased availability of financial resources does not relieve pressure on policy makers, does not undermine reform. I believe that the Congress is capable of establishing concepts of conditionality which set certain standards of performance to be met prior to the disbursement of funds.

This is not unreasonable. In our economy, in normal business relationships in the United States, contractual terms and conditions establish standards of performance which must be met before funds are disbursed. In the international economy, a key element in the financial support arrangements of the International Monetary Fund is the requirement that countries agree to a program of reform which meets IMF conditions prior to the provision of extraordinary balance of payments assistance. It is, I think, not unreasonable for the Congress to set conditions and to establish standards of performance which must be met before we transfer our resources to other countries. After all, we do not wish to finance things as they are, for this would continue a downward spiral into economic and political ruin. Rather, what we intend, through our assistance, is to finance programs which will bring Central America closer to the goals expressed by the Commission, and we, in the Congress, have the right and the duty to ensure that standards of performance for those programs are established.

One of the concepts of conditionality to be explored by the Congress should address the diversion of U.S. balance of payments assistance leading to capital flight. The Commission notes that, without a considerable reduction in the levels of violence in El Salvador, "capital flight would continue, draining the new financial resources which we propose to be made available." Undoubtedly, the Commission is correct and, therefore, logic would dictate that controls on capital be put in place prior to the provision of any additional resources. This requirement is of particular importance since balance of payments support is now to be the principal mode of U.S. economic assistance to El Salvador.

A recent Arthur Young and Company report, which has been classified "Confidential" by the Reagan Administration, examined foreign exchange policies and management issues within the Central Bank of El Salvador and made recommendations for improvement. Although the report remains classified, it has been reported publicly that Arthur Young and Company found that the Central Bank lacked an effective mechanism for preventing Salvadoran businessmen from drawing more dollars than they are entitled to through the use of inflated receipts. A subsequent study of the General Accounting Office confirmed that controls to prevent capital flight through overinvoicing of imports are weak. Thus, there is little doubt that, without better controls on capital flight, a substantial amount of U.S. "cash transfer" balance of payments assistance will continue to line the pockets and swell the bank accounts of the powerful and the corrupt who steal dollars from the government of El Salvador and rob legitimate private-sector activities of desperately needed foreign exchange. At a minimum, the Congress should insist that strengthened controls on Central Bank foreign exchange operations be made an integral part of any agreement to provide additional U.S. assistance to El Salvador and the other countries in Central America.

The Congress should also explore concepts of conditionality which would give greater assurance that United States assistance reaches the people it is intended to help. Over the past four years, United States assistance to Central America has increased five-fold. The Kissinger Commission proposes further increases on an accelerated basis. Still, we must recognize and contend with the fact that there are severe limitations on the absorptive capacity of the countries of Central America. At present, some $465 million in funds provided to Central American governments lie unspent in AID pipelines. The GAO study found that government institutions in all of the Central American countries are weak and often wholly ineffective. These are the institutions which we presently rely upon to implement projects funded by United States assistance. They are overextended now, and the Kissinger Commission would increase their workload. I doubt their ability to respond.

Furthermore, GAO found that U.S. Agency for International Development staff have reached or exceeded their capacity for project oversight. Moreover, audit coverage has not keep pace with the increase in funding. As a result, bureaucratic tangles delay project implementation, mismanagement abounds, and those audits which are performed reveal a broad pattern of corruption and inefficiency. Assistance which is intended to improve the quality of life of the poor and to encourage their support of democratic government is too often diverted to the personal aggrandizement of the rich and the powerful.

There are military consequences of this diversion whose significance cannot be ignored. In the fiscal years 1981-1983, U.S.

economic assistance to Central America totaled approximately $1.4 billion, with some $600 million provided to El Salvador alone. By rough comparison, the Soviet Union and the countries of Eastern Europe combined to provide a total of $465 million over the same period, all of it going to Nicaragua. The United States clearly is not lagging behind the communists in the provision of economic aid. Nonetheless, by all accounts, soldiers in El Salvador area not as highly motivated as their opponents. I would suggest that this is, in part, the consequence of corruption. I would suggest that the troops and junior officers in the field, those who face the dangers of combat and who feel the presence of death, must believe that they fight to defend a system which holds the promise of a better life. For, if they have no confidence that the health and welfare of their families are a matter of concern to their government, if they look to their leaders and see incompetence and corruption, what reason do they have to continue the struggle?

Thus, while there are many who, no doubt, would argue that it is inappropriate to discuss conditionality on economic assistance when faced with an immediate security crisis, I believe that we must attend immediately to the demoralizing and decaying effect which corruption and complacency have had on the military institutions and governments of Central America and, more particularly, El Salvador. To begin, it is of paramount importance that we recognize that an emergency economic stabilization program—even one of the magnitude proposed by the Commission—is insufficient to prevent the inner collapse of the Government of El Salvador. A first premise of government, one which states that corruption and legitimacy are antithetical, dictates the necessity for reform.

Furthermore, I believe that the erosion of the combat capabilities of the Salvadoran military will continue until the foot soldier in El Salvador has reason to believe that his government and his commanders are no longer indifferent to his concerns. Moreover, I believe that, as long as controls on dollar assistance are weak and can be easily evaded by the powerful, and as long as ineffective AID monitoring of U.S.-financed local currencies allows the diversion of public funds for private gain, those who profit from such abuse will remain oblivious to the military necessity for economic reform. Under these circumstances, the army of El Salvador will become increasingly characterized by soldiers who will not fight and commanders who cannot lead. And, in that case, to use a phrase the Commission uses in another context, "a collapse is not inconceivable."

Thus, for all these reasons, to confront corruption, to improve the effectiveness of U.S. assistance, to slow the flight of capital, and to support legitimate reform efforts of the Government and military of El Salvador, I believe it is imperative that the Congress impose conditions on economic assistance. Accordingly, I intend to call upon the appropriate committees to develop concepts of conditionality on United States assistance to Central America. Subsequently, I intend to seek support for legislation which will require that Congress review the proposals of the Central American countries to conform to those concepts prior to the appropriation of funds.

I propose these steps not because I seek to delay consideration of the Commission's recommendations, but because I agree with the Commission that "the crisis will not wait." There is, indeed, no time to lose. We can no longer countenance nor contribute to delay in the processes of economic and social change. In saying this, I am mindful of the Commission's admonitions on the subject of reform.

The Commission is correct, I believe, in its analysis that insurgencies develop a momentum which reforms alone cannot stop. It is also correct in its assertion that "unchecked, the insurgents can destroy faster than the reformers can build." However, taking the latter of these two points first, I would say that it is true only if we speak of building bridges, power stations, and other elements of infrastructure. In that case, the insurgents can destroy faster than the reformers can build. But, in a more profound sense, what the reformers must build is a foundation of hope for the future and the belief that all will participate equitably in it. Thus, while the Commission is correct that political, economic, and social programs cannot by themselves defeat insurgencies, it is equally true that such programs are necessary preconditions for success. Indeed, the Commission itself persuasively argues that success in counterinsurgency depends upon methods which gain the "confidence and support of the people and specifically exclude the use of violence against innocent civilians."

The use of arbitrary violence by the right in El Salvador is underscored by the Commission's finding that "the grim reality is that many of the excesses we have condemned would be present even if there were no guerrilla war supported by outside forces." This finding both defines the dimension of the tragedy in El Salvador, expressed in the report's graphic phrase "traditionalist death squads," and delineates the essential requirements for firmly established conditions on economic and security assistance.

In his courageous speech before the Chamber of Commerce in San Salvador, Ambassador Thomas Pickering clearly stated that "the essential stumbling block to democracy in El Salvador remains extremist terror." Ambassador Pickering noted that the selection of victims and other information proved that the Maximiliano Hernandez Martinez Death Brigade and the Secret anti-Communist Army are not guerrilla organizations. He asked, "Where are the condemnations? Why hasn't the private sector, which regularly issues statements on political matters, publicly condemned such outrages?"

We must condemn extremist terror. We must do so not only because we want ours to be a country which is perceived to do what is right because it is right, but also because the condemnation of the death squads and concrete action to dismantle their support structure are the absolute minimum requirements for gaining the confidence and support of the people of El Salvador and an essential prerequisite for an effective counterinsurgency effort.

To be fair, we must acknowledge that the Reagan Administration has spoken against death squads, but to be accurate, we must also say that mixed signals have brought mixed results. As I have noted, the United States Ambassador to El Salvador has publicly denounced rightist death squads; both the Vice President and the Secretary of State have traveled to El Salvador to speak against death squads. The Vice President is widely believed to have called for the arrest or exile of specified individuals.

And how have the authorities in El Salvador responded? So far as I know, only three military officers have been sent abroad. One of them, the former director of intelligence for the National Police in El Salvador, Lt. Col. Aristides Alfonso Marquez, is now reported to be "taking a course in civilian matters" in a university in San Jose, California. When asked in a Senate hearing, the Secretary of State could not confirm or deny this report.

If it is true, this report makes a mockery of the Commission's call for the imposition of sanctions "including denial of visas, deportation, and the investigation of financial dealings against foreign nationals in the United States who are connected with death squad activities in El Salvador or anywhere else." Therefore, I would think the Department of State would make the effort to contradict the report, if there is no substance to it.

In any case, the response of the authorities in El Salvador has been and continues to be wholly inadequate. While some claim is made that the number of human rights abuses is dropping, the tabulation very much depends on who is making the count and how information is collected. Officials of the U.S. Embassy in El Salvador have said that they do not question information provided by the Armed Forces. In fact, the U.S. Embassy relies solely on newspaper accounts and information provided by the military. The following table, found in the Christian Science Monitor, reveals the range of these statistics.

HUMAN RIGHTS VIOLATIONS IN EL SALVADOR AS RECORDED BY THE FOLLOWING GROUPS

	U.S. Embassy	Salvadorean Human Rights Commission	Roman Catholic Archbishop's Office	Socorro Juridico Cristiano
1983	1,677	[2] 1,002	5,142	5,670
1982	2,722		5,399	5,967
1981	5,331		NA	NA
1980	[1] 2,173		NA	NA

[1] October, November, December alone.

[2] Only 1 year's statistics because organization is a year old.

NA Not available.

Figures tally numbers of abductions, disappearances, and murders.

Clearly, we should be very cautious before accepting any representations of a decline in death squad activity. Moreover, we have no evidence that the structure of the death squads has been dismantled. The network of informers and assassins is still intact, and the authorities in El Salvador have dragged their feet on the prosecution of those implicated in the crimes of the death squads. If we now appropriate additional amounts of military assistance without adequate safeguards, the pressure will be off and, predictably, the death squads will return.

The Kissinger Commission, in a ringing declaration, states, "The United States Government has a right to demand certain minimum standards of respect for human rights as a condition for providing military aid to any country." I believe that we in the Congress must accept responsibility and exercise that right. Accordingly, I propose that we call upon the appropriate committees to review the possibility of appropriating funds for six-month intervals. This suggestion, of course, requires further elaboration and study, but what I have in mind is one bill which appropriates funds for the entire year, but which allows for the disbursement of no more than one-half of the funds made available until, at the sixth month interval, the Congress, in separate legislation, makes an independent finding of compliance with minimum standards of respect for human rights. Upon such a finding, the remaining funds would become available for disbursement.

This may strike some of you as a radical proposal. I would say that our previous experience with "certification" has not inspired confidence that the Executive Branch would enforce the right of the United States Government. Furthermore, I believe that such strong measures are the only way to seriously enforce conditions on assistance.

Not long ago, our revered colleague, John Stennis, spoke on the floor of the Senate on the subject of assistance to Lebanon. He clearly stated that it was not his intention to threaten to take money away from Lebanon. Rather, as he put it, "We can use some of those funds that we are letting them have in the form of economic aid and, more especially, military aid. There are certain handles that can go with it."

I propose to put "handles" on our assistance to El Salvador, not because I wish to threaten to take money away, but because I firmly believe that, without profound attitudinal change, on a broad scale of government and private life in El Salvador, it is the insurgents who will triumph.

We must have the courage to stand by our convictions, and we must do what the Executive Branch has failed to do—we must do what is necessary to win in El Salvador.

QUORUM CALL

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CAMBRIDGE AND OXFORD DEBATES

Mr. SPECTER. Mr. President, I rise to make this floor statement today to share with my colleagues in the Senate and the readers of the RECORD my concerns about United States-British relations as reflected from my participation in a debate earlier this month on February 17 at the Cambridge Union Society in Cambridge, England, and on a somewhat similar debate participated in by Secretary of Defense Caspar Weinberger, on February 27, 1984.

The proposition at Cambridge was "This house believes that the United States is a bigger threat to peace than the Soviet Union," and the subject matter at Oxford on the debate participated in by Secretary Weinberger was "This house believes there is no moral difference between the foreign policies of the U.S.A. and the U.S.S.R."

I am pleased to report that in both of these debates the U.S. position emerged victorious. In our debate at Cambridge there were 231 nays to 79 yeas with 103 abstentions, and, according to this morning's press reports, the results of Secretary Weinberger's debate were 271 nays to 232 yeas.

The house at Cambridge agreed with the U.S. proposition that the United States was not a bigger threat to world peace than the Soviet Union, and at Oxford the house concluded that there was a moral difference between the foreign policies of the United States and the Soviet Union.

Notwithstanding the victories, the substance of these two debates shows some real areas of concern between United States and British policies.

The procedures of the debates are fascinating. They are formal affairs, black tie, in halls modeled after the British Parliament.

At Cambridge, the President of the Union presided with speakers and two lecterns facing one another, with audience on both sides and audience in a balcony similar to the audience of the House of Parliament. The students and members of the audience are free to heckle, hiss, and boo—rights were exercised with some frequency.

The students would rise and ask questions in somewhat less dignified fashions than Senators on this floor are asked to yield; the protocol being that when someone rose to ask a question the speaker was supposed to yield, not indispensibly so, but that was the protocol.

The debates in these hallowed institutions have been watched worldwide, and one famous debate on February 9, 1933, at Oxford was on the subject "This house would not fight for king and country," and by a vote of 275 to 153 that motion was carried. It was later viewed as a signal to Adolf Hitler that Britain's young men were unwilling to fight. In the memoirs of Winston Churchill there was blame on the students at that occasion for that vote and for encouraging Hitler's aggressive tactics.

In preparing for the debate at Cambridge, I had some concern that there had previously been a debate on an issue "This house has no confidence in her majesty's government," which was carried. As I understand it that debate centered significantly on the cruise missile issue which I had expected—and in fact was—to be a significant part of the debate in which I participated.

I had the unique opportunity to be joined in this debate by a distinguished student a Cambridge, a young man named Shanin Specter, my colleague and my son as well, who is finishing the third year of his law studies, having finished the first 2 years at the University of Pennsylvania and having obtained permission to conclude his law studies there. And it was a lively affair.

The principal British concern expressed in the course of the debate was that the U.S. strategy was to fight a nuclear war in Western Europe, sacrificing London instead of New York. Speaker after speaker quoted from President Reagan's anti-Soviet rhetoric as proof that the United States sought a confrontation, and our opponents condemned U.S. policy on moral grounds for military action in Grenada and our backing of El Salvador's Government, which has not eliminated the death squad.

By comparison to the Soviet Union, however, even the hecklers had to concede the relative merits of the United States because of the good reasons we had for moving in Grenada. Even those who disagreed with our reasons and justifications had to admit that there was an enormous difference between the United States and the Soviet Union where the United States had some 6,000 U.S. troops which had left Grenada within a few weeks while some 105,000 Soviet soldiers were making no sign of leaving Afghanistan after more than 4 years.

On the subject of President Reagan's rhetoric in attacking the Soviet Union, we responded that the President had cooled that rhetoric on the one occasion when it really mattered the most, and that was after the Korean airliner was shot down, and on that subject even those very much oppposed to us had to admire the President's restraint.

In my judgment we also had the better of the nuclear arms issue pointing out the Soviet walkout on the INF and their refusal to reschedule the START talks while we were prepared to proceed with the discusisons at both INF and START.

The British debates are famous for their humor, and perhaps one of the most telling points was made by the humorous device in an argument advanced by my son Shanin Specter. Shanin recounted the conversation, perhap apocryphal, with the Soviet student in which Shanin demonstrated the value of free speech in a Democratic society.

With a flourish, Shanin pointed out that he could stand in front of the White House and loudly criticize the President without anything happening to him. The Soviet student countered quickly that he, too, could stand in front of the Kremlin and loudly criticize President Reagan without anything happening to the Soviet student either.

The point was obviously well taken about the value of freedom of speech in our democratic society.

When the issue of the Korean airliner was raised and the point was made that the Soviets had contended that it was a spy craft, my son Shanin brought down the house with a credibility comment that that Soviet Union spokesman was the same one who brought the word that Mr. Andropov had a cold.

The debate with the students at Cambridge was characterized, I thought, on a view which had substantial acceptance in the audience, not with justification, but substantial acceptance made by a young man named Jeremy Oppenheim. He said that there was an unjustified cold war conflict and that the United States and the U.S.S.R. were locked into a pernicious system of expansion at the expense of smaller nations and that both must be held responsible for conflicts around the world.

That is a very similar argument to the one advanced in the debate, in which Secretary Weinberger participated, by Prof. E. P. Thompson, who is quoted in the press today as arguing that, "The world is dominated by two superpowers locked in each other's nuclear arms, aggravating each other, inciting each other in their ideological postures."

"Am I saying"—again quoting from Professor Thompson—"a plague on both your houses?" And he answered his own question by saying "Yes."

And I do believe that we have to recognize that there is a significant concern as expressed in the two debates that both superpowers are acting more aggressively than they should and both superpowers are failing to advance the causes of peace and the causes of arms reduction as they should be.

On that subject, our response was telling that the United States has stood ready to eliminate all theater missiles in Europe with a zero option planned and stands ready to proceed with arms reduction talks in START at Geneva.

There was considerable comment in the debate at Cambridge on U.S. policy in El Salvador and Central America, and there was considerable comment in Secretary Weinberger's debate as well with this morning's press quoting a student who asked Secretary Weinberger to address himself to the differences "between your puppet regimes and the puppet regimes of the Soviet Union." A second student at Oxford challenged Secretary Weinberger, saying, "Do you think an immoral act becomes less immoral because we have a choice to do it or not? Do the people tortured and killed by those regimes think it is a more moral act because Congress approves of it and not some general?"

Secretary Weinberger responded, in my judgment, in a convincing way by pointing out that the critical difference between the United States and the Soviet Union is the democratic control in the United States where the people through elections, or Congress through action, can change the governmental policies.

I responded in Cambridge in a similar way to the challenge of U.S. policy in El Salvador pointing out that the Congress had made a limit on our aid with a 30-percent reduction in aid if the case involving the American nuns was not brought to trial and settled. That, in turn, brought a response from the opponent, Mr. Chris Smith, a Member of Parliament, who said, "Well, the United States may be concerned about justice for U.S. citizens, but how about justice for El Salvadoran citizens?" And I responded that by eliminating the aid by 30 percent there was an earmarking of some $3 million for the El Salvadoran judicial system so that justice will be done for El Salvadoran victims as well as U.S. victims. And that the United States was concerned about the improvement of human rights as evidenced by the requirement of certification of the improvement before specific U.S. aid could be extended.

In essence, the debate at Cambridge and, I think also, from the news accounts, the debate at Oxford, tilted in favor of the United States because of our democratic institutions and because of the similarities between British procedure in an elected democracy and U.S. procedure.

If we are to retain British support, we must be careful to back democratic and not repressive governments in Central America and around the world. We must also actively seek arms reduction with the Soviet Union, while retaining our strength, and dispel any notion that our grand strategy is to fight and win a limited nuclear war in Western Europe.

Without solid British support, our position at NATO would be significantly undermined. If the British were to reject the cruise missiles, the rest of Western Europe would not be far behind.

While the Cambridge and Oxford debating societies obviously do not speak for Parliament of the United Kingdom, their attitudes provide valuable insights into the thinking of our Western allies.

Mr. President, so that the record may be complete, I ask unanimous consent that there may be printed in the Record a one-page program of the Cambridge Union Society's—seventh debate on February 17, 1984, and I further ask unanimous consent that a very short article from the New York Times on that debate be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Cambridge Union Society—Lent Term 1984

SEVENTH DEBATE: FRIDAY, 17TH FEBRUARY 1984

"This House believes that the United States is a bigger threat to world peace then the Soviet Union"

Mr. Dave, Singer, Pembroke College, will propose.

Mr. Mark Foster-Brown, Robinson College, will oppose.

Mr. Jeremy Oppenheim, Trinity College, will speak third.

Mr. Shanin Specter, Clare College, will speak fourth.

Floor debate

Mr. George Conyne, Corpus Christi College, will tell for the Ayes.

Mr. John Driscoll, Jesus College, will tell for the Noes.

Mr. Chris Smith, M.P., Ex-President, Pembroke College, will speak fifth.

Senator Arlen Specter will speak sixth.

[From the New York Times, Feb. 24, 1984]

The Nays Have It

Senator Arlen Specter was in England last week, defending concurrently the honor of his family, the Senate and the United States, all with conspicuous success. The Pennsylvania Republican and his 26-year-old son, Shanin, formed a team at the Union Debating Society at Cambridge University, where the younger Mr. Specter is taking the third year of his legal education. They took the negative of the proposition that "the United States is a greater threat to world peace than the Soviet Union" and were opposed by a Labor Member of Parliament, Chris Smith, and another Cambridge student, Jeremy Oppenheim.

These are rather special contests, with the participants in dinner jackets and the winners decided by the audience choosing between exit doors designated "Yes" and "No" as to whether the proposition at issue had been established. After three hours of debate, 231 people chose the negative door as urged by the Specter team, as against 79 for the positive. Senator Specter was a debater in his undergraduate days at the University of Pennsylvania some 30 years ago and once took the affirmative against an Oxford team on the question "has the British Empire become decadent?"

Mr. SPECTER. I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 12 noon with statements therein limited to 5 minutes each.

THE QUEST FOR FREEDOM BY SOVIET JEWS

Mr. THURMOND. Mr. President, last year, I spoke on the Senate floor concerning the appalling oppression and discrimination that Soviet Jews are subjected to by officials of the Soviet Government.

Unfortunately, this trend of anti-Semitism continues today, and, in fact, is at an alltime high. At one time, Jews had the opportunity to escape this unfair treatment, but now are forced to endure harassment and unmerited punishment. One sobering illustration of this truth is a comparison of recent emigration figures. In 1979, 51,000 Soviet Jews were allowed to emigrate from the Soviet Union, yet in 1982, less than 3,000 Jews were given this privilege. The Soviet grip tightened in 1983, as only 1,315 Soviet Jews were allowed to leave that Communist nation.

Mr. President, I am deeply disturbed by this blatant violation of human rights. However, it comes as no surprise that Jews, Christians, and other religious groups are denied the fundamental liberty of religious expression. Such action is characteristic of the Soviet Government, for it has never understood or respected the important role that religion plays in the life of any nation. Worshiping God freely is a basic human right, and the rejection of this precept by the Soviet Union is a sad commentary on the true nature of communism.

In spite of such oppression, the unyielding faith of Soviet Jews continues to survive even in the most difficult trials. It is my hope and prayer that the quest for religious freedom will soon be realized by these "prisoners of conscience," and thanks to the efforts of such groups as the Student Coalition for Soviet Jewry, others are learning how they can help ease the desperate plight of Soviet Jews.

Mr. President, Members of the Senate and House can play a significant role in addressing this problem. In order to share with my colleagues how they can help Soviet Jews, I ask unanimous consent that the following information compiled by the Student Coalition for Soviet Jewry be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

How Members of Congress Can Aid Soviet Jews

The Jews of the Soviet Union are very much in need of your assistance and support. Anti-Semitism in the U.S.S.R. is on the rise; emigration restrictions not only continue to be prohibitive but, for most Jews, effectively eliminate the possibility of leaving the Soviet Union. This is especially illustrated by the severe reduction in emigration figures to the lowest level in recent years: less than 3,000 Jews emigrated in 1982, as compared with approximately 51,000 just three years prior. In 1983 the total number of emigrants hovered at about 1,000 for the entire year, a two-thirds reduction from 1982. Just as important and ominous is the increased harassment to which refusenik leaders and Hebrew teachers are subject. Indeed, it has risen to a level of what has been termed "Jewish Cultural Genocide" as almost all attempts at Jewish self-education and holiday celebration have been prohibited.

It is particularly at a time like this that the voice of support of a Member of the United States Congress is called for.

There are several ways in which Senators and Representatives can concretely aid Soviet Jewry. We herein list some possibilities for your consideration:

1. Adoption of a Refusenik and/or Prisoner of Conscience.—Adopting an individual's case means agreeing to work on his or her behalf by directly communicating with the particular Soviet Jew, publicizing his case in various ways, and, in general, seeking to better his situation. All of the following suggested action could be undertaken on behalf of an adoptee. It is vital that this 'action' be a regular commitment—something should be done at least every three months.

A. Writing to the Refusenik.—Such correspondence has been called the "life-blood" of these people who are often ostracized by their communities. A letter from a U.S. Legislator can provide the spark which gives one the courage to continue. Of course, even if the letter does not go further than the Soviet censors, it serves as a clear statement to the Soviet authorities that a Senator or Representative cares about a certain refusenik and will monitor that refusenik's situation.

B. Phoning a Refusenick.—Phoning a refusenik may have more direct impact than a letter alone.

C. Writing to one or two Soviet Officials.—Such action indicates to the Soviets that U.S. Senators and Representatives will continue to press for liberalization of Soviet emigration policy, that the plight of the Jews in the U.S.S.R. is still a high priority concern.

D. Contacting the Department of State and Appropriate Federal Agencies.—Inquiries concerning Soviet Jews will stimulate further activity on their part. Write on behalf of specific individuals as well as upon the issue in general and do so particularly before all multi and bilateral conferences.

E. Contacting a Refusenik's Family.—These people are also in need of moral support. For obvious reasons, relatives are generally one of the best sources of updated information concerning the case. Quite possibly, such relatives may live in your constituency; the Soviet Jewry organizations can arrange such a match-up, should you so desire.

F. Constituent Newsletters.—Inform your constituents of your efforts. It will keep them involved and also supply them with information regarding the cases.

G. Put a picture of your refusenik and his family on your wall—make your involvement and concern obvious to others. Moreover, it will remind you to maintain your activities.

2. "Call to Conscience" Vigil.—The Union of Councils for Soviet Jewry sponsors this vigil in the House of Representatives. Three days a week for a series of months a Representative enters the case of a refusenik into the Congressional Record. This program enables Representatives to make statements of the Floor of the House, thereby expressing their concern for Soviet Jews and heightening Congressional and public awareness of the plight of specific refuseniks. The present coordinator is Representative Coughlin.

3. "98th Congressional Class on Soviet Jewry".—A similar program as the above Vigil, but specifically for Congressional freshmen. It is co-chaired by Representatives Bartlett and Levine.

4. "Dear Colleague" Letters.—Letters, sponsored by a particular Legislator on behalf of a particular refusenik, have the potential to involve many other Members in the effort to aid Soviet Jews. They make an important statement of concern to either American or Soviet officials.

A TRIBUTE TO REV. FELTHAM SYREEN JAMES

Mr. THURMOND. Mr. President, I rise today to pay tribute to my good friend, the Reverend Feltham Syreen James of Aiken, S.C., who passed away on January 19, 1984, at the age of 78. To his daughters, Mrs. Marilyn J. Elliott and Mrs. Frances J. Ackerman, five grandchildren and two great-grandchildren, and other family and friends, I offer my deepest sympathy.

One need only examine Reverend James' accomplishments to realize that he was an extraordinary man of God whose service to mankind reached far beyond the pulpit.

A retired minister of the South Carolina Conference of the United Methodist Church, Reverend James pastored Methodist churches in nine South Carolina cities, and served as chaplain at many hospitals and military installations. He was well known for his wise counsel and for his eloquent and substantive sermons.

As a leader in the community and State, Reverend James devoted much of his energies to service organizations such as the American Legion, the Shriners, the Lions Club, and many other worthwhile groups.

Reverend James was the recipient of several prestigious honors and awards. In 1958, he won the Freedom Foundation's "George Washington Medal" for his inspiring sermon, "The Safeguards of America." An articulate author as well as speaker, Reverend James wrote the books, "For God and Country," and "The History of The Memorial Chapel." Listed in "Who's Who in Methodism" and "Religious Leaders of America," Reverend James was held in high esteem by those in and out of the Christian community.

Mr. President, time does not permit me to elaborate on the outstanding life and achievements of this distinguished citizen, and in order to share more about Reverend James, I ask unanimous consent that the following statements be included in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Rev. Dr. Feltham Syreen James, May 22, 1905–January 19, 1984

Our father had much great love in his life. He loved his country, he loved his church, he loved his children, he loved his wife, and he loved all you people out there. He not only loved us but he cared for us * * * he cared deeply * * * about life and about people.

And he gave every ounce of his strength, literally, to that care for you and for me.

He honored and respected his country as a shrine of freedom for all mankind.

He served his church as the Temple of his God and his faith * * * his faith in God, life, and people.

He was a devoted husband, father, grandfather, and great-grandfather. There was nothing he wouldn't do for any of us, anytime. He gave his life for those things.

He gave his life for the love of us here * * * all of us.

No one took anything from him as he gave his life for those things he cared for. He gave of his own choosing, freely, without regret, selflessly, and without self-pity.

We tend to look, at this point in life, and say "it isn't fair." But he would never have said that * * * never did say that * * * he gave his life as he chose to do * * * with love and care and sincere devotion for all. He gave his all freely. And when his last strength was finally gone, we do not feel that he felt that God had forsaken him for surely God would say "Feltham, you have been a good and faithful servant all the days for your life."

We feel he said only "it has been good and it is finished", and into God's hands commended his spirit * * * as he had his life.

It is finished * * * and, daddy, it was truly well done! In the name of the Father, the Son and the Holy Ghost. Amen.—Tribute given by his daughter, Marilyn James Elliott, on behalf of the family at his funeral at St. John's UMC, Aiken, January 21, 1984.

[Editorial in the Aiken Standard, Jan. 24, 1984]

DR. FELTHAM S. JAMES

Anyone who has been a patient at Aiken Community Hospital most likely remembers the kindly and distinguished minister who served as hospital chaplain since the institution opened.

After an outstanding career as a minister, Dr. Feltham S. James retired in 1974 as pastor of St. John's United Methodist Church here. Hospital calls had been an important part of his ministry, and he had served during World War II as an Army chaplain assigned to Walter Reed Hospital. Newly retired, he became associated with the old Aiken County Hospital as chaplain.

When Aiken Community Hospital opened two years later, he became its chaplain and had been there ever since. He died Jan. 19 at age 78 after an illness of several months.

Dr. James had served churches throughout South Carolina and had also been assigned as superintendent of the Lake City District of the South Carolina Methodist Conference. Along the way, he had held responsible positions on church and institutional boards, having been a trustee of Spartanburg Methodist College and of the Methodist Home at Orangeburg.

He spearheaded a $2.5 million campaign for Wofford and Columbia Colleges. Wofford, his alma mater, conferred a doctor of divinity degree on him.

His scholarly and inspirational sermons won him wide recognition, and he was three times given a Freedom Foundations Award.

He was chaplain for the South Carolina Department of the American Legion and has served as national chaplain of the American Legion in the 1950s.

He had been a Mason, a grand prelate of the Knights Templars and chaplain of Omar Shrine Temple. He was a former Lions Club president and had also been active in Eastern Star and Boy Scout work.

In 1960 Dr. James was named Senior Man of the Year by the Senior Men's Club.

Dr. James is said to have visited every patient who entered Aiken Community Hospital, and he made an effort to see all surgical patients before they went to the operating room, even for operations as minor as a tonsillectomy.

"Anyone who's having any surgery at all considers it major," he once said.

Dr. James believed that healing involves spiritual instruments as well as surgical instruments. While dispensing both comfort and counsel, he also maintained that "if you can just get a patient to smile, it helps."

His bedside manner often consisted of simply listening but one of his most memorable experiences was when a child asked Dr. James to pray for her.

He was a warm human being with a love for all of God's creatures, and he faithfully fed the birds that visited his yard.

Aiken is indebted to the United Methodist Conference for sending Dr. James to Aiken. He will always be remembered here for the great man he was.

We extend our sincere sympathies to his family.

BIOGRAPHY OF REV. FELTHAM S. JAMES

A native of Greenville, S.C., he spent most of his early life in Sumter, S.C., attending the city schools there and graduating from Sumter High School.

He is a graduate of Wofford College and Duke Divinity School. Wofford College conferred the degree of Doctor of Divinity upon him in June 1960. While at Wofford he was Editor of the college newspaper, winner of three oratorical contests, member and assistant coach of the Debate team and Senior Commencement Speaker.

He is married to the former Dessie Saylor of Columbia and they have two children: Mrs. Richard F. Elliott, Jr., of Spartanburg and Mrs. Donald F. Ackerman of Columbia. They have five grandchildren.

A minister of the South Carolina Conference of the United Methodist Church since 1931. He has held pastorates in Bishopville, Bluffton, Myrtle Beach, North Charleston, Manning, Denmark, Charleston (Bethel), Columbia (Main Street), Aiken (St. John's), District Superintendent of the Lake City District and is now Chaplain of the Aiken Community Hospital. He has served on many Boards and committees of the Methodist Church, including President of the Board of Education, Chairman of the Committee on Accepted Supplies, Chairman of the Board of Temperance, Chairman of the Commission on Worship and delegate to the Jurisdictional Conference of The Methodist Church. He was Chairman of the Committee on Higher Education, which conducted a campaign for two and a half million dollars for Columbia and Wofford Colleges and Chairman of a Financial Campaign to raise one and a quarter million dollars for Spartanburg Methodist College. He is a former member of the Board of Trustees of the Orangeburg Methodist Home and of Spartanburg Methodist College.

He served as Chaplain in the U.S. Army during World War II, including duty as Post Chaplain at Fort Jackson and Fort Belvoir, and two and half years as Chaplain at Walter Reed General Hospital in Washington, where he preached the sermon at the first Church Service attended by President Harry S. Truman after he took the oath of office as President of the United States. He is a Retired Major, U.S. Army.

He is the Department Chaplain of The American Legion, an office he has held twenty years. He served as Department Commander in 1954-55, the only clergyman ever to hold this office in South Carolina. He has served on Department and National Committees, including the National Religious Emphasis Committee, Vice Chairman of the National Security Commission and Editor of the "Service to God and Country Manual" for Legion Chaplains. He was National Chaplain in 1957-58, speaking throughout the United States.

He is a Life Member of the Masonic Order, a member of the York Rite Bodies of the Order, the Omar Temple (Shrine) and the Eastern Star. He is Grand Prelate of the S.C. Commandery of Knights Templars and Chaplain of Omar Shrine Temple, offices he has held for some twenty years.

He is the recipient of six Freedoms Foundation Awards for sermons and addresses—the one in 1958 was $1,000.00 in cash and an encased George Washington Honor Medal for the most outstanding public address in 1958. He is the author of the book, "For God and Country", consisting of sermons and addresses, and author of "The History of The Memorial Chapel" at the Army Medical Center in Washington. Award of Merit by the DAR, Alumni Citation from Wofford College, a High School Football Official for 25 years and Moderator of a Teen Age Radio Program. Listed in "Who's Who in Methodism", "Religious Leaders of America", and "International Biographies."

HOUSE OF REPRESENTATIVES, STATE OF SOUTH CAROLINA

On motion of Representative Irene K. Rudnick, Members of the House of Representatives, express sympathy to the family of Reverend Feltham S. James, upon the passing of this outstanding civic and religious leader, whose life has influenced so many and who will be missed by all who knew and loved him.

Given this 31st day of January, 1984, State House, Columbia, South Carolina.

HOW THE NETWORKS HANDLE POLITICAL REPORTING

Mr. PRESSLER. Mr. President, this morning I wish to express my concerns about political reporting.

I am a member of the Commerce Committee Subcommittee on Communications. In the last few days, I have noticed that the networks have been boasting about the amount of money they have spent covering the New Hampshire primary. All of that money was spent on reporters giving their opinions of the candidates rather than candidates talking to the people. I wonder if it would not have been better to provide public service time to the candidates. This would give the candidates the opportunity to present their views on the issues.

The networks have become so powerful that they can literally make or break a candidate by stating that the candidate is gaining or losing ground in their polls. In the meantime the public may not hear the views of the actual candidates. This has happened repeatedly in Presidential and congressional races.

Everyone talks a great deal about the power of political action committees. Yet, I wonder if we have considered the power that the networks have. The major networks could provide a great public service by allowing the legitimate candidates to present their views on the issues. Someone pointed out that when you exclude the time used reporting with voiceovers and commenting on what the candidates have said, the candidates actually get less than 4 percent of the network time.

This is a phenomenon of modern times. I hope that Congress does not have to deal with this issue legislatively. Many have suggested that we may have to address the issue of early projections. I believe we also may have to look at the concept of granting candidates public service time. Political reporting should include more than the analysis of the political candidates. It also should provide the candidates an opportunity to state their positions, and provide their answers to our country's problems.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 United States Code 276d-g as amended, appoints the Senator from Florida (Mrs. HAWKINS) as a member of the Senate Delegation to the Canada-United States Interparliamentary Group during the 2d session of the 98th Congress, said group to meet in Puerto Rico, March 8-12, 1984.

CONGRESSMAN EDDY BOLAND'S TRIBUTE TO PRESIDENT KENNEDY

Mr. KENNEDY. Mr. President, last November, my friend Congressman EDDY BOLAND spoke at the annual communion breakfast of the St. Patrick's Day Parade Committee in Holyoke, Mass., and delivered an eloquent tribute to President Kennedy on the 20th anniversary of my brother's death.

Congressman BOLAND was also one of President Kennedy's closest friends. They visited Ireland together in 1963, and Congressman BOLAND's recollections of that celebrated and deeply moving trip are vividly related in his address last fall.

For many years, the Holyoke Parade Committee has presented an annual award to an American of Irish heritage and national recognition who has made a distinguished contribution to society. President Kennedy was the recipient of this prestigious award as a Senator in 1958, and after his death the award was named for him. This year, Congressman BOLAND himself is the winner of the John F. Kennedy National Award. This honor for Congressman BOLAND is a fitting tribute to one of Massachusetts greatest public servants. I congratulate him on this award, and I ask unanimous consent that his address to the parade committee last November may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY CONGRESSMAN EDWARD P. BOLAND TO THE ANNUAL COMMUNION BREAKFAST OF THE HOLYOKE ST. PATRICK'S DAY PARADE COMMITTEE—NOVEMBER 27, 1983

Your honor, Mayor Proulx, Representative Bob Rohan, President Peter Brady, Committee and Breakfast Chairman, Bob Coughlin, and my dear friend, Maurice Donahue.

I am grateful for the invitation that brings me to the annual communion breakfast of the Holyoke St. Patrick's Day Parade Committee.

We meet on the 20th anniversary of the death of President John Fitzgerald Kennedy. The Holyoke St. Patrick's Day Parade Committee has always had a close relationship with President Kennedy and the Kennedy family.

My remarks this morning continue that theme.

"On a clear day, you can see all the way to Ireland."

Senator Kennedy recalled those words of Jack Kennedy when Ted was a young man, as they walked on the beach at home.

As I listened to those words, at the magnificent memorial mass marking the 20th anniversary of President Kennedy's death, I sensed that anyone who has had anything to do with the Holyoke St. Patrick's Day Committee had the same clarity of vision.

It was a vision that some day would take him to the land of his ancestors. It did! And I was there, June 26, 27, 28, 29, 1963—

June 26, Dublin.—The sky was blue, and the last of the day's sun was shining when the President's plane landed. President Eamon de Valera greeted him as the "local boy, three generations removed, who made good."

The 12 mile drive to the U.S. Embassy in Phoenix Park—down O'Connell Street—was jammed with what must have been the entire populace of Dublin.

The sheer joy and adulation of the crowd was a sight that had never been seen before and perhaps never will again.

June 27, New Ross.—From where Patrick Kennedy, his great grandfather, left to become a cooper in East Boston.

"I am glad to be here. It took 115 years to make this trip and 6,000 miles, and three generations.

"When my great grandfather left here, he carried nothing with him except two things—a strong religious faith and a strong desire for liberty. All of his great grandchildren have valued that inheritance."

June 27, Burrough of Wexford.—The presidential party landed on a soccer field. A boys and girls choir serenaded Kennedy with, "we're the boys from Wexford."

At Redmond place in Wexford, President Kennedy said, "In these dangerous days, when the struggle for freedom is worldwide against an armed doctrine, Ireland and its experience has one special significance (which John Boyle O'Reilly said outlived a thousand years) that it was possible for a people, with over hundreds of years of foreign domination and religious persecution, to maintain their national identity and their strong faith."

June 28, Cork City.—At city hall the President introduced to the mayor and council and crowd—Larry O'Brien and Dave Powers—he presented, "The pastor of the church I go to, who comes from Cork—Monsignor O'Mahoney. He is the pastor of a poor humble flock in Palm Beach, Florida!"

"Coming in, I met four rather angry Fitzgeralds. They said they were tired of hearing about the Kennedys in New Ross—and what about the Fitzgeralds."

"I said that was because my grandfather, who was mayor of Boston, John F. Fitzgerald, used to tell everybody he was from Limerick, Donegal, Donnybrook, anywhere."

June 28, Irish parliament in Dublin.—In one of his finest hours and words:

"In an age when history moves with the tramp of earthquake feet—in an age when a handful of men and nations have the power literally to devastate mankind—in such an age, it may be asked, how can a nation, as small as Ireland, play much of a role on the world stage?

"I would remind people who ask that question, including those in other small countries, of the words of one of the great orators of English language:

"'All the world owes much to the little "five feet high" nations. The greatest art of the world was the work of little nations. The most enduring literature of the world was the work of little nations. The heroic deeds that thrill humanity through generations were the deeds of little nations fighting for their freedom. And, oh yes, the salvation of mankind came through a little nation.'"

June 29, Galway-Eyre Square.—"If the day was clear enough, and if you went down to the bay and you looked west, and your sight was good enough, you would see Boston, Massachusetts.

"You send us home with the warmest memories of you and your country. So I must say that, though other days may not be so bright as we look toward the future, the brightest days, will continue to be those, in which we visited you in Ireland."

And so it was at Limerick and at Shannon as he prepared to leave for Italy and the United States—

At Shannon.—"Last night somebody sang a song, the words of which I am sure you know,

"Come back to Erin Mavourneen, Mavourneen, come back aroun' to the land of my birth. Come back with the shamrock in the springtime Mavourneen.

"This is not the land of my birth, but it is the land for which I have the greatest affection, and I certainly will come back in the springtime."

So ended one of President Kennedy's most joyous and happiest days in the land that all of you have the same feeling and spirit for.

The Holyoke St. Patrick's Day Committee—its founders and its successors—have perpetuated that spirit.

The John F. Kennedy award carries on his spirit and his love for the land of his forbears.

It carries, too, the recognition that others who receive this honor are aware of its meaning and its priceless value.

November 22, 1963 changed many things—among them the name of the committee's prized and proudest award.

Since 1964, your Committee has remembered John Fitzgerald Kennedy in a remarkable meaningful way—not in sadness but in joy.

For your day and award recalls his love for this land and the land across the sea—for its people, its culture, its hopes, its joys.

Let me say that no remembrance of President Kennedy would be complete without recalling his flashing wit. Whether turned to others or to himself, it enhanced his very human and joyous personality.

Let's catch a bit of it.

1960 campaign: "There is no city in the United States in which I get a warmer welcome and fewer votes than in Columbus, Ohio!"

On being President: "I have a nice home. The office is close by and the pay is good."

To a group of students: "Those of you who regard my profession of political life with disdain should remember that it made it possible for me to move from being an obscure lieutenant in the United States Navy to Commander-in-Chief in 14 years, with very little technical competence."

On leadership: "We don't want to be like the leader in the French Revolution who said, 'There go my people. I must find out where they are going so I can *lead* them'."

At a dinner honoring all living Nobel Prize winners in the Western Hemisphere: "I want to tell you how welcome you are at the White House. I think this is the most extraordinary collection of talent of human knowledge that has ever been gathered together at the White House, with the possible exception of when Thomas Jefferson dined alone."

Of the avalanche of words that have cascaded in press, film, books, radio, TV, none portrayed President Kennedy's life and effort better than Senator Edward Kennedy's remarkable moving tribute at the memorial mass—November 22, 1983—in Holy Trinity Church in Washington, D.C.

Listen to some of his remarks.

"All of us in this church may not gather all together again, but to those who share the commitments, the compassion and the high hopes of John Kennedy, there will never be a last assembly.

"How then shall we sum up this man, who had every gift but the length of years?

"He was an heir to wealth who felt the anguish of the poor.

"He was an orator of excellence who spoke for the voiceless.

"He was a son of Harvard who reached out to the sons and daughters of Appalachia.

"He was a man of special grace who had a special care for the retarded and handicapped.

"He was a hero of war who fought hardest for peace.

"He said and proved, in word and deed, that one man can make a difference, which is why his thousand days will be remembered for a thousand years and more.

"He made America young again and the world seemed new again.

"So it is that, on this anniversary, the span of time since November 22, 1963, does not seem like a matter of decades but of days.

"And over his memory and his meaning, death has no dominion.

"What he did and believed in will endure and, in the end, it will prevail.

"Inevitably, we cannot forget the pain of his loss. On bright summer afternoons at Cape Cod or in this waning season of the year, how often we still think of him in all his vigor and say to ourselves 'we miss you Jack and always will.'

"But in the darkness we see the stars and how clearly we see him now. We have known other great men and women in our time in other countries and our own. Yet there was a spark in him so special that even his brief years and his early passing could not put it out.

"He made us proud to be Americans and the glow of his life will always light the world.

"For him on this day 20 years ago, the journey came to an end. But for us here and others everywhere, there are promises to keep and miles to go before we sleep.

"Now his appeal summons us anew, not merely to remember him but to rededicate ourselves. The unfinished quality of his life symbolizes the unfinished agenda of America."

Thank you.

REPORT ENTITLED "DEVELOPMENTS IN AGING: 1983," VOLUMES 1 AND 2—(REPORT NO. 98-360)

Mr. HEINZ. Madam President, as chairman of the Special Committee on Aging, under authority of Senate Resolution 76, 98th Congress, I have sent to the desk for submission to the Senate a report of the committee entitled "Developments in Aging: 1983," volumes 1 and 2.

The PRESIDING OFFICER. The report has been received.

Mr. HEINZ. I thank the Senate.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, the time for morning business has expired under the order, I believe.

The PRESIDING OFFICER. Morning business is closed.

EXPORT ADMINISTRATION ACT AMENDMENTS

Mr. BAKER. Mr. President, I ask that the Chair now lay before the Senate the unfinished business.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 979, which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (S. 979) to amend and reauthorize the Export Administration Act of 1979.

The Senate resumed consideration of the bill.

Mr. BAKER. Mr. President, the distinguished manager for the majority is here, the Senator from Pennsylvania. I understand Senator PROXMIRE is on his way to the floor now. The acting minority leader is here. I believe we should wait until Senator PROXMIRE arrives before we proceed. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered.

Mr. HEINZ. Mr. President, as we come to the close of the debate on the Export Administration Act, I am advised that there still could be a few amendments to be offered today. But we are now on the bill, we have been on the bill for 2 days, and it is the manager's intention, and I am sure I speak for my colleague from Wisconsin, to wrap up this bill just as quickly as possible. If we do not have any amendments, we intend to go to final passage.

Now, there are some amendments that I would like to see debated. Some of my colleagues on both sides of the aisle have expressed an interest in offering amendments to this bill. It is certainly not going to be my intention to foreclose amendments, but if none are forthcoming we will assume that the authors have decided not to offer their amendments and we will proceed to final passage on the bill. I anticipate that we would get the bill off the floor today either early or late, as the case may be.

I do intend to offer one or two technical amendments, but I anticipate that when we have completed offering these technical amendments, Mr. President, which should not take us that much time, we might very well be in a position to proceed to third reading on this bill, which would mean no more amendments would be in order. I hope any Senators or their staffs who are listening to this debate will understand that.

AMENDMENT NO. 2753

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

> The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 2753.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 44, line 10, strike "technology" and insert in lieu thereof "tangible items".
>
> On page 44, line 14, insert "tangible" before "property".
>
> On page 44, line 14, strike "to facilitate the commission" and insert in lieu thereof "in the export or attempt to export that was the subject".

Mr. HEINZ. Mr. President, this is an amendment to the forfeiture provisions of the bill. I do not believe it is at all controversial, and I believe that my comanager of the bill supports it, too. But let me just for the benefit of Senators explain what is involved.

The bill provides for a strong new sanction for violators of the national security controls imposed under section 5 of the act. Such violations, as we all know, can be extremely detrimental to our national defense, so much so that we have these very strong sanctions and we believe they should be available in order to deter any potential violators.

Now, since it has been well established that there is a lot of money to be made in violating the Export Administration Act, an enormous amount of monetary gain, and that that is frequently, if not almost universally, the primary motivating force behind violations of the national security section of the act, the provision of the bill providing for forfeiture will serve, we believe, to deny that incentive. It will enable the courts to recoup the gain that violators might be seeking and otherwise might have been able to shelter even if convicted. This provision of the bill is one that was suggested by the Reagan administration.

It was an important part of the original Reagan administration bill, but one change, however, has been suggested that has been cleared with the administration, particularly the Justice Department. This amendment would make that change by making clear that technology itself would not be available for forfeiture. That is to say, the benefits from the sale, the monetary kinds of benefits, for example, as well as the goods involved in the sale, of course, would be subject to forfeiture. Any other kinds of advantage or consideration would be subject to forfeiture. But the technology itself would not, by which we mean that this would apply to patents, unembodied technology and like items that are not appropriate for forfeiture, since they are intangible property. Forfeiture deals with other than intangible property, and that is what this amendment makes clear.

May I say, Mr. President, the amendment would also make a minor semantic change to emphasize that items subject to forfeiture are related to export or attempts to export in violation of this act, and that change, too, has been cleared with the administration.

Mr. President, if my friend from Wisconsin has any remarks, I ask him to state them.

Mr. PROXMIRE. Mr. President, I thank my friend, the manager of the bill and chairman of the subcommittee.

I understand there is a new provision in the bill that is a good provision. It toughens and strengthens the act considerably and does permit the forfeiture of goods illegally exported. But I think the amendment by the Senator from Pennsylvania is correct, because it recognizes that that provision was too broadly drawn, and he has explained it very well, I think.

The amendment insures that only the goods illegally exported are subject to forfeiture, and I agree with that. So I am happy to support the amendment.

Mr. HEINZ. I thank my friend from Wisconsin.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2753) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I see no Senator at this point ready to offer an amendment. It will be the manager's intention to proceed to final passage of this bill shortly. However, in deference to those Members who may be just wrapping up their hearings, we will be prepared to wait a modest amount of time.

I am very pleased that we can get to the point where we can close down the amendments on this bill. At this point, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2754

(Purpose: To amend the Atomic Energy Act of 1954 to require that certain agreements of cooperation be authorized by law)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an amendment numbered 2754.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, after line 9, add the following:

AUTHORIZATION OF CERTAIN AGREEMENTS FOR COOPERATION

SEC. 19. (a) Section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is amended—

(1) in subsection b., by inserting ", except as provided in subsection d.," after "approved and"; and

(2) by amending subsection d. to read as follows:

"d. the proposed agreement for cooperation (if arranged pursuant to subsection 91c., 144b., or 144c., or if entailing implementation of section 53, 54a., 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President and together with a Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency, when required by subsection 123a., and referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91c., 144b., or 144c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective unless authorized by law.".

(b) Section 130a. of such Act (42 U.S.C. 2159(a)) is amended—

(1) in the first sentence—

(A) by striking out "123d."; and

(B) by striking out ", and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91c., 144b., or 144c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate,"; and

(2) in the proviso thereto, by striking out "and if, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91c., 144b., or 144c. of this Act, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution".

(c) The amendment made by subsection (a) shall apply to any agreement of cooperation which is described by such amendment and which was entered into after the date of enactment of this Act.

Mr. PROXMIRE. Mr. President, the Senate, by acting favorably on the Humphrey-Roth-Boschwitz-Levin amendments, has greatly strengthened the role of the executive branch over the export of nuclear components and technology. These restraints are necessary and prudent.

These amendments require that transfers of nuclear components and technology must first be conditioned on an agreement of cooperation between the participating parties.

This is a very positive step forward. But while we have placed greater restraints on our export policies, we have neglected to provide for a role for the Congress over these same policies.

My amendment restores the right of the Congress to participate, as partners, in the approving of nuclear agreements of cooperation. In this way, it ties together what was accomplished yesterday and guarantees that the reforms already undertaken will be subject to thorough congressional review.

Mr. President, this amendment replaces the congressional veto section of the Atomic Energy Act procedures for nuclear cooperation agreements with a joint resolution or bill procedure.

We should keep in mind that the Atomic Energy Act was in effect for about 30 years, from 1954 to 1983, and it was settled policy to have a congressional voice on nuclear cooperation agreements. That was upset by the Supreme Court decision in the Chadha case.

Section 123(d) of the Atomic Energy Act contains language providing for a congressional veto over any Presidentially approved nuclear cooperation agreement. Since the Chadha decision, this language is no longer operative. In its place my amendment inserts a joint resolution or bill requirement.

With the passage of this amendment, when the President sends a nuclear cooperation agreement to Congress, instead of that agreement going into effect after a 60-day period, both Houses of Congress would be required to pass either a joint resolution of approval or a bill in order for the agreement to go into effect.

This joint resolution of approval or bill procedure would meet the test of the Chadha case in that the President would receive a joint resolution or bill and it would be subject to veto by the President, unlike the old concurrent resolution process.

Congress today has been shut out of a role in the most fundamental foreign policy consideration of our time, the proliferation of nuclear capability. And this Senate will remain shut out until it restores the normal balance of consideration originally contained in the Atomic Energy Act. The pendulum has swung to the executive branch and it is time for the Senate to insist that its proper role and authority be restored.

What makes this issue so important today? Because today this Nation stands on the threshold of a nuclear cooperation agreement with the People's Republic of China, an agreement that carries with it stark consequences for the people of Taiwan as well as ominous questions about the proliferation of nuclear materials.

Will American nuclear know how and technology flow through the People's Republic of China to Pakistan, a country that China has assisted in the nuclear field for many years? Would technology flow to North Korea, China's long-time friend and ally? Should these not be the questions asked by the Senate during a debate on any agreement with the People's Republic of China? Or should we simply turn our backs on these issues and let the initiative lie exclusively with the executive department, with an agreement of cooperation which does not even need a vote of approval in Congress and which no longer can be disapproved by a legislative veto?

Sure the People's Republic of China has agreed to inspection by the International Atomic Energy Agency. That is true. But is that enough? Is it adequate? Is it a foolproof device to prevent proliferation? Many experts think it is not. They cite the shortcomings, the lack of personnel, the lack of budget, the lack of complete inspections traditionally allowed by the IAEA.

And we should remember that while apparently agreeing to IAEA inspection, the People's Republic of China still has not signed the Nuclear Nonproliferation Treaty.

Suppose the United States under this proposed agreement of cooperation with the People's Republic of China provides an initial load of fuel for a U.S. supplied nuclear reactor in China. Would our nuclear nonproliferation agreements with China also cover the reprocessing of Chinese fuel used in an American reactor? Could Chinese reprocessed fuel be shipped to Pakistan or North Korea?

Mr. President, we are not talking about a NATO ally; we are talking about the biggest country in the world and a Communist dictatorship and a Communist dictatorship that has been closely allied with the Soviet Union in the past. They are not closely allied now, but next year, next month, they could move together once again, and that possibility is a very, very serious one.

So certainly the Senate should have an opportunity to act on a resolution that will enable it to decide whether to approve an agreement to export our nuclear technology to the People's Republic of China.

We need to know the answers to these questions that I have asked with respect to Chinese proliferation. And are they not of a magnitude that they should be debated and approved instead of simply sent to Congress where they would lie for 60 days and then go into effect? The executive department, in seeking an agreement of cooperation with People's Republic of China must make a finding that the proposed export of nuclear technology is not inimical to the common defense and security of the United States. Should the Senate not have a say in this declaration about the common defense and security of our country?

Any proposed agreement will spell out the terms, nature, scope, duration, and conditions of the nuclear arrangement entered into by both nations. But a President may exempt this information if he thinks it would seriously prejudice U.S. nonproliferation objectives or if it would jeopardize the common defense and security of the United States.

Should the Senate not be able to make a similar finding of its own? What if there is a distinct threat in any proposed agreement to the survival of Taiwan as an independent nation. What if U.S. technology makes the People's Republic of China nuclear warmaking capabilities more discrete—more usable against the island of Formosa? Should this not be debated? Should this not be considered? Should these questions not be dispelled to the satisfaction of the Senate?

Last December, Senators HUMPHREY, ROTH, and myself, sent a letter to Secretary Shultz seeking to make sure that any agreement of cooperation with the People's Republic of China have three specific elements: First, that China pledge not to transfer any nuclear weapons hardware or information to any nation. Second, that countries which receive any new significant nuclear exports or cooperation from China place all of their peaceful nuclear activities under IAEA safeguards. Third, that China should enter into a voluntary agreement with IAEA along lines identical to those of the United States—IAEA safeguards agreement.

Each of these points demands a serious debate here in the Senate. Each raises questions of enormous impact on nonproliferation policies. How can we discuss these issues, have any direct say over these issues in the absence of a full fledged debate?

Mr. President, I have talked about the case of the People's Republic of China because the issues there are stark—they stand out in relief. But I also could have examined the pending agreements of cooperation with Sweden and Norway for many experts question the wisdom of these agreements as well.

Last, Mr. President, let us assume that all my fears about an agreement with Sweden or Norway or the People's Republic of China are misplaced. Let us assume I am dead wrong in my suspicions that any agreement with the People's Republic of China will be leaky—will contribute to the world's proliferation problems. Let us assume that the agreement is air tight and iron clad. That finding does not in any way abrogate our responsibility as elected leaders to conduct a thorough scrutiny of the facts, a challenging, probing inspection of the issues such that no door is left unopened. If the proliferation of nuclear technology is not sufficient enough in weight or seriousness in subject for congressional consideration, then there is no subject so qualified.

Mr. President, the President could tomorrow send Congress a proposed agreement of nuclear cooperation with the People's Republic of China or any other country—South Africa, or Brazil, or Argentina. The Chadha decision has taken away any role for Congress in reviewing and approving these agreements.

My amendment, similar to the amendment adopted by the Senate on the War Powers Act, will reinstate congressional procedures for debating and approving such controversial Executive agreements.

Let me say, Mr. President, that the President cannot make an agreement with another country to provide for arms control, for limiting the nuclear arms race, without that being submitted as a treaty, and without two-thirds of the Members of the Senate agreeing with that limitation on arms.

What an irony we face. Here we say the President can proliferate nuclear weapons without congressional oversight. I am not talking about this President. Of course, any President, whether it is a Democratic or a Republican President, is free to do that without any action by the Senate.

But if the President wants to control nuclear arms, if he wants to limit nuclear arms, if he wants to slow down the arms race to any extent at all, the tradition has been that he submit that as a treaty to the Senate. And then the Senate must approve such agreement by a two-thirds vote.

That was true, of course, of every treaty we have adopted.

But we have a situation now where the President is entering into agreements with foreign countries on the export of nuclear technology, and that does not have a treaty status. Agreements, I understand, are planned with Norway, Sweden, and even China and presently they can go forward without congressional approval.

Frankly, I was prepared to offer an amendment providing for treaty status for this kind of nuclear cooperation agreement, but I have been dissuaded because constitutional experts I have talked to have all agreed that this is the proper course, the resolution that I am offering here. We have a precedent with respect to this procedure in the War Powers Act which was overwhelmingly adopted here in the Senate. My amendment would follow in that course and would mean that we would be taking a very important step in restraining the proliferation of nuclear weapons and giving Congress the kind of voice it should have in that matter.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to my friend from Pennsylvania.

Mr. HEINZ. First of all, I wish to say to my friend from Wisconsin that I think his is a very significant amendment and we need to adopt it.

We are, in part, at the present time precluded, as I understand the situation, by the Chadha decision from really having a voice, as we originally intended, in the selective disapproval, if that be our will, of such agreements entered into by the executive branch with other countries.

What the Senator proposes is constitutional. It is in the form, as I understand, of a joint resolution.

Mr. PROXMIRE. The Senator is correct.

Mr. HEINZ. And that needs to be done.

The alternative to the Senator not offering the amendment is something that I could not frankly conceive of, which is Congress simply withdrawing from the whole field of looking into these agreements. Of course, from time to time, there will be disagreement over whether one or another of those agreements is a good idea. We had at Tarapur a reactor which was a very hotly debated issue, and I think the debate was very good, not just for the Senate itself, but for the administrations, both of them, that were involved with that, as well as for the Indians, and the Government of India itself.

Obviously to have absolutely no voice would be to undo an arrangement that we had worked out among ourselves. I cannot conceive of our wanting to do that.

So I think the Senator's amendment is important. It should be supported by Members.

Having said that, I wish to also put our colleagues on notice that the Senator's amendment is going to create a lot of work for the Senate. I hope it creates a lot of work for the Senate because that means we will be successful in negotiating agreements.

But under present law, as the Senator knows, we only on occasion review such government-to-government agreements when we want to disagree with them. In this case, as I understand the Senator's amendment—and he will correct me if I am wrong—we will need to act affirmatively on every single agreement—those we agree with and those we disagree with. Of course, in the case of a disagreement, our failing to do anything will be disapproval.

I ask the Senator is that not correct?

Mr. PROXMIRE. The Senator is correct.

I might point out that the Senator is absolutely right that we should work on this. I cannot think of any more solemn, more serious, or more significant action that we could take or more useful work by the U.S. Senate.

I think it is true that over the years we have had only about 30 agreements of this kind. I think there would be a limited number in the future. It would not absorb all the attention of all the Members of Congress, of course, but it would mean good, hard work for some—and the Senator is absolutely right, it should.

Mr. HEINZ. Mr. President, with that understanding, I just do not want any of our colleagues to think that this is just a technical amendment. It is an amendment that is necessary. It will involve the Senate more directly in some of these issues. It will require us to roll up our sleeves, indeed, as we should, more often on the question of nuclear nonproliferation.

I commend the Senator for his amendment.

I am advised that Senator McCLURE wishes to speak on the Senator's amendment. I do not know his position on it.

I am advised by staff that the administration has no position on the Senator's amendment.

Mr. PROXMIRE. May I say to my friend from Pennsylvania that this is the same approach, the same joint resolution approach which Senators PERCY and BYRD enthusiastically supported on the War Powers Act and which passed the Senate by an overwhelming margin.

Mr. HEINZ. Mr. President, unless the Senator from Wisconsin has any additional remarks he wishes to make at this time, I would, for the moment, suggest the absence of a quorum while Senator McCLURE comes over from the Energy Committee.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I wish to state for the record that I have both policy and technical reservations with regards to this amendment that is pending. I am not convinced that a mandatory legal requirement for joint resolution of approval of new or amended agreements for cooperation under title IV of the Nuclear non-Proliferation Act of 1978 will facilitate the effective and successful negotiation of such agreements, which by law include full-scope safeguards and other important nonproliferation advances under the 1978 act. At the same time, I recognize that we in Congress intended in that act that Congress should have a strong role in insuring enforcement and implementation of the act. Consequently, I will not obstruct the Senate consideration of this amendment today.

But it is imperative, however, that any use of a joint resolution of approval, as a matter of law, predictably be workable under the expedited procedures in the 1978 act. For that reason, I wish to seek the assurances and commitments of the floor managers of this bill that if the amendment is adopted in conference it will be modified as necessary to include the technical and conforming amendments to the expedited procedures section of the 1978 act to insure that Congress will be fully capable to pass any joint resolution of approval for agreement of cooperation under the act.

I also ask the opportunity to work with the floor managers at that time to reach an agreement on such technical and conforming amendments that would be agreeable to the floor managers.

And I say that because I think there may be a technical mismatch in the language and the fitting of it into the 1978 act.

I wonder if the Senator from Wisconsin might respond.

Mr. PROXMIRE. Mr. President, I understand the Senator from Pennsylvania is the majority manager and I will defer to him, and then I will be happy to respond.

Mr. HEINZ. Yes.

Mr. President, as I understand the remarks of my colleague from Idaho, he wants to be sure that we have a very careful consideration of this in the conference.

Mr. McCLURE. To make certain that the language does not obstruct the expedited procedure portion of the 1978 act so that whatever conforming changes might be necessary are fully implemented so we can know that if it comes back here for approval, it would come under that provision of the act.

Mr. HEINZ. Mr. President, let me say to my good friend from Idaho that he makes an excellent point. We clearly would not want to accept and take to conference an amendment that impeded those kinds of expedited considerations.

I anticipate that there will be an opportunity in conference to revisit this issue rather than doing so here on the floor. We should have a fair amount of flexibility in conference, because my understanding is the House of Representatives has no comparable language in their bill.

Mr. McCLURE. I thank the Senator from Pennsylvania.

Mr. PROXMIRE. Mr. President, I say to my friend from Idaho that I agree wholeheartedly with his point.

The one reluctant feeling I had about this was the possibility that a handful of Senators might get up and obstruct this. I think that would be wrong. I think expedited procedures would accomplish that. I will strongly favor and support expedited procedures for my joint resolution process and will do my very best not only as manager for the minority but also as the author of the amendment to get them in conference.

Mr. McCLURE. Mr. President, I thank the managers of the bill for agreeing with the points that I have made and agreeing that the expedited procedures under the 1978 act can be perfected in the conference, and Congress thereby will be assured of the capacity to act when it chooses to do so in a predictably legal and procedurally acceptable manner. I think that result will aid in advancing our nonproliferation objectives in new agreements for cooperation.

I cannot avoid saying, however, that I am very much concerned with the course that we are taking yesterday and today as to whether or not it is going to make the job of advancing nonproliferation objectives easier or harder, and I recognize the difficulty the Chadha case has given us and many of these cases, but this is a very difficult area, one in which the countries that we are trying to move toward full-scope safeguards find very difficult politically in their own countries as well as we find in here.

Sometimes the more formal we make the procedures, the more difficult it is to get people to use them.

So I have great reservations about what we may have done in this area, but again, I will not obstruct the opportunity of the Senate today to consider this matter.

I appreciate the assurances the managers have given with respect to the technical integration of this matter into the bill.

Mr. HEINZ. Mr. President, I commend the Senator from Idaho for his thoughtful remarks. He makes a good point when he says we want to be sure that we have a workable method of entering into these agreements. I will not repeat his arguments. I think he makes a good point.

Mr. President, I think we are ready to put the question to the Senate.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Wisconsin.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER, the Senator from Kansas (Mrs. KASSEBAUM), the Senator from New Hampshire (Mr. RUDMAN), the Senator from Texas (Mr. TOWER), are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Massachusetts (Mr. TSONGAS are necessarily absent.

The PRESIDING OFFICER (Mr. ARMSTRONG). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 74, nays 16, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—74

Andrews
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Eagleton
Evans
Exon
Ford
Gorton
Grassley
Hatch
Hatfield
Hawkins
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jepsen
Kasten
Kennedy
Lautenberg
Leahy
Levin
Mathias
Matsunaga
Mattingly
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Trible
Warner
Weicker
Zorinsky

NAYS—16

Abdnor
Baker
Denton
East
Garn
Goldwater
Hecht
Johnston
Laxalt
Long
Lugar
McClure
Symms
Thurmond
Wallop
Wilson

NOT VOTING—10

Cranston
Dodd
Durenberger
Glenn
Hart
Hollings
Kassebaum
Rudman
Tower
Tsongas

So Mr. PROXMIRE'S amendment (No. 2754) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I rise today to bring an important matter to the attention of the Senate and to the Senators who will be meeting in conference with the other body on this legislation.

The House bill (H.R. 3231) which has been sent over to the Senate contains a title (title III) articulating a U.S. policy toward South Africa. Indeed, the title is designated "The U.S. Policy Toward South Africa Act of 1983." The pending Senate bill contains no comparable title.

This new act would restrict in a number of respects the manner in which U.S. companies would conduct business in South Africa. Specifically, it would ban prospectively certain U.S. bank loans to the South African Government. Second, it would ban the importation to the United States of krugerrands or other gold coins offered for sale by the South African Government.

Third, and more significantly, it would impose a set of legally enforceable fair employment standards for U.S. firms with more than 20 employees operating in South Africa. These standards, I am told, are derived from the 6 point, Sullivan principles. These principles were developed several years ago by the Reverend Leon Sullivan as voluntary standards by which American-owned companies should conduct their business operations in South Africa.

The thrust of the Sullivan principles is to repudiate the institutionized racism that pervades labor-management relations in South Africa.

As chairman of the Labor and Human Resources Committee, I am of course especially interested in these labor standards proposals. I have had an opportunity to review both the provisions in the bill and the explanatory material in the House committee report.

I am frank to say that I am troubled over the reach of proposed employment standards. Moreover, I am troubled over the assertions in the House committee report that with one exception, the principles incorporated in the bill, and I quote here, "Do not require a different or higher standard of behavior for U.S. employers in South Africa than required for U.S. employers in the United States." I have carefully reviewed the proposed labor standards. And I have compared them with current Federal labor law. Based on that review, I can say unequivocally that the House committee report is wrong. The bill's labor provisions go significantly beyond what current labor law requires. They represent, in some instances, a complete reversal in deliberate policy choices made earlier by Congress. Beyond this, I believe that the bill proposes an enforcement scheme that is flawed and irreconcilable with current law.

I would now like to set forth, in some detail, an analysis demonstrating the inconsistencies and problems with the labor proposals. I hope that the Senate conferees would find this analysis useful in persuading the House conferees to drop this title from the bill.

Before getting into specifics, let me say at the outset that I stand second to none in my opposition to apartheid. I abhor racism. It is morally wrong. It is a cancer on society. As our own country's history dramatically proves, a nation which condones and legally sanctions racism will sooner or later be torn assunder. Therefore let it be clearly understood that I do not quarrel with the goals of the bill or the Sullivan principles which inspired it.

SECTION-BY-SECTION ANALYSIS

The seven labor standards set out in title II are derived from and substantially similar to principles established by Rev. Leon H. Sullivan (the Sullivan principles) in 1977. Under present practice, companies operating in South Africa are encouraged to implement these principles voluntarily. Periodically, the U.S. companies doing business in South Africa are audited for compliance and the results thereof released to the public.

Section 321(a) of the H.R. 3231, however, mandates that U.S. companies operating in South Africa must: First, desegregate the races in employment facilities; second, provide equal employment for all employees; third, establish equal pay for all employees doing equal or comparable work; fourth, establish a minimum wage and salary structure based on a cost-of-living index which takes into account the needs of employees and their families; fifth, increase, by appropriate means, the number of blacks and other nonwhites in managerial, supervisory, administrative, clerical, and technical jobs; sixth, take reasonable steps to improve the quality of employees' lives outside the work environment with respect to housing, transportation, schooling, recreation, and health; and seventh, recognize labor unions and implement fair labor practices.

The first six standards are drawn from the Sullivan principles. The seventh standard—recognition of labor unions—is new. It is not part of the Sullivan principles.

Section 312(b) provides authority to the Secretary of State to issue guidelines and advisory opinions regarding compliance with these labor standards.

Section 313 directs the Secretary of State to appoint two advisory councils to advise the Secretary with respect to subtitle I. The first council is composed of 10 members in South Africa representing trade unions, the U.S. Chamber of Commerce in South Africa, the academic community, and church, and community leaders. The second council is composed of 11 members including officers and employees of the Departments of State, Commerce, and Labor, and the Equal Employment Opportunity Commission, and representatives of labor, business, civil rights and religious organizations in the United States.

Section 314 establishes a comprehensive enforcement scheme providing authority for enforcement of and penalties for noncompliance with the labor standards. Subsection (a) requires U.S. companies subject to the labor standards to submit a detailed, documented annual report to the Secretary of State on compliance with the fair employment principles and provide such other information as the Secretary may determine is necessary.

Section 314(b) directs the Secretary of State to: First, conduct on-site compliance reviews in South Africa at least once every 2 years; second, secure compliance within a reasonable period of time by mediation and other voluntary means; third, refer cases to the Attorney General for criminal proceedings where there is reason to believe that false information has been supplied to the Secretary; and fourth, conduct investigations and hold hearings. Section 314(c) directs the Secretary to make determinations of compliance within 90 days after giving notice and opportunity for a hearing.

Section 314(d) sets forth the penalties for U.S. companies found not to be in compliance with title III's labor standards or information requirements, or who have provided false information. Companies found to have violated these requirements may not: First, export any goods or technology directly or indirectly to South Africa; or second, use the services of the Export-Import Bank of the United States. Companies who violate the first penalty may be fined for each violations up to five times the value of the exports or $50,000, whichever is greater. In addition, the Secretary of State may impose fines of up to $1 million on U.S. companies or up to $50,000 for individuals. Officers, directors, or employees who knowingly and willfully order, authorize, acquiesce in, or carry out the act or practice may be subject to fines of up to $10,000.

COMPARISON OF "CODIFIED SULLIVAN PRINCIPLES" AND CURRENT FEDERAL LABOR LAW

In the section-by-section analysis of the House bill's title III, the House Committee on Foreign Relations asserts that "with the exception of principle 6, the principles do not require a different or higher standard of behavior for U.S. employers in South Africa than required for U.S. employers in the United States" (H. Rept. 98-257, pt. I, at 30).

The House's assertion is flatly incorrect. In fact, as the following analysis will demonstrate, five, not one, of the codified Sullivan principles are inconsistent with Federal labor law.

Desegregation in employment facilities. There is no inconsistency between the requirement section 312(a)(1) to desegregate the races in each employment facility and U.S. law.

Equal Employment. In general, there is no inconsistency between the requirements in section 312(a)(2) to provide equal employment opportunity for all employees and U.S. law. Section 312(a)(2)(A), however, differs from U.S. law because it requires that any health, accident, or death benefits plans be open to all employees, both salaried and hourly. There is no requirement in U.S. law that such benefit plans be uniform in these categories of employees. Distinctions may be made on various bases, including salaried or hourly status.

Equal Pay for Equal or Comparable Work. Section 312(a)(3) would require equal pay for all employees doing equal or comparable work. This principle is in direct conflict with U.S. law. When Congress considered the Equal Pay Act of 1963, 29 U.S.C. 206(d), it specifically rejected a comparable work proposal and instead, adopted the current equal pay for equal work standard for compensation discrimination based on sex. See 108 Cong. Rec. 14767. Moreover, the Supreme Court in *County of Washington* v. *Gunther*, 452 U.S. 161 (1981), declined to find that comparable worth suits are cognizable under title VII. Indeed, no court since the Gunther decision, including the Federal District Court in *AFSCME* v. *State of Washington.* C82-465T (Dec. 14, 1983), has adopted a plaintiff's invitation to adopt a comparable worth theory to establish employer liability under title VII. Thus, enactment of title III would impose comparable worth compensation systems on U.S. companies operating in South Africa causing disruption of employer job evaluation classification systems because there is no similar legal standard in the United States.

Section 312(a)(3)(B) also requires that employers review the distinction between hourly and salaried job classifications, and establish and implement an equitable and unified system of job classification. This would result in Government intervention in the evaluation and classification of employees by employers which is directly contrary to the Equal Pay Act. As found by the Gunther court:

> Under the Equal Pay Act, the courts and administrative agencies are not permitted "to substitute their judgment of the employer * * * who has established and employed a bona fide job rating system," so long as it does not discriminate on the basis of sex. 452 U.S. at 170-71.

Moreover, under U.S. law and practice there is no requirement that employers use a unified system of job classification between hourly and salaried positions. Many companies use different job evaluation systems for hourly and salaried employees because of the differences in jobs involved and because systems used for hourly employees may be subject to collective bargaining. Consequently, section 312(a)(3)(B) would result in Government intrusion in the job evaluation and compensation practices of facilities of U.S. companies located in South Africa even though such intrusions are not permitted in the United States.

Minimum Pay Related to Cost-of-Living. Section 312(a)(4) would require that minimum wage and salary structure be based on a cost-of-living index. Minimum wages in the United States are not tied to cost-of-living, however. Indeed, in 1977, Congress specifically rejected an amendment to the Fair Labor Standards Act that would have required the minimum wage to be revised based on the cost-of-living index. Thus, section 312(a)(4) is contrary to U.S. law and the considered policy choice of Congress.

I might add that, as a matter of policy, the use of indexing is likely to be counterproductive in South Africa. First, such increases would be mandatory regardless of the economic and social consequences including increased unemployment and inflation. Second, automatic increases in minimum wage would reduce the employability of marginal workers regardless of race. Finally, it would be disruptive of salary levels established by collective bargaining and would be opposed by some black trade unions.

Increase in Representation of Blacks in White Collar Positions. Section 312(a)(5) mandates increasing, by appropriate means, the number of blacks and other nonwhites in managerial, supervisory, administrative, clerical, and technical jobs. Under title VII of the 1964 Civil Rights Act, however, while an employer may voluntarily increase the representation of protected class members, such actions are not mandatory absent a finding of discrimination. *United Steelworkers* v. *Weber,* 443 U.S. 193 (1979). Moreover, although Executive Order 11246 requires Federal Government contractors to engage in affirmative action if particular job groups are underutilized, this requirement occurs as a result of a contractual relationship between the U.S. Government and the company providing services to the Government. Thus, title III exceeds U.S. law by requiring affirmative action in all circumstances.

Improve the Quality of Life Outside the Work Environment. The House Foreign Relations Committee recognized that the sixth principle—to take reasonable steps to improve the quality of employees' lives outside the work environment—establishes a higher obligation on the part of employers than exists in the United States. I would simply note here that this requirement seems very subjective. Its very breadth and generality gives employers little notice of what conduct on their part would satisfy compliance. Moreover, an argument could be made that it mandates U.S. employer involvement in South African domestic issues which have no direct bearing on the labor-management relationship.

Recognition of Labor Unions and Implementation of Labor Practices. Section 312(a)(7)(A), which establishes that employees have the right of self-organization, to form, join, or assist labor organizations, regardless of race, and the right to refrain from such activities, is virtually identical to the rights provided in section 7 of the National Labor Relations Act (NLRA). Similarly, section 312(a)(7)(B)(i)-(v) is nearly identical to the employer unfair labor practices provisions found in section 8(a) of the NLRA.

Section 312(a)(7)(C), however, represents a substantial departure from U.S. law because it would permit reasonable access to labor organization representatives to communicate with employees on employer premises at reasonable times. Under the NLRA, a distinction is made between employees and nonemployee union organizers. That is, nonemployee union organizers may be prohibited from entering the employer's premises provided there are other available channels of communication which will enable it to reach the employees through reasonable efforts. *NLRB* v. *Babcock & Wilcox,* 351 U.S. 105 (1956). Such other available channels include contact by mail, telephone, home visits, and public walkways adjacent to plant entrances.

In 1977 as part of labor law reform, Congress rejected a proposal that would have given nonemployee union organizers the right to campaign on company property whenever the employer addresses its employees on its premises or during working time on issues relating to union representation. S. 2467, section 4, 95th Cong., 2d Sess. (1977). Adoption of title III would therefore impose on U.S. employers in South Africa union access standards which are directly contrary to the NLRA and which Congress specifically rejected in 1977.

Section 312 (a)(7)(D) also exceeds the requirements of the NLRA. It directs that employee representatives be permitted to meet with employer representatives during working hours without loss of pay for purposes of collective bargaining, negotiation of agreements, and representation of employee grievances. Under the NLRA, granting official time for union representation is not mandatory, but is subject to collective bargaining. Although some agreements provide time off with pay for such functions, pay for such activity may be flatly prohibited in others. See Collective Bargaining: Negotiations and Contracts (BNA), No. 876 at 51:201 (Dec. 28, 1978).

Section 312(a)(7)(E) also requires U.S. companies to regularly inform employees that it is company policy to consult and bargain collectively with employee organizations. There is no similar notification requirement under the NLRA absent a finding of an unfair labor practice. Moreover, the notification requirement can be read as requiring continuous bargaining or consultation notwithstanding the terms of a collective-bargaining agreement. This clearly exceeds U.S. law and creates the basis for unstable labor relations. Finally, the obligation to consult and bargain under section 312(a)(7)(E) is with all organizations which are freely elected by employees to represent them. This is contrary to the standard under section 9(a) of the NLRA that such negotiations or consultations are limited to the employees' exclusive bargaining representative.

Section 312(a)(7)(F) requires that employer and employee representatives select impartial persons to resolve election, grievance, negotiation or other disputes. The effect of the provision is to provide a substitute for the statutory functions performed by the National Labor Relations Board and the Federal Mediation and Conciliation Service in the United States. Neither of these bodies, however, has authority to resolve grievances. Instead, the method of resolving them is left to the parties, and nothing under the NLRA mandates that an arbitrator of other neutral resolve grievances. To the extent that such appeal rights are provided under collective bargaining agreements, they are typically part and parcel of grievance and arbitration procedures which the employer agrees to in return for a no-strike commitment by the union. This quid pro quo of binding arbitration in exchange for freedom from strikes goes to the very heart of U.S. labor policy. See *United Steelworkers*, v. *American Mfg. Co.*, 363 U.S. 564 (1960); *United Steelworkers* v. *Warrior & Gulf Navigation Co.*, 363 U.S. 574 (1960); and *United Steelworkers* v. *Enterprise Wheel & Car Corp.*, 363 U.S. 593 (1960). But if arbitration were made available as a matter of law, as title III contemplates, the need for contractual arbitration procedures could be seen as less compelling. That is, unions might be unwilling to give up the right to strike in exchange for arbitration, if they knew that all discharge disputes would have to be submitted to an impartial person in any event. By thus diluting the incentive for unions to enter into no-strike agreements, title III would erode "the chief advantage which an employer can reasonably expect from a collective labor agreement." S. Rep. No. 105, 80th Cong., 1st Sess. 16 (1947). Thus, title III would undermine the mutuality of obligations upon which the U.S. policy of labor peace through collective bargaining is based.

Finally, it should be noted that while the bill establishes rules by which employers must recognize and bargain with unions, it is totally silent as to the concomitant rules by which unions should abide. The National Labor Relations Act, as amended by the Taft-Hartley Act in 1947, reflects a balance of rights and obligations between employers and unions. Section 8(a) sets forth the improper conduct from which employers must refrain, while section 8(b) delineates prohibition for unions. Both sets of rules are required for a balanced and viable relationship between labor and management. By ignoring the requirements of section 8(b) of the NLRA, the bill will promote labor-management relations which are at best skewed and disruptive, if not violent, at worst. History will confirm this, as evidenced by the problems which American businesses experienced between the passage of the Wagner Act in 1935 and the enactment of Taft-Hartley in 1947.

In summary, the claim of the House Foreign Relations Committee that, with the exception of principle 6, the labor standards in title III do not require a different or higher standard for U.S. employers in South Africa than that required in the United States is completely erroneous. Clearly the third, fourth, fifth, and seventh principles also exceed the requirements of U.S. law and practice.

OTHER FLAWS WITH TITLE III

Not only is title III at odds with substantive Federal labor law, it establishes an enforcement mechanism which is unworkable.

The House Foreign Relations Committee report states that:

> The labor standards in section 312(a) are designed to take into account * * * the principle of comity of the laws of another country, and that none of the principles would require that a covered U.S. employer break South African law. H. Rep. No. 98-257, Part I, 98th Cong., 1st sess. 30-31 (1983).

In the context of title III, comity requires that South Africa recognize within its territory the legislative, executive or judicial acts of the United States, Black's law dictionary 334 (1968).

Under existing statutes in South Africa, however, such comity may not occur. Section I of the Protection to Business Act No. 99 of 1978, as amended by act 14 of 1979, states in relevant part that:

> First, notwithstanding anything to the contrary contained in any law or other legal rule, and except with the permission of the Minister of Economic Affairs; (a) no judgment, order, direction, arbitration award or letters of request delivered, given or issued or emanating from outside the Republic and arising from any act or transaction contemplated in subsection (3), shall be enforced in the Republic; (b) no person shall in compliance with any order, direction or letters of request issued or emanating from outside the Republic, furnish any information as to any business whether carried on in our outside the Republic.
>
> In the application of subsection (i)(a) an act or transaction shall be any act or transaction which took place at any time, whether before or after the commencement of this Act, and is connected with the production, importation, exportation, refinement, possession use or sale of or ownership to any matter or material, or whatever nature, whether within, outside, into or from the Republic.
>
> Second, any person who contravenes the provisions of section 1(1)(b) shall be guilty of an offence and on conviction liable to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding 2 years or to both such fine and such imprisonment.

Thus, absent permission of the Minister of Economic Affairs, implementation of title III's enforcement scheme set forth in section 314 including information disclosure, on-site monitoring and compliance would be in direct conflict with South Africa's Protection of Business Act. Accordingly, orders of the Secretary of State or those of U.S. courts could be unenforceable in South Africa, and persons in South Africa complying with information requests under title III could be subject to fines or imprisonment under South African law.

Another disturbing feature of the enforcement mechanism is the role which H.R. 3231 gives to the Secretary of State in defining labor policy. Section 312(b) authorizes the Secretary of State to issue guidelines and criteria in implementing the compliance requirements. In addition, the Secretary may issue advisory opinions. With all due respect to the State Department, this to me is like entrusting an accountant to give advice on neurosurgery. The State Department has no institutional expertise to identify and resolve the manifold issues arising out of the employment relationship. Indeed, Congress has entrusted this task to a number of specialized agencies, including the National Labor Relations Board, Equal Employment Opportunity Commission, the National Mediation Board, and a host of agencies within the Department of Labor, such as the Office of Federal Contract Compliance programs, the Occupational Safety and Health Administration, the Mine Safety and Health Administration, the Employment Standards Administration, and the Employment and Training Administration, just to name the principal agencies. I seriously doubt whether the State Department could begin to develop the expertise which these agencies possess. Moreover, it is a role which is totally unsuited for the State Department.

Finally, I think it should be noted that the extraterritorial application of our Federal labor laws is fairly unprecedented. And this is the case for sound policy reasons. Many labor statutes contain express territorial restrictions. See, for example, that is, 29 U.S.C. 213(f) (Fair Labor Standards Act); 29 U.S.C. 653(a) (Occupational Safety and Health Act); 40 U.S.C. 276a (Davis Bacon Act); 41 U.S.C. 351(a) (Service Contract Act). Even where there is no express statutory provision forbidding application in other countries, U.S. labor laws have generally been held to be limited in application to the territorial jurisdiction of the United States, based on the assumption that Congress is primarily concerned with domestic conditions. See, for example, that is, *McCulloch* v. *Sociedad Nacional de Marineros de Honduras*, 372 U.S. 10 (1963) (National Labor Relations Act); *Benz* v. *Compania Naviera Hidalgo*, 353 U.S. 138 (1957) (Labor Management Relations Act); *Foley Bros., Inc.* v. *Filardo*, 336 U.S. 281 (1949) (Eight Hour Law); *Air Line Dispatchers Ass'n* v. *National Mediation Board*, 189 F. 2d 685 (D.C. Cir.), cert. denied, 342 U.S. 849 (1951) (Railway Labor Act). Congress and the courts have been justifiably reluctant to extend the scope of labor relations statutes involving the personnel policies and practices of multinational corporations outside the United States for several reasons including: First the labor conditions in another country are beyond the control of the United States; second, the extraterritorial application of U.S. employment practices invades the sovereignty of the host country to establish employment standards for workers within its territories and its own citizens; and third, companies attempting to comply with U.S. law and the host country's law may be subject to conflicting standards. See *Foley Bros., Inc.*, 336 U.S. at 286.

At this point, Mr. President, I would like to look beyond the substance of the labor provisions of H.R. 323 and share with the Members my concerns over their ramifications on U.S. foreign policy and on their impact on United States-South African relations.

Mr. President, it is important to note that up until the present time, without codifying the Sullivan principles or even more stringent measures in U.S. law, dramatic changes have taken place in South African labor relations. U.S. companies have played a major role in encouraging these changes.

In 1977 the South African Government appointed a Commission of Inquiry into Labor Legislation, known as the Weihahn Commission. The purpose of the commission was to study existing labor legislation and to make recommendations for reforms. It is important to note that the commission was the first multiracial Government body in South Africa with representatives from all four officially recognized population groups. The 12 person commission included one black, one coloured (or mixed race individual) and one Indian commissioner.

Mr. President, in May 1979 the Wiehahn Commission released its first report, while its second, third and fourth reports were published in 1980. The major recommendations of the commission included: Full freedom of association to all workers irrespective of race; provisional registration for new trade unions; enlarging the definitions of political activities of trade unions; financial inspection for unions, employers' associations, industrial councils, works committees and works councils; admission of registered trade unions to industrial councils; abolishing job reservation; establishing a system of minority protection and fair employment legislation; and opening apprenticeships to all races in all areas.

Today the South African Embassy proudly reports that:

> All reference to race, color and sex has been removed from each and every piece of legislation administered by the Department of Manpower.

This means that black workers have been legally granted the right to protection against unfair labor practices.

Black trade unions now enjoy the same rights as their white, Indian, and mixed race counterparts to organize, to register, to bargain, and to strike. For a trade union in South Africa to be granted the right to register is no small matter. Until recently only registered trade unions were allowed to participate in industrial councils, which are the organizations for collective bargaining. Although some black trade unions have refused to register as a means of protest, unregistered unions are now recognized by employers and Government as legitimate bargaining agents. The fact that black unions feel confident enough to challenge the labor relations system of South Africa is in itself encouraging.

Even more encouraging, there has been a recent upsurge in membership of black workers into multiracial and nonracial unions.

South African employers are no longer required to obtain a permit to hire a black worker. Ben Roberts, a professor of industrial relations at the London School of Economics, notes that this has had "a tremendous impact" on the South African labor force because for the first time blacks are moving into skilled work.

Admittedly, South Africa has a very long way to go to reach the desired objective of equal rights for all—not just on paper but in practice as well. However, let us not overlook what progress has been made: Just 4 years ago black trade unions were illegal, unrecognized, and had no bargaining status whatsoever. Now they are viable, growing strong, and becoming increasingly sophisticated. I believe these bread-and-butter changes in the workplace are providing the foundation for fundamental political and social changes in the future.

Mr. President, it seems to me that there are two relevant questions here today: First, examining the record to date, without codifying the Sullivan principles in U.S. law, what efforts have U.S. businesses made to abolish the totally reprehensible and unacceptable system of apartheid?

Second, what effect would title III of H.R. 3231 have on the process of bringing about further improvements in South African labor relations and peaceful change in South African race relations in general?

In answer to the first question I have raised concerning U.S. business contributions to improving working and living conditions of South African blacks, I must say that U.S. businesses have an extremely impressive record. It is my understanding that since 1977 U.S. firms have spent over $75 million in South Africa in the field of housing, education, training, supervisory/management development, black entrepreneurship, health and fair labor employment practices.

Specific initiatives by U.S. businesses include the establishment of PACE Commercial College by the American Chamber of Commerce in South Africa. PACE educates blacks in Soweto, the black township outside Johannesburg, for careers in business.

The $6 million school includes 28 classrooms, an assembly hall, a library, a kitchen, a canteen, a gymnasium, and a wide variety of sports facilities. According to the American Chamber of Commerce in South Africa, PACE is the first school in Soweto to have a fully equipped theater, the first to introduce physical education into the curriculum, the first to have a computer-based teaching system, and the first to serve a balanced midday meal to all pupils and staff from its own kitchens. Tuition for students to attend PACE comes from donations from some 200 companies, trusts, and individuals. About half of these are South African and about half are American, according to the chamber of commerce.

Mr. President, another innovative project funded by U.S. business is to build a better society program known as BABS funded in part by Mobil Corp. The objective of BABS is to promote grassroots resident action among the people of South Africa in order to improve the quality of life, to develop leadership for community problem solving, and to further the concept of equality by bringing about structural change. In June 1982 BABS completed a $1.3 million housing project outside of Capetown consisting of 50 housing units and a community center. This $1.3 million project was entirely funded by Mobil.

Mr. President, it is my understanding that another U.S. company, General Motors, spends roughly $4 million a year on training and social programs for blacks, including the adopt-a-school program which provides facilities, support for teachers, libraries, and audiovisual aids to schools. According to the seventh annual Sullivan report American companies have adopted over 200 schools, providing a wide range of support including cash assistance for renovations and expansions as well as other programs. Reverend Sullivan has stated that during the last reporting year signatory companies spent over $7 million to help educate nonemployees and these companies have deposited more than $2.5 million in black-owned banks.

I believe the key to the success of these efforts to improve blacks' living and working conditions is the spirit of voluntarism at work.

Reverend Sullivan himself has stated that during the last reporting year signatory companies have done more than ever before to reach the objectives set, even though the requirements become more demanding each year.

When the Sullivan principles were first promulgated in 1977 there were 12 corporate signatories. Today there are 120 signatories, according to the seventh annual Sullivan report. Most of the companies that have not signed the Sullivan Code are small, employing from 1 to 50 employees. H.R. 3231 would exempt from compliance firms with less than 20 employees because it is recognized that it is impractical and too expensive for many small companies to comply. For example, they cannot afford to subsidize education and housing programs. It is important to note that the 25 small business units have voluntarily signed the code, according to the Department of State. As Frank Wisner, Senior Deputy Assistant Secretary for African Affairs, has stated:

> An unintended result of this legislation is that firms which have adhered voluntarily would be exempt from doing so under the proposed legislation. This is a prime example of why a voluntary approach is preferable to mandatory legislation.

U.S. companies that have signed the Sullivan principles have worked to bring about fundamental change in South African labor relations and in the political process as well. Sullivan signatories have lobbied for changes in discriminatory legislation, increased the proportion of black workers in supervisory positions, provided common medical, pension, and insurance plans to all employees, instituted large-scale training programs for black workers, increased average black employee wages faster than for white employees, and supported public interest law firms which defend legal rights for black South Africans. U.S. businesses have also made an impact in the political arena. For example, in 1982 the South African Government put forth an onerous piece of legislation entitled the "Orderly Movement and Settlement of Black Persons" law. The purpose of this measure was to control the movement of blacks to and from urban areas. The U.S. Chamber of Commerce strongly and directly criticized this reprehensible piece of legislation and it has been shelved.

Mr. President, I share the administration's strong endorsement of the Sullivan principles as a useful tool to encourage reform in South Africa—provided that the Sullivan Code or any similar measures remain voluntary. It is clear that the present arrangement of a set of voluntary principles is working. U.S. businesses are having an impact. As President Reagan likes to say, "If it isn't broken, don't fix it."

I believe that title III of H.R. 3231 is an attempt to politicize and bureaucratize a voluntary program that has been extremely successful. If the U.S. Congress steps in and mandates stringent requirements it would have a devastating effect. Indeed, it may well backfire and harm the very ones we are trying to help—South African blacks. American companies and affiliates only have so much money, manpower, and resources to devote to their South African enterprises. The question is do we want them to devote their resources to building schools and housing projects and initiating training programs for blacks or shall we mandate that they devote their resources to additional layers of bureaucratic procedure? It is my understanding that under the proposed legislation the State Department would be charged with oversight responsibilities. Mr. President, the State Department is not a regulatory agency. I can just imagine the avalanche of paper that would be generated by this useless, counterproductive exercise.

If more restrictions were placed on U.S. companies in South Africa, they might very well close up their shops in Johannesburg and Pretoria and move elsewhere. Of course, again, this would be extremely detrimental to blacks who are counting on the continued, voluntary efforts of U.S. business people to improve their working and living conditions. Mr. President, I am sure that my colleagues would be interested in the perspective of a black South African leader on this matter. The Honorable Gatsha Buthelezi, the leader of the Zulu people, has said:

> Some . . . in America have got the whole issue upside down. They seem to think it is immoral for American companies to invest here but irresistably profitable. The truth is the opposite. It is morally imperative that American firms remain active here. . . My people want you and need you here, just as we need the Whites and the Whites need us . . . foreign investment creates jobs.

Mr. President, if title III of H.R. 3231 became law, it could very well backfire and drive U.S. businesses out of South Africa. I believe this would be a travesty. American companies doing business in South Africa provide jobs for 120,000 blacks in that country. What will happen to these 120,000 blacks and to the rest of the black population who benefit from the "spillover effect" of U.S. business presence in South Africa if a number of these businesses leave that country?

Another negative result of this measure might well be to strengthen the hand of South African conservatives who do not favor changing the status quo. As I wrote in the Christian Science Monitor last November.

> When debating those who favor change, (South African) hardliners can point to a lack of encouragement from the U.S. as a reason not to move forward in the area of human rights.

Carl Gershman, Counselor to the U.S. Permanent Representative to the United Nations, shares my point of views. In his testimony before the U.N. Committee on Racism and Racial Discrimination, Mr. Gershman stated that:

> The important question is how we can encourage the process of peaceful, democratic change in South Africa. The view that the only effective approach is increased international pressure and support for sanctions overlooks the internal factors that compel change and could, like a self-fulfilling prophesy, help bring about an Armageddon.

Samuel P. Huntington of Harvard's Center for International Relations has pointed out that "Reforms which appear to be granted under pressure" will strengthen the ultraconservative parties against the government, "lead to more extreme demands from more groups, and provoke a counterrevolutionary backlash."

I might add that there is also the question of applying U.S. law extraterritorially. I doubt very sincerely that South African Government leaders would embrace the idea of the U.S. Congress legislating labor relations in their country. As my colleagues are well aware, South Africa is of extreme importance to the United States because of its vast mineral wealth and its geographic location.

U.S. companies have made a tremendous positive impact on South Africa. Through their voluntary efforts they have been an effective catalyst for bringing about peaceful social change. Ultimately, however, it is the South African Government that must legislate within its own borders. The Government of South Africa has a very long, long, long way to go to abolish the reprehensible practices of apartheid. As I stated earlier, the question is how can the United States best help South African blacks? I do not believe the answer is for the U.S. Congress to intervene in the internal labor relations of a sovereign state.

The Sullivan principles are a useful set of guidelines for U.S. businessmen to follow on a voluntary basis. We should not bureaucratize and politicize this process, thereby unintentionally hurting South African blacks—the very ones we want to help in the first place. I believe that it would be a tragedy for us to abdicate our moral responsibility in South Africa by unwittingly driving U.S. businesses out of that strategically important country.

Incidentally, both the Washington Post and the New York Times agree with me. I would like to end my remarks by quoting from a Washington Post editorial of October 29, 1983. The Post writes:

> Some of the American companies operating (in South Africa) try to follow the Sullivan Code voluntarily. South Africa would be a better place if they all did. But to enact it into a law that applies in one not very friendly foreign country raises questions to which nobody in the House has any very plausible answers. Who's going to monitor compliance? What happens when the Sullivan code conflicts with South African law?
>
> . . . The trouble with unenforceable political gestures is that they divert effort from

the kinds of slow and unspectacular work that might actually make a difference.

Mr. President, I could not agree more. I ask unanimous consent that this editorial be printed in the Record in its entirety.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 29, 1983]

Sanctions Against South Africa

Moral indignation is a noble passion, and there is no country whose racial practices attract it so powerfully as South Africa's. But translating it into foreign policy legislation is full of pitfalls, and never more than when it's being done on the floor of the House of Representatives.

The House voted Thursday to prohibit any new American investment in South Africa. The author of that amendment, Rep. William H. Gray, says it means no investment by any company not already there—but that companies now there can expand. Does Mr. Gray really mean to protect the companies now there from any further American competition? Did the House realize it was creating, at least among American companies, a kind of franchise for those now in South Africa? Evidently not.

This language was pasted into the bill to extend the Export Administration Act, which now contains several other similarly well-intentioned provisions. One would apply the Sullivan code to American companies in South Africa, and give the U.S. government the legal authority to enforce it. Legal authority is one thing; practical means are another. The Sullivan principles apply a simple and clear rule of justice to labor relations in a society that has turned racial discrimination into an obsession. Some of the American companies operating there try to follow the Sullivan code voluntarily. South Africa would be a better place if they all did.

But to enact it into a law that applies only in one not very friendly foreign country raises questions to which nobody in the House has any very plausible answers. Who's going to monitor compliance? What happens when the Sullivan code conflicts with South African law?

Congress has repeatedly tried in recent years to impose American legal standards abroad. The South Africa amendments are hardly the most important example of the extraterritorial impulse in the Export Administration Act extension. It has been bogged down all year in the aftermath of the Reagan administration's failed attempts to force the Western Europeans to back out of their gas pipeline projects with the Soviet Union. Since this kind of sanction has been notably unsuccessful in the past as a means of changing other countries' policies, there is an unreal quality to the debate. But it goes on with undiminished vehemence.

As for the South Africa amendments, it's possible to argue that even if unenforceable they won't do any harm. So why not pass them.

The trouble with unenforceable political gestures is that they divert effort from the kinds of slow and unspectacular work that mixing actually make a difference.

Mr. HATCH. Mr. President, in conclusion, these are important considerations. The House bill goes way beyond present U.S. law and I think does not solve the problems but creates more problems.

I just call the attention of my colleagues to one of the articles that I wrote explaining how we are making headway in South Africa, how with the help of some of the AFL-CIO people who have been working and giving time down there we are making headway and making headway faster than ever before.

I believe the House provisions not only will be in derogation of present U.S. law but I believe those House provisions will deter, not help, the resolution of racial problems and the resolution of the abhorrent apartheid policy in South Africa.

Mr. HELMS. Mr. President, I commend the distinguished Senators from Pennsylvania (Mr. Heinz) and from Utah (Mr. Garn) for their many hours of hard work on S. 979 which renews and amends the Export Administration Act. There are several provisions in this legislation which this Senator particularly favors, especially those which strengthen the role of the Department of Defense in the export control process.

But, Mr. President, in the face of the ruthless expansion of the Soviet Empire around the world, I believe that the highest priority should be given to the job of strengthening the export control process. It is a fact that the vast Soviet military and industrial structure that we now confront has been primarily developed by those in the West who have engaged in trade and technology transfer with the Soviet Union.

It is also a fact that, over the years, loans and credits to the Soviet Union by Western bankers, as well as by Western governments, have served to build the Soviet war machine and to keep the peoples and nations contained within the Soviet borders and in Soviet satellites in slavery.

Controlling the exports of goods and technology to the Soviet Union can halt the development of the Soviet war machine which threatens civilization around the globe. Export control is a type of arms control and it is high time that this fundamental fact be remembered and acted upon.

Mr. President, Secretary of Defense Weinberger in his report entitled "Soviet Military Power" issued in March of this year states plainly that, to quote the report:

> The flow of Western technology, equipment and materials to the Soviet Union has made a considerable contribution to Soviet military-industrial capabilities.

Mr. President, I ask unanimous consent that the section of Secretary Weinberger's report entitled, "Technology Transfer" be printed in the Record at the end of my remarks as exhibit 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

WHY IS THERE WESTERN TRADE WITH THE SOVIETS?

Mr. HELMS. Mr. President, as I have just noted, it is a fact that trade with the Soviet regime has been going on for some seven decades by various Western financiers and businessmen. As Secretary Weinberger and others have pointed out, this trade has built up the Soviet war machine. It is therefore important that we ask ourselves just why is there such a transfer of goods and technology as well as credits and finance to the masters of the Kremlin? In the opinion of this Senator and a number of experts on this matter, this trade must be controlled.

A number of academic specialists have investigated the matter of trade and technology transfer to the Soviet Union. Among the best known is Prof. Anthony Sutton who was associated with the Hoover Institution at Stanford University for a number of years. Among his many important works on this subject, his massive three-volume set entitled "Western Technology and Soviet Economic Development," published by the Hoover Institution between 1968 and 1973, ably demonstrates the fact that the Soviet industrial structure rests upon a foundation supplied in great part by the West. Professor Sutton carefully documents the transfer of goods and technology from not only the United States but also from such countries as England and Germany.

Mr. President, European scholars and specialists have also investigated this matter and have arrived at similar conclusions. Mr. Z.A.B. Zeman in 1958 wrote a book entitled "Germany and the Revolution in Russia 1915-1918" which was published by the Oxford University Press. In this book, Mr. Zeman presents selected documents from the Archives of the German Foreign Ministry which demonstrate the financing of the Bolshevik revolutionary movement by the German Government.

The German Government spent many millions of marks in order to assist the Bolsheviks to come to power in Russia in order to further German war aims as well as to secure lucrative markets in Russia in the postwar years. Mr. Zeman documents the fact that the German Government arranged for the train which transported Lenin and his fellow revolutionaries from Switzerland where they had been in exile to the Russian border. Mr. Zeman notes that this policy had the backing of certain German financial and industrial circles. Mr. Zeman also documents the activities of Alexander Helphand who also used the name "Parvus" and who was a Russian revolutionary in the service of the German Government with close ties to Lenin.

Mr. President, I ask unanimous consent that the appropriate documents from the German Foreign Ministry Archives as printed in Professor Zeman's book be inserted in the RECORD at the conclusion of my remarks as exhibit 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HELMS. After many years of research and writing on the matter of Western trade with the Soviet Empire, Professor Sutton arrived at an explanation for this massive trade and technolgy transfer. In his book, "Wall Street and the Bolshevik Revolution," which makes use of meticulous citations from U.S. State Department files, Professor Sutton painstakingly documents the activities of the New York financial establishment and allied industrial circles in support of the Bolshevik seizure of power in Russia and the opening of trade and financial relations with the Soviet state.

Professor Sutton points to a book written in 1906 by Frederick C. Howe entitled, "Confessions of a Monopolist" to give insight into the mentality which attempts to rationalize and to justify trade with such an evil and dangerous empire:

> These are the rules of big business. They have supplanted the teachings of our parents and are reducible to a simple maxim: Get a monopoly; let Society work for you; and remember the best of all business is politics, for a legislative grant, franchise, subsidy, or tax exemption is worth more than a Kimberly or Comstock lode, since it does not require any labor, either mental or physical, for its exploitation.

Professor Sutton then goes on to give his explanation for trade and technology transfer by Western financial and business interests to the Communist world:

> What motive explains this coalition of capitalists and Bolsheviks?
>
> Russia was then—and is today—the largest untapped market in the world * * * the simplest explanation of our evidence is that a syndicate of Wall Street financiers enlarged their monopoly ambitions and broadened horizons on a global scale. The gigantic Russian market was to be converted into a captive market and a technical colony to be exploited by a few high-powered American financiers and the corporations under their control.

Mr. President, it is a historical fact that the transfer of Western goods and technology has created a Frankenstein monster which threatens peace and civilization throughout the world. The free peoples and nations of the West must face up to this fact and concert our efforts to control this trade in order to preserve our way of life and our cherished values. As Secretary Weinberger and others point out, such trade has built up the Soviet war machine. It is high time that all of us in the West realize that export control is a form of arms control and act accordingly.

HOW UNITED STATES-SOVIET TRADE STARTED

Mr. President, as I have mentioned, trade relations with the Soviet regime on the part of the United States as well as on the part of European financial and business interests go back to the beginning of the Bolshevik dictatorship in Russia. The American-Russian Chamber of Commerce was founded in 1916 and was composed of business and financial interests urging the recognition of and trade with the Soviet regime the minute it took power in 1917 in a coup d'etat. In 1919, the American Commercial Association to Promote Trade With Russia was founded by a group of businessmen in the financial and industrial fields as an additional lobby to promote such trade with the Soviet slave state.

For their part, the Soviets established the Products Exchange Commission in the United States in 1919. This was followed by the establishment of the Arcos American Co. in 1924. Both of these organizations merged to form the Amtorg Trading Agency on March 24, 1924. It is a well known fact that Amtorg also served as a cover operation for Soviet espionage activities.

The basic background of early United States-Soviet trade is documented in two interesting books. One is by Mr. Saul Bron who served as head of the Amtorg agency and is entitled, "Soviet Economic Development and American Business." It was published in New York by Horace Liveright in 1930. The other book was published by the American-Russian Chamber of Commerce in New York in 1936 and is entitled, "Handbook of the Soviet Union."

Mr. President, I ask unanimous consent that the appropriate passages from these two books be printed in the RECORD at the end of my remarks as exhibits 3 and 4.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibits 2 and 3.)

LEND-LEASE AND THE SOVIET ATOM BOMB

Mr. HELMS. Mr. President, it is well know that the United States provided the Soviet Union with massive economic and industrial aid during World War II under the Lend-Lease Act. It is less well known that some of this aid consisted of materials which were associated with the production of the atomic bomb. This aspect of U.S. aid was well documented by Maj. George Racey Jordan, a Long Island businessman who served as a Lend-Lease expediter and liaison officer with the Soviets from May 1942 to June 1944 both at Newark Airport and at the U.S. air base at Great Falls, Mont.

In Major Jordan's book which was published in New York in 1952 entitled, "From Major Jordan's Diary" we find a partial listing of materials obtained by the Soviet Union through the Lend-Lease program which were valued at about $9.6 billion. Major Jordan's listing, obtained from the Soviet's own inventory lists, is startling and particularly troubling in terms of the atomic materials which were given to the Soviets.

When contemplating this listing, this Senator would remind his distinguished colleagues that the Soviet Lend-Lease debts were written off at a pittance back in the early 1970's when the Kissinger détente ushered in a new current of United States-Soviet trade.

Mr. President, I ask unanimous consent that the appropriate text from Major Jordan's book be inserted in the RECORD at the conclusion of my remarks as exhibit 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 5.)

THE EXPORT CONTROL ACT OF 1949

Mr. HELMS. Mr. President, Senators should reflect carefully on the original purpose and intent of the Export Control Act of 1949. Owing to the postwar experience with the ruthless expansion of the Soviet Union in a new state of the Cold War which opened with the Bolshevik usurpation of power in Russia in 1917, this act was passed in order to control, and I emphasize the word control, trade with the Soviet Union. It was recognized at the time that such trade could build the economic and military power of the Soviet Union and its allies and that this would pose a threat to the national security of the United States and our allies.

The Export Control Act of 1949 was based in part on principles derived from the Trading With the Enemy Act of 1917. It is important to pause here and discuss this important act. The German Empire which unleashed the war on Europe in 1914 was obtaining vital goods not only from the neutral European powers such as Sweden, Denmark, and Holland but also from the United States and even England herself. It was this trade which allowed the German Empire to prosecute that devastating war for several years more than it would have been able to had it been cut off from such trade. England finally recognized this problem and passed in Parliament a Trading With the Enemy Act. The United States, after entry into the war, passed a similar act.

In the confrontation that we face today with the Soviet Union and its ruthless global expansionism, the situation which obtained during the First World War is instructive. Even at that time, there was extensive trading with the enemy. Rear Adm. M.W.W.P. Consett of the British Navy who served as naval attaché in Scandinavia in 1912-19 published a scarce and valuable book on this subject in 1928 entitled, "The Triumph of Unarmed Forces." In this remarkable work Admiral Consett traces the patterns of trade from neutral countries as well as from the United States, England, and Japan which allowed the German Empire to prosecute the war. Admiral Consett concluded:

> The war, however, was prolonged far beyond the limits of necessity.

Admiral Consett described in detail what he called the unseen economic struggle which through trade from neutrals and supposed allies allowed the German military machine to wreak havoc on Europe. In his preface to the book, Admiral Consett succinctly states:

> * * * the problem with which Germany was faced from the very beginning was an economic one: She was not self-supporting, and the supplies upon which she depended for feeding, clothing, and munitioning her armies, and for supporting her civil population, had come from overseas.
>
> The four years' Great War was a struggle for the mastery of these supplies. * * * The real struggle itself was unaccompanied by any single act of violence; yet it was more deadly in its passive relentlessness than the military forces and engines of war, on which the whole attention of the world was exclusively riveted.

Mr. President, this example from the World War I era, upon which our own Trading With the Enemy Act was based, should provide an important and instructive parallel to the situation that we confront today with the Soviet Union. Indeed, as I noted earlier, the principles embodied in the Trading With the Enemy Act of 1917 were among those that came to be embodied in the Export Control Act of 1949. The fundamental principle is that by controlling exports to one's adversary his military power can be diminished and the threat reduced. In short, export control is a form of arms control.

Mr. President, I ask unanimous consent that the preface of Admiral Consett's book be printed in the RECORD at the end of my remarks as exhibit 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 6).

FROM EXPORT CONTROL TO EXPORT PROMOTION

Mr. HELMS. Mr. President, Congress recognized that efforts must be made on a bilateral and multilateral basis with our allies to control trade with the Soviet Union after World War II. The Mutual Defense Assistance Control Act of 1951, the Battle Act, was passed with this intent. Within the NATO alliance the Coordinating Committee for Multilateral Export Controls (Cocom) was established in 1950. The basic principle here is that foreign availability of goods and technology should be reduced by close cooperation with our allies through a process of bilateral and multilateral negotiation.

Export controls were strengthened in the early 1960's but a major change occurred in 1969. Reflecting the détente concepts of Henry Kissinger, the Export Control Act was altered and the central thrust of the act changed dramatically. The changes in 1969 and subsequent changes in 1972, 1974, 1977, and 1979 all had the effect of turning the act into an export promotion act with regard to the Soviets. A process of systematic watering down of the original act and its intent has been in motion for some 15 years.

Mr. President, it is high time that this process be reversed and that we get back to the original intent of the legislation which was to control, and not to promote, trade with the Soviet Union and other Communist countries.

ECONOMIC DÉTENTE AGAIN?

Mr. President, following World War II, we in the West had a basic strategy. Imperfect as it may have been, the containment doctrine recognized the Soviet drive for global hegemony as the central menace to a peaceful world and resolved to contain it. There was a basic concensus in the West on the policy although voices were raised counseling that "It is better to be Red than dead." While the world had just passed through the horrors of the Hitler regime, it did not take long for the voices of appeasement to enter the media as well as into the realm of politics and diplomacy.

The decade of the 1970's opened with the concept of détente. According to the Kissinger grand design, one could replace the containment doctrine of the West with a new approach. This idea was that legitimate international order simply meant the acceptance of a set of rules of conduct that were respected by all powers. But, it is the legitimacy of the international order, conceived as a consensus on rules of conduct, synonymous with stability and ultimately with peace? Détente was Kissinger's instrument to achieve a so-called legitimate internal order.

The Kissinger model, however, was fundamentally flawed. What was missing was an ethic of a peaceful order that involves more than just an agreement on a set of rules. His system was empty of moral content and therefore was irrelevant to the great issues of our times. Those great issues center upon values and principles fundamental to the preservation of a way of life basic to our civilization.

Détente involved, we were told, interdependency, deterrence, and arms control. The atmosphere of détente, however, has swayed Western psychology toward a downgrading of the perception of the Soviet threat, the cutting of defense budgets, and the disruption of alliances. The world power balance, or as the Soviets call it, the correlation of forces, was further tipped in the Soviet's favor.

The dynamics of the détente process have led to an increasing demoralization of the West during the last decade. The Soviets have acted with relative impunity in subjugating the Afghan people; in further repressing the Polish nation and the captive nations of Eastern Europe; in attempting to assassinate the Pope in Rome; in bringing violence and devastation to the New World; in spreading war and misery on the African Continent; and in murdering an innocent planeload of men, women, and children crossing the Pacific on a commercial jetliner. In recent months we have had the tragic assassination of leading South Korean Government officials in Rangoon and the savage murder of American marines in Beirut, both events which may ultimately be found to lay at the door of the Kremlin.

The Kissinger détente rested on the thesis that the dominating effect of greater economic interdependency would restrain Soviet behavior. Have the Soviets been restrained over the last decade? Have the Soviets been restrained over the last seven decades? In spite of billions of dollars of credits and loans; in spite of billions of dollars of Western goods and technology; in spite of innumerable exchanges across a broad range of fields, the Soviet Empire has not been restrained in the least.

Literally hundreds of American corporations engaged in trade with the Soviet Union on the heels of the Kissinger détente policy. One listing prepared in 1974 by the Washington Forum, a corporate affiliate of Alliance One Institutional Services of New York City contained many but not all companies doing business with the Soviets at that time. Did this trade stop Soviet expansionism?

Mr. President, I ask unanimous consent that the 1974 listing prepared by the Washington Forum be inserted in the RECORD at the conclusion of my remarks as exhibit 7.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 7.)

WHO REALLY BENEFITS FROM DÉTENTE AND TRADE?

Mr. HELMS. Mr. President, the question that we should all be asking ourselves at this moment is, "Who really benefits from trade and détente with the Soviet Union?" Considering the experience of the last seven decades it is certainly apparent that the masters of the Kremlin are the first to benefit. They have been able to take advantage of trade with the West, in a process not only foreseen by Lenin but actually implemented by him at the Genoa Conference of 1922 which formally opened increasing trading relations with the West. Lenin's plan was to construct an industrial-military structure threatening the freedom of mankind across the globe.

It is also true that any number of banking establishments and business corporations in the West have earned profits on this Soviet trade—profits which, it should be noted, are in many ways guaranteed by the taxpayers in the West. We have only to consider the vast amount of Soviet bloc debt which has accumulated over the last decade and a half. Some estimates place it upward of $80 billion. Western taxpayers are somehow supposed to bear the brunt of nonpayment of these debts by means of Government mechanisms in the West which use taxpayers dollars to guarantee the banks and other organizations holding these debts. The case of the Polish default issue over the last several years is immediately to the point.

Mr. President, I am deeply concerned about other consequences of trade with the Communist world which have not received a great deal of attention heretofore. I am concerned about the unemployment in the West and in the developing world which will be caused by the sale of turn-key plants and manufacturing facilities to the Soviet Union and to the Communist world at large. I have similar concerns about the proposed massive trading relationship with Red China which appears to be near at hand.

An important book has recently been written by Mr. Charles Levinson, the secretary-general of the International Federation of Chemical, Energy, and General Worker's Union (ICEF) headquartered at Geneva, Switzerland. Mr. Levinson contends with much documentation that such turn-key projects have and will result in unemployment in the West and in the developing world. In an interview about his new book, entitled "Vodka-Cola," in a Canadian publication, Mr. Levinson states his thesis in the following words:

> Although the production of capital equipment clearly gives a certain amount of employment in the short term, this is really a Frankenstein monster situation. Already, the amount of employment generated in the engineering industry to produce turn-key installations in Eastern Europe (and now China) is outweighed by the job losses from the more labour-intensive factories downstream which are being shut down increasingly in such industries as rubber, textiles, glass, electronics, fiber production, fertilizer, clothing, and so on. The installation of a factory is a one-shot operation; but the output from that plant will continue to flood out for a decade or more.
>
> And we are now only in the early stages of this trend—this is the point at which the new plants are being installed. The buy-back goods are only just starting to come back—yet already they are creating big problems in some markets, restricting drastically the potential for competitive production in the West based on more realistic wage rates.
>
> This is because many of the plants now being built and installed in the East are in large measure simply replacements for plants which would otherwise have been built in Western Europe or the U.S.A., for example, by the multinational companies—in that sense they are not "extra" boosts to employment in the capital sector, but they are a direct threat to employment in downstream industries.

Mr. President, this is a chilling analysis and the consequences for the working man and woman in these United States may well be much more severe than anyone has imagined should goods and technology keep being transferred to the Communist world.

Mr. President, I ask unanimous consent that the interview with Mr. Levinson appearing in Our Generation, be printed at the end of my remarks as exhibit 8.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 8.)

ARE WE HEADED TOWARD A NEW ECONOMIC DÉTENTE WITH THE COMMUNIST WORLD?

Mr. HELMS. Mr. President, I am deeply concerned that plans are afoot to launch a new economic détente with the Communist world. In recent weeks we have noted the new administration policy which would open trade with Red China on a massive basis. In recent weeks, we have also seen many reports about a desire to again promote trade with the Soviet Union.

Mr. President, I ask unanimous consent that five newspaper articles illustrating problems of trading with the Soviets in the energy field and the disarray in administration policy in export control policy as well as import policy be printed in the RECORD at the end of my remarks as exhibit 9. The articles are: "Curb Asked on Soviet Trade" (New York Times, September 22, 1983); "Soviet Line Status Report" (New York Times, September 24, 1983); "Pipeline Extension Not Expected" (Journal of Commerce, September 26, 1983); "Turf Squabbles and Inexperience Hamper Technology Guardians" (Washington Post, October 27, 1983); "Administration Blocks Attempt To Ban Soviet Imports" (Washington Times, October 27, 1983).

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 9.)

EXHIBIT 1

[From, Soviet Military Power, Department of Defense, 1983]

For the Soviet Union, the goal of world leadership in science and technology includes a high level of resource commitment that essentially involves the integration of two approaches:

The establishment and expansion of a large indigenous technology and production base to support their industrial and military development programs.

The acquisition and assimilation of Western technologies to reduce the time, cost and risk involved in supporting their industrial and military programs. The Soviet political and military intelligence organizations, the KGB and the GRU, have for years been training scientists and engineers to target and acquire advanced, militarily useful technology from the United States, Western Europe, Japan, and elsewhere. In this way, they have acquired technology worth many billions of dollars, some of it by purchase, legal or illegal, or by theft, espionage, bribery, scientific exchanges and exploitation of US open literature. The USSR is thus able to design and produce new Soviet weapons, saving a great deal of time, effort and resources in the development stages. For example, the Soviet have achieved new capabilities through exploitation of Western guidance and radar systems and Western production methods.

The result has been a sharp narrowing of the technological gap between the US and USSR.

Although the US continues to lead the Soviets in most basic technologies, such as the militarily critical area of electronics, this lead is now not nearly so apparent in the modern, highly capable weapon systems fielded by the Soviet Union in recent years. The number and quality of new ground, naval and aerospace weapon systems developed by the Soviets are impressive by any standard.

To support their extensive military buildup, the Soviets have a well-established, centrally controlled system that includes a core of nine industrial ministries heavily involved in military programs—the Soviet "Defense Industrial Sector." Subject to Soviet defense direction, these ministries design the weapons, develop the prototypes, and, as they pass the Ministry of Defense evaluation trials, produce the weapons.

Manpower and production resources

The Soviets have the world's largest R & D manpower base—estimated at over 900,000 scientists and engineers in 1982, compared to less than 700,000 in the United States. The percentage of Soviet R&D manpower engaged in defense-related work is high—estimates range from 50-to-75 percent of the USSR's scientific and technical force. In 1982, the Soviets graduated over 300,000 engineers from their five-year, first degree engineering schools—nearly five times the number graduated by the United States. Approximately 80 percent of Soviet advanced degrees last year were in scientific an technical fields as compared with about 40 percent of the US advanced degrees. The US, however, graduates significantly more with advanced managerial degrees than the Soviets, highlighting US managerial strength and comparative Soviet weakness in this field.

Soviet capital investments in those ministries responsible for ground, naval and aerospace weapon systems have continued at a rate unmatched by any other country for at least two decades. In the strategically important aerospace sector, Soviet research institutes, design bureaus and test facilities have expanded significantly over the past decade alone. The ground and naval research, development and technology (RD&T) bases have also expanded at an impressive rate.

In order to support their growth in military power, the Soviets have built the world's largest military industrial base. This base has grown steadily and consistently over the past 20 to 25 years. The cyclical production of new and upgraded weapons, continuing facility growth, and high rate of production keep the arms industry in a state of constant operation. The industry now includes over 150 major plants throughout the USSR, producing ships, aircraft, missiles, armored vehicles, artillery, ammunition and explosives. These plants are supported by a network of thousands of feeder plants. In addition, the Soviet Union has a large industrial base providing the electronics and telecommunication gear required to support its military operational requirements as well as a large and still expanding truck industry largely built with Western technology; the Kama River Truck Plant is the most recent example.

The industrial floorspace committed to production of the Army's weapons has continued to expand since the mid-1970s. In 1982, the Nizhniy Tagil Railroad Car and Tank Plant manufactured 2,000 main battle tanks—the T-72, and the latest Soviet tank, the T-80.

Construction at the Severodvinsk Naval Shipyard, the world's largest shipyard geared for submarine production, illustrates the growth of naval sector facilities. Since 1967, floorspace has increased by several hundred thousand square meters, or approximately three-quarters again the yard's size in 1965. Moreover, Severodvinsk is only one of several Soviet yards producing submarines. Twenty-three other major shipyards have been expanded during the same period; four new yards have been built.

In the aerospace industry, new, large final-assembly buildings have been built at nearly every established plant. A wholly new, large aircraft plant is under construction. This plant, when completed, will probably be used to fabricate and assemble large aircraft—transports and bombers. Qualitative improvements in production technology, which typically accompany new and more sophisticated aircraft, have paralleled the physical growth of the industry.

In recent years, the military has absorbed 15 percent of the Gross National Product as compared to less than seven percent for the United States—and if current trends continue, the Soviet military's share of the GNP will approach 20 percent of the late 1980s.

The cumulative dollar costs of Soviet investment for the decade were 80 percent higher than U.S. investment outlays. The estimated dollar costs for the Soviets were more than twice the U.S. outlays in the mid-1970s, but, because of the slower growth of Soviet programs and growth in U.S. costs, this margin had decreased somewhat by 1981. The slower growth of Soviet programs during the period was due to the cyclical nature of Soviet military production. The large Soviet research and development effort, coupled with observed expansion in military production facilities, suggests that the dollar costs of Soviet military procurement activities may soon resume their historical growth. The estimated dollar costs for Soviet RDT&E were 70 percent greater than U.S. RDT&E outlays for the period as a whole, and were more than twice as great in 1981. The dollar operating costs for Soviet activities were about 25 percent higher both for the period and in 1981. The defense sector is unquestionably the first priority of Soviet industrial production, whatever the cost to other sectors of the Soviet economy.

The Soviet Union and the countries of the Warsaw Pact have, over the past decade, faced deteriorating economic performance while at the same time sustaining high levels of military equipment production for an across-the-board force modernization. The Soviet economy is besieged by growing resource scarcities, higher production costs and by competing priorities between sectors. Food shortages, low labor productivity and transportation disruptions have combined to bring industrial growth to a post-1945 low. Externally, the high cost of supporting other Communist regimes, also in difficulty, such as Cuba, Vietnam, Afghanistan, and Poland, create an additional burden.

TECHNOLOGY

The large, sustained Soviet investments in manpower, fiscal and material resources have narrowed and in some cases closed the technological gap between the West and the USSR over the past decade. Technology transfer has played a central role. In many key technologies used in deployed weapons systems there is no gap at all. The difference between the general and the military technological levels of the West and the USSR results from the top priority the Soviets place on technologies and production critical to weapons performance. One cannot judge relative military technological capability by looking at an overall comparison alone.

In electronics, the Soviets are behind the West in overall capability, but are about equal in terms of electronics used in deployed weapons. Deployed Soviet military computers are no less capable than those used in the West even though Western computer capabilities in general exceed those of the USSR. This is because Soviet military computers are on the leading edge of their technology while those in the West tend to lag the state-of-the-art by a wide margin. The same circumstances apply to communications equipment. Soviet propulsion capabilities reflect Moscow's emphasis on ballistic and cruise missiles and on a variety of naval combatants. In these areas the Soviets rival the West and in some—liquid missile propulsion, for example—Soviet capabilities are superior.

Directed energy

For well over a decade now, the Soviets have devoted subtantial resources to those technologies applicable to directed energy weapons. Indications of Soviet interest in radio frequency technologies, particularly the capability to develop very high peak-power microwave generators, indicate that the Soviets intend to develop such a weapon. There is also a considerable research effort within the Soviet Union into technologies relevant to the development of particle-beam weapons.

For many years, the Soviets have devoted significant resources to the development of laser-beam weapons. Their high energy laser program is three-to-five times the U.S. effort. They have built numerous classified facilities dedicated to the development of these weapons.

The Soviet program began in the mid-1960s. They are pursuing chemical laser development and have continued to work on the earlier high energy laser candidates, the gas dynamic laser and the electric discharge laser. They are also pursuing related technologies such as the development of efficient electrical power sources and the capability to produce high-quality optical components in quantity. They have developed a rocket-driven magnetohydrodynamic (MHD) generator which produces 15 megawatts of short term electric power—a device that has no counterpart in the West. The Soviets are committed to the development of specific laser weapon systems. Soviet development of moderate-power weapons capable of short-range ground-based applications such as tactical air defense and anti-personnel weapons, may well be far enough along for such systems to be fielded in the mid-1980s. In the latter half of this decade, it is possible that the Soviets could produce laser weapons for several other ground, ship and aerospace applications.

TECHNOLOGY TRANSFER

Soviet foreign technology acquisition policy, for both legal and illegal acquisitions, is directed first and foremost at enhancing military industrial capabilities. Western technology transfer contributes to Soviet military industrial capabilities: (1) by yielding a direct near-term military advantage through transfers leading to a Soviet technological breakthrough, filling a gap or overcoming a bottleneck in a mature Soviet technology; (2) by providing an indirect, long-term military advantage in helping to overcome technological lags in the Soviet industrial infrastructure; (3) by contributing to the overall growth of the Soviet economy by enhancing productivity; and (4) by releasing funds for military production.

The flow of Western technology, equipment and materials to the Soviet Union has made a considerable contribution to Soviet military-industrial capabilities. Industrial machinery and products imported for the civilian industry often directly support the defense industries. Since a significant amount of defense production occurs in the machinery sector, it is likely that at least half of the machinery acquired from the West contributes to defense production. Western, government-backed, low interest credits and loans provided to the Soviets have underwritten this trade and greatly facilitated the development and serial production of modern weapons. For example, since the mid-1970s, the US, its Western Allies and Japan together have been the source of one-fourth of total Soviet machinery imports. This one-fourth represents the most advanced machinery that the Soviets have been able to acquire. More than 40 percent of these Western machinery imports have been for the metalworking and chemical industries—major contributors to Soviet defense production. Much of the remainder of Soviet machinery imports were acquired from East European sources, the technology of which generally falls well below that of Western and Japanese machinery.

The Soviet Union has undertaken a large-scale program to acquire Western technology by covert means in addition to its legal acquisition efforts. The Soviet intelligence services (KBG and GRU) along with the Eastern European intelligence services now have several thousand technology collection officers under a variety of covers ranging from diplomats to journalists and from trade officials to scientists and engineers. Acquisitions through illegal trade channels can have both military and industrial applications.

A former Soviet intelligence officer revealed an estimate that Western military-related technology acquired by Soviet intelligence has saved the Soviet defense industry hundreds of millions of dollars: for example, classified reports on advanced US weapon systems still under development. The classified reports included information on the F-15 look-down/shoot-down radar system, the B-1 bomber radar system, the PHOENIX air-to-air missiles, PATRIOT surface-to-air missiles, the improved HAWK surface-to-air missiles, and a NATO air-defense system. The Soviets stand to save hundreds of millions, if not billions, of dollars by now being able to utilize proven US designs to field counterpart systems—as well as effective defense and countermeasure systems—in a much shorter time and with less risk.

In other cases, Soviets have acquired image intensifier and processing devices, infrared detector materials, frequency analyzers, radar technology and remote sensing processing equipment—all with significant military applications. Soviet acquisitions have included finished semiconductors, integrated circuits, and the related manufacturing equipment and complete production plants, wire memory and magnetic bubble memory technology, computer software and computer-aided design and manufacturing technology. The Soviets have acquired hundreds—perhaps thousands—of computers and microprocessors, and in a number of instances have reverse-engineered these items for their own manufacture and use.

Propulsion

Such technologies as turbine blade-coating technology have been acquired as well as information on ceramic core and mold technologies for casting aircraft turbine blades. The Soviets may have acquired not only technical information on high-bypass-ratio, high-thrust turbofan engines, but an actual Western high-bypass turbofan engine as well.

Materials

In the field of composite materials and associated equipment, the Soviets have obtained technology, materials and equipment involving graphite fiber production, powder metallurgy, glass technology, protective and radar absorptive coatings and materials testing equipment.

Chemical

Entire Western chemical plants and related chemical processing equipment have been purchased by the Soviets. Their acquisition of Western technologies, such as chemical catalyst processes, has had a major impact on the capabilities of the Soviet chemical industry. The industry benefited from an eight-fold increase in Western purchases between 1970 and 1978. Western purchases represented more than two-thirds of total Soviet chemical machinery investments between 1975 and 1980.

Production/manufacturing

Soviet acquisition of Western precision machining, drilling, milling, grinding, gear cutting and reaming equipment has had significant impact on improvements in their manufacturing capabilities. Acquisition of precision ball bearing grinding machines, printed circuit board equipment, precision measuring and nondestructive testing equipment has also improved Soviet capabilities significantly.

Military equipment

Weapons have been acquired legally in some cases, clandestinely in others, and through losses of US and other forces such as in Vietnam. Important technical information was gained on Western fuel-air explosives. A number of Soviet weapon systems, including their ATOLL air-to-air missile and several surface-to-air missiles reflect near mirror-imaging of deployed Western systems and their technologies. Many Soviet antipersonnel mines, antitank weapons and grenade launchers are close copies of Western equipment. A number of Soviet aircraft closely resemble deployed Western aircraft. The similarities are far greater than would be expected as the result of independent development efforts. A number of naval support systems have also been acquired, including large floating drydocks built by Japan and Sweden, which are being used to service some of the largest Soviet naval combatants. An illustration of a KIEV-Class carrier in one of these drydocks introduces the next chapter of this report. In ground transport, the Kama River Truck plant, built almost exclusively with Western technology, produces the Kamaz truck, now widely used in military transport roles.

DEFENSE PRODUCTION RESPONSIBILITIES OF CIVILIAN INDUSTRY

CIVILIAN MINISTRY

Automotive Industry.

Chemical and Petroleum.

Construction, Road and Municipal Machine Building.

Electrical Equipment Industry.

Heavy and Transport Machine Building.

Instrument Building, Automation Equipment and Control Systems.

Machine Tool and Tool Building Industry.

Machine Building for Light and Food Industry and Household Appliances.

Power Machine Building.

Tractor and Agricultural Machine Building.

EXAMPLES OF MILITARY PRODUCT LINES

Armored personnel carriers, military trucks.

Missile fuels and components, military and civil explosives.

Military support equipment (trailers and missile launchers).

Aerospace, naval electrical systems; hydraulic mechanisms for gun-systems.

Tanks, tank destroyers, military support equipment (launchers, trailers, garages); turbines and pumps for submarines.

Military computer-related equipment.

Machine tools for defense industry.

Military logistical equipment.

Military generators.

Tracked personnel carriers, artillery, reconnaissance vehicles, off-road vehicles.

U.S.S.R.: IMPORTS FROM NATO COUNTRIES AND JAPAN BY MAJOR MACHINERY IMPORT CATEGORIES, 1976–80 AND 1981

[In percent]

	1976–80 (annual average)	1981
Major machinery import categories:		
Chemicals	[1] 32.1	15.7
Metalworking	9.7	12.1
Heavy vehicles	3.7	11.5
Oil drilling and exploration	3.5	3.9
Other machinery [2]	51.0	56.8
Total	100	100

[1] These imports of Western chemical equipment represent 67 percent of the total Soviet investment in chemical equipment over the 5-yr. period—1976–80.

[2] Includes over 20 subbranches of machinery production, ranging from power machinery and precision instrumentation to machinery for the light and food industries.

EXHIBIT 2

[From Z. Zeman, "Germany and the Russian Revolution," Oxford University Press, 1958]

THE MINISTER IN COPENHAGEN TO THE CHANCELLOR

(Report No. 489)

(AS 6213—21 December 1915)

Dr. Helphand, who returned from Berlin yesterday, visited me today and gave me his report on the results of his journey. He emphasized that he had been extremely civilly received in all the most important government offices, and that he had been given the definite impression that his suggestions had found approval with authoritative circles, both in the Foreign Ministry and in the Treasury. With reference to his financial plan,[1] he had been given to understand that the State Secretary of the Treasury would have to decide whether there were any objections to his project from the point of view of the Imperial economy. In the course of a detailed discussion with State Secretary Helfferich he had been convinced that the State Secretary regarded his project very favourably, and that he not only agreed with it out of political considerations, but also recognized its utility from the less specific point of view of the Imperial economy.

The State Secretary of the Treasury had only expressed doubts as to the immediate technical practicability of the project, saying that a delay of eight to ten months would be required. At the same time, State Secretary Helfferich had pointed out that certain difficulties might be encountered in maintaining the absolute security which was essential for the technical preparations.

Dr. Helphand stressed that, in these circumstances, there was even more reason to take the preparations in hand at once, since we shall in any case have to reckon with a third winter campaign and the course of action which he advocates may therefore become imperative.

Dr. Helphand continued by saying that about 20 million roubles would be required to get the Russian revolution completely organized. This total could not possibly be distributed at once, as there would then be a danger of its source being discovered. However, in view of the fact that the beginning of the action was imminent, he had suggested at the Foreign Ministry that the sum of one million roubles should at once be put at the disposal of his confidential agent. This confidential agent entirely shared his view that the revolution would be set in motion about 9–22 January and that, even if it did not immediately take hold of the whole country, it would certainly prevent any return to stable conditions from taking place. In 1905 the bourgeois parties had supported the revolution and had voluntarily paid the wages of the striking workers. Now, however, the bourgeois was unfavourable to the movement and the revolutionary committee was therefore forced to bear the entire cost. On his return in about a week, his confidential agent would immediately start on the organization of connections between the various revolutionary centres, but this could not be done without considerable financial means.

In the circumstances, Dr. Helphand asked me to reiterate the request, which he had made personally in Berlin, for the sum he had named to be put at the disposal of his confidential agent. He expressly stated that speed was essential, as his confidential agent could not delay his return to Petrograd any longer but would definitely travel to Russia in a week at the most, even if he had not received the requested sum within that time.

I should like to request Your Excellency to send me instructions by telegram so that I can inform Dr. Helphand. May I also say that his suggestion is not, in my humble opinion, any attempt to press his own interests, but springs from practical considerations with no secondary personal aims.

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[1] Helphand maintained that confidence in the rouble could be shattered in Russia and abroad by certain measures of the German Treasury. See report No. 463, the Minister in Copenhagen to the Chancellor, 30 November 1915; in WK 110 secr. volume 10.

Brockdorff-Rantzau.

[Memorandum]

Herr Steinwachs to Minister Bergen

(AS 1631—Berlin, 8 May 1916)

According to a statement of account dated 28 April, the credit of 130,000 marks, paid to me by the Foreign Ministry at the end of September 1915 for Russian propaganda, is not only totally exhausted, but closed with a deficit of 1,011.93 marks. This deficit was paid to me today by the Mission Cashier.

Your Excellency later, i.e. in December 1915, agreed to the payment of a further 60,000 marks, which Herr Keskûla was to spend in three monthly installments on Russian propaganda. Of this sum I succeeded in retaining 50,000 marks, through savings on the credit of 130,000 marks. I have since supplied most of the remaining 10,000 marks out of my own means. Furthermore, the original credit has been used to support several more or less successful new undertakings and preparations about which I have received verbal reports from time to time.

Finally, as agreed with your Excellency, 2,000 roubles and 1,500 Swiss francs were put at the disposal of the Political Section of the General Staff of the Army for Prince Matchabelli's undertaking.[1]

Considerable sums will be needed at once, or in the next few weeks or months, for the following undertakings:

1. In the last few months, Keskûla has opened up numerous new connections with Russia, and he has on several occasions sent Scandinavian Socialists to Russia with introductions to leading personalities who so effectively enlightened them on the subject of the situation in Russia that the reports published later aroused admiration amongst the various Socialist circles in the North. He has also maintained his extremely useful contact with Lenin, and has transmitted to us the contents of the situation reports sent to Lenin by Lenin's confidential agents in Russia. Keskûla must therefore continue to be provided with the necessary means in the future. Taking into account the exceptionally unfavourable exchange conditions, 20,000 marks per month should be just sufficient.

2. Litchev has now begun all his preparations (i.e. the offices in Stockholm and Haparanda) and has started to gather together all the Russian revolutionaries living in the various cities of Scandinavia in order to exploit their particular capabilities. He has had several very effective pamphlets printed in Stockholm, and has got them into Russia by a safe route. I therefore humbly request your permission to pay him 6,000 marks per month for the next three months.

3. Klein has also successfully introduced a number of important information sheets and small pamphlets into Russia. He has also set up an information service on the station at Stockholm, which explains to Russians returning from America and Canada the possibilities of avoiding mobilization in the Russian army, or, if their mobilization is unavoidable, convinces them, with pictures and by word of mouth, of the good treatment enjoyed by Russian prisoners of war in Germany. A simple picture-book, containing pictures of prisoner-of-war camps in Germany and of the life led by the prisoners in them, together with notes detailing the conditions there, is to be produced for this information service and also for distribution in the Russian trenches. Klein receives a salary of 300 marks per month, and the expenses incurred by his other activities will now amount to 700 marks per month. I would also ask you to put 3,000 to 4,000 marks at my disposal for the printing costs of the proposed picture-book.

4. I estimate the cost of our private printing establishment, which is to start work this month, at 800 to 1,000 marks per month, for the moment. This printing works will then do all the necessary printing for Klein, Litchev and Keskûla.

5. The various costs for translation and printing of a book describing conditions in Russia by means of reports by Russian members of the Duma, which is to be printed in several languages, will probably amount to 10,000 marks.

I therefore request Your Excellency to agree and provide the following sums:[2]

	Marks
1. Keshûla. Remainder of March, April, May, June	70,000
2. Litchev. May, June, July	18,000
3. Klein. April, May, June (salary, organization, book)	7,000
4. Printing works in Stockholm	2,000
5. Duma reports	10,000
6. Smaller undertakings, travel, small printing jobs, & c.	23,000
Total	130,000

May I ask Your Excellency to transfer this sum to Deposit Account A in the Deutsche Bank?

Steinwachs.

[Telegram No. 461]

The State Secretary to the Foreign Ministry Liaison Officer at General Headquarters

(AS 1125—Berlin, 23 March 1917)

The Imperial Minister in Bern has sent the following telegram: 'Federal Counsellor [Bundesrat] Hoffmann has been told that leading Russian revolutionaries here wish to return to Russia via Germany as they are afraid to travel via France because of the danger from submarines. Please send instructions in case applications to this effect should be made to me. Romberg.'

Since it is in our interests that the influence of the radical wing of the Russian revolutionaries should prevail, it would seem to me advisable to allow transit to the revolutionaries there. I would therefore support the granting of permission. Would Your Excellency please inform the High Command of the Army and ask for their opinion in this matter?

Zimmermann.

[Telegram No. 371]

The Liaison Officer at General Headquarters to the Foreign Ministry

(AS 1148—25 March 1917, 12.15 a.m.)

Received: 25 March, 1.15 a.m.
In reply to telegram No. 461.

High Command of the Army instructs me to telegraph as follows: 'No objections to transit of Russian revolutionaries if effected in special train with reliable escort. Organization can be worked out between representatives of IIIb[1] Berlin and Foreign Ministry.'

Lersner.

[Telegram No. 348]

The Under State Secretary to the Minister in Bern

(AS 1148 Berlin, 26 March 1917)

Special train will be under military escort. Hand-over at frontier-station, either Gottmadingen or Lindau, by responsible official of the consulate. Send information immediately concerning date of journey and list of names. Information must reach here four days before frontier-crossing. General Staff unlikely to object to individual personalities. In any case, return transport to Switzerland is guaranteed.

Bussche.

Captain Hülsen [Political Section of the General Staff in Berlin] to the Foreign Ministry

(AS 1234—Berlin, 30 March 1917)

A confidential agent working for us, who spent a few days in Switzerland on our behalf and returned here on 29 March 1917, reports the following:

"A large number of the Russians living in Switzerland wish to return to Russia. In principal, the Entente agrees with this plan, but those members of Russian revolutionary parties who favour an immediate peace are to be kept out of Russia by English pressure. Three such Russian revolutionaries were refused entry into France in the last few days, although they had been issued with passports by the Russian consulate in Bern. These Russian revolutionaries asked me, in confidence, to suggest to the German government that it should help them to reach Russia in spite of all this, and they made the following suggestion:

"The German government should approve an application which the Russians living in Switzerland would arrange to have made by the Swiss government, for these Russians (about 300 to 400) to be transported to Sweden in a special train, travelling through Germany because of the shortness of this route. Among these 300 to 400 Russians (of all parties) there would also be those unacceptable to the Entente. As soon as the German government agrees to the proposal, he (the confidential agent) should unobtrusively inform the relevant people in Switzerland, so that they could begin to take the necessary steps with the Swiss government. (See the enclosed newspaper cutting.[1]) The basic conditions demanded for the success of the operation seemed to be speed of execution and the arousing of as little attention as possible in Switzerland. It would not be advisable to make any conditions as to those travelling on the train, such as excepting those liable for military service. It was considered advantageous to Germany to bring out the members of the Lenin's party, the Bolsheviks, who were about forty in number. Among them were Lenin and Rjasanov in Bern, and Semjonov, Grigoriev, Abranov, Dora Dolin, and Marie Gutstein in Zürich. The fact that twenty to thirty so-called 'revolutionary patriots' and Mensheviks who were in favour of continuing the war would travel through at the same time seemed unimportant, as they would get back to Russia in any case, with the aid of the Entente.' "

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[1] The Georgian separatist movement.

[2] Marginal note by Bergen for Mathieu, in the Personnel Department of the Foreign Ministry: "Presented with the request to transfer the sum of 130,000 marks. Will you please see to it that this sum is transferred from the Russian account?"

[1] The military Passport Office.

[1] An undated cutting from *Volksrecht* headed "Party News. Return of political refugees to Russia." The last sentence reads: "Steps are being taken to organize a return to Russia. Address: S. Bagocky, Klusstrasse 30, Zürich."

A decision on this proposal is humbly requested here.[8] Our confidential agent is available for co-operation.

Hulsen.

[Telegram No. 551]

The Foreign Ministry Liaison Officer at the Imperial Court to the Foreign Ministry

(A 12976—General Headquarters, 21 April 1917, 5.35 p.m.)

Received: 21 April, 6.35 p.m.

High Command of the Army has following message for Political Section of General Staff in Berlin:

'Steinwachs sent following telelgram from Stockholm on 17 April 1917:

' "Lenin's entry into Russia successful. He is working exactly as we would wish. Hence cries of fury of Entente Social Democrats in Stockholm. Platten was turned back by the English at frontier, a fact which has aroused considerable attention here."

'Platten is distinguished Swiss Socialist leader who accompanied Russian revolutionaries from Switzerland through Germany to Stockholm, and who wanted to travel on to Petrograd.'

Grünau.

[Telegram No. 1044]

The Minister in Copenhagen to the Foreign Ministry

(A 26509—10 August 1917

Dispatched: 11 August, 12.40 a.m.
Received: 11 August, 5.45 a.m.

The Russian newspaper *Riech* for 20 July announced that two Germal General Staff officers called Schidicki and Luebers had told a Russian lieutenant, by the name of Jermolenko, that Lenin was a German agent. It also said that Jacob Fürstenberg and Dr. Helphand (Parvus) were German agents acting as intermediaries between the Bolsheviks and the Imperial govenment.

I consider it essential, first of all to discover whether these German General Staff officers, Schidicki and Luebers, in fact exist, and then, if at all possible, categorically to deny the report in *Riech*.

Riech also states that, according to a report telegraphed from Cophenhagen, Haase, the German Social Democratic member of the Reichstag, said, in conversation with a Russian journalist, that Helphand was an intermediary between the Imperial government and the Russian Bolsheviks, and that he had transferred money to the latter.

I request information by telelgram.

Brockdorff-Rantzau.

[Telegram No. 608]

The Under State Secretary to the Minister in Copenhagen

(A 26509—Berlin, 18 August 1917)

In answer to telegram No. 1044.

The suspicion that Lenin is a German agent has been energetically countered in Switzerland and Sweden at our instigation. Thus the impact of the reports on this subject supposedly made by German officers has also been destroyed.

The statement claimed to have been made by Haase has been denied.

Bussche.

[Telegram No. 1925]

The State Secretary to the Foreign Ministry Liaison Officer at General Headquarters

(AS 4486—Berlin, 3 December 1917)

The disruption of the Entente and the subsequent creation of political combinations agreeable to us constitute the most important war aim of our diplomacy. Russia appeared to be the weakest link in the enemy chain. The task therefore was gradually to loosen it, and, when possible, to remove it. This was the purpose of the subversive activity we caused to be carried out in Russia behind the front—in the first place promotion of separatist tendencies and support of the Bolsheviks. It was not until the Bolsheviks had received from us a steady flow of funds through various channels and under different labels that they were in a position to be able to build up their main organ, *Pravda*, to conduct energetic propaganda and appreciably to extend the originally narrow basis of their party. The Bolsheviks have now come to power; how long they will retain power cannot be yet foreseen. They need peace in order to strengthen their own position; on the other hand it is entirely in our interest that we should exploit the period while they are in power, which may be a short one, in order to attain firstly an armistice and then, if possible, peace.[1] The conclusion of a separate peace would mean the achievement of the desired war aim, namely a breach between Russia and her Allies. The amount of tension necessarily caused by such a breach would determine the degree of Russia's dependence on Germany and her future relations with us. Once cast out and cast off by her former Allies, abandoned financially, Russia will be forced to seek our support. We shall be able to provide help for Russia in various ways; firstly in the rehabilitation of the railways; (I have in mind a German Russian Commission, under our control, which would undertake the rational and coordinated exploitation of the railway lines so as to ensure speedy resumption of freight movement), then the provision of a substantial loan, which Russia requires to maintain her state machine. This could take the form of an advance on the security of grain, raw materials, &c., &c., to be provided by Russia and shipped under the control of the above-mentioned commission. Aid on such a basis—the scope to be increased as and when necessary—would in my opinion bring about a growing *rapprochement* between the two countries.

Austria-Hungary will regard the *rapprochement* with distrust and not without apprehension. I would interpret the excessive eagerness of Count Czernin to come to terms with the Russians as a desire to forestall us and to prevent Germany and Russia arriving at an intimate relationship inconvenient to the Danube Monarchy. There is no need for us to compete for Russia's good will. We are strong enough to wait with equanimity; we are in a far better position than Austria-Hungary to offer Russia what she needs for the reconstruction of her state. I view future developments in the East with confidence but I think it expedient for the time being to maintain a certain reserve in our attitude to the Austro-Hungarian government in all matters including the Polish question which concern both monarchies so as to preserve a free hand for all eventualities.

The above-mentioned considerations lie, I venture to believe, within the framework of the directives given me by His Majesty. I request you to report to His Majesty accordingly and to transmit to me by telegram the All-highest instructions.

Kuhlmann.

[Telegram No. 1819]

The Liaison Officer at the Imperial Court to the Foreign Ministry

(AS 4607 4 December 1917, 7.30 p.m.)

Received: 4 December 8.25 p.m.
In reply to telegram No. 1925.

His Majesty the Kaiser has expressed his agreement with Your Excellency's *exposé* about a possible *reapproachment* with Russia.

Grünau.

[Telegram No. 122]

The Minister in Moscow to the Foreign Ministry

(A 20991—16 May 1918)

Dispatched: 17 May, 10.30 p.m.
Received: 18 May, 1.25 a.m.

According to a reliable source, situation in Petrograd once again precarious. The Entente is supposed to be spending enormous sums in order to put right-wing Social Revoluntionaries into power and reopen war. The sailors on board the ships *Res Publica* and *Zayra Rosii*, and on the crusier *Oleg*, which has sailed to Ino, are said to have been bribed with large sums; likewise the former Preobrazhenski Regiment. Stores of arms in Sestroretck armament works in the hands of Social Revolutionaries. Bolsheviks cannot find central office of this apparently well-conducted organization. The movement is supposed to have opened relations with Dutov and the Siberian movement. Here, too, agitation has increased. I am still trying to counter efforts of the Entente and support the Bolsheviks. However, I would be grateful for instructions as to whether overall situation justifies use of larger sums in our interests if necessary, and as to what trend to support in event of Bolsheviks being incapable of holding out. If Bolsheviks fall, successors [*one word garbled*] to Entente have best prospects at the moment.

Mirbach.

[Telegram No. 121]

The State Secretary to the Minister in Moscow

(A 20991-Berlin, 18 May 1918)

In reply to telegram No. 122.

Please use larger sums, as it is greatly in our interests that Bolsheviks should survive. Riezler's funds at your disposal. If further money required, please telegraph how much. It is very difficult to say from here which trend to support if Bolsheviks fall. If really hard-pressed, left-wing Social Revolutionaries would fall with Bolsheviks. These parties seem to be the only ones who base their position on peace treaty of Brest-Litovsk. As a party, Kadets are anti-German; Monarchists would also work for revision of Brest peace treaty. We have no interest in supporting Monarchists' ideas, which would reunite Russia. On the contrary, we must try to prevent Russian consolidation as far as possible and, from this point of view, we must therefore support the parties furthest to the left.

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[8] Marginal note by Bergen: "To be passed on to Pourtalès. (Hülsen would be glad of early information.)"

[1] The words "there can be no question of further support of the Bolsheviks" in Bergen's draft of this telegram were not dispatched. A copy of this telegram, as it was received and decoded at the General Headquarters, is in WK Gr. Haupquartier Nr. 31b, volume 1. The editor is indebted to Mr. George Katkov, who gave his kind permission to reproduce here his translation of this and the subsequent document. See Mr. Katkov's article in *International Affairs*, volume 32, No. 2.

KÜHLMANN.

EXHIBIT 3

[From the American-Russian Chamber of Commerce, *Handbook of the Soviet Union*, 1936]

XII.—AMERICAN-SOVIET TRADE RELATIONS

Organizations carrying on trade

Trade between the United States and the Soviet Union is conducted mainly by the Amtorg Trading Corporation, 261 Fifth Avenue, New York City. The Amtorg was organized on May 27, 1924, under the laws of the State of New York, as the result of the consolidation of two previously existing corporations, the Products Exchange Corporation and Arcos America, Inc. Its paid up capital was originally $1,000,000, but was later increased to $3,000,000. The Amtorg purchases the bulk of the products exported from this country to the U.S.S.R., sells the greater part of the goods imported into the United States from the Soviet Union, and arranges for technical assistance by American firms or individual technicians in Soviet industries. It is the sole representative in this country of most of the industrial and trading organizations of the U.S.S.R. Its main office in the U.S.S.R. is in Moscow (Sovietskaya Ploschchad I).

Purchases of cotton and textile machinery for the Soviet Union were formerly handled by the All-Russian Textile Syndicate, 39 Broadway, New York City, which was organized in December 1923. Other concerns, all in New York City, representing Soviet organizations in this country in specialized fields are: Am-Derutra Transport Corporation, 261 Fifth Avenue, which represents Soviet shipping organizations in the United States; Amkino Corporation, 723 Seventh Avenue, which distributes Soviet films in this country and purchases American films for the U.S.S.R.; Soviet Photo Agency, 723 Seventh Avenue, distributors of Soviet news photographs, and Intourist, Inc., 545 Fifth Avenue, representative of the Soviet state travel bureau. There are also a number of special technical bureaus connnected with the Amtorg Trading Corporation whose function it is to supply Soviet industries with engineering information and to arrange for technical assistance.

From 1924 to 1930 about 53 per cent of the total trade between the two countries was handled by the Amtorg, 35 per cent by the All-Russian Textile Syndicate, 5 per cent by Centrosoyus and Selskosojuz (representatives in this country of consumers' and agricultural cooperative organizations of the Soviet Union, now inactive), and the remainder by other representatives of Soviet organizations and by a few American firms under special concession agreements. Since 1931 the Amtorg has conducted the great bulk of the trade.

Russian-American trade up to 1924

Before the war the trade between the United States and the Russian empire was relatively small. From 1910 to 1914 annual exports averaged $24,604,000 [1], the principal products shipped to Russia being cotton, copper and other non-ferrous metals, rosin, mining and other equipment, and agricultural machinery. Imports from Russia averaged $20,865,000 a year. In 1913 furs, hides and leather made up 68 per cent of the total imports and wool 12 per cent, the remaining items of importance being flax, manganese ore, licorice root, lumber and fish. Both exports to and imports from Russia made up a little over one per cent of the total American trade.

During the war heavy shipments of war materials were made to Russia, mainly through the Far East, inasmuch as the western border of the country was practically closed to foreign trade. Likewise, imports from Russia, which were greatly reduced, came largely by way of the Pacific. During this period a series of loans, totaling about $86,000,000, was extended to the Czarist government through leading American banks.

After the advent of the Provisional Government, in March 1917, the United States Government opened up credits (June-November, 1917) amounting to about $187,000,000. These sums were in part expended after the collapse of the Kerensky Government by its still recognized representatives in the United States. In the period from 1917 to 1920 the trade between the two countries was confined almost exclusively to those sections occupied by the White armies. There was a virtual embargo on trade with Soviet Russia, although the United States did not officially participate in the blockade against that country.

In 1921 and 1922 the shipments to Soviet Russia consisted almost entirely of foodstuffs and other materials sent to the regions stricken by the drought and famine of 1921 and handled largely by the American Relief Administration and the Nansen Committee. A part of these goods was paid for in gold. During this period imports from Soviet Russia were almost negligible.

American-Soviet trade turnover from 1924 to 1934

Trade between the United States and the U.S.S.R. on a regular basis began to develop at the end of 1923 and the beginning of 1924, with the organization of the All-Russian Textile Syndicate and the Amtorg Trading Corporation. For about seven years after the resumption of regular trade relations the turnover increased fairly steadily and rapidly. Exports to the U.S.S.R. increased from $42,100,000 in 1924 to a peak of $114,400,000 in 1930; imports rose from $8,200,000 to $24,400,000 in the same period. For the five year 1927-1931 shipments to the Soviet Union averaged over 3½ times the pre-war (1910-1914); imports were about 16 percent less than before the war. In the three years 1929-1931, 47 percent of the total exports and 38 percent of the imports for the eleven year period 1924-1934 were recorded. Beginning with 1931 both exports and imports began to decline sharply, and by 1933 the turnover was less than a sixth of that recorded three years before. The year 1934 marked a reversal of this process, the trade showing a rise of 30 percent.

In the eleven years from 1924 to 1934 exports totaled $639,700,000 and imports $156,800,000, the favorable balance of trade thus recorded by the United States amounting to $482,900,000. In 1930 and 1931 the favorable balance exceeded $90,000,000 each year, making up more than a quarter of the total American favorable balance in the latter year. The relationship between exports and imports has been more favorable for the United States than in the case of its trade with any other large country. Only in 1933 did imports exceed exports, in that year by about $3,100,000. The following table shows exports to and imports from the U.S.S.R. for the years 1924-1934:

	Imports from U.S.S.R.	Exports to U.S.S.R.	Total trade	Balance in favor of United States
1910–14 (average)	$20,865,000	$24,604,000	$45,469,000	$37,739,000
1924	8,168,801	42,103,713	50,272,514	33,934,912
1925	13,236,673	68,906,060	82,142,733	55,669,387
1926	14,121,992	49,905,642	64,027,634	35,783,650
1927	12,876,791	64,921,693	77,798,484	52,044,902
1928	14,024,525	74,091,235	88,115,760	60,066,710
1929	22,551,434	85,011,847	107,563,281	62,460,413
1930	24,385,786	114,398,537	138,784,323	90,012,751
1931	13,206,392	103,716,832	116,923,224	90,510,440
1932	9,735,411	12,640,891	22,376,302	2,905,480
1933	12,120,148	8,971,465	21,091,613	[1] 3,148,683
1934	12,337,647	14,997,308	27,334,955	2,659,661
Total [2]	156,765,600	639,665,223	796,430,823	482,899,623

[1] Unfavorable balance.
[2] Totals are for years 1924–34 only.

Machinery and equipment of various kinds made up about half of the total exports to the U.S.S.R. during the decade starting with 1924, cotton somewhat less than 40 per cent and other raw and semi-manufactured products (iron and steel, non-ferrous metals, chemicals, etc.) the remainder. In the past few years, however, with shipments of cotton reduced to a small fraction of the former totals, exports of machinery and equipment have made up the great bulk (over 90 per cent) of the shipments. The imports from the Soviet Union consist mainly of raw materials and foodstuffs, the principal items being manganese ore, furs, lumber and pulpwood, sausage casings, caviar, crabmeat, fresh or frozen fish, flax and hemp, platinum, iron ore, and anthracite coal.

SHARE OF SOVIET UNION IN U.S. FOREIGN TRADE

[In percent of total]

	Exports to U.S.S.R.	Imports from U.S.S.R.
1910–14	1.1	1.2
1928	1.4	.3
1929	1.6	.5
1930	3.0	.8
1931	4.3	.6
1932	.8	.7
1933	.5	.8
1934	.7	.7

As shown by the table above, up to 1932 the Soviet Union played a much more important role in the American export trade than did Russia before the war. Although total American exports declined by more than 50 percent from 1929 to 1931, those to the U.S.S.R. showed an increase of 22 percent. The Soviet Union in 1931 took 4.3 percent of total American exports, almost four times the proportion recorded before the war. It became the seventh largest foreign market of this country in 1931 as compared with eighth in 1930 and 17th in 1929. In 1934 it was 24th in rank. The United States was for a number of years second (in 1930 first) among the countries exporting to the Soviet Union. In 1932 and 1933 it dropped to sixth place and in 1934 it was fourth. In the period from 1927 to 1931 the United States supplied 20-25 percent of Soviet imports; in 1932-1934, the proportion was reduced to from five to eight percent.

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[1] In this chapter United States customs statistics are used throughout.

Imports from the U.S.S.R. have made up a smaller share of the total American imports than before the war. In the years from 1929 to 1934 they fluctuated between 0.5 and 0.8 percent as against 1.2 percent in 1910-1914. In 1930, when imports were at their highest level, the Soviet Union ranked 26th among the countries exporting to the United States; in 1931 it was 23rd, and in 1934—26th. From 1925 to 1930 the United States took about four percent of total Soviet exports. From 1931 to 1934 the proportion was reduced to about three percent. In 1932 the United States was ninth and in 1933 and 1934 eighth among the markets of the Soviet Union.

Reasons for growth in trade and later decline

The two outstanding features of the trade between the United States and the Soviet Union have been: 1) the steady growth of trade, particularly of purchases for the U.S.S.R., up to 1930, and the sharp decline in the past few years, and 2) the wide disparity between exports to and imports from the Soviet Union. The substantial growth in exports to the U.S.S.R. reflected the high regard among Soviet engineers and executives for American technical methods and the distinct preference for American machinery for many branches of industry. It was considered that in many fields the character and scope of the developments in the U.S.S.R. were such as to make the type of mass-production machinery developed in this country better adapted for Soviet requirements than European products. The program of intensive industrialization and of the reorganization of agriculture opened up, particularly in the period of the first Five-Year-Plan, a large new market for industrial and electrical equipment, agricultural machinery, transportation equipment, etc.

Many Soviet engineering commissions were sent to this country to study American industries, technical assistance contracts were concluded with a large number of leading American firms and individual engineers, and purchases rose steadily. The Soviet Union became the most important market for American industrial and agricultural equipment, in 1930 and 1931 taking 18.3 and 27.5 per cent, respectively, of total industrial equipment exports and 36.3 and 66 per cent of all agricultural machinery shipments. A substantial, though irregular, expansion of imports from the Soviet Union was also recorded—from an annual average of $12,500,000 in 1924-1928 to an average of $23,500,000 in 1929-1930. The growth of exports to the U.S.S.R. in the face of a large general decline in American foreign trade and the generally unfavorable conditions existing for carrying on trade with the Soviet Union, owing to the absence of normal deplomatic relations, was a strong indication of the basic economic factors underlying the trade between the two countries.

The drastic decline in exports beginning with 1932, by about 90 per cent, was due primarily to the cumulative effect of difficulties which had begun to make themselves felt in earlier years. They were mainly of two kinds: the lack of satisfactory facilities for financing American exports to the U.S.S.R. and the various restrictions imposed on the importation of Soviet products into this country. Commercial bills and acceptances of the Amtorg Trading Corporation could not be discounted and rediscounted in banks of the Federal Reserve system. This led to the purchase of such bills at usurious rates of discount. Long-term credits (with maturities of two or more years), such as had become the common practice in certain European countries (Germany, Italy, England, etc.), under the extension of government guarantees established in those countries, were virtually non-existent here. Only a few of the largest companies were able or willing to extend such credits without assistance from the banks. As a result, American manufacturers were unable to compete on an equal basis for Soviet business with European firms.

The other principal factor in the trade decline were the campaigns launched against the admission of Soviet goods into this country. Beginning with 1930, charges were frequently made to the effect that Soviet goods were the product of convict or forced labor or that they were being sold on the American market at dumping prices. Although whenever such charges were subjected to investigation they were eventually dismissed as unfounded, they resulted in delays, litigation, temporary embargoes, and an atmosphere of uncertainty and risk which made it impossible to develop trade in a normal manner.

In the case of lumber and pulpwood, for instance, some cargoes were held up before being finally admitted. Hearings on "unfair practice" charges with regard to Soviet asbestos resulted in a temporary embargo, lasting from April, 1931 to April, 1933, before the charges were eventually dismissed by the Tariff Commission. Similar difficulties were encountered with respect to manganese ore and anthracite coal imported from the U.S.S.R. Charges of dumping of manganese were disposed of in February, 1931 by the Treasury Department, which announced that "the issuance of a finding of dumping covering manganese imported from the U.S.S.R. is not justified." An anti-dumping finding on Soviet safety matches issued in May, 1930, was vacated by the Secretary of the Treasury in January, 1934, on the ground that it was "not supported by evidence at all sufficient to warrant it." At the same time, a finding of the Treasury Department as of February, 1931, stating that convict labor was used in the production of lumber and pulpwood in the northern regions of the U.S.S.R., was also vacated on similar grounds.

A ruling of the Department of Agriculture in November, 1930, required that casings imported from the Soviet Union undergo a special process of disinfection in this country since, in the absence of consular authorities, the certificates of sanitation issued by the Soviet authorities were not considered acceptable. A similar ruling required that feed materials of Soviet origin be quarantined for 90 days at the port of entry before being admitted. These restrictions, which put the U.S.S.R. at a considerable disadvantage in competing with other exporting countries, are still in effect.

The importation of apatite (phosphate fertilizer) from the Soviet Union was stopped for a period of about two years until a charge of alleged unfair competition was dismissed by the Court of Customs and Patent Appeals (in February, 1935).

The Soviet authorities took the position that these and other restrictions, which greatly hampered the sale of their products on the American market, were all the more unwarranted in view of the fact that in the past eleven years imports from the U.S.S.R. amounted to less than a quarter of the purchases of American goods for the Soviet Union. They pointed out that these products are largely non-competitive with domestic industry, consisting mainly of items which the United States imports in large quantities from abroad. The recent tendency of most countries to balance as closely as possible their trade with other countries, the many restrictions on the transfer of foreign exchange, the systems of quotas set up in some countries—all made the problem of restrictions more acute, as it became increasingly unfeasible to redress an unfavorable balance by means of favorable balances in other countries.

The obstacles put in the way of the importation of Soviet products to the United States and the absence of satisfactory facilities for financing exports to the Soviet Union were accompanied by many other restrictions and difficulties brought about by the status of non-recognition. The Soviet Government had little or no protection in American courts. Gold of Soviet origin could not be shipped to this country for deposit, according to Treasury Department rulings of November and December, 1920, which were eventually rescinded in January, 1934, after the resumption of diplomatic relations. Discriminatory taxes were imposed by both countries on the vessels of the other country. Such excess charges were also suspended early in 1934. The flotation on the American market of bonds issued by the Soviet Government was prohibited and long-term private loans or credits were not encouraged. Visitors on business missions from the Soviet Union frequently encountered difficulty in obtaining visas.

The lack of authoritative information, because of the absence of consular representatives, made it possible for interest parties to spread unfounded rumors and reports regarding alleged conditions in the Soviet Union, which had a detrimental effect on trade. Attacks were made on the Amtorg and other organizations carrying on trade for the Soviet Union, culminating in the hearings of the Congressional investigating committee in 1931, which declared unfounded the charges that these companies were carrying on political activity.

The cumulative effect of these difficulties, coupled with the more favorable credits and other conditions of trade prevailing in Europe, finally led to the diversion of considerable business formerly placed in this country to European countries. The share of the United States in total Soviet imports dropped from 25 per cent in 1930 to 5 per cent in 1932 and 1933. While the total imports of the Soviet Union declined by 67 per cent from 1930 to 1933, those from the United States showed a drop of 93 per cent. To some extent the decline in purchases here was also due to the fact that the Soviet Union had reached a stage in its economic development where it was able to produce a part of the equipment and raw materials formerly purchased abroad.

The development of imports of Soviet products into the United States has been rather irregular. From slightly more than $8,000,000 in 1924 they fluctuated between $12,000,000 and $14,000,000 during the following four years and averaged $23,500,000 in 1929-1930. From 1931 to 1934 they averaged slightly under $12,000,000 a year. This uneven development has been due in part to the many restrictions and obstacles mentioned above. The fact that in the face of these difficulties the imports nearly trebled between 1924 and 1930 indicates that under normal conditions the possibilities in this direction are considerable.

With the establishment of diplomatic relations between the two countries in November, 1933, the way was paved for the solution of the problems which had brought about the sharp decline of trade. A number of the restrictions imposed by former administrations on the importation of Soviet products were removed. On February 8, 1934, the Export-Import Bank was organized by the government, primarily for the purpose of expanding trade between the United States and the U.S.S.R. The primary function of the bank was to extend credits to American manufacturers exporting their products to the U.S.S.R. Subsequently, however, a resolution of the Export-Import Bank passed in connection with the Johnson Act and an interpretation of this law by the Attorney General, made the extension of credits dependent on the adjustment of the debt question. Negotiations on this matter had not led to an agreement by the middle of 1935. Principally as a result of the absence of credit facilities, the trade remained on a low level, although in 1934 exports to the U.S.S.R., amounting to $14,997,000, recorded an increase of 67 percent.

U.S.-U.S.S.R. Trade Agreement

An agreement to facilitate and increase trade between the United States and the Union of Soviet Socialist Republics was concluded at Moscow July 13, 1935, in an exchange of identical notes between Ambassador William C. Bullitt and the Commissar for Foreign Affairs, Maxim Litvinoff.

The identical notes read as follows:

I have the honor to refer to recent conversations in regard to commerce between the Union of Soviet Socialist Republics and the United States of America and to the trade agreements program of the United States and to confirm and to make of record by this note the following agreement which has been reached between the governments of our respective countries:

(1) The duties proclaimed by the President of the United States of America pursuant to trade agreements entered into with foreign governments or instrumentalities thereof under the authority of the act entitled "An Act to Amend the Tariff Act of 1930," approved June 12, 1934, shall be applied to articles the growth, produce or manufacture of the Union of Soviet Socialist Republics, as long as this agreement remains in force. It is understood that nothing in this agreement shall be construed to require the application to articles the growth, produce or manufacture of the Union of Soviet Socialist Republics of duties or exemptions from duties proclaimed pursuant to any trade agreement between the United States of America and the Republic of Cuba which has been or may hereafter be concluded.

(2) On its part, the Government of the Union of Soviet Socialist Republics will take steps to increase substantially the amount of purchase in the United States for export to the Union of Soviet Socialist Republics of articles the growth, produce or manufacture of the United States of America.

(3) This agreement shall come into force on the date of signature thereof. It shall continue in effect for twelve months. Both parties agree that not less than thirty days prior to the expiration of the aforesaid period of twelve months they shall start negotiations regarding the extension of the period during which the present agreement shall continue in force.

An elucidation by Mr. Litvinoff stated that it was the intention of the Soviet Union to place orders in the United States to the value of $30,000,000 during the twelve months following the signing of the agreement. This represents an increase of 100 per cent over American exports to the U.S.S.R. in 1934.

Statements issued by both American and Soviet authorities in connection with the accord pointed out that the signing of this agreement provides a sound basis for a mutually beneficial expansion of trade between the two countries.

EXPORTS TO THE U.S.S.R.

Industrial and electrical equipment

In 1930 the U.S.S.R. was the second and in 1931 the leading foreign market for industrial machinery and equipment of American manufacture. It rose from 14th place in 1925, tenth in 1926 and fifth in 1928. Its share in total United States exports increased from 5 per cent in 1929 to 27.5 per cent in 1931. Even with the drastic decline in 1932 it still accounted for 10 per cent of total shipments. In 1930-1931 exports of industrial equipment to the Soviet Union averaged more than $40,000,000 a year and made up 22 per cent of the total. In the following three years the exports were reduced to an annual average of $3,724,000.

The principal class of machinery in this group has been metal-working machinery, largely for tractor, automobile and ball-bearing plants in the U.S.S.R. In 1930-1931 the U.S.S.R. took equipment of this type to the value of $35,731,000, more than 52 percent of the total American shipments. The percentage of total exports shipped to the Soviet Union in 1930 and 1931, respectively, of some of the principal types of equipment was as follows: foundry and molding equipment—58 and 74; forging machinery—52 and 68; lathes—51 and 65; milling machines—42 and 70; drilling machines—52 and 78; grinding machines—30 and 58; sheet and plate metal-working machines—31 and 54. In 1932-1934 the exports were reduced to about one-seventh of the average for the preceding two years.

Among the other types of American industrial equipment for which the U.S.S.R. has been one of the leading markets are oil drilling equipment, of which it took 27.5 per cent in 1930 and 22 per cent in 1931, and oil refining equipment—40 and 16 per cent; purchases of these two groups totaled $8,401,000 in 1930. Mining and quarrying equipment exported to the U.S.S.R. exceeded $2,000,000 a year in 1930 and 1931, making up 15 and 26 per cent of total shipments. The U.S.S.R. took 62 per cent of exports of stationary engines in 1930-1931, 92 per cent of the water wheels and turbines, 16 per cent of the excavators and road-making machinery, 36 per cent of the cranes and hoists and conveying equipment, and 11 per cent of the pumps exported.

In the four years from 1928 to 1931 exports of construction and conveying machinery averaged $2,808,000 annually. Other varieties of industrial and miscellaneous equipment exported in considerable quantities to the Soviet Union include textile and sewing machinery ($606,000 average annually in 1928-1930); paper and pulp machinery ($449,000 average in 1929-1930); woodworking machinery ($267,000 average in 1928-1930); refrigerating equipment ($247,000 average in 1928-1930); ball and roller bearings ($869,000 average in 1929-1931); air compressors ($496,000 average in 1928-1932); office machines and typewriters ($385,000 average in 1928-1931); typesetting machines ($72,000 in 1933); and scientific instruments and apparatus ($458,000 average in 1928-1934). Large purchases of food and canning machinery, marine equipment, and watch and clock factory equipment also were made.

The U.S.S.R. has also been a substantial purchaser of electrical apparatus, particularly power plant equipment. Such purchases averaged almost $6,000,000 a year in 1930-1931, making up 5.8 per cent of the total U.S. exports.

The following tables show the exports of industrial and electrical equipment to the U.S.S.R. in 1929-1934 and the proportion of total exports:

[Dollar amounts in thousands]

Year	Total U.S. exports	Exports to U.S.S.R.	Share of U.S.S.R. in total exports (percent)
Industrial equipment:			
1929	$277,765	$14,785	5.3
1930	228,291	41,890	18.3
1931	141,835	38,995	27.5
1932	58,679	5,925	10.1
1933	55,283	1,392	2.5
1934	98,348	3,878	3.9
Power-driven metal working machinery:			
1929	40,804	2,594	6.3
1930	33,145	13,239	40.0
1931	34,789	22,492	64.7
1932	13,867	3,468	25.0
1933	9,369	952	10.2
1934	19,435	2,799	14.4
Electrical equipment:			
1929	121,357	2,606	2.2
1930	118,260	5,062	4.3
1931	85,080	6,693	7.8
1932	43,382	2,100	4.8
1933	43,580	186	.4
1934	66,525	365	.5

Transportation equipment

Large exports of transportation equipment, such as automobiles, locomotives, and aviation engines and accessories, have been made to the U.S.S.R. in recent years. During the three years 1929-1931 shipments of automobiles, parts and accessories averaged $6,919,000 annually. In 1931, the Soviet Union was third among the markets for automobiles, taking eight percent of the total. In the same year it imported a half of the locomotives and freight cars sold by this country. For a number of years it has been one of the leading markets for aviation engines, parts, and accessories, purchasing 22 percent of this group of products in 1931 and 35 percent in 1934. In the latter year shipments amounted to $3,276,000.

[Dollar amounts in thousands]

Year	Total U.S. exports	Exports to U.S.S.R.	Share of U.S.S.R. in total exports (percent)
Automobiles and parts:			
1929	$539,298	$3,280	0.6
1930	277,425	5,880	2.1
1931	146,693	11,597	7.9
1932	76,274	2,702	3.5
1933	90,631	1,117	1.2
1934	190,208	758	.4

Agricultural machinery

In the three years 1929-1931 exports of farm equipment to the Soviet Union totaled $101,000,000, and made up 32 per cent of the entire shipments of this country. Tractors accounted for $77,536,000, 49 per cent of all American exports. Combines accounted for $8,222,000, 27 per cent of total shipments. Other agricultural implement shipments of importance include plows ($655,000 average annual exports from 1928 to 1931); harrows ($147,000 average in 1928–1930); and grain harvesters and binders ($335,000 average in 1928–1930).

In 1932–1934 exports of agricultural equipment practically ceased. Nevertheless, for the five years 1929–1933, the share of such exports going to the U.S.S.R. was 30 per cent and of tractors alone 46 per cent.

[Dollar amounts in thousands]

Year	Total U.S. exports	Exports to U.S.S.R.	Share of U.S.S.R. in total exports (percent)
Agricultural equipment:			
1929	$140,800	$20,715	14.7
1930	116,036	42,131	36.3
1931	57,402	37,885	66.0
1932	10,548	120	1.1
1933	12,215	109	.9

In the six-year period from 1929 to 1934 the exports of industrial, electrical, and agricultural equipment and automobiles and parts to the Soviet Union amounted to $250,000,000, more than eight per cent of total United States shipments. During 1930–1931, however, the U.S.S.R. took 16 per cent of the total imports of these four groups, 76 per cent of the purchases for the six years having been made in this period.

Raw and semi-manufactured materials

Cotton: Up to 1930 the U.S.S.R. was one of the principal markets for American cotton; in the five years 1925–1929 shipments averaged $37,600,000 a year. In 1930 they dropped to $7,300,000, in 1931–1932 ceased entirely, and in 1933 totaled $3,500,000. The latter shipments were financed in part through credits extended by the Reconstruction Finance Corporation, the first transaction of its kind recorded in the trade between the two countries. The decline in exports was due primarily to increased domestic production in the U.S.S.R. In 1933 and 1934 negotiations were carried on for large purchases of American cotton for the Soviet Union on a long-term credit basis but did not materialize. Purchases in the latter year were a little $2,000,000. In the spring of 1935 cotton purchases were made here for the U.S.S.R. to the value of about $8,500,000.

Non-ferrous Metals: Exports of non-ferrous metals averaged $3,400,000 annually from 1927 to 1930 and amounted to $941,000 in 1931. Copper made up the bulk of the shipments. Shipments of aluminum totaled $163,000 in 1932.

Iron and Steel: Shipments of iron and steel and manufactures (structural shapes, bars, pipes, sheets, etc.) averaged $2,230,000 a year from 1929 to 1931 and totaled $931,000 in 1934. Shipments of tin plate averaged $309,000 from 1927 to 1930. Exports of ferro-alloys (principally ferrotungsten) averaged $430,000 a year in 1933 and 1934.

Non-Metallic Minerals: In this group the principal items have been abrasives (average of $124,000 a year from 1930 to 1933 and $1,422,000 in 1934) and electrodes for electric furnaces ($346,000 in 1933 and $931,000 in 1934).

MAJOR EXPORTS OF UNITED STATES TO SOVIET UNION

[In thousands of dollars]

Commodity	1924	1926	1928	1929	1930	1931	1932	1933	1934
Cotton	36,738	32,783	44,537	30,506	7,341			3,534	1,832
Abrasives	65	32	141		59	204	77	156	178
Electrodes	16	34	39	70	37	59		346	729
Iron and steel and manufactures	271	787	1,073	2,735	2,965	990	183	210	1,132
Ferro-tungsten and other ferro-alloys (total)	14			30	46	458	50	438	422
Ferro-tungsten, tungsten, metal and wire	14			28	44	404	42	251	220
Other ferro-alloys, ores and metals				2	2	54	8	187	202
Aluminum and manufactures			57	1	16	243	163	7	
Machinery and vehicles (total)	2,570	12,699	19.685	42,537	97,089	97,891	11,352	3,414	9,095
Electrical machinery and apparatus	60	615	1,399	2,406	5,062	6,693	2,100	186	365
Electric generators and parts	3	1	128	71	546	297	536	1	4
Power and other transformers		6	172	61	709	533	353		13
Electric railway locomotives			25	17	14		787		
Ind'l motors and parts and controlling equipment for ind'l motors		61	355	438	993	864	115	52	38
Industrial machinery (total)	1,065	4,913	9,034	14,785	41,890	38,995	5,903	1,392	3,851
Steam turbines and parts		4	119	83	645	1,535	404	15	6
Internal combustion engines and parts	411	1,352	389	827	1,759	1,754	99	21	21
Water wheels, water turbines and parts					605	1,406	370	1	
Construction and conveying machinery	7	150	1,902	1,869	3,792	3,668	154	9	78
Mining and quarrying machinery	6	745	1,287	1,266	2,334	2,306	202	54	15
Petroleum, gas and other well and refining machinery	194	316	1,114	2,571	8,401	1,867	489	31	434
Metal-working machinery (total)	228	433	2,109	2,594	13,239	22,492	3,468	952	2,799
Lathes	42	119	287	365	2,460	2,644	476	45	546
Sheet and plate metal-working machinery			35	118	1,430	2,995	14		132
Milling machines	69	140	119	481	1,682	2,833	416	36	255
Gear-cutting machines		10	44	47	384	1,189	64	224	305
Drilling machines	9	13	125	227	1,055	2,014	323	34	199
Metal-grinding machines	67	43	225	306	1,403	2,775	452	160	757
Forging machinery		4	44	412	959	2,691	336	21	34
Rolling mill machinery			20		90	149	182		
Foundry and molding equipment		5	12	202	2,066	1,692	74	197	46
Other power-driven metal-working machinery	5	60	189	240	1,399	1,434	671	321	246
Other metal-working machinery		42	176	67	411	1,763	270	69	85
Stationary air compressors	45	111	388	572	810	189	469	122	
Office appliances	152	237	526	682	292	193	55	40	69
Agricultural machinery and equipment	991	6,599	7,387	20,715	42,131	37,885	120	109	13
Tractors and parts	259	5,125	6,082	17,869	35,920	29,340	94	102	3
Combines	167	5	6	705	1,929	5,588			
Other agricultural equipment	565	1,469	1,299	2,141	4,282	2,957	26	7	10
Automobile and other vehicles	454	572	1,865	4,431	7,466	14,318	3,173	1,614	4,760
Automobiles, parts and accessories	186	183	924	3,280	5,879	11,597	2,698	1,117	1,208
Aircraft engines, parts and accessories, except tires	9	271	155	245	542	507	407	380	3,276
Freight cars		207	62	62	552	46	92		
Scientific, laboratory and professional instruments and apparatus	49	79	358	434	988	692	201	153	377
Refined copper	32	1,382	2,740	3,316	1,641	821			

Miscellaneous: Others products shipped in substantial amounts include gum rosin, shipments of which averaged $650,000 a year from 1925 to 1929 but which has not been exported since that time; binder twine ($730,000 in 1928 and $274,000 in 1931); chemicals and related products (average of $235,000 from 1925 to 1929); and crude rubber, of which large amounts were formerly purchased (over $2,000,000 in 1928) but which does not appear in the customs statistics since the shipments were made from the Orient.

Purchases by states

Purchases for the Soviet Union in the United States have embraced virtually all parts of the country. However, since in recent years machinery and equipment have made up the bulk of the exports, the machinery producing states of the Middle West have contributed the largest share of the total. In 1930 and 1931, two of the years in which purchases of the Amtorg were at their peak, Illinois, Michigan, Ohio, Iowa and Wisconsin supplied products to the value of $100,763,000, 60 percent of the total purchases in those years.

The following table shows the distribution of Amtorg purchases by states in 1930 and

1931 (not including purchases of cotton for the U.S.S.R.):

AMTORG PURCHASES BY STATES

[In thousands of dollars]

State	1930	1931
California	2,066	651
Colorado	237	54
Connecticut	1,383	1,495
Delaware	160	10
Illinois	35,844	2,965
Indiana	792	678
Iowa	12,999	326
Kansas	1,669	4
Kentucky	427	59
Maryland	296	158
Massachusetts	1,408	1,923
Michigan	8,313	12,487
Minnesota	155	65
Missouri	276	174
New Jersey	3,526	1,757
New York	9,181	9,917
Ohio	7,155	7,985
Oregon	178	88
Pennsylvania	5,845	4,496
Rhode Island	170	172
Texas	329	114
Utah	98	41
Vermont	614	650
Virginia	1,286	328
Washington	812	9
West Virginia	208	4
Wisconsin	11,047	1,722
Unclassified	7,580	2,980
Total, United States	114,835	51,232
Canada	217	270

IMPORTS FROM THE U.S.S.R.

Foodstuffs

Fish: (fresh, frozen, or salted); Imports of fish, principally sturgeon, totaled $618,000 in 1931 and $338,000 in 1934. In 1930-1933 they made up four per cent of total American imports.

Caviar: Imports of caviar totaled $674,000 in 1929, $451,000 in 1932 and $253,000 in 1934. In value they make up more than 90 per cent of total American imports.

Crabmeat: The U.S.S.R. accounted for 27 per cent of total United States canned crabmeat imports in 1933 as compared with 23 per cent in 1931 and only 0.3 per cent in 1929. Imports totaled $923,000 in 1931, declining to $481,000 in 1934.

Imports of other canned fish (sardines, sturgeon, sprats, etc.) amounted to $44,000 in 1932 and $14,000 in 1935.

Sausage Casings: Imports of casings from the U.S.S.R. dropped from $2,823,000 in 1929 to $498,000 in 1934. In the earlier year they made up 18 per cent and in 1934, six per cent of total American imports.

Lentils: Imports of lentils totaled $76,000 in 1932 but dropped to one-tenth that total in 1933. In 1931-1932 they accounted for 24 per cent of total American imports.

Sunflower Seed Oil: Imports of this item were started only a few years ago. They amounted to $360,000 in 1932 and $444,000 in 1933, making up 59 per cent of total receipts in the latter year. In 1934, largely as a result of the imposition of a new excise tax on edible oils, imports were virtually eliminated.

Mushrooms: Imports of mushrooms totaled $161,000 in 1929 and $346,000 in 1931, 46 per cent of total imports of the United States. None was imported in 1932-1934.

Other items in this group are confectionery ($48,000 in 1929 and $40,000 in 1934), jams, nuts, coriander seed, canned vegetables, mustard seed, mineral water, and wines and vodka, the importation of which was started in 1934 (imports in 1934 totaled $49,000).

Animal products

Furs: Imports of furs, which exceeded $5,000,000 in 1929, averaged $2,323,000 in 1933-1934. Aside from direct shipments, large quantities of Soviet furs are re-exported to the United States from other countries, principally Germany and England. Direct imports of Soviet undressed furs made up four per cent of total receipts in 1933; of dressed furs—29 per cent. Of the furs received from the U.S.S.R. in 1933, dressed furs and manufacturers made up $850,000 but in 1934 this figure was greatly reduced.

Bristles: Sales of Soviet bristles fell from $618,000 in 1929 to $184,000 in 1932, in each case making up between seven and eight per cent of total American imports. Direct imports were practically eliminated in 1933-1934. A part of the Soviet bristles shipped to England is re-exported to the United States.

Leather and Hides and Skins: Imports of these products, which were begun only in 1930, have shown rapid development. From $53,000 in 1930 they rose to $318,000 in 1933, of which leather made up $224,000. The U.S.S.R. accounted for two per cent of the total leather imports of this country in 1933-1934.

Animal Hair: Sales of horsehair and other animal hair rose from $72,000 in 1929 to $273,000 in 1931, dropping to $50,000 in 1934. In 1931-1934 the Soviet Union supplied 13 per cent of total American imports of this item.

Other products in this group include stearic acid ($53,000 in 1931 and $19,000 in 1933), of which the U.S.S.R. furnished 12 per cent in 1931-1932; bones ($418,000 average in 1929-1930); and glue ($27,000 in 1933).

Mineral products

Manganese Ore: For about half a century the Chiatury mines in Transcaucasia have supplied a considerable part of the manganese ore consumed by the American steel industry, which ordinarily imports about 90 per cent of its requirement. Imports of manganese from the U.S.S.R. have been drastically reduced in the past few years—from $5,452,000 in 1929 to $1,897,000 in 1931 and $903,000 in 1934—owing mainly to the greatly curtailed operations of the steel industry. The Soviet Union furnished 64 per cent in value of total American imports in 1929 and 37 per cent in 1932-1934.

Iron Ore: Imports of iron ore from the Soviet Union were started only in 1930. They amounted to $571,000 in 1931, dropping to $177,000 in 1934. The U.S.S.R. accounted for 16 percent of total imports in 1931-1933. The ore is consumed on the eastern seaboard.

Chrome Ore: This is another new item among imports from the U.S.S.R., dating also from 1930. Receipts totaled $292,000 in 1931 and $256,000 in 1934, the Soviet Union supplying 11 percent of the total imports in 1933 and 1934.

Precious Metals: Imports of platinum and allied metals totaled $944,000 in 1929 and $453,000 in 1934. They made up 12 percent of the total direct imports in the earlier year and 11 percent in 1934.

Gold Ore: In 1934 shipments were started to the United States of low-content gold-bearing ore. During the latter part of the year several shipments were made, mainly to the port of Tacoma, Washington. In addition, early in 1935, importation was started of considerable quantities of various gold concentrates (precipitates, chlorides, electrolytic slimes). The first sales ($300,000) of Soviet silver were also made by the Amtorg, for delivery in London.

Anthracite Coal: In the past six years (1929-1934), the U.S.S.R. has supplied, exclusively to the New England States, about 44 percent of the high-grade anthracite imported by the United States. Receipts of Soviet anthracite, which commands a high price because of its high heating value and low ash content, rose from $737,000 in 1929 to an average of $1,757,000 in 1932-1934. The shipments, averaging 229,000 tons a year in 1931-1934, make up less than ½ of one percent of total American anthracite production and about four percent of total New England consumption.

Asbestos: Direct imports of asbestos from the U.S.S.R. were started only a few years ago, amounting to $661,000 in 1930, $104,000 in 1931 and $89,000 in 1934. They made up about nine and three percent of total imports in 1930 and 1934, respectively. The development of imports was hampered by a temporary embargo, lasting from April 1931 to April 1933, imposed while charges of unfair practice, eventually dismissed as unfounded, were pending before the Tariff Commission.

Magnesite: Shipments of magnesite, a new item on the import list, totaled $90,000 in 1931, 27 percent of total American imports; in 1933 and 1934 they fell to an average of $31,000.

Among the products of potential importance in this group are potash, of which the first shipments, totaling $323,000, were received from the U.S.S.R. in 1934; apatite (phosphate fertilizer), imports of which were temporarily halted while a case was pending before the Tariff Commission but were resumed again in 1935; mica, diatomaceous earth, paraffin, kaolin, pyrites, marble, glaziers' and engravers' diamonds ($48,000 in 1932), etc.

Crude drugs and chemicals

Licorice Root is the largest item in this category, imports totaling $889,000 in 1929, $443,000 in 1931, and $241,000 in 1934. In 1929, the U.S.S.R. supplied 38 percent and in 1933-1934, 27 percent of the total.

Gum Tragacanth: Imports of this item totaled $87,000 in 1932 (26.5 percent of American imports) and $48,000 in 1933.

The other main products in this group include ergot, imports of which in 1933 totaled $33,000; miscellaneous drugs ($34,000 in 1933 and $26,000 in 1934); poppy seed ($19,000 in 1933); inedible sunflower seed oil ($41,000 in 1933); essential or distilled oils ($87,000); peat moss ($17,000); alkaloids, chiefly nicotine ($10,000); santonin ($62,000); crude glycerine ($34,000); barytes ($84,000 in 1931, 27 percent of total American imports).

Textiles

Flax (unmanufactured): Imports of flax increased from $179,000 in 1929 (five percent of total imports) to an average of $501,000 in 1933-1934 (33 percent).

Linens: Imports of linen cloth and manufactures (towels, table cloths, embroidered articles, etc.) amounted to $114,000 in 1932 and $572,000 in 1934. In the latter year they made up about 2.5 percent of total United States imports of these products.

Raw Silk: This item has appeared on the import list only in the past few years. Imports totaled $453,000 in 1931 and $178,000 in 1934. In 1931-1934 these shipments made up only 0.2-0.3 percent of total imports.

Oriental Rugs: The importation of handmade oriental rugs (mainly Caucasian and Turkestan) was resumed a few years ago.

Receipts amounted to $219,000 in 1932 and $109,000 in 1934. They made up four percent of total American imports in 1932-1934.

Wood and Paper Products

Lumber: Imports of soft woods from the Soviet Union (almost entirely spruce) were started in 1927. In 1929 imports totaled $819,000, in 1932—$296,000 and 1933—$559,000. Spruce imports totaled $316,000 in 1934. The development of imports of lumber and pulpwood was hindered by adverse regulations of the Treasury Department, later rescinded. In 1931-1932 the U.S.S.R. supplied only two percent of total United States lumber imports.

Pulpwood: Importation of spruce pulpwood from U.S.S.R. was started in 1929. Shipments totaled $1,580,000 in 1930, $481,000 in 1932 and only $71,000 in 1934. The Soviet Union, which has been virtually the only source of supply aside from Canada, accounted for seven percent of pulpwood imports into this country in 1930-1933.

Rags (for paper stock): Imports of rags totaled $865,000 in 1930 and $394,000 in 1934. They made up 23 percent of total imports in 1933-1934.

Safety Matches: Imports of safety matches from the Soviet Union, one of the few countries offering competition to the Swedish match trust, were started in 1928. In 1929 imports totaled $353,000, slightly more than 10 percent of total receipts by the United States. An anti-dumping duty imposed by the Treasury Department in May, 1930, virtually put an end of imports. This ruling was rescinded in January, 1934, and imports that year totaled $94,000, 18 percent of the total.

Other lumber items include oak staves and headings, the importation of which has been considerable since the lifting of the prohibition against the sale of beer ($223,000 in 1933 and $110,000 in 1934); veneers and plywoods ($43,000 in 1931 and $6,000 in 1933); and miscellaneous woods and manufactures ($26,000 in 1933 and $31,000 in 1934).

Miscellaneous: Among the other products imported from the U.S.S.R. not included in the above categories are books and other printed matter ($42,000 in 1933 and $46,000 in 1934), works of art ($34,000), gold and silver articles and jewelry ($21,000), motion picture films, handicraft articles, etc.

UNITED STATES IMPORTS OF MAJOR PRODUCTS FROM RUSSIA AND THE SOVIET UNION

[In thousands of dollars]

Commodity	1926	1927	1928	1929	1930	1931	1932	1933	1934
Furs (undressed and dressed)	4,459	2,450	3,199	5,238	4,252	1,096	1,690	2,272	2,315
Anthracite coal				737	1,232	1,611	1,498	1,332	2,442
Manganese ore	5,046	5,000	3,067	5,452	2,446	1,897	522	499	903
Chrome ore					238	292	52	153	256
Iron ore					136	571	357	298	177
Asbestos				111	661	140		57	89
Sausage casings	837	1,696	2,307	2,823	3,574	600	706	956	498
Pulpwood				101	1,580	744	481	236	71
Lumber and wood manufactures	31	357	535	872	1,605	344	324	814	482
Rags (for paper stock)	88	46	132	413	865	80	86	217	394
Flax	665	364	216	179	438		43	551	451
Caviar	50	34[illegible]	795	674	655	327	451	213	258
Fish (fresh, frozen or salted)	173	335	382	454	655	618	389	239	282
Crabmeat				15	854	524	601	759	481
Licorice root	978	604	344	889	427	443	266	256	214
Bristles	692	918	988	618	1,129	468	184	23	7
Matches			141	353	233				94
Mushrooms	122	93	284	161	313	246			
Candy and confec'y		3	21	45	165	171	13	18	40
Wool carpets and rugs			107	153	31	204	219	163	109
Leather, hides and skins	331	7		2	53	44	143	318	139
Animal hair	80	86	40	72	101	273	102	149	50
Raw silk			7	8	13	453	354	214	178
Sunflower seed oil							360	444	38
Manufactures of flax and hemp	1	6	66	43	131	333	114	381	572

Technical Assistance Contracts

Beginning with 1928, more than two-score contracts were concluded with American engineering concerns providing for the cooperation of the latter in the design, construction and operation of mines, electrical plants and installations, and industrial enterprises in the U.S.S.R. About a third of the total number of contracts for technical assistance entered into by Soviet organizations were made with American firms. In addition, hundreds of individual engineers and technicians were engaged for various Soviet industries. Most of the contracts were concluded in 1928-1930 and the majority of them have now expired. In the past few years, corresponding to the drastic decline in trade, relatively few American engineers have been engaged for work in the U.S.S.R.

Among the more important technical assistance contracts with American firms were the following: Hugh L. Cooper & Co. (Dnieper River hydroelectric station); International General Electric Co. and Radio Corporation of America (electrical industry); the Austin Co. and Ford Motor Co. (Nizhni Novgorod—now Gorky—automobile plant); electric Auto-Lite Co. (electrical equipment for automobiles and tractors); Oglebay, Norton & Co. (iron ore); Freyn Engineering Co. and Arthur G. McKee & Co. (steel industry); Stuart, James & Cooke and Allen & Garcia (coal industry); Nitrogen Engineering Corp., Du Pont de Nemours & Co. and Westvaco Chlorine Products Co., Inc. (chemical industry); Koppers Construction Co. (coke); Newport News Shipbuilding and Dry Dock Co. (turbines); Goodman Mfg. Co. (manufacture of coal cutters); Albert Kahn, Inc. (industrial construction); Curtiss-Wright Corporation (aviation industry); Sperry Gyroscope Co. (marine instruments); Archer Wheeler and Southwestern Engineering Co. (non-ferrous metals).

Shipping

In accordance with contracts concluded several years ago with the Am-Derutra Transport Corporation, regular sailings were started by vessels of the American Export Line to Black Sea ports and of the Scantic Line to Leningrad and Murmansk. In the peak year for exports (1930) the Am-Derutra chartered 95 vessels to carry American goods to the Soviet Union, of which 70 were American-owned. In the beginning of 1934 a freight service was started by Sovtorgflot (Soviet Mercantile Fleet) between the Black Sea ports and Leningrad and the eastern seaboard of the United States. The KIM, the first vessel to enter an American port flying a Soviet flag, arrived in New York harbor on April 2, 1934, having sailed from Odessa on March 10. In the subsequent months, arrivals of Soviet steamers averaged almost two a month.

Soviet bonds

For a number of years a small number of bonds of the Soviet Government were bought by Americans through direct correspondence with the foreign department of the State Bank of the U.S.S.R. in Moscow. In the latter part of 1932 and the beginning of 1933 a small issue of Soviet bonds were marketed by the Soviet American Securities Corporation of New York City. In 1933 this company offered for sale in the United States an issue of seven percent bonds in the amount of 10,000,000 gold rubles, the first important public offering of Soviet securities in the United States. These bonds, in common with all Soviet bonds sold abroad, are written in terms of a definite quantity of gold (.774234 grams of pure gold per ruble). Both principal and interest are payable in American currency in the dollar equivalent of this fixed quantity of gold. The Chase National Bank in New York City is the paying agent. An unusual feature of the bonds is a guarantee of the State Bank of the U.S.S.R. to repurchase them at any time upon request of the holder at par and accrued interest. The bulk of this issue has already been sold.

Torgsin orders

Orders on stores operated by Torgsin (State Company for Trade with Foreigners) in the U.S.S.R. may be transmitted through banks or other companies permitted to accept currency for transfer abroad. Among some of the banks or agencies handling these orders are: Manufacturers Trust Company, Amalgamated Bank, Am-Derutra Transport Corporation, American Express Company, Gdynia-America Line, R.C.A. Communications, Inc., etc.

The office of the general representative of Torgsin in the United States is located at 261 Fifth Avenue, New York.

Perspectives of Soviet-American trade

Many leaders of industry, finance, and statecraft, both in the United States and in the Soviet Union, have on recent occasions expressed the opinion that the possibilities exist for a large expansion of commerce between the two countries, given favorable conditions of trade. The interest of the Soviet Union in the United States as a source of supply for imports, especially equipment and raw and semi-manufactured materials, has been indicated in a number of official pronouncements by prominent officials. Maxim M. Litvinoff, Commissar for Foreign Affairs, in a speech in New York City on November 24, 1933, at a banquet given in his honor under the auspices of the American-Russian Chamber of Commerce, said:

"Enjoying the lowest foreign indebtedness in the world, the Soviet Union has the greatest capacity for absorbing the raw materials and products of other countries. On this question I presented data at the London Economic Conference, a study of which will show the United States could make use of this capacity to the extent of 60 or 70 per cent."

This referred to the following statement made on June 14, 1933:

"The Soviet government as a rule draws up its import plans in strict accordance with its export possibilities and credit facilities. But the Soviet delegation could conceive of conditions, such as lengthened credits, normal conditions for Soviet exports and other favorable factors, which might induce its government to extend these plans to a degree which would have no small influence in the alleviation of the crisis. According to the calculations of the Soviet delegation, the Soviet government, given such conditions, might agree to place orders abroad in the near future to the sum of about one billion dollars. To be still more definite, the Soviet Union could in the near future absorb about 200 million dollars' worth of ferrous metals, 100 million dollars' worth of raw materials for the textile, leather and rubber industries, 400 million dollars' worth of machinery, including railway equipment to the value of 100 million, 35 million dollars' worth of agricultural goods, including breed stock, 50 million dollars' worth of consumers' goods, such as tea, cocoa, coffee, herring, 50 million dollars' worth of new ships, chiefly for industrial purposes such as fishing, seal hunting, dredging, and so on.

"The significance of these figures will be more evident if it is realized that they amount to from 25 to 66 per cent of existing world stocks in respect to such metals as aluminum, nickel, copper and lead, to 100 per cent in the case of some of the consumers' goods mentioned, to one-third of the annual world export of machinery and 100 per cent of last year's total ship-building output.

"It should be clearly understood that the figures I have quoted would be in excess of any plan already drawn up by the Soviet Government and do not apply to goods urgently required by it, and to be ordered under present conditions."

A. P. Rosengoltz, Commissar for Foreign Trade, in a speech on April 23, 1933, stated:

"One could hardly find any other country which has such great possibilities of developing its exports to the U.S.S.R. as the United States; and on its part, the United States could become a large market for the sale of Soviet products. For this, of course, the necessary prerequisites must be created."

Ambassador A. A. Troyanovsky, in a statement to the press on January, 1934, said:

"Like the United States, the U.S.S.R. is a country of great distances, of rich and multiform natural resources. Our physical problems are in many respects similar to yours. We approach our problems of developing our resources later than you, and we have availed ourselves and will continue to avail ourselves of American technical skill and of American machinery. We have found that generally speaking, of all foreign technical men, Americans are best equipped to give advice on our development projects and American type machinery is in most cases best adapted to our needs. In this respect we have the basis for a steady and profitable commercial development."

In an address before the American-Russian Chamber of Commerce in April, 1935, I. V. Boyeff, Chairman of the Board of the Amtorg Trading Corporation, stated that Soviet imports from the United States would continue to increase in 1935 but that a large development of trade, commensurate with the possibilities, could be realized only in the event of the establishment of financial credits for exports to the U.S.S.R.

In a recent memorandum prepared for its members, the American-Russian Chamber of Commerce pointed out that there are also ample possibilities for increasing imports from the U.S.S.R. Of the principal commodities imported from the Soviet Union, the United States bought from all countries over $1,200,000,000 worth in 1929 and $334,000,000 in 1932. The U.S.S.R. supplied only 1.7 per cent of this total in 1929 and 2.5 per cent in 1932. Virtually all of the items are non-competitive with American industry. In addition, the memorandum points out the potential importance of a number of items not yet brought in from the U.S.S.R. (such as wood-pulp and oilseeds) and imported by the United States in large quantities, and of increasing gold shipments to this country.

Doing business with the U.S.S.R.

The following statement, from the Economic Review of the Soviet Union (published by the Information Department of the Amtorg Trading Corporation) of March, 1934, gives some information regarding methods of promoting trade with the U.S.S.R.:

"Experience has shown that as regards those products which the Soviet Union is primarily interested in purchasing at the present time, that is, capital goods, there is no reason why all legitimate means should not be employed to call them to the attention of executives and technicians in the U.S.S.R. Technical publications, catalogs, etc. are read avidly by the people engaged in designing and operating industries in the Soviet Union.

"Purchases abroad are and will continue to be carried on by centralized organizations such as the Amtorg Trading Corporation. All commercial matters (prices, credit terms, etc.) in connection with business in this country are negotiated by the Amtorg. While its executives are the final authority in the placing of orders, the initial impetus arises in the factory or the importing organization in the U.S.S.R., and advertising material, technical literature, exhibits of machinery, etc., undoubtedly have an educational value in this connection. For the convenience of American firms who wish to advertise in periodicals or newspapers published in the Soviet Union, a central office (Inreklama) has been established here for the handling of such advertising. The Amtorg also publishes in the Russian language a monthly technical periodical, American Engineering and Industry, as well as a biennial catalog of American products, which are widely distributed among Soviet executives and engineers. Of the last edition of the catalog, a volume of about 1,000 pages, 25,000 copies were circulated in the Soviet Union.

"Participation in machinery and equipment exhibits is another method by which American firms can familiarize industrial circles in the U.S.S.R. with their products. There are several permanent exhibits in Moscow which are visited by many thousands of technicians and managers.

"When representatives are sent to the Soviet Union it is advisable that they have sufficient technical knowledge to be able to discuss the particular equipment involved in detail. The best results are obtained by those representatives who can be helpful in furnishing technical information. For this reason the advisability of sending one man to handle the products of a number of different companies in diversified fields is highly questionable.

"Recently a number of companies have been organized which represent themselves to be in a specially advantageous position to obtain Soviet business. Such organizations serve no useful purpose, and far from helping are more likely to be a hindrance. The Amtorg is averse to doing business with any firms except those directly concerned with the manufacture of the product. This policy of working without unnecessary intermediaries is of benefit to both sides."

EXHIBIT 4

[From Saul G. Bron, "Soviet Economic Development and American Business," New York: Horace Liveright, 1930]

APPENDIX 4—CONCESSIONS AND TECHNICAL ASSISTANCE

A—TERMS OF FOREIGN CONCESSIONS

The general terms under which concessions are offered to foreign firms are as follows:

Concessions may be granted for the construction and operation of factories, mills and mines, for the building of houses and roads, and for the development of forest, mineral and other of the natural resources of the Union. The concessionaire may supply the entire capital necessary for the project or may enter into a "mixed" company in conjunction with a Soviet state organization or, in the case of technical advisers, may not be required to invest any capital at all.

Concessionaires engaged in production are usually permitted to dispose freely of their product on the Soviet market and also to export a certain specified proportion. In cases where the concession enterprise produces commodities for which there is a large demand in the U.S.S.R., the concession agreement usually contains a provision giving an option to Soviet organizations for a part or the whole of the output on conditions specified in the agreement.

The concessionaire is permitted to export from the country the entire net profit of the enterprise, the transfer of money to be effected through the State Bank of the U.S.S.R. or any other bank in the country. In certain instances where the concessionaire's investment is comparatively small the Goverment may require a provision limiting the export of profits during the first few years of the concession's operation.

The policy and the practice of the Soviet Government have been to especially favor concession enterprises which can obtain the needed raw materials and semi-manufactured products within the country. In the event, however, that the required materials are not available in the U.S.S.R., the concessionaire is granted the right to import such materials, the quantity and procedure of importing being specified in the concession agreement. In these cases imports are allowed until such time as the production of the required materials is begun in the country. Imports of equipment are usually exempt from customs duties for a specified length of time after the granting of the concession.

In regard to the payment of taxes and duties the concessionaire is placed in the same category as similar Soviet enterprises. Excess profits are usually taxed according to a scale specified in the agreement.

One of the principal provisions of concession agreements is that the enterprise employ the most modern production methods.

The life of the concession, depending upon the nature of the industry and the amount of capital invested, is sufficiently long to allow the concessionaire to utilize fully the imported equipment and to receive an adequate return on the invested capital. Upon the expiration of the term of the concession, all the concession properties are turned over to the Government without compensation.

Concession agreements, upon ratification by the U.S.S.R., have the power of a special law. The provisions of such agreements cannot be changed by any decrees or rulings of central or local government organs.

In accordance with the existing laws the Government of the U.S.S.R. guarantees that the properties of the concessionaire invested in the enterprise are not subject to nationalization, requisition or confiscation. The concessionaire is allowed to hire the necessary working staff on the basis of the provisions of the Soviet Labor Code and of the collective agreements made with trade unions. The experience of a number of years shows that concessionaires have had no difficulties in hiring and employing labor in the U.S.S.R. The concessionaires are permitted, with certain limitations, to bring in foreign skilled workers and higher administrative and technical personnel. The proportion of foreign workers to the total number of workers is set forth in the agreement.

B—CONCESSION OPENINGS AVAILABLE IN THE SOVIET UNION

The following is a partial list of concession openings in the Soviet Union available for construction or operation or both. Construction of a number of these has already been begun by the government, in some cases with foreign technical assistance.

A. Metallurgical Industry: New enterprises available for concessions in the metallurgical industry include the following:

1. Steel mill in the Krivoy Rog district in the Ukraine, and working of iron ore deposits.
2. Steel mill in the Magnitogorsk district of the Urals, and working of iron ore deposits.
3. Steel mill in the Kuznetz district of Siberia; also construction of railways and exploitation of ore deposits.
4. Metallurgical plant near the Dnieprostroy hydro-electric station in the Ukraine, to produce ferro-alloys.

Among concessions for re-equipping and expanding existing plants are included the following steel mills:

1. The Kadiev mill in the Urals.
2. The Providence mill in the Ukraine.
3. The Taganrog mill in the Ukraine.

B. Machine-Building Industry: Among concession openings in this industry are the following:

1. A factory for the manufacture of machine tools, to be built either in the central or southern part of the Soviet Union.
2. A factory at Moscow to produce precision instruments and special steels.
3. A railway freight car works, at Nizhni Tagil in the Urals.
4. A factory for the building of aeroplane motors in the Urals.
5. An agricultural machinery factory to produce seeders and threshers, at Votkinsk in the Urals.
6. A yard for the construction of river boats, at Sarepta on the Volga River.
7. Factories to produce steam boilers and iron for boilers, etc., at Stalingrad.
8. A factory to manufacture typewriters and adding machines, at Moscow or Leningrad.
9. Factories in the Ukraine, the Moscow region, the Urals, etc., to produce printing presses, precision instruments, equipment for power stations, surgical and dental instruments, abrasives, sugar and distilling equipment, construction materials, bicycles, woodworking machinery, conveyors, canning and candlemaking equipment.

C. Extraction of Ores and Fuels:

1. Concession for working iron ore deposits in the Krivoy Rog region of the Ukraine; at Dashkessan, in Transcaucasia; near the Gulf of Possiett, to the south of Vladivostok; in other parts of the Far Eastern Region; at Komarov and other sections in the Urals.
2. Copper ore deposits in the Caucasus; at Tanalyk-Baimak, in the Urals; at Minusinsk, in Siberia; at Bayan-Aoul, in Kazakstan, etc.
3. Lead and zinc ore deposits near Lake Balkash in Western Siberia; at Nerchinsk and Kadainsk, in Eastern Siberia; at Kar-Karalinsk, in Kazakstan; and in various localities near the Sea of Japan.
4. Gold deposits at Berezovsk and Sverdlovsk, in the Urals; along the Uda River, in the Far Eastern region; in the Okhotsk district; along the Vilui River, in the Yakutsk Republic; and in various other regions of Siberia.
5. Coal deposits near the Tom River in the Kuznetz Basin, in Siberia; at Tkvartcheli on the Galizga River, in the Abkhaz region of Transcaucasia.
6. Oil deposits in the Dossor and Macat fields, in the Ural-Emba section; on the island of Cheleken, in the Caspian Sea, including construction of a railroad from Alexandrov-Gai to Chardzhui; oil deposits of Temruk-Tanan and of Shirak-Chatma, in Georgia; deposits of the Kerch Peninsula, in the Crimea; and the Nefte-Dag and other oil fields, in Central Asia.
7. Graphite deposits near the Kureika River, in the Turukhansk section of Northern Siberia.
8. Nickel deposits in the Sergievo-Ufalei district.
9. Asbestos deposits at Karachai and at Ilchersk.

D. Central (Regional) Power Stations:

1. Hydro-electric station on the Svir River, 230 kilometers from Leningrad; may include high-tension transmission lines to Leningrad.
2. Central electric station at Cheliabinsk, to use coal deposits of the district.
3. Rion hydro-electric station, near Kutais, in Georgia; to supply current for the Transcaucasian Railway, Chiaturi manganese mines and other industries in the region will be important consumers.
4. Hydro-electric station on the White River, near Maikop in the Caucasus; principal consumers will be the coal industry, dairy industry, etc.
5. Hydro-electric station at Baksan, in the Kabard Autonomous Area in the Caucasus; may also include transmission line to Kislovodsk.
6. Central station in the Moscow region, to use coal; enterprise may include coal mines, gas works, etc.
7. Briansk electric station, to use peat; may include transmission lines and sub-stations.
8. Stalingrad central station, to use peat and coal.
9. Central station on the Kara-Sakhal River in Azerbaidzhan; principal consumer will be city of Gandja.
10. Electric stations, at Dniepropetrovsk, to use coal, and at Ossino, to use peat.

E. Various Industrial Enterprises:

1. Manufacture of electrical apparatus—eight factories to produce motors, storage batteries, electric heaters, insulators, lighting apparatus, electro-medical apparatus and high-tension equipment.
2. Chemical industry—exploitation of the Solikamsk potash deposits.
3. Tanning factories, etc.—factory in the Tartar Republic, to produce kid leather; seven factories to produce tanning extracts, in the Kama region, near Vologda; in Viatka province; in Nizhni Novgorod province; in White Russia; in the Chuvash Republic; in the Baikal region; and in the Altai; tannery to be constructed at Voronezh, also electric station for the plant.
4. Cement industry—five factories, of which three will be constructed in Central Asia, one in White Russia, and one in the Far East.
5. Paper industry—construction of cellulose plant at Archangel, to work in combination with saw mills now operating in the region; cellulose and wood pulp factory and saw mill in the Vytchegodsk region; a similar enterprise in the Mesen River region.
6. Glass industry—construction of glass factory at Kemerovo, Kuznetz Basin of Siberia, to produce bottles and window glass; construction of a similar plant at Verkhneudinsk in the Buriat-Mongol Republic; factory to produce window glass at Nizhni Novgorod; factory, in the Lisichansk region of the Donetz Basin, to manufacture window glass and glass for chemical and technical purposes; factory at Moscow, to produce glass for industrial and chemical purposes.

F. Transportation:

1. Construction of the Obi-White Sea Railroad, with branches to the Nadejdinsk steel plant in the Urals, and to Ust-Tsilma, length about 2,000 kilometers; concession may include exploitation of forests in the eastern Urals, the Obi and Irtish regions, and the Ukhta petroleum deposits.
2. Construction of a railway from Alexandrov-Gai to Chardzhui, length about 1,680 kilometers; may include exploitation of Emba oil fields and cotton cultivation in the region.
3. Construction of railway from Saratov to Millerovo or to Gratchi, length 500 kilometers; concession includes construction of bridge over the Volga River at Saratov.
4. Railroad to connect Orsk-Akmolinsk-Pavlograd-Kulunda-Kuznetz, in Central Siberia, length 2,000 kilometers.

5. Electric railway, 185 kilometers in length, over the Caucasus Mountains.

6. A number of waterway projects may also be given out on a concession basis, including construction of the Volga-Don Canal and construction of sluices on the Svir River.

G. Forest Concessions:

1. Exploitation of 550,000 hectares of forest area in the Mezen River basin in Archangel province; annual production of this region could be set at 583,000 cubic meters.

2. Exploitation of the Udar forests in the Komi territory; total area, 180,000 hectares; estimated annual production, 175,000 cubic meters.

3. Forest territory of the Pechora region; estimated annual production, 185,000 cubic meters.

4. Exploitation of the forests of the Iyevsk region, near the Komi River; estimated annual production, 97,000 cubic meters.

5. Exploitation of the forest regions in the White Sea district, with an aggregate area of 2,800,000 hectares.

6. Exploitation of ten large forest areas in the Far Eastern region, two areas in the Amur region and a number of areas in Transcaucasia.

H. Irrigation and Reclamation Projects:

1. Irrigation of the Chu and of the Chu-Issukol regions in Kazakstan and the Kirghiz Republic; area covered about 260,000 hectares; concessions would be granted for 30 to 40 years; may include cultivation of grain, cotton, sugar beet and fruit areas.

2. Other irrigation projects in Kazakstan, in the Ural-Emba region, in the North Caucasus, the Lower Volga and the Abakan Steppe in Siberia; these concessions may include construction of railways and power plants, and cultivation of various crops.

3. Draining of the swamps of Poti and Abkhaz in Transcaucasia; concession may include the construction of factories for working up of agricultural products; area covered, about 80,000 hectares; concession to be granted for 30 years.

C—MUNICIPAL CONCESSION OPENINGS

There are about ninety public utility concession projects available in the Soviet Union, in such fields as the construction and operation of trolley lines, electric railways, power plants, water and gas works, sewage systems and slaughter houses.

1. Concessions to construct and operate trolley systems are listed in sixteen cities of over 50,000 population each. Among these are Novosibirsk (Siberia) with a population of 121,000; Ivanovo-Voznesensk, with 111,000; Samarkand (Central Asia), population, 102,000; Ufa, 96,000; Orenburg, 122,000, and Perm, 84,000 (all in the Urals): Novorossisk (in the North Caucasus) 66,000, and others.

2. Concessions for the construction of municipal electric power stations are available in nine cities, ranging from a plant of 30,000 kilowatts for Kiev (Ukraine), with a population of 500,000, to one of 1,000 kilowatts for Yalta (Crimea).

3. In twenty-one cities throughout the country, which have either an insufficient water supply or none at all, concessions may be granted. Among these are Samarkand, Chita (Siberia) with a population of 58,000, Tiflis (Georgia) 283,000, Tashkent (Central Asia) 313,000, Stalingrad (Lower Volga Region) 143,000, and Samara (Middle Volga Region) 72,000. These involve investments of from $300,000 (Batum) to $4,000,000 (Tashkent).

4. Moscow, which has a population of 2,500,000, is offering as a concession project the construction of a subway system from the heart of the city to a group of important railway depots. Two electric railways are offered for construction and operation on the Crimean and Caucasian shores of the Black Sea, 60 and 120 miles long, respectively.

5. Concessions for the construction of sewerage systems are available in twenty-one cities, and in fifteen cities openings for the construction of gas works. Concessions for both water supply and sewerage systems are available in half a dozen cities, including Vladivostok, Batum and Erivan. There are openings for the building of slaughter houses in Moscow, Leningrad, Ivanovo-Voznesensk, Baku and other cities.

NUMBER OF MUNICIPAL CONCESSION OPENINGS

	Number	Estimated cost of enterprises [1]
Municipal transport	19	119.5
Power stations	9	54.7
Water supply	21	51.8
Sewerage	21	66.2
Gas plants	15	91.1
Slaughter houses and auxiliaries	6	29.3
Total	91	412.6

[1] In million rubles.

D—TECHNICAL ASSISTANCE CONTRACTS CONCLUDED BY SOVIET ORGANIZATIONS WITH AMERICAN FIRMS AND ENGINEERS

(As of February 1930)

Akron Rubber Reclaiming Company—Technical assistance to the Soviet Rubber Trust in the construction of a reclamation plant.

Allen and Garcia Company—Technical assistance in the designing and opening of new coal mines for the Donugol Coal Trust.

Austin Company—Technical assistance on construction of the Nizhni Novgorod automobile plant.

Arthur J. Brandt—Reconstruction of the Amo (Moscow) automobile plant for the Avtotrest (Auto Trust).

Brown Lipe Gear Company—Technical assistance to Avtotrest.

Burrell-Mase Engineering Company—Rationalization and expansion of gas and gasoline industry for Grozneft (Grozny Oil Trust).

Hugh L. Cooper and Company—Consulting engineers on the construction of the Dnieper River hydro-electric power plant in the Ukraine.

Arthur P. Davis, Lyman Bishop and associates—Consulting engineers on the irrigation projects of the "Sredazvodkhoz" (Central Asiatic Water Economy).

Frank E. Dickie—Technical assistance for Aluminstroy (Bureau for Construction of Aluminium Plants).

Du Pont de Nemours and Company—Technical assistance in erecting fertilizer factories.

Hardy S. Ferguson and Company—Technical assistance on Severoless (Northern Lumber Trust) for reconstruction of paper mill near Archangel.

Ford Motor Company—Technical assistance in the construction and operation of the Nizhni Novgorod automobile factory.

Freyn Engineering Company—Consulting engineers for the Gipromes (State Institute for the Designing of Steel Mills) for plants to be reorganized or constructed in various parts of the country.

Harry D. Gibbs—Technical assistance in the Soviet aniline industry. Goodman Manufacturing Company—Technical assistance in the construction of a factory to produce coal cutters.

Hercules Motor Company—Assistance in the production of engines for trucks in the Amo automobile plant of the Avtotrest.

John J. Higgins—Technical assistance to G. E. T. (State Electro-technical Trust).

International General Electric Company—Technical assistance in the Soviet electrical industry and exchange of patents with the State Electro-technical Trust.

Irving Air Chute Co., Inc.—Technical assistance in aviation industry.

Albert Kahn, Inc.—Designing of buildings for the Stalingrad tractor factory; also contract to render general consultation services to Supreme Economic Council as architects on industrial construction.

Lockwood Greene and Company—Technical assistance in the reorganization and reconstruction of existing textile mills and in the design and construction of new plants.

McCormick Company—Designing of baking plants.

McDonald Engineering Company—Construction of industrial plants.

Mechanical Manufacturing Company—Technical assistance in the meat-packing industry.

Newport News Shipbuilding and Drydock Company—Technical assistance in the construction of turbines.

Nitrogen Engineering Company—Technical assistance in constructing and operating a large ammonia fertilizer factory.

Oglebay, Norton Company—Technical assistance to Yurt (Southern Ore Trust).

Radio Corporation of America—Exchange of patents and technical information with the Soviet Weak Current Trust.

Roberts and Schaefer Company—Technical assistance to the Donetz Coal Trust.

C. F. Seabrook Company—Technical advisors for road-building in the Moscow District.

Seiberling Rubber Company—Designing and assistance in construction of a rubber tire plant at Yaroslavl, for Resinotrest (Soviet Rubber Trust).

Sperry Gyroscope Company—Technical assistance in the manufacture of marine instruments.

Timken-Detroit Axle Company—Technical assistance to Avtotrest.

Westvaco Chlorine Products, Inc.—Aid in production of chlorine for United Chemical Industries of U.S.S.R.

J. G. White Engineering Company—Consulting services for Svir hydro-electric plant, near Leningrad.

Norman L. Wimmler—Technical assistance to Tsvetmetzoloto, in gold mining.

W. A. Wood—Technical assistance to Tsvetmetzoloto (Non-ferrous Metals and Gold Combine) in non-ferrous metals manufacturing plants.

Aside from the above-mentioned technical assistance contracts with various firms, several other Soviet organizations engaged American engineers and specialists, foremen and skilled workers for work in the Soviet Union. Among these are the following:

John Calder—General superintendent of construction for Traktorstroy (Stalingrad tractor plant), and six foremen.

Leon S. Moisseiff—Consulting engineer for Commissariat for Transportation.

The Precision Machinery Trust engaged a technical director and twenty foremen and assistant foremen to work in the newly established watch and clock factories of the trust.

The Zernotrest (State Grain Trust) engaged twenty-three tractor instructors.

The Ako (Kamchatka Joint Stock Company) engaged three canning specialists for work in its canneries.

The Uralmet (Ural Metal Trust) engaged three iron mining engineers.

The Zakvodhos (Transcaucasian Water Economy Service) engaged two irrigation engineers.

Among other organizations which have engaged American engineers and specialists are the Yugostal (Southern Steel Trust), the Tsvetmetzoloto (Non-ferrous Metals and Gold Combine), the Gipromez (State Institute for Designing Steel Mills), the Giprotsvetmet (Institute for Designing Non-ferrus Metal Works), Polymetal Trust, Orgametal (Institute for the Organization of Metal Works), Giproschacht (State Institute for Designing Coal Mines), Avtotrest (State Electotechnical Trust), Dnieprostroy (Bureau for Construction of the Dnieper River Power Plant), Gosshveymashina (Sewing Machine Trust), Selmashstroy (Bureau for Construction of Agricultural Machinery Plants), Steklostroy (Bureau for Construction of Glass Factories), Mostrikotash (Moscow Knitting Trust), Azneft (Azerbaidshan Oil Trust), Grozneft (Grozny Oil Trust), Giproneft (State Planning Commission for Municipal Water Supply), Resinotrest (State Rubber Trust), Tsentroboomtrest (Central Paper Trust), Sevkavgostorg (North Caucasian State Trading Company), the R.K.I. (Commissariat for Workers' and Peasants' Inspection), and the State Geological Survey.

EXHIBIT 5

[From Major Jordan's Diary, New York: Bookmailer, 1952]

THE GREATEST MAIL-ORDER CATALOGUE IN HISTORY

A complete, itemized list of Lend-Lease shipments is unobtainable from any agency or group of agencies of our Government. However, the Russians kept their own lists which I, as liaison officer, was allowed to consult and copies of which I finally acquired. They list the dollar value of every item, though not always the exact quantity, with annual totals as follows: 1942—$1,422,853,332; 1943—$2,955,811,271; 1944—$3,459,274,155; 1945—$1,838,281,501. The grand total for four years is some $9.6 billions, which compares with the President's figure of $9.5 (for shipments only) in the Twenty-First Report. But the complete Russian record is much more revealing than any part 1 or "protocol requirement" list the public has been allowed to see.

I would have preferred to give the Russian figures for each of the four years, because there are many interesting comparisons, such as the thorium shipments which stopped after 1943. Space limitations prevented this. Faced with the choice of listing some items with all the breakdowns, or cumulative totals for all the items, I chose the latter. If any readers would like to have the yearly breakdowns on specific items, I will be glad to provide them from my worksheets.

At the start I have grouped all the materials—chemicals, metals, minerals—suitable for use in an atomic pile. I have not listed here the millions of dollars' worth of mining, ore-crushing, and construction equipment which we sent to Russia. Informed readers may also find materials suitable for use in the hydrogen bomb elsewhere in the lists.

Item	Quantity	Cost in dollars
ATOMIC MATERIALS		
Beryllium metals	9,681 lbs.	10,874
Cadmium alloys	72,535 lbs.	70,029
Cadmium metals	834,989 lbs.	781,466
Cobalt ore and concentrate	33,600 lbs.	49,782
Cobalt metal and cobalt-bearing scrap	806,941 lbs.	1,190,774
Uranium metal	2.2 lbs.	
Aluminum tubes	13,766,472 lbs.	13,041,152
Graphite, natural, flake, lump or chip	7,384,282 lbs.	812,437
Beryllium salts and compounds	228 lbs.	775
Cadmium oxide	2,100 lbs.	3,080
Cadmium salts and compounds, n.e.s.[1]	2 lbs.	19
Cadmium sulfate	2,170 lbs.	1,374
Cadmium sulfide	16,823 lbs.	17,380
Cobalt nitrate	51 lbs.	48
Cobalt oxide	17,800 lbs.	34,832
Cobalt salts and compounds, n.e.s	11,475 lbs.	7,112
Cobaltic and cobaltous sulfate	22 lbs.	25
Deuterium oxide (heavy water)	1,100 grs.	
Thorium salts and compounds	25,352 lbs.	32,580
Uranium nitrate	500 lbs.	
Uranium nitrate (U02)	220 lbs.	
Uranium oxide	500 lbs.	
Uranium urano-uranic oxide (U308)	200 lbs.	
METALS AND METAL MANUFACTURES		
Aluminum and alloys, ingots, slabs, etc.	366,738,204 lbs.	53,884,473
Aluminum rods and bars	13,744,709 lbs.	3,285,014
Aluminum plates, sheets, strips	124,052,618 lbs.	45,408,111
Aluminum foil	409,556 lbs.	205,231
Aluminum kitchen, hospital utensils	310 lbs.	1,428
Aluminum powders and paste	219,736 lbs.	19,915
Aluminum cast. valves	980 lbs.	10,122
Aluminum manufactures, n.e.s		308,542
Brass and bronze ingots	10,214,064 lbs.	1,283,755
Brass and bronze bars, rods, etc	66,329,462 lbs.	12,502,080
Brass and bronze pipe fittings	14,097 lbs.	30,931
Brass and bronze valves, 4-in. and over	204,288 lbs.	188,623
Brass goods, plumbers	8,598 lbs.	5,828
Brass or bronze wire	16,139,702 lbs.	3,734,108
Brass wood screws	1,218 gross	453
Brass or bronze hardware		13,465
Brass and bronze die stocks, etc	8,739 lbs.	9,180
Brass and bronze munitions	21,824,376 lbs.	4,253,987
Brass and bronze window strips	65,924 lbs.	28,567
Brass and bronze castings, forgings	218 lbs.	249
Brass and bronze circles	933,110 lbs.	194,447
Brass and bronze manufactures, n.e.s		233,843
Brass and bronze blanks	32,760,542 lbs.	6,270,740
Brass and bronze plates and sheets	536,632,390 lbs.	99,376,514
Brass and bronze pipes and tubes	16,642,267 lbs.	5,126,324
Copper alloys	660 lbs.	386
Insulated copper wire, n.e.s	399,556,720 lbs.	97,637,534
Copper manufactures, n.e.s		278,336
Copper rods	2,875,916 lbs.	553,042
Copper wire, bare	28,235,738 lbs.	5,261,483
Copper wire, rubber-covered	16,521,612 lbs.	3,965,050
Copper wire, weather-proof	4,848,312 lbs.	1,261,789
Copper munitions, excl. rotat. bands	1,598,723 lbs.	2,102,024
Copper refined ingots, bars, etc	75,663,895 lbs.	9,041,122
Copper pipes and tubes	38,913,403 lbs.	22,728,592
Copper plates and sheets	26,432,417 lbs.	5,642,774
Nickel-chrome electric resistance wire	1,603,104 lbs.	2,121,121
Nickel ore, conc. and matte	155,604 lbs.	116,571
Nickel alloys and scrap	1,944,796 lbs.	812,311
Nickel ingots, bars, rods, etc	15,669,441 lbs.	6,580,719
Nickel manufactures, n.e.s		2,216,294
Tin and tin salts, tin foil	82,583 lbs.	44,353
Tin ingots, pigs, bars, etc	30,620 lbs.	16,079
Tin manufactures, n.e.s		2
Lead foil and tin foil	26,880 lbs.	15,546
Lead, pigs and bars	801,234 lbs.	1,913,760
Lead, sheets and pipes	74,555 lbs.	6,720
Lead, solder	378 lbs.	76
Lead, cable	1,681,081 lbs.	314,308
Lead, plate or battery plate	1,122 lbs.	475
Lead, shot	181,506 lbs.	17,646
Lead, castings, circles, etc.	124,645 lbs.	49,569
Lead manufactures, n.e.s.		105,421
Carbonyl iron powder	27,050 lbs.	42,436
Ferrochrome	7,820,313 lbs.	1,285,175
Ferromolybdenum	5,357,500 lbs.	3,210,500
Ferrovanadium	1,074,190 lbs.	2,034,830
Ferrophosphorus	19,229 lbs.	710
Ferrosilicon	16,187,318 lbs.	941,985
Ferrotungsten	3,027,188 lbs.	4,715,335
Ferro alloys, n.e.s.	88,900 lbs.	137,695
Babbitt metal	604,569 lbs.	265,179
Quicksilver or mercury	10,590 lbs.	28,736
Tungsten metal, etc. and alloy	279,499 lbs.	4,268,800
Cerite or cerium ore	2,651 lbs.	8,978
Zirconium ore and concentrate	220 lbs.	2,420
Cerium metals and alloys	30,299 lbs.	78,611
Chromium metal alloy scrap	23,924 lbs.	6,902
Manganese metal and alloys	350,006 lbs.	79,259
Molybdenum ore and concentrates	20,145,302 lbs.	10,841,501
Magnesium metal primary form	17,798,206 lbs.	3,640,716
Molybdenum metal alloys, scrap	913,480 lbs.	466,602
Tantalum metal and alloys	6,513 lbs.	136,665
Zirconium metal and alloys	193,450 lbs.	94,654
Magnesium powder	66 lbs.	75
Magnesium metal, n.e.s.	983,467 lbs.	208,475
Molybdenum wire	396,527 lbs.	1,030,833
Ferromanganese	6,600 lbs.	1,272
Vanadium ore and concentrate	5,395 clb.	33,835
Metal and metal manufactures, n.e.s.		2,727,754
Vises	4,398	68,521
Automotive wrenches and parts		25,736
Wrenches and parts, excl. automotive		163,179
Drills, etc., metal cutting, power-driven	7,822,216	8,863,820
Drills, etc., excl. power-driven		9,062,215
Hand-operated taps, etc., metal-working machines.	593,278	1,091,423
Hand-operated taps, etc., excl. metal-working machines.		4,224,305
Hand-operated dies, etc., metal-working machines.	35,538	32,346
Hand-operated dies, etc., excl. metal-working machines.		258,766
Hand-operated metal-cutting tools, n.e.s		786,914
Pliers, pincers, nippers, etc	3,463 doz.	33,700
Drill presses, bit braces, etc		217,288
Planes, chisels and other cutting tools		121,833
Gauges for precision measure	38,348	1,562,938
Mechanics' hand tools, n.e.s		5,272,573
Tools with industrial diamonds	15	111
Tool grinders, emery wheel dressers	15,650 lbs.	85,106
Hand tools and parts, n.e.s		4,211,507
Padlocks of iron, steel, brass and bronze.	146	521
Door locks of iron, steel brass and bronze.	5 doz.	55
Wire bale ties	2,156,796 lbs.	103,900
Welding rods and wire, excl. electric	8,088,498 lbs.	1,487,802
Wire on spools or coils, not cards	2,710,624 lbs.	270,830
Wire, twisted	1,585 lbs.	536
Wire and manufactures, n.e.s.	23,236,266 lbs.	5,226,916
Wire nails	32,789,448 lbs.	1,214,356
Tacks	900,422 lbs.	133,604
Nails and staples, n.e.s	8,105,218 lbs.	369,640
Bolts, machine screws, nuts etc	13,370,637 lbs.	1,373,695
Metal containers, filled, value 20 percent.	68,650 lbs.	87,928
Metal containers, unfilled	2,095,541 lbs.	352,525
Metal containers, unfilled, n.e.s.		616,795
Pipestocks, etc., hand-operated and parts.		233,275
Screw plates, etc., hand-operated and parts.		639,746
Machine knives, except metal cut	1,951	41,218
Safety razors	237 doz.	2,383
Safety razor blades	857 c.	1,290
Cutlery, butchers and kitchens	34 doz.	500
Cutlery, knives, shears	3,648	39,343
Cutlery and parts, n.e.s.		68,295
Power transmission chains	92,675 lbs.	76,989
Chains, excl. power transmission	13,971,287 lbs.	230,010
Enamelware, table, household, hospital, etc.	209,365 lbs.	43,492
Boat propellers, blades	143,890 lbs.	8,042
Metals and alloys, n.e.s.	791,073 lbs.	141,884
Bauxite and other aluminum ores	56 tons	12,197
Zinc photo engraving sheets	220 lbs.	57
Zinc sheets, n.e.s. and strips	2,000 lbs.	409
Zinc slabs, etc., special high grade	4,150,512 lbs.	397,266
Zinc slabs, etc., high grade	26,757,974 lbs.	2,461,815
Zinc slabs, etc., intermediate grade	4,253,496 lbs.	368,244
Zinc slabs, plates, blocks, n.e.s.	40,966,658 lbs.	3,750,736
Zinc wire	155,177 lbs.	38,767
Zinc manufactures, n.e.s.	202,324 lbs.	18,855
Bauxite concentrate, incl. alumina	11 tons	657
Plate, n.e.s. no alloy, excl. fabricated	17,951,792 lbs.	475,944
Armor plate, no alloy, not fabricated	39,283,679 lbs.	1,585,548
Tin cans, finished or unfinished	667,603 lbs.	106,855
Metal file cases, not insulated	3,547	165,004
Metal file cases, insulated	13	2,860
Metal furniture and parts, n.e.s.		40,360
Stoves, ranges, heaters, gas	84	9,296
Cooking, heating equipment, domestic, n.e.s.		732,893
Parts, gas, kerosene, etc., stoves		16,617
Radiators house heating	1,426	1,315
Oil burners and boilers industrial	126	50,085
Parts oil burners and boilers, domestic		406,107
Cooking stoves, kerosene, excl. electric	27	1,332
Room and water heaters, kerosene	1,089	13,050
Stoves, room water heaters, gasoline	1,611	17,365
Axes, broad and hand	12,608 doz.	22,760
Hacksaw blades, power machines	16,063 gross	346,272
Hacksaw blades, excl. power machines	32,172 gross	406,067
Circular saws, excl. diamond	36,175	1,079,630
Circular saws, diamond	5,840	14,933
Saws, steel band, pit, drag and mill	7,133	35,910
Saws and parts, n.e.s		1,551,880
Augers, bits, gimlets, etc	1,723 doz.	20,004
Files and rasps, under 7-in	98,514 doz.	251,836
Files and rasps, 7-in. and over	95,811 doz.	330,827
Hammers and hatchets	24,575, doz.	92,880
Shovels, spades, scoops, etc	8,305 doz.	85,799
Scales and balances, n.e.s.	959	336,050
Scales, automatic, excl. bathroom	79,554	226,000
Scales, precision	6,079	89,124
Hardware, car and marine		249,162
Hardware, n.e.s		93,684
Railway car wheels, excl. locomotive	44,532,719 lbs.	2,351,678
Railway car tires and locomotive wheels.	46,138,050 lbs.	3,160,777
Railway car axles, without wheels	69,818,310 lbs.	2,520,778
Railway car axles, with wheels	45,900,258 lbs.	2,302,165

Item	Quantity	Cost in dollars
Railway locomotive car axles without wheels.	1,632,615 lbs.	90,453
Railway locomotive car axles with wheels.	2,190,959 lbs.	120,937
Rail joints, splice bars, etc.	314,535,452 lbs.	9,427,137
R.R. switches, frogs, crossings	168,566,652 lbs.	10,946,307
Railroad spikes	56,999,319 lbs.	1,888,997
Railroad bolts, nuts, nut locks, etc.	9,159,460 lbs.	630,947
Tie stock unfabricated whether or not sheared to length.	63,375 lbs.	3,840
Rails, 60 lbs. and over per yd	170,025 tons	3,198,998
Rails, less than 60 lbs. per yd	2,144 tons	103,961
Rails, 60 lbs. and over per yd	232,499 lbs.	10,009,983
Rails under 60 lbs.	1,919 lbs.	81,965
Sewing-machine needles	57,133 (M)	318,530
Needles, excl. sewing-machine	14,447 (M)	183,503

IRON, STEEL AND ALLIED PRODUCTS

Item	Quantity	Cost in dollars
Pig iron	7,644 tons	207,017
Iron and steel scrap, n.e.s.	55 tons	35,989
Tin plate circles, strips, etc.	668 tons	84,490
Iron and steel billets, no alloy	39,195 tons	8,522,389
Iron and steel blooms, no alloy	1,064 tons	195,517
Iron and steel alloy billets	58,807 tons	16,327,932
Iron and Steel alloy blooms	1,918 tons	356,652
Iron and steel alloy slabs	1 ton	200
Steel alloy and tin plated bars	290 tons	32,511
Steel bars, cold finished	425,331,742 tons	39,360,892
Iron bars	994,557 lbs.	242,316
Concrete reinforcement steel bars	8,456,863 lbs.	441,350
Iron and steel and tin plate bars, no alloy.	461 tons	27,136
Steel bars, no alloy, n.e.s.	209,312,002 lbs.	14,668,525
Stainless steel bars, n.e.s.	1,848,673 lbs.	632,121
Steel bars, alloy, n.e.s.	368,427,121 lbs.	56,374,249
Wire rods	3,648,579 lbs.	383,541
Boiler plate, armor type	779,677 lbs.	17,894
Steel armor plate, alloy	5,801,465 lbs.	280,706
Steel plate, excl. armor alloy	20,820,647 lbs.	1,034,729
Boiler plate, excl. armor type	37,614,885 lbs.	1,084,043
Plate alloy not fab. excl. armor	117,391,826 lbs.	6,497,713
Stainless steel plate, not fab.	1,016,496 lbs.	339,468
Iron and steel structural shapes, not fabricated.	29,870 tons	1,871,436
Iron and steel plates, fabricated, punched, etc.	193,593,054 lbs.	12,623,581
Iron and steel strip, cold-rolled, stainless.	3,757,605 lbs.	803,546
Iron and steel strip, hot-rolled, stainless	2,543,563 lbs.	476,262
Iron and steel strip, cold-rolled, no alloy	192,816,458 lbs.	16,411,022
Iron and steel strip, hot-rolled, no alloy	45,843,851 lbs.	1,903,017
Iron and steel and scroll, alloy, excl. stainless.	1,196 lbs.	347
Iron and steel band scroll, cold-rolled, no alloy.	2,281,415 lbs.	115,778
Iron and steel band scroll, hot-rolled, no alloy.	54,925 lbs.	2,054
Iron and steel strip, excl. semi-fin.	22,400 lbs.	638
Iron sheets, galvanized	1,366,305 lbs.	50,761
Iron sheets, black	238,165 lbs.	6,665
Steel sheets, galvanized	86,045,044 lbs.	3,363,966
Steel sheets, black, ungalvanized	432,663,290 lbs.	15,083,824
Steel sheets, black, ungalvanized, stainless.	8,452,653 lbs.	3,621,230
Steel sheets, ungalvanized, alloy	20,614,468 lbs.	2,244,755
Steel hoop, cold-rolled, no alloy	1,727,369 lbs.	52,443
Steel strip, cold-rolled, alloy	28,487,139 lbs.	5,508,009
Steel strip, hot-rolled, alloy	49,836,331 lbs.	7,982,848
Steel hoop, hot-rolled, alloy	497,701 lbs.	59,956
Steel hoop, hot-rolled, no alloy	5,251,874 lbs.	162,656
Steel hoop, cold-rolled, alloy	107,504 lbs.	3,062
Tin plate and taggers' tin	339,131,813 lbs.	18,812,407
Terneplate, incl. long ternes	21,928,318 lbs.	950,325
Structural iron and steel shapes, fabricated.	5,488 tons	1,063,865
Water, oil, gas, etc., storage tanks	11,399,056 lbs.	832,539
Seamless black pipe, n.e.s.	38,530,836 lbs.	2,932,023
Iron or steel wood screws	5,496,440 gross	1,066,615
Iron or steel tool bit blanks	4,403 lbs.	58,077
Steel tank lines	2,386,981 lbs.	622,568
Iron and steel manufactures, n.e.s.		754,527
Iron or steel coated wire, n.e.s.	17,883,171 lbs.	4,365,942
Malleable iron castings	88,380 lbs.	40,828
Gray iron castings	272,822 lbs.	32,235
Steel castings, alloy, incl. stainless	63,288 lbs.	11,836
Iron and steel grinding balls, no alloy	3,948,946 lbs.	380,908
Iron and steel forgings, n.e.s. no alloy	9,597,970 lbs.	1,676,349
Iron and steel grinding balls, alloy	3,978,051 lbs.	212,943
Iron and steel forgings, n.e.s. alloy	3,246,658 lbs.	615,391
Iron and steel forgings, n.e.s., alloy incl., stainless.	13,429,686 lbs.	1,189,298
Iron and steel hoop band, etc., cold-rolled, stainless.	191,680 lbs.	5,544
Iron and steel hoop band, etc., cold-rolled, alloy.	1,169 lbs.	1,405
Iron and steel hoop band, etc., hot-rolled, no alloy.	1,460,590 lbs.	45,466
Iron and steel hoop band, etc., hot-rolled, stainless.	53,600 lbs.	1,402
Steel casting, no alloy	675,833 lbs.	84,835
Boiler tubes, seamless	157,231,260 lbs.	17,322,754
Boiler tubes, welded	5,573,133 lbs.	613,956
Pipe casing and oil-line, seamless	232,440,545 lbs.	11,164,969
Pipe casing and oil-line, welded	58,165,681 lbs.	2,608,178
Malleable iron screwed pipe-fittings	999,894 lbs.	180,756
Cast iron pressure pipe	7,439,530 lbs.	231,256
Cast iron pressure pipe-fittings	325,288 lbs.	31,891
Cast iron soil pipe	3,458,599 lbs.	114,717
Cast iron pipe-fittings	659,248 lbs.	40,791
Welded black pipe, steel	13,618,029 lbs.	887,868
Welded black pipe, wrought iron	80,646,845 lbs.	3,644,605
Welded galvanized pipe, steel	1,835,969 lbs.	102,514
Iron and steel pipe, n.e.s	67,763,737 lbs.	13,768,322
Welded galvanized pipe, wrought iron	13,575,094 lbs.	691,250
Iron and steel pipe-fittings, n.e.s	7,900,447 lbs.	2,900,117
Iron and steel wire, uncoated	86,937,329 lbs.	12,119,586
Iron and steel sash & frames	17,400 lbs.	1,583
Iron and steel sheet piling	35,388,919 lbs.	952,275
Galvanized wire	107,105,217 lbs.	7,246,614
Barbed wire	81,459,023 lbs.	4,099,632
Woven wire fencing	2,269,999 lbs.	186,761
Cast-iron screwed pipe-fittings	7,383,537 lbs.	220,590
Woven wire screen cloth, insect	48,068 lbs.	12,890
Woven wire screen cloth, excl. insect	2,532,725 lbs.	2,179,358
Wire rope and cable, not insulated	101,891,796 lbs.	25,089,532
Wire strand	36,474 lbs.	2,182
Electric welding rods and wire	24,264,316 lbs.	2,411,053

MACHINES, MACHINE TOOL AND PARTS

Item	Quantity	Cost in dollars
Lathes	2,644	28,373,506
Turret lathes	3,073	25,574,695
Engine lathes and bench type	999	5,770,713
Engine, incl. tool-room lathes	3,340	23,371,672
Balancing machines	31	155,484
Shapers, metal power-driven	624	3,231,785
Planers, metal power-driven	487	15,238,453
Grinding-surface, internal, external	6,608	54,759,178
Precision boring machines, n.e.s	880	14,804,678
Tapping and threading machines	456	1,704,241
Auto screw bar type	1,926	23,440,971
Knee and column milling	1,651	11,789,505
Milling machines, n.e.s	3,507	28,021,650
Gear cutting	978	7,408,674
Machine drilling sensitive, excl. bench	312	1,115,999
Radial drilling	759	6,181,009
Drilling machines, n.e.s	1,352	5,301,663
All type broaching machines	281	2,678,790
Horizontal boring drill, etc	845	19,552,825
Gear honing finishing, n.e.s.	95	617,100
Blower, ventilating machines and parts		4,682,945
Canning machinery		210,083
Dairy equipment, commercial, n.e.s	1,313	644,900
Dyeing and finishing machines and parts.		68,717
Flour grist mill machinery and parts		11,827
Forging machinery and parts		53,856,071
Ice-making equipment and parts		261,547
Refrigerating equipment and parts		439,904
Knitting machine parts, n.e.s		67,804
Sewing machine and parts	362	127,085
Paper converting machinery and parts		210,793
Sawmill machinery and parts		166,221
Water wheels, turbines and parts		522,845
Textile machinery and parts, n.e.s		93,838
Wood planers, matchers, etc	1,571	344,854
Wire drawing machines and parts		2,508,079
Blast cleaning, tumbling machines	6	37,224
Chucks for machine tools	128,551	3,068,711
Foundry equipment parts, n.e.s		3,896,873
Die-casting equipment		918,455
Power metal working machine tools, n.e.s.	5,773	6,461,539
Rolling mill machinery and parts		19,316,915
Power machines, tools and parts, n.e.s		60,313,833

ELECTRICAL EQUIPMENT

Item	Quantity	Cost in dollars
Switchboard panels and parts, excl. telephone.		6,407,509
Oil circuit breakers and switches	7,318	1,593,675
Power switches, circuit breakers, over 10 amp.		2,281,137
Fuse plugs cont. mica	24,908	6,414
Fuses, n.e.s	151,051	39,720
Watt hour and other measuring meters	21,901	473,285
Electric indicating instruments, n.e.s	7,779	315,962
Electric recording instruments	1,610	157,717
Electric testing apparatus and parts, n.e.s.		2,696,617
Electric testing machines	4,367	334,064
Lightning arresters, etc		545,579
Motors	13,463	6,103,370
Armatures for motors		35,408
Electric railway motors	8	16,250
Electric locomotives railway mining	87	750,154
Electric station warehouse and factory trucks.	1,229	4,587,780
Electric industrial trucks and tractors, n.e.s.	424	1,204,401
Starting, etc. equipment for industrial motors.		4,389,290
Starting, etc. equipment for electric motors.		730,015
Accessories and parts for motors, n.e.s		947,366
Portable electric tools, power-driven	1,297	123,433
Portable electric tools, n.e.s	2,566	168,111
Electric fans	3	33
Electric incandescent lamps	930,860	135,515
Searchlights and airport beacons	953	4,189,708
Floodlights	457	13,583
Electric domestic vacuum cleaners	204	6,752
Domestic heating or cooking devices, n.e.s.		50,203
Electric melting furnaces and parts		10,466,162
Heat treating furnaces and parts		17,949,385
Industrial heating devices and parts		1,822,731
X-ray tubes	1,260	188,594
X-ray apparatus and parts, n.e.s.		2,628,349
Therapeutic apparatus, n.e.s.		1,088,925
Electric refrigerators, household	20	3,258
Electric refrigerators, commercial under 1 ton.	30	9,674
Electric refrigerator parts		151,438
Radio receiving set components, n.e.s.		7,051,328
Loud speakers	133	1,833
Radio receiving set accessories, n.e.s.		2,082,247
Telegraph apparatus and parts		3,603,037
Telephone instruments	386,530	16,558,894
Telephone equipment and parts, n.e.s.		15,739,286
Bells, buzzers, annunciators and alarms		492,174
Starting, lighting, etc., equipment		264,918
Electric insulating material	1,586,378 lbs.	698,310
Electric conduit iron or steel	1,548,868 lbs.	116,783
Electric conduit rigid metal, n.e.s	221,948 lbs.	23,896
Electric conduit metal, n.e.s., etc.		260,082
Sockets, outlets, etc, and parts		391,867
Electric interior lighting fixtures, fluorescent.		10,442
Electric interior lighting fixtures, n.e.s.		109,774
Electric exterior lighting fixtures		226,878
Electric curl, irons	1	8
Flashlight cases	104,630	93,254

CANVAS ARTICLES, WOOLEN GOODS, CLOTHING, ETC.

Item	Quantity	Cost in dollars
Clothing, aviation		1,017,559
Clothing, military and air, n.e.s.		283,367
Clothing, military, personal and organizational.		21,701,189
Clothing, naval		26,788
Clothing, military, cold weather		5,220,572
Canvas articles		7,239,229
Numbered biscuit and naught duck	1,009,120 sq. yd	934,150
Kapok life savings appliances		21,975
Fabric coated or impreg., n.e.s	652,266 sq. yd	446,797
Textile manufactures, n.e.s.		141,134
Other cordage	2,500 lbs.	2,264
Istle or tampico manufactured	6 tons	2,640
Twine, binder, excl. cotton or jute	16,613,012 lbs.	1,903,578
Flax, hemp, ramie manufactures, n.e.s		7,456
Hemp, ramie twine and cordage	319,649 lbs.	32,839
Pyroxlin coated impreg. fabric	17,693 sq. yd	38,084
Elastic webbing, not over 1½ in	1,009,500 yds	57,226
Cotton moss and hair mattresses	30	368
Synthetic cut fibers and waste, n.e.s.	87,815 lbs.	32,249
Synthetic knit fabric in the pc.	3,000 lbs.	3,737
Woven synthetic yarn fabric, n.e.s.	22,663 lbs.	23,219
Rayon waste and staple fiber	500,069 lbs.	141,668
Woven yarn fabric print cv. synth	1,248 lbs.	1,785
Synthetic hosiery, excl. nylon, Wmn's and children.	1 doz. pr	12
Synthetic textile manufactures		1,617
Oakum	5,130 lbs	969
Kapok cushions upholstery pads	12	30
Cordage, n.e.s.	32,446 lbs.	5,468
Veg. fibre straw grass manufactures, n.e.s.		2,175
Mohair cloth	1,572,382 lbs.	2,570,321
Wool noils and waste	100 lbs.	29
Wool felts woven for machine	146 lbs.	315
Wool carpets and rugs	364 sq. yd.	348
Book cloth pyroxlin coated	5,328 sq. yd	4,819
Synthetic braids, fringes, etc.		6,816
Viscose and cupr. cont. fil. yarn, etc	40,126 lbs.	22,577
Acetate rayon yarn	292,272 lbs.	184,283
Spun rayon yarn	84,071 lbs.	52,168
Nylon yarn	4 lbs.	33
Wool cloth and dress goods	95,384,022 lbs.	192,642,856
Wool blankets	5,242,637 lbs.	7,472,329
Wool knit apparel, n.e.s	203 lbs.	450,304
Hair and felt manufactures, n.e.s.	18,432 lbs.	2,750
Wool or mohair manufactures, n.e.s		208,013
Wool men's overcoats, suits and pants	188,611	3,169,329
Fur felt hats, men's and boys'	50	314
Wool fabrics, n.e.s.	408,827 lbs.	679,076
Linoleum	121,019 sq. yd.	64,152
Clothing, nurses		11,781
Clothing, gas protective		4,102
Felt base floor coverings	114,797 sq. yd.	58,451
Oilcloth, shelf, table and wall	1,015,886 sq. yd.	352,319
Waterproof outer garments	176,962	710,129

RUBBER COMMODITIES

Item	Quantity	Cost in dollars
Erasers and bands	61,539 lbs.	21,802
Piecegoods and hospital sheeting, n.e.s	1,745,313 sq. yd.	1,512,472
Boots, shoes and heels	1,046,667 pr.	1,794,735
Clothing, gloves and mittens	179,163 doz	1,437,294
Druggist rubber sundries	1,188,146	513,434
Rubber manufactures: friction tape, fan belts, auto and balata belting, hose and tubing, packing, mats, flooring, etc..	65,472,339 lbs.	28,887,600
Rubber manufactures, n.e.s		1,672,246
Synthetic rubber	362,839 lbs.	125,943
Latex and other forms of rubber compounded for mfr..	1,117,276 lbs.	366,413
Hard rubber electrical goods, n.e.s.	680,653 lbs.	803,345
Truck and bus casings	3,502,736	92,466,132
Solid tires for automobiles and trucks	13,574 lbs.	378,643
Tire sundries and repair materials, excl. camelback.	2,020,571 lbs.	1,635,739
Casings and tubes, excl. automobile	749,056	7,595,759

Item	Quantity	Cost in dollars
Automobile casings, excl. truck and bus	2,701,081 lbs.	6,659,880
Automobile inner tubes	2,093,162	6,485,611
Camelback	206,472 lbs.	52,290
Cements	718,894 lbs.	1,016,937
COTTONS		
Cotton gauze and sterile bandage absorbent cotton.	478,391 lbs.	330,025
Blankets	231,905	723,463
Cotton fabric napped, excl. flannel	277,218 sq. yd.	130,803
Cotton denims	8,536,926 sq. yd.	2,240,504
Cotton drill, twill, etc.	70,290,453 sq. yd.	35,769,818
Cotton sheeting	11,748,189 sq. yd.	2,299,442
Cotton fabric apparel, women, children, n.e.s.	73,185 lbs.	74,051
Cotton goods, combed, carded, n.e.s.	52,362 sq. yd.	6,137
Bags of jute	5,538 lbs.	1,416
Sisal, sunn, etc., twine and cordage	10,879,108 lbs.	1,887,935
Manila cordage	15,454 lbs.	5,364
Cotton underwear, men's	101,382 doz.	844,092
Cotton flannels, blch. or col.	4,504,093 sq. yd.	765,934
Cotton work gloves, mittens, gauntlets and hosiery.	34,526 doz. pr.	128,589
Cotton men's jackets and windbreakers	18,017	96,244
Cotton cloth, gray	289,688 sq. yd.	45,068
Cotton twine, rope and cordage, excl. tire.	1,355,256 lbs.	706,488
Cotton fabrics, col. yarn, n.e.s	3,759,396 sq. yd.	858,647
Cotton duck and awning materials	3,837,445 sq. yd.	3,810,789
Cotton men's work clothing, n.e.s.	61,247 doz.	967,457
Cotton men's clothing of woven fabrics, n.e.s.	8,887 doz.	255,660
Cotton heavy filter, hose, belting duck	70,229 sq. yd.	52,072
Cotton ounce duck	15,944,966 sq. yd.	9,634,702
Cotton sewing thread	3,282,633 lbs.	4,304,611
Cotton carded yarn, gray	165,389 lbs.	91,041
Cotton sheets and pillow cases	154,972 doz.	1,796,315
Cotton rags, excl. paper stock	3,506 lbs.	192
Cotton chesecl. and gauze blch. dyed	156,637 sq. yd.	22,036
Curtain draperies and cotton house furnishings, n.e.s.		210,853
Huck damask plain twls. toweling		176,893
Cotton manufactures, n.e.s.		2,891,764
Cotton printcloth, bleached	1,007,468 sq. yd.	295,757
Cotton soft wastes, n.e.s.	4,410 lbs.	336
Cot card yarn blch. col. mer	77,288 lbs.	45,985
Cotton hard waste yarn thread	32,407 lbs.	3,877
Cotton table damask, in the pc.	111,470 sq. yd.	5,089
Cotton sweaters, pullovers, etc., men's	1,500	2,520
Cotton print cl. yarn fab. over 36x32 ct.	737,219 sq. yd.	100,370
Cotton remnants, n.e.s	17,550 lbs.	9,803
Cotton pile fabrics, n.e.s	500 sq. yd.	425
Cotton knit fabrics, in the pc.	573,757 lbs.	616,041
Cotton narrow fabrics, n.e.s		231,525
Cotton woven belting for machines	396,038 lbs.	187,474
Cotton braids, bindings, etc.		7,006,954
Cotton bags, new	365,359 lbs.	182,892
Terry woven towels, cloths, mats	20 doz.	44
WOOD AND WOOD PRODUCTS		
Boards, dmg, fir, dress, scantlings	39 M bd.ft.	20,625
Furniture, chief value wood, n.e.s.		8,486
Handles for striking tools	4,762 doz.	9,457
Millwork house fixtures, n.e.s.		1,139
Oars and paddles, boat	20,934	32,751
Wood manufactures, n.e.s.		248,600
Wood lath	39 M	4,020
Art cork, block, gaskets, etc.	869 lbs.	1,964
Cork balls, bobbers, buoys, etc.	1,129 lbs.	602
Natural cork manufactures, n.e.s.	4,726 lbs.	7,870
Cork, wood or bark, unmfd.	38,544 lbs.	6,225
Paper, newsprint	27,439 lbs.	907
Furniture, wood, n.e.s., cov. upholstery		82
Paper, book, not coated	1,093,888 lbs.	170,591
Paper, wrapping, excl. kraft	793,154 lbs.	119,873
Paper, cover	72,242 lbs.	7,458
Paper, greaseproof, waterproof	8,375,322 lbs.	1,333,992
Paper, surface coated, n.e.s.	250,060 lbs.	109,101
Cigarette paper, cigarette books, covers	2,043,178 lbs.	1,070,771
Tissue paper and crepe, n.e.s.	571,796 lbs.	421,841
Bristols and bristol board	60,864 lbs.	7,939
Paper, kraft wrapping	343,982 lbs.	39,383
Paper, toilet	92 lbs.	11
Paper, board, n.e.s.	180,914 lbs.	18,695
Fiber insulation board	248,891 sq. ft.	53,666
Paper sheathing and building	327,000 lbs.	7,909
Box board, n.e.s.	147,157 lbs.	6,094
Blotting paper	10,868 lbs.	6,835
Filing folders, cards and other office forms.	37,500 lbs.	10,619
Writing paper	18,603,029 lbs.	3,128,385
Vulcanized fiber sheets, etc.	10,044,901 lbs.	2,454,153
Papeteries	2,675	296
Paper and paper products, n.e.s.		385,871
Paper bags, excl. heavy shipping	210 lbs.	19
Paper cash-register, adding machine	227,145 lbs.	61,657
Paper boxes and cartons, n.e.s.	1,236 lbs.	373
CHEMICALS		
Acetic acid	132,9[illegible] lbs.	27,505
Acetone	26,834,746 lbs.	2,275,677
Acetophenetidine	26,815	21,074
Acetylsalicylic acid (aspirin) tablet		475
Acetylsalicylic acid in bulk	44,578 lbs.	149,358
Acrylonitrile	2,345 lbs.	1,055
Alcohols, n.e.s	701,408,317 lbs.	94,941,346
Alcohol, denatured, solidified	1,822,551 lbs.	188,032
Aluminum compounds, n.e.s	1,082 lbs.	621
Aluminum chloride, anhydrous	158,661 lbs.	14,845
Ammonium compounds, n.e.s		105,775
Ammonia, anhydrous	459,811 lbs.	95,911
Ammonia, aqua	3,998 lbs.	318
Ammonium bicarbonate	100 lbs.	13
Ammonium carbonate	2,581 lbs.	1,250
Ammonium chloride	302,100 lbs.	15,507
Ammonium nitrate	4,113,567 lbs.	492,096
Amyl acetate	56,890 lbs.	8,543
Aniline oil	7,009,316 lbs.	962,718
Antimony salts and compounds, n.e.s	122 lbs.	536
Acetic anhydride	438,720 lbs.	40,749
Acids and anhydrides, n.e.s	1,026,661 lbs.	123,126
Acids and anhydrides, inorganic, n.e.s	659,134 lbs.	126,406
Arsenious oxide	50,824 lbs.	50,814
Baking powder	54 lbs.	12
Benzocaine, benzoate, etc.	25,453 lbs.	129,038
Benzoic acid tech. and med. gr.	9,803 lbs.	4,284
Benzol or benzene	1,634 gal	878
Bleaching powder	30,730 lbs.	2,131
Boric acid	1,8[illegible]8,257 lbs.	94,953
Bromine, bromide, bromides, n.e.s	169,101 lbs.	76,784
Borax, S	17,967,832 lbs.	6,426,372
Butanol	14,384,133 lbs.	3,039,314
Butyl acetate	11,193,203 lbs.	2,147,276
Calcium nitrate	4,940 lbs.	1,745
Cerium salts and compounds	22 lbs.	2,308
Caffeine	82,422 lbs.	212,018
Caffeine salts and compounds	52,225 lbs.	194,129
Calcium carbide	1,696,791 lbs.	93,114
Calcium chloride	1,747,249 lbs.	21,981
Camphor, natural, synthetic	3,224,821 lbs.	1,373,322
Carbon, black or gas black	5,065,003 lbs.	312,866
Carbon tetrachloride	109,788 lbs.	8,445
Carbons, animal charcoal, n.e.s.	27,234 lbs.	3,312
Casein	148,364 lbs.	54,230
Castor oil	240 gal	458
Cellulose acetate flake, etc.	5,117 lbs.	2,123
Cellulose acetate sheets, etc.	285,270 lbs.	245,676
Cellulose plastic mold comp.	1,359 lbs.	812
Cellulose plastic film support	225,992 lbs.	249,480
Cementing preparations, n.e.s.	312,081 lbs.	22,750
Chemical specialty compounds, n.e.s.		2,315,756
Chemical pigments, n.e.s.	92,583 lbs.	34,817
Compounds for sealing cans	224,775 lbs.	40,807
Chlorine	2,000 lbs.	400
Chrome pigments	51,426 lbs.	11,746
Chromic acid	50,989 lbs.	8,759
Chromium salts and compounds, n.e.s.	150,000 lbs.	34,805
Citric acid	2,138,555 lbs.	715,641
Cleaning and washing compounds, specialty.	39,729 lbs.	6,495
Coal-tar acids, n.e.s.	101,428 lbs.	31,211
Coal-tar colors, dyes, stains and color lakes.	2,627,410 lbs.	1,108,534
Coal-tar dyes, n.e.s.	407,184 lbs.	489,258
Coal-tar, crude	17,203,267 lbs.	694,768
Coal-tar intermediates, n.e.s.	6,703,480 lbs.	1,938,035
Coal-tar products, finished, n.e.s.	1,790,573 lbs.	1,498,912
Color lakes and toners	23,147 lbs.	17,719
Copper salts and compounds, n.e.s.	42,875 lbs.	32,659
Copper sulphate	230,140 lbs.	12,557
Cresylic acid and cresols	340,677 lbs.	53,108
Cupric oxide	4,194 lbs.	1,105
Dental creams	78 lbs.	68
Dextrine or British gum	18,100 lbs.	989
Dibutyl and diethylphthalate, etc.	12,497,577 lbs.	2,755,952
Dimethylaniline	4,350,417 lbs.	957,918
Diphenylamine	3,130,720 lbs.	600,908
Disinfectants, household and industrial, etc.	603,451 lbs.	132,895
Dyeing, tanning extracts, n.e.s.	9,672 lbs.	7,648
Elixirs, liquid solutions, n.e.s		6,758
Ester gums	60,000 lbs.	14,127
Ethyl acetate	12,419,432 lbs.	1,632,875
Ethyl ether	2,288 lbs.	502
Ethyl fluid	558,766 gal	2,055,864
Ethylene chlorhydrine	301,860 gal	63,465
Ethylene dibromide	3,734,900 gal	720,128
Ethylene glycol	43,319,367 gal	5,124,760
Ethylene glycol	3,174,020 lbs.	343,554
Fish oils and concentrates	744,200 gal	3,372,847
Flavoring extracts, natural	1,162 gal	17,127
Flavoring extracts, synthetic	4,865 gal	29,075
Flavor and perfume mat., synthetic, n.e.s.	280,750 lbs.	290,587
Floor wax and polishes for wood furn	151 gal	48
Formaldehyde, 40 percent solution	192 lbs.	27
Triethyl phosphate	26,248 gal	6,693
Gaseous refrigerants, n.e.s	20,849 gal	5,802
Gases, liquefied and solid, n.e.s	412,381 gal	297,233
Gases, lung irritant, n.e.s.	5,190 lbs.	8,261
Gases, screening smoke	110,215 lbs.	7,930
Glandular products, etc		944,747
Glycerin	4,794,752 lbs.	1,001,189
Glycerin, 100 percent glycerol basis	25,976,878 lbs.	4,639,518
Helium gas	56,640 cu. ft	948
Hexamethylene tetramine	25,447,742 lbs.	5,364,296
Hydrochloric acid	192,505 lbs.	12,499
Industrial chemicals, n.e.s		2,810,455
Insecticides, etc., household and industrial.	12 lbs.	2
Iodine, n.e.s	15 lbs.	32
Iridium salts and compounds	1 lb	124
Indigo, synthetic	4,489 lbs.	3,453
Kalsomine o. c. w. paints, dry	34,236 lbs.	11,786
Lacquers, nitrocell clear	13,598 gal	27,050
Lacquers, nitrocell pigmented	2,276 gal	3,335
Lampblack	89,753 lbs.	8,434
Licorice extract and mass		12
Litharge	9,704 lbs.	1,567
Liquid gum inhibitors		87,002
Logwood extract	42,620 lbs.	9,211
Manganese chloride	11 lbs.	8
Manganese salts and compounds, n.e.s	10 lbs.	13
Medical chemicals, household, in small pkgs., liquids.		449
Medicinal chemicals, household, in small pkgs., solids.		7,008
Medicinal chemicals for prescription use, n.e.s.		7,763,950
Mercuric chloride	465 lbs.	1,162
Mercury salts and compounds, n.e.s	570 lbs.	1,308
Metal working compounds	1,357,724 lbs.	189,152
Methanol	4,830,148 gal	1,526,629
Methanol	1,256,097 lbs.	591,856
Methyl ethyl ketone	70 lbs.	27
Methylmethacrylt forms, not laminated	749,503 lbs.	709,899
Methyl methacrylate molded	24,858 lbs.	23,930
Methyl methacrylate not molded	71,301 lbs.	59,682
Methyl methacrylate unfabricated	107,823 lbs.	101,825
Mineral oil, white	15,050 lbs.	5,289
Molybdenum trioxide	300 lbs.	529
Mucilage, all types	2,300 lbs.	4,986
Naphthalene	22 lbs.	6
Naphthol and flakes, beta	275,840 lbs.	64,246
Nickel salts and compounds, n.e.s	100,100 lbs.	35,036
Nickel chloride	600 lbs.	660
Nickel oxide	1,100 lbs.	386
Nickel sulfate	22,000 lbs.	2,970
Nicotine sulfate	168 lbs.	140
Nitric acid	52,117 lbs.	7,433
Nitrocell solution not over 12 percent sol.	57,215 lbs.	37,143
Nitrocell solution, over 12 percent sol.	93,791 lbs.	24,189
Nitro derivatives of benzene, etc.	760,330 lbs.	109,083
Nitrogen, chemical materials, n.e.s.	1,191,757 lbs.	38,887
Nylon	250 lbs.	138
Ocher, umber and iron oxide, n.e.s	122,557 lbs.	5,366
Organic chemicals, n.e.s	8,100,468 lbs.	4,197,742
Oxalic acid	23,450	2,726
Paints, bituminous liquid plastic		188,274
Paints, colors, paste, oil, n.e.s	2,341,892 lbs.	279,679
Paints, etc. ready mixed, n.e.s	176,211 gals.	298,321
Phenol, carbolic acid	17,906,825 lbs.	9,755,822
Phenolformaldehyde fab. mold	26,635 lbs.	24,369
Phenolformaldehyde forms, lam	1,690 lbs.	7,162
Phenolformaldehyde resins	999,930 lbs.	151,800
Phosphoric acid	248,665 lbs.	63,446
Phosphorus, elemental	1,174,524 lbs.	180,796
Phthalic anhydride	134,400 lbs.	18,145
Petroleum oil sprays, agricultural	832 gals.	996
Picric acid	3,309,490 lbs.	715,942
Pigments, mineral earth, n.e.s.	2,160 lbs.	39
Plasters, n.e.s		90,325
Polyisobutylene	118,600 lbs.	48,386
Polymers, etc. fabricated and unfabricated	3,046,893	948,982
Polymers of styrene, etc	135,949 lbs.	95,956
Polishes, automobile	480 lbs.	75
Polishes, metal and stove	4,650 lbs.	500
Potassium compounds, n.e.s	696,938 lbs.	163,655
Potassium bicarbonate and mix	81,817 lbs.	8,182
Potassium bichromate chromate	2,084,471 lbs.	257,717
Potassium bitartrate and mix	4 lbs.	3
Potassium bromine	85,583 lbs.	22,515
Potassium bromide	369,702 lbs.	80,817
Potassium carbonate and mix	1,568,116 lbs.	104,550
Potassium chlorate and mix	2,013,317 lbs.	231,665
Potassium chromium sulfate	150,000 lbs.	19,454
Potassium cyanide and mix	18,640 lbs.	11,001
Potassium hydroxide	471,082 lbs.	67,985
Potassium nitrate pp May 1, 1937	1,302,462 lbs.	88,369
Potassium nitrate, n.e.s	3,778,284 lbs.	254,842
Potassium permanganate and mix	228,864 lbs.	43,907
Potassium sulfate	290,125 lbs.	40,496
Proprietary medicinal preparations, n.e.s.		802,922
Pyroxylin plastic film support	383,628 lbs.	300,881
Pyroxylin sheets, rods, etc.	439,095 lbs.	321,928
Photographic chem. coaltar	5,235 lbs.	7,448
Phenolphthalein	326 lbs.	347
Quinine salts, n.e.s	17,750 oz.	15,946
Quinine salts, compounds, n.e.s	185 oz.	817
Reagent chemicals for laboratory use		143,513
Reagents, synthetic collecting	6,870,336 lbs.	1,370,859
Remedies, materia, etc., n.e.s.		117,276
Red lead, dry	253,000 lbs.	23,813
Red lead, in oil	440,682 lbs.	46,430
Resins, alkyd	1,458 lbs.	427
Resins, gums, synthetics, n.e.s.	335,903 lbs.	89,056
Resins, synthetic, n.e.s., forms, laminated.	68,367 lbs.	59,602
Resins, synthetic, n.e.s., forms, nonlaminated.	185,968 lbs.	180,555
Resins, tar-acid, n.e.s.	580,014 lbs.	156,086
Resins, urea	50,001 lbs.	21,525
Rhodium salts and compounds	1 lb.	165
Rochelle salt	400 lbs.	290
Rubber compound agents, n.e.s.	845,885 lbs.	371,990
Rubber compounding agents	998,237 lbs.	437,886
Salicylic acid tech. and med.	215,800 lbs.	57,395

Item	Quantity	Cost in dollars
Salves, ointments, balms, etc.		44,463
Serums, antitoxins, human use		2,109,323
Scouring bricks, paste, etc.	74,060 lbs.	13,605
Soda lime	7 lbs.	3
Sodium benzoate tech. and med.	4,523 lbs.	2,095
Sodium bicarbonate	31,000 lbs.	2,151
Sodium bichromate and chromate	3,173,204 lbs.	233,509
Sodium bromide	1,050,112 lbs.	281,530
Sodium carbonate calcined	4,300,205 lbs.	87,292
Sodium chlorate	600 lbs.	450
Sodium compounds, n.e.s.	2,754,447 lbs.	272,651
Sodium cyanide	1,960,250 lbs.	198,119
Sodium hydrosulphite and compounds	391,650 lbs.	9,401
Sodium hydroxide	195,405,715 lbs.	4,224,739
Sodium nitrate 8 May 1, 1937	52,700 lbs.	3,532
Sodium phosphate	50,125 lbs.	3,294
Sodium silicate	35,104 lbs.	1,313
Sodium tetraborate	52,393 lbs.	4,182
Starch	48 lbs.	4
Strontium nitrate	23,275 lbs.	6,793
Strontium oxylate	24,000 lbs.	9,892
Strychnine and salts thereof	950 oz.	953
Sulfathiazole	27,195 lbs.	28,303
Sulfathiazole and derivatives	4,300 lbs.	30,272
Sulfadiazine and derivatives	7,971 lbs.	92,065
Sulfonamide drugs, n.e.s.	119 lbs.	510
Sulphuric acid, fuming	218,448 lbs.	19,392
Sulphuric acids, n.e.s.	900,908 lbs.	62,197
Tablets, powders, ointments, n.e.s.		1,777,296
Tantalum salts and compounds	550 lbs.	900
Tartaric acid	246 lbs.	201
Textile specialty compounds, n.e.s.	11,343 lbs.	5,632
Theobromine and salts and compounds	59,122 lbs.	132,317
Theophylline salts thereof	64 oz.	28
Thiokol	2,022 lbs.	1,001
Thinners for nitrocell lacquers	7,942 gal.	7,466
Tin chloride	77 lbs.	95
Tin oxide	1,000 lbs.	520
Titanium dioxide and pigments	20 lbs.	2
Toluene, toluol	19,986,672 lbs.	12,116,708
Tungstic acid	2,250 lbs.	6,886
Urea	21,000 lbs.	916
Vaccines, human use	13,035 lbs.	800,497
Vanadium oxide		21,197
Vanadium salts and compounds, n.e.s.	4,944 lbs.	24,743
Vanadium sulfide	1 lb.	10
Vanillin	28,352 lbs.	64,331
Varnishes	52,327 gal.	82,314
Vitamins and vitasterols, n.e.s.	2,285,641 lbs.	22,454,053
Water softeners, etc.	2,630,151 lbs.	277,264
White lead, dry	34,823 lbs.	3,527
White lead, in oil	1,568,542 lbs.	135,947
Witherite	11,200 lbs.	336
Xylene, xylol	5,737 lbs.	1,600
Zinc oxide	32,629 lbs.	3,305
Zinc salts and compounds, n.e.s.	7,705 lbs.	6,683
Zinc sulfate	28 lbs.	8
LEATHER GOODS		
Wearing apparel	1,333	3,238,486
Boots and shoes, men's	5,396,651 pr.	22,773,758
Shoes, infants, children	45,373 pr.	50,781
Boots and shoes, youths and boys, women and misses.	150,297 pr.	499,020
Footwear, leather sole and upper	1,356,395 pr.	5,687,539
Leather, calf and kid skin	5,281,631 sq. ft.	1,645,944
Leather, upper, n.e.s.	21,272,175 sq. ft.	6,613,801
Leather, for soles	51,918,361 lbs.	23,507,190
Sole leather, bends, back and sides	16,848,339 lbs.	7,841,336
Leather, for soles, outer	5,736,567 doz. pr.	23,003,594
Leather, cut stock, excl. outer sole	doz. pr.	5,705,334
Discontinued models, old styles and second-hand shoes.		128,472
Leather case bag and strap	345,147 sq. ft.	152,767
Leather belting, new	361,902 lbs.	438,642
Belting leather, n.e.s.	118,562 lbs.	66,135
Belts to be worn, leather		1,595,893
Sole and belting leather offal, skirt., neck, belly.	2,862,385 lbs.	1,080,089
Leather, cattle side	10,096,372 sq. ft.	3,021,723
Goat and kid, excl. bl.	428,870 sq. ft.	132,942
Leather lining, ex. sh. and lamb	125	94
Leather and tanned skins, n.e.s.		491,068
Leather manufactures, n.e.s.		14,866
Luggage	82	858
Fur manufactures, n.e.s.		4,750
FOODSTUFFS		
Meat, canned, n.e.s.	72,000 lbs.	25,762
Poultry, live	6,300 lbs.	7,384
Beef and veal, fresh or frozen	89,238 lbs.	13,786
Beef and veal, pickled or cured	32,400 lbs.	6,383
Pork, pickled, salted, fresh, frozen	529,814,747 lbs.	77,010,566
Hams and shoulders, cured	27,355,903 lbs.	8,794,783
Bacon	70,531,571 lbs.	11,790,369
Cumberland and Wiltshire sides	40,000 lbs.	10,400
Sausage, bologna, etc., not canned	1,301,439 lbs.	477,075
Sausage ingredients, cured	573,031 lbs.	82,876
Meats, n.e.s., includ. smoked poultry	33,610,181 lbs.	16,130,915
Beef, canned	16,710,448 lbs.	4,735,745
Pork, canned	297,186,838 lbs.	123,784,465
Sausage, bologna, etc., canned	583,479,422 lbs.	204,150,308
Chicken, canned	108,793 lbs.	46,879
Other canned meats, excl. chicken	2,405,696,825 lbs.	183,764,722
Tushonka, canned	166,650,966 lbs.	70,335,231
Fish, canned	291,277 lbs.	41,882
Eggs dried	232,459,249 lbs.	230,800,963
Eggs in the shell	1,883 doz.	4,038
Milk and cream condensed	60,019,643 lbs.	9,027,160
Milk and cream evaporated	8,942,706 lbs.	4,905,667
Milk, dried whole skimmed	159,921,528 lbs.	30,804,577
Butter	217,660,666 lbs.	103,673,250
Butter oil, and butter spreads	7,111,737 lbs.	4,168,845
Oleo oil, edible, oleo stock, edible, tallow, edible, lard, incl. neutral, oleomargarine.	791,822,417 lbs.	124,387,146
Cheese, processed, blended spreads, cheese, n.e.s.	79,926,896 lbs.	21,904,957
Gelatin, edible	18,690 lbs.	16,653
Meat extract and bouillon cubes	685 lbs.	1,185
Other edible animal products, n.e.s.		222,593
Infants' foods, malted milk, etc.	115,663 lbs.	21,022
Barley	477,301 bu.	707,672
Buckwheat	5,744 bu.	17,446
Corn	30,429 bu.	194,230
Hominy and corn grits	1,645,021 bu.	45,600
Kafir and milo	142 bu.	870
Oats	120,830 bu.	91,231
Oatmeal, groats and rolled oats, in bulk, in packages.	50,539,897 lbs.	2,220,748
Cornstarch and corn flour	478,692 lbs.	36,663
Paddy or rough rice	9,089,681 lbs.	478,984
Milled rice, incl. brown rice, broken, etc.	126,387,292 lbs.	7,893,998
Rye	10,268 bu.	36,300
Wheat	1,512,973 bu.	2,119,872
Wheat flour, n.e.s.	26,929 bar.	147,509
Wheat flour, wholly of U.S. wheat	7,806,589 bar.	34,527,968
Macaroni, spaghetti, etc.	353,224 lbs.	53,103
Wheat cereal foods, ready to eat	171,734 lbs.	19,088
Wheat cereal foods, to be cooked	1,496,043 lbs.	100,795
Wheat semolina	57,869,814 lbs.	2,514,115
Cereal foods, n.e.s.	15,613,037 lbs.	1,462,145
Grains and preparations, n.e.s.		4,199,246
Feeds, n.e.s.	11,253 tons	714,120
Beans, dry, ripe	492,521,079 lbs.	30,353,423
Beans, seed	11,974,704 lbs.	2,353,676
Peas, dry, ripe	59,116,953 lbs.	3,423,782
Peas, seed	16,324,197 lbs.	1,863,607
Chickpeas	80,000 lbs.	6,557
Onions, fresh	661,932 lbs.	43,157
Tomatoes, fresh	126 lbs.	12
Potatoes, fresh white	4,919,062 lbs.	227,601
Vegetables, fresh, n.e.s.		169,212
Canned vegetables and juices	33,339,138 lbs.	3,491,283
Pickles, cucumber	136,021 lbs.	27,174
Tomato table sauces	636 lbs.	133
Mayonnaise and salad-dressings, sauces	52,261 lbs.	10,333
Olives	71 lbs.	33
Vinegar	128,890 gals.	112,459
Yeast	1,590,587 lbs.	504,036
Pineapples	26 boxes	211
Vanilla beans	730 boxes	7,102
Apples	3,653 boxes	15,423
Lemons and limes	595 boxes	4,969
Oranges, tangerines, and grapefruit	810 boxes	4,884
Pears, fresh or frozen	750 boxes	75
Sugar	1,019,602,323 boxes	59,128,817
Honey	29,693 lbs.	10,770
Molasses	18 gals.	14
Glucose, dry	35,110 lbs.	3,686
Coffee, roasted	2,055,552 lbs.	354,612
Coffee extracts and substitutes	15,782 lbs.	4,919
Chocolate candy, candy excl. chocolate, confections, n.e.s.	946,464 lbs.	196,927
Chocolate and cocoa	62,696 lbs.	16,121
Cinnamon, cloves, unground spices, pepper.	596,861 lbs.	130,824
Fruit juices	724,234 gals.	1,537,036
Canned fruits	92,454 lbs.	10,839
Fruit preparations, n.e.s.	12,060,382 lbs.	342,861
Preserved fruits, jellies and jams	6,858,277 lbs.	392,757
Dried and evaporated fruits	4,372,578 lbs.	780,880
Vegetables, dehydrated—other preparations.	43,590,879 lbs.	28,791,213
Nuts and preparations, n.e.s.	6,056,758 lbs.	1,015,846
Biscuits and crackers	89 lbs.	30
Corn cereal food, ready to eat	83 lbs.	22
Farinaceous substances	30 lbs.	8
Edible oils and cooking fats	235,115,716 lbs.	37,996,441
Soya flour, edible	103,772,226 lbs.	4,718,512
Wheat flour, wholly of U.S. wheat	2,050,613 cwt	8,276,256
Beverages, syrup and flavors	286 gals.	433
Bananas, fresh	40,136 lbs.	2,571
Sunflower seed, oil, edible	11,685,500 lbs.	1,989,663
Tea	311,913 lbs.	229,716
Coffee, green	6,598,709 lbs.	941,969
SEEDS		
Grass and field, n.e.s.	12,154,657 lbs.	2,085,546
Timothy	4,127,285 lbs.	396,567
Alfalfa	459,851 lbs.	190,945
Red clover	1,298,906 lbs.	372,281
Clover, excl. red	1,094,148 lbs.	269,287
Red top	277,013 lbs.	123,282
Kentucky blue grass	475,438 lbs.	197,765
Carrot	1,985,485 lbs.	2,330,066
Vegetable, n.e.s.	11,651,470 lbs.	11,665,584
Sugar beet	90,506 lbs.	53,322
Digitalis	22,135 lbs.	14,164
Soy bean	669,841 lbs.	65,823
Seeds, hemp, perilla, poppy, etc.	1,094,976 lbs.	319,004
Nursery greenhouse stock, n.e.s.		7,867
OILS, RESINS, ETC.		
Linseed oil, crude	530,771,576 lbs.	78,213,761
Cottonseed oil, crude	2,524,536 lbs.	413,457
Tung oil	75 lbs.	71
Soybean oil, crude	8,260,581 lbs.	1,084,986
Castor oil, commercial	1,483 lbs.	257
Vegetable oil foots, excl. olive	1,346,195 lbs.	175,057
Coconut oil, crude	75 lbs.	15
Citrus oils	93,200 lbs.	139,485
Oil of citronella	1,000 lbs.	3,750
Oils, natural, essential and distilled, n.e.s.	7,268 lbs.	46,767
Oils, blended, etc., perfume flav	9,600 lbs.	52,500
Quebracho extract	32,033 lbs.	2,979
Crude drugs, herbs, etc. n.e.s	153,198 lbs.	90,369
Fish oils, inedible	446,021 lbs.	95,594
Oleic acid or red oil	1,400 lbs.	136
Hog grease and wool grease	145,387 lbs.	40,679
Animal greases, fats, inedible, n.e.s.	718,474 lbs.	93,968
Glue, animal, excl. casein	18,069 lbs.	1,650
Casein glue and inedible	2,905,592 lbs.	611,693
Pine, oil pine, oil prod., etc.	92,080 lbs.	101,082
Tar and pitch of wood	500 lbs.	31
Expressed oils and fats, inedible, n.e.s	82,036,224 lbs.	11,173,362
Wood rosin bbl. 500 lbs. gr. wht.	18 lbs.	1
Rosin, n.e.s.	200 lbs.	18
Gums and resins, n.e.s.	44,132 lbs.	14,430
Resins, natural, refined or modified	35,342 lbs.	29,768
Shellac bleached and unbleached	4,998 lbs.	3,037
Animal products, inedible, n.e.s.		810,978
GENERATING EQUIPMENT		
Batteries	1,775,640	4,278,997
Batteries, storage, flashlight, dry multiple cell.	3,711,893 cel.	4,957,434
Battery chargers, complete, non-rotating.	2,748	335,296
Capacitors, ½ kva and over	2,269	185,216
Condensers, heaters, acc. and parts		12,924,077
Electric generating sets, Diesel engines	6,285	62,538,679
Generators	6,214	222,020,760
Generator accessories and parts, n.e.s		11,728,204
Self-contained lighting outfits, n.e.s	1,862	1,192,713
Power transformers, over 500 kva	696	6,161,470
Distribution transformers, not over 500 kva.	1,297	1,094,501
Instrument transformers	753	70,965
Transformers, n.e.s	24,248	1,182,489
Mercury power rectifiers	484	438,774
Rotating converters	13,784	18,178,498
Steam turbine generator sets	991	63,860,334
Welding sets	4,689	7,309,158
PHOTOGRAPHIC SUPPLIES		
Cameras, motion picture, 35 mm.	4	7,656
Cameras aerial, excl. aircraft	28	38,366
Cameras, aerial, aircraft	20	6,931
Cameras, prof. scientific, etc.	55	35,527
Cameras, gun	3	1,700
Cameras, excl. motion picture, n.e.s	178	4,651
Parts of cameras, excl. lenses		149,476
Motion picture sound recording equipment.		112,443
Projectors, motion picture, 35 mm	15	5,058
Projectors, motion picture, 16 mm silent.	8	2,400
Projectors, motion picture, 16 mm sound.	8	4,973
Screens, motion picture		24,762
Parts for printing, etc.		5,279
Film, sensitized, 35 mm pos.		178,001
Film, sensitized, 35 mm neg.	2,811,545 lin. ft	59,007
Film, sensitized, 16 mm pos.	1,103,000 lin. ft	10,755
Film, sensitized, 16 mm neg.	335,464 lin. ft	4,715
Film, sensitized, 8 mm neg.	6,500 lin. ft	260
Motion picture sound reproduction equipment.		24,156
Motion picture rolls, sensitized	67,560	927,370
Motion picture sound track, exposed neg.	8,000 lin. ft	80
Motion picture sound track, exposed pos.	8,274 lin. ft	165
Dry plates	1,462 doz.	6,273
Motion picture features, 34 mm, exposed.	846,566 lin. ft.	40,010
Motion picture features, 16 mm, positive.	20,836 lin. ft.	20,836
Motion picture short subjects, 35 mm	336,000 lin. ft.	2,500
Motion picture short subjects, 16 mm	27,328 lin. ft.	3,028
Motion picture short subjects, 35 mm	429,300 lin. ft	5,466
Motion picture trailers	256 lin. ft.	29
Film X-ray sensitized	30,674	182,988
Film X-ray, packs of sheets	370	100
Photographic paper	752,752 lb.	557,936
Photographic supplies, n.e.s.		3,735,191
Carbon brushes and stock	150,143 lb.	451,777
Carbon electrodes, n.e.s.		69,879
Cement, white, nonstain and other	576 bbl.	5,298
ITEMS LISTED AS "MISCELLANEOUS" BY RUSSIANS, WITH AND WITHOUT QUANTITIES		
Radio sets and equipment		52,072,805
Pottery and glass, n.e.s.		1,268,530
Salt	4,413,836 lbs.	149,104
Fire brick, silica, n.e.s.		791,905

Item	Quantity	Cost in dollars
Binoculars, microscopes, and accessories.		1,531,652
Asbestos products		642,970
Carbon or graphite products		4,968,423
Graphite, crystal amorphous	50,108 lbs.	10,831
Graphite electrodes for furnace, or electrolytic.	21,131,124 lbs.	2,980,891
Graphite electrodes, n.e.s		138,676
Laundry sinks, fixtures, n.e.s		6,352
Marine engines, detachable	1,197	294,524
Marine engines, n.e.s	2,234	11,420,239
Cars, railway, freight, over 10 tons	9029	31,429,043
Lighting devices, battery, etc		110,398
Fire-fighting equipment, excl. automotive.		534,490
Battery, electrical		5,383
Electric wiring supplies, etc. n.e.s		519,570
Neon tubes electrode sections		1,547
Diamonds for industrial use (carat)	168	1,284
Diamond grinding wheels	285 lbs.	55,780
Electric apparatus and parts n.e.s		5,981,840
Electric welding machines	220	64,107
Parts of elec. p.d. portable tools		141,391
Testing machines, tension, etc	414	309,786
Parts of elec. welding sets		88,089
Coal, bituminous and anthracite	25,574 tons	344,686
Typewriters and parts	273	41,133
Vehicles and parts n.e.s		127,445
Winches and parts		8,470
Wheelbarrows, push carts and trucks		19,746
Roofing materials		31,439
Asphalt and bitumen manufactures, n.e.s.		94
Emery powder	328,350 lbs.	32,818
Quartz piezo el frag.	cont. units	210
Nonmetallic mineral products, excl. precious.		377,441
Cryolite natural	23,550 lbs.	3,148
Magnesite brick and shapes	107,966 lbs.	4,223
Mineral wax excl. paraffin	4,156,631 lbs.	545,104
Mica, manufactures or manufactures of, n.e.s.		93,027
Magnesia and manufactures	177,410 lbs.	18,743
Mineral insulating materials		118,879
Military items, n.e.s		1,789,085,783
Radio ground equipment, aircraft		4,541,082
Wheels, turbines and parts, water		472,245
Internal-combustion engine, accessories and parts.		13,336,863
Internal-combustion engines	13,191	77,610,696
Stationary motors	40,924	11,179,433
Terra cotta manufactures, roof-tile		24,798
Stone manufactures, n.e.s		11,432
Grindstones	127,748 lbs.	48,290
Equipment (R.R.) and parts, railway car.		7,391
Railway parts		780,864
Railway signals		9,914,560
Cars, railway, freight, not over 10 tons	565	134,116
Cars, railway motor maint. etc.		20,952
Steam locomotives and engines	1,168	101,075,116
Locomotives	117	2,624,182
Locomotive parts and accessories		2,175,075
Locomotive frames, cradles, etc		577,427
Steam engines	66	1,532,166
Steam engines, n.e.s., and parts		486,124
Steam boilers, fire, water tube	475,251 sq. ft	1,175,338
Condensers, heaters, accessories and parts.		4,963,417
Tube boiler gauge glass	60	194
Steam specialties and parts		5,077,762
Concrete and cement manufactures		27,051
Cement refractories	1,023,012 lbs.	191,569
Ceramic refractories	12,800 lbs.	759
Sterilizers	16,188 lbs.	2,107,350
Surgical and medical instruments		7,015,192
Surgical appliances		497,998
Fire clay	42 tons	14,468
Abrasives, natural and artificial, n.e.s		17,053,409
Surveying equipment and levels	803	191,125
Optical lenses, not fitted to instruments	209	11,977
Excavator and construction equipment		48,569,181
Mining and smelting equipment		66,159,901
Pumps and spare parts		12,450,744
Asbestos textiles, automotive		16,812
Merchant vessels	121	123,803,879
Motor trucks, buses and chassis		508,367,622
Tractors and parts		23,998,280
ITEMS LISTED BY RUSSIANS AS "MISCELLANEOUS" FOR 1945 ONLY, WITH AND WITHOUT QUANTITIES		
Polymers of styrene, etc.	66 lbs.	50
Electric wiring supplies apparatus and parts, n.e.s.		1,979,407
Steam engines, mech. and turb. locomotives, parts, frames, cradles, etc.		79,427,657
Pumps, centrifugal, rotary, etc. and parts.		6,417,175
Woodworking machinery and parts		280,128
Ball bearings, parts, except balls		206,481
Ball bearings, parts, rollers		6,055,945
Air compressors, etc. and part		4,139,033
Paint spraying equipment and parts		938
Industrial instruments, n.e.s		679,157
Outboard motors and parts, n.e.s		16,369
Iron and steel pipe valves, bodies, n.e.s		6,274,655
Machines, measuring, precision, furnaces, metal-working, industrial, parts, n.e.s.		9,200,0001
Guns, ground inf mach. 50 cal	3	1,986
Automatic arms, parts		178,216
Parts, accessories for inf. weapons		1,294
Parts, accessories for fld. art.		66,777
Guns AA, 90 mm	21	1,544,847
Anti-aircraft parts, accessories		1,139,654
Guns, airc. 20 mm, HS801	50	45,100
Guns, airc. 37 mm, M4	63	144,562
Parts, aircraft armament		599,187
Parts, tank armament		207,446
Parts, naval guns		181,393
Tracers, 50 cal.	96,600 rnd.	22,702
Armor-piercing cart. 50 cal.	191,800 rnd.	33,086
Incendiary, cart 50 cal.	191,800 rnd.	33,086
Components for small arms, tank guns, shells, etc.		6,970,174
Powder, smokeless	22,075,681 lbs.	4,757,604
Dynamite	10,781,450 lbs.	1,049,469
Explosives, sim. blast gelatine	34,000 lbs.	7,480
Trinitrotoluene (TNT)	31,831,984 lbs.	2,653,679
Explosives, n.e.s.	2,793,977 lbs.	446,212
Safety fuses	66,590,000 lin. ft.	650,632
Blasting caps	10,800,500	272,875
Bombers, medium, 2 engine	163	29,634,139
Bombers, light, 2 engine	97	10,854,705
Bombers, U.S. patrol, 2 engine	54	9,646,885
Fighters, pursuit, 1 engine	1,701	101,219,909
Transports, heavy, 2 engine	1	265,783
Transport, medium, 2 engine	287	28,319,277
Trainers, advanced, 1 engine	54	1,260,954
Parts, accessories for bridge building		195,913
Equipment kit mess field baking		1,389
Equipage military, n.e.s.		253,338
Small arms equipment		7,275
Rifle parts and accessories		7,386
Parts, fittings, parachute, n.e.s.		39,512
Eng. radl. not over 1,830 pd.	154	1,156,427
Eng. radl. over 1,830 in pd.	100	2,153,461
Eng. not over 1,340 in pd.	19	418,000
Eng. not over 1,830 in pd.	537	8,504,554
Carb. cowls, valves, etc., aircraft		623,672
Part, aircraft engines, n.e.s.	7,092,001	
Automatic pilots for aircraft	5	2,250
Aircraft gyro instr.	3	3,150
Aircraft navig. instr.	4,402	483,354
Directors, n.e.s.	4	62,000
Parts, for directors		95,150
Sights, artillery	500	447,007
Sights, n.e.s.	2	245
Parts, telescope, periscope, sights		11,711
Equipment fire control, n.e.s.		176,673
Radio ground equipment, aircraft		6,183,340
Navigational instruments, n.e.s.	1,638	267,743
Quadrants gunners and range	180	4,725
Compass magnetic gyroscopic	1,015	95,878
Listening devices, sub		52,251
Tachometers, excl. aircraft	464	31,012
Trainers, aircraft pilot	1	23,160
Parts, military semi-trailers		106,948
Mobile communications units	134	4,807,982
Tanks, light, n.e.s.	4	212,501
Tanks, heavy, over 40 tons	1	96,886
Trans-rec. tank radio sets	20	25,898
Parts, tank radio sets		6,677
Eng. light, medium and heavy tanks	889	2,514,214
Eng. parts, light, medium and heavy tanks.		208,864
Parts, tanks, n.e.s.		5,615,155
Propellers and blades, boat	23,312	23,410
Vehicles and parts, n.e.s.		26,690
Ready mixed paints, stains, enamels	28,622 gals	49,356
Pigments, chrome 10 percent chrome	9,374 lbs.	2,249
Pigments, chemical, n.e.s.	12,022 lbs.	7,735
Paint, colors, paste oil n.e.s.	668,409 lbs.	75,551
Water paints, dry	22,400 lbs.	1,960
Lacquers, nitrocell pigmented	4,650 gals.	20,903
Lacquers nitrocell clear	396 gals.	857
Varnishes, oil spir. nat. syn.	8,387 gals.	10,991
Sodium nitrate, n.e.s.	1,049,200 lbs.	72,804
Equipment, dairy, farm—cultivators, planters, mowers, harvesters, binders, threshers, etc.		25,778
Machine parts, agricultural, except tractor.		34,549
Machinery and implements, agricultural, n.e.s.		4,002
Passenger cars, and chassis	34	77,786
Airc. radio trans. and rec. sets	1,094	1,163,680
Airc. radio trans. and rec. set pts.		4,399,394
Directors, range finders, airc.		19,150
Trans. etc. self-synchronous, airc.		29,175
Instruments and parts, airc., n.e.s.		264,614
Propellers, aircraft	553	1,756,048
Parts, accessories, propellers, aircraft		3,882,345
Bomb rack cont. etc., aircraft		2,902,980
Sights, bomb, aircraft	49	156,800.
Other aircraft parts and accessories, n.e.s.		17,441,735
Motorcycles, parts, and access., n.e.s.		3,647,804
Vessels, merchant	31	15,990,324
Boats, motor torpedo	63	14,726,843
Launches, standard, navy	7	551,398
Craft, naval landing	41	3,896,645
Watercraft, naval, n.e.s.	7	133,115
Parts, naval craft, excl. engine		4,138,652
Engines, marine, detachable	852	152,748
Engines, marine, n.e.s	669	2,759,268
Cars, railway, freight, over 10 tons	2,478	9,079,786
Cars, railway, freight, not over 10 tons	1	14,820
Equipment and parts, air brake, railway car.		12,806
Railway parts, etc., excl. axles		54,287
Railway signals, parts, etc		1,461,751
Pushcars and hand trucks	75	4,959
Wheels, n.e.s.	20	118
Carriers, universal, ordnance	3,887	6,574,555
Engines for universal carriers	400	212,240
Parts, universal carriers, engines		21,882
Parts, universal carriers, n.e.s.		2,145,129
Cars, scout, excl. armored	4,559	6,518,925
Vehicles, ordnance, combat, n.e.s.	608	5,871,493
Parts, ordnance combat vehicles		6,621,190
Trucks, art repair	10	112,506
Trucks, machine shop	140	1,838,483
Trucks, small arms repair	72	623,910
Trucks, tank maintenance	39	410,729
Trucks, tool and bench	39	442,167
Trucks, welding	30	654,459
Trucks, wrecking	14	154,090
Trucks, service and repair, n.e.s	160	1,518,643
Parts, ordnance, service trucks		88,730
Trailers, 40 ton tank transport	55	284,061
Trailers, military, n.e.s.	435	1,911,410
Parts, accessories, military trailers		192,930
Trailers, semi T-4, W-van	2	21,704
Trailers, semi-military, n.e.s.	604	1,569,131
JORDAN'S SPECIAL		
Household and personal effects		86,646
Cigarette cases, compacts, etc		25,230
Jewelry, men's except metal		26
Jewelry findings, parts, material		311,695
Buttons of materials, n.e.s.	5,457 gr	52,885
Findings, shoe, excl. leather and rubber		109,371
Eyeglasses, n.e.s. and frames		169,806
Teeth	13,328	956
Clocks, electric	13	210
Clocks and parts, n.e.s.		48,418
Clocks, mantel, novelty and wall	4	20
Chronometers, marine	6,133	258,537
Time recording devices, n.e.s		59,516
Watches with jewels	9,126	143,922
Watch parts		50
Glassware, table, n.e.s. machine made	60,272	15,068
Glass rolled	28,205 sq. ft	7,480
Soap, toilet and fancy	6,222 lbs.	874
Soap, laundry	2,475,979 lbs.	222,351
Soap, powdered or flaked	102 lbs.	17
Scouring bricks, pastes, etc	12 lbs.	3
Soap, n.e.s.	67,589 lbs.	7,006
Lipsticks		400
Malt liquors, whiskey, dist. liquor, wines, n.e.s. others.	373 gals.	2,079
Rum	55 pfg	466
Smoking tobacco	4,079 lbs.	3,520
Cigars and cheroots	2 (M)	109
Cigarettes	5,729 (M)	11,959
Fishing tackle, n.e.s		57,444
Books, bound, excl. educational		234,853
Stereopticons, magic lanterns, etc.		161,046
Amusement park and playground devices.		4,352
Artwork, antiques, etc		100
Lamps, lanterns, parts, gasoline		27,201
Office supplies		23,110
Ink, writing	581 lbs.	342
Ink, printing and lithographic	22,091 lbs.	20,595
Carbon paper	13,256 lbs.	14,042
Typewriter ribbons	155 doz	651
Pencils, not mech.	3,653 gr	24,533
Pencils, mech. plastic and non-plastic	230 doz.	1,383
Pencil leads	1 gr	5
Pens, fount. and stylo, plastic and nonplastic.	51 doz.	3,599
Pens, points, metallic	231 gr	553
Penholders, n.e.s		242
Ink, excl. writing, ptg. and lithog		4,538
Paste and mucilage	1,736 lbs.	289
Machines, calculating, accounting, etc., n.e.s.		34,483
Duplicating machines		13,863
Office appliances, typewriting, printing		59,479
Phonograph records		12,409
Pianos, new	2	538
Phonographs, except coin-operated	4	67
Band percussion instruments		330
Band woodwind instruments	51	6,534
Musical instruments, n.e.s.		1,630
Musical instruments, parts, n.e.s.		51,720
Merchandise value $10 or less		36,083
All other articles, n.e.s.		32,752
Plans, aircraft photo and blueprint		6,500
Newspapers, current		3,155
Roofing asphalt	2,000 sq. ft.	5,640
Platinum, bar, ingot, sheet, etc.	75 Troy oz.	12,043
Platinum allied manufactures, excl. jewelry.	66 Troy oz.	714
Gold manufactures, n.e.s.		438
Bank vaults, doors and equipment	1	92
Fire-resistant safes, vault doors, fire-resistant.	1	138

Item	Quantity	Cost in dollars
Bathtubs, iron and steel enameled bath	10	590
Household heating-boilers and warm air furnaces	6	8,832
Pipes, tobacco	1	10
Shotguns	1	25
Relief or charity, 1942		10,457,417
Relief or charity, 1943		19,089,139
Relief or charity, 1944		25,479,722
Relief or charity, 1945		33,674,825
Total "relief or charity"		88,701,103

¹ "n.e.s." stands for "not especially specified," throughout.

EXHIBIT 6

[From Rear Admiral M.W.W.P. Consett, "The Triumph of Unarmed Forces," London: Williams and Norgate, 1928]

PREFACE

With the causes that led to the outbreak of the Great War (1914-1918) this book is not concerned. That our statesmen did everything possible to avert the catastrophe is accepted as historical fact. Nor could this country honourably have held aloof. The war, however, was prolonged far beyond the limits of necessity. It is the causes that led to the undue protraction of this struggle that are made the subject of examination and comment in this book: for the exhaustion of war destroyed the fruits of victory by bringing economic defeat alike to victor and vanquished in the battle of arms.

When Germany drew the sword in August, 1914, it is beyond all reasonable doubt that its work was to be short, sharp and decisive; and that it was to be returned to its scabbard—for a time—pending preparation for a future task. It is certain that Germany was neither prepared nor equipped for a struggle of four years' duration.

"If we don't get to Paris in thirty days, we are beaten," Wangenheim had told me in August, and, though his attitude changed somewhat after the battle of the Marne, he made no attempt to conceal the fact that the great rush campaign had collapsed, that all the Germans could now look forward to was a tedious, exhausting war, and that all which they could obtain from the existing situation would be a drawn battle. "We have made a mistake this time," Wangenheim said, "in not laying in supplies for a protracted struggle; it was an error, however, that we shall not repeat. . . ."[1]

England's entry and the battle of the Marne had placed all hope of an early decision for Germany out of the question; and the problem with which Germany was faced from the very beginning was an economic one: she was not self-supporting, and the supplies upon which she depended for feeding, clothing and munitioning her armies, and for supporting her civil population, had to come from overseas.

The four years' Great War was a struggle for the mastery of these supplies. The essence of war, it is generally held, lies in the application of force, and in the acts of unbridled violence to which license is given. But in 1914-1918 the clash of arms, the destruction of cities and even the passing subjugation of smaller nations were not the sole determining factors of an issue in which one half of the more highly organized nations of the earth sought to impose its will upon the other half. In a war of lesser magnitude and shorter duration, and with the seas open, they might have been. The real struggle itself was unaccompanied by any single act of violence; yet it was more deadly in its passive relentlessness than the military forces and engines of war, on which the whole attention of the world was exclusively riveted.

For more than two years Germany maintained an unequal economic struggle with us: she suffered famine, but she won through. In 1917 she sealed her own doom by declaring war upon all merchant vessels in the waters round the British Islands; for by this act trade with the outside world overseas was virtually stopped. British trade with Germany's neutral neighbours, which had continued throughout the war, ceased. America entered the arena and Germany was reduced to starvation; her troops left the fighting line in search of food.

It is the story of this unseen economic struggle that is here told. The story is as yet an unrecorded chapter in the history of the war. The very existence of the struggle is probably unsuspected by the majority of Englishmen.

The oversea supplies that reached Germany came mainly through Scandinavia[2] and Holland, passing through two stages in their journey: one by sea and one by land.

Taking these stages in order; over a certain part of neutral trade we possessed belligerent rights, sanctioned by international law, treaty and convention. The rules of naval warfare under which we had fought in the past gave us great power over netural trade with the enemy; but at our own suggestion they had been made to suffer fundamental alteration in the long period of peace following on the Napoleonic wars, which ended in the early part of the nineteenth century; much of our belligerent power had been voluntarily surrendered; and the Navy, on the strength of which the power to enforce these rights depended, had therefore been rendered partially impotent. During the war, and while the enemy was receiving the benefit of our surrendered rights, a series of efforts was made to retrieve them and to bring into use the rules of the past for the conduct of our naval warfare. This policy brought us into conflict with America. The new rules, of our own making, are chiefly contained in the Declaration of Paris (1856) and the Declaration of London (1909).

Having passed the scrutiny of the British fleet and found sanctuary in Scandinavia, merchandise, in its second stage, was free from further belligerent interference. Nevertheless there were at our command very powerful and effective coercive measures by which it could be controlled, and which could not be disregarded with impunity. Oversea supplies came not only from neutrals, but from Great Britain, and her Allies, including, it is to be remembered, Japan. Scandinavia was herself dependent upon oversea supplies for her industrial and economic existence. But she was dependent largely upon certain products of the British Empire and especially upon British coal. With our own goods we were free to do as we wished. Had there been certainty that our supplies would neither reach nor indirectly benefit Germany, there was every reason that trade with Scandinavia should have been encouraged. But from the very beginning goods poured into Germany from Scandinavia, and for over two years Scandinavia received from the British Empire and the Allied countries stocks, which, together with those from neutral countries, exceeded all previous quantities and literally saved Germany from starvation.

Our trade with Scandinavia was conducted and justified on the accepted security of guarantees that Germany should not benefit by it: here it is sufficient to say that this security was worthless.

A two-fold form of economic pressure could thus be brought to bear upon Germany: that by belligerent right, to which recent custom applies, in a generic sense, the term "blockade"; and that by the control of goods from the British Empire and Allied countries.

It had been the author's wish to avoid meddling with subjects whose discussion is recognized to be the exclusive monopoly of lawyers; but during the course of a three years' struggle by correspondence on the subject of the supplies that reached Germany he was given to understand that there stood insuperable difficulties in the way of taking preventive measures for their restriction; and, of these difficulties, that the chief lay in the attitude of America towards the subject of maritime rights.

It must be pointed out that maritime rights are slippery and elusive affairs and not very amenable to amateur treatment. They rest upon an international legal basis and lend themselves, from their ambiguity, to the most extravagant form of quibbling. They are admirably adapted to contradictory interpretation: and it was thus that they were interpreted by American and English lawyers according to their interests. If the American conception of maritime rights was alleged by H.M. Government to constitute an obstacle in the way of their conducting the blockade of Germany with greater vigour, and of preventing excessive supplies from reaching her, it would have been a bold man that would have ventured to challenge this assertion.

It is partly for these reasons that the chapters dealing with the correspondence that took place between H.M. Government and the Government of the United States have been included. The author has confined himself to a few cursory comments on the rival claims of the combatants during the course of the struggle. Unfortunately, before the climax has been reached, both combatants disappear from the paper, leaving it to the choice of fancy to pronounce upon the issue.

But during the course of this battle over our right to interfere with American trade—for that was the *casus belli*—the dispute assumed an unexpected and significant phase.

America, who had been very closely pressed on the subject of the alleged injury caused by our operations to her export trade, turned sharply round and requested information on the subject of British trade. While we were invoking the aid of maritime law in support of our right of interference with American commerce, we were ourselves competing in trade with America. American displeasure was understood during the war; but the cause behind it was not. It is not alone from the light thrown on this subject by the American correspondence that the author attributes the friction with America directly to our competitive trading: the nature of many of the commercial transactions that came under his personal observation in Scandinavia, not to speak of the personal opinions of Americans themselves both during and after the war, give strong support to this view.

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[1] "Secrets of the Bosphorus," by H. Morgenthau, American Ambassador at Constantinople. Hutchinson.

[2] For convenience' sake, when speaking of Scandinavia the author includes Holland in addition to Norway, Sweden and Denmark.

The remarks on oversea supplies to Scandinavia apply generally in principle to supplies to European countries bordering on the Mediterranean littoral. Neither these countries nor Holland, whose economic conditions resemble those of Denmark, have therefore been treated separately. The supplies through the Mediterranean were of far less importance than those through the North Sea.

It was not the friction caused by our trade and the consequent attitude of America towards the subject of our maritime rights; but it was chiefly our trade itself with Germany's neutral neighbours that undermined the power of the fleet, succoured our enemies and nearly led to our defeat.

During the debates that took place in the Houses of Parliament on our blockade policy great solicitude was shown by H.M. Government for the Scandinavian neutrals, whose cause was pleaded with considerable eloquence in support of their claim to our good offices in respect of trade.

But the sufferings of the Scandinavian communities were not caused by the naval operations of Great Britain, nor by the belligerent operations of any country; they were the direct result of the deliberate actions of their own people, who sent their goods to the lucrative markets of Germany.

The war brought to Scandinavia a period of unprecedented prosperity. During 1915 and 1916 she received supplies in excess of all previous quantities. There was a double irony in the situation: for although it was through our own trade only, whose ostensible object here was the mitigation of hardship, that the neutral profiteer was enabled to conduct his thriving business, yet the scarcity thus produced in the neutral country was attributed by the suffering people to the harsh conditions of the British blockade. There was a time when meat was so scarce in Copenhagen that butchers' shops had to be closed down: special fast trains packed with fish, the staple article of diet among many of the Danes, carried it to Germany when fish was unprocurable in Denmark; incidentally, be it mentioned, the trains were run on British coal and the fishing tackle was supplied by Great Britain: Swedish spindles were idle when the wharves and quays of Swedish ports were choked with cotton for Germany: and coffee, the favorite beverage of the Swede, was unobtainable in Swedish restaurants at a time when Sweden was exporting large quantities to Germany.

Germany's propinquity placed the Scandinavian States in a position that gave trading in any circumstances the character of a very hazardous enterprise, in which any doubt should have been resolved in favour of our fighting forces; but the magnitude of the traffic with Germany was notorious, and left no room for doubt that it was the pure growth of all Scandinavian oversea importations.

It is most difficult to reconcile statements made from time to time by H.M. Government on this subject. Thus, at one time, when the country was uneasy on account of the extent to which supplies were being allowed to reach Germany, we are given to understand that not much was going through neutral countries;[3] and at another, when the occasion required it, as it did during the diplomatic discussion with America in order to establish a claim for interfering with her trade, we learn that "it is common knowledge that large quantities of supplies have . . . passed to our enemy through neutral ports"; and that they—the ports—"have, in fact, been the main avenues through which supplies have reached the enemy."[4]

Without apparent discourtesy to either one side or the other it is not possible here to make appropriate comment.

Moreover, the policy of H.M. Government towards these neutrals did not conduce to the good understanding which it was desired should be established with them. The neutrals were proof against flattery, which they assessed at its correct value: they took our goods, and such of them as could be spared, if not sold to Germany, they used for Germany's benefit.

The author, who served as Naval Attaché in Scandinavia for six years, including the four years of war, can, he thinks, speak with some knowledge as to the general trend of Scandinavian opinion on the blockade policy of this country. It was, in his opinion, the universal belief that, should England become involved in a European war, Scandinavia would have to be prepared to make sacrifices. That all supplies from England would be cut off was not expected; but it was felt certain that the bare requirements of domestic consumption would in no case be exceeded.

The prestige of this country probably never stood at so high a level, and our naval strength was never greater than in August, 1914. With the help of our Allies we were in a position of advantage which the most extravagant optimism could never hope again to reach. If the name of England was not uttered with bated breath, it was mentioned with real respect. But when war broke out the extent of our traffic, which helped to swell the stream that poured into Scandinavia, amazed the Scandinavians. It was equally injurious as well in its moral as in its material effects, for it gradually stimulated the belief that necessity quite as much as philanthropy lay at its roots. Our prestige waned, and the belief was encouraged that it was no longer England but Germany that was to be feared.

Trade with Scandinavia continued unchecked for over two years: agreements by which neutrals engaged that Germany should not benefit by our trade were openly and continuously violated: representations, containing clear, authentic statements of facts, supported by trustworthy analyses of figures relating to the manner in which the raw materials and finished products from overseas passed in identical or similar form through Scandinavia to Germany, were disregarded.

When Germany was in the grip of famine and food riots had to be put down by the military, disaster was averted only by the prodigious supplies that passed into the country through Scandinavia. It is true that direct trade with Germany was forbidden, and that certain restrictive measures for the prevention of indirect trade were provided for by municipal legislation. Such measures, however, were inadequate: they proved to be no protection against their abuse. Moreover, the ulterior and dangerous uses to which almost all merchandise can be put in war time by a neutral bordering on enemy territory are multitudinous, and little appears to have been understood of the potential power for harm possessed by merchandise when it had reached Scandinavia; or of the manner in which it affected the economic situation of Germany, which it was the object of the blockade to exploit to our advantage.

The leverage that the control of our own supplies, especially coal, gave us, had it also been combined with a knowledge of the needs and the resources of other nations, was a weapon that could not have been resisted. There is probably no case in history in which the economic forces at the disposal of a nation on the outbreak of war have been so great as those that this country held in August, 1914.

It was only when, from sheer necessity, really effective pressure was brought to bear, both from the full exercise of our maritime rights and the right to control the distribution of the products of our own Empire, that the position of Germany—always desperate—became hopeless.

Whatever may be thought of the views of the author, it may be stated that his proposals for preventing supplies from reaching Germany were all carried out after the war had been in progress for two and half years.

Although our entry into the war came as an unwelcome surprise to Germany, yet it was a contingency for which she had made certain well-considered preparations. General von Bernhardi in his "Germany and the Next War"—a pre-war publication, referring to which General Ludendorff[5] says, "It would have been better if it had never been written"—observes, "It would be necessary to take further steps to secure the importation from abroad of supplies necessary to us, since our communications will be completely cut off by the English."

Bernhardi's view, which, like that of the Scandinavians, had been based upon England's naval record of the past, was wrong. But, that Germany should be able to obtain her supplies in war time, especially food and the raw materials for munitions, due provision had been made.

In 1909 there had been drawn up at Germany's suggestion a set of rules by which commerce in war time was given so great a measure of freedom as to render the power of our fleet, through which the right over commerce was exercised, almost useless. Wonder and mystery seem to have accompanied the Declaration of London, which contains these rules, throughout its career from the time of its inception up to the date of its final renunciation. It was brought into being in secrecy; its provisions, when known, were examined; and reasons so clear, forcible and convincing were brought to bear against it as to be unassailable. It was rejected by the House of Lords as being redolent of German suggestion and dangerous. Yet when this country became embroiled in war with Germany the Declaration of London, unratified and long considered dead, leaped into life, defied its detractors and started on a career of disaster which continued until the 7th July, 1916, the date on which it met its doom.

On 24th April, 1916, in a Memorandum presented to the U.S. Government it is stated:—

"The United States Government will, it is believed, agree with His Majesty's Government that no belligerent could in modern times submit to be bound by a rule that no goods could be seized unless they were accompanied by papers which established their destination to an enemy country. . . . To press any such theory is tantamount to asking that all trade between neutral ports shall be free, and would thus render nugatory the exercise of sea power and destroy the pressure which the command of the sea enables the Allies to impose upon their enemy."*

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[3] From speech of Lord Robert Cecil quoting Lord Faringdon, who had visited Scandinavia. (See Part II, Chap. XIII.) Parliamentary Debates, No. 158, p. 3194, 26th January, 1916.

[4] Cd. 8284, p. 24. H.M. Government to U.S. Government.

[5] "My War Memories." By General Ludendorff.

Article 35 of the Declaration of London tells us that the ship's papers are conclusive proof both as to the voyage on which the vessel is engaged and as to the port of discharge of the goods.

The one statement was made in war time, the other in peace time: the latter under German suggestion, the former under German coercion.

There are one or two words, however, to be said in favour of the Declaration of London: they come from Germany and will be found duly recorded. They furnish unimpeachable evidence of the tenacity with which Germany was prepared, at least in one case, to cling to her plighted word.

EXHIBIT 7

THE WASHINGTON FORUM, INC.

The Washington Forum has compiled the following list of American companies which have negotiated or signed agreements with Soviet trade organizations. Because of the tight control and release of information on the Soviet side and the desire of some American businesses to keep their negotiations secret for competitive reasons, this is neither a complete nor an authoritative list. Asterisks indicate those companies which have signed agreements of commodity sales or exchange or scientific and technological cooperation.

Abbott-Glass Company
Abex Corporation*
Acme Manufacturing
Air Industries Corporation*
Airoyal
Ajax Magnethermic Corporation*
Ajax Manufacturing Company*
Alaska Airlines
Albany International Corporation*
Allen Group
Alliance Tool and Die Corporation*
Allied International, Inc.*
Allied Steel and Tractor Products*
Allis Chalmers*
Aluminum Company of America*
American Air Filter Company*
American Beneficial Corporation*
American Can Company*
American Chain & Cable Co., Inc.*
American Express Company*
American Foreign Insurance Association*
American Import, Inc.*
American International Underwriters*
Americn Magnesium Company*
Amoco Chemicals
Ampex Corporation
Amprop
Amtel, Inc.*
Andeo Company*
Andero
Anderson IBEC
Annco Inc.*
Applied Magnetics
Armco Steel Corporation
Arthur Andersen and Company*
Associated Import, Inc.*
Astech Industries
Astor International
Astronautics Corporation of America.
Atlantic Richfield Company*
Atlas Fabricators, Inc.*
Avco
Avon Products, Inc.
Axelson, Inc.
Babcock and Wilcox Company
Bailey Instruments, Inc.
Baker Oil Tools, Inc.
Bechtel Corporation
Beckman Instruments, Inc.
Bel-Art Products
Belyarus Company*
Bendix International
Black-Russell-Morris*
Blaw Knox Foundry & Mill Machinery, Inc.*
Boeing Company*
Bordon, Inc.
Borg-Warner*
Bridgeport Machines*
Brown and Root, Inc.*
Brown and Sharpe*
Brown Boverie & Cie
Brunswick Corporation
Bryant Grinder Corporation*
Bucyrus-Erie Company
Bunge, Inc.*
Burford Corporation
Burr-Brown Research
Burroughs Corporation
Business Machines Corporation
Byron Jackson Pump Div., Borg-Warner*
CBS Records International*
C.E. Cast Equipment*
CMI Corporation*
C.N. Woods
C.R.C. Cross International
C. Jim Steward and Stevenson, Inc.*
Cabot Corporation*
Camco*
Cameron Iron Works*
Capitol Records, Inc.*
Carborundum Company*
Cardinal Scale Manufacturing Comany*
Cargill, Inc.*
Carpenter Technology Corporation*
Catepillar Tractor Company*
Celanese Plastics Company
Ceres International, Inc.*
Chemetron Corporation*
Chemical Construction Corporation*
Cheston Company
Chicago Bridge and Iron Company
Chilowich Corporation
Chilton Research Services*
Chromalloy American Corporation*
Chrysler Corporation*
Clearing Company
Cincinnati Milacron*
Cleveland Crane & Engineering*
Coca Cola Company*
Cohn Hall Marx
Collins Radio Corporation
Combustion Engineering, Inc.*
Condex Corporation
Connecticut International
Container Transport Internations, Inc.*
Continental Can Company
Continental Enesco*
Continental Grain Company*
Control Data Corporation*
Convair*
Cook Company
Cook Industries, Inc.*
Cooper Bessemer
Cooper Industries
Corning Glass Works*
Crankshaft Machinery Company*
Criminal Research Product, Inc.*
Cross Company*
Crucible, Inc.*
Delaval Turbine, Inc.
Detroit Edison Company*
Deutsch Industries
Dicalite Company
Direct Mail Advertising Association
Dow Chemical Company
Dow Corning Corporation*
Dresser Industries*
DuPont*
Dynatech Industries
E.G. & G., Inc.
EM & M
EMR Corporation
Eagle-Picher Industries, Inc.*
Eastern Airlines
Eaton Corporation
Edo International
El Paso Natural Gas Company*
Electronucleonics, Inc.*
Engelhard Minerals & Chemical Corporation
Epoi
Erie Foundry
Eurotank
Ex-Cell-o Corporation*
F.H. Maloney
FMC International*
Fellows Corporation (Springfield, Vt.)*
Fenn Manufacturing Company*
Fiat-Allis*
Firestone Tire & Rubber
Fleetwood Systems, Inc.
Ford Motor Company
Foster Wheeler
GTE Sylvania*
Gardner Denver
Garnat Grain Company
Garrett Corporation
Garston Thomas Company*
Gearhart-Owen, Inc.*
General Binding
General Dynamics Corporation*
General Electric Company*
General Fish Machine Company
General Magnaplate
General Mills*
General Motors Corporation
Gerber Products
Gettenburg Marine Company
Giddings and Lewis*
Giffels Associates, Inc.*
Girton Manufacturing Company
Gleason Company*
Gleason Works*
Graphic Science Company*
Grove Manufacturing Company
Gulf and Western*
H.K. Ferguson Company
Haliburton Company*
Hartford Insurance Company*
Hayes Corporation*
Herman Corporation
Hewlett-Packard Company*
Hill Acme
Hilton International
Hinds International, Inc.*
Holcroft & Company*
Holiday Inn*
Hooker Chemical
Honeywell, Inc.*
Howmet Corporation*
Hydraulic Press Company*
Hydrotech International*
IBM Corporation*
IBM World Trade Corporation
Illinois Central Industries*
Immedex Trade Company*
Industrial Chemical & Die Company, Inc.*
Industrial Nucleonics Corporation*
Infinetics, Inc.
Ingersol Milling Machine Company*
Ingersoll-Rand Company*
Instruments Systems Corporation*
Intel
International Engineering
International Harvester Company*
International Hotels
International Paper Company*
International Systems & Controls Corp.*
ITT*
Interpool, Ltd.
Intertex International, Inc.*

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* Cd. 8294.

J.I. Case Company
J.P. Pritchard and Company*
Johnson Division of Schlumberger
Jones and Lamson Division of Textron*
Joy Manufacturing Company*
Kaiser Aluminum and Chemical Corporation*
Kaiser Industries Corporation*
Kaiser Steel Corporation
Kearney & Trecker Corporation*
Kingsboro Machine Tool Company*
Koehring Company
Kolon Trading Company, Inc.*
Kraft Apparatus
Ladish Company
Landis Tool Company*
LaSalle Machine Tool, Inc.*
Leasco*
Lehman Brothers
Lexington Instruments, Inc.
Life Savers International*
Ling-Belt Speeder Div., FMC Corporation
Litsner-Smith Corporation
Litton Industries, Inc.
Lockheed Aircraft Corporation*
Logos Development Corporation*
Louis Dreyfus Corporation
Lummus Company*
Lykes Brothers Steamship Company*
MTS Systems Corporation*
M.W. Kellogg
Machinery Manufacturers Institute
Macmillan, Inc.*
Magnetic Corp. of America
Makandrius
Marsh Stencil Machine Company
Marsteller, Inc.*
Martin C. Dwyer, Inc.*
Martin Marietta Corporation*
McDonnell-Douglas
Mead Corporation
Measurex*
Minnesota Mining and Manufacturing
Monarch Machine Tool Company*
Monsanto*
Morrison-Knudsen Company
Nadler & Laremer
Nashua Corporation
National Broadcasting Company*
National Cash Register Company
National Engineering Company*
National Steel Corporation
New Britain Machine Company*
New Brunswick "Scientific Company"*
New Holland*
Noblement Refinif*
Norton International
Norton Simon, Inc.
Occidental Petroleum Company*
Oregon Metallurgical Corporation*
PPG Industries*
Pan American World Airways*
Pangborn Division of Carborundum Company*
Parsons and Whittemore, Inc.
Patent Management, Inc.*
Patterson Industries
Peco Corporation
Pellerin-Milnor Corporation
Pepsico, Inc.*
Perle-Youdene Company
Petroleum Engineering Publishing Company*
Philip Morris, Inc.*
Philipp Brothers
Phillips Petroleum Company
Photovolt Corporation
Pitney-Bowes, Inc.
Planet Associates Ltd.*
Polaroid Corporation*
Porter International Company*
Pratt and Whitney Aircraft*
Pratt and Whitney Machine Tool Division of Colt Industries, Inc.*
Precision Systems, Inc.
Prichard Rhodes*
Pullman, Inc.*
RCA Corporation
REA International Corporation
Ralph M. Parsons Industries
Raycon Corporation*
Raymond Loewy/William Snaith, Inc.*
Raytheon Company
Reda Pump Company, Div. of TRW*
Refrigeration for Science
Reynolds Metals Company*
Robin Company
Rockwell International*
Rohr Industries*
Rorer-Amchem
STD Research Corporation
Satra Corporation*
Scientemp Corporation
Shalko Systems*
Sheraton International
Signal Stat Company*
Singer Company*
Solar Div., International Harvester
Soviet Import-Export, Inc.*
Spectra-Physics
Sperry Rand
Sperry Remington
Sperry Univac
Stanford Research Institute*
Storage Technology
Strick Corporation*
Sunkist*
Superintendence Company, Inc.*
Susatronic Engineering, Inc.*
Sutter Products International, Inc.*
Swindell-Dressler Company*
Systron-Donner
TRW, Inc.*
Tasker Industries
Techno-metrics, Inc.*
Tektronix
Teledyne Titanium*
Telex Corporation
Tenneco, Inc.*
Terraspace, Inc.*
Texas Eastern Transmission Corporation*
Texas Instruments
Textron, Inc.
Thermo Electron Corporation*
Time Magazine
Titanium West Inc.*
Tower International
Transworld Airlines
U.S. Industries, Inc.*
Udylite*
Union Carbide Corporation*
Union Oil Company of California
Union Tank Car Company
United Aircraft Corporation
United States Radium Corporation*
Universal Oil Products*
Upjohn Company*
Urschel Laboratories, Inc.
Vacuum Industry, Inc.*
Varian Associates*
Vickers-Armstrongs, Ltd.*
Voice Identification
Vulcan Iron Works
WOS, Inc.*
Warner & Swasey Company*
Waterbury Farrel*
Wavetek
Welt International Corporation
Werson Company
Westinghouse*
Wheelabrator International, Inc.*
Whittaker Company*
Wickes Corporation*
Woodman Company

(Compiled by Thomas V. Lydon, September 1974)

EXHIBIT 8

[From Our Generation (Canada)]

VODKA-COLA: WHO REALLY BENEFITS FROM "DETENTE"?

(An interview with Charles Levinson. Charles Levinson is the Secretary-General of the International Federation of Chemical, Energy and General Worker's Union (ICEF) with headquarters in Geneva. His new book Vodka-Cola. (McClelland and Stewart) describes the new convergence between manufacturers of the West and Communist governments. This article comes from a press interview given in Geneva)

QUESTION. What does your title, 'Vodka-Cola', signify?

LEVINSON. The term is both a symbol of East-West integration at the level of the elites (the Western multinational business and financial elite and the Eastern bureaucracy), and an historical event which encapsulates many of the fundamental anti-democratic elements of the development of the trade detente, to which the political detente has become an instrumental appendage.

The original deal—the barter of bottles of Russian 'Stolnichakaya' Vodka in exchange for the 'secret formula' syrup with which to make Pepsi-Cola—is a fundamental step on the road to opening up full profit prospects for the multinational companies in an area of the world where money exchanges were not possible. It also entailed the establishment of bottling plants by the Pepsi-Cola Corporation on Russian soil, another previously unthinkable notion. The widespread barter trading, or counter-trading of which this was a single example, has now progressed to the point where Western multinational corporations are investing technology, know-how and capital equipment in Eastern Europe in return for a portion of plant output to sell at dumping prices on Western markets. The profitability for the Western firm lies, of course, in the fact that wage differentials are up to ten times lower in the East, whilst workforce discipline is strictly guaranteed by the authoritarian production partner.

Even more significant, however, than the mechanics of the economic transfer of production across ideological lines, are the shadowy relations between protagonists of the worlds of big business and politics which lie beneath the surface. The first Vodka-Cola deal was negotiated by Richard Nixon when he was still a salesman for Pepsi-Cola on his way to being President of the USA. The details of the story are told in my book of how the publicly anti-Soviet Nixon came to announce in 1971 the arrangement of the barter deal on behalf of his mentor and supporter Pepsi Chairman Kendall, a fervent admirer of Brezhnev and the Soviet system.

With the demise of Nixon, a new Vodka-Cola star arose. Carter was to raise the standard of Coca-Cola yet higher than that of Pepsi. Coca-Cola headquarters are established in Atlanta, Georgia, whence came Governor Carter with the full support of the Rockefeller/Coca-Cola establishment who saw in him an alternative to Ford in case of a Democratic victory—a "tails-I-win, heads-you-lose" situation in fact.

I have a whole section in the book dealing with Carter's 'Coca-Cola Cabinet'. The majority of people chosen for his new Administration were related to big Eastern-trading multinationals or to the clubs and foundations in which the denizens of the elitist 'Overworld' formulate policy, such as the Tri-Lateral Commission, Council on Foreign

Relations and the Rockefeller Foundation. As Pepsico executives left with the Nixon Administration, they were replaced by four more from Coca-Cola, including an Attorney General who was permitted to retain fourteen million 'Coke' shares.

Within a very short time a new deal was announced in which Coke would have the monopoly of drink inside the Moscow Olympic Stadium at the next Games, and a contract was signed for the manufacture and distribution of its 'Fanta' range throughout the USSR (cola being banned as already a Pepsi preserve). Next stop was the China deal which has recently hit the headlines.

Question. With your concentration upon the workings of "an elitist Overworld" and foundations and clubs of the rich and powerful, are you not giving us a massive "conspiracy theory"?

Levinson. "Conspiracy"—yes. "Theory"—no.

As I say in my book, decisions taken in the context of such vast operations, where questions of national diplomacy and high finance are hand-in-hand—the "Billion-Dollar World" as I term it—are, by the nature of our society, taken in secret.

No more than about 2,000 people in the world control the decision-making of the mightiest global companies and banks which in turn dominate lesser components of the economy. These people are multi-linked by ties of board membership or joint ventures into the power centres of politics and finance, through the select policy clubs and groups to which I have referred. These bodies exist; they have meetings; they even publish the occasional paper or press announcement. But their decisions and directions are inscrutable and far-reaching.

This is natural under the circumstances. Questions involving billion-dollar sums such as are involved in extensions of massive trading credits to the East, or fixing up a new multi-plant deal for establishing an automotive engineering capability inside ideological 'enemy territory' are considered too delicate for wide prior discussion, on grounds of the money risks involved alone. After all would it not be ridiculous and naive to suppose that deals of this magnitude were embarked upon without lengthy fore-thought, negotiation, planning and coordination between the parties concerned?

The dictionary definition of a 'conspiracy' is "A combining or acting together, as if by evil design." I think the circumstances I outline in 'Vodka-Cola' fulfill that definition to the letter!

'Theory', however, the book is not.

Throughout its nearly 400 pages you will find I simply present case after case of documented coproduction deals across the full range of multinational company operations in Eastern Europe and point to some of the lesser-publicised features of these arrangements. In the context of other historical and recorded events regarding some of the protagonists of these deals, the facts speak very loudly of the nature of the exercise being managed.

The book has a whole chapter on the background to the massive US-USSR grain deals, for example, in which high-level negotiations which were to have significant market effects were kept totally secret from the public until they had been completed. Even then, details of several billion dollars exchanged between the parties were never revealed.

For the Communist regimes, of course, the divulgence of information, especially to its own people, has never been an issue. The restriction and modification of information is an integral part of the functioning of the authoritarian state. But in those circumstances the 'conspiracy' takes the form of an ideological sellout—a tacit agreement to use its people as a cheap labour source for the growth and integration of the multinational companies. Decision-making inside Eastern Europe on matters of transideological trade is, if anything, even more centralized and restricted than in the West. And, as Brezhnev's personal stable of fast sports cars bears witness, the individuals involved are subject to similar personal indulgences.

Question. But would the fundamental anti-capitalist stance of the Soviet regime actually allow such linkages as you describe to take place?

Levinson. This is where the convenient semantics of political ideologues comes into its own. Whilst the Eastern regimes claim to be fighting 'capitalism' in the abstract, they seem very content to collaborate with individual 'capitalists' in the concrete form of multinational employers and financiers. David Rockefeller, Chairman of Chase Manhattan Bank and linked into the world's leading multinationals and power groups. (Chairman of the Tri-Lateral Commission, Bilderberg Club, etc.), inherits the family burden as arch-symbol of the capitalist exploiter. Yet Rockefeller is a direct partner of Brezhnev and the Communist clique, being instrumental in arranging multi-consortia credits to the USSR, fixing up deals and agreements in the spirit of Vodka-Cola. The tenant of number 1, Karl Marx Plaza in Moscow, is not as one might suspect, a primary institution of the Soviet State but Rockefeller's own Chase Manhattan Bank.

The separation between the ideology and the fact among the Eastern rulers is as great, if not greater, than that among the Western armaments manufacturers who hypocritically claim to be "fighting Communism", whilst investing heavily in the heartland of the "enemy".

A similar schizophrenia is apparent among Communist Party acolytes in the West. Whilst claiming to pursue their maneuverings within and around workers' organisations in the interests of liberating the masses, they receive a very large proportion of their income from the myriad capitalist undertakings which they have formed to further East/West trade. My book traces some of these links in the case of the Italian and French Communist Parties. The opening up of the trade detente has led to such ideological alliances as that which allows the large Italian corporations and Rockefeller international banks to assist in planning the entry of the Communist Party into the Italian government. The plain reason for this (openly stated by some top managers) is that they feel the Communist Party will be able to control and dominate the workers and limit (possibly even remove) free trade unionism, so that wage determination can be centrally controlled and strikes outlawed in much the same way as they are in Eastern Europe.

WHAT CONVERGENCE REALLY MEANS

Question. Would you deny, however, that the increase in East-West trade cooperation has helped detente, lessened the international tension and even looks likely (for whatever reasons of self-interest) to open up the Eastern regimes to liberalizing influences on such matters as "human rights", for example?

Levinson. I'm afraid I have to disagree with you. This theory of what has been termed "positive convergence"—authoritarianism being modified by Western, supposed "liberalism", and capitalism receiving lessons in socialist planning—is a myth which neither history nor current experience supports. I must tell you that unless steps are taken to democratize the whole process of international production, my own fears are that the two systems will mutually reinforce each other's authoritarian features, leading to a "negative convergence", rather.

First of all, the cooperative trade element is not simply an aspect of detente; it is the original reason for the political detente now being noisily, but incompletely cobbled together. My book 'Vodka-Cola' lists many examples of economic detente ("schizophrenia" would be a better word), which were negotiated back during the "cold war days", some 20 years ago.

Politics is very much a "Johnny-come-lately" in this area, as in most others. Politicians are not innovators but front men or international "Muppets" for forces and interests to which they are subordinate. My book makes the processes of this subordination clear—especially in relation to the question of "detente".

It is true that the two elites seem to have achieved a more accommodating diplomatic framework for cooperative trading by mutually defusing such confrontations as the Vietnam War or the Middle East, for example. It is also true, however, that the same period has seen a build-up in Warsaw Pact forces, the production of the MIRV missile, the Cruise missile, and the neutron bomb. Almost all the companies which manufacture the Western weapons and their guidance and delivery systems under the most lucrative conditions are also joint-venture partners of the trade monopolies of the supposed enemy. This goes for Rockwell International, General Electric, Lockheed, Raytheon, Control Data, Ford, General Motors, Chrysler, McDonnell Douglas and the Rand Corporation to name a few of the largest, all of whom have plants operating in Eastern European Communist countries from which they are reaping rewards in the form of cheap output for re-sale in the West.

In one recent Parliamentary Question in the British House of Commons, an M.P. elicited a confession that parts for cannon mounted on British NATO forces tanks were being made in the USSR because of more reliable delivery dates due to an absence of labour disputes.

With a mutual interest network of such proportions to defend, the threat of all-out war is evidently reduced.

The concept of "Peace" as a positive human aim, however, is sadly put at even greater risk by this very alliance of elites. By transferring their production facilities to Eastern Europe, the Western ruling elite has taken out a mortgage on the "gulags". It is by the suppression of workers' organizations and democratic opposition that the authoritarian regimes can provide such competitive wage and production costs to seduce the multinational investors. The threat of any disturbance to this authoritarian system would also threaten the recovery of the $100 billion and more credit extended to the East on the basis of these cheap labour pay-back guarantees. The tremors that any attempt at "liberalization" would cause in the capitalist world would create an unprecedented crisis of finance.

The big danger is that the threat of job losses in the labour-organised West may weaken democratic forces to the point where the multinational company interests may be able to introduce many of the constraints upon democracy and union organization that they benefit from in Eastern Europe and the other authoritarian environments in which they thrive.

This is the lesson that past experience teaches—certainly it does not give hope for a "liberalizing" influence. The same companies and banks that were busily touting the virtues of Hitler before the Holocaust are those who are now extolling the virtues of Brezhnev's communism—for the same reasons. Some of these companies were able to earn profits with Hitler throughout the War period. ITT factories in Germany were producing aircraft to shoot down Allied planes. Profits on these operations were gathered throughout the War in secret Swiss bank accounts.

Major munitions companies. Ford and General Motors, whose German factories were being used to manufacture the lethal Tiger and Panzer tanks which did such damage to American troops in the Battle of the Bulge, are now busily promoting their philosophies in the USSR and other authoritarian locations. Multinational investment strengthened but did nothing to liberalize Hitler in Germany, Mussolini in Italy, Franco in Spain, Salazar in Portugal, the Colonels in Greece, the Reich in South Africa or the myriad dictators in Latin America—they will similarly work against liberalization in the Communist regimes.

Carter's much-vaunted 'Human Rights Campaign' fits into this context as a deliberate smoke-screen. Despite the noise and the advance of East/West cooperation, there has been absolutely no responding loosening of civil or human liberties inside the area of Soviet influence, no emigration restrictions have been lifted, dissidents, racial minorities and especially elements seeking to form independent workers' organizations, have been even more strongly repressed. It would appear that Carter's purpose (and therefore the purpose of his business sponsors) in spotlighting this issue is to convince the US Congress that the Jackson-Vanik Amendment, which limits credit to the USSR and the extension of Most Favored Nation (MFN) trading status, is a barrier to economic detente and should be removed.

I predict that his appeal to Congress will be along the lines: "We have gone to the brink in our efforts to persuade the Soviets to liberalize their system but as you see this is not possible in the short term. By our insistence through the Jackson-Vanik Amendment on the emigration issue, we are endangering the far more important long-term question of trade detente. Remove this Amendment founded on an antiquated view of politics and open up the path to the extension of more credits and trading possibilities". The removal of the Amendment when it comes will also mean more profits from much lower tariffs for both the USSR and the Western multinational selling Russian-produced goods.

When two creatures of like species join together—the authoritarian multinational oligopolies with the authoritarian statists—we must expect a strengthening of the tendency. My warning is intended as a call to those with an interest in defending democracy to organize to fight this new alliance of authoritarians. There is no more meaning to "Left"/"Right" ideology in this context—there is only the continuing struggle of those below against the attempts at domination by those on top.

Politics has moved from the horizontal clash of alternative power elites to the vertical by virtue of the integration of ruling castes of both systems.

A DIRECT THREAT TO EMPLOYMENT

QUESTION. Regarding counter-trade and co-production itself; is it not true to say that the extensive orders of machinery and plant of all kinds by the Eastern partners provide a very substantial boost to employment in the most important capital goods sectors at a time when Western capitalism is otherwise creating a crisis of unemployment for workers?

LEVINSON. Although the production of capital equipment clearly gives a certain amount of employment for Western workers in the short term, this is really a Frankenstein monster situation. Already, the amount of employment generated in the engineering industry to produce turn-key installations in Eastern Europe (and now China) is outweighed by the job losses from the more labour-intensive factories downstream which are being shut down increasingly in such industries as rubber, textiles, glass, electronics, fibre production, fertiliser, clothing and so on. The installation of a factory is a one-shot operation; but the output from that plant will continue to flood out for a decade or more.

And we are now only in the early stages of the realisation of this trend—this is the point at which the new plants are being installed. The buy-back goods are only just starting to come back—yet already they are creating big problems in some markets, restricting drastically the potential for competitive production in the West based on more realistic wage rates.

This is because many of the plants now being built and installed in the East are in large measure simply replacements for plants which would otherwise have been built in Western Europe or the USA, for example, by the multinational companies—in that sense they are not "extra" boosts to employment in the capital sector, but they are a direct threat to employment in downstream industries.

Take, for example, the Levi-Strauss joint-venture in Hungary which produces jeans-ware for sale in the West, the Uniroyal tire plant in Poland which sells its output in France and other Western European markets, or the component factories of General Motors or Renault whose production is intended to be assembled into vehicles which are hardly even distributed in the East. All these (and my book is packed with hundreds more examples) indicate a worsening condition for job losses in the West as a result of this co-production dumping.

QUESTION. Since your book was prepared, the phenomenon you describe has been extented to China with whom the USA now has diplomatic relations and with whom the West is opening up similar trading arrangements to those negotiated in Eastern Europe. How does this fit into your thesis?

LEVINSON. These developments (which are predicted, incidentally, not only in 'Vodka-Cola' but in my first book 'Capital, Inflation and the Multinationals' published as long ago as 1971,) totally confirm the 'Vodka-Cola' thesis of integration of controlling elites and the servitude of politics to multinational business.

The very same companies who were first to establish deals in the Soviet enclave are featured in the recent rash of announcements of cooperation projects in regard to China.

It emerged, for example, that the Coca-Cola deal had been negotiated over a ten-year period. Only when it was ready for signature did Carter arrange political recognition and bring down the trade barriers.

In the case of China, however, there is at present room for an element of optimism. The vastness of the country, and the different, dispersed peasant base of its revolutionary development have not as yet allowed the establishment of a totally centralized State/Party monolith intolerant of discussion or opposition and in sole command of internal development. The potential still exists, in theory at least, for the new industrial revolution (of which the Western technological imports are a feature) to foster the formation of democratic, open and self-expressive workers' organizations to maintain and advance conditions and benefits for those involved in the production processes. Against this hope, of course, is the knowledge that the Western multinationals will now be seeking to replicate the situation from which they profit so hugely in Eastern Europe—namely another immense fund of docile, low-paid, State-directed labour. This is an urgent challenge for democratic advancement in this emergent continent.

CAPITALIST OWNERSHIP IN THE "WORKERS' STATE"

QUESTION. How can you charge that there is an integration by Western multinational companies into the U.S.S.R. regime when the Soviet constitution specifically denies these firms any rights of ownership in the Soviet Union?

LEVINSON. That is mere semantics, bearing no relation to the prevailing reality. The companies are de facto partners in the plants which their technology and technicians build, for which their banking coordinates extend credits, for which their technical personnel train Soviet workers in production methods and from which they take a proportion of the output under a signed agreement valid in international law. None of the elements of ownership are lacking.

In Poland, in Hungary, Roumania and Yugoslavia, already the State Constitutions have even been changed to take cognizance of this reality—allowing 51/49 percentages in some cases and even 50/50 formal ownership and above in plant by capitalist and Communist cooperators on socialist soil. In the summer of 1976, after two years of study, Poland announced new joint-venture regulations which go much beyond those prevailing in any other country. Avoiding excessively detailed legislation such as exists in Hungary and Roumania, the decree for the first time permits a 100 percent foreign-owner company. Joint-ventures between multinationals and Polish organizations presumably of any proportion from 10 percent to 90 percent is authorized. Up to 50 percent of the companies' after-tax profits calculated upon Polish income tax regulations, can be repatriated in hard currency. The decree further permitted 100 percent-owned or joint-ventures to be undertaken by persons or corporations domiciled abroad. In the case of liquidation, the Western firm can repatriate the original investment plus its share of capital gains. The Soviet Union has received one or two major set-backs in the otherwise steady progress of counter-purchase and buy-back deals based on capitalist imported techology because of its opposition to meeting the Western multinationals' request for direct ownership of assets on Soviet soil. These problems have caused the Soviet Union to re-evaluate the question and studies have been carried out to determine what legislative changes may be necessary to allow foreign corporate presence, ownership and control along with the companies' technology which is being bought. So far advanced are the alliances of "Vodka-Cola" that this next step is likely to be a very short distance away. Already formal contracts exist between Western multinational companies and Soviet state foreign trade organizations establishing jointly-owned ventures in third countries (particularly in the developing world). For example, a US/Soviet fishing company (Sovrybflot) has been formed. The USSR's fishing fleet has been forming joint-ventures in Europe, Asia and Africa with local companies. The U.S. subsidiary is called US/USSR Marine Resources Inc. The American partner is Bellingham Cold Storage Company. Fish will be caught by American vessels and processed aboard Soviet floating fish factories. In these situations, the multinational companies bring their know-how and the FTO's bring their manpower and raw materials, while each share the profits.

Question. You say that the attraction for Western multinational companies of Eastern European production and buy-back is the low wages paid to Eastern European workers. In an economy where prices are totally administered centrally, might the low-priced product not simply be the result of a government decision to attract Western technology by granting a competitive price unrelated to actual production or wages costs?

Levinson. It is the nature of the "Vodka-Cola" transactions that the Eastern European regimes provide the predominant component of low-labour costs which is necessary to the whole operation. For the Western multinational companies, after all, there is little other attraction. The technology and know-how is Western, the machines are mostly Western-made, start-up costs are considerably dearer, operating efficiencies are lower and land and buildings are a relatively insignificant factor.

The only accounting item to show a more profitable result, therefore, is labour costs. The cheap wage incorporated-labour element in the end-products of counter-purchase, co-production and joint-venture is the fundamental "comparative advantage" in the commitment of capitalist technology to Eastern Europe. Without this advantage and the credits, industrial cooperation would not take place. Cyrus Eaton, the renowned Cleveland millionaire capitalist, President of Yale & Town Co., and an intimate and long-standing friend and colleague of the Rockefellers and the Soviet rulers alike, put it succinctly in a statement in 1970. Commenting upon his negotiations of a $40 million 50/50 venture tire plant in the East, he explained that the Communist state partner would "own and operate the plant, supplying the operational management and labour". His own Western half would be located in tax-haven Switzerland which would market the tires everywhere in the West. "This enabled the Eastern country to earn hard currency and," as he explains further, "because of lower labour costs, the venture can sell tires cheaper than Western companies can." The Eastern European worker is donating his "socially necessary labour time" to swell the profits of Western multinational companies in direct competition with his Western brothers, but with the compulsion of his government and union.

From the point of view of the Eastern co-producer in a simple buy-Back deal—as opposed to a formal joint-venture—certainly the actual buy-back cost negotiated could be an artificially low one; but under any kind of Marxist or socialist analysis of the production process, it must be the East European worker who bears the brunt of such low pricing, since it is the results of his "socially necessary labour time" which is being bargained away. Price reductions below cost would simply mean an even greater downward pressure on wages somewhere in the system. For administrative clarity and controllability, however, this pressure is most likely to be applied at the point of production of the article in question.

Since the Eastern European regimes, apart from Yugoslavia, determine wage levels for each industrial category centrally, there is little chance of hiding or modifying substantially what the actual costs of labour in a particular operation are likely to be. Such figures are used as a regular basis to the East/West contract negotiation. The plain fact is that Eastern European wages are simply very, very low in comparison with anything the multinationals could find elsewhere.

Exhibit 9

[From The New York Times, Sept. 22, 1983]

Curb Asked on Trade to Soviet

(By Clyde H. Farnsworth)

Washington, Sept. 21.—The President's national security adviser, William P. Clark, has endorsed a proposed tightening of controls over exports to the Soviet Union, Administration officials said today. His action intensifies an interagency conflict over Washington's response to the Soviet downing of a Korean Air Lines plane.

Mr. Clark's intervention came in a letter to Commerce Secretary Malcolm Baldrige. The Commerce Department enforces the export controls and heads an interagency committee that makes policy recommendations.

The Clark letter supported the committee's recommendation of Sept. 13 that a more restrictive export standard be applied to 17 categories of oil and gas equipment.

AT ODDS WITH SHULTZ

Mr. Clark's position appears to place him in conflict with both Mr. Baldrige and Secretary of State George P. Shultz. Administration sources said Mr. Shultz was furious over the Sept. 13 recommendation.

The Administration officials said a Cabinet-level body, called the Senior Interagency Group on International Economic Policy and headed by Treasury Secretary Donald T. Regan, plans to take up the matter Friday.

Secretary Baldrige said through his press spokesman, B. Jay Cooper, that "we won't comment on a classified document." Robert B. Sims, the press liaison officer for Mr. Clark, declined comment.

It was unclear whether Mr. Clark was acting personally or for the President.

Officials said that a tightening of export controls would not affect sales to the Soviet Union of pipe-laying equipment made by the Caterpillar Tractor Company of Peoria, Ill. President Reagan approved the removal of such equipment from the restricted list on Aug. 20, in response to a recommendation from Mr. Baldrige and Mr. Shultz.

Because Mr. Reagan approved decontrol of the pipelayers, the inter-agency committee did not include them in its recommended tightening, but it decided not to extend decontrol to related equipment, such as pipe-laying barges.

Those who saw copies of the Clark letter said it urged Mr. Baldrige to let stand the bulk of the recommendations that were taken Sept. 13 by a sub-Cabinet interagency committee. The chairman of that group was Lawrence J. Brady, Assistant Secretary of Commerce for Trade Administration, a leading opponent of trade with the Russians. He has been supported by Richard N. Peale, an Assistant Secretary of Defense.

Mr. Brady's position is in sharp contrast to that of his superior, Mr. Baldrige. Mr. Baldrige and Secretary Shultz have generally favored trade in all but the most sensitive products on the ground that the Russians can buy most items in other countries.

Mr. Shultz and Mr. Baldrige have been working with American allies to make export controls international, in order to make them more effective. But Europe and Japan are reluctant to sever trade with the Russians.

The recommended export policy, unless overturned by the Cabinet and the President, would deny an export license for $40 million worth of oil exploration equipment and would place 17 products for oil and gas exploration under more rigorous national security export controls.

Under national security controls, the Defense Department, which has generally opposed most trade with the Russians, has a major say. Under foreign policy controls, in which these products are now listed, the State Department has a major say.

The advisory group that made the recommendations is made up of the Commerce, Energy, State and Defense Departments, the National Security Council and the Central Intelligence Agency.

The group's action was originally described as "technical" and was taken unanimously. However, two Administration officials, commenting separately and asking that they not be identified, said the impact could be far-reaching.

They explained that the items that would be shifted to the national security control list included many that were banned by President Reagan last year when he tried to discourage European support for the pipeline to bring natural gas from Siberia to Western Europe.

In June 1982, the President extended a ban on sale of American pipeline equipment to the licensees and subsidiaries of American companies abroad. Affected was such equipment as General Electric turbines and Dresser Industries compressors made by subsidiaries and licensees of the companies in Western Europe.

The European governments then ordered the companies within their jurisdiction to ship the equipment despite the American ban. President Reagan followed by imposing sanctions against the European suppliers.

COMPROMISE LAST NOVEMBER

American relations with the Europeans became ever more tense until November, when Secretary Shultz worked out a compromise in which the allies agreed to press for making the controls international through the Coordinating Committee of the North Atlantic Treaty Organization.

A State Department official said: "I am afraid that we may be embarking on the same course as we were last June."

An official from another agency, who asked that neither he nor the agency be identified, said "We were sandbagged by the hawks."

William A. Root, who is director of the State Department's Office of East-West Trade, tendered his resignation last week as a result of the committee recommendations.

But he was urged to reconsider, and said today that he is staying on the job for the time being.

[From the New York Times, Sept. 24, 1983]

Soviet Line Status Report

Moscow, Sept. 23 (Reuters)—Less than half the compressor stations on the Siberian-West Europe gas pipeline have been built, but the line is capable of delivering as contracted, the Minister of Oil and Gas Construction, Boris Shcherbina, said today.

He said at a news conference that the line was already capable of delivering nine billion cubic meters of gas a year whereas the contracts for deliveries to West Germany, France and other Western European customers called for only five billion cubic meters in 1984. Mr. Shcherbina said 17 out of a total 40 compressor stations would be finished this year and the remainder in 1984.

However, he said gas had already been pumped the length of the Soviet stage of the pipeline from the Urengoi gas fields in Siberia to Uzhgorod on the Czechoslovak border using compressors built for a parallel domestic pipeline.

He said a second gas pipeline from Siberia to Uzhgorod would be built within the next five-year plan, which runs until 1990, despite fluctuations in price and demand for gas.

[From the Journal of Commerce, Sept. 26, 1983]

Pipeline Extension Not Expected

(By Jess Lukomski)

Bonn.—A critical analysis of the Soviet-German natural gas deal suggests strongly that the Siberia to West Europe pipeline, in operation since the beginning of September, will not be expanded by the originally planned second strand in the foreseeable future.

This conclusion, claims Handelsblatt, West Germany's economic daily, emerges clearly from a report prepared by Dr. Axel Lebahn, until recently head of the Deutsche Bank representative office in Moscow.

Dr. Lebahn, Deutsche Bank's "man on the spot" during the crucial negotiations on the financing of the deal, is recognized as one of the Western experts best informed about the pipeline project.

In his report, Mr. Lebahn grants that it is impossible to arrive at an exact assessment of economic advantages and disadvantages of the project. However, he notes that the controversy connected with it and the temporary boycott by the United States have resulted in great "friction losses" to all participants.

The exact calculation of the pipeline's economic utility would be made only by the Soviet side. But Moscow's evaluation is certain to be nonobjective and would be looked at with a great deal of caution.

In Mr. Lebahn's opinion, it is difficult to prove that the gas deal has resulted in unilateral advantages for the Soviet Union and a one-side dependence of the West on the Soviet energy supplies.

Subsequently, it cannot be argued that contractual obligations assumed by Western partners will by necessity lead to their accommodating conduct in relation to the Soviet Union. But it is clear that the Soviet Union has squeezed from Western firms and banks conditions that must be seen as a giveaway from the economically sound point of view.

This was possible because Soviet negotiators, cleverly exploiting their monopolistic power, have played off against each other the squabbling Western governments and companies, explains Mr. Lebahn.

In negotiations conducted almost parallel with several competing countries and firms, the Soviet delegation could virtually dictate to all Western competitors almost simultaneously the optimal partial bids received as its highest acceptable price.

Subsequently, Western companies were repeatedly underbidding each other and have settled, according to the calculations of Deutsche Bank, "up to 60 percent" below the originally quoted prices.

It is not surprising, therefore, that many Western companies involved in the gas pipeline project are suffering from "a severe hangover," Mr. Lebahn claims. Some have indicated having second thoughts whether tedious and costly efforts in cultivating the Soviet market are worth their salt.

Yet, so far, no major German company has abandoned its Soviet business even though they all realize that profit chances are very marginal as contrasted with efforts, expenses, and risks involved.

Mr. Lebahn also admits that, seen in retrospect, Deutsche Bank's involvement in the gas pipeline project appears to be also rather unsatisfactory. Generous state subsidies granted by Paris to French banks pushed down their interest rate for export credits to no more than 7.8 percent. German banks, including Deutsche Bank, were forced to match those conditions and to cover the additional cost through a surcharge on exporter's prices.

[From the Washington Post, Oct. 27, 1983]

Turf Squabbles and Inexperience Hamper Technology Guardians

(By Paul Mindus)

New York.—Turf wars between federal agencies and inexperience in enforcement of export laws are hampering efforts to halt acquisitions of U.S. high-technology secrets by the Soviet bloc, according to federal investigators.

Of some 450 investigations begun by the Customs Service since late 1981, there have been only 23 indictments and 13 arrests for illegal exports, Customs officials said.

Federal officials said their attempts to crack down on the sophisticated Soviet technology-transfer network have run into several problems, including:

A feud between the Commerce Department and Customs Service over which agency should police illegal exports.

Lack of uniform cooperation by U.S. allies in reviewing and enforcing controls on strategic exports.

Complaints from U.S. businessmen that export controls and seizures disrupt their business.

Despite these obstacles, federal officials say they are certain their efforts have made it more difficult for Moscow to acquire and rely on U.S. technology.

"Two years ago, anybody could export anything and nobody gave a damn," said Patrick O'Brien, the assistant regional Customs commissioner in New York. "We weren't even playing ball at all. We were watching the game."

Customs began "Operation Exodus" in late 1981 to block the diversion of U.S. secrets to Warsaw Pact countries through legal exports to western Europe.

The Customs investigations, possibly including decoy operations, are part of a multi-agency crackdown on illegal exports involving the FBI, CIA and Commerce Department.

The Warsaw Pact's extensive diplomatic and trading presence in New York—tied mostly to United Nations missions—is the focal point of what the CIA calls "very aggressive Soviet efforts" to steal military and computer secrets.

FBI Assistant Director Edward O'Malley said recently that, of more than 1,200 Soviet bloc officials in New York, 30 to 35 percent are engaged in intelligence-gathering activities coordinated by the KGB, the Soviet intelligence agency.

The KGB gathers information openly from magazines, computer conventions and congressional hearings, O'Malley said. "The covert side is where they attempt to recruit Americans who have access to critical technology," he said.

For example, he said, a Hughes Aircraft radar engineer gave 20 classified reports on future weapons systems to a Polish intelligence agent posing as a businessman. An April, 1982, CIA report said the data would save the Soviets hundreds of millions in research.

More recently, a California man, whose wife worked for a high-technology defense contractor was collared and accused of passing Minuteman missile secrets to the Soviets through Polish intermediaries.

To counter such activities, FBI agents use electronic surveillance to monitor Soviet officials' moves in America. FBI and Customs officials would neither confirm nor deny that they were trying to infiltrate the Soviet network with their own front or "sting-type" operation.

Both O'Brien and O'Malley said such a measure is feasible, however, and O'Malley, asked if a sting operation had produced any results, replied, "No, not yet."

Unlike other counter-espionage efforts, O'Brien said, "Exodus" puts a higher priority on preventing technological secrets from leaving the country than on arrest and conviction.

But Customs officials, in making 1,785 seizures of export cargo worth $99 million, angered U.S. businesses because 95 percent of those goods were later relicensed after costly delays.

The Commerce Department, responding to harsh criticism in Congress about its enforcement record, created an Office of Export Enforcement in May, 1982.

Deputy Assistant Secretary Theodore Wu, who heads the office, said Commerce's record was "damage assessment after the fact" rather than preventive steps or aggressive prosecution. But Wu said Customs alone should not enforce export controls.

The turf battle, he said, has not hampered the government's efforts against Soviet technology-transfer. But he said "performance would be significantly enhanced if the competition over the enforcement function was resolved."

Customs officials in New York and Washington voice frustration that their investigators cannot have ready access to all license-application information at Commerce. "I think there's no question we've had problems of coordination," said George Corcoran, Customs assistant commissioner for enforcement in Washington.

U.S. agencies also found varying degrees of cooperation among their allies abroad that makes the tracking of exports difficult in some countries, said O'Brien in New York.

The NATO countries and Japan, through a committee called COCOM, are supposed to cooperate to review sensitive technology exports to the Soviet bloc. "We've run into real problems with violators in other countries," O'Brien said. "It's very difficult with countries bordering the Soviet bloc, who would like to increase trade with the Soviet bloc. "It's very tough for them to say no."

Wu said the spirit of detente with the East in the 1970s led to lax U.S. export controls.

"Detente was really not only the diplomatic and international foreign policy with respect to East-West relations," he said. "It also dictated the tone of our trade policy, and I mean East-West trade."

Now, many federal agencies work against the KGB network. The FBI tracks Soviet bloc officials in the United States. The State and Defense departments review export applications with Commerce. The CIA provides information about Soviet technological interests and on export movements abroad.

FBI, Customs and Commerce agents have briefed more than 6,000 U.S. technology and defense-related firms on KGB efforts, and federal officials regard the private sector as a prime intelligence source.

Asked about Customs' success with "Exodus," Corcoran said, "We only started up in the last few months, and people already are asking about the success. It takes a long time to penetrate, and conduct covert operations. You can't look for instant gratification in this."

[From the Washington Times, Oct. 27, 1983]

Administration Blocks Attempt To Ban Soviet Imports

(By George Archibald)

Senior administration officials are trying to quash a proposed U.S. Customs Service ban against importation of Soviet products made with the help of political prisoners and other forced labor, The Washington Times has learned.

The effort to derail the import ban, drafted by Commissioner of Customs William van Raab, is being orchestrated by high-level officials of the State, Commerce and Treasury Departments, as well as U.S. Trade Representative William Brock and the Central Intelligence Agency, according to sources close to the dispute.

Opponents of the ban are said to oppose trade sanctions against the Soviets as a general principle and fear Soviet retaliation that might make it more difficult for the United States to collect intelligence.

Yesterday, 45 senators from both parties signed a letter to Treasury Secretary Donald T. Regan saying "the United States has a moral as well a legal obligation," to enforce a 1930 law banning the importation of products "mined, produced or manufactured wholly or in part in any foreign country by convict labor and/or forced labor.

"This would be true at any time but the need for enforcement is especially urgent now, in the wake of the Korean Air Lines massacre and mounting evidence of increased repression by the Soviet authorities of domestic human rights activists," stated the letter originated by Sen. William L. Armstrong, R-Colo.

Armstrong previously succeeded in forcing the State Department to issue a report last February describing the extent of Soviet forced labor.

"Soviet authorities still exploit forced labor on a large scale," acknowledged Undersecretary Lawrence S. Eagleberger in a letter accompanying the report.

"Forced labor, often under harsh and degrading conditions is used to execute various Soviet developmental projects and to produce large amounts of primary and manufactured goods for both domestic and Western export markets," he stated.

Eagleburger reported that the Soviets use a network of some 1,100 forced labor camps comprising about 4 million forced laborers throughout the Soviet Union. He said the system includes at least 10,000 political and religious prisoners.

The Customs Service import ban, drafted in the form of a "finding" for publication in the Federal Register, would cover about three dozen Soviet products, according to Treasury Department officials.

The products include automobile parts, electric motors, cathode-ray tube components, wire fences, camera lenses, steel drums and barrels, wood furniture, mattresses and clothing, the officials reported.

On Sept. 28, Raab sent the Customs ruling for department approval to John M. Walker Jr., assistant Treasury secretary for enforcement, the officials said.

However, it was sidetracked to the Senior Inter-Agency Group on International Economic Policy, composed of almost the entire Cabinet, the sources added.

One source said Secretary of State George P. Shultz "exploded" when he learned about the intended Customs action and that approval of the move has been shelved ever since. "There is no timetable for action on it," the source stated.

Armstrong said he was "disturbed about the implications (of the rumored senior-level delay) that we would ignore the law. And I must assume that the Soviet Union would think it, at best, quite cynical for us to ignore our own legal processes in this respect."

He added, "There's a moral issue here, too. If we are willing to accept in commerce the goods produced in the Gulags, then it seems to me that we are, in a sense, accomplices to the Gulags themselves."

Armstrong said he still believes Regan is "going to do his duty" by approving the ban. "And as an encouragement, to let him know that it would be a well-received, popular thing for him to do, I've circulated this letter," he stated.

"We're not asking for new policy decisions. There isn't, in my opinion, anything here that requires any agonizing. This is a law that should have been enforced long ago and we're just saying now is as good a time to start as any."

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, it is my understanding that the two Senators from Illinois, Senator Percy and Senator Dixon, have an amendment they wish to offer to the Export Administration Act. I see the Senator from Illinois (Mr. Dixon) on the floor and if he is prepared to begin his and Senator Percy's amendment, we might advance the work of the Senate by moving ahead on it.

AMENDMENT NO. 2785

Mr. DIXON. I thank my friend, the manager of the bill, the distinguished senior Senator from Pennsylvania, for his kindness. May I say that I have sent an amendment to the desk which is cosponsored by Senator Percy, my colleague from Illinois, and myself as well as a good many others who I will make known to you in a moment.

May I say to my friend, the manager of the bill, that Senator Percy is in the Foreign Relations Committee right now. He has indicated he would like to have an oppportunity to come up and be heard sometime before the rollcall takes place. Senator Dole is engaged in a markup session of his committee, and so it may be necessary for us to send word to them before the debate is completed.

Mr. President, I have sent an amendment to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Illinois (Mr. Dixon), for himself, Mr. Percy, Mr. Dole, Mr. Lugar, Mr. Pryor, Mr. Boren, Mr. Melcher, Mr. Baucus, Mr. Boschwitz, Mr. Andrews, Mr. Huddleston, Mr. Abdnor, Mr. Cochran, Mr. Bentsen, Mr. Burdick, Mr. Exon, Mr. Eagleton, Mr. Quayle, Mr. Jepsen, Mr. Durenberger, Mrs. Kassebaum, Mr. Helms, Mr. Heflin, Mr. Pressler, Mr. Nickles, proposes an amendment numbered 2785.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Sec. . (a) Section 6 of the Export Administration Act of 1979 is amended—

(1) by adding at the end of subsection (a)(1) the following: "The President may impose or propose to extend export controls under this section on agricultural commodities, other than in connection with the prohibition or curtailment of all exports, in accordance with the procedures set forth in subsection (1) and the other requirements of this section."; and

(2) by adding at the end thereof the following:

"(1) Agricultural commodities.—(1) If the President imposes export controls or proposes to extend export controls which have been imposed, on any agricultural commodity to carry out the policy set forth in subparagraph (B) or subparagraph (C) of paragraph (2) or paragraph (7) or (8) of section 3 of this Act, the President shall immediately transmit a report on such action to the Congress, setting forth the reasons therefor in detail and specifying the length of time the controls are proposed to be in effect which may not exceed six months.

"(2) In the case of export controls imposed by the President—

"(A) if the Congress, within 60 days after the date of its receipt of the report under paragraph (1), adopts a joint resolution pursuant to paragraph (4) approving the imposition of export controls, then such controls shall remain in effect for the period specified in the report, for six months after the close of the 60-day period, or until terminated by the President, whichever occurs first; or

"(B) if the Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of such 60-day period.

"(3) In the case of export controls proposed to be extended—

"(A) if the Congress adopts a joint resolution approving a proposed extension of export controls prior to the expiration of the applicable period described in paragraph (2)(A) or this subparagraph, then such controls shall be extended for the period specified in the report, for six months after the date of enactment of the joint resolution of approval, or until terminated by the President, whichever occurs first; or

"(B) if the Congress fails to adopt a joint resolution approving a proposed extension of controls prior to the expiration of the applicable period described in paragraph (2)(A) or subparagraph (A) of this paragraph, then such controls shall cease to be effective upon the expiration of the applicable period.

"(4)(A) For purposes of this paragraph, the term 'resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 6(l) of the Export Administration Act of 1979, the President may impose, expand, or extend export controls as specified in the report to the Congress on

.', with the blank space being filled with the appropriate date.

"(B) On the day on which a report is submitted to the House of Representatives and the Senate under paragraph (1), a resolution with respect to such report shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a report is submitted, the resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(C) All resolutions introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs and all resolutions introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

"(D) If the committee of either House to which a resolution has been referred has not reported it at the end of 30 days after its introduction the committee shall be discharged from further consideration of the resolution or of any other resolution introduced with respect to the same matter.

"(E) (i) A motion in the House of Representatives to proceed to the consideration of a resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the House of Representatives on a resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a resolution is agreed to or disagreed to.

"(iii) Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business shall be decided without debate.

"(iv) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a resolution shall be decided without debate.

"(v) Except to the extent specifically provided in the preceding provisions of this subparagraph, consideration of a resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

"(F)(i) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours, to be equally divided between and controlled by, the majority leader and the minority leader or their designees.

"(iii) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(iv) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

"(G) In the case of a resolution described in subparagraph (A), if prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.".

(b) Section 7(a)(1) of such Act is amended by adding at the end thereof the following: "The President may impose, expand, or extend export controls under this section with respect to agricultural commodities only as provided in section 6(1).".

Mr. DIXON. Mr. President, I am pleased to offer along with 24 of my colleagues an amendment requiring the President to obtain congressional approval for future selective embargoes of agricultural commodities. My colleagues who are cosponsors of this amendment with me are my colleague from Illinois (Mr. Percy), Mr. Dole, Mr. Lugar, Mr. Pryor, Mr. Boren, Mr. Melcher, Mr. Baucus, Mr. Boschwitz, Mr. Andrews, Mr. Huddleston, Mr. Abdnor, Mr. Cochran, Mr. Bentsen, Mr. Burdick, Mr. Exon, Mr. Eagleton, Mr. Quayle, Mr. Jepsen, Mr. Durenberger, Mrs. Kassebaum, Mr. Helms, Mr. Heflin, Mr. Pressler, and Mr. Nickles.

This amendment, Mr. President, effectively prohibits restrictions on the export of agricultural products to a country unless the embargo is either, first, in conjunction with an across-the-board ban on all trade with a country or, second, the Congress affirmatively approves the restrictions by joint resolution signed by the President.

The amendment preserves the President's ability to manage foreign policy, and to respond to rapidly changing events overseas. It permits the President to impose a selective embargo on agricultural products for a period of 60 days, while Congress is determining whether to extend it for a longer period. It provides expedited procedures, to insure a timely decision on whether to impose an embargo.

It also insures that Congress is involved in the decision on whether or not to impose an embargo in a meaningful manner. Until the recent Supreme Court decisions, Congress had 30 days to overturn a Presidential decision to impose an agricultural embargo by concurrent resolution.

However, even if it were possible to resolve the constitutional difficulties, the fact is that a negative veto procedure has serious flaws. Under a negative veto procedure, Congress would be accused of trying to undermine Presidential conduct of foreign policy if it attempted to halt an embargo that the President had already imposed. I am sure my colleagues are very familiar with that argument. It was used with great effect in this Chamber in connection with the arms sale to Saudi Arabia under the Arms Export Control Act in the last Congress.

This amendment would continue to permit the President to impose a selective embargo without prior congressional approval. However, Presidential action would be effective for only 60 days, and could only be taken if the President requests the Congress to approve an embargo for a longer period up to 6 months. If Congress, within the 60-day period, does not affirmatively vote to approve the embargo, it expires automatically and could not be renewed. If Congress did initially approve, renewal for additional 6-month periods would also require approval by new joint resolutions.

Changing from a negative veto to an affirmative approval process insures that Congress will be consulted before an embargo decision is made, rather than after, as has been too often the case in similar situations in the past. This change will allow for congressional input in the decisionmaking process when it counts, rather than, as now, when it is too late.

Mr. President, I believe the need for this amendment is clear. American Presidents, both Democratic and Republican, have imposed three embargoes of agricultural commodities in recent years. Two of the embargoes were designed to insure adequate supplies of grain in the U.S. market at reasonable prices. The third, in 1980, was designed to punish the Soviets for their invasion of Afghanistan.

There has been considerable controversy over the question of whether any or all of these embargoes succeeded in the short term. Over the longer term, however, I think that the answer is much more clear: The embargoes were, and are, generally poor public policy. Unfortunately, many decisionmakers in the United States still have not learned that lesson. The Korean plane massacre sparked new calls for a grain embargo, or at least a cancellation of the new long-term grain agreement. The mere threat of such actions caused significant price decreases on agricultural commodity markets.

Past embargoes, and the ever present threat of new embargoes, feed the general impression that the United States is an impulsive and unreliable supplier of goods and services. The result has been that, increasingly, nations come to the United States for the purchase of food and other goods and services only as a last resort.

It is particularly important that the United States can be seen as a reliable food supplier because of the increasing inability of many of the world's states to grow their own food. Total world grain exports, for example, are over 14 percent of total world grain consumption, up by over 40 percent from 20 years ago.

Even in the face of rapidly rising worldwide demand for food, however, the United States cannot complacently assume the continuation of its predominant position in world agricultural markets. The United States is the world's largest food exporter, regularly supplying more than half the world's grain exports. But U.S. soybean growers, to cite just one example, face growing foreign competition. Expansion of Brazilian soybean production enabled Brazil to capture a large share of the world market for soybeans and soybean meal.

Embargoes, or even the possibility of embargoes, make it much more difficult for our farmers to meet increased foreign competition. Embargoes act to increase the volatility of the marketplace, making it difficult for farmers to plan intelligently. They can result in periods of depressed prices for agricultural commodities, undermining farm income. American farmers are extremely efficient producers, but they operate on a thin margin of profit. A drop in prices due to an embargo can make their entire year's work unprofitable.

Embargoes can also have adverse impacts on the U.S. balance of payments, contributing to a balance of trade deficit that could soon exceed $100 billion. They end up requiring taxes and Treasury borrowings to finance. In short, the economic costs include inflation, economic stagnation, and unemployment, the full extent depending in part upon the uncertain duration of the embargoes.

Mr. President, I am not suggesting that an embargo is never sound public policy. I do believe, however, that farmers should not be singled out as targets for export controls except under exceptional circumstances. Agricultural exports are too important to the U.S. economy for decisions on embargoes to be made without prior congressional approval.

I believe we need to adopt this amendment now. The two House negative veto now in law has been rendered useless by recent Supreme Court decisions, and needs to be replaced in order to help provide needed assurances to both the American farmer and our foreign customers that the United States intends to be a reliable supplier in the future and is committed to increasing agricultural exports.

It is vitally important to provide this assurance in order to help reverse our deteriorating agricultural export performance and to provide secure marketing opportunities for American farmers that have been devastated by the recent recession.

A major share of total U.S. agricultural production is exported, with the result that many, if not most, American farmers are economically dependent on growing exports. However, instead of growing, agricultural exports are declining, with disastrous impacts on the farm community.

Agricultural exports totaled almost $44 billion in 1981, but declined to less than $37 billion in 1982, and are estimated to be only about $34 billion in 1983. Farm income, which was over $32 billion in 1979, declined to only about $20 billion in 1982, and no growth at all is predicted for 1983. Past agricultural embargoes and the threat of future embargoes contributed significantly to this erosion of our export dominance and the resulting decline in farm income.

Mr. President, this amendment is broadly supported by the agricultural community, including organization such as the American Farm Bureau Federation, the American Soybean Association, the National Corn Growers Association, the National Grange, the Fertilizer Institute, the Grain Sorghum Producers Association, the Millers National Federation, the National Association of Wheat Growers, the National Broiler Council, the National Council of Farm Cooperatives, the National Soybean Processors Association, the Poultry and Egg Institute of America, the Rice Millers Association, Cargill, and the National Grain Trade Council.

The amendment will not prohibit the President from ever imposing an embargo on the export of agricultural commodities to any country. In fact, the President retains authority, under the International Emergency Economic Powers Act, known as IEEPA, to embargo agricultural exports to any country without congressional approval, and even to interrupt existing contracts which would otherwise be prohibited by S. 979.

It simply says, that if the President wants to embargo only agricultural commodities for foreign policy reasons under the Export Administration Act—for more than 60 days—Congress must first pass a joint resolution of approval. In view of the problems caused by embargoes, I believe it is entirely reasonable to require congressional approval, rather than relying on a veto after the fact. Further, as I stated earlier, the President would retain his authority under existing law to embargo agricultural exports to a country as part of a total embargo without first seeking congressional approval, as well as his IEEPA authority.

The amendment is sound and does not unduly restrict the President's authority. It restores Congress legitimate role in the export controls area to help insure that agricultural embargoes are only imposed when absolutely necessary, and only then if Congress explicitly agrees. It helps provide additional assurance to the American farmer that the United States is committed to increasing agricultural exports. It passed this Senate in the last Congress by a vote of 66 to 20. Similar language is included in this year's House Export Administration Act reauthorization bill. I urge the quick adoption, therefore, of this vital and clearly constitutional amendment.

Mr. President, I ask unanimous consent at this time to add our distinguished friend, the senior Senator from Michigan, Senator RIEGLE, as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, may I say that in due time, after we have heard from the manager and the ranking minority Member, I wish to ask leave to call Senator PERCY, my colleague, in the Foreign Relations Committee, and Senator DOLE, one of the principal sponsors, in his committee, and let them know they should come to the Chamber and be heard on this amendment.

I thank the President.

Mr. HEINZ. Mr. President, I rise in opposition to this amendment, and I hope that my colleagues will listen to what I am about to say because I really do not believe that this amendment is the best way to protect farmers. Indeed, I fear that if we adopt it, one of two things is going to happen. Both of them would be bad for our farmers. The worst thing that could happen is I think for this amendment, which is strongly opposed by the administration, to be the reason that this bill is vetoed and that all the protections that we do have in this bill over and above current law, I say to my friend from Illinois, will be lost with it.

I do not think we want to lose the protections in the bill by adding to the proverbial weight on the camel's back the straw that breaks it.

The second concern I would have is that as the Senator from Illinois knows, because we understand the difficulties that our farmers have had in many of the previous years and because of the controversies surrounding the effectiveness of the Soviet grain embargo and the extent to which this country and its farmers made a sacrifice, which was not fully shared by the farmers of the other major grain exporting nations, among them in particular Argentina, we run the risk if this amendment is adopted of being accused of having carved out so preferential a niche for farmers that we could lose some of the protections that are in current law, not just in this bill.

I have had farm organizations come to me and say that they are concerned about reaction over the farm budget, the $21 billion in budget authority that was committed last year to the farm program; inasmuch as it represents the equivalent of 75 percent of total farm income—$28 billion over that period—even though most of the farmers I know never saw even a fraction of that kind of support for themselves. It went some place else. They are nonetheless very worried that there is going to be a public reaction not only against the PIK program but against farm programs generally, and the farmers that I know, and I am sure the same is true of the farmers in Illinois, are proud, are independent, and they want to be able to stand on their own two feet. They do not want to be placed on a pedestal by any of us, particularly if one of the consequences, is having someone come along and knock them all the way over and send them crashing down back to the floor, which is where on occasion they have been and where none of us, want to see them.

So I have reservations about the reach of this amendment. I believe it is excessive. I believe that because it is excessive it will cause a reaction against our farmers, and I am going to address each of these points in a minute so the Senator from Illinois understands what I am saying in more detail. Because it has the effect of putting Congress into a foreign policy area by virtue of the joint resolution after 60 days, I anticipate, based on the information we have from the administration, that they would consider that so great a congressional intrusion into the foreign policy area, particularly on top of the other protections in this bill, that it is highly likely, indeed almost certain to result in a veto.

Finally, at least as I read the farmers in general and particularly in my State of Pennsylvania, which has the largest rural population of any State in the Nation, including a larger rural population than the State of my good friend from Illinois or from any of our other friends, regardless of the physical size of the State—3¼ million Pennsylvanians—there is some concern that if we adopt a policy that causes a precedent, in order to avoid being second guessed after 60 days by Congress to impose an embargo on almost everything it is going to result in embargoes being placed on let us say just manufactured items, on let us say Allis-Chalmers or Caterpillar. It is no accident that I have named two companies that are very important to farmers. Indeed, what affects a substantial sector such as manufacturing is going to affect our farmers, and if we adopt a policy, as I fear this amendment does, that is going to result in a particular sector being time and again singled out because it is the easy thing to do, I think that is going to hurt farmers in the long run.

I am going to make at the conclusion of my remarks a suggestion to my good friend from Illinois.

I may end up making this suggestion in the form of a perfecting amendment. But I cannot, for the reasons I have just described, accept his amendment. Indeed, I am duty-bound to oppose it. I would just like to elaborate on one important point.

I started off by saying that I thought the Senator's amendment would confer an excessive amount of preference on agriculture and farmers. Now why do I say that?

Well, first of all, there is in current law the Durenberger amendment. The Durenberger amendment, as I am sure my friend from Illinois well remembers, was to the Commodity Futures Trading Commission Act last year. It prohibited for 270 days any embargo against agricultural contracts. That was an enormously substantial protection—unusual, granted, but I think one can say, because of the crop cycle, necessary; but justified by circumstances because of the crop cycle.

Beyond that, there are some very substantial protections in this bill not law. Now, what are those? Well, under section 5 of this act, as amended by S. 979, we prohibit, under the national security controls section, the imposition of any agricultural embargo. That is a prohibition that we have extended to no other commodity out of deference to agriculture, out of deference to the farmers and, frankly, if I may say so, out of some commonsense as well; the commonsense being that, by and large, it is pretty hard to say that the national security—which we normally take to mean weapons, technology, high tech discoveries, the iron and steel sinew of a country's war machine—is exactly the same as food. It is qualitatively different.

But we did not want any President to fail to recognize that difference. And I may tell you that I do not think that this administration or any administration particularly likes the fact that we have said that even in a so-called national security case you cannot do it, but we have closed that door for I think good and sufficient reasons.

The second thing we have done in this bill—and I know the Senator knows this because he is a distinguished member of our committee, and I speak not just for his edification but for that of many other Senators who are not privileged to be members of the Banking, Housing, and Urban Affairs Committee—because there has been a great deal of concern about the misuse of the withholding of exports pursuant to this act, not just for agriculture but for other sectors, we have tried to make it a much more careful, structured, and conscious decision for any President to impose foreign policy controls under section 6 of this act.

As the Senator from Illinois knows, there is in current law a requirement that says the administration must report to the Congress before imposing any sanctions or embargoes under the Export Administration Act, section 6. Well, what happened? Along came the famous Yamal pipeline sanctions. And they were imposed in an effort, belated albeit, to try to halt the construction of the Siberian gas pipeline.

Now, let me say on the record—I would not want there to be any misunderstanding about it—I did not want the Yamal pipeline built. I think it is incredibly shortsighted of our friends and allies in Europe to want to buy Soviet natural gas when Pennsylvania and Illinois coal is available. And we can get it for them wholesale.

But I also think that, for national security reasons it was not in their best interests to be dependent for a substantial portion of their energy supplies on another country that is—to be charitable to the Soviet Union, not many of us are, but let us be charitable today—a little unpredictable in its behavior and perhaps not always seeing things as we would like them to see them.

The Yamal pipeline sanctions were in place for about a year, as I recollect, and the question I have is—and it is a rhetorical question: Do you know when we received the report that we were supposed to receive prior to the imposition of the Yamal pipeline sanctions? Let me not tax your memories. Senator DOLE is working on that in the Finance Committee. We received the report several days after the Yamal pipeline sanctions ended, not during or before the control's imposition.

So, we have on page 34 of our bill, set forth a number of criteria which require that not only does the President have to specify in writing to the Congress about why such controls are likely to achieve their intended foreign policy purpose: How such controls are compatible with the foreign policy objectives of this country; whether the reaction of other countries to those controls is going to render them ineffective; the extent to which those controls will have, if any, an extraterritorial effect on countries friendly to the United States; what the cost of such controls will be to the export performance to the United States and to our reputation as a reliable supplier; and, finally, to what extent the United States has the ability to enforce the proposed controls effectively.

Now, that is fairly substantive. It is fairly tough. But, more important, we require that, before any foreign policy control may be imposed, we have received all of what I have just described, the answers thereto, in writing.

Otherwise, the President is without authority to impose foreign policy controls.

One of the reasons that we wrote section 6 this way was to insure that we did not get blind sided if we ever had another embargo of any kind, whether it involved grain or not, by the Argentines or by any of our other allies or trading partners.

Let me stress, therefore, that those two provisions, the national security exception for agriculture and the very tough reporting provisions I have just described, are not in current law and will not be in current law unless we get this legislation enacted.

But there is one additional provision which I think should be equally important to Americans, be they farmers or not. That is the contract sanctity provision in this legislation, which goes beyond the Durenberger-CFTC contract sanctity by saying that contracts that have been entered into, whether they are 270 days or longer, or shorter, whether they are on agriculture or not, cannot be broken under this act. Breaking of contracts is something one should not do lightly and this bill says you cannot do it for foreign policy objectives. You can do it for national security reasons, except, emphasis added, except for agriculture, but you cannot do it under the foreign policy section. If you want to make a foreign policy point by breaking contracts, you would have to go to the International Economic Powers Act and declare that there really is so serious a foreign policy situation that you want to invoke the more extraordinary powers of that act.

Mr. President, I think I have made the three points I wanted to make to my friend from Illinois and to other Senators: the fact that there is tremendous protection granted to agriculture under current law, and that if this bill is allowed to become law there will be still more extensive protections, much more than current law now allows, including the Durenberger amendment.

Second, that the amendment the Senator has offered could easily be construed, and I think will be construed, as discrimination against industry. The way this amendment is written it says you have to put everybody in the same boat before you can put agriculture in the boat. I cannot think of any time we have ever done that. I cannot think of any totally comprehensive embargo we have ever had. But whether we have ever had one or not in a sense is not the point.

If every sector of our economy came in and said: "Well, you have to have everybody else in the boat before you can put us in as a passenger," we would really cripple the ability of any President to use foreign policy controls at all.

Finally, while this bill does seek to rationalize quite comprehensively the way foreign policy controls are approached by this or any administration, I strongly fear that the Percy-Dixon amendment ties the President's hands in the methodology that it uses, such that it injects the Congress into foreign policy initiatives more than we really want or ought to be injected.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I am very impressed by the speech just delivered. I think it should be noted, because readers of the CONGRESSIONAL RECORD may not appreciate this, the Senator from Pennsylvania gave all of this off the cuff. He showed, I think, a remarkable grasp of the bill, and also of our trade problems and embargo problems. I think it was a very impressive statement. In general, I support the statement all the way.

I would like to reiterate very briefly, and I will only take 2 or 3 minutes, the problems that we have with the Dixon amendment.

The fact is that we already have a special provision in law that forbids the President from putting foreign policy controls on agricultural goods whose contracts call for their delivery within 270 days. There is no other industry that has that under present law, only agriculture.

S. 979, the bill pending on the floor, will extend contract sanctity to all goods, so, if it passes, agriculture and all other goods will have unlimited contract sanctity against foreign policy controls. Some of us might oppose that. I certainly have problems with it.

Thanks to an amendment offered in our committee by the Senator from Illinois, Senator DIXON, our bill also says agriculture cannot be covered by national security controls at all. That is the Dixon amendment. It was an amendment the committee accepted and it is certainly something for which the farmers of this country should be grateful. But it is in there without any further floor amendment. So, again, agriculture gets a preference there.

I wonder, do we need to give more preferences to agricultural trade, particularly when we are thereby weakening the ability of the President to deal with a foreign policy crisis?

I am concerned that this amendment creates a further preference for agricultural products in the conduct of foreign policy because the special procedures of this bill apply only where a selective embargo is placed on agricultural products.

As the Senator from Pennsylvania pointed out, if a selective embargo is placed on other products, machinery, computers, whatever, there would be no similar limiting procedure available.

My problem is that I wonder whether we should tie the President's hands in a situation that will cause him to prefer one type of embargo over another. Would not it be better to let the President make up his mind on the facts as to what type of embargo would be most effective?

I was one of those who favored, enthusiastically favored, the action of President Carter in imposing an embargo on our sale of agricultural goods to the Soviet Union when the Soviet Union invaded Afghanistan. We have very little capability, except rhetoric, to protest such an action by the Soviet Union. Both of us are nuclear powers. Obviously, war is something that would be a terrible tragedy. What can we do? We have economic power. We have a lot of it and we should use it.

I think you can argue, and I would certainly see the wisdom and the justice in providing, that if we impose an embargo on any product, particularly agricultural products, to the Soviet Union it should be part of a complete embargo. Certainly in the Afghanistan case I would have strongly favored an embargo on everything. There was no reason to ship anything to the Soviet Union under such circumstances. Our problem is our agricultural exports are far more important and far bigger than all other exports combined.

But we come back to that old observation attributed to Lenin, whether it is accurate or not, that when the Communists get ready to hang the capitalists, the capitalists will sell them the rope. In this case, rather than injure, or offend, or reduce the benefits to any sector of our economy, the argument is that we should let the Soviet Union move ahead in its ruthless way as it did in the case of Afghanistan, some say speak against it, maybe, but take no action that has any real force.

There is no way we can act without sacrifice on the part of Americans. The tragedy is that the farmers had to take so much of the sacrifice in the case of Afghanistan. But it seems to me that that is something we should be able to require if it is absolutely necessary.

Although I realize the Senators from Illinois may have the votes on this, I do not think the Senate should tie our President's hands in protesting an action by the Soviet Union which is so inimical to our own security and so wrong.

Mr. President, I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER (Mrs. Hawkins). The Senator from Illinois.

Mr. DIXON. Madam President, I understand that my distinguished friend from Indiana is here to be heard on this amendment. Is that correct, I ask the Senator?

Mr. QUAYLE. Yes, Madam President.

Mr. DIXON. I am privileged at this time to yield to my colleague from Indiana (Mr. Quayle).

Mr. QUAYLE. I thank my distinguished colleague from Illinois.

Madam President, the Export Administration Act of 1979 (EAA) provides the authorities for our Government to control exports when national security, foreign policy, and domestic supply issues are of concern. The EAA reauthorization bill before this Chamber, S. 979, would extend and expand these authorities and includes new provisions applicable to agriculture.

Madam President, today I rise to support an amendment offered by the Senator from Illinois that would further clarify the contract sanctity provisions of S. 979 as relates to agricultural products. This addition is critical to U.S. farmers who sell about one-fourth of their crops on world markets, earning about $35 billion in foreign exchange in 1983. Indiana farmers alone probably realized sales of more than a half a billion dollars for their crops in overseas markets in that same year. Not only do farmers have a large stake in the actions we take to eliminate precipitous trade blockages or to provide appropriate compensation when such actions occur, but the economy as a whole will be better protected if we approve this provision today.

It is time for our Government to stop ricocheting from international incident to international incident with a sudden moratorium here and a quick embargo there. These instant responses often have unintended and far-reaching consequences—they disturb established and growing trade patterns, they wreak havoc with our producers and they do not, in most instances, reach intended goals. I ask unanimous consent that an article on why sanctions do not work, written by Robert J. Samuelson, and taken from the September 10, 1983 National Journal, be inserted in the Record at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. QUAYLE. Madam President, as policymakers, let us think about what we are doing, discuss our options, then put a policy in place that will allow an appropriate response for most contingencies, including provocations by irresponsible regimes such as the one governing the U.S.S.R.

There have been five occasions since 1973 when the United States has embargoed or placed a moratorium on export sales of farm products. Table 1, History of U.S. Actions to Place Embargoes, Moratoriums on Sales of U.S. Farm Products, outlines the basic characteristics of each of these actions. I ask unanimous consent that table 1 be printed in the Record.

Two of these five instances—the 1973 embargo of soybean exports and the infamous 1980 prohibition on additional grain sales to Russia—were longer term limitations imposed under authority of the Export Administration Act (EAA). The other three actions, one in 1974 and two in 1975, lasted for 5 weeks or less and were taken at times of tight supplies in the United States when massive purchases were contemplated by Eastern bloc countries. In each of the last three cases, moratoriums went into effect through voluntary suspension of sales or purchases and not under authority of the EAA.

Although four of the five blockages led to agreements for future purchases by involved parties, one must be concerned about the profound and destructive impacts on the farm economy, both psychological and economic, of each of these United States initiated embargoes or moratoriums. And, it remains extremely debatable whether or not foreign policy or national security outcomes justified the actions when other fallouts are taken into consideration. What has become increasingly clear is that these stoppages severely disturbed markets over both the short and longer term, not so much for the buyers—Japan, Russia, Poland—but for the seller—the United States. Furthermore, they precipitated a realinement of world trading patterns for agricultural products by stimulating production in other countries, which resulted in an increased number of nations with surplus commodities to sell. They also created a vacuum in the marketplace for eager, and often government subsidized, competitors to enter. With these abrupt closings of foreign markets, U.S. farmers, who are geared to high levels of production, found large surpluses beginning to accumulate. Troubles were compounded by general economic conditions and a worldwide recession which contributed to further declines in demand. Not surprisingly, farm prices plunged, distortions in the supply-demand ratio remained and a corresponding lowering of farm income and increases in Government program costs took place. It is easy to see that limits on farm exports have had an immense impact on the farm and rural sectors and have contributed to a longer and deeper recession in that part of the economy.

But, Madam President, the most inequitable aspect of these episodes is that the farm and rural communities have had to bear almost the entire cost of these particular American foreign policy initiatives. This is patently unfair and farm and rural residents are correct in their protest.

Congress has taken some steps to protect the impacted groups against future unfair treatment. In 1981, language was included in the omnibus farm bill to provide income protection to farmers and an amendment was added to a 1982 Commodity Futures Trading Commission (CFTC) reauthorization bill to protect existing agricultural contracts if embargoes are imposed.

Specifically, one section of the 1981 omnibus farm bill provides for loan levels for farm commodities to move up to as much as 90 percent of parity if, for reasons related to shortness of supplies, agricultural exports are suspended to any country with which the United States continues to trade. Another provision of the 1981 law relates to selective agricultural embargoes imposed for foreign policy or national security reasons on countries that account for more than 3 percent of total exports of the embargoed goods. If the embargo protection program becomes effective, the Secretary of Agriculture is required to compensate producers of the commodities involved. The intent of Congress in adopting these provisions was clear: to protect U.S. farmers in the event of another agricultural embargo and to require that any economic burden resulting from such an embargo be shared by all taxpayers. Another purpose of Congress was to discourage the quick imposition of nonproductive embargoes by making them more costly to the Government.

In 1982, Congress approved a further protection for existing agricultural export contracts by adding, as a rider to a CFTC reauthorization bill, an amendment to section 812 of the Agricultural Act of 1970 to prohibit the abrogation of agricultural contracts already in place for up to 270 days if an embargo were invoked. The only exception would be if a national emergency or war were declared. This would allow farmers to sell crops already in the ground or harvested and provide leadtime to make decisions for next year's plantings.

While I strongly supported these earlier enactments more must be done if history is not to repeat itself and a new round of farm export embargoes is to be avoided.

As introduced, S. 979 appropriately adds new language to provide further protection for agricultural exports and does not disturb already approved provisions as described above. For instance, under S. 979, national security sections greater latitude would be given to the executive branch to control exports of strategic materials, however, a related subsection would explicitly exempt food exports from controls imposed for national security purposes. This, in effect, should eliminate one type of situation where food embargoes were imposed in the past.

Additionally, under the foreign policy title, language has been developed that has the intent of providing added protection from embargoes for all goods with preexisting contracts regardless of date of performance. This is done by setting more precise criteria for the conditions that must be met before the President can impose controls to effect foreign policy ends while still providing the flexibility for action in other situations. It is necessary to understand that these paragraphs would cover noncontracted farm exports, thus I remain concerned that farm commodities could again become the main retaliatory weapon in future foreign policy conflicts. It is for this reason I am supporting the Dixon amendment today.

This amendment would provide an additional buffer for agricultural exports by limiting the amount of time the President could impose, when the strict new criteria are met, an embargo on noncontracted farm products to 60 days. Additionally, if this action were taken, Congress, under expedited procedures, then would have authority to approve a joint resolution to continue the embargo for each succeeding 6-month period. If Congress does not approve the embargo for more than 60 days, or after each 6-month period, it will automatically expire. Companion EAA reauthorization legislation in the House, H.R. 3231, contains comparable language and in 1981 a similar provision was approved by the Senate, 66 to 20, only to be deleted later in conference.

Madam President, this proposed amendment should be adopted to protect our highly productive agricultural economy. I believe this approach will slow down any precipitous rush to a long-term farm product embargo, will raise the consciousness level of decisionmakers and allow time to better understand the full implications of proposed actions. Agricultural production is already subject to a dizzying array of variables throughout the growing season and our farmers should not be needlessly exposed to the additional vagaries of world politics.

Furthermore, the United States must reestablish itself as a reliable supplier if export markets are to be preserved and expanded, if productivity and income of U.S. farmers are to be increased and if the health of both the farm and national economies are to be improved. For these reasons, I urge my colleagues to support the amendment offered by the Senator from Illinois.

Madam President, I speak in strong support of what my colleague, the esteemed Senator from Illinois, is trying to do with this contract sanctity provision. Basically, what he is saying is that embargoes per se simply do not work. They have not worked in the past, they will not work in the future, and what we are trying to establish is credibility, stability, and reliability of the United States as a trading partner.

We are not against an embargo if you want to put it across the board, or a situation when there is a dire national emergency. What we are talking about is an end to picking on the farmers year in and year out.

We are also saying that without this strong provision, there is going to be a great temptation to go back and do what we did in the past. Our past habits and our past conduct basically speak for themselves.

Madam President, I believe that it is time to tighten up, to indicate that the United States is going to live up to its contracts. I believe the amendment of the Senator from Illinois strengthens the underlying law and makes it clear that in most circumstances the United States is going to follow through, that its agricultural products will be exported. I certainly believe that he is on the right road, that his amendment is fair and equitable. It usually turns out in almost all cases embargoes are counterproductive. It is sort of like shooting yourself in the foot.

As mentioned before, the 1980 grain embargo did not hurt the Soviet Union, it hurt U.S. farmers. We did not have an agreement from the other grain trading partners to forgo their trade thus our farmers lost, our farm community had to absorb the costs.

I think the Senator's amendment is a step in the right direction. It is a step forward on an issue that the Congress, the Senator from Illinois, this Senator, and others have spoken out on for many years. By agreeing to this amendment today, we will put into law the protections that we have been supporting in words.

Further, I want to commend the Senator for the language he has drafted and for taking into consideration the many variables that needed to be covered.

EXHIBIT 1

[From the National Journal, Sept. 10, 1983]

TRADING WITH THE ENEMY

(By Robert J. Samuelson)

When James H. Giffen, a vice president of Armco Inc., testified before a congressional committee earlier this year on export controls, he ended in virtual exasperation.

"Mr. Chairman, I first testified on this subject before this committee in 1969," he said. "After 14 years of submitting testimony. . . ., I begin to ask myself, 'Is anyone listening?' "

Well, maybe somebody is.

The Reagan Administration's response to the downing of the Korean Air Lines jetliner notably excluded sweeping economic sanctions. Compare that with President Carter's reaction to the invasion of Afghanistan (a partial grain embargo) or to the Reagan Administration's response to the imposition of martial law in Poland (an embargo on oil technology).

Americans find trading with the enemy—even when there isn't a formal state of war—illogical and loathsome. But it is one of those unpleasant ambiguities of modern life to which it is necessary to adapt. The lesson may finally be taking.

The trouble with economic sanctions is simple. They don't work. Consider:

The 1979 grain embargo did not prevent the Soviets from obtaining needed supplies elsewhere. Although the Soviets may have paid higher prices, American farmers also suffered. President Reagan used the embargo as a campaign issue against Carter, and Agriculture Secretary John R. Block recently signed a new five-year agreement with the Soviets.

The embargo of oil technology has not prevented the Soviets from proceeding with their trans-Siberian natural gas pipeline. Orders for pipelaying gear that might have gone to the Caterpillar Tractor Co. went instead to Komatsu Ltd. When the Administration sought to apply its export ban to foreign firms, other nations reacted in horror. Now, many of the controls have been lifted or modified.

Although the United States restricts the export of equipment for making electronic "chips," the Soviets have obtained significant imports elsewhere. The Semiconductor Equipment and Materials Institute Inc., a U.S. trade association, reports that at least 60 "ion implantation machines"—a critical machine for chip making—have been shipped to the Eastern bloc and China.

Many long-standing American assumptions about export controls have been overtaken by events. The most basic is the belief that trade with Communist nations primarily benefits them. Americans believe that they have superior technology—and, in general, they do—and that transferring any of it to the Soviets is mostly a giveaway.

Modern technology is more complicated. Using it involves more than buying equipment. The know-how of applying it, fixing it, duplicating it and assuring quality control does not come automatically. These depend on a nation's basic economic strengths: the quality of its work force and economic enterprises.

Moreover, technology constantly changes. A dilemma emerges. To prosper and finance the next round of development, technology firms need to export. But exports spread technologies elsewhere.

The United States had not handled this delemma adeptly. American export controls exceed those of any other Western nation. The North Atlantic Treaty Organization nations (minus Iceland, plus Japan) participate in something called the Coordinating Committee for Multilateral Export Controls—CoCom for short. This group maintains a list of about 180 items that aren't supposed to be shipped to Communist nations without prior approval of the entire group.

But U.S. controls are far stricter. On the CoCom list, items are distinguished by level of technical sophistication; exports of some signal generators, for example, might be permissible and others not. But the United States requires export licenses for many shipments that fall below the CoCom thresholds. Moreover, licenses are required for shipment to all countries, not just Communist nations.

The result is a system that is large, unwieldy and ineffective. In fiscal 1982, the Commerce Department received more than 100,000 license requests. Only about 8,000 involved exports to Communist nations. A relatively small proportion went to CoCom for possible exemption from export prohibition (1,100 for the United States, 700 for other nations). Most other licenses were approved.

The gripe of American firms is that the licensing system and the use of specific export controls—for example, the post-Afghanistan embargoes—have erected new barriers to exports. In some cases, sales to Soviet bloc nations are lost. More important, U.S. firms argue, these measures have the unintended effect of putting U.S. firms at an increasing competitive disadvantage in sales to non-Communist countries.

Though difficult to quantify, the effect is beyond doubt. American companies and farmers feel increasingly stigmatized as unreliable suppliers. As U.S. technological superiority has declined, the licensing requirement imposes an increasingly heavy burden on export sales. To buyers, it means added uncertainty and jeopardizes the flow of spare parts.

The growing availability of high-technology products also means that unilateral U.S. actions are increasingly futile. Paradoxically, expansive U.S. efforts to apply unilateral sanctions may have impeded effective multilateral controls by alienating the Europeans and hampering CoCom cooperation.

The Korean airline incident may signal a shift. For once, the response seems to fit the offense and gain allied support. Have broader lessons been absorbed? Congress may provide an answer when it considers the Export Administration Act, which governs export controls and expires on Sept. 30. The temptation will be to tighten controls to symbolize "getting tough"; the wiser response will be to narrow the controls and to focus them on areas where direct military use is clear.

The frustration of being unable to retaliate forcefully needs to be kept in perspective. At best, controls can only delay the Soviets from gaining new technology. No nation can bottle up knowledge. The most effective defense lies in the sluggishness of the Soviet system and the vitality of ours. In general, the Soviets have not innovated successfully and we have. The differences stem from within—and aren't for sale.

REPORT OF U.S. ACTIONS TO PLACE EMBARGOES, MORATORIUMS ON SALES OF U.S. FARM PRODUCTS

Year	U.S. action/product	Reason	Country	Legal authority	Regulating agent	Duration	Outcome
1973	Embargo on soybeans/vegetable oil product sales.	Short supply	All nations	EAA; under short supply provisions	U.S. Department of Commerce	3 months	After 3 months, export licenses for 43 products ended.
1974	Moratorium on grain sales	Short supply; large purchases	U.S.S.R.	None; voluntary suspension by U.S. companies.	Presidential request	2 weeks	1-year grain purchase agreement with U.S.S.R.
1975	do	do	do	None; voluntary suspension by U.S. companies; then moratorium under art. 2, U.S. Constitution.	First, USDA request; then Presidential announcement.	5 weeks	5-year grain agreement with U.S.S.R.
	do	do	Poland	None; voluntary suspension of purchases by Poland.	Unannounced request to Poland by U.S. Department of State.	4 weeks	5-year grain agreement with Poland.
1980	Embargo on grain sales over 8 million tons.	Afghanistan invasion	U.S.S.R.	EAA; under national security foreign policy sections.	President	16 months	1-year (82) grain agreement with U.S.S.R.; followed by 5-year grain agreement.

Mr. DIXON. Madam President, I am always honored and pleased when my distinguished friend from Indiana sees fit to support a position I hold. I thank him for his supporting remarks today.

I am very pleased to have on the floor my distinguished senior colleague, whose knowledge in the foreign policy field is without peer in the U.S. Senate, the distinguished chairman of the Foreign Relations Committee, who understands the significance of American agriculture's importance in the world marketplace, who knows that Illinois is the No. 1 agricultural exporting State in the Nation. He is here to lend his support to an amendment he and I have cosponsored together in past sessions as well as this one.

I am pleased to yield to my warm friend, my distinguished senior colleague (Mr. PERCY).

Mr. PERCY. I thank my colleague.

The PRESIDING OFFICER. The senior Senator from Illinois is recognized.

Mr. PERCY. Madam President, this amendment is very similar to one Senator DIXON and I offered 2 years ago to the Export Administration Act reauthorization bill. It passed the Senate with a healthy margin. It was good public policy then, it is even more so today.

I have had the pleasure of spending a great deal of time with farmers throughout the State of Illinois. While there are many issues of concern and importance to our agricultural community, the issue of our country being a reliable supplier around the world is of paramount interest. The amendment we are offering today is a simple and straightforward attempt to discourage the kind of failed efforts we have witnessed which attempt to balance our foreign policy on the backs of our Nation's farmers. Never again should the farmers of America be singled out to bear an unfair share of the national burden made necessary by foreign policy or national security concerns.

You could just see the futility of this kind of policy when President Carter did embargo grain to the Soviet Union at the time of the Afghanistan invasion. The Soviet troops are still in Afghanistan. There was no material effect whatsoever of that embargo, except that we began to lose markets, we lost our credibility as a reliable supplier, we strengthened other countries' agricultural competitive positions in every country, and we have dropped our share of that market, with no harm to anyone except the American economy and American farmers.

With the responsibility that I bear in the foreign relations field—I am conducting a hearing now on our whole economic and military assistance program around the world. I had to suspend my appearance at that hearing in order to be here on the floor to emphasize the importance I place and my distinguished colleague, Senator ALAN DIXON, places on this matter.

Let there be no mistake. The tens of thousands of Illinois farmers, and their fellow farmers across the country, are patriotic Americans. At the time of the embargo, if we embargoed everything, if the emergency had been that great, I think they would have stood along with everyone else. But just to single them out and put the whole burden on the back of the farmers, in the precarious financial position they had been in, was grossly unfair.

They did and they do support a strong national defense and a strong America. However, farmers are rightly puzzled and confused about a society that restricts trade in their product while allowing business as usual in the trade of other nonagricultural goods, particularly when it is their product alone that meets basic human needs, particularly when we unilaterally are doing this, when other countries, our allies and friends around the world, are not engaging in a similar practice and are supplying, in fact, the very grain we have refused to supply. They have moved in and taken over temporary markets that have become permanent markets for them as we continue this practice, which has become a disastrous practice.

Madam President, this amendment enjoys tremendous support from all of the major agricultural groups.

I believe every Member of this body is aware that our agricultural exports have declined over the past few years, both in dollar value and in volume.

There are many reasons for that phenomenon. What we are attempting to insure with the passage of this amendment is the potential fear that the United States will not fulfill its commitments and not be a reliable supplier is not among the reasons the potential foreign consumer and customer would choose business elsewhere.

Once again I commend my distinguished colleague, who has fought for the rights of the farmer, who is a member of the Agriculture Committee, who works closely with me in all matters affecting the national security interests in the United States and abroad, and who along with the vast majority of our colleagues thinks this kind of step is a wrong step to take. We must restore the U.S. reputation as a reliable supplier. And we certainly turn to our distinguished colleague from Pennsylvania, who himself is deeply interested in expanding the volume of exports, who is aware of the disastrous effect we have had as exports for the first time in our history in the last year or two have declined. They have declined, I believe, solely because we are not any longer looked upon as a reliable supplier, and we must do something about that.

Mr. HUDDLESTON. Mr. President, I am pleased to join Senator Dixon and many others in offering this amendment that will substantially enhance the ability of our agricultural exporters to effectively compete in world markets.

The amendment would prohibit unnecessary restrictions on the export of agricultural products to any country for foreign policy reasons, unless the embargo is in conjunction with an across-the-board ban on all trade with a country, or unless Congress adopts a joint resolution approving the restrictions.

The amendment does not restrict the President's ability to manage foreign policy. Under the amendment, the President could impose an embargo of agricultural products for a period of 60 days, but Congress must determine whether to extend it for a total of 6 months. The amendment provides expedited procedures in both the House and the Senate to insure a timely decision on whether to impose or extend such an embargo.

The amendment gives Congress an effective voice in any future decisions to impose agricultural embargoes without the imposition of a legislative veto. Under a Supreme Court ruling last year, legislative vetoes have been declared unconstitutional.

To abide by that decision and still retain the legitimate role of Congress in protecting farmers and exporters from unfair application of embargoes, the amendment specifies certain actions should an embargo be imposed on agricultural goods.

Under the amendment, if the President imposes a selective embargo, the embargo will remain in effect for only 60 days, unless Congress, by joint resolution, explicitly votes to extend it for a period of up to 6 months. An extension of such an embargo beyond 6 months would require further congressional approval.

Congress must maintain its legitimate role against actions that can severely damage our agricultural trade and work hardship on farmers. This amendment accomplishes that objective, and I urge my colleagues to support it.

● **Mr. PRYOR.** Mr. President, I believe that it is important that we take time during this debate on the Export Administration Act to make absolutely clear our position on the sanctity of export contracts.

The President needs to be able to take quick and firm actions in times of international crisis, but we must take steps to avoid the mistakes of the past and to preserve our long-term export markets. In the past, the American farmer has borne the brunt of our foreign policy sanctions—sanctions which had little effect on the Soviets but had serious effects on our farmers.

Mr. President, whenever I talk to the farmers in my State of Arkansas, the conversation invariably turns to agricultural trade, embargoes, and the need to get back into the Soviet market. To understand this, we only have to remember that sales of U.S. agricultural products abroad have been restricted in 4 of the last 9 years for reasons of short supply or foreign policy. These restrictions have been imposed by both Republican and Democratic administrations.

The prime example of our failed policies in this area is, of course, the Soviet grain embargo of 1980. There are times, such as the 1979 invasion of Afghanistan, when it is necessary to take dramatic steps to counter Soviet aggression, and the U.S. farmer will be the first one to step forward to support appropriate efforts, but the results of the embargo were not what our policymakers had in mind.

The only countries to benefit from the action were Argentina, Australia, and Canada, whose grain exports to the U.S.S.R. soared. The Soviet Union apparently suffered no ill effects at all. So who was hurt by the embargo? Only the American farmer, who saw his grain market sharply reduced, his prices lowered, and the future buyers made suspicious of his reliability as a supplier.

Mr. President, if you have trouble visualizing the effects of these sanctions, just think back to the OPEC oil embargoes of the 1970's and remember how we took action to establish new suppliers, cut back on energy consumption, and develop new sources of energy. Our customers are bound to act the same way if we cut off their supply of agricultural goods.

At the time of the 1980 embargo, the Soviet Union purchased only 4.3 million tons of grain from sources other than the United States; after the embargo, this figure increased to about 24 million tons. The United States saw its market share of world grain exports drop from 72 percent to 58 percent.

Farmers have enough to worry about these days—the drought, change in Federal programs—without our renewing uncertainties about export markets. There is not much we can do about the weather, but we can promote stable commodity prices and permit access to foreign markets. Many farmers are teetering on the edge of bankruptcy right now, and it would not take much to push them over that edge.

Agricultural production cannot be switched on and off like a faucet. Once a farmer makes a decision on what and how much to plant and how much money to borrow, he is stuck with his decision and at the mercy of any changes in Government policy, domestic or foreign. That is why the Congress approved contract sanctity legislation late last year, preventing any President, except in an extreme national emergency, from imposing restrictions on agricultural exports which are already covered by contract.

When necessary, the American farmer will enthusiastically support the foreign policy goals of this country. But farmers are understandably bitter over being singled out to bear most of the burden, especially when, in the case of the 1980 grain embargo, the gesture is an empty one.

That is why we need to take this action today to nail down U.S. policy on complying with contracts already in force to supply American agricultural goods to other nations.●

AMENDMENT NO. 2756

(Purpose: To permit 60-day extensions)

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Madam President, I should like in a minute to send to the desk a perfecting amendment to the Dixon-Percy or Percy-Dixon amendment, but I want to take a minute while both my good friends from Illinois are still on the floor to explain it. Indeed, so that there will be copies available, Madam President, I send this amendment to the desk for myself and Senator PROXMIRE and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself and Mr. PROXMIRE, proposes an amendment numbered 2756.

Mr. HEINZ. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 14, strike out the period and insert in lieu thereof a comma.

On page 2, between lines 14 and 15, insert the following: "except that the President may renew such controls for succeeding 60-day periods if, prior to the expiration of any such 60-day period, he submits in writing to the Congress his certification that—

"(i) the circumstances that led to the imposition of controls continue to exist;

"(ii) other exporters of comparable products are cooperating or are reasonably likely to cooperate in the controls; and

"(iii) United States producers of the products subject to controls will not be seriously injured by the continuation of such controls for an additional 60 days".

On page 2, line 30, strike out the period and insert in lieu thereof a comma.

On page 2, between lines 30 and 31, insert the following: "except that the President may renew such controls for succeeding 60-day periods if, prior to the expiration of any such 60-day period, he submits in writing to the Congress his certification that—

"(i) the circumstances that led to the imposition of controls continue to exist;

"(ii) other exporters of comparable products are cooperating or are reasonably likely to cooperate in the controls; and

"(iii) United States producers of the products subjects to the controls will not be seriously injured by continuation of such controls for an additional 60 days.".

Mr. HEINZ. Madam President, first, before we go any further, I commend Senator PROXMIRE for his very forthright statement about the problems with the Dixon amendment. I point out to my colleagues that notwithstanding the fact we have 3¼ million rural Pennsylvanians in my home State, numerically the most, I would be hard-pressed to find a Senator whose State wears the banner of agriculture more proudly and more properly than Wisconsin. Indeed, where the interests of the farmers are concerned, I know of no stronger defender in any State for the interests of the farmers than the senior Senator from Wisconsin (Mr. PROXMIRE). So when Senator PROXMIRE rises in opposition to an amendment that appears to be in the interests of the farmers, there must be something to his opposition.

Now, the amendment which I have sent to the desk is a perfecting amendment offered on behalf of myself and Senator PROXMIRE only to try to make sure that this legislation does not draw a Presidential veto. The perfecting amendment is very tough. I would be less than honest if I did not say that it goes a lot further than I think we ought to go. I believe the present bill is very strong—strong in part because of the prohibition on agricultural exports in section 5 which the Senator from Illinois (Mr. DIXON) and Senator PROXMIRE pointed out was offered as an amendment in committee by Senator DIXON.

Now, what does the Heinz-Proxmire perfecting amendment do? It creates a preferential position for agriculture. What we do is to say that the President could only extend the controls beyond the 60 days granted by the Dixon amendment if at or prior to the end of a 60-day period he certifies the Congress—not reports, not advises, not issues a press release—but certifies on the record to us as committees of Congress, first, that the circumstances that led to the imposition of the controls in the first place are still in existence; second, that other countries are cooperating with these controls or are reasonably likely to cooperate with those controls.

Third—and this is perhaps the toughest part of the amendment; I think the first two parts are very tough, indeed—that U.S. producers, America's farmers, the agricultural community, the people who deal in food and fiber, will not be seriously injured by the continuation of the controls.

Now, as I understand, Madam President, the purpose of the amendment of Senator DIXON is to protect our agricultural producers, our farmers, from injury. I submit that if we require the President to make these multiple certifications—not just one but all three have to be attested to by the President—we are, indeed, giving our farmers some very specific additional protection which I suspect will achieve the real objective of the Senator from Illinois.

Now, none of us are ever able to read what is in another person's mind, but I believe what the Senator from Illinois is concerned about is that agriculture not be unfairly singled out; that what he really seeks to achieve is some kind of parity in the treatment of agriculture with all other commodities, and who can disagree with that notion, Madam President.

Now, it is this Senator's view that his amendment, because of the way it is written, requires an all-or-nothing response that is just not the way the world operates, so how have we dealt with that? We have said, "Before you can even consider imposing an embargo on any group of products that includes agriculture, you have to understand, Mr. President, that you are going to have to come back to Congress every 60 days, every 2 months, and recognize the special concern we have about agriculture. If you do not do that or if you cannot meet the certifications, agriculture, notwithstanding the other things you have on the embargo list, is going to be off that list."

Nobody is arguing today, Madam President, that there could not be at least a temporary embargo on agriculture or anything else. The amendment of Senator DIXON does permit a 60-day embargo without second-guessing by any of us. So that is not to be contested. The real question is what happens after that 60-day period? What we are saying by virtue of this perfecting amendment, Madam President, is, "Mr. President, you better think long and hard before you put agriculture on any embargo list because you are going to have to revisit it before the controls really become effective." It is going to take at least 60 days before any controls become effective.

The other thing we are trying to do with this amendment, I say candidly—and I suggested as much earlier—is that we are trying to avoid a veto. I do not say this with disrespect to either of my friends from Illinois—I know this is not the way they operate—but every so often there are some people who would prefer to have an issue rather than a solution.

What I do know about all this is that if it results in some very good work—and in this case good work that will sincerely benefit our agricultural community in going down the drain; if it results in the baby being thrown out with the bathwater; if it results, in the case of the Export Administration Act, in a Presidential veto and we end up—and I can assure you it is all we will end up with—an extension of current law, then everything that is in S. 979, all the special protections we have for our farmers, is not going to be there. They will not be in a simple extension. That, it seems to me, would be cutting off our nose to spite our face.

So, Madam President, I hope that, for these and the other reasons I have stated, the perfecting amendment I have offered will be acceptable to the Senate. It may be more than I can ask to ask Senator DIXON and Senator PERCY to support this perfecting amendment, but I think it is a strong amendment. I do not believe that anybody who votes for this amendment can possibly be embarrassed when they go back to visit with their Farm Bureau or with their Grange or with the National Farmers Organization or with the National Farmers Union or any of the other agricultural groups that are important in our farm States.

So, Madam President, as soon as is convenient to the Senate, I hope we can have a vote on this perfecting amendment.

At this point, I yield the floor.

(By request of Mr. DIXON, the following statement was ordered to be printed in the RECORD:)

● Mr. BENTSEN. Madam President, I am pleased to join with my distinguished colleague the Senator from Illinois (Mr. DIXON) as a cosponsor of this amendment to provide needed protection against agricultural embargoes.

American agriculture has been wracked repeatedly by agricultural embargoes. U.S. farmers have suffered from agricultural embargoes under every President since Nixon. I opposed all of these embargoes because I said they would not work. I believe that history has proven me right.

The United States is now residual supplier to the world market. We are the greatest agricultural Nation on Earth, but when foreign customers need food they come here last, not first. Our embargoes have earned us a reputation as an unreliable supplier, an no one wants to be dependent for food on an unreliable supplier.

This amendment will help to prevent a repeat of our past mistakes. It will require that any agriculture-only embargo can only be imposed by the President for a period of 60 days. It cannot extend beyond the 60-day period without specific approval by the Congress.

Existing law already provides for "contract sanctity" protection for agricultural exports in case of future embargoes. I helped enact that protection, which provides that existing contracts will be exempted from any embargo for a period of 9 months. Together with the existing contract sanctity protection, this amendment will assure U.S. farmers that they will not be unfairly singled out to pay the price for domestic political considerations or U.S. foreign policy objectives, as they have so often in the past.

This amendment will go a long way toward assuring foreign buyers that we are indeed in the ag export market to stay. I urge my colleagues to vote for this amendment. It is a vote of confidence and support for the American farmer, and it is a vote for a consistent and reasonable U.S. export policy.●

Mr. DIXON. Madam President, in a moment, having consulted with my chief cosponsor and with others whom I could reach, I will be inclined to move to table the perfecting amendment offered by my friend and distinguished colleague from Pennsylvania.

Madam President, Senator DOLE is very seriously involved in a markup in his committee on a major issue before Congress which occupies his time. He has sent word to me, through an aide, that he would like very much to be here to speak in support of this amendment. He has asked that his statement in support of the amendment be placed in the RECORD. Senator DOLE is the distinguished chairman of the Finance Committee, one of the Members who, I am sure everyone here is aware, is a moving force in the Agriculture Committee and speaks for American agriculture on a daily basis.

(By request of Mr. DIXON, the following statement was ordered to be printed in the RECORD:)

● Mr. DOLE. Madam President, it is a pleasure to join both distinguished Senators from Illinois, Mr. DIXON and Mr. PERCY, in cosponsoring this amendment to S. 979, the Export Administration Amendments Act. Its passage by the Senate will be a major step toward assuring the reputation of the United States as a reliable supplier of agricultural products to the world market.

THE TRAGEDY OF AGRICULTURAL EMBARGOES

Few of us want to dwell on the devastating effects which the embargo imposed on U.S. agricultural exports to the Soviet Union by former President Carter in 1980 had on the U.S. farm economy. American farmers are still suffering from the loss of foreign markets caused by the embargo. Even with the expanded long-term agreement negotiated by the Reagan administration last year, our share of Soviet corn and wheat purchases is expected to be only one-half of the preembargo level. Other foreign customers, fearful of overdependence on an unreliable source for their food imports, have also diversified their purchases and entered into long-term supply agreements with our major competitors.

Nor should we only blame the last administration for shortsighted Government policies affecting agricultural trade. Both the Nixon and Ford administrations suspended exports for short supply reasons which only served to foster foreign investment in expanded farm production in Brazil, Argentina, Canada, and other countries.

THE REAGAN EXPORT DOCTRINE

Madam President, the proposed amendment is the latest in a series of measures intended to help restore the confidence of the world—and of the American farmer—in the future of the United States as the principal supplier of agricultural products. In addition to lifting the 1980 Soviet grain embargo and negotiating the new LTA, President Reagan took a major step forward by announcing an agricultural export policy on March 21, 1982. Two key points of this plan are: First, a commitment not to use restrictions on farm exports for reasons of short supply; and, second, a promise not to impose sanctions only on agricultural products, and to use across-the-board embargoes only when the cooperation of our allies will insure their effectiveness.

CONTRACT SANCTITY

Madam President, the President's efforts to redress the unfortunate consequences of past mistakes have been complemented by actions by Congress and, particularly, by Members of this body. Protection in the form of high indemnity loans and payments to farmers was included in the 1981 farm bill through the leadership of Senators JEPSEN and BOSCHWITZ. It is fair to say that, even if some loophole were found that would permit a repeat of the last embargo, the cost of compensation alone would make it prohibitive.

Then we also have the sanctity of contract protection which Senator DURENBERGER added to the CFTC reauthorization bill in 1982. These provisions require that contracts negotiated prior to imposition of export controls be respected for up to 270 days thereafter. I would add that Senator BOSCHWITZ is expected to offer an amendment to reaffirm the continued integrity of the contract sanctity provisions in the CFTC bill, and that I am in full support of his initiative.

THE AGRICULTURAL EMBARGO AMENDMENT

As reported by committee, S. 979 tightens up considerably the potential use of trade sanctions for national security reasons. One area which is not fully addressed is the use of selective controls on agricultural exports for foreign policy or short supply reasons, although such an embargo would likely trigger the provisions of both the farm bill and CFTC legislation. It also represents the kind of restriction which President Reagan specifically ruled out in his export policy statement.

Nonetheless, American farmers remain justifiably concerned by the possibility, however remote, that the last embargo could be repeated—by this or any future President or administration. And so it is entirely appropriate and timely that my distinguished colleagues from Illinois have proposed requiring that selective foreign policy sanctions on farm exports expire after 60 days unless extended by joint approval of both Houses of Congress.

THE NEED TO RENEW CONFIDENCE IN RURAL AMERICA

Madam President, this amendment and each of the other actions we have taken to provide greater protection for agriculural trade are important in their own right. They are important collecitvely as steps in a confidence-buiding process which confirms that the costly lessons of the past decade have been committed to memory by an often-forgetful political system. They are important, also, for the signal they send to our foreign customers and competitors—that the United States can and will restore its reputation and its share of world farm trade.

Equally important, however, is that we now begin to look beyond the need to protect U.S. farm exports from our own Government—or even from our competitors—although both may now be important and necessary. We must decide what our long-term role in supplying the world's food needs should be and set specific objectives for achieving it. Some strategic planning can and should be done in cooperation with other major food exporting and importing countries. But the United States should not delay indefinitely in setting its own long-range priorities and agenda. Many of our current economic problems in rural America are the results of Government mistakes which helped to break the expansionary trend of the late 1970's. The time has come for positive Government actions and policies to help restore prospects for renewed prosperity in U.S. agriculture.●

Mr. DIXON. Madam President, I am going to withhold the motion to table, if I may have the cooperation of the manager of this bill, because a friend of mine, a member of the Agriculture Committee, is here now. He has spoken virtually dozens of times in the Agriculture Committee about his very strong and profoundly held beliefs that American embargoes in the past have been injurious principally to American agriculture and not to our enemies around the world.

I am delighted to yield the floor to the Senator from Iowa (Mr. JEPSEN), in support of my amendment.

Mr. JEPSEN. I thank my distinguished colleague from Illinois.

Madam President, today I rise in support of the amendment to the Export Administration Act which would prohibit unnecessary restrictions on the export of agricultural products to any country for foreign policy reasons, unless the embargo is in conjunction with an across-the-board ban on all trade with a country, or unless Congress adopts a joint resolution approving the restrictions. I am chief cosponsor of this legislation and urge its approval.

This amemdment will limit any selective foreign policy embargo on agricultural exports to 60 days unless Congress passes a joint resolution authorizing an extension. This amendment would replace the two-House negative veto on agricultural export controls that appears to have been rendered unconstitutional by recent Supreme Court decisions. In addition, the Dixon/Percy amendment would reverse a procedure included in the 1979 Export Administration Act that allowed Congress to veto agricultural embargoes after 30 days. The Supreme Court has since ruled congressional vetoes unconstitutional. A similar provision was approved in the House version of the Export Administration Act legislation.

This provision would not limit the President's authority to act when he can demonstrate that vital national interests are at stake, but it would require a review of any agricultural trade sanctions within a reasonable period. If the review indicates that the sanctions are achieving their stated purpose, Congress can vote to extend them. Unless Congress votes its approval, no agricultural embargo could last longer than 60 days.

Madam President, 2 months ago, the U.S. International Trade Commission published its long-awaited report, "U.S. Embargoes on Agricultural Exports: Implications for the U.S. Agricultural Industry and U.S. Exports." This very timely report describes the extreme dependence of U.S. agriculture on exports, and documents the effects of not less than five instances of agricultural commodity or product export restrictions on farmers, consumers, and taxpayers during the 7-year period 1973 to 1980: The soybean embargo of 1973; a 1974 moratorium on grain sales to the U.S.S.R.; a moratorium on grain sales to the U.S.S.R. in 1975; a moratorium on grain exports to Poland in 1975; and the 1980 embargo on agricultural exports to the U.S.S.R.

Some of the major findings of the Commission are:

1. Following the 1980 embargo, the United States share of the world market for grains, soybeans, and soybean products declined despite irregular overall increases in U.S. exports of these items over the period.

2. After the 1980 embargo, major countries that compete with the United States in the world grain and soybean markets expanded their production and exports of these commodities so as to capture a growing share of the world trade. Accordingly, consuming countries diversified their sources of supply.

3. The United States is viewed as an unreliable world supplier of agricultural commodities, particularly after the 1980 embargo.

4. The minimum cost to the U.S. Government for its attempt to ameliorate the effects of the 1980 embargo was the $475 million loss incurred by the Commodity Credit Corporation (CCC) as a result of its purchase and resale of commodity contracts. In addition, the USDA made direct purchases of corn and wheat from farmers and elevator operators at a cost of approximately $978 million and frozen whole broilers from U.S. producers at a cost of $5.5 million.

5. The 1980 embargo of agricultural exports was a major factor influencing the decline in the United States share of the Soviet wheat and coarse grain market after 1980. During 1977-78 to 1982-83, U.S. combined exports of wheat and coarse grains to the U.S.S.R. fluctuated downward from 11.2 million to 6.2 million tons; Canada's increased steadily from 2.1 million to 8.9 million tons; Argentina's increased from 1.4 million to 9.6 million tons, and the European Community's exports rose from 0.2 million to 3.8 million tons.

6. The 1980 embargo of agricultural products was a major factor affecting the lack of United States sales of soybeans and soybean products to the Soviet Union after the embargo. As the share of the Soviet market supplied by the United States declined, the share of soybeans supplied by Brazil and Argentina and the share of soybean meal supplied by Brazil and the European Community increased dramatically.

7. During and after the 1980 embargo, the Soviet Union entered into a number of long-term bilateral trade supply agreements for wheat, course grains, and soybeans and soybean products with countries which are major United States competitors in the world market.

Farmers and agricultural exporters are in support of America's foreign policy goals, but they should not be expected to bear an overwhelmingly disproportionate share of the heavy costs of embargoes such as the Carter embargo of 1981.

I urge my colleagues to support the Dixon-Percy amendment and to defeat the perfecting amendment.

I thank my distinguished colleague from Illinois for his diligence and his persistence in bringing this important issue to the Senate.

Mr. DIXON. Madam President, I thank my distinguished friend from Iowa.

It has been requested that we do not offer a motion to table. I think that is a reasonable request. So in due time we will vote up or down on the perfecting amendment.

I wish to announce that we have inquired of the American Farm Bureau Federation, and they definitely are opposed to the perfecting amendment. The National Wheat Growers also announced that they are opposed to the perfecting amendment.

Both take the position it simply weakens the amendment we are offering.

So I will be, of course, constrained, I say to my friend from Pennsylvania, to oppose the perfecting amendment, but I will not offer a motion to table.

Mr. HEINZ. Madam President, if the Senator will yield, I thank him very much for his consideration on the motion to table. We are trying to have as many up or down votes as we possibly can.

Mr. DIXON. I am delighted to hear that.

Mr. HEINZ. I do not intend to prolong the debate on either his amendment or my amendment.

Mr. DIXON. Madam President, I am proud of the fact that the chairman of the Agriculture Committee is a cosponsor of this amendment and the ranking minority member as well.

So I am pleased to yield so that the distinguished ranking minority member of the Agriculture Committee, who has done so much for the American and Kentucky farmers, my friend from Kentucky, Dee Huddleston may be recognized.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

Mr. HUDDLESTON. Madam President, I thank the distinguished Senator from Illinois. As he indicated, I am a cosponsor of the amendment that he has offered, and I have already spoken in support of the amendment. I wish to now express my opposition, and urge opposition of all members of the Senate, to the perfecting amendment offered by the distinguished Senator from Pennsylvania.

The net effect, of course, of the amendment of the Senator from Pennsylvania to the amendment of the Senator from Illinois would be to greatly weaken the basic provisions of the original amendment. The amendment of the Senator from Pennsylvania would essentially remove Congress from the process of reviewing embargoes, because it gives the President the opportunity to continue to send Congress certifications of extension, and the 60 days would never really expire. Any embargo would continue to remain in effect.

Madam President and Members of the Senate, as far as agriculture in the United States is concerned, the ox is in the ditch. We must make every effort to help America's farm producers. Farmers have suffered another devastating year, as evidenced by low net farm income for many producers. Debt is at an all-time high. Countless thousands of American farmers are facing bankruptcy or foreclosure because of their inability to meet their mortgage payments at this time.

One of the keys to prosperous agriculture in the United States is our ability to export. We have to sell a considerable amount of our grain production, abroad, or we will see continued surpluses, lower prices, and more economic hardship for our farmers. We need, in fact, to substantially increase our exports right now. We have seen something that has been unusual for the United States in recent times; namely, decline in our export sales. Both the value of those agricultural export sales and the volume of those sales have declined in the past 2 years.

We certainly have learned from experience that ill-advised embargoes do not benefit anyone. They do not serve the purpose for which they have been instituted, and serve to make the United States be considered by our foreign customers as something less than a dependable and reliable supplier. Past embargoes have opened the doors for our competitive producers around the world to take some of our markets, and the percentage of such markets that the United States enjoys has declined.

So I think we need to help get the ox out of the ditch and to make sure that in foreign trade we are as strong as we can possibly be. We must make every effort to enhance the opportunity for American agricultural producers to sell abroad.

The amendment by the Senator from Illinois is a step in the right direction, and we should not be weakening that amendment.

I urge that we reject the amendment by the Senator from Pennsylvania and move on to adopt the amendment by the Senator from Illinois.

I thank the Senator.

● **Mr. NICKLES.** Madam President, if we expect the agriculture community to thrive in a free market, then we must facilitate, not impede, a vigorous agricultural export policy and this legislation to limit Presidential embargo authority is a positive step.

The grain embargo imposed during the Carter administration in December 1979 undermined the integrity of American agriculture to be a reliable supplier. That embargo was a disaster for our grain producers, but had little negative impact on the Soviet Union. They just bought grain from other countries. Those countries have expanded their annual production, which is continuing to lower world prices today. Prior to the embargo we supplied about 74 percent of the Soviet Union's grain imports—after the embargo that figure dropped to about 24 percent.

Agricultural trade is critical to our economy, but as a result of past foreign policy decisions, nations which used to rely solely on the United States for an uninterrupted flow of food products have sought and found alternate suppliers.

The contract sanctity provision passed 2 years ago as part of the Futures Trading Act did help, but contract sanctity is not enough. We must restore to Congress a timely and effective role in the export control decisionmaking process if our Nation is ever to restore its reputation as a reliable supplier.

This amendment, which is supported by many national agriculture organizations, gives the President the authority to respond quickly to emergency situations around the world, but insures that Congress will be consulted in a meaningful manner before any decision is made concerning an embargo. Should the President impose future selective embargoes of agricultural products for foreign policy reasons it may last no longer than 60 days, unless extended by Congress. However, if the Congress does not approve the embargo, it automatically expires at the end of 60 days, and cannot be reimposed. American agriculture should not be singled out in a selective embargo. If there must be an embargo, items used to build that country's war machine should first be embargoed and agriculture products should be last.

This change in American foreign and farm policy is needed after an analysis of the facts shows that agricultural embargoes do more harm to the United States than good. While it might be good politics for a President to whip a grain embargo on another nation, it causes irreparable damage to American farmers.

Congress should have broader authority in this area of foreign policymaking because of its severe impact on the domestic economy.

I want to compliment Senator Dixon for his leadership on this issue which is a matter of grave concern for farmers across America.●

Mr. HEINZ. Madam President, I see no other Senator seeking time. So I think we are ready to put the question.

Mr. DIXON. Madam President, does my friend from Pennsylvania wish to close debate on this perfecting amendment? I wish to be heard briefly against it only for a moment.

Mr. HEINZ. The Senator from Pennsylvania, noting the extensive number of Senators here in the Chamber, has decided to abbreviate his closing remarks almost to the point of nonexistence.

Mr. DIXON. I thank my friend from Pennsylvania. I will be almost as brief in saying that we checked with a number of the important agricultural groups in the country, principally the Farm Bureau, the Wheatgrowers, and others. All have expressed opposition to the perfecting amendment as weakening the bill.

Those cosponsors of the amendment that I have offered with whom we have talked, including my distinguished friend, the ranking minority member of the Agriculture Committee, and Senator Dole have all indicated to us that they feel that the amendment being offered by my friend from Pennsylvania is a weakening amendment.

I would only wish to point out very briefly that this amendment offered by my colleague from Pennsylvania uses certain terminology that would concern me on behalf of the American farmer. For instance, it requires the President to certify certain things. One is that "other exporters of comparable products are cooperating." Another is that other countries "are reasonably likely to cooperate in the controls." What does that mean? It is so subjective that I think it is almost at the whim of the person who certifies.

A third one says, "United States producers of the products subject to controls will not be seriously injured by the continuation of such controls for an additional 60 days."

What does it mean to say "not be seriously injured"? If corn drops 10 cents a bushel, is that serious injury?

What is the terminology employed in the perfecting amendment saying to the American agricultural sector? I think that the amendment is, in truth, a very serious weakening amendment. I ask my colleagues to vote against it.

My friend from Pennsylvania suggested the administration is opposed to this bill. I just want to point out——

Mr. HEINZ. Madam President, excuse me——

Mr. DIXON. This amendment.

Mr. HEINZ. The Senator is correct.

Mr. DIXON. I want to point out that we have as cosponsors of this amendment that we have offered Senator HELMS, the chairman of the Agriculture Committee, certainly a supporter of this administration; Senator PERCY, the chairman of the Foreign Relations Committee, certainly a supporter of this administration; Senator DOLE, the chairman of the Senate Finance Committee and a major force in the Agriculture Committee, certainly a supporter of this administration; Senator LUGAR, the chairman of the Republican Senatorial Committee, a supporter of this administration; and many others.

So I point out, in conclusion, there is broad bipartisan support on both sides. Frankly, every member of the Agriculture Committee of either political persuasion supports this amendment and opposes the perfecting amendment offered by my friend from Pennsylvania.

I would ask those who come to the floor now to oppose the amendment by my friend from Pennsylvania and vote no on the perfecting amendment so that we can then go to the amendment itself and adopt it as an integral and important part of the Export Administration Act.

I thank my friend from Pennsylvania.

Mr. HEINZ. Madam President, I am not going to rebut a single thing my friend from Illinois has said. I just want to state for the record that the committee position of the Banking, Housing, and Urban Affairs Committee—not just my own position—is that we oppose the Dixon amendment. I speak for Senator PROXMIRE and Senator GARN, our ranking minority member and chairman, respectively. We support the Heinz-Proxmire perfecting amendment.

The administration, as the Senator from Illinois has correctly pointed out, is opposed to his amendment, notwithstanding the fact that he has Republican support for it, and they strongly prefer, even though they are not supporters of, the Heinz-Proxmire amendment. The fact the administration does not even support my amendment must mean that we are doing something worth doing, I say to my good friend from Illinois. But, given a choice between the devil and the deep blue sea, they prefer our amendment over the amendment of the Senator from Illinois.

I hope our colleagues will support the perfecting amendment and, regardless of which way it goes, I imagine we could have a vote on whatever the survivor may be. So having said that, Madam President, I ask for the yeas and nays on the perfecting amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the second-degree amendment offered by the Senator from Pennsylvania (Mr. HEINZ). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER) is necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

The PRESIDING OFFICER (Mr. SPECTER). Are there any other Senators in the Chamber wishing to vote?

So the result was announced—yeas 20, nays 74, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—20

Bradley
D'Amato
Garn
Goldwater
Hatch
Hecht
Heinz
Humphrey
Kasten
Laxalt
Mathias
Moynihan
Murkowski
Proxmire
Randolph
Rudman
Specter
Stevens
Tower
Weicker

NAYS—74

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
Eagleton
East
Evans
Exon
Ford
Gorton
Grassley
Hatfield
Hawkins
Heflin
Helms
Hollings
Huddleston
Inouye
Jepsen
Johnston
Kassebaum
Kennedy
Lautenberg
Leahy
Levin
Long
Lugar
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Quayle
Riegle
Roth
Sarbanes
Sasser
Simpson
Stafford
Stennis
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Zorinsky

NOT VOTING—6

Cranston
Dodd
Durenberger
Glenn
Hart
Tsongas

So Mr. HEINZ' amendment (No. 2756) was rejected.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I know there are other Senators who wish to offer amendments.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I know of at least two Senators who are present and wish to offer amendments which I believe the committee can accept.

The pending business before the Senate is the Dixon amendment. I have discussed the matter with the Senator from Illinois and neither he nor I see any need to have a rollcall vote, so it would be this Senator's intention to ask the Chair to put the question as soon as the Senator from Illinois would like us to do that.

Mr. DIXON. Mr. President, I thank my colleague.

Mr. President, I ask unanimous consent of the Senate to join as cosponsors of this amendment offered by myself, Senator PERCY, Senator DOLE, and others, the following Senators: The distinguished Senator from Michigan (Mr. LEVIN), and the distinguished Senator from Iowa (Mr. GRASSLEY).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. At this time, Mr. President, I move the adoption of amendment No. 2755 to S. 979.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 2755.

The amendment (No. 2755) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2757

(Purpose: To prevent certain acquisitions of domestic petroleum companies by major international energy concerns)

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I send an amendment to the desk on behalf of myself, Mr. RUDMAN, Mr. PROXMIRE, Mr. RIEGLE, Mr. LEVIN and Mr. BUMPERS, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM), for himself, Mr. RUDMAN, Mr. PROXMIRE, Mr. RIEGLE, Mr. LEVIN, and Mr. BUMPERS, proposes an amendment numbered 2757.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

PETROLEUM ACQUISITIONS

SEC. 19. (a) This section may be cited as the "Domestic Petroleum Company Acquisition Act of 1984".

(b) The Congress finds and declares that—

(1) major energy concerns have demonstrated an intent to allocate substantial financial resources to the acquisition of domestic petroleum enterprises;

(2) recent events in the oil producing areas of the world increase the importance of fully developing our domestic petroleum resource base for national security and domestic economic reasons;

(3) the allocation of billions of dollars to the acquisition of present domestic petroleum reserves is contrary to national policy to the extent that it does not add to our resource base but rather diverts capital resources which otherwise could have been used to explore for, and produce new domestic sources of energy; and

(4) acquisitions of domestic petroleum companies are likely to continue, resulting in the elimination of important competitive checks on the economic and political power of major energy concerns, and such acquisition are therefore against public policy.

(c) The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting immediately after subsection 7A(j) the following new subsection:

"(k)(1) For purposes of this section—

"(A) the term 'major energy concern' means any person engaged in commerce in the United States—

"(i) whose average net production of crude oil in the previous calendar year exceeded 500,000 barrels per day worldwide, or

"(ii) which is under the control of one or more foreign persons;

"(B) the term 'domestic petroleum company' means any person engaged in commerce in the United States, who is not a major energy concern, and whose average net production of crude oil from sources within the United States in the previous calendar year exceeded 50,000 barrels per day;

"(C) the term 'foreign person' means (i) any individual who is not a citizen of the United States, (ii) any person organized under the laws of, or having its principal place of business in, a country other than the United States, or (iii) any other person owned or controlled directly or indirectly by one or more of such individuals or persons;

"(D) the term "affiliate', when used with respect to any major energy concern, means any person who controls, is controlled by, or is under common control with a major international energy concern;

"(E) the term 'control' means the power, directly or indirectly, to direct or cause the direction of the management and policies of a person through ownership of voting securities or otherwise *Provided, however,* That control shall not arise solely out of a bona fide credit transaction. Ownership of, or the power to vote, 15 per centum or more of the outstanding voting securities of a person creates a rebuttable presumption of control. Ownership of, or the power to vote, less than 15 per centum of the outstanding voting securities of a person does not create a presumption of control or lack of control; and

"(F) the term 'person' includes (i) any individual, (ii) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (iii) the government of any country or any political subdivision or agency thereof.

"(2)(A) It shall be unlawful—

"(1) for any major energy concern or any affiliate thereof, to acquire, directly or indirectly, by purchase, trade, or otherwise, direct or indirect ownership or control of another major energy concern or of a domestic petroleum company or of its affiliate; and

"(2) for any domestic petroleum company or any affiliate thereof, to acquire, own, or control either directly or indirectly any major energy concern or its affiliate.

"(B) Whenever it appears to the Attorney General, the Federal Trade Commission, or any other aggrieved person that a major energy concern, affiliate, or any agent thereof, or any comestic petroleum company, any affiliate or agent thereof has engaged, is engaged, or is about to engage in any act or practices constituting a violation of subparagraph (A), such person may bring an action in the appropriate district court of the Untied States to enjoin such acts or practices, and upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted. For purposes of this paragraph, where some or all of the assets of an acquired major energy concern or domestic petroleum company are temporarily being held and operated independently, pursuant to a judicial or administrative agreement, a violation of this paragraph does not occur until the expiration of such temporary agreement. Any such permanent injunctive relief may provide for restitution of moneys.".

"(C) This paragraph shall not apply to any acquisition if—

"(1) the parties to the acquisition demonstrate that the transaction is likely to result in a material increase in new energy exploration, extraction, production, or conversion, and that such an increase cannot reasonably be achieved by means not prescribed in subparagraph (A); or

"(2) such parties demonstrates that the transaction is necessary in order to prevent one or both of the parties from having to file a petition with the bankruptcy court or from being declared bankrupt.".

Mr. METZENBAUM. Mr. President, the amendment that I have sent to the desk has to do with the question of oil company mergers. I do not think it is any secret that the Texaco-Getty merger is but the first of many mergers that are being comtemplated. As a matter of fact, we find in the media every day more and more talk about Arco moving into the Gulf situation, and other companies buying up each other. I believe it is time to call a halt. My colleague from New Hampshire, Senator RUDMAN, I know, agrees with me and will address himself to this issue shortly.

As a matter of fact, Mr. President, if you look at the news releases you see:

More oil business unheaval expected; experts say low stock prices key ingredient in takeover bids.

Merger fever sweeps through oil industry

in the Washington Post. The Wall Street Journal:

Speculators bid up energy issues amid signs of takeover boom, brighter industry future.

The Oil Daily reports:

This is almost like a witch hunt with independents and the smaller publicly held companies fair game—especially if they've built a strong position in proven reserves and undeveloped acreage. It probably will lead to the complete demise of the wildcatter, the guy who started it all.

The New York Times:

Oil industry's push to merge. Everybody is looking.

The Shearson/American Express weekly newsletter, printed in a number of papers, talks about the fact that:

Buyouts are attractive because they represent a compelling alternative to finding and developing oil from scratch.

They refer to major oil merger mania.

Mr. President, according to the chairman of Standard Oil of California, "Everybody is looking." Together these mergers will significantly increase concentration and reduce competition in the oil industry. J. Hugh Liedtke, chairman of Pennzoil, stated it as follows:

If the Getty-Texaco merger were to be permitted under the antitrust laws, then I think you're going to see a tremendous upheaval in the industry which would entail the few very large companies gobbling up all of the medium-sized and smaller companies . . . pretty soon you're only going to have half a dozen of them and you will have true monopoly.

Indeed, today's paper reports both Arco and Standard of California are amassing huge war chests to bid for Gulf Oil. Gulf has reportedly opened its books to Arco in hopes of receiving a bid.

When will this whole procedure end? We need prompt legislation to stop these mergers. This legislation proposal would put a halt to them for a period of 5 years. Therefore, I am introducing this amendment to the Export Administration Act which will prevent the major oil companies from merging with each other or with other midsized domestic concerns. The amendment will not apply where the merging firms can demonstrate that the merger is necessary to the development of new energy. But it will provide a timely halt to wasteful and anticompetitive mergers.

This amendment would stop monopolies before they occur. Historically, both Congress and the Supreme Court have made it clear that the antitrust laws should stop monopolies before they occur. The FTC has shown that it does not care about the cumulative effect of the oil merger wave.

Now, why are we proposing this amendment? We propose the amendment because the assets and the dollars of the oil companies should be used for the purpose of finding new oil, for research, for development, for more drilling. But, no, they do not want to do that. They think that they can drill for oil cheaper on Wall Street than they can drill for oil in the fields of this country.

According to Shearson/American Express:

> Buyouts are attractive because they represent a compelling alternative to finding and developing oil from scratch.

Think what that means. The oil companies do not want to spend all those extra dollars that Congress permitted them to amass by giving them special tax privileges looking for oil. They want to spend those dollars buying up other oil companies. If these deals were outlawed, the majors would be forced to find needed oil on energy frontiers, not in the corporate board room. As a matter of fact, the mid-sized domestic companies are targeted by the majors, and that is the real issue. New energy exploration is going to have to occur in the frontier areas, not on Wall Street or in the marketplace. This legislation would impact upon the top 9 oil companies and the next segment of 11 majors who are not quite as large as the first group. They would say that the top 9 could not buy each other out, and they would say that the top 9 could not buy the 11 out, and the 11 could not buy any of the top 9 out.

Finding new oil is in this Nation's national interest. The major oil companies do not really care whether they get additional oil from merger or exploration, but the American people have a right to be concerned about that. The public interest in energy independence from unreliable foreign sources demands that our national policy should encourage new development, not new takeovers.

As a matter of fact, as the oil companies incur more and more debt in order to make these acquisitions, it provides less and less incentive for them to find the dollars in order to go out and look for new oil.

Majors are now using the best sources of capital at their disposal to buy up other companies, instead of using those dollars for the purpose of looking for new oil in this country.

These mergers force the independent service station dealers out of business. These are independent small business persons whose existence is important to our economy. Several majors have pursued a strategy of forcing out independent service station owners in favor of company-owned stations. The little neighborhood gasoline station dealer is crowded up against the wall by the major oil companies.

The acquisitions about which we are speaking only serve to accelerate that process, since fewer retailers are needed to sell the now-merged brands of gasoline. As independent retail outlets are eliminated, the major oil companies will be able more effectively to dictate the retail price of gasoline, all to the detriment of the American consumer and the American economy.

Independent service station dealers do something beside provide competition. They provide consumers with full service options often unavailable at company-operated outlets. Independent service station dealers are also a major competitive force in the automotive repair market. As the majors drive the independents out of business, services will be cut, consumer choices narrowed, and prices to the consumer will increase.

The Texaco-Getty deal is a good example of a harmful merger which should be stopped. It is not too late. But prompt legislative action is neccessary if we are to stop this merger before the Federal Trade Commission finalizes its do-nothing policy.

The Texaco-Getty deal is larger than Mobile-Marathon. That merger was held unlawful by the courts. The Texaco-Getty deal is the largest merger that has ever occurred in the history of this Nation. It will not enhance new energy development.

Texaco can hardly claim that its thirst for new oil will not be affected by a merger which doubles its reserves and saddles the company with at least $6 billion in debt. Texaco has been particularly active in pursuing a strategy of eliminating independent Texaco dealers and replacing them with company-owned outlets.

The FTC's proposed consent decree does not really deal with the competitive problems in the Texaco-Getty deal. They address themselves to the issue but fail to resolve the problems that result from that merger. In the California market, particularly, it results in a total abrogation of their responsibility.

This Senator believes that we ought to cause a halt to occur in these mergers, which add nothing to the economy of this Nation.

I hope this body will see fit to adopt this amendment.

I now yield the floor to the distinguished Senator from New Hampshire (Mr. RUDMAN).

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, today we are offering, as an amendment to the pending measure, legislation which would halt mergers between large and medium-sized oil companies. I am conscious of the fact that some of my colleagues hesitate to adopt antitrust legislation targeted at specific industries, even if, as is the present case, the language would benefit consumers and increase exploration for new energy supplies. I admit to a degree of aversion to such attempts myself. However, I am convinced that facts in this situation warrant such action, and I urge my colleagues to support the amendment.

During recent years, we have witnessed a serious decline in enforcement efforts designed to prevent mergers among large corporations, even though many of the mergers substantially increased concentration in particular industries. Indeed, the guidelines issued by the Department of Justice in 1982 signaled to corporations and antitrust lawyers that the Federal Government had established an open season for mergers, whatever their economic consequences. As antitrust analysts predicted, the guidelines fostered a tidal wave of merger activity, and nowhere has the new attitude been more evident than in the petroleum industry.

Interestingly enough, the markets and the antitrust lawyers have received a real jolt recently. Paul McGrath, a breath of fresh air in the Justice Antitrust Division, has announced that the Government will seek to enjoin the LTV-Republic merger. The reaction has been swift. The March 5 Business Week reports that "antitrust lawyers who have nothing to do with either case say the decision is causing them to revise the advice they give business clients." Regrettably, the administration's response has been to lecture Mr. McGrath on the error of his ways, and, ostensibly, to suggest that he failed to consider the protectionist response sure to come from the Congress. This was done despite the fact, as I understand it, that Mr. McGrath examined the trade ramifications beyond the parameters of the merger guidelines. Thus, unfortunately, fresh air may again be subject to the cigar smoke of corporate merger strategy sessions.

I do not intend to enter into a general discussion regarding the inefficient use of capital in mergers between large corporations. Instead, I ask unanimous consent that a statement by Senator GORTON given in response to the circumstances of the attempted Bendix-

Martin-Marietta merger be printed again in the Record at the end of my statement. I think many of Senator Gorton's comments are relevant to this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RUDMAN. Mr. President, the point I emphasize today is that the U.S. Congress cannot stand by and let years of established, judicious law arising out of congressional initiative be cast aside without very careful consideration. We must establish a new signal for the markets that efficiency, the basis of capitalism, arises from competition, and not by prospecting for oil in lower Manhattan.

The smaller, medium-sized companies in the oil industry have consistently used their profits to increase their market size through exploration. It is well documented that domestic companies invest more in domestic exploration than the major international concerns.

Indeed, and I want to emphasize this point, the smaller companies, seeking new reserves, have been responsible for breaking the stranglehold of OPEC countries on oil supplies. The major international firms would prefer to support OPEC, but the exploration by domestic firms has helped to overcome our dependence on OPEC oil. Those of us who support such independence should maintain a strong stance in support of the continued existence and independence of those companies.

During hearings before the House Subcommittee on Fossil and Synthetic Fuels in December 1981, F. M. Scherer, professor of economics at Northwest University, observed that "modest structural changes could shift the delicate balance (in the petroleum industry) from rigorous competition to 'live and let live' attitudes in petroleum product markets." We are beginning to see the structural change with the tentative approval of the Texaco-Getty merger, and the change bodes an inauspicious result for consumers. Every analyst report I have seen states that the decision signals a major wave of mergers in the industry. Such increased concentration will mean less competition and almost certainly higher prices for consumers.

To be honest, I am not surprised by the recent interest in acquisitions versus exploration. For various reasons, stock prices for domestic oil companies are low. Cash-rich companies would prefer to acquire the companies rather than search for undiscovered reserves. It is much simpler to drill for oil at $5 a barrel on Wall Street than to invest $15 to $30 of retained earnings in speculative exploration. Indeed, Federal tax laws which provide an interest deduction but not a dividend deduction also encourage debt financing for merger acquisitions. However, this is not the type of activity that we in Congress should condone. These factors may form the basis for individual business merger activity, but they do not suggest that such mergers will enhance overall efficiency within our national economy. Quite the opposite is true. Increased concentration will mean increased prices for consumers and reduced exploration for future use.

What is good for one company, even "legal" for one company, is not necessarily good for the Nation. It is our job to make such judgments. I believe if you consider the issue objectively, you can come to no other opinion but to support this amendment.

EXHIBIT 1

CORPORATE WARS HARM U.S. ECONOMY

Mr. Gorton. Mr. President, much of America watched, as I did, the latest saga of the corporate wars. Indeed, it was difficult to miss since the entire struggle between the Bendix Corp. and Martin-Marietta was prominently reported on a daily basis by the press and television. The event was treated as drama. A leading news magazine aptly headlined its story, "Merger Theater of the Absurd."

Following in this vein, I feel compelled to add my review to the others that have appeared recently. Most of the public attention that was paid to this latest battle of the corporate wars has been devoted to the strategy and tactics of takeovers. Surely much more of national interest is involved in merger wars than who wins, who loses, and how they did it. Indeed, if I did not believe that much more of national significance was involved here. I would not be addressing the Senate on this subject today.

The media, in reporting the Bendix-Martin-Marietta struggle often treated it as a soap opera: A struggle between corporate titans involving billions of dollars, the clash of personalities, stunning victories followed by equally stunning reversals, unexpected alliances that quickly fell apart, and even a romantic interest. It was almost as if we should not take this struggle any more seriously than we do daytime TV.

The colorful argot that has evolved to describe the tactics of corporate takeovers—white and gray knights, bear hugs, crown jewels golden parachutes, the Pac-Man strategy—suggests that corporate wars and star wars are of equal importance. They are not, and we are making a grave mistake if we do not take the merger wars and the merger movement seriously. While on the surface the Bendix-Martin-Marietta struggle appears to contain all the elements of a comic opera, a close inspection reveals the elements of tragedy fully deserving of a serious review. A serious review goes beyond a description of the performers' behavior—to an exploration of the reasons for that behavior. When we do this for the latest example of corporate wars, we discover a serious national problem.

Consider first the absurd results of Allied's takeover of Bendix, and of Martin-Marietta, thereby maintaining its independence. A basic premise underlying a competitive economy is that both parties should gain from a trade. The economic basis for a corporate merger is that the assets of the acquired firm will be more efficiently used by the new owner, so that the successor will be more productive and profitable than it had previously been. The buying firm can therefore offer the seller more than the firm was previously worth, but still less than the assets will be worth when more productively employed. The theoretical basis for a profitable trade thus exists where both the buyer and seller benefit.

Yet, this did not happen in the Allied-Bendix-Martin-Marietta struggle. On Monday, September 27, after the dust had finally cleared and the stocks of the three companies were opened for trading, the share price of two of the firms, Allied and Martin-Marietta, the declared winners, actually fell. Allied, which acquired Bendix, had its stock price fall by almost 8 percent, and the price per share for Martin-Marietta, the independence of what was retained, plummeted almost 20 percent.

This decline in the share prices reflected the financial wreckage left in the wake of the Allied-Bendix-Martin-Marietta struggle. Martin-Marietta finds itself with $900 million in new debt used to repurchase its own stock for substantially more than it is worth today. In order to reduce this debt the company is considering selling some of its assets. Standard and Poor's has placed Martin-Marietta on its credit watch list along with Bendix and even Allied. Allied's purchase of Bendix caused its debt to capital ratio to rise from 23 percent to 43 percent—a level which endangers its credit rating and continued access to financing. Allied is also reported to be thinking of selling some assets to reduce the giant debt it has acquired. Where a month ago three relatively strong companies stood, now two financially weakened concerns remain.

Clearly something is wrong here; except for the shareholders of Bendix, and those of Martin-Marietta who had sold out earlier, the stockholders were made worse off, not better off, by this corporate merger. Furthermore, had Bendix prevailed in its management's strategy I suspect that its shareholders would also have been rewarded with lower share prices.

This is not a unique result. Research into the behavior of stock prices after mergers shows that while the stock price of the acquiring firm often rises a little bit, it frequently falls instead. The only clear winners in corporate takeovers are the owners of the firm that is sold. If the owners of the buying firm do not always benefit, why are there so many mergers?

Perhaps the answer to this question lies with an investigation into the question of who are the clear winners in merger wars. Clear winners in the Allied, Bendix, Martin-Marietta conflict were the investment banks, and legal firms, whose questionable advice reportedly will earn $20 million, and the executives at both Bendix and Martin-Marietta who were voted "golden parachutes" by their respective boards of directors.

A "golden parachute" is a guaranteed employment contract for an executive in the event the company they work for falls victim to a hostile takeover. It is a kind of executive incompetence insurance. Martin-Marietta's directors passed out 28 of these security blankets soon after Bendix made its initial offer. This was a reward for managing a company in which three of its five divisions are losing money and which stock has fallen from $72 a share 2 years ago to $22. It was the free fall of the share price, after all, that made Martin-Marietta vulnerable to a takeover.

Bendix, the management of which was restructuring the company, did not allow its executives "golden parachutes" until it appeared that Martin-Marietta had turned the tables on them and might actually acquire Bendix. Then Bendix passed out 16 no cut contracts worth $15.7 million. The biggest contract went to the chief executive officer who received a guarantee of $805,000 a year for the next 5 years.

Clearly something is wrong when the management principals can protect themselves in this way during a merger war. The press has often painted these same corporate executives as big risk takers in the tradition of Horatio Alger. Yet it does not take much of a hero to start a takeover battle when the winner gets to manage a multibillion-dollar business and the loser rides a golden parachute into a $4 million safety net.

No wonder millions of Americans have decided that the stock market is not for them. The whole Bendix-Martin-Marietta fiasco demonstrates that shareholders generally do not control the companies they own. Nor can they necessarily trust either the board of directors or the executive management to act in the owners' best interest.

One of the salutary effects of mergers is said to be that they promote good management: A hostile takeover need be feared only if another company's leaders believe that they can manage the assets more productively and more profitably. An efficiently managed company need not fear a hostile takeover. But according to recent reports 15 percent of our largest companies have provided golden parachutes for some of their executives. Certainly the golden parachute phenomenon substantially reduces any such positive motivational effect since even if their jobs cannot be protected their compensation will be.

I do not at this point wish to propose a solution, but I do wish to recommend to my colleagues that we should explore the legal relationships between the shareholder, who is the owner and ultimate risktaker, and the corporate management which should work for the owners, to see if a means can be found to make their interests better coincide. This problem of separation of ownership and control of the corporation did not, of course, originate with our current merger wars; it has existed for as long as we have had corporations. The recent Bendix-Martin-Marietta comedy illustrates, however, that it remains a serious problem.

As important as is this split between the interests of the managers and that of the owners, it is not the most important problem revealed by the Bendix-Martin-Marietta battle. Even more important is the answer to the question of why Bendix tried to do what it did. Why did Bendix believe that it was in its interest to purchase a high-tech company rather than to create one? After all, the economy clearly gains less from a game of corporate musical chairs than it would from the new investment and new jobs that would flow from expansion.

Not only did the managements of Allied and Bendix attempt to expand by merger rather than internal growth, they did so relying heavily on borrowed funds. It is reported that Bendix arranged a billion-dollar line of credit to finance its offer for Martin-Marietta. Martin-Marietta fought back by borrowing $843 million. Finally Allied's $1.9 billion purchase of Bendix was partly financed by borrowed funds.

During the month-long struggle, literally billions of dollars were tied up which could not be used to finance expansion elsewhere. The cost to the economy of this merger is not confined to the damage done to the companies involved, but must include the benefits that were lost because this capital was not profitably employed elsewhere.

I agree with the frustrated industrialist quoted in the Wall Street Journal:

"Maybe there's something wrong with our system when those four companies line up large amounts of money in order to purchase stock, when it doesn't help build one new factory, buy one more piece of equipment, or provide even one more job."

I would only add that they were lining up to pay inflated prices for that stock, much more, as we have seen, than the ordinary investor was willing to pay.

There is clearly something amiss in an economy when corporate assets look more attractive to other corporations than to ordinary investors, and more attractive than internal expansion. It is not sufficient to try to explain all the mega-mergers which have occurred over the last 5 years by: Incompetent management, as we perhaps could in the case of the Bendix-Martin-Marietta fiasco. There have simply been too many. Rather, we should look at the woeful state of our general economy. It would be no surprise that mergers would be preferred to internal expansion during a recession when the economy has excess capacity. But our current merger movement has been going on for sometime now, during good times as well as bad.

There is a new development which probably helps explain the most recent surge in merger activity. The administration's chief antitrust officials have made numerous public statements indicating that they take a significantly narrower view of antitrust laws as applied to mergers than have previous Republican and Democratic administrations. These signals that bigness is not badness, and that the Federal enforcement approach will immediately reflect this new philosophy, have been received on Wall Street. It is the clear perception of the business community that some types of mergers which would have been prohibited in the past are now worth a try.

The major reasons, however, for the current merger movement and the motive for Bendix's aggressive behavior, as well as that of Occidental, American General, R. H. Reynolds, and others which have been involved recently in billion dollar mergers, lie in inflation and the accompanying stagnation which has afflicted our national economy for over a decade. Not only has inflation discouraged personal saving and reduced the supply of capital, it has redirected what capital was available to the purchase of high-interest-paying fixed securities rather than to the equity market. The price of corporate assets, as a result, have fallen to bargain basement levels. The urge to merge is a symptom of an ailing economy. When we restore the economic health of our Nation, as we are pledged to do, I believe the merger wave may well subside significantly through natural forces.

But can we afford to wait? Our country's industrial assets are becoming increasingly concentrated in the hands of a few giant corporations. Three decades ago less than half of our country's industrial assets were in the hands of the largest 200 corporations, today it is closer to two-thirds. Mergers clearly have been an important contributor to this increased concentration. It becomes extremely difficult to deconcentrate an already concentrated industrial structure.

I would submit that increased concentration and giant size that is brought about in response to an abnormal economy will prove to be contrary to the interests of our Nation. It is quite possible that when we have finally succeeded in returning the economy to prosperity, that we will possess an industrial structure that is well suited to survive inflation but ill-suited to function efficiently in a dynamic expanding economy.

If this possibility exists then we should at the very least be exploring ways of keeping this from happening. I will make some general suggestions along these lines. I offer them not as the ultimate solutions to this problem, but as preliminary ideas which I hope will foster open discussion in the Senate. I hope that such focus will lead to enactment of some reasonable type of corrective measure early in the 98th Congress. Reducing the attractiveness of mergers is obviously one way of attacking the problem. Corporate mergers are currently attractive because the stock market responding to an inflationary economy has placed an artificially low value on corporate assets. As a consequence, it is less expensive to buy corporate assets through mergers than to expand internally. The obvious solution is to raise the cost to a firm of acquiring another firm's assets.

One way to do this is through changes in the tax laws. One suggestion might be to remove the deductibility of interest on money borrowed specifically to acquire the assets of another firm. This would accomplish two desirable results: It would probably sharply reduce the number of mergers and at the same time free credit for more productive purposes. Those externally financed mergers that still occur would no longer be partially subsidized by the taxpayer as they are now. The tax deductibility of interest payments is a Government-granted benefit. If it encourages behavior that is not in the country's best interest, it should be repealed.

Another approach would be to establish a merger tax. Many mergers are financed by retained earnings, which if distributed to stockholders, would be subject to tax. In that sense the general taxpayer also subsidizes mergers. By subjecting all retained earnings used to acquire other companies to a minimum merger tax would eliminate this implicit subsidy.

Clearly, the adoption of these two tax measures would reduce the number of mergers, especially those with only marginal benefits. Yet mergers would not be prohibited. Any two firms willing to exchange stock or willing to pay the taxes could still merge. It might also be wise to tie the tax to the economic situation, allowing the taxes to disappear when prosperity and growth return.

In closing, let me say that like millions of my fellow citizens I was at first amused by the Bendix-Martin-Marietta struggle. This amusement soon turned to irritation when the "golden parachutes" were unfurled. Now I am disgusted by the clear disregard that boards of directors and the managements of all the firms involved have shown for the stockholders they represent and the Nation in which they live.

Above all, I am alarmed by the possibility that if the merger movement is allowed to continue unimpeded the result will be a highly concentrated industrial structure totally unsuited for the dynamic rapidly developing economy we in Congress are attempting to create.

Mr. LAUTENBERG. Mr. President, I am concerned about the impact of the Texaco-Getty merger on competition in the oil industry, and specifically on refining operations in my State. According to the proposed consent decree in the Texaco-Getty case, Texaco will have to divest itself of its Eagle Point Refinery West Deptford, N.J. While the decree mandates that the refinery be maintained as a viable entity, I am not persuaded that those safeguards are sufficient. At risk are over 500 jobs, and $1.8 million in tax revenues to the locality. The loss of the refinery would have a devastating effect on the local economy, and a harmful impact on competition.

I believe the Senate should waste no time in dealing with the increasing merger activity in the oil industry. Consequently, I am voting against tabling this amendment.

Mr. President, I also ask that a letter that I and Representative FLORIO have sent to the Federal Trade Commission, expressing some of our concerns about the Texaco-Getty merger, be printed in the RECORD.

The letter follows:

SUBCOMMITTEE ON COMMERCE,
TRANSPORTATION, AND TOURISM,
Washington, D.C., February 17, 1984.

Hon. JAMES C. MILLER III,
Chairman, Federal Trade Commission,
Washington, D.C.

DEAR CHAIRMAN MILLER: We are writing with respect to the recent tentative decision of the Federal Trade Commission approving a merger between Texaco and Getty Oil Company.

Serious questions have been raised in connection with this acquisition regarding its impact on competition, particularly on control of crude oil reserves and access of independent refiners. It has also been suggested that reduced viability of independents could affect price competition for the majors, with potentially harmful consequences for prices to consumers and the long term structure of the oil industry. Given the critical importance to the economy of adequate and affordable supplies of energy, these questions about the Texaco-Getty merger are of great importance to Congress and of great concern to us. For all these reasons, we urge the Commission to exercise the utmost care in reviewing public comment on this merger and in reaching its final decision.

Additionally, we have a specific concern regarding the proposed divestiture of Texaco's Eagle Point refinery in Westville, New Jersey. Failure of that facility to continue in operation at least at its present levels of production could have serious consequences for competition and cause harmful disruption of employment and of communities throughout the region. Accordingly, we request that if the Commission finally approves the consent agreement, any final arrangement approved by the Commission explicitly ensure that, both before and after divestiture, the Eagle Point refinery will continue to be operated at least at its present levels of production.

Please advise us as soon as possible of the steps you will take to implement our request.

Sincerely,

JAMES J. FLORIO,
Chairman, Subcommittee on Commerce, Transportation, and Tourism.
FRANK R. LAUTENBERG,
U.S. Senator.●

Mr. JOHNSTON and Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I do not want to get into an extended debate on a nongermane amendment, and this amendment is about as nongermane to the Export Administration Act as you can get.

Let me say to my friends and colleagues that there is going to be an opportunity very shortly to debate this issue on a relevant piece of legislation. I do not know about the merits of Texaco and Getty. Neither one of them happen to be headquartered in Pennsylvania. I have the luxury of not having to choose up sides on one side or the other. I have not studied the antitrust implication of it. I have read the Washington Post editorials, and so forth, but not even being a lawyer, I claim that as a special dispensation.

But let me tell everyone in our Chamber, Mr. President, that we have on the calendar order No. 364, S. 1714, reported from the Committee on Commerce. It is a bill to amend the Federal Trade Commission Act, to provide authorization for appropriations.

Now, Mr. President, that is about as germane a bill to amend as there could be.

Some may say, "Senator, when is that coming up? Is it coming up soon?"

The answer is the majority leader has informed me that on that bill he has made a commitment, he has stated on the floor, that the bill is going to come up immediately upon the conclusion of our prayer debate, our prayerful debate, which is to start, as I understand it, next week.

So, Mr. President, in order to insure that we keep the Export Administration Act on track and so that we do not subject the Senate to two debates on this issue, I am going to move to table this and I am going to hold the floor until I do that.

Now, if there is someone who feels there is something that he has to positively, absolutely say, I will yield to him for a brief time without losing my right to the floor.

Does the Senator from Kansas wish to speak? I yield to him without losing my right to the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania to yield without losing his right to the floor?

Without objection, it is so ordered.

Mr. HEINZ. I thank my colleagues.

Mr. DOLE. Mr. President, I shall take a moment. I know we want to get on with this.

This amendment does touch a very sensitive issue in my State. The pending merger between Texaco, the Nation's third largest, and Getty, the Nation's 14th largest, threatens to have a severe impact on the State of Kansas. It is in that context that I wish to at least raise some question.

I am not certain the amendment is the answer, but some of us in some States have an interest, and we obviously should try to protect that interest if we can.

The FTC consent order in the Texaco-Getty merger requires as a condition of approval Texaco divest the Getty refinery now located in El Dorado, Kans., and the related pipelines and retail outlets. What the FTC seeks is to enhance competition in the Midwest by requiring that the package include the El Dorado refinery be divested in such a way as to insure the continuation of those assets as a viable ongoing petroleum refining and marketing business.

Certainly I have no quarrel with that objective. I think that is very appropriate.

But we are concerned, at least with respect to the refinery, that the objective may not be achieved. I am not yet convinced a buyer willing to continue the operations will be found.

Obviously, that is a matter of some concern. We are talking about in our State, not a large State, 1,000 jobs, 1,000 jobs in a city of 18,000 residents. Losing that refinery could have a devastating blow.

So I am seeking assurances where I can that we are not going to lose the refinery, not going to lose the 1,000 jobs, not going to lose the city.

I have yet to have those assurances. The company has advised me that there are interested buyers, that they would continue to operate the refinery if allowed to.

The consent order suggests that the overriding interest of the FTC is the continuing operation at El Dorado as a competitor with post-merger Texaco. Nevertheless, we are still troubled by the merger, by the problems and the threats the merger possesses.

So I suggest that you kind of wonder if these mergers are good policy. Obviously, we had a selfish interest. Obviously 1,000 employees had a very selfish interest.

It seems to me it is a matter that deserves very careful consideration. I will be meeting with officials of Texaco and others who may be able to shed some more light on this, but it would seem to me that we should raise these questions. I am not certain if I am going to vote to move to table or not, but at least I want our concerns on the public record.

I would hope that we would have some response, not just assurances, but some positive assurances that we are not going to be impacted upon as a result of this merger.

I thank the distinguished Senator from Pennsylvania for yielding.

Mr. JOHNSTON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. HEINZ. The Senator from Pennsylvania has the floor. I would be pleased to yield if the Senator from Kansas has completed his remarks. Has the Senator from Kansas completed his remarks?

Mr. DOLE. Yes.

I thank the Senator from Pennsylvania.

Mr. JOHNSTON. Mr. President, will the Senator yield for some questions?

Mr. HEINZ. I am pleased to yield to my friend from Louisiana.

Mr. JOHNSTON. Mr. President, I have a second-degree amendment in the nature of a substitute which I wish to put in at this time, discuss it not at great length, but discuss it, and have a little exchange with the Senator from Ohio, and then I wonder if the Senator would allow that to be done before he makes his motion to table.

Mr. HEINZ. Mr. President, will the Senator agree to a time limitation on his substitute?

Mr. JOHNSTON. Yes.

Mr. HEFLIN. Mr. President, I object to any time agreement.

Mr. HEINZ. That is my concern, I say to the Senator from Louisiana. He would not be precluded from offering his amendment after we dispose of the amendment of the Senator from Ohio.

Mr. JOHNSTON. I think it would be faster if we did it all at once. If the Senator prevails——

Mr. HEINZ. It might be; it might not be. I fear that we are going to end up spending a lot of time debating something that simply is not germane to the Export Administration Act. It strikes me that this entire exercise is an effort that will result in very little. This is the wrong bill at the wrong time, and at the wrong place.

The FTC authorization is coming down the track. There is no way that I can see that this amendment will survive the conference, and it strikes me as an exercise in frustration.

But no one is precluded from offering amendments to this at the conclusion of the consideration of the amendment of the Senator from Ohio. I reluctantly do take that position, but as the manager of this bill I just am obligated, as I said that I would be at the beginning of debate, to move to table nongermane amendments. This is just as nongermane as one can get.

I apologize to my good friend, and he is my good friend. He is such a good friend that he beats me on the tennis court most of the time and is a very good winner to boot. But I just have to say that I cannot make an exception in this case. I apologize.

Mr. President, I am pleased to yield without losing my right to the floor for not to exceed 4 minutes to the Senator from Alaska.

The PRESIDING OFFICER. Is there objection to the Senator from Pennsylvania yielding the floor under these conditions?

Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I have wanted the floor myself. I do not think it is proper for the Senator to keep it only for his own purposes.

Mr. HEINZ. Mr. President, I will not debate that matter. I will simply move to table. I do move to table the Metzenbaum amendment.

Mr. METZENBAUM. Mr. President, I wonder if the Senator from Pennsylvania might just withhold that temporarily in order that the Senator from Louisiana might have an opportunity to offer his amendment. I know the Senator from Pennsylvania has indicated he would want some time restraint. I think both the Senator from Louisiana and I could assure him that the total amount of time that we would consume in connection with his amendment would not be more than 20 minutes.

Mr. HEINZ. Mr. President, I appreciate that. But I am going to insist on my motion to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Pennsylvania (Mr. HEINZ) to table the amendment of the Senator from Ohio (Mr. METZENBAUM). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DECONCINI (when his name was called). Present.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN) and the Senator from Colorado (Mr. HART) are necessarily absent.

The PRESIDING OFFICER (Mr. WARNER). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 61, nays 34, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—61

Abdnor
Andrews
Armstrong
Baker
Bentsen
Bingaman
Boren
Bradley
Burdick
Byrd
Chafee
Cochran
Danforth
Denton
Dixon
Dole
Domenici
Durenberger
Eagleton
East
Evans
Garn
Goldwater
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Huddleston
Inouye
Jepsen
Kassebaum
Kasten
Laxalt
Long
Lugar
Mathias
Mattingly
McClure
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Pell
Percy
Pryor
Quayle
Randolph
Simpson
Stafford
Stevens
Symms
Thurmond
Tower
Trible
Tsongas
Wallop
Warner
Wilson

NAYS—34

Baucus
Biden
Boschwitz
Bumpers
Chiles
Cohen
D'Amato
Exon
Ford
Gorton
Hatfield
Hawkins
Hollings
Humphrey
Johnston
Kennedy
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Packwood
Pressler
Proxmire
Riegle
Roth
Rudman
Sarbanes
Sasser
Specter
Stennis
Weicker
Zorinsky

ANSWERED "PRESENT"—1

DeConcini

NOT VOTING—4

Cranston
Dodd
Glenn
Hart

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2759

(Purpose: To authorize appropriations to the Customs Service)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an amendment numbered 2759.

Mr. BRADLEY. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, after line 9, add the following:

AUTHORIZATION FOR CUSTOMS SERVICE

SEC. 19. (a) There are authorized to be appropriated to the United States Customs Service, Department of the Treasury, to carry out the purposes of the Export Administration Act of 1979, $12,000,000 for each of the fiscal years 1984 and 1985.

(b) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 90 days prior to taking any action which would—

(1) result in a significant reduction in force of employees other than by means of attrition,

(2) eliminate or relocate any office of the United States Customs Service,

(3) eliminate any port of entry,

(4) reduce the number of employees assigned to any office of the United States Customs Service or any port of entry, or

(5) reclassify or reassign employees of the United States Customs Service from traditional commercial functions.

Mr. BRADLEY. Mr. President, I propose this amendment to insure that our Customs Service is still able to handle its primary function—to monitor the flow of goods into and out of the country—as we give the Service expanded duties. This amendment is similar to one I offered and which was agreed to by the Finance Committee as part of the Customs Service authorization, S. 1295. Since that legislation seems unlikely to be enacted in this session and the survival of the Customs Service is so important to our economy, I am offering it today on the bill before us. My amendment will make certain that the pending legislation will not hamper the ability of the Customs Service to carry out its traditional commercial functions.

As my colleagues know, the Customs Service performs a most valuable function at our borders to make certain that tariff revenues are collected and our trade laws are enforced. If we do not give adequate resources to Customs, our trade laws cannot be enforced. We cannot permit that to happen.

The United States faces increased competition from abroad in all manufacturing industries and almost daily we read allegations that some of that competition is due to unfair trade practices by other countries. It is the Customs Service responsibility to enforce our trade laws on countervailing duties and dumping, to collect the data needed as an integral part of any investigations of unfair trade practices, and to monitor bilateral and multilateral agreements. Yet a 1981 GAO report concluded that Customs had insufficient resources to carry out those duties.

The workload of the Customs Service is likely to increase in the future as we try to stop the increased influx of counterfeit goods and new international trade agreements come into force. Additionally, the legislation before us would also increase the responsibilities of the Customs Service.

Renewal of the Export Administration Act, S. 979, calls for the transfer of enforcement authority under this act from the Commerce Department to the Customs Service. Although I do not oppose the transfer of the enforcement authority, it must not come at the expense of vigorous enforcement of our trade laws, the traditional commercial functions of the Customs Service. In order to maintain those capabilities, the Finance Committee agreed to provide an additional $5 million to the Customs Service. That is the amount CBO calculates it will cost to expand the enforcement capability at Customs. We are now told by committee staff that $12 million would be necessary to maintain all present positions and fund the new responsibility. My amendment provides the $12 million additional funds to maintain current levels of enforcement.

This amendment is consistent with the earlier markup of S. 1295, the Customs Service authorization, in the Finance Committee.

This action is necessary because, despite the anticipated increase in Custom's workload, the administration proposed reducing the number of import specialists. Their planned reorganization of the Customs Service also called for more bypass and ex-post audits rather than onsite inspections. The Finance Committee recognized that this would be a mistake and instead required more stringent notification requirements on Customs.

In order for Congress to have more adequate oversight of Customs, my amendment contains the text of section 2(b) of S. 1295 which requires that the Customs Service consult with Congress at least 90 days before any significant reorganization is to take effect.

Specifically, the Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 90 days prior to taking any action which would—

First, result in a significant reduction in force of employees other than by means of attrition,

Second, eliminate or relocate any office of the U.S. Customs Service,

Third, eliminate any port of entry,

Fourth, reduce the number of employees assigned to any office of the U.S. Customs Service or any port of entry.

This provision is intended to require reporting for any permanent change in the assignment of any authorized position or in the existence of any facility; for example, changing the number of import specialists at a particular port or discontinuing a regional office. This reporting provision will not interfere with management efficiency, but it will enable the Senate Finance and House Ways and Means Committees to supervise program changes proposed by the Service more closely.

To these four conditions which were included in section 2(b) of S. 1295 I have added a fifth—when personnel are reclassified or reassigned from traditional commercial functions.

I am disturbed by the pending reorganization of the New York customs region which, among other things, would reclassify and reassign the most senior import specialists—the national import specialists—to new duties—largely administrative duties. On September 22, I wrote to the Commissioner of Customs, William von Raab, voicing my concern that changes proposed for the New York region will almost certainly hamper the effectiveness of Customs in enforcing our trade laws. I requested a detailed explanation and justification of the planned reorganization in the New York region and for any other regions where changes are planned.

At the same time, I asked GAO to update its 1981 study "Assurance Needed that Import Classifications are Accurate," April 13, 1981, which concluded that the staff of import specialists at Customs was insufficient to carry out the mandate of our trade laws and I requested that Customs defer the planned reorganization at least until such a review could be completed.

What I received can best be described as a nonresponse. In a letter dated October 14, Assistant Commissioner Robert Schaffer responded to my request as follows:

> Regarding the notification requirements included in S. 1295, we believe that the intent of the language was clearly applicable to the closing or consolidation of Customs offices and the transfer of personnel. To the extent that the reorganization of our New York operations does not result in any of the aforementioned circumstances and does not cause dislocation or hardships to any of our employees, we believe that S. 1295 is not applicable to the proposed reorganization in New York.

The amendment I propose would remove the ambiguity in the notification requirements so that Congress can have sufficient oversight over Customs.

I urge that my colleagues support the amendment and that they familiarize themselves with the issues surrounding the adequacy of the Customs Service in enforcing and administering our trade laws. Mr. President, I ask unanimous consent that my letters to Customs and the GAO, the Customs Service response, and the relevant portion of the committee report be printed in the Record.

There being no objection, the materials were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., September 20, 1983.

Hon. Charles A. Bowsher,
Comptroller General, General Accounting Office, Washington, D.C.

Dear Mr. Bowsher: It has come to my attention that the Customs Service is planning a reorganization which would reduce the number of import specialists and import expertise and which could make enforcement of our trade laws less effective. I studied with interest your 1981 report "Assurance Needed That Import Classifications Are Accurate" (April 23, 1981) which concluded that—

"Customs Service practices do not ensure that the billions of dollars in foreign products entering the United States are properly classified for the purpose of assessing duties. Proper classifications are also needed to formulate trade policies and deal with the unfair entry of foreign merchandise into U.S. markets. An increasing volume of international trade will add to these concerns. The Service's problems have been aggravated by a relatively static classification work force and a sharply increased workload."

Apparently little has been done to remedy the situation since 1981 and now reductions in import expertise are planned.

Given the increasing competition facing U.S. industry, the reports of unfair trade practices abroad, the large volume of counterfeit products entering this country and the pending implementation of the Harmonized Customs code, I am concerned that the Customs Service may not have sufficient resources to carry out its responsibilities. In order to get an up to date reading of the situation, I request that the General Accounting Office again conduct a review of the adequacy of the Customs Services import monitoring capability. In addition, I would appreciate any recommendations that GAO may have to improve the operation of the Customs Service so that the American public can be fully certain that our trade laws are being effectively enforced.

Please keep my office fully informed of any developments related to this matter.

Sincerely,

BILL BRADLEY,
United States Senate.

U.S. SENATE,
Washington, D.C., September 22, 1983.

Hon. WILLIAM VON RAAB,
Commissioner of Customs, Department of Customs, Washington, D.C.

DEAR COMMISSIONER VON RAAB: It has come to my attention that the Customs Service is going to undertake a reorganization in the New York region which will reduce the number of import specialists and import teams and which will begin a reclassification of the national import specialists. Such changes will almost certainly hamper the effectiveness of Customs in enforcing our trade laws. In addition, the experimentation with bypass and audits in some ports of entry such as Chicago also hampers the enforcement of our laws and international agreements because it serves as an incentive for foreign exporters to shop around for points of entry in order to minimize the chances of inspection.

Our industries are facing the most intense competition in our history and we regularly hear new allegations of unfair trade practices. If import expertise at Customs is reduced, how can the American public be certain that its trade laws and international agreements are being adequately enforced? Congress clearly wants more vigorous enforcement of our trade laws. How can that be done if we are cutting back on the number of specialists and experimenting with bypass procedures?

Furthermore, recent developments and some pending trade policy changes will require more import specialists and expertise not less. During August the International Trade Commission held a public hearing which documented the extent of the counterfeit products which are entering this country illegally. The Executive Branch is now considering how to implement the international agreement on Customs harmonization and new ways to more fully implement the non-tariff barrier codes agreed to in the Trade Agreements Act of 1979. How will Customs handle these additional responsibilities with less personnel and expertise?

As you are undoubtedly aware, S. 1295 now pending before the Senate calls for maintenance of the current staffing levels at Customs and requires Customs to consult with the Senate Finance Committee 90 days in advance of any major reorganization. Although S. 1295 has not passed the Senate as yet, I respectfully request that you supply my office with a detailed explanation and justification of your planned reorganization in the New York region and for any other regions where changes are planned.

In the meantime I am requesting that the General Accounting Office update its 1981 study (Assurance Needed that Import Classifications are Accurate, April 23, 1981) which concluded that the staff of import specialists at Customs was insufficient to carry out the mandate of our trade laws (see enclosed letter). I hope that you will defer the planned reorganization until such a review can be completed.

Please keep my office informed of any developments on these matters.

Sincerely,

BILL BRADLEY.

U.S. CUSTOMS SERVICE,
Washington, D.C., October 14, 1983.

Hon. BILL BRADLEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BRADLEY: This is in response to your letter of September 22, 1983, in which you express a measure of concern regarding the Customs Service's ability to administer the tariff laws and trade policy directives for which it is responsible if present staffing levels are not maintained.

We share with you a keen appreciation of the plight of domestic industry as it seeks to maintain a competitive position in the marketplace in the face of aggressive and relentless competition from abroad. We are also cognizant of the support and protection provided by the trade laws and international agreements administered by the Customs Service. We can assure you that we will continue to carry out our responsibilities vigorously and effectively while striving to reduce operational overhead through the use of good management techniques supported by more sohpisticated and productive automated systems.

The management initiatives alluded to above have involved a review of our organizational structure, including New York, and the development of an automated commercial system that will give us greater flexibility in the use of selectivity concepts to process cargo more rapidly, efficiently and economically. We believe that the phase-in of this new system will result in substantial savings in operational overhead while maintaining quality, accuracy and uniformity of action in tariff administration.

The New York reorganization is a case in point. Customs Headquarters has collaborated closely with the Regional Commissioner of Customs in New York in a review of the regional organizational structure to determine the best alignment of personnel. This review has led to the reorganization of the import specialist staff at John F. Kennedy Airport and the upcoming restructuring of the import specialist work force at the New York Seaport. The new alignments have reduced the number of import specialist teams from 44 to 34 at John F. Kennedy Airport (JFK), and from 60 to 34 at the Seaport. It should be noted that the total number of import specialists at each location has actually been increased, although the number of GS-12 team leaders has decreased as the number of teams was reduced.

Concurrently, the function of the National Import Specialist Staff manning the Customs Information Exchange will also be restructured by the establishment of a Commercial Operations Division at the New York Seaport. The function of this group is to provide advice and assistance to import specialists throughout the country in all matters pertaining to the tariff classification, valuation and admissibility of imported merchandise. Heretofore, this group carried out its national duties together with entry processing responsibilities for importations entered at the New York Seaport. A 2 year study of the function shows that its effectiveness is reduced by this division of responsibility. Consequently, the pending reorganization will relieve the National Import Specialists from local responsibilities so that their entire time and expertise can be dedicated solely to supporting import specialists in the field appraisement centers.

Once again, the staff of the National Import Specialist group will actually be increased from the present 60 to a total of 90, together with the necessary managers, supervisors and supporting secretarial and clerical staff. Also, all proposed reorganization plans and staff changes have been communicated to the employees affected at each phase of the study. Local employee union representatives have been continuously informed of the progress of the reorganization plan and impact bargaining has resolved all outstanding issues.

We have tried to be both informative and responsive to your concerns regarding staffing of import specialists. The resource level required to carry out Customs responsibilities is constantly under review so that an optimum balance is maintained between operational requirements and prudent resource utilization. In essence, we want to have a sufficient number of people to do the job properly, but not more than what we need. These objectives will continue to be pursued judiciously, and decisions will be made based on factual management information.

We welcome a follow-up review by the General Accounting Office of the recommendations made in its 1981 report. As we have stated, both in our response to the report's findings and in subsequent reports to the concerned committees of the Congress, we are proceeding with deliberate speed to implement the remaining recommendations identified in the General Accounting Office's report.

Regarding the notification requirements included in S. 1295, we believe that the intent of the language was clearly applicable to the closing or consolidation of Customs offices and the transfer of personnel. To the extent that the reorganization of our New York operations does not result in any of the aforementioned circumstances and does not cause dislocation or hardships to any of our employees, we believe that S. 1295 is not applicable to the proposed reorganization in New York.

We hope that our response will allay your concerns regarding Customs administration of tariff laws and regulations, and we trust that our outline of the New York reorganization is sufficiently detailed and adequately descriptive of the actions contemplated.

Please let us know if we can be of futher assistance.

Sincerely,

Robert P. Schaffer,
Assistant Commissioner,
Office of Commercial Operations.

[From Report No. 89-125]

Authorization of Appropriations to the U.S. Customs Service (Section 2 of the Bill)

CURRENT LAW

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) requires annual enactment of an authorization of appropriations to the U.S. Customs Service. The Customs Service's appropriation for fiscal year 1983 (assuming enactment of supplemental appropriations for pay increases of $17,617,000) is $571,317,000.

COMMITTEE BILL

The committee bill would authorize an appropriation of $611,749,000, or $33 million more than requested by the administration for fiscal year 1984. The committee bill also *(a)* requires the Service to report any significant internal reorganization to Congress at least 90 days before it is to take effect; and *(b)* requires that certain information about imports be made public.

REASONS FOR COMMITTEE BILL

The $611,749,000 authorized by the committee bill for fiscal year 1984 is an increase of approximately $40.4 million over the $571,317,000 authorized for fiscal year 1983 and $33 million more than the administration requested for fiscal year 1984.

The administration proposed significant changes, to begin in fiscal year 1984, in Customs Service operations. In general, the administration sought first to increase Customs Service operations aimed at the enforcement of the U.S. laws regarding the unlawful export of certain products and the importation of illicit drugs, and second to reduce substantially personnel devoted to Customs's traditional commercial responsibilities. The administration suggested that management efficiencies and the increased use of advanced technological equipment would prevent a curtailment in the current level of Customs Service activities.

While the committee sympathizes with these general objectives, it is premature to authorize an appropriation based solely on general objectives. The details of the budget submission did not well support the very significant operational changes the Service seeks to undertake. For example, in reply to a written request from the chairman of the committee's Trade Subcommittee and its ranking member, the Service was not able to explain in detail what effect the proposed personnel reductions would have on specific ports, districts, and regions, or on revenue collection. Furthermore, many of the programs said to replace these highly trained personnel were vague or incomplete. Finally, the basis on which some elements of the budget were prepared has changed, calling the budget estimates into question. This is the case, for example, with regard to part of the increase proposed for purchasing aircraft; after the budget was submitted, the Service arranged to procure the needed aircraft from the military services, and sought to use the money requested originally for this purpose if appropriated to pay for servicing and parts for aircraft.

Restoring the positions proposed to be cut would cost, in the aggregate, approximately $52.6 million, which the committee restored completely. The committee intends that current personnel levels would continue under the amount authorized in this bill.

The committee then reduced the administration's proposed authorization increases for the Service by $20 million to account for the lack of support for, or the demonstrated lack of need for, portions of the increases requested by the administration. The committee believes that many of the program increments recommended by the administration are worthy, particularly the struggle against illicit drugs and the attempt to upgrade the Service's electronic data processing equipment. Therefore, the committee intends that the remainder of the increase proposed by the President to be distributed most efficiently over those programs, leaving the specifics to the Commissioner in consultation with the committee. In addition, the committee agreed that $2 million of the administration's proposed increases should be spent to enforce customs laws against fraud involving trade in steel products.

The committee believes that closer supervision of the internal operations of the Service is appropriate as the Service attempts to refine its plans for reorganization and for undertaking new and different responsibilities. Therefore, it accepted an amendment to require the Service to report to the committee and to the Ways and Means Committee of the House of Representatives, in writing, any changes in internal organization not fewer than 90 days before such changes are scheduled to take effect. This provision is intended to require such reporting for any permanent change in the assignment of any authorized position or in the existence of any facility; for example, changing the number of import specialists at a particular port or discontinuing a regional office. This reporting provision will not interfere with management efficiency, but it will enable the committee to supervise program changes proposed by the Service more closely.

Finally, the committee adopted a provision to require the disclosure of more information than is presently available on imports. The committee is persuaded that such information will facilitate better public analysis of import trends, and allow port authorities and transportation companies, among others, more easily to identify potential customers and changes in their industry. The amendment retains sufficient protection for the business-confidential data of importing firms.

Mr. BRADLEY. Mr. President, this is a simple amendment which says that for the Customs Service to carry out the purposes of the Export Administration Act, it will take additional personnel. This allocates funds to provide that. In addition, it says that if the Customs department is going to change its method of operation in any way, reduce its force or some other thing, they shall notify the Finance Committee. I am told there is agreement on this side and the other side.

I ask Senator Heinz if he agrees with that.

Mr. HEINZ. Mr. President, this amendment is very germane to this bill, because without it, we would not be able to authorize the funds for the Customs Service to do what they are required to do under the bill. I hope our colleagues will support Senator Bradley's amendment.

Mr. BRADLEY. Mr. President, I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2759) was agreed to.

Mr. BRADLEY. I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2760

(Purpose: To provide a time period for Congressional review of mergers involving substantial energy reserve holders)

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. Johnston) for himself and Mr. Metzenbaum proposes an amendment numbered 2760.

Mr. JOHNSTON. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

"Sec. . The Mineral Lands Leasing Act of 1920, as amended, (30 U.S.C. 181 et. seq.) is further amended by inserting a new section as follows:

" 'LIMITATION ON AUTHORITY WITH RESPECT TO MERGER PARTIES

" 'Sec. 43. General Prohibition.—Notwithstanding any other provision of this Act, the Secretary is prohibited from issuing any lease or granting any right-of-way under the provisions of this Act to any person who is subject to the provisions of this section.

" '(a) Applicability.—The provisions of this section shall apply to any person--

" '(1) who is a party to a merger consummated after February 27, 1984, and prior to six months following the date of enactment of this section, and

" '(2) who is a substantial energy reserve holder.

" '(b) Definitions.—For purposes of this section, the term—

" '(1) 'merger' includes mergers, consolidations, or acquisitions whereby one person acquires control or a majority of the assets of any other person. A merger shall be deemed to have been consummated when preliminary approval has been received from the Federal Trade Commission and the purchase of controlling stock has taken place, regardless of whether such stock is held in a separate account pending final Federal Trade Commission approval;

"'(2) 'substantial energy reserve holder' means any person who, individually or together with his affiliates, owns or has an interest in, ten million barrels or more of proved reserves of crude oil, natural gas liquids equivalents, or natural gas equivalents.'".

"Sec. . The Outer Continental Shelf Lands Act, as amended, (43 U.S.C. 1331-55) is further amended by inserting a new section as follows:

"'LIMITATION ON AUTHORITY WITH RESPECT TO MERGER PARTIES

"'Sec. 31. General Prohibition.—Notwithstanding any other provision of this Act, the Secretary is prohibited from issuing any lease or granting any right-of-way under the provisions of this Act to any person who is subject to the provisions of this section.

"'(a) Applicability.—The provisions of this section shall apply to any person—

"'(1) who is a party to a merger consummated after February 27, 1984, and prior to six months following the date of enactment of this section, and

"'(2) who is a substantial energy reserve holder. "(b) For purposes of this section, the term—

"'(1) 'merger' includes mergers, consolidations, or acquisitions whereby one person acquires control of a majority of the assets of any other person. A merger shall be deemed to have been consummated when preliminary approval has been received from the Federal Trade Commission and the purchase of controlling stock has taken place, regardless of whether such stock is held in a separate account pending final Federal Trade Commission approval;

"'(2) 'substantial energy reserve holder' means any person who, individually or together with his affiliates, own or has an interest in, ten million barrels or more of proved reserves of crude oil, natural gas liquids equivalents, or natural gas equivalents.'".

Mr. JOHNSTON. Mr. President, what this amendment does is radically different from the Metzenbaum amendment dealing with mergers, although it is the same subject matter. First, this is an amendment to the Mineral Leasing Act, which provides that any company which merges or acquires another, for a period of 6 months prospectively, shall not have the benefit of Federal leases or Federal rights of way. It does not prohibit the merger.

Let me repeat that: It does not prohibit any merger. It does simply say, however, that any company which is a substantial energy reserve holder—meaning a company that has 10 million barrels of proven reserve—if it acquires or merges with another company, for a period of 6 months shall not have the extra benefit of Federal rights of way or Federal leases.

Mr. President, the obvious reason for this and the reason we put only a 6-month limitation on this amendment is that the horse will be out of the barn unless we do something now to stave off this flood, this hemorrhage of mergers which are in the works. I do not know how the Senate or how the Congress eventually will come down on the issue of merging oil companies or of acquiring oil companies for the purpose of getting additional reserves. I think, Mr. President, that Congress is going to find that it is economic inefficiency at its very worst.

I do know that if we do not act now, in a nongermane way, to be sure—and this is not the first time we have enacted a nongermane amendment on a piece of legislation—if we do not act now, we are going to have a whole spate of mergers with a large proportion of the available credit for energy purposes used not in acquiring new reserves, but in acquiring given reserves.

Mr. President, probably the best example I can give is the present situation with ARCO and Gulf. The Gulf stock, Mr. President, has gone from $30% to $69 within in period of 1 year. The rumor has it that ARCO is prepared to offer $70 to $80 a share.

Mr. President, I am pleased that the Gulf stockholders or Mesa, whoever it is, are going to make a killing on the stock market; that is great. But I can tell you that the $13 billion-plus that ARCO is going to have to borrow is $13 billion-plus that is not going to go into exploration but is going to go to pay a windfall to holders of that stock.

I do not know why the stock is artificially low. Perhaps there are explainable reasons for that. But I do know, Mr. President, that when Gulf and ARCO do that and sop up $13 billion, and when all of these other merger candidates—Sun Co., Phillips Petroleum, Union Oil, Superior, ARCO Gas Co.—all of these companies that are rumored to be candidates for takeovers—if all of those takeovers occur, Mr. President, there is not going to be money left for any exploration.

To the contrary, there will not be much money left in the stock market for anything. It is all going to be used, all of that credit, simply for acquisition.

If I am dead wrong, Mr. President, if it is economically efficient for companies to acquire one another, then this amendment, I say to my colleagues, applies for only a period of 6 months. Indeed, during the 6-month period, they are free to merge. We do not stop any mergers, we do not stop any acquisitions, but we do say that, for that period of 6 months, during which time Congress ought to have a chance to look at this and hold hearings, they do not get any special Federal bonus in terms of Federal leases or Federal rights of way.

(Mr. JEPSEN assumed the chair.)

Mr. NICKLES. Will the Senator yield?

Mr. JOHNSTON. I will yield for a question.

Mr. NICKLES. I will be happy to ask a question.

I read the Senator's statement. I am trying to figure out where the cutoff would be because it is different from the amendment of the Senator from Ohio; his amendment would affect the top 20 oil companies. But as I understand the amendment of the Senator from Louisiana, the cutoff would be if you had more than what, 10 million barrels of reserves, anything more than that? If you had a merger of any type in the next 6 months, then you could not have any new Federal leases?

Mr. JOHNSTON. That is correct. Let me be clear about this. It does not have retrospective operation. It does not affect Texaco-Getty. Texaco-Getty is a done deed as far as I am concerned and as far as this amendment is concerned. This is prospective only. And again, it does not prohibit the merger at all. It simply prohibits having Federal leases or Federal rights-of-way during that period of 6 months.

Mr. NICKLES. So how many companies would be involved?

Mr. JOHNSTON. I do not know what the number of companies is, but to the majority of interested companies.

Mr. NICKLES. If the Senator will yield, I do not think it would be the majority of energy companies because there are thousands of energy companies.

Mr. JOHNSTON. Let me say the top 150. The top 150.

Mr. NICKLES. This is pretty far-reaching legislation. I am concerned——

Mr. JOHNSTON. It only reaches for 6 months.

Mr. NICKLES. It reaches for 6 months as introduced, but it might possibly be extended. We have a tendency to do that sometimes as well. But I am wondering what I can tell my constituents—we have several energy companies in the State of Oklahoma—as to whether or not they would be covered by the amendment. I am not sure if they would know.

Let me ask another question. Where is the cutoff? Is this strictly mergers between oil companies? Could a trucking company take over one of these companies that might fall into this amendment's category?

Mr. JOHNSTON. No; they could not. If the company has 10 million barrels of oil reserves, it prohibits—I say it does not prohibit the merger at all. It simply provides that the merged company will not be able to get rights-of-way or Federal leases during that period of time.

Mr. NICKLES. So let me say there are 150 companies. Any one of those 150 companies could not merge with any other company, regardless of how big or small?

Mr. JOHNSTON. They could merge. It does not prohibit the merger at all.

Mr. NICKLES. They could, but they would be prohibited from obtaining a Federal lease?

Mr. JOHNSTON. During that period of 6 months.

Mr. NICKLES. Let us say we have a big oil company, for example, Exxon, and they want to buy some little refinery out in wherever that is going upside down. They could not merge with that little refining company? Maybe that refining company is going bankrupt. They could not make that merger or, if they did, they would lose any new Federal leases, is that correct?

Mr. JOHNSTON. They can merge. During this period of 6 months, if they merge, then they are prohibited from getting the Federal lease or the Federal right-of-way. There is nothing that prohibits the merger. The refining company would have to have 10 million barrels of proven reserves.

Mr. NICKLES. I am not sure that is the way the Senator answered the first time. So if you had a big boy and he wanted to buy something that had less than 10 million barrels of reserve, could he do that? I think before the Senator said no, and I see the Senator's staff is——

Mr. JOHNSTON. If either of the companies has 10 million barrels of reserves, then they would not be entitled to get the Federal right-of-way or the Federal lease.

Mr. NICKLES. So if the company was bigger than this 10 million reserve floor, I guess, they could not merge with any company for any reason whatsoever within 6 months without losing the right to a new Federal lease?

Mr. JOHNSTON. That is correct.

Mr. NICKLES. Which would be deathly in this business if they are prohibited from Federal leases. It would severely curtail their competitiveness in the oil and gas industry.

Mr. JOHNSTON. It is intended, of course, to give us a period of 6 months within which to look at this, but it does not prohibit the merger at all. It simply takes away a very valuable right which most energy companies of any size are going to need. Many energy companies do not deal with offshore oil so some would say "Well, we are not giving up very much." I do not know. And some would not need rights-of-way. But it is intended for a period of 6 months to give us a look-see. As Senators can see by the press clipping that has been handed out, there is an overwhelming number that are being considered and are in the process of spending billions of dollars on attorneys and accountants and takeover specialists, lining up billions of dollars worth of credit before the Congress can take a look at it. I say we ought to have 6 months to take a look at it.

Mr. NICKLES. If the Senator will yield for one more question, if you had a major that did merge with another company, would they be forever prohibited from Federal leases?

Mr. JOHNSTON. During the period of 6 months, if they merge, the prohibition would be permanent; that is correct.

Mr. NICKLES. So if they did merge within the 6 months, they would be forever prohibited from any Federal leases?

Mr. JOHNSTON. That is correct.

Mr. NICKLES. I know the Senator has knowledge of the oil and gas business and the amount of land that the Federal Government has, the amount of leases that it has. That would basically be a severe, critical curtailment on their competitiveness in a very competitive market. It could be deathly to any of these companies that might have a merge even if the merger was outside of this 150 companies.

Mr. JOHNSTON. Yes, indeed. It is intended to be—but again, only during that period of 6 months.

Mr. NICKLES. But if they did merge during the 6 months, they would be forever prohibited from any Federal leases?

Mr. JOHNSTON. The answer is "Yes."

Mr. NICKLES. I appreciate the Senator answering my questions. I would hope that the floor leader would move to table at the appropriate time or this Senator will. I appreciate the Senator answering my questions.

Mr. HEINZ. If the Senator will yield without losing his right to the floor——

Mr. JOHNSTON. Yes.

Mr. HEINZ [continuing]. As I announced earlier, it will be my intention at the appropriate time to make a motion to table.

Mr. JOHNSTON. Yes; I understand that.

Mr. President, as I say, this is, of course, a nongermane amendment. I hope the Senator is not going to the posture of saying that the rule of the Senate which perfectly well permits nongermane amendments does not apply.

That is one of the two distinguishing characteristics of this body, the greatest legislative body in the world. One is nongermane amendments and the other is unlimited debate. Here we are, early in the legislative session in February, indeed on Leap Day, of all days, prohibiting nongermane amendments. I would think Leap Day would be the last day on which you would want to do that. We have an extra bonus of a day in which to consider a nongermane amendment and one that if not passed either today or very soon lets the horse out of the barn, just as it is, in my judgment, with Texaco and Getty. You are going to have consolidation, the use of billions of dollars in which to acquire not new reserves but somebody else's reserves already in being.

The situation with domestic production is pretty gloomy. In the last 10 years we have gone down in domestic production from 9.2 million barrels a day to 8.6 million barrels a day in the lower 48. Our reserves have gone down from 35.3 billion barrels to 29.4 billion barrels. Rigs in operation have gone way down. In 1981, there were 3,970. Now there are 2,200 or about maybe 55 percent as many as there were just 2 years ago. The same trend is true with natural gas.

So, Mr. President, if we do not want any new wells to be drilled, we will let them go out prospecting, drilling wildcat, if you will, not for oil wells but for somebody else's oil reserves and in the process, as I say, using up billions and billions of dollars.

Mr. President, I am not known to be a Senator who is antioil company. Indeed, I have been criticized in many quarters for being too much acclimated to the oil industry.

My interest, however, is getting wells drilled, getting production. That is the Nation's need. That is my own State's need, getting wells drilled, getting new production, getting new reserves. It is in nobody's interest other than the prospective windfall profit—you talk about a windfall profit—to the owners of some of this stock, seeing it doubled. For what reason? No reason other than that one of these Wall Street cowboys is out to lasso himself a filly at a cheap cost. They are out to do it, and they are going to do it. It is going to be done if we do not act quickly.

Mr. HEFLIN. Will the Senator yield for a question?

Mr. JOHNSTON. Yes; I, indeed, will yield for a question.

Mr. HEFLIN. If I understand correctly what the Senator has proposed, it is a 6-month moratorium on mergers. Furthermore, the penalty is a permanent deprivation of rights-of-way and leases if they merged during that period of time?

Mr. JOHNSTON. The Senator is correct.

Mr. HEFLIN. Accordingly, just 6 months remains. That is all the time he wants?

Mr. JOHNSTON. Six months will give us time enough to take a look at this and decide whether it is good policy or not. I hope we will hold hearings quickly. I hope the Congress will have a chance to look at it and see how many candidates are there. I mentioned just a moment ago a number of prospective candidates. I know you have Gulf, you have Superior, Sun, Ashland Gas, Union Oil. I do not know who else. Phillips I have heard talked about. I do not know who else is in the prospective category of candidates. It includes a lot of companies. Six months will give us a chance——

Mr. HEFLIN. The 6-month period is necessary to hold hearings?

Mr. JOHNSTON. That is right.

Mr. HEFLIN. In other words, the Senator believes the proposal he is advocating needs exploration and hearings to determine its' wisdom?

Mr. JOHNSTON. Frankly, I cannot conceive of a valid argument as to why it is in the national interest for these companies to acquire other companies for the purpose of getting reserves. But I know that there are many thoughtful Senators, such as the Senator from Alabama, who would want to take a more reasoned look at it and want to have the benefit of hearings, and I think that is a better way to legislate.

This is a situation in which if you do not act now, you are not going to have a chance to legislate and you are not going to have a chance to look at it. I think you might find that if we do not act, 6 months from now you will say, "Look what happened. There is no credit left for anybody else."

ArCO borrowed $13 billion and acquired Gulf. Not one new barrel of oil was produced, but $13 billion of credit was used up, and that is credit that did not flow back into the market. That is credit that went to artificially inflate the price of stock.

Mr. HEFLIN. The idea of a moratorium is to have hearings; however, the Senator does not think, for his viewpoint, that hearings are necessary.

Mr. JOHNSTON. To convince me, no. I would be ready to prohibit this. But I think all of us can benefit by a period of time in which to take a look at it.

If the Senator's point is that this is not the way to legislate, I would say yes. That is why I have made it only for a period of 6 months and not a permanent prohibition.

Mr. HEFLIN. The issue of hearings on antitrust legislation are under the jurisdiction of the Judiciary Committee, where there have been little or no hearings. Then there is the issue of the Energy Committee which is directly related to this. In the normal course of events, do you not go through hearings before you start dealing with penalties?

Mr. JOHNSTON. We are not talking about a penalty. We are talking about a benefit. In other words, you do not get the benefit of Federal Government leases of Federal Government rights of way if you merge within this 6-month period.

Mr. HEFLIN. That is a prohibition. That is not a benefit, is it? It is a deprivation of rights.

In other words, you cannot bid. You could not bid on a Federal lease, or you could not bid on a Federal right-of-way during that period of time. In other words, instead of the carrot approach, this is the penalty approach.

Mr. JOHNSTON. You can call it a deprivation, a penalty, or a deprivation of a benefit, and nobody has a right to a Federal lease. Clearly, it is withholding a benefit. It is designed to make it somewhere between inconvenient and impossible to merge within the 6-month period. It is certainly not impossible and it is certainly more than inconvenient, and it is meant to stop those mergers and acquisitions for a period of 6 months.

If the Senator says that we should never legislate without hearings, I can point out to the Senator many of his own votes, which were good votes, and in which we had to act on the floor because we could not get hearings or there was not time to do it.

All we are asking for is a period of time in which to take a look at this most important issue.

Mr. BUMPERS. Mr. President, will the Senator yield for an observation?

Mr. JOHNSTON. I yield.

Mr. BUMPERS. I point out to my colleagues that what the Senator is asking for is precisely what we did when we declared a moratorium on coal leasing until Congress could examine the Bureau of Land Management's coal leasing policies. The President appointed the Linowes Commission, which has reported, and we have 90 days to consider it and decide whether we should implement the changes that the Linowes Commission recommended.

I was opposed to the leasing policies outright, but in order to give a public airing to it, so that all my colleagues could get the benefit of all the facts, I was willing to support a coal leasing moratorium.

I do not know how the Senator from Alabama voted on that, but the Linowes Commission has reported, after holding extensive hearings, that our coal leasing policy has been an unmitigated disaster.

Now Congress will have an opportunity to take such action as it deems necessary. That is precisely what the Senator is asking for here. I do not see anything wrong with that. I would agree with it.

I would have voted for the Metzenbaum amendment, for arguments that I hope to get a chance to make in just a moment. In any event, I am going to vote for the Senator's amendment, which I think is the very minimum this body ought to address itself to, in light of this unbelievable merger between Texaco and Getty. That is what has precipitated all this.

Mr. JOHNSTON. I can say to the Senator that Texaco-Getty is just the most recent of these mergers. It really is the threat of future mergers that motivates me. Indeed, my amendment excepts Texaco-Getty. Of course, it does not apply to the United States Steel takeover by Marathon. Mobile was trying to take over Marathon, and ultimately United States Steel did, and there went a billion dollars. Mobil was trying to take over Conoco for $7.5 billion, and DuPont eventually did that.

Gulf was going to take over Cities Service, and then Occidental did that. That is another $5 billion transaction.

This does not affect any of those past ones. It does not affect Texaco-Getty. But where are we going to stop? That is the list of those that have already taken place. Where is the list going to stop in the future, and how much credit is it going to take?

The Senator's point is a very good one. The Linowes Commission pointed out that the coal-leasing policy was not good. I guess they are in the process of pointing that out. I do not know what Congress would find on this policy. I suspect that they can say there is not anything defensible, there is not anything that is in the national interest, and there is a lot against the national interest to have all these series of combinations and takeovers and acquisitions.

But one thing is for sure: The Nation does not lose anything by waiting for 6 months. That much is very clear.

Mr. HEFLIN. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. HEFLIN. Suppose you have your hearings. Suppose your moratorium were to be adopted and you were to have the hearings, a merger takes place, and there is a permanent deprivation of the right of leasing. Then your hearings are not fruitful; and it is determined that out of approximately 100 oil companies that you are prohibiting from merging and you say, "I am going to remove the penalty from those that merged in the meantime."

Mr. JOHNSTON. I do not think you will find anybody who will merge in this period of 6 months. If a company really wanted to merge, I think they would have their lawyers draw their instruments in such a way that the merger does not take place until the expiration date of this act.

Mr. HEFLIN. Then, the Senator would admit that he is closer to "impossible," rather than "inconvenient."

Mr. JOHNSTON. It depends on the size of the company. If it is not important to them, they might not. I am quite sure that Gulf and Arco would not merge during the period of 6 months.

Mr. HEFLIN. What about company No. 97 and company No. 98, which are prohibited by this; small companies that basically got over the figure the Senator from Louisiana has mentioned? They merge and take the chance and say, "I don't want any Federal leases now." Sometimes mergers by small companies are good competition for other companies. Would the Senator not admit that? If you have, say, 18 small midsize companies and if you could increase that to 24 larger oil companies, you would have more competition.

Mr. JOHNSTON. I do not agree with that. You will find that most of the reserves that are acquired today in the United States—90 percent, if I am correct—are found by the independents, which are small companies, not major companies. I do not agree with that.

I say to the Senator that if they really want to merge, I can tell him how they can do it. They can make their offer contingent upon the expiration of 6 months within which to do it, if you want to put the sale over into the next taxable year. You can buy up the stock, but upon a contingency that his law expires, and that would be perfectly legal. So it would be possible to do that.

This is just like the Bumpers coal-leasing moratorium, for which the Senator from Alabama voted. I have been handed a note which states that the distinguished Senator from Alabama voted for it.

Mr. BUMPERS. A good vote it was, I must say.

Mr. HEFLIN. Well, I have had second thoughts.

[Laughter.]

Mr. BUMPERS. I would not be surprised if the Senator were elected next time as a result of that vote.

Mr. HEFLIN. It was largely related to Federal lands—which is different from this situation.

The Senator's amendment seems to me to be too broad from what my understanding is. This amendment is going to take, within his broad sweep, approximately 150 different companies.

Mr. JOHNSTON. That is correct. It is a broad sweep for a short period of time. And the thing that is going to be the broad sweep is the number of takeovers that is going to take place in the next 6 months if you do not act. If you want a broad sweep, you look at that. I mean, the trend is already there: Marathon, Conoco, Cities Service, Getty Oil, all down the drain now. Of course, Burlington-Northern also acquired El Paso Natural Gas; CSX Corp. just last year purchased Texas Gas Transmission Co.; Houston National Gas recently settled with Coastal for roughly $40 million to avoid a takeover.

Mr. BUMPERS. Who, in turn, was trying to take over Arkansas-Louisiana Gas Co.

Mr. JOHNSTON. That is right. Texas Gas settled with Coastal for roughly $18 million in order to avoid a takeover.

You have money that windfall profits—I mean windfall in the true sense of the word—that is being borrowed to pay these windfalls to people without producing 1 barrel of oil or 1 cubic foot of gas.

Look, 6 months is not too long for the Congress to take a look before it is too late.

Mr. BUMPERS. Will the Senator yield?

Mr. JOHNSTON. I yield for a question.

Mr. President, I wonder if the Senator from Pennsylvania will allow me to yield just a few minutes.

Mr. HEINZ. The Senator has no objection.

Mr. JOHNSTON. I yield to the distinguished Senator from Arkansas.

Mr. BUMPERS. Mr. President, I will be as brief as I can possibly be.

What the Senator from Louisiana is asking for is simply time to study a proposition that has great economic implications.

If this administration enforced the antitrust laws of this country we might not be here debating this. However, both the Federal Trade Commission and the Justice Department's Antitrust Division have virtually ignored that duty for the past 3 years. They did not want to touch the Texaco-Getty merger.

If we simply consider the element of concentration, the argument is fairly good. Yet, we have to consider a more complete policy view. When oil prices were decontrolled, we were promised that the increased profits would be used to explore for oil. What has happened since that time? I will not repeat what the Senator from Louisiana has said about our production figures, but I will tell you what has happened on mergers.

It is epidemic. Listen to these statistics.

Twenty-eight months prior to oil price decontrol, the 20 major oil companies acquired 32 other companies, which was an average of 1.2 companies per month.

In the 25 months following decontrol, when the oil companies started getting the OPEC price for oil and at a time when they promised to go out and find oil, in exchange for decontrol, they began to increase their acquisitions and mergers to 1.75 per month, almost a 50-percent increase in acquisitions.

But that is not all the story. Look at the differences in the sizes of the mergers before and after. In that 28-month period prior to decontrol, those 32 mergers cost an average of $225 million each, whereas in the 25 months following decontrol, each merger averaged $544 million, or about a 110-percent increase in the value of each merger.

So that is only an increase of $270 million per month to $952 million per month, essentially $1 billion a month by the top 20 oil companies not to find oil but to buy other companies.

Was that the promise? Is that what the people of this body believed when we were told that oil should be decontrolled? The answer is in the question.

As our late departed brother, Scoop Jackson, used to say, "Mobil just drilled and drilled until they hit Montgomery Ward."

Mr. President, there have been, since 1979, 11 oil acquisitions of greater than $1 billion each. Furthermore, those 11 totaled $50 billion. That is not exactly bean bags.

Business Week put this issue in perspective in the February 6 issue. It said that last year's total mergers were 2,533, a 9-year high. The total volume last year for those mergers was $73.1 billion compared to $53.8 billion in 1982, or roughly a 50-percent increase in the dollar volume for mergers.

Mr. President, Texaco-Getty has been exempted from the Senator's amendment. And well it should be. That is virtually a fait accompli.

Is it not strange, though, that Texaco was willing to incur an additional $12 billion in debt to acquire a company in order to get oil reserves? Some analysts say that Texaco could have found more oil by exploration, and there is absolutely no comparison in the economic and social benefit to this country if they had chosen to do that.

Even more, consider this last fact. In that merger, Texaco acquired $13 billion in assets. That is what Getty was supposed to be worth, $13 billion. So they got $13 billion in assets but they incurred $12.6 billion in debt to do it. That was an increase of 47½ percent in assets but a 94.6-percent increase in their debt. And Salomon Bros., says that the profit they will get from the acquired company is not enough to service the debt they have acquired. Now what kind of nonsense is that?

Mr. President, we are only considering a 6-month moratorium on mergers among approximately 150 companies, and the penalty is that if one defies Congress, goes ahead with a merger without regard for the 6-month period you are imposing on us, then we bar them from receiving any more Federal leases and any Federal easements for rights-of-way and so on. Now some people may be willing to go ahead and take that.

I am tempted to launch into my favorite subject, which is the outrageous, scandalous leasing policy of this Government on oil and gas lands that belong to the Federal Government.

Incidentally, the saga continues. About 3 months ago in my State, BLM leased 18,000 acres, a little lake down there that the Corps of Engineers owned. They leased it for $18,000. You can have all this Federal land you want for $1 an acre and all you have to do is ask for it. Naturally, someone leased 18,000 acres for $1 an acre and sold it the next day for $3 million. The scandals just continue while we debate.

Finally, Mr. President, are these oil companies really going to be injured by the amendment? The Senator is asking for a 6-month moratorium and we have just finished a 4-month moratorium imposed by the Bureau of Land Management itself on all Federal leasing because of the Amos Draw scandal of last August out in Wyoming.

For those of you who are not current with that situation, we put 18 leases, roughly 25,000 acres, into a lottery, pulled out a winner and leased the 25,000 acres for $25,000.

Well, that is what happened. And 12 of those 18 tracts were renegotiated within 6 weeks for somewhere between $50 million and $100 million. People actually defend that system, but it will have to wait. I am not going to belabor that.

We should just realize that, because of that scandal, BLM again has put a little Band-Aid on the leasing program and said, "We have changed this or we have changed that."

Now, after a 4-month moratorium, we are back in the leasing business. The immediate point is we have just finished a 4-month moratorium, so oil companies are used to it. With the moratorium proposed here, Congress will have a chance to review the situation and decide whether these mergers are good or bad, or how seriously we want to curtail them. That is all the Senator's amendment does.

Mr. JOHNSTON. Mr. President——

Mr. HEINZ. Mr. President, I believe the Senator has lost his right to the floor.

Mr. JOHNSTON. Mr. President, I think I yielded with the permission of the Senator.

Mr. HEINZ. Mr. President, I do not yield. With all good deference to my good friend from Louisiana, let me explain why.

You have the floor on the floor of the Senate as long as you are standing on it. You do not have the right to the floor when you are sitting down. If you yield the floor to someone else and you sit down, you lose the floor and so does the person you yielded to. It is not my wish to preclude debate, but neither do I wish to see it prolonged.

My understanding, when the Senator from Louisiana yielded briefly to the Senator from Arkansas, was that it was to yield briefly, and I would ask everybody to consult their chronometers and see just how brief it was.

I would be happy to yield briefly to the Senator from Louisiana.

Mr. JOHNSTON. I think the Senator's point is well taken. I will briefly yield to the distinguished Senator from Ohio.

Mr. HEINZ. The Senator from Louisiana does not have that right. I will yield to him. I have the floor. But if the Senator from Louisiana has something he would like to say, I will yield to him.

Mr. JOHNSTON. I will not put the distinguished Chair on the spot as to who has the floor. In any event, I think the distinguished Senator from Ohio ought to have a few minutes. By the way, before he makes his motion, I hope he will explain where Arco is going to put the headquarters of Gulf after this merger.

Los Angeles is a marvelous place.

Mr. HEINZ. Mr. President, I must reluctantly, of course, decline to yield further to my good friend from Louisiana.

How long does the Senator from Ohio want to speak?

Mr. METZENBAUM. Less than 5 minutes.

Mr. HEINZ. Mr. President, I yield less than 5 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I thank my friend from Pennsylvania.

Mr. President, I rise to indicate my support for what I consider to be an unusual or novel approach which the Senator from Louisiana takes to this issue. The bottom line is that it will put a halt for a period of 6 months to any further merger activity.

Frankly, I think, the period is short, but I think it is an indication of the Senate's will and, if we pass it, I think it will send a message to the marketplace that this body is concerned about more and more mergers that really add nothing to the oil supply of this Nation.

As a matter of fact, the Times, just a few days ago, reported the oil industry's push to merge and they talked about everybody is looking. They go on to say, " 'What happened in January was the catalyst' said John Olsen of Drexel Burnham Lambert. He and his colleagues have been compiling lists of takeover candidates that commonly include the Superior Oil Company, the Louisiana Land Co., the Sun Co., the Kerr-McGee Corp., and the Amerada Hess Corp."

Frankly, I think it is time to say, "Wait. Hold the fort. There is no reason to permit these continued mergers to take place."

My good friend from Alabama made the point there ought to be hearings. I hope he has enough influence in the Judiciary Committee to get those hearings. The Senator from Ohio has been speaking with the chairman of the committee day in and week out, asking for hearings on this subject, and as of this moment no such hearings have been set.

I think that the approach the Senator from Louisiana is making is a good approach. It may not be the same one I would favor. I have indicated that if we had had the floor and there had not been a motion to table, we were prepared to accept his amendment as an amendment to my amendment.

So I intend to support it and I hope that this body will see fit to approve it. I think that it will say, "Whoa. Hold it. Enough mergers for the time being." Let us take another look at this subject. I think the Congress will, in the 6-month period, take a look and see what our long-range policy should be.

That is less than 5 minutes. I yield back to the Senator from Pennsylvania.

Mr. HEINZ. I yield to the Senator from Oklahoma, briefly.

Mr. NICKLES. Mr. President, I think the amendment of the Senator from Louisiana is even more far-reaching than the amendment of the Senator from Ohio. The amendment of the Senator from Ohio touched the 20 largest companies and with the amendment of the Senator from Louisiana we are talking about possibly 150 companies. I am not sure that anybody really knows how many companies because of this arbitrary figure of 10 million barrels of reserves.

Quite frankly, when you get into the bottom of those 150, there are a lot of companies that you have probably never heard of. The penalties for someone merging—and quite frankly, there could be a very justifiable and much needed merger, possibly on the lower end of the range or scale—would be extreme because it prohibits him from any Federal leasing. That could really be deathly to the future of any oil company of significant size.

I would hope that our colleagues would join the Senator from Pennsylvania in the tabling motion, at least for no other reason than that we have not had hearings on this proposal. It is a proposal that could be very detrimental.

One final comment is that the oil industry is more diversified than the steel industry, than the auto industry, and than a lot of other industries that many have raised concerns about in the past. I would hope we would support the tabling motion of the Senator from Pennsylvania.

Mr. FORD. Mr. President, I rise to voice my support for this amendment, and I urge its passage.

Normally, I would feel uneasy about any proposal that represents further Federal intervention in our free enterprise system. I believe that, for the most part, our Nation is best served when private individuals and private enterprise are free to realize the limits of their potential without governmental encumbrance. But I also realize that the free enterprise system thrives only in the presence of healthy competition. Lacking such, Government's role materializes. This amendment is limited in its approach to the problem as it merely provides a disincentive to mergers but does not prohibit them. Nevertheless, something must be done.

Right now we are seeing the dawn of what could very well become the greatest corporate merger wave ever to hit this country. Large energy companies are riding the crest. Earlier this month, the Federal Trade Commission conditionally approved the largest merger in corporate history—Texaco's $10.1 billion acquisition of Getty Oil Co.—by provisionally accepting a consent agreement with Texaco. Now other major oil companies are seeking takeover targets. Our energy industry is consolidating.

When considering this merger activity in the oil industry and whether or not Congress should put a stop to it, two questions come to mind. First, to what policies are we committing ourselves when we allow our regulatory structure not to enforce antitrust laws already on the books? And second, to what extent will we appease private corporations at the expense of our national energy policy?

Mr. President, my primary interest is seeing the vigorous enforcement of our antitrust laws. And in the light of the Texaco-Getty merger, the attempted acquisition of Marathon Oil by Mobil, and numerous other oil company mergers that are doubtlessly in the works, the need for such enforcement has become that much more important.

The energy industry is vital to the Nation's economic health, as the Sixth Circuit Court of Appeals noted when it agreed to stop Mobil's takeover of Marathon. The court considered other factors, such as the size of the industry in comparison to the size of the economy of the Nation, demand that is unresponsive to price, barriers to the entry of new participants in the industry, the many joint arrangements in which members of the industry engage, and the lack of benefits arising for the merger.

The court, in enforcing the mandate of the Clayton Act, also noted that the Mobil-Marathon merger could reduce the healthy competitive effect of independent dealers, as Marathon had been a source of supply to the independent sector of the industry. This same situation is present in Texaco's acquisition of Getty, as the Commission itself noted.

Yet the Federal Trade Commission has refused to take a hint from the Federal appeals court, and has approved the Texaco-Getty merger anyway. In the name of free enterprise, the Commission is taking a hands-off approach. But what the Commission fails to realize is that its failure to enforce our anititrust provisions is leading us down the road to monopoly and the end of competition. "Free enterprise" in the oil industry will become a thing of the past if such mergers are allowed to continue.

Indeed, this is why we have antitrust laws on the books—to preserve healthy competition. I am persuaded that the average American citizen is exactly right when he thinks that the strong, vigorous, and careful enforcement of the antitrust laws is as basic a bulwark as there can be to the maintenance of our free market system and, therefore, of our democratic institutions.

So, in and of themselves, our antitrust laws are worth enforcing—and the administration should begin making enforcement a top priority. But let's look at the reasons why antitrust enforcement becomes even more important an issue when it is applied to the energy industry.

I would like to think that this Congress has the welfare of the entire Nation in mind when it sets to formulate a national energy policy—one which will promote energy independence. But our past efforts in this area will be for naught if we allow mergers of the Texaco-Getty variety to continue.

Acquisition of Getty would give Texaco control over Getty's high domestic reserves of crude oil. The financial resources which enable Texaco to make this acquisition were augmented by various Government incentives—including tax incentives and decontrol of pricing. These incentives were originally designed—as part of our national energy policy—to hasten exploration for domestic crude oil by domestic oil companies and thereby expand supply.

When we deregulated oil, the major oil companies assured us that this would provide them with the incentives and resources to search for new reserves. But now we find they are not following through. Instead, they find purchasing undervalued stock in medium-sized oil companies with existing reserves a compelling alternative to the riskier proposition of finding and developing oil from scratch.

Clearly, this is not the direction Congress intended to steer the big oil companies. The oil company merger wave will undermine our vital national energy policies favoring the development of new domestic petroleum reserves, and it threatens to throw the entire industry into the hands of a few major corporations. Either prospect is obviously contrary to the public interest.

For these reasons, Congress must step in and prevent the situation from getting out of hand.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, with respect to the Proxmire amendment on nuclear agreements adopted earlier by the Senate, I want to make a clarification statement for the record and announce what the administration position is. At the time of the amendment, it was unclear. We did not have it one way or the other. I am now advised that the administration does in fact oppose the Proxmire amendment. The record should reflect that at this point.

Mr. President, I said at the beginning of this debate that I would move to table all amendments which were not germane to the subject matter in this bill. I move to table——

Mr. PROXMIRE. Before the Senator moves to table, will the Senator yield for 30 seconds?

Mr. HEINZ. Yes.

Mr. PROXMIRE. The Senator knows the high regard in which I hold this administration and all the support I have given the administration over the years. This is the kind of opposition I appreciate, after the fact. I hope they continue to oppose whatever I offer after it has been passed by the Senate.

Mr. HEINZ. What the Senator is saying is better never than late, but later is better than never.

Mr. PROXMIRE. Yes, or something like that.

Mr. HEINZ. Mr. President, I am not going to make a statement as to the merits of this amendment. It has never been considered in the Banking Committee. It never will be considered in the Banking Committee because it is not part or parcel or never would be referred to our committee. It is not part of the Export Administration Act. The Senator from Louisiana has properly said that it really is about the Mineral Leasing Act. He said that at the beginning.

I think everybody has said what they have to say. I move to table the amendment of the Senator from Louisiana, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to lay on the table the amendment of the Senator from Louisiana. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DeCONCINI (when his name was called). Present.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. PRESSLER) is necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), and the Senator from Colorado (Mr. HART) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—52

Abdnor
Armstrong
Baker
Bentsen
Boren
Boschwitz
Burdick
Chafee
Cochran
Danforth
Denton
Dixon
Dole
Domenici
Durenberger
Eagleton
East
Evans
Garn
Goldwater
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Huddleston
Jepsen
Kassebaum
Kasten
Laxalt
Long
Lugar
Mathias
Mattingly
McClure
Murkowski
Nickles
Percy
Quayle
Randolph
Roth
Simpson
Stafford
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Weicker
Wilson

NAYS—42

Andrews
Baucus
Biden
Bingaman
Bradley
Bumpers
Byrd
Chiles
Cohen
D'Amato
Exon
Ford
Gorton
Hatfield
Hawkins
Hollings
Humphrey
Inouye
Johnston
Kennedy
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Riegle
Rudman
Sarbanes
Sasser
Specter
Stennis
Tsongas
Warner
Zorinsky

ANSWERED "PRESENT"—1

DeConcini

NOT VOTING—5

Cranston
Dodd
Glenn
Hart
Pressler

So the motion to lay on the table amendment (No. 2760) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. I introduced on January 31, S. 2239, a bill to amend the Export Administration Act. The bill would prohibit the exportation of fresh water in bulk by tanker without a license from the Secretaries of Commerce and Transportation. A license could not be granted without the agreement of the appropriate State and local governments. Local communities would be reimbursed for any water withdrawn.

I made this proposal in response to a problem occurring in the State of New York, but the issue is likely to be important in many regions of the Nation. Between 1977 and 1983, Exxon tankers withdrew some 3 million tons of fresh water from the Hudson River. The tankers transported the water to Aruba, where it was either sold to the Government or used in the Exxon refinery there. The tankers were not obliged to withdraw fresh water for navigation or safety; saline water from the estuary serves those purposes equally well. This export of fresh water provided an economic benefit to a private corporation, and some of the benefit should be shared with the communities whose water is taken.

It had been my intention to offer this bill today for inclusion in this year's amendments to the Export Administration Act. However, I quite accept that the proposal affects more than one river, and that hearings ought to be held before we legislate. For example, tankers serving refineries on upstream reaches of the Mississippi River have a legitimate need for fresh ballast water, and this must be considered. I believe we could learn much from local communities, tanker owners, and other interested parties.

My bill was referred to the Committee on Banking, Housing, and Urban Affairs, because it would amend the Export Administration Act. In my view, however, the Environment and Public Works Committee should also examine this issue, because it addresses concerns of water diversion and the economic value of water resources, issues often considered by that committee.

Despite the interest of the Environment Committee in this matter, it is not entirely clear to this Senator that a legislative response to the problem can be drafted that falls within the jurisdiction of the Environment Committee.

I, therefore, propose that the Banking Committee agree to hold hearings on my legislation and permit the Environment Committee also to examine this matter and consider holding hearings. Do my colleagues on the Banking Committee concur with this proposal?

Mr. HEINZ. I thank the distinguished Senator from New York for bringing this issue to the attention of the Senate. I agree that it deserves close scrutiny. The Subcommittee on International Finance and Monetary Policy of the Senate Banking Committee will hold hearings on the issue, and I have no objection to the Environment Committee reviewing the matter in hearings as well.

Mr. D'AMATO. I also share the interest of the senior Senator from New York in this issue, as a cosponsor of the Senator's amendment.

Mr. HEINZ. As matter of fact, Mr. President, in recognition of Senator D'AMATO's interest in and activities on this issue, and also in view of his membership on the Banking Committee, I would like to offer to my colleague that he chair the hearing on this issue in the subcommittee.

Mr. D'AMATO. I thank my good friend, and I would say to him that I would be glad for that opportunity.

Mr. MOYNIHAN. I thank my distinguished colleague from Pennsylvania and my friend from New York. Is this proposal also agreeable to the Senator from Vermont?

Mr. STAFFORD. I would be pleased to have the Committee on Environment and Public Works review this matter and consider holding hearings on the important issues raised by this legislation which fall within the jurisdiction of the Environment and Public Works Committee.

Mr. MOYNIHAN. I thank my colleague from Vermont.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, if Senators will listen, there will be no more RECORD votes tonight. If the managers are agreeable, I ask unanimous consent there now be a period for the transaction of routine morning business not past 6:45 p.m. in which Senators may speak.

The PRESIDING OFFICER. Is there objection to the request by the majority leader?

The Chair hears none, and it is so ordered.

THE FOLLY OF STEEL QUOTAS

Mr. CHAFEE. Mr. President, on January 24, the United Steelworkers of America and Bethlehem Steel Corp. jointly filed a petition with the U.S. International Trade Commission seeking the imposition of quotas to limit imports of foreign-made carbon steel to 15 percent of domestic consumption for 5 years.

This demand for protection is being pursued in conjunction with separate quota legislation already introduced by members of the House Steel Caucus. Similar legislation is expected to be introduced soon in the Senate.

Either alternative, Mr. President, would guarantee the domestic industry 85 percent of the domestic carbon steel market and 5 years of virtual freedom from world competition.

The ITC petition, like the Steel Caucus legislation, was submitted amidst a babble of rhetoric about unfair foreign trade practices. The steel industry justifies its demands by alleging subsidization by foreign countries and dumping by foreign companies.

Mr. President, I have never hesitated to support vigorous use of our trade remedies in response to unfair foreign practices; 27 suits against 11 countries have already been filed and according to U.S. Steel chairman, David Roderick, a tremendous number of additional unfair trade petitions are planned. But the steel industry's most recent demands for protection have nothing to do with unfair trade practices. Both the legislation and ITC petition call for slashing steel imports from all foreign producers—including fair trading countries that may be guilty of nothing more than greater efficiency than the U.S. industry. Furthermore, the quotas being sought for carbon steel could be imposed on top of any sanctions taken to counteract unfair practices.

The Bethlehem/Steelworkers case was filed under the so-called escape clause of our trade statutes which requires no showing of unfair practices by foreign producers. The industry may be awarded comprehensive protection from all foreign producers in a single convenient package, without having to prove the use of unfair practices by any country.

Out of a sense that we should look out for our own interests, one might be tempted to shrug off the undeserved hardship quotas would impose on some foreign producers. Besides, what would it really cost to help our own industry? The answer, unfortunately is "Plenty."

First, steel quotas will mean by definition an increase in the cost of carbon steel available in this country. In fact, the Bethlehem/Steelworkers petition asserts, in support of its position "If all steel imports can be controlled, * * * the domestic steel producers would benefit * * * through higher and more profitable rates and process." By some estimates, this could amount to a 25-percent increase—as much as $10 billion in the first year.

But higher costs are only a part of the damage that quotas would impose upon the American economy. Equally important are the American jobs that would be lost in the many industries that fabricate steel products. Many of these industries have struggled to maintain their competitiveness. But because they will in effect be required to buy only higher priced U.S. steel, their competitiveness in domestic and foreign markets will be severely hurt.

Additionally, Mr. President, when quotas are imposed in escape clause cases—that is, in cases that do not involve demonstration of unfair practices—our trading partners, by international agreement, are entitled to compensation or even retaliation. This means that either the United States must make concessions at the expense of other domestic industries, or else our trading partners on their own can take action against our exports.

Mr. President, this fact is very important to keep in mind, because it means that when we support protectionism for one industry, we necessarily trade off the jobs and profits of other industries.

I have repeatedly made this argument in this Chamber, and unfortunately my fears over earlier escape clause actions are now coming true. Last summer, for example, the administration ordered protection for the specialty steel industry. As a result of this action, the European Community now plans to increase tariffs and impose quotas on an array of U.S.-made products including chemicals, plastics, alarm devices, and sporting goods. These products, unrelated to specialty steel, will essentially pay the price for specialty steel protection.

European retaliation against sporting goods is especially painful to me, for production of sports equipment has provided jobs for Rhode Islanders. The industry has competed profitably in the world markets, but its interests—and Rhode Island jobs—may now be the sacrifice paid for protection for specialty steel.

By shielding carbon steel producers from foreign competition, how many other American workers will be sacrificed to support the carbon steel worker?

The domestic industry claims it is making improvements. Management points proudly to "capital investment," while the union claims "significant" wage concessions.

The trouble with these claims, from both sides, is that they represent too little, too late.

Clearly, far more capital investment is needed in the domestic steel industry. United States Steel, for example, should have poured its billions of dollars into boosting productivity in its aging plants rather than rushing out to buy Marathon Oil Co.

And steelworkers wage concessions have hardly been concessions at all. The average steelworker now earns $22.51 an hour in wage and fringe benefits, which puts them in direct competition with autoworkers for first place, worldwide, in manufacturing compensation.

Paul R. Lawrence of the Harvard Business School and Davis Dyer, a Boston College professor, note in their book, "Renewing American Industry," that because of generous wage concessions made by management to labor in the 1970's, the wages of steelworkers rose 119 percent between 1975 and 1979 compared with a 63-percent rise in the Consumer Price Index.

In short, Mr. President, the improvements both management and labor boast about are barely improvements at all—and they hardly justify the kind of protection the industry seeks now.

Foreign competition is not new, and the domestic industry has been seeking protection in one form or another for 15 years. Much of what it sought has been granted. The question is, What steps has the steel industry taken during those years that would lead us to expect that 5 future years of almost complete insulation from competition would produce greater responsiveness?

Mr. President, I cannot support a proposal that would sacrifice healthy, hardworking industries, and employees. These industries should not be forced to bear the brunt of the mistakes and myopia of the steel industry, both management and labor.

In closing, I would like to call the attention of my colleagues to a column by Robert J. Samuelson in the March 5, 1984, issue of Newsweek magazine entitled "The Economics of Self-Pity." It is a good commentary on the steel industry and the problems it faces, and Mr. Samuelson is correct in stating that the "industry's collapse springs not so much from imports as its obsession with imports."

I ask unanimous consent that Mr. Samuelson's column be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ECONOMICS OF SELF-PITY

(By Robert J. Samuelson)

The steel industry shows that trade protection provides no shelter from economic upheaval—and may make it worse. Despite more than a decade of protection, industry employment has fallen 200,000, or more than two-fifths, since 1979. But this collapse did not spring so much from imports, as the industry and its union argue, as from their obsession with imports.

Precisely because they thought they could shield themselves from the world market, companies and workers postponed dealing with the industry's basic problems: old and inefficient plants, lagging technology and high labor costs. As a result, the industry grew less competitive, and its retrenchment became a sudden shock rather than a gradual decline.

What makes this relevant is that so many other industries now see themselves suffering steel's fate: being ravaged by "unfair" foreign competition. Foreign practices that differ from ours automatically become suspect, and industries faring poorly think themselves hapless victims. But steel's experience underlines the perils of this economics of self-pity.

The industry's latest self-inflicted wound is the rejection of the proposed LTV-Republic Steel merger. True, global markets reduce the need for antitrust laws. But, as the Justice Department argued, mergers cannot reasonably be justified on the basis of import competition when quotas weaken imports' ability to limit price increases. So the import obsession may now cost the industry the needed efficiencies of sensible mergers. More fundamentally, the peculiarities of foreign trade and industrial practices—though sometimes "unfair"—represent only a secondary source of steel's troubles. The industry's fundamental problem is that global steelmaking capacity far exceeds steel demand. With a worldwide steel trade, this imbalance created downward pressures on prices, profits and wages.

ALLIANCE

Through protection, labor and management sought to insulate themselves from these pressures. As a political venture, the labor-management alliance succeeded. Beginning in 1969, when Europe accepted "voluntary" restraints, the industry has enjoyed various forms of protection. Formal and informal quotas now cover European and Japanese imports.

But the protection has never been an economic success, because any benefits were quickly dissipated. In return for a no-strike pledge, management guaranteed pay increases and generous cost-of-living adjustments. Between 1970 and 1982, hourly labor costs ($23 in 1982, including fringes) rose nearly twice as fast as the average for all industries.

To argue (as steel executives do) that excess global capacity primarily reflects subsidized plants in developing countries is silly. Government does not automatically make plants uneconomic. Since 1973, world steel demand has fallen, but in developing countries it has roughly doubled. With new technology and low wages, these countries would be foolish to buy more expensive European or American steel.

If too many plants were built, one reason is that other countries listened to the optimistic American forecasts. Few industries have so misjudged their market; steel firms thought long-term demand in the United States was rising when it was falling. As recently as 1980, the industry's trade association put 1988 demand in the United States at 134 million tons against 1973's peak of 123 million. In 1983's depressed market, demand totaled 83 million tons. Charles Bradford of Merrill Lynch now estimates 1988 demand at 101 million tons.

Steel executives were late in seeing that cars would get smaller and that plastics and aluminum would substitute for steel; that steel wouldn't recapture the beverage-can market from aluminum, and that stronger steel and reinforced concrete would reduce the need for steel in construction. Believing that demand was growing—that, indeed, there might be a "shortage"—American firms retained inefficient plants, while abroad, new plants were built.

The social and economic consequences of these miscalculations were disastrous. Steel profits lagged, and cash-short firms delayed introducing new technology. In 1982, less than a third of American crude steel was produced with more efficient continuous casting, compared with four-fifths in Japan. When recession destroyed the mirage of a steel shortage, the resulting layoffs and plant shutdowns devastated many steel-dependent communities.

None of this means the industry's disappearance. Mini-mills (smaller mills using scrap metal) have lower costs, some large United States plants are highly efficient, and many domestic customers need speedy delivery or specialized products. But, without trade protection, the industry's inevitable shrinkage would have started sooner and left the remaining plants stronger.

What often goes unnoticed is government's complicity in this debacle: the moral is that doing less would be doing better. The industry's preoccupation with imports reflects trade laws that encouraged undesirable protection. The industry now wants five-year quotas limiting imports to 15 percent of American consumption, compared with 20.5 percent in 1983. A better policy would be to lighten import restrictions, permit efficient mergers and compel firms and workers to face global competition.

DANGEROUS DRIFT

No one denies that other countries do things differently or that their practices often discriminate against American firms. But these practices are not always an important cause of our industries' problems, and our practices can discriminate against foreigners. The need is to draw trade laws tightly: to provide relief only when foreign abuses are large and injuries clear.

But the drift is in the opposite direction. We risk repeating steel's mistakes in other industries, most prominently autos. The Reagan administration has been the most protectionist since World War II. Walter Mondale pledges to match foreign subsidies "product for product and dollar for dollar." The rhetoric panders to popular prejudice and, in an election year, makes politicians seem responsive. Sadly, the resulting policies often harm the people and companies they purport to help.

THE MYTH OF AUTO QUOTAS

Mr. CHAFEE. Mr. President, for years Detroit has been telling Congress and the American people that it can become competitive with the Japanese auto industry if only we will provide a breathing space in the form of temporary import quotas on cars made in Japan.

Give us some time, Detroit has said, and we will be able to produce better cars at a cheaper price and put Americans back to work once again.

That is the myth of auto quotas; the reality is much different.

Last year, General Motors, Ford, and Chrysler together posted record profits of more than $6.2 billion. American cars are selling at their fastest rate in over a decade.

Sadly, however, this spurt of production has not benefited the American worker—and it has cost the American consumer dearly.

Detroit, in short, has learned how to make more money by selling fewer cars. Rather than using the breathing space created by import quotas to cut prices, improve quality and regain the loyalty of American motorists, Detroit is selling its cars—all it can make—at a hefty premium for the simple reason that it is spared competition.

For the autoworker, however, this has not brought back all of the jobs: much of the extra production is now handled by overtime shifts, and in fact, General Motors is talking about further layoffs of 80,000 workers in the next 3 years, and Ford has already announced new layoffs.

So much for the myth that quotas would bring back jobs.

It is the American consumer, however, who has really taken a beating. The average cost of a new automobile sold in the United States this year will total more than $10,500—an increase of $2,000 in just 2 years.

The Japanese reacted to quotas by pushing their most expensive models and adding extra costs. Go into any Japanese automobile dealer and you will find the sticker price usually includes a premium cost of $1,000 or more labeled added dealer markup or, more euphemistically, market adjustment fee.

Because of the quotas, Japanese cars, which Americans first bought because of their quality and because they were inexpensive, often cost more than American cars. But rather than using the breathing space of quotas to vastly undersell the Japanese and thus regain their market share, Detroit has raised the price of its cars as well, although it tends to keep them just under the prices for restricted imports.

If ever there were a need for free enterprise, that need exists in the auto industry.

Quotas should be terminated and Detroit should be left to fend for itself. It is time the myth of import quotas is exposed for what it is: a hoax on workers and the American consumer.

Mr. President, an article in the February 27 issue of the Washington Post by Jerry Knight spells out precisely why quotas are damaging to workers and consumers. I commend it to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 27, 1984]

IMPORT QUOTAS PUT CARS OUT OF REACH

(By Jerry Knight)

Anyone who can read the sticker on the window of a new car or the bottom line on a car maker's annual report should now begin to understand the impact of the so-called "voluntary" quotas on Japanese auto imports.

Car prices and car profits are at record levels. The Big Four U.S. car makers earned combined profits of $6.1 billion last year, almost a billion dollars more than the industry has ever before made in a single year.

General Motors earned $3.7 billion, Ford made $1.87 billion, Chrysler $700 million. American Motors lost $147 million for the year, but during the fourth quarter AMC made money for the first time in 14 quarters, turning a puny profit of $7.4 million.

Right now cars are selling at their fastest rate in 11 years—28,159 deals a day in mid-February—but the automakers' record 1983 profits were not made by the traditional method of selling more cars than ever.

The auto companies cleaned up last year by charging higher prices and making a fatter profit on every car sold. In Detroit they call that improving productivity. But it's clear the automakers owe much of their success to the almost total lack of price competition in the new car business and for that the credit goes to Washington.

The reason there is no price competition is that the government—the Democrats in Congress together with the Republicans in the White House—and the auto industry ganged up on the competitors and chased them away. After much arm twisting, the Japanese agreed to limit their U.S. shipments to 1.85 million cars a year.

To the surprise of no one, the Japanese responded to the "voluntary" quotas by trying to make as much money as possible on the limited number of cars they could sell.

Import quotas, price controls and other attempts to meddle with the market have a way of producing perverse effects when they try to defy the law of supply and demand. In the same way New York City's rent controls have created $1,000-a-month one-bedroom apartments, auto import controls have given us $10,000 economy cars.

Datsun, Toyota and Honda have not only raised their prices, they have revamped their model mix, replacing subcompact econoboxes with innovative, upscale machines—the Celica Supra, Nissan ZX and Isuzu Impulse.

No better example exists of how quotas change cars than the once-humble Honda. When the first Civic landed in California, Honda was still best known for its motorcycles and the Civic cost less than $3,000.

Drop into a Honda dealer today and you'll see Civics with stickers totaling upwards of $9,000—probably $1,000 more than any comparably sized car made in Detroit. Honda's slightly larger Accord has become the most expensive sedan of its size ($11,000 and up) and the Prelude has been transformed from a wimp-mobile into a stunning sports coupe.

Still Honda sells all the cars it can import. It is increasing the production capacity of its Ohio plant that builds Accords. It plans to produce a true luxury car—an $18,000 model to compete with BMW. Honda has it made: it enjoys a production cost advantage over Detroit of $1,500 or $2,000 a car and it can sell its cars for higher prices than domestic models.

The Hondas that once helped pull down car prices by providing a low cost alternative to Detroit today are pushing up prices by setting new highs in quality and cost. Chevrolet can raise the price of its front-wheel drive Celebrity and still convince people the car is a bargain because it costs less than an Accord and is bigger to boot.

The transformation of the Japanese imports from loss leaders to price pace setters is one of the most important reasons why the auto industry is making so much money. Like the Japanese, Detroit has learned to make more money by selling fewer cars. Because of the lack of import price competition, the average new car sold in the United States this year will go out the door at $10,500 up nearly $1,000 in the last two years.

That extra cash has given the auto companies the greatest turnaround in the history of American business.

But quotas were supposed to do more than make the automakers rich, they were supposed to save the jobs of American workers and presumably benefit the public. On both counts, import quotas have failed.

General Motors' record profits were not matched by a record work force. Almost 50,000 GM workers are still laid off and the company admits it is considering cutting its staff by another 80,000 jobs in the next three years. Ford announced new layoffs the same week it announced record earnings. Chrysler executives will get bonuses for the first time in four years, but thousands of ex-Chrysler production workers will never punch their timecards again.

The people who buy cars are suffering along with the people who make them. Millions of Americans can no longer afford new cars now that the average sticker is into five figures. Higher car prices means consumers must borrow more, creating additional demand for funds that puts pressure on interest rates. Higher car prices plus higher interest rates equals inflation.

There is no reason to believe any of this upward pressure on auto prices will change this year. Cars are selling faster right now than anyone expected, providing additional opportunities to raise prices still higher.

The way to break this cycle is to return to a free market in cars. There is no better time to do so than right now, when the auto industry is booming and there is no excuse for protectionism that benefits neither workers nor consumers. The "voluntary" Japanese quotas are due to remain in effect until April, 1985, they could just as easily be ended this April.

The auto industry can afford price competition; American consumers deserve it.

SUPREME COURT DECISION ON LESTRANGE—A VICTORY FOR THE DISABLED

Mr. DOLE. Mr. President, yesterday, the Supreme Court ruled in a 9 to 0 decision that employment is covered under section 504 of the Rehabilitation Act. This means in essence that disabled people are guaranteed protection against employment discrimination and that the Federal funds involved do not have to be specifically for employment purposes. This decision in Consolidated Rail Corp. against LeStrange represents a major victory for disabled individuals throughout this country. Any recipient of Federal funds will be prohibited from discriminating against the handicapped, and any disabled individual who is found to have been the victim of discrimination on the part of an employer is entitled to a private right of action and may receive backpay for damages. In essence, yesterday's Supreme Court decision endorses the 1977 regulations and 1978 amendments that Congress passed in conjunction with the Rehabilitation Act of 1973.

LEGISLATIVE HISTORY PREVAILS

Mr. President, the Supreme Court decision in Consolidated Rail Corp. against LeStrange, upholds the intent of the Congress with regard to section 504. Congress enacted section 504 as a broad prohibition of discrimination on the basis of handicap by recipients of Federal financial assistance. In this case, Conrail contended that the Rehabilitation Act limited an employment discrimination action against a Federal grantee to cases where the purpose of the Federal financial assistance was to provide employment.

Even without the elaboration of committee and conference report language, the language of the act clearly states its purpose:

> No otherwise qualified handicapped individual * * * shall, solely by reason of his handicap * * * be subjected to discrimination under any program or activity receiving Federal financial assistance * * *.

In order to further clarify the intent of the Congress, the Senate committee report on the 1974 amendment states:

> It was clearly the intent of Congress in adopting * * * Section 504 (nondiscrimination) that the term "handicapped individual" in that section was not to be narrowly limited to employment (in the case of Section 504.)

In fact, the entire legislative history pursuant to the enactment of the Rehabilitation Act and later amendments supports the assumption that employment discrimination is prohibited—this was part of a congressional effort to insure the effectiveness of the vocational rehabilitation programs which are provided for in the same act. References to the Rehab Act have always been underlined by the premise that Congress intended to prohibit employment discrimination.

COMPARISON TO GROVE CITY CASE

While I applaud the Supreme Court's decision in LeStrange, I am very disappointed by another decision handed down by the Supreme Court yesterday in the case of Grove City College against Bell. At issue in Grove City was the scope of title IX of the Education Amendments of 1972, which prohibits sex discrimination in educational programs receiving Federal aid. The Court held that title IX is "program specific," that is applies only to those specific programs directly affected by Federal moneys, instead of the entire institution benefiting from the Federal funds. Thus, for instance, if the only Federal aid received by a school is student financial assistance, only the school's financial aid office would be subject to title IX's antidiscrimination mandate. The school would apparently be free to discriminate in all other components of its program—admissions policies, academic counseling, job placement services, to name a few—and still reap the benefits of taxpayer's money.

Moreover, I fear that Grove City could open the door for Federal funding of institutions which discriminate on the basis of race and handicap, so long as the specific program affected by the Federal moneys was operated in a nondiscriminatory manner. The Federal statutes which prohibit race and handicap discrimination by recipients of Federal funds—title VI and section 504—contain language virtually identical to that contained in title IV. Thus, while LeStrange represents a step forward for disabled employees, Grove City may take them two steps back. For if Grove City is applied to section 504, the only disabled employees protected will be those working in those specific programs earmarked for Federal aid.

VICTORY FOR DISABLED

Mr. President, I was one of those Members of Congress who was very active in the move to strengthen the civil rights of handicapped Americans, and I am proud to have participated in this effort. Over the last decade, we have witnessed tremendous progress in the quality of services and training programs for the handicapped—In the removal of architectural and transportation barriers. But that final barrier—an attitudinal one—has been most difficult to erase.

This historic Supreme Court decision in Consolidated Rail Corp. against LeStrange will go far in assuring that disabled individuals have the right of participate in the work world without having to face discrimination on the basis of handicap. This protection in the law has now been endorsed unanimously by the Supreme Court. It is a great step in the movement to enable our disabled citizens to participate in the mainstream of American community life. All they have ever asked is an equal chance to share their talents with the society which has always represented the promise of opening doors to allow individuals to achieve their full human potential.

The Senator from Kansas is pleased to have been among several distinguished colleagues who joined in an amicus brief on respondent's side of the Supreme Court case of Consolidated Rail Corp. against LeStrange. Those Members of the Senate who were amicae curiae along with myself are Senators CRANSTON, HATCH, KENNEDY, PELL, STAFFORD, and WEICKER. Having been somewhat personally involved in this case, I therefore applaud the Supreme Court's overwhelming endorsement of congressional intent with regard to section 504 and employment of the disabled—this is a major victory for their civil rights.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate a message from the President of the United States submitting a sundry nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 3:21 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 4956. An act to extend the authorities under the Export Administration Act of 1979; and

H.J. Res. 292. Joint resolution designating "National Theatre Week."

The enrolled bill and joint resolution were subsequently signed by the President pro tempore (Mr. THURMOND).

At 3:42 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 746. An act to establish the Illinois and Michigan Canal National Heritage Corridor in the State of Illinois, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3506. An act to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, Calif., and for other purposes.

At 6:28 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolutions, each without amendment:

S.J. Res. 161. Joint resolution designating the month of April 1984, as "National Child Abuse Prevention Month";

S.J. Res. 184. Joint resolution designating the week of March 4, 1984, through March 10, 1984, as "National Beta Club Week"; and

S.J. Res. 193. Joint resolution designating March 6, 1984, as "Frozen Food Day."

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 93. Concurrent resolution authorizing the rotunda of the U.S. Capitol to be used on April 30, 1984, for a ceremony commemorating the "Days of Remembrance of Victims of the Holocaust."

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 422. Joint resolution designating the week beginning March 4, 1984, as "Women's History Week."

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3506. An act to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, Calif., and for other purposes; to the Committee on Energy and Natural Resources.

MEASURE HELD AT DESK

The following joint resolution was held at the desk by unanimous consent:

H.J. Res. 422. Joint resolution designating the week beginning March 4, 1984, as "Women's History Week".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. 2354. A bill to rename the "River of No-Return Wilderness" in the State of Idaho as the "Frank Church River of No-Return Wilderness".

By Mr. HEINZ, from the Special Committee on Aging:

Special Report entitled "Developments in Aging, 1983" (Rept. No. 98-360).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 764. A bill to assure the continued protection of the traveling public in the marketing of air transportation, and for other purposes (with minority views) (Rept. No. 98-361).

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment and without recommendation:

S. 1546. A bill to amend the Deepwater Port Act of 1974, and for other purposes.

● Mr. STAFFORD. Mr. President, the Committee on Environment and Public Works is today reporting S. 1546, a bill which was reported earlier by the Commerce Committee. The bill makes several changes in the Deepwater Port Act and was referred to the Environment and Public Works Committee for consideration of section 4 because of our jurisdiction over the environmental aspects of deepwater ports.

The time for review under the sequential referral was quite limited. It did not allow for a hearing or extensive independent analysis of issues. Based on only a brief evaluation, we concluded that the provisions of section 4, the amendments to the liability provisions of the Deepwater Port Act, probably will not significantly reduce the environmental protection afforded by existing law.

I want to make clear that while the Environment and Public Works Committee found no immediately apparent problems with section 4, the cursory review we were afforded did not allow us to judge confidently that the provisions are environmentally sound. For this reason we report the measure without recommendation.

The Environment and Public Works Committee will carefully follow—and where appropriate, participate in—the remainder of the process for enacting this bill into law. We will also closely monitor implementation of the amendments and will act quickly to make appropriate changes to the Deepwater Port Act if the environmental aspects of the new provisions prove inadequate.●

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH (for himself and Mr. BAUCUS):

S. 2366. A bill to require custodians of public money to deposit funds not later than 3 business days after the date of receipt, and for other purposes; to the Committee on Finance.

By Mr. METZENBAUM:

S. 2367. A bill to provide a comprehensive program to enable economically disadvantaged youths to obtain employment through the improvement of basic reading, writing, computational, and communication skills, community improvement work, and skills training program; to the Committee on Labor and Human Resources.

S. 2368. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that the label or labeling of a food state the specific common or usual name of each fat or oil contained in such food and the amount of sodium and potassium contained in such food; to the Committee on Labor and Human Resources.

By Mr. RIEGLE:

S. 2369. A bill to amend the Social Security Act to provide for improved procedures with respect to disability determinations and continuing disability reviews and to modify the program for providing rehabilitation services to individuals determined under such act to be under a disability and for other purposes; to the Committee on Finance.

By Mr. McCLURE (by request):

S. 2370. A bill to provide for distribution to the States of certain amounts resulting from enforcement of the Emergency Petroleum Allocation Act of 1973, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOLE:

S. 2371. A bill to provide for the distribution within the United States of the U.S. Information Agency film entitled "Peace, Friendship and Freedom"; to the Committee on Foreign Relations.

By Mr. TOWER (for himself and Mr. Proxmire):

S. 2372. A bill to amend the Securities Exchange Act of 1934 to provide uniform margin requirements in transactions involving the acquisition of securities of certain U.S. corporations by non-U.S. persons where such acquisition is financed by non-U.S. lenders, to specify a private right of action for violations of margin requirements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. HAWKINS:

S. 2373. A bill to exempt from taxation by the District of Columbia certain property of the Jewish War Veterans, U.S.A. National Memorial, Inc.; to the Committee on Governmental Affairs.

By Mr. STAFFORD (for himself, Mr. Eagleton, Mr. Weicker, Mr. Dodd, Mr. Kennedy, Mr. Randolph, Mr. Pell, Mr. Riegle, Mr. Matsunaga, Mr. Metzenbaum, Mr. Burdick, Mr. Sarbanes, Mr. Rudman, Mr. Hatfield, Mr. Hollings, Mr. Sasser, Mr. Tsongas, and Mr. Cranston):

S. 2374. A bill to extend the authorization for 5 years for the low-income home energy assistance program, for the community services block grant, and for the Head Start program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WEICKER (for himself, Mr. Bumpers, Mr. D'Amato, and Mr. Dixon):

S. 2375. A bill to amend the Small Business Act to improve the operation of the secondary market for loans guaranteed by the Small Business Administration; to the Committee on Small Business.

By Mr. MOYNIHAN:

S. 2376. A bill to amend the Internal Revenue Code of 1954 to reform the taxation of options; to the Committee on Finance.

By Mr. BAUCUS:

S. 2377. A bill to set forth qualifications for the Offices of Attorney General of the United States and Deputy Attorney General; to the Committee on the Judiciary.

By Mr. ABDNOR (for himself, Mr. Pell, Mr. Moynihan, Mr. Symms, Mr. Stennis, Mr. Pressler, Mr. Sarbanes, Mr. Warner, Mr. Boren, Mr. McClure, Mr. Matsunaga, Mr. Trible, Mr. Huddleston, Mr. D'Amato, Mr. Zorinsky, Mr. Tsongas, Mr. Lautenberg, Mr. Inouye, Mr. Levin, Mr. Heflin, Mr. Melcher, and Mr. Mathias.

S. 2378. A bill to provide authorizations of appropriations for the impact aid program under Public Law 874 of the 81st Congress, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE:

S.J. Res. 249. Joint resolution designating the week beginning March 4, 1984, as "National Weights and Measures Week"; to the Committee on the Judiciary.

By Mr. BAKER:

S.J. Res. 250. Joint resolution declaring the week of May 7 through 13, 1984, as "National Photo Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH (for himself and Mr. Baucus):

S. 2366. A bill to require custodians of public money to deposit funds not later than 3 business days after the date of receipt; to the Committee on Finance.

FEDERAL MONEY MANAGEMENT ACT OF 1984

● Mr. ROTH. Mr. President, today I am introducing the Federal Money Management Act of 1984. This bill is identical to H.R. 4837, which has been introduced in the House by Congressman Benjamin Gilman. This legislation would require the timely deposit of public funds. It incorporates a basic recommendation of the Private Sector Survey on Cost Control, headed by J. Peter Grace, to improve the cash management practices of the Federal Government. The Grace Commission report cites numerous instances where the deposit of public funds has been delayed, and their analysis shows that minimizing this delay can effect 1-year savings from both cash acceleration and interest savings of $166.9 million.

I am proud to join with Representative Gilman in introducing the first Grace Commission legislation. As I have said before, I believe the work of the Grace Commission is a tremendous contribution to the streamlining of the Government. Literally hundreds of individuals volunteered their time to work on the 47 reports with over 2,400 recommendations. I am determined that every consideration be given to the proposals generated by this historic effort.

The Federal Money Management Act represents an appropriate beginning for this consideration because it addresses a blatantly wasteful practice which was discovered by the Grace Commission. The American people must have the assurance that their tax dollars are being managed by the most efficient, state-of-the-art business practices which exist. I consider this bill to be the foundation for a host of broader reforms in the financial management area. In addition to the proposal I am introducing today, the Grace Commission has recommended a number of other financial management improvements and reforms. Their analysis indicates that $38 billion could be saved in this area each year. This is also an area in which the General Accounting Office has a great interest. The Comptroller General, Charles Bowsher, testified before my Committee on Governmental Affairs last year that the financial management system is in need of comprehensive reform. Mr. Bowsher told the committee then that GAO was undertaking a thorough evaluation of Federal financial management practices. I understand that GAO will report on their findings in this area in the near future.

The Treasury Department has already instituted a series of financial management reforms and pilot projects to improve cash management practices. I believe this legislation should be interpreted as encouragement for them to continue and broaden their efforts. I plan to work with the Grace Commission, the General Accounting Office and the administration to develop further improvements in Federal financial management efforts.●

By Mr. METZENBAUM:

S. 2367. A bill to provide a comprehensive program to enable economically disadvantaged youths to obtain employment through the improvement of basic reading, writing, computational, and communication skills, community improvement work, and skills training programs; to the Committee on Labor and Human Resources.

YOUTH EDUCATION AND TRAINING FOR EMPLOYMENT ACT

● Mr. METZENBAUM. Mr. President, what does it mean when a young person is unable to read, write, compute, or speak at adequate levels? It means personal tragedy for the individual and significant costs to society. Functional illiteracy contributes to unemployment for youth as well as adults. Low education levels are related to more welfare receipt, increased crime, teenage pregnancy, and other social problems.

The National Commission on Excellence in Education estimates that more than 23 million people in the United States are functionally illiterate. The Commission also found that 13 percent of all 17-year-olds are functionally illiterate. A study by the Department of Defense found that 7.2 million young people, 28 percent of the young adult population, were reading below the eighth grade level.

These low education and illiteracy problems are swelled by the nearly 1 million young people who drop out of school each year.

For the majority of these young people, the job search becomes virtually impossible because of their inability to read a help-wanted ad, follow instructions, or fill out a job application.

In addition, employers require, at a minimum, proficiency in basic skills as a condition of employment. In a survey conducted by the Center for Public Resources, employers cited the inadequacy of entry academic and work readiness skills as the primary problem of new workers. Companies indicated that they were spending millions of dollars for remedial training that should have been spent in high school. But, it is not reasonable to expect employers to remedy these deficiencies or to employ students seriously in need of remediation.

Today, I am introducing a bill which would provide resources to help correct some of the conditions which contribute to high youth unemployment. Funds would be made available for secondary schools in poor communities, for alternative education programs to assist dropouts and to prevent young people from dropping out of school, for work experience on projects which benefit the community, and for skills training. These resources are intended to complement those which exist in current education, employment and training systems.

To do this, first, this bill would provide $1 billion to secondary schools in designated low-income areas to improve competencies of students in basic skills such as reading, computation, and writing.

The largest Federal program of Federal assistance to elementary and secondary education is the program for education of disadvantaged children. While this program permits funds to be used at the preschool, elementary, and secondary school levels, a substantial proportion of school systems have chosen to concentrate services on preschool and elementary school pupils. The Department of Education has estimated that in the previous school year 79 percent of program funds were used at the preschool level.

Evaluations of pupils participating in these compensatory programs showed that the programs were effective in narrowing the gap between the educational abilities of children from poor families and those from more affluent families.

But while we do have an effective program, although not fully funded, at the elementary school level, currently, the funds necessary to continue these vital extra services into our secondary schools simply do not exist. By concentrating the same types of services at the high school level, it would be possible to eliminate the illiteracy that haunts so many of our young people.

Second, the bill recognizes that for many young people the traditional school setting has not worked, and these young people have left school prior to obtaining a high school diploma. Many other young people are in danger of leaving school precipitously due to problems such as below grade-level performance.

The bill, therefore, provides $400 million for remediation programs for dropouts and for dropout prevention programs.

The bill recommends that dropout remediation programs should be conducted by those agencies with previous experience in providing skills to young people for whom the traditional school setting has not been successful. These agencies, which include community-based organizations and locally affiliated nonprofits, have been an essential cog in the delivery of employment and training services for more than a decade. They are critical if we hope to reach the most difficult to employ. Strong alternative programs, offering quality services, should be included, where appropriate, in systems designed to help disadvantaged young people.

As stated in "Not Working," a publication of the Ford Foundation:

> Institutionally, we can no longer afford to think of education as the sole province of the schools. Improved versions of the Job Corps and various Department of Defense education programs should be available in a variety of nontraditional settings.

This bill envisions that organizations capable of reaching youth who have dropped out would be able to take advantage of proven resources in order to better prepare them for work.

Further, schools would be able to provide supportive services such as counseling, including peer-to-peer counseling to those young people for whom such services would be instrumental in keeping them in school.

Too often, we have trained or retrained people, youth and adults alike, only to return them to unemployment. We advise teenagers to get a high school diploma so they can get a good job. Yet, according to the Roosevelt centennial youth project, of the black teenagers who graduated high school in 1982, 58 percent are unemployed. The problem is simple: in many communities, there is a deficit of jobs.

Therefore, as a third activity, this legislation provides funds to entities established under the Job Training Partnership Act, to provide young people work opportunities in their own communities. Improvement efforts, such as minor repair of public facilities, such as public housing, educational and health institutions, and services needed by the elderly and young children could be undertaken with these funds. These activities improve the overall quality of life for community residents and give young people a greater stake in their own neighborhoods.

Building on the experience of past youth employment and training efforts, the bill requires that as a condition of employment the youth must enroll in a program to improve his or her basic academic skills.

The legislation recognizes that education and employment should be closely related to one another. The importance and relevance of the skills taught in an academic program should be made evident to the students both while they are in the program and while they are working. Similarly, the problems identified on the job should be, if possible, referred to the school so that problems can be remedied.

Finally, the bill recognizes that occupationally specific skills can make a young person more competitive. Therefore, as a fourth activity, the bill provides funds for skills training which can be provided either in the classroom, in a worksite, or in a combination of both. Preference should be given to opportunities to practice skills in a real work environment, since that experience can be invaluable for a young adult.

In addition, the training should involve a mentor relationship such as a teacher/trainee or journeymen/apprentice. Previous skills training programs have documented the importance of such a relationship in transmitting not only the technical skills, but the attitude and behavior skills, necessary for success on the job.

Mr. President, during the past several years, the youth unemployment problem in this country has reached epidemic proportions.

Currently, the unemployment rate among teenagers aged 16 to 19 is above 17 percent. Among black teenagers, the level is a staggering 50 percent. Young adults, under the age of 25, are unemployed at twice the rate of unemployment for all people in the work force. This is certainly not a new problem, but it has become increasingly more intransigent over the past two decades. As the Manpower Development Research Corp. has reported:

> In the mid 1950's, the rate for all 16 to 19 year olds was 11 percent; in the early 1960's, the rate had risen to 16 percent, and it was continuing to climb. Economic growth and a greatly expanded Federal effort in youth programing halted the increase in the late 1970's; but, by 1982, the unemployment rate had reverted to its long-term trend. In the last 4 years, American youth have lost more jobs than they gained in the previous 4 years.

According to the Council of Economic Advisers, even if the recovery from the most severe recession since the 1930's is strong and stable, the national unemployment rate is still projected to remain at alarmingly high levels for youth populations.

Joblessness is a problem for all youth. It is a severe obstacle for members of minority groups, and for high school dropouts. Fewer than 20 out of every 100 black teenagers have part-time or full-time jobs. Only 6 of every 100 black teenagers is working full time.

These figures are particularly alarming because we know that a young person's success or failure in the adult world is often determined by his or her early work experience. And, the simple fact is that too many of our young people are reaching adulthood without ever having worked.

Mr. President, this bill I am introducing today would correct some of the problems contributing to staggering levels of youth unemployment. To do nothing to alleviate these conditions would be tragic.●

By Mr. METZENBAUM:

S. 2368. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that the label or labeling of a food state the specific common or usual name of each fat or oil contained in such food and the amount of sodium and potassium contained in such food; to the Committee on Labor and Human Resources.

DIETARY INFORMATION LABELING ACT OF 1984

Mr. METZENBAUM. Mr. President, it is shocking to me that 8 years after the FDA held hearings regarding food labeling and consumers called for specific changes in the law, we are still in the dark as to the specific source of the shortening and the amount of salt present in the foods we eat.

Over 4 years after the FDA proposed mandatory quantitative declaration of sodium and potassium and stricter guidelines for fat and oil labeling, we still do not know how much salt we are ingesting, or whether the shortening in certain foods is animal or vegetable.

In 1982 I sent a letter to the FDA Commissioner asking if it were possible for the FDA to require more accurate labeling of the type of shortening used in certain foods. All I was given were lengthy and confusing letters citing current regulations and giving weak justification for the current law. Now, in 1984, the National Heart, Lung, and Blood Institute has released a study proving the importance of knowing what kind of shortening we are ingesting. The NHLBI's findings clearly link dietary cholesterol with the incidence of cardiovascular disease. This 10 year, $150 million study found that the risk of having a heart attack was reduced by as much as 50 percent when people lowered their blood cholesterol levels by 25 percent.

To the 43 million Americans who suffer from heart or blood disease, not to mention the countless others who are concerned about their blood cholesterol levels and its link with the incidence of heart attack, the knowledge of the type of fat present in the foods they eat is of extremely vital importance. To the 35 million Americans who suffer from hypertension, the amount of salt they eat is directly related to their ability to lower their blood pressure and reduce their risk of stroke. And yet these consumers, who unequivocally need to know this information, are not guaranteed that they will be able to find out how much salt and what kind of fat is present in packaged foods. My bill, the Dietary Information Labeling Act of 1984, will require food manufacturers to declare the specific source of the fat or oil present. It will force them to abandon the present and/or labeling practice which allows the manufacturer to label foods as containing one or more different types of shortening. As well, this bill will require the labeling of sodium and potassium content on all processed foods regulated by the FDA. This portion of the bill is a companion measure to H.R. 17 as introduced by Congressmen NEAL SMITH and AL GORE in 1983.

The American Heart Association tells us there are three factors we can control to reduce the risk of suffering from heart disease, heart attack, or stroke. These modifiable risk factors are cigarette smoking, high blood pressure, and elevated blood cholesterol.

The first factor, cigarette smoking, is one that has been—and I am sure will continue to be—a subject of extensive debate in Congress. The Heart Association's simple rule to remove this risk factor is this: Do not smoke cigarettes.

The second factor, high blood pressure, can be treated by a physician and involves restriction of sodium intake. A current diet statement released by the American Heart Association recommends reducing the amount of sodium in one's diet in order to reduce the risk of hypertension.

The final factor, blood cholesterol levels, can be lowered by following a diet low in saturated fat. The NHLBI study proved that dietary cholesterol is indeed a major contributor to the development of atherosclerosis, the No. 1 underlying cause associated with heart disease. This study has far-reaching implications for many millions of Americans and, if applied, has the potential to markedly reduce the large number of heart attacks presently experienced in this country and elsewhere.

My concern, Mr. President, is directed at decreasing the amount of cholesterol, saturated fats, and salt in our diet. And I do not think the American people should have to wait another 4 or 8 years before we can see something done about it. Whether it is because of concern over cholesterol levels, allergies to specific oils, the risk of hypertension, or for religious reasons, people are entitled to know whether the food they are ingesting contains a specific type of oil, and how much salt is present in the foods they eat.

I would like to add, Mr. President, that because February of each year has been declared by the Congress and the President to be American Heart Month, I would encourage all of my colleagues and their staffs to have their blood pressure checked, and to have their cholesterol levels checked. I would also like to express my appreciation to the American Heart Association and its two Ohio affiliates for the excellent work they have done in moving toward the goal of reducing cardiovascular deaths in the United States.

By Mr. RIEGLE:

S. 2369. A bill to amend the Social Security Act to provide for improved procedures with respect to disability determinations and continuing disability reviews and to modify the program for providing rehabilitation services to individuals determined under such act to be under a disability, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY DISABILITY DETERMINATION REFORM ACT

● Mr. RIEGLE. Mr. President, today I am introducing legislation to reform the social security disability insurance (SSDI) program. This legislation is designed to augment—not substitute—the ongoing legislative initiatives pending before Congress. Unlike the proposals which have been developed in both Houses of Congress where the primary focus has been to correct the difficulties in the SSDI program resulting from the continuing disability investigations (CDI's), my proposal is broader in perspective and more comprehensive in scope.

Clearly, reform legislation is urgently needed to address the specific problem of the wrongful termination of hundreds of thousands of SSDI beneficiaries from the disability rolls. I have been a strong supporter of such legislation. In the 97th Congress, I proposed legislation designed to correct this tragic situation. I have testified in front of the committees of jurisdiction on both sides of the Hill and have been an active participant in negotiations with the administration and other Members of Congress in attempting to stop the continuing practice of removing qualified disabled persons from our Federal disability insurance rolls.

While these efforts must continue and hopefully will achieve resolution in short order, the legislation I am introducing today has a different and much broader objective. S. 2369 is designed to accomplish a needed restructuring of the underlying basis of the

SSDI program. Let me explain why I believe such a restructuring is needed.

RETIREMENT VERSUS DISABILITY

The origins of the social security disability program demonstrate that the program was not designed to meet the unique needs of disabled persons. The legislative history shows that the first benefits for disabled persons—enacted in 1954 in Public Law 761, 83d Congress—were not disability benefits. Rather, provisions were enacted to protect retirement benefits for totally disabled persons who were forced to leave the work force prematurely. This was the so-called disability freeze provision.

Those opposing the creation of a new program specifically for disabled persons initially presented their proposal as a modification of the retirement program in the form of a reduction in the retirement age of disabled persons. In fact, the first cash benefits for disabled persons—enacted in 1955 in Public Law 880, 84th Congress—was part of a package to reduce the age that individuals become eligible for retirement benefits—disabled persons at age 50 and women at age 62.

In 1960—enacted as Public Law 88-778—the age limitation for cash disability benefits was eliminated. Nevertheless, the underlying basis of the program, that is, a cash benefit program providing for the early retirement of disabled persons, has never been modified. Although over the years amendments were added to the Social Security Act attempting to reorient the early retirement basis of the SSDI program, the underlying philosophical basis remains unchanged.

CURRENT SITUATION

Mr. President, the SSDI program is seen by many as an early retirement program for people too disabled to continue working. As I have mentioned, in June of 1980, Congress enacted Public Law 96-265 which included a provision—section 221(i)—requiring the ongoing review of disability beneficiaries, the CDI's. In part, many of the difficulties resulting from the CDI's result from the incompatibility of an ongoing review and the underlying early retirement orientation of the SSDI program.

Mr. President, because the modern SSDI program has evolved from an early retirement program for disabled workers, the concept and application of the CDI's is incompatible with the underlying originating principles of the program. Most individuals perceive retirement as a permanent condition not subject to external review. Before the statutory enactment of the CDI's, social security reviewed only those disabled beneficiaries to whom they told upon initial allowance that a reexamination would be scheduled. For the vast majority of beneficiaries, a review of their disability status was not envisioned. Before enactment of the CDI provisions, beneficiaries not scheduled or diaried for review were treated in the same manner as retired beneficiaries. The only procedural check utilized to determine the continued eligibility for benefits was the voluntary self-reporting on the part of the beneficiaries.

Again, for the nondiaried SSDI beneficiaries, both within the mind of the beneficiary and within the minds of the administrators of the program, entitlement was seen as lasting until death or until the beneficiary voluntarily reported a change in his or her condition, such as returning to work.

Mr. President, the political pressures that necessitated the early retirement orientation of the SSDI program have passed, and attempts to create a program providing benefits for disabled persons, as opposed to early retirees, will be hampered unless the underlying orientation is changed. I believe this can be done largely by modifying the determination process and without expanding the universe of individuals eligible for cash benefits.

In addition, a program truly geared to the needs of disabled persons, providing them with services—in addition to cash benefits—will result in many disabled beneficiaries voluntarily leaving the disability rolls to return to productive work. The result should be the savings of significant funds while directly meeting the needs of disabled persons.

A reoriented program should be designed along similar lines for disabled recipients of SSI benefits, and the bill I am introducing today accomplishes both of these objectives.

THE PROVISIONS OF S. 2369

Mr. President, as I have mentioned, the objective of this legislation is to redirect the SSDI program away from the retirement model and toward a program specifically designed to meet the needs of disabled workers. In doing this, we will more adequately address the needs of newly disabled Americans and reduce cash outlays, thereby helping to secure the financial integrity of the disability insurance trust fund.

The bill I am proposing does not entail a radical reworking of the existing program because Congress has in fact been moving in this direction through piecemeal reforms over the last three decades. I am simply proposing to integrate many of the previous reforms—which were just tacked on to existing procedure—into a unified system by altering the methods used for evaluating eligibility for benefits.

Under the current system, an individual applying for disability benefits is only evaluated from the narrow perspective of substantiating the existence of a medical disability. An applicant has an incentive to heighten the severity of the disabling conditions while the administrators have an incentive to minimize existing maladies. Under current practice, a very complex determination is made with regard to the severity and duration of the disabling condition, and then a benefit is either awarded or denied. At no point in the process is the Social Security Administration providing—nor is it expected to provide—assistance to these disability applicants beyond, of course, the cash benefit for those who are eligible.

Mr. President, the provisions of S. 2369 would alter the incentives contained in the current program by integrating a vocational rehabilitation evaluation into the initial and ongoing determination process. Even though such a determination is currently required under section 222 of the Social Security Act, it is not applied in practice. Since the beneficiary rehabilitation program (BRP) was essentially repealed in 1981, the State disability examiners have no incentives for evaluating the rehabilitation potential of SSDI applicants. Hence, all of the cost savings which the Social Security Administration has determined result from beneficiary rehabilitation are lost under the present evaluation procedures. It was in 1981 that the Social Security Administration found that savings to the DI trust fund ranged between $1.39 and $2.72 for every $1 spent on vocational rehabilitation services for DI beneficiaries. (Social Security Bulletin, February 1981/Vol. 44, No. 2, pp 1-8).

What I am proposing is an alternative that would require an initial evaluation of rehabilitation potential along with the medical determination of a disability.

Prospective beneficiaries would be divided into the following groups based upon the extent and duration of their disabling condition:

First, those with long-term or permanent disabilities (that is, those not subject to the mandatory CDI review under 221(i)); or

Second, those with disabilities that are anticipated to last more than 12 months but where it is reasonable to anticipate improvement or change in the disabling condition at some point after the 12-month period (that is, those subject to the mandatory CDI review under 221(i)); or

Third, those individuals under a disability albeit not sufficiently severe nor anticipated to last more than 12 months—that is, those individuals who would simply be denied cash benefits under the law.

This is similar to the procedure used under current law and is basically the method used for determining eligibility for cash benefits. However, before an applicant would be notified of eligibility for cash benefits, he or she would be assessed for rehabilitation potential, and one of the three following determinations would be made:

First, rehabilitation services would be of little or no benefit to the prospective beneficiary; or

Second, rehabilitation services would be of benefit to the prospective beneficiary, albeit it is extremely unlikely to result in an effort to return to work and eventually in the cessation of cash disability benefits; or

Third, there is the possibility that rehabilitation services will result in an effort to return to work and eventually in the cessation of cash benefits.

Mr. President, under S. 2369 all individuals would be required to go through both the disability determination and rehabilitation evaluation before they would be notified of the results of either exam. The universe of individuals who would be eligible for cash benefits would include only those individuals who would be eligible under current law. The major difference with the current program is that for the first time there would be a workable requirement that applicants be evaluated for rehabilitation potential. Those for whom it was determined that rehabilitation would provide some benefit but not lead to an attempt to return to work would be directed to the State agency on Rehabilitation Services. For those individuals the State would provide—as required under current law—services with funds available through the State grant program (the section 101 program of the Rehabilitation Act).

For those individuals where there is a possibility that rehabilitation services will result in a successful return to work effort and therefore in the eventual cessation of benefits, social security will refer that individual to a rehabilitation provider, whether public or private, who can best meet the rehabilitation needs of the SSDI beneficiary. Because a judgment has been made that these individuals have the best chance of returning to work and dropping off of the disability rolls, the cost of rehabilitating these individuals would be financed out of the SS disability trust fund. Under this program and with the careful selection of rehabilitation candidates—as previous experience has demonstrated, the trust funds should experience a net surplus of dollars.

All of the cash beneficiaries in receipt of rehabilitation benefits would be exempt from the current CDI reviews and would be monitored by SSA through rehabilitation reports that all providers of rehabilitation services would be required by statute to provide. These reports would be required at a minimum of once every 3 years for all beneficiaries who were not permanently disabled. The rehabilitation report would include an assessment of the beneficiaries' progress in the rehabilitation program including any improvement that might affect the disability status of the beneficiary, including, but not limited to a return to work effort. The Social Security Administration would evaluate the rehabilitation report to determine whether a review of the disability status of the beneficiary would be appropriate. All of the beneficiaries not in a rehabilitation program are reviewed within the same intervals as under current law.

Mr. President, in addition to the above modifications in the determination process, S. 2369 amends the Tax Code to enhance the provisions under current law that encourage employers to hire SSDI beneficiaries capable of returning to work.

In an effort to remain consistent with the SSI program, and since similar principles apply to SSI disabled recipients, who in many cases are also in need of rehabilitation services, the modifications in the eligibility determination process are also extended to the SSI programs.

Mr. President, what I am proposing today represents a significant improvement in the social security disability program with only relatively minor modifications in the current program. S. 2369 takes the final step in completing a series of reforms which Congress initiated soon after the enactment of the original program. With the modifications I am proposing today, we can, for the first time, say we have a national disability program that is designed to address the unique needs of disabled Americans.

Mr. President, I ask unanimous consent that the full text of S. 2369 be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, this Act may be cited as the "Social Security Disability Determination Reform Act".

Sec. 2. (a)(1) Section 221(a)(1) of the Social Security Act is amended—

(A) by striking out "and of" and inserting in lieu thereof ", the disability category that best describes the condition of such individual, and";

(B) by striking out "(A)" each place it appears and inserting in lieu thereof "(i)";

(C) by striking out "(B)" each place it appears and inserting in lieu thereof "(ii)";

(D) by inserting "(A)" after the paragraph designation; and

(E) by adding at the end thereof the following new subparagraphs:

"(B) In making a determination with respect to whether an individual is under a disability (as defined in section 223(d)), the State agency making such determination or the Secretary, as the case may be, shall at the same time determine which of the following disability categories best describes the condition of such individual at the time such determination is made:

"(i) The individual is under a disability (as defined in section 223(d)) that is permanent and will not benefit from vocational rehabilitation services (as described in section 103 of the Rehabilitation Act of 1973 (20 U.S.C. 723)) or from comprehensive services for independent living (as described in title VII of such Act (29 U.S.C. 796 et seq.)).

"(ii) The individual is under a disability that is permanent, is unlikely to engage in substantial gainful activity (in the case of an individual making application for benefits under section 202(d) or 223) or any gainful activity (in the case of an individual making application for benefits under section 202 (e) or (f)) in the future, but will benefit from vocational rehabilitation services or comprehensive services for independent living.

"(iii) The individual is under a disability that is permanent, will benefit from vocational rehabilitation services, and may possibly engage in substantial gainful activity or any gainful activity, as the case may be, in the future as the result of such services.

"(iv) The individual is under a disability that is not permanent and will not benefit from vocational rehabilitation services.

"(v) The individual is under a disability that is not permanent, is unlikely to engage in substantial gainful activity or any gainful activity, as the case may be, in the future, but will benefit from vocational rehabilitation services or comprehensive services for independent living.

"(vi) The individual is under a disability that is not permanent, will benefit from vocational rehabilitation services, and may possibly engage in substantial gainful activity or any gainful activity, as the case may be, in the future as the result of such services.

"(vii) The individual is under a medically determinable physical or mental impairment that is not a disability (as defined in section 223(d)), but may possibly benefit from vocational rehabilitation services provided under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et. seq.).

"(viii) The individual is under a medically determinable physical or mental impairment that is not a disability, but will not benefit from vocational rehabilitation services.

"(ix) The individual is not under a disability or any other medically determinable physical or mental impairment.

"(C) Notice to an individual of a decision by the Secretary with respect to whether an individual is under a disability (as defined in section 223(d)) shall include, in addition to the matters required to be included in the notice of such decision under section 205(b)(1)—

"(i) an explanation, in understandable language, of the reasons why the State agency or the Secretary, as the case may be, has determined that a particular disability category described in subparagraph (B) best describes the condition of such individual; and

"(ii) in the case of an individual with respect to whom it is determined that vocational rehabilitation services or comprehensive services for independent living would be beneficial—

"(I) a statement that such individual is eligible for such services;

"(II) a brief explanation of the disability review provisions of subsection (i) and the application of such provisions to such individual; and

"(III) information with respect to how to apply for such services.".

(2) Section 221(c)(1) of such act is amended by inserting ", that a different disability category best describes the condition of such individual," after "(as so defined)".

(b) Section 221(i) of such Act is amended—

(1) by inserting "and such individual is not eligible for or is not (for any reason) receiving vocational rehabilitation services or comprehensive services for independent living provided in accordance with section 222," after "disability," in paragraph (1);

(2) by striking out all beginning with "; except that" through "administration of this title." in such paragraph and inserting in lieu thereof "in the case of an individual determined under subsection (a)(1)(B) to be under a disability that is not permanent, and at least once every 7 years in the case of an individual determined under such subsection to be under a disability that is permanent."; and

(3) by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

"(2) In any case where an individual is or has been determined to be under a disability and such individual is receiving rehabilitation services or comprehensive services for independent living provided in accordance with section 222, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, whenever such agency or the Secretary concludes, on the basis of a report made in accordance with section 222(b)(2) that such a review is warranted.

"(3) Reviews of cases under paragraphs (1) and (2) shall be in addition to, and shall not be considered as a substitution for, any other reviews which are required or provided for under or in the administration of this title.".

(c)(1) Section 222(a) of such Act is amended to read as follows:

"REFERRAL FOR REHABILITATION SERVICES

"(a)(1) Except as provided in paragraph (2), the State agency making determinations of whether an individual is under a disability (as defined in section 223(d)) or the Secretary, as the case may be, shall promptly refer any individual determined to fall within a disability category described in section 221(a)(1)(B) (ii), (iii), (v), (vi), or (vii), to the State agency or agencies administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) for necessary vocational rehabilitation services (as described in section 103 of such Act (29 U.S.C. 723)), or to the State unit (if any) designated under section 705 of such Act (29 U.S.C. 796d) to administer a State plan approved under title VII of such Act (29 U.S.C. 796 et seq.), as may be appropriate.

"(2) If an individual is determined in accordance with paragraph (1) of section 221 (a) to be under a disability and to fall within a disability category described in subparagraph (B) (iii) or (vi) of such paragraph, the State agency or the Secretary, as the case may be, may refer such individual directly to a person who has been certified by the Secretary as a provider of vocational rehabilitation services and shall make payments directly to such person for vocational rehabilitation services furnished to such individual.".

(2) Section 222(b) of such Act is amended to read as follows:

"ELIGIBILITY FOR REHABILITATION SERVICES; REPORTING BY REHABILITATION FACILITIES, INDEPENDENT LIVING FACILITIES, AND CERTIFIED PROVIDERS

"(b)(1) Individuals determined in accordance with paragraph (1) of section 221(a) to be under a disability or other medically determinable physical or mental impairment and to fall within a disability category described in subparagraph (B) (iii), (vi), or (vii) of such paragraph (other than individuals receiving vocational rehabilitation services from providers certified in accordance with the eligible for vocational rehabilitation services provided under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

"(2) Individuals determined in accordance with paragraph (1) of section 221 (a) to be under a disability and to fall within a disability category described in subparagraph (B) (ii) or (v) of such paragraph shall be eligible for vocational rehabilitation services provided under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) or comprehensive services for independent living provided under title VII of such Act (29 U.S.C. 796 et seq.).

"(3)(A) a facility which—

"(i) is a rehabilitation facility (as defined in section 7(11) of the Rehabilitation Act of 1973 (29 U.S.C. 706(11)), and provides vocational rehabilitation services (as described in section 103 of such Act (29 U.S.C. 723)) to an individual described in paragraph (1) or (2) (other than an individual determined in accordance with paragraph (1) of section 221 to fall within the disability category described in subparagraph (B)(vii) of such paragraph) under a State plan approved under title I of the Rehabilitation Act of 1973, or

"(ii) provides comprehensive services for independent living to an individual described in paragraph (2) under a State plan approved under title VII of such Act (29 U.S.C. 796 et seq.),

shall report promptly to the agency of such State which determines whether an individual is under a disability (as defined in section 223(d)) or the Secretary, as the case may be—

"(I) the termination of the provision of such services to such individual (and the reason or reasons for such termination); and

"(II) any significant change in the impairment of such individual and any change in the employment status of such individual that might warrant a review and redetermination with respect to the disability of such individual in accordance with section 221(i).

"(B) A rehabilitation facility which provides vocational rehabilitation services under a plan approved under title I of the Rehabilitation Act of 1973 to an individual determined in accordance with paragraph (1) of section 221(a) to be under a disability and to fall within the disability category described in subparagraph (B) (v) or (vi) of such paragraph shall, in addition to submitting any reports required under subparagraph (A) with respect to such individual, submit a report once every 3 years that evaluates—

"(i) the progress of such individual toward the achievement of the goals established with respect to such individual and included in the individualized written rehabilitation plan developed for such individual;

"(ii) the likelihood that such individual will engage in substantial gainful activity or any gainful activity, as the case may be, in the future as the result of such services; and

"(iii) any other matters that are relevant to determination or redetermination of the disability status of such individual.

"(C) Failure by a facility described in subparagraph (A) (i) or (ii) to report a change in the condition of an individual described in paragraph (1) or (2) (other than an individual determined to belong in the disability category described in section 221 (a)(1)(B)(vii)), that such facility knows or has reason to know would result in a determination that such individual is no longer under a disability, shall be a misdemeanor and, upon conviction thereof, shall be punishable by a fine of $10,000.

"(D) The provisions of this paragraph that are applicable to a rehabilitation facility shall also apply to providers of vocational rehabilitation services certified under paragraph (2) of subsection (a).".

(3) Section 222(d) is amended to read as follows:

COSTS OF REHABILITATION SERVICES FROM TRUST FUNDS

"(d)(1) For purposes of making vocational rehabilitation services and comprehensive services for independent living more readily available to disabled individuals who are—

"(A) entitled to disability insurance benefits under section 223,

"(B) entitled to child's insurance benefits under section 202(d) after having attained age 18 (and are under a disability),

"(C) entitled to widow's insurance benefits under section 202(e) prior to attaining age 60, or

"(D) entitled to widower's insurance benefits under section 202(f) prior to attaining age 60,

to the end that savings will accrue to the Trust Funds as a result of rehabilitating such individuals, the Managing Trustee shall transfer funds from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in the manner prescribed in paragraphs (2) and (3).

"(2) The Managing Trustee shall, from time to time during each fiscal year, transfer from the Trust Funds such sums as may be necessary to enable the Secretary to make advance payments to State agencies administering or supervising the administration of a State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) and to persons certified under subsection (a)(2) as providers of vocational rehabilitation services for the reasonable and necessary costs of furnishing vocational rehabilitation services to individuals determined to be under a disability in accordance with paragraph (1) of section 221 (a) and to fall within a disability category described in subparagraph (B)(iii) or (B) (VI) of such paragraph (including services during their waiting periods). Payments made under this paragraph shall be subject to adjustment on account of underpayments or overpayments.

"(3) The Managing Trustee shall transfer from such Trust Funds each fiscal year such sums as may be necessary to enable the Secretary to reimburse State agencies administering or supervising the administration of a State plan approved under title I of the Rehabilitation Act of 1973 and State units designated under section 705 of such Act (29 U.S.C. 796d) to administer plans approved under title VII of such Act for the reasonable and necessary costs of furnishing vocational rehabilitation services or comprehensive services for independent living (including services furnished during waiting periods) under such a plan to individuals determined to be under a disability in accordance with paragraph (1) of section 221(a), to fall within a disability category described in subparagraph (B)(ii), or (v) of such paragraph, and to have engaged in substantial gainful activity or any gainful activity, as the case may be, or a continuous period of nine months as a result of such services. The determination that such services contributed to the return of an individual to substantial gainful activity, or any gainful activity, as the case may be, and the determination of the costs to be reimbursed under this paragraph shall be made by the Commissioner of Social Security in accordance with criteria formulated by the Commissioner. Payments made under this section shall be subject to adjustment on account of underpayments and overpayments.

"(4) Money paid from the Trust Funds under this subsection for the reimbursement of the costs of providing services to individuals who are entitled to benefits under section 223 (including services during their waiting periods), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

"(A) the total amount to be transferred for the cost of services under this subsection, and

"(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

"(5) For purposes of this subsection—

"(A) the term 'vocational rehabilitation services' shall have the meaning assigned to it in section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723); and

"(B) the term 'comprehensive services for independent living' shall have the meaning assigned it in title VII of such Act (29 U.S.C. 796 et seq.);

except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purpose of this subsection.".

(d) Section 222(c) of such Act is amended—

(1) by striking out "(3) and (4)" in paragraph (1) and inserting in lieu thereof "(3), (4), and (6)"; and

(2) by adding at the end thereof the following new paragraph:

"(6) In the case of an individual determined in accordance with paragraph (1) of section 221(a) to be under a disability (as defined in section 223(d)) and to fall within a disability category described in subparagraph (B) (iii) or (vi) of such paragraph, subparagraph (A) of paragraph (4) of this section shall be applied—

"(A) by substituting 'twelfth' for 'ninth'; and

"(B) by substituting 'twelve' for 'nine'.".

(e) The amendments made by this section shall apply to disability determinations and redeterminations made on or after the date that is 180 days after the date of the enactment of this Act.

Sec. 3. (a) Section 1614 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g)(1) In making a determination under paragraph (2) or (3) of subsection (a) with respect to whether an individual is a blind or disabled individual, the State agency making such determination or the Secretary, as the case may be, shall at the same time determine which of the following disability categories best describes the condition of such individual at the time such determination is made:

"(A) The individual is a blind or disabled individual whose impairment is permanent and who will not benefit from vocational rehabilitation services (as described in section 103 of the Rehabilitation Act of 1973 (20 U.S.C. 723)) or from comprehensive services for independent living (as described in title VII of such Act (29 U.S.C. 796 et seq.)).

"(B) The individual is a blind or disabled individual whose impairment is permanent, who is unlikely to engage in substantial gainful activity in the future, but who will benefit from vocational rehabilitation services or comprehensive services for independent living.

"(C) The individual is a blind or disabled individual whose impairment is permanent, who will benefit from vocational rehabilitation services, and who may possibly engage in substantial gainful activity in the future as the result of such services.

"(D) The individual is a blind or disabled individual whose impairment is not permanent and who will not benefit from vocational rehabilitation services.

"(E) The individual is a blind or disabled individual whose impairment is not permanent, who is unlikely to engage in substantial gainful activity in the future as the result of such services, but who will benefit from vocational rehabilitation services or comprehensive services for independent living.

"(F) The individual is a blind or disabled individual whose impairment is not permanent, who will benefit from vocational rehabilitation services, and who may possibly engage in substantial gainful activity in the future as the result of such services.

"(G) The individual is not a blind or disabled individual but is under a medically determinable physical or mental impairment, and may possibly benefit from vocational rehabilitation services provided under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et. seq.).

"(H) The individual is under a medically determinable physical or mental impairment, but is not a blind or disabled individual and will not benefit from vocational rehabilitation services.

"(I) The individual is not a blind or disabled individual and is not under any other medically determinable physical or mental impairment.

"(2) Notice to an individual of a decision under paragraph (2) or (3) of subsection (a) with respect to whether such individual is a blind or disabled individual shall include, in addition to the matters required to be included in the notice of such decision under section 1631(c)(1)—

"(A) an explanation, in understandable language, of the reasons why the State agency or the Secretary, as the case may be, has determined that a particular disability category described in paragraph (1) best describes the condition of such individual; and

"(B) in the case of an individual with respect to whom it is determined that vocational rehabilitation services or comprehensive services for independent living would be beneficial—

"(i) a statement that such individual is eligible for such services; and

"(ii) information with respect to how to apply for such services.".

(b) Section 1615 of such Act is amended to read as follows:

"REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

"Sec. 1615. (a)(1) Except as provided in paragraph (2), the State agency making determinations under section 1614 (a) (2) and (3) of whether an individual is a blind or disabled individual or the Secretary, as the case may be, shall promptly refer any individual determined to fall within a disability category described in section 1614(g) (1) (B), (C), (E), (F), or (G), to the State agency or agencies administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) for necessary vocational rehabilitation services (as described in section 103 of such Act (29 U.S.C. 723)), or to the State unit (if any) designated under section 705 of such Act (29 U.S.C. 796d) to administer a State plan approved under title VII of such Act (29 U.S.C. 796 et seq.), as may be appropriate.

"(2) If an individual is determined in accordance with paragraph (2) or (3) of section 1614(a) to be a blind or disabled individual and to fall within a disability category described in subsection (g)(1)(C) or (F), the State agency or the Secretary, as the case may be, may refer such individual directly to a person who has been certified by the Secretary as a provider of vocational rehabilitation services and shall make payments directly to such person for vocational rehabilitation services furnished to such individual.".

"(b)(1) Individuals determined in accordance with subsection (a)(2) or (3) of section 1614 to be a blind or disabled individual or to have some other medically determinable physical or mental impairment, and to fall within a disability category described in subsection (g)(1)(C), (F), or (H) of such section (other than individuals receiving vocational rehabilitation services in accordance with the provisions of paragraph (2) of subsection (a)) shall be eligible for vocational rehabilitation services provided under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

"(2) Individuals determined in accordance with subsection (a)(2) or (3) of section 1614 to be a blind of disabled individual and to fall within a disability category described in subsection (g)(1)(B) or (E) of such section shall be eligible for vocational rehabilitation services provided under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) or comprehensive services for independent living provided under title VII of such Act (29 U.S.C. 796 et seq.).

"(3) (A) A facility which—

"(i) is a rehabilitation facility (as defined in section 7(11) of the Rehabilitation Act of 1973 (29 U.S.C. 706(11))) and provides vocational rehabilitation services (as described in section 103 of such Act (29 U.S.C. 723)) to an individual described in paragraph (1) or (2) (other than an individual determined to fall within the disability category described in section 1614(g)(1)(G), under a State plan approved under title I of the Rehabilitation Act of 1973, or

"(ii) provides comprehensive services for independent living to an individual described in paragraph (2) under a State plan approved under title VII of such Act (29 U.S.C. 796 et seq.),

shall report promptly to the agency of such State that determines whether an individual is a blind or disabled individual or to the Secretary, as the case may be—

"(I) the termination of the provision of such services to such individual (and the reason or reasons for such terminations); and

"(II) the return to work of such individual.

"(B) The provisions of this paragraph that are applicable to a rehabilitation facility shall also apply to providers of vocational rehabilitation services certified under paragraph (2) of subsection (a).

"(c)(1) The Secretary is authorized to make advance payments to State agencies administering or supervising the administration of a State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) and to persons certified under subsection (a)(2) as providers of vocational rehabilitation services for the reasonable and necessary costs of furnishing vocational rehabilitation services to individuals determined to be blind or disabled individuals under subsection (a)(2) or (3) of section 1614 and to fall within a disability category described in subsection (g)(1)(C) or (F) of such section (including services during their waiting periods). Payments made under this paragraph shall be subject to adjustment on account of underpayments or overpayments.

"(2) The Secretary is authorized to reimburse State agencies administering or supervising the administration of a State plan approved under title I of the Rehabilitation Act of 1973 and State units designated under section 705 of such Act (29 U.S.C. 796d) to administer plans approved under title VII of such Act for the reasonable and necessary costs of furnishing vocational rehabilitation services or comprehensive services for independent living (including services furnished during waiting periods) under such a plan to individuals determined to be blind or disabled individuals under subsection (a) (2) or (3) of section 1614, to fall within a disability category described in subsection (g)(1) (B) or (E) of such section, and to have engaged in substantial gainful activity for a continuous period of nine months as a result of such services. The determination that such services contributed to the return of an individual to substantial gainful activity, and the determination of the costs to be reimbursed under this paragraph shall be made by the Commissioner of Social Security in accordance with criteria determined by the Commissioner in the same manner as under section 222(d)(3). Payments made under this section shall be subject to adjustment on account of underpayments and overpayments.".

(c) Section 1614(a)(4) of such Act is amended—

(1) by striking out "(C) and (D)" in subparagraph (B) and inserting in lieu thereof "(C), (D), and (E)";

(2) by adding at the end thereof the following new subparagraph:

"(E) In the case of an individual determined in accordance with paragraph (2) or (3) to be a blind or disabled individual and to fall within a disability category described in subsection (g)(1) (C) or (F), subparagraph (D)(i) of this paragraph shall be applied—

"(i) by substituting 'twelfth' for 'ninth'; and

"(ii) by substituting 'twelve' for 'nine'.".

(d) The amendments made by this section shall apply to disability determinations and redeterminations made on or after the date that is 180 days after the date of the enactment of this Act.

SEC. 4. (a) DISABILITY BENEFITS RECIPIENTS DESIGNATED AS A TARGETED GROUP.—Subsection (d) of section 51 of the Internal Revenue Code of 1954 (relating to members of targeted groups) is amended—

(1) by striking out "or" at the end of paragraph (1)(I),

(2) by striking out the period at the end of paragraph (1)(J) and inserting in lieu thereof ", or",

(3) by adding at the end of paragraph (1) the following new subparagraph:

"(K) a disability benefits recipient.",

(4) by redesignating paragraphs (13) through (16) as paragraphs (14) through (17), respectively, and

(5) by inserting after paragraph (12) the following new paragraph:

"(13) DISABILITY BENEFITS RECIPIENT.—The term 'disability benefits recipient' means any individual who is certified by the designated local agency as receiving benefits based upon blindness or disability under title II or XVI of the Social Security Act for any month during the 1-year period ending on the hiring date.".

(b) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 51 of such Code (relating to determination of amount) is amended to read as follows:

"(a) DETERMINATION OF AMOUNT.—

"(1) IN GENERAL.—The amount of the credit allowable by section 44B for the taxable year shall be the sum of—

"(A) 50 percent of the qualified first-year wages for such year, and

"(B) 25 percent of the qualified second-year wages for such year.

"(2) EMPLOYMENT OF MORE THAN 1 DISABILITY BENEFITS RECIPIENT.—If the taxpayer pays or incurs qualified first-year wages or qualified second-year wages to more than 1 disability benefits recipient during the taxable year, paragraph (1) shall be applied with respect to such wages of any disability benefits recipient by increasing each of the percentages specified in such paragraph by an amount equal to the product of—

"(A) 5 percentage points, multiplied by

"(B) the lesser of—

"(i) 10, or

"(ii) the aggregate number of disability benefits recipients—

"(I) with respect to whom qualified first-year wages or qualified second-year wages were paid or incurred by the taxpayer during the taxable year, and

"(II) who were hired by the taxpayer before such disability benefit recipient was hired.".

(2) LIMITATION ON WAGES TAKEN INTO ACCOUNT.—Paragraph (4) of section 51(b) of such Code (relating to qualified wages) is amended to read as follows:

"(4) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT PER PERSON.—

"(A) IN GENERAL.—The aggregate amount of qualified first-year wages, and the aggregate amount of qualified second-year wages, which may be taken into account with respect to any individual other than a disability benefits recipient shall not exceed $6,000 per year.

"(B) DISABILITY BENEFITS RECIPIENTS.—The aggregate amount of qualified first-year wages, and the aggregate amount of second-year wages, which may be taken into account with respect to any disability benefits recipient shall not exceed $12,000 per year.".

(c) TERMINATION.—Paragraph (3) of section 51(c) of such Code (relating to termination) is amended by inserting "other than a disability benefits recipient" after "individual".

(d) CONFORMING AMENDMENT.—Clause (ii) of section 51(d)(12)(A) of such Code (relating to qualified summer youth employee) is amended by striking out "(as defined in paragraph (14))".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid or incurred after the date of enactment of this Act.●

By Mr. McCLURE (by request):

S. 2370. A bill to provide for distribution to the States of certain amounts resulting from enforcement of the Emergency Petroleum Allocation Act of 1973, and for other purposes; to the Committee on Energy and Natural Resources.

PETROLEUM OVERCHARGE RESTITUTION ACT

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to provide for distibution to the States of certain amounts resulting from enforcement of the Emergency Petroleum Allocation Act of 1973, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of Energy, and I ask unanimous consent that the bill, and the communication which accompanied the proposal from the Secretary of Energy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, D.C., February 29, 1984.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is draft legislation entitled the "Petroleum Overcharge Restitution Act."

The Office of Management and Budget advises that enactment of this legislation would be in accord with the program of the President.

BACKGROUND

For a number of years, there has been considerable dispute over the most appropriate means of distributing certain funds collected by the Department of Energy in settlement of overcharges resulting from alleged pricing and allocation violations under the Emergency Petroleum Allocation Act of 1973. Approximately $1.189 billion of overcharges has been recovered through settlement agreements. Of this amount, approximately $575 million has been disbursed, of which approximately $101 million went to the U.S. Treasury.

The remaining funds, more than $600 million, have been held by the Government in deposit fund escrow accounts in the U.S. Treasury pending the determination of proper distribution. Of that amount, $200 million was distributed to the States last year for use in specific energy programs under the Warner amendment (section 155 of Public Law 97-377). As of December 31, 1983, there was more than $420 million (including interest) in the escrow accounts, of which $394 million is currently the subject of formal administrative proceedings to afford claimants an opportunity for a hearing as to whether they were injured. There are estimated potential additional recoveries of approximately $5 to $6 billion, either through settlements or litigation. In one pending case, a court has ordered nearly $1.7 billion disbursed to the States. In another, overcharges totaling more than $1 billion (including interest) have been found. That court has referred the case to the Department for findings of fact as to whether injured claimants can be identified before the court fashions a restitutionary remedy.

The mandatory petroleum price control program was in effect until January 1981, when President Reagan ended price controls on petroleum products. In enforcing the program, the Department's Economic Regulatory Administration performed audits to identify violators of the regulations, and if it believed violations occurred, brought enforcement actions against them. The cases often were resolved through consent orders with the companies. The consent order might provide for various types of remedies, including direct cash refunds to customers. If it was difficult to identify the injured parties, the consent order might specify an amount to be paid into an escrow account, until a just and equitable method could be determined for distributing the funds to parties who were overcharged. Those determinations frequently have been very difficult because petroleum products may have been bought and resold several times with limited information available about the extent to which overcharges were passed on to subsequent purchasers.

Various types of factual situations, often extremely complex, have led to overcharges. When particular customers who bore the burden of demonstrated overcharges can be identified, we have a duty under existing law to direct refunds to them when it is practical. In cases where the overcharged customer was an enduser of the petroleum product, it generally is relatively easy to make restitution. More commonly, however, the overcharged customer is merely one link in the distribution chain and is likely to have passed on the overcharge. Under the "old oil" allocation (entitlements) program, for example, crude oil overcharges automatically and by operation of law first were passed on to all domestic refiners. The regulations then allowed the refiner to pass those costs down the distribution chain. Often, therefore, it may be impractical, if not impossible, to detemine whether and to what extent firms in the chain actually may have absorbed, rather than passed on, any of the overcharges.

In circumstances where the economically injured parties could not be identified or distribution to injured parties was not practical, the Department over the years employed a variety of forms of indirect restitution as a means of affording general compensation to persons thought to have been affected adversely by alleged overcharges. These remedies have included company administered claims funds, price rollbacks, payments in the form of crude oil provided to the strategic petroleum reserve, price reductions on fuel sold to utilities and transportation entities, payments to low-income heating oil consumers through charities, payments to State governments for general energy purposes, and payments directly to the U.S. treasury.

Adding to the difficulty in fashioning appropriate overcharge remedies is the fact that while the statutes from which the Department draws its authority concerning remedies speak generally in restitution terms, they do not provide policy guidance as to the specific forms restitution should take in cases in which it is not feasible to make restitution to the specific persons injured by an alleged overcharge. A majority of overcharge cases fit that description. Until the enactment in 1982 of the Warner amendment, which provided for a one time distribution of $200 million to the States for certain energy programs, there was no congressional guidance as to which remedies might be preferred as a matter of public policy. Disputes over the appropriate method for disbursing indirect restitution have resulted in protracted and costly litigation.

In one recent major case, known as the Exxon case, the court fashioned its own remedy. In that case (now being appealed by Exxon), the court ordered that the overcharge amounting to nearly $1.7 billion (including interest) be made available directly to the States for distribution to consumers under five specific federal energy programs. The court's decision in that case could be interpreted as a judicial assumption of a legislative and executive branch function—providing funds (more than eight times the amount covered by the Warner amendment) to carry out Federal programs without going through the normal legislative process.

We believe that indirect restitution resulting from overcharges should, as a matter of policy, be subject to congressional direction and processes. It is the Congress, rather than the courts, which should determine spending priorities for federal programs. We strongly support distribution of indirect restitution through the States in the manner set forth in the proposed legislation because the States are in a better position to ensure that their consumers affected by overcharges receive the benefits of the restitution and because the traditional congressional and executive roles in providing funds for federal programs would be preserved. Given the large amount of potential recoveries, the extreme difficulty in arriving at an appropriate remedy, and the protracted and costly litigation with uncertain results, congressional guidance in statutory form is both necessary and desirable. To that end, we strongly urge enactment of the enclosed draft bill.

WHAT THE BILL DOES

The draft bill resolves the problem of finding the most appropriate method of disbursing overcharge funds not needed for direct restitution. It does so by establishing a rational, orderly, restitutionary procedure for disbursing overcharges now held in escrow and to be received in the future. The bill would provide a single remedy to eliminate uncertainty and inconsistent results. It also would provide clear congressional guidance to the courts regarding indirect restitution and would reduce, if not eliminate, the time-consuming and costly litigation over appropriate remedies. In addition, the bill also would authorize continuation, during the interim period that the Department holds overcharges in escrow, of the placement of a portion of the escrow amounts with minority-owned banks and thrift institutions. To date, approximately $27 million has been placed with minority-owned institutions pending final disbursement of the escrow funds. This highly successful, short-term program provides capital for use in communities throughout the country that are served by these minority-owned institutions. To achieve those purposes the draft bill contains the following major provisions:

Establishes an orderly, step-by-step procedure for distributing overcharge amounts now held in escrow and amounts received in the future as a result of settlements, orders, and judgments.

In the first phase, the Department of Energy attempts to identify persons who sustained economic injury and to ascertain the amount of injury sustained in order to provide direct restitution.

It is contemplated that the Department's Office of Hearings and Appeals will perform this function using its special refund procedures (10 C.F.R. 205, Subpart V). This phase would not be used to duplicate prior proceedings where an existing order or judgment rests upon a determination that it is impossible or impractical to identify or make direct restitution to the persons who sustained economic injury.

In the second phase, amounts that exceed those needed for direct restitution, or amounts that cannot be refunded, are deposited in the Petroleum Overcharge Restitution Fund established in the U.S. Treasury by this Act.

In the third phase, beginning in fiscal year 1985, indirect restitution is provided by making Fund assets available to the States for distribution under three programs:

Low Income Home Energy Assistance Program administered by Department of Health and Human Services.

Weatherization Program administered by Department of Energy.

Schools and Hospitals grant program administered by Department of Energy.

Provides clear guidance to courts in pending and future cases.

Directs a court to require payment of restitutionary amounts to Department of Energy for distribution in accordance with this Act when the court finds for the government in an overcharge case.

Provides congressional direction and involvement.

Authorizes fiscal year 1985-89 appropriations for low income home energy assistance, weatherization, and schools and hospitals grants at fiscal year 1984 level.

Provides that appropriations made available for those programs shall be derived from the Fund to the extent amounts are available in the Fund; if the Fund assets are insufficient, the balance of appropriations will be made available from the general fund of the Treasury; and as additional amounts are placed in the Fund, they shall be used for repayment to the general fund.

Authorizes continued placement of escrow amounts with minority-owned banks and thrift institutions pending fiscal distribution under this Act.

BENEFITS OF DISTRIBUTING OVERCHARGES THROUGH THE STATES

A key feature of this legislative proposal is the disbursement by the States of indirect restitution for overcharges. In contrast with past and proposed alternative remedies, making the overcharges available to the States in the manner proposed would foster the restoration of the traditional balance among State, local, and Federal governments by returning authority responsibility, and revenue resources to the States. The States, being closer to the people, are in a better position to ensure that the end-use consumers within their jurisdictions, who had no opportunity to pass on the overcharges, receive the benefit of this indirect restitution.

Disbursement by the States under existing energy programs provides the most efficient and effective method of administering overcharge distribution. Moreover, the three earmarked programs generally benefit energy consumers by helping to reduce energy demand and energy costs through weatherization, finding alternative energy sources for schools and hospitals, and promoting energy conservation. This proposal continued the indirect restitution approach used successfully in several earlier consent orders and under the Warner amendment. It does so subject to continuing congressional oversight and involvement without imposing heavier burdens on the taxpayer and the Treasury.

I believe that disbursing overcharge funds to the States in the manner set forth in this proposal is the best way of resolving a difficult problem that has caused much controversy. I look forward to working with the Congress in obtaining the earliest possible enactment of this legislation.

Sincerely,

DONALD PAUL HODEL.

S. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Petroleum Overcharge Restitution Act".

OVERCHARGE DISTRIBUTION PROCEDURES

SEC. 2. (a) In the manner provided by this Act, the Secretary of Energy shall distribute the following restitutionary amounts—

(1) amounts held in escrow on the date of enactment of this Act, and

(2) amounts received after the date of enactment of this Act,

which are held or received as a result of a settlement, order, or judgment (including a declaratory judgment) involving overcharges resulting from alleged petroleum pricing violations under the Emergency Petroleum Allocation Act of 1973.

(b) A settlement, order, or judgment described in subsection (a) that includes restitutionary amounts shall be referred to the Secretary of Energy who shall conduct a proceeding for the purpose of identifying and making restitution to persons who the Secretary determines sustained economic injury; however, in cases in which an administrative or judicial order or judgment entered before the date of enactment of this Act rests upon a determination that it is impossible or impractical to identify or to make direct restitution to the persons who sustained economic injury, a proceeding shall not be conducted under this subsection, and the restitutionary amounts not yet paid and distributed shall be deposited in the Fund established by section 3(a) of this Act.

(c) In cases in which a court has rendered or renders a judgment in favor of the Government for petroleum pricing violations under the Emergency Petroleum Allocation Act of 1973, the court shall order that any restitutionary amounts (including interest) not yet paid and distributed be paid to the Department of Energy to be held in escrow pending distribution in accordance with this Act.

(d) While the Department of Energy holds amounts in escrow pending the completion of the proceedings required by this section, the Secretary of Energy may place a portion of those amounts that the Secretary considers appropriate in the Department's minority-owned financial institution depository program.

PETROLEUM OVERCHARGE RESTITUTION FUND

SEC. 3. (a) There is established in the Treasury of the United States a fund to be known as the Petroleum Overcharge Restitution Fund (referred to in this Act as the "Fund").

(b) There shall be deposited in the Fund restitutionary amounts described in section 2 of this Act that the Secretary of Energy determines—

(1) exceed amounts needed for refunds to persons who sustained economic injury from overcharges; or

(2) cannot be refunded to persons who sustained economic injury because they cannot reasonably be identified, or because the amount of injury such persons sustained cannot reasonably be determined or is so small that distribution is not reasonably feasible.

(c) Deposits into the Fund shall be made as soon as practicable after completion of the proceeding under section two of this Act, or as otherwise provided by this Act; however, escrow amounts that have been invested shall be deposited in the Fund in a manner that avoids the payment of penalties for premature withdrawal.

(d) When appropriations are made for a program listed in section 4 of this Act, the amount provided shall be derived from the Fund to the extent that amounts are available in the Fund. If amounts in the Fund are not sufficient to cover the appropriation made for such a program, the remaining amounts shall be derived from the general fund of the Treasury and shall be returned to the general fund to the extent that amounts become available in the Fund.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. For each of the fiscal years 1985 through 1989 there is authorized to be appropriated for carrying out

(i) Part A of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. §§ 6861-6873),

(ii) Part G of title III of the Energy Policy and Conservation Act (42 U.S.C. §§ 6371-6371j), and

(iii) the Low Income Home Energy Assistance Act of 1981 (42 U.S.C. §§ 8621-8629)

amounts that do not exceed the amount appropriated in fiscal year 1984 by Public Law 98-146 for the programs in clauses (i) and (ii) and by Public Law 98-139 for the program in clause (iii). Amounts appropriated pursuant to this section may be made without fiscal year limitation.●

By Mr. DOLE:

S. 2371. A bill to provide for the distribution within the United States of the U.S. Information Agency film entitled "Peace, Friendship and Freedom"; to the Committee on Foreign Relations.

DISTRIBUTION OF A U.S. INFORMATION AGENCY FILM

● Mr. DOLE. Mr. President, I am introducing today a bill allowing the U.S. Information Agency (USIA) to release for distribution and use in this country the film, "Peace, Friendship and Freedom." USIA is prohibited from distributing films it produces in the United States unless Congress grants an exception through legislation. I believe this film justifies such a waiver.

"Peace, Friendship and Freedom" documents the 11-nation trip undertaken by President Eisenhower at the end of his second term of office. It is rare footage of this trip and is thus of considerable historical value. Beyond the political history recorded, it offers fascinating insight into the world of "The Flying White House"—the development of the Presidential jet and its impact on global politics. The film also records the transition from propeller to jet aircraft that greatly expanded that impact. I believe the release of this film for distribution and use will be of benefit to a wide range of historians and others interested in the era, and the people of the United States. I hope the Senate will act expeditiously on this bill so this film can be made available to the American people as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(A) the Director of the United States Information Agency shall make available to the Administrator of General Services a master copy of the firm entitled "Peace, Friendship and Freedom"; and

(B) subject to paragraph (2), the Administrator shall reimburse the Director for any expenses of the agency in making that master copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(2) The Administrator shall carry out his duties under clause (B) of paragraph (1) only after the United States Government has acquired, after the date of enactment of this Act, any remaining license or other rights which are not Government-held before such date and which are required for distribution within the United States of the film entitled "Peace, Friendship and Freedom" without use of funds appropriated or otherwise made available to any department, agency, instrumentality, or office of the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.●

By Mr. TOWER (for himself and Mr. PROXMIRE):

S. 2372. A bill to amend the Securities Exchange Act of 1934 to provide uniform margin requirements in transactions involving the acquisition of securities of certain United States corporations by non-United States persons where such acquisition is financed by non-United States lenders, to specify a private right of action for violations of margin requirements, and for certain other persons; to the Committee on Banking, Housing, and Urban Affairs.

UNIFORM MARGIN REQUIREMENT ACT OF 1984

Mr. TOWER. Mr. President, I am introducing today with the distinguished ranking minority member of the Banking, Housing, and Urban Affairs Committee, Mr. PROXMIRE, a bill to amend the Securities Exchange Act of 1934 to provide uniform margin requirements in transactions involving the acquisition of securities of certain U.S. corporations by non-U.S. lenders. In essence, the bill would require foreign investors in U.S. companies to meet the same limitation on the use of credit to buy stocks that the Federal Reserve Board sets for U.S. citizens and residents.

The current margin requirement limits borrowing to 50 percent of the purchase price of the stock. However, there is presently a loophole in the law which makes this 50-percent restriction inapplicable to foreign investors using foreign credit.

This anomaly in the law has been the subject of a great deal of scrutiny by the Congress in the past. In 1970, the Congress amended section 7 of the Securities Exchange Act to clarify that the use of foreign capital by American purchasers of securities is subject to the margin requirements. Prior to that time, a U.S. borrower could circumvent the margin requirements by obtaining credit from a foreign lender. Recognizing the threat to U.S. securities markets if this practice was not curbed, Congress took a first step in closing this loophole in the statute.

Unfortunately, the Congress did not go far enough. In making this needed revision in the statute, it failed to address a further inequity which permitted foreign investors using foreign credit to circumvent the margin requirements. In 1981, I authored a bill, similar to the one I introduced today, to close this gap in the law. Although the bill was never voted on by the full Senate, its companion in the House was passed by a voice vote.

The rationale for this bill remains the same today as it did in the last Congress: it is unfair and inequitable to treat foreign investors more favorably than American investors in the purchase of U.S. securities. With each passing day more U.S. securities are purchased by foreign investors under arrangements that would violate the U.S. margin requirements if domestic credit were used. I am concerned about the destabilizing effect that this situation has on our securities markets.

Furthermore, Mr. President, I doubt that there is a single Senator who, in the past few years, has not had some concern about the wave of foreign takeovers and takeover attempts and their impact on U.S. economic interests. I have had that concern, but at the same time I recognize that the acquisition of one company by another is a basic part of our free market system. This bill is not intended nor would its impact be to inhibit foreign investment in the United States. Instead the bill is designed to place American and foreign investors purchasing U.S. securities on equal footing. The margin requirements were enacted in order to regulate the availability of credit for the purchase of securities and to prevent the kind of intense speculation in the U.S. stock market that occurred during the 1920's. The use of uncontrolled foreign credit presents as similar potential as well as providing an unfair advantage to foreign purchasers of U.S. securities.

The bill Senator PROXMIRE and I introduce today has the following elements:

First, the bill amends section 7(f) of the Securities Exchange Act to make the Federal Reserve margin requirements applicable to foreign persons borrowing from foreign lenders.

Second, the bill provides a private right of action to issuers of securities and other injured parties against violators of the margin requirements.

Third, this newly created express right of action is limited to transactions involving the acquisition or carrying of 5 percent or more of an equity security or any tender offer if it would result in beneficial ownership of 5 percent or more of an equity security. The purpose of this bill is to reach large foreign speculators. Small foreign investors buying less than 5 percent of the stock of a U.S. company would not be affected.

Fourth, in following previous precedent on this legislation, the bill would apply to any transaction in which the borrowed funds are disbursed by the lender after the date of the bill's introduction. This provision is needed to ensure that consideration of this bill does not provoke anticipatory action which, if not consummated before the bill's enactment, would be unlawful.

Mr. President, I believe that enactment of this legislation is an absolute necessity and serves the broad objective of promoting and preserving equality of treatment for all investors in the marketplace. I urge my colleagues to support this measure and hope that the Senate Banking Committee would act quickly to report this bill favorably to the Senate.●

By Mr. STAFFORD (for himself, Mr. EAGLETON, Mr. WEICKER, Mr. DODD, Mr. KENNEDY, Mr. RANDOLPH, Mr. PELL, Mr. RIEGLE, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. BURDICK, Mr. SARBANES, Mr. RUDMAN, Mr. HATFIELD, Mr. HOLLINGS, Mr. SASSER, Mr. TSONGAS, and Mr. CRANSTON):

S. 2374. A bill to extend the authorization for 5 years for the low-income home energy assistance program, for the community services block grant, and for the Head Start program, and for other purposes; to the Committee on Labor and Human Resources.

HUMAN SERVICES REAUTHORIZATION ACT

Mr. STAFFORD. Mr. President, today I am introducing, on behalf of myself, Senators EAGLETON, WEICKER, DODD, KENNEDY, RANDOLPH, PELL, RIEGLE, MATSUNAGA, METZENBAUM, BURDICK, SARBANES, RUDMAN, HATFIELD, HOLLINGS, SASSER, TSONGAS, and CRANSTON, the Human Services Reauthorization Act. This bill will reauthorize the low-income home energy assistance program, the community services block grant program, and the Head Start program for fiscal years 1985 through 1939.

Title I of the bill reauthorizes the low-income home energy assistance program at $2.3 billion in fiscal year 1985; $2.5 billion in fiscal year 1986, and such sums as may be necessary for the 3 remaining fiscal years. The current appropriation for the low-income home energy assistance program is $1.85 billion. In addition to this amount, there is a strong possibility that Congress will appropriate an additional $200 million for this fiscal year. That would bring the total fiscal year 1984 appropriation to $2.05 billion.

Also, the bill will tighten up State program administration and gather additional data on the working of the programs in the States.

Title II of the bill reauthorizes the community services block grant program at $400 million for fiscal year 1985; $425 million for fiscal year 1986, and such sums as may be necessary for each of the 3 remaining fiscal years. Currently $352 million is appropriated for the community services block grant program.

Title II provides the States authority to increase eligibility for services to 125 percent of the OMB poverty guideline and reduces the pass through to 85 percent of grant funds instead of the 90 percent mandated by the appropriations law.

Title III of the bill reauthorizes the Head Start program at $1.2 billion in fiscal year 1985; $1.4 billion in fiscal year 1986, and such sums as may be necessary for the 3 remaining fiscal years. Congress has currently appropriated approximately $1 billion for the Head Start program.

The bill would continue the important training and technical assistance activities, strengthen designations of existing Head Start agencies, and maintains current program performance standards.

Mr. President, I ask unanimous consent that the summary of the human services reauthorization bill and the text of the bill be printed at the conclusion of my remarks.

Mr. President, this bill is being introduced so that we may keep our commitment to those low-income Americans who desperately need the assistance that these programs provide. These are proven programs which the Congress reauthorized in 1981 as part of the Omnibus Reconciliation Act.

There is no question about the need for these programs. The release last week of the Census Bureau report again brings to light the hard facts that life for low-income Americans is not getting better. I ask unanimous consent that two articles, one from the New York Times of February 24, 1984, and from the Washington Post of February 24, 1984, be printed in the RECORD at this point. The only question before the Congress is how best to provide these needed services.

The human services reauthorization bill continues the same format as in 1981 reauthorizations for these programs, while taking into account what we have learned since the 1981 law was enacted. The changes that we are proposing will help these programs run better and more effectively provide their limited resources to those most in need.

These are proven programs which are important to those low-income Americans struggling to break the cycle of poverty. They provide that additional help needed by many Americans to move up out of poverty.

Mr. President, the Census Bureau statistics on the increase in poverty for American families have shown these programs are even more desperately needed now. We as a society should not tolerate an increase in the number of families living at—or below—the poverty level as long as we have the means to help.

Mr. President, I recommend this legislation to my colleagues and ask for their support.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Human Services Reauthorization Act".

TITLE I—LOW-INCOME HOME ENERGY ASSISTANCE AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (hereinafter in this title referred to as the "Act") is amended to read as follows:

"(b) There is authorized to be appropriated to carry out the provisions of this title $2,300,000,000 for the fiscal year 1985, $2,500,000,000 the fiscal year 1986, and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1989.".

DEFINITION

SEC. 102. Section 2603(1) of the Act is amended by inserting before the period "and other household energy related emergencies".

ENERGY CRISIS INTERVENTION

SEC. 103. Section 2604(c) of the Act is amended to read as follows:

"(c) Not less than 5 percent of the funds available to each State under subsection (a) shall be reserved until March 15 of each program year by each State for energy crisis intervention, which shall be administered by public or nonprofit entities which have experience in administering energy crisis programs under the Low-Income Energy Assistance Act of 1980, or under this Act, experience in assisting low-income individuals in the area to be served, and the capacity to undertake a timely and effective energy crisis intervention program.".

APPLICATIONS AND REQUIREMENTS

SEC. 104. (a) The matter preceding subclause (A) of section 2605(b)(2) of the Act is amended by inserting before the hyphen the following: "and without any further limitation of".

(b) Section 2605(b)(8) of the Act is amended by inserting after "that" the following: "(A) the State will not discriminate against households described in clause (2)(B) of this subsection and (B)".

(c) Section 2605(b) of the Act is amended—

(1) by striking out "and" at the end of clause (12);

(2) by striking out the period at the end of clause (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clauses:

"(14) describe the procedures by which households in the State are identified as eligible to participate under this title and the manner in which the State determines benefit levels; and

"(15) describe the amount that the State will reserve in accordance with section 2604(c) in each fiscal year for energy crisis intervention activities together with the administrative procedures (A) for designating an emergency, (B) for determining the assistance to be provided in any such emergency, and (C) for the use of funds reserved under such section for the purposes under this title in the event any portion of the amount so reserved is not expended for emergencies.".

(d)(1) Section 2605(f) of the Act is amended by inserting before the comma the first time it appears the following: "unless enacted in express limitation of this paragraph".

(2) Section 2605(f) of the Act is further amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, the amount of any home energy assistance payments or allowances provided to a household by a private nonprofit organization, or an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental body, if the appropriate State agency has certified that such assistance was based on need as determined by such organization or entity, shall not be considered income or resources of such household (or any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, food stamps, public assistance, or welfare programs.".

PAYMENTS TO STATES

SEC. 105. (a) The first sentence of section 2007(b)(2)(B) of the Act is amended—

(1) by striking out "25 percent" and inserting in lieu thereof "15 percent"; and

(2) by inserting before the period a comma and the following: "and in the case a State makes a transfer under section 2604(f) in the fiscal year in which the State makes a request under subparagraph (A) no amount may be held available for that State from a prior fiscal year to the extent such amount exceeds 10 percent of the amount so allotted".

(b) Section 2607(b)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) The Secretary shall reallot amounts made available under this paragraph for the fiscal year following the fiscal year of the original allotment in accordance with paragraph (1) of this subsection.".

DATA COLLECTION

SEC. 106. Section 2610 of the Act is amended to read as follows:

"DATA COLLECTION; DEMONSTRATIONS

"SEC. 2610. (a) The Secretary shall provide for the collection of data on a State-by-State basis for each fiscal year, including—

"(1) for households in each income group, energy consumption information (collected after consultation with the Secretary of Energy) such as amount, cost, and type of fuels used;

"(2) the income levels of households assisted under this title;

"(3) for each type of assistance under this title, the number of households which receive such assistance;

"(4) for each type of assistance under this title, the number of households which receive such assistance and include one or more individuals who are elderly or handicapped;

"(5) for each type of assistance under this title, the number of households—

"(A) which receive such assistance; and

"(B) are described in paragraph (2)(A) of section 2605 (b);

"(6) the amount of State allotments under this title—

"(A) used for planning and administering the use of funds under this title; or

"(B) held available for the following fiscal year under section 2607 (b)(2);

"(7) the minimum, maximum, and average amounts of assistance under this title to any household;

"(8) for each type of assistance under this title, the methods of providing payments and other benefits, and the administering agencies used; and

"(9) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this title.

"(b) The Secretary shall provide for the collection of data on a State-by-State basis for the first four months of each fiscal year, including—

"(1) for each type of assistance under this title, the number of households assisted, the amount of such assistance, and the number of applicants; and

"(2) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this title.

"(c)(1) The Secretary shall, not later than June 30 of each calendar year, submit a report to the Congress containing a detailed summary of the data collected under subsection (a) with respect to the fiscal year ending in the preceding calendar year.

"(2) The Secretary shall, not later than February 28 of each calendar year, submit a report to the Congress containing—

"(A) a detailed summary of the data collected under subsection (b) with respect to the first four months of the fiscal year ending in such calendar year, and

"(B) projections, based on such data, for the remainder of such fiscal year.

"(d) The Secretary may use not to exceed $350,000 in any fiscal year for demonstration and analysis of effective ways to meet the energy needs of low-income households.".

TITLE II—COMMUNITY SERVICES BLOCK GRANT AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Section 672 (b) of the Community Services Block Grant Act (hereinafter referred in this title referred to as the "Act") is amended to read as follows:

"(b) There is authorized to be appropriated $400,000,000 for the fiscal year 1985, $425,000,000 for the fiscal year 1986, and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1989, to carry out the provisions of this subtitle.".

POVERTY LINE

SEC. 202. Section 673 (2) of the Act is amended by inserting at the end thereof the following new sentence: "Whenever the State determines that it serves the objectives of the block grant established by this subtitle the State may revise the poverty line to 125 percent of the official poverty line otherwise applicable under this paragraph.".

REQUIREMENTS

SEC. 203. (a) Section 675(c)(2)(A)(i) of the Act is amended by striking out "only" and by inserting after "section 674" the following: ", and for fiscal year 1984 and for each subsequent fiscal year not less than 85 percent of such funds.".

(b) Section 675(c)(2)(A)(ii) of the Act is amended by striking out "not less than 90 percent of the funds allotted to the State under section 674" and inserting in lieu thereof "the remainder of the funds allotted to the State under section 674 after complying with the provisions of subclause (B) of this clause and subsection (i) of this section".

(c) Section 675 of the Act is amended by adding at the end thereof the following new subsection:

"(i) Whenever the State determines that a geographic area of the State is not served by an eligible entity, the State shall use funds described in division (ii) of subsection (c)(2)(A) to permit an existing eligible entity to serve such a geographic area within the State, or if the use of such eligible entity is not feasible, shall use such amounts to establish a new community action agency which is in substantial compliance with the requirements for an eligible entity described in section 673(1) to serve such an area.".

(d) Section 675 of the Act (as amended by subsection (c)) is further amended by adding at the end thereof the following new subsection:

"(j) The Secretary may waive the requirement of division (i) of subsection (c)(2)(A) of this section for any State applying for such a waiver if—

"(1) the State obtained a waiver of the requirements of section 138 of Public Law 97-276 with respect to appropriations for fiscal year 1983; and

"(2) the State submits, prior to the fiscal year for which the waiver is sought, an application under this subtitle, containing provisions for the use of assistance under this subtitle by political subdivisions.".

DISCRETIONARY PROGRAM

SEC. 204. (a) The matter preceding clause (1) of section 681(a) of the Act is amended—

(1) by striking out "is authorized" and inserting in lieu thereof "shall"; and

(2) by striking out "public and other organizations and agencies" and inserting in lieu thereof "public agencies and private nonprofit organizations" both times it appears.

(b) Section 681(a) of the Act is amended by adding at the end thereof the following new sentence: "In addition, grants, loans, and guarantees made pursuant to this subsection may be made to a nonprofit private organization applying jointly with a business concern.".

TITLE III—HEAD START PROGRAM ADMINISTRATION

SEC. 301. Section 638 of the Head Start Act is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) The Secretary shall administer the program authorized by this subchapter through the Administration for children, youth, and families within the Department of Health and Human Services.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 302. Section 639 of the Head Start Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 639. There are authorized to be appropriated for carrying out the provisions of this subchapter $1,200,000,000 for fiscal year 1985, $1,400,000,000 for fiscal year 1986, and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1989.".

RESERVATION OF FUNDS FOR TRAINING AND TECHNICAL ASSISTANCE

SEC. 303. Section 640(a)(2)(C) of the Head Start Act is amended by inserting before the semicolon the following: "described in section 648 of this subchapter, in an amount for each fiscal year which is not less than the amount expended for training and technical assistance activities under this clause for the fiscal year 1982".

DESIGNATION OF HEAD START AGENCIES

SEC. 304. (a) Section 641(a) of the Head Start Act is amended by inserting after "agency" the second time it appears "within a community".

(b) Section 641(c) of the Head Start Act is amended—

(1) by striking out "give priority in the designation of Head Start agencies to" and insert in lieu thereof "shall designate as Head Start agencies";

(2) by striking out "this Act" and inserting in lieu thereof "the Human Services Reauthorization Act";

(3) by striking out "giving such priority" in clause (1) and inserting in lieu thereof "making such designation"; and

(4) by striking out "give priority in the designation of Head Start agencies to" in clause (2) and inserting in lieu thereof "designate as Head Start agencies".

(c) Section 641 of the Head Start Act is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) If there is no Head Start agency or successor agency described in clauses (1) and (2) of subsection (c), and no other existing Head Start program serving a community, then the Secretary may designate a Head Start agency from among qualified applicants in the community. Any such designation shall be governed by the same program and fiscal requirements, criteria and standards as are applicable to existing Head Start programs.

"(e) The provisions of subsections (c) and (d) shall be applied by the Secretary in the distribution of any additional appropriations made available under this subchapter during any fiscal year as well as to initial designations of Head Start agencies.".

PARTICIPATION IN HEAD START PROGRAMS

SEC. 305. Section 645 of the Head Start Act is amended by adding at the end thereof the following new subsection:

"(c) Each Head Start program operated in a community may provide more than one year of Head Start services to children from age 3 to the age of compulsory school attendance in the State in which the Head Start program is located.".

TECHNICAL ASSISTANCE AND TRAINING

SEC. 306. Section 648 of the Head Start Act is amended—

(1) by striking out "may" and inserting in lieu thereof "shall"; and

(2) by inserting before the period at the end thereof a comma and the following: "including child development associate training and national assessment programs leading to the necessary child development associate credentials for such personnel; and resource access projects for personnel of handicapped children".

EVALUATION

SEC. 307. The second sentence of section 651(b) of the Head Start Act is amended to read as follows: "Any revisions in such standards shall not result in the elimination of nor any reduction in the scope or types of health, education, parent involvement, social or other services required to be provided under the standards in effect on November 2, 1978.".

SUMMARY: HUMAN SERVICES REAUTHORIZATION ACT

A summary of the Human Services Reauthorization Act, reauthorizing the Low-Income Home Energy Assistance Program, the Community Services Block Grant, and the Head Start program:

(1) LIEAP:

(a) authorizes $2.3 billion in fiscal year 1985; $2.5 billion in fiscal year 1986; and "such sums" for the three succeeding fiscal years. The current authorization of $1.875 billion has been frozen in place since fiscal year 1982, and the program is currently funded at full authorization.

(b) requires states to reserve at least five percent of their allotment until March 15 of each program year to assure funding for energy crisis intervention activities within the state.

(c) amends the provisions dealing with the categorically eligible to assure that the four categories are eligible without any further limitation.

(d) requires states to make assurances that they will not discriminate against the non-categorically eligible (the non-welfare poor).

(e) requires states, as a part of their application, to describe the procedures by which eligible households in the state are identified; to describe energy usage and the average cost of home energy in the state; and to describe their crisis intervention programs. These three reporting requirements were contained in LIEAP prior to 1981.

(f) amends existing law's prohibition against counting LIEAP benefits as income for the purpose of other income maintenance programs "unless enacted in express limitation of this subsection." This is intended to supercede the authority in the Social Security Amendments of 1983 that gave states permissive authority to count LIEAP benefits as income for purposes of AFDC.

(g) restricts the allowable carryover to fifteen percent, generally, and to ten percent if a state transfers LIEAP funds to one of the other block grants.

(h) requires the Secretary of Health and Human Services to collect data from the states, describing with greater specificity the data to be included.

(2) CSBG:

(a) authorizes $400 million for fiscal year 1985, $425 milion for fiscal year 1986, and "such sums" for each of the succeeding three years. Current authorization is $389 million; current appropriation is $352,300,000.

(b) clarifies existing law to allow states to set eligibility for participation in the CSBG programs at 125 percent of poverty.

(c) modifies the existing passthrough to Community Action Agencies by reducing the required amount of passthrough from 90 percent to 85 percent; requires states to use a portion of the remaining funds whenever the state expands the service area of a Community Action Agency to cover a previously unserved area within the state or to establish a new Community Action Agency. The bill maintains existing law's four state waiver for those states in which 45 percent of their counties did not have Community Action Agencies.

(d) mandates the operation of a secretarial discretionary activity. Current law makes the discretionary activities permissive, and although HHS is currently funding them, there were initial indications that the Department did not wish to operate the program and would simply let the funds remain unspent. Past appropriation language has instructed the Secretary to operate the discretionary programs.

(e) clarifies that awards made under the discretionary program are to be made to public and private non-profit agencies, although non-profits may apply jointly with a for-profit organization.

(3) Head Start:

(a) authorizes $1.2 billion for Fiscal Year 1985, $1.4 billion for Fiscal Year 1986, and "such sums" for the succeeding three years.

(b) requires that the Secretary of Health and Human Services administer the Head Start program through the Administration for Children, Youth, and Families.

(c) requires that funding for training and technical assistance activities be maintained at least the Fiscal Year 1982 level. This requirement tracks direction in the Labor-HHS-Education appropriations bill with respect to training activities.

(d) strengthens provisions requiring designation of existing Head Start agencies.

(e) makes explicit the authority for Head Start programs to provide more than one year of Head Start services to children from age three to school admission age.

(f) requires the continuation of Child Development Associate training and assessment programs.

(g) requires that current program performance standards not be revised in such a manner as would result in the elimination or reduction in services. This is similar to the direction in the Fiscal Year 1984 appropriations bill report language with respect to current standards.

[From the New York Times, Feb. 24, 1984]

Rise in Poverty From 1979 to 1982 Is Found in United States

(By Robert Pear)

Washington, Feb. 23.—The Census Bureau said today that there had been a rapid increase in poverty from 1979 to 1982, even if the value of food stamps, public housing, Medicare and Medicaid benefits was counted as income.

The Government does not include noncash benefits when it calculates the number of people whose income falls below the poverty level. Reagan Administration officials, including David A. Stockman, director of the Office of Management and Budget, have often asserted that the practice of not including the benefits inflated official poverty figures. Congress asked the bureau to compare poverty figures using both methods of calculation.

SHARPER INCREASE FOUND

Counting only cash income, there were 26.1 million poor people in 1979 and 34.4 million in 1982. But if the full market value of noncash benefits had been counted as income, there would have been 15.1 million poor people in 1979 and 22.9 billion in 1982, the bureau said.

The official poverty rate, counting only cash income, rose by 28.2 percent, from 11.7 percent in 1979 to 15 percent in 1982, the bureau said. But if the Government had expanded the definition of income to include the market value of noncash benefits, the poverty rate would have risen 47.1 percent, from 6.8 percent in 1979 to 10 percent in 1982, it said.

Census officials said the increases were the result of general economic trends, such as the recession and inflation, rather than the cutbacks in social welfare programs made by Congress at President Reagan's request.

Democrats have been predicting the cutbacks in social programs, which took full effect in 1982, would cause an increase in poverty. In a quick reaction to the report, they introduced antipoverty legislation in the House today that would increase benefits for some of the poor people who qualify for them under such programs as Aid to Families with Dependent Children, Medicaid and Supplemental Security Income. Democratic Congressmen, who had been working on the bill since October, estimated it would cost $10 billion the first year.

A family of four was classified as poor if it had cash income of less than $9,862 in 1982, or less than $7,386 in 1979. The official poverty level is adjusted each year to reflect changes in the Consumer Price Index.

Gordon W. Green Jr., assistant chief of the Census Bureau's population division, said the poverty rate showed "a more rapid increase when you bring the noncash benefits into the calculation." Moreover, he said, that "you get an upward trend in poverty over the period" from 1979 to 1982 regardless of whether noncash benefits are counted as income.

SENATE DIRECTED RESEARCH

The Government's official poverty statistics, issued last August, showed the extent of poverty in 1982, but they counted only cash income. Last April the bureau issued a report on noncash benefits received by poor people in 1979. Today's report was the first to show the extent of poverty after counting the value of noncash benefits over those years. The Senate in 1980 directed the bureau to start collecting and publishing data on noncash benefits.

Census officials presented the data on poverty at a news conference. Mr. Green agreed with a reporter's suggestion that the Government's noncash benefit programs appeared to be less effective in reducing poverty in 1982 than in 1979.

The bureau said that the average market value of noncash benefits received by poor families declined by 10.4 percent, from $3,715 in 1979 to $3,330 in 1982, after adjustment for inflation. In the same four-year period, noncash benefits increased but not enough to keep pace with inflation. There was a 33 percent increase in the Consumer Price Index.

The new report shows that if the market value of noncash benefits was counted as income in 1982, there would have been only 912,000 poor people 65 years old and older, as against the 3.8 million elderly classified as poor under the official definition. Counting noncash benefits as income, the Census Bureau said the incidence of poverty among the elderly declined from 1979 to 1982, mainly because they received large amounts of assistance under Medicare, the medical insurance program for the elderly, and Medicaid, the medical program for poor people, which also pays for large amounts of nursing home care.

OTHER GROUPS HAD INCREASES

However, there were substantial increases in the poverty rate for other groups. Under the official definition, the poverty rate for black people rose 15 percent from 1979 to 1982, but it would have risen 44 percent if noncash benefits were counted as income, the bureau said. The poverty rate for two-parent families rose 46 percent under the official definition of poverty, but 64 percent under the alternative definition, counting noncash benefits. This was more than the increase in the poverty rate for families headed by women. For them, the rate rose 16 percent under the official definition of poverty and 49 percent under the alternative definition.

[From the Washington Post, Friday, Feb. 24, 1984]

Number Living at Poverty Level Rising Sharply

(By Spencer Rich)

The share of the U.S. population living below the official poverty line has risen sharply over the last several years even when in-kind benefits like Medicaid and food stamps are counted as income and added to cash, the Census Bureau reported yesterday.

The bureau has traditionally used only cash income in computing the poverty rate.

Conservatives including a number of key officials in the Reagan administration have argued that this is misleading because it leaves out the in-kind programs which have been among the fastest growing in the federal budget in recent decades.

The new study shows that the rates are substantially lower when in-kind programs are counted but the trend has been the same; reckoned either way, poverty rose about a third or more from 1979 to 1982.

The Census confirms that in-kind benefits have increased dramatically, from $5.7 billion in 1982 dollars in 1965 to $99 billion in 1982. But in recent years this has been more than offset by a combination of high unemployment, inflation and budget cuts.

The official poverty line for a family of four in 1982 was $9,862. The line is higher for larger families and lower for smaller ones. The government raises it each year to account for inflation.

For an individual it is about half that for a family of four.

Counting cash only, the number of people living in poverty rose from 26.1 million people (11.7 percent of the population) in 1979 to 34.4 million (15 percent) in 1982.

If all in-kind benefits including Medicare and Medicaid are counted at market value, there were 15.1 million people in poverty in 1979 (6.8 percent of the population) and 22.9 million in 1982 (10 percent).

If in-kind benefits are counted but measured in a somewhat different way preferred by many economists, the number of poverty was 20.2 million (9 percent) in 1979 and 29.1 million (12.7 percent) in 1982.

From 1981 to 1983, largely at President Reagan's behest, Congress made cuts in a number of social welfare programs. The Census study shows that from 1981 to 1982, even though unemployment was rising, spending for both cash welfare programs dropped $1 billion in constant dollars, and spending for in-kind programs the same.

However, Census officials said budget cuts appeared to be smaller factor than recession and inflation in boosting poverty figures.

The report said that while the cash-only method remains the government's official measure of poverty, on which eligibility for many programs is based, the Census Bureau and Office of Management and Budget are convening a panel to work out ways to consider in-kind benefits as well.

On Capitol Hill, Reps. Charles B. Rangel (D-N.Y.), Harold E. Ford (D-Tenn.) and Henry A. Waxman (D-Calif.) responded to the report by introducing a bill to reverse some recent budget cuts and set minimum benefits for welfare, enlarge eligibility for many of the benefit programs, mandate health insurance for the unemployed and boost job programs. They estimated the annual cost at $10 billion.

The Census study showed that because they get Medicare, which constitutes half of the $99 billion in-kind total, the elderly show the greatest variation in poverty rates from the cash-only calculus to cash-plus-in-kind. Counting cash only, the poverty rate for people 65 and over in 1982 was 14.6 percent, but if in-kind medical benefits are included at market value, the rate drops to 3.5 percent; using the cash-equivalent method, it drops to 9.3 percent.

Some experts believe that medical benefits should not be counted as income because if they are, the sicker a person the richer he seems. Census officials said the medical benefits were included at their insurance value to help reduce this problem.

Mr. WEICKER. Mr. President, I am proud to join my good friends, Senator STAFFORD, Senator EAGLETON, and Senator DODD, as well as several of my colleagues on the Senate Committee on Labor and Human Resources, in introducing the Human Services Reauthorization Act today. This legislation would reauthorize three important Federal programs—the low income home energy assistance program, the community services block grant and the Head Start program. These programs help low income Americans meet basic human needs. Each has a proven track record of success and is well deserving of our collective attention this year.

This bill would authorize $2.3 billion in fiscal 1985 for the low income home energy assistance program (LIEAP), a program which enables the elderly and disadvantaged to cope with escalating energy costs. The amount authorized in the legislation for fiscal 1986 would be $2.5 billion and such sums as may be necessary for fiscal years 1987-89. LIEAP is currently funded at the authorized ceiling of just over $1.87 billion. An additional supplemental of $200 million currently moving through Congress would bring LIEAP to a funding level of about $2.1 billion in fiscal 1984. I believe that the authorization levels we are recommending today will allow us to hope that all Americans will be able to pass winters without deaths due to hypothermia and summers without fatalities related to heat exhaustion and heart attacks brought on by high temperatures.

Second, this legislation would reauthorize the community services block grant program at $400 million for fiscal 1985, $425 million for fiscal 1986 and such sums as may be necessary through fiscal 1989. Community action agencies across the Nation depend on this important block grant program for funds to deliver services to the most impoverished of our citizens, including food and shelter for the hungry and homeless. Numerous reports have shown the numbers of these Americans to be on the rise, so now more than ever it is important that Congress provide this program, which leverages other community resources, with an adequate authorization level.

Last, the Human Services Reauthorization Act would reauthorize the Head Start program at $1.2 billion in fiscal 1985, $1.4 billion in fiscal 1986, and at such sums as may be necessary for the remaining 3 fiscal years. Head Start, long recognized as one of the programs with the highest return to the Federal Government and to the future of America, provides low-income preschoolers with the basic educational tools they need to forge their futures.

In addition to reauthorizing these human service programs, the bill proposes important programmatic changes in each, including provisions for improved recordkeeping and money management. Several of these changes have already been instituted through the appropriations process, and so today take their more appropriate place in the authorizing statute.

Mr. President, I believe that the Senate should take prompt action and enact this bill before we recess this year. Only then can we be sure of providing those Americans who truly need our assistance with three programs intended to improve their lives.

Mr. EAGLETON. Mr. President, I am pleased to join with my colleagues, the Senator from Vermont (Mr. STAFFORD), the Senator from Connecticut (Mr. WEICKER), and the Senator from Connecticut (Mr. DODD), as a principal cosponsor of the Human Services Reauthorization Act, a bill which reauthorizes for 5 years the low-income home energy assistance program, the community services block grant, and the Head Start program.

Title I of the bill authorizes $2.3 billion in fiscal year 1985, $2.5 billion in fiscal year 1986, and such sums as may be necessary for the 3 succeeding fiscal years for the low-income home energy assistance program (LIEAP). The current authorization for LIEAP has been frozen at $1.875 billion since fiscal year 1982. Last year, the appropriations exceeded the authorization, but this year, under the fiscal year 1984 Labor-HHS appropriations bill we are once again at the fully authorized ceiling. I should add that there is every likelihood that supplemental appropriation for the bill will be forthcoming, but although the additional money is sorely needed in many parts of the country, its lateness in being allocated will make it more difficult for the States to use wisely to meet the many needs that are as yet unmet.

It is clear that, at its presently funded level, the low-income home energy assistance program does not come close to helping low-income and elderly households cope with soaring home energy costs. Only one-third of eligible households received any of the LIEAP funds distributed last year, and the average annual payment of $184 was woefully short of the amount necessary to cover many households' energy expenses. In 13 States, LIEAP benefits paid for less than 20 percent of the average annual home energy bill for low-income households and in 35 States, households that received LIEAP benefits were still left with energy bills ranging from $500 to $1,000.

Added to the fact that not all eligible households are served under the current funding, it is important to focus on the recent increases in home energy costs which make this type of assistance even more crucial to poor and elderly households. For example, the average cost of natural gas to residential customers rose an average of 21.4 percent last year alone. In some areas of the country, it increased by 40 percent. This dramatic increase in natural gas prices has a particularly hard impact on those people served under this program, since over 60 percent of elderly and low-income households heat with natural gas. A number of studies have provided statistics on households that have lost utility service. According to testimony by the Citizens/Labor Energy Council, 300,000 households lost service last year, an increase of 30 percent from the preceding year. Another study by the National Consumer Law Center, based on analysis of the record of 10 utilities around the country, showed that there had been a 46-percent increase in the number of shutoffs since 1980. In my home city of St. Louis, these dry statistics were dramatically translated into human suffering in the case of Howard Spears. Mr. Spears, a 93-year-old blind man, was found near death in his apartment in January. The gas had been shut off for nonpayment, and the floors and walls were covered with ice. He died of hypothermia hours after arriving at a local hospital. This kind of grim reality is duplicated in case after case across the country, and it is out of this kind of tragedy that the Federal low-income assistance program grew and must continue to grow to meet the new reality of high energy costs for the elderly and the poor.

Title I of the bill seeks to address a number of concerns which have been raised with respect to the program under its present authority. Although the existing act requires that priority go to all households with low incomes and high proportional home energy bills, the permissive structure of the block grant has lead many States to adopt the administratively simple method of distributing benefits mainly to recipients of other categorical programs, largely AFDC and SSI. For the 60 percent of the poor under 125 percent of poverty not served by welfare programs, including the majority of the low-income elderly, this imposes often insurmountable burdens to securing assistance. Thus, the bill explicitly prohibits discrimination against those households not categorically eligible so long as they meet all other requirements. In addition, it strengthens the crisis programs in those States by requiring each State to reserve at least 5 percent of its funds until March 15 of each year for energy crisis intervention and by insuring that community based organizations have some share in such programs.

The bill also seeks to deal with the carryover problem. Under current law, States are permitted to carry over as much as 25 percent of their low-income energy funds. While the overwhelming majority of States keep only approximately 10 percent to enable timely fall startup activities as the fiscal year begins, a few routinely budget the full 25 percent carryover. In that the program is already covering a low proportion of home energy bills for a small segment of the eligible population, it seems inappropriate for States to carry over large amounts of funds. If States do not need their allotment, it should be reapportioned to other States that clearly do. Thus, the bill limits the permissive carryover to 15 percent, and for States that transfer LIEAP funds to other block grants, to 10 percent.

A third problem which has been raised relates to the Department of Health and Human Services' monitoring of the programs under the statute. Under current law, HHS must fund States upon receipt of a completed application. It cannot evaluate independently whether the States' application and plan meet the requirements of the act; it cannot monitor whether the funds are being spent according to the plan; it cannot require specific information in the State plan; and is only permitted to collect data at the end of the program year. It is our view that a program with an expenditure of roughly $2 billion should and can be more carefully monitored without imposing any undue reporting burden on the States. Thus, the bill requires States to report basic program data annually.

Title II of the bill reauthorizes the community services block grant at $400 million for fiscal year 1985, $425 million for fiscal year 1986, and such sums as may be necessary for each of the 3 succeeding years. In addition, the bill provides greater flexibility to the States by allowing them to increase eligibility under the community services block grant to 125 percent of poverty if the State feels that is necessary to achieve the purposes of the program. The bill also modified the requirement of existing law from 90 to 85 percent that must be passed through to eligible entities or community action agencies to operate programs under the block grant at the local level. A study conducted by the Institute for Local Government of Berkeley, Calif., revealed that, absent the passthrough provision, some States indicated that they would distribute funds to each local political jurisdiction, with little regard to targeting services to the poor. Other States indicated that they would use the funds to supplement State and local administrative costs. This bill will assure that community action agencies, with their 20-year history of proven effectiveness in delivering comprehensive services to low income individuals in their own communities, will continue to leverage a wide spectrum of services to aid low income families.

Title III of the bill extends the Head Start program for 5 years, with funding authorized at $1.2 billion in fiscal year 1985, $1.4 billion in fiscal year 1986, and such sums for the remaining 3 years. As my colleagues know, Head Start is a highly effective, comprehensive child development program designed to help economically disadvantaged preschoolers. Today, 430,000 children are enrolled in the Head Start program, including more than 43,000 handicapped children. Yet, these figures represent only 21 percent of the Nation's children living in poverty. A recent review of the Head Start research over more than the last decade indicates that Head Start children have higher achievement in school and are less likely to fail a grade, drop out of school or require special education classes than children not enrolled in the program. In addition to the educational services, Head Start has provided physical, dental, and mental health services to millions of preschool children since the program's inception. After receiving Head Start services, children generally improve in hemoglobin levels, motor control, and physical development. They are more likely to be of normal height and weight, to have fewer absences from school, and to perform better on physical tests. A number of elements in the Head Start program are widely credited with the effectiveness of the program, including the conversion from summer to full year programs, implementation of the Head Start program performance standards, initiation of the child development associate staff training program, and an increased emphasis on parent involvement.

This bill seeks to build on Head Start's record of success by assuring that training and technical assistance activities under the program are maintained, the child development associate activities aimed at improving the competence of classroom staff is maintained, and that existing performance standards are not in any way weakened.

Mr. President, all three of these programs meet essential human needs of low-income individuals and families, and their continuation and strengthening is vital to our Federal commitment to avert what can be literally life-threatening situations, and to provide opportunities to break the cycle of poverty.

I urge all of my colleagues to study this bill closely and to join us in seeking enactment of the Human Services Reauthorization Act.

Mr. KENNEDY. Mr. President. I am pleased to join my distinguished colleagues in support of the Human Services Reauthorization Act. I commend Senators Stafford, Eagleton, Weicker, and Dodd for the work they have done in developing this important legislation.

The Human Services Reauthorization Act will extend for 5 years the community services block grant, the low-income energy assistance program, and the Head Start program and calls for modest increases in funding. These programs have proven to be successful in alleviating the burdens of poverty by delivering vital services to Americans who need help.

The services provided by communities to the poor and elderly through the community services block grant include a broad range of antipoverty activities. Not only do these programs benefit those individuals who are most in need, but each community as a whole shares in these benefits through neighborhood development. The issue of low-income energy assistance, which provides help to low-income households to meet the costs of home heating or cooling, is crucial to the residents of my State and to millions of elderly and needy people throughout the Nation. And finally, the Head Start program has been very successful in providing quality education and other services to thousands of children and their families.

It is important that these programs that make vital contributions to the well-being of the poor and to the communities in which the poor reside continue. Today it is even more important that we renew our commitment to our Nation's poor who have unfairly borne the burden of the recent recession and the high unemployment rates. The administration has abandoned these citizens. Year after year, the President has called for either the elimination of or drastic reductions in these critical programs and, year after year, Congress has rejected those proposals. We must not yield any ground in the progress we are making in alleviating the problems of the poor.

I call on my colleagues to show their commitment to fighting poverty by supporting this act, and I urge Congress to take swift action on these proposals.

Mr. HATFIELD. Mr. President, I am delighted to join with my colleagues in the introduction of S. 2374, the Human Services Reauthorization Act. This act provides for the continued authorization of funding for three highly successful programs which have proven effective in addressing and assisting with the special needs of low-income individuals in a variety of areas.

The low-income energy assistance program provides grants to States and Indian tribes to aid low-income households in meeting the escalating costs of home heating or cooling. The bill authorizes $2.3 billion for fiscal year 1985, $2.5 billion for fiscal year 1986, and such sums as necessary the following 3 years. As evidenced by the current need for supplemental funding for this program, the present appropriation of $1.85 billion has proven inadequate in addressing that need.

The bill seeks also to clarify a number of program elements which include requiring States to reserve at least 5 percent of their allotment each year to assure funding for crisis intervention activities in the State, providing more explicit information to the Department of Health and Human Services regarding their plans for expenditure of low-income energy assistance funds, and limiting States allowable carryover to 15 percent of their allotment.

The community services block grant program is reauthorized for $400 million for fiscal year 1985, $425 million for fiscal year 1986, and such sums as may be necessary for the 3 succeeding years. The program's goals are: To provide block grants to States for a range of services and activities to alleviate the effects of poverty in communities within the States; and to provide a discretionary fund which supports programs designed to address the needs of low-income citizens in rural housing, economic development, special rural and urban needs, migrant and seasonal farmworkers assistance, and other purposes.

Finally, the bill would reauthorize the Head Start program for 5 years with reauthorization levels of $1.2 billion in 1985, $1.4 billion for 1986, and such sums as necessary for the remaining 3 years. The Head Start program was designed to foster the development of preschoolers from poor families and enable them to deal more effectively with their environment and later responsibilities in school and community life. This program has been extremely effective. Studies have concluded that Head Start children score better on standardized tests, achieve more in school, and are less likely to fail a grade, drop out, or require special education classes later on.

Each of these three programs has made a significant contribution to providing for the needs of those individuals in our society who are faced with the ravages of poverty. It is essential that these programs be reauthorized to include realistic funding levels reflecting the Congress strong support for such vital and necessary services to our citizens in need.

Mr. SASSER. Mr. President, I rise today as an original cosponsor of S. 2374, the Human Services Reauthorization Act.

S. 2374 reauthorizes for 5 years three programs that are proven success stories, and are vital to the continued well-being of this Nation's low-income families. They are the community services block grant; the Head Start program; and the low-income energy assistance program. As reports continue to show a frightening increase in the number of Americans living at or below the poverty line, Congress should take this opportunity to reaffirm our commitment to improving the plight of hundreds of thousands of poor Americans.

S. 2374 reauthorizes the community services block grant for 5 years. This reauthorization is essential since President Reagan, in his proposed budget for fiscal 1985, has requested that the community services block grant be abolished. Congress has rejected such efforts in the past. S. 2374 clearly rejects the administration's approach, and reiterates Congress commitment to the continuation of this vital program.

In Tennessee, community services block grant funds have been used successfully. The Tennessee Community Services Administration manages 22 community action agencies which operate 115 neighborhood service centers, serving over 200,000 households annually. The department reports that with Federal and local community services block grant funds, 562,000 volunteer man-hours are created each year. The department further estimates that these man-hours have a minimum value of $2 million. I believe these numbers show the importance, the success, and the efficiency of the community services block grant in Tennessee.

S. 2374 will raise the authorization level of this block grant to $400 million in 1985 and to $425 million in 1986, and shows congressional intent to continue sufficient funding for the program through 1989. The pass-through requirement included in the bill is particularly important to Tennessee community action agencies. This provision assures that local agencies will actually receive Federal dollars to operate their antipoverty programs.

The legislation also addresses the issue of impoverished children in America. Mr. President, sadly, 3.1 million children have fallen into poverty since 1979. Child services have been deeply cut since 1981, and this bill offers Congress the chance to restore part of these cuts.

S. 2374 reauthorizes and improves the Head Start program, which is vital to the quality of living experienced by hundreds of thousands of impoverished preschoolers. The Head Start program serves 425,000 preschoolers in full-time programs, but only 18 percent of all eligible children are actually enrolled.

In numerous studies, it has been shown that compared to other low-income children, Head Start children score better on standardized tests, and are less likely to drop out of school later in their lives. Moreover, these children are more likely to be of normal height and weight than are other low-income children. Indeed, the Head Start program provides a large dose of preventive medicine to low-income American children.

In addition the Head Start program often serves as a volunteer opportunity for Head Start parents, and teaches them valuable skills. For every 15 children in Head Start, 10 parents volunteer their services to the program. In fact, Head Start has provided jobs for more than 415,000 Head Start parents and community residents since 1965.

In addition to raising the authorization level of the Head Start program, S. 2374 includes important language which insures the continuation of valuable technical assistance and training programs. The administration succeeded in cutting these funds by 50 percent in 1983. This bill restores these funds to 1982 levels. These training and technical assistance programs are critical to the Head Start program since it operates largely on the services of volunteers.

Mr. President, equally vital to this Nation's interest, is the reauthorization of the low-income energy assistance program. The steady and continued increases in energy prices have placed an unfair burden on those segments of our society least able to afford high energy bills. For the poor, the elderly, the handicapped, and the unemployed, the energy price crisis has already arrived. It is our responsibility, Mr. President, to bring a greater degree of equity to energy prices in this country. Reauthorization of the low-income energy assistance program is a crucial step forward in this regard.

Mr. President, I believe that the low-income energy assistance program needs to be reauthorized for several reasons.

First, funding for this program has historically been inadequate. It is the poor, the elderly, the handicapped, and the unemployed in this Nation who have borne the lion's share of increased energy prices.

These Americans spend as much as 30 percent of their already meager budgets on direct energy expenditures. Since the seventies, the loss of purchasing power from these groups of Americans has totaled some $9 billion. And, indeed, between 1978 and 1980, energy expenditures for the lowest income groups increased 48 percent, while costs for higher income groups increased only 17 percent.

Middle-income Americans have also felt the devastating results of increased energy prices. Last winter, as energy prices increased some 25 to 60 percent nationwide, middle-income Americans faced the shock of being unable to pay for their gas bills. Reauthorization of the low-income energy assistance program will allow many of these Americans to receive much needed help during specific energy crises.

Lastly, Mr. President, I believe that it is imperative for the Federal Government to unequivocably place itself on record as supporting adequate energy and fuel assistance funding.

As many of my colleagues no doubt are aware, the administration is drafting legislation which will fund the low-income energy assistance program, in whole or in part, from moneys collected as a result of the oil overcharge pricing investigation currently underway at the Department of Energy.

I believe that the commitment of moneys from the oil overcharge escrow account may indeed be laudable. Nonetheless, we must reauthorize the low-income energy assistance program to insure that the Federal Government will not lose sight of its commitment in this area.

In short, Mr. President, the low-income energy assistance program is not simply a luxury item in the budget. The low-income energy assistance program is an absolute necessity, one that must be allowed to continue.

The choice for the poor, the elderly, the handicapped, and the unemployed need not and, indeed, should not be one of food or fuel. By reauthorizing the low-income energy assistance program, we will send a clear message that the Federal commitment and responsibility to energy and fuel assistance remains strong.

Mr. President, I urge my colleagues to join in sponsoring S. 2374, and in seeking swift approval of the Human Services Reauthorization Act.

By Mr. WEICKER (for himself, Mr. BUMPERS, Mr. D'AMATO, and Mr. DIXON):

S. 2375. A bill to amend the Small Business Act to improve the operation of the secondary market for loans guaranteed by the Small Business Administration; to the Committee on Small Business.

OPERATION OF SECONDARY MARKET FOR SMALL BUSINESS ADMINISTRATION LOANS

● Mr. WEICKER. Mr. President, I am today introducing legislation along with Senator BUMPERS, to amend the Small Business Act to improve the operation of the secondary market for loans guaranteed by the Small Business Administration.

I am sure that no one would disagree with the vital role that small businesses play in this country's continued march toward economic health. As this Nation's leader in job creation, innovation and research and productivity, small businesses, if they are to continue to function efficiently and play a major role in the recovery, must have access to an adequate flow of debt capital at reasonable rates.

It is no secret that small businesses have traditionally had the most difficulty in obtaining needed capital through conventional financing channels. The record level of interest rates this country experienced in the last few years has made the economic life of small business one of uncertainty, not only because capital has been expensive, but in many cases difficult, if not impossible, to obtain.

In 1982, the Small Business Administration, under the direction of its Administrator, James C. Sanders, created a blue ribbon task force known as the Small Business Committee on Capital Access. Composed of individuals representing major private sector institutions involved in the process of financing small businesses, this committee was charged with the responsibility of making recommendations for implementing measures to enhance the small business community's access to capital markets and reduce its borrowing costs. As one of its recommendations to enhance the effectiveness of SBA's 7(a) general business loan guarantee program, the committee stated in its final report:

> This committee is convinced that encouraging development of the secondary market would attract much greater involvement in SBA loans from major financial institutions. Some of these institutions would be more interested in originating loans; others would only be interested in purchasing seasoned loans; but overall, this increased involvement, and the resulting competition among lenders, would ultimately increase the funds made available through SBA loans to small business borrowers and lower the cost to the borrower.

In 1983, when the General Accounting Office (GAO) issued its final report to Congress on SBA's 7(a) loan guarantee program: An assessment of its role in the financial market, GAO concluded not only that the SBA 7(a) guaranteed loan program helps lenders fill a critical credit gap for small businesses needing long term financing but also that the current SBA secondary market program for these loans has advantages for both lenders and small business:

It helps lenders with liquidity problems to make loans to small businesses that otherwise would not be made.

It enables lenders to leverage capital and make more small business loans than otherwise would be possible.

Although GAO also noted some deficiencies in the current administration of the SBA secondary market program and recommended that SBA institute certain reforms to improve its secondary market effectiveness, their findings left no doubt as to the actual and potential benefit of the secondary market program to small businesses:

> Lenders are able to obtain funds from investors such as insurance companies, pension funds, and money market funds which traditionally do not invest directly in small business. For some small banks, being able to gain access to these pools of managed capital is the difference between being able or unable to make an SBA-guaranteed loan. The secondary market process also has a leveraging effect, allowing lenders to reinvest the proceeds from sales in other small businesses. Lastly, the secondary market is used by some lenders to offer borrowers (1) the stability of fixed rate instead of variable rate loans and (2) lower interest rates.

As part of its recommendations to SBA to improve the effectiveness of SBA's secondary market program, GAO specifically recommended that SBA's finance and investment division and office of secondary market operations develop a strategy for using the secondary market to offer small businesses the option of fixed rate financing, and that part of this strategy should address the desirability of actions such as the use of loan pooling.

Mr. President, the legislation we are introducing today would do essentially three things. First, it would give statutory authority to the SBA secondary market program that SBA instituted administratively in 1972. Second, it would permit the pooling of SBA guaranteed loans into larger lots. According to SBA, Wall Street brokers and many bankers, this would encourage major brokers to participate in the program and facilitate the more efficient sale of guaranteed loans in the marketplace, without, I might add, any additional cost to the Government. It would also attract larger institutional investors in SBA guaranteed loans, thereby encouraging investment in, and opening up new sources of capital for small business.

Third, the legislation would mandate that SBA institute certain administrative reforms in order to insure greater efficiency in the secondary market. Specifically, the bill would require SBA to provide for central registration of all SBA guaranteed loans sold and resold in the marketplace.

By insuring that the administration has a record of all sales, and the essential terms of each sale, central registration would enable SBA and the Congress to better monitor the market process to insure that it functions efficiently. The bill would also insure that any potential abuses in the secondary market would be minimized by requiring that the administration provide to purchasers of the loans sufficient information as the administration determines to be necessary and appropriate for investors to make a prudent investment decision. Both of these provisions would go a long way toward correcting the problems in the current administration of this program discussed in the GAO report.

Mr. President, the result of this legislation, in the final analysis, should be a more efficient Government program that ultimately lowers the cost of borrowing for small business without imposing any additional costs on the Government.

I hope my colleagues will support this legislation and ask unanimous consent that the full text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5 of the Small Business Act is amended by adding at the end thereof the following new subsections:

"(f)(1) The guaranteed portion of any loan made pursuant to section 7(a) of this Act may be sold by the lender, and by any subsequent holder, consistent with regulations on such sales as the Administration shall establish.

"(2) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under section 7(a) of this Act.

"(g)(1) The Administration is authorized, upon such terms and conditions as it may deem appropriate, to guarantee the timely payment of the principal of and interest on such trust certificates or other securities as shall be—

"(A) issued by any issuer approved for purposes of this subsection by the Administration, and

"(B) based on and backed by a trust or pool approved by the Administration and composed of the portions of loans which have been guaranteed by the Administration under this Act.

"(2) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(3) The Administration may collect from the issuer a reasonable fee for any guarantee under this subsection and may make such charges as it may determine to be reasonable for the analysis of any trust or other security arrangement proposed by the issuer and shall approve such charges as may be necessary to cover servicing and other costs.

"(4)(A) In the event the issuer is unable to make any payment of the principal of or interest on any certificate or security guaranteed under this subsection, the Administration shall make such payment when due in cash, and thereupon shall be subrogated fully to the rights satisfied by such payment.

"(B) The Administration may, in connection with any guarantee under this subsection, whether before or after any default, provide by contract with the issuer for the extinguishment, upon default by the issuer, of any redemption, equitable, legal, or other right, title, or interest of the issuer in any loan portion constituting a portion of the trust or pool against which the guaranteed certificates or securities are issued.

"(C) With respect to any issue of certificates or securities, which have been guaranteed under this subsection, in the event of default by the issuer and pursuant otherwise to the terms of the contract with the issuer, the portions of the loans which constitute such trust or pool shall become the absolute property of the Administration subject only to the unsatisfied rights of the holders of such loan portions.

"(D) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of—

"(i) its power to contract with the issuer on the terms contained in subparagraph (B),

"(ii) its rights to enforce any such contract with the issuer, or

"(iii) its ownership rights, as provided in subparagraph (C), in the portions of loans constituting the trust or pool against which the guaranteed certificates or securities are issued.

"(5) The Administration shall develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations.

"(6) All guaranteed obligations issued pursuant to this subsection shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof.

"(7) All guaranteed obligations issued pursuant to this subsection shall, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission.

"(h) The Administration shall—

"(1) provide for a central registration of all loans trust certificates and other securities sold pursuant to subsections (f) and (g) of this section; and

"(2) disclose to purchasers information describing the offer and sale of portions of loans or interests therein, which have been guaranteed by the Administration under this section, as the Administration determines to be necessary and appropriate for a prudent investment decision.".

(b) Section 4(c)(1)(B) and section 4(c)(2)(B) of such Act are each amended by inserting "5 (g)" before "7(b)(1)".●

● Mr. BUMPERS. Mr. President, I am pleased to join with Senator Weicker, the chairman of the Senate Small Business Committee, and our colleagues on the committee, in introducing legislation that would statutorily establish a secondary market operation in Small Business Administration-guaranteed loans. In addition, to facilitate the growth and development of that secondary market, the legislation would permit SBA-guaranteed loans to be combined or pooled into large homogeneous packages for resale in the secondary market. While a secondary market in individual SBA-guaranteed loans has been operating under limited agency authority for some time, SBA lacks present authority to permit the formal pooling of loans.

This is the first major legislation that has been introduced and referred to the committee since I became the ranking Democratic member last October. I look forward to working with Senator Weicker, the committee, and the Small Business Administration on the development of this important legislation.

Mr. President, for small business, there is no more significant issue than that of capital formation and retention. During much of my tenure of the Senate Small Business Committee, I have served on the Capital Formation Subcommittee. I know firsthand the critical role of capital to small business birth, expansion and development and the considerable work that our committee has done in this area. In addition, capital formation was the number one—and the top five—issue of the 1980 White House Conference on Small Business, and is rated as the most important issue in the view of countless witnesses before our committee.

Small business financing usually takes the form of debt financings from banks. According to the 1983 "President's Report on the State of Small Business," financial institutions are the primary source of credit to small business, and approximately 70 to 80 percent of all small businesses have borrowed from banks. Overall, according to that same Presidential report, small firms owe 20 to 30 percent of their total liabilities to banks. One of the largest single sources of debt financing for small business is the SBA-guaranteed loan program administered in cooperation with private financial institutions. Under this program, SBA may guarantee up to 90 percent of a loan made to a small business by a financial institution. In the current fiscal year, through December 31, 1983, the agency has guaranteed a total of 4,420 loans, for a total of $.735 billion. In the past 5 years, the agency's guaranteed program has made over $12 billion available to small business.

According to a recent extensive survey of the SBA 7(a) guaranteed loan program, the Geneal Accounting Office concluded that the program is assisting a significant segment of small business. GAO found that the 7(a) loan program benefits an important segment of small businesses in need of long-term debt financings. In addition to satisfying a significant portion of small businesses' long-term capital needs, the SBA guarantee also provides larger and longer term loans than banks normally provide to small business, according to GAO.

While this program is not perfect, it functions very well in the marketplace, and is well known by the small business community and by the banks. Our committee has reviewed the program, and over time has made slight modifications to it. Our committee has also had strong biparitsan support for a significant program level to insure the availability of this program. I am troubled by President Reagan's budget recommendation that this guaranteed program level be reduced over the next several years, so that by fiscal year 1987, he projects a total guarantee level of only $900 million. I am concerned about both the direct impact of such a program level on small business and the wrong signals that it sends about this Government's commitment to providing adequate financing to small business.

To enhance the benefits of the SBA-guaranteed loan program to both the small business borrowers and to the financial institutions making those loans, legislation to formally established a secondary market could be valuable. Essentially, a secondary market permits participating lenders to sell the SBA-guaranteed portion of a loan to an investor. Our committee, and the small business community, have been studying a variety of proposals and options that could provide access to the billions of dollars held by insurance companies and pension funds. A functioning secondary market with certain characteristics could provide an indirect but efficient means of permitting small business access to these major sources of institutional investors. For that reason, I have joined in this legislation and will carefully review the balance between investor protection and small business access.

In June 1982, SBA formed a Small Business Committee on Capital Access. According to their report issued in October 1982:

> The SBA has sought to develop an active secondary market in loans bearing its guarantees. Approximately 2 percent of the loans bearing SBA guarantees have been sold in the secondary market.
>
> This Committee is convinced that encouraging development of the secondary market would attract much greater involvement in SBA loans from major financial institutions.

In recent testimony before the House, SBA Administrator James Sanders noted that:

> We believe that the secondary market is an important component of our financial assistance programs. I personally place a high priority on improving our efficiency in this area. As we strive to perfect the programs, we look forward to a cooperative working relationship with the Congress.

The experience we have had with home mortgages using the secondary market operation of the Government National Mortgage Association (GNMA) provides the target we are trying to reach in results and the guideline for the legislation we are proposing. Two additions to that framework have been added, however.

The first would require a central registration of all transactions to be put into, or traded through, the secondary market. This provision will insure that the Small Business Administration can trace the status of any of its loans put into the secondary market. Such registration is a necessity for a variety of reasons, from congressional and agency oversight of the secondary market program to the possibility of individual loan defaults.

The second provision would require SBA to develop and make available a disclosure document which provides potential investors, and purchasers, with background information on the nature and operation of the secondary market, and the nature of the investment and the risk of SBA-guaranteed loans. In my view this broad disclosure document is not meant to be an SEC-type registration and disclosure document for each loan, or for each pool of loans created. But some minimum disclosure, to be required by statute, is necessary as SBA, the General Accounting Office, and our committee recognize.

Mr. President, I have found in my review of this proposal to date a number of benefits to small business that have been cited by a variety of commentators. These benefits have been summarized in GAO's recent report on SBA's 7(a) program:

> Sales of SBA-guaranteed loans in the secondary market benefit small businesses. Lenders are able to obtain funds from investors such as insurance companies, pension funds, and money market funds which traditionally do not invest directly in small businesses. For some small banks, being able to gain access to these pools of managed capital is the difference between being able or unable to make an SBA-guaranteed loan. The secondary market process also has a leveraging effect, allowing lenders to reinvest the proceeds from sales in other small businesses. Last, the secondary market is used by some lenders to offer borrowers the stability of a fixed rate instead of a variable rate loan, and lower interest rates.

It is incumbent on us as the sponsors of this legislation, and on the Small Business Committee during its hearings and development of this legislation, to insure that the program provides significant assistance to small business. This is one area, in particular, that I intend to pursue throughout the legislative course of this proposal. From the investors' point of view, I recognize the value of establishing a program as close to the GNMA proposal as possible. However, I also believe it is important to raise a number of questions regarding SBA's proposed operation and controls over the secondary market, and to determine with specificity the benefits and limitations of this program. I will ask many of the questions that I have about the operation of the present secondary market operation, and how the enhanced program using pooling will work during the Senate Small Business Committee's hearings on March 6. Additional statutory provisions may be necessary to make the agency's authority clear, and to start this statutory secondary market program on a firm base.

We know that small business plays a critical role in the Nation's economy. It is a leader in new job creation, and a source of employment. Small firms also produce 2½ times as many innovations per employee as large firms. The lifeblood of their growth and development is access to capital on reasonable terms and at affordable rates.

Mr. President, I look forward to the comments of potential investors, of the financial institutions, of the administration, and of representatives from the small business community on this important financial program. I also look forward to working with Senator WEICKER and my colleagues on the committee on this significant small business proposal.●

By Mr. MOYNIHAN:

S. 2376. A bill to amend the Internal Revenue Code of 1954 to reform the taxation of options; to the Committee on Finance.

OPTION TAX REFORM ACT OF 1984

● Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation designed to provide a rational and consistent regime for the Federal income taxation of exchange traded options. This proposal covers options traded on both commodity exchanges and stock option exchanges but does not deal directly with stock options, options on stock indices, or options on stock index futures.

The legislation is offered as a substitute for section 112 of S. 2062, which deals with options on regulated futures contracts—RFC's—and cash settlement options. This legislative proposal would not affect section 111 of S. 2062, which would make exchange traded stock options subject to the antistraddle rules of section 1092, with an exemption for non-deep-in-the-money covered calls. Let me make it clear that I strongly endorse the inclusion of stock option straddles in the antistraddle rules, with an appropriate exception for non-deep-in-the money covered calls.

Section 112 currently provides that options on futures contract—options on futures—would be RFC's, thus qualifying such products for mark-to-market 60/40 tax treatment under code section 1256. Options on stock or securities and other options to acquire or sell an underlying product directly—"direct options"—would not be treated as RFC's, but rather would be subject to the antistraddle rules of code section 1092 and be taxed, generally as short-term gains and losses.

The legislation which I am proposing today has two parts: Part I relates to the tax treatment of options traded by investors; that is, by persons other than market makers and floor traders. Substantial head-to-head competition between options on futures and direct options currently exists and can be expected to expand in the near future. Treating options on futures as RFC's while treating competing direct options as non-RFC's would have a serious adverse impact on the markets for direct options. Part I of the legislation I propose today would provide for parity in the tax treatment of competing options products in the hands of investors.

Part II of the proposal relates to the tax treatment of professional option market makers in direct options and floor traders in options on futures—collectively "option market makers". It would extend to such persons the mark-to-market 60/40 tax treatment that applies today to futures traders.

PART I—TREATMENT OF INVESTOR OPTIONS

Under my legislation, the universe of exchange traded options held by investors would be divided into two classes: First, equity based options; and second, nonequity based options. Equity based options would consist of exchange traded stock options, options on stock indices, and options on stock index futures. Nonequity based options would consist of all other exchange traded options, including, for example, options on all futures contracts—other than stock index futures, options on Treasury securities, and options on foreign currencies. The Treasury would have the authority to promulgate regulations to distinguish between the two classes of options in cases of ambiguous products.

All nonequity based options would be treated as RFC's under code section 1256—subject to 60/40 tax treatment and marked-to-the-market at year-end. There would be recognition of gain or loss on exercise of these options to prevent 60/40 losses from being converted to short-term losses.

Trading of these options, whether it takes place on commodity futures exchanges or on stock options exchanges, is part of a zero sum system. Although there are winners and losers within the system, as a whole the system does not produce net income. Therefore, a 60/40 mark-to-market regime for taxing the trading of these options would tend to be revenue neutral.

Equity based options would not be treated as RFC's. They would be subject to the rules of code section 1234—subject to short-term capital gain or loss on short positions; long- or short-term gain or loss on long positions, depending on holding period. Gain or loss would be recognized on exercise of options on stock index futures to avoid transferring unrealized gain or loss to a 60/40 position.

The proposal that you have before you rests primarily on the principle that the same Federal income tax treatment should be applicable to directly competitive options products. Part I of this proposal accomplishes this objective in every instance. Moreover, it provides both a measure of fairness and an incentive to the taxpayers who risk their capital in the options markets, thus supplying these markets with needed liquidity.

Furthermore, the proposal has a distinct advantage from the viewpoint of the Internal Revenue Service. With the single exception of trading options on equity-based index futures against such futures themselves, it eliminates mixed straddles between options on various zero sum system products and the underlying products. For example, under the proposal, an option on a gold futures contract and the gold futures contract itself would both be marked-to-the-market at year end and taxed at the 60/40 rate. Therefore, a trader does not have the possibility of creating short-term losses in the present year and rolling long-term gains into the following year.

As noted, the proposal does not address the taxation of stock options, options on equity-based indices or on futures on equity-based indices. These options would not be taxed under the mark-to-market, 60/40 rule. This is because stock is not part of a zero sum system, and it is thought that the taxation of equity-based options should conform to the taxation of stock itself in order to eliminate as many mixed straddle problems as possible.

In summary, part I of the proposal before you seems to me to contain the best possible solution with regard to the taxation of the zero sum system options. It has the advantage to the Internal Revenue Service of avoiding many mixed tax straddles. It provides taxpayers with the incentive to risk their capital in these important markets so that these markets can perform their function of price discovery and provides those with a need to hedge with the ability to do so.

PART II—TREATMENT OF OPTIONS MARKET MAKERS

Part II of the proposal provides that option market makers would receive 60/40 mark-to-market treatment on all options acquired or sold in the course of their business of trading options. This would include equity based options—such as stock options and stock index options—as well as nonequity based options. Option market makers would not be entitled to a hedging exemption with respect to such options unless they were bona fide dealers in the underlying property. The hedging exemption would be amended to prevent hedging account losses attributable to their option positions from offsetting unrelated income. This same rule would, among other things, prevent a flow through of ordinary losses from dealer options to any limited investor, and is thus much tighter than the present syndicate rule of section 1256(e)(3).

Rules are also provided to prevent a flow-through of the market makers' and professional floor traders' 60/40 treatment on equity based options to investors through partnerships or otherwise.

I am also proposing a technical amendment to section 1092(b) which will give the Treasury the authority to prescribe regulations that allow a taxpayer to designate positions—whether or not offsetting—into a mixed straddle account. The rules governing such account should prevent deferral or conversion of income, and should permit a taxpayer to receive the treatment provided in section 1256(a)(3) to the extent net gains from regulated futures contracts in such account exceed net losses from nonregulated futures contracts in such account. This special mixed straddle account will be a major simplification in the operation of the antistraddle rules, particularly for taxpayers who have a substantial number of mixed straddles. It is the intent of this legislation that the basic rules governing this account be worked out by the staffs of the Treasury, the Joint Committee, the Senate Finance Committee, the House Ways and Means Committee, after hearing the views of industry representatives. These rules will be reflected in the committee report to this legislation. Taxpayers could rely on the report pending promulgation by the Treasury of its regulations.

Effective date rules, transitional rules, and rules governing the pay-in period for tax imposed on deferred gain recognized as a result of the mark-to-market rules will need to be worked out with the staffs of the Treasury, the Senate Finance Committee, the House Ways and Means Committee, and the Joint Committee.

Part II of this legislative proposal is premised on the fact that both professional futures traders—who currently receive mark-to-market 60/40 tax treatment—and option market makers perform similar economic functions. They are members of, and follow the rules of, an exchange—board of trade. Only members may buy or sell options or futures contracts on the floor of the exchange. The contract is embodied in the rules of the exchange and the clearinghouse, and all transactions must be conducted on the floor of the exchange. The contracts are not transferable and are, therefore, not sold to customers. In conducting their daily activities, option market makers and professional futures traders, trading for their own accounts, provide the liquidity which enables their respective markets to function efficiently.

The similarity in the activities of option market makers and professional futures traders strongly suggests that the character of gain or loss arising from professional trading activities in these two products should be the same. The proposal would accomplish this by extending the present mark-to-market 60/40 tax treatment of section 1256 to all option market makers and floor traders.

I note that the Treasury Department has indicated that it favors mark-to-market taxation for all option market makers. I believe, however, that the adoption of a mark-to-market system at a 50-percent tax rate could put option market makers at a serious competitive disadvantage.

I ask unanimous consent that the full text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

This Act may be cited as the Option Tax Reform Act of 1984.

SEC. 101. DEFINITION OF REGULATED FUTURES CONTRACT.

(a) REGULATED FUTURES CONTRACT DEFINED.—Subsection (b) of section 1256 (defining a regulated futures contract) is amended by adding at the end thereof ", any dealer option, and any non-equity option."

(b) DEFINITIONS.—Section 1256 (relating to regulated futures contracts) is amended by adding at the end thereof the following new subsections:

"(h) DEFINITIONS.—

"(1) LISTED OPTION CONTRACT DEFINED.—For purposes of this section, the term "listed option contract" means any option (other than any right to acquire stock from an issuer) which is traded on a domestic exchange, a domestic board of trade designated as a contract market by the Commodity Futures Trading Commission, or a similar foreign exchange or foreign board of trade which the Secretary determines has rules adequate to carry out the purpose of this section.

"(2) NON-EQUITY OPTION DEFINED.—For purposes of this section, the term "non-equity option" means any listed option contract other than (i) an option which settles in stock or an option the value of which is determined, directly or indirectly, by reference to stock or a stock index, or (ii) an option which settles in or whose value is determined directly by an item of property or an index, if the Secretary determines that the Commodity Futures Trading Commission (acting with the approval of the Securities and Exchange Commission) would be prohibited from designating a board of trade as a contract market for such item of property.

"(3) OPTIONS DEALER DEFINED.—For purposes of this section, the term "options dealer" means (A) a person registered with the Securities and Exchange Commission and an appropriate national securities exchange as a market maker or specialist in listed option contracts, and (B) a person registered with a domestic board of trade designated as a contract market by the Commodities Futures Trading Commission who, in or surrounding any pit, ring, post or other place provided by such board of trade for the meeting of persons similarly engaged, purchases or sells any option on any regulated futures contract which option is on, or subject to the rules of, such board of trade.

"(4) DEALER OPTION DEFINED.—For purposes of this section, the term "dealer option" means any listed option contract that is acquired or entered into by an options dealer for his account and that is listed on the national securities exchange or domestic board of trade on which such options dealer is registered."

"(i) COORDINATION WITH SECTION 1091.—This section shall not affect the determination of whether a taxpayer is engaged in the trade or business of trading the underlying property, or is a dealer in the underlying property, for purposes of section 1091."

"(c) TERMINATIONS.—Paragraphs (1) an (2) of section 1256(c) are amended to read as follows:

"(1) IN GENERAL.—The rules of paragraph (1), (2), and (3) of subsection (a) shall also apply to the termination (or transfer) during the taxable year of the taxpayer's obligation (or rights) with respect to a regulated futures contract by offsetting, by taking or making delivery, by exercise or being exercised, by assignment or being assigned, by lapse, or otherwise.

"(2) SPECIAL RULE WHERE TAXPAYER TAKES DELIVERY ON OR EXERCISES PART OF STRADDLE.—If—

"(A) 2 or more regulated futures contracts are part of a straddle (as defined in section 1092(c)), and

"(B) the taxpayer takes delivery under or exercises any of such contracts, then, for purposes of this section, each of the other such contracts shall be treated as terminated on the day on which the taxpayer took delivery."

(d) SPECIAL RULES.—

(1) IN GENERAL.—Paragraph (2) of section 1256(f) is amended to read as follows:

"(2) SUBSECTION (a)(3) NOT TO APPLY TO ORDINARY INCOME PROPERTY.—Paragraph (3) of subsection (a) shall not apply to gain or loss which, but for such paragraph, would be ordinary income or loss, provided, however, that paragraph (3) of subsection (a) shall apply to gain or loss of an options dealer from dealer options. In no case shall property underlying a dealer option be considered to be ordinary income or loss property in the hands of the taxpayer solely by reason of the fact that the taxpayer is an options dealer with respect to such options."

(2) LIMITED PARTNERS AND LIMITED ENTREPRENEURS.—Subsection (f) of section 1256 is amended by adding at the end thereof the following new paragraph:

"(3) SUBSECTION (A)(3) NOT TO APPLY TO LIMITED PARTNERS OR LIMITED ENTREPRENEURS.—Paragraph (3) of subsection (a) shall not apply to any gain or loan with respect to dealer options that is allocable to limited partners or limited entrepreneurs (within the meaning of section 1256(e)(3)) of an options dealer unless such gain or loss is attributable to non-equity options."

(3) LIMITATION ON HEDGING LOSSES ATTRIBUTABLE TO DEALER OPTIONS.—Subparagraph (e) of section 1256 is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR OPTIONS DEALERS.—In the case of an options dealer, any losses for the taxable year resulting from the sale, exchange or other disposition of dealer options which are part of a hedging transaction shall be allowed only to the extent of the ordinary income derived by the taxpayer in the conduct of the business to which such hedging transaction relates. Any disallowed losses may, pursuant to limitations set forth in regulations, be carried back or forward under principles similar to those in Section 172."

SEC. 102. TAX TREATMENT OF CASH SETTLEMENT OPTIONS AND COMMODITY OPTIONS.

Section 1234 (relating to options to buy or sell) is amended by adding at the end thereof the following new subsection:

"(c) TREATMENT OF GAIN OR LOSS IN THE CASE OF A CASH SETTLEMENT OPTION AND A COMMODITY OPTION.—

"(1) GENERAL RULE.—In the case of the grantor or purchaser of a cash settlement option or commodity option, gain or loss attributable to the sale, exchange, lapse, exercise, or failure to exercise shall be treated as gain or loss from the sale or exchange of a capital asset held not more than one year, provided, however, that in the case of a purchaser of such option, such gain or loss will be treated as gain or loss from the sale or exchange of a capital asset held for the period that such option was held by the taxpayer.

"(2) CASH SETTLEMENT OPTION DEFINED.—For purposes of this section, the term "cash settlement option" means any option (which is traded on a domestic exchange) which settles in (or could be settled in) cash or property other than the underlying property on exercise.

"(3) COMMODITY OPTION DEFINED.—For purposes of this section, the term "commodity option" means any option (which is traded on or subject to the rules of a domestic board of trade designated as a contract market by the Commodity Futures Trading Commission) where the underlying property is a regulated futures contract (as defined in section 1256(b)).

"(4) NONAPPLICATION OF SUBSECTION.—This subsection shall not apply to an option which constitutes property described in paragraph (1) of section 1221 or to any option acquired or granted in the ordinary course of the taxpayer's trade or business of acquiring and granting options."

"(5) Nonapplication to regulated futures contracts.—This section 1234 shall not apply to an option which is a regulated futures contract as defined in section 1256(b)."

SEC. 103. APPLICATION OF SECTION 1092(b) TO MIXED STRADDLES.

Subsection (b) of section 1092 (relating to straddles) is amended by adding at the end thereof: "In the case of a straddle where one (but not all) of the positions of which are regulated futures contracts and where the mixed straddle election of section 1256(d) does not apply, the Secretary shall prescribe regulations that allow a taxpayer to designate positions (whether or not offsetting) to a special mixed straddle account. The rules governing such account shall prevent deferral or conversion of income, but shall in no case prevent a taxpayer from receiving the treatment provided in section 1256(a)(3) to the extent net gains from regulated futures contracts in such account exceed net losses from non-regulated futures contracts in such account."

SEC. 104. TAX COURT REVIEW OF SECRETARY'S DETERMINATION (OR FAILURE TO DETERMINE) UNDER SECTION 1256(h)(2)(ii).

"A new section 7479 is added immediately following section 7478, as follows:

"Section 7479. Declaratory Judgments Relating to Status of Certain Option Contracts as Regulated Futures Contracts."

(a) Creation of Remedy.—In a case of actual controversy involving—

(1) a determination by the Secretary that an option would not qualify as a non-equity option by reason of section 1256(h)(2)(ii), or

(2) a failure by the Secretary to make a determination with respect to any matter referred to in paragraph 1,

then upon the filing of an appropriate pleading, the Tax Court may make a declaration whether or not such option would qualify. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

(b) Limitation.—A pleading may be filed under this section only by the exchange proposing to trade such option or by any domestic board of trade designated as a contract market by the CFTC."●

By Mr. BAUCUS:

S. 2377. A bill to set forth qualifications for the offices of Attorney General of the United States and Deputy Attorney General; to the Committee on the Judiciary.

ATTORNEY GENERAL QUALIFICATIONS

● Mr. BAUCUS. Mr. President, I am today introducing legislation that will prevent any individual who has held a leading partisan position in the election of a President from becoming Attorney General or Deputy Attorney General of the United States. This legislation would institute reforms suggested by the Watergate special prosecution force in their 1975 report and would go a long way to depoliticizing the Department of Justice.

The Members of this body have been asked too many times in the past to give their constitutional advice and consent to the nomination of an individual who served as the President's chief political adviser and campaign manager to become the chief law enforcement officer of the Nation. We will apparently be asked to do so again. We must stop viewing the job of Attorney General as a political plum to be awarded to the politically faithful. Instead we should view it as a position of responsibility. First this requires an individual who can assure that our laws are strictly and fairly enforced.

The Watergate special prosecution force put it in these words: The President should not nominate and the Senate should not confirm as Attorney General, or as any other appointee in high Department of Justice posts, a person who has served as the President's campaign manager or in a similar high-level campaign role. A campaign manager seeks support for his candidate and necessarily incurs obligations to political leaders and other individuals throughout wide geographical areas. If he then takes a high position in the Justice Department, he may take—or appear to take—official actions on the basis of those commitments rather than on appropriate legal and policy grounds. The Attorney General and other Justice Department appointees should be lawyers with their own reputations in the legal profession, with capacity and willingness to make independent judgments, and with the authority to choose similarly qualified persons for subordinate positions.

Mr. President, we in this body ought to insist that this advice be followed. In fact, the Senate has agreed to legislation similar to mine twice before, once in 1976 and once in 1977, when the Senate by unanimous consent agreed to exclude high Presidential campaign officials from serving as Attorney General. Unfortunately, the House did not agree to the legislation and it was never enacted into law. I believe it is now time to do so.

We need to avoid even the appearance of a conflict of interest when it comes to enforcing the laws of the Nation. The Attorney General, as chief law enforcement official, is in a particularly sensitive position and ought to be completely beyond any taint of conflict of interest or favoritism. Such simply cannot be the case if the Attorney General has incurred political debts as campaign manager of a Presidential campaign.

Unfortunately, too often in recent history Congress has been asked to confirm a political operative as Attorney General. I do not know how Mr. Meese will fare in the confirmation process. But as I review his past record, I have become convinced that the Senate should not be put in this position in the future.

Mr. President, this legislation can only help this Nation. We do not lack for well-qualified individuals who would be excellent Attorneys General. We need not ask high campaign officials to balance their political promises with impartial enforcement of the Nation's laws.●

By Mr. ABDNOR (for himself, Mr. Pell, Mr. Moynihan, Mr. Symms, Mr. Stennis, Mr. Pressler, Mr. Sarbanes, Mr. Warner, Mr. Boren, Mr. McClure, Mr. Matsunaga, Mr. Trible, Mr. Huddleston, Mr. D'Amato, Mr. Zorinsky, Mr. Tsongas, Mr. Lautenberg, Mr. Inouye, Mr. Levin, Mr. Heflin, Mr. Melcher, and Mr. Mathias):

S. 2378. A bill to provide authorizations of appropriations for the impact aid program under Public Law 874 of the Eighty-first Congress, and for other purposes; to the Committee on Labor and Human Resources.

IMPACT AID PROGRAM AUTHORIZATION ACT OF 1984

Mr. ABDNOR. Mr. President, on behalf of myself, Mr. Pell, Mr. Moynihan, Mr. Symms, Mr. Stennis, Mr. Pressler, Mr. Sarbanes, Mr. Warner, Mr. Boren, Mr. McClure, Mr. Matsunaga, Mr. Trible, Mr. Huddleston, Mr. D'Amato, Mr. Zorinsky, Mr. Tsongas, Mr. Lautenberg, Mr. Inouye, Mr. Levin, Mr. Heflin, Mr. Melcher, and Mr. Mathias, I am introducing today a bill to reauthorize through fiscal year 1989 the impact aid program.

Mr. President, we are proposing a simple, straightforward 5-year reauthorization of the impact aid program. Our bill increases from $565 million to $700 million the authority for Public Law 81-874 beginning with fiscal year 1985. Since this is a current—rather than a forward-funded program, federally impacted schools will begin to feel the positive affects of our bill during the 1984-85 school year.

Within the overall authority, our legislation also increases from $20 million to $30 million the authority for section 2, which reimburses eligible local educational agencies for revenues lost from federally owned, nontaxable property. Third, and of great importance to many of our Nation's federally impacted areas, our legislation repeals the final year of the 3-year phaseout of category B payments mandated by the Omnibus Reconciliation Act of 1981, continuing through fiscal year 1989 authority for section 3(b) at one-third of entitlement. Without this language, authority for category B payments will expire on September 30 of this year.

Mr. President, I intend to pursue swift consideration of this very necessary legislation and I urge my colleagues who are not now among the list of cosponsors, as well as our colleagues in the other body, to join with Senator PELL and me in working to expedite enactment of this vital reauthorization measure.

Mr. President, last year, the Senate adopted an impact aid amendment the distinguished ranking member of the Senate Labor and Human Resources Subcommittee on Education, Senator PELL, and I offered to the Department of Defense authorization bill. Our amendment, as approved by the Senate, increased from $455 million to $625 million the funding authorized for Public Law 81-874 for each of fiscal years 1984 and 1985, increased section 2 authority from $10 million to $25 million, and reauthorized at one-third of entitlement through fiscal year 1984 payments for category B children. While the Senate conferees defended staunchly the Senate-passed funding levels, several of the House conferees insisted upon reducing the overall authorization level. Consequently, the conference committee agreed to provide $565 million for this program.

This year, Public Law 98-139, the fiscal year 1984 Labor-HHS, Education and related agencies appropriations statute, provides $565 million—the full amount authorized as a result of the amendment Senator Pell and I offered to the DOD bill—for Public Law 81-874. While we have succeeded in boosting Federal assistance for the impact aid program, many school districts nevertheless will sustain Public Law 81-874 payment reductions in fiscal year 1984.

The Omnibus Reconciliation Act of 1981 reduced drastically funding authority for impact aid. In contrast to other major education programs, which were reduced by 7 to 10 percent, impact aid was cut by more than 40 percent. If enacted, our proposal, which is endorsed by the National Association of Federally Impacted Schools, the National Parent Teachers Association of Federally Impacted Schools, the National Parent Teachers Association (PTA), and the National School Boards Association (NSBA), will restore to a roughly commensurate level support for federally impacted local educational agencies.

Mr. President, I understand that the other prime sponsor of this bill, the distinguished senior Senator from Rhode Island, is presently devoting a great amount of his time to the reauthorization of the Vocational Education Act. Although he is unable to join me on the floor today, I know that he shares my strong commitment to moving quickly our legislation. Again, I wish to urge our colleagues to join us in our efforts to address over the longer term the needs of our Nation's federally impacted schools.

Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished colleagues, Senator ABDNOR and Senator PELL, in introducing legislation to reauthorize the Federal impact aid program through fiscal year 1989. This fine program reimburses areas in which the tax bases have been reduced by a large Federal presence, in property and personnel, and has helped thousands of local educational agencies across the country, including some 150 school districts in my home State of New York.

The impact aid program, first enacted by Congress in 1950, provides financial assistance to school districts in "federally affected areas"—defined to include military bases, Indian lands, and Federal low-rent housing projects. Such property is typically exempt from the local tax levies that support education, and Congress decided to compensate the affected school districts unable to raise sufficient revenues.

The program has been an immensely important one to local school districts responsible for the education of children whose parents live and/or work on property producing no property tax. Highland Falls-Fort Montgomery School District, in the Hudson Valley of New York, exemplifies the plight of such federally impacted areas. Property taxes to support the school district have risen 155 percent in the last decade, in large part because the district is adjacent to the U.S. Military Academy at West Point and 93 percent of the district's land is owned by the Federal Government. The school district is forced to support its operation from property taxes on just 7 percent of the district's land, including the education of children whose parents live and work on the Academy's tax-free grounds.

The problems of school districts such as Highland Falls have been exacerbated by the Reagan administration's cuts in the Federal impact aid program. Between fiscal years 1980 and 1983, the program's authorizations fell from $707 million to $460 million, a reduction of 35 percent. New York State suffered even more severely; 150 school districts in the State received some $41 million in impact aid in fiscal year 1980, but fewer than 85 school districts received only an estimated $12.65 million in fiscal year 1983—a 3-year reduction of 69.4 percent.

This downward trend has been reversed, if ever so slightly, for the current fiscal year. On July 26, 1983, during consideration of the Department of Defense authorization bill, I offered an amendment on impact aid with Senator ABDNOR. This amendment, adopted by the Senate, raised the impact aid authorization to $625 million for fiscal year 1984. Although the House of Representatives approved a smaller increase, a compromise measure was signed into law which provided $565 million in overall program authority, as well as a 50-percent increase in the section 2 funding authorization. This legislation, I am pleased to report, is providing a modest increase in funding for school districts in New York State.

Despite the progress made last year, the overall program authorization still remains well below the fiscal year 1980 funding level. New York State still falls some $20 million to $25 million short of its fiscal year 1980 allocation, without even adjusting for inflation. It is time to rectify this situation, and we can begin to do so with this measure, raising total authorization to $700 million and section 2 authorization to $30 million. The authorization also would be extended for category B students, whose parents either live or work on Federal property. This provision, which unfortunately the administration has opposed, is a matter of equity and of particular importance to many New York districts, including Highland Falls.

I also would emphasize that this bill does not redress the damage done over the last 4 years. Even if approved, the measure will leave the overall impact aid program some $7 million below the fiscal year 1980 level. It does not restore the revenues lost by thousands of federally impacted districts. Nor does it, nor could it, rectify the loss of educational opportunity for thousands of students under the President's cuts in impact aid. But this legislation will move the Federal impact aid program in the right direction, and I would urge all of my colleagues to support it.

Mr. WARNER. Mr. President, I am pleased to join with my colleagues, Mr. ABDNOR and Mr. PELL, in introducing legislation to reauthorize through fiscal year 1989 the impact aid to education program.

School districts across this Nation are impacted adversely by students who reside on Federal facilities.

These districts are given the responsibility of educating these students without receiving adequate financial support through local property and often income taxes.

To assist these districts, the U.S. Government has in the past provided financial assistance through the impact aid program.

This program needs to be reauthorized if this responsible assistance is to be continued.

This legislation will meet many of the needs of the local school systems. It is fiscally responsible and should be supported by all our colleagues.

The Federal Government should endeavor to pay for Federal mandates. That is a key to a balanced Federal-State-local partnership.

I have worked, therefore, to assist local schools receive compensation since coming to the Senate. Each year we have had to work hard to insure adequate funding of this program.

We cannot ask local taxpayers to educate the children of our military personnel without paying our fair share of the costs of their education. If we fail to provide this help, the alternative is to establish schools on Federal facilities at a much higher cost.

This program has been successful and should be continued.

I thank my colleagues for their past support and again urge that, in the spirit of fairness, Congress again reaffirm our backing for this necessary legislation.

Mr. McCLURE. Mr. President, I am pleased to lend my support as an original cosponsor of legislation being introduced today to reauthorize Public Law 81-874, the impact aid program. I commend my colleagues from South Dakota and Rhode Island, Senators ABDNOR and PELL, for the hard work they have done on this bill.

The purpose of Public Law 81-874 is to provide financial assistance for local educational agencies in areas affected by Federal activity. This act was a declaration of policy to provide financial assistance in recognition of the responsibility and obligation of the United States for the financial burden imposed on local educational agencies.

It seems, Mr. President, that every year we have to fight a battle to get adequate funding for impact aid. Every administration since Harry Truman has attempted to cut back or even eliminate this program and I stand in firm opposition to these attempts. Impact aid is a vital program to hundreds of school districts across the Nation and we would be remiss in our duties if we allow this program to expire.

With 66 percent of Idaho made up of Federal land, Idaho has the third highest percentage of Federal land to the total State area of the 50 States. It is only outranked by Alaska with 89 percent and Nevada with 86 percent. Of Idaho's 115 school districts, over 60 are currently receiving Public Law 874 funds. This represents nearly 20,000 of over 215,000 school children.

In the case of nonfederally affected parents there are usually two sources of property taxes that contribute to the support of their children's education. One is the residential property taxes paid by these parents. The second is the place of business or worksite property taxes paid by the employer. The Federal Government is exempt from these taxes and thus there is an erosion of the tax base which would have funded these school districts. Impact aid is one source that helps make up for the lost tax revenue.

Idaho has three schools districts that are severely impacted by Indian reservation and an airbase. The Blackfoot, Lapwai, and Mountain Home school districts literally would not be able to maintain their schools at all if it were not for impact aid. When the Federal Government has a facility or reservation that affects a school's revenue raising ability, then it has an obligation to make up for those lost revenues. There should not even be any discussion on this point—it is plain and simple. And yet, every year we go around and around about this issue.

With all the debate going on about how to improve education, there should not be a Member of this body who does not support helping school districts that depend on this money. Impact aid is essential and the program must be reauthorized. I urge my Senate colleagues to support the bill being introduced today.

Mr. PRESSLER. Mr. President, I am pleased to join with my colleagues in support of the Impact Aid Authorization Act of 1984. South Dakota has over 50 school districts which receive impact aid, and I think it is important that these schools be assured continued Federal funding.

Federally impacted school districts have suffered from underfunding long enough. This bill would increase impact aid funding to levels which will help these schools provide a basic education to their students. The time has come to fund these schools at levels which allow them to offer a fair and decent education to children in impacted school districts. This bill finally acknowledges the necessity of authorizing appropriations which parallel the rate of inflation. For too many years, impacted districts have been forced to operate with diminishing Federal funding.

We should not penalize school districts which educate children in federally impacted school districts. Mr. President, South Dakota's impact aid school superintendents are constantly faced with the problem of insufficient funding. I feel that this legislation will help to correct that problem. The Impact Aid Authorization Act of 1984 will increase the overall program authority through fiscal year 1989 to at least $700 million. Currently, those districts are required to function on $565 million.

As Members of Congress, we cannot forget our responsibility to the children who receive their education in impacted school districts. This legislation is essential and I urge my colleagues to give it speedy and favorable consideration.

Mr. D'AMATO. Mr. President, I am pleased today to join my distinguished colleagues in sponsoring this bill to reauthorize the impact aid program (Public Law 81-874). We must recognize the need for school assistance in federally affected areas: it is the obligation of Congress to help school districts when enrollment and the availability of sufficient revenue from local taxes has been adversely affected by the presence of Federal activities.

The mobile lifestyle of many federally connected children contribute to the additional cost school districts must bear. Unannounced relocation or change in Federal activity contribute to changes in the number of federally connected students within a school. Transfers and withdrawals complicate staffing, transportation, and facility utilization plans. Large numbers of students entering and leaving create difficulty in obtaining complete student records from previous schools, placing an additional administrative burden on the school. Such transitions increase testing loads and complicate the placement process.

Parents of some federally connected children do pay local taxes. However, their contributions are insufficient for the continued growth and development of our Nation's schools. Military families typically do not purchase their residences and tend to live in rental or temporary housing that may be assessed for tax purposes at less than the amount for the average residential unit. The availability of on-post medical, recreational, commissary, and commercial facilities makes it difficult for similar facilities to develop off-post and contribute to the local tax base. Personnel may declare another State as their residence, thereby escaping State and local income taxes; they often make many of their purchases on the military base, thereby also escaping sales and related taxes. Mr. President, these are only a few of the many reasons to authorize a program that is essential to so many of our Nation's schools.

The Congress must continue its commitment to our youth. We must show that we are committed to their education. Both federally connected and nonfederally connected children deserve a quality education. No child should be deprived of the very best education. The future of our country depends on it. Therefore, Mr. President, the Congress must demonstrate its support for the quality education of our children by passage of the Impact Aid Authorization Act of 1984.

By Mr. BAKER:

S.J. Res. 250. A joint resolution declaring the week of May 7 through 13, 1984, as "National Photo Week"; to the Committee on the Judiciary.

NATIONAL PHOTO WEEK

Mr. BAKER. Mr. President, it is often said that a picture is worth a thousand words, and if that cliche is even remotely true, then it must also be true that the Senate is a veritable warehouse of photographs, negatives, daguerrotypes, and reams of film awaiting exposure, for words are certainly the tools of our craft. It seems most fitting then that we turn our attention to the instant resolution, declaring the week of May 7 to 13 to be the first annual National Photo Week.

My personal involvement in the field of photography is a matter well known to my colleagues, and I should not wish to dwell on it. I would, however, like to say that I have derived many many hours of enjoyment, indeed of therapy of a sort, from my pursuit of this hobby. It has provided me with a creative outlet of a different nature from that of my duties in the Senate, one which I value highly. In addition to bringing me into contact with a wide array of people and places which I might otherwise have never known, photography has given me an appreciation of art, light, color, and perspective. Having looked at the world through a lens, I must now look at the world differently, and for that, I am forever grateful.

But Mr. President, the contributions which I have gleaned from photography, though substantial, could hardly serve alone as the basis for the passage of this resolution, and it must be plainly evident that they do not. The 20th century has witnessed the invention and advancement of technologies which have forever changed the face of human life on our planet, but I sincerely doubt that any has had any greater impact than the successful creation of a photograph by Joseph Niepce in 1822. The subsequent development of his techniques over the past century and a half has altered our culture in so many ways that to imagine life without it is considerably difficult, if not impossible. Today we rely on photography in one form or another in fields as diverse as astronomy and communication, medicine and entertainment, and its role in cataloging our national heritage is indispensable. It is my honest opinion that it would not be possible to overstate its influence over our society or its importance in our lives.

Consequently Mr. President, it is with genuine sentiment and appreciation that I introduce this resolution declaring the week of May 7 to 13 to be National Photo Week, and I urge that the Senate act quickly to insure its passage.

ADDITIONAL COSPONSORS

S. 249

At the request of Mr. Packwood, the name of the Senator from Maine (Mr. Mitchell) was added as a cosponsor of S. 249, a bill entitled the "Employee Educational Assistance Extension Act".

S. 627

At the request of Mr. Packwood, the name of the Senator from New York (Mr. D'Amato) was added as a cosponsor of S. 627, a bill to authorize the establishment of a National Scenic Area to assure the protection, development, conservation, and enhancement of the scenic, natural, cultural and other resource values of the Columbia River Gorge in the States of Oregon and Washington, to establish national policies to assist in the furtherance of its objective, and for other purposes.

S. 1772

At the request of Mr. Matsunaga, the name of the Senator from Maryland (Mr. Sarbanes) was added as a cosponsor of S. 1772, a bill to amend title XVIII of the Social Security Act to provide for direct medicare reimbursement for services performed by registered nurse anesthetists.

S. 1935

At the request of Mr. Heinz, the names of the Senator from Vermont (Mr. Stafford), and the Senator from Wisconsin (Mr. Proxmire) were added as cosponsors of S. 1935, a bill to establish an interagency task force on cigarette safety.

S. 1975

At the request of Mr. Bradley, the name of the Senator from Connecticut (Mr. Dodd) was added as a cosponsor of S. 1975, a bill to enact the Gifted and Talented Children's Education Act.

S. 1980

At the request of Mr. Murkowski, the names of the Senator from Arkansas (Mr. Pryor), the Senator from West Virginia (Mr. Randolph), the Senator from Oklahoma (Mr. Nickles), and the Senator from Vermont (Mr. Stafford) were added as cosponsors of S. 1980, a bill to recognize the organization known as the Polish Legion of American Veterans, U.S.A.

S. 2099

At the request of Mr. Jepsen, the name of the Senator from Alabama (Mr. Denton) was added as a cosponsor of S. 2099, a bill to delay for 2 years the mandatory coverage of employees of religious organizations under social security.

S. 2159

At the request of Mr. Baucus, the names of the Senator from Alabama (Mr. Heflin), the Senator from Maine (Mr. Cohen), and the Senator from New Hampshire (Mr. Humphrey) were added as cosponsors of S. 2159, a bill entitled the "Hazardous Air Pollutant Control Act of 1983."

S. 2165

At the request of Mr. Danforth, the name of the Senator from Florida (Mrs. Hawkins) was added as a cosponsor of S. 2165, a bill to amend the Internal Revenue Code of 1954 to increase research activities, to foster university research and scientific training, and to encourage the contribution of scientific equipment to institutions of higher education.

S. 2186

At the request of Mr. Warner, the names of the Senator from Colorado (Mr. Armstrong), the Senator from Georgia (Mr. Mattingly), and the Senator from Pennsylvania (Mr. Heinz) were added as cosponsors of S. 2186, a bill to establish a State Mining and Mineral Resources Research Institute program, and for other purposes.

S. 2190

At the request of Mr. Huddleston, the name of the Senator from Oklahoma (Mr. Nickles) was added as a cosponsor of S. 2190, a bill to amend the Agriculture and Food Act of 1981 to provide protection for agricultural purchasers of farm products.

S. 2207

At the request of Mr. Bradley, the names of the Senator from Maryland (Mr. Sarbanes), the Senator from Connecticut (Mr. Dodd), and the Senator from Georgia (Mr. Nunn) were added as cosponsors of S. 2207, a bill to amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes.

S. 2295

At the request of Mr. Quayle, the name of the Senator from Indiana (Mr. Lugar) was added as a cosponsor of S. 2295, a bill to amend title 23, United States Code, to provide that for purposes of determining the minimum allocation paid to any State, the amount of taxes treated as paid into the Highway Trust Fund with respect to gasohol and certain methanol and ethanol fuels shall be determined as if such fuels were taxed as gasoline.

S. 2349

At the request of Mr. Metzenbaum, the name of the Senator from Florida (Mrs. Hawkins) was added as a cosponsor of S. 2349, a bill to amend the Internal Revenue Code of 1954 to deny loss deductions for stock in corporations functioning in the nature of political action committees.

SENATE JOINT RESOLUTION 129

At the request of Mr. Pressler, the name of the Senator from New Jersey (Mr. Bradley) was added as a cosponsor of Senate Joint Resolution 129, a joint resolution calling upon the President to seek a mutual and verifiable ban on weapons in space and on weapons designed to attack objects in space.

SENATE JOINT RESOLUTION 181

At the request of Mr. Bentsen, the names of the Senator from Delaware (Mr. Biden), and the Senator from South Carolina (Mr. Thurmond) were added as cosponsors of Senate Joint Resolution 181, a joint resolution to provide for the awarding of a gold medal to Lady Bird Johnson in recognition of her humanitarian efforts and outstanding contributions to the improvement and beautification of America.

SENATE JOINT RESOLUTION 198

At the request of Mr. Pryor, the names of the Senator from Florida (Mr. Chiles), and the Senator from Minnesota (Mr. Boschwitz) were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating April 27, 1984, as "National Nursing Home Residents Day."

SENATE JOINT RESOLUTION 210

At the request of Mr. Trible, the name of the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of Senate Joint Resolution 210, a joint resolution to designate the period commencing January 1, 1984, and ending December 31, 1984, as the "Year of Excellence in Education."

SENATE JOINT RESOLUTION 221

At the request of Mr. Weicker, the names of the Senator from Connecticut (Mr. Dodd), the Senator from Vermont (Mr. Stafford), the Senator from Ohio (Mr. Metzenbaum), the Senator from Idaho (Mr. Symms), the Senator from Utah (Mr. Hatch), the Senator from Illinois (Mr. Dixon), the Senator from Ohio (Mr. Glenn), the Senator from Michigan (Mr. Levin), the Senator from Maryland (Mr. Sarbanes), the Senator from Rhode Island (Mr. Chafee), the Senator from Oregon (Mr. Packwood), and the Senator from California (Mr. Wilson) were added as cosponsors of Senate Joint Resolution 221, a joint resolution to honor the contribution of blacks in the American Revolution.

SENATE JOINT RESOLUTION 222

At the request of Mr. Lautenberg, the names of the Senator from Tennessee (Mr. Sasser), the Senator from Indiana (Mr. Lugar), and the Senator from New York (Mr. D'Amato) were added as cosponsors of Senate Joint Resolution 222, a joint resolution designating the month of June 1984 as "Student Awareness of Drunk Driving Month."

SENATE JOINT RESOLUTION 223

At the request of Mr. Moynihan, the name of the Senator from Michigan (Mr. Riegle) was added as a cosponsor of Senate Joint Resolution 223, a joint resolution relating to the rehabilitation of shelters for the homeless.

SENATE JOINT RESOLUTION 236

At the request of Mr. Matsunaga, the names of the Senator from California (Mr. Cranston), the Senator from Colorado (Mr. Hart), and the Senator from Hawaii (Mr. Inouye) were added as cosponsors of Senate Joint Resolution 236, a joint resolution relating to cooperative East-West ventures in space as an alternative to a space arms race.

SENATE JOINT RESOLUTION 247

At the request of Mr. Humphrey, the names of the Senator from Massachusetts (Mr. Kennedy), the Senator from Iowa (Mr. Jepsen), the Senator from New Jersey (Mr. Lautenberg), and the Senator from Michigan (Mr. Levin) were added as cosponsors of Senate Joint Resolution 247, a joint resolution to designate March 25, 1984, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE CONCURRENT RESOLUTION 87

At the request of Mr. Baucus, the name of the Senator from Missouri (Mr. Danforth) was added as a cosponsor of Senate Concurrent Resolution 87, a concurrent resolution relating to the dismantling of nontariff trade barriers of the Japanese to the import of beef.

AMENDMENT NO. 2750

At the request of Mr. Mathias, the names of the Senator from South Dakota (Mr. Pressler), and the Senator from Colorado (Mr. Hart) were added as cosponsors of amendment No. 2750 proposed to S. 979, a bill to amend and reauthorize the Export Administration Act of 1979.

AMENDMENTS SUBMITTED

EXPORT ADMINISTRATION ACT

HEINZ AMENDMENT NO. 2753

Mr. HEINZ proposed an amendment to the bill (S. 979) to amend and reauthorize the Export Administration Act of 1979, as follows:

On page 44, line 10, strike "technology" and insert in lieu thereof "tangible items".

On page 44, line 14, insert "tangible" before "property".

On page 44, line 14, strike "to facilitate the commission" and insert in lieu thereof "in the export or attempt to export that was the subject".

PROXMIRE AMENDMENT NO. 2754

Mr. PROXMIRE proposed an amendment to the bill S. 979, supra, as follows:

On page 53, after line 9, add the following:

AUTHORIZATION OF CERTAIN AGREEMENTS FOR COOPERATION

Sec. 19. (a) Section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is amended—

(1) in subsection b., by inserting ", except as provided in subsection d.," after "approved and"; and

(2) by amending subsection d. to read as follows:

"d. the proposed agreement for cooperation (if arranged pursuant to subsection 91c., 144b., or 144c., or if entailing implementation of section 53, 54a., 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President and together with a Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency, when required by subsection 123a., and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91c., 144b., or 144c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective unless authorized by law.".

(b) Section 130a. of such Act (42 U.S.C. 2159(a)) is amended—

(1) in the first sentence—

(A) by striking out "123d."; and

(B) by striking out ", and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91c., 144b., or 144c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate,"; and

(2) in the proviso thereto, by striking out "and if, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91c., 144b., or 144c., of this Act, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution".

(c) The amendment made by subsection (a) shall apply to any agreement of cooperation which is described by such amendment and which was entered into after the date of enactment of this Act.

DIXON (AND OTHERS) AMENDMENT NO. 2755

Mr. DIXON (for himself, Mr. Percy, Mr. Dole, Mr. Lugar, Mr. Pryor, Mr. Boren, Mr. Melcher, Mr. Boschwitz, Mr. Baucus, Mr. Andrews, Mr. Huddleston, Mr. Abdnor, Mr. Cochran, Mr. Bentsen, Mr. Burdick, Mr. Exon, Mr. Eagleton, Mr. Quayle, Mr. Jepsen, Mr. Durenberger, Mr. Helms, Mrs. Kassebaum, Mr. Pressler, Mr. Heflin, Mr. Riegle, Mr. Nickles, Mr. Levin, and Mr. Grassley) proposed an amendment to the bill, S. 979, supra, as follows:

CONTROLS ON AGRICULTURAL COMMODITIES

Sec.   . (a) Section 6 of the Export Administration Act of 1979 is amended—

(1) by adding at the end of subsection (a)(1) the following: "The President may impose or propose to extend export controls under this section on agricultural commodities, other than in connection with the prohibition or curtailment of all exports, in accordance with the procedures set forth in subsection (l) and the other requirements of this section."; and

(2) by adding at the end thereof the following:

"(l) Agricultural Commodities.—(1) If the President imposes export controls or proposes to extend export controls which have been imposed, on any agricultural commodity to carry out the policy set forth in subparagraph (B) or subparagraph (C) of paragraph (2) or paragraph (7) or (8) of section 3 of this Act, the President shall immediately transmit a report on such action to the Congress, setting forth the reasons therefor in detail and specifying the length of time the controls are proposed to be in effect which may not exceed six months.

"(2) In the case of export controls imposed by the President—

"(A) if the Congress, within 60 days after the date of its receipt of the report under paragraph (1), adopts a joint resolution pursuant to paragraph (4) approving the imposition of export controls, then such controls shall remain in effect for the period specified in the report, for six months after the close of the 60-day period, or until terminated by the President, whichever occurs first; or

"(B) if the Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of such 60-day period.

"(3) In the case of export controls proposed to be extended—

"(A) if the Congress adopts a joint resolution approving a proposed extension of export controls prior to the expiration of the applicable period described in paragraph (2)(A) or this subparagraph, then such controls shall be extended for the period specified in the report, for six months after the date of enactment of the joint resolution of approval, or until terminated by the President, whichever occurs first; or

"(B) if the Congress fails to adopt a joint resolution approving a proposed extension of controls prior to the expiration of the applicable period described in paragraph (2)(A) or subparagraph (A) of this paragraph, then such controls shall cease to be effective upon the expiration of the applicable period.

"(4) (A) For purposes of this paragraph, the term 'resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 6 (1) of the Export Administration Act of 1979, the President may impose, expand, or extend export controls as specified in the report to the Congress on.', with the blank space being filled with the appropriate date.

"(B) On the day on which a report is submitted to the House of Representatives and the Senate under paragraph (1), a resolution with respect to such report shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a report is submitted, the resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(C) All resolutions introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs and all resolutions introduced in the Senate shall be referred to the Committee on Banking, Housing and Urban Affairs.

"(D) If the committee of either House to which a resolution has been referred has not reported it at the end of 30 days after its introduction the committee shall be discharged from further consideration of the resolution or of any other resolution introduced with respect to the same matter.

"(E)(i) A motion in the House of Representatives to proceed to the consideration of a resolution shall be highly privileged and not debatable. An amendment to the section shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the House of Representatives on a resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a resolution is agreed to or disagreed to.

"(iii) Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business shall be decided without debate.

"(iv) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a resolution shall be decided without debate.

"(v) Except to the extent specifically provided in the preceding provisions of this subparagraph, consideration of a resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

"(F)(i) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours, to be equally divided between and controlled by, the majority leader and the minority leader or their designees.

"(iii) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(iv) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

"(G) In the case of a resolution described in subparagraph (A), if prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.".

(b) Section 7(a)(1) of such Act is amended by adding at the end thereof the following: "The President may impose, expand, or extend export controls under this section with respect to agricultural commodities only as provided in section 6(1).".

HEINZ (AND OTHERS) AMENDMENT NO. 2756

Mr. HEINZ (for himself, Mr. Proxmire, and Mr. Riegle) proposed an amendment to amendment No. 2755 by Mr. Dixon (and others) to the bill S. 979, supra, as follows:

On page 2, line 14, strike out the period and insert in lieu thereof a comma.

On page 2, between lines 14 and 15, insert the following: "except that the President may renew such controls for succeeding 60-day periods if, prior to the expiration of any such 60-day period, he submits in writing to the Congress his certification that—

"(i) the circumstances that led to the imposition of controls continue to exist;

"(ii) other exporters of comparable products are cooperating or are reasonably likely to cooperate in the controls; and

"(iii) United States producers of the products subject to controls will not be seriously injured by the continuation of such controls for an additional 60 days.

On page 2, line 30, strike out the period and insert in lieu thereof a comma.

On page 2, between lines 30 and 31, insert the following: "except that the President may renew such controls for succeeding 60-day periods if, prior to the expiration of any such 60-day period, he submits in writing to the Congress his certification that—

"(i) the circumstances that led to the imposition of controls continue to exist;

"(ii) other exporters of comparable products are cooperating or are reasonably likely to cooperate in the controls; and

"(iii) United States producers of the products subject to the controls will not be seriously injured by continuation of such controls for an additional 60 days.

METZENBAUM (AND OTHERS) AMENDMENT NO. 2757

Mr. METZENBAUM (for himself, Mr. Rudman, Mr. Proxmire, Mr. Riegle, Mr. Levin, and Mr. Bumpers) proposed an amendment to the bill S. 979, supra, as follows:

At the end of the bill add the following:

PETROLEUM ACQUISITIONS

Sec. 19. (a) This section may be cited as the "Domestic Petroleum Company Acquisition Act of 1984".

(b) The Congress finds and declares that—

(1) major energy concerns have demonstrated an intent to allocate substantial financial resources to the acquisition of domestic petroleum enterprises;

(2) recent events in the oil producing areas of the world increase the importance of fully developing our domestic petroleum resource base for national security and domestic economic reasons;

(3) the allocation of billions of dollars to the acquisition of present domestic petroleum reserves is contrary to national policy to the extent that it does not add to our resource base but rather diverts capital resources which otherwise could have been used to explore for, and produce new domestic sources of energy; and

(4) acquisitions of domestic petroleum companies are likely to continue, resulting in the elimination of important competitive checks on the economic and political power of major energy concerns, and such acquisitions are therefore against public policy.

(c) The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting immediately after subsection 7A(j) the following new subsection:

"(k)(1) For purposes of this section—

"(A) the term 'major energy concern' means any person engaged in commerce in the United States—

"(i) whose average net production of crude oil in the previous calendar year exceeded 500,000 barrels per day worldwide, or

"(ii) which is under the control of one or more foreign persons;

"(B) the term 'domestic petroleum company' means any person engaged in commerce in the United States, who is not a major energy concern, and whose average net production of crude oil from sources within the United States in the previous calendar year exceeded 50,000 barrels per day;

"(C) the term 'foreign person' means (i) any individual who is not a citizen of the United States, (ii) any person organized under the laws of, or having its principal place of business in, a country other than the United States, or (iii) any other person owned or controlled directly or indirectly by one or more of such individuals or persons;

"(D) the term 'affiliate', when used with respect to any major energy concern, means any person who controls, is controlled by, or is under common control with a major international energy concern;

"(E) the term 'control' means the power, directly or indirectly, to direct or cause the direction of the management and policies of a person through ownership of voting securities or otherwise *Provided, however,* That control shall not arise solely out of a bona fide credit transaction. Ownership of, or the power to vote, 15 per centum or more of the outstanding voting securities of a person creates a rebuttable presumption of control. Ownership of, or the power to vote, less than 15 per centum of the outstanding voting securities of a person does not create a presumption of control or lack of control; and

"(F) the term 'person' includes (i) any individual, (ii) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (iii) the government of any country or any political subdivision or agency thereof.

"(2)(A) It shall be unlawful—

"(1) for any major energy concern or any affiliate thereof, to acquire, directly or indirectly, by purchase, trade, or otherwise, direct or indirect ownership or control of another major energy concern or of a domestic petroleum company or of its affiliate; and

"(2) for any domestic petroleum company or any affiliate thereof, to acquire, own, or control either directly or indirectly any major energy concern or its affiliate.

"(B) Whenever it appears to the Attorney General, the Federal Trade Commission, or any other aggrieved person that a major energy concern, affiliate, or any agent thereof, or any domestic petroleum company, any affiliate or agent thereof has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of subparagraph (A), such person may bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted. For purposes of this paragraph, where some or all of the assets of an acquired major energy concern or domestic petroleum company are temporarily being held and operated independently, pursuant to a judicial or administrative agreement, a violation of this paragraph does not occur until the expiration of such temporary agreement. Any such permanent injunctive relief may provide for restitution of moneys.".

"(C) This paragraph shall not apply to any acquisition if—

"(1) the parties to the acquisition demonstrate that the transaction is likely to result in a material increase in new energy exploration, extraction, production, or conversion, and that such an increase cannot reasonably be achieved by means not prescribed in subparagraph (A); or

"(2) such parties demonstrate that the transaction is necessary in order to prevent one or both of the parties from having to file a petition with the bankruptcy court or from being declared bankrupt.".

SOLID WASTE DISPOSAL ACT AUTHORIZATION

DURENBERGER (AND OTHERS) AMENDMENT NO. 2758

Mr. DURENBERGER (for himself, Mr. Moynihan, and Mr. Lautenberg) submitted an amendment intended to be proposed by them to the bill (S. 757) to amend the Solid Waste Disposal act to authorize funds for fiscal years 1983, 1984, 1985, 1986, and 1987, and for other purposes, as follows:

S. 757 is amended by adding at the end thereof a new section as follows:

"Sec. . The Safe Drinking Water Act (title XIV of the Public Health Service Act) is amended by addding a new Part F as follows:

"Part F

REGULATION OF UNDERGROUND STORAGE TANKS CONTAINING SUBSTANCES OTHER THAN HAZARDOUS WASTE

"Sec. 1451. For the purposes of this Part, the term—

"(1) 'hazardous substance' means (A) any substance defined in Section (101)(14) (A), (B), (C) (other than hazardous waste), (D)-(F) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (B) petroleum, including oil or any fraction thereof, and (C) natural gas liquids or gas liquids;

"(2) 'owner or operator' means (A) in the case of an underground storage tank, and (B) in the case of any abandoned underground storage tank, any person who owned, operated, or otherwise controlled activities at such tank immediately prior to such abandonment;

"(3) 'person' means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body;

"(4) 'release' means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing into groundwater, surface water or subsurface soils;

"(5) 'underground storage tank' means a stationary device and its connective piping, designed to contain an accumulation of hazardous substances which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic, fiberglass) which provide structural support and which are partially or wholly under the ground. This term does not include (i) farm or residential underground storage tanks of 1,100-gallon or less capacity used for storing fuel for noncommercial purposes or (ii) underground storage tanks used for storing heating oil for consumptive use on the premises where stored.

"PRELIMINARY NOTIFICATION

"Sec. 1452. (a) Operational Underground Storage Tanks.—Within one hundred and eighty days of enactment, any person who owns or operates an underground storage tank used for storing hazardous substances shall notify the State or the Administrator of the existence of such tank, specifying the age, size, type, location, and uses of such tank and any previous releases and corrective action.

"(b) Nonoperational or Abandoned Underground Storage Tanks.—Within one hundred and eighty days of enactment, any person who owned or operated an underground storage tank used for storing petroleum, including any fraction thereof and natural gas liquids or gas liquids at the time such tank was taken out of operation or abandoned underground, shall notify the State or the Administrator of the Environmental Protection Agency (unless the person knows the tank subsequently was removed from the ground) of the existence of such tank, specifying the date taken out of operation or abandoned, the age on the date taken out of operation or abandoned, the size, type, location of the tank and the type and quantity of substances left stored in such tank on the date taken out of operation or abandoned.

"(c) Within ninety days of enactment, the Administrator of the Environmental Protection Agency, in consultation with State and local officials, shall prescribe in greater detail the form of the notice and the information to be included in the notifications under subsections (a) and (b).

"(d) Within one hundred and twenty days of enactment, the Governors of each State shall designate the appropriate State agency or department and local agencies or departments to receive the notifications under subsections (a) and (b). The designated State agency or department shall compile the notifications into a comprehensive inventory and submit such inventory to the Administrator within twelve months of enactment.

"(e) Any owner or operator who knowingly fails to notify the State or the Administrator of the existence of a tank they own or operate or owned or operated shall, upon conviction, be fined not more than $5,000 for each tank for which notification is not given.

"RELEASE DETECTION, PREVENTION, AND CORRECTION REGULATIONS

"Sec. 1453. (a) Within twelve months of enactment, the Administrator, after consultation with State and local officials and opportunity for public comment, shall promulgate release detection, prevention and correction regulations for all operational underground storage tanks used for storing hazardous substances. The Administrator's regulations shall, at a minimum, include the following provisions—

"(1) the issuance of a certificate or registration to every owner and operator for each operational underground storage tank for which notification was received pursuant to section 1452(a) and a periodic certificate or registration renewal process if deemed necessary by the Administrator for an effective program;

"(2) a requirement that every owner or operator maintain a leak detection or inventory system adequate to identify releases from their underground storage tanks;

"(3) a requirement that every owner or operator keep adequate records of any leak detection or inventory system and report any releases to the Administrator (such reports shall be available to the public);

"(4) a requirement that every owner or operator take appropriate corrective action in response to a release from their underground storage tank;

"(5) a requirement that every owner or operator comply with new underground storage tank standards promulgated by the Administrator pursuant to section 1454;

"(6) an adequate enforcement program including a requirement for periodic inspection of underground storage tanks and records;

"(7) a requirement that every owner or operator comply with closure standards that will ensure against any future release from an underground storage tank being closed or otherwise being taken out of operation; and

"(8) a requirement that owners and operators maintain evidence of financial responsibility for bodily injury and property damage to third parties caused by sudden and nonsudden accidental occurrences arising from operating their underground storage tank.

"(b) Any person who owns or operates an underground storage tank used for storing a hazardous substance and knowingly fails to comply with the release detection, prevention and correction regulations as promulgated by the Administrator or a State program approved under Section 1456, shall upon conviction, be subject to a fine of nor more than $25,000 for each tank.

"(c) If after January 1, 1986, a person knowingly deposits hazardous substances in an underground storage tank that does not have a Federal or State certificate or registration issued pursuant to this Part or such person does not assure that a tank without a certificate or registration will not allow release of the hazardous substances deposited in the tanks, such person shall, upon conviction, be subject to a fine of not more than $25,000 for each tank.

"TECHNOLOGY REQUIREMENTS FOR NEW UNDERGROUND STORAGE TANKS

"SEC. 1454. Within two hundred and seventy days of enactment, the Administrator shall propose and promulgate performance standards for any underground storage tank used for storing hazardous substances which is installed and used after promulgation of such standards. Such performance standards shall include but not be limited to—

"(a) design, construction and installation guidelines;

"(b) a prohibition of installation and use of bare steel tanks (steel tanks not treated to minimize corrosion) except where the Administrator finds there is minimal danger of corrosion;

"(c) a requirement that pressure piping systems be equipped with leak detection systems;

"(d) a requirement that each tank be equipped with a leak detection system; and

"(e) a requirement to notify the administrator within thirty days of installation of the new tank.

"INSPECTIONS

"SEC. 1455. (a) For the purposes of developing or assisting in the development of any regulation or enforcing the provisions of this Part, any owner or operator of an underground storage tanks used for storing hazardous substances shall, upon request of any officer, employer or representative of the Environmental Protection Agency, duly designated by the Administrator, or upon request of any duly designated officer, employee or representative of a State with an approved program, furnish information relating to such tanks or contents and permit such person at all reasonable times to have access to, and to copy all records relating to such tanks. For the purposes of developing or assisting in the development of any regulation or enforcing the provisions of this Part, such officers, employees or representatives are authorized—

"(1) to enter at reasonable times any establishment or other place where an underground storage tank is located;

"(2) to inspect and obtain samples from any person of any such hazardous substances.

Each such inspection shall be commenced and completed with reasonable promptness.

"(b) Any records, reports, or information obtained from any person under this section shall be available to the public.

"RESPONSE TO RELEASES

"SEC. 1456. (a) If a release is detected pursuant to section 1453, the Administrator is authorized to—

"(i) issue an order or request the Attorney General to commence a civil action pursuant to authorities delegated to the Administrator under section 106 of Public Law 96-510, and

"(ii) take response action pursuant to authorities delegated to the Administrator under section 104 of Public Law 96-510, if the Administrator deems such response action necessary to protect human health and the environment.

"(b) Any person who knowingly violates, or fails or refuses to comply with, an order of the Administrator under subsection (a)(i) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $5,000 for each day in which such violation occurs or such failure to comply continues.

"(c) If the Administrator takes action pursuant to subsection (a)(ii), the owner or operator's liability shall be consistent with the liability provisions under section 107 of Public Law 96-510 except that liability shall extend to all hazardous substances as defined in section 1451(a).

"APPROVAL OF STATE PROGRAMS

"SEC. 1457. (a) Any State may submit an underground storage tank release detection, prevention, and correction program for review and approval by the Administrator. The State must demonstrate that the State program meets the requirements of Section 1453(a)(1)-(8) except that a periodic certificate or registration renewal requirement may not be required as a condition for approval of a State program if the State demonstrates comparable enforcement can be achieved without such a requirement.

"(b)(1) Within 90 days of the date of receipt of a proposed State program, the Administrator shall, after notice and opportunity for public comment, make a determination whether the State's program meets the requirement of Section 1453(a)(1)-(8).

"(2) If the Administrator determines that the State programs meet the requirements of Section 1453(a)(1)-(8), he shall approve the State program and the State shall have primary enforcement responsibility with respect to requirements related to control of underground storage tanks used to store hazardous substances.

"(c) Whenever the Administrator determines after public hearing that a State is not administering and enforcing a program authorized under this Part in accordance with the requirement of Section 1453(a)(1)-(8), he shall so notify the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw authorization of such program and reestablish enforcement of Federal regulations pursuant to this Part.

"FEDERAL FACILITIES

"SEC. 1458. Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any underground storage tank as defined in subsection 1451(5) and used for the purpose of storing hazardous substances as defined in subsection 1451(1), shall be subject to and comply with all Federal, State, interstate, and local requirements, both substantive and procedural respecting construction, installation, operation, testing, corrective action, removal, and closure of underground storage tanks in the same manner, and to the same extent, as any person is subject to such requirements, including payment of reasonable service charges.

"STUDY OF EXEMPTED UNDERGROUND STORAGE TANKS

"SEC. 1459. Not later than twenty four months after the date of enactment, the Administrator of the Environmental Protection Agency shall conduct a study regarding the underground storage tanks exempted in Section 1451(5)(i) and (ii). Such study shall include estimates of the number and location of such tanks and an analysis of the extent to which there may be releases or threatened releases from such tanks into the environment. Upon completion of the study, the Administrator shall submit a report to the President and to the Congress containing the results of the study and recommendations respecting whether not such tanks should be subject to the preceding provisions of this Part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1460. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Part for each of the fiscal years 1985, 1986, 1987 and 1988.

● **Mr. DURENBERGER.** Mr. President, it is becoming increasingly apparent that pollution of the Nation's ground waters is a serious and growing problem. Although ground water remains an essentially pristine and uncontaminated resource throughout most of the United States, pollution is increasing, especially in urban areas. The bill which I am introducing today attempts to deal with one major source of contamination, underground storage tanks.

Gasoline is one of the most common causes of ground water pollution, and much of this may be attributed to underground storage tanks which are leaking. For example, Maine officials have estimated that of the roughly 5,000 active service stations in that State, about 25 percent have leaking storage tanks. While Maine is in only the first stages of responding to this problem, other States such as California and Florida, have already acted to protect ground waters from leaking storage tanks.

Experts in the field have estimated that there are between 75,000 and 100,000 leaking tanks in the country, contamination from these leaking tanks is overwhelming. A leak of only 1 gallon a day from a single service station is enough to pollute the water of a 50,000-person community to 100 parts per billion, according to the Environmental Protection Agency.

The proposal which I am introducing is drafted as an amendment to S. 757, which is the comprehensive reauthorization of the Resource Conservation and Recovery Act. This proposal would amend the Safe Drinking Water Act by adding a new part F to deal with leaking underground storage tanks. A tank is defined so that smaller containers—those of 1,100 gallons or less—are excluded from the program, as are those tanks in which heating oil is stored for consumptive use on the premises. Although such tanks are not covered by the regulatory program of this proposal, the amendment does require the Environmental Protection Agency to conduct a study of the hazards created by such tanks.

The bill also requires that an inventory of both operational and abandoned storage tanks be prepared so that we can gage more accurately the full extent of the problem facing us. Tanks which are in operation would be required to register with the State in which they are located. Each tank owner or operator would be required to maintain either a leak detection system or an inventory system adequate to identify releases. Finally, the proposal would establish technology standards for new underground storage tanks. First, the installation of the common but less adequate tanks—those made of bare steel—would be prohibited unless the hydrogeology of the area is such that there is a minimal danger of corrosion. Second, all tanks installed after the effective date would be required to meet performance standards developed by the Environmental Protection Agency. At the very least, these standards must require that tanks and pressure piping systems be equipped with leak detection systems.

Mr. President, it is my expectation that this program will be run by the State governments with very little Federal involvement. The amendment is designed to assure that new tanks are built and installed as they should be and that old tanks are operated and maintained so that the possibility of leaks is minimized. Leaks which do occur should be detected quickly so that the chance of contamination is low.

I hope that this proposal can be offered as an amendment to the RCRA reauthorization when S. 757 is brought to the Senate floor. However, to assure that those with an interest in this proposal have the opportunity to comment on the bill, the Committee on Environment and Public Works will hold a hearing on March 1. I hope that at this hearing we can identify and correct whatever imperfections may remain in this proposal so that it can be offered and adopted in the near future.

Mr. President, I would ask unanimous consent that a study by the Congressional Research Service on underground storage tanks be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

LEADING UNDERGROUND STORAGE TANKS: A POTENTIAL ENVIRONMENTAL PROBLEM

(By Donald V. Feliciano, Analyst in Environmental Policy, Environment and Natural Resources Policy Division, January 11, 1984)

ABSTRACT

This report on leaking underground storage tanks examines the potential threat to groundwater, the lack of understanding of the extent of the problem, the existing regulatory controls for storage tanks, and the issues associated with the problem.

SUMMARY

An estimated 1.4 million underground tanks in the United States store gasoline. An unknown additional number of tanks store a variety of petroleum products, other chemicals, or chemical wastes. Of the 1.4 million underground tanks storing gasoline, approximately 85 percent are made of steel with no corrosion protection and were buried over 20 years ago. Although few data exist, some petroleum industry experts estimate that 75,000-100,000 of these underground gasoline tanks may currently be leaking their contents into the ground and groundwater supplies, and perhaps up to 350,000 tanks may be leaking within the next five years. Congress has identified groundwater contamination as a major emerging issue, particularly because half of the United States population depends primarily on groundwater for drinking water.

Underground storage tanks are seldom regulated. At present, Federal regulation of storage tanks covers only above-ground tanks containing chemical wastes. And, if a tank is leaking, the Federal Government cannot under Superfund authority respond or clean up a spill if it involves petroleum products. Most States have little idea of the number of storage tanks within their boundaries, and although the installation of storage tanks is regulated under some local codes (mainly for fire protection), this practice is not consistent. Most industry standards for storage tanks relate solely to their construction; few industry standards exist for preventing or detecting leakage from underground tanks. While several major petroleum companies sponsor spill prevention or tank replacement programs, these programs vary from company to company, and only an estimated 25-35 percent of the gasoline tanks in the United States are owned by major oil companies; far more tanks are owned by gasoline distributors or independent companies.

The Senate Environment and Public Works Committee recently held hearings investigating the problem of underground storage tanks. The issues include the need to better understand the extent of the underground tank leakage problem, and whether regulation of underground tanks is needed.

OVERVIEW OF LEAKING UNDERGROUND STORAGE TANKS

Groundwater contamination is an emerging environmental issue in the U.S. Congress. Because over 116 million people—half of the population—depend on groundwater for their primary source of drinking water, many members are concerned about the protection of this valuable resource from contamination. Furthermore, contamination of groundwater can result in substantial financial losses for those deprived of their potable water supply, rising difficult questions about liability and redress.

Further information on groundwater can be obtained in IB 83091—Groundwater Contamination and Protection.[1]

In its assessment of the extent of groundwater contamination, the U.S. Environmental Protection Agency (EPA) identified the most frequent contaminants of groundwater by spills or tank leaks to be organic chemicals, and especially hydrocarbons such as gasoline.[2] Several agency experts believe that one of the major sources of groundwater contamination is from leaking underground storage tanks and pipelines. In fact, an increasing number of incidents of underground tank leakage are being reported:[3]

Underground storage tanks owned by the Exxon Company were found in 1978 to be leaking gasoline at a service station in East Meadow, N.Y. An estimated 30,000 gallons of gasoline leaked into groundwater supplies, causing odor and safety problems for 27 families living in 25 homes. Exxon subsequently bought 23 of the homes at 150 percent of their market value and settled with two others, who remained, for $14,000 each. An Exxon summary said 21 of the families also accepted liability settlements of $8,000 per adult and $3,000 per child. With some suits still pending, Exxon's total costs to date are estimated to be between $5 million and $10 million.

A gasoline leak that resulted in a manhole cover being blown off was traced in 1980 to a Chevron station in the Northglenn suburb of Denver, Colo. A Federal court convicted the company in June 1981, forcing Chevron to purchase 41 of the homes in the affluent neighborhood at 2.2 times their appraised value. Estimated losses to Chevron are in the area of 10 million.

In Dover-Walpole, Mass., 23 private wells, 1 in Dover and 22 in Walpole, were found to be contaminated with gasoline in 1981. The responsible party, Texaco, has provided the residents with bottled water since then; filters have been installed in homes for nonpotable water use. Negotiations have been ongoing with respect to extending a town water line from Walpole.

In its growing understanding of groundwater contamination, Congress has also sought to learn more about leaking underground storage tanks and whether there is a need for regulating them. On November 29, 1983, the Subcommittee on Toxic Sub-

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Footnotes at end of article.

stances and Environmental Oversight of the Senate Environment and Public Works Committee began hearings on groundwater contamination. Asked about underground storage tanks by Subcommittee Chairman David F. Durenberger (R.-Minn.), EPA officials acknowledged the problem and pointed out the lack of regulations in existence under which the agency could deal with the problem.

Extent of underground storage tank leakage

Underground storage tanks are used for the storage of petroleum products, other chemical products, and waste liquids. Although few estimates exist on the number of underground storage tanks used for all purposes, experts believe that there are over 1.4 million gasoline storage tanks buried underground, not including abandoned gasoline tanks. An unknown number of active and abandoned tanks store chemicals and chemical wastes. Of the 1.4 million gasoline tanks, an estimated 1.2 million are made of steel with little or no corrosion protection, less than 25,000 are steel tanks cathodically protected against corrosion, and about 100,000 are tanks made from fiberglass.[4] Some petroleum industry experts estimate that between 75,000 and 100,000 of the unprotected steel tanks are currently leaking, and perhaps up to 350,000 will be leaking within the next five years.[5]

Several States are actively assessing the threat to groundwater by underground storage tanks. The State of New York has estimated that 16,000 (19 percent) of its 83,000 active underground gasoline tanks are leaking, and that another 28,000 tanks may have been abandoned during the past 10 years. The State of Maine estimates that 25 percent of its 1,600 retail gasoline outlets have underground tanks that are leaking a total of some 11 million gallons yearly.[6]

The State of Michigan, believed by many to have one of the best groundwater protection programs in the country, has been investigating gasoline contamination for some time. One State survey found that at least 21 percent of 268 known groundwater contamination incidents involved petroleum product leakage from underground tanks.[7] Another State of Michigan survey showed that pollution of soils and groundwater by petroleum fuels from underground storage was reported 396 times during 1977-79. Nearly 35 percent of these incidents involved leakage from underground tanks or pipelines. One leak caused over 60,000 gallons of gasoline to enter the groundwater.[8]

Why underground tanks may leak

Underground tanks and pipelines may begin to leak as a result of external or internal corrosion (particularly in the case of unprotected steel tanks), or physical breakage, such as punctures or cracks (especially in fiberglass tanks). By far the biggest potential for leakage occurs with aging, unprotected steel tanks.[9] In the Great Lakes region, a typical tank may begin to leak within 7 years of installation; conversely, in an arid, non-corrosive region such as Arizona, a tank may remain intact for well over 30 years. Although data are scanty, experts estimate a typical steel tank's life expectancy to be about 15-20 years.[10]

To improve steel tank resistance to corrosion, the Steel Tank Institute developed a pre-engineered, cathodically protected steel storage tank system about 15 years ago. Basically, corrosion is prevented in these tanks because magnesium is electrically bonded to the tank, so the magnesium corrodes instead of the steel. The Steel Tank Institute claims that, since 1969, over 16,000 of these tanks have been installed without a single reported case of leakage.[11] Some petroleum industry experts note, however, that such tanks are not protected from corrosion from within.[12]

Another corrosion protection system used in steel tanks involves impressed current techniques. Basically, the system uses an electrical current around the tank to reverse corrosion. One problem to using both types of cathodic protection systems is they require maintenance to ensure that the electrical charge is working; another is that the wires leading to the tanks may break or be accidentally cut.

Fiberglass storage tanks are apparently the most popular type of tank because they are essentially corrosion-proof and require little maintenance. In fact, several of the major petroleum companies, such as Exxon, Shell, and Texaco, have programs to replace their steel tanks with fiberglass ones.[13] Fiberglass tanks, however, are subject to failure. They can crack if improperly installed, and an EPA report states that documented cases of tank leakage have occurred as a result of certain alcohol-blend gasolines weakening the polyester resins in the fiberglass.[14] One petroleum company study found no damage to fiberglass tanks filled with alcohol-based gasolines for six months.[15]

Hazards of gasoline contamination of groundwater

Gasoline is a refined product of crude oil and contains several hydrocarbons and often a variety of additive chemicals. Typical contents of gasoline include benzene, toluene, and xylene, and additives such as ethylene dibromide, tetramethyllead, and ethylene dichloride. Benzene and ethylene dibromide are suspected carcinogens, and other components may cause a variety of toxic effects; tetramethyllead, for example, is extremely toxic by any acute route of exposure.

Being less dense than water, gasoline that contaminates groundwater will float on top of the water table. Even at small concentrations of a few parts per million, some people can smell or taste its presence in water; while this level of gasoline does not seem to be toxic, it nevertheless makes the water containing it objectionable as a drinking water supply. Higher concentrations may become toxic, and when concentrations reach levels of around 10 000 parts per million in the air, the gasoline reaches an explosive threshold.

Preventing underground storage tank leakage

To prevent leakage, gasoline tank owners generally have three options: (1) replace existing unprotected steel tanks with fiberglass tanks or cathodically protected steel tanks; (2) retrofit existing steel tanks with cathodic protection; or (3) apply an internal lining to existing tanks. Reportedly, in most cases, tank owners decide to continue to use the existing steel tanks and gamble that they either will not leak, or if a leak develops that it will be detected before a significant amount of product is lost.[16]

Some leak detection devices are available; however, they usually are effective only at detecting leaks in pressure piping systems. Industry recommends the use of daily inventory control as a leak detection procedure, but its effectiveness is limited since it cannot detect all small leaks. Small leaks can magnify into large problems: an undergound tank leaking two drops/second will release 1.2 gallons/day, or 36 gallons/month; a tank leaking a ¼-inch stream will release 931 gallons/day, or 27,936 gallons/month.

Only about 25-35 percent of the underground gasoline storage tanks in the United States are owned by the major oil companies; the rest are owned by gasoline distributors, independent service station owners, and businesses (such as those owning delivery trucks) that require on-site gasoline pumps. The major oil companies generally require dealers and employees to maintain accurate, daily inventory controls, but such controls may not be exercised by all tank owners. Some of the major companies also have leak or spill response programs to respond quickly to tank problems; for independent owners, such programs may not be financially feasible.[17]

Many of the major oil companies are currently replacing all of their unprotected steel tanks with fiberglass or cathodically protected steel tanks. Again, smaller companies may or may not even be in a position to know if their tanks are leaking, let alone be able to afford total tank replacement. Any tank owner must bear substantial costs, at times in excess of $70,000, to replace tanks and pipelines at just one service station.[18]

For a large oil company owning thousands of tanks, the chances of leaks occurring are fairly high; for the small owner who owns only a few tanks, the odds are much better, better to the point that it may be worth the gamble not to replace underground storage tanks. This choice, however, may backfire: in cases of ground water contamination by gasoline service stations, total liability for the owner has run over $1 million in fines and cleanup costs; legal costs for individual lawsuits or victim damage awards may push a tank owner's liability up even further.[19]

REGULATION OF UNDERGROUND STORAGE TANKS

Federal regulation of underground storage tanks

Although scanty, the Federal regulations that apply to storage tanks sometimes differentiate between above-ground and underground tanks. As far as the Federal Government is concerned, for purposes of environmental regulation the contents of storage tanks may be categorized as either chemicals or chemical wastes. Because it is not a waste, gasoline could only be classified as a chemical; in any case, no specific requirements exist for gasoline.

If a storage tank contains chemicals, its usage could be regulated under the Toxic Substances Control Act, specifically under Section 6.[20] This section gives the EPA administrator the authority to regulate the handling or use of a chemical when necessary to prevent an unreasonable risk. Although EPA has not currently regulated chemical storage tanks, an agency task force is studying the possibility of using the Toxic Substances Control Act to set standards for tank construction and to require monitoring for detection of leaks. Such regulation is expected to be delayed for at least two years while the agency compiles further information on the extent of the problem.[21]

If a storage tank contains hazardous wastes, EPA can regulate it under the Resource Conservation and Recovery Act regulations for hazardous waste facilities.[22] Under the interim status requirements (Subpart J), all facilities using tanks to treat or store hazardous wastes must insure that the tanks do not leak, overflow, or rupture, and that they are inspected periodically.[23] Reactive or ignitable wastes may only be stored with certain precautions. The permitting standard requirements authorized by Section 3004 of the Act also refer to tanks treating or storing hazardous wastes. However, the requirements of Subpart J apply only to above-ground tanks and not to underground tanks.[24]

If a storage tank containing chemicals or hazardous wastes begins to leak, EPA can respond to the problem under the Comprehensive Environmental Response, Compensation, and Liability Act ("Superfund"). However, the Superfund law does not authorize EPA to respond to releases of petroleum products.[25] At the time of the Act's passage, several members wanted to include petroleum product spills in the Superfund Act, but the possibility that a prolonged debate would prevent enactment before the end of the Congress led these members to agree to the exclusion; they intended to propose a petroleum product superfund at a later time, but such a bill has yet to appear.

State Regulation of Underground Storage Tanks

Few State laws or regulations are directed toward prevention of leakage and groundwater contamination by underground storage tanks. In several cases, the laws or regulations refer mainly to the need for preventing fire or explosion hazards by the contents within the tanks. At present, however, several States and local governments are moving to address the problem of leaking underground storage tanks, and newer laws and regulations are being proposed.

State laws applying to underground storage tanks have been passed in California, Maryland, Michigan, and New York.[26] The States of Florida and Connecticut are considering regulations, and many county and local authorities, such as in Suffolk County, N.Y., Barnstable County, Mass., and Santa Clara County, Cal., have passed ordinances regulating underground storage tanks.[27] [28] Other authorities, such as the Los Angeles Region of the California Regional Water Quality Control Board, are currently investigating the number of leaking tanks within their jurisdictions as a basis for decisions on regulation.[29]

Other Regulation of Underground Storage Tanks

Several industry organizations have recommended practices or procedures that relate to underground storage tank installation or use. Most national fire code writing associations specify installation procedures and requirements for corrosion protection. Underwriters Laboratories (UL 58) is the standard for fabrication of underground steel tanks. The Steel Tank Institute has certain requirements with respect to the cathodic protection of steel tanks. Fiberglass storage tanks are built to performance standards from Underwriters Laboratories (UL 1316) and from the American Society for Testing and Materials (B4021). The American Petroleum Institute has issued reports on the installation of underground storage tanks, inventory control, cathodic protection of tanks, and treatment techniques for gasoline-contaminated groundwater.[30]

Several of the major oil companies are moving to replace their unprotected steel underground storage tanks and to be in a position to respond quickly to spills and leaks. Exxon Company, for example, claims to have spent over $100 million since 1979 to replace steel underground storage tanks, and the company expects to have replaced all of its old tanks by 1986; Chevron is involved in a five-year, $105 million replacement program.[31] [32] Some companies are experimenting with added protection against groundwater contamination from underground storage tank leakage by installing secondary containment systems around underground tanks.[33]

Most regulations used by the States that pertain to underground storage tanks have to do with preventing fires or explosions. Some 34 States abide by the National Fire Protection Association flammable and combustible liquids code (NFPA 30), several Western States follow the Uniform Fire Code for flammable and combustible liquids (Article 79, Section 70.603), and some Southern States used the fire prevention codes prescribed by the Building Officials and Code Administrators International (BOCA). Local ordinances in States, including Maryland, Pennsylvania, Illinois, Kansas, and Ohio, require periodic tank testing for leaks.[34]

ISSUES REGARDING LEAKING UNDERGROUND STORAGE TANKS

What is the extent of leaking underground storage tanks?

Although little information exists with respect to the number of underground storage tanks, some petroleum industry experts speculate that 75,000-100,000 of the estimated 1.4 million tanks containing gasoline may currently be leaking into potable groundwater supplies, indicating a potential threat to public health and the environment. The above estimates pertain only to gasoline tanks; a further area of concern is that few data are available for underground chemical or chemical waste storage tanks or for underground storage tanks that have been abandoned.

The concern for leaking underground storage tanks is further complicated by lack of sufficient knowledge to predict when tanks may leak. Even when tank owners practice accurate inventory control over the quantities of the fluids in their tanks as an early warning tool against leakage, in many cases they cannot determine the loss of small amounts.

Several Federal, State, and local agencies are now beginning to assess the extent on underground tank leakage by compiling inventories of the number of tanks in their jurisdictions, but this activity is expected to take several years. In the meantime, many underground tanks will presumably continue to leak, and most will presumably be unregulated.

Should underground storage tanks be regulated to prevent leakage?

Few laws under any authority exist specifically regulating underground storage tanks. The Federal Government only regulates above-ground storage tanks that contain chemical wastes, and can routinely respond only to chemical or chemical waste spills that do not involve petroleum products. The tank storage of one of the most common groundwater contaminants—gasoline—is unregulated because it is not a waste product (and thus not under the authority of the Resource Conservation and Recovery Act), and spills of the fuel cannot be cleaned up under the Superfund law because it is a petroleum product. Fewer than a dozen States have underground storage tank laws or regulations, and probably few local codes exist for storage tanks as well.

The petroleum industry is well aware of the potential liability leaking storage tanks may impose. Although most of the major oil companies have spill response plans and tank replacement programs, they control only 25-35 percent of all the underground storage tanks in the United States. The majority of storage tanks in use or abandoned are owned by independent businesses that may be unaware that their tanks are leaking, or do not have the finances to replace tanks before they leak.

EPA is currently moving to address the problem of leaking underground storage tanks as part of its pending groundwater strategy. Those pressing the action see regulations of non-waste underground storage tanks under Section 6 of the Toxic Substances Control Act as offering a significant step toward removing the environmental threat of leaking underground storage tanks. Further regulatory actions may include the development of specifications for tank testing, installation procedures, inventory collection, and spill cleanup actions. Opposition is likely to come from those seeing such regulation as another burden on small businesses, undertaken without conclusive evidence of a public health threat.

Finally, some consideration might be given to developing a system for compensating victims of leaking underground storage tanks. People have been deprived of their drinking water supplies because of groundwater contamination. Because the contamination sources are often difficult or impossible to detect, affected parties may face substantial losses in terms of property values.

FOOTNOTES

[1] U.S. Library of Congress. Congressional Research Service. Groundwater Contamination and Protection, by Donald V. Feliciano (continuously updated). Issue Brief 83091.

[2] U.S. Environmental Protection Agency. The Report to Congress: Waste Disposal Practices and Their Effects on Ground Water. Office of Water Supply and Office of Solid Waste Management Programs. January 1977. Washington, 1977. p. 421.

[3] Shaner, J. Richard. How Non-Detection Can Cost You: The Tank Leak Mess. National Petroleum News, vol. 74, July 1982: 36–40.

[4] Personal communication with Frederick Killmar, Killmar Associates, Great Falls, Va., January 5, 1984.

[5] Shaner, How Non-Detection Can Cost You, p. 37.

[6] U.S. Environmental Protection Agency, Storage Tank Fact Sheet [draft]. Office of Drinking Water. December 5, 1983. Washington, 1983. 3 p.

[7] Michigan Department of Natural Resources. Study on the Underground Storage of Gasoline. Water Quality Division. September 1981. p. 11.

[8] Michigan Department of Natural Resources, Study on the Underground Storage of Gasoline, p. 11.

[9] Larson, Dan. Subsurface Strategies. Super Service Station, vol. 107, February 1983. p. 17.

[10] Personal communication with Frederick Killmar, Killmar Associates, Great Falls, Va., January 5, 1984.

[11] Steel Tank Institute. A Specifier's Guide to Underground Storage Systems. 1983 advertisement in several magazines. Steel Tank Institute, Northbrook, Ill.

[12] Personal communication with Frederick Killmar, Killmar Associates, Great Falls, Va., January 5, 1984.

[13] Shaner, How Non-Detection Can Cost You, p. 37.

[14] U.S. Environmental Protection Agency, Region I. Underground Gasoline Storage Tank Leaks and Their Impacts on Drinking Water Supplies. Prepared by David Chim, David A. Fierra, and Jerome J. Healy, Water Management Division. October 25, 1983, Boston, Mass., p. 2.

[15] Compatibility of Fiberglass with Fuels Containing Oxygenates. Oxygenated Fuels Technical Bulletin, No. 8208, August 1982, Arco Chemical Company, Philadelphia, Pa., and Houston, Tex. 15 p.

[16] Personal communication with Frederick Killmar, Killmar Associates, Great Falls, Va., January 5, 1984.

[17] Ibid.

[18] Ibid.

[19] Ibid.

[20] P.L. 94-469.

[21] Regulation of Underground Storage Tanks At Least Two Years Away, EPA Officials Say. Environment Reporter, December 23, 1983: 1472.

[22] P.L. 94-500.

[23] 40 C.F.R. 265.190.

[24] 40 C.F.R. 264.190(b).

[25] P.L. 96-510, Subsection 101(14).

[26] Personal communication with Frederick Killmar, Killmar Associates, Great Falls, Va., January 5, 1984.

[27] Michigan Department of Natural Resources, Study on the Underground Storage of Gasoline, p. 109-128.

[28] Santa Clara County Board of Supervisors. An Ordinance to Add Chapter IX (Commencing with Section B11-301.01) to Division B11 of the Santa Clara County Ordinance Code, Relating to Hazardous Materials Storage Permit. November 15, 1983, Santa Clara County, Calif., 1983.

[29] California Regional Water Quality Control Board. Staff Report to the Board on the Problem of Underground Tank Leaks in the Los Angeles Region. Prepared by the Los Angeles Region staff. May 23, 1983, Los Angeles, Calif., 1983.

[30] Personal communication with Frederick Killmar, Killmar Associates, Great Falls, Va., January 5, 1984.

[31] 60 Minutes. Check the Water. December 18, 1983. CBS News, New York, N.Y.

[32] Larson, Subsurface Strategies, p. 60.

[33] Personal communication with Frederick Killmar, Killmar Associates, Great Falls, Va., January 5, 1984.

[34] Ibid.●

EXPORT ADMINISTRATION ACT

BRADLEY AMENDMENT NO. 2759

Mr. BRADLEY proposed an amendment to the bill S. 979, supra, as follows:

On page 53, after line 9, add the following:

AUTHORIZATION FOR CUSTOMS SERVICE

Sec. 19. (a) There are authorized to be appropriated to the United States Customs Service, Department of the Treasury, to carry out the purposes of the Export Administration Act of 1979 $12,000,000 for each of the fiscal years 1984 and 1985.

(b) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 90 days prior to talking any action which would—

(1) result in a significant reduction in force of employees other than by means of attrition,

(2) eliminate or relocate any office of the United States Customs Service,

(3) eliminate any port of entry,

(4) reduce the number of employees assigned to any office of the United States Customs Service or any port of entry, or

(5) reclassify or reassign employees of the United States Customs Service from traditional commercial functions.

JOHNSTON (AND METZENBAUM) AMENDMENT NO. 2760

Mr. JOHNSTON (for himself and Mr. Metzenbaum) proposed an amendment to the bill S. 979, supra, as follows:

At the appropriate place in the bill insert the following:

"Sec. . The Mineral Lands Leasing Act of 1920, as amended, (30 U.S.C. 181 et. seq.) is further amended by inserting a new section as follows:

" 'LIMITATION ON AUTHORITY WITH RESPECT TO MERGER PARTIES

" 'Sec. 43. General Prohibition.—Notwithstanding any other provision of this Act, the Secretary is prohibited from issuing any lease or granting any right-of-way under the provisions of this Act to any person who is subject to the provisions of this section.

" '(a) Applicability.—The provisions of this section shall apply to any person—

" '(1) who is a party to a merger consummated after February 27, 1984, and prior to six months following the date of enactment of this section, and

" '(2) who is a substantial energy reserve holder.

" '(b) Definitions.—For purposes of this section, the term—

" '(1) 'merger' includes mergers, consolidations, or acquisitions whereby one person acquires control or a majority of the assets of any other person. A merger shall be deemed to have been consummated when preliminary approval has been received from the Federal Trade Commission and the purchase of controlling stock has taken place, regardless of whether such stock is held in a separate account pending final Federal Trade Commission approval;

" '(2) "substantial energy reserve holder" means any person who, individually or together with his affiliates, owns or has an interest in, ten million barrels or more of proved reserves of crude oil, natural gas liquids equivalents, or natural gas equivalents.' ".

"Sec. . The Outer Continental Shelf Lands Act, as amended, (43 U.S.C. 1331-55) is further amended by inserting a new section as follows:

" 'LIMITATION ON AUTHORITY WITH RESPECT TO MERGER PARTIES

" 'Sec. 31. General Prohibition.—Notwithstanding any other provision of this Act, the Secretary is prohibited from issuing any lease or granting any right-of-way under the provisions of this Act to any person who is subject to the provisions of this section.

" '(a) Applicability.—The provisions of this section shall apply to any person—

" '(1) who is a party to a merger consummated after February 27, 1984, and prior to six months following the date of enactment of this section, and

" '(2) who is a substantial energy reserve holder.

" '(b) For purposes of this section, the term—

" '(1) "merger" includes mergers, consolidations, or acquisitions whereby one person acquires control or a majority of the assets of any other person. A merger shall be deemed to have been consummated when preliminary approval has been received from the Federal Trade Commission and the purchase of controlling stock has taken place, regardless of whether such stock is held in a separate account pending final Federal Trade Commission approval;

" '(2) "substantial energy reserve holder" means any person who, individually or together with his affiliates, owns or has an interest in, ten million barrels or more of proved reserves of crude oil, natural gas liquids equivalents, or natural gas equivalents.' ".

NOTICES OF HEARINGS

SUBCOMMITTEE ON SOIL AND WATER CONSERVATION, FORESTRY AND ENVIRONMENT

Mr. JEPSEN. Mr. President, I wish to announce that the Subcommittee on Soil and Water Conservation, Forestry, and Environment of the Committee on Agriculture, Nutrition, and Forestry has scheduled a hearing to receive testimony on the funding and operation of the U.S. Department of Agriculture's conservation programs.

More specifically, the topics of discussion will be the administration's fiscal year 1985 budget proposals for conservation, the Department's progress in implementing the national conservation program, and a discussion of USDA's current research activities in conservation, as well as future research plans.

The hearing will be held on Tuesday, March 6, 1984, at 1 p.m. in room 328-A, Russell Senate Office Building.

For further information please contact the Agriculture Committee staff at 224-0014 or 224-0017.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Senate Subcommittee on Public Lands and Reserved Water.

On Friday, March 16, 1984, at 9 a.m., in the main courtroom of the Federal Building on Main Street in Bryson City, N.C., the subcommittee will hear testimony on S. 2183, a bill to designate certain lands in the Great Smoky Mountains National Park as wilderness, and for other purposes.

Those wishing to testify should contact the office of Senator Helms, at P.O. Box 2944, Hickory, N.C. 28603, phone (704) 322-5170. Those wishing to testify should notify the subcommittee no later than March 14, 1984.

Because of the number of witnesses expected to testify, oral testimony will be limited to 3 minutes per witness. Written statements may be longer and will be printed in full in the hearing record. Witnesses will be placed in panels. Witnesses are requested to provide the subcommittee 15 copies of their tesitmony at the hearing.

For further information, please contact Subcommittee on Public Lands, Mr. Tony Bevinetto, (202) 224-5161.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Senate Subcommittee on Public Lands and Reserved Water.

On Tuesday, March 27, 1984, at 10 a.m. in room SD-366 Dirksen Office Building, Washington, D.C., the subcommittee will hear testimony on S. 1947, to designate certain lands in the

Great Smoky Mountains National Park as wilderness; to provide for settlement of all claims of Swain County, N.C., against the United States under the agreement dated July 30, 1943, and for other purposes, and S. 2183, to designate certain lands in the Great Smoky Mountains National Park as wilderness, and for other purposes.

Those wishing to testify should contact the Senate Subcommittee on Public Lands and Reserved Water, room SD-308 DSOB, Washington, D.C., phone number (202) 224-0613. Those wishing to testify should notify the subcommittee no later than March 23, 1984.

Because of the number of witnesses expected to testify, oral testimony will be limited to 3 minutes per witness. Written statements may be longer. Witnesses will be placed in panels. Witnesses are requested to submit 35 copies of their testimony 24 hours in advance of the hearing to the subcommittee.

For further information, please contact the Subcommittee on Public Lands and Reserved Water, Mr. Tony Bevinetto, phone number (202) 224-5161.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public oversight hearing before the Subcommittee on Energy Research and Development to consider the President's proposed budget for fiscal year 1985 for the Department of Energy's inertial confinement fusion program.

The hearing will be held on Thursday, April 5, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Energy Research and Development, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510.

For further information regarding this hearing you may wish to contact Mr. Paul Gilman or Mr. Elliot Chakoff of the subcommittee staff at 224-4431.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, February 29, at 2:30 p.m., to hold a hearing to consider the nomination of John Keane to be Director of the Bureau of the Census.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet in closed session during the session of the Senate on Wednesday, February 29, at 2 p.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND GOVERNMENTAL PROCESSES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Energy, Nuclear Proliferation and Government Processes of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, February 29, in order to hold an oversight hearing of GAO.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 29, to hold a hearing on foreign assistance.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, February 29, to hold a hearing to consider S. 2166, a bill to reauthorize the Indian Health Care Act of 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

INDUSTRY LEADERS OUTLINE TRAVEL MARKETING PLAN

● Mr. SASSER. Mr. President, along with Senator Warner, with whom I cochair the Senate Tourism Caucus, I want to direct the attention of my colleagues to an approaching landmark event in the history of our caucus and, indeed, in the history of the travel and tourism industry: that is, the expected release in April of an international competitive marketing plan by the travel and tourism industry.

Three industry representatives—William D. Toohey, president of the Travel Industry Association of America; James C. Collins, senior vice president for marketing of the Hilton Hotels Division of the Hilton Hotels Corp., and chairman of the international marketing plan development committee; and William Edwards, president of the Hilton Hotels Division of the Hilton Hotels Corp., and national chairman of the Travel Industry Association of America—made a presentation of an outline of the plan to a February 26 work session of the National Governors Association on international tourism.

I insert the report of Messrs Toohey, Collins, and Edwards in the Record at the conclusion of my remarks.

The overall goal of the plan is to increase—to recapture, really—the U.S. share of international tourism receipts. In order to do that, a top-to-bottom, broad-based, industrywide marketing plan is necessary.

Development of the plan has been carried out by a broadly representative industry group, which has consulted with various government entities that deal with travel and tourism issues.

Senator Warner and I, as well as other members of the Senate Tourism Caucus, have followed the work of the development committee with great interest, as its final report will serve as an invaluable planning document for those of us in the Congress concerned with the future of this most important industry.

Since the formation of the Senate Tourism Caucus in 1980, there has been a growing awareness of the importance of the travel and tourism in this country. It is, in fact, either the first, second or third largest industry in 41 of our States.

Americans and foreign visitors spent $194 billion on travel and tourism in the United States in 1982.

Travel and tourism generate a $41 billion payroll in our country.

It employs 4.5 million Americans directly, and another 2.5 million in supporting jobs.

The industry means $20 billion in Federal, State and local tax revenues.

As a member of the Senate Small Business Committee, I am especially sensitive to the contribution of this industry to the American economy; 99 percent of the firms in travel and tourism are small businesses.

It is no small wonder, then, that the first competitive marketing plan which will incorporate a comprehensive, national strategy seeking to integrate the various interests of this diversity of businesses, is an anxiously awaited event.

In anticipation of this report, Senator Warner and I commend to you the recommendations and observations outlined in the report given at the NGA work session.

The material follows:

International Marketing Plan Development Committee, Report to the Breakfast Work Session on International Tourism, National Governor's Association, Mid-Winter Meeting, February 26, 1984, Washington, D.C.

REMARKS OF WILLIAM D. TOOHEY, PRESIDENT, TRAVEL INDUSTRY ASSOCIATION OF AMERICA

Mr. Chairman and distinguished members of the National Governors' Association, it is an honor for us to meet with you today to discuss what we think is a landmark public-private sector development, a marketing plan that will benefit the United States and, with further development, each of the States.

We think that with this plan we can improve the Nation's share of the growing international market, a market that this year represents approximately $135 billion in revenues to countries throughout the world and one that is anticipated to grow to twice that much over the next five years, depending on how quickly economically over-extended countries recover during that period.

Let me first give you some of the history of the international marketing plan.

The worldwide association of the past three years, now easing, has been shallower than the mid-1970's recession, but lasted longer. World trade growth in pre-recession 1979 was 6.5 percent, dropping to 1.5 percent, zero percent and −2.0 percent in 1980, 1981 and 1982 respectively. The extended length of the recession is attributed to industrialized nations' tightened monetary controls instituted to bring down inflation, according to many economists. While the composite international inflation rate has dropped by 1.3 percent from its peak in 1980, unemployment has increased worldwide by more than 3 percent as a result.

Fluctuations in the industrialized countries of the world have directly affected the developing nations. Developing countries, a relatively new source of international tourism potential, have been growing faster economically than industrialized nations since the late 1960's. However, even those that have had the highest growth rates have not been able to avoid the cyclical influence of the industrialized world or the effects of high interests rates. Many of these developing nations have been caught between stagnating foreign exchange earnings, accounting in part for their increasingly aggressive competition in the world tourism market, and soaring interest payments on their debt.

Middle-income developing countries that have pursued export oriented trade policies, mainly in Asia, have managed to maintain export expansion momentum and avoid serious new debt problems. Others, including several Latin American countries that borrowed heavily and adjusted less, or incorrectly, during the pre-recession years, have been impacted by high interest rates and have had to take drastic economic adjustment measures to respond to a liquidity crisis.

However, there have been encouraging signs since the beginning of 1983. Nominal interest rates internationally have dropped to levels well below their peak in 1981. The ratio of debt service to export earnings in 1984 is projected to drop below 17 percent, down from a high of 20.7 percent in 1982. Oil prices are down, helping ease a continuing economic burden on oil-importing developing countries.

International tourism receipts grew an average of 18.8 percent per year for the period of 1976 to 1980. While the depressed international economic environment dampened worldwide out-bound tourism to some extent, international tourism receipts still grew 15.9 percent in 1980, 11.3 percent in 1981 and then to an estimated 4.5 percent in 1982. Assuming that the international economy continues to falter as recovery moves forward, it can be expected that international tourism receipts will at a minimum grow at an annual average rate of 10 to 35 percent less than pre-1980 growth rates, depending on the speed of recovery of economically overextended countries.

International tourism arrivals, defined as people whose travel takes them across national borders and who stay in a foreign country for more than 24 hours, were estimated to be 294 million in 1982. While international arrivals increased at an annual rate of 5.5 percent for the 5 year period of 1976-1980, the increases during the recessionary years of 1981 and 1982 were only 3.9 percent and 1.5 percent respectively.

Assuming a continuing but relatively slow world economic recovery, it can be expected that international tourism arrivals will grow at a 4 to 5 percent rate for the remainder of the 1980's. This would place the size of the international market in the range of 390 to 415 million international tourism arrivals in 1988. If this growth actually occurs, the size of the world tourism market, in terms of arrivals, will increase by 30 to 40 percent during the next five years.

Should economic recovery produce a tourism receipts growth in the range expected over the next 5 years, the size of the international market, in terms of receipts, would reach $230 to $315 billion in 1988.

WORLD TOURISM MARKET SIZE

	1976	1980	1981	1982	1983	1984	1988
International tourism:							
Arrivals (millions)	221.6	279	290	294	318-324	331-340	387-414
Receipts (in billions of dollars)	44.9	95.3	106.1	119-124	132-145	148-170	232-317

In 1976, the U.S. held a 13 percent share of the world's then $45 billion tourism market. Since 1976, our competitive position has declined each year until today we account for only a 10 percent share. In the international tourism marketplace this is a significant drop.

It is no coincidence that the decline parallels reductions in funding for the Federal international promotion program

Even though the private sector and many States and cities increased budgets during this period in an attempt to keep up with the expanding competitive markets, they could not possible fill the void in declining Federal activities. It is important to note that it is the Federal Government that is the appropriate entity to serve as a catalyst for a national tourism program to promote the U.S.A. as a destination for foreign travelers.

With less than one-third of the potential promotional spending power it had in 1976, the United States Travel and Tourism Administration, the only Federal tourism promotion entity, has not been able to compete on an equal basis against other governments in the international marketplace.

Not only did the U.S. Government reduce promotional competitive funds, it has also lagged in increasing its marketing sophistication in the face of intensely growing competition from other developed nations and many of the less developed countries, including Third World nations.

Our growing concern about our ability to compete came to a head this last year when the Office of Management and Budget originally sought zero funding for the U.S. Travel and Tourism Administration. USTTA is constrained by administration policy to developing marketing plans based on predetermined recommended budget levels.

To date, annual marketing plans, required by the National Tourism Policy Act, had been drafted to fit the administration's recommended funding level for the agency.

The private sector, in observing this "catch 22" dilemma, thought that it would be more prudent to establish budget recommendations based upon acceptable marketing plans, rather than the reverse procedure which goes against traditionally recognized business marketing theories.

It was increasingly apparent that the most significant obstacle to marketing growth was the lack of a competitive marketing plan—a plan that suggested how the Federal Government should use proper funding and provide results expressed in terms of Federal Government concerns: The imbalance of international trade deficits, tax revenues, and unemployment.

With the encouragement of leading travel industry chief executive officers, the Travel Industry Association of America, TIA, undertook a significant private sector initiative to develop an international marketing plan that would return the U.S. market share of international travel receipts to 13 percent of the world market within five years.

To this end, TIA assembled a group of the country's top marketing executives from the major segments of the industry to serve as an international marketing plan development committee. The basis for TIA to take on this program rests with its charter to initiate with Federal entities the development of programs that are responsive to the needs of the industry affecting the facilitation and promotion of travel to and within the United States.

The international marketing plan development committee was structured by the Travel Industry Association of America to include top marketing executives from the following segments of the travel and tourism industry: (1) Hotels/Motels; (2) Airlines; (3) Attractions; (4) Recreation; (5) Ground Transportation, (a) auto, (b) car rental, (c) motor coach, (d) rail; (6) Travel Agents; (7) Tour Operators; (8) Food Services; (9) Sightseeing; (10) Gaming; (11) Cruise Lines; (12) Advertising; (13) Media/Public Relations; (14) Cities/Convention and Visitors Bureaus; (15) States; and (16) Regional Economic Development Tourism Organizations.

In addition, representatives of the United States Travel and Tourism Administration and the National Park Service were designated and have been kept abreast of the committee's deliberations and progress, step by step, and have made numerous and significant input to the planning process. Further, other Federal agencies which have a role in international tourism have been consulted and included in the plan development review process.

Mr. James C. Collins, senior vice president of marketing for Hilton Hotels Corporation has served as chairman of the committee. Other members of the committee are:

J. Kay Aldous, Vice President, Public and Government Policy, American Automobile Association.

Roger Ballou, Senior Vice President, Vacation & Leisure Travel, American Express Company.

William Blaziek, Senior Vice President, Sales and Marketing, Resorts International Casino Hotel.

Chris Browne, Senior Vice President, Marketing, Holiday Inns, Inc.

Gordon L. Downing, Vice President, General Sales Manager, National Car Rental System, Inc.

Sig S. Front, Senior Vice President, Director of Marketing, The Sheraton Corporation.

Robert Giersdorf, President, Exploration Holidays and Cruises.

Edward N. Gilbert,[1] Director Florida Division of Tourism.

Charles Gillett, President, New York Convention and Visitors Bureau.

Elliot Heit, International Marketing Director, Tauck Tours, Inc.

James W. Hurst, Executive Vice President, Greater Los Angeles Visitors and Convention Bureau.

Samuel B. Jamieson, Jr., Vice President, Marketing, Short Line Tours.

Michael L. Jenkins, Director, Business Marketing, AT&T.

Thomas J. Koors, Executive Vice President, Sales and Marketing, Northwest Airlines, Inc.

Jack B. Lindquist, Executive Vice President, Marketing, Walt Disney Productions.

William S. Norman, Group Vice President, Marketing and Corporate Planning, Amtrak.

Malcolm D. Pynn, President, Holiday Americas.

Don Ryan, President, Camping Group, Kampgrounds of America, Inc.

Martin R. Shugrue, Jr., Senior Vice President, Marketing, Pan American World Airways, Inc.

William D. Slattery,[1] Vice President, Sales & Service International, Trans World Airlines, Inc.

Robert Smalley, Sr., President and Chief Executive Officer, American Land Cruisers.

Bradley Smith, Executive Director, Foremost West, Four Corners Regional Tourism Organization.

Brian Smith, Vice President, Marketing, Busch Entertainment Corporation.

John Stockton, Vice President, Marketing, Roy Rogers Restaurants.

John A. Ueberroth, President, Ask Mr. Foster, First Travel Corporation and Ask Mr. Foster Travel Service.

Terry L. Underwood, Vice President, Passenger Marketing, Greyhound Lines, Inc.

A. Russell Upshaw, Jr., Vice President, Governmental Affairs, Eastern Air Lines, Inc.

The committee's work was supported by task forces, committees, and other executives from the travel and tourism industry.

State travel offices, along with city and regional destination promotion organizations, provided important in-depth input and have reviewed the plan at every step.

In addition, industry organizations have made available senior staff to conduct research and prepare papers that have contributed to the committee's efforts. TIA and its affiliates, the travel and tourism government affairs council and the U.S. Travel Data Center, along with George Washington University, Cornell University and other industry organizations, have provided volunteer technical staff to assist the committee with details of the planning and day-to-day administrative support.

The appropriate committees in Congress, the House and Senate tourism caucuses, and the Office of the Secretary of Commerce have endorsed the concept and have been monitoring the progress of the committee and providing assistance where they saw a need.

With that background, I would now like to introduce Mr. James C. Collins, senior vice president marketing for Hilton Hotels Corporation and the chairman of the international marketing plan development committee. Jim, who has given his time and his leadership to further the plan, will review with you the development and recommendations of the proposed plan.

REMARKS OF JAMES C. COLLINS, SENIOR VICE PRESIDENT-MARKETING, HILTON HOTELS DIVISION, HILTON HOTELS CORP., AND CHAIRMAN, INTERNATIONAL MARKETING PLAN DEVELOPMENT COMMITTEE

Good morning, I am pleased to be here to discuss the work of our International Marketing Plan Development Committee, and to outline our recommendations to date.

As we meet with you, members of our committee are visiting tourism-generating markets abroad to gather information to sharpen our recommendations.

Our committee has had three major meetings since it was formed last summer, reviewing mountains of briefing materials and technical staff research, participating in numerous detailed briefings on Government tourism operations, doing their own research, in many cases with help from their own company's research and marketing staffs, and reviewing the findings from two industry-wide surveys conducted by the committee to solicit broad-based inputs to the planning process—in which State travel offices played a critical role.

An organizing task force, made up principally of members of the TIA International Committee, prepared a draft work program, an "introductory document," for plan development, prior to the creation of the International Marketing Plan Development Committee. The introductory document was circulated widely to leaders of the travel and tourism industry for review and comment.

The committee technical staff prepared a 300-page briefing book which was distributed to the committee prior to its first meeting on August 11, 1983. The first half of the committee's first all-day meeting was a general orientation session open to Government officials, the press and other observers. Presentations were heard on the committee's mission, historical and present Government involvement in international tourism, recent data on in-bound international visitors and how other governments were promoting tourism. Marketing plan goals and objectives were tentatively agreed to prior to the committee moving into three concurrent working sessions on the conceptual basis for:

Development and initial identification of the tourism product;

Identification of markets; and

The structure of an organizational mechanism appropriate to carry out the marketing effort.

A complete transcript was made of the meeting and its working sessions which were attended by committee members and technical staff only. A summary of the meeting findings was prepared, along with a questionnaire designed to clarify findings, fill gaps in the deliberations and collect further input to the planning process. The meeting summary, which included initial market plan concepts was disseminated during the weeks of August 29 and September 6, 1983 to:

(1) The committee members;

(2) USTTA, the National Park Service and other appropriate Government agencies;

(3) Travel and tourism industry advisory boards to the Department of Commerce, Senate and House;

(4) Selected Members of the Senate and House of Representatives;

(5) All major travel industry associations' chief executive officers and other industry association leaders;

(6) CEOS of the travel and tourism industry;

(7) All State travel directors;

(8) Members of the National Council of Area and Regional Travel Organizations;

(9) Members of the National Council of Travel Attractions;

(10) Members of the National Council of Urban Tourism Organizations; and

(11) Other private sector tourism industry leaders.

A rough draft marketing plan was developed based on the committees initial thinking at the August 11 meeting, survey results from the committee and the industry/Government review and comment process, individual committee member input and committee technical staff research. During the week of October 3, 1983, the rough draft marketing plan was distributed to the committee along with a compendium of market analysis data on all markets under consideration.

The committee met on October 13, 1983, in Washington, D.C. to continue its deliberations. The first half of the committee's second all-day meeting included a detailed review of the survey findings from the first industry questionnaire distribution and the review and comment process; a panel discussion with three former USTTA and USTS overseas office heads which focused on overseas operational considerations; and briefings by USTTA representatives on near term marketing plans, budget status and existing programs and operations germane to the marketing planning process. The committee was addressed at lunch by the Honorable Clarence J. Brown, Deputy Secretary of Commerce, who provided guidance on the administration's view of the appropriate role of Government in marketing the United States. The committee subsequently broke into three afternoon working sessions on:

Markets to be targeted;

Refinement of proposed structural elements of USTTA and the private sector needed to implement the proposed plan; and

Identification of USTTA programs necessary to implement and support the promotional effort.

Again, a complete transcript was made of the meeting and its working sessions, which were attended by committee members and technical staff only. A summary of the meeting findings was prepared, along with a second questionnaire to collect further industry input to the planning process. The meeting summary and second questionnaire were disseminated during mid-November to approximately 2,000 tourism industry leaders including the group which received the first meeting summary and questionnaire.

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[1] During the planning process, Mr. Gilbert left the Florida Division of Tourism to work in the private sector and was replaced by the new director of the division, Dean Gaiser; Mr. Slattery became President and CEO of Braniff International and was necessarily replaced on the committee by Mr. Neil M. Effman, Senior Vice President, Marketing and Planning, Trans World Airlines, Inc.

A second rough draft marketing plan was developed, incorporating new committee and industry input and further committee technical staff research. The second rough draft plan (working paper) was distributed to the committee in early December.

Three task forces of the committee met on December 13, 1983, in Washington, D.C. to discuss steps necessary to finalize the draft plan.

These task forces were formed to discuss:

Findings from the second industry survey that suggested the need for further study of selected aspects of the draft marketing plan;

Recommendations that might be offered to USTTA on advertising agency selection criteria and procedures; and

Guidance which might be offered to USTTA on program direction and timing for 1984 to begin transition into the marketing plan, should it be adopted.

As a result of the first task force's recommendations it was decided not to release the final plan until spring of 1984 to allow the committee time to further investigate potential transition problems. The committee felt it could best gather the information it needed to sharpen the plan's recommendations by sending task forces to visit each USTTA office, selected existing visit USA committees and certain overseas travel suppliers.

In addition, at the request of the new under Secretary of Commerce for Travel and Tourism, the committee has formed task forces to work closely with USTTA to help develop plans for making the transition from the Agency's $8.1 million FY 1983 funding level to $12 million for FY 1984 and on into implementation of key elements of the plan itself. This increased funding for FY 1984 demonstrates that Congress recognizes what the committee is doing and the importance it places on returning the U.S. to a competitive international marketing position.

In developing the marketing plan, as with all business plans, we first needed to develop goals and objectives that were reasonable, attainable and, above all, measurable.

The principal goal of the plan is to provide the United States Travel and Tourism Administration with a marketing strategy to return the United States to a 13 percent share of the international tourism market.

The marketing plan should position USTTA to promote the United States as a tourism destination with the support and cooperation of the U.S. public and private sector in order to:

(1) Maximize the U.S. share of the international tourism market through increased promotional efforts;

(2) Work toward a consistent positive balance of payments in the U.S. international travel account by increasing in-bound tourism to offset expanding out-bound travel by U.S. residents;

(3) Increase employment for American workers by increasing demand for U.S. tourism-related services, goods and facilities;

(4) Increase tourism generated tax revenues for the U.S. Government and State and local governments, through increased export earnings from travel and tourism; and

(5) Improve the distribution of tourism economic benefits among States and cities of the United States by providing Federal Government leadership in the development and implementation of cooperative promotional programs which provide all parts of the United States an opportunity to participate.

The principal objective of the plan is to return the U.S. market share of international travel receipts to 13% of the world market by the end of 5 years.

Other objectives, which are necessarily secondary to the principal objective, have been established by the committee. These additional objectives can be expected to be met as a result of achieving the principal objective. In other words, it would likely be necessary to achieve these additional objectives in order to return the United States to a 13 percent market share. The principal utility of establishing additional objectives was to help guide the committee in its selection and mix of strategies, programs and approaches appropriate to attaining the principal objective. In addition, these objectives will provide further means of measuring and evaluating the plan implementation progress. The additional objectives of the plan are:

Increase the number of international visitors to the United States by 40 to 45 percent over 5 years;

Increase U.S. receipts (export earnings) from international tourism by approximately 100 percent over 5 years;

Increase domestic employment by 175,000 to 200,000 jobs over 5 years from increased international tourism to the United States, and

Increase Federal, State and local tax revenues from international tourism by 60 to 70 percent over 5 years through expanded earnings.

The plan should position USTTA to promote the United States as a tourism destination with the support and cooperation of the U.S. public and private sectors of the travel and tourism industry.

The committee has developed 27 tentative recommendations to accomplish its objectives.

(1) The U.S. international marketing effort should be undertaken as a partnership between the Federal Government and the private sector, cities, States and regions;

(2) A USA promotion council should be created by the private sector to assist the marketing effort by:

Advising USTTA on marketing activities;

Developing, coordinating, and guiding private sector programs in support of the marketing effort;

Aiding USTTA in recruiting private sector, city, State, and regional participation in cooperative and tandem promotional programs;

Guiding efforts to expand and strengthen membership in private sector visit USA committees in each generating market;

Providing marketing technical assistance to USTTA; and

Assisting USTTA in other areas related to marketing and public/private partnership activities.

(3) The private sector should become actively involved in establishing new private sector visit USA committees in countries where they do not now exist and in strengthening these committees where they do exist and these committees should, in turn, support USTTA overseas staff by:

Organizing and facilitating product inspection trips to the U.S.;

Hosting travel trade meetings, educational seminars and other trade functions;

Organizing participation in country travel trade shows;

Operating speakers' bureaus;

Implementing in-country promotions;

Facilitating trade missions; and

Assisting USTTA with public relations program activities;

(4) The private sector should convene an annual national conference of international marketing executives from cities, States, regions and the private sector to review and provide input to the USTTA annual marketing plan and to coordinate the private sector partnership role in promotions;

(5) The existing industry advisory board to USTTA should become more substantively involved in guiding USTTA efforts to implement the marketing plan;

(6) The chief operating officer of USTTA should be a general manager who is not subject to changes of administrations who would be in charge of day-to-day operations but retain the Office of Under Secretary;

(7) There should be two principal divisions in USTTA headquarters reporting to the general manager: (1) marketing and (2) policy, planning and research;

(8) At the international level, USTTA should operate through 4 regional offices: (1) a London office for a Europe and Africa region; (2) a Tokyo office for an Asia and the Pacific region; (3) a Miami office for a South America and the Caribbean region; and (4) a Washington, D.C. office for a North American region;

(9) USTTA should establish small country offices in each of the 34 markets targeted by the committee with assigned country offices in each to work under the direction of the four regional offices;

(10) A unifying creative approach to USTTA promotions, most simply expressed in terms of an umbrella theme, should be developed to promote the U.S. as a destination;

(11) USTTA should retain a top U.S. advertising agency to develop an umbrella theme and creative direction as part of an overall international advertising and promotional strategy;

(12) The U.S. promotional strategy should focus on a phased program to be implemented in 34 targeted markets including:

Targeting Japan, Germany, Australia/New Zealand, Italy, Israel and the Netherlands for promotion beginning in year one; and

Targeting Canada, the United Kingdom, Taiwan, Sweden, Norway, Denmark, Finland, Korea and Spain for promotion beginning in year two;

(13) USTTA Federal funding should be between $15 million and $17 million for year one of the marketing plan and $25 million and $27 million in year two depending on funding needed for overseas activities not considered by the committee;

(14) USTTA should rely heavily on cooperative public/private promotion campaigns with the private sector to match Federal expenditures on such programs with at least $2 of non-Federal funds for each $1 of Federal funds in years one and two and approaching $3 to $1 in years 3 and beyond as private sector funding goals;

(15) USTTA should be promoted generically and as 14 regions defined as groups of States and principal cities and USTTA promotional/information literature and display materials should be reformated to reflect the 14 proposed U.S. regions.

(16) USTTA literature distribution should be regionalized and handled by contractors to respond to trade and consumer inquiries;

(17) USTTA should establish USA planning centers in 34 targeted countries to distribute literature and service consumer inquiries through private sector travel suppliers;

(18) USTTA should foster, with private sector support, the creation of USA houses (U.S. trade promotion centers);

(19) USTTA should retain public relations contractors in the 34 targeted markets to carry out phased image development programs with support from private sector visit USA committees;

(20) USTTA should revive its tour development program to provide "seed money" incentives to tour packagers for creation of new tour offerings to the U.S.;

(21) Responsibility for facilitating sales missions (U.S. Travel Trade Missions) in target markets should be shifted to the private sector to the extent feasible;

(22) Organization and coordination of U.S. participation in travel trade shows should be primarily the responsibility of the private sector;

(23) USTTA should develop and implement a marketing effectiveness measurement system to evaluate major programs, monitor progress toward the marketing plan objectives and measure return on investment;

(24) Responsibility for trade and consumer education programs should, to the extent feasible, be shifted to the private sector;

(25) USTTA should become more centrally involved in U.S. trade policy deliberations on international travel facilitation and travel barrier issues;

(26) USTTA should continue to expand port reception services and shift the responsibility for these services to non-federal entities as soon and in as many cases as possible; and

(27) USTTA should consider reestablishing the previous USTS matching funds program to encourage more cities and States to invest in international promotion.

However, above all, the marketing effort must be regarded as a partnership between the Federal Government and the public and private sectors.

We have outlined some new responsibilities for the public and private sectors to support the marketing program. And, in turn we have outlined recommendations dealing with USTTA operations that are intended to strengthen the marketing orientation of the agency.

Recommendations that potentially affect States call for a multi-phased program that would be implemented in 34 targeted markets. That program takes into account the need to promote a mix of generating countries that will tend to balance inbound visitors as much as possible so the whole country benefits. For instance, Pacific markets have been identified that will potentially benefit the Western U.S. after many years of focusing almost exclusively on European markets. In all cases the plan attemps to focus on groups of markets that will allow all States to benefit from international tourism.

The plan calls for a U.S.A. promotion council that includes State, city and regional representation.

An annual national international marketing conference is being recommended to give marketing executives from States, cities, regions and the private sector an opportunity to help shape national efforts, identify individual opportunities to capitalize on national efforts, and identify opportunities to participate in voluntary cooperative promotions with the Federal Government in markets in which each would be individually interested.

The plan encourages the Government to create public/private cooperative promotion campaigns that will reduce the cost to each of us in getting exposure in viable markets. Only 29 States now promote in foreign markets with promotional investments ranging from $1,000 to over $1 million. New cooperative promotional opportunities will allow more States to enter the competition for international visitors.

The committee is proposing a new grouping of States designed to regionalize the U.S. for international promotion. This scheme is intended to help cities and States to get more visibility in foreign markets through Federal efforts as well as to group States and cities in such a way as to facilitate individual promotional investment decisions on markets likely to benefit each of us the most. Less well known States and cities could benefit from traffic generated by the more established cities and States.

We have recommended that States and cities be given more technical assistance in developing promotional materials in languages for the markets they are most interested in cultivating.

The committee will probably urge the Government to reestablish a matching funds program that would encourage more cities and States to invest in international promotion.

While the entire marketing plan is being developed to more effectively promote the U.S. generally, the committee has made every effort to create opportunities for all of us in the public and private sectors to participate more fully in the expected expansion of the U.S. share of the international tourism market in new partnership arrangements with the Federal Government.

We are convinced that we are on the right path, that our efforts will help develop a program that will be increasingly effective in attracting international tourists to the U.S.

Now, to discuss with you what we think the States should be doing to prepare to participate in these efforts, I would like to introduce Mr. William H. Edwards, national chairman of the Travel Industry Association of America and president of Hilton Hotels.

REMARKS OF WILLIAM H. EDWARDS, PRESIDENT, HILTON HOTELS DIVISION, HILTON HOTELS CORP. AND NATIONAL CHAIRMAN TRAVEL INDUSTRY ASSOCIATION OF AMERICA

Thank you, Jim.

First, as the chairman of the Travel Industry Association, I'd like to thank Governor Ariyoshi for inviting us to participate in this workshop. This form of interaction between public and private sectors at this level greatly enhances the partnership relationship that is so necessary to the continuation of the dynamic growth of tourism in our country.

You have heard from Jim what the recommended marketing plan is designed to accomplish at the Federal level. This plan, when completed early this spring, will go to the President and Congress for consideration.

As the plan is implemented at the Federal level, we need to begin planning at the State level to take advantage of the Federal plan and of the increased international tourism to each State.

The far-reaching effect of this form of marketing initiatives will generate a stronger economic climate in State after State and will stimulate other tourism portions of the business spectrum to also grow as they experience the growing wave of the tourism dollar.

Some States are already aggressively promoting themselves and are reaping the resulting economic benefits.

Those that are taking advantage of the international market will need only to make course adjustments. Others will need to revamp existing plans to take advantage of initiatives presented through the USTTA programs.

In my own State of California, Governor Deukmejian reviewed the California tourism program, and realized that though we had the highest tourism revenues in the Nation, they had declined last year along with our market share.

Even with tourism revenues of $27 billion it was evident that much more was available and that a paltry State tourism budget of $600,000 wasn't going to make a dent in potential markets.

The Governor met with travel industry officials and evaluated tourism operations and promotion programs. Just as in the Federal case, California had no advertising budget. The studies recognized that California's foremost industry comprises thousands of small, family-oriented businesses and only a few major companies could mount far-reaching advertising campaigns.

Our Governor, therefore, is working on developing a multimillion dollar promotion program for the California office of tourism for fiscal year 1984-85, and the world is going to hear and see why it's great to "visit California." Moreover, the program will mean new revenues, jobs and increased tax revenues for the State.

Other States are also moving to capture this expanding market and increased tourism dollars. Hawaii, Washington, Colorado, Nevada, Utah, all are inceasing their planning and budgets to attract tourists.

Nevada had an annual tourism budget of $40,000, but faced with competition from Atlantic City, it established a new budget of $2.2 million and hired one of New Jersey's top tourism officials. I hope I'm not giving any trade secrets away!!!!

Meantime, New York developed one of the most widely recognized and successful promotion efforts ever launched—the "I Love New York" campaign with a $12.1 million dollar State tourism budget in 1982-83; Florida is ranked second, with State tourism spending at $9.2 million annually and, Florida counties are estimated to spend that much again. In both cases the economic benefits are astounding.

But to allocate funds isn't the whole answer.

Just as the Federal Government has a new comprehensive plan for spending its tourism promotion dollars, so must State governments.

This morning, Jim Collins outlined for you basics of the national marketing plan. We will send you a copy of the final marketing plan as soon as it comes off the press. We think you should use it as a guide for your State, piggyback on it, if you will—take advantage of the work that has been done to develop your own plan.

The national plan doesn't sell your State, it sells the United States. Therefore, we recommend that you call together a group of travel industry leaders from within your State and charge them with establishing a set of growth objectives, objectives that will stimulate and expand economic growth to the State.

Have the State Planning Committee analyze the State product, study the market potential—the national plan will be very helpful in this area—and develop a list of target markets that will guarantee the best return for promotion dollars spent.

The national plan calls for developing an umbrella theme to promote the country as a whole. States need to decide how they can tie into the umbrella theme with their own "sell-lines."

Advertising programs will need to be a key part of the promotional strategy, and the State plan should call for steps to stimulate cooperate advertising programs with the private sector and with other States in your marketing region.

Your State plan should call for working closely with local chambers of commerce, convention and visitors bureaus, and State private sector tourism promotion organizations, especially in developing State promotional brochures, and marketing programs such as participating in travel agent, tour operator, and consumer shows, plus trade missions to international markets.

The national plan calls for possibly providing matching funds programs to States and cities for international promotion, tour development and other areas of international marketing. Your plan should develop ways to take advantage of these possible funding sources.

We also suggest that your plan look carefully at the structure of the State tourism office, to see it is organized to carry out a marketing function, a function that is foreign to many government organizations, and that it is managed by travel industry professionals.

We also feel that as you begin to develop the plan you will see the need for legislative initiatives that will call for a State tourism policy, which already exists at the Federal level, to provide a stable State tourism program.

In developing your plan an important element that I touched on earlier is the relationship to multi-State promotional regions. International travelers do not spend all of their vacation time in one city or in one State—at least, not usually. The national plan recommends that USTTA identify the U.S. tourism product by geographic regions. It will involve, in some cases, several entire States working together. Regions will play an important part in the marketing plan, and your State should be developed to incorporate the most effective regional mixes.

In the interest of both reinforcing the strengths of primary destinations and fostering the growth of less well-known destinations, defining regional areas as groups of States clustered around ports of entry or principal cities appears to be the most accommodating. Pragmatically, ports of entry tend to define tourism regions because the international visitor generally must arrive in one of the gateway cities before exploring any other city or State. Secondly, ports of entry historically translate into primary destinations, providing a logical basis for promoting focal points.

The public and private sectors, have, on many occasions in the past, attempted to develop regional schemes for both domestic and international marketing purposes. None of these schemes have been totally satisfactory. When the number of regions are held to a minimum, they tend to be larger than most countries of the world, unacceptably large for promotional purposes and too complex to reduce to a manageable size for tourist information brochures. On the other hand, when the size of regions are reduced too far, they become too numerous to promote in an orderly fashion.

The marketing plan proposes one possible scheme to regionalize the country for international marketing purposes. The regional proposal does not and should not affect existing regional arrangements that work well for domestic marketing purposes.

Your State plan should include how you wish to relate to the USA promotion council that Jim mentioned earlier, and you may wish to fashion the same type of organization to relate on a State basis to your State's plan. You will want to be prepared to participate in the annual international marketing conferences, and again, at the State level, organize conferences to review marketing strategies for the coming year. These State conferences could be part of the annual Governor's conferences on tourism that many of you now hold.

What I'm really driving at, is that with well-thought-out planning at the national, State, and local levels, through public/private partnerships, we can only succeed and in succeeding provide for economic growth that will be beyond our wildest dreams.

Also, let me say for all my colleagues in the private sector, we stand ready to work with you. We know it can work, we know the markets are out there, and we are convinced that travel and tourism can make a difference economically in the United States.

I hope you will agree that comprehensive tourism marketing stands to benefit everyone, and that it is a worthwhile investment.

Again, Governor Ariyoshi, we appreciate you allowing us to be a part of your meeting. Thank you.●

RULES OF PROCEDURE—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

● Mr. STAFFORD. Mr. President, Senate rule XXVI requires that by March 1, standing committees of the Senate publish their rules in the CONGRESSIONAL RECORD.

The rules of the Committee on Environment and Public Works, of which I am chairman, have not changed since their publication last year. They remain quite similar to those under which the committee has operated productively and, in general, harmoniously for several years.

Mr. President, for myself and Senator RANDOLPH, I ask that the current rules of the Committee on Environment and Public Works be included in the RECORD at an appropriate point.

The rules follow:

RULES OF PROCEDURE OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Rule 1. *Regular Meeting Days.*—The regular meeting day of the Committee shall be the first and third Thursday of each month at 10:00 A.M., except that if there be no business before the Committee, the regular meeting shall be omitted.

Rule 2. *Committee Meetings.*—Subject to section 133(a) of the Legislative Reorganization Act of 1946, as amended, Committee meetings for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the Chairman, after consultation with the ranking Minority Member. Subcommittee meetings shall be called by the Chairman of the respective subcommittee, after consultation with the ranking Minority Member. Notice of a meeting and the agenda of business to be discussed by the Committee will be provided to all Members not less than twenty-four hours in advance of such meeting. Additions to the agenda after that time may be made with the concurrence of the ranking Minority Member. Such 24-hour notice may be waived in an emergency by the Chairman, with the concurrence of the ranking Minority Member.

Rule 3. *Open Committee Meetings and Legislative Mark-up Sessions.*—Meetings of the Committee, including hearings and legislative mark-ups, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the Committee determines by record vote of a majority of the members of the Committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure; or

(3) constitute any other grounds for closure under paragraph 7(b) of rule XXV of the Standing Rules of the Senate (as amended by Senate Resolution 9, 94th Congress.).

Rule 4. *Presiding Officer.*—(a) The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the ranking Majority Member who is present at the meeting shall preside.

(b) Subcommittee Chairmen shall preside at all meetings and hearings of their respective Subcommittees, except that in the absence of the Subcommittee Chairman, the ranking Majority Member of the Subcommittee who is present at the meeting shall preside.

(c) Notwithstanding the rule prescribed by subsections (a) and (b), any Member of the Committee may preside over the conduct of a hearing.

Rule 5. *Quorums.*—(a) Except as provided in subsections (b) and (d), five Members, two of whom shall be Members of the Minority party, shall constitute a quorum for the conduct of business, except for the purpose of reporting any measure or matter.

(b) Quorums for the conduct of business by the Subcommittees shall be a simple majority of the Membership of the Subcommittees with at least one Minority Member present.

(c) Once a quorum as prescribed in subsections (a) and (b) has been established for the conduct of business, the Committee may continue to conduct business.

(d) Notwithstanding the rule prescribed in subsection (a), one Member shall constitute a quorum for the purpose of conducting a hearing.

Rule 6. *Proxy Voting.*—(a) Proxy voting shall be allowed on all measures, amendments, resolutions, or any other issue before the Committee or any Subcommittees. Any Member who is unable to attend the meeting may submit his vote on any such issue, in writing or through personal instruction; however, proxies shall not be voted for the purpose of reporting any measure or matter except when the absent Committee Member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. A proxy given in writing shall be valid until revoked, while a proxy given orally or by personal instructions is valid only on the day given.

(b) At the discretion of the Chairman, after consultation with the ranking Minority Member, members who are unable to be present and whose vote has not been cast by proxy may have their positions recorded on any vote on the same business day so long as the vote will not change the outcome.

Rule 7. *Public Announcement of Vote.*—Whenever the Committee, by rollcall vote, reports any measure or matter, or acts upon any measure or amendments thereto, the report of the Committee on such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each Member of the Committee.

Rule 8. *Announcement of Hearing.*—The Committee, or any Subcommittee thereof, shall make public announcement and provide notice to Members of the date, place, time, and subject matter of any hearings to be conducted on any measure or matter, at least one week in advance of such hearing, unless the Committee Chairman, or Subcommittee Chairman, with the concurrence of the ranking Minority Member, determines that there is good cause to begin such hearing at an earlier date, in which event not less than twenty-four hours notice shall be given.

Rule 9. *Statements of Witnesses at Hearings.*—(a) Each witness who is scheduled to testify at any hearing of the Committee, or any Subcommittee thereof, shall file a written statement of his proposed testimony not later than noon of the last business day preceeding the day on which he is scheduled to appear. At the time of his appearance, he shall supply for the use of the Committee or Subcommittee, 25 copies of his prepared testimony or such greater number as may be requested in the letter of invitation. Except for witnesses from the Federal Government, this rule may be waived with regard to field hearings.

(b) The presiding officer at a hearing may have a witness confine his oral presentation to a summary of his statement.

Rule 10. *Regularly Established Subcommittees.*—The Committee shall have six regularly established Subcommittees as follows:

Subcommittee on Environmental Pollution.

Subcommittee on Nuclear Regulation.

Subcommittee on Water Resources.

Subcommittee on Transportation.

Subcommittee on Toxic Substances and Environmental Oversight.

Subcommittee on Regional and Community Development.

Rule 11. *Subcommittee Membership.*—Following consultation with the Majority Members and the ranking Minority Member of the Committee, the Chairman shall announce selections for membership of the Subcommittees referred to in Rule 10.

Rule. 12. *Environmental Impact Statements.*—No project or legislation proposed by the Administration shall be approved or other action taken on such project or legislation unless the Committee has received a final environmental impact statement relative to it, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1970, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with section 309 of the Clean Air Act. This rule is not intended to broaden, narrow, or otherwise modify the class of projects or legislative proposals for which environmental impact statements are required under section 102(2)(C).

Rule 13. Whenever the Committee authorizes a project, under Public Law 89-298, Rivers and Harbors Act of 1965, Public Law 83-566, Watershed Protection and Flood Prevention Act, or Public Law 86-249, Public Buildings Act of 1959, as amended, the Chairman shall submit for printing in the CONGRESSIONAL RECORD, and the Committee shall publish periodically as a committee print, a report that describes the project and the reasons for its approval, together with any dissenting or individual views.

Rule 14. *Naming of Public Facilities.*—No building, structure or facility authorized by the Committee, shall be named for any living person, except former Presidents or former Vice Presidents of the United States, or former Members of Congress over 70 years of age.

Rule 15. (a) The Committee shall act on all prospectuses for construction (including construction of buildings for lease by the Government), alteration and repair, or acquisition submitted by the General Services Administration in accordance with section 7(a) of the Public Buildings Act of 1959, as amended, and such action shall be completed by the date of May 15 during the same session in which such prospectuses are submitted to Congress. The Committee may consider prospectuses submitted for alterations or repairs necessitated by emergency building conditions at any time during the same session of the Congress in which they are submitted. Prospectuses rejected by majority vote of the Committee or not contained in any bill reported to the Senate shall be returned to the GSA and must then be resubmitted in order to be considered for action by the Committee during the next session of the Congress.

(b) Reports of building projects surveys submitted by the General Services Administration to the Committee under section 11(b) of the Public Buildings Act of 1959, as amended, shall not be considered by the Committee as being prospectuses subject to approval by Committee resolution in accordance with section 7(a) of that Act. Projects described in such survey reports shall be considered for Committee action only if they are submitted as prospectuses in accordance with section 7(a) and they shall be subject to the provisions of subsection (a) of this rule.

(c) Proponents of Committee resolutions shall submit appropriate evidence showing need for review or reports on river and harbor and flood control projects.

Rule 16. *Broadcasting of Hearings.*—Public hearings of the Committee, or any Subcommittee thereof, may be televised or broadcast, or recorded for television or broadcast, upon notification in advance to the Chairman through the Chief Clerk. During public hearings, photographers and other reporters using mechanical recording or filming devices shall position and use their equipment in such fashion as will not interfere with the seating, vision, or hearing of Committee Members or Staff on this dais, nor with the orderly process of the hearing.

Rule 17. *Amendment of Rules.*—The rules may be added to, modified, amended, or suspended by a majority of the Committee Membership.●

HELPING OTHERS TO HELP THEMSELVES

● Mr. DIXON. Mr. President, today I would like to bring to the Senate's attention the story of an individual who stands as a monumental example of the success one can achieve in this country using the ambition and dedication to pursue a goal and getting a simple helping hand from the community.

The story of Barbara Proctor, Mr. President, is a classic rags-to-riches tale that warms my heart and, I believe should restore our confidence in the American free enterprise system and the integrity of American individual spirit.

Today, Barbara Proctor is the president of her own advertising agency, Proctor & Gardner, in Chicago; an agency with $13 million a year in billings and the second largest in the country aiming at the black consumer market. Her clients include Kraft Foods, Sears, Jewel Food Stores, a leading Midwest supermarket chain, and TCB, a hair products division of Alberto Culver.

But to speak only of what Barbara Proctor has achieved tells little of her origins and her valiant struggle to become a success.

Not that Barbara Proctor would want to hide her origins. In fact, she takes great pride and satisfaction in tracing her outstanding achievements and professional integrity to her formative years.

She was raised in poverty in Black Mountain, N.C., by her grandmother; a grandmother who acted as her primary role model, and provided her with the principles and character that gave Ms. Proctor the self-assurance and confidence to know she could do anything she set her mind to do.

These values, established so early in life, have now given Barbara Proctor the opportunity to stand as a role model for others reared in poverty, demonstrating that their lives also can be changed for the better.

Indeed, to talk about Barbara Proctor's material success is to miss her character and integrity as an individual. Is success complete, after all, if it is not tempered by sound principles and compassion.

As the president of her agency, she is honest and forthright about the errors and obligations of her own industry, especially in the way it treats women. She will not accept clients selling cigarettes, liquor, or products she thinks reinforce black stereotypes. In addition, she has committed herself and her agency to donate time and money to at least one charity a month.

Now, Mr. President, many of my colleagues may recall that President Reagan referred to Ms. Proctor in his State of the Union address describing her as a woman "who rose from a ghetto shack to build a multimillion-dollar advertising agency."

She naturally appreciated the plug, but points out that while she was "used" by the President because he stressed her story as part of his emphasis on the need for individual initiative, she could not have gotten her agency off the ground without Government support.

That support was in the form of an $80,000 Small Business Administration loan in 1970, which Ms. Proctor is quick to point out, is increasingly rare under the current administration.

The President has made a good point, one on which this country prides itself; that self-help is a wonderful thing. I think, however, that Barbara Proctor's story also makes a valid point—a little boost for self-help is wonderful too.

Mr. President, Barbara Proctor is indeed an outstanding individual, who, I believe, serves as an example to all Americans who yearn to escape the grip of poverty.

More importantly, however, Barbara Proctor stands as an example to all of us in Congress who seek to promote those ideals to which we adhere strongly. We would do well to remember that there are many Barbara Proctors out there who need only that single helping hand. We should keep that in mind when we address many of those programs that seek to tap into that most valuable of our Nation's resources—our people.●

GEN. "CHAPPIE" JAMES: A PROFILE IN EXCELLENCE

● Mr. DOLE. Mr. President, every once and a while a man comes along with the gift of excellence. We recognize this rare gift because such a person inspires us all, a man of vision and determination who leads by example and is not deterred by long odds or disappointments.

Such a man is the late Gen. Daniel "Chappie" James, a four-star symbol of achievement. His life story is a story for all Americans to emulate.

The Senator from Kansas was a friend of his and so was pleased to receive a profile of "Chappie" by Dick Capen, publisher of the Miami Herald, and a longtime admirer of the man.

The word "hero" is easily tossed about these days, but this Senator suggests that if you read Mr. Capen's article, you will agree that General James was indeed an extraordinary man.

The Senator from Kansas requests that the profile by Mr. Capen be printed in its entirety in the Record.

The article follows:

Excellence: Nobody Cares About Its Color

(By Richard G. Capen, Jr.)

Chappie James was an extraordinary human being. Born in Pensacola and the youngest of 17 children, he fought incredible odds and obstacles to become one of the most dynamic inspirations of our time. He was well known in South Florida, having spoken here frequently during his Air Force career. He also had strong family ties in town. Bob Simms (who recently retired as director of the Community Relations Board) and his wife, Aubrey, are Chappie's in-laws, and Judge Leah Simms, their daughter, is his niece.

General James and I were close friends and colleagues during our respective Pentagon tours in the late 1960s, when I was an assistant to then-Secretary of Defense Melvin Laird. I deeply valued my association with Chappie. Today, his picture and the above quotes from some of his speeches are on display in my office as a constant reminder of his commitment to excellence.

Lamentably, the memory of Chappie James is fading fast. As far as I'm concerned, he should head the list of salutes during Black Heritage Month (which we are currently celebrating). But if the recent past is any pattern, most will overlook the legacy of General James, and that's a disgrace.

As the highest-ranking black in the military, Chappie James walked with Presidents. He served as a key adviser to Cabinet officers, especially Secretary Laird, who quickly became his mentor. He was the first black ever to address the Daughters of the American Revolution in Constitution Hall, and he had them cheering in the aisles. A highly decorated fighter pilot, he flew 179 combat missions in the Korean and Vietnam wars. At 6'4" and 220 pounds, he didn't climb into the plane—he strapped it on.

He plowed through anti-war crowds on college campuses to give patriotic speeches and sang Negro spirituals at black-tie dinners. He was immensely proud to be black, but his personality and energy were so overwhelming that one soon forgot his color.

As a kid, he earned quarters washing planes at a civilian airport near Pensacola. He dreamed of flying—while Navy aircraft thundered over Pensacola. When World War II broke out, he refused to join the Navy, as many local blacks did, because, "I didn't want to wind up as another black cook." Instead, he signed up for the Army Air Corps (later to become the U.S. Air Force) and was assigned to a segregated squadron at Tuskegee, Ala.

His first instructor was Jim Plinton, who later became the first black executive of a major airline and who now lives in Miami as a retired Eastern Airlines officer. "Chappie James was such an imposing figure," Plinton told me, "and yet he could bend his knees, be humble, and have fun. He could be gentle as a lamb and yet as a fighter pilot he was tough as nails."

The "colored" public schools in Pensacola left much to be desired, so Chappie's mother started one of her own. The tuition was 5 cents a week, or whatever you could afford to attend the Lillie A. James School. Mrs. James taught her son the eleventh commandment: "Thou shalt not quit."

General James spoke often about how his mother urged him to prepare for the future. "I was told to eliminate one by one all the reasons some bigot might say I was not capable of standing beside him or deserving of equal opportunity. If he says you are dirty, make sure you are clean. If he says you are dumb, make sure you learn. If he says you are scared, make sure you are brave. And when the door of opportunity finally opens, be prepared with your bags of knowledge, your patriotism, your honor—and then charge in."

Another distinguished Floridian—Reubin Askew—grew up with Chappie James in the same neighborhood. "At least my end of Alcaniz Street was paved and had lights," Florida's former governor recalled. Governor Askew describes General James as one of our country's "authentic heroes. In everything he did, Chappie reflected a deep-seated love of country. He was proud to be black, but he was an American first. He was constantly trying to challenge young people."

Before it was all over, General James had collected more medals, awards, and plaques than all the generals combined. He received a fourth star and capped off his active service with the vital post as commander-in-chief of the North American Air Defense Command (NORAD) at Cheyenne Mountain outside Colorado Springs. He was a driven, committed man who lived life to the fullest. In 1977, he suffered a mild heart attack and was forced to retire for health reasons on February 1, 1978. Twenty-five days later, he was dead.

It has been six years since the voice of Chappie James was silenced. The memory of his record is frozen indelibly in history, and there are a few token monuments that bear his name—a Federal building in Pensacola, a street at Tinker Air Force Base, and an elementary school in Brooklyn. His picture is part of the Smithsonian Air and Space Museum's salute to black aviators. But what about his dynamic spirit? Why has no one chosen to capture that spirit as a living monument of hope?

How can we use General James's legacy as a means to inspire today's young people who, like him, must struggle to overcome handicaps in their own pursuits? We in Florida have a special responsibility in that regard. After all, he was a native son.

Why not a Chappie James Scholarship program to fund college education for deserving blacks? The state already offers a variety of state aid for minorities. Why not elevate its importance and prestige by naming the grants in honor of one of Florida's most inspiring blacks?

Why not establish a statewide Chappie James oratorical contest open to all high-school students? It would be a winner, I'm sure.

Tuskegee Institute is already at work. Chappie's alma mater is completing plans to become the first predominantly black college to offer a bachelor's degree in aerospace engineering. President Reagan has signed a bill authorizing funds to establish the program and erect a building that will be named the General Daniel "Chappie" James Center for Aerospace Science and Health Education. However, Federal funding has been repeatedly delayed, and private contributions are urgently needed.

In the meantime, our community has come together to salute Black Heritage Month with an impressive series of programs ranging from teacher workshops and salutes to black pioneers, to tours and fashion fairs. Among the many local exhibits is a fascinating display at The Herald featuring popular black entertainers. The public exhibit, which will run through Feb. 27, was unveiled last week at a reception here for more than 400 community leaders. It was made possible through the generosity of Clyde Killens, an Overtown businessman.

In my book, though, no celebration of black heritage here—or anywhere else in America—can be considered complete without a salute to Chappie James.

"This is your nation, and don't get so busy practicing your right to dissent that you forget your responsibility to contribute. If she has ills, you hold her hand until she is well and then work for constructive change within the system."

"Don't stop to argue with the ignoramus who calls you nigger. You don't have time. Press on. Perform. Perform. Excel. Excel. And when you drive back by in the limousine of success, that ignoramus will be standing there on the corner wrapped in his hate."

"The power of excellence is overwhelming. It is always in demand, and nobody cares about its color."—Gen. Daniel "Chappie" James USAF (1920-1978).●

PROFESSOR JAFFA'S VIEWS ON THE MIDDLE EAST

● **Mr. EAST.** Mr. President, Prof. Harry V. Jaffa is one of our Nation's outstanding political philosophers. He expresses his views on the Middle East with force and clarity in an article in the Washington Times of February 28, 1984.

I recommend his article to my colleagues and ask that it be printed in the RECORD.

The article follows:

[From the Washington Times, Feb. 28, 1984]

AMERICAN POLICY IN LEBANON—WHAT NEXT?

(By Harry V. Jaffa)

In order to know where we are going, we should first take note of where we have been. American policy went awry in the spring and summer of 1982, when the Israeli defense forces had smashed the Palestine Liberation Organization in Lebanon, and had driven the Syrian forces in the Bekaa Valley in disarray toward Damascus, with the Soviet SAMs destroyed.

Instead of allowing the Israelis to finish the job, we insisted that they withdraw from Beirut. We acted as if they were aggressors, and had not acted in legitimate self-defense of their borders—as indeed they had.

In fact, we behaved toward them as we had toward the British in Greece in 1944, the French in Indo-China in 1954, and the British, French and Israelis in Suez in 1956. We treated the defense of fundamental Western interests from a hypothetical, allegedly impartial, anti-imperialist, point of view. Yet in every case we were later drawn into a vacuum we had ourselves helped to create.

In 1956 we voted in the United Nations on the side of our deadliest enemy, the U.S.S.R., to condemn our friends and allies. We did this, moreover, at a time when the U.S.S.R. was engaged in the bloodiest suppression of political freedom in Eastern Europe since World War II—in Hungary. The American president and secretary of state said we could not contenance a double standard in international relations. As if unilateral actions in defense of their own interests must be accepted when done by totalitarian regimes, but not when done by democratic regimes! When the Israelis crossed the borders into Lebanon in 1982, the official American response was that "force was no solution" to the problem of the security of Israel's northern borders.

But hostile force has threatened Israel's existence from the moment of its birth in 1948. And the successful application of force in its own defense is the only reason for Israel's continued existence. There has never been a moment when the tiny state could await the invasion of its borders to take defense action. Even in the wake of the Six Day War of 1967 those borders have been too narrow.

The assault upon the Gemayel regime which seems now to be upon the point of consummation has no doubt several motives—among them the design for an imperial Syria embracing all of Lebanon, all of Jordan, and all of Israel. But the Syrian initiative is sustained within the Arab world by the grievance against the Lebanese government for its agreement of Sept. 17, 1983, with Israel.

And again, it is not so much the details of that agreement as its implied recognition of Israel as a legitimate state. It was this recognition that earned Anwar Sadat first execration, then assassination. And let us not forget the assassination of Amin Gemayel's brother, Bashir, either. For he was on the point of assuming the presidency of Lebanon—having stated firmly his intention of reaching an agreement with Israel—when he and his entire staff were blown to bits.

The plain truth is that the Arab world will not recognize Israel's right to exist, and that it will not do so in any foreseeable future: except, perhaps, as an extorted concession to superior force. There is not the slightest reason to distinguish "moderate" from nonmoderate, extremist, or whatever, Arab states.

What, then, are our options? We can of course cut and run, abandoning Lebanon to its fate. And that fate—for the moment—is to be partitioned between Israel and Syria However, as the U.S.S.R. continues to pour billions in new armaments into Syria (paid for by the Saudis)—with ever larger numbers of Soviet "instructors" manning the ever more complicated weapons systems—a military showdown with Israel must come. We may, moreover, be reasonably sure that if there is any prospect of Syrian victory, Egypt will join the ranks of the vultures.

Another alternative is that we land several crack divisions in Lebanon, and take direct military control of the ground, installing the Gemayel (or some other) government that meets our political requirements. From the point of view of the future security of our alliances—and of our own security—this is undoubtedly the best choice. But it is also the one choice that will never be chosen, or even seriously considered. The cry of "No more Vietnams" would drown out all reason. And, we must add, not without reason! For no attempt, worthy of the name, has been made to educate the public in the strategic arguments that would support such a policy.

But the third, and final option is to attempt to restore the shattered morale of the state of Israel, with unstinting economic and military aid, and to somehow assist in bringing back the political combination represented in 1982 by Menachem Begin and Ariel Sharon. Mr. Begin, it would seem, is forever gone from political life. But Gen. Sharon is not. If Israel waits until the Syrian position in Lebanon is consolidated, and until the U.S.S.R. has poured in every last gun, bomb, plane, tank, mortar and SAM that it can cram into that country, it may have waited too long. The U.S.S.R. has never forgotten how Israel—America's client state—defeated Syria—the U.S.S.R.'s client state—in 1982. Nor has it forgotten the worldwide assessment of the superiority of American weapons to Soviet weapons. It is itching to have the world reverse that assessment.

It may sound strange to say that it must be our policy to have Israel attack Syria at the earliest convenient moment. I do not suggest that anyone in authority should announce that policy. But the public mind must be prepared for it. And the policy itself must be pursued. We cannot abandon Lebanon—or Israel—or the Middle East to Soviet imperial domination. For that is what a Syrian victory over Israel would mean in the end. We will not do the necessary dirty military task ourselves. There is no fourth option: Let the Israelis do the dirty work. Dirty it is, but there is nothing dirtier than the failure to survive. The nation that represents the survivors—and the non-survivors—of the Holocaust knows that.

One delusion there is, however, that is absolutely fatal: That is the delusion that—with the exception of Israel—there are parties and governments that can negotiate reasonable compromises.

The Arab world is ungovernable except by force. The only apparent exception to naked authoritarianism in the Arab world is—or was—Lebanon. The fate of Lebanon marks the fate of any democracy in the Arab world. Israel is hated as much for being democratic as for being Jewish. If Israel disappeared tomorrow, the hatred of Iraq for Syria would remain; and the hate of Syria for Jordan would remain. And the war between Iran and Iraq would go on. The internecine slaughter of the religious denominations seems to be limited only by the supply of victims.

Israel is, among other things, an island of religious freedom in the Middle East. Israel is so far from being the cause of the disarray in the Middle East that it is the only basis of such stability as there is. At the very least, it moderates the hatreds among the Arabs themselves.

It is not the policy in Lebanon that has failed. What has failed is the fantasy that has deluded the Reagan administration for so long, the fantasy represented by the AWACS deal—the fantasy of building an anti-Soviet barrier by means of "moderate" Arab states.

Let us be done with that, and all other fantasies, once and for all.●

U.S. IMMIGRATION POLICY AND THE NATIONAL INTEREST

● **Mr. HUDDLESTON.** Mr. President, as one who has worked for immigration reform for years, I am always pleased to learn of new efforts that focus on this extremely important problem. In the fall of 1983, the Center for Strategic and International Studies (CSIS) at Georgetown University launched an immigration policy project to study U.S. immigration policy as it relates to national security and other related matters. CSIS is highly respected for the outstanding work it had done in the past, and I am confident that it will bring a new and valuable perspective to the immigration debate.

The CSIS immigration policy project recently released an excellent paper prepared by Dr. Georges Fauriol, director of the project, entitled "U.S.

Immigration Policy and the National Interest."

I highly recommend this paper, and I ask that an executive summary of it be printed in the RECORD.

The summary follows:

JANUARY 1984.

U.S. IMMIGRATION POLICY AND THE NATIONAL INTEREST

IMMIGRATION POLICY PAPER NO. 2—EXECUTIVE SUMMARY

The Problem

1. The need for immigration policy reform should be recognized, and this reform be carried out within the parameters of the national interest of the United States. The security of the United States has suffered in the past as a result of the government's impotency in the face of massive illegal immigration, and it will continue to suffer as increasingly the situation worsens. Employment levels, domestic political cohesion, national resources, and the global standing of the United States can all be adversely affected by the current state of U.S. immigration policy. If these dangers are not addressed soon, there is a real possibility that relative government inaction will be followed by public overreaction.

2. Opposition to "open borders," or support for immigration reform, has for too long been erroneously characterized as representative of a return to "nativism," of an emerging racism. This has led to an unwillingness to examine the more serious and important aspects of U.S. immigration policy. The long-run implications of our current "head in the sand" attitude about maintaining de-facto open borders are serious. They go to the heart of our security as a nation, our domestic political unity, our economic prosperity, and our role in the international system.

3. The international push factors generating illicit and illegal immigration are some of the most powerful contemporary factors in international affairs. Thus, the context in which traditional or historical migration to the United States has occurred is no longer relevant to the current global situation—the myths of the past must be discarded for the realities of the present.

First, U.S. international economic policy, and success in competing overseas, will depend in large part upon increases in U.S. economic productivity, including a highly trained work force, and increased business investment. Immigration, both legal and illegal, may in the future create a permanent underclass of unskilled workers, many of whom will remain unemployed. This could require high levels of transfer payments to maintain the population, resulting in continued high budget deficits as taxes paid are foregone and benefits provided by law are paid out.

Second, there is a concern that the growing use of racial or ethnic political power blocs in the United States will foster a divisiveness within American society. Since the 1970s, for example, biilingualism has become a highly visible public agenda in schools, governments, and media. Its relationship with present trends of large migration flows of people from Spanish-speaking countries is obvious. Ethnic power group manipulation of U.S. foreign policy is nothing new. But the question still needs to be asked, if only to assure ourselves of a positive or negative answer. Will a nation divided along ethnic or linguistic lines be a united nation, able to carry on a bipartisan and consistent foreign policy?

Finally, uncontrolled immigration is resulting in foreign countries' use of migration as a foreign policy weapon. Cuba and Vietnam, most notably, have sent their political dissidents, criminals, and subversives to the United States in the knowledge that the U.S. Government is currently unable to control immigration into this country. Furthermore, hostile governments are patently aware of the destabilizing effects such influxes may have on the recipient countries, thereby enabling them to create a massive liability for their opposition.

The new migration: The population bomb rediscovered

The Brandt Commission and the Global 2000 report have warned of the growing incompatibility between increased numbers of people, the supporting natural resource base, and environmental deterioration. Endemic poverty, historically unprecendented levels of unemployment, and related political and civil unrest are emerging as major world forces, with massive international migration a prominent result. The annual growth in the populations of the Third World nations from which illegal and legal immigrants are coming has not receded—in fact, the annual increase in both overall population and the labor force has continued to increase in gross numbers throughout this period. For example, the region of Central America and the Caribbean as well as South America is adding 4½ million people to its labor force every year. Though the region's GNP is only one-third that of the United States, it adds twice as many workers to its working age population every year.

Furthermore, there is undisputed evidence that the flow of both legal and illegal immigration, including border crossings and overstays, is increasing dramatically. For example, twenty years ago, the total number of apprehended aliens seeking admission to the United States was under 40 thousand per year. By 1970, that number had grown to in excess of 1.3 million. It is indicative of the unfortunate state of current U.S. immigration policy that the number of agents on duty at any one time actively seeking to stop illegal migration has gone up marginally throughout this same period.

Legal immigration has continued to grow as well, with Mexican migration more than doubling from 70,000 in 1973 to 150,000 in 1983. Overall legal immigration reached the 800 thousand mark in 1980, and has since topped 600,000 in each of the following years, a fifty percent increase over the average increase in population attributed to immigration for the decade of the 1970s.

The massive impact immigration can have on the ultimate size of the U.S. population can be seen when projected out to the year 2080, a century hence: without immigration exceeding emigration the U.S. population would be about 250 million and declining; with immigration at 2 million a year, the population would be 558 million and growing rapidly.

National Political Cohesion

There are unique dimensions to current immigration that have the potential to complicate considerably the political cohesion of the country. Illegal immigration, by virtue of its current size, and because of its concentration among the Hispanic population, is leading to three fundamental points of friction within American society.

First, the push for bi-lingual education has centered on the interest and needs of the Hispanic population in the United States. This issue raises a much broader issue. As columnist and political commentator Tom Braden has written: "Do we want a country unified by a common tongue? Or do we want a country made separate but equal by having to deal in two?"

Second, there is increasing recognition of the potential political clout of the Hispanic population. Clearly, this is simply democracy at work. But to the extent to which this political clout is fueled by open ended illegal immigration, sovereignty over U.S. borders can conceivably be influenced by the political expediency of ethnic politics.

Third, because political representation and the disbursement of substantial amounts of federal funds is based upon population, the 1980 Census made major efforts to include illegal immigrants. To the extent that illegal immigrants increase the population of any particular state, their relative political representation is increased, as is the receipt of federal dollars by states. This suggests a skewed system where there might be little incentive for states to work against the inclusion of illegal immigrants or for the reform of immigration statutes if by the presence of large numbers of illegal immigrants they gain in tax revenues and political clout.

The viability of the nation depends upon an informed electorate and the absence of deep cultural or lingual divisions among its people.

Immigration and Employment: Disquieting Trends

Immigration has become a complicating factor in American economic life: although 2 million new jobs were created each year during the 1970s, half of them went to legal and illegal immigrants; at the same time, unemployment among Hispanics, blacks, teenagers, and women climed to between 12 and 22 percent.

There is much convincing evidence that illegal immigrants are holding jobs which many Americans would gladly take. For example:

In one survey in Chicago, illegal immigrants were found to average $9,000 a year, while in Denver the average wage was over $13,000. These people work in "electronics and plastic companies, foundries, meat packing plants, rubber products manufacturers, snack food and candy producers and the like" attests John Crewdson of the New York Times.

One-third of all the workers in commercial construction in Houston have been found to be illegally employed, earning from between $4 and $9.50 an hour, or up to $20,000 annually.

If but 2 million workers are displaced, the annual cost (in transfer payments alone) is estimated to be $14 billion. If indeed up to 3¼ percentage points of our national unemployment rate stems from the presence of illegal immigration, then much of the immigration debate appears shallow and beside the point—if any other single factor in American society could be identified with unemployment of such magnitude, it would be at the top of the national policy agenda.

Free lunch mythology: Taxes and immigration

Recent evidence strongly suggests that the extent of the use of transfer payment services is far greater than was previously assumed. First, displaced American workers cost the U.S. Treasury substantial amounts of revenue, both in lost taxes and transfer payment benefits. Second, a certain percentage of illegal immigrant workers work completely off the books and avoid paying taxes altogether. Third, to the extent that illegal immigrant workers are paid below the minimum wage, tax receipts that are collected are reduced. Fourth, a certain percentage of the income of illegal immigrants is sent to their native lands, which results in a reduction in purchases and spending in the United States and consequently, a further reduction in tax revenues. Finally, many illegal immigrant workers have been found to file fraudulent tax returns, claiming dependents in excess of the number allowed and receiving refunds when taxes are already underpaid.

Illegal immigrants incur other costs to society as well. For example:

Health care costs are escalating as illegal immigrants bear children in U.S. hospitals: in 1981, 81 percent of all children born in Denver were to illegal aliens; the total for Los Angeles County was 67 percent. The total number of children born to illegal aliens in 1981, estimated from these figures, totals 27,000. The associated health care amounts to nearly $50 million.

In Florida, following the enormous influx of Cuban and Haitian refugees, it was estimated that fully 40 percent of the crime in the area could be attributed to the influx; $500 million annually from the State of Florida's social service budget was devoted solely to the social needs of the massive influx. The cost of 130,000 Haitian and Cuban refugees for fiscal year 1980-82 has been put at $1.117 billion, including education, food stamps, public health and entitlements. This is over three times the entire amount the United States spent for immigration law enforcement that same year.

For every 1 million Americans that are unemployed, it costs the Federal Government nearly $25 billion in lost tax revenues, lost economic activity, and increased expenditures for such things as unemployment compensation, food stamps, and welfare. With only three million illegal immigrants considered employed in positions which could eventually be opened up to unemployed Americans, the cost to the American taxpayers would be $75 billion. Professor Donald Huddle of Rice University estimated that for every 100 illegal immigrants in the United States employed, 70 U.S. workers are displaced. Every displaced U.S. worker costs $7,000 in transfer or support payments.

U.S. foreign policy, national security and the new immigration

1. Immigration policy is an important component of foreign policy, although it is not generally viewed as such. As the success or failure of a nation's foreign policy depends to a large extent on its ability to project a purposeful international presence, the United States cannot afford to have its image distorted or tarnished by perceptions of an irresponsible and ineffective immigration policy.

2. The issues of immigration and refugee policies have acted as substantial destabilizing forces in the already precarious North-South relationship. Poverty, hunger, unemployment and illiteracy remain serious problems, primarily as a result of an explosive growth in population far beyond the capacity of the Third World nations to handle. Add to this archaic political institutions, external ideological influences, and a poor natural resource base, and the ingredients for turmoil and civil conflict are abundent.

3. Uncontrolled immigration may be undermining U.S. foreign policy in three critical areas: (1) the inability of the United States to control its national borders directly weakens its national security; (2) the failure of the United States to adopt an enforceable immigration policy is leaving it open to international coercion; and (3) tragically, the traditional ability of the United States to provide a haven for victims of political oppression is impaired by the massive trend in illegal immigration, the bulk of which is seeking to improve its economic status. (There lies a crucial distinction between refugees and immigrants, between the victims of political oppression and the victims, or escapees from, economic circumstances.) The foreign policy of the United States requires that this country be able to extend to those politically persecuted a safe haven. This is a traditional and humanitarian aspect of U.S. policy which most Americans associate with the best aspects of U.S. society. In order to preserve this essential aspect, however, there is a need to maintain a foreign policy which has as one of its objectives "the protection of its frontiers from excessive illegal immigration."

4. The national security of this country implies an ability to control national borders, the maintenance of an independent foreign policy, a prosperous economy and a cohesive domestic political environment. Uncontrolled migration is undermining this strength. Its impact, because of its sheer numbers and because of its illegality, affects the very fabric of American society: cultural, political and linguistic unity; economic well-being; and international standing; and thus fundamentally, the nation's security.●

JEWS OF SYRIA

● Mr. **LAUTENBERG**. Mr. President, even against the backdrop of general tension in the Middle East and continued turmoil and death in Lebanon, there are specific cases of brutality and violations of basic human rights that command our attention. Senate Concurrent Resolution 94, relating to the rights of Jews in Syria, addresses such an instance. I am pleased to join in cosponsoring this resolution.

Senate Concurrent Resolution 94 expresses the sense of the Congress that President Assad of Syria should immediately permit all members of the Syrian Jewish Community to emigrate from Syria. This resolution expresses the outrage all of us feel at the historic mistreatment, systematic restrictions on travel, discrimination in employment, and patterns of violence visited on the Jews of Syria. Most recent in the appalling and brutal, but yet unprosecuted, murder of a Jewish mother, Lillian Adabi, and her two young children in Aleppo on December 28, 1983.

With regard to human rights, there are few international norms not already broken by the authoritarian government in Syria which is committed to brutal repression of dissent, subversion of its neighbors and clear support for terrorists of every kind. The discrimination and harassment facing the more than 4,000 Jews in Syria, including restrictions on travel abroad and an official ban on emigration, are part of what can only be described as a consistent pattern of gross violations of basic human rights.

We have recognized this horrible record in Syria, Mr. President, for years. In September 1983, the Senate voted to deobligate any U.S. aid funds that were still authorized for Syria, about $130 million in all. We voted to add Syria to the so-called terrorism list, which compels U.S. representatives to insure that U.S. Government contributions to international organizations will not be used in Syria.

Now is the time for the Senate to go on record again in defense of the human rights of the Jews in Syria. We must continue to press for improvements in the record of the ruthless Assad regime. The recent murders in Aleppo must be investigated. Those responsible must be punished. Observance of the basic right of all people to emigrate can bring immediate relief to those families that wish to leave.

I commend Senate Concurrent Resolution 94 to my colleagues and urge its prompt consideration by the Senate.●

TURKEY—AMERICA'S CRITICAL ALLY AGAINST DRUGS

● Mrs. **HAWKINS**. Mr. President, the Committee on Foreign Relations has begun hearings on the administration's foreign aid proposal for fiscal year 1985. A vital component of that request concerns economic and military assistance to Turkey. Such funds will be among the very finest investments the United States can make in its own security, and I applaud the President for placing Turkey on such a high priority status.

Turkey stands at the gateway between Europe, Asia, and Africa. All natural routes—land, sea, and air—between the strategically crucial areas of these continents lead across Turkey, making her a hub of supreme significance. As such, Turkey plays a vital role in the containment of Warsaw Pact forces. In addition, she acts as a insulator between the Soviet Union and the petroleum rich Middle Eastern States.

Turkey is the easternmost bastion of NATO's defense capability. Apart from Norway, whose border with the Soviet Union runs 12 miles, Turkey is the only NATO ally to have a common boundary with the U.S.S.R. In Turkey's case, however, the border measures 300 miles on land and 900 miles along the Black Sea. For centuries, Turkey has been a barrier to Russian expansionism. The czars of Russia successfully extended their rule to the east. The Communists of Russia aggrandized power to the west. Neither could move south to subjugate Turkey.

Today, Turkey is responsible for the defense of two vital operational areas in NATO's southern flank: The Balkanic and Caucasian approaches to the Bosphorus Straits. The straits stand between the Black Sea, which is home to a huge Soviet fleet, and the Mediterranean. As in the past, Turkey contains Russia's capacity to expand to the south.

Turkey's armed forces comprise some 700,000 active duty troops. Next to the United States, this is the largest concentration of forces in NATO. Their courage and ferocity are legendary. Turkish troops occupy the attention of numerous Soviet and Warsaw Pact divisions. Were Turkey not in the military equation, a redeployment of these forces against other NATO targets would ominously shift the balance of power in Europe.

Nevertheless, the Turkish armed forces badly require modernization. Indeed, Gen. Bernard Rogers, NATO's top commander, has put Turkey's minimum military assistance needs at $1 billion annually. The massive obsolescence of the Turkish Air Force is the main focus of the modernization program, although many other areas also need upgrading.

In response, the administration has required $755 million in military assistance for Turkey. Because a strong Turkey contributes so clearly to our own security, I reiterate that these funds are a good investment for our people. It is critical that the modernization program be completed with all deliberate speed. Accordingly, I will press in committee and on the floor that the full amount of the President's request be authorized.

Turkey's critical defense relationship with the United States must continue to have high priority for our military preparedness. We must also do all we can to continue helping Turkey with its successful efforts to control opium cultivation and to assist the United States in drug intelligence gathering.

Recently with my colleague Senator ABDNOR, I visited Turkey and met with the then Prime Minister-elect Ozal, Prime Minister Ulusu, and Foreign Minister Turkmin. Our Turkish hosts expressed their belief in continued aggressive drug enforcement and the hope the United States would continue to provide additional customs and drug enforcement training.

We were very much encouraged by the Government of Turkey's efforts to stockpile and safeguard illegal opiates and to dedicate a significant proportion of their law enforcement agencies in every province to specialized narcotics enforcement. To date, the Government has stockpiled nearly 70,000 tons of poppy capsules, with 49,000 tons buried in the ground. Among the 78,000 officers in the Turkish National Police (TNP) more than 1,000 are dedicated to drug enforcement. The Government firmly agrees that terrorists are financed through narcotic profits and, through its very thorough drug enforcement capability, it is contributing to the war on terrorism.

Legal opiates produced in Turkey are strictly regulated and controlled by the Turkish Government. Because of this careful oversight, diversion from processing in Turkey is nonexistent and excess planting by licensed farmers is rare. The Turkish success is possible only due to the strong commitment of Turkey's leaders and its commitment of extensive financial resources and personnel.

When I returned from Turkey in November, I was deeply impressed by the obvious human concern and strong stand that the Government of Turkey has made to ending the savage and lethal traffic in narcotics. Drug abuse is not only a problem on American shores but it is a worldwide poison among all countries that produce or traffic in illegal drugs. The United States must continue to maintain this partnership with Turkey to once and for all win the war against drugs.

All the American investments we have in Turkey, economic, military, and on behalf of drug enforcement, will pay very high dividends to our own country. I strongly urge my colleagues in the Senate to join me in continuing to give our investment in Turkey the highest possible priority.●

RULES OF PROCEDURE FOR THE SELECT COMMITTEE ON INTELLIGENCE

● Mr. GOLDWATER. Mr. President, I submit for the RECORD the Rules of Procedure for the Select Committee on Intelligence.

The rules follow:

RULES OF PROCEDURE

RULE 1. CONVENING OF MEETINGS

1.1 The regular meeting day of the Select Committee on Intelligence for the transaction of committee business shall be every other Wednesday of each month, unless otherwise directed by the chairman.

1.2 The chairman shall have authority, upon proper notice, to call such additional meetings of the committee as he may deem necessary and may delegate such authority to any other member of the committee.

1.3 A special meeting of the committee may be called at any time upon the written request of five or more members of the committee filed with the clerk of the committee.

1.4 In the case of any meeting of the committee, other than a regularly scheduled meeting, the clerk of the committee shall notify every member of the committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, D.C., and at least 48 hours in the case of any meeting held outside Washington, D.C.

1.5 If five members of the committee have made a request in writing to the chairman to call a meeting of the committee, and the chairman fails to call such a meeting within seven calendar days thereafter, including the day on which the written notice is submitted, these members may call a meeting by filing a written notice with the clerk of the committee who shall promptly notify each member of the committee in writing of the date and time of the meeting.

RULE 2. MEETING PROCEDURES

2.1 Meetings of the committee shall be open to the public except as provided in Senate Resolution 9, 94th Congress, 1st session.

2.2 It shall be the duty of the staff director to keep or cause to be kept a record of all committee proceedings.

2.3 The chairman of the committee, or if the chairman is not present the vice chairman, shall preside over all meetings of the committee. In the absence of the chairman and the vice chairman at any meeting the ranking majority member, or if no majority member is present the ranking minority member present shall preside.

2.4 Except as otherwise provided in these rules, decisions of the committee shall be by majority vote of the members present and voting. A quorum for the transaction of committee business, including the conduct of executive sessions, shall consist of five committee members, except that for the purpose of hearing witnesses, taking sworn testimony, and receiving evidence under oath, a quorum may consist of one Senator.

2.5 A vote by any member of the committee with respect to any measure or matter being considered by the committee may be cast by proxy if the proxy authorization (1) is in writing; (2) designates the member of the committee who is to exercise the proxy; and (3) is limited to a specific measure or matter and any amendments pertaining thereto. Proxies shall not be considered for the establishment of a quorum.

2.6 Whenever the committee by roll call vote reports any measure or matter, the report of the committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the committee.

RULE 3. SUBCOMMITTEES

Creation of subcommittees shall be by majority vote of the committee. Subcommittees shall deal with such legislation and oversight of programs and policies as the committee may direct. The subcommittees shall be governed by the rules of the committee and by such other rules they may adopt which are consistent with the rules of the committee.

RULE 4. REPORTING OF MEASURES OR RECOMMENDATIONS

4.1 No measures or recommendations shall be reported, favorably or unfavorably, from the committee unless a majority of the committee is actually present and a majority concur.

4.2 In any case in which the committee is unable to reach a unanimous decision, separate views or reports may be presented by any member or members of the committee.

4.3 A member of the committee who gives notice of his intention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than three working days in which to file such views, in writing with the clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report.

RULE 5. NOMINATIONS

5.1 Unless otherwise ordered by the committee, nominations referred to the committee shall be held for at least 14 days before being voted on by the committee.

5.2 Each member of the committee shall be promptly furnished a copy of all nominations referred to the committee.

5.3 Nominees who are invited to appear before the committee shall be heard in public session, except as provided in rule 2.1.

5.4 No confirmation hearing shall be held sooner than seven days after receipt of the background and financial disclosure statement unless the time limit is waived by a majority vote of the committee.

5.5 The committee vote on the confirmation shall not be sooner than 48 hours after the committee has received transcripts of the confirmation hearing unless the time limit is waived by unanimous consent of the committee.

5.6 No nomination shall be reported to the Senate unless the nominee has filed a background and financial disclosure statement with the committee.

RULE 6. INVESTIGATIONS

No investigation shall be initiated by the committee unless at least five members of the committee have specifically requested the chairman or the vice chairman to authorize such an investigation. Authorized investigations may be conducted by members of the committee and/or by designated committee staff members.

RULE 7. SUBPENAS

Subpenas authorized by the committee for the attendance of witnesses or the production of memoranda, documents, records or any other material may be issued by the chairman, the vice chairman, or any member of the committee designated by the chairman, and may be served by any person designated by the chairman, vice chairman or member issuing the subpenas. Each subpena shall have attached thereto a copy of Senate Resolution 400, 94th Congress, 2d session, and a copy of these rules.

RULE 8. PROCEDURES RELATED TO THE TAKING OF TESTIMONY

8.1 *Notice.*—Witnesses required to appear before the committee shall be given reasonable notice and all witnesses shall be furnished a copy of these Rules.

8.2 *Oath or affirmation.*—Testimony of witnesses shall be given under oath or affirmation which may be administered by any member of the committee.

8.3 *Interrogation.*—Committee interrogation shall be conducted by members of the committee and such committee staff as are authorized by the chairman, vice chairman, or the presiding member.

8.4 *Counsel for the witness.*—(a) Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may inform the committee of such fact. If the witness informs the committee of this fact at least 24 hours prior to his appearance before the committee the committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain such counsel will not excuse the witness from appearing and testifying.

(b) Counsel shall conduct themselves in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members present, subject such counsel to disciplinary action which may include warning, censure, removal, or a recommendation of contempt proceedings.

(c) There shall be no direct or cross-examination by counsel. However, counsel may submit in writing any question he wishes propounded to his client or to any other witness and may, at the conclusion of his client's testimony, suggest the presentation of other evidence or the calling of other witnesses. The committee may use such questions and dispose of such suggestions as it deems appropriate.

8.5 *Statements by Witnesses.*—A witness may make a statement which shall be brief and relevant, at the beginning and conclusion of his testimony. Such statements shall not exceed a reasonable period of time as determined by the chairman, or other presiding member. Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy with the clerk of the committee, and insofar as practicable and consistent with the notice given, shall do so at least 72 hours in advance of his appearance before the committee.

8.6 *Objections and Rulings.*—Any objection raised by a witness or counsel shall be ruled upon by the chairman or other presiding member, and such ruling shall be the ruling of the committee unless a majority of the committee present overrules the ruling of the chair.

8.7 *Inspection and Correction.*—All witnesses testifying before the committee shall be given a reasonable opportunity to inspect, in the office of the committee, the transcript of their testimony to determine whether such testimony was correctly transcribed. The witness may be accompanied by counsel. Any corrections the witness desires to make in the transcript shall be submitted in writing to the committee within 5 days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of a public record shall be made available to that witness at his expense.

8.8 *Requests to Testify.*—The committee will consider requests to testify on any matter or measure pending before the committee. A person who believes that testimony or other evidence presented at a public hearing, or any comment made by a committee member or a member of the committee staff may tend to affect adversely his reputation, may request to appear personally before the committee to testify on his own behalf, or may file a sworn statement of facts relevant to the testimony, evidence, or comment, or may submit to the chairman proposed questions in writing for the cross-examination of other witnesses. The committee shall take such action as it deems appropriate.

8.9 *Contempt Procedures.*—No recommendation that a person be cited for contempt of Congress shall be forwarded to the Senate unless and until the committee has, upon notice to all its members, met and considered the alleged contempt, afforded the person an opportunity to state in writing or in person why he should not be held in contempt, and agreed, by majority vote of the committee to forward such recommendation to the Senate.

8.10 *Release of Name of Witness.*—Unless authorized by the chairman, the name of any witness scheduled to be heard by the committee shall not be released prior to, or after, his appearance before the committee.

RULE 9. PROCEDURES FOR HANDLING CLASSIFIED OR SENSITIVE MATERIAL

9.1 Committee staff offices shall operate under strict security precautions. At least one security guard shall be on duty at all times by the entrance to control entry. Before entering the office all persons shall identify themselves.

9.2 Sensitive or classified documents and material shall be segregated in a secure storage area. They may be examined only at secure reading facilities. Copying, duplicating, or removal from the committee offices of such documents and other materials is prohibited except as is necessary for use in, or preparation for, interviews or committee meetings, including the taking of testimony, and in conformity with Section 10.3 hereof.

9.3 Each member of the committee shall at all times have access to all papers and other material received from any source. The staff director shall be responsibile for the maintenance, under appropriate security procedures, of a registry which will number and identify all classified papers and other classified materials in the possession of the committee, and such registry shall be available to any member of the committee.

9.4 Whenever the Select Committee on Intelligence makes classified material available to any other committee of the Senate or to any member of the Senate not a member of the committee, the clerk of the committee shall be notified. The clerk of the committee shall maintain a written record identifying the particular information transmitted and the committee or members of the Senate receiving such information.

9.5 Access to classified information supplied to the committee shall be limited to those committee staff members with appropriate security clearances and a need-to-know, as determined by the committee, and under the committee's direction, the staff director and minority staff director.

9.6 No member of the committee or of the committee staff shall disclose, in whole or in part or by way of summary, to any person not a member of the committee or the committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the committee in executive session including the name of any witness who appeared or was called to appear before the committee in executive session, or the contents of any papers or other materials or other information received by the committee except as authorized by the committee in accordance with section 8 of Senate Resolution 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the committee, in such a manner as may be determined by the Senate.

9.7 Before the committee makes any decision regarding the disposition of any testimony, papers, or other materials presented to it, the committee members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the members of the committee or the committee staff.

RULE 10. STAFF

10.1 For the purpose of these rules, committee staff means employees of the committee, employees of the members of the committee assigned to the committee, consultants to the committee, employees of other government agencies detailed to the committee, or any other person engaged by contract or otherwise to perform services for or at the request of the committee.

10.2 The appointment of committee staff shall be confirmed by a majority vote of the committee. After confirmation, the chairman shall certify committee staff appointments to the financial clerk of the Senate in writing.

10.3 The committee staff works for the committee as a whole, under the general supervision of the chairman and vice chairman of the committee. Except as otherwise provided by the committee, the duties of committee staff shall be performed, and committee staff personnel affairs and day-to-day operations, including security and control of classified documents and material, shall be administered under the direct supervision and control of the staff director. The minority staff director and the minority counsel shall be kept fully informed regarding all matters and shall have access to all material in the files of the committee.

10.4 The committee staff shall assist the minority as fully as the majority in the expression of minority views, including assistance in the preparation and filing of additional, separate and minority views, to the end that all points of view may be fully considered by the committee and the Senate.

10.5 The members of the committee staff shall not discuss either the substance or procedure of the work of the committee with any person not a member of the committee or the committee staff for any purpose or in connection with any proceeding, judicial, or otherwise, either during his tenure as a member of the committee staff or at any time thereafter except as directed by the committee in accordance with section 8 of Senate Resolution 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the committee, in such a manner as may be determined by the Senate.

10.6 No member of the committee staff shall be employed by the committee unless and until such a member of the committee staff agrees in writing, as a condition of employment to abide by the conditions of the nondisclosure agreement promulgated by the Senate Select Committee on Intelligence pursuant to section 6 of Senate Resolution 400 of the 94th Congress, 2d Session.

10.7 No member of the committee staff shall be employed by the committee unless and until such a member of the committee staff agrees in writing, as a condition of employment, to notify the committee or in the event of the committee's termination the Senate of any request for his testimony, either during his tenure as a member of the committee staff or at any time thereafter with respect to information which came into his possession by virtue of his position as a member of the committee staff. Such information shall not be disclosed in response to such requests except as directed by the committee in accordance with section 8 of Senate Resolution 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the committee, in such manner as may be determined by the Senate.

10.8 The committee shall immediately consider action to be taken in the case of any member of the committee staff who fails to conform to any of these rules. Such disciplinary action may include, but shall not be limited to, immediate dismissal from the committee staff.

RULE 11. PREPARATION FOR COMMITTEE MEETINGS

11.1 Under direction of the chairman and the vice chairman, designated committee staff members shall brief members of the committee at a time sufficiently prior to any committee meeting to assist the committee members in preparation for such meeting and to determine any matter which the committee member might wish considered during the meeting. Such briefing shall, at the request of a member, include a list of all pertinent papers and other materials that have been obtained by the committee that bear on matters to be considered at the meeting.

11.2 The staff member shall recommend to the chairman and the vice chairman the testimony, papers, and other materials to be presented to the committee at any meeting. The determination whether such testimony, papers, and other materials shall be presented in open or executive session shall be made pursuant to the rules of the Senate and rules of the committee.

RULE 12. LEGISLATIVE CALENDAR

12.1 The clerk of the committee shall maintain a printed calendar for the information of each committee member showing the measures introduced and referred to the committee and the status of such measures; nominations referred to the committee and their status; and such other matters as the committee determines shall be included. The calendar shall be revised from time to time to show pertinent changes. A copy of each such revision shall be furnished to each member of the committee.

12.2 Unless otherwise ordered, measures referred to the committee shall be referred by the clerk of the committee to the appropriate department or agency of the Government for reports thereon.

RULE 13. COMMITTEE TRAVEL

13.1 No member of the committee or committee staff shall travel abroad on committee business unless specifically authorized by the chairman and vice chairman. Requests for authorization of such travel shall state the purpose and extent of the trip. A full report shall be filed with the committee when travel is completed.

13.2 When the chairman and the vice chairman approve the foreign travel of a member of the committee staff not accompanying a member of the committee, all members of the committee are to be advised, prior to the commencement of such travel, of its extent, nature and purpose. The report referred to in rule 13.1 shall be furnished to all members of the committee and shall not be otherwise disseminated without the express authorization of the committee pursuant to the rules of the committee.

13.3 No member of the committee staff shall travel within this country on committee business unless specifically authorized by the staff director as directed by the committee.

RULE 14. CHANGES IN RULES

These rules may be modified, amended, or repealed by the committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken.●

THE BUDGET DEFICIT

● Mr. SYMMS. Mr. President, the media has finally discovered the Federal budget deficit. Now, you will see the subject of the monster deficit on the cover of Time magazine and lengthy editorials in the pages of the New York Times. What you will not see is the slightest understanding of what the deficit means.

With the Federal Government eating up about one quarter of the national wealth, it is surprising that few in the national media are focusing-on spending as the problem. Instead, all we hear about is the deficit. We could, of course, balance the budget overnight by raising enough taxes to match expenditures. And you could be certain that such a move would bankrupt thousands of businesses and put millions of workers on the streets in short order.

Of course, the deficit causes severe economic disruption and fluctuations. But the deficit itself is not the cause of our woes: It is the failure of Congress to address overspending. As a result, long-term capital markets are nonexistent and the recent recovery is gravely threatened. I promise my colleagues that if they do not address the problem of excessive Government spending, your children will know a far different world than you live in today. It will not be pretty.

Mr. President, I ask that the following editorial by William F. Buckley, Jr., be printed in the RECORD.

The editorial follows:

ARE WE UNDERTAXED?

(By William F. Buckley, Jr.)

My brother George Will is sometimes tempted by the opportunity to commit heterodoxy, a temptation I am familiar with, though more often I am overcome by the exotic temptation to commit orthodoxy. I refer most conspicuously to his oft-quoted statement that we are an "undertaxed" nation. Of course one must make way for personal predilections: the skinny man who says we are a nation of overeaters, the regular jogger who says we are a nation of flabby muscle fiber. On the other hand, it is pleasant to hear the statement made by someone who would stand to lose from its being taken seriously.

During the Second World War, at a time when taxation reached as much as 90 percent and it was routine to expect Americans to give their lives, never mind their earnings, to the war effort, we were paying an aggregate tax of 29 percent of our gross national product. The figure today is 39 percent.

There are those—Friedrich Hayek, for instance, whose book ("The Constitution of Liberty") George Will once said he would hope American legislators would read if they were reduced to reading only a single volume—who profoundly believe that the progressive income tax is both immoral and subversive of democracy. But never mind that, for the moment. We should inquire into its usefulness.

Although the rate of taxation grew steadily until the third of President Reagan's tax clips, beginning in July of last year, the tax base did not. This is so because an estimated $700 billion to $900 billion is deployed not with reference to productivity but with reference to tax exposure. If taxes were 25 percent rather than 50 percent—or 70 percent, as they were until recently—people would agitate less to decrease their taxable income than to increase their gross income. And this is to say nothing of the growing number of people who contrive to pay no tax at all.

There is a direct correlation between high taxation and tax evasion. They speak of anywhere from $50 billion to $200 billion lost in revenue by those who prefer running the risk of being caught in criminal activity to paying the cost of abiding by the law.

But of course the focus now is on the deficit, which prominent Democrats are treating like their only child. Much attention is given to any conservative who proposes more taxation, e.g., Martin Feldstein, chief economic adviser to the president, and Federal Reserve Chairman Paul Volcker. But not enough attention was paid to testimony Volcker gave before Congress two weeks ago: "If you cannot do it on the spending side, you have got to do it on the revenue side."

What Volcker went on to say was paraphrased as follows by Time magazine: "Volcker said that the economy could absorb a tax increase of about $35 billion without danger to the recovery." Thirty-five billion. And we are running a deficit of about $200 billion. Why didn't the headlines read, "Volcker Warns Tax Increase Over $35 Billion Would Damage Economy. Federal Reserve Chief Sees Extra Taxation Bringing On Only 15 percent Relief from Deficit"?

Meanwhile, pollsters Yankelovich, Skelly & White reveal that the most popular form of increased taxation is on the sale of tobacco, which is okay by 77 percent of Americans including all nonsmokers. The least popular is a rise in income taxes (22 percent). Sixty-three percent would not object to higher taxes on business. It would be interesting to inquire how many of those 63 percent fall also into the 44 percent who were unaware that, under Reagan, inflation has reduced (from 12.4 percent to 3.8 percent). It is a lovely paradox that almost exactly the same number (74 percent and 72 percent) (a) oppose any reduction in Social Security programs, and (b) any rise in taxes.

So, then, where are we? Very nearly asphyxiated by all the contraditions, but still with just enough breath left to say: if you want to solve the deficit problem, lower the top tax to 25 percent. Then get out of the way of the avalanche of dollars that will flow in.●

S. 627—THE COLUMBIA RIVER GORGE ACT OF 1983

● Mr. D'AMATO. Mr. President, I rise today to cosponsor and express my support for S. 627, the Columbia River Gorge Act of 1983, introduced by my distinguished colleague, the Senator from Oregon. This bill would establish a partnership among Federal, State, and local governments for development of a single management plan for the gorge. The plan will supplement existing State and local land use plans, while guarding critical land areas and allowing for development consistent with the gorge's rural character.

Mr. President, the Columbia River Gorge is a masterpiece of nature. Its scenery is stunning, but natural beauty is only one of its resources. The great variety of weather conditions gives the gorge a unique array of plants and animals. There are four plant species that live only in the gorge and it contains others that are endangered. Among its rare birds are the Northern bald eagle and the arctic peregrine falcon.

This bill would protect these natural values, as well as the rights of property owners. Environmental protection need not stifle economic growth. Indeed, these goals are intertwined, because it is far less costly to prevent environmental harm than to repair it—even when it can be repaired.

I urge my colleagues to support this measure.●

STUDENT AWARENESS OF DRUNK DRIVING MONTH

● Mr. LAUTENBERG. Mr. President, on February 1, I, along with Senators PELL and DOLE, introduced Senate Joint Resolution 222, a resolution to designate June 1984 as "Student Awareness of Drunk Driving Month." I am pleased to report to my colleagues two important developments as regards this measure.

The House is shortly expected to vote on House Joint Resolution 443, the House companion measure. House Joint Resolution 443 has 234 cosponsors at last count. In addition, I am pleased to report that as of today Senate Joint Resolution 222 has 25 sponsors. The support for this measure is from both parties and across the country. It is my hope that we can take expeditious action to approve this measure so that adequate time can be provided to distribute it to the many students, teachers, and parents across the country who are combating drunk driving in their schools and communities.

I greatly appreciate the support shown this measure by my colleagues. Student awareness of drunk driving and their efforts to end it can save many lives.●

NATIONAL NURSING HOME RESIDENTS DAY

● Mr. GLENN. Mr. President, Senate Joint Resolution 198 has been introduced by Senator DAVID PRYOR to designate April 27, 1984, as "National Nursing Home Residents Day." I would like to take a few moments to draw your attention to this resolution and to urge my Senate colleagues to join me in cosponsoring it.

Many nursing home residents are active and vital resources in our communities. Although physical limitations may inhibit independent living, nursing home residents continue to carry out important community services. They often run telephone reassurance programs for the elderly who are at home alone, they prepare crafts and run fairs to raise funds for community organizations, and they are rich resources on local history. And, most important, they continue to share their concern for and devotion to friends and loved ones.

Unfortunately, not all nursing homes residents reside in homes that permit this continued participation in community affairs. Some residents are mistreated; they are left alone to face the realities of death and dying. The physical and emotional pain borne by some nursing home residents is a national disgrace.

We must insure that all elderly and disabled people, including those individuals residing in nursing homes, are able to enjoy life to its fullest. Family members and friends have an important role to play in assuring high-quality care. Ombudsman programs in many communities serve as advocates for residents, assuring that their rights are protected. The nursing home industry has also accepted responsibility for educating and assisting their members in implementing programs that will encourage residents to be active participants in community life.

We in Congress have an important responsibility to nursing home residents. In 1982, I joined my colleagues on the Senate Committee on Aging in recommending modifications in the administration's proposed rule changes for nursing home inspection. Due to widespread concern for the safety of nursing home residents, Congress and the administration did agree last summer to postpone implementation of the new rules. A major study of the nursing home regulatory process is now underway under the auspices of the Institute of Medicine. No final changes will be made in nursing home regulations until Congress has had an opportunity to review the Commission's recommendations.

We are currently at an important crossroads in this country, one that will determine our ability to understand what quality of care and quality of life mean for nursing home residents. Both for humane reasons and due to the fact that more and more Americans are living to an age where nursing home care might be the most appropriate long-term care alternative, this must remain an important priority.

Support for Senate Joint Resolution 198, "National Nursing Home Residents Day," is a signal to all nursing home residents, to their families and friends, and to those who provide care that we place a value on their lives. Again, I urge my colleagues to join me in cosponsoring this resolution.●

COSPONSORSHIP OF S. 2363, TO OVERTURN THE SUPREME COURT DECISION IN THE "GROVE CITY" CASE

● **Mr. KENNEDY.** Mr. President, I am dismayed by the Supreme Court's decision in the Grove City College case. The Court has rejected the consistent interpretation by all prior administrations that title IX prohibits sex discrimination in schools that receive Federal funding. Instead, the Court has undercut title IX by stripping its protection from thousands of students who attend schools which receive Federal funding only in the form of student aid. Inevitably, this result will lead to an enormous and wasteful commitment of Government enforcement resources to tracing Federal money into specific school programs, at the expense of eradication of disrimination in education.

I hope that Congress will act at the earliest opportunity to overturn this decision and restore the full effectiveness of title IX against discrimination that we intended when we passed this law in 1972.●

ESTONIAN INDEPENDENCE DAY

● **Mr. MOYNIHAN.** Mr. President, on February 24, Estonians throughout the world commemorated the 66th anniversary of the Declaration of Estonian Independence.

On February 24, 1918, after generations of domination by the Russian empire, the Estonian people declared their independence and embarked on a noble effort to build a self-determining and democratic nation. On February 2, 1920, the Soviet Union signed a peace treaty with Estonia, recognizing the independence of the young republic.

For 20 years, the people of Estonia lived peacefully, governed by a constitutional government which upheld human rights and nurtured Estonia's rich cultural heritage. But, as my colleagues well know, in 1939, the democratic aspirations of Estonians were shattered by the invasion of Soviet troops. In violation of the 1920 bilateral treaty, the Soviet Union forcibly annexed Estonia, along with the neighboring Baltic States of Latvia and Lithuania. For 44 years now, the courageous people of Estonia have struggled under the brutal rule of the Soviet Union. Estonians have been denied basic human rights and cruelly persecuted for their brave efforts to sustain their cultural and national values.

Quite properly, the United States has never recognized the forced Soviet annexation of the Baltic States. By commemorating Estonian Independence Day, we remind the Soviet Government that we will not forget the legitimate aspirations of the Baltic peoples. Estonians retain their spirit of independence and their love for democracy. We mark this anniversary in support of Estonians still suffering under Soviet repression and those who now live in the United States and in other free nations around the world. Their unshakable commitment to freedom is an inspiration to us all.●

UNITED STATES HUNGARIAN RELATIONS

● **Mr. D'AMATO.** Mr. President, I recently received a copy of the following memorandum, produced by the American Hungarian Federation, pertaining to U.S.-Hungarian relations. As a member of the Commission on Security and Cooperation in Europe, I am particularly concerned over the continued denial of the basic human rights and civil liberties of Hungarians, including those living in Romania.

I ask that the text of this memorandum be printed in the RECORD and I encourage my colleagues to review this valuable document.

The memorandum referred to follows:

MEMORANDUM OF THE AMERICAN HUNGARIAN FEDERATION ON UNITED STATES-HUNGARIAN RELATIONS AND THE SITUATION OF THE HUNGARIANS IN TRANSYLVANIA (ROMANIA)

The present situtation of the Hungarian nation is characterised by two salient features: the Soviet occupation of Hungary and the presence of a large Hungarian minority in Transylvania (Romania) and sizeable Hungarian minorities in Czechoslovakia, Yugoslavia and the Soviet Union. Hungary is ruled by the Hungarian Socialist Workers' Party, basing its rule upon the principle of Marsism-Leninism, which has been rejected by the Hungarian people in the elections of 1945 and 1947 and in the national revolution of 1956.

Within the narrow parameters prescribed by the above geopolitical, historical and political situation, the Hungarian nation, more by persistence and ingenuity than active resistance after 1956, obtained a measurable amount of economic reforms and freedoms since 1956. There has been also a loosening of the airtight cultural and political control of the Party and the Hungarians enjoy a living standard not obtained by other East Central European countries.

The price the Hungarian national pays for these concessions is their government's support of the international policies of the Soviet Union and close cooperation between the two military and intelligence units.

Economic progress brought the Hungarian government into close contact with Western governments, banks and some of the leading manufacturers. By now, the Hungarian economy is substantially dependent upon continued Western loans. In contradistinction to other Soviet-bloc nations, the Hungarian government continued its debt servicing to the West during the present recession (although this meant a serious depletion of foreign exchange reserves) and, therefore, succeeds in floating bonds on Western financial markets despite the fact that its per capita indebtedness is the highest in the Soviet bloc.

The economic ties established (there are a considerable amount of Western-Hungarian joint ventures in Hungary, the Third World and few even in the United States) and the dependency they had created, exercise a subtle effect upon Hungarian policies at home and abroad. Domestically, despite its reining in the "dissidents" and applying strict limits to the discussion of the Romanian treatment of the Hungarians in Transylvania, the government is careful, despite the Demszky case, to undertake police actions that would result in adverse publicity in the West. Criticism of the West remains moderate, when Moscow speaks *fortissimo*, Budapest follows in *piano* tones.

While there is now some attention paid on the Transylvanian Hungarians by referring in historical terms to the Romanian invasion of the First Hungarian Soviet Republic in 1919 reminding the Romanians that they have not been always peace-loving, the government is bound by the U.S.S.R. to observe restraint as the Soviet Union itself houses over 127 nationalities in its last colonial empire.

As far as future trends are concerned, there is a reawakening of the national consciousness among scholars, writers and students. This will have a more far reaching, though subtle, effect than the oft-heralded activities of the "dissidents," who are mostly Marxists, but deviating from Party orthodoxy. Their number is limited to Budapest and they provide more philosophical stimulus than represent a potent political force.

I. UNITED STATES-HUNGARIAN RELATIONS

The American Hungarian Federation urges the United States Government to keep constantly in mind the unsatisfactory condition of the Hungarian people as a result of Soviet presence, Communist one-party rule and the plight of Hungarian minorities, especially in Romania. The American Hungarian Federation appeals to the Administration to use its economic leverage in order to promote a more complete observance of human rights in Hungary, including an evolution toward democratic practices on local and county levels, and thus help loosen the ties which bind Hungary, economically, politically and militarily to the Soviet Union.

Therefore, we support the policy of "differentiation" toward the various Soviet-bloc countries in Central and Eastern Europe by the Administration. The strengthening of the Western ties by these governments has beneficial effects both for the United States and the peoples of East Central Europe living under totalitarian regimes. Such policies are also designed to weaken the strangle-hold of the Soviet Union over these countries.

The American Hungarian Federation must, however, express concern about some of the remarks by Vice President Bush in Vienna following his visit to Budapest and Bucharest. While we see some reason for recognizing the improvement of policies relating to human rights and economic freedoms in Hungary, we were surprised by the inclusion of President Nicolae Ceaucescu of Romania into the same category. Admitted, on the international scene, he makes statements blaming both superpowers for armament policies (making sure that the United States is also included), his domestic policies are more repressive than of any other Soviet bloc country, except for Czechoslovakia. Therefore, Vice President Bush's remarks were without any factual base. They were ill-advised.

In regard to United States-Hungarian relations in particular, the American Hungarian Federation encourages further loans and joint ventures to and with Hungary, as long as the principles of equity are observed. We also support the MFN status for Hungary and expect the Administration to monitor Hungary's human rights and emigration procedures year by year under Section 402 of the Trade Act of 1974.

We urge the Administration to reiterate its position regarding the recent breakdown against writers and intellectuals in Hungary. This includes the reprisal against the Kossuth-price winning author, Alexander Csoori, who is now barred from publication for one year. His offense has been to write a foreword to the autobiography of a Hungarian author in Czechoslovakia which exposed the sufferings of the Hungarians in that country. The book was published in New York. Recent police brutality against the young Hungarian sociologist Demszky, who is now being tried in court (instead of putting the offending policemen on trial) demonstrates that the Hungarian government is again ready to violate the human rights of its citizens. This must be protested in unequivocal terms by the Administration and our NATO allies.

The aim of American policy should continue an expansion of the parameters of freedom in Hungary. This would include a better human rights observance by the Hungarian authorities, more freedom for the government to represent Hungarian national interests in international forums.

The American Hungarian Federation welcomes the appointment of a former Hungarian national, Nicholas Salgo, to the position of a United States ambassador to Hungary. His economic expertise should help promote closer cooperation between the public and private sectors both in the United States and on the part of the Hungarian state enterprises.

We also appeal to the Administration for understanding and promotion of the reawakening of national consciousness in Hungary. The writers, historians and sociologists are now trying to describe the sufferings of the Hungarian minorities are not nationalist extremists. Their only desire to save the ethnic identity and the cultural and community rights of these Hungarians from forced assimilation. These several million Hungarians are entitled to these rights by numerous international agreements signed by their host countries, banning discrimination based on national origin.

II. THE SITUATION OF THE HUNGARIANS IN TRANSYLVANIA (ROMANIA)

Nowhere is the situation of the Hungarian minorities worse than in Transylvania where the overwhelming majority of Hungarians in Romania reside.

The 2.5 million Hungarians of Transylvania were attached to Romania after a millennium of close association with the Kingdom of Hungary by the 1920 Trianon Peace Treaty. The Second Vienna Award, requested in 1940 by the Romanian government, restored northern and eastern Transylvania where most Hungarians live, to Hungary.

In 1947, the Paris Peace Treaty, overruling American objections, reattached northern Transylvania to Romania.

While, on ethnic and cultural grounds, the situation of the masses of the Hungarian minority was tolerable between 1947 and 1958 despite the tragic plight of the Hungarian middle classes together with their Romanian counterparts, the situation deteriorated rapidly after 1958, following the removal of Soviet troops from Romania.

The Romanian government interfered grievously with the cultural and community rights of the Hungarians in Transylvania between 1958 and 1980. The measures taken included:

(1) The Hungarian Bolyai University (named by the Romanian government honoring the Hungarian mathematical genius of Transylvania) was merged with the Romanian Babes University and soon Hungarian courses were reduced substantially. By now, the department of Hungarian language and literature is the only refuge for Hungarian-language courses, except for sporadic courses in Marxism-Leninism and chemistry. By 1978 only 9.2 of the courses at the University were given in Hungarian, although the student body was a least one-third Hungarian.

(2) The Hungarian elementary and secondary school systems were abolished and the Hungarian schools were merged with their Romanian counterparts as "sections," without any administrative structure of their own.

(3) The Magyar Autonomous Province, which was created in 1952, was redistricted and renamed Mures-Magyar Autonmous Province. As a result, the percentage of the Hungarian population of the province declined from 87 to 63 per cent.

These measures were followed by a general restriction of the scope of education in Hungarian on the specialized college and secondary school levels.

The situation continued until the Soviet occupation of Czechoslovakia which frightened President Ceaucescu into make concessions to the Hungarian minority. The annual reduction of Hungarian school sections was halted and a Hungarian Workers' Council was established to "explain" the great work of the Communist Party in Hungarian. The Council was to have offices on regional and county level as well.

The Mures-Magyar Autonomous Province, however, was dissolved and two purely Hungarian counties (Covasna and Hargita) and a mixed-Hungarian-Romanian county (Mures) were established and a new wave of industrialization in the region was to limit the exodus of Hungarian workers into the "Old Kingdom" and the Romanian areas of southern Transylvania.

This improvement lasted only four years and was again followed by a new Romanization drive, culminating in the educational reform; the removal of Hungarian historical and church documents and other relics of Transylvania's Hungarian history. The drive paused only temporarily after the letters of the former Party Secretary of Hargita County, Károly Király to the Central Committee and the Prime Minister were published in the West and presented to the Belgrade Review Conference of CSCE.

Hungarian schools were again the target. Administrative regulations now demanded the presence of twenty-five Hungarian students on the primary level and thirty-six on the secondary level in order to open a Hungarian section. Romanian sections however, had to be opened even if only three Romanian students were present. These classes had then to be filled up with Hungarian students forced to study in Romanian only.

Next the Pharmaceutical-Medical College at Tirgu Mures (Marosvásárhely) and the Graduate School for Teachers in the same city were integrated together with the College for Primary School Teachers at Odorhei (Székelyudvarhely). By 1983 only about thirty percent of the courses are taught in Hungarian and many Romanian students also attended, although the two Teachers Colleges were designated to train Hungarian-section teachers only. The only college-level institution in Romania which had instruction in Hungarian only, the Szentgyörgyi Speech and Drama Academy at Tirgu Mures (Marosvásárhely) was also "integrated," although it had only 40 students.

The greatest damage occurred in the Hungarian sections of the secondary schools. In the *Lycèes* (college preparatory schools) about 8.5 percent of the sections were still taught in Hungarian, while only 1.8 percent of the vocational high schools in 1974 were given in Hungarian. The educational reform, implemented between 1974 and 1977, reduced the *lycès* by two-thirds and replaced them with specialized vocational high schools. The result was a great decline in educational levels and an inevitable compulsion for the Hungarian students to attend vocational schools and become skilled workers and technicians. At the present, only about one-third of the Hungarian students in Transylvania can attend lycées and the other two thirds are attending vocational schools with an inadequate number of Hungarian sections. Only one-third of those attending are registered in Hungarian "sections."

During the visit of the Secretary of International Relations of the American Hungarian Federation to Romania in May 1976 (at the suggestion of the then Ambassador Henry Barnes and the Romanian Foreign Ministry), and especially during his 1978 visit, even the Hungarian sections in the vocational schools turned out to be inadequately staffed and provided with Hungarian-language textbooks. According to Edgar Balogh, the *doyen* of the Transylvanian Hungarian writers, many of the sections lacked Hungarian textbooks (this was admitted by vocational high school principles in Cluj-Napoca (Kolozsvár)) and were using Romanian textbooks with a Hungarian glossary. In addition, according to Balogh, some of the teachers have never learned technical terms in Hungarian as engineers and could only teach the course in Romanian, although these were supposedly Hungarian sections.

While the textbook situation improved slightly, the destruction of the *lycèe* system eliminated the mainstay of Hungarian secondary education in Romania.

Primary education up to the sixth grade is less restricted despite by repeated Romanian attempts to reduce the number of Hungarian sections by school mergers in the rural communities. In the Romanian sections, it is forbidden to speak Hungarian even during the recesses. Junior high school education in the Hungarian language was reduced in the past decade by school mergers, but not as substantially as in the secondary system.

Not only the educational, but also the cultural institutions are being "integrated." Only two Hungarian-language theaters and one opera house remain in Transylvania; the other four Hungarian theaters became "sections" of the Romanian theaters during the 1970s. The programming of Hungarian plays by writers from Hungary remains fraught with danger. For producing a play by Gyula Illés the director of the theater of Sfintu Gheoorghe (Sepsiszentgyörgy) was arrested in February 1983. Generally, the theaters produce two plays by Hungarian authors (mostly those from Transylvania), two or three Romanian plays and two Western or Soviet plays.

The hopes for an effective Hungarian Workers Council came to naught. Information received from its leaders in 1976 and 1978 by the Secretary of International Relations of the American Hungarian Federation revealed that it meets only a few times annually and its regional and county branches have been dormant since the early 1970s. The Király letters of 1978 and 1980 also confirm the inability of the Council to represent Hungarian interests in the Romanian Communist Party.

While in some respect the Király letters attained a slowing down of the assimilation drive, the industrialization surge by the Romanian state had resulted between 1978 and 1982 in the planned settlement of large number of Romanians in the almost purely Hungarian southeast Transylvanian "Székely" counties of Hargita and Covasna. In the towns in the Hungarian share of the population was diluted from 85-90 per cent to about 65 per cent.

The economic crisis of 1982-83 resulted also in discrimination of food deliveries to the Hungarian areas of Transylvania, embittering many of the Hungarians. While until 1981 the slogan has been to survive within the system by appealing to the Leninist principles of nationality policy and to curry favor with President Ceaucescu, it had become clear that the approach did not work.

The last influential spokesman of the Transylvanian Hungarians, Janos Fazekas was purged in 1981 and Hungarian writers and scholars began a samizdat publication *Ellenpontok* (Counterpoints) in which they appealed for a new policy of national equality and sent their appeal to the Madrid Conference of CSCE in 1982.

Their appeal resulted in gross police brutality against the presumed authors and their suspected followers in four cities. Although international pressure, including a letter by Representative Don Ritter (R., Pa.) to President Ceaucescu signed by 59 other House members effected the release of the originally arrested and badly beaten suspects, others are still missing or have been tried *in camera* for "offenses against the State," and Attila Ara-Kovacs was expelled to Hungary in April 1983.

Education, cultural and settlement policies are not the only areas of oppressions against Hungarians in Transylvania. Riding a crest of Romanian nationalism, President Ceaucescu uses it as a means for keeping his power despite the catastrophic economic situation. The government's textbooks almost totally eliminate one-thousand years of Hungarian history of Transylvania, mentioning only a few events either connected with the "class struggle," or Romanians after the 1598. The government just dismissed the most able Hungarian cultural expert in Romania, Geza Domokos, from his position of chairmanship of the only Hungarian publishing house in Romania, *Kriterion*.

Furthermore, the government ensures the inaccessibility of historical documents (even church registries have been collected and placed into the State Archives) and are closed to all but the most trusted historians of the Party. When this state of affairs was protested by our Secretary of International Relations, he was given a tour of the State Archives in Cluj-Napoca (Kolozsvar) in 1978 but even the Romanian Foreign Ministry officials with him could not give him permission to enter. Permission had to be obtained from the Ministry in charge of administering the State Archives, after half a day of waiting.

Hungarian-language churches are under more pressure than the Romanian Orthodox Church which is utilized to blunt public opposition to Ceaucescu. The Uniate Church was forcibly merged with the Orthodox Church in 1948 and Roman Catholic bishops are not allowed to visit the Vatican. The last Franciscan monk at Csiksomlyo, the most revered Marian shrine in Transylvania, a secular priest as the orders had been dissolved in Romania in 1948, fell victim to an "auto accident" in 1982 because his pilgrimages amassing 20,000 people at every Pentecost became a nuisance to the Communist rulers.

Religious instruction survives only in rural communities, if at all. Of the two Hungarian Reformed bishops, Bishop Gyula Nagy of Cluj-Napoca (Kolozsvár) is completely intimidated by the Ministry of Cults representatives. Bishop Lászlo Papp of Oradea (Nagyvárad) is more government politician than bishop. Hungarian members of the Catholic and Reformed churches are harrassed and even arrested. One Reformed minister in Dej (Dés) was even beaten to death by the police in 1982. Others are simply transferred to mountain villages from the towns.

The complaints concerning housing, job and educational discrimination against the Transylvania Hungarians would fill volumes. The above facts are recalled only for overview purposes.

CONCLUSIONS

The American Hungarian Federation appeals to the United States Government to raise the ill-treatment of the national minorities, particularly the 2.5 million Hungarians, in its talks with the Romanian government. The Transylvania Hungarians from the largest national minority in Europe outside of the Soviet Union.

We are aware of the letter of the State Department of July 22, 1982 to Representative Don Ritter (R., Pa.) responding to his letter signed by 220 other House members on this subject which promised continued further consideration of the situation of the Hungarians in Romania in talks with the Romanian Government. The reply was couched in terms of human rights violations only.

May we respectfully remind the Administration that the ill-treatment of the Transylvanian Hungarians involves more than human rights violations. The Romanian Government is implementing a preconceived plan of forced Romanization, depriving the Transylvanian Hungarians of most of their cultural and national self-determination rights which was still partially in existence until 1968 (Autonomous Province) at least for 40 per cent of the Transylvanian Hungarians. In 1957 there was still a Hungarian school system, a Hungarian university and five theaters and an opera house were functioning.

Today there are no Hungarian schools, no Autonomous Province, only two Hungarian theaters and an opera house, no Hungarian university and two-thirds of the Hungarian students in secondary schools attend Romanian sections. Yet the cultural and community rights of the Transylvanian Hungarians are guaranteed in the Romanian Constitution to which the Romanian Government sanctimoniously refers when someone raises the issue of ill-treatment of the Hungarian minority. Even a generous implementation of the Constitutional guarantees would ameliorate the situation greatly.

The Administration has strong economic leverage over Romania. Romania has already defaulted twice on its CCC credits in 1983 (paid by the Treasury of the United States to avoid formal default) and was saved from international default in 1983 only by the friendly intervention of the United States. Our awarding MFN treatment to Romania secures them $200 million exports to the American market annually. We should exercise our leverage as we did with the Romanian education tax in 1983 to effect an end to the forced Romanization policies in violation of many of Romania's international treaties and agreements and Romania's own Constitution.

The situation in Romania continues to deteriorate. A population deprived of economic necessities and their ethnic dignity and cultural institutions could ultimately take the road to active resistance. The beginnings of this process may be discerned in Transylvania since late 1982. Will the United States expend every effort to secure a peaceful resolution of the emerging nationality conflict, or remain uninterested? For if the conflict occurs, there would be only losers, Romanians and Hungarians. And American interests in Romania would be seriously impaired.●

LANE KIRKLAND AND THE 75TH ANNIVERSARY OF THE NAACP

● Mr. MOYNIHAN. Mr. President, on February 12, I had the good fortune of attending the ceremonies marking the 75th anniversary of the National Association for the Advancement of Colored People. Set in a church in Harlem, the events of February 12 marked an important milestone in the history of not only the NAACP, but the civil rights movement as well. Three-quarters of a century's worth of work came to a close, yet it was clear that there are many more years of work ahead of us.

I was particularly taken by a speech given by Lane Kirkland, president of the American Federation of Labor and Congress of Industrial Organizations. Mr. Kirkland's speech quite eloquently characterized the state of the civil rights movement in the Nation today and the dedication of the labor movement to the cause of civil rights.

Mr. President, I ask that, Lane Kirkland's remarks be printed in the Record.

The material referred to follows:

NAACP 75th Anniversary February 12, 1984

I am delighted to be with you today and to convey to you, on behalf of the AFL-CIO, our heartiest congratulations on your 75th Anniverary.

It is a cause for celebration for all who take seriously America's promise of equal rights, equal justice and equal opportunity.

But promises are redeemed through struggle, as A. Philip Randolph taught us.

He said: "At the banquet table of nature there are no reserved seats. You get what you can take, and you keep what you can hold. If you can't take anything, you won't get anything; and if you can't hold anything you won't keep anything. And you can't take anything without organization."

The NAACP, like the labor movement, has well understood the meaning of these words. And acting in their spirit, generations of NAACP members since 1909 have transformed life in the United States.

Millions of youngsters are growing up without ever having seen a "white only" sign over a public drinking fountain or a fellow citizen turned away from a restaurant or an employment office or college admission desk soley because of race.

To that extent, these youngsters live in a different world, and a better one, than their fathers and mothers knew—and that is a lasting tribute to the NAACP.

But while discrimination is no longer sanctioned by law, it has not disappeared from our land.

Twenty years after the passage of the Civil Rights Act, inequality still blights the hopes and stunts the lives of black youngsters, but with this difference:

Now that the statutory props of inequality have been swept away, its economic roots are exposed.

School desegregation and quality education have a price tag. Decent housing and nutrition cost money. Full employment—the key to stable family life—calls for economic investment of a high order.

These remain the goals of the labor movement and the civil rights movement, as they were the goals of John F. Kennedy and Lyndon Johnson, who put them on the national agenda as the New Frontier and the Great Society.

But these are not the goals of Ronald Reagan.

He yearns for "the good old days" before the Civil Rights Act, before the Fair Housing Act and Voting Rights Act, before the Occupational Safety and Health Act, before the Social Security Act, before the National Labor Relations Act.

He apparently believes that poverty builds character, and that affirmative action, job training, and even unemployment compensation deprive workers of their self-reliance.

His sympathies are reserved for the rich, upon whom he has lavished massive tax cuts.

He favors decent health care, higher education, and legal counsel—for those who can afford to pay for them. No others need apply.

It will take years to recover from the damage he has done. But if he gets four more years, recovery could elude us until the next century. Just think of the Supreme Court vacancies that are likely to occur by 1988.

The important thing about the democratic system is not that the people never make mistakes, but that mistakes can be corrected. There's always another chance, another election.

We have the opportunity next November 6 to elect a new President and a new Congress that will restore the federal government to its proper role as an instrument of, by and for the people.

And we in the AFL-CIO intend to do everything in our power to bring that about.

Those of you who marched with us on Solidarity Day in each of the last three years know that there is a new spirit in the labor movement, a spirit of hope and determination that I see growing also in the NAACP and throughout the civil rights movement.

It is reflected in the voter registration drive which the NAACP is conducting with the support of the A. Philip Randolph Institute and many of our affiliates and state and local central bodies.

Based on the last three years, I am convinced that we don't have to tell workers, minorities, the jobless and the poor how to vote. We have to tell them where to vote.

Our goal in 1984 is to involve as many of our members as possible in every stage of the political process and, together with our allies, to make our voices heard loud and clear.

At stake in this critical election are all of the goals we have fought for during the last one hundred years.

They are goals which we have shared with the NAACP, which has been at our side in every battle for social progress, for jobs, for fairness and opportunity for all.

No organization in America has a richer heritage of courage, of determined membership and inspiring leadership.

Men like the Springarn brothers, W.E.B. DuBois, Walter White, Roy Wilkins, Clarence Mitchell, Gloster Current, and Thurgood Marshall have brought honor to the NAACP and to their country over the last 75 years—and that tradition is sustained with distinction by Ben Hooks.

Like the labor movement, the NAACP is built for the long haul. Our work is never truly finished. I have not the slightest doubt that we, and those who succeed us, will be walking together and working together for the next 75 years.

Thank you, and good luck to you all.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have two items that appear to be cleared by the minority leader. They bear his initials.

ORDER FOR HOUSE JOINT RESOLUTION 422 TO BE HELD AT THE DESK

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate receives House Joint Resolution 422, Women's History Week, from the House of Representatives, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRISH WILDERNESS

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 64.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 64) entitled "An Act to establish the Irish Wilderness in Mark Twain National Forest, Missouri", do pass with the following amendment:

Page 1, strike out lines 8 through 10, inclusive, and insert: "mately fifteen thousand five hundred acres, as generally depicted on a map entitled 'Irish Wilderness—Proposed', dated July 1983, are hereby designated as".

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendment and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Messrs. McCLURE, WALLOP, HATFIELD, JOHNSTON, and BUMPERS conferees on the part of Senate.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I inquire of the minority leader if he would be prepared to consider certain items on today's Executive Calendar, by unanimous consent.

I especially invite his attention to all those nominations beginning with item No. 469 on page 2, all those nominations on page 3, on page 4, on page 5, on page 6, on page 7, on page 8, and on page 9, as well as all the nominations placed on the Secretary's desk in the Air Force, Coast Guard, Foreign Service, Marine Corps, Navy, Air Force, and NOAA, on page 10, with the exception of the Foreign Service nominations beginning with Philip Birnbaum and ending with Ronald Allen Witherell, and all those nominations on the Secretary's desk on page 11.

Mr. BYRD. Mr. President, I have been importuned by the distinguished Senator from Alabama (Mr. HEFLIN) to look for two nominations. One is named William Jackson, brigadier general, and Ivan R. Smith. I note that they are on the calendar. So, for the record, let me say that I have examined the calendar for that purpose and find that those two names are on there.

May I say further, in response to the distinguished majority leader's question, that we are ready on this side to proceed with all nominations on the Executive Calendar, with the exception of the one nomination under Department of State on page 1.

Mr. BAKER. I thank the minority leader.

Mr. President, when we match up what the minority leader has just indicated he can clear, and when I consult my calendar on what we can clear, this is what I have:

I ask unanimous consent that the Senate go into executive session for the purpose of considering nominations 469 through 489 and all those nominations placed on the Secretary's desk on pages 10 and 11, with the exception of the Foreign Service nominations appearing on page 10, beginning with Philip Birnbaum and ending with Ronald Allen Witherell.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations just described be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

Securities Investor Protection Corporation

James G. Stearns, of Nevada, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1985 (reappointment).

Department of Education

Maureen E. Corcoran, of California, to be General Counsel, Department of Education, vice Daniel Oliver, resigned, to which position she was appointed during the last recess of the Senate.

Department of Transportation

Charles G. Hardin, of Maryland, to be an Assistant Secretary of Transportation, vice Judith T. Connor, resigned.

Jim J. Marquez, of Kansas, to be General Counsel of the Department of Transportation, vice James H. Burnley IV.

Department of State

David C. Jordan, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Peru.

Ambassador

Richard H. Imus, of California, a Foreign Servcie Officer of class 1, for the rank of Ambassador during his tenure of service as U.S. Negotiator on Textile Matters.

U.S. Advisory Commission on Public Diplomacy

Priscilla L. Buckley, of Connecticut, to be a member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1986, vice Leonard Silverstein, term expired.

Richard M. Scaife, of Pennsylvania, to be a member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1985, vice Mae Sue Talley, term expired.

Herbert Schmertz, of New York, to be a member of the U.S. Advisory Commission on Public Diplomacy for a term expiring April 6, 1985, vice Olin C. Robison, term expired.

Department of Defense

Pringle P. Hiller, of Virginia, to be an Assistant Secretary of the Army, vice Joel E. bonner, Jr., resigned.

Robert H. Conn, of Virginia, to be an Assistant Secretary of the Navy (new position—Public Law 98-94 of September 24, 1983).

In the Air Force

The following-named officer for appointment in the U.S. Air Force under the provisions of sections 624, title 10 of the United States Code:

To be regular major general

Lt. Gen. Larry D. Welch, 514-32-7932FR, Regular Air Force.

In the Army

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Max Baratz, 330-26-0958
Brig. Gen. Roy C. Gray, Jr., 403-52-7656
Brig. Gen. Daniel C. Helix, 546-36-5225
Brig. Gen. John P. Henderson, Jr., 726-05-4990
Brig. Gen. Robert Q. Jones, 235-44-6958
Brig. Gen. Warren A. E. Magruder, 220-22-3398
Brig. Gen. Harold J. Wages, 441-22-7045

To be brigadier general

Col. Marvin G. Back, 370-36-3790
Col. George E. Barker, 431-58-5387
Col. James T. Craig, 376-30-4276
Col. Wilson T. Dreger III, 253-44-5372
Col. James E. Haught, 512-30-5186
Col. Lewis M. Helm, 578-40-2911
Col. Robert G. Hope, 429-58-3609
Col. Merwyn L. Jackson, 401-44-0337
Col. Charlton B. McArthur, 417-44-9754
Col. Richard H. MacMillan, Jr., 250-52-2599
Col. Robert M. Overbey, 413-46-0060
Col. Antone F. Remich, 311-36-2780
Col. Roger W. Sandler, 478-32-3892
Col. Anthony S. Sarbanes, 214-38-0410
Col. Walter R. Schellhase, 453-42-3285
Col. James R. Sims, Jr., 461-32-9197
Col. Dennis A. Wilkie, 451-46-7032

The following-named Army Medical Department officers for appointment in the U.S. Army to the grades indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent major general

Brig. Gen. Frank F. Ledford, Jr., 279-30-2388, Medical Corps, U.S. Army.

Brig. Gen. Lewis A. Mologne, 202-24-3492, Medical Corps, U.S. Army.

To be permanent brigadier general

Col. Alcide M. LaNoue, 020-26-4498, Medical Corps, U.S. Army.

The following-named officer for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent brigadier general

Col. William K. Suter, 402-50-2918, Judge Advocate General Corps, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Edward C. Peter II, 263-60-4591, U.S. Army.

The Army National Guard of the United States officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3385, and 3392:

To be major general

Brig. Gen. Joseph W. Griffin, 255-34-2616
Brig. Gen. Kenneth W. Himsel, 305-38-0300
Brig. Gen. William A. Jackson, 416-42-6831
Brig. Gen. Hubert M. Leonard, 239-24-5791
Brig. Gen. Lloyd M. Price, 001-20-6472
Brig. Gen. Ivan R. Smith, 422-22-3303

To be brigadier general

Brig. Gen. Alvin D. McArthur, 245-48-7774
Brig. Gen. Teddy E. Williams, 421-40-7175
Col. Ronald Bowman, 288-24-2033
Col. Charlie D. Brackeen, 425-52-2623
Col. Bille J. Brinkley, 315-30-1623
Col. Lytle Brown III, 411-38-4911
Col. Donald Burdick, 158-26-9703
Col. Glen R. Chapin, 378-36-5851
Col. Richard L. Chastain, 310-30-8683
Col. Irwin K. Cockett, Jr., 575-28-1335
Col. Richard D. DeMara, 369-28-3976
Col. Norman E. Duckworth, 440-30-0313
Col. Carl G. Farrell, 304-24-9532
Col. James H. Garner, 427-52-6398
Col. Thomas R. Hearn, Jr., 427-58-7754
Col. Marion H. Kinon, 248-32-6438
Col. Howard I. Manweiler, 535-16-2639
Col. Bobby L. Matthews, 250-40-0143
Col. Amedeo C. Merolla, 039-16-1070
Col. Wafford H. Merrell, Jr., 428-66-1399
Col. William K. McDaniel, 252-52-4448
Col. Max V. McLaughlin, 419-28-1862
Col. Russell E. Summerlin, 417-34-4528
Col. Richard D. Sylvain, 006-24-1794
Col. David J. Thomas, 445-34-7256
Col. Mel C. Thrash, 432-52-8976
Col. Robert C. Thrasher, 564-44-5513
Col. George W. Treadwell, 387-24-7269
Col. Richard G. Weinberg, 263-40-3202
Col. Stanley J. Wilk, 385-26-6405

In the Navy

The following-named captains of the U.S. Navy for promotion to the permanent grade of commodore, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS

Robert Paul Caudill, Jr.
Henry James Tipp Sears
James Knox Summitt

SUPPLY CORPS

James Benjamin Whittaker
Rodney Kaye Squibb
Robert Avery Phillips

CIVIL ENGINEER CORPS

Federick Guyer Kelley

DENTAL CORPS

Robert Wayne Koch

The following-named captains of the line of the Navy for promotion to the permanent grade of commodore, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

Thomas James Johnson
Robert Heber Ailes
Stanley Earl Bump
Norman Dean Campbell
Harry Stillman Quast
John Weldon Koenig
Charles Reynolds Mcgrail, Jr.
John Warren Adams
Leslie Nelson Palmer
Ralph Whitaker West, Jr.
Gary Francis Wheatley
Stephen Francis Loftus
Grant Alexander Sharp
Edward William Clexton, Jr.
Michael Christian Colley
Raynor Andrew Kent Taylor
John Richard Seesholtz
Thomas Robert Fox
Jeremy Dolph Taylor
Denis Thomas Schwaab
Anthony Albert Less
Richard Corbett Gentz
Roger Lee Rich, Jr.
James Donald Cossey
Robert Lee Toney
Richard Fay Pittenger
Francis Raymond Donovan
Salvatore Frank Gallo
Raymond Guy Zeller
John McKay Kersh
Richard Harrison Truly
Paul David Miller

ENGINEERING DUTY OFFICER

Lowell John Holloway
Roger Bigelow Horne, Jr.

AERONAUTICAL ENGINEERING DUTY OFFICER

Richard Del Friichtenicht
John Henry Kirkpatrick

SPECIAL DUTY OFFICER (INTELLIGENCE)

William Olvier Studeman

IN THE MARINE CORPS

The following-named brigadier generals of the Marine Corps for promotion to the permanent grade of major general, pursuant to title 10, United States Code, section 624:

John I. Hudson
William G. Carson, Jr.
Edwin J. Godfrey

The following-named colonels of the Marine Corps for promotion to the permanent grade of brigadier general, pursuant to title 10, United States Code, section 624:

Frederick E. Sisley
James D. Beans
Joseph P. Hoar
Royal N. Moore, Jr.
Donald E. P. Miller

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, COAST GUARD, MARINE CORPS, NAVY AND AIR FORCE, NOAA

Air Force nominations beginning Stanley L. Betts, and ending William S. Skellenger, which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Air Force nominations beginning Raymond M. Ross, and ending John R. Mulnix, which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Air Force nominations beginning Thomas N. Gallagher, and ending Edwin B. Morgan, Jr., which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Air Force nominations beginning Maj. Robert T. Cates, and ending Maj. Anis A. Khan, which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Air Force nominations beginning Lewill C. Smith, and ending Walter M. Harris, which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Air Force nominations beginning Nicholas Abate, and ending Dan O Yoshii, which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Coast Guard nominations beginning Joseph P. Cooley, Jr., and ending Tad D. Kelley, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 27, 1984.

Coast Guard nominations beginning Keith R. Colwell, and ending Robert J. Papp, Jr., which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Coast Guard nominations beginning Paul E. Burke, and ending Kim N. Rose, Jr., which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Coast Guard nominations beginning Carl T. Alam, and ending Vann J. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 22, 1984.

Marine Corps nominations beginning Thomas G. Avey, and ending David J. Wolf, which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Marine Corps nominations beginning John L. MacFarlane, and ending Paul E. McEvoy, which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Marine Corps nominations beginning Mark A. Davis, and ending Aurel E. Lafreniere, which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Navy nominations beginning George S. M. Cowan, and ending Stanley B. Young, which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Navy nominations beginning Otis E. Butler III, and ending William H. Williams, which nominations were received by the Senate on February 16, 1984, and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

Navy and Air Force nominations beginning Comdr. Daniel C. Brandenstein, and ending Maj. Brewster H. Shaw, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 21, 1984.

NOAA nominations beginning Walter F. Forster II, and ending Clifford C. Wilson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 27, 1984.

Mr. BAKER. Mr. President, I ask unanimous consent that the vote en bloc by which the nominations were confirmed be reconsidered.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, it is the hope of the leadership on this side that we can get a relatively early start on this bill, S. 979, tomorrow. There are no special order requests at this moment, for which I thank Senators.

I ask unanimous consent that after the recognition of the two leaders under the standing order, the time remaining until 11:30 a.m. be devoted to the transaction of routine morning business in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE AGENDA

Mr. BAKER. Mr. President, at 11:30 a.m., after the time for the transaction of routine morning business, the Senate will resume consideration of S. 979, which is the pending measure. I expect tomorrow to be a long day, if necessary, in order to complete action on this bill, and we may be in late tomorrow evening. It is still the hope of the leadership on this side that we can reach the reciprocity bill and/or the FTC authorization bill this week. But it is the determination of the leadership on this side, to the extent that the Senate will agree, to finish the Export Administration bill this week.

PROGRAM

Mr. BAKER. Mr. President, on tomorrow, the Senate will convene at 11 a.m., pursuant to its recess over from today.

After the recognition of the two leaders under the standing order, there will be a period for the transaction of routine morning business during the remaining time before 11:30 a.m., in which Senators may speak for not more than 5 minutes each.

At 11:30 a.m., the Senate will resume consideration of the unfinished business, which is the Export Administration bill, S. 979.

It is anticipated that tomorrow may be a late day, a late evening. It is hoped that we may finish the bill tomorrow, but if we do not, we will continue with the consideration of this measure on the following day, as necessary, to complete Senate consideration of it.

Mr. President, I have nothing further. If the minority leader has nothing else, I am prepared to ask the Senate to stand in recess.

RECESS UNTIL 11 A.M. ON THURSDAY

Mr. BAKER. Mr. President, I see no other Senator seeking recognition. I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 a.m. tomorrow.

The motion was agreed to; and, at 6:45 p.m., the Senate recessed until Thursday, March 1, 1984, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate February 29, 1984:

DEPARTMENT OF JUSTICE

John W. Stokes, Jr., of Georgia, to be U.S. Marshal for the middle district of Georgia for the term of 4 years, vice Dwayne W. Gilbert, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 29, 1984:

Securities Investor Protection Corporation

James G. Stearns, of Nevada, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1985.

Department of Education

Maureen E. Corcoran, of California, to be General Counsel, Department of Education.

Department of Transportation

Charles G. Hardin, of Maryland, to be an Assistant Secretary of Transportation.

Jim J. Marquez, of Kansas, to be General Counsel of the Department of Transportation.

Department of State

David C. Jordan, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Peru.

Ambassador

Richard H. Imus, of California, a Foreign Service officer of class 1, for the rank of Ambassador during his tenure of service as U.S. Negotiator on Textile Matters.

U.S. Advisory Commission on Public Diplomacy

Priscilla L. Buckley, of Connecticut, to be a member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1986.

Richard M. Scaife, of Pennsylvania, to be a member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1985.

Herbert Schmertz, of New York, to be a member of the U.S. Advisory Commission on Public Diplomacy for a term expiring April 6, 1985.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

Department of Defense

Pringle P. Hillier, of Virginia, to be an Assistant Secretary of the Army.

Robert H. Conn, of Virginia, to be an Assistant Secretary of the Army.

In the Air Force

The following-named officer for appointment in the U.S. Air Force under the provisions of sections 624, title 10 of the United States Code:

To be regular major general

Lt. Gen. Larry D. Welch, 514-32-7932FR, Regular Air Force

Army

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Max Baratz, 330-26-0958
Brig. Gen. Roy C. Gray, Jr., 403-52-7656
Brig. Gen. Daniel C. Helix, 546-36-5225
Brig. Gen. John P. Henderson, Jr., 726-05-4990
Brig. Gen. Robert Q. Jones, 235-44-6958
Brig. Gen. Warren A. E. Magruder, 220-22-3398
Brig. Gen. Harold J. Wages, 441-22-7045

To be brigadier general

Col. Marvin G. Back, 370-36-3790
Col. George E. Barker, 431-58-5387
Col. James T. Craig, 376-30-4276
Col. Wilson T. Dreger III, 253-44-5372
Col. James E. Haught, 512-30-5186
Col. Lewis M. Helm, 578-40-2911
Col. Robert G. Hope, 429-58-3609
Col. Merwyn L. Jackson, 401-44-0337
Col. Charlton B. McArthur, 417-44-9754
Col. Richard H. MacMillan, Jr., 250-52-2599
Col. Robert M. Overbey, 413-46-0060
Col. Antone F. Remich, 311-36-2780
Col. Roger W. Sandler, 478-32-3892
Col. Anthony S. Sarbanes, 214-38-0410
Col. Walter R. Schellhase, 453-42-3285
Col. James R. Sims, Jr., 461-32-9197
Col. Dennis A. Wilkie, 451-46-7032

The following-named Army Medical Department officers for appointment in the U.S. Army to the grades indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent major general

Brig. Gen. Frank F. Ledford, Jr., 279-30-2388, Medical Corps, U.S. Army.

Brig. Gen. Lewis A. Mologne, 202-24-3492, Medical Corps, U.S. Army.

To be permanent brigadier general

Col. Alcide M. LaNoue, 020-26-4498, Medical Corps. U.S. Army.

The following-named officer for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent brigadier general

Col. William K. Suter, 402-50-2918, Judge Advocate General Corps. U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Edward C. Peter II, 2636-0-4591, U.S. Army.

The Army National Guard of the United States officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3385, and 3392:

To be major general

Brig. Gen. Joseph W. Griffin, 255-34-2616
Brig. Gen. Kenneth W. Himsel, 305-38-0300
Brig. Gen. William A. Jackson, 416-42-6831
Brig. Gen. Hubert M. Leonard, 239-24-5791
Brig. Gen. Lloyd M. Price, 001-20-6472
Brig. Gen. Ivan R. Smith, 422-22-3303

To be brigadier general

Brig. Gen. Alvin D. McArthur, 245-48-7774
Brig. Gen. Teddy E. Williams, 421-40-7175
Col. Ronald Bowman, 288-24-2033
Col. Charlie D. Brackeen, 425-52-2623
Col. Billie J. Brinkley, 315-30-1623
Col. Lytle Brown III, 411-38-4911
Col. Donald Burdick, 158-26-0703
Col. Glen R. Chapin, 378-36-5851
Col. Richard L. Chastain, 310-30-8683
Col. Irwin K. Cockett, Jr., 575-28-1335
Col. Richard D. DeMara, 369-28-3976
Col. Norman E. Duckworth, 440-30-0313
Col. Carl G. Farrell, 304-24-9532
Col. James H. Garner, 427-52-6398
Col. Thomas R. Hearn, Jr., 427-58-7754
Col. Marion H. Kinon, 248-32-6438
Col. Howard I. Manweiler, 535-16-2639
Col. Bobby L. Matthews, 250-40-0143
Col. Amedeo C. Merolla, 039-16-1070
Col. Wafford H. Merrell, Jr., 428-66-1399
Col. William K. McDaniel, 252-52-4448
Col. Max V. McLaughlin, 419-28-1862
Col. Russell E. Summerlin, 417-34-4528
Col. Richard D. Sylvain, 006-24-1794
Col. David J. Thomas, 445-34-7256
Col. Mel C. Thrash, 432-52-8976
Col. Robert C. Thrasher, 564-44-5513
Col. George W. Treadwell, 387-24-7269
Col. Richard G. Weinberg, 263-40-3202
Col. Stanley J. Wilk, 385-26-6405

In the Navy

The following-named captains of the U.S. Navy for promotion to the permanent grade of commodore, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS

Robert Paul Caudill, Jr.
Henry James Tipp Sears
James Knox Summitt

SUPPLY CORPS

James Benjamin Whittaker
Rodney Kaye Squibb
Robert Avery Phillips

CIVIL ENGINEER CORPS

Frederick Guyer Kelley

DENTAL CORPS

Robert Wayne Koch

The following-named captains of the line of the Navy for promotion to the permanent grade of commodore, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

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Thomas James Johnson
Robert Heber Ailes
Stanley Earl Bump
Norman Dean Campbell
Harry Stillman Quast
John Weldon Koenig
Charles Reynolds Mcgrail, Jr.
John Warren Adams
Leslie Nelson Palmer
Ralph Whitaker West, Jr.
Gary Francis Wheatley
Stephen Francis Loftus
Grant Alexander Sharp
Edward William Clexton, Jr.
Michael Christian Colley
Raynor Andrew Kent Taylor
John Richard Seesholtz
Thomas Robert Fox
Jeremy Dolph Taylor
Denis Thomas Schwaab
Anthony Albert Less
Richard Corbett Gentz
Roger Lee Rich, Jr.
James Donald Cossey
Robert Lee Toney
Richard Fay Pittenger
Francis Raymond Donovan
Salvatore Frank Gallo
Raymond Guy Zeller
John McKay Kersh
Richard Harrison Truly
Paul David Miller

ENGINEERING DUTY OFFICER

Lowell John Holloway
Roger Bigelow Horne, Jr.

AERONAUTICAL ENGINEERING DUTY OFFICER

Richard Del Friichtenicht
John Henry Kirkpatrick

SPECIAL DUTY OFFICER (INTELLIGENCE)

William Oliver Studeman

In the Marine Corps

The following-named brigadier generals of the Marine Corps for promotion to the permanent grade of major general, pursuant to title 10, United States Code, section 624:

John I. Hudson
William G. Carson, Jr.
Edwin J. Godfrey

The following-named colonels of the Marine Corps for promotion to the permanent grade of brigadier general, pursuant to title 10, United States Code, section 624:

Frederick E. Sisley
James D. Beans
Joseph P. Hoar
Royal N. Moore, Jr.
Donald E. P. Miller

In the Air Force

Air Force nominations beginning Stanley L. Betts, and ending William S. Skellenger, which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of February 21, 1984.

Air Force nominations beginning Raymond M. Ross, and ending John R. Mulnix, which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of February 21, 1984.

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Air Force nominations beginning Lewill C. Smith, and ending Walter M. Harris, which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of February 21, 1984.

Air Force nominations beginning Nicholas Abate, and ending Dan O Yoshii, which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of February 21, 1984.

In the Coast Guard

Coast Guard nominations beginning Joseph P. Cooley, Jr., and ending Tad D. Kelley, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 1984.

Coast Guard nominations beginning Keith R. Colwell, and ending Robert J. Papp, Jr., which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of February 21, 1984.

Coast Guard nominations beginning Paul E. Burke, and ending Kim N. Rose, which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of February 21, 1984.

Coast Guard nominations beginning Carl T. Alam, and ending Vann J. Young, which nominations were received by the Senate and appeared in the Congressional Record of February 22, 1984.

In the Marine Corps

Marine Corps nominations beginning Thomas G. Avey, and ending David J. Wolf, which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of February 21, 1984.

Marine Corps nominations beginning John L. Macfarlane, and ending Paul E. Mcevoy, which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of February 21, 1984.

Marine Corps nominations beginning Mark A. Davis, and ending Aurel E. Lafreniere, which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of February 21, 1984.

In the Navy

Navy nominations beginning George S. M. Cowan, and ending Stanley B. Young, which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of February 21, 1984.

Navy nominations beginning Otis E. Butler III, and ending William H. Williams, which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of February 21, 1984.

In the Navy and the Air Force

Navy and Air Force nominations beginning Commander Daniel C. Brandenstein, and ending Maj. Brewster H. Shaw, Jr., which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of February 21, 1984.

National Oceanic and Atmospheric Administration

NOAA nominations beginning Walter F. Forster II, and ending Clifford C. Wilson, which nominations were received by the Senate on February 16, 1984, and appeared in the Congressional Record of January 27, 1984.

HOUSE OF REPRESENTATIVES—*Wednesday, February 29, 1984*

The House met at 3 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Help us all, O gracious God, to use our energies and abilities in ways that ease the hurt of humankind and bring people together to serve the common good. As You have created us to be one people, so may we live our lives acknowledging Your gifts of grace and working as one to strengthen the human family.

May Your blessings be upon this assembly and upon all who labor in this place and may Your benediction go with us all our days. In Your holy name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4278. An act to provide for the temporary extension of the ban on credit card surcharges.

The message also announced that the Senate had passed, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 774. An act entitled "The Freedom of Information Reform Act";

S. 2335. An act to provide a temporary extension of the credit card surcharge prohibition;

S. 2336. An act to permit price differences with respect to credit card sales transactions;

S.J. Res. 59. Joint resolution to authorize and request the President to designate February 27, 1986, as "Hugo LaFayette Black Day";

S.J. Res. 137. Joint resolution to designate April 7, 1984, as "World Health Day";

S.J. Res. 148. Joint resolution to designate the week of May 6, 1984, through May 13, 1984, as "National Tuberous Sclerosis Week";

S.J. Res. 171. Joint resolution to provide for the designation of July 20, 1984, as "National P.O.W./M.I.A. Recognition Day";

S.J. Res. 184. Joint resolution to designate the week of March 4, 1984, through March 10, 1984, as "National Beta Club Week";

S.J. Res. 193. Joint resolution designating March 6, 1984, as "Frozen Food Day";

S.J. Res. 220. Joint resolution to designate the week of May 20, 1984, through May 26, 1984, as "National Arts With the Handicapped Week";

S.J. Res. 228. Joint resolution to designate the week of May 20, 1984, through May 26, 1984, as "National Digestive Diseases Awareness Week";

S.J. Res. 232. Joint resolution to authorize and request the President to designate the month of May 1984, as "National Physical Fitness and Sports Month";

S.J. Res. 238. Joint resolution to designate the week beginning November 19, 1984, as "National Adoption Week"; and

S. Con. Res. 93. Concurrent resolution authorizing the rotunda of the U.S. Capitol to be used on April 30, 1984, for a ceremony commemorating the Days of Remembrance of Victims of the Holocaust.

The message also announced that the Vice President, pursuant to the provisions of sections 276(d)-276(g) of title 22 of the United States Code, appoints Mr. GRASSLEY as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the 2d session of the 98th Congress, to be held in Puerto Rico, on March 8-12, 1984.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
February 29, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 12:00 p.m. on Wednesday, February 29, 1984, the following message from the Secretary of the Senate: That the Senate passed H.R. 4956.

With kind regards, I am,
Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

RESIGNATION AS MEMBER OF COMMITTEE ON VETERANS' AFFAIRS

The SPEAKER laid before the House the following resignation as a member of the Committee on Veterans' Affairs:

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 29, 1984.

Hon. THOMAS P. O'NEILL,
Speaker, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. SPEAKER: I wish to resign my seat on the House Veterans' Affairs Committee in order to assume a seat on the House Interior and Insular Affairs Committee effective February 29, 1984.

I appreciate your timely consideration and support of my request.

Sincerely,

BILL RICHARDSON,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

The SPEAKER laid before the House the following resignation as a member of the committee on Interior and Insular Affairs:

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 29, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, H-204, U.S. Capitol.

DEAR MR. SPEAKER: I am writing to resign my seat on the Committee on Interior and Insular Affairs. This is necessary because of the rules limiting the number of committees members may serve on, and I am seeking assignment to the Committee on Veterans' Affairs.

This resignation is effective today, February 29.

With best wishes,
Sincerely,

JAMES J. FLORIO,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES

Mr. LONG of Louisiana. Mr. Speaker, as chairman of the Democratic Caucus and by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 449) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 449

Resolved, That the following-named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Foreign Affairs: Gary L. Ackerman, New York, to rank following Ted Weiss, New York;

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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Committee on Interior and Insular Affairs: Bill Richardson, New Mexico;

Committee on the Judiciary: Frederick C. (Rick) Boucher, Virginia;

Committee on Merchant Marine and Fisheries: Charles E. Bennett, Florida;

Committee on Post Office and Civil Service: Gary L. Ackerman, New York, Ron de Lugo, Virgin Islands, Douglas H. Bosco, California, and Mervyn M. Dymally, California;

Committee on Veterans' Affairs: James J. Florio, New Jersey.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REV. JESSE JACKSON'S APOLOGY

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, Rev. Jesse Jackson was correct in issuing an apology for his use of the term "hymie." Such rhetoric is an affront not only to Jews but to all people who have been the victim of ethnic ridicule. Ethnically and racially derogatory remarks, even when said in jest or in private, just serve to perpetuate prejudice and discrimination.

It is not the rhetoric of Reverend Jackson's campaign which is most disturbing, however. Reverend Jackson's litany of statements on the Holocaust, Israel, the role of Jews in disrupting his campaign and his increasingly defensive posture as he seeks to explain these statements, is creating a divisive environment that is beginning to develop a life of its own. It is a divisiveness, which if left unchecked, could escalate into a controversy that will have a real and long-term effect on not only blacks and Jews but on Americans of every ethnic and racial background. It is a controversy which has no place in democratic politics.

I support many of the principles embodied in the Jackson candidacy but I strongly disagree with the nature of his statements and methods of communicating his views regarding American Jews and Israel. Reverend Jackson has said he is not antisemetic, and I believe him, but he constructs his defense in the negative. For example, it is not enough to not be anti-Israel. Support of Israel is fundamental to our values of democracy. His references to the Holocaust reveal a lack of understanding and sensitivity to the Jewish experience—an experience fundamentally linked to the State of Israel.

Blacks, Jews, and other Americans need to convene at leadership and community levels to renew their historical dialog absent the demagogic rhetoric which is now so pervasive. As for Reverend Jackson, only his actions in the remaining months of this campaign will determine whether those of us to whom he addressed his apology can, as he asks: "forgive and redeem and renew our bonds of friendship."

□ 1510

VIOLATION OF LAW CANNOT BE TOLERATED

(Mr. MITCHELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL. Mr. Speaker, I am particularly disheartened to learn that, despite previous efforts to prevent them, the selective service system continues to engage in practices which amount to direct violations of the law. Last year, several of us here in the House learned of abusive practices by the selective service system which involved the improper distribution of registration materials. I might add, however, that, we were successful in securing the termination of these activities in my city of Baltimore, through the cooperation of the selective service system national headquarters.

Our efforts notwithstanding, this year, we have been alerted to the startling fact that similar actions have been noted in other areas of the country. Specifically, the selective service system has initiated the following programs:

First, the acceptance of registration from young men as early as 120 days prior to their 18th birthday. Presidential Proclamation 4771 [July 2, 1980] states clearly that: "persons born on or after January 1, 1963 shall present themselves for registration of the day within the period of 60 days beginning 30 days before such date * * *"

Second, the use of public high schools to register young men. The aforementioned Presidential proclamation states also that: "persons who are required to be registered and who are in the United States on any day fixed herein for their registration shall present themselves in any classified United States Post Office."

Third, the acceptance of registration by mail. Again this practice is in direct violation of the Presidential proclamation.

Needless to say, these initiatives are intolerable. Our citizens must find it quite difficult to have complete confidence in our various agencies, if indeed, they are allowed to ignore the laws. This must be our top concern as legislators.

I have written to the House Armed Services Committee to request that an investigation of these charges be conducted. Additionally, I, along with Representatives BOXER and DELLUMS, will be reintroducing legislation which provides that registration under the Military Selective Service Act may only be carried out in accordance with applicable regulations and Presidential proclamations. We first introduced this measure last session, and would hope that the renewed attention will prompt its expeditious consideration.

HELP PUT THE SQUEEZE ON LEMONS

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, many of us have had problems with our cars—a water leak, a stuck window, or more seriously, brakes that locked, an accelerator that stuck, or a gear shift that slipped.

We are not alone. Almost 4½ million of the new cars sold in 1981 were defective. Furthermore, of the automobiles that required corrective service during the first year, many require two or more visits to correct the problem.

A study by the Federal Trade Commission reported that 30 percent of new automobiles had warranty problems which took more than 1 month and several visits to the repair shop to correct.

Such problems have led 19 States to enact so-called lemon laws, but I believe that Federal legislation is required due to the mobility of the American population. Automobiles are frequently purchased in one State but registered in another when a person moves or when people live near State borders. For this reason, a consistent Federal automobile warranty policy is critical.

To deal with this problem, I introduced H.R. 3827, the Automobile Consumer Protection Act. The bill requires that the manufacturer, agent, or authorized dealer responsible for a defective new automobile correct deficiencies within the first 2 years or 18,000 miles, whichever comes first. The purchaser will be entitled to a refund or to a new vehicle if the defect is not repaired after four attempts.

Clearly the time has come for a Federal lemon law, I invite all my colleagues to join me in supporting this important legislation.

SUPREME COURT RULING DEMANDS ACTION BY CONGRESS TO SAFEGUARD RIGHTS OF WOMEN

(Mr. SHANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHANNON. Mr. Speaker, yesterday's ruling by the Supreme Court in the Grove City College case is a major disappointment for all of us who support equal educational opportunities for women and girls. Over the last decade, title IX has opened up a myriad of opportunities for students in public and private schools. More and more young women have entered programs that had previously been closed to them. The effect of yesterday's ruling could be to deprive them of the chance to thrive academically and could restrict their entrance into a variety of programs.

Sex discrimination has no place in our schools or in our society. As long as schools can deny anyone full opportunity in education, women will never have an equal shot at success. The Supreme Court's interpretation demands swift action by the Congress to safeguard the rights of women.

I will be joining my colleagues in introducing legislation to insure that no school that discriminates on the basis of sex will receive Federal funding.

Such action can limit the effect of yesterday's ruling, but further action is called for. Once again, we see how little we can rely on laws and regulations to uphold equal rights for women. Only by including the equal rights amendment in the Constitution, can we guarantee that the rights of women will not be threatened.

CERTIFICATION IGNORES THE REAL IMPLICATIONS OF SUPPORTING AID TO EL SALVADOR

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, my colleagues on the Foreign Affairs Committee are continuing their markup of this year's foreign aid bill. In the next few days they will begin their consideration of aid to El Salvador, and especially a proposal for new certification language.

I would urge them to consider whether or not continuing on the route of certification is where we need to go this year. In the past, the Reagan administration has made an absolute sham of the certification, twisting reality in El Salvador to fit the requirements of the foreign aid process here.

I have little faith that any new certification would overcome the failings of the previous one.

Passing a certification has allowed us to ignore the real implications of supporting aid to El Salvador. Conservatives have been happy because the administration tells them every 6 months that things are getting better. Liberals feel that they have done something to shape the policy, when in fact, the requirements of the law are ignored by the administration. By cloaking ourselves in the illusion that we are shaping or altering Reagan's policy by passing a certification, we are shirking our responsibility to declare whether or not we support President Reagan's basic approach.

This administration, as it has stated publicly, is pursuing a military solution to the conflict in El Salvador. Conditions we place on military aid are not going to change that.

We must reject military aid to El Salvador, and extend it only when basic policy changes—by the Salvadoran and United States Governments—have been made.

SAVE THE WILD HORSES AND BURROS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, wild horses and burros have always been symbolic of the West, reminiscent of a time of wide open ranges. They were man's treasured possession, a means for transportation and survival. Now, we rely on them for recreation and entertainment. Though most horses and burros are in captivity, some have survived in the wild.

Unfortunately, animals do not read maps. They cannot distinguish between land owned by the Bureau of Land Management, U.S. Forest Service, the public, or the National Park Service. If they could, they would know where to roam and be protected under the Wild Free-Roaming Horses and Burro Act.

For instance, on March 1, 70 burros will be auctioned off. They were captured on lands owned by the National Park Service, which does not come under the authority of the Wild Horses-Burros Act. The National Park Service is not required to relocate these animals and the manner in which they are destroyed or auctioned is left to their judgment.

The roundup by the Government occurs faster than organizations concerned in relocating the horses and burros can act. The impression being made is that the numbers are too large for many programs geared for adoption to handle. This is not the case. BLM's adopt-a-horse program has been successful in placing 35,000 animals, keeping them from being sold to commercial slaughterhouses. What is needed from the Government is flexibility, some give and take in this situation. Consideration must be given to weather conditions, allowing for the snow to melt in the pastures and time given for organizations to transport the animals. The Government must give every opportunity to individuals and organizations to adopt these animals.

The attitude prevailing is not of concern, but of shoot first and ask questions later. This is shown by support to virtually destroy the Wild Free-Roaming Horses and Burros Act. Amendments to the act would allow for the roundup and direct sale of wild horses and burros to commercial slaughterhouses, which is equivalent to putting the Government in the pet food business, especially when alternatives exist.

I hope that we do not witness the extinction of horses and burros in the wild, as we have seen happen to so many other animals in the West.

ENFORCEMENT OF THE CURRENCY REPORTING ACT

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, as chairman of the 103-member bipartisan Ad Hoc Congressional Committee for Irish Affairs, I wish to express my concern over a statement made by the U.S. Ambassador to Great Britain—Charles Price II.

Ambassador Price, speaking in Belfast, Northern Ireland, announced that the U.S. Government would begin to more strictly enforce the provisions of the Currency Reporting Act which requires all persons carrying more than $5,000 to report it to U.S. customs officials. His express and obvious purpose in making the announcement was to indicate our Nation's desire to crack down on those raising funds for the IRA and traveling to Ulster. And I understand that. However, as a former law enforcement officer, I am always troubled by selective enforcement of any law. This can and does lead to harassment. Why is our Government restricting its enforcement to those going to Northern Ireland? What about people going to Qadhafi's Libya or Khomeini's Iran—or Assad's Syria? Simply put, why not enforce it everywhere?

I oppose all forms of violence in Northern Ireland and always will. However, I am deeply troubled by the ramifications which this new policy will have on those simply wishing to travel to Northern Ireland. The Customs Service, on behalf of the administration, needs to further explain their plans.

THE ADMINISTRATION ONCE AGAIN TURNS ITS BACK ON WOMEN

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, yesterday this administration again turned its back on American women by denying them equal opportunity; this time in education.

The Supreme Court decision in the title IX case reverses the recent trend of positive strides for women in every facet of education. It is now up to the Congress to restore title IX's fundamental civil rights protections. Legislation will shortly be introduced to spell out the prohibition of gender discrimination in all aspects of the American education system.

Congress original intent to treat women equally in education must be reinstated. American women deserve immediate action from this Congress. We will be accountable, just as this administration is now accountable, to women throughout our country who seek to better their lives through quality education, the key route women have employed to improve their lot in American society.

It is obvious to me that without the equal rights amendment, American women will continue to have to fight brushfires until we win constitutionally what is morally right.

SUPREME COURT DECISION ROLLS BACK A DECADE OF PROGRESS

(Mr. BEDELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEDELL. Mr. Speaker, I reacted in disbelief at yesterday's Supreme Court decision severely limiting the reach of the Federal law barring sex discrimination in schools and colleges receiving Federal aid.

Title IX, the 1974 law that prohibits gender discrimination in any educational program or activity receiving Federal financial assistance, has been responsible for tremendous progress during the past 10 years. Before title IX was enacted, institutions routinely restricted women through the use of quotas and higher admission standards and by discrimination against them in the award of financial aid. I fear that with yesterday's decision, we could be rolling back a decade of progress.

The new Supreme Court decision interprets the law to mean that the ban on discrimination applies only to specific programs in universities receiving Federal aid, rather than the entire institution if any part of it receives Federal aid. I am further troubled by this decision because narrowing the current broad guarantees under title IX could be extended to narrowing those protecting minorities and the handicapped.

I have long supported the university-wide approach that money in universities is essentially pooled, with student aid money, for example, providing operating funds for the rest of the school. Therefore, to discriminate against women in one activity or area of an institution, would in effect mean that taxpayers are subsidizing that discrimination.

Yesterday's decision clearly disregards the intent of Congress, as well as reversing the broad civil rights coverage that has improved the educational opportunities of millions of women. I hereby commit my support for congressional action to clearly congressional intent. Title IX must apply to all programs and activities of a university, if any part of the university is receiving Federal aid.

GOD BLESS NEW HAMPSHIRE

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, God bless New Hampshire. Now, there are many reasons to like New Hampshire. It is a beautiful State. It is a State populated by independent and intelligent people. It is a State that understands what makes America different from any nation on Earth: our freedom. It says in its motto "Live Free or Die."

My brother was married in New Hampshire 15 years ago. I spent many hours in the State; it is a beautiful State. But that is not why I take 1 minute of my life to say "God bless New Hampshire." No; God bless New Hampshire because on yesterday they took the selection of our party's nominee for President out of the back rooms populated by pollsters, politicians, and computers and put it in the hands of the people.

I hope my party does not ignore the message. Our nominee does not need to be a great promiser; he or she needs to be a great leader. New Hampshire—they have given us a chance to choose a leader, if we can just find one.

God bless New Hampshire.

WILL THE MAJORITY PARTY VOTE FOR A CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET?

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, that is certainly a tough act to follow.

I had a speech I was going to give today but the gentleman from Arkansas changed my speech because he is always attacking the President for the deficit. He talked about a proposed $192 billion deficit this year and, yet, he ignores the fact that in the last 30 years Federal spending has increased by over 600 percent and all but 4 of those years, all but 4 of the last 50 years, the opposition party, his party, has controlled the Congress, the House.

Only once in the last 50 years have both Houses of Congress been controlled by the Republican Party, and that was in 1952 to 1954. My question of the majority in this House is, If you are really concerned about balancing the Federal budget, then will you vote for a constitutional amendment to do just that?

I will be happy to yield to any of you right now to see if you will vote to balance the budget by constitutional amendment.

Thank you, Mr. Speaker. I yield back the balance of my time.

CALL FOR VOLUNTARY SCHOOL PRAYER CONSTITUTIONAL AMENDMENT

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, this morning the members of the Republican Study Committee had a very special hearing on the subject of voluntary school prayer constitutional amendment, and after hearing people like Rosie Greer and Meadowlark Lemon and Mark Moseley, and Coach Joe Gibbs, and Coach Tom Landry speak out and take a strong position in support of this amendment, I was truly moved.

At this time, I would hope to offer a unanimous consent request calling for consideration of the voluntary school prayer constitutional amendment. The Chair has ruled that in order to make this request, I must have the clearance of the majority and minority leadership. This request has been cleared by the minority leadership. I would now yield to a spokesman from the majority leadership for appropriate clearance.

Hearing none, it should make it clear to the American people who stands in the way of voluntary school prayer—the Democratic leadership of this House.

☐ 1530

A TRIBUTE TO GSA ADMINISTRATOR GERALD CARMEN

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, I rise today and ask my colleagues to join me in paying tribute to Gerald Carmen, who is ending his tenure today as the 12th Administrator of the General Services Administration. Jerry served as Administrator of the agency for 33 months—one of the longer tenures in the 34-year history of this agency.

Jerry Carmen's roots are in the world of small business. He viewed his role in GSA as one of an asset manager, guiding the agency to a more businesslike way of doing business.

Under Carmen's leadership, the agency has made significant strides in improving, simplifying, and economizing the way it does business. Jerry Carmen has brought order out of chaos and renewed respectability to the agency and its employees.

Carmen, throughout his tenure, directed and relied upon the proven ability of GSA's personnel to eliminate waste; fraud and abuse; to reduce costs; to improve the delivery of essential supplies and services to GSA's customer agencies; and to turn GSA into a leadership agency.

Among the more notable of the Carmen-directed organizational and operational improvements at GSA during the past 3 years are:

Adopting successful private sector business methods, measurements, and motivations to scale back the size and cost of the agency while making it work better;

Cutting overhead costs substantially—from 23 percent of the total program in 1980 to 15 percent in 1984;

Playing a leadership role in the President's work space management reform initiative, and initiative designed to reduce the Government's total space inventory and consequently the Government's dependency on leased space; and

Streamlining the procedures and thereby reducing significantly the time it takes to process an agency lease request permitting agencies to move into work space more quickly.

These achievements and many more under Jerry Carmen's leadership during the past 33 months at GSA are indicative of how the agency has changed for the better.

Mr. Speaker, Jerry Carmen has worked hard and deserves our praise for his efforts which many others have attempted but have been frustrated in achieving.

IRRESPONSIBLE REPORTING AND CONFLICTS OF INTEREST

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, several weeks ago Dan Rather and the CBS evening news ran a three-part series where it challenged the safety of NutraSweet, the low-calorie sweetener produced by G. D. Searle & Co. This week, Mr. Speaker, we received the rest of the story when the Wall Street Journal reported in a two part article that the Securities and Exchange Commission is beginning a probe into the recent financial interests of the so-called expert scientist, Woodrow Monte, and CBS employees. The article states the Mr. Monte had bought "put" options on Searle stock a few weeks before the CBS report on NutraSweet. Mr. Monte concedes that he bought the options because he expected Searle stock to fall as a result of the adverse publicity which he and CBS were about to give it. When Mr. Monte's ethics were questioned, he simply responded, "I honestly believe I had a right to do it * * *. I am an American citizen. I don't feel its unethical. It's the American way."

Scientists as well as the news media have a responsibility to the American public. They engage our trust. Such irresponsible reporting and conflicts of interest should neither be tolerated nor condoned. Securities and Exchange Commission investigators are examining the actions of those CBS employees and Arizona investors who aired this false report and attempted to benefit from buying put options on Searle's stock. After viewing CBS's "People Like Us" documentary and other fictitious reports—it may be "the CBS way"—but Mr. Speaker, this contempt for our citizenry is anything but the American way.

DEMOCRATIC TAX INCREASE PROPOSAL

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I was flabbergasted when I was shown the huge tax increase proposal that House Democrats put on the table at the deficit reduction talks yesterday.

Included on the list was the repeal of the third year of the tax cuts and the postponement of indexing, which represents the biggest tax break ever for lower and middle-income working Americans.

The Democrats at the talks yesterday apparently had no time for more discussion of defense and nondefense spending reductions, only tax increases, and major ones at that.

If that is the best you can do, and if that is the way the Democratic leadership in this House wants to reduce the deficit, then let us put it to the test.

Let us vote.

Bring to the floor a bill killing the third year of the tax cut and stalling indexing and we will vote on it.

We are not voting on much else around here these days.

Let us vote on the Democratic tax plan and see what the results are.

I am ready. I just wonder if anyone on that side of the aisle is.

□ 1540

LEGISLATION ON LICENSING OF NUCLEAR POWER OPERATORS

(Mr. GEKAS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, I intend to introduce legislation which would prohibit the issuance or reissuance of a license to a nuclear power operator if that operator has been convicted of a crime involving the operation of a nuclear facility. Recent events at Three Mile Island, where such a conviction has taken place, makes it unthinkable that we can proceed to honor a nuclear regulatory process that could ignore an illegal act, any illegal act, let alone one that leads to a conviction in court.

Mr. Speaker, I ask for the cooperation of the Members and for their cosponsorship of this legislation.

THE HOUSE DEMOCRATS' TRACK RECORD ON HIRING OF WOMEN

(Mr. HYDE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I have listened to many 1-minute speeches from the Democrats on the deficit, and I can just say that Democrats talking about the deficit is like Orson Welles doing a commercial for designer jeans.

The party that has made the ERA the keystone of its political program, the party whose Speaker said it will be H.R. 1 has a very interesting track record on how they take care of women in this House.

If you read today's Washington Post, an article by Judy Mann points out that last year figures were shown to the committee that 79 percent of those earning less than $20,000 per year are female and 71 percent of those earning more than $40,000 a year are male. We are talking about employees of this House hired by the majority party. The article states that this year 81 percent of those earning under $20,000 are female and 75 percent of those earning more than $40,000 are male.

Now, these figures were developed by the gentlewoman from Illinois (Mrs. MARTIN), and it just seems to me that the party that postures the most, that proclaims its fealty to equality and the treatment of women—if their equality for women was like a hamburger, one could look at it and ask, "Where's the beef?"

SUPREME COURT DECISION ON TITLE IX FUNDS FOR EDUCATIONAL INSTITUTIONS

(Mrs. JOHNSON asked and was given permission to address the House for 1 minute.)

Mrs. JOHNSON. Mr. Speaker, yesterday's decision by the Supreme Court to uphold the lower court's decision on title IX totally ignores the intent of this Congress, which no less than 3 short months ago overwhelmingly voted to affirm its commitment to a broad interpretation of the title

IX statute. That resolution, which passed the House by a vote of 414 to 8 clearly indicated that Congress does not believe educational institutions should receive Federal funds if in any way those institutions do not promote equal educational opportunities for women.

I am deeply disappointed that the Supreme Court chose to ignore this clarifying act of the Congress, and I intend to join with my colleagues of both parties to introduce legislation to make it clear, and expressly so, that any institution that receives even a single dollar of Federal support may not limit access to any of its programs on the basis of gender.

Women and girls have made tremendous gains under title IX. Since its enactment 10 years ago, it has eliminated many of the blatantly discriminatory practices which had limited women's educational options which for years had gone virtually unnoticed. I believe if we are truly serious about trying to turn around the discouraging trends of impoverishment for women, we must begin by insuring them at least equal access to all educational opportunities.

I do not believe passage of new legislation will result in changes in many of our educational institutions because I believe our society as a whole has already ascribed to the broad interpretation of title IX, but I do believe we cannot afford to take a chance.

So, Mr. Speaker, I urge my colleagues to join me in supporting legislation that will clarify the broad interpretation that title IX must provide for women in our universities and colleges.

NEXT WEEK'S VIGIL ON SCHOOL PRAYER

(Mr. SILJANDER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SILJANDER. Mr. Speaker, Monday, March 5—please put that on your calendars. From noon until midnight is a historic day not only on the House floor but also around the Capitol Building. On that day, March 5, from noon to noon the next day, 24 hours, the U.S. Congress will be holding a prayer vigil requesting that the Senate and the House jointly pass a constitutional amendment to allow voluntary prayer in public schools.

The other historical aspect is that here on the floor of the Congress Members will be talking about the prayer vigil and talking about their support for a constitutional amendment from noon Monday, March 5, to noon Tuesday, March 6. I invite all the American people to listen to what is being said on the floor of the Congress and to open their eyes and their hearts, especially considering now that already 81 percent of the American people now support voluntary prayer in public schools.

Mr. Speaker, I hope that after March 5 through March 6, our all-night effort will increase that percentage and force the issue on the floor that ought to be dealt with, with all courage and honesty, the opportunity to let young people pray in public schools.

TESTIMONY ON SCHOOL PRAYER PRECEDES NEXT MONDAY'S PRAYER VIGIL

(Mr. WEBER asked and was given permission to address the House for 1 minute.)

Mr. WEBER. Mr. Speaker, as several of my colleagues preceding me have pointed out, today was the day when the Republican Study Committee held hearings on the voluntary school prayer amendment. As we have also pointed out, it is unfortunate that the Democratic leadership of the House has not seen fit to schedule debate either in committee or on the floor of the House on the issue of school prayer.

This issue may not be on the agenda of the Democratic Congress, but it certainly is on the agenda of the American people who have shown themselves to excess of 80 percent in support of school prayer over the years.

I wish that every Member of the House and the American people as a whole could have heard the testimony today from Rosie Greer, Meadowlark Lemon, Mark Moseley, Lennie Moore, and Demond Wilson before the Republican Study Committee. They gave powerful and moving testimony based on their experience in working with young people, particularly young people with very serious problems in our inner city schools. Their testimony was that we need to once again permit voluntary prayer in our public schools.

Next Monday, March 5, again many of us will be taking to the well for special orders, hopefully all night long, to bring this issue to the people, because again we are not permitted to bring it to the floor for debate and action, so we must debate it through the vehicle of special orders. I invite the American people to watch that debate, and I invite our colleagues to participate next Monday.

REA BAILOUT WOULD ADD SUBSTANTIALLY TO DEFICITS

(Mr. BETHUNE asked and was given permission to address the House for 1 minute.)

Mr. BETHUNE. Mr. Speaker, there has been a lot of talk today and for several weeks now about the deficit being the No. 1 problem that faces us here in the Congress. And it is. And the reason it is, is because we all want the recovery to succeed and, therefore, we want to get the deficits down because of the impact on interest rates.

So we have groups clustered around talking about the deficit, and we have another ad hocrasy now which seeks to find a compromise for a "downpayment on the deficit." Most of what has been said so far, and certainly the speeches here today, include a good deal of histrionics, theatrics. Not much of substance has taken place, as is usually the case around here, particularly in a political year.

We have a rare opportunity tomorrow when we have a bill here on the floor which will give all Members a chance to make that downpayment on the deficit. The REA bailout, which could cost the taxpayers of this country as much as $20 billion over time, will be before us, and if we want to make a downpayment on the deficit, a real one, and send that signal to the people back home that we are indeed concerned about the deficit, then I encourage the Members to take a good hard look at this legislation. I ask the Members to vote down that bill that is coming out of the Agriculture Committee because it will over time increase the deficit by as much as $20 billion.

It is absolutely inconceivable to me, Mr. Speaker, that we could stand up and say that we are interested in making a downpayment on the deficit and then turn around and vote for that bill that is coming out of the Agriculture Committee.

□ 1550

REPUBLICAN STUDY COMMITTEE HEARING ON SCHOOL PRAYER

(Mr. MACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACK. Mr. Speaker, we have heard many Members talking about the need to discuss the issue of prayer in schools. We have asked the liberal Democratic leadership to give us the opportunity to discuss that issue here on the floor of the House. As a matter of fact, we have asked every day since January 23, since we have been in session, to talk about and to bring that issue to the floor of the House and every day we have brought that request, we have been denied.

This morning I had the opportunity to attend a hearing held by the Republican Study Committee on the need to return prayer to our public schools. The study committee held the hearing because the Subcommittee on Civil and Constitutional Rights refused to hold a hearing on prayer in school.

Today five gentlemen presented their views on the need to return prayer to school and I wish that every Member of Congress had the opportunity to be there this morning, because they expressed their feelings from the heart about their attitudes and the needs and desires of this country to return prayer to our schools.

So Mr. Speaker, I ask you, please give them this chance.

VOTE "NO" ON COMMITTEE FUNDING RESOLUTION

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, tomorrow we have a very difficult thing to do. We are going to have a funding resolution for the committees. Those are committees that many of us have a selfish interest in. We serve under many fine committee chairmen and we do not want to distress them unnecessarily or in fact disturb them, because they might even get angry; but frankly, this House is discriminating blatantly and to let that resolution go through makes a lie of every speech any of us have ever given for equal rights.

Occasionally on this side of the aisle we have had to disagree with our President, and that is very hard.

Tomorrow it is on your back. Will Democrats do what they say or continue to ignore real people and just talk?

I ask you to vote "no" on the committee funding resolution tomorrow.

TITLE IX

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, title IX was passed by Congress more than a decade ago. Since then, the law has given women and girls the right to educational equity in every area of academia. Title IX has eliminated discrimination in admissions, expanded women's athletic programs, and increased financial assistance. In short, title IX has done much to insure that women will have equal opportunity to grow and learn at our Nation's institutions of higher education.

Yesterday's Supreme Court decision was a severe blow not only to our efforts to end sex discrimination at the Nation's colleges, but to all civil rights legislation. In narrowing title IX's coverage to only those educational programs receiving Federal funds, the Supreme Court has brought into question whether all our efforts to affirm equal access regardless of race, religion, or gender are to be as narrowly interpreted.

I join with my colleagues today in urging the Congress to turn this setback into an opportunity—a chance to make clearer than ever our determinations to end discrimination in all programs.

Our Nation was founded on the principles of equality and opportunity. We have to make clear once again that those principles must be a reality, not just rhetoric. We can do no less.

DEMOCRATS WANT MORE TAXES, NOT LESS DEFICITS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, imagine my amazement to hear a Member of the majority leadership suggest earlier today that they are concerned about deficit reductions. Imagine my amazement when day after day the majority leadership has turned down our request to bring to this floor for consideration the balanced budget amendment. Day after day the majority leadership has refused to even talk about this amendment. Why? Because the amendment we propose wants to balance the budget by cutting spending.

The Democrats are not interested in that kind of measure. They have other ideas about reducing deficits or saying they are reducing deficits. Those ideas all go in one direction, more taxes. Tax the working man. Tax the working woman. Tax the producer. Tax the consumer. Tax everyone more so that they can spend more. That is their version of deficit reduction.

It is tax increase plans that were pointed to with pride a few moments ago by the majority leadership. That is not deficit reduction. That is pocketbook reduction. That is taking money away from people who sweat to earn it to give it to those, including this Congress, who have done nothing to earn it; but that is the Democrats way in this Congress and has been their way for 50 years. They do not earn, they just spend.

PRAISE FOR NEW HAMPSHIRE VOTERS

(Mr. GREGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREGG. Mr. Speaker, I am sure it will come as no surprise that I rise today to praise the people of New Hampshire for participating in the primary process and also to thank the many candidates, especially on the Democratic side, who took the time to come to our State over the last 2 years and participate in our primary process.

I do, however, regret that the Speaker of the House has taken it upon himself to denigrate that process by calling the people of New Hampshire selfish and uncaring individuals as participants in that elective process. This statement by the Speaker which was made this morning when he was asked for his reaction to New Hampshire reflects his arrogant attitude not only toward the people of New Hampshire, but toward the elective process in general, as he seems to assert because one State and the Democrats in that State disagreed with his annointed leader in the polls and his annointed candidate for Presidency, than all the people who participate in that process are selfish and uncaring.

I think the Democrats in the State of New Hampshire are owed an apology. I think the independents in the State of New Hampshire are owed an apology. I suspect the Republicans in the State of New Hampshire probably expected no less from the Speaker.

THE AMERICAN PEOPLE SUPPORT SCHOOL PRAYER

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, the gentleman from Florida (Mr. MACK) spoke about the Republican study committee and the gentlemen who testified today in favor of school prayer. When I listened to Meadowlark Lemon, Roosevelt Grier, Demond Wilson, Lenny Moore, and Mark Moseley talk about school prayer and American values, I got the impression that they were testifying and sending a message not only to us in the study committee, but to our colleagues in Congress and I think the message is the same message the American people are sending and that is that they support school prayer and they want to see this Congress act on school prayer in the very near future.

I was particularly impressed when I heard Mark Moseley say that in denying the right to pray in school to our children in school, we are denying them a basic American right, a very basic right.

Mr. Speaker, we in Congress open our session every day with a prayer. I think the children of America need prayer almost as much as Congressmen.

MATERIAL WELL-BEING OF SCHOOL CHILDREN AS IMPORTANT AS PRAYER IN SCHOOL

(Mr. GARCIA asked and was given permission to address the House for 1 minute.)

Mr. GARCIA. Mr. Speaker, I had not intended to speak on a 1-minute speech today, but as one who has supported the school prayer over these last four Congresses that I have been a part of, I would like to say to all my colleagues who have taken this podium this afternoon, who spoke so eloquently about the spiritual well-being of America and the spiritual well-being of our children, should start to give some consideration to the material well-being of our children.

They are so concerned about prayer, as I am, but I would hope that they would take that same concern and look at the children across America and say to those same children who have a hard time defining between spiritual and material rights in this world as to what is wrong and what is right; the same people who have taken this podium today in the name of the spirit of God are the same people who have continuously voted against children.

I would hope that as we have prayer in school, that they would also have prayers for themselves, to give every consideration to every youngster in our schools, because they are entitled to no less.

LOWER INFLATION HAS HELPED OUR CHILDREN

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I do not wish to revise and extend my remarks.

Mr. Speaker, I was not going to take the floor this morning either, or this afternoon, until my colleague from New York took the floor; but you know, he seemed to be casting some aspersions on this side of the aisle.

Let me tell you what this side of the aisle did with President Reagan and thank God we had him as a President, he lowered the inflation rate, the Jimmy Carter inflation rate, from 14 percent down to 2.8 percent last year.

If my colleague has a constituent who makes $10,000 and is trying to support a family of two or three on it, that means that President Reagan and this Congress saved that constituent a thousand dollars. He put a thousand dollars into his pocket, because had inflation stayed at 14 percent, instead of 3 percent, that means that he would have lost 10 percent of his whole earning capacity.

I think that we ought to be thankful we have a President like President Ronald Reagan. God bless him.

APPORTIONMENT AND INCREASE OF CERTAIN FUNDS FOR CONSTRUCTION OF NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 4957) to apportion certain funds for construction of the National System of Interstate and Defense Highways for fiscal year 1985 and to increase the amount authorized to be expended for emergency relief under title 23, United States Code, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

□ 1600

The SPEAKER pro tempore (Mr. Rose). Is there objection to the request of the gentleman from New Jersey?

Mr. SHUSTER. Mr. Speaker, reserving the right to object, I do not anticipate that I will object, but I make this reservation so that the distinguished chairman of the full committee might explain this action.

Mr. HOWARD. Will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Speaker, this is a very, very important bill. I will try and explain very briefly what it does.

What it does is approve the interstate cost estimates for construction of interstate roads throughout the country and interstate rehabilitation programs for a period of 6 months, from last October 1 until this next October 1.

In addition, this bill contains the emergency relief legislation that this House passed, I believe, more than once last year. It has in it $150 million for disaster relief, removes the $30 million cap for any one State due to disasters, provides that certain projects would be eligible. Under that would be Devil's Slide in California, the highway drainage problem in Louisiana, and also corrects a lower court ruling concerning the use of preexisting allocated funds for a bridge in Illinois.

It also takes three noncost provisions that the other body had requested, one of which, or two of which, provide more flexibility for using funds, not additional funds, funds allocated to the States, and one in removing from the Buy American provisions of the legislation the word "cement."

Mr. Speaker, this is being done so that these funds may be apportioned to the States. We are several months behind in this. We do know that if action is not taken here and in the other body and sent to the White House by today we could very well lose the interstate and interstate rehabilitation entire annual construction season for this year.

So we have worked in cooperation with Members on both sides and we have discussed this with the other body, and we certainly hope that the House will approve this legislation this afternoon.

I thank the gentleman for yielding.

Mr. SHUSTER. I thank the distinguished chairman for explaining this matter.

I would say further to the distinguished chairman that the record should be very clear that the Committee on Public Works and Transportation has been attempting to bring the matter of the interstate cost estimate to the floor and to have this matter acted upon positively for some time. And the fact that it has not been acted upon for some time certainly should be no reflection upon the distinguished chairman of our committee or the other members of the committee, because the Public Works and Transportation Committee has been part of the solution and not part of the problem or part of the delay.

For that reason, it has been dismaying to me to see circulated in the Congress, or, rather, among Members, among several congressional offices, a rather scurrilous document put out by the American Road & Transportation Builders Association (ARTBA), in which they attack the distinguished chairman of the committee, the gentleman from New Jersey (Mr. Howard), the gentleman from California (Mr. Anderson), distinguished chairman of the subcommittee, the gentleman from Kentucky (Mr. Snyder), the distinguished ranking member and myself saying, among other things, "Thanks for nothing."

I find this particularly dismaying because it has been this committee which has been acting responsibly to move this legislation. And the problems and the delays were caused certainly outside of this committee, as knowledgeable people are well aware, and as the Associated Press carried a story outlining in great detail just what the problems are.

So I think the record should be very clear that the distinguished chairman of the committee and the various members of the committee have been acting responsibly and expeditiously and in particular I salute the distinguished chairman for his efforts in this matter.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. OBEY. Mr. Speaker, reserving the right to object, under my reservation I would like to ask the chairman a number of questions, if I could.

No. 1, Mr. Chairman, as you know, in the Surface Transportation Act of 1982 the Congress adopted the principle that each State would be guaranteed of receiving Federal highway funds each year of no less than 85 percent of its relative contributions into the highway trust fund, and I dare say that a good many of us made it quite clear at that time that we would not have supported that legislation without that added provision, a provision which the committee very graciously agreed to.

It is my understanding that the bill before us does not contain or does not, rather, address the question of the 85 percent allocation. I have not quite understood why.

But let me simply ask, under these circumstances, can States like my own be assured that they will still receive their allocation of funds based on that 85-percent minimum down the line yet this year.

Mr. HOWARD. Will the gentleman yield?

Mr. OBEY. I yield to the gentleman from New Jersey.

Mr. HOWARD. I would first like to congratulate the gentleman for the work he did in the past years in behalf of his State and other States in bringing about this compromise for the 85 percent which is in the law at the present time. I think he should be commended by people in many States for that.

I would like to say that incorporation of this 85 percent minimum provision in the 1982 act was essential to its passage, and I certainly appreciate the support of the gentleman and others in securing this compromise.

This bill does absolutely nothing to alter that guaranteed provision which is included for all 4 years of the act. I can commit the committe's intention as far as I can not to alter that provision in subsequent legislation to be considered. I have heard nothing from the committee on that question whatever, and I certainly would very strongly oppose it, as would other members of the committee.

Mr. OBEY. Could I ask if that is the understanding on both sides of the aisle?

Mr. SHUSTER. Will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I would respond to the gentleman that I agree with the distinguished chairman's position. I am supportive, completely supportive of continuing the 85 percent. I believe it will be continued.

It is my understanding on this short 6-month interstate cost estimate that the Federal Highway Administration has indicated there is a difficulty in administering it as we pass this crisis legislation to get some money out among the 50 States. But it is certainly our intention, and theirs, I am sure, as well, to see to it that when we pass the second half of the interstate cost estimate, the second 6 months, that the 85 percent will be apportioned among the States.

Mr. OBEY. I thank the gentleman.

Further reserving the right to object, Mr. Speaker, could I also ask the chairman, I want to be clear about the position of the committee on the 85-percent allocation being outside of the obligation limits.

I understand that is the current law and that the committee intends to support that as such.

Mr. HOWARD. Will the gentleman yield?

Mr. OBEY. I yield to the gentleman from New Jersey.

Mr. HOWARD. I would like to say to the gentleman from Wisconsin that he is entirely correct, that the committee's position on the 85-percent minimum allocation is that it should be outside of the obligation ceiling. This is the case in the current year, fiscal year 1984, and it is a position reflected in the Surface Transportation Assistance Act through fiscal year 1986, and it will be my position to keep this program outside any future obligation ceilings.

Mr. OBEY. Could I yield to the gentleman on the other side of the aisle for his comments on that?

Mr. SHUSTER. Will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I concur completely with the distinguished chairman.

Mr. OBEY. I thank the gentleman.

Mr. Chairman, one last point under my reservation. I have frankly not understood why it would not be possible for the Federal Highway Administration to proceed to allocate at least a portion, say as much as one-half of that 85-percent minimum allocation. Is it not correct that the Federal Highway Administration would have the leeway to release as much as one-half of that money if it could be worked out in the details?

Mr. HOWARD. Would the gentleman yield again,

Mr. OBEY. I yield to the gentleman from New Jersey.

Mr. HOWARD. It is clearly my understanding that the gentleman's concern may be met, can be met by comparing the relative apportionments actually made for this fiscal year with the relative contributions from each State to the highway trust fund.

I certainly will commit my staff toward working out the details with the Federal Highway Administration to insure that a sizable portion—I cannot give the exact number at this time—of the 85-percent minimum allocations may be made immediately, with the remainder to be adjusted. And it would be adjusted one way or the other, depending upon how accurate they are in the first allocation, upon completion of the final interstate cost estimate, and an interstate substitute cost estimate.

I would like to state also, which I have not said, that this crisis legislation is to get this money out at this time. The committee has been working for months on the major surface transportation legislation this year, which we intend to bring out to the floor in a matter of weeks, and which will then include an additional 18 months of interstate cost estimate approval.

□ 1610

Mr. SHUSTER. Would the distinguished gentleman from Wisconsin yield?

Mr. OBEY. I yield to the gentleman.

Mr. SHUSTER. I thank the gentleman.

Mr. Speaker, I would respond by saying two points; first, the Federal Highway Administration has indicated from an administrative point of view they cannot come forward with a significant portion of the 85 percent. If that changes, then of course that would be a different matter. But second and more important, if we can move on the major transportation bill in a matter or weeks as the distinguished chairman has indicated, then that will solve the 85-percent problem completely.

Mr. OBEY. Well, I than the gentleman for his comments. Let me just say, Mr. Speaker, under my reservation, that I recognize that that is the position of DOT. I also recognize they would rather never have heard of the 85-percent provision.

Most people I talk to seem to differ in interpretation. They grant that it would be difficult to reach an exact accounting but they do suggest that some rough approximation must be made. I have the chairman's assurances that he would work toward that end.

Mr. SHUSTER. Will the gentleman yield further?

Mr. OBEY. I yield to the gentleman.

Mr. SHUSTER. My own State of Pennsylvania is affected by this. So I think we are all interested in moving as expeditiously as we can.

Mr. OBEY. With those assurances, I recognize other people such as Mr. APPLEGATE, for instance, have also been very concerned with it.

And with those assurances, I would withdraw my reservation of objection, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. SNYDER. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I want to say that in regard to the last colloquy, I am in agreement with the 85-percent provision that was negotiated in the other bill. I am not quite as confident as our chairman that the Department of Transportation can come up with those numbers because the law makes it very clear that no State should get less than 85 percent of their estimated tax contributions, but charged against that, of course, is their regular apportionment.

So until you know what their full year's apportionment is going to be, there is no way to be able to determine what excess over their apportionment should be to get up to the 85 percent of the estimated taxes.

So while I am in agreement with Mr. OBEY's concern and in agreement with the chairman and my colleague's (Mr. SHUSTER) statement on the 85-percent provision which was a part of the agreement when we got the tax bill and the highway bill before, I would not want to mislead the gentleman from Wisconsin and others into believing that between now and the enactment of the bigger bill which we hope to be enacting, that they would be able to come up with that portion of that money.

And, Mr. Speaker, I want to say that I am not real happy with what we are doing today. I neither support nor oppose the unanimous-consent request of my chairman.

Mr. Speaker, I neither support nor oppose the unanimous-consent request of the gentleman from New Jersey with respect to H.R. 4957.

My purpose in rising is to question why we are not coming to the floor with a clean interstate cost estimate unencumbered by other provisions. If the reason is that it is equally urgent that we pass the emergency relief bill, then I question why we are not placing before this body a clean ICE with a clean emergency relief bill.

I question, Mr. Speaker, why it is necessary to pad a simple ICE bill—with or without emergency relief—with some specific projects and other provisions of particular interest to certain Members. To my knowledge, there has been no agreement with the leadership of the Senate Committee on Environment and Public Works that these provisions beyond the interstate cost estimate—even emergency relief—would be acceptable to them, much less to the Senate membership at large.

This is precisely the reason why the 6-month ICE bill which I introduced last week, with the cosponsorship of BUD SHUSTER, was a clean ICE minus unnecessary baggage.

If there is some irresistible compulsion to add provisions, I question why we are going with a puny 6-month ICE and not proceeding with a full-scale bill, including a full 2-year ICE, while we are at it. I doubt that it would have taken any more time and effort than it has taken to bring forth H.R. 4957. And it would have avoided the threat of a renewed ICE crunch 6 months from now.

If this unanimous-consent request is agreed to, and this bill is enacted into law, we should get to work immediately on just such a large bill, complete with an ICE covering the interstate construction program through fiscal year 1985.

If we fail to do so, Mr. Speaker, then I would wager that an increasing number of Members will be asking the questions which I pose here today.

The following comments are intended to contribute to the legislative history from my perspective as ranking minority member of the committee. This bill, by putting out half of the interstate authorization on the basis of an adaptation of the last interstate cost estimate approved by Congress, adopts the approach employed in H.R. 4935, the clean bill I mentioned a moment ago.

Our adaptation of that ICE, which served as the basis for apportionment of interstate funds in fiscal year 1983, would be absolutely neutral with respect to the eligibility for interstate funding, or any project whose eligibility has been called into question in connection with the 1983 ICE.

This bill also makes it possible for the Secretary to make available one-half of the funds authorized for the highway and transit projects substituted for planned routes withdrawn from the Interstate System as nonessential.

In moving this 6 month ICE and the estimate for substitute projects, this bill goes beyond the scope of my original bill, H.R. 4935, to include a number of other provisions which have passed either the House, the Senate or both.

These include a highway emergency relief authorization of an extra $150 million, clarification that a chronic slide area in California will qualify for emergency relief, and a remedy for a flooding problem in Louisiana.

Another provision, which pased the House last June 13, is intended to overturn a Federal court decision which we all agree was directly contrary to the express intent of Congress in denying eligibility of a particular bridge in Illinois for funding under the bridge replacement and rehabilitation program.

Also, a provision permitting use of a State's apportionment of so-called 4R funds—those authorized for resurfacing, restoration, rehabilitation, and reconstruction of interstate highways—to upgrade certain primary highways designated part of the Interstate System. These have been designated under section 139 (a) and (b) of title 23, dealing with incorporation of primary highways which where not initially constructed with interstate funds. For example, as a result of this provision, Arkansas will be able to use Interstate 4R funds to upgrade Highway 71 to interstate standards, and Florida will be able to use its 4R funds to upgrade State road 84 as I-595 between I-75 and existing I-595. It is the intent and expectation that 4R funds be used for these purposes.

Also included is another Senate-passed provision permitting the State of Maryland some flexibility in the use of some interstate construction funds for 4R work on a high-priority project. The State would be required to forfeit, in effect, an equivalent amount of funds to which it otherwise would be entitled as a result of interstate withdrawal. This would not increase the amount of funding made available ultimately to the State at the expense of other States, but rather would permit the State flexibility in accelerating the 4R work.

There is also another provision insisted upon by the Senate, which was not included in earlier bills on either side; this would move back toward the "Buy America" provision enacted in 1978 in the case of cement.

On the other hand, the bill does not contain a number of provisions which passed the House as a part of H.R. 3103 last November, provisions that I believe have merit equal with those that are in this bill. So I am going to be pushing the chairman to fulfill his commitment as promptly as possible to get the larger bill before this body and enacted into law as promptly as possible. I happen to believe that the package we passed, H.R. 3103, and other projects that are not included in this bill, are, as I say, equally meritorious as those that he has included in this unanimous-consent request.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman.

Mr. HAMMERSCHMIDT. I thank the gentleman and rise to support the unanimous-consent request of the chairman.

Mr. Speaker, I am particularly gratified that H.R. 4957 contains a provision of substantial benefit to the State of Arkansas. This is language which makes primary highways which have been designated to become part of the Interstate System under section 139(b) of title 23 eligible for funding from the 4R category.

This could be of great help to the State of Arkansas in helping improve Highway 71 to meet interstate standards. In anticipation of passage of this provision, the State of Arkansas has requested—and the Department of Transportation has granted—designation of this route under 139(b).

This is clearly in accordance with high priority needs for highway improvement in the State of Arkansas. In the past, portions of the work ultimately to be needed have been financed under the old priority primary provisions of law in effect until enactment of the Surface Transportation Assistance Act of 1982.

It is my hope that the package which we are acting upon today will prove acceptable to the Senate, which has already passed a 4R-139(b) provision in a separate piece of legislation which has not yet been enacted into law. Ultimate enactment of this provision will reflect credit upon all those who have had a hand in crafting this approach to meet a high priority need.

Mr. SNYDER. I know the gentleman's projects are in there.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Transportation shall apportion for the fiscal year ending September 30, 1985, one-half of the sums authorized to be appropriated for such year by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of the committee print numbered 98-10 of the Committee on Public Works and Transportation of the House of Representatives.

Sec. 2. The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1984, one-half of the sums to be apportioned for such year under section 103(e)(4) of title 23, United States Code, for expenditure on substitute highway and transit projects, using the apportionment factors contained in the committee print numbered 98-11 of the Committee on Public Works and Transportation of the House of Representatives.

Sec. 3. In addition to any amounts authorized to be appropriated by section 125 of title 23, United States Code, for the fiscal year ending September 30, 184, there is authorized to be appropriated, out of the highway trust fund (other than the mass transit account), for such fiscal year $150,000,000 to carry out such section.

Sec. 4. The proviso in the first sentence of subsection (b) of section 125 of title 23, United States Code, limiting the aggregate amount of obligations for projects under such section, shall not apply to funds authorized to be appropriated by section 3 of this Act.

Sec. 5. A project to alleviate flooding conditions caused by an inadequate box culvert under an Interstate highway in the vicinity of Carencro, Louisiana—

(1) by removal of such box culvert and construction of one or more bridges, or

(2) by construction of drainage ditches, at a cost not to exceed $2,000,000, shall be eligible for assistance under section 125 of title 23, United States Code.

Sec. 6. A project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, which was destroyed as a result of a combination of storms in the winter of 1982-1983 and a mountain slide and which, until its destruction, had served as the only reasonable access between two cities and as the designated emergency evacuation route of one of such cities shall be eligible for assistance under section 125 of title 23, United States Code.

Sec. 7. Upon application by the State of Maryland, and after approval of withdrawal by the Secretary of Transportation of unbuilt portions of Interstate route I-83 in Baltimore, Maryland, under section 103(e)(4) of title 23, United States Code, the Secretary shall transfer $100,000,000 from the apportionment of such State under section 104(b)(5)(A) of such title to the appointment of such State under section 104(b)(5)(B) of such title. Upon transfer of such funds, the estimate of the cost of completing substitute highway projects in such State prepared under section 103(e)(4) of such title shall be reduced by $100,000,000. Of funds apportioned to such State under section 104(b)(5)(B) of such title, $100,000,000 shall be obligated for resurfacing, restoring, rehabilitating, and reconstructing portions of such Interstate route open to traffic. Any funds transferred under this section shall continue to be available for expenditure in such State until the last day of the second fiscal year following the fiscal year in which such transfer is made. Any amount of funds so transferred which have not been obligated by such last day shall lapse and shall be made available by the Secretary for projects under section 118(b)(3) of such title.

Sec. 8. (a) The last sentence of section 139(a) and the fourth sentence of section 139(b) of title 23, United States Code, are amended to read as follows: "The designation of a highway as part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway; except that any State may use funds available to it under sections 104(b)(1) and 104(b(5)(B) of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any highway designated as a route on the Interstate System under this subsection before the date of enactment of this sentence.".

(b) Subsection (a) of section 119 of title 23, United States Code, is amended to read as follows:

"(a) The Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System designated under sections 103 and 139(c) of this title and routes on the Interstate System designated before the date of enactment of this sentence under section 139 (a) and (h) of this title; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978. Sums authorized to be appropriated for this section shall be out of the highway trust fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title. The Federal share for any project under this subsection shall be that set forth in section 120(c) of this title.".

Sec. 9. Construction of any bridge—

(1) which will be part of a four-lane expressway on the Federal-aid primary system in the vicinity of Valley City, Illinois, and Florence, Illinois;

(2) construction of which received discretionary funding in fiscal year 1979 under the third sentence of section 144(g) of title 23, United States Code; and

(3) construction of which, on May 1, 1983, was prohibited by judicial injunction;

shall be eligible for assistance under section 144 of such title.

Sec. 10. Section 165(a) of the Surface Transportation Assistance Act of 1982 is amended by striking out ", cement,".

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. Howard) is recognized for 1 hour.

Mr. HOWARD. Mr. Speaker, I intend to yield any time for purposes of debate only. I yield myself such time as I may consume, and I yield to the gentleman from Ohio (Mr. Applegate).

Mr. APPLEGATE. Thank you, Mr. Speaker. I am one who is somewhat concerned about the effect this bill has on the States receiving minimum allocation funds, which are not triggered in the bill. However, I think it is something that has to be and had to be done today in order to help get some of these highway construction projects underway before going into the season.

As you know, the 1982 Authorization Transportation Act requires DOT to obligate during the 1984 fiscal year the minimum allocation of 85 percent to the donor States. Since this is a 6 months bill, it is possible that DOT could say that the minimum allocation cannot be released until the second 6 months ICE is passed because to release the full amount of minimum allocation funding as determined by this bill today just might result in an overall allocation to some States requiring payback to DOT and an underallocation to other States.

Unfortunately for many States, such as the State of Ohio, the construction season is short and without the benefit of some of these minimum allocation funds severe problems and some disruptions could result in Ohio's construction of the highways.

The State of Ohio under this ICE bill is scheduled to receive $71 million in interstate money; $4 million in minimum allocation money and $14 million in interstate substitution funds.

However, this is a 6 months bill. Therefore, Ohio is going to get $35,500,000 of interstate money; $7 million of the substitute funds, and none of the minimum allocation funds.

Mr. Chairman, Ohio has planned $50 million in new construction with the $74 million minimal allocation.

However, I want to take this opportunity, Mr. Chairman, to thank you for your efforts in bringing this legislation to the floor because of the importance attached to it, as I stated before, in order to get these projects off the road.

While I do have some reservations, I am happy to note that the Chairman is going to do all that he can to help to seek the release of a portion of these minimum allocation funds.

Mr. HOWARD. I say to the gentleman not only that, but we will have the major bill out here within a few weeks, which will take care of the whole problem that we have.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. **McEwen**) for purposes of debate only.

Mr. McEWEN. Mr. Speaker, I rise in support of the legislation.

Mr. Speaker, today we are considering a 6-month interstate cost estimate to release interstate highway construction money to our States. I am extremely appreciative of the special effort to approve the interstate cost estimate prior to the spring construction period. I commend Chairman **Howard** and ranking member **Gene Snyder** for their excellent leadership in going the extra mile to bring this legislation to the floor today.

Ohio is a State whose ratio of interstate construction and minimum allocation funding is nearly 1 to 1. Ohio has approximately $74 million in its minimum allocation fund and $71 million in interstate construction money. Compared to other States in the Union, Ohio has a very small interstate construction program and depends upon its minimum allocation. In addition, the original bill which included the ICE and passed the House in November contained a technical amendment that benefited Ohio. While Ohio will suffer the greatest injustice of any of the 50 States, we feel that the fairness of the Public Works and Transportation Committee is such that these inequities will soon be addressed by permanent legislation. Mr. **Howard**, thank you again for your able leadership. I trust that we can work together to afford equal treatment to States such as Ohio before this session is out.

Mr. HOWARD. Mr. Speaker, I yield to the gentlewoman from Ohio (Ms. **Oakar**).

Ms. OAKAR. Mr. Speaker, I thank the chairman for yielding. I want to associate myself with the remarks of my colleague, the gentleman from Ohio. I thank the chairman. I know he is going to be fair in the allocation as well.

Mr. Speaker, the passage of the interstate cost estimate is long overdue. The release of this money will permit the repair of our roads and bridges and also provide vitally needed construction jobs.

While I support the passage of highway legislation, I must again point out that there remains a separate category of States—the donor States—that are carrying a greater financial burden than the rest of the country. The Surface Transportation Assistance Act includes an important minimum allocation provision that is supposed to insure that no State will receive less than 85 percent of its contributions to Federal highway funds. Even with this provision, my own State of Ohio runs an annual deficit in Federal highway moneys of tens of millions of dollars.

The legislation we are considering to release the interstate cost estimate is severely flawed because of its disregard for the needs of States such as Ohio that fall under the category of minimum allocation States. An interstate cost estimate bill that does not release minimum allocation funds will deprive the State of Ohio of $74 million during this construction season. Ohio, as many of my colleagues know, continues to suffer from unusually high unemployment, much higher than the national average and higher than nearly every other State.

I encourage the committee which drafted this legislation to immediately address this problem which confronts States like Ohio, Wisconsin, Illinois, Indiana, Michigan, and others that fall under the minimum allocation section of the Surface Transportation Assistance Act. I also request that the committee consider the continued inequities in highway funding which have created the separate category of donor States. I will shortly be introducing legislation that will redress this problem without raising taxes or the Federal deficit.

Passage of the interstate cost estimate is welcome. Penalizing States like Ohio is not. I support my distinguished colleague from Ohio, Congressman **Applegate**, in his proposal to release a sizable proportion of the minimum allocation funds to the donor States so that we do not lose the funds during the coming construction season. I join my colleagues from Ohio and the other donor States in our expectation of expeditious consideration of measures to correct the problems caused by the legislation and by the inequities in the distribution formulas that have some States paying in more than they receive.

Mr. HOWARD. Mr. Speaker, I yield to the gentleman from California (Mr. **Anderson**), chairman of the Subcommittee on Surface Transportation.

Mr. ANDERSON. I thank the gentleman for yielding.

Mr. Speaker, I am very pleased to support adoption of H.R. 4957. I am sure that by now all of our colleagues are aware of the fact that, since October 1, the Secretary of Transportation has been unable to apportion interstate construction funds among the States, owing to the failure of Congress to approve an interstate cost estimate, or ICE.

Thirty-four States presently have less than $9 million in interstate construction funds available to obligate, in effect shutting down their programs. This bill will make 6 months of funding available, thus allowing States to proceed with work. While every State will appreciate this action, it is particularly crucial to those with climates that permit only a short construction season, a season that will be lost absent our proper action.

I am also pleased that, finally, $150 million in moneys which have been inextricably and inexplicably bound with the ICE will be approved by Congress and ready for release. Never in memory has Congress dawdled so in aiding States hit by natural disaster, as was much of our Southwest last winter and spring. It is now a year later, and too many roads in that part of the country are still out of service. And with respect to emergency relief, H.R. 4957 makes clear that repairs to Devil's Slide in San Mateo County, Calif., are eligible for funding under this program.

Mr. Speaker, there are other important items in this bill, including provisions relating to nonchargeable interstate routes and Buy America. Of paramount concern, though, is the release of interstate construction and emergency relief funds. These moneys should have been made available many months ago.

Of course, Congress will still need to act this year upon another interstate cost estimate in order to release the second 6 months of interstate construction funding, and hopefully next year's apportionments as well.

Today, though, it is imperative that H.R. 4957 be passed in the form in which it presently exists. After working on this for many months, and because this is a very fragile piece of legislation, I can say without reservation that if it is modified in any way, it is almost certain to fall apart. With that word of warning to all our colleagues, I again urge approval of the motion.

Mr. HOWARD. Mr. Speaker, I yield to the gentleman from Florida for debate purposes only.

Mr. SHAW. Thank you. I would like to compliment the chairman and the minority leadership on this side for bringing this bill to us. I also would like to compliment you and the minority leader on the inclusion of a very important provision on the conversion of 4R funds, for a very important road in the State of Florida.

The gentleman has been very good in working with me and I thank the gentleman.

Mr. HOWARD. Mr. Speaker, for debate purposes, I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman.

I want to commend the chairman and the minority leader, for the emergency relief provisions of this bill. As you know, many of us have been waiting well over a year for help for projects damaged in January and February of 1983.

Mr. HOWARD. And I am almost a little embarrassed to have the word "emergency" in there, I would say to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman.

We hope the legislation would go all the way through this time.

Mr. HOWARD. I yield to the gentleman for the purpose of debate only, the gentleman from Massachusetts, a member of the committee (Mr. DONNELLY).

□ 1620

Mr. DONNELLY. I thank the chairman for yielding.

If I could, I would like to simply ask the distinguished chairman if funds are included in the table that we are approving for the depression and the widening of the central artery, socalled I-93, in the city of Boston?

Mr. HOWARD. I respond to the gentleman by saying we are adopting the figures in the 1981 interstate cost estimate, which assumed the cost of $389.3 million for the central artery. Papers accompanying the cost estimate last approved by Congress indicated the funds were in the cost estimate for the depression of the central artery. We are approving the same cost figures today.

I would also say to the gentleman we intend to remove any doubt about the eligibility of this project in the next highway bill which the committee intends to bring up in the next few weeks, along with several other worthwhile provisions for around the country that we intend to have in the major bill.

Mr. DONNELLY. If the gentleman will continue to yield, in a letter to Massachusetts State Transportation officials dated February 14, 1984, FHWA Administrator Ray Barnard indicated that the alternate design proposal, specifically the widening and depression of the central artery are not and have never been eligible for Federal and State funding.

But based on the gentleman's earlier response, I assume the chairman does not agree with Mr. Barnard.

Mr. HOWARD. The gentleman is correct. I do not agree with Mr. Barnard on many things and especially on this one.

I would like to say that the Administrator's letter shows a lack of understanding of the legal situation concerning this project, which does not comport with the intent of Congress and we intend to have that absolutely clear in the legislation, along with many other worthwhile projects and statements that will be in the legislation that we will be bringing out later during this session.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield at this time to the gentleman from Pennsylvania (Mr. SHUSTER), the ranking minority member of the Subcommittee on Surface Transportation.

Mr. SHUSTER. I thank the distinguished chairman for yielding.

I would note his comments that in our major transportation bill that we bring out, it is his intention to clarify this issue and to vigorously support it.

This Member would expect that at the proper time he would be supportive of this issue as well. However, it would have to be part of a package and that package would have to relate to several Members, on both sides of the aisle. And if that occurs and if there is a balance and a symmetry here, then I would expect that we will all go home happy.

Mr. HOWARD. If I could say with the power of the gentleman from Pennsylvania that is not only an intention, I believe that that is an accurate prediction.

Mr. DONNELLY. Mr. Speaker, if the gentleman will yield.

Mr. HOWARD. I yield to the gentleman from Massachusetts.

Mr. DONNELLY. I thank my good friend and distinguished colleague from Pennsylvania for those remarks. I totally concur. I thank the chairman very much for his assurances.

● Mr. DAUB. Mr. Speaker, I want to congratulate the chairman of the Public Works Committee, Mr. HOWARD; the ranking Republican, Mr. SNYDER; as well as Mr. SHUSTER and Mr. ANDERSON for bringing this legislation to the floor.

The interstate cost estimate delay has resulted in the delay of millions of dollars in badly needed construction projects all over this country. In Nebraska we were prevented from undertaking efforts that would have put people to work completing essential roadwork, but because of this effort we will be able to undertake this work before the construction season is over.

This delay has been an unfortunate one for the House. In recent days we have seen many individuals in Washington who ordinarily would have been involved in the productive work of building roads lobbying the Congress to pass the ICE so that previously committed funds could be freed. If this delay were to continue much longer, the necessary leadtime would have meant that certain projects could not get underway before next winter, when work is impossible in many parts of the country.

The delay in the ICE is clearly no way to run a government. For people outside of Washington, the delay was difficult to explain and certainly not justifiable. This incident should be a lesson for all Members that what may appear to be legislative maneuverings in Washington are serious matters elsewhere, where people's jobs are at stake and vital public services are jeopardized.●

● Mr. FRENZEL. Mr. Speaker, I rise today in support of H.R. 4957, which would extend the interstate cost estimate an additional 6 months, thus breaking the long deadlock that has left many of us with seasonal road construction in a very nervous state.

It is unfortunate, Mr. Speaker, that this matter requires some special legislative action. Had it not been for some Members of both bodies trying to use the ICE as a vehicle to further their own pet projects, I believe that we could have taken care of this normally routine approval last fall.

If we allow this delay to continue much longer, Minnesota will run the risk of canceling its entire construction season. I am sure that many of my colleagues who represent districts north of the Mason-Dixon line, and therefore have to contend with winter weather, have been hearing the same thing from their constituents.

Although we have suffered some costly delays already, this legislation would avert a real disaster in Minnesota's interstate construction program.

It is also my hope, Mr. Speaker, that by the time this legislative reprieve is up next fall, we will have worked out the problems that plagued the original bill and will be prepared to approve a new interstate cost estimate. In the meantime, I would like to urge my colleagues to support H.R. 4957.●

● Mr. RAHALL. Mr. Speaker, I rise in strong support of H.R. 4957, a bill to approve the Interstate cost estimate for the construction and rehabilitation of our Nation's Interstate Highway System.

Since October of 1983, funds have not been apportioned to the States because Congress was unable to approve the ICE. In West Virginia, approximately 43 percent of the State's fiscal year 1984 funding is being withheld due to this situation. This $65 million is essential for West Virginia's Interstate construction program which would have the gap in I-64 between Beckley and Sam Black Church under construction by the end of calendar year 1984 with the exception of one major bridge. In addition, this funding would also have the remaining projects on the West Virginia Turnpike, I-77, under construction.

I would like to commend my chairman, JIM HOWARD, and Subcommittee Chairman GLENN ANDERSON, along with the ranking minority members for their diligence in bringing this bill to the floor today.

Although H.R. 4957 only releases 6 months of Interstate apportionments, it is the intent of the Committee on Public Works and Transportation to move forward with another highway bill in the near future, at which time the second 6 months, as well as next year's apportionment, can be provided.●

Mr. HOWARD. Mr. Speaker, I move the previous question.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING THE USE OF ROTUNDA OF U.S. CAPITOL ON APRIL 30, 1984, FOR CEREMONY COMMEMORATING DAYS OF REMEMBRANCE OF VICTIMS OF HOLOCAUST

Mr. GARCIA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 93) authorizing the rotunda of the U.S. Capitol to be used on April 30, 1984, for a ceremony commemorating the days of remembrance of victims of the Holocaust, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 93

Whereas pursuant to such Act, the United States Holocaust Memorial Council has designated April 29, 1984, through May 6, 1984, as "Days of Remembrance of Victims of the Holocaust"; and

Whereas the United States Holocaust Memorial Council has recommended that a one-hour ceremony be held at noon on April 30, 1984, consisting of speeches, readings, and musical presentations as part of the Days of Remembrance activities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on April 30, 1984, from 10 o'clock ante meridiem until 3 o'clock post meridiem for a ceremony as part of the commemoration of the Days of Remembrance of Victims of the Holocaust. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

The **SPEAKER** pro tempore. The gentleman from New York (Mr. Garcia) is recognized for 1 hour.

Mr. GARCIA. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Green).

Mr. GREEN. Mr. Speaker, I thank my colleague from New York, and like myself one of the five Members from the House on the U.S. Holocaust Memorial Council, for yielding.

Mr. Speaker, the resolution before us is identical to House Concurrent Resolution 254, which was ordered reported out of the Committee on House Administration unanimously on Thursday, February 23, 1984.

And I might add that the chairman and ranking minority member of the Committee on House Administration are in full concurrence with this procedure.

Mr. Speaker, the rotunda has been used in the past for this ceremony, a very important ceremony remembering the victims of the Holocaust, a ceremony which the U.S. Holocaust Memorial Council is required, under its legislation, to hold every year. And it is held each year at about the time that the American Armed Forces liberated the survivors from some of the death camps.

As I said, the ceremony has been held in the rotunda before. It was not held there last year because of the very large attendance at the gathering of Holocaust survivors in Washington a year ago. For that reason the ceremony was held on the west front. But it is appropriate to return the ceremony to the rotunda this year.

I very much appreciate the gentleman from New York (Mr. Garcia) for bringing this to the House today.

Mr. GARCIA. Mr. Speaker, I would like to join with my colleague, the gentleman from New York.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the U.S. Holocaust Memorial Council, I am fully aware of the importance of remembering this tragedy. We must constantly remind ourselves that the Holocaust did occur, that it was not merely a nightmare.

Elie Wiesel, the chairman of the Holocaust Council, describing the Holocaust in his book "Night," said:

> Never shall I forget that first night in camp, which has turned my life into one long night, seven times cursed and seven times sealed.

The purpose of Senate Concurrent Resolution 93 and of the work of the council is to insure that none of us forget that horror.

Mr. Speaker, I have no further requests for time, and I move the previous question on the Senate concurrent resolution.

The previous question was ordered.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just concurred in.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT ON RESOLUTION PROVIDING AMOUNTS FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY STANDING AND SELECT COMMITTEES

Mr. ANNUNZIO, from the Committee on House Administration, submitted a privileged report (Rept. No. 98-603) on the resolution (H. Res. 446) providing amounts from the contingent fund of the House for expenses of investigations and studies by standing and select committees of the House in the 2d session of the 98th Congress, which was referred to the House Calendar and ordered to be printed.

PROVIDING TEMPORARY EXTENSION OF CREDIT CARD SURCHARGE PROHIBITION

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2335) to provide a temporary extension of the credit card surcharge prohibition, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

□ 1630

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(c)(2) of Public Law 94-222 (15 U.S.C. 1666f note) is amended by striking out "February 27, 1984" and inserting in lieu thereof "May 15, 1984".

AMENDMENT OFFERED BY MR. ANNUNZIO

Mr. ANNUNZIO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Annunzio: On the first page, after line 5, insert the following:

SHORT TITLE

Sec. 2. This Act may be cited as the "Credit Card Protection Act".

RESTRICTIONS ON DISCLOSURE OF CREDIT CARD OR PAYMENT DEVICE NUMBERS

Sec. 3. (a) Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end thereof the following:

"§137. RESTRICTIONS ON DISCLOSURE OF CREDIT CARD OR PAYMENT DEVICE NUMBERS

"(a) No person shall disclose any credit card or payment device number unless—

"(1) such person is disclosing a credit card or payment device number in connection with an authorization, processing, billing, collection, chargeback, insurance collection, fraud prevention, or credit card or payment device recovery that relates to such credit card or payment device number, an account accessed by such credit card or payment account number, or debts or obligations arising, alone or in conjunction with another means of payment, from the use of the credit card or payment device number;

"(2) such person is the holder of the credit card or payment device number or is disclosing the credit card or payment device number to the holder or issuer of the credit card or payment device number;

"(3) such disclosure is reasonably necessary in connection—

"(A) with the sale or pledge, or negotiation of the sale or pledge, of all or a portion of a business or the assets of a business;

"(B) with the management, operation, or other activities involving the internal functioning of the business of such person making such disclosure; or

"(C) with the management, operation, or other activities involving disclosures between a corporation and its subsidiaries or controlled affiliates or between such subsidiaries or such controlled affiliates provided that disclosures for marketing purposes shall not be made if the holder of an active credit card or payment device number has notified the issuer in writing at an address specified by the issuer that such use is not permitted. The issuer shall provide holders of active accounts notice of such nondisclosure option and the specified address on a periodic basis at the issuer's discretion provided the time between such notifications does not exceed one year. The issuer shall comply with such elections within 45 days after receipt of the holder's response. The election shall remain in effect until the holder rescinds the election or until there have been no debits or credits to the account for a twelve-month period;

"(4) such person makes the disclosure to a consumer reporting agency as defined in section 603(f) of the Fair Credit Reporting Act; or

"(5) such person makes the disclosure solely under a circumstance specified in section 604 of the Fair Credit Reporting Act regardless of whether such person is a consumer reporting agency as defined in section 603(f) of the Fair Credit Reporting Act and regardless of whether the disclosure is a consumer report, except that such person shall not furnish any report containing a credit card or payment device number prior to receipt of an individual written, oral, or electronic certification from the requestor—

"(A) containing the reason that the credit card or payment device number is required; and

"(B) that the credit card or payment device number—

"(i) cannot be obtained under a circumstance specified in this section; or

"(ii) that such credit card or payment device number is needed for security, or loss or fraud prevention purposes.

"(b) No person shall intentionally obtain any credit card or payment device number except as provided under this section.

"(c) Nothing in this section shall affect the rights or limitations of persons to disclose credit card or payment device numbers to, or at the direction of, governmental entities under any other provision of law.

"(d) For purposes of this section—

"(1) the term 'payment device number' means any code, account number, or other means of account access (other than a check, draft, or similar paper instrument) that can be used to obtain money, goods, services, or any thing of value, or for purposes of initiating a transfer of funds, except that such term does not include an encoded or truncated credit card or payment device number; and

"(2) the term 'holder' means any person—

"(A) who was issued a credit card or payment device number;

"(B) who is authorized by such holder to use such credit card or payment device number; or

"(C) who is authorized at the specific request of the holder to receive such credit card or payment device number on behalf of the holder.

"(e) Any person who fails to comply with any requirement imposed under this section shall be a creditor for purposes of section 130.".

(b) The table of sections contained at the beginning of chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following:

"137. Restrictions on disclosure of credit card or payment device numbers.".

FRAUDULENT USE OF A CREDIT CARD

Sec. 4. Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended—

(1) in subsection (a)—

(A) by striking out "any" the first time it appears and inserting in lieu thereof "one or more"; and

(B) by striking out "credit card" and inserting in lieu thereof "credit cards or payment devices";

(2) in subsection (b), by inserting "or payment device" after "credit card";

(3) in subsection (c), by inserting "or payment device" after "credit card";

(4) in subsection (d)—

(A) by striking out "with a" and inserting in lieu thereof "with one or more"; and

(B) by striking out "credit card" and inserting in lieu thereof "credit cards of payment devices";

(5) in subsection (e), by inserting "or payment devices" after "credit cards";

(6) in subsection (f)—

(A) by striking out "any" the second time it appears and inserting in lieu thereof "one or more";

(B) by striking out "credit card" and inserting in lieu thereof "credit cards or payment devices"; and

(C) by striking out "obtained—" and inserting in lieu thereof "obtained; or ";

(7) by inserting before "shall be fined not more than $10,000" the following:

"(g) Whoever, with unlawful or fraudulent intent, possesses five or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards or payment devices that have moved in, been part of, or constituted interstate or foreign commerce—"; and

(8) by adding at the end thereof the following: "For purposes of this section, the term 'payment device' means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another payment device, to obtain money, goods, services, or any other things of value, or for the purpose of initiating a transfer of funds (other than a transfer originated by check, draft, or other similar paper instrument).".

CONFORMING AMENDMENT

Sec. 5. Section 135 of the Truth in Lending Act (15 U.S.C. 1645) is amended by striking out "and 134" and inserting in lieu thereof "134, and 137".

EFFECTIVE DATE

Sec. 6. The amendments made by sections 3 through 5 of this Act shall take effect ninety days after the date of enactment of this Act, except that—

(1) the amendments made by section 4 shall take effect upon the date of enactment of this Act, and

(2) restrictions with respect to the furnishing of credit card or payment device numbers imposed upon consumer reporting agencies under section 137 of the Truth in Lending Act (as added by the amendments made by section 3 of this Act) shall take effect one year from the date of the enactment of this Act.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I do not intend to object, but I do want to take this time to express concern about the procedure we are following here.

The proposal to combine the credit card protection bill that the House passed on November 16 of last year with a temporary extension of the credit card surcharge ban causes me some concern, and that is what we have just done with the amendment here.

Without immediate adoption of the Senate bill, which is a straight extension of the ban, the provisions of the Cash Discount Act, Public Law 97-25, which expired on February 27, may be harder and harder to reenact.

We adopted, as I say, H.R. 4278 on November 16, 1983, which would extend the ban through July 31, 1984, and I supported that effort. But the other body has chosen a different date, to-wit, May 15, and a different vehicle.

Now, to assure that the credit card industry and credit card users are protected and that the ban will not be allowed to continue to expire until both the House and the Senate have acted on suggestions for improving it, minority members of the House Banking Committee, may I suggest, have supported the temporary extension provision.

The Senate Banking Committee has reported a bill, S. 2336, which the other body adopted yesterday as H.R. 4278, to make some changes as recommended by the Federal Reserve. The Federal Reserve has conducted and published a study of the relative costs of various forms of credit vis-a-vis cash sales, Mr. Speaker, and addresses the issue of whether cash sales subsidize credit card sales. The Federal Reserve report was submitted to Congress on July 27, 1983.

The question of changing the truth-in-lending law as it applies to credit card surcharges in the manner the other body has proposed I think deserves critical consideration by our committee. But I do support the request of the chairman, the distinguished gentleman from Illinois, the chairman of the Subcommittee on Consumer Affairs, in seeking this unanimous consent to adopt S. 2335 to provide a short extension of the ban, but I am apprehensive that the other body may not accept the measure if this other provision is attached to it.

Mr. Speaker, I strongly support the Credit Card Protection Act, and I strongly support an extension of the ban on the credit card surcharges, but I fear combining the two may only complicate the matter and perhaps might unnecessarily delay the extension in doing so.

Mr. ANNUNZIO. Mr. Speaker, if the gentleman will yield, I thank the distinguished leader on the minority side not only for his support this afternoon but the support I have received for the last 10 years. Without the efforts of the gentleman consumers would have been paying surcharges—the housewife would have been paying the extra charges. I thank the gentleman very much.

Mr. WYLIE. Mr. Speaker, I appreciate that compliment. We have been able to work very well together, and I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANNUNZIO. Mr. Speaker, my amendment does nothing more than add the Credit Card Protection Act as an amendment to this bill. The Credit Card Protection Act, H.R. 3622, is legislation that passed the House of Representatives in November by a vote of 410 to 0. This legislation will go a long way toward stopping the $1 billion a year credit-card-fraud racket. It is supported unanimously by the administration, law enforcement officials, and all aspects of the credit card, retail, and insurance industries.

Despite the overwhelming support and need for this bill, the Senate has failed to act upon it. In the 3½ months that have gone by since the House passed this bill, nearly $300 million in additional credit card fraud has been committed. Every day that goes by with no action costs credit card issuers, merchants, and ultimately consumers over $2.7 million.

By adding this previously passed noncontroversial bill to the legislation, I hope we will see prompt passage so that this legislation can begin protecting the American consumer against credit card fraud.

The **SPEAKER** pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. Annunzio).

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HONORING THE CONTRIBUTION OF BLACKS TO AMERICAN INDEPENDENCE

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 454) honoring the contribution of blacks to American independence, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Reserving the right to object, Mr. Speaker, under my reservation I would like to point out that the minority has no objection, and under my reservation I yield to the gentlewoman from Connecticut (Mrs. Johnson).

Mrs. JOHNSON. I thank the gentleman for yielding.

Mr. Speaker, I would like to thank my colleagues who have joined with me in cosponsorship, and I particularly thank the gentlewoman from Indiana (Mrs. Hall) for her leadership in this matter that has made passage of this resolution possible in February, Black History Month.

The beginning of the black movement for equal rights was no doubt the act of the first slave who attempted to run away, to gain his own freedom. But if we were to lay a marker along the path of American history, perhaps the real beginning occurred 214 years ago as the Colonies were on the verge of revolt, and a black man named Crispus Attucks interceded in a dispute that resulted in his death and that of several others. This incident, better known as the Boston Massacre, was an act of courage similar in sincerity to those repeated time and time again by blacks from the opening days of the Revolution to the freedom rides of the sixties.

Every year, as we commemorate the birth of Dr. Martin Luther King, Jr., we look toward the future and the opportunities for all that would flow from the fulfillment of his dreams. It is also important however, for us to look to the past, and recognize the numerous and heroic contributions that black Americans have made to the creation and preservation of our democracy.

Over 5,000 black soldiers fought for America's independence, yet this aspect of our history has never been fully acknowledged, even though the contributions of these courageous men and women, as they battled for both political and personal freedom, helped set into motion events that contributed to the attainment of equal rights for blacks.

An American cannot be identified by simple physical, ethnic, racial, or religious characteristics. Even our cultural heritage is best defined by its rich diversity. What ties us together as a nation is our commitment to individual freedom and to maintaining the rights and privileges guaranteed by the Constitution to assure the perpetuation of that freedom. Today through House Joint Resolution 454 we commemorate the contributions of the black men and women who fought in the American Revolution not simply because they played an important part in that struggle against British rule, but because they laid the foundation for the fulfillment of a concept of freedom that was uniquely American; a freedom for all people, male or female, of all races, backgrounds and creeds to share the vision that all people are created equal.

Mr. Speaker, I am proud, as a representative of the people of Connecticut, the first State to pass an act prohibiting the importation of slaves, to have introduced House Joint Resolution 454, honoring the contributions of black men and women to American independence.

I would like at this time to enter into the Record the names of four black patriots from the Sixth District who fought in the American Revolution, as well as a brief biography of each, and I would like to thank the gentleman who provided this information to me, Mr. David White, State librarian at the Connecticut State Library, and author of the book "Connecticut's Black Soldiers: 1775-1783."

I would also like to thank Mr. Maurice Barboza, formerly of Plainville, Conn., for his dedication, guidance, and motivating assistance in bringing the contributions of black Americans to our Nation's birth to the attention of this Congress and the schoolchildren of my district. Finally, I thank again the gentlelady from Indiana (Mrs. Hall) and the gentleman from New Jersey (Mr. Courter) for their assistance in bringing this resolution to the floor; the Congressional Black Caucus, for their assistance in publicizing this resolution, and to all the Members whose strong show of support allowed us to bring this bill to the floor in 4½ short weeks during Black History Month.

Four Black Patriots

Tobias Pero—Greene's "New England Negroes" (p. 252) indicates that a Tobias was a slave of Capt. Wooster of Derby, was a leader of local blacks and a soldier in the Revolution. His grandson, Eben D. Bassett, recruited black soldiers for the Civil War and became the U.S. minister to Haiti. Bassett's son was a graduate of Yale and was teaching (in 1942 when Greene wrote his book) at Dunbar High School, Washington, D.C.

Thomas Sacket—As indicated in my book Sacket received his freedom for serving in the army (document with the Ct. Historical Commission) and died during his first year. Documents at the State Library indicate that quite possibly a fraudulent claim for his money was received many years later when funds not claimed by descendants of deceased soldiers was made available to persons with proper credentials.

Prince Duplex—According to Timlow's 1875 history of Southington (p. 531) Duplex was the son of a slave belonging to Rev. Chapman, and later lived on Wolcott Mountain. Warner's "New Haven Negroes" (p. 80) states that Prince Duplex, "the grandfather-to-be of the first Negro physician in New Haven, Dr. Creed" was the clerk of African Ecclesiastical Society in 1824 that became the Dixwell Avenue Congregational Church. This Duplex may have been related to the soldier Duplex for he died in 1832 at the age of 36.

Jeff Liberty—Buried in a cemetery in Washington, Ct. Cothran's "History of Woodbury" indicates that he was the slave of Jonathan Farrand and had been freed for enlisting in the war (p. 783). Liberty served in the Fourth Regiment of Ct. from June 27 through October 11, 1781. According to manuscript records at the State Library a surgeon in the Fourth Regiment that Liberty was too old and "too infirm to endure the fatigues of camp and is an improper subject for the Army." He was discharged in October. Liberty's grave in the Judea Cemetery in Washington, CT, is marked with a plaque placed by the local Sons of Liberty chapter.

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● Mr. BROWN of California. Mr. Speaker, I would like to offer my wholehearted support to House Joint Resolution 454, honoring the patriotic contributions of black men and women to the cause of American independence. This resolution geared to honor these significant efforts during Black History Month is long overdue.

Black Americans have historically participated in the continued struggle to free oppressed people suffering from political, economic, and social injustices.

The contributions of blacks in Colonial America dates back as early as 1652, when they fought as members of the militia for the Massachusetts Bay Colony. Over 5,000 black soldiers fought from 1776 to 1783 as members of the Continental Army, and State and local militias. During this period, the participation of black soldiers within the patriotic rank was highly notable.

In spite of their lack of personal freedom slaves, as well as freed blacks, were willing to fight for the independence of the American States from British rule. These distinguished acts of heroism exemplified the sincere commitment to their cause of the American Revolution.

Efforts such as those of Crispus Attucks, a runaway slave who headed a group of patriots in conflict with British troops and became known as a black martyr of the Boston Massacre, will continue to live on in the lives of Americans as long as the American dream still exists.

It is imperative that the peoples of these United States of America continue to salute and honor all our brave citizens who have sacrificed their lives to insure America's enjoyment of the fruits of democracy—justice, equality, and liberty for all.

Mr. Speaker, Congress has never officially recognized the contributions of free blacks and slaves in the struggle for American liberty and independence. I encourage my colleagues to join us today and to add to the celebration of Black History Month by supporting House Joint Resolution 454, lending our recognition of the contributions of black men and women who fought so boldly for American independence.●

● Mr. RODINO. Mr. Speaker, as the House considers House Joint Resolution 454, a resolution that acknowledges the substantial contributions of free blacks and slaves to the American Revolution, I thought my colleagues would like to know something about the black men from the State of New Jersey who helped win this Nation's independence. I also want to commend Congresswoman NANCY JOHNSON of Connecticut for introducing this resolution and getting it to the House floor with 232 cosponsors in the span of 1 month, Black History Month. I am pleased to be among the original cosponsors.

While the resolution emphasizes the contributions of revolutionary-era blacks as a group, it is important that we mention the names of a few men who are representatives of the more than 5,000 who served from the Thirteen Original States.

Cudjo was a Newark slave who participated in the Revolutionary War as a continental soldier in place of his master. He, like many other slave enlistees, received his freedom in exchange for risking his life in the cause of independence. At the end of the war he was further rewarded with the gift of property on High Street. Samuel Sutpin also served as a substitute. There was fifer, Negro Cuff, and privates Pompey Black, James Casar, John Casar, John Cato, John Ceasar, William Cuffey, Dick Negro, Black Prime, Negro Sambo, Negro Titus, and Cato Johnson to name a few.

Many blacks who served in the Revolution remain today unknown soldiers, anonymous to the public and even the academic and genealogical communities. Hundreds were mustered into the Army under assumed names and/or without racial designation to serve in integrated units. But one day when the monumental task of reviewing the voluminous military service files and pension records kept at the National Archives is undertaken for the purpose of identifying these men, the names of many more black soldiers will become public so that their descendants and fellow Americans may know of them.

Because the majority of black soldiers of the period had names that were similar to their English-American compatriots, they could not be readily identified for inclusion in the excellent National Archives 1974 list of black Revolutionary War servicemen. One man whose name does not appear on the list is Peter Williams, who was confiscated by New Jersey from the estate of a British loyalist and set free. Another man whose background is typical of black Revolutionary War servicemen is Adam Pierce, a resident of Cumberland County, N.J., who served in the Revolutionary War for 9 months in 1778.

Adam enlisted in the spring of 1778 in the company of Capt. John Noble Cummings, of the 2d New Jersey Regiment, commanded by Col. Israel Threevs. He served in the militia and the Continental Army in the Battles of Monmouth and Crosswicks. Some historians describe the Battle of Monmouth as the longest and possibly the most spectacular of the war.

Adam Pierce was the son of Richard and Hannah Van Aca Pierce. Adam's father was a free black man who had been born a slave. Richard, and his brother Anthony, had three sons altogether who served in the Revolutionary War.

Adam Pierce married Dorcas Murray and their descendants today include a retired schoolteacher, a social worker, a physician, and a Federal judge. Their youngest descendants include a surgeon, a law graduate, a television director-newscaster, a newspaper city editor, a hotel middle-manager, a program development staffer in the Gambia, West Africa, and a college student.

Like Adam Pierce, these black soldiers—through their descendants—have influenced every subsequent period in American history. They are the forefathers of thousands of distinguished Americans. I hope that House Joint Resolution 454 and the public attention it receives will help those living descendants who are not aware of the involvement of their ancestors in the Revolution to identify these men and embrace this important chapter in American history as their heritage. As Americans, regardless of race or the origins of our forebears, we are heirs to the history these men helped make. They are not simply heroes of black history, they are heroes of American history. It is a history and a hertiage that we should all be proud to call our own.●

● Mr. FOWLER. Mr. Speaker, as an original cosponsor of House Joint Resolution 454 which was introduced as a part of our celebration of Black History Month, I rise with great pride in honor of the many black Americans from Georgia who have contributed so much to the development of our country.

Their accomplishments become even more impressive when viewed against the backdrop of social, political and, economic barriers placed before them. Even after the demise of slavery, the progress of most black Georgians was stifled by racial violence, Jim Crow laws, and economic exploitation. The eradication of these evils was the cause to which Dr. Martin Luther King, Jr., the most famous of all black Georgians, dedicated his life. As we all know, his success in combating racial discrimination and pursuing social justice was recognized in life with the awarding of a Nobel Peace Prize and in death with the passage of legislation to make his birthday a national holiday.

Dr. King was truly one of America's greatest moral leaders. Notwithstanding the use of police dogs, water hoses, blackjacks, and jail sentences against him, Dr. King remained committed to achieving equality for all Americans through nonviolent means. He once wrote that like the Apostle Paul, he was "compelled to carry the gospel of freedom beyond (his) own home town." Dr. King knew that the problems he saw in Georgia and Alabama were not limited to these two States. He believed that all America was hemmed in by these evils. In his famous "Letter from a Birmingham Jail" he referred to this fact.

> I am cognizant of the interrelatedness of all communities and states. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapeable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly.

The achievements of Dr. King as a minister, writer, speaker, and social activist are best known during the last 13 years of his life from 1955 to 1968. However, the foundation for his national and international exploits was largely formed in Georgia as he grew up and attended schools like Morehouse College in Atlanta.

Dr. King was the crest of a wave of black achievers whose roots originated in Georgia. The State has been blessed with a bounty of black talent. At the turn of the century, black Georgians comprised 12 percent of all black Americans. W. E. B. DuBois, the noted scholar and social activist, once observed that Georgia was the geographical focus of America's black population, as well as the center for their problems. The State offered great talent and a great need for that talent.

For example, rising above the precarious tillage of other southern sharecroppers, two black Georgia farmers in the early 20th century were quite successful. Deal Jackson owned 2,000 acres of rich farmland and for 13 consecutive years marketed the first bale of cotton east of the Mississippi. In addition to land, he owned a considerable amount of equipment and livestock. Bartow Powell owned several farms in adjoining Georgia counties. Powell also successfully operated a cotton gin and a store to serve the tenants on his land.

Although black Georgians at the turn of the century mainly derived their livelihood from agriculture, many urban blacks were involved in crafts. In Atlanta, they dominated both the trade and the local union of plasterers and cement finishers. At the same time, black Government workers controlled the National Association of Letter Carriers local.

Some urban black Georgians also succeeded as businessmen. The Gate City Drug Store on Auburn Avenue in Atlanta was purchased by three blacks in 1889 and for years it was one of the most successful enterprises in the South. To compete with white-owned businesses, most black entrepreneurs had to extend credit. But after nearly going bankrupt due to uncollected debts, Gate City rebounded with a cash-only payment policy, and it never retreated.

One group of black Georgians prospered in banking up until the Great Depression. The Wage Earners' Savings Bank started with $102 in capital and reached the million dollar mark in two decades. The bank became so prosperous that it purchased an entire city block in Savannah. The purchase was part of a plan to develop new black businesses, including a hotel and department store.

Georgia gave birth to two black insurance giants. Although only one still exists, the rival companies at different times each held the position of the largest black-owned insurance company in the world.

Herman Perry started the Standard Life Insurance Co., as an old-line, legal reserve organization which meant the company had to raise $100,000 in 2 years. On the second attempt, Perry succeeded and he could boast operations in nine Southern States.

Perry was not content with his insurance success, so he began building an economic empire. He started a thriving laundry in Augusta, Ga. Later he added other laundries, groceries, drug stores, farms, printing concerns, and a bank. Finally, he entered real estate. He built and financed new homes for blacks on the west side of Atlanta. Perry hired the best and the brightest black minds he could find to run his enterprises. For example, J. B. Blayton, the Nation's first black certified public accountant, began his career with Perry.

Even after the decline of Perry's financial empire, his impact was being felt in Georgia through the many talented young men he recruited that stayed in Atlanta making it one of the Nation's centers of black enterprise.

Alonzo F. Herndon began his insurance company slowly with the capital accumulated as a successful barber. Born a slave, he established himself as Atlanta's premier barber with a clientele that ran the gamut from State supreme court judges, planters, ministers, and politicians from across the State.

In the insurance business, Herndon was no less successful. Ten years after it was founded, Atlanta Life was one of the "Big Four" in black insurance with over 84 branch offices. Herndon was a millionaire before he died, and the mansion he built near the Atlanta University campus still evokes admiration.

The success of Herndon and Perry typified the philosophy of race pride, self-help, and economic nationalism that was gaining ground in the black community in the early 20th century. However, Herndon did not confine his manifestation of this philosophy to the business arena. He was one of the "original twenty-nine" founders of the Niagara Movement.

Four other black Georgians attended the founding of the movement which eventually lead to the creation of the NAACP. The leader and most prominent member of the Niagara Movement was Dr. W. E. B. DuBois.

Dr. DuBois was not a Georgia native, but at the time he was teaching at Atlanta University. In his autobiography, DuBois wrote fondly of his Atlanta experiences:

> "My real work was begun at Atlanta for thirteen years. . . . They were years of great spiritual upturning, of the making and unmaking of ideals, of hard work and hard play. Here I found myself."

Dr. DuBois came to Georgia to train the "talented tenth" of black America and demonstrate to whites that their racial beliefs of superiority and discriminatory policies were based on untruths and distortion. When he left, he had decided that teaching and telling the truth was not enough. He had to become an activist; he had to induce others to act on the truth. He left Atlanta for New York and the editorship of the Crisis, an NAACP publication.

Dr. DuBois was pushed to social activism like many other black Georgians whose lives were touched by the Atlanta University Center. The six black private institutions of higher learning comprising the Atlanta University Center—Morehouse College, Spelman College, Clark College, Morris Brown College, the Interdenominational Theological Center, and Atlanta University—have been given major credit for providing leadership in Georgia and the Nation toward equality.

Former Atlanta University President John Hope also attended the founding meeting of the Niagara Movement. During the 1930's, he used his school's resources to organize "citizenship schools" which were designed to sustain black political interest during the days of the "white primary." Citizenship schools would inform black Atlantans about the duties of citizenship, teach them about the operations of government, and, most important, maintain and stimulate black interest and involvement in the political process. Black Georgians were persuaded to register so they could vote in special and general elections and be able to vote in the Democratic primary when the Supreme Court declared the "white primary" unconstitutional.

Once the "white primary" was struck down a massive voter registration effort was undertaken by a coalition of several groups with an Atlanta University professor as the chairman. Eventually this coalition became a political group which supported black candidates for public office. The group supported President Clement of Atlanta University (AU) who was elected as the first black member of the Atlanta City School Board. Next, two AU professors were elected to the local Democratic Executive Committee.

In the 1973 Atlanta mayoral election, participation by the Atlanta University Center reached a new level. The entire university complex was organized behind one candidate—Maynard Jackson. Jackson, a graduate of Morehouse College, won the election and became the first black mayor of Atlanta.

Unfortunately, no highlight of the achievements of black Georgians can successfully recognize the sum of their accomplishments. A highlight could easily omit or obscure the contribution of Georgians like Jackie Robinson, a great baseball player and the first black to break the color line in that sport; Ezzard Charles, former world heavyweight boxing champ; Ray Charles, a blind musical virtuoso esteemed for his rendition of "Georgia on My Mind"; James Brown, a prominent singer whose songs focused on racial pride; Elijah Muhammad, the founder of the Black Muslims; and Alice Walker, a great contemporary writer and Pulitzer Prize winner.

One point becomes quite clear to any one who studies the history of black Georgians—our State and Nation have been immeasurably enriched by their achievements. For this reason, I am proud to be a cosponsor of House Joint Resolution 454 in its salute to Black History Month.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 454

Whereas, from 1776 to 1783, more than five thousand black men participated in the American Revolution as members of the Continental Army, and State and local militias; and

Whereas blacks participated in every major battle of the Revolution, including Monmouth and Yorktown and were encamped with Washington at Valley Forge; and

Whereas many blacks distinguished themselves in battle with acts of heroism that were well-noted at the time, some were praised by their officers and a few honored or rewarded by State legislatures; and

Whereas a large proportion of black recruits were inhabitants of the State of Connecticut, Massachusetts, Rhode Island, New Hampshire, New York, New Jersey, Pennsylvania, Maryland, and Virginia; and

Whereas black soldiers participated in integrated fighting units and performed a wide array of duties requiring bravery and skill; and

Whereas many blacks who participated in the Revolution are unknown soldiers, who used assumed names or were identified on muster rolls only by race and therefore their descendants will never know of the specific contributions they made to the cause of independence; and

Whereas despite efforts by the Continental Congress and various States to exclude them up until 1778, blacks continued to enlist as substitutes until laws barring their participation in the war were removed, and free blacks of Massachusetts personally protested to General Washington about their initial exclusion from service; and

Whereas the Congress has never officially recognized the contributions of free blacks and slaves to the struggle for American liberty and independence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress extends thanks to the descendants of free blacks and slaves who participated in the Revolution and acknowledges the contributions of these courageous men and women who, in aspiring to freedom, helped bring about American independence and set in motion events that contributed to the attainment of equal rights for blacks, particularly in recent decades;

(2) the Congress encourages the Federal Government, State and local govenments and private organizations, particularly those hereditary organizations that honor Revolutionary War patriots, such as the Daughters of the American Revolution, Sons of the American Revolution, Sons of the Revolution, Children of the American Revolution and Society of the Cincinnati to conduct appropriate activities during Black History Month 1985 in honor of black involvement in the Revolution;

(3) the Congress encourages State legislatures and city councils, especially those located in jurisdictions that provided black soldiers to the Continental Army and to State and local militias, and in jurisdictions where battles occurred, to issue proclamations acknowledging black contributions to the cause of freedom; and

(4) the Congress encourages the placement of plaques and markers in appropriate places, at Valley Forge and elsewhere, in commemoration of black involvement and heroism in the battles of the Revolution.

AMENDMENT OFFERED BY MRS. HALL OF INDIANA

Mrs. HALL of Indiana. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Hall of Indiana: Page 3, line 15, strike ", such as the Daughters of the American Revolution, Sons of the American Revolution, Sons of the Revolution, Children of the American Revolution and Society of the Cincinnati".

The SPEAKER pro tempore. The question is on the amendment offered by the gentlewoman from Indiana (Mrs. Hall).

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment of the joint resolution.

The joint resolution was ordered to be engrossed.

The SPEAKER pro tempore. The Clerk will report the amendment to the preamble.

The Clerk read as follows:

Page 2, paragraph 3, strike "States of Connecticut, Massachusetts, Rhode Island, New Hampshire, New York, New Jersey, Pennsylvania, Maryland, and Virginia," and insert in lieu thereof, "Original Thirteen Colonies".

The SPEAKER pro tempore. The question is on the amendment to the preamble.

The amendment to the preamble was agreed to.

The joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

STUDENT AWARENESS OF DRUNK DRIVING MONTH

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 443) designating the month of June 1984 as "Student Awareness of Drunk Driving Month," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

□ 1640

Mr. COURTER. Reserving the right to object, Mr. Speaker, I wish to indicate that the minority is very supportive of the resolution. We have no objections.

● Mr. GILMAN. Mr. Speaker, I rise in strong support of House Joint Resolution 443 proclaiming June 1984 as Student Awareness of Drunk Driving Month. Alcohol and driving do not mix. It is disheartening to read the statistics of the number of alcohol-related traffic deaths. Too many youngsters die on our own roads, because they do not realize the effects of alcohol in their bloodstream. One night's party unfortunately becomes one unforgettable nightmare. A youth's seemingly innocent enjoyment with drinking all too often turns into a shocking, disturbing, and tragic realization.

The month of June ushers in the summer and ushers youngsters out of school. The students' well-deserved free time is full of fun, friends, excitement, and parties. Although these activities are a part of youth, it is extremely important for parents to educate their children on the dangers of driving while under the influence of alcohol.

There is nothing more horrible than the loss of a loved one. Hopefully, through preventive medicine in the form of education, students and parents will think before they drink and drive. A few words of advice now could save years of agony.

House Joint Resolution 443 sets aside the appropriate summer month of June 1984 to increase students' awareness of the killer combination of drinking and driving. I strongly urge my colleagues to support this legislation and to advise their young constituents of the dangerous realities of drunk driving.●

● Mr. McGRATH. Mr. Speaker, I rise today to support passage of House Joint Resolution 443, legislation which I introduced to designate the month of June 1984 as "Student Awareness of Drunk Driving Month."

Last December, a high school student in my district wrote to me requesting that June 1984 be declared national SADD month. I promised to do so as soon as Congress reconvened in January.

Today I am pleased to say that 234 of my colleagues have joined as cosponsors of House Joint Resolution 443, making this opportunity for floor action possible. On the Senate side, Senator LAUTENBERG has introduced a similar resolution, Senate Joint Resolution 222, and 18 Senators have joined as cosponsors.

I stand firmly committed to preventing future alcohol-related fatalities among young Americans. Alcohol-related crashes are the leading cause of death in the United States for those between the ages of 16 and 24. Fourteen teenagers die each day in alcohol-related crashes. Passage of this resolution is the first step toward significantly reducing this tragic statistic.

I recently contacted a number of individuals involved in youth and alcohol programs to request suggestions for appropriate projects and activities to highlight "Student Awareness of Drunk Driving Month." The major recommendation which I would like to set forth at this time is for the establishment of an antidrunk driving student group in every school in the country. The ability and success of students in reaching their peers on drunk driving deterrence is to be commended and encouraged.

The next necessary step is for the initiation of alternative activities to drinking for the traditional May and June festivities. So called dry celebrations for school activities have grown into movements such as project graduation which have gained the support of many communities nationwide. Where activities which include alcohol do take place, the creation of a safe rides system should be set up to avoid potential hazards.

Community involvement and support of antidrunk driving student activities are essential for long-term success. Educational activities to illustrate that students can have fun without alcohol will generate the interest and willingness to experiment with dry celebrations. A community task force to continue the education process throughout the year would contribute to the long-term goal of effectively reducing the serious alcohol-related fatality rate which we face today.

Numerous informational resources are available to assist schools and communities in establishing successful antidrunk driving student activities and organizations. I am currently reviewing all available information which I intend to share with my colleagues in the weeks ahead. I hope that the cosponsors of House Joint Resolution 443 will follow through on action taken here today by working within their respective districts to encourage the projects and activities necessary to make "Student Awareness of Drunk Driving Month" truly successful.

Thank you.●

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 443

Whereas alcohol-related traffic accidents are the leading cause of death for Americans fifteen to twenty-four years old;

Whereas the death rate for such age group is higher than it was twenty years ago, due in large measure to an increase in alcohol-related traffic fatalities;

Whereas Students Against Drunk Driving, Students Against Driving Drunk, and other similar organizations have been established throughout the country in order to increase student awareness of the tragic consequences of driving while under the influence of alcohol; and

Whereas it is appropriate for the Congress to recognize the efforts of such organizations and to emphasize the need for all levels of government to join the effort to combat the problem of drunk driving, particularly as such problem affects students: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of June 1984 is hereby designated as "Student Awareness of Drunk Driving Month", and the President is authorized and requested to issue a proclamation calling upon students, parents, teachers, and others to observe such month with appropriate ceremonies and activities.

The SPEAKER pro tempore. The question is on the engrossment of the joint resolution.

The joint resolution was ordered to be engrossed.

The SPEAKER pro tempore. The Clerk will report the amendment to the preamble.

The Clerk read as follows:

Page 1, paragraph 3, strike "Students Against Drunk Driving, Students Against Driving Drunk, and other similar" and insert in lieu thereof "various student".

The SPEAKER pro tempore. The question is on the amendment to the preamble.

The amendment to the preamble was agreed to.

The joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL WEEK OF THE OCEAN

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 478) designating the week of April 29 through May 5, 1984, as "National Week of the Ocean," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, under my reservation I would like to point out the fact that the minority has no objection to the resolution, and I yield to the chief sponsor of the resolution, the gentleman from Florida (Mr. SHAW).

Mr. SHAW. I thank the gentleman for yielding.

Mr. Speaker, I would like to thank the gentleman and my 228 colleagues for joining with me in cosponsoring this most important resolution.

The Members, the colleagues I refer to, come from 46 States and 4 territories. This bill demonstrates the strong commitment of this Congress to focus attention on the benefits of the ocean. The oceans are vital in the production of energy, minerals, and food.

The oceans also produce an abundance of food through a most important industry—that of the fishing industry. The oceans also play a major role in the shipment of U.S. goods to foreign markets, especially coal and agricultural products.

Finally, the oceans are a location for recreational activities such as swimming, diving, and boating. The ocean, with its vastness, offers to all the inhabitants of the Earth an everlasting vista of beauty and tranquility.

● Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 478 which would designate April 29 to May 5, 1984, as "National Week of the Ocean."

The oceans of the world are man's most extensive and important natural resource. Within them one can find nearly every element of use to man. Routes of transportation, realms of exploration and the means for the creation of energy are but a few of the numerous uses of these great natural bodies.

The oceans of the world provide for the advancement of man as well as the growth of the individual. For millions of people the ocean is their office. The sailors who traverse it, the scientist who studies it and the fisherman who harvests it, like countless others, have a stake in maintaining this vital resource.

"National Week of the Ocean" will help make the American public more aware of our ocean's potential. More importantly, it will provide a better understanding of the delicate ecological system of which the oceans are an integral part. In order for man to continue to make effective long term use of our oceans we must work within the framework of its ecological balance.

"National Week of the Ocean" will help the American public better understand how we use the oceans, and how we must maintain them if they are to be of full use to our future generations.

As one who participated as Congressional Liaison to the United Nations Law of the Sea Conference for the past several Congresses, I have come to appreciate the depth of resources and knowledge contained within our waters. It was apparent to me at these meetings that our international colleagues share with us the great concern that all bodies of water be maintained for future generations. This "National Week of the Ocean" is a fitting response to the many gifts that the oceans and seas have bequeathed to us, and I urge my colleagues to support its passage.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 478

Whereas the oceans of the world are one of the most precious natural resources of mankind;

Whereas Americans are particularly dependent upon the ocean for environmental and recreational uses;

Whereas the oceans are playing an increasingly important role in the food, energy, and mineral production of the United States as well as in the transportation of United States goods;

Whereas it would be beneficial for the American public to learn of the interrelationship of the United States and the oceans of the world; and

Whereas the declaration of a National Week of the Ocean would increase the American public's awareness of the world's oceans and their importance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 29 through May 5, 1984, is designated as "National Week of the Ocean" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WOMEN'S HISTORY WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 422) designating the week beginning March 4, 1984, as "Women's History Week," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, I would like to point out that the minority has no objection and is very supportive of the resolution.

● Mr. GILMAN. Mr. Speaker, I rise in strong support of House Joint Resolution 422 that designates March 4 through March 10 as "Women's History Week." One cannot look at the accomplishments of our country without noticing the impact and recognizing the importance of women. All too often women have been stereotyped as homemakers and housewives without any consideration for their immense dedication to their family, friends, and country.

The history of our Nation is filled with contributions by females. Betsy Ross braved the colonial era and sewed a famous piece of U.S. history. Dolly Madison saved the White House from a raging fire. Harriet Tubman established the Underground Railroad. Clara Barton created the always helpful American Red Cross. In literature, Harriet Beecher Stowe's "Uncle Tom's Cabin" is a classic of the Civil War era. In the early 1900's Susan B. Anthony lead the women's suffrage movement. Helen Keller's courage and conviction is an inspiration to all generations. During the Depression and World War II the strong will of Eleanor Roosevelt was a hopeful, guiding sign. More recently, the achievements of Amelia Earhart, Helen Hayes, and Babe Didrickson have earned their place in American history. Moreover, Golda Meir, who grew up in Milwaukee, Wis., became one of the world's most admired female figures during her term as Israel's courageous Prime Minister. The achievements of women continue to make history in the 1980's as evidenced by Astronaut Sally Ride's recent space shuttle flight.

The woman's right to individuality is just as important and justified as any other person's right. Women have the right for equal work, equal pay for equal work, and the opportunity for advancement. The American dream makes no differentiation between sex, race, color, creed, or religion. The freedoms, opportunities, and laws of our land are geared toward equality toward all. And most notable of all are the great gains women have made in Congressional representation. Today, 22 women serve in the House of Representatives, and 2 in the Senate. Although women are 51 percent of the population, they remain severely underrepresented in these bodies, and I am certain that my colleagues share my concern for this situation.

As a strong supporter of women's rights, I support the equal rights amendment. It is unfortunate that a few simple words in an amendment proposal have been so misconstrued by some. Today and every day, let us reflect on the accomplishments of women and recognize their immense contribution to the growth and maturity of the United States.

Accordingly, I ask my colleagues to join me today in the recognition of women's many achievements by supporting House Joint Resolution 422.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewomen from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 422

Whereas American women of every race, class, and ethnic background have made historical contributions to the growth and strength of the Nation in countless recorded and unrecorded ways;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of our Nation's life by constituting a significant portion of the labor force working in and outside of the home;

Whereas American women have played a unique role throughout our history by providing the majority of the Nation's volunteer labor force and have been particularly important in the establishment of early charitable philanthropic and cultural institutions in this country.

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement, not only to secure their own right of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the peace movement, and the modern civil rights movement;

Whereas, despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the body of American history: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 4, 1984, is designated as "Women's History Week", and the President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL CHILD ABUSE PREVENTION MONTH

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 161) to designate the month of April 1984, as "National Child Abuse Prevention Month," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Reserving the right to object, Mr. Speaker, I would mention the fact under my reservation that the minority is very much supportive of this very worthwhile resolution.

I yield to the chief sponsor of the resolution on the House side, the gentleman from Indiana (Mr. HILER).

Mr. HILER. I thank the gentleman for yielding.

Mr. Speaker, it has been my pleasure to introduce in the 97th and 98th Congresses commemorative legislation designed to help increase the awareness of a very serious national problem, child abuse.

Again this year, my colleague, MARY ROSE OAKAR and myself have sponsored legislation to designate April 1984 as National Child Abuse Prevention Month. The widespread and early support this legislation received underscores its importance and I wish to commend my colleagues for their support and also to thank the gentlewoman from Indiana (Mrs. HALL) and the gentleman from New Jersey (Mr. COURTER) for their expeditious consideration of this bill.

The nationwide statistics on child abuse are horrifying. It is estimated that more than 5,000 children may be killed this year by their parents or parent surrogates. That is almost 14 children or the equivalent of an entire kindergarten class killed each day and this in the most bountiful nation on Earth.

In addition, an estimated 2 million children suffer the humiliation and physical injury of child abuse yearly. I think these statistics are tragic, but unfortunately they are growing.

Thankfully, there are several outstanding organizations like Parents Anonymous who are leading the effort to curb child abuse; not Federal agencies, but groups of hard-working dedicated volunteers. They include the National Exchange Club Foundation for the Prevention of Child Abuse, the National Child Abuse Coalition, the National Committee for the Prevention of Child Abuse, and the American Humane Association.

These organizations are able to service families with a child abuse problem 20 times more cost effectively than public welfare agencies, and represent the finest example of the benefits of voluntarism.

National Child Abuse Prevention Month will not only recognize the fine work of these organizations but will also help to encourage other volunteers to join the fight against child abuse and for these reasons, I urge my colleagues to support National Child Abuse Prevention Month.

● Mr. GILMAN. Mr. Speaker, I rise in support of Senate Joint Resolution 161 which would designate the month of April as "National Child Abuse Prevention Month."

This very day thousands of children across our Nation are suffering under the hands of parents who, for a plethora of reasons, are scarring their children both physically and emotionally. Scars like these run deep and are often permanent. With improved public awareness we might be able to end the agonizing existence of many of our Nation's children as well as their oft frustrated parents.

The first steps toward ending this problem come through its recognition by the public. Senate Joint Resolution 161 will help the American public not only recognize the problem but also understand that the prevention of child abuse is the responsibility of everyone. This resolution will help neighbors, teachers, family, and friends learn the signs of possible child abuse. Many American citizens will better understand that the clues that indicate child abuse are not always blatant. Beyond being physically battered, an abused child can be tortured through malnutrition, cruel and insensitive acts of punishment and a lack of that most precious parental commodity, love and affection.

National Child Abuse Prevention Month will provide a better understanding of the causes of child abuse and some possible solutions. The prevention of child abuse must become a high priority among the American public. Child abuse can no longer be treated as a private domestic problem off limits to outsiders. With the fate of many of our Nation's children at stake, the American public must learn that ignorance is no longer bliss, it is in fact, suffering.

An informed public is the first step in the process of alleviating a social ill. The scourge of child abuse cannot be brushed aside any longer. It is not we who have the greatest stake in this cause, but our beloved children. I therefore urge my colleagues to support passage of Senate Joint Resolution 161.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 161

Whereas the incidence and prevalence of child abuse and neglect have reached alarming proportions in the United States;

Whereas an estimated two million children become victims of child abuse in this Nation each year;

Whereas an estimated two thousand of these children die as a result of such abuse each year;

Whereas the Nation faces a continuing need to support innovative programs to prevent child abuse and assist parents and family members in which child abuse occurs;

Whereas Congress has expressed its commitment to seeking and applying solutions to this problem by enacting the Child Abuse Prevention and Treatment Act of 1974;

Whereas many dedicated individuals and private organizations, including the National Exchange Club Foundation for the Prevention of Child Abuse, Parents Anonymous, the National Committee for the Prevention of Child Abuse, American Humane Association, and other members of the National Child Abuse Coalition, are working to counter the ravages of abuse and neglect to help child abusers break this destructive pattern of behavior;

Whereas the average cost for a public welfare agency to serve a family through a child abuse program is twenty times greater than self-help programs administered by private organizations;

Whereas organizations, such as the National Exchange Club Foundation for the Prevention of Child Abuse, Parents Anonymous and other members of the National Child Abuse Coalition are expediting efforts to prevent child abuse in the next generation through special programs for abused children; and

Whereas it is appropriate to focus the attention of the Nation upon the problem of child abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of April 1984, is designated as "National Child Abuse Prevention Month" and the President of the United States is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 445

Mr. HILER. Mr. Speaker, I ask unanimous consent that the gentleman from Idaho (Mr. HANSEN) be removed as a cosponsor of House Joint Resolution 445.

The SPEAKER pro tempore (Mr. BARNARD). Is there objection to the request of the gentleman from Indiana?

There was no objection.

NATIONAL BETA CLUB WEEK

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 184) to designate the week of March 4, 1984, through March 10, 1984, as "National Beta Club Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Reserving the right to object, Mr. Speaker, I would like to thank the gentleman from South Carolina (Mr. CAMPBELL) who was the chief House cosponsor of this resolution.

As the Speaker knows, even though it was passed in the Senate it would not see the light of day or become law without proper passage in the House of Representatives. The gentleman from South Carolina, Mr. CAMPBELL, because of a markup in the House Ways and Means Committee, cannot be here. He wanted me to thank the 224 House cosponsors of the resolution for him.

● Mr. CAMPBELL. Mr. Speaker, it is with great pleasure that I rise in support of National Beta Club Week.

The Beta Club is an organization dedicated to recognizing those high school students who have displayed the outstanding qualities of leadership and the highest standards of honesty, achievement, and service to others. The Beta Club significantly contributes to the motivation of students to receive the education they need by rewarding them for these outstanding qualities and thereby contributes to the development of responsible citizens.

I am particularly pleased to support this bill because the National Beta Club is headquartered in Spartanburg, S.C., which is in my district. Fifty years ago, the Beta Club was founded in Landrum, S.C. From an original membership of 15, the organization has grown to include more than 200,000 young people and over 1.5 million alumni, including some House Members.

I had the opportunity to meet many of these Beta members when I recently spoke to the South Carolina Beta Club convention. I was very impressed by these young people and saw in them the ideals of the National Beta Club: honesty, service, and leadership.

Furthermore, while working with the Beta Club to secure passage of this bill, I became familiar with the varied activities of the local chapters. From blood drives to tutoring services to rock-a-thons for cystic fibrosis, Beta Clubs have proven to be valuable assets to their communities.

Mr. Speaker, I want to thank my 225 colleagues who have joined me in cosponsoring the House bill. It is indeed a privilege to honor an organization which teaches proper citizenship and seeks to meet the needs of the community. And, finally, Mr. Speaker, I would like to wish a happy 50th anniversary to the Beta Club.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 184

Whereas the Beta Club recognizes those high school students who have displayed outstanding qualities of leadership and the highest standards of honesty, achievement, and service to others;

Whereas the Beta Club significantly contributes to the motivation of students to acquire necessary education by rewarding such students for displaying such outstanding qualities, and thereby contributes to the development of responsible citizens;

Whereas January 9, 1984, marks the fiftieth anniversary of the founding of the Beta Club for the purposes of recognizing the meritorious achievements of exemplary students; and

Whereas it is appropriate to give recognition to the Beta Club for its significant accomplishments toward the development of the youth of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of March 4, 1984, through March 10, 1984, is designed as "National Beta Club Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FROZEN FOOD DAY

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 193) designating March 6, 1984, as "Frozen Food Day," and asked for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Reserving the right to object, Mr. Speaker, I will not object. I reserve the right to object to simply note that the minority has reviewed the resolution and is very supportive of the resolution.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 193

Whereas the United States of America is blessed with an impressive array of agricultural products that make the food production and distribution system of the Nation the envy of the world;

Whereas throughout history one of the primary goals of human effort has been the production of food;

Whereas the farm-to-city migration created a great demand for food supplies in dense population centers in which such supplies could not be grown;

Whereas the international frozen food industry started in the United States with vegetables, fruit meat, and fish being first packaged and offered to consumers in 1930;

Whereas between 1935 and 1940 frozen foods were provided to the public on a large scale, and during World War II ration point values posted in stores and carried in newspapers focused public attention on frozen foods;

Whereas frozen food became a meaningful part of the space age when Appollo XII astronauts took frozen meals on board and seventy-two frozen food items were stored on skylab for a five-hundred-day supply of meals for the crew;

Whereas the American frozen food industry has worked closely with producers and has continued research and development for the purpose of seeking better ways to bring the nutrition, quality, and taste of American agricultural products to the American consumer; and

Whereas in March 1984 the frozen food industry in the United States will celebrate the fifty-fourth year of service to the American people and the people of the world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the significant contribution which the frozen food industry in the United States has made and continues to make to the nutritional well-being of the American people by enabling them to share in the agricultural abundance of the Nation, March 6, 1984, is hereby designated as "Frozen Food Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. **HALL** of Indiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several resolutions just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND SELF-SUFFICIENCY ACT OF 1983

Mr. **DERRICK**. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 447 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 447

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3050) to amend the Rural Electrification Act of 1936 to ensure the continued financial integrity of the Rural Electrification and Telephone Revolving Fund, and for other purposes, the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of clause 5(a), rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one and one-half hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be considered for amendment under the five-minute rule, and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

□ 1650

The **SPEAKER** pro tempore. The gentleman from South Carolina (Mr. Derrick) is recognized for 1 hour.

Mr. **DERRICK**. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentleman from Mississippi (Mr. Lott), and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 447 is an open rule providing for the consideration of H.R. 3050, a bill to amend the Rural Electrification Act of 1936 to insure the continued financial integrity of the rural electrification and telephone revolving fund, and for other purposes. The rule provides for 1½ hours of general debate, with the time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. It also provides that each section of the bill shall be considered as having been read. The rule also waives clause 5(a), rule XXI, which prohibits appropriations in a legislative bill. Finally, the rule provides for one motion to recommit.

This is a simple, straightforward rule. The waiver of clause 5(a), rule XXI, is necessary only because the bill authorizes a new use of funds already available to the rural electrification and telephone revolving fund. The bill does not make any new appropriations to the fund.

Because the rule does not preclude the offering of any germane amendment otherwise in order, it does allow for the consideration of an amendment in the nature of a substitute that the gentleman from Arkansas (Mr. Bethune) plans to offer.

Mr. Speaker, I have the privilege of representing the Third Congressional District of South Carolina, a district which is primarily rural in character. Rural electric and telephone systems have provided many of my constituents with electricity and telephone service they would not otherwise have.

Approximately 300,000 consumers are currently served by rural electric systems in South Carolina. In 1935, only 2 percent of South Carolina's farms were electrified. By 1978 the percentage had climbed to 98 percent.

The rural telephone systems in South Carolina serve some 15,000 business and 141,000 residential telephone subscribers. At present, some 19 rural telephone co-ops in South Carolina borrow from the revolving fund.

As these and similar numbers from other States indicate, Mr. Speaker, rural electric and telephone services have had substantial impacts on the economic productivity and the quality of life in rural America. Much of what has been accomplished would have been impossible without the support that the Federal Government has given the co-ops. But the success of the rural electric and telephone efforts does not mean that further support is not necessary. The maintenance and modernization of these rural systems is a crucial aspect of our efforts to revitalize our national infrastructure, but the rural systems face the same problems in maintaining and modernizing their systems that they did in establishing them to start with: The cost of providing electric and telephone services in rural areas is extremely high. Without the availability of funds at a lower rate of interest than is available in the commercial market, needed maintenance and modernization simply will not occur and we will witness a reversal in the trend toward universal electric and telephone service and a reduction in the contribution that rural areas make to the health of the Nation's economy.

H.R. 3050 takes steps to assure that the rural electrification and telephone revolving fund will remain solvent so that funds will continue to be available to co-ops at interest rates they can afford. It does this primarily by allowing the interest rate that the revolving fund charges to be increased above the current 5 percent standard rate to a rate that will be periodically adjusted to a level which will insure the stability of the revolving fund.

This balances the needs of the co-ops for low interest loans against the need to limit the Government's subsidy of those loans and to make the revolving fund self-sufficient. The bill also provides that $7.9 billion in notes due the Treasury beginning in 1993 will be converted to equity capital of the revolving fund. This bookkeeping change will not release any REA borrower from its obligation to repay any loan, but it will eliminate the need for future appropriations to or additional borrowing by the revolving fund in order to liquidate the notes to the Treasury.

The bill also includes provisions to allow the revolving fund to reduce the amount of debt service on funds borrowed from the Federal financing bank, to expand the types of telephone services eligible for fund financing to include transmission of data and transmission by new technologies such as glass fiber, to make it easier for co-ops to obtain commercial financing for some of their needs, and to allow the fund to finance systems intended to serve communities up to a population of 2,500 instead of up to 1,500.

Mr. Speaker, House Resolution 447 will provide for full and open consideration of this important legislation. I urge adoption of the rule.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 447 is a 1½-hour open rule providing for the consideration of the bill H.R. 3050, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983. The only special feature in this otherwise straight open rule is the waiver of clause 5(a) of House Rule 21 against certain provisions of the bill. Clause 5(a) of rule 21 prohibits the inclusion of appropriations in a legislative bill. H.R. 3050 contains two provisions which are in possible violation of this rule—paragraph 2 of section 4 and section 5, both of which provide new permissible uses of the trust funds involved, and thereby technically constitute an appropriation.

Mr. Speaker, this bill was sequentially referred to both the Ways and Means and Banking Committees when the Agriculture Committee report was filed on December 9, with the referral period to end not later than February 24 of this year. In the interim the chairman of both Ways and Means and Banking agreed to waive their committees' jurisdictional claim if the chairman of the Agriculture Committee would agree to offer an amendment to section 5 of the bill requiring approval of the Federal Financing Bank before the Administrator of REA could repurchase certificates of beneficial ownership previously sold to the FFB. Chairman de la Garza agreed to this suggestion and the other two committees subsequently waived their jurisdictional claims over the bill.

As a result of this agreement between the committees and the waiver of jurisdiction by both Ways and Means and Banking, the Rules Committee did not feel it necessary to allocate any additional general debate time to either of those committees. However, the chairman of the Agriculture Committee had requested only 1 hour of general debate time for his committee, and you will note this rule provides for 1½ hours. The reason the additional time was made available was due to the persuasive testimony before the Rules Committee by the gentleman from Arkansas (Mr. Bethune) who felt he needed some time during general debate to discuss the substitute which he intends to offer. My colleagues will find that substitute printed at page H925 of the Monday, February 27 Record. There is no special reference to the Bethune substitute in this rule since it is an open rule and the gentleman from Arkansas assured us that no special waivers were needed for it to be offered. In essence the Bethune substitute would shift more of the burden for the long-term solvency of the REA revolving fund to the borrowers, that is the cooperatives, as opposed to the bill's provisions for converting the $7.9 billion REA liability to equity capital of the fund.

Mr. Speaker, I do not want to get into the specific provisions of H.R. 3050 since there will be ample time to do so during general debate and the amendment process under the terms of this rule. I think it is important to know by way of background at this point that the REA electric and phone revolving fund, established by a $7.9 billion loan from Treasury in 1973 to finance loans for the construction of electric and phone distribution lines, is in serious jeopardy today, and in a few years could be insolvent. Although the revolving fund was intended to be self-replenishing, there has been a high differential in recent years between the interest costs being paid to the Federal Financing Bank by the REA on its borrowings—as high as 15 percent—and the interest income of the fund on loans to rural electric and phone borrowers at the fixed statutory rate of 5 percent. This gap between interest costs and income has forced the REA into even greater borrowing from the FFB in order to meet the fund's ongoing cash needs, and this has only further exacerbated the imbalance.

H.R. 3050 is therefore offered to resolve this imbalance and hopefully bring about some long-term solvency in the fund. The fixed 5 percent rate on loans from the fund would be changed to a variable rate based on a formula in the bill. The $7.9 billion owed to Treasury by the fund would be converted to equity capital of the fund, thus insuring the continued use of these assets to help meet the capital needs of rural electric and telephone systems.

Mr. Speaker, I do not think anyone in this Chamber questions the success and effectiveness of the REA over the years in bringing electric and later phone service to the far corners of this Nation. The success and popularity of this program is evidenced in part in the fact that this bill has some 178 cosponsors. That support also reflects an awareness of what remains to be done to provide and maintain reliable electric service to rural areas at affordable rates.

I would be remiss if I did not point out that the administration has expressed opposition to this bill on grounds that the approach taken would not guarantee the solvency of the revolving fund but would substantially increase Federal subsidies for rural electric and telephone companies and cooperatives. As I mentioned earlier, Congressman Bethune will be offering a substitute which he characterizes as being a compromise between the committee bill and the administration's position. This rule has reported by a unanimous voice vote by the Rules Committee and I know of no opposition to it. I therefore urge adoption of the rule so that we might get on with the substantive debate and amendment process on the bill.

Mr. Speaker, I have no requests for time, and, therefore, I yield back the balance of my time.

□ 1700

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 447 and rule XXIII, the Chair declares the House in the Committee of the Whole for the consideration of the bill, H.R. 3050.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3050) to amend the Rural Electrification Act of 1936 to insure the continued financial integrity of the Rural Electrification and Telephone Revolving Fund, and for other purposes, with Mr. Derrick in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. de la Garza) will be recognized for 45 minutes and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 45 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to appear before the House today in support of H.R. 3050, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983.

H.R. 3050 was introduced by ED JONES, the distinguished chairman of the Subcommittee on Conservation, Credit, and Rural Development, with 178 additional cosponsors, and was ordered reported by the committee by a recorded vote of 38 to 1.

Mr. Chairman, H.R. 3050, as reported by the committee, is a complex bill with many different amendments to the basic act. Primary among these are several amendments to protect the solvency of the revolving fund which is used to make insured electric and telephone loans, and otherwise to preserve the long-term viability of the loan programs under that act for financing rural electric and telephone systems.

Before I explain the details of these provisions and the other amendments in the bill, I would like to repeat a little history of the REA.

HISTORY OF THE RURAL ELECTRIFICATION ACT

The Rural Electrification Administration (REA) is a credit agency of the U.S. Department of Agriculture which assists rural electric and telephone organizations in obtaining the financing required to provide electric and telephone service in rural areas. These essential services help improve the quality of life for people who live, work, or do business throughout rural America.

REA was first established by Executive Order 7037 on May 11, 1935, as part of a general program of unemployment relief. REA was given its own statutory authorization by the Rural Electrification Act of May 20, 1936. It became a part of the U.S. Department of Agriculture on July 1, 1939.

Federal support was needed to electrify rural America because most of the established utilities served high density areas and did not extend lines to farmers and other rural residents because such investments were not considered to be feasible.

When Congress established REA, its purpose was to assure that funds would be available for rural electrification. Loans were made at interest rates that fluctuated with the cost of money to the Government. In 1944 Congress established a fixed interest rate of 2 percent, which, at that time, was the approximate cost of money to the Government.

The purpose of REA was expanded in 1949 when REA was authorized to loan funds for telephone service in rural areas. As in the case of electricity, it became clear that rural residents would not have access to adequate and dependable telephone service unless Federal support was provided. Both the rural telephone and rural electric programs of REA have been successful in achieving their goals.

During the late 1960's and early 1970's, rural electric and telephone leaders came to realize that their capital needs were growing at a very rapid rate and would very likely continue to grow. For this reason, supplemental sources of financing were developed for both rural electric and telephone utilities.

The National Rural Utilities Cooperative Finance Corporation (CFC) was formed in 1969 by the rural electric cooperatives. It obtains funds from the private credit markets for its loans to electric systems. As of December 31, 1982, CFC had provided more than $2.1 billion in long-term loans to its membership.

The Rural Telephone Bank (RTB) was established in 1971 by Public Law 92-12 which amended the Rural Electrification Act. It is the primary supplemental source of financing for the growing capital needs of rural telephone systems. The bank was to provide supplemental financing at higher, closer-to-market interest rates for borrowers meeting an interest coverage standard. Such borrowers receive loans from the bank or a combination of REA and bank moneys. As of January 1984, the interest rate on a 35-year bank loan was 10 percent.

By the early 1970's the Government's cost of borrowing had climbed to more than twice the REA lending rate. As a result, in 1973 a major amendment to the Rural Electrification Act was adopted, establishing the rural electrification and telephone revolving fund (RETRF) for the purpose of making loans to REA electric and telephone borrowers. The amended act established that loans to be made from the revolving fund would be at a standard rate of 5 percent instead of the 2-percent rate at which REA loans had previously been made. The 2-percent rate was retained as a special rate for borrowers that met criteria specified in the act. It was also available, at the Administrator's discretion, for hardship cases.

In addition to establishing the revolving fund, and increasing the interest rate on REA loans, the 1973 amendment authorized REA to guarantee loans made by other lenders. Today these loan guarantees account for most of the generating and transmission loans, while loans from the revolving fund are primarily made to finance construction of electric and telephone distribution lines.

To provide seed money for the new REA revolving fund, Congress specified that $7.9 billion in outstanding loans owed to the Treasury by electric co-ops and telephone companies would instead be paid to the new fund. Further interest payments on these loans also went into the fund. The combination of principal and interest on these outstanding loans was to be recycled for new direct loans. The action did not relieve borrowers from repaying loans; it only shifted repayment from the Treasury to REA. Congress required REA to begin paying back the loan from the Treasury in 1993.

Rising interest rates over the last decade have created severe financial problems for the revolving fund. Compounding the problem were continued demand for loans from co-ops needing funds for expansion and updating of facilities, as well as congressional directives to lend more money than the fund was receiving in loan repayments.

Because of these problems, the REA revolving fund has been forced to borrow more and more from the Federal Financing Bank. In the near future, REA will have to pay more in interest to the bank than the interest payments it receives from loans to co-ops and telephone companies, despite the spotless record of loan repayment by co-op and telephone company borrowers.

Mr. Chairman, I want to emphasize the following points which form the basis for this legislation:

First, a stable and financially sound REA lending program is needed for the years ahead just as much as it was needed in the past.

Second, without early and effective action by Congress, the revolving fund which is the heart of the REA credit program will be in serious trouble in the coming years.

Third, the reforms provided by this bill, including provision for higher interest rates by REA borrowers, will put the fund on a sound footing.

Fourth and finally, despite the claims of critics, the provisions of the bill do not represent any kind of a giveaway to rural electric systems and will not add to any real degree to the Federal deficit.

Now, I want to provide some background to help explain the need for the legislation:

BACKGROUND

The Rural Electrification Act has been in effect for almost a half-century. During this period REA has played a vital role in bringing the rural areas of our Nation into the mainstream of modern life. It is a source of great pride to our Nation.

The achievements of the REA program go beyond its role in bringing basic electric and telephone services to rural areas. REA, and the rural electric and telephone systems which it has helped to create and nurture, deserve much credit for the growth in agricultural productivity that has made America the world's leading supplier of food and fiber, and for the overall improvements in the quality of life in rural America that reversed the longstanding trend of rural-to-urban migration.

Notwithstanding this success story, substantial amounts of new capital through the REA loan program continue to be needed to provide and maintain reliable electric service to rural areas at affordable rates.

Major, long-term investments must be made each year: First, to provide service to thousands of new farms, residences, and businesses throughout rural America; second, to improve the adequacy and reliability of service to existing consumers by "heavying up" the rural electric distribution network; and third, to replace facilities and equipment that have exhausted their useful service lives. Much of the rural electric infrastructure was put in place 30 to 40 years ago, and is therefore at, or beyond, the age at which its adequacy and reliability begin to suffer.

Rural electric cooperatives are still operating in the areas which other utilities could not or would not serve, as was the case when the REA program was created nearly 50 years ago. Co-ops, by and large, serve thinly populated territories. They have built and maintain 50 percent of the Nation's electric lines, but account for less than 10 percent of its total electricity sales. The average electric cooperative's revenue per mile of installed line is about 8 percent of that enjoyed by the average power company, and the co-op consumer density is just 13 percent of the typical investor-owned utility. At the same time, however, the co-ops' investment per consumer is 162 percent of the investment of the power companies.

All these factors, combined with enormously higher utility construction and operating costs, contribute to the difficult financial and economic conditions in which electric cooperatives now operate. Because of these problems, the preservation of a stable and adequate REA lending program as the centerpiece of rural electric financing is vital to the future survival of rural electrification in America.

The story is the same with respect to the REA telephone loan program. There, too, in spite of all that has been accomplished, the job is not yet over. There are countless homes in the United States still without a telephone. Last year alone, over 170,000 REA telephone subscribers were added to the rolls, and the REA added 14 new borrower companies. The work of the program continues, as rural telephone systems continue to phase out obsolete switches, bury trouble-prone aerial cable, and improve service to the nearly 20 percent of their subscribers who are still without single-party service.

THE REA REVOLVING FUND

Prior to 1973, REA financing for rural electrification and telephony was fundamentally a direct loan program. Each year Congress would appropriate a fixed amount of Treasury funds for the program. These funds were lent to REA by the Treasury, the loans evidenced by 40-year notes. REA used the funds in turn for loans to its borrowers. As these funds were repaid to REA by the rural electric and telephone borrowers, the full amount, including principal and interest, would flow through to the Treasury, appearing in the Federal budget as general revenues.

In May 1973, the law was changed. It established a loan-guarantee program used mainly to finance large generation and transmission projects. Under this program, the agency guarantees the repayment of loans qualified borrowers arrange from lenders other than REA. This form of REA financing involves no interest subsidy.

The 1973 law also established a revolving fund primarily to finance loans for construction of electric and telephone distribution lines. The fund is used to make loans directly to qualified borrowers at an interest rate of 5 percent, although lower rates are possible in cases of extreme hardship. The assets of this fund consist of all moneys owned on existing REA loans. All payments of principal and interest on outstanding loans flow into the fund for relending. The fund also is authorized to borrow funds from the Treasury, using its notes receivable as security, to meet its cash needs if its income from loan repayments is not sufficient.

The revolving fund was intended to be a self-replenishing long-term source of capital for REA lending for the foreseeable future. Because of a variety of factors, however, the financial integrity of the revolving fund is now in serious jeopardy. Unless congressional action is taken, it is expected that in a few years the fund will be insolvent.

At the time the revolving fund was created and the REA-insured loan interest rate was set at 5 percent, the interest cost on the Federal Financing Bank borrowings utilized by the fund to meet its cash needs was only 1 percentage point or 2 above the REA rate. In recent years, however, REA has had to acquire cash for the fund through loans from the Federal Financing Bank at rates as high as 15 percent, while continuing to make loans to rural electric and telephone borrowers at the statutory 5 percent rate. This gap between interest income and cost has forced REA into greater borrowing from the FFB to meet the fund's ongoing cash needs, thereby exacerbating the imbalance.

Prudent management requires that a remedy for this imbalance be implemented as quickly as possible, and certainly before further depletion of the fund's assets makes salvaging it virtually impossible.

STANDARD INTEREST RATE

HR. 3050 contains several provisions to protect the viability of the revolving fund. To begin with, the revolving fund is divided into separate accounts for the electric and telephone programs. The bill would change the standard interest rate for each account from the fixed rate of 5 percent to a variable rate. The new variable rate would be not less than the amount determined necessary to produce interest income equal to the interest expense on all outstanding obligations of the account.

CONVERSION OF NOTES INTO EQUITY

A second key aspect of H.R. 3050 would modify the terms of the present investment of Treasury assets in the revolving fund. Section 4(1) of the bill would convert notes of the Rural Electrification Administration payable to the Secretary of the Treasury into equity capital of the rural electric and telephone revolving fund. The notes in question were issued by the REA Administrator to the Secretary of the Treasury to obtain the funds used for loans made prior to establishment of the revolving fund in 1973. These notes, which have a 40-year term, formed the original capitalization of the fund when it was created in 1973, and amount to a total of $7.9 billion. Under present law, payments on these notes are scheduled to be made by REA from the revolving fund to the Treasury in annual installments from 1993 through 2017—and in some of those years payments would exceed $1 billion.

H.R. 3050 provides, however, that these assets shall be maintained in the revolving fund for continued use in helping to meet the capital needs of rural electric and telephone systems. This is the purpose for which these funds were originally provided by Congress. It is the committee's view that it is both appropriate and desirable that they remain in the revolving fund for as long as they are needed to achieve the purposes of the Rural Electrification Act, rather than being siphoned out of the fund at the end of an arbitrary 40-year term. Failure to enact this provision would result in a serious drain of cash from the revolving fund beginning in 1993 and seriously impair the ability of the fund to continue to meet the capital needs of REA borrowers.

The revolving fund remains under the direct authority and control of the Government and the Congress of the United States. If at some future date need for REA lending should cease, all assets and income of the revolving fund would automatically revert to the Treasury.

Mr. Chairman, this amendment would have only a minimal effect on the budget. Unless there are very major reductions in new REA lending from the revolving fund in the post-1993 period, it is virtually certain that if, in the future, funds are transferred to the Treasury by REA in payment on its notes, either they would have to be borrowed back again immediately or appropriation action would be required to provide the money needed for new REA loans. The new borrowings or appropriations needed if H.R. 3050 is not adopted would, of course, be a charge against the national debt. This would negate any beneficial impact that the payments REA makes to the Treasury would have on the national debt, except to the very minor extent that interest would be paid by REA to the Treasury on these new borrowings. These added interest costs could, however, have a very significant impact on the loan rates charged by REA to the Treasury on these new borrowings. These added interest costs could, however, have a very significant impact on the loan rates charged by REA to rural electric and telephone borrowers.

The net effect of the bill on the public debt could well be a wash.

Let me say that in no way is this provision a giveaway, forgiveness, or bailout of the REA loan program or the revolving fund. Nothing in this legislation would release or relieve any REA borrower from its obligation to repay the full principal and interest due on all present and furture loans.

REFINANCING OF LOANS

A third provision that is intended to enhance the permanency and stability of the revolving fund as a source of capital is the amendment that authorizes the Administrator of REA to repurchase, without penalty, outstanding certificates of beneficial ownership on which REA must pay interest at least 1 percent above current rates. This provision does not in any way require the REA Administrator to refinance but insures that he has the authority to do so when conditions so warrant. To meet the concerns of the House Committees on Ways and Means and Banking, Finance, and Urban Affairs, I have agreed to sponsor an amendment that would require the approval of the Federal Financing Bank before the Administrator could refinance. This will help insure that the refinancing does not in any way impair the operations of the Federal Financing Bank.

A related provision, in the case of loans guaranteed by REA, would authorize the lender, upon the request of the borrower, to adjust the interest rate downward on any advance if that interest rate is at least 1 percent more than the current rate. The lender in most cases is the Federal Financing Bank. Again, the bill does not require the Federal Financing Bank to refinance—it only authorizes such action if the Bank so wishes, and such action need not be taken if it is inconsistent with FFB policy.

SPECIAL INTEREST RATES

One of the provisions in H.R. 3050 relates to special interest rate loans, that is, loans at an interest rate below the standard rate but not less than 2 percent. During committee consideration of H.R. 3050, an amendment was agreed to that will restore a limited, mandatory special interest rate program for rural electric and telephone borrowers which operate under extreme hardhip and which meet specific criteria as defined by the legislation.

Initially, all REA loans were made at a rate of 2 percent. When the law was changed in 1973, the standard rate was increased to 5 percent and the special rate of 2 percent was retained for a limited number of telephone and electric borrowers that met certain low-subscriber-density criteria or hardship criteria. The act was further amended in the Omnibus Budget Reconciliation Act of 1981 to make the special rate loans discretionary with the Administrator and tighten the criteria for these loans.

The committee is concerned that the Administrator has overreacted in the application of this provision. Specific examples brought to the attention of the committee included several cases in which borrowers with less than one consumer per mile of line and extremely poor revenue and equity characteristics suffered devastating storm damage but were nonetheless denied special rate financing.

Accordingly, the bill mandates, rather than authorizes, the making of these loans if the Administrator finds that an electric or telephone applicant meets the specified criteria. The criteria have also been expanded—but are all subject to the overriding requirement that the applicant establish financial or other hardship through extenuating circumstances, as determined by the Administrator. One such example of hardship that would qualify an applicant for a special rate loan has been included in the bill—that is, the applicant must have a per customer investment in utility plant of at least twice the national average for other borrowers in the same program.

Under the bill, the Administrator retains the discretion to determine whether the special criteria have been met by the applicant. In administering these provisions the committee expects the Administrator to apply the criteria in a fair and reasonable manner.

The funds for these special rate loans would come from a special reserve into which would be placed an amount equal to 1 percent of the payments of principal and interest into the electric and telephone accounts during the previous year. Only if this reserve should prove insufficient, would it become necessary to appropriate any funds. I expect that this would occur only in rare and unusual circumstances.

SUBORDINATION OF REA LIENS

A key provision of H.R. 3050 is intended to strengthen the ability of borrowers to seek an increasing portion of their capital needs from non-Government sources. One of these changes relates to accommodation or subordination of REA liens and mortgages.

Under current REA policy, REA claims a first lien not only on the property financed by the REA loan, but also on all other property of the borrower including all after-acquired property even if financed by other lenders. This makes it difficult for the borrower to obtain financing from other lenders.

H.R. 3050 requires the Administrator to accommodate or subordinate the REA mortgage upon a borrower's request for any purpose relating directly or indirectly to the provision of electric, telephone, or other telecommunications facilities or services that would enhance the financial stability of the borrower. As a result of this amendment, the financial strength of REA borrowers will be enhanced through additional revenues, and rural America will be able to obtain more of the facilities and services it needs without Government loans or grants.

The amendment contains several safeguards specifically designed to protect the Government's interest. For example, before the Administrator may take action he must find that the Government's security will not be jeopardized and that the borrower will have the ability to repay the existing and proposed indebtedness. Further, the amendment prohibits the Administrator from providing an accommodation or subordination for operations that are unrelated to electric, telephone, or other telecommunications services.

RATIOS FOR SUPPLEMENTAL FINANCING

Mr. Chairman, there are a number of other provisions in H.R. 3050. I would like to mention them briefly. One of these relates to the reliance that applicants for REA insured electrification loans must placed on supplemental sources of financing. In the past, the act has provided the Administrator with discretion to require an applicant to obtain supplemental financing from other sources if it was available at reasonable rates and terms. This authority was included in the act because the demand for loans was greater than the amount of loan funds that were available to REA under the limitations established in the appropriation act. The ratio was a tool to fairly allocate available funds and avoid a situation where the insured lending authority may be exhausted early in a year by applicants who were first in line—thereby creating an inordinate backlog for REA loans.

The Administrator in the past, however, has proposed increasing the amount of supplemental sources of financing that must be obtained by an applicant and gradually phasing out the ability of a borrower to obtain an insured loan from REA. This would have the effect of reducing the demand for REA loans so that it would become impossible for the minimum lending level prescribed in appropriation acts to be achieved.

Accordingly, in the appropriation acts for the fiscal year 1982 and the fiscal year 1983, the ratio for concurrent supplemental financing was fixed at the ratio in effect as of July 15, 1982. The ratio in effect as of that date was generally such as to require supplemental financing of 30 percent for applicants for insured loans at the standard rate and 10 percent for those applying for the reduced rate of 2 percent. H.R. 3050 continues these same requirements for any fiscal year for which the minimum loan level established in appropriation acts is less than $1 billion for insured rural electrification loans. This figure is considered as an appropriate core program level.

The amendment helps assure that the available REA loan funds are fairly allocated among applicants and at the same time that the use of the ratio does not peremptorily reduce the demand below the minimum lending level prescribed by Congress.

TELEPHONE LOAN AMENDMENTS

H.R. 3050 also contains a number of amendments pertaining solely to the telephone programs administered by REA to strengthen the viability of rural systems so that they can continue to provide telephone service in low-density, high-cost areas. I would like briefly to list them for the Record.

First, it would revise the definition of "telephone service" eligible for financing to take account of major changes in technology since the term was first defined in the act two decades ago. The bill would include in the definition the transmission of data and the transmission by wire, fiber, radio, light, or other visual or electromagnetic means in addition to electricity.

In addition, H.R. 3050 would delete the termination date of fiscal year 1991 on the authorization for appropriations for the purchase of capital stock by the United States in the Rural Telephone Bank to assure that the full capitalization of $600 million, as currently authorized, is achieved without regard to the specified time limit. In recent years the President's budget has not included a request for appropriations of the amount authorized in the act. In the absence of this amendment, the authorization for appropriations would expire before the bank would have the capital it needed to operate properly.

H.R. 3050 would delete the requirement that Rural Telephone Bank loans may not be made for acquisitions of exchange facilities for local telephone service, if the size of the borrower's system would exceed the system as it existed at the time of its first loan from the Telephone Bank. This requirement is unduly restrictive. It prevents consolidation of systems which improve the efficiency or financial stability of a borrower.

Another provision in H.R. 3050 would eliminate special requirements in those States where the State commission does not have authority to require the applicant to obtain a certificate of convenience and necessity. In those States the bill would eliminate the requirement that, as a condition to a telephone loan, the Administrator must make a finding of nonduplication of facilities. The bill similarly would eliminate the requirement that, on loans made by the Rural Telephone Bank, the Governor of the Bank must make a finding of nonduplication of facilities. These existing provisions make it difficult for a system to interconnect with more than one long-distance carrier. It is also inconsistent with the trend to deregulation and competition in the telephone business. The amendment protects the Government's interest since the bill retains the requirement that the security for the loan must be adequate.

COST ESTIMATE

Mr. Chairman, in no way is this bill a budget buster. The Congressional Budget Office estimates that the bill would increase Federal outlays by $7 million over the next 5 years by increasing the number of special, low-interest loans made to qualified borrowers. CBO estimates that the bill would shift substantial amounts of assets from the Treasury to the REA revolving fund with no net budgetary impact for the foreseeable future. The CBO agrees with my analysis of the budget impact of converting the $7.9 billion in notes to equity of the revolving fund, as I explained earlier in this statement. Finally, CBO estimates that by authorizing Federal Financing Bank to refinance guaranteed loans made to rural electric cooperatives at lower interest rates, the bill could reduce Federal receipts by $2 billion by 1995. CBO did not include this total in its estimate of the budgetary impact of the bill because it assumes FFB will choose not to refinance these loans.

Mr. Chairman, I urge the Members to join me in support of this legislation.

Mr. MADIGAN. Mr. Chairman, I have only three requests for time, and only one of those Members is here at the moment. So I do at this moment yield 30 minutes to the gentleman from Arkansas (Mr. Bethune).

Mr. BETHUNE. Mr. Chairman, I thank the gentlemen from Illinois (Mr. Madigan) and the distinguished gentleman from Texas (Mr. de la Garza), the chairman of the committee.

I have asked for this block of time because I think it is important as we begin consideration of this very important bill that we set a perspective so that as we consider the legislation we can put it into the context of our national problem, which is to reduce the deficit. It is very important that we do that because all of us are besieged by our constituents. They want to know, "What are you going to do about the deficit?" because they are worried about interest rates. They want the recovery to continue and they do not want this recovery to fail or to be snuffed out because interest rates go skyrocketing and the recovery is killed because of that.

I put this first chart up, a map of the State of Arkansas, because I want the Members to understand that I do not come from one of those areas where there is no REA, no electric co-ops, or no rural areas that are being served by REA. This is a map of the State of Arkansas, and the red areas are those which are served by the electric co-ops. Our State has long been one of those that has received the benefits of the REA program.

So it is important to realize that part of the problem that we have here in the country today is a lending problem. I know everyone talks about Federal spending programs. Your constituents do, my constituents do. Everyone is concerned about runaway Federal spending. Let me make a point. Federal lending programs are increasing at a rate faster than the Federal spending programs. We have got over $900 billion of one form of credit assistance out there now on the books. So it is a first-class problem.

When the people start talking about interest rates, the subject comes down usually to a couple of things: First, the Federal Reserve has pulled down on the money supply so much that it is causing interest rates to go up. Everyone agrees that certainly in the short term that is the effect of that. Keynesians, monetarists, those who advocate hard money, and everyone else agrees that when the Federal Reserve squeezes the money supply, interest rates are going to go up.

Another way that interest rates are affected obviously is the deficit problem. When we spend more than we take in and we have a deficit out there that has to be financed, that takes money out of the credit market and it runs up the cost of money for everyone else. We all know that. That is understood.

There is a third way in which people are crowded out of the credit market and their interest rates are run up.

□ 1710

That occurs when we have Federal lending programs which give favored status or an interest subsidy to some beneficiary and the REA was one of the earliest programs that we had in this country of that description. For a long, long time, it really did not matter that REA was on the books, but today we have all these other lending programs which have complicated the problem for us and they are growing now faster than the spending programs, and to make matters worse, a lot of that is off budget.

So there are three ways that the interest rate problem in the country is exacerbated. One, it can be exacerbated by the monetary policy; two, it can be worsened by the raw deficit, the difference between the ins and the outs; and third, by the Federal credit assistance programs which crowd people out of the marketplace just as surely as any other way.

So the problem that we have is that much of this is off the budget and so therefore there is not much interest in this problem. I suppose that is why there is no one in the Chamber here today. If we were talking about a $20 billion spending program, everyone would be here, because it would be so clearly in conflict with all the talk about a down payment on the deficit; but not many people are here because it is a rather arcane subject to talk about a Federal lending program, and since it is off the budget, no one is going to get worked up about it because it is not on the minds of the people who write the news every day and therefore it is sort of out of sight and that is the problem we have with these types of programs.

The problem of credit assistance crowding out others was said very well recently in testimony by Deputy Secretary MacNamara, when he said:

> The myth seems to persist that guaranteed borrowings are somewhat different than direct Federal borrowings and involve less government intervention in the marketplace. This is simply not so. Every dollar of government guaranteed debt financed in the public marketplace is just like Treasury borrowing and the demand thereby exerts similar upward pressure on interest rates.

If you look at the various programs that we have put on the books in the years that have gone by, you will discover that there is no rhyme or reason to the various interest rate levels that are charged.

I have here a chart which shows the interest rates—this was done up in 1981, so things have changed a little bit, but the point is still valid. You can scan down here and discover that direct loans, for instance in the case of Agriculture, in price supports, may be 11.9 percent.

In the farm export credit, it might be 2.3 percent.

In the energy world, energy supply for nuclear fuels it is 7.4 percent.

In rail programs, it is 2.8 percent.

In the National Credit Union Administration, the credit liquidity fund was 14.5 percent.

Federal Home Loan Bank Board, 10 percent.

District of Columbia, 9.3 percent.

Student loans, 7 percent, 9 percent.

So the point is that there is no consistency to all this. The Congress has treated these problems on an ad hoc basis, so consequently we have this aberrational system whereby interest rates have been set at one rate in one Congress and another rate in another Congress for one type of program or for another type of program.

One thing that is plain, though, is that recently we have become sensitized to this problem and for that reason most of the newer direct loan programs use a formula based on Treasury borrowing costs. The point I want to make about this is that since we are now sensitive about market interest rates, we are trying to gear our programs to that level, rather than some arbitrary number which has caused this aberration in the interest rates over the past.

This is important, because I went back and looked at the history. The chairman mentioned that this act was passed on May 20, 1936. I took the time to dig up the debate from that particular bill back on April 9 of 1936. I want to quote here from the former Speaker of the House, Sam Rayburn. I know the gentleman from Texas will be particularly interested in the comment of Speaker Sam Rayburn back in 1936 when he was discussing this very program, the REA system.

He said:

> Now, there is no grant in this. There is no subsidy in this. There is no revolving fund in this. The Government takes as security all the assets of the corporation, association or cooperative, that sets up the line to furnish electrification for rural communities.
>
> Further than that, the Senate bill provided that these loans should be made at not exceeding 3 percent. The House committee amended the bill to read "at not less than 3 percent." I thought the argument for that amendment was very good, for the simple reason that times may get better. We hope they will, and that money will be more in demand and interest rates will go up. We do not want the Federal Government——

and this is the important point that Speaker Rayburn, said, he must have been a younger man then, he must not have been Speaker at that time:

> We do not want the Federal Government to lend money to any organization, to any corporation, or to any agency of government at a less figure than the government can go out and borrow the money itself. In times like these, of course, I think the interest will be 3 percent, which is a very, very reasonable sum to pay.

Now, the interesting thing is that later on in the debate there was a gentleman named Mr. Rankin who tried to amend the legislation so that he was going to change the law to strike out the words "not less than 3 percent" and insert the words "exceeding 3 percent." He wanted to keep the interest rate below 3 percent and Speaker Rayburn said no, it ought not to be less than 3 percent and it ought to move up if the market rate goes up, so that the Government will not have any out-of-pocket cost from the REA program.

Mr. Rayburn prevailed on that particular issue and so then the program was started, and if you look at the interest rates that have been charged over the years you can see that in 1936 on the REA loans, they were charging 3 percent. That was actually more than the cost to the Government, which was 2.5 percent back in those days. That situation carried on for quite some time. Of course, the REA rate was changed to 2 percent, but for the longest time, from 1936 until 1950, the REA rate was actually higher than the cost to the Government.

What they were trying to do back in those old days with the REA program was to insure that REA and the co-ops would have access to credit, not subsidized credit, not lower than market, but access to the credit market. That was the original purpose. That was the original idea. It was not until 1952 that the Government rate began to exceed the REA rate.

Then in 1966, the Government rate more than doubled the REA rate and then in the late 1960's, late 1960's and early 1970's, we began to have the economic problem that we see so clearly today. We did not see it clearly back in those days, but we certainly see it clearly today.

So in the 1970's, even as we moved the REA standard rate to 5 percent, the interest rates were continuing to go up.

We had something else very important happen during the 1970's. Inflation began to bother us. Interest rates began to increase. This intermediation occurred, so that people who ordinarily would have marched into a small savings and loan out there in rural America decided instead to go to the money market and they were bypassing those institutions. That tore the guts out of that careful regulatory framework that constituted our financial institutions of this country and that regulated the financial institutions of this country. That is why we are now in a deregulation phase. This means that interest rates are going higher because the consumers are demanding more for their money and we cannot control it like we used to in the days of lower inflation.

So all this happened during the 1970's, so that now in 1981, for instance, the REA loan rate was 4.38 percent, but the cost of money for the Federal Government was 12.435. We are working in an entirely different environment today than we were back in the early 1970's.

The interesting point is that in all the loan programs that we are creating in this day and time, we are trying to get them so that the rate of interest that is charged is closer to the market rate of interest, closer to the cost that the Government is going to have to pay, so there will be less subsidy.

We do not seem to be troubled so much by giving people access to credit these days and I think we are on the right track.

You know, the funny thing is, we are on the same track that Mr. Rayburn was on back in the 1930's. What they were saying back then was give the REA and the co-ops access to the marketplace so that they can get credit, but do not subsidize it.

Nowadays as we create our new programs, that is exactly what we are saying, give people access to credit, but let them pay the market rate of interest or something that bears a relationship to the market rate or the cost that the Government has to pay.

□ 1720

So our approach today is very much like it was in the day when Speaker Rayburn was holding forth about the REA program. But the act that you bring here to the floor, the bill that you bring here to the floor is contradictory to both what he was trying to do and what we are trying to do in all of the other programs today.

As I read through the legislation the committee has proposed it occurs to me that it is going to come short of the purpose that you say. All of the studies that I have seen done on this either by GAO, CBO, CRS, OBM, the Treasury, REA, every one that has taken a look at the bill that you have crafted has told me that it is not going to restore the solvency of the fund and, in fact, it is going to be extremely costly. Over time they say you could calculate that the addition to the deficit could be as high as $20 billion. We may have differing opinions on that, but clearly there is going to be an additional deficit in the out years.

Under your bill, as I understand it, you are going to break that 5 percent level for the first time and go on and begin to increase the interest rates a little bit. But under the formulation that you have constructed, the charts that I have seen show you are going to have a wierd effect on the interest rate that would be charged, and it is going to be going up and down. There will be no predictability to it. I think that is a problem because people need predictability when they go after credit. If you do not have predictabiltiy you are going to have them coming in one day and applying for credit, but if they try to outguess the market they are going to come back the next time and try to roll it over with some short-term loan. I will give you an example.

People in the marketplace are trying to outguess the Federal Reserve, and they look at that money figure every Friday to see whether they are tightening or loosening. They look at the quantity of money, and the problem with it is that they have had trouble with quantity money. It goes up, it goes down, it goes up and it goes down. It is almost as if you were going to build a house with a ruler that one day is 11 inches and the next day 13 inches. On the average, the ruler is 12 inches long, a foot, but the House you build has a grotesque look about it because there is no predictability to it, no consistency to it.

So I think the bill is flawed because it does create a situation where you are going to have an aberration in the interest rates that are charged. They are going to go up and down and up and down. There will be no predictability to it. There needs to be constantly a steady stream to the interest rate charged.

You are going to be charging more interest in your proposal. Under any one proposal, whether it would be the substitute I might offer or your substitute, or your bill, the interest rate charges are going to be higher because we all know we have to start moving toward the market on that. This is the point I wanted to make and that I was trying to make just a moment ago about the interest rates.

The red line here would represent the charges, the interest rate changes. You can see how they would fluctuate under your formula from now until the year 2018.

Under the substitute that I would offer the interest rate charges would be higher at the outset but there would be a steady stream of the interest rates, because the formula is self correcting. And that stream would continue on out until the year 2010 and then, because of the way in which it is constructed, eventually the system would be solvent, and we would not have to have this forgiveness of the $7.9 billion that is worked into your bill.

So it seems to me that there are reasonable alternatives.

When the chairman said that this is just a bookkeeping transaction I could not help but think that I wish I had a bookkeeper like that. I sorely need a bookkeeper like that as we approach taxpaying time this year. If someone could juggle my books around and tell me we are not doing anything more than a bookkeeping transaction, when in fact all of the other experts are saying that this is going to be a very costly proposition—and, by the way, one we do not even have to do right now—it is wise that we take action but if we are not going to take action that will really correct the problem, then we are presuming to encroach upon the prerogatives of the 103d Congress or the 104th Congress.

If we are going to solve the problem, let us solve it so it will stay solved and so the system will be solvent and so that we do not exacerbate the problem we have today with the deficit.

I put the first chart up which was the one about the REA and the co-ops that are in my district and in my State of Arkansas. But I know it is a hard thing to go out there and have to look eye to eye with those people who run the coops. I know they have their magazine which they send all around.

But I happen to think that the people this year are very, very concerned about the deficit in this country. They hear us talking up here about the downpayment on the deficit and they see all of the posturing that is coming from both political parties, and they want the deficit problem solved. And it escapes me how we can go out to those people and look them in the eye, squarely, without blinking, and say we are working on the deficits when we are putting through legislation like this which is going to worsen the problem for us.

We have got to come to grips with these things.

REA, in a sense, has gotten caught in a situation. If we had not done all of this other Federal lending I do not think anybody would ever have been bothered about this program. But we did add on all of these other things. We have added on student loans. We have been going into the housing market big. We have done all of these other things with Federal money. We have the Federal shipbuilding financing fund. We have all kinds of credit assistance programs out there right now which are making this Federal lending problem a first-class problem for us, and we owe it to our constituents, and we owe it to the REA, we owe it to all of the coops, we owe it to everyone that is involved in this problem that this problem touches to solve it and solve it in the right way, and not be stampeded by the NRECA or anyone else that has their own notion of how it ought to be solved.

Under the substitute that I am going to put up, which I have described somewhat here already, I think that we could find a way through the substitute to restore solvency to the fund and to avoid the problem with the deficit.

Admittedly, we would have to say to people that your interest rates are going to be a little bit higher than they would be under the committee bill, not much higher really, but a little bit higher. They could go to 9 percent. But that would still be 2 percent less than the cost that the Government is having to pay for that money. And we could go to people and explain that to them and we could say not only are we doing that, but we are creating a formula which will cause a constant stream of interest rates here which would have some predictability to it.

One other point I want to make and then I will go away for a while at least, and that is that the face of America is changing out there. There are a lot of places in Arkansas that are served by REA that I really do not think of as being rural. When I lived in Searcy, Arkansas I had a home out by the country club and my home was served by AL&L because my house backed right up to number 18 on the golf course. There was a beautiful little place right there. Right across the street from me was a house that cost more than mine, and that guy also had access to the golf course, a beautiful home, probably a $200,000 home, and he is on REA.

Now things have changed. I do not think when Sam Rayburn was talking about REA in the original days, 1936, even when he was talking about an REA Act that would not have a subsidy, I think Sam's hair would have curled. He probably had hair in those days. He never had hair, Kiki? Then he would have grown hair if somebody would have said to him, "Mr. Speaker, one of these days somebody out there in Searcy, Ark. is going to get a subsidized interest rate for living in a $200,000 house right across from the golf course." And he would say he did not intend for anybody to get a subsidized rate of interest here. That is not the purpose of this.

The purpose is to give them access to the credit market. That would be the purpose of it, he would say, and certainly not the purpose to give it to someone like that.

So we have some problems out there that we really need to solve. I just do not think the committee bill does it. I know you worked hard on it, but I do not think you got to the problem. I do not think the formula you worked out is the right one. I think you can do better.

I am not saying that my substitute is perfect. We have scrutinized it here. When we get into the debate, and when we get into the amendment process tomorrow we can take a good, hard look at it. But I do think there is away to go on this bill, protect us against the allegations that we are making the deficit problem worse, and which will give some predictability to the interest rate stream, which will still help the people that really we want to help with this, and that is rural America, not suburban America, not some factory that happens to be sitting within a portion of a community which is served by REA today because the community has grown out to cover it up, but to serve rural America, the farmers, and the people that are in agriculturally related industries.

□ 1730

That is who we really want to help with this. So, I am very determined as we go through this process to continue raising these points and asking these questions and I hope when we get to the end of the business tomorrow that we will either adopt my substitute or we will find some way to improve the committee bill, get it close down to the points that I make in my substitute or recommit it to the committee and let the committee work on it some more.

But you are making a lot of Members here walk the plank on this. They are going to have to face down CBO, GAO, CRS, the Treasury, OMB; everybody that has been shooting at the committee bill, all of those people are going to be quoted in the newspaper as saying that the bill is too costly and does not restore solvency to the fund and Members who aren't on the committee are going to be forced into a position of developing that.

There is a better way to go. And I think if we will study closely and work hard in the next day, we can find that way and if we do not find that way, I do not think there should be any hesitancy to send it back to the committee because, after all, we still have some time to work on this problem.

When we do finally put an act out here, let us put an act out here that we know is going to solve the problem, that we know is good and Members can go home and stand tall and say we did a good day's work, something that is consistent with what we have been doing in other lending programs.

Mr. de la GARZA. Mr. Chairman, I yield as much time as he may consume to the gentleman from Tennessee (Mr. Jones), the distinguished chairman of the subcommittee, who is the principal author of the legislation.

Mr. JONES of Tennessee. Mr. Chairman, I rise in strong support of H.R. 3050 and I urge the House to reject the substitute amendment to be offered later by the gentleman from Arkansas (Mr. Bethune).

I want to refer to one statement Mr. Bethune made that I fully am in accord with. He said, in essence, the face of rural America has changed. True enough, it has. My colleague from Arkansas should know, because his great State has changed also.

Many of the changes that have taken place in rural America throughout the great United States of America have been because of REA. The lights were turned on years ago by our forefathers, people who knew what this country needed. Then telephones were installed later so people could communicate with each other.

And I am proud to be one who has been a recipient of so many of those great services in a place that I live where nothing of that sort existed.

Mr. Chairman, the committee bill which was reported to the House is a product of nearly 2 years of extensive analysis and debate, both here in the Congress and throughout rural America.

For almost 2 years there has been a clear and growing recognition by everyone involved that the stability of the REA revolving fund will come into serious jeopardy in the near future unless critical steps are taken to insure its continuation. The rural electric and rural telephone borrowers who participate in REA programs have accepted the fact that something must be done. In fact, it was the cooperatives themselves who took the leadership last year in recommending a number of legislative changes to make the revolving fund more secure, and in several cases these changes will require significant sacrifices from the cooperatives.

As the introducing sponsor of H.R. 3050, and as chairman of the subcommittee with jurisdiction over the Rural Electrification Act, I can assure you that the issues and concerns related to REA's lending programs have been fully explored through exhaustive, countless hours of hearings and committee debate. I am convinced that this bill contains the best elements of the various alternative solutions which have come forward to address the problems facing the revolving fund. Obviously, I am not alone in my support for this legislation since H.R. 3050 has 178 cosponsors in addition to myself, and was reported by the House Agriculture Committee with only one dissenting vote.

To be perfectly frank, however, I do not intend to leave anyone with the impression that this legislation has unanimous and unqualified support, or that there is no controversy associated with it. In a letter this week to Members of the House, the Secretary of Agriculture stated that he will recommend a veto of H.R. 3050 if it is sent to the President in its present form. While I disagree with the Secretary's position on the bill, I certainly do not fault him for making his opposition known. However, in testimony before my subcommittee the Department has repeatedly admitted that the revolving fund is in jeopardy, and has agreed that legislative action is necessary to solve the problem.

What does concern me is that for nearly a full year I have pressed the administration—without success—to come forward and offer a viable legislative recommendation of its own to address this issue. Instead, we have received nothing but criticism and opposition to H.R. 3050 from the administration, with their negative and general observations that the bill is "unworkable, unrealistic, and unnecessary."

As of this very moment the Department cannot—or will not—tell us what it does support as a solution to the problem which it admits exists.

Not unlike most other legislation that comes to the floor, this bill is not 100 percent perfect. The same thing is true in this case as in most others—this bill represents a compromise between vastly different alternatives that were considered at length. This bill is a carefully drawn combination of initiatives that in some cases provide incentives and assistance to rural electric and telephone borrowers so that they will be better able to serve rural consumers. At the same time, however, this bill also calls on these same borrowers to make significant sacrifices—such as paying higher interest rates—in order to insure the continuation of the REA revolving fund.

Mr. Chairman, as the Members of this House are called on later in this process to vote on major amendments to the committee bill, I think the outcome rests on one very basic question: Does the Congress today continue to embrace a 50-year tradition of supporting a policy which assures American farmers, ranchers, and other rural business people and residents that they will enjoy the benefits of reliable and affordable electric and telephone services?

If the answer to this question is yes, then the House will reject the amendments to be offered by the gentleman from Arkansas.

If, as I believe, it is still the policy of the Congress to maintain the quality of life in rural America which we have come to know, then my colleagues will support the committee bill, and adopt H.R. 3050 without crippling amendments.

Mr. GUNDERSON. Mr. Chairman, I yield myself 6 minutes.

☐ 1740

Mr. Chairman, as we begin our debate on this the REA bill this afternoon, I really cannot help but observe how the issues really have not changed that much in the almost 50 years of the rural electric program and the 25 years the rural telephone program has been around.

You know, both of these programs were born out of the American sense of equality—that people who reside in rural areas should have substantially similar utility service as their urban counterparts.

That certainly was not the case in 1936 when one of my predecessors, Garner Withrow, who served Wisconsin's Third Congressional District as a Progressive and a Republican for more than 15 years, took the well of the House to speak in favor of the very first REA authorizing legislation.

He eloquently pointed out that of the 6.8 million farms in the United States in 1936, over 6 million were without electricity. Even with the advent of the electric milking machine, America's dairyland—Wisconsin—had but 20 percent of its farms wired for electricity. And some States, such as Arkansas, Louisiana, and Mississippi, were barely at the 1-percent level.

In short, the lack of electricity created a dramatic difference between life in urban America and life in rural America—a variance that was incompatible with our basic concept of equality.

And, as Republican Congressman Charles Wolverton of New Jersey so appropriately noted on the floor that same day in 1936, the REA would come to establish a permanent and comprehensive national rural electrification policy that not only bring the conveniences and comforts of electricity to American farmers, but would also stimulate American industry by greatly increasing the demand for electrical equipment and appliances.

Now, Mr. Chairman, from an electrification rate of 11 percent in 1936, we can now boast a near-perfect 99-percent level. Does that mean the job of the REA is finished?

Hardly. On the contrary, we have just begun and, fortunately, are nearing completion of but the first phase of providing electrical and telephone service to rural America at reasonable costs.

So, why are we here today? Simply stated, because of the double-digit inflation and high interest rates of the late seventies, the revolving fund created by the 1973 amendments is expected to be insolvent as we enter the 21st century. And rural Americans will be the victims, not the cause, of that insolvency.

As such, we must take those steps necessary to maintain the financial integrity of the rural electrification system. H.R. 3050 has been carefully crafted by its authors and amended by both subcommittee and committee members to accomplish this by converting the existing $7.9 billion of Treasury notes in the revolving fund to equity capital of the fund, dividing the fund into separate electric and telephone accounts, liberalizing refinancing and accommodation procedures, and establishing a formula by which the interest rates on REA loans can be more readily altered to insure that interest income more closely approximates program expenses.

I must note that this last point is crucial to the future viability of the fund and, in the event the debate demonstrates the inadequacy of the formula to accomplish that task, we should make alterations in it on the House floor.

In short, we must make the necessary adjustments in the program to preserve and extend our investment in the future of rural America. And, make no mistake about it, the challenges to that future are many.

Technological innovations for rural America are drastically altering the quantity of electricity needed by farmers. The exodus of many city dwellers to rural areas will increase the diversity of utility services demanded. And, the breakup of AT&T cannot help but increase the cost of basic telephone service to rural Americans who are facing the worst economic situation since the Great Depression.

Thus, if we ever needed a healthy and dynamic REA to meet these new and dramatic challenges, it is today.

These challenges, just as the problems facing the revolving fund, are blind to party affiliation. Accordingly, their solutions today must be similarly bipartisan—just as they have been in the past. I, therefore, urge my colleagues to join me in supporting H.R. 3050.

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. ENGLISH).

Mr. ENGLISH. Mr. Chairman, it costs more to keep the lights on in rural America than it does in cities.

That simple principle of geography and economics is sometimes forgotten, but it is just as true today as it was 50 years ago when millions of farmers could not get electricity. That is the major reason why nearly all of our rural areas get their power from rural electric cooperatives. It explains why the Agriculture Department has a "bank," known as the Rural Electrification Administration, that makes low-interest loans to these co-ops in order to keep their rates in line with the urban power companies.

Today rural America is still growing, and at a faster rate than the cities. People are leaving the cities and moving to the countryside, especially, in the South and Western portion of the country. Farmers are using electricity to increase their productivity. More lines and powerplants are being built.

Parity in rural areas has been the keystone of the rural electric program since its inception in 1935. It is at the heart not just of loan fund legislation but of extensive development activities begun by the cooperatives in the sixties and early seventies to try to improve the quality of life in rural America and reverse the migration to the cities. By many measures, these efforts were successful; but if the rural institutions which fostered rural development are allowed to wither because of inadequate, high-cost credit, the progress we have made will be wiped out.

The administration views the cooperatives as business entities distinct from the members whom they serve. Thus, you have administration officials talking in terms of what the cooperatives can afford, with no consideration toward what the members of the cooperatives can afford. The ability of the cooperatives to handle costs cannot be separated from the financial situation of the members.

This administration has, apparently, judged the power companies more sympathetically than the cooperatives. While rejecting loan policies that would tend to reduce power bills of rural electric consumers, the administration backed nonreimbursable tax subsidies worth about $4 billion a year to the investor-owned utilities. I believe that the IOU's need the assistance, but I find it difficult to understand why the administration simultaneously makes efforts to increase the expenses to rural cooperatives, organizations that have returned $17 billion in principal and interest to the Federal Government.

Yes, rural electric co-ops need special assistance also due to the fact that it is harder to bring electric service to people living in the country. To change the way the REA programs are run is to penalize people on their electric bills just for living in rural America. Talk of raising REA interest rates, or reducing the amount the REA can lend, comes at a time when Americans especially farmers and ranchers, are suffering under already impossibly high interest rates and almost daily increases in energy prices.

Therefore, I urge passage of the legislation.

Mr. GUNDERSON. Mr. Chairman, I would reserve the balance of our time, pending the arrival of a couple of Members.

□ 1750

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona (Mr. McNULTY).

Mr. McNULTY. Mr. Chairman, if public education in the 19th century as sponsored by America was its jewel and the admiration of the civilized world, then I think a case can be made for the proposition that a commitment of this society to rural life in America in the 20th century will be its envy of the rest of the civilized world, and particularly as expressed by the commitment to the rural electrification program.

Rural electrification began in 1935—and I am sorry that this has not been previously said—with the enormous support of Republican Senator George Norris of Nebraska, and his name ought to be mentioned, really, in the same breath of that of Mr. Rayburn. In so doing, they attempted to answer the question: How do you keep them down on the farm? The answer is: By giving them a quality of life not significantly different from that of their city cousins.

And why do you keep them down on the farm? Well, quite simply because we do not need them in New York City and we do not need them in Los Angeles, because we want a nation that is well fed and well clothed, because there is a vast area out there capable of some civil and decent development in an orderly fashion that redounds to the benefit of the rest of society.

You may claim there is much too much to eat and too much milk to drink, and three out of ever four human beings on the face of this Earth wish they could make the same indictment of their own societies.

So this bill here today simply asks us: Are we going to continue with a program that began nearly 50 years ago with a commitment to rural America and with the maintenance of a decent quality of life and standard of living? And my answer is "Yes."

Mr. DE LA GARZA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, it is not often that an interest group comes to the Congress asking for permission to pay higher interest rates. But that has happened, and the result is H.R. 3050.

The Rural Electrification Administration was born because it just was not profitable for private power companies to extend service to rural areas. The population density was too low, the costs of getting the service to America's farms and ranches was too high. So the REA stepped in to make sure electricity and telephones were available in rural areas.

The REA program involves a subsidy. For that matter, so do Federal highways, public transportation, and medicare. The question is not whether this bill subsidizes rural electric borrowers. It does. The real question is whether this bill responsibly protects the solvency of a fund that helps preserve the greatest agricultural productive capacity in the history of the world. And the answer to that is, "Yes."

Ninety-eight percent of our farms are now electrified. But that does not mean REA's job is over. Population density is still low. The cost of getting electric and telephone service to our Nation's farms and ranches is still high. The REA still has a vital role to play.

Let us put the REA program in perspective. Its main effect has not just been to lower utility bills for people who live in the country. Nationwide, 68.7 percent of our rural electric co-ops have to charge higher consumer rates than their investor-owned counterparts, because even with 5 percent money, the cost of getting power to rural areas is still so much higher. In my home State of Texas, that percentage is closer to 80.

What the REA has really done is to make rural electrification possible, not just cheaper. And that has been a big factor in the productivity revolution in U.S. agriculture: The revolution that has allowed the American farmer to feed himself and 70 other people, that has given urban consumers the world's best food supply at the world's most affordable price.

I managed a rural electric cooperative for 9½ years. I have seen the benefits of the REA program, and I have seen the problems, too. We made a mistake in 1973, the last time we overhauled the program. We set the REA interest rate at an inflexible 5 percent. That seemed reasonable then. But then came the sky-high interest rates of the late seventies. If the REA was paying 15 percent for its money and lending it out at 5 percent, it does not take a genius to see, with 20-20 hindsight, that there were bound to be problems.

The chickens are coming home to roost now. We have to fix the REA revolving fund, or it will begin to show a negative balance in a few years. Our aim should be to make the revolving fund stable and solvent, so that it can continue to serve the Nation's needs.

H.R. 3050 tries to do just that. If you do not believe the Government has any business subsidizing rural electric service, then you should vote against this bill. But if you do believe there is a continued role for the REA—and even the administration says there is—then you should ask yourself what is the best way to maintain that role. I believe the best approach is embodied in this bill.

The bill recognizes that rural electric interest rates have to go up. H.R. 3050 raises those rates with a formula that balances income and expense to maintain a true revolving fund. An amendment I sponsored in committee will make sure that all interest expense is taken into consideration, so we do not wind up with a formula that defeats its own purpose.

Mr. Chairman, the Nation's rural electric borrowers did not have to ask Congress to raise their interest rates. They could have asked for appropriations. This year, they got close to $200 million appropriated without asking. But in the long run, I do not think that is a healthy way to finance rural electrification, and the co-ops do not either. And it certainly does not help our Federal deficit.

Some people say this bill will not work. I think it will. We did our best in the Agriculture Committee to make sure it would. The administration was there to criticize, but it was not there with alternatives.

No bill is ever perfect, and nobody can give you an absolute guarantee of success. If H.R. 3050 is enacted and does not solve the problems of the revolving fund, then we will have to consider other alternatives—changing the ratio of Government-to-private funding, or capping the loan level by law, or raising interest rates still further. But let us give this responsible approach a chance to work.

Action is needed sooner rather than later, and H.R. 3050 represents the best judgment of the Agriculture Committee and the bipartisan support of three former REA administrators, who, after 2 years of study, said this bill is the best way to go. It deserves all of our votes.

Mr. GUNDERSON. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. CLINGER).

Mr. CLINGER. Mr. Chairman, I appreciate this opportunity to speak in support of H.R. 3050, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act. I feel strongly that this legislation will enable rural electric cooperatives to continue to provide reliable service to all corners of rural America.

I represent one of the largest congressional districts east of the Mississippi, nearly 10,000 square miles. As you can imagine it is sparsely populated and rural residents did not have electric service in many areas until they came together to form their own electric utilities—the first rural electric cooperative being established in my area in 1936.

Loans to run the electric lines over hills and across valleys came from the Rural Electrification Administration. From 1935 to 1972, rural electric cooperatives received low-interest loans that provided light and power to rural residents. These loans from REA were directly funded by the Federal Treasury as the result of annual authorizations. In 1972, Congress replaced the direct loan program with two new financing programs, a program of loan guarantees designed to assist in the construction of power supply facilities and a program of insured loans to primarily benefit rural electric distribution companies.

These programs have generally worked well, but the interest and inflation rates of the past decade have threatened to throw out of balance the Rural Electrification and Telephone Revolving Fund, the source for new REA loans to distribution cooperatives.

Why should we be concerned with the continued stability of the financing program? I know I am concerned because there already is a great disparity in electric rates of rural electric consumers compared to the rates charged by private power companies. In my area, the rates of one rural electric cooperative—I have four in my district—are almost double those of a neighboring private power company. The rates are higher because cooperatives serve an average of only 4.7 consumers per mile of line, maintenance for these lines are high and so are operational costs.

Yes, I support H.R. 3050 because it will help moderate electric rate increases faced by rural electric consumers. I support H.R. 3050 because rural electric cooperatives have a remarkable record of fiscal integrity. Most importantly, I urge all my colleagues to support this legislation because, in a very real sense, H.R. 3050 will also help moderate the price of vegetables, meat, and milk for consumers in cities and towns far from the nearest rural electric cooperative.

☐ 1800

Mr. DE LA GARZA. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. I thank the gentleman for yielding me this time.

Mr. Chairman, I think I should start out by commending our subcommittee chairman, Mr. JONES of Tennessee, and our full committee chairman and all of the staff for a very excellent bill and a lot of hard work.

I rise in support of H.R. 3050, the Rural Electrification Revolving Fund Self-Sufficiency Act. As a rural American and farmer myself, I can speak firsthand about the contribution of electric co-ops toward jobs, development, and the enhancement of rural life.

In Michigan, rural electric cooperatives serve about half of the State's land area. By providing this power where it might otherwise not be available, the co-ops have made possible the growth of new business and industry and have allowed American farmers to produce more effectively and efficiently than anyplace else in the world. The REA has been enormously successful. Today 99 percent of U.S. farms have electricity and 95 percent of rural households have telephones.

Despite these successes, we must recognize that rural electric co-ops face unique problems that require special assistance. Because of the large distances with few customers that must be covered, these areas are expensive to service and result in small revenues. Additionally, there are many low use seasonal members of co-ops as in my district, where vacationers from urban areas have cottages and hunting cabins. This demonstrates the common interest that urban dwellers share in the solvency of the fund since they, too, are often at least part-time customers of the rural cooperatives. The fact that the average investment per customer is demonstrated in Michigan, where the investment is $340 per co-op customer compared to $825 for investor-owned utilities.

Rural electric cooperatives continue to take steps to meet these special challenges. They use their money efficiently, keeping costs and personnel at a minimum. Additionally, they have an outstanding repayment record on their loans. Although many of the initial expensive construction costs of telephone and electrical service are now behind us, the cooperatives continue to face higher service, maintenance, and expansion costs than urban areas as equipment ages. We should not now turn our backs on the REA's effectiveness and abandon our commitment to affordable telephone and electrical service in rural areas. With H.R. 3050, the rural electric co-ops are seeking assistance to complement their efforts to maintain the solvency of the fund upon which rural communities depend. They are to be commended for taking the initiative now to strengthen the fund.

We all agree that the Federal deficit has to be reduced, and, I hope that we all agree that this has to be done in a responsible manner. Opponents of H.R. 3050, however, are using the battle cry of the deficit to gut this very successful rural program. Simply gutting programs without giving any thought to their past effectiveness or to Americans' continuing need for them is, in my opinion, totally irresponsible. I urge my colleagues to take the responsible action of supporting H.R. 3050 and insuring that the fine past record of the REA's programs in rural America will continue.

● Mr. RIDGE. Mr. Chairman, I rise today in strong support of H.R. 3050, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983.

In the interest of time, Mr. Chairman, I will focus my remarks today on perhaps the most controversial provision of the bill before us—the provision which would convert notes payable to the Treasury by the REA Administrator, into permanent capital of the REA revolving fund. The notes in question were executed during the days of the old REA direct loan program, in order to convert congressional authorizations into the actual funds that were lent to rural electric cooperatives. This provision does not alter, in any way, the obligation of rural electric cooperatives to repay their loans to the Federal Government. It does, however, provide the revolving fund with a stable source of funds for future operations.

This is by no means a revolutionary proposal. In fact, the very same technique has been used by the Federal Government on at least two prior occasions: once with the St. Lawrence Seaway Development Corporation and again with a special revolving fund administered by the Department of Energy. And, as my colleagues know, this technique is frequently used by private corporations. Through the use of convertible debentures, private corporations convert debt instruments, like bonds, into assets like common stock.

And that is exactly what is being proposed here today for the REA revolving fund. Debt instruments—the notes from the REA Administrator to the Treasury—would be converted into assets, the permanent capital in the fund, which would still be owned by the Federal Government.

This is not a giveaway, because nothing is being given away. The money represented by the notes from the Administrator to the Treasury is currently owned by the Federal Government. Likewise, the money that will be represented by the permanent capital in the REA revolving fund, will also be owned by the Federal Government.

Mr. Chairman, we are not being asked to enact a crisis program. We are not being asked to provide a bailout. Nor are we being asked to act without the benefit of a thorough investigation of all the facts associated with this matter. The approach rural electric leaders have asked us to take is, in my judgment, a prudent one.

Briefly, Mr. Chairman, and with the indulgence of my colleagues, there are five points which I believe the House should remember as we consider H.R. 3050.

First, the work of rural electrification is not complete. There are always new customers to be served, and old lines to be brought up to modern standards.

Second, the challenges facing rural electric cooperatives are as real today as they were 50 years ago, when the REA was established. Rural electric cooperatives still serve the most remote, most rugged, and most sparsely settled areas of this country.

Third, the rural electric financing programs represent a necessary attempt by Government to establish equitable levels of Federal assistance to the various forms of ownership in the electric utility industry.

Fourth, rural electric cooperatives clearly merit continued Federal support because of their remarkable record of fiscal integrity. The repayment record of rural electric cooperatives has been nothing short of outstanding—with defaults totaling less than $50,000 on $35 billion in loans and loan guarantees made during the last half century.

And fifth, all Americans have a stake in keeping the electric rates paid by our Nation's farmers and ranchers at reasonable levels. After all, the price of food to consumers in every community—urban and rural—is directly related to the cost of the electricity that farmers and ranchers must use to produce that food.

And so, Mr. Chairman, let me close by saying that I hope the House will act responsibly this week—by passing this important legislation, which means so much not only to my own constituents in northwest Pennsylvania, but to millions of other Americans who live in rural areas nationwide.

I yield back the balance of my time.●

● Mr. MONTGOMERY. Mr. Chairman, I strongly support the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act that is before us today.

I do so because I believe that a sound, long-term Rural Electrification Administration financing program is the basis for continuing to provide reliable and efficient electric and telephone service to rural communities. This legislation is necessary to protect the solvency of the REA revolving fund.

In 1973 when we established the revolving fund, we designed it on figures that did not take into account the serious plunge our economy was to take. The soaring interest rates of the 1970's struck a serious blow to the program, and we have not since reassessed the needs of the fund. We need to make adjustments to address the imbalance of the cost of money and the 5 percent interest rate ceiling that is now strangling the fund. This bill reassesses the needs of the fund based on the cost of today's money.

At risk without H.R. 3050 is the loss of stable financing capabilities for rural electric cooperatives and the resulting disruption of electric and telephone services in America's heartland. While I would much prefer to see the price tag on this bill reduced, I do not see that as possible. All the changes in the bill are needed.

The REA system has dramatically upgraded the quality of life in rural America, and it continues to be vitally needed to fund new systems and to modernize and improve the older ones. Our rural citizens have been hit by a much harsher share of the economic problems of our Nation in the past few years. I do not feel that this is the time to experiment with alternatives to the rural electric and telephone cooperatives. This system has worked for years and I feel it is the best way to go.●

● Mr. HARKIN. Mr. Chairman, today, nearly 50 years after its creation, the rural electric program is still a strong and vital part of the rural economy and the American economy as a whole. Rural electric cooperatives have given rural Americans access to a reliable, affordable electric energy supply. These cooperatives have played a major role in the advancement of rural America and agriculture production.

Serving rural areas of this country is a difficult and expensive proposition. For example in Iowa the distribution cooperatives service 171,754 separate meters through a network of 59,658 miles of powerlines. This means cooperatives serve an average of only 2.9 consumers per mile of line. This widely distributed network means high construction and maintenance costs. Iowans know the amount of damage which can be done to this network whether from winter blizzards, spring ice storms, or summer rainstorms. In order to allow rural areas to continue to be served and to keep electric rates affordable, rural electric cooperatives must have a continuing source of long-term financing.

The major source of financing for rural electric cooperatives has been the Rural Electrification Administration (REA) financing program. Through the REA revolving fund, rural electric and telephone systems have been able to borrow the capital needed to provide service to rural America. However, in the past few years, the revolving fund resources have been strained. This has resulted from a combination of high interest rates, and an unanticipated high demand for capital from the fund due to continued growth in rural areas.

To insure that the future capital needs of the rural electric program will be met, strength and long-term stability must be added to the REA revolving fund. This can be done by supporting H.R. 3050, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983.

The major goal of rural electric cooperatives is to provide an adequate and reliable supply of electric energy at the lowest possible costs. H.R. 3050 is the key to reaching that goal since it would insure the financial integrity of the revolving fund. This legislation is of the utmost importance to the 25 million agricultural and rural area consumer/members being served by, and who depend on, rural electric cooperatives. Without the benefits of this legislation, rural electric cooperatives will be forced to obtain capital at higher rates of interest, resulting in higher electric rates for rural consumers. This is an unnecessary burden for them to have to bear.

H.R. 3050 is a positive effort to meet the challenge of the future of the rural electric program, and it deserves the support of my colleagues.

I would conclude by inserting into the Record a letter from Eldon L. Ricker of Diagonal, Iowa, who does an excellent job of making the case for this important legislation.

The letter follows:

RIDETA ELECTRIC COOPERATIVE, INC.,
Mt. Ayr, Iowa.

Hon. Representative HARKIN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HARKIN: H.R. 3050, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act, has been overwhelmingly approved by the House Agriculture Committee. The measure has received the bipartisan cosponsorship of 176 members of the House of Representatives, and is now ready for floor consideration in the House Chamber.

Enactment of H.R. 3050 is of the utmost importance to the 25 million farmers, ranchers, and other rural area citizens served by rural electric cooperative systems across the country, as well as to the consumer members of the Rideta Electric Cooperative Inc. at Mount Ayr, Iowa 50854. The bill would insure the financial integrity and self-sufficiency of the R.E.A. Revolving Fund, and would also enable rural electric systems to continue providing reliable service to all corners of rural America.

Your support for H.R. 3050 during floor consideration of the measure in the House will be absolutely vital to the Rural Electric electric consumers in Iowa, and to the future viability and long-term survival of the rural electric cooperative program.

Sincerely,

ELDON L. RICKER,
Member, Board of Directors.●

Mr. GUNDERSON. Mr. Chairman, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I yield back the balance of my time and I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. TORRES) having assumed the chair, Mr. DERRICK, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3050), to amend the Rural Electrification Act of 1936 to insure the continued financial integrity of the rural electrification and telephone revolving fund, and for other purposes, had come to no resolution thereon.

APPOINTMENT AS MEMBERS OF THE BOARD OF VISITORS TO THE U.S. COAST GUARD ACADEMY FOR 1984

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Merchant Marine and Fisheries:

COMMITTEE ON
MERCHANT MARINE AND FISHERIES,
Washington, D.C., February 23, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, House of Representatives, H-205, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Public Law 301 of the 78th Congress, I have appointed the following Members of the Committee on Merchant Marine and Fisheries to serve as members of the Board of Visitors to the United States Coast Guard Academy for the year 1984:

The Honorable Gerry E. Studds of Massachusetts.

The Honorable William J. Hughes of New Jersey.

The Honorable Don Young of Alaska.

As Chairman of the Committee on Merchant Marine and Fisheries, I am authorized to serve as an ex offico member of the Board.

Sincerely,

WALTER B. JONES,
Chairman.

MAKING IN ORDER ON TUESDAY NEXT OR ANY DAY THEREAFTER CONSIDERATION OF HOUSE JOINT RESOLUTION 492, URGENT SUPPLEMENTAL APPROPRIATION FOR THE DEPARTMENT OF AGRICULTURE, 1984

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it be in order on Tuesday next or any day thereafter to consider the joint resolution (H.J. Res. 492) making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture, in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

REQUEST TO MAKE IN ORDER ON TUESDAY NEXT OR ANY DAY THEREAFTER CONSIDERATION OF HOUSE JOINT RESOLUTION 493, URGENT SUPPLEMENTAL APPROPRIATION FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, 1984

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it be in order on Tuesday next or any day thereafter to consider the joint resolution (H.J. Res. 493) making an urgent supplemental appropriation for the Department of Health and Human Services for the fiscal year ending September 30, 1984, in the House.

The SPEAKER pro tempore. The Chair has not received assurances that this has been cleared by the minority leader.

Mr. WHITTEN. Mr. Speaker, I discussed it with the Speaker and the assistant majority leader, and I also have advised the gentleman from Massachusetts (Mr. CONTE) on the Republican side.

The SPEAKER pro tempore. The Chair will state that the matter has to be cleared by the minority leader.

Mr. WHITTEN. I presume it was, but personally I do not know; I have not seen him.

The SPEAKER pro tempore. The Chair has not received that assurance. Will the gentleman withhold his request until assurance is received?

Mr. WHITTEN. I will be glad to, Mr. Speaker.

WEAPONS RACE IN SPACE

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROWN of California. Mr. Speaker, earlier this week I spoke about the evolving weapons race in space which is exemplified by the administration's refusal to pursue arms control negotiations for antisatellite (ASAT) weapons, and the President's proposed aggressive research program for space-based ballistic-missile defense programs, development of which would be in violation of the 1972 Antiballistic Missile (ABM) treaty.

Mr. Speaker, the day after I made this speech I read another disturbing report relating to this issue. According to the Defense Department's Under Secretary of Defense for Research and Engineering, Richard D. DeLauer, indicated in testimony he delivered before the House Armed Services Committee, not only is the administration pursuing development and procurement of an ASAT for low-altitude satellites, which the administration says is necessary to counter the threat posed by the crude Soviet ASAT which can only reach certain low-altitude satellites, but that now "ambitious tests are planned this year to demonstrate the capability" of a far more advanced system to reach high altitude satellites.

Some reasonable people have argued, and I do not happen to agree with them, that it is already too late to negotiate a ban with the Soviets on low-altitude satellites because the Soviet Union already possesses an ASAT capability at low altitude. However, neither the United States nor the U.S.S.R. has an ASAT capability at high altitude. The administration's pursuit of a high-altitude ASAT, absent negotiations with the Soviets, which they have indicated they seek, can only mean one thing: The administration has no interest in arms control in space. This has serious implications for all our standing arms control agreements.

The article referred to follows:

[From the Washington Post, Feb. 28, 1984]

ANTI-SATELLITE WEAPON RESEARCH IS PRESSED PENTAGON WEIGHS HIGH-ORBIT ATTACK

(By Fred Hiatt)

The Defense Department has begun work on a second-generation anti-satellite weapon that could destroy enemy spacecraft in high orbits, the Pentagon research chief said yesterday.

The Air Force is just beginning to test a first-generation anti-satellite rocket that will be launched from F15 fighter jets against low-orbiting satellites. That program has been controversial, with some members of Congress urging the administration not to prepare to fight war in space.

Richard D. DeLauer, undersecretary of defense for research and engineering, told the House Armed Services Committee yesterday that the Pentagon is seeking $143 million in the fiscal year 1985 budget request for continued development and initial procurement of the first-generation weapon, flight-tested for the first time in January.

"Ambitious tests are planned this year to demonstrate the capability of the system," he said in a prepared statement.

DeLauer also disclosed that work has begun on a more advanced system.

"We have directed a comprehensive study to select a follow-on system with additional capability to place a wider range of Soviet satellite vehicles at risk," he said.

Officials indicated that the study probably looked at ground-launched satellite killers or laser beams. DeLauser said research on President Reagan's so-called "Star Wars" initiative, dedicated to defending against nuclear missiles, also will include an anti-satellite component.

Administration officials have said the United States needs an anti-satellite weapon because the Soviet Union has one and because the Soviets could use satellites to target U.S. ships and other forces during a conflict.

The Soviet anti-satellite weapon is launched from the ground and is considered by many scientists to be less sophisticated and effective than the F15-launched model.

Kurt Gottfried, a Cornell University physicist who has opposed development of anti-satellite weapons, said it would be "very discouraging and extremely dangerous" if the Pentagon seeks to develop a weapon that could destroy satellites in high orbits.

Such satellites, he said, are used for nuclear command and control and for early warning and would be essential to any effort to prevent or contain global nuclear conflict.

SHOCKING SUPREME COURT DECISION ON WOMEN'S RIGHTS

(Mrs. SCHNEIDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHNEIDER. Mr. Speaker, yesterday, the Supreme Court issued one of the most shocking and sincerely most disturbing civil rights decisions in recent history. Choosing to ignore the obvious intent of Congress, the Supreme Court ruled in favor of limiting coverage of the title IX statute of the 1972 Education Amendments. The Court ruled that title IX should only apply in cases where educational programs receive direct Federal funding.

What does this decision mean for the children of the Nation? Sadly, it means that in a guidance office or a history course, for example, where no Federal funds are received, students can now be discriminated against without recourse from their Government. I find it hard to believe that the American people want an educational system riddled with discrimination. I do not believe they want to return to the days when women needed SAT scores 40 or 50 points higher than men in order to enroll in schools such as Cornell University or others. In fact, a study compiled recently by the Project on Equal Educational Rights showed that 68 percent of the American people feel that Federal equal educational laws should apply to all students whether their schools receive Federal funding or not.

I believe the implications of this abhorrent decision will set civil rights back to the 1960's. If the Government is allowed to narrow the interpretation of this sex discrimination law, what are the implications for title VI which protects blacks or section 504 which protects the disabled. This Congress spoke very loud and clear last November when it voted 414 to 8 in favor of my legislation reaffirming a broad interpretation of title IX; 75 Senators and Members spoke again when they signed my amicus brief in which I argued that the intent of Congress clearly is that title IX covers the entire institution.

Fairness did not prevail in yesterday's Supreme Court decision but the fight is far from over now. Today I am introducing legislation to amend the present title IX statute to state once and for all, that an entire educational institution must be covered by title IX even if just a single Federal dollar flows into the school or university. This an act of fairness.

I encourage my colleagues, the 414 Members of Congress, both Republicans and Democrats alike, to act in a bipartisan manner to support my legislation and encourage them to cosponsor it immediately.

CALL FOR CONSTITUTIONAL AMENDMENT ON LINE-ITEM VETO AND BALANCED BUDGET

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HILLIS. Mr. Speaker, we all remember that day last year when our distinguished colleague from Massachusetts, Mr. CONTE, donned a plastic hog's nose to call attention to the millions of dollars wasted each year on unnecessary pork-barrel projects.

However unorthodox his presentation, his complaint was well justified and, as usual, was ignored.

It is tempting to continue this practice of adding pork-barrel projects to appropriation bills. But I believe it is time for the Congress to face the fact that this deficit-building practice is not in the best interests of the country and needs to be stopped now.

The budget deficit and the national debt are the most important economic issues the Congress of the United States must face. We can talk about this until we draw our last breath but, unless we do something about it now, the American people will never forgive us. And, I might add, they should not.

President Reagan has made some concrete proposals to reduce the deficit and change, once and for all, the way we approach budgeting. The Congress needs to consider these immediately and I call on the leadership to let us do so.

One of these suggestions is for a constitutional amendment allowing the President to veto individual items in appropriation bills. This amendment would permit the President to take the pork out of the budget without sacrificing necessary appropriations.

Forty-three Governors have this kind of power on the State level and it is not abused. In fact, it stops abuse by sharing budgetmaking authority between the executive and legislative branches.

It is time to untie the hands of the President, who can spot a pork barrel 100 miles away but can do nothing to stop it without eliminating vital appropriations.

Mr. Speaker, it is time for the Congress to take off its rose-tinted glasses and recognize what the people of this country want. They want fiscal responsibility and they want it so badly that there is a nationwide petition and referendum movement advocating a constitutional convention to deal with issues such as line-item veto and balanced budgets.

If we fail to act now, the American people will act for us and I can assure you that the Congress will never again have the prerogative to deny a President the line-item veto power this country wants and needs.

Mr. Speaker, at this time I would hope to offer a unanimous-consent request calling for consideration of a line-item veto constitutional amendment. This request has been cleared by the minority leadership and I would yield to a spokesman from the majority leadership for appropriate clearance.

Hearing no response, I think that should make it clear to the American people who stands in the way of the line-item veto and cutting Federal spending—the Democratic leadership.

CONGRESS MUST TAKE CHARGE OF THE DEFICIT

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, the deficit reduction talks between the White House and Representatives of the Congress have proven one thing: President Reagan has no intention of making any serious effort to reduce the staggering $192 billion deficit that he has proposed.

Majority Leader Wright is to be complimented—as David Stockman complimented him last week—for his "attitude of good faith" during these talks. Unfortunately, the President never intended to offer anything new. Instead, he has stubbornly rejected deficit reduction plans offered by our party, by members of his party, and even one offered by the Nation's Governors.

Mr. Speaker, in today's Washington Post, two prominent Senators from the President's own party suggested that if anything is to be done on the deficit this year, Congress must do it. I agree. The President has counted himself out. It is now up to us.

[From the Washington Post, Feb. 29, 1984]

Congress Takes Helm on Deficit as White House Talks Founder

(By Helen Dewar and David Hoffman)

Congress seized the initiative on deficit reduction yesterday as negotiations with the White House sputtered to a halt and Senate Republicans proposed to work with Democrats on a bipartisan plan to cut spending and raise taxes by at least $120 billion over three years.

Appropriations Committee Chairman Mark O. Hatfield (R-Ore.) and Budget Committee Chairman Pete V. Domenici (R-N.M.) proposed that Congress take charge of the budget-writing process after negotiations with the White House broke up without a date for resumption.

Hatfield told a reporter after the bargaining session that he hoped a "working draft" on deficit reductions, including roughly $40 billion each from taxes, defense and domestic spending, could be ready for presentation to White House and congressional negotiators next week.

But, regardless of whether the negotiations can be revived, Democrats and Republicans vowed to push ahead with deficit reductions in Congress, with or without President Reagan's blessing.

"Whether [White House officials] agree to [deficit reductions] or not, Congress is ultimately going to have to make them," House Majority Leader James C. Wright Jr. (D-Tex.) said.

"Congress will have to go ahead with the job anyway," Hatfield said.

His point was underscored as the Senate Finance Committee, operating independently of the negotiations, continued to approve specific spending cuts and tax increases, for a total of more than $20 billion so far. It yesterday added $10 billion in tax increases and $2 billion in spending cuts to $8.7 billion in spending reductions that were approved last week.

The House Ways and Means Committee is scheduled to begin a similar effort today.

The Hatfield-Domenici effort was seen by some congressional leaders as the only hope of salvaging negotiations with the White House, which appeared on the brink of collapse yesterday after Wright accused the administration of "inflexible hostility" toward defense cuts and Republicans stomped on a Wright proposal for major tax increases.

"It looks like the best thing going," a Senate Republican leadership aide said.

But the prospects were uncertain, even for the Senate Republican initiative. Though Senate Democrats were expected to join the effort, Sen. Daniel K. Inouye (D-Hawaii), their representative at the talks, said he thought the target for tax increases should be higher, perhaps $90 billion. Hatfield emphasized that he was flexible on numbers, but taxes are a big sticking point for many Republicans as well as the White House.

White House officials were skeptical that Congress could draft a plan of its own but did not object to the effort.

"We would find that [the Hatfield-Domenici initiative] a reasonable approach," one official said.

Hatfield said he wanted the drafting sessions to begin quickly. Among those to be involved were the chairman and ranking Democrats on the Appropriations, Finance and Budget committees, along with Inouye and Sen. Paul Laxalt (R-Nev.), the chief negotiator for Senate Republicans. Hatfield said the reaction from House members was "fairly positive," although it was not clear yesterday whether they would participate in the drafting effort.

Yesterday's negotiating meeting, the fourth since Reagan called for the talks to produce a $100 billion "down payment" on deficit reductions over the next three years, was devoted largely to a series of tax proposals from Wright, including rollback of last year's tax cut and delay of legislation to index tax brackets for inflation, which is due to take effect next year.

"If they are serious about this kind of tax increase, then it really does put a cloud on the whole process. . . . This is not possible," House Minority Leader Trent Lott (R-Miss.) said.

But Lott also got rebuffed on an initiative from House Republicans, which would allow the president to withhold up to $20 billion in spending annually over the next two years, with one-quarter of the total to come from defense.

It drew a chilly reaction from Hatfield, and House Speaker Thomas P. (Tip) O'Neill Jr. (D-Mass.) flatly rejected it, saying it constituted a grant of "dictatorial power that shouldn't be given to the president of the United States, certainly not in a democracy."

In its action, the Senate Finance Committee voted to limit reimbursement of some hospital costs under Medicare and to end a program (under which the government of Puerto Rico has received rebates of federal excise taxes for liquor redistilled but not manufactured on the island.

On the tax side, the committee approved more than $10 billion in revenue increases, largely from changes that reduce losses from investments in tax shelters and accounting practices.

Finance Committee Chairman Robert J. Dole (R-Kan.) said he hopes that the committee will find $50 billion in tax increases but conceded that it might end up with less than $50 billion in spending cuts. "We're doing fairly well," Dole said. "It's better than going to those White House [negotiating] meetings."

□ 1810

A CONSTITUTIONALLY REQUIRED BALANCED BUDGET

The SPEAKER pro tempore. Under the previous order of the House, the gentleman from Idaho (Mr. Craig) is recognized for 60 minutes.

Mr. CRAIG. Mr. Speaker, today I take this special order to bring to the attention of the Members of the House something that is going on in grassroots America and on a State-by-State basis across this Nation that I think is most critical for us to understand as a body, but more importantly is most critical to draw attention to for the American public.

What I am talking about is the movement on a State-by-State basis, through the legislative effort, or through the initiative drive effort, to petition the Congress of the United States for the purpose of a balanced budget. I know of no other movement today more important to the destiny of this country, to the fiscal soundness of our economy, than to cause this Congress to bring forth a balanced budget amendment that can be submitted to our States for ratification and that will for once and for all establish within the Constitution parameters that this body, this Congress, and this House must operate in in the budgetary process of the Federal Government.

I am talking about the critically important issue of a constitutionally required balanced budget. This is not a new issue. It has been debated on this floor from time to time. Over the years, different men and women who have served on this floor have attempted to and have succeeded in placing in the statutes of the laws of this country wording that would call for, require, a balanced budget. But recognizing that no Congress can bind another Congress, those laws were quickly ignored in the pursuit of this Congress to satisfy its desires and to extend to its constituency the ongoing and ever expanding access to the public treasury.

I believe today, when we are faced with $185 billion deficit, that the time has come for this body to act in a responsible fashion and offer forth an amendment to be sent out to the States of this Nation to be ratified by three-quarters of the States required under article V of the Constitution to assure that we have a framework, that we have a parameter in which we are forced to operate to bring our revenue and our expenditures into line.

Like a good many people of this body, I once served in a State legislative body. I served in the State Legislature of Idaho, and that legislature is required by the constitution of that State to every year, or at least every budget cycle, to offer a budget to the citizens of that State that is by law, by constitution, balanced.

Idaho is one of 44 States where that is required, and I suggest to my colleagues that the arguments we have heard here from the floor from time to time that we simply cannot balance the budget, that we must not be bound to that, is not true. Forty-four States of the Union operate in that fashion on an annual fashion. Forty-four

States of the Union today have high bond ratings and are fiscally solvent because their forefathers were wise enough and prudent enough to recognize that they had to place in the constitution guidelines for future legislators to operate under to maintain a fiscally responsible State government and to do that through a balanced budget process.

As that is true in 44 States of the Union, so I believe it must be true with the Congress of the United States.

The movement I talk about, as I mentioned earlier, is not something new. In the late summer of 1982, the U.S. Senate offered forth an amendment passed by that body to balance the budget and to limit taxation, and they sent it over here. Of course, it languished here in committees until it was finally forced out under a discharge petition because the leadership of this House did not want to be faced with that issue, did not want to have to curtail their spending and bring those very important issues of revenue and expenditure into balance. When we finally forced it out on a discharge petition, we did not gain the two-thirds necessary that is required by article V of the Constitution of those Members present and voting to be able to pass it forth to the States for their ratification.

Now, that is one side of the story. While Congress over the years has been failing to respond to the call of the citizens of this country, other organizations recognizing this began about a decade ago to work in the States to cause State legislatures to petition Congress, through the resolution process, to bring about a constitutional convention or to offer forth a balanced budget amendment. That has been going on now for nearly a decade, and what a good many Members of this body and what I suspect a good many Americans do not realize is that our Constitution, article V, requires that two-thirds of the States petition for that.

That is 34 States. Today 32 States have already answered that call and have asked our Congress either to convene a constitutional convention for the purpose of crafting an amendment, or to offer out an amendment themselves. We lack today just two States from forcing this Congress to move under the Constitution for the purpose of bringing about that amendment.

Members will notice in my lapel a button that says "CLUBB." It represents "Congressional Leaders United for a Balanced Budget." I formed this organization some months ago and have now encouraged over 48 Members of this body, in a bipartisan fashion, both Democrats and Republicans alike, because this is simply not a partisan issue, to join with me not to lobby the Congress, as we have in the past, to be responsible but to go out to the States to encourage the States to use the constitutional route to force upon us that which we should have done responsibly years ago.

□ 1820

And I say that because I believe that our Congress will not act unless those 34 States petition Congress for the purpose of issuing forth that balanced budget amendment.

I said earlier that it is a bipartisan issue. Democrats and Republicans alike in State legislatures and here on the floor of this body have consistently supported that issue. The problem is that we simply do not have enough, and we have not been tested or our feet have not been put to the fire by the Constitution itself in forcing this issue forward.

I think the time is now ripe. I think the Members of this body recognize the critical importance of devising that framework, that most important framework that puts together the parameters under which this body must operate that we cannot fail to recognize without directly violating the Constitution and over a period of time, from the ratification process through the implementation process, bring on line that amendment, place it in the Constitution for once and for all, an amendment that says that we will balance the budget and we will limit the ability of Congress to raise revenue so that we can fulfill the American dream for our children. And that dream is not to end up by mounting debt upon debt upon debt so that somewhere out there in the unforseeable future we will expect our children and our grandchildren to pay for it. But we will be as our Founding Fathers asked us to be, and that is fiscally responsible to pay for the obligations of government in a timely fashion and do so, so that we would not generate perpetuating debt for decades and decades to come.

That is the critical issue that is before this body. That is the critical issue that is before the legislatures of the United States.

I returned this morning from Vermont, where I testified before the House Judiciary Committee up there, asking them to help the Congress. I suspect that that is the first time in a long time that a Congressman or a Member of this body has actually gone out to a State legislature and said, "Frankly, we need your help. We need your help because we cannot help ourselves."

Our Founding Fathers were wise enough to provide that vehicle to recognize, as George Mason recognized in the latter days of that Constitutional Convention in Philadelphia, that not only should the Congress have the right to offer out amendments for State ratification for changes in the Constitution, but in fact the States and the citizens of those States well ought to have that right, because George Mason recognized that there might come a time in our history when the Congress would not be doing what a large majority of the citizens of our Nation wanted the Congress to do. I suspect that that time is now, and that issue is being fiscally responsible through the use of a balanced budget.

That is why we have formed the organization of CLUBB. That is why several of my colleagues have joined with me here tonight to talk about the mechanics of the process, to put down some of the bugaboos, the arguments, and the smoke screens that have been put out by those who simply do not want to do it, who simply want to continue to see the largesse of the Treasury and the tax dollars of the citizens of this country pouring into their special programs at ever increasing rates and simply do not want to see a Congress that is bound to the responsibility of a Constitution, bound to the responsibility of bringing on balance revenues and expenditures on an annual basis to bring the budget into balance.

Mr. Speaker, I would now like to yield to my colleague, the gentleman from Colorado (Mr. KRAMER), who has been a leader in this area, who not only has been concerned that we bring about a balanced budget and that we bring about that balanced budget through the amendment route but who also recognizes that there is an important charge in the fifth amendment to the Constitution, and that is that if the Congress chose not to act, they would have to convene a constitutional convention, and that it is this body through law that would have to design the mechanism of that constitutional convention, submit it to the vote of the Congress, submit it for the signature of the President, and therefore create the mechanism that the States would have to operate under.

I now yield to my colleague, the gentleman from Colorado, and I thank him for joining me this evening.

Mr. KRAMER. Mr. Speaker, I am delighted to join my colleague, the gentleman from Idaho (Mr. CRAIG), who I think has shown tremendous foresight and great wisdom in asking for this special order today to bring to the national forefront the need for a balanced budget amendment to our Constitution.

I commend the gentleman's work in putting together the organization, CLUBB, of which I am proud to be a part, and I believe that his efforts will soon bear fruit that will long be remembered beyond the day of this special order.

Throughout our history, few issues have been as urgent or as important to the survival of our great Nation as the issue of the balanced budget amendment to the Constitution. Although we have laid a good foundation for economic recovery from the present recession, continued huge deficits will make impossible our chances for long-term prosperity.

In recent years, I think, as the gentleman has so eloquently explained, this national debt of ours has exploded. At the beginning of 1968, which took us through almost 200 years of American history, 192 years, $352 billion had been accumulated. By 1978, the year that I first campaigned for the Congress of the United States, that debt had doubled. Since then it has doubled again, this time in only five years, and given current deficit projections, this national debt of ours will top $2 trillion by 1986 and could exceed $3 trillion by as early as 1990.

I believe the message is clear that unless we act and act soon to halt this exponential growth, we will see a return to the days of high inflation, high interest rates, high unemployment, and even worse. And no matter how much people in elective office might will it otherwise, huge deficits mean that the Government must either print money or borrow money. The first causes inflation, the second causes high interest rates or both, and both or either one alone are ultimately going to lead to high unemployment.

Yet this Congress has shown time and time again that it is simply incapable of bringing a halt to runaway, out-of-control spending. On numerous occasions during the last couple of decades, both Congresses and Presidents—and that is an "s" on "Presidents"—have sought to restrain spending and limit deficit spending, each time without success.

There were five separate proposals to limit Federal spending which Congress approved between 1966 and 1973: impoundment battles initiated by Nixon; congressional adoption of the 1974 Budget Act; a series of spending vetoes by President Ford; and finally, passage of the Byrd amendment in 1978, which statutorily provided that outlays should not exceed receipts beginning in the year 1981.

It may be argued by some historians that the first four of these examples did in some small, insignificant way keep the deficit from even being worse than it is today. There is no doubt that Congress has completely and, in my judgment, irresponsibly blatantly ignored the Byrd amendment. The deficit for 1981, despite that statutory requirement that the budget be balanced, was $58 billion, making it the third largest deficit in our Nation's history at that point.

Given these facts, it becomes apparent that a constitutional amendment is the only way foreseeable of achieving a balanced budget.

Senator STROM THURMOND, chairman of the Senate Judiciary Committee, 2 years ago stated during a debate over a balanced budget that Congress has violated its own laws in recent years in enacting Federal budgets that are not balanced, and that a constitutional amendment is the only way. Congress must today obey the Constitution.

The vast majority of the American people believe that a balanced budget is needed, and I believe that the people of this country are far, far ahead of Congress on this issue.

Last year Missouri became the 32d State since 1975 that petitioned to call a national constitutional convention for the purpose of drafting a constitutional amendment to balance the budget, and as we know, the Kentucky Senate last week passed a resolution, and now we have, in fact, 32½ States. We are only 1½ short of the magic number of 34. We know, of course, through our leadership and that of Senator WILSON in the other body that California now has enough signatures to force this issue to referendum in the November elections.

Unless Congress acts and acts quickly to propose itself a balanced budget amendment, which we all hope will happen, this Nation will have a convention, and it is that simple. I believe that CLUBB will make an important contribution in bringing pressure on this institution to give this country a balanced budget, which this institution simply will not do without that outside pressure.

Tomorrow Senator ARMSTRONG and I will answer details of legislation that we have been working on for some time and that I believe will complement the gentleman's efforts in forcing Congress to address this issue. Again, I applaud the gentleman's efforts in getting CLUBB off the ground. I encourage Members of this body and the other body to join that effort, and I, of course, urge Members of this body to support that much needed and desperately required balanced budget amendment. The time to act is now.

In closing, Mr. Speaker, let me just, if I may, recall the wisdom of Justice Joseph Story who wrote an awful, awful long time ago, in 1826, that "A government which provides no means of change will either degenerate into despotism or, by the pressure of its inequities, bring on a revolution."

Mr. Speaker, I thank the gentleman from Idaho for his efforts to prevent that bringing on of a revolution.

☐ 1830

Mr. CRAIG. I thank the gentleman from Colorado (Mr. KRAMER) very much for the tremendous leadership that the gentleman has exerted in this area and for the excellent job the gentleman did in outlining the legislative history of the impossibility of Congress to be fiscally responsible. I think the gentleman has demonstrated that from time to time they have earnestly tried and believed that it was possible, only to find out that year after year the pressure of the way the system operates in Washington, with the hundreds upon hundreds of interest groups that come here on an annual basis, with no ability within the structure itself to say no, because there was a limited amount of revenue, the deficits continued to grow.

In the 1985 budget that we are attempting to deal with today, looking at those mounting deficits over the last several decades, we are now faced on an annual basis with a single line item budgetary obligation of over $140 billion a year in interest alone and that grows very rapidly on an annual basis.

Let me talk briefly now about some of the areas of concern that a good many of my colleagues have talked about and that some are using now out in the States to try to convince State legislators that this is simply the wrong way to go, that for some reason we may damage the Constitution by changing it, or by risking the possibility, as they say, of a "runaway convention."

I would like to quote from the AFL-CIO news of February 18 of this year, when they talk about this decade long effort on a State-by-State basis to bring about a balanced budget amendment of being an absolutely phony right wing activity.

I think the Members on this floor just heard me a few minutes ago say that the effort here tonight, the effort to organize behind CLUBB is truly a bipartisan effort, that nearly a third of the membership of the CLUBB organization on the House side are made up of Democrats, not just Republicans, not right wing kooks, but those of us who are critically concerned that if we do not force Congress to be fiscally responsible in the parameters of a constitutional amendment that balances our budget on an annual basis, that we will destroy the economy of this country, that the recession of the late seventies and the early eighties will look like child's play compared to the ultimate financial calamity that could result if we do not bring ourselves under control.

Recognizing the systems and the pressures we operate under, I think it is so critically essential, as my colleague from Colorado mentioned a minute ago, that the time is now that the American public, poll after poll, year after year, in the high sixties and the mid seventies have said, "Congress, balance your budget. Do it before it is too late. Do it while you still have an opportunity to bring those critical pressures into line and to start to prioritize the key spending areas within the budget that you must produce on an annual basis."

I believe that there will be no runaway convention. I believe that because, first of all, Congress will respond as they did in 1911 and 1912, when up until that time Senators had been appointed by State legislators to serve in the U.S. Senate and the American public said, "No. We want them to be elected on a popular ballot."

At that time it required, as today, two-thirds of the States. When all but the last of the two-thirds had petitioned Congress, Congress saw the wisdom of the American public and offered forth that amendment and within 2 years of the ratification process, Congress had in fact placed into the Constitution the popular election of our Senators.

I now have with me another colleague of mine from Colorado, Congressman HANK BROWN. I thank the Congressman for joining me tonight in this special order.

Mr. BROWN of Colorado. Mr. Speaker, I say to my colleague, Congressman CRAIG, I am delighted to join the gentleman in this effort and be a cofounder of CLUBB. I think it is an essential effort that must be done.

We face a problem that has grown over the years in dramatic dimensions.

I thought it might be worthwhile to share with my colleagues why I think this is so essential. You know, as we discuss issues on the floor, I often hear fellow Members of this body talk about their desire and their wish to bring this budget into balance, to reduce interest rates, to bring our economy back to long-lasting growth. They share the concern about making this country a land of opportunity again and yet they know with each vote they cast where they vote for an item that is over budget, each vote they cast to bring that deficit into larger and larger proportions, they make the future opportunities of working men and women in this country far less realistic. They know they are taking the bread and the opportunity out of the hands of the individual working Americans who deserve those opportunities.

It is not because the Members of this body are ill willed. It is not because they do not desire to do the right thing. It is because we have structured this body in a way that makes it very difficult to come to grasp with the issues.

We have simply not been willing to face up to those budget problems. That is what this amendment is all about, to provide Members who want an opportunity to do the best for this country an opportunity to put those budget priorities into perspective.

I think every American has to ask themselves, is this amendment necessary? I would suggest to them, all you have to do is look at the record of our budgets over the last several decades. The fact is that Congress, both Houses, have been unwilling to face the terrible problems we must look to in this area. They are unwilling and unable to say no. Some Members, yes. My distinguished colleague from Idaho, of course, has set an outstanding record in terms of being willing to face those tough budget decisions; but unfortunately, his record is not shared by all the Members of the House and until we can do that, we must look for an alternative.

Now, what is the impact of going on the course we have? I hear many discussions of the deficit and what impact it will have. Let me suggest one that is not normally discussed, and that is on the savings of this country. It is no secret that the future of America is simply based on how much we reinvest in it. It is based on the efforts of its working men and women. It is based on how much we invest in it. It is based on our attitude toward making America a stronger country; but we have to have the tools and equipment and plants to make our workers efficient and competitive. Without that investment in plant, equipment and tools, and efficiency in technology, we are not going to be able to compete, no matter how hard we work.

The truth is we have crippled this Nation's ability to save and invest in its future. We have offset the private savings of this Nation with a public deficit so enormous that we have crippled for years to come our ability to compete in the international marketplace. The enormous deficits we face worldwide in balance of trade are not an accident. They are not a quirk. There are, of course, many factors that contribute to it, but the fact is our ability to compete as a nation has been harmed by years of enormous deficits that have absorbed the savings of this country; so instead of investing in plants, tools, and equipment that makes us competitive and give us a competitive edge in terms of productivity, we have whiled away our assets that are so essential for working men and women in deficits at the Federal level. That takes on an enormous scope when you look at them.

As recently as 1967, we had an over 8½ percent net investment in this country. Here what I am talking about is not just the savings in the private sector, but the savings in the private sector offset by the deficits in the public sector, because that is what we have to look at in terms of funds available to invest in America's future.

The net savings of the private sector minus the public deficit was over 8½ percent in 1967. By 1974, that net savings rate had dropped to 5.3 percent, a dramatic reduction from over 8½ percent to 5.3 percent.

By 1982, it had dropped to something like one-half of 1 percent for one of the lowest net savings rate of any industrialized country on the face of the Earth.

It is no secret that this year it appears that the net savings rate may well be insignificant. That means that America is not putting anything forward to make its working men and women competitive in the world marketplace.

The simple fact is that Congress has been unwilling to face up to the deficit problem and our unwillingness to face up to the deficit problem has caused an enormous erosion of our ability to invest in America's future. Everyone here understands what that means. That means that Americans will no longer be able to enjoy the higher standard of living that they have compared to the rest of the world, if we do not have the plants, the equipment, and the technologies to give us an edge. We are talking about the veritable future of our entire Nation.

Now, what is the answer? Many who criticize this balanced budget amendment have said that it will not work; but the fact is that a large majority of our States have a similar kind of balanced budget requirement and it does work.

□ 1840

I do not mean to suggest to the Members that at times budgeting is not painful. I do not mean to suggest that at times of downturn that it needs careful planning and thorough thought and hard decisions.

But the fact is it does work and it does work in almost all of our States. We have an example of how effective it can be.

Now, what will it do for us? It will not only control the deficit and allow us to invest in America's future, but I think it will do one other thing that is very, very important: It will force Congress to face their decisions by setting priorities.

That is so important because there is no secret here that many of the expenditures of this Congress are terribly wasteful. You do not have to do anything more than go out and look at the elevator operators that are paid to run our automatic elevators to understand that this body is wasteful and continues to be wasteful.

You do not have to go beyond the committees in which we serve to understand how abusive this body has become of the public trust and the public money. The Committee on Interior and Insular Affairs on which I serve once had four full-time staffers when my predecessor's predecessor came here. When Congressman Aspinall, who rose to be chairman of that committee, came to Congress he had four full-time staffers.

The truth is right now we have 73 full-time staffers doing the work of four people, and the only difference is they do less work. We have less legislation and less legislative opportunities going through that committee now than we did when we had four full-time staffers.

We have 1,200 policemen on Capitol Hill just to guard our offices.

The simple fact is if we care about the poor of this country and the needy, we need look no further than the Halls of this Congress and the halls of our offices to find areas where we can find efficiencies and find funds to fund the essential programs of this Nation.

I must suggest to every Member here I am confident that we can bring this budget into balance and we can do it without cutting money from those who truly need it. But we are going to have to get rid of our sacred cows, and that is the value of this balanced budget amendment. It will balance the budget and allow us to invest in our future, and it will allow us to set priorities to make this Congress and this country a far more efficient and caring place.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. I yield to the gentleman from Ohio.

Mr. KASICH. Would the gentleman agree that the Congress really has the best of both worlds? We have a credit card that allows us to essentially spend everything we want to for every program for every group that demands our spending, but we never have to worry about paying for it. That is really what liberals in this body want to continue.

The simple fact of the matter is if we do not have to worry about paying the bills, we have an unlimited credit card to spend, spend, spend, not worry about how we get the money to fund the programs; then whenever we face the problems of deficits and we face the problems of rising interest rates and we face the problems of inflation, and of course ultimately the problems of unemployment, we just turn around and blame it on somebody else because we do not ever have to worry about paying the bill because we do not have to balance our budget here. And we do this, of course, year in and year out, which gets us in the kind of trouble we have today.

Mr. BROWN of Colorado. I thank the gentleman. I think his observation is exactly on the point, and I hope the wisdom of his remarks will be reflected in the actions of this body in facing up to the issue.

I yield back to the gentleman from Idaho who has provided such great leadership.

Mr. CRAIG. I would like to thank my colleague from Colorado and, of course, my colleague from Ohio for a most important colloquy that I think points up some of the critical concerns that we have here and the ultimate problem that we face, not on a year-to-year basis but literally a day-to-day basis as we move down the process of attempting to deal with this budget that has no control or no parameters.

Mr. KASICH. Will the gentleman yield?

Mr. CRAIG. I yield to the gentleman from Ohio.

Mr. KASICH. Part of the purpose of this special order is to discuss the mechanics of the amendment. One of the things that the people have argued in terms of this amendment for a number of years is that it really straitjackets the Congress and straitjackets the Federal Government in dealing with problems that can come up from time to time.

The beauty about the balanced budget amendment is that it provides that if 60 percent of the Congress would vote to spend in the hole and would vote that it be proper to have a deficit, then, of course, we could go forward and have that kind of stopgap provision in the balanced budget amendment. That is absolutely crucial, in my judgment, to giving the kind of flexibility to the Federal Government that it needs, but yet it still carries with it a discipline that says at least 60 percent of us in this body must agree that it is necessary to spend in the hole.

John Maynard Keynes himself, I am sure, is rolling over in his grave today when he looks at the fact that we have spent in the hole 19 of the last 20 years. It is consistent year in and year out.

But what is really mind-boggling about the way this Federal Government has operated since 1776 until 1962, and it is really important that the American people understand this, from 1776 to 1962 we lived within a budget that was $100 billion.

Eight years after 1962, in 1970, the Federal budget reached $200 billion. Four years after that it was $300 billion, and this year it has exceeded $850 billion.

So from 1776 to 1962 we lived within $100 billion, and from 1962 to 1983, 21 years later, that budget went from $100 billion to over $850 billion.

Of course, year in and year out it was accompanied by these fantastic deficit budgets, which of course contributed to this national debt. But what people must understand is that Congress must have a mechanism imposed upon it that is going to call forth a fundamental discipline and impose a fundamental discipline on this body.

Mr. CRAIG. I wish to thank my colleague because I think you have put forth the most critical statement, and that is discipline, a fundamental discipline—parameters that we must operate under in making those most important priority budgetary decisions.

I would now like to yield, if I could, to my colleague from California. I would like to mention that BILL DANNEMEYER of California is recognized in his State and on this floor as a leader, not only as a member of the organization of CLUBB, but as a leader who went to his State when he saw this very basic and real need to bring some controls, some fiscal responsibility to this Congress, and he launched what I believe is a rather historic initiative drive in the State. Just week before last he and his colleague from the other body, PETE WILSON, filed some 600,000 signatures and have put on the ballot in California for November the issue of a balanced budget amendment.

I would say to my colleague, before I yield, that today in the West Virginia Legislature that senate voted out a resolution to petition Congress for a balanced budget. So we are truly making headway on this issue.

Mr. DANNEMEYER. Will the gentleman yield?

Mr. CRAIG. And I yield to my colleague from California.

Mr. DANNEMEYER. I thank my colleague from Idaho for giving me this time, and I thank him for his comments and I want to congratulate him for organizing CLUBB, Congressional Leaders United for a Balanced Budget.

As I understand, this organization will be used nationwide for providing speakers to State legislatures who are interested in becoming one of the States of the 34 that are required to call on Congress for proposing an amendment to the States mandating a balanced budget.

One of the concerns, one of the criticisms that I have heard when I have talked to people around the State of California over November, December, and January recently, was that, well, we cannot really run the risk of having this convention because who knows what strange ideas would surface in the convention and be proposed as a work product of the convention.

I ran into some information that I would like to share briefly with my colleagues in response to that concern, because I think sometimes it is helpful to put it in perspective.

This body, under the law, is a continuing Constitutional Convention. We have the following powers: We can enact laws; we can impose taxes; we can override vetoes; we can approve treaties; we can pass on Presidential appointments, at least the other body does; we can create holidays or declare war.

Now, we can do all of these things, and if that is not a continuing convention I would like to know what it is.

But the Constitutional Convention that we are talking about, which would come into existence—we have not had one since 1789, which was the last one, when we drafted our existing Constitution—that would be limited to just, we believe, one subject; namely, the proposed constitutional amendment requiring a balanced budget at the Federal level.

□ 1850

Even if this convention by some quirk would come up with some recommendation that was at variance with the good sense of the American people, ask this question, what must happen before it becomes a part of our Constitution? The answer is it has to be approved by three-fourths of the States of the Union, or 38 States.

The point is: Is it really reasonable to suggest that some strange or undesirable idea is going to pass muster by the legislatures of three-fourths of the States of the Union? Sam Ervin, a noted constitutional scholar, formerly serving in the Senate of the United States, has these words to say about this concern:

> The fear of a runaway convention is just a non-existent constitutional ghost conjured up by people who are opposed to balancing the budget because they want to be able to promise special groups something for nothing out of an empty pocket.

I thank Mr. Ervin for those comments because I think they are eloquently stated. And for these reasons, I think the fear of a runaway is just a baseless fear and quite frankly, I don't think that convention will ever come into existence. I think when the 33d State of the Union passes the resolution, this body finally will get with it and propose an amendment to the States.

I thank my colleague from Idaho (Mr. CRAIG) for the time and I wish him well in this special order. I congratulate him for the leadership he is displaying on this very important issue.

Mr. CRAIG. I thank my colleague from California for the tremendous effort he has been involved in, in his State, and the leadership he has demonstrated and I truly appreciate his involvement and organizational activity in the CLUBB organization.

I yield to my colleague from Ohio.

Mr. KASICH. I appreciate the gentleman yielding. I associate myself with the remarks of the gentleman from California.

For years we have been hearing about all the ghosts and goblins about passing a constitutional balanced budget amendment, "runaway convention." They ignore the fact that 34 States have to call a convention, 38 States have to ratify whatever action is taken by the convention. They argue it will straitjacket the Congress. We have disposed of that argument, pointing out if 60 percent of this membership of this body votes to spend in the hole, we can do it.

Let me tell you the most interesting argument I have heard over the years. The liberals have argued we need not worry about deficits. Now we hear the liberals complaining about deficits. For liberals to complain about deficits is like the Mafia complaining about street crime.

The bottom line on this and what the American people must understand is that the special interests come up to this body, come up to Capitol Hill. And right now we do not have that stick, we do not stand at the door of the Treasury with a stick to beat those special interests back and tell them there is a limit to how much we can spend.

And when we spend at the rate of a $100 billion budget in 1962 to over $850 billion in Federal spending in 1983, we get in trouble, for a very fundamental reason: When you spend in the hole, when the Federal Government spends in the hole, the same kind of problems arise as when a family spends in the hole. In order to pay your bills, you have to pay them in, really, one of three ways the Federal Government operates.

No. 1, raising taxes; which of course saps the energy out of what can be an expanding economy; or No. 2, they run a printing press. When they do that, they simply create inflation. I do not have to tell the American people who are on fixed incomes, particularly our senior citizens, some of whom fought in struggles to protect the freedoms that exist in this country—some in as many as two wars—what it is like to have to live on a fixed income with inflation going out the ceiling.

When the Federal Government spends in the hole and finances its deficits by running a printing press, we simply get a massive inflation.

The other thing that the Federal Government will do is borrow money from the lending institutions. Every dollar that the Government borrows from the banks is one less dollar that the private sector would have. As they borrow more and more, there is less and less left in the private sector and those interest rates go sky high.

The bottom line is when we place the Federal Treasury in a situation where they must finance a deficit either by printing money or borrowing money; we are ultimately going to drive interest rates up, which ultimately are going to drive people out of work. Jimmy Carter said that we have reached an era of limits in this country. I do not believe it; I think it is a lot of hogwash.

We have, however, reached an era of limits as it applies to the Federal Government, because if we can limit the growth of Federal spending, if we can limit the growth of the Federal Government, and prevent the need for the Federal Government to print or borrow, creating shortages in the marketplaces, driving up interest rates, throwing people out of work, then this private sector can generate the kind of economic growth that is necessary to let everyone in this country share in a growing economy.

You know, it is a rising tide that will lift all boats for the American people.

But we cannot achieve it, we cannot achieve it right now if we are going to continue to place the Federal Treasury in a position of spending and taxing and spending and taxing, and of course it is all for election.

So the bottom line is, we need to have this flexible, reasonable, balanced budget amendment that will force this Congress to be responsible, will send a signal to the special interests that we must live within a budget and force this Government to start operating like responsible American families. And the bottom line is, it will mean more for everyone in America if this can become an era of limits for the Federal Government and an unlimited era of economic growth well into the 1990's and into the year 2000 for all Americans.

I thank my colleague.

Mr. CRAIG. Thank you. I appreciate your efforts and leadership on this issue and I appreciate your ability to stand there and vote the right votes day after day that are really critical when it comes to fighting these tough efforts here on the floor.

I would yield to my colleague from the State of Oregon and I would invite him to come to the well, if he would, and use a graph that he has put together that I think so clearly demonstrates the struggle that we are engaged in here and, of course, the very need for the tool that we talk about, the balanced budget requirement and those special parameters that are so necessary.

Mr. DENNY SMITH. I thank the gentleman. I appreciate my colleague's offer.

I think if we can just refer to the chart and if we can deal with it from the standpoint that this is the fiscal year budget plan back to 1978, coming forward to the present budget of 1985, as my colleague is well aware, we have a requirement in the Budget Act that was passed some 10 years ago to project ahead 5 years at a time.

And as we look at the situation with the 5 years projected on out, it might be a little hard to read with the difference in dollars, but basically we have always been more unrealistic or more optimistic, however you want to phrase it, than the true reality picture.

You know, one of the things about Washington, D.C., is there is not much reality around here, and the rest of the country does live on a balanced checkbook, and businesses and private taxpayers throughout this country have to live with that.

Even in the 1984 timeframe we are talking about, where we have a budget in fiscal year 1985 that was some $200 billion in deficit, we are showing on the top line of the chart some corrections and changes.

Now this is all in the budget plan as we are well aware. But nothing like that will come to pass if we just look at the years of the six budgets that we are projecting; and of the history of the last 6 years.

We know doggone good and well that by the time the Appropriations Committee gets through, that the budget that was agreed to in the spring of the previous year will be so far off what reality is, that it does not make any difference.

So we are forced in this instance from a lack of leadership capability in this body, from a lack of doing what the American taxpayer wants, to go to something else. And my colleague is to be congratulated for the forming of the congressional leaders who are in favor of a balanced budget. This CLUBB is going to have to be utilized to get the will of the American people to work on the problems that we have here in the Congress.

And until we get this balanced budget requirement and get it with teeth in it, so we can do something about it, my colleague is well aware we are going to be able to do nothing about the problem that is faced by every family and is also faced by this Congress and there is just a visual example of the problem we face, but I just commend you for the leadership and for the effort to try to do what our people in the State of Idaho and in my State of Oregon definitely want. That is why we were sent here in 1980.

□ 1900

Mr. CRAIG. Well, I thank the gentleman from Oregon for not only sharing with us some of the study and the work that he has done that I think is so vividly demonstrated on this chart of the phenomenal growth that we have seen and experienced with the Federal budget and a basic constitutional responsibility and lack of responsibility and I think a general misunderstanding on the part of a good many people in this country and that is that somehow the President of the United States or a President of the United States, in large part, controls the budget process. I think that not only this President but others have been attacked from time to time because it was their deficit and their budget that created a certain kind of problem.

When I said a constitutional responsibility or a lack of constitutional responsibility, the fact of life is simply that it is this body, this House, of this Congress, that is responsible for raising money, for expending money, for deciding where that money will go and there is not $1 that our Government has ever spent that was not OK'd by this body. That is why I think this chart and certainly the gentleman's discussion this evening, along with the other colleagues that have joined me, demonstrates so very clearly why we need a mechanism that is lacking here, that is part of that constitutional responsibility. And that mechanism is one that simply puts a corral around, a fence, a parameter—however one wishes to use the words—and it says, Congress, you must keep in line your revenue and your expenditures. Now if you choose to spend beyond, then you have to raise taxes, but you are limited in raising those taxes to a certain amount of the growth of the gross national product of the year before and only in drastic measures, like the involvement in a war, can we deficit spend and then only by a very large supermajority vote, or 60 percent of this body, can you do that.

That is the kind of responsibility that will cause these kinds of problems to slowly but surely go away. I certainly appreciate the efforts that my colleague has done and the tough decisions he has had to make on the floor here in the last good many years. And he and others joined with us in the late summer of 1982 on that critical vote here on the floor when we attempted to produce that amendment to send out to the States.

Mr. DENNY SMITH. If the gentleman will yield further, one of the reasons that I got into this looking at what the reality of the past budgets was versus what the plans of the present budgeting process are all about is because I talked a couple of years ago and still believe very firmly in the need to just freeze Federal spending. We do not have enough political horsepower here or courage to go in and do anything about the spending, but if we could just get to the point where we were not going to give any new dollars to anybody or to any program than what we already have. If we had done that in 1981, as I suggested, we would today have a balanced budget, because we are not short of tax revenues, we are short on courage to change the spending habits and the patterns of the tax, tax, spend, spend philosophy of elect, elect that it brings.

This kind of history that has gone on for the last 52 years in which we have only had eight balanced budgets in that period of time is one of the most discouraging things that the American taxpayer has had to face.

I think, as we look at this situation, we try and see what we can do about it; we are forced as legislators in this congressional body to turn to the States who have even a tougher problem than we have because of the Federal intrusion in the taxing policy and in the spending policy and in the regulation of their own lives.

I think we will get that opportunity with a couple of more States here. I think, as my colleague before said, that if that happens, we will get very fast movement on the part of the House leadership to bring this balanced budget amendment out and put it out to the ratification of the States.

That is what the gentleman and I are after, I think, to try and get this in the hands of the people who can do the most for the taxpayers in this country.

Mr. CRAIG. I thank the gentleman. I truly appreciate the gentleman's coming to join with me in this special order.

Mr. Speaker, I would like to conclude this special order by discussing an area that still remains a strong question on the part of some who, I believe sincerely, are concerned and others who merely use the issue to try to scare off State legislators from considering a resolution to petition this Congress for the purpose of a balanced budget amendment and/or a convention.

For example, it is said that a convention would be a runaway convention. And a good many of my colleagues who have joined with me this afternoon and have expressed the safeguards that are built into the system, that it would be this body that would have to devise the law, therefore the mechanism under which a constitutional convention would operate, that it would be ultimately this body that would charge that convention with the issue that it would deal with, that it would be this body that would receive back from the convention those issues or issue they had dealt with, and it would be this body that would then send to the States for ratification that amendment.

It would take three-fourths of the States of this Nation acting in the affirmative before that issue, that amendment, could then be placed into the Constitution as a part of the Constitution of this country.

Safeguard after safeguard after safeguard is placed before this body, before the people of the United States, in the protection of their Constitution.

I have before me this afternoon a book produced by the American Bar Association. This book has been assembled by a broad cross section of judges, both U.S. district judges and judges of superior courts of the District of Columbia, two former law deans, a former president of the State constitutional convention, a former Deputy Attorney General of the United States, and private practitioners in the area of constitutional law, and they examined the whole issue of the convening of a constitutional convention and the reality of it and the potential risk and the potential liability.

They say despite the absence, at the national level, since 1787, conventions have been the preferred instrument for major revisions in State constitutions. As one commentator on the State constitution-making process has stated: "The convention is purely American, widely tested and used."

There have been more than 200—I repeat, more than 200—conventions in the States of this Nation, ranging from 15 in New Hampshire, to 1 in 11 different States and in a substantial majority of these States, the convention has provided for the States exactly what they expected of it.

They were able to direct their conventions, they were able to control their conventions, and those conventions submitted back to their legislatures or back to their States for ratification exactly what they had been charged and had been said was their responsibility to do so.

I believe after not only having read as much as is possible on this issue, having talked with a variety of constitutional scholars, having referred to this document of the American Bar Association, that those who will stand before the American people today and say that the risk lies in the constitutional convention because it is or it would have the potential of being runaway, simply do not want this Congress to control its spending. They may have too much at stake. They may be now receiving large sums from special programs and they may recognize that if Congress was forced to operate under constitutional amendment to a balanced budget, that they would have to prioritize, and some of those programs might have to be judged on their merit as we begin to bring our spending mechanism in control.

I know of no other issue today that I believe to be more critical than the issue that is before the American public and that is to force this Congress to be responsible, and to do so by using article 5 of the Constitution of the United States in petitioning this Congress to bring forth an amendment and/or convene a constitutional convention for the purpose of giving the citizens of this Nation and the States of this Nation the opportunity to debate the issue of a constitutional amendment to balance the budget and to choose to ratify, if they so wish, and to place this Congress under the confines, under the responsible confines that 44 States of our Union now operate under, and that is a balanced budget and the limits, and the positive natures that go along with that kind of responsible law vis-a-vis the Constitution.

□ 1910

BLACK HISTORY MONTH 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 60 minutes.

Mr. STOKES. Mr. Speaker, it is indeed a great honor and privilege for me to reserve this special order in commemoration of the celebration of Black History Month 1984. We are all familiar with the contributions throughout history of greats such as Benjamin Franklin, Thomas Jefferson, Eli Whitney, and Franklin Roosevelt. But we also need to familiarize ourselves with the contributions of blacks such as Crispus Attucks, Harriet Tubman, Frederick Douglass, Imhotep, Charles Drew, and a host of others.

Langston Hughes, a Negro writer and poet, wrote the following words some years back:

What happens to a dream deferred?
Does it dry up
Like a raisin in the sun?
Or fester like a sore—
And then run?
Does it stink like rotten meat?
Or crust and sugar over—
Like a syrupy sweet?
Maybe it just sags
Like a heavy load.
Or does it explode?

I am sure, Mr. Speaker, that a good number of my colleagues recognize these words to the poem, "A Dream Deferred."

We gather here to pay tribute to "A Dream Deferred"—a black dream—the dreams, aspirations, goals, hopes, ambitions and accomplishments of countless blacks to the development and advancement of not only the black race, but the whole human race; to not only the continents of Africa and North America, but those of the entire world.

No one can measure the influence or the impact of history on the minds of men and women. What is certain, however, is that the kind of historical treatment—or lack of it—which the black American has received under the guise of historical scholarship, has had drastic and tragic effects on our race. The fact is that by omission from the classroom texts and lectures in schools all across the country, a disservice has been rendered to all Americans.

Dr. John Hope Franklin, a well-known black scholar and educator, along with countless others, has made it a point, through numerous lectures, books and publications, to distinguish between what has actually happened and what those who have rewritten history have said has happened. All too often, the difference between the two has been great.

Considered by many to be the true "father of Negro history," Dr. Carter G. Woodson was born in Canton, Va. He was the first black scholar to attempt an extensive compilation of black studies and was the founder of the Association for the Study of Negro Life and History.

As a youth, he had little money or opportunity to attend school, but that did not stop his desire to gain an education. He was 22 years old before he was able to complete high school. Woodson went on to Berea College in Kentucky and upon completion of his requirements there, attended Harvard University, where in 1912, he received his Ph.D. He initiated the observance of Negro History Week in 1926, which in 1976 was changed to Black History Month. Woodson chose a week during the month of February for several reasons, including the following: Frederick Douglass, the first leader of the black liberation struggle, was born and died in February; W. E. B. Dubois, a black educator and scholar, and America's first black Ph.D. was born in this month, and the National Association for the Advancement of Colored People (NAACP) had its beginning in February 1909.

The month of February continues to be a significant month in black history. In February 1965, Malcolm X was assassinated in New York City and in February 1968, Dr. Martin Luther King, Jr., delivered his last church sermon, entitled: "The Drum Major Instinct." Rosa Parks, the black woman who sparked the Montgomery bus boycott of 1956, was born in February; February 1, 1960, marked the beginning of the first civil rights sit-ins in Greensboro, N.C.

Dr. Woodson believed that such an observance of Negro History Week would afford all Americans the opportunity to learn, recognize, accept, and appreciate the role of black Americans to the development and advancement of our Nation. By observing what is now Black History Month, we are promoting a heightened awareness of the significant participation of black citizens at every level and aspect of our national life. Knowing and understanding the history of black Americans is a must if we are to ever fully appreciate the American historical experience.

History tells us that a black was the first artist on the face of the Earth. The oldest drawings discovered to date were done by blacks approximately 15,000 years ago in places like southern France, Spain, Africa, and Palestine. The world's oldest drawing representing the human body is that of a black woman. It is called the Venus of Willendorf. The author of the Austrian national anthem, Joseph Hayden, was black. He taught Beethoven, considered by many to be the world's greatest classical musician. Beethoven, who was a dark mulatto—a Spanish word meaning to have one black and one white parent-was called the black Spaniard for many years.

Long before Picasso, there lived great black painters such as Hale Woodruff and Jacob Lawrence and sculptors such as Richmond Rarthe and Richard Hunt. The development of jazz and blues music must be credited to black musicians such as W. C. Handy and Louis Armstrong. Outstanding black writers have included Richard Wright and Langston Hughes.

Phyllis Wheatley, who was born in the 18th century, was among the first American poets, followed by Paul Lawrence Dunbar and others. The great tap dancer singer, Bill "Bojangles" Robinson, taught child star Shirley Temple how to dance.

Many of you, I am sure, are aware of or have heard of the Seven Great Wonders of the Ancient World." Cheops, a black, headed the construction of one of these "wonders"—the Great Pyramid. Still standing today in Egypt, it is 45 feet high, has 2,500,000 blocks of granite, each weighing 2½ tons, covers 13 acres, took 100,000 men 30 years to complete, and was completed in 3730 B.C.

The black man was in America long before Christopher Columbus was even born—in fact, long before the birth of his great grandparents. When Columbus came to the "new world," blacks had been travelling back and forth to Spain for years. The first white man to reach the American mainland told of seeing Negroes leaving the shores. Several blacks accompanied Columbus on his trek to discover the "new world." When Balboa first sighted the Pacific Ocean, three blacks were accompaning him. Estevanico, a black from Morocco, Africa, discovered Cibola, "the seven cities" of the Zuni Indians. Matthew A. Henson was chosen by Commodore Perry to accompany him to the North Pole. Cortez was accompanied by a black, who, finding in his rations of rice some grains of wheat, planted them as an experiment and thereby introduced wheat raising to the Western Hemisphere. The city of Chicago, which only last year elected its first black mayor, former Congressman Harold Washington, was founded by Jean Baptiste Pointe Sable, a black in 1779.

We have made practical and significant contributions to the fields of science and invention. Jan E. Matzeliger invented a machine for sewing the soles of shoes to the uppers. This invention, which was 11 years in the making, revolutionized the shoe industry and made the United States the world leader in the production of shoes. The invention made millions for others, but practically none for Matzeliger.

George Washington Carver of Tuskegee Institute in Alabama, was one of the world's greatest agricultural chemists. In 1939, he received the Roosevelt medal for "distinguished service in the field of science." From the sweet potato, he extracted 18 products and from the peanut, 285. Thomas Edison once offered him a handsome salary to take charge of one of his laboratories, but Carver turned down his offer in order to continue his work at the institute with Booker T. Washington, another world renowned black educator.

Blacks also assisted Eli Whitney in his experiments with the cotton gin. James Forten perfected a machine for handling sails; Henry Blair patented two corn harvestors; Elijah McCoy brought machinery closer to perfection with his lubricating devices; Granville T. Woods stimulated industry with his electrical patents.

In the fields of medicine, our contributions have been equally significant and noteworthy. Dr. Daniel Williams, a black surgeon, was the first man to perform a successful operation on the human heart. Imhotep of ancient Egypt, not Hippocrates, is the true father of medicine. He lived about 2300 B.C. and taught not only in Egypt, but in medical schools in Greece and Rome as well. There is some evidence that Hippocrates studied under Imhotep. In Rome, Imhotep was worshipped as the "Prince of Peace" in the form of a black man. The famous saying "Eat, drink and be merry for tomorrow we die" has been credited to Imhotep.

More recently, Dr. Charles Drew, a black man from Washington, D.C., first discovered what is now the blood transfusion. Oddly enough, after being critically injured in an automobile accident some years later, Dr. Drew was denied a blood transfusion—because of the color of his skin and died as a result. Today in the field of medicine, we have blacks such as Dr. Donald Hopkins, who has recently completed the first comprehensive and factual study of the history of smallpox. Through extensive research, Dr. Hopkins has documented how this disease has changed the course of history by destroying dynasties, decimating armies, and ravaging populations.

Mr. Speaker, blacks served with the Colonial Forces and helped shape the destiny of this country. In the American Revolutionary War, Cripus Attucks, a black man, was the first American to die. Approximately 5,000 blacks fought on the American side with distinction. We were honored as heroes at Stony Point and Bunker Hill. The first two Americans to be decorated by France in World War I, Needham Roberts and Henry Johnson, were black men. Johnson was honored for killing 4 Germans and wounding 28 others singlehandedly. A black girl, Phoebe Fraunces, saved George Washington's life when she rejected a bribe by her boyfriend, a British spy, to poison him.

Young people, black and white, need to be taught that a black man designed the first clock in the Nation's Capital of Washington, D.C.—Benjamin Banneker—who was also a mathematician, astronomer, and publisher of an almanac.

Many Americans are unaware of the fact that there are presently 21 blacks serving in the U.S. Congress. Edward Brooke of Massachusetts is the only black to have served in the U.S. Senate this century. Jefferson Long, of Macon, Ga., was the first black elected to the U.S. House of Representatives. Hiram Revels and Blanche Bruce both of Mississippi were the first blacks to serve in the U.S. Senate.

While it is true that Thurgood Marshall remains the only black to have ever served on the U.S. Supreme Court, the first black lawyer admitted to the bar was M. B. Allen of Massachusetts in 1834. Benjamin E. Mays, former president of Morehouse College, is indeed one of the most distinguished black educators and scholars of the 20th century. But it was Mary Patterson who became the first black woman in this country to earn an M.A. degree, awarded by Oberlin College in 1862.

Henry Aaron may have beaten Babe Ruth's alltime home run record in 1974, but it was Moses Fleetwood, who in 1884, became the first black major league baseball player. That same year, the first black baseball team, the Cuban Giants, was organized in New York City.

In 1885, Jonathan Wright made history when he became the first black appointed to the South Carolina Supreme Court. Several years earlier, he became the first black admitted to the bar in Pennsylvania.

The lives of blacks and whites have been affected by the achievements of blacks throughout history. But the work is far from finished. The work that I speak of is that of educating the American people and the world of our accomplishments.

Our black fraternities and sororities were founded when blacks could not join the ones whites belonged to, and they have, and continue to serve, a useful purpose in our society. Our civil rights organizations, such as the NAACP, the Southern Christian Leadership Conference (SCLC), and the National Urban League (NUL), have each played a significant role in the advancement of the black race. Each of these organizations deserves our continued support, for their work is far from finished.

Throughout history, there was one thing that black people could truly call their own and that was the black church. The black church gave many blacks their first opportunity to demonstrate leadership. Today, it remains the backbone of the black community throughout this country and the world. The slave masters were able to take away our property, our children, and our parents. But, they could not take away our faith in God and our belief that brighter days were ahead.

Martin Luther King, Jr. and Malcolm X pricked the conscience of this Nation, as did Marcus Garvey and Jackie Robinson. Ralph Bunche, the first black man to receive a Nobel Peace Prize, showed the world that blacks can be effective diplomats; Jesse Owen's Olympic triumph in 1936 was just as significant as the 1965 Selma to Montgomery march; Michael Jackson can sing and dance as well as Gwendolyn Brooks. A black poet who was the first to receive the Pulitzer Prize, can write poetry; in mentioning Michael Jackson, we cannot ignore the fact that his album, "Thriller," has sold over 27 million copies—an all-time record in the recording industry. Last night he set a new record when he was the recipient of eight Grammy Awards. Arthur Ashe can play and coach the game of tennis as well as Renard Edwards can play the violin, being the first black to play for the Philadelphia Orchestra.

Our black colleges and universities continue to serve a useful purpose in our society. With the costs of education rising, in a troubled economy, black educational institutions are struggling to survive into the next decade, let alone the next century.

Many of our black youngsters today lack a sense of courage and direction. They need the courage of a James Meredith, the first black admitted to the University of Mississippi, before they can have the sense of direction of a Mary McLeod Bethune Cookman, who with only $1.50 in her pocket, built Bethune-Cookman College in Florida. Many lack the courage of Medgar Evers of Jackson, Miss., and the sense of direction of Harriet Tubman, who led over 300 slaves to their freedom by way of the "underground railroad." Our black youngsters need the courage of a Matthew Henson, the first black man to reach the North Pole, before they can have the sense of direction of an Adam Clayton Powell who was probably the greatest black legislator in history.

It would be impossible for me, along with my collegues who are participating in this special order, to name all that blacks have contributed to the world in the arts, in education, in religion, in politics, and in a host of other areas. But it is important for all Americans to pause not only in February, but in each month of the year and express some appreciation for the contributions of Black Americans to the history of the United States and the World.

Included in that history should be the following persons: Ms. Vanessa Williams, the first black woman to reign as "Miss America"; Lt. Col. Guion Bluford, the first black to ever travel into space; Dr. James Derham, the first black physician in this country who most likely inspired a young Daniel Williams; John Peers, the first black to seek a college education; W. W. Brown, who was the first black American to write a novel, entitled: "Clotelle: A Tale of the Southern States." He inspired Phyllis Wheatley; Martin R. Delaney, who in 1865, became the first black to reach the rank of major in the U.S. Army. I am sure that he was a source of inspiration for Benjamin O. Davis, Sr., who in 1950, was promoted to the rank of brigadier general, the first black to hold this post in the U.S. Army; W. S. Scott who was the first black to own a daily newspaper, The Cairo Illinois Gazette. He was a source of inspiration for Harry McCalphin, the first black to become an accredited White House news correspondent; Irving G. Mission of Chicago, the first black appointed as a judge of the customs court. He inspired William Hastie, who several years later, became the first black judge of a U.S. Court of Appeals. He was also the first black to be appointed Governor of the U.S. Virgin Islands; John McLendon, who was the first black to coach an integrated professional basketball team. He inspired Bill Russell, who almost 15 years later, became the first black to coach the Boston Celtics basketball team.

Frank Robinson, the first black man to manage a major league baseball team; Dr. Donna Davis, the first black woman physician in the Navy's Medical Corps; Attorney Ernest Finney, South Carolina's first black circuit court judge; the Right Rev. Emerson Moore, Jr., the first black monsignor of the Roman Catholic Church in the United States; John Glover, the first black FBI agent to be named an inspector at FBI Headquarters here in Washington; Dr. James Colston, the first black to head a college in the State of New York and possibly the first black to head a predominantly white college in this country; U.S. Army 2d Lt. Marcella Hayes, the first black woman pilot in U.S. Armed Services history; Dr. Ruth Love, the first black to serve as superintendent of the Chicago school system; Carl B. Stokes, my brother who was the first black elected as mayor of a major American city, when he was elected mayor of Cleveland, Ohio, in 1967.

Dr. Levi Watkins, Jr., a black who performed the first surgical implantation of the automatic implantable defibrillator in the human heart; Loren Monroe, the State of Michigan's first black state treasurer; Thomas Bradley of Los Angeles and Coleman Young of Detroit, who were the first blacks to be elected mayors of cities with populations above 1 million; Dr. W. J. Yelder, the first black principal of the Selma High School in Alabama; Henry Lewis, the first black to be named director of an American orchestra, the Newark-based New Jersey Symphony; Chris Dickerson, the first black man to win the title of "Mr. America"; Janet Collins, the first black pastor of a reformed Dutch church.

Lena Walker, the first black woman bank president; Fritz Pollard, the first black to play professional football for a major team, the Akron Indians; Mrs. Violette Anderson, the first black woman lawyer to practice before the U.S. Supreme Court; Charles Anderson and Albert Forsythe, the first black civilian pilots to make a transcontinental flight; George Dixon, the first black to win a major boxing title; William Trotter, Harvard University's first black Phi Beta Kappa; John Rock, the first black man to practice before the U.S. Supreme Court; and Lemuel Haynes, the first black minister to serve an all white congregation. I say thank you to each of you and countless others for being pioneers in your respective fields. Thank you for a job well done.

In closing, I would like to leave you with these words written by Thomas Wolfe:

> To every man his chance,
> To every man, regardless of his birth,
> His shining golden opportunity;
> To every man the right to live,
> To work, to be himself;
> To become whatever his manhood and
> His vision can combine to make him.
> This, seeker, is the promise of America.

□ 1920

Mr. Speaker, I am delighted to yield to my distinguished colleague from New York (Mr. GILMAN).

Mr. GILMAN. I thank the gentleman for yielding to me.

Mr. Speaker, I am pleased to join my friend and colleague the distinguished gentleman from Ohio (Mr. STOKES) in observing Black History Month 1984. I would like to thank Mr. STOKES for making this time available for us to recognize just a few, of the countless black Americans who have contributed so much to making America the great Nation that it is.

Underscoring our reflections this past month on the significant role that black Americans have played in the history of this country, was the realization this year of a dream too long deferred. When Congress adopted legislation designating the birthday of Dr. Martin Luther King, Jr., as a national holiday, we were finally assured that the memory of this great American would be duly preserved, and that his tireless efforts on behalf of his fellow men and women would be forever etched in the annals of American history. As hundreds of thousands of Americans made the exodus to Washington this past August, an entire nation paused and turned their hearts and minds once again to the steps of the Lincoln Memorial, where 20 years before Dr. King's description of an

America where equality and justice for all truly did exist, lit a fire of hope which still burns bright and despite the best efforts of many, will not and cannot be doused.

The observance of Black History Month allows us all to reflect upon the achievements and contributions of black Americans from all walks of life. Pioneers such as Zora Neale Hurtson and the legacy she created for modern black writers Alice Walker and Toni Morrison. The accomplishments of the first black U.S. Senator, the Honorable Ed Brooke, and the first black Supreme Court Justice, the Honorable Thurgood Marshall, both of whom continued the work of their predecessor, Frederick Douglass, in eliminating forever any racial barriers to this country's highest government institutions. The Olympian efforts of medalists Jesse Owens and Althea Gibson, and ex-slave Harriet Tubman have all been cause for celebration and inspiration this past month.

As Black History Month comes to a close today, I am pleased to be able to reflect on the achievements and contributions that black Americans have made to our country. However, such a remembrance must be put in context. As we look to our past and learn from those events, we must also look to our future and continued change. As legislators we must prevent efforts to nullify the Civil Rights Act, the Fair Housing Act and other educational and social programs that seek to rectify inequities in the system so that the history of black Americans will become richer and grander with each passing year.

Mr. STOKES. Mr. Speaker, I thank the distinguished gentleman from New York for his participation and his contribution to this special order.

I am delighted to yield to the gentleman from New York (Mr. OWENS).

Mr. OWENS. I thank the gentleman for yielding to me.

Mr. Speaker, February is the month in which black history is remembered, publicized and celebrated, as we have already heard. The need for this observance was first articulated by Carter Woodson, the son of former slaves who worked his way through college and graduate school, receiving his Ph. D. degree from Harvard in 1912.

Dr. Woodson's concern for black history grew out of his experience and training as a historian and his understanding that a belief in the inferiority of any people would naturally develop if those people were viewed as lacking any contributions to the history and progress of humanity.

Dr. Woodson noted, and I quote, "This is merely the logical result of tradition, the inevitable outcome of thorough instruction to the effect that the Negro has never contributed anything to the progress of mankind."

He felt strongly that, "The achievements of the Negro properly set forth will crown him as a factor in early human progress and a maker of modern civilization."

Dr. Woodson founded the Association for the Study of Negro Life and History in 1915. The Journal of Negro History was published in 1916. In 1926, Dr. Woodson established Negro History Week to convey information to the wider community. The journal was written for academia primarily. The need for a more popular journal was recognized later, and in 1937 the Negro History Bulletin was publicized.

The association, the journal, and the bulletin were primarily one-man activities, all carried out by Dr. Woodson himself. In the 1930's Dr. Woodson was able for the first time, to obtain some grant moneys which he used for research and for the education of black historians.

Today Black History Month owes its inspirations and beginnings to Carter Woodson, the son of slaves. He sought out those of his people who were kings, he sought out those who were inventors, architects, writers, poets, scientists, and mathematicians. In rediscovering the history of his people, Dr. Woodson inspires all people to find their lost history. History lost through time, through carelessness, or sometimes through deliberate oppression.

Dr. Woodson's work recognizes the universal need to find roots before one can move forward on wings. I invite all of my colleagues to participate in Black History Month. To learn more of our mutual past and the move forward into an era where the contributions of all of our people are recognized as a part of the American heritage, and I further invite all of my colleagues to look further and understand that the work done by Carter Woodson, which I have chronicled for a purpose, that work done by one man, does not need any longer to be carried out by a small group of people.

There are numerous groups of all kinds which have now begun to celebrate Black History Month. Just 2 weeks ago I attended a celebration of local 372 of District Council 37 in New York City. Thousands of people participated in a celebration of Black History Week. Many other unions in the same city also have similar celebrations. All over the country unions, high schools, colleges, grade schools; numerous groups, too many to mention, are now celebrating the kind of history observances that Dr. Woodson had longed would one day be a part of the masses.

In order to continue this, the numerous institutions, black institutions, which carry forward this tradition must be protected. The entire apparatus of our government must be brought to bear to help protect those institutions.

Among them are the slightly more than 100 historically black colleges and predominantly black colleges. These colleges are the reservoirs, the repositories of much of black history in terms of the writings, the manuscripts, the careful collection of various books and artifacts. It has gone on in collections like the Schaumberg Collection in New York, the Atlantic University Black History Collection, the Fiske University Collection, the Morlin Springarn Collection at Howard University, and numerous other collections.

□ 1930

I say numerous other collections, but in reality, when one considers the fact that there are almost 30 million black people in the United States, these 100 black institutions represent only a pittance in terms of the kinds of effort that should be going forward.

I think the apparatus of our entire government, whether it is aid through the Endowment for the Humanities or aid through the aid for black colleges in the higher education bill or any other kind of aid through the Smithsonian Institution, or any other aid, must take full consideration of the fact that there is a rich heritage that must be preserved and the black institutions which are in the forefront of preserving that heritage carrying on the work of Carter G. Woodson should be assisted in every way possible.

Mr. STOKES. I thank the distinguished gentleman from New York for his participation and his contribution to this special order.

Mrs. JOHNSON. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I am pleased to yield to the distinguished gentlewoman from Connecticut.

Mrs. JOHNSON. I thank the gentleman for yielding, as the author of House Joint Resolution 454, honoring the contributions of black men and women to the American Revolution, I am pleased to join my colleagues during this special order on Black History Month, and I wish to particularly thank the gentleman from Ohio (Mr. STOKES) for organizing tonight's activity.

February is a significant month for black Americans, not only because it is Black History Month, but because it is the month in which Frederick Douglass, the abolitionist, was born. Douglass expressed the heart and soul of the black slave experience, translating it through his writings into an idiom that touched all people. Douglass once said, "I didn't know I was a slave until I found out I couldn't do the things I wanted." Such an insight reminds us that to be free one must remove the mental shackles of slavery, confronting the barriers of unspoken assumptions. Through Black History Month, we focus attention on previously neglected aspects of American history and provide new insight and understanding into the challenge of creating a society of free and equal men and women. I am proud that 235 of my colleagues have joined me in participating in House Joint Resolution 454, which commemorates a little appreciated aspect of Americas history; the role of black American's in achieving our Nation's independence from British rule.

The courage of black soldiers and black regiments in the American Revolution is well documented but little known. Individual men were cited, regiments recognized, but their contributions have been forgotten. Today we begin the process of restoring them to their rightful place in history. It is appropriate therefore, to recognize the work of Lena Santos Ferguson, describing her search for her own family history, and her efforts to gain recognition for the achievements of her ancestors.

Lena is a courageous and determined woman, as well as a very bright and gracious individual. She had led the way for others to search for a better understanding of their past—to break down old barriers and contributed to our national understanding of the role of blacks in the settlement of our frontiers and the struggle for independence.

I am proud to submit for the Record her statement, and hope it will inspire many throughout our land to an equal effort for appropriate recognition:

Statement of Lena Santos Ferguson

I am a black woman, and I have many different nationalities and races in my background. After a 3-year struggle, I recently became a member-at-large of the Daughters of the American Revolution, one of the oldest and largest women's organizations in the country. Until 1977, it had been all white.

Eligibility for membership in the DAR is based on descent from a man or woman who assisted the colonies during the American Revolution. Although I was qualified, the decision to seek membership in the DAR was a difficult one to make. Later, as I sought membership, many stumbling blocks were put in my way that tested sharply my resolve and my reasons for wanting to become a member.

The thought that I might be eligible for DAR membership occurred to me as a little girl growing up the during the depression. My parents would reminisce about their childhoods and show us scratched tintypes and faded pictures taken of relatives many years before in a time which must have seemed happier to them. One picture that hung prominently in the living room of our house was the source of a lot of childhood curiosity and later adult speculation for me and my brothers and sisters. It was a large portrait of my mother's grandfather, a white man, dressed in a civil war uniform. The picture had been in the family for many years, and passed onto my mother by her mother, a black woman, who married the man's son.

One day in 1939, as I stared at the picture of my great grandfather and wondered about his past, I heard my parents saying that the Daughters of the American Revolution would not let the famous opera singer Marion Anderson appear in Constitution Hall. I had heard my parents talk about her at other times, and they admired her because she was one of the most famous and accomplished woman of her time, or anytime.

Still too young to understand the full meaning of racism, all I could think of was that the DAR had some kind of nerve. "Who do they think they are to tell someone like Marion Anderson she can't sing in some old building." I said to my mother, "I bet if we could trace our ancestry, you would be able to join the DAR." She smiled and said nothing, which was her way. It was a thought I never forgot, although it happened 41 years before the genealogical research was done that would have qualified her for membership.

The stories that my mother and grandmother told of the years before the turn of the century and their early lives in the cramped cabin quarters of a New York Harbor coal barge were passed down to the grandchildren. My nephew, Maurice Barboza, a young man who likes to get to the bottom of things, set out in 1978 to learn more about great grandfather Gay and his involvement in the civil war. He uncovered the trails of white and black ancestors from the banks of the Penobscot River through Dedham and Boston, South Street in New York, battlefields in Virginia and the coal piers of Bermuda Hundred now barely visible along the James River.

After more than 2 years of intense genealogical research, Maurice found that my great grandfather, John C. Gay of Union, Maine, lost his life during the bloody Virginia battle of Cold Harbor and that generations of my mother's family not only served the country during the revolutionary war, but helped settle colonial towns in Massachusetts and Maine as early as 1630. He had successfully woven the fabric of our ancestry into a beautiful tapestry of races, colors, places and personalities.

My nephew was anxious to have his research certified, and this led to his acceptance as a member of the Sons of the American Revolution. The SAR is the older male counterpart of the DAR, and eligibility standards as far as descent from a patriot are the same as they are for the DAR. When we celebrated his acceptance and the culmination of many months of travel and research that unlocked a large corner of our family's history, I felt that joining the DAR would be a splendid way of honoring the memory of my mother, who had died 5 years before.

As a member of the DAR my mother's name, Ida Gay Santos, and the name of her father's great great great grandfather, Jonah Gay, would be listed in DAR records for posterity so that future generations would know that they were remembered and loved by a caring family. Besides all of my mother's female descendants would be eligible to join the DAR for as long as there is a DAR.

While I honor my revolutionary war ancestor who is white, I also feel that as a black woman, I am standing in for those whose black ancestors served during the revolution, but who may never know it. I hope that in a small way—as a DAR member—I will be able to honor the more than 5,000 black patriots who lost their lives or eventually lost their dreams of freedom after fighting for independence. Their brave and selfless contributions were not wasted because they demonstrated to future generations the vitality of black people whose bodies and minds—though abused and manipulated by racism—still could fight for freedom, even if it was another man's freedom. This spirit remained constant from generation to generation through years of slavery and civil war and years of second class citizenship and world wars. My brothers and husband all served in the segregated army and navy during World War II.

As I was growing up, my family did not know any DAR members or at least I do not think we did. There were a few very old families in our rural neighborhood that we liked very much, but no one ever mentioned the DAR. The pictures and articles that we would see or read over the years helped to shape our opinion of the DAR, an opinion that made me think that I would be spanning a large gulf in seeking membership. So when I began to look into the DAR it was without the social bridges that many white women already have to help pave the way for their membership.

My parents were humble people. My father, Oviedio Santos, who was of African and Portuguese ancestry, came to this country as a young boy from the Cape Verde Islands. He worked on the docks at the Erie Lackawanna railroad station in Hoboken, New Jersey and ran a coal barge in New York Harbor where he met my mother. When they went on land, he found work at the railroad yards of New Haven, Connecticut where he bicycled to his job. He eventually moved his growing family to Plainville and worked in New Britain factories. When he was not shoveling coal into factory furnaces or working with machinery, he cultivated some of the most prosperous vegetable gardens that kept his family fed. People came from the town and surrounding areas to buy his produce, especially the big red strawberries that were plump from the top of the box to the bottom. As children we sold them at a roadside stand in front of the house.

Current events were important to him, Roosevelt was "his" president, and he read everything he could get his hands on. His children were sounding boards for his strong political views when the family gathered around the radio on those bitter-sweet evenings to hear news of the depression or impending war. A man of little formal education, he talked politics with everyone in town, including the lawyers and politicians he would help get elected. His biggest dream—not unlike many immigrant fathers—was to have one of his children become a lawyer. Despite a hard life, this dream came true. A tough and crusty man at times, whose penetrating eyes said more than words, he urged his children to "stand up for your rights! Vote! Be good citizens! A little bit of papa got me through the DAR ordeal no doubt.

My mother raised eight of her own children and more than 40 foster children, who still think of her as I do—as mother. Besides doing the cooking, cleaning, and silently worrying about us all when the bills came due and the money was tight or when we were sick or when my brothers went away to war, she turned our yard into a rainbow of colors with roses, marigolds, elephant ears, lilies, creeping flox, gladiolus, irises, and other flowers that made her the envy of the town. When strangers stopped to ask for bulbs or clippings, my mother was always ready to oblige and explain how each flower she gave away should be planted and cared for.

Today where our home once stood, there are three gigantic and graceful weeping willows that she raised from seedlings. They remind me of her silent strength and unspoken protectiveness. They shaded four generations of her family on warm summer afternoons. With a house always full of children and many tough times, she was the calm in the eye of a storm, a trait that townspeople who meet me to this day will remark about. While papa would raise his voice when we disappointed him, mama always remained serene. She never attended a day of school in her life, but was taught to read and write by her father during daily sessions on the deck of the barge. Although my mother was a quiet woman, I found that she could express her feelings so well in the many letters she wrote to me when I left home as a young woman to try to make a living in Washington. I still read those letters.

My mother was the child of parents whose backgrounds were so different that they should never have met, fallen in love or been married—not in 1898 anyway. Her father, Alphonso Gay, was a white Maine sea captain who sailed three and four masted coasting schooners—Yankee Clippers—with names like the *Ruth S. Hodgdon* and the *Laconia* from Maine to Virginia and points in between. Her mother, Rosa King Gay, was a young independent black woman of native American blood whose father was aged and mother worked the gardens of Burmuda Hundred, Virginia with the men folks to keep her family going. The family had been there since the civil war.

My grandmother kept her head up in her black world and in my grandfather's white world, despite running into the predictable barriers. I know now from conversations with my older sisters that she carried many scars that were not apparent to a child. But it did not stop her from truly caring about the multitudes of people she met in the upside-down life of the transient South Street docks. She was always there when someone needed her whether it was to take in a homeless child or go to the aid of a mother nearing birth.

Despite her rough exterior, my grandmother was the mellow woman who told me and my sisters and brothers some of the most wonderful stories as we sat by her rocking chair and watched her smoke a corncob pipe. But it is the odor of baking biscuits and her over-protective cat that I best remember about grandmother's house, and not the swirls of tobacco smoke. My grandparents were never very far from each other or from their beloved daughter. When my grandfather died in 1927, he was in my mother's house at South Washington Street where I grew up. My grandmother, Rosa Gay, was at his side. She died in 1942 at New Britian General Hospital where my mother died in 1975.

When I think of what my parents and grandparents meant to me and my sisters and brothers and how they embodied in so many ways the traits that helped build this country, I could not reach any other conclusion but that this was a background that deserved to be recognized. My family is truly an American family that embraces with pride its black, white, native American and immigrant heritage.

While I am pleased to become a member of the DAR and hope to make some small contribution, it is important that I make "my" organization aware of the difficulties that I had in becoming a member so that steps can be taken to assure that it does not happen to other qualified black women. While there are potentially hundreds of black women who could qualify for the DAR based on descent from both white and black ancestors, many are not aware of their genealogies and others are hesitant to join because of what they perceive the organization to stand for. My acceptance in the DAR is proof that qualified blacks will be accepted with some perseverance on their part.

In May of 1980, a month after my nephew was accepted by the SAR, I inquired about the procedure to be followed in seeking membership in the DAR. Since it was 3 years after Karen Farmer was admitted as the first black member, I anticipated no major problems. How wrong I was.

During my initial telephone call to the National Society headquarters, I was told that I would have to seek membership in a local chapter. The NSDAR, I was informed, "does not distribute application papers." A few days later, I received a letter from headquarters containing the name of the State Regent who is supposed to assist prospective members, which includes helping them locate chapters in their communities.

I contacted the State Regent, but after a long delay, all I received from her was a neatly typed direct transcript of two bylaws, Article III, Eligibility, and Article IV, Membership through a Local Chapter or Membership at Large. Her letter was not a form letter, but an impersonal restatement of rules contained in DAR publications that I had already received. She seemed to highlight the fact that I needed two DAR sponsors in order to become a member. The letter contained no chapter names and no additional information that would have indicated what my next step should be. Since I knew no DAR members, I did not know where to turn. I had arrived at an impasse almost immediately after I had reached the difficult decision to seek membership. I was disheartened, but undaunted because I felt I was doing the correct thing.

After several months past, I was fortunate enough to meet a woman who would become my sponsor. She belonged to a local chapter, and she invited me to two chapter functions where she introduced me as a prospective member. She was sure that another member would sponsor me. That did not occur. Many more months past and our frustration over not being able to get the cooperation of the local chapter grew. Having no other avenue open to her, my sponsor asked the National Society for assistance. Rather than trying to determine why a perfectly qualified person was having so much trouble with the local chapter, their response was to suggest that I apply to the DAR as a member-at-large. This confused me because from the very beginning I was told that the DAR encourages all prospective members to join local chapters. It was clear that the National Society would not intervene in my behalf.

Finally, my sponsor was able to locate a woman who graciously agreed to be my second sponsor. With this obstacle to membership overcome, I thought that the chapter would have no other choice but to find me "acceptable." My papers were filed with the chapter, and after a simple letter of acknowledgement, I received no further communications from them.

More time past, and I felt that after 3 years of trying to become a member I was up against a stone wall. I had two choices, either give up entirely or do as the National Society suggested—apply for membership at large. Because I realized that my reasons for seeking DAR membership were too important to allow my effort to be thwarted, I reluctantly decided to file my papers as a member-at-large in March of 1983. On May 4, 1983, I received my certificate and membership card, dated April 16, 1983, exactly 3 years to the day after my nephew became an SAR member and conicidentally 66 years after my mother gave birth to her first child, a daughter, and my oldest sister.

Mr. STOKES. I thank the distinguished gentlewoman from Connecticut for their contribution here this evening and her participation in this special order.

□ 1950

I also express my appreciation to each of the Members of the House, my colleagues who have participated in the special order here this evening and those who though not present also inserted their remarks for inclusion in the CONGRESSIONAL RECORD.

● Mr. CONYERS. Mr. Speaker, each year, we as a nation set aside a period of time to reflect on the many contributions that have been made to America and the world by black Americans. We do this not just to celebrate our history and culture, but because there is still a need on the part of the black community to correct the many misperceptions that exist about what we as a people have accomplished, and about what remains to be done in order to achieve the full panoply of freedoms manifest in the Constitution.

Frederick Douglas once said that "we must do with the past only as we can make it useful to the present and the future." With each celebration then of Black History Month, there arises a new challenge to black Americans to address the difficult problems that have confronted us over the years. One such problem is the disparity in the quality of health care available to blacks, a situation which is compounded by the fact that we have historically been disproportionately exposed to environmental and occupational hazards. I have recently authored two articles on this subject which I would like now to have entered into the RECORD. They present for your consideration my analysis of what is a major crisis facing black Americans, a crisis that is a part of a new and present struggle for black justice in America.

[From the Los Angeles Times, Feb. 14, 1984]

A CRISIS IN HEALTH CARE FOR BLACK AMERICANS

(By John Conyers, Jr.)

In the Health and Human Services Department's annual report on Americans' health, Secretary Margaret M. Heckler acknowledged that, while "some racial disparities exist," the outlook for blacks, as for all Americans, has vastly improved. Her formation of a task force on black/minority health, however, is a clever method of camouflaging the Administration's dismal track record in this area.

Contrary to Heckler's dismissal of "some racial disparities," there are serious and growing discrepancies in the quality of health of black and white Americans. These stem from the generally inferior health care available to minorities in this country, as well as their disproportionate exposure to environmental and occupational hazards.

The statistics are chilling: Cancer among blacks is increasing at twice the rate for whites; black deaths resulting from cancer are increasing at four times the rate for whites. Lead poisoning afflicts black children at three times the rate of white children. Infant mortality is more than twice as high among blacks as among whites. Blacks have a 37% higher risk of work-related disease, and a 20% higher death rate from work-related illness. DDT contamination of blacks is at least three times higher than of whites.

The Reagan Administration has displayed remarkable insensitivity to these particular black health concerns, and a lack of concern about public health care in general. The major retreats in health programs and environmental and occupational safety regulations are perfect examples.

Blacks have paid a highly disproportionate price for the Administration's attitude.

Not surprisingly, infant mortality among blacks is increasing in more than 13 states and 30 major cities. In the predominately black community of Highland Park, Mich., where community health centers have been denied funding, infant-mortality figures approach those of Honduras—one of the world's most impoverished countries.

For black senior citizens, 50% of whom have fallen below the poverty line, the Administration's plan to raise the eligible age for Medicare to 68 would in effect prevent most otherwise eligible blacks from receiving such benefits, since the average life expectancy for blacks is 69.3 years. The life expectancy for whites is 74.5 years.

Too few doctors working in poor communities pose another problem that continues to block access to health care for minorities, particularly in inner cities—in part because less than 3% of health-care professionals are black or Latino.

Yet the Reagan Administration has led the battle to abolish the National Health Service Corps, a federal program that administers scholarships to medical students, many of whom are minority members, in exchange for a commitment to practice in medically underserved areas on completion of their training.

The elimination of the program would exacerbate the already serious shortage of physicians in predominately black and Latino area like Watts, where there is approximately one doctor for every 3,500 residents. The national average is one doctor for every 440 residents. And lower Medicaid reimbursement rates mean that fewer and fewer of these scarce physicians are willing to accept Medicaid patients.

When asked about racial disparities in cancer rates, Manning Feinleib, director of the National Center for Health Statistics, attributed them to "a disproportionate exposure" to hazardous substances in the environment and the workplace.

Yet, in addition to the Administration's current policy of non-enforcement of existing environmental and occupational safety laws, it also has blocked adoption of standards for 116 suspected occupational carcinogens—despite adequate scientific evidence by the Occupational Safety and Health Administration of the need for such controls.

One of the substances, ethylene oxide, a carcinogen used to sterilize equipment in hospitals and other health facilities, has been linked to chromosome changes—considered a warning of cancer risk—and a high incidence of miscarriages among hospital workers. Certain levels of ethylene-oxide exposure also cause a number of symptoms, including mucous membrane irritation, nausea, headaches and numbness. Since a substantial number of hospital employes are minority members, a disproportionate number of blacks have been adversely affected by exposure to this chemical.

But federal regulations that would have imposed stricter controls on its use were withdrawn last year after a private meeting between the chemical's manufacturers and OSHA officials.

Despite modest improvements at the Environmental Protection Agency, thousands of hazardous-waste violators continue to operate with impunity. Last June the U.S. General Accounting Office found that 75% of hazardous-waste sites studied were in predominately black communities.

The insensitivity of these policies is compounded by excessive fiscal short-sightedness. An $11-million federal lead-screening program, for example, has been cut by 25% under the guise of "belt-tightening." Yet the costs of lead exposure—special education and medical care for lead-damaged children, plus the wages lost by afflicted adults—has been estimated at more than $1 billion annually.

Similarly, for every $1 that the government spends on prenatal health-care programs, an estimated $4 to $6 is saved on subsequent newborn intensive-care costs.

Heckler's announcement of a task force to study black health is merely a method of deferring action and defusing political accountability. Information on the causes and solutions for racial disparities in health is ample and readily available. What is needed is an Administration that is committed to providing quality health care for all Americans as a fundamental human right, not as a privileged commodity.

[From the New York Times, Dec. 28, 1983]

INSENSITIVE TO BLACKS' HEALTH

(By John Conyers, Jr.)

WASHINGTON.—In the 1950's, much of the sociological literature on poverty attributed the economic plight of blacks and other minorities to what it said was inherent laziness and intellectual inferiority. This deflected attention from the virtually insurmountable walls of segregation that blocked social and economic mobility. Today, the same thinking attempts to explain away the discrepancies in cancer and mortality rates.

The overall rate of increase in the incidence of cancer among blacks is twice that of whites; the rate is as much as fifteenfold with some of the more dangerous cancers, including cancer of the colon and rectum. Hypertension kills blacks 15 times more frequently than whites. In the workplace, blacks have a 37 percent higher risk of occupationally induced disease and a 20 percent higher death rate from occupationally related diseases.

Just as in the 50's, blacks are being told that their problems are largely self-inflicted, that their poor health is a manifestation of immoderate personal habits. Such blame-the-victim strategies—which receive tacit, if not explicit, support from current policies of the American Cancer Society and the National Cancer Institute—serve to divert attention from the fact that blacks are the targets of a disproportionate threat from toxins both in the workplace, where they are assigned the dirtiest and most hazardous jobs, and in their homes, which tend to be situated in the most polluted communities.

The data on environmental and occupational dangers are chilling. Black children suffer from lead poisoning at a rate three times that of white children. DDT contamination of black Americans is three times greater than in white Americans. Last June, the Government Accounting Office found that 75 percent of hazardous-waste sites studied were situated in predominantly black communities. In the laundry and dry-cleaning industries, blacks' death rate from all causes is double that of whites. Steel industry studies have shown that black coke-plant workers have twice the expected cancer-death rate of whites and eight times the lung-cancer rate. This disparity is explainable by job patterns: 89 percent of black workers labor at coke ovens—the most dangerous part of the industry; only 32 percent of their white co-workers do.

Coupled with the disproportionate exposure to toxic substances in the workplace and the environment is a significantly lower survival rate from cancer among black Americans as would be expected by the generally inferior health care available to ethnic minorities in the United States.

The Reagan Administration has displayed remarkable insensitivity to the particular health concerns of blacks, quite apart from general health concerns. Since taking office, the Administration has successfully developed a strategy for dealing with laws it does not like. Rather than going to Congress to repeal the health and safety mandates that it opposes, the Administration blocks enforcement of existing laws by dismantling the Federal regulatory apparatus.

In the Occupational Safety and Health Administration, for example, citations for workplace violations have fallen 49 percent since the last year of the Carter Administration; follow-up inspections, 55 percent; fines, 77 percent. OSHA also has attempted to prevent the adoption of workplace standards for use of 116 carcinogens, despite documentation of the need to do so. Regulations for one of these substances, ethylene oxide—a carcinogen that has induced a multitude of miscarriages among hospital workers, particularly blacks—were withdrawn after a meeting between manufacturers and OSHA officials. And despite modest improvements at the Environmental Protection Agency, thousands of hazardous-waste violators continue to operate with impunity.

Central to any political strategy aimed at reclaiming the basic right to a healthy workplace and environment is the coalescing of labor, minority groups, women, environmentalists and other citizens who share a common interest in preservation of occupational and environmental health. In the coming election year, in particular, such a coalition has an opportunity to raise the fairness issue in all its dimensions, including the toxic threat to poor, minority and working-class Americans. There must be recognition, particularly in the labor movement, that the safeguarding of health and safety is fully compatible with economic growth, as Japan, Sweden and other countries have shown.

Ultimately, the impact of non-enforcement of health and safety laws cannot be confined to any particular interest group, for the spreading danger of contaminated air, water, food and workplaces heeds no boundaries.●

● Mr. DELLUMS. Mr. Speaker, after nearly 400 years in this country black Americans remain second-class citizens. The black experience in the United States offers the best telescopic view of a democracy that has failed to practice what it preaches. James Boggs, in 1970, captured this failure best when he wrote:

> The United States is the only colonial country in the world which fought a war for independence from the mother country and did not free its slaves, then some sixty years later engulfed itself into a bloody civil war which allegedly freed them. After allegedly freeing them, systematically set them aside on the basis of race, as second-class citizens, from whose super exploitation the rest of the society would come to benefit.

Yet, in spite of the numerous setbacks that we as a people have come to encounter in this land, today, we can stand proud and look back at our contributions to the development of this Nation. This Nation has only in recent years come to recognize the legitimacy of our struggles. If today, America can be considered to be a great nation, it is great because of the kind of struggles that black people have waged for their rights to live in this society as equal human beings.

The struggle for respectability as a people is far from being won. I am convinced that the greater struggle lies ahead. The second-class status of blacks in this country was, and is, not voluntarily chosen. This was a position imposed upon us. Our ancestors did not choose to be slaves. Determination and self-sacrifice on the part of our people brought us to where we are today.

Black people in the Americas toiled relentlessly and were the basis upon which much of this economy evolved. Black blood was spilled in the war for independence. In return for their sacrifice they were rewarded with the "three-fifths" clause in the United States.

During the Civil War, it was black soldiers of mostly segregated units who were used as cannon fodder to win major battles against the South. Although the war was allegedly fought to free the slaves, victory against the South did not bring freedom for black Americans either north or south. Still second-class citizens.

At the time of the First World War northern industry began to open up for blacks. This was the first opportunity that blacks had to participate in the economy. This was possible only because the United States had a war to fight and therefore needed every available body; some suggested that it was the beginning of our "war economy." As it was, blacks only participated because it was necessary to employ them primarily for profit motives. Blacks were still performing the hardest jobs, for the least pay and benefits. Still second-class citizens.

To now blacks have participated in every aspect of the development of this Nation. We proved in every manner possible, that we were patriotic, that America's enemies were our enemies, only not to be accepted by our own fellow citizens. After World War II, returning veterans came home to massive unemployment, dilapidated housing, poor health care facilities, insufficient education. The war against foreign nations was won, but the war against a segregated society continued. We were still second-class citizens.

Efforts in the 1950's, spearheaded by Thurgood Marshall and the black student movements in the early 1960's, such as those of the Student Non-Violent Coordinating Committee and the student sit-in movement, made possible many of the gains achieved by the black community at large in the 1960's and 1970's. As blacks organized for jobs and equality the Government began to look seriously at the inequities prevalent in society for blacks.

The upspring of various poverty programs, instituted to further the livelihood for blacks. Affirmative action programs also came into effect, that were meant to give blacks a way to advance in society, taking into account the over 200 years that blacks were purposely shut out from advancement. Even though these programs may have been well intended, the problems for blacks continued, massive unemployment, poor housing, inadequate health facilities and the like were still realities in the black community. Despite the above factors, blacks began to feel good about themselves. We suddenly became "black and proud," "black was beautiful," and natural hair styles were sweeping the Nation, as black people were on the move. But alas, we still were forced to struggle against adversity and through it all we remained second-class citizens.

I am both honored and remorseful in making this statement today. As you can see, I am honored because through all the oppression, all the hatred heaved upon us, we remained strong. I am proud of the accomplishments of G. Carter Woodson, Booker T. Washington, George Washington Carver, Harriet Tubman, Mary McCloud Bethune, Frederick Douglass, Dr. Martin L. King, Jr., Malcolm X, Fannie Lou Hamer, Elijah Muhammad, Joe Louis, Althea Gibson, Jackie Robinson, John Coltrane, and I could go on and on. They made this a great nation, their accomplishments made it possible for America to be what it is today. Black people have served as the moral fabric of this Nation. Although we participated in America's wars, we questioned them. We also questioned discrimination on all levels, as we lead the civil rights, human rights, and suffrage movements. We were very instrumental in ending the war in Vietnam and calling America's attention to the war "at home."

I am remorseful, because the insane threat of nuclear war can end all life as we know it. Nuclear war will negate all the accomplishments made by our forefathers, it will bring to ashes our dreams of a life free of discrimination, and poverty. The United States is presently engaged in a nuclear arms race that is the cause of continued high unemployment, indecent housing, inadequate health care, poor education and other social ills. I now call upon all black, red, yellow, brown, and white Americans to join me in ending this bizarre madness which potentially will lead to our destruction. I believe it is appropriate in Black History Month to call for the formation of a rainbow coalition to unite and fight for peace and end this incredible nuclear madness which threatens our world.

Blacks are still second-class citizens. Equality can only be obtained if our world is not destroyed by the barbarism which presently prevails among the American ruling class. Even in the midst of inequality, with the advent of the nuclear age, blacks and other minorities have been made equal to those who have oppressed them over the years. We are equal when confronted with a nuclear holocaust. The nuclear bomb I remind you, is an equal opportunity destroyer. Again, I call upon you to do your part in preserving the world for us all.●

● Mr. CLAY. Mr. Speaker, originally, Negro History Week was always celebrated in the month of February as a recognition of the birthdays of Frederick Douglass and Abraham Lincoln. Through Black History Month we seek to accomplish two goals: First to inspire in blacks themselves a sense of racial pride, knowledge of our rich heritage as a people; second, to educate whites about the long and distinguished role blacks have played in the development of this great Nation. Both are necessary objectives because neither group knows the truth. Despite the fact that white historians have played down the role of blacks in the development of this Nation and in some instances ignored or distorted our contributions, those contributions are real and noteworthy. It has only been in the last 15 or 20 years that American history has gradually begun to replace American mythology. Still there are milleniums to go if we are to purge our history books of fantastically inaccurate descriptions of times and places proporting to be historical events. Glaring omissions, outright distortions leave the majority of Americans with the impression blacks made no worthwhile contributions.

Those omissions distortions were part of a deliberate, calculated scheme to justify 200 years of unconscionable, inhuman slavery, followed by 100 years of de facto if not legal slavery. Thirty million blacks are American citizens. That is the second largest population in the World, exceeded only by the country of Nigeria. To think that 12 percent of the population has made no significant contributions defies intelligence. At the time of the American Revolution, 20 percent of the population in the Thirteen Colonies was black. Over 5,000 blacks fought in the Revolutionary War. The shot that was heard around the world beginning the war killed Chrispus Attucks, a black man. The hero of the Battle of Bunker Hill was Peter Salem, a black man. More than 200,000 blacks fought on the side of the Union troops during the Civil War. Many decorated for valor beyond the call of duty. It was black pony soldiers who won the West from the Indians. The famous Dead Eye Dick was none other than Nat Love, a black man. Fighting redskins, living in the desert was tough, dirty, hard soldiering. The 9th, 10th, 24th, and 25th Calvary Units were all black with the exception of the white commanding officers. They won the major Indian battles and made the western frontier safe for expansion. Did you ever wonder where the words "buffalo soldiers" came from? That was how the Indians described black horsemen because they were the same color as the buffalo. One of America's most famous generals was John J. Pershing who defeated Poncho Villa and drove him back into Mexico. His nickname was "Black Jack" which he earned while commanding black troops fighting the Indian wars.

Yes, our history is long and proud. Americans became the most successful whalers in the world because Louis Temple, a black man, invented the whaling harpoon. New England became the shoe capital of the world because the invention of the last made it possible to make shoes by machine—Jan Ernst Matzeliger, a black man invented it.

Most whites are of the impression that the first blacks to arrive in this country came on slave ships. The truth is that blacks landed in 1526 with Spanish explorers at South Carolina. The truth is that blacks were in the crews of the Niña, the Pinta, and the Santa Maria. The truth is that the captain of the Niña was Pedro Alonzo Nino, a black man. The truth is that blacks accompanied Balboa, Ponce de Leon, Cortes, Pizarro, and Menendez on their voyages to the New World.

What is not highlighted in the history books is that in 1538, what are now the States of Arizona and New Mexico was discovered by Estevanico, a black man.

Part of the problem of blacks in America is we suffer from an identity crisis. We do not know who we are, where we came from, how we reached this place and point in time. If we were acquainted with our roots, that dilemma would not exist. We cannot know where we are going unless we know where we have been.

We should be no different from other groups of people. They are Americans but also descendents of other cultures of which they are very proud. I empathize and share in the joys of those of Italian descent as they celebrate Columbus Day; The Irish as they celebrate St. Patrick's Day; hopefully, they will understand our elation and join us in celebrating Martin Luther King's birthday.

I would venture to say that every person of Polish descent knows that Lech Walesa was the recipient of the Nobel Peace Prize last year. It is a great honor to be recognized for worldwide efforts to advance peace. But few of our young blacks know that Martin Luther King was the youngest recipient of the Nobel Peace Prize and too few older blacks know that Ralph Bunche, a black man, won it 15 years earlier. Most of us know of the heroic, talented efforts of a few blacks who were not left out of the history books. We know Benjamin Banneker who helped develop the plans and lay out the District of Columbia; of George Washington Carver and his wizardry with the peanut and sweet potato; Jackie Robinson and his feats on the baseball diamond; Jesse Owens and his Olympic medals. But do we really know the less touted, less publicized blacks who made contributions equally significant? The first successful open heart surgery in 1893 at Providence Hospital in Chicago was performed by Daniel Hale Williams, a black surgeon. The separation and preserving of blood and blood plasma was responsible for the savings of hundreds of thousands of lives during the Second World War, the techniques were developed by Charles Drew, a black man. The list of notable accomplishments is endless. Black inventors were responsible for the electric traffic signals, the subway train systems, ice cream, a black slave woman played a major role in developing McCormick's grain harvester. And perhaps the greatest of all black inventors is duly recognized for his talents but not known for his race. All of you have heard the expression "it's the real McCoy" and probably use it yourselves without knowing where it came from. Well, the mystery is over. It describes one of America's most prolific inventors, Elijah McCoy, a black man.

The omissions of black accomplishments in our history books are so blatant I could talk for days about them without repeating myself. But instead I want to encourage you to go to the libraries and search out the works of famous black historians who have put all of it in perspective. Finally, let me say about the subject in concluding this aspect of my talk that one example can be cited which summarizes the racial malice inherent in the documentation of American history. History is usually defined as a chronological recording of meaningful events explaining their causes and effects. The relationship of one event to that of another is usually the determining factor in making an incident historically significant. If that is true, then why have all of you heard of the great Louisiana Purchase and not the related incidents which led up to that achievement?

The United States bought over 800,000 square miles for $15 million. That purchase stretched from the Mississippi River to the Rocky Mountains, from the Gulf of Mexico to the Canadian border. It is the land that now makes up 15 States in the Union. In order to understand the historical significance of Thomas Jefferson's ability to pull off such a real estate deal for such a reasonable price—one would have to know the conditions of the time. That is where omission of blacks in history played its role.

In the 1700's the western part of the United States which extended to the Mississippi River was landlocked. Spain granted us the right to use the docks at the New Orleans Port. Later in the 1790's Spain ceded all of the territory of Louisiana, including the Port of New Orleans to France. They did it simply because France was going to take it anyhow. The United States was horrified at the possibility that a strong, bellicose, expansionist nation like France would gain possession of the port and perhaps block our usage. Now let us look at what happened. France also possessed a colony on a small island in the Caribbean which is now known as Haiti. In 1793 a self-educated slave by the name of Toussaint L'Ouverture led an uprising which defeated the French troops and freed the half million black slaves. But in 1802, Napoleon sent a mighty army to retake Haiti, unlike anything you can imagine and they did recapture the island. They took L'Ouverture prisoner and sent him to France. But less than a year later another black general by the name of Jean Jacques Dessalines organized a resistance and completely annihilated the crack troops of the feared French Army. Left with nothing to defend the Louisiana Territory, Thomas Jefferson sent a message to a diplomat instructing him to negotiate with the French Government—the message read:

> You may be able to impress on the Government of France the inevitable consequences of their taking possession of Louisiana . . . this measure will cost. And perhaps not very long hence, a war which will annihilate her on the ocean.

I think that makes my point. Enough of what has happened in the past. Let us talk about the present and the future. You are the present and you will be the future. What you do today will in large measure determine what will happen to us tomorrow. It is not enough to memorize Michael Jackson's songs and dance steps. It is not enough to talk about black is beautiful and chant "I am somebody." If you are not registered to vote you "ain't" nobody. If you cannot read and write, you "ain't" going no place but maybe to jail. If you cannot add and subtract, your agent would steal all of your money even if you signed a big contract with the Philadelphia 76'ers. If you do not respect your neighbors personhood, you cannot respect your own.

All I could hope for when I graduated from high school was to get a job sweeping floors or running an elevator—at least it would be indoors. Your opportunities are unlimited. I am not daydreaming when I say you beautiful black ladies can one day be Miss America or anyone of you can be an astronaut. Someday you might even be President of the United States.

But it all depends on you, your attitude, your preparation. I say to you, fly as high as an eagle. That way you can see where you are going and at the same time can look back and see from whence you have come. You will have no identity problems. Think big, reach for the moon. Even if you miss, you will still end up with the stars.●

● **Mr. RANGEL.** Mr. Speaker, I wish to commend the observance of Black History Month, which has served to illustrate to all the many great contributions black Americans have made to the growth and development of our Nation.

During the past 29 days, organizations, institutions, and interested groups and individuals throughout the country have made special efforts to highlight the achievements of the black American. From art exhibitions to musical performances to theatrical productions, we have also had the opportunity to experience a tremendous sampling of black culture and history in America. My district has abounded with such events. From the amateur production to the professional, both our youth and adults have made a special effort to discover and absorb and portray the contributions blacks have made to our American society. Enough cannot be said for the positive impact Black History Month has had.

And yet, Mr. Speaker, as I pinpoint the value of this observance, I also anxiously look forward to the day when there will be no need for the designation of a Black History Month, because the recognition of these achievements will have become part and parcel of the national celebration of those who have contributed to the greatness of our country.●

● **Mr. DYSON.** Mr. Speaker, February is "Black History Month," and should be a special time for all Americans. For no people are free when some among them are less than equal. As a nation, we all bear the scars of the days when black Americans could not worship with their white neighbors and could not send their children to school with white children. Though we have not completely shaken these evils from our society, we have come a long way. We have come to understand much of the confusion and ignorance that is the hallmark of racism. It is this growth in our understanding that is celebrated in "Black History Month," and is indeed a special time for all of us.

Mr. Speaker, I wish to submit for the RECORD an article which appeared in "The Enterprise," a newspaper from my home county of St. Mary's. In it Mr. James Forrest describes what it was like to grow up as a black man in rural southern Maryland during the Depression. It speaks of the lessons that Mr. Forrest learned and of the changes that he helped bring about. Among the many observations that may interest my colleagues, one stands out in my mind as particularly significant. Mr. Forrest points out, in a casual but telling remark, that as a young man he learned that "some people are not as understanding as others." When he sensed this of someone, says Mr. Forrest, he would "back off," and his frustrations would grow.

These same frustrations perplexed a nation dedicated to the principles of equality, but seemingly unable to reconcile their beliefs with their own laws and attitudes. Some will say, and rightly so, that we have come a long way in eradicating the obstacles to achieving justice for all—men and women, black and white, red and yellow. God help us if this goal ever fails.

The article follows:

GROWING UP BLACK IN ST. MARY'S COUNTY

(By Sunny Mays Schust)

"Because of the inspiration, the fortitude that this black woman, Susan Bennett, instilled in me, I came through all this without, I hope, any animosity toward another human being. Some of you may feel that is easy to do, but it's not all that easy. When you begin to realize, here I am on this earth, breathing the same air; getting the same rain, the same sunshine; and the only thing I'm guilty of is that I was born black. No control over it, none at all. I had no control over being born black, but I was condemned because of that. That's the part sometimes I think needs a little justification."

James Forrest was born below Taylor's Hill April 15, 1911. Steamboats still tied up to Miller's Wharf, and black men "cutashine" as they pushed two wheeled carts moving goods on board. School integration was still nearly 50 years away. And when blacks went to pray on Sunday, they sat in the back of the church.

Slavery was still a living memory to many such as Susan Bennett, the woman who accepted the baby Jim Forrest from her granddaughter, and raised him as her own.

Growing up black in St. Mary's County is not something Jim Forrest, now president of the St. Mary's County Board of Education, speaks of casually. He admits, "Some people are not as understanding as others. When I sense that, I back off." But he recently shared some of his experiences at the "Creation Around the Chesapeake" conference at St. Mary's City.

Forrest grew up in Ridge, where money was scarce, but food and family were abundant. "I remember my uncle was better off than we were because he owned a horse. That was a step up in life if you owned a horse and wagon because you were more able to sustain yourself. Money was not plentiful, but people knew that they had to make provisions to live. My uncle used to fish and farm. In the winter he would oyster, and when the weather got too bad for that he would cut cord wood. There was always something going on where a man could make a dollar."

Forrest recalls, "In our area everybody was poor, as my grandmother used to say, 'white, black, grisly or gray.' We were poor. There was a certain elevation of poverty, there was poor, not so poor, and poor. You could really tell that around the beginning of the year, January or December. If you were to drive through St. Mary's County in the late or early 20's, if you saw a man with his wife and children, with a wheelbarrow or a wagon, one chair, a bed or a cot, you knew that man was real poor. Because he had not produced on the man's farm, (the man) would say, 'Boy, you didn't make enough money for me this year you got to move.'"

Forrest remembers taking eggs from the chickens his great grandmother raised to the store to trade them for molasses from a barrel. Susan Bennett took in washing to earn money. But the clothes were set out at the gate, and Forrest had to bring them into the house.

He adds, "I remember when one man took the clothes his wife had done back to the front door of a house, and was told to take them to the back. He said 'You brought these clothes to my front door dirty, I'm going to bring them to your front door clean.'"

Near the Forrests lived a white family named Forestell whose children Jim Forrest played with. "But they went to one school and I went to another. As time went on I wondered why it had to be," he recalls.

As he grew older he worked on a farm and was paid 75 cents a day plus one meal. "There was the farmer, the elder son and me. We plowed the fields together, but when it came time to eat, we all ate in the same kitchen. But they sat over here, and I sat over there. You wonder to yourself what difference does it make if I sit at the same table? At that time you didn't question too much, it was the times. But that's not to say you didn't think about it, that you didn't want to do something about it."

The attitudes encountered by blacks in society were demoralizing, Forrest recalls. "For example, in many people's minds, if you were black—I mean black; I don't mean yellow, I don't mean brown, I mean black; your nose was flat, your lips were thick, your hair was nappy or curly—you were considered ugly. So we were ashamed of being a human being."

Equally demeaning, he says, was the term "boy."

"I don't care how old you were then, you were called boy. 'Come here boy. Get me this boy,' which was a put down really. How old do you have to be to be a man, in the terminology of mankind? I don't know if this was done out of malice. I can't look in those people's minds. It was a custom. They felt comfortable with these things. But we were very uncomfortable and sometimes mortally afraid to speak up."

Forrest says he was "blessed," that never in his life has he lived in a rented house. Many blacks owned homes in the County prior to the Depression, including Forrest's grandfather. "That doesn't mean much to many of you, but it means a great deal to black people," he says, "I'm thankful for it."

Forrest also counts himself fortunate to have attended an all-black church. "Most churches in this area were segregated. You could not go and sit anywhere you wanted in the church, you sat in the back. And to let you know where the back was, there was a board across the end of the pew. This should not be in a holy place. A man should be able to go there and be free. But you can't be free when you know you're not permitted to be free in this house. These were some of the frustrations," he says.

"If you're able to overcome the frustrations then you become a whole person. If not, then you're torn apart. Again I've been fortunate, because I've never reached the stage where I've been torn apart. I've been able to adjust, cooperate, and maybe be somewhat successful in life."

Part of that success Forrest attributes to his years at the Cardinal Gibbons School, the first high school for blacks in Southern Maryland. The school was operated by Victor Daniels, a man Forrest describes as years ahead of his time. Daniels introduced the study of black history for his students, and brought in speakers of the caliber of George Washington Carver.

"He was outspoken," Forrest says of Daniels. "Too outspoken for his own good, because at first he was resented. Cooperation was one of his pet words. He told us many things we needed to do in order to take our rightful place in society. He would badger us to death about being punctual, making a good appearance. That school, and my grandmother and last but not least my wife, have had a lot to do with what I am today."

Although Forrest intended to continue his education at Hampton Institute after graduating from Cardinal Gibbons, the loss by his great-grandmother of her eyesight compelled him to return home. He began a work career that spanned a lifetime, farm work, waiting tables at Point Lookout Hotel and St. Mary's Academy, running a chicken farm, a hospital orderly, telephone lineman, and storekeeper.

In 1935 he married Harriet Swales in a ceremony written up by the local paper as "unusual, having one of the best arranged weddings ever held by the colored race here."

Forrest, several years later, became a member of a contracting crew installing telephone lines in the County. For many years Forrest worked as a contractor, because the telephone company as a policy did not hire blacks.

When the line crew was finally taken on by the phone company, they were put to work cutting brush. One of Forrest's coworkers quit, saying, "I will not cut a path for the white man to walk through."

Forrest explains, "I had a family. I didn't quit. I felt if I held on things would change."

Although the phone company job was among the best paying work in the County, it was also grueling. The men rode on an open bed truck, even in winter, to distant construction sites, he says.

"In modern times—I'm not talking about when I was a boy, but when I was a grown man—I was not permitted to eat or drink a cup of coffee in restaurants in Leonardtown," he says. "I could go in, buy the coffee in a paper cup, stand outside and drink it. It was a custom, but as a black man it was frustrating to accept it. If I wanted a cup of coffee, and sometimes cold mornings, going to work I did, I permitted myself to be drawn into this establishment.

"There were many who did not do that. I feel sometimes kind of ashamed because I did. That's an awful frustration to a person who has a certain amount of intelligence. I base that on this precept, that I'm clean, I've got the money, the only reason I was not permitted to get that cup of coffee was the color of my skin. These are some of the frustrations black people went through and are still going through."

Soon after the Forrests married, they became active in education, joining the United Parents and Teachers Association in their drive to open a black high school, Banneker High School. The school was built and operated by the black community, which also provided bus transportation.

After several years of operation, the school was accepted into the County school system by the Board of Education.

Four of the Forrests' children graduated from Banneker, with the youngest, Francis, being one of the first students to integrate Chopticon High School. Forrest was one of the committee which developed the integration plan for the County public schools.

Harriet Forrest explains, "We made this pledge to do everything possible to see that youngsters could get an education if they wanted it." That pledge met with 100 percent success. The Forrest family includes five graduates of higher education including James, a computer specialist; George, a lieutenant colonel in the Army; Louis, a special education specialist; Barbara Ann Thompson, a teacher at Great Mills Elementary, and Francis, a dental technician.

When Forrest was first requested to serve on the St. Mary's County Board of Education he refused, feeling he did not have sufficient time for the task, but following his retirement from the phone company, he was appointed to the board by Gov. Marvin Mandel in 1973. He was elected school board president in 1976 and continues in that position.

Forrest concedes that he has seen many changes while living in St. Mary's County, but he sees the need for many more.

"The biggest problem facing blacks in this County," Forrest says, "is that we are not permitted to be in the job market. I know we've got black people in St. Mary's County who are capable, and once given a chance who could prove themselves. But most of our young black people have to go to Washington to get employment.

"Check this County out. Look at the banks. We don't have any black tellers. I'm not criticizing, I'm only stating the facts. There may be a reason for this, but no one has told it to me yet . . . If you want to be fair, you also know that the majority of businesses in this County are owned by white people. Sure they are first going to look out for the people they know. It isn't fair, but that's life."

"Forrest sees a similar problem in the limited amount of social integration. "It's hard for me to understand why. Take the Rotary Club. I don't know of any blacks in the Rotary, or in the Lions. Just in the last five years have there been any blacks on the fire department, and that's just in Lexington Park and Mechanicsville.

"It's not that it makes any difference to me, I don't care if I belong to the Rotary. But the effect is when a young black child doesn't see any blacks in those organizations. Young blacks have nothing to aspire to. They have no role models there. They may want to ride on that fire truck, but they never will when there are no blacks on the fire department. These are things people don't understand."

Buying power has increased the acceptability of blacks in commercial businesses, but Harriet Forrest notes there are still stores in Leonardtown where she may buy a dress, but not be allowed to try it on.

"You live with it," she says. "People ask, why do you stay here? But when you've made this your home, where would you go? You stay here and hope things change."

Forrest agrees. "You need people to say 'I'm not going to run. I'm going to stay and fight my cause.'"

Forrest's philosophy of moral persuasion rather than non-violence has won him taunts of Uncle Tom from others in the black community, but he remains convinced that non-violence is the only way.

"If I've got a stick and you've got a machine gun, who is going to win?" he asks.

He adds, "I'm not so naive as to believe black men have enough power to change anything without help from their white brothers. Any organization you know about is controlled from the top by the white man. You've got to work on his moral sense of fairness."

Forrest fears, though, "The progress we made in the 60's is slipping away. Unless we get some other movement to keep alive in the minds of this country that there still need to be adjustments for blacks, we're going to be in the same trouble."

THE STORY OF A SLAVE

(By Sunny Mays Schust)

"If I were to tell you the story of Washington, I would take it from your lips. You find the marble white enough on which to carve the name of the father of your country. If I were to tell you the story of Napoleon, I would take it from the lips of Frenchmen, men who found no language rich enough to paint that great captain of the 19th century."

"But I am to tell you the story of a black woman . . . who has left hardly one written line."

The woman that Jim Forrest paraphrases poetry to introduce is Susan Bennett, born a slave, freed at Point Lookout during the Civil War, and who lived to be mother, father, guardian and "sustenance" to Forrest for many, many years.

"Susan Bennett was my great-grandmother. I am James Forrest. My father was a Forrest. But everybody knew me as Jim Bennett, the son of Susan Bennett. Some people in Ridge still know me as that today."

Except for a brief time when he lived with his mother, Helen Burrell in Detroit, Forrest was raised by Susan Bennett and he credits her with being one of the most influential figures in his life.

"I was young, and had a lot of energy, so I never thought of it at the time," he says. "But now that I'm older, I think about how important it was for her to have me, and for me to have her. Maybe it was intended to be that way. She was alone and I was alone. We were inseparable almost, right up to her death.".

She never knew her date of birth, Forrest explains. But he recalls her saying she was a grown woman when Abraham Lincoln was President. When she died in 1936, Forrest suspects she was close to 100 years old.

"Let me tell you something of what she looked like," he says. "She was about six foot two, real black cheekbones. When I knew her, her hair was white. Very muscular, she could do like this and a child would be laying on the floor. But all the things she told me, all the punishment she gave me, gave me a direction in life."

Her own direction in life was shaped by slavery. She was owned, according to Forrest, by a family named Smith who lived in the Scotland area. Of her own family, Forrest knows only that she had a brother, who was sold South.

She was a house slave. She told her great-grandson that her master was very understanding and treated his slaves well. "But she said her mistress was very cantankerous," he recalls. "She told me that she hated her. She said she thought the reason for the way her mistress acted was that she had been poor, while her husband was very well to do. Her family was still poor, and she vented her feelings on the slaves because their status was almost equal to what hers had been."

While the Civil War was raging, word got around among the slaves, Forrest explains, "If you get to Point Lookout you're free."

"Everybody has a desire to be free," Forrest explains, so she, with other slaves, planned their escape.

Only one detail of the actual escape remains in Forrest's mind. Before leaving for Point Lookout, one of the group of slaves went to a graveyard to get dirt from a fresh grave. The dirt was then thrown over the house, his great-grandmother explained to him, in the belief, that it would prevent the people inside from awakening before the slaves had arrived at their destination.

Forrest remembers more clearly his great-grandmother's description of the cruelties to Confederate prisoners at the Point Lookout prison camp. He was told prisoners who committed a crime were forced to kneel by their coffins and were shot by a firing squad.

"She truly believed that some of those men were not really dead when they were buried," he says. Hunger and disease were rampant. "A man would give you a gold watch for a slice of bread," Forrest says.

His great-grandmother was later to marry another former slave, who had actually served in the Civil War. Louis Bennett described his duties to his great-grandson as "a deadman carrier" who picked up the dead and wounded.

"He used to tell us when he was on the battlefield he could hear the bullets coming, whistling which one, which one, which one? We'd listen and we thought it was a fairy tale. But it was true. We had three or four muskets around though that were used in the Civil War. We kids used to play with them, carry them around. His had a bayonet on it, and I played with it many a day."

After the war his grandfather became a carpenter, making masts for boats. "I recall his tools," Forrest says. "He had one called a broad axe. He'd say it's the only axe the devil don't use. Because if you don't know how to handle it you can cut your leg off."

He later became a sailor, despite his wife's bitter opposition. "It was in his blood, he had to sail. I remember many nights when he was out late and the weather was bad, we children would kneel with her in the kitchen and pray for him," Forrest recalls.

Susan was to lose two sons to sailing, "killed by the same captain," as Forrest explains. Both men were knocked overboard after being struck by a sail and drowned. Devastated by the loss, Susan Bennett would later tell her great-grandson. "You'll be a sailor over my dead body" and "severely corrected" him for his daily swim in nearby Smith Creek.

The water also affected her husband's death to a degree. A sufferer of dropsy, Louis Bennett spent long hours in the water, repairing the broken rudder of his boat. His condition worsened and he died, when his great-grandson was only 10.

Susan Bennett survived him by 16 years. She took in washing and ironing. She gardened, and raised chickens, turkeys and pigs. "She canned everything cannable," Forrest recalls, adding, "Nobody could bake a cake like Grandma Susan."

Through it all she shared with her family what Forrest describes as "a pretty good perspective on life. I'm proud to say she had no malice in her heart. I know that for a fact. That may not mean much to some of you, but to me that was a great virtue of a woman who had been a slave."●

● Mr. ADDABBO. Mr. Speaker, Black History Month is not only a celebration of the contributions black Americans have made to the United States, it is also a chronicle of significant civil rights events that have affected the world. The individuals behind this movement exercised our Constitution and have advanced the words of democracy to human rights groups around the globe.

There is no organization that embodies these principles as much as the National Association for the Advancement of Colored People. Today I would like to pay tribute to them.

Seventy-five years ago, in an environment which reeked of racial injustices and which cultivated the inequalities of segregation, a biracial group of citizens put forth a call to engage in the old abolitionist struggle and complete the emancipation of all Afro Americans. This group, the NAACP celebrates during the month of February, the breath of freedom they have given this democratic government and the free world.

The NAACP has secured civil rights and liberties through legal procedures over the past three-quarters of a century. Our Constitution is based on the belief that all men are created equal. We have fought long and hard for equality and will continue to fight for the civil rights of all people. Through the press, through petitions, through voter turnout, and through the courts, the NAACP has often stood alone but always it has stood straight and tall. In my tenure of 24 years, I have stood with the NAACP and supported every major piece of civil rights legislation toward this goal.

From the historic 1915 voting rights case of Guinn against United States to the passage of the 1965 Voting Rights Act, from the repeal of the Jim Crow laws to the 1968 Civil Rights Act, and from the significant Brown against Board of Education case to the current efforts to fight the sabotage of education funds, the NAACP has fought for these fundamental rights.

Over the past two decades, I have had the honor to work with men like Roy Wilkins, who represented the advancement of the goals of the NAACP through the legislative process. Roy epitomized the group's commitment to the democratic process and to integration. By condemning intimidation and violence as well as racial and economic separatism, Roy and the NAACP never wavered. Millions of Americans today have the chance to live richer, more fulfilling lives because of Roy's concern for our country and his belief in the inherent decency of the American people. In the next few months, the American people will get a chance to honor Roy as the Congress has before it a bill which would give a gold medal posthumously to his wife, Minnie, as a tribute to Roy's work.

There were many lessons I learned from Roy. He was not just a constituent. He was not just a loyal friend. There was no way to separate the two. Together we fought to insure that the legislative process never wavered. We often talked of securing a future for our children where the question of civil rights would not be black or white, but be answered equally for all men. We shared the concern that equal rights would continue to be advanced by our offspring. That the gains that have been made were not lost with the work of one generation.

My message today, in celebrating Black History Month is directed toward this point. We should be proud of the NAACP's past and use our strengths to ensure that civil rights will endure the test of time. Unfortunately under the current administration it is not getting any easier. So we must fight the administration's attempts to lessen Federal commitments to programs which advance equality. I join you today, in remembering Roy Wilkins and other men that have fought for the principles of equality. The principles which built this organization. Our motto for the 1980's should take heart in our past and reaffirm a commitment to the future. Equality cannot be eroded by apathy, we have too much history at stake.●

● Mr. BLILEY. Mr. Speaker, I am pleased to join my colleague Congressman STOKES in observance of Black History Month. For too long the accomplishments of black Americans in every area of our society went unnoticed. It is, therefore, most appropriate that we observe Black History Month each February, to remind Americans of all races of the great contributions black citizens have made to our economy, science, literature, and society.

At this time, I would like to take the opportunity to pay tribute to a black leader from my own district, one of Richmond's most prominent citizens, Mrs. Maggie L. Walker. Through Maggie Walker's accomplishments in the field of commerce and for her efforts to improve the living conditions for the poor in Richmond and throughout Virginia, she has earned a prominent place in Virginia's history as an outstanding businesswoman and humanitarian.

Maggie was born in 1867 to Elizabeth Draper and William Mitchell. Her early years were spent near the historic Van Lew mansion on Church Hill near the eastern edge of Richmond.

Maggie was a small girl when her father became a waiter at the St. Charles Hotel. He brought his family to live in Richmond in a rented house between Broad and Marshall Streets.

Then, tragically, William Mitchell became the victim of a robbery and murder.

Mrs. Mitchell was left with two children to support. Little Maggie helped her mother all she could. She took courage from speeches made by another native Virginian, Booker T. Washington. Washington's philosophy of thrift, industry, and racial solidarity provided her with particular comfort.

According to Wendell Dabney, her friend and biographer, the turning point in Maggie Walker's life came on her 14th birthday when she became a member of the St. Lukes, a society organized to help poor blacks. This marked the beginning of her 50 year association with this organization. She performed her duties competently and became secretary of its Good Idea Council No. 16.

This same year, Maggie graduated from high school. For the next 3 years, she taught in the same school from which she graduated.

Maggie married Armistead Walker in 1890. After her marriage, she left teaching to devote more time to the Order of St. Luke. She became Right Worthy Grand Chief of the newly formed Magdalena Council No. 12. She soon moved forward in the ranks to become National Deputy. In 1897 Maggie accepted the secretaryship of the St. Luke Endowment Department. With no formal training for this important position, Maggie took the organization from near insolvency to make it into one of the most successful organizations serving black Americans. Under her guidance the Order grew in size from 1,080 members in 1899 to over 100,000 members in 1924. Maggie possessed vision and foresight to respond to needs in all areas.

In 1903, Maggie made history when she became chairman of the board of the St. Luke Bank and Trust Co. becoming the first woman to attain such a position. Her contributions to Richmond's economic progress benefited the entire city.

Maggie's life work was building up the Order of St. Luke, however, she was active in many other organizations. She was a national director of the NAACP and a board member of the National Urban League to name only a few.

In her latter years, Maggie was confined to a wheelchair as the result of an injury she had suffered in 1907. Her spirit, however, remained unvanquished and she continued to serve in many capacities.

In 1934 ill health compelled Maggie to discontinue her many activities and she passed away later that year.

In tribute to Maggie Walker, a local paper stated:

> The passing of Mrs. Maggie Walker removes from the scene one of the greatest negro leaders in America and probably the foremost member of the colored race born in Virginia with the single exception of Booker T. Washington.
>
> Her death leaves a gap in the ranks of American leadership which can only be filled with difficulty. Certainly here in Richmond, there is no one at the moment who can replace her.

For Virginians and Americans both black and white Maggie Walker is a source of inspiration and a model for success. We should all hold her memory in respect.●

● Mr. WEISS. Mr. Speaker, for most of our Nation's history, the achievements and triumphs of American society have been attributed mainly to white America. Black men and women share in these achievements, share in these triumphs, and in countless ways, have contributed to the strength of our Nation.

What began as Negro History Week in 1926 has evolved into Black History Month. By acknowledging the achievements of black people, we are fulfilling the dream of the founder of Negro History Week, Dr. Carter G. Woodson, to dramatize the achievements of the race.

The achievements of black people have been especially visible in New York City. In 1787, the First Africa Free School, a school dedicated to the education of black children, was opened in New York City. During the 1850's blacks made significant strides in New York, starting with the founding of the American League of Colored Laborers headed by Samuel R. Ward in 1850. The union was comprised of skilled black workers and encouraged black-owned business. Five years later, the Liberty Party nominated Frederick Douglass for New York Secretary of State, the first black in the country nominated for statewide office.

In 1912, and again in 1925, milestones were reached when theaters in the city were desegregated and black physicians were allowed to practice at Harlem Hospital, years before such progress occurred elsewhere in the Nation.

In addition, two of the most important breakthroughs in athletics took place in New York City. In 1927, the Harlem Globetrotters basketball team was established. In 1947, Jackie Robinson became the first black in major league baseball when he played second base for the Brooklyn Dodgers.

In the arts, the city is once again in the forefront; Marian Anderson broke the color barrier at the Metropolitan Opera House when in 1955 she appeared in Verdi's "The Masked Ball."

But perhaps the most significant black historical events in New York City were the establishment of the NAACP in 1909 and the National Urban League in 1911.

The National Association for the Advancement of Colored People was founded to fight the legal abuses of blacks. As early as 1910, the NAACP succeeded in having the residential segregation statute declared unconstitutional in Baltimore. And in New Jersey, the NAACP succeeded in securing the release of two blacks being held without evidence on murder charges.

The National Urban League since its founding has stressed employment and industrial opportunities for blacks. It is clear that without the existence of such organizations, the plight of black men and women would be far worse than it is today. And it is also clear that only in a city as diversified and progressive as New York could such organizations have flourished in the early part of this century.

It is appropriate that we in Congress pay tribute to black Americans during Black History Month. In the end, however, let us hope that a special celebration of black history becomes less necessary as the achievements of blacks become an integral part of the history books, the school and university curricula, the media coverage, the popular culture and the consciousness of the entire Nation.●

● Mr. KASICH. Mr. Speaker, today we participate in a special order called to observe Black History Month 1984. The timing of this special order could not have been better, for as we speak, filming is underway in my area of Ohio on a movie about Jesse Owens, one of America's greatest athletes.

The son of a sharecropper, the grandson of slaves, Jesse Owens began setting records almost as soon as he began running. Most of us are familiar with his amazing exploits in the 1936 Berlin Olympics. Under the noses of Adolf Hitler and his alleged "master race," Owens won gold medals in the 10 meter and 200 meter races, the broad jump, and as a member of the U.S. 400 meter relay squad.

What many of us may not recall is an even more remarkable feat accomplished by Owens at the national collegiate track and field championships a year prior to the Olympics. Owens, then a student at Ohio State University, set new world records in the 220 yard dash, the 220 yard low hurdles and the broad jump, and tied the world mark in the 100 yard dash. All this was one in less than an hour and with a back so sore that Owens had to be helped in and out of a car. Many call it the greatest accomplishment in track and field history.

Even more remarkable than Owens the athlete was Owens the man. Harold Gast, who is producing "The Jesse Owens Story" for Paramount Pictures, interviewed family, friends, and associates of Owens before writing the script for the movie. He told the Columbus Dispatch on February 24, "They all mentioned the goodness of the man. He believed in good, he believed in God and he believed in America. He thought if you did your best, you'd be a winner."

I look forward to seeing "The Jesse Owens Story" when it airs on television later this year. I hope everyone will have an opportunity to watch the life story of this great American.●

● Mr. EVANS of Illinois. Mr. Speaker, history is knowledge because it is a practical perspective and a practical orientation. It orders and organizes our world. History is the platform upon which personal and group identities are constructed.

By telling us who we are, history tells us what we can do. By telling us where we have been, history tells us where we can go. People need a sense of history in order to make history.

It is impossible to understand the history of the American people without some understanding of the black experience. It is necessary to give meaning to the strivings of Martin Luther King, Jr., Frederick Douglas, Malcolm X, and Carter G. Woodson. It is necessary to recognize the contributions of Coretta Scott King, Mary McLeod Bethune, Alice Walker, and Harriett Tubman. It is necessary to recognize all of those black Americans who have been overlooked in the official recording of American history.

February has been designated as Black History Month. This time is set aside for all Americans to reflect upon the great contributions and achievements of black Americans. Despite slavery, injustice, and discrimination, blacks have made great contributions to America which must become a part of not only our books and records, but also a part of our national conscience and memory.

Black History Month has been celebrated this past month all over the United States. Throughout all of these celebrations, the goal has been to learn and understand what black history in America truly is. History reflects what we, as Americans, represent, and Black History Month provides us with the occasion to know ourselves, to understand our past and to give us the tools to build our future as a Nation and as a people.

I am proud to join in this special order on Black History Month and thank my colleague for providing me with this opportunity to recognize the valuable and irreplaceable contributions of black Americans.●

● Mr. DWYER. Mr. Speaker, it is my privilege to join my colleagues and fellow Americans in observing Black History Month.

As you know, Frederick Douglass was the founding father of black equality. As representatives in the free world, it is befitting that we commemorate him and the countless other black Americans who have made and continue to make major contributions to our society.

I believe, as we all do, that expressions of support are important in the continuing struggle for equality. Strong and courageous individuals like Martin Luther King, Jr., struggled a lifetime for racial equality. I am proud and honored to be one of the 108 House cosponsors of legislation that honors the late civil rights leader through a national holiday. As we celebrate the first national holiday that pays tribute to a black American, we shall affirm our commitment to his dream and ideals set forth in 1963 on the steps of the Lincoln Memorial.

Mr. Speaker, it is vital that we in the United States, a model of true democracy, do not disappoint our citizens. Therefore, it is necessary for Americans to continue to voice outrage whenever human rights and liberty are violated or threatened and to continue to strive to perfect our own democracy.

By celebrating Black History Month and commemorating the contributions, both large and small, that black Americans have made to our society, we take another step toward that goal.●

● Mr. ROSE. Mr. Speaker, in honor of the celebration of Black History Month, I would like to honor those blacks who fought for their liberty in the Revolutionary War.

Black soldiers were fighting a battle for independence more dear to them than simply freedom from the British crown. They fought hoping for freedom from slavery and to gain the basic human rights that had long been kept from them.

There is no doubt that a large number of blacks joined the revolutionary effort and fought as bravely and suffered and sacrificed as much as white soldiers. However, records kept of these black troops are scanty, to say the least. On July 4, 1847, the 35th anniversary of the War of 1812, the poet John Greenleaf Whittier lamented this fact:

> Of the services and sufferings of the colored soldiers of the Revolution, no attempt has, to our knowledge been made to preserve a record. They have had no historian. With here and there an exception, they all passed away, and only some faint tradition of their campaigns under Washington, and Greene, and Lafayette, and of their cruisings under Decatur and Barry, lingers among their descendants. Yet enough is known to show that the free colored men of the United States bore their full proportion of the sacrifices and trials of the Revolutionary War.

Although many blacks chose to join the colonists in their fight for freedom, others joined the British troops, hoping that a British victory would result in the abolition of slavery. Historian Benjamin Quarles described the decision of a black freedom fighter: "the role of the black soldier in the Revolutionary War 'can be understood by realizing that his major loyalty was not to a place nor a people, but a principle. Insofar as he had freedom of choice, he was likely to join the side that made him the quickest and best offer in terms of those "inalienable rights" of which Mr. Jefferson had spoken."

One North Carolina slave who joined the British during the Revolution was Thomas Peters. He was born in Africa, and was brought to the American colonies by slave traders in the 1760's. Peters was owned by a resident of Wilmington, N.C., at the start of the Revolutionary War. He ran away to join the British, and was wounded twice in battle. When the war ended, he traveled to Nova Scotia to claim the farmland he had been promised in return for serving with the British troops. When the promise was reneged upon by the colonial government there, he and other blacks who had fled to the region in the hope of receiving land for their service to the British requested aid from London. Peters traveled to London as a representative of these blacks, and as a result of his efforts he and the blacks he represented were offered the chance to settle in the British colony of Sierra Leone. Peters and some 1,200 settlers sailed for Africa in January of 1792. Peters has been labeled a founding father of Sierra Leone by historians, a label deserved for his successful efforts to find land and freedom for his colleagues.

Many North Carolina blacks who fought with the British belonged to Lord Dunmore's "Ethiopian Regiment." Five hundred blacks answered his call to arms, and within a few months 300 blacks were armed and in uniform with the words "Liberty to Slaves" inscribed on their breasts. In 1782 Washington received word that as many as 700 blacks were armed and uniformed in the British ranks.

North Carolina blacks, whether they were freemen or slaves, fighting for the British or the colonists, were involved in a fight for the basic freedoms of life that most whites already enjoyed in spite of unfair taxes and an unjust colonial government. Although the fight for black freedom was barely under way in 1776, credit must be given to those blacks who began this fight. During this month honoring black history, these early freedom fighters should not be forgotten.●

● Mr. FISH. Mr. Speaker, I am pleased to have this opportunity to observe Black History Month and to pay tribute to the countless black Americans who have and continue to make contributions to our society.

In the words of Dr. Carter G. Woodson, the father of black history, "If a race has no history, if it has no worthwhile tradition, it becomes a negligible factor in the thought of the world, and it stands in danger of being exterminated." Thanks to Dr. Woodson's unyielding efforts to collect sociological and historical data on the Negro, the pages of black history now overflow with the contributions blacks have made to their country, their community, and their fellow man. The areas are legion—medicine, law, exploration, science, music, industry, and on the field of battle.

A black man was the first to reach the North Pole. Matthew Henson, a member of Commander Peary's expedition, raised the flag in 1909. In 1788 James Derham, a former slave from Philadelphia, became the first black physician in America. Dr. Daniel Hale Williams, a black surgeon, performed the world's first successful heart operation almost 100 years ago. Charlotte Ray, the first black woman lawyer, received her degree from Howard University Law School in 1872. In 1761, Benjamin Banneker designed and built the first clock made entirely in America. And in 1864, 13 black soldiers earned Congressional Medals of Honor. They led the Union Army's successful assault on Chaffin's farm, a Confederate stronghold on the outskirts of Richmond, Va. The all-black 369th Infantry, a federalized New York National Guard was the most decorated unit in World War I. I was glad to support and speak on behalf of legislation introduced by my colleague from New York, Congressman CHARLES RANGEL, to honor the 369th veterans association with a Federal charter.

Nobel Sisle, a great black musician, served in the 369th regiment. Eubie Blake was closely associated with the regiment also. Other black Americans who have and continue to contribute to the music history include; Louis Armstrong, Count Basie, Duke Ellington, Dizzy Gillespie, Marion Anderson, Thelonius Monk, Leontyne Price, and Michael Jackson.

These are but a few examples of the thousands of stories that document the achievement of black history makers, past and present. Efforts such as Black History Month will enable generations to come to grow up with an appreciation of their own possibilities through knowledge of the contributions blacks have made to world, national, and local history.●

● Ms. KAPTUR. Mr. Speaker, on March 6, one of America's great women leaders will celebrate her 91st birthday in her hometown of Toledo, Ohio. It is with great pride that I ask my colleagues in the U.S. House of Representatives to join me in honoring this "fine educator, dedicated community servant and outstanding human being."

Ella P. Stewart's list of fine accomplishments is as long as anyone I have known. Mrs. Stewart, who is the first black woman graduate of the University of Pittsburgh College of Pharmacy, is a former national president of the National Association of Colored Women. She was a frequent U.S. representative at international conferences and a Toledo community leader since 1922.

Among the many awards Ella P. Stewart has won over her many years of service to humanity include being named to the Ohio Women's Hall of Fame in 1978, an honorary degree of Doctor of Humane Letters from the University of Toledo in 1974, and being named "Woman of the World" by the Pan-Pacific and Southeast Asia Women's Association at a conference in Samoa.

Ella P. Stewart is a national treasure. Her work has touched many in Ohio's Ninth District, the Nation, and the World. On March 6, we will all celebrate Ella P. Stewart's birthday and her life's accomplishments.●

● Mr. MARKEY. Mr. Speaker, it is indeed a pleasure for me to participate in this observance of Black History Month. As a Member of this House from the Commonwealth of Massachusetts, my State has been enriched by the contributions of many black citizens. These contributions date from the colonial and revolutionary period and include such patriots as Lemuel Haynes (1753-1833), clergyman and minuteman; Prince Hall (1735-1807), fraternal leader and civil rights activist; and Barzillai Lew (1743-93), soldier.

One of the original reasons for the selection of February as Black History Month was the commemoration of the founding of the National Association for the Advancement of Colored People on February 12, 1909. In consideration of this great organization that has accomplished so much in the peaceful evolution of our society, I would like to call attention to one of its founders, William Edward Burghardt DuBois, whose contributions to 20th century black history have been significant and somewhat overlooked. Unfortunately, his lifelong writings and deeds were clouded by his joining the Communist Party in 1961 at the age of 93. Certainly, it was his right to express his political beliefs in the manner he chose, but unfortunately prevailing views took a negative toll on his lifelong contributions as a result of this decision made 2 years before he died.

W.E.B. DuBois was born in Great Barrington, Mass., on February 23, 1868. He received a bachelor's degree from Fisk University, and then returned to Massachusetts to earn a second bachelor's and a doctorate from Harvard University. He taught a variety of subjects in the humanities and social sciences at Wilberforce, the University of Pennsylvania, and Atlanta University.

As one of the founders of the NAACP, DuBois directed publications and served as the editor of Crisis magazine until 1934. He emigrated to Africa in 1961 and became editor-in-chief of the Encyclopedia African, a major project planned by Kwame Nkrumah, former president of Ghana. DuBois died in Ghana in 1963 at the age of 95.

DuBois' books spanned over 70 years, but revolved around the recurring themes that emphasized the need for black people to cultivate and assert their sense of aesthetic and cultural values as they made strides toward social equality.

The controversy surrounding DuBois' last years in Africa has clouded his contribution to 20th century black American history. In particular, DuBois had a vision, viewed by some as too radical, that placed the prime importance in tradition and culture for securing the ultimate dignity of his people. Looking at his writings from our perspective of 1984, his views do not seem so radical, and indeed his books may have been prophetical.

Perhaps more important for Black History Month in 1984 is the lesson that we can learn from DuBois' life. That is, we must protect ourselves and our society from the political intolerance that distorted DuBois' message and obscured his call for pride and love for the cultural traditions of our rich history.●

● Mr. MOODY. Mr. Speaker, I am pleased to join my colleagues in commemorating Black History Month 1984. I want to thank my colleague and good friend from Ohio for calling this important special order.

This annual celebration has, indeed, become an American celebration of extraordinary achievements. The countless significant contributions of black Americans to our society are even more exceptional because for centuries black Americans have not been allowed to be full participants in this society. These Americans have had to overcome slavery, segregation, discrimination, injustice, poverty, and limited educational opportunities. Yet scores of black individuals have risen above these tribulations and this in itself is a credit and an honor to themselves, their people, and this Nation.

Black Americans' accomplishments in science, education, industry, politics, sports, and the arts have enriched our society and the world beyond measure. It is important we never forget the names and works of leaders such as, Frederick Douglass, Sojurner Truth, Booker T. Washington, Marcus Garvey, James Weldon Johnson, Walter F. White, A. Phillip Randolph, Ralph Bunche, Martin Luther King, Jr., Roy Wilkins, Malcolm X, Members of the U.S. House and Senate, so aptly exemplified by the current members of the Congressional Black Caucus, and the many local and State black public officials around the country.

The artistic contributions of the black culture in every field of art and entertainment are numerous and impressive. From Richard Wright to Alice Walker, from Bill "Bojangles" Robinson to the Dance Theatre of Harlem, and from Marian Anderson to Michael Jackson, the literature, dance, music, and art that has arisen from the black experience has left an indelible and wonderful mark on the American culture.

Another area where the contributions of black Americans have often been overlooked is in their service in the military. Recently, I was fortunate enough to watch a repeat showing of the three-part PBS special "A Different Drummer: Blacks in the Military." This documentary gave an enlightening detailed account of the participation of blacks from the War of Independence to the conflict in Vietnam. It is incredible that men and women who were denied basic liberties and justice at home would continue to fight and die for this country, the principles of democracy and the edict of our Constitution.

I am proud to pay tribute to black Americans this month and to support the many events in my district and around the country. My home district has had various special celebrations and commemorative activities for Black History Month, including a benefit presentation of "For Colored Girls Who Considered Suicide When the Rainbow is Enuf." In addition, Colorlines, an art magazine in Milwaukee, recently had a celebration featuring many black artists and visual displays.

Yet as we pay tribute to these accomplishments, we must never lose sight of the fact that our struggle to create a truly just society continues. We must build upon the past to insure a brighter, and more fulfilling future for all Americans.●

● Mr. MORRISON of Connecticut. Mr. Speaker, I am proud to join with my colleagues in commemorating Black History Month. The month serves as a time for all Americans to recognize the countless contributions that blacks have made in this country.

From George Washington Carver to Booker T. Washington, from Harriet Tubman to Thurgood Marshall, blacks have contributed to every phase of American society. Dr. Martin Luther King, Jr., whose strivings for peace, equality, and social justice set a high standard for blacks and whites alike, also will be remembered long into the future. I am proud to be a Member of the 98th Congress, which has proclaimed a Federal holiday in honor of Dr. King.

My district observed Black History Month through a wide variety of activities. Events included gospel concerts, exhibits of black art and literature, screenings of documentaries dealing with past and present black issues, lectures from prominent black specialists in various fields, and a number of theatrical productions such as "Master Harold and the Boys" and "For Colored Girls Who Have Considered Suicide when the Rainbow is Enuf". Among the organizations contributing to a heightened awareness of black cultural achievement were the Afro-American Cultural Center at Yale University, the Umoja juvenile program and the University of New Haven Black Student Union.

I had the honor to personally participate in a number of Black History Month events. On February 18, I took part in a celebrity fundraiser sponsored by the Training Research Institute/Residential Youth Center, which runs three juvenile shelters in my district. And on Saturday, February 25, I spoke at the Coalition for Concerned Citizens' Fourth Annual Black Achievement Awards presentation.

Black History Month has successfully focused historic achievements. I see it not only as a celebration of past achievement but also as inspiration for future accomplishment by all Americans.●

● Mr. ANDREWS of Texas. Mr. Speaker, February marks Black History Month. It is a time to recognize and appreciate the numerous contributions by blacks to our growth as a society.

I have always been a strong supporter of civil rights issues and issues affecting black Americans. Among these, I supported the bill that created a national holiday commemorating the birthday of Dr. Martin Luther King, Jr., and legislation recognizing the lifetime achievements of Dr. Benjamin Elijah Mays.

These are just two of our Nation's great black Americans. But there are many others: Like those who fought valiantly for freedom and democracy during our Revolutionary War—making the ultimate sacrifice by giving their lives for their country.

Such sacrifice must not go unrecognized. Appreciation for such courage is not restricted to any particular race, creed, or color.

Therefore, during this special order called for by my distinguished colleague from Ohio, LOUIS STOKES, I would like to call this House's attention to the efforts and contributions of black Americans during the Revolutionary War.

I would like to share with you a list of some names and the contributions they made to our great cause of freedom.

Black men participated in the earliest battles of the Revolution. In fact, on March 5, 1770, the first shots of the Revolutionary War were fired into a crowd of protesters in Boston, Mass. Those protesters were led by a runaway slave named Crispus Attucks. Attucks was the first of five patriots to die for freedom in what is popularly known as the Boston Massacre.

Lemuel Haynes, who after the war became a prominent congregationalist minister, was one of many black Minutemen who defended the Concord bridge where the "shot heard round the world" sparked the American Revolution. Other black men who fought in the American ranks at the very beginning of the Revolution include Pomp Blackman; Caesar and John Ferrit, who were father and son; Prince Estabrook, one of the wounded at the battle of Lexington; and Samuel Craft. Later, Haynes joined Primus Black and Epheram Blackman in the celebrated capture of Fort Ticonderoga, as members of Ethan Allen's Green Mountain Boys.

Blacks were also prominently and gallantly represented at the Battle of Bunker Hill. Salem Poor, in particular, was singled out for special commendation for his participation at Bunker Hill. Officer's reports to the General Court of Massachusetts praised Poor for his high standard of leadership and courage throughout the battle, making him the first acknowledged black military hero in American history.

There was Barzillai Lew, who not only fought valiantly at Bunker Hill but also saw combat during the French and Indian War as a Massachusetts enlistee in 1760. Cuff Whittemore, Titus Coburn and Sampson Taylor were other black men who fought for our freedom during the Revolutionary War. I could go on and on but what is more important is that we recognize that our independence was secured with the assistance of many black patriots who fought side by side with our more well-known patriots such as Paul Revere, Ethan Allen, and George Washington.

I am glad that Congressman STOKES requested this special order and that I was able to participate.●

GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to participate in this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE DEVELOPING ARMS RACE IN SPACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 60 minutes.

● Mr. BROWN of California. Mr. Speaker, as we embark upon a hectic and busy schedule in the second session of the 98th Congress, I hope my colleagues will take a few minutes to contemplate a very serious development in the area of national security. In this election year rhetoric is likely to prevail. But actions we take now in military policy may mean the difference between life and death long after the upcoming election, and long after all of us are no longer Members of this body.

I have requested this time to discuss an area of deep concern to me—the developing arms race in space. The threshold event in such a course is represented by the development in the Soviet Union and the United States of antisatellite (Asat) weapons. Recently a preliminary test of the U.S. Asat weapon was conducted. Last year I offered an amendment to the fiscal year 1984 Department of Defense authorization bill to delete the initial procurement funds for this weapon. I felt that the lack of a clear U.S. policy regarding the military uses of space made procurement of the weapon premature. Although this amendment was defeated, Congress eventually approved an amendment requiring the President to refrain from testing the Asat against a target in space unless he certified to Congress his efforts to seek to negotiate a ban on Asat's with the Soviet Union.

Mr. Speaker, the recent breakdown in the strategic arms reduction (START) talks make it critical to find some area where progress in arms control is possible. Limitations on space weapons is an area the Soviet Union has aggressively pursued with the United States and is an ideal place to start rebuilding arms control efforts between the two countries. Last August the U.S.S.R. submitted a draft treaty to the United Nations and promised to suspend testing of their Asat system if the United States did the same. The Soviets suspended testing of their Asat during previously held talks in 1978 and 1979. These negotiations were never resumed following the Soviet invasion of Afghanistan. If the United States continues to test its Asat without pursuing negotiations to limit the weapon, the chances of reaching an agreement with the Soviets diminishes. The administration, by pressing forward with the Asat tests, is missing a unique opportunity to spearhead an arms control agreement in this area.

In addition to funds for procurement and continued testing of the Asat, the President has requested significant increases for space weapons programs in his fiscal year 1985 budget. The report of the Fletcher Commission—headed by former National Aeronautics and Space Administrator James Fletcher—recommended a 5-year, $28 billion program to the President to determine the feasibility of a ballistic missile defense (BMD) system, based in space and using advanced space technology. The President is expected to approve the proposal. The fiscal year 1985 budget request is $1.8 billion for research on ballistic missile defense, twice the amount appropriated for this purpose in fiscal year 1984. Additional billions are also required for the rest of the administration's strategic defense program: civil defense, antisatellite weapons, and continental air defense. The total budget for strategic defense, including "Star Wars," will top $4 billion in fiscal year 1985.

Cost alone does not determine U.S. military policy. Congress record on the subject proves this. What really concerns me about this movement of dollars into space weapons programs is the utter lack of attention being paid to the implications for our military policy. There are two distinct and different kinds of military activity in space. The first, which I wholeheartedly and enthusiastically support, includes intelligence collection by remote sensing, weather satellites, military communications satellites, and other so-called force-extending activities. The second I call the weaponization of space, in which ABM systems, space mines, antisatellite weapons, and other destabilizing military devices, both offensive and defensive, are deployed in space. The United States has long depended on the first kind of activity; reconnaissance has provided the United States with a reliable mechanism for monitoring worldwide military activities and has proved especially valuable for monitoring Soviet activities and compliance with arms control treaties. Weapons in space threaten these valuable activities.

The United States has a 20-year history of negotiations for the peaceful exploration and development of space. The 1963 Limited Test Ban Treaty prohibits nuclear weapons testing and explosions in space—and under water. The 1967 Outer Space Treaty prohibits the placement in orbit around the Earth of "any objects carrying nuclear weapons or any other kinds of weapons of mass destruction." The 1972 Anti-Ballistic Missile (ABM) Treaty prohibits the development, testing, or deployment of ABM systems which are "sea based, air based, space based, or mobile land based." The ABM Treaty also instructs the United States and the U.S.S.R. "not to interfere with the national technical means of verification" of the other country. These have all contributed to preserving space for peaceful purposes and toward peaceful ends.

President Eisenhower asked in 1962,

> Will outer space be preserved for peaceful use and developed for the benefit of mankind? Or will it become another focus for the arms race—and thus an area of dangerous and sterile competition?

This vision is being eroded today by developments at the Department of Defense and the President's impetus toward placing weapons in space. Those who dangle a vision of an escape from the nuclear threat with promises of "people protection and defense" are playing a cruel joke on the citizens of the United States. The ABM Treaty was ratified because the leaders of that time recognized that some defensive weapons fuel the arms race, they do not stem it. Notwithstanding questions raised about Soviet compliance with the treaty, there has been no compelling change in strategic doctrine to justify trashing this arms control agreement. The administration seems to recognize this—findings of treaty violations on the part of the Soviet Union have not led to a major hemorrhaging of agreements between the two countries. If the President is willing to discuss these problems with the Soviet Union, he ought to be willing to curb his all-out promotion of weapons in space for at least long enough to explore the potential for arms control agreements.

Finally, the potential for space to foster peace, and promote prosperity among all nations has been severely underexploited. The space science program at the National Aeronautics and Space Administration has been starved; there are vast potential commercial applications in space which the Government ought to take an activist role in promoting; the need for a fifth shuttle orbiter has been discussed at length—all that is needed now is the funding for it. There is more to be gained from space than anyone can imagine—satellite remote sensing technology alone could be used to establish an international meteorological system, a world mapping agency, and a natural resources data base. The communications satellite business is only one example of worldwide networks that can be established in space. President Reagan spoke of his utopian vision of Anya and Ivan and Jim and Sally sitting down for a talk together in his state of the Union address. Satellite technology can bring those two couples together, and can bring our two worlds together, as President Reagan envisioned, without the barrier of distance.

Travel into space made us realize that we are all united on an interdependent planet; we can make this vision a reality with space technology, imagination, and commitment.

Mr. Speaker, Dan Deudney, a fellow at the World Policy Institute, expressed these thoughts eloquently in a paper for the winter volume of the Foreign Policy journal. The text of his paper appears below. I commend it to my colleagues.

Unlocking Space

(By Daniel Deudney)

"Give me the point of my choosing and I will leverage the world," said Archimedes. Outer space is both the leverage point for the current superpower military competition and the point from which an alternative security order could be built. In fact, despite the futuristic aura that surrounds space and space technology, the strategic military balance has, at least since the advent of ballistic missiles in the late 1950s, centered on space technology.

Today the world is at the edge of perhaps the most far-reaching military threshold since the beginning of the atomic age. Today, as then, a technological breakthrough both threatens unprecedented destruction and provides the opportunity to create a fundamentally more secure international order. Space weapons have already destabilized the nuclear arms race and may fatally upset the strategic balance. Yet a ban on space weapons would literally put a ceiling on the arms race and block a costly and destabilizing new arms competition. Perhaps more important, it would preserve the incomparable vantage points of space for the monitoring platforms and joint scientific enterprises of a planetary security system.

Tragically, these opportunities to head off an extraordinarily expensive arms race and construct an alternative security system are about to be lost. Military utopians preach, despite all historical evidence, that true security resides in the next technological advance. The temptation to exploit emerging technologies for ephemeral unilateral military advantage is strong. History and logic suggest, however, that technical innovations will broaden and intensify, not end, the arms race.

Although civilian space programs capture the lion's share of public attention and until the late 1970s the U.S. space budget, the superpowers' military activities have always dominated the use of space. As of 1983 the Soviet Union had successfully launched 1,017 military and 521 civilian missions, while the United States had sent up 440 military and 356 civilian payloads. The Soviet lead in military missions reflects the longer lives of U.S. satellites, not a menacing space gap. These numbers are only approximations because some flights are dual-purpose and because the Soviet Union reveals little about the intent of its launches.

As the popularity of prestige space spectaculars has fallen, along with support for Soviet-American détente, the military has won an increasingly large share of space outlays, finally surpassing the civilian budget in the late 1970s. Taking into account military activities hidden in such dual-use programs as the space shuttle, the military today accounts for close to 75 percent of U.S. space spending. Similar budgetary priorities characterize Soviet space spending. The U.S. Department of Defense estimates that military programs make up 70 percent of Soviet space launches, while a further 15 percent of launches combines civilian and military programs.

Moreover, the line between civilian and military space technology is exceedingly fine, if not altogether artificial. The civilian space programs of the 1960s evolved from the military advances of the 1950s. A military missile differs from a civilian rocket in payload and target, not basic technology. when asked to explain the difference between the Atlas rocket that sent astronaut John Glenn into orbit and those poised to obliterate the Soviet Union, President John Kennedy reportedly replied, "attitude." Communications, remote sensing, and navigation and weather satellites pioneered by the military also possess this dual character. Because civilian and military space technology are practically indistinguishable, no regulation of military capability can succeed without a carefully designed regime for civilian activities.

Understanding how space technology has and could shape the strategic balance requires reviewing the geography of space. Earth's atmosphere trails off into almost nothing within 100 miles of its surface, which means that most people live closer to space than to their national capitals. National sovereignty, however, cannot reasonably extend from airspace into near-orbital space, for nothing can achieve and maintain orbit above just one country. In this respect, space is like a ball of string—the orbital threads can be wrapped around in any pattern, but if the webbed ball is cut in half, its value is lost. And while the long-range political consequences to space's geography will become clearer as technology advances, one conclusion appears likely: One state's effective control of space and its ability to prevent the passage of another state's vehicles through space could bring planet-wide hegemony. Thus far, the logistical difficulties and expense of launching and maintaining space vehicles have obscured this potential. But as long as the military potential of space technology remains unrestrained, the political fate of space will cloud the future of independent societies on Earth.

THE HIGH GROUND

Military exploitation of space has passed through three phases: the first, marked by missiles; the second by reconnaissance and surveillance satellites; and the current phase marked by space-based force multiplier satellites that enhance weapons capability. The first use of outer space as a friction-free corridor for lightning fast, unobstructable attack remains the most important. Although the United States fielded a reliable nuclear rocket force before the Soviet Union, opening this new domain permitted the Soviets to offset U.S. domination of the air.

The correspondence for countries of nuclear weapons ownership and space-launch capability betrays the prime motive behind national space programs. Of the six countries that have built space launchers, only Japan does not also possess nuclear explosives. The last two countries to enter the space club—India and the People's Republic of China—are the last two countries to explode nuclear weapons. And it is surely no accident that Libya's well-known quest for atomic weapons was paralleled by a less well publicized effort to lure West German missile scientists to that country. While largely ignored, the proliferation of rocket technology poses a serious threat to international security. Just as the implausible vision of "atoms for peace" furthered the spread of the bomb, so too the vogue but vague "space for development" movement legitimates the spread of intercontinental ballistic missile (ICBM) technology.

Near-orbital space has also been aptly called the high ground of the planet. Like a hill on a battlefield, space is not only an easily defended location from which to launch a surprise attack, it is an ideal observation point. Not surprisingly then, the information-producing satellites are the second most important type of military space vehicle. They include surveillance, navigation, communications, damage-assessment, and early warning satellites. The United States has benefited most from these reconnaissance satellites, for Soviet society is much more closed and secretive than American society.

Since the early 1970s the United States has relied upon the boxcar-sized Big Bird and KH Keyhole II satellites that scan every spot on Earth in daylight every 24 hours. The vehicles send back a constant stream of video images and periodically parachute into the atmosphere cannisters of high-resolution film, which are plucked out of the sky by specialized aircraft. Aided by weather satellites that indicate when and where to take pictures through holes in the clouds and by long-wave infrared and microwave sensors able to penetrate clouds, observation satellites record highly detailed images from many parts of the electromagnetic spectrum.

At least in their early days, satellite reconnaissance and surveillance helped stabilize the superpower military competition, encouraging both unilateral informal restraint and bilateral treaties. Satellites permitted the United States to maintain "Open Skies" over the Soviet Union after the Soviets developed guided rockets to shoot down U-2 aerial reconnaissance planes. In the early days of the Kennedy administration, the first satellite photographs of Soviet missile facilities were instrumental in exploding the missile gap, thus partially averting an expensive U.S. crash program. Several years later, President Lyndon Johnson claimed that the nearly $40 billion spent on the space program had saved 10 times as much by reducing arms expenditures.

Indeed, the current arms control regime is based on surveillance satellites. The Soviet Union has abandoned its early claim that observation satellites were "spies" committing "espionage" and has built systems similar to American systems. Without such national technical means of verification, it is doubtful that the superpowers would have felt secure enough to negotiate and sign agreements limiting the numbers of strategic weapons.

Space-based information services have further enhanced global stability by enabling governments to monitor crises, watch for remote nuclear weapons tests, and communicate with each other quickly. Observation satellites monitor possible threats to the regimes established by the Nuclear Non-Proliferation Treaty of 1970 and Limited Test Ban Treaty of 1963, such as the nuclear test facility construction site spotted in South Africa by the Soviet Union in 1977. After intense diplomatic pressure, South Africa dismantled the test site, thereby averting a dangerous addition to the nuclear club. Intense reconnaissance satellite activity took place during the 1971 Indian-Pakistani war, the 1973 Arab-Israeli war, and during Iran's 1980 turmoil. The ability of U.S. and Soviet leaders to contact each other within minutes through the satellite-based hot line may someday prevent a similar conflict from becoming a superpower confrontation.

Paradoxically, satellite information systems that helped to stabilize the superpower arms race in the 1960s are now accelerating the drift toward nuclear war fighting by bolstering defense planners' faith in the prospect of accuracy in targeting and in the unjustified belief that nuclear wars can be limited and controlled.

Information satellites used to communicate, navigate, collect geodetic data, and find targets are force multipliers: They make existing weapons more deadly. These technologies have cumulatively undercut, if not altogether negated, the security accomplishments of the SALT process. Typical of the quiet yet far-reaching impact of these force multipliers is the use of satellite data to calibrate ballistic missile trajectories. The extent and consequences of these changes in missile accuracy influenced the SALT II ratification debate and were hotly debated in the window-of-vulnerability controversy. Several analysts have claimed that the vulnerabilities of the U.S. land-based missile force were exaggerated because Soviet missiles had never been test fired over the Arctic Circle, where they would pass in wartime. However, geodetic satellites have mapped gravitational anomalies in these areas and trajectories have been adjusted.

The superpowers' drift toward nuclear war-fighting postures has also been spurred by and has in turn led to new investment in satellite communications systems. Particularly important have been in the military's recent heavy expenditures on satellite systems to expand command, communication, and control (C^3) capabilities in order to increase control of far-flung military forces in crises and to improve communications during extended nuclear war.

Yet as is often the case in modern strategic thinking, the acronym has become a substitute for thought. Additional options, expanded communication contacts, and real-time or live information will probably overwhelm users with their sheer quantities and complexity. Local events may needlessly precipitate global crises, for local administrators may send excessively alarming reports and thereby manipulate those at the center of the network. Compare the C^3 system with the first global communications network. The telegraphs and submarine cables of the late 19th century were designed to improve the management of military force in the far-flung British Empire. In a detailed account of the British Colonial Office, however, historian R. V. Kubicek concluded that better communications "intensified involvement but denied . . . its corollary, control."

Today the technology of global real-time communications replaces the quasi-automatic responses of diplomats and local commanders with the unpredictable reaction of quasi-informed, overburdened heads of state.

Nor is it likely that expanded systems will make nuclear war controllable. During such a conflict, where the fog of war would be much greater and the forces to direct far more numerous, dispersed, and deadly than in a crisis, the deviation of a single nuclear-capable unit from a controlled-escalation or cease-fire plan could spell the difference between a limited nuclear war of World War II-like dimensions and the end of civilization. It is hardly reassuring that during the crisis sparked by Cambodia's 1975 seizure of the Mayaguez and the American military's rescue operation—often cited in military literature as a model of satellite-based C^3 effectiveness—bombing runs against mainland Cambodian targets were being launched one-half hour after President Gerald Ford ordered an end to strikes. Clearly the vastly expanded C^3 systems make war more likely by eroding the distinction between war-fighting and deterrent forces in exchange for a largely illusory ability to control wars once they have begun.

Other force-multiplying systems that tempt pre-emptive first strikes and undercut arms control agreements are now in the research or testing phases. In a move yet unmatched by the United States, the Soviet Union has launched satellites that scan the oceans with high-powered radar pulses. Linked to air and sea-based missiles, these satellites could give Soviet commanders the information they need to launch a surprise attack on major U.S. Navy ships. The new U.S. Navstar global-positioning network of 18 satellites and the comparable Soviet Glonass system will provide submarines with such precise navigational fixes that submarine-launched ballistic missiles could knock out hardened missile silos. Installing surveillance satellites with real-time data links will turn arms control monitors into war-fighting systems that can target mobile forces and assess damage following an attack.

Despite worries about the dangers of first-strike weapons, arms control efforts have neglected force mutlipliers. Satellite-generated information is widely seen either as inherently beneficial, inevitable, or as a good defense bargain. Yet since force multipliers shrink uncertainties—and thus weaken deterrence—these information satellites make the already urgent need for ballistic missile disarmament even more compelling.

Some technologies cannot be restrained, some can be largely demilitarized, and some can be prohibited. Geographical information, for example, is hard to get rid of once acquired and is useful for understanding problems such as earthquakes. Restrictions on satellite maneuverability, camera resolution, and realtime data flow would be hard to achieve without compromising the ability to provide early warning and verify arms control agreements. In lieu of todays' practice in which each superpower deploys separate but nearly identical navigation satellites, however, a modestly accurate satellite navigation system allowing universal access for most civilian uses could be built cooperatively by the space club members. Then neither side could attack such satellite systems without denying itself their capabilities.

ASAT LEAPFROG

The growing strategic importance of satellites has spawned both Soviet and U.S. anti-satellite (ASAT) weapons. Several satellite destruction techniques being investigated by the superpowers have existed in a partially tested, undeployed state for many years. New, however, is the perception that destroying war-fighting enemy satellites would be useful in an extended nuclear war or as a surrogate for terrestrial war. The exploitation of ASAT technology could open up an expensive and volatile new dimension to the arms race.

The United States abandoned a nuclear ASAT during the 1960s, when it became clear that a nuclear blast in space would not only obliterate its target but send out a pulse of electromagnetic radiation so strong that all satellites not shielded by Earth at the time of the blast would also be destroyed. Furthermore, the Limited Test Ban Treaty of 1963, prohibiting nuclear explosions in space, made tests illegal. That the United States unilaterally dismantled its nuclear ASAT system because of the test ban, however, suggests that test bans can reduce confidence in a weapon that is already judged to be of limited usefulness.

Yet the absence of a specifically dedicated ASAT system does not prove an inability to destroy satellites. Both superpowers could easily clear space with their ICBM warheads. The ASAT debate focuses instead on whether more discriminating techniques of destruction should be tested and deployed.

Since 1968 the Soviet Union has tested a specialized non-nuclear ASAT system that hovers near the intended victim and then explodes, shattering the fragile target satellite with a shower of shrapnel. The Soviet Union has tested this satellite killer several times in conjunction with large-scale test launches of ballistic missiles from silos and submarines. This coordinated operational testing, so far unsuccessful, feeds U.S. fears that the Soviet Union is preparing a first strike. Rarely in the annals of warfare has a system of such limited capability set off such alarm. Half of the tests of these hunter-killer satellites have failed. Since they are launched one at a time from large, conspicuous launch facilities and go into an easily tracked orbit before rendezvousing with their target, they are certainly not a weapon of surprise attack. Furthermore, these devices have only been tested in orbits much lower than those of U.S. early warning and communications satellites, which hover in 22,500-mile geosynchronous orbit.

The United States has designed and will soon test a new satellite killer that will leapfrog over the Soviet capability. Under this plan, a high-flying fighter plane launches a small but fast homing missile that collides with the target. Just like the Soviet system, the direct-ascent satellite killer can reach only low-orbit targets. But most Soviet satellites are in low or elliptical orbit and thus within its range. Once the homing technology has been perfected, the air-launched missile could be mated with a more powerful ground- or sea-based rocket booster, thus expanding its range.

The U.S. system will be far more destabilizing than its Soviet counterpart. Unlike the Soviet orbital rendezvous system, which can be tracked as it is launched and as it closes on its target, the U.S. direct-ascent system could strike without warning from fighter planes located anywhere in the world. A globally coordinated U.S. strike could probably destroy most operable Soviet satellites within one day.

Beyond these ASAT systems are directed-energy weapons such as lasers and particle beams. Although lasers can designate targets and determine their ranges, they are not yet potent weapons. Laser weapon prototypes cannot penetrate fog, smoke, dust, or rain; they dissipate over relatively short distances in the lower atmosphere, making them relatively ineffective even against slow-moving targets. The first laser weapon, therefore, is likely to be an ASAT weapon. If history is any guide, the next move in the deadly space arms race may be a Soviet laser orbital station designed to cripple satellites. Given technical obstacles and the Soviet tendency to deploy much earlier in the development cycle than the United States, lasers will probably be able to do little against low-flying satellites except perhaps to reduce warning time. But Soviet secrecy and inflated propaganda claims combined with the West's eagerness to believe the worst will no doubt endow the system with formidable capabilities indeed. As with *Sputnik* the psychological impact may be traumatic, leading the United States into an ambitious crash program to put battle stations into orbit.

An extensive ASAT capability will increase the likelihood of accidental and uncontrollable nuclear war. Because the eyes and central nervous system of the high-strung nuclear strike forces are already in space, every satellite malfunction will have to be treated as the harbinger of surprise attack. Whatever the usefulness of limited shows of force, it makes little sense to start a preliminary shoot-out among the systems that must remain intact to control escalation and maintain crisis communications. The Archduke Francis Ferdinand of World War III may well be a critical U.S. or Soviet reconnaissance satellite hit by a piece of space junk during a crisis.

An extensive ASAT capability will also erode the ABM Treaty. Because the difference between ballistic trajectory interception (banned by the ABM Treaty) and orbital interception (not banned) is negligible, an extensive ASAT system would probably have some ABM capability. By using technologies outlawed by the ABM Treaty, a full-scale ASAT system would reduce ABM breakout time, the period needed to convert available technology into a full-scale ABM capability. The type of high-speed collision technology being pioneered by the United States could be retrofitted onto longer-range rockets to create ABM capacity. Similarly, a Soviet laser orbital battle station with limited ASAT capability will be seen as a Soviet ABM system in the making. These doubts and uncertainties, combined with fears that the extensive Soviet air defense system may be effective against ballistic missiles, could lead to U.S. withdrawal from the ABM Treaty.

Advocates of ABM systems[1] speak glowingly of the strategic revolution that will repeal the "guaranteed genocide" of mutual assured destruction (MAD) and thus usher in an age of "assured survival." Schemes for this strategic deus ex machina run the gamut of technical sophistication and plausibility. Retired U.S. Air Force General Daniel Graham, former head of the Defense Intelligence Agency, says that with "off-the-shelf" technology the United States could by 1988 have a global ballistic missile defense at a cost of $15 billion. The first layers of this system would consist of 432 satellites, each armed with 40 to 45 small nonnuclear missiles capable of shooting down Soviet ICBMs in the early, most vulnerable phase of their flight trajectories. Even more speculative are presidential science adviser George Keyworth's proposal to put mirrors in space and lasers on the ground, Edward Teller's X-ray lasers, and the Fusion Foundation's beam weapon aviary.

The U.S. policy toward such technological possibilities is in flux. The Defense Department research establishment has repreatedly stated that funding is adequate, demonstration premature, and the technology intriguing but a long way from the stage where it can be turned into weapons. Senior military leaders seem even more skeptical of the technology's potential and fear that these weapons' potentially voracious appetites for funds will starve vital but less glamorous terrestrial programs. The Soviet leadership publicly characterizes the new space technology as dangerous and a violation of the ABM Treaty. Although not committing the United States to do anything more than is already being done, President Ronald Reagan's Star Wars speech of March 28, 1983, encouraged AMB proponents and has prompted a U.S. policy re-evaluation that will probably result in a call for increased research and development (R&D) expenditure.

The available evidence suggests that largescale space weapons designed to shoot down ballistic missiles suffer from tremendous, probably insurmountable, technological, tactical, and strategic problems. These systems violate no laws of nature, but the engineering requirements are daunting. Tracking and aiming technology of unprecedented precision, larger and more-perfect mirrors than any now in use, and lasers more powerful than any ever built must be fashioned to withstand the extreme temperatures of space, the stresses of launch, and the rigors of battle. A generation of scientists, tests, and R&D budgets will pass before these questions can be answered with confidence. Dr. George Rathjens, who worked on the ABM program, says a complete system, including various ground-support and transportation components, capable of shooting down the existing Soviet ICBM force could cost $500 billion.

On a yearly basis, a space-based ABMS would probably cost more than the current budget for the Air Force or Navy. Aside from these obstacles, an ABMS would be too vulnerable to attack and too easily foiled to be useful. Nuclear explosions, directed energy, or simple collision can easily blind the delicate sensors that track oncoming missiles. Decoys, mirrored warhead surfaces, spinning warheads, and warheads laminated with burn-resistant surfaces could fool the systems. Or, a physicist Richard Garwin has noted, a potential adversary could keep small, numerous, and cheap "space mines" hovering near a laser orbital battle station and detonate them on command. To overcome only some of these countermeasures large areas of space must be kept clear of an adversary's spacecraft—a difficult and illegal task. Even using optimistic cost figures, a dime could counter a dollar of defense expenditure—a defense bargain no country could afford.

The most plausible strategic role of a space-based ABMS would be to backstop a pre-emptive first strike. Even an incomplete or thin ABMS may preclude a second strike if it obliterates residual enemy warheads in the wake of a first strike. Unlike the various ground-based systems intended to protect fixed missile silos, a space-based ABMS might be most useful against the small number of city-destroying retaliatory weapons that would be left after a first strike. An ABMS does hold out the hope of protection against the retaliatory strikes central to MAD but it offers little hope for deterring first strikes. As long as nuclear forces exist, MAD's abolition will be a step toward, not away from, nuclear war.

Some ABMS advocates have advanced the absurd idea that America share ABMS technology with the USSR. Unfortunately, the existence of two orbiting ABMSs may also provide an overwhelming advantage to the side that strikes first. An orbiting ABMS would be highly vulnerable to attack by another of its kind. Because of the suddenness with which one ABMS could attack and destroy another, the advantage of striking first would be tremendous.

CYBERNETICALLY LIMITED ANNIHILATION

Large-scale space weapons also pose command and control problems and would be another example of what may be termed destruction entrusted automatic devices (DEADs). Perhaps the most well-known strategy involving DEADs is launch on warning. And as became clear during the debate in the late 1960s, a land-based ABM system would require computer control. As President Dwight Eisenhower's science adviser George Kistiakowsky observed, "The decision [to launch the ABM] has to be made automatically by a computer or by a comparatively junior military officer." It is unlikely that humans could ever command and control space weapons. A space laser would have about five minutes to knock out an ICBM in its slow-moving, vulnerable boost phase. It would have to respond to an attack from an orbiting laser system in fractions of a second.

The accidental triggering of a defensive system seems to be less ominous than the accidental launch of a nuclear missile. Yet with space weapons the distinction between these events largely disappears. If both sides deployed hundreds of very large, automatically controlled battle stations in orbit, a malfunctioning satellite's likely target would be another such satellite—perhaps even one of its own companion craft. Since any first strike would begin with an attack on the other side's defensive satellite system, even the inadvertent destruction of such satellites would be indistinguishable from a first strike. A malfunctioning ABM would not destroy a potential antagonist's critical military systems. Instead of removing the tightening nuclear noose, space weapons promise to bring humanity to the edge of cybernetically initiated annihilation.

Space wars will also largely preclude the peaceful use of outer space. While the universe is infinitely vast, Earth's orbital space is finite. Space junk—small bits of debris flying about in odd orbits—is already a growing problem, and it will be exacerbated by further ASAT explosions and collisions. And the X-ray laser tests proposed by Teller would damage important civilian satellites with an electromagnetic pulse (EMP). By the late 1980s over 100 communications satellites in geosynchronous orbit, worth between $5 and $10 billion, will be in jeopardy. Space presents a choice: science, information services, and Earth monitoring—or weapons.

Fortunately, because space weapons have not been extensively tested and deployed, truly comprehensive controls would still be relatively easy to devise and verify. The present space arms control regime—the Limited Test Ban Treaty, the ABM Treaty, and the Outer Space Treaty—has worked remarkably well but contains an important loophole.

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[1] *The fashionable term "ballistic missile defense" misleadingly suggests that the ability to destroy ballistic missiles cannot also be exploited for offensive purposes. For the sake of continuity and accuracy, the new, nonmissile ASAT systems should be called antiballistic missile systems (ABMSs).*

Until the early 1970s the superpowers, which had not yet developed war-fighting doctrines and satellites, had agreed informally not to deploy ASATs. Yet in the late 1970s this information restraint disappeared as the Soviets periodically tested a co-orbital interceptor as a hedge against the U.S. space shuttle and growing Chinese space assets. In response the Carter administration pursued a dual policy of negotiations and ASAT development. But the talks, which the Carter administration perceived to be stalled, were broken off by the United States to protest the Soviet invasion of Afghanistan. The Reagan administration has shown no interest in resuming negotiations despite several high-level Soviet treaty proposals and calls for talks.

American thinking on space arms control has focused on limited agendas and specific technologies, because of verification-related fears and an unwillingness to close off promising technological avenues. The Soviets, however, have tended toward sweeping bans on all space weapons or even "demilitarizing" space. The Soviets point out that a treaty banning merely ASAT weapons would force them to abandon projects they have focused on without restraining superior U.S. weapons innovation. But as long as the ABM, Limited Test Ban, and Outer Space treaties are in force, the only remaining space weapon treaty needed is an ASAT ban.

A panel of prominent scientists assembled by the Union of Concerned Scientists recently presented to the Senate Foreign Relations Committee a draft treaty that cogently described the traditional U.S. philosophy on ASAT control. Their treaty proposes a comprehensive ban on the testing, production, or deployment of any weapons system that could damage, destroy, or interfere with any country's spacecraft. It would also outlaw any weapon stationed in outer space capable of inflicting or causing any form of damage on the Earth, in the atmosphere, or on objects placed in space. A standing consultative commission would resolve any controversies arising from the treaty. This I-know-it-when-I-see-it language may effectively prevent the emergence of unanticipated activities and technologies, for in theory it could be agreed upon quickly and would allow the standing commission to fill in the substantive gaps later.

Alternatively, militarily significant capabilities—or functionally related observable differences (FRODs), as the jargon of SALT refers to them—could be expressly prohibited, thus satisfying both the U.S. demand for clear verification bench marks and the Soviet insistence on comprehensive controls. A treaty outlawing specific systems would be more difficult to negotiate but probably easier to ratify in the U.S. Senate. Moreover, even if the shorter route is taken, the United States will have to agree both internally and with the Soviets upon specific activities general treaty bans.

The most important items to prohibit are explosions and unmanned orbital rendezvous, collisions or close high-speed passes, and close approaches in geosynchronous orbit. These provisions would effectively ban both current Soviet and prospective U.S. ASATs and space mines. Size limitations should be placed on laser mirrors, the capacity of atomic power sources, and where definable and verifiable, electromagnetic interference, thereby outlawing directed-energy weapons while permitting small-scale civilian use of these technologies.

Limits on power sources in space as an arms control measure are little discussed but potentially very valuable, both to prevent space information systems from becoming war-fighting systems and to block directed-energy weapon use in space. Nuclear reactors alone can power advanced force multipliers because they provide much more electricity than do photovoltaic cells and are much sturdier and more maneuverable than solar-powered satellites. A stringent ban on reactor size would also further weaken the rationale for the U.S. ASAT system. The only Soviet war-fighting satellites that the Department of Defense has specifically identified as potential targets for this device are the nuclear-reactor-powered Soviet radar ocean reconnaissance satellites that can pinpoint large American ships for attack by long-range missiles. Verifying limits on nuclear reactors in space would be relatively easy because nuclear reactors in space produce waste heat that is radiated into space by vanes that glow dull red and are easily detected.

Fortunately, the arms control problems created by the U.S. space shuttle have largely faded. During the previous round of talks the Soviets insisted that the shuttle be defined as an ASAT system, because its ability to maneuver in orbit and to bring objects back to earth suggested an ability to destroy or hijack Soviet satellites. Yet the shuttle itself is not a very plausible ASAT weapon. And perhaps realizing that no space shuttle ban is likely, Soviet U.N. delegates have recently offered a draft treaty calling for bans on weapons carried aboard manned spacecraft, rather than on the craft themselves.

The Reagan administration and defense analysts outside the administration such as Colin Gray have stated that the prospective space treaties are not verifiable. Yet the United States maintains and is currently upgrading an elaborate system of space radars and advanced optical telescopes designed to track objects in near orbit several squares inches in size and eventually to observe football-sized objects in geosynchronous orbit. Computers at the North American Aerospace Defense Command headquarters will soon be able to track thousands of objects at one time. There is little doubt that the United States is able to verify a soundly drafted ASAT space weapons ban.

To provide further protection against residual ASAT capabilities or some worst-case breakout scenario, satellites can be made more survivable. Survivability measures include: improving satellite maneuverability, increasing their numbers, insulating them from radiation effects, keeping in-space or ready-to-launch spares, and maintaining higher orbits. The United States has begun a fairly vigorous program to improve satellite survivability, reversing the earlier preference for a small number of large, vulnerable satellites. Given the inherent economies of destruction for an attacker, satellite survivability measures are not a substitute for ASAT arms control. But by raising the performance level an ASAT must meet to be useful, satellite survivability could enhance the political appeal of controls and diminish the incentives to cheat.

ASAT treaty skeptics argue that the Soviets have no real incentive to negotiate because Washington depends on the space assets jeopardized by ASATs more than does Moscow. Although the United States uses near space for strategic surveillance to a far greater degree than the Soviets, this dependence has little relevance to wartime uses of space. In fact, the Soviets may actually be more dependent on space assets for operations beyound their own borders, for they lack a first-class, far-flung system of bases and labor under a more rigid command philosophy.

However, time is running out. Once thoroughly tested, these systems will be a verification nightmare since many orbiting Soviet vehicles or U.S. fighter planes could harbor satellite killers. Unfortunately, the United States recently decided to accelerate testing the direct-ascent homing missile and to delay ASAT negotiations. Unilateral U.S. restraint, however, and an immediate resumption of negotiations would do more than further tests to enhance the security of both superpowers.

LINKING OVERARMED SOCIETIES

Outer space will never again be the geopolitical vacuum it once was. To make sure civilian space programs do not surreptitiously spawn weapons capability, a positive space security agenda should be pursued. Controlling space weapons can clear the stage for the use of space technology to improve both arms control verification and superpower relations. The most important items on a space security agenda are an improved Law of Space regime, an international satellite monitoring agency, and joint U.S.-Soviet space ventures. This last item, now perceived as irrelevant or at best symbolic of other changes, holds the greatest promise for defusing superpower conflict. Indeed, cooperation can link these overarmed societies in the pursuit of goals that transcend national differences, thus making the thorny verification question and breakout and peace conversion problems more tractable.

The two most critical space law issues are traffic control and the boundary between national airspace and international outer space. Thousands of tracked objects and tens of thousands of smaller untracked ones currently whiz around the earth. By reducing the chances of accidental collisions, close passes, and explosions, space traffic control will strengthen comprehensive weapons test bans.

Neither the Outer Space Treaty of 1968 nor nature draws a line dividing the atmosphere from near space. So far the absence of an agreed-upon upper limit of national airspace has been academic, since the highest-flying operational aircraft climbs only as high as 110,000 feet while the lowest satellite passes at 400,000 feet. But this convenient buffer zone will disappear, as aerospace planes such as the U.S. space shuttle or the proposed space cruiser begin to operate in both orbital space and the atmosphere. As the ability to shoot down a large, low-flying satellite spreads with the diffusion of air defense missiles, sounding rockets, and intermediate-range ballistic missiles, the United States could face a stratospheric incident with a regional power like that involving U.S. and Libyan fighter planes over the Gulf of Sidra in 1981. Rather than be caught off guard by such a crisis—another U-2 affair—or by a Soviet campaign to close the Open Skies by significantly raising the boundary of national space, the United States should recommend the lowest boundary possible.

Second, the supervisors should construct an internationally managed satellite reconnaissance and surveillance system. The president of War Control Planners, Inc., Howard Kurtz, has long promoted a multinational network of satellites, and the idea gained official support in 1978 when France proposed an International Satellite Monitoring Agency (ISMA). As outlined by then President Valéry Giscard d'Estaing before the U.N. General Assembly, the agency would extend the benefits of surveillance satellites to countries without space capability, would permit the U.N. Security Council to monitor crises and border disputes, and would verify the treaties banning chemical and biological warfare, as well as environmental modification for military purposes. Depending on whether ISMA obtained technology from the superpowers, a basic monitoring system would cost between $1 billion and $2 billion a year—more than the entire U.N. budget. The United States has vigorously opposed ISMA, arguing that it would be impossible for an agency operating by majority rule to handle sensitive issues of data interpretation. Support for ISMA has been strong among the many countries not likely to join the space club any time soon. The first question to resolve is who would have access to the satellite-generated data.

The superpowers' strong opposition to ISMA reflects a desire to continue monopolizing satellite technology. The U.S. position is, however, extremely shortsighted since the United States stands to lose most from a closing of the Open Skies. Unless satellite technology becomes more accessible, those countries excluded from its benefits may see it as a form of spying and favor a treaty that bans or limits such systems. Although ISMA opponents protest its cost, if satellite verification of regional arms control efforts is half as successful as it has been between the superpowers, the agency could pay for itself many times over in reduced arms expenditures.

The greatest adventure of our time—the peaceful exploration of the cosmos—faces a bleak future because of declining budgets and growing monopolization of technology by the Soviet and U.S. militaries. Two separate space programs doing many of the same things make less and less sense—especially as the costs of missions rise. Joint planetary and scientific probes would boost both countries' sagging programs and improve political relations.

Joint manned missions would be even more valuable. A U.S. administration, looking for a bold, highly visible way to ease superpower tensions quickly, might find a joint U.S.-Soviet manned space mission particularly appealing. While the *Apollo-Soyuz* rendezvous in 1976 was a meeting of two parallel systems, the space shuttle and the *Salyut* stations complement each other perfectly. What better way to learn more about Soviet space stations or to allay Soviet suspicions about the shuttle than to take each other's astronauts and cosmonauts for a ride? More routine cooperation in space and the consequent mingling of space scientists would make concealed weapons work all but impossible to keep secret.

These positive security initiatives have not received the attention they deserve. But the Soviets take space exploration very seriously and herald it as one of the few irrefutable accomplishments of the October Revolution. And despite relative official neglect in recent years, the high frontier casts a powerful spell on the American psyche. Significant space cooperation could develop the political constituency and momentum in both countries that more traditional arms control efforts have sadly lacked.

A militarily neutral cosmos and the use of space technology to defuse superpower competition will not, however, end once and for all the threats posed to mankind by space technology. At the risk of oversimplifying, two rather stark alternative scenarios seem most plausible. One path involves large-scale space industrialization through solar-power satellites, large, free-floating space colonies, and asteroid and lunar mining. Another involves a more information-oriented path that makes use of near space to study remote regions of the universe and the Earth and to explore and colonize distant bodies. While the first set of options is probably infeasible, both economically and environmentally, such a path has strong appeal to the U.S. and Soviet space communities, which are still committed to megaengineering projects.

The first strategy of industrializing near space has an inescapable military dimension and contains the seeds of a planetary tyranny. The difference between civilian function and military capability has always been small in space—and it will all but disappear with the advent of large-scale space ventures such as solar-power satellites, space colonies, and asteroid mining. Solar-power satellites, first conceived for military purposes, may generate enough power to turn particle-beam and laser systems into viable weapons. And lunar or asteroidal mass accelerators—the slingshot-like devices to hurl construction material into orbit that many large-scale space industrialization schemes are based on—have a powerful destructive potential. A 1,000-ton lunar rock, 15 meters in diameter, hitting Earth at 12 to 20 kilometers per second, would release energy equivalent to a two-megaton nuclear blast. Unlike particle beams or lasers, which rapidly dissipate in the atmosphere, such slingshots would make all points on Earth vulnerable. This benign material transportation can be transformed into a weapon for mass destruction with a simple trajectory adjustment. These problems seem comfortably distant, yet a recent National Aeronautics and Space Administration conference on diverting asteroids whose orbits cross with Earth's recalled the military's long-standing ambition to learn how to bombard Earth with such objects.

Controlling the military potential of these technologies will be virtually impossible if the industrialization of space occurs in an environment of military competition. But their military use will be very real even if pursued in a cooperative, global, peaceful regime. The fundamental danger of large-scale space ventures rests on one inescapable geopolitical fact: Effective control of outer space means effective control of the planet. Space has thus far been exploited as a vantage point. Should this high ground be garrisoned or colonized, a high, impregnable castle will have been created. Given the long and dreary history of coup d'états on Earth, how long will the denizens of these high castles, suffused with the elitist messianic spirit already so visible in the space community, wait before exploiting their *ubermensch* status to set forth a new agenda for the species?

In contrast, a future devoted to learning more about the cosmos and dispersing humans more widely within it would minimize the threats of planetary tyranny inherent in our closed, crowded world. Because distances in space are so enormous, a scattering of the species would make local self-rule a necessity and centralized tyranny an impossibility, as in the days when seagoing ships only loosely connected far-flung societies. A knowledge and exploration-oriented space future might also prevent a catastrophic collapse of the Earth's life-support system, caused by excessive industrialization, from extinguishing the human species.

Mankind already lives in a world decisively shaped by past choices about the use of space technology. As long as hostile nation-states seeking unilateral military advantage continue to make the basic decisions about these planet-embracing technologies, these decisions are unlikely to be sound. With space technology the human species is playing with a fire of awesome potential for destruction and creation. Unless these technologies are used to secure the whole Earth, they may flare disastrously out of control.●

H.R. 4972—PETROLEUM OVERCHARGE RESTITUTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Broyhill) is recognized for 30 minutes.

● Mr. BROYHILL. Mr. Speaker, today, the gentleman from Illinois (Mr. Corcoran) and I are introducing legislation, at the request of President Reagan and Secretary of Energy Donald Paul Hodel, entitled the "Petroleum Overcharge Restitution Act." I urge my colleagues to consider this legislation.

There are a great many reasons to consider this legislation seriously. Among the most compelling arguments in its favor is that without congressional action, an enormous amount of money—potentially as much as $5 billion to $6 billion—will be appropriated by the judiciary branch of Government. Where is this money coming from?

It is coming from the receipts of litigation under the now expired oil price and allocation statute, the Emergency Petroleum Allocation Act. More often than anyone may imagine, oil overcharges can result in judgments of literally billions of dollars without the Government being able to identify the victims of the overcharge for restitution. This bill is designed to have Congress adopt a policy, which for the first time, will establish guidelines for the proper distribution of these funds for those circumstances where the economically injured parties cannot be found or where distribution to such parties is not practical.

Mr. Speaker, I include the formal letter of transmittal from the Secretary of Energy to you on this matter, along with the text of the bill, be in the Record at this point:

The Secretary of Energy,
Washington, D.C., February 29, 1984.

Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Enclosed for the consideration of the Congress is draft legislation entitled the "Petroleum Overcharge Restitution Act."

The Office of Management and Budget advises that enactment of this legislation would be in accord with the program of the President.

BACKGROUND

For a number of years, there has been considerable dispute over the most appropriate means of distributing certain funds collected by the Department of Energy in settlement of overcharges resulting from alleged pricing and allocation violations under the Emergency Petroleum Allocation Act of 1973. Approximately $1.189 billion of overcharges has been recovered through settlement agreements. Of this amount, approximately $575 million has been disbursed, of which approximately $101 million went to the U.S. Treasury.

The remaining funds, more than $600 million, have been held by the Government in deposit fund escrow accounts in the U.S. Treasury pending the determination of proper distribution. Of that amount, $200 million was distributed to the States last year for use in specific energy programs under the Warner amendment (section 155 of Public Law 97-377). As of December 31, 1983, there was more than $420 million (including interest) in the escrow accounts, of which $394 million is currently the subject of formal administrative proceedings to afford claimants an opportunity for a hearing as to whether they were injured. There are estimated potential additional recoveries of approximately $5 to $6 billion, either through settlements or litigation. In one pending case, a court has ordered nearly $1.7 billion disbursed to the States. In another, overcharges totaling more than $1 billion (including interest) have been found. That court has referred the case to the Department for findings of fact as to whether injured claimants can be identified before the court fashions a restitutionary remedy.

The mandatory petroleum price control program was in effect until January 1981, when President Reagan ended price controls on petroleum products. In enforcing the program, the Department's Economic Regulatory Administration performed audits to identify violators of the regulations, and if it believed violations occurred, brought enforcement actions against them. The cases often were resolved through consent orders with the companies. The consent order might provide for various types of remedies, including direct cash refunds to customers. If it was difficult to identify the injured parties, the consent order might specify an amount to be paid into an escrow account, until a just and equitable method could be determined for distributing the funds to parties who were overcharged. Those determinations frequently have been very difficult because petroleum products may have been bought and resold several times with limited information available about the extent to which overcharges were passed on to subsequent purchasers.

Various types of factual situations, often extremely complex, have led to overcharges. When particular customers who bore the burden of demonstrated overcharges can be identified, we have a duty under existing law to direct refunds to them when it is practical. In cases where the overcharged customer was an end user of the petroleum product, it generally is relatively easy to make restitution. More commonly, however, the overcharged customer is merely one link in the distribution chain and is likely to have passed on the overcharge. Under the "old oil" allocation (entitlements) program, for example, crude oil overcharges automatically and by operation of law first were passed on to all domestic refiners. The regulations then allowed the refiner to pass those costs down the distribution chain. Often, therefore, it may be impractical, if not impossible, to determine whether and to what extent firms in the chaim actually may have absorbed, rather then passed on, any of the overcharges.

In circumstances where the economically injured parties could not be identified or distribution to injured parties was not practical, the Department over the years employed a variety of forms of indirect restitution as a means of affording general compensation to persons thought to have been affected adversely by alleged overcharges. These remedies have included company administered claims funds, price rollbacks, payments in the form of crude oil provided to the strategic petroleum reserve, price reductions on fuel sold to utilities and transportation entities, payments to low-income heating oil consumers through charities, payments to State governments for general energy purposes, and payments directly to the U.S. Treasury.

Adding to the difficulty in fashioning appropriate overcharge remedies is the fact that while the statutes from which the Department draws its authority concerning remedies speak generally in restitution terms, they do not provide policy guidance as to the specific forms restitution should take in cases in which it is not feasible to make restitution to the specific persons injured by an alleged overcharge. A majority of overcharge cases fit that description. Until the enactment in 1982 of the Warner amendment, which provided for a one time distribution of $200 million to the States for certain energy programs, there was no congressional guidance as to which remedies might be preferred as a matter of public policy. Disputes over the appropriate method for disbursing indirect restitution have resulted in protracted and costly litigation.

In one recent major case, known as the Exxon case, the court fashioned its own remedy. In that case (now being appealed by Exxon), the court ordered that the overcharge amounting to nearly $1.7 billion (including interest) be made available directly to the States for distribution to consumers under five specific federal energy program. The court's decision in that case could be interpreted as a judicial assumption of a legislative and executive branch function—providing funds (more than eight times the amount covered by the Warner amendment) to carry out Federal programs without going through the normal legislative process.

We believe that indirect restitution resulting from overcharges should, as a matter of policy, be subject to congressional direction and processes. It is the Congress, rather than the courts, which should determine spending priorities for federal programs. We strongly support distribution of indirect resititution through the States in the manner set forth in the proposed legislation because the States are in a better position to ensure that their consumers affected by overcharges receive the benefits of the restitution and because the traditional congressional and executive roles in providing funds for federal programs would be preserved. Given the large amount of potential recoveries, the extreme difficulty in arriving at an appropriate remedy, and the protracted and costly litigation with uncertain results, congressional guidance in statutory form is both necessary and desirable. To that end, we strongly urge enactment of the enclosed draft bill.

WHAT THE BILL DOES

The draft bill resolves the problem of finding the most appropriate method of disbursing overcharge funds not needed for direct restitution. It does so by establishihg a rational, orderly, restitutionary procedure for disbursing overcharges now held in escrow and to be received in the future. The bill would provide a single remedy to eliminate uncertainty and inconsistent results. It also would provide clear congressional guidance to the courts regarding indirect restitution and would reduce, if not eliminate, the time-consuming and costly litigation over appropriate remedies. In addition, the bill also would authorize continuation, during the interim period that the Department holds overcharges in escrow, of the placement of a portion of the escrow amounts with minority-owned banks and thrift institutions. To date, approximately $27 million has been placed with minority-owned institutions pending final disbursement of the escrow funds. This highly successful, short-term program provides capital for use in communities throughout the country that are served by these minority-owned institutions. To achieve those purposes the draft bill contains the following major provisions:

Establishes an orderly, step-by-step procedure for distributing overcharge amounts now held in escrow and amounts received in the future as a result of settlements, orders, and judgments.

In the first phase, the Department of Energy attempts to identify persons who sustained economic injury and to ascertain the amount of injury sustained in order to provide direct restitution.

It is contemplated that the Department's Office of Hearings and Appeals will perform this function using its special refund procedures (10 C.F.R. 205, Subpart V). This phase would not be used to duplicate prior proceedings where an existing order or judgment rests upon a determination that it is impossible or impractical to identify or make direct restitution to the persons who sustained economic injury.

In the second phase, amounts that exceed those needed for direct restitution, or amounts that cannot be refunded, are deposited in the Petroleum Overcharge Restitution Fund established in the U.S. Treasury by this Act.

In the third phase, beginning in fiscal year 1985, indirect restitution is provided by making fund assets available to the States for distribution under three programs:

Low Income Home Energy Assistance Program administered by the Department of Health and Human Services.

Weatherization Program administered by Department of Energy.

Schools and Hospitals grant program administered by Department of Energy.

Provides clear guidance to courts in pending and future cases.

Directs a court to require payment of restitutionary amounts to Department of Energy for distribution in accordance with this Act when the court finds for the government in an overcharge case.

Provide congressional direction and involvement.

Authorizes fiscal year 1985-89 appropriations for low income home energy assistance, weatherization, and schools and hospitals grants at fiscal year 1984 level.

Provides that appropriations made available for those programs shall be derived from the Fund to the extent amounts are available in the Fund; if the Fund assets are insufficient, the balance of appropriations will be made available from the general fund of the Treasury; and as additional amounts are placed in the Fund, they shall be used for repayment to the general fund.

Authorizes continued placement of escrow amounts with minority-owned banks and thrift institutions pending final distribution under this Act.

BENEFITS OF DISTRIBUTING OVERCHARGES THROUGH THE STATES

A key feature of this legislative proposal is the disbursement by the States of indirect restitution for overcharges. In contrast with past and proposed alternative remedies, making the overcharges available to the States in the manner proposed would foster the restoration of the traditional balance among State, local, and Federal governments by returning authority, responsibility, and revenue resources to the States. The States, being closer to the people, are in a better position to ensure that the end-use consumers within their jurisdictions, who had no opportunity to pass on the overcharges, receive the benefit of this indirect restitution.

Disbursement by the States under existing energy programs provides the most efficient and effective method of administering overcharge distribution. Moreover, the three earmarked programs generally benefit energy consumers by helping to reduce energy demand and energy costs through weatherization, finding alternative energy sources for schools and hospitals, and promoting energy conservation. This proposal continued the indirect restitution approach used successfully in several earlier consent orders and under the Warner amendment. It does so subject to continuing congressional oversight and involvement without imposing heavier burdens on the taxpayer and the Treasury.

I believe that disbursing overcharge funds to the States in the manner set forth in this proposal is the best way of resolving a difficult problem that has caused much controversy. I look forward to working with the Congress in obtaining the earliest possible enactment of this legislation.

Sincerely,

DONALD PAUL HODEL.

Enclosures.

H.R. 4972

A bill to provide for distribution to the States of certain amounts resulting from enforcement of the Emergency Petroleum Allocation Act of 1973, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Petroleum Overcharge Restitution Act."

OVERCHARGE DISTRIBUTION PROCEDURES

SEC. 2. (a) In the manner provided by this Act, the Secretary of Energy shall distribute the following restitutionary amounts—

(1) amounts held in escrow on the date of enactment of this Act, and

(2) amounts received after the date of enactment of this Act,

which are held or received as a result of a settlement, order, or judgment (including a declaratory judgment) involving overcharges resulting from alleged petroleum pricing violations under the Emergency Petroleum Allocation Act of 1973.

(b) A settlement, order, or judgment described in subsection (a) that includes restitutionary amounts shall be referred to the Secretary of Energy who shall conduct a proceeding for the purpose of identifying and making restitution to persons who the Secretary determines sustained economic injury; however, in cases in which an administrative or judicial order or judgment entered before the date of enactment of this Act rests upon a determination that it is impossible or impractical to identify or to make direct restitution to the persons who sustained economic injury, a proceeding shall not be conducted under this subsection, and the restitutionary amounts not yet paid and distributed shall be deposited in the Fund established by section 3(a) of this Act.

(c) In cases in which a court has rendered or renders a judgment in favor of the Government for petroleum pricing violations under the Emergency Petroleum Allocation Act of 1973, the court shall order that any restitutionary amounts (including interest) not yet paid and distributed be paid to the Department of Energy to be held in escrow pending distribution in accordance with this Act.

(d) While the Department of Energy holds amounts in escrow pending the completion of the proceedings required by this section, the Secretary of Energy may place a portion of those amounts that the Secretary considers appropriate in the Department's minority-owned financial institution depository program.

PETROLEUM OVERCHARGE RESTITUTION FUND

SEC. 3. (a) There is established in the Treasury of the United States a fund to be known as the Petroleum Overcharge Restitution Fund (referred to in this Act as the "Fund").

(b) There shall be deposited in the fund restitutionary amounts described in section 2 of this Act that the Secretary of Energy determines—

(1) exceed amounts needed for refunds to persons who sustained economic injury from overcharges; or

(2) cannot be refunded to persons who sustained economic injury because they cannot reasonably be identified, or because the amount of injury such persons sustained cannot reasonably be determined or is so small that distribution is not reasonably feasible.

(c) Deposits into the Fund shall be made as soon as practicable after completion of the proceeding under section two of this Act, or as othewise provided by this Act; however, escrow amounts that have been invested shall be deposited in the Fund in a manner that avoids the payment of penalties for premature withdrawal.

(d) When appropriations are made for a program listed in section 4 of this Act, the amount provided shall be derived from the Fund to the extent that amounts are available in the Fund. If amounts in the Fund are not sufficient to cover the appropriation made for such a program, the remaining amounts shall be derived from the general fund of the Treasury and shall be returned to the general fund to the extent that amounts become available in the Fund.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. For each of the fiscal years 1985 through 1989 there is authorized to be appropriated for carrying out

(i) Part A of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. §§ 6861-6873),

(ii) Part G of title III of the Energy Policy and Conservation Act (42 U.S.C. §§ 6371-6371j), and

(iii) the Low Income Home Energy Assistance

Act of 1981 (42 U.S.C. §§ 8621-8629) amounts that do not exceed the amount appropriated in fiscal year 1984 by Public Law 98-146 for the programs in clauses (i) and (ii) and by Public Law 98-139 for the program in clause (iii). Amounts appropriated pursuant to this section may be made without fiscal year limitation.●

SKYROCKETING DEFICITS WILL PUT INTEREST RATES IN ORBIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, like the booster rockets blasting the space shuttle into orbit, interest rates will be propelled to new heights if we do not take immediate constructive action to reduce the Federal deficit. By the administration's own account, the skyrocketing deficit will cause interest rates to rise. We cannot afford to wait until after the November election to make a commitment toward reducing the deficit. Believe me, our economy will not wait.

The Federal deficit grows larger every hour. It is increasing at a rate of $23 million every hour, 24 hours a day, 7 days a week. And as our debt increases, the size of the interest payments on the national debt increase. As our Government borrows to meet Government interest payments on the debt, we drastically impair the ability of our citizens to borrow funds for private enterprise and personal use. If the Government continues to require such a large portion of available funds in our economy, businesses will be unable to obtain needed loans and financing. This chain of events will lead to competition for money, which in turn leads to higher interest rates.

Some recent economic indicators have been encouraging, but they provide false hope. To the contrary, any indication of recovery is meaningless in the face of a deficit that will total $200 billion in fiscal year 1985. The size of the deficit will sabotage our Nation's economic rehabilitation. An unchecked deficit will cause interest rates to go higher than they have ever been before. When the interest rate on loans offered to business and industry reach new levels, construction starts and personal income will decline. Simply stated, maintaining our huge deficit will lead to high interest rates, and high interest rates will be deadly to our economic structure.

When President Reagan was still a candidate for office, he called the deficit projected for fiscal year 1980 outrageous. Yet, the administration's own proposal for the fiscal year 1985 deficit is over three times that amount. Since President Reagan has taken office, the increase in interest payments on the national debt has exceeded the amount of all recent budget cuts in health, welfare, education, and social service programs. Evidently, the cuts the present administration proposed for this year, will not reduce the deficit enough to stem rising interest rates.

The deficit is so large that it has the potential to wreak havoc on our economy. Investors are already hesitant to enter into new business ventures. The recent state of the stock market reflects the feared impact of the large deficit on the economy. Indeed, our entire economic future is uncertain. It is our responsibility to control the deficit before it is so large that it cannot be controlled. Like a rocket blasting off on an uncharted course, the longer we just stand back and watch our deficit soar, the higher it will go.●

IT'S TIME FOR A RATIONAL LOOK AT DEREGULATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, as long as most of us can remember, there has been a steady drumbeat by banks and other depository institutions demanding an opportunity to reshape and expand their spheres of influence in the U.S. economy.

The effort has taken many forms. In the 1960's, the brightest of the bright lawyers in the industry urged their clients to make creative use of the exemption in the Bank Holding Company Act for those companies with only one bank—an exemption thought to be limited to relatively small, passive holding companies.

But, in the expansive mood of the late 1960's, the big banks started leaping through loopholes and suddenly we found heretofore staid institutions owning everything from pizza parlors to manufacturing and oil concerns. The longstanding separation of commerce and banking was about to crumble.

Alarmed about these shotgun marriages of commerce and banking and the potential for a greater concentration of economic power, Congress plugged the loophole in a bitter legislative battle that extended over 1969 and 1970. No longer could holding companies mix the vast credit powers of a bank with the control of nonbanking businesses. Like all legislative loophole closings, it was less than airtight, but it did sharply limit the activity and essentially maintained the banking commerce separation * * * in some cases by actually requiring a divestiture of nonbanking acquisitions.

This setback did not stop the expansionist element in the financial community. Their appetite was growing, amendments to the holding company act and congressional intent notwithstanding.

Not only was the Glass-Steagall fence being probed for weaknesses, but the laws limiting geographical expansion were under constant attack. A loan production office here, an industrial bank there, or, where all else fails, an emergency acquisition or an appeal to a friendly State legislature as Mr. McFadden turns over in his grave.

Deregulation, a phrase that didn't even appear in popular dictionaries two decades ago, suddenly became the buzzword of the 1980's.

With an almost fundamentalist religious fervor, we are told to accept it, to support it, to bask in it. Like the old-time patent medicine salesmen, the proponents of deregulation peddle the deregulation tonic as a cure-all for everything from ingrown toenails to sagging balance sheets.

No one defines it, no one seems able to talk about the bottom line, no one can draw a clear picture of the shape of the financial community once the last drop of the deregulation tonic has been drained from the bottle. Certainly, some of the early swigs make the patient seem awfully lively, and thoughts of tomorrow morning's hangover are pushed aside. The party is going full blast and talk of moderation is not popular.

The worst question that can be asked is "What does this Deregulation Party do for the uninvited—the American public?" As the deregulation bottle gets passed one more time, we are simply told "Oh, its good for the people * * * if we like it, they'll like it."

When the euphoria wears off, and the din of the party becomes a dull roar, the public may well demand a fuller, more specific explanation of its benefits before it pays for and sends in another supply of the deregulation tonic. The partygoers should realize that.

It is true that the deregulation party began under the friendliest of circumstances. The depository institutions, anxious to get the party underway, could point to their nonbank competitors that had already launched ad hoc parties of their own. They could point to rapid change, new demands and a fast moving technology in the marketplace. And they could point to the gurus of an administration that believes that the marketplace is a holy place.

Many think the climate for deregulation was never better. The organizers of the party know they had better move rapidly before someone sends the deregulation tonic to the laboratory for analysis.

Too much of the planning for the deregulation party has been in terms of how the elixir would be divided up among the participants, the financial community. The party is billed as an exclusive affair by invitation only. The idea that the public should be consulted or its needs examined has not been a mainstream thought.

Deregulation cannot be for the industry alone. Someone must begin to look at the requirements of the economy, and to shape changes so that the needs of every segment of the society can be met—industry, small business, farmers, consumers, communities. But, deregulation is an empty word—it has no meaning—unless it does meet the basic needs for financial services—needs of those segments of the population that may be less affluent, less able to muscle their way to the front of the line for deregulated services.

The Congress of the United States has a responsibility to provide a forum and an atmosphere in which rational decisions can be made on the shape and future of the financial system. The needs of the economy and the people must be paramount. And then we must look at the industry and determine how it can be shaped to meet those needs.

Ask not what deregulation can do for the banking industry. Ask what a deregulated financial industry can do for the public—for the Nation as a whole.

The answer to the question must go beyond Fourth of July platitudes about the wisdom of the marketplace. Honeycombed with decades of Government assistance to protect them against the vagaries of the marketplace, depository institutions are probably the last with a legitimate claim to Adam Smith. What much of the industry is talking about is selective deregulation with the tether line to the Government kept intact.

The proponents of instant deregulation hang their arguments on a questionable premise—that banks and other depository institutions are just like other businesses. If a deregulated environment is good for the corner grocery store, why should not banks be given the same freedom in the market, is the simplistic argument put forward by the deregulation now crowd.

Banks—depository institutions—are not like any other business. They have a unique place in the economy and their money and credit powers give them leverage not matched by any other industry. Credit, like air and water, is an item of survival in today's economy. Other services provided by depository institutions are only slightly less essential.

Such vast power, if misused, could make a mockery of a competitive free enterprise system. How this power is used is something that every American has a stake in—the economic future of the Nation is tied, to a very large extent, on how well and how equitably these powers are utilized.

President Woodrow Wilson's words, nearly three quarters of a century ago, still serve as the starting point for any debate about deregulation of the financial community:

> A great industrial nation is controlled by its system of credit. Our system of credit is concentrated. The growth of the nation, therefore, and all our activities are in the hands of a few men who, even if their actions be honest and intended for the public interest, are necessarily concentrated upon the great undertakings in which their own money is involved and who, necessarily, by every reason of their own limitations, chill and check and destroy genuine economic freedom. This is the greatest question of all, and to this statesmen must address themselves with an earnest determination to serve the long future and the true liberties of men . . .

Despite these Wilsonian concerns, echoed by others through history, and despite a distinct populist trend in much of the Nation, banks and other depository institutions have enjoyed the benevolence of their Government in a manner not equaled by other segments of society.

Despite increases in competition, depository institutions are still chartered by State and Federal Governments. Territories, to a degree, remain protected; you simply do not decide suddenly to compete with your local bank—you do that at the sufferance of some governmental entity. At best, we have quasi-monopolies maintained by Government, new forms of competition from outside the depository structure notwithstanding.

Most prized by the depository institutions, however, is the massive Federal insurance program that encases all their operations in a warm secure cocoon. Those FDIC and FSLIC shields are proudly displayed on the front windows in every institution and seldom is there a piece of bank literature that does not mention that the Federal Government—and the American taxpayer—stands foursquare behind the insurance fund.

Those expensive prime-time television shows are often interrupted to tell us how Federal insurance makes banks different—and, of course, better—than their competitors that are outside this Federal largesse.

No one really knows what this protective cocoon of Federal insurance means in dollars and cents, but the actions and trumpetings of the industry, itself, suggest the benefits are infinite.

Going hand in hand with the $100,000 per account insurance—courtesy of your Federal Government—goes an essentially fail-safe regulatory system. Faced with the massive contingent liabilities of this insurance program, Federal regulators must avoid closing down any institution of any size. The result—a nursemaid type regulation that at worst provides for a swallowing of bad loans by the Government and skimming of the cream by some other insured institution—all arranged, of course, by Federal regulators, at Federal expense, and usually in the most subtle and least disturbing way possible to the industry.

Would that a small businessman could go into that good night of bankruptcy in such a genteel fashion.

Some of the so-called risky areas of lending engaged by depository institutions have been protected up front, by the Federal Government. Housing, small business, student loans, export loans, farm loans, community development—to name just a few—have been guaranteed to the tune of hundreds of billions of dollars by the Federal taxpayers. The Federal Government has taken the risk. The profit goes to the depository institutions. In some cases these Federal guarantees have opened new markets and provided profitable customers for depository institutions—business that has continued well past that initial guarantee by the Government.

In some cases the guarantees and sweeteners have been ex post facto when banks fell into difficult situations with loans to such ailing giants as Lockheed, Chrysler, and New York City.

And for those depository institutions facing what is so politely called a temporary liquidity crisis, the Federal Government has provided a network of low-cost loans, guarantees, or advances to tide them over. On the tax side, there are still such benefits as bad debt reserves—albeit reduced—which depository institutions can deduct—losses or not—from their taxes—another billion-dollar cushion which helps make life a little more comfortable each year.

Admittedly, much of this Government assistance is in place as essentially quid pro quo for the public. Government guarantees are provided because it is national policy to move credit into housing, small business, and other sectors. The insurance fund does protect depositors—as well as institutions—and facilitates the necessary public functions of a banking and payments mechanism.

Despite these public benefits, this Government assistance has and does provide great advantages to depository institutions—in many cases these institutions are afloat only because of the Federal Government. Any way that it is analyzed, there is a special ongoing relationship between the Federal Government and the financial community—a relationship that tips heavily in favor of the depository institutions.

In 1980 and 1982 the Congress—faced with severe economic crises in the industry and some glaring inequities for consumers—dipped into the deregulation pie. In return for a phaseout of the regulation Q restrictions that had kept small savers subsidizing the more affluent, the Congress did broaden some of the financial powers in the 1980 act. In 1982, in an effort to keep the financial system intact for the Nation, the Congress provided a series of new safety nets and, once again, added powers for financial institutions.

The 1980 and 1982 acts, I fear, have been misread by much of the financial community and some of the financial press. They have interpreted it as rewriting of national policy, rather than essentially as a response to emergencies, as an effort to shore up the necessary elements of a financial system required by the Nation and its people.

Press by the exigencies of an economy gone haywire, the Congress had to act and act quickly and definitely. Some have suggested that the 1980 and 1982 acts imply the controls are off and it was only a matter of time before the Congress completed the dismantling of the entire financial regulatory system.

The result has been a flurry of let us deregulate now activity. A crazy quilt of ideas has sprung up from financial institutions, their competitors, the administration and Members of Congress, with the financial press standing on the sidelines chanting deregulate, deregulate like some overanxious high school cheerleaders. Any day now I expect to see graffiti sprayed on the wall proclaiming a new crusade, "free your local banker."

If there is a direction to all of this, the packagers have failed to include the road maps and the compasses.

The arguments in support of the frenzy are many and varied.

Some just suggest, in keeping with this administration's philosophy, that deregulation is a good thing, that it can not be overdone and that, therefore, we cannot be too fast in deregulating the banks.

Others suggest that the heavy hand of competition emanating from nondepository institutions is bearing down on the brow of our insured institutions and that we must free them up for a battle royal in the marketplace.

Hand in hand with this argument is the belief of some banks that they must keep up with the Joneses, the Merrills, the Lynches, the Sears, and the Roebucks despite what their profit figures or share of the market might show. Their arguments suffer substantially from the fact that the numbers simply do not support the idea that there has been a sharp diminution of the banks' share of the financial pie despite all this fierce competition. By any measure bank profits have maintained a most acceptable level over time.

Faintly in the background we hear some half-hearted suggestions that all this deregulation is based on public demand. Exactly what public this is has not been revealed; we do know, however, the public, as we normally define it in terms of congressional districts, hasn't been beating down the doors on the issue.

Watching the competing deregulation claims and counterclaims from various industry groups, it becomes apparent that much of the financial community is as confused as some of the administration's proponents of deregulation about what the financial system should be in the future. Much of the financial community—and the interest groups tied to that community—seem more concerned with how to fix the industry's flat tires than with the broader question of how the system can be structured to meet the Nation's needs from now through the year 2000.

Some financial institutions have decided that deregulation means that they have the freedom to select their customers and not just take anyone who might wander in asking for banking services. The selection naturally trends toward the people who are wearing $500 suits, have $50,000 savings accounts, $100,000 trust accounts for their children, vacation homes, boats, and country club memberships.

With the right kind of customers, who needs a regulation Q?

Some banks have unabashedly decided that banking is for the affluent. Some banks are closing their branches in the inner city and less affluent areas, and others are opening special by invitation only clubs for their affluent customers.

A senior official for a New York bank, which has sold all its nonaffluent branches, brags that the institution will be the first totally dedicated distribution system just for the affluent.

A major bank marketing firm advises clients:

> As you cater to the affluent, do not forget about dollars and cents, especially when determining the best type of facility for serving them. Branches should not be closed in affluent parts of town because the high-income customer enjoys the convenience of having his or her bank nearby. You can save money, however, by using limited service facilities such as drive-ins or ATMs instead of branches to accommodate your younger, less affluent customer segments.
>
> High-income customers want convenience. High-balance customers prefer dealing with people. With regard to banking, blue-collar customers make comparatively few visits to anyone or anything. Youth cares most about convenience and prompt service.

A headline in the Washington Post proclaims: "Banks Spurn Small Accounts, Favor the Rich."

A consultant for banks writes:

> Banks across the nation are falling all over each other trying to devise an asset-based relationship that is geared especially for the well-to-do, high-balance customer.

The move to affluent markets, and away from the blue collar, the elderly and the less well to do, is being accomplished through an elaborate fee system, that effectively prices the undesirables out of the banks.

Some banks clearly do not like to deal with senior citizens. One solution is to charge fees of $2 to $3 per social security check or in some cases a full 1 percent of the check. Small amounts for many people, but if you are living on a few hundred dollars a month, the fees are felt.

In some cases, the banks now simply refuse to cash checks, even if issued by Government entities. Military personnel, home on leave and with full identification, have been turned away, their Government check refused. In New York, a major bank stopped cashing city-issued welfare checks despite the fact that the city maintained substantial non-interest-bearing accounts to compensate the bank for the service.

The fees have become a virtual blizzard. Fees for deposits. Fees for low-balance savings accounts with the low balance arbitrarily defined by the bank. Fees for transfer of funds. Fees for closing accounts. In some cases, the fees virtually wipe out the interest on the accounts, negating congressional efforts to give small savers a break to end the unfair restrictions of the old regulation Q.

The list is long and growing. In fact, Federal Reserve statistics suggest fee income increased 82 percent from 1979 to 1982 at commercial banks—something that makes other inflation figures for the period look pale.

Some of these fees are imposed simply as a means of increasing income—the profit line. Others appear designed to exlude—to discourage—the elderly, less affluent and to provide fewer and less attractive services based on income and bank balances.

Since the committee began its inquiry into the fees, their costs, and the general manner in which services are dispensed, there have been some strong suggestions that Congress ought to stay out of the bank's business. The clear suggestion is that banks should be allowed to run their own operations, set their fees, decide what services are to be provided, and if they want to close a branch that is their decision.

In a free enterprise society, there may be a ring of logic to such a philosophy. Frankly, I do not think the Congress wants to take on the job of setting fees or attempting to make operating decisions for financial institutions.

But, as public servants, Members of Congress do have to look at the realities of the marketplace, not at Alice-in-Wonderland versions of the economy and its institutions.

Today, it is impossible to avoid the banking system. No longer can the public be told go stuff it in a mattress. The payments system is too complex, too pervasive. Government benefits are dispensed through the banking system. The smallest payroll and the smallest of small businesses must use the banking system. Even the poor, who do not maintain bank accounts, cannot totally escape the financial system. The advent of a full-blown electronic funds transfer system will only intensify the public's dependence on financial institutions.

Under our system banks are expected to perform, to a degree, as public utilities. The electric utility is required to serve everyone in its area. It cannot discriminate and decide it wants to serve only the big office buildings and the big users.

Yet banks, in increasing numbers in this age of deregulation, are ignoring the utility side of their charters, charters issued for the convenience and needs of the community. This raises very serious questions about the role of financial institutions in the 1980's and just what deregulation holds for the public.

Perhaps we expect too much of some of the financial community—trying to balance the debt crises of Argentina and Zaire and at the same time worrying about the social security checks of the senior citizens. Perhaps it is really not right to expect the institution trying to put together a multibillion dollar oil company merger, to worry about the local florist's few thousand dollars in deposits.

Perhaps some of these institutions have outgrown the people who have provided the full faith and credit behind the Federal insurance funds, the endless regulatory safety nets and the protected markets.

Grandma Jones may well wonder why she is providing the backing for all these benefits for institutions which are effectively slamming their front doors in her face.

Clearly, Grandma Jones needs banking services and maybe we ought to concentrate our efforts on seeing that these services are provided and let the high-flyers—who have other concerns—go on about their business sans the paternalistic help of the Federal Government.

If these institutions plan to serve only the affluent—as some have—there is little reason for working families to support Government assistance for these institutions. Let the affluent pay for these services—if the banks need insurance, these by invitation only customers are well equipped to ante up the premiums—no need for the Treasury of the United States to stand behind the operation.

The Federal Government should become more selective in the vast services it provides and take a hard look at programs which support affluent institutions which serve only the affluent. Welfare for the rich is neither good public policy nor viable long-range political strategy.

The banks tell us they know precisely what services they should provide, to whom, and at what costs. They know their business best, they tell us. Congress, perhaps, should apply some of this same hardnosed logic to services it dispenses to the depository institutions. Surely, bankers would agree that members of Congress, as elected representatives of the people, do indeed have the right and the responsibility to decide what services are provided by the Federal Government and under what circumstances.

Maybe, the time has come for two types of financial systems. One that operates in the more rarified air of the affluent and is allowed greater leeway in the manner in which its services are dispensed—minus Government assistance, insurance bailouts and much of the parternal regulatory system. A second type of institution could provide those essential utility functions—within its community—in return for full insurance and other Government assistance.

In short, Government assistance for the banking community—for depository institutions—would essentially be limited to those serving the public on an equitable, nondiscriminatory basis, those attempting to serve the credit needs of their local communities and neighborhoods.

The issue of maintaining a banking system for the people is something that must be looked at up front before we ever get to the more esoteric questions of deregulation and whose business can invade whose business on any given day.

We simply must try to look ahead and determine where we want—where the people want—the financial industry to go in the future. The industry should not draw the only map.

It is not enough to simply suggest that the Congress ratify what has happened in the marketplace. In such a critical area, the Congress—the people—should make a policy statement that is consistent with the public interest, the grand and glorious happenings in the market notwithstanding. We have had divestitures before, and no one who leaped forward in the unsettled waters of the past year can come in and claim innocence.

We faced the same situation when the bank holding company act amendments were adopted in 1970. On that occasion we did require bank holding companies—some sizeable operations—to divest. So, fair warning to those who think a grandfather clause is an automatic feature of any congressional action.

Banking-by-loophole has been a calculated gamble conducted by the most sophisticated of the sophisticated. Gamblers do lose.

Last June, I introduced H.R. 3499 to serve notice that we intended to take a hard look, and if the evidence warranted, roll back these cross-industry games to January 1, 1983. That legislation called for a flat moratorium, and I have waited to see whether the rational types in the industry and among the various regulators would gain the upper hand and sanity return to the process.

With some exceptions, we have seen the financial community—moving from both the depository and the nonbank side—seek out the soft State legislatures, weak State laws, the more pliable Federal regulators, play semantical high jinks with the definition of a bank, and other games with none of the players knowing the location of the goal line—or even what it looked like.

It is time to blow the whistle, to halt the games long enough to get the public's input, to get a rational understanding of where we are headed with financial services and whether we will have a system that serves the Nation's needs or a gerry-built series of conglomerates that ultimately stifle competition, concentrate economic resources, and fail to deliver the goods.

Therefore it is my intention to begin broad based hearings on the question of the structure and function of financial institutions in the United States.

These hearings will be structured around the central question of how the financial system can best be shaped to meet the needs of the economy and the people on an equitable and nondiscriminatory basis.

Much of what has been proposed to date in the name of deregulation is nothing less than a total reworking of the economic fabric of the Nation—something that the worker, the consumer, the small business person has as much stake in as the banker and the corporate executive. Surely, the Congress owes the American public more than a glancing look at the issue, more than a cut and paste legislative effort and more than a simple stamp of approval for the financial community's wish list.

I know others on the Banking, Finance and Urban Affairs Committee have given serious thought to the questions I have raised here. I have discussed these matters with my colleague and friend, CHALMERS WYLIE, the ranking minority member of the committee. He shares fully my position that there needs to be a complete airing of these issues. That sentiment is widespread on the committee. Many of us may well disagree ultimately on the shape, structure, and proper powers of the financial community, but there is a consensus that this is a serious set of issues that requires the fullest debate.

The special interests—broadly defined—have attempted, with a degree of success, to establish the ground rules and the timing for the dialog. I think it is important for the House Banking Committee to set its own ground rules for the debate and to make certain that the public is brought into the process in the fullest and most open manner possible, and that issues be fully explored, corporate or other timetables notwithstanding.●

NEEDED: A MORE BALANCED APPROACH TO CENTRAL AMERICA AND THE REST OF THE DEVELOPING WORLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

● Mr. LAFALCE. Mr. Speaker, the Congress is now beginning the process of analyzing two major foreign economic assistance programs—one for aid to Central America as recommended by the Kissinger Commission, and the other to authorize U.S. participation in the seventh replenishment of the International Development Association (IDA) as negotiated by the Reagan administration.

Both proposals deserve close scrutiny on their individual merits. Going further, however, I suggest that the worth of the contemplated programs be compared because, taken together, they reflect a shortsighted, ineffective, and costly approach to foreign policy as practiced by the Reagan administration. The bloated Central American aid proposal reflects an administration consumed by a crisis mentality and a tendency to reach for quick fix solutions when more cost-effective, more cooperative, and ultimately more successful programs are sponsored by multilateral development institutions. Let me explain my reasoning.

Without doubt, it is in America's self-interest to support well-designed efforts to bring long-term economic development to the countries of Central America. We are in danger, however, of simply throwing money at the problem—a solution that this administration has proclaimed to abhor in any instance. The President is asking for authority to pour in $6 billion of direct economic assistance, $2 billion in loan guarantees, and additional monetary assistance over the next 5 years—a time period that many observers say is much too short to insure efficient absorption of even half that amount. I am concerned that much of that money may end up in the Miami bank accounts of the most privileged citizens of Central America.

Rather than this sort of lurching effort to make up for earlier miscalculation, what developing countries need is a firm commitment to economic development over the long haul. In this context, it is almost incomprehensible that the Reagan administration recently spent a great deal of time and energy insisting that viable, proven economic development programs funded for Central America through the Inter-American Development (IDB) needed to be slashed by more than half.

Starting in 1982, the administration's policy was to flatly demand that U.S. contributions for the IDB's concessional lending program (the fund for special operations) needed to be reduced from $175 million to $75 million annually. The other donor countries (which contribute 60 percent of the total funding) wanted to maintain, at a minimum, the existing level of support for these programs, provided the United States would do the same.

After 15 months of protracted and difficult meetings, which threatened to bring all IDB lending to a halt, our Canadian, European, Japanese and Latin American allies finally acquiesced to the Reagan administration's intransigence, and IDB concessional lending to Central America was consequently reduced substantially below previous levels. Now, less than 1 year later, we are being told that massive amounts of additional aid are essential to the survival of Central America.

Ironically, we are now reading in the Kissinger Commission report that a "successful effort to increase assistance" from the World Bank, Inter-American Development Bank, and other bilateral creditors could reduce the share of financing assistance needed from the United States.

Given this background, there is good reason to question the administration's emphasis on immediate infusion of substantial funds into central America. The Reagan administration is turning its back on multilateral lending institutions and their competence in developmental assistance. In doing so, it is reversing a 30-year trend forstered by both Domocratic and Republican administrations.

What are the administration's prorities? The numbers tell the story quite simply:

The last foreign assistance budget request of the Carter administration (fiscal year 1982) called for $6.8 billion in bilateral economic aid (51 percent), $2.75 billion in multilateral economic aid (21 percent), and $3.85 billion in military aid (28 percent). Reagan administration proposals now pending before Congress call for $8.4 billion in bilateral assistance (52 percent), $1.47 billion in multilateral assistance (9 percent), and $6.4 billion in military assistance (39 percent). The vast bulk of this assistnce would be focused on the Middle East and Central America.

The most disturbing example of this trend is the recently completed negotiations for IDA VII. During the course of difficult negotiations, the United States insisted on substantially reducing the lending program, leading to a 45-percent reduction in real terms in aid to the poorest nations of the world. Unable to explain or defend its ideological bias, the Reagan administration increasingly tried to use the convenient rationalization that the U.S. Congress, in a period of budgetary austerity, would not support higher funding levels. When several Members of Congress, including the chairmen of the House Foreign Affairs and Banking Committees, wrote to the Secretary of the Treasury to challenge this assertion, the administration plowed ahead, and (contrary to the advice of the State Department) resisted all attempts by other donor countries to minimize a U.S.-mandated reduction in IDA lending. Every other donor country was willing to support a lending program of $4 billion a year. The Reagan administration alone insisted on a lending program of $3 billion a year, even though we currently provide only 25 percent of the total contributions to IDA.

Congress may be in a position a few years from now of being called upon to fund emergency bilateral aid programs to Sub-Saharan Africa or Asia where the IDA VII cuts will fall the hardest, just as we are now being asked to do for Central America. Who should then be held accountable?

To make the record complete, it should be noted that in 1982 the Reagan administration insisted that Asian Development Fund (ADF) lending programs should be held at a level 20 percent below what all other donor countries were willing to support. As a result, current ADF lending to the poorest countries of Asia is $200 million a year less than would have otherwise been the case, if the Reagan administration had not objected. And this is for an institution where the United States provides less than 20 percent of the total funding.

It is simply incomprehensible that the United States has so systematically rejected the benefits of leveraging support from our allies for exactly the type of programs that promote U.S. political and economic interests throughout the developing world. The fact is that the Reagan administration has consistently moved against multilateral institutions, beginning with David Stockman's first "black book" which advocated the elimination of multilateral programs as agreements lapsed; then by opposing increased quotas to the International Monetary Fund until the world financial system threatened to dissolve; and culminating with a series of replenishment negotiations which can only be characterized as the United States against the rest of the world.

Congress need not and should not rubberstamp the Reagan administration's ideological biases, fiscal irresponsibility, and myopic policies by approving a bloated Central American aid package at the same time that it is being called upon to ratify a terribly inadequate IDA VII package.

We need to begin a constructive challenge to the foreign economic assistance policies of the Reagan administration because turning away from important multilateral efforts ultimately costs the American people in wasted dollars and in lost opportunity. This administration is setting a dangerous precedent in isolating us from our allies and in threatening proven development programs.

President Reagan recently proclaimed in his state of the Union message that "* * * America is standing tall around the world." In my view, America is increasingly, and wrongfully, standing alone.

We should reverse this trend, and we have an opportunity to do so. Mr. Speaker, we must oppose quick fixes, and we need to reduce the proposed Central American aid package. At the same time, we need to increase the level of funding that the Reagan administration has requested for IDA VII. We should make clear that we are no longer willing to pay for mistaken policies, and we must make clear our continuing commitment to working together with our allies in giving countries like those in Central America, south Asia, and sub-Saharan Africa a leg up in a growing world economy.●

AN AMENDMENT TO THE MINERAL LEASING ACT OF 1920: TO ESTABLISH COMPETITIVE OIL AND GAS LEASING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes.

● Mr. WEAVER. Mr. Speaker, today I am introducing a bill to establish competitive oil and gas leasing and modify leasing procedures for onshore Federal lands. This bill would entirely replace the noncompetitive leasing system now operated by the Secretary of the Interior. It is designed to eliminate the speculation and fraud which has reached scandalous proportions in the existing program, and insure that the States receive an equitable share of the revenues.

Under this proposal, all leases for onshore oil and gas on Federal lands would be issued by competitive bidding. Tracts would be automatically offered for lease on a quarterly basis after receiving nominations from any two parties in a single quarter or from a single party in two consecutive quarters. Independent producers are protected by the bill, which authorizes the Secretary to use a variety of bidding systems in addition to bonus bidding. The bill also strengthens existing requirements for production of leases by increasing the maximum royalty rate and reducing the primary lease term from 10 to 15 years.

In October 1983, the Bureau of Land Management suspended its lottery, or simultaneous oil and gas leasing program, following disclosures in the press of substantial abuses in which lottery winners were able to reap multimillion-dollar profits at the expense of the U.S. Treasury. It became apparent that improper procedures for determining known geologic structures (KGS's) were a major cause of this ripoff of the public's resources. Lands which by law should have been competitively auctioned were being leased for a fraction of their true value through the noncompetitive system.

The comptroller of Florida, Gerald Lewis, clarified this point in an October 23, 1983, letter to the President, in which he stated that the present lottery system "rather than promoting domestic energy production, actually impedes it by encouraging (speculation) between the $1 an acre Federal rent and the lease's true value to the genuine developer (thus) the present system denies the public the full value of its property."

Interior Secretary William Clark on January 31, 1984, announced changes in the simultaneous leasing regulations to require advance payment of first-year rentals, and other corrective measures "to insure that KGS's are properly and fully delineated, that they incorporate all lands possible within the established definition of a KGS, and that no lands are leased noncompetitively that should properly be classified for competitive leasing." While these tentative reforms may or may not resolve the problems of mismanagement, fraud, and speculation, they do nothing to address the additional important problem: The large losses which States having Federal oil and gas lands are experiencing due to the noncompetitive system.

Under law, revenues from competitive leasing received by the Federal Government must be split 50-50 with States, whereas under the noncompetitive system there is no State share. In considering various alternative leasing proposals during its recent self-imposed moratorium, the Interior Department estimated that out of the total receipts from the existing system, the Federal Government receives $112 million, States receive $22 million. However, under an all-competitive system similar to what I am proposing today which would reduce speculators and other nondevelopment participants, the Federal Government would receive $100 million, while the States share would increase from $22 million to $100 million.

The Congressional Budget Office in a 1982 review of the impact of comparable legislation introduced by Senator DALE BUMPERS in the Senate, arrived at similar conclusions. The CBO report states in relevant part:

> Under existing law, States would receive a total of $240 million over the 5-year period, which is 50 percent of the projected receipts from rental and royalty payments (30 U.S.C. 101 earmarks 50 percent of the receipts from bonuses, rents and royalties for State governments). Enactment of S. 60, which includes bonus payments as well as rents and royalties, would result in estimated receipts to the States of $900 million in that same period. Therefore, the net increase in receipts to States is estimated to total $660 million over the fiscal years 1983-87.

Most States have long since decided on their own that oil and gas lotteries are not in their best interest. Colorado, North Dakota, New Mexico—all use competitive auctions exclusively. In July 1983, Wyoming decided to follow suit, after extensive hearings. According to news accounts, on October 18, 1983, Wyoming received $1.84 million in high bids for 86 leases auctioned in Casper, Wyo. An earlier auction yielded $2.5 million, compared to $1 million generated by each lottery based on the State's $25 filing fee. Jack Hensen, Wyoming's Director of Accounting in the Department of Public Lands has said, "Right now, money-wise, we think (the auction system) is superior."

Mr. Speaker, I feel it is urgent that the law be amended to prevent further losses to States which deserve and often desperately need their fair share of the Federal oil and gas revenues, and to prevent further speculative abuses of the lottery system. I urge consideration of this legislation and invite the support of my colleagues.●

AMERICA'S SLAVE LABOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, last November I learned that the Department of Justice makes it a routine practice to hold for unconscionable long periods of time illegally entered aliens who are needed as witnesses in antismuggling cases. In at least one instance, a group of aliens was held for months on end, then farmed out to work like serfs. I say one instance, no telling how much a common practice that had been until this particular instance was projected because of the intervention of some of the civil rights attorneys at that time in San Antonio.

Now, these individuals at every stage of their progress through the justice system were left unaware of their rights; their rights were routinely violated; and they, in fact, spent more time incarcerated than did the criminal defendants themselves that they were being used as witnesses against. The U.S. attorney has claimed that the aliens were needed as live witnesses, but in fact most jurisdictions arrange for depositions of these witnesses and from these witnesses in order to prevent long and needless incarceration; but the U.S. attorney in the western district of Texas finds it inconvenient to take such depositions, and has thus far failed and refused to suggest reasonable plans for the protection of the rights of alien witnesses. His attitude is clearly revealed in statements he made last November that it was just too expensive and time consuming to take depositions from alien witnesses; but that, of course, is a flat lie. It would be cheaper for the Government to keep these witnesses out of jail than to hold them for months at a time. He claims that effective prosecution is difficult without live witnesses, but the Immigration Service who arrested them readily admitted to my staff that the use of depositions in no way detracts from the success of the prosecution.

To give you a flavor of this situation, I make part of the RECORD at this point an article from the November 13, 1983 Dallas Morning News, outlining how this particular group of witnesses was treated, and clearly revealing the callous attitude of the U.S. attorney toward his responsibilities and toward the rights of these witnesses.

MEXICO SEEKS RELEASE OF FOUR ALIENS JAILED IN TEXAS

(By Richard Fish)

SAN ANTONIO.—Mexican officials are seeking the release of four Mexican citizens who have been imprisoned in Texas for nine months because the U.S. government wants them as witnesses against a Denton County employer.

While in federal custody, the illegal alien workers were "farmed out" by government agents to a Uvalde cattle feedlot where the workers said they labored seven days a week for a wage of 85 cents an hour.

Federal officials contended that the wages paid the workers at the feedlot were not the concern of the immigration agents who took them there to work.

When the workers got their paychecks at the end of a month and complained, the owner of the feedlot called the Border Patrol, which returned the Mexicans to detention in the Uvalde County jail.

Edward Prado, U.S. attorney for the Western District of Texas, said the illegal alien workers—against whom no criminal charges are contemplated—have become "victims" because of legal delays.

But Prado said he will not release the workers because he needs their testimony in prosecuting the Mahard Egg Co. of Prosper, in Denton County.

The four, Rito Estrada-Netro, Feliciano Hernandez-Diaz, Jose Maldonado-Ochoa and Pablo Abalos-Marquez, were employees of the egg farm when federal agents raided it in early February, government officials said.

The corporation that runs the farm, and its owners, are charged with multiple counts of aiding and abetting the illegal entry of the men into the United States.

Dallas attorney Mike Gibson, who is representing the owners of the egg farm in the Nov. 29 trial at which the workers are to be witnesses, said he didn't know until two or three weeks ago that the workers were still in federal custody.

San Antonio Rural Legal Aid lawyer George Korbel said he plans to file a lawsuit this week to force the government to show a legal reason why the four—and as many as 180 other aliens he thinks are being detained as witnesses in Texas—cannot be released after their statements are taken for use in trials.

Prado said it is too expensive and time-consuming for the government to take depositions from the witnesses it is detaining and said their live testimony is more persuasive to a jury than written statements.

On the other hand, he said, imprisoning them is a problem too. "It's awkward to go to court with witnesses you want to testify for you, after you've been holding them in jail for 10 months," Prado said.

"We're all concerned about (illegal alien) material witnesses," said Assistant U.S. Atty. Dan Maeso. "Jailing them is hard on them and on the families they left behind in Mexico. We just don't have anything else to do with them."

Lawyer Korbel estimated that the government has spent $40,000 so far holding the men, and disputed the government's contention that their live testimony is important. He said two of the workers now have children they have never seen, born to their wives in Mexico after the men were detained.

A fifth worker who had been detained with the others, Antonio Loredo Marquez, recently was allowed to return to Mexico because a relative was dying, the U.S. attorney's office said.

The workers told lawyers assisting Korbel that they were assured by a U.S. official before they were sent to the feedlot that they would be employed at the minimum wage of $3.35 an hour.

The workers had sought employment during their confinement so they could send money to their families in Mexico, said an official of the Mexican consulate who kept track of their case.

Ralph Hesse, president of Chaparral Feeders, said the five workers "were good hands, good boys."

"But they were led to believe they were going to make the minimum wage, and when they found out they weren't, they got disenchanted," he said.

"I was paying $10 a day," Hesse said, "and I never told anybody any different."

He said Border Patrol agents, whose names he could not remember, "never asked about minimum wage" when they asked him if he could use extra workers.

The men told Korbel's investigator they worked approximately 13 hours a day six days a week and five hours on Sunday.

Hesse said the men called the Mexican consulate when they found out what they were being paid and were told by an official there that it was below minimum wage.

"They went on strike, so to speak, so I called the Border Patrol and told them to come pick them up. I couldn't have them hanging around here if they weren't going to work," Hesse said.

Records show the men were taken to the Uvalde County jail, 20 miles away, and held for 15 days before being returned to the Webb County Detention Facility in Laredo, where they remain.

"We have been trying to obtain their release," said Mrs. Citali Garcia of the protection division of the Mexican consulate office.

"It's too long to stay as material witnesses," she said.

The problem is especially acute in the western district of Texas, because the great majority, two-thirds, of the alien witnesses held in the country are being held in that district. Ironically, it is that district where the U.S. attorney routinely violates the rights of witnesses, where he routinely follows the least efficient and the most costly procedures and where he absolutely refuses to consider more effective, more just ways of obtaining successful cases against smugglers.

It need not be this way. The courts in Arizona have a general order in effect which specifies the prompt deposition of alien witnesses, which assures that they are reasonably treated and which prevents their lengthy incarceration. If we were to choose a random sample of 16 witnesses, we would find that they are held 10 times longer in Texas than in Arizona. We would find that it costs 10 times as much to handle these witnesses in Texas as it does in Arizona. Same Federal system, same Justice Department, same jurisdictional line of command, but what a system or lack of it. As far as the Western Judicial Federal District is concerned, it could be on a different planet from the same Federal Justice Department that it is supposed to be part of, insofar as the reasonable and expeditious treatment of alien witnesses is concerned.

I make part of the Record a cost comparison showing how the system works in Arizona as opposed to how it works in Texas at this point, for the Record.

COST ANALYSIS

Texas Practice (figures taken from Judge Sessions' Prisoner Custody Memorandum accompanying his letter of January 24, 1984):

16 detained witnesses:	
1,494 total days in custody	1,494
Average stay of 93.4 days	38
$38/day costs (per witness)	$56,772

Arizona Practice (using the figures set forth in the Arizona General Order)—if applied to Judge Sessions' Memorandum figures:

16 detained witnesses:	
144 total days in custody	144
Average stay of 9 days	38
$38/day costs (per witness)	$5,472

Note.—A savings of over $51,000.

California Practice (using the estimate as referred to in *U.S. vs Valejzuel)*—if applied to Judge Sessions' Memorandum figures:

16 detained witnesses:	
160 total days in custody	160
Average stay of 10 days	38
$38/day costs (per witness)	$6,080

Note.—A savings of over $50,000.

I have vigorously and repeatedly protested this. The chief judge of the western district of Texas has expressed great interest in my concerns, and I include in the Record a part of our very lengthy correspondence since November wherein I have offered suggestions for reform. Unfortunately, and quite inexplicably, the U.S. attorney has rejected every possible suggestion for reform—all without reason or explanation or excuse; so I offer for the Record these series of exchanges of letters with the chief judge:

U.S. District Court,
San Antonio, Tex., November 28, 1983.

Hon. Henry B. Gonzalez,
U.S. Representative, Rayburn House Office Building, Washington, D.C.

Dear Congressman Gonzalez: Last Friday I saw an article in the Express concerning the abuse of alien witnesses and hasten to inform you concerning procedures which have been followed in the Western District of Texas, at least since the time when I came on the bench in December of 1974.

Every two weeks we receive a prisoner custody report from the United States Attorney which is based on the report of the United States Marshal concerning prisoners who are being held in connection with criminal cases in the Western District of Texas.

Every judge and magistrate is alerted as to any prisoner that is being held in connection with one of that judge's cases and the report sets out the specific number of days that the person has been held.

This district diligently and continually has followed the congressional mandate that defendants are to be given speedy trials and I believe that the judges have performed in an exceptionally fine fashion. From time to time cases will not be disposed of in the minimal time, but in those cases, there is a reason why it cannot be done.

Rest assured that if you become aware of Speedy Trial Act violations or improper holding of prisoners, I would be pleased to hear from you.

I will look forward to seeing you in connection with the naturalization ceremonies on December 15 here in San Antonio.

Very truly yours,
William S. Sessions.

December 2, 1983.

Hon. William S. Sessions,
U.S. District Court, Western District of Texas, San Antonio, Tex.

Dear Judge Sessions: I have your letter, and am most grateful for your interest in the case of certain aliens who have been held as witnesses for an extended period of time.

In the case I had reference to, a habeas corpus issue (No. DR-83-CR48), Pablo Abalos Marquez and others were held as material witnesses even after the facts in the case had been stipulated. They were placed by the Border Patrol with a private employer, where they worked excessive hours for sub-minimum pay. Upon protest about their conditions, these individuals were picked up, their I-210 forms revoked without hearing or other due process, and they were confined for several weeks with no bond hearing. All of these actions took place after the defendants in the case to which the aliens were witnesses had stipulated to the material facts to which the aliens were to testify. The stipulations specifically provided that the defendants had no objection to the release of the witnesses and their return to Mexico.

My understanding is that there are approximately 180 aliens being held currently as material witnesses in the Western District of Texas. Given the experience of the group in the case mentioned above, I am gravely concerned that witnesses are routinely being held in violation of the intent, if not the letter, of applicable law (18 U.S.C. 3149) which specifies that no material witness shall be detained because of an inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and further detention is not necessary to prevent a failure of justice.

Further, I am concerned that witnesses are being held for periods far beyond that which is necessary to ensure defendant rights, and without regard to standards that the Supreme Court clearly favors. As you are aware, the Court is concerned that witnesses should be available to provide adequate opportunities for defendants, but it is also concerned that witnesses not be subjected to undue hardship. In discussing the dilemma of providing adequate opportunity for defense access to government witnesses, and the need to protect witnesses from needless incarceration, the Court clearly favors a very short holding period—a matter of days, not weeks or months as occurred in the case my colleagues and I protested. (See *United States* v. *Ricardo Valenzuela-Bernal*, attached.)

The majority of the Court held that prompt deportation constitutes the most effective method for curbing the flow of illegal aliens. The majority also justified immediate deportation because of practical considerations—financial and physical burdens on the Government and the human cost to potential witnesses. Quoting Justice Rehnquist's majority opinion, "The responsibility of the Executive Branch faithfully to execute the immigration policy adopted by Congress justifies the prompt deportation of illegal-alien witnesses upon the Executive's good-faith determination that they possess no evidence favorable to the defendant in a criminal prosecution." Concurring in the result, Justice O'Connor states suggests that the Ninth Circuit's practice of holding illegal alien witnesses for a short period, an average of five days, would be appropriate.

I believe that there is sufficient evidence to be concerned about needless holding of witnesses. It would be a matter of great interest to me to know what your regular custody report shows in this regard. How many prisoners are being held as witnesses, and for how long have they been held? And I wonder whether it is in fact true that the U.S. Attorney for the Western District, as a matter of practice and policy, does not depose alien witnesses on the ground that it is too inconvenient and expensive. Surely such a routine represents a gross violation of elemental rights, and an outright trespass of applicable law and judicial standards regarding treatment of witnesses.

I am grateful for your interest and concern. I would be most appreciative of any information you can provide me regarding the number of witnesses being held, and the length of their incarceration, within the Western District of Texas. Most particularly, I would be interested in learning whether, upon review, you conclude that additional steps are needed to protect the rights of witnesses and to bring practices of the Government within the scope of applicable statues and established judicial standards.

Sincerely,

Henry B. Gonzalez,
Member of Congress.

U.S. District Court,
San Antonio, Tex., January 24, 1984.

Re prisoner status report.

Hon. Henry B. Gonzalez,
U.S. Representative, Rayburn House Office Building, Washington, D.C.

Dear Congressman Gonzalez: This morning I received the review of the Prisoner Custody Report and have enclosed a copy for you.

You will notice that there are four material witnesses held in connection with cause no. SA-83-CR-226. The indictment in that case was dismissed for failure to comply with the speedy trial requirements, but the defendants have now been reindicted and the case has been assigned to Judge Garcia. I have alerted his staff to the circumstance concerning the incarceration of material witnesses and our continuing interest in that matter. I am confident that Judge Garcia will move the case to trial as quickly as possible.

The only other case involving material witnesses is DR-83-CR-111 from Judge Shannon's prior docket. I have assumed responsibility for that docket and the defendant in that case will be rearraigned and entering a plea of guilty on February 6, 1984 and sentenced shortly thereafter during that week. At that time those material witnesses will be released.

Very truly yours,

William S. Sessions,
Chief Judge.

Memorandum

To: Judge Sessions.
From: Josh.
Subject: Prisoner Custody Report.
Date: January 23, 1984.

As of January 23, 1984, the following prisoners have been incarcerated in their respective jails for seventy (70) days of custody, according to the information contained in the Prisoner Custody Report supplied by the U.S. Attorney's Office for the period ending December 31, 1983.

Bandera County Jail	*Number of Days*
Judge Sessions' docket:	
1. Lopez-Soria, Eliso, SA83CR226, material witness; principal to be reindicted	102
2. Quinonez-Covarubia, Jose, SA83CR226, material witness; principal to be reindicted	102
3. Rios-Garcia, Eluterio, SA83CR226, material witness; principal to be reindicted	102
4. Villanueva-Cortez, Benito, SA83CR226, material witness; principal to be reindicted	102
5. White, Peter William, Kerr investigation, several detainers have been placed on him by other jurisdictions; awaiting transfer	182
F.C.I. Bastrop	
Judge Sessions' docket:	
1. Coronado, Tony D., SA83CR205, awaiting designation (sentenced Jan. 16, 1984)	123
Judge Boyd's docket:	
1. Garcia, Thomas Richard, 83-515M-01, awaiting sentencing (released on bond as part of plea agreement)	123
2. Vargas, Albert Garza, SA82CR85, awaiting evidentiary hearing on Feb. 7, 1984	90
Maverick County Jail	
Judge Edwards' docket:	
1. Torres-Gandara, Victor, 83-2084M-01, awaiting rearraignment	71
Uvalde County Jail	
Judge Sessions' docket:	
1. Alvarado-Juarez, Antonio, DR83CR104, awaiting rearraignment (Feb. 6, 1984)	71
Val Verde County Jail	
Judge Sessions' docket:	
1. Cornejo-Cortez, Hermino, DR83CR111, awaiting rearraignment (Feb. 6, 1984)	71
2. Sanchez-Menchor, Gregorio, DR83CR111, awaiting rearraignment (Feb. 6, 1984)	71
Webb County Jail	
Judge Sessions' docket:	
1. Gamino-Padilla, Felix, DR83CR111, material witness (principal rearraignment Feb. 6, 1984)	71
2. Ramirez-Gomez, Norberto, DR83CR111, material witness (principal rearraignment Feb. 6, 1984)	71
3. Rico-Torres, Roberto, DR83CR111, material witness (principal rearraignment Feb. 6, 1984)	71
4. Rosales-Araza, Gregorio, DR83CR111, material witness (principal rearraignment Feb. 6, 1984)	71

Washington, D.C., *February 10, 1984.*

Hon. William S. Sessions,
Chief Judge, U.S. District Court, San Antonio, Tex.

Dear Judge Sessions: I received your letter of January 31, and assure you that the prisoner custody report you referred to was correctly interpreted. I would like to take this opportunity to bring you up to date on matters involving aliens held as material witnesses.

I understand that pursuant to your order, the United States Attorney has responded to the proposal of Rural Legal Assistance concerning the treatment of alien witnesses. According to my information, the United States Attorney merely rejected the proposals and did not offer any suggestions of his own. Needless to say, this lack of responsiveness is disappointing, and in my judgment demonstrates a cavalier attitude toward a genuine and very basic matter of law and human rights. I would hope that you will now move to institute a policy along the lines suggested in my letter of December 22.

Discussions with representatives of the Immigration and Naturalization Service indicate that a policy to promptly depose alien witnesses would be practical, so long as the courts are cooperative. While the Immigration Service has not agreed to any specific proposal, they readily agree that it would be enormously helpful to have a uniform policy, applicable to all courts in the border zone. You are aware, I know, of the general order applicable to Arizona, a copy of which is enclosed. Such a policy would be immensely helpful in Texas, especially since about two-thirds of all alien witnesses are held in Texas (237 of 374 thus far this fiscal year).

The Immigration Service has a special enforcement effort aimed at prosecuting smugglers of aliens. In response to a specific question, the director of this program, Mr. Humberto E. Moreno, said that the application of the Arizona order, and somewhat similar rules in California, had not in any way impeded the success of prosecution efforts. In fact, Mr. Moreno said that the only real problem with depositions was that the courts sometimes would not accept such a procedure, being concerned with defendant rights. It is my contention, however, that defendant rights can be adequately protected without incarcerating witnesses for long periods of time. Indeed, it is an irony that in the name of protecting defendant rights, the rights of witnesses are given short shrift. I do not believe that one standard should apply to witnesses, while another, far higher standard, protects criminal defendants.

I am satisfied that an order along the lines I suggested last December, or one similar to the Arizona order, would improve the administration of justice in the Western District, save the government substantial sums of money, and insure the protection of the rights of witnesses. Clearly, a uniform policy would promote efficient operation of the courts. The enclosed cost analysis illustrates that very large amounts of money can be saved by providing for the prompt deposition of witnesses. It goes without saying that a uniform policy issued by the court would give witnesses a firm ground for the protection of their own rights, a matter that seems vital in view of the attitude taken by the U.S. Attorney.

Ideally, as mentioned above, there ought to be a uniform policy for all courts that deal with alien witnesses. However, since most of these witnesses are being held for cases in Texas, it would be an enormous step forward if the courts in Texas were to adopt a clear, uniform standard for the prompt release of alien witnesses. I hope that since the United States Attorney has failed to provide any positive cooperation in the development of such a standard, you will now move to devise an effective policy that could be applied uniformly in all Texas courts.

With thanks for your consideration and assistance, and best wishes.

Sincerely,

HENRY B. GONZALEZ,
Member of Congress.

Finally, I ask, why it is possible that we have in Arizona an effective, humane, and uniform policy for treatment of alien witnesses, but no such standard on a national basis, even extending over to the neighboring State of Texas?

□ 2000

So that at this conjunction of affairs we also find that we are in the midst of legislation here in great travail concerning the reforms to the Immigration and Naturalization Act, and this is related, and particularly at this time to this problem that I discussed concerning the western judicial district's inability to handle either constitutionally, humanely, or reasonably these cases.

So the fact this demonstrates the varying, widely different situations all within the area of jurisdiction of the same department, certainly we ought to consider then this vehicle pending now before the House, the amendments to the Immigration and Naturalization Act as an opportunity.

There are many aspects of this pending legislation on which there is deep disagreement between not only individual Members of the Congress or the House but between varying committees and varying jurisdictions of these committees.

I believe that the whole issue of immigration reform needs to be referred to a committee that can expeditiously develop an effective consensus. In other words, an ad hoc committee that can resolve the questions and difference. So for this reason and with that purpose in mind I addressed myself to the Speaker. I wrote a letter to him in which I suggested strongly that he form such a committee so that it could at least cut across these committee jurisdictional lines and bring about some kind of a consensus, and also give us a chance to recognize the problem that confronts us now in the case of the unjust and inhumane treatment of these detained alien witnesses.

At this point I offer a copy of my letter to Speaker O'NEILL for the RECORD:

Hon. THOMAS P. O'NEILL,
Speaker of the House.

DEAR MR. SPEAKER: I am writing this with regard to the pending immigration reform bill, the Simpson-Mazzoli bill; I offer a suggestion that I hope could expedite the matter and enable the House to more effectively work its will.

I am aware that no rule has been requested on the bill, and fully cognizant of your own reservations about it. I share your concerns, and commend you for refusing to be stampeded into scheduling the immigration issue during the chaotic closing days of the last session.

As you are aware, there are at least three major proposals before the House—the Judiciary version of Simpson-Mazzoli, the amendments thereto reported by the Committee on Education and Labor, and a compromise introduced by our colleague Edward Roybal, in behalf of the Hispanic Caucus. Beyond doubt, there are numerous amendments also pending, some of a major nature. All of this makes clear that there is no consensus between the committees of jurisdiction, nor between the Committees and the House as a whole. Obtaining consensus is difficult because the legislation cuts across major committee jurisdictions, and poses very difficult issues for a diverse number of House members.

Effective immigration reform will require much more than the Simpson-Mazzoli bill can provide. For example, although it is obvious that the tide of illegal immigration cannot be stemmed without some kind of economic assistance being extended to the countries of origin, the bill does not substantively address that question at all. Nor can the question be properly addressed because of the jurisdictional tangle that exists.

I suggest that the Leadership consider appointment of an ad hoc committee to develop and report a consensus immigration bill. There is precedent for this, most recently in the enactment of the energy act. As you recall, the ad hoc committee appointed to consider the various aspects of energy policy was able to cut across a multitude of committee lines. It was able to act with great dispatch, and succeeded in obtaining a comprehensive, effective bill that served the country well.

An ad hoc committee on immigration reform could well resolve the issues between the two major committees of jurisdiction. It could seek a consensus with respect to the alternative offered by Representative Roybal, and it could also consider questions such as development assistance to countries whence illegal entrants originate. Such a committee could, most importantly of all obtain the consensus that is necessary to prevent a protracted and needlessly difficult House debate. It would be to the advantage of the House and the Leadership to have a credible, consensus bill devised before floor action takes place.

In all candor, I do not know whether I could support any bill; I know that I could not support Simpson-Mazzoli, because it at once creates new burdens and promises to be wholly ineffective. But I do believe the issue must be addressed, and that the current session of the Congress must act on the question. I believe that the best opportunity the House may have would be to use an ad hoc committee for the purpose of developing a comprehensive, consensus bill that could be enacted with a minimum of difficulty, and a maximum chance of enacting a bill that reflects creditably on the House, and trust that you will give serious consideration to my suggestion.

So I end up by saying and asking why is it not possible for the Department of Justice to work a standard? I wrote the Department of Justice the same day that I spoke on the House floor the first time, November 18, and to this day the Justice Department has not been responsive to the questions I raised.

Why should witnesses be jailed for longer periods of time than criminal defendants, as routinely happens in the western district of Texas?

Why is this lengthy jailing of witnesses justified when the Immigration Service itself admits that prosecutors are not hindered by the use of depositions?

Why, finally, after months of efforts has it not been possible to get the U.S. attorney for the western district of Texas to budge an inch, despite the fact that law, logic, and simple humanity all stands against him?

I yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Brown of California, for 60 minutes, today.

(The following Members (at the request of Mr. DeWine) to revise and extend their remarks and include extraneous material:)

Mr. Emerson, for 60 minutes, March 5.

Mr. Walker, for 60 minutes, today.

Mr. Gingrich, for 60 minutes, today.

Mr. Weber, for 60 minutes, today.

Mr. Walker, for 60 minutes, March 1.

Mr. Gingrich, for 60 minutes, March 1.

Mr. Mack, for 60 minutes, March 1.

Mr. Weber, for 60 minutes, March 1.

Mr. Michel, for 60 minutes, March 5.

Mr. Hyde, for 60 minutes, March 5.

Mr. Lott, for 60 minutes, March 5.

Mr. Loeffler, for 60 minutes, March 5.

Mr. Wylie, for 60 minutes, March 5.

Mr. Lungren, for 60 minutes, March 5.

Mr. Burton of Indiana, for 30 minutes, today.

Mr. Broyhill, for 30 minutes, today.

Mr. Parris, for 60 minutes, March 5.

Mr. Hansen of Utah, for 60 minutes, March 5.

(The following Members (at the request of Mr. McNulty) to revise and extend their remarks and include extraneous matter:)

Mr. Annunzio, for 5 minutes, today.

Mr. St Germain, for 5 minutes, today.

Mr. Nelson, for 5 minutes, today.

Mr. LaFalce, for 10 minutes today.

Mr. Addabbo, for 5 minutes, today.

Mr. Weaver, for 5 minutes, today.

Mr. Gonzalez, for 60 minutes, today.

Mr. Rangel, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROWN of California, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $2,546.

Mr. Biaggi, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,576.25.

(The following Members (at the request of Mr. DeWine) and to include extraneous matter:)

Mr. Fields in three instances.

Mr. Bliley.

Mr. Paul.

Mr. Lent in two instances.

Mr. Gekas.

Mr. Moore.

Mr. Gingrich in three instances.

Mr. Goodling.

Mr. Frenzel in two instances.

Mr. Kemp in three instances.

Mr. Green.

Mr. Shuster.

Mr. Rinaldo.

Mr. Gregg.

Mr. McGrath.

Mr. Porter.

Mr. Evans of Iowa.

Mr. Corcoran.

Mr. Gradison.

Mr. Ritter.

Mr. Sundquist.

(The following Members (at the request of Mr. NcNulty) and to include extraneous matter:)

Mr. Levine of California.

Mr. Fazio.

Mr. Hoyer in two instances.

Mr. Torricelli in two instances.

Mr. Lantos in two instances.

Mr. Frank.

Mr. Skelton.

Mr. Hamilton.

Ms. Mikulski.

Mr. Udall.

Mr. Frost in two instances.

Mr. McCloskey.

Mrs. Boxer.

Mr. Beilenson.

Mr. Clay.

Mr. Solarz.

Mr. Wirth.

Mr. MacKay.

Mr. Schumer.

Mr. Mazzoli.

Mr. Harrison in two instances.

Mr. Fowler.

Ms. Kaptur.

Mr. Williams of Montana.

Mr. Hall of Ohio.

Ms. Oakar in two instances.

Mr. Markey.

Mr. Bedell.

Mr. Erdreich.

Mr. Conyers in two instances.

Mr. Rose.

Mr. Hefner.

Mr. Long of Maryland.

Mr. Weiss.

Mr. Florio in two instances.

Mr. Carper.

Mr. Andrews of Texas.

SENATE BILLS, JOINT RESOLUTIONS, AND CONCURRENT RESOLUTIONS REFERRED

Bills, joint resolutions, and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 774. An act entitled "The Freedom of Information Reform Act"; to the Committee on Government Operations.

S. 2336. An act to permit price differences with respect to credit card sales transactions; to the Committee on Banking, Finance and Urban Affairs.

S.J. Res. 59. Joint resolution to authorize and request the President to designate February 27, 1986, as "Hugo LaFayette Black Day."

S.J. Res. 137. Joint resolution to designate April 7, 1984, as "World Health Day", to the Committee on Post Office and Civil Service.

S.J. Res. 148. Joint resolution to designate the week of May 6, 1984, through May 13, 1984, as "National Tuberous Sclerosis Week" to the Committee on Post Office and Civil Service.

S.J. Res. 171. Joint resolution to provide for the designation of July 20, 1984, as "National P.O.W./M.I.A. Recognition Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 184. Joint resolution to designate the week of March 4, 1984, though March 10, 1984, as "National Beta Club Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 193. Joint resolution designating March 6, 1984, as "Frozen Food Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 220. Joint resolution to designate the week of May 20, 1984, though May 26, 1984, as "National Arts With the Handicapped Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 228. Joint resolution to designate the week of May 20, 1984 though May 26, 1984 as "National Digestive Diseases Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 232. Joint resolution to authorize and request the President to designate the month of May 1984 as "National Physical Fitness and Sports Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 238. Joint resolution to designate the week beginning November 19, 1984, as "National Adoption Week"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4956. An act to extend the authorities under the Export Administration Act of 1979; and

H.J. Res. 292. Joint resolution designating "National Theatre Week."

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 4 minutes p.m.) the House adjourned until tomorrow, Thursday, March 1, 1984, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2, rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2744. A letter from the Director, Defense Security Assistance Agency, transmitting information on the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million (Transmittal No. 84-31), pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

2745. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 5-112, "D.C. Comprehensive Plan Act of 1984," and report, pursuant to Public Law 93-198, section 602(c); to the Committee on the District of Columbia.

2746. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to establish the Mental Health Corporation, and for other purposes; to the Committee on the District of Columbia.

2747. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to provide for distribution to the States of certain amounts resulting from enforcement of the Emergency Petroleum Allocation Act of 1973, and for other purposes; to the Committee on Energy and Commerce.8

2748. A letter from the Comptroller, Department of State, transmitting the quarterly report on programing and obligation of international narcotics control funds as of December 31, 1983, pursuant to FAA section 481(b)(1) (87 Stat. 719); to the Committee on Foreign Affairs.

2749. A letter from the Director, Defense Security Assistance Agency, transmitting information on the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $141 million (Transmittal No. 84-31), pursuant to AECA, section 36(b) (90 Stat. 741; 93 Stat. 708, 709,710; 94 Stat. 31 34; 95 Stat. 1520); to the Committee on Foreign Affairs.

2750. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting the text of ILO Recommendation No. 167 concerning the establishment of an international system for the maintenance of rights in social security, pursuant to article 19 of the ILO constitution; to the Committee on Foreign Affairs.

2751. A letter from the Executive Director, Board for International Broadcasting, transmitting a report on the Board's compliance with the Government in the Sunshine Act during 1983, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2752. A letter from the Chief Immigration Judge, Executive Office for Immigration Review Department of Justice, transmitting a report on aliens whose deportation has been suspended, pursuant to INA, section 244(c) (66 Stat. 214. 76 Stat. 1247); to the Committee on the Judiciary.

2753. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1985 and 1986; to the Committee on Merchant Marine and Fisheries.

2754. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report on James River Basin, Phase I General Design Memorandum, Richmond, Va. (H. Doc. No. 98-178); to the Committee on Public Works and Transportation and ordered to be printed.

2755. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the National Weather Modification Policy Act of 1976, as amended, to authorize appropriations to carry out the provisions of such act for fiscal years 1985 and 1986; to the Committee on Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ANNUNZIO: Committee on House Administration. House Resolution 446. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by standing and select committees of the House in the second session of the Ninety-eighth Congress; with an amendment (Rept. No. 98-603). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 492. Joint resolution making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture; with an amendment (Rept. No. 98-604). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 493. Joint resolution making an urgent supplemental appropriation for the Department of Health and Human Services for the fiscal year ending September 30, 1984 (Rept. No. 98-605). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3870. A bill to restrict the sales of alcoholic beverages in interstate commerce; with amendments (Rept. No. 98-606). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MATSUI (for himself, Mr. Russo, and Mr. Waxman):

H.R. 4969. A bill to amend title XVIII of the Social Security Act to provide an additional transitional year in the full implementation of the prospective payment system for inpatient hospital services under part A of that title and to amend the Social Security Amendments of 1983 to provide for a report on refinements in such payment system; to the Committee on Ways and Means.

By Mrs. KENNELLY (for herself, Mr. Downey of New York, Ms. Ferraro, Mr. Matsui, Mr. Miller of California, Mr. Shannon, and Mr. Solarz):

H.R. 4970. A bill to amend title XX of the Social Security Act to increase the amounts authorized for block grants to States for social services in fiscal years after 1984; to the Committee on Ways and Means.

By Mr. ANDREWS of North Carolina (for himself, Mr. Perkins, Mr. Petri, Mr. Simon, and Ms. Snowe):

H.R. 4971. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1985 through 1989, and for other purposes; to the Committee on Education and Labor.

By Mr. BROYHILL (for himself and Mr. Corcoran) (by request):

H.R. 4972. A bill to provide for distribution to the States of certain amounts resulting from enforcement of the Emergency Petroleum Allocation Act of 1973, and for other purposes; to the Committee on Energy and Commerce.

By Mr. EVANS of Iowa (for himself, Mr. Roberts, Mr. Weber, Mr. Frenzel, Mr. Tauke, Mr. Bereuter, Mr. Morrison of Washington, Mr. Bedell, Mr. Volkmer, Mr. Stenholm, Mr. Glickman, Mr. Stangeland, and Mrs. Smith of Nebraska):

H.R. 4973. A bill to enhance U.S. food aid, restore the competitive position of the United States in agricultural export markets, and for other purposes; jointly to the Committees on Agriculture and Foreign Affairs.

By Mr. FUQUA (by request):

H.R. 4974. A bill to authorize appropriations to the National Science Foundation for fiscal years 1985 and 1986; to the Committee on Science and Technology.

By Mr. HEFTEL of Hawaii (for himself, Mr. Martin of North Carolina, Mr. Campbell, Mr. Thomas of California, Mr. Broyhill, Mr. Sharp, Mr. Ottinger, and Mr. Wyden):

H.R. 4975. A bill to reduce the motor fuels tax imposed on methanol produced from natural gas so that the tax on such fuel is imposed on an energy-equivalent basis with the fuels tax imposed on gasoline, diesel fuel, and special motor fuels; to the Committee on Ways and Means.

By Mr. LATTA:

H.R. 4976. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. LEVITAS:

H.R. 4977. A bill to terminate certain authorities of the executive branch of the Government which are subject to congressional review unless those authorities are approved by an enactment of the Congress; to the Committee on Ways and Means.

By Mr. LEVITAS:

H.R. 4978. A bill to terminate certain authority of the executive branch of the Government which is subject to congressional review unless that authority is approved by an enactment of the Congress; to the Committees on Education and Labor and Ways and Means.

By Mr. LEVITAS:

H.R. 4979. A bill to terminate certain authorities of the executive branch of the Government which is subject to congressional review unless that authority is approved by an enactment of the Congress; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. MAZZOLI:

H.R. 4980. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve the delivery of retirement benefits and provide for greater equity under private pension plans for workers and their spouses and dependents by taking into account changes in work patterns, the status of marriage as an economic partnership, and the substantial contribution to that partnership of spouses who work both in and outside the home, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. MITCHELL (for himself, Mr. Dellums, and Mrs. Boxer):

H.R. 4981. A bill to provide that registration under the Military Selective Service Act may only be carried out in accordance with applicable regulations and Presidential proclamations; to the Committee on Armed Services.

By Mr. PAUL:

H.R. 4982. A bill to provide for civil rights in public schools; to the Committee on the Judiciary.

H.R. 4983. A bill to recognize the organization known as the Aviation Technician Education Council; to the Committee on the Judiciary.

H.R. 4984. A bill to prohibit the use of funds for the Peace Corps to be used for travel expenses of individuals in order for abortions to be performed on those individuals; to the Committee on Foreign Affairs.

By Mr. RITTER:

H.R. 4985. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to provide for cleanup authority and liability for petroleum releases and to regulate underground storage tanks used for the storage of hazardous substances; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. SCHUMER:

H.R. 4986. A bill to amend title II of the Social Security Act to prohibit the payment of benefits thereunder to individuals who have been deported or ordered deported from the United States on account of certain activities conducted under the direction of or in association with the Nazi Government of Germany during World War II; to the Committee on Ways and Means.

By Mr. SHUSTER:

H.R. 4987. A bill to prohibit nonstop flights of commercial aircraft between Washington National Airport and any point more than 600 miles away from Washington National Airport; to the Committee on Public Works and Transportation.

By Mr. SOLOMON (for himself, Mr. Carney, Mr. Kindness, Mr. Burton of Indiana, Mr. Roe, Mr. Hartnett, Mr. Bilirakis, Mr. Shelby, and Mr. Sawyer):

H.R. 4988. A bill to repeal the provisions in the Internal Revenue Code of 1954 relating to the inclusion of social security and certain railroad retirement benefits in gross income to the extent such provisions do not apply to nonresident aliens; to the Committee on Ways and Means.

By Mr. WEAVER:

H.R. 4989. A bill to establish competitive oil and gas leasing and modify leasing procedures for onshore Federal lands; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of Alaska:

H.R. 4990. A bill to improve the management and efficiency of the Coast Guard; to the Committee on Merchant Marine and Fisheries.

H.R. 4991. A bill to provide for legal equity for women in the laws administered by the Coast Guard; to the Committee on Merchant Marine and Fisheries.

H.R. 4992. A bill to reauthorize the Towing Safety Advisory Committee and the Rules of the Road Advisory Council, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BENNETT (for himself, Mr. MacKay, Mr. Shaw, Mr. Ireland, Mr. Gibbons, Mr. McCollum, Mr. Hutto, and Mr. Bilirakis):

H.J. Res. 498. Joint resolution approving the interstate cost estimate and interstate substitute cost estimate for fiscal years 1984 and 1985; to the Committee on Public Works and Transportation.

By Mr. EVANS of Illinois:

H.J. Res. 499. Joint resolution designating the week beginning November 11, 1984, as "National Women Veterans Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. MYERS:

H.J. Res. 500. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 18, 1984 as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. HALL of Ohio:

H. Con. Res. 265. Concurrent resolution to encourage the people of Paraguay in their efforts to reclaim and exercise their basic human rights; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. HANCE:

H. Con. Res. 266. Concurrent resolution restating the clear intent of Congress to provide financial assistance to local school systems to educate alien children and to call upon the President to expend appropriated funds for such purposes; to the Committee on Education and Labor.

By Mr. MARKEY (for himself, Mr. Leland, and Mr. Rodino):

H. Con. Res. 267. Concurrent resolution requesting a voluntary national 1-year freeze on doctors' fees and a reduction in fees for the unemployed, elderly, and uninsured; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. WHITTAKER (for himself, Mr. Morrison of Washington, Mr. Paul, Mr. Volkmer, Mr. Sam B. Hall, Jr., Mr. Pritchard, Mr. Lagomarsino, Mr. McNulty, Mr. Kramer, Mr. Hance, Mr. Edwards of Alabama, Mrs. Boggs, Mr. McKernan, Mr. McCandless, Mr. Dowdy of Mississippi, Mr. Chappie, Mr. Pickle, Mr. Stenholm, Mr. Hutto, Mr. Livingston, and Mr. Coelho):

H. Con. Res. 268. Concurrent resolution expressing the sense of the Congress that the President should instruct the U.S. delegation to the United Nations to request the Secretary General to seek the cooperation of the Government of Vietnam with the Governments of the United States, People's Republic of China, United Kingdom, Singapore, Australia, Canada, and the Philippines in ascertaining the fate or whereabouts of the 81 crewmen of the sunken U.S. registered vessel *Glomar Java Sea;* to the Committee on Foreign Affairs.

By Ms. FERRARO (for herself and Mr. Gilman):

H. Res. 450. Resolution to express the sense of the House of Representatives concerning Solidarity Sunday for Soviet Jewry; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 4993. A bill to appoint Charles Robert Allen III in the grade of captain in the Coast Guard Reserve; to the Committee on Merchant Marine and Fisheries.

By Mr. SMITH of Florida:

H.R. 4994. A bill to exempt from taxation by the District of Columbia certain property of the Jewish War Veterans, U.S.A. National Memorial, Inc.; to the Committee on the District of Columbia.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 220: Mr. Roberts.

H.R. 425: Mrs. Kennelly, Mr. Rangel, and Mr. Mavroules.

H.R. 1028: Mr. Conte.

H.R. 1617: Mr. Conyers, Mr. Erdreich, Mr. Kolter, Mr. Lewis of Florida, Mr. MacKay, Mr. Pepper, and Mr. Swift.

H.R. 1664: Mr. Corcoran.

H.R. 1676: Mr. Bennett and Mr. Feighan.

H.R. 1702: Mr. Gore.

H.R. 1903: Mr. Lowry of Washington and Mr. Wolpe.

H.R. 1959: Mr. Florio, Mr. Wirth, Mr. Edwards of Oklahoma, Mr. Kogovsek, Mr. Guarini, Mr. Donnelly, Mr. Murphy, Mr. Weiss, Mr. Akaka, Mr. Corrada, Mr. de Lugo, Mr. Roybal, and Mr. Yates.

H.R. 2053: Ms. Kaptur, Mr. Miller of California, and Mr. Davis.

H.R. 2447: Mr. Broyhill.

H.R. 2566: Mr. Tauke.

H.R. 2715: Mr. Hartnett.

H.R. 2847: Mr. Markey.

H.R. 3282: Mr. Rinaldo, Mr. Wolpe, and Mrs. Johnson.

H.R. 3405: Mr. Coelho and Mr. Dymally.

H.R. 3457: Mr. Panetta.

H.R. 3465: Mr. Vento.

H.R. 3487: Mr. Duncan, Mr. Siljander, Mr. Sensenbrenner, Mr. Kasich, Mr. Tauke, Mr. Miller of Ohio, Mr. Addabbo, Mr. Owens, and Mr. Roberts.

H.R. 4023: Mr. Leath of Texas.

H.R. 4039: Mr. Philip M. Crane, Mr. Nielson of Utah, and Mr. Shelby.

H.R. 4098: Mr. Lewis of Florida, Mr. Fauntroy, Mr. Clarke, Mr. Gradison, Mr. Zschau, Mr. Harkin, Mr. Martinez, Mrs. Burton of California, Mr. Carper, Mr. Hamilton, Mr. Torricelli, Mr. Barnard, and Mr. Gunderson.

H.R. 4111: Mr. Edwards of California, Mrs. Schneider, and Mr. Mrazek.

H.R. 4114: Mr. Thomas of California.

H.R. 4287: Mr. Schulze and Mr. Moore.

H.R. 4440: Mr. Brown of California, Mr. Hawkins, Mr. Jacobs, Mr. Kolter, Mr. Mollohan, Mr. Moody, Mr. Mrazek, Mr. Pickle, Mr. Roe, Mr. Simon, and Mr. Sunia.

H.R. 4447: Mr. Pickle, Mr. Mineta, Mr. Wolpe, Mr. Mrazek, and Mrs. Burton of California.

H.R. 4459. Mr. Foglietta, Mr. Petri, Mr. Addabbo, and Mr. Wolpe.

H.R. 4468: Mr. Coleman of Texas.

H.R. 4522: Mr. Coyne, Mr. Seiberling, Mr. Horton, Mr. Gejdenson, Mr. Lundine, Mrs. Hall of Indiana, and Mr. Mrazek.

H.R. 4549: Mr. Bliley, Mr. Williams of Ohio, Mr. Shelby, and Mr. Schaefer.

H.R. 4565: Mr. Ortiz.

H.R. 4596: Mr. Martin of New York, Mr. McGrath, Mr. Weiss, Mr. McHugh, Mr. Addabbo, Mr. Boehlert, Mr. Owens, Mr. LaFalce, Mr. Fish, Mr. Green, Ms. Ferraro, and Mr. Ackerman.

H.R. 4681: Mr. Fascell, Mr. Weiss, Mr. Neal, Mr. Frank, Mr. Coleman of Texas, Mrs. Boxer, Mr. Levine of California, Mr. Owens, Mr. Kolter, Mr. Ackerman, Mr. Akaka, Mr. Andrews of Texas, Mr. Barnes, Mr. Bedell, Mr. Berman, Mr. Fauntroy, Mr. Fazio, Mr. Fish, Mr. Frost, Mr. Garcia, Mr. Gejdenson, Mr. Gonzalez, Mrs. Hall of Indiana, Mr. Kostmayer, Mr. Lowry of Washington, Mr. McCloskey, Mr. Markey, Mr. Matsui, Mr. Miller of California, Mr. Mitchell, Mr. Mrazek, Mr. Ottinger, Mr.

Rangel, Mr. Richardson, Mr. Rodino, Mr. Sabo, Mr. Smith of Florida, Mr. Stokes, Mr. Studds, and Mr. Udall.

H.R. 4672: Mr. Montgomery.

H.R. 4696: Mr. Owens.

H.R. 4747: Mr. Crockett, Mr. Lundine, Mrs. Boxer, Mr. Edwards of California, Mr. Ortiz, Mr. Donnelly, Mr. Kolter, Mr. Edgar, Mr. Goodling, and Ms. Mikulski.

H.R. 4762: Mr. Clay, Mr. Miller of California, Mr. Foglietta, Mr. Daniel, and Mr. Vento.

H.R. 4813: Mr. Wolpe, Mr. Ratchford, Mr. Berman, and Mr. Minish.

H.R. 4832: Mr. Leland, Mr. Won Pat, Mr. Marriott, Mr. Mavroules, Mr. Horton, Mr. Stokes, Mrs. Schneider, and Mr. McKinney.

H.R. 4835: Mr. Edwards of Oklahoma.

H.R. 4863: Mr. Williams of Montana, Mr. Mineta, Mr. Madigan, Mr. Wheat, Mr. Oberstar, Mr. Ottinger, Mr. Stokes, Mr. Crockett, Mr. Ackerman, Mr. Ortiz, Mr. Barnes, Mr. Moody, Mr. Frank, Mr. Gejdenson, Ms. Oakar, Mr. Evans of Illinois, Mr. Edgar, and Mr. Berman.

H.R. 4877: Mr. Addabbo, Mr. Archer, Mr. Biaggi, Mr. Boehlert, Mr. Borski, Mr. Carr, Mr. Chappell, Mr. Coleman of Texas, Mr. D'Amours, Mr. Eckart, Mr. Edgar, Mr. Edwards of Oklahoma, Mr. Edwards of California, Mr. Ford of Tennessee, Mr. Garcia, Mr. Gejdenson, Mr. Gephardt, Mr. Gore, Mr. Harkin, Mr. Hoyer, Mr. Kostmayer, Mr. Kramer, Mr. Lehman of California, Mr. Lewis of Florida, Mr. Martinez, Ms. Mikulski, Mr. Mineta, Mr. Moody, Mr. Nelson of Florida, Mr. Owens, Mr. Patterson, Mr. Reid, Mr. Roybal, Mr. Scheuer, Mrs. Schroeder, Mr. Smith of New Jersey, Mr. Stratton, Mr. Thomas of Georgia, Mr. Udall, Mr. Yates, and Mr. Young of Missouri.

H.R. 4897: Mr. Eckart and Mr. Wortley.

H.R. 4908: Mr. Dellums, Mr. Ottinger, Mr. Oberstar, Mr. Kolter, Mr. Vento, Mr. Gaydos, Mr. Gejdenson, Mr. Owens, Mr. Mineta, Mr. Berman, Mr. Hayes, Mr. Smith of Florida, Mr. Frank, Mr. Roe, Mr. LaFalce, Mr. Fascell, Mr. Markey, Mr. Stark, Mr. Ginrich, Mr. Ackerman, Mr. Sabo, Mr. Levin of Michigan, Mr. Levine of California, Mr. Harrison, Mr. Borski, Mr. Hertel of Michigan, and Mr. Swift.

H.R. 4937: Mr. Lagomarsino and Mr. Daniel.

H.R. 4939: Mr. Matsui.

H.R. 4962: Mr. Hammerschmidt.

H.J. Res. 71: Mr. Boucher.

H.J. Res. 153: Mr. Carper, Mr. Derrick, and Mr. Neal.

H.J. Res. 174: Mr. MacKay, Mr. Mrazek, Mr. D'Amours, Mrs. Kennelly, Mrs. Burton of California, Mr. Dyson, Mr. Carper, and Mr. Foglietta.

H.J. Res. 233: Mr. Bonior of Michigan, Mr. Young of Missouri, Mr. Stump, Mr. Bevill, Mr. Quillen, Mr. Vento, and Mr. Jeffords.

H.J. Res. 277: Mr. Brown of California.

H.J. Res. 356: Mr. Gray and Mr. McCain.

H.J. Res. 337: Mr. Ray, Mr. Wise, Mr. Lehman of Florida, Mr. Donnelly, Mr. Boner of Tennessee, Mr. Conable, Mr. Schumer, Mr. Carney, Mr. Boehlert, Mr. LaFalce, Mr. Lundine, Mr. Lent, Mr. Molinari, Mrs. Martin of Illinois, Mr. Bates, Mr. Evans of Illinois, Mr. Kasich, Mrs. Vucanovich, Mr. Martinez, Mr. McCloskey, Mr. Bateman, Mr. Torres, Mr. Ottinger, Mr. Schaefer, Ms. Kaptur, Mr. MacKay, Mr. Spratt, Mr. McCandless, Mr. Walker, Mr. Lewis of Florida, Mrs. Johnson, Mr. Kindness, Mr. Bartlett, Mr. Andrews of Texas, Mr. Chandler, Mr. Rowland, Mr. Solomon, Mr. Studds, Mr. Edwards of California, Mr. Olin, Mr. Fish, Mr. Owens, Mr. Addabbo, Mr. Borski, Mr. Conte, Mr. Crockett, Mr. Fascell, Mr. Heftel of Hawaii, Mr. Reid, Mr. Rodino, Mr. Rose, Mr. Stark, Mr. Smith of Iowa, Mr. Dwyer of New Jersey, Mr. Bryant, Mr. Downey of New York, Mr. Fazio, Mr. Roybal, Mr. Chappie, Mr. Moody, Mr. Levine of California, Mr. Wheat, Mr. Neal, Mr. Mrazek, Mr. Patterson, Mr. Price, Mr. Madigan, Mr. Stump, Mr. Applegate, Mr. Bilirakis, Mr. Hubbard, Mr. Stratton, Mr. Wirth, Mr. Sunia, Mr. Coleman of Texas, Mr. Staggers, Mr. Boucher, Mr. Gore, Mr. Hance, Mr. Jeffords, Mr. Kastenmeier, Mr. O'Brien, Mr. Brown of California, Mr. Seiberling, Mr. Perkins, Mr. Edgar, Mr. Dymally, Mr. Hawkins, Mr. Hoyer, Mr. Morrison of Connecticut, Mr. Daschle, Mrs. Collins, Mr. Synar, Mr. Ortiz, Mr. Clay, Mr. Tauke, Mr. Bedell, Mr. Edwards of Oklahoma, Mr. Long of Maryland, Mr. Bevill, Mr. Durbin, Mr. Feighan, Mr. Foglietta, Mr. Garcia, Mr. Guarini, Mr. Lantos, Mr. Evans of Iowa, Mr. Matsui, Mr. Savage, Ms. Ferraro, Mr. Vento, Mr. Murphy, Mr. Sharp, Mr. Carper, Mr. Moakley, Mr. Conyers, Mr. Corrada, Mr. Britt, Mr. Frost, Mr. Coelho, Mr. Dowdy of Mississippi, Mr. Bosco, Mr. Sikorski, Mr. Erdreich, Mr. Brooks, Mr. Anderson of California, Mr. Fuqua, Mr. Whitley, Mr. Gejdenson, and Mr. Barnard.

H.J. Res. 389: Mr. Green, Mr. Smith of Florida, Mr. Stark, Mr. Bevill, Mr. Rodino, Mrs. Boggs, Mr. Annunzio, Mr. Miller of California, Mrs. Martin of Illinois, and Mr. Vento.

H.J. Res. 394: Mr. Ford of Tennessee and Mr. Boucher.

H.J. Res. 423: Mr. Tallon, Mr. Dowdy of Mississippi, Mr. Patterson, Mr. Lent, Mr. Sabo, Mr. Walgren, Mr. Coelho, Mr. Conyers, Mr. Daschle, Mr. de Lugo, Mr. Dickinson, Mr. Corcoran, Mr. Donnelly, Mr. Downey of New York, Mr. Dyson, Mr. Dymally, Mr. Edgar, Mr. Edwards of Alabama, Mr. Swift, Mr. Coats, Ms. Ferraro, Mr. Boehlert, Mr. Flippo, Mr. Neal, Mr. LaFalce, Mr. Sundquist, Mr. Long of Maryland, Mr. Gramm, Mr. Sharp, Mr. Paul, Mr. Tauke, Mr. Ralph M. Hall, Mr. Gonzalez, Mr. Stark, Mrs. Burton of California, Mr. Sisisky, Mr. Hamilton, Mr. Hightower, Mr. Jones of North Carolina, Mr. Broyhill, Mr. Fields, Mr. Ireland, Mr. Hopkins, Mr. Martinez, Mr. Packard, Mr. Sam B. Hall, Mr. Martin of North Carolina, Mr. Vandergriff, Mr. Staggers, and Mr. Oberstar.

H.J. Res. 432: Mr. Swift, Mr. Savage, Mr. Barnard, Mr. Evans of Iowa, Mr. Morrison of Connecticut, Mr. Stump, Mr. Bryant, Mr. Corcoran, Mr. Daniel, Mr. Chandler, Mr. Hansen of Idaho, Mr. Patman, Mr. Hopkins, Mr. Dymally, Mr. Murphy, Mr. McCain, Mr. Madigan, Mr. Mavroules, Mr. de la Garza, Mr. Ortiz, Mr. Bethune, Mr. Robinson, Mr. Broomfield, Mr. Boner of Tennessee, Mr. Yates, Mr. Annunzio, Mr. Martin of New York, Mr. Lagomarsino, Mr. Pritchard, Mr. Sam B. Hall, Jr., Mr. Pepper, Mr. Wirth, Mr. Oberstar, Mr. Volkmer, Mr. McHugh, Mr. Barnes, Mr. Bates, Mr. Synar, Mr. Boland, Mr. Bartlett, Mr. Crockett, Mr. Anthony, Mr. Edgar, Mr. Sawyer, Mr. Corrada, Mr. Fazio, Mr. Coughlin, Mr. Lewis of California, Mr. Mitchell, and Mr. Heftel of Hawaii.

H.J. Res. 441: Mr. Ford of Tennessee, Mr. Rangel, Mr. Bates, and Mr. Leland.

H.J. Res. 445: Ms. Fiedler, Mr. Moore, Mr. Courter, Mr. Waxman, Mr. Sikorski, Mr. Gore, and Mr. Edgar.

H.J. Res. 452: Mr. Owens, Mr. Reid, Mr. Berman, Mr. Matsui, Mr. McGrath, Mr. Horton, Mr. Skelton, Mr. Hammerschmidt, Mr. Ratchford, Mr. Jones of Oklahoma, Mr. Clinger Mr. Moakley, Mr. Bates, Mr. Corrada, Mr. Whitehurst, Mr. Rangel, Mr. Panetta, Mr. Wolpe, Mr. Beilenson, Mrs. Johnson, Mr. Molinari, Mr. Roth, Mr. Mrazek, Mrs. Boxer, Mr. Schumer, Mr. Smith of Florida, Mr. Biaggi, Mr. Weiss, Mr. Wilson, Mr. Rahall, Mr. Thomas of Georgia, Mr. Foley, and Mr. Bateman.

H.J. Res. 454: Mr. Vento.

H.J. Res. 478: Mr. de la Garza and Mr. Clinger.

H.J. Res. 480: Mr. Ackerman, Mr. Akaka, Mr. Albosta, Mr. Andrews of Texas, Mr. Annunzio, Mr. Archer, Mr. AuCoin, Mr. Barnes, Mr. Bates, Mr. Bedell, Mr. Beilenson, Mr. Berman, Mr. Bevill, Mr. Biaggi, Mr. Boland, Mr. Bonior of Michigan, Mr. Bosco, Mrs. Boxer, Mr. Britt, Mr. Broomfield, Mr. Brown of California, Mr. Brown of Colorado, Mr. Carney, Mr. Carper, Mr. Carr, Mr. Clay Mr. Coelho, Mrs. Collins, Mr. Corcoran, Mr. Corrada, Mr. Courter, Mr. Crockett, Mr. D'Amours, Mr. Daub, Mr. Dellums, Mr. Dixon, Mr. Donnelly, Mr. Dowdy of Mississippi, Mr. Duncan, Mr. Durbin, Mr. Dwyer of New Jersey, Mr. Dyson, Mr. Edgar, Mr. Edwards of California, Mr. Edwards of Oklahoma, Mr. Emerson, Mr. Fascell, Mr. Fauntroy, Mr. Fazio, Ms. Ferraro, Mr. Fish, Mr. Flippo, Mr. Florio, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Forsythe, Mr. Frank, Mr. Fuqua, Mr. Gejdenson, Mr. Gilman, Mr. Gore, Mr. Gray, Mr. Guarini, Mr. Hance, Mr. Hawkins, Mr. Hertel of Michigan, Mrs. Holt, Mr. Horton, Mr. Howard, Mr. Hoyer, Mr. Hutto, Mr. Hyde, Mr. Jacobs, Mrs. Johnson, Ms. Kaptur, Mr. Kasich, Mr. Kastenmeier, Mr. Kemp, Mr. Kildee, Mr. Kindness, Mr. Kogovsek, Mr. Kostmayer, Mr. Lagomarsino, Mr. Lantos, Mr. Lehman of Florida, Mr. Leland, Mr. Lent, Mr. Levin of Michigan, Mr. Levine of California, Mr. Levitas, Mr. Lewis of California, Mr. Lewis of Florida, Mr. Long of Louisiana, Mr. McCain, Mr. McCloskey, Mr. McDade, Mr. McGrath, Mr. McHugh, Mr. McKernan, Mr. McKinney, Mr. Madigan, Mr. Markey, Mr. Martin of New York, Mr. Martin of North Carolina, Mr. Matsui, Mr. Mavroules, Mr. Mazzoli, Mr. Mineta, Mr. Mollohan, Mr. Morrison of Connecticut, Mr. Nelson of Florida, Mr. Oberstar, Mr. O'Brien, Mr. Ortiz, Mr. Ottinger, Mr. Owens, Mr. Patterson, Mr. Pepper, Mr. Perkins, Mr. Porter, Mr. Rangel, Mr. Ratchford, Mr. Regula, Mr. Rinaldo, Mr. Rodino, Mr. Roe, Mr. Sabo, Mr. Schaefer, Mr. Scheuer, Mr. Schumer, Mr. Simon, Mr. Sisisky, Mr. Skelton, Mr. Smith of New Jersey, Mr. Smith of Florida, Mr. Smith of Iowa, Mr. Solarz, Mr. Stenholm, Mr. Stokes, Mr. Stratton, Mr. Tauzin, Mr. Torricelli, Mr. Towns, Mr. Traxler, Mr. Vandergriff, Mr. Vento, Mr. Walgren, Mr. Waxman, Mr. Weiss, Mr. Wheat, Mr. Whitten, Mr. Williams of Ohio, Mr. Wilson, Mr. Winn, Mr. Wirth, Mr. Wolpe, Mr. Won Pat, Mr. Wortley, Mr. Yates, Mr. Yatron, Mr. Young of Missouri, Mr. Miller of California, Mrs. Burton of California, Mr. Mica, Mr. Aspin, Mr. Evans of Illinois, Mr. Moody, Mr. Bateman, Ms. Fiedler, and Mr. Thomas of Georgia.

H. Con. Res. 2: Mrs. Johnson.

H. Con. Res. 181: Mr. Tauke and Mr. Gore.

H. Con. Res. 216: Mr. Burton of Indiana.

H. Con. Res. 229: Mr. Harrison.

H. Con. Res. 261: Mr. Regula, Mr. Conte, Mr. Smith of Florida, Mr. Petri, Mr. Moore, Mr. Akaka, Mr. Beilenson, Mr. Bonior of Michigan, Mr. Coleman of Texas, Mr. Crockett, Mr. Daub, Mr. Edgar, Mr. Fauntroy, Mr. Florio, Mr. Frank, Mr. Hawkins, Mr. Kastenmeier, Mr. Leland, Mr. Mitchell, Mr. Morrison of Connecti- cut, Mr. Sabo, Mrs. Schroeder, Mr. Studds, Mr. Torres, Mr. Udall, Mr. Walgren, Mr. Wheat, Mr. Wirth, Mr. Ackerman, Mr. Weiss, Mr. Rangel, Mr. Stark, Mr. Ratch- ford, Mr. Gejdenson, Mr. Parris, Ms. Kaptur, Mr. Bosco, Mr. Kolter, Mr. Wolfe, and Mr. Williams of Montana.

H. Res. 135: Mr. Lantos.

H. Res. 278: Mr. Gore.

H. Res. 360: Mr. Wise, Mr. Studds, and Mr. Gore.

H. Res. 372: Mr. Burton of Indiana.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 445: Mr. Hansen of Idaho.

PETITIONS, ETC.

Under clause 1 of rule XXII,

320. The SPEAKER presented a petition of the Council of the County of Maui, Wailuku, Hawaii, relative to various issues of concern to native Hawaiians; which was referred to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3050

By Mr. WORTLEY:

—Page 11, line 9, strike out "shall" and insert in lieu thereof "may".

—Page 11, line 17, strike out "or subordinating".

Page 11, lines 20 and 21, strike out ", accommodation, or subordination" and insert in lieu thereof "or accommodation".

Page 13, line 7, strike out "and subordination".

Page 14, line 2, strike out the second period and insert in lieu thereof "; and".

Page 14, after line 2, insert the following:

(5) striking out ", accommodation, or subordination" in the second sentence and inserting in lieu thereof "or accommodation", and by striking out "and subordination" in the fifth sentence.

(Amendment to the committee amendment to section 7.)

—Page 12, lines 4 and 5, strike out "or subordinate".

Page 12, line 15, strike out "or subordinations".

(Amendment to the committee amendment to section 7.)

—Page 12, line 4, strike out "shall" and insert in lieu thereof "may".

EXTENSIONS OF REMARKS

A TRIBUTE TO SHELDON W. ANDELSON

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. LEVINE of California. Mr. Speaker, I rise today to acquaint my colleagues with some of the accomplishments of a distinguished citizen and a close personal friend of mine, Sheldon W. Andelson.

Mr. Andelson is a prominent leader in the Los Angeles community. He is a uniquely gifted man whose compassion for others has motivated him to champion important principles and whose skills have insured his success in a wide variety of endeavors.

A southern California newspaper recently shared some of Sheldon Andelson's story with its readers. It is with great pleasure that I ask for unanimous consent to include this article in the RECORD so that I may share it with my colleagues.

REFLECTIONS OF A GAY POWER BROKER

(By Will Thorne)

Sheldon W. Andelson stands tall in Los Angeles, always did.

He heads a prosperous seven-member Beverly Hills law firm where the fees run to $250 an hour. He owns a Los Angeles bank worth $81 million. He may be the largest property owner in West Hollywood. He is the founder of a plush Melrose Avenue restaurant where the dinner tab may be more than $100 a couple.

He is a regent of the nine-campus University of California. Known by a governor, congressmen and state senators. He has been termed a "power broker" by the *Los Angeles Times*. He is an influential leader of a 600-member political organization.

He goes home to a $1 million-plus Mediterranean-style villa on a Bel Air hillside which has a vast terrace overlooking the high-rise towers of West Los Angeles, an outdoor sunken swimming pool, a fullsized bar stocked with chilled champagne, and a dining room where he can, and often does, host dinner parties for up to 72 people.

Life has given Shelly Andelson a lot.

But it has not been altogether kind, either.

For he's gay.

"When you find out you're gay, the stars fall down out of the heavens, at least in my generation," he says, intensely, with passion, almost with feriocity. "For 20 years I lived a closeted life."

"And let me tell you, it wears you down," he says, clenching a fist, leaning forward in his chair. "Try and deny who you are for a long time! Just try it! It erodes the innards, it destroys all relationships."

He is not loud, not vindictive, not angry. But he is bitter. And sincere. He wants you to believe him.

"And all those years, years that were lost not only to me but to those I could have contributed them to, to my city, my religion, my community."

It has been an impressive statement.

It also seems to have been a calming one. Andelson—a compact, wiry man of 53, with a short-cropped brush of white hair, trim and impeccable in a business suit and tie, though he's at home—pauses, relaxes a little in the oversized white chair in his modernly furnished living room.

He has already said he would have liked to be a U.S. senator. Now the question arises. If he hadn't been gay, would he have tried for that Senate seat?

"Sure" he says, chopping short the words, his low voice dropping to a near-whisper. Then he pauses.

"But I got the message early. There were places I couldn't go, things I couldn't do. I might not have been rich today. I had more time to buy property and get rich because there were so many things I couldn't do.

"But I'm a survivor and an achiever. Not everybody is. Some of them end up in the bottle. I'm a survivor."

He has needed to be.

Andelson was born in Chicago, his father's home town, although he hates to admit it, and says he will "usually just say I was raised here and lived here all my life. Mother's family had lived here since the first World War."

He graduated from Manual Arts High School, went to Stanford a year and then to USC, then "became a lawyer early and had a good home life when I was a child.

"My family sought the highest and the most out of me," he hurried on.

"They didn't give me choices. I had a lot of guidance, a lot of direction, always a delicate balance between guidance and pushing."

His profession—the law—was also chosen by his family while he was still in grammar school, he said. He can't remember just who in the family, but he remembers that he agreed readily to the choice.

"Everybody thought I might be a natural as a lawyer and I thought I was a natural," he said. "I wanted to do it all my life and I still want to do it. I still go to my law office on a daily basis and keep current my daily reading."

Graduating in 1955, he worked for a year for famous Hollywood film lawyer Oliver Schwab for the then-grand sum of $25 an hour. Then he hung out a shingle of his own in a Beverly Hills office building where the firm, in which his brother, Arlen, is a partner, is still located.

There was little money in the family ("We ate everything off our plates and didn't ask too many questions about what we were served," he recalled) and young Andelson saved everything he could.

"When I made a few dollars I did what my grandfather loved to do, buy real estate," he said. "I started collecting it. What I could afford to buy, I bought, and if it had a nice loquat tree or an avocado tree and looked like Los Angeles to me, I bought it."

"You could buy a good piece of ground then for $25,000 with 10 percent," he said. "I remember when the mortgage rate went up to 6 percent, how mad I got. Now you'd need $250,000 for the same piece of property.

"I love real estate. It gives you such a great sense of roots. It means commitment to Los Angeles. It means you believe in Los Angeles."

Andelson's entry into the restaurant business came about by accident. Two young men planning to open a restaurant came to see him, wanted to rent a building, and needed a partner in the financial end.

He had never liked the restaurant business. It had been his father's business. And he had "learned that it is not for anybody who is sane." In fact, he said, it had always been his rule never to rent to restaurants.

But, he recounted, he had agreed to talk to the men. "They were exciting and the plans were exciting," he said. "In a weak moment, I agreed."

It was the right decision.

The restaurant became Trump's on Melrose Avenue.

"It turned out to be one of the top restaurants in California, a real good vehicle to bring people together," he said. "I think it affected my public image positively. You know, you can be a brilliant Nobel Prize winner, but if you own a good restaurant you get just as much credit."

Banking also came over early reluctance, but it "came at the right time," he said. The offer was made over lunch with a friend, an offer so interesting that Andelson, who says he will "usually remember those things"—can't recall what they ate, or where.

"I was in my mid-40s then, and at that time I was going through what is classically known as a mid-life crisis," he said. "I was looking for a career expansion. I didn't have anything in mind, but this was how it came together."

Andelson and a group of 13, including his brother, Sherman, put the Bank of Los Angeles together in four years, with $5.6 million. It now has $81 million and ranks 115th out of 384 in the state in size.

Politics is an older Andelson interest. He recalls winning the presidency of his class in grammar school and losing a campaign in junior high, but adds that "I got a high appointment—I was appointed editor of the school paper."

An active public career looked impossible by the time Andelson was 22, the age at which he finally realized he was gay. But he became a campaign contributor and his name became known among Democratic Party leaders as a staunch party man.

"I have always identified the Democratic Party as the one that was concerned about all the people," he said. "I'm talking about minorities. I've always been a minority person."

But it wasn't until the formation of Municipal Elections Committee of Los Angeles—MECLA—in 1977 that Andelson became active himself. He sparked the organization, formed to promote and protect political interests of gays, and has become its best-known and most evident member, its main spokesman.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Most people think Andelson founded MECLA, some of them think he did it single-handedly. He didn't, he said.

"I was an early supporter," is the way he puts it. "It would be wrong to say I was the star. I danced in a chorus and later on went on to single solo."

His participation in MECLA, a nonpartisan group that is nonetheless usually viewed as liberal or moderately liberal, came after Andelson had made his own personal decision to come out of the closet.

It wasn't sudden.

"It was done over a seven-year period, culminating in a public announcement in 1978," he said.

He's glad he did it, glad it's over. "What it's done for me has been getting rid of the shackles and getting that out of my way," he said.

"It allows me to move into a society where they are already breaking down the barriers. I'm more comfortable.

"My lifestyle is irrelevant now."

The places into which Andelson moves most visibly now are political places. And he is, indeed, welcome no matter his lifestyle.

MECLA and his position as its spokesman gives him not only a cause, but an army. His position as a well-known attorney fits him into a political world populated mostly by attorneys. And his wealth—which he does not disclose—makes him welcome as a potential fund-raiser.

A most recent instance of his clout as a power broker came in the opening rounds of the re-election campaign by Deane Dana, chairman of the Los Angeles County Board of Supervisors.

On one hand, Andelson was courted by Dana, with whom he had been friendly in the past, and who sought his 1984 endorsement. On the other, he was courted by the Anybody But Dana Committee, which included him in its planning meetings.

In the future, Andelson is expected to stand as tall in Democratic Party affairs as he does in banking or the law. But the time for campaigning for the U.S. Senate is gone. He's no longer interested in elective politics.

"Perhaps I would like to do something in public life sometime in the future," he said. "But something appointed, and in Washington.

"But that's still somewhere down the road."●

NEW HOPE AND OPPORTUNITY FOR BLACK FAMILIES

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. GINGRICH. Mr. Speaker, in 1950, only 8 percent of black families with children were headed by women. In 1960, the number was over 20 percent. Today, that figure has risen to 47 percent—and is still climbing. This is indeed a national tragedy.

Fortunately, the devastating problem of the black household headed by women is finally beginning to be discussed openly and intelligently. It is none too soon to try and bring a measure of hope and opportunity into the lives of the black family.

I recommend to my colleagues the following column, written by William Raspberry, about this situation:

[From the Washington Post, Feb. 1, 1984]

Facing the Family

(By William Raspberry)

Twenty years ago, the breakdown of the black American family was an unmentionable. Today, the black American leadership seems to be talking about hardly anything else.

The new attitude is partly the result of a new brand of hard-nosed honesty that has black Americans looking to their own resources for solutions to problems (crime, inadequate public schools) that they used to be content to blame on white people. And it is partly the result of numbers that finally have grown too big to ignore.

Back in 1950, only 8 percent of black families with children were headed by women. By the 1960s, when Daniel Patrick Moynihan was provoking the wrath of the black leadership by daring to talk about black family instability, the number had topped 20 percent. Today it is 47 percent, and climbing. The comparable figures for white families are 3 percent (1950), 6 percent (1960) and 15 percent (last year).

During the decade of the 1970s alone, out-of-wedlock births among blacks rose from 38 percent to 55 percent. Households headed by women are the biggest single category of poor people in America.

Fortunately, America's black leadership is reacting with more than embarrassment. Hortense G. Canady, national president of Delta Sigma Theta Sorority, the largest organization of black women in America, was in town last week to announce a major new program to provide help for single mothers.

The NAACP and the Urban League, the top civil rights organizations in the country, have both been studying the problem and will shortly (perhaps as early as next week) announce a joint program to do something about it.

Any number of local efforts are already under way: some of them purely voluntary, others funded by foundations or other grants.

One thing they won't have to worry about is getting in each other's way. There are plenty enough pieces of the problem to go around.

The NAACP may decide to focus on families, for instance, while the Urban League concentrates its efforts on teen-age girls. The Deltas hope to push their efforts beyond the obvious poverty link. "We're talking about not just the poor but all single heads of households," says Canady. "Even for professional women who are heads of households, whether through widowhood, divorce, abandonment or nonmarriage, the support systems just aren't there: for child care, for all sorts of things these women need."

Some of the organizations will target social policy, including rules that foster welfare dependency. Some will stress parenting skills for adolescent parents (or prospective parents) while others will focus on programs to help their young children. Some will lay heavy emphasis on mortality and values, while others will be hardheadedly pragmatic.

The important thing, though, is that the devastating problem of the black household headed by women is at last an open topic of serious discussion and planning—almost an obsession. Talking about it won't solve the problem, of course.

But it is fair to suggest that 20 years of refusing to talk about it seems to have made it a good deal worse.●

INTRODUCTION OF BILL TO ADDRESS SELECTIVE SERVICE SYSTEM ABUSIVE PRACTICES

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. MITCHELL. Mr. Speaker, today I, along with Representatives Boxer and Dellums, am introducing a bill to address the continuation of abusive practices on the part of the Selective Service System. This bill, introduced initially during the first session of the current Congress, states simply that, "* * * registration under the Military Selective Service Act may only be carried out in accordance with applicable regulations and Presidential proclamations."

We believe that it is imperative that this measure be enacted since it is our understanding that the Selective Service System has initiated the following programs:

First. The acceptance of registration from young men as early as 120 days prior to their 18th birthday. Presidential Proclamation 4771—July 2, 1980—states clearly that, "persons born on or after January 1, 1963, shall present themselves for registration on the day within the period of 60 days beginning 30 days before such date * * *"

Second. The use of public high schools to register young men. The aforementioned Presidential proclamation states also that, "persons who are required to be registered and who are in the United States on any day fixed herein for their registration shall present themselves in any classified United States Post Office."

Third. The acceptance of registration by mail. Again this practice is in direct violation of the Presidential proclamation.

Last year, we became aware of similar practices initiated through the use of a pilot program in my city of Baltimore. Working closely with the Selective Service System national headquarters here in Washington, we were able to secure the termination of the program. I am particularly proud of the expedient action taken by the national headquarters to address this matter. Now, I call upon them to, once again, act to terminate practices which constitute direct violations of the law.

I urge my colleagues to join me in cosponsoring this bill to insure that registration activities initiated by the Selective Service System are conducted in accordance with the law.●

BELL COMMUNICATIONS RESEARCH, INC.

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. RINALDO. Mr. Speaker, earlier this month, the Central Services Organization, which was conceived more than 2 years ago pursuant to the divestiture of the Bell System, announced that it is taking the permanent name, Bell Communications Research, Inc. CSO was a temporary name used until Judge Harold Greene, who presided over the Bell System divestiture case, approved the company's use of the Bell name and logo last week. Bell Communications Research is owned and funded by the 7 regional holding companies into which the 22 Bell operating companies have been grouped. BCR will be headquartered in Livingston, N.J., and will employ about 8,000 people. Mr. Speaker, I am providing for the Record the speech given yesterday by the president and chief executive officer of Bell Communications Research, Mr. Rocco J. Marano.

The speech follows:

It's no secret why we asked you here today.

It should also come as no surprise when I tell you we have been eagerly looking forward to this day.

In fact, for some months now we have known what we wanted to call ourselves. Obviously it was not Central Services Organization, the temporary name we've been using for almost a year.

Like all of the new companies that have appeared on the scene as a result of divestiture, we wanted a name that was more descriptive of what we are and who we are.

And like all of the new Regional companies, we took time to do some homework, sifting through a long list of possible names. We did some research, too. Not surprisingly, we learned that among Bell employees—especially those who would be employees of this company—there was a strong preference for a corporate name with the word "Bell" in it.

But respondents in our study who were members of the academic and scientific community also identified with the Bell name. In addition, they gave strong endorsement to names that signified a technical orientation. Since the academic community represents an important constituency for us in that we look to them for new recruits, we paid special heed to what they were saying.

After finally narrowing down the list of names to a manageable number, we made our choice. But even then, the job wasn't done. We still had to petition the Court for permission to use the Bell name. That is because Judge Greene had, in effect, given the Bell operating companies custody of the name and the Bell symbol or logo.

On February 6, Judge Greene gave his approval to proceed.

And so today, it gives me great pleasure to announce the name of America's newest research and technology company, a company that—to quote Judge Greene—"represents a very important ingredient in the future of telecommunications in this country."

The name we have chosen is Bell Communications Research, Inc. Simple, direct and uncomplicated, it is a name that symbolizes our tradition, our business and our purpose.

Bell is our link to tradition. It recognizes that the employees of this organization come from all parts of the old Bell System and bring with them a strong sense of loyalty and pride in their Bell heritage. Equally important, it provides a strong contemporary tie to the Bell operating companies that we are in business to serve.

Communications indicate the business we are in and tells the world what we are about. The word "communications" should be viewed in its broadest sense because the focus of our efforts on behalf of our owners will range from advancing the art of telephony to expanding the frontiers of all communications.

Finally, the word Research provides the reason for our being. Early on in the planning for this new company, the heads of the Regions reached agreement on the need for a technical organization of significant size that could provide research and services not readily available anywhere else. The principal products of Bell Communications Research will be advances in science and technology as they relate to exchange telecommunications services, as well as research and counsel on a variety of other matters that the Regional companies have asked us to undertake for them.

Our work consequently spans such technologies as solid-state devices, lightwave communications and computer science—including the basic technical disciplines underlying them. It also extends to systems engineering and the development of very large and complex software systems.

When the three elements of our name are combined with the Bell logo—the most widely recognized corporate symbol in the world, a symbol of excellence—we feel that we have a name and an identity that should serve both us and our owners well.

We think it will enable us to attract from the scientific and technical communities the kind of people we need to assure that the services we provide to the Regional companies are services of the highest quality.

We also think that in time Bell Communications Research will be a name that is recognized as that of a world leader in communications research. Certainly that is our objective.●

ERNEST C. LADEIRA, PORTUGUESE-AMERICAN OF THE YEAR, 1983

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. FRANK. Mr. Speaker, one of the most important cultural events in southeastern Massachusetts is the annual Portuguese-American Awards Dinner which is sponsored by O Jornal, the important Portuguese language newspaper published in Fall River. The publishers of O Jornal do an excellent job of serving the people in southeastern Massachusetts and Rhode Island who speak Portuguese and who are justifiably proud of their Portuguese culture and heritage. One important part of the work of O Jornal is the annual awards dinner, at which leading Portuguese-Americans are honored for the contributions they have made to the community. This year, the man honored as Portuguese-American of the year is a man who has had a significant relationship with the House of Representatives—Ernest C. Ladeira.

Ernie Ladeira has a very distinguished career in public service. For 9 years, he was administrative assistant to former Representative Joseph Martin, a former Speaker and minority leader, and one of the great congressional figures of our century. Subsequently, Mr. Ladeira has held other important positions at the State and Federal level, as well as serving both the Portuguese-American community and the larger community in a number of important voluntary posts. Ernie Ladeira is an outstanding public servant and a man admired, respected, and genuinely liked by all of those who have come into contact with him.

I congratulate Ray and Kathy Castro, the publishers of O Jornal for the great work they do for the Portuguese-American community of Fall River, for the Greater Fall River area as a whole, and for adding Ernest Ladeira to the very distinguished list of honorees as Portuguese-American of the Year.

In addition to honoring Ernest Ladeira, the O Jornal dinner honors annually leading Portuguese-Americans in the fields of sports, entertainment, social service, education, and business and industry. To Boston College track star Jose Rocha; to Mary Alice Post of the Portuguese-American Federation, which sponsors "the Portuguese Around Us"; to Francisco Simas, for his great work with the Boy Scouts; to Principal John Pontes of the Davol Elementary School; and to President James Pavo of Woodland Manufacturing, my congratulations for the recognition they so justifiably received from O Jornal for their service to their friends and neighbors in southeastern Massachusetts.

Mr. Speaker, I insert here part of the text of the program prepared by Ray and Kathy Castro for the 6th Annual Portuguese-American Award Dinner, an event I was privileged to attend, and which reminded me and others of the important cultural contribution which the various ethnic heritages make to the richness of life in the United States:

Ernest C. Ladeira Portuguese-American of the Year 1983

Ernie Ladeira was born in Fall River, Massachusetts of Portuguese immigrant parents from São Miguel, the Azores. He graduated from BMC Durfee High School in the late 1930's, and four years later, found himself on the Pacific front as a member of the U.S. Air Force in World War II.

Ladeira returned with a Bronze Star for Meritorious Service in combat and a commitment to do something for his City and his people. It was then that he began his active involvement in politics. His father-in-law, the late Jose Silva who was a great force in the local Portuguese community, first introduced Ernie to the late Speaker of the U.S. House of Representatives Joseph Martin; and in 1957 Ernie assumed the duties of Administrative Assistant in the Congressman's Washington office. During these years with Martin, Ernie worked quietly behind the scenes to help open the quota for Portuguese immigrants.

The congressional post was the beginning of a long and distinguished career for Ernie which has culminated in the prestigious federal post which he holds today—Regional Manager of the U.S. Office of Community Services for New England. He has served as a Coordinator for Intergovernmental Affairs for the State of Massachusetts as well as the Chief of Local Government Liaison for the U.S. Department of Transportation under former Massachusetts Governor John A. Volpe. In his present position, Ernie is responsible for analyzing and approving local Community Action Programs totaling in the million of dollars. And he has always made sure that his home-town was well represented when the funds were allocated.

Ernie has served on numerous boards and has devoted countless hours to volunteer service. He was a founding member of the Portuguese American Veterans Association and the Fall River War Veterans Council; he has worked for the National Cystic Fibrosis Research Foundation, the Boy Scouts and Girl Scouts of America; the Department of Massachusetts CHAI Scholarship Program and holds membership in the Acoreana Band Club and PYCO.

His commendations for service include recognition by the U.S. Office of Community Services, the U.S. Office of Economic Opportunities, and citations given by former Governors Volpe and Francis Sergeant. In the words of our present Governor, Michael Dukakis: "Ernie Ladeira is one of the most community-minded citizens in the Commonwealth of Massachusetts. He has long been involved in politics, government and community service, and understands fully the many responsibilities a person undertakes in upholding the public trust."

Ernie is married to the former Mary Silva and they are the parents of four children; Mary, Catherine, Patricia and Ernest Martin and the grandparents of five, Karen 16, Lori 13, Christine 13, Kerri 6 and Matthew 3.

We are proud to add his name to our Award recipients, and to extend a thank you, perhaps now long overdue, for the many years of dedication and care which he has given, not only to "his" people but to the entire community.

THE AWARDS DINNER

The Portuguese-American Awards Dinner is a celebration of "our" community. Over the past six years, we have honored men and women from various walks of life who, we believe, best reflect our contributions as a people.

Mayor Carlton M. Viveiros, Senator Mary L. Fonseca, Fall River School Superintendent John R. Correiro, composer Joe Raposo and the late Cardinal Humberto S. Medeiros have all been honored; and this year, we proudly add the name of Ernest C. Ladeira to our distinguished list of recipients.

In addition, we have also paid tribute to other Portuguese-Americans who, in their specific areas, have exemplified the spirit of community service and commitment. Beyond honoring those here tonight, the Dinner has enabled us to establish, in the name of the Portuguese-American community, scholarships which again this year will help young people from our community to continue their education.

But none of this would be possible without your support, and for this, we thank you. We invite you to enjoy the evening with us, to share in this occasion of "Portuguese-American Pride", and to return again in the years to come for this "special" night.

Muito obrigado.●

ONE MAN'S INVOLVEMENT WITH YOUNG PEOPLE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. GINGRICH. Mr. Speaker, I would like to recommend to my colleagues a newspaper article about one of the truly great entrepreneurs and leaders in Georgia.

That person is S. Truitt Cathy, founder and president of a nationwide restaurant chain. Over the years, he has helped large numbers of young men and women. And his company, which is headquartered in the district I represent, has given millions of dollars in scholarships to deserving young people.

Now Mr. Cathy is setting up a small campus—on the grounds, and using the facilities, of what was once a small liberal arts college in northwest Georgia. Through this project, Mr. Cathy hopes to initially help 75 young people through 4 years of study.

Mr. Cathy has found an opportunity for further involvement with young people and a program for helping them develop their leadership potential. He is truly one of Georgia's leading citizens.

The article follows:

[From the Rome News-Tribune, Jan. 12, 1984]

Food Chain To Utilize Berry Site

A Georgia-based fast food chain has agreed to sponsor a separate campus on Berry College grounds for 75 prospective students selected from employees of the company, officials announced today.

Beginning with the 1984-85 academic school year, the grounds and facilities of the former Berry Academy, closed last June due to declining enrollment, will be used for a campus sponsored by the Chick-fil-A restaurant chain, according to Dr. Gloria M. Shatto, Berry president. The fast food firm will hire its own directors and administrative staff for the facility, Shatto said.

The Berry Board of Directors will not sell the former academy campus, Shatto said during a joint press conference with Chick-fil-A officials this morning.

The college will instead work out a leasing agreement with the company.

"We have complete confidence in each other that we will work out the mechanics in due time," Chick-fil-A President S. Truett Cathy said.

Each of the 75 students will be given a $10,000 cooperative grant for four years of study, funded equally by Chick-fil-A and Berry financial aid, Dr. Shatto said.

Those students will attend classes at Berry, and will participate in the college's work opportunity program. The separate campus will have its own extracurricular activities, but will also participate in Berry activities, Cathy said.

The Chick-fil-A founder said he hoped the sponsored students will "blend in" and be accepted as "normal students" by the Berry student body.

Chick-fil-A also intends to use the facility for short courses, conferences, religious retreats, and other non-profit activities, according to Dr. Shatto.

Buildings initially used by the restaurant company will include Friendship Hall, Pilgrim Hall, Hill Vining Hall, Henry Hall, the gymnasium, industrial arts complex, and Frost Memorial Chapel.●

AMERICAN HEART MONTH

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. WIRTH. Mr. Speaker, heart research has made tremendous strides in the last 10 years. Scientific evidence has unequivocally proven that people who have high intake of cholesterol products, consume a great deal of salt, smoke cigarettes or do not exercise have an increased risk of heart disease or atherosclerosis.

Educating the public about these scientific findings has not been an easy task. Consequently, Congress and the President have designated February as "American Heart Month" every year since 1963.

The U.S. Department of Agriculture in conjunction with the U.S. Department of Health and Human Services has published a dietary guidelines pamphlet entitled "Nutrition and your Health." The American Heart Association has cited three sections of the publication as important prevention factors in reducing the risk of heart disease: First, maintain an ideal weight; Second, avoid too much fat, saturated fat, and cholesterol and Third, avoid too much sodium.

Mr. Speaker, in order to help every American prevent heart disease, I would like to share with my colleagues these sections of "Nutrition and your Health" reprinted for the Record.

The article follows:

Maintain Ideal Weight

People who are too fat, increase their chances of developing chronic disorders. Obesity is associated with high blood pressure, increased levels of blood fats and cholesterol, and the most common type of diabetes. All of these, in turn, are associated with increased risks of heart attacks and strokes. Thus, people should try to maintain an "ideal" weight. . . . For most people, their weight should not be more than it was when they were young adults (20 or 25 years old).

It is still not understood why some people can eat much more than others and maintain normal weight. However, one thing is definite: to lose weight, one must take in fewer calories than you burn. This means that people must either select foods containing fewer calories or must increase their activity or both. If one needs to lose weight, do so gradually. Steady loss of 1 to 2 pounds a week—until your goal is reached—is relatively safe and more likely to be maintained. Long-term success depends upon acquiring new and better eating habits and continued exercise. Do not try to lose weight too rapidly. Avoid crash diets that are severely restricted in the variety of foods they allow. Diets containing fewer than 800 calories may be hazardous.

AVOID TOO MUCH FAT, SATURATED FAT AND CHOLESTEROL

If high blood cholesterol levels are indicated by your physician, a greater chance of having a heart attack exists. * * * At present, there is no good way to predict who will develop high blood pressure, though certain groups such as blacks, have a higher incidence. Low sodium diets might help some of these people avoid high blood pressure if they could be identified before they develop the condition.

Since most Americans eat more sodium than is needed, consider reducing sodium intake. Use less table salt. Eat sparingly those foods to which large amounts of sodium have been added. Remember that up to half of sodium intake may be "hidden" either as part of the naturally occurring food or, more often as part of a preservative or flavoring agent that has been added.

TO AVOID TOO MUCH SODIUM

Learn to enjoy the unsalted flavors of foods;

Cook with only small amounts of added salt;

Add little or no salt to food at the table;

Limit your intake of salty foods, such as potato chips, pretzels, salted nuts and popcorn, condiments (soy sauce, steak sauce, garlic salt), cheese, pickled foods and cured meats; and

Read food lables carefully to determine the amounts of sodium in processed foods and snack time.●

BLACK, ASIAN, WHITE, HISPANIC, AND INDIAN WOMEN IN AMERICAN HISTORY

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. FAZIO. Mr. Speaker, I rise to pay tribute to the California Black Cultural Assembly which today is unveiling an outstanding exhibit in recognition of National Women's History Week at the State capitol in Sacramento.

The exhibit, entitled "Black, Asian, White, Hispanic, and Indian Women in American History," showcases the contributions and achievements of a variety of women who have made significant contributions to the development of our country. The exhibit celebrates their successes through struggle.

The Black Cultural Assembly has gathered an impressive array of approximately 70 different displays depicting the many contributions of women in science, literature, education, government, arts, business, and industry. The exhibit includes the nationally acclaimed "Black Women Against the Odds," put together by the Smithsonian Institute, and a display called "Chinese Women of America, " organized by the Chinese Culture Foundation of San Francisco.

Mr. Speaker, I commend the Black Cultural Assembly for organizing this magnificent exhibit and for arranging for it to be permanently housed in our capital city for all Sacramentans to enjoy.●

DEREGULATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, February 29, 1984, into the CONGRESSIONAL RECORD.

The report follows:

DEREGULATION

It began with voters telling their elected representatives to get the government off their back. It grew to become a trend of unparalleled importance to the economy. Hoosiers still ask me about deregulation. This is a status report:

Airlines: The airline industry was one of the first to be deregulated, beginning in 1977 when liberal innovations in routes and fares were introduced. The process was largely complete by 1979. Nearly 60 new medium-size or larger airlines have been created (for a total of about 100), there is more competition on busy routes, and fares are steady or lower on these routes. Fares on other routes have climbed, however, as carriers have ended or cut back services to scores of small cities.

A number of old carriers have declared bankruptcy and many others did not have a profitable year between 1979 and 1982. Some new firms are earning handsome profits and have won significant shares of new business. As the recovery has proceeded, the industry as a whole is becoming profitable again. Productivity has risen sharply as old carriers have cut costs and new carriers have started business paying low wages and using older equipment.

The winners from deregulation are travellers on busy routes, those entrepreneurs whose new companies will survive, and their workers. The losers are travellers on other routes, old carriers, and their employees.

Trucking: Trucking was another major industry to be deregulated. Because 8,000 new companies have entered a business now numbering 28,000, old carriers are facing keen competition. Many large shippers report that their rates are lower today than they were four years ago, and that most rates are negotiated, not fixed as they were before. Employment among teamsters is off by one third since 1979, and the wages of those working have lagged.

Profits in the industry have fallen sharply overall, so much so that there is talk of widespread failure and merger among executives and investors. About 300 firms are going out of business every year. The problems of shippers in small cities are less noticeable than the problems of airline travellers there. Unacheduled truckers have moved in to fill the vacuum left by firms that have cut back.

The winners from deregulation seem to be shippers on busy routes and new operators who keep costs down. The losers seem to be teamsters in general and old carriers who no longer fix rates.

Railroads. Railroad deregulation was made possible by legislation enacted in 1976 and 1980. One of the consequences of these laws is corporate consolidation. Seven railroads now handle most freight moving by rail. Another result is accelerated abandonment of unprofitable track. The pace of abandonment has doubled since 1977, so that about 10% of all track has been lost since that time. Yet another effect is sharply higher productivity despite a slight drop in traffic. The rise is due mainly to a cut of one third in the work force.

Shippers have not benefitted much from deregulated prices or lower rates. Price deregulation has been limited in major respects, and rates have risen an average of 80% since 1977, substantially in excess of inflation. On the whole, railroads are stronger than they were before the deregulating legislation was enacted. Their rate of return on investment is up, they pulled through the recession well, and even ConRail, the government-backed freight carrier, is making money.

Railroad companies are the winners from deregulation. The losers are railroad workers and some shippers, in particular those who relied on abandoned track.

Financial institutions: Deregulation of financial institutions has moved ahead briskly. A 1980 act featured removal of restrictions and ceilings on interest paid to depositors. A 1982 act dealt in part with assets of federally regulated savings and loan associations, permitting diversification into commercial loans and real estate.

Perhaps as much as these two laws, the atmosphere of deregulation in the industry has led to change. The creation of "one-stop financial supermarkets," the formation of "non-bank banks" outside federal regulation, the expansion of banks across state lines, and the acquisition of discount brokerage houses by banks are the actions of aggressive institutions willing to test the rules. While all were hard-pressed at the outset, banks have earned profits and savings and loan associations have recovered, though less fully, under deregulation.

The winners have been the banks that have adapted and the small savers who have taken advantage of high interest rates. The losers have been homebuyers who now pay higher interest rates and savings and loan associations with too many low-interest loans.

Telephones: Deregulation of the telephone industry took a giant leap forward last month with the formal breakup of the American Telephone & Telegraph Company (AT&T). Along with the independents, there are now seven regional companies providing local service, while AT&T is restricted to long-distance service. AT&T retains manufacturing and research arms and is entering unregulated markets such as data processing. The regional companies continue to publish directories and sell equipment.

Rates will be based more directly on costs, resulting in higher rates for local services and lower rates for long-distance. No one knows to what degree users ultimately will benefit from deregulation.

The winners under deregulation in the short term seem to be long-distance users, urban users in general, and some of the new firms competing with AT&T. The losers seem to be local and rural users.

Deregulation has not been smooth. Certain businesses have been hit hard, labor markets have been disrupted, and some consumers have been hurt. Nonetheless, my feeling is that the economy is more competitive now, and the country will be better off eventually, on account of deregulation.●

A REPORT ON SHOCKING ABUSES OF JUSTICE IN NORTHERN IRELAND

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. LENT. Mr. Speaker, I rise to bring to the attention of my colleagues a shocking report on the systematic abuse of legal and civil rights taking place under the British occupation of Northern Ireland. This report was compiled during a personal visit to Northern Ireland by my executive assistant, Eugene Turner. He went to Northern Ireland at my request. I urged him to make as thorough an evaluation of the situation as was possible.

Mr. Turner has now made his report to me, and I am bringing it to the attention of each one of my colleagues because of the shocking abuses of justice it documents thoroughly. In occupying Northern Ireland, the British appear to have abandoned their centuries-old traditions of justice. The British treatment of suspects they believe to be responsible for acts against their rule has no resemblance whatsoever to the Anglo-American legal heritage than an accused is presumed innocent until proven guilty. Instead, the British in Northern Ireland operate under the principle that any suspect they arrest is, ipso-facto, guilty, without any evidence at all against the arrested person.

Mr. Speaker, the report from Mr. Turner contains case after case in which these horrifying procedures are documented. The report is a chilling indictment of the British occupation of Northern Ireland. I cannot believe our country can permit this violation of human rights to go unchallenged. I am, therefore, requesting the Secretary of State to intervene. And I am making a personal request to Prime Minister Margaret Thatcher to restore the British principles of justice to Northern Ireland. Each of these officials will receive a copy of Mr. Turner's detailed report of the civil rights violations he documents.

Further, I am sending a copy of his report to Hon. MARIO BIAGGI, chairman of the ad hoc Congressional Committee on Irish Affairs. As a member of that committee who strongly supports its goals, I hope the report will perform a useful service in promulgating a deeper understanding of the abuses now taking place in Northern Ireland.

And Mr. Speaker, to assist every one of my colleagues in joining in the protest over the deplorable violations of human rights taking place in Northern Ireland, I ask that the full text of Mr. Turner's report be published in the CONGRESSIONAL RECORD at the conclusion of my remarks. I particularly wish to draw to the attention of my colleagues the scrupulous efforts Mr. Turner made to talk with concerned parties on both sides of the issue, including the Lord Chief Justice of Northern Ireland and other British officials there.

Mr. Speaker, I consider Mr. Turner's report to be a highly significant contribution to the greater recognition of the serious transgressions the British have committed in Northern Ireland and to an encouragement of steps toward restoring human rights in that unhappy land. I urge every one of my colleagues to study Mr. Turner's report carefully.

Mr. Turner's report follows:

As the result of an invitation from a group known as Relatives for Justice, you directed me to visit Northern Ireland to evaluate the justice system now in place to deal with the difficult problem of political and sectarian violence.

During a seven-day stay in Northern Ireland—principally in the city of Belfast—I had the opportunity to meet representatives of virtually all groups and individuals intimately involved in the legal processes at work in Northern Ireland. Included were relatives of prisoners on the Catholic or Nationalist side of the question as well as on the Protestant or Loyalist side. In addition, I had the opportunity to confer with the Lord Chief Justice of Northern Ireland, Lord Lowry and with officials of the Northern Ireland Office, that agency of Great Britain which governs Northern Ireland. As well, I met with a number of distinguished individuals—lay and clergy—who are laboring for justice in this beleaguered country.

My effort to gain a balanced political perspective was limited by the refusal of the Offical Unionist Party—representing the Protestant Loyalist point of view—to sit down with me. This refusal resulted from my having visited for an hour with representatives of Sinn Fein, a major political party representing the Catholic, Nationalist, Republican viewpoint.

I found in Northern Ireland a sense of hopelessness and despair. For the most part this feeling arises from the larger questions that mark the relationship of Catholics, Protestants, and British Government and Army. This conflict finds its roots in 800 years of tragic history and still grows in intensity. I will not attempt to address the underlying causes of the conflict but rather will confine myself to the more narrow issue of the legal system established specifically to deal with those whom the British regard as "terrorists."

More specifically, I will report to you the widespread use of "supergrasses," English slang for informers, in this case accomplices who turn Crown's evidence.

Generally, it appears to me that security forces in Northern Ireland have decided that all their attempts to vanquish the IRA have failed and have concluded that the end justifies the means. In their quests to capture and jail alleged terrorists, the British Army and the police force, known as the Royal Ulster Constabulary, have employed highly questionable methods.

Legal experts have examined the system and found glaring faults. My approach, however, was that of a layman, not trained in the law. What I discovered, in conversations with wives and mothers of Loyalist and Nationalist prisoners, was a systematic campaign by security forces to remove from the streets not only suspected terrorists but political activists as well, regardless of the evidence to buttress their suspicions. This campaign takes many insidious forms. Time after time I heard accounts of police and Army forces breaking into homes in the early hours before dawn to arrest a suspect and haul him or her off the the Castlereigh detention center. There, a suspect can be held for up to seven days of intense questioning and other psychological pressures without any charges being preferred. With disturbing regularity, these suspected but uncharged individuals are freed from the detention center only to be picked up again in a matter of a few hours and days, whereupon, another seven day detention period is permitted to run. The effect is that suspects are in custody much of the time without any idea of their alleged offense.

"Remand" is the next step in the process. Suspects are often charged and imprisoned on the flimsiest of evidence and held for extraordinarily long periods of time—sometimes in excess of two years—before even coming to trial. In Northern Ireland, unlike the United States, bail is not a right, it is privilege. In the United States, bail is granted unless there is a compelling reason not to. In Northern Ireland, bail is denied unless there is a compelling reason to grant it. The serious charges used to deny bail to a suspect are frequently dropped just before trial, but by then the suspect has served his time behind bars, time that cannot be recaptured.

It seems to me that these legal devices are a cover that masks an effort to reimpose the infamous interment which the British utilized to imprison Irish men and women in the early 1970's. World opinion persuaded the British to abandon internment because of its naked deprivation of the civil rights of the internees. But the underlying reason for internment—then and now—was the desire of security forces to take the so-called "bad guys" off the streets.

The American system of justice, with its emphasis on protecting the rights of the accused, would never permit such abuses. Nor, I believe, would American—or British—citizens countenance an ominous new technique being employed in Northern Ireland, namely the use of the uncorroborated testimony of accomplices to convict individuals of terrorist-related acts. Dozens of accused terrorists have been put behind bars solely on the word of individuals who have received inducements for their testimony—immunity from prosecution, lighter sentences, substantial payments and relocation to a new country, etc. This system devolves into a numbers game in which an informant—called a "supergrass"—turns Crown's evidence against dozens of his alleged former comrades.

As many as 40 suspects have been tried together for unrelated crimes and convicted solely on the uncorroborated testimony of an individual who has strong motive to lie, namely the securing of his own freedom. Convictions have been reached and long sentences meted out to individuals on conspiracy charges based on the unproven word of a supergrass that the defendants planned to commit a crime which, in many cases, never occurred.

I met with an individual by the name of Brendan Davison who, on the basis of supergrass statements, was accused of conspiracy to murder "an unknown person, at an unknown time, with an unknown weapon." How does one defend himself against such a charge?

Yet it is charges as obscure as this that keep people in jail for months and even years in Northern Ireland.

Relatives of three individuals—Thomas Power, Gerard Steenson, and John O'Reilly—told a harrowing tale which demonstrates how the system works. All three are in jail on the word of a fifth consecutive informer. Jailed originally on the word of a supergrass, they expected to be released when the informant retracted his testimony. Instead, they were continued in incarceration on the basis of charges leveled by a second informant. This supergrass also retracted, as did a third. Still freedom wasn't forthcoming for the three. A fourth informant held to his testimony and the case went to trial. This supergrass broke down under cross examination by defense attorneys and when it became clear his testimony was a tissue of lies, the judge threw the case out. The three defendants never made it outside court, however, because they were recharged on the word of a fifth informer. The upshot is that these individuals have spent almost two and a half years in jail without ever being convicted of a crime . . . which many suspect was the intention of the security forces in the first place.

Since there are no jury trials in these courts, judges who preside at the trial of alleged terrorists are required by law to warn themselves that it is dangerous to convict a defendant on the uncorroborated word of an informant. In other words, the supergrass's testimony is shrouded in doubt, a fact underscored by the fact that most of the informants have themselves confessed to and been convicted of serious crimes. (One supergrass has been convicted of five murders as well as conspiracy to murders as well as conspiracy to murder Prince Charles and Princess Diana). Having thus placed doubt on the testimony of the informant, the judge must proceed to find defendants guilty beyond a reasonable doubt. I strongly doubt that an American or a British jury would be able to reach a guilty verdict under these circumstances but Northern Ireland's judges have done so.

I was particularly perplexed in reading the decision of the Lord Chief Justice himself in a case in which the supergrass was an individual named McGrady. Working only with the uncorroborated statement of McGrady, the Chief Justice found the supergrass' testimony evasive, untruthful, even bizarre, and acquitted the defendants of nearly all the most serious charges. But, unaccountably, he went on to convict many of the same defendants on the less major crimes alleged by McGrady—crimes which carried jail sentences of 12 years. In the same decision, Northern Ireland's highest ranking jurist dismissed the Crown's star witness as a public liar and then put men behind bars on his word.

Numerous legal scholars and human rights advocates have denounced the legal system employed by the British government in its efforts to round up suspected terrorists. Most recently, a member of the British House of Lords, Lord Gifford, concluded an exhaustive study of the system with a top-to-bottom criticism and called for an immediate cessation in the use of uncorroborated informer evidence as the sole basis for conviction. In addition, Lord Gifford urged a return to jury trials, among other reforms.

No one who has been to Northern Ireland and witnessed the climate of violence that afflicts the people's daily lives can deny that the governmental system has broken down completely. In their attempt to use the legal system to deal with what is a political problem, the security forces have bent the legal system to their advantage and distorted it beyond recognition. It is fair to ask whether the campaign to restore order should carry the price of diminished rights for all the people of Northern Ireland—particularly when that campaign causes such resentment as to create greater violence.

So fiercely polarized a state as Northern Ireland will never find the path of peace along military avenues. No matter how difficult, it seems to me that a political solution must be attempted and that the burden to devise that political solution lies with the government of Great Britain.

It seems to me that the United States, home to some 40 million Americans of Irish extraction, must end its conspicuous silence on the Irish question and use its position of influence with Great Britain, arguably our closest ally, to persuade that nation to launch the negotiations which will enable it to withdraw from Northern Ireland.

The island of Ireland must inevitably be unified under an all-Irish government that serves all its residents with equity and justice. Britain must relinquish this last vestige of its colonial empire and allow Ireland to be "a nation once again."●

VOTING RECORD

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. UDALL. Mr. Speaker, it has become my practice from time to time to list my votes in the House of Representatives here in the CONGRESSIONAL RECORD. I strongly believe that the people of Arizona have a right to know where I stand on the issues decided by the House, and I have found that printing my record here is the best way to provide that information.

This is not an all-inclusive list. I have omitted noncontroversial votes such as quorum calls, motions to resolve into the Committee of the Whole House, and motions to approve the Journal of the previous day.

The descriptions are necessarily somewhat short, and I am sure that some of my constituents will have additional questions about the issues described here. So I invite them to write me for specifics, or to visit my district office at 300 North Main in Tucson or 1419 North 3d Street, Suite 103, in Phoenix.

The list is arranged as follows:

KEY

1. Official rollcall number;
2. Number of the bill or resolution;
3. Title of the bill or resolution;
4. A description of issue being voted on;
5. The date of the action;
6. My vote, in the form Y-yes, N-no, and NV-not voting;
7. The vote of the entire Arizona delegation, in the form (Yes—No—Not Voting);
8. An indication whether the motion or amendment was passed or rejected; and
9. The total vote.

VOTING RECORD

52. H.J. Res. 13. Nuclear Freeze. Amendment to require that any freeze negotiation take account of the relative age and obsolescence of nuclear weapons. Rejected 204-211: N(3-2-0), April 20, 1983.

53. H.J. Res. 13. Nuclear Freeze. Amendment to require that any freeze provide for vigorous programs of research and development and safety-related improvements in U.S. weapons. Adopted 407-3: Y(4-0-1), April 20, 1983.

55. H.J. Res. 13. Nuclear Freeze. Substitute for the Carney, R-N.Y., amendment, to provide that, unless a freeze agreement were negotiated, nothing in the resolution would impede U.S. compliance with the 1979 NATO decision to deploy new missiles in Europe. The Carney amendment provided that the freeze would not impede U.S. compliance with the 1979 agreement. Adopted 221-195: Y(2-3-0), April 21, 1983.

56. H.J. Res. 13. Nuclear Freeze. Motion to end the debate on the text of the joint resolution at 3:30 p.m. April 21, 1983. Motion agreed to 214-194: Y(2-3-0), April 21, 1983.

57. H.J. Res. 13. Nuclear Freeze. Substitute for the Stratton, D-N.Y., amendment, to require that the president ensure that any freeze agreement be adequately verifiable. The Stratton amendment would require a president to negotiate a freeze agreement if he certified that it would not be verifiable. Adopted 221-171: Y(2-3-0), April 21, 1983.

58. H.J. Res. 13. Nuclear Freeze. Amendment as amended by the Dicks, D-Wash., amendment (see vote 57, above), to require that the president ensure that any freeze agreement be adequately verifiable. Adopted 374-6: Y(4-1-0), April 21, 1983.

59. H.R. 1190. Emergency Agricultural Credit Act. Motion to order the previous question (thus ending debate and the possibility of amendment) on the rule (H. Res., 158) providing for House floor consideration of the bill to revise federal agricultural credit programs and permit farmers, in certain circumstances, to postpone repayment of Farmers Home Administration loans. Motion agreed to 262-133: Y(2-3-0), April 27, 1983.

60. H.R. 1190. Emergency Agricultural Credit Act. Adoption of the rule (H. Res. 158) providing for House floor consideration of the bill to revise federal agricultural credit programs and permit farmers, in certain circumstances, to postpone repayment of Farmers Home Administration loans. Adopted 341-60: Y(4-1-0), April 27, 1983.

61. H.R. 1190. Emergency Agricultural Credit Act. Derrick, D-S.C., motion to table (kill) the de la Garza, D-Texas, motion to reconsider the vote by which the rule (H.

Res. 158) was adopted (see vote 60). Motion agreed to 292-111: Y(2-3-0), April 27, 1983.

62. H.R. 1190. Emergency Agricultural Credit Act. Bedell, D-Iowa, amendment to eliminate two sections of the bill that increased limits on the size of the Farmers Home Administration loans to individuals for farm operating and ownership expenses. Adopted 284-121: Y(3-2-0), April 27, 1983.

64. H. Res. 176. House Records Subpoena. Sensenbrenner, R-Wis., motion to refer to the Judiciary Committee the resolution directing the House clerk not to comply with a subpoena for records concerning a 1978 investigation by the Select Committee on Aging. Motion rejected 21-389: N(0-5-0), April 28, 1983.

65. H. Res. 176. House Records Subpoena. Adoption of the resolution directing the House clerk not to comply with a subpoena for records concerning a 1978 investigation by the Select Committee on Aging. Adopted 386-22: Y(5-0-0), April 28, 1983.

66. H.J. Res. 13. Nuclear Freeze. AuCoin, D-Ore., motion that the Committee of the Whole rise and report the joint resolution back to the House with the recommendation that the resolving clause be stricken out. Motion rejected 135-269: N(3-2-0), April 28, 1983.

67. H.J. Res. 13. Nuclear Freeze. Leach, R-Iowa, amendment to the Siljander, R-Mich., amendment, to require that a nuclear freeze be sought first as a goal of arms control negotiations, to be followed by reductions in nuclear arms. Adopted 215-194: Y(2-3-0), April 28, 1983. (The Siljander amendment, as amended, subsequently was rejected by voice vote. The amendment would have set an arms control goal of a freeze and reductions in nuclear weapons.)

68. H.J. Res. 13. Nuclear Freeze. Martin, R-N.C., amendment to require that negotiators for a nuclear arms freeze try to maintain the essential equivalence of U.S. and Soviet nuclear forces now and in the future. Adopted 397-0: Y(4-0-1), April 28, 1983.

69. H.R. 2307. Tribally Controlled Community Colleges. Simon, D-Ill., motion to suspend the rules and pass the bill to authorize assistance to community colleges operated by Indian tribes in fiscal 1985-87, as follows: $33.2 million a year for basic operating grants and technical assistance, $5 million a year for endowments and such sums as necessary for construction and renovation of buildings. Motion rejected 255-148: Y(3-1-1), May 3, 1983. A two-thirds majority of those present and voting (269 in this case) is required for passage under suspension of the rules. A "nay" was a vote supporting the president's position.

70. H.R. 1190. Emergency Agricultural Credit Act. Smith, D-Iowa, amendment to specify that interest on Farmers Home Administration water and waste facility loans would be at the rate in effect when the loan was approved or the rate when the borrower actually received the money, whichever was lower. Adopted 399-1: Y(4-0-1), May 3, 1983.

71. H.R. 1190. Emergency Agricultural Credit Act. Watkins, D-Okla., amendment to authorize grants to nonprofit organizations for centers on rural technology. Adopted 383-8: Y(4-0-1), May 3, 1983. (This vote subsequently was vacated, see vote 72.)

72. H.R. 1190. Emergency Agricultural Credit Act. Watkins, D-Okla., amendment to authorize grants to nonprofit organizations for centers on rural technology. Adopted 398-3: Y(3-0-2), May 3, 1983. (Previous vote on the Watkins amendment was vacated, see vote 71.)

73. H.R. 1190. Emergency Agricultural Credit Act. Passage of the bill to revise federal agricultural credit programs and permit farmers, in certain circumstances, to postpone repayment of Farmers Home Administration loans. Passed 378-35: Y(2-2-1), May 3, 1983.

75. H.J. Res. 13. Nuclear Freeze. Pepper, D-Fla., motion to order the previous question (thus ending debate and the possibility of amendment) on the rule (H. Res. 179) providing for futher House floor consideration of the joint resolution calling for a mutual and verifiable nuclear freeze on and reduction in nuclear weapons. Motion agreed to 269-150: Y(2-3-0), May 4, 1983.

76. H.J. Res. 13. Nuclear Freeze. Adoption of the rule (H. Res. 179) providing for further House floor consideration of the joint resolution calling for a mutual and verifiable freeze on and reductions in nuclear weapons. Adopted 270-149: Y(2-3-0), May 4, 1983.

77. H.J. Res. 13. Nuclear Freeze. Zablocki, D-Wis., amendment to the Courter, R-N.J., substitute for the Lungren, R-Calif., amendment, to provide that nothing in the resolution shall be construed to supersede the treaty-making powers of the President. Adopted 234-183: Y(2-3-0), May 4, 1983. (The Courter amendment and Lungren amendment, as amended, subsequently were adopted by voice votes. The amendments would have provided in slightly different words that nothing in the resolution would bind the President or his negotiators in the formation of strategy, instructions, or positions in the conduct of the Strategic Arms Reduction Talks.)

78. H.J. Res. 13. Nuclear Freeze. S, D-N.Y., amendment to the Levitas, D-Ga., amendment, to provide that it would be a goal of U.S. arms control policy that nuclear arms reductions be achieved as soon as possible after the achievement of a nuclear weapons freeze. Rejected 210-214: Y(2-3-0), May 4, 1983.

79. H.J. Res. 13. Nuclear Freeze. Hyde, R-Ill., amendment to the Dicks, D-Wash., substitute for the Levitas, D-Ga., amendment, to provide that an agreement to freeze nuclear weapons would include a specified, reasonable period of time with within which reductions in U.S. and Soviet nuclear weapons would be agreed to. Adopted 221-203: N(3-2-0), May 4, 1983. (The Hyde amendment restored the original language of the Levitas amendment. The Dicks amendment would have provided that negotiators would seek arms reductions immediately after agreement of a freeze.)

80. H.J. Res. 13. Nuclear Freeze. Dicks, D-Wash., substitute, as amended by the Hyde, R-Ill., amendment (see vote 79), for the Levitas, D-Ga., amendment, to provide that an agreement to freeze nuclear weapons would include a specified, reasonable period of time within which reductions in U.S. and Soviet nuclear weapons would be agreed to. Adopted 225-191: N(3-2-0), May 4, 1983.

81. H.J. Res. 13. Nuclear Freeze. S, D-N.Y., amendment to the Hunter, R-Calif., amendment, to provide that nothing in the resolution would prevent safety-related improvements in strategic bombers. Adopted 227-189: Y(2-3-0), May 4, 1983. (The Hunter amendment would have provided that nothing in the resolution would prevent the replacement of B-52 bombers with B-1 bombers if required for the safety of the U.S. bomber crews.)

82. H.J. Res. 13. Nuclear Freeze. Broomfield, R-Mich., motion to recommit the joint resolution calling for a mutual and verifiable freeze on and reduction in nuclear weapons to the Foreign Affairs Committee. Motion rejected 175-247: N(3-2-0), May 4, 1983.

83. H.J. Res. 13. Nuclear Freeze. Passage of the joint resolution calling for a mutual and verifiable freeze on and reduction in nuclear weapons. Passed 278-149: Y(2-3-0), May 4, 1983.

84. H.R. 2357. Congressional Award Board. Murphy, D-Pa., motion to suspend the rules and pass the bill to increase the number of members on the Congressional Award Board, which administers an award program for young adults. Motion agreed to 275-2: Y(3-0-2), May 9, 1983. A two-thirds majority of those present and voting (185 in this case) is required for passage under suspension of the rules.

85. H.R. 2173. Drug Dependent Federal Offenders. Hughes, D-N.J., motion to suspend the rules and pass the bill to reauthorize for three years a drug treatment program for federal offenders. Motion agreed to 275-8: Y(1-1-3). A two-thirds majority of those present and voting (189 in this case) is required for passage under suspension of the rules.

86. H.R. 2174. Consumer Products Tampering. Hughes, D-N.J., motion to suspend the rules and pass the bill to make it a federal crime to tamper with consumer products such as food, drugs and cosmetics. Motion agreed to 292-0: Y(3-0-2). A two-thirds majority of those present and voting (195 in this case) is required for passage under suspension of the rules.

87. S. 653. Military Medicine Foundation. Montgomery, D-Miss., motion to suspend the rules and pass the bill to establish a non-profit, charitable corporation to receive grants, legacies and private donations on behalf of the Uniformed Services University of the Health Sciences. Motion agreed to 295-0: Y(3-0-2), May 9, 1983, A two-thirds majority of those present and voting (197 in this case) is required for passage under suspension of the rules.

88. H.R. 2175. Justice Assistance Act of 1983. Adoption of the rule (H. Res. 184) providing for House floor consideration of the bill to create a three-year, $170 million grant program to help states combat crime. Adopted 267-32: Y(2-1-2), May 9, 1983.

90. H.R. 2175. Justice Assistance Act of 1983. Walker, R-Pa., amendment to make programs aimed at fighting crimes against the elderly eligible for federal matching funds. Adopted 401-5: Y(4-0-1), May 10, 1983.

91. H.R. 2175. Justice Assistance Act of 1983. Passage of the bill to authorize a grant program funded at $170 million annually for fiscal 1983-86 to help states combat crime. Passed 399-16: Y(4-1-0), May 10, 1983.

92. H.R. 2066. National Science Foundation Authorization. Adoption of the rule (H. Res. 183) providing for House floor consideration of the bill to authorize appropriations for the National Science Foundation for fiscal 1984. Adopted 408-1: Y(4-0-1), May 10, 1983.

93. H.R. 2587. Department of Energy Civilian Research and Development Programs. Adoption of the rule (H. Res. 183) providing for House floor consideration of the bill to authorize appropriations for civilian research and development programs of the Department of Energy for fiscal 1984. Adopted 409-2: Y(5-0-0), May 10, 1983.

94. H.R. 1983. Emergency Housing Assistance Act. Roemer, D-La., amendment to the Gonzalez, D-Texas, substitute for the Wylie, R-Ohio, amendment, to strike the $760 million mortgage relief program. The Roemer amendment would retain provisions relax-

ing federal bank regulations making it easier for lenders to practice forbearance, authorizing $100 million for the homeless in fiscal 1984 and encouraging a payment moratorium on Farmers Home Administration home loans. Rejected 197-220: N(3-2-0), May 11, 1983. A "yea" was a vote supporting the president's position. The Gonzalez amendment and the Wylie amendment, as amended by Gonzalez, subsequently were adopted by voice votes. The Gonzalez amendment substituted new provisions, including new eligibility standards for mortgage aid. The Wylie amendment was identical to the Roemer amendment.

95. H.R. 1983. Emergency Housing Assistance Act. Walker, R-Pa., amendment to the Gonzalez, D-Texas, substitute for the Wylie, R-Ohio, amendment (see vote 94), to prohibit expenditure of funds in violation of balanced budget requirements. Rejected 157-254: N(3-2-0), May 11, 1983.

96. H.R. 1983. Emergency Housing Assistance Act. Bartlett, R-Texas, amendment to the Gonzalez, D-Texas, substitute for the Wylie, R-Ohio, amendment (see vote 94), to require mortgage aid applicants to file a wage earner's plan under Chapter 13 of federal bankruptcy law. Rejected 154-254: N(3-2-0), May 11, 1983.

97. H.R. 1983. Emergency Housing Assistance Act. Bethune, R-Ark., amendment to the Gonzalez, D-Texas, substitute for the Wylie, R-Ohio, amendment (see vote 94), to prohibit activation of the emergency mortgage program in any area where federal officials the program would reduce lender forbearance or increase mortgage foreclosures. Rejected 175-234: N(3-1-1), May 11, 1983.

98. H.R. 1983. Emergency Housing Assistance Act. Passage of the bill to authorize $760 million in fiscal 1983 for a temporary loan program to help unemployed homeowners make their mortgage payments, and $100 million in fiscal 1984 for emergency shelter for the homeless. Passed 216-196: Y(1-4-0), May 11, 1983. A "nay" was a vote supporting the president's position.

100. H.R. 2066. National Science Foundation Authorization. Brown, D-Calif., amendment to increase by $49 million the bill's $50 million authorization for a new high-technology instrumentation program. Rejected 150-255: Y(2-3-0), May 12, 1983.●

QUESTIONABLE ETHICS AT THE HOUSE BUDGET COMMITTEE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. KEMP. Mr. Speaker, I would like to bring to the attention of my colleagues a House Budget Committee publication which is in flagrant violation of committee rules and a breach of faith with the American taxpayer. The publication supposedly is a committee review and analysis of the President's 1985 budget. But, in reality, it is an extreme case of what apparently has become a common practice of House committees: a blatantly biased attack on President Reagan issued as a committee publication without the consent of the minority committee members and without a disclaimer that the publication was not approved by the committee. This practice raises serious questions about the ethical standards of the House Budget Committee.

In this election year, Democrats will be tempted to use their control of House committees to publish such blatant political propaganda under the guise of official congressional publications. I strenuously protested this unfair and improper practice to House Budget Committee Chairman James R. Jones and submit my correspondence and his inadequate response for the Record.

The budget chairman claims that a statement appears on the publication cover that the publication was prepared by the staff of the House Budget Committee. The truth is, however, that it was prepared by the majority staff only, without the consent or participation of the minority staff. Moreover, rule 17 of the House Budget Committee's official procedure states that if the committee print has not been approved by the committee, the publication should clearly show that it has not been approved by the committee. This disclaimer does not appear on the publication's cover and nowhere within the publication are dissenting opinions printed. Indeed, my name is included in the inside cover wrongly implying my approval of the report.

The Budget Committee chairman rebuts that this is common practice in all committees. I find this explanation more shocking than reassuring. Since when has injustice been sanctified by repetition? This only confirms that the Democrat's longstanding control of House committees has inured them to flagrant abuses of power. Truth in advertising is required of the business community. Is it too much to ask that congressional publications be held to the same standard?

The tone and content of the Budget Committee's publication demonstrates the wisdom of obeying rule 17. The report is highly inflammatory, biased, and unfair to the President. It launches a political attack on the tax cuts, budget reforms, and defense buildup. Many assertions are blatantly inaccurate, extemely biased, and unfairly opinionated.

The Democrat members and staff of the Budget Committee are free to offer their analysis of the President's budget. But the committee should not use taxpayer funds to publish their opinions, nor should they use the imprimatur of the Budget Committee and the names of Republican Budget Committee members to add credibility to such political propaganda. This impropriety only is compounded by the fact that this publication was prepared, in part, by the House Budget Committee's officially nonpartisan, professional core staff. Use of the core in this manner, obviously undermines the committee's reputation for credible and objective research.

I therefore have asked that all copies of this document be recalled and fitted with a new cover sheet or that a disclaimer be sent to each recipient. Moreover, it is only fair that the majority membership reimburse the committee for this improper use of taxpayer funds. The majority staff and leadership should also give assurance that this abuse of power will not happen again.

I urge my colleagues on both sides of the aisle to apply truth in advertising to official committee publications. This is only a matter of basic honesty and fairness. I submit the correspondence with House Budget Committee Chairman James R. Jones to the attention of my colleagues.

The correspondence follows:

February 10, 1984.

Hon. James R. Jones,
Chairman of the Committee on the Budget,
House of Representatives, Washington, D.C.

Dear Mr. Chairman: As a Member of the House Budget Committee, I strenuously object to labeling the partisan analysis of the President's 1985 budget, prepared by Budget Committee Democrats, as a Committee document.

In doing so, the Democratic membership or staff have affixed the name of Republicans to a biased and inaccurate attack on the President's budget, about which we were never consulted, to which we never consented, and which we completely reject.

Republican Members and staff have had several occasions in the past to warn the majority membership and staff that this practice is unethical and misleading. If that were all, there would be little to do but marvel at the depths to which the Democrats will sink in the pursuit of partisan advantage.

But that is not all. The publication of this document is also in direct violation of Budget Committee rules. Rule 17 (adopted January 25, 1983, approved by yourself) clearly states that—

"All Committee prints and other materials prepared for public distribution shall be approved by the Committee prior to any distribution, unless such print or other material shows clearly on its face that it has not been approved by the Committee."

The document in question makes no such disclaimer; indeed, it is labeled "Committee Print." Therefore, it is in flagrant violation of the rules. Indeed, the cover asserts that the summary and analysis was "prepared by the staff of the House Budget Committee," though the minority staff was never consulted.

The abuse is compounded by the fact that it involves the expenditure of public funds and the service of an official core staff of the Committee for specifically partisan purposes.

I therefore demand that:

1. Further publication be suspended and all copies of the document in question be recalled and destroyed or else fitted with a new cover sheet and other necessary changes identifying it as a Democratic document.

2. Where recall is not possible, there shall be transmittal of such a disclaimer to each recipient of the document and public broad-

cast of the disclaimer to reach unidentified recipients.

3. The majority membership reimburse the Committee for the full cost to the public of this abuse of office.

4. Full account be made as to who authorised the practice, what steps are being taken toward the person or persons.

5. The majority staff and leadership give binding assurances that no such abuse will happen again.

I am sure that the constituents of Democratic Committee members would be shocked to learn that public funds and official Congressional Committee facilities had been wrongfully used to mount a partisan attack on President Reagan.

However, since I believe in amicably settling such disputes privately where possible, I intend to wait 48 hours to see whether the response is satisfactory before deciding whether this request should be made public.

Sincerely yours,

Jack Kemp,
Member, House Budget Committee.

Committee on the Budget,
Washington, D.C., February 17, 1984.

Hon. Jack F. Kemp,
House of Representatives,
Washington, D.C.

Dear Jack: In response to your letter of February 10, I would like to advise you that the staff document analyzing the President's fiscal year 1985 budget is in compliance with committee rules and practices.

The large-type statement on the cover of the document that it is a summary and analysis prepared by the staff of the House Budget Committee is sufficient notice that the committee did not formally approve the document. That statement, or one similar, has been used by this committee in the past and no one has questioned its sufficiency. This practice is also consistent with that of other House and Senate committees in printing staff prepared documents for their use.

If you have any further thoughts on this issue, or the President's budget, I will be glad to discuss them with you.

With best wishes.

Sincerely,

James R. Jones, *Chairman.*●

REPUBLICANS MUST BECOME MORE POPULIST

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. GINGRICH. Mr. Speaker, Republicans today follow one of two extremes. They either imitate poorly the Democrats or they become rigidly rightwing. David Smick, in an opinion piece, accurately makes the point that Republicans have to become more democratic, with a small "d."

Mr. Smick goes on to say that Republicans, in order to succeed, must reach out to individuals and groups ignored by Republicans in the past. The new Republican must have ideas which represent both rich and poor, laborer and capitalist, white, black, Hispanic, and native American. In effect, the Republican Party becomes a political party that represents all of the people—even those who may never vote for it. The Republican view thus becomes the populist view.

I recommend to my Republican colleagues Mr. Smick's opinion piece which follows:

The New Republicans—They Could Make a Mark in Maryland

(By David M. Smick)

Republicans in Maryland are experiencing a sort of crisis of confidence, the result of last year's electoral whipping. The response has been frantic calls to update campaign technology, "broaden the party's base," and improve efforts to "get out the vote."

Effective organization, of course, is important. And Maryland's party leadership has the talent and brains to make major improvements. But in politics there is a cardinal rule which, if ignored, will always produce failure. The rule is that before you can "get out the vote," you have to create your vote.

More than phone banks and computerized cross-tabulations, politics is ideas—ideas which catch the imagination of voters who have real needs which they expect the political process to address.

As Republicans begin to rebuild, they must remember that it is not good enough to say, "Vote Republican—to save the two party system." The party must offer more. It must offer a vision of who it represents and how it will achieve the twin goals of political leadership: opportunity and security.

This is precisely how political parties are built. In the 1940s, a man named Hubert Horatio Humphrey became Mayor of Minneapolis in Republican-dominated Minnesota. Wielding a bold agenda of new ideas, he forged the new Democratic Farmer Labor Party—and the GOP didn't know what hit them.

Republicans in Maryland can do the same. But this means developing a different approach to politics itself. Today Republicans follow one of two extremes. Either they imitate the Democrats, as if ashamed of the party, or they become rigidly right wing, occasionally with racial overtones.

Instead of Republicans becoming more Democratic, I propose that they become more democratic. Democracy is good politics and the key, I believe, to resuscitating the party. When politics become even slightly undemocratic or elitist, as is often the case with Republicans, the results are disastrous.

Essentially, Republicans have a choice. Will they be a party of Wall street of Main Street? A party of the country club or the Elks Club? What I'm talking about is neither "conservative" nor "liberal," but the growing tension between two far more basic forces: populism and elitism.

For Maryland Republicans truly to succeed, they need to develop a more "populist" Republicianism, in the best sense of the word, which reaches out to the blue collar worker, the shopkeeper and the struggling entrepreneur. At the heart of this Main street approach lies a basic optimism about people. People can be trusted—as consumers, as savers, as individuals able to rule their lives, while determining how much security they want from government (which is often more than fiscal conservatives assume).

The politicians of the elite distrust the people's instincts in public policy matters. As a result, they find great comfort and trust in large domineering institutions—elitist liberals in big government, elitist conservatives in big business. Naturally, their policy solutions rely on the wisdom and control of the select—usually professors, corporate financiers, highly-paid economic development planners and other members of this self-appointed class.

There is no denying the dark side of populism, with its ugly precedent in American history. If populism is defined as optimism about people, some politicians are optimistic only about certain kinds of people. This is the populism of Huey Long and George Wallace—a politics which excites commitment by pitting one group against another, building on fear and envy and resentment.

But there is another populism—a new populism—which more than anything else is in the tradition of Teddy Roosevelt, demanding action in a way uncharacteristic of Republicanism. This view believes in a common interest, shared by all, which need not be defined or imposed by self-appointed guardians. It embraces not special interests, but the public interest and demands a new dimension of positive ideas to help further this goal.

The new Republican ideas must represent rich and poor, labor and capital, black, white, Hispanic and native American. They must demonstrate an attitude which seeks to protect individual liberty and security, without the Republican penchant for trying to repeal the New Deal. As Walter Lippman wrote in 1933, "it is perfectly true that government is best which governs least. It is equally true that government is best which provides most."

A few years ago, I helped draft federal legislation which, in this sense of the word, was thoroughly populist. The proposal, which recently passed the Senate, established "enterprise zones" in the most depressed inner city areas, using tax incentives and "seed" capital to spur small business job creation. The proposal follows a simple rule: you can't have employees without employers. When most urban elitists think of private sector job creation, they picture Fortune 500 Goliaths responding to fat government subsidies. Yet the newest research shows that most new jobs are coming from tiny, young, unsophisticated, labor-intensive entrepreneurial shops, which seem invisible to the public policy "experts."

Conservative economists mistake this for "capital"—ism. But the entrepreneurial process places a far greater emphasis on labor. The creation of a job involves the ingenuity of workers who essentially leave large companies, strike out on their own, and create their own jobs. The "capitalists" arrive later, only after the new idea is generated, the risk taken and the spark of growth iginited. Thus at the core of the most important economic process is a populist, worker-oriented phenomenon. No one knew this better then the first Republican, Abraham Lincoln. In his first State of the Union message, he said: "Labor is prior to and independent of capital. Capital is only the fruit of labor and could never have existed if labor had not first existed."

Given this rich heritage, it is amazing that Republicans are usually estranged from workers, as well as from other mass constituencies. It's not for lack of trying, because most Republicans want to broaden the party's base. But the strategies developed too often become patronizing and elitist. In the case of blacks, the feeling is they can be lured into the party with an assortment of gimmicks. Local party men patronize young blacks, paying them to be conspicuous activists on the local scene. The national party spends a fortune on television commercials selling the idea that Republicans are willing to talk to black people.

Of course, this strategy never works and the base never gets broadened, because blacks are smarter than the Republican strategy. As far as the minority community is concerned, the Democrats offer the only menu of public policy solutions, while Republicans have simply copped out. It's time the GOP produce that corresponding menu, with creative ideas and positive solutions to fulfill the dreams of average folks groping for a chance to get ahead. Without it, the party will never succeed, will never truly experience the buoyant feeling of broadbased political success.

When you pare away the rhetorical underbrush, there basically are two views about achieving political victory. One is the coalition view, which holds that all you need to win is 50 percent of the vote plus one. Gather together all the coalitions and special interests you can get and forget the rest. For Republicans, this has meant winning most of the upper crust and some of the more affluent workers.

The other approach is the consensus view, which says that a political party must represent all of the people—even those who will never vote for it. This is the populist view and it holds that as free individuals we must all move ahead, but we can't afford to leave anyone behind.

Follow this thinking and Republicans might surprise themselves by finding millions of Marylanders at polling booths who have never before voted Republican.●

TRANSLATING SOVIET MARXIST LANGUAGE INTO ENGLISH

HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. ROBINSON. Mr. Speaker, on February 1, 1984, I placed in the CONGRESSIONAL RECORD, under leave to extend my remarks, an excerpt from a translation by Dr. Charles T. Baroch of a publication of the Soviet Union entitled "Scientific Communism—a Glossary."

At that time, I undertook to point out in a prefatory comment that what we might regard as the obvious meaning of a phrase used in international policy statements, or diplomatic negotiations, often has a much more complex, but precise, meaning in usage by official spokesmen of the Soviet Union, and in their indoctrination of future principals in their governmental apparatus.

It is important, I believe, that we improve our understanding of what these phrases mean in the context of Marxist doctrine. I now include, therefore, under leave to extend my remarks, an additional excerpt from this valuable translation:

STRUGGLE OF THE TWO SYSTEMS

Class struggle of the two antagonistic world socioeconomic systems, the socialist and capitalist. At its core is antagonism between social and private ownership of the means of production.

The forms in which the struggle is manifested are manysided. It is, first of all, economic struggle, a specific continuation of the proletariat's economic struggle against the bourgeoisie. Whereas economic struggle is secondary in a country where the proletariat does not yet possess political power, it plays a decisive role in the historic conflict of the two antagonistic social systems. The fact that this struggle takes place in conditions of capitalism's general crisis and socialism's steady development and growth gives it a specific character (vd. Economic Confrontation of the Two Systems). By the force of its example the socioeconomic progress of the peoples of socialist countries indirectly facilitates the proletariat's economic struggle in capitalist countries, liberating its forces for political and ideological struggle with the bourgeoisie. Hence the importance of V. I. Lenin's counsel, "do the maximum attainable" in the economic construction of each socialist country, thereby demonstrating socialism's significance for the broadest popular masses in a practical manner.

Assistance to less-developed countries is becoming an important field of the struggle of the two systems, where, again, the force of example determines the outcome of the struggle between socialism and capitalism and has a certain degree of influence over the future course of development of the peoples receiving aid. Socialism enjoys a number of advantages in this effort: experience in effectively solving the social problems confronting the countries which are liberating themselves, lack of complicity in colonial exploitation, etc. However, contradictions between the different systems are occasionally exploited by the bourgeoisie in recently organized states for its mercenary self-interest.

Intense economic struggle between the two systems is accompanied by acute political struggle. V. I. Lenin stated that we must strive to keep the initiative in world politics, remove its cloak of secrecy, and show the toiling masses its mechanism:

"In order to help them fight against capital and grasp the 'shrewd trickery' of the two fronts in all international economics and politics ('Complete Collected Works,' XLV, 144)."

World capitalism has often attempted to switch the struggle of the two systems onto the track of war. Socialism's goal is to actively influence the solution of world problems by proceeding from the principles of peaceful coexistence of states with different social systems (q.v.). To the policy of violence, war, and national oppression which follows from capitalism's very nature, socialism opposes a policy of peace and friendship among peoples and equality and sovereignty of nations and states.

As a result of socialism's growing power, its voice is also becoming stronger in world politics. The correlation of political forces in solving world problems in the United Nations and other international organizations demonstrates continued weakening of imperialism's political positions.

As capitalism's sphere of influence narrows, the struggle of the two systems in the field of intellectual life, of ideology (vd. Ideological Struggle), becomes more complicated and acute. The bourgeoisie seriously counts on socialism's disintegration from within, on "ideological erosion" in socialist countries. The imperialist bourgeoisie considers ideology to be a superweapon of a sort, all-penetrating because of the development of the means of communication and methods of propagating ideas and because of broadcasting contacts between the two social systems. The bourgeoisie employs ever more perfidious approaches in "psychological warfare," applying all means of communication and research in the field of psychology and sociology. Everything has been put to work: fictitious objectivity of carefully selected, effective information about world events; skillful play on socialism's errors and difficulties, on people's unsatisfied needs (from housing shortages to whims of spoiled teenagers and "unappreciated" writers); and treacherous exploitation of youth's political inexperience.

What have been the results up to now of the struggle of the two systems? Capitalism's parasitism and decay become more and more obvious. Unrelieved backwardness, poverty, and hunger on capitalism's periphery, underutilization of enterprise productive capacity, unemployment, militarization of the economy and intellectual life, concentration of economic and public power in the hands of the monopolies, for the toilers decreased share of consumption of material and intellectual goods while being constantly and increasingly exploited (intensified labor, one-sided development of the individual's productive functions, etc.), dehumanization of science and culture—all these are unavoidable defects of society organized on the basis of private ownership of the means of production. By contrasting the two world systems in their productive, scientific, and social activities, more and more people in capitalist countries come to the conclusion that their social system must be replaced by a new social organization. Today instead of blanket rejection of socialism bourgeois philosophy tries to find some "similarity" with it in capitalism and talks about convergence, synthesis of the two systems. Capitalist countries are beginning to differ in their attitudes concerning relations with socialist states. Capitalism's united front against socialism becomes increasingly difficult to maintain.

Socialism is consistently winning battles. Its share of the world's production has grown from 5 percent in 1950 to 38 percent in 1968. Its rate of economic growth is 2 to 2.5 times higher than that of developed capitalist states. Backwardness in labor productivity is inherited from history, backwardness in per capita production rate, structural organization of industry and export trade, development of science, etc. is being successfully overcome. Socialism's advantages in the public education system and preparation of cadres are becoming obvious. Science and technology in socialist countries and, above all, in the USSR already have taken the lead, as many inventions and experiments important to all of mankind indicate.

Man's so-called "unalterable nature," to use the expression of bourgeois sociologists and philosophers, is being reforged in the crucible of socialism. He is being liberated from money-grubbing and envy, egotism and individualism, racism and feeling of intellectual inferiority, loneliness and alienation—irremediable defects of antagonistic formations. A new man of the socialist world is being created.

All these achievements of socialism are the result, above all, of the peoples' intensive work and heroism, not simply an automatic effect of its superiority as a social system. It is well known that in order to make this superiority effective it is necessary to overcome a number of contradictions within socialist countries as well as within the entire world socialist system The theses "Fifteenth Anniversary of the Great October Revolution" issued by the CPSU Central Committee state:

"Socialism's superiority as a social system is realised to the extent that it is scientifically grasped by society and practically implemented."

Much remains to be done in this respect. However, the fact of consistent improvement in people's lives and rapid cultural growth in countries guided by scientific communism already speak of the great advantages of socialism over capitalism, instilling confidence in the inevitability of its universal triumph.●

SKELTON TESTIFIES ON AGRICULTURE LEGISLATION

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. SKELTON. Mr. Speaker, yesterday, I was the first Member of Congress to testify as the House Agriculture Committee began hearings leading up to the 1985 farm bill. This is extremely important legislation for farmers, for those who live in rural areas and small towns, and for consumers from all over the country. I wish to insert my statement in the CONGRESSIONAL RECORD so that all of my colleagues might have the change to see it.

The statement follows:

STATEMENT OF HON. IKE SKELTON

Mr. Chairman, Members of the Committee, let me thank you for the opportunity to appear before you today as you begin your hearings on the 1985 Farm Bill, and let me commend you for beginning these hearings this year. The next farm bill, which we must enact next year, may well prove to be watershed legislation for American agriculture. It may well determine the direction of American agriculture for the remainder of this century, and well into the next.

On such vital legislation, it is important that all viewpoints be heard and that Congress be able to act with deliberation, rather than in haste. The Committee's timetable will permit this. Moreover, Mr. Chairman, I believe that the extra time which the Committee has allotted to these hearings will be useful in another respect. In my experience in Congress, I can never recall the "Farm Coalition" being so fractured as it is today. If the 1985 Farm Bill is to be meaningful legislation, the various commodities, the various sectors of agriculture, those in agribusiness, and others whose livelihood depend on agriculture, must put aside their differences and work together. Agriculture's strength is in unity, and unity can only come if there is a basic consensus on the direction those in agriculture want their industry to take. Starting the debate on the 1985 Farm Bill now, as the Committee is doing, will allow for a consensus to be reached. It will enable the "Farm Coalition" to be restored and to start working together instead of pulling at cross purposes.

Mr. Chairman, no one on this Committee needs to be told that the economic recovery has by-passed rural America. Low farm prices, burdensome surpluses, high interest rates, natural disasters, and the decline in agriculture exports have all combined to bring about the worst farm economy in nearly 50 years. Now, a credit crunch fueled by the decline in farm land values threatens to bring economic disaster to even more farmers. If this situation is allowed to continue, it may well mean the end of the owner-operated family farm which has been the foundation of American agriculture since the beginning of our nation. Indeed, it may even be worse than that. It may mean the end of a way of life that has been the wellspring of our most treasured values—work, family, and patriotism. For surely, if these farms fail, so too will our rural small businesses, our small-town banks, even the towns themselves.

Faced with such a crisis, there will no doubt be pressure for some form of emergency farm legislation. Such action is warranted this year, and will probably also be necessary next year. Properly drafted emergency legislation, whether it be emergency credit or some form of acreage reduction to strengthen prices, can probably save many farmers from bankruptcy. However, my reason for appearing before the Committee today is to urge that we not forget the long-term in dealing with our problems in the farm economy.

Mr. Chairman, our experience with last year's PIK program is a useful example of what I mean. There is no doubt that the PIK program saved many farmers from bankruptcy, but, we must all recognize the limitations of such a program. First and foremost is that PIK created no new markets for agriculture. It merely shifted money from other sectors of the economy to agriculture, and redistributed money within the various sectors of the agricultural economy. Thus, taxpayers and livestock producers, to name two groups, footed much of the bill for PIK. PIK and similar programs are like band aids. They can only treat symptoms. They cannot cure the disease.

Mr. Chairman, in my opinion, there will be no substantial, long-term improvement in our farm economy until we reverse the decline in agricultural exports and begin to create new markets for our agricultural products, and expand existing ones. With the support of the members of this Committee, a first step was taken in the 1981 Farm Bill with the adoption of the Glickman-Skelton-Stenholm amendment creating an Agricultural Export Credit Revolving Fund. Unfortunately, the full potential of this Fund to provide flexible, competitive credit terms to purchasers of U.S. agricultural products has not been tapped. Though appropriations for this Fund are not within the jurisdiction of this Committee, I nevertheless urge you to get behind full funding for the Agricultural Export Credit Revolving Fund. I firmly believe that if used properly it will help eliminate agricultural surpluses, cut the taxpayers' cost of farm programs, and, indeed, ultimately make money for our government. Further, it needs to be stressed that increased U.S. agricultural exports will benefit not only farmers. Every $1 billion in additional agricultural exports supports 30,000 jobs in the domestic economy. A $1 million agricultural export sale generates $5.5 million of direct, indirect, and induced business activity.

There are several provisions related to exports which I believe the Committee should consider in developing the 1985 Farm Bill. The first is to authorize the Secretary of Agriculture to grant bonuses from U.S. surplus stocks to purchasers of U.S. agricultural commodities. I introduced such legislation last year in H.R. 2185. Second, I urge the Committee to retain and strengthen so-called contract sanctity provisions currently in the law. One of our major difficulties in exporting is our reputation as an unreliable supplier, which stems from the 1980 Grain Embargo and other previous embargoes. These contract sanctity provisions will help eliminate the concerns that potential purchasers have about our reliability as a supplier. Finally, I want to encourage the Committee to renew and strengthen provisions in the 1981 Farm Bill relating to Agricultural Embargo Protection. These provisions provide protection for our farmers when an agricultural embargo is imposed under certain circumstances, and, in effect, they serve to discourage any Administration from the frivolous use of an agricultural embargo.

Let me make a final comment in the area of agricultural trade policy, on the other side of the equation. No nation which depends on exports as much as we do should erect artificial trade barriers against other nations' agricultural products. On the other hand, we should not be in the position of allowing foreign commodities into this country which do not meet the same stringent health and safety standards which we require of our own producers. The House dealt with this matter in the 1931 Farm Bill through the adoption of the English Amendment. Unfortunately, the House language was watered-down in Conference with the Senate. Let me urge the Committee to reinsert the original language of the English Amendment in its 1985 bill. Like all of you, I look forward to the day when we will have free and fair agricultural trade among all the nations of the world. But until the barriers come down in other countries, the least we can do is to ensure that our producers will have fair competition here at home.

Mr. Chairman, the 1985 Farm Bill will give the Committee the opportunity to once again review farm disaster programs. Let me encourage you to give this area some close scrutiny. In talking with farmers during the terrible drought which we experienced in Missouri last summer, I observed that the overwhelming majority of these farmers are not participating in the Federal Crop Insurance program. I have no specific recommendations to offer in this area, but I think it is fair to say that a program with such a low participation rate needs to be examined closely to see if it is serving the purpose for which it was intended. If not, it needs to be overhauled or junked in favor of a better approach.

Mr. Chairman, in closing let me reiterate that I well know that much of what needs to be done to restore health to our agricultural economy is beyond the scope of this particular legislation, and beyond this Committee's jurisdiction. Our problems in this area are complex and they defy any simple solution. One only has to look briefly at the relationship between budget deficits, high interest rates, the strong dollar, and the decline in agricultural exports, to get an understanding of this. Nevertheless, I believe the Members of this Committee have a vital role to play even in these areas. Those of use who represent exclusively rural Congressional Districts, like me and like many of you, are becoming fewer and fewer in number here in Congress. We look to you, the Members of the House Committee on Agriculture, for leadership and we respect you ability to articulate the concerns of our rural constituents. We know that you will continue to make the case for the interests of rural America to those from urban and suburban districts. Let me assure you that you will have my full cooperation and support in your efforts during the critical period leading up to the 1985 Farm Bill.

Again, Mr. Chairman and Members of the Committee, thank you for holding these hearings and for permitting me to appear before you today.●

A TRIBUTE TO JANET MICHELLE BOGAN

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. CLAY. Mr. Speaker, last week, funeral services were held for a very amiable young woman and a dear friend of my family, Ms. Janet Michelle Bogan. I extend my heartfelt condolences to the Bogan family on the loss of Janet Bogan.

Mr. Speaker, Janet's untimely death leaves a void in the lives of her family and friends. However, the entire family can take comfort in the kind of life Janet lived. That life and the joy that she brought to many people was summed up best at the funeral by my colleague, the gentleman from Ohio (Mr. STOKES). At this time, I would like to insert those remarks along with the funeral program into the RECORD.

IN MEMORY OF JANET MICHELLE BOGAN—THE LITTLE GIRL NEXT DOOR

(By Hon. Louis Stokes)

When Dorothy and Jesse Bogan moved next door to us thirteen years ago, Janet was a little girl. She was nine years old and our youngest daughter, Lori, was eight years old.

Jesse, Dorothy, Jay and I watched both of them grow into adulthood. As parents we let them develop their own relationship. They became friends. More than friends, they were like sisters.

Seeing Janet in and around our home was like having another daughter. Jay often did not know whether it was Janet or Lori who had been in her make-up. And sometimes when she washed Lori's clothes, some of Janet's things just happened to turn up in the same wash. And so to Jay, having Janet around was just a matter of having another daughter.

Janet was nice to have around. She was always so pleasant—so mannerly—so friendly. Whether it was a greeting yelled from across the yard, or over the telephone, or while she sat at our kitchen table, it was always, Hi, Mr. Stokes. She enjoyed teasing Lori about being the Azalea Queen, so when she would call the house, she would ask us, "Is Azalea there?"

She talked fast and she was always busy. It seemed to me that Janet was always in a hurry!

But she had a special way of saying, hi. She said it with warmth and love and you really felt the sincerity of her greeting.

Even though she was grown I always thought of her as the little girl next door. It was easy to love Janet. She was a warm, friendly, thoughtful and considerate person. She loved helping other people.

I am sure that I speak for all of the parents of all her friends when I say that she was a sweet girl. And Janet, people really did care. You carry with you the love of many people.

Who knows what her real destiny on earth was? We do know that she has brought more people together in death than those of us who live can bring together in life.

And so, a few days ago, having fulfilled her destiny here on earth, Janet Bogan slipped away and went back home to live with God. Because we did not understand her destiny on earth many of us asked the question, why?

Why would God let this happen to our beloved, Janet. A young lady who never harmed a living soul. A young woman who loved people and loved life. Janet loved living.

Well, I cannot answer, why?

But I can say to this bereaved family and all their friends that we do not question God. For he has never made a mistake—and he never will.

What we must do now is to thank God for allowing Janet to stay with us for 23 beautiful years. Last night at the wake, in a beautiful tribute to his daughter, Jesse spoke of how many years, months, days, hours, minutes, and seconds Janet spent with us. In an eloquent way he expressed the blessings bestowed upon all of us through the life of Janet.

And so, at a time like this I can hear God say:

I will lend you for a little time a child of mine, for you to love while she lives, and to mourn for when she's gone.
Her stay with you may be six or seven years or twenty-two or twenty-three,
But until I call her back, I need you to take care of her for me.

She will bring her charms to gladden you and though her stay may be brief,
You will always have her lovely memories as solace for your grief.
I cannot promise that she will stay, since all from earth return, but there are lessons taught down there,
I want you and this child to learn.

I looked the wide world over in my search for teachers true,
And from all the parents that crowd life's lane, I selected you.
Now that you have given her all your love, Do not think the labor was in vain,
Nor hate me when I come to take her back again!

I fancy that I heard you say, Dear God thou will be done!
We know that for all the joy thou child shall bring, the risk of grief will run.
We will shelter her with tenderness, We will love her while we may,
And for all the happiness we've known, forever grateful stay.

But shall the angels call for her much sooner than we planned,
We will brave the bitter grief that comes, And Dear God, we will try to understand.

FUNERAL PROGRAM IN MEMORY OF JANET MICHELLE BOGAN HELD AT THE PEOPLE'S COMMUNITY BAPTIST CHURCH, SILVER SPRING, MD.

DEDICATION

DEAR OMNIPOTENT ONE: You gave us Janet Michelle some time ago as a Gift; and we accept your return to claim that Gift.

For some the miracle of the Gift of the birth of a new life is a happy and important event. For still others, the miracle of the Gift of death is an unimportant and sad event. We recognize that in your eyesight, both the miracle of the gift of birth of a new life and the miracle of the gift of death are equally important and must take place. Somewhere in the Old Testament, David said, "What is man that thou are mindful of Him?".

We pause at this time to give you the thanks and praise of being mindful and giving us Janet Michelle (Bopee) for this period of time. Somewhere in the New Testament, Jesus, the Divine gift for all mankind, taught us in the parable of the talents (five-three-one) that all gifts from you are without importance in the final judgment.

We pause at this time to be Witnesses of the Dedication of the return from you to claim that gift which was, is, and always will be yours alone in humble submission and thanksgiving for the opportunity to have shared this gift.

More important, we also pause at this time to thank you for the final gift of our own lives individually and as the remaining family and for those who have come to share with us at this hour and for those who may read this wherever.

Sincerely,

JESSE, DOROTHY, DAVID.

SERVICE OF TRIUMPH FOR JANET MICHELLE BOGAN, FRIDAY, FEBRUARY 24, 1984

Prelude Processional

The Plea for Mercy

Invocational Call to Reflect, Dr. T. J. Baltimore.

Hymn of Reflection, "Rejoice Ye Pure in Heart," Choir.

Old Testament Reading, Rev. Edward White.

New Testament Reading, Deacon Robert McAlpine.

Hymn, "I Know Who Holds Tomorrow," Choir.

Prayer of Consolation, Dr. Marshall Grigsby.

The Life of Janet Michelle Bogan

Acknowledgement of Expressions of Sympathy, Ms. Bonnie Taylor.

A Tribute by Former Classmates.

Solo, "In the Garden," Ms. Kim Bright.

Janet Bogan's Life as Viewed by the Honorable Congressman Louis Stokes.

The Family's Tribute.

The Moment of Listening to God

The Sacred Word, Dr. T. J. Baltimore.

Solo, "The Lord's Prayer," Ms. Leslie Johnson.

The Family, Dr. T. J. Baltimore.

The Moment of Triumph.

Recessional

Pallbearers: David Bogan, Darrel Williams, Eric Powell, Peyton Roberts, John Fanelli, Rusty Baltimore.

Former Classmates: Karen Byrd, Krystal Clay, Lisa Elliott, Lori Gloster, Vickie Goodrich, Janessa Grady, Brenda Hopkins, Karen Morgan, Renee Quick, Kendra Robertson, Tracey Speller, Lori Stokes, Sherry Sutton, Vikki Turner, Monica Williams.

Let This Be My Parting Word

When I go from hence let this be my parting word, that what I have seen is unsurpassable.

I have tasted of the hidden honey of this lotus that expands on the ocean of light, and thus am I blessed—let this be my parting word.

In this playhouse of infinite forms I have
had my play and here I have caught
sight of Him that is formless.

My whole body and my limbs have thrilled
with His touch who is beyond touch;
and if the end comes here, let it
come—let this be my parting word.

The family wishes to express their deepest thanks for your love, flowers, cards and other acts of kindness.●

"GAINING STATURE"—WASHINGTON POST PRAISES CONGRESSMAN MICHAEL BARNES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. LANTOS. Mr. Speaker, the Washington Post recently published an excellent article on our distinguished colleague Michael Barnes. Having worked closely with him as a member of the Foreign Affairs Committee, I can well understand the evenhandedness and moderation that have given him credibility in the House and focused national attention on him.

I include this article in the Record for the benefit of my colleagues and others:

Spokesman on Central America—Representative Barnes Gaining Stature

(By Alison Muscatine)

When he came to Congress nearly six years ago, Michael D. Barnes seemed to bear the indelible label of politician-cum-Boy Scout: polite, industrious and deathly dull.

Among his colleagues this image appeared to promise only a future of obscurity in the colorful and complex U.S. House of Representatives.

But as his peers soon found out, Barnes would not be obscure at all. And it has been his characteristics of even-handedness and moderation that have given him credibility in the House and focused national attention on him. Pictures of the three-term congressman from Montgomery County now appear in major newspapers and flash across the evening news with regularity.

Today, at 40, Barnes is the most influential member of the House from Maryland or Virginia, having emerged in the last 18 months as the Democratic party's leading spokesman on foreign policy in Central America.

In remarkably quick time, he has achieved a politician's dream: credibility with virtually every faction in Congress.

During the week before Congress adjourned for the Lincoln and Washington holiday recess, Barnes won passage of a bill he sponsored in the House to make U.S. aid to El Salvador conditional on human rights progress, chaired the full Foreign Affairs Committee hearing on the Kissinger Commission report on Central America and later introduced legislation based on the report's recommendations, and made headlines after he challenged Defense Secretary Caspar Weinberger over the legality of certain arms shipments to El Salvador.

Today Barnes begins his subcommittee hearings on the Kissinger committee recommendations.

Barnes' new prominence is not accidental. It comes by virtue of his role as chairman of the subcommittee on Western Hemisphere affairs—stature seldom accorded such a junior member of Congress. Only a handful of other recent arrivals in the House, such as Rep. Timothy Wirth (D-Colo.), chairman of the telecommunications subcommittee and Rep. Henry Waxman (D-Calif.), chairman of the subcommittee on health, have emerged in comparable leadership positions, and both of them arrived in Congress two terms earlier than Barnes.

Barnes' ascension also is the result of an ideology that turns out to be more moderate and more tempered than some liberal colleagues expected—the perfect mirror of his Montgomery County constituency that likes its politicians to be effective, but not embarrassingly or noisily so.

Installed as subcommittee chairman in 1981 by young, left-leaning Democrats on the House Foreign Affairs Committee who liked his unwavering commitment to human rights, Barnes' increasingly centrist line has irritated some of his early backers.

In the past three years, questions about his ideology have cropped up because he refused to vote against cutting off military aid to El Salvador and because of his tacit support of arms sales to Guatemala. More recently there were charges that his participation on the Kissinger Commission on Central America meant he had been co-opted.

And there was severe disappointment in liberal quarters last fall when, after returning from a fact-finding mission to Grenada, Barnes wrote a newspaper article implicitly defending the Reagan administration's invasion of the tiny Caribbean island. (He wrote that Reagan should have been able to achieve an earlier diplomatic solution but that given the circumstances at the time the decision to invade was justified).

More than 800 letters from Montgomery County flooded his office in the following weeks.

"The mail is to the left of me. The reaction of my constituents was overwhelmingly negative," he recalled a few days ago. "There was a great deal of anger among my constituents about the invasion."

Barnes' handling of the certification vote the week before the recess typified his politics, and his style. As the House prepared to vote, some colleagues urged him to demand a roll call to ensure, as one put it, "that every one would have to stand up and be accounted for."

But Barnes settled for a voice vote, sparing Republicans the embarrassment of recorded support of a bill that President Reagan pocket-vetoed last year. "When you win, you don't demand a recount," he explained afterwards. "You take it.

"I'm criticized sometimes by my friends for not being more flamboyant and more outrageous," he said. "My instincts are moderate. On the spectrum of our committee . . . I find myself more toward the center."

This moderate posture is genuine and calculated.

When he was launched as candidate for subcommittee chairman (he only seized the initiative after others suggested it to him), Barnes and his allies made no secret of their plans to convert the subcommittee into a forum to challenge the Reagan administration on Central America. Barnes barely won the chairmanship, replacing Rep. Gus Yatron (D-Pa.) It took three ballots, and Barnes' final victory was by one vote.

In the aftermath he spent time and energy cultivating older Democrats who resented his rise to power, and Republicans who were put off by his reputation as a hard-core liberal.

"We really worked hard to build up his credibility," said a committee staffer. "We knew Central America was heating up. We wanted to gain the respect of people whose respect we had to win."

But ultimately, his gentlemanly demeanor and his centrist positions on some issues have not muted Barnes' vocal and persistent criticism of the Reagan administration.

Colleagues say Barnes has helped sway the administration's position on human rights in Central America and has focused public attention on the issue of right-wing death squads in the region. And they applaud his recent complaints that the Kissinger Commission report placed too much emphasis on military, rather than diplomatic, solutions to Central American problems, a move that reportedly angered Kissinger.

"Anybody who thinks he is a shrinking violet doesn't read the papers," said one outspoken liberal, Rep. Steven Solarz (D-New York).

Most liberal members of the subcommittee credit him for extraordinary effectiveness and maturity in the art of political persuasion.

"It's very easy to be chairman of that subcommittee and rail against the administration and get nothing done," said liberal committee member Sam Gejdenson (D-Conn). But it's most difficult to take strong positions, which he does, and pull the Republicans along."

Barnes' success, according to staff and colleagues, is due partly to his graciousness, even on heated issues.

"Everybody who walks out of his office thinks he agrees with him," said one of his aides. "Roberto D'Aubuission [the rightist Salvadoran leader] could go in and come out 10 minutes later thinking to himself that Barnes is not such a bad guy. Ruben Zamora [the former Christian Democrat who left the government and now is a political leader of the guerrilla opposition] could go in an hour later and come out thinking exactly the same thing.

"He hears both sides. That's Mike Barnes' political genius."

The notion that Barnes has achieved credibility with various political factions in the House is bolstered by Rep. Robert Garcia (D.-N.Y.), the committee's only Hispanic member. "When he said what he did (about Grenada), I said to myself, maybe there is something to it," Garcia said. "If someone else had said it, I would have said forget it. I still disagree with him, but he has a certain credibility."

Even the committee's Republican minority is full of praise for Barnes. Henry Hyde, the outspoken conservative from Illinois (who refers to one liberal congressman as "the honorable representative from the People's Republic of Massachusetts"), calls Barnes "fair and intelligent."

"He certainly is to the left of center," Hyde said. "But Mike makes an effort to be balanced in his official role as chairman."

Unlike many of his colleagues, Barnes can afford a visible profile on foreign affairs. His constituency is one of the richest, most educated and most cosmopolitan in the country. As he put it recently, "They know that what's happening in Lebanon could have an effect on people in Rockville."

Although he won reelection handily in 1982, he was the first Democratic congressman from the county in 20 years, preceded by liberal Republican Charles McC. Mathias, now a U.S. senator, Gilbert Gude, and Newton Steers.

For the moment Barnes' political future seems secure, and his popularity extremely broad.

"For the first time, Montgomery County has a congressman with a powerful committee position and real clout," said the 1984 Almanac of American Politics, which for the first time listed Barnes as one of the 25 most influential members of the House.

"He is perceived by his constituency as a significant player, a leader on a significant issue," said Democratic Rep. Steny H. Hoyer of neighboring Prince George's County.

"I think he is in for the long term, not for the quick kill."●

TRUTH IN CRISES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● **Mr. FRANK.** Mr. Speaker, one of the sad aspects of the recent events in Lebanon is the blatant failure of the Reagan administration to deal truthfully with the American people with regard to our policy. The spectacle of the President and his aides impugning the courage and patriotism of critics of his policy while he was simultaneously planning to change that very policy in the direction the critics were advocating is a very discouraging one.

Nowhere has this point been made more coherently and more forcefully than by William Safire in his column in the New York Times for February 17. As Mr. Safire summarizes:

> The U.S. is not the U.S.S.R. The truth is not an inconvenience to be shaded, manipulated, and molded to fit the needs of statecraft. "The truth shall make you free" is not an empty piety. In times of crisis, we expect Moscow to lie and we expect Washington to tell the truth, and that difference has been blurred in February of 1984.

Mr. Speaker, I am grateful to Mr. Safire for his tough-minded, nonpartisan insistence that political leaders speak truthfully in times of crisis, and I ask that his forceful and important column be reprinted here.

TRUTH IN CRISES

(By William Safire)

ORLANDO, FLA., February 16.—The Soviet Union is prepared to lie whenever lying suits its national purpose. The United States has an obligation to tell Americans as much of the truth as can safely be told about its operations. That difference in the approach to truth was tested recently.

1. Did the Soviet Government deliberately mislead the world about the health of Yuri Andropov?

A statement issued in Mr. Andropov's name on Nov. 7 blamed his absence from a military parade on a cold. On Dec. 5 Leonid Zamyatin, the senior Kremlin spokesman, repeated that excuse. In January the editor of Pravda, Viktor Afanasyev, defined the ailment as the "croup."

Now we hear from Soviet doctors that Mr. Andropov had been on an artificial kidney machine for a year, suffering from "nephritis, nephrosclerosis, secondary hypertension" as well as diabetes. These were hardly the "temporary causes" set forth at the time; the dying Russian was like a body propped up to look alive at Fort Zinderneuf in "Beau Geste."

But that's to be expected of the Kremlin. Let's see how the White House has handled truth in its own crises:

2. Did President Reagan mislead the public and Congress about his intentions to withdraw marines soon from Lebanese soil?

On Feb. 1, after a 10-day review of the failing Lebanon policy, a draft of a National Security Decision Directive was circulated to top officials by Robert McFarlane, the national security adviser. This document directed that the Marines be withdrawn to ships offshore, as many Congressmen had been insisting, and included orders to accompany the pullout with shelling of anti-Government forces and increased military aid to the Beirut regime.

On the night before the directive was circulated, and five days after the Joint Chiefs told the President how the Marines should be withdrawn, Mr. Reagan told Wall Street Journal editors asking about a withdrawal that Speaker Tip O'Neill "may be ready to surrender, but I'm not." This charcterization of the opposition's suggestion as "surrender," at the time when just such a withdrawal was about to be announced, was no slip of the lip: In a prepared radio speech, the President assured listeners he was not about to "cut and run."

Then, with West Beirut falling to the Syrian-backed forces, the decision to remove our marines was announced.

Why did the Reagan Administration excoriate its critics for "surrender" when the withdrawal was being planned? White House officials now say that the heavy shelling during the pullout makes all the difference between a disgraceful disaster and a dignified change of base. That dubious distinction—of cutting without running—led to the further erosion of Reagan credibility on the reason for the shelling.

Mr. Reagan committed U.S. troops to Lebanon at the urging of his pro-Arab advisers. Secretary Shultz, who was not yet aboard when that first mistake was made, is valiantly trying to limit its consequences now. But the salvaging of our reputation has not been helped by the posturing from the White House.

3. Does the purpose of our bombardment from offshore come within the Congressional approval of our military action in Lebanon?

Navy Secretary John Lehman this week spoke the truth when he said "we will be providing supporting fire to the Lebanese armed forces. This is not linked to specific incoming fire against the marines at the airport."

However, the excuse given last week by President Reagan for the shelling was quite different: ". . . to enhance the safety of Americans and other M.N.F. personnel in Lebanon." After being reminded by the White House spokesman that purposes were decided in the Oval Office, Mr. Lehman dutifully departed from reality: "The firing, as the President has stated, is to enhance the safety of American . . . personnel."

That is palpably untrue. If our purpose were really to "enhance the safety" of our men, we would pull them out overnight. The only military purpose of our offshore shelling has been to hearten the Lebanese Army and to punish its enemies; the political purpose is to provide a furious fig leaf for our withdrawal. To pretend our bombardment is to protect our troops is to put forward an official lie.

The reason for the lie is to remain within the authority granted by Congress. But mendacity is not the road to credibility: If Mr. Reagan wants to extend his authority to close support of the crumbling Lebanese Army, let him ask Congress; if he wants to challenge the War Powers Act, let him take it to court. Twisting the truth to create the appearance of legality damages our system more than the shelling hurts the enemy.

The U.S. is not the U.S.S.R. The truth is not an inconvenience to be shaded, manipulated and molded to fit the needs of statecraft. "The truth shall make you free" is not an empty piety. In times of crisis, we expect Moscow to lie and we expect Washington to tell the truth, and that difference has been blurred in February of 1984.●

STATE DEPARTMENT 1983 HUMAN RIGHTS REPORT AND NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● **Mr. BIAGGI.** Mr. Speaker, as chairman of the 103-member bipartisan ad hoc Congressional Committee for Irish Affairs I wish to provide my colleagues with an important excerpt from this year's "Country Reports on Human Practices for 1983." The excerpt focuses on the human rights situation in Northern Ireland.

As one who has long felt that human rights problems in Northern Ireland are both serious and constant I am especially pleased at this year's report. It provides for a balanced presentation of both the British Government's position and positions of critics of their policies.

One of the most significant points of discussion in this report has to do with the controversial "supergrass" policy in Northern Ireland. Under this procedure British authorities use the ofttimes uncorroborated evidence of terrorist informants. The report presents the issue in a comprehensive fashion which I would like to insert at this point in the RECORD.

During 1983 there was considerable public discussion over the increased use of evidence provided by terrorist informers ("supergrasses") in non-jury courts. Government officials state that the use of these informers has let to a marked reduction in the level of violence in Northern Ireland. While the evidence of an accomplice has always been admissible in UK courts, in non-jury courts the judge alone must decide whether the evidence of the "supergrass" is credible, bearing in mind the danger of convicting on the uncorroborated evidence of an accomplice. Critics assert that this places too great a burden of objectivity on a single individual, no matter how well-intentioned he or she may be. Critics also question whether the gains to security and public safety arising from the "supergrass" procedure outweigh the dangers to the credibility of judicial system in Northern Ireland. Moreover, there are indications that the system is becoming overburdened by the sheer number of these "supergrass" cases, with the result that defendants held on the basis of an informer's allegations could be kept on remand for long periods while awaiting trial. In trials conducted during 1982 and up to the autumn of 1983, 78 Republicans and 49 Loyalists faced charges under the "supergrass" procedure, of whom 36 Republicans and 38 Loyalists were convicted.

The Criminal Law Jurisdictions Act, enacted by both the British Government (1975) and Irish Government (1976), permit trial in the Republic of Ireland, in Northern Ireland, or in Britain of those accused of certain terrorist offenses, regardless of where the offense was committed.

The ad hoc committee throughout its more than 6½-year existence has sought to both spotlight attention on the issue of human rights violations in Northern Ireland and to work for their eradication. While the goal is far from accomplished there have been great strides made. The action of the State Department in presenting this issue in the balanced way they did in the 1983 report is also helpful in terms of exerting the kind of international attention which we hope will pressure the British Government to release their stranglehold over the people of Northern Ireland.

In the words of the Irish National Caucus which has been so instrumental in advocating for peace and human rights in Ireland. "Human rights in Ireland is an American issue."

United Kingdom of Great Britain and Northern Ireland

The United Kingdom (U.K.) is a constitutional monarchy, whose government takes the form of a multiparty, parliamentary democracy. Human rights are traditionally respected and zealously guarded, both by the British people and their elected governments.

Human rights concerns in the United Kingdom are distinctly different depending upon whether the focus is on Great Britain (England, Scotland, and Wales), or those activities related to Northern Ireland. In Great Britain, human rights practices are exemplary, with few, if any demonstrated or alleged abuses by the Government or opposition. However, the long-established tradition of exemplary human rights practices has been much tested in Northern Ireland, and in matters directly affected by the Northern Irish situation in the rest of the Kingdom, where the British Government strives to combat the continuing terrorism and civil strife carried out against British officials and Protestant Loyalists by militant organizations demanding the forcible unification of Ireland, as well as less frequent acts of violence by both militant nationalists and loyalist groups against Catholics.

The U.K. enjoys a highly developed industrialized economy with a mix of private and state-owned industries. Individuals may freely own property and pursue private economic interests under the law. The well-educated population benefits from a large and comprehensive social welfare program. Public policy, supported in some cases by legislation and in others by tradition, opposes discrimination on the basis of race, religion, sex, or political opinion.

During 1983 there have been broad public disucssion and review of existing and proposed laws and policies affecting human rights, including the Prevention of Terrorism Bill (repealing, re-enacting, and extending key provisions of the 1976 Prevention of Terrorism Act); the Police and Criminal Evidence Bill (including proposals for increased powers of search and detention); and the Data Protection Bill (designed to protect individuals against the misuse of personal data stored in computers).

Security is maintianed by a civilian police force except in Northern Ireland, where British Army units supplement the police in an effort to maintain public safety against the background of a sharply divided society beset by terrorist violence.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Unlawful or Arbitrary Deprivation of Life.—British Government sources report that during 1983 over 80 persons lost their lives as a result of terrorist incidents related to the issue of Northern Ireland. All but six of the killings occurred in Northern Ireland itself. Over half the victims were civilians as, for example, in the highly publicized shooting in a Pentecostal Church in County Armagh, Northern Ireland and in the bombing of Harrod's Department Store in London just before Christmas.

It is against British law and stated government policy for government forces to practice unlawful or arbitrary deprivation of life. Under the law, police may use such force as is reasonable in the prevention of crime. In this regard, human rights activists have expressed concern over two aspects of government practice in Northern Ireland. First, the use of plastic baton rounds by security forces for the purpose of riot control, to stun or temporarily disable, (authorized only as a last resort, when intense violence is directed against law enforcers) has already led to several deaths in recent years, in which some of the victims were children. After the Government declined to prosecute in any of the incidents, the National Council for Civil Liberties assisted in bringing a case based on these practices which is still pending before the European Commission on human rights. The Commission has referred the case to the British Government for a response; thus far, no further information is available on the status of the case. Concern has also been raised about fatal shootings, in separate incidents in November and December 1982, of one unarmed member of the Provisional Irish Republican Army and one unarmed member of the Irish National Liberation Army. Four officers of the Royal Ulster Constabulary have been charged with murder in the incidents.

b. Disappearance.—British Government authorities do not abduct, secretly arrest, or hold persons in clandestine confinement, nor do they sponsor or condone such activities. During the reporting period, there were no allegations of disappearance sanctioned by the government in any of the component parts of the United Kingdom.

Northern Ireland office sources report that during 1983 over 40 persons were abducted, kidnapped or illegally detained by terrorists in incidents related to the issue of Northern Ireland.

c. Torture and Cruel, Inhuman, or Degrading Treatment or Punishment.—The United Kingdom is a signatory to and has ratified the European Convention on Human Rights, which prohibits the use of torture and inhuman or degrading treatment or punishment. British domestic law forbids mistreatment or torture of prisoners, and provides penalties for such abuse. Confessions obtained by torture or any other inhuman or degrading treatment are not admissible as evidence in court.

The British authorities do not practice deliberately cruel, inhuman, or degrading treatment or punishment of prisoners. However, the Government itself acknowledges that British prisons, many of which were built during the nineteenth century, are unsatisfactory and overcrowded, with many prisoners spending the greater part of their days in cramped, unhygienic cells. In 1983, prisons in England and Wales, officially capable of holding roughly 39,000 persons, held close to 45,000. The Government is attempting to relieve the overcrowding by building new prisons, modernizing old ones, and releasing prisoners early. As part of the effort to assure proper treatment of prisoners, in 1983 the Inspectorate of Prisons proposed that Parliament establish a Code of Prisoners' Rights.

There have been complaints about "strip searching" in Northern Ireland jails. Strip searching of prisoners is standard practice at all prisons in the U.K. other than "open prisons." (Open prisons are minimum security facilities for persons serving short sentences for non-serious crimes.) At Armagh Prison, the searching had been relaxed until a smuggling incident caused prison officials to reintroduce it for prisoners leaving and returning to the prison for home visits or court appearances. In contrast, visitors to the prison, including government officials, are subject to a "rub down search," which involves an officer passing his or her hands over the visitor's clothing to detect hidden weapons. Despite allegations to the contrary, visitors to the prisons, unlike the prisoners themselves, are not subject to strip searches.

As a rule, in questioning arrested persons, police are expected to comply with the Judges' Rules and Administrative Directions to the Police, except where superseded by the Northern Ireland (Emergency Provisions) Act of 1978 (see Section d below). These rules serve as guidelines only, and do not have the force of law.

While police compliance with codes of behavior is generally good, in 1983 it was revealed that four prisoners in Birmingham had claimed that police tortured them by placing plastic bags over their heads and cutting off their air supply in order to obtain signed confessions. The allegations are currently under investigation.

In 1983 the Police Federation (representing officers below the rank of superintendent), jointly with the Law Society, proposed the establishment of an Independent Policy Complaints Board, with its own investigators, to examine all serious complaints of police violations of accepted standards of behavior.

In response to a June 1978 report by Amnesty International calling for a public inquiry into alleged maltreatment of suspected terrorists in Northern Ireland, the British Government established an independent Committee of Inquiry (Bennett Committee). The Government accepted and implemented the Committee's Recommendations on Police Practices and Procedures, which include closed-circuit TV in interviewing rooms, greater access to counsel, and closer supervision of interrogators by their superiors. Allegation of RUC mistreatment of suspects in Northern Ireland declined through 1981. However, the 1983 Jellicoe Report documented an upward trend in such allegations in 1982.

Prisoners convicted of crimes committed for allegedly political reasons are placed according to their crimes, rather than their motives. The Government has resisted attempts by convicted terrorists in Northern Ireland to achieve the status of political prisoners. These attempts included prison protests, sometimes fatal hunger strikes, and complaints to the European Commission on Human Rights, which were dismissed. Some of these prisoners, convicted of offenses committed prior to 1976, had been accorded special category status (not the same as political status). This status, however, was phased out after November 1975.

d. Arbitrary Arrest, Detention, or Exile.—In the United Kingdom the powers of arrest and detention are exercised in accordance with the law as set forth below. The United States Government is aware of no allegations in the reporting period that such powers were exercised arbitrarily.

The Criminal Law Act of 1967 and the Criminal Law Act (Northern Ireland) of 1967, which applies similar provisions to Nothern Ireland, empower a constable to arrest without warrant any person whom he, with reasonable cause, suspects has committed, is committing, or is about to commit what is, or what he reasonably suspects to be, an arrestable offense. Procedures for bail, judicial determination of the legality of detention, and suits for false imprisonment are routinely utilized in the United Kingdom.

Except as noted below, anyone arrested without a warrant must be released on bail if he or she cannot be brought before a magistrate's court within 24 hours, unless the alleged offense is serious. If detained in custody the defendant must be brought before a magistrate's court as soon as practicable. In some cases, however, remand prisoners have been held for periods of up to eighteen months before trial.

British common law allows for the abrogation of individual liberties by the executive in an emergency situation, subject to review by Parliament. Continuing violence in Northern Ireland has presented the Government with a serious problem of protecting the rights and safety of the province's population as a whole. Acting on the premise that the fundamental "right to life" was in serious jeopardy due to the troubles in Northern Ireland, the British Government adopted two acts to deal with the threat: The Northern Ireland (Emergency Provisions) Act of 1973, now amended and consolidated as the Northern Ireland (Emergency Provisions) Act of 1978, which is applicable only to Northern Ireland; and the Prevention of Terrorism (Temporary Provisions) Act of 1976, which is applicable to the entire United Kingdom. Although both these acts empower the restriction of personal liberties, they are subject to Parliamentary review and to mandatory renewal at frequent intervals—the 1978 Act at six month intervals and the 1975 act at annual intervals. Both acts were renewed upon the occasion of their most recent review. Some groups have questioned the effectiveness of the review procedure, not so much on grounds of structure as of practical effect, since debate has taken place before a relatively small number of Members of Parliament and on occasion at an hour not conducive to major debate. A recent independent review of the 1976 legislation by Lord Jellicoe confirmed that it had effectively reduced terrorism and recommended that the powers contained in the Act be extended to combat international terrorism and not just that associated with Northern Ireland. The Jellicoe Report also recommended improved safeguards to minimize the risk of abuse, including a maximum life of the legislation beyond which it would become lapse unless reenacted by Parliament. Lord Jellicoe's recommendations were subsequently incorporated into the new Prevention of Terrorism bill, introduced in Parliament in July 1983 and currently under debate. In May 1983, the Secretary of State for Northern Ireland authorized Sir George Baker to begin an independent review of the 1978 Act. A report is expected in the Spring of 1984.

Under the 1978 Act the police in Northern Ireland are empowered to arrest without warrant any person suspected of being a terrorist, and to detain that person for up to 72 hours on their own authority. The 1978 Act also gives the police the power to arrest without warrant a person suspected of having committed, or being about to commit a "scheduled" offense (i.e., one listed on a schedule attached to the law). For the purpose of doing so, the police may enter and search without a warrant any premises or other place where that person is, or where the police suspect him of being.

The Prevention of Terrorism Act of 1976 also gives the police the power to arrest without warrant persons anywhere in the country whom they reasonably suspect to be involved with terrorism. Under this act such persons may be detained for up to 48 hours after their arrest. The Secretary of State for Home Affairs, the Secretary of State for Scotland, and the Secretary of State for Northern Ireland May extend the period of 48 hours by a further period not exceeding five days. This power extends throughout the United Kingdom. Furthermore, as noted in the Jellicoe Report, officials have the power to detain not only persons suspected of involvement in terrorism, but also, in practice, persons from whom they wish to obtain information. Such detentions may extend up to a period of seven days.

Under the 1978 Act, members of the armed forces on duty may arrest suspected terrorists without a warrant and hold them for up to four hours, after which they must be transferred to policy custody or released. There have been allegations that these limits have been exceeded by the police or the armed forces, but they cannot be substantiated. In Northern Ireland, the police have accepted the Bennett Committee recommendation that persons arrested under the provisions of the Terrorism Act and the Emergency Provisions Act have the right to access to a solicitor after 48 hours of detention. Human rights activists report that the 48 hour rule is not always followed, however.

e. Denial of a Fair Public Trial.—In the United Kingdom, fair trial is guaranteed by law and observed in practice. All criminal proceedings are conducted in public, with the exception of cases involving public security; cases heard in the juvenile courts, from which the public, but not the press, is excluded; and cases in which, on the ground of public decency, the judge has discretion to close the court while evidence of a particularly intimate character is being given by a child or young person. In the trial of charges under the Official Secrets Act, the court can be closed only during the hearing of such parts of the trial as the judge, in his discretion, deems desirable; the sentence must always be passed in public.

Cases related to Northern Ireland are often tried by a judge sitting alone, under legislation which decreed that terrorist offenses be tried in this manner. This form of criminal trial was introduced after the Diplock Committee, set up in 1972 to consider legal procedures to deal with terrorist activities in Northern Ireland, had recommended that, for scheduled offenses, trial by judge alone should take the place of trial by jury for the duration of the emergency. Among the arguments for this recommendation were that jurors were open to and afraid of intimidation or acts of physical violence against them, and that there was a continuing risk of perverse verdicts by partisan juries. Unlike other courts in the United Kingdom, the Diplock courts may admit in evidence statements made in custody by the accused, provided that such statements were not made as a result of torture of inhuman or degrading treatment. The absence of a jury and the ability to convict solely on the basis of confession have been the subjects of criticism. Some human rights activists see an increasing tendency to rely on confessions rather than the search for independent evidence of guilt or innocence. Critics also maintain that the conviction rates in the Diplock courts are unusually high. Judges in these courts must give written reasons for their decisions, which are made public. Defendants convicted in Diplock courts have an automatic right of appeal to the three-judge court of appeals (criminal), on any ground, against conviction of a sentence.

During 1983 there was considerable public discussion over the increased use of evidence provided by terrorist informers ("supergrasses") in non-jury courts. Government officials state that the use of these informers has led to a marked reduction in the level of violence in Northern Ireland. While the evidence of an accomplice has always been admissible in UK courts, in non-jury courts the judge alone must decide whether the evidence of the "supergrass" is credible, bearing in mind the danger of convicting on the uncorroborated evidence of an accomplice. Critics assert that this places too great a burden of objectivity on a single individual, no matter how well-intentioned he or she may be. Critics also question whether the gains to security and public safety arising from the "supergrass" procedure outweigh the dangers to the credibility of judicial system in Northern Ireland. Moreover, there are indications that the system is becoming overburdened by the sheer number of these "supergrass" cases, with the result that defendants held on the basis of an informer's allegations could be kept on remand for long periods while awaiting trial. In trials conducted during 1982 and up to the autumn of 1983, 78 Republicans and 49 Loyalists faced charges under the "supergrass" procedure, of whom 36 Republicans and 38 Loyalists were convicted.

The Criminal Law Jurisdictions Act, enacted by both the British Government (1975) and Irish Government (1976), permit trial in the Republic of Ireland, in Northern Ireland, or in Britain of those accused of certain terrorist offenses, regardless of where the offense was committed.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Warrants are generally required for the search of private premises. However, under the Northern Ireland (Emergency Provisions) Act of 1978, in Northern Ireland any member of the armed forces on duty or any constable may enter any premises or other place, if he or she considers it necessary to do so in the course of operations for the preservation of peace or the maintenance of order. This provision was introduced in recognition of the practical difficulty of obtaining a warrant in certain situations involving terrorist incidents, but it has been criticized for allowing excessively broad powers of entry on mere suspicion of wrongdoing.

The issue of prisoners' correspondence arose during 1983 when the European Court of Human Rights held that government interference with prisoners' personal correspondence between 1972 and 1976 was a violation of the European Convention. In December 1981, the Government introduced revised regulations on prisoners' correspondence to achieve compliance with the Convention.

The only significant exception to freedom of association in the United Kingdom arose in response to terrorist violence associated with Northern Ireland. The Prevention of Terrorism (Temporary Provisions) Act of 1976 and the Northern Ireland (Emergency Provisions) Act of 1978 include sections prohibiting membership in or support of organizations (Loyalist and Republican) which are involved in terrorism. These organizations are specifically listed in the Statutes. The lists do not include political parties, even those such as Provisional Sinn Fein with close links to terrorist organizations which carry out terrorist acts. Persons prosecuted under the 1978 Act are brought to trial in accordance with the trial procedures laid down by that Act.

c. Freedom of Religion.—In Northern Ireland, the Constitution Act of 1973 specifically prohibits discrimination on the basis of religious belief or political opinion.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—In general, citizens of the United Kingdom have freedom of movement within the country, foreign travel, emigration and repatriation. One exception to this general principle is contained in the Prevention of Terrorism Act of 1976. The Act gives the Home Secretary the authority to exclude or prevent from entering Great Britain (comprised of England, Scotland and Wales) anyone he believes may be connected with terrorism involving Northern Ireland, unless that person was born in Great Britain and has been ordinarily resident there, or has been ordinarily resident there for twenty years. Over 300 people have been excluded under his provision, most of them from Northern Ireland and the Republic of Ireland. The Secretary of State for Northern Ireland also has the power to exclude people from that province on the same grounds, unless they were born and have been ordinarily resident in Northern Ireland, or have been ordinarily resident there for twenty years. In addition, the power exists to exclude from the United Kingdom any person who may be ordinarily resident in the United Kingdom, but who is not a United Kingdom citizen, who is involved in terrorism in relation to Northern Ireland. Once excluded from a region of the United Kingdom, the person is forbidden to reenter that area. These powers have been referred to by many, including the National Council for Civil Liberties, as a system of internal exile.

With the 1983 entry into force of the British Nationality Act, a new category of British overseas citizens (i.e., citizens of the United Kingdom and the colonies who had no "close connection with the United Kingdom") lost some of the travel rights they had previously held as U.K. citizens, becoming subject to increased control over their freedom to enter and leave the country under the immigration rules.

One anomaly resulting from the act is that certain persons born in Northern Ireland, while not entitled to British citizenship, still hold Irish Republican Nationality under Irish law, and as such, under existing British laws still enjoy the rights of abode, the right to vote, and the right to hold office in Britain.

Section 4. Governmental Attitude Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights:

The United Kingdom is a participant in several major international and regional human rights bodies, including the European Commission on Human Rights, the U.N. Human Rights Commission, and the U.N. Commission on the Status of Women. Its experts participate in the U.N. Subcommission on the Prevention of Discrimination and the Protection of Minorities, the U.N. Human Rights Committee, and the Working Group on Enforced or Involuntary Disappearances. In addition Britain is a party to major human rights conventions, such as the Convention on the Elimination of All Forms of Racial Discrimination. The British Government is an advocate of measures to further improve the human rights machinery of the United Nations.

The British Government generally maintains an open attitude toward international inquiries into alleged violations of human rights in the United Kingdom. It cooperates fully with the European Commission on Human Rights in investigations of complaints and takes steps to rectify its own laws and policies when they are found not to be in conformity with the European Convention on Human Rights. However, a recent attempt by a European Parliament committee to investigate the situation in Northern Ireland encountered government criticism as unwarranted interference in Britain's internal affairs.

Britain is the host country to several international non-governmental human rights organizations, such as Amnesty International. Moreover, there are over 100 active national organizations in this field, which operate freely in London and throughout the country.

Amnesty International's 1983 report expressed its concern that the so-called "Diplock courts" in Northern Ireland may not conform to international standards for a fair trial. Freedom House rates the United Kingdom "free," although it noted that a limited number of human rights violations have occurred in Northern Ireland as a result of a "severe security situation."

In 1983, the population was 56,006,000 with a growth rate of 0.1 percent. Life expectancy at birth in 1980 was 73.1 years. The infant mortality rate is 11.2 per 1,000 live births. The 1981 per capita gross national product was about $8,000.

In Northern Ireland, there have been allegations over the years of differences in economic status and privileges of the Protestant and Catholic communities. The Protestant community is more prosperous and highly skilled, and controls much of the local economy. The unemployment rate in Northern Ireland is substantially higher than that of the United Kingdom as a whole. And this burden falls disproportionately on the Catholic population. The reasons for this are complex, involving a long history of discrimination by one community against another for the purpose of maintaining its traditionally dominant position. British government policy attempts to alleviate the problem by promoting equal opportunities, attracting more investment to the area, and subsidizing the economy through public sector spending.

Since the 1969 unrest, and especially since 1972, when direct British rule was introduced in Northern Ireland, specific measures have been instituted to combat religious discrimination against Catholics that had existed previously in politics, housing, and employment. These measures included: institution of universal suffrage, along with proportional representation in place of single-member districts for local council elections, and abolition of voting limitations based on wealth or property ownership; prohibition of religious or political discrimination by any level of government; establishment of a Commissioner for Complaints to deal with grievances against local councils and public bodies and a Parliamentary Commissioner for Administration; establishment of a Central Housing Authority to meet the problem of sectarian discrimination in housing and allocation and launching of new housing projects; prohibition of discrimination in employment, and establishment of a Fair Employment Agency to promote equality of opportunity; establishment of a Standing Advisory Commission on Human Rights; and a special effort to recruit more Catholics into the civil service and the police. While not disputing the value of these structures, critics are not satisfied with the results achieved to date. They point to slow progress in remedying historical imbalances, and in some cases question the resolve of those charged with implementation of the measures.●

MARIAN WRIGHT EDELMAN WRITES: "WE ALREADY KNOW WHY BLACK BABIES DIE"

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. KEMP. Mr. Speaker, in the United States today, a black infant is twice as likely to die as a white infant. This statistic has remained relatively unchanged over the past 20 years, despite the remarkable advances that have been made by medical science in treating infant disease. Why?

The following article by Marian Wright Edelman, the outstanding president of the Children's Defense Fund, points out one of the most tragic reasons. As she writes, "Black babies are more likely to die because black mothers are more likely to be poor and simply cannot afford the prenatal care that would help solve the problem." Lack of proper prenatal care results in a low birthweight, the cause of death for three-quarters of those babies who die during their first month of life.

We in Congress can help to remedy that situation by recognizing that the unborn baby is alive and we have a stake in preserving his or her health.

We can begin by expanding medicaid benefits for poor, pregnant women to help them give birth to a healthy baby. I urge my colleagues to cosponsor H.R. 4136 to achieve this goal.

Another way we can lower the mortality rates for black infants is by supporting efforts to combat the incidence of chronic dehydration. This disease is a leading killer of children under the age of 5 worldwide, and is in large part caused by the malnutrition experienced by poor, inner-city children, both black and white. With the help of the Agency for International Development, however, research into the treatment for this tragic disease and the training of doctors to combat it will soon begin at Children's Hospital in Buffalo, N.Y. This project will be directed by Dr. Emanuel Lebemthal, a world renowned expert on the causes and cures of infant disease.

We already know why black babies die—and we know how to stop it. I commend the following article to my colleagues, and urge their support for insuring the health of all babies, before and after birth:

[From the Washington Post, Feb. 19, 1984]

WE ALREADY KNOW WHY BLACK BABIES DIE

(By Marian Wright Edelman)

Last month Health and Human Services Secretary Margaret Heckler released the newest edition of "Health United States," an annual report that states black infants in America are still about twice as likely to die as white infants (a fact that has held true for over two decades).

Heckler announced that she would create a special task force to spend a year studying why such a disparity exists. No one questioned the wisdom of this decision or mentioned the voluminous research on the causes of infant mortality that HHS has conducted or funded over the past 20 years.

There are many health problems whose cause and cure are unknown. Infant mortality is not one of them. We know that many infant deaths are due to the large number of American babies weighing under 5½ pounds at birth. Three-fourths of infant deaths during the first month of life, and about half of all deaths in the first year, result from low birthweight.

Numerous studies sponsored by the HHS, have shown that low birthweight and infant deaths can be reduced when pregnant women receive adequate prenatal care. For example, babies born to women who receive late or no prenatal care are three times as likely to die in infancy as those born to women who receive adequate health care.

A three-year, HHS-funded study concluded in 1982 found that comprehensive prenatal care provided to women in California could cut the incidence of low birthweight in half. Moreover, low birthweight rates among white and black infants whose mothers received comprehensive services were the same. Normally, black infants are about twice as likely to be born underweight as white babies.

The problem is not unknown facts, but inaction. Black babies are more likely to die because black mothers are more likely to be poor and simply cannot afford the prenatal care that would help solve the problem.

Heckler and her colleagues have a chance to act now. Medicaid, the largest public health program for women, infants and children, reaches only about half of the nation's poor. One of Congress' unfinished pieces of business from last session is a measure sponsored by Rep. Henry Waxman that would provide states with money to improve and expand Medicaid benefits to reach additional pregnant women and children who cannot now get help because they live in two-parent families. It would change one of the most unfair provisions in Medicaid today—the exclusion of needy mothers and children from the program because a father lives at home.

The measure has strong bipartisan support. Three conservative members in Congress, Reps. Thomas J. Bliley (R-Va.), Henry J. Hyde (R-Ill.) and Dan Marriott (R-Utah) have recognized how important it is to improve the health of American babies.

The measure's costs are fully assumed in Congress' fiscal year 1984 budget. In the first year, all poor pregnant women uncovered by Medicaid and children up to 1 year old could be covered with 100 percent federal funding at the modest cost of $120 million. That is about one-third of what the federal government spent in 1982 to inspect animal care facilities and just a little more than the cost of one MX missile.

Studies show that pregnant women who receive Medicaid have fewer low-birthweight babies and lower medical costs. Thus, the bill could yield substantial long-term savings. It's been estimated that every dollar spent on maternity care will save between $5 and $10 on expenditures for sick and handicapped babies and children. It costs only an average of $1,500 to provide complete prenatal care and delivery services to a pregnant woman. It costs $1,000 a day to provide intensive neonatal care to a baby who is born prematurely because a mother did not receive health care during pregnancy. Bills of $20,000 to $40,000 are common.

If the administration were really concerned about controlling future deficits and protecting the truly needy, it would support this measure. Instead, it has proposed additional cuts in Medicaid totaling $3.338 billion over the next three years. Over half of the $1 billion that the administration proposes to save during fiscal year 1985 would be achieved by charging impoverished families for their medical care and by taking women and children off the rolls through additional cuts in Aid to Families With Dependent Children.

The place to start narrowing the gap between black and white infant death rates in this country is by providing better health care for mothers and children, not by losing a year's time assigning another task force to study a thoroughly researched problem or by spending another year cutting back on medical services for the poor. In that year, another 5,800 black infants will die needlessly.●

CRIMINAL JUSTICE REFORM

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. CONYERS. Mr. Speaker, with the Senate having recently passed several pieces of criminal justice legislation, those of us in the House must now address the call for reform in such areas as sentencing, the assistance and compensation of crime victims, preventive detention, and capital punishment. To assist our Members in understanding some of the difficult issues that surround these matters, I insert in the RECORD the following letter to the editor of the New York Times which appeared in that paper on February 17, 1984. It was jointly authored by several civil liberties groups, each of which has demonstrated a substantial interest in the development of criminal justice policy.

The letter follows:

NATIONAL COMMITTEE AGAINST
REPRESSIVE LEGISLATION,
Washington, D.C., February 6, 1984.

Letters to the Editor,
New York Times,
New York, N.Y.

TO THE EDITOR: Your editorial of Feb. 6, "The Rush to Misjudgment on Crime," accurately assesses Senate passage of the comprehensive crime bill last week as an election-year display that they are "tough on crime."

We disagree, however, that the sentencing provisions of the bill will "really fight crime," as you indicate. We also wish to raise some important points about preventive detention not mentioned in your editorial.

The Senate "solution" to crime is to lock up more people for longer periods of time. The long range implications are unaffordable (building a single cell costs up to $150,000; incarcerating someone up to a year costs up to $30,000) and ineffective.

The U.S. already has the third highest rate of imprisonment in the industrialized world. Numerous studies indicate that incarceration neither deters crime nor rehabilitates. But it does produce angry and bitter people, ill-equipped upon release to function in the world.

The Senate also thinks it can reduce crime by allowing judges to hold an accused person in jail for months—before any trial has taken place—if they decide that the person is "dangerous." This abolishes the cherished principle that a person is presumed innocent until proven guilty. A Justice Department study reveals that predictions of dangerousness are wrong between 50 and 95 percent of the time, and that only 1.9 percent of all defendants released before trial are convicted of and imprisoned for serious crimes committed while on release.

The highly disproportionate rate of imprisonment of black people in this country reflects the racism within our criminal justice system. Preventive detention will exacerbate this situation, for a judge's determination of whether someone is "dangerous" is likely to be heavily weighted with race and class biases.

But not one liberal Democratic Senator opposed this bill. Only Senator Mathias, a Republican from Maryland, had the courage and determination to speak up about the prison overcrowding that is sure to result, and offer a positive alternative sentencing scheme.

The sentencing bills introduced in the House by Rep. Rodino and Rep. Conyers contain constructive alternative approaches which warrant thoughtful consideration. We hope that the Members of the House will be more willing than their Senate colleagues to study the relationship between sentencing and the incidence of crime, vengeance and justice, and the role that racism plays throughout our criminal justice system.

Such discussion is vital to the development of a federal criminal justice policy that protects our constitutional rights while recognizing the problem of crime in our society.

Sincerely,

Stephanie T. Farrior, Coordinator, National Committee Against Repressive Legislation, 201 Massachusetts Ave., N.E. #310, Washington, D.C., (202) 543-7659; Dr. Garry Mendez, Director of Administration of Justice, National Urban League, 500 E. 62d Street, New York, N.Y., (212) 310-9122; National Legal Aid and Defender Association, 1625 K Street, N.W., Washington, D.C., (202) 452-0620 (contact person: Carolyn Safer); Barbara Dudley, President, National Lawyers Guild, 853 Broadway, New York, N.Y. (212) 260-1360; Carol Bergman, Coordinator, U.U.S.C. National Moratorium on Prison Construction, 309 Pennsylvania Ave., S.E., Washington, D.C., (202) 547-3633; Guillermo Chavez, Director, National Interreligious Task Force on Criminal Justice,[1] 475 Riverside Drive, New York, N.Y., (212) 870-3105; United Methodist Church, Department of Political and Human Rights, 100 Maryland Ave., N.E., Washington, D.C., (202) 488-5657 (contact person: Harold Massey); Hon. Margaret Burnham, National Director, National Conference of Black Lawyers, 126 West 119th Street, New York, N.Y., (212) 864-4000.

[From the New York Times, Feb. 17, 1984]

A SENATE NON-SOLUTION ON CRIME

To the EDITOR:

Your editorial of Feb. 6 "The Rush to Misjudgment on Crime" accurately assesses Senate passage of the comprehensive crime bill last week as an election-year display that the senators are "tough on crime."

We disagree, however, that the sentencing provisions of the bill will "really fight crime," as you indicate. We also wish to raise some important points about preventive detention not mentioned in your editorial.

The Senate "solution" to crime is to lock up more people for longer periods of time. The long-range implications are unaffordable—building a single cell costs up to $150,000; incarcerating someone for a year costs up to $30,000—and ineffective.

The U.S. already has the third-highest rate of imprisonment in the industrialized world. Numerous studies indicate that incarceration neither deters crime nor rehabilitates. But it does produce angry and bitter people, ill-equipped upon release to function in the world.

The Senate also thinks it can reduce crime by allowing judges to hold an accused person in jail for months—before any trial has taken place—if they decide that the person is "dangerous." This abolishes the cherished principle that a person is presumed innocent until proven guilty. A Justice Department study reveals that predictions of dangerousness are wrong between 50 and 95 percent of the time and that only 1.9 percent of all defendants released before trial are convicted of and imprisoned for serious crimes committed while on release.

The highly disproportionate rate of imprisonment of black people in this country reflects the racism within our criminal justice system. Preventive detention will exacerbate this situation, for a judge's determination of whether someone is "dangerous" is likely to be heavily weighted with race and class biases.

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The sentencing bills introduced in the House by Representatives Rodino and Conyers contain constructive alternative approaches which warrant thoughtful consideration. We hope that the members of the House will be more willing than their Senate colleagues to study the relationship between sentencing and the incidence of crime, vengeance and justice, and the role that racism plays throughout our criminal justice system.

Such discussion is vital to the development of a Federal criminal justice policy that protects our constitutional rights while recognizing the problem of crime in our society. Stephanie G. Farrior, Coordinator, National Committee Against Repressive Legislation, Washington, Feb. 6, 1984.●

CONGRESS MUST REVIEW SALE OF CONRAIL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. FLORIO. Mr. Speaker, I am greatly concerned over the actions the Department of Transportation (DOT) may be taking regarding the sale of Conrail. The following articles, indicate that DOT is more interested in selling Conrail before the election than in getting the best deal for the Government. The articles state that the administration's haste is based purely on ideology and political expediency, not on what is best for the Nation, the taxpayers, the shippers who depend on Conrail, and Conrail's employees.

Many experts, such as Stephen Berger, head of the U.S. Railway Association, believe the taxpayers could get a better deal by waiting. But whatever the ultimate timetable for the sale, one thing is certain: Congress must be given the specific ability to review and approve any proposed sale. That is the best way to insure continued rail service and maximize the return to the taxpayers of their $7.5 billion investment in rail service in the Northeast.

The articles follow:

[From Business Week, Nov. 14, 1983]

JUST WHEN SHOULD CONRAIL BE SOLD?

James H. Burnley IV is determined to get the government out of the railroad business, preferably before the 1984 elections. The 35-year-old general counsel for the Transportation Dept. and deputy-secretary designate, wants to sell Consolidated Rail Corp., the Northeast road that the government has owned since 1976. His timetable could be derailed, however, by competing claims from Conrail's labor unions, advocates of a public stock offering, Congress, and those who want to postpone the sale.

Burnley's determination is rooted in his conservative philosophy. "The government ought not to be in the business of running freight," he says. "ours is not a socialistic society. We think Conrail is ready now to return to the private sector."

But Burnley has signficant opposition in Washington. Stephen Berger, chairman of the U.S. Railway Assn. (USRA), Conrail's congressionally created banker, thinks that rushing into a deal is not the way to sell a railroad. "The issue of the sale, to me, is not ideological," he says. "Conrail's value is not yet there to be seen; it becomes an attractive partner (for another railroad) only after the first transcontinental merger."

Virtually all major lines are now involved in mergers of their own, and observers predict that Conrail's traffic base and aggressive marketing will draw other railroads' interest once those mergers are in place. Berger is in favor of waiting for that to happen, even if it takes years. But for Burnley, waiting is not an option. Indeed, Burnley contends that the USRA's mission is complete. He is trying to finish off the agency—and Berger's job—by eliminating its budget.

That ploy is likely to be resisted by Congress, which may restore the USRA's funding and could intervene even more. Representative James J. Florio (D-N.J.), chairman of the House Energy & Commerce subcommittee that handles rail matters, has attached an amendment to National RR Passenger Corp. (Amtrak) legislation requiring congressional sanction of any sale of Conrail. Florio accuses Transportation of trying "too keep Congress out of the process."

Some officials in the Federal Railroad Administration, which is part of the Transportation Dept., disagree with Burnley. They would like to see the status quo maintained for another two years to allow L. Stanley Crane, Conrail's chairman, time to abandon 1,000 more miles of track and get rid of an additional 10,000 employees. Then Conrail will have established a record of steady earnings that could well command a premium price in a public offering. Conrail is heading toward profits of up to $250 million for 1983. That contrasts with meager operating profits in the prior two years and with losses before that.

Transportation officials, however, would prefer to sell Conrail to another railroad quickly. Although Santa Fe Industries Inc., which had been studying an acquisition of Conrail, decided instead to merge with Southern Pacific Co., Transportation is not giving up. The department is taking to other railroads again and is reluctant to accept the advice of Goldman, Sachs & Co., the investment banking firm it retained, to make a public offering of Conrail stock.

CASHLESS OFFER

Whatever deal is designed, it must take into account Conrail's unions, which in June offered to buy the railroad. Conrail's workers are paid 12 percent less than industry scale and contract negotiations start early next year. "We've won, in that we've preempted the sale process," claims Brian M. Freeman, financial adviser to the Railway Labor Executives Assn. The unions warn that unless they are part of any deal, their wage concessions will be withdrawn. And those, along with the shrunken work force, are a vital part of Conrail's profitability. With carloads down 2 percent for the first nine months this year from depressed levels a year ago, Conrail attributes much of its recent success to cost-cutting.

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[1] For identification purposes only.

Transportation officials, however, view the unions' essentially cashless offer as inadequate. "The unions will have to do a lot better than that," states Burnley. Transportation fears that a heavily leveraged buyout by the unions would put Conrail in debt again, weakening its chances of remaining solvent. But the more profitable Conrail becomes, the greater the likelihood that labor will resist further cost-cutting. This is yet one more reason why Burnley is so eager to sell Conrail now.

[From Business Week, Jan. 23, 1984]

CONRAIL'S SUITORS ARE GETTING SERIOUS

Consolidated Rail Corp., once a chronic money loser, is drawing suitors. Now that Conrail has become one of the most profitable railroads, Norfolk Southern Corp.—among others—is finding it attractive. Robert B. Claytor, Norfolk Southern's chairman, is "very seriously" considering a merger.

Federal Railroad Administrator John H. Riley has spent the past six weeks visiting the president of all the major railroads that connect with Conrail. "We are pleased that Norfolk Southern has taken the first step," he says, adding that "three or four" other companies are interested. One of them is Norfolk Southern's major rival, CSX Corp., which on Jan. 11 announced that it will launch a study of Conrail. Riley and other Transportation Dept. officials want to sell the federally owned railroad before the 1984 election (BW—Nov. 14).

After losing more than $1.5 billion from 1976 through 1981, Conrail has become a money maker. Its 1983 profits should exceed $250 million, up more than 40 percent from the previous year. Under Chairman L. Stanley Crane, the railroad has shed its money-losing passenger service, cut its payroll and trackage, and reaped the benefits of wage and work-rule concessions.

"We are going to look at (Conrail) very carefully," says Claytor, but he warns that "you can't presume that we will make an offer." Linking up with Conrail, he explains, "would give us access to markets in the Northeast" that Norfolk Southern does not now serve directly. Despite the region's loss of industry through plant shutdowns and relocations, "there's a lot of freight there," observes James S. Heuer, manager of transportation planning at A.T. Kearney Inc., a consulting firm.

Claytor charges that, under deregulation CSX has prevented his railroad from interchanging traffic bound for some key Northeast locations. Norfolk Southern does not directly serve the important container ports of Baltimore and Philadelphia. Conrail would give Norfolk Southern access to those cities and to New York, "still the big horse" among container ports, according to Richard H. Steiner, a former Conrail official and now a senior vice-president at Emery Worldwide Corp.

UNIONS RESIST

The acquisition of Conrail would also triple Norfolk Southern's stake in the piggyback business—the hauling of trailers and containers on flatcars. That business is the fastest-growing segment of the rail industry. Conrail's piggyback volume increased 18 percent in the first nine months of 1983 and generated about 13 percent of its $2.3 billion revenues in that period. Norfolk Southern, too, has seen rapid growth in piggyback, which accounted for 6 percent of its $2.3 billion revenues through last September. But Claytor would have to boost Conrail's piggyback profits, which are being squeezed by competition from truckers.

Rail labor may pose an even bigger problem. The unions have offered to buy Conrail, and labor officials say they will not continue wage concessions if Conrail is bought by another railroad. "This [Norfolk Southern] deal is never going to happen," says Brian M. Freeman, financial adviser to the unions. "I can't imagine a transaction less in the interests of the Northeast and the U.S. government because of the significant overlap in the two systems."

Conrail and Norfolk Southern both cover the upper Midwest, sometimes on parallel routes. In fact, the Buffalo-to-Cleveland lines are "within a stone's throw," says Claytor. If he acquires Conrail, he would probably lop off redundant trackage, which could well mean cuts in the work force. He vows to decide soon whether to bid. Says Claytor: "We're not going to drag it out."

NEW YORK COMPANY REPORTED SERIOUS ABOUT BUYING CONRAIL

(By Tom Belden)

Alleghany Corp., a New York-based holding company with a long history of investment in railroads, has emerged as the most serious contender so far to acquire Conrail from the Federal Government, government sources said yesterday.

Alleghany, which last month completed the sale of its major asset, Investors Diversified Services (IDS), to American Express Corp., was once a major shareholder in the Penn Central Railroad, the major bankrupt line from which Conrail was formed in 1976.

Prior to the formation of Penn Central in 1968, Alleghany had a controlling interest and was closely involved in the management of one of Penn Central's predecessors, the New York Central Railroad.

At various times from the 1930s through the 1970s, Alleghany also held the controlling interest in the Chesapeake & Ohio and Missouri Pacific Railroads, two major lines that since have been merged into CSX Corp. and the Union Pacific System, respectively.

U.S. Department of Transportation officials who are managing the sale of the government's 85 percent interest in Conrail are taking Alleghany much more seriously than they have any of the other possible buyers, said government sources who asked not to be identified.

The Transportation Department is managing the sale of Conrail under provision of the Northeast Rail Services Act of 1981, the law that also provided Conrail management with the tools to turn the company into a profitable operation.

Once a huge drain on the Federal Treasury, Conrail has used no government aid since June 1981. The railroad last week reported that it has earned a record profit of $313 million in 1983.

Alleghany and Transportation Department officials have discussed a sale of Conrail involving payments to the government of about $1 billion the sources said. It is unclear, however, how much of that money would be Alleghany's and how much would be borrowed against the approximately $5.5 billion in assets, including about $535 million in cash that Conrail has.

It is possible that Alleghany would have to put no more than about $400 million of its own cash into a Conrail deal, one government source said.

In the transaction of IDS, a Minneapolis-based financial-services company, Alleghany received about $337 million in cash and 11.5 million shares of American Express common stock, giving the deal a value of about $721 million at the time it was closed. Alleghany's major remaining investment in MSL Industries Inc., a manufacturer of industrial metal products.

The interest of Alleghany in Conrail seems natural, given the amount of cash Alleghany currently has and its long involvement in railroads; especially the recent experience in the Northeast through Penn Central another source said.

About 43 percent of the stock of Alleghany is controlled by chairman Fred M. Kirby 2d, grandson of the company's founder, and his family.

One government source speculated however, that Alleghany would want Conrail chairman L. Stanley Crane and his current management team to continue to run the railroad on a day-to-day basis.

Alleghany executive yesterday did not return telephone calls to the company's New York headquarters that sought confirmation of their discussions with the government.

Transportation Department officials declined comment yesterday on whether they were discussing a sale of Conrail to Alleghany.

The government officials, however, said that in addition to three large railroads that already have said they were studying Conrail, four other major corporations—among them non-railroad companies—were considering acquisition of the Philadelphia based line.

Federal Railroad Administrator John H. Riley, one of the principal officials in the sale process, said that additional announcements concerning companies interested in studying Conrail likely would be made in the next two weeks.

Among the other companies that have expressed interest in Conrail in the past two to three months was the Chicago & Northwestern Railroad; a mostly employee owned Midwestern line, the sources said.

In the last 5 weeks Norfolk Southern Corp. and CSX Corp., two of the country's biggest railroads, said they were actively studying the possibility of acquiring Conrail. Last fall, Santa Fe industries Inc. said it was exploring a Conrail buyout, but it has suspended the Conrail study while it implements a recent merger with Southern Pacific Corp.

[From Traffic World, Feb. 20, 1984]

ALLEGHANY CORPORATION LOOKING AT POSSIBILITY OF PURCHASING CONRAIL

The Alleghany Corp., a closely owned holding company with a long history as an investor in troubled railroads, has reportedly become a favorite to eventually buy Conrail.

Rail and government sources say Alleghany is actively considering making an offer for Conrail and that such a move is welcome by the Department of Transportation.

The company was originally put together back in the 1930s and had investments in the Missouri Pacific, Nickel Plate and some lines that now make up the Chessie System. Alleghany figured heavily in the drawn-out reorganization of the Missouri Pacific and in the 1950s the company was the main financial backer of Robert B. Young in his fight to take over the New York Central. Alleghany was an original backer of the merger between the New York Central and the Pennsylvania Railroad and the Alleghany chairman, Fred Kirby, was a member of the Penn Central board until March of 1970.

Alleghany recently sold Investors Diversified Services, Inc., to American Express for $333 million in cash and 11 million shares of American Express. The total transaction was worth about $790 million. Tax liability from the sale of almost $164 million make Conrail even more attractive in view of its investment tax and operating loss credits in excess of $1.2 billion.

DOT is anxious to sell Conrail and the idea of selling it to a non-railroad company is attractive since selling it to any existing railroad could easily upset the nation's current system balance and touch off yet another round of defensive mergers.

Alleghany is also reported to have talked with representatives of the Railway Labor Executives' Association representing Conrail's unions. Alleghany is said to have been seeking to find out what the unions wanted in return for continuing wage concessions they made to Conrail in 1981. Also, purchase of Conrail by Alleghany would make it an operating company which would not be subject to the investment company procedures of the Securities and Exchange Commission.

How Congress would react to the sale is unknown but the DOT is taking the position now internally at least that Congress no longer has anything to say about the sale of the railroad since the Supreme Court made the legislative veto unconstitutional.

Reports that the Chicago & North Western was a part of the Alleghany proposal were denied by the railroad which said it hadn't made a bid for Conrail and didn't plan to. The only firm offer for Conrail has been filed by the rail unions while the Norfolk Southern, CSX and Santa Fe are studying the picture but have not made any offers of purchase.

[From the Journal of Commerce, Feb. 21, 1984]

Department of Transportation officials are quite interested in selling Conrail to Alleghany Corp. if the company really is interested in purchasing it.

Selling Conrail to a company that doesn't own another railroad would reduce any possible antitrust problems resulting from the sale, the thinking goes.

Purchasing a railroad is attractive to Alleghany since it no longer would come under Securities and Exchange Commission regulation if it owns a transportation company.

DOT officials think that Congress has no power to block a sale and cite last year's Supreme Court ruling that the legislative veto is unconstitutional as a basis for this.

Capitol Hill, of course, does not agree with that view.

[From the Washington Post, Feb. 22, 1984]

Effort To Sell Conrail Hits Problems

(By Douglas B. Feaver)

The Reagan administration, ideologically opposed to government ownership, is encountering several significant problems as it hurries to sell Conrail, the Nation's fourth largest railroad.

Potential buyers, key members of Congress and labor leaders widely assume that the administration wants to denationalize the northeastern rail line before the presidential election Nov. 6. Some are concerned that the interests of taxpayers and Conrail's 39,000 employes may be lost to the service of political expediency.

Transportation Secretary Elizabeth Hanford Dole yesterday called that concern "astounding," saying, "We have never laid out a timetable." Then she reiterated what she has said publicly many times: "It is time to return Conrail to the private sector."

Rep. James J. Florio (D-N.J.), chairman of the House Energy and Commerce transportation subcommittee, said, however, that "it's obvious that what is going on is this frantic effort to do something without a thought." "I think they're awfully intent in getting rid of it, but getting rid of it in a way that looks respectable," a senior railroad executive said.

This burgeoning political fight involves a significant transportation issue: who owns the railroad with a monopoly on New York City. Conrail's known potential buyers, ranging from other railroads to its employes and the general public, have problems:

Alleghany Corp., an unannounced potential buyer, owned stock in two Conrail predecessors, New York Central and then Penn Central, but sold it before Penn Central went bankrupt. There is concern on Capitol Hill that Alleghany would seek to sell Conrail as soon after purchase as possible.

Florio said, "I don't want people with a Penn Central mentality in to liquidate after they get the maximum tax benefits" that would come with buying Conrail, which has $250 million in unused investment tax credits.

Conrail employes have made the only formal offer to the Department of Transportation, but it is widely regarded as not containing enough money. The employes have made significant sacrifices for Conrail, its executives say they feel, but "there is no way they can get enough on the table" by themselves to buy it, an informed railroad expert said.

Norfolk Southern Corp. and CSX Corp., two giant railroad holding companies, have publicly expressed interest in Conrail, with whose lines they overlap in many sections of the Midwest. That raises competitive issues and threatens labor unions with job losses.

"We know they would cherry-pick Conrail and just leave the core lines," said Fred Hardin, chairman of the Railway Labor Executives Association.

Santa Fe Southern Pacific Corp., which owns major western railroads, is busily trying to win Government approval of its plans to merge its two roads. The Chicago and North Western, also reportedly interested, is regarded as too small to be taken seriously.

DOT officials appear reluctant to sell Conrail stock publicly, although Dole said that possibility has not been ruled out. The fear is that uncertain stock market forces could result in the Federal Government retaining a minority share of the railroad but with no ability to control its future.

Conrail, officially Consolidated Rail Corp., was salvaged in 1976 from the wreck of the Penn Central and six other financially troubled lines to assure continued rail service in the Northeast. About $7 billion in Federal tax money has been spent on subsidies, employe buy-outs and bankruptcy settlements.

If any of the $7 billion is considered Conrail debt, a question so far unanswered, the railroad's salability is also in question. If the Federal Government wants Conrail "in the private sector, they have to clean it up first," said Henry Livingston, railroad analyst for Kidder Peabody and Co. Inc. "The debt has to go; they know it has to go."

DOT officials concede that questions about the debt must be resolved by legislation. They have dodged questions about what minimum purchase price they would accept.

Conrail reported $313 million in profits in 1983 and is increasingly attractive to potential investors. In the last 3 years, it has shed its commuter train operation, about 20,000 excess employes and 3,700 miles of little-used track in the Northeast and Midwest.

That leaves a lean, 14,000-mile operation in 15 states and 39,000 employes working for a management team that learned how on a real railroad; the Southern Conrail management no longer includes political bureaucrats.

But its success feeds the urgency to sell it, according to Deputy Transportation Secretary James H. Burnley IV, because "you don't want it to go the route of National Airport."

Burnley meant that a successful Conrail would be an increasingly easy vehicle on which Congress can hang special-interest amendments to appropriations bills—a tactic common in the legislative history of National Airport.

Until recently, Burnley had been warring with the U.S. Railway Association, which was created to oversee Conrail and will doubtless review any sales offer for Congress.

USRA Chairman Stephen Berger told a reporter in December that the DOT sales effort "has been handled amateurishly." He was more charitable yesterday, saying, "I think frankly they have gotten their act under control."

He predicted that Conrail will ultimately be owned by a combination of labor, management and an outside corporate interest. "That's the only kind of proposal that has a real chance of flying on Capitol Hill," he said.●

COMMUNITY PLANNING FOR JOBS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. CONYERS. Mr. Speaker, the Full Employment and Balanced Growth Act is more than 5 years old. Signed into law in October, 1978, it established a 4 percent jobless ceiling within 5 years of passage, programs to swiftly reduce minority and youth unemployment, and others to meet national needs and create jobs at one and the same time.

Five years have passed. The Nation's overall jobless rate is considerably over 4 percent. Black unemployment stands at approximately 17 percent, and virtually nothing has been done to close the jobless gap between teenagers and adults. Indeed, under the Reagan administration existing Federal job creation programs have been eliminated, just as other domestic programs that provided resources for the disadvantage have been canceled. Unfortunately, like many laws, the Full

Employment Act contained loopholes that allowed both Presidents Carter and Reagan to postpone implementation of the goals

It is not surprising that the road to full employment has been a long and difficult one. After all, the struggle for a full employment society, providing a right to a job for every individual who is able and willing to work, has been fought over for at least 40 years. In January 1944, for example, President Franklin Delano Roosevelt called upon Congress to create an "Economic Bill of Rights" that included a right to a job. Congress did not listen. Instead, it passed a watered-down "Employment Act" in 1946, which failed to substantially reduce unemployment.

During the past few years. I have worked with a number of economists, community leaders, religious organizations, and labor unions to draw up a new approach to job creation. In particular, I have worked closely with Dr. Bertram Gross, one of the Nation's leading experts on planning for full employment. As a young staff aide in Congress in the mid-1940's Dr. Gross was the author of the earliest full employment legislation ever introduced.

Together we have prepared a first draft of legislation that advances the goal of full employment by means of community-based and Federal economic planning. This approach of community planning for jobs is under discussion currently by many diverse citizen groups.

The following two pieces describe the community planning for jobs approach. The first is an article written by Dr. Gross entitled, "Full Employment: Planning From the Botton Up." The second summarized key features of possible future legislation on economic planning and full employment. We hope that this effort generates the means in the future to combat unemployment effectively and marks a constructive step forward in the struggle for economic justice.

[From the Nation, April 10, 1982]

Building a Movement—Full Employment: Planning From the Bottom Up

(By Bertram Gross and Stanley Moses)

Facing a worsening recession in the short run and the prospect of a continuing and systemic increase in unemployment in the long, a loose network of community, labor, minority, academic and peace activists has responded with an innovative economic proposal called "locally based national planning." Led by Democratic Representative John Conyers of Michigan, the network has devised a plan by which people in neighborhoods and local governments could formulate their own full-employment goals and the means by which they could eventually be met.

The emphasis in this planning is to be on employment in such traditional but neglected sectors as agriculture, mining, transportation, construction and natural resources; in such badly needed services as education, health and scientific research; and in such new industries as energy conservation, waste recycling and equipment repair. High-priority projects would be developed to employ unused labor in meeting these needs. Numerical job goals would be debated and established in townships, cities, counties and states—a target of perhaps 260,000 new jobs for the Detroit area, for example—and these would provide the framework for short- and long-term programs by private and nonprofit as well as public employers. This planning would also focus on developing strategies to help communities deal with plant closings.

Though the inspiration for such planning would come from the bottom, the Federal government would also have a vital role. It would initiate plans of national and transnational scope, help establish and promote local groups, assure citizen participation as a condition for Federal grants, act as umpire or coordinator where needed and provide data, technical assistance and money for the grass-roots process. The Federal government would focus on "depression areas" where unemployment is deeply entrenched. Under legislative mandate, it would work toward establishing an economic and social Bill of Rights—not only the right to a job but the right to decent wages, to protection against monopoly and to decent housing, health care, social security and education.

Conyers and his colleagues have tied their proposal to two other innovative steps they see as complementary. The first is to promote a shift from military to civilian production in order to break the traditional connection between cold-war militarism and a full-employment economy; this could be accomplished by channeling a portion of Defense Department allocations through national, regional, and local development banks. The second is to establish public control over private price-setting, along with an income policy covering interest rates, dividends and executive salaries as well as wages.

Of course the Conyers program does not face all that happy a future in the current political climate. But Conyers argues that it can be a valuable vehicle for building a movement that will keep in mind the goal of full employment and the structural changes that must be made in American society. "Without such a movement," he maintains, "good full-employment legislation could hardly be enacted, and even weakened legislation—as with the Humphrey-Hawkins Full Employment Act of 1978—would never be enforced."

One practical difficulty in launching this movement is the deep cynicism which has been engendered in progressive circles by past experiences with "full-employment" legislation: in every Democratic administration since World War II, employment policy has been the tail on the kite of an ever-expanding military economy. Nor has the record of liberal/labor leaders on this issue done much to encourage support—most of those leaders wrung their hands publicly and sat on them privately while Jimmy Carter's entourage and the big-business lobby eviscerated the Humphrey-Hawkins bill as it went through the Congressional meat grinder.

Another difficulty in raising support for such a movement is the tendency of many liberal/labor leaders to counter the Reagan onslsught on social programs by proposing a restoration of parts of the old Carter agenda—even though they themselves had attacked that agenda as deficient when it was first presented. The justification for this, expressed by some members of the Congressional Black Caucus, is that "we have to get a little something for our people now. We can't answer their desperation with promises of around-the-corner." Not enough people in Congress yet realize that when you ask for a small slice, you get nothing—or a few crumbs; when you ask for a whole loaf, you might get some slices.

Moreover, the fact is that the money for a whole-loaf employment program is available right now. Federal, state and local governments together could finance all or most of the Conyers package with just three steps: (1) controlling and redirecting the employee pension funds now largely in the hands of self-serving banking cliques; (2) rechanneling the huge tax subsidies now promoting capital flight, merger-mania, "condo-mania" and job automation; and (3) reallocating the part of the Federal budget that goes to military waste and overkill. It is not hard to see that this kind of progressive federalism would be far more useful to middle- and low-income America than the "old feudalism" Reagan proposes.

A final difficulty on the road to locally based employment planning is the entrenched opposition of many who should know better to bottom-up activism of any kind. Many liberal and even some radical enthusiasts of "democratic planning" are committed to top-down, elitist decision-making by technocrats, bureaucrats and politicos in Washington. Many unions are hesitant to activate their locals. City and state budget and planning agencies—and even university planning schools—are bogged down in their business-as-usual practices and resist moves for genuine rather than ritualistic, citizen participation.

At the moment, as the recession deepens, local employment initiatives are growing, many of them using the novel combination of political mobilization and participatory legislation-drafting. Full-employment planning measures, local as well as national, are seen as serious instruments of grass-roots coalition-building—not merely to be used by 1984 Presidential candidates (and the Democratic Party platform) as an update of the glib "jobs for all" promises used in 1976 to pay lip service to Humphrey-Hawkins.

Bill Summary of the Recovery and Full Employment Planning Act

The bill voices the desire of most Americans for recovery from recession, a full employment society and an improved quality of life.

Planning would be implemented within a framework of economic rights. Title I establishes two of these: the right to earn a living and the right of those unable to work for pay to an adequate income. These rights are backed by specific goals for productive employment, useful output, real incomes and shorter work year without loss of pay.

Title II provides for recovery for depressed areas and the nation as a whole. This provides for lower interest rates, voluntary work sharing instead of layoffs, tax changes to expand mass purchasing power, public and private works and services through a new Works and Services Administration, and emergency aid for the unemployed.

The Act promotes short- and long-term planning by other private sectors as well, independent small business, labor, neighborhood, cooperative and voluntary organizations. Subsidies to big business are conditioned on performance in serving public interests. (Title III)

Planning help is offered to town, city, county and state governments, their planning agencies and their people. Under the Act, thousands of localities will (1) develop their own goals, (2) assess unmet needs, (3) build reservoirs of needed works and services, (4) mobilize private and public funds, and (5) have such matters aired and debated at community forums as well as neighborhood planning councils. (Title IV)

The diverse non-federal activities will be promoted and integrated through a National Recovery and Full Employment Plan. The plan will be backed by improved federal budgeting (including a capital budget and wealth inventory), development banks to guarantee socially useful investments by public and private pension funds, transfers from excessive military spending, and anti-inflation action. (Title V) A mandate for low interest rates and credit conservation is given to the Federal Reserve System. Its membership is democratized. (Title VI) The Act commits the U.S. to support an international order and International Monetary Fund policies that promote rising wages and living standards, instead of austerity. (Title VII)

Planning is coordinated through open processes of fact finding, negotiation, democratic management, political decisionmaking and a broadly representative National Planning Council. (Title VIII)

With resources shifted from wasteful uses, many more employees paying taxes, and reduced outlays needed for unemployment, there will be little or no need to increase federal outlays. Deficits will be reduced. (Title IX)

Under this law there will be more opportunities for self-empowerment by persons victimized by discrimination in hiring, training, promotion, wages or fringe benefits as a result of prejudice based on race, color, sex, religion, age, political or sexual preference, or personal disability. The larger number of people and groups involved in planning, budgeting, and implementation will be able to check the undue concentration of corporate, government or technologic power.●

GROUND WATER CONTAMINATION LEGISLATION

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. RITTER. Mr. Speaker, today I am introducing legislation to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to provide for cleanup authority and liability for petroleum releases and to regulate underground storage tanks used for the storage of hazardous substances.

The text of the bill follows:

H.R. 4985

A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to provide for cleanup authority and liability for petroleum releases and to regulate underground storage tanks used for the storage of hazardous substances.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

REMOVAL OF PETROLEUM EXCLUSION

SECTION 1. (a) DEFINITION OF HAZARDOUS SUBSTANCE.—Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) is amended by striking out "The term does not include petroleum" and all that follows down to the semicolon at the end thereof.

(b) POLLUTANTS AND CONTAMINANTS.—Section 104(a)(2) of such Act is amended by striking out the last sentence thereof.

STANDARDS FOR UNDERGROUND STORAGE TANKS

SEC. 2. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) is amended by adding the following at the end thereof:

"TITLE IV—REGULATORY PROGRAM

"STANDARDS FOR UNDERGROUND STORAGE TANKS

"SEC. 401. (a) Not later than 12 months after the enactment of this section, the Administrator shall promulgate regulations establishing performance standards, applicable to owners and operators of underground storage tanks used for the storage of hazardous substances, including gasoline or other liquid hydrocarbons, in order to prevent releases into the environment for the operational life of the tank. Such regulations shall apply only to underground storage tanks which are located on property used primarily for commercial or governmental purposes. The Administrator shall, where appropriate, distinguish in such standards between requirements appropriate for new tanks and for tanks in existence on the date of promulgation of the standards. Such standards shall include, but shall not be limited to, requirements respecting—

"(1) the location, design, and construction of such tanks;

"(2) contingency plans for effective action to minimize releases of hazardous substances, including gasoline or other liquid hydrocarbons, from such tanks;

"(3) the maintenance and operation of such tanks;

"(4) financial responsibility;

"(5) monitoring or testing of such tanks and the surrounding environment;

"(6) corrective action in the event of a release of any hazardous substance, including gasoline or other liquid hydrocarbons, from such a tank;

"(7) recordkeeping and reporting; and

"(8) closure or removal of the tank at the end of its operational life.

"(b) The Administrator may promulgate, and make effective in accordance with section 3010 of the Solid Waste Disposal Act, regulations to implement the standards of subsection (a) or the Administrator may establish a permit program to implement such standards where he finds that such a permit program is necessary for such purposes. If the Administrator makes such a determination, any person or category of persons who stores any hazardous substance, including gasoline or any other liquid hydrocarbon, in an underground storage tank located on property used primarily for commercial or governmental purposes may be required to have a permit for such storage in order to assure compliance with such standards.

"(c) The provisions of section 3006 and 3007 of subtitle C of the Solid Waste Disposal Act, the provisions of subsections (a) through (e) of section 3008 of such subtitle, the provisions of section 3009 of such subtitle, the provisions of section 3010(b) of such subtitle, the provisions of section 6001 of such Act, and the provisions of subtitle G of such Act, shall apply to the program and requirements established under this section in the same manner as such provisions apply to the hazardous waste regulatory program established under subtitle C of such Act. For purposes of applying such provisions to the program and requirements established under this section, the term 'hazardous substance, including gasoline or other liquid hydrocarbons' shall be substituted for the term 'hazardous waste' when used in such provisions.

"(d) If, upon the request of any person supplying any hazardous substance, including gasoline or other liquid hydrocarbons, to any underground storage tank, the owner or operator of any underground storage tank fails or refuses to provide to such supplier appropriate evidence of compliance with the standards established under this section, such failure or refusal shall constitute a defense to any enforcement action brought under any other authority of law to require such supplier to deliver any hazardous substance, including gasoline or other liquid hydrocarbons, to such tank. For purposes of this subsection, any permit issued for a tank under this section or any other certification of compliance under this section, as determined by the Administrator, shall constitute appropriate evidence of compliance with such standards.

"(e) Any person who knowingly commits a material violation or omission with respect to any requirement established by the Administrator under this section shall, if such violation or omission results in a release or threatened release of any hazardous substance, including gasoline or other liquid hydrocarbon, from an underground storage tank, be subject to a fine of not more than $50,000, or to imprisonment for not to exceed two years, or both.

"(f) As used in this section—

"(1) The term 'underground storage tank' means a tank which is located wholly or partially underground.

"(2) The term 'hazardous substance' has the meaning provided by section 101(14) of this Act, as amended by section 204 of the Comprehensive Environmental Response, Compensation, and Liability Act Amendments of 1984.

"(g) There is authorized to be appropriated not more than $60,000,000 for the fiscal year period 1985 through 1987 to carry out this section. Not more than 50 percent of the amount appropriated in any such fiscal year may be used to make grants to the States for purposes of assisting the States in the development and implementation of programs to carry out this section. Such State programs shall be carried out in the same manner as required with respect to State programs under section 3006 of the Solid Waste Disposal Act, and funds shall be allocated among the States in the same manner as provided in subsection (b) of section 3011 of that Act.

"(h) Not later than 1 year after the date of the enactment of this section, the Administrator shall conduct a study regarding underground storage tanks which are located on residential property and which are used for the storage of hazardous substances (including gasoline or other liquid hydrocarbons). Such study shall include estimates of the number and location of such tanks and an analysis of the extent to which there may be releases or threatened releases from such tanks into the environment. Upon completion of the study, the Administrator shall submit a report to the Congress containing the results of the study and recommendations respecting whether such tanks which are located on residential property should be subject to the preceding provisions of this section.".●

CONGRESSMAN TONY P. HALL INTRODUCES RESOLUTION ON PARAGUAY

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. HALL of Ohio. Mr. Speaker, today I am introducing legislation to encourage the people of Paraguay in their efforts to reclaim and exercise their basic human rights.

President Alfredo Stroessner is one of the world's longest ruling dictators. He is in his 30th year of rule, having come to power in 1954. On August 15, 1983, he began his seventh 5-year term as President.

Developments in Paraguay do not often receive much attention in the United States. There is no civil war in progress in Paraguay, nor is there a threat of a Communist or leftist guerrilla takeover. Thirty years of repressive, autocratic rule have brought a resigned form of stability to that country.

Although there is currently no imminent major crisis in Paraguay, the United States must not overlook the lack of respect for human rights and for civil liberties there. The Stroessner regime may be anti-Communist, but it is also anti-democratic. Those who are laboring in Paraguay to establish genuine democratic processes have received very few public indications of U.S. concern over the lack of freedom in their country. Indeed, the appearance is one of U.S. support for the Stroessner government.

I have been concerned about the situation in Paraguay for as long as I have served in the Congress. In June, 1979 I sponsored a Symposium on Paraguay with Representative TOM HARKIN, Senator EDWARD KENNEDY, Senator ALAN CRANSTON, and Senator MARK HATFIELD. Leaders from the three opposition parties still in Paraguay at that time, the Christian Democrats, the Febreristas, and the Authentic Radical Liberals, sent word through the Washington Office on Latin America that they might have faced permanent exile if they had left Paraguay to attend the symposium. As a result, only the Popular Colorado Movement (MOPOCO) party's exiled leaders in Argentina were able to send a delegation to participate. In February 1979, all four parties signed the National Agreement (Acuerdo Nacional) in which they pledged themselves to work together toward democracy.

Over the years since the Paraguay Symposium, I have met with Paraguayan opposition politicians, lawyers, and human rights workers. I have also met with several non-Paraguayans who have traveled and worked in Paraguay and who have been in a position to assess the status of human rights and civil liberties in that country.

Unfortunately, there have been very few positive changes in the human rights conditions in Paraguay in recent years. Perhaps the most encouraging development has been the return to Paraguay this year by some exiled members of the Movimiento Popular Colorado (MOPOCO) party. Yet, their freedom to function openly as leaders of their political party and to make their views known to the Paraguayan people has been severely restricted. As the State Department's "Country Reports on Human Rights Practices for 1983" notes: "Regardless of their legal status, however, all opposition parties are subject to harassment by the authorities."

It should be noted that the "Country Reports on Human Rights Practices for 1983" is unusually strong in its condemnation of the lack of freedom in Paraguay. In describing institutionalized repression under President Stroessner, the document contends:

> In practice, there is no effective challenge to his authority, and the situation in Paraguay continues to be characterized by the subordination of the judicial and legislative branches of government to the executive and the frequent violation of civil and political liberties. Although his rule has brought stability and economic growth to Paraguay, it has been at a considerable cost to political rights and individual liberties.

During this year of the 30th anniversary in power of the Stroessner government, there may be a renewed interest in this frequently overlooked "Southern Cone" dictatorship. Moreover, the election of a new president in Argentina and the ongoing pressure against the Pinochet regime in Chile may also spark concern about developments in Paraguay.

On February 22, 1984, Amnesty International launched a new effort to stop the imprisonment and torture of Paraguayans for trying to exercise basic political rights. Amnesty International released "An Amnesty International Briefing" document which contains detailed information regarding prisoners of conscience, arbitrary arrests and detentions under state of siege powers and antisubversive laws, denial of fair trial and due process, torture and other inhuman treatment, deaths in custody, and disappearances.

The resolution I am introducing today addresses many of the abuses documented by Amnesty International. It also raises other issues which have been documented by the Washington Office on Latin America.

The resolution expresses the sense of Congress about the situation in Paraguay. It calls upon the administration to use less quiet diplomacy and more public diplomacy on behalf of human rights in Paraguay. It further urges the administration to actively encourage the Paraguayan Government to set a firm date for the onsite visit of the Inter-American Commission on Human Rights.

In addition, the legislation states that until the state of siege is lifted, all political prisoners released, and all Paraguayans guaranteed the right to return to and remain in their country, the United States: First, should provide no security assistance to Paraguay; and second, should oppose all loans and financial and technical assistance for Paraguay by the International Bank for Reconstruction and Development and by the Inter-American Development Bank, except for loans or assistance which serve the basic human needs of the people of Paraguay.

It is essential at this time to let the democratic opposition in Paraguay know that there is concern in the United States about the lack of civil liberties in their country. The United States, as the chief proponent of democracy and respect for human rights around the globe, should apply its principles to the case of Paraguay and promote policies toward that nation that will encourage the people of Paraguay as they work to regain their civil liberties and human rights.

For the benefit of my colleagues, the full text of my resolution follows, as well as a fact sheet concerning some of the points it addresses:

H. CON. RES. 265

To encourage the people of Paraguay in their efforts to reclaim and exercise their basic human rights.

Whereas on August 15, 1983, Alfredo Stroessner began his seventh five-year term as President of Paraguay, making him one of the world's longest ruling dictators;

Whereas the state of siege has been in place in Paraguay for more than 29 years;

Whereas on November 15, 1983, the Paraguayan Supreme Court rejected petitions of habeas corpus on behalf of prisoners detained under the state of siege (Article 79 of the Constitution) on grounds that state of siege detentions are not subject to judicial review;

Whereas Law 209, the Law to Protect Peace and Public Order, has been used as a catchall excuse to arrest or detain people for indefinite periods without specific charges and without recourse to due process of law;

Whereas approximately one million Paraguayans, including some who have been in exile for 25 years, are forced to live outside Paraguay for political and economic reasons and are unable to return to Paraguay, effectively negating the right to live in one's homeland;

Whereas the Inter-American Commission on Human Rights of the Organization of American States has been repeatedly denied an on-site visit of Paraguay and the Commission's 1981-1982 Annual Report described violations of the "right to liberty and personal security, arbitrary arrest, the lack of due process, the indefinite maintenance of the state of siege and the practice of forcing those dissenting from government policy to leave the country" as chronic in Paraguay;

Whereas Paraguay under Stroessner has served and continues to serve as a refuge for Nazi war criminals;

Whereas waves of repression have become a regular feature of the Stroessner "peace" and the fear of random detention and arbitrary treatment at the hands of the law have resulted in the stifling of all discussion or debate on national issues;

Whereas on May 11, 1983, a police roundup of 33 people closed the offices of the research institute Banco Paraguayo de Datos, arrested all those inside, detained them for ten days incommunicado, tortured three most brutally, and subjected all to physical and psychological abuse, as documented by Amnesty International;

Whereas the offices of the largest independent newspaper in Paraguay, ABC Color, were surrounded on May 11, 1983, its editor Aldo Zuccolillo subsequently arrested, permits to import newsprint have been denied the newspaper, and leading editorialist Alcibiades Gonzalez Delvalle was arrested on September 23, 1983;

Whereas the popular Radio Nanduti station was taken off the air for thirty days beginning July 10, 1983, the popular Program "Open Microphone" permanently suspended, thereby denying the Paraguayan public access to this means of voicing their concerns and problems, and the station's owner Humberto Rubin has been the object of continual harassment ever since;

Whereas an incipient independent labor movement has formed and begun to function as permitted by Paraguayan law, but has been constantly harassed and its members intimidated and one of its leaders, Ruben Lisboa, a member of the Board of Directors of the Bank Employees Union, was among those arrested and tortured on May 11, 1983;

Whereas doctors at the government Hospital de Clinicas staged a work slowdown and eventual work stoppage in protest over the illegal detention of two of their colleagues in June 1983;

Whereas reports of torture of both political prisoners and common criminal suspects are routine and are usually denied by the Paraguayan authorities, and there has been a pattern of deaths in police custody in Paraguay, including most recently the death of Carlos Bogarin on August 8, 1983, and the death of Angel Mario Paez on January 10, 1984;

Whereas since the mid-1970's Amnesty International has received reports of the "disappearances" of 45 people arrested by government security forces and in no instance have they been accounted for by the Paraguayan Government;

Whereas the Paraguayan Government is presently holding 33 political prisoners, the majority of whom are being detained for the nonviolent expression of their political ideas;

Whereas lawyers who defend political prisoners are subjected to harassment and intimidation;

Whereas although some exiled Movimiento Popular Colorado (MOPOCO) Party members were permitted to return to Paraguay in January 1984, their freedom to function as leaders of their political party has been severely restricted; and

Whereas the Paraguayan people, wholly surfeited with such abuses, are beginning to express their concern through religious services, public petition and public debate, and hunger strikes: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) the Congress encourages the people of Paraguay in their efforts to reclaim and exercise their basic human rights.

(b) In furtherance of that objective, the Congress declares that—

(1) the United States should actively encourage the Government of Paraguay to set a firm date for the on-site visit of the Inter-American Commission on Human Rights;

(2) the United States should use less quiet diplomacy and more public diplomacy on behalf of human rights in Paraguay; and

(3) until the state of siege is lifted, all political prisoners released, and all Paraguayans guaranteed the right to return to and remain in their country, the United States—

(A) should provide no security assistance to Paraguay; and

(B) should oppose all loans and financial and technical assistance for Paraguay by the International Bank for Reconstruction and Development and by the Inter-American Development Bank, except for loans or assistance which serve the basic human needs of the people of Paraguay.

FACT SHEET TO ACCOMPANY HOUSE CONCURRENT RESOLUTION REGARDING PARAGUAY

CONSECUTIVE YEARS AS PRESIDENT

General Alfredo Stroessner came to power on May 4, 1954 in a military coup. General Stroessner's rule has been uninterrupted since that date. Every five years the state of siege is lifted for one day on which Paraguayans are required to vote in 'elections.' The 'elections' have a specified number of official opposition candidates whose preelection activities are limited in time, number, and location.

STATE OF SIEGE

From 1954 until the present, the state of siege has been extended every three months by Presidential Decree. Its permanent use is unconstitutional.

REJECTION OF WRITS OF HABEAS CORPUS

According to the Supreme Court's interpretation of Article 79, all individual rights are superseded when a state of siege is in effect. Therefore, the Court regularly rejects writs of habeas corpus submitted on behalf of political prisoners.

LAW 209 ("DEFENSE OF PUBLIC PEACE AND LIBERTY OF PERSONS")

Law 209 was passed in 1970 and is used or threatened to be used against government critics and independent organizations. People may be arrested under Law 209 without reference to violation of a specific article; thereby creating the possibility of "dragnet" arrests. Lawyers, Catholic church and opposition party leaders have called for its repeal.

DENIAL OF RIGHT TO LIVE IN HOMELAND

In February 1983, Paraguay's Interior Minister Sabino Montanaro said that all exiles with the exception of three political exiles could return to Paraguay. The prohibition is in contradiction to the Paraguayan constitution.

DENIAL OF ON-SITE INVESTIGATION

The Inter-American Commission on Human Rights has requested an on-site investigation since 1977. Paraguayan officials have not found a convenient date for the investigation.

NAZIS

Former SS captain, Dr. Joseph Mengele, known as the 'Angel of Death' in the Auschwitz concentration camp went to Paraguay in May 1959 and was granted Paraguayan citizenship in November of the same year. In August 1979 the Paraguayan Supreme Court revoked Dr. Mengele's citizenship and found him guilty of war crimes. Reports persist that Dr. Mengele continues to live in Paraguay.

Another former SS Captain Eduard Roschmann, known as the 'Butcher of Riga', died in an Asuncion hospital in August 1977.

Heinrich Muller, former head of the Gestapo and Ante Pavelic, Hitler appointed leader of Croatia, also took sanctuary in Paraguay after 1955.

General Stroessner was visited by Germany's most decorated officer and well-known neo-Nazi in West Germany's army Colonel Hans Rudel.

WAVES OF REPRESSION

Between May 1976 and May 1983 there have been six major dragnet operations involving thousands of Paraguayans and some foreigners. Those arrested were peasant farmers, intellectuals, labor leaders, academics, students, journalists and trade unionists. Press censorship and harassment or detention of defense lawyers of the detainees usually follows the mass arrests.

BANCO PARAGUAYO DE DATOS

The Banco Paraguayo de Datos is an independent body which researches and analyzes economic, social and political events in Paraguay. The organization became one of the targets of the most recent dragnet operation when 33 employees were arrested.

DENIAL OF PRESS FREEDOM

Aldo Zuccolillo was arrested in July 1983 after he refused to disclose the source of legal briefs which were published in *ABC Color* earlier the same year. Zuccolillo was "provisionally released" after 12 days of "preventative detention."

Alcibiades Gonzalez Delvalle's September arrest followed the publication of his articles dealing with corruption in General Stroessner's Colorado Party. Delvalle was released in December 1983. His September arrest marked the third time in four years that he was detained.

ABC Color is not permitted to exchange money at the official rate, a denial which makes it difficult to import newsprint.

The "Open Microphone" program suspended by the National Telecommunications Administration (ANTELCO) was the only one of its kind in operation in Paraguay. Furthermore, Humberto Rubin, director of Radio Nanduti, was advised by ANTELCO on January 24, 1984 not to pay the renewal fee for the 1984 license, causing suspicions that operating license would not be renewed. On October 1, 2, and 3, 1983 and on January 17, 1984 Rubin was detained for several hours on each occasion without an official reason.

DEATHS IN POLICE CUSTODY

In the case of Carlos Bogarin, 10 police officers were arrested following the death, several of whom admitted to beating the prisoner while in their custody under orders of the Chief of Investigations; however, six of the accused have since been released. Amnesty International does not know of any other instance of government officials having been prosecuted following the death of a prisoner under torture. No action is known to have been taken by the authorities in these cases.

In addition to Carlos Bogarin and Angel Mario Paez one other person was reported to have died in custody in 1983.

DEFENSE LAWYERS FOR POLITICAL PRISONERS

Dr. Diego Bertolucci, lawyer for those detained in the May 1983 round-up, was detained for 2 days in July 1983 and charged with intent to remove a "subversive" book from the home of a client. (The owner of the book was not a client of Dr. Bertolucci.)

Two lawyers were sued for libel by the President of the Supreme Court, Dr. Luis Argana, in November 1983. The lawyers expressed their strong disapproval to ABC Color reporters of the Court's decision to reject a writ of habeas corpus which they had presented on behalf of a client.

MOVIMIENTO POPULAR COLORADO PARTY

The MOPOCO Party is composed of an estimated 400 Colorado Party members who were forced into exile by General Stroessner in the late 1950s after he dissolved the Congress, re-imposed the state of siege, and ordered the Army to occupy Asuncion. The recent return of various MOPOCO members began in December 1983 after Interior Minister Sabino Montanaro met with exiled MOPOCO leaders in Argentina.

DISAPPEARANCES

In some cases eyewitness testimony from former prisoners indicates that many of the "disappeared" died under torture or were the victims of extrajudicial executions while in custody. Amnesty International has also been concerned about the abduction and possible forcible extradition from Argentina of Paraguayan political refugees. About 50 Paraguayan exiles living in Argentina after the 1976 military coup there were abducted by members of the Argentine security forces and have since "disappeared." In a number of cases there is evidence that the victims were handed over to the Paraguayan security forces.

POLITICAL PRISONERS

For most of the 1970s, the number of political detainees averaged several hundred a year, reaching a peak in 1975-1976 when several thousand peasants and their leaders were detained. Large scale detentions occurred during 1980. Most of those detained were released after relatively short periods. Some have been formally charged, usually under anti-subversive legislation, and in many cases the legal proceedings are still in process. Lawyers, academics, journalists, opposition figures, students and peasants head the list of political prisoners. In some instances short term detention has been followed by internal exile or summary expulsion from Paraguay.●

HEED FELDSTEIN'S WARNING

HON. BUDDY MacKAY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. MacKAY. Mr. Speaker, recently I had an opportunity to read a column originally printed in the Cleveland Plain Dealer on February 17, written by Dr. Robert Piron, chairman of the economics department at Oberlin College in Ohio.

Dr. Piron commends Martin Feldstein, the Chairman of the President's Council of Economic Advisers, for "adherence to his economic convictions regardless of their political awkwardness." I concur that Feldstein's conviction and candor is most refreshing in this administration.

I commend Dr. Piron's article to my colleagues and ask to insert it at this point in the Record.

The article follows:

FELDSTEIN IS TRYING TO AVOID PAST

(By Robert Piron)

The past to which Santayana refers is, no doubt, much more distant than the past Martin Feldstein is valiantly trying his best to have us not repeat.

A scant 24 months ago the high tide of interest rates all but destroyed two of the most vital U.S. industries: autos and construction. The ripple effect, spreading through the economy, eliminated jobs at a rate and magnitude deserving of apocalyptic adjectives, weakening other industries, causing small business failures of lemming-like proportions, boosting the value of the dollar to absurd heights, and, if one cares about such things, causing Wall Street untold agonies.

The even-nearer past has seen a remarkable reduction in interest rates, an even more remarkable comeback in autos and construction, some significant reduction in unemployment, and substantial real growth across the entire economy, and, if one cares about such things, untold ecstasies (until recently, at least) on Wall Street.

But the past, having passed, provides us with the tools to deal with the future, if we choose to see them and use them and Feldstein is obviously a past master at this kind of intellectual pursuit. He is warning us, with vigor and consistency, that another high tide of interest rates will wipe out all our recent gains, or at the very least, that rising interest rates will weaken the recovery so recently begun.

Why is he so concerned? The projected annual federal deficits of approximately $200 billion for the near future cause him, and most economists of the nonsupply-side persuasion, to fear that, as the high rate of internally financed (through profits) expansion by industry begins its inevitable decline, after inventories are down to levels that spur business to replenish them—that is, as the motives for business borrowing become stronger in the face of growing demand for products and services—the "overcrowding" effect will take hold.

This effect exists because the federal deficit makes the government the major borrower in the economy at a scale which can, and demonstrably does, makes it difficult for private borrowers to use financial markets at going interest rates. So interest rates are bid up by the combined effect of rising private demands for funds and the huge, steady, fund vacuum which is the federal deficit.

As these rates go up, they stifle interest-sensitive demands—autos and construction are the most obvious—and, as sure as the next sunrise, the past gets repeated.

Feldstein has been ridiculed and harassed since the 1984 "Economic Report of the President" recently appeared for his adamant espousal of the view that large deficits must be reduced if we are not to repeat the recent, disastrous past. If guilt by association is all it's cracked up to be, the economics profession as a whole is also being ridiculed, and I, as a professional economist, am mad as hell and not going to take it anymore.

Though economists disagree on a wide range of generally abstruse issues, they are together on a point that usually escapes the politicians doing their quadrennial fandangos: "Dismal science" that it is, economics, in true Cosellian fashion, tells it like it is, regardless of the political implications of the "it."

In this case, Feldstein's plea for higher taxes over the next five or so years to reduce the deficits is as politically distasteful to his employers as any human utterance could be, though in economic terms it is prudent, necessary and thoroughly agreed upon by the profession as a whole.

For his adherence to his economic convictions regardless of their political awkwardness, I, and, I expect the profession, congratulate Martin Feldstein, and urge him to continue to propound any and all correct, though inexpedient, views, since he represents, willingly or not, the entire economics profession in his position as the country's chief economist.●

ELECTION ARMS MORATORIUM IS NEEDED

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mrs. BOXER. Mr. Speaker, I would like to bring to the attention of my colleagues a recent article in the Los Angeles Times about the growth of nuclear weapons technology and some recommendations to address this problem. The author of this article, David Linebaugh, was a former Deputy Assistant Director of the U.S. Arms Control and Disarmament Agency. I believe that his observations offer useful insight into this difficult question.

[From the Los Angeles Times, Feb. 22, 1984]

ELECTION ARMS MORATORIUM IS NEEDED—BAN ON NEW WEAPONS WOULD LET NEXT PRESIDENT DECIDE FUTURE

(By David Linebaugh)

Weapon technology does not wait on the timing or outcome of elections. On the contrary, new weapons have their own timing, their own Earth-shattering consequences.

This will be true in the United States in 1984. The weapon makers will preempt the decision of the voters. The weapon makers—not the new Administration, whether Republican or Democratic—will have the decisive voice on the nuclear problem—on the survival of man and the fate of the Earth. They, not negotiators, may end the possibility of controlling nuclear arms.

It need not be so. President Reagan has the power to restore choice. He can put on "hold," pending the election, any further testing or deployment of three significant new weapons—provided the Soviets exercise reciprocal restraint. This limited step would have no adverse effect on America's security, given America's vast and secure retaliatory capability. But the newly elected President could then make a real choice about our nuclear future, not one imposed by the weapon makers.

Three weapons are involved: a multiple-warhead intercontinental ballistic missile, an anti-satellite weapon and the sea-launched cruise missile. All three of these weapons have been built. Two steps remain to be completed for the multiple-warhead missile and the anti-satellite weapon: testing and deployment. Only the deployment step remains for the sea-launched cruise missile.

The multiple-warhead missiles—the American MX and the Soviet SS-X-24—do not add a new and different dimension to the nuclear arms race, as do the other two weapons. But they would confirm the intention of the superpowers to continue the arms race with weapons that have a powerful "first strike" potential and that are highly vulnerable. They invite attack. The dismantlement of such weapons, not their further deployment, should be the first priority of the United States and the Soviet Union in slowing the nuclear arms race.

An anti-satellite weapon could jeopardize early warning of an attack, verification of an arms-control agreement, photo reconnaissance and communications—functions vital to the stable military balance that must be free of accident or miscalculation.

The Soviets have a primitive low-altitude anti-satellite weapon, which cannot reach higher altitudes where U.S. military satellites are deployed. The Soviet weapon is large and easy to detect. The United States has begun to test a far more sophisticated weapon that is smaller and harder to detect. The Soviets have proposed a moratorium on tests—a first step in heading off an arms race in space.

Nuclear sea-launched cruise missiles are small and easily concealed and deployed, and are difficult to distinguish from conventional missiles. They are to be used as a "strategic reserve," a purpose that apparently assumes that there can be a protracted nuclear war. These missiles, which could be kept below the decks of many kinds of ships, are a far more serious threat to the United States, with its long coastlines, than they are to the Soviet Union. Furthermore, these missiles could end the possibility of nuclear arms control altogether, because they may present insurmountable verification problems.

Reagan's speech of Jan. 16 signaled his good intentions about American-Soviet relations and nuclear arms control. And it revealed his belief that the Reagan arms buildup now makes it possible to negotiate for fewer arms. "We're stronger than we were three years ago . . . . America can now offer something in return." The President says that the time has come for real arms control.

His revised view of America's bargaining position coincides with his political interests. For the election he needs a success on a war or peace issue—Lebanon, Central America or nuclear arms control. A concrete proposal from him on nuclear arms control might yield positive results. But the proposal would have to be plausible and specific and not one-sided.

The President should declare a moratorium on the testing and deployment of multiple-warhead missiles, anti-satellite weapons and sea-launched cruise missiles. The moratorium would be dependent on the exercise of similar restraint by the new Soviet leadership. It could be verified by existing intelligence means, would require no negotiation and could take effect immediately.

There are precedents for arms restraint through mutual example. A Soviet initiative resulted in a nuclear moratorium observed by the two superpowers from 1958 to 1961. A similar American initiative led to the Limited Test Ban Treaty in 1963. In the same year the United States withdrew a small contingent of troops from West Berlin, and in the next year comparable Soviet withdrawals took place from East Germany. The method was by mutual example.

A moratorium on the three weapons outlined above would ensure that the next President, either Reagan or the Democratic nominee, could make a real choice about our nuclear future. The voters, not the weapon makers, would be in command.

(David Linebaugh, formerly a deputy assistant director of the U.S. Arms Control and Disarmament Agency, is a member of the Washington-based Committee for National Security.) ●

HYPOCRISY IN THE UNITED NATIONS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. PAUL. Mr. Speaker, the United Nations observes Human Rights Day on December 10 of each year. However, the hypocrisy with which this day is observed is an affront to those of us who are truly concerned about human rights and individual liberty.

I would like to submit for my colleagues' consideration Dr. Juliana Pilon's excellent article on this issue that was published by the Heritage Foundation. This article provides a succinct discussion of the hypocrisy with which the United Nations harshly condemns certain alleged human rights violations while completely ignoring blatant violations by Marxist governments.

I agree with Dr. Pilon's conclusion that the U.S. portion—25 percent—of the $28 million that the U.N. spends on human rights activities could be better spent elsewhere. Actually, I believe that Dr. Pilon's article provides further evidence to end all U.S. involvement in the United Nations.

The article follows:

THE HYPOCRISY OF U.N. HUMAN RIGHTS DAY

Each year the United Nations commemorates Human Rights Day on December 10. It is pathetically hypocritical that the U.N. should do so. Observe U.S. Permanent Representative to the U.N. Jeane Kirkpatrick: "No aspect of U.N. affairs has been more perverted by politicization in the last decade than have its human rights activities." The disproportionate amount of time spent in castigating such noncommunist regimes as Chile and Guatemala, whose human rights records have actually improved, while paying virtually no attention to the plight of tens of thousands dying as a result of Communist aggression in Afghanistan, Kampuchea, and Vietnam, exposes the double standard that has eroded the U.N.'s moral credibility on human rights. Indeed, not only has the U.N. done little to improve the plight of the world's oppressed, it has arguably worsened the situation. Assistant Secretary of State for Human Rights Elliot Abrams claims that "on balance, the U.N. has done more harm than good in the field of human rights."

During the past General Assembly, as throughout its history, the U.N. has been predictably selective in its expressions of outrage, castigating countries whose citizens are allowed to emigrate and enjoy freedom of the press, while remaining silent about the oppressed populations of such countries as Cuba, the Soviet Union, Romania, Poland, North Korea, and Mainland China.

This selectivity of concern is matched only by the intemperate language of most human rights resolutions passed in the General Assembly, UNESCO, and other U.N. bodies. Carl Gershman, Counsellor to Ambassador Kirkpatrick, notes that a majority of those resolutions are extremist and vindictive, Soviet-inspired, with no genuine concern for human suffering. Resolution 37/88 C, for example, passed on Human Rights Day 1982, "declares once more that Israel's grave breaches of the Geneva Convention [on the West Bank] are war crimes and an affront to humanity." (The vote was 112 in favor, 21 abstaining, and only 2 against—Israel and the U.S.) Never mind the fact that West Bank Arabs have more civil rights than citizens of any Arab country; never mind, too, that Israel has brought unprecedented prosperity to that area. Meanwhile, no one accuses Syria for its ruthless massacre of some 10,000 unarmed inhabitants of the town of Hama in February of 1983. No resolutions, moreover, have ever been presented in the U.N. to condemn the Soviet Union for defying the 1925 Geneva Protocol and the 1972 Biological Weapons Convention by chemically killing thousands of civilians, including small children, in Afghanistan, Laos, and Kampuchea.

Throughout its history, the U.N. has ignored the most blatant human rights violations—outright cases of near genocide: in Indonesia against the Chinese in the 1960s; in Nigeria against the Ibos in 1966-1968; in Pakistan against the Bengalis in 1971; in Burundi against the Hutus in 1972-1973; in Iran against the Kurds in 1975-1977; in Idi Amin's Uganda against helpless civilians in 1977-1978; in Nicaragua against the Miskitoes in 1981-1982; in Assam, India, against the Sikhs in 1983.

In fact, the U.N. goes beyond silence. It actually has made available funds to regimes that systematically violate human rights: Nicaragua and Angola ($7.5 million each since 1980); Ethiopia ($46 million since 1980); even Vietnam ($45.3 million since 1980—$27.1 million in 1982 alone). Never mind Vietnam's ruthless repression of the population in "reeducation" camps, the export of some 45,000 workers to the USSR allegedly to pay "debts" owed by Vietnam to the Soviet Union, and a total absence of civil and political freedoms. The U.N., moreover, is continuing to fund so-called national liberation movements, which in fact are terrorist groups, such as the Palestine Liberation Organization (PLO) and the Southwest African People's Organization (SWAPO). Financial support for these groups, whose avowed intention is the violent overthrow of U.N. member states, seems hardly in line with the U.N. Charter's commitment to uphold the cause of human rights.

U.S. lawmakers are beginning to show serious concern about this state of affairs. Thus, the State Department Appropriations Act of 1984 and 1985, which became law on November 22, 1983, demands a review of the U.N.'s performance. The Act expresses the desire of a bipartisan majority of Congress that the U.N. take steps to uphold the provisions of its own Charter. In light of its performance on human rights, Congress may well decide that the U.S. portion (25 percent) of the $28 million spent by the U.N. directly on human rights activities would be better spent on private institutions (for example, Freedom House), which publicize and promote the cause of millions whose suffering should truly be remembered on December 10.●

CHILDREN'S DEFENSE FUND REPORT ON AMERICAN CHILDREN IN POVERTY AND ANALYSIS OF THE PRESIDENT'S FISCAL YEAR 1985 BUDGET AND CHILDREN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Ms. OAKAR. Mr. Speaker, today, I would like to commend the Children's Defense Fund on two counts: First, their recent report entitled "American Children in Poverty" which points out the seriousness of the misguided Federal priorities which are not only harmful to our children but spreading financial havoc as well; and second, the CDF's analysis of President Reagan's 1985 budget and its impact on our Nation's children. This analysis underscores the President's record on children—in past budgets as well as the current one—and sets forth a revised children's survival bill which seeks to restore $9 billion in funding for children and save $21 billion in nonessential military spending and tax loopholes.

The report on children and poverty outlines the rise of childhood poverty examining its causes and analyzing the impact of changes in Federal programs and subsequent proposed budget cuts. Additionally, the report gives a detailed State-by-State overview in the areas of health, education, aid to families with dependent children, and child care. I recommend this report to every Member of this body.

Today marks the opening of the Children's Defense Fund's national conference. I would like to take this opportunity to commend the CDF on the excellent work that it is doing in speaking for the Nation's children—our most valuable resource. I would like especially to commend the Ohio State office of the Children's Defense Fund for the fine job they have done and for their leadership in projects crucial to the survival and well-being of Ohio's neediest children. The job of educating our country to the needs of children and responsible policy to meet those needs is a major endeavor—the CDF is making significant inroads in this area. I applaud their work and will support them in their continued undertakings.●

H.R. 4819

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. BEDELL. Mr. Speaker, earlier this month, I, along with JIM SHANNON, introduced H.R. 4819, a bill to require the Federal Energy Regulatory Commission to use original cost methodology to set trans-Alaska pipeline tariff rates.

In December 1982, the Small Business Committee heard testimony from independent gasoline marketers that at least one of the major producers of Alaska North Slope crude oil was manipulating the transportation costs of the oil in a manner that allowed them to evade the payment of hundreds of millions of dollars of windfall profits tax payments. This artificial subsidy, the independent marketers claimed, put the major ANS crude oil producers in an advantageous position in the retail gasoline marketplace. The major ANS crude oil producers are Arco, Exxon, and Sohio.

The value of Alaska North Slope crude oil for windfall profits tax purposes is determined by the market price in the nearest market minus the cost of transporting the oil from the wellhead to that market. This value is then subtracted from the base price of the oil, and the difference is subject to the 70-percent windfall profits tax rate.

In response to strong pressure from independent marketers and Members of Congress, the Treasury Department acted to close a major loophole by clarifying the proper method to figure the removal price of a barrel of ANS crude for the windfall profits tax. This step alone is estimated to increase revenues to the Federal Treasury by as much as $200 million annually.

There are, however, two big loopholes that are still available to the major ANS crude oil producers.

Revenue ruling 75-483 allows these shippers to claim as foreign source income the earnings they derive from transporting Alaskan oil outside of U.S. territorial waters. These shippers leave Alaskan ports, cruise just outside of U.S. territorial waters for most of their journey, and then cut back in and deliver their cargo to another U.S. port. Remember, you cannot by law export Alaskan oil. And anything shipped between American ports must be on American built and manned ships. Yet, these companies are taking a substantial part of the earnings on their shipping operations as foreign source income. Since most oil companies have significant foreign tax credits, every dollar they charge themselves for this tanker transportation reduces their windfall profits tax by 70 cents.

Because my direct appeals to top Treasury tax officials to stop this outrageous raid on the taxpayer have generated little response, I have joined JIM SHANNON in introducing H.R. 4561, legislation to repeal Revenue ruling 75-483.

This background brings me to the problems with the regulation of the tariff rates on the trans-Alaska pipeline system that the Bedell-Shannon bill, H.R. 4819, addresses. The major owners of TAPS also happen to be the major producers of the ANS crude oil, Exxon, Arco, and Sohio.

Naturally, the game these oil companies play is to inflate their transportation costs on the pipeline as high as possible. This serves two purposes. First, since transportation charges are deducted from the value of the oil for windfall profits tax purposes, this scheme reduces the taxable price of the ANS oil. Second, since other independent producers in Alaska do not have the same advantages that the integrated major producers have, the high tariffs discourage them from exploiting their Alaskan oil fields and competing with the majors.

According to the Federal Energy Regulatory Commission (FERC), which is supposed to regulate pipeline charges, current charges enable the trans-Alaska pipeline owners to pay for their investment every 3 years. However, FERC has not regulated the rates. They have been holding hearings since October 1, 1977—6 years—and they have indicated that they still plan another year of hearings. Mr. Speaker, if this is not intentional collusion, it is inexcusable bureaucratic ineptitude.

It seems to me that it should not take 10 minutes to rule on the ridiculousness of some of the things the pipeline companies are trying to get away with.

If you are in business and build a building, or buy a piece of machinery, you are permitted to depreciate the asset over a given period of time. If you have an investment of $100 depreciated over a 20-year period, with straight line depreciation, you would deduct $5 per year for depreciation, and after 1 year the book value of your asset would be $95.

But that is not what the pipelines are doing. They take the $5 depreciation, and then turn around and appreciate the $95 asset because of inflation and other factors so that the book value may actually be increased more than its original value.

This procedure enables the pipeline companies to escalate their equity and therefore justify higher tariffs and profits.

It should not take FERC 10 minutes to rule this improper.

When I pay my Federal income tax, I can deduct some of the other taxes I actually pay. The pipeline companies do not do this. They do not deduct the taxes paid in deriving income for computing their rate of return. They deduct the taxes from the tax table, rather than the taxes paid. Let me repeat that, Mr. Speaker. They do not deduct the taxes paid. They deduct what the tax tables show could have been paid. Try doing that on your tax return, Mr. Speaker.

It should not take FERC 1 minute to rule on this matter.

Finally, if you are a pipeline company and want to build a billion dollar pipeline, you might put up $100 million and borrow $900 million. Your equity is $100 million. But some pipeline companies compute their return not on equity, but on investment. If they were to receive a 10-percent rate of return on investment, which, by the way, is less than what any of the oil companies compute their rate of return on TAPS to be, they would receive $100 million per year, which is a 100-percent return on investment. Do you think it should take FERC 7 years to decide whether or not a 100-percent return on equity per year is excessive?

I am very concerned about this situation. Besides being a huge drain on our Treasury, these actions can also have an adverse impact on downstream gasoline marketing activities. Imagine being in a market where your competitors can manipulate the Tax Code to pay less in taxes per unit sales than you do.

Mr. Speaker, I do not know what, or even if, there is a connection between the pipeline companies and FERC, but it is all too apparent that there is no effective control of the pipeline tariffs on TAPS. H.R. 4189 would change this out-of-control situation.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. CORCORAN. Mr. Speaker, due to my absence from the House, I was not present and voting when the House considered legislation on February 22 and 23. Had I been present I would have voted in the following way:

Wednesday, February 22: On agreeing to order the previous question on House Resolution 15, establishing the Select Committee on Hunger, "nay."

On passage of House Resolution 15, "yea."

Thursday, February 23: On an amendment to H.R. 2708, foreign language assistance, to prohibit appropriation of funds to carry out the bill unless the money was provided in a measure containing no other appropriations, "yea."

On final passage of H.R. 2708, "yea."●

COAST GUARD PROPOSALS: EQUITY FOR WOMEN, NAVIGATION SAFETY, AND IMPROVED MANAGEMENT AND EFFICIENCY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. YOUNG of Alaska. Mr. Speaker, today, I am introducing three bills relating to the Coast Guard.

The first is the Coast Guard Equity for Women Act. This bill would provide equity for women by eliminating gender-based distinctions in statutes administered by the Coast Guard. Sex bias in the United States Code has been the subject of comprehensive studies over the past several years. In 1977, the U.S. Commission on Civil Rights released a report entitled "Sex Bias in the United States Code," and in 1978, the Justice Department's Task Force on Sex Discrimination also issued a comprehensive report. Most recently, President Reagan's Task Force on Legal Equity for Women completed a study in June 1982. This latest study provided an extensive list of discriminatory statutes still remaining on the books. The purpose of this bill is to eradicate the substantive sexual discrimination contained in those laws reported by President Reagan's task force, not to remove every gender-biased word in the statutes. This is the first, but important, step in the total elimination of sex discrimination in the statutes administered by the Coast Guard.

The second is the Coastal and Inland Waterways Navigation Safety Act of 1984. This bill would reauthorize the Towing Safety Advisory Committee and the Rules of the Road Advisory Council for an additional 5 years until 1990. The bill also contains a cost-savings provision.

The Rules of the Road Advisory Council advises the Secretary of Transportation and the Coast Guard on important issues relating to the international and inland navigational rules. The Towing Safety Advisory Committee provides advice to the Secretary and the Coast Guard on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. Each advisory body has been routinely consulted on significant regulatory issues facing the Coast Guard in their respective areas of expertise. The advice received has significantly enhanced the quality of Coast Guard rulemaking. This bill would, therefore, continue this vital and important link to the maritime community.

In addition, this second proposal makes a change to rule 24 of the new unified inland navigational rules. The new navigational rules eliminated the requirement for two masthead lights for towing vessels when operating on the Mississippi River below the Huey P. Long Bridge. This has created a dangerous condition for all vessels operating in that lower Mississippi area. This bill would allow that requirement for the exhibition of these lights to be restored and greatly assist the mariner, particularly when there is low visibility due to ground fog. This is based on a recommendation of the Rules of the Road Advisory Council and is an example of the contribution that advisory body makes to the maritime industry. In addition, the pilots and towing vessel operators also support this change.

The final bill is the Coast Guard Management and Efficiency Improvement Act of 1984. This bill has a number of changes to a variety of statutes that affect the day-to-day life of the Coast Guard and its programs. The bill contains provisions relating to the military retirement and promotion system, health care and medical administration, fiscal authority to settle admiralty claims, ration payments for enlisted Coast Guard reservists, protection of investigative and law enforcement employees, and elimination of duplicate permits for bridge construction. The bill provides not only for substantive changes but also clarifications of existing statutes where needed. The bill should serve to improve the management and efficiency of the Coast Guard, as well as place it on equal footing with the other military services.

It is my intention in introducing these bills to make changes so that the Coast Guard can effectively carry out its many missions, including search and rescue, law enforcement, and maritime safety, in an efficient and equitable fashion. These proposals have been developed with care and deliberation and have the support of the administration and, where appropriate, the maritime industry. They fulfill the oversight responsibilities of Congress to review the programs and laws of the Coast Guard and make improvements where required.●

AMENDMENT TO SOCIAL SECURITY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. SCHUMER. Mr. Speaker, today I am introducing an amendment to title II of the Social Security Act to prohibit the payment of benefits thereunder to individuals who have been deported from the United States on account of certain activities conducted under the direction of or in association with the Nazi government during World War II.

This amendment plugs a loophole in the Social Security Act. The current law provides for the termination of benefits upon deportation of the primary beneficiary under 18 of the 19 grounds for deportation under section 241(a) of the Immigration and Nationality Act. The 19th ground provides for deportation when an individual engaged in certain activities involving the persecution of persons during World War II in association with the German Nazi government. This ground was added as an amendment to the Immigration and Nationality Act in 1978. However, due to an oversight, the Social Security Act was not amended at the same time to include paragraph (19) as a basis for terminating benefits. Thus, a Nazi persecutor who is deported from the United States under paragraph (19) of the Immigration and Nationality Act may continue to collect social security benefits.

This situation offends my sense of fair play and justice. These individuals have already benefited by living in the United States and largely escaping detection all these years. They have never been brought before a tribunal for their crimes. In most cases, they never will. Yet, as the law stands now, they can collect social security. This is particularly unfair when individuals deported under the other 18 paragraphs of the Immigration and Nationality Act cannot collect social security.

To add insult to injury, this loophole is often used as a basis to plea bargain with these criminals. I am outraged that these criminals are enticed to admit to persecutions under paragraph (19) in order to continue to receive social security benefits.

Mr. Speaker, for these reasons I am introducing this amendment and I urge the support of my colleagues. The text of the bill is below.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202(n)(1) of the Social Security Act is amended by striking out "or (18)" in the matter preceding subparagraph (A) and inserting in lieu thereof "(18), or (19)".

(b) Section 202(n) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3) For purposes of paragraphs (1) and (2) of this subsection, an individual against whom a final order of deportation has been issued under paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19) as of the date on which such order was issued or became final.".

SEC. 2. The amendments made by the first section of this Act shall apply only in the case of deportations occurring, and final orders of deportation issued, or or after the date of enactment of this Act, and only with respect to benefits for months beginning (and deaths occurring) on or after that date.●

GROVE CITY COLLEGE CASE A WARNING TO WOMEN

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Ms. OAKAR. Mr. Speaker, title IX of the Education Amendments of 1972 prohibits sex discrimination by schools and colleges that receive financial assistance. Three administrations previous to the Reagan administration had reaffirmed title IX's intent by saying that the law was all encompassing, affecting the policy of the entire institution.

Congress also expressed its support of the meaning of title IX last November, when we voted 414 to 8 in favor of House Resolution 190.

Yesterday, the Supreme Court ruled the opposite. The Court handed down a decision stating that title IX is not all encompassing, but narrowly defined, affecting only those departments or programs which receive Federal funds. The Court, in essence, ruled in the Reagan administration's favor, which expressed an interest in narrowing the intent of title IX.

The decision has been seen by many as a key victory for President Reagan. The decision, Mr. Speaker, marks a significant defeat for women, a setback for women's rights, and further illustrates this administration's view of sex discrimination.

Several months ago, I joined many of my colleagues from both sides of the aisle in the House and Senate in signing an amicus brief, defending title IX's meaning. And, I will join my colleagues again, in supporting legislation to insure that sex discrimination is eliminated from educational institutions receiving Federal funds. Quite frankly, Mr. Speaker, legislation should not have to be enacted to clarify title IX; however, if we are forced into a position of legislating change in the name of women's rights, we will continue to be persistent.●

BILL JOHNSON: A REAL AMERICAN HERO

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. FIELDS. Mr. Speaker, at the age of 17, Bill Johnson of Van Nuys, Calif., was arrested for stealing an automobile.

Today, he is the Olympic Gold Medal champion in the downhill, the most difficult and dangerous of all alpine skiing events.

Bill Johnson was able to win that gold medal because in 1977, he was given the choice between attending the Mission Ridge Ski Academy in Wenatchee, Wash., or spending time in jail.

Fortunately, for both Bill and the United States, he choose to dedicate himself to the goal, which he has now achieved, of becoming the greatest downhill skier in our history.

Mr. Speaker, Bill Johnson is a symbol for all young Americans who find themselves at the crossroads of life. If athletics can have such a powerful and positive influence on Bill Johnson's life, imagine how many other young people can become valuable members of our society if given the opportunity to participate in sports.

I believe we must encourage the development of amateur athletics in this country by providing the means to obtain the financing necessary to reach thousands of young people who live in cities and small towns throughout America.

Mr. Speaker, the easiest and most straightforward way to provide that financing is to enact the Olympic Checkoff Act of 1984. This bill, which has been cosponsored by 262 Members of the House, would allow the American people to contribute directly to the U.S. Olympic Committee which has become the coordinating body for all amatuer sports in this Nation.

Mr. Speaker, let us help the future Bill Johnson's of this Nation by quickly approving this critical bill, H.R. 1984.●

LITHUANIAN INDEPENDENCE DAY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1984

● Mrs. KENNELLY. Mr. Speaker, it is indeed a great privilege to join with my colleagues and the Lithuanian-American community in commemorating the anniversary of Lithuanian Independence Day. This day, and its celebration in Congress each year, are symbols of hope to the Lithuanian people who continue their courageous struggle for freedom and independence. Theirs is not a struggle driven by territorial desires or any need for ideological expansion. Rather, they are inspired by the deepest yearning for freedom, self-determination, and independence.

On February 16, 1918, the Lithuanian people formed a sovereign nation based on democratic principles, ending more than a century of Russian domination. For 22 years, Lithuanians were free to speak and practice their religion freely. Sadly, this newfound freedom was erased when, in 1940, the Soviet Union, under the leadership of Stalin, invaded Lithuania and took control of the country. Through this invasion, the Soviet Union has almost eradicated the independence and liberties that these people so bravely fought for and won in 1918. The United States recognized the independence of Lithuania on July 22, 1922, and since that day has maintained diplomatic relations with a representative of the former independent government. The United States does not and will never recognize the illegal occupation of Lithuania by the Soviet Union.

In this occupation, the Soviet Union has continually disregarded the rights of the Lithuanian people, including their right to self-expression, their right to practice religion as they see fit, and their desire for self-governance. Through all this, these heroic people have remained steadfast in their commitment to independence and in their struggle to preserve what little freedoms remain. In particular, the freedom of the Catholic Church is severely curtailed by the government and the KBG. Anyone who seeks to practice his or her religion is automatically viewed as suspect by the Soviet authorities. On this commemorative day, we are once again reminded of the oppression and disregard for human rights that pervades Lithuania and all other Soviet-occupied states.

The spirit of independence is still a vital force in the lives of Lithuanians; the perseverance and strength of these people will undoubtedly prevail. I join with Lithuanian-Americans, whose brethren strive to preserve their proud heritage, in honoring them today. We must continue to extend our hope and compassion to the brave people of Lithuania in their ongoing struggle to attain independence. These heroic people must not be forgotten.●

OPPOSING SUPREME COURT DECISION IN GROVE CITY COLLEGE CASE

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Ms. MIKULSKI. Mr. Speaker, I rise today in outrage about yesterday's decision by the Supreme Court in the Grove City College case. The Court held that the financial aid program of an institution is the only department of a college that is covered by the title IX protections which prohibit gender discrimination.

The practical impact is that nondiscrimination will apply only to the financial aid program, but not to admissions, sports, and other departments of the college.

This sets a frightening precedent for the interpretation of all the progressive civil rights legislation enacted in the last 20 years. The spirit of that legislation was the commitment to remedy the discrimination experienced by those citizens who were barred from enjoying the fundamental rights assured by our Constitution.

The language of title IX followed the identical structure of the title VI civil rights amendment which has provided the most comprehensive protection and enforcement powers in the area of civil rights. Those protections are now in jeopardy as well.

It was President's Reagan's administration which influenced the outcome of this case. Until the briefs were filed in this case, the Department of Education's position had consistently supported title IX coverage of an entire institution receiving Federal support. Federal assistance—whether direct grants or student aid—benefit the entire college. It is only fair that an institution which enjoys these benefits be held to this basic standard of fairness in its treatment of all students.

The position taken by the Reagan administration on this issue is another example of this administration's intent to undermine and roll back the hard-won rights of women. Before title IX was enacted, there was routine and pervasive discrimination against women in educational institutions—the use of quotas, higher admission standards, restricted availability of student aid. However, with title IX in place, women have made great strides in obtaining vocational, graduate, and professional degrees.

By gutting the protections of title IX, a devastating blow is inflicted on gains made in the last decade in the struggle for women's rights. Title IX's comprehensive protection against gender discrimination in education is vital to the struggle for economic equality. Education is the door to opportunity—the opportunity to choose one's destiny. If the door to education begins to close again for women, the fundamental ability to control the direction of their lives will be restricted.

The Reagan administration argued for the limited scope of title IX stating that there was no clear congressional intent to give title IX a comprehensive scope. I say that President Reagan is both deaf and blind. He is blind to the HEW regulations since title IX's enactment in 1972, which consistently supported the broad scope of its protections. Congress has twice refused to restrict that scope. Furthermore, President Reagan must be deaf to the loud and clear voice of the House, which just this past November passed a resolution in support of title IX's broad protections by a resounding victory of 414 to 8. These are the clearest possible statements that the protections against gender discrimination were meant to extend to programs affecting educational equity for women and to insure that Federal taxpayer dollars would in no way support such discrimination.

We cannot back down from that commitment to equality for women. Nor can we allow the important advances in civil rights to be destroyed. I strongly agree with Justice Brennan's dissent where he said, "The interpretation of statutes as important as title IX should not be subjected so easily to shifts in policy by the executive branch."●

RESTORE BROAD APPLICATION OF TITLE IX

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. FRENZEL. Mr. Speaker, in light of the Supreme Court ruling on the applicability of title IX, I believe that a close scrutiny of our title IX law and Congress' intent in this area is in order.

Over the past years, title IX, with its broad application, has been instrumental in helping to achieve equity and provide many new opportunities for women and girls in education, athletics, and in other areas. I believe that Congress strongly backs title IX and the encouraging results, to date, of this law. In November, Congress made its position on this issue clear by overwhelmingly passing a resolution in support of a more expansive interpretation of title IX.

Therefore, in light of the many positive aspects of this new law and Congress' stated intent, I believe it is now Congress' duty to pass legislation to restore the broad application of this law and insure wide compliance by recipients of Federal funding.

It is my hope that such congressional action will be taken promptly. The gains women have made are too great to jeopardize in any way. We must vote to continue that progress rather than jeopardize that which we have accomplished.●

SOL AND JACK TAVIN: A WELL-DESERVED TRIBUTE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. SOLARZ. Mr. Speaker, I am delighted to announce to my colleagues in the House of Representatives that two of the outstanding citizens of

Brooklyn, Sol and Jack Tavin, are being honored by the Yeshiva of Crown Heights in an awards dinner to be held in Brooklyn this Sunday evening.

Jack and Sol Tavin are being recognized for their courage as survivors of the Holocaust; for their constant and enduring commitment to Judaism; and for the significant and material contributions which they have made to the religious, social, and spiritual life of their community.

As Naomi Ben Ezra, executive director of the Yeshiva of Crown Heights said about the brothers:

> Despite the horrors they have gone through and the ravages which destroyed their family, Sol and Jack Tavin have dedicated themselves, not to revenge, but to justice and to making sure that places where the Jewish leaders of tomorrow may learn and grow continue to thrive.

Their Judaism, their support of Jewish education, and the support they have provided in areas such as the sale of bonds for the State of Israel—these are the enduring commitments that Jack and Sol Tavin have honored, and they represent why the community is honoring them. Jack, for example, has served as president of the Congregation Beth Aryah in Brooklyn, and he and Sol are active both in that synagogue and the Flatbush Park Jewish Center.

The affair honoring the brothers Tavin will be held at the Congregation Shaari Zion, and it will serve as the main fundraiser for the Yeshiva of Crown Heights. And so, even as they are honored, the proceeds from the event will go toward furthering the ideals to which they have dedicated their lives.

In closing, Mr. Speaker, I am reminded that, in Jewish culture, we have the tradition of "maggidim"—these are the homey philosophers who translated the laws and customs in Jewish life into rules for living.

The Mezeritzer Maggid said, and I think this pertains particularly to the Tavin brothers,

> A man's good deeds are used by the Lord as seeds for the planting of trees in the Garden of Eden. Thus each man creates his own Paradise * * *.

The lives of the Tavin brothers, dedicated to service for others, have brought a little bit of paradise to their community in Brooklyn. And for this reason, the tribute to Sol and Jack Tavin, enables all of us to thank them for having done so.●

A VISITOR FROM PARLIAMENT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. GEKAS. Mr. Speaker, somewhere in Great Britain, perhaps at this very moment, there is an Englishman, a Member of Parliament, who is recalling the warmth of the reception he received last summer in the heart of the United States of America. He is recounting his visit to McClure, a community situated in one of the Original Thirteen Colonies, the one founded by one of his most distinguished countrymen, William Penn.

What he experienced at the traditional bean soup outing was a firsthand contact with the instinctively gracious people of Snyder County, the formal courtesies of local public officials and the informal, spontaneous greetings of welcome accorded him by the householders and farmers and merchants and clerks and elders of the area.

He will never forget that, in the company of his counterpart, an American Congressman, he was given the opportunity to address the gathering and to impart his deepest feelings about the bonds that unite his native land and ours. He will never forget the words, the gestures, the faces, and the sentiments of a people truly representative of Americana.

For me, who was privileged to be the American Congressman who hosted him during his sojourn, it was the finest moment of my incumbency, when I was able to present to an important visitor from the Old World a splendid example of the New World.

The way of life of the people of Snyder County is secure in the past history and the future glory of our Nation. I am proud to be a part of it.

I would also like to include an article that was printed in the Daily Item on September 19, 1983, accounting the visit of my distinguished guest, Mr. David Mudd.

[From the Daily Item, Sept. 19, 1983]

SNYDER GOP GREETS GUEST FROM BRITAIN

(By Jeffrey D. Miller)

McCLURE.—It was a clash of cultures, a meeting of a sophisticated foreign politician and a small-town audience in central Pennsylvania.

"We, indeed, are honored today to have with us a very distinguished guest from across the sea," U.S. Rep. George W. Gekas, R-17, told the crowd at Saturday's Republican Rally at the 92nd annual McClure Bean Soup Festival. "It is a tribute to you that he has come here, and it is a tribute to him that we have been able to greet him in the great old American way."

The guest, David Mudd, a member of Great Britain's House of Commons, said he was "proud and honored" to be at the festival. He also praised the relationship between the United States and Great Britain and called for a continued effort in working toward freedom from oppression for all countries.

The two nations share a common bond "of freedom of joy, of fighting oppression wherever it may arise," Mudd said. "There are those people throughout the world who have nobody to speak for them, who look to us . . ." Mudd's comments drew applause from the crowd.●

CIGARETTE SMOKERS ARE NOT OUTLAWS—NICOTINE ADDICTION IS NOT A CRIME

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. BLILEY. Mr. Speaker, the tobacco industry has gotten a raw deal.

Self-righteous lawmakers are running around Washington trying to pass legislation to turn cigarette smokers and cigarette workers into outlaws. As if Members of Congress did not have anything better to do, they seem to be working overtime to destroy the tobacco industry and make cigarettes public enemy No. 1.

I hope that my colleagues will take the time to look over a recent article from the New York Times, written by a nonsmoker. It is a relief to see such a sensible approach to this issue.

[From the New York Times, Feb. 6, 1984]

BLOW SOME MY WAY

(By William Safire)

In caricature, smokers have become an oppressed minority group of the 80's, forced to sit in the back of the plane, segregated in restaurants, the object of prejudice by the unaddicted elite, subject to discriminatory laws, and in some cases physically attacked by wild aerosol mobs.

This is wrong. Nicotine addiction is an ailment, not a crime, and does not call for tobacco bigotry or the hatchetations of the new Carrie Nations. If butt-inskies succeed in denying other citizens the God-given and constitutionally protected right to smoke, where will they stop? What about people who enjoy the glorious taste of garlic—will they, too, be legally ostracized and forced to breathe only in designated areas?

Public places are just that—public. Arenas for all sorts of people including those with noisy kids and noisome habits. Nonsmokers who turn into rabid anti-smokers want to impose their standards, which is just as wrong as letting a garlicky cigar smoker with a squalling brat rule the public roost.

The answer is to stop the trend toward government coercion. Your right to smoke stops where my right to have smoke not blown in my face begins; in the area of overlap, it is for simple courtesy, not for legislative responses to aerosol-wielding activists, to work things out.

Civility is all: When a person next to you on a bumpy airplane flight asks, "Do you mind if I smoke?" you are duty-bound to reply with equal civility: "Not at all. Do you mind if I toss my cookies on your shoes?"

Smoking courtesy, symbol of a society's ability to adjust without litigation, requires nonsmoking cabbies not to display angry signs that say "Driver allergic, do not smoke" lest smoking cabbies be confronted with nonsmoking riders wearing signs reading "Rider allergic, will not tip." Post no bulls; if negotiation fails, boycott insensitive cabs and restaurants.

Those of us who have kicked the habit must not kick those who have not. My daughter, now 18, works the telephone from a bedroom so smokefilled it would cause paroxysms of coughing among Harding's Ohio gang, but I do not seek legislative relief—so long as she refrains from smoking or carrying a lighted cigarette in the den, dining room, or in the aisles of lavatories.●

SALARY DISCREPANCIES BETWEEN MALES AND FEMALES

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. GOODLING. Mr. Speaker, I would like to bring the following article to the attention of my colleagues on both sides of the aisle. It is embarrassing for legislators to be reminded of such inequities and such abuses of our own laws. As we stand up and make lofty speeches of high ideals and what this Nation stands for and make declarations of how the rest of the country must live, we are making a mockery of society by promulgating salary discrepancies between males and females within our own marble halls.

I must also say that Representative MARTIN gives very good evidence that the violations—although pointed out earlier—are continuing, and in some cases becoming worse. I hope that she will be joined by Representatives from both parties and both sexes in fighting this unfairness by we, the Members of Congress.

Rep. Lynn Martin (R-Ill.) scored a bull's-eye against the House Democratic leadership last week when she suggested that the party that has taken the Equal Rights Amendment to its bosom ought to take it to its pocketbook as well.

In testimony before the House Administration Committee, which approves the committee chairmen's staffing and budget requests, Martin pointed out that the committee staffing patterns on the Hill have actually worsened since she raised the issue of job discrimination as a member of the committee last year.

"Last year I presented figures to the committee that showed 79 percent of those earning less than $20,000 per year are female and 71 percent of those earning more than $40,000 a year are male," she said. This year, 81 percent of those earning under $20,000 are female and 75 percent of those earning more than $40,000 are male, she said.

Congress, which has long been known as "the last plantation," has routinely excluded itself from the affirmative action, equal employment opportunity and equal pay legislation it has imposed on the public and private sector.

"When Congress exempts itself from the laws, that imposes a greater responsibility on us," says Martin. "If this were occurring in private industry, we'd be in court." Some committees, such as the Committee on Science and Technology, may reflect society's shortage of female expertise in the field, she says. But others don't have that excuse.

While the majority of elderly are women, the committee on aging has 10 men and only two women earning over $40,000 a year. Government operations has 34 men and only six women earning over $40,000. Despite the outpouring of women lawyers into the work force during the past decade, the committee on the judiciary has 25 men and only seven women earning over $40,000.

The Ways and Means Committee, which deals with such traditionally male interests as the budget, has done better than most committees with 14 women and 26 men earning over $40,000. The Merchant Marine and Fisheries Committee has also done better than most with nine women and 19 men earning over $40,000.

In late 1980 the Capitol Hill Women's Political Caucus, a bipartisan group of Hill staffers, produced a report on nearly 9,000 jobs in the House and Senate that showed only about 15 percent of the female staffers had policy-making jobs, while nearly half the men working on the Hill did. Jennifer Dorn, then the chair of the caucus, and now an assistant to Transportation Secretary Elizabeth H. Dole, pointed out when the report was released that "the makeup of a congressional staff can have a significant impact on the type of legislation a member of Congress will support and work for."

Male employes in the House average $6,000 more than women in 1980. In the Senate, male employes averaged nearly $8,000 more than women.

The House was last controlled by Republicans in 1953. Since then the hiring and promotional practices of one of the nation's most visible employers have been in the hands of the Democrats who made a great show of reintroducing the ERA as HR 1 last year. Democrats have had a field day pointing the finger at the Reagan administration's appointments of women, its retrenchment on affirmative action and its gender gap among female voters.

"I'm not saying the White House is perfect," says Martin, "but when you are claiming this greater morality, if you will, then I think legitimately you can say you're not quite doing what you're preaching."

The House administration bill is unamendable when it comes to the floor. Martin, therefore, wants "tough, tough language" put on the bill in committee that would require "a reporting system with evidence of change and what the chairmen are doing to accelerate the change." And she is calling on the Democratic women members to vote "no" with her on the bill if it fails to contain such language. "I take the position that unless it's voted down once, the message isn't going to get through," she says. "It's much easier to pass laws that affect other people than to follow them themselves. I really don't think Congress ought to be referred to as the last plantation. It should be referred to as a shining example."

Last year, when she brought the matter up, a committee chairman said: "Lynn, no one loves women more than I do." And: "I voted for ERA, what more do you want?"

That's fairly clear: She wants the Democrats to put their money where their mouths are.●

NATIONAL HONOR SOCIETY SELECTS PARKVILLE STUDENTS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. LONG of Maryland. Mr. Speaker, it is with a great deal of pride that I announce the names of the 24 students from Parkville High School who are being inducted into the National Honor Society on March 1, 1984.

The National Honor Society, founded in 1921, selects only those students whose records demonstrate the highest qualities of scholarship, leadership and service to the community. In the last 53 years, the National Honor Society has served America well, providing the future leadership our Nation requires for all private and public endeavors.

Public education is the cornerstone of our Nation's greatness, a program of public commitment first made by our Founding Fathers and continued through this day. The young men and women who are honored by induction into the National Honor Society stand among the finest in our Nation, and are among the best anywhere in the world. I know that my colleagues in the House join me in congratulating these outstanding young people, and their parents, for their outstanding achievement.

The students are:

SENIORS

Christine Blake, Patrick Kelly, Jennifer Fefel, Jacqueline Palughi, Barbara Ransel, Jennifer Sampson, and Stacey Trageser.

JUNIORS

Lisa Biemer, Andrew Dutcher, Jay Jang, and Pamela O'Neill.

SOPHOMORES

Denise Byrne, Diane Doyle, Andrew Dunkerton, Kim Eastep, Michelle Fritsche, Julie Gallagher, Amy Kale, Sandra Linn, Jennifer Morris, Robin Myers, Heather Short, Christina Stavros, and Julie Zingone.●

THANK YOU, DAN ARNOLD

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. FIELDS. Mr. Speaker, once in a great while, a city is made greater because of the efforts of one man or one woman.

Houston is such a city. And Dan Arnold is such a man.

As chairman of the board of the Metropolitan Transit Authority, Dan Arnold has touched, and improved, the lives of literally millions of Texans. He has done so through his vigorous and determined efforts to improve public transportation in the Houston area.

Dan assumed his often thankless position in 1980, at a time when public transportation virtually didn't exist in Houston. Since that time, Metro has not only developed long-term public transit plans, but hs begun implementing those plans. As Dan has begun implementing those plans, the men and women of the Houston area have been put back on the road to mobility.

Dan has not only made all Houstonians aware of the critical importance of public transportation in their city, but he has shown the Nation that Houston is a city willing to devote time, and effort, and money to improve its transportation crisis. Through Dan's hard work, Houston has shifted the emphasis of debate on traditional Federal transit policy from one which favored operating assistance for ailing transit systems, to one which recognizes and rewards cities like Houston which contribute substantially to solving their own transit problems.

Dan Arnold is a friend of mine. Dan has many friends, certainly as many here in Washington as in Houston. When Dan steps down this month as chairman, I will miss the enthusiasm, dedication, and hard work he brought to his position.

But I will remember that I am better for his having served as Metro chairman for these past 4 years. And the 2.4 million residents of Harris County are better for his having served, as well. All of us living in the Houston area owe Dan a great deal for his efforts on our behalf, and for my part, I want him to know that I appreciate what he has done to make Houston and Harris County a better place to live.

Dan, thank you.●

ANTHONY GAGLIOTI IS NAMED MAN OF THE YEAR

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. FLORIO. Mr. Speaker, on March 3, 1984, Anthony Gaglioti, a special resident of New Jersey will be named Man of the Year by the Palisades Park Chapter of UNICO National. It is with great pleasure that I bring the achievements of Tony Gaglioti to the attention of my colleagues. I join the Palisades Park Chapter in commending Tony for the dedication he has shown to UNICO National and to his community.

Tony Gaglioti, a native of Calabria, Italy, emigrated to the United States in 1955 and, through his hard work and diligence over the past three decades, has become a well-respected member of his community. He is the president of Universal Diesel Gas Rebuilders, Inc., specialists in rebuilding commercial and industrial engines for all of the major fleet carriers along the eastern seaboard. His dedication to his career has led to his membership in the Engine Rebuilders Association, the Bergen County Chamber of Commerce, and the Meadowlands Chamber of Commerce.

Despite his busy schedule, Tony has never forgotten his Italian roots. His extensive involvement with UNICO National exemplifies his sincere concern for fellow Italian-Americans and his willingness to take action when needed. Tony first became involved with UNICO in 1967 when he joined the Cliffside Park Chapter. He quickly rose to the presidency of the Cliffside Park Chapter and became the first president in 20 years to hold the post for more than 1 year. Later, Tony served as first deputy district governor for 2 years and district governor for another 2 years. His extensive work with raising $18,000 in funds to buy and donate to Columbia Presbyterian Hospital in New York an IBM cell separator and blood washer to be used for people afflicted with Cooley's anemia, earned him the honor of being named most outstanding district governor in the Nation in 1980.

On the national level, Tony has served as eastern regional district governors representative. In 1981, he was elected third national vice president of UNICO National and led a UNICO delegation to Italy to inspect and inaugurate the nine day care centers built to serve areas devastated by the Italian earthquake. In 1982, he was elected first national vice president and in 1983, he was elected executive national vice president. Because of his valuable contributions to UNICO, he will be named the president of UNICO National in August 1984.

Tony's significant contributions to UNICO and to the Italian-American community have been recognized by Italian Americans throughout the Nation as well as by the Republic of Italy. In 1983, he was knighted by the Republic of Italy and received the title of Cavaliere.

Tony is truly deserving of the title of Man of the Year which will be bestowed upon him this Saturday. I congratulate Tony Gaglioti for his exemplary achievements and wish him every success in his philanthropic endeavors.●

PRICE OF HOME HEATING OIL HIGHER ON EAST COAST

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. MINISH. Mr. Speaker, I rise to convey my very deep concern over a trend that I was alerted to recently which appears to be occurring throughout my State of New Jersey. It seems that certain unscrupulous suppliers of home heating oil have raised their prices simply to reap larger profits.

I bring this matter to the attention of the membership not only to vent my frustration but to make you aware of the possibility of similar activities in your States, most especially those of you who represent the Northeast regions of this country.

What I am referring to is out and out exploitation. During the coldest months of the year, those who control the sale of a commodity which, by virtue of the season, has become a fundamental necessity, have chosen to raise their prices simply to increase their profit margins. There is no euphemistic expression with which I could window dress this situation to make it look better. Sadly, the unavoidable truth is that what we are witnessing in New Jersey is an example of plain old-fashioned price gouging by some of the largest corporations in this country.

Specifically, the State of New Jersey Department of Energy has reported that in a 6-week period between December 11, 1983, to January 30, 1984, the average wholesale price of home heating oil was increased 20.2 cents per gallon. This escalation represented a 25-percent increase over the 83-cent-per-gallon price charged during the preceding 6-week period.

From what I understand, factors which generally contribute to higher heating oil prices during the winter months have not been significant enough to warrant the types of increases we have witnessed in my State this winter. Inventories were high at the outset of winter and, although usage may have been greater than anticipated due to the severely cold temperatures in December and January, the prices for crude oil on world markets have remained stable or gone down. In addition, there have been no weather-related transportation problems for suppliers to contend with this winter.

What all of these conditions point to is that suppliers appear to have intentionally constricted the availability of oil to drive up prices and eventually add to their already large profit margins. They have done this with little regard for those such as the poor and elderly, whose budgets are already strained by the currently high cost of heat, and who can ill afford to pay more.

In New Jersey, the impact of the suppliers' actions is pervasive. An estimated 45 percent of the homes in the State rely upon heating oil for warmth during the coldest months.

These types of business practices are truly shocking and have disturbed me greatly. I understand the Federal Trade Commission will be looking into the matter, and I have requested Representative DINGELL, chairman of the Energy and Commerce Committee, to initiate an investigation as well.

However, I am constrained to pass along an additional warning to my colleagues from the Northeastern States. The New Jersey Department of Energy has informed me that, on average, wholesale prices in East Coast States is 10 to 20 cents higher per gallon than any other region of the country. This is apparently true, even though other regions of the country have suffered through a more punishing winter than the East.

If you represent a Northeastern State, be aware. The large volume suppliers of oil could well be up to the same type of price manipulation tactics that have victimized consumers in New Jersey.●

PERSONAL EXPLANATION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. PORTER. Mr. Speaker, on Wednesday, February 22 and Thursday, February 23, I was ill with the flu. As a result, I was unable to vote on the following rollcalls:

Rollcall No. 28, Mr. Hall's motion to order the previous question. Had I been present, I would have voted "Yea."

Rollcall No. 29, final passage of House Resolution 15, of which I am a cosponsor, to establish a Select Committee on Hunger. Had I been present, I would have voted "Yea."

On Rollcall Nos. 31 and 32, I was "paired for", as indicated in the Record.●

CHRYSLER DISCOVERS ADAM SMITH

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. LENT. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial entitled "Chrysler Discovers Adam Smith" which appeared in the Wall Street Journal on February 27, 1984. This article is particularly timely since we are expecting a final decision from the Federal Trade Commission shortly on the proposed GM-Toyota joint venture. Last December, the FTC determined that it was in the public interest to accept provisionally a consent agreement with GM and Toyota limiting the scope of their proposed joint venture.

This article carefully analyzes what is at the heart of the debate surrounding this joint venture—competition. Chrysler has argued both before the Congress and in the U.S. District Court (D.C.) that the joint venture will allow anticompetitive concentration in the auto industry. The editorial finds the opposite to be the case—that what Chrysler really fears is more competition, not less. Hence, their hope that Mr. Iacocca will drop his argument that keeping competitors out of a market is procompetitive.

The editorial follows:

[From the Wall Street Journal, Feb. 27, 1984]

Review and Outlook—Chrysler Discovers Adam Smith

We got the shock of our lives the other day. Here we were reading the morning papers, and who should we see quoting that free-market apostle Adam Smith but the Chairman of Chrysler, Lee Iacocca. At first we thought someone had drugged our coffee. But sure enough, a few days later another gentleman from Chrysler paid us a visit and quoted from the "Chicago School Supply Sider's Home Companion." Had the world turned upside down? Had the seeker of protection and federal aid turned capitalist? Did elephants have wings?

Well, we listened and, it turns out, elephants still can't fly. The men from Chrysler are worked up about GM's joint venture with Toyota to make cars in California. They claim the venture violates antitrust laws and allows anti-competitive concentration in the auto industry. They've even sued GM and Toyota, although the Federal Trade Commission has said the venture doesn't present any antitrust problem. Close inspection reveals that this is an artful dodge. What Chrysler really fears is more competition, not less.

The starting point for any discussion about cars is that they are now a world industry. For many years, the U.S. industry had a lock on its market. Then the Japanese invaded with their lower-cost production. Consumers rejoiced. In order to remain competitive, Detroit had to awaken from its lazy prosperity, laying off workers, improving production techniques and increasingly going overseas for parts and technology.

Chrysler complains that GM is combining with giant Toyota, but in fact, Chrysler itself has gone overseas for help, and wisely so. It imports Mitsubishi cars, for example, which have made up 15 percent of its annual sales. Chrysler's Omni-Horizon subcompact, introduced in 1977, has contained nearly 20 percent foreign parts, including Peugeot engines. Ford has developed its "world car" Escort, with parts from its far-flung plants, and GM, also with some overseas "sourcing," is following the trend. "The sleeping giant finally woke up," says Martin Anderson, who has headed an MIT study of the world auto industry.

What GM hopes to gain from Toyota is the ability to make a better small car. Each year the joint venture will build about 200,000 new Sprinter subcompacts, which are cousins of Toyota's Corolla model. GM doesn't have anything like the Sprinter now. Its Chevette model is old and has rear-wheel drive, which cuts passenger space. GM thought of building its own new subcompact, but decided it could do it better with Japanese production expertise.

Chrysler frets that GM (the world's biggest car maker) and Toyota (the third biggest) will conspire to fix prices. That ignores the current free-for-all in the small-car market. MIT's Mr. Anderson counts 12 different car makers selling about 100 different small-car models in the U.S. (A decade ago, there were fewer than 10 models.) The competition is ferocious, and would be even more so if those "voluntary" quotas didn't restrict the smaller Japanese companies from selling more cars here.

Nor is bigness always a guarantee of success. A few weeks ago people were fretting that IBM was going to steamroll everyone in personal computers. Then last week we read that the company's PCjr computer isn't selling as well as expected; Apple's Macintosh looks better and better. GM has already learned this lesson. In 1981, it tried to sell its Cavalier J-car for more than $7,100 each; a year later it had to cut the price to $6,000.

Mr. Anderson and other experts figure that Japanese auto makers retain a $1,500 to $2,000 production-cost advantage *per car*, even without including the U.S. dollar's current strength against the yen. That advantage—partly a result of import protections for U.S. steelmakers—has been used to justify the quotas on Japanese cars, which punish U.S. consumers, of course.

But with the aid of the quotas and some industrious management, major U.S. auto companies now are reporting record profits. That's fine. They can no doubt use the capital. But they could suffer from the quotas in the long run. The Japanese also are earning record profits as the quotas encourage them to attack the U.S. market in more-profitable mid-size cars. As this assault continues, U.S. companies could lose some of the economies of scale they have enjoyed in this market. Chrysler, as it considers its self-interest, might reflect on the probability that Toyota would have had no incentive to join forces with GM had the quotas not existed.

Out of pure old chauvinism, we're still rooting for the American companies. We hear Chrysler may have a winner with its new minivan, which suggests that the U.S. industry still has innovative skills. But in the name of Adam Smith, we hope Mr. Iacocca will drop his argument that keeping competitors out of a market is procompetitive.●

A TRIBUTE TO STEPHENS A. JUHAN

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. GREEN. Mr. Speaker, I rise to recognize Mr. Stephens A. Juhan, who served as the district manager of Community Board No. 3 from 1977 to 1984 and who is retiring from this position.

For those of my colleagues not familiar with the role of a district manager, let me offer a few examples of what Steve has done for the Lower East Side of Manhattan. In addition to his regular meetings where he has acted as a mediator between community residents and property owners, he has been responsible for a task force on rat control and a program on arson prevention; both of these problems are of major concern to Lower East Side residents. These are just two of his accomplishments on behalf of the neighborhood.

Steve has also been successful in his attempts to reduce tensions among the many different groups that live in the area. Many times it has been Steve's intervention which has provided the needed impetus to go beyond prejudicial concerns to the root of the real problems—problems like drug abuse, crime, and shelter for the homeless, problems which really affect the residents.

I have personally known Steve and have found him to be of invaluable aid to my staff and me. Steve's knowledge and familiarity with the Lower East Side and with all the various levels of government have made him a valuable asset to the community. He will be profoundly missed.

I join my colleagues in wishing Steve the best of luck in any future endeavors.●

UNIFORM PATENT PROCEDURES ACT OF 1984

HON. JUDD GREGG

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. GREGG. Mr. Speaker, today, I am joining Mr. Sensenbrenner of Wisconsin in introducing the Uniform Patent Procedures Act of 1984. This bill will facilitate increased stimulation of industrial innovation and productivity by removing barriers and creating the necessary incentives for the commercialization of technology developed under Federal support.

Currently, the Government is spending over $40 billion a year for research and development performed by Federal employees or private sector performers under Federal contract. In June 1981, the Center for the Utilization of Federal Technology (CUFT) was established within the National Technical Information Service of the U.S. Department of Commerce to encourage and promote private sector and local government awareness of Federal laboratory technology. However, presently, less than 4 percent of all Government patents have been licensed for commercial use, as compared to 33-percent licensing from universities. This is not due to a lack of entrepreneurial incentive in this Nation, but rather it is due to unnecessary bureaucratic barriers, inadequate evaluation of the commercial value of Federal patents and the lack of incentives in Federal agencies to license technologies.

Only a decade ago, the United States generated 75 percent of the world's technology, though we represented only 5 percent of the world's population. However, now this has dropped to 50 percent of the world's technology with predictions of a further decline to 33 percent in the next decade. The reason lies not in our inability to produce innovative commercial spinoffs, but rather in the realization that the other 95 percent of the world's population has become increasingly competitive. This is all at a time when 90 percent of all scientific knowledge has been generated just in the last 30 years.

It is therefore essential that the Congress allow U.S. entrepreneurial talent to foster itself instead of placing obstacles in the path of innovation. The Uniform Patent Procedures Act of 1984 will foster the necessary cooperative atmosphere between the Federal Government and the private sector by allowing this Nation's entrepreneurial culture to act on technology developed under the auspices of the Federal Government.●

FOOD AID AND EXPORT PROMOTION ACT

HON. COOPER EVANS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. EVANS of Iowa. Mr. Speaker, today I am introducing in the House of Representatives the Food Aid and Export Promotion Act. The companion bill is S. 2304 which was introduced earlier this month by Senator Boschwitz.

As we all know that the total value of our agricultural exports have declined 21 percent since 1981 when they hit an all-time high of $43.5 billion. In fiscal year 1983 exports are estimated to have dropped to $34.5 billion. There are clearly several key factors contributing to this decline: the world recession, the strong value of the U.S. dollar, competition from other suppliers, strong prices due to the drought in this country, and some unfair trade practices or subsidies by our competitors.

We in Congress need to respond to this by fully utilizing the tools that are on the law books at this time. The Food Aid and Export Promotion Act is intended to assist in easing the trade problems that the U.S. agriculture exporters are now facing using those programs.

Under the GSM-102 program, the Commodity Credit Corporation guarantees commercial loans made to finance the export of U.S. agricultural products with repayment periods of 6 months to 3 years. This legislation mandates that $7 billion of GSM-102 credit guarantees be made available. The administration approved $4 billion in guarantees for fiscal year 1984 down from $5.15 in fiscal year 1983. The funds for fiscal year 1984 are nearly exhausted at this time, which clearly illustrates that $4 billion is not nearly enough. The advantage of this program from the U.S. Government's point of view is unless there is a default on the commercial loans, there is no budget outlay.

Under title II of Public Law 480—food-for-peace—program commodities are donated to nations in need of food assistance. This legislation increases the authorization level for title II from $1 to $1.5 billion. The increased title II authority would be available to meet the recent increase in the need for food assistance abroad.

Currently, section 416 of the Agricultural Act of 1949 authorizes the donation of CCC-owned dairy products without counting against their Public Law 480 allocations. This bill would expand the authority under section 416 to allow donations of any CCC-owned commodity.

The greatest change advocated by this bill is in the intermediate credit programs—the GSM-201 and the GSM-301 programs. This bill would direct the Secretary to use at least $25 million of CCC export funds in fiscal year 1984 and $50 million in fiscal year 1985 for the intermediate credit programs. The Budget Reconciliation Act of 1983 mandated that between $175 and $190 million of CCC funds be used for export promotion in each of the fiscal years 1983-85. Approximately $70 million remains to be used in fiscal year 1984.

GSM-201 is a direct credit program which provides CCC financing for the export of breeding livestock with repayment terms of 3-10 years. GSM-301 is a direct credit program with infrastructure development with repayment of 3-10 years.

In addition, the legislation proposes some changes in these intermediate credit programs. The changes will provide the Secretary of Agriculture with the flexibility to set the repayment terms and the interest rate. Currently, the Secretary is required to set repayment terms over a 3- to 10-year period with interest rates that reflect those of short-term U.S. Treasury notes. It also provides the Secretary with the authority to establish an intermediate credit guarantee program. Under this provision, the CCC could guarantee a commercial loan which calls for repayment within 3 to 10 years. The Secretary would also be authorized to use CCC funds to buy-down the interest rates offered by the commercial lender.

The legislation also mandates the GAO to investigate our existing food aid programs. The study is to evaluate the needs of recipient countries relative to global food aid needs; the use to which recipients put the food aid once it is received; the nutritional and economic success of the programs; and the extent to which the ultimate consumer knows that the aid is coming from the United States and how this information could be provided more effectively.

Mr. Speaker, I urge my colleagues to join me in promoting our agricultural exports by cosponsoring this bill.●

FORMATION OF THE JERRY B. SMITH MEMORIAL SCHOLARSHIP

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. SUNDQUIST. Mr. Speaker, recently, the Jerry B. Smith Memorial Scholarship was organized by the people of McNairy County, Tenn., to honor a great teacher and coach, but more importantly, a trusted friend and confidant, for the tremendous impact he had on his community during his 15 years of teaching and coaching at Selmer High School. Colorful, inspiring, and caring are all words that have been used to describe his rich life. One longtime friend described Coach Smith as a "unique individual who gave more to his community (McNairy County) than most people will ever know or guess."

Coach Smith inspired his players with his genuine love for the game of basketball. He was known to carry on animated conversations with the spectators, opposing coaches, and referees during games at the same time he made witty remarks to his own team members. He paced the floor, rooted vigorously for his team, and even threw a towel on the floor in a moment of excitement from time to time, but all of this show stemmed from his genuine enthusiasm for his teams. He played to win and so he did.

On the court he proved his ability to lead his teams with an average of 25 winning games each session and 416 wins and only 78 losses during his career. Thirty of his team members received scholarships to colleges and 17 made the All-State teams. Every starter on the 1951 and 1952 teams and some of the substitutes received college scholarships.

Jerry Smith's enthusiasm for the game was, however, only part of the inspiration he provided for his teams. As a coach, a teacher, and a friend, Coach Smith cared about the people around him. His understanding of the game was extraordinary, yet his commitment to his student and teams and ability to motivate and understand people went far beyond the call of duty. He drove far into rural areas to pick up and take home players at all hours. He earned their confidence, became personally involved with each one's academic and personal development, and stayed in touch long after they graduated. Coach Smith benched several key players before important games because he said he would rather lose a game and teach a lesson of character than have a victory without character.

During his 15 years of coaching, he received a $500 per year coaching supplement to his salary. He never asked for, nor received, an increase. McNairy County was his home and the students there were "his kids;" that was enough for Coach Smith. His philosophy is embodied in a quote with which he began every game: "For when the One Great Scorer comes to write against your name, He writes, not that you won or lost, but how you played the game." It is by this motto that the friends of Coach Jerry Smith, who have begun the memorial scholarship in his honor, hope to teach future generations of this county to live.

Mr. Speaker, I would like to commend the friends of Coach Smith who have formed this scholarship at Union University in Jackson, Tenn., Jerry Smith's alma mater. The scholarship sets high standards for students, teachers, coaches, and team sport players. The people of the Seventh District are truly fortunate to have the fine example of Jerry Smith to follow.●

ELECTION FORECASTING

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. GRADISON. Mr. Speaker, it is argued that early reporting of and predictions from early election results influence voter turnout and election outcomes. Consequently, there is a call for curbs—voluntary or otherwise.

Those who press this issue present a weak argument. They lack convincing evidence of an effect—let alone a negative one—on voter turnout and election results. By failing to recognize the full range of voting impacts, their view is myopic. By ignoring or dismissing the loss of the right to know attendant to their proposals, their proposals threaten our political freedom.

In 1980, the television networks "called" the Presidential election well before west coast polls closed. Conventional wisdom holds that this led to a drop in voting turnout in the West which, in turn, changed the outcome of some non-Presidential races.

There are deficiencies with this line of thought. Even if the alleged results—lower turnout and changed outcomes—are true, it seems as likely that they stemmed no less from President Carter's newsworthy, albeit premature, concession. Furthermore, at the time the media called the Presidential race, the race's outcome was hardly in doubt, which, by the way, typifies the conservatism, if not restraint, generally employed in such predictions.

Moreover, the evidence disputes the conventional wisdom. In fact, in 1980, voter turnout dropped on both coasts, and the drop was greater in the East.

The latest point of departure seems to center on the assumption that people are discouraged from voting by early predictions based on early vote counts. At best, this is a one-sided argument, for if voters are discouraged by some predictions, it would seem that predictions might also increase voter turnout—say, from predictions of a photo finish.

Nearly everyone agrees that an outright restriction on early reporting and predictions would violate the first amendment, and so serious attention has focused on voluntary media compliance. But a voluntary approach would only work if all media outlets cooperated. Yet a glance at the number of independent media outlets, the major networks, cable, radio, independent newsgathering entities such as UPI and AP, makes it clear that voluntary compliance would not likely work, even in the face of congressional intimidation and ridicule.

We could enact a law that would delay all ballot counting until after all polls have closed. Notwithstanding its apparent lack of political support, this proposal could not prevent the real bugaboo—predictions. When all is said and done, it is predictions that offend, not that some election returns are known while some polling places remain open. And predictions constitute legitimate news, worthy of dissemination, regardless of when they are made. Predictions extrapolated from early voter returns are little different than predictions drawn from exist polls, which in turn, are little different than predictions from conventional polling. Where to draw the line? More importantly, why draw the line?

Even if there were credible evidence of an adverse effect from early reporting and predicting, remedial action is unjustified. Intentional or not, lots of things influence voter turnout and election outcomes. Most are perfectly legal—and cherished—in a free and open society. No doubt, some result in higher voter turnout, some lower.

Public policy should encourage rather than simply not discourage, voter turnout. But much more is at stake here than influencing voter turnout, however important that may be. Notwithstanding the likelihood that early predictions may influence turnout either way, any restrictions on predictions constitute a raid on political rights which must be rejected if we cherish freedom.

Free people have the right to know. It is not for government, through public policy, to pass judgment on the veracity of information, however and whenever determined. That is for free people to determine. That is what freedom is about.●

TRIBUTE TO STEFANIA AUSKALNIS

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. HARRISON. Mr. Speaker, on February 24 1984, the city of Pittston paid tribute to one of its most prominent residents—Stefania Auskalnis celebrated her 96th birthday on February 21.

Ms. Auskalnis was born in Lithuania in 1888. She journeyed to America at the age of 17, where she has lived and worked all her life. In fact, she continued working until she reached the age of 70.

Longevity has been a blessing not only to Stefania but also to her family. Her father reached the age of 113 and her grandfather to age 115.

Mr. Speaker, I would like to join with all the residents of the Pittston, Pa., area, and more specifically the Anthracite Apartments, in paying tribute to this most distinguished citizen.●

TONY GAGLIOTI: 1984 MAN OF THE YEAR

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. TORRICELLI. Mr. Speaker, I rise today to honor a good friend and community leader, Anthony Gaglioti of Maywood, N.J. As the first national vice president of UNICO, Tony Gaglioti has personified that organization's motto, "Service Above Self." For his lifelong devotion to charity and public service, he has been named 1984's Man of the Year by the Palisades Park Chapter and will be inducted as UNICO's national president this summer.

I am proud to know Tony Gaglioti, not only as a constituent, but as a fellow public servant. He has given of all of his skill and resources for the betterment of our quality of life. He represents the best of the American spirit—the mutual understanding and caring of varied peoples. In his unselfish work for others, Tony Gaglioti has preserved the proud heritage of his own people while improving the future for all our children.

The citizens of Bergen County have all learned to admire the never ending commitment of Tony Gaglioti. I am confident that as UNICO president, he will set a high standard of public concern and service for all Americans.●

DORA ALLEMAND, BRISBANE'S CONGRESSIONAL PUBLIC SERVICE AWARD RECIPIENT FOR 1984

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. LANTOS. Mr. Speaker, volunteers are the very backbone of American society, and have played an increasingly important role in our democratic system for over 200 years.

As a gesture of my personal respect and appreciation for the tens of thousands of volunteers in my district who quietly and unselfishly contribute countless hours to worthy causes, I have established the public service awards program for the 11th Congressional District of California. The purpose of this new program is to recognize all volunteers through singling out one special individual in each of the communities in my district whose public service has been outstanding. The recipients will be chosen by a select advisory committee of respected residents and leaders from each community who will seek out individuals who have performed acts of significant kindness, particularly concentrating on those who have not received much public recognition.

I am delighted to share with my colleagues today the name and accomplishments of our first award winner. The Congressional Public Service Advisory Committee for the city of Brisbane has chosen Mrs. Dora Allemand, a resident of that city for almost 50 years.

Although Mrs. Allemand and her husband have raised four wonderful children, she has always been able to find time to volunteer her help to those who needed it. She began as an active leading member of the PTA many years ago, and has continued that service through the years. Currently she serves as Brisbane's official senior citizen representative. In this capacity she has organized the seniors into a very close-knit group. Mrs. Allemand regularly organizes trips to various performances and points of interest, including the circus, the Ice Follies and other recreational activities. She also arranges transportation for seniors to doctor's appointments, social events and weekly senior meetings. Often she goes out of her way to see to it that everyone in her flock has a warm meal and necessary clothing, many times at her own expense.

For most this would be a more than sufficient volunteer public service, but Mrs. Allemand also donates her time and talents to Brisbane's Garden Club and the Friends of the Library, where she helps children with arts and crafts and other educational projects.

I commend the members of the Brisbane Public Service Advisory Committee for their excellent choice in naming Mrs. Dora Allemand as the 1984 Congressional Public Service Award winner. There can be no nobler gift than service and love. Mrs. Allemand magnificently exemplifies affectionate concern for the well-being of others.

May her influence and inspiration move many others of us to action and may her example be a pattern that will be emulated by many in our society.●

CHARLES ZEMEL TO CELEBRATE 100TH BIRTHDAY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. SCHUMER. Mr. Speaker, on March 4, 1984, Charles Zemel celebrates his 100th birthday. Charles Zemel's century of life has been one that exemplifies the American experience, and I would like to congratulate him on the occasion of his joyous landmark.

The son of a Newark, N.J., dairy farmer, Charles Zemel has spent most of his life in Newark. Mr. Zemel was forced to leave school after the fifth grade to help support his family. Despite a lack of formal education, he has achieved much success in the business world. He began by selling salt, charcoal, and wood and later established a successful real estate business. Indeed, he has owned a large amount of property in Newark, including the Laurel Gardens.

Not only has Mr. Zemel had a successful business career, he has also been an active member of the Masonic Lodge. In addition, Mr. Zemel has been active in the Democratic Party in Newark.

Mr. Zemel currently resides in Miami Beach, Fla., where he is still active in the real estate business. He has 8 children, 26 grandchildren and 17 great-grandchildren. I would like to congratulate Mr. Zemel on reaching this landmark, and I wish him the best on this joyous occasion.●

NCR CORP.'S CENTENNIAL

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. McEWEN. Mr. Speaker, 100 years ago, Mr. John Henry Patterson, recognizing the importance of the cash register which had been invented in 1879, established the National Cash Register Co. in Dayton, Ohio.

This spring, NCR Corp. will pay tribute to John Patterson's ingenuity and enterprise with a grand centennial celebration.

The story of NCR Corp. is a story of opportunity in America. From a small company in Dayton selling cash registers, NCR has grown to a world business leader, manufacturing computers, banking machines, and retail terminals. Today, NCR Corp. provides jobs to 60,000 men and women around the world.

As part of its spring centennial celebration, NCR Corp. is not forgetting the young minds which have helped it to flourish. One hundred scholarships of $3,000 and an NCR personal computer will be given to graduating high school seniors nationwide, two in each State.

The success of NCR Corp. is a tribute to the freedom and opportunity available in our Nation. The city of Dayton, the State of Ohio and all of the United States can be proud of its achievements.●

TRIBUTE TO RON LUDINGTON

HON. THOMAS R. CARPER

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. CARPER. Mr. Speaker, it is an honor today to rise in recognition of a Delawarean who has made an extraordinary and enduring contribution to the world of sports and to the American public.

Balletic grace and artistry are not often qualities that Americans associate with our athletes—yet it is precisely that kind of estheticism that coach Ron Ludington infuses in the Olympic ice skaters who train under his tutelage at the Skating Club of Wilmington, Del.

No fewer than eight of the Olympians who skated in the recent winter games in Sarajevo train under Mr. Ludington in Wilmington. Indeed, Mr. Ludington's phenomenal record of success—in 24 years of coaching he has trained 32 national champions in ice dancing and "pairs" competition—has turned Wilmington into a mecca for young skaters with Olympic dreams. Kitty and Peter Carruthers, for example, left their Massachusetts home 6 years ago to train under Mr. Ludington's watchful eye. This same commitment to discipline and achieving perfection on the ice inspires Mr. Ludington's other skaters.

But it is more than just discipline and mental toughness that coach Ludington imparts to his skaters. Mr. Ludington's Olympians skate with a gentleness and sophistication—a joi de vivre—that can only be described as art.

Following Kitty and Peter Carruthers' silver medal performance in Sarajevo, William McPherson of the Washington Post wrote, "Kitty and Peter looked as if they were having the time of their lives, as if what they were doing were fun, as if those graceful arabesques and leaps and spins were easy, something that any one of us might be able to do with a little practice and a little time. Which is, of course, exactly the point. That's how it's supposed to look. That's how we're supposed to feel * * * In those few moments on the ice Peter and Kitty Carruthers were totally in their element. The great thing is that they brought us with them."

In addition to Peter and Kitty, three other pairs from the Skating Club of Wilmington competed in Yugoslavia: Carol Fox and Richard Dalley; LeaAnn Miller and Bill Fauver; and Lisa Spitz and Scott Gregory. All represented their country and adopted State with style and distinction.

And Mr. Speaker, I would be remiss if I failed to mention that two other gifted young Delawareans also competed in the winter games: Tom Barnes of Dover in the four-man bobsled competition; and Frank Masley of Newark in the luge competition. Mr. Masley, in fact, had the honor of carrying the American flag during the opening ceremonies in Sarajevo—a distinction that made every Delawarean proud.

Delawareans are also proud of the fact that Coach Ron Ludington has been a full-fledged member of the "First State" for the past 14 years. We are proud, not only of his coaching record, but because of the bronze medal he won in pairs competition at the Squaw Valley Olympics.

In brief, Mr. Speaker, Delawareans are delighted to have such an acknowledged artist and teacher in our community. He may have grown up in Boston—but he is a Delawarean now. On behalf of the U.S. Congress, I warmly congratulate him—and wish him nothing but success for the future.●

SHUSTER INTRODUCES NATIONAL AIRPORT TRAFFIC REDUCTION BILL

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. SHUSTER. Mr. Speaker, today I have introduced legislation that would limit the number of flights into Washington National Airport. On February 17, 1984, I personally witnessed an horrendous overcrowding problem at National when three flights landed within minutes around 8:30 p.m. and had to use the same baggage area. Several hundred irate passengers had to wait nearly 2 hours to retrieve their baggage.

I have heard several similar complaints, and this is an obvious indication that National Airport is over-utilized and the situation must be remedied. Therefore, my bill would reduce the 1,000-mile perimeter for nonstop flights into and out of National Airport to 600 miles. The clear signal to the airlines must be that National Airport is a 1950's structure carrying the capacity of the 1980's. Now is the time to start a phase-down of operations at National Airport and I urge my colleagues to support this effort.●

YEAR OF THE SECRETARY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. MAZZOLI. Mr. Speaker, today I added my name as a cosponsor of House Joint Resolution 479, a resolution designating 1984 as the Year of the Secretary.

Mr. Speaker, it is fitting that we honor the men and women in this important, ever-expanding profession and call attention to their valuable contributions to American business, government, and the economy.

There is no question in my mind that very few offices could function smoothly without the organizational talents of secretaries, administrative assistants, and executive assistants.

But, the contributions of these professionals—who comprise a significant portion of our work force—go way beyond their organizational and managerial abilities.

These days the information explosion has transformed the way the public and private sectors in America conduct business. And, it is these highly skilled professionals who have been able to adapt to all the space-age technology which has found its way into every office of any size today.

When I came to Congress in 1971 about all we had electronic or high-tech in the place were the telephones and the electric typewriters. As you well know, we have come a long way since then, Mr. Speaker. Now we have telecopiers, automatic pens, and now a full-fledged computer system is almost a must to keep up with the accelerating pace and volume of mail and information we must deal with just to conduct our day-to-day operations.

I am sure many of my colleagues share my respect and appreciation for the men and women in the professional secretarial corps in offices here on the Hill and all across the Nation. I hope all Members will cosponsor House Joint Resolution 479 so it can be adopted in prompt fashion.●

THE 100TH ANNIVERSARY OF THE SISTERS OF ST. JOSEPH OF PEACE

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. TORRICELLI. Mr. Speaker, I rise today to recognize and honor the 100th anniversary of the Sisters of St. Joseph of Peace. In their century-long journey from the Irish potato famine of 1879 to the peace movement of the late 20th century, the Sisters of St. Joseph have converted the word of God into action. I am proud to join the Sisters in celebrating their century of faith and service.

Whether it be the fate of the Nation or just a handful of the poor or disadvantaged, the Sisters of St. Joseph have acted to improve the lot of all people. The words of Sister Mary Francis Clare, the founder of the order, remain alive in the deeds of her followers:

> We are privileged to use our speech for the benefit of others—to console the afflicted, to teach the ignorant, to give counsel to the troubled, and above all to praise and glorify him who has given us the power of utterance.

The home of the Sisters of St. Joseph has also remained for 100 years. Today, the two cottages purchased by Mother Clare atop the Palisades of Englewood Cliffs, N.J., have grown into a college, administrative offices, home for hundreds of Sisters and a place for retired and infirmed Sisters. The ministry of the Sisters of St. Joseph has also expanded to hospitals, special health centers, and schools throughout northern New Jersey.

The faith and conviction of the Sisters is a call to all citizens of the world to action and understanding. For a century, the Sisters have challenged the trends of history and society in a search for peace on Earth. They have faced the challenges of repression, violence, and infirmity with a prophetic vision of a brighter world. After 100 years of service to humanity and God, the Sisters of St. Joseph are still working for a better future.●

THE DECISION IN GROVE CITY AGAINST BELL

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. WEISS. Mr. Speaker, the Supreme Court has dealt a severe blow to the civil rights of women and minorities. Yesterday, the Court ruled that title IX, prohibiting sex discrimination by education institutions, is limited to programs or activities receiving Federal funds. This narrow interpretation flies in the face of congressional intent and program history. Recently, this House overwhelmingly reaffirmed its commitment to a comprehensive interpretation of title IX. Since its enactment, every administration except the Reagan administration, has enforced title IX on an institution-wide basis.

The Supreme Court decision sets a dangerous precedent for the future of other civil rights programs. It marks a dark day in the history of the civil rights movement. I urge my colleagues to support legislation to reverse this ruling.●

TRIBUTE TO ROBERT M. MANDAK, JR.

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. HARRISON. Mr. Speaker, on March 18, 1984, an outstanding young man from Hazleton, Pa., will be awarded the highest distinction in Boy Scouts.

Robert M. Mandak, Jr., will receive the "Eagle Scout Court of Honor" at a ceremony to be held in his honor. Robert is a member of Troop 606, Diamond United Methodist Church. This represents an outstanding achievement and one in which all of us can take justifiable pride.

We all know that the youth of today represent the leaders of tomorrow, and in this case, Robert is so duly honored.

Mr. Speaker, I join with Robert's family and friends in paying tribute to this outstanding young person.●

AMERICAN HEART MONTH, 1984

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. MOORE. Mr. Speaker, educating the American people on the causes, prevention and cures for heart disease is an ongoing process. So every February since 1963 has been designated by the President and the Congress as American Heart Month. Because many Members have been in their districts for the better part of this month, I want to remind my colleages of the importance of this month by including for the RECORD the Presidential proclamation for American Heart Month.

> Diseases of the heart and blood vessels are among the Nation's most important health problems. This year one and one-half million Americans will suffer a heart attack, and nearly one million people will die from diseases of the heart. The economic drain on our resources in the form of direct medical costs and lost wages and production will exceed $60 billion.
>
> Since 1948, the United States Public Health Service and a private voluntary organization, the American Heart Association, have joined in a concerted effort to combat cardiovascular diseases. These organizations have channeled their efforts and resources to reduce heart disease through such measures as prevention, diagnosis, and treatment; training of new research workers and clinicians; support for community service programs; and public education.
>
> It is gratifying to note that mortality rates for heart disease and stroke are declining. Deaths from coronary heart disease have declined by more than 25 percent since 1972, while those from stroke have decreased by more than 40 percent. In large part, this favorable trend is the result of more Americans being aware of the personal risk factors for heart disease and adopting healthier life styles by changing their habits in such critical areas as smoking, cholesterol intake, exercise, and in controlling high blood pressure.
>
> At the same time, science and medicine have made great strides in the past few years in technology to diagnose and treat diseases of the heart and blood vessels. The dedicated scientists and clinicians who labor to uncover the hidden causes of heart disease also deserve recognition. Lifesaving technology now in the hands of physicians has brought about more certain diagnoses of these diseases as well as the means to treat heart conditions that in the near past were considered beyond effective treatment.
>
> Recognizing the need for all Americans to help in the continuing battle against cardiovascular disease, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b), has requested the President to issue annually a proclamation designating February as American Heart Month.
>
> Now, therefore, I, Ronald Reagan, President of the United States of America, do hereby proclaim the month of February, 1984, as American Heart Month. I invite the Governors of the States, the appropriate officials of all other areas subject to the jurisdiction of the United States and the American people to join with me in reaffirming our commitment to the search for new ways to prevent, detect, and control cardiovascular disease in all of its forms.
>
> In witness whereof, I have hereunto set my hand this 14th day of Dec., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.●

SERVING THE PEOPLE OF LIPSCOMB, ALA.

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. ERDREICH. Mr. Speaker, so often on the floor of the House of Representatives we focus on pressing national or international issues of the day that confront us as a Nation. Too frequently we fail to recognize those people who quietly, yet competently, go about their job of making their local community a safe and secure place for residents to live and work.

W. L. Smith, who has served for 27 years as chief of police for the people of Lipscomb, Ala., is such a person. Chief Smith, who was a member of my Sixth District Crime Advisory Council, served his community faithfully and tirelessly, and his participation in efforts to join Federal and local governments in our nationwide fight against the spread of crime was indicative of his interest in a concern for the well-being of the people he served.

Crime in Alabama and across the Nation ranks as one of the top concerns of our citizens. It is extremely helpful to me to receive advice and counsel from a law enforcement officer like Chief Smith who has dedicated so many years to assuring the safety of the people within his jurisdiction.

I would like to extend my congratulations and thanks for his untiring and selfless years of service, and my hope for continued years of good health and success as he moves on to become an investigator in the Bessemer district attorney's office.●

TRIBUTE TO MICHAEL GARSON

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to commend and congratulate Michael Garson for his outstanding community service in my district. Mr. Garson was recently honored by the Harry S. Truman Democratic Club, also in my district. Community action and service are critical to the betterment of our cities, and Mike is certainly an outstanding example of how people involved in such service can have a positive impact on those around them.

In addition to serving as a Democratic State committeeman and as a Democratic leader of the 41st assembly district, Mike is a member of the New York State and Brooklyn Bar Associations, the International Legal Fraternity Phi Delta Phi, B'nai B'rith Sheepshead Lodge, Congregation Beth Shalom of Speepshead Bay, and the Jewish War Veterans No. 335, Cohen-Eisenman Post. He also serves with distinction on the board of directors of the Kings Bay YMHA-YWHA. He was honored in 1982 by the Kings County Young Democrats and is listed in Who's Who in the East. Mike lives in the Madison Section of Brooklyn with his wife, Laurie, and his daughter, Francesca.

I thank Mike for his continued community service and wish him success in his efforts to make Brooklyn a better place in which to live. I sincerely hope that we will continue to work together for many years to come.●

THE PAVEL ABRAMOVICH FAMILY

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. BEILENSON. Mr. Speaker, I would like to take a few moments to draw my colleagues' attention to the continuing plight of Soviet Jewish refuseniks and, in particular, to the case of the Pavel Abramovich family.

The Abramovich family first applied for permission to emigrate to Israel in February of 1971. Their application was denied later that year on the grounds that Mr. Abramovich had "access to secret information." Subsequently, he was fired from his job as an electronics engineer.

Pavel Abramovich is a Hebrew instructor, who has been threatened with arrest and imprisonment by the Soviet Government as a result of his teaching activities. As a long-time activist in the Moscow refusenik community, Abramovich has also sent appeals to numerous Soviet officials and international human rights organizations, and he has been arrested on several occasions for demonstrating in protest of his continued denials.

It is my strong belief that by granting the Abramovich family permission to emigrate, the Soviet Union would not only indicate to the world its willingness to comply with the Helsinki accords, but would also affirm its desire to improve relations between our Nation and the U.S.S.R. This action would be particularly significant coming at the beginning of Secretary Chernenko's administration and would serve as an affirmation of his government's commitment to human rights.

I fervently hope that Secretary Chernenko will seek to reverse the drastic decline in Soviet Jewish emigration which has taken place in the last few years.●

CALLS FOR VOLUNTARY 1-YEAR FREEZE ON DOCTOR FEES

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. MARKEY. Mr. Speaker, today I am introducing a concurrent resolution with Congressmen MICKEY LELAND and PETER RODINO that calls for a voluntary national 1-year freeze on doctors' fees and a reduction in fees for the unemployed, elderly, and uninsured. This legislation is one method of attempting to contain rising health care costs.

Medical care costs have risen dramatically over the past 10 years. From 1973 to 1983, the Consumer Price Index rose 124.2 percent compared to a 156.2 percent in medical care, a 148.5 percent rise in physician fees, and an amazing 233.8 percent rise in the costs of hospital rooms. Americans are also spending proportionally more on medical care.

Last year, health care costs soared to more than $322 billion, or about 10.5 percent of the gross national product. In 1973, health care expenditure was 7.8 percent of total gross national product.

This resolution calls upon physicians in all fields to help slow this detrimental cost increase by voluntarily adopting a 1-year freeze on the amount they charge for their services. Many of Americans have found themselves in economic hardship because of their inability to pay these soaring costs.

We must control the costs of health care while still maintaining the quality of health care services. While our Nation has the greatest medical technology in the world, quality care is out of the economic reach of many Americans. Because of this, many citizens live in fear of sickness because health care costs are staggering.

Every American has a right to quality health care. Without containing these costs, along with adjusting the medicare program, I fear that medicare will be bankrupt by 1990. We may find ourselves with a health care system that is more than money can buy if we do not find a way to curb these rising costs.

Expenditures for physician services represent 19.2 percent of all expenditures for health care. If physicians restrain their fees, then we can begin to restrain costs. If doctors change their practice and show leadership in containing costs, their efforts will have great impact. Although doctors hold only 19 percent of the expenditure, they exercise direct control over more than 60 percent control of the national health care expense through physician fees, diagnostic tests they request, the length of hospital stays ordered for their patients, and so forth. Some members of the medical community may consider a 1-year freeze to be a sacrifice, but I strongly believe that such an act would be in the best interest of the American people and the future of the medical profession.

This resolution is not intended to limit the scope of restraining costs, but is to be considered along with the medicare freeze and mandatory assignment, and other cost containment legislation. Only by containing multiple facets of the health care industry will we be able to curb rising health care costs. We must not let medical care become a luxury of the rich. To do that would break the promise of our Nation to give affordable health care to all.

I hope you will join me in sponsoring this important piece of legislation.●

MR. KENNETH BLEVINS

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 29, 1984

● Mr. WILLIAMS of Montana. Mr. Speaker, I am pleased to recognize a man who has worked for more than a quarter of a century to build a company which exemplifies the entrepreneurial spirit of a small, independent business. Kenneth A. Blevins of Missoula, Mont., has, through his achievements and creativity, greatly benefited this western Montana city, which lies near the center of western Montana.

While a teaching assistant at the University of Montana, Mr. Blevins needed a particular surface on which to write and type. Unable to find a table to suit he needs, Mr. Blevins designed one that became popular with his friends and associates. Soon, he began building and selling the typing table. Later, he designed a sewing machine table which became very popular.

From a need sprang an idea that has grown from a one man operation in a small store front to a nationally recognized business in sewing machine and office furniture. Today, the company Mr. Blevins founded 26 years ago has grown to include operations in both Montana and Wisconsin.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, March 1, 1984, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 2

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold oversight hearings to review the process of recovering oil by mining.
SD-366

Judiciary
Constitution Subcommittee
To hold hearings to discuss legislative veto issues.
SD-226

Special on Aging
To hold hearings to review energy problems of the aged, focusing on strategies for improvements in the Federal weatherization program.
SD-628

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the U.S. Representative to the United Nations, and for voluntary contributions to International Organizations and programs.
SD-192

Judiciary
To continue hearings on the nomination of Edwin Meese III, of California, to be Attorney General.
SD-106

10:30 a.m.
*Environment and Public Works
To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the Environmental Protection Agency.
SD-406

2:00 p.m.
Finance
Economic Growth, Employment and Revenue Sharing Subcommittee
To hold hearings on S. 2185, to extend through fiscal year 1989 the credit provisions of the targeted jobs tax credit, which focuses tax incentives for employment on specific target groups that are found to experience high unemployment rates.
SD-215

MARCH 5

8:30 a.m.
Armed Services
Strategic and Theater Nuclear Forces Subcommittee
To hold closed hearings on Soviet strategic force developments.
SR-222

9:30 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Commerce, Justice, State, the Judiciary, and certain related agencies.
S-146, Capitol

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 44, to provide for a uniform product liability law.
SR-253

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings to review proposed budget requests for fiscal year 1985 for environment and safety programs of the Department of Energy.
SD-366

2:00 p.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Committee for Purchase from the Blind, Federal Elections Commission, Merit Systems Protection Board, Office of Special Counsel, Federal Labor Relations Authority, U.S. Tax Court, Administrative Conference of the United States, and the Advisory Committee on Federal Pay.
SD-124

Finance
Energy and Agricultural Taxation Subcommittee
To hold joint hearings with the Subcommittee on Oversight of the Internal Revenue Service on S. 152 and S. 2180, bills to allow farmers an investment tax credit for soil and water conservation expenditures not treated as deductible expenses.
SD-215

Joint Library
To hold a general business meeting.
H-328, Capitol

MARCH 6

9:00 a.m.
Armed Services
Tactical Warfare Subcommittee
To hold closed hearings on proposed legislation authorizing funds for fiscal year 1985 for the Department of Defense, focusing on Army tactical programs.
SR-222

Judiciary
Constitution Subcommittee
To hold hearings on Senate Joint Resolution 5, and Senate Joint Resolution 22, resolutions proposing an amendment to the Constitution of the United States relating to Federal budget procedures.
SR-418

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institu-

tions and their holding companies and to revise certain Federal bank regulations.

SD-538

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the National Bureau of Standards.

SR-253

Judiciary
Juvenile Justice Subcommittee

To resume hearings on S. 2014, proposed Missing Children's Assistance Act, focusing on the reauthorization provisions for juvenile justice assistance.

SR-418

10:00 a.m.

Appropriations
Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on Navy programs.

SD-192

Appropriations
Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of State, focusing on International security assistance programs.

S-126, Capitol

Appropriations
Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Architectural and Transportation Barriers Compliance Board, and the Office of Inspector General, Department of Transportation.

SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Internal Revenue Service, Department of the Treasury, and the General Services Administration.

SD-124

Armed Services
Manpower and Personnel Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the Department of Defense, focusing on force structure requirements and capabilities.

SR-232A

Energy and Natural Resources
Public Lands and Reserved Water Subcommittee

To hold hearings on S. 1084, to designate portions of specified rivers as components of the National Wild and Scenic Rivers System, S. 413, to designate segments of the Illinois River and Owyhee River, both in Oregon, as components of the National Wild and Scenic Rivers System, S. 2095, to designate the Wildcat River, New Hampshire, for study as a National Wild and Scenic River, and S. 1756, to establish a Federal grant program, provide for the use of volunteers, and to authorize charitable contribution of land by private landowners for river conservation purposes.

SD-366

Environment and Public Works

Business meeting, to consider those items in the President's budget for fiscal year 1985 which fall within its legislative jurisdiction and consider recommendations which it will make thereon to the Budget Committee.

SD-406

To hold hearings on proposed legislation to facilitate the development of a secondary market in the Small Business Administration's guarantee loan program.

SR-428A

11:30 a.m.

Veterans' Affairs

To hold hearings to review the legislative priorities of the Veterans of Foreign Wars.

SD-106

1:00 p.m.

Agriculture, Nutrition, and Forestry
Soil and Water Conservation, Forestry, and Environment Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for conservation programs of the Department of Agriculture.

SR-328A

2:00 p.m.

Appropriations
Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Armed Services
Strategic and Theater Nuclear Forces Subcommittee

To hold open and closed hearings on proposed legislation authorizing funds for fiscal year 1985 for the Department of Defense, focusing on the ICBM modernization program.

SR-222

Commerce, Science, and Transportation

To hold hearings on the nominations of Sidney L. Jones, of Maryland, to be Under Secretary of Commerce for Economic Affairs, and Irving P. Margulies, of Maryland, to be General Counsel of the Department of Commerce.

SR-253

3:00 p.m.

Appropriations
Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for conservation programs of the Department of Energy.

SD-138

MARCH 7

9:00 a.m.

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Labor-Management Services Administration, Employment Standards Administration, and Bureau of Labor Statistics, all of the Department of Labor, and the Pension Benefit Guaranty Corporation.

SD-116

Appropriations
Legislative Branch Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of the Senate, Office of the Senate Sergeant At Arms, Congressional Budget Office, and Office of Technology Assessment.

S-128, Capitol

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

9:30 a.m.

Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Agricultural Research Service, Cooperative State Research Service, Extension Service, and the National Agricultural Library.

SD-192

Banking, Housing, and Urban Affairs

To Continue hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.

SD-538

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for fiscal years 1985 and 1986 for the U.S. Coast Guard.

SR-253

Judiciary
Criminal Law Subcommittee

To hold hearings on S. 555, to ban the manufacture and sale of ammunition that pierces body armor.

SD-226

10:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to mark up S. 2085, to extend authority through fiscal year 1988 for the Secretary of Agriculture to recover costs associated with cotton classing services to producers, H.R. 3960, to designate specified lands in North Carolina as wilderness and wilderness study areas as additions to the National Wilderness Preservation System, H.R. 4198, to designate certain lands in the State of Vermont for inclusion in the National Wilderness Preservation System, H.R. 3921 and S. 1851, bills to establish additional wilderness areas in the White Mountain National Forest in New Hampshire, and H.R. 3578 and S. 1610, bills to establish certain wilderness areas in Wisconsin.

SR-328A

Appropriations
Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the United States Railway Association, and Conrail.

SD-138

Energy and Natural Resources

Business meeting, on pending calendar business.

SD-366

Environment and Public Works

Business meeting, to mark up S. 768, to authorize funds through fiscal year

1987 for and to extend certain programs of the Clean Air Act (Public Law 95-95), and other pending calendar business.

SD-406

Judiciary

Courts Subcommittee

To hold hearings on S. 1156, to divide the Ninth Circuit Court of Appeals and create a Twelfth Circuit, comprising Alaska, Idaho, Montana, Oregon, and Washington.

SD-106

Labor and Human Resources

To resume hearings on proposed legislation authorizing funds for health programs administered by the Public Health Service, Department of Health and Human Services.

SD-430

Small Business

To hold hearings on S. 1920, to establish a Small Business Computer Crime and Security Task Force.

SR-428A

Veterans' Affairs

Business meeting, to mark up proposed legislation authorizing funds for fiscal year 1985 for the Veterans' Administration.

SR-418

1:30 p.m.

Finance

To hold hearings to review the Social Security Advisory Council's recommendations on medicare trust solvency.

SD-215

2:00 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of State, focusing on international narcotics control, migration and refugee assistance, and anti-terrorism programs.

S-126, Capitol

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Armed Services

Tactical Warfare Subcommittee

To hold closed hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on Marine Corps tactical programs.

SR-222

Foreign Relations

European Affairs Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for foreign assistance programs, focusing on regional security assistance.

SD-419

Judiciary

To hold hearings on pending nominations.

SD-226

2:30 p.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Board for International Broadcasting, Securities and Exchange Commission, Equal Employment Opportunity Commission, and the Civil Rights Commission.

S-146, Capitol

MARCH 8

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Indian Health Service, Department of Health and Human Services.

SD-138

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Occupational Safety and Health Administration, Mine Safety and Health Administration, and Departmental Management, all of the Department of Labor, and the President's Committee on Employment of the Handicapped.

SD-116

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1985 for the National Aeronautics and Space Administration.

SR-253

9:30 a.m.

Appropriations

Legislative Branch Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Government Printing Office, General Accounting Office, Library of Congress, and the Congressional Research Service.

S-128, Capitol

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

Business meeting, to resume markup of S. 2341, authorizing funds for fiscal years 1985 through 1989 for vocational education assistance programs.

SD-430

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed supplemental funds for fiscal year 1984 for the Department of Defense, and for assistance to Grenada.

SD-192

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs administered by the Agency for International Development.

S-126, Capitol

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Science and Technology Policy, Selective Service System, and the Consumer Product Safety Commission.

SD-124

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To hold hearings on H.R. 3169, to facilitate commerce by the domestic renewable energy industry and related service industries.

SD-366

Environment and Public Works

Toxic Substances and Environmental Oversight Subcommittee

To hold hearings on proposed legislation to extend the Safe Drinking Water Act (Public Law 95-190), and to further protect ground water supplies.

SD-406

Foreign Relations

Near Eastern and South Asian Affairs Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for foreign assistance programs, focusing on regional security assistance.

SD-419

2:00 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs administered by the Agency for International Development.

S-126, Capitol

MARCH 9

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the Federal Railroad Administration, Department of Transportation, and to review rail safety activities.

SR-253

Small Business

To hold hearings on S. 2084, to prohibit the Small Business Administration from denying financial assistance to a small business solely because its primary operation concerns the communication of ideas.

SR-428A

Joint Economic

To hold hearings on the employment/unemployment statistics for February.

SD-106

10:00 a.m.

Finance

Health Subcommittee

To hold hearings to review capital financing under the medicare program's existing provision for reasonable cost reimbursement.

SD-215

10:30 a.m.

Armed Services

Manpower and Personnel Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1985 for the Department of Defense, focusing and active duty and civilian manpower.

SR-232A

MARCH 12

9:30 a.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Commerce, and the International Trade Commission.

S-146, Capitol

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings to review proposed budget requests for fiscal year 1985 for fossil programs of the Department of Energy.
SD-366

2:00 p.m.
Armed Services
Tactical Warfare Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on Air Force tactical programs.
SR-222

2:30 p.m.
Finance
International Trade Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1985 for the U.S. International Trade Commission, U.S. Customs Service, and the Office of the U.S. Trade Representative.
SD-215

MARCH 13

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of Education, Departmental Management, salaries and expenses, Office of Civil Rights, and Office of Inspector General, all of the Department of Education.
SD-116

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 2161 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.
SD-538

Labor and Human Resources
Aging Subcommittee
To hold oversight hearings on the implementation of the Older Americans Act (Public Law 89-73), focusing on title V, community services employment provisions.
SD-430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on research and engineering programs.
SD-124

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Panama Canal Commission, and the St. Lawrence Seaway Development Commission, Department of Transportation.
SD-138

Environment and Public Works
Business meeting, to resume markup of S. 768, to authorize funds through fiscal year 1987 for, and extend certain programs of, the Clean Air Act (Public Law 95-95), and other pending calendar business.
SD-406

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 2300, to authorize civilian procuring agencies to enter into multiyear contracts when such contracts are determined to be in the Government's best interest.
SD-342

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for Multilateral Development Banks.
S-126, Capitol

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Surface Mining, Department of the Interior, and the U.S. Holocaust Memorial Council.
SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Postal Service, and the Office of Personnel Management.
SD-124

Armed Services
Tactical Warfare Subcommittee
To hold closed hearings to receive testimony on the Joint Surveillance and Target Acquisition Radar System (JSTARS), and on the Joint Tactical Missile System (JTACMS).
SR-222

MARCH 14

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Education, including elementary and secondary education, education block grants, and impact aid.
SD-116

Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Architect of the Capitol.
S-128, Capitol

Labor and Human Resources
To hold hearings on pending nominations.
SD-430

9:30 a.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Communications Commission, District of Columbia courts, and the U.S. courts of appeals.
S-146, Capitol

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Executive Office of the President, and the Advisory Commission on Intergovernmental Relations.
SD-124

Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold oversight hearings to review U.S. Coast Guard polar icebreaking operations.
SR-253

Environment and Public Works
Business meeting, to resume markup of S. 768, to authorize funds through fiscal year 1987 for, and extend programs of, the Clean Air Act (Public Law 95-95), and other pending calendar business.
SD-406

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on the Office of Management and Budget circular A122, to restore use of Federal funds for lobbying by contractors and grantees.
SD-342

Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for health programs administered by the Public Health Service, Department of Health and Human Services.
SD-430

2:00 p.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.
SD-192

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Inspector General, Agency for International Development, General Accounting Office, and the Inter-American Foundation.
S-126, Capitol

MARCH 15

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Education, including vocational and adult education, education for the handicapped, and rehabilitation services and handicapped research.

SD-116

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for local rail service assistance programs of the Department of Transportation.

SR-253

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense, focusing on spare parts procurement and acquisition management.

SD-192

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Fish and Wildlife Service, Department of the Interior.

SD-138

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Civil Aeronautics Board.

SD-124

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on restoring classroom discipline in public schools.

SD-430

2:00 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Export-Import Bank.

S-126, Capitol

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of the Treasury.

SD-124

MARCH 16

9:30 a.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold oversight hearings on proposed budget request for fiscal year 1985 for conservation and renewable energy programs of the Department of Energy.

SD-366

Finance

Taxation and Debt Management Subcommittee

To hold hearings on miscellaneous tax proposals, including S. 146, S. 1332, S. 1768, S. 1809, and S. 2080.

SD-215

MARCH 19

2:00 p.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the National Oceanic and Atmospheric Administration, Marine Mammal Commission, and the Small Business Administration.

S-146, Capitol

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Bureau of Government Financial Operations, Bureau of the Public Debt, Bureau of the Mint, and U.S. Savings Bonds Division, all of the Department of the Treasury.

SD-124

MARCH 20

9:00 a.m.

Apropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Education, including student financial assistance, student loan insurance, higher and continuing education, higher education facilities loan and insurance, college housing loans, and educational research and training activities overseas.

SD-116

9:30 a.m.

Environment and Public Works

Transportation Subcommittee

To resume oversight hearings on the implementation of the Surface Transportation Assistance Act (Public Law 97-424).

SD-406

Judiciary

Constitution Subcommittee

To resume hearings on Senate Joint Resolution 10, proposing an amendment to the Constitution of the United States relative to equal rights for women and men, focusing on the impact of the amendment on social security.

SD-226

Labor and Human Resources

Labor Subcommittee

To hold hearings on termination of overfunded defined benefit pension plan and reversion of assets to plan sponsors.

SD-430

Labor and Human Resources

Aging Subcommittee

To hold oversight hearings on the implementation of the Older Americans Act (Public Law 89-73).

SD-628

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense.

SD-192

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Peace Corps.

S-126, Capitol

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Council on Environmental Quality, and the Environmental Protection Agency.

SD-124

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Library Services and Construction Act.

SR-485

1:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for foreign assistance programs.

S-126, Capitol

2:00 p.m.

Appropriations

Interior and Related Agencies Subcomittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Navajo Hopi Relocation Commission, and the Institute of Museum Services.

SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of the Treasury, U.S. Postal Service, and general Government programs.

SD-124

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold oversight hearings to review proposed budget requests for fiscal year 1985 for energy research programs of the Department of Energy.

SD-366

MARCH 21

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Education, including special institutions, Howard University, the National Institute of Education, education statistics, bilingual education, and libraries.

SD-116

Commerce, Science, and Transportation

To hold hearings on the nomination of William Evans, of California, to be a member of the Marine Mammal Commission.

SR-253

Labor and Human Resources

To hold hearings on pending nominations.

SD-430

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holdings companies and to revise certain Federal bank regulations.
SD-538

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Highway Administration, and the Office of the Secretary of Transportation.
SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of Federal Procurement, Office of Management and Budget, and the U.S. Customs Service, U.S. Secret Service, Bureau of Alcohol, Tobacco, and Firearms, and the Federal Law Enforcement Training Center, all of the Department of the Treasury.
SD-124

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:30 a.m.
Rules and Administration
To hold hearings on S. 1676, to establish guidelines to assure that registration and polling place facilities used for Federal elections are readily accessible to handicapped and elderly individuals.
SR-301

2:00 p.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Soil Conservation Service, and the Agricultural Stabilization and Conservation Service.
SD-192

3:00 p.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Commodity Credit Corporation, Foreign Agricultural Service, Office of International Cooperation and Development, and the provisions of Public Law 480.
SD-192

MARCH 22

9:00 a.m.
Office of Technology Assessment
The Board to hold a general business meeting.
S-207, Capitol

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 1855, S. 1861, and S. 2292, bills to provide for continued access by the Federal Government to land remote sensing data from satellites (Landsat).
SR-253

Environment and Public Works
Transportation Subcommittee
To resume oversight hearings on the implementation of the Surface Transportation Assistance Act (Public Law 97-424).
SD-406

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Defense.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Veterans Administration.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Minerals Management Service, Department of the Interior, and the National Gallery of Art.
SD-138

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 2217, to exempt segments of the Interstate Highway System from the tandem trailer and large truck requirements of the Surface Transportation Assistance Act of 1982 if these segments are incapable of safely accommodating the larger vehicles.
SD-106

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings to review the educational needs of native Hawaiian children.
SD-430

Labor and Human Resources
Family and Human Services Subcommittee
To hold hearings on proposed legislation authorizing funds for Head Start programs.
SD-562

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold oversight hearings to review proposed budget requests for fiscal year 1985 for nuclear energy programs and nuclear waste activities of the Department of Energy.
SD-366

MARCH 23

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of Health and Human Services.
SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the National Transportation Safety Board.
SD-138

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on proposed legislation authorizing funds for adult education assistance.
SD-430

MARCH 27

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Health and Human Services, including the Health Resources and Services Administration, and the Office of the Assistant Secretary for Health.
SR-428A

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 2181 and S. 2134, bills to authorize and define the scope of powers for depository institutions and their holding companies and to revise certain Federal bank regulations.
SD-538

Commerce, Science, and Transportation
Business meeting, on pending calendar business.
SR-253

Labor and Human Resources
To hold oversight hearings on U.S. relations with the International Labor Organization.
SD-430

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-116

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Railroad Administration, Department of Transportation, and the National Railroad Passenger Corporation (AMTRAK).

SD-138

Environment and Public Works

Business meeting, to consider pending calendar business.

SD-406

2:00 p.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Farmers Home Administration, Department of Agriculture.

SD-124

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Bureau of Indian Affairs, Department of the Interior.

SD-138

MARCH 28

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Health and Human Services, including the Health Care Financing Administration, Social Security Administration, and refugee programs.

SD-116

Commerce, Science, and Transportation

To hold hearings with the National Ocean Policy Study on S. 2324, to insure that all Federal activities directly affecting a State's coastal zone will be fully consistent with that State's coastal management plan.

SD-253

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative priorities of AMVETS, Blinded Veterans Association, Paralyzed Veterans of America, Military Order of the Purple Heart, and Veterans of WWI.

SD-106

9:30 a.m.

Labor and Human Resources

Aging Subcommittee

Business meeting, to consider proposed legislation authorizing funds for fiscal years 1985, 1986 and 1987 for programs of the Older Americans Act (Public Law 89-73).

SD-430

10:00 a.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of State, and the U.S. Information Agency.

S-146, Capitol

MARCH 29

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings in closed session on proposed legislation authorizing funds for fiscal year 1985 for the National Aeronautics and Space Administration, to be followed by open hearings.

SR-253

Labor and Human Resources

Aging Subcommittee

Business meeting, to consider proposed legislation authorizing funds for fiscal years 1985, 1986, and 1987 for programs of the Older Americans Act (Public Law 89-73).

SD-430

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the National Aeronautics and Space Administration.

SD-124

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Office of the Secretary of the Interior, and the Bureau of Mines, Department of the Interior.

SD-138

Environment and Public Works

Business meeting, to consider pending calendar business.

SD-406

2:00 p.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Agriculture, focusing on the Federal Crop Insurance Corporation, and the Rural Electrification Administration.

SD-124

MARCH 30

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Health and Human Services, including Human Development Services.

SD-116

APRIL 2

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

APRIL 3

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the National Institutes of Health, Department of Health and Human Services.

SD-116

9:30 a.m.

Banking, Housing, and Urban Affairs

Securities Subcommittee

To hold hearings on S. 910 and H.R. 559, bills to permit the Securities and Exchange Commission to assess civil penalties for trading in securities while in possession of material nonpublic information.

SD-538

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Aviation Administration, Department of Transportation.

SD-138

Labor and Human Resources

Alcoholism and Drug Abuse Subcommittee

To hold hearings on proposed legislation authorizing funds for the National Institute on Drug Abuse, and the National Institute on Alcohol Abuse and Alcoholism.

SD-430

Labor and Human Resources

Family and Human Services Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on Title X (Family Planning).

SD-562

2:00 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the National Park Service, Department of the Interior.

SD-138

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

APRIL 4

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1985 for the National Institutes of Health, Department of Health and Human Services.

SD-116

9:30 a.m.

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Bureau of Investigation, Department of Justice, the Federal Trade Commission, and the Office of U.S. Trade Representative.

S-146, Capitol

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Interstate Commerce Commission.

SD-138

Veterans' Affairs

To hold hearings to review veteran's health programs.

SR-418

2:00 p.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 the Food and Drug Administration, Department of Health and Human Services, and the Commodity Futures Trading Commission.

SD-124

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

APRIL 5

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Health and Human Services, including the Centers for Disease Control, and the Alcohol, Drug Abuse and Mental Health Administration.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Neighborhood Reinvestment Corporation, National Credit Union Administration, and Office of Revenue Sharing (New York City loan program), Department of the Treasury.

SD-124

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the National Endowment for the Humanities, and the Economic Regulatory Administration, Department of Energy.

SD-138

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

Labor and Human Resources

Family and Human Services Subcommittee

Business meeting, to consider proposed legislation authorizing funds for low-income energy assistance and Head Start programs.

SD-430

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for energy and water development programs.

SD-192

APRIL 6

9:30 a.m.

Finance

International Trade Subcommittee

To hold hearings on S. 50 and S. 1672, bills to streamline trade relief procedures and make trade relief more accessible to small businesses.

SD-215

APRIL 9

10:00 a.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings on S. 1278, to provide for a program of megnetohydrodynamic research, development, and demonstration with respect to the production of electricity, and S. 1925, to establish a national coal science, technology, and engineering program within the Department of Energy.

SD-366

APRIL 10

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for programs of the Department of Health and Human Services, including the Office of Inspector General, Office for Civil Rights, Policy Research, and Departmental Management, Salaries and Expenses.

SD-116

10:00 a.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Coast Guard.

SD-138

2:00 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for fossil energy research and development programs of the Department of Energy.

SD-138

APRIL 11

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.

SD-116

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

10:00 a.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Urban Mass Transportation Administration, Department of Transportation.

SD-138

Labor and Human Resources

To resume oversight hearings on certain activities of the Legal Services Corporation, focusing on past and present policies at the corporation, including political activity.

SD-430

APRIL 12

9:00 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1985 for the Federal Emergency Management Agency, and the Federal Home Loan Bank Board.

SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Strategic Petroleum Reserve, and the Naval Petroleum Reserves.
SD-138

APRIL 24

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

10:00 a.m.
Labor and Human Resources
Family and Human Services Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on title XX (adolescent family life demonstration projects).
SD-430

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Geological Survey, Department of the Interior.
SD-138

APRIL 25

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

APRIL 26

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Housing and Urban Development.
SD-124

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Smithsonian Institution.
SD-138

Labor and Human Resources
Family and Human Services Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on title XX (Adolescent Family Life Demonstration Projects).
SD-430

APRIL 30

2:00 p.m.
Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the U.S. Supreme Court, and the Arms Control and Disarmament Agency.
S-146, Capitol

MAY 1

9:00 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Departments of Labor, Health and Human Services, Education, and certain related agencies.
SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Transportation and certain related agencies.
SD-138

Labor and Human Resources
Family and Human Services Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on title X (Family Planning).
SD-430

2:00 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the National Park Service, Department of the Interior.
SD-138

MAY 2

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Transportation and certain related agencies.
SD-138

Veterans' Affairs
Business meeting, to mark up proposed legislation authorizing funds for veterans' health benefit programs.
SR-418

MAY 3

10:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for U.S. territories.
SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for the Department of Transportation and certain related agencies.
SD-124

Labor and Human Resources
Family and Human Services Subcommittee
To resume hearings on proposed legislation authorizing funds for programs of the Public Health Service Act, focusing on title X: Family Planning.
SD-430

MAY 7

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for certain programs of the Department of Housing and Urban Development and related agencies.
SD-124

MAY 8

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1985 for certain programs of the Department of Housing and Urban Development and related agencies.
SD-124

Labor and Human Resources
Family and Human Services Subcommittee
Business meeting, to consider proposed legislation authorizing funds for programs of the Public Health Service Act, including Title X: Family Planning, and Title XX: Adolescent Family Life Act.
SD-430

MAY 9

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

Veterans' Affairs
To hold hearing on veterans' compensation programs.
SD-418

MAY 15

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2329, to improve retirement income security under pri-

vate multiemployer pension plans and to remove unnecessary barriers to employer participation in those plans by modifying the rules relating to employer withdrawal liability, asset sales, and funding.

SD-430

MAY 17

9:30 a.m.

Labor and Human Resources

Labor Subcommittee

To resume hearings on S. 2329, to improve retirement income security under private multiemployer pension plans and to remove unnecessary barriers to employer participation in those plans by modifying the rules relating to employer withdrawal liability, asset sales, and funding.

SD-430

MAY 22

9:30 a.m.

Labor and Human Resources

To hold oversight hearings on alleged corruption by officials of the Boilermaker's Union.

SD-430

MAY 23

10:00 a.m.

Veterans' Affairs

To hold oversight hearings on the interagency agreement between the Veterans' Administration and the Department of Defense, focusing on sharing and supply and procurement policies.

SR-418

JUNE 13

10:00 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

JUNE 19

9:30 a.m.

Labor and Human Resources

To hold oversight hearings on the civil rights of victims in labor disputes, focusing on existing agencies ability to protect rank and file employees and the general public during labor disputes.

SD-430

JUNE 20

9:30 a.m.

Labor and Human Resources

To continue oversight hearings on the civil rights of victims in labor disputes, focusing on existing agencies ability to protect rank and file employees and the general public during labor disputes.

SD-430

CANCELLATIONS

MARCH 5

10:00 a.m.

Environment and Public Works

Regional and Community Development Subcommittee

To hold oversight hearings to review the cost of Tennessee Valley Authority power purchased by the Department of Energy.

SD-406

MARCH 6

9:30 a.m.

Governmental Affairs

Information Management and Regulatory Affairs Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal years 1985 through 1989 to carry out the provisions of the Paperwork Reduction Act, Public Law 96-511, to reduce Federal paperwork requirements and duplications, and consolidate statistical policy activities with information management in the Office of Management and Budget.

SD-342

Labor and Human Resources

Labor Subcommittee

To hold oversight hearings on the implementation of the Taft-Hartley Act.

SD-430

HOUSE OF REPRESENTATIVES—*Thursday, March 1, 1984*

The House met at 11 a.m.

The **SPEAKER**. Today we have a guest chaplain, the Reverend Dr. Edward G. Latch, the former Chaplain of the House. We are delighted to welcome him back.

The Reverend Edward G. Latch, D.D., former Chaplain of the House of Representatives, offered the following prayer:

Fear not, for I am with you; be not dismayed, for I am your God: I will strengthen you; yea, I will help you.—Isaiah 41: 10.

Eternal Father of our spirits, whose still small voice calls us to turn away from the troubled ways of a worried world, help us to draw near to You in humility of mind and in reverence of heart. With the power of Your Spirit alive within us may we face the duties of this day with clear minds and clean hearts, without pretense and prejudice, in the assurance that the best service we can render our country in these trying times is based on understanding, truth, and good will.

We pray for our leaders, our President, our Senate, our Speaker, and the Members of this House of Representatives. May Your mighty spirit flow through all our leaders, through all those who work with them, and through all our people. May we translate our lofty principles into living practices and our good words into great deeds.

May we be with You this day and all the days. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendment of the House to the bill (S. 64) entitled "An act to establish the Irish Wilderness in Mark Twain National Forest, Missouri," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MCCLURE, Mr. WALLOP, Mr. HATFIELD, Mr. JOHNSTON, and Mr. BUMPERS to be the conferees on the part of the Senate.

The message also announced that the Vice President, pursuant to the provisions of sections 276(d)-276(g) of title 22 of the United States Code, as amended, appoints Mrs. HAWKINS as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the 2d session of the 98th Congress, to be held in Puerto Rico, March 8 to 12, 1984.

THE FEDERAL DEFICIT

(Mr. **MRAZEK** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **MRAZEK**. Mr. Speaker, we have three basic choices in bringing down the Federal deficit. We can cut Federal spending. We can raise revenues. Or we can do both. No amount of political rhetoric or partisan blame assessment on either side of the aisle can change these immutable realities.

There is plenty of blame to go around when it comes to who is responsible for the largest Federal deficit in our history. I believe the American people understand this.

To close these deficits will require a healthy dose of a quality in short supply of late in Washington. That intangible is known as political will—the courage to cast a potentially unpopular vote, or to cut back on a particular program when it proves ineffective or wasteful.

To date, neither the President nor the Congress has shown the necessary political will to make meaningful inroads into the deficit. Yet these difficult choices must be made.

Most of the decisions will require us to sustain some political damage, and when one is a Member of Congress, this is the last thing we want to do. We have a truly magnificent job. Yet, if we are not willing to withstand partisan or special-interest pressures, then there is really no point to having this awesome responsibility.

The American people are waiting for national leadership that calls on all sectors of our society to share in the responsibility for bringing the Federal budget under control. We must work together to make this goal become reality.

A TRIBUTE TO WILLIAM HOLSCLAW

(Mr. **REID** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **REID**. Mr. Speaker, he smiles sheepishly when responding, "I just did what came natural."

Yet, to most, the story of William Holsclaw's courage far surpasses "natural."

Earlier this month 12-year-old William bravely ignored flames that were engulfing his family's mobile home to rescue his two younger brothers, 4-year-old Bryan and 3-year-old Jimmy, one at a time.

"He stood there and handed those babies out while he was cooking," his father repeats to the sympathetic listener. Thinking about himself first, was not William's way when those flames threatened his family.

By the time his father pulled William out of the burning inferno, William had suffered burns over nearly 50 percent of his body. And William's bravery must continue as he faces many needed skin grafts to repair his charred body.

I am humbled when I hear such stories of courage and am especially touched by William, who lives in Jean, Nev., a small, isolated town more than an hour's drive from any rescue assistance.

I am proud to praise William's unselfish courage and his sense of humanity. Qualities that, for William, just came natural.

A BIPARTISAN PAY-AS-YOU-GO BUDGET

(Mr. **LEVITAS** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **LEVITAS**. Mr. Speaker, the economy of this Nation is hemorrhaging in a tide of red ink from the budget deficits that we are facing. And yet everyone seems to be standing around making noises and speaking words, but doing nothing.

For example, I would hope that the hypocritical charade of the so-called high-level budget negotiations that are going on at this point be suspended because they simply mask the real problem. From the beginning, they were a political ploy and were never intended to be serious.

We should also recognize the futility of the efforts of some of our colleagues who are trying to cosmetically rearrange the furniture on the deck of the budget Titanic and who are not going to achieve anything by means of the traditional in-house, Washington-style budget resolution block building.

However, there is something that can be done. That is a bipartisan effort in this House to adopt a pay-as-

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

you-go budget and begin to make this Government work its budget the same way people in the rest of America work theirs.

If we need something we ought to pay for it or cut something else out. But we must stop charging our bills to our grandchildren. We can do it and the time is now.

□ 1110

THE BALANCED BUDGET CONSTITUTIONAL CONVENTION CONVENING RESOLUTION

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, today at 2 p.m. Senator WILLIAM R. ARMSTRONG and I in S. 224 are announcing the balanced budget Constitutional Convention convening resolution.

This measure is unique. It marks the first time in our history that a resolution has been introduced in Congress calling for the convening of a Constitutional Convention for a specific purpose. Designed to force Congress to approve a balanced budget amendment, it in effect gives Congress an ultimatum—either act now or have a Constitutional Convention convened as soon as two more State petitions are received.

Throughout our history, few issues have been as urgent as this one. Without a balanced budget by the end of this decade, continued high deficits will make impossible our chances for long-term prosperity. Historically, Congress has proven it is unwilling or unable to bring spending in line with revenues. Thus, amending the Constitution is the only sure way to achieve a balanced budget. Without an amendment, millions of Americans' ability to get a job, buy a home, educate their children and save for retirement will be jeopardized.

Unless we act—and act soon—to bring deficits under control, we will see a return to the days of high inflation, high interest rates, high unemployment—and worse.

Our resolution sends Congress a clear message: Either adopt a balanced budget amendment now, or the people will.

MEMBERS URGED TO VOTE "NO" ON REA BILL

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, I have just come from an interesting Budget Committee meeting. The Chairman of the Federal Reserve, Paul Volcker, was there to talk more about interest rates and the problem that we have, and he spoke of the downpayment negotiations which are taking place here on the Hill.

One thing that I am beginning to hear is that many Members are distressed to find that this might be a charade, this talk of a downpayment. And, in fact, I believe that it is. And I will tell you why I believe it is: Because even as we are talking about a downpayment on the deficit of $100 billion, today, on this House floor, there will be a bill from the Agriculture Committee which will provide a $20 billion subsidy to the REA over time. I find it absolutely incomprehensible that Members would be beating their breasts, talking about reducing the deficit, even as they vote for a bill which will add $20 billion to the deficit over time.

So what about a downpayment, Members? If you want to make a real downpayment on the deficit today, right here in this Chamber, a real one, not a phony one, vote "no" on the bill that is coming out of the Agriculture Committee, send that bill back to the committee and let them work it out in a way so that it will not contribute to the problem that we have.

LINE-ITEM VETO CONSTITUTIONAL AMENDMENT

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, would it not be wonderful instead of just beating our gums around here about deficits we were actually willing to do something about them, that we were actually willing to take actions that would trim the deficits, that would have the President participate in trimming the deficits, that would really get at the problem?

But all we do is talk, talk, talk and never take any actions that are aimed at really reducing deficits. What we end up doing is aggravating the deficit problem on a daily basis around here, just as the gentleman from Arkansas pointed out a moment ago.

So, Mr. Speaker, maybe this is a time to start. At this time I would hope to offer a unanimous-consent request calling for consideration of a line-item constitutional amendment. The Chair has ruled that in order to make this request I must have the clearance of the majority and minority leadership. I can assure the Chair that this request has been concurred in by the entire minority leadership. What I need is the approval of the majority leadership in order to make that request at this point and get on with doing something.

So I would now yield to a spokesman from the majority for the appropriate clearance to bring up this amendment on the floor right now.

I hear no response, Mr. Speaker, and that should make it clear to the American people who once again show themselves standing in the way of a line-item veto and thereby cutting Federal spending—the Democratic leadership of this House.

BALANCED BUDGET AMENDMENT

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, the gentleman from Colorado has just introduced a proposal which would provide for a national convention in order to amend the Constitution to provide for a balanced budget. He reflects, I think, the frustration and the anger of the American people that this House has refused to pass a constitutional amendment to require a balanced budget.

At this time I would hope to offer a unanimous-consent request calling for consideration of an amendment to require a balanced budget. Passing that amendment would alleviate the need for a Constitutional Convention.

The Chair has ruled that in order to make this request I must have the clearance of the majority and the minority leaderships. This request has been cleared by the minority leadership.

I would now yield to a spokesman from the majority leadership for appropriate clearance.

Mr. Speaker, I hear no response. That should make it clear to the American people who stands in the way of a balanced budget—the Democratic leadership of this House.

SCHOOL PRAYER

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, over the past 20 years we have witnessed a steady erosion of the freedoms of speech and religion in our public schools. Recent court decisions have not only removed virtually all prayer from our schools; now we are hearing the courts say that any hint of school approval of religious activities is too dangerous to permit.

Such decisions are not indicative of governmental neutrality in religious matters: On the contrary, they place any kind of religious activity at a distinct disadvantage.

More than 75 percent of the American people favor allowing school prayer back in our public schools. Yet, despite this overwhelming level of support, proposed constitutional amendments on school prayer have been bottled up in the House Judiciary Committee for months.

In this regard, I have introduced House Resolution 424, an open rule providing for consideration by the House of House Joint Resolution 100, introduced by Congressman **Kindness**. House Resolution 424 would allow the House to consider—under an open rule—a constitutional amendment—on prayer—which would:

End discrimination against students who seek to exercise religious free speech;

Restore a sensible balance between the rights of willing students to pray and objecting students not to pray; and

Prohibit the government—either Federal or State—from composing the words of a prayer to be said in any public school.

As it appears that the House Judiciary Committee is not likely to act on a constitutional amendment allowing school prayer, a motion to discharge House Resolution 424 from the House Rules Committee has been filed. I urge all of my colleagues to join the gentleman from Ohio (Mr. **Kindness**) and me in allowing the House an opportunity to consider a constitutional amendment on school prayer by signing Discharge Petition No. 8.

□ 1120

WHO STANDS IN THE WAY OF VOLUNTARY SCHOOL PRAYER?

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, yesterday the Republican Study Committee held a hearing in which several noted Americans testified in favor of bringing prayer back to America's schools, and I was particularly impressed by the testimony of Meadowlark Lemon, Roosevelt Grier, Lenny Moore, Demone Wilson, and Mark Moseley.

I thought they gave a very inspirational message and they spoke from the heart, and perhaps more importantly, they spoke from America's heart. Most polls show that Americans overwhelmingly want to see school prayer back in the classroom.

Mr. Speaker, at this time I would hope to offer a unanimous-consent request calling for consideration of the voluntary school prayer constitutional amendment. The chair has ruled that in order to make this request, I must have the clearance of the majority and the minority leaderships.

The minority leadership has cleared the request, and I would now yield to a spokesman from the majority leadership for appropriate clearance.

Mr. Speaker, I hear no response and that should make it clear to the American people who stands in the way of voluntary school prayer: The Democratic leadership of this House.

THE "NOTCH" PERIOD OF SOCIAL SECURITY

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, it disappoints me that I must call to the attention of our colleagues the matter of the "notch" period injustice affecting so many of our older Americans—many of whom reside in my Florida district.

In spite of the many bills introduced in prior Congresses, we, the so-called people's representatives, have refused to allow the democratic process to work its will, by allowing the bill to reach the floor.

Of course, we cannot turn back the clocks, nor do I suggest that we do so, but we can do something about the future by giving fair, just consideration to my bill, H.R. 4351, which indeed has the power and the ability to resolve this issue and correct the horrible injustice and discrimination.

Mr. Speaker, the affected older Americans are watching us.

FIFTY-FIFTH ANNIVERSARY OF UNITED LATIN AMERICAN CITIZENS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I rise today to acknowledge the 55th anniversary of the United Latin American Citizens, known as LULAC. Since its inception in 1929, LULAC has assisted Hispanic Americans by working to improve their economic and social opportunities as well as their educational opportunities.

Because LULAC has been very active in the field of immigration and refugee matters, we frequently sought the views of LULAC in matters which come before my Subcommittee on Immigration and Refugees. I have always found their testimony to be interesting and useful. I freely confess not always to have agreed with it, nor to have acted on it in the way they would wish, but then that is what the legislative process is all about: It assumes good-faith differences which have to be settled in good-faith negotiation.

Mr. Speaker, the League of United Latin American Citizens can be proud of its accomplishments over the 55 years of its existence. I congratulate them on reaching that mark and wish them well in the future.

THE BASIC HUMAN RIGHT OF HOMEOWNERSHIP

(Mr. SILJANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SILJANDER. Mr. Speaker, a basic human right is the right to own a home. It is a right that has built America; it is an opportunity that has made this Nation a prosperous nation.

There is a bill that has been in committee with 334 cosponsors to extend mortgage revenue bonds. To assist thousands of homeowners in that basic right, and help foster the American opportunity of private homeownership.

I would ask some of the 334 Members, at least 218 of us that are cosponsors, to arise with courage, come down to the well, and sign discharge petition 7, to force a bill that has been held up in committee. For what reason? Because of politics. We are holding it up for other issues: Tax increases, budget measures, and so forth.

The point is clear, an issue of basic human right is being stalled. Stand up for your rights, the rights of our potential homeowners, and please sign discharge petition No. 7 to extend mortgage revenue bonds.

AUTHORIZING FUNDS FOR INVESTIGATIONS AND STUDIES BY STANDING AND SELECT COMMITTEES OF THE HOUSE

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 446) providing amounts from the contingent fund of the House for expenses of investigations and studies by standing and select committees of the House in the 2d session of the 98th Congress, and ask unanimous consent for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. Res. 446

Resolved, That there shall be paid out of the contingent fund of the House in accordance with this primary expense resolution not more than the amount specified in section 2 for investigations and studies by each committee named in such section, including expenses

(1) in the case of a committee named in section 3, for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946; and

(2) in the case of a committee named in section 4, for provision of assistance for members of professional staff in obtaining specialized training under section 202(j) of such Act.

Sec. 2. The committees and amounts referred to in the first section are: Select Committee on Aging, $1,484,704; Committee on Agriculture, $1,501,915; Committee on Armed Services, $1,447,500; Committee on Banking, Finance and Urban Affairs, $2,972,068; Select Committee on Children, Youth, and Families, $718,356; Committee on the District of Columbia, $311,076; Committee on Education and Labor, $3,285,478; Committee on Energy and Commerce, $4,798,175; Committee on Foreign Affairs,

$2,382,090; Committee on Government Operations, $2,969,392; Committee on House Administration, $995,000; Committee on House Administration—House Information Systems, $8,170,400; Permanent Select Committee on Intelligence, $83,400; Committee on Interior and Insular Affairs, $1,548,830; Committee on the Judiciary, $1,956,951; Committee on Merchant Marine and Fisheries, $1,944,474; Select Committee on Narcotics Abuse and Control, $676,000; Committee on Post Office and Civil Service, $1,649,500; Committee on Public Works and Transportation, $2,176,911; Committee on Rules, $661,778; Committee on Science and Technology, $2,213,600; Committee on Small Business, $918,000; Committee on Standards of Official Conduct, $500,000; Committee on Veterans' Affairs, $577,661; and Committee on Ways and Means, $2,410,000.

Sec. 3. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for consultant services under paragraph (1) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Select Committee on Aging, $5,000; Committee on Agriculture, $35,000; Committee on Armed Services, $60,000; Select Committee on Children, Youth, and Families, $30,000; Committee on the District of Columbia, $19,000; Committee on Education and Labor, $55,040; Committee on Energy and Commerce, $5,000; Committee on Foreign Affairs, $1,000; Committee on House Administration, $75,000; Committee on House Administration—House Information Systems, $400,000; Committee on Interior and Insular Affairs, $12,000; Committee on the Judiciary, $90,000; Select Committee on Narcotics Abuse and Control, $5,000; Committee on Post Office and Civil Service, $250,000; Committee on Public Works and Transportation, $5,000; Committee on Rules, $4,000; Committee on Science and Technology, $10,000; Committee on Standards of Official Conduct, $400,000; Committee on Veterans' Affairs, $20,000; and Committee on Ways and Means, $10,000.

Sec. 4. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for specialized training under paragraph (2) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Select Committee on Aging, $1,000; Committee on Agriculture, $3,000; Committee on Armed Services, $15,000; Select Committee on Children, Youth, and Families, $3,000; Committee on the District of Columbia, $2,500; Committee on Education and Labor, $10,000; Committee on Government Operations, $2,000; Committee on House Administration, $10,000; Committee on House Administration—House Information Systems, $150,000; Committee on Interior and Insular Affairs, $2,000; Committee on the Judiciary, $2,000; Committee on Merchant Marine and Fisheries, $4,800; Select Committee on Narcotics Abuse and Control, $5,000; Committee on Post Office and Civil Service; $6,000; Committee on Public Works and Transportation, $8,000; Committee on Rules, $3,000; Committee on Science and Technology, $7,800; Committee on Small Business, $1,500; Committee on Standards of Official Conduct, $3,000; and Committee on Veterans' Affairs, $1,500.

Sec. 5. The Committee on House Administration—

(1) shall, through House Information Systems, develop, operate, maintain, and improve computer and information services for the House, including direct computer and information systems support for Members, committees, administrative offices, and other governmental entities, and shall conduct necessary investigations and studies of such services;

(2) is authorized to receive reimbursement for services under paragraph (1) and to expend amounts so reimbursed in accordance with policies of the committee; and

(3) is authorized to provide for professional development programs, office and personnel management consultation services, and periodic publication of handbooks, guides, bulletins, and other items necessary for the House.

Sec. 6. Payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved by the Committee on House Administration.

Sec. 7. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1984, and ending immediately before noon on January 3, 1985.

Sec. 8. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the resolving clause and insert:

(1) in the case of a committee named in section 3, for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946; and

(2) in the case of a committee named in section 4, for provision of assistance for members of professional staff in obtaining specialized training under section 202(j) of such Act.

Sec. 2. The committees and amounts referred to in the first section are: Select Committee on Aging, $1,398,373; Committee on Agriculture, $1,405,005; Committee on Armed Services, $1,272,887; Committee on Banking, Finance and Urban Affairs, $2,752,322; Select Committee on Children, Youth, and Families, $700,000; Committee on the District of Columbia, $292,468; Committee on Education and Labor, $3,020,472; Committee on Energy and Commerce, $4,467,750; Committee on Foreign Affairs, $2,262,878; Committee on Government Operations, $2,565,818; Committee on House Administration, $995,000; Committee on House Administration—House Information Systems, $8,120,578; Permanent Select Committee on Intelligence, $83,400; Committee on Interior and Insular Affairs, $1,537,163; Committee on the Judiciary, $1,760,962; Committee on Merchant Marine and Fisheries, $1,864,543; Select Committee on Narcotics Abuse and Control, $643,643; Committee on Post Office and Civil Service, $1,403,556; Committee on Public Works and Transportation, $2,100,901; Committee on Rules, $552,748; Committee on Science and Technology, $2,091,149; Committee on Small Business, $918,000 Committee on Standards of Official Conduct, $280,261; Committee on Veterans' Affairs, $466,639; and Committee on Ways and Means, $2,410,000.

Sec. 3. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for consultant services under paragraph (1) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Select Committee on Aging, $5,000; Committee on Agriculture, $35,000; Committee on Armed Services, $60,000; Select Committee on Children, Youth, and Families, $30,000; Committee on the District of Columbia, $19,000; Committee on Education and Labor, $55,040; Committee on Energy and Commerce, $5,000; Committee on Foreign Affairs, $1,000; Committee on House Administration, $75,000; Committee on House Administration—House Information Systems, $400,000; Committee on Interior and Insular Affairs, $12,000; Committee on the Judiciary, $90,000; Select Committee on Narcotics Abuse and Control, $5,000; Committee on Post Office and Civil Service, $129,000; Committee on Public Works and Transportation, $5,000; Committee on Rules, $4,000; Committee on Science and Technology, $10,000; Committee on Standards of Official Conduct, $200,000; Committee on Veterans' Affairs, $20,000; and Committee on Ways and Means, $10,000.

Sec. 4. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for specialized training under paragraph (2) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Select Committee on Aging, $1,000; Committee on Agriculture, $3,000; Committee on Armed Services, $15,000; Select Committee on Children, Youth, and Families, $3,000; Committee on the District of Columbia, $2,500; Committee on Education and Labor, $10,000; Committee on Government Operations, $2,000; Committee on House Administration, $10,000; Committee on House Administration—House Information Systems, $150,000; Committee on Interior and Insular Affairs, $2,000; Committee on the Judiciary, $2,000; Committee on Merchant Marine and Fisheries, $4,800; Select Committee on Narcotics Abuse and Control, $5,000; Committee on Post Office and Civil Service, $6,000; Committee on Public Works and Transportation, $8,000; Committee on Rules, $3,000; Committee on Science and Technology, $7,800; Committee on Small Business, $1,500; Committee on Standards of Official Conduct, $3,000; and Committee on Veterans' Affairs, $1,500.

Sec. 5. The Committee on House Administration—

(1) shall, through House Information Systems, develop, operate, maintain, and improve computer and information services for the House, including direct computer and information systems support for Members,

committees, administrative offices, and other governmental entities, and shall conduct necessary investigations and studies of such services;

(2) is authorized to receive reimbursement for services under paragraph (1) and to expend amounts so reimbursed in accordance with policies of the committee; and

(3) is authorized to provide for professional development programs, office and personnel management consultation services, and periodic publication of handbooks, guides, bulletins, and other items necessary for the House.

SEC. 6. Payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 7. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1984, and ending immediately before noon on January 3, 1985.

SEC. 8. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume. It is my intention to use 30 minutes of the available time, and I yield 30 minutes, for debate only, to the gentleman from California (Mr. BADHAM).

Mr. Speaker, before reporting the conclusions of the Committee on House Administration on the 1984 primary expense resolutions, I want to pay tribute to the members of the committee from both sides of the aisle and, especially, to the staff of those members and of the committee.

What we bring to you is the product of a joint effort obtained only after arduous endeavor involving hundreds of hours of study and investigation, intensive questioning of witnesses and, often, heated negotiations. It is truly a bi-partisan effort in which each House Committee was considered to be unique, requiring special attention to their individual needs.

Uppermost in our minds at all times was the balance required between the need for economy and the need to provide sufficient resources for our committees, who not only have the responsibility for initiating and changing the laws which govern our Federal system, but also, and of similar or greater importance, the grave responsibility for monitoring how those laws are administered and for assuring the efficiency of that administration.

Our report is the result of a strong two-party system which I hope this Nation will continue to have forever. It is the give and take of such a system that is the steel and backbone of our American system of government. Therefore I pay special tribute to the ranking minority member of the Accounts Subcommittee, the distinguished gentleman from California (Mr. BADHAM), and to those members of his party who so ably aided him; Mr. THOMAS, Mrs. VUCANOVICH, and Mr. ROBERTS.

The committee's staff, from both sides of the aisle, deserve the highest compliment we can give for their hard work and dedication. The work of your Accounts Subcommittee is a year long effort taking hours and hours of meticulous attention by its staff to the facts and figures and monthly bookkeeping reports received, as this House requires, from each of the committees. Our staff works daily assisting the committees in maintaining accurate records of expenditures and assuring the taxpayers that their moneys are spent wisely and well. Our office is open every day for visits from Members who seek information and assistance.

As chairman of your Accounts Subcommittee, I would be remiss if I did not also make a special point of calling to your attention the cooperation received by us from the committee chairmen and their staffs, who for the past several years have had to work with less in constant dollars than they received in 1975.

By the end of this year this House will have completed a decade of committee austerity. If the administration, over which we have oversight responsibility, could perform as well our national economy would be in far better shape.

Since the beginning of 1975, our committees have had less to spend in constant dollars than they did then. The sum total for committee authorizations last year was $700,971 less in dollar working ability than they had in 1975.

Since I became chairman of Accounts the overall staff of House committees has been cut by an average of four employees per committee, including cuts last year in the staff of the Banking Subcommittee which I also chair.

Our committees have been trimmed of any fat. They are lean and some say they are hard and mean.

Mr. Speaker, your Committee on House Administration brings to this floor a committee budget resolution so lean, we are confident there will not be another comparable voted this session. In today's dollars, it is less than the amount authorized last year.

Last year, this House voted a primary expense resolution of $43,443,823. If this year, we added the 4.55 percent inflation factor—projected by OMB this January—the total would be $45,420,517. The amount proposed is less than that; it is $45,366,516, which is approximately $100,000 less than it costs to keep up with the costs of inflation.

All of our committees presented good sound logical budget requests. When added with House Information Systems, they totalled $48,333,259. The House Administration Committee, after lengthy hearings and long debates, cut those requests by a total of $2,966,743.

To live within the amounts proposed for each of the committees, many will have to cut down the number of staff they had on their payrolls this January. Most will do without any salary increases during the year, despite the longevity or merit of their personnel. Some will have to cut salaries. There will be little, if any, sums left for the acquisition of computer equipment or automation technology, for the lack of which this body has been severely criticized by private management authorities. Some may even have to turn back equipment for which they made commitments late last year.

These are hard times, Mr. Speaker, both for this House and the public which we serve. We know that our committees will be hard pressed to live within the monetary resources we are proposing to provide them. We know that most of it will have to go for monitoring laws already passed, while little will be available for that foresight derived from committee studies and investigations which this country so desperately needs.

The balance between economy and operating efficiency in this resolution we bring you tips heavily on the side of economy. If we are sacrificing operating efficiency, we do so for the sake of making our contribution toward reducing the national debt.

Let us all hope that this is the last year such sacrifice will be necessary. I have great faith that our committees will find ways to meet the challenge, and I promise them the cooperation of the Accounts Subcommittee wherever possible.

Before granting time to others who may wish to speak on this resolution, there is another sacrifice being made which Members of the opposite gender repeatedly called to our attention during our hearings this year. Every committee chairman was either complimented or chastized, in bipartisan fashion, by the distinguished gentleladies OAKAR and VUCANOVICH for providing either equitable or inequitable treatment in the hiring and compensation of women on their staff.

The distinguished lady from Illinois, the Honorable LYNN MARTIN, appeared before the Accounts Subcommittee and presented us with a detailed chart of the transgressions, or lack of them, by each of the committees.

I use the word "sacrifice" with respect to this matter because, given the tight budget we are proposing, it will be difficult to raise women's salaries to the levels most believe they should receive. Whatever equity is forthcoming this year will have to be achieved by attrition or by cuts in jobs or salaries of men on committee staffs.

I am, and I believe all of the committee chairmen and male Members of this House are sympathetic to the objective of our lady Members. Whether we are or we are not, House rule XLIII, clause 9 requires the elimination of any such discrimination where it exists. The distinguished ladies of the House must ultimately achieve equity for the women staff of committees, or we will have failed in obeying the rule adopted for governance of this Chamber. I regret that the shortage of funds this year will make it that much more difficult.

Mr. Speaker, I believe the only persons who would find any grievance with the resolution we present for your adoption might be the distinguished ladies of the House, or the committee chairmen whose feet they wish to hold to the fire. I urge a yea vote on the previous question.

□ 1130

Mr. BADHAM. I thank the distinguished chairman of the subcommittee for yielding.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to take this opportunity to commend my good friend and colleague, the gentleman from Illinois (Mr. ANNUNZIO), for his leadership on this Subcommittee on Accounts.

The subcommittee this year, I think, has pursued the difficult and time-consuming task of evaluating these budgets in a dedicated and responsible manner. As a result of these efforts, the budget requests submitted by the various committees are now thoroughly and carefully reviewed, in distinct contrast to the often perfunctory attention of previous years.

I pledge my continued support to the chairman in his efforts to restrain unnecessary committee spending and to maintain vigorous oversight of the committee operations.

I would also like to especially compliment the distinguished chairman of the full Committee on House Administration, the gentleman from California, Chairman HAWKINS. Since assuming the chairmanship in 1981, he has successfully submitted budgets which are a model of fiscal restraint. In fact, his 1984 budget request was, remarkably, only 1.8 percent above his 1983 authorization. This, I think, deserves comment and praise.

We begin this process this year, in calendar year 1984, with requests for expenditures $7 million above the expenses of 1983. For the past few years we have encouraged, indeed we have worked very hard, with each and every committee, to bring the expenses closer to the authorization so that there would not be a continuation of the habit of getting too much authorization and then being prudent and sending back a lot of money, because that was false economy. This year we have come again closer to narrowing that gap to zero between authorizations and actual expenditures.

□ 1140

This is a healthy pattern. Many of us on this side of the aisle recognize that the leadership has told us that this will be one of the shortest legislative years in the modern history of the House of Representatives. All taxpayers should take notice of this. We will be in session only a few days more than 81 days this calendar year because of our quadrennial Presidential election exercise which is well in swing.

The fact is, though—what will the committees be doing, and why should they be spending more and more money over and above the authorizations of the previous year? Inflation is way down, cost of living is down, and the economy is better. Why is there so much more need for the committees to yet expand?

We have committees bigger today than we ever had in the history of our House. So I think it is time to consider for at least next year freezing committee sizes or cutting them down, freezing expenditures or reducing them, and getting back into a system of fiscal prudence and fiscal responsibility.

This year, however, I think we have done the best we possibly could. We began the process of considering requests for 10.8 percent over last year's authorization aggregate. Trimming these requests is always a hard job because the committee chairmen and the ranking Republican members of each committee always tell us how much money they need, of course, and they all offer detailed and aggressive plans for the oncoming year.

Each budget was closely reviewed, and I am happy to join the chairman of the subcommittee in presenting today a total authorization bill of 4 percent over last year's total authorization. That, I think, in itself, is remarkable.

I wish to thank my colleagues on both sides of the aisle on the Subcommittee on Accounts for their close and careful consideration during this cycle, and I urge the Members of this body on both sides of the aisle to support this resolution that is before us now.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. BADHAM. I am more than happy to yield to the senior Republican member of the committee.

Mr. ANNUNZIO. Mr. Speaker, before the gentleman yields to the distinguished senior member, may I inquire of the Chair how much time I have left?

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) has consumed 9 minutes and the gentleman from California (Mr. BADHAM) has consumed 5 minutes. The gentleman from Illinois has 21 minutes remaining.

The Chair recognizes the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding.

I would like to say to both the ranking minority member of the Subcommittee on Accounts and to the chairman of the Subcommittee on Accounts that we appreciate the very courteous reception we received when we came before the committee.

But I would like to reemphasize the point that I made when we came before the committee for our annual budget appropriations and started going through the exercise. Our committee, the Committee on Armed Services, has jurisdiction over about a quarter of the total Federal budget. We have a nonpartisan staff. We have not insisted and have not requested a minority staff, which we under the Rules of the House are entitled to—some 16 additional jobs. In looking over what has happened in the past and what is going on now, I notice that the Banking Committee is asking for $2,900,000, or almost $3 million, Education and Labor $3,200,000, and Energy and Commerce $4,700,000. Our committee, which has a lean staff, has asked for $1,400,000, and we were cut back. We got a 5-percent raise. I notice that there are six committee requests in which committees received more than the Armed Services Committee did.

So all I am saying is that we have turned back money in the past, we have not been loose in our spending, and I would hope that if we find ourselves running short, the chairman of the subcommittee, the ranking member, and also the full committee would be lenient with us or at least amenable to the idea that if we do not have the money, with the tremendous burden that we have, we may come back for a supplemental, which we have never done in the past. But I would just like to ask that the door be left open.

Mr. Speaker, I thank the gentleman for yielding.

Mr. BADHAM. Mr. Speaker, I thank the gentleman from Alabama (Mr. DICKINSON) for his contribution, and I do agree, as a member of that committee, with the distinguished gentleman from Alabama that the Armed Services Committee probably has the leanest staff and the leanest budget and one of the greatest responsibilities in the committee structure of our House.

Mr. Speaker, I reserve the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I yield 2 minutes to a distinguished member of our committee, the gentlewoman from Ohio (Ms. OAKAR). And I believe this will be my last request. I have no further requests.

Ms. OAKAR. Mr. Speaker, I thank the subcommittee chairman for yielding this time to me, and I want to commend him for his zealous efforts in behalf of the work that we were called upon to do. It is not an easy job, and I appreciate the work that he has done.

I also want to extend to my chairman my gratitude for the courtesy that he has extended to me. This is only my second year on the full committee and my second year on the Accounts Subcommittee.

Obviously, as the Chair mentioned, I and the gentlewoman from Illinois (Mrs. MARTIN), who was a member of the committee, and the gentlewoman from Nevada (Mrs. VUCANOVICH), who is a current member of the committee, have raised the issue of pay equity and comparable pay for comparable work. I must say that in looking over what has happened just in 1 year, some of the chairmen have gotten the message and some have not. Some of the chairmen have made an effort to improve the salaries of women on their committees. There have been noticeable increases in terms of the salaries that the women are getting, which are in general very inequitable.

Some Members have also made an effort to hire minorities, which I think is also extremely important.

However, I do not really believe that the jurisdiction for changing the law rests within the committee. I am pleased that the chairman is putting in very strong report language, and I was very pleased with the testimony of the gentlewoman from Illinois (Mrs. MARTIN), which reinforces some of the thoughts that many of us have.

For this reason, however, because of the inequities that do exist, not only in terms of the House employment salaries, but salaries for Federal employees in general, I introduced a piece of legislation 2 weeks ago, the Federal Employment Pay Equity Act of 1984. This act will go before a subcommittee that I chair. I have the jurisdiction of hearing the act. It is a subcommittee that relates to benefits and compensation, and we will be having hearings on the whole issue of pay equity for Federal employees.

The SPEAKER pro tempore. The time of the gentlewoman from Ohio (Ms. OAKAR) has expired.

Mr. ANNUNZIO. Mr. Speaker, I yield 30 additional seconds to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, we will be having hearings on this issue, and I urge all the Members of the House, in a spirit of fairness for men and women not only for the House but in terms of our civil service, to cosponsor this legislation. If the House Members really want to put their money where their mouth is, as it were, I think what we have to do as a body is unite under the spirit of the law so that we will set the example for the American people and we will be fair.

Mr. Speaker, I hope Members will cosponsor my legislation, the Federal Employment Pay Equity Act of 1984, and ask to appear before the hearing that I will chair. I will be happy to have their thoughts on the issue.

The SPEAKER pro tempore. The time of the gentlewoman from Ohio (Ms. OAKAR) has expired.

Mr. ANNUNZIO. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. THOMAS), a member of the committee.

□ 1150

Mr. THOMAS of California. Mr. Speaker, I thank my colleague and ranking member, the gentleman from California (Mr. BADHAM) for yielding.

It is really with pleasure that I rise in support of House Resolution 446, for several reasons: First, it has been my great pleasure to work with the chairman of the Accounts Subcommittee and the members of the Accounts Subcommittee.

Second, it is with pleasure that I rise in support of House Resolution 446 because this resolution passed the Accounts Subcommittee unanimously, passed the House Administration Committee unanimously, and comes before the House today through a unanimous-consent request. That means that the subcommittee did its job, now that may be a statement that some people do not react to too strongly, but for those of us who know and understand the kinds of decisions that sometimes need to be made, doing your job is a drastic understatement for the give and take that needs to go on, not just between colleagues on either side of the aisle, but between colleagues on the same side of the aisle.

This subcommittee labors in relative anonymity, until yearly we come to the floor, present a funding resolution for committees and at least historically break down in terms of an argument over dollar amounts which may not seem overly significant, but when viewed in the context of who gets what, when, and how, obviously is important enough to generate strong partisan and intercommittee battles.

We saw a brief example of the latter just previously with the gentleman from Alabama (Mr. DICKINSON) who was concerned about a particular standing committee. The Accounts Subcommittee was concerned with 24 standing and select committees. We had to be Solomon with each one of them. The process, although arduous, has been completed and if any Member of this House would like to look at the numbers, I think the initial reaction would be one in which it is clear that we handled each committee, whether standing or select, individually, alone, looking at the needs of that committee, the requests of that committee and what we thought was possible within the context of trying to bring to the House a resolution in which all of us would be proud.

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. Certainly, I yield to the gentleman from California.

Mr. COELHO. Mr. Speaker, I would just like to say for the benefit of my colleagues, the gentleman in the well in particular was at every meeting, made a good fight. Sometimes we did not agree, but the gentleman, more than anybody else besides the chairman, probably did more to put this package together and I just want to applaud him for his efforts and his diligence in trying to see it done.

Mr. THOMAS of California. Well, this gentleman thanks his colleague from California and appreciates the gentleman's comments.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. Certainly, I yield to my distinguished chairman.

Mr. ANNUNZIO. Mr. Speaker, I want to join my distinguished friend, the gentleman from California, in paying my highest commendations to the gentleman in the well, Mr. THOMAS of California, for being at every meeting, for participating, for helping and for achieving the goals that this subcommittee has achieved. Without the help of the gentleman, his assistance and cooperation, we would not have such a wonderful package on the floor today.

Mr. THOMAS of California. Well, I certainly thank the chairman for his kind words.

Mr. Speaker, it just seems to me that what we are supposed to be doing here is resolving problems, rather than creating them, and if we all enter into negotiations in a spirit of mutual trust and confidence, then, almost always we can work out our differences.

I would like to conclude by simply saying that this is a package which clearly by the unanimous votes at every level of the committee process indicates that it is a harmonious package. This resolution certainly does not contain as much money as many people wanted. It certainly is a lean proposal. It only provides in essence for a cost-of-living increase.

It is a freeze, with the exception of a cost-of-living increase.

It is not reflective of what people wanted. It is reflective of the wisdom of the subcommittee and of the Committee on House Administration of what the House needs.

I urge your support for House Resolution 446.

Mr. BADHAM. Mr. Speaker, I yield 1 minute to the gentlewoman from Nevada (Mrs. VUCANOVICH).

Mrs. VUCANOVICH. Mr. Speaker, I rise in strong support of House Resolution 446 which funds the standing and select committees of this House for 1984. Being a new member of the Subcommittee on Accounts which considered this legislation, I now fully appreciate the time and effort that is taken to review committee budgets. I commend the chairman of the subcommittee who has closely reviewed each committee budget seeking ways to reduce spending, while at the same time, providing the necessary funds to operate the committees of the House.

At the beginning of the subcommittee's consideration of House Resolution 446, the chairman's goal was to present this House with an aggregate authorization of 5 percent over the 1983 authorization. He has gone further than the goal, and we are pleased to offer this House a budget which is 4 percent over the 1983 authorization. I believe this is a workable and fair budget, and I urge my colleagues to support its passage.

Mr. ANNUNZIO. Mr. Speaker, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I just wanted to extend my deep appreciation to the gentlewoman as a member of the subcommittee for being at the meetings, for helping and assisting us in achieving this package today. The work of the gentlewoman, I know, will be long remembered by all the other committee members and we are deeply grateful for the cooperation and the assistance that the gentlewoman added to the subcommittee and for helping us to bring this very lean package to the floor of the House.

Mrs. VUCANOVICH. Mr. Speaker, I thank the chairman. We all did a good job.

Mr. BADHAM. Mr. Speaker, I yield 2 minutes to the distinguished assistant minority leader, the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, this body is suffering from a staff infection. We have got a growth that just will not seem to quit—despite the good intentions and restraint of the House Administration Committee in the past couple of years. Our total combined statutory and investigative staff for House committees has ballooned from 729 in 1971 to 1,941 today—a 166-percent increase. And while the numbers have leveled off some in the last 2 or 3 years, the money we are spending on staff has not. According to last year's report on the committee funding resolution, our total expenditures for statutory staff plus the committee expense resolution total for House committees was approximately $66 million in 1982. The 1983 figure is over $80 million—a 21-percent increase in spending for staff and investigative expenses in just 1 year. This obviously exceeds the 3.5-percent salary increases we have imposed on the rest of the Government.

Now I know my colleagues will point out that this funding resolution only raises the authorization we voted last year by about 4 percent, and that may well be. But I would suggest that it is high time we began to look at the total picture, which includes statutory staff as well as investigative staff, and begin to assess what we are getting for our money. Back in 1971 when we had only 729 committee staff, we enacted 768 laws in the 92d Congress. In the 97th Congress, on the other hand, with over 1,900 committee staffers, we enacted just 529 laws. In other words, we had 166 percent more staff in the last Congress and enacted 31 percent fewer laws. Now I realize that the laws we enact are only one measure of productivity, and perhaps we should all be glad that we are passing fewer laws, even if it does cost us more staff and staff salaries; but we should also begin to wonder just what all these committee staffers are doing. Has our oversight record improved 166 percent over the last 13 years? I seriously doubt it. Have we increased the number of House committees that much? No, in the 92d Congress we had 21 standing committees and today we have 22. Do we per chance have more subcommittees? Yes, indeed we do. Back in 1971 we had 109 subcommittees; today we have 148 subcommittees—better than a 35-percent increase in subcommittees. Put another way, for every new subcommittee we have added in the last 13 years we have picked up 31 more committee staffers.

Mr. Speaker, I know my colleagues are both fascinated and stunned by this array of statistics. Maybe we should add just one more: If you put all the House committee staffers end to end, you would find that that is precisely where many of them are already sitting—and with very little to do. That is not to denigrate the fine work that many of our staffers do—we have some excellent committee personnel who are invaluable and indispensable. But I would suggest to my colleagues that we also have some deadwood around here, and the way to clear it is not by increasing the pile by 4 percent a year.

I include the following:

STAFF/MEMBER RATIOS ON HOUSE COMMITTEES, 98TH CONGRESS, 2D SESSION

Committee	Members	Staff	Staff/Member ratio
Agriculture	41	68	1.6
Appropriations	57	142	2.5
Armed Services	44	58	1.3
Banking and Finance	46	88	1.9
Budget	31	96	3.1
District of Columbia	11	46	4.1
Education and Labor	31	96	3.1
Energy and Commerce	42	148	3.5
Foreign Affairs	37	84	2.3
Government Operations	39	88	2.3
House Administration	19	51	2.7
Interior	39	72	1.8
Judiciary	31	82	2.6
Merchant Marine	39	80	2.0
Post Office	24	80	3.3
Public Works	48	84	1.7
Rules	13	47	3.6
Science and Technology	41	78	1.9
Small Business	41	51	1.2
Standards	12	12	1.0
Veterans Affairs	33	34	1.0
Ways and Means	35	90	2.6
Aging	60	38	.6
Intelligence	14	19	1.4
Total	828	1,732	[1] 2.1

[1] Average

Note.—Staff totals include statutory, investigative and associate staff. Excluded are the select committees on Narcotics and Children, Youth and Families.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I would be glad to yield to the distinguished gentleman.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman from Mississippi for yielding.

I do not disagree with the gentleman's statements. The gentleman knows that for year after year I have been on the floor of this House telling Members that we are following the rules of the House. The rules provide for the staffing, the increases of committees; but for the information of the gentleman who is on the Rules Committee, this year our objective was to freeze all committee employees to last year's number, and that we did achieve. There have been no additions in committee budgets this year for staff and we are hoping to continue that policy. Wherever we can reduce employees we are urging committees to do so; but we do not control that. If the House creates more committees and more select committees, and the House continues to vote for these committees, we then have to staff these committees. The original responsibility belongs to the Members of this House to vote down resolutions creating select committees.

The SPEAKER pro tempore. The time of the gentleman from Mississippi has expired.

Mr. LOTT. Does the gentleman from California have any time left?

Mr. BADHAM. I have no time.

Mr. LOTT. Mr. Speaker, would the gentleman from Illinois yield me some time? I barely got started, and the gentleman took at least half my time.

Mr. ANNUNZIO. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, I appreciate that very much.

I would like to point out a couple of other important points to my colleagues.

First of all, while it is only a 4-percent growth over last year's authorization level, it is almost a 10-percent growth over what was really spent by the committees; so you need to look at the truth of what we are dealing with here.

Also, as the gentleman from California pointed out, in this year of all years, when we are going to have a session of legislative days probably not to exceed 130 days at the most, we are still allowing a 10-percent growth from what was spent in 1983 to what we are going to spend in calendar year 1984. We could at least hold the line, it seems to me, this year; but let me just run down a couple examples. I mean, some committees have done a good job. The D.C. Committee certainly has been held down. The Veterans' Affairs Committee has been held to a low level and two or three of the other committees; but the Banking Committee, for instance, has gone from $2.4 million in 1983 expenses to $2,752,000 in authorization, a 7.24 increase.

The Committee on Energy and Commerce will spend this year, if they spend everything they are authorized, $4,460,000.

The Judiciary Committee, I mean, how many bills are we getting on the floor these days from the Judiciary Committee, will spend $1,760,000, almost an 8-percent increase, and my own committee, the Rules Committee, is going to have a 4.9-percent increase.

I might point out just one other thing. The staffing around here still does not reflect one-third for the minority. In my own committee's case, we have probably around 40 staff members on the majority side and 8 on the minority side.

Mr. de la GARZA. Mr. Speaker, will the gentleman yield?

Mr. LOTT. Do I have any time left?

The SPEAKER pro tempore. Ten seconds.

Mr. LOTT. Mr. Speaker, I yield to the chairman of the Agriculture Committee.

□ 1200

Mr. de la GARZA. I appreciate the gentleman yielding. I just want to state to the gentleman he is painting everyone with a broad brush. Our committee does not fit any of the complaints the gentleman is making here today.

Mr. LOTT. The Committee on Agriculture has a 6.2-percent increase over authorizations.

Mr. BADHAM. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. MARTIN), a former member of the committee.

Mrs. MARTIN of Illinois. The committee does a wonderful job and the chairman, who is a colleague of mine from Illinois, is also superb. But that is really not the issue.

Ms. SNOWE. Mr. Speaker, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I yield briefly to the gentlewoman from Maine.

Ms. SNOWE. Mr. Speaker, I want to join the gentlewoman from Illinois in urging my colleagues to vote "no" on the committee funding resolution, and I want to congratulate her in bringing this issue to our attention.

Never before, has the U.S. Congress spent more time examining the economic status of American women than during the 98th Congress. Hearings have been held in virtually every House committee on some aspect of economic equity for women: From private pension reform to Government pensions for ex-military spouses, from the need for stronger child support enforcement to dependent care, from equal educational opportunity to tax reform for single heads of household.

Every aspect of women's legal and economic status in America today was examined during hearings on the equal rights amendment last summer and fall. And although the ERA went down to a disappointing defeat in November, I do not think there was a Member of this body who denied the need for substantial improvement in the economic status of women in America today.

And all our efforts are beginning to pay off. We are close to enactment of legislation to address private pensions and child support, and I hope more still can be done before we adjourn. For surely, much more is needed.

But at the same time, each of us realizes that women will never gain a true measure of economic security until the unconscionable earnings gap that exists between men and women is eliminated.

It is simply outrageous that 21 years after the passage of the Equal Pay Act and 20 years after the passage of the Civil Rights Act, women should still earn only slightly more than 60 percent of what men earn.

Yesterday, I had the pleasure of testifying before the Subcommittee on Manpower and Housing of the Committee on Government Operations about the issue of pay equity. And I was asked by one of the distinguished members of the subcommittee, what is it that this Congress can do to insure pay equity? And I agreed with him yesterday that there are no easy answers to this complex problem.

However, today I am pleased to say that we do have the opportunity to do something about this. All of us—Republicans and Democrats—who have denounced the earnings gap, whether from the podium, in our committees, or in our correspondence with our constituents—have a responsibility to vote "no" on the committee funding resolution before us today.

You have heard the statistics: 81 percent of those earning $20,000 or less under this year will be women; 75 percent of those earning $40,000 or more will be men. The House of Representatives, as an employer and as the primary lawmaking body in this country has the responsibility to uphold the laws of the land.

Wage discrimination is against the law, and I urge you to join me in voting "no" on the committee funding resolution.

Mrs. MARTIN of Illinois. My colleague has stated the issue. Eighty percent of the staffers earning $20,000 or less will be women; 75 percent of those earning $40,000 or more will be men. It is wrong. To say that the committee can do nothing when you bring an unamendable committee resolution leaves this House only one choice: to vote "no."

Either you believe in equal rights or you do not. Three percent, or two percent, in increased salary for staff: you can claim you did great work. I have been on that committee. I know what the chairmen come in wanting. They all want to solve unemployment by hiring up everybody in the country.

But there is something more this time, and just once this House has got to stand up for its House, that side of the aisle and this. The House is under the control of the Democratic majority. Do not tell me you support ERA and that is enough. Do not give campaign speeches about how you are for pay equality.

For once say "no." Symbolic: OK, "yes." But maybe some of those chairmen may get a message, and that takes bravery. Some of the chairmen are not pleased with me, I know that.

But who else can talk for the people? I tell you this: If anyone here in this entire House, man or woman, young or old, Republican, Democrat, black, or white, has ever said one word about equal rights, then there is only one vote for them today and that is "no." It is time to stand up for what you purportedly believe.

Mr. BADHAM. Mr. Speaker, I now yield 5 minutes to the distinguished ranking minority member of the full committee, the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I rise in support of House Resolution 446, not because I think it is perfect but because I think the subcommittee has brought to the floor of this House about as good a bill as they could fashion under the circumstances.

I want to congratulate particularly the chief operator on our side, the gentleman from California (Mr. THOMAS), as well as our ranking minority member, the other gentleman from California (Mr. BADHAM). But obviously the minority does not control bills, and certainly the greatest share of credit for bringing some sort of order into this process should go to the distinguished chairman of the subcommittee, the gentleman from Illinois (Mr. ANNUNZIO) and I do thank him for his efforts.

I said at the outset that this bill was not perfect. Nor would it be the bill that I would prefer to bring before the committee. I believe that every committee budget could be and should be subject to reductions. I believe we have far too many staff around here.

I concur in the statement of the gentlewoman from Illinois (Mrs. MARTIN) that we are not following the law of the land in sexual discrimination matters, and that there are lots of things that could stand improvement. On the other hand, the gentleman from Illinois and the two gentlemen from California inherited a situation where we have staff on location. They are working every day, doing the best they can for us, and we should not disrupt their work, nor the work of their chairmen and their committees, at least we should not disrupt it unnecessarily.

The 4-percent increase, Mr. Speaker, is less than the current services budget. If we are looking at an inflation rate for calendar 1984 of something around 5 percent, the committees are not even getting a current service increase.

I wish the increase were zero. I wish it were minus 10 percent or more. It is not. It is still better than anything this committee has brought to the floor since I have been in Congress.

I think we have to do a better job of control. I think we ought to have more limits on all of the committees, and I am going to talk about some of the committees that I consider the most flagrant offenders in terms of using too much staff a little later.

I think we ought to eliminate the 5-D rule which provides that committee chairmen are forced to give subcommittee chairmen and ranking members employees of their choosing, whether they want to or not, or whether it fits the grand scheme of the committee or not.

But let us all remember, this is a bill which provides a 1-percent increase in personnel, if that. My best judgment is that by the end of the year these committees will be operating on less personnel, at least the committees covered in this authorization, than they were last year. I think that that brings great credit to the subcommittee who brought out the bill.

With respect to women, I must say that our record leaves much to be desired. Over the years I have pressed to have Congress included in the law. This House has on a number of occasions decided for itself that it should be exempt from our discrimination laws.

That is a mistake. But that is where the mistake should be corrected, not in the committee budgets. We cannot simply fire all of our employees. This budget does not provide new employees. A vote against this budget does not do anything, in my judgment, for improving women's positions here.

I think we ought to be put under the law and I hope that we will continue to make improvements. But in the gentlewoman's criticism I must concur.

Mr. Chairman, I promised that I would say a little bit about the excesses. Over the last 10 years, not including this year, our committee budgets have increased by 300 percent. That is an average increase of 30 percent a year, and yet in a year like this year we are bringing you only 4 percent.

That is an enormous improvement, but it means that already in these budgets there is plenty of fat.

I must say that while this resolution before you calls for about $45 million, and a few hundred thousand, you should also know that statutory staff costs will raise that figure to somewhere around $70 million of total expenditures. When we count the other committee costs, which are not allocated, we may be going as high as $80 million.

Of the committees, the Rules Committee with its associate staff, the Energy and Commerce Committee, which has the largest budget of any committee, are the prime offenders, but all of us share the guilt.

I urge support of House Resolution 446, and especially ask for support from minority Members. I would invite their attention to the fact that we cannot ask the majority to work with us on matters of fiscal sobriety unless we support them when they do good work.

Mr. BADHAM. Mr. Speaker, may I inquire how much time remains?

The SPEAKER pro tempore. The gentleman from California has 7 minutes remaining.

Mr. BADHAM. I yield myself such time as I might consume.

I will be brief in saying that I agree with the criticisms that have been made on our hiring practices of committees, on the size of the committee staffs, and on the total expenditures.

What I am proud of, however, is the fact that we have changed the direction from unbridled expansion to one moving in the direction of fiscal prudence.

Would that this committee and this subcommittee did have the authority and the power to regulate the staff size of committees, but we do not. Would that we had the power to regulate salaries, percentages for male and female employees, but we do not.

And so what this subcommittee has brought to the full committee, to this floor, is merely a set of numbers representing dollars spread among committees that can be spent in any way the committees deem proper and without regard to numbers of staff, without regard to allocations for information, publications, travel, and so forth, because under the rules of the House we do not control that.

☐ 1210

Again, let me say I will vote for this resolution, knowing the parameters within which we operate and that I can say, truthfully, that we have done the very best job within the rules that we are capable of doing.

So I would urge support of this resolution.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, this Member from California intends to offer a motion to recommit after we have concluded deliberations on this resolution.

The procedures of the House are such that on such a motion to recommit, no Member will have time to debate it; it is undebatable. So I am taking a few moments now just to say what the sense of this motion to recommit will say.

It will freeze spending for investigative staff for calendar year 1984 consistent to what was spent in 1983. At a time when we are facing a problem of a deficit of the magnitude that exists, about $180 billion, I do not think it is unreasonable to suggest that this institution give an example to the people of this country that we are serious about trying to deal with the deficit, not by taking a cut, but by just freezing what we are going to spend in 1984 to what we spent in 1983. That amount was $41,302,000-plus. The sense of this motion to recommit would say that we will spend that for investigative staff in 1984.

I had also intended to put another feature into the motion to recommit that none of the money could be expended unless we Republicans get an aliquot number of slots on committees of the House, but I left that out because I felt that would embarrass my Democratic colleagues. They would perhaps be inclined to support me on the motion to recommit to freeze spending, but I do not think in the tender mercies of their heart they would be inclined to give us our appropriate number of committee slots by rollcall vote. I am just asking, would you join with me in freezing spending for 1984 to what we spent in 1983?

Mr. BADHAM. Mr. Speaker, I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I yield whatever time he may consume to the distinguished chairman of the full committee, the gentleman from California (Mr. HAWKINS), who has cooperated and worked hard with the members of the subcommittee in bringing this very, very good piece of legislation to the floor of the House.

Mr. HAWKINS. Mr. Speaker, my purpose in speaking at this time is merely to confirm the fact that the committee has worked diligently, I think responsibly. I would like therefore to commend the chairman of the Subcommittee on Accounts, as well as the ranking minority member, Mr. BADHAM, the gentleman from California, as well as Mr. FRENZEL, the ranking minority member of the full committee.

I think more than any other committee, and I think I would not make any exceptions, this committee operates on a purely business-like, nonpartisan manner.

I think a "no" vote against the work of this committee would be against the concept of working toward a bipartisan approach to the management of business in this Congress.

I think the resolution which has been produced is a strict one but a fair one. I know that there is always room for improvement; there is no cap on improvement. But I think that this resolution represents the best work that can be accomplished. I think to recommit this resolution to the Committee on House Administration would be a waste of time; it would be discouraging the progress which we are making toward an ideal situation.

Certainly we do not present this without some flaws in the minds of one or two individuals who may think a better job can be done.

We have done, I think, a good job. I would hope, therefore, that the resolution is adopted and by adopting the resolution you will encourage the progress which we have made and you would not in any way be discouraging those of us who are trying to do the best job possible under the circumstances, which I think is a good job. I therefore ask approval of the resolution.

Mr. ANNUNZIO. Mr. Speaker, I move the previous question on the committee amendment in the nature of a substitute and on the resolution.

The previous question was ordered.

The **SPEAKER** pro tempore (Mr. TORRES). The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

MOTION TO RECOMMIT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Speaker, I offer a motion to recommit.

The **SPEAKER** pro tempore. Is the gentleman opposed to the resolution?

Mr. DANNEMEYER. Mr. Speaker, I am opposed to the resolution.

The **SPEAKER** pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DANNEMEYER of California moves to recommit House Resolution 446 to the Committee on House Administration with instructions to report the resolution back to the House with an amendment as follows:

Add the following new section at the end of the resolution:

"SEC. 9. (a) Of the amounts provided for in this resolution, not more than an amount equivalent to the actual amount expended by each committee for expenses in the first session of the Ninety-eighth Congress may be paid out of the contingent fund of the House for expenses in the second session of the Ninety-eighth Congress."

The **SPEAKER** pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. DANNEMEYER) there were—yeas 10, nays 19.

So the motion to recommit was rejected.

The **SPEAKER** pro tempore. The question is on the resolution, as amended.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. MARTIN of Illinois. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 141, not voting 40, as follows:

[Roll No. 33]

YEAS—252

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Badham
Barnard
Barnes
Bates
Bedell
Beilenson
Bennett
Berman
Bevill
Boggs
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Burton (CA)
Byron
Carney
Carr
Chandler
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Conable
Cooper
Coyne
Daniel
Darden
Daschle
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Downey
Duncan
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
English
Erdreich
Erlenborn
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gore
Gray
Guarini
Hall (IN)
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Harkin
Harrison
Hatcher
Hawkins
Hayes
Hertel
Horton
Hoyer
Huckaby
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Lehman (CA)
Lent
Levin
Levine
Levitas
Lipinski
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
MacKay
Madigan
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Myers
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Panetta
Patman
Patterson
Pease
Penny
Pepper
Perkins
Pickle
Price
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Rowland
Roybal
Rudd
Russo
Sabo
Schumer
Seiberling
Sharp
Shelby
Sikorski
Sisisky
Skelton
Smith (IA)
Snyder
Solarz
Spratt
Stangeland
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Vento
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weaver
Weiss
Wheat
Whitley
Whitten
Wilson
Winn
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Young (AK)
Young (MO)
Zschau

NAYS—141

Archer
Bartlett
Bateman
Bereuter
Bethune
Bilirakis
Bliley
Boehlert
Brown (CO)
Broyhill
Burton (IN)
Campbell
Carper
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Conte
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Dannemeyer
Daub
Davis
DeWine
Dreier
Durbin
Early
Edwards (OK)
Emerson
Evans (IA)
Fiedler
Fields
Gekas
Gingrich
Glickman
Goodling
Gradison
Green
Gregg
Gunderson
Hall, Sam
Hansen (ID)
Hansen (UT)
Hartnett
Hightower
Hiler
Hillis
Holt
Hopkins
Hughes
Hunter
Hutto
Ireland
Jacobs
Johnson
Kasich
Kindness
Kramer
Lagomarsino
Latta
Leach
Leath
Lewis (CA)
Lewis (FL)
Livingston
Loeffler
Lott
Lujan
Lungren
Marriott
Martin (IL)
Martin (NC)
McCain
McCandless
McCollum
McEwen
McKernan
Michel
Miller (OH)
Molinari
Moore
Moorhead
Morrison (WA)
Nielson
O'Brien
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pritchard
Pursell
Ridge
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Roukema
Sawyer
Schaefer
Schneider
Schroeder
Schulze
Sensenbrenner
Shannon
Shaw
Shumway
Shuster
Skeen

Slattery
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Spence
Stenholm
Stump
Sundquist
Tauke
Valentine
Vander Jagt
Vandergriff
Walker
Weber
Whittaker
Williams (MT)
Williams (OH)
Wise
Wolf
Wortley
Wylie
Young (FL)

NOT VOTING—40

Biaggi
Boland
Boxer
Bryant
Collins
Conyers
Corcoran
Crockett
Dowdy
Foglietta
Forsythe
Gramm
Hance
Hefner
Heftel
Howard
Hubbard
Hyde
Kemp
Lehman (FL)
Leland
Lloyd
Lowery (CA)
Mack
Markey
Martin (NY)
Mitchell
Murphy
Murtha
Paul
Savage
Scheuer
Siljander
Simon
Smith (FL)
Solomon
St Germain
Staggers
Towns
Whitehurst

☐ 1230

Mr. ROTH, Mrs. JOHNSON, and Mr. WISE changed their votes from "yea" to "nay."

Mr. FOWLER changed his vote from "nay" to "yea."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1240

MAKING IN ORDER ON TUESDAY NEXT OR ANY DAY THEREAFTER CONSIDERATION OF HOUSE JOINT RESOLUTION 493, URGENT SUPPLEMENTAL APPROPRIATION FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it be in order on Tuesday next or any day thereafter to consider House Joint Resolution 493 in the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, MONDAY, MARCH 5, 1984, TO FILE SUPPLEMENTAL REPORT ON H.R. 4170, TAX REFORM ACT OF 1983

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Monday, March 5, 1984, to file a supplemental report to accompany the bill, H.R. 4170.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND SELF-SUFFICIENCY ACT OF 1983

The SPEAKER pro tempore. Pursuant to House Resolution 447 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3050.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3050) to amend the Rural Electrification Act of 1936 to insure the continued financial integrity of the rural electrification and telephone revolving fund, and for other purposes, with Mr. BARNARD (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, February 29, 1984, all time for general debate had expired.

Pursuant to the rule, each section is considered as having been read for amendment under the 5-minute rule.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983".

Mr. DE LA GARZA. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The text of the remainder of the bill, H.R. 3050, is as follows:

SEC. 2. Section 201 of the Rural Electrification Act of 1936 (7 U.S.C. 922) is amended by striking out the last two sentences and inserting in lieu thereof the following: "Loans under this section shall not be made unless the Administrator finds and certifies that, in the Administrator's judgment, the security therefor is reasonably adequate and such loan will be repaid within the time agreed.".

SEC. 3. Section 203 of the Rural Electrification Act of 1936 (7 U.S.C. 924) is amended to read as follows:

"SEC. 203. (a) As used in this title, the term 'telephone service' shall be deemed to mean any communication service for the transmission of voice, data, sounds, signals, pictures, writing, or signs of all kinds by wire, fiber, radio, light, or other visual or electromagnetic means, and shall include all lines, facilities, or systems used in the rendition of such service; but shall not be deemed to mean message telegram service or community antenna television system services or facilities other than those intended exclusively for educational purposes, or radio broadcasting services or facilities within the meaning of section 3(o) of the Communications Act of 1934, as amended.

"(b) As used in this title, the term 'rural area' shall be deemed to mean any area of the United States not included within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of two thousand five hundred inhabitants.".

SEC. 4. Section 302 of the Rural Electrification Act of 1936 (7 U.S.C. 932) is amended by—

(1) in subsection (a), inserting "shall be equity capital of the fund" immediately after "Act";

(2) amending clause (2) of subsection (b) to read as follows:

"(2) payment of principal and interest on loans to the Administrator from the Secretary of the Treasury under section 304(a) of this title and on certificates of beneficial ownership issued to the Secretary of the Treasury or in the private market under section 304(c) of this title;"; and

(3) adding at the end thereof a new subsection (c) as follows:

"(c) The Administrator shall maintain two separate accounts within the fund, to be known as the Electrification Account and the Telephone Account, respectively. The assets, liabilities, income, expenses, and equity of the fund described in section 301 of this Act and subsection (a) of this section that are attributable to the operations of the electric loan program shall be accounted for in the Electrification Account and the assets, liabilities, income, expenses, and equity of the fund so described that are attributable to the operations of the telephone loan program shall be accounted for in the Telephone Account. The assets accounted for in the Electrification Account shall be available only for the purposes described in subsection (b) of this section relating to the operations of the electric loan program, and the assets accounted for in the Telephone Account shall be available only for the purposes described in subsection (b) of this section relating to the operations of the telephone loan program.".

SEC. 5. Section 304 of the Rural Electrification Act of 1936 (7 U.S.C. 934) is amended by adding a new sentence at the end of subsection (c) as follows: "Whenever the interest rate on any certificate of beneficial ownership that has a remaining term of seven years or more and that is issued by the Administrator and purchased under this subsection exceeds the rate of interest applicable to other similar certificates then being purchased by one hundred basis points (1 per centum) or more, the Administrator is authorized to repurchase the certificate. Such repurchase shall be made without penalty.".

SEC. 6. Section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) is amended by—

(1) amending subsection (b) to read as follows:

"(b) Insured loans made under this title from each account in the fund shall bear interest at a rate (hereinafter in this section referred to as the 'standard rate') that shall be established by the Administrator and adjusted thereafter from time to time, under rules and regulations to be promulgated within one hundred and twenty days after the effective date of the Rural Electrification Telephone Revolving Fund Self-Sufficiency Act of 1983. Such rules and regulations shall provide that the standard rate for each account shall be that rate, not less than 5 per centum per annum, that would produce, from loans (other than special rate loans) approved from that account during a given period, interest income equal to, but not geater than, the amount of anticipated interest expense on the account's obligations (interim notes, insured notes, and certificates of beneficial ownership) required to be issued or sold during such perid to cover loan advances and interest expenses: *Provided*, That the amount of such obligations to be issued or sold for such purposes shall be determined by deducting the sum of principal and interest receipts and any appropriation under subsection (c) of this section from the sum of loan advances and interest expenses on outstanding obligations of the account during such period: The standard rate, as established by the Administrator, and any adjustment thereto shall be made having due regard for the objectives of this Act and shall be applicable only to loans made after the effective date of such establishment or adjustment. The Administrator may make insured loans to electric or telephone borrowers at a lesser interstate rate, but not less than 2 per centum per annum nor more than a rate equal to one-half the standard rate (hereinafter in this section referred to as the 'special rate') if the Administrator finds, under guidelines to be established within one hundred and twenty days after the effective date of the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983, that the borrower—

"(1)(A) charges rates exceeding twice the national average of rates charged by borrowers in the same program, or cannot provide service consistent with the objectives of this Act without charging rates (established in accordance with generally accepted management and accounting principles) so high as to create a substantial disparity between such rates and the rates charged for similar service in the same or nearby areas by other suppliers; or

"(B) has an average consumer density of two or fewer per mile of line; or

"(C) has experienced financial losses attributable to storm damage, natural disasters, or other occurrences beyond its control; or

"(D) serves geographic areas having unusually low per capita income; and

"(2) is experiencing financial or other hardship through extenuating circumstances.

The rules and regulations promulgated under this subsection shall not take effect until (1) such rules and regulations have been transmitted to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal.";

(2) redesignating subsection (c) as subsection (d), and in subsection (d), as so redesignated, striking out "; such loans shall be sold and insured by the Administrator without undue delay"; and

(3) inserting, after subsection (b), a new subsection (c) as follows:

"(c) The Secretary of Agriculture shall include in each annual supplemental budget estimate or request submitted to the President or the Office of Management and Budget, and shall concurrently submit to the House Committee on Appropriations, the Senate Committee on Appropriations, the House Committee on Agriculture, and the Senate Committee on Agriculture, Nutrition, and Forestry, a request for the amount of funds determined by the Administrator to be necessary to replenish the fund for all actual and anticipated costs to the fund resulting from loans made at less than the standard rate during the preceding fiscal year.".

SEC. 7. Section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 1936) is amended by—

(1) inserting "(a)" immediately after the section designation;

(2) striking out the first sentence and inserting in lieu thereof the following: "For the purposes of (1) encouraging and assisting borrowers to develop and achieve the financial strength necessary to satisfy their credit needs from other sources and (2) improving the financial stability of borrowers, the Administrator, consistent with the objectives of this Act and in accordance with the rules and regulations to be promulgated under subsection (b) of this section, shall provide financial assistance to borrowers for purposes provided in this Act and for purposes of providing refinancing assistance, by guaranteeing loans, in the full amount thereof, made by the Rural Telephone Bank, the National Rural Utilities Cooperative Finance Corporation, and any other legally organized lending agency or lender approved by the Administrator, or by accommodating or subordinating liens or mortgages in the fund held by the Administrator as owner or as trustee or custodian for purchases of notes from the fund, or by any combination of such guarantee, accommodation, or subordination. The Administrator shall accommodate or subordinate liens or mortgages at the request of the borrower, notwithstanding any other provision of this Act, for any purpose that would enhance the financial strength or revenue of the borrower or improve the efficiency, effectiveness, or financial stability of the borrower, upon a finding that the borrower has, or will have, the ability to repay its existing and proposed indebtedness.";

(3) striking out the penultimate sentence and inserting in lieu thereof the following: "As used in this title, a guaranteed loan is one that is initially made or refinanced, held, and serviced by a legally organized lending agency or lender approved by the Administrator and that is guaranteed by the Administrator hereunder."; and

(4) adding at the end thereof new subsections (b) and (c) as follows:

"(b) Not later than ninety days after the effective date of the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983, the Administrator shall promulgate rules and regulations for the guarantee of loans and the accommodation and subordination of liens or mortgages, as provided in subsection (a) of this section. The rules and regulations promulgated under this subsection shall not take effect until (1) such rules and regulations have been transmitted to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal.

"(c) Whenever the interest rate on any advance under a loan that has a remaining term of seven years or more and that is guaranteed by the Administrator and made by a lender under this section exceeds the rate of interest applicable on other similar new advances then being made or purchased by one hundred basis points (1 per centum) or more, the lender is authorized, upon the request of the borrower, to adjust the interest rate on such advance, without penalty, to the interest rate than applicable to other similar new advances then being made or purchased by the lender: *Provided*, That no interest rate on such advance shall be readjusted at intervals of less than seven years.".

SEC. 8. Section 307 of the Rural Electrification Act of 1936 (7 U.S.C. 937) is amended by inserting before the period at the end thereof a colon and a proviso as follows: "*Provided*, That in any fiscal year for which the minimum loan level, as established by law, is less than $1,000,000,000 for insured loans for rural electrification, rural electrification borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect for fiscal year 1983 under Public Law 97-370, 96 Stat. 1801, enacted December 18, 1982".

SEC. 9. Section 406(a) of the Rural Electrification Act of 1936 (7 U.S.C. 946(a)) is amended by striking out "but not later than fiscal year 1991" in the second sentence.

SEC. 10. Section 408 of the Rural Electrification Act of 1936 (7 U.S.C. 948) is amended by—

(1) striking out everything in the first sentence of subsection (a) after "class C stock" down through the end of the sentence and inserting in lieu thereof a period;

(2) in paragraph (4) of subsection (b), adding "and income taxes" after "before interest", and striking out "higher" and inserting in lieu thereof "other"; and

(3) striking out paragraph (5) of subsection (b) in its entirety and redesignating paragraphs (6) and (7) of subsection (b) as paragraphs (5) and (6), respectively.

SEC. 11. Section 410 of the Rural Electrification Act of 1936 (7 U.S.C. 950) is amended by striking out subsection (b) in its entirety and by redesignating subsection (c) as subsection (b).

SEC. 12. This Act shall become effective on the date of enactment: *Provided*, That during the period between the effective date of this Act and the effective date of the rules and regulations required to be promulgated under section 305(b) of the Rural Electrification Act of 1936, as amended herein, the Administrator of the Rural Electrification Administration shall continue to make insured loans under the Rural Electrification Act of 1936 at the interest rates specified in section 305(b) prior to its amendment by this Act.

COMMITTEE AMENDMENTS

The **CHAIRMAN** pro tempore. The Clerk will report the committee amendments.

Mr. **DE LA GARZA.** Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read, printed in the RECORD and considered in bloc.

The **CHAIRMAN** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The committee amendments are as follows:

Committee amendments: Page 6, line 20, insert the following before the period at the end thereof: ": *Provided further*, that the standard rate determined by the Administrator for each account shall be sufficient to produce total anticipated interest income (including any appropriated funds and interest income from outstanding loans) for such account that will be equal to the total anticipated expense on all outstanding obligations of that account".

Page 7, line 5, strike out "may" and insert in lieu thereof "shall".

Page 7, line 6, strike out "interstate" and insert in lieu thereof "interest".

Page 8, strike out lines 6 and 7, and insert in lieu thereof the following:

(2) is experiencing financial hardship as determined by investment in utility plant in service per consumer served being at least twice the national average of other borrowers in the same program or such other financial or other hardship, through extenuating circumstances, as determined by the Administrator.

Page 9, strike out line 3 and all that follows through line 13, and insert in lieu thereof the following:

(c)(1) The Administrator shall establish in the Electrification Account and in the Telephone Account a reserve to be used to cover the cost to each account of loans made at the special rate. At the beginning of each fiscal year, the Administrator shall place in each reserve an amount equal to one per centum of the payments of principal and interest into the account during the preceding fiscal year. The Administrator shall apply the funds in each reserve against the estimated total cost to each account, through the period ending with the review required by paragraph (2), of all electric and telephone loans, respectively, that are made or extended at the special rate under this section during the fiscal year. If the Administrator determines that, as of the end of the fiscal year either reserve is not adequate to cover fully such cost, the Administrator shall promptly so notify the Secretary of Agriculture, who shall include in the Secretary's next supplemental budget estimate or request submitted to the President or the Office of Management and Budget, and shall concurrently submit to the Committee on Appropriations and the Committee on Agriculture of the House of Representatives, and the Committee on appropriations and the Committee on Agriculture, Nutrition, and Foresty of the Senate, a request for funds necessary to cover the balance of such cost.

(2) Each loan made at the special rate shall be reviewed by the Administrator every five years to determine whether the borrower continues to qualify for the special rate loan under the criteria specified in subsection (b) of this section. The Administrator shall (1) extend the loan at the special rate for an additional five-year period if the borrower is determined to continue to qualify, or (2) adjust the interest rate on the loan to the then current standard rate if the borrower is determined no longer to qualify.

Page 11, strike out all that follow the period on line 21 through the semi-colon on line 4, page 12, and insert in lieu thereof the following new sentence:

The Administrator shall accommodate or subordinate liens or mortgages at the request of the borrower, notwithstanding any other provision of this Act, for any purpose related directly or indirectly, to the provision of electric, telephone or other telecommunication facilities or services that would enhance the financial strength or revenue of the borrower or improve the efficiency, effectiveness, or financial stability of the borrower, upon a finding that the borrower has, or will have, the ability to repay its existing and proposed indebtedness: *Provided*, That the Administrator shall not make such accommodations or subordinations unless the Administrator finds that the government's security under this Act will not be jeopardized.

PARLIAMENTARY INQUIRY

Mr. BETHUNE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. BETHUNE. Mr. Chairman, the amendments have not been adopted; the amendments are up for consideration en bloc; is that my understanding?

The CHAIRMAN pro tempore. The committee amendments are pending.

Mr. BETHUNE. That is right. I thank the Chair.

Mr. COLEMAN of Missouri. Mr. Chairman, I move to strike the last word.

Mr. Chairman, H.R. 3050 reaffirms congressional commitment to rural America. Because electrical and telephone service is the foundation of rural development, I believe it is vital that this House pledge to continue the investment in rural America begun in the 1930's.

Generally, H.R. 3050 will allow electric cooperatives to serve their customers in a manner similar to service enjoyed by urban consumers, and it will assist small private and mutual phone companies to compete better in an unregulated communications industry.

Specifically, let me outline some of the provisions of this important legislation:

First, and perhaps the most controversial and misunderstood part of this bill deals with the $7.9 billion of outstanding notes that fall due beginning in 1993. The Rural Electrification Administration (REA) agreed to repay to the U.S. Treasury these billions. This bill simply changes that, establishing the revolving fund as a permanent entity.

When the fund was instituted in 1973, Congress intentions were that this seed capital could be repaid and the fund still would remain viable; lending to rural electric cooperatives and phone companies would continue by using the receipts from retired debts of these companies.

The problem now is that over the last 10 to 11 years the REA lending programs remained at high levels—and, each one of us knows what happened to interest rates. Obviously, there is a shortfall, or we wouldn't be here today. But the shortfall is so large that with the repayment of these $7.9 billion in notes, the REA leading programs literally will dry up.

Let us not confuse the issue here today: By accepting section 4 of this bill, we are taking away about $7.9 billion from the U.S. Treasury, or increasing the deficit by that amount. But, also, remember: As the General Accounting Office concluded in a report on S. 1300, the companion legislation to H.R. 3050, by permanently capitalizing these $7.9 billion we are in effect today in real terms appropriating around $1 billion. I believe rural America is worth it. I support this section of the bill.

We must remember that those Americans who provide our food and fiber and export enough to aid our balance of payments in the world economy often live Spartan lives. The efficiency of the American family farmer is in a large measure the results of electrical power and telephone communications. These are the reasons I value the lending of the REA and the soundness and integrity of rural electric cooperatives and our small telephone companies.

In addition, we must understand that with the capitalization of the revolving fund comes the provision that REA borrowers will begin paying higher rates of interest. Rural America knows the value of affordable electricity and phone service and is willing to pay more for it. When the interest rates REA charges its borrowers go up, then obviously rates that consumers pay also will go up. Rural America will be paying more, but rural Americans through their member-owned co-ops have agreed that this is in the best interest of all concerned about the long-term vitality of our agricultural economy.

H.R. 3050 also amends the Rural Electrification Act in the case of borrowers who provide telephone service to the countryside.

The communications industry is changing, and there simply is no reason why rural Americans should not receive the benefits of these technological innovations. Under the provisions of this legislation that likelihood is increased. It allows telephone companies to expand services, including through the uses of satellite technology.

Mr. Chairman, in conclusion I think rural America needs this legislation. I also believe industrious and thrifty rural America deserves this legislation—and in fact, when the cooperative associations brought this legislation to the Congress they did America a great service. Let us remember, in the case of the outstanding Treasury notes, none are due until 1993. They recognized the problem and decided to do the right thing 10 years before it needed to be done. And, they sacrificed present gain in the form of operational costs so that the system would survive.

Mr. BETHUNE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, will the gentleman from Texas (Mr. DE LA GARZA) please explain the nature of the amendments which we are now considering en bloc? I think I know one of them, but I am not sure I know the others.

I yield to the gentleman from Texas for his answer.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, we have three amendments that were adopted by the committee. One by Mr. STENHOLM which requires the interest rate equal to interest expense on the entire outstanding debt. So that you do not accrue further interest expense.

One by Mr. GLICKMAN on the subordination that it is the end, the bottom line is that it is discretionary with the Administrator. This is a mandatory discretionary.

□ 1250

It mandates, but the Administrator has the explicit right to state that it does not prejudice the interest of the Government. So the final word would be given by the Administrator, and this is solely for telephone, and that it be used exclusively for telephones; not to subordinate to do some other endeavor outside of it; restrict it basically, primarily, to the telephone, and the Administrator must certify that it will not prejudice the interest of the Government.

The other amendment is the amendment offered by the gentleman from South Dakota (Mr. DASCHLE) which continues the 2-percent rate if they meet the criteria that are specified, two customers per mile and should be in dire financial circumstances, acts of God like an ice storm knocks out. So again, it is a mandatory-discretionary, that it has to fit this long list of criteria and it would be a very minimal use of it if the REA borrower fits this criteria.

Those are the committee amendments.

Mr. BETHUNE. Will the gentleman please state the outcome of the discussions that he had with the chairman of the Committee on Ways and Means, the chairman of the Committee on Banking, Finance and Urban Affairs, and whether or not that is now a part of the committee amendments?

Mr. DE LA GARZA. No; that is a further amendment that I will offer later. These are the corrective amendments basically adopted by the committee. The other amendment, Committee on Ways and Means and Committee on Banking, Finance and Urban Affairs, I will offer as a separate amendment.

Mr. BETHUNE. Is it the gentleman's intention to do that after the committee amendments are considered?

Mr. DE LA GARZA. Yes. The gentleman is correct.

Mr. BETHUNE. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA: Page 5, line 11, insert ", after obtaining the prior approval of the President of the Federal Financing Bank" immediately after "the Administrator is authorized".

Mr. DE LA GARZA. Mr. Chairman, this is the amendment just discussed by the gentleman from Arkansas (Mr. BETHUNE) and I.

My amendment simply would require the approval of the Federal Financing Bank before the Administrator of the Rural Electrification Administration could refinance the certificates of beneficial ownership as provided under section 5 of the bill.

Section 5 authorizes the Administrator of REA to refinance its debt to the Federal Financing Bank whenever the current interest rate is more than 1 percent below the interest rate on that debt. The distinguished chairmen of the House Committees on Ways and Means and Banking, Finance, and Urban Affairs expressed concerns to me that this provision could adversely impact on the debt management activities of the Federal Financing Bank.

This was not our intent. In order to alleviate their concerns, I have agreed to sponsor this amendment that would require the prior approval of the FFB before any such refinancing could occur.

I would like at this point to read to the Members the exchange of correspondence with the chairmen of those committees that gave rise to this amendment:

COMMITTEE ON AGRICULTURE,
Washington, D.C., January 31, 1984.
Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I note that H.R. 3050, the Rural Electric and Revolving Fund Self-Sufficiency Act of 1983, has been referred to the Committee on Banking, Finance, and Urban Affairs and the Committee on Ways and Means for a period ending not later than February 24, 1984 for consideration of section 5 of the bill.

Section 5 authorizes the Administrator of the Rural Electrification Administration to repurchase certificates of beneficial ownership previously sold to the Federal Financing Bank without penalty whenever the interest rate exceeds the current interest rate on similar certificates by one percent or more. In your letter to the Speaker, you indicated that this provision was of substantial concern to the Committee on Ways and Means because of its possible adverse effect on public debt management.

In order to expedite consideration of the bill, I would be willing to sponsor an amendment that would require the approval of the Federal Financing Bank before the Administrator could repurchase certificates of beneficial ownership under section 5 of the bill. This, of course, would be with the understanding that you would waive further consideration of H.R. 3050 so that it may be placed promptly on the union calendar.

I would appreciate your consideration of this matter.

With best wishes,
Sincerely,
E (KIKA) DE LA GARZA,
Chairman.

COMMITTEE ON WAYS AND MEANS,
Washington, D.C., February 1, 1984.
Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, Longworth Building, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your letter of January 31, 1984, concerning the sequential referral of section 5 of H.R. 3050, the Rural Electric and Revolving Fund Self-Sufficiency Act of 1983, the amendment to section 5 that you suggest was discussed with the members of the Committee on Ways and Means at our organizational meeting on February 1, 1984.

The Committee is willing to waive further consideration of H.R. 3050 if you will sponsor an amendment to section 5 of the bill which clarifies that repurchases of certificates of beneficial ownership authorized by the Rural Electrification Administrator cannot be accomplished unless the Federal Financing Bank (FFB) agrees to the repurchase. We do not want to leave any implication that the Bank is required to make such repurchase. Your suggested amendment appears to accomplish that result.

The statutory provisions which govern the operation of the FFB, and which are within the jurisdiction of the Committee on Ways and Means, explicitly state that the Bank is authorized to purchase obligations on the terms and conditions established by the Bank. This principle is one which cannot be compromised. The Committee on Ways and Means also views section 7 of H.R. 3050, dealing with refinancing guaranteed loans, in the same manner and consistent with this view of the Bank's role. That is, the FFB may agree to adjust the interest rate on such obligations but it is not required to do so. Your Committee report indicates that the Committee on Agriculture shares this view.

Finally, the Committee on Ways and Means would like this exchange of letters to be placed in the Congressional Record along with the Committee's explanation of the bill, in order to form part of the bill's official legislative history.

Thank you for your assistance in resolving this matter.

Sincerely yours,
DAN ROSTENKOWSKI,
Chairman.

COMMITTEE ON AGRICULTURE,
Washington, D.C., February 2, 1984.
Hon. FERNAND J. ST GERMAIN,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I note that H.R. 3050, the Rural Electric and Revolving Fund Self-Sufficiency Act of 1983, has been referred to the Committee on Banking, Finance, and Urban Affairs and the Committee on Ways and Means for a period ending not later than February 24, 1984 for consideration of section 5 of the bill.

Section 5 authorizes the Administrator of the Rural Electrification Administration to repurchase certificates of beneficial ownership previously sold to the Federal Financing Bank without penalty whenever the interest rate exceeds the current interest rate on similar certificates by one percent or more. In a letter to the Speaker, the Ways and Means Committee indicated that this provision was of substantial concern to that Committee because of its possible adverse effect on public debt management.

In order to expedite consideration of the bill, I have advised the Ways and Means Committee that I would be willing to sponsor an amendment that would require the approval of the Federal Financing Bank before the Administrator could repurchase certificates of beneficial ownership under section 5 of the bill. I stated that this would be with the understanding that the Ways and Means Committee would waive further consideration of H.R. 3050. Based on this assurance the Ways and Means Committee has agreed to the waiver. Attached for your information is a copy of a letter from the Chairman of that Committee.

In view of this exchange of letters, I would appreciate your advising me if the Banking, Finance and Urban Affairs Committee likewise would agree to waive further consideration of the bill so that it may be placed promptly on the union calendar.

Thank you for your assistance in this matter.

With best wishes,

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, D.C., February 3, 1984.

Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of February 2, 1984, regarding the sequential referral of H.R. 3050, the Rural Electric and Revolving Fund Self-Sufficiency Act of 1983, to the Committee on Banking, Finance and Urban Affairs for a period ending not later than February 24, 1984, for consideration of section 5 of the bill.

Section 5 presently authorizes the Administrator of the Rural Electrification Administration to repurchase certificates of beneficial ownership previously sold to the Federal Financing Bank without penalty whenever the interest rate exceeds the current interest on similar certificates by one percent or more. Since the statute governing the operations of the Federal Financing Bank authorizes the Bank to purchase and sell obligations of a federal agency "on terms and conditions determined by the Bank," there is a concern that section 5 as presently worded could be interpreted to require the Federal Financing Bank to sell such CBOs to the REA.

In your letter of February 2, you state you would be willing to sponsor an amendment to section 5 of H.R. 3050 which would require the approval of the Federal Financing Bank before the Administrator could repurchase certificates of beneficial ownership. With that assurance, the Committee on Banking, Finance and Urban Affairs is willing to waive further consideration of H.R. 3050.

I would appreciate it if this exchange of correspondence is placed in the Congressional Record in order to form part of the bill's legislative history.

Sincerely,

FERNAND J. ST GERMAIN,
Chairman.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

Mr. Chairman, I wanted to ask the gentleman, because I think this is a fairly important provision, because if indeed this could be done without the approval of the Federal Financing Bank or if there were no other impediment there, this could set a precedent which would conceivably cause a raid on the Federal Financing Bank and could really exacerbate the deficit problem that we have.

As I understand the amendment, it says that "after obtaining the prior approval of the President of the Federal Financing Bank." Could the gentleman say to me what would be the mechanics of obtaining such approval, and how the President of the Bank would make such a determination? Are there criteria? Has that been worked out? Have we determined exactly who would be involved in that decisionmaking?

Mr. DE LA GARZA. No; we do not involve ourselves in that. We give the authority to the Federal Financing Bank and they would, I assume, set the criteria. They have the discretion. I do not know if one would call on the telephone or write a letter or how it is going to be done. What we say in the law is that the President of the Bank has to say yes before it is done.

Mr. BETHUNE. The point I am getting at is that the Federal Financing Bank is really just an office in the Treasury Department. I am wondering, for instance, to what extent the President of the Federal Financing Bank would be subject to the influences of the Secretary of the Treasury and the incumbent administration, because that would be the determining factor, really.

So will it be and could it be a political decision rather than an economic decision?

Mr. DE LA GARZA. The gentleman studied the act and the gentleman knows that the Secretary of the Treasury is the Chairman of the Federal Financing Bank, so the gentleman has answered his own question.

Mr. BETHUNE. So what we are really doing is saying that the Secretary of the Treasury will have some oversight here in his capacity as the Chairman of the Federal Financing Bank. Is that really what we are doing?

Mr. DE LA GARZA. That is the way it operates.

Mr. BETHUNE. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. DE LA GARZA).

The amendment was agreed to.

Mr. PANETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as a member of the Committee on Agriculture, I fully support the intent of this bill in trying to protect the financial integrity of REA. Since the 1930's, obviously, REA has been essential to bringing electricity and telephone service to farmers and ranchers and rural residents throughout this country.

But as a member of the Committee on the Budget, I have raised several concerns in the Committee on Agriculture that I think ought to be shared with the rest of the Members as they consider this legislation.

On a broader scale, I think we need to raise questions about the whole question of off-budget items, and particularly credit budget items, the so-called revolving fund items. If we look at the nature of the budget just over the last few years, since 1973 off-budget items constituted about $60 million of the Federal budget. In 1984, they constitute $16.2 billion.

When it comes to credit programs, in 1974 credit programs constituted about $25.5 billion of the Federal budget and now constitute almost $87 billion, an increase of 239 percent.

The problem with these credit programs is, as they are set aside off-budget and into an arena unto themselves, the problem is that they appear to be self-sustaining. The reality is that because of subsidized interest rates in the vicinity of 2 or 3 percent less in many of these areas, particularly at times when the market interest rates are high or, indeed, double-digit as they were a few years ago, the problem is that these various credit programs come in for additional appropriations in order to sustain themselves.

We have had those kinds of additional appropriations. There are what are called, and I quote, "appropriations to reduce the debt, forgiveness provisions." As a matter of fact, there are several appropriations of this type that are in fact included in the administration's budget request for 1985.

Ultimately, it is my view, all of these credit programs need to be made part of the budget with limits, so that the public is aware of exactly what is happening. If there is an effort to exceed those limits, then I think the institution ought to vote on those issues and that is fine if there is a willingness to, in fact, continue those kinds of credit programs. But we ought to end the fiction that all is well with this myriad of credit programs that operate in their own sphere.

The evidence of some of these concerns appears in this bill, and I would mention briefly three areas.

□ 1300

One is the area relating to debt forgiveness. There are provisions in this bill which relieve the Rural Electrification Administration's revolving fund of the obligation to repay about $7.9 billion in assets to the Treasury.

Congress created the revolving fund in 1973 and provided that the $7.9 billion in outstanding loans owed to the Treasury by electric co-ops and telephone companies would instead be paid into a new fund. This money would be available for new loans and would be paid to the Treasury in installments beginning some time in 1993.

H.R. 3050, the bill before the House instead relieves REA of its obligation to repay that debt and converts the $7.9 billion into equity capital that becomes then part of the revolving fund.

This debt forgiveness provision, I think, raises several difficulties from the standpoint of budget policy. While such a step has been taken before, it has always been done through the appropriations process by obtaining what is in effect, as I have described, an appropriation to reduce the debt, and it has always been done to cover loans and loan guarantees which cannot be repaid to the agency in question. In other words, the type of liquidating appropriation is normally sought when an agency has already acknowledged that in fact it is suffering a loss, and, as I said, several appropriations of this kind have been adopted and are being proposed in the administration's budget.

But in essence what happens in this legislation is that the forgiveness is not simply an accounting tool acknowledging a loss that has already taken place; it is basically a tool of policy. It certainly is legitimate, it seems to me, for Congress to decide if it wants to provide grant assistance to REA, a decision that was indeed made in 1973, when the loan fund was basically established.

But I also would argue that this is not the proper vehicle for granting such assistance in legislation of this kind. A deal was struck in 1973 for REA basically to repay $7.9 billion to the REA in 1993. Admittedly, there have been unexpectedly high interest rates.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. PANETTA) has expired.

(By unanimous consent, Mr. PANETTA was allowed to proceed for 5 additional minutes.)

Mr. PANETTA. Unexpectedly, Mr. Chairman, these high interest rates in the intervening years have undermined the position of the revolving fund. That is understood, and this is a legitimate policy problem. But I would prefer, very frankly, that the same procedure be used of going to the Appropriations Committee as opposed to passing this authorizing legislation.

I had anticipated offering an amendment basically to strike this provision, but, very frankly, the entire bill reflects the forgiveness of this debt item particularly as it relates to interest rates. As a consequence, if we were to do it, it is, I think, more appropriate to do it in the context of a broad substitute, and I understand such substitute will be offered today.

There are two additional problems that I wish to point to that arise from section 7. Section 7 appears to require the REA to automatically accommodate or subordinate liens or mortgages at the request of the borrower, and notwithstanding any other provisions of the act. The authority to accommodate or subordinate REA loans, frankly, already exists, but it is discretionary, not mandatory. The bill appears to require that this authority be subject to the request of the borrower and would apply not only to new loans but to outstanding loans as well.

The concern obviously is that we are establishing a new precedent by subordinating Federal claims to private creditors, something that frankly has not been done in other legislation. But, more importantly, it raises the aspect that this is mandatory and not simply discretionary.

The other portion also is in section 7, which deals with the establishment of a new loan guarantee program. Again the language of section 7 appears to direct the REA to automatically guarantee loans made by the Rural Telephone Bank, the National Rural Utilities Co-op Finance Corp., and any others that are approved by the Administrator. It appears to establish a mandatory loan program.

So for that reason, I would like to engage in a colloquy with the chairman of the subcommittee to try to clear up what I think is confusion in the language by the use of "shall," as opposed to "may."

Mr. Chairman, is it the intent of the chairman of the subcommittee that the rules and regulations which the Administrator will set down for loan guarantees and subordination would include eligibility criteria; that is, the Administrator would still retain discretion in determining whether a given borrower was eligible to receive loan guarantees or subordination of the Federal Government's interest as a lender?

Mr. JONES of Tennessee. Mr. Chairman, if the gentleman will yield, I would like to say to my good friend, the gentleman from California (Mr. PANETTA), who is a member of the full Committee on Agriculture, that the answer is, "yes," the Administrator would still retain discretion to determine eligibility.

Mr. PANETTA. Mr. Chairman, is it further the gentleman's understanding that under the bill, as reported, once the Administrator finds a party eligible for assistance, it is only then that he must act to guarantee loans or to subordinate the Government's interest?

Mr. JONES of Tennessee. Yes; that is correct.

Mr. PANETTA. So in short, the bill, as reported, does not create a strictly mandatory loan guarantee or subordination program but, rather, says only that if the Administrator finds a borrower eligible for assistance under some criteria which the Administrator has discretion to set, it is only then that he must act; is that correct?

Mr. JONES of Tennessee. Yes; that is correct.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for engaging in this colloquy because I think that does help establish a record with regard to the congressional intent as to those two aspects.

As I said, I think ultimately the Congress will have to face up to the entire issue of the credit budget, because it is not just true in REA, it is true for CCC, it is true for FHA, and it is true for a series of programs that are incurring the same problems. Ultimately, these programs will have to be included in the comprehensive budget.

Mr. McNULTY. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Arizona.

Mr. McNULTY. Mr. Chairman, given what the gentleman has speculated about with respect to the possibility of subordinations being made inappropriately, why does the gentleman not think that the language is proper which says "* * * the Administrator shall not make * * * subordinations unless the Administrator finds that the Government's security under this Act will not be jeopardized"?

Why does that language not cure the possibility the gentleman foresees?

Mr. PANETTA. Mr. Chairman, the concern I have with the language, in discussing it with legislative counsel, is that any time the word, "shall," is used, it raises the aspect that there is an automatic entitlement involved here.

The concern I had in engaging in the colloguy with the subcommittee chairman is that it is not essentially an entitlement, and we make that clear. What we are establishing is a group of very important criteria, and it is only when the borrower meets all those criteria that he becomes eligible.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. PANETTA) has again expired.

(On request of Mr. BETHUNE, and by unanimous consent, Mr. PANETTA was allowed to proceed for 2 additional minutes.)

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Chairman, my colleague and I serve on the Budget Committee together and have for several years now, and I know the work he has done there. It is good work, and certainly the two of us have long shared this concern about the credit budget.

Many Members do not realize that the Federal lending programs are growing faster than Federal spending programs. I always say that twice because it startles people. The Federal lending programs are growing faster than Federal spending programs.

So it is not enough just to think about reducing the deficits, the difference between taxing and spending, it is not enough to be concerned about monetary policy when we think about interest rates, we have also got to think about the impact that this growing Federal lending activity has on those who do not get it, those who are crowded out.

This is the whole purpose of the credit budget activity, and I just wanted to make that point here because the gentleman has been very sensitive to this issue ever since we started working on it together a few years ago. It is one of the most important issues that faces us today, the whole business of money and credit. We really do not know what we are doing. We take these matters up on an ad hoc basis, and we contribute to the problem rather than solving the overall problem.

Mr. Chairman, I thank the gentleman for yielding.

Mr. PANETTA. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

Mr. DASCHLE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 3050, and I commend the subcommittee chairman and the full committee chairman for their work thus far on the bill. I think it is a good piece of legislation.

Mr. Chairman, the debate on H.R. 3050 reminds me of a news story that came out of a remote part of Wyoming over 10 years ago.

I recall that it was at the time of one of our more significant space shot spectaculars, and all eyes of the Nation were focused on the truly fantastic events that were unfolding in outer space.

But while Americans in general were "ohing" and "ahing" over the success of our space program, a young couple who had established their home and ranch in a box canyon in that Western State were much more excited about something else:

Electricity. For the first time, they were hooked up to the high line 8 or 9 miles away. While our eyes were riveted to the TV, watching a man-in-space milestone event thought to be unachievable a few short years ago, the local rural electric cooperative was achieving for that young couple an earthly miracle they had hoped for and dreamed about for years.

Now they could throw away the scrubboards and lanterns. Now they could discard the Delco battery generators and gasoline engines. They could buy a washer and drier. Now they could throw a switch and water the livestock instead of laboriously pumping tons of water by hand. Now they could join the 20th century. This was the pinnacle achievement most important to them on that fall day when so much of the world's attention was riveted beyond planet Earth.

What has this got to do with H.R. 3050 and rural electrification?

Quite a lot. It deals with a set of values and sensitivity toward human needs that seems to totally escape those who are trying to discredit the rural electrification program. These detractors would have us seriously undermine an agency and its program, that has produced so much benefit for so many people, in so many ways, and that is still needed by millions of rural Americans today.

The REA of today is still the agency of the 1930's in the sense that it evokes in the minds and hearts of the American people—rural and urban—the unparalleled example of the great magnitude of goodness that one little agency can bring forth. This has been and remains so because of the true partnership of the people and their co-ops in concert with their government in lighting rural America, and in modern times, acting as a primary catalyst for rural area development, job creation and the reversal of the sickening outmigration of rural Americans. The REA program in 1984 remains in that fine tradition. It must be protected and preserved.

We have all read and heard the worn out argument that rural American is electrified and therefore the program is no longer needed. That has been trotted out annually for 30 years. And each year right up to this moment the program has proven to be needed as much as it was in the 1940's, 1950's, and 1960's.

Of course rural America is 99 percent electrified. The great cities of this Nation are 100 percent electrified.

But is anyone naive enough to contend that the investor-owned companies that serve those communities have finished the job and that no further investments and capital are needed by those giant urban systems?

The truth is, as we all know, that the job of electric utilities rural and urban is never complete. There is growth. These is expansion. There is the need for maintenance and replacement, for research and development, for pioneering new and innovative means of electric power generation, transmission and distribution. The capital needs are still there for the new lines, the generating equipment—all the gear and paraphernalia required to provide reliable and affordable service to industry and commerce—and yes, to individuals, including farm families.

I am sure that most of us know, because we have voted on the tax bill 3 years ago that provides for it, that power companies are highly subsidized through the tax laws—accelerated depreciation, investment tax credits and other provisions.

And I presume that most of us from time to time supported measures such as these because we felt it was necessary to keep the companies in reasonably sound financial condition so they could provide service to the citizenry and make the investments they need to make, without driving their rates through the roof and jeopardizing their future operations.

Rural electric cooperatives do not enjoy these kinds of considerations because they are nonprofit systems. Neither do they have enormous and lucrative power loads of the companies. The co-ops do not have the advantage of serving highly populous areas. The co-op's service areas average less than five consumers per mile of line as opposed to 35 or 36 consumers per mile which the investor-owned systems enjoy. Neither do the rural electric co-ops have the access to money and financial wherewithal that the investor-owned systems have because of the foregoing. Nor do they enjoy the low visibility of hidden tax side subsidies of the phantom kind so replete in these times. They must have a federally operated loan program that is preserved and kept viable as is proposed under H.R. 3050.

There never would have been the magnificent array of rural electric cooperatives without the REA and its loan program, and without the continuation of this program, many rural electric cooperatives will be severely hampered in their operations. In order to survive they would have to increase their rates to such a degree that they would be punitive; they would punish the consumers that own them, causing widespread hardship.

I urge the approval of H.R. 3050 because it is fair in every respect—fair to the more than 25 million people who depend upon rural electric cooperatives for their service—and fair to the Federal Government and general citizenry of this Nation.

I urge its passage because it will aid the already hard pressed and financially strapped farm and ranch operators—the rural electric consumer at the end of the line, that young couple on the little ranch up in the box canyon, struggling for survival and to maintain a cherished way of life—those young people who finally experienced not so long ago the 20th century economic miracle of getting rural electric power in contemporary times.

I urge its passage because, contrary to this bill's opponents, I do not believe our rural Americans should have to pay punitive rates for services to live and labor on the land they love.

□ 1310

Mr. de la GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do so to engage in a colloquy with our distinguished colleague and friend, the gentleman from New York (Mr. Wortley), who has some concerns about the subordination part of this legislation.

I have endeavored to explain earlier in the explanation of the amendments adopted that this subordination does in effect leave authority with the Administrator and also the colloquy just previously entered into between our distinguished colleague from California (Mr. Panetta) and the distinguished chairman of the subcommittee, the gentleman from Tennessee (Mr. Jones) who further expanded on that. At this point I yield to my friend, the gentleman from New York.

Mr. WORTLEY. Mr Chairman, I thank the gentleman for yielding.

I had originally intended to offer an amendment today to insure that the Government does not surrender its primary creditor status.

Is it the understanding of the gentleman that on page 12 of this bill, line 14 that the proviso which reads:

> *Provided*, That the Administrator shall not make such accommodations or subordinations unless the Administrator finds that the Government's security under this Act will not be jeopardized.";

Mr. de la GARZA. Using an overabundance of caution to clearly give the legislative intent, I would again repeat to the gentleman, that is correct. The Administrator would have the authority to deny the subordination if he feels that the Government security will be jeopardized.

Mr. WORTLEY. I do believe we all have a responsibility to the taxpayers to make sure that borrowers are not making a raid on the Treasury, that we are not subordinating U.S. Government interests to others. However, I also recognize that we would like to encourage the participation of the private sector in extending credit to the cooperatives.

I have been concerned about the fact that earlier in this bill it says that the Administrator shall accommodate or subordinate liens or mortgages at the request of the borrower, notwithstanding any other provisions of this act or for any purpose related directly or indirectly.

Mr. de la GARZA. Mr. Chairman, the gentleman is correct. I guess I have coined a new phrase which I used in the explanation of the amendment, that it is "mandatory-discretionary"; but basically that can be explained and this should be the legislative history, that it is mandatory that the Administrator accept the application for subordination, and the Administrator consider the application. This is the mandatory part.

Then the final proviso on that amendment, this is the amendment offered by the gentleman from Kansas (Mr. Glickman) and approved earlier en bloc, the final proviso is that the Administrator—again we use mandatory language—shall not subordinate if he finds that the subordination will jeopardize the interests of the Government.

□ 1320

So that protects the taxpayer and protects the integrity of the fund, the amendment gives the Administrator the discretion and authority to amply protect the interests of the Government.

Mr. WORTLEY. As long as the Administrator is assured that the Government security will not be placed in jeopardy, I will withdraw my amendment.

Mr. de la GARZA. I appreciate that and I know of the gentleman's concern. We share his concern and we were working along the same lines. We anticipated the gentleman's amendment. I appreciate his cooperation.

Mr. WORTLEY. I thank the gentleman.

Mr. EVANS of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 3050 on behalf of the thousands of citizens in Illinois who benefit from electric and telephone service provided by rural cooperatives. Enactment of this legislation will insure the financial integrity and self-sufficiency of Rural Electrification Administration loan programs. A properly designed Federal revolving fund can and should be an integral part of the means to provide cooperatives with adequate credit to maintain and strengthen their systems.

We in Congress must not forget the human side of legislation—the people whose lives will be enriched and improved by our actions.

In human terms, financially stable rural electric and telephone systems mean reasonably priced and reliable power and communications for our Nation's rural consumers: electricity to heat a farm home through a long Midwest winter and telephone service for security and peace of mind for a senior citizen in a small town.

The availability of dependable electricity has played a vital role in the economic growth of American agriculture and has been instrumental in upgrading the standard of living for rural citizens. In these difficult economic times the foundation of the rural economy, the family farm, is being threatened with financial disaster. Main streets in Illinois and throughout the country are suffering as the effect of the agriculture industry's hardship ripples through local businesses. Often in such an economic climate services must be cut or curtailed.

H.R. 3050 would enable a proven system to perpetuate itself. Rural telephone and electric cooperatives are asking Congress to allow slightly higher interest rates on rural electric loans in order to preserve the independent, self-sustaining nature of these rural programs.

By allowing the interest rate to be adjusted, the revolving fund will retain its self-sufficiency. Studies have indicated that, without the proposal for the rise in interest rates, this essential source of funds for rural electric and telephone systems would be depleted. Moreover, such legislation will strengthen the total Rural Electrification Administration financing program without creating a burden on taxpayers.

Again, in human terms, this means that our rural residents and business can continue to be assured of reliable service from these essential utilities. Our farmers will have access to sufficient energy and telephone service at reasonable rates, thus enabling them to remain on the farm. Rural communities will enjoy both a direct benefit from lower utility costs and an indirect benefit from an improved farm economy.

Mr. Chairman, I believe I speak for people from every economic sector in western Illinois when I express my support for the continuation of a strong rural electric and telephone program. H.R. 3050 makes that possible by restoring balance and long-term stability to the revolving fund. I urge my colleagues to favorably consider this measure when it comes before the House for final approval.

Mr. DURBIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in 1933 in rural America less than 10 percent of the Nation's farms had electricity. And without electric power there was no way to have running water pumped into the farm homes and elsewhere for farm operations. Electric and telephone poles did not extend into rural regions because private companies just did not believe it was cost effective.

The country finally realized that this rural problem was a national problem, and in 1935 the Rural Electrification Administration was established. The mandate was to develop a program of loans for farmer-owned cooperatives to construct and operate small rural electric and telephone utility systems.

A generation of Americans who grew up on the farm can still remember that wondrous day when they strung the wires to the farm and brought electricity to the farmhouses.

Make no mistake, if productivity is a national goal in America today, agriculture is showing productivity, and electric and telephone service are key to the productivity of American agriculture.

In 1973 Congress recognized the need to upgrade the REA financing programs to meet new challenges. At that time the fund was established to assure long-term and reliable, affordable service to rural areas.

It was obvious that the cooperatives did not want the guaranteed loans to make a profit for their members. They needed electricity and telephone service to run their farms and keep in touch with the outside world. And since they lived and worked in sparcely populated areas, they knew that the only way to be sure of continuous, dependable, affordable service was to band together in jointly owned electric and telephone service systems.

Over the past few years, the agricultural sector has been hit and hit hard by this recession. Higher interest rates have taken their toll. In order to afford a 5-percent interest rate to borrowers, the REA has had to borrow at rates many times in excess of 10 percent.

Now, the solvency of this financing system is threatened.

I want to commend Chairman JONES and the subcommittee because with H.R. 3050 we address the problem by allowing the REA Administrator to set interest rates on new loans at levels above 5 percent. This will make it possible for the REA to cover the cost of interest on the capital it borrowed. Although the cost for REA borrowers will increase, the majority of the 25 million cooperative farmers across the Nation are willing to bear this additional burden in order to assure the future dependability of REA service.

This legislation also calls for a conversion of funds appropriated for REA lending prior to 1973 into a permanent fund, and this has been a controversial and highly debated topic. This money will be a stable source, though, of capital for the financing program.

Not a penny of the $7.9 billion REA owes the U.S. Treasury will be forgiven with this legislation. The Congressional Budget Office estimates that the Federal outlays for the REA will increase by $[illegible] million over the next 5 years. This is due to an unexpected increase in low-interest loans.

Although the bill shifts the assets from the Treasury to the REA revolving fund, CBO notes that there will be no net budgetary impact.

Unfortunately, some people have been calling this bill a budget buster. It is not that. I am afraid those who make these claims are either terribly misinformed or are attempting to justify their distaste for farmer-run rural cooperatives.

I want to emphasize that besides the farmers and rural groups, the Consumer Federation of America supports this bill. The people who are watching Congress today should be interested in this bill, even if they live in the middle of a large city, because if we want the farmers to continue to produce our food at reasonable prices, farmers who are often over their heads in debt because of large capital investments, then we have to guarantee the continuation and success of the REA financing programs.

Enactment of H.R. 3050 is of the utmost importance to rural America and particularly the 600,000 farmers in Illinois. We need your support and hope that many of the tactics being used against this bill will not be allowed to lead us astray and that, in fact, we will enact H.R. 3050 today.

I yield back the balance of my time.

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support this bill and oppose the soon-to-be Bethune amendments.

Mr. Chairman, in the past 50 years, the Rural Electrification Administration has been successful almost beyond imagination in bringing electricity and telephone service to our Nation's farmers. From the darkness of the Depression, our rural electric cooperatives and telephone cooperatives, working hand in hand with REA, have brought rural America these basic services of 20th-century life. Today, we accept this vast accomplishment as the commonplace, the norm and tend not to appreciate fully the truly remarkable achievement it is; how much better off rural America is than any other rural part of the globe for these efforts; and just how successful and productive genuine problem-solving, goal-oriented government-private sector cooperation can be.

REA now faces unprecedented challenges and undreamt of difficulties. One of those challenges, which my constituents will be feeling very keenly in the near future, as will other consumers across the country, is the rising cost of new electric generating capacity. In the past few years, we have seen natural gas prices skyrocket, telephone rates are now climbing, and in all likelihood, electricity rates will jump as these new plants come on line.

In my State, as in others, a good portion of those jumps will come from nuclear generating plants, which are proving expensive far in excess of original projections. Complicating that, legitimate questions are being raised about the need for new capacity. Indeed, slightly less than 1 month ago, this House approved a bill to limit costs allowed to be passed on to consumers for new plants under construction as part of the increasing concern for the effects on rates of these new, very expensive generating stations.

In voting for H.R. 3050, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act, I believe the proposals can help hold the line on electricity rates in the future. Yet, I am still very concerned about some trends, especially the way they are affected by new plants, especially new nuclear plants. As a significant financing partner in many of these plants, I urge REA in the future to examine such proposals with utmost scrutiny to insure that new plant is needed and that it is the most efficient, cost-effective way to meet future demand. As holder of the public's commitment to these projects and the funds we commit, I believe REA should examine, as part of reviewing repayment ability and likelihood, what might happen if a borrower might suddenly become saddled with unuseable, unneeded capacity. Certainly, such an eventuality would be a key factor in a borrower's ability to meet its loan obligations. Also, such a review might help avoid constructing expensive, unneeded plants thus helping to keep consumer rates in check. To date, REA has already been a significant partner in many troubled nuclear projects which may end up costing co-ops far more than first planned. The track record, and possible adverse outcomes, without more careful, stringent reviews of these facilities and their financial implications, indicate REA needs to exercise more caution, and it is my hope the agency will make this a top priority.

I am confident about the future of affordable electricity—the evidence of the past is overwhelming—but it will take work and cautious planning. Today's action to approve this bill will be an important part of that challenge, and I urge my colleagues' support.

□ 1330

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman.

Mr. ENGLISH. Mr. Chairman, I want to commend the gentleman for a very fine statement. I think he is exactly right. We had that experience down in Oklahoma, Black Fox, which caused increased rates. It is important to point out many of the generating plants have had to switch, in our part of the country, from gas to coal, or to nuclear, which has caused tremendous increases. That was brought about because of changes in the law, where we are no longer allowed to use gas.

I think the gentleman makes a very fine point, that a lot of these additional costs are not a fault of the REC's but to the fact that the Federal law has changed.

Mr. DORGAN. Mr. Chairman, I move to strike the last word, and I rise in support of H.R. 3050.

Mr. Chairman, I do so coming from North Dakota, which is a very rural State; a State that has made heavy use of the REA program.

I think all of us recognize what the REA program did for America. When we brought electricity to those farms out in the country in the 1930's and 1940's, we unleashed the most productive agricultural sector in the history of civilization. Nothing comes even close to it.

And if we defeat H.R. 3050, if we take the advice of some who suggest, "Let's go back to the market system, let's have the local co-ops out there that bring electricity to those farms pay market interest rates," then we will have done severe damage to the American farmer.

The fact is there is a difference in the capital cost needs when you have two customers per mile of line than when you have 800 or 1,000 customers per mile of line. There is a difference in the needs of rural America versus the needs of New York City. I think that is what the REA program is all about.

I want to frame this in terms of what is happening in the farm belt today, because we are debating a very important ingredient of the agricultural sector, the REA program, at a time when farmers are facing a desperate situation.

The other day I noticed references to a document that came from the U.S. Department of Agriculture which estimates what USDA expects the price of commodities to be in the future. Here is a document that estimates that the price of wheat will be $3.20 next year, and that the price of wheat will go to $3.05 the year after. I am telling you if these documents are anywhere near close to the price of wheat next year or the year after, we are going to have tens of thousands of family farmers in this country that are going to go bankrupt. They cannot survive on $3.05 wheat.

That price would take us back to how Will Rogers described the farm program; he said it was "the kind of program where the less you raise the less you lose." The less you raise the less you lose, that is the kind of farm program you have if you have $3.05 wheat.

I think we need to talk about our priorities. What are we spending money for? Are we willing to spend money for an REA program? I think we ought to be. I think the returns have been magnificent over the years from the REA program.

Are we willing to spend money to improve the 1984 wheat program, so we can get better participation and avoid the disaster of $3.05 wheat 2 years from now? I think we ought to. But that is not where the priorities are placed. Under this administration, we have priorities which say, "Let's increase military aid by 73 percent."

The question is, Who cares about the plight of the family farmer? Is not the family farmer more important to this country than the politics of the Governments of Zaire, Pakistan, or Turkey? I think so. I think we have got to get our priorities straight and invest in a farm program that works.

The Secretary of Agriculture the other day gave some hope to family farmers by saying he would extend the signup deadline for the 1984 wheat program. But the fact is, that is going to be an empty gesture unless the 1984 wheat program is improved by the administration.

Extending the signup is not going to increase participation unless the terms of the 1984 wheat program are improved. The point I am trying to make is, there is a desperate situation on the farm. There is a credit crisis; we have a lot of folks who are going out of business; the price of grain is going down, and, according to USDA, will go down even further in the next couple of years. What are we going to do about it?

One part is the REA program; not the biggest part, but an important part. I think H.R. 3050 is putting in place the long-term strengthening for an REA program that will work. Then we have to get busy and put in place a farm program that works. But today is the first step. Let's make sure that we don't defeat H.R. 3050. REA is important to family farmers. H.R. 3050 is important to the REA program.

Let us not forget that REA is a program that has worked, that has brought this country billions and billions of dollars in rewards. We talk about this country maybe losing its edge in autos, losing its edge in steel. Does anybody in this room recall hearing someone suggest that the family farmer has lost his or her edge? When you want to know something about family farming, you do not go to Japan or West Germany, you go to North Dakota, Kansas, or Iowa—that is where you learn about farming. That is where you find the most productive, technologically proficient producers in the history of civilization.

One way to keep them that way is to strengthen the farm program. A second way is to do what we ought to do now, and that is to pass H.R. 3050 for the sake of family farming in this country.

Yesterday, in testimony before the House Agriculture Committee, Dr. Rudolph Penner, director of the Congressional Budget Office said, "Agriculture is what this country does best." He was speaking as an economist, and was comparing the performance of the agriculture sector to other sectors, including high technology. He noted the boost to exports given by our abundant agriculture products—in calendar year 1983 the United States had a $19.5 billion favorable balance of trade in agricultural products, an especially significant figure, given our overall trade deficit of $69.4 billion last year.

When we look for the reasons behind agriculture's success, surely the rural electric system is near the top of the list. Farm productivity has grown dramatically over the years, at the same time the rural electric and telephone systems were expanding rapidly. Now, 99 percent of America's farms have electricity, and over 95 percent have telephone service.

And yet, particularly here in the city of Washington, it is easy to forget the tremendous obstacles that had to be overcome to string those lines—and which still exist when ice storms fell thousands of poles, as they did last spring in my State of North Dakota, and lines must be strung again.

Despite the obvious connection between our agricultural productivity, the benefits it brings to our economy and to other nations which use our excess food, and the value of the rural electric system in assuring that productivity, the current administration seems determined to kill the REA program. It is evident in the $2.5 billion cut in REA funding contained in the administration's current 1985 budget, and it is evident in their opposition to the bill we have before us, H.R. 3050.

What the administration proposes instead is the private market providing more of REA funding. But what will the private sector charge to bring telephone and electric service to only two customers per mile, found in many of the rural electric cooperatives in my State? Simple arithmetic tells us that it costs at least twice as much to capitalize rural systems than it does in urban areas, which serve an average of 77 customers per mile of line.

Can our family farms pay up to twice as much for their electricity? Farms which are already struggling under the worst agricultural depression since the 1930's? Of course not. If this administration had a heart in place of a calculator, they would realize that.

That is why it is important that we in Congress pass H.R. 3050—to insure the future of the rural electric and telephone system that is vital to the interests of this Nation's farmers, and to the health of the economy, which touches us all.

Mr. DYSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of H.R. 3050, the Rural Electrification and Self-Sufficiency Act of 1983. I believe this is one of the most important pieces of legislation which the House of Representatives will act on in the 98th Congress because of its significance for rural Americans. It is vital to over 90,000 households and small businesses alone in Maryland's First Congressional District.

Fifty years ago, the establishment and provision of reliable electric service in rural America seemed to be a distant, even unattainable, dream. Kerosene lanterns, wood stoves, and water pumped by hand were not romantic nostalgia, but the spark reality of daily life on the farm. Less than 1 farm in 10 nationwide had the luxury of electric service.

This started to change in 1936 when Congress passed the Rural Electrification Act. This law gave rural communities low-interest loans to build generating stations and transmission and distribution lines so they would never have to pay more than urban areas for reliable electricity and phone service. It was the beginning of electric cooperatives, like Southern Maryland Electric and Choptank Electric, which provide quality service to the far-flung sections of America passed over by large power companies.

In 1973, Congress decided that rural cooperatives needed an independent, long-term source of capital from which to borrow. The result was creation of the Rural Electrification Administration's (REA) revolving fund. This set up a new program of insured loans at a 5-percent interest rate, guaranteed by the REA.

Unfortunately, the revolving fund is in trouble. While it charges low interest on the loans it lends to the cooperatives, it must pay the going market rate to replenish borrowed moneys. Higher interest rates in recent years, however, have placed unexpected strains on the fund. Unless we take prompt action to restore the fund, these electric cooperatives will be forced to borrow more and more funds at significantly higher rates. This will only mean higher utility bills for residents of Maryland's First District and other consumers throughout the Nation.

This situation prompted the House Agriculture Committee to pass H.R. 3050 last October by an overwhelming margin of 38 to 1. I commend the chairman of the Agriculture Committee, Mr. KIKA DE LA GARZA, and the chairman of the Agriculture Subcommittee on Rural Development, Mr. ED JONES, for their able leadership on this issue.

H.R. 3050 maintains the solvency of the revolving fund by raising the interest rates the REA may charge cooperatives so it can meet its payments to the Treasury Department's Federal Financing Bank (FFB). In addition, this bill allows rural cooperatives to repay $7.9 billion in outstanding loans directly to the REA instead of the U.S. Treasury. These steps will enable the REA to continue to aid the thousands of Marylanders who depend on cooperatives for safe, affordable electric service.

My congressional district is served by two fine electric cooperatives, Southern Maryland Electric, covering all of southern Maryland and Choptank Electric, which is responsible for much of Maryland's Eastern Shore. Together they reach over 90,000 homes in my district. H.R. 3050 will help each of these cooperatives restrain the costs they pass on their customers. Southern Maryland Electric would be forced to pay nearly $21.8 million more on their current REA loan if we were to adopt the administration's plan rather than H.R. 3050. Choptank Electric would have to pay over $6.3 million more on its current loan if the administration were to have its way.

Clearly H.R. 3050 is an effective step toward continuing reliable utility service to millions of Americans. This bill, despite arguments made by some to the contrary, will not aggravate our country's budgetary problems. I am deeply concerned about the Federal deficit and can assure my colleagues that I would not support any legislation which would add to it. This legislation will not force the Treasury Department's FFB to refinance the debt incurred by the REA; Chairman DE LA GARZA's amendment prevents this by requiring the FFB to give prior approval before refinancing any certificates of beneficial ownership (essentially, the debts that REA owes FFB).

Mr. Chairman, I am proud of my district's and our country's rich rural heritage. I believe that H.R. 3050 is a fiscally responsible and balanced approach to continuing this tradition. Therefore, I strongly urge my colleagues to join me today in voting for farmers and rural consumers by supporting this bill.

□ 1340

AMENDMENT OFFERED BY MR. BETHUNE

Mr. BETHUNE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BETHUNE: Page 15, after line 7, insert the following new section, and redesignate the subsequent section accordingly:

SEC. 12. The Rural Electrification Act of 1936 is amended by adding the following new title at the end thereof:

"TITLE V—RESTRICTION ON ELIGIBILITY FOR FINANCIAL ASSISTANCE

SEC. 501. Any applicant for financial assistance under this Act shall not be provided such assistance unless the Secretary, after consultation with the Secretary of the Treasury, determines that the extension of such assistance will not tend to restrict the availability of credit, or increase the cost of credit to borrowers not receiving the benefit of federal credit assistance programs, except that this provision shall not apply to loans made or extended at the special interest rate, as otherwise provided for in this Act, unless the Administrator determines otherwise under guidelines established by regulation.".

Mr. BETHUNE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. BETHUNE. Mr. Chairman, yesterday during the general debate and today it seems apparent that I am going to be the only Member to speak in opposition to the bill that is on the floor, at least that has been the case so far.

And I do this because I am absolutely convinced, based on all of the reports that I have seen from CBO, from OMB, from Treasury, from CRS, from the General Accounting Office, from everyone that has taken a look at this bill, that the committee bill will not restore the solvency of the fund and the committee bill will, in fact, cause an increase in the debt obligation of this country. Some people calculate it might be as much as $20 billion to $21 billion over time; others come up with more modest calculations. But I do not think anyone who has looked at this bill with a sharp eye, who knows what they are doing, suggests that this bill is not going to cost the taxpayers some money, is not going to increase the deficit, it is. It plainly is.

Most of the responsible Members who have spoken on the bill, frankly and candidly, say that we have to be prepared to devote more money to the farming community or they will outright say that it is in fact a subsidy for the farming community. And I think that is an honest statement about the bill, it is. And it is going to increase the debt, it is going to increase the deficit.

What concerns me in addition to that, however, is that this is not going to restore the solvency of the fund. I went into that in some detail yesterday. My opposition to the bill, by the way, is not on the basis that some have said that the administration is in opposition to REA. Maybe they are, maybe they are not. I know they are in opposition to this bill. They have not spoken clearly about my substitute.

They have said they prefer it to the committee approach.

All I know is that the administration is opposing what you are trying to do. I wish they had spoken in more detail about it, but they have not.

But I am not in the same position as the administration. I am trying to come up with a measure that I think will correct some flaws that are in the committee bill. I have come up with a proposal which would not add to the deficit, which would level out the stream of interest rates, which would knock out the aberrations in the interest rates, which would provide some discretion for the Administrator to try to target these resources.

So, whatever the administration's position, and it may be that they are trying to gut or dismantle REA, I do not know, that remains to be seen. That is not my position.

My position is to try to find a way to keep from exacerbating the problem that is causing us to be here today and that is increased interest rates in the country.

Everybody tells us that interest rates are going up because of the deficit. Chairman Paul Volcker was just in the Budget Committee this morning making that very point.

We have a problem. We are on the horns of a dilemma in that unless we get the interest rates down, we are going to be right back here in a few years with this very same program because the interest rates generally are too high.

Now, interest rates are indeed going up now for several reasons, one of which and not the least of which is the increasing deficit in the country. I choose to rely on the authorities outside of the committee who have calculated that this bill could increase the national deficit by as much as $20 billion. They have looked at it with an objective eye, they have not been bombarded with lobbying efforts by the NRECA and others, they have tried to put the pencil to it in a fair way. And all of them have said it is going to cost the taxpayers some money.

Now, the amendment that I have put up just now is one which I think relates somewhat to what the gentleman from California (Mr. PANETTA) said in his earlier comments. He talked about the credit budget and he talked about the fact that when we have in this country credit programs and credit assistance programs growing at the rate they are now, which, by the way, is faster than the rate of spending programs, that you crowd out other borrowers.

Now we all know that to be the case when we have the deficit that we have to finance, that crowds out other borrowers. But it also crowds out other borrowers when you give Chrysler a head start and put them at the front of the credit line or when you have a student who is looking for a student loan at the head of the credit line, or when you make an inter-subsidy or a loan guarantee to an REA electric coop, it puts them at the head of the line. That means it crowds out other borrowers.

We all understand that and it would tend to drive up interest rates for them.

What we are trying to get at in this particular amendment that I have put up here is that if, as a result of this act being passed, that we are going to increase the debt in the country and that that is going to have an impact on other borrowers then the Treasury Secretary and the Secretary of Agriculture would——

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(By unanimous consent, Mr. BETHUNE was allowed to proceed for 5 additional minutes.)

Mr. BETHUNE. Now I have maintained that H.R. 3050 will not restore solvency of the fund and I have based that on the authorities that I have quoted.

I have also said that it will add to the deficit. Therefore, it is going to affect other borrowers.

Now, the committee has taken a position that it is not going to do any of those things. It is not going to increase the deficit and that it is going to restore solvency.

So, if the committee is right, then the Secretary of Agriculture and the Secretary of the Treasury, under my amendment, would do nothing.

But if the committee is wrong, and if, in fact, their calculations are wrong and that those calculations made by the others that I mentioned here are right, then the Treasury Secretary and the Secretary of Agriculture would have the authority to scotch the program right there, which would sent it back effectively to the Congress for retooling so that they could come up with a proposal that would restore solvency to the fund and not add to the deficit.

Of course, I think that is the issue that we are talking about here today. I happen to believe very strongly that those authorities I mentioned are correct.

What we are doing here, and we need to be very clear about this, is that if we are going to continue to provide the subsidies to the farming community—and that was never the intention originally of this legislation—then we are going to be crowding out small businessmen, and producers, and other borrowers in the Nation and their rightful place in the credit line.

This is not a novel argument that I am making. Yesterday I read from the RECORD in 1936 and quoted the Speaker of the House, Sam Rayburn, extensively.

Today I want to quote another gentleman, if I may.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I ask that the gentleman yield to me at this point so that I may quote Mr. Rayburn on precisely what the gentleman is discussing now, and I will give the gentleman additional time.

The gentleman quoted from Mr. Rayburn yesterday, that was Sam Rayburn, the great former Speaker of this House, who came from Texas. And during the course of that debate there was an amendment offered, Mr. Rayburn said, and I quote:

> I want to say to the House now—and I believe this fully—I believe the expenditure of this money will change the horizon of these people. It will pull them out of the darkness into the light. I think it would be money well spent by the United States Government to electrify a million homes in this country if they never got back one dollar.

And then there was applause it says here.

I thank the gentleman for yielding.

Mr. BETHUNE. Well, I do not know how the gentleman reckons—of course the former Speaker is not here to defend the contradiction in his remarks—and I do not know from which page or what context the gentleman spoke, but the Speaker in the comments that I read said: "* * * there is no grant in this. There is no subsidy in this. There is no revolving fund in this."

□ 1350

If I may, I will go on to what the gentleman from New Hampshire, Mr. Fletcher, said at that time, and this relates specifically to the point that I am making here.

He said:

> Without subsidizing one branch of our national structure at the expense of another, without competing in any way with any established business and at negligible cost to the government, we can, by our votes here today, make it possible for our farmers in large areas over the country to enjoy the blessings of central station electric service.

This gentleman, way back in 1936, before they had the kinds of problems, I suppose, that we are having here today with the enormous deficits, was making the point that you crowd people out, and he understood that. And that is precisely the point he was making here. And we ought to realize that when we do these things, we do crowd people out of the marketplace, out of the credit marketplace. So that if we continue to put the agricultural community up there, that is fine, if that is what we choose to do; but let us just be honest about it when we do.

So I am making the point here that this is going to increase the deficit and thus increase interest rates.

I am making the point that the bill is not going to resolve the solvency of the fund. This amendment simply says that if the Secretary of Agriculture and the Secretary of the Treasury so determine that, that then they will scotch the program, which would effectively send it back here for retooling.

I think it is the sensible thing to do. I think it resolves the conflict that we have here on the floor today. If that does not resolve it, then Members can resolve it. But somebody is going to raise the question to Members who vote for this package about why all of these other authorities are saying that it is going to add to the deficit when you are saying it is not. That is the purpose of my amendment and that is the intent and spirit in which it is offered.

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, while I honor and respect my colleague from the Second District of Arkansas, Mr. BETHUNE, I must confess to being somewhat puzzled by his effort to dim the lights throughout rural America. When you strip the bark off Mr. BETHUNE's amendment, that is exactly what it would do.

As a Representative from Arkansas myself, in fact, I feel certain that I speak more truly for the sentiments of the people in my State—particularly for the rural areas of Arkansas—than does my colleague when I say that the Rural Electrification Administration has made economic progress possible for my State and for my Nation.

I speak more truly for Arkansas when I say that REA has raised the quality of life of the people in Arkansas and in the United States far more than any other program in Government in my lifetime.

And I speak more truly when I say that this amendment, though wrapped in the cloak of fiscal responsibility, is a naked attempt to kill off the Rural Electric Administration. It is a knife in the back of REA disguised as an accountant's pencil. The intent of this amendment is not actuarial but assassination and burial.

I know that my colleague is decent minded, and sincere, and is sure in his own mind that some abstruse principles of economic theory are worth more than the programs of REA. But, the gentleman's theories of economics do not work, and REA does.

My colleague himself is from a partly rural district of Arkansas, although he is said to be an exponent of the rapidly growing white-collar population of the New South. Does he not realize that the growth of Arkansas, the increased industrial and commercial base of the State, and the very growth in white-collar population which the gentleman himself is an example of, were made possible by programs like REA, which made the progress of our region possible?

Conversely, does the gentleman not realize that Reaganomics—which consistently has eviscerated programs that in the past have fostered real progress—has failed miserably either to provide progress or to create fiscal solvency in this country?

Does the gentleman not realize that the United States is more fiscally insolvent than at any time in its history because of the sort of voodoo accounting procedures adopted by this administration and favored by its supporters?

I will say it again: REA works, and the economic principles of this administration do not work.

The legislation which Mr. BETHUNE's amendment is designed to thwart is not a device to forgive REA loans, and he should know that. All it does is establish an accounting procedure to keep repayment of these loans on target.

I cannot speak for my colleague's experience, but I know that I, like he, am a Member of the Congress of the United States of America, and in some circles that still stands for a proud position in life. And I know that I am here today, representing my people, partly because of REA. When I was in the first grade in a one-room schoolhouse in Carson Lake, Ark., and a light bulb went up in that room, making my education possible, REA illuminated my mind, and my outlook, and showed me what a progressive, compassionate Government could do to educate its people and lead them to discover for themselves a new and better life.

I wonder, has my colleague not himself experienced such benefits from REA? I can assure him that many thousands of people in his district, as in mine, have benefited from rural electrification—many more than have benefited from Reaganomics, with its false economic reasoning, its abstract bookkeeper's mentality, and its ultimate insolvency.

The Bethune amendment would begin to delete the REA revolving fund. His amendment would thrust the REA by slow stages, into death and darkness. All over Arkansas, and all over rural America, the lights would be dimming.

My colleague from Arkansas, in speaking for his amendment, has typified the exotic logic of the Reagan administration. What they would do—in heaping the present insolvency and national debt on the backs of our children—is to mortgage the future. What they would do—in eliminating such programs as REA—is to scrap the workable heritage of the past.

Reaganomics is a modern sophistry—without respect for the past, without program for the future—which would have us live in the present only. This amendment is typical of Reaganomics in that it shuffles hypothetical numbers around in the name of making Government less responsive to the people.

I would prefer that Government look to the future and honor its traditions and, therefore, I urge the defeat of this amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. ALEXANDER) has expired.

(By unanimous consent, Mr. ALEXANDER was allowed to proceed for 2 additional minutes.)

Mr. GUNDERSON. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Chairman, I have great respect for the gentleman in the well, but I must admit that I am as puzzled by his remarks as he apparantly is by one of our colleague's earlier remarks here today.

Is the gentleman suggesting that the problems that we face in the Rural Electric Administration today are the result of the philosophy of this administration?

The gentleman is not at all suggesting that the problem we have had are the result of something that has happended economically in this country since 1981, when interest rates have gone down, when inflation has gone down? The gentleman is not suggesting that, is he?

Mr. ALEXANDER. I am saying to the gentleman that real interest rates are higher today in this country than ever before in the history of this Republic. Real interest rates——

Mr. GUNDERSON. Is it not a fact——

Mr. ALEXANDER. I do not yield further. I am going to reply to the gentleman. If I get some additional time, I will yield to the gentleman.

Mr. GUNDERSON. I will sure try to help the gentleman get time, because I think you are trying to——

Mr. ALEXANDER. I am charging this administration with being the most fiscally irresponsible administration in the history of this Republic, having produced deficits three times greater over the last 40 years than all other Democratic administrations put together, and having a record of dismal fiscal responsibility over the last 40 years. Yes, I am accusing the gentleman of that. And that is by reference and collateral to this amendment that this gentleman is offering today, because it is the same type of voodoo illogical thinking that has gotten us into the trouble that we are in today.

I cannot speak for my colleague's experience, but I know that I, like he, as a Member of this Congress and in some circles, still stand for a proud position of life, and I know that I am here today representing my people partially because of the REA.

When I was in the first grade, as I mentioned a minute ago, the REA provided electricity for the one-room school that I attended. The gentleman's amendment today is to stab the REA in the back and will ultimately kill it.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I will yield to the gentleman briefly.

I wanted to address his amendment and the specifics of the amendment, but I will yield briefly.

Mr. BETHUNE. Mr. Chairman, I do not intend to try to answer the vitriolic allegations that have been made by my friend in the well. We go back a long time together. I know him well. Other Members of the House know him well.

□ 1400

I think that he oozes so much prejudice and bias here in his commentary for the incumbent administration that he has discredited what he has attempted to do here in his short speech.

I do not intend to go back over all of that, the record is plain here. I am not standing in the well as one Member or as the emissary of the Reagan administration to try to advance their positions here. They have no position here.

I have come with a sensible proposition which has found strong support in the Congressional Research Service in the Library of Congress; the gentleman knows that. There are some very good points made in my bill. There is no intent here to gut REA or dismantle it. In fact, the calculations show that in time REA would be better off with the proposal that I offer than with that the committee offers.

That is the purpose, that is the intent, that is the spirit with which I have offered it, and I hope and trust that Members around here will understand that, and I think that they do because the record is plain to that effect.

Mr. DE LA GARZA. The gentleman from Texas will accept the gentleman's good faith and attribute to him every good intention; just basically we disagree. Now, as to the amendment that the gentleman offered, I would like to say that it is a very serious and long-reaching amendment in that it stretches the authority beyond the Administrator to the Secretary of the Treasury. It is the amendment on page 15, line 7. This amendment that the gentleman has offered, in effect, if I read it correctly, says that the Secretary of the Treasury can say, "Acme Finance Co. in Mission, Tex., raised its interest 1 percentage point to John Doe who wants to buy a car. And, therefore, I attribute this to the financial assistance under the REA Act and, therefore, we should not make the loan."

This is what it says, that "any applicant for financial assistance under this act shall not be provided such assistance unless the Secretary, after consultation with the Secretary of the Treasury, determines that the extension of such assistance will not tend to restrict the availability of credit, or increase the cost of credit to borrowers not receiving the benefit of Federal credit."

So, we are leaving to the Secretary of the Treasury in this or subsequent administrations the sole authority to say, "Yes, it restricts credit. Acme Finance Co. raised their interest rate to John Doe who wants to buy a car; therefore, you should not make this loan."

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

It has not been an hour ago that the gentleman himself offered an amendment vesting authority in the president of the Federal Financing Bank who, we agreed, is the Secretary of the Treasury, to make a decision as to whether or not he would approve refinancing, downward refinancing on the bill.

So, we are talking about the same individual. You want to vest authority in him for your purposes, I want to vest authority in him for mine. I think that what I would suggest to the gentleman is that this is the same amendment that I have offered on other instances; I offered it once in connection with the ill-conceived Defense Industrial Base Revitalization Act, the brainchild of Congressman Blanchard, and it met with success there. In fact, it was the amendment which sent that bill back to committee, which I would hope this amendment would do with this bill.

I understand the gentleman's point, and it is well received.

Mr. DE LA GARZA. I would say to the gentleman that we are talking about apples and oranges because our amendment to the refinancing clause gives the authority to the president of the Federal Financing Bank, and the Chairman of the Board is the Secretary of the Treasury.

Here it is not that it is the Secretary of the Treasury; it could be the President, it could be the Secretary of Agriculture. The content of it is that if Acme Finance Co. changes the credit interest, then they could say that you should not make this loan. I do hope that the gentleman has had enough time to continue his discussion or will get subsequent time for his primary amendment.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 1 additional minute.)

Mr. DE LA GARZA. Hopefully, the membership would vote no on this amendment, and then we would continue on to the gentleman's primary interest.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

I think the chairman makes an excellent point. I think to draw the Secretary of the Treasury into what is primarily a Department of Agriculture responsibility is very questionable as far as the wisdom is concerned. I, too, see that this really presents an opportunity for a great deal of mischief, since we have a Secretary of the Treasury who is not particularly sympathetic to the REA.

I support the chairman's position and oppose the amendment.

Mr. DE LA GARZA. Mr. Chairman, I urge the Members to vote no on this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Arkansas (Mr. BETHUNE).

The amendment was rejected.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BETHUNE

Mr. BETHUNE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BETHUNE: Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Rural Electrification and Telephone Revolving Fund Solvency Act of 1984".

SEC. 2. Section 302 of the Rural Electrification Act of 1936 (7 U.S.C. 932) is amended by adding the following new subsection at the end thereof:

"(c) The Administrator shall maintain two separate accounts within the fund to be known as the Electrification Account and the Telephone Account, respectively. The assets, liabilities, income, and expenses of the fund that are attributable to the operations of the electric loan program shall be accounted for in the Electrification Account and assets, liabilities, income, and expenses of the fund that are attributable to the operations of the telephone loan program shall be accounted for in the Telephone Account. The assets accounted for in the Electrification Account shall be available only for the purposes described in subsection (b) of this section relating to the operations of the electric loan program, and the assets accounted for in the Telephone Account shall be available only for the purposes described in subsection (b) of this section relating to the operations of the telephone loan program.".

SEC. 3. Section 304 of the Rural Electrification Act of 1936 (7 U.S.C. 934) is amended by adding the following new subsection at the end thereof:

"(d) Obligations of the fund evidencing the sale or assignment of notes or certificates of beneficial ownership pursuant to subsections (b) and (c) of this section shall provide for level annual debt service payments to the holders thereof. The Administrator and the Secretary of the Treasury or the Federal Financing Bank, as the case may be, are authorized and directed to reform all outstanding certificates of beneficial ownership held by the Secretary or the Federal Financing Bank to provide for the payment of level annual debt service over the remaining term of such notes of certificates.".

Sec. 4. Section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b)(1) For each account in the fund, the Administrator shall determine the interest rate which will be charged on insured loans made from each such account. Such determination shall be made in October of each year and, if an issue of a certificate of beneficial ownership is made with respect to a period later in the fiscal year, within 30 days of the date of such issue; except that for the remainder of the fiscal year in which the Rural Electrification and Telephone Revolving Fund Solvency Act of 1984 is enacted, the interest rate shall be determined as soon as practicable after the date of enactment of such Act.

"(2) The interest rate on insured loans made during the remainder of the fiscal year in which the Rural Electrification and Telephone Revolving Fund Solvency Act of 1984 is enacted shall be equal to 80 percent of the standard rate, as determined under paragraph (3). Insured loans made during the succeeding nine fiscal years shall bear interest at a rate determined by multiplying (A) 80 percent plus 2 percentage points for each fiscal year which begins after the fiscal year in which such Act was enacted and before the determination is made, by (B) the standard rate, as determined under paragraph (3) for the applicable period. Insured loans made during the tenth fiscal year beginning after such date of enactment and during each fiscal year thereafter shall bear an interest rate equal to the standard rate determined pursuant to paragraph (3) for the applicable period.

"(3) Each time the interest rate is determined pursuant to paragraph (1), the Administrator shall determine a standard rate for each account of the fund by dividing the interest and principal expenses of such account (excluding principal payments on outstanding loans to the Administrator from the Secretary of the Treasury pursuant to section 3(a) of this Act) during the six calendar months preceding the month in which the determination is made by the interest income of such account during the same period and then multiplying the quotient by the rate of interest on the most recent certificate of beneficial ownership sold from such account; except that such standard rate shall be no less than 5 per centum per annum.

"(4) The Administrator may also make insured loans to borrowers experiencing extreme financial hardship at a lesser rate (hereinafter in this section referred to as the 'special rate') than the rate determined under the preceding provisions of this subsection but not less than one-half of the rate otherwise in effect for the period in which the loan is made."

Sec. 5. Section 307 of the Rural Electrification Act of 1936 (7 U.S.C. 937) is amended to read as follows:

"Sec. 307. (a) Notwithstanding any other provision of this Act, it shall be the responsibility of the Administrator to encourage and assist rural electric and telephone borrowers to develop their resources and ability to achieve the financial strength needed to enable such borrowers to satisfy their credit needs from their own financial organizations and other sources.

"(b) When it appears to the Administrator that the loan applicant is able to obtain a loan for part of his or her credit needs from a responsible credit source at reasonable rates and terms consistent with the loan applicant's ability to pay and the achievement of the objectives of this Act, the Administrator may request the loan applicant to apply for and accept such a loan concurrently with an insured loan. In any event, the total principal amount of insured loans approved under this title in any fiscal year shall not exceed $850,000,000 from the Electrification Account and $250,000,000 from the Telephone Account.".

Sec. 6. Section 408 of the Rural Electrification Act of 1936 (7 U.S.C. 948) is amended by—

(1) striking out the second sentence in paragraph (2) of subsection (b); and

(2) in paragraph (4) of subsection (b), inserting "and income taxes" after "before interest", and striking out "higher" and inserting in lieu thereof "other".

Sec. 7. Section 301 of the Rural Electrification Act of 1936 (7 U.S.C. 931) is amended by inserting "and" after the semicolon at the end of paragraph (4) of subsection (a) and by striking out "; and" at the end of paragraph (5) and all that follows in such subsection and inserting in lieu thereof a period.

Sec. 8. Section 406 of the Rural Electrification Act of 1936 (7 U.S.C. 946) is amended by inserting the following new sentence at the end of subsection (c): "All amounts received by the Administrator as a result of the redemption and retirement of Class A stock shall be deposited into miscellaneous receipts of the Treasury.".

Mr. BETHUNE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. BETHUNE. Mr. Chairman, I spoke some yesterday on the substitute that I am offering at this particular point, so I will not go back over the entire presentation, although I would urge Members to recall the points that I made then because I think we cannot intelligently deal with the matter that is before us unless we realize the impact that it has on the national debt, on the increasing question of the deficit, because I have cited over and over again the great number of authorities who have examined this bill and who say time and again that we are going to be adding as much as $20 or $21 billion to the deficit, and that the plan that the committee submits, H.R. 3050, will not restore solvency to the fund. Then there are some other problems.

But with respect to the questions that have been raised about whether this is good economics or not, I think it is always good economics when we try to develop plans that will, in fact, carry out the mission that we seek to carry out. If we are trying to restore solvency to the fund, then we ought to be sure that we are restoring solvency to the fund. If we are trying to establish a formula for the calculation of a standard rate of interest, then we ought to establish one that will have some predictability to it, and one that will not be erratic in nature.

If, in fact, the programs that we design find themselves being superimposed on an America that is changing so quickly that the program must be altered from time to time, then we ought to vest discretion in those who administer the program so that they can tailor the program from week to week, day to day, in such a way that we do not waste the resources of this country. I thought that is what we were here to do. I thought that was the mission of this Congress, particularly in this year.

All of the talk that has been going on about down payments on the deficit, all of the talk that has been going on about waste and fraud and inefficiency in Government, I thought that is what we were trying to do above all else this year. So that is why I am here today and why I have been pushing all by myself, as it seems, to try to bring this Committee of the Whole to its senses.

I think the Committee on Agriculture did work hard on this bill, I know they did, but they reported it out by an overwhelming majority in the face of criticisms by a great number of entities who were looking at this with a purely objective view. Most of the members of the committee, understandably, have a close relationship with the agricultural community and, therefore, consequently, like all of us who come from those districts where there is a close relationship with the agricultural community, we are going to have our bias and our leanings in that direction. That is very natural. But the people who do not have that sort of influence day to day in their lives, people who come from all over and who try to put the pencil to these things objectively have found much fault with the committee bill and have said that it will not achieve its purpose and you know that you are going to be back here in a few years to try to modify this because it is not going to get the job done.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. Certainly I yield to the gentleman from Texas.

Mr. STENHOLM. I thank the gentleman for yielding on that point.

Mr. Chairman, we have spent, REA, the Committee on Agriculture, and the rural electric and telephone cooperatives, some 2 years analyzing the different formulas. I would say in all honesty and in all fairness, the gentleman may be correct in that his formula will, in fact, do the job that he is saying that it will, and the formula in our bill may not.

My point is that no one can say for certain today. We are not having too good a job of predicting the future in how various computer printouts run. On the Committee on Agriculture, we have asked, during the markup in the subcommittee and in full committee. I have had ample opportunity in many ways to look at the theory behind the gentleman's proposition that he has on the chart. But we have had 2 years of study. We have had three past Rural Electric Administrators, not the least of which was Dave Hamil, who served in two Republican administrations, who have looked at the formula that is present in H.R. 3050 and have said in their judgment this will do what we on the committee are representing to the full House that it will do.

Now, we can argue on theories of who may or may not be right, but the point is, and the House needs to understand, that there has been a lot of work by a lot of people other than a few folks down at OMB who have a different computer runout. I am not saying this in a derogatory and certainly not from a partisan standpoint because this has bipartisan support.

The numbers on the gentleman's chart may be right, but my final point is, if the gentleman is, in fact, right then this committee will have to come back in the very near future and do just exactly what he is suggesting will happen, because we cannot maintain the solvency of the revolving fund if, in fact, the theory behind receiving as much as we are paying out does not work.

Mr. BETHUNE. I thank the gentleman for his contribution, and I would make the point that it is not just my calculations; it is the calculations of the Library of Congress, the Congressional Research Service, as well as the REA, as well as the OMB. People have all said that under any plausible scenario, any plausible set of economic assumptions, we are going to have the result which I try to demonstrate on this chart right here. I hope close attention will be paid to this, because we are going to have to look at this chart in the future if we pass this bill today because it is going to come back to haunt us.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(By unanimous consent, Mr. BETHUNE was allowed to proceed for 5 additional minutes.)

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Mr. BETHUNE. Mr. Chairman, the Members will notice right in the center of my chart there is a blue line, and to the left of that blue line is the past and to the right of it is the future. So if you look at the yellow line here, this is the track of the past Treasury rates, the cost of money to the Government, and you can see that throughtout the 1940's and 1950's it stayed down here and then it began to ratchet up in the 1960's and then down a little bit, and then all the way up to 1970, and then right on up sky high to where we are now, about 12 percent, in the 1970's, and then back down. And then this is 11 percent here, and that is the Congressional Budget Office rate projected straight out across, and that is the assumption that we use for the future. So that is the track of rates in the past.

This black line down here is the past REA rate, and you can see for the longest time there that they were running right along together, with no problem. That is what Speaker Sam Rayburn and the former Congressman, Mr. Fletcher, from New Hampshire, were talking about way back in 1936. They did not foresee any problem back there, and no one else did.

Here is where the problem started for REA and for America, when these interest rates started going up. And the interest rates are going up because of the dieficit and the deficit is going up because this Congress cannot quit doing things like we are doing here today.

This Congress cannot bite the fiscal bullet and stop passing these programs when our constituencies come and clamor for us to pass them.

So our problem is caused by the high interest rates and we are making it worse here today.

Now, for the future, if you look at this blue dotted line going out there, that is the track of the interest rate that would be established by my bill, beginning right here, and you can see that it would indeed be higher than the committee's bill.

But then, as we go on out in time, the track of the interest rate begins to come down, and finally the fund is made solvent and we would never have to come back to the Congress again. If we would just do that now and include the formula that I am talking about, which is self-correcting, we would get a line that has some predictability to it, a line that would go out and not have the aberrations in it.

The red line here is the line that is going to be our interest rate formula and the result that is going to come upon us if the committee bill passes. The interest rate, because it does not self-correct and because it does not have these features in it that my formula does, is going to be bouncing up and down, and this is going to cause people to try to outguess the administrator. They are going to be coming in with short-term financing, then swinging over to long-term financing, and it is going to be one big mess. And it will not restore solvency to the fund, as we can see, when we get into the out years. So it is not going to accomplish what we want.

What I am trying to say here—and you all have been most indulgent with me; I am not a member of the committee, and this is the only opportunity I have to contribute to the process—is that I have looked at this pretty closely, and I am absolutely convinced that these authorities are correct. I am absolutely convinced that the committee could do well and stand proudly when it comes back here if it would go back and think about this point that I am making here. Had I been a member of the committee, I would have made this point there. Everyone I have talked to, including many members of the committee, say it is a valid point and that we ought to be thinking about this real problem.

Next, Members tell me that they are worried about the solvency of the fund. I think we should just bite that bullet now and go out honestly to our people and say, "Yes, we are talking about a little higher interest rate, you all are thinking about a higher interest rate, and we are talking about going beyond that 5-percent barrier and we are saying, 'Yes, we'll swallow a little higher interest rate in the interest of getting the interest rates in the country down and in the interest of making the program work for the next few years.'"

All I am saying is, let us go to them with just one more step and say, "Folks, if we come at you and make it just a little higher, we can put a formula in there which will work for the long term, make the fund solvent, and it will not complicate the deficit problem." Then we can show that this Congress is doing a good job.

The problem here is that Members like myself who are off the committee and other Members are going to be asked to associate themselves with the work that the committee has done when they vote for this. They are going to be putting their stamp of approval on what the committee did. The committee knows that it can go back and make some of these corrections and then come back to Members and say honestly to Members and proudly to Members, "Go ahead and put your stamp of approval on this because it is going to work." And then other Members can feel good about it, and CBO and OMB and CRS and all the others will withdraw the criticism that they have made to the bill, and it will go through as it should go through and REA will be protected.

Mr. ROGERS. Will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, let me compliment the gentleman for a very thoughtful and very well done presentation which gives us a view of the gentleman's very accurately and very articulately. I want to compliment the gentleman even though I disagree with him and will vote against his substitute.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(On request of Mr. MADIGAN and by unanimous consent, Mr. BETHUNE was allowed to proceed for 5 additional minutes.)

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. Certainly, I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I would like to say to the gentleman that I personally regard the gentleman as one of the most enlightened Members of this House. In the short time that the gentleman from Arkansas has been a Member of this House, in my judgment he has gained the respect of people from both political parties and from all regions of the country. The economic policies with which the gentleman from Arkansas has associated himself the gentleman from Illinois is also associated with, and I regard his economic policies as having brought about in this country lower interest rates, a lower inflation rate, a lower unemployment rate, and a strong economic economic recovery. I congratulate the gentleman for his involvement in bringing about the economic changes that have been caused to be brought about in the last 3 years in this Congress.

I do not agree with the gentleman's amendment. I certainly know that the gentleman is one of the best Members of this House, and I regret anyone having tried to create an impression to the contrary.

Mr. Chairman, I thank the gentleman for yielding.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. Certainly, I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, do I understand the gentleman's argument to be under his proposal indeed interest rates would be higher for those electric users, and so on?

Mr. BETHUNE. Yes.

Mr. BEDELL. Does the gentleman think that by 2015 or 2020 or sometime by that time, according to his computations, maybe the fund would not carry the whole thing and that others who have looked at it say that indeed the fund would carry it through that period of time? And is the whole argument whether or not we should change higher interest rates to those people between now and 2015, betting that maybe the gentleman is right and other people are wrong? Is that the argument that is here?

I ask the question because I think we need to know what the argument is.

Mr. BETHUNE. Well, that is part of the argument that is made here today. One is to restore the solvency of the fund. The other point of the argument is that we do not want to create a circumstance here today which is going to add to the deficit, which is going to exacerbate the problem. And unless we deal with that, we are sending a signal to the Agriculture Committee.

The Members here today may not be troubled by this, but I assure the gentlemen that people outside this House are going to be paying a lot more attention to what the CBO, the GAO, the CRS, and agencies like that that are independent and objective, have to say about this than they are to a bunch of politicians who are subject to the pressure of the groups that are vitally interested in this bill.

So all I am saying is that these are not my calculations, and I am not going to get in a swearing match with members of the committee. I can count. I look around here on the floor today, and I do not see many Members here who are willing to come down and argue my end of this thing. So for me to get into a swearing match with you all here about whether you are right or whether I am right, I am not going to do that.

I choose to rely instead on every agency of this Government that has looked at this bill, and all of them, to a man and to a woman, who have scrutinized this thing say it is going to add $20 to $21 billion to the deficit. It is not going to restore solvency to the fund. It is going to be good politics, but it is going to be bad policy.

Mr. Speaker, I have mentioned the CRS report many times and I wish to include it in the RECORD at this point:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND SELF-SUFFICIENCY ACT OF 1983

This reponds to your request for review and analysis of your draft bill to restore solvency to the Rural Electrification and Telephone Revolving Fund and a comparison of your bill with H.R. 3050/S. 1300 (98th Congress).

Generally, it can be said that the bill you have sent CRS for review contains a formula that would reduce loan subsidies and be more likely to restore solvency to the Rural Electrification and Telephone Revolving Fund on an enduring basis than the formula embodied in H.R. 3050/S. 1300; that the provisions of your bill will cost the Treasury less but the Revolving Fund and the rural cooperatives more than the provisions proposed in H.R. 3050/S. 1300; and that your bill grants the Administrator of the Rural Electrification Administration (REA) considerably greater use of his or her discretion in setting the size and rates of Federal loans to rural electric cooperatives than does H.RJ. 3050/S. 1300 or present law.

ELEMENTS OF THE BETHUNE BILL

Both the Bethune bill and H.R. 3050/S. 1300 propose formulas [1] geared to:

Raise the interest rate on REA Revolving Fund loans above the current 5 percent rate in order to stop the drain on the Fund's resources; and

Vary the rate periodically in order to adjust it to changing financial circumstances.

REA models indicate that, unlike the formula proposed by H.R. 3050/S. 1300, the Bethune formula would make the Revolving Fund enduringly solvent without Treasury forgiveness of the Fund's obligations to it. However, it would do so by charging borrowers (which are cooperatives, not individuals) a substantially higher rate of interest in most years.

Table 1 displays REA's modeling of the stream of interest rates from 1984 through 2016 under the H.R. 3050 formula in its original application (and as it still stands in S. 1300), in its present formulation under H.R. 3050 (which began as identical to S. 1300 but was amended by the House Committee on Agriculture) as well as under the Bethune formula. Table 1 shows that the original H.R. 3050 formula (in the column marked S. 1300) maintains a low and fairly stable stream of rates at least until 2010, but, REA modelers say, drives the Fund to zero balance in 2016 unless Congress intervenes with appropriations. The amended formula (in the column marked H.R. 3050) keeps the Fund balanced (in the sense that interest expense does not exceed interest income) but in debt to the Treasury at interest rates which are slightly higher than S. 1300 would impose in most years. While the formula effected by H.R. 3050 (amended) keeps the Fund balanced, its rate stream is somewhat more erratic than that of S. 1300 or that of the Bethune bill. The Bethune bill stabilizes the rate stream after the first 3 years of phasing in the extra costs to the Fund, and pays the Fund's debts in full by 2018, but at a higher cost to borrowers.

It may be that a high degree of stability in the interest rate is a significant consideration in a credit program in which long-term planning and serial applications for loans are basic elements.

A second provision of the Bethune bill "levels" (amortizes) the Revolving Fund's CBO payments to the Treasury to include principal as well as interest on loans which the Treasury made to the Revolving Fund in the years 1976-1983, when the amount Congress authorized the Revolving Fund to lend exceeded the Fund's income.[2] Amortization will preclude the expense of refinancing the CBOs at maturity, which H.R. 3050/S. 1300 assumes will happen. On the other hand, the requirement that the Revolving Fund pay CBO principals as well as CBO interest to the Treasury underlies the higher interest rates to cooperative borrowers this bill proposes.

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[1] The formula proposed by the Bethune bill is: Standard rate equals interest and principal expense on CBOs divided by interest income from borrowers times certificate of beneficial ownership (CBO) rate. The formula proposed by H.R. 3050/S. 1300 is: Standard rate equals loan advances plus CBO interest expense minus borrower payments divided by loan approvals times certificate of beneficial ownership (CBO) rate.

[2] Since the Treasury loans to the Revolving Fund are secured by REA Certificates of Beneficial Ownership (CBOs), these REA repayments of Treasury loans are referred to as "CBO payments."

TABLE 1.—INTEREST RATE PROJECTIONS FOR THE RURAL ELECTRIFICATION REVOLVING FUND UNDER H.R. 3050 (AMENDED), S. 1300, AND THE BETHUNE BILL, 1984–2016

[Electric program only, in percentages]

Year	S. 1300 [1]	H.R. 3050 [2]	Bethune [3]
1984	5.00	5.00	6.52
1985	6.01	6.25	8.16
1986	6.23	6.41	8.64
1987	6.61	6.77	9.02
1988	6.30	6.71	9.32
1989	6.09	7.93	9.47
1990	5.86	8.50	9.55
1991	5.84	8.19	9.57
1992	5.83	7.44	9.57
1993	5.82	6.65	9.55
1994	5.82	6.28	9.59
1995	5.81	6.45	9.57
1996	5.80	6.92	9.56
1997	5.80	7.31	9.53
1998	5.81	7.34	9.62
1999	5.84	7.00	9.67
2000	5.92	6.55	9.52
2001	5.99	6.22	9.49
2002	6.07	6.18	9.52
2003	6.16	6.35	9.31
2004	6.27	6.59	9.30
2005	6.37	6.66	9.45
2006	6.51	6.52	9.48
2007	6.76	7.52	9.04
2008	6.97	6.99	9.01
2009	7.46	7.14	9.03
2010	8.10	7.86	8.65
2011	8.68	6.17	7.91
2012	9.22	5.00	7.68
2013	9.83	5.00	7.00
2014	10.61	5.00	6.51
2015	11.37	5.66	5.90
2016	11.97	7.67	5.02

[1] Assumptions of model for S. 1300: Program level $850,000,000 each year (no growth). Certificate of beneficial ownership (CBO) rate 11 percent, no repayment of $7,900,000,000 debt to Treasury. CBO principal rolled over at maturity. Refinancing downward only of CBO's. Fund runs out of money in 2016 without congressional appropriations.

[2] Assumptions of model for H.R. 3050: Program level $850,000,000 each year (no growth). CBO rate 11 percent, no repayment of $7,900,000,000 debt to Treasury. CBO principal rolled over at maturity. Interest expense does no exceed interest income in any year (Stenholm amendment). No refinancing downward of CBO's (by agreement between the House Agriculture and Ways and Means Committees).

[3] Assumptions of model for Bethune bill: Actual rate from 1984–93 equals standard rate times reduction factor of 80 percent in the 1st year, 82 percent in the 2d year, 84 percent in the 3d year, increasing by 2 percent each year until the 10th year. Program level $850,000,000 each year. CBO rate 11 percent. Revolving fund pays the Treasury $7,900,000,000 debt, plus principle of CBO's so that by 2018, the fund's obligations are paid in full.

Source: Rural Electrification Administration.

A third provision of the Bethune bill authorizes the REA administrator to lend Revolving Fund money to selected cooperative borrowers at a rate lower than the standard rate, but at not less than half of the standard rate. This third provision would, in effect, replace the present 2 percent rate (reserved for cooperatives in hardship circumstances) with a rate that would vary with the standard rate. Since the standard rate could not be less than 5 percent under the terms of the Bethune bill, the hardship rate could not be less then 2.5 percent.

The only criterion specified in the Bethune bill for guidance to the administrator in choosing candidates for the loans given below the current interest rate is that the cooperative must be experiencing "extreme financial hardship." This element of the Bethune bill changes the present practice (and the practice advocated by H.R. 3050/S. 1300) of citing specific standards by which a cooperative can be classified a hardship case.

Under a subsequent Bethune provision, the administrator of the REA would also decide what percent of approved financing the REA would lend the cooperative borrower. The bill cites as the criterion for this decision the administrator's judgment that the borrower can qualify to borrow the balance of the needed financing "from a responsible credit source at reasonable rates and terms consistent with the loan applicant's ability to pay." Neither "reasonable rates" nor "ability to pay" are any more precisely defined by the bill.

Permitting the administrator to decide what percentage of its approved loan a borrower will get from the Revolving Fund would be another significant change from the regulation that has been in effect over the past fiscal year. The present regulation requires the REA administrator to lend at least 70 percent of any approved loan at a maximum rate of 5 percent. The Bethune bill requires that the administrator continue to give every applicant some portion of his loan in subsidized funds, but permits the administrator to decide how large a portion.

The change proposed in the Bethune bill could have the advantage of preserving the available subsidized loan money for use by those cooperatives that need Federal subsidies, whether because of extremely sparse population, low-income population, or weather conditions that damage equipment. Some feel that giving the REA administrator broader latitude to use discretion in approving the subsidized loans is appropriate since U.S.D.A. data demonstrate that a number of cooperatives have financial characteristics which would appear to make large subsidies for them unnecessary.[3] Others would say, however, that the proposed rule would have the disadvantage that it would permit an administrator to exercise upon the Revolving Fund his personal outlook concerning Federal credit to rural cooperatives.

Another provision of the Bethune bill caps the annual lending authority of the Revolving Fund at $850 million for the electric cooperatives and $250 million for the telephone cooperatives for all future years unless new legislation should remove the cap. This provision would create an incentive to borrowers to keep loan requests to the minimum absolutely required to meet their needs. It would have this effect because a high volume of borrowing by cooperatives would result in the borrowers competing for any funds requested beyond the cap in the private capital market where interest rates are considerably higher than those of the Revolving Fund. (It may be noted here that the formulas proposed by both H.R. 3050/S. 1300 and the Bethune bill would create an additional incentive to keep funding requests low because under both formulas the interest rate would rise along with the loan level. This is not the case under the present law, which caps the interest rate at 5 percent regardless of the loan level).

Finally, like H.R. 3050/S. 1300, the Bethune bill separates the telephone and electric accounts of the Revolving Fund, assigning monies collected in repayment of prior loans from electric cooperatives to new electric loans and monies collected on prior loans to telephone cooperatives to new telephone loans. This is a provision about which there appears to be little controversy.

ELEMENTS OF H.R. 3050 AND S. 1300

H.R. 3050, reported by the House Committee on Agriculture in October 1983 and now awaiting action by the full House, proposes a formula for varying the interest rate on Revolving Fund loans different from the Bethune formula. The formula proposed in H.R. 3050/S. 1300, if amended as Representative Stenholm suggested and the House Committee on Agriculture recommended, raises the interest rate on Revolving Fund loans sufficiently to pay the Fund's interest expenses (only) on CBOs, but requires, in order to do so, forgiveness by the Treasury of a $7.9 billion loan it made to the Revolving Fund for its initial capitalization as well as refinancing of the CBOs as they fall due 30 years from issuance.

H.R. 3050/S. 1300 includes several other provisions intended to keep the rate of interest to cooperative borrowers at a minimum. These provisions of H.R. 3050/S. 1300 which are not part of the Bethune bill, include the following:

The REA administrator would be required to subordinate the Federal first lien on cooperative property in favor of any lender providing financing for any project which the cooperative felt would improve its financial position.

The Secretary of Agriculture would be required to request Congress to appropriate sufficient money to compensate the Fund for any loans made at the hardship rate.

In any year when the total electric program is less than $1 billion, REA would be required to provide a minimum of 70 percent of any approved loan at the standard rate.

In order to qualify for loans at the hardship (2 percent) rate, a cooperative would have to be in one of the following categories: cooperatives which charge their ratepayers twice the national average cooperative rate, those which have an average consumer density of two or fewer per mile, those which have suffered financial losses due to natural disasters, and those which serve areas having unusually low per capita income, or which are experiencing financial hardship for an "extenuating circumstance." (Cooperatives in these categories would be eligible to receive from REA up to 100 percent of their approved loan at the 2 percent rate).

In any period when the Treasury rate is as much as one percent lower than the rate on any Federal Financing Bank loan the REA has guaranteed, the borrower would be authorized to request the Treasury to refinance the loan at the lower Treasury rate. (There is no provision to refinance upward when interest rates rise).

In any period when the Treasury (CBO) rate is as much as one percent lower than the rate on any CBO the REA has sold to Treasury, Treasury would have to refinance the loan at the lower Treasury rate upon request of the administrator. (There is no provision to refinance upward when interest rates rise.)[4]

COMPARING THE EFFECTS OF THE TWO BILLS

In general, the Bethune bill can be said to be substantially less generous to borrowers and more apt to restrain Federal borrowing. In its plan to cap the REA program in order to reduce and eventually eliminate the selling of CBOs, in its omission of the clauses in H.R. 3050/S. 1300 which require the Treasury to forgive the $7.9 billion owed it by the Revolving Fund and refinance at a lower rate loans for which it has borrowed at a higher rate, as well as the clauses which require that the REA subordinate the Federal first lien on cooperative property and that Congress replenish the Fund for loans made at the hardship rate, the Bethune bill toughens the circumstances for rural borrowers and "defends" the Treasury.

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[3] Rural Electrification Administration, U.S. Department of Agriculture, Audit Report: Loan-Making Policies for Electric Distribution Cooperatives, Washington, D.C., August, 1983.

[4] Though this provision is in the original House bill, H.R. 3050, in this form, an agreement is reported to have been made between the House Committee on Agriculture and the House Ways and Means Committee to amend the bill to provide that refinancing of CBOs would have to be approved by the Director of the Federal Financing Bank.

Proponents of H.R. 3050 and S. 1300 will point out that the Bethune bill assigns the cost of the deficit financing the Revolving Fund has been carrying out under Congressional mandate over the past decade to the cooperatives. The Bethune bill not only raises the subsidized interest rate charged directly to cooperatives (by means of the formula) an average of 4 percentage points above the present level, but includes provisions which will work indirectly to raise costs to borrowers over time. This is, in requiring the Revolving Fund to repay its $7.9 billion loan from the Treasury, make loans at the hardship rate without reimbursement from the Treasury, pay off the CBOs at the rates at which they were sold, pay principal as well as interest on the CBOs, and cap its loan level, passage of the Bethune bill will, over time, reduce in size the pool of money available for lending at a subsidized rate by the Revolving Fund. Under such circumstances, cooperative borrowers will either have to reduce the amounts they borrow, or borrow the balance of their funding from non-REA sources at somewhat higher rates. In short, it is likely that passage of the Bethune bill will raise the average cost of money to rural cooperative borrowers.

In conclusion, it should be noted that at an average 9 percent rate (under Bethune), the Revolving Fund's interest rate would still be 2 percentage points below the Treasury rate, constituting a continued though reduced subsidy to rural electric borrowers.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I reluctantly speak in opposition to my good friend, the gentleman from Arkansas' (Mr. Bethune) amendment because he is a dear friend and I think he has offered a very thoughtful amendment, even though I must oppose it.

Mr. Chairman, I rise further in some reluctant opposition to the amendment because of the diatribe the other gentleman from Arkansas (Mr. Alexander) came to the well and presented against his colleague, Mr. Bethune. I would hope that the gentleman from Arkansas (Mr. Alexander) who took the well, would refrain from further speaking in opposition to this bill because I am afraid he might drive some of us the other way.

For the moment, I am opposed to the amendment because of a variety of reasons which I would like to take a couple of minutes to, hopefully, thoughtfully, expand upon.

The history of the REA in this country is really almost unparalleled, as we all know. I, too, grew up in the rural part of Kentucky and recall those days when our home was lighted with oil lamps and our school, one-room school, also was lighted with something other than electricity.

I, too, recall that wonderful day when electricity came to our part of the State and gave us, for the first time, the opportunity to read even by night. Today, 99 percent of our farms in this country are served by electricity. When Congress added telephones to the system in 1949, only 36 percent of American farms had telephone service.

Today, 95 percent of our farms have telephone service. I would like to praise the authors of the bill, I would like to commend our colleague, Mr. Jones of Tennessee, the chairman of the Credit and Rural Development Subcommittee and Mr. Coleman, the ranking member, for a sound compromise measure in my view, to deal with some very tough problems faced by the REA.

It is rare for any group to come before this body and ask for an increase in their interest rates, so that they can retain their long-term access to capital. That is exactly what is being done here in this instance.

The amendment before us now, by our colleague from Arkansas, would do great damage to that very careful compromise.

Let me point out a couple of provisions of the amendment which make it something I cannot support. First, it deletes the provision in the bill which allows for the conversion of notes into the revolving fund. The effect of that would means much higher interest rates for utilities and much higher electric bills for our people.

The bill would increase the interest rates about 2 percent above the current. The amendment would raise that rate even further, another 2 points on top of those 2. The bill's increase in the cost of the rural electric subscribers would be about $11 billion over the next 30 years. That is a very large amount for rural consumers to absorb.

The Bethune amendment would cost them an extra $15 billion on top of that $11 billion. Second, this amendment deletes the bill's provisions to change the first lien requirements, if I understand it correctly. That is so important to the rural telephone consumers. The effect of that would be to eliminate a very careful provision designed to help wean them from Federal credit. It would make it harder for them to gain access to private credit. It would make it nearly impossible for them to diversify, a step which is extremely important during these days of change in telecommunications and essential, so they can continue to offer rural customers affordable rates.

□ 1430

So, Mr. Chairman, let me say in conclusion that it has been argued that this and other amendments are needed to prevent unfair subsidy for rural users. I think it may result in effect being to pit urban against rural, North against South, East against West, and I hope we do not get into that kind of divisive effects.

We could argue about subsidies and different tax benefits for different regions all day long. This bill does directly benefit rural users, but there is hardly a bill that comes to the floor of this body that does not benefit some region over another. It is all part of a greater effort, in my view, to help build up each part of the country one region at a time so we can enhance the greatness of our entire Nation. This bill is one very important step in this larger effort and it helps to make sure that rural America is not left behind.

So I would urge the defeat of the amendment offered by the gentleman from Arkansas (Mr. Bethune).

Mr. de la GARZA. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute.

I rise just to make one point, Mr. Chairman: That we have discussed the deficit and the impact on the deficit, and I think it should be made clear that this would not be until 1993, and before that we are not increasing any part of the deficit. and then beyond that, we do not know what the situation will be. But whatever it is, then it will be minimal if you take it in relation to the total outlays.

I would also like to caution some of the Members that whether they agree or disagree with the amendment offered by our good friend, the gentleman from Arkansas, it deletes many sections of H.R. 3050 which are important. Our distinguished colleague and my friend, the gentleman from Arkansas, has directed his amendment to us, but as a substitute it deletes a major portion of the improvements which we have made with H.R. 3050.

For that reason, Mr. Chairman, I urge a "no" vote on the amendment, and I think that we are ready to vote.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Arkansas (Mr. Bethune).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. BETHUNE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 107, noes 289, not voting 37, as follows:

[Roll No. 34]

AYES—107

Anderson
Archer
Badham
Bates
Beilenson
Betnune
Bliley
Burton (IN)
Carney
Carper
Chandler
Chappie
Coats
Conable
Conte
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Daub
DeWine
Dingell
Dreier
Dwyer
Early
Erlenborn
Evans (IA)
Fiedler
Fields
Frank
Frenzel
Gejdenson
Gradison

Green
Hall, Sam
Hansen (ID)
Hansen (UT)
Hertel
Hiler
Hunter
Hyde
Jacobs
Johnson
Kasich
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach
Lent
Lewis (CA)
Lewis (FL)
Livingston
Lowry (WA)
Lungren
Mack

MacKay
Martin (IL)
Martin (NC)
Mavroules
Mazzoli
McCain
McCandless
McCollum
McGrath
Mica
Michel
Miller (OH)
Molinari
Moore
Moorhead
Nelson
Nielson
Nowak
Ottinger
Packard
Panetta
Porter
Pritchard
Rinaldo
Ritter

Roemer
Rostenkowski
Roukema
Sawyer
Schaefer
Schneider
Schroeder
Schulze
Shannon
Shaw
Shumway
Siljander
Smith (NJ)
Smith, Denny
Solomon
Stark
Tauzin
Thomas (CA)
Walgren
Weiss
Winn
Wortley
Yates
Zschau

NOES—289

Ackerman
Addabbo
Akaka
Albosta
Alexander
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnard
Barnes
Bateman
Bedell
Bennett
Bereuter
Berman
Bilirakis
Boehlert
Boggs
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Breaux
Britt
Brooks
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Byron
Campbell
Carr
Chappell
Cheney
Clarke
Clay
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Cooper
Courter
Coyne
Crockett
D'Amours
Daniel
Darden
Daschle
Davis
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dixon
Donnelly
Dorgan
Downey
Duncan
Durbin
Dymally

Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Franklin
Frost
Fuqua
Garcia
Gaydos
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gray
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hightower
Hillis
Holt
Hopkins
Horton
Hoyer
Hughes
Hutto
Ireland
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kennelly

Kildee
Kogovsek
Kolter
Kostmayer
Lantos
Leath
Lehman (CA)
Levin
Levine
Levitas
Lipinski
Lloyd
Loeffler
Long (LA)
Lott
Lujan
Luken
Lundine
Madigan
Marlenee
Marriott
Martin (NY)
Martinez
Matsui
McCloskey
McCurdy
McDade
McEwen
McHugh
McKernan
McKinney
McNulty
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nichols
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Price

Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Roth
Rowland
Roybal
Rudd
Russo
Sabo
Schumer
Seiberling
Sensenbrenner
Sharp
Shelby
Shuster
Sikorski
Sisisky

Skeen
Skelton
Slattery
Smith (IA)
Smith (NE)
Smith, Robert
Snowe
Snyder
Solarz
Spence
Spratt
Staggers
Stangeland
Stenholm
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall

Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Watkins
Waxman
Weaver
Weber
Wheat
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Young (MO)

NOT VOTING—37

Bartlett
Bevill
Biaggi
Boland
Boxer
Broomfield
Collins
Conyers
Corcoran
Coughlin
Dowdy
Foglietta
Forsythe

Gramm
Hance
Hefner
Heftel
Howard
Hubbard
Huckaby
Lehman (FL)
Leland
Long (MD)
Lowery (CA)
Markey
Murphy

Paul
Ridge
Savage
Scheuer
Simon
Smith (FL)
St Germain
Stokes
Walker
Whitehurst
Wright

□ 1440

The Clerk announced the following pairs:

On this vote:

Mr. Paul for, with Mr. Bevill against.

Mr. Coughlin for, with Mr. Hefner against.

Messrs. WIRTH, SWIFT, and MINISH changed their votes from "aye" to "no."

Messrs. HERTEL of Michigan, SHANNON, ROSTENKOWSKI, LEWIS of California, HYDE, LOWRY of Washington, LEWIS of Florida, SMITH of New Jersey, and NOWAK changed their votes from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. GORE. Mr. Chairman, this is one of the most important issues the House will address this session. We all agree that the REA revolving fund has a problem, and I want to personally commend our colleagues, the chairman of the committee, Mr. DE LA GARZA, and my good friend from Tennessee, the subcommittee chairman, Mr. JONES, for their masterful management of H.R. 3050 through the committee and onto the floor this week.

The issues underlying this legislation are complex. The changing financial environment for rural electric and telephone utilities has produced new challenges and troubling problems for these companies which are so vital to the continued prosperity throughout the country. The skyrocketing interest rates of he past few years have thrown financial planning activities into turmoil.

Unfortunately, the prospects for significant improvement in interest rates is not in the picture—a picture darkened by the record deficits this administration has produced. We have been given the hope of an economic recovery, but for companies which prosper and wither with the cost of capital, this hope is only that—a hope that seems further and further from reality as the deficits mount and government borrowing crowds out private access to the financial markets.

For REA borrowers—the small telephone and electric utilities in every State—the revolving fund is the only salvation in this time of continued uncertainty.

Mr. Chairman, I know that many here today remember the day the lights went on and the telephone finally rang in rural America—when President Roosevelt signed the Rural Electrification Act in 1935, followed by the Tennessee Valley Authority, and a decade later, the rural telephone program.

It is important to recall those days, Mr. Chairman, especially the admonishment of private power and telephone companies which scoffed at the cry for power and telephone service in rural areas. At the time only 10 percent of rural families had electricity. Only 36 percent had telephones. Yet these executives came to Washington to declare that there was no need that was not then being met.

I recall those claims, Mr. Chairman, because I believe we are facing a similar claim from the opponents of this legislation today—it is a familiar refrain: the need has been met, fewer REA borrowers should be eligible for the program, and, after all, the Treasury needs the money to help offset these huge deficits.

Mr. Chairman, the strong justifications for creating the REA revolving loan program in 1935 are just as strong today. The job is not done, and we must not abandon the millions of electric and telephone customers in rural America by gutting the remedies addressed in H.R. 3050.

I want to take a moment to address the particular problems facing rural telephone companies. Four months ago this body conducted a vigorous debate about the effects of the AT&T divestiture and the upheaval in the telecommunications industry. We passed a bill which addressed some of the critical problems facing telephone customers and the many small telephone companies which have special difficulties and high costs in serving rural customers. That was a good bill.

Unfortunately, the Senate chose not to act, and we were left with only a partial, temporary solution by the FCC.

REA telephone fund borrowers face increased costs not only for wiring new customers along sparse routes, but for extensive plant modernization. The REA fund is the only stable source of affordable financing for these companies.

The opponents of this bill claim that small, rural telephone companies should be forced to go into the private financial markets for needed capital. But Mr. Chairman, this demand is a cruel sham disguised as responsible fiscal policy. Most of these companies are simply not eligible for commercial loans because their debt-equity ratio is too low and because the cost of extending services to rural populations is prohibitive.

These telephone companies are going to have to double the cost of providing universal telephone service to their customers over the next few years, even under current REA lending policies. If we all of a sudden deny these companies access to the revolving fund at affordable rates, make no mistake—telephone bills in high cost rural areas will be much more than doubled. I ask my colleagues—are you prepared to tell your constituents that you are voting to drive their telephone bills even higher?

Deregulation may bring new benefits from competition, but for most small, rural telephone companies, deregulation also brings the prospect of lost revenues resulting from widespread bypass of the local network. And not only bypass for long distance service by AT&T and other carriers, but by new cable and satellite communications technologies which come with enormous potential for local bypass. And Mr. Chairman, local bypass is the problem for telephone companies in the future.

So how can these companies compete for current and future customers, especially the larger users so attracted to the new technologies? H.R. 3050 deals with this problem by making it possible for these companies to diversify, to serve their customers with all the new, exciting services we have heard so much about over the past few years. H.R. 3050 does this by changing the way in which the Federal Government attaches a lien to telephone company property of REA borrowers.

Currently, REA borrowers cannot go into the financial markets for new capital to expand services because the Government places a first lien on the companies' assets. H.R. 3050 corrects this problem.

Mr. Chairman, the REA electric and telephone loan programs have been extraordinarily successful. But the job is not done. We must maintain the vitality of rural electric and telephone services. H.R. 3050 is a giant step toward that goal, and I urge my colleagues to oppose the Bethune substitute and vote for H.R. 3050.

Thank you.

● Mr. CHAPPIE. Mr. Chairman, I rise in opposition to H.R. 3050, a bill which creates new and substantial subsidies for rural electric and telephone cooperatives and companies.

When this bill first came before us in the Agriculture Committee, it arrived with massive support from certain trade associations and some members. Its supporters and proponents claim that H.R. 3050 is a cure-all for all the ailments of REA with no cost to the U.S. Treasury. They said H.R. 3050 would guarantee the self-sufficiency of the rural electrification and telephone revolving fund. They held out H.R. 3050 as a selfless and magnanimous bill wherein the fund's borrowers would shoulder hefty interest rate increases to help assure the fund's solvency. And, finally, H.R. 3050 was portrayed as a bill which would not cost a dime of taxpayer money, which would take advantage of some costless bookkeeping magic, and which would in fact promote the use of non-Federal financing at some future unspecified date.

But now H.R. 3050 has been held up to objective examination. It has been examined by REA, USDA, and the Office of Management and Budget. Lest you consider those agencies to be too biased, H.R. 3050 and its companion S. 1300 have also been analyzed by the Congressional Research Service, the Congressional Budget Office, and the General Accounting Office. And the conclusions of all those entities, often reached through differing methods and from different starting points, have been the same: H.R. 3050 is not a self-sufficiency act; it does not assure that the revolving fund will remain solvent; it will cost the taxpayers uncounted billions of dollars; and far from encouraging the use of non-Federal financing, this bill will enhance the subsidization of the revolving fund by the Treasury and ultimately the taxpayers.

This bill represents a complex and convoluted solution to a problem that need not be so complex as its proponents have made it. That problem is that even with the billions of dollars in subsidies which have been provided to the fund in the past, the fund has been loaning out too many dollars at too low a rate of interest. Solutions exist. Cut the lending rate in half, a drastic solution but one which works. Or, more realistically, increase the rate charged to fund borrowers so that it will better cover the expenses of the fund. REA analyses, endorsed by our own General Accounting Office, have shown that the current loan program could be maintained if the fund rate were increased to within about 2 percent of the Government's own cost of borrowing. At that interest rate, borrowing from the fund would still be an excellent bargain for companies and cooperatives that would probably be unable to get funding elsewhere at any price.

But no such reasonable and fair solution is offered by H.R. 3050. Instead, we are asked to relieve anxiety by forgiving almost $8 billion in long-term notes which REA owes to Treasury, a forgiveness which is the same thing as a direct appropriation and which will be used to buy down the interest rates future borrowers will have to pay to the fund.

And speaking of rates, we are asked to approve a formula which was never even tested by its advocates before its introduction, and which has since been shown to be technically and conceptually flawed. Notwithstanding all of the pronouncements that this bill would result in stiff self-imposed increases in rural electrification and telephone revolving fund interest rates, the cold, hard fact is that the formula would result in rates lower than 6 percent for the next decade, increases insufficient to halt the demise of the fund under current conditions. True, an amendment may be added in this chamber which would theoretically halt the erosion of the fund, but that amendment will only work if future Administrators of REA are gifted with 20/20 foresight concerning interest rates and program levels. Once again, we are being asked to stake billions of dollars of investment in the fund on the viability of an untried and certainly unproven formula. To me, that is a bad gamble.

The bill would also enable the Administrator of REA to refinance REA borrowings from Treasury under terms which would greatly benefit the fund but again at great cost to Treasury. REA has estimated the cost of this provision to be in the billions, a cost which would have to be borne by the taxpayers.

Likewise, H.R. 3050 would permit loan guarantee borrowers to refinance their loans under downward-only, penalty free conditions. One more time, a great thing for the borrowers and a new and costly subsidy—nearly $5 billion—to be shouldered by the taxpayer.

So at last we get to the real substance of H.R. 3050. This bill attempts to shift the burden of making the fund solvent from the borrowers who use that fund to the taxpayers in general. No amount of semantics or clever euphemisms about equity transfers can change that simple fact.

And if such is the will of Congress, if we are of a mind that it is appropriate to forgive REA of an $8 billion debt that does not begin to come due for 10 more years, if we think that these tens of billions of dollars in potential new subsidies should be added to our budget deficits and paid for by the taxpayers, then I submit our handwringing about deficits and the Federal debt are not sincere. There is no doubt that the REA programs have been successful in the past, and that they will continue to contribute to the quality of life in rural America in the future. But that success was subsidized and now the proponents of H.R. 3050 want to raise that subsidy level to the point that it can only discredit the program.

But at least let's deal with simple truths about appropriations and subsidies instead of the fictions and misrepresentations we have been fed. Let us look at what need exists for the massively increased subsidies that H.R. 3050 will create. Let us look at what we expect REA to look like 20, 30 or 50 years from now. It is within our power to set REA programs along a path where the borrowers will increasingly pay their own way, where federally-provided financing at subsidized rates will be targeted according to need, and where we will not be mandating perpetual and increasing Federal borrowing to support the program.

H.R. 3050 would put us on a different highly subsidized path. It would create an entitlement program that future taxpayers will pay for, and pay for dearly. It would have us provide the equivalent of billions of dollars of additional appropriations to REA borrowers so that they can continue to enjoy interest rates half that of what the Government itself must pay. H.R. 3050 would establish a wholly unsavory precedent that agency borrowings from Treasury can somehow be eliminated, without cost to the taxpayer, by a bookkeeping change. There is no such thing as a free lunch and taxpayers will know this and pay for it in the future.

H.R. 3050 is not needed today. It can wait at least a little longer, at least until this body has an opportunity to examine alternatives. There are other fairer ways to fix the fund.

I urge my colleagues to join me opposing H.R. 3050 so that we can consider those more reasonable solutions.

I include the following:

REA Revolving Fund

1. Why has the REA Revolving Fund become a legislative issue?

If Congress takes no action, what will happen to the Revolving Fund and when? What would be the root causes of the Revolving Fund's problem?

The REA Revolving Fund (RETRF) is a legislative issue because the RETRF's problems are legislative in origin, and can only be resolved by legislative action of some sort. When the RETRF was established in 1973, the rate was legislatively set at 5%, a rate which was certainly rational in the context of 1973 interest rates but which proved to be wholly inadequate as interest rates increased and no willingness was shown to limit, even in a token sense, the size of the RETRF program. It shoud be noted in that regard if the RETRF advances had been limited to its receipts, a very healthy program size would have resulted and the RETRF would now be on excellent financial footing no matter how high the private sector interest rates had gone.

Recent attempts to restore some measure of RETRF health by limiting program size have been rejected by Congress. Thus, even though it might have been possible to slow the deterioration of the Fund by keeping the RETRF rate at 5% while limiting program size, that opportunity is now gone unless Congress is willing to cut the program size by two-thirds or more, an unlikely prospect. In order to keep RETRF lending activities at anything near existing levels, legislative changes are necessary.

If Congress takes no action other than to continue to mandate lending levels significantly in excess of the RETRF's receipts, the Fund will eventually go insolvent based on its inability to support its own borrowing through the sale of assets: i.e., Certificates of Beneficial Ownership (CBO's). Under current program size and cost of borrowing assumptions, this insolvency will occur soon after the year 2000.

The root cause of the insolvency, as mentioned above, will have been the failure of all involved to assure that the RETRF limited its lending activities to its means. Had the RETRF done so, the Fund would have had tens of billions of dollars worth of net assets by the second decade of the next century. Because the Fund's outlays have already so massively exceeded its incomes, however, the Fund will probably go insolvent before that decade absent Congressional action.

Given the historical failure to limit advances to receipts, the proximate cause of the projected insolvency of the Fund will be the failure to set RETRF interest rates at a level sufficient to counteract the depletion of RETRF assets caused by continuing and increasing CBO sales. This failure to set realistic rates will certainly occur without legislation, and will probably even occur with enactment of the original H.R. 3050. As currently amended, H.R. 3050 may work in theory, but significant practical problems cloud that projection (see discussion under # 5 below).

2. How was the REA program changed in 1973?

The program was changed in 1973 by the establishment of the Rural Electrification and Telephone Revolving Fund (RETRF) which would receive payments from and disburse loan funds to REA borrowers. Previously, loans were approved by REA, but monies were loaned out from and paid back to Treasury.

In order to provide the RETRF with the financial resources and leverage deemed necessary to assure its long-term solvency, the 1973 legislation permitted the RETRF to use the proceeds of the $7.9 billion in loans which had been lent through the Treasury's auspices, interest free, until note repayment began in 1993. The ability of the Fund to use this interest-free capitalization provided the Fund with enormous financial leverage which, it was assumed, would be further enhanced by the substantial increase in interest rates from the previous 2% to the new 5% level.

In anticipation of the possibility of "cash flow" problems or other demands on the RETRF which would exceed the Fund's receipts in any given period, the 1973 legislation provided the RETRF with an additional money-raising capability via the "sale" of assets (in the form of Certificates of Beneficial Ownership) to Treasury. Under such sales, in return for the infusion of funds the RETRF would pay simple interest on the CBO principal amount for 30 years, then repay the principal in a balloon payment at the end of that period.

Unfortunately, instead of being reserved for unusual circumstances, CBO sales became convenient vehicles for expanding the size of the RETRF lending program to the extent that such lendings have grown totally out of proportion with the receipts of the Fund. In essence, the RETRF is currently exhausting the massive financial leverage provided by the interest-free use of the $7.9 billion at a rapid rate, since it loans money at 5% and borrows money at a rate double that amount.

3. What are the goals of the present rural electrification program? What should be the role of government in providing or subsidizing universal electric and/or telephone service to rural areas?

The goals of the present REA program are no different than they have always been: to assure that rural Americans are provided with the opportunity to obtain adequate electric and telephone service, and that such service be obtainable at a reasonable cost.

What this Administration seeks is the ability to rationally pursue this goal. At present, it is a misnomer to retain the word "rural" in the title of the agency, since the RETRF loans substantial amounts of money to suburban and urban systems and projects. We seek the ability to exclude such nonrural systems and projects, simply because it was never a goal of the agency to include them.

Similarly, we believe that the role of government in providing and/or subsidizing such service is critical, but must be targeted to rural systems and projects when there is a bona fide need for such subsidies. At present, and with the sole and biased exception of NRECA's own opinion, all entities which have analyzed the question of comparative subsidies have concluded that rural electric cooperatives as a group receive subsidies equal to or substantially in excess of those provided to other types of electric utilities. So the subsidies already exist, and they are substantial. They are also needed by some number of borrowers, but not all of them. We seek the ability to make rational distinctions between borrowers, and to target Federal subsidies to borrowers demonstrating need, rather than to provide such subsidies uniformly (and blindly) to the entire universe of rural electric borrowers.

4. H.R. 3050 permits the REA to keep $7.9 billion presently owed to the Treasury, rather than repaying it beginning in 1993. What is the origin of this $7.9 billion?

Does the action of the bill constitute a "transfer to equity capital" or a "forgiveness"? What are the pros and cons of Congress taking this action?

What would be the likely consequences of not adopting H.R. 3050's provisions for the $7.9 billion? What alternative actions might then become necessary?

The origin of the $7.9 billion is the Treasury. These long-term notes represent direct loans from Treasury to REA to fund loans approved prior to the establishment of the RETRF in 1973. The 1973 legislation establishing the RETRF permitted REA to utilize borrowers' repayments on those $7.9 billion in direct loans, interest-free, to build up the assets and leverage of the RETRF. The repayment of the long-term notes to Treasury was scheduled from 1993-2016. It was assumed that the RETRF, having had use of $7.9 billion interest-free for that many years, would be in position to repay those notes easily at that time.

Contrary to unsubstantiated NRECA claims, the long-term notes can still be paid back quite easily, assuming moderate changes in the operation of the RETRF. For example, an increase in the RETRF rate to 9% (fully two percent below the Government's own cost of borrowing) would produce enough income under the current loan program to permit full repayment of the $7.9 billion when due.

It has also been claimed that such repayments would only be possible through perpetual CBO sales. In fact (and as can be demonstrated through RETRF modeling), while some of the early years' long-term note repayments would be accomplished through CBO sales, the increased revenue of the Fund would obviate the need for such matching sales within a few years, and would permit the full repayment and redemption of the CBO's gradually over the years.

The proposed bill forgives REA of a $7.9 billion debt to Treasury. It does so by transferring assets, taking the $7.9 billion in assets which are currently committed to Treasury beginning in 1993 and transferring them to the RETRF. As the Congressional Budget Office has agreed, this shift of assets is a forgiveness and has the same practical effect as a direct appropriation of $7.9 billion from Treasury to the RETRF. Thus, the forgiveness deprives Treasury of $7.9 billion in anticipated revenues, revenues which must then be raised in some other fashion.

There is no argument that forgiveness of the long-term notes equates to a forgiveness of any borrower's existing debt to the RETRF. It clearly does not. But the forgiveness would alter the conditions of future loans, permitting the RETRF to charge future borrowers about 1½% less than would be necessary if the long-term notes were to be repaid (assuming existing program size and CBO rate).

The "pros" of this forgiveness are best left the bill's advocates. The following "cons" occur to us:

No one argues the right of Congress to propose how monies should be appropriated. However, we strongly disagree with the concept of making appropriation decisions now concerning $7.9 billion which do not even begin to come due until 1993. By that time circumstances may well have changed so radically that the then-current Congress would like to have the option of deciding the issue. Moreover, as discussed above, there is no reason to forgive the long-term notes at this time.

Such prospective appropriations tend to legitimatize the thesis that raiding Treasury is not raiding Treasury if the impact of the raid is not felt for ten years.

The Congressional Budget Office has indicated great concern that this prototypical back-door financing scheme could serve as the model for additional billions of dollars of annual raids on Treasury euphemistically described as "equity transfers". REA, USDA, CBO, GAO, OMB, CRS, Treasury, and the Chairman of the House Ways and Means Committee have all expressed the desire to properly label the "transfer" and deal with it in an above-board manner.

Because of the mechanics of the bill, the $7.9 billion is squandered quite rapidly. The formula which the bill proposes, even as amended in Committee, immediately converts any leverage which the forgiveness of an annual long-term note repayment might provide into reductions in that year's RETRF interest rates. Thus, the leverage is dissipated almost immediately, and the Fund is virtually no better off the next year than it would have been had the note been repaid.

The mere requesting of this forgiveness, taken in the context of RETRF rates which most Americans would consider to be unbelievably low, will undoubtedly contribute to declining public support for the truly hard-pressed REA borrowers for whom the Fund was originally created. We have no desire to see the American public's perception of REA borrowers change to that of a free-loading special interest group unwilling to pay its own way.

5. H.R. 3050 determines the interest rate for REA borrowers by a formula, rather than the current 5 percent statutory rate for most borrowers. Is there a need to change the present 5 percent interest rate, and, if so, is the formula in H.R. 3050 the kind of change that is needed?

Exactly how would the formula work? In its present form, is it sufficient to insure the integrity of the Revolving fund?

It is theoretically possible to retain the existing 5% standard rate, assuming a drastic reduction in program size (on the order of a two-thirds cut in annual loan activity).

If the intent is to maintain approximately the current program size, the 5% rate must be increased, although the amount of that increase will vary depending on program growth (if any) and any fluctuations in CBO rates.

The formula proposed in the original H.R. 3050 clearly fails to provide the needed change. (See attached explanation provided previously to House Agriculture Committee.) With or without the other forgivenesses and benefits requested by H.R. 3050, the original formula will fail to set rates high enough to assure RETRF solvency under most plausible program size and CBO interest rate scenarios. We have provided substantial evidence to that extent in House testimony, and our conclusions have been supported by analysts from the Congressional Research Service, Congressional Budget Office, and the General Accounting Office. NRECA's own computer analyses provide indirect confirmation of our conclusions since to our knowledge those analyses have not contradicted our results as they relate to the original formula.

The amended rate setting method is confusing and ambiguous. Based on methodology used by NRECA to prove that the amended formula works (a methodology which, in our opinion, misrepresents the language of the amendment and is severely flawed from factual and technical standpoints), the amended formula does "work", but only in a very strained kind of way which may threaten the practical ability of the formula to assure RETRF solvency. The amendment serves to exacerbate the potential for manipulation and error by requiring an Administrator to predict CBO rates and program levels for 2-4 years into the future. The affect of erroneous predictions can range from massive overstating of RETRF interest rates to understatements sufficient to threaten the fund's viability. The proposed formula, as amended, is extremely volatile, to the extent that it is virtually impossible to stabilize RETRF interest rates even under the most stable of circumstance (i.e., no growth and a flat CBO rate). Because such wide rate fluctuations would occur, the amended formula's theoretical ability to produce Fund solvency requires one to ignore the probability that borrowers who committed themselves to "high end" rates will cancel those commitments when the rates fall. It such cancellations occur to any appreciable extent (as is probable given the sophistication of today's RETRF borrowers), the volatility of the H.R. 3050-derived rates will become even more pronounced because the mechanics of the formula exaggerate even the smallest fluctuations.

Thus, in our opinion, the H.R. 3050 formula, even as amended, constitutes a rather sizable gamble, particularly given the stakes requested in terms of long-term note forgiveness, CBO refinancing capabilities, and annual appropriations to support discretionary loans.

ATTACHMENT TO QUESTION 5—NRECA PROPOSED FORMULA, SECTION 6 OF H.R. 3050

Abstract

Section 6 of the proposed bill would amend Section 305(b) of the Rural Electrification Act to include a specific method for determining "standard" interest rates charged to Rural Electrification and Telephone Revolving Fund (RETRF) borrowers. This bill concentrates on increasing interest rates charged to RETRF borrowers, and purports to establish a method or formula which will assure the self-sufficiency of the Fund. Unfortunately, our analyses demonstrate that the method proposed in the bill will not work under program level and cost of money assumptions resembling those of the past several years. Even given all other forgivenesses requested in the bill, the NRECA proposed formula would result in the total depletion of Fund assets in a matter of years. Simply put, the NRECA method proposed in the bill would result in RETRF interest rates which are clearly too low to balance the Fund, rates which in fact are substantially lower than those which NRECA itself determined were necessary in their initial analyses.

This proposed method would also have the effect of changing the entire character of the revolving fund. Despite recent reliance on Certificate of Beneficial Ownership (CBO) sales to support the loan program, the Act amendments of 1973 envisioned an RETRF which would operate under traditional revolving fund concepts: i.e., new loan advances generally balancing loan receipts. The bill's method would institutionalize continued and expanding CBO sales as the primary mechanism for funding loan advances. RETRF rates would be artificially suppressed such that the Fund would be unable to function without CBO sales. We see no rationale for using a method which will make the RETRF dependent on perpetual CBO sales when other methods are available which would assure continued adequate levels of RETRF funding at rates which are below the Government's cost of money.

Summary of analyses

Using REA's RETRF model we examined how the RETRF would operate given the NRECA proposed formula. This formula is as follows:

"The standard rate for each account shall be that rate, not less than 5 per centum per annum, that would produce, from loans (other than special rate loans) approved from that account during a given period, interest income equal to, but not greater than, the amount of anticipated interest expense on the account's obligations (interim notes, insured notes, and certificates of beneficial ownership) required to be issued or sold during such period to cover loan advances and interest expenses: Provided, that the amount of such obligations to be issued or sold for such purposes shall be determined by deducting the sum of principal and interest receipts and any appropriation under subsection (c) of this section from the sum of loan advances and interest expenses on outstanding obligations of the account during such period."

Reducing this formula to mathematical terms, it would be calculated as follows for each period:

REA Interest Rate equals (Loan Advances plus CBO Interest Expense) minus (Borrowers' Loan Payments) divided by Loan Approvals times CBO rate.

Example:

Expected 1984 Advances equals $1.1 Billion.

Anticipated 1984 CBO interest expense equals $400 Million.

Principal and interest payments from borrowers in 1984 equals $910 Million.

Loan approvals anticipated for 1984 equals $1.1 billion.

Presumed CBO rate equals 11 percent. (1.1 plus .4) minus .91 divided by 1.1 times .11 equals .059 or 5.9 percent.

The impact of this proposed formula was analyzed for numerous cases.

Exhibit 1 summarizes the results of our analyses for several of the principal cases we examined.

Note from Exhibit 1 that:

a. The NRECA formula does not produce fund solvency except in cases which appear unrealistic, such as zero program growth and an 8 percent CBO rate for the indefinite future.

b. Amortization of CBOs does not result in fund solvency under NRECA's formula.

c. REA interest rates remain far below the CBO rate for most cases; such low rates are the cause of Fund insolvency.

d. Under NRECA's proposed formula the RETRF would continue to depend on increasing levels of CBO sales to support the REA loan program.

Exhibits 2 and 3 (not reproduced in the RECORD) highlight the fact that the NRECA proposed formula will produce Fund solvency in only a few situations—situations unlike those we've seen in recent years or perhaps are likely to see in the future.

A further problem with the NRECA proposed formula is that it is based on an annualized approach. That is, interest rates for each period are based on expected activity for that period. Thus, if advances or approvals are expected to increase or decline substantially during a given period this could have a profound impact on REA interest rates. The fact that the proposed formula is based on an annualized approach (which could lead to drastic swings in rates) means that it could also be manipulated such that it produces unreasonably high or low rates.

As shown earlier, the NRECA proposed Section 6 formula would not result in Fund solvency, however, it is an example of an annualized approach. Thus it is used in the examples below to shown the range of REA interest rates that could occur during fiscal year 1984 using an annualized approach.

REA INTEREST RATE CALCULATION FOR 6-MONTH PERIOD

REA interest rates	Advances	CBO interest	Loan repayments	Loan approvals	CBO interest rate (percent)
6.5	((550	+200	−450)	÷550)	×12
7.7	((700	+200	−450)	÷700)	×12
3.1	((450	+200	−450)	÷700)	×12
9.0	((700	+200	−450)	÷550)	×12

CONCLUSION

The proposed Section 6 interest rate formula is technically and conceptually flawed in several major ways:

a. It simply does not work, i.e., it does not produce adequate interest rates to result in Fund solvency.

b. It would increase RETRF dependence of funds from Treasury in the form of ever increasing CBO sales.

c. It is based on an annualized approach which can result in drastic swings in REA interest rates from period to period based on the levels of advances and loan approvals and/or the administration of this formula.

EXHIBIT 1

IMPACT OF NRECA PROPOSED FORMULA, SEC 6, H.R. 3050

NRECA requested subsidies		CBO interest rate	CBO's amortized	Program growth [1]	Year during which:		REA loan interest rate						CBO's outstanding (in billions)					
Long-term rate forgiveness	CBO refinancing (downward only)				Interest expense exceeds interest receipts	Appropriations needed	1985	1990	1995	2000	20'0	2020	1985	1990	1995	2000	2010	2020
Yes	Yes	8	Yes	0	0.0	0.0	5.00	5.00	5.00	5.00	5.00	5.00	$4.0	$6.9	$8.3	$8.6	$4.7	−$8.0
Yes	Yes	8	No	0	0.0	0.0	5.00	5.00	5.00	5.00	5.00	5.00	4.0	6.9	8.3	8.6	4.7	−7.9
Yes	Yes	8	Yes	6	2001.5	2021.5	5.00	5.00	5.00	5.17	6.29	7.09	4.0	7.6	11.9	18.6	43.4	95.6
Yes	Yes	8	No	6	2001.5	2021.0	5.00	5.00	5.00	5.17	6.29	7.10	4.0	7.6	11.9	18.6	43.4	95.7
Yes	Yes	11	Yes	0	1993.0	2017.0	6.06	5.45	5.40	5.51	7.25	9.83	4.1	7.6	10.3	13.0	18.9	25.7
Yes	Yes	11	No	0	1991.5	2016.5	6.23	5.72	5.68	5.77	7.70	9.29	4.1	7.7	10.6	13.4	19.6	25.9
Yes	Yes	11	Yes	6	1992.0	2014.5	6.10	6.84	7.94	8.78	10.04	9.90	4.1	8.3	13.8	22.2	51.7	103.3
Yes	Yes	11	No	6	1990.5	2014.0	6.27	7.04	8.08	8.87	10.12	9.86	4.1	8.4	14.1	22.5	52.3	103.4
No	No	8	Yes	0	1996.5	2011.0	5.00	5.00	5.00	5.00	5.38	5.00	4.1	7.6	10.4	14.2	23.6	25.0
No	No	8	No	0	1995.5	2010.0	5.00	5.00	5.00	5.00	6.51	5.00	4.1	7.6	10.4	14.3	24.6	25.0
No	No	8	Yes	6	1992.5	2007.5	5.00	5.00	5.62	6.50	7.12	6.80	4.1	8.4	14.0	23.9	54.9	99.3
No	No	8	No	6	1992.5	2007.0	5.00	5.00	5.67	6.58	7.19	6.78	4.1	8.4	14.1	24.1	54.9	99.5
No	No	11	Yes	0	1990.0	2006.0	6.43	5.94	6.32	8.54	9.73	6.86	4.1	7.8	11.2	16.4	25.7	27.1
No	No	11	No	0	1988.0	2005.5	6.61	6.23	6.63	8.87	9.76	6.69	4.2	8.0	11.4	16.8	25.7	27.2
No	No	11	Yes	6	1989.5	2005.5	6.47	7.20	8.45	10.00	10.22	9.64	4.1	8.6	14.7	25.5	57.0	104.3
No	No	11	No	6	1987.5	2005.0	6.64	7.41	8.61	10.12	10.23	9.62	4.2	8.7	15.0	25.9	57.1	104.5

[1] Beginning with a 1984 program of $1,100,000,000 ($850 electric and $250 telephone).

6. H.R. 3050 contains provisions for refinancing loans made by the REA from the Treasury when the Treasury's cost of borrowing goes down. What would be the effect of these provisions?

What is the attitude of the Federal Financing Bank toward them?

What action could be taken on the House floor to alter this part of the bill?

The effect of the CBO refinancing provisions would be to deprive Treasury of untold billions of dollars in anticipated interest revenues under most plausible economic scenarios. This effect would be absolutely wonderful for the RETRF borrowers, since it would be translated immediately into lower RETRF rates. At the same time, this effect would be absolutely deleterious to Treasury, since it would be receiving interest income (from REA via FFB) insufficient to match its interest expenses on borrowing Treasury had to make to cover the CBO sale. Treasury loses, and continues to lose progressively larger amounts each time the CBO rate falls and/or each time the CBO rate alternately rises then falls. These effects should surprise no one: if homeowners could refinance mortgages without penalty every time rates went down, banks would lose massive amounts of money unless or until the banks changed their basic methods of borrowing and lending.

FFB's attitude, as expressed by Treasury, is that such refinancing solely at the discretion of the borrower is intolerable and will entail massive costs to Treasury and the taxpayer. Simply put, any precedent such as this one which would put FFB/Treasury on the short end of a financially irresponsible arrangement must be opposed, because once that precedent is established it can be used by other special interest groups to justify similar giveaways on the other $200 billion or so in annual off-budget borrowings.

Right now, REA and FFB are free to negotiate alternative terms for CBO's which would permit variable interest rates, shorter loan terms, or amortization of CBO's so as to reduce interest costs to the RETRF. Given that existing flexibility, there is simply no reason for any new legislation which reiterates extant circumstances and which could conceivably be misinterpreted as a recommendation for refinancing CBO's in a manner which would entail massive cost to the taxpayer.

The recent agreement between Congressmen de La Garza and Rostenkowski to delete the CBO refinancing provision reflects the growing awareness that such a provision represents a direct and sizable drain of taxpayer dollars.

7. What would be the effect of H.R. 3050 on "special rate," low-interest REA loans? What are the pros and cons of retaining "special rate" loans?

H.R. 3050 as amended would essentially make all loans "special" and "low rate" for the next half-dozen years since we suspect there would be little justification for loans at interest rates much lower than the 5-6 percent level which the H.R. 3050 formula would generate.

But, beginning in the late 1980's, we estimate that RETRF interest rates will begin to rise rapidly, then behave quite erratically as the formula and its amendment take hold. Under those circumstances, we expect demand and need for special rate loans to increase.

H.R. 3050 would have the Secretary of Agriculture request appropriations to support such loans. We seriously question the likelihood that Congress will continue to appropriate endless funds to the RETRF after passing legislation such as H.R. 3050 which will cost the taxpayers tens of billions of dollars, particularly when the borrowers have at their disposal an appropriate "cooperative" remedy: fold the "subsidy" of the lower rate loans into the standard RETRF interest rate, an expedient which would only cost the borrowers a fraction of a percent of additional interest charge.

If Congress balks at providing endless access to special rate loan subsidies, it is quite likely that such loans will dry up because the formula provided in H.R. 3050 makes no provision for recouping the cost of the special rate loan subsidy elsewhere.

Thus, under H.R. 3050 we would be faced with the prospect of annual appropriation requests to Congress, each time highlighting the continuing and increasing cost of the program to the taxpayer, and each time carrying the threat that Congress largess will cease, at which time special rate loans will also have to cease for lack of funding.

The question of the pros and cons of retaining "special rate" loans is quite separate from that of "special rate" loans under H.R. 3050. We are fully committed to having the ability to provide special rate loans when they are truly needed. We believe that if the RETRF interest rates are increased to an appropriate level, there will be a significant number of special rate loans for hard-pressed borrowers, special rate loans whose cost will be borne cooperatively by all borrowers in the form of marginally higher RETRF rates. In the context of such a self-sustaining and cooperatively based special rate loan program, there are no cons.

8. What other provisions of H.R. 3050 are especially relevant for Member's consideration?

SUBSIDIES

The trade associations have attempted to promote the belief that rural electric cooperatives do not receive their "fair share" of subsidies vis-a-vis other types of electric utilities. Members should be aware that there is absolutely no support for this argument, and that in fact every entity (other than NRECA) which has examined comparative subsidies has found that rural electric cooperatives receive at least as much and probably substantially more subsidy than do other electric utilities. Copies of all such studies are available, as is a brief analysis of the basic methodological errors and factual misrepresentations contained in the NRECA subsidy analysis.

REFINANCING OF LOAN GUARANTEES

This provision would permit loan guarantee borrowers to enjoy the same downward-only, one-way, penalty-free refinancing option as is proposed for CBO's, again at massive potential cost to the taxpayer. It has been argued that this provision would require the concurrence of FFB, and thus should not be assigned any "cost". Since FFB/REA already have the ability to alter loan guarantee conditions in financially responsible ways, we think it unwise to suggest in legislation that FFB should even consider a refinancing policy which is by its nature irresponsible and carries massive potential cost to the taxpayer.

FEDERAL INCURSION INTO THE CREDIT MARKET

The basic concept underlying H.R. 3050 is that the Federal Government should support the program in perpetuity through Federal borrowings, be they related to CBO's, loan guarantees, or borrowings needed to offset appropriated costs for the forgiveness of the long-term notes and annual appropriations for "special rate" loans. This basic framework for RETRF operation is inconsistent with the original concept of the 1973 legislation establishing the RETRF, and actively reduces the ability or inclination of borrowers to develop their own financial independence.

POTENTIAL FOR FUTURE FORGIVENESS

H.R. 3050, with or without amendment, creates a perfect medium for additional future forgivenesses since it sets in motion a rate setting mechanism which is extremely volatile at the same time that it legitimatizes RETRF borrowers' "right" to interest rates half as great as the prime rate. We believe a better precedent would be to create the expectation (or actually recreate it, since it already existed during the first 30 years of the program) that borrowers should have to bear some reasonable responsibility for the health of the RETRF, particularly since under even the most draconian of proposals REA borrowers would be getting their money at rates they couldn't touch if they had to go to the private credit market. The probability that future forgiveness will be requested is perfectly demonstrated by the fact that the NRECA legislation included a provision for the forgiveness of interest on CBO's sold before H.R. 3050 enactment, a provision which was stricken from the bill only days before its introduction. We fully expect that forgiveness proposal to arise again as soon as the H.R. 3050 formula's inability to set stable and reasonable rates is borne out by experience.

TRANSFER OF DEBT TO FUTURE GENERATIONS OF RATEPAYERS AND TAXPAYERS

H.R. 3050 effectively transfers debt to future generations of rate payers and taxpayers in that it sets RETRF rates so low that the fund will have to make rather startling and painful readjustments several years from now. We prefer the concept of paying your own way as you go, a concept which would require somewhat higher RETRF rates now so that future generations of borrowers will not be saddled with debts caused by current borrowers' desire for a "free ride." It seems incongruous that at a time when there is widespread support for making a "down-payment" on deficits this bill would create tens of billions of dollars of new debts for future taxpayers.

9. If H.R. 3050 were passed, what would the longer-term outlook for rural electrification be?

As we view H.R. 3050 as amended, its passage would retard the insolvency of the Fund through the establishment of marginally higher interest rates and through the forgiveness and/or elimination of billions of dollars of debt which the Fund owes Treasury and the taxpayer.

Whether that retardation of insolvency will be permanent or not is problematic, because the ratesetting mechanism set forth in the bill is so volatile as to raise serious practical and pragmatic questions about how the borrowers will react to wildly erratic rates. Further, since the formula immediately dissipates any benefits received because of forgivenesses and benefits, we believe that this bill creates a vehicle for additional future forgivenesses and appropriations. Its profligate use of these forgivenesses and benefits assures that the Fund will not become self-sufficient in any classical sense, and instead creates a Fund which will be almost totally dependent on continued and increasing Federal borrowing and appropriating for its survival.

Similarly, this bill contains no incentive for borrowers to develop financial self-sufficiency and independence. To the contrary, the bill creates the expectation that RETRF money at half the government's own interest rate is a right of all borrowers, and creates an illusion that by paying such marginally higher rates the borrowers are really paying their way.

If H.R. 3050 is passed, the "longer-term" outlook for rural electrification will be one of continuing dependency on the Federal Government as financier. Thus, the outlook is good for as long as the Federal Government is willing to bestow gifts to the Fund. But, should the political and economic climate change at some point, mandating curtailment or elimination of the Federal largess, the dependency which this bill creates will cause financing crisis for rural electrification so severe as to make current proposals for "cost of money" loans appear to be unbelievably attractive.

10. What are the alternatives to H.R. 3050, for example, proposed legislation mentioned in the Administration's fiscal year 1985 budget? How do the provisions and likely consequences of such an alternative compare with those of H.R. 3050?

The first alternative is the most obvious: delay legislative change until a reasonable concensus can be reached. The $197.8 million appropriated to REA this year is not necessary, but assuming that REA will be forced to use it, that appropriation will "buy" an extra year's solvency for the Fund. To the extent that Congress chooses to continue to appropriate subsidies for the program, at least the subsidy issue will be dealt with forthrightly and above-board, a distinct advantage to the taxpayer compared to H.R. 3050's "backdoor financing" nature.

However, we believe that the likely consequences of the "appropriations" solution are contrary to the program's best interests:

(1) This approach does nothing to raise RETRF interest rates to a proper and reasonable level. Thus, it continues and perpetuates the notion that 5% money is somehow a right of the REA borrower—a right which we are not willing to acknowledge—and assures continuing and growing costs to the taxpaying public.

(2) Notwithstanding rhetoric to the contrary, we believe in the necessity for a REA program. The "appropriations" solution could collapse in a changing political or economic environment, threatening the very viability of the RETRF and the REA program. We would rather install a permanent solution to the program's problem which would assure the viability of the Fund without recourse to annual appropriations.

The second alternative is that which is embodied in the Administration's fiscal 1985 budget proposal: namely, increasing the RETRF rate to equal the Government's own cost of borrowing. While we recognize that many borrowers and trade associations look aghast at such a recommendation, it must be noted that it has always been the primary role of REA to make monies available for rural electrification and telephony. The demand that those monies be made available at massively subsidized rates is a new phenomenon, and ignores the fact that RETRF borrowers would have to pay interest well above the Government's rate if they went to the open market. In this regard, the comments of Congressman Sam Rayburn are quite illuminating. In speaking of the interest rate to be charged for REA loans, he said.

"We do not want the Federal Government to lend money to any organization, to any corporation, or to any agency of the Government at a figure less than the Government can go out and borrow money itself."

In those cases where true hardship would result from these higher rates, the Administrator would approve discretionary loans.

Obviously, this proposal is not as generous with taxpayer money as the trade associations', but matching H.R. 3050's benefits is an objective which is inconsistent with our goal of creating a workable, viable, and permanent solution to the RETRF's problem, at as little cost as possible to the taxpayer. H.R. 3050 fails on all counts, because it places too much emphasis on suppressing today's RETRF interest rates, and effectively transforms one of the Government's most successful and valuable programs into a new and perpetual entitlement program, an entitlement program which will bestow its benefits on today's rate payers at the direct and substantial expense of the current and future taxpayers.●

● Mr. RICHARDSON. Mr. Chairman, I rise in strong support of H.R. 3050, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act.

This legislation is necessary in order to make certain that the Rural Electrification Administration (REA) can continue to make loans to rural electric cooperatives and small telephone companies serving rural areas across the Nation. The REA, since its creation in 1935, has proven to be extremely successful in bringing electric power to millions of rural homes. Today, 99 percent of U.S. farms have electricity.

Mr. Chairman, I represent a largely rural district. The fact remains that it is unprofitable for private utilities to provide electricity or telephone service in rural areas. Without the benefit of the low-interest loans provided by the REA to the rural and electric and telephone cooperatives in my district, many of my constituents would be left in the dark, without electric or telephone service.

The REA has been successful thus far in providing electricity to rural areas. But to say its job is done would be foolish. Equipment must be modernized and our rural areas are continuing to grow.

It is also a disservice to the hundreds of rural electric and telephone co-ops across the country to say the REA loans represent an unjustified Federal subsidy. These co-ops have a remarkable record in paying back the REA for the loans they receive in a timely fashion. The REA revolving fund is in trouble simply because interest rates have soared to record heights.

Mr. Chairman, let us not turn our backs on rural America, for if we do, the very foundation of our society will be weakened. I urge Members to vote for H.R. 3050.●

● Mr. STANGELAND. Mr. Chairman, I am proud to be a cosponsor of H.R. 3050. I believe this bill calls for a number of improvements over existing law which would better assist our rural electric and telephone cooperatives in providing affordable and dependable utility service to rural consumers.

The primary problem we are addressing here today involves the fact that the REA's revolving loan fund has been losing ground due to high interest rates. While insured loans from the fund have been pegged by law at 5 percent since 1973, the revolving fund has had to pay much higher interest rates in recent years in order to obtain capital from the private market via the Federal Financing Bank.

H.R. 3050 proposes a number of steps to get the revolving fund back in balance while maintaining adequate access to REA financing at reasonable rates and terms. For example, H.R. 3050 authorizes the REA Administrator to set the interest rate on new loans at the level required to restore and maintain the balance in the revolving fund. The bill further proposes that $7.9 billion in notes due the Treasury beginning 1993 would instead be converted into permanent equity capital of the revolving fund.

In addition, important safeguards and protections are included in H.R. 3050 pertaining to low-interest hardship loans, supplemental financing ratios required for REA electric loans, and modifications in the legal definition of telephone service to reflect technological breakthroughs over the past 20 years in telephone transmission. There are numerous other provisions in the bill affecting both the REA electric and telephone programs which address the imbalance in the revolving fund while at the same time protecting REA borrowers and their member/customers from excessively high credit costs.

I believe it is absolutely essential that we, in Congress, take whatever corrective actions are necessary to assure the long-term strength of the rural electric and telephone revolving fund and, with it, the future viability of the REA electric and telephone lending programs.

The Rural Electrification Administration is one of the great success stories, insofar as Government programs intended to assist rural America are concerned. When REA was first created in 1935, only 10 percent of our Nation's farms had central station electric service. Today electricity is available throughout rural America at rates established by local boards of directors within the guidelines set by Congress and the REA.

In fact, electricity coming to rural America and to rural Minnesota is so recent that I can still vividly remember when we first got electricity on our farm back in November of 1941. There are some of us here in Congress and on this committee who still remember how we had to use kerosene lamps before electricity was available on the farm. That all changed—for much the better, I might add—with the implementation of the REA program, which assisted the rural cooperatives in delivering electricity to the farms and sparsely populated areas of rural America.

But we must not now turn our backs on existing rural electric and telephone cooperatives as if the job were finished. Electric rates paid by consumers in rural areas are on the average 12 percent higher than those paid by urban consumers in the more densely populated areas. This is primarily due to the fact that rural distribution lines average only 4.7 consumers per mile while, in comparison, commercial utilities average 35.8 consumers.

Furthermore, I know I do not have to persuade the Members of this body about the uncertainty that telephone deregulation imposes upon our rural telephone co-ops and their member/customers. Current projections of skyrocketing rural phone bills under deregulation surely pose a serious threat to the goal of universal service, and would result in a communications catastrophe that our rural constituents and this country cannot afford. Needless to say, now is certainly not the time we should be thinking of scaling back traditional REA support for our rural electric and telephone cooperatives.

Ever since the REA was first established, it has been the principal source of capital for rural utilities. Without the Federal support that the Rural Electrification Administration provides our rural co-ops, it is questionable whether or not they could attract the private investment needed to continue operating in areas of rough terrain and low population density. Even if financing could be found, the loans would certainly carry a higher interest rate than these rural cooperatives can now obtain. That is why it is particularly important that we maintain our strong commitment to the REA program and assure our rural co-ops that they will not be forced to depend upon private credit for an undue portion of their financing needs.

Providing dependable, affordable utility service to rural America is no easy job. I, for one, want to commend our rural cooperatives for the tremendous job they have done. These locally owned and nonprofit cooperatives have not only provided reliable electric and telephone service for rural America, but have also led in the development of rural services and have helped bring thousands of new jobs to our rural communities.

During the coming years of economic uncertainty, it is especially important that we assure our cooperatives of continued access to REA financing. We must now take the bold steps necessary to put this present funding crisis behind us and guarantee a strong, self-sustaining REA program in the future that will meet the electric and telephone needs of our rural citizens for generations to come.●

● Mr. ANTHONY. Mr. Chairman, I rise in support of the passage of H.R. 3050. I would like to commend the rural electric cooperatives for the job they have done. Through good times and bad, for almost one-half of a century, this program has been a positive, stabilizing force in improving the quality of life in rural America. These locally owned and nonprofit cooperatives have not only provided reliable electricity to our rural communities but have also led in the development of rural services and helped bring thousands of new jobs to rural communities.

Serving the countryside is no easy job. Rural America is a diverse and ever-changing landscape. Lately, we have been witnessing a return to the country. That has brought about a small but steady growth in the demand for energy, growth that will accelerate as the economy improves. REA provides a critical ingredient in the success of that growth.

The rural electric cooperatives have a commitment to provide affordable electric service to these people. Rural electric bills are high enough now. The legislation before us, H.R. 3050, will help to keep those rates from climbing drastically above the already unequal level. But this bill is not a Federal "bailout." This is one time, and it is unusual, where we would be helping a program without having to appropriate money.

Today's loan money does not come from taxpayer's dollars and H.R. 3050 does not call for any in the future. If we were to preserve the revolving fund through reliance on congressional appropriations, it would cost several hundred million dollars annually within 6 years.

The rural electric program has accomplished great strides in bringing up the quality of life in rural America and has been the model for many developing nations throughout the world. The rural electric cooperative program has an excellent service record dating back to its inception in 1936. The most recent data shows that these cooperatives average 4.7 consumers per mile of line compared to 35.8 consumers per mile for investor-owned utilities.

Nationwide, cooperatives average $3,370 in revenue per mile of line versus $42,007 for investor-owned. These figures merely point out the difference between serving rural and urban areas. The repayment record of the rural electric program is the best of any Federal lending program in this Nation. In terms of percentage, the total amount of loans made to REA borrowers that have been written off is .000001 percent. Only $44,000 has been written off as bad debt in the 50-year history of REA.

The bill before us today recognizes the varying needs of different cooperatives and provides adequately for them. It allows for outside funding but does not impose unrealistic conditions on the cooperatives. It insures that the bulk of this funding is stable but allows flexibility where necessary.

Opponents of this legislation would have the Congress adopt a formula for amortization of REA loans that would lead to interest rates on new REA loans in excess of market rates, thus destroying the program itself. The viability of the REA program is hanging in the balance and H.R. 3050 is critical to its survival. I urge my colleagues to support the legislation to insure a strong REA program now and in the future.●

● Mr. WEBER. Mr. Chairman, I wholeheartedly support the passage of H.R. 3050, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983. It is a landmark bill which insures the financial solvency of the REA program for generations to come.

This bill is the result of a bipartisan effort. I just want to make the point that the REA program has been traditionally supported by Democrats and Republicans alike which serves to point out REA's value to the country. I, for one, hope that spirit continues in this body for many years to come.

Mr. Chairman, my district, the Second District of Minnesota, is almost exclusively rural. Many, if not most, of its farm residents did not have electric or telephone service until the REA provided the seed money to finance cooperative efforts. At that time, large commercial companies were unwilling to extend service to rural areas, because it was prohibitively expensive. Today, rural Americans have those essential services—due to a strong and viable REA program.

H.R. 3050 is a farsighted proposal proudly supported by our Nation's electric and telephone cooperatives. It solves a problem posed to the fund by the high interest rates of the past decade. Every effort has been made to build a consensus among the Members of Congress, the groups affected by the legislation and the administration. H.R. 3050 represents the optimum balance between responsible fiscal management and the need to protect the rural utility ratepayer from unwarranted increases in the cost of essential services.

I want to conclude by thanking the cooperatives for offering to solve a problem on their own. Rural electric and telephone cooperatives had the foresight to see a difficulty emerging with the revolving fund program under its present structure. Rather than wait and let the problem get totally out of hand, they came forward with a proposal to insure its financial solvency. I appreciate this kind of thoughtfulness and would hope that other groups affected by Government programs would look into the future instead of waiting until a catastrophe occurs.●

● Mr. OBERSTAR. Mr. Chairman, in its 49-year history, the Rural Electrification Administration has brought electricity and telephones to hundreds of thousands of farms and rural homes. Today, as our rural areas grow more populous and as equipment becomes outdated, the REA will continue to provide much-needed assistance in grants and loans to allow rural cooperatives and companies to provide reasonably priced electric and telephone service.

The REA has an impressive record: since 1935, it has lost less than $50,000 of the $20 billion in electrification loans and loan guarantees. Rising interest rates, however, have burdened the REA's revolving fund with financial difficulties. Although it could only charge co-ops a fixed rate of 5 percent, it must pay back the Treasury at a rate higher than the Government's cost of borrowing. In recent years as interest rates have soared, the REA has thus been unable to maintain a revolving fund since its costs have exceeded its income. H.R. 3050 would insure the financial viability of the REA loan program by allowing interest rates to rise from the current fixed rate of 5 percent so that interest income would cover interest expense. The legislation would allow the REA to retain $7.9 billion currently owed to the Treasury in order to establish a revolving loan fund. This fund would allow interest rates to rise from the current fixed rate of 5 percent so that interest income covers interest expense.

This bill does not represent a raid on the Treasury as the Reagan administration would have us believe. H.R. 3050 merely allows the REA to shift its debt from the Treasury—cooperatives will not be relieved of their debts to the Federal Government through this bill. The REA's debt would merely be declared equity capital that the revolving fund could use to make new loans. The Congressional Budget Office estimates that the legislation would increase outlays by only $7 million over a period of 5 years because more cooperatives would seek low interest loans. The transfer of $7.9 billion in assets from Treasury to the REA would have no net budgetary impact.

Despite splendid success of the REA, many rural residents are waiting for electric and telephone service. Low interest loans and grants to rural cooperatives and companies from the REA allow rural cooperatives and companies to finance high-cost electrification service at a time when these companies are facing higher and higher capital costs for electrification. Rural cooperatives simply cannot afford to raise capital in the commercial market as can large utilities. In addition, rural cooperatives are continually replacing outdated equipment, much of which was installed 40 years ago when the REA was first established.

Today, we tend to take electricity for granted but to many rural constituents, it is still an unaffordable luxury. As one of my constituents from northeastern Minnesota recently wrote:

> With electricity, when you need a light, you flip on a switch—with a generator, you run a small power plant for a light, a bad economy. I envy people who have a light burning in their yard, when we come home at night we use a flashlight or if we forget, stumble around in the dark. Electricity brings a level of comfort into people's lives—these comforts are a reward for hard work. Without electricity we have no comfort.

Bringing electricity to this rural home would cost almost $40,000 without Federal assistance—making electricity unattainable for this rural homestead.

This legislation will assure that rural cooperatives and companies can continue their work to provide electricity and telephone service at reasonable rates. I urge my colleagues to support the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983.●

● Mr. KOLTER. Mr. Chairman, today we have the opportunity of supporting legislation that will impact upon millions of people living in rural areas across the United States. The Rural Electrification and Telephone Self-Sufficiency Act of 1983, H.R. 3050, seeks to stabilize the Federal financing programs that benefit rural electric cooperatives and help keep members' electric bills as reasonable as possible. Over the past several days I have received a considerable amount of information that outlines the arguments for and against this legislation. Mr. Speaker, with your permission, I would like to share information that should prove most enlightening to my colleagues.

While investor-owned utilities average over 35 customers per mile of line, rural electric co-ops service slightly under 5 customers per mile. In terms of revenue per line-mile, these statistics translate into about $42,000 for investor-owned utilities and only about $3,370 for rural electric co-ops. Viewing the situation from an investment perspective provides an even more telling picture. Rural electric co-ops invest an average of $1,337 on distribution per consumer. In contrast, investor-owned companies spend about $825 on distribution investment per consumer. In addition, co-ops do not normally enjoy the luxury of serving industrial consumers and large, populated urban and suburban areas. Often co-op lines must be strung for miles just to provide service to a handful of customers.

It is interesting to note that the accelerated cost recovery system provision of the Economic Recovery Tax Act of 1981 (ERTA), and provisions of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) have provided substantial benefits to investor- and municipal-owned utilities. Investor-owned utilities enjoy what amounts to $40 per customer in terms of Federal aid, while co-ops receive about $9 per member.

Insuring the financial viability of the Rural Electrification Administration loan program will not only assist co-ops in dealing with the disadvantages mentioned above, but it will help co-ops bring power and data transmission services in rural America up to more modern standards. In many areas the original poles and wire still serves co-op customers. When the time for replacement arrives, co-ops will be in a position to finance expensive new equipment. This will help maintain service of the highest degree possible.

In closing, I would like to share some comments on rural electric co-ops from a constituent of mine. Donald Streams is a dairy farmer in Blairsville, Pa., with a herd of about 110 cows. He and just one farmhand can milk the entire herd because of electric milking devices. They have also increased their yield and the quality of their products because of access to affordable power. Clearly, electricity has enabled the American farmer to improve the quality and quantity of food. Don added that he would not want to think what it would be like without rural electric co-ops. If meaningful and responsible action is not taken, the goal of maintaining universal service for rural America will be in serious jeopardy.●

● Mr. KASTENMEIER. Mr. Chairman, I urge my colleagues to join me in supporting H.R. 3050, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act, which will insure long-term solvency of the Rural Electrification Administration's revolving fund and enable rural Americans to continue receiving access to quality and affordable electric utility and telephone service.

By approving this legislation, we will maintain our commitment, begun nearly 50 years ago, to assuring that rural Americans have access to a reliable supply of electricity at costs comparable to those being paid by their urban and suburban counterparts.

The success of the REA financing program is simply remarkable. By providing reasonable financing and assistance for electric generation, and later for telephone service, this program has helped transform the American countryside and is greatly responsible for the remarkable productivity of U.S. agriculture today.

But it is clear that the work of the REA is not finished. While much has been accomplished since the inception of America's rural electrification program, the basic factors of low line density and high per capita costs remain. This legislation will enable the Nation's rural electric and telephone cooperatives to continue providing necessary utility services to our expanding rural population.

The economic events which have led to the critical need for this legislation today are not the fault of the REA program or its borrowers. The high inflation and interest rates experienced since we established the REA revolving fund in 1973 have greatly jeopardized the program's stability. Given the high cost of REA borrowing from the Federal Financing Bank, REA will soon be paying more in interest to the FFB than it receives in interest payments from rural electric and telephone borrowers at the statutory 5-percent interest rate limit.

This legislation will provide more stability to the program's revolving fund by moving from the fixed 5-percent interest rate on loan repayments to a variable rate designed to produce sufficient interest income for the revolving fund to meet its interest obligations to the Federal Financing Bank.

H.R. 3050 is a balanced, reasonable approach to maintaining the solvency of our cooperative rural electric and telephone financing system and deserves our support.●

□ 1450

The CHAIRMAN pro tempore. Are there any further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSE) having assumed the chair, Mr.

BARNARD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3050) to amend the Rural Electrification Act of 1936 to insure the continued financial integrity of the rural electrification and telephone revolving fund, and for other purposes, pursuant to House Resolution 447, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BETHUNE

Mr. BETHUNE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BETHUNE. I am opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. BETHUNE moves to recommit the bill H.R. 3050 to the Committee on Agriculture with instructions that the committee consider amendments that would insure the continued financial integrity of the rural electrification and telephone revolving fund in such a way as to avoid any increase in the national debt, any increase in interest rates, or any decrease in the availability of credit.

The SPEAKER pro tempore. The gentleman from Arkansas (Mr. BETHUNE) is recognized for 5 minutes in support of his motion to recommit.

Mr. BETHUNE. I thank you, Mr. Speaker.

My colleagues, this is a motion to recommit. I have only 5 minutes to try to capsulize what I think has been the essence of the debate here on the floor. I am not a member of the Committee on Agriculture. Most of you here are not members of that committee, of course. This is a matter of first impression to you.

There has been a lot of "Dear Colleagues" circulated this week. Let me boil it down to this: I have had this bill scrutinized by other entities; the Congressional Research Service has taken a close look at it; the GAO has taken a close look at it; OMB has; CBO; everyone who has taken a look at this bill says it stands the chance of adding a considerable amount to the deficit.

Now, we have all been going around talking about making a downpayment on the deficit so we can get interest rates down. This bill, if it passes in the form it is now; could add as much as $20 to $21 billion to that deficit. Furthermore, it does not restore solvency to the fund. That is the purpose of being here; to try to restore solvency to the fund. This motion to recommit would do all Members who ~~are not~~ on the committee a great favor by sending it back to the committee. You do not have to associate yourself with the work of the Agriculture Committee here today; you can send the bill back to them. Even the members of the committee, if you will confront them, will say yes, the bill has some trouble with it; and yes, there is some doubt about solvency of the fund; and yes, there is a decent argument it can add to the deficit.

So if Members want to make the right vote here, I would suggest to you that you vote now to recommit this bill. The recommittal motion just simply says they should study this and determine whether it is going to have, if they can find a way, to decrease interest rates rather than increase them, find a way to restore solvency to the fund and do their very best at the same time not to add to the deficit.

It is a good, simple recommittal motion, charging the committee with the responsibility it should take in light of the debate here. I think we got a decent enough vote on the substitute to indicate there is merit to it and they ought to consider the points made there.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, before I knew what was in this bill I was an author of it. But I was absolutely astounded to walk into this Chamber and see how few people voted for the substitute amendment.

If you knew what this bill does to our budget, and I just came from our tax committee where we are looking to find $20 million, $100 million here and there; trying to find more taxes and here we are letting go $8 billion or $20 billion extra tax load on the taxpayers of this country.

I urge you with all the vigor and conviction that I can to vote for the motion to recommit and to vote against this bill. It is a terrible thing for the Republic, almost a joke against our great budget problem.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DE LA GARZA) is recognized for 5 minutes in opposition to the motion to recommit.

Mr. DE LA GARZA. Mr. Speaker, very briefly, I urge my colleagues to vote "no" on the motion to recommit.

I cannot let go unchallenged the figure $20 or $21 billion. The Congressional Budget Office has not scrutinized. But if there is impact on the budget, I will tell my distinguished colleague from Minnesota it will be after 1993 and then it will not be in the figures of $20 or $21, it will be a much lesser amount. And I would hope that the Members remember that we are speaking about light for rural America and that charts and figures and red lines and gray lines and blue lines are not dealing with faces and places.

☐ 1500

We started this in 1936. We want to keep it a viable workable program. We have done the best we can, but in the attempt to undo would create a further harsher burden on what was and what is the Rural Electrification Administration.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

I thought that the Congressional Budget Office estimated a cost only of $7 million over 5 years to help rural America. Was I wrong in that figure or did I not read that somewhere in our notes? Seven million in 5 years they estimated.

Mr. DE LA GARZA. The gentleman is correct.

Mr. ROEMER. Would the gentleman agree that is a pretty small price to pay for what we get out of the 5-year program?

Mr. DE LA GARZA. The gentleman is correct and that is what the great Sam Rayburn said, even if it does not bring in $1 it would accrue to the benefit, to the tribute of the people of the United States of America.

Mr. BETHUNE. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

The gentleman knows that the calculations in the short term are not that critical. It is the calculations in the long term that we have got to be thinking about. We are working our will here today in such a way that it is going to affect the long term. And it is the long term when we are going to see the $20 to $21 billion addition to the deficit. That is what all the studies show.

Mr. DE LA GARZA. I would tell the gentleman that figure is not accurate.

I urge my colleagues to vote "no."

Mr. WATKINS. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Oklahoma.

Mr. WATKINS. I thank the gentleman for yielding.

I think the record should show that this administration not only is trying to rip apart rural electric but every program in rural America this administration has downgraded and decreased the dollars in trying to support it.

Mr. de la GARZA. I urge my colleagues to vote "no."

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BETHUNE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 127, noes 268, not voting 38, as follows:

[Roll No. 35]

AYES—127

Ackerman
Anderson
Archer
AuCoin
Badham
Bartlett
Bates
Beilenson
Bethune
Bliley
Burton (IN)
Carney
Chandler
Chappie
Cheney
Coats
Conable
Conte
Courter
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Daub
DeWine
Dreier
Dwyer
Early
Edwards (OK)
Erlenborn
Evans (IA)
Fiedler
Fields
Frank
Frenzel
Gejdenson
Gingrich
Gradison
Green
Hansen (ID)
Hansen (UT)
Hiler
Holt
Horton
Hughes
Hunter
Hyde
Jacobs
Johnson
Jones (OK)
Kasich
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach
Lent
Levin
Lewis (CA)
Livingston
Loeffler
Lott
Lungren
Mack
Martin (IL)
Martin (NC)
Martin (NY)
Mavroules
Mazzoli
McCain
McCandless
McCollum
McGrath
McKernan
McKinney
Michel
Miller (OH)
Molinari
Moore
Moorhead
Mrazek
Nelson
Nielson
Nowak
Ottinger
Owens
Packard
Pashayan
Petri
Porter
Pritchard
Pursell
Regula
Rinaldo
Ritter
Roemer
Rostenkowski
Roukema
Rudd
Russo
Schaefer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Shannon
Shaw
Shumway
Siljander
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Thomas (CA)
Torricelli
Walgren
Weiss
Winn
Wortley
Yates
Young (FL)
Zschau

NOES—268

Addabbo
Akaka
Albosta
Alexander
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Barnard
Barnes
Bateman
Bedell
Bennett
Bereuter
Berman
Bilirakis
Boehlert
Boggs
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Breaux
Britt
Brooks
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Byron
Campbell
Carper
Carr
Chappell
Clarke
Clay
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Cooper
Coyne
Crockett
Daniel
Darden
Daschle
Davis
de la Garza
Dellums
Derrick
Dickinson
Dingell
Dixon
Donnelly
Dorgan
Downey
Duncan
Durbin
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Franklin
Frost
Fuqua
Garcia
Gaydos
Gekas
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gray
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hertel
Hightower
Hillis
Hopkins
Hoyer
Hutto
Ireland
Jeffords
Jenkins
Jones (NC)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
Lantos
Leath
Lehman (CA)
Levine
Levitas
Lewis (FL)
Lipinski
Lloyd
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Madigan
Marlenee
Marriott
Martinez
Matsui
McCloskey
McCurdy
McDade
McHugh
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Murtha
Myers
Natcher
Neal
Nichols
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Oxley
Panetta
Parris
Patman
Patterson
Pease
Penny
Pepper
Perkins
Pickle
Price
Quillen
Rahall
Rangel
Ratchford
Ray
Reid
Richardson
Ridge
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Roth
Rowland
Roybal
Sabo
Sawyer
Seiberling
Sharp
Shelby
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (NE)
Solarz
Spence
Spratt
Staggers
Stangeland
Stark
Stenholm
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Watkins
Waxman
Weaver
Weber
Wheat
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)

NOT VOTING—38

Bevill
Biaggi
Boland
Boxer
Broomfield
Collins
Conyers
Corcoran
Coughlin
D'Amours
Dicks
Dowdy
Foglietta
Forsythe
Gramm
Hance
Hefner
Heftel
Howard
Hubbard
Huckaby
Lehman (FL)
Leland
Lowery (CA)
Markey
McEwen
Murphy
Paul
Savage
Scheuer
Simon
Smith (FL)
St Germain
Stokes
Walker
Whitehurst
Wright
Young (MO)

☐ 1510

Mr. HERTEL of Michigan changed his vote from "aye" to "no."

Mr. AuCOIN changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BETHUNE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will remind the Members that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 283, nays 111, not voting 39 as follows:

[Roll No. 36]

YEAS—283

Addabbo
Akaka
Albosta
Alexander
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Barnard
Barnes
Bateman
Bedell
Bereuter
Berman
Bilirakis
Boehlert
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Boner
Bonior
Bonker
Borski
Bosco
Boucher
Breaux
Brooks
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Byron
Campbell
Carper
Carr
Chappell
Cheney
Clarke
Clay
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Cooper
Coyne
Crockett
Daniel
Darden
Daschle
Daub
Davis
de la Garza
Derrick
Dickinson
Dingell
Dixon
Donnelly
Dorgan
Duncan
Durbin
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Franklin
Frost
Fuqua
Gaydos
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gray
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hightower
Hillis
Holt
Hopkins
Hoyer
Hutto
Ireland
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
Lantos
Leach
Leath
Lehman (CA)
Levitas
Lewis (FL)
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
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Lundine
MacKay
Madigan
Marlenee
Marriott
Martin (NC)
Martinez
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Mica
Michel
Mikulski
Miller (OH)
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Mitchell

Moakley
Mollohan
Montgomery
Moody
Moore
Morrison (CT)
Morrison (WA)
Murtha
Myers
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Nichols
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Oxley
Parris
Patman
Pease
Penny
Pepper
Perkins
Petri
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
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Richardson
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Robinson
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Rowland
Roybal
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Sabo
Seiberling
Sharp
Shelby
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (NE)
Smith, Robert
Snowe
Snyder
Solarz
Spence
Spratt
Staggers
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weaver
Weber
Wheat
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—111

Ackerman
Anderson
Archer
AuCoin
Badham
Bartlett
Bates
Beilenson
Bennett
Bethune
Bliley
Burton (IN)
Carney
Chandler
Chappie
Coats
Conable
Conte
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Dannemeyer
Dellums
DeWine
Downey
Dreier
Dwyer
Early
Edwards (CA)
Erlenborn
Fiedler
Fields
Frank
Frenzel
Garcia
Gejdenson
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Green
Hansen (ID)
Hansen (UT)
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Hyde
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Johnson
Kasich
Kemp
Kennelly
LaFalce
Lagomarsino
Latta
Levin
Levine
Lewis (CA)
Livingston
Lowry (WA)
Lungren
Mack
Martin (IL)
Martin (NY)
Mavroules
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McCain
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McCollum
McGrath
McKinney
Miller (CA)
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Moorhead
Mrazek
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Nowak
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Packard
Panetta
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Roukema
Russo
Schaefer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Shannon
Shaw
Shumway
Siljander
Smith (NJ)
Smith, Denny
Solomon
Stark
Thomas (CA)
Weiss
Winn
Wortley
Yates
Zschau

NOT VOTING—39

Bevill
Biaggi
Boland
Boxer
Britt
Broomfield
Collins
Conyers
Corcoran
Coughlin
Dicks
Dowdy
Foglietta
Forsythe
Gramm
Hance
Hefner
Heftel
Howard
Hubbard
Huckaby
Lehman (FL)
Leland
Lent
Lowery (CA)
Markey
McEwen
Murphy
Paul
Savage
Sawyer
Scheuer
Simon
Smith (FL)
St Germain
Walker
Whitehurst
Wright
Young (MO)

☐ 1520

Mr. EDWARDS of California changed his vote from "yea" to "nay."

Mr. RUDD changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING TECHNICAL CORRECTION IN AMENDMENT TO H.R. 3050

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the amendment previously offered by me to page 5, line 11, of H.R. 3050, and agreed to by the committee, be considered as offered to page 5, line 17, of H.R. 3050.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

☐ 1530

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority whip the program for the balance of the day and next week.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my friend, the gentleman from Pennsylvania.

Mr. MURTHA. The program for the House for next week, the week of March 5, 1984, is as follows:

On Monday the House meets at noon on the Consent Calendar and three bills on suspension. Recorded votes will be postponed until Tuesday, March 6, on:

H.R. 2645, Chattahoochee National Recreation Area, Georgia;

H.R. 3825, Black Canyon of the Gunnison River, Colorado; and

S. 597, public lands conveyance in Show Low, Ariz.

On Tuesday, March 6, the House meets at noon, on the Private Calendar and suspensions, no bills, and recorded votes on suspensions debated on Monday, March 5, and

H.J. Res. 492, urgent supplemental appropriations for Agriculture Department, fiscal year 1984;

H.J. Res. 493, urgent supplemental appropriations for Department of HHS for low-income energy assistance, fiscal year 1984;

H.R. 3648, Amtrak Improvement Act of 1983, complete consideration; and

Conference report on S. 47, Shipping Act of 1984.

On Wednesday, March 7, the House meets at 3 p.m. on:

H.R. 4164, Vocational-Technical Education Amendments of 1984, subject to a rule being granted.

On Thursday and the balance of the week, March 8 and 9, the House meets at 11 a.m. on:

H.R. 4164, Vocational-Technical Education Amendments of 1984, complete consideration; and

H.R. 3020, small business authorizations, open rule with 1 hour of debate.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. MICHEL. I thank the gentleman.

ADJOURNMENT TO MONDAY, MARCH 5, 1984

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. GONZALEZ). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that business under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LUNGREN. Mr. Speaker, reserving the right to object, I do so to address this question to the spokesman on behalf of the Democratic leadership, and that is, as I go through this calendar for next week, I see no suggestion that we are going to deal with the Bankruptcy Act. Is that the gentleman's information, that it is not scheduled for action next week?

Mr. MURTHA. If the gentleman will yield, as I understand it, it will be ready during the month of March. They have been discussing it and it will be taken up sometime during the month of March.

Mr. LUNGREN. I see. This is, of course, the bankruptcy bill we passed out of our committee a year ago February. The gentleman is now telling us that we are going to not run up against the March 30 deadline the Supreme Court has given us.

Does the gentleman have any information as to whether or not we have scheduled the immigration bill to this point, officially scheduled? I have heard a lot of rumors, but as the ranking member on immigration, I still have not seen any actual determination on the Democratic side that it is going to be brought up.

Mr. MURTHA. If the gentleman will yield further, those both, as you know, need rules and both will be brought up in the month of March.

Mr. LUNGREN. Well, I wish I knew that. Is the gentleman instructing me that that, in fact, is going to be the case?

Mr. MURTHA. That is correct.

Mr. LUNGREN. Does the gentleman know whether or not, during this month, we intend to have the insanity defense be brought up before us that was passed out of our committee last October?

Mr. MURTHA. I cannot answer that. It is not scheduled that I know of.

Mr. LUNGREN. Does the gentleman have any idea whether we intend to bring up the death penalty in the near future?

Mr. MURTHA. I cannot answer that question. I do not know the answer to that question.

Mr. LUNGREN. I appreciate the gentleman's comments.

Mr. DAUB. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. Further reserving the right to object, I am happy to yield to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding.

Mr. Speaker, if I might have just a moment of the gentleman's time under the reservation to inquire, perhaps we will see some of this in the third and fourth week of March, but not until super Tuesday is concluded.

Mr. LUNGREN. I do not know about that, and I am sure the gentleman does not want to answer that as well.

But since we do not have this information on a number of bills that are of extreme importance to the Nation, I will be constrained to object so that the chairmen may be able to bring these bills to the floor if they wish.

Mr. Speaker, I do so object.

The **SPEAKER** pro tempore. Objection is heard.

APPOINTMENT AS MEMBERS OF THE BOARD OF VISITORS TO THE U.S. MERCHANT MARINE ACADEMY FOR 1934

The **SPEAKER** pro tempore laid before the House the following communication from the chairman of the Committee on Merchant Marine and Fisheries:

COMMITTEE ON MERCHANT
MARINE AND FISHERIES,
Washington, D.C., March 1, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, House of Representatives, H-205, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Public Law 453 of the 96th Congress, as amended, I have appointed the following Members of the Committee on Merchant Marine and Fisheries to serve as members of the Board of Visitors to the United States Merchant Marine Academy for the year 1984.

The Honorable Mario Biaggi of New York;

The Honorable Roy Dyson of Maryland; and

The Honorable Gene Snyder of Kentucky.

As Chairman of the Committee on Merchant Marine and Fisheries, I am authorized to serve as an ex officio member of the Board.

With warmest personal regards, I am,

Sincerely,

WALTER B. JONES,
Chairman.

U.S. TRADE DEFICITS COST AMERICAN JOBS

(Mr. **ALEXANDER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, the morning news reports a projected $100 billion trade deficit. Another red ink record for Reaganomics.

In 1981, Reaganomics set in motion a $1.6 trillion military spending buildup, combined with a $750 billion revenue loss, both within 5 years, which has produced the historic continuing deficits which extend, in David Stockman's phrase, "as far as the eye can see."

Mr. Reagan's debt is financed with foreign investment attracted to American markets by record real high interest rates. This foreign demand for U.S. dollars overvalues American currency when traded against foreign currency and, the resultant overvalued dollar prices out American farmers and manufacturers in world competition. The overvalued dollar is, in fact, a tax of about 25 percent on American products sold in foreign trade. Conversely, the overvalued dollar is a subsidy of about 25 percent for foreign imports which are flooding American markets. This has cost the United States about 1.5 million jobs just last year.

When David Stockman warned America in 1981 of an economic Dunkirk, he was forecasting our fate under Reaganomics.

U.S. TRADE DEFICIT SETS A RECORD

WASHINGTON, February 29.—The United States trade deficit hit a record $9.47 billion in January, the Commerce Department reported today. One analyst called the figure an "economic disaster" as a flood of foreign imports and increased demand for oil darkened an already gloomy trading picture.

Both Government and private economists said the January figure bolstered their fears that this year's red ink would easily top $100 billion, surpassing last year's trade deficit of $69.4 billion.

David Ernst, a trade analyst with Evans Economics, a private economic forecasting concern, said the deteriorating trade picture cost the United States 1.2 million to 1.5 million jobs last year.

Jerry Jasinowski, chief economist for the National Association of Manufacturers, said that, "while the domestic economy continues to be strong, the trade deficit is an economic disaster." He added: "We are hemorrhaging internationally because the dollar is too high and our strong domestic growth is sucking in imports at an unprecedented rate."

IMPORTS SURGE 15.7 PERCENT

The $9.47 billion January trade deficit broke the record of $8.4 billion set last October. The figures showed that, while United States companies increased foreign sales by 5.9 percent, imports into this country surged 15.7 percent.

"Americans seem to have an unquenchable thirst for imports," said Robert Wescott, an economist with Wharton Econometrics, another private forecasting company. He said the January increase was across a broad range of domestic products.

The biggest increase came in United States purchases of data processing and other office equipment, which rose by $271 million in January. Other sharp increases included clothing, automobile parts, transistors and semiconductors, telecommunications equipment and iron and steel.

While imports of cars from Japan dropped $154 million in January, imports from European countries were up $218 million.

Increased demand for foreign oil also contributed to the red ink as petroleum imports rose by 16.1 percent in January. Imports rose from 4.7 million barrels a day in December, to 5.3 million barrels in January, caused in part by colder weather. The price per barrel of crude oil declined slightly to $28.68, from $29 in December.

The country's poor trading performance is often attributed to the strong dollar, which makes exports relatively expensive and imports relatively cheap. The strong dollar, according to many economists, stems from huge Federal budget deficits, which are keeping interest rates up and thus attracting heavy foreign investment.

While the dollar has weakened somewhat against other currencies in recent weeks and is expected to drop further, Mr. Wescott and other analysts said such declines took 18 months to translate into improved trade figures.

Commerce Secretary Malcolm Baldrige predicted the deficit would surpass $100 billion and said relief would not come until 1985, when "faster growth abroad and some decline in the dollar should begin to reduce the trade shortfall."

The report on foreign trade said imports hit a record $27.79 billion, up from $24 billion in December. Exports amounted to $18.33 billion, up from $17.3 billion in December.

REAL ESTATE SYNDICATIONS

(Mr. **COUGHLIN** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, real estate syndications—specifically those private partnerships whose sole purpose is to channel large tax writeoffs to wealthy investors—may be costing the Federal Treasury hundreds of millions if not billions of dollars in lost revenue without serving any worthwhile economic or social purpose.

Generous rules allowing for accelerated depreciation of real property combined with the tax deductibility of interest payments have spawned a host of public and private real estate syndications in the last several years. It is estimated that investors poured as much as $4 billion into the more lucrative private syndications last year. If that figure is accurate, a 2-for-1 writeoff for investors in the highest tax bracket—a fairly modest ratio by private syndication standards—would result in a substantial revenue loss to the Treasury even taking into account alternative but less favorable tax shelters for these investment funds.

Basically, the "deep shelter" private syndicators operate by purchasing a hotel, shopping center, or other property and then reselling it at an inflated price with large mortgages to individual investor-partners while collecting hefty upfront fees and commissions for themselves. The higher the price and bigger the mortgages, the better the tax writeoffs for investors. For their initial investment, the partners receive large tax deductions for interest payments, expenses and depreciation, sometimes amounting to three or more times their original outlay. Shelters offering such excessive deductions are grossly unfair.

It should be stressed that not all real estate partnerships are designed for tax purposes alone; many generate productive economic activity as well and these are not the problem.

I also want to make it clear that I am not talking about the average American struggling to buy his home and for whom the home mortgage interest deduction is both appropriate and desirable. It serves the twin goals of individual homeownership and economic growth.

The real estate syndication investor is typically an individual in the top 50-percent tax bracket seeking primarily the avoidance of taxes on his income.

When real estate deals can be structured so that wealthy investors realize tax writeoffs that are two, three, or even four or more times their initial investment, without any corresponding economic or social benefit, something is wrong with our tax laws. Precious revenue is being lost.

The rapid increase in real estate syndications since 1981 makes it imperative that the tax laws be reformed. Ending these unconscionable shelters should be a top priority in our next tax bill and I am submitting testimony to that effect to the Ways and Means Committee.

I am pleased that the administration has made a number of proposals to correct abuses and eliminate unintended tax benefits associated with many real estate syndications and other tax shelters. The administration's reforms would raise $3 billion in additional revenue in fiscal year 1985. I urge quick action to close the loopholes which are allowing rich investors to drain the Treasury with noneconomic real estate deals.

INEQUITIES IN THE NEW MEDICARE PAYMENT GUIDELINES

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, about 6 weeks ago, I had the pleasure of visiting Marion General Hospital which is the chief public medical facility for Marion, Ind., a city of approximately 36,000 people.

The hospital boasts excellent facilities and a dedicated staff who really cares about the health of their community. The community cares about Marion General, too, as evidenced by the more than 2,000 letters I have received from residents who are concerned about inequities in the new medicare payment guidelines.

These guidelines classify hospitals as either urban or rural and disburse medicare payments based on those designations. Under the formula, rural hospitals will receive 10 to 25 percent less in medicare reimbursements than urban hospitals during the 4-year phasein period beginning this July.

The Department of Health and Human Services, which issued the new regulations, based its urban-rural designation on whether or not the hospital was located in a metropolitan statistical area. I maintain that this standard is unacceptable because it does not take into consideration special conditions which many so-called rural hospitals face.

The thinking behind this urban-rural designation was that rural hospitals did not incur the same costs as urban hospitals and, therefore, required a lower level of reimbursement. In Marion General's case, that is not true.

An excellent and long-established Veterans' Administration medical center is also located in Marion, causing an intense competition for medical personnel. This competition results in much higher labor costs—a distinction the HHS guidelines do not recognize and address.

Mr. Speaker, this problem is not unique to Marion General Hospital. About 150 other medical facilities from coast to coast will also be unfairly affected by these rigid guidelines. They need our help if they are to be able to continue the quality medical care which their communities have come to expect.

Accordingly, today I am introducing a bill which would amend section 1886 of the Social Security Act. The language in the amendment states that a hospital shall be considered to be located in an urban area, for the purpose of medicare reimbursements, if the wage level within the county in which the hospital is located is not less than the average wage level for urban areas in the State.

I agree that the skyrocketing cost of medicare needs to be addressed and brought under control. A Presidential Commission headed by a good friend of mine, former Indiana Governor Dr. Otis Bowen, is studying this problem carefully and we eagerly await its report.

But I do not think medicare reform must necessarily degrade the excellent standard of medical care and services offered by most of our Nation's so-called rural hospitals.

A similar bill to the one I am introducing today was offered earlier this week in the Senate by Senator DAN QUAYLE of Indiana. It is my hope that both bills will move swiftly through their respective Chambers in time to reverse these new regulations which are scheduled to go into placed July 1.

□ 1540

THE PRAYER VIGIL AT THE U.S. CAPITOL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGRICH) is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I just want to take a few moments this afternoon to talk about the prayer vigil on Monday night and the special orders which were requested today for Monday because I think people should be aware of the opportunity they have on a bipartisan basis to come over next week to discuss the importance of prayer in school and to participate in a series of events.

Because President Reagan has taken the lead in proposing a constitutional amendment to permit voluntary prayer in school, because the majority leader in the other body has agreed to bring up such an amendment in any event, a number of us have gotten involved in talking with our fellow citizens about the problems we face with the American judicial system and the fact that the Supreme Court some 20 years ago radically changed the rules of the game in terms of our children having the right to pray.

As anyone knows who participates in or watches the proceedings of the House of Representatives, this body begins every day with a prayer. We have Chaplains and visiting chaplains from all faiths who come and who join with us in recognizing the importance of a Supreme Being. As the President said when he gave his State of the

Union in this particular House. "Wouldn't it be wonderful if our children had the same right to begin their day as our Congressmen do?"

So in order to bring attention to this very, very important issue, in order to allow people to look at the record, we are going to have three different things happening on Monday. First, there will be Monday evening a public opportunity for people to come to the Capitol to express their concern from 8 until 9:30 that evening about prayer in school. This will be a public gathering on the steps of the Capitol. It will be an opportunity for people in the Washington area in particular and for those who wish to fly in from around the country or drive in to express their personal commitment and their concern that American children be allowed to pray in school.

Second, a number of young people in particular have asked to have a prayer vigil. We will have a prayer vigil on that evening—and it will last all night—of young people here at the Capitol praying and seeking God's help and intervention on the issue of prayer in school.

Third, a number of us have joined together to take a series of special orders which will last from Monday afternoon until Tuesday morning to express our commitment and our concern. A major purpose of these special orders will be to read into the Record, for one particular volume of the CONGRESSIONAL RECORD, a clear statement of all the recent major cases in court and all the recent attacks on religious freedom in America, to put together in one volume all the major cases in recent years in which the American people have been faced with an assault on their liberty.

I frankly got involved in this issue because in Clayton County, Ga., a high school was enjoined by a Federal district judge who said that students in that high school not only could not mention any church activities or synagogue activities, not only could not invite their friends to any church or synagogue activities, but they could not even wear a T-shirt which happened to have the church's name or synagogue's name on it. In other words, you could be invited to the Marxist study club, you could wear a Marxist T-shirt; that is freedom of speech. You could be invited to a Gay Rights activist meeting, you could wear a Gay Rights T-shirt; that is freedom of speech. But if you wanted to wear a T-shirt that celebrated God or if you wanted to join a club which celebrated religion, that was not permissible; that was not freedom of speech.

As I sat down and talked to high school students who could not believe this was happening and as I talked to their parents, I came to realize that here in the United States there really is a sense of concern about religious freedom and a sense of frustration, and year by year we have seen the American Civil Liberties Union and its lawsuits erode what were basic American beliefs for the first 180 years of our history. I came to realize that there is no answer except a constitutional amendment.

Many people will say, "Well, I believe in prayer in school, but I don't believe in amending the Constitution." Let me just say that that is nonsense. If the Supreme Court has made a decision, there is only one technical way to respond to that decision. The Supreme Court ultimately interprets the Constitution, and in the absence of a constitutional amendment to overturn that Supreme Court decision, in fact the American people will have no choice.

The reason this issue is important is not only so our children can pray, not only so that a Supreme Being can be part of what is, after all, a very important formative experience in our children's first 12 years, but, as Supreme Court Justice Stewart said:

> When you have a universal institution which takes your children from the time they are 6 and keeps them until they are 18 and you force God out of the institution, you are saying something. You are not being neutral, you are being hostile. You are not creating freedom of religion, you are creating freedom for religion.

The result is that our schools today send a clear signal. They say that there are many things you may talk about but religion is not one of them, there are many things you may consider but religion is not one of them, and there are many kinds of clubs you can belong to but religion is not one of them. That is not the kind of society the Founding Fathers had envisioned, which is a society of freedom of religion. That is a society in which the State becomes a secular machine driving against religion.

So because I think we as a people remain among the most religious on this planet, because I think we as a nation truly believe, as our money says and indeed as it says directly above the Speaker's chair, "In God We Trust," I think it is only appropriate that our children should have the opportunity to approach God each day. And furthermore, I think it is particularly appropriate, at a time when the Supreme Court has taken away power by a vote of 9 people, that the rest of the American Nation, the other 235 million people, have an opportunity to speak out.

That is why on Monday evening we are taking the position for Monday evening that people who want to can come to the Capitol steps, they can gather from 8 until 9:30, and the young people who want to should have an opportunity to engage in a prayer vigil to pray for the opportunity to reestablish the right to pray in schools, and that is why a number of us are going to take special orders during that day in order to talk about what we see as a very severe assault on religious liberty.

So we would encourage Members of the Congress, be they Democrat or Republican, anyone who has an interest in this topic, who feels strongly about the importance of religious freedom and who wants to be involved in talking about and laying the case for why we need a constitutional amendment to permit voluntary prayer. We believe that in that setting anyone who would like to should be encouraged to come to the floor that day to join in any time between the end of official business on Monday and Tuesday morning at 9 o'clock, because we think that during that series of special orders we will establish in one volume of the CONGRESSIONAL RECORD a clear case for our concerns.

Finally, we also would encourage folks who are back home, whether they happen to be watching on C-Span or whether they simply want to independently engage in a prayer vigil or a meeting or a get-together, to spend a little time on Monday evening talking about or watching us talk about the record of what has been happening in America on this very important issue of prayer in school.

□ 1550

I think it will be a very important moment in American history. I think Monday night will be a very important opportunity for the American people. I hope that a number of folks who are concerned about prayer in school will in fact be involved.

I, therefore, wanted to take just a few moments today to discuss this issue.

REPEAL OF DEPARTMENT OF ENERGY PERSONNEL RESTRICTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BROYHILL) is recognized for 15 minutes.

● Mr. BROYHILL. Mr. Speaker, today, I join my colleagues, the gentleman from California (Mr. MOORHEAD) and the gentleman from Illinois (Mr. CORCORAN) in introducing legislation to improve the management and efficiency of the Department of Energy.

Mr. Speaker, if we enact the legislation we propose today we can save $21 million in costs which otherwise must be spent under current law. This bill is designed to save this $21 million by eliminating the so-called personnel floor requirement in a variety of public laws.

Mr. Speaker, current law makes absolutely no sense when it requires the Department of Energy to continue to employ people in areas for which there is little or no work for them to do. Worse still, current law would require the Economic Regulatory Administration to increase its staff by an unparalleled amount, adding 145 full-time positions in the near future. There is virtually no need for this increase, other than to satisfy a very ill-advised law. Federal tax dollars are being wasted.

Mr. Speaker, in addition to the sheer waste of money, current law prevents sound management practices at DOE. Would any of us here submit to a Federal law mandating that we, in the administration of our own allotted budgets to run our congressional offices and committees, have so many clerks, so many caseworkers, so many lawyers, and so forth? Of course not. Congress should not impose a restraint on the Department of Energy that it rejects for itself.

Mr. Speaker, I am advised by the Secretary of Energy, Donald Paul Hodel, that as he travels our country, speaking at various functions, he relates that his Department of Energy must retain staff solely to comply with these acts of Congress. People around the country are appalled at the folly of these laws. I believe that American people would support us in repealing these laws.

Finally, I am more than a little appalled at these laws myself and somewhat embarrassed to have Congress at fault. We owe it to ourselves to repeal these laws and we owe it to the taxpayers to save them the $21 million that would be otherwise wasted.

Mr. Speaker, I include in the RECORD at this point the Secretary's formal letter of transmission, and the text of the legislation itself:

THE SECRETARY OF ENERGY,
Washington, D.C.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is proposed legislation "[t]o repeal personnel restrictions applicable to the Department of Energy."

BACKGROUND

The Department of Energy currently is required by Public Law 97-257 and Public Law 98-63 to employ not less than a certain number of employees in the following four areas:

Office	Original floor	Fiscal year 1984 floor	Fiscal year 1985 floor
Assistant Secretary for Conservation and Renewables	352	352	352
Conservation R&D	154	154	154
State and local Conservation	180	180	180
Assistant Secretary for Fossil Energy	754	715	715
Headquarters	150	150	150
Pittsburgh Energy Technology Center	280	280	280
Morgantown Energy Technology Center	250	250	250
Economic Regulatory Administration	450	[1] 305	450
Office of Fuels Conversion	40	[1] 27	40
Energy Information Administration	490	490	490

[1] Full-time equivalent Federal employees, all other figures are full-time permanent Federal employees.

In addition to these personnel floor restrictions, Public Law 97-276 and Public Law 97-377 prohibit the Department from taking any action that "would result in a significant reduction of the employment levels for any program or activity below the employment levels in effect on September 30, 1982."

PURPOSE OF THE LEGISLATION

The purpose of this proposed legislation is to restore the ability provided by permanent law to tailor personnel strength to mission requirements by repealing extraordinary legislation mandating minimum personnel levels in selected offices within the Department and imposing employment reduction restrictions.

More specifically, the proposed legislation would repeal section 303 of the Supplemental Appropriations Act, 1982 (Public Law 97-257) and the item entitled "Administrative Provisions, Department of Energy" and its heading "Department of Energy" in chapter VII of the Supplemental Appropriations Act, 1983 (Public Law 98-63) which impose the personnel floors. In addition, this proposed legislation would repeal the final proviso in section 101(g) of the Continuing Appropriations for Fiscal Year 1983 (Public Law 97-276) and the final proviso in section 101(f) of the Continuing Appropriations for Fiscal Year 1983 (Public Law 97-377).

DISCUSSION

Management reform is a priority issue throughout the Federal establishment. The Office of Management and Budget is directing a six-year management improvement effort entitled Reform 88, which has identified a number of areas where significant gains in Government efficiency and cost effectiveness can be expected. The President's Private Sector Survey on Cost Control, also known as the Grace Commission, made many specific recommendations for cost savings in its 1983 report. In addition, the Energy Research Advisory Board and the White House Science Council looked at ways to improve the effectiveness of the Department's field offices and laboratories. In response to these various recommendations, we are undertaking a number of management initiatives which should result in savings of $47.5 million in Fiscal Year 1984 and $96.0 million in Fiscal Year 1985. The attainment of these savings will reduce the need for new budget authority.

The personnel floors and employment reduction restrictions are inconsistent with these Federal efforts to cut costs through increased efficiency in Government operations; they require us in certain areas to hire and retain people in specific jobs whether or not there is work for them. This can result in a clear waste of the taxpayer's money. In the face of our concerted efforts to reduce Federal spending and budget deficits, these personnel floors and employment reduction restrictions are counterproductive.

In addition, the personnel floors and employment reduction restrictions reduce my ability to manage the resources of the Department as efficiently as possible by:

Restricting the flexibility to allocate staff to respond to changing workload demands,

Prohibiting improved manpower utilization or restructuring of the workforce to achieve economies, which would reduce staff levels below the statutory floors, and

Restricting the use of innovative and less costly methods of accomplishing the workload, for example by the use of temporary employees or contracting out specific, nongovernmental functions.

Of particular importance is the fact that after September 30, 1984, the personnel floor applicable to the Economic Regulatory Administration (ERA) must increase by 145 full-time equivalents, an increase unparalleled by any increase in workload or responsibilities. This result occurs because Public Law 98-63 modified the floors for ERA established in Public Law 97-257 only for fiscal years 1983 and 1984.

Repeal of the personnel floors and employment reduction restrictions would be consonant with the Administration's desire to assure the American people that their tax dollars are not being expended needlessly. Repeal would in no way harm the Department's ability to accomplish its mission; the program affected by the personnel floors have proposed funding and staffing levels in the fiscal year 1985 budget request which will accomplish program objectives and be consistent with the President's national energy policy objectives.

A similar personnel restriction affecting the Department is found at section 311 of Public Law 98-146, and we will be forwarding to Congress proposed legislation to eliminate that restriction as well.

COST AND BUDGET DATA

Enactment of this legislative proposal would save approximately $21 million in personnel costs in fiscal year 1985 from the personnel levels mandated by Public Law 97-257 and Public Law 98-63.

For the reasons cited in this letter, I strongly recommend that the Congress enact the enclosed proposed legislation, thereby reducing waste and inefficiency in Government.

The Office of Management and Budget advises that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,

DONALD PAUL HODEL.

H.R. 4998

A bill to repeal personnel restrictions applicable to the Department of Energy

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 303 of the Supplemental Appropriations Act, 1982 (Public Law 97-257) and the item entitled "Administrative Provisions, Department of Energy" and its heading "DEPARTMENT OF ENERGY" in chapter VII of the Supplemental Appropriations Act, 1983 (Public Law 98-63; 97 Stat. 328) are repealed.

SEC. 2. The final proviso in section 101(g) of the Continuing Appropriations for fiscal year 1983 (Public Law 97-276) and the final proviso in section 101(f) of the Continuing Appropriations for fiscal year 1983 (Public Law 97-377), both concerning Department of Energy employment levels, are repealed.●

FOR ALL THE WORLD TO SEE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. YOUNG) is recognized for 5 minutes.

● Mr. **YOUNG** of Florida. Mr. Speaker, with the Soviet Union's veto yesterday of a plan to send a United Nations peacekeeping force to Lebanon, all the world can once again see that it is the Soviet Union which continues to disrupt the peacemaking process in the Middle East.

By creating instability in nation's throughout the world, the Soviets believe they can gain a foothold in vital strategic regions as they have done in Africa, Southeast Asia, Eastern Europe and most recently in our own hemisphere. A peaceful resolution to the problems in Lebanon and Central America would be detrimental to the Soviet cause.

It is so ironic that the Soviet Union is a member of the United Nations and the Security Council since both bodies are charged with insuring international peace, which is contrary to real Soviet intentions. Instead, the Soviets see their membership in the United Nations as a forum for their massive propaganda and disinformation campaigns. In addition, they see the U.N. headquarters as a sanctuary for KGB agents to conduct their espionage activities right here in the United States.

The Soviet's latest U.N. veto of a peacemaking effort in the Middle East should come as no surprise though, since it comes from a nation which last year shot down an unarmed civilian aircraft and murdered innocent men, women, and children in Afghanistan.●

IMPROVED CHILD CARE ACT OF 1984

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 10 minutes.

● Mr. **CORCORAN**. Mr. Speaker, I am introducing the Improved Child Care Act of 1984 today, legislation amending the Internal Revenue Code to enable working parents to take better care of their children and disabled dependents. Under existing law, working taxpayers are allowed a tax credit of between 20 and 30 percent on child care costs of up to $2,400 for one child and $4,800 for two or more children. My bill will increase the allowable percentage to between 25 and 50 percent, based on income. It will leave the $2,400 limit for one child intact, but will allow parents to take into account up to $2,400 for each additional child.

The combined effect of these changes will be to ease the financial burden of child care imposed on parents who must work to provide for their families. The Improved Child Care Act retains the progressivity of existing law—in fact, increases it—and provides greater relief to larger families, those whose expenses are necessarily larger.

Children are our Nation's most valuable resource, its future, our future. Yet untold numbers of children come home to empty houses after school, with no one to care for them, with no supervision. How can we hope that they will develop into responsible, secure citizens? We read about the obvious disasters—the fires, children who disappear—but what of the quiet tragedies, the lack of guidance, the opportunities for trouble, the fear, the sense of uncaring?

No caring parent would choose for a beloved child a latchkey existence, but for many families, the alternative is unaffordable child care. My bill helps to remove that obstacle to finding caring, responsible people to watch over our children when we cannot do so ourselves.

A second aspect of the Improved Child Care Act addresses the particularly difficult situation facing working individuals who must provide care for dependents who are emotionally or physically incapable of caring for themselves. Again, I have increased the allowable percentage for the credit to between 25 and 50 percent, but I have also raised the per individual limit on expenses that can be considered in calculating the credit to $4,800. This is a more realistic level given the extraordinary expenses all too often associated with caring for individuals with special needs.

Caring for such dependents often leaves families completely drained financially and emotionally. My bill would better enable families to care for their special dependents by relieving these stresses, and the revenue loss is minimal, less than 0.5 percent of budget revenues for fiscal year 1984.

We must recognize the need for better care for our dependents and children. We simply cannot afford to create a society of throwaway children, either for our children's sakes or for our own futures as a people and a culture. I urge my colleagues to make this investment in the hearts and minds of our children by supporting the Improved Child Care Act of 1984.●

BRAVO, SENATOR SASSER

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● Mr. **ALEXANDER**. Mr. Speaker, it may be that the volatile issue of Central America will be allowed to smolder through the rest of 1984, an election year. Or lightning may strike in the form of some unforeseen political or military fireworks. In any case, this tinderbox of an area is a dangerous one for the United States to be lighting matches in.

Yes; that is what the Reagan administration is doing by constructing a military arsenal and fortress in Honduras. Last week, I outlined the devious procedures by which the administration was circumventing congressional appropriations authority in an evident appetite for Armageddon. Our questionable construction activity and military presence have also endangered civilian democratic rule in Honduras.

Senator JIM SASSER of Tennessee, like many of the rest of us in Congress, is concerned over the drift of our policy. He recently toured the construction site in Honduras and concluded that, even while the debacle in Lebanon continues, our Nation was being "drawn into a military conflict in which still more United States lives will be lost."

I commend this excellent and farsighted article by Senator SASSER, "Our Risky Bases on Honduras," which appeared in the New York Times yesterday.

[From the New York Times, Feb. 29, 1984]

OUR RISKY BASES IN HONDURAS

(By Jim Sasser)

WASHINGTON.—Despite the claims of four Republican Senators just back from Honduras that United States bases there are only temporary, the evidence clearly suggests that the bases are permanent—and a danger to our foreign policy interests.

The delegation left for Honduras the day it was disclosed that United States military commanders planned to conduct exercises there each year for the foreseeable future—perhaps for 20 years. But the Senators, on returning, dutifully reported that the network of airfields and other military facilities we constructed are temporary and will not be usable in a short time. They cited deteriorating barracks as one key piece of evidence; they didn't say that the barracks were built in the middle of a swamp. The Senators ignored findings of the General Accounting Office (the independent investigative arm of Congress), which told them, before they left, that the United States was "engaged in a continuing, if not permanent military presence in Honduras."

The Senators' contention that the facilities are "temporary" contradicts the public statements of Gen. Adolfo Alvarez Martinez, the Honduran armed forces' chief. He has stated that the airfields will be maintained for the foreseeable future, and has even discussed contracting with the United States to provide that maintenance.

The trip by Senators friendly to the Administration will not change the facts about our involvement in Honduras. The bases were built in the past year virtually without public notice and debate. Much of this construction, with its grave implications for future military commitments, has taken place without specific Congressional approval. Operating under the guise of military exercises Big Pine I and II, combat engineers constructed not only airfields but also radar stations and base camps on a scale unprecedented for this type of military maneuver.

In a country the size of Tennessee, the Administration directed that six airfields be constructed or improved. Only two of the projects received specific approval by Congress. This year, plans call for construction of at least two, possibly three, new airfields, even though no plans for them have been submitted for Congressional approval. One would be situated near the Nicaraguan border, another a few miles from El Salvador. Still under discussion between the two Governments is a proposal for a $150 million to $200 million joint United States-Honduran naval base at Puerto Castilla, on the Caribbean.

United States military commanders say that most of the facilities are needed to support the exercises. They claim that the Defense Department is within its authority in spending operational and maintenance funds appropriated for the exercises to build airfields and radar installations. However, the number of airfields and other facilities goes far beyond what is necessary to conduct the exercises. A runway at Aguacate, for example, recently was extended from 4,300 to 8,000 feet. The Honduran military plans to pave it soon, making it capable of handling jet attack aircraft. If it were designed to handle only C-130's, the aircraft normally used to supply exercises, a strip of little more than 3,000 feet would be sufficient.

It is difficult to determine what threat these facilities are designed to meet. The possibility of invasion by Nicaragua is discounted by both United States and Honduran military officials, who agree that the greatest threat to Honduran stability comes from subversive elements inside Honduras itself.

Ironically, the United States' military presence may create a more fertile environment for subversion of the fledgling constitutional democracy, which was established two years ago after 10 years of military rule, by forcing diversion of meager resources from desperately needed social programs

Many Hondurans fear that the growing role of their military threatens democracy's survival. "Already, all of the power is with the military," one opposition leader told me when I visited between Feb. 3 and Feb. 6. While the military prospers, little progress is being made in dealing with the nation's staggering social and economic problems. Honduras is Central America's poorest country, with a per capita annual income of $600. Its share of the world banana and coffee markets has shrunk markedly in recent years. Capital investment is nonexistent. Of every 100 children, 76 suffer from malnutrition. Diarrhea remains the leading cause of death among children.

Experience shows the folly of approaching every trouble spot from a purely military viewpoint. Sadly, the Administration ignores history, including its painful experience in Lebanon. Now, it is up to Congress to slow down the buildup in Honduras before our nation is drawn into a military conflict in which still more United States lives will be lost.●

COMPUTER-ASSISTED CRIME LEGISLATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Nelson) is recognized for 5 minutes.

● Mr. NELSON of Florida. Mr. Speaker, I am delighted to bring to your attention, an editorial by the influential Washington Post on the subject of computer-assisted crime legislation.

H.R. 1092, the Federal Computer Systems Protection Act, to which the Post refers, makes crime by computer a specific Federal offense. It provides our prosecutors with adequate tools to convict this new sophisticated criminal—who is stealing upward of $100 million to $300 million each year with the use of computers.

The bill has received the generous support of trade associations in the industry, including the American Society for Industrial Security, Computer and Business Equipment Manufacturers' Association, Data Processing Management Association, American Bankers' Association, Association of Federal Investigators, Electronic Data Processing (EDP) Auditors, and others. We have 118 cosponsors and a resumption of hearings held in November is expected early next year before Chairman Don Edwards' Subcommittee on Civil and Constitutional Rights.

I invite my colleagues to join me in the effort to combat burgeoning criminal activity by computer. At this point in the Record, I include from the December 2, 1983, Washington Post an editorial:

[From the Washington Post, Dec. 2, 1983]

Computer Crime

The computer hotdoggers, whose invasions of remote data bases arouse both admiration and concern, have drawn attention to a serious and growing problem. Among the many things that computers have made easier are the stealing and destruction of other people's property. And current law is not well-suited either to deter or to prosecute such offenses.

Many existing federal or state statutes could be invoked in the prosecution of specific offenses, depending upon their circumstances. But since none of these laws deals specifically with the types of unauthorized access made possible by computer networks, law enforcement agents and prosecutors must try to stretch these statutes to cover situations never envisioned by their drafters. Because courts tend—properly—to interpret any ambiguity in the law to favor a defendant, it is only too possible that a person who has, for example, stolen valuable trade secrets or willfully destroyed irreplaceable records might escape conviction because of gaps in the law.

To remedy this situation, Rep. Bill Nelson has introduced a bill that would make it a federal crime to use computers for fraudulent purposes where these computers were federally owned or used by organizations involved in interstate commerce. The measure—patterned after successfully used statutes in Florida and California—has won the endorsement of numerous trade associations.

The Justice Department has also supported the bill with minor qualifications and the added suggestion that simple unauthorized access to a computer be made a misdemeanor. That seems a useful addition. Computer "hackers" may mean no harm, but amusements that can result in the destruction of, say, irreplaceable medical records ought to be firmly discouraged.

There is, of course, a strong presumption against littering the federal criminal code unnecessarily. But both the private sector and the federal government have come, belatedly, to realize that computer crime is now a multi-million-dollar enterprise operating within their borders. Better built-in security measures for computer systems are obviously the surest protection, but passage of a strong federal law would have an important deterrent effect. Although several states have enacted computer-crime statutes, their coverage is uneven, and a uniform federal law would be a far more effective way of dealing with a type of offense that is, by its very nature, no respecter of state boundaries.

Computer virtuosity is surely to be admired. But tampering with information, whether done for gain or amusement, can deprive other people of property far more valuable than the contents of a Brinks armored truck. The law that seeks to deter and punish such thievery should be firm and unambiguous.●

ECONOMIC RECOVERY: THE GRAND ILLUSION

The **SPEAKER** pro tempore (Mr. Gray). Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, as I have pointed out before, since my election to the House of Representatives, I have served as a member of what originally was known as the Banking and Currency Committee, today known as the Banking, Finance and Urban Development Committee. It is one of the historic standing main committees that the House has. As such, I have maintained a very extreme active participation in its deliberations and I have introduced legislation over the course of years, as a matter of fact, some for more than nine Congresses, in which the recognition of a problem that at that time was barely discernible on the horizon has now come in full bloom, full view, to perplex our leaders, both in the executive branch of the Government as well as the Congress, the national policymaking body. I am speaking about the fiscal, the monetary policies of this great country.

I have introduced resolutions of impeachment, for example, directed to the Chairman of the Federal Reserve Board, the one actually still Chairman of the Board.

I have seen with great dismay, great demoralizing dismay, that those things that we foresaw are now coming to pass and that the fundamental causes and, therefore, understanding properly of the problem, which is the only way that one can be enabled to resolve the problem, still remain ignored.

I am speaking today now of the possibility that the financial structure, not only of our financial institutions, but in the general economy of the country, is in grave shadow of crisis. We know, and I think the average citizen does not have to be told, for it is from them that I have learned and have been sensitive to their concern, that I have been motivated to legislate as a matter of truth. It certainly has not been the experts that we have heard before the committee, the great renowned economic experts, those that have even served in these mighty powerful seats as Secretary of the Treasury, Under Secretary of the Treasury for Monetary Affairs and the like.

I find that somehow or other, notwithstanding that expertise, the real guidance comes back from the citizens in the communities that are living, working, get up in the morning, do their work, pay their taxes, go to church, support their families, support the Government, interested in electing their chosen representatives and who are the overlooked today.

We have heard about the so-called silent majority, but back at the turn of the century there was a great American thinker who referred to this group as the forgotten man, the forgotten American. That was just this ordinary American I have described.

Today, agitated, flailed, flagellated by exorbitant and unconscionable rates of interest, with as I have pointed out over the course of about five Congresses, the attitude being that this is an act of God, that there is nothing anybody can do to control exorbitant and extortionate and usurious rates of interest. It is at the heart of the matter. To a certain extent, it is the cause. To a certain extent, it is an effect, with other underlying causes; but there is no question that it became obvious in the sixties that our financial structures and institutional framework of reference were outmoded, that the pace of events domestically and internationally had not only caught up with us, but had overcome us and that we would have to address that issue; so that today when I attended a session of another committee I belong to, the Committee on Small Business, it began very interesting hearings on the impact of these forces on small business and why small businesses are going out in record numbers like never before, a greater number than even at the peak point of the depression years.

So that I will develop this and also go back to the legislation we have been introducing that has to do, for instance, with the reform of the Federal Reserve System, which itself is now a sort of untouchable in American politics, even though the Federal Reserve Board in that institutional activity known as the Federal Reserve System is a creature of the Congress, born out of the 1913 Federal Reserve Board Act. Today the overwhelming preponderant Members of Congress, citizens and leaders, think that it is an independent, autonomous body, that is unaccountable to the President, is unaccountable to the Congress, therefore, unaccountable to the people.

The great battle that has ensued since the beginning of national existence, the first, the Second Continental Congresses, the first organization of the Government under the Constitution in 1789, this was the key issue. This was the fundamental issue that could be resolved in one question: Who or what force is going to decide the credit allocation resources of the Nation and for whom?

□ 1600

The rest is history. I will develop this as we go along. We have the odd spectacle of continuous, rosy talk about the strength of the national economy today, from the President and his assorted cheerleaders, while at the same time the financial markets are seething with fear and frustration, and economic experts on every hand warn of hard times to come. What do we have here—an economic recovery or a grand illusion?

It is an exceedingly difficult thing to get a reasonable view of what is happening in an economy as large and complex as ours; the task is much more difficult when we come to understand that our fate is also influenced by what is happening elsewhere—forces and factors that lie well beyond our control, well beyond even any hope of our control. But if we are to discharge our responsibility as representatives of the people, we must try to understand what is really happening, explain the facts as best we can, and seek to take responsible action in the national interest. Even though the President and his electioneering team indulge in fantasy and illusion, we cannot afford that luxury, if we are true to our responsibility.

Our task is made difficult by the fact that there is no single thing we can point to and say: "that is the cause of our undoing." We can talk about the deficit, and the dangers that it holds, and it is true that the deficit is unprecedented and dangerous, but that is not the only thread that we must see. It is also true that we have an unprecedented and growing trade deficit, and that trade deficit is costing us millions of jobs. And it is true that the dollar is generally overvalued in the world currency market, which contributes to the trade deficit. But at the same time, the high value of the dollar attracts vast flows of foreign investment here, which is one of the things that makes the deficit tolerable, because the presence of that vast horde of foreign money helps soak up the Federal deficit, thereby contributing to somewhat lower interest rates than we might otherwise expect. And there is another thread: the question of how to handle world debt. For if the debt stops being repaid, credit tightens up in unpredictable ways, but with the predictable result of great economic hardship. When we look at all these factors, we can see that we are living in an economic illusion—a dreamworld in which the leadership, financial and political, is attempting to whistle past the graveyard—hoping to scare away the demons, fearful of what the next step might bring, but determined not to shatter any illusions.

Consider this reality: Unemployment rate is still high: there are more than 9 million unemployed today, and that is 50 percent greater than the number of unemployed in 1978. What is more, basic U.S. industries are not investing heavily in this country—they are moving operations overseas. Why? Partly because of a hope to seize on lower labor costs—but more importantly, these vast companies look at the interest rate picture, look at relative currency rates, and see that the financial climate in this country is dismal—and so they invest elsewhere, searching for better returns. In effect, our own companies are shipping work abroad, becoming importers rather than exporters. Thus, a huge international company like Ford will invest hundreds of millions in, say, Mexico, finding it financially more rewarding over the long term to import its parts from its Mexican subsidiary than to build them here at home. The trade deficit thus becomes self-reinforcing, and our country loses jobs. In fact, what we may now be seeing is the deindustrialization of America, because in the long term, financial conditions suggest to big-money companies that it is more rewarding to build elsewhere. And so we have a recovery with high unemployment, we have the prospect that this situation will not improve, and we have a growing, weak economic underbelly, instead of a growing industrial muscle.

Indeed, we have a growing poverty in this country, a growing poverty that is so great that not even the masters of illusion at the White House can conceal or deny it. We have this because there is and has been for these last 3 years a steady growth in the number of long-term unemployed people. We have it because the poor get less help than they formerly did. We have it because those who are poor have become worse off in the past 3 years. And we have it because the real take-home pay of American workers is lower today than it was 10 years ago. And there is no sign that the new prosperity, whatever it is, has made the lunch pail any richer; the weekly pay of American workers today, in real terms, is the same today as it was 4 years ago, and $10 a week less than it was in 1979, $16 a week less than it was the year before that. The prosperity we see is fueled too much by exorbitantly priced credit, and not enough by real growth in personal income.

Interest rates remain historically high. They are high because the Federal Government is absorbing $2 out of every $3 available for lending. They are high because the Fed is uncertain what to do—for if they turn on the money supply, confidence might collapse, and along with it the dollar, thereby creating conditions of immense confusion and loss. They are high because the President first admits that there is a need to do something about the deficit and then denies the need to take any realistic action, which frightens the financial markets. They are high because the economic powers that be have no faith in the President's policies—they think that we will have great progress this year, followed by renewed inflation and higher interest rates next year. They are high because there is no confidence in the future, except of a speculative nature—a hope for short-term gain, but no willingness to bet on a longer term. Business failures continue to grow, in the face and in the midst of this so-called recovery. Today, the rate of business bankruptcies is close to 700 per week—close to triple the rate of 1981.

Looking abroad, the picture is no brighter. Our trade deficit, as I mentioned earlier, is running at record levels, and may reach $120 billion this year. That is, we are buying much more from other countries than we are selling to them—which translates into millions of lost jobs—for the item that is not built here does not generate a job here. It is not only the steel industry that wants protection from foreign competition—it is the winemakers, the clothing manufacturers, and everyone else. Why? Because the terms of trade have become unbearably harsh owing to the overvalued dollar and the immense interest rates that American firms must pay today. And the expectation seems to be that things are not going to get better—so American firms are beginning to build their new plants elsewhere, compounding the problem even further.

I am not suggesting that every country in the world can be a net exporter, for that is impossible. But what I am suggesting is that there must in the long term at least be equilibrium, or something close to that, or that there should be at least a manageable deficit. Manifestly, the current position we have in world trade is not tenable. Our country is rapidly becoming a net debtor—fantastic for the world's biggest, richest, and most productive economy. Dangerous, when you consider that ours is the engine that pulls the rest of the world. Therefore, when we look for the greatest danger, the greatest weakness, it is in that growing shortfall between what we must do in the world economy, and what we are actually achieving.

Looking beyond the industrial world, consider the continuing plight of the developing nations, whose debts are not only massive and growing, but which can never, in any realistic scenario, be much reduced. Already, our major money center banks are allowed to pretend that their foreign loans are sound, because to value them as they really are would simply destroy the capital structure of many major banks. Such a thing cannot be tolerated, and so the regulators wink and blink, knowing that their only other alternative is an official bailout, and a concurrent rash of panic, which this fragile world can hardly afford. Credibility, faith in the banking system, is the be all and end all of current regulatory policy, for as any candid banker will tell you, 90 percent of banking is illusion—hot air. As long as people believe a bank is sound, it is sound. But when they believe a bank is not sound, it is simply not sound. It is tolerable to let a small bank, a Penn Square, fail, or even a largish bank go into an involuntary merger. But the regulators will move heaven and earth to keep a major money-center bank operating, because it is in those banks that the grand illusion must continue to be sustained.

But suppose the developing countries flatly renege on their debt? Suppose they stop the merry-go-round? Then the illusion would fall and shatter. And so it is that when a country threatens default, or is pushed to the wall, rescue packages are organized by the lenders, by the IMF, by the Bank for International Settlements, by the Fed, and by other central banks. For they know that today, just as in the thirties, a failure by any combination of large debtors to keep the money moving, would shatter the system. The only difference between today's situation and the debt and credit collapse of the depression days is that the central banks today have far more ability to devise rescue plans, to keep the money moving, to keep the illusion alive.

But in the final analysis, reality must win out. In the final analysis, someone must build sound policy.

In the final analysis, we must have lower interest rates. Without lower rates, we cannot have real prosperity or sustained growth. Without lower interest rates, we cannot bring about the increased wealth that alone will bring real pay increases to our workers, and real strength to the economy. Without lower interest rates, we cannot hope to reduce the rate of business failure, we cannot hope to generate the kind of homebuilding business that this country simply must have, we cannot hope to reduce the deficit itself.

And in the final analysis, we must have some kind of reasonable trade balance. This cannot be done on the basis of ad hoc trade talks, or threats, or quotas, or anything of the like. It can only be obtained in a world where debts are manageable, in a world where interest rates are reasonable, and in a world where there is an international currency system that is worthy of the name—a system that creates or at least strongly encourages a rough equilibrium in the terms of trade—such as we had back in the days when the IMF did what it was supposed to do, namely, set and sustain reasonable relationships among the various currencies of the world.

We must have some progress toward reducing the deficit, for we cannot hope to sustain much growth over the long term if the Federal Government continues to soak up two-thirds of the available credit—which is six or seven times the proportion of credit that was absorbed in earlier times, by administrations that were then denounced for their profligacy.

None of these things can be done with tricks, mirrors, or slogans. They will only be done by reasonable and responsible action, action in the best interest of the country. Sadly, there is now very little sign that we will find such action by this administration. Nor can Congress alone force such action. It will take leadership on both ends of Pennsylvania Avenue, and we cannot afford to confuse leadership with election-year posturing. It will take a leadership that can restructure the international economic order, which has been growing shakier with each passing year, especially since 1972 and the effective end of the fixed-currency-exchange system. It will take a leadership capable of vision and courage. And unless we can find that within ourselves, as a nation, we will find the illusion shattered. Not from any one fault, but from the growing accumulation of cracks and stresses, situations large and small that individually might not bring the roof down, but which collectively, left unrepaired, can do that very thing. And all of us, all of us who know and have studied the situation, know that there have not been repairs, only patches. The time is short, and we cannot wait, we cannot afford to continue living in an economic dreamworld. All illusions, even this one of the magic recovery, must some day end.

I yield back the balance of my time.

APPLICATION OF PROCEDURES IN FIRST BUDGET RESOLUTION FOR FISCAL YEAR 1984 TO CERTAIN SPENDING BILLS

(Mr. JONES of Oklahoma asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. JONES of Oklahoma. Mr. Speaker, as shown by the latest estimate of the current level of spending and revenues for fiscal year 1984, Congressional Record, February 22, 1984, H80[illegible], there is remaining under the spending ceiling $3,079 million in budget authority and $16 million in outlays for fiscal year 1984. The current revenue level is $14,314 million below the revenue floor. Any measure which would reduce revenues in fiscal year 1984 would be subject to a point of order under section 311(a) of the Budget Act.

The procedural situation with regard to the spending ceiling will be affected this year by section 5(b) of House Concurrent Resolution 91, the first concurrent resolution on the budget for fiscal year 1984. As I explained during debate on the conference report on that resolution, enforcement against breaches of the spending ceiling under section 311(a) of the Budget Act will not apply where a measure would not cause a committee to exceed its appropriate allocation pursuant to section 302(a) of the Budget Act. In the House the appropriate 302(a) allocation would include "new discretionary budget authority" and "new entitlement authority" only. It should be noted that under this procedure neither the total level of outlays nor a committee's outlay allocation is considered.

The intent of the section 302(a) discretionary budget authority and new entitlement authority subceiling provided in the resolution is to protect a committee which has stayed within its spending allocation—discretionary budget authority and new entitlement authority—from points of order if the total spending ceiling has been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on House Concurrent Resolution 91 were printed in the Congressional Record, June 22, 1983, H4326. Adjustments to such allocations made pursuant to section 2 of House Concurrent Resolution 91, the reserve fund, are reflected in House Reports 98-313, 98-354, 98-381, and 98-439.

The following table shows where each committee currently stands as to its 302(a) allocation of discretionary budget authority:

Fiscal year 1984 comparison of current level and budget resolution allocation by committee

[In millions of dollars]

House Committee:	*Amount*[1]
Total current level	−3,079
Appropriations Committee (all subcommittees) discretionary	(−2,351)
Authorizing committee—discretionary action:	
Agriculture	(−677)
Armed Services	(−4)
Banking, Finance, and Urban Affairs	[2] (+)
District of Columbia	(. . .)
Education and Labor	[2] (−)
Energy and Commerce	(−192)
Foreign Affairs	[2] (+)
Government Operations	(−450)
House Administration	[2] (−)
Interior and Insular Affairs	(+4)
Judiciary	[2] (+)
Merchant Marine and Fisheries	(+13)
Post Office and Civil Service	[2] (−)
Public Works and Transportation	[2] (+)
Science and Technology	[2] (+)
Veterans' Affairs	[2] (+)
Ways and Means	(+2,313)
Unassigned (Offsetting Receipts)	(−2,108)

[1] Current level budget authority.

[2] Less than $500,000.

Note.—Detail may not add due to rounding. Committees are over (+) or under (−) their 302(a) allocation.●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:)

Mr. Leland (at the request of Mr. Wright), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Roberts) to revise and extend their remarks and include extraneous material:)

Mr. Lagomarsino, for 60 minutes, on March 5.

Mr. Fields, for 60 minutes, on March 5.

Mr. Oxley, for 60 minutes, on March 5.

Mr. Hansen of Idaho, for 60 minutes, on March 5.

Mr. DeWine, for 60 minutes, on March 5.

Mr. Craig, for 60 minutes, on March 5.

Mr. Denny Smith, for 60 minutes, on March 5.

Mr. Bilirakis, for 60 minutes, on March 5.

Mr. Madigan, for 60 minutes, on March 5.

Mr. Lewis of California, for 60 minutes, on March 5.

Mr. Packard, for 60 minutes, on March 5.

Mr. Kasich, for 60 minutes, on March 5.

Mr. Burton of Indiana, for 60 minutes, on March 5.

Mr. Hunter, for 60 minutes, on March 5.

Mr. Mack, for 60 minutes, on March 5.

Mr. Siljander, for 60 minutes, on March 5.

Mr. Gingrich, for 60 minutes, on March 5.

Mrs. Vucanovich, for 60 minutes, on March 5.

Mr. Gregg, for 60 minutes, on March 5.

Mr. Coats, for 60 minutes, on March 5.

Mr. Weber, for 60 minutes, on March 5.

Mr. Walker, for 60 minutes, on March 5.

Mr. Dannemeyer, for 60 minutes, on March 5.

Mr. Carney, for 60 minutes, on March 5.

Mr. Broyhill, for 15 minutes, today.

Mr. Young of Florida, for 5 minutes, today.

Mr. Edwards of Oklahoma, for 60 minutes, on March 5.

Mr. Wolf, for 60 minutes, on March 5.

Mr. McCain, for 60 minutes, on March 5.

Mr. Stangeland, for 60 minutes, on March 5.

Mr. Bartlett, for 60 minutes, on March 5.

Mr. Smith of New Jersey, for 60 minutes, on March 5.

Mr. Gekas, for 60 minutes, on March 5.

Mr. Corcoran, for 10 minutes, today.

Ms. Snowe, for 60 minutes, on March 5.

(The following Members (at the request of Mr. Richardson) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Alexander, for 5 minutes, today.

Mrs. Boggs, for 10 minutes, today.

Mr. Nelson of Florida, for 5 minutes, today.

Mr. Gonzalez, for 60 minutes, today.

Mr. Mavroules, for 60 minutes, March 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Rogers, following Mr. Bethune on H.R. 3050 in the Committee of the Whole today.

Mr. Gore, to revise and extend his remarks, in support of H.R. 3050.

(The following Members (at the request of Mr. Roberts) and to include extraneous matter:)

Mr. Fields.

Mr. Shumway.

Mr. Kramer.

Mr. Lent.

Mr. Green.

Ms. Fiedler.

Mr. McCollum.

Mr. Wortley.

Mr. Ritter.

Mr. Weber.

Mr. Lewis of California.

Mr. Frenzel.

Ms. Snowe.

Mr. Stangeland.

Mr. Jeffords.

(The following Members (at the request of Mr. Richardson) and to include extraneous matter:)

Mrs. Lloyd in five instances.

Mr. Hamilton in 10 instances.

Mr. Synar.

Mrs. Boggs.

Mr. Boland.

Mr. Beilenson.

Mr. Bennett.

Mr. Rangel.

Mr. Frost.

Mr. Dowdy of Mississippi.

Mr. de la Garza in 10 instances.

Mr. Addabbo.

Mr. Rahall.

Mr. Hawkins.

Mr. Shelby.

Mr. Kolter.

Mr. Florio.

Mr. Lehman of California.

Mr. Solarz.

Mr. Lipinski.

Mr. Nelson of Florida in two instances.

Mr. Rodino.

Mr. Lantos.

Mr. Bonker.

Mr. Conyers.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 161. Joint resolution to designate the month of April 1984, as "National Child Abuse Prevention Month";

S.J. Res. 184. Joint resolution to designate the week of March 4, 1984, through March 10, 1984, as "National Beta Club Week"; and

S.J. Res. 193. Joint resolution designating March 6, 1984, as "Frozen Food Day."

BILL AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on February 29, 1984, present to the President, for his approval, a bill and a joint resolution of the House of the following titles:

H.R. 4956. An act to extend the authorities under the Export Administration Act of 1979; and

H.J. Res. 292. Joint resolution designating "National Theatre Week."

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock p.m.) under its previous order, the House adjourned until Monday, March 5, 1984, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2756. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notification of the Army's proposed decision to convert to contractor performance the transportation services at Fort Ritchie, Md., pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

2757. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notification of the Army's proposed decision to convert to contractor performance the administrative telephone service, southwest region, U.S. Army Communications Command, Fort Huachuca, Ariz., pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

2758. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notification of the Army's proposed decision to convert to contractor performance the organizational maintenance and dispatch services, Fort Sill, Okla., pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

2759. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notification of the Army's proposed decision to convert to contractor performance the maintenance facility services for Fort Indiantown Gap located at the Defense Personnel Support Center, Philadelphia, Pa., pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

2760. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notification of the Army's proposed decision to convert to contractor performance the industrial operations functions at the U.S. Army Communications Command, Fort Huachuca, Ariz., pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

2761. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notification of the Army's proposed decision to convert to contractor performance the drafting and technical support function, U.S. Army Communications-Electronics Engineering Installation Agency, Fort Huachuca, Ariz., pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

2762. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notification of the Army's proposed decision to convert to contractor performance the administrative telephone service, mid-Atlantic region, U.S. Army Communications Command, Fort Huachuca, Ariz., pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

2763. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting notification of the Army's decision to convert the transportation motor pool services at Fort Devens, Mass., to private contractor performance, pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(b) (96 Stat. 747)); to the Committee on Armed Services.

2764. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management, transmitting notification of the Army's plans to initiate the study of potential conversions from inhouse operation to commercial contract of various activities, pursuant to 10 U.S.C. 2304 nt (Public Law 96-342, section 502(a) (96 Stat. 747)); to the Committee on Armed Services.

2765. A letter from the Director, Defense Security Assistance Agency, transmitting information on the Department of the Army's proposed Letter of Offer to Jordan for defense articles estimated to cost in exces of $50 million (Transmittal No. 84-32), pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

2766. A letter from the Under Secretary of the Navy, transmitting a draft of proposed legislation to amend chapter 13 of title 37, United States Code, to standardize, update and simplify the law governing the assignment and allotment of pay of members of the Navy and Marine Corps; to the Committee on Armed Services.

2767. A letter from the Chairman, Federal Communications Commission, transmitting a report on the goals, objectives, priorities for fiscal years 1984, 1985, and 1986; and accomplishments of 1983, pursuant to June 19, 1934, chapter 652, section 5(g) (95 Stat. 738); to the Committee on Energy and Commerce.

2768. A letter from the Director, Defense Security Assistance Agency, transmitting information on the Department of the Army's proposed Letter of Offer to Jordan for defense articles and services estimated to cost $133 million (Transmittal No. 84-32), pursuant to AECA, section 36(b) (90 Stat. 741; 93 Stat. 708, 709, 710; 94 Stat. 31, 34; 95 Stat. 1520); to the Committee on Foreign Affairs.

2769. A letter from the Chairman, Commission on Security and Cooperation in Europe, transmitting the annual report of Commission activities for 1983, pursuant to Public Law 94-304, section 6; to the Committee on Foreign Affairs.

2770. A letter from the Administrator, U.S. Small Business Administration, transmitting the annual report of activities under the Freedom of Information Act covering calendar year 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2771. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the annual report of the Commission's activities under the Freedom of Information Act covering calendar year 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2772. A letter from the Governor, Farm Credit Administration, transmitting a report on the activities of the Federal Farm Credit Board under the Government in the Sunshine Act covering calendar year 1983, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2773. A letter from the Secretary of the Treasury, transmitting the Department's annual report on its activities under the Freedom of Information Act during calendar year 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2774. A letter from the Secretary of Education, transmitting the annual report of the Department's activities under the Freedom of Information Act covering the Calendar year 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2775. A letter from the Deputy Administrator, General Services Administration, transmitting copies of three prospectuses for Federal construction projects included in the proposed fiscal year 1985 construction program, pursuant to Public Law 86-249, section 7(a) (86 Stat. 217); to the Committee on Public Works and Transportation.

2776. A letter from the Secretary, Railroad Retirement Board, transmitting a report on the ability of the railroad retirement account to pay benefits in each of the next succeeding 5 years, pursuant to 45 U.S.C. 231u(a)(1) (Public Law 93-445, title I, section 22(a)(1), (97 Stat. 416); jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2645. A bill to amend the act of August 15, 1978, regarding the Chattahoochee River National Recreation Area in the State of Georgia; with amendment (Rept. No. 98-607). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3825. A bill to establish a boundary for the Black Canyon of the Gunnison National Monument, and for other purposes; with amendment (Rept. No. 98-608). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 597. A bill to convey certain lands to Show Low, Ariz.; with amendments (Rept. No. 98-609). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3642. A bill to establish the Kamehameha the Great National Monument in the State of Hawaii; with amendments (Rept. No. 98-610). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1530. A bill to make technical amendments to the Indian Self-Determination and Education Assistance Act and other acts; with amendment (Rept. No. 98-611. Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 4995. A bill to amend section 223(b)(4) of the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mr. BONKER (for himself, Mr. Owens, Mr. Chandler, Mr. Hightower, Mr. Nielson of Utah, Mr. Parris, Mr. Vandergriff, Mr. Ortiz, Mr. Stenholm, Mr. Wise, Mr. Wilson, and Mr. Fazio):

H.R. 4996. A bill to provide that no Federal educational funds may be obligated or expended to any State or local educational agency which discriminates against any meetings of students in public secondary schools who wish to meet voluntarily for religious purposes; to the Committee on Education and Labor.

By Mr. BREAUX (for himself and Mr. Forsythe):

H.R. 4997. A bill to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for fiscal years 1985, 1986, and 1987; to the Committee on Merchant Marine and Fisheries.

By Mr. BROYHILL (for himself, Mr. Moorhead, and Mr. Corcoran):

H.R. 4998. A bill to repeal personnel restrictions applicable to the Department of Energy; jointly, to the Committees on Energy and Commerce and Appropriations.

By Mr. CORCORAN:

H.R. 4999. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the expenses for household and dependent care services necessary for gainful employment which may be taken into account for computing a tax credit; to the Committee on Ways and Means.

Mr. MICHEL (for himself, Mr. Lott, Mr. Cheney, Mr. Lewis of California, Mr. Conable, Mr. Latta, Mr. Loeffler, Mrs. Martin of Illinois, Mr. Hyde, Mr. Mack, Mr. Marriott, Mr. McCollum, Mr. Brown of Colorado, Mr. Gingrich, Mr. Walker, Mr. Hunter, Mr. Dannemeyer, Mr. Oxley, Mr. Gregg, Mr. Fields, Mr. Bilirakis, Mr. Philip M. Crane, Mr. Coats, Mr. Solomon, Mr. Weber, Mr. Craig, Mr. Lungren, and Mr. McEwen):

H.R. 5000. A bill to authorize the President, on a limited basis, to impound funds made available for the fiscal year 1984 or 1985 when economic conditions necessitate reductions in the Federal deficit; jointly, to the Committees on Government Operations and Rules.

By Mr. DOWDY of Mississippi:

H.R. 5001. A bill entitled: the "Caney Creek Relief Act"; to the Committee on Pubic Works and Transportation.

By Mr. FLORIO:

H.R. 5002. A bill to amend the Solid Waste Disposal Act to establish certain rules regarding the liability of corporate officers and employees for criminal acts with respect to hazardous waste; to the Committee on Energy and Commerce.

By Mr. FUQUA (for himself, Mr. Brown of California, Mr. Walgren, Mr. Boucher, Mr. Sensenbrenner, and Mr. Gregg):

H.R. 5003. A bill to establish a uniform Federal system for management, protection and utilization of the results of federally sponsored scientific and technological research and development, and for other purposes; jointly, to the Committees on the Judiciary and Science and Technology.

By Mr. GREEN:

H.R. 5004. A bill to provide a credit against income tax for the amount of tuition expenses incurred by an individual for the primary and secondary education of his dependents; to the Committee on Ways and Means.

By Mr. HARRISON:

H.R. 5005. A bill to amend title II of the Social Security Act to eliminate the disparity between the benefits payable to individuals who retired in or after 1979 (when the decoupling changes in the benefit formula became effective) and the benefits payable to individuals similarly situated who retired before that year, by providing that the benefits payable to the former individuals may never be less than those payable to the latter; to the Committee on Ways and Means.

By Mr. HILLIS:

H.R. 5006. A bill to amend title XVIII of the Social Security Act with respect to treatment of certain rural hospitals under the prospective payment system for inpatient hospital services under the medicare program; to the Committee on Ways and Means.

By Mr. LEVITAS:

H.R. 5007. A bill to provide for the appointment within the Federal Aviation Administration of an Associate Administrator for the National Airways System Plan; to the Committee on Public Works and Transportation.

By Mr. LIPINSKI (for himself and Mr. Nowak):

H.R. 5008. A bill to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to undertake a study on consumptive uses of Great Lakes water; to the Committee on Public Works and Transportation.

By Mr. McCANDLESS:

H.R. 5009. A bill to amend the Domestic Volunteer Service Act of 1973 to permit foster grandparent services to be provided to mentally retarded individuals without regard to the age of such individuals; to the Committee on Education and Labor.

By Mr. PEASE:

H.R. 5010. A bill relating to the tariff treatment of zinc-bearing ores, zinc dross and skimmings, zinc waste and scrap, unwrought zinc, and certain zinc-bearing materials; to the Committee on Ways and Means.

By Mrs. SCHNEIDER (for herself, Mr. Simon, Mr. Cheney, Ms. Snowe, Mrs. Johnson, Mr. Frenzel, Mrs. Martin of Illinois, Mr. Jeffords, Mrs. Burton of California, Mr. Frank, Mr. Bedell, Mr. Fish, Mr. Evans of Iowa, Mr. Green, Mr. Rinaldo, Mr. Shannon, Mr. Boehlert, Mr. Hillis, Mr. Udall, Mr. McKinney, Mr. Gilman, Mr. Leach of Iowa, Mr. Bilirakis, Mr. Rodino, Mr. McKernan, and Mr. Carper):

H.R. 5011. A bill to clarify the intent of Congress in adopting title IX of the Education Amendments of 1972, to prohibit any educational institution which receives any Federal assistance, direct or indirect, from discriminating on the basis of sex, to provide that Federal departments and agencies may terminate or deny all Federal financial assistance to any educational institution which discriminates on the basis of sex, and to protect women against sex discrimination by educational institutions receiving any form of Federal financial assistance; to the Committee on Education and Labor.

By Mr. SEIBERLING:

H.R. 5012. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for any contribution, bequest, or gift to the United Nations; to the Committee on Ways and Means.

By Mr. WALGREN:

H.R. 5013. A bill to amend the Railroad Retirement Act of 1974 to make certain adjustments in benefits contingent on the financial condition of the railroad retirement system; to the Committee on Energy and Commerce.

By Mr. KEMP (for himself and Mr. Yates):

H.J. Res. 501. Joint resolution to provide for the awarding of a gold medal to Elie Wiesel in recognition of his humanitarian efforts and outstanding contributions to world literature and human rights; to the Committee on Banking, Finance and Urban Affairs.

By Mr. NEAL:

H.J. Res. 502. Joint resolution designating March 25, 1984, and every March 25 thereafter, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. WILLIAMS of Ohio introduced a bill (H.R. 5014) for the relief of Mishleen Earle; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 41: Mr. MacKay, Mr. Shaw, Mr. Gibbons, Mr. Nelson of Florida, Mr. Hutto, and Mr. Bilirakis.

H.R. 287: Mr. Packard.

H.R. 677: Mrs. Kennelly.

H.R. 1028: Mr. Lujan.

H.R. 1527: Mr. Mazzoli.

H.R. 1959: Mr. Fauntroy, Mr. Downey of New York, Mr. Scheuer, Mr. Lehman of Florida, Mr. Lagomarsino, Mr. Rangel, Mr. Jeffords, Mr. Pepper, and Mr. Barnard.

H.R. 1986: Mr. Moore.

H.R. 2099: Mr. Mazzoli.

H.R. 2191: Mr. Corcoran.

H.R. 2441: Mr. Won Pat and Mr. Hutto.

H.R. 2568: Mr. Scheuer.

H.R. 2837: Mr. Gore, Mr. Hartnett, Mr. Matsui, and Mr. McKinney.

H.R. 3282: Mr. Martinez, Mr. Dowdy of Mississippi, and Mr. MacKay.

H.R. 3474: Mr. Smith of Florida.

H.R. 3581: Mr. Rudd, Ms. Fiedler, Mr. Brown of Colorado, and Mr. Skelton.

H.R. 3686: Mr. Frank, Mr. Kolter, Mr. Duncan, Mr. McEwen, Mr. Sisisky, and Ms. Snowe.

H.R. 3755: Mr. Barnes.

H.R. 3775: Mr. Shaw, Mr. Kolter, Mr. Chappell, Mr. Patterson, Mr. Murphy, Mr. Luken, Mr. Wylie, Mr. Carper, Mr. Philip M. Crane, Mr. Hartnett, Mr. Broomfield, Mr. Fowler, Mr. Weaver, Mr. Gore, Mr. Young of Florida, and Mr. Courter.

H.R. 4092: Mr. Frank, Mr. Conyers, Mr. Fields, Mr. Hartnett, Mr. Thomas of California, Mr. Wylie, Mr. Jones of North Carolina, Mr. Gore, Mr. Rogers, Mr. Corcoran, and Mr. Clinger.

H.R. 4098: Mr. Traxler, Mr. Conte, Mr. Hertel of Michigan, Mrs. Johnson, Mr. Applegate, Mr. Hansen of Idaho, Mr. Gregg, Mr. Sensenbrenner, Mr. Vander Jagt, Mr. Madigan, Mr. Petri, and Mr. McCollum.

H.R. 4110: Mr. Panetta.

H.R. 4213: Mr. Barnes.

H.R. 4257: Mr. Feighan, Mr. Kostmayer, and Mr. Howard.

H.R. 4297: Mr. Sabo, Mrs. Ferraro, Mrs. Boxer, Mr. Mineta, Mr. Glickman, Mr. Addabbo, Mr. Eckart, Mr. O'Brien, Mrs. Schroeder, Ms. Mikulski, Mr. Hughes, Mr. Dwyer of New Jersey, Mr. Fazio, Mr. Leland, Mr. Berman, Mr. Barnes, Mr. Evans of Illinois, Mr. Won Pat, Mr. Guarini, Mr. Ridge, Mr. Feighan, Mr. Owens, Mr. Jeffords, Mr. Britt, Mr. Levin of Michigan, Mr. Weiss, Mr. Gonzalez, Mr. Patman, and Mr. Edgar.

H.R. 4356: Mrs. Kennelly.

H.R. 4373: Mr. Frank, Mr. Lipinski, Mr. Hughes, Mr. Barnard, Mrs. Lloyd, and Mr. LaFalce.

H.R. 4402: Mr. Chandler, Mrs. Holt, and Mr. Wylie.

H.R. 4447: Mr. Mitchell, Mr. Harkin, and Mr. Williams of Montana.

H.R. 4475: Mr. McKinney, Mr. Chandler, Mr. Anthony, Mr. Hillis, Mr. Dwyer of New Jersey, Mr. Jeffords, Mr. Andrews of Texas, Mr. Sikorski, Mr. Brown of California, Mr. Dixon, Mr. Torricelli, Mr. Brown of Colorado, Mr. Walgren, Mr. Bateman, and Mr. Ortiz.

H.R. 4544: Mr. Martinez, Mr. Rudd, Mr. Bereuter, Mr. Roberts, Mr. Kindness, Mr. Montgomery, Mr. Franklin, Mr. Bedell, Mr. Coats, Mr. Sundquist, and Mr. Darden.

H.R. 4561: Mr. Ray, and Mr. Mavroules.

H.R. 4642: Mr. Derrick, Mr. McNulty, Mr. Crockett, Mr. Udall, Mr. Skeen, Mr. Corrada, and Mr. Wheat.

H.R. 4651: Mr. Leland, Mr. Mitchell, Mr. Won Pat, Mr. Bonior of Michigan, Mr. Waxman, Ms. Kaptur, Mr. Richardson, Mr. Martinez, Mr. Kolter, Mrs. Boxer, Mr. Weiss, Mr. Simon, Mr. Solarz, Mr. Ottinger, Mr. Reid, Mr. Bedell, Mr. Ratchford, Mr. Gejdenson, and Mr. Edgar.

H.R. 4788: Mr. Kemp.

H.R. 4813: Ms. Kaptur, Mr. Martinez, Mr. Bates, Mr. Levine of California, Mr. Williams of Montana, Mr. Davis, Mr. Hertel of Michigan, Mr. Vento, Mr. Sunia, Mr. Dwyer of New Jersey, and Mr. Morrison of Connecticut.

H.R. 4832: Mr. Ottinger, Mr. Nowak, and Mr. Moody.

H.R. 4851: Mr. Torres, Mr. Oxley, Mr. Won Pat, Mr. Chappie, Mr. Smith of Florida, Mr. Stokes, Mr. Mitchell, Mr. Kolter, Mr. Levine of California, Mr. Eckart, Mr. Martinez, Mr. Roe, Mr. Simon, Mr. Luken, and Mr. Lewis of Florida.

H.R. 4863: Mr. Guarini, Mr. Addabbo, Mr. Dwyer of New Jersey, and Mr. Sabo.

H.R. 4877: Mr. Coyne, Mr. Durbin, Mr. Dwyer of New Jersey, Mr. Foley, Mr. Glickman, Mr. McGrath, Mr. Tauzin, Mr. Towns, Mr. Wright, Mr. Bethune, Mr. Campbell, Mr. Conte, Mr. Courter, Mr. Downey of New York, Mr. Dreier of California, Mr. Duncan, Ms. Fiedler, Mr. Fish, Mr. Jeffords, Mr. Lott, Mr. Madigan, Mr. Molinari, Mr. Myers, Mr. Neal, Mr. O'Brien, Mr. Rogers, Mr. Rudd, Mr. Sawyer, Mr. Shaw, Ms. Snowe, Mr. Solomon, Mr. Spence, Mr. Stark, Mr. Thomas of California, and Mr. Wortley.

H.R. 4928: Mr. Horton, Mr. Boehlert, Mr. Wortley, Mrs. Schneider, Mr. Guarini, Ms. Snowe, Mr. Kemp, Mr. Rinaldo, Mr. McGrath, Mr. Young of Missouri, Mr. Rangel, Mr. Schumer, Mr. Downey of New York, Mr. Mitchell, Mr. Owens, Mr. Gilman, Mr. Smith of New Jersey, Mr. Pritchard, Mr. Frank, Mr. Foglietta, and Mr. Simon.

H.R. 4935: Mr. Mazzoli, Mr. Bateman, and Mr. Tauke.

H.R. 4936: Mr. Mazzoli, Mr. Bateman, and Mr. Tauke.

H.R. 4954: Mr. Waxman.

H.J. Res. 53: Mr. Gore.

H.J. Res. 73: Mr. Gramm.

H.J. Res. 200: Mr. Lewis of Florida, Mr. Kasich, Mr. Jeffords, Mr. Brown of Colorado, Mr. Thomas of Georgia, Mr. Price, Mr. Miller of California, Mr. Donnelly, Mr. Green, Mr. Moakley, Mr. Gekas, Mr. McNulty, Mr. Gejdenson, Mr. Mavroules, Mr. Gunderson, Mr. Spratt, Mrs. Holt, Mr. Albosta, Mr. Hoyer, Mr. Wilson, Mr. Carney, Mr. Durbin, Mr. Conte, Mr. Rowland, Mr. Ford of Michigan, Mr. Breaux, Mr. Pritchard, Mr. Chandler, Mr. Savage, Mr. O'Brien, Mr. Ford of Tennessee, Mr. Carr, Mr. Lagomarsino, Mr. Hammerschmidt, Mr. Oxley, Mr. Brown of California, Mr. DeWine, Mr. Ratchford, Mr. Derrick, Mr. Dicks, Mr. Foley, Mr. Corcoran, Mr. Hansen of Utah, Mr. Brooks, Mr. Swift, Mrs. Byron, Mr. Clay, Mr. Evans of Illinois, Mr. Sharp, Mr. Coats, Mr. Kolter, Mr. Hamilton, Mr. Ritter, Mr. Rangel, Mr. Chappie, Mr. Conable, Mr. Bilirakis, Mr. Schumer, Mr. D'Amours, Mr. Hefner, Mr. Traxler, and Mr. Volkmer.

H.J. Res. 389: Mr. Brooks, Mrs. Kaptur, Mr. Andrews of Texas, Mr. Eckart, Mr. McGrath, Mr. Crockett, Ms. Mikulski, Mr. Ottinger, Mr. Kostmayer, and Mr. Morrison of Connecticut.

H.J. Res. 465: Mr. English, Mr. Ortiz, and Mr. McNulty.

H.J. Res. 476: Mr. Smith of New Jersey, Mr. Long of Maryland, Mr. Madigan, Mr. Jacobs, Mr. Green, Mr. Fazio, Mr. Hamilton, Mr. Flippo, Mr. Ludine, Mr. Fauntroy, Mr. Hopkins, Mr. Martin of New York, Mr. Perkins, Mr. Roe, Mr. O'Brien, Mr. Rowland, Mr. Quillen, Ms. Kaptur, Mr. Conte, Mr. Won Pat, Mr. Kildee, Mr. Hammerschmidt, Mr. Tauke, Mr. Volkmer, Mr. Lent, Mr. Regula, Mr. Smith of Florida, Mr. Coughlin, Mr. Clinger, Mr. Simon, Mr. Campbell, Mr. Reid, Mr. Burton of Indiana, Mr. Kramer, Mrs. Holt, Mr. Snyder, Mr. Bates, Mr. Stump, Mr. Schaefer, and Mr. Edgar.

H.J. Res. 477: Mr. Markey, Mr. Daub, Mr. Pritchard, Mr. Foley, Mr. Daschle, Mr. Dowdy of Mississippi, Mr. Jeffords, Mr. Addabbo, Mr. Swift, Mr. Hughes, Mr. Gray, Mr. Bryant, and Mr. Lipinski.

H.J. Res. 487: Mr. Addabbo, Mr. Andrews of Texas, Mr. Bateman, Mr. Bryant, Mr. Daniel, Mr. Darden, Mr. English, Mr. Fauntroy, Mr. Fazio, Mr. Frenzel, Mr. Sam B. Hall, Jr., Mr. Harrison, Mrs. Holt, Mr. Kolter, Mr. Nichols, Mr. Porter, Mr. Rangel, Mr. Smith of Florida, Mr. Volkmer, Mr. Young of Alaska, and Mr. Young of Missouri.

H.J. Res. 489: Mr. LaFalce, Mr. Lipinski, Mr. Richardson, Mr. Williams of Ohio, Mrs. Boxer, Mr. Neal, Mr. Towns, Mr. Rinaldo, Mr. Kolter, Mr. Wilson, Mr. Kramer, Mr. Coats, Mr. Vento, and Mr. Corcoran.

H. Con. Res. 225: Mr. Durbin.

H. Con. Res. 245: Mr. Williams of Montana, Mr. Loeffler, Mrs. Schroeder, Mr. Denny Smith, Mr. Weber, Mr. Bevill, Mrs. Smith of Nebraska, Mr. Williams of Ohio, Mr. Bereuter, Mr. Frank, Ms. Kaptur, Mr. Boucher, Mr. Spratt, Mr. Hartnett, Mr. McNulty, Mr. Emerson, Mr. Daub, Mr. Eckart, Mr. Gore, Mr. Glickman, Mrs. Martin of Illinois, Mr. Vandergriff, Mr. Schaefer, Mr. English, Mr. Won Pat, Mr. Slattery, Mr. Edwards of Oklahoma, and Mr. Olin.

H. Con. Res. 251: Mr. Biaggi, Mr. Dwyer of New Jersey, Mr. Kostmayer, Mr.

Scheuer, Mr. Corcoran, Mr. Hoyer, Mr. Dellums, Mr. Gilman, Mr. Fauntroy, Mr. Edgar, Mr. Smith, of Florida, Mr. Roe, Mr. Donnelly, Mr. Towns, Mrs. Johnson, Mr. Lent, Mrs. Boxer, Mr. Ackerman, Mr. Howard, Mr. Mitchell, Mr. Frost, Mr. Simon, Mr. Wortley, Mr. Matsui, Mr. Fascell, Mr. Horton, Mr. Torricelli, Mr. Minish, Mr McGrath, Mr. AuCoin, Mr. Kramer, Mr. Gore, Mr. Barnes, Mr. Weiss, Mr. Edwards of Oklahoma, Mr. Rangel, Mr. McKinney, Mr. Daub, Mr. Levine of California, Mr. Kildee, Mr. Stokes, Mr. Schaefer, Mr. Ortiz, Mr. Berman, Mr. Erdreich, Mr. Gejdenson, Mr. Mrazek, Mr. Sisisky, Mr. Paul, Mr. Kolter, Mr. Green, and Mr. Morrison of Connecticut.

H. Res. 411: Mr. Crockett, Mrs. Boxer, Mr. Owens, Mr. Olin, and Mr. Vento.

H. Res. 433: Mr. English, Mr. Wolpe, and Mr. Skelton.

SENATE—*Thursday, March 1, 1984*

(*Legislative day of Monday, February 27, 1984*)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable TED STEVENS, a Senator from the State of Alaska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

O Lord, our Lord, how excellent is Thy name in all the earth.—Psalm 8: 9.

We need Thee, Lord. We need Thee to be our best as public servants. We need Thee to be good fathers and mothers. We pray for our spouses and children. Help us not to fail our first duty to them. We pray for children of one parent who so often suffer unmitigated loneliness. We pray for rejected children who wander the streets of our great cities and become objects of exploitation for evil purposes. Help us, Lord, with all our power, to be compassionate in public judgments and in private pursuits.

Help us to understand, gracious God, that we need Thee to be compassionate—that we weaken our potential when in arrogant self-reliance we live independently of Thee. Make us to realize that we are most independent when we live in dependence upon Thee. Let our lives show forth Thy praise. We pray in the name of Him whose ordered life was an expression of total dependence upon Thee. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 1, 1984.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TED STEVENS, a Senator from the State of Alaska, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. STEVENS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

Mr. President, if the minority leader does not mind, I would like to have the Senate receive a message from the House because I believe it is a message about which I would like to present a unanimous-consent request.

MESSAGE FROM THE HOUSE

At 11:03 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 4957. An act to apportion certain funds for construction of the National System of Interstate and Defense Highways for fiscal year 1985 and to increase the amount authorized to be expended for emergency relief under title 23, United States Code, and for other purposes.

SENATE SCHEDULE

Mr. BAKER. Mr. President, may I inquire of the Chair, was there an order yesterday that we would resume the unfinished business at the conclusion of routine morning business or at the hour of 11:30 a.m.?

The PRESIDING OFFICER (Mr. COHEN). There was no specific order about when morning business would begin. The Senate would resume consideration of S. 979 not later than 11:30 a.m. or at the conclusion of morning business.

Mr. BAKER. Mr. President, I had some recollection that the order provided we would resume consideration of the measure at 11:30 a.m. In any event, we will resume consideration of the unfinished business, which is the Export Administration bill, after the close of the period for the transaction of routine morning business or not later than 11:30 a.m.

I hope Senators will come to the floor promptly and offer their amendments.

Mr. President, today is Thursday and this is our regular day for a late evening, if necessary. But I must say in all candor that as far as the leadership on this side is concerned, if we can finish this bill today, we ought to be able to do it without staying late, if Members will come to the floor and offer their amendments.

I would not like to ask the Senate to remain very late today, and I suppose it is even possible that the minority leader and I might find a private moment to talk about the possibility of a time certain for passage of this measure. Maybe that is more optimistic than I ought to be at this point, but I am unable to resist the temptation to try.

THE CALENDAR

Mr. BAKER. Mr. President, there is one item on the calendar today that is marked for clearance for passage by unanimous consent that I believe was cleared with the minority leader yesterday, and it can be reached today only because it first appears on the printed calendar today. I refer to Calendar 684, which is S. 2354. Is the minority leader prepared to proceed to the consideration of that measure?

Mr. BYRD. Mr. President, this side of the aisle is ready to proceed and is very desirous of proceeding quickly on this measure. I first want to thank the majority leader for what I believe is about to take place; namely, that he will proceed by unanimous consent to passage.

FRANK CHURCH RIVER OF NO RETURN WILDERNESS AREA

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate turn to the consideration of S. 2354, which is Calendar Order No. 684.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill.

The legislative clerk read as follows:

A bill (S. 2354) to rename the "River of No Return Wilderness" in the State of Idaho as the "Frank Church River of No Return Wilderness."

The Senate proceeded to consider the bill.

Mr. PROXMIRE. Mr. President, I could not believe my ears when I heard the clerk read the title of the bill to change the name of the River of No Return Wilderness to the Frank Church River of No Return Wilderness. I served with Frank Church during his years in the Senate. I had great admiration for him. He was a marvelous Senator. He served as chairman of the Committee on Foreign Relations with great distinction. I know all of us enjoyed our association with him very much.

I wish we could change the name of the wilderness to something suggested

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

to me by the distinguished Senator from Alaska (Mr. STEVENS), the Frank Church I Shall Return River Wilderness.

I am sure Senator Church will accept this in the way it is intended, as an honor to him, because he is a man who should be honored on the basis of his fine service to the country.

Mr. BAKER. Mr. President, I can agree to that. When it was first brought to my attention, I thought what a coincidental inappropriateness. I, too, served with Frank Church for a long time. I served on the Foreign Relations Committee when he was chairman and when he was a member of that committee. I had great respect for him and great admiration for him. I am sure he will accept this in the spirit in which it was intended.

May I say I tried to name a national recreation area after a former colleague, John Sherman Cooper, in a similar spirit. I join the Senator from Wisconsin in wishing Senator Church well, but I never caught so much cain in all my life as I did for trying to name that recreation area after John Sherman Cooper—not because of John Sherman Cooper but because there seemed to be some resistance to placing a permanent name on a national area of that sort. This is an appropriate thing to do and an interesting coincidence of name, but I join the Senator from Wisconsin in his remarks.

Mr. PROXMIRE. I thank the Senator.

Mr. BUMPERS. Mr. President, I strongly support this measure to redesignate the River of No Return Wilderness as the Frank Church-River of No Return Wilderness.

During the 96th Congress, I had the privilege of chairing the Senate Subcommittee on Parks, Recreation, and Renewable Resources of the Energy and Natural Resources Committee, which had jurisdiction over wilderness proposals. Certainly the most important piece of wilderness legislation considered by the subcommittee during that Congress was Senator Church's bill to create a 2.2 million acre wilderness in central Idaho. Senator Church devoted countless hours to crafting a truly magnificent wilderness in Idaho—the largest wilderness area in the 48 contiguous States. Senator Church conducted three field hearings in Idaho the summer before the bill was enacted at which over 600 persons testified. Based on this hearing record as well as countless public and private meetings with interested parties in Idaho, Senator Church skillfully guided the bill, which was to become law on July 23, 1980, through the Energy and Natural Resources Committee, the Senator floor, and a House-Senate conference.

Bringing divergent groups together on an issue such as this is never easy, but Senator Church was determined to find a way to protect the magnificent natural resources of this area and at the same time protect the affected local economics and the jobs of Idaho citizens. He accomplished this task admirably, and throughout demonstrated his characteristic fairness and extensive knowledge of the subject matter.

I commend my colleague from Idaho, Mr. McCLURE, for introducing this legislation and for bringing this matter before us today. Senator Church is truly the father of the River of No Return Wilderness, and I think that it is entirely appropriate that the area bear his name.

The PRESIDING OFFICER. The bill is open for amendment. If there be no amendment to be proposed, the question is on third reading.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in recognition of the significant contributions and the tireless efforts of Frank Church in the establishment and designation of the River of No Return Wilderness in the State of Idaho, the "River of No Return Wilderness" established by the Act of July 23, 1980, Public Law 96-312 (94 Stat. 948) shall hereafter be known as the "Frank Church—River of No Return Wilderness".
>
> SEC. 2. The Secretary of Agriculture is hereby authorized to take such actions as may be necessary to implement the provision of this Act.

Mr. BAKER. I move to reconsider the vote by which that bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I have no further business to transact at this time. I yield my time to the minority leader if he has any need for the time.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

U.S. BASES IN HONDURAS

Mr. BYRD. Mr. President, our distinguished colleague, Senator SASSER, is to be commended for his diligence in pursuing the issue of U.S. bases in Honduras.

As the ranking member of the Military Construction Appropriations Subcommittee, Senator SASSER has revealed that the administration has directed the construction or improvement of six airfields in Honduras; only two of the projects received specific approval by the Congress.

Four airfields have been constructed or improved with use of the Department of Defense's operations and maintenance fund, thereby avoiding congressional oversight which would require the Department to justify why these facilities are needed or how they promote our foreign policy interests in the region.

The Pentagon maintains that these are rather minor facilities which have been constructed in association with U.S. military maneuvers in the region. However, Senator SASSER, in an op-ed piece which appeared in the February 29, 1984, edition of the New York Times, states that the evidence clearly suggests the bases are permanent. Here are the facts presented by Senator SASSER to substantiate his claims:

> U.S. military commanders have disclosed that the United States has planned to conduct exercises in Honduras each year for the foreseeable future—perhaps for the next 20 years.
>
> The General Accounting Office, as a result of its own investigations, has found that the United States was engaged in a continuing, if not permanent, military presence in Honduras.
>
> General Alvarez, the Honduran Armed Forces chief, has stated that the airfields will be maintained for the foreseeable future, and General Alvarez has even discussed contracting with the United States to provide that maintenance.
>
> It is difficult to determine what threat these facilities are designed to meet. The possibility of invasion by Nicaragua is discounted by both the United States and Honduran military officials, who agree that the greatest threat to Honduran stability comes from subversive elements inside Honduras itself.
>
> Ironically, the U.S. military presence may create a more fertile environment for subversion of the fledgling constitutional democracy, which has established 2 years ago after 10 years of military rule, by forcing diversion of meager resources from desperately needed social programs.

Mr. President, I think we owe Senator SASSER a debt of gratitude for his diligence in bringing this matter to our attention. I am deeply concerned when any department or agency of our Government attempts to sidestep the Congress, particularly when it comes to the expenditure of the taxpayers' dollars. Senator SASSER points out that the Pentagon may be constructing at least two, and possibly three, new airfields in Honduras this year, despite the fact that plans have not been submitted to the Congress for its approval.

It appears that the operations and maintenance budget of the Department of Defense has become a slush fund to be used for whatever purpose any general might deem necessary. Yet, it is the institutional responsibility of the Congress to determine whether or not such expenditures of the taxpayers' dollars are indeed wise and prudent and whether the national interest is served by these activities.

Therefore, I think that the appropriate committees of the Congress must closely scrutinize the operations and maintenance budget of the Pentagon and determine whether or not the administration's requests have been overstated in order to provide a slush fund for the Pentagon.

Mr. President, I ask unanimous consent that Mr. Sasser's article appear in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Wednesday, Feb. 29, 1984]

Our Risky Bases in Honduras

(By Jim Sasser)

Washington.—Despite the claims of four Republican Senators just back from Honduras that United States bases there are only temporary, the evidence clearly suggests that the bases are permanent—and a danger to our foreign policy interests.

The delegation left for Honduras the day it was disclosed that United States military commanders planned to conduct exercises there each year for the foreseeable future—perhaps for 20 years. But the Senators, on returning, dutifully reported that the network of airfields and other military facilities we constructed are temporary and will not be usable in a short time. They cited deteriorating barracks as one key piece of evidence; they didn't say that the barracks were built in the middle of a swamp. The Senators ignored findings of the General Accounting Office (the independent investigative arm of Congress), which told them, before they left, that the United States was "engaged in a continuing, if not permanent, military presence in Honduras."

The Senators' contention that the facilities are "temporary" contradicts the public statements of Gen. Adolfo Alvarez Martinez, the Honduran armed forces' chief. He has stated that the airfields will be maintained for the foreseeable future, and has even discussed contracting with the United States to provide that maintenance.

The trip by Senators friendly to the Administration will not change the facts about our involvement in Honduras. The bases were built in the past year virtually without public notice and debate. Much of this construction, with its grave implications for future military commitments, has taken place without specific Congressional approval. Operating under the guise of military exercises Big Pine I and II, combat engineers constructed not only airfields but also radar stations and base camps on a scale unprecedented for this type of military maneuver.

In a country the size of Tennessee, the Administration directed that six airfields be constructed or improved. Only two of the projects received specific approval by Congress. This year, plans call for construction of at least two, possibly three, new airfields, even though no plans for them have been submitted for Congressional approval. One would be situated near the Nicaraguan border, another a few miles from El Salvador. Still under discussion between the two Governments is a proposal for a $150 million to $200 million joint United States-Honduran naval base at Puerto Castilla, on the Caribbean.

United States military commanders say that most of the facilities are needed to support the exercises. They claim that the Defense Department is within its authority in spending operational and maintenance funds appropriated for the exercises to build airfields and radar installations. However, the number of airfields and other facilities goes far beyond what is necessary to conduct the exercises. A runway at Aguacate, for example, recently was extended from 4,300 to 8,000 feet. the Honduran military plans to pave it soon, making it capable of handling jet attack aircraft. If it were designed to handle only C-130's, the aircraft normally used to supply exercises, a strip of little more than 3,000 feet would be sufficient.

It is difficult to determine what threat these facilities are designed to meet. The possibility of invasion by Nicaragua is discounted by both United States and Honduran military officials, who agree that the greatest threat to Honduran stability comes from subversive elements inside Honduras itself.

Ironically, the United States' military presence may create a more fertile environment for subversion of the fledgling constitutional democracy, which was established two years ago after 10 years of military rule, by forcing diversion of meager resources from desperately needed social programs.

Many Hondurans fear that the growing role of their military threatens democracy's survival. "Already, all of the power is with the military," one opposition leader told me when I visited between Feb. 3 and Feb. 6. While the military prospers, little progress is being made in dealing with the nation's staggering social and economic problems. Honduras is Central America's poorest country, with a per capita annual income of $600. Its share of the world banana and coffee markets has shrunk markedly in recent years. Capital investment is nonexistent. Of every 100 children, 76 suffer from malnutrition. Diarrhea remains the leading cause of death among children.

Experience shows the folly of approaching every trouble spot from a purely military viewpoint. Sadly, the Administration ignores history, including its painful experience in Lebanon. Now, it is up to Congress to slow down the buildup in Honduras before our nation is drawn into a military conflict in which still more United States lives will be lost.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I would like to ask unanimous consent to yield to the distinguished Senator from Wisconsin. I understand that he needs additional time.

Mr. PROXMIRE. I thank the minority leader. I would appreciate it if I could have about 6 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent to transfer 6 minutes of my time to Senator Proxmire.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Does the Senator from Iowa need some additional time?

Mr. JEPSEN. I do, Mr. President, if I could have about 5 minutes.

Mr. BYRD. I yield 5 minutes to the majority leader so he may yield to the Senator from Iowa.

Mr. BAKER. Mr. President, I thank the minority leader. I was unaware that the Senator from Iowa wanted some time. I thank the minority leader for making it possible for me now to yield 5 minutes to the distinguished Senator from Iowa.

THE PELLMELL ALL-OUT NUCLEAR ARMS DEBATE

Mr. PROXMIRE. Mr. President, for the past several weeks, I have been exploring a challenging statement about our nuclear arsenal that President Reagan made in a radio address on January 16, 1984. Here is what the President said:

> With regard to nuclear weapons, the simple truth is, America's total nuclear stockpile has declined. Today, we have far fewer nuclear weapons than we had 20 years ago. And in terms of its total destructive power, our nuclear stockpile is at the lowest level in 25 years.

This is most appropriate for the Presiding Officer, who is the distinguished Senator from Maine and is an advocate of the build-down theory. We have been building down in that sense for 20 years, according to the President.

I wrote Kenneth Adelman, the Director of the Arms Control and Disarmament Agency. I asked him to explain this statement of the President and its obvious implications. As the President had put the statement, it appeared that the President was saying that this country had engaged in a kind of unilateral disarmament for the past 20 or 25 years. On the other hand, it appeared to this Senator that the dramatic change in our nuclear arsenal in the past quarter century was due to a deliberate policy by our military leaders to strengthen our nuclear capability. And this policy succeeded in achieving its objective. In other words, in the past two decades we have not diminished our nuclear capability, we have greatly enhanced it. And we have spent tens of billions of dollars to do exactly that.

Director Adelman replied in agreement with my conclusions. He wrote me on February 24:

> Overall reduction of the numbers of nuclear weapons has been possible due to improvements in weapon delivery system accuracy, reliability, and overall effectiveness of the weapons currently deployed.

Mr. President, let there be no mistaking the truth of this matter. This country and the Soviet Union have been engaged for the last 30 years without letup, pellmell in an all-out nuclear arms race. No American citizen and certainly no Member of the Congress should be deceived by the contention that the number of nuclear weapons in the U.S. nuclear arsenal has declined since 1967 or that the megatonnage has gone down. We have been spending tens of billions of dollars a year and will spend about half a trillion dollars over the next 6 years to enhance the military capability of our nuclear arsenal. We can now deliver more nuclear weapons and more devastating nuclear weapons on Soviet targets than ever before and with far greater accuracy and assurance that they will reach their target. That capability to destroy the Soviet Union utterly with nuclear power will continue to grow as the years go on, in spite of a builddown according to the definitions that most people apply to the builddown.

In my letter to Adelman, I asked him to comment on the statement by the Joint Chiefs of Staff in their military posture statement for fiscal 1982 when they said that during the past decade:

> The worldwide warhead count of intercontinental nuclear weapons went up 200 percent; their estimated explosive power (equivalent megatonnage) grew some 30 percent; and their pin point targeting (hard target kill) potential increased 200 percent.

Director Adelman conceded the accuracy of these figures. Now, Mr. President, how can anyone look at this massive international buildup of nuclear power that we have undergone in the past 10 years—and then face the colossal buildup we will provide in the next 6 years with the trillion dollars of additional nuclear armed power—to be at least matched by the Soviet Union—without recognizing that the two superpowers are engaged in a nuclear arms race that dwarfs any other military arms race in human history.

Now is certainly a logical time for an agreement between the United States and the Soviet Union to stop this immensely costly and terribly dangerous race to oblivion. The Soviet Union, with its many economic problems, its lack of growth, its low productivity, its limited technology, its desperate need to shift resources to industry and agriculture, has everything to gain from a mutual and verifiable no-cheating agreement to halt this colossal drain on their stumbling economy. And the United States, with our appalling deficit, our draining of our economic strength as well as our brightest technological minds into this military arms race, also has a great deal to gain by ending this immense economic burden.

But, Mr. President, far more important, the very survival of this country and possibly mankind itself depends on calling a halt to this insane arms race. Each superpower at this very moment has the power to blow the other off the face of the Earth. The 8 to 11,000 megatons of nuclear power in U.S. arsenals, much of it deployed in submarines and in bombers and on land-based missiles, sitting at the ready, can absolutely and assuredly destroy the Soviet Union and every conceivable target within it over and over many times.

Mr. President, I ask unanimous consent that both my letter to Director Adelman to which I have referred and his reply to me be printed at this point in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Appropriations,
Washington, D.C., January 19, 1984.
Hon. Kenneth L. Adelman,
Director, Arms Control and Disarmament Agency, Washington, D.C.

Dear Mr. Adelman: On January 16, 1984, the President made a radio address dealing with U.S.-Soviet relations and arms control. The text of that speech contained the following statement:

With regard to nuclear weapons, the simple truth is, America's total nuclear stockpile has declined. Today, we have far fewer nuclear weapons than we had 20 years ago. And in terms of its total destructive power, our nuclear stockpile is at the lowest level in 25 years.

Would you please provide me with the documentation to support these statements and to assess their meaning in greater detail?

For example, the issue of our total nuclear stockpile declining: According to materials published in the Nuclear Weapons Databook and provided to me by the Library of Congress, the total U.S. nuclear stockpile grew from about 1000 to 1952 to a high point of about 32,000 in 1967. Following that there has been a decline to about 26,000 in 1983 with projected increases to 30,000 in 1990 and over 32,000 in 1995. Thus, while it is accurate to say we have far fewer weapons than 20 years ago, it also would be true to state we now have more than in 1979 and far more than we had 25 years ago. In fact, the President picked the high point of the U.S. stockpile to make a comparison with current totals. Picking any year prior to 1961 would have reversed his conclusion. Would you please comment on that observation?

Second, his point that in terms of total destructive power, our nuclear stockpile is at the lowest level in 25 years: According to a statement released by the Department of Energy, our current total megatonnage of between 8,000 and 11,000 is one quarter of the peak total in 1960 which can be calculated as roughly 44,000. This makes the President's point technically accurate.

The central question then becomes, why did this happen? Was it unilateral disarmament that led to this decline in megatonnage or was it deliberate policy aimed at strengthening our nuclear weapons capability? I believe all the facts lead to the latter conclusion.

The United States total megatonnage declined due to conscious decisions by our military leaders to 1) no longer stockpile huge megatonnage hydrogen weapons; 2) develop and deploy the MIRV systems relying on greater numbers of smaller warheads; 3) make improvements in warhead design, packaging, and accuracy which allowed attacking the designed targets more efficiently with smaller warheads; 4) shift the relative emphasis from aircraft delivery with large warheads/heavy megatonnage to submarine and land-based system with smaller megatonnage capacity.

Would you please examine the reasons for the decline in U.S. megatonnage and conclude whether or not it was related to unilateral disarmament or deliberate military planning for sound strategic purposes?

Lastly, would you comment on the statement by the Joint Chiefs of Staff in the U.S. Military Posture for FY 1982 that during the past decade the worldwide warhead count of intercontinental nuclear weapons went up 200 percent; their estimated explosive power (equivalent megatonnage) grew some 30 percent; and their pinpoint targeting (hard target kill) potential increased 200 percent.

Are these figures accurate and could you bring them up to date with comparisons to 1984?

I welcome your thorough exploration of the issues raised in this letter.

Sincerely,

William Proxmire,
U.S. Senator.

U.S. Arms Control
and Disarmament Agency,
Washington, D.C., February 24, 1984.
Hon. William Proxmire,
U.S. Senate.

Dear Senator Proxmire: I am pleased to reply to your letter asking several questions about the U.S. nuclear stockpile.

With respect to the growth of the stockpile, the enclosed unclassified OSD press release on the subject contains graphs showing the trend of U.S. nuclear weapons and total yields over time. As you note, the first chart shows that our nuclear weapon inventory peaked in the mid-1960's and declined through the mid-1970's. While the President could have made other comparisons by choosing other years, as you noted, his point that the U.S. has decreased its stockpile during the last 20 years remains valid.

If the Soviets continue to resist our initiatives toward substantial arms reductions—that would apply both to Soviet and US strategic forces—our long-range plans would entail only a moderate increase in the size of the American stockpile over the next 15 years. Under even those plans, the number of our nuclear weapons would remain far below the level reached in the mid-1960's, while the modernization and replacement of existing delivery systems will allow us to continue to reduce the average yield of our weapons. Hence the total megatonnage would also decline.

I share your view that the reduction in megatonnage has come about as a result of deliberate military planning for sound strategic purposes. Overall reduction of the numbers of nuclear weapons has been possible due to improvements in weapon delivery system accuracy, reliability, and overall effectiveness of the weapons currently deployed. As you know, when President Reagan took office, he implemented a strategic modernization policy in response to the Soviet build-up of the 1970's. In the context of this modernization program, reductions in megatonnage and in numbers of nuclear weapons have not resulted in any degradation of our ability to deter a Soviet strike.

Lastly, concerning your question about the increase of worldwide strategic warhead count, equivalent megatonnage in these weapons, and hard kill potential, it is true that from 1972 to 1982 the total of deployed strategic warheads grew by about a factor of two and equivalent megatonnage grew by roughly 25 percent. You should be aware, however, that the Soviet growth rate, in both cases, was much larger than that of the U.S. This is also true when one compares the relative hard target kill capabilities of the two countries. When the capabilities of all strategic offensive forces are included, overall advantage in Soviet hard target kill capability is about 30 percent greater than that of the U.S.

Over the past 15 years, the Soviet Union has undertaken a major build-up in all types of strategic and intermediate-range nuclear forces. President Reagan's program for modernization of our strategic forces is in response to this build-up. The primary objective of our START and INF negotiations has been and will continue to be the substantial, mutual, and balanced reduction of these weapon stockpiles.

I hope this information is of use to you and would be pleased to discuss it with you, if you would like.

Sincerely yours,

KENNETH L. ADELMAN.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PROXMIRE. I regret very much that my time has expired. I know the Presiding Officer (Mr. COHEN) regrets it too. I am sure he wanted to hear my answer to his builddown.

The PRESIDING OFFICER. The Senator is correct in both assessments.

DRAMATIC DECLINE OF SOVIET JEWS' EMIGRATION

Mr. PROXMIRE. Mr. President, I recently received an interesting publication from the National Conference on Soviet Jewry entitled "1983: the Year of Yuri Andropov—Implications for Soviet Jews."

The message of this review is the decline in Jewish emigration from the Soviet Union from a high of 51,320 in 1979 to 1,314 in just 4 years. This statistic directly correlates with the increased persecution of Jewish citizens in the U.S.S.R. over the past few years.

Morris B. Abram, a longtime champion of human rights, and chairman of the National Conference on Soviet Jewry, has stated recently:

> All of those in this country and abroad who are interested in the peace movement, and who have contact with the Soviet Union or with Soviet citizens or Soviet organizations should place on their agenda the plight of Soviet Jews.
>
> The peace movements should, at the start of any discussion with Soviets, say what are you going to do about the plight of Soviet Jewry, when are you going to let your gates be opened, when are you going to abide by international law, which says every person has the right to leave his country.

In agreeing with the late President Kennedy, Abram asks us, "What is peace, after all, but a matter of human rights?"

Right now, Soviet Jews are caged within their own country, denied the opportunity to emigrate. They, like so many other persecuted groups in the world, are looking to the United States for help.

Unfortunately, our protests to the Soviet Government have often turned against us. Soviet officials accuse us of hypocrisy, and a lack of our own commitment to human rights, using our failure to ratify the Genocide Convention as an example.

Mr. Abram tells us that, "there probably is no simple explanation for the sharp drop in Jewish emigration or simple cure for the problem." Yet, Abram adds, "as bad as things are, there is going to be some break in the clouds some day."

The Genocide Convention seeks to outlaw the most heinous act known to mankind: The attempt to eliminate in whole or in part a national ethnical, racial, or religious group. It also assures that these criminals will be tried and punished. Further, the Genocide Convention denies sanctuary for these criminals—such as the Nazis still in hiding—and provides for their extradition in accordance with each nation's legal system.

We can help the Soviet Jews break through their cloud of persecution by ratifying the Genocide Convention. This would not only give us a necessary tool with which to condemn, under international law, the Soviet's actions, but to reassert our undeniable commitment to human rights to all the nations of the world. We must ratify the Genocide Convention; otherwise, our efforts to obtain justice for nearly 2 million Soviet Jews will continue to be severely hampered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond 11:30 a.m. with statements therein limited to 5 minutes each.

DECLARATION OF FREEDOM BY THE CUBAN-AMERICAN COMMUNITY IN FLORIDA

Mrs. HAWKINS. Mr. President, on January 1, 1959, Fidel Castro seized power on the island of Cuba. In the years following his takeover literally hundreds of thousands of Cubans fled the island. Now 1 out of every 10 Cubans is living in exile. Though the Communist takeover of Cuba was a tragedy beyond description, Cuba's loss has been Florida's gain. The Cubans who fled Castro and settled in south Florida have been a blessing to that community. Their commitment to God, the family, freedom, hard work, and democracy have been an inspiration to us all.

In 1966, the leadership of the Cuban-American community in Florida issued a statement that embodies their principles, goals, and aspirations. This declaration of freedom is a bold statement that reflects the abiding love for freedom held by the Cuban people.

Mr. President, I ask unanimous consent that the declaration be included in the RECORD.

There being no objection, the declaration was ordered to be printed in the RECORD, as follows:

DECLARATION OF FREEDOM

In the City of Key West, Monroe County, State of Florida, United States of America, we, the Cuban exiles in the United States, in the name of God Almighty, and speaking both for ourselves and the oppressed people in Cuba, the Martyr Island, do say:

That on January 1st, 1959, the slavery yoke that came from Europe and was extinguished in Cuba at the end of the 19th century, was resumed.

That those responsible for this high treason to our Fatherland and to our People are just a score of traitors who, usurpating the Government of the Country have been acting as mercenary agents for the Sino-Soviet imperialism, and have surrendered to that imperialism our Freedom and our Dignity, also betraying the American Hemisphere.

That as a consequence of this high treason, those who are usurpating the Power in Cuba (as they were never elected by the People), are imposing a regime of bloodshed, terror and hate without any respect or consideration to the dignity of the human being or the most elementary human rights.

That in their hunger for Power, these traitors, following the pattern of totalitarian regimes, are trying, within Cuba, to separate the Family, which is the cornerstone of actual society, and at the same time, are poisoning the minds of the Cuban children and youth, in their hope of extending the length of time for this abominable system.

That the rule of the Law has been wiped out in Cuba, and it has been replaced by the evil will of this score of traitors, who are acting under orders from their masters, the Sino-Soviet imperialists.

In view of the aforegoing, we declare:

First: That the actual Cuban regime is guilty of high treason to our Fatherland and to the ideals of the Freedom Revolution which was started on October 10th, 1868.

Second: That this score of traitors who have committed treason against our Fatherland, in case they survive the downfall of their regime, will have to respond, even with their lives before the Ordinary Courts of Justice of Cuba.

Third: That as the Noble Cuban People will not ever surrender, because that Nation was not born to be slave, we, the Cuban People, hereby make the present declaration of freedom.

We hereby swear before God Almighty to fight constantly, until death comes to us, to free Cuba from communism.

The fundamentals of this Revolution for Freedom are:

First: God Almighty, above all things, in Whom we believe as the essence of Life.

Second: The Fatherland, with all of its Laws, traditions, customs and history as a spiritual value, only surpassed by the concept of God.

Third: The Family, as the cornerstone of the Human Society.

Fourth: Human Rights, for each and every citizen, regardless of race or creed.

Fifth: The Law, as the foundation for the proper development of the Human Society.

Sixth: Democratic Government, with its three independent branches: Legislative, Executive and Judicial.

Seventh: Representative Democracy, through the exercise of Universal Suffrage, Periodically, Free and Secretive, as the expression of Popular Sovereignty.

Eighth: Freedom of Worship, Freedom of Teaching, Freedom of the Press and Free Enterprise.

Ninth: Private Property and Ownership, as the basic expression of Liberty.

Tenth: The improvement of living conditions for both rural and city working masses, with the just and necessary measures, keeping in mind the legitimate interests of both Labor and Capital.

Eleventh: The derogation and eradication of anything which is opposed to the political and religious fundamentals aforementioned, and specifically, the abolition of Communism and any other form of totalitarian manifestation.

A SPECIAL ALABAMIAN: VALERIE BENDALL

Mr. HEFLIN. Mr. President, I rise today in recognition of a very special Alabamian, an Alabamian of whom I am very proud, Valerie Bendall, the 1984 Maid of Cotton.

Valerie, the daughter of Mr. and Mrs. James O. Bendall of Birmingham, is a senior at Auburn University, where she is majoring in hospital administration. An excellent student, Valerie has maintained an "A" average during her college career, in addition to being involved in numerous extracurricular activities. She has been named to Who's Who in American Colleges and Universities and the leadership honorary, Omicron Delta Kappa.

In addition, Valerie was named as 1983's Miss Glomerata in the campus yearbook's beauty contest. She also finished in the top five in the 1983 Miss Auburn contest. Valerie has also served as public relations secretary for Auburn's Student Government Association, rush chairman for Alpha Omicron Pi Sorority, and has been named to the dean's list. She was also named as Alabama's Maid of Cotton for 1983.

Valerie was chosen by judges out of a field of 16 finalists from 11 cotton producing States at the 46th annual selection, held last December in Memphis. The finalists were judged on the basis of personality, poise, communications skills, and appearance during almost 3 days of varied activities. The selection process, as well as Valerie's activities for this year, are coordinated by the National Cotton Council, the central organization of the American cotton industry.

Valerie made her first official appearance in January at the Cotton Bowl Festival in Dallas. She is now in the midst of a 7-month tour, which included a visit to Washington in late February. During that visit, it was my extreme pleasure to meet with Valerie and eat lunch with her in the Senators' dining room. The international segment of the tour will take her to Canada, Europe, and the Far East, where I am positive she will be an outstanding representative of Alabama, the cotton industry, and the United States.

Mr. President, I am sure I speak for Valerie's parents, her friends, school, and State, when I congratulate her on her achievements, and wish her well during the remainder of her year as Maid of Cotton. We are all very proud of her.

JERRY WEAVER, AN AMERICAN SUCCESS STORY

Mr. HEFLIN. Mr. President, I rise today to share with my colleagues a true American success story, the story of a successful entrepreneur, Jerry Weaver of Gadsden, Ala.

Mr. Weaver, the chairman of the board of Mid-South Industries, Inc., and 12 affiliated companies, came to Alabama in 1957 as plant superintendent for Alabama Tool Co. In the years since, he has built a successful financial existence—in most part based on the value of hard work.

Weaver was born in Clay County, Ky., the son of a sharecropper. In his youth, he attended Annville Institute, a mission school in Annville, Ky. He lived at school during the year, and returned to his home during the summer months. Weaver spent one semester at Kentucky's Union College, before leaving due to lack of funds and a desire to learn a trade.

After leaving college, Weaver moved to Dayton, Ohio, where he held three or four jobs, searching for one that satisfied him. Finally, he settled in at International Tool Co., which offered an excellent training program for tool and die makers. It was this company that transferred Jerry Weaver to Alabama, making possible the next step of his success story.

Since high school, Jerry Weaver had dreamed of owning his own business. In his 5 years with Alabama Tool Co., he gained knowledge of all phases of a business operation. By 1962, he felt fully equipped and prepared to run his own business.

After borrowing $5,000 from a local bank to assist in meeting startup costs, Mr. Weaver incorporated Dixie Tool & Die, Inc. The shop was located in a small 2,200-square-foot concrete block building with only two employees.

Two years later, he incorporated Etowah Manufacturing Co. He allocated this new company 500 square feet of operating space in the Dixie Tool & Die building. Operating with a single press, the company began to manufacture metal stampings. That first year, 1964, sales amounted to $476. By 1967, sales had grown to $352,000, and the company employed 65 workers.

The next step in the expansion of Jerry Weaver's companies came with his decision to have Etowah Manufacturing compete for a portion of the military fuse production business which his other company, Dixie Tool, was tooling for other area manufacturers. To do this, the company needed additional capital, so Weaver obtained a $200,000 small business loan in 1968. At that time, Weaver's two companies employed 113 people; building on that nucleus, the companies have created jobs for 1,200 workers, with combined annual sales of $60 million.

Jerry Weaver is the first to admit that not all of his business ventures have been successful. A brief glance at a listing of his business involvement will reveal, however, that the successful ones greatly outnumber the unsuccessful.

Mr. Weaver has served as president and chairman of the board of Dixie Tool & Die since 1962, as chairman of the board of Etowah Manufacturing since 1964, and as chairman of Alabama Tool Co. since 1973.

In addition, he established a subsidiary facility, Etowah Manufacturing of Kentucky, at his childhood home in 1968. He was an original incorporator of Coosa Valley Bank in Rainbow City, Ala., and serves as chairman of the board of both Mill-Max Manufacturing of Port Washington, N.Y., and Boatner Construction of Rainbow City. Weaver also serves as secretary and treasurer of Precision Automatics, Inc. of Gadsden.

Jerry Weaver has been a member of the National Tool, Die & Precision Machining Association since 1963. In that time, he has served as both member and chairman of every major committee in the organization. He has served as an American delegate to the International Special Tooling Association. In 1977, Weaver was elected as national executive officer, and, in 1980, he served as president of the national association. He is also involved with several other industry associations, including the American Metal Stamping Association, the chamber of commerce, and the local planning commission.

Throughout his life, Jerry Weaver has remained a firm believer in the American free enterprise system. Still, despite his outstanding record of business successes, it is apparent Weaver sees those accomplishments in the proper context when he says, "Our faith—faith in God—is the most important factor in our life."

He realizes a man can succeed in business, but still be a failure in life, so he has not forgotten all the people who helped him on the way up.

Jerry Weaver is a successful businessman, Mr. President, but even more importantly, he is an outstanding Alabamian and American, a credit to the city of Gadsden. I congratulate him on his past successes, and wish him the best of luck in the future.

WINNERS OF THE SERTOMA CLUB ESSAY CONTEST

Mr. THURMOND. Mr. President, on February 13, 1984, I had the pleasure of being the keynote speaker for the national heritage program of the Central Savannah River Area Sertoma Clubs, in Aiken, S.C.

During that program, four seventh grade students were honored as winners of the Sertoma Club's essay contest on the subject of "What Freedom

Means to Me." These bright students were chosen from a field of participants representing 14 schools in the Greater Aiken area.

In addition to receiving a Sertoma International plaque, each winner received a U.S. savings bond. Karen Francis of St. Mary's School, daughter of Mr. and Mrs. Joseph M. Francis of Aiken, was the grand prize winner and recipient of a $200 savings bond; Shannon Clark of Wardlaw Academy, daughter of Mr. and Mrs. Clary Clark of Johnston, was the runner-up and recipient of a $100 savings bond; Laurie Lea Herring of Leavell-McCampbell Middle School, daughter of Mr. and Mrs. Bruce A. Herring of Graniteville, and Amy Hunter of Schofield Middle School, daughter of Mr. and Mrs. John M. Hunter of Aiken, were given honorable mention and a $50 savings bond each.

Mr. President, it is encouraging to see our young people display such a deep sense of patriotism, and these four winners are to be commended for their literary skill and exemplary love for our country. I know that my colleagues in the Senate join me in congratulating these fine young people, and I ask unanimous consent that these excellent essays be included in the RECORD.

There being no objection, the essays were ordered to be printed in the RECORD, as follows:

WHAT FREEDOM MEANS TO ME

"* * * all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness * * *" This is what freedom means to me. Freedom means the opportunity to live my own life. This freedom gives me the right to educate myself to the utmost, if I desire. I have the freedom to choose the kind of job I want and to do my best at it. I also have the responsibility, the same as all Americans, to constantly try to make my country just a little bit better.

To me, freedom means liberty for everyone. It means that I have the right to worship as I believe, and to express my faith. My religion means much to me; I'm very grateful for this freedom.

We, as Americans, also have the right to write and publish our disagreements and agreements with the law, and we are encouraged to do so. It surely is "a government of the people; by the people; and for the people."

With all our freedoms comes responsibility. We must realize that these freedoms apply to everyone, not just ourselves. We should make good use of our freedoms, but not deny them to others.

Freedom means the opportunity to follow in pursuit of happiness. To me, this also means the chance to be all I can.

I think the responsibility that accompanies this freedom is to make others, who are not so fortunate, realize what happiness is. Doctors help people live healthier lives. The government makes life safer. Lawyers protect our rights. When I'm old enough maybe I'll be able to help bring peace and freedom to other countries.

The most important freedom in our lives is equal rights. The rich, poor, weak, strong, black and white all have the opportunity to be all they can and want to be.

Our freedoms are full of opportunities. America truly is the "Land of Opportunities," so don't take it for granted.—Written by Karen Francis, 7th Grade, Saint Mary's School.

WHAT FREEDOM MEANS TO ME

What is the meaning of freedom? According to Webster, it means the condition of liberty or independence. Everyone wants freedom. Freedom means different things at different ages. To a baby, freedom might mean getting out of the playpen or learning to walk. To a school girl or boy, freedom might be getting out of school for summer vacation. To a teenager, freedom might mean getting his or her driver's license and being able to drive a car. To a high school or college graduate, freedom may mean living on his own and making his own decisions. To an adult, freedom may mean having days off from work. To me, freedom means all these things and many more. It also means those freedoms mentioned in the United States Constitution and the Civil Rights Law. These include freedom of speech, freedom of the press, freedom of religion, freedom to vote, freedom to live as one chooses (within the law), freedom of creativity, freedom to become what one wants to become, regardless of sex, race, nationality, or religion.

Freedom of speech means I may say what I wish as long as I am not threatening the United States or slandering a person. It means that I have the right to my own opinion, whether or not it agrees with that of someone else.

Freedom of religion means I can decide whether to be a Protestant, Catholic, Jew, or some other religion. In America I do not even have to go to church or believe in God if I do not want to.

Freedom to vote means I may help elect the people who hold offices in my school and country. From class president and student council representatives, to the President of the United States, I have freedom of choice in elections. In some countries this freedom does not exist and the government controls elections.

Being free also gives me freedom of creativity. This means that I have the right to make or invent a product and try to sell it whether it is good or bad. It also means that I can operate my own business and make as much money as possible, without the government controlling the amount of money I am allowed to make.

According to the Declaration of Independence, "all men are created equal . . . they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness." No one can be discriminated against because of sex, race, religion, or nationality. This means I can become anything I want to become.

A person cannot have freedom without some rules. If there were no laws, people could not have individual freedom without interfering with the rights of others. I am glad that our country enforces laws that allow each person to have equal rights.

Freedom to live as one chooses (within the law) means I can be a decent citizen in my community or I can be a bum and live on the streets. It means I can quit school when I reach a certain age, or I can continue my education and get a college degree. The way I use my freedom is my choice.

In America I may choose my friends and the person I want to marry. I may select the place I want to live and the kind of career I want.

When I see the Liberty Bell, the Statue of Liberty, or a Fourth of July celebration, I am reminded that people in many countries do not enjoy the freedoms I have. I hope that I will never forget the number of men and women who lost their lives insuring America's freedom.—Written by Shannon Clark, 7th Grade, Wardlaw Academy.

WHAT FREEDOM MEANS TO ME

Freedom to me is a blessing. I'm so thankful for the privilege of being born in a country that has so much freedom. Freedom to me is one of the things that matters the most in the world to me. Freedom means that I have a chance to have the dreams I dream to come true.

No matter how poor I may be in having the things that money can buy, I am not poor for I have a great treasure. This great treasure is freedom. It is a gift given to me by many people I don't even know. Many people have made sacrifices and many have given their life that I may have this gift. The freedom that I have and all the priviledges and opportunities I enjoy are really gifts that someone else has paid for. I owe a lot to many people. I am blessed and I must remember to be thankful for all the blessings I have.

As I think of freedom it doesn't just mean one thing to me. It means a lot of different things and I think of many different kinds of freedom.

First of all when I think of freedom I think of religious freedom because it means so much to me. It means I can worship my Lord when and where I see fit. I can make my own choices about religion.

I don't have to worship as someone else tells me to. I can decide for myself and make my own choices about religion. For instance I can decide if I want to attend Church or Sunday School. I am not forced to attend. I may not wish to celebrate Christmas or Easter, this is my choice. I have the freedom of owning and reading a Bible. These religious freedoms are very important to me.

Another important freedom I think of when I think of freedom is that of Political Freedom. To have political freedom means that when I am old enough I will be able to vote for the persons I choose to help run the government. Also I will be able to vote on matters that may be important to me. I can belong to the political party I choose such as the Democratic or Republican party. No one will tell me who to vote for or how to vote.

Also I have freedom of speech. I can say what I think without fear of being punished. If the president should come on T.V. and make a speech, I have the freedom to agree or disagree with what he has to say. If I don't like the speech I can even turn the T.V. off.

Political freedom is very important because it gives us many opportunities to use freedom.

Then when I think of what freedom means to me, I think of all the opportunities I have, such as being able to make my own decisions about things. When I think of all the opportunities I have just by being a citizen of the United States, I realize that I take so many things for granted every day that are really freedoms.

I am free to travel from one part of the country to the other without getting permission from anyone. I have the freedom to choose the kind of work I wish or may wish to do when I am old enough. I won't have to do a certain kind of work, such as farming. I will be able to choose what kind of work I may wish to do and in what part of the country I may wish to live. I may wish to work for one person or a company or even to go into business for myself. I will have the freedom to spend money in the way I choose. No one will tell me how I must spend my money.

When I think of freedom I realize that this great heritage that I have been blessed with makes me a very fortunate person and that I do have a great treasure.

I must remember that I owe much to many and to be thankful for all that has been done that I may enjoy this freedom I have. Also I have a responsibility in how I use it. The way I use my freedom is important. I must learn to make good decisions that will help future generations to enjoy the freedoms that I have. Decisions about things such as pollution and what to do about it. I may have to make a sacrifice in the way I live to help insure freedom in the future. I need to study and learn how to be a good citizen, and to remember that freedom as I know and enjoy it has been a gift given to me.

I have been blessed and I am thankful for this wonderful treasure I have.—Written by Laurie Lea Herring, 7th Grade, Leavelle-McCampbell Middle School.

WHAT FREEDOM MEANS TO ME

I ask myself, how often do I think about freedom? My answer—hardly at all! When I first started this paper I realized I really took my freedom for granted. It was amazing that one of my first thoughts was also that freedom really meant nothing to me. I noticed that one of the only times I thought about my freedom was when I heard on the news about how little political freedom the people in the Soviet Union have. During my geography class we were discussing the Soviet schools and I realized what pressure was put on those kids. Another time I think about my freedom is when I see our flag or hear the national anthem on television. Now you can see how I take my freedom for granted. Think about it. If we were not allowed freedom of speech, liberty to publish what we wish, or the right to vote for the candidate we wish, we would be very disturbed.

Different schools have different discipline codes and regulations. As always, the United States has more freedom in their schools than most other countries. As for the Soviet Union, all of the children are required to have ten years of schooling from the ages of seven to seventeen. These kids must go six days a week with an average of four hours of homework a night. If you misbehave in class and are sent out in the hall and are found there, you had better watch out! The Chinese have a little more freedom. The children in China are not required to go to school, although about ninty-five percent do go to elementary schools and many of them go on. The Soviets also pick what profession a student will have whether they like it or not. To me, this is very unfair. I personally think that everyone should be allowed to pick the job they would like to pursue. This is one of the good things about the United States' schools.

Freedom, in the dictionary, has a list of meanings that seems to go on and on and on. These meanings are important but not as important as your own meaning. Everyone should at least have an idea of what freedom means to them. I think about freedom in several ways. One way is illustrated by the statement "I am free tonight." You mean you have nothing to do. Or you could say "I am free as a bird," which can mean you have not a care in the world (at that moment). Another way is freedom of speech. This could be interpreted several ways. I could either be saying what you like or writing what you like. Even though we do have freedom of speech, we cannot badmouth people when we don't know the truth. We cannot run into a crowded movie theater and yell "Fire!" either. So you can see our freedom of speech is not absolutely free. It is limited a lot. The second meaning of freedom is like what people print in the newspaper. Newspapers in the United States have a lot of freedom and are not like the ones in the Soviet Union. The Soviet Union tells the paper what to print and they cannot print anything else or it is jail time for them. Freedom of speech ties back into me because one day I will grow up and have the right to say what I believe.

Even though everyone says we have lots of freedom, they are probably referring to adults, because children are not considered of age until they are eighteen. So until then they are under parent supervision. This does not seem quite fair to me. Kids are blamed for a lot of things that were thought up by adults, yet the kids never get a chance to tell their side of the argument. Lots of kids I know sometimes can come up with very good ideas for some problems others might have, but they never get a chance to say them because their parents don't usually encourage them. They discourage them most of the time. I believe kids need to have the freedom of expressing their feelings. It's not that I completely disagree with parental guidance, because I do think we need structured control until we can take care of ourselves. We do, however, have minds of our own.

I am very glad we have the government we do. I don't want to know what it would be like to wake up and not know what our government was doing to us. I guess I will understand when I grow up how important my freedom is to me and how cornered I would feel if I could not speak my mind. With writing this paper I have realized much about my freedom and the freedom of other countries, and of how different we are.—Written by Amy Hunter, 7th Grade, Schofield Middle School.

CONCLUSION OF ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER**. Is there further morning business? If not, morning business is closed.

EXPORT ADMINISTRATION ACT AMENDMENTS

The **PRESIDING OFFICER**. The clerk will now report the pending business.

The legislative clerk read as follows:

A bill (S. 979) to amend and reauthorize the Export Administration Act of 1979.

The Senate resumed consideration of the bill.

Mr. **BYRD**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **JEPSEN**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

AMENDMENT NO. 2761

(Purpose: To express the sense of the Senate against further expansion of cargo preference requirements)

Mr. **JEPSEN**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN) proposes an amendment numbered 2761.

Mr. **JEPSEN**. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 53, after line 9, add the following new section:

CARGO PREFERENCE REQUIREMENTS

SEC. 19. (a) The Senate finds that—

(1) the United States balance of merchandise trade in 1982 was a negative $31,800,000,000;

(2) the United States share of world exports has declined from 15.4 percent in 1970 to 13 percent in 1982;

(3) one out of every eight United States manufacturing jobs is for export production and 20 percent of our industrial production is exported;

(4) agriculture is the largest employer in the Nation providing for almost twenty-three million jobs, one million three hundred thousand of these being export related;

(5) the value of agricultural exports has dropped 18.9 percent since 1981 and United States agricultural market share has dropped precipitously for such commodities as coarse grains, wheat, cotton, soybean meal and oil, rice, and poultry;

(6) increased ocean shipping costs will negate numerous United States efforts to promote exports;

(7) current world market conditions translate increased export prices into reduced income for domestic producers and lost United States sales abroad for such goods as agricultural products, coal, forest products, fertilizers, chemicals, ores and metals, and pulp and paper products;

(8) increased import costs for such goods as petroleum and other bulk materials will increase energy costs and production costs for the agricultural, fertilizer, iron and steel, rubber, textile, chemical, nonferrous refining, and paper industries;

(9) trade barriers have proven harmful to United States industry, labor, and consumers in the past;

(10) world bulk shipping capacity is currently in excess and is expected to remain so for at least the next decade;

(11) the United States merchant marine is uncompetitive in the world market with United States-flag bulk shipping costs as

much as 300 percent higher than the world average; and

(12) ocean shipping costs comprise a significant portion of import and export costs and these costs will be increased by expansion of cargo preference requirements.

(b) It is the sense of the Senate that further expansion of cargo preference requirements imposed under section 901 of the Merchant Marine Act, 1936 (46 U.S.C. 1241), and the Joint Resolution of March 26, 1934 (48 Stat. 500, chapter 90; 46 U.S.C. 1241-1), whether for commercial or other trade, is not in the interest of the United States and should not be imposed.

Mr. JEPSEN. Mr. President, this amendment expresses the sense of Congress in opposition to further expansion of cargo preference requirements. As I have stated on this floor before, I am alarmed by efforts to subject America's farmers to the provisions of cargo preference. Cargo preference, a law requiring that U.S.-flag maritime vessels ship 50 percent of all Government-owned or concessionally-financed cargo, subsidizes the U.S. merchant marine at the expense of American agriculture.

Our farmers can rightly ask, "What is the Senate doing to insure that agricultural bulk commodities meant for commercial export will not be subjected to cargo preference?"

Mr. President, proposals currently before Congress expand cargo preference and direct that a minimum of 5 percent of all imported and exported bulk goods must be transported on U.S.-flag ships. This percentage would increase 1 percent each year until it reaches 20 percent.

The impact of this legislation would be that cargo preference costs will be passed back to U.S. farmers. One study indicates that it will reduce farm commodity income by an average of $1.43 per bushel.

A study conducted by Iowa Farm Bureau economists indicates that cargo preference requirements have the potential to reduce U.S. farm income by $6 billion. Shipping costs will increase $40 to $80 per ton. This means that nationwide, our farmers will spend anywhere from an extra $1.01 to an extra $2.03 per bushel of corn and $1.09 to $2.18 per bushel of soybeans to ship on U.S.-flag ships. In total tonnage, using 1982-83 production figures, the 5 percent cargo preference directive would cause 6 million metric tons of grain and soybeans to be shipped at higher costs. When the percentage increases to 20 percent, nearly 24 million metric tons would be affected.

Mr. President, much as I support the need for and the necessity for a strong maritime force and capability in this country, clearly, we cannot allow this to happen in the manner that is being recommended. Cargo preference places an unfair and unjust burden on the American farmer. It would seem that the American farmer is expected to serve as the scapegoat for a variety of problems unrelated to agriculture. If the American farmer is not being subjected to embargoes, he is expected to absorb ever increasing export costs for the well-being of another industry.

Mr. President, 20 farm and fertilizer groups joined together and filed a "friend of the court" brief in support of the decision made by USDA and Department of Transportation to exempt the new, and very important farm export enhancement tool known as the blended credit program from cargo preference requirements.

This brief was filed in response to a suit filed by the Seafarers International Union and the Transportation Institute, in U.S. district court, against the USDA and Department of Transportation decision. I understand that the district court judge has accepted the brief, and it will be made part of the May 9 U.S. district court proceedings.

I use this action on the part of the farm groups as an example of the seriousness of the impact cargo preference expansion would have on farm exports. The farm organizations—listed below—firmly believe that cargo preference expansion would severely depress farm exports and, therefore, spent a great deal of time, effort and resources to file this brief to make their views known. Also, the American Farm Bureau Federation filed a similar brief.

Therefore, I ask unanimous consent that a letter to me from Gary D. Myers of the Fertilizer Institute, the "friend of the court" brief, and the DOT decision to exempt blended credit program from cargo preference requirements be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Fertilizer Institute,
Washington, D.C., December 16, 1983.

Hon. Roger Jepsen,
U.S. Senate,
Washington, D.C.

Dear Senator Jepsen: On December 14, 1983, the agricultural organizations listed below filed a "Friend of the Court" brief, in support of the USDA and DOT decision to exempt farm commodities, shipped under USDA's blended credit program from the 50 percent U.S. flag vessel rate requirement in the 1954 Cargo Preference Act. On October 14, 1983, the Seafarers International Union and the Transportation Institute filed a suit in the U.S. District Court against the Administration's decision.

It is our belief that a severe impact on American agricultural exports will result if the Court rules in favor of the plaintiffs. The dramatically increased shipping costs associated with U.S. flag carriage of farm commodities under the blended credit program would seriously curtail the shipment of these commodities and thus thwart the objective of the program of increasing U.S. agricultural exports. Therefore, we believe blanket imposition of the Cargo Preference Act of 1954 would hurt rather than assist the purposes of the blended credit program while doing little, if anything, to further the maritime industry.

Enclosed is a copy of the "Friend of the Court" brief and a copy of DOT's July 27, 1983 decision.

Sincerely,

Gary D. Myers.

[Civil Action No. 83-3048, Amicus Curiae Brief, in the United States District Court for the District of Columbia]

Transportation Institute, 923 15th Street, N.W., Washington, D.C. 20005, (202) 347-2590; and Seafarers International Union of North America, Atlantic, Gulf, Lakes and Inland Waters District, AFL-CIO, 5201 Auth Way, Camp Springs, Maryland 20746, (301) 899-0675; plaintiffs, Elizabeth H. Dole, in her capacity as Secretary of Transportation; United States Department of Transportation: Nassif Building, Room 10200, 400 Seventh Street, S.W., Washington, D.C. 20590 (202) 426-1111; H. E. Shear, in his capacity as Administrator, Maritime Administration; United States Department of Transportation, Nassif Building, Room 7216, 400 Seventh Street, S.W., Washington, D.C. 20590 (202) 426-5823; and John R. Block, in his capacity as Secretary of Agriculture, United States Department of Agriculture, Administration Building, Room 200A, 12th Street and Jefferson Drive, S.W., Washington, D.C. 20250, (202) 447-3631; defendants

AMICUS CURIAE BRIEF

The agriculture organizations listed below hereby file this brief as Amicus Curiae in support of the government's answer to plaintiff's complaint in the above-captioned action. These agricultural organizations include:

The Fertilizer Institute.
National Council of Farmer Cooperatives.
National Cotton Council.
Florida Phosphate Council.
Grain Sorghum Producers Association.
National Broiler Council.
American Soybean Association.
National Grain Trade Council.
National Association of Wheat Growers.
National Grange.
National Corn Growers Association.
Rice Millers' Association.
National Forest Products Association.
National Soybean Processors Association.
National Sunflower Association.
North American Export Grain Association.
Terminal Elevator Grain Merchants Association.
Protein Grain Products International.

The foregoing agricultural organizations support the government's answer which supports and confirms the decision of the Secretary of Transportation to hold in abeyance discretionary cargo preference requirements authorized by the Cargo Preference Act of 1954 as amended, 46 U.S.C. § 1241(b) ("the Act"). That decision will have no impact on plaintiffs' interests while having a dramatic negative impact upon the Agriculture Department's agricultural export "blended credit" program under Public Resolution 17, 46 U.S.C. § 1241-1 ("P.R. 17").

The agricultural organizations listed have a significant interest in the outcome of this litigation. The increased shipping costs associated with U.S. flag carriage of commodities under the "blended credit" program would seriously curtail if not end the "blended credit" program. Thus imposition by the Secretary of the U.S. Flag requirement would thwart the Congressional objective of the "blended credit" program of increasing U.S. agricultural exports. Therefore, blanket imposition of the Cargo Preference Act would hurt significantly rather than assist the "blended credit" program while still not accomplishing the Congressional objectives of the Cargo Preference Act of 1954.

We support defendant's answer to plaintiff's complaint in this action and feel that no longer recitation of facts or law is necessary for this court's disposition of plaintiff's complaint.

First, reviewing courts must be guided by the construction given a statute by an agency charged with its execution unless there are compelling indications that it is wrong. *Pension Benefit Guarantee Corporation* v. *Ouimet Corporation*, (D.C. Mass. 1979), 479 F. Supp. 945, *aff'd*, 630 F.2d 4, *cert. den.*, 101 Sup. Ct. 1356, 450 U.S. 914, 67 L. Ed. 2nd 339. We feel that plaintiff has presented no compelling factual or legal arguments which undercut the Secretary of Transportation's decision.

In this case, the issue presented is whether the Secretary of Transportation has the authority to suspend the operation of the cargo preference program established by the Cargo Preference Act of 1954. The Secretary's decision was based upon the conclusion that imposition of the cargo preference program, in conjunction with the United States Department of Agriculture's "blended credit" program, will frustrate the Congressional purposes and interests of both programs.

When determining whether the Secretary concerned properly exercised the authority to suspend a certain program, this court must consider not merely whether the Secretary had a rational basis for believing that enforcement of a program would disserve Congress' purposes and policies but also, whether having those policies in mind and considering the consequences to be expected, it was reasonable to discontinue it. *Browner Building, Inc.* v. *Shehyn*, 143 U.S. App. D.C. 125,130, 442 F.2d 847,852 (1971), *Commonwealth of Pennsylvania et al.* v. *Lynn*, 501 F.2d 848,862 (1974).

While the question of permissive statutory language versus mandatory language in a statute does not necessarily indicate Congress' intent to bestow or withhold discretion to suspend a program in its entirety, logic and precedent require more. *Minor* v. *Mechanics' Bank*, 26 U.S. (1 Pet.) 46, 64, 7 L. Ed. 47 (1828). Whether Congress gave the Secretary the discretion here claimed is preeminently a question of intent. We feel that the Act and P.R.17 clearly afford the Secretary such discretion.

The Cargo Preference Act obviously gives the Secretary discretion in that it requires in pertinent part that agencies take such steps "as may be necessary and practical" to obtain the specified U.S. flag carriage. Moreover, P.R. 17's application to the "blended credit" program also leaves significant discretion to the Secretary. P.R. 17 is discussed in a 1965 opinion of the Attorney General (42 Op. A.G. 301), which states in its last paragraph:

"Such agencies are not required by the Resolution, however, to provide in all loans that such products shall be carried exclusively in vessels of the United States, *but only if it is feasible to do so*. . ." (Italic added).

The foregoing expression of Congressional intent and the Attorney General's analysis clearly give to the Secretary flexibility in the administration of the Cargo Preference Program and the "blended credit" program. Nevertheless, the real issue, as stated above, is whether the Secretary has the discretion, *or indeed the obligation*, to suspend the cargo preference program's operations when there is adequate reason to believe that they are not serving Congress' purpose of enhancing the export of agricultural commodities or supporting the U.S. Maritime industry.

When the Secretary has evidence sufficient that a particular agricultural commodity export program has come into conflict with a program designed to increase U.S. flag carriage, but the Secretary has concluded that enforcing the cargo preference requirements will be doing a disservice to both programs, it would be unreasonable to conclude that enforcement is a requirement of the laws relevant to these particular circumstances.

Plaintiffs here suggest that the only course open to the Secretary is the familiar one of continuing to administer the programs as well as can be accomplished. However, if enforcing the cargo preference program is indeed disserving Congressional policy with regard to the cargo preference program and the "blended credit" program, the enforcement of the cargo preference program would implicate the Secretary in a massive frustration of the policies which are the bases of the programs.

The Secretary's sound decision based on the discretion which is afforded in The Cargo Preference Act recognized that the "blended credit" program stimulates $1.75 billion in agricultural exports and that applying cargo preference to these exports would destroy the program. However, not only would such action destroy the export program, but in so doing it would, at best, do nothing to assist the cargo preference program. We believe that a court should be reluctant to conclude that Congress forbade the Secretary to withhold commitments of so vast a magnitude when the Secretary has good reason to believe that the exercise of authority would be contrary to the purposes for which Congress authorized her to act.

Moreover, even if the court is unclear as to whether the Cargo Preference Act gives the Secretary the discretion we support here, the court should endeavor to give statutory language that meaning that nurtures the policies underlying legislation when circumstances not plainly covered by the term of a statute are subsumed by the underlying policies to which Congress was committed. *United States* v. *Sisson*, 399 U.S. 267, 297-298, 90 Sup. Ct. 2117, 2133, 26 L. Ed. 2d 608 (1970).

We are aware that the Secretary of Transportation is obliged to follow the policies imposed by legislation and regulations, and that action taken without consideration of them, or in conflict with them, will not stand. *Shannon* v. *United States Department of Housing and Urban Development*, 436 F.2d 809 (3d Cir. 1970); *Garrett* v. *City of Hantramck*, 335 F. Supp. 16, 26 (E.D. Mich. 1971). Nevertheless, the Secretary also has the responsibility to administer the programs and activities related to the Cargo Preference Program and the "blended credit" program in a manner affirmatively to further the policies of the United States respecting those programs. See *Otero* v. *New York City Housing Authority*, 484 F.2d 1122, 1133-1134 (2d Cir. 1973).

Requiring that agricultural products exported under the "blended credit" program be shipped under the Cargo Preference Program would surely thwart the interest in Congress in establishing those programs. *Commonwealth of Pennsilvania et al.* v. *James T. Lynn, Secretary of Housing and Urban Development et al.*

For the foregoing reasons, the Fertilizer Institute and its companion agricultural organizations support defendant's answer in this litigation and request that this court dismiss plaintiffs' complaint.

Respectfully submitted,

LAWRENCE M. FARRELL,
McKenna, Conner & Cuneo, 1575 Eye Street, N.W., Washington, D.C. 20005, (202) 789-7500; Attorney's for the Amicus Curiae.

CERTIFICATE OF SERVICE

I hereby certify that the following Motion for Leave to File an Amicus Curiae Brief and the Amicus Curiae Brief were mailed to:

John W. Angus, III, Esq., Preston, Thorgrimson, Ellis & Holman, 1735 New York Avenue, N.W., Suite 500, Washington, D.C. 20006; Attorneys for Plaintiff, Transportation Institute.

Richard Kirschner, Esq., Kirschner, Weinberg, Dempsey, Walters & Willig, 1100 Seventeenth Street, N.W., Suite 800, Washington, D.C. 20036; and

James M. Aliman, Esq., Schulman & Abarbanel, 358 Fifth Avenue, New York, New York 10001; Attorneys for Plaintiff Seafarers International Union of North America, Atlantic, Gulf, Lakes and Inland Waters District, AFL-CIO.

on this 14th day of December, 1983.

LAWRENCE M. FARRELL,
McKenna, Conner & Cuneo, 1575 Eye Street, N.W., Suite 800, Washington, D.C. 20005, Attorney for the Amicus Curiae.

[Attachment 1]

MARITIME ADMINISTRATION,
Washington, D.C., July 27, 1983.

MEMORANDUM FOR DEPUTY UNDER SECRETARY OF AGRICULTURE FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

Subject: Application of cargo preference laws to the Department of Agriculture's Blended Credit Program.

The purpose of this memorandum is to advise you of the Department of Transportation's (DOT) views on the applicability of the cargo preference laws, which are administered by DOT, to the blended credit program of the Department of Agriculture (DOA). There has been recent disagreement between our two Departments on the question of whether export shipments generated by the blended credit program should be subject to the U.S. flag carriage requirements of the cargo preference laws. It is in an effort to resolve this disagreement, at least as it pertains to the blended credit program as presently formulated, that we have undertaken to articulate thoroughly our views on this important matter.

As you are aware, the President is firmly committed to existing cargo preference laws. The two major maritime policy announcements made by Secretary Lewis in May and August, 1982, reaffirmed our support for the cargo preference laws currently in effect, and in our view these laws apply to export credit programs such as those administered by DOA's Commodity Credit Corporation. Nevertheless, it is apparent that the application of U.S. flag carriage requirements to the present blended credit program would result in costs that would entirely offset the program's benefits, thereby defeating the underlying purpose of both the blended credit program and the cargo preference laws.

In our view, the cargo preference laws should not be administered in a manner that would obtain such a result. Accordingly, DOT will not seek to apply cargo preference requirements to DOA's blended credit program as presently formulated. These views are set forth in more detail below.

THE BLENDED CREDIT PROGRAM

Section 135 of the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) requires the Secretary of Agriculture to expend funds for export credit financing and guarantees under existing programs of the Commodity Credit Corporation (CCC) during fiscal years 1983, '84 and '85. In implementing these requirements DOA employs the so-called "blended credit" program which combines the benefits of two CCC programs: the GSM-102 program and the GSM-5 program. The GSM-102 program provides guarantees of bank loans made at market rates, while the GSM-5 program provides interest free loans. These two programs are combined in the blended credit program with 80 percent of the financing guaranteed under GSM-102 and 20 percent provided interest-free under GSM-5. Pursuant to this blended credit program, foreign purchasers of U.S. exports are able to obtain an interest rate significantly below prevailing interest rates.

THE CARGO PREFERENCE ACT, 1954

The Cargo Preference Act, 1954, (46 U.S.C. 1241(b)(1)) requires agencies to "take such steps as may be necessary and practical to assure" 50 percent U.S. flag carriage:

"Whenever the United States shall (1) procure, contract for, or otherwise obtain for its own account, or (2) furnish to or for the account of any foreign nation without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or (3) advance funds or credits or (4) guarantee the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities . . ."

The second and third situations generally cover export credit programs. In the blended credit program, the lower interest rate results in a subsidy to foreign buyers enabling them to obtain U.S. agricultural export products at lower cost. The net effect is thus "furnishing a commodity without reimbursement" to the importing country within the meaning of the Cargo Preference Act. The blended credit program also represents an "advance of funds or credits" within the meaning of the Cargo Preference Act, by reason of the reduced price made possible by the very nature of the blended credit financing.

Both the Cargo Preference Act and its legislative history indicate that the ocean transportation of goods purchased with Federal assistance is covered by the U.S.-flag requirements of the statute. In enacting the Cargo Preference Act, Congress contemplated its applicability to "programs financed in any way by Federal funds" S. Rept. No. 1584, 83rd. Cong., 2d Sess. June 11, 1954, p. 5, and "cargoes paid for or owned by the Government," 100 Cong. Rec. 8227, 83rd. Cong., 2d. Sess. (Sen. Butler). Subsequent congressional interpretations of the Cargo Preference Act speak of applicability in connection with "United States Government controlled programs financed by Federal funds in whatever form they might take." H. Rept. No. 80, 84th Cong., 1st sess., Feb. 28, 1955, p. 4. It is evident from these Congressional statements that Congress intended that the Cargo Preference Act be broadly construed. Accordingly, the Department has consistently taken the position that the Cargo Preference Act is applicable to any transaction in which cargo would not be transported but for the government aid involved.

USDA has apparently taken the position that the blended credit program sales are "commercial" transactions and, as such, not covered by the Cargo Preference Act. In support of its position USDA makes reference to a 1963 opinion of Attorney General Kennedy that the Cargo Preference Act does not apply to export credit sales which are "commercial" in nature and thus not "concessional". 42 Op. A. G. 203, 214. In that opinion, the Attorney General construed the phrase "without provision for reimbursement" to include sales "made pursuant to a program the purpose of which is in substantial part to assist the economy of the country to which the commodities are exported and where, consequently, the terms of the sale are more favorable to the purchaser than they would be in a normal business transaction . . ."

A careful reading of the Kennedy opinion makes it clear that it provides no support for excluding programs, such as the blended credit program, where exports receive government credit assistance. In fact, the opinion holds that the Cargo Preference Act applies to the sale of surplus agricultural commodities through the private trade where long term credit at low interest rates is provided by the Federal government. It is precisely this long term credit assistance that was considered by the Attorney General to involve the requirements of the Cargo Preference Act:

"As shown by the House Report . . ., it would appear that the Committee considered the act applicable to sales *from American private exporters to foreign private importers* which were not purely of a commercial nature where the United States participated in the transaction. . . .

"I thus cannot read the legislative history of the Cargo Preference Act as giving clear support to the proposition that the act applies only to gratuitous donations to foreign governments to the exclusion of credit sales to private foreign importers. Indeed, the assumption during the hearings, in particular in the House Committee, that sales through private trade channels with a Government guarantee of convertibility would be subject to the Cargo Preference Act, would seem to permit the inference that sales agreements with the private trade are similarly covered where the United States advances funds or credits." *Id.*, at 211 (italic added).

The fact that it is the nature of the government credit assistance (and not necessarily whether the commodities are owned by the government) that invokes the requirements of the Cargo Preference Act is evident from the Attorney General's conclusion that the Act does not apply to attempts to dispose of agricultural commodities in a "purely commercial" transaction. Such a transaction would be purely commercial where the government sale is on the "best possible terms and conditions," even though the United States becomes a creditor of the exporter and the ultimate purchaser is a foreign government. Id., at 214. Where, however, as in the case of the blended credit program, the United States provides credit assistance on terms "more favorable to the purchaser than they would be in a normal business transaction," the transaction cannot be considered "purely commercial" and the Cargo Preference Act necessarily applies. Further, the more favorable financing clearly benefits the economy of the recipient state. Id.

P.R. 17

The blended credit program is also covered by the provisions of P.R. 17 (48 Stat. 500, 46 U.S.C. 1241-1). That Joint Resolution, which has the force and effect of law, declares:

"That it is the sense of Congress that in any loans made by . . . any instrumentality of the Government to foster the exporting of agricultural or other products, provision shall be made that such products shall be carried exclusively in vessels of the United States. . . ."

USDA apparently has taken the position that P.R. 17 does not apply to these programs because (1) P.R. 17 is not "mandatory" and (2) the financing activities of these programs do not constitute "loans" within the meaning of P.R. 17.

The contention that P.R. 17 is not mandatory is apparently based on USDA's interpretation of two Attorney General opinions which address the applicability of P.R. 17 to agricultural exports. The first of these opinions was published in 37 Op. A.G. 546 (1934). The second opinion, found in 42 Op. A.G. 301, was issued in 1965 after the Grievance Committee on Cargo Preference Administration, a joint government-industry group, protested the practice of granting of waivers of up to 50 percent under P.R. 17.

Although the 1934 opinion concluded that the term "sense" as used in P.R. 17 did not make P.R. 17 mandatory, clarification of the word "mandatory" in the 1934 opinion is found in the last sentence of the opinion:

"Such agencies are not required by the Resolution, however, to provide in all loans that such products shall be carried *exclusively* in vessels of the United States, but only if it is feasible to do so, as to which I suggest that the views of the Shipping Board Bureau should, in each instance, also be obtained in deference to the Resolution." (Italic added.)

This language makes clear that Attorney General viewed P.R. 17 as being not "mandatory" only in the sense that "exclusive" use (or "100 percent" use) of U.S.-flag vessels was not "mandatory". The opinion states that exclusive use was required "only if it is feasible to do so". What is clearly meant is that compliance with P.R. 17 is, in all appropriate cases, required but that the extent of compliance is subject to circumstances and the views of the Shipping Board Bureau (now the Maritime Administration) concerning those circumstances.

In the 1965 opinion, Attorney General Katzenback affirmed long-standing waiver practices permitting the carrier of recipient countries to receive up to 50 percent of the cargo, indicating that the "exclusive" U.S.-flag vessel requirement of P.R. 17 was not "mandatory". Significant about the 1965 opinion is that Attorney General Katzenbach recognizes the fact that the waiver practice was brought to the attention of the Congress when the cargo preference requirements of the former specific foreign aid acts were merged in the Cargo Preference Act. As noted by the Attorney General, Congress specifically refused to amend P.R. 17 in enacting that Act, thereby manifesting its acceptance of the P.R. 17 waiver practice. In addition, Congress specifically included language in the Cargo Preference Act concerning cargo generated by ". . . advance funds or credits . . ." as subject to the 50 percent requirement of the Cargo Preference Act, even though it was apparent that these same cargoes could be subject to the requirements of P.R. 17. Thus, when P.R. 17 and the Cargo Preference Act are read together, the 50 percent requirement of the Cargo Preference Act serves as the floor of the U.S.-flag shipping requirement.

With respect to the question of whether the financing involved in the blended credit program is a "loan" within the meaning of P.R. 17, the 1965 opinion refers specifically to the issue in question—the kinds of financial arrangements contemplated by P.R. 17. In a footnote at page 303 of the opinion, the Attorney General said:

"No question has been presented to me as to what kinds of financing arrangements constitute 'loans' within the meaning of Public Resolution 17, and I accordingly express no opinion on that question."

Nevertheless, the preamble to the resolution itself is quite significant with respect to the scope of P.R. 17, as follows:

"Requiring agricultural or other products to be shipped in vessels of the United States where the Reconstruction Finance Corporation *or any other instrumentality of the Government finances the exporting of such products.*" (Emphasis added.)

The preamble provides the most definitive expression of Congressional intent available with respect to the scope of financing arrangements contemplated by P.R. 17. Certainly, this language in the preamble indicates an intent not to restrict coverage of the resolution to direct lending and financial guarantee programs but to include within its scope government financing in general.

The Attorney General's use of the phrase "government-financed exports" in his 1965 opinion, when discussing the types of exports required to be shipped in U.S.-flag ships under the resolution, supports this interpretation. Therefore, exports which are in any way aided by USDA financing, whether direct or indirect, are covered by P.R. 17.

THE APPLICATION OF THE CARGO PREFERENCE LAWS TO THE BLENDED CREDIT PROGRAM

As the result of our analysis of the benefits derived from Federal credit assistance under DOA's blended credit program, it has become apparent that the costs of any significant U.S. flag carriage for cargoes generated by the program, as presently formulated, would completely offset the export promotion benefits. This would result in a situation where exporters would avoid seeking credit assistance under the blended credit program. Neither the purpose of the blended credit program nor the objective of the cargo preference laws would be furthered by such a result.

The Cargo Preference Act, 1954, requires agencies to take such steps "as may be necessary and practical to obtain the specified U.S. flag carriage." The Attorney General's 1934 opinion interpreting the requirements of P.R. 17 recognizes that the exclusive U.S. flag requirement applies "only if it is feasible to do so" in the light of the views of the Department's Maritime Administration.

Indeed, it is our intention to interpret the requirements of the cargo preference laws so literally that "acceptance of that meaning would lead to absurd results . . . or would thwart the obvious purpose of the statute *Helvering* v. *Hammel*, 311 U.S. 504, 510-511 (1941). It is appropriate to consider the underlying objectives of the cargo preference laws and the results that would obtain from the application in determining whether to restrict the imposition of their requirements in certain circumstances. See Sutherland, "Statutory Construction," § 45.09, 45.12 and 54.06 (4th ed. 1973). Thus, in the case of the blended credit program as presently formulated, we will not seek to enforce the cargo preference laws where their application would negate the benefits of the underlying program and thereby do nothing to further the objective of greater U.S. flag carriage.

We of course reserve the question of whether the cargo preference laws would be enforced in connection with DOA's blended credit program should the program be reformulated to change the benefits derived from the program. Further, nothing in this memorandum should be construed to alter our conclusion that DOA's payment-in-kind (PIK) program is subject to the requirements of the cargo preference laws.

H. E. SHEAR,
Maritime Administrator.

Mr. JEPSEN. Mr. President, does this Nation want food to be sold abroad or not? Do we want our farmers to receive a fair price for their products, or do we want production costs to continue to exceed market value?

Mr. President, the purpose of cargo preference is to help maintain a strong merchant marine fleet that will be able to meet the needs of our national defense in times of international crisis. While this is certainly a worthy goal, surely the way to accomplish it is not to decimate our farmers in the process. We are just now beginning to recover from the effects of embargo and depressed markets, and we still have a long way to go. Why are we now considering starting another cycle of loss and frustration for our farmers?

The effect cargo preference has on farmers can be expanded to include the entire U.S. economy. For instance, each $1 billion in farm exports employs 30,000 Americans. Farm exports created $41 billion in additional business for the nonfarm community in fiscal year 1982. Last year alone, cargo preference subsidies contributed at least $150 million to the widening Federal deficit.

Regretfully, U.S. builders of ships have priced themselves out of the market. As noted by Iowa Farmer Merlyn Groot, representing the American Soybean Association before the House Merchant Marine Subcommittee, a 35,000-ton dry bulk vessel built in the U.S. shipyards costs an average $66 million in 1982. The same ship, built overseas, costs only $23 million.

By increasing cargo preference requirements, the cost of farm programs would be increased for the benefit of the shipping industry. If we must subsidize the shipping industry, then let us make a direct payment to them so that everyone knows it is the maritime industry which is being subsidized. We should not add to the misconception that this subsidy is part of the cost of our farm programs.

However, rather than risk further unemployment and larger deficits, I suggest we approach the problem from a different perspective. Perhaps we could offer incentives to ship operators to reduce vessel costs, or perhaps we could increase tax benefits for U.S. registry. I am not saying this is the way to go, only that these possibilities should be explored.

The amendment I offer is nonbinding. It is an expression of Congress, not a mandate.

Mr. President, it is simply unjust to unfairly burden the American farmer who depends on exports for his livelihood. This legislation would hit the farmer hard. However, as I noted, expansion of cargo preference requirements, as is being recommended, will cut clear across the board—into nonfarm areas as well as into production agriculture. It should be stressed that farmers have been adversely affected for the past 4 years beginning with the ill-advised grain embargo. It seems to be bad policy to start the process all over again.

The potential impact of expanded cargo preference on our agricultural exports would be to make our farm products too expensive to be competitive on the world market. We simply cannot allow this to happen.

A strong merchant fleet cannot come at the expense of our agricultural community.

We have a problems now with our high dollar value and many other things that we are working on in the European Economic Community, as well as with our trading partner, Japan. We simply cannot allow an additional dimension of roadblocks to be thrown in the way.

A strong merchant fleet cannot come at the expense of our agricultural community.

Let us explore and work together to find some other way to solve the problem.

Therefore, I urge the adoption of this amendment.

Mr. STEVENS. Mr. President, I appreciate the position of the distinguished Senator from Iowa, and I know that he ably represents the interests of the people of his State, but, as chairman of the subcommittee that deals with the merchant marine in the Commerce Committee, I must state that I can not support the Jepsen amendment. However, I hope to make some comments that my good friend will understand, and perhaps we can work out a procedure that would explore solutions to the problems that he has mentioned.

Mr. President, section 901 of the Merchant Marine Act of 1936 requires that 50 percent of cargoes owned or subsidized by the Federal Government be shipped on U.S.-flag vessels, to the extent that they are available at fair and reasonable rates. It is designed to provide a cargo base to assure the continued availability of a U.S.-owned or U.S.-crewed fleet. Not only is shipping and shipbuilding a component of our peacetime economy, but a healthy U.S.-flag fleet and shipyard capacity is a cornerstone of our national defense mobilization base.

This law has survived numerous challenges, each time being reconfirmed by Republican and Democratic administrations, the Attorney General, as well as Congress. When this law was passed by Congress, it was fully recognized that it would add to cost of the agricultural export programs subject to this law. It does not necessarily follow that the resulting costs need undermine the effectiveness of the programs.

USDA's commodity export programs are subsidized at enormous cost to the taxpayer. The cost of the wheat flour export subsidy at about $145 million and the blended credit program, at about $350 million exceeded the total expenditure in fiscal year 1982 of $400.7 million for operating subsidy of the U.S.-flag merchant fleet by about $141 million.

Both of these programs are intended to assist and sustain the essential farm industry. Similarly the cargo preference laws are designed to assist and sustain the essential shipbuilding and maritime industries. It is highly inappropriate to attack existing maritime programs, which are critical to our national defense, while creating new agricultural promotional programs.

A General Accounting Office examination of the economic effects of cargo preference laws shows that Government cargo is a major part of the U.S.-flag fleet's business, amounting to one-third of the U.S.-flag fleet's 37 million tons of business in 1980. The GAO stated that "with the fleet's share of total U.S. ocean borne commerce below 5 percent, this cargo is of particular importance."

In 1980, between 21 and 33 additional ships and from 1,400 to 2,200 shipboard workers were employed because of the cargo preference laws. It has been reliably estimated that U.S. dry bulk operators simply would not survive without Government-generated cargoes. In addition, for several of our liner operators revenue from Government-impelled preference cargoes represent the difference between operating and going out of business.

Given the tremendous importance of these laws to the health, perhaps even the survival, of our merchant marine, it would be particularly inappropriate for this body to endorse a blanket policy of opposition to further expansion of cargo reservation requirements outside the context of specific legislation. This amendment says in effect that the issue of cargo preference is closed to debate and that this body is not willing to consider future legislation on its merits. Certainly we would not apply this same approach to other kinds of substantive legislation, agricultural subsidies for example, and it should not be used here.

Equally disturbing is the fact that this amendment could result in interference with the interpretation and application of current law. The amendment is susceptible to being read as disapproving uniform application of the cargo preference laws to future Government programs as well as reexamination of administrative policy toward existing programs. If the intent of this amendment is to partially repeal existing cargo preference law it should be presented in a more direct and less ambiguous way.

The administration is opposed to this amendment. Admiral Shear, the Maritime Administrator, has conveyed his concerns to me. I think the admiral's reasoning goes to the heart of the matter and I would like to read to you a portion of his statement:

> It is imperative to the success of the existing programs that the Executive branch retain flexibility in administering current cargo preference laws. While I am sure it is not the Senator's intent, I believe his amendment would be used adversely to interfere with the interpretation of current law.
>
> I take strong exception to several of the Senator's findings, as well as the implication of the amendment as a whole that the nation's trade difficulties can be laid at the door of our merchant marine. There are many reasons, other than transportation costs, for our current trade problems. And, with regard to those transportation costs, I would like to make it clear that our entire fleet is not uncompetitive in the world market. The U.S.-flag liner fleet competes in the international market on an equal basis with the foreign-flag fleet. The Shipping Act of 1984, which is about to be enacted, will enable the U.S. operators to be even more competitive.
>
> While the U.S.-flag bulk fleet is not able to compete on an equal basis in the world market, tremendous strides have been made in the last five years to narrow the difference. Most of the World War II vessels have been scrapped and new, more competitive vessels have been introduced. As a result, during the 1981-1983 period, the mean differential per metric ton incurred by USDA in the PL 480, Title I program has declined by more than 33 percent.
>
> Finally, the entire issue of cargo preference is of such significance that it should be dealt with in a straight-forward manner, on its merits, with full hearings and thoughtful debate. We should not chip away in a piecemeal, unconsidered fashion at these vital programs which the Congress enacted after careful weighing of the costs and benefits. Bills have been introduced in both houses to amend the cargo perference laws; hearings on those bills present us with the appropriate forum if we decide to change those laws. An amendment to the Export Administration Act is not useful and it is not appropriate.

I must say, Mr. President, that I wholeheartedly agree with the Maritime Administrator. This kind of amendment is not an appropriate way to set policy for our merchant marine or for any other national industry. I strongly urge the body to reject it.

Not only is shipping and shipbuilding a component of our peacetime economy, but as chairman of the Defense Subcommittee on Appropriations I must point out that a healthy U.S.-flag fleet and shipyard capacity are the cornerstones of our national defense mobilization base.

Mr. President, given the importance of the maritime laws of the United States to the health and perhaps even the survival of our merchant marine, I do not think it would be appropriate for the Senate now to take the position that the Senator from Iowa has expressed.

The amendment of the Senator from Iowa says in effect that the issue of cargo preference would be closed to debate and that the Senate would not be willing to consider further legislation concerning this matter because it would have expressed the sense of the Senate in opposition to cargo preference.

I do not think we should apply that approach to substantive legislation. I am certain that the Senator would realize I come from a State that has few agricultural subsidies, if any. I have been importuned at times to attack the subsidies that are provided from the Federal Government to the agricultural community but I have not done so.

I do not think that it is appropriate to try and solve a national problem by stating the sense of the Senate in advance of addressing the problem.

I state to my good friend that it is necessary for the Senate to look at both merchant marine policy and agricultural policy and determine where the best interests of the Nation and particularly the taxpayers lie.

As pointed out, there are substantial subsidies now being paid to the agricultural community. There are very low subsidies being paid to the merchant marine community.

I have suggested that we explore new concepts of assuring the availability of American shipping and to do so in a way that would shift some of the burden from the agricultural community to the national tax base.

We could do that, for instance, by taking some of the ships that are in mothballs, which are cargo vessels, some of the ships that are being operated now by the Navy itself, and put those vessels to work in the private sector with the Department of Defense as a partial contractor for space on those vessels. The payment for the vessels would come from the private sector in the way of a commitment of reserve cargo space for such cargoes that are now under the cargo preference laws such as agricultural exports.

I would urge my good friend to join with me in exploring the whole concept of the necessity for reestablishing a strong merchant marine and at the same time recognizing the strong contribution of the agriculture community to the U.S. export economy. I believe there is a way to accommodate both national objectives and I would like to work that out with the Senator from Iowa. But I do not support this amendment.

I would hope that he would not pursue the concept of trying to state the sense of the Senate in a manner that would foreclose the full examination by the Senate, and the Congress as a whole of both policy objectives; that of assuring a healthy and expanding agricultural economy with strong export potential, and that of assuring an American merchant marine that not only delivers our products throughout the world but also provides an adequate sealift capacity for national defense.

Mr. JEPSEN. Will the Senator yield?

Mr. STEVENS. I am happy to yield to my good friend.

Mr. JEPSEN. Mr. President, knowing full well the resolve and the intensity and energy of my distinguished colleague from Alaska, and also reflecting on and respecting his position and the degree of control that that position brings, it appears that this issue may not be resolvable here today.

But I want to compliment and thank my colleague from Alaska who has very constructively said—this is what I heard him say—that we ought to look and see if we cannot find a way to work things out; that he was sensitive to the concerns and the harm that cargo perference brings to the agricultural community. As the Senator noted, there may be other ways to resolve this issue whereby we can continue to encourage trade and exports and not single out unilaterally the agricultural community to bear the brunt in this instance. As the Senator knows, I am a very strong supporter of national security and all aspects of it.

However, I think it is extremely important that the effect of cargo preference on our agricultural industries continue to be discussed. To that end, and on the basis of what my distinguished colleague from Alaska has indicated, I would propose to the Senator from Alaska that I would be willing to withdraw my amendment if he would agree to a hearing on my cargo preference resolution, Senate Concurrent Resolution 56, which is in his subcommittee and that would keep the dialog open. A number of my friends in agriculture would appreciate the opportunity to convey the reasons for their great concern about the negative effects that further expansion of cargo preference would have primarily on the back of the agriculture community. Expansion of cargo preference would be devastating to the export of agriculture commodities and therefore to the national economy. Let me repeat, agriculture is the most productive part of our national economy.

I would ask the Senator from Alaska if we could have that understanding that we could hold a hearing where we might continue to explore together some of the various solutions to our pending problem.

Mr. STEVENS. Well, I would say to the Senator from Iowa I would be most happy to have a hearing in the subcommittee I chair on Commerce on his bill. Perhaps we might even work out a joint hearing with the other subcommittee I chair so that we could bring in the defense people and have them tell us why they need to have access to merchant vessels under the U.S. flag. Perhaps there is a solution to accomplish this without an undue burden to the American farm community.

I do think that we have to keep in mind the extent, as I said before, of taxpayer support to the farm community through our farm support programs. And I have supported those in the past. I think the Senator's suggestion is a good one.

I hope that downstream we can blend the two objectives together and achieve the objective of strengthening our merchant marine and, at the same time, not increasing the burden and, perhaps, or even reducing the burden on the farm community. I would be happy to make the commitment to the Senator from Iowa that we would hold such a hearing and would urge him to approach it in positive manner to help us find a solution for the problems we have in the Merchant Marine Subcommittee regarding our national defense sealift capability as we also try to find solutions to the problems that beset the agricultural community that is so important to his part of the country. I would be most anxious to have that kind of a hearing take place.

Mr. JEPSEN. Mr. President, I thank the Senator from Alaska.

Mr. HELMS. Mr. President, I commend the distinguished Senator from Iowa (Mr. JEPSEN) for bringing this issue before the Senate at this time. He has done a service to American farmers and all those interested in cost-effective Government by raising the issue of cargo preference.

Basically, cargo preference requires that one-half of the gross tonnage of certain Government-generated shipments of commodities must be transported on privately owned U.S.-flag commercial vessels. The result is that these commodities must be shipped at freight rates significantly above current actual market levels, while the taxpayer pays the tab. Ultimately, cargo preference requirements make U.S. farm exports less competitive in world markets.

Mr. President, a main issue that the Senate Agriculture Committee will address this year is finding means to increase U.S. exports of agricultural products and insure that such exports are competitive in world markets. Mr. President, if we are to achieve these goals, you can see why there is great concern over cargo preference requirements in the agricultural sector. Cargo preference works against our stated goals and we must address the issue.

Beyond that, some have proposed that the cargo preference requirement be expanded beyond foreign aid shipments, where it currently applies, to include commercial exports as well. Such costly requirements would further damage our competitive standing in world markets. Senator JEPSEN's amendment would express opposition to any expansion of our cargo preference requirements. This is a worthy action to stop the adverse impact which many believe the Cargo Preference Act has had on our exporting policy.

Mr. President, the concern here is the effective use of our taxpayers' money. Cargo preference requirements are designed to provide the United States with a modern merchant marine capable of meeting commercial needs and supporting a war effort should the need arise. USDA administers the cargo preference requirement by booking U.S.-flag vessels and directly paying freight differentials between rates for such vessels and foreign-flag carriers.

Mr. President, USDA expenditures for cargo preference compliance have been considerable. The bill in 1979 was $62.7 million, and it is estimated to increase to $97.5 million in 1984, and increase further in 1985 to $118.3 million. In other words, the cost of cargo preference to USDA has doubled.

In addition, the administration of cargo preference is burdensome, and there has been little general improvement in our merchant marine fleet. The U.S.-flag dry bulk carrier fleet that is used for titles I and II, Public Law 480 shipments totals only 20 vessels, and these average 20 years of age.

Cargo preference requirements for agricultural commodities have simply transferred hundreds of millions of our taxpayers' dollars from proven effective programs to one that is proven ineffective.

Mr. President, several major farm and commodity organizations have been attempting to eliminate cargo preference requirements for agricultural commodities. Such action would provide savings which could be used for promoting exports and for the Public Law 480 program at no additional Federal expense. It would also make our U.S. farm exports more competitive in world markets. Tremendous benefits to our economy can result from this action. In fact, the Grace Commission has estimated that $357 million can be saved in just 3 years by exempting all Public Law 480 shipments from cargo preference compliance requirements.

Mr. President, the amendment by Senator JEPSEN is a worthy one, and I support it. The amendment would simply state the intent of the Congress that cargo preference requirements should not be expanded. However, if the Senator from Iowa chooses to defer on his amendment, I will be pleased to work with him and the distinguished chairman of the Commerce Committee to pursue the issue in whatever means he considers appropriate. That would not preclude the Senate from acting on the basic issue itself, however.

As chairman of the Senate Agricultural Committee, I would like to assure the Senator from Iowa that I stand ready to work with him in scheduling hearings in our committee on the general impact of cargo preference requirements on the exports of U.S. agricultural commodities. Again, I commend the distinguished Senator for his initiative.

Mr. LONG. Mr. President, last Thursday, the Senate adopted the conference report on S. 47, the Shipping Act of 1984. I spoke in favor of the adoption of S. 47 because of my firm belief that something must be done to preserve our Nation's merchant marine.

The adoption of the Shipping Act will certainly assist in keeping U.S.-flag vessels on the high seas. However, S. 47 only serves as one element of a broad merchant marine policy. Cargo reservation requirements also play an important role in this policy.

Because of my belief that a comprehensive merchant marine policy needs to be developed, I must oppose the amendment under consideration. Adoption of this amendment will only serve to further weaken our Nation's merchant marine, just as we are seeking to enable this industry to compete on a worldwide basis.

There are a number of important reasons why this country needs a strong merchant marine. Particularly compelling to me is our Nation's interest in maintaining a strong defense. Without a strong contingent of U.S.-flag merchant vessels, our defense capabilities will be seriously imperiled.

For example, 95 percent of the supplies needed by our troops during the Korean and Vietnam conflicts were carried aboard merchant vessels. Similarly, the U.S. Navy is now relying increasingly on sealift for strategic mobility throughout the world. We depend on U.S.-flag vessels and personnel to fulfill these requirements.

Yet, in spite of this clear need, the number of ships capable of performing this function is declining rapidly. The active U.S.-flag fleet currently consists of only 580 ships. One hundred and twenty of these vessels are out of operation due to the lack of cargo.

The decline of the U.S. merchant marine coincides with a time in which the Soviet Union has dramatically enlarged their fleet. In the last 6 years alone, the Soviets have added 270 new bulk ships. The United States relies on only 14 aging dry bulk ships. Adoption of the amendment under consideration today would serve to heighten this imbalance.

I must also oppose this amendment because its practical effect would be to stifle the debate on a number of important cargo reservation measures which deserve further consideration.

For example, S. 188, introduced by the distinguished senior Senator from Hawaii, would require the use of U.S.-flag ships for the international transportation of U.S. mail. This measure, in part, seeks to rectify the current situation in which U.S. mail is often carried on vessels of Soviet bloc countries.

Other measures under consideration propose to reduce U.S. shipping costs by cutting the costs of shipbuilders, operators, and labor, and by offering incentives to shippers who use U.S.-flag vessels.

These measures and others before Congress deserve our serious consideration. One need not be an advocate of these measures—and I am not now arguing their adoption—to understand the need for a full debate on these issues. Adoption of the amendment before the Senate would only serve to preclude a comprehensive review of these initiatives.

Mr. President, this Nation needs a strong merchant marine to strengthen our economy. We need to be able to compete in world markets. We need to preserve our national defense.

The restriction proposed by the amendment under consideration would serve to defeat these fundamental objectives.

Adoption of this amendment will weaken the U.S. merchant marine. We cannot afford to have that occur.

Thank you.

Mr. JEPSEN. Mr. President, at this time, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. JEPSEN. I thank the Senator for his cooperation.

Mr. STEVENS. I thank the Senator from Iowa very much.

AMENDMENT NO. 2762

(Purpose: To provide for the opportunity for review and comment by the Secretary of Defense and the Secretary of State prior to issuing regulation under section 5)

Mr. BYRD. I have an amendment which I will shortly send to the desk.

This amendment would build upon the Banking Committee's effort to include the Department of Defense in decisions on export matters involving the national security issues.

My amendment would amend section 15 of the act to require that the Secretary of Defense and the Secretary of State be given an opportunity to review and comment on proposed regulations which deal with this section.

It also provides that such other departments and agencies as the Secretary of Commerce considers appropriate would also have the opportunity.

So the amendment assures that two Departments in particular, the Defense Department and the State Department, will have such roles. I believe that full participation by these Departments in this area is entirely appropriate. I believe that the amendment will encourage closer cooperation between the Departments of Defense, Commerce, and State, and, of course, such other departments and agencies that the Secretary of Commerce may consider appropriate. I believe there have been some instances in which a lack of cooperation between the responsible agencies have contributed to uncertainty in our export control program. Neither American business nor our allies can deal with government where different agencies are pursuing competing policies.

My amendment would encourage a consistency and predictability of national security issues by requiring that these two Departments in particular, and other responsible departments and agencies, be given the opportunity to comment on new national security regulations.

I understand the committee has considered this amendment and that the managers are ready to accept my amendment.

Mr. HEINZ. Will the Senator yield?

Mr. BYRD. I yield.

Mr. HEINZ. The minority leader is correct, Mr. President. The committee is prepared to accept his amendment.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Pennsylvania.

Mr. President, I send the amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia (Mr. BYRD) proposes an amendment numbered 2762.

At the appropriate place in the bill, add the following new section:

"SEC. . Section 15 of the Export Administration Act of 1979 is amended by adding the following new sentence at the end thereof: 'Any such regulations issued to carry out the provisions of section 5, or of section 4(a) for the purpose of administering the provisions of section 5, may be issued only following submission for review and comment to the Secretary of Defense, the Secretary of State, and such other departments and agencies as the Secretary considers appropriate.' ".

Mr. PROXMIRE. Mr. President, I rise in support of the amendment being offered by Senator BYRD to section 15 of the Export Administration Act. That section presently provides the President and the Secretary of Commerce with authority to issue such regulations as are necessary to carry out the provisions of the act. The amendment offered by Senator BYRD will amend that section to require that any regulations promulgated by the Secretary of Commerce dealing with section 5 national security controls be issued only after submission to, and opportunity for comment by, the Secretaries of State and Defense and such other departments and agencies as the Secretary of Commerce considers appropriate. I believe that under Senator BYRD's amendment, any major disagreement between the Secretaries of Commerce, State, and Defense about the content of national security control regulations would be resolved by the President. That is as it should be on such important issues, for as President Truman said, when you are President that buck stops with you.

Section 5(a) of the act already provides that the Secretary of Commerce shall carry out authorities given him for national security controls in consultation with the Secretary of Defense and other appropriate departments and agencies. We know from viewing the present disarray in our export control program that such consultation has not always taken place. In fact we were recently informed by DOD officials that they did not even see recent regulations proposed by the Commerce Department dealing with changes in national security licensing procedures until after they were published for public comment. This amendment will, I hope, remedy that type of situation.

Senator BYRD's amendment is entirely consistent with other changes we are making in the act to give the Department of Defense and the Customs Service greater roles in preventing diversions to the Soviet Union of technologies that could help strengthen that country's military might. As I already noted, this amendment does not propose any radical departure from existing law. Section 5(a) of the act already requires interagency consultations on the national security authorities to be exercised under the act. In fact, section 5(c)(2) of existing law provides that the Secretary of Commerce can place items on the national security control list only with the concurrence of the Secretary of Defense. We are not requiring that DOD need concur on all national security regulations, but we certainly want to make sure they have a chance to review and comment on such regulations before they are issued.

I think this amendment will help strengthen our national security control program and at the same time insure closer cooperation between the Departments of Commerce, State, and Defense. Once officials understand that they must work together, they usually do.

I urge your support for Senator BYRD's amendment.

The PRESIDING OFFICER (Mr. NICKLES). The question is on agreeing to the amendment.

The amendment (No. 2762) was agreed to.

Mr. BYRD. I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank Senator HEINZ and Senator PROXMIRE for the consideration that they and their staffs have given to this amendment. I thank them for accepting the amendment.

Mr. HEINZ. Mr. President, we are pleased to accept the amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 2745

(Purpose: To require a study by the Secretary of Agriculture)

Mr. PRESSLER. Mr. President, I call up amendment No. 2745 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes an amendment numbered 2745.

At the appropriate place in the bill insert the following: The Secretary of Agriculture is directed to submit to Congress a report on the status of Federal programs relating to the barter or exchange of commodities owned by the Commodity Credit Corporation for materials and products produced in foreign countries and a plan for increasing such bartering. This report shall include details of any changes necessary in existing law to allow USDA to fully implement a barter program and shall be submitted within 90 days of enactment of the bill.

Mr. PRESSLER. My amendment would direct the Secretary of Agriculture to present Congress with a study on the status of Federal barter programs and include details of any changes necessary in existing law to allow USDA to fully implement a barter program.

Between 1950 and 1975, USDA ran a barter program which exported approximately 6.6 billion dollars' worth of agricultural products. In return, the United States received strategic materials worth $1.8 billion, and $4.8 billion in equipment, for offshore procurement contracts for U.S. agencies overseas.

It is my belief that a barter program could once again prove successful. There is no question that the CCC holds an excess of agricultural products. In fact, the inventory of dairy products alone approaches $4 billion. Reduction of these surplus stocks of farm products would help boost domestic farm prices and reduce CCC storage costs.

In addition, an effective barter program could expand our agricultural exports. Once a nation gets accustomed to American food products, they tend to become regular customers. A barter program could provide a much-needed impetus to the depressed farm economy.

A barter program could also provide needed assistance in building up our strategic stockpile. The national defense stockpile is currently in deficit in 43 different commodities. Purchases to bring the stockpile up to acceptable levels would cost approximately $10.6 billion. It makes a great deal of sense to at least try the barter program rather than attempt to fund the national defense stockpile outright.

In fact, stockpile goals will not be met for 100 years if appropriations are continued at the current level of $120 million per year.

There has been a great deal of interest in Congress and in some Federal agencies in resurrecting the barter program. As a matter of fact, I understand that the House version of the export administration bill gives the President the authority to barter agricultural products for materials vital to the national interest.

My amendment would simply ask the USDA to examine this issue and provide Congress with the information necessary to make the decision whether to revive the barter program.

I hope my colleagues will join me in supporting this amendment.

I ask unanimous consent that material on this issue prepared by the Library of Congress be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX 1.—COMMODITY CREDIT CORPORATION INVENTORIES: JUNE 30, 1983

Commodity	Unit of measure [1]	Ending inventory	
		Quantity	Value
Feed grains (total)			$1,705,012,004
Barley	bu	5,980,442	10,348,511
Corn	bu	578,503,036	1,469,297,502
Corn products	lb		
Oats	bu	719,990	852,574
Oats, rolled	lb		
Rye	bu	37,250	65,840
Sorghum	bu	84,204,403	224,447,574
Sorghum grits	lb		
Wheat	bu	291,321,048	1,170,148,840
Wheat products, other	lb	100,023	30,926
Rice, milled	cwt	645,074	8,746,923
Rice, rough	cwt	19,506,176	154,469,862
Rice, brown	lb		

APPENDIX 1.—COMMODITY CREDIT CORPORATION INVENTORIES: JUNE 30, 1983—Continued

Commodity	Unit of measure [1]	Ending inventory	
		Quantity	Value
Cotton, extra long staple	bale	5,745	2,467,118
Cotton, upland	bale	144,877	35,084,168
Dairy products (total)			3,942,058,638
Butter	lb	589,419,331	882,325,151
Butter oil	lb	6,172,697	10,682,845
Cheese	lb	1,010,847,461	1,499,281,014
Milk, dried	lb	1,659,941,678	1,544,769,625
Milkfat, anhydrous	lb		
Oils and oilseeds (total)			105,045,841
Peanut butter	lb		
Peanut products	lb		
Peanuts, farmers' stock	lb	292,800	68,357
Soya flour	lb		
Soybeans	bu	20,670,699	104,977,483
Denatured alcohol	gal	1,107,045	1,850,111
Honey	lb		
Peas, dry whole	lb		
Sugar, raw cane	lb		
Sugar, refined beet	lb		
Vegetable oil products	cwt	10,728	3,631
Grains and seeds (total)			821,875
Feed—Government facilities	lb		
Foundation seeds	lb	538,793	821,875
Strategic, other materials	LDT	400,000	13,000,000
Total inventory operations			7,165,176,973

[1] Abbreviations: bu=bushel; cwt=cubic weight; gal=gallon; lb=pound; and LDT=long dry ton.

Source: Agricultural Stabilization and Conservation Service, Commodity Credit Corporation, U.S. Department of Agriculture.

APPENDIX 2.—STOCKPILE MATERIALS IN DEFICIT AS OF APRIL 28, 1983; COUNTRY IMPORT SOURCES, AND CCC COMMODITIES

Commodity unit [1]	Deficit	U.S. import sources	Potential barter CCC commodities
Bauxite:			
Abrasive metal grade (LCT)	699,229	Jamaica	Wheat, corn, cheese.
Jamaica type (LDT)	10,541,656	Guinea	Nonfat dry milk.
Surinam type	800,403	Australia	Cheese.
Refractory grade	1,200,074		
Columbium concentrate (LBCb)	2,645,827	Brazil	Wheat, nonfat dry milk, corn.
		Canada	Cheese, nonfat dry milk, corn.
		Thailand	Wheat, nonfat dry milk.
Copper (ST)	870,952	Chile	Corn, wheat.
		Canada	Cheese, nonfat dry milk, corn.
		Zambia	Corn.
		Peru	Cotton (except linters), wheat, grain sorghum, corn, nonfat dry milk.
Fluorspar (SDT): acid grade (SDT)	504,017	Mexico	Cotton (except linters), grain sorghum, corn, wheat, barley, nonfat dry milk.
		Republic of South Africa	Corn, sorghum, nonfat dry milk, cheese.
		Spain	Barley.
		Italy	Barley, Corn.
Metallurgical grade (SDT)	1,288,262	Mexico	Cotton (except linters), grain sorghum, corn, wheat, barley, nonfat dry milk.
Lead (ST)	498,968	Honduras	Wheat, corn, nonfat dry milk.
		Peru	Grain, sorghum, cotton (except linters), corn, nonfat dry milk.
		Australia	Cheese.
Manganese: Battery-syn. dioxide (SDT)	21,989	Brazil	Wheat, nonfat dry milk, corn.
Nickel (ST)	167,791	Canada	Cheese, nonfat dry milk, corn.
		Norway	Wheat, grain sorghum, corn, wheat.
		Dominican Republic	Wheat.
Platinum group: Iridium (TROZ)	74,410	Republic of South Africa	Corn, sorghum, nonfat dry milk, cheese.
		U.S.S.R.	Wheat, barley, corn.
		United Kingdom	Wheat, corn, sorghum.
Palladium (TROZ)	1,744,988	Republic of South Africa	Corn, sorghum, nonfat dry milk, cheese.
		U.S.S.R.	Wheat, barley, corn.
		United Kingdom	Wheat, corn, sorghum.
Rubber (LT)	731,428	Indonesia	Wheat, corn, nonfat dry milk, cheese.
		Malaysia	Wheat, corn, cheese.
		Liberia	Wheat, corn, cheese.
Tantalum minerals (LBTa)	5,544,616	Thailand	Wheat, nonfat dry milk.
		Canada	Cheese, nonfat dry milk, wheat, rice.
Titanium sponge (ST)	162,669	Japan	Corn, wheat.
		U.S.S.R.	Wheat, barley, corn.
		United Kingdom	Wheat, corn, sorghum.
		China (PRC)	Corn, wheat.
Zinc (ST)	1,046,684	Canada	Cheese, nonfat dry milk, corn
		Honduras	Wheat, corn, nonfat dry milk.
		Peru	Cotton (except linters), sorghum, nonfat dry milk.

[1] Abbreviations: LBCb=pounds of contained columbium; LBTa=pounds of contained tantalum; LCT=long calcined ton; LDT=long dry ton; ST=short tons; SDT=short dry ton; STV=short tons of contained vanadium; and TROZ=troy ounces.

APPENDIX 3.—STOCKPILE MATERIALS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY AS HAVING POTENTIAL FOR ACQUISITION THROUGH THE BARTER OF SURPLUS DAIRY PRODUCTS

Material	Unit [1]	Stockpile goal	Stockpile inventory	Stockpile shortfall	Source country [2]
1. Aluminum	ST	700,000	1,733	698,267	PRC, U.S.S.R.
2. Bauxite:					
(a) Jamaican	LCT	21,000,000	10,458,344	10,541,656	Jamaica.
(b) Refractory	LCT	1,400,000	174,599	1,225,401	PRC.
3. Beryllium	ST	400	229	171	U.S.S.R.
4. Bismuth	LB	2,200,000	2,081,298	118,702	PRC, U.S.S.R.
5. Chromite, Metallurgical grade ore	SDT	3,200,000	2,488,043	711,957	U.S.S.R.
6. Chromium metal	ST	20,000	3,763	16,237	U.S.S.R.
7. Copper	ST	1,000,000	29,048	970,952	PRC, U.S.S.R.
8. Fluorspar, metal grade	SDT	1,700,000	411,738	1,288,262	PRC, Kenya.
9. Graphite, malagasy type	ST	20,000	17,903	2,097	PRC, U.S.S.R.
10. Iridium	TROZ	98,000	21,190	76,810	U.S.S.R.
11. Lead	ST	1,100,000	601,036	498,964	PRC, U.S.S.R.
12. Nickel	ST	200,000	32,210	167,790	PRC, U.S.S.R.
13. Palladium	TROZ	3,000,000	1,255,003	1,747,997	U.S.S.R.
14. Platinum	TROZ	1,310,000	452,642	857,358	U.S.S.R.
15. Rubber	LT	850,000	118,572	731,428	Indonesia.
16. Rutile	SDT	106,000	39,186	66,814	PRC, U.S.S.R.
17. Titanium sponge	ST	195,000	32,331	162,669	PRC, U.S.S.R.
18. Vanadium ferro	STV	1,000	0	1,000	U.S.S.R.
19. Vanadium pentoxide	STV	7,700	541	7,159	U.S.S.R.
20. Zinc	STV	1,425,000	378,320	1,046,680	U.S.S.R., Nigeria.

[1] Abbreviations appear in appendix 2.

[2] Note: PRC refers to the People's Republic of China, and U.S.S.R. refers to the Soviet Union.

Mr. PRESSLER. Mr. President, I would like to consult with the manager of the bill to see if this amendment would be acceptable to a slight change.

● Mr. KASTEN. Mr. President, I am glad to see my colleague, the Senator from South Dakota, agreeing with me and a number of my colleagues in our call for the barter of our surplus farm products for the critical and strategic materials we need.

As he and the rest of my colleagues recall, I attached an amendment to the Dairy and Tobacco Adjustment Act of 1983 on October 7 to promote this exact type of barter. It expressed the sense of Congress that the Secretary of Agriculture should barter our agricultural surplus for material to add to our national security stockpiles. That amendment was cosponsored by Senators NICKLES, TOWER, JEPSEN, BOREN, GRASSLEY, HATCH, THURMOND, and HELMS, and it passed unanimously. It was, I am proud to report, included in the final version of the bill and passed into law.

Last year, Mr. President, during consideration of my amendment, the distinguished Senator from North Carolina, Mr. HELMS, said that in his capacity as chairman of the Agricultural Committee he wanted to hold hearings early this year on the barter idea. I was delighted to hear that, as were my colleagues who support this policy. I hope the committee will, indeed, hold hearings on the topic very soon.●

Mr. HEINZ. Mr. President, I have been discussing the amendment of the Senator from South Dakota with him and his staff. I would recommend to him two minor changes that I think could make the amendment acceptable to the committee. Those changes would be to excise from his amendment, beginning on line 6, after the word "country", the word "and" through the word "bartering" on line 7, and then to change in line 9 the word "a" to "any."

I suggest those changes to my friend from South Dakota for this reason: Barter may have some potential for us, but it is controversial. One of the reasons it is controversial is, for example, if we entered into an arrangement with the European Community, which heavily subsidizes many of its commodities, both farm and industrial, it would provide, or it could very easily provide, in effect, a legal opportuntiy by virtue of a barter agreement for those countries to dump or sell subsidized merchandise in this country, which I know the Senator from South Dakota is strongly opposed to.

So, by changing the wording of his amendment, I think we make it clear to the administration that we do not want a barter program at any price, particularly if that price includes dumped and subsidized merchandise, be it agricultural or industrial, coming into this country. I hope, since I believe what I am suggesting is consistent with the thrust of his amendment, that he could accept what I propose.

Mr. PRESSLER. I thank my colleague from Pennsylvania. I think he has improved this amendment, and I am pleased to accept the changes in it.

Mr. President, I ask unanimous consent that the modification be sent to the desk to be considered.

The **PRESIDING OFFICER.** Without objection, the amendment is so modified.

The modified amendment (No. 2745) is as follows:

> At the appropriate place in the bill insert the following: The Secretary of Agriculture is directed to submit to Congress a report on the status of federal programs relating to the barter or exchange of commodities owned by the Commodity Credit Corporation for materials and products produced in foreign countries. This report shall include details of any changes necessary in existing law to allow USDA to fully implement any barter program and shall be submitted within 90 days of enactment of the bill.

Mr. HEINZ. Mr. President, with those modifications, the committee is prepared to accept the amendment, at least on our side.

Mr. MELCHER. Mr. President, we have no objection on this side, and we thank the Senator from South Dakota for his amendment.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment (No. 2745) as modified, was agreed to.

Mr. PRESSLER. I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I yield the floor.

THE WHEAT PROGRAM

Mr. MELCHER. Mr. President, on behalf of myself and Senators ANDREWS, PRESSLER, and EXON, I offer an amendment that deals with the wheat program. We do not wish to have an immediate vote on this amendment because there are discussions being undertaken down at the Department of Agriculture right now, we understand. We are willing to listen to any modifications or improvements that the Department of Agriculture would like to make in this year's wheat program.

The Secretary of Agriculture, in announcing the wheat program for 1984 last fall, approached the Senate Committee on Agriculture, as well as the House Committee on Agriculture, and explained that in their best judgment, they would like to have a modification in the current law dealing with the target prices on wheat.

Under the current law, the target price for wheat for the 1984 crop is $4.45 and for the 1985 crop is $4.65. Those levels of target prices were set in the current farm program under which we are now operating. They were set by law to leave no doubt in the minds of the wheat producers of this country what those target prices would be. In a word of explanation, I should like to state briefly that the target price is the price that it is hoped the market will attain and hold for an average of the first 5 months of the marketing season for wheat. Different target prices are set for feedgrains and other commodities.

The Department of Agriculture explained that if the target prices were reduced, they felt they could come up with a better wheat program that would be more advantageous to wheat farmers. Wheat farmers have the option of either being in the wheat program or not being in the wheat program. If they are in the wheat program, they are eligible for the deficiency payment that will occur. That is the difference between the actual market price for the commodity during those first 5 months of the marketing season and the target price.

In other words, if wheat averages around $3.80 a bushel during the first months of the marketing season and the target price is at $4.45, the deficiency payment would obviously be that difference, which would be 65 cents a bushel and, under the program, the Secretary of Agriculture would see that a check would go out in favor of the producer for that difference.

There are other requirements of any wheat program. That includes a set-aside and the option of placing the product that is produced, whether it is wheat or feedgrains, under the loan rates established by the Secretary of Agriculture. These options are enticing, as a rule, for wheat producers to sign up for the wheat program.

Nevertheless, the program that was finalized by the Secretary of Agriculture for the 1984 crop has been very dissatisfactory to the ordinary wheat producers of this country and, so far as we are able to ascertain, only about 20 to 30 percent of the producers have actually signed up for the program this year.

What that is leading toward is greater production of wheat. A carryover is anticipated of last year's crop to be about 1.4 billion bushels, which is a huge carryover, probably a near record carryover.

There is a low signup of wheat producers, which would indicate that there would be heavier planting of wheat than would otherwise occur if they signed up for the program. We believe with the combination of the near record carryover from the 1983 wheat crop and adding to that the 1984 crop, that there may be a very huge surplus.

It is not just the wheat producers who are telling us that wheat prices are terrible, Mr. President. Bankers are also warning America that American agriculture, indeed, is in deep trouble. These agricultural prices are at a level where the producers seem only to be facing one prospect. That is the prospect of diminishing returns. Banks are telling us their farm and ranch portfolios are in deep, deep trouble.

I think we had better heed this warning, Mr. President. This amendment we propose to offer only deals with wheat, but there is much more that needs to be done. We have to move on to types of programs that enhance the trade of American agricultural products. The amendment of the Senator from South Dakota (Mr. PRESSLER) just adopted by the Senate, moves in that direction. Rather than going in the direction of payment in kind, the so-called PIK program, which is a payment from the Treasury to farm producers not to produce which for last year obligated the U.S. Government for around $12 billion, we must move in the other direction of finding the means and the methods that are acceptable for improving our trade on agricultural products. We must pass liberalization and broader use of food for peace. We must pass modifications to what is known as section 416 of the Agriculture Act, which allows a simplified method, a broader method, and an easier method of disposing of American agricultural surplus commodities for our friends and allies around the world.

I yield at this time to my friend from South Dakota (Mr. PRESSLER), a cosponsor of our amendment. I ask unanimous consent not to lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, as a cosponsor of this amendment and a representative of a wheat-producing State, I rise in support of the measure and urge my colleagues to join in support of our effort. We must act now if the 1984 wheat program is to be modified to improve participation and to more effectively control wheat production. Farmers will soon be heading to the field to plant this year's crop and in the case of the winter wheat farmers, they need to know their options.

The current wheat program calling for a 30-percent voluntary diversion program is getting a very poor response from farmers. Most wheat farmers say they cannot afford to set aside 30 percent of their wheat ground without some compensation. The House of Representatives has passed a bill providing for a 20-percent voluntary diversion and a 10-percent paid diversion. As a compromise, we are offering a 20-percent voluntary diversion without a paid diversion. This will help farmers to participate in the program without increasing the cost of the program by adding a paid diversion provision.

The amendment also reduces the target price increase from $4.45 to $4.38. A similar reduction has already been passed by the House of Representatives. This reduction in the target price increase will also help to reduce the cost of the wheat program.

Finally, the amendment extends the signup deadline until no earlier than March 30, 1984. This allows farmers time to evaluate the program changes and sign up for the program if they wish to participate.

It is essential that action be taken to improve the signup for the 1984 wheat program. If no action is taken, we will be facing the largest wheat surplus in history and wheat prices will be further depressed. Lower wheat prices will mean higher deficiency payments to farmers and higher costs to the Federal Government.

Also, if no action is taken to improve the farm economy, the agricultural sector and related businesses may well collapse. The farm situation is the most critical that I have seen during my 10 years in Congress. Farm and small business foreclosures and voluntary liquidations continue to increase. These sales and foreclosures are hurting the entire rural economy. Farmers do not have money to spend, so small business' income is also reduced. The effect of the continued high interest rates also compounds the problem for farmers. Most farmers depend on credit to operate. With high-interest rates, farmer's margin of profit is reduced or their losses are increased. The increase in losses tends to be a more common occurrence. A few years of losses eat up whatever equity a farmer had in his operation.

These problems are not only affecting bad managers. Many established and reputable farmers are feeling the crunch of several years of low farm prices and high-interest rates. It is essential that we take action to reverse both of these trends. Farm prices must be improved and interest rates reduced if the family farm system as we know it is to survive. Adoption of this amendment today would be an important first step toward reversing these trends, but a great more work is needed before the farm economy will enjoy the benefits of the economic recovery.

This morning we conducted hearings in the Foreign Relations Committee during which Senator DANFORTH testified on the need to increase Public Law 480. We do need to use our production in productive ways. Our farmers are in the worst trouble they have been in since I first came to Congress. I just held 6 days of listening meetings with farmers and ranchers in South Dakota. Very few will sign up for the wheat program the way it is currently, so we have a problem. We have to address it in the Senate. It has been my feeling that the administration has not adequately addressed this problem.

I commend the Senator from Montana for bringing it up. We need to have a farm debate this year, many farm debates, because what is happening on our family farms and ranches is a disaster. Our bankers and small businessmen are feeling it as well. We have to act now. I believe adoption of the pending amendment would be a step in the right direction. It is a small step, but it is at least a step.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. I thank the Senator for yielding.

Mr. MELCHER. Mr. President, I ask unanimous consent, without losing my right to the floor, that I may yield to the Senator from Nebraska.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nebraska is recognized.

Mr. ZORINSKY. I thank my colleague from Montana.

Mr. President, I have serious concerns over reports of a very low producer signup in the wheat program. The seriousness of this situation is reflected in the recent decision of the Secretary of Agriculture to extend the signup period to March 16. This decision came after the Secretary had emphatically stated on a number of occasions that there would be no program changes nor any extended signup period.

It is evident that the Secretary received bad advice on the anticipated level of producer participation and that the program changes were made in the effort to attract more participants. I commend him for the decision. However, from reports I have received from many of my wheat producer constituents, even with the adjustments made, program participation will be too low to prevent a further increase in this year's carryover, up from the excessively high level of 1983.

I have been in hopes that the administration would use the authority it already has to improve the program. Let me explain why I think there is an urgent need to do so.

Although varying by type of wheat, last year's payment-in-kind program was unsuccessful in reducing burdensome wheat inventories. Due to record yields, 1983's Winter wheat harvest fell only modestly. While Durum and other spring wheat production did decline sharply last year, inventories will remain at high levels. If that were not enough, the decline in U.S. wheat production was more than offset by higher output abroad, pushing world wheat production to a new record in 1983–84.

As a result, wheat prices have shown little or no improvement from 1 year ago. Nor are conditions likely to improve in 1984. Despite another PIK program for wheat, few farmers are opting to reduce acreage more than the minimal level of 30 percent required for the protection of the target price. This simply means an increase in total wheat acreage—adding to already burdensome inventories and the resulting further weakening of prices. The degree of price weakness is directly related to the rate of participation in the 1984 wheat program and how much grain will be isolated from the market by the farmer-owned reserve.

If favorable growing conditions exist, a 2.6 billion bushel crop is likely, according to knowledgeable forecasters, up from 2.42 billion bushels in 1983. This would increase available supplies to 4.1 billion bushels, up from 3.96 billion bushels in 1983. If consumption should remain at around 2.5 billion bushels, we would have a carryover this year of 1.6 billion bushels, as compared with the ending inventory of 1.4 billion bushels in 1983.

The 1984 wheat program offers farmers target price protection of $4.45 a bushel. But to be eligible, farmers must reduce plantings by 30 percent from their acreage base; no diversion payments are provided. In addition, the price-support loan rate has been lowered to $3.30 a bushel, from $3.65 in 1983.

Further acreage reductions of 10 to 20 percent make farmers eligible for a PIK program, with compensation scaled back to 75 percent of normal yields, compared with 95 percent last year. But under the reduced PIK incentive, there appears to be little interest in producer participation. This is confirmed by reports I am getting that the signup for PIK acreage reduction is virtually nil.

I commend my colleagues who have been considering other alternative action for improving the wheat program and I want to assure them that their efforts have my support.

In the meantime, Mr. President, many of my constituents, apparently with little hope for corrective legislative action to attract participation in an improved wheat program, seem resigned to taking their chances with producing more bushels with the hope that volume will help overcome what is almost certain to be a weak wheat market situation at harvest time.

Mr. President, it is a matter of concern that the Senate is being blamed for not giving attention to legislation to give wheat producers a program that will effectively reduce production to manageable levels.

The House has passed a bill with the strong support of Congressman FOLEY and endorsed by the National Association of Wheat Growers. But it is evident that under the threat of a veto by President Reagan, there is little interest on the part of the Senate leadership to act on the House-passed measure. However, approval of this bill would mean a quick conference and if the President would sign, it changes could be effected that would contribute measurably to getting additional wheat acres out of production.

AMENDMENT NO. 2763

(Purpose: To add provisions to improve the wheat program)

Mr. MELCHER. Mr. President, I send my amendment to the desk, cosponsored by Senators ANDREWS, PRESSLER, and EXON, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an amendment numbered 2763.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, after line 9, insert the following new title II:

"TITLE II—WHEAT PROGRAM IMPROVEMENT ACT OF 1984

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Wheat Program Improvement Act of 1984'.

"TARGET PRICES

"SEC. 202. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out '$4.45 per bushel for the 1984 crop, and $4.65 per bushel for the 1985 crop' and inserting in lieu thereof '$4.40 per bushel for the 1984 crop, and $4.50 for the 1985 crop'.

"1984 WHEAT ACREAGE LIMITATION PROGRAM

"SEC. 203. Section 107B(e) of the Agricultural Act of 1949 is amended by—

"(1) striking out 'subparagraph (B)' in the first sentence of paragraph (1)(A) and inserting in lieu thereof 'subparagraphs (B) and (C)';

"(2) adding at the end of paragraph (1) the following new subparagraph:

"'(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for an acreage limitation program as described under paragraph (2) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by 20 per centum. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and conditions of the acreage limitation program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program to be devoted to hay and grazing. The closing date for signup in the program shall not be earlier than March 30, 1984.';

"(3) adding at the end of paragraph (4) the following: 'For the 1984 crop of wheat, in making the determination specified in the preceding sentence the Secretary shall treat land that has been farmed under summer fallow practices in the same manner as such land was treated by the Secretary for purposes of making such determination for the 1984 crop of wheat.'; and

"(4) inserting at the end of paragraph (5) the following: 'In carrying out a payment-in-kind acreage diversion program for the 1984 crop of wheat in addition to the acreage limitation program required under paragraph (1)(C) of this subsection, the Secretary shall make available to producers on a farm compensation in kind at a rate equal to not less than 75 per centum of the farm program payment yield for the 1984 crop of wheat.'.".

Mr. MELCHER. Mr. President, we have no desire at this time to press for a vote, and any time the managers want to set this amendment aside to see what happens with the Secretary of Agriculture and get on to other parts of this bill, we are willing to do so.

We have an amendment addressing the wheat program, addressing some of the deficiencies as is perceived by wheat producers throughout the country. This amendment pretty well follows what has been the latest thinking of the National Assoication of Wheat Growers of the United States, and briefly does this:

The amendment says that there will be only a 20-percent set-aside. The requirement of the current wheat program as announced by the Secretary of Agriculture is that there be a 30-percent set-aside, that is, 30 percent of the wheat land would be set aside and no production on it. This is seen as being too heavyhanded by almost all wheat producers in the United States. They have said, "Why 30 percent? That takes too much land out of production. It limits our ability to enter into a good, sound agricultural practice on our wheat land." And so they have objected very vigorously to it.

In addition, we have said that there must be haying and grazing allowed on that land that has Winter wheat on it or, for that matter, Spring wheat, if somebody wants to do it. But that would not be practical. It is Winter wheat land on which the farmers want haying and grazing rights. That is entirely logical. Why? Because the feed is there. The feed should be made available to cattle or grazing cattle, if that is what the producer wants, or hay so it does not go to waste. Dropping that out of the wheat program for 1984 was a serious mistake by the Secretary of Agriculture and one that I think all of us on the floor can agree is wasteful, unneeded, and uncalled for.

We addressed the problem of target prices by compromising. The law, as I have earlier stated, says that without action by Congress the 1984 target price would be $4.45. In the amendment we have compromised and said it will be $4.40 for 1984. For the 1985 crop, we have compromised and instead of it being the $4.65 called for under the law, we have compromised down to $4.50.

We think this is quite a bit to give up in terms of deficiency payments for the wheat farmers who are agreeable to sign up for the program, but nevertheless wheat growers throughout the country have said that if that is the price it takes to get a better wheat program, a more sensible wheat program, they are willing to do so. It is a sacrifice on their part in that regard, but nevertheless they view the necessity of a better wheat program for a successful agricultural policy for this country.

Without some concessions on the other side so the program is more attractive to them, naturally they are not going to sign up.

Let me make it clear that each individual wheat farmer has the option of either coming into the program, signing up for the program, or staying out of the program. So the option will still be there. We feel that with these modifications wheat producers will sign up in a broader way and maybe there will be a successful wheat program for 1984 and also for 1985.

The Senate has never acted on a wheat program, changing the law for the 1984 and 1985 crop, but the House has. The House acted last fall. It sent a bill to the Senate in the closing days of the last session of Congress. The Senate simply did not act upon it then and has not acted upon it now. Many of us feel that we are getting right down to the wire and either we make some changes in order to enhance the signup and do so very promptly or it will be much too late; spring is coming. The decision process for the farmers is dictated by the climate, by the calendar; and if we are going to make some changes to enhance the wheat program for 1984, it must be done right now.

There is some question of attaching to this bill an amendment such as this, if we are successful in having a majority vote for it, and there is still some question of what would happen to it. I point out that we are not certain that the momentum created by adoption of this amendment would be sufficient to guide us, as a body, to find a way of lifting it out of this bill after it is voted upon and adopted, if it is, and then providing the mechanism to get it over with the House-passed bill and then to conference and settled, with a conference report approved by both the House and the Senate, so that it could be sent to the President. We are not sure that all that could be done, but we think we should make the effort; and we think that if there is a substantial vote on this proposition, we probably will find a way, under the rules of the Senate, to lift it out of this bill, to get it into conference with the House.

This varies from the House-passed bill in several respects. Let me point that out very clearly.

The House-passed bill has part of the setaside tied with it. A 10 percent of the farm base for diversion, no cropping on it, would be a paid diversion that costs the Treasury. We have dropped that.

The House-passed bill also has a feature that gives advance payments on estimates of part of what the deficiency payments will be. We have dropped that.

Wheat producers might come to us and say, "You don't think as highly of us as the House does." Well, there is a tradeoff, because in the House-passed bill, the target price for the 1984 crop would be $4.38, as compared to our $4.40 for the 1984 crop. That $4.38 for a target price for wheat would be held at the same level for the 1985 crop, compared with our amendment, where the target price would be $4.50.

We think we have given a good tradeoff, one that is probably more enticing to wheat producers, because the target prices are higher in our proposal than they are in the House-passed bill. We believe there will be a bigger signup from our approach than from the House measure. Nevertheless, it would still have to go to conference between the two bodies, and we do not know exactly what we would come up with after conference.

Mr. President, given the situation we are in and given the situation that the wheat program, as announced by the Department of Agriculture, is getting practically no signup or such a low signup that it appears there will be a collapse of the wheat program in the United States, we feel that we are taking the commonsense approach by offering this amendment now, so as to assure a bigger, broader, and more fruitful signup of wheat producers throughout the country.

The points of where the levels could be and the tradeoffs between paid diversion or not paid diversion can be argued all day long. Nevertheless, the approach we have pretty well parallels exactly what the National Association of Wheat Producers officers told me last Friday they were advocating.

I want to point out two differences in what they advocated. One is that they said they would be satisfied with a $4.38 target price for the 1984 crop. We have set it at $4.40. It seems reasonable to me to have it in a rounded off amount; $4.40 seems to me to be a little more simplified and understandable. Granted, it is 2 cents a bushel more, but it seems to me more understandable and simplified to have it at $4.40.

Last Friday, the officers of the National Association of Wheat Producers told me that for the second year, the 1985 crop, they wanted it at $4.55. We have set it at $4.50—a nickel less in the 1985 crop than they have advocated. It is 2 cents more than what they said they would settle for in the 1984 crop.

However, the question remains: Is it good, sound public policy to suggest, even at this late date, that the wheat program for 1984 and 1985 be changed? I think the answer to that, given the circumstances of very little signup, is, yes. Even at this late date, it makes sense to do so. The signup period, which can be extended by the Secretary of Agriculture at his option—and it has been extended once—would end, I believe, on March 16. In the amendment, we extend that period to March 30, on a Friday, at the close of business in those ASCS offices where they sign up throughout the country. There would be 2 weeks more in order to allow consideration of this by wheat farmers, to see whether or not they wish to sign up and be under the program.

Will this assure prosperity in the Wheat Belt? By no means. It will not. This is only a modified, somewhat better program to entice wheat producers to sign up in the program and to give the Department of Agriculture the flexibility they have sought—some of the flexibility they have sought—on target prices.

Will it cost the taxpayers more? The answer to that is "No"; it will cost the taxpayers less. If you project these figures out over 5 years, CBO tells us that we will end up with probably a $3.2 billion saving in the Treasury. That is a substantial amount, and something we should consider as being advantageous for all taxpayers.

Does it do more for wheat growers? Yes, it does. While they are not going to remedy their financial woes—those who are in deep trouble—it is going to help.

AMENDMENT NO. 2764

(Purpose: To provide a substitute to the amendment to add provisions to improve the wheat program)

Mr. President, I send an amendment to my amendment to the desk.

The **PRESIDING OFFICER**. Until the Senator has asked for the yeas and nays, he precluded from offering an amendment thereto.

Mr. **MELCHER**. Mr. President, I ask for the yeas and nays on the underlying amendment.

Mr. **HEINZ**. Will the Senator withhold a minute?

Mr. **MELCHER**. Yes.

I ask for the yeas and nays on the amendment.

The **PRESIDING OFFICER**. Is there a sufficent second? There is a sufficent second.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER), for himself, Mr. ANDREWS, Mr. PRESSLER, and Mr. EXON proposes an amendment numbered 2764 to amendment numbered 2763.

Mr. **MELCHER**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

Strike out the text of the matter to be inserted and insert in lieu thereof the following:

"TITLE II—FARM PROGRAM IMPROVEMENT ACT OF 1984

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Farm Program Improvement Act of 1984'.

"TARGET PRICES

"SEC. 202. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out '$4.45 per bushel for the 1984 crop, and $4.65 per bushel for the 1985 crop' and inserting in lieu thereof '$4.40 per bushel for the 1984 crop, and $4.50 for the 1985 crop'.

"1984 WHEAT ACREAGE LIMITATION PROGRAM

"SEC. 203. Section 107B(e) of the Agricultural Act of 1949 is amended by—

"(1) striking out 'subparagraph (B)' in the first sentence of paragraph (1)(A) and inserting in lieu thereof 'subparagraphs (B) and (C)';

"(2) adding at the end of paragraph (1) the following new subparagraph:

"'(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for an acreage limitation program as described under paragraph (2) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by 20 per centum. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and conditions of the acreage limitation program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program to be devoted to hay and grazing. The closing date for signup in the program shall not be earlier than March 30, 1984.';

"(3) adding at the end of paragraph (4) the following: 'For the 1984 crop of wheat, in making the determination specified in the preceding sentence the Secretary shall treat land that has been farmed under summer fallow practices in the same manner as such land was treated by the Secretary for purposes of making such determination for the 1983 crop of wheat.'; and

"(4) inserting at the end of paragraph (5) the following: 'In carrying out a payment-in-kind acreage diversion program for the 1984 crop of wheat in addition to the acreage limitation program required under paragraph (1)(C) of this subsection, the Secretary shall make available to producers on a farm compensation in kind at a rate equal to not less than 75 per centum of the farm program payment yield for the 1984 crop of wheat.'.

"AGRICULTURAL CONSERVATION PROGRAM

"SEC. 204. It is the sense of Congress that conservation cost-sharing assistance to landowners under the agricultural conservation program authorized under the Soil Conservation and Domestic Allotment Act be provided in fiscal year 1985 at a level not less than the level of such assistance provided in fiscal year 1984.".

Mr. MELCHER. Mr. President, I wish to explain that this second amendment is entirely the same as the first but adds to it the lines that I will now read. It simply adds another section to the amendment which states as follows:

> It is the sense of Congress that conservation cost-sharing assistance to landowners under the agricultural conservation program authorized under the Soil Conservation and Domestic Allotment Act be provided in fiscal year 1985 at a level not less than the level of such assistance provided in the fiscal year 1984.

Mr. President, that addition is a sense of Congress addition to the underlying amendment. It is significant in this respect: While we have had payment in kind and a huge outlay for not producing, we have also reaped the abysmal harvest of not having conservation practices on that PIK land. In other words, the land is taken out of production. There was not anything much done with it. Some farmers did a conscientious job of controlling weeds on it as they are supposed to under the law. Some neglected it.

There was a vast amount of erosion on those areas where there was not a sufficient cover crop, and what this says is let us have some conservation no less than what we had in fiscal 1984. I hope we can have more for this coming fiscal year. I hope we can actually have more conservation for this coming fiscal year, but this says let us make that a base point at least and not go below that.

Conservation is the very essence of holding the fertility and productivity of our land in place, and without that this country would find its agriculture deteriorating very rapidly.

The amendments now before us, Mr. President, will provide us that opportunity to consider a wheat program that is more sound and sensible for 1984 and will do so without causing greater outlay from the Treasury over the next 5 years but indeed a saving for the Treasury.

I hope that we can pass the amendment, and I respectfully recognize that we do not want to vote yet. We want to allow the Department of Agriculture, the Secretary of Agriculture, and the administration to see how they want to respond and where they want to make modifications in the program under authority of the Secretary. But if they do, they still will probably be hung up on the question of the target prices because they have always tied that together. If we are going to improve the wheat program, they want to have some reduction in target prices.

Mr. HEINZ. Mr. President, it will be my intention to ask unanimous consent to lay this amendment aside in a minute or two, but yesterday I made, I say to my good friend from Montana, the same speech several times, which had to do with nongermane amendments. Yesterday, we had amendments to amend the Mineral Leasing Act, we had amendments to other matters within the jurisdiction of the Energy Committee, and today I see we have the privilege of rewriting the farm program on the Export Administration Act.

So I am sure my friend from Montana will not find it any surprise when I say that it will be my obligation at the appropriate time to move as I did yesterday with nongermane amendments, amendments not germane to the subject matter in this bill, to table the Senator's amendment or amendments, because he has a perfecting amendment pending. I do that, may I say to him, not out of any disrespect for him or any great distaste for his amendment. Even if I supported his amendments in substance, I would move to table them because as the manager of this bill, the last thing I want to do and the last thing I intend to do is get a conference, where we anticipate a great deal of difficulty anyway—the House bill on the Export Administration Act is quite different from ours and very complex—cluttered with a whole series of nongermane amendments that will make it easier for the House to do something I am sure the Senate does not want the House to do, and that is to make it easier for them to prevail in conference.

So, having stated what I intend to do at the appropriate time, I would, with the concurrence of my colleagues present, ask unanimous consent to set aside Mr. MELCHER's amendment together with his perfecting amendment so that we might undertake other amendments.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania?

Mr. MELCHER. Mr. President, reserving the right to object, and I shall not object, might I just say to my good friend from Pennsylvania, first of all he is very evenhanded in applying the judgment for tabling nongermane amendments, and we appreciate that. We bear no ill-will toward the Senator from Pennsylvania at all. We fully understand his motivation for doing so, and might I just say that if we have the votes we have the votes. If we do not have the votes, we made the effort.

Mr. HEINZ. The Senator is correct.

Mr. MELCHER. We appreciate the accommodation of the Senator from Pennsylvania in listening to our remarks. We hope to press forward sometime this afternoon, determining how many votes we have and whether or not we can carry it. If so, might I just repeat that if we have enough votes to carry it, we would also hope we have the momentum to have the appropriate action here on the Senate floor to lift this out of this bill entirely and to pass it here in the Senate and go to conference with the House of Representatives because the time for this to be considered by wheat producers throughout the country is upon us now and the advantages of their options, whether or not this improves the program enough for them to wish to sign up and be a part of the wheat program, we have to recognize that, and we do not have much time to delay.

So, I fully understand what the Senator from Pennsylvania said, and appreciate his remarks, and also appreciate the fact that he is not insisting on a tabling motion now, and that gives us some time to see what the judgment of the Secretary of Agriculture is and how strongly other Senators feel on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I am going to send an amendment to the desk.

Before my colleague from Montana leaves, I just want to draw to his attention, and I am sure we will have further opportunity to discuss the matter later today, but I just want to draw to his attention that we will be going to conference over in the House with the Foreign Affairs Committee, and I do not know what they would do if the Senator from Montana should in fact prevail, which I will do my best to prevent.

I do not know how they are going to solve the jurisdictional problems over there. Ours are serious but trivial compared to the ones they will have over there. The Senator from Montana and I served in that body and know full well that of which I speak.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. HEINZ. I am pleased to yield without losing my right to the floor.

Mr. MELCHER. I know you will be going to conference with the Banking Committee members from the House, but I just point out if there were a conference committee made up of bankers out in the wheat country and they were sitting on that conference committee, this would be the first thing they would act upon, and they would rush the whole package back to the Senate and the House floor and say: Pass it, pass it, pass it, and we really need it. Because they are approaching individual Senators, their own Senators, and saying how tough agriculture prices are and they would find favor with this approach, I believe.

Mr. HEINZ. Mr. President, I am pleased to yield to my friend from Montana. As he was speaking, I could not help thinking of the irony of going to conference with the House. They have no farm bill provision in there; we would, if this amendment were to prevail. I am flattered—nay, I am struck dumb with joy—that the Senator from Montana would entrust to the members of the House and Senate Banking Committee the writing and compromising we would do between the House position, which is nothing at all, and the Senate position, which is something.

We have never had the opportunity to take on the responsibilities of the Agriculture Committees of both the House and the Senate. But if that is the Senate's will, so be it.

I have always wanted to have a chance to write an agriculture bill. If the Senator prevails, notwithstanding his much greater expertise in the area than mine, it is a responsibility that I would undertake with great enthusiasm.

Mr. MELCHER. Will the Senator yield?

Mr. HEINZ. The Senator would be pleased to yield without losing his right to the floor.

Mr. MELCHER. Mr. President, I think the Senator from Pennsylvania well understands that you can have a great number and variety of things in one bill. You could have 57 various items almost in this field and not be overly stretched. If you are around here long enough, in either the House or the Senate, the events always "catsup" with you.

Mr. HEINZ. Mr. President, I do not think the Senator wants me to yield any further to him.

Mr. MELCHER. I thank the Senator for yielding.

AMENDMENT NO. 2765

(Purpose: To assure continuity of U.S. representation in Cocom)

Mr. HEINZ. Mr. President, on behalf of Mr. PERCY I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Pennsylvania (Mr. HEINZ) on behalf of the Senator from Illinois (Mr. PERCY) proposes an amendment numbered 2765.
>
> On page 51, line 20, immediately following the comma, insert the following: "strengthening traditional."

Mr. PERCY. Mr. President, I propose to offer a clarifying amendment to section 25 of S. 979, with respect to the provision which requires that the President submit to the Congress a proposal to create an Office of Strategic Trade. I understand the manager of the bill agrees to accept this amendment.

This amendment clarifies the intent of Congress that the Department of State continue as the agency responsible for representing and for conducting negotiations within Cocom on behalf of the U.S. Government.

This provision is particularly important when the Congress places renewed emphasis on efforts to strengthen Cocom. Without this amendment, section 25 of S. 979 can be read as implying questions about the continuation of State in that role—"the President shall take into account, among other things,* * *, the representation of the United States in the Coordinating Committee for Multilateral Export Controls (Cocom),* * *"

Raising a question at this time would undercut the confidence of our Cocom partners in the continuity of U.S. representation, and undermine the effectiveness of U.S. negotiators at a time when we are working to strengthen Cocom.

In the interest of brevity I offer this two-word clarification, stating that the President shall take into account strengthening representation in Cocom.

I ask confirmation of the Senator that the intent of this section is not to detract from the role of the Department of State as the agency responsible for representing and for conducting negotiation within Cocom on behalf of the U.S. Government, but is rather to strengthen it in that role.

If I have his confirmation of that point I agree to offer this brief clarification, rather than a somewhat longer but clearer statement.

Mr. HEINZ. I appreciate the clarification suggested by the Senator from Illinois on this matter. He is entirely correct in stressing our objective of strengthening Cocom. Given the numerous differences we have with our allies in this area, we cannot achieve this objective without strong, credible representation at Cocom. I fully agree with him that it certainly does not make sense to create doubt about the legitimacy of our representation at Cocom or our confidence in its ability to carry through on its efforts on behalf of our objective of strengthening Cocom.

I am pleased to assure the Senator that it is not the intent of this section to suggest or imply any need or desire to change present U.S. representation at Cocom, and that indeed, as his language suggests, our interest would be to have the administration's proposal consider what if anything might be done to strengthen that representation.

If that assurance is acceptable to the Senator, I will be happy to receive his amendment and to recommend unanimous consent for its approval.

Mr. President, this amendment has been carefully examined by the majority on the committee. I believe it has been examined by the minority on the committee. It is certainly acceptable to the majority and I urge its adoption.

Mr. ZORINSKY. The minority has no objection and recommends its adoption.

Mr. HEINZ. I thank my friend from Nebraska.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2765) was agreed to.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2763, AS MODIFIED BY AMENDMENT NO. 2764

Mr. EXON. Mr. President, I am here on the Senate floor this afternoon in support of the Melcher amendment, of which I am an original cosponsor, that was introduced and explained earlier today when I was in committee by the distinguished Senator from Montana.

Mr. President, I understand that some opposition to this amendment has already surfaced, as we had anticipated. I suggest that those who are in opposition to the amendment that we have offered probably do not have an understanding of the critical situation that faces agriculture as a whole today. We had anticipated some opposition and I suspect that that opposition may be well-intentioned but probably is advanced by those who simply do not understand the critical state of the family-sized farmer today in the great bread basket of America.

The amendment offered by the Senator from Montana, of which, as I have said, I am a cosponsor, is a simple, straightforward amendment. It is going to be less costly in the near term as far as the budget is concerned that some of the other programs that are presently under consideration.

I would simply urge my colleagues to listen very carefully to those of us, who, for many years, have seen fit to advance responsible programs that can be of some temporary help at least to the family-sized farmers of this great country, who have the opportunity to make such a contribution to our economic recovery and indeed the furtherance of America's objectives around the globe, if we will just listen and understand and be helpful where we can.

Now, one complaint about the Melcher amendment might be that indeed it is another temporary band-aid, a less than total approach to the agricultural problems that we face. And, with that argument, this Senator would wholeheartedly agree, because this addresses only one sector of our agricultural economy; namely, the wheat producers.

What we have tried to do with this amendment is to offer to the wheat farmers a little additional incentive to get by the situation that confronts them today. I would simply hope that my colleagues would listen very carefully and not go down to the well when this matter comes up for a vote and automatically cast a vote without full appreciation of the serious issue that confronts us.

Mr. President, I understand that at this very time some top officials of the administration are in consultation with some Members on the other side of the aisle with the hope that out of those discussions might come the voluntary action on the part of the Secretary of Agriculture and thus the administration to do what the bill that we have introduced would do by legislation by their own actions.

My point is that the Secretary of Agriculture essentially could do, if he wished, and if he had the permission of the White House, the specific actions that we have recommended in our amendment.

Very briefly, Mr. President, on the steadily deteriorating situation with regard to the family-size farm, let me state that I suspect that those of us closely alined with agriculture, the basic understanding of the latest severe setback to farmers is a steady, rapid, sometimes snowballing decline in the value of agricultural land.

Why is that important? Let me put it this way: Of course, it is harmful to the balance sheet or the net worth of a person living in the city if they live in a $100,000 home and if, due to market conditions, that home is suddenly reduced by, let us say, for example, 25 percent. That would be that a year and a half ago they had a home that was valued at $100,000 and had an anticipated sale value of $100,000, and with the decline in the marketplace, using this example, it would now be worth only $75,000.

But that particular individual would continue to make the payments on their home because they have to have a place to live, and they are not using the value of that home to borrow money to put bread and butter on the table.

It is not so with American agriculture today. Once again I emphasize that American agriculture is the heart and soul of our great food producing plant, the family-size farmer. The family-size farmer today is up to his ears in debt like he has never been before. That is, a great part of them. What the sudden decrease in land values in Nebraska and elsewhere has done is to so deteriorate the balance sheet of the farmer so that he is finding it increasingly difficult and in many cases impossible to borrow money against that land to carry on his operations.

The significant point here is that land values have been the underpinnings of agricultural credit. When we had the significant decrease we have seen in the bread basket of America in the value of land, we come right up against the situation where the farmers cannot, in many cases, carry on their operations.

Likewise, the financial institutions are beginning to take a look at their hole card, to see if there has been as significant a drop as there has been, are the portfolios of the financial institutions indeed in serious difficulty.

If you are familiar with agriculture today, you will see that we have the highest rate of auctions and sales that we have had since the Great Depression.

After a rather lengthy conference telephone call with a group of farmers and small town main street businessmen and others within the last 2 weeks, as I listened to them and their concerns I was advised by the auctioneer, "Senator, I am the only person around this table who is making any money, and I am doing quite well."

I simply call to the attention of the Senate the tremendously serious potential financial disaster that faces us. I would emphasize that the enactment of the Melcher amendment is not going to solve that, but it is a possible, simple, tiny step in the right direction.

I would hope that the negotiations that I understand are now going on would be fruitful; that the administration would concede that we are trying to be reasonable and rational and conservative in the expenditure of taxpayer funds with a minimal amendment. I underline the words minimal amendment as offered by the Senator from Montana.

I wish that I could say that I am so enthusiastically for this amendment that it is going to solve the problem. It is not. Certainly, there could be legitimate complaints raised about the amendment, that it does not go nearly far enough to address the problems that confront us. Suffice it to say that it is the least, it is the minimum, that we should do at this time. I hope that the Senate, if it is forced by administration inaction in this area, will agree to adopt the amendment offered by the Senator from Montana.

Mr. ANDREWS addressed the Chair.

The PRESIDING OFFICER (Mr. EAST). The Senator from North Dakota.

Mr. ANDREWS. Mr. President, I have enjoyed listening to the remarks of my colleague, the Senator from Nebraska. The Senator from Nebraska is precisely correct when he identifies the financial plight of American farmers. Indeed, the people who live in those areas, whether farmers or not, are being caught in this economic bind.

Mr. President, the Senator from Nebraska and I serve on the Senate Budget Committee. We are indeed concerned about the deficits that are confronting our Nation.

I made a comment the other day when I was in one of our Western States, not my own, about the farm program of last year. It was in response to a question about the cost of that program.

Mr. President; I pointed out to the audience I was addressing that had they let a handful of us in the Senate design that program we could have come up with one that cost half as much and did twice as much good for the farmers.

I would like to mention one of the things that has not been mentioned precisely on the floor today, a fact about the Melcher amendment.

Out in North Dakota we will call it the Melcher-Andrews amendment, while they undoubtedly call it the Melcher-Exon amendment in Nebraska.

Let me point out one of the things that may have been overlooked in this body that I think is worthwhile pointing out while the Secretary of Agriculture is engaged in negotiations with one of our Members and will appear before one of our subcommittees in about 25 minutes. That is the fact that the CBO has given us the figures that this amendment, if passed, will result not in an additional cost to the taxpayers but a net saving of $3.273 billion over the next 5 years.

What we are doing is not increasing the costs; we are designing a better program. We are cutting back from 30 percent to 20 percent in set-aside. We asked the farmers to take 30 percent of their land out of production for free. Try going into a downtown area of one of the big cities and tell them to take 30 percent of their rental units out of the production of payments and see how long they could survive that.

The savings come about because of the modest adjustments to the target price and the interplay with what would happen otherwise if many farmers refused to sign up for the program.

Yes, Mr. President; these figures from CBO, at $3.273 billion, might well be modest. It would be my anticipation that if nothing is done, and if we do indeed and in fact stubbornly move ahead as is, come August or September, given the predicted wheat surplus that would exist then, you would see a mass movement on the part of the administration and both sides of the political aisle to try to correct it with a make-do, quick-fix program that would, as the quick-fix PIC program last year, add billions of dollars to the cost.

Mr. President, I say again that hopefully this amendment will be adopted, and even more hopefully it will be put into the program with the Secretary's discretion, which he can do, and we can later modify the target prices that are addressed in this amendment to come up with a net savings to the Treasury as well as a significant program improvement to America's farm families.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **HEINZ**. Mr. President, I believe the Senator from Alaska seeks the floor.

The **PRESIDING OFFICER**. The Chair recognizes the Senator from Alaska.

Mr. **MURKOWSKI**. Mr. President, I thank the floor manager.

Mr. President, has the Melcher amendment indeed been set aside temporarily?

The **PRESIDING OFFICER**. It has not yet been set aside.

Mr. **MURKOWSKI**. With the permission of the floor manager, Senator HEINZ, I ask unanimous consent that the Melcher amendment be temporarily set aside.

The **PRESIDING OFFICER**. Is there objection?

Mr. **MURKOWSKI**. I direct the question to the Senator from Pennsylvania.

Mr. **HEINZ**. Mr. President, will the Senator restate his question? I apologize; I was otherwise engaged.

Mr. **MURKOWSKI**. I asked unanimous consent that the Melcher amendment be temporarily set aside.

Mr. **HEINZ**. The Senator from Pennsylvania understands that the amendment has been temporarily set aside.

Mr. **MURKOWSKI**. I questioned the Chair and was advised otherwise.

Mr. **FORD**. As long as it is temporarily set aside, we have no objection.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none, and it is so ordered.

Mr. **MURKOWSKI**. I thank the Chair.

AMENDMENT NO. 2766

(Purpose: To permit crude oil exports pursuant to a treaty)

Mr. **MURKOWSKI**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Alaska (Mr. MURKOWSKI) proposes an amendment numbered 2766.

Mr. **MURKOWSKI**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

> On page 39, line 13, after the period insert the following: Section 7 of the Export Administration Act of 1979 is also amended by inserting in the second sentence of paragraph (1) of subsection (E) the word "working" between "5" and "days".

Mr. **MURKOWSKI**. Mr. President, I ask for the yeas and nays on my amendment.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **MURKOWSKI**. Mr. President, this amendment is simple and straightforward.

Today, the Secretary of Commerce has only 5 days, upon receipt of a petroleum product export license application, to notify Congress of specific intentions of that export. Given the frequent number of recesses of this body and considering the fact that Congress and Federal agencies respect 3-day weekend holidays, and even sometimes 4-day weekend holidays, I feel it is only appropriate that we give the Secretary 5 full working days to notify Congress of an exporter's intention.

This amendment, Mr. President, makes that change by inserting the word "working" into the text of existing law.

AMENDMENT NO. 2767

(Purpose: To prohibit the export of refined petroleum products)

Mr. **MURKOWSKI**: Mr. President, I now send to the desk an amendment and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Alaska (Mr. MURKOWSKI) proposes an amendment numbered 2767.

Mr. **MURKOWSKI**. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

> On line 5 after the period insert the following: Section 7 of such Act is further amended—
>
> (1) by striking out "transported by pipeline" and all that follows through "reenters the United States)" in paragraph (1) of subsection (d);
>
> (2) by striking out ", including exchanges" in paragraph (2)(A) of subsection (d);
>
> (3) by striking out "or exchanges" in paragraph (2)(A)(ii) of subsection (d);
>
> (4) by inserting "or refined petroleum products" after "oil" each place it appears in subsection (d);
>
> (5) by striking out paragraph (3) of subsection (e); and
>
> (6) by inserting "and subsection (d)" after "this subsection " in paragraph (4).

Mr. **MURKOWSKI**. Mr. President, today, we will begin debate on the issue of allowing the export of Alaskan oil, and by now we are certainly aware of the views of oil export proponents. But I would like to point out briefly that this particular issue of Alaskan oil export is not an effort by me and my senior colleague, Senator STEVENS, to attempt to right a wrong against the State of Alaska.

At this time I submit for the RECORD letters and editorials in support of crude oil exports, and will refer briefly to those editorials.

I quote from the Los Angeles Times of February 22, 1984, "Better Use of Alaskan Oil," the last paragraph:

> The rigid ban on Alaskan oil exports has proved to be expensively foolish. Now is the time to end it through a feasible oil-swapping arrangement.

Mr. President, from the New York Times of February 23, 1984, an editorial entitled "Will Alaska's Oil Flow Naturally?" I read the last paragraph:

> What is objectionable is the Murkowski-Stevens requirements that all exports be shipped in American vessels and that the vessels be maintained and repaired in American shipyards. These concessions, to win over the maritime unions, would increase the cost of shifting transportation patterns and reduce their value. But the ban offends economics in larger ways and violates security. Even at that price, it's worth relaxing.

Last, in the Boston Globe, the last paragraph of an editorial entitled "Knot in the Oil Line":

Spawned in fear and maintained in quest of wasteful subsidy, the oil export ban is blatant protectionism in an era when the world is in danger of reembracing that wasteful and counterproductive practice. By ending the ban, Congress could reduce that waste and provide a clear signal that it is not being dragged back into the paralyzing era of mindless trade barriers.

Mr. President, Members of this body cosponsored legislation to permanently ban the export of Alaska's crude oil. They have argued this ban is essential to this Nation's energy security, and to the security of our country. Their concern is limited to the national interest. However, their arguments fail the test of logic and commonsense.

I understand this concern. Unfortunately, neither logic nor the facts support it. However, I believe this body should have an opportunity to vigorously debate the wisdom of exporting oil and its oil products from our shores. I also believe we should at the same time attempt to establish a coherent national policy on oil export, based not on the narrow concerns of the special interests but on broad public interest of what is best for the people of this great Nation.

To accomplish this task, Mr. President, I believe we must carefully examine the total picture regarding the export of American petroleum products. To insure that this body has an opportunity to carefully review existing policy—and to establish consistent national policy regarding petroleum exports—I intend to offer two amendments to the Export Administration Act. I also intend to ask for back-to-back votes on these amendments, so that the American people can clearly determine what our national policy is regarding refined products and crude oil exports, and where each Member of this body stands on this important issue.

The first amendment I intend to offer will propose a ban on the export of all refined petroleum products from this country. Presently, we export about 460,000 barrels per day—with about 7,000 barrels per day going to the Soviet Union and Eastern bloc countries. Mr. President, if it is in the interest of national security to prohibit the export of Alaska crude oil to our allies such as Japan and Korea—as many of my colleagues assert—it logically follows that it is also in the national interest to ban the export of refined products, assuming their argument is correct. Of course, anyone familiar with this issue knows that commonsense and the facts show just the opposite, that the export of petroleum products is in the national interest. However, in the interest of establishing a consistent national policy, I believe this body should have the opportunity not only to vote on the further export of Alaska crude oil but also on the present situation in which we export hundreds of thousands of barrels of refined products daily. If those who oppose the export of Alaska crude oil are truly concerned with our national security, they will have no choice but to vote for my amendment to ban the export of refined petroleum products. If the export ban proponents are correct in their arguments regarding crude oil, then these same arguments must apply in spades to a ban of refined oil products. Certainly, those who are for banning the export of Alaska crude oil would also be against the export of refined products to our adversaries of the Eastern bloc nations.

When the vote is finished on the amendment to ban the export of refined petroleum products, I intend to offer a second amendment to allow the export of Alaska crude oil. My intent is to insure that through voting on these two amendments, this body will clearly decide on a consistent national policy regarding petroleum exports.

A BAN ON REFINED PRODUCTS EXPORTS: WHY NOT?

Mr. President, in my efforts to ease restrictions on the export of Alaska crude oil, I have become intrigued by the fact that refined petroleum products represent a growing export commodity for the United States, at a time when there is substantial support for banning the export of even a small fraction of that volume as crude oil.

There is an exception I would like to point out that does exist at this time. Approximately 70,000 barrels of oil per day leave Alaska in foreign vessels, under an exemption, and that oil is moved from Valdez to the Virgin Islands. So there is already an additional inconsistency above and beyond the question of refined products vis-a-vis crude oil.

Congressional proponents of maintaining the ban on Alaska crude oil exports argue that Alaska oil must be kept exclusively for domestic use. They contend that banning the export of crude oil reduces our reliance on imported oil, lowers oil product prices to consumers, and insures a healthy domestic maritime fleet, which we would need in an energy or defense emergency.

Since 1973, Congress has responded to these claims, on numerous occasions, by tightening restrictions on Alaska oil exports until an effective ban on Alaska crude oil exports was created.

Yet, Mr. President, my next amendment, which provides for up to 200,000 barrels a day to be available for export, is only 12 percent of the total production through the trans-Alaska pipeline.

I wish to point out that that proposed amendment will also necessitate the movement of crude oil in U.S. vessels and that those vessels involved in that traffic must be prepared in U.S. yards and, of course, the President has the authority to cancel export contracts if indeed there is a national emergency.

Mr. President, given the apparent support for the crude oil export ban, this body may want to take its convictions one step further. To the extent we benefit from the crude oil export ban, would we not also benefit from banning the export of refined products?

If we are concerned with lower product prices, why do we permit the export of products that people actually buy—such as heating oil, diesel fuel or aviation fuel? Why not let product surpluses drive the prices down?

If we are concerned with emergency requirements, why do we permit the unlimited export of products which could be immediately useful in an emergency? Obviously, crude oil is not that desirous because it cannot be immediately used while the refined product can.

If we are concerned with providing more business for the domestic fleet, why do we deprive the maritime industry of hundreds of thousands of barrels a day of potential tanker business?

If we are concerned with energy independence and our reliance on imported oil, why do we permit product exports when we are importing large volumes of these same products each day?

And I might mention it is estimated that approximately 25 percent of the production that we import from Mexico is in refined products. Are we subsidizing the Mexican refineries?

THE ECONOMIC COSTS AND BENEFITS OF A REFINED PRODUCTS EXPORT BAN

How well would an export ban on refined products achieve these benefits of lower consumer prices, more energy security, and a stronger merchant marine? Let us examine briefly the refined products markets to see what the economic consequences would be.

First, refined product exports result from the inescapable realities of chemistry and the equally inescapable high cost of altering that chemistry.

Refineries are not always able to generate the precise mix of products in demand by the local market. Thus, a market imbalance is created, requiring imports in one area and exports in others. For instance, Alaska crude on the west coast produces less gasoline and more heating oil. And that is just the mix of the oil. It is much more efficient that way. Californians need more of the former gasoline and less of the latter heating oil, so there is a surplus of heating oil on the west coast.

According to August 1983 DOE data, the west coast and Alaska—known to the Department of Energy collectively as PADD—produced 231,806 barrels per day of refined products in excess of demand. Those products, 61 percent of which are fuel oils—used in home heating and as fuel for agricultural machinery, are exported.

Then, Mr. President, it is exported in foreign vessels because there is absolutely no restriction on the export of refined products, only on crude oil, another inequity and a glaring one, I point out.

The balance on the east coast is entirely different, in part because refiners use higher quality imported crude which produces less heating oil and more gasoline. So, while the west coast exported 141,483 barrels per day of distillate and residual fuel oils, the east coast had to import 698,161 barrels per day from foreign sources.

Because oil markets are very competitive, it is safe to assume that export is the most profitable marketing option for west coast refiners. If it were not, the refiners would not be exporting. Likewise on the east coast, if import were not the cheapest source of supply for certain products, oil product distributors would not be buying imports.

If we banned these west coast exports, refiners would have to choose from among several less profitable courses of action:

First, they could invest heavily in capital equipment to alter their product mixes;

Second, they could sell the surplus products at much lower prices; or,

Third, they could ship the surplus products eastward by tanker through the Panama Canal, or by truck across country.

If we look at the last option first, it is really the same option that the Alaska North Slope crude producers have been forced to adopt up to this point.

Let us look at the last option first, for it is the same option that ANS crude producers have been forced to adopt.

It would cost a great deal to ship refined products eastward. But, do not assume for a moment that anyone on the east coast would be willing to pay a patriotic premium for U.S. refined products simply because transportation costs are expensive for the refiner. Americans are certainly not fools. They know U.S. heating oil does not warm a house any better than Dutch heating oil or Saudi Arabian heating oil. Thus, U.S. consumers are willing to pay the world market price—and absolutely no more.

As a result, the action of the market would force refiners to absorb the cost of more expensive domestic shipping. Their profits would be less and their ability to compete with huge new refinery complexes abroad would be reduced.

Increasing capital costs would also hurt profits. So would reducing prices. Lower profits mean that, sooner or later, some west coast refiners might go out of business—a result that benefits no one in the long term.

However, in the short term, as a result of the refined export ban, some truckers or tankers would be awarded—by act of Congress—some business which they did not deserve based on competitive criteria. Increased demand for those services would push prices up for other companies who ship from West to East.

With spotty exceptions, oil product consumers would not be affected in the short term—they would pay the market price for products no matter what. This also means that, in an oil crisis, consumers would receive no economic protection from the refined products ban—U.S. refined products would be sold at the competitive market prices, regardless of how high they might go. In some cases, consumers would benefit from short-lived discounts, as refiners seek to avoid the high cost of domestic shipping.

And, some refiners would have their profits squeezed to the point where they could go out of business.

In the long term, the benefits to the truckers and tankers would vanish, as the refinery shutdowns reduce the surplus. Consumers would pay higher prices because there would be less refining capacity. The energy independence of this country would be lessened, for the ban reduced the ability of U.S. refiners to earn competitive rates of return. Less domestic refining capacity means more vulnerability in a true crisis.

These would be the benefits and costs associated with banning export of refined products. I leave it to you to judge how well this inevitable chain of events meets the goals often attributed to such a policy.

THE OPPORTUNITY TO LEARN FROM EXPERIENCE

In making a decision on a refined products export ban, Congress has the luxury of learning from earlier experience. We can gain valuable insights by examining the consequences of the ban on the export of Alaska crude oil.

While refined product surplus are the result of chemistry, crude surpluses are the result of geology.

In the perfect world, Prudhoe Bay would have been discovered somewhere in Texas, New Jersey, or Ohio—near refineries and near markets. This is not a perfect world.

Nine billion barrels of oil were found about as far away from the major U.S. refiners and markets as you can get—6,700 sea miles and 800 land miles away from the country's refining centers on the gulf coast and even further from the east coast.

To compound the problem, the volume of Alaska crude, plus new west coast production, has overwhelmed the demand of the nearest domestic market—the west coast. So, the problem has arisen of what to do with it all.

Mr. President, what we are doing with it is moving it, moving it some 4,500 miles from the west coast to the Panama Canal where it is unloaded and shipped through the pipeline across Panama and is again loaded on ships and, Mr. President, the average volume of movement has been in the area of 700,000 barrels per day since that pipeline went on line a year ago last February.

The problem has become complicated because, for some inexplicable reason, nationality becomes important when people talk about crude oil.

Even though folks in Minnesota and Massachusetts know that U.S. heating oil does not heat a house any better than heating oil from anywhere else, politicians have been led to believe there is something special about Alaska crude. So special in fact, that we must keep it all for our own use, even at the cost of billions of dollars in Federal revenues, reduced domestic reserves, and damaged relations with key trading partners.

Many people do not understand the transportation advantages associated with the savings offered by the export of some, some 12 percent, 200,000 barrels of Alaska's oil.

The unintended consequences of well-meaning legislation—in this case the crude oil export ban—has been well documented, by the Department of Energy, various energy experts and other policymakers.

High transportation costs reduce wellhead values. Thus, there is less incentive to develop new oil fields in Alaska. Less developed oil in Alaska means less non-OPEC production and more instability in world supplies. Lower wellhead values mean lower Federal windfall profits tax receipts as well as reduced royalty and bonus payments from future leases.

We have been feeling these negative impacts for the last 5 years, and will continue to bear these costs as long as the crude oil export ban is in effect.

Mr. President, it appears that the strongest arguments in support of a refined products ban are that, in the short run: First, it may permit a few west coast consumers to get some discounts on certain products and it may help some truckers and maritime interests to pay higher than competitive wages or earn higher than competitive rates of return. In the long run, refinery closing would raise west coast prices and eliminate that legislated windfall for the transportation sector.

When you think of it, those are probably the only arguments that can be made for the crude oil export ban—it benefits a few, for a short period of time, while damaging the short-term interests of most Americans and hurting all of us in the long term.

And yet, it is intriguing to me that there is such a great deal of support among my colleagues for the crude oil export ban.

I must assume that there is some reason for this obviously strong conviction that the best interests of all Americans can be served by banning trade in vital commodities, though that reason has eluded me.

If you really believe that the crude oil export ban serves America's best interest, I offer you an opportunity to further demonstrate your conviction by banning the export of refined petroleum products as well. My amendment would, therefore, ban the export of all refined petroleum products from our Nation.

Mr. HEINZ. Mr. President, at the appropriate time I am going to move to table the Murkowski amendments that are now pending. But before I do—and there may be some Senators who wish to be heard on this; I do not want to preclude Senators from being heard—I want to just speak to the amendment that is before us; namely, the Murkowski amendment to prohibit the export of refined products.

The Senator from Alaska himself said in his remarks that there would be very grave consequences to the ban he proposes in this amendment. I think we understand his rationale for proposing it; it being more tactical than it is substantive. I hope my colleagues will join in overwhelmingly defeating his amendment.

But, just so there is no mistake, Mr. President, there is a parallel between the decision taken and the 1973 Alaskan Pipeline Act not to permit, except under special circumstances, the export of Alaskan oil and the Senator's amendment, which is to prohibit from anyplace in the United States the exportation of refined products. Let us be very clear that if you are going to compare those two, you are comparing apples and oranges.

When you talk about the source of oil, you are talking about a lifeline to a nation in the modern world. And, frankly, when we export refined products, we are someone else's lifeline. But if we export crude, say, to Japan, and then have to import more crude from the Middle East, which is exactly what we would have to do, our lifeline becomes long and it becomes dangerously extended because today the Middle East is far more volatile than it was in 1973.

It was far more volatile when the Banking Committee confronted this issue in 1979. The ayatollah had not taken over Iran at the time the Banking Committee last considered this issue in 1979 and there was certainly no Iran-Iraq war and threats and counterthreats being exchanged daily and intelligence reports of every kind of uncertain events breaking on a daily basis.

The fact is that it is a lot better to export refined products than it is to import Middle Eastern crude. So I hope our colleagues will bear in mind that that is one critical difference.

The second critical difference, Mr. President, can best be described as, a deal is a deal. Not every Member of this body served in the Congress, either the House or the Senate, back in 1973. Some of us on the floor did. The Senator from Alaska, being so young, was not among them. But I well remember the debate over in the House. The Alaskan Pipeline Crude Oil Act passed the House over very strenuous environmental and other opposition, including opposition from many consumers who felt that the pipeline was being built in the wrong place, was being built from Prudhoe Bay down to Valdez when it should have been built from Prudhoe Bay down into the northern Midwest where we would not have this problem.

But the Nixon administration already made a deal a couple of years before without consulting anybody in the Northeast or Midwest. The only reason that act passed over that consumer and environmental opposition was there was an agreement made. And that agreement was that we were not going to allow that oil to be exported someplace else and that it was going to be Americans who benefited from it by lessening their vulnerability to Middle East oil supplies on which we were very dependent at that time, much more so than today. And that was the agreement; that was the legislation.

Mr. PACKWOOD. Will my colleague yield?

Mr. HEINZ. In one split second.

That is why I say the other difference, Mr. President, is that a deal is a deal. I would be happy to yield to my friend.

Mr. PACKWOOD. I am curious. This so-called Alaskan oil export amendment seems to have changed daily from Monday to Tuesday to Wednesday to Thursday. As I understand it, we are not now debating the issue of exporting Alaskan oil, but whether we are going to export refined petroleum products. Is that correct?

Mr. HEINZ. The Senator is correct.

Mr. PACKWOOD. Did my colleague have any hearings on this subject?

Mr. HEINZ. The Senator can say we did not have any hearings on this subject. We did not have any hearings on the subject of the exportation of refined products.

Mr. PACKWOOD. I have a briefing book with 77 dividers prepared to argue the Alaskan oil export, which I guess I do not need. Then I also have materials of perhaps 12 or 14 pages with maybe 10 or 15 arguments designed for the amendment circulated yesterday as to the exportation of only newly discovered oil. I have nothing to argue about exporting refined products.

Pardon me. I am asking a question.

Mr. HEINZ. As I understand the Senator's question——

Mr. PACKWOOD. Nobody knows anything about this because we have had no hearings?

Mr. HEINZ. The Senator's question is entirely appropriate and I might add the answer is in the affirmative. But before he finishes asking questions, let me just say to him that in all fairness to the Senator from Alaska who has proposed this amendment that I expect to be overwhelmingly defeated, he, himself, has said, as I understood his remarks, that his amendment really is a deeply flawed amendment. He said in the short term there would be some consumers in California who would benefit because there would be a temporary surplus of refined products. But in the long run, in the next few years, all the refineries in California would go bankrupt and that would be bad. In fact, it would be catastrophic.

Mr. PACKWOOD. It might even be bad for Oregon.

Mr. HEINZ. It is possible, if anybody had taken that into account.

Mr. STEVENS. Does harm to his State govern the Senator's vote?

Mr. PACKWOOD. I do not have the floor.

Mr. HEINZ. I have not yielded to the Senator.

I would say to my colleague from Oregon that his points are well taken. What we are talking about here is really, as refineries run, they inevitably end up with surpluses of one product or another depending on the time of year. It is in our interest to dispose of our surplus at world market prices. Unfortunately, for a variety of reasons, we are importing far more than we are exporting and we need to pay those bills somehow. The smartest way is that when we are able to export a product we do not need, which does not increase our vulnerability, and which we can do because we cannot store it, the best thing to do is to get the best price for it. Of course, the amendment of the Senator from Alaska would mean we could not.

Mr. PACKWOOD. I thank my colleague.

Mr. HEINZ. Mr. President, I am going to make a motion to table in a few minutes, but not right now. I yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, in order not to confuse the issue, my remarks will be addressed not alone to the first amendment but the amendment that I know the Senator from Alaska is about to lay down. I do not think there is any particular purpose to be served in speaking twice on the same subject.

The fact is that as we meet here today, realistically speaking, we face a very serious threat of a major oil disruption in the Middle East as the Iran-Iraq War heats up. This Nation, frankly speaking, is unprepared for that. Congress passed the mandatory allocation legislation and the President vetoed it. We have no plan in place.

As a matter of fact, a full-scale war in that part of the world could result in another major oil blockage in the Strait of Homuz. Twenty-five percent of the free world's oil passes through that strait and Khomeini keeps talking about blocking it. We say that it can be cleared.

Well, I am not a naval expert, but I do know that it would cause great havoc and have a tremendous impact upon the oil economy and our overall economy throughout this Nation and throughout the world. If a full blockage occurred, we would see oil prices more than triple from $30 per barrel to almost $100 a barrel. Gasoline prices would go up to $4 a gallon and home heating fuel prices would more than double. Industry, understandably, would hoard its supplies and gas lines would form again.

We are not prepared for such an oil crisis. Adopting the Murkowski amendment or amendments will not help us with respect to that problem. As a matter of fact, it would create more problems for us. Instead of protecting the American people with a mandatory allocation plan, which would provide a program to keep oil prices from going through the roof, which would have a standby program to allocate fuel supplies to farmers, to hospitals, to police and fire departments, which would have a program which would help the poor and the elderly on limited incomes meet sharply escalating fuel prices, the administration says, "Do not worry. The economy will take care of itself. The market will take care of it." As their own studies indicate, prices could go up to about $99 a barrel.

Now we have an amendment or two amendments that will make us even more reliant on foreign oil. This amendment would change current policy to allow 200,000 barrels per day of Alaskan oil to be shipped to Japan. I am not kidding anybody; 200,000 barrels a day is not very much in the overall scheme of things in this country. But if you can let 200,000 barrels flow out the door, then they will be back for 400,000 or 1 million barrels per day.

I am strongly opposed to this amendment. We have had this same argument made to us before on the floor of the Senate and we have turned it down. I do not believe it makes sense to ship American oil overseas, particularly at a time when we are threatened with a cutoff of Mideastern oil.

Today we consume about 15.5 million barrels of oil per day and we are importing a little more than one-third of that, about 5.5 million barrels of oil per day from other countries.

Recent testimony before the Senate Energy Committee showed that the world economic recovery will soon eliminate the temporary glut. When that happens, OPEC will again be back in the driver's seat.

The United States has diversified its import sources, becoming less reliant on oil from the Middle East. But the oil market is truly a world market. If there is a shortage of Mideastern oil, it will drive up prices for Japan and other Western countries, and that will drive up our prices.

There are other sound reasons to keep current policy and to oppose this amendment. As a matter of fact, as an aside I would like to comment on what I understand to be the next amendment of the Senator from Alaska, or an amendment to his own amendment. That has to do with changing the law with respect to the present law which makes it possible to export to countries under the IEA agreement. There is no secret about it. This Senator thinks that this Nation should not be in the International Energy Agency. There is absolutely no reason for us to be there. That is the kind of mandatory allocation plan which would provide for us to give up oil while at the same time we are not willing to share our oil with people here in this country.

But that is another issue that the Energy Committee will be considering in short order. I hope that he will join with me in opposing this Nation's further participation in the International Energy Agency. If I interpret his legislative proposal to that effect, then I commend him for that part of it, not for all of it.

This amendment would actually increase consumer prices by $3 to $4 per barrel. We should understand that Alaskan oil presently is priced below comparable grades of fuel. So under this amendment, we give up 200,000 barrels of oil a day of this lower priced Alaskan oil, and we would then be importing from other nations the same amount of oil but at current market prices.

That is not going to help the consumer. Obviously, it will not help the American economy. But it would reduce the number of American tankers that would be used to transport oil while at the same time increasing prices to the American consumers.

Under current law, U.S. tankers carry oil from the pipeline terminal at Valdez, Alaska, to the lower 48 States; 800,000 barrels of that oil goes to west coast refiners and 700,000 barrels to Panama, where the oil moves across Panama by pipeline and then by U.S. tanker to gulf and east coast refiners.

Let us take a look and see what happens if oil is shipped to Japan. Most likely, it would reduce oil shipments in U.S. tankers to the gulf and east coast refiners. They would get their oil instead from Saudi Arabia, which would be shipped on non-U.S. tankers.

Mr. President, I understand that the oil going to Japan would be shipped in American bottoms, but I do not see any gain that we make out of that. As a matter of fact, I see it as a loss.

We have a substantial interest in maintaining our tanker fleet. The U.S. Government has provided loan guarantees for their construction. And those tankers are on call by the Department of Defense in case of national emergency.

This amendment to allow 200,000 barrels of oil to be shipped to Japan would displace 17 tankers presently being used. I believe we should maintain our tanker fleet, instead of reducing their number by changing current policy.

This amendment, frankly speaking, would help Japan secure American oil, but would do nothing to open the Japanese market to American products.

I recognize that Japan is an important ally, an important trading partner, and important to our national security; but we must continue to insist that Japan open its markets to our products. This amendment would undercut that effort.

Proponents argue that this amendment is needed to provide an additional incentive to North Slope producers to produce additional oil. But they already have enough incentive, and Congress has given it to them over the years.

Last year those North Slope producers earned $5 billion. That is enough. That is more than sufficient.

They do not need this amendment to help them out of their economic distress.

In conclusion, I do not believe that a convincing case has been made for changing current policy so that Alaskan oil can be shipped to Japan.

We are faced with imminent threats to our oil security.

We have invested billions of dollars in tankers, pipelines, and other facilities on the premise that Alaskan oil would be shipped to the lower 48 States.

I am opposed to this amendment, Mr. President, as well as to the amendment as amended. I urge my colleagues to join in supporting the tabling amendment, which I understand the manager of the bill intends to offer at an appropriate time.

Mr. MURKOWSKI addressed the Chair.

Mr. HEINZ. Mr. President, I think we are ready to put the question on the amendment, so I move to lay it on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Will the Senator withhold the motion to table?

Mr. MURKOWSKI. Would the floor manager allow me to make one statement?

Mr. HEINZ. By all means.

Mr. President, I withhold my motion to table. I did not wish to preclude the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, the amendment which I propose and which the Senator from Ohio opposes are obviously two different amendments, but I do intend to bring up an amendment for 200,000 barrels a day after this amendment is disposed of. I would like to bring out one specific point.

My friend from Pennsylvania indicated that in this matter, indeed, we were talking about apples and oranges. I point out that you can eat both apples and oranges, and you can burn both crude oil and refined oil; but as we both know, an apple does not become an orange but oil does become a refined product. I ask my colleagues to reflect on the parallel that I have just brought up, because I think it has some merit. The argument made that it is not in this Nation's best interest to allow the export of crude oil but to allow unlimited export of refined product is, indeed, not only ambiguous but, I think, true food for thought on our Nation's energy policy if, indeed, we mean what we say with regard to consistency. After all, they are both used ultimately the same way.

I thank the floor leader for allowing me the opportunity to point this out.

Mr. HEINZ. Mr. President, I move to lay the underlying Murkowski amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the first degree amendment on the table.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), and the Senator from Colorado (Mr. HART) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 94, nays 2—as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—94

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Evans
Exon
Ford
Garn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hecht
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Lautenberg
Laxalt
Leahy
Levin
Long
Lugar
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Symms
Thurmond
Tower
Trible
Tsongas
Wallop
Warner
Weicker
Wilson
Zorinsky

NAYS—2

Mathias
Stevens

NOT VOTING—4

Cranston
Glenn
Hart
Percy

So the motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending business before the Senate is the first- and second-degree amendments of the Senator from Montana (Mr. MELCHER).

Mr. HEINZ. Mr. President, I ask unanimous consent that the Melcher amendment be temporarily laid aside.

Mr. STEVENS. Mr. President, reserving the right to object, could I inquire what are the other amendments that would be present here today?

Mr. HEINZ. Mr. President, I will attempt to answer that. It is my understanding the Senator from Alaska (Mr. MURKOWSKI) is about to offer an amendment. There are two amendments by Senator MATHIAS and Senator BOSCHWITZ and one amendment by Senator BOREN. Then we have the Melcher amendments pending.

Beyond that the managers do not know of any additional amendments, although there could be some.

Mr. STEVENS. Mr. President, reserving the right to object, I wonder if my colleague might withhold offering that amendment for a while and let these other amendments go ahead because I am still involved in conversations concerning the version of this amendment, and I wish to pursue those conversations.

Mr. MURKOWSKI. Mr. President, I am very pleased to accomodate my colleague, the senior Senator from Alaska. Assuming that there is no objection from the floor manager, I will withdraw the amendment.

The PRESIDING OFFICER. The question before the Senate is the unanimous-consent request of the Senator from Pennsylvania to temporarily lay aside the pending amendments.

Mr. STEVENS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HECHT). Without objection, it is so ordered.

MELCHER AMENDMENT NO. 2763

Mr. HELMS. Mr. President, American farmers face many problems, and we must be careful to see that actions by our own Government do not compound the problems.

Our Nation's farmers have achieved levels of productivity and efficiency unparalleled in human history. Through the private sector, agriculture provides the American public with an abundance and diversity of food, fiber, and consumer products at competitive prices.

American agriculture accounts for 20 percent of the gross national product and one-fifth of our foreign exchange. Agriculture provides 24 million jobs, one-fourth of U.S. employment.

Farm exports generated nearly 35 billion dollar's worth of earnings in 1983, the largest single positive force in our balance of payments. Every 1 billion dollars' worth of farm products we export generates 30,000 jobs in the private sector.

At the same time, this vital industry of agriculture has been hit by the upheavals of inflation, interest rates, a strong dollar, drought, worldwide surpluses, and a world recession. Farm program spending has reached new highs, and yet some farmers continue to go out of business.

It is in these perplexing circumstances that we consider this amendment.

I do want to make clear that the Secretary of Agriculture has worked hard to provide an effective program for farmers.

On July 1, 1983, Secretary Block announced general guidelines for the 1984 crop wheat program. He make this unprecedented early announcement so that farmers could made their planning and planting decisions efficiently.

This announcement was followed on July 29 by provisional details of two alternative 1984 wheat programs with the proviso that congressional action on the proposed target price freeze legislation would determine which alternate took effect.

Mr. President, the Senate Agriculture Committee adopted the proposed target price freeze as part of a package which provided $600 million of the savings to encourage farm export. Unfortunately, that measure was prevented from being considered by the full Senate, despite repeated efforts by the Republican leadership.

As a result, USDA implemented their previous announcement.

Several times in late 1984, attempts were made to bring up the measure approved by the Agriculture Committee. Senator Dole led the effort to provide a more attractive program to wheat farmers, and I commend him for his diligence. However, no agreement or compromise was reached.

Signup in the commodity programs was scheduled to take place from January 16 to February 24, 1984. However, farmers across America became concerned that the deadline for final signup came too early. In addition, wheat farmers found the summer fallow provisions to be difficult for them.

I wrote to Secretary Block expressing my concern about the early signup deadline and urged him to consider an extension.

On February 18, Secretary Block extended the signup period for the commodity programs until March 16 and announced the requested change in summer fallow rules.

I commend Secretary Block for his decision and his responsiveness to producers. I understand that farm groups were pleased with this announcement, and I encourage farmers to sign up in the programs.

Mr. President, I ask unanimous consent that my letters to Secretary Block, the USDA news release, and a summary of the benefits of participation be printed in the Record at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate, Committee on Agriculture, Nutrition, and Forestry,
Washington, D.C., February 17, 1984.

Hon. John R. Block,
Secretary, Department of Agriculture,
Washington, D.C.

Dear Mr. Secretary: Farmers in North Carolina are requesting that you extend the sign-up deadline of February 24, 1984, for entry into the commodity programs for the 1984 growing season.

It has become evident that the current cutoff date is creating hardships especially for cotton farmers in North Carolina. As a result of last year's drought, many farmers have yet to settle claims with FCIC that will be needed to clear up last year's crop financing. For many farmers, this year's financing arrangements are taking longer than usual to complete. Also, many leasing arrangements for farmers in North Carolina have not been completed. The reconstitutions of farms must be completed before a farmer can enter into any program. Several cotton farmers feel that a later sign-up date will bring a higher participation in the 1984 cotton program.

North Carolina's State ASCS Committee has determined that the financial arrangements of 40 to 50 percent of the farms in the State have yet to be completed. Until financial arrangements are finalized with lending institutions, producers cannot determine whether or not to enter any program. For these reasons, North Carolina's State ASCS Committee has requested an extension of the sign-up period.

This year's programs carry a binding contract, with liquidated damages and many producers believe they cannot meet the February 24 deadline. Participation in 1984 commodity programs could thus be reduced.

The success of the commodity programs offered for 1984 depend on achieving as high a participation rate as possible. If the current deadline is creating hardships, it could be beneficial to offer farmers a longer time to decide their participation in commodity programs.

The North Carolina Cotton Promotion Association has asked the deadline be extended until March 15, 1984, while the State ASCS Committee has asked for a deadline of April 1, 1984. I hope that you give serious consideration of offering some extension for entry into this year's commodity programs. If such an extension will result in higher participation, then I believe such action would be warranted. Higher participation would benefit both the farmers in my State and the effectiveness of the 1984 commodity programs.

Your consideration of this request is greatly appreciated.

Sincerely,

Jesse Helms,
Chairman.

Block Extends Farm Programs Signup and Changes Summer Fallow Rules

Des Moines, Iowa, Feb. 18.—Secretary of Agriculture John R. Block today extended the sign-up period for 1984 cotton, feed grain, rice and wheat programs by three weeks, through March 16.

Block also said he has changed summer fallow rules so that the requirements would be the same as they were in 1983 and previous programs. Prior to this action, acreage designated for the 1984 programs could not have been land intended for summer fallow in the current year. Other provisions of the 1984 programs will remain unchanged, he said.

Block said he took these actions to clear away some of the obstacles which made it difficult for farmers to make sound decisions about the programs. Also, many farmers have not been able to finalize crop operating plans including financing and lease arrangements. Since producers must sign a binding contract in the 1984 acreage reduction programs, with liquidated damages for failure to comply, they are reluctant to sign up until their operating plans are more complete, he said.

"Both USDA and private sector analysts say that when most farmers compare these programs with their own operating plans, they will find participation is to their advantage," Block said. "This extension will give producers the time needed to weigh the benefits of participation against the risks of no price protection which they would otherwise face."

Block encouraged farmers to avoid a last-minute rush to USDA's Agricultural Stabilization and Conservation Services county offices so that they can better serve each farmer.

1984 COMMODITY PROGRAMS—SUMMARY OF BENEFITS OF PARTICIPATION

Allows producers to control their own destiny—by working together to reduce planted acreage and production to maintain a level of stocks in line with market demand.

Assures greater net profit per acre. For example, the average wheat grower participant in the Acreage Reduction Program would net from $2.50 to $19.00 more per acre than a nonparticipant, depending on yields and market prices.

Protects producers against weather risks two ways: (1) if a natural disaster reduces crops, program participants are still eligible for deficiency payments; (2) if favorable weather causes a surplus, the incomes of participants are protected by the target prices and the use of CCC loans as marketing tools.

Allows producers to conserve portions of their cropland—reducing soil erosion and water pollution, and providing wildlife benefits. Participants may also qualify for special 90-percent cost-sharing for long-term cover crops or forestation.

Allows producers to achieve maximum efficiency in the use of land, machinery, labor and agricultural chemicals.

Participation usually is helpful in obtaining credit from lending institutions.

Federal Crop Insurance participants get increased coverage at no additional cost by participating in commodity programs.

Mr. HELMS. Mr. President, the wheat farmers of America are faced with burdensome surpluses. While the direction of this amendment is intended to be helpful to wheat farmers, the net result is not. I must reluctantly support the motion to table the amendment by the distinguished Senator from Montana, for whom I have the greatest respect.

The amendment would reduce the acreage reduction requirement to qualify for benefits on the 1984 crop from 30 percent to 20 percent. In other words, a producer would have to idle only 20 percent of his acreage to qualify for program payments, instead of the 30 percent already announced.

The intent is commendable, in that it should encourage increased participation among farmers by making it easier to comply. The theory is that, as more farmers participate, more land comes out of production and surpluses are reduced. Unfortunately, a closer look suggests that the reverse is true.

Mr. President, the increased participation is more than offset by additional production on the 10 percent allowed back into production by this amendment. The surprising result is that less acreage would ultimately be taken out of production, according to some analysts.

While these changes would make it easier for farmers to receive USDA payments, it would not reduce surpluses—in fact, with less acreage taken out of production, surpluses would grow.

The outcome is that there would be greater Government costs but still burgeoning crop surpluses. This is not a cost-effective policy. What is more, it will not solve the fundamental problem in the farm economy, which is too much supply and not enough demand.

Beyond that, this change would be unfair to those producers who have already complied with the 30-percent requirement. On August 9, 1983, USDA announced the 30 percent acreage reduction program. Producers have known the specifics of the program since then, and have had the opportunity to prepare fields and apply fertilizer so as to fit 30 percent.

If we change the rules in the middle of the game, it will disadvantage the producers who early on made the effort to comply with the program. Such a change would be inequitable and costly.

The Department of Agriculture has made informal estimates that this amendment would cost $500 million without making a dent in the surpluses.

At a time of record deficits, record-high farm program costs, and record-high wheat target prices, Congress should not spend another half-billion dollars on Government farm programs, especially if such action does not cut surpluses.

THE MELCHER AMENDMENT COSTS MILLIONS

Mr. President, I want to clarify the cost situation relating to the amendment of the distinguished Senator from Montana. The statement has been made that this amendment would save over $3 billion, but that applies over the next 5 years.

The fact is that this amendment will cost the taxpayer hundreds of millions of dollars in the next 2 years. What happens beyond that will be determined by the 1985 farm bill, not this amendment.

According to the Congressional Budget Office, the original amendment proposed by the Senator from Montana would cost the American taxpayer $408 million in fiscal year 1985. The current form of the amendment mandates slightly higher target prices than the levels proposed in the "Dear Colleague" letter of February 27. As a result, CBO says that the current amendment would cost $435 million in fiscal year 1985.

Mr. President, farm program spending is already at an alltime high. At a time when Government spending is causing record deficits, it does not make sense to add to the deficit problem by spending another $435 million.

The Department of Agriculture estimates the cost in fiscal year 1985 even higher, at $500 million. That includes only deficiency payments. When increased loan activity is calculated in, the outlays approach $750 million.

Now it is true that CBO estimates that some savings will occur in the out years. Even so, the net cost of this amendment over 2 fiscal years is $205 million.

The bulk of the so-called savings from this amendment occurs in fiscal years 1987, 1988, and 1989. In fact, about half of the savings occur in fiscal year 1989. Now, no one's crystal ball is perfect. Everyone should be aware that cost estimates in such distant years are subjective.

More importantly, the Congress must adopt a farm bill in 1985 when current law expires. Without knowing in advance what that bill will comprise, there is no human way to accurately foretell savings in these distant years.

The net result is that we must focus on fiscal years 1985 and 1986, and we come to the inescapable conclusion that this amendment will cost the taxpayer millions of dollars.

Farmers tell me that the best farm program would be to get interest rates down, and I entirely agree. Every 1-percent drop in interest rates saves farmers $2.163 billion. However, interest rates are not going to come down if we continue to add more fuel to the deficit fire.

This amendment is simply too costly and will not achieve the purposes it intends. I shall therefore be obliged to vote to table it.

Mr. HUDDLESTON. Mr. President, I understand that the leadership will shortly make a motion to table the Melcher amendment. I consider it most unfortunate that the Senate has, thus far, been unable to pass legislation to improve the 1984 wheat program.

The 1984 wheat program, as announced by the Department of Agriculture, will lead to low farmer participation because most wheat producers will not find the program financially attractive under the existing terms and conditions. Low participation in the 1984 program will, unfortunately, lead to increased carryover stocks of wheat. Such an increase will result in lower farm prices and higher program costs.

In November, the House passed a bill, H.R. 4072, that would strengthen the 1984 wheat program. The House proposal has not been satisfactory to the administration and has not been considered by the Senate.

This amendment is a revised version of H.R. 4072 that would represent a middle ground between the administration's current program and that offered by the House bill.

The amendment would provide for:

A 20-percent acreage diversion with no payment;

Target prices at $4.40 for 1984 and $4.50 for 1985 crops;

Haying and grazing on reduced acreage;

An extension of the signup period to not earlier than March 30, 1984; and

PIK provisions and summer fallow provisions as announced under the current program.

This program would not provide for a paid diversion or an advance deficiency payment; it would provide for a 10-cent increase in target prices between 1984 and 1985 crops. Representatives of the Congressional Budget Office have informed me that the Melcher amendment would save more than $3 billion over the next 5 years.

I urge my colleagues to oppose the tabling motion.

Mr. GRASSLEY. Mr. President, I appreciate the intentions and desire of my wheat State colleagues who would like to enhance the wheat program. I am also sensitive to the fact that some of my colleagues are less than pleased that I helped stop the consideration of the wheat bill passed by the House. But, as I made clear then, I am more willing to cooperate with my colleagues if they would offer the same courtesy to me.

Last year, when the House sent to the Senate H.R. 4072, I was informed that no amendments would be allowed because the leadership of the House Agriculture Committee did not want any amendments. That was the last legislative vehicle left in 1983 for Congress to pass agricultural legislation, and we were suppose to accept the mandates of the House Agriculture Committee leadership.

In reality, there was no legitimate reason that drought amendments could not be added.

I would have liked the opportunity to consider drought amendments. For those who may not be aware, much of our country's agriculture sector was hit by a severe drought last year. This drought has left many farmers hanging literally on a string. Others have been even less fortunate.

The crisis facing our drought victims is immediate. It is not a question of whether or not a bill will enhance signup in a 1984 farm program. Unfortunately, if additional drought assistance is not forthcoming immediately, there will be a lot of drought victims that will not be around in the next few weeks and months.

This dilemma made it difficult to understand why it was more important to pass wheat legislation without drought amendments than to attempt to pass drought assistance amendments over the objections of the House Agriculture Committee leadership. Thus far, I have heard little interest from my wheat State colleagues to help with drought assistance. If on the other hand, there is some interest, I would point out that Senator JEPSEN and I today introduced, S. 2379, the Drought Assistance Equity Act, a bill requested by the drought 1983 committee in Iowa. We are looking for bipartisan support and welcome cosponsors and others willing to help pass this bill. My wheat colleagues might find my resistance to wheat legislation subside quite quickly if they would be willing to help my farmers.

Mr. **BAUCUS**. Mr. President, Secretary Block recently extended the signup deadline for the 1984 wheat program to March 16 and restored the summer fallow provision to the same form that is has been for the past 3 years. I applauded the Secretary's decision.

Secretary Block has no other choice than to make changes in the program he had announced because signup was dismal. In Montana only 6 percent of our wheatgrowers had signed up for the program.

Our wheat surplus is projected to reach 1.4 billion bushels this year. This glut only serves to further depress the price that a farmer receives. The only relief we can find for these depressed prices is to curb production over the next 2 years to help draw down the level of our surplus.

What we need is a program that will convince farmers to participate. The current program is not meeting that requirement.

I have been working to develop a program that will meet these needs. I have looked at a paid diversion program and at reducing the set-aside program as ways to encourage more participation. I have also looked at the budget constraints that we are operating under.

In the 1981 farm bill we set target prices at $4.45 for 1984 and $4.65 for 1985. We are now asking wheatgrowers to tighten their belts and settle for a reduced target price for both 1984 and 1985. We reduce the incentive to participate in the wheat program by reducing these target price levels. We must also find a way to keep farmers in the program.

I believe the program contained in this amendment will provide the needed incentives for farmers to sign up. If we are going to run a successful program this is a necessary step to take.

The real need is to take action to improve the current wheat program. We are now waiting to hear the outcome of a meeting between Secretary Block and David Stockman and Members from the other side of the aisle. When we have seen the Secretary's position a decision will have to be made on how we proceed.

Again, Mr. President, the Senate must take action today to resolve the problems farmers have with the current wheat program.

Let me make one final point regarding the claim that this amendment is nongermane to the Export Administration Act. While the amendment may be nongermane from a strictly parliamentary view, the subject of export policy and agriculture go hand in hand.

The United States exported over 44 billion dollar's worth of agricultural commodities in 1981. My hope is that our agricultural export level bottomed out last year when we exported just over 34 billion dollar's worth of agricultural commodities.

Agricultural exports remain the bright spot in U.S. trade policy. There is tremendous potential for the expansion of our agricultural exports that is directly attributable to the efficiency and productivity of the U.S. farmer.

I do not think we can afford to turn our backs on this Nation's farmers by not taking action today toward improving the wheat program over the next 2 years.

Mr. President, I look forward to reaching an agreement today with the administration. If the Department of Agriculture continues to resist making necessary changes in the program, Congress should act in the best interests of our agricultural economy.

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD.)

● Mr. **HART**. Mr. President, it is truly unfortunate the Senate has again postponed efforts to improve the 1984 wheat program. I would like to make clear that I support and will continue to work toward passage of the alternative wheat program amendment which was before the Senate earlier today.

Once again, this administration has overlooked the importance of agriculture to the national economy in drafting the present 1984 wheat program. Once again, this administration has neglected farmers in my State and throughout the wheat States of the country. The Department of Agriculture's announced 1984 wheat program, recently changed and extended by Secretary Block, represents yet another failure of this administration to understand how agricultural programs work and the best way to correct a disastrous financial situation facing farmers in every region of the country. In short, the administration's program has been met largely with disinterest and discouragement. Farmers in Colorado have made clear to me they do not find the program financially attractive under existing terms and conditions and they do not intend to participate.

As it has been correctly pointed out today, low signup and participation in the 1984 program will lead to even larger carryover stocks of wheat next year. An increase in carryover stocks will place additional downward pressure on wheat prices and force higher program costs and additional financial distress for farmers.

Late last year, the House passed an alternative wheat program bill (H.R. 4072). Unfortunately, the Senate has not considered this legislation and the administration has indicated it will not support the bill if passed by the Congress. It is abundantly clear the administration does not intend to support efforts to improve the announced program and encourage greater participation nationwide.

The amendment before the Senate today is similar to legislation passed by the House and strikes a reasonable balance between the administration's current program and the House bill. The amendment would provide a 20-percent acreage reduction with no payment to farmers; target prices set at $4.40 for 1980 and $4.50 for 1985 crops; haying and grazing on reduced acreage; PIK and summer fallow provisions as announced under the current program; and, perhaps most important, an extension of the signup period through March 30, 1984.

Although I continue to support efforts to provide for a paid diversion program for wheat farmers, this legislation has neither a paid diversion nor an advance deficiency payment. It will, however, provide for a 10-cent increase in wheat target prices between the 1984 and 1985 crops. According to the Congressional Budget Office, the legislation presently before the Senate will save an estimated $3.4 billion during the next 5 years.

Mr. President, the situation on farms in Colorado and throughout the Midwest demands that we wait no longer in our efforts to address the worst financial crisis in 50 years. This amendment represents an effort to improve the program for wheat farmers in Colorado and offer them some hope for improved financial conditions next year. I support this effort and look forward to working together in coming months to provide additional help for other farmers and farm States throughout the Nation.●

Mr. **BAKER**. Mr. President, I am usually reluctant to make tabling motions until it is clear that all the bargaining, negotiating, debating, and conservation are over and done with. But at some point—and this is the point—it is clear that if we do not get things moving, they are not going to move. Therefore, I move to table the pending amendment, and I ask for the yeas and nays.

The **PRESIDING OFFICER**. The Chair asks if the majority leader is moving to table the underlying amendment.

Mr. **BAKER**. Yes, Mr. President; I move to table the underlying amendment, and I ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. McClure), the Senator from Illinois (Mr. Percy), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. Cranston), the Senator from Ohio (Mr. Glenn), and the Senator from Colorado (Mr. Hart) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—52

Armstrong
Baker
Biden
Bradley
Chafee
Cochran
Cohen
D'Amato
Danforth
Denton
Dole
Domenici
East
Evans
Garn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Hecht
Heinz
Helms
Humphrey
Jepsen
Kasten
Lautenberg
Laxalt
Long
Lugar
Mathias
Mattingly
Metzenbaum
Moynihan
Murkowski
Packwood
Proxmire
Quayle
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Tower
Trible
Tsongas
Wallop
Warner
Wilson

NAYS—42

Abdnor
Andrews
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bumpers
Burdick
Byrd
Chiles
DeConcini
Dixon
Dodd
Durenberger
Eagleton
Exon
Ford
Hatfield
Heflin
Hollings
Huddleston
Inouye
Johnston
Kassebaum
Kennedy
Leahy
Levin
Matsunaga
Melcher
Mitchell
Nickles
Nunn
Pell
Pressler
Pryor
Randolph
Riegle
Sarbanes
Sasser
Stennis
Zorinsky

NOT VOTING—6

Cranston
Glenn
Hart
McClure
Percy
Weicker

So the motion to table was agreed to.

Mr. MELCHER. Mr. President, I ask unanimous consent that Senator Baucus be added as a cosponsor to the amendment just voted upon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2769

(Purpose: To change the number of days the Secretary of Commerce has to report to Congress)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Murkowski) proposes an amendment numbered 2769.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HEINZ. Mr. President, reserving the right to object, and I do not intend to object, is there a copy of the amendment available?

Mr. MURKOWSKI. It is at the desk.

Mr. HEINZ. Mr. President, further reserving the right to object, just so that we know, is this the study amendment or is this the 200,000-barrel amendment?

Mr. MURKOWSKI. It is a first-degree amendment.

Mr. HEINZ. The Senator intends to offer another amendment?

Mr. MURKOWSKI. I intend to offer another amendment on the 200,000 barrels.

Mr. HEINZ. Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, line 13, after the period insert the following: Section 7 of the Export Administration Act of 1979 is also amended by striking in the second sentence of paragraph (1) of subsection (E) the word "5" and inserting in lieu thereof the word "10".

The PRESIDING OFFICER (Mr. Specter). The Senate will be in order.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MURKOWSKI. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2770

(Purpose: To modify the crude oil export prohibition)

Mr. MURKOWSKI. Mr. President, I send a second-degree amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Murkowski) proposes an amendment numbered 2770.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On line 6 of amendment No. 2769 after the period insert the following: Section 7 of such Act is further amended—

(1) in paragraph (1)(A) of subsection (d), by striking out "as described in paragraph (2)(A)(ii) of this subsection";

(2) by striking out paragraph (2) of subsection (d) and inserting in lieu thereof the following:

"(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported at a rate not to exceed 200,000 barrels per day but only if the President makes and publishes express findings that exports of such crude oil, including exchanges—

"(A) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

"(B) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

"(C) are in accordance with the provisions of this Act;

"(D) will occur on vessels built and documented in the United States, with all maintenance and major repairs on such vessels occurring in United States repair facilities;

"(E) will not impair the ability of the United States maritime fleet to transport or be able to transport the amount of crude oil necessary to meet national security and military needs;

"(F) will provide substantial increases in Federal revenues;

"(G) will be made only on or after January 1, 1985;

"(H) will be made only to countries which have made substantial progress in removing trade barriers to United States imports;

"(I) will encourage increased domestic oil exploration and development; and

"(J) will enhance the international trading position of the United States."

Mr. MURKOWSKI. Mr. President, the export of Alaskan North Slope crude oil has been effectively banned by an act of Congress. The time has come for us to seriously reevaluate this ban.

Mr. President, unless we act now, we will perpetuate a policy which will serve this Nation poorly in the coming decades.

I would like to briefly review the history of this issue.

In January 1968, 9 billion barrels of recoverable reserves were discovered in Prudhoe Bay on the North Slope of Alaska. Over the next 5 years there was an intense debate on how this oilfield should be developed. Two competing transportation plans were advanced. The first envisioned a pipeline across Canada which could deliver Alaskan crude to Midwestern refiners. The other focused on an all-Alaska pipeline which could deliver North Slope crude to a tidewater port where tankers would transport the oil to the west coast. Congress approved the latter plan. Four years later the Prudhoe Bay field began to pump oil.

At the time, the oil companies anticipated that the growing west coast demand for oil would consume most, if not all, of the Alaskan production. No one could have foreseen how quickly Americans would reduce their demands for oil in response to rising prices. Thus, ever since the oil began flowing from Alaska in 1977, there has been a surplus of North Slope crude oil on the west coast.

Mr. President, my amendment specifically addresses the concerns which have been expressed by my colleagues on the appropriateness of exporting Alaskan oil.

Specifically, the amendment provides for up to 200,000 barrels per day to be available for export. That is approximately 12 percent of the current production of the North Slope of Alaska.

It further provides that if indeed that oil is exported and if indeed there is a market, it shall move in U.S.-flag vessels.

Further, it requires that these vessels, if they do move oil in commerce from Alaska to a foreign country, be repaired in U.S. shipyards.

Lastly, the President has the authority to cancel any agreements if indeed it is in the national interest to do so.

Mr. President, there have been numerous proposals to handle the question of what to do with the excess oil on the west coast. A northern tier pipeline was proposed on several occasions but appears to be permanently abandoned.

I will say for the record that initially it was anticipated by one company, Sohio, that the excess oil on the west coast of the United States would be moved to markets on the gulf coast by utilizing existing pipelines from Long Beach, Calif., to the Texas area.

This effort was initiated by various owner companies and in the process of attempting to obtain permits from the Long Beach area, there was a great outcry as to the effect that the concentration of tankers in Long Beach Harbor would have on the air quality in that area. As a consequence, the permits were denied.

As a consequence of that action, the oil has since moved down from Alaska and the excess to the west coast has moved on to Panama where, incidentally, it was unloaded into small domestic U.S. tankers for the shuttle through the Panama Canal. Then those tankers moved the oil and dispersed it into the gulf coast ports and some east coast ports.

The interesting observation, Mr. President, is that it soon became obvious that there was a better way to move the oil through the Panama Canal than moving it by ships. So a pipeline was initiated across a foreign country to move 800,000 barrels of America's oil. This pipeline was built across the isthmus of Panama, some 80 miles. Since the operation of that pipeline began a year ago last February, it has averaged approximately 700,000 barrels of oil a day.

The initiation of that pipeline reduced the number of domestic tankers moving oil through the Panama Canal by a substantial amount. It could be said, in response to my opponents who are concerned with this proposed amendment and the effect it would have on the merchant marine, that that, indeed, was an improvement in lowering the cost of transportation. It was also in the national interest to reduce costs to consumers and increasing profit for the oil companies.

As far as I know, Mr. President, that particular effort to build that pipeline was not objected to strenuously by the unions, even though they recognized that they would have ships that would be replaced by a pipeline.

Let me share with my colleagues one other observation that I think points out the inefficiencies, the inconsistencies, associated with our Nation's energy policy today.

Today, there is a concentration of ships in Long Beach harbor. Those ships are engaged in the movement of oil from Alaska to Panama, where the oil is unloaded for transmission through the pipeline.

The reason ships are in Long Beach harbor today is that Long Beach is the only port that has fueling capabilities for the ships that are involved in the shuttle and movement of Alaskan oil. So today there are as many ships, for all practical purposes, in Long Beach harbor as there would have been had we allowed them to unload their oil in the first place when the volumes of oil excess to the west coast were made known. So we have made a complete circle on this issue the the detriment of the U.S. consumers.

I think it is interesting to note that today, we have a new California-to-Texas oil pipeline proposed that could indirectly boost revenues by hundreds of millions of dollars yearly. This pipeline cleared a major hurdle this week: California's South Coast Air Quality Management District approved a needed air quality permit that will allow oil tankers to unload crude oil in Long Beach, the western terminus of the proposed pipeline. The ruling removed a major stumbling block to the 4-year-old proposal by the Pacific-Texas Pipeline Co. to build a 1,026-mile pipeline to Midland, Tex. This new 42-inch line will be capable of carrying up to 900,000 barrels a day of Alaska and offshore California crude oil to the gulf and east coast refiners.

That is a quote from the Pacific-Texas president, Cecil Owens, made from Los Angeles.

The Pacific-Texas group estimates its tariff for oil deliveries will be less than half the cost of transporting oil by tanker to Panama for transport through the Panama pipeline and north to the refiners.

Mr. President, this difference will cut the transportation costs by $2 to $3 per barrel for some 800,000 barrels of Alaskan oil that is excess to the west coast of the United States.

The president of the company said the financing for this $1.6 billion project has been completed. He said his company is about to finish negotiations with the oil companies to confirm the line's crude oil supply. He said he hopes to finish the necessary environmental impact statements this summer.

Mr. President, I think it is interesting to point out that the cash flow generated from a savings of $3 billion is $2.4 million daily—$2.4 million daily, Mr. President, in transportation savings. It is interesting to note that with these transportation savings, this pipeline which is proposed to be built at a cost of $1.6 billion will be paid for in approximately 2 years.

It is like wishing indeed that we should not have a 747 aircraft for the efficiencies that it offers not only to consumers but the owners as well. Indeed, if we outlawed 747's in this country and required the smaller 737's that could carry 100 people, we would have more jobs, certainly. We would have more people involved in servicing those aircraft. But we has to relate to the realities associated with efficiencies in this country. Frankly, that is what we are talking about when we propose the export of Alaskan oil. We are talking about efficiencies in transportation. It costs less to move Alaskan oil to our allies—Japan, Korea, Taiwan—than it does to move it the route that half of it is currently being moved over.

Mr. President, the TAPS Authorization Act of 1973 first restricted the export of Alaskan oil. These restrictions have been tightened in subsequent legislation over the last decade. Because export to closer Asian markets has been effectively banned, this surplus Alaska crude, as I have indicated, has been shipped to Panama, transferred through the Panamanian pipeline, then moved again.

Since 1977, the adverse impact of the oil embargo in the United States has become increasingly clear to energy exporters and policymakers. I wish to point out, Mr. President, what the ban on the Alaska oil export does. It really costs the American taxpayer hundreds of millions of dollars each year in lost taxes and billions of dollars more in lost royalties on Federal oil and gas leases. If we reflect on production forecasts of our OCS lease sales, we are looking at revenues which will offset the growing deficits of our Nation.

Mr. President, the oil export ban discourages new oil development in Alaska, thereby raising the price consumers will pay for oil in the future. It certainly undermines an important trade and defense relationship with our Asian neighbors, notably Japan.

Mr. President, during the course of my remarks I plan to describe in detail each of these impacts and examine why the time is right to ease this wrong, to ease this trade restriction. I also plan to advance a proposal for limited export, which I hope will receive your serious consideration.

Let me note that the arguments in favor of export are simple and convincing. Unfortunately, as too often happens in the public policy arena, this issue has become complicated by political rhetoric and emotional appeal. We spent the last 10 years trying to rationalize a questionable decision made in response to the first oil shock, a decidedly emotional time when tempers flared in the long lines at gas pumps across the country. The ban also created a windfall for a vocal, well-financed interest which has fanned the public fear about oil supplies and inundated policymakers with this leading rhetoric, and now our sense of impatience with the Japanese over their trade policies further frustrates efforts to analyze our Alaska oil export policy on its merits alone.

If we look at the issue of trade with out Pacific neighbors it is not difficult to recognize that indeed we have serious deficits. Our deficit balance of payments with Japan is $21.6 billion; with Taiwan, $6.5 billion; Korea is over $1 billion. Yet we fail to recognize, Mr. President, all of these allies are dependent on importation of raw material in the form of energy, but with the exception of a little coal virtually none of the energy that goes into those countries comes from the United States. And I would ask you why, Mr. President, if we are serious about doing something to offset the deficit balance of payments, are we not initiating trade in regard to the surplus energy items which we have?

Mr. President, for the duration of my remarks I would ask to have my colleagues set aside any preconceived notions on this issue and consider the arguments in favor of limited export from a fresh perspective. I am confident that you will find these arguments appealing. Let me begin first with some basic facts about marketing Alaska's crude oil.

First, the U.S. west coast is the most profitable market for Alaska's crude, and even if the ban were eliminated totally the west coast would continue to have first claim on North Slope crude produced.

That said, however, it is far, far cheaper to export the west coast surplus than it is to force it over an inefficient route across Panama and on to the U.S. gulf coast. Japan, for instance, is 3,300 miles from Alaska. The gulf coast is twice as far, Mr. President, twice as far—6,700 miles. The trip to Japan is much simpler because it involves no immediate pipeline transit across Panama. Also, greater economies of scale can be achieved on an export route because it is feasible to use much larger tankers.

Mr. President, there is one thing a lot of people do not understand about Alaskan oil, and that is Alaskan oil is the highest priced oil in the world from the standpoint of production. It comes from a harsh area above the Arctic Circle where drilling costs are extremely high. In addition, the oil has to move through and amortize the largest construction project in the history of the world, and that was the Trans-Alaska Pipeline, built at a cost of approximately $7.5 billion. Oil from the North Slope moves through that pipeline, amortizes field development costs and pipeline construction costs, and then is loaded on U.S.-flag vessels and moves down to Panama. Then it is unloaded from those ships, goes across the Isthmus of Panama in a pipeline and is loaded again on U.S.-flag vessels and still marketed at competitive prices with oil from other points in the world.

Oil is like water, Mr. President. It finds its own level, and Alaskan oil can be marketed in spite of these high costs, but my specific point is that if you reduce the transportation cost you induce the exploration effort, and I will get into more on that point in my remarks later.

Shipping a barrel of North Slope crude to the gulf coast costs about $4.50 while it costs roughly 60 cents to $1.10 per barrel to ship that oil to the Orient. The export ban forces producers to pay as much as nine times more for North Slope transportation than they need to. In total, North Slope producers spend over $1 billion for unnecessary oil transportation to the gulf each year. This is substantiated by my earlier reference to the proposed California to Texas oil pipeline, initiated to pick up the transportation savings that can be realized. So the question comes up, Who is paying the tab? Contrary to what most people think, it is the American taxpayer and the average consumer, not the oil companies. Since 1980, Congress has allowed the oil companies to shift the immediate high cost of transportation under the export ban to the average taxpayer. Today most North Slope production comes from the Prudhoe Bay field which is flowing at 1.5 million barrels a day. Unlike other North Slope fields, it is subject to the windfall profits tax. However, the windfall profits tax statute allows most of the transportation costs to be deducted before the taxable value of the oil is calculated. When other Federal and State taxes are included, the impact of this tax deduction is truly astounding. For every dollar spent on transportation, the owner companies reduce their tax liability by approximately 91 cents.

In other words, for every dollar the oil companies pay for a transportation scheme that is inefficient and unnecessary, the American taxpayer loses 91 cents in tax revenues.

So much, Mr. President, for capturing windfall profits. Fewer Federal tax revenues mean higher Federal deficits, higher interest rates, and heavier personal income tax burdens for constituents all over America.

On the other hand, Mr. President, for every dollar that companies would save on transportation through export, State and Federal taxpayers would capture that 91 cents. I am sure that would appeal to my colleagues who are concerned about our growing deficits.

Over the long term, Mr. President, the economic burden that the ban imposes on the taxpayer and the consumer is going to grow heavier. I would like to explain it. The royalties and bonus bids that oil companies pay for access to federally owned oil and gas resources is a significant source of Federal revenues. In Alaska, the most attractive new areas for oil development are not on State lands. They are on Federal lands. But because the ban reduces the wellhead value of North Slope crude it decreases the projected profits from exploring and drilling on these Federal lands. Depending on the size of the field, lower projected profits force the oil companies to pay the Federal Government less for development rights or for developing a lease that they already hold. The Department of Energy estimates that over the life of the new field the Treasury would receive an additional $10 billion—that is in today's dollars—in royalties and bonus bids if the export ban were lifted on new field production only. So even though the American public is irate over disposal of other federally owned resources that have been referred to as "fire-sale" prices, we in Congress continue to rubberstamp policy which depresses by billions of dollars the value of Federal oil leases in the State of Alaska.

Over the long term, the ban will also force average consumers to pay higher prices for oil and oil products. The export ban triggers a chain of events which hurts every sector of the economy—households, farmers, utilities, truckers, you name it. Lower wellhead prices result in less production, and less production results in higher oil prices. Less non-OPEC production also increases the instability of the world oil market, making the United States more vulnerable to supply disruptions.

The negative impact of lower wellhead values on consumers was confirmed by testimony before the Federal Energy Regulatory Commission regarding the level of the trans-Alaska pipeline tariff, one component of ANS crude transportation costs. In his testimony on behalf of the Justice Department, Alfred Kahn, a former Chairman of the Civil Aeronautics Board, reports that a $3 per barrel change in the TAPS tariff could affect future North Slope production by about 150,000 barrels a day or more. He reports that estimates have been made which show that increasing production by this amount would reduce world oil prices by between 13 and 26 cents a barrel, saving U.S. consumers on the order of $1 billion a year.

While Mr. Kahn was talking about reducing the TAPS tariff, exporting Alaska oil is another way of reducing North Slope crude transportation costs. It would save North Slope producers between $3.30 and $3.90 a barrel. Clearly, as Mr. Kahn's testimony confirms, the potential exists for such transportation savings to yield welcome additions to the world's crude supply.

As I will discuss later, the export ban benefits a very small group of people greatly. I find it very hard to defend any policy which forces the average American consumer and taxpayer, to support the lifestyle of those we have made immune from competition. How do we justify considering tax increases, when we ignore revenues which could be generated simply by increasing efficiency in the North Slope trade? And, in time of record deficits, how do we justify a policy which costs the Federal Treasury billions of dollars?

I can see no justification for imposing [illegible] unnecessary costs on the American economy, at a time when we are attempting to regain our competitiveness in the world marketplace.

As I indicated by my previous amendment, which I put before this body to simply point out the inconsistencies of our policy, we allow the export of refined products with no restrictions of any kind. Refined products are shipped even to our neighbors in the Eastern bloc. Some 7,000 barrels of refined products go to the Soviet Union daily. Yet, we restrict crude oil exports. I trust that my colleagues observed this inconsistency.

BAN IS COUNTERPRODUCTIVE IN TERMS OF ENERGY SECURITY

Let me turn now to the impact of the export ban on this Nation's energy security.

After each oil crisis, we reaffirm our ban on exports using the rhetoric of "energy independence." With this "Doublespeak," we are deluding ourselves and our constituents. The export ban does nothing to help the United States withstand international oil supply disruptions and actually discourages development of new domestic reserves.

We owe it to our constituents, and our children's generation to stop perpetuating this sham.

The suggestion that the ban on Alaska oil exports has helped us in past supply disruptions or will help us in the future is a myth. The adverse impact of a supply disruption comes from a rapidly rising price, not availability per se. In a supply disruption, the world oil price will reach a new level based on the size of that disruption, regardless of where Alaska oil is shipped.

Exxon, Sohio, Arco, and the other North Slope producers will sell their oil at the world price, regardless of whether that sale is made in Yokohama or Houston, Tex. Thus, the ban does not protect this country from the economic effects of an oil supply disruption. In fact, over the long term, the ban will actually increase the vulnerability of the United States and its oil-consuming allies to future supply disruptions because it is a disincentive to new production.

In 1968, this continent's largest oil field was discovered at Prudhoe Bay. Only 5 years from now, in 1989, three-quarters of that oil will have been produced and consumed.

Even though Alaska is the premier area for new oil production in this country, no Alaska oil fields have been found, or are being developed, which will replace even a small fraction of Prudhoe Bay's production.

Make no mistake, Mr. President, there are billions of barrels of oil left to be developed in Alaska. The Department of Energy has substantiated those figures, as has the Department of the Interior. However, future development will involve smaller fields—which are still giant by lower-48 standards—immense technological challenges and much, much higher costs.

The Lisburne Field, which overlies Prudhoe Bay and is larger, is proposed for production and will require new technology because it is heavy oil embedded in sand. We also know that oil is where you find it; but in Alaska when you find it, you had better find a lot of it or you will never be able to afford to bring it to market.

The harsh reality of oil exploration on the North Slope was brought home to us in December. Sohio and its drilling partners paid $1.5 billion for leases on the much-touted Mukluk field. The first well drilled on the field was a dry hole—a $140 million dry hole.

Mukluk was expected to be the next Prudhoe Bay. It was not. Yet, within a 30-day period, another find was discovered at Seal Island. Seal Island is very close to pump station 1. Yet, there is no assurance that this find will ever find its way into the commercial market, because infrastructure costs are so high.

We must maintain a climate to promote the development of new fields for America's energy independence, and the only way to do that is to reduce the crude oil transportation costs every place we can.

The cost of developing new Alaska fields will be higher and the fields themselves will be smaller. The only incentive to develop new North Slope fields will be higher wellhead prices. Easing export restrictions will raise these prices by removing the transportation cost penalty currently imposed by the export ban.

Wishful thinking will not produce more oil from Alaska. Higher prices at the wellhead, as a result of increased transportation efficiency will.

It is important to remember that it takes 8 to 10 years to develop an Alaska oil field. In the next oil crisis, development potential will not heat homes, fuel automobiles or stabilize the world oil price. We must develop Alaska's oil potential to protect against the next oil supply disruption. The export ban stacks the deck against such development.

I ask all of you to recognize that the economics of new field development cannot be compared with those of Prudhoe Bay. Prudhoe Bay is unique. It is a once-in-a-lifetime windfall for our Nation. Prudhoe Bay is such a huge field that it has been able to absorb high operating and development costs as well as the high cost of subsidizing the domestic maritime industry. New fields will not be able to assume that double burden.

The choice is clear. Do we continue to forsake long-term domestic energy production for the short-term interests? Or, do we separate the two issues and work for answers which will insure both long-term domestic oil supplies and a healthy merchant marine? This is the crux of the debate on oil export.

ADVERSE IMPACT ON ASIAN TIES

In addition to imposing domestic penalties, the export ban also imposes penalties in the international sphere.

I think we tend to underestimate the growing importance of the Pacific Rim and choose to focus, instead, on the concerns of Western Europe, the Middle East and the Soviet Union. This is the natural result of proximity as well as our deep cultural ties with that part of the world.

This notwithstanding, I urge my colleagues to recognize that our interests in the Pacific Rim are as important, if not more important, than those in the Atlantic. Lest we forget, the United States is a major Pacific Rim country with a genuine interest in the region's stability and prosperity.

The United States trades more with Asia than it does with Western Europe; Japan is our single largest and most important trading partner—it purchased $21 billion in goods and services in 1982 from this country.

Think about these facts for a moment. The time has come when we must all acknowledge that the economic growth and stability of Asia is absolutely vital to improving our own standard of living.

This area is also clearly vital to our national security. Japan, in particular, occupies a key strategic position in Asia for it controls the maritime exits of the Soviet Navy from the Sea of Japan into the Pacific Ocean. In addition, U.S. bases in Japan are important to the security and stability of East Asia, particularly South Korea. And, because Soviet military power is growing in the Pacific, the importance of Japan, South Korea and our other Asian allies is increasing.

Mr. President, I think it appropriate to read into the RECORD a letter from our Ambassador to Japan the Honorable Ambassador Mike Mansfield. This letter was dated February 8 and reads as follows:

> Hon. FRANK H. MURKOWSKI,
> *U.S. Senate, Washington, D.C.*
>
> DEAR FRANK: I am pleased that the Congress will consider easing restrictions on the export of Alaskan oil. This step would benefit American consumers and taxpayers, improve relations between the United States and Japan, and strengthen U.S. security. I hope the Congress will act soon to approve it.
>
> The economic reasons for allowing the export of at least a portion of Alaskan oil production are straightforward and well understood:
>
> Alaskan oil production is now much more than west coast refineries can use, and it could grow in the future.
>
> Shipping costs for delivering Alaskan oil to U.S. gulf and east coast refineries are now $4.00 to $5.00 a barrel as compared to $1.00 or less per barrel for oil supplied from Mexico, Venezuela, and other countries.
>
> Alaskan oil could be shipped to Japan and other Asian markets for about $0.50 per barrel, or around $1.00 in U.S. tankers.
>
> Allowing the export of Alaskan oil to Japan will also further the security of the United States. Japan is the most important Pacific ally of the United States, the foundation for U.S. defense efforts in East Asia, and a base for the U.S. Seventh Fleet and other U.S. military forces. Japan's energy security is, thus, inseparable from our own—Japanese refineries supply fuel for all U.S. forces in the area. I cannot conceive of the United States not assisting Japan in the event of an international energy crisis and note that we have obligated ourselves to do so under the international energy agreement.
>
> Japan's solidarity with the United States on energy security is a matter of record. Japan was the only country that paid a price for its support of our policies in Afghanistan and Iran. While the hostages were being held in Iran, Japan, at our urging, refused an Iranian request for a $2.50 increase in the price of oil. As a result, Iran, which had been supplying 13 percent of Japan's oil, cut off oil shipments to Japan.
>
> While I would be the first to acknowledge that the United States has trade problems with Japan, those problems are being addressed by the Administration under the coordination of Vice President Bush and a continuation of the prohibition on oil exports will not help to solve them; it will only raise questions about the sincerity of our efforts to reduce the bilateral trade deficit with Japan.
>
> I would note, in addition, that the U.S. oil market is of vital importance to Mexico and Venezuela. The United States looks to these countries to provide stability and economic growth in the Caribbean. Oil imports from these countries are beneficial to both them and us.
>
> The proposal to allow limited export of current Alaskan production and unlimited export of new field production is an excellent one; it would open the possibility of future export from new fields, encouraging development of those fields and enabling Japanese companies to make long range plans to increase their imports from Alaska without disturbing current oil supply arrangements in either country to any significant degree.
>
> Placing a limit on exports from current Alaskan production should also protect the interests of the U.S. maritime industry and unions by preventing a fall in domestic shipments of Alaskan oil. The economic and other benefits from exporting Alaskan oil would still be substantial, even if use of U.S. ships were to be required for a portion or even all of the oil exported.
>
> Sincerely,
>
> MIKE MANSFIELD.

As you will recall, Mr. President, that is precisely what my amendment says.

We must regard these Asian countries as some of the most important allies we have. We must be concerned about how the export ban affects them.

And really, Mr. President, the crude oil export ban is directed against them. We can ship our refined products, but we cannot ship crude oil to Japan, and we cannot ship crude oil to Korea, and they are very much aware of that. I strongly believe that this trade restriction works against their security interests—hence our own—and undermines our efforts to improve trading relationships.

One of the primary threats to the security of Japan and South Korea, is their reliance on unstable sources of imported energy.

Japan relies totally on imported oil, over 70 percent of which comes from the volatile Persian Gulf. Overall, it must import 90 percent of its energy—oil, coal and natural gas. In contrast, the United States must import only about 10 percent of its total energy requirements.

It is interesting to note, Mr. President, at the current time we import approximately 3 percent of our oil supply from the Mideast. South Korea and Taiwan are even more resource poor and must rely heavily on energy imports. But again, Mr. President, we do not supply any of those countries with energy. The export ban forces Japan and other allies into energy relationships with China and the Soviet Union. We know that such relationships are fraught with geopolitical risks. For example, the recent downing of the Korean airliner occurred over Sakhalin Island, home of a joint Soviet-Japanese energy project.

The Japanese are there because they are not energy self-sufficient. They are looking for energy and willing to buy from any source available. Just as it is not in our interests for European allies to depend on Soviet natural gas, it is not in our interests for the Japanese or the South Koreans to rely on energy projects in the Soviet Union or China.

The export ban also raises doubts about our commitment to share oil supplies with the Japanese in an energy emergency. Iraq has threatened to blow up a major Japanese oil project in Iran, Japan's largest single supplier of oil. Because Japan is the world's second largest oil importer, disruptions in its oil supplies have ramifications for each and every one of us. As we saw in 1979, Japanese buying on the spot market drove up oil prices higher than the supply shortfall warranted.

The same thing could happen today. Prohibiting the export of Alaskan oil will not isolate the United States from such an occurrence again. Owners of Alaskan oil will sell crude oil at the world market price, which is based on the price of Saudi light. This world oil price will dictate the price of Alaska crude oil regardless of how much oil you have coming in from Alaska.

We have tried to reassure the Japanese, through the International Energy Agreement, which was referred to earlier by my colleague from Ohio, that we will share our oil supplies with them in an oil emergency. But if you were Japanese, ask yourself how much faith you would put in such a promise when the United States refuses to sell to you, and I might add at a handsome profit, even a small portion of its excess west coast crude in the midst of a worldwide glut.

It is wishful thinking to believe that the United States can continue to either disregard the energy security—hence the national security—problems of our Asian allies, or to address these problems with rhetoric but no action.

I also recognize that we have important disagreements with Japan over its trade restrictions. However, this trade tension is surely not eased in any way by the existence of a ban on trade in a commodity so vital to the Japanese. I sense many people feel that since they are erecting barriers to our commodities, we are justified in having our own barriers. Unfortunately, this is an example of cutting off your nose to spite your face—no one wins and the U.S. taxpayer and consumer loses.

The problem with the oil issue is that people do not understand that Alaska crude oil competes in the world market with Saudi light or it does not compete at all. If it does not compete, it does not come into production and is not available for marketing. Nor is it available in times of short supply. Until my colleagues recognize this fact of life, they will fail to understand that what I propose will bring even more Alaska crude oil to market rather than lock it into the ground where it cannot be reached during periods of short supply.

Of course, the ban is a very expensive way of venting our frustrations with the trading practices of the Japanese, Koreans, and Taiwanese.

At some point, serious negotiations over Japanese trade barriers will ultimately have to face the stumbling block of the U.S. crude oil export ban. However, if the Congress gives the President flexibility on this issue, it may be possible to turn a stumbling block into a negotiating tool. This will not happen, however, as long as the Congress remains rigid in its support of a complete ban.

Above and beyond our trade disputes, the United States and Japan are partners in, using Ambassador Mike Mansfield's words, "our most important bilateral relationship." In a period of increasing international tensions, we cannot afford to leave Japan unclear about our commitment to its security.

The Department of Energy, in the recently released national energy plan, endorsed—for all of these reasons—the limited export of Alaska oil. Now, it is time for Congress to take action.

I have spent quite a bit of time describing the problems that the export ban has created. Now, let us turn to the one dubious benefit the ban has yielded.

THE MARITIME CONNECTION

As with any other trade restriction, there are the few who benefit at the expense of the many. In this case, it is the ailing inefficient domestic maritime industry which has received a legislated windfall. The oil export ban constitutes a huge hidden subsidy to that industry.

Let there be no misunderstanding, I am committed to achieving the goal of a healthy, competitive domestic maritime fleet. However, even though the export ban heavily subsidizes this industry, we do not seem to be moving any closer to that goal. At the same time, as an undesirable side effect of this subsidy, we are losing ground in our efforts to increase domestic energy supplies. There has got to be a better way, and I am sure my colleagues would agree.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. MURKOWSKI. Mr. President, I will yield for a question.

Mr. HEINZ. The Senator from Pennsylvania will wait.

Mr. MURKOWSKI. I appreciate that. I probably have seven more pages.

Mr. HEINZ. The Senator is sure he is not filibustering his own amendment.

Mr. MURKOWSKI. I assure the Senator from Pennsylvania I am not filibustering my own amendment. I hope that I am making some progress in convincing my colleagues of the merits of my amendment.

Mr. HEINZ. I thank the Senator for yielding.

Mr. MURKOWSKI. Mr. President, 90 percent of the tanker tonnage in the Jones Act fleet, and about half the tanker crew, is employed in the Alaska oil trade. As long as Alaska oil is produced, the maritime industry is guaranteed work for these tankers and men. They have a monopoly on this trade and, not surprisingly, they charge monopoly prices.

As a result, we pay over $1 billion more than we need to for Alaska oil transportation. Our constituents may well wonder what this $1 billion a year is buying—besides healthy PAC contributions for Members of Congress?

This $1 billion is clearly not buying a healthy merchant marine.

I quote from an article done by the Philadelphia Inquirer of May 1, 1983:

> The U.S. merchant marine steams at nearly double the operating cost of foreign competitors with crew and officer costs that are triple the going world rate . . . Year after year, as massive aid has flowed into the maritime industry, the U.S. merchant fleet has declined. . . .

Our policies encourage shipowners to operate their fleets long after safety and efficiency considerations dictate scrapping them. These same policies make operators immune to the exorbitant wage and benefit demands of the maritime unions—where many crew members are paid salaries of $50,000 or more per year, for 6-months' work.

Rather than tackle the tough issues of national maritime policy, this body seems willing to forgo billions of dollars in tax revenues, and to risk our future energy secruity and that of our allies by using the export ban as a politically expedient way of addressing a serious national problem.

We have been using the export ban as a band-aid for this industy's problems when it really needs much more potent medicine.

We must determine if there is an effective—and cheaper—way of achieving the valid public policy objective of a modern competitive merchant marine. I wholeheartedly support constructive efforts in this direction.

I think my amendment responds positively to the concern for a strong merchant marine because, Mr. President, it dictates that if any oil is exported outside the United States it will be exported in only U.S.-built and documented vessels. I think this will ultimately provide more business for the American merchant marine.

Some of my colleagues have expressed the concern that if this amendment receives favorable consideration, although exported oil will move in U.S.-flag vessels, it will not move as far. I would again remind those with this concern of the realistic alternative of movement by pipeline, as proposed by the new California to Texas pipeline, which is now underway. And while they recognize the oil will not move as far, it may move in larger U.S. tankers than are currently used in the movement of that oil.

I would remind my colleagues of the natural efficiencies available in the movement of commodities as improvements are made.

I know some of my colleagues are concerned that some shipyards in the United States might be affected by my amendment. I have addressed that concern by requiring in my amendment that all ships involved in the carriage of oil outside the United States not have the option of repair in foreign yards. They must be repaired in U.S. shipyards. For my colleagues concerned that these larger ships may not be able to get into the currently available shipyards, I would like to point out another inconsistency.

In the State of Oregon, there is a shipyard on the Columbia River where most of the ships are repaired. That shipyard was constructed in Japan and towed to the Columbia River, where it does an outstanding job of repairing U.S.-flag vessels today. I point this out simply to illustrate the inconsistencies that are in existence in our merchant marine today.

I think my amendment is a positive one. It provides an interim period of continuing operation of U.S. ships and a new market for the maritime unions—the market opened by the export of excess crude oil from the west coast to the Far East.

I strenuously object to achieving—or worse, trying in vain to achieve—one valid public policy objective at the expense of another. That is what we are doing with the Alaska oil export ban.

I represent a State which relies on domestic shipping for the very necessities of life. I would be happy to work with others on problems faced by this industry. It is time, however, to stop creating countless economic, energy security, and foreign policy problems by satisfying the short-term interests of a few.

Now, in the context of our consideration of the Export Administration Act, I believe that the time has come to inject some flexibility into the way we think about, and regulate, Alaska oil.

THE TIME IS RIGHT

The Senate last considered the oil export issue in 1979. Today, the world's energy situation is far different than it was then. Consider these four events of the last 5 years.

First, the worldwide oil glut has reduced oil prices, further decreasing the incentive for new development of high-cost areas such as Alaska.

Second, the west coast surplus, created by the export ban, will grow even larger in the next few years as new California production comes on line. And since the abandonment of the Northern Tier project earlier this year, producers face three alternative ways of dealing with this glut: export, "shut-in" production onshore in California, or, finally, slow further development activities in Alaska.

Third, we have learned a very expensive lesson: Japanese energy vulnerability affects the American consumer in a very tangible way. Japan, like the United States, is vulnerable to oil price changes. However, because they import 100 percent of their oil and 90 percent of their overall energy requirements, the Japanese perceive—and understandably so—that they may face the problem of getting any oil at all.

Make no mistake, the U.S. consumer will pay if Japan is forced, once again, to bid up the world price, as she did in 1979, in frantic efforts to secure oil on the spot market. It does not matter whether an oil price increase is caused by panic buying or a genuine shortfall in supplies, we all pay the new higher price. Exporting Alaska oil would reduce the Japanese perception of vulnerability, lessening the likelihood that their purchases on the spot market would increase the price we all pay for oil.

Banning the export of Alaska oil offered us no protection from the economic consequences of the 1979 supply disruption. Maintaining the ban would not offer any help in the future either. Only new oil supplies and a flexible market will minimize the impact of future disruptions.

Finally, the American public has demonstrated that it understands the way the oil markets really work. For instance, the American public is not concerned that we are importing refined products at the same time that we are exporting them. The United States is currently exporting just short of a half a million barrels a day of refined products, including 7,000 barrels a day to the Soviet Union with no restrictions at all.

I ask how many of you have received letters from constituents in an uproar that we are exporting heating oil from the coast and importing it on another? Clearly, the sky has not fallen in because of refined products exports, nor is it likely to fall if the U.S. exports some fraction of this volume as crude oil.

As the world has changed in the last decade, the need to reevaluate our export policy has become greater and the case for easing export restrictions has become more compelling than ever.

JOINT POLICY STATEMENT ON ENERGY COOPERATION

After nearly a year of study and negotiation, administration policymakers in both the United States and Japan have acknowledged the merits of promoting the export of limited amounts of Alaska oil. Last January, President Reagan and Prime Minister Nakasone announced the formation of a United States/Japan Energy Working Group to promote a cooperative relationship in energy between the two countries.

This group, and its experts—technical advisory committee—studied this issue over the past 10 months. Their deliberations formed the basis of the energy discussions held in November between the President and Prime Minister in Tokyo.

In advance of the President's trip to Japan, the U.S. members of the Energy Working Group released a report of their findings. That report reached the following conclusions:

> Enhanced energy trade is one area where we can strengthen our economic presence in the Pacific Rim, improve the area's energy security and preclude further reliance on Soviet energy supplies;
>
> Increases in U.S. energy exports mean new jobs, higher government revenues, enhanced exploration and development of the U.S. resource base, and injections of capital investment;
>
> Therefore, U.S. energy exports are not only an energy security boon for our allies but also for us. Without exports, our energy resources, particularly in Alaska, may remain underdeveloped or undiscovered in their full potential. Exports can facilitate exploration, development, and the availability of U.S. energy for the Pacific Rim.

With respect to oil, the American contingent found that the United States could derive substantial net benefits through exports of Alaska oil to Japan. In fact, their report concluded:

> We have weighed the costs and benefits of removing export controls, looking at options ranging from export only of oil from new discoveries to a full lifting of the ban. There are some costs to lifting the ban * * * The benefits of lifting the ban are substantially greater than these costs.
>
> The most immediate and direct benefit is the savings in transportation costs * * * Substantial added benefits accrue as the value of new Alaskan and West Coast leases increases; oil exploration and development (and jobs in that industry) increase; and, federal and state revenues are enhanced from these activities. U.S. energy security will improve as increases in domestic production cause net imports to drop, and the diversification of supplies will enhance the energy security of key Pacific Rim allies.

Significantly, President Reagan and Prime Minister Nakasone announced agreement on a Joint Policy Statement on Energy Cooperation. The importance of this document, which was the culmination of the hard work of the United States/Japan Energy Working Group, for United States-Japan relations should not be underestimated.

The document begins by stating that:

> Taking account of the energy prospects for the entire Pacific Basin, the two countries agree that the sound expansion of U.S.-Japan energy trade will contribute to the further development of the close economic and energy security relationship which exists between the two countries.

Specifically noting the potential for Alaska oil exports, the United States and Japan acknowledged that U.S. legislative barriers stood in the way of both countries realizing the gains from this trade. The United States pledged to continue to keep under review the removal of restrictions on exports of domestic crude oil.

I believe that this bilateral statement gives us yet another reason why the time is right to reevaluate our oil export policy.

I fear that unless we support the progress of the United States and the Japanese negotiators on the issue of energy, specifically oil, it will be difficult for the President to pursue the critical trade issues which are so important to many other American industries.

Clearly, oil is an issue which must be dealt with in a constructive way during wide-ranging trade discussions. However, if we simply rubber stamp an extension of the ban, we will tie the hands of the President on these other trade issues.

AMENDMENT TO ALLOW LIMITED EXPORTS

Mr. President, I do not advocate a wholesale unraveling of web of laws Congress has enacted governing the sale and taxation of Alaska oil.

Instead, I propose an amendment which enables our country to achieve many of the benefits associated with freer trade in energy while at the same time addressing the fundamental concerns of an industry which has come to rely on this legislated hidden subsidy.

This amendment would ease restrictions on the export of Alaska crude oil. It would allow limited exports of up to 200,000 barrels per day from Alaska's North Slope, 12 percent of current ANS production; delay the start of exports for 1 year, giving the President time to use export as a bargaining chip in trade negotiations; require a Presidential finding that export has, indeed, been a factor in advancing trade negotiations; mandate export on U.S.-flag tankers, and require that those tankers be repaired in U.S. shipyards; encourage new production, with the accompanying positive effects on both the level and stability of world oil prices; and diversify the energy supplies of a key Asian ally, such as Japan or South Korea, and enhance the credibility of our assurances of emergency aid. As I noted earlier, Japan's energy vulnerability is our Achilles heel. If we truly want to reduce the threat of an oil supply disruption to the Japanese—which poses a very real threat to the United States—we must take action to address her energy security dilemma. Limited crude oil exports would be a good first step.

Let me also be clear about what easing export restrictions would not do.

Export would not increase the price of oil or oil products in the United States. We would continue to pay the world price for oil, just as we do now for Alaska crude or any other.

Export would not decrease the availability of oil or oil products. Other suppliers—closer to the gulf coast—would replace any exports at the same world market price.

Export would not damage the merchant marine's defense capability. This amendment mandates that export can occur only as long as it does not impair the defense capabilities of the merchant fleet. Given the minimal impacts and the additional Federal revenues generated by export, the Department of Defense can insure that it has the vessels available that it may need in an emergency.

This amendment minimizes any adverse impact on the maritime industry and offers some tactical advantage for the United States in trade negotiations with the Japanese.

With respect to the maritime fleet, the modest reduced domestic demand for tankers and crew will be absorbed through natural attrition. As most of you are aware much of the Jones Act fleet is an old fleet, old crew and old tankers. It is important to remember that the average crew member is 50 years old; of the 14,400 tanker crew in 1982, 2,376, 16.5 percent, were 60 or older. Most crew retire—to lucrative pensions—at 62. So you can see that these retirements will more than compensate for any reduction in crew demand due to export.

As I noted earlier, the Alaska North Slope trade has been encouraging tankers to stay in service long after they were fully depreciated, contrary to the interests of the environment, crew safety, and efficiency. Limited export would permit the vessel retirements which are long overdue.

In addition, using U.S.-flag ships for export provides a benefit to the U.S.-flag fleet as it would employ some heavily subsidized U.S. tankers, which are now foundering in the glutted world market.

With respect to trade relations, this amendment offers U.S. negotiators a tactical advantage. Delaying exports for 1 year allows the President an opportunity to offer Alaska oil to Asian trading partners in return for some reduction in barriers to U.S. exports. Right now, the political opposition to any crude oil exports appears so formidable that the President is effectively precluded from using oil in negotiations. The planned delay in implementation also allows the Congress an opportunity to change its mind on limited export if suitable trade progress is not forthcoming, or if the energy situation changes.

To conclude, export of some Alaska oil has always made good economic sense. It has always made sense in terms of our commitments to our allies and our commitment to free trade. Unfortunately, as I noted earlier, good economics and good policy have been overwhelmed by the force of public misconceptions and fears which have been fed by special interest rhetoric.

Seven years after the first production from the North Slope, I think we can assess the impacts of the export ban: It has cost the U.S. Treasury billions of dollars and will continue to cost both the Treasury and the consumer billions of dollars more; it discourages new domestic oil production; and it damages our relationships with our allies. The negative repercussions of the export ban clearly make this an issue which requires our attention.

We have been willing, over the last few years, under administrations of both parties, to look at countless laws and regulations to see if they still provide the benefits we once associated with them. We, in Congress, have been wisely skeptical of our ability to—once and for all—legislate an answer to any problem in these changing times.

I ask my colleagues to consider applying a dose of the same healthy skepticism to their review of the way we have chosen to regulate the export of Alaska crude oil.

I think this amendment offers a sound alternative to a simple extension of the current restriction. I believe it allows the United States to take advantage of its natural resource wealth in a way which benefits other U.S. industries, as well as the U.S. Treasury.

Mr. President, I think it is in the best interests of this country and should merit the serious consideration of my colleagues.

I ask unanimous consent that I may suggest the absence of a quorum and retain the floor at the termination or withdrawal of the quorum call.

The PRESIDING OFFICER (Mr. ABDNOR). Is there objection?

Mr. HEINZ. Reserving the right to object, will the Senator restate that?

Mr. MURKOWSKI. I ask unanimous consent that I may suggest the absence of a quorum and retain the floor at the withdrawal or termination of the quorum call.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, reserving the right to object, the Senator from Pennsylvania does not intend to object, even though it is an unusual request. I hope there will not be a similar request a second time.

Mr. MURKOWSKI. I respectfully advise my friend from Pennsylvania that I would like to have about 4 minutes.

Mr. PACKWOOD. About how long?

Mr. MURKOWSKI. About 4 minutes.

Mr. PACKWOOD. Would the Senator be willing—I have some comments I would like to make. Would he let me make some comments and he can have the floor back when I am done?

Mr. MURKOWSKI. I shall be happy to relinquish the floor, with the understanding that I do not lose my right to the floor, to my friend from Oregon.

Mr. HEINZ. Mr. President, as I understand the unanimous-consent request it is that the Senator from Alaska has asked unanimous consent to yield to the Senator from Oregon (Mr. PACKWOOD) for not to exceed 5 minutes, without the Senator from Alaska losing his right to the floor.

Mr. MURKOWSKI. That is correct.

Mr. HEINZ. Mr. President, I have no objection to that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, the Senator from Alaska touched upon a great many points. One of the points he touched upon, however, was the fact that drilling in Alaska, production in Alaska, distribution in Alaska, is very, very expensive; therefore, it is necessary to get a slightly higher price for the oil overall. Bear in mind that the transportation costs are deducted from the wellhead price and therefore the companies get slightly more money. They need more money to drill. The Department of Energy has estimated that if we export the oil they are talking about, the average price will go up 9 to 13 cents per barrel of oil.

Bear in mind that oil is now $26 a barrel, give or take a dollar from time to time on a spot market. Mr. President, I came to the Senate in 1968. I see my distinguished colleague from Wisconsin is here. He came in the late fifties. As I recall, when he came to the Senate, oil was probably $1 a barrel. I doubt it was more than $2 a barrel when I came.

Mr. PROXMIRE. Let me say to my good friend, I never bought oil by the barrel. When I came, gasoline was about 22 cents a gallon. I am sure we could relate the two prices.

Mr. PACKWOOD. The point I was making is that I know in 1973, just before the boycott, oil was about $3 a barrel. The first boycott drove it up to $12 per barrel; the second drove it up still further.

The Senator from Wisconsin can recall the arguments that have been made time and time again before this body and before the Committee on Finance and other bodies that have to do with tax incentives, that the oil producers need a little more money, a little more something, if we could just get oil to $3 a barrel, $4. When oil shale was just beginning to seem feasible, we were going to produce it in quantities.

Mr. PROXMIRE. I do not know of any industry that has gotten the kind of concessions, especially substantial concessions, out of the Congress as oil has. There is no stopping them.

Mr. PACKWOOD. At the outside, we had a 300-percent increase in inflation from the time the Senator from Wisconsin came to the Senate.

Mr. PROXMIRE. That is right. It is not my fault.

Mr. PACKWOOD. None of which was his fault, I might add.

Mr. HEINZ. If the Senator will yield, perhaps he can recall the former president of Standard Oil, Emiglio Corado, made a speech back then in which he said: "One more dollar." The thesis of that speech was if the price of oil went up $1 more, we would not import a single barrel more because we would make it out of coal.

Mr. PACKWOOD. That argument is still around, but we are $2 short.

Mr. HEINZ. $10 or $20 short, but that is inflation.

Mr. PACKWOOD. No matter what the price of oil is, it is never enough, never enough to quite turn coal into oil, never enough to quite find oil shale, never quite enough. My fellow colleagues, it is never going to be enough. It will not matter if it is $50, $60, or $70. We will still be $3 short of being able to produce it from some alternative that means we would not have to import at all from the Middle East.

I am not going to dwell at length on the limitations and the weaknesses of the amendment of my good friend from Alaska. We had a good debate on this on his previous amendment. All I can simply say is that it is going to raise the cost of oil to Americans, it is eventually going to cause the American tanker fleet to be repaired in Japan that is now repaired in this country, and I do not care what kind of exculpatory clauses they have.

Let us understand most of all what the purpose of this amendment is. Alaska receives money from oil produced in Alaska based upon the wellhead price, and the wellhead price is figured at a price less transportation. Consequently, if the oil can be transported to Japan, as it can, cheaper than it can be transported to the United States, Alaska is going to generate more revenue for their State, depending upon whether it comes off of Federal land or off of Alaska State land and their so-called royalty oil. We are looking at a windfall for Alaska of someplace between $75 million and $250 million a year additional to what they get now.

Now, if I was from the State of Alaska I would feel very strongly in favor of this amendment because it again helps shift part of the cost of energy in this country on to us—additional cost, more windfall for the State of Alaska. I sympathize with the cost of production, but I will say again in concluding—and I thank my distinguished colleague from Alaska for giving me the time—this is going to hurt the American merchant fleet. It is going to hurt the ship-repair yards on the west coast. It is going to raise the cost of oil to the United States, and it is going to cause Alaska to have a significant increase, a windfall in their treasury at the expense of all other Americans. I do not find that to be in the interest of this country.

Mr. HEINZ. Will the Senator yield just briefly?

Mr. PACKWOOD. I yield the floor.

Mr. DURENBERGER. Mr. President, today we are considering an amendment to the Export Administration Authorization Act which would lift the ban currently in place on exporting Alaskan crude oil.

What we are talking about here is section 7(d) of the Export Administration Act. Let me briefly summarize what this does. Section 7(d) provides that before Alaskan oil can be sold abroad, the President must formally find that the exports would not reduce the quantity or quality of U.S. crude oil and that consumers will come out ahead; refiners' crude-buying costs must go down and three-fourths of the savings must be passed through to consumers. It also requires a Presidential finding that the national interest would be served.

In passing the Trans-Alaska Pipeline Authorization Act in 1973, Congress first established the policy that Alaska oil should be used domestically. In 1977 and 1979 we reaffirmed this policy by tightening the restrictions on Alaskan oil exports. Now we are debating the issue again. I, for one, believe these restrictions should be kept in place.

Proponents of lifting the ban contend that exports of Alaskan crude would result in cheaper oil for many American consumers, who could instead receive Mexican oil, which costs less to transport. I have also heard the argument that shipping Alaskan oil to Japan and replacing it with Mexican oil would enhance strained relations with Japan, improve the United States ability to cope with emergencies because of the much shorter transportation time from Mexico and help spur petroleum expansion in Alaska through the lure of higher prices.

I do not need a geography lesson to understand that Mexico is closer to the gulf and Alaska is closer to Japan than either to the other. I also understand that the differences in these distances, in terms of transportation costs, should make a difference in the price available to consumers.

As I understand it, what we are proposing to do is to offer to sell Alaskan oil to Japan and replace it in the U.S. market with oil from Mexico.

Now, I ask, will this reduce the quantity or quality of U.S. crude oil? Yes.

Will consumers come out ahead? No.

Will exporting Alaskan crude oil to Japan be in the national interest? No.

First, oil exports would reverse a long-standing goal toward achieving energy independence. The United States still imports 30 percent of its daily needs. Alaskan oil provides 11 percent of our daily needs. If we export this oil, our percentage of imported oil will increase by 15 percent.

Our dependence on Middle East oil will increase. Exported Alaskan crude would most probably be replaced with Saudi Arabian crude, whose characteristics are very similar to those of Alaskan oil.

Mexico is already producing near capacity and could not make up for the volume of Alaskan oil which would be exported. Further, it is Mexican policy not to export more than 50 percent of output to any one country whenever possible. Finally, U.S. refineries would have to be substantially modified—which would be both expensive and time consuming—to refine additional quantities of Mexican crude.

The way I see it, exporting Alaskan oil will reduce not only our quantity of crude oil, but our quality as well.

Second, it is extremely doubtful that consumers will come out ahead. In the short run, maybe, but not in the long run.

Although transportation costs would be less, and foreign flag shipping less expensive than using U.S. Jones fleet, these costs savings will not be passed on to consumers.

Alaskan oil has been selling for approximately $3.80 per barrel less than imported oil in eastern markets. On the west coast it enjoys a $2 per barrel discount.

Through increased import costs, loss of the $2 discount and possible rising oil prices, the exporting of Alaskan oil could cost consumers around $2 billion per year.

This price tag does not take into account other costs which will be ultimately borne by consumers. Increased reliance on foreign supplies of oil poses a hazard to U.S. consumers. We think we have an oil glut but remember, a revolution created the last crisis and you can hardly say that the politics of the Persian Gulf have become more stable since then.

How much do you pay for national security? Who pays for national security?

If we export Alaskan oil our transportation infrastructure could crumble. A significant portion of the U.S. Jones fleet and Trans-Panama pipeline would go out of business. As the infrastructure crumbled, so would one key element of our national security; for, if there came a time when it was necessary to use Alaskan oil for domestic purposes, we would no longer possess the tankers and terminal facilities necessary to move that oil, and the pipeline that makes its transportation across Panama economical and efficient.

The Federal Government also comes out on the short side of the balance sheet when adding up the costs it would incur through exporting Alaskan oil.

Although the Federal Government would experience a significant windfall in revenues, some $600 million in Federal debt guarantees for ships under the Jones Act would be risked if the tanker market collapses we would be without a means of transporting Alaskan oil in the case of an emergency.

Mr. President, I ask you, is it in the national interest to export Alaskan crude oil? To increase our dependence on Middle East oil? To lose our transportation infrastructure? To be caught in the middle of a world oil crisis without any oil?

I certainly do not think so and will not vote in favor of removing section 7(d) from this legislation.

I thank the Chair.

Mr. HATFIELD. Mr. President, I rise today in opposition to the amendment offered by the Senator from Alaska. I compliment him for his efforts to assuage and protect the American maritime industry, an industry which is vital to American economic and national security interests. However, I want to point out that the matter of exporting Alaskan oil goes much deeper than just protecting an important American industry.

The United States has suffered two severe oil shortages and resultant price hikes since 1973, the most recent occurring in 1979 following the fall of the Shah of Iran. The results of those disruptions and price hikes have been catastrophic, with consumers not only being unable to buy petroleum products, but having to pay dearly for doing so. The 1973 Arab oil embargo was a significant part of the severe inflation rates through which this Nation suffered in the 1970's. During that period, the United States economy was turned upside down, and everyone suffered as a consequence. Congress responded by enacting many new energy conservation and renewable energy measures which complemented efforts already underway by private citizens and industry to save energy. A bold new synthetic fuels industry was born in 1980, and America was on the way to a new energy savings consciousness.

Mr. President, there is good news and bad news to report on America's thirst for petroleum. The good news is that U.S. oil consumption is at its lowest level since 1970, and oil imports are less than half the amount we were importing in 1977. Last year, oil imports provided an estimated 12 percent of U.S. energy consumption, compared to 24 percent in 1977. The stranglehold placed on the United States by OPEC has been broken also. In the first three quarters of 1983, OPEC imports represented only 12 percent of U.S. oil demand. By contrast, we derived 20 percent of our oil needs from OPEC in 1982, and 34 percent in 1977.

The bad news is that U.S. oil consumption is on the rise again. The Department of Energy predicts that U.S. oil consumption is expected to increase by 3 to 5 percent in 1984. With domestic production expected to remain unchanged, this means the increase will have to come from imports, expected at a level of 4.7 to 5.3 million barrels per day, excluding the strategic petroleum reserve. Coupled with the expected rise in imports is the sad fact that U.S. lower 48-State oil production is on the decline, and there is a general consensus that Alaskan oil production will begin to decline by the late 1980's or early 1990's. The State of Alaska, for example, projects the decline beginning in 1988, dropping to approximately 700,000 barrels per day in 1999.

Mr. President, I have been and will remain a strong supporter of energy conservation and development of alternative energy resources outside of nuclear power. Energy conservation is working and will continue to save precious nonrenewable energy resources in the future. Oil price reductions of late have dampened the development and enthusiasm for solar, wind, and geothermal energy, but it is only a matter of time before these and other renewable energy sources make a significant contribution to our overall energy mix. However, I am also a realist. Oil is, and will remain for many years, a primary element of our energy consumption, powering our economy, running our cars and heating our homes. It is a nonrenewable energy resource and should be used wisely and conservatively.

In recent testimony before the Senate Energy and Natural Resources Committee, Energy Secretary Don Hodel predicted that some type of disruption would occur in the world this year that would affect our oil imports. Whether or not that disruption is real or perceived, or even occurs at all, is not important. What is important is, regardless of what happens, our reliance on foreign oil suppliers will continue in the future.

Mr. President, Congress and the Department of Energy have made significant strides in filling the strategic petroleum reserve. It now contains over 380 million barrels of oil—nearly 90 days of our estimated 1983 net oil imports and almost 1,000 days of our estimated 1983 imports from the Persian Gulf region. The stratetic petroleum reserve is good insurance against future oil disruptions, and I will continue to support reasonable fill rate levels until the SPR is filled, hopefully in 1990. Because of this commitment, it makes no sense to spend over $2 million annually to fill the strategic petroleum reserve, while at the same time exporting American oil overseas. We cannot have it both ways.

Three times in the last 11 years, both the Senate and House have voted by large majorities to impose restrictions on the export of Alaskan oil. S. 979, as reported by the Senate Banking Committee, contains a clear statement of conditions and four basic tests that must be met before oil exports are to be allowed: First, a tangible consumer benefit; second, preservation of national energy security; third, inclusion of contractual provisions permitting cessation of exports in an emergency; and fourth, general enhancement of the national interest. The law also provides a sensible and balanced procedure for determining if and when the conditions have been met—a Presidential finding followed by congressional approval within 60 days.

Mr. President, the amendment offered by the Senator from Alaska fails on all accounts. Exporting Alaskan oil is not in the national interest—not now, not ever. I, along with 44 of my colleagues, have introduced S. 1159, which retains the prohibition on the export of Alaskan oil indefinitely. These restrictions are prudent. These restrictions are in the national interest. The economic future of this Nation will be determined by the foresight with which we address the future today.

It makes no sense to export oil from Alaska, no matter what the amount, and at the same time, increase our oil imports on the west and gulf coasts. What do we gain by such a move, other than to enrich the coffers of some foreign government? Certainly this is not in the national interest.

Although the amendment is structured to protect the American maritime industry, it fails to recognize certain things that would happen, should limited exports of Alaskan oil be allowed to commence. First there is a general consensus that the oil will be shipped to Japan and Korea in supertankers, not the smaller tankers that are currently supplying the west coast. What this means, of course, is that the larger, generally automated supertankers will replace many tankers currently in service. The Department of Transportation's Maritime Administration predicts that as many as 14 to 17 smaller tankers would be idled by the passage of this amendment. Hundreds of jobs would be lost, and west coast ship repair facilities would lose business. I certainly do not find this to be in the national interest.

Mr. President, in conclusion, I do not believe that now is the time to even think of exporting a precious national resource. The restrictions are as relevant today as they were when they were first imposed 11 years ago. I urge my colleagues to vote against this amendment.

Mr. HEINZ. Mr. President, I ask unanimous consent that the material I now send to the desk be printed in the RECORD at this point, following the remarks of Senator HATFIELD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRANSPORTATION INSTITUTE,
Washington, D.C., February 6, 1984.
Hon. MARK O. HATFIELD,
Hart Senate Office Building,
Washington, D.C.

DEAR SENATOR HATFIELD: The Senate is scheduled to soon consider legislation relating to the Export Administration Act. This legislation contains language which would extend the current restrictions on the export of Alaska oil for six years. On behalf of the Transportation Institute, I urge you to add your support to the effort to retain this critical natural resource.

In 1973, Congress established a clear-cut national policy that Alaska oil should be reserved for domestic use when it passed the Trans-Alaska Pipeline Authorization Act. Since that time, Congress has voted twice, in 1977 and 1979, to reaffirm and strengthen this policy by amending the Export Administration Act to restrict the export of Alaska oil to certain limited situations.

During the last year, several arguments have been circulated for allowing either a wholesale or limited export of Alaska oil. Proponents of export argue that allowing full or limited export would bring increased revenue to the federal treasury, reduce our trade deficit with Japan, and result in lower domestic energy prices. These contentions simply do not hold up when the facts are examined.

Alaska oil has been consistently priced below imported oil since federal price controls expired in January of 1981. Alaska oil currently costs $3.00 per barrel to $4.00 per barrel less than imported oil. Exporting this oil could only result in higher petroleum prices for the American consumer. At a time when the United States is still importing approximately one third of its oil requirements, it is questionable whether export of this critical natural resource should even be discussed. In addition, for a variety of reasons, the oil that would replace Alaska oil would most likely come from the Persian Gulf. It is curious that the United States would contemplate export of oil at a time when even the Saudis are stockpiling oil reportedly because of the volatile situation in the Middle East.

Undoubtedly, exporting Alaska oil to Japan would reduce our current bilateral trade deficit. But at what cost? Our trade deficit with Japan refects many real problems in our trade relationship. A glossing over of the trade deficit would only reduce the pressure on Japan to meaningfully reduce barriers to U.S. manufactured and agricultural exports. Thus, Japan could continue to exploit our open markets while enjoying the fruits of their protectionist policies. Additionally, the overall U.S. balance of trade would worsen since more expensive foreign oil would have to be imported.

The removal of export restrictions would also be costly to the federal treasury. Tax revenues from U.S. shipping companies and their employees who would be forced out of work would be sacrificed. These losses have been estimated at approximately $300 million a year. Title XI federal loan guarantees totaling up to $2.0 billion would be called if U.S. tankers in the Alaska trade were laid up. Additional revenues would also be lost because of unemployment that would be triggered in related industries.

Export of Alaska oil would also seriously weaken U.S. national security. Over one half of the U.S.-flag tanker tonnage could be displaced and laid-up if Alaska oil were exported. These vessels would be severely missed in a national emergency when ocean transport of fuel, oil, and other petroleum products would be needed. The United States would be dependent on foreign-flag tankers and foreign crews controlled by other countries.

On behalf of the Transportation Institute, representing 174 member shipping companies operating in the nation's foreign and domestic trades, I respectfully urge you to support the extension of the restrictions on the export of Alaska oil. Any type of export proposal, whether it calls for full or limited exports, would be detrimental to the United States and to U.S. national security.

Sincerely,

PETER J. LUCIANO,
Executive Director.

MARITIME TRADES DEPARTMENT,
Washington, D.C., February 6, 1984.
Hon. MARK O. HATFIELD,
Hart Senate Office Building,
Washington, D.C.

DEAR SENATOR HATFIELD: As you know, Congress has temporarily extended the expiration date of the Export Administration Act (EAA). Legislation to reauthorize and amend the EAA for a full six years is scheduled to soon be considered on the floor of the Senate. In reauthorizing the EAA, this legislation would also extend the restrictions on the export of Alaska North Slope oil for the same period. Without this legislation, the Alaska oil export restrictions will expire along with the EAA. On behalf of the Maritime Trades Department, AFL-CIO, representing 43 affiliated unions comprised of eight and one half million workers, I strongly urge you to support this legislation, and to ensure that the restrictions on the export of Alaska oil are not relaxed or eliminated.

Present law does not absolutely ban the export of Alaska oil. The language contained in Secton 7 of the Export Administration Act states that Alaska oil should be reserved for domestic use unless the President and the Congress find that it is in the national interest to export it. Clearly, Alaska oil has not been exported to date because both the President and the Congress have consistently found that it is in the national interest to keep Alaska oil here.

Recently, proponents of exporting Alaska oil have proposed a limited export which, they argue, is an action which will not adversely affect the United States. However, this is simply not the case. Limited exports would be just as damaging to our nation as a total elimination of the current export restrictions. The United States is still dependent upon imported oil for nearly one-third of its energy consumption.

Exporting currently produced Alaska oil, or increasing its production for export, would just accelerate the depletion of this critical U.S. resource. Every drop of oil exported is oil which could be used domestically to lessen the amount of foreign oil imported. Exporting ANS oil would only increase our dependence on foreign energy sources, and would be a step backwards from increased national security and U.S. energy independence.

It has been ten years since the Arab oil boycott of 1973 shocked the United States into a realization that a dependence on unreliable sources of oil was dangerous. It is questionable, however, whether that lesson has been learned. While much has been accomplished in energy conservation and domestic production of a number of energy sources, the United States still remains entirely too dependent upon imported oil. The Iranian Crisis in 1979 demonstrated all too clearly the continued danger posed by this situation. Exporting Alaska oil would increase this dependence on foreign oil, especially oil from the very unstable Persian Gulf region.

In our view, the American consumer would feel immediate and direct adverse effects if Alaska oil were exported. Since oil prices were decontrolled in 1981, the delivered cost of Alaska oil to U.S. refiners has been significantly lower than the cost of comparable imported oil. If it were necessary to import greater amounts of foreign oil to replace any exported Alaska oil, this added cost would be passed on by the refiners directly to the American consumer. It is estimated that Alaska oil exports would raise consumer petroleum costs by $1.2 to $2.0 billion per year on a nationwide basis.

Export proponents have also argued that exporting Alaska oil would improve our trade deficit and overall trade relationship with Japan. This argument is very misleading. While oil exports may somewhat reduce our current balance of payments deficit with Japan, this benefit would be more than negated by offsetting factors. A lower trade deficit with Japan would act to greatly reduce the pressure on the Japanese to open their markets to U.S. manufactured and agricultural exports, and would thereby allow Japan to continue to exploit the U.S. market while denying U.S. exporters similar access. Furthermore, the overall U.S. balance of payments for all world trade would suffer, since any Alaska oil which is exported would have to be replaced in the U.S. by more expensive imported oil.

If Alaska oil were to be exported, the U.S.-flag tanker fleet would be dealt a devastating blow. Over 40 U.S. tankers would be scrapped, laid-up, or forced into the reserve fleet. This would cost the U.S. government millions in additional funds as tax revenues from maritime companies and personnel are lost, and as companies are forced to default on U.S. Government construction loan guarantees. The vessels which would be idled and lost are considered by the Navy to be a critical aspect of our military sealift capabilities, and are irreplaceable should an emergency arise. Perhaps more importantly, should these vessels be lost, the skilled manpower needed to operate the vessels in an emergency would no longer be available.

Exporting Alaska oil, which is a secure domestic source of oil, would also undermine the entire premise upon which the Strategic Petroleum Reserve was established. Does the U.S. government really believe that the United States is no longer vulnerable to an oil supply disruption, especially at a time when even the Saudis are stockpiling oil? It is believed that the Saudis have been motivated to store oil to protect themselves from a potential Mideast political eruption. Is our government prepared to send a signal to the U.S. public that our energy problems are over?

It is expected that proposals for full or limited exports of Alaska oil will be debated on the Senate floor during consideration of the Export Administration Act. I solicit your support in opposing any efforts to relax the current export restrictions or to allow a limited export, including any proposals to export oil on U.S.-flag ships. If the United States is ever to become energy self-sufficient, we cannot now knowingly increase our dependence on foreign imports.

Sincerely,

Frank Drozak, *President*.

National Marine Engineers' Beneficial Association,
Washington, D.C., February 6, 1984.

Hon. Mark Hatfield,
U.S. Senate,
Washington, D.C.

Dear Senator Hatfield: On behalf of the National Marine Engineers' Beneficial Association, I would like to thank you for the strong support you have given to maintain existing restrictions on the export of Alaskan oil. Your co-sponsorship of S. 1159 has been a particularly important demonstration that is deeply appreciated. The fact that there are 45 co-sponsors in the Senate, and more than 235 in the House for a similar bill, indicates that public support for these restrictions is unusually widespread.

We are, as you know, coming to the critical moment. S. 979, which re-authorizes the Export Administration Act of 1979, will come to a vote soon. This bill would extend the oil export restrictions for six years.

There will be proposals for "compromises" on the Alaskan oil export issue. One would allow the export of a "small" amount, some 200,000 barrels a day. We firmly and unequivocally oppose all of these so-called compromises. They offer few of the alleged benefits of unrestricted exports yet contain most of the liabilities. They would require a complex regulatory bureaucracy to administer. And, most important of all, these "limited" exports are just a foot-in-the-door, a smokescreen—crafted with the goal of unlimited exports in mind.

More than ever—with increased unrest in the Middle East, with U.S. oil demand and imports up (and U.S. production slipping) it is clear that prohibiting the export of Alaskan oil is vital to our consumers, our economy, and our defense. Now is not the moment to reverse ten years' prudent policy and put America's energy supplies and transportation network in jeopardy.

That is why the support you have given and your continuing support are so vital to seeing that this issue is resolved clearly and unquestionably in the interest of our country, its consumers, its industries and agriculture, and above all its security—by adopting S. 979 with no amendments that would weaken existing restrictions on the export of Alaskan oil.

Again, we thank you. We are grateful for your help.

Sincerely yours,

J. M. Calhoon, *President*.

District 2, Marine Engineers Beneficial Association, Associated Maritime Officers, AFL-CIO,
Washington, D.C., February 3, 1984.

Dear Senator Hatfield: A proposal to export Alaskan North Slope crude is once again before Congress. Time and again, Congress, in its wisdom, has blocked any effort to export this valuable national resource.

The House version of the Export Administration Act had 237 co-signers. The Senate currently has 46 co-signers on the EAA bill, S. 979. The Murkowski-Stevens amendment seeks to destroy that which Congress has long protected. This amendment would profit only the citizens of one state—Alaska. The lower 48 states, however, would suffer from a loss of $245 million in independent tanker revenues, and a reduction of employment for American seamen and workers in related industries.

If adopted, the amendment would also idle more than 25 tankers, drive down vessel rates and reduce the gross national product by at least $245 million annually. The members of District 2, MEBA-AMO, AFL-CIO urge your support of S. 979 and your opposition to the Murkowski-Stevens amendment.

Sincerely,

John F. Brady,
Executive Vice President.

Joint Maritime Congress,
Washington, D.C., February 6, 1984.

Hon. Mark Hatfield,
U.S. Senate,
Washington, D.C.

Dear Senator Hatfield: As you know, the Senate is expected to take up consideration soon of S. 979, the Export Administration Act Amendments. Although many of the provisions have evoked much controversy, there is strong bipartisan agreement on one provision which prohibits the export of Alaskan oil unless it is in the public interest to do so. We urge you to vote against any efforts to change this provision in any way.

The requirement to keep domestic oil in this country is not new and the need to maintain a secure source of oil has not changed. Indeed most experts believe that it is even more important today than ever before. Iran's attacks and military maneuvers in the Persian Gulf area that is crucial to the production and distribution of much of the world's oil supply make stronger the argument that America needs a reliable source of oil not subject to international tensions and disruptions.

Some are suggesting so-called "compromises" on this issue by which a "limited" amount of oil could be exported. We strongly oppose these "compromises." we cannot be fooled by the suggestions that if we export a limited amount of oil we are somehow protecting ourselves from the liabilities associated with high volume exports. In fact, the Federal Government stands to gain very little from a limited export since this would largely be Alaska royalty oil which is not subject to federal taxation. The truth is that these proposals for "limited" exports are really designed to facilitate eventually the export of unlimited amounts of Alaskan oil.

We thank you for the support you have already shown on this issue and we look forward to your continued support when the Senate considers this legislation.

Sincerely,

David A. Leff,
Executive Director.

American Maritime Officers Service,
Washington, D.C., February 2, 1984.

Dear Senator Hatfield: American Maritime Officers Service, which represents 44 American ship owners and operators, supports enactment of S. 979, the Export Administration Act. This legislation contains an extension of the Alaska North Slope oil export ban.

A small, self-concerned group proposes to amend S. 979, to the benefit of Alaska. The rest of the nation would pay the price. Exporting this national resource would have a long-term devastating impact on consumers, America's workers, national security, the economy and the Merchant Marine. Neither the U.S.-controlled oil companies nor the administration are aggressively pursuing a policy change on the Alaskan oil issue, despite lengthy consideration of the matter.

Two-hundred-eighty-three members of Congress have co-signed the legislation that would extend Section 7 (d)(2) of the Export Administration Act, 1979. I am sure after your deliberate and thoughtful consideration, you will concur with their decision.

Sincerely,

Gordon Spencer,
Legislative Director.

Citizen/Labor Energy Coalition,
Washington, D.C., February 6, 1984.

Dear Senator Hatfield: When the Export Administration is debated on the Senate floor, the Citizen/Labor Energy Coalition requests that you support the retention of restrictions on the export of Alaskan oil. While those restrictions do not prohibit export, they do ensure that sales could occur only if it would not jeopardize U.S. supplies and prices to consumers.

The Energy Coalition believes that the findings required under Section 7(d) of the Export Administration Act are necessary to prevent the unwise depletion of our nation's limited oil resources and to ensure that consumers benefit from lower prices. We are particularly concerned that a weakening or elimination of the Section 7(d) requirements would increase our dependence on foreign suppliers, including the OPEC nations, at a time when imports are already expected to rise. According to the November "Short-term Energy Outlook" published by the Department of Energy, net imports this year are projected to increase 26 percent over 1983 levels, up to 5.5 million barrels a day. Given this expected increase in imports, allowing the export of Alaskan oil in the absence of careful review would make us even more susceptible to international supply disruptions.

There is no reason to allow the export of Alaskan oil without first determining that it would be in the national interest and would provide price benefits to oil users. This is especially true given the precarious political situation in the Middle East. Again, we ask that you support preservation of the Section 7(d) safeguards and oppose any weakening amendment.

Sincerely,

ROBERT M. BRANDON,
Executive Director.

AMERICAN MARITIME ASSOCIATION,
Washington, D.C., February 7, 1984.

Senator MARK O. HATFIELD,
Hart Building,
Washington, D.C.

DEAR SENATOR HATFIELD: As a follow-up to my letter of October 28, 1983, on behalf of the American Maritime Association I want to reiterate that my organization supports maintaining the current restrictions on the export of Alaskan crude oil contained in Section 7(d) of the Export Administration Act of 1979.

In the near future, you will be asked to vote on an amendment designed to alter, if not eliminate, those restrictions. In particular, you may be asked to allow the export of a "limited" amount of Alaskan crude oil on the order of between 50,000 and 200,000 b/d, conditioned upon it being exported on American flag bottoms. We urge you to oppose any and all amendments designed to weaken Section 7(d), in particular this so-called "compromise."

As I indicated in my letter, limited exports, even if conditioned on the use of American flag bottoms, would seriously and adversely affect independent shipping companies by idling vessels and by pushing lower the shipping rates on those vessels that remain in the trade. Given the currently depressed world market, displaced vessels would have to be scrapped, further exacerbating one of the worst periods ever faced by our industry. Moreover, the idling of so many vessels could have a detrimental impact on our national defense, for the very ships idled would be the ones most needed in a time of war.

The American Maritime Association believes that the current restrictions in Section 7(d) are reasonable and should be preserved. We urge you to support an extension of Section 7(d) and to oppose any efforts to weaken Section 7(d) during the upcoming debate on S. 979, the reauthorization legislation for the Export Administration Act.

Sincerely,

MIKE KLEBANOFF, *President.*

AMERICAN INSTITUTE OF
MERCHANT SHIPPING,
Washington, D.C., February 22, 1984.

Hon. MARK O. HATFIELD,
Hart Senate Office Building,
Washington, D.C.

DEAR SENATOR HATFIELD: I am writing to urge your support of Section 7(d) of S. 979, the Export Administration Act (EAA). Section 7(d) of the EAA states that Alaskan North Slope oil should be reserved for domestic use unless the President and Congress find that it is in the nation's interest to export this valuable asset. We urge your support for this provision without any weakening amendments when this issue is considered on the floor. The Senate Banking Committee thoroughly considered this matter after a series of hearings and concluded that extending the provisions of Section 7(d) without amendment was indeed in the nation's best interest.

Vessel owners in these trades have invested billions of dollars of capital toward the construction of modern, efficient tankers based on this Congressional policy, and have knowingly done so despite substantial risks. To unexpectedly overturn this long-standing policy based on the capricious rationale advocated by the proponents of export would cause irreparable injury to United States flag shipping companies, their employees, consumers and to the Nation.

Proponents of change have recently called for the limited export of 200,000 b/d, but even under the pretense of limited exports it would be these same tankers that are scrapped and permanently lost to the military. moreover, limited exports would actually cost the government millions of dollars as companies are forced to default on U.S. Government construction loan guarantees.

The Export Administration Act may soon be on the Senate floor and a proposal for limited export may be offered and debated. We urge you to reject this proposal and any weakening amendments and to support the language in Section 7(d). It surely cannot be in the best interest of the nation to become more dependent on foreign imports. We have learned this painful lesson from past experience. The extension of the current export provision found in Section 7(d), without amendment, deserves your support.

Sincerely,

THOMAS J. LENGYEL, *President.*

DISTRICT 2, MARINE ENGINEERS
BENEFICIAL ASSOCIATION, ASSOCIATED MARITIME OFFICERS, AFL-CIO,
Brooklyn, N.Y., February 2, 1984.

DEAR SENATOR HATFIELD: On behalf of the members of District 2, Marine Engineers Beneficial Association, Associated Maritime Officers, AFL-CIO, I urge you to support the enactment of S. 979. This bill extends Section 7(d) of the Export Administration Act of 1979, which prohibits the foreign export of Alaska North Slope Crude.

The lifting of that ban, as proposed by the Murkowski amendment, would profit less than 4.4 percent of the American population (including Alaska's residents) and one foreign-controlled oil company. The remaining 95.6 percent of America would be adversely affected. Furthermore, the Murkowski proposal would export 200,000 barrels a day plus any new oil. This seemingly innocuous wording could result in total exports of up to 500,000 b/d.

Over one-half of the U.S. Congress has cosigned the legislation to extend the band on the export of Alaska's oil. These congressmen realize that once the flow of America's oil to the Pacific rim begins, it will be all but impossible to stop, leaving our defense and economy vulnerable. In the American tradition of majority rule, we urge you to support this legislation.

Sincerely,

RAYMOND T. MCKAY,
President.

NORTHVILLE INDUSTRIES CORP.,
Melville, N.Y., October 19, 1983.

DEAR SENATOR HATFIELD: When the Export Administration Act is addressed on the Senate floor, we urge you to support an extension of the current restrictions on the export of Alaskan oil.

Through a cooperative venture with the Government of Panama and another United States company, Chicago Bridge & Iron Industries, Northville manages Petroterminal de Panama ("PTP"), the Panamanian company which owns and operates the oil pipeline across the Isthmus of Panama. In this capacity, we have been intimately concerned with the Alaskan oil export issue since the founding of PTP in 1976.

Northville and its partners undertook the $400 million pipeline project in reliance upon the United States Government's long-standing decision to restrict the export of Alaskan oil. If the government now abruptly changes direction and permits the export of even a portion of Alaskan oil, it would severely impact, if not bankrupt, this venture as well as similar ventures of others who have invested in transportation, storage and refinery infrastructure.

Proponents of a relaxation of the current restrictions on export have argued that such a relaxation would provide the United States with certain advantages in its negotiations with Japan over a variety of international trade and foreign policy issues. We disagree. Because the export of a significant amount of Alaskan oil to Japan would have the effect of bringing our overall balance of trade figures with Japan into something closer to balance, that mathematical change could in fact make it more difficult for us to object to the imbalance in manufactured and agricultural products which is at the core of our trade problems with Japan. Furthermore, according to recent media accounts, the Petroleum Association of Japan ("PAJ") hardly considers the lifting of export restrictions a major concession by the United States. In fact the group as quoted in Platt's Oilgram on Friday, October 14th explicity set these conditions for importing Alaskan crude: "Such deals must be made on a purely commercial basis, with the Japanese retaining rights to choose carriers and with United States guarantees to continue the supply even in emergencies."

Most importantly, this foreign policy argument effectively ignores the impact on the Government of Panama of a relaxation of export restrictions. Panama is an important ally in an unstable region. The canal is a resource vital to our security. If Alaskan oil is no longer shipped across the Isthmus of Panama, the Panamanian Government will not only lose a source of employment for many Panamanians, but annual revenues in excess of $100 million vital to that country's economic and social development programs.

If we permit Alaskan North Slope oil to be exported, America's dependence on other sources of supply—particularly the Persian Gulf—will be increased. This can have only one result: It will make this nation, its economy and its Midwest foreign policy more vulnerable to supply disruptions, whether caused by logistical foul-ups, political instability, or direct political pressure directed against us and our allies.

Replacing Alaskan oil with foreign oil of the same quality is likely to involve increased costs and a lessening of the downward pressure on imported oil prices now created by the assured availability of Alaskan oil. The lower cost of crude oil in America today, with its consequential benefits for our rate of inflation, is clearly related to this country's increasing energy self-sufficiency.

Furthermore, any export of domestic crude oil surely would be viewed by the United States public as inconsistent with any further public support for filling the Strategic Petroleum Reserve, for developing our coal and alternative energy resources, for a military capacity to protect Persian Gulf oil and for promoting voluntary energy conservation.

Finally, Section 7(d) of the Export Administration Act contains a carefully thought out, long-standing and entirely rational set of criteria for determining when it is in the national interest to export Alaskan oil.

We urge you to support the extension of these restrictions.

Sincerely,

Harold P. Bernstein,
Chairman of the Board.

American Public Power Association,
Washington, D.C., October 14, 1983.

Hon. Mark O. Hatfield,
U.S. Senator, Hart Senate Office Building, Washington, D.C.

Dear Senator Hatfield: The American Public Power Association urges your support for the restrictions on export of Alaskan oil which are contained in S. 979, the Export Administration Amendments Act of 1983. APPA is the national organization representing more than 1,750 municipal and other local public power systems.

We understand that an amendment may be offered during Senate consideration which would permit unrestricted export of some Alaskan oil. Under current law, exports must be found to be in the national interest and to benefit American consumers. This public policy requirement is reasonable and sound for all Alaskan oil production. We urge you to oppose any weakening of the current restrictions of law to allow "Limited" exports without regard to consumer and national interest considerations.

Enclosed for your information is APPA's policy resolution on Alaskan oil exports, approved by the Association's general membership in May, 1983.

Sincerely,

Alex Radin,
Executive Director.

Continuing the Export Restrictions on Alaskan Oil

Whereas, established national policy preserves for domestic purposes the use of petroleum from the North Slope of Alaska, and, under the Export Administration Act of 1979, oil may not be exported unless the President finds, and Congress concurs, that: such export is in the national interest; will result in lower oil acquisition costs to refiners; and most savings will be passed on to consumers, and

Whereas, the Act's export restrictions will expire on September 30, 1983, and H.R. 1197 and S. 1159 have been introduced in the House and Senate which would extend these export restrictions, and

Whereas, the Adminstration has proposed to allow the Act's export restrictions to expire in order to permit the sale of Alaskan oil to Japan, and

Whereas, Alaskan oil now provides 1.6 million barrels per day for domestic use, or 20 percent of total U.S. oil consumption, at a price of $2.50 per barrel less than imported oil, and

Whereas, the United States still imports one-third of its oil supply, and exporting Alaskan oil would increase foreign oil imports by 15 percent; would reverse the longstanding goal of achieving energy independence; and could adversely affect national security goals, in view of the instability of the world oil market, and

Whereas, the substitution of more expensive foreign oil for Alaskan supplies would increase oil costs to U.S. consumers by $1.7 billion annually, including $600 million on West Coast markets and $1.1 billion on Gulf Coast markets: Now, therefore, be it

Resolved, That the American Public Power Association supports enactment of H.R. 1197 and S. 1159, which amend the Export Administration Act of 1979 to extend the provisions relating to the export of domestically produced crude oil.

November 4, 1983.

Senator Alan Cranston,
Senator Mark O. Hatfield,
Hart Senate Office Building,
Washington, D.C.

Dear Senators Hatfield and Cranston: I and my firm, Robert R. Nathan Associates, have examined carefully the economic and financial consequences of exporting Alaskan crude oil, an issue now before the Senate. In our May 1983 report and my testimony before the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations of the United States Senate in July, I concluded that exports of Alaskan oil would result in net economic costs to the United States.

I understand there may be proposals before the Senate to permit a token export of 40,000 to 50,000 barrels per day of Alaskan royalty oil, and further that these exports be carried on American flag tankers. While it may appear to some that such levels of exports cannot be harmful, my analysis clearly indicates that this would not be so.

The State of Alaska would be the only U.S. institution to gain financially, and then not more than $30 million annually.

The domestic maritime industry would still incur annual financial losses of $40 million or more.

All the impacts on the national economy, though small in magnitude, would be negative: a $40 million decline in GNP, employment losses of 1,000 and a balance-of-payments cost of about $50 million annually.

Furthermore, this token opening of exports would have no significance in U.S. trade and foreign relations with Japan and other Pacific rim countries precisely because it would be perceived as no more than a token.

The most serious consequence of such token exports is the uncertainty that would be created. The signals to the petroleum industry and the domestic transportation industry would be unclear, affecting both investment and operating decisions for years to come. This would not provide a healthy economic environment for a critical U.S. energy resource.

The issue of the disposition of Alaskan crude oil is an important matter of national economic policy which ought not to be masked by proposals for token exports. I would be pleased to have the opportunity to discuss with you or your staff the basis for the conclusions stated in this letter and my earlier report and testimony.

Sincerely,

John C. Beyer,
President.

Mr. HEINZ. I think the Senator from Oregon (Mr. Packwood) has made four excellent points to which I would add just two more. One is the point I made earlier about every barrel of oil that we export from Alaska to Japan is one more barrel of oil we have to import from someplace else, probably from the Middle East through the Strait of Hormuz, which has never been more threatened politically than it is today by the Iran-Iraq conflict.

Second, every time we allow our trading partners, the Japanese, to have a little more oil, they are going to be able to say, "Aha, we reduced our $20 billion trade deficit with you," and that way they will be able to do one of two things, and maybe both. They will be able to argue that they need to sell more cars here or the alternative is they are going to buy less Pennsylania coal, which I feel substantially more strongly about even than cars. But what it will do, regardless of these parochial kinds of interests, quite seriously, is it will give the Japanese one more reason not to do anything about their nontariff trade barriers, which the administration has just about broken its pick on in the last month or two. You do not have to take my word for it. It is in all the newspapers. I thank the Senator for yielding.

Mr. PACKWOOD. I thank the Senator from Alaska.

Mr. HEINZ. Mr. President, I ask unanimous consent that the material I now send to the desk be printed in the Record at this point, following the remarks of Senator Packwood.

There being no objection, the material was ordered to be printed in the Record, as follows:

American Federation of Labor and Congress of Industrial Organizations,
Washington, D.C., October 17, 1983.

Dear Senator: The AFL-CIO urges your support for S. 979, the Export Administration Amendments Act of 1983, which will soon be scheduled for Senate Action. Of particular concern in this legislation are the restrictions on the export of Alaska oil.

During the floor debate on this bill, an amendment may be offered by Senator Frank Murkowski, R-Alaska, which would seriously weaken the current restrictions on the export of Alaska oil. S. 979 continues the decade-old policy of requiring the President to find that any proposed export of Alaska oil would benefit both national and consumer interests. These findings, which must be presented to Congress for its approval, were adopted in 1973 and reinforced in 1979 in order to assure a domestic preference for the use of Alaska oil.

Over the past 10 years, the restrictions on the export of Alaska oil have worked to benefit all Americans. Every drop of oil produced on the North Slope of Alaska is being used in the lower 48 states. It has helped to fuel our cars, heat our homes and fill the Strategic Petroleum Reserve. It has also sold for lower prices than comparable domestic and imported crude oil, thus benefitting American consumers. And it has helped to bring revenues and jobs to American ports and the regions which surround them. Oil companies have made investments in refinery and shipping capacity in reliance on the longstanding congressional policy of restricting exports of Alaska oil. Those investments will be placed in jeopardy if the restrictions are relaxed. Equally important, the effective domestic use of Alaska oil has helped us to maintain a vital merchant marine, with the ships and the trained seagoing manpower we would need in time of national emergency.

Some have suggested that limited amounts of Alaska oil should be exported to Japan without being required to meet the national and consumer interest require-

ments of current law. Such a proposal would provide no increased Federal revenues, since the oil to be exported would be Alaska royalty oil to which the Windfall Profits Tax does not apply. On the other hand, limited exports would require the United States to import more oil from such insecure sources as the Middle East. This will not save American consumers a cent, but it will subject our country to increased reliance on foreign sources of oil.

The AFL-CIO urges you to oppose any amendment that would modify or dilute the national and consumer protections contained in the Alaska oil export regardless of whose ships would carry the Alaska oil.

Sincerely,

Ray Denison,
Director, Department of Legislation.

AFL-CIO Maritime Committee,
Washington, D.C., May 13, 1983.

Dear Senator Packwood: Exporting of Alaskan North Slope oil to Japan is now being considered by some within the Administration. The exportation of this oil to a foreign source would be detrimental to our national interest.

The Export Administration Act of 1979 which expires this September stipulates that this Alaskan North Slope oil can only be exported to a foreign source if the President, with the approval of Congress, determines that to do so would be in the national interest.

On April 27, 1983, Senators Hatfield and Cranston, along with 17 additional colleagues, introduced S. 1139 which would amend the Export Administration Act of 1979 to extend the provision relating to the export of Alaskan oil.

We ask that you join these Senators in cosponsoring S. 1159, which will protect existing restrictions on oil exports and preserve energy security for the United States.

Respectfully,

Talmage E. Simpkins,
Executive Director.

The Wilderness Society,
Washington, D.C., February 7, 1984.

Dear Senator: This week, S. 979, the reauthorization bill for the Export Administration Act is expected to go to the floor for action. Section 7(d) of the Act contains provisions restricting the export of Alaskan oil. The Wilderness Society urges you to extend those provisions without any weakening amendments.

When the Alaska crude oil pipeline was constructed, firm commitments were made that Alaskan oil would not be used for exports except upon the most stringent of conditions. Not only did federal policies restrict the export of Alaskan oil, but the private parties and local government that most directly benefited from the route of the pipeline pledged that they would not seek to export the oil.

Over the past decade those commitments have been strengthened and extended. Above all, Congressional consultation and oversight over this valuable national resource have been reinforced. This consultative process must be maintained with neither branch of government having a free hand to make rash decisions.

Those who are presently trying to weaken the provisions of the Act as an inducement to accelerated drilling are trying to short circuit the careful deliberative process that should govern the development of natural resources in one of this nation's most environmentally sensitive areas. The short term benefits they hope to reap would impose irreparable, long term damage. There is simply no justification to accelerate the depletion of American natural resources in our wilderness areas to meet the energy needs of foreign nations. Furthermore, an amendment to allow the export of American oil is particularly inappropriate at this time when Congress and the American people are so concerned with reducing American dependence on foreign sources of oil.

We urge you to vote for Section 7(d) of the Export Administration Act and reject all weakening amendments.

Sincerely,

William A. Turnage,
Executive Director.

National Farmers Organization,
Washington, D.C., February 6, 1984.

Dear Senator: Our organization, consisting solely of farmers and ranchers, strongly supports maintaining section 7(d) of the Export Administration Act, which restricts exports of Alaskan oil. We urge you to oppose any and all amendments to weaken this section.

Our concern with these provisions stems from the currrent inequities in U.S. Japan trade relations. As you know, the push to lift the restrictions on exports is generated by proposals to export Alaskan oil to Japan. We believe that because such an exchange would cut our trade deficit with Japan subsequently, any incentives Japan might now have to reduce its trade barriers to our agricultural products would be drastically reduced, if not totally eliminated.

It should be noted, moreover, that our overall balance-of-trade picture would not be improved if exports were to occur. Indeed, based on the current prices of oil imports compared to Alaskan oil prices, our balance-of-trade situation could be worsened.

American farmers have been financially strapped for several years. Higher energy bills based on a policy which would encourage exports of our domestic oil and imports of Middle Eastern oil would not be positively received by this sector of the economy.

We appreciate your help on this issue.

Sincerely,

Charles L. Frazier,
Director, Washington Office.

Consumer Federation of America,
Washington, D.C., May 19, 1983.

Dear Senator: The Consumer Federation of America urges you to oppose any and all amendments to the current restrictions on the export of Alaskan oil which are part of the Export Administration Act. These restrictions provide significant long-term benefits to U.S. consumers while also permitting Alaska oil exports that benefit our national interest.

The existence of the current restrictions has provided American consumers with Alaskan oil that is priced lower than comparable domestic or imported crude oil. They have also made Alaska oil available for our Strategic Petroleum Reserve. Thus, the restrictions have provided current, tangible benefits to consumers (and our economy as a whole) while increasing our capacity to respond to possible oil import disruptions in the future.

The restrictions also assure that Congress will have the opportunity to give full consideration to any proposal to export Alaskan oil. In addition, they require that any export be made subject to a contract that can be terminated in the event of a U.S. national emergency.

No other statute provides the kind of consumer and national interest protections as contained in the Alaska oil export restrictions of the Export Administration Act. When this issue comes before the Senate Banking Committee within the next few days, we urge you to oppose any and all amendments to the current restrictions.

Sincerely,

Stephen Brobeck,
Executive Director.

Consumer Energy Council of America,
Washington, D.C., October 19, 1983.

Dear Senator: In the next several days, the Senate will consider S. 979, the bill reauthorizing the Export Administration Act (EAA). This bill extends the existing restrictions on the export of Alaskan oil contained in Section 7(d) of the EAA.

We strongly urge you to support the extension because these restrictions ensure that exports will occur only if they are clearly in the national and consumer interest. To date, no President or Congress has been able to say that exports of Alaskan oil would meet these tests.

We believe the reasons for not exporting Alaskan oil today are even more compelling than they were in the past. Specifically, if Alaskan oil is exported, consumers will pay $1-2 billion more per year for oil. Simultaneously, our vulnerability to oil price shocks will increase. With imports on the rise and tensions mounting in the Middle East, this is no time to alter a sound energy policy adopted a decade ago and reaffirmed and strengthened several times since.

We urge you to vote for the Alaskan oil provisions as they are and reject all efforts to change the criteria governing the export of Alaskan oil or to lift the criteria for some Alaskan oil. Offers to lift the ban which stipulate that exports would be carried on American flag vessels are not relevant, since the fundamental issue is a consumer price and energy security issue. Any exports on any vessels would do serious damage.

There is one change that must be made, however. In light of the recent Supreme Court decision, the legislative veto provision must be amended so that Congress maintains its oversight of exports.

Sincerely,

Ellen Berman,
Executive Director.
Mark Cooper,
Research Director.

Northville Industries Corp.,
Melville, N.Y., July 15, 1983.

Dear Senator: When the Export Administration Act is addressed on the Senate floor, we urge you to support an extension of the current restrictions on the export of Alaskan oil, which are due to expire on September 30th.

Through a cooperative venture with the Government of Panama and another United States company, Chicago Bridge & Iron Industries, Northville manages Petroterminal de Panama ("PTP"), the Panamanian company which owns and operates the oil pipeline across the Isthmus of Panama. In this capacity, we have been intimately concerned with the Alaskan oil export issue since the founding of PTP in 1976.

Northville and its partners undertook the $400 million pipeline project in reliance upon the United States Government's longstanding decision to restrict the export of

Alaskan oil. First articulated ten years ago in the TransAlaska Pipeline Act, that decision to restrict Alaskan oil exports in particular has time and again been strengthened and reaffirmed. In 1976, the Ford Administration ruled out the export of Alaskan oil. In 1977, Congress tightened the restrictions on exports, and two years later Congress further stiffened those restrictions. Finally, in 1981, the Reagan Administration decided not to advocate the export of Alaskan oil.

If the government now abruptly changes direction and permits the export of even a portion of Alaskan oil, it would severely impact, if not bankrupt, this venture as well as similar ventures of others who have invested in transportation, storage and refinery infrastructure. Moreover, as that infrastructure crumbled, so would one key element of our national security; for, if there came a time when it was necessary to use Alaskan oil for domestic purposes, we would no longer possess the tankers and terminal facilities necessary to move that oil, and the pipeline that makes its transportation across Panama economical and efficient.

At the core of the current restrictions on the export of Alaskan oil lies a profound concern for America's energy security. It is no answer to that concern to argue that we are participants in a world oil market and to point out that the theoretical niceties of the laws of supply and demand should determine our access to vital oil resources in the years to come. With regard to oil, those supposed laws have failed all too often. Particularly in times of short supply, destination restrictions are placed on tankers for reasons wholly inconsistent with a free oil market.

If significant quantities of Alaskan North Slope oil are exported, America's dependence on other sources of supply—particularly the Persian Gulf—will be increased. This can have only one result it will make this nation, its economy and its Mideast foreign policy more vulnerable to supply disruptions, whether caused by logistical foul-ups, political instability, or direct political pressure directed against us and our allies.

Replacing Alaskan oil with foreign oil of the same quality is likely to involve increased costs and a leasing of the downward pressure on imported oil prices now created by the assured availability of Alaskan oil. The lower cost of crude oil in America today, with its consequential benefits for our rate of inflation, is clearly related to this country's increasing energy self-sufficiency.

The impact on the Government of Panama should also not be ignored. Panama is an important ally in an unstable region. The canal is a resource vital to our security. If Alaskan oil is no longer shipped across the Isthmus of Panama, the Panamanian Government will lose projected revenues in excess of $100 million a year. This could have a diplomatically and economically destabilizing effect. Surely the need to avoid destabilization of a peaceful and vital democracy in Central America and to preserve a secure environment for the Panama Canal outweighs today any marginal foreign policy advantages cited in favor of export.

Finally, Section 7(d) of the Export Administration Act contains a carefully thought out, long-standing and entirely rational set of criteria for determining when it is in the national interest to export Alaskan oil.

We urge you to support the extension of these restrictions.

Sincerely,

HAROLD P. BERNSTEIN,
Chairman of the Board.

Mr. MURKOWSKI. I yield the floor to my senior colleague from Alaska (Mr. STEVENS). I have a substitution after the Senator has completed his remarks.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I commend my colleague from Alaska for the work he has done on this matter. I cannot add further. I do not intend to repeat what he has said. I would like to be sure the Senator from Oregon understands the impact of what he has just said, however. Alaska is the only State in which the wellhead price is determined by subtracting the costs of transporting the oil to its final destination from the price at which the oil is sold at the final destination. Nowhere else in the world is that the case.

Despite the fact that up to 50 percent of the potential oil to be discovered in the United States and offshore of the United States is Alaskan oil we now have a situation where oil exploration in Alaska is starting to decline. The reason is that Congress has gone out of its way to put impediments in front of the development of Alaska resources. In bringing supplies to Alaska to support resource development, we can only use Jones Act vessels. Forty percent of all the Jones Act tonnage goes to one State that has about 450,000 people. In transporting one of our major resources, the oil produced on the North Slope, we must use Jones Act vessels, and we can sell that oil only in the United States. This means that much of that oil is shipped in tankers down to the Panama Canal area; is pumped through a pipeline that was constructed solely for our oil; is transferred back into tankers; and winds up on the east coast. In the end, that oil actually traveled further than oil that comes in from Saudi Arabia. Nevertheless, its price to the consumers is exactly the same as the Saudi crude. As a result of these unnecessary transportation costs, however, wellhead prices and exploration and production incentives in Alaska are reduced.

The argument that this bill has anything to do with the price to consumers is totally fallacious. The east coast people, the gulf coast people, the west coast people pay prices based upon the cost of imported oil, the world price for oil, not on the price of Alaskan oil at wellhead. As I said, the wellhead price in Alaska is determined by taking the price of the oil when it reaches its destination and then subtracting the costs of getting the oil to that destination. The wellhead price of Alaska oil has nothing to do with the price consumers ultimately pay at the final destination.

Just think of this also. A discovery like Prudhoe Bay in Montana would have no restrictions on export and would have no restrictions on rights-of-way, and yet people stand on the floor of this Chamber and say that Alaska is seeking some special privilege when it says to the country that unless an additional incentive in the form of increased wellhead prices through lower wellhead transportation costs is given, additional reserves sufficient to keep that pipeline of ours filled after 1989 will not be developed.

By 1989, the throughput of the Alaska pipeline will start dropping off and it will dramatically decrease. We have had a hard time up to now finding new reserves for the pipeline. The Mukluk field, as Senator MURKOWSKI has indicated, was a dry hole. The whole field has been abandoned. The recent discovery at Seal Island flows at a rate of 5,000 barrels a day. But, as Senator MURKOWSKI said, the Seal Island discovery, although significant, and close to the pipeline may not be economical to produce. It may not generate enough revenue to bring the oil ashore, let alone to the east coast at high transportation rates.

As I stand in my office in Anchorage, I am closer to Tokyo than I am to Washington, D.C., by air, and yet Alaska oil must travel the complete length of the west coast of the United States, all the way down to the Panama Canal, all the way across the breadth of the United States, across the gulf and up the east coast to reach its destination. The people who pay in the long run for this unnecessary transportation are the consumers because there will be no further oil to fill the Alaska pipeline unless some incentive for further exploration and production is provided.

Now, there is a tremendous amount of oil, I feel, in the Alaskan Arctic, onshore and offshore. It is unfortunate we have been unable to work out some sort of a modification of Senator MURKOWSKI's export approach that could win enough support to pass. I know enough, and so does he, to count the votes around here. We know what is going to happen today with regard to the motion to table his amendment. But the day will come when Americans will start reading what the people of the editorial pages say in this country. Look at the editorials from every part of the country. We do not write them, and I can assure the Senators that the newspapers printing them are not friendly to us usually. And yet whether it is in the New York papers or Los Angeles papers, or the Boston papers, the people have looked into this and said: "Wait a minute. If there is not an incentive to produce oil, if there is not a market beyond what exists now, then how can you discover the new reserves that we will need when the current production declines?"

I do believe that the time will come when people will understand the economics of dealing with an area that is so far removed from the everyday lives of the people whom the other Senators in this Chamber represent.

But whether the issue is our Federal lands, whether it is our resources, such as our fisheries, our seals—there is a meeting going on in another part of the building today about our seals and the complete misunderstanding that exists concerning the fur seal population off our shores—our timber, our oil and gas, our minerals, we are constantly the target of legislation offered by someone here to protect the interests in their own States regardless of the cost to us and the Nation. Today, individuals oppose Alaska oil exports without real knowledge of what is going to happen to the interests of their States if they prohibit the development of Alaska's full potential. If there ever has been a misunderstanding, there is certainly one here today.

Mr. President, there is more than $1 billion spent for the maritime industry to keep the oil and gas exploration and development production effort going in Alaska. Yet, it is the people in the maritime industry who oppose this amendment because of its alleged effect on shipyards. We have met that objection. This amendment provides that every tanker used for export be built in the United States, manned by U.S. people, and maintained and repaired in U.S. shipyards.

The pipeline, as my colleague from Fairbanks, Senator MURKOWSKI, said, which may be built between Los Angeles and Texas, would move Alaska oil into Texas and into pipelines there that currently are not filled. This is another thing people ought to take a look at. The throughput of oil in Texas pipelines is not presently enough to keep them filled. The pipeline distribution pattern in the Lower 48 was built for Texas and Oklahoma oil, and that is not where the production is coming from. The substantial new production is coming from Alaska.

If a discovery like Seal Island, with a 5,000 barrels per day flow rate, were found in Texas, everybody would be out on a binge. They have the pipelines to get the oil to market at a reasonable price.

Up our way, we go for the aspirin when we find a Seal Island, because the revenues it generates may not cover the cost of getting its production to market. The impact of this cost on oil and gas exploration and development in Alaska does not seem to be understood here.

I am not going to belabor this debate. I do believe that the time will come when there will be a better understanding of this matter, and the Senate will be asked to address it again in days to come, or months to come, or years to come. The time will come when the Senate will understand the economics of developing Alaskan resources and will not rely upon the opposition of those who fear the future. If Alaskans had shared this fear, there would be no oil and gas development in the State now.

Alaska was a territory, as we all know, until just 25 years ago. The land that was developed and is now known as Prudhoe Bay was under the Federal Government's jurisdiction for almost 100 years, and no exploration activity was allowed. It was not until we became a State and sought the right to select and develop this land that exploration was possible. The first major discovery on the North Slope, the main discovery, is on State lands. That should indicate to the rest of the country that we know our State and that those people who interfere in the management of our resources from Washington do not.

If the country wants the development of Alaska's resource base, wants our resources to be available, then the Senate and the House of Representatives will have to listen to those of us who have been sent here by Alaskans to tell you what is in the public interest so far as the development of our resources is concerned. Unfortunately, that does not seem to be the case today, and I see no reason to belabor it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I believe that my good friend and colleague from New York has a statement to make. I relinquish my right to the floor, pending his statement.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I thank my good friend and colleague, the distinguished Senator from Alaska (Mr. MURKOWSKI).

Mr. President, I rise this afternoon to express my opposition to the pending amendment to S. 979, the Export Administration Act, which would permit the exportation of Alaskan North Slope crude oil. Adoption of such a proposal would seriously affect this Nation's energy security.

Section 7(d) of the Export Administration Act currently restricts the exportation of Alaskan crude. As reported by the Senate Banking Committee, of which I am a member, S. 979 extends the existing restrictions on the export of North Slope oil for 6 years.

Mr. President, I think that is a wise extension—6 years. During the course of that time, we can see if some of the concerns, justified concerns, of my two colleagues from Alaska have come to fruition. At that point, we can always move to amend or alter that prohibition.

Today, the United States remains the single largest importer of crude oil and petroleum products in the world, relying upon imports for nearly one-third of our energy supplies. I think that is worthwhile noting. Some people say: "Well, Japan is the greatest importer." I thought it was, but that is not the case. It is the United States of America that is the world's largest importer. The dependence of this Nation upon foreign sources of oil is all too familiar to each of us.

Oil supply and price disruptions have imposed massive costs on the United States. The oil supply disruption of the 1970's—both of which were small in terms of quantities of oil lost, yet significant in terms of the price increases they caused—demonstrate the difficulty of the market to adjust. Wellhead prices today are 15 times higher than they were just 10 years ago. These price increases have sent tremors throughout our economy, affecting virtually every sector. According to the Department of Energy, we lost an average of $40 to $50 billion of GNP per year during the 1970's as a result of the energy crisis. A comprehensive study by the Department indicates that energy disruption contributed an additional 2 to 3 percentage points of inflation per year during the decade of the seventies. Furthermore, we lost 1 to 2 million jobs per year.

Despite some improvement, the United States still remains very vulnerable to energy and price problems. This is particularly significant when one considers the instability of the world oil and energy system. Our energy policy should be designed to insulate us from potential shocks in the world system and increase our flexibility. Export of Alaskan oil would do just the opposite.

In an attempt to enhance the energy security of the Nation, the Federal Government established the strategic petroleum reserve, which will eventually have a capacity of 750 million barrels of oil. However, the target date for completion of this important program is late in the 1980's. We have already made a significant investment in the reserve and should not abandon it now. From 1980 through 1982, 31.4 million barrels of Alaskan oil were used to fill the strategic petroleum reserve. Our national interests would clearly not be served by exportation of this oil.

In addition, the export of Alaskan crude would devastate our domestic shipping industry. Nearly 65 percent of the domestic shipping fleet is engaged in Alaskan oil trade. Exporting this oil would drydock as much as half of the U.S. tanker fleet. In the process, 20,000 Americans would lose their maritime-related jobs. We would effectively dismantle our shipping infrastructure and render ourselves incapable of moving oil supplies during a national emergency. This point is of particular concern to me because of the heavy reliance of the Northeast upon imported oil, and the important role which the maritime industry plays in our national security.

For these reasons, I joined as a cosponsor of S. 1159, legislation to extend indefinitely the ban on the exportation of Alaskan oil and I oppose the pending amendment. I would, in the interest of our energy security, encourage my colleagues to reject any proposal which would increase America's vulnerability as the pending amendment would do.

To alter the present policy would be extremely bad energy policy and very shortsighted, counterproductive economic policy. Exportation of Alaskan oil would increase our dependence upon imports from foreign nations and would not lead to a significant increase in domestic oil production.

Needless to say, I think that my constituents, particularly those in the Northeast who are so dependent upon imported oil, could find themselves very adversely affected if we found a diminution in the world's oil supply, if a tragic event might take place to cut off the supply of oil from the Middle East to Western Europe and the United States. In the Northeast, we are very dependent on foreign oil.

I think that this amendment offered by my distinguished colleague from Alaska is ill advised.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, it is certainly an issue that I feel requires a great deal of understanding. It seems indeed as we examine the merits that there is a question of whose best interests are at stake, not necessarily the question of what is in the best interests of our country.

I certainly commend my colleague from New York for the remarks he has made and his opinions. I regard them just as I do the feelings expressed of my colleague from Ohio, Senator METZENBAUM. But we find my colleague, Senator PACKWOOD from Oregon, also has a particular interest. And we begin to look at the special interest associated with this issue, and none has recognized or responded to the specific reality of what is taking place today with regard to the current movement, excess oil from the west coast of the United States.

As additional crude oil comes down from the North Slope as a result of additives being put into the pipeline, increased production from the Kuparuk field, and the decision to develop an additional field, Milne Point, realities dictate that the capacity of the pipeline across Panama will be exceeded. I have been told by the companies involved before the year is out, the small ships will be back, shuttling oil through the Panama Canal, in addition to the funneling of the oil through the pipeline, beneficiaries of the export ban.

We move over to the other special interest groups associated with this, and we find the entrepreneurs from California, the California-Texas pipeline, which, as I have indicated in my statement, proposes to move 800,000 barrels of oil a day from Long Beach, Calif., to the Gulf States at a savings of some $3 per barrel which amounts to $2.4 million per day.

Mr. President, that is the American system at work. It is the reality that there is a better way to do things, so people develop better proposals. As we look at the concerns of my colleague from Oregon, with regard to the shipyard in the Columbia River, all of those tankers that operate from Valdez to Panama are indeed repaired in that shipyard. That is a very efficient American shipyard. My amendment meets the specific concern, of my colleague because it dictates that those vessels will be repaired in American shipyards.

Unfortunately, there may be some ships involved that are so large that they cannot fit into the Columbia River shipyard. So obviously again the special interests of my colleague are affected.

But when we recognize that that shipyard was built in Japan and hauled over from Japan to the United States, and the reason it was not built in the United States is that it would have cost some $35 million or more to build in the United States, one has to reflect on what we are doing to ourselves on the exports issue by mandating the preservation of economic inefficiencies.

I have belabored my colleagues at great length today. I appreciate indeed their understanding. As I reflect back and forth on the merits of this issue, I think it is indeed unfortunate that so many public policy questions in the Senate are resolved through the influences of special interests. As a consequence, the debate that takes place on this floor, as you can see, is not participated in by a majority of the Members. I think it is sufficient to say at this particular time I am the only Member on the floor. It is indeed unfortunate that the merits of this issue have not been thoroughly examined, and I think it is significant to note that in my talks with people in the White House and every other level of Government, they have said that exports are in the national interest, but for this reason or that reason, we cannot support your proposed amendment.

The maritime unions are against it. I understand charity begins at home, but I have already indicated that maritime industry needs help. I am not proposing to harm the maritime industry. On the contrary, I am proposing to provide new jobs in the maritime industry and other industries by encouraging the export of oil, which will increase the incentives for oil and gas exploration in Alaska and elsewhere. If you think the oil companies are going to develop Alaska because they love it, you are entirely mistaken. They are up there because they are looking for a return on their investment, and they have to have an incentive.

I do not care whether you talk about the benefits to Alaska or the benefits to the Federal Government in revenues; the realities dictate that the incentive for industry has to be there, and the incentive can only come in this particular scenario by reducing the transportation costs. You cannot argue with the realities.

The question continually comes up if we export 200,000 barrels we are going to have to import 200,000 barrels. Absolutely. The logical place to import it from is Mexico. They sit right next to us. The transportation costs are nothing more than moving the oil through a pipeline a few hundred miles. In addition, Mr. President, as we reflect on our situation with Mexico it is kind of interesting to note that Mexico's production from 1980, when it was 1.9 million barrels per day, has gone up to 2.6 million in 1983. Reflecting further on that production, I would like to point out that 25 percent of the production coming into the United States from Mexico is refined products. Think of the merits of that. We have unused refining capacity in this country. Why not bring crude oil in from Mexico to be refined in our refineries? I think this subject deserves a little more examination by this body.

Mr. President, we have a great concern about the issues and the current atmosphere in Central America. It is indeed in our best interest to establish closer ties with Mexico so we can protect the investment of Americans in that country. The best way to achieve this is to buy more crude oil from Mexico—not refined products—and bring Mexican crude oil into the United States, refine it in refineries in this country, and allow the export of corresponding amounts of oil to our fine Pacific Rim allies willing to buy Alaskan oil. This will result in a stimulation to a significant degree of the industry because the inducement is there.

Mr. President, I know my colleagues' attitude on this issue. Unfortunately, this particular issue is one that is going to require additional explanation, and a knowledge we are going to have more and more crude oil on the west coast, to the point that it gets embarrassing. I have indicated that it is embarrassing now because we are going to have to go back to shuttling the ships back and forth. But the merits of an up and down vote on my amendment for 200,000 barrels a day are fraught with the political realities existing in this body. As a consequence, Mr. President, I now wish to modify the pending amendment before you. Therefore, Mr. President, I send my modified amendment to the desk and ask that it be read.

The **PRESIDING OFFICER**. The amendment is so modified.

The clerk will read the modification.

The bill clerk read as follows:

> On page 1, on line 6, after the period, insert the following:
>
> Section 7 of such Act is further amended by inserting after paragraph (2) of section 7(d) the following and renumbering the succeeding paragraph accordingly:
>
> "(3) Notwithstanding paragraph (1) or any other provision of law, crude oil produced from reservoirs other than the Saddlerochit and Kuparuk River reservoirs may be exported in accordance with the provisions of this Act at a rate not to exceed 200,000 barrels a day. Exports of such crude oil shall be made only—
>
> "(A) pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished; and
>
> "(B) on vessels built and documented in the United States, with all maintenance and major repairs on such vessels occurring in United States repair facilities."

Mr. MURKOWSKI. Mr. President, this amendment would permit only the export of Alaska North Slope oil from either new production from existing fields or newly developed fields. And it specifically dictates that export of this oil be on U.S.-built and documented tankers, that those flag tankers be repaired in U.S. shipyards, and that the President may cancel export contracts during time of an emergency.

This amendment proposes that an amount not to exceed 200,000 barrels of new oil be available for export. As I have indicated previously, this would encourage oil companies to produce oil in an amount equivalent to the carrying capacity of the Trans-Alaska pipeline. However, the Trans-Alaska pipeline operators believe that it is possible, through technical developments, to increase the oil throughput by as much as 200,000 barrels. Present production from Prudhoe Bay is 1,500,000 barrels per day. Another 130,000 barrels per day comes from the Kuparak field.

My amendment covers new oil from fields other than those I have mentioned. North Slope exploration and development would indeed be spurred by this amendment. It would encourage oil companies to invest in the exploration and development of these new fields. Certainly new exploration and development is in America's national interest.

For example, presently marginal fields on the North Slope of Alaska would most likely be brought into production. In addition, there would be no loss of jobs in the maritime trades because all existing oil would continue to flow as it is presently flowing in the present ships that move the oil.

So, Mr. President, this amendment can only be in the interest of all concerned. It does not impact the concern of my colleague from the State of Oregon, who is worried about the utilization of the shipyard on the Columbia River. It does not impact my other colleagues' concern over how we replace the 200,000 barrels a day of exported oil.

Mr. President, the Lisburne field may come into production if the inducement is there. The difficulty is that the oil is suspended in sand. Much of it is in permafrost. Developing techniques to extract this oil is in the formative stages. But it is in the national interest of this country that that oil be made available for development. And this amendment would provide the inducement to develop the technology necessary to make the Lisburne field a proving field.

Seal Island, as I have indicated in my previous comments, could bring in 5,000 barrels a day. Seal Island will probably not come into production unless this amendment is passed. That is just a hardcore fact. My colleagues should understand that if the return is not there on the investment, the development does not occur.

Conoco and its partners have recently announced that they hope to begin producing 30,000 barrels per day of crude oil from a small field on Milne Point.

My amendment as proposed would address new oil only. As I have indicated, the amendment would have no impact on existing Jones Act tankers or crew, because export levels are pegged at approximately the levels currently being carried by the Jones Act fleet.

The rate at which the U.S. Treasury receives revenues from the windfall profit tax on the Prudhoe Bay field will increase because of accelerated development. This would allow the American taxpayer to capture more of the windfall profit before the windfall tax expires in 1991. On exports of new oil, the Federal Government would capture an estimated $100 million to $150 million per year. So it is an opportunity, Mr. President, for this Nation to provide the incentive to look for new oil.

And I would at this time like to acknowledge the floor manager, Senator HEINZ, for his accommodation in my efforts to again bring before this body the merits associated with the development of Alaska oil. I respectfully ask for the support of my colleagues on the pending amendment, which will initiate the stimulus to develop new oil, which is obviously in the national interest.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. MATTINGLY). Without objection, it is so ordered.

Mr. MURKOWSKI. May I make inquiry of the floor manager?

Mr. HEINZ. Mr. President, it is my intention to move to table the Murkowski second-degree amendment. I do not see any of our colleagues wishing further recognition at this time. I think we have debated this issue at length.

Let me just state the position of the managers of the bill. The managers of the bill are unanimously opposed to this amendment. Senator GARN, our chairman, is opposed to this amendment and supports the tabling motion.

There is a list of labor organizations a mile long which are opposed to this amendment.

Someone might ask, What is the administration position on this issue?

Mr. President, I think it can be accurately stated that at the Cabinet Council meeting on this subject 2 weeks ago, the Cabinet Council of the Reagan administration stated that they did not support this issue being considered on this bill, and that they wanted to consider the issue further. They did not want to confront it on this legislation because they agreed that this legislation deals with a number of national security issues and deals directly with the problems of technology transfer between the United States, our allies, and the Soviet Union. They did not want to get into this complex issue on this legislation.

I make that statement. I think it is a matter of record, based on what the Cabinet Council has in fact said. I think it can be confirmed by any telephone call.

So that there is no misunderstanding, I am not saying that the administration is opposed to the substance of what Senator MURKOWSKI wants to do. They have not taken a position on substance. But what they have said, at least insofar as the Cabinet Council is concerned, is that they do not support any kind of amendment in this area on this bill.

I think that is an accurate reflection of the record. I do not think my friend from Alaska would disagree with what I have just said, but I would be happy to yield to him if he chooses to disagree.

Mr. MURKOWSKI. I thank my colleague for yielding. My understanding is that the Cabinet Council did address the substance and voted 7 to 3 in favor of allowing oil exports. I have been advised by the administration, through the Assistant to the President for Legislative Affairs, as a consequence of that vote, that indeed the administration has a position, and that position is no position. [Laughter.]

In an interview which occurred in Washington, D.C. on the evening of February 22, the President in a nationally-televised news conference lent his support to the export of Alaskan oil for the first time in such a widely publicized forum. I quote his remarks:

> I share the view that it (Alaskan oil exports) would be an asset to the United States to do this.

He said that in response to a question.

As a consequence of that statement, I am somewhat confused at the official administration position, which is no position. However, I can understand the delicacy of this question from a political point of view. As the floor leader has indicated, the unions have indicated there interest. But, again, I would respectfully remind the floor leader that I have addressed the union's interest in my amendment. Indeed, in this amendment we are providing new jobs for the unions because we propose to export new oil.

Mr. HEINZ. Mr. President, I yielded to my friend from Alaska for a point of clarification. I did not want him to go over the excellent points he has made on behalf of his proposition or his point of view.

I wanted to be sure that we all understood that the Cabinet Council in fact did do what I said. The Senator from Alaska is correct, that they ended up saying, "we have not taken a position and we do not support anything happening right now." He is right, it is a heck of a position for someone to take.

Mr. MURKOWSKI. Will my colleague yield for a question?

Mr. HEINZ. I would be happy to yield for a question as long as it is carefully stated.

Mr. MURKOWSKI. What is the Senator's interpretation of the Cabinet Council's vote of 7 to 3 on the substantive question of Alaskan oil?

Mr. HEINZ. I say to my friend, I cannot tell him how they came out on substance except I also know that they agreed they did not want to confront the issue at this time on this bill. That is a fact. No matter how they voted, it is still a fact. The Senator can have his facts correct, I can have mine correct, because they are different facts. They are not self-contradictory. It just may seem that way to casual observers in Washington, D.C., who have not understood the intricacies of our system.

Mr. President, I thank my friend from Alaska. He has been extremely eloquent. I hope he has not persuaded anybody of his position.

I move to table the Murkowski second-degree amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I rise in opposition to the amendment to section 7(d) of the Export Administration Act, offered by Senator MURKOWSKI, which would authorize the export of 200,000 barrels of crude oil per day produced in Alaska. I believe Senator MURKOWSKI has made some appealing arguments in favor of his amendment, but I cannot support it because I am convinced it would be harmful to our Nation's international trade position.

In 1983 our accelerating trade deficit with Japan was almost $22 billion. In 1984 that deficit is expected to rise to nearly $25 billion. Selling 200,000 barrels of Alaskan oil a day to the Japanese would reduce our bilateral trade deficit with Japan by $2 billion, and thus assist in disguising the structural nature of our trade problem with the Japanese.

Most Japanese exports to our country are higher value-added manufactured goods such as automobiles, video cassette recorders, and other electronic equipment. U.S. manufactured goods, however, are denied access to the Japanese market by nontariff barriers such as restrictions, quotas, and complex inspection and licensing requirements. Even some of our agricultural products such as beef and citrus fruits are kept out of Japan by stringent import quotas as the Japanese are concerned with dislocations that would be caused to their own farmers by such imports.

Our negotiators have been striving for years, without great success, to persuade the Japanese to remove their nontariff barriers to U.S. manufactured goods and their import quotas on our agricultural products. The Japanese Government would like to reduce the pressures on them to open their market for imports of manufactured goods from our country by taking raw materials such as Alaskan oil instead. The problem for us with this Japanese strategy is that the export of oil, which is already in short supply in our own country, does not produce jobs for our workers. The export of our manufactured goods would.

What we need to straighten out our trade problem with the Japanese is (a) for the Japanese to open up their markets to our manufactured exports, and (b) for us to reduce our budget deficit to bring down interest rates and the bloated value of our dollar which is destroying our ability to compete internationally. Selling Alaskan oil is not the solution.

I should also note, in regard to Senator MURKOWSKI's amendment, that section 7(d) of the Export Administration Act does not now forbid the export of Alaskan oil. It permits such oil to be exported if the President finds, and Congress agrees, that: First, such exports are in the national interest; second, they could be terminated in the event of an emergency; third, they would not diminish the over-all petroleum supply available to the United States; and fourth, at least a portion of the increased profits made by oil companies through such exports would be passed on to the consumer. To date, no president has found that these prudent restrictions could be satisfied in exporting Alaskan oil. The amendment, offered by Senator MURKOWSKI, would solve this problem by getting rid of such restrictions. It does not provide for passing any portion of increased oil company profits to American, as opposed to Japanese consumers.

I do not believe this amendment is wise public policy for the above reasons, and I urge you to vote against it.

Mr. President, I ask unanimous consent to have printed in the RECORD articles from the Oil Daily of February 27, 1984, and an article from the Washington Post.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Oil Daily, Feb. 27, 1984]

ALASKAN OIL EXPORTS ARE A BAD IDEA FOR UNITED STATES, JAPAN

(By James Akins)

New ideas are rare and usually should be cherished.

A group of Japanese businessmen, and Alaskan government officials have proposed an ingenious but simple scheme to redress the staggering trade imbalance between Japan and the United States, and to increase Alaskan state revenues.

They would sell Alaskan oil to Japan. Although exports are currently restricted by the Export Administration Act, that law is being reconsidered by Congress and the restrictions on oil exports could be removed.

Japanese businessmen and other export proponents collectively note that every 100,000 barrels per day of Alaskan oil sold to Japan would reduce our bilateral trade deficit with the country by about $1 billion annually.

These businessmen recognize that they could benefit if this new export caused the United States to reduce its pressure on Japan to liberalize other import restrictions.

Another argument for importing Alaskan oil heard in Japan is that Japanese security would be enhanced by reducing imports from the Middle East and switching to the "secure" United States of America.

The State of Alaska could also benefit by selling the Japanese Alaskan oil—particularly state royalty oil. If the market were Japan, transportation costs would be lower due to the shorter transportation distance and the ability to use more economical foreign-flag ships. (Shipments to the lower 48 states must be made in American ships.)

With reduced transportation costs, Alaska would earn more for each barrel of its royalty oil. Even if oil companies exported some of their oil (a less likely proposition than Alaska selling its royalty oil), Alaskan revenues would also increase (although to a lesser extent) because Alaska taxes the value of all oil produced in Alaska. It is also argued that a Japanese market for Alaskan oil would encourage development of new oil resources in that state and for the nation.

A BAD IDEA

Should we then embrace this new idea with open arms? I think not. For upon closer examination, it makes little sense for the nation as a whole.

If the United States were a net exporter of oil and were seeking new markets for its surplus, then exporting Alaskan oil might make sense. But unfortunately, this has not been the case for 30 years and it is unlikely that it ever will be again.

Every barrel of Alaskan oil diverted from the American market and sold to Japan would have to be replaced by a barrel of imported oil. Thus, there would be no overall balance of payments benefit for the United States.

One should not begrudge the Alaskans this attempt to get greater oil wealth, but one's sense of charity is strained when we note that Alaskans already have the highest per capita income in the union, resulting in payments by the state to its citizens—a reverse income tax. If Alaska were a member of OPEC, it would rank fifth in per capita income, right behind Saudi Arabia.

Spurred on by the five-fold increase in the price of oil in the last decade, Alaska has been our main source of additional oil production. There will always be, however, a market for Alaskan oil in the United States. In fact, Alaskan oil production may peak out before the end of this decade and opening it up to the Japanese could threaten America's oil reserves.

THREAT TO RELATIONS

If we did sell Alaskan oil to the Japanese, replacement oil would almost certainly come from the unstable Middle East. If there were a cutoff in oil supplies, however, Congress could (and certainly would, in the absence of a treaty specifically prohibiting such cutoffs) pass legislation again, forbidding the export of American oil. Alaskan oil would then be shifted back to the American domestic market.

This situation would pose a serious threat to Japanese-America relations. The Japanese government understands this well and has been noticably absent from the group advocating purchase of Alaskan oil.

It is difficult to imagine anything that would more severely and permanently disrupt relations between Japan and the United States than for Japan to buy American oil and then, at the time of the first shortage, for the United States to cut it off—something no Middle East exporter would be likely to do, at least not deliberately.

OLD ARGUMENTS HOLD

Who even remembers 12 years ago when oil was discovered in Alaska and ecologists strongly opposed the pipeline construction as potentially damaging to the "fragile Arctic environment."

They archly questioned whether the oil was needed. "Will it not really be exported to Japan?" they asked. "Absolutely not," chorused government and industry. Our oil production was declining, they maintained—honestly, it may be noted—and the oil would be required by the United States.

Even the governor of Alaska, William A. Egan, testified before the Senate Interior Committee on April 19, 1973: "The companies have categorically stated that there will be none of that oil transported to Japan and it is the position of the State of Alaska that there will not be any of the oil transported to Japan."

The arguments for the pipeline proved persuasive and the pipeline was built. We needed it during the oil crises of the 1970s and we need it today.

[From the Washington Post, Feb. 25, 1984]

ONLY ALASKANS AND JAPANESE WOULD BENEFIT

The governor of Alaska recently wrote in The Post that the existing prohibition of export of Alaska oil was not in the "national interest." His arguments are grounded on unrealistic and oversimplified theories about how world trade and the world oil market work. They serve to cloak the purely parochial under the banner of U.S. national interest. I see the export prohibition differently, as do almost 300 members of the House and Senate who have cosponsored legislation to permanently ban the export of Alaskan oil.

Export of this vital national resource would weaken our already one-sided trade position with the Japanese, damage national security and blame energy consumers for the additional $2-$4 per barrel cost of more expensive replacement oil. Furthermore, it would substantially curtail our progress toward energy independence.

Exporting Alaska oil will not improve our trade posture. The overall U.S. trade deficit will not be reduced because exports will force us to import an equal amount of oil. Indeed, exports are likely to increase our $60 billion-plus trade deficit as we pay more for replacement oil that we will get for Alaska oil abroad. Most dangerously, exports will take the heat off the Japanese to lower their trade barriers and alter unfair export promotion policies. Instead of exporting goods manufactured by American labor in American factories, we would send the Japanese a scarce and irreplaceable domestic energy resource.

Furthermore, exporting our oil would be an act of contempt for the paramount goal of energy independence. Saudi Arabia is the most likely source of crude to replace exported Alaska oil because it has oil to sell and because its crude is of similar quality to Alaska oil. Mexico, Venezuela and Nigeria are unlikely sources of replacement crude: Mexico has an explicit policy against more exports to this country; Venezuela and Nigeria both are members of OPEC who are abiding by their production quotas. Thus, exporting Alaska oil would increase U.S. dependence on the Middle East, the Iran-Iraq War, instability in Lebanon and the track record of the region all point out the imprudence of exporting Alaska oil.

For consumers, Alaska oil puts downward pressure on prices in the Gulf and West Coast markets, giving significant price relief and improving our capacity to respond to a supply disruption.

The Alaskans and Japanese alone would benefit from the export of Alaskan oil. Alaskans would add $50 to $300 million a year to the $2.5 billion they currently garner annually from oil revenue. The Japanese would cover up the serious trade issues underlying our $20 billion bilateral trade deficit. U.S. trade interests, energy security and consumers would lose from export. a broad-based coalition of consumer, farm, environmental, labor and industrial interests understand this economic reality and support continued domestic use of our oil. Let's not be fooled into believing Alaska oil exports are in the "national interest."

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Idaho (Mr. McCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. TRIBLE), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY), would vote "yea".

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Kentucky (Mr. HUDDLESTON), are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. HUDDLESTON), would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 70, nays 20—as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—70

Abdnor
Andrews
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Goldwater
Grassley
Hatfield
Hawkins
Hecht
Heflin
Heinz
Helms
Humphrey
Inouye
Johnston
Kasten
Kennedy
Lautenberg
Leahy
Levin
Long
Mathias
Matsunaga
Mattingly
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Rudman
Sarbanes
Sasser
Stafford
Stennis
Warner
Wilson
Zorinsky

NAYS—20

Armstrong
Boschwitz
Evans
Gorton
Hatch
Jepsen

Kassebaum
Laxalt
Lugar
Murkowski
Nickles
Roth
Simpson
Specter
Stevens
Symms
Thurmond
Tower
Tsongas
Wallop

NOT VOTING—10

Chafee
Cranston
Glenn
Hart
Hollings
Huddleston
McClure
Percy
Trible
Weicker

So the motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I should like to take this opportunity to ascertain, if I can, how many amendments remain, how many rollcall votes we are likely to have, and then make some courageous estimate as to how long we are going to be in tonight.

I wonder if the distinguished manager on the majority side can give me his view of that situation.

Mr. HEINZ. Mr. President, I say to the distinguished majority leader that we are about to dispose of an additional amendment by Senator MURKOWSKI. We can take that on a voice vote.

I anticipate that Senator PRESSLER and Senator PRYOR will have an amendment regarding the Federal Reserve. I anticipate a brief debate on that and a motion to table, after about 10 minutes.

Senator MATHIAS has an amendment which I believe will be acceptable to the managers. No recorded vote will be required. That should take no more than 5 minutes, if my optimism is not being carried away.

Senator BOREN is working on an amendment having to do with wheat. I do not have the details on that. That could very well require a recorded vote.

Senator DODD has an amendment, if he chooses to go ahead with it, on contract sanctity, which would require a vote.

Mr. BAKER. Mr. President, that is a pretty imposing list of amendments.

I have not yet had an opportunity to discuss with the minority leader as to any additions he may have to that.

It seems to me clear that we are going to be in at least until 9 o'clock, maybe later. It is still the hope of the leadership on this side that we can finish this bill tonight. But if we cannot, it would not be the intention of the leadership to ask us to stay past 9 or 10 o'clock, and we will be on it tomorrow.

I urge Senators to be as brief as possible and to see if we can finish this bill by 9 o'clock this evening or thereabouts.

Mr. GARN. Mr. President, will the Senator yield?

Mr. BAKER. I yield to the Senator from Utah.

Mr. GARN. Mr. President, with all due respect to the majority leader, I certainly recommend that we stay for whatever time is necessary to finish. This bill has been in process for a long time. Senator HEINZ and I spent 6 months working on a very careful compromise, and what we have been doing all week has nothing to do with the Export Administration Act. We would become the first Christmas tree of 1984. It is a little early; it is only March.

Nevertheless, we have had a number of nongermane amendments which have nothing to do with a very carefully crafted act. We have been going on extensions of the Export Administration Act. There has been no regard for the importance of the basic structure of the bill.

I suggest to the majority leader that we are going to be in here tomorrow and he can expect we can go all day tomorrow and still be here late tomorrow, an innovative staff will think of more nongermane amendments.

It is the opinion of the chairman of the committee that if it takes us until 1 or 2 o'clock, we should grind it out and get back to the Export Administration and trim the Christmas tree a little bit.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. HEINZ. Mr. President, may I say to my friend, the majority leader, that I am afraid Senator GARN is right. It has been my experience today that as Members were reluctant in coming forward with amendments it gave staff time to cook up another half dozen amendments, and the longer we drag this out the more nongermane, lengthy amendments there will be.

I think Senator GARN may be a little conservative in estimating how much longer it will drag on.

I know we have a lot of things that I know the majority leader wishes to do, and I urge him, and second Senator GARN's motion, to stay as late as possible to finish.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. DECONCINI. Mr. President, I pose the other side of the issue. It seems to me, I say to the majority leader, that we have tomorrow. We have extended this 30 days, I understand, sometime earlier today. I do not see the need to stay until 1 or 2 a.m. It seems this is not a dire emergency.

With all due respect to the chairman and distinguished Senator from Pennsylvania, if we need to stay here until 1 or 2 a.m., or even 9 p.m. tonight, I think we could come in tomorrow morning and finish it up.

Mr. BAKER. Mr. President, there are many Senators who would wish to finish tonight, and almost no Senators who wish to be back tomorrow doing this. I do not know which is more effective at any given time in the Senate, the carrot or the stick. We now have heard both.

Let me say that in cases of this sort, the managers of the bill are the ones who should have the first opportunity to decide whether we stay late or do not stay late. Obviously, both the chairman of the committee and the manager of the bill on the floor wish to continue, so we will continue.

Mr. HEINZ. I thank our leader.

Mr. President, I believe the Senator from Alaska has an amendment which I believe that we can accept.

Mr. MURKOWSKI. Mr. President, I thank the manager of the bill.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2771

(Purpose: To establish a Presidential study commission on crude oil exports)

Mr. MURKOWSKI. Mr. President, I send a perfecting amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. MURKOWSKI) proposes an amendment numbered 2771 to amendment numbered 2769.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On line 6 after the period insert the following:

Section 7 of such Act is further amended—

TITLE II—CRUDE OIL COMMISSION

ESTABLISHMENT OF THE COMMISSION

SEC. 201. (a) There is established a Presidential Advisory Commission to Study the Export of Crude Oil (hereinafter referred to as the "Commission") composed of seven members appointed by the President. No person shall be appointed who has, or is a member of a company or organization which has, any direct monetary interest in domestic or foreign oil exploration, production, transportation, importation or exportation.

(b) The President shall designate from among the members a Chairman and Vice Chairman. Vacancies in the membership of the Commission shall not affect the power of the remaining members to execute the functions of the Commission and shall be filled in the same manner as the original appointments.

(c) Members of the Commission shall be appointed not later than sixty days after the date of the enactment of this Act and shall serve for the life of the Commission. Members appointed to the Commission shall take office upon the date of their appointment.

PURPOSE AND FUNCTIONS OF THE COMMISSION

SEC. 202. The Commission shall—

(1) undertake a comprehensive review of the issues and related data concerning exports of crude oil, particularly Alaska North Slope crude oil, at free market levels, under current prohibitions, and at levels of 50,000 barrels per day, 200,000 barrels per day, and

500,000 barrels per day, including, but not limited to—

(A) the effect of such exports on the energy and national security of the United States and its allies;

(B) the role of such exports in United States foreign policymaking, including international energy policymaking;

(C) the impact of such exports on employment levels in the maritime industry, the oil industry, and other industries;

(D) the impact of such exports on the average consumer;

(E) the impact of such exports on Federal Government revenues and expenditures;

(F) the effect of such exports on incentives for oil and gas exploration and development in the United States; and

(G) the legal impediments to such exports, particularly section 7(d) of the Export Administration Act of 1979;

(2) develop, after consulting with appropriate State and Federal officials and other persons at the discretion of the Commission, findings, options, and recommendations regarding the export of oil, particularly Alaska North Slope crude oil, which shall be made to the President not later than January, 1, 1985; and

(3) undertake additional related tasks and make interim reports of its activities and recommendations as the President may determine necessary.

ADMINISTRATION AND POWERS

SEC. 203. (a) The Commission may make appropriate rules respecting its organization and procedures, except that no recommendation shall be reported from the Commission unless a majority of the Commission assents.

(b) The Chairman of the Commission may appoint and compensate staff personnel, without regard to the provisions of title 5, United States Code, government appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classifications and the General Schedule pay rates.

(c)(1) Subject to paragraph (2), the members of the Commission may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission.

(2) Any member may decline the reimbursement of expenses.

(d) the Commission is authorized to—

(1) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code; and

(2) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission to the extent or in such amounts as are provided in appropriation Acts.

(e) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

(f) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

REPORT TERMINATION

SEC. 204. (a) The Commission shall submit a final report to the President not later than January 1, 1985, concerning the findings, options, and recommendations it develops with respect to the matters described in section 202.

(b) The Commission shall terminate within thirty days following the submission of the final report.

SUBMISSION OF THE REPORT AND PRESIDENTIAL RECOMMENDATIONS TO CONGRESS

SEC. 205. In response to the Commission's report, the President shall develop recommendations on the export of crude oil, particularly on the advisability of retaining section 7(d) of the Export Administration Act. He shall submit the Commission's report and his recommendations to Congress not later than March 1, 1985.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 206. There are authorized to be appropriated in any fiscal year such sums as may be necessary to carry out the provisions of this title.

FEDERAL ADVISORY COMMITTEE ACT

SEC. 207. Except where inconsistent with this title, the provisions of the Federal Advisory Committee Act shall apply to the Commission.

Mr. MURKOWSKI. Mr. President, I submit an amendment covering the importation of a study group.

Mr. President, I understand the Senate's concern over the implications of limited export of Alaska crude oil. There are clearly strongly felt and emotional arguments on both sides.

It seems to me that, in light of this, it would make sense for all of us to stand back and take a dispassionate look at this issue. The Congress has been looking at this issue for 10 years, in the course of legislation and recently in a study by the General Accounting Office. Various administrations, including the current one, have also had this issue under study. I think the time has come to have an independent, impartial body study this issue and make recommendations to the administration and the Congress.

Mr. President, at this time I would like to introduce an amendment to the Export Administration Act which would empower the President to appoint a Presidential Advisory Commission to study the issue of exporting Alaska crude oil.

The Commission would be composed of seven members appointed by the President; the President would also appoint the chairman and vice-chairman.

To insure an impartial analysis and unbiased recommendations, no member of the Commission would have any direct, or indirect, monetary interest in domestic or foreign oil exploration, production, transportation, or distribution.

This Commission would be charged with determining the "facts of the case"—namely, the costs and benefits of exporting limited amounts of Alaska oil, and how those costs and benefits are distributed.

The Commission would study the impact of export of Alaska oil under four different scenarios: Free-market export levels, export of 50,000 barrels per day, export of 200,000 barrels per day, and export of 500,000 barrels per day. For each of these scenarios, the Commission would consider the impact of export on: U.S. national and energy security, employment in the domestic oil exploration and transportation industries, consumer oil prices and Federal royalty, and tax receipts.

A major stumbling block in previous efforts to debate the substantive merits of this issue has been a disagreement of exactly which proposal was being advanced. The Commission will provide the data to overcome this problem.

In addition, the Commission would go one step further and use this information to develop a recommendation on whether export was in the national interest, and if so, at what volume level. Because of the broad-based composition of the group, the recommendation would reflect the national interest, not the interest of any particular group in favor of or opposed to export. A majority of the Commission would have to approve any recommendations.

The Commission recommendations, and its report, would be required to be in the hands of Congress by March 1, 1985.

This Commission would have a very limited life; far be it from me to expand the bureaucracy unnecessarily. Members would serve for the life of the Commission—30 days after the submission of its final report—approximately April 1, 1985.

I believe that the work of this Commission would allow us, at last, to resolve this issue. It would be well worth the modest investment of Federal dollars. I ask for your support.

The Commission's recommendations would be reported to Congress prior to March 1985. The Commission would then expire. I believe, Mr. President, that the work of the Commission will allow us to resolve this issue, which I am sure would meet with the approval of the manager of this bill and many of my colleagues.

I think it would be well worth the modest investment, and I therefore ask your support at this time. I hope the managers of the bill will accept my amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield for two or three brief questions?

Mr. MURKOWSKI. I am happy to yield to my friend from Wisconsin.

Mr. PROXMIRE. Mr. President, in the first place, the Senator intends this Commission to be bipartisan; is that correct?

Mr. **MURKOWSKI**. Absolutely.

Mr. **PROXMIRE**. Fine.

Then in the second place, what is the expected cost? I see that the amendment provides for appropriations in fiscal year such sums as may be necessary. Is there any estimate as to how much this would cost?

Mr. **MURKOWSKI**. I do not have a specific estimate. However, I think that the opportunity to provide the incentive for generation of new oil production would far exceed the cost. The returns to the Federal Government in terms of additional tax revenues from increased production, would be in the best interests of our Nation, and I think it would be worth something to put this issue behind us once and for all by an unbiased group.

But to answer the question of the Senator from Wisconsin, I do not have the specific amount.

Mr. **PROXMIRE**. Fine.

May I say to my friend from Alaska undoubtedly this has a lot of merit. I do not oppose the amendment, but I do think that in conference we would be well served if we had some estimate as to the cost and if the Senator could get that in the next few days we would be in his debt.

Mr. **MURKOWSKI**. I will be happy to put that in the record and have it available for the conferees.

Mr. **PROXMIRE**. Then the final question relates to the provision on page 2 that says, "The role of such exports in U.S. foreign policymaking, including international energy policymaking." Would the Senator feel it would be wise to extend that to trade, role of exports in trade, inasmuch as much of the argument on this relates to our trade with the Japanese?

Mr. **MURKOWSKI**. I have no objection.

Mr. **PROXMIRE**. I thank the Senator. I have no objection to the amendment.

Mr. **MURKOWSKI**. I thank the Senator from Wisconsin for his inquiry.

Mr. **HEINZ**. Mr. President, will the Senator yield?

Mr. **MURKOWSKI**. I yield to the floor manager.

Mr. **HEINZ**. First, I wish, for the record, to ask one question. Is it not true that this amendment does in no way reflect current law, it does not have any repealer, and it allows the provisions of this act to execute as the committee originally intended? Is that correct?

Mr. **MURKOWSKI**. The floor leader is correct in his analysis.

Mr. **HEINZ**. Mr. President, I ask that only because there have been a number of versions to this amendment. This amendment is exactly as the Senator from Alaska describes it. It is a study amendment. I wish to say that we are prepared to accept the amendment, but more than that, I wish to commend the Senator from Alaska for having brought before the Senate in extraordinary detail and with great care, and I might say with a very high degree of eloquence, the problems faced by his State and the consequences of our present policies, not just in his State, but to the Nation. I think his approach in this study is not only thoughtful but statesmanlike. I hope our colleagues will accept it.

Mr. **MURKOWSKI**. I thank the floor leader, the distinguished Senator from Pennsylvania, for his remarks.

I ask that my amendment be voted on.

Mr. **HEINZ**. Mr. President, a parliamentary inquiry.

The **PRESIDING OFFICER**. The Senator will state it.

Mr. **HEINZ**. Is it correct that this is a perfecting amendment to the Murkowski amendment in the first degree?

The **PRESIDING OFFICER**. The Senator is correct.

Mr. **HEINZ**. Have the yeas and nays been ordered for the underlying amendment?

The **PRESIDING OFFICER**. The yeas and nays were ordered on the first-degree amendment. They have not been ordered on the second-degree amendment.

Mr. **HEINZ**. Mr. President, it is my understanding that the Senator from Alaska does not insist on the yeas and nays and would be willing to ask unanimous consent to withdraw them.

Mr **MURKOWSKI**. If I might hopefully enlighten the floor leader, and I think what our position is, I ask unanimous consent that the yeas and nays in the first degree be vitiated.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **MURKOWSKI**. I therefore ask that my amendment be agreed to.

The **PRESIDING OFFICER**. Is there further debate on the second degree amendment?

Mr. **PROXMIRE**. Mr. President, will the Chair inform us as to whether the first degree amendment has been withdrawn.

The **PRESIDING OFFICER**. No; it is still pending.

Mr. **PROXMIRE**. If we vote on the Murkowski amendment, are we simply voting on that commission or voting on another amendment in addition?

Mr. **HEINZ**. Mr. President, may I respond to my friend from Wisconsin? I have examined the underlying amendment. It makes an extremely minor change, changing in one part of the bill the number of 5 days to 10 days.

Mr. **PROXMIRE**. That is fine.

Mr. **HEINZ**. It is a trivial underlying amendment just introduced for parliamentary purposes.

Mr. **PROXMIRE**. All right. Very good.

The **PRESIDING OFFICER**. Is there further debate on the second degree amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2771) was agreed to.

Mr. **HEINZ**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **PROXMIRE**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2769

The **PRESIDING OFFICER**. The question now is on agreeing to the first-degree amendment, as modified.

The amendment (2769), as modified, was agreed to.

Mr. **HEINZ**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **PROXMIRE**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2750

(Purpose: To express the sense of the Congress with respect to improving international efforts toward nuclear nonproliferation)

Mr. **MATHIAS**. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an amendment numbered 2750.

Mr. **MATHIAS**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 53, after line 9, add the following:

POLICY ON NUCLEAR NONPROLIFERATION

SEC. 19. It is the sense of the Congress that the President should take immediate action to—

(1) confer on an urgent basis with other nuclear suppliers, as a first step toward achieving a new worldwide consensus on nuclear transfers, regarding tightening restrictions on dangerous nuclear trade through measures which include—

(A) establishing, while discussions on a new regime for nuclear trade proceed, a temporary worldwide moratorium on transfers of enrichment and reprocessing equipment and technology, even at the experimental level, to sensitive areas, including the Middle East and South Asia;

(B) limiting the size of all research reactors transferred, eliminating the use of high enriched uranium in such reactors, and obtaining the return of spent research reactor fuel to the country of origin;

(C) extending the list of sensitive nuclear equipment, including components and dual use items, whose export the suppliers only permit under safeguards, with public recording of all sales of such items;

(D) making nuclear transfers only to nations which have accepted full-scope safeguards; and

(E) imposing established sanctions in the event of violation of safeguards;

(2) develop with other members of the International Atomic Energy Agency (hereafter in this section referred to as the "IAEA") a strong and effective program for the improvement of the IAEA safeguards regime, specifically considering the practicality of—

(A) extending the concept of full-scope safeguards to mean safeguards on all nuclear materials, equipment, and facilities within a non-nuclear-weapon state whether or not such materials, equipment, and facilities have been formally declared to the IAEA;

(B) increasing the quality and quantity of IAEA inspections;

(C) publishing inspection reports; and

(D) extending and upgrading surveillance and containment measures;

(3) formulate a clear United States policy on enhanced international restrictions on dangerous nuclear trade and on improving the international safeguards regime, and use all feasible leverage to induce others to adopt similar policies;

(4) call for a prompt reevaluation of world nuclear energy policy, culminating in a conference in order to agree upon ways both to reduce security concerns and to strengthen the nonproliferation regime; and

(5) reaffirm United States policy to cooperate with other countries, particularly in the developing world, to assist them in meeting their energy needs, with nonnuclear energy alternatives considered on an equal basis with nuclear energy in providing such cooperative assistance.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Senator BUMPERS, Senator BOSCHWITZ, Senator CRANSTON, Senator GLENN, Senator HART, Senator PELL, Senator PERCY, Senator PRESSLER, and Senator ZORINSKY be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, the Senate has adopted the amendment proposed by the distinguished Senator from Delaware (Mr. ROTH) and the distinguished Senator from New Hampshire (Mr. HUMPHREY), an amendment which severely limits the traffic in nuclear equipment and nuclear materials. It, I think, is a necessary step for the United States to take, but it is a drastic step. And its effect will be to limit the competitive position of American companies in high technologies affecting nuclear science and to put them at a disadvantage in relation to other competitors in the same business in other countries.

So the net effect of the Roth-Humphrey amendment, if we leave it where is stands, will be to place the United States on a high moral plateau and from our elevated moral position we will look out over the rest of the world and watch the cash registers ringing up sales for nuclear companies in other parts of the world.

I do not like to see that as the position in which the United States is left. First, we will largely be defeated in our purpose of discouraging proliferation if we merely abstain from the trade ourselves but watch it going on in other parts of the world. And, second, if it is going on in other parts of the world and we are not engaging in it, it will have a profound impact not merely on profits or jobs but on the level of technology as it develops in the United States.

So there are very serious and substantive reasons that, having adopted the Roth-Humphrey amendment, we should now drop the other shoe and try to influence the nonproliferation of nuclear weapons around the world as a result of sales made in other parts of the world. We have set the good example. We have adopted the Roth-Humphrey amendment and said we are willing to abstain, but we ought to begin to make an impact on the rest of the world.

That, really, is the purpose of this amendment—to urge, by the adoption of the resolution of the sense of the Senate, that the administration move to strengthen the International Atomic Energy Agency; to get a more accurate control and accounting of the shipment of nuclear materials around the world; to provide for more adequate inspections of nuclear facilities by the IAEA; and, generally speaking, to tighten up the world's control of the nuclear business which I think is generally admitted to be far too loose today.

Mr. HEINZ. Will the Senator yield?

Mr. MATHIAS. Surely.

Mr. HEINZ. Mr. President, I thank my friend and colleague from Maryland for yielding.

As I understand his amendment, it adds a very important multilateral thrust to the efforts that were taken earlier this week, as he said, with respect to the Humphrey amendment. It is an amendment that will seek to make not only United States practice more effective but, in a sense, the world much safer because it seeks to put this body on record, by means of a sense-of-the-Senate resolution, that we do not intend just to rest in this country on what laurels we have, but we are going to try to get other countries and the International Atomic Energy Agency, as well as our Government, to take some additional steps that are badly needed. I think his amendment is very valuable. Indeed, I ask that he add me as a cosponsor.

Mr. MATHIAS. I am happy to ask unanimous consent that the Senator from Pennsylvania (Mr. HEINZ) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Will the Senator from Maryland yield?

Mr. MATHIAS. I am happy to yield.

Mr. PROXMIRE. I commend the distinguished Senator from Maryland on his amendment. It is an excellent amendment. I also ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. I am happy to yield to the Senator from Virginia.

Mr. WARNER. Mr. President, I wish to commend the distinguished Senator from Maryland and ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I would be remiss if I did not acknowledge the debt that I owe in this matter to the distinguished Senator from Ohio (Mr. GLENN). If he were not performing other public duties in other places, I feel sure that he would be offering this amendment in my stead. It is an amendment very similar to one that he offered in 1981 which was in that year known as Senate Concurrent Resolution 24. Senator GLENN has been a leader on this subject of nuclear proliferation. I think we are all in his debt for the work that he has done in the past.

Very briefly, Mr. President, what the amendment does is to urge the President to take immediate action to achieve a consensus among all nuclear suppliers to tighten restrictions on dangerous nuclear trade through a number of measures.

These would include: First, a worldwide moratorium on transfers of enrichment and reprocessing equipment and technology to sensitive areas; second, extend the list of sensitive nuclear equipment whose export the suppliers only permit under safeguards; and third, strengthen the effectiveness of the IAEA, the International Atomic Energy Agency, by increasing the quality and quantity of IAEA inspections, upgrading surveillance and containment measures, broadening the concept of full-scope safeguards and publishing the completed inspection reports.

The United States will not be fulfilling its leadership role in nuclear nonproliferation if we do not set a high standard of responsible nuclear policy for ourselves. Nor can one overemphasize the importance of supplier cooperation in halting dangerous nuclear trade, and in strengthening the international safeguards regime. No country developing a nuclear capability today could have succeeded in reaching its present level of sophistication without outside assistance.

I hope that this amendment will make it clear that American policy would come to reflect the broad coordination among all supplier States and the IAEA.

I believe, Mr. President, that there is no realistic alternative. A number of us remember a distinguished Englishman who once lived in Washington, David Ormsby Gore, and he observed, rightly, that, "It would indeed be a tragedy if the history of the human race proved to be nothing more than the story of an ape playing with a box of matches on a petrol dump."

Mr. President, I believe if we adopt this amendment, we will make that tragedy one degree less likely.

Mr. HEINZ. Mr. President, I believe we are ready to put the question to the Senate. The managers are prepared to accept the amendment.

The PRESIDING OFFICER (Mr. Boschwitz). Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2750) was agreed to.

Mr. MATHIAS. I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Senator from New Hampshire (Mr. Humphrey) be added as an original cosponsor to the amendment just agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2772

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Heinz) proposes an amendment numbered 2772.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, strike lines 2 through 4 and insert in lieu thereof the following:

"Sec. 17. (a) Section 20 of the Export Administration Act of 1979 is amended by striking out "March 30, 1984" and inserting in lieu thereof "September 30, 1989".".

On page 39, strike lines 12 and 13 and insert in lieu thereof the following:

"Sec. 7. Section 7 of the Export Administration Act of 1979 is amended—

"(1) in subsection (d)(2)(B) by striking out "concurrent" and inserting in lieu thereof "joint"; and

"(2) by striking subsection (j).".

Mr. HEINZ. Mr. President, this is a technical amendment. It fixes the legislative veto provisions in section 7 and changes the expiration date of that portion of the act. There are two provisions in our current law that include a legislative veto, both within section 7 of the act, the short supply export controls. They apply to agricultural exports and exports of petroleum.

The legislative veto regarding agricultural exports has already been dealt with.

This amendment is a simple rectifying measure directed toward the legislative veto governing petroleum exports by replacing language providing for a concurrent resolution with language providing for a joint resolution as necessary to comply with the Chadha decision, the Supreme Court decision affecting this portion of the act.

The first part of the amendment changes the provision of the bill that would extend the life of the act for 6 years. This amendment would continue the 6-year extension, but since the termination date of the act was recently changed by a bill extending the act of March 30, 1984, the reference to September 30, 1983, needs to be correspondingly corrected.

Mr. PROXMIRE. Mr. President, I understand this cures the Chadha problem in the IAEA in the section dealing with crude oil exports. I am in favor of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2772) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2773

(Purpose: Relating to the membership of the Federal Reserve Board of Governors)

Mr. PRYOR. Mr. President, I send an amendment to the desk on behalf of myself, Senator Pressler, and others, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. Pryor), for himself, Mr. Exon, Mr. Pell, Mr. Bumpers, Mr. Baucus, Mr. Melcher, Mr. Burdick, Mr. Huddleston, Mr. Dixon, Mr. Boren, Mr. Randolph, Mr. Jepsen, Mr. Zorinsky, Mr. Grassley, Mr. Pressler, and Mr. Heflin, proposes an amendment numbered 2773.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

Since small business, by Small Business Administration standards of measurement, accounts for 98 percent of all U.S. businesses, and

Since 60 percent of all new jobs are created by firms with 500 or fewer employees, and

Since small business bankruptcies in 1982 totalled nearly 66,000, due in large part to high interest rates, and many other firms closed down without filing for bankruptcy, and

Since our agricultural industry, including three million farmers, is heavily dependent upon credit, and

Since neither of these sectors has direct representation on the Federal Reserve Board, which establishes our national monetary policy, and

Since the growth of our national economy depends on the health of the small business and agricultural sectors,

Now, therefore, be it stated that it is the sense of the Senate that the President should nominate to the next vacancy on the Federal Reserve Board of Governors a person of demonstrable experience in small business or agriculture.

Mr. PRYOR. Mr. President, this is a sense-of-the-Senate resolution. It is a nonbinding resolution. It is not a new concept, it is a sense-of-the-Senate resolution relative to the pending vacancy on the Federal Reserve Board. It is cosponsored by Senators Pressler, Exon, Pell, Bumpers, Baucus, Melcher, Burdick, Huddleston, Dixon, Boren, Randolph, Jepsen, Zorinsky, Grassley, and Heflin.

Other Senators in the past have proposed a similar approach. Senators Pressler, Weicker, Burdick, Jepsen, Melcher, Pell, and Byrd, in particular, have all worked diligently to improve the representation of these two sectors of the economy.

In fact, we voted on a similar amendment in 1981 and approved it by a vote of 87 to 3. Unfortunately, though, that amendment was later dropped in conference.

I believe that this is a good time to raise this issue once again, however, since the President is expected to name a replacement in the very near future for the seat now held by Nancy Teeters.

Mr. President, I am sure our colleagues are well aware of the importance of agriculture and small business to our economy. A few figures give an idea of the role they play in economic growth: 98 percent of U.S. firms can be classified as small business; 60 percent of all new jobs are created by firms 500 or fewer employees; an estimated 80 percent of all new jobs are created by small business; the direct or indirect contribution of agriculture is more than 20 percent of annual production in the United States; 4 million workers are employed in farming; 20 million other jobs are dependent on the ag sector; and agriculture provides one-fifth of all U.S. exports.

Despite the importance of these sectors of the economy, however, it has been more than 20 years since a representative of agriculture has been appointed to the Board, and in that time only one member of the Board has had a small business background.

Mr. President, section 10 of the Federal Reserve Act states:

> In selecting the members of the Board of Governors . . . the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests and geographic divisions of the country.

But let us take a look at the current members and their backgrounds:

Paul Volcker—was president of the New York Fed.

Preston Martin—Sears and S&L executive. He probably has the greatest working knowledge of the effects of high interest rates.

Henry Wallich—Yale professor. Staff of New York Fed Treasury Department. President's Council of Economic Advisers.

Charles Partee—staff of the Board of Governors.

Nancy Teeters, whose term has expired—staff of House Budget Committee.

Emmitt Rice—banker.

Lyle Gramley—President's Council of Economic Advisers.

These are all fine, highly qualifed people, but I feel that the Board would benefit from the viewpoint found on "Main Street," which feels the direct effects of our monetary and fiscal policy.

Both small business and agriculture are extremely credit sensitive. They should have a voice on the board, and a representative from one of these sectors could serve as a spokesman for other industrial interests.

The Congress has primary responsibility for the level of interest rates because we are the ones who create Federal deficits. But through its decisions on the money supply—decisions which are monitored very closely on Wall Street—the Fed also has an important role to play.

It is possible that a small business or agriculture representative might have had a moderating influence on decisions which helped push interest rates soaring to 21 percent just a few months ago. None of us, I am sure, has forgotten the devastating effects of those interest rates on the small businesses in our States, their employees, and the economy in general.

Consider the effects of high interest rates on agriculture and related industries:

They increase interest payments on current debt to the point where those payments may exceed net farm income.

They increase Commodity Credit Corporation loan rates.

Reduce ag exports.

Accelerate the inflation rate.

Reduce the ability of farmers to generate credit internally, and

Reduce the availability of credit to the farm sector as competition for funds becomes greater.

The problem with agriculture is that no matter how high interest rates are, farmers must still have access to credit in order to operate. There are very few expenditures that can be postponed, and seed and fertilizer costs must be financed every year.

The administration has made a start on an economic recovery, but the next few months will be critical. Let us make sure that there is at least one voice on the Fed who understands personally how important it is not to choke that recovery off.

Our amendment is a nonbinding resolution, but it will serve as a clear statement of our sentiment as the President considers Ms. Teeters' replacement.

I know that the President is sensitive to the concerns of small business and agriculture, and this is a good opportunity for him to take a positive action to meet those concerns.

The appointment of a man or woman with a small business or agricultural background would be more than symbolic; it would give the heart of our econony a voice in our monetary policy.

I urge my colleagues to support this amendment.

Mr. President, that is the end of my statement.

I see the distinguished chairman of the Banking Committee on the floor. I would like to ask the distinguished chairman a question at this time, if I might.

Mr. GARN. I will be happy to respond.

Mr. PRYOR. Mr. President, I understand that the Senator from Utah over the years has insisted that the Federal Reserve Act be followed in respect to geographical distribution of Federal Board members. Is that the case?

Mr. GARN. The distinguished Senator from Arkansas is correct. I might suggest to the Senator from Arkansas I have not seen the exact wording of his sense-of-the-Senate resolution, but I will give a little background so the Senator will know how the Banking Committee feels about this issue.

I would first read from the Federal Reserve Act:

> In selecting the Members of the Board of Governors, not more than one of whom shall be selected from any one Federal district, the President shall have due regard to fair representation of the financial, agricultural, industrial, and commercial interests, and geographic divisions of the country.

If the Senator would be willing to modify his sense-of-the-Senate resolution to conform to that exact language, in other words restate in the law which has been ignored, then I would certainly recommend, as chairman of the Banking Committee, that we accept the amendment, if it were identical.

Let me give a little background on this issue.

This is not the first time it has come up. At the time Lyle Gramley was recommended on the Board, Senator PROXMIRE was then chairman of the Banking Committee and I was the ranking minority member. I am sure the Senator remembers that I held up the Gramley nomination because of many of the same things the Senator from Arkansas has stated tonight, that we had what I called an incestuous relationship and we were primarily picking them from one geographical area of the country and more importantly from within the Fed system, from the economic community. The law as I just read was not being followed.

So we passed a resolution on May 15, 1980:

> Resolved, continued insensitivity to the requirements of the Federal Reserve Act in selecting nominees to the Federal Reserve Board shall not be overlooked by the Senate Committee on Banking, Housing, and Urban Affairs, or by the United States Senate.

In that same resolution:

> Whereas, the Federal Reserve Act requires that not more than one Governor—

And it repeats the law exactly.

So we have done this before to try to emphasize the point.

I backed off holding up the nomination of Gramley because I felt it unfair in the middle of a nomination to do that.

I quote from the CONGRESSIONAL RECORD of May 15:

> As a matter of fact, as a member of the Banking Committee, I have raised these questions several times over the past 3 or 4 years, on having Federal Reserve Board nominees come before our committee. My only regret is that I did not put the administration and the Senate on notice before that I would oppose nominations that did not fit the statutory guidelines.

I went further and said:

> But I want to repeat what I said in the Banking Committee so that messages are sent loud and clear on how I feel, as the ranking minority member of that committee; that unless future nominees, whether it is for this President or a future President, regardless of how personally well qualified they may be if they do not match the intent and the spirit of the law as far as geographical area, and we do not start seeing some businessmen, farmers, people who give more balance to that Board, rather than just trained economists, I am putting everyone on notice that I will oppose, not just vote against, but try and stop those nominations.

It goes on further and gets stronger from there.

Then I quote from the Senator from Wisconsin:

> After having said that, and agreeing wholeheartedly with Senator GARN that the law should be abided by and we should not have appointed from only one section of the country, or from only two or three States and then use a phony kind of residence that they have had in the past identifying them as coming from a particular State, recognizing that Senator GARN is right about that, Mr. President, I want to stress the fact that

if I have done anything else on that committee, what I have tried to do is to emphasize that we have qualified people on the Federal Reserve Board.

There is more comment from Senator CULVER. The Banking Committee in their report language went again much further, quoted the law. These requirements were intended to provide "broad regional representation and experience on the board of governors."

I think the point has been strongly made in the committee on numerous occasions, and on the floor of the Senate. The last nominee we had, Preston Martin, fit the proper geographical area. Although at the time he was appointed, he had sold his business and become big business, he started a one-man sole proprietorship and had been in small business and so on, so he fit the qualifications we had asked for.

This administration has been put on notice that I meant exactly what I said in 1980 and before. It had nothing to do with the fact that it was President Carter, and now we have a Republican President. We have gone through this drill numerous times, and I do not think there is much disagreement between the Senator from Arkansas and me or the distinguished former chairman of the Banking Committee.

I do not want to go off in the language and specifically start specifying a small businessman, then get into what we mean by small business, or a farmer. I think the current language, and I shall read it once more:

> In selecting the members of the Board, not more than one of whom shall be selected from any one Federal Reserve district, the President shall have due regard to a fair representation of financial, agricultural, industrial, and commercial interests and geographical divisions of the country.

I think that should cover what the Senator from Arkansas wishes to. Senator Culver, who brought this up initially in 1980, agreed with that. We adopted it and I certainly would be happy to adopt that sense of the Senate again so that this President is put on notice that it is not just JAKE GARN and BILL PROXMIRE, that the Senate wants that law that has been in effect for a long, long time adhered to as well.

I hope the Senator from Arkansas would be willing to modify his language to conform exactly with the language that has been passed on two occasions before, plus is the law.

Mr. PRYOR. I say to the distinguished Senator from Utah that basically this language, notwithstanding the one sentence, upholds the spirit of the original resolution authorizing the Federal Reserve Board. I quote the exact language of the resolution before the Senate now.

> Now therefore be it stated that it is the sense of the Senate that the President should—

Not must—

> appoint to the next vacancy on the Federal Reserve Board of Governors a person of demonstrable experience in small business or agriculture.

I can only assume that that is in keeping with the distinguished Senator's request, not only filling in the geographical need that the Senator has spoken about but also filling in the sort of background experience that we need so desperately to complete the wide range of economic interests affected by the actions of the Federal Reserve Board.

Mr. GARN. The Senator from Arkansas may wonder why I may still oppose that language in light of the strong statement I made as far back as 1980. When we discussed this before, then we had proposals to have a member of a consumer group. We got a proliferation of 11 different bills before the Senate, and we started compartmentalizing. That is why I think the law is adequate once again where it talks about agricultural, industrial, commercial interests, which certainly include small business—geographical, financial, agricultural, industrial, and commercial. That has not been followed in the past. But believe me, it is my sincere feeling that if we start specifying small business, big business, agriculture, other than the general requirement to take those into consideration, I guarantee we shall have other amendments from particular groups that want their member on the Fed.

We have discussed this many times in the Banking Committee. It has been the conclusion overwhelmingly of members of the Banking Committee, majority and minority, that we keep emphasizing and hold to it on the requirements of the law which cover what you do, but without being so specific that we open up a Pandora's box of having designated representation for each individual field.

I hope I shall not have to table the Senator's amendment, because we are both on the same track of what we would like Presidents to do, this one or any other. Let us send them a message that this general language is once again reaffirmed and that is what we expect.

Mr. PRYOR. Is the distinguished Senator from Utah, in the presence of the distinguished manager of this bill, Senator HEINZ of Pennsylvania, implying that we might have 57 varieties on the Federal Reserve Board? Is that inference correct?

Mr. GARN. That is the exact inference.

Mr. PRYOR. Mr. President, I am going to let Senator FORD from Kentucky deal with that issue or Senator JEPSEN.

Mr. FORD addressed the Chair.

Mr. JEPSEN. Does the Senator from Arkansas yield?

The PRESIDING OFFICER. The Senator from Arkansas has the floor and may yield for a question.

Mr. PRYOR. I yield to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. JEPSEN. Mr. President, I thank the distinguished Senator from Arkansas for yielding.

Mr. President, I am a strong supporter of the effort to place a person knowledgeable about agriculture and small business on the Federal Reserve Board. In 1981, I introduced a resolution along with Senator GARN calling for agricultural, commercial, and broad regional representation on the Board of Governors. This resolution was cosponsored by 35 other Senators, and hearings were held in the Banking Committee. Clearly the support for such an idea is evident, and we must continue to work toward this goal.

While everyone admits the pivotal role of agriculture in our economy, there appears to be little consideration given to the farm sector when the Federal Reserve discusses economic policy. In fact, of the 60 individuals who have served on the Board of Governors longer than 6 months, only 7 can claim agricultural experience. In over 20 years, not one appointee has come from a farming background. Not one appointee in over 20 years.

Regarding small business, since 1959 we have had only four governors with general business experience and only one with particular experience in small business. Because 98 percent of American businesses are classified as small business, we once again see how an essential element of our economy is overlooked in economic policymaking.

By acknowledging the need for agricultural and small business representation on the Federal Reserve Board, we are assuring ourselves of an evenhanded and sensible approach to economic policy. I urge the Senate to repeat its earlier endorsement of agricultural and commerical representation on the Federal Reserve Board.

Mr. PRYOR. Mr. President, I yield to the Senator from Kentucky.

Mr. FORD. Mr. President, I should like to ask the distinguished Senator from Utah a question.

How many members are on the Board?

Mr. GARN. Seven.

Mr. FORD. Is the Senator familiar with each of the members?

Mr. GARN. Yes; I am familiar with each of the seven. I will not go back into this same dialog we had in the committee. Seven were there at that time. I went through each one of them, where they were from, where they had spent the majority of their life, and they all fit the same mold. We have had two——

Mr. FORD. I was not here to hear that. I was interested in knowing the background of the seven, what area they came from, what were their backgrounds. Can the Senator give me just a thumbnail sketch of each of the seven?

Mr. GARN. Of the present Board, you would have to say that at least five of them still fit the mold that we are talking about. I had mentioned that Preston Martin fit——

Mr. FORD. Which mold—the agriculture background, small business?

Mr. GARN. Either the establishment-Federal Reserve-economist type selected from the eastern seaboard, at least they have lived on the eastern seaboard most of their lives, and we played this game over the years as if someone maybe went to college from California, they have been in Washington or New York or someplace all their life; they went to college out there so that qualifies them from that district, or they went to high school someplace else.

Mr. FORD. Five of the seven are eastern seaboard appointments?

Mr. GARN. Well, at least most of their working life. And this all came up in the Banking Committee and on the Senate floor. The Lyle Gramley nomination, the last one by President Carter, I held up because it fit the typical mold. After holding it up, I decided that I would not apply it. I had not announced this policy before of adhering to the law already enacted but put this President, which was Carter, and all future Presidents on notice that I would. Therefore, again, the disagreement between the Senator from Arkansas and I is a very small one. We have enacted this with John Culver, who was not a member of the committee but very much interested in this. He agreed to repeating the same language in the resolution that was passed.

My only fear is that we simply start designating rather than sticking with the general language.

Mr. FORD. I have heard this statement before. I was interested in the background of the seven. I have heard the Senator's statement about staying in the mold. He gave me five were basically northeastern residents of the United States. Now, what are the other two?

Mr. GARN. Well, the other two do not fit that mold. Preston Martin, the vice chairman, as an example, the last appointee, was from California, had had a rather diverse background. He had his experience in Washington. He had been a member of the Federal Home Loan Bank Board, but he had been a professor in California and started a small business which became very successful and very large and was ultimately bought out by Sears it did so well. He started from scratch as a sole proprietor, so he had had small business experience. His experience in Washington was relatively brief, and he had been out in the country working in other fields.

Mr. FORD. Now, what is the other one? That is six.

Mr. GARN. Well, I do not have the list with me. The list of seven was from before. I frankly do not remember off the top of my head the background of each one of them other than that there are two that I honestly think fit the intent of the law and five who do not.

Mr. FORD. I thank the distinguished Senator.

Will he answer one more question? He had the ability to make appointments in the major city in his State. Was there any kind of requirement that they come from certain areas of the city? You did not have any qualification in the appointment power of the mayor?

Mr. GARN. The only requirement on geography—it has nothing to do with the city—simply says:

> In selecting the members of the Board, not more than one of whom shall be selected——

Mr. FORD. I am talking about when the Senator was head magistrate of the major city in his State.

Mr. GARN. I am sorry.

Mr. FORD. Were there any requirements of qualifications about certain arenas of industry, certain magisterial districts or commissioner districts?

Mr. GARN. No.

Mr. FORD. You did not have any.

Mr. GARN. There were absolutely none for any of the boards or commissions.

Mr. FORD. Well, I have had a little experience in that. I have never run into any problem in making a judgment on certain geographical locations. The State fair board, for instance, covers a variety of operations—the horse industry, machinery industry, all of that. And for each of those backgrounds you find one and try to make the best appointment to represent that area collectively on those boards. So I see no reason why in this great land of ours we cannot find somebody who is qualified to meet the various areas which the distinguished Senator from Arkansas is talking about.

For instance, I tried very hard, and learned a good lesson, to add two members to the TVA board and missed that one, but I thought a consumer would not be a bad individual to be on that board; you could find a good consumer representative of those who pay the bills who could be on the TVA board and they did not necessarily have to come from Chicago. You know, I like Chicago and enjoy visiting there and have a lot of friends there, but basically they either come from Washington or Chicago and they are put on the TVA board. I also thought there ought to be somebody from the valley, the TVA valley on that board. So I think the arguments that the distinguished Senator from Arkansas is making are valid. I hate to disagree with my two distinguished friends, but if I have to come down on any side, I am going to come down on the side of the distinguished Senator from Arkansas.

Mr. HEINZ. Mr. President, will my friend from Utah yield?

Mr. GARN. Mr. President, I will in just a moment, if I can follow up the Senator from Kentucky.

Mr. FORD. Call me off. I have not started yet.

Mr. GARN. I find it very hard to explain myself and apparently not succeeding.

I also agree that the Senator from Arkansas makes some very valid arguments. As chairman of the Banking Committee—and the former chairman, Senator PROXMIRE, experienced the same thing before I became chairman—if we start specifying and getting away from the law which requires exactly what the Senator is talking about—and I agree with both Senators—then we instantly start getting requests: "Now, we want a sense-of-the-Senate resolution that we want somebody from this area, somebody from that area."

What I would like to send this President and any other President is, "Look, the law is already there. It says due regard for fair representation of financial, agricultural, industrial and commercial interests in geographical divisions in the country," without saying that means a small businessman here, a consumer advocate there, a farmer here.

The point I am making in the jurisdiction of the Banking Committee, we have already reaffirmed this before and I think we ought to do it again. I have no objection to that. This could be over if the Senator from Arkansas—we are sending a very strong message just in this colloquy, and I think it is sufficient without getting involved in the specificity.

Mr. FORD. I say to the Senator from Utah, there is nothing mandatory on the President to make any appointments. It just asks him to be fair. And if he does not want to be fair, he will appoint them all from the Northeast and none from the Senator's area and none from this area.

All we are saying is that greater emphasis be placed. A sense-of-the-Senate resolution does not hurt anybody. If you want to put emphasis on this colloquy, then vote for the resolution of the distinguished Senator from Arkansas.

Mr. GARN. The distinguished Senator from Kentucky still either does not want to understand my point or I am not making it well.

Again, I am frustrated because we agree——

Mr. FORD. The Senator is not understanding our point. We just want a simple little statement saying give more interest to small business and to agriculture. What is wrong with that?

Mr. GARN. Nothing.

Mr. FORD. Well, all right, let us just shut up and vote for it and it will be all over; we can go home.

Mr. HEINZ. Mr. President, will the Senator from Utah yield?

Mr. GARN. There is nothing wrong with that.

I am going to try once more. This is the law. This is not a sense-of-the-Senate resolution. This is in the Federal Reserve Act:

> In selecting the members of the board, not more than one of whom shall be selected from any one Federal Reserve district, the President shall have due regard to fair representation of financial, agricultural, industrial, and commercial interests in the geographical divisions of the country.

All I am saying is that if you pick out two of those and you say small business and agriculture, which are already here, then I know what has happened to me before and what has happened to Senator PROXMIRE. Next week or next month we are going to have a resolution that says we want you to do this group and that group.

The law now covers all of them, and I am perfectly willing that we are all agreed and the U.S. Senate is agreed to say, "Mr. President, dammit, past Presidents have ignored this. We do not want you to. This is what we want, fair representation. We are sending you a message. This is the law. We are repeating it once again."

I am willing to accept that and we do not have to go to a vote and fight over such a minor, minor difference.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. GARN. I am happy to yield the floor.

Mr. HEINZ. Before the Senator yields the floor, I want to say that I support his position. I support his position for three reasons: No. 1, this amendment, irrespective of how good it may sound to individual Senators, is, nonetheless, hardly in the commonsense of the word germane to the Export Administration Act. This is not the Federal Reserve Act. This is not the Federal Home Loan Board Act. This is just a humble, little bill dealing with how we license and handle exports.

Maybe if someone said, "What we want are some small business experts in the Office of Export Administration," that would have been a better amendment. I do not know. That is not the one before us.

First of all, what the Senator says is right, because this is not germane to the subject matter of this bill, no matter how you slice it.

The second reason is that he is right on substance. If you start carving out one notch, no matter how well intentioned, you are going to have this look like the handle of a sixgun toted by Jesse James. There are going to be more notches in the handle than there are tombs in Tombstone, Ariz.

The third reason, Mr. President, is that I find it unlikely that this debate, however efficacious it may sound here, is going to be very effective; because every time we have one of these amendments, I do not know why this happens, but by the time we get through with it in conference—maybe it is because the House Foreign Affairs Committee does not understand these issues—it ends up being dropped. We have a wonderful debate here, and the President has never sent a message, anyway. We just use up the time of the Senate.

I hope we do not engage further in an exercise which I feel ultimately will be an exercise in frustration.

Mr. PROXMIRE. Mr. President, I will be brief, because the hour is late, and we want to come to a vote on this.

I completely support the chairman of the committee, Mr. GARN. He is 100 percent right. It seems to me that his position would be a stronger message than any other message we could send, if we say, "Mr. President, abide by the law."

What the law provides is that the President have due regard for agricultural interests, commercial interests, and so forth, which would include a farmer and a small businessman, and that is the law. It seems to me that that is a lot stronger than a sense-of-the-Senate resolution.

The problem with the Federal Reserve Board, the problem we have had in the past—it is greatly improved, I think—is the matter of competence. We need somebody who knows something about monetary policy. That is what we should require, and that is what we have required in the past. We had people come before the Board in the past—not recently, but 15 or 20 years ago—who did not know what it was. They did not have an understanding of monetary policy, had not spent 1 day working with the problems the Federal Reserve Board has.

It is an extraordinarily complex and important agency. There is no more important agency in Government. People say that Volcker is the second most important man in our Government. They said the same thing about Arthur Burns and William McChesney Martin. They are very important. They should have people on the Board who understand what they are doing.

Let me say one more thing: If we go down the path suggested by the distinguished Senator, I do not see any reason why we should not say, "Put a labor union member on the Board." There are a lot more labor union members in this country than farmers. Put a woman on the Board. Most of the people in this country are women. Why not tell them to do that? Put a black on the Board. We had one black in the past, and only one. Why should we not put a Hispanic on the Board?

If you are talking about people really affected by Federal Reserve policy, put a homebuilder on the Board, put a realtor on the Board. It is ridiculous.

Nobody has ever brought in a resolution like this for the Supreme Court. We have nothing but lawyers on the Supreme Court. Is it not time we had somebody outside the legal profession? No President has ever done that.

The poor, old Federal Reserve Board is the target of these amendments year after year.

We have a basic law to which the distinguished chairman of the committee has called our attention. Let us abide by that.

I hope the Senator will work out an amendment with the Senator from Utah that we can accept and that we can hold in conference. Otherwise, I think we are going to have difficulty in conference.

Mr. PRYOR. Mr. President, I am getting ready to ask for the yeas and nays.

The distinguished Senator from Utah has talked about geography, that we need to have geographically representative members of the Federal Reserve Board.

My friend from Wisconsin has talked about competence. I think that in a resolution such as this, when we are simply asking the President to consider a person with a demonstrable background in small business or in farming, we can satisfy both those concerns—the geographical concern and the concern about competence. I am sure we can find competent people with these backgrounds who will meet the test of both our distinguished colleagues.

Mr. PRESSLER. Mr. President, I am pleased to join Senator PRYOR today in offering this amendment expressing the sense of the Senate that the President should appoint a small-business person or farmer to the next vacancy on the Federal Reserve Board.

Since I first authored similar legislation in 1981, the prime rate has come down to 11 percent from a high of 21.5 percent. This has been one of the greatest successes of the Reagan administration.

However, for small business people and farmers in South Dakota and other States, interest rates are still too high. Their problems should be of major importance in setting monetary policy.

The current composition of the Board does not include representatives of these groups. Yet it is the small business people and farmers who are the backbone of the economy—not the bankers or economists. Their special insights would allow the Board a glimpse of reality that is sorely needed. Economic theory is all well and good, but it is not always in step with what average Americans are facing.

Too many Americans have come to regard the Federal Reserve Board as a faceless group of bankers who rashly made decisions which hurt their livelihoods. Certainly, this is not the case. Members of the Board are working for the good of this country and should be commended. However, they are not infallible, and—like everyone else—their decisions are based on their knowledge of the facts. To provide the Board members with a little Main Street wisdom can only help in the decisionmaking process. It would also reassure many Americans that their needs and troubles are not forgotten in Washington.

There are many well-qualified people with substantial experience in the small business and agricultural sectors who could serve ably on the Federal Reserve Board. I hope that my colleagues will join us in urging President Reagan to take advantage of the wealth of practical experience to be found in these individuals.

● Mr. PELL. Mr. President, I am pleased to join in cosponsoring the amendment offered by the distinguished Senator from Arkansas (Mr. PRYOR), calling for the appointment of a representative of small business interest on the Federal Reserve Board.

The intent of this amendment is identical to that of S. 1720 which I introduced August 1, 1983, with the cosponsorship of the distinguished minority leader, Mr. BYRD. The only difference is that my bill would require by legislative mandate that the next occurring vacancy on the Federal Reserve Board be filled by an appointee having a background in small business, while the amendment before us would simply express the sense of the Senate that such an appointment be made. While I would prefer the legislative mandate, I am happy to lend my support to Senator PRYOR's effort. We should seize every opportunity to drive home the message that the Nation's small businesses should be adequately represented in the highest councils of economic policymaking.

When representatives of the Smaller Business Association of New England came to my office last May as part of the annual Washington presentation of Small Business United, the question of representation on the Board of Governors of the Federal Reserve System was at the top of their list of legislative priorities. And well it should have been. The formulation of national monetary policy has fallen increasingly to persons whose viewpoints tend to coincide with large corporate interests, and the recent appointments of the incumbent administration have done nothing to change the trend.

At the same time, however, the special needs of the small business community very often are not taken into consideration when crucial decisions are made with respect to interest rates and credit policy. As I said last summer, small businesses and new ventures do not enjoy the same easy access to capital as do big established concerns. They may not have the necessary collateral or they may not be able to promise an early return on their capital. Yet they have no direct voice in the establishment of monetary policies which often may be disastrously restrictive to their own interests.

These interests are especially important to the State of Rhode Island, because 96 percent of all industrial establishments in our State have fewer than 50 employees, as compared with 83 percent for the Nation as a whole. These firms account for 38 percent of private sector employment in the State, or about 126,000 jobs, and two-thirds of them are service businesses: Retail stores, repair services, barber shops, and small family businesses. These are people for whom a slight tightening of credit can make the difference between survival or economic extinction. They deserve to have a voice in the policy process.●

Mr. PRYOR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HEINZ. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. TRIBLE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. BYRD. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Ohio (Mr. METZENBAUM), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 37, nays 50, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—37

Baker
Boschwitz
Cochran
Cohen
D'Amato
Danforth
Dole
Domenici
Evans
Garn
Goldwater
Gorton
Hatch
Hatfield
Hawkins
Hecht
Heinz
Humphrey
Kassebaum
Kasten
Lautenberg
Laxalt
Lugar
Mathias
Murkowski
Proxmire
Quayle
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Tower
Wallop
Wilson

NAYS—50

Abdnor
Andrews
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boren
Bumpers
Burdick
Byrd
Chiles
DeConcini
Denton
Dixon
Dodd
Durenberger
Eagleton
East
Exon
Ford
Grassley
Heflin
Helms
Inouye
Jepsen
Johnston
Kennedy
Leahy
Levin
Long
Matsunaga
Mattingly
Melcher
Mitchell
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Randolph
Riegle
Sarbanes
Sasser
Stennis
Thurmond
Tsongas
Warner
Zorinsky

NOT VOTING—13

Bradley
Chafee
Cranston
Glenn
Hart
Hollings
Huddleston
McClure
Metzenbaum
Moynihan
Percy
Trible
Weicker

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas on which the yeas and nays have been ordered.

Mr. HEINZ. Mr. President, inasmuch as the Senator from Arkansas obviously has won his point on the amendment, does he see any reason to put the Senate to another vote?

Mr. PRYOR. Absolutely no reason.

Mr. HEINZ. Mr. President, I think the Senator from Arkansas or I need to ask unanimous consent that the yeas and nays be vitiated on his amendment and I so ask.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Arkansas (Mr. PRYOR).

The amendment (No. 2773) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PRYOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2774

(Purpose: To provide for the 1984 and 1985 wheat programs)

Mr. **BOREN.** Mr. President, on behalf of Senator Baucus, Senator Burdick, Senator Hart, Senator Melcher, Senator Pressler, and Senator Boschwitz, and myself, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. Boren), for himself, Mr. Baucus, Mr. Burdick, Mr. Hart, Mr. Melcher, Mr. Pressler, and Mr. Boschwitz, proposes an amendment numbered 2774.

Mr. **BOREN.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 53, after line 9, insert the following new title:

TITLE II—WHEAT

Sec. 201. This title may be cited as the "Wheat Improvement Act of 1984".

TARGET PRICES

Sec. 202. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out "$4.45 per bushel for the 1984 crop, and $4.65 per bushel for the 1985 crop" and inserting in lieu thereof "$4.38 per bushel for the 1984 crop, and $4.38 per bushel for the 1985 crop".

1984 AND 1985 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

Sec. 203. Section 107B(e) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence of paragraph (1)(A) "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B), (C) and (D)";

(2) adding at the end of paragraph (1) the following new subparagraphs:

"(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 30 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligiblity for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing. The closing date for signup in such programs shall not be earlier than March 30, 1984.

"(D) For the 1985 crop of wheat, the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of not less than 30 per centum, consisting of a reduction of not more than 20 per centum under the acreage limitation program and a reduction of not less than 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1985 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing. The closing date for signup in such programs shall not be earlier than March 30, 1985.";

(3) adding at the end of paragraph (4) the following: "For the 1984 and 1985 crops of wheat, in making the determination specified in the preceding sentence the Secretary shall treat land that has been farmed under summer fallow practices in the same manner as such land was treated by the Secretary for purposes of making such determination for the 1983 crop of wheat."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1984 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1984 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than $3 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1984 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1984 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield. Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1985 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to not less than 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than $3.00 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1985 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1985 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield.

ADVANCE PAYMENTS

Sec. 204. Section 107C of the Agricultural Act of 1949 is amended by—

(1) inserting in subsection (b)(1)(B) "(except that for the 1984 crop of wheat, the Secretary shall make available)" after "may make available", and

(2) striking out in subsection (c)(4) "1983 crops of wheat," and inserting in lieu thereof "1983, 1984, and 1985 crops of wheat, and the 1983 crops of".

The **PRESIDING OFFICER.** The Senate will be in order. The Senate will be in order. The Senator may proceed.

Mr. **BOREN.** Mr. President, the amendment which I have sent to the desk would modify the 1984 wheat program. At this time, I would like to ask for the yeas and nays on the amendment.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2775 TO AMENDMENT NO. 2774

(Purpose: To provide for the 1984 and 1985 wheat programs)

Mr. **BOREN.** Mr. President, at this time I would like to send a perfecting amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. Boren), for himself, Mr. Baucus, Mr. Burdick, Mr. Hart, Mr. Melcher, Mr. Pressler, and Mr. Boschwitz, proposes an amendment numbered 2775 to amendment 2774.

Mr. BOREN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 2, strike all after "title and insert the following:

may be cited as the "Wheat Improvement Act of 1984".

TARGET PRICES

Sec. 202. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out "$4.45 per bushel for the 1984 crop, and $4.65 per bushel for the 1985 crop" and inserting in lieu thereof" $4.38 per bushel for the 1984 crop, and $4.38 per bushel for the 1985 crop".

1984 AND 1985 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

Sec. 203. Section 107B(e) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence of paragraph (1)(A) "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B), (C) and (D)";

(2) adding at the end of paragraph (1) the following new subparagraphs:

"(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 30 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing. The closing date for signup in such programs shall not be earlier than March 30, 1984.

"(D) For the 1985 crop of wheat, the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of not less than 30 per centum, consisting of a reduction of not more than 20 per centum under the acreage limitation program and a reduction of not less than 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1985 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing.";

(3) adding at the end of paragraph (4) the following: "For the 1984 and 1985 crops of wheat, in making the determination specified in the preceding sentence the Secretary shall treat land that has been farmed under summer fallow practices in the same manner as such land was treated by the Secretary for purposes of making such determination for the 1983 crop of wheat."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1984 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1984 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than $3 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1984 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1984 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield. Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1985 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to not less than 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than $3.00 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1985 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1985 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield.

ADVANCE PAYMENTS

Sec. 204. Section 107C of the Agricultural Act of 1949 is amended by—

(1) inserting in subsection (b)(1)(B) "(except that for the 1984 crop of wheat, the Secretary shall make available)" after "may make available", and

(2) striking out in subsection (c)(4) "1983 crops of wheat," and inserting in lieu thereof "1983, 1984, and 1985 crops of wheat, and the 1983 crops of".

Mr. BOREN. The amendment which I have just sent to the desk on behalf of a group of Senators will modify the 1984 wheat program and establish a minimum program for the 1985 wheat crop. Since August, several Members of the Senate and House have worked continuously to develop a wheat program which would replace the ill-conceived program announced by the Secretary of Agriculture. The 1984 wheat program as it now stands will lead us to a situation where we will have massive stocks, devastatingly low prices, and huge budget outlays. We will be extremely lucky if 40 percent of our farmers participate in the announced program.

We need participation at 60 percent just to keep our carryover stocks at the same level. That level is 1.4 billion bushels, about twice what we should have. If the announced program is not changed, carryover stocks could rise to 1.8 to 2 billion bushels. That would result in a cash price of well under $3 per bushel.

I might say that most of the knowledgeable people with whom I have talked have predicted that the wheat price could go as low as $2.50 a bushel.

Many wheat farmers would be forced into bankruptcy if the cash price were to fall to that low level.

When the cash price falls, Government costs go up. Commodity programs are only expensive when the policy is to have low prices.

The administration and its policy have been pennywise and billion-dollar foolish when it comes to this commodity program. They say it is too costly, too expensive to spend $100 million this year in order to save $500 million next year.

Mr. President, I believe that it is sound policy to spend a little today in order to save a lot tomorrow. Part of the reason we have such huge deficits is because of the failure to think about the long run, and that is what counts.

Mr. President, this amendment which we are offering today will be cost effective in the long run. By spending a little more today we will be saving a lot in the future. In the short run we will be preventing the cash price of wheat from falling any further. Specifically, our amendment will change the announced wheat program by making it more attractive and thereby encouraging more participation.

Additionally, our amendment establishes the minimum requirement for the 1985 wheat program. By determining the 1985 program now we can provide more stability to the wheat surplus situation. We can give the farmers certainty and allow them to plan for the future.

We provide for 2 years in a row in which we will have actually reduced carryover stocks and increases in the cash price of wheat. Setting up the program now will also give our farmers adequate time to plan. We desperately need a multiyear-commodity program. Our amendment will set up this kind of program in the case of wheat.

Mr. President, time is of the essence. For the past 3 years the cash price of wheat has fallen. Government costs have increased. More wheat farmers have gone out of business. We simply must act now to turn this around. I urge my colleagues to join us in taking this action to improve our wheat program.

I ask unanimous consent that a summary be inserted in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

TARGET PRICES

Establishes the target price at $4.38 per bushel for the 1984 crop and at $4.45 per bushel for the 1985 crop.

ACREAGE REDUCTION AND DIVERSION PROGRAMS FOR 1984 AND 1985 CROPS

1. 1984 CROP: Twenty percent acreage reduction with no payment.

Ten percent paid diversion with payment at $2.70 per bushel.

Unlimited haying and grazing on reduced acreage.

Sign-up period extended to March 30, 1984.

Summer fallow practices would be the same as for 1983 crop.

Advance diversion and deficiency payments.

PIK compensation rate at 85 percent of farm program yield.

2. 1985 CROP: Maximum 20 percent acreage reduction with no payment.

Minimum 10 percent paid diversion with payment at $2.70 per bushel.

Unlimited haying and grazing on reduced acreage.

Sign-up deadline: March 30, 1985.

Summer fallow practices would be the same as for 1983 crop.

Advance diversion and deficiency payments.

If have payment-in-kind program, compensation would be at no less than 85 percent of farm program yield.

Mr. BOREN. Mr. President, let me summarize briefly and then I will be happy to yield to the Senator from Pennsylvania.

I have been discussing this proposal with a wide range of colleagues. As the President has seen and as the Members have seen, we have a broad range of cosponsors of this amendment.

I have also considered, in drawing it, the proposals which have been circulated this afternoon by the distinguished senior Senator from Kansas, Senator DOLE.

In deference to wanting to hold the cost down as much as possible, and in order to take into account the thrust of proposals which the Senator from Kansas (Mr. DOLE) has made, I have modified the original intent of my amendment to provide that the target price for wheat would be at $4.38 for both years, both 1984 and 1985. Originally I had planned to introduce the amendment at $4.38 for 1984 and $4.45 for 1985. The text that is now offered in the second degree would provide for a target price of $4.38 per bushel for both the 1984 and 1985 crop year.

It provides for the 1984 program and similarly in 1985 for a 20-percent acreage reduction program with no payment; for a 10-percent pay diversion program with a payment of $2.70 per bushel; for the right of haying and grazing on the reduced acreage, and also summer fallow practices would be the same as for the 1983 crop. There would be advance diversion and efficiency payments and the PIK program if offered would be at 85 percent of the farm program yield.

Mr. President, we have a desperate situation in agriculture in this country. I am familiar, of course, with the figures in my own home State where this last year farm income remained at the tragically low level of $14 per farm for the entire year. The 88,000 farm units produced only a little over $1.5 million of net income. In our State alone, in the State of Oklahoma, it has been estimated by those both in the public and private sectors who are providing credit to the agricultural community, that just in our State the farmers owe some $15 billion.

It is obvious to every Member of the Senate that there is no way to service the debt on $15 billion with $1.5 million of income collectively from the whole sector.

What we are seeing unfold all across the country is a tragedy in the rural areas. Those who have been on the same farm and ranch for three and four generations are now being forced into liquidation.

The market value for purely agricultural land in my State has fallen by some 9 percent last year as these forced liquidations are beginning to have their effect on the broader market for land.

The example of Oklahoma is not an isolated example. I think it would be tragic for us, after having had a farm program this year that was costly to the taxpayers—we are all aware of its cost to the taxpayers—to now have a start and stop cycle commenced all over again which will, after having paid so much for the program last year, simply allow the surpluses and the carryover stocks to go back up, to lose what gains we have made this year in reducing the carryover stocks, and put us back into just as bad a position, if not a worse position, by the end of the year as we faced when we started, before all of the expenditure of billions of dollars on the PIK program.

Surely that would be a tragedy for the taxpayers, to have had so much money spent without resulting in any long-range improvement in the agricultural sector.

I do not need to say that it would be a tragedy for the farmers of this Nation, many of whom would be forced out of business.

We all know that there are marginal people in agriculture, people who have not very much experience and when market conditions change these people very often are forced out of business. You can expect those kinds of adjustments in any sector in our economy. That is the way our free economic system works.

But what we are now seeing in agriculture is not the loss just of the marginal people, not the loss of those who simply come in and out of farming who do not have vast experience. What we are now seeing is the devastation of the agricultural base of skill and experience in this country.

What we are seeing is the rapid destruction of the family farm unit as we know it.

Mr. President, I cannot believe that that is in the long-range interest of the United States of America. I cannot believe that that is in the interest of any of our citizens, whether they live on the farms or whether they live in the great cities of this country.

If we lose family agriculture we will lose one of the most productive sectors of our entire economy. We will see pass from the scene a productive unit of our economy in which we can still compete, when given the chance to compete on a level playing field, without the intervention of other governments, export subsidies and other devices, to affect this market. Without those kinds of artificial interferences by other governments the family farm unit in the United States can outproduce and undersell in terms of efficiency any other competitor any place in the world. I wish we could say that about other parts of our economy. I wish we could say we were as able to compete when given a chance to compete on an even basis. In some areas of our economy, sadly, we have not made the investment, we have not made the decisions necessary for us to do that. But we can do it with family agriculture.

I only hope that, as we work, as our Government works to try to restore that kind of free market opportunity and international markets again, we will not allow the family farmer to simply go out of existence in the meantime, to be replaced by large corporate units with employees and managers operating farms who cannot possibly have the same kind of dedication and commitment that the family individual farm owner now has under the present system. I cannot believe that employed managers have the determination to make the scientific changes, to put in the long hours, to do other steps necessary to keep productivity at the levels that we now enjoy with family agriculture.

Mr. President, I hope my colleagues will carefully consider this proposal. It is very similar to the proposal offered earlier and successfully passed through the House of Representatives under the leadership of Mr. FOLEY. It takes into consideration several of the ideas being suggested today by the Senator from Kansas (Mr. DOLE) and others.

I appreciate very much the support that has been offered in terms of cosponsorship by the Senator from Montana (Mr. BAUCUS), who serves as the principal cosponsor of this program, by Senator BURDICK, Senator HART, Senator MELCHER, who has already expressed on this floor today his concern about the situation in agriculture, and also Senator PRESSLER and Senator BOSCHWITZ. This is not meant to be a partisan proposal; it is meant to be a bipartisan proposal that will be good for the country.

While we cannot give an exact estimate, earlier, we received estimates by CBO that the Foley program, if enacted into law, would save some $2.5 billion over a 5-year period. I cannot contend that it would save in the first year, but we have written a program to have the whole first-year cost of the program. It is very evident that we will have carryover savings by reducing the stocks, by reducing the uncertainty elements and other things.

● Mr. BENTSEN. Mr. President, I am pleased to join as a cosponsor of this amendment with the distinguished Senator from Oklahoma (Mr. BOREN). The distinguished senior Senator from Oklahoma is a member of the Senate Agriculture Committee. He has worked long and hard for the best interests of this Nation's farmers, and it has been my pleasure to work with him in this important cause.

This amendment will deal with serious shortcomings in the 1984 wheat program as announced by the Reagan administration. It will also see that our wheat farmers do not get the short end of the stick again in 1985. The amendment will improve the effectiveness of the wheat program by encouraging more farmers to participate. It will reduce the overwhelming surplus of wheat which is now overhanging our markets and depressing our prices.

The name of the game in developing an effective farm program is participation. Farmers have voted overwhelmingly against the 1984 wheat program by choosing not to sign up. The program has seemed at times to have been designed to discourage participation. It was not until 2 weeks ago that the USDA finally modified the unreasonable regulations which they had originally promulgated concerning conservation practices on set-aside acres. These regulations, which I had strongly objected to, would have kept many Texas farmers out of the 1984 farm program without achieving any appreciable improvement in conservation practices.

I believe that further changes are needed to encourage the participation that is vital if we are to get these wheat surpluses under control. This amendment makes those changes. It will maintain an acreage reduction of 30 percent, which is needed if we are to put a dent in our wheat stocks. It encourages participation by putting in a 10-percent paid diversion as part of that 30-percent cut in acreage. And most importantly to Texas farmers, it will allow haying and grazing on these set-aside acres in both 1984 and 1985. In return, this amendment will reduce our budget exposure by cutting the target price to $4.38 per bushel in 1984 and 1985. It will also require a 30-percent acreage reduction in 1985, with 10 percent of it to be paid.

This amendment will increase participation in the wheat program. By so doing it will reduce our stocks and reduce the costly storage and interest payments that we are making on these huge surpluses, thereby reducing our farm program costs over the next 5 years. I urge my colleagues to vote for this needed change.●

Mr. BOREN. Mr. President, I ask unanimous consent that the distinguished Senator from Texas (Mr. BENTSEN) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. I thank the Chair. Mr. President, I urge my colleagues to consider seriously the content of this amendment. After they do so, I feel confident that they will want to support its enactment. It is very important that we take timely action. There has been an extension in the signup time, the signup date for the wheat program by the Secretary of Agriculture. I think this is in recognition of the fact that we have had very, very low participation, very few indications of participation by the wheat farmers across the country today.

I think it gives us an opportunity because of this extension now to improve the program to increase the participation so we can get prices in the market up to reasonable levels and, in the long range, decrease the stocks and decrease ultimately the cost to the taxpayers of the country. When we can take action that will, in the long range, decrease taxpayer costs and improve the situation for the family farmers of this country, I think that is timely action which this body should take.

Mr. NICKLES. Will the Senator yield?

Mr. BOREN. I shall be happy to yield to my colleague.

The PRESIDING OFFICER. The junior Senator from Oklahoma seeks recognition. Does the senior Senator from Oklahoma yield for a question?

Mr. BOREN. I shall be happy to yield for a question, Mr. President.

Mr. NICKLES. Mr. President, just to make sure I understand my colleague, essentially what he is doing is saying for the 1984 program, we would have a target price of $4.38 instead of that under present law, which would be $4.45. Then for the 1985 program, the target price would be, again, $4.38 instead of a target price of $4.65?

Mr. BOREN. Mr. President, my colleague is correct. I think that all of us who approve of this program are very sensitive to the need to keep its first-year costs as low as possible. This is an effort to do that. It is an effort to strike a reasonable compromise.

I know my colleague has that concern, keeping the budget costs low. I had a discussion with him this afternoon about it.

After that discussion and others which I have had, also after reading and listening to the proposals being circulated by Senator DOLE, I felt that in the spirit of compromise, we could change that figure to $4.38 for both the 1984 and 1985 programs.

Mr. NICKLES. So if the Senator will yield for an additional question, he is reducing the target price. He is setting up a paid diversion—that is where some of that saving would go.

Am I also correct, does he also have—I hope he would—a haying and grazing provision for that set-aside?

Mr. BOREN. The Senator is exactly correct. It does have a haying and grazing provision in it. It is extremely important to those in the Great Plains States, in particular. I think it would be very useful in the effort to keep the surpluses down and keep the storage costs down. I do think we have gone a long way, again, before wheat growers resisted any effort to try to reduce the target price. I think they now see a disaster if this program is not changed. In the spirit of compromise, everybody has given something here to try to get the costs down and yet improve the participation. We do have an effort to reduce the target price in current law by some 7 cents for each year of the next 2 years.

Mr. NICKLES. I thank my colleague and with those two changes, I think we can reduce the cost of the program and make it a better program, particularly in haying and grazing.

Mr. President, I ask unanimous consent to be made a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I am not sure I quarrel with what the Senator from Oklahoma is trying to do, but we are doing it on the wrong bill. I have just spoken with the manager of the bill (Mr. HEINZ). As I understand it, he will be in conference for 4 or 5 weeks. This amendment will be going nowhere.

Mr. HEINZ. If the Senator will yield, we anticipate that we would be very fortunate to get to conference and get anywhere close to the end of it by the end of the month, and it could run very much past that.

Second, it may interest all members of the Agriculture Committee to know that the Senate Banking Committee will be going to conference with the House Foreign Affairs Committee. We are flattered that our colleagues would like us to write a farm bill of some kind between our Banking Committee and the Foreign Affairs Committee over in the House. Who knows that wondrous product we could come back with?

Mr. DOLE. The point I wanted to make, Mr. President, and I notice the majority leader is on the floor, is, it would seem to me, in light of the proposal that we have discussed earlier, some of us, in the Vice President's room and now we have a meeting at 10 on Monday with the Secretary of Agriculture, Secretary Block, and the Director of OMB, Mr. Stockman. If we cannot work out some accommodation then, and I do not think we are very far off—we might even have a better program. If we cannot do that, then perhaps the majority leader would call up the Foley bill and we would offer this to the Foley bill. Then we know we are going to go to conference with the right committees within the next couple of weeks.

I do not want to quarrel with the Senator from Oklahoma. I am just trying to get a result rather than a vote.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. DOLE. Yes.

Mr. BOREN. I, perhaps slightly facetiously, might suggest that it appears that the State Department and those who make foreign policy have often injected themselves into agricultural policy, with embargoes and other decisions.

Maybe it would be appropriate for us as a body to send some instructions to them about what agricultural policy should be. But seriously, I understand what the Senator is saying. I know that he is acting in good faith. I know that he has been one of those who has been most aggressively urging the administration to look at constructive suggestions from this body, and I appreciate that very much. I think it would perhaps help us in those negotiations if we could go ahead and put the Senate on record behind this particular program that is very close to what the Senator from Kansas has been suggesting. If indeed the conference were not completed in time, we could then still bring this out of the Agriculture Committee to the floor with the assistance of the majority leader and perhaps address some of the other commodity programs as well at the same time.

But I personally think, having been in discussions with Mr. Stockman in the past on agricultural matters, that it would be a healthy thing for this body to very clearly express its feelings as to what should be in the wheat program and that an appropriate compromise would involve a $4.38 target price with these other provisions being added to the program in return for the target price reduction.

That is what we are really talking about: How much should be yielded in terms of a reduced target price and what should be given by the administration in terms of program improvements in return? Of course, except for changing the target price, the Secretary really has the discretionary authority right now to take nearly all of these actions. I think it would just be appropriate for the Senate to indicate as a body that we feel a $4.38 target price for 2 years is that fair level of compromise which we would require in order to get these other changes.

Mr. DOLE. It would seem to me we might do that in a separate resolution of some kind. We have not even had a meeting with the Secretary of Agriculture. We just at 4 o'clock today received some indication of a willingness to negotiate a more attractive farm bill which would also save some money, which the Senator from Oklahoma wishes to do, as do the rest of us. We are told it would save about $4.9 billion over a 4-year period. It would be a 10-percent paid diversion for corn. It also includes cotton and rice. I would assume the corn and feed grain producers, if they have been alerted to what we are doing, setting up a paid diversion program for wheat without including them, are not going to be too excited about this particular program.

In any event, if the Senator wants to vote, obviously he has that right, but it would seem to me that if the majority leader would assure us we could bring up the Foley bill, if everything falls apart on Monday, and offer the amendment, I will cosponsor it with the Senator from Oklahoma then. But I would rather not vote on it until we at least try to get some little better fix on our negotiations.

Mr. BOREN. Let me ask the Senator from Kansas, it would depend—I feel that this bill is going to be gone—on whether we are going to complete this bill tonight or tomorrow. I would like to press ahead and get an expression of support from the Senate for this concept even if, as the Senator from Kansas has indicated, it may not guarantee it would become law because of the conference procedure. But I think it would assist us. Quite frankly, sometimes I feel it is very helpful to us to have a vote like this; it assists not only those of us from the Senate who are trying to negotiate with the Secretary, but it might assist the Secretary in negotiating with Mr. Stockman, because I sometimes have the feeling the Secretary of Agriculture has his heart in the right place and gets overruled elsewhere. But if we are not going to take a final vote on the bill tonight——

Mr. DOLE. Maybe the Senator from Oklahoma could make it a sense-of-the-Senate amendment and we could express ourselves, if that is what he wants, because this is not going to go anywhere in this conference. Change it to a sense-of-the-Senate and we could all vote for that. That would send a signal and advance the negotiations on Monday.

Mr. BOREN. This is what the program should contain.

Mr. DOLE. Yes.

Mr. BOREN. I might also ask if the intent is to finish this bill or, if we do not, I would be glad to extend it over temporarily and have further discussion.

Mr. HEINZ. Mr. President, if the Senator will yield, it is Senator GARN's and my intention—I cannot speak for the majority leader, but it is his and my firm intention, if the leader permits us, to finish this bill tonight.

There is only one other amendment that we know of after this amendment, so it would be helpful for us to come to a conclusion one way or the other. It is my view that we ought to find a way to resolve this issue.

Mr. BOREN. Is the other amendment my noncontroversial amendment or is it an amendment besides that?

Mr. HEINZ. We are planning on accepting the Senator's other amendment, particularly if he reaches an accommodation on this one.

Mr. BOREN. I wonder if it would be in order for us—I do not know how long the next amendment will take—to temporarily set this aside for just one moment?

Mr. BAUCUS. Will the Senator yield at that point?

Mr. HEINZ. I have two pieces of business I can transact.

Mr. BAUCUS. Will the Senator yield?

Mr. BOREN. I would be happy to yield before that to my colleague from Montana, who is a principal cosponsor of this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, does the Senator from Montana have something he would like to do?

Mr. BAUCUS. Yes; he does.

Mr. BAKER. Mr. President, will the Senator let me do one housekeeping chore before that?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. I will not take but just a moment.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HEINZ. Mr. President, I ask unanimous consent that amendment No. 2769 be transferred to the end of the bill which is reflected in the change which I send to the desk. This is a technical correction.

Mr. BAUCUS addressed the Chair.

Mr. BOREN. Mr. President, reserving the right to object——

Mr. BAUCUS. Mr. President, reserving the right to object——

Mr. HEINZ. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS [continuing]. I object.

The PRESIDING OFFICER. The objection is in order.

Mr. BAUCUS and Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. HEINZ. I ask unanimous consent that we lay aside the pending amendment temporarily, as I understand the Senator from Oklahoma has requested. I wish the Senator would tell me what he would like to do.

Mr. BAUCUS. I will be glad to tell the Senator, if the Senator will just stop what he is doing right now.

Mr. President——

Mr. HEINZ. Mr. President, I have——

The PRESIDING OFFICER. Is the Senator from Pennsylvania yielding?

Mr. HEINZ. The Senator from Pennsylvania is trying to accommodate the Senator from Oklahoma.

Mr. BOREN. Will the Senator yield for a brief comment without losing his right to the floor?

Mr. HEINZ. Yes.

Mr. BOREN. Mr. President, I feel we have a lack of communication. The Senator from Montana simply wanted to make a brief comment before we accede to the request of the Senator from Pennsylvania that the pending amendment be temporarily set aside without losing its place.

Mr. HEINZ. I yield the floor.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, my point is very similar to the one of the Senator from Oklahoma.

The Senator from Kansas (Mr. DOLE) has done, I think, a terrific job in trying to negotiate with the White House, with the administration, with farm State Senators and with other Senators in this body to try to find some resolution of this problem. I think he had done a tremendous job. Earlier this evening when we met in the Office of the Vice President just off the floor, most of the Senators from wheat States told him what a great job he is doing. We are very close to an agreement. The House has passed the Foley bill. The House tends to be more urban dominated than rural, we all know that.

We are very close to an agreement, so I hope that when we do set aside this amendment, the Senator from Kansas, the majority leader, the chairman of the committee, and the chairman of the subcommittee agree to pass either this amendment offered by myself and the Senator from Oklahoma or something very similar to it. We will then send a signal to the White House. Sure, it is possible this bill may not get anywhere for the next 3, 4, 5 weeks, but at least we will have a vote on a program which is very close to the compromise that we all want.

I know that there is many a slip between the cup and the lip. Something might happen. We have to move quickly. We are to have an early signup date. Right now it is March 16. We have not got a lot of time. So I hope when we do recess temporarily on this issue, we come very close to an agreement tonight that we will take action in time for wheatgrowers to make their plans for this year's crop.

Mr. President, Secretary Block recently extended the signup deadline for the 1984 wheat program to March 16 and restored the summer fallow provision to the same form that it has been for the past 3 years. I applauded the Secretary's decision.

Secretary Block had no other choice than to make changes in the program he had announced because signup was dismal. In Montana only 6 percent of our wheatgrowers had signed up for the program.

Our wheat surplus is projected to reach 1.4 billion bushels this year. This glut only serves to further depress the price that a farmer receives. The only relief we can find for these depressed prices is to curb production over the next 2 years to help draw down the level of our surplus.

What we need is a program that will convince farmers to participate. The current program is not meeting that requirement.

I have been working to develop a program that will meet these needs. I have looked at a paid diversion program and at reducing the set-aside program as ways to encourage more participation. I have also looked at the budget constraints that we are operating under.

In the 1981 farm bill we set target prices at $4.45 for 1984 and $4.65 for 1985. We are now asking wheatgrowers to tighten their belts and settle for a reduced target price for both 1984 and 1985. We reduce the incentive to participate in the wheat program by reducing these target price levels. We must also find a way to keep farmers in the program.

I believe the program contained in this amendment will provide the needed incentives for farmers to sign up. If we are going to run a successful program this is a necessary step to take.

What we are proposing to do with this amendment is to reduce the 1984 target price from $4.45 to $4.38. In 1985 we would reduce the target price from $4.65 to $4.38. To compensate for these cost-saving moves we propose to offer farmers a 20-percent acreage diversion program, with no payment, and a 10-percent paid diversion program. The payment rate for the diversion program would be $2.70 per bushel.

The other provisions of our program include:

Haying and grazing allowed on reduced acreage.

Extension of the signup period to not earlier than March 30.

A 10- to 20-percent PIK option with an 85-percent payment rate.

And a summer fallow provision for 1984 and 1985 like the one announced last week.

Mr. President, I think that the package we have put together will reduce the budget exposure in the wheat program while providing farmers with an adequate incentive to participate. The important thing is for the Senate to act now, while we still have a chance to make the 1984 program a success.

I will not address the need to increase our exports to help alleviate the current surpluses, but that is also an essential step we must take if we are to see an improvement in the farm economy.

The **PRESIDING OFFICER**. The Senator from Pennsylvania is recognized.

Mr. **HEINZ**. Mr. President, I hope no Members will now object to my unanimous-consent request, and I renew my unanimous-consent request that amendment No. 2769 be transferred to the end of the bill, which is reflected in the change which I send to the desk.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none, and it is so ordered.

Mr. **HEINZ**. Mr. President, I send an amendment to the desk and ask that it be stated.

The **PRESIDING OFFICER**. The Chair states to the Senator from Pennsylvania that there are two amendments pending.

Mr. **HEINZ**. The Senator from Pennsylvania asks unanimous consent that the amendments of the Senator from Oklahoma be temporarily laid aside for the purpose of considering this amendment.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none, and it is so ordered.

The amendment is to an amendment previously agreed to, and it would take unanimous consent to consider this amendment.

Mr. **HEINZ**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **HEINZ**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

AMENDMENT NO. 2738 (MODIFIED)

Mr. **HEINZ**. Mr. President, I send an amendment to the desk, and I ask unanimous consent that it be in order.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Heinz) proposes an amendment numbered 2738, as modified.

The modified amendment is as follows:

Amendment No. 2738, to S. 979, is modified to read as follows:

At the end of the bill add the following new section:

"AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961

"Sec. . Section 502B of the Foreign Assistance Act of 1961 is amended (1) by striking the word 'Committee' the first place it appears in paragraph (2) and inserting in lieu thereof 'Committees'; and

"(2) by inserting after the words 'Foreign Relations' the first place it appears the phrase 'and Banking, Housing, and Urban Affairs (when licenses are to be issued pursuant to the Export Administration Act of 1979)'.".

Mr. **HEINZ**. Mr. President, this is a technical amendment.

The chairman and ranking minority member of the Foreign Relations Committee have asked that a minor modification be made to an amendment to this bill agreed to earlier in the week. That amendment made a change to the Foreign Assistance Act of 1961. This is a minor modification with regard to a question of jurisdiction. I believe we can accommodate our colleagues.

So, Mr. President, I ask unanimous consent that my amendment No. 2738 be modified in line with the technical change I have sent to the desk.

At issue, Mr. President, is the appropriate referral of a report on exports of crime control equipment. This amendment would provide that this report be submitted to the Banking, Housing, and Urban Affairs Committee when it pertains to matters within the jurisdiction of that committee—namely, the Export Administration Act.

I know of no objection to this change.

The amendment (No. 2738) was so modified.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HEINZ**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **HEINZ**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendments are laid aside.

Mr. **HEINZ**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **HEINZ**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HEINZ**. Mr. President, a parliamentary inquiry.

Is it correct that we have unanimous consent to temporarily lay aside the amendments of the Senator from Oklahoma for the purpose of considering the amendment of the Senator from Connecticut, Senator Dodd?

The **PRESIDING OFFICER**. That is correct.

Mr. **HEINZ**. Very well. Mr. President, I yield the floor.

(The following proceedings occurred later and are printed at this point by unanimous consent:)

Mr. **HEINZ**. Mr. President, it is my understanding that the majority leader has an announcement he wishes to make with respect to the Boren amendment and that issue under discussion.

Mr. **BAKER**. I thank the Senator for yielding to me, and I especially thank the Senator from Connecticut.

Mr. President, after consulting with the distinguished Senator from Oklahoma, the Senators from Iowa, and the Senator from Kansas (Mr. Dole), it appears to me that if the Senator from Oklahoma (Mr. Boren) wishes to modify his amendment so that it is a sense of the Senate resolution, it might be possible to go forward with a vote on that measure and to dispose of it and then I have assured the parties on both sides that if they proceed in this manner I am perfectly willing after we do the prayer amendment, which will begin on Monday, and sometime prior to the deadline on March 15, take up for not longer than 3 or 4 hours total time a bill from the Agriculture Committee dealing with wheat which might be reported in the next few days to which this amendment or a similar amendment might be offered. That I am prepared to do.

I must point out that the leadership on this side has already announced that we will begin on the prayer amendment or attempt to do so on Monday. It may be possible to lay it before the Senate tomorrow before we go out. I hope so.

But in any event, after we finish the prayer amendment, we still have reciprocity to do, FTC authorization, and other matters that have already been announced; but in order to accommodate this arrangement, I am willing to ask the Senate to come in early if that is necessary, or after a full day of activity on the other scheduled matters for not to exceed 4 hours, in order to permit Senators to address this question at some place other than on the Export Administration bill.

I am willing to make that assurance if that proves attractive to the distinguished Senator from Oklahoma and the Senator from Kansas and others who have expressed their concern about this matter.

Mr. **BOREN**. Mr. President, will the Senator yield?

Mr. **BAKER**. I yield.

Mr. **BOREN**. I thank the distinguished majority leader. I appreciate the consideration which he has shown to our concerns, and in this matter he has been very accommodating to us. I understand the pressures of the schedule under which he must operate, and I think that the agreement he has outlined is a fair one with the assurance that we would have an opportunity to have at least a brief window of time, knowing we would have to accomplish our work with dispatch in 3 to 4 hours on the Senate floor or approximately to get this done before March 16 sometime, when the wheat deadline takes effect. In light of that agreement and in light of that statement by the majority leader, it would be then my intent to change the amendment on this particular bill to make it a sense of the Senate expression so that it would at least clearly demonstrate to the Secretary of Agriculture, the Director of OMB, and others, the feeling of the Senate as to what the content of the wheat program should be and also to consider the concerns of others that we should also try to proceed and act on the wheat program, to act on the drought problem, and others that are facing us.

But I appreciate the statement made by the majority leader. The method of proceeding that he has outlined is certainly agreeable to this Senator, and it would be my intention then, to change, at the appropriate time, action on the current amendment has been completed, to modify my amendment to make it a sense of the Senate resolution and to then work together with the others who are interested in this amendment and with members of the Agriculture Committee to get some product ready for action on the floor prior to March 16, in a timely fashion.

Mr. BAKER. Mr. President, I thank the Senator from Oklahoma. I see the Senator from Montana is on the floor. He also participated in this conversation. If the Senator from Kansas wishes me to yield to him, I would be happy to.

Mr. DOLE. Mr. President, I think this is most satisfactory. I thank the majority leader.

Mr. BOREN. Mr. President, will the Senator yield just 1 more minute on another point I wish to clarify?

Mr. BAKER. Yes.

Mr. BOREN. If, for some reason, the Agriculture Committee did not send a bill to the floor, as I understood what the majority leader said a moment ago, we would have an opportunity to at least attach an amendment with this kind of content to some other vehicle that would be pending on the floor.

Mr. BAKER. Mr. President, under the rules of the Senate, there, of course, could be an opportunity on most measures to propose an amendment that would qualify on some vehicle. But certainly there will be vehicles to do so. It is my information that the Agriculture Committee will report a bill that deals with this subject in the next few days. But I can assure the Senator that we will carry through with the spirit of this representation, as well as the letter.

Mr. BOREN. I thank the majority leader.

Mr. BAKER. I thank the Senator from Connecticut for permitting me to try to work out this arrangement.

Mr. BAUCUS. Mr. President, will the majority leader yield?

Mr. BAKER. Yes; I yield to the Senator from Montana.

Mr. BAUCUS. Mr. President, I wish to thank the Senator from Kansas, Mr. DOLE, as well as the Senator from Tennessee, the majority leader, Mr. BAKER, and the Senator from Oklahoma, Mr. BOREN.

This is, I think, a good example of the spirit of compromise. We sat down together and we worked out, I think, a good solution here. I hope that when we do take action on this measure next week, or at the appropriate time, that that same spirit continues. We have made a lot of progress on the issue. I think that it is a good sign.

I wish to thank all parties involved because we do need to take final action on a wheat program as soon as possible.

Mr. BAKER. Mr. President, I thank the Senator from Montana for his contribution to the efforts. I am pleased to say that I think it is a satisfactory arrangement and I am prepared to go forward with those representations.

Mr. HEINZ. Mr. President, I wish to express my thanks to the Senator from Connecticut for allowing this colloquy to take place. I thank him most sincerely.

Mr. DODD. I thank my colleague from Pennsylvania.

(Conclusion of later proceedings.)

AMENDMENT NO. 2776

(Purpose: To modify the "contract sanctity" provision)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. DODD), on behalf of himself and Mr. ARMSTRONG, proposes an amendment numbered 2776.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, line 24, after the period, insert the following: "The preceding sentence shall not apply in a case in which the export controls imposed relate directly, immediately, and significantly to actual or imminent acts of aggression or of international terrorism, to actual or imminent gross violations of internationally recognized human rights, or to actual or imminent nuclear weapons tests, in which case the President shall promptly notify the Congress of the circumstances to which the export controls relate and of the contracts, agreements, or licenses affected by the controls. Any export controls described in the preceding sentence shall affect existing contracts, agreements, and licenses only so long as the acts of aggression or terrorism, violations of human rights, or nuclear weapons tests continue or remain imminent.".

Mr. DODD. Mr. President, at the outset, let me note that I offer this amendment on behalf of myself and the distinguished Senator from Colorado (Mr. ARMSTRONG).

First of all, let me apologize to my colleagues. I know the hour is late. We have been on this bill for a great deal of time. But I happen to feel, Mr. President, that this amendment raises one of the most serious foreign policy matters that this Chamber has debated in some time. It is regrettable that it has to come at this hour of the evening, but the matter is of such importance that to allow the bill to go through without calling up this amendment and, I hope, having it adopted would be one of the great mistakes of this Congress.

It is for that reason, with a degree of reluctance, that I offer this amendment, understanding that my colleagues would prefer to call it a day.

Mr. President, the bill before us codifies the concept that the United States has no higher interest than the sanctity of its contracts. Once an export contract is signed, according to this bill, the contract is sacred, no matter what else may occur. That is the effect of the legislation before us.

But is a contract sacred when it is a contract to sell vehicles to a foreign army that is killing civilians? Is a contract sacred when it is a contract to sell equipment which will be used by a renegade government to support international terrorism? Is a contract sacred when it is for equipment to launch a military invasion? Is a contract sacred when the United States wishes to apply economic sanctions to a country as pressure to prevent a nuclear weapons test?

These, Mr. President, are not theoretical questions. In recent years, the United States has halted contracted exports in circumstances just such as these and had this bill's contract sanctity provision been in effect during those specific occurrences, the sales would have gone through at great cost, I would argue, to American interests.

When Congress cut off trade with Uganda because of Idi Amin's genocide, one American company complained at that time that it should not have to break a contract with Idi Amin's army. The contract was broken. The United States sent a clear signal that human life can be worth more to the United States than making a sale.

And when the Soviet Union invaded Afghanistan, the United States halted a contracted shipment of equipment for a Soviet plant that was producing trucks for that specific invasion. Had this bill been the law of the land at the time of the Soviet invasion of Afghanistan, had contract sanctity been in effect, American exporters would have doubled the space capacity of the truck plant for the Soviet Union.

Our contract exports would have made a significant contribution to the Soviet invasion.

Libya is one of the world's leading exporters of international terrorism and makes a regular practice of destabilizing other governments. U.S. officials discovered that Libya was going to use American trucks to haul tanks and was using American planes to transport troops. The United States cut off contracted sales to Libya of the trucks and planes and spare parts. Had this bill been the law of the land during that particular circumstance that contract would not have been able to be abrogated.

That is what we are confronting here. We are not allowing under the provisions of this bill for circumstances such as I have enumerated here for the President to be able to—Mr. President, may I ask for order in the Chamber?

The PRESIDING OFFICER. There will be order in the Chamber.

The Senator from Connecticut.

Mr. DODD. Mr. President, such instances illustrate why this amendment that I am offering this evening is absolutely essential for the conduct of foreign policy by this President or any other President.

This amendment would allow our President to halt contracted exports if the sanctions relate to gross violations of human rights, acts of international terrorism, acts of military aggression, or nuclear weapons tests. Those are the only four circumstances.

I am not asking that we give unlimited power to the President to abrogate contracts in every single instance. What I am saying in these four specific examples is that the President should be given the flexibility to abrogate a contract. I repeat again what this amendment does. If the sanctions relate to gross violations of human rights, acts of international terrorism, acts of military aggression, or nuclear weapons testing, then the President should be able to abrogate a contract to those countries.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. DODD. I wish to complete the statement, if I could, and then there will be plenty of time for debate, I am sure.

Present law, Mr. President, allows the President to halt contracted exports any time for any purpose. That is too extreme. That is far too oppressive.

I agree with those who feel this law should be tightened up. This amendment, however, would set important new limits on a President's ability to cancel contracts. Only when sanctions are triggered by one of the four circumstances specified in the amendment can export contracts be broken. Moreover, the sanctions must relate directly, and I quote the amendment, "directly, immediately, and significantly" to one of the four circumstances.

For example, a President cannot use this provision to cancel contracts with India years after India has tested a nuclear weapon.

Finally, the ban on contracted exports must be lifted as soon as the triggering event has ended.

Opponents, Mr. President, of this amendment will argue that it is unnecessary, that we do not need this language. A President can halt contracted exports any time he wishes.

It is argued all he has to do is declare a national emergency and invoke the International Emergency Economic Power Act.

Does Congress really want this President or any other President to declare a national emergency every time he or she needs to impose an effective sanction? Is it a national emergency when a dictator in a faraway country is killing his own people? Is it a national emergency when a distant nation invades a country that is friendly to the United States or supports terrorist attacks against the friendly country's citizens?

That would be tantamount to having a criminal code that had only one penalty; no matter what the crime the only penalty would be death—or no penalty at all.

What we are suggesting here is that the President should have a far greater degree of flexibility in exercising the foreign policy of the United States.

As I started to say a moment ago, Mr. President, opponents of the amendment that I am offering will argue that this amendment is unnecessary; that a President can halt contracted exports anytime he or she would wish. All he would have to do, it will be said, is to declare a national emergency and invoke the International Emergency Economic Powers Act.

However, I would ask: Does Congress really want a President to declare a national emergency every time he or she needs to impose effective sanctions? Is it a national emergency, for instance, when a dictator of a nation in a faraway place is killing his own people? Is it a national emergency when a distant nation invades a country which is friendly to the United States or supports terrorists attacks against the friendly country's citizens?

When Congress passed the International Emergency Economic Powers Act, Mr. President, it intended that a President would declare a national emergency only under extreme circumstances. As a matter of fact, the power was so broad when that legislation was passed in 1977 that the Congress insisted that it have the power to veto a President's imposition of that act. Obviously today, in light of a recent Supreme Court decision, the constitutionality of that veto provision is in question. But the Congress was so concerned about the broad and sweeping powers of the International Emergency Economic Powers Act that it insisted upon that provision in the law.

That provision of law would give a President the power to control currency, to take over assets of a nation, to control virtually the entire extent of commercial relations with that country, covering a variety of different circumstances. It is a very broad imposition of power. It is power that ought to be used selectively.

What I suggested a minute ago with the analogy is if that is the only recourse a President has for a contract, it limits a President's ability to be flexible. It is better to have gradations of influence which a President can bring to bear to secure and protect the foreign policy interests of the United States.

The current legislation is as if our criminal code only had one penalty in effect, regardless of the crime. Regardless of how significant it would be, the only thing we could impose is the most significant penalty or nothing at all.

What I am arguing for this evening is, in those four limited circumstances that I have described earlier—terrorism, invasion, gross violation of human rights, or testing of nuclear weapons—a President of the United States ought to be able to abrogate a contract and say that those issues are far too significant, that we are not going to allow them to proceed, that we are not going to allow a contract, a bottom line profit line to make all the difference. I would hate to think we have reached a point in this country when we have come to believe that our standing in the world must be defined only by saying that we are just good merchants. That is just what we seem to be saying. Everything else is secondary.

I believe we have a much more elevated self-definition of ourselves than that—I hope we do—and stand, I believe, for much more in our international relations than just making a buck. That is what we are being told here: Making a buck is more important than anything else that we can consider. This bill would subordinate human rights, the battle against terrorism, and efforts to control nuclear war to the bottom line on a balance sheet.

How many times have we heard speeches and talk about controlling terrorism, trying to do something about the threat of nuclear war, trying to do something about human rights around the world? Now we are going to say in this particular bill that a contract—a contract, a business deal—is more important than any of those other issues. And "Mr. President, you can't do anything about it, short of imposing the most stringent conditions in exercising some of the toughest laws that we have on our books." That is unconscionably hobbling a President of the United States.

I have had my disagreements with this President we presently have on our foreign policy issues. But I think it would be a tremendous travesty to deny a President of the United States the right to insist that, in these narrow, specific instances I have described, that a President of the United States could not say, "I am going to put aside that contract because our foreign policy is more important than your deal."

In effect, if we pass this legislation as it is presently drafted without this amendment, that is the effect of it. That is what happens.

So, Mr. President, I hope that we would be able to consider this language and support it. It passed the House overwhelmingly. It was introduced by the distinguished Congressman from California, a freshman Member of the House, Congressman **Howard Berman**, supported by several of his colleagues. **Henry Hyde** from Illinois supported the provisions here; **Toby Roth** of Wisconsin and **Howard Wolpe** from Michigan were the major cosponsors of this provision. A majority of Republicans and a majority of Democrats in the House supported it because they felt it was important to have these provisions in that law.

Let me quote some of the supporters of the amendment in the debate in the other body, because I think it is significant. In the discussions, they argued, "The President will retain the authority under very limited circumstances to apply foreign policy export controls to contracts with foreign purchasers." "Attempts," they talked about, "will be made to prohibit under all circumstances the immediate application of foreign policy export controls," that is, "to contracted sales in the name of contract sanctity."

> This amendment strikes what we believe is a reasonable balance between trade interests on the one hand and on the other the national interest in preserving the nonmilitary option of export controls as a tool of foreign policy. Under current law, a President can halt contracted exports at any time for any reasons. Under this provision, this provision sets forth four and only four circumstances * * *

I am talking about the House language, exactly what I have offered tonight. Not a comma or a period is different.

> * * * that justify foreign policy controls affecting existing contracts. This provision requires that such controls relate directly to acts of international terrorism, invasion, testing of nuclear weapons, or gross violations of human rights. In these instances, it is critical that the United States Government be able to halt shipment of goods that contribute to such acts. The ability to halt contracted shipments is crucial. In a crisis, sanctions must have an immediate effect or they will have no effect at all. The KAL incident has demonstrated that crises demand immediate response by the United States, because our nonmilitary options are few.

The House language limits the President's authority further. It states that once a crisis has passed, export controls on existing contracts must be lifted. This amendment imposes new requirements that a President consult with Congress on future contracts. At any rate, Mr. President, the House language is exactly what I have offered here this evening.

The administration supports this. The Secretary of Commerce wrote a letter to the then-chairman of the Foreign Relations Committee, our former colleague, now deceased, Mr. Zablocki. Let me quote Secretary Baldrige, talking exactly about the amendment I am talking about tonight:

> Dear Mr. Chairman: I am pleased to inform you that the President has decided to support this language, section 111(a) of the House bill, H.R. 3646, relating to the protection of existing contracts with foreign policy controls. This provision recognizes the need to protect the reputation of our exporters as reliable suppliers while acknowledging that there are exceptions which will allow the President to take decisive action in the event of specified international crises. We appreciate your efforts and those of Congressman Roth and Berman, in fashioning a solution to this difficult problem.
>
> Sincerely,
>
> Malcom Baldrige,
> *Secretary of Commerce.*

The administration supports this language. It was offered in the House and they thought it was important. I agree.

Let me cite some examples to give you a sense of what I am driving at. We are talking about the kinds of situations we could ultimately be confronted with.

What would happen under this bill if it became law as it presently reads and if Syria were to attack Israel, while a U.S. company had a contract with Syria for trucks and those trucks were being used in the invasion of Israel?

The effect of this legislation without amendment would mean that the President of the United States could not abrogate that contract, despite the fact that our best ally in the region was being subjected to harassment and invasion by Syria.

If Nicaragua were to invade Honduras or El Salvador, and a U.S. company had a contract with Nicaragua, under this bill without amendment the President of the United States could not abrogate that contract.

If Iraq were to test a nuclear weapon, the President of the United States could not abrogate a contract that a U.S. company had with Iraq that might in fact be supplying equipment and parts for that test.

If Syria, hypothetically, were supporting terrorist activities in Lebanon and a U.S. company had a contract with Syria, and the President of the United States wanted to abrogate this contract, if this bill becomes law, he could not do it, short of invoking the International Emergency Economic Powers Act, the most extreme measure he could use.

In every single one of those instances, if this legislation becomes law, we deny a President of the United States the ability to react, to respond, to be flexible.

We allow a President of the United States to send troops into combat under the War Powers Resolution. We can have the *New Jersey* fire salvos, we can bomb, we can impose controls over currencies and impound assets. But he cannot do anything less. He cannot abrogate a small contract.

We are sitting here in this deliberative body and saying the President of the United States should not be allowed to abrogate a contract between a company and a country that is engaged in terrorism, supporting it, the testing of nuclear weapons, engaging in the gross violation of human rights. We are saying, no, he cannot abrogate that kind of a contract. I do not believe that is proper.

Mr. NICKLES. Will the Senator yield for a question?

Mr. DODD. Yes.

Mr. NICKLES. As an example, probably the most blatant example of terrorism that comes to mind to a lot, is the Soviet Union shooting down the Korean airliner.

Under the Senator's amendment, would the President be able to impose an embargo in spite of the contract sanctity provisions on products to the Soviet Union because of the act of blatant terrorism?

Mr. DODD. I think we have adopted language here——

Mr. HEINZ. Mr. President, I would just like to say that this is simply not correct.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. So the position of the Senator from Connecticut is that this would not deal with it. I see this as in direct contrast to legislation we passed yesterday dealing with embargo protection. This does not have exemptions or exceptions.

That is a good example of an act of terrorism. It seems to me if we pass this, we are giving the President a blank check to abrogate any contract whatsoever. There are a lot of acts where there are a lot of emotions that could disrupt a lot of things and maybe compound the problem. I just used that as one example. If the Senator thinks that possibly the exemption we passed would exempt agriculture, with that one exception could the President abrogate any other contract we had with the Soviet Union as a result of this act of aggression?

Mr. DODD. Shooting down a civilian plane is a terrorist act. I have to believe that the Dixon amendment yesterday as adopted and certainly the language of the House bill excludes agricultural products. That is my understanding. Putting the question of agricultural exemptions aside, failure to adopt my amendment means if you have another instance when the Soviet Union engaging in a violent act of denial of human rights shoots down a civilian aircraft and there is a contract with the Soviet Union in the foreign policy control area, the President of the United States cannot abrogate any contracts at all. He is denied that.

If the Senator from Oklahoma wants to be on record saying that this President or any other future President should not be allowed to abrogate a contract when the Soviet Union shoots down a civilian aircraft, we have gone the wrong way in this body. That is what the present bill allows. It says the President cannot do that.

I think the President ought to have the flexibility to decide whether or not he wants to do that, short of having to engage in the most significant of options. We allow him no middle ground at all. That is the problem. That is what you are going to accept by adopting this bill as written.

Mr. NICKLES. If the Senator will yield for a final question, if we have an atrocity like shooting down the airliner, the President can abrogate any contract, or if there is an invasion in Afghanistan, the President again would have authority to abrogate any contract?

I think this is a very substantial amendment and I think it is one that a lot of people should consider. Basically, I think it would nullify the embargo provision we passed.

Mr. DODD. I have cited four instances. I have to agree with the suggestion that existing law as it is today is too permissive, too wide open. We talk about specific action, significant, detailed actions, involving terrorism, invasion, testing of nuclear weapons, gross violation of human rights. In those specific areas, definable areas under existing law, in those four instances where such acts occur, the President of the United States ought to have an option. Should he not have an option? Should we say, "No, under no circumstances can you do anything."

Is that the way to conduct foreign policy? He can never be allowed to respond at all, no matter what the circumstances?

How many speeches on terrorism have been given here and how we ought to control terrorism? Now we have a chance to do something about it, and we are saying no; terrorism is important, but it is not as important as a contract. A contract is more important than battling against terrorism. Is that the record we want to establish here?

Mr. HEINZ. Will the Senator yield for a question?

Mr. DODD. For a question, certainly.

Mr. HEINZ. Mr. President, I thank the Senator for yielding.

He has said, as I understand it, the four instances that he has in his amendment, actual or imminent accounts of aggression or of international terrorism, actual or imminent gross violations of internationally recognized human rights, and actual or imminent nuclear weapons tests—that those constitute a narrow subset of some greater set of actions that the President, in the greater set could take, in the smaller set, could not. I would like him to tell me what those other circumstances where contracts would be protected might be.

Mr. DODD. First, let me point out that as we read the amendment, I identify the four instances in specific language. It says the preceding sentence shall not apply in a case where export controls relate directly, immediately, and significantly to—then it recites the four. So there has to be a relationship in some way between the contract and these examples.

Mr. HEINZ. There usually is.

Mr. DODD. Let us take the pipeline case, which is the one that provoked a lot of this discussion. I think that is a gray area, quite frankly. I would not necessarily suggest that because the Soviet Union invaded Afghanistan, in that particular instance, the natural gas pipeline issue would relate to that particular act of aggression. I think in that particular case, we could make an argument, under my amendment, were it to be adopted, that that would exceed the power that I intend the President to have.

However, in the case of the truck deal to Afghanistan, where those trucks were being directly used to subdue the Afghan population and a U.S. company had a contract with Afghanistan for those trucks, that is a clear example where it is involved directly, immediately, and significantly.

The first, the natural gas pipeline, I think is an open question. In the question of the trucks, for instance, I do not think that is open at all.

In the case of the Idi Amin situation, as I pointed out earlier, the company involved actually protested, despite the fact that the entire world knew that Idi Amin was engaged in absolute genocide. Amin's action certainly was in gross violation of human rights, and that equipment being sought was directly involved in that activity—there, I think it is clear again.

Mr. HEINZ. Would the Senator yield further for a question?

Mr. DODD. For a further question, yes.

Mr. HEINZ. As I understand the Senator's answer, Mr. President, he said the really important words here are "directly, immediately, and significantly."

Mr. DODD. They are the significant words.

Mr. HEINZ. Those are important words. I do not belittle them. But the Senator has still not, as I interpret his answer, answered the question I asked, which is what kind of acts are there that are different from the ones he has specified involving terrorism, human rights, nuclear weapons tests, and aggression, actual or imminent in each case. What kind of acts are there besides those? Because the Senator, as I understand it, contends he said it several times, that this is a very narrow amendment. If it is so narrow, where is the rest of the room?

Mr. DODD. Under the existing law, if a country casts a wrong vote in the United Nations, the President could abrogate a contract under existing law. If we do not like statements a nation made somewhere, the President could do what he wanted to. That is the open-endedness of it all; it can be invoked under almost any set of circumstances. In the amendment, we are saying it has to be involved in terrorism and has to be involved in gross violation of human rights—not anything else. That is what the existing law allows—anything. I am saying that is far too permissive.

What I am suggesting further is that the answer to that problem is not absolutely to prohibit the President from doing anything. That is what we do by adopting the existing language of this bill.

There have been examples where we have not liked the actions of a certain country that had nothing to do with any of these issues, and we have not imposed sanctions of any kind. I do not think that is what we want to see.

Mr. HEINZ. If the Senator will permit me to ask him to yield further, in section 6 of our bill—excuse me, of the existing law—I ask the Senator to carefully consider the criteria in section 6, which, while they are not nearly as tight as I would like them to be, in fact, I think, effectively preclude the President of the United States from taking action because some country at the United Nations cast a vote in the General Assembly or the Security Council that we did not like.

The criteria that the President has to consider, when he is imposing, expanding, or extending export controls under this section, are the probability that such controls are likely to achieve the intended foreign policy purpose, including the availability from some other countries of the goods or the technologies proposed for such controls; the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism and with the overall U.S. policy toward the country which is the proposed target of controls; the reaction of other countries to the imposition or expansion of such export controls by the United States; and the likely effects of the proposed controls on achieving the intended foreign policy purpose of the United States; whether "such controls will not have an extraterritorial effect on countries friendly to the United States adverse to overall United States foreign policy interests; the cost of such controls to the export performance of the United States, to the competitive position of the United States in the international economy, to the international reputation of the United States as a supplier of goods and technology, and to individual United States companies and their employees and communities"; and the ability of the United States to enforce the proposed controls effectively and the foreign policy consequences of not imposing controls.

I should have to ask my friend from Connecticut if he would not agree that those criteria are designed to restrain a President from doing the kinds of things that he just suggested were really outside the scope of his amendment.

Mr. DODD. Well, Mr. President, we can read them. They are obviously in language that is vague and rather loosely drawn. If we did not adopt this amendment in the legislation, I think a U.S. company would be hardpressed to enter a court of law and suggest, that the President did not have the right to abrogate a contract under the very thinnest and weakest of threats. What our amendment does is make those criteria far more specific, in effect.

So, should a circumstance arise like the natural gas pipeline, I submit to my friend, and the President were, in that particular case, to decide that he or she was going to abrogate a contract, then I think you would be on a far better standing, having adopted my amendment, than to have just these current provisions. I suggest that these criteria are really not much to stand on, in effect. I think the Senator agrees.

Mr. ARMSTRONG. Mr. President, will the Senator yield to me?

Mr. DODD. I am glad to yield to my colleague.

Mr. ARMSTRONG. Mr. President, I want to congratulate the Senator from Connecticut for presenting this amendment and to express my appreciation to him for permitting me to be a cosponsor with him to this amendment. I also express the wish that every Senator could have heard the eloquent and carefully reasoned statement which he has just presented. I am going to be quite brief, but I want to associate myself with everything he has said here tonight.

Mr. President, in real life, as Senators know, I am a businessman. My habits of mind, my vocation for all of my adult life has been that of entering into contracts—written contracts, oral contracts, handshake contracts, over-the-telephone kinds of contracts. Instinctively, it is my desire not to interfere in the business relationships of two voluntarily contracting parties. That is, indeed, one of the highest and most important values of this country.

Our whole free enterprise economy is built upon the assumption that when two parties get together and enter into a voluntary contract, we are not going to interfere with that.

Mr. President, while I honor the sanctity of contracts and am loathe to ever interfere with valid, legitimate, freely entered into contracts, I would have to admit here tonight that contracts are not the highest order of value in my own particular personal hierarchy. There are some things that are just more important than business, and four of them are named in the amendment which our friend from Connecticut has presented this evening.

When the prisoners started coming out of the death camps after World War II, one of the questions that they put to the nations of the Western World was: "Where in the world were you during the 30's and 40's when Hitler was transporting people in boxcars across Europe and rounding them up and putting them behind barbed wire?" The response of Western nations who knew better but refused to recognize what was going on was truly pathetic.

I do not know whether or not any of us of our generation will ever be called upon to answer that question, and yet in a very real sense I think we are called upon to answer that question tonight, because there are atrocities occurring in countries around the world that are just as bad and just as large in numbers as the most shameful of the episodes of Nazi Germany during the 1930's and early 1940's.

Indeed, for us to remain silent, for us to in any way imply by action or inaction that we think commercial transactions, business relationships, the sanctity of contract is more important than what is going on in violations of human rights in Asia and other places in the world would be intolerable.

Mr. President, it is not very often that we get a chance to make such a clear decision as this. This amendment simply says that we are going to modify somewhat the new sanctity of contract legislation which is propounded in this bill. Let us not lose sight of the fact that at the present time there is not any sanctity of contract. The President can suspend any contracts he wants to subject to the other guidelines.

Now, my friend from Oklahoma raised a question of what about in the Korean Air Lines episode, could the President under the language of the Dodd-Armstrong amendment suspend contracts? And of course he could, but the whole idea of sanctity of contract is not yet enacted into law. If it had been the desire of the President, he could have done that at the time of the Korean Air Lines episode. He had full authority to suspend every commercial relationship with the Soviet Union. He did not choose to do so, nor in my opinion would any President necessarily take such drastic action if this amendment passes.

The question is not whether a President would be required in the event of terrorism or gross abuse of human rights or violation of nuclear treaties or acts of actual or imminent aggression to suspend contracts. The question is whether or not he would be precluded from doing so.

Now, this sanctity of contract idea is a good one. I think Presidents have sometimes acted unwisely in the past and certainly Congress ought to have a right to participate in this process and to set some guidelines. So I support the general notion that is embodied here. I most emphatically support the concept of the Dixon amendment which was adopted yesterday to afford a degree of protection to agriculture because, frankly, I think there have been times when the wheat farmers of this country have been made the whipping boy for foreign policy, and so it seems reasonable to me that agriculture products should not be singled out to be suspended when other products are freely flowing. Particularly, may I say, it is preposterous to cut off wheat to a country because we do not approve of their policies when we are sending them items of high technology, computers, machine tools and so on.

And make no mistake about it, my friends, when the Soviet Union went to war against the tribesmen of Afghanistan, they went in trucks which were manufactured in plants constructed by the United States and financed with Western capital.

Now, in those circumstances, to use the Afghan war as an excuse for cutting off wheat while continuing to sell to the Soviet Union the very implements that were being used to cause the death and subjugation of the people of Afghanistan seems to me to be quite a preposterous policy.

Mr. President, I am not going to argue the issue at any length. I think the question is really very clear: Should the President have a reasonable opportunity to exercise the power to suspend contracts? To what extent should it be curtailed? At the present time he can do virtually anything he wants along this line. The bill proposes to give a protected status to those commercial relationships which are under contract. The amendment simply says yes, but in those cases where we are talking about terrorism, violation of nuclear agreements, gross abuse of human rights or aggression, at least the President ought to have the right subject to other limitations of law to look at these transactions even though they are under contract.

So I hope Senators will vote for this and will support it because I think it is a very clear statement of how we feel about these values in our society.

(Mr. JEPSEN assumed the chair.)

Mr. DODD. I thank my distinguished colleague from Colorado for his kind and thoughtful comments. My friend from Colorado and I do not always agree on foreign policy matters or other issues that come before this body, but this is not an ideological battle. This is not pitting one side against the other on the question of aid to El Salvador or sanctions on another country or problems of the freedom fighter in Afghanistan. It goes beyond the specifics of any single issue. It talks about the ability of the Chief Executive to conduct foreign policy in this country, the ability of a President of the United States to be able to have some options. That is what we are saying, that he ought to have options. To conduct an intelligent foreign policy you must have the ability to make choices, so that you are not limiting the President. The last thing we want to do is to say to a future President or this one, "You have to exclude these options."

The danger is, of course, you force a President to have to make the tougher choices, the more significant and pronounced choices short of doing something in the intermediate range, something less significant and then, if the problem persists, do something more significant. What we are saying is you cannot do the least significant thing. You cannot abrogate a contract to try to bring some pressure to bear on a nation that is engaging in terrorism, gross violation of rights, or testing of nuclear weaponry. Are there any other issues that are more significant in foreign policy than trying to reduce the proliferation and the threat of nuclear war, the proliferation of terrorism all across the globe, the violation of human rights, trying to have an impact on lessening the threat of those events? If we reject this amendment, the President of the United States cannot exercise an important option in the conduct of our foreign policy. I do not think any of us, regardless of our party or ideology, want to see this President or any future President denied the option of having some choices.

Let me go back over just for a second, if I can, instead of talking about theoretical cases—to the last couple of years and cite a case in point of what would have happened to a President had we been confronted with this legislation.

When the Soviet Union invaded Afghanistan—let me make that case—the trucks that the Soviet Union used were built at the Kolyma River truck plant. An American company had contracted to supply an assembly line for that plant that would have doubled the capacity of the Soviet Union. The President of the United States halted the shipment of parts for the assembly line. If prior congressional approval had been required—of course, it was dealing with the House language—before breaking export contracts, the shipment could not have been stopped. If this bill had been in force at that particular time, then the President of the United States could not have cancelled that contract. Do any of us in this Chamber want to deny a President, if there is a similar set of circumstances, the ability to do that? I do not think so.

Case two. When Libya was using American aircraft to transport troops in its destabilization ventures, the United States not only cut off shipment of aircraft to Libya, it also halted the shipment of spare parts for the aircraft Libya had already purchased. If this bill had been the law of the land, President Reagan would not have been able to do that. He would have been denied that opportunity short of the imposition of the most extreme of the powers and the acts we have at hand.

When the United States imposed an aid embargo on Idi Amin's Uganda, an American company in fact, as I mentioned earlier, protested vehemently against having to break a contract. Had the contract sanctity we have tonight been in effect, the President of the United States could not have cancelled the contract, despite the fact that Idi Amin was engaged in wholesale genocide in this country.

How many would like to look in the faces of those who have been treated brutally by that kind of government and did so in some cases with the assistance of U.S. industry supplying needed equipment?

Mr. President, I hope that while we all realize that contract sanctity is important, that being a reliable trading partner is important, that filling one's business agreements is important, none of those things is as important as allowing the Chief Executive of this country to promote the foreign policy interests of the United States.

All the other interests, the contract interests, are important values, but they are not ultimate values. What we are talking about here this evening are some ultimate values and whether or not we want this country to have some influence on events as they affect the world in which we live.

I hope this amendment will be adopted.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, I realize, as I said, that it is late, and I apologize for holding up my colleagues in the Chamber.

I will be delighted to respond to any questions they may have about this amendment. I hope that, even though it is a later hour, we will do as the House has done, by way of a vote in that Chamber of some 237 to 172, by which they adopted this language, sponsored by Representative HYDE, Representative BERMAN, and others, in a bipartisan way, because they understood the importance of what is at stake.

I hope that at this late hour we will not fail to observe how important this piece of legislation is.

Mr. HEINZ. Mr. President, I will be brief. I know that the Senator from Illinois wants to speak, as does the Senator from Utah. The hour is late, and I want to try to get the attention of Senators who are not here in the Chamber with a couple of statements that I would usually save to the end.

First, contrary to any impression, the Reagan administration does not support this amendment.

Second, I can say that the American Farm Bureau Federation and the National Grange oppose this amendment, and I will explain why in a few minutes.

Mr. President, I ask unanimous consent that a statement by Bruce Hawley, of the American Farm Bureau Federation, by printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF BRUCE HAWLEY

The Farm Bureau strongly supports the letter signed by 12 farm organizations dated

February 2, 1984. They would vigorously oppose any efforts to weaken the sanctity of contract provisions.

U.S. exports ought not to be utilized as leverage to force modification of other countries' internal policies. U.S. agricultural exports have been used as a tool of international diplomacy in the past and those efforts have failed. We must not repeat those mistakes.

This statement is being communicated to Senator Heinz as the official position of the American Farm Bureau Federation.

Mr. HEINZ. Mr. President, I ask unanimous consent to have printed in the RECORD a statement from six agricultural organizations, including the American Soybean Association, on the stationery of the National Grange.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

NATIONAL GRANGE,
Washington, D.C., February 2, 1984.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: During the upcoming Senate consideration of S. 979, the Export Administration Amendments Act, we urge your support for provisions of the bill which fully preserve the contract sanctity protections for agriculture as established in the Commodity Futures Trading Act of 1982. We also strongly support further amendments which reaffirm such protection and which strengthen farmers' and agricultural exporters' protection against arbitrary or unwise embargoes or trade restrictions which have been imposed under the "foreign policy" criteria of the Export Administration Act.

We urge you to vote for an amendment to be proposed by Senators Boschwitz, Bentsen and others which would clarify and reaffirm the 270-day contract sanctity protection for agricultural exports. As you know, this is absolutely vital to the U.S. if we are to regain our reputation as a reliable supplier of farm products for export, which has been so badly damaged by abrupt and unwise embargo actions in past years.

We also urge your opposition to any efforts to weaken the contract sanctity provision in S. 979, such as a proposal similar to the Berman amendment which is now part of the House EAA reauthorization bill. The House language is overly broad and, by linking contract sanctity with vaguely defined actions such as "terrorism," could substantially undercut the contract sanctity language proposed for the Export Administration Act.

We strongly support the provision to be offered by Senators Dixon, Percy, Dole and others, which would require Congressional approval to extend agricultural embargoes beyond 60 days. This provision would not limit the President's authority to act when he can demonstrate that vital national interests are at stake, but it would require a review of any agricultural trade sanctions within a reasonable period. If that review shows the sanctions are achieving their stated purpose, Congress can vote to extend them. Unless Congress votes its approval, no agricultural embargo could last longer than 60 days. Senators Dixon and Percy offered a similar amendment in 1981 which was adopted by a vote of 66 to 20.

There is no issue on which the agricultural community is more united than on the subject of embargoes. Farmers and agricultural exporters are in support of America's foreign policy goals, but they should not be expected to bear an overwhelmingly disproportionate share of the heavy costs of embargoes such as those of recent years.

We appreciate your long-standing supprt in protecting farmers' interests in these critical export control issues, and encourage the efforts of you and our colleagues toward passage of S. 979 with the addition of these vital amendments.

Sincerely,

American Soybean Association, Millers' National Federation, National Association of Wheat Growers, National Broiler Council, National Corn Growers Association, National Council of Farmers Cooperatives, National Farmers Organization, National Farmers Union, National Grain Trade Council, National Grange, National Soybean Processors' Association, Poultry and Egg Institute of America.

Mr. HEINZ. Mr. President, I also am in a position to state for the RECORD that there are three organizations that, to my knowledge, are as concerned, if not more so, about human rights and terrorism than any other organizations I know.

The National Conference on Soviet Jewry, from my point of view, deserves the maximum five stars for the work they do on human rights.

Mr. DODD. Will my friend——

Mr. HEINZ. I do not yield.

I talked earlier this evening to Ted Mann, who said he could speak for the National Conference on Soviet Jewry, and they are not supporting this amendment, and I will state why later.

Mr. DODD. Mr. President, will the Senator yield on that point?

Mr. HEINZ. No; the Senator will not yield.

Mr. DODD. Well, we are in disagreement.

Mr. HEINZ. I will yield when I finish making my announcements.

Second, the American Jewish Congress, which is no slouch when it comes to combating terrorism or combating abuses of human rights, also does not support this amendment.

The Anti-Defamation League, which has a history of fighting bigotry, racism, and every other violation of human decency, does not support this amendment.

None of these organizations is lobbying on behalf of this amendment. They are not supporting it. Any representation to the contrary, they assure me, would be inaccurate.

Why is such a broad spectrum in this position? Well, maybe, Mr. President, it is because there are some good things in the bill which this amendment would alter.

The Senator from Connecticut, in answer to a question from the Senator from Oklahoma, said that, in his opinion, the amendment of the Senator from Connecticut did not affect the Dixon amendment.

Mr. DIXON. It does.

Mr. HEINZ. I will yield to my friend from Illinois in a minute on that point.

To this Senator, it is as plain as the nose on one's face that when we say contracts can be abrogated—and we adopted an amendment earlier that says agriculture is not going to be singled out—the amendment that comes last has the last word.

I suggest that the reason why the American Farm Bureau Federation, the Grange, and another 8 or 10 agricultural organizations are opposing this amendment, actively opposing it, is for that very reason. Indeed, that is what they say in their letter.

Why would not organizations such as the National Council on Soviet Jewry, the Anti-Defamation League, the American Jewish Congress, and the American-Israel Public Affairs Committee be supporting this amendment if it is so good?

Mr. DODD. Mr. President, will the Senator yield?

Mr. HEINZ. They are not supporting this amendment.

Mr. DODD. Will the Senator yield on that specific question?

Mr. HEINZ. The Senator would like to answer his own question first, and then he will yield to the Senator from Connecticut.

Mr. DODD. I would like to address——

Mr. HEINZ. The Senator from Pennsylvania did not interrupt the Senator from Connecticut, who spoke for about 30 minutes.

Mr. DODD. I appreciate that.

Mr. HEINZ. I really want to just finish this, if I may.

I suggest that the reason is that these organizations, which are totally dedicated to stamping out terrorism, which are totally dedicated to promoting human rights, realize that our bill has very strong mechanisms for dealing with all the problems that my friend from Connecticut has identified.

How do we deal with that? First of all, we put into the bill a strong antiterrorism section, strengthened it on the floor, thanks, to the work of my friend from Illinois, Senator DIXON. We permit the breaking of contracts under section 5, the national security section.

I must say that when I listened to what the Senator from Connecticut was saying, that a President could not break a contract involving imminent acts of aggression or an imminent nuclear weapons test, I thought to myself, my goodness, those must have nothing to do with our national security; because under this act, in section 5, a President, for national security reasons, can break any contract he wants to break by withdrawing a license. He could break contracts for trucks; he could break contracts for—you name it.

Second, in this bill, we permit, for any foreign policy purpose, for any of the purposes named by the Senator from Connecticut, the breaking of contracts under the International Emergency Economic Powers Act. It is true that the standard of an international emergency is somewhat higher than that in the Export Administration Act, and, indeed, it should be somewhat higher than under that; because we have seen administration after administration whip out the long-barreled revolver of breaking contracts, aim carefully, and proceed to shoot our own foot off time after time, reload, and keep right on firing.

And it seems to me, Mr. President, that it is appropriate to say that if we are going to break contracts and if there is a good reason to do so, and these are all good reasons under the right circumstances, we should not let them be done at a low, low level.

What I find odd knowing of the commitment to human rights, the commitment to stamping out terrorism, the commitment to controlling the spread of nuclear weapons, the commitment to a more peaceful world that Senator Dodd has, I find it ironic that I am arguing for raising the visibility of any of the actions that need to be taken for any of these crucial decisions and he, as I interpret the effect of his amendment, is willing to let someone down at the Assistant Secretary of State level make these decisions without having to get the President involved.

The issue is apparently Presidential flexibility, and certainly his amendment does use the world "President" all the way through it. I grant him that. But the fact is that is that once you start opening the door without very careful definitions of what we actually mean you are going to have a lot of people down at the bureaucracy start walking through those doors.

To give you an example, someone mentioned the Korean airliner. First the shooting down of the Korean airliner was described as a terrorist act. A few minutes later on this floor tonight, it was described as an act of aggression. Then a few minutes after that, it was described as an act of violating internationally recognized human rights.

Maybe what that tells you is that anything that happens that is bad falls within the wide sweep of this amendment. I asked my friend earlier what circumstances are not covered here, and I do not know how concise an answer I got to that. I happen to think that to say that our bill is too permissive simply misses the point of our bill. It is true that we certainly make it easier to impose prospective control, than to break contracts.

Now, is there a reason we do that? Mr. President, I think there is a reason we do that. And I think it is the reason that some of the people you mentioned earlier actually do not support this amendment.

It is that the United States has become such an unreliable supplier, thanks to the Yamal pipeline sanctions, for example. Had an effort been made at the appropriate time to try to deal with it perspectively, it might have succeeded. But when the controls were imposed and the contracts broken after it was practically an accomplished fact, it had only one result—it slowed the Soviets down a little bit, inconvenienced them some, maybe messed them up a little bit; but in addition, beyond that, we ultimately retreated. We retreated. And what did we accomplish? In the long run, very little. That pipeline is going to be built. About the only thing you can say we accomplished is that American suppliers, subject as they are to current law, which I contend the Dodd amendment would return us to in effect, just became known as people you do not want to do business with.

For any of us who want the United States to have the influence in foreign policy that Senator Dodd wants and that I want—I think we both want the same thing—and I will stack my record on human rights up against his, and I think we will both do very well. I apologize to no one in this body for my record on human rights, and I know he has no cause to apologize for his either. The fact is that we are only going to be effective in using any economic sanctions if we are a player economically.

And if the result is that we continue to lose our markets, if the result is that we are not a factor, if the result is that we do not do business in either developed or third world or nonmarket economies, the result is we are not going to have the kind of influenace that both he and I would like to have.

So I caution my colleagues about this amendment. It is an amendment that has a lot of surface appeal. But I must say, Mr. President, if we adopt this amendment, we will not only in the opinion of this Senator be gutting the agricultural provisions we adopted yesterday and the day before, we will not only be creating problems that lawyers will argue over forever, we will not only be returning the law back to where we say we want to progress from, but I think we will also be undermining the chances of having a coherent Export Administration Act.

I have to tell my colleagues again this bill is not the House bill. The House adopted a similar amendment, the Berman amendment, and they did so because the House bill did not have the kind of careful structures, the antiterrorism section, the broad sweep of section 5, the powers under IEEPA, and the other elements of this bill that I believe allow, in the right circumstances, contracts to be broken.

So I would hope that my colleagues would join in defeating the Dodd amendment.

Mr. DODD. Mr. President, will my colleague yield?

Mr. HEINZ. I would be pleased to yield, if the Senator from Illinois will permit me. I would be pleased to yield to Senator Dodd for any questions.

Mr. DODD. Mr. President, let me make a couple points.

One is with regard to the organizations. Not 10 minutes ago in a phone conversation I had with a representative of the Anti-Defamation League, he told me they had actually been requested to come and talk to me about opposing this language but refused to do so. They were one of the chief lobbying groups in the House. The National Council on Soviet Jewry supports the amendment without any question. They were the chief group that worked for this language on the House side.

Here this evening a colleague of mine confirmed that. Does anyone question that point?

To suggest that these groups are opposed to the amendment absolutely runs contrary to the fact.

The National Council on Soviet Jewry was active in supporting this legislation in the House of Representatives. It is the exact bill I am offering.

The Anti-Defamation League representative in conversation only moments ago said yes, they had been requested to talk me out of offering it but they refused to do it. So they support the amendment.

To suggest that this amendment is not supported by these two organizations is not correct.

Mr. HEINZ. Mr President, what was the Senator's question?

Mr. DODD. I am curious as to where the Senator gets his information.

Mr. HEINZ. I will be happy to put my sources on the record if the Senator will do the same.

I talked to Mr. Ken Bialkin, who I understand is the National President, if I am correct, of the Anti-Defamation League I do not know whether it is staff communicating with the Senator from Connecticut or not, but this gentleman says that he can speak for the Anti-Defamation League and the Anti-Defamation League does not support the amendment as the Senator says—the staff of the Anti-Defamation League supports this amendment.

I do not know who you believe, the staff or the person who is the elected president of the organization.

Now, as to the American Jewish Congress and the National Conference on Soviet Jewry, we are talking about not staff, we are talking about Mr. Ted

Mann, who is the incoming elected president of the American Jewish Congress.

He felt that he could speak authoritatively for both those organizations. He is not paid staff. He actually is elected.

I talked to him at 6:28 p.m. this evening on our cloakroom telephone.

I do not know who the Senator from Connecticut talked to, but I felt those were fairly authoritative choices.

Mr. DODD. I appreciate that. If my colleague will yield further, let me suggest one authority is the author of the amendment on the House side, who is with us this evening, and of course, went through it and conferred with the National Council of Soviet Jewry, which was the organization to support it. The executive director of ADL, in a conversation a month ago, said the contrary.

There was a question about the Presidential support of this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Secretary of Commerce in which he quotes specifically:

> I am pleased to inform you that the President has decided to support—

This particular bill. That is with regard to any questions as to whether or not the President supports this amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF COMMERCE,
Washington, D.C., October 3, 1983.

Hon. CLEMENT J. ZABLOCKI,
Chairman, Committee on Foreign Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to inform you that the President has decided to support section 111(a) of H.R. 3646, relating to the protection of existing contracts from foreign policy controls. This provision recognizes the need to protect the reputation of our exporters as reliable suppliers, while acknowledging that there are exceptions which will allow the President to take decisive action in the event of specified international crises. We appreciate your efforts, and those of Congressmen Bonker, Roth and Berman, in fashioning a solution to this difficult problem.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

Mr. HEINZ. Let me ask, is the Senator talking about the Berman amendment or the Dodd amendment?

Mr. DODD. I am talking about the exact language offered in the House that I am offering this evening.

Mr. HEINZ. I wish to say again to my friend from Connecticut, and I am still yielding the floor to him, and I do not mind him putting that in the RECORD but I think it should be made clear that the administration had a different bill on the House side and they did support, as I understand it, the Berman amendment on the House side.

They do not support the Berman amendment or the Dodd amendment here on the Senate side. The reason is we have a different bill.

Mr. DODD. Do they oppose the amendment?

Mr. HEINZ. Well, I do not know what the Senator thinks the term "does not support" means. It means they do not support it.

Mr. DODD. They oppose my amendment?

Mr. HEINZ. If the Senator says so.

Mr. DODD. I was asking.

Mr. HEINZ. I am telling the Senator what I am authorized to say by the administration. The administration authorized me to say that they do not support his amendment. You decide what that means.

Mr. DODD. So they have changed their mind?

Mr. HEINZ. Well, they have changed the bill. They are on the Senate side with a different bill. They were on the House side with a different bill.

Mr. DODD. I thank my colleague.

Mr. DIXON. Mr. President, I reluctantly rise in opposition to the amendment offered by my good friend and distinguished colleague, Senator DODD. I say reluctantly, because I do very much respect his opinion and expertise, and I would like to be with him. Contract sanctity, however, is at the heart of S. 979, and I believe we must preserve it.

The amendment now pending in the Senate is already a part of the companion House bill. It will already have to be considered by the Senate-House Conference on the Export Administration Act reauthorization legislation.

Further, the amendment is strongly opposed, as has been pointed out by my friend, the manager of the bill, by the American business community and American agriculture. For example, it is opposed by the Business Roundtable, the National Association of Manufacturers, the U.S. Chamber of Commerce, the Emergency Committee for American Trade, the high-tech business community, and virtually every major farm organization in the United States.

Opposition to this amendment is so widespread because contract sanctity is so important and vital, and because this amendment does such damage to contract sanctity.

This amendment undermines contract sanctity if foreign policy controls are imposed in cases involving:

Actual or imminent acts of aggression or of international terrorism;

Actual or imminent gross violations of internationally recognized human rights; or

Actual or imminent nuclear weapons tests.

I wish it were not so, but I believe this language creates a loophole so large that every case where a President would want to impose controls would quality.

This is particularly devastating because the contract sanctity provision in S. 979 only applies in very limited areas. This is the point I want to particularly make: The contract sanctity provision in this bill only applies in very limited areas. To illustrate, let me list for my colleague the areas where contract sanctity under the bill does not apply. Listen to this: Under this bill, S. 979, contract sanctity does not apply in these five cases:

First, arms exports and related military items, which are controlled under the Arms Export Control Act;

Second, most nuclear and nuclear-related exports, which are controlled under another statute;

Third, national security controls under the Export Administration Act. This means that contract sanctity would not apply to most high-tech exports and dual-use items;

Fourth, short supply controls imposed due to shortages here in the United States; and

Fifth, controls on any item imposed under the International Emergency Economic Powers Act.

So I hope it would be clear to the Members here on the floor and those listening that in five specific big cases already S. 979 does not apply.

Under S. 979, contract security will only apply in the foreign policy controls area—that is all—where our national security is not—and I underline "is not"—at stake. In this area, the issue is very simple: Should the U.S. Government keep its word? That is the issue. Should we keep our word?

Mr. President, it must be remembered that what we are talking about here is situations where the Commerce Department has approved the export of an item and issued a license—and there is also a contract in existence. In the very limited areas where contract sanctity will apply, is it not appropriate that we keep our word and impose controls prospectively only?

How can we compete with foreign nations if a signed contract and an approved export license can be made worthless at a moment's notice? We have seen the results of this practice in the past—the United States has lost its reputation as a reliable supplier, and, increasingly, is a noncompetitive supplier of the last resort.

We cannot permit this to continue. Trade is an increasingly important part of our economy. We can no longer have a healthy economy over the long term, without a healthy trade sector.

We have to realize that there is intense international competition for foreign business, and that our companies cannot compete for and win that business if we leave them in a position of substantial disadvantage compared with their international competition.

Let me give you an example of what I mean. In 1978, Caterpillar had over 85 percent of the Russian market for pipelayer tractors. Now, however, in no small part because of the pipeline sanctions, Caterpillar has virtually none of the Russian business. Yet the Russians are not suffering from a shortage of pipelayers; Komatsu, Caterpillar's Japanese competition, is supplying them. The result for Caterpillar is not only has it lost the Russian market, but it is weaker in other international markets because of the loss in sales, and Komatsu is stronger. Further, other countries begin to question how reliable a supplier the United States will be, even though they were not directly affected by the embargo.

Finally, let me note that S. 979 does not prevent the United States from imposing foreign policy controls on any item subject to its jurisdiction. It merely says that, in imposing such controls, we will keep our word and honor past contracts and past decisions approving export licenses. What the bill says, in essence, is that we will not change the rules in the middle of the game. And is not that what America is all about? Is not that appropriate in cases not involving weapons or nuclear materials or high-tech items, and where our national security is not directly at issue?

We will still be able to impose controls for any valid foreign policy purpose, including making a moral statement. What kind of moral statement can we make, however, if making it means breaking our word? If that is the cost, what kind of message do we send to the rest of the world?

I urge my colleagues, therefore, to oppose this amendment. Its adoption would cripple S. 979, and could make it difficult to get any bill at all. Rejecting the amendment will put the Senate firmly on record in support of the kind of export policy we need to compete successfully in the world. It will indicate that we intend to be a reliable supplier, and that we intend to keep our word.

I would ask those who supported my amendment yesterday—and I know it will not be in those numbers—but those who believe in the provisions embodied in my amendment yesterday to oppose this amendment and to send to the conference committee a bill that we can conference on this important issue so that we can reduce the import, the grave import, I believe, of the language placed in the bill by the House.

Mr. LEVIN. Will the Senator from Illinois yield for a question?

Mr. DIXON. Yes.

Mr. LEVIN. As I understood the amendment of the Senator from Illinois yesterday, it was that agriculture products should not be singled out but that if there were an across-the-board embargo that agriculture products could be included. Is that basically correct?

Mr. DIXON. That is correct.

Mr. LEVIN. My question to the Senator from Illinois is this: If there were an across-the-board embargo imposed under the foreign policy section of this bill, across-the-board embargo under the foreign policy section of this bill, could the President, in the Senator's understanding, also abrogate an existing contract?

Mr. DIXON. An existing contract involving an embargo for foreign policy purposes that is in existence could not be abrogated, but under the national security section of the Export Administration Act it could be.

Mr. LEVIN. I thank my friend. But it is the Senator's understanding that under this bill, if there is an across-the-board embargo on all future contracts, the President could not, nonetheless, also abrogate an existing contract?

Mr. DIXON. Not an existing contract under the foreign policy section. He could under the national security section. He could under any of the other statutes I have cited; that would be the nuclear sections, the weapons sections, and all of those other sections that I have cited. Under one of those sections, I cannot imagine any circumstances where he could not. But if it was a narrow question of foreign policy only, he probably could not.

Mr. LEVIN. I thank the Senator.

Mr. DIXON. Would that be the understanding of my colleague from Pennsylvania?

Mr. HEINZ. The Senator is correct.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Connecticut. Let me say that I am not happy about the necessity of opposing this amendment. The proposal offered here has a certain superficial appeal. All of us in the Senate are opposed to the evils enumerated by the amendment, and all of us believe that the foreign policy of the United States must be to oppose assiduously international terrorism and aggression, and to promote wherever possible the basic human rights to which we as a nation have always been committed.

But there is a difference between the appearance and the reality of this amendment. I believe that an objective appraisal of the situation will suggest that, if we accept this amendment, we will be trading off a real and concrete step toward forwarding our commercial interests in exchange for a heightened willingness to make foreign policy statements of minimal real consequence.

I have been active this year in the consideration by the Banking Committee of these amendments to the Export Administration Act. This legislation is important to my constituents in Washington State, one of the most export-oriented States in the Union, and last year, I held hearings in my State on the problems faced by businesses seeking to participate in export trade. Based on what I heard in those hearings, as well as the deliberations of the Banking Committee over these amendments to the Export Administration Act, I believe that the bill which the committee leadership has advanced is a good bill, which preserves the necessary power of the President to control exports, without damaging the reputation of American businesses as reliable suppliers in the international market. I also believe that the amendment now being proposed by the Senator from Connecticut, although offered out of the noblest of motives, would destroy that balance, and I urge my colleagues to join me in opposing it.

There are, I think, two basic reasons to oppose this amendment. First and more narrowly, the amendment as drafted is dangerously defective. The amendment would allow the President to break preexisting contracts between American suppliers and foreign purchasers upon the allegation of imminent violations of human rights, acts of aggression or terrorism, or nuclear weapons tests. In other words, the President can exercise this power merely by alleging that a violation is immiment. This is an entirely unjustified delegation of power to the President. If he is to have the power to break existing contracts, let us at least delegate it in clear and specific terms, specifying the conditions under which it can be exercised. The proposed wording gives entirely too much discretion to the President. Furthermore, note that there is no qualifier as to which countries this amendment applies. In other words, it applies both to nuclear weapons states and to nonweapons states. Under this amendment, continuation of the weapons testing programs already underway in the Soviet Union, as well as in other countries, is sufficient cause to permit the President to violate contract sanctity. Finally, the amendment gives the President the authority to override contract sanctity "only so long as the acts of aggression or terrorism, violations of human rights, or nuclear weapons tests continue or remain imminent." Now what does this mean? Does this mean that the President can break standing contracts upon the allegation that the Soviet Union is about to undertake a weapons test, but that after the weapons test is over he must reinstate the broken contracts? I cannot believe that that is what the author of this amendment intended, yet that is how it reads.

These technical problems are sufficient reasons to question the wisdom of accepting this amendment. But there is a broader, more important reason why I believe the Senate should reject this amendment. If this amendment is passed, it will add greatly to the commercial difficulties already faced by American suppliers in foreign markets, without accomplishing anything substantive in furtherance of our foreign policy goals. It strikes at the heart of the agreement which permitted committee recommendation of this bill to the Senate. Let us be clear on this point: The amendment says contract sanctity can be broken only in cases of "aggression, terrorism, gross violations of human rights, or nuclear weapons tests." But these are virtually the only reasons why the President would ever impose foreign policy export controls in the first place. The amendment posed by the Senator from Connecticut is not some minor qualification of the contract sanctity provision contained in the underlying bill. This is a gutting amendment which would strip the bill of one of its key important provisions; namely, that while the President can impose export controls for reasons of foreign policy, he cannot break existing contracts when he does so.

Because the Export Administration Act itself is a fairly complicated piece of legislation, and because the committee bill is quite lengthy, I think it is important to review the precise nature of the contract sanctity provisions contained in the committee bill. Under the provisions of the Export Administration Act relevant to this discussion, the President can impose export controls for two reasons: For national security or for foreign policy. National security controls are imposed when the export of the goods in question would "make a significant contribution to the military potential of any other country * * * which would prove detrimental to the national security of the United States."

I may say, incidentally, that most, if not all, of the examples cited by the Senator from Connecticut could well come under that provision.

Foreign policy controls, on the other hand, are imposed under broader sets of circumstances, "* * * where necessary to further significantly the foreign policy of the United States * * *." There are various criteria in the act stating the factors the President must consider in deciding whether this is the case, but essentially the President is left with a great deal of discretion in deciding whether a particular export control will further U.S. foreign policy.

Now, the contract sanctity provisions of this bill—that is, those provisions which this amendment would strip—apply only to the foreign policy controls section of the act. They do not apply to controls imposed for national security reasons. I say this because it must be clear to my colleagues that this amendment would not in any way enhance the national security provisions of the Export Administration Act, just as the contract sanctity provisions of the underlying bill also will not affect the act's national security provisions. The authority to impose export controls for national security reasons is in an entirely different section of the act, one that has nothing to do with this amendment.

Second: Of course, this amendment makes no exceptions for contracts for which there is total, complete, and identical foreign availability of the goods which are embargoed pursuant to the authority granted to the President. We can run right into the situation which we have faced before, where we are punishing simply our own suppliers and where the country which is supposedly the subject of the sanctions can easily find the same goods elsewhere.

Because the amendment also mentions nuclear weapons testing, let us also examine this issue. Export controls for the purpose of insuring nuclear nonproliferation are also not affected by the contract sanctity provisions contained in the committee bill. Nuclear nonproliferation export controls are governed by the nuclear nonproliferation act. They are not now subject to contract sanctity, nor will they be subject to contract sanctity if the committee bill passes. The amendment proposed by the Senator from Connecticut will not contribute one iota to the goal of nuclear nonproliferation, just as passage of the committee bill will not detract one iota from this goal.

As the Senator from Connecticut says in most of his illustrations, he speaks of situations in which the U.S. President had full power to impose export controls. He does not, however, give any illustrations of circumstances under which such embargoes have in fact had the foreign policy goal by which they were sought.

He has referred on more than one occasion to the invasion of Afghanistan. It is very clear that the present Export Administration Act, the embargoes which were exercised pursuant to it, had not the slightest effect on Soviet actions in Afghanistan.

In conclusion, Mr. President, I appreciate the motives which have led the Senator from Connecticut to offer this amendment. But our Nation's interests will be better served if we do not saddle our businesses with an additional disadvantage in competition in world markets. The assurances contained in the committee bill, that the President cannot break preexisting contracts when he imposes export controls for foreign policy reasons, are an important step toward maintaining the reputation of American businesses as dependable international suppliers, and they do not in any way weaken our national security. Stripping the bill of this provision would be a setback, both to our commerce and to our diplomacy. I urge my colleagues to oppose this amendment.

The **PRESIDING OFFICER.** The Senator from Montana is recognized.

Mr. **BAUCUS.** Mr. President, I rise in support of the Export Administration Act and I oppose the amendment offered by the Senator from Connecticut (Mr. DODD) which undermines an essential part of the bill.

This bill has a significant impact on American exports. It also sets out, in the clearest terms, the ground rules that determine our reliability as a supplier. Restoring our credibility as a supplier must be our first priority as we look to ways to reduce our massive and growing foreign trade deficit.

My concerns with this bill center on agricultural exports which represent the single largest component of our merchandise exports.

Their products have withstood the tests of time. They remain competitive in the world market despite the disincentives our own Government has thrown in their path and the many barriers our trading partners have erected to bar their entry.

These policies, however, have taken their toll in recent years. Montana farmers and ranchers along with the entire American agricultural community have suffered as U.S. exports of agricultural products fell 11 percent in fiscal year 1983. This came on top of a 11 percent decline the previous fiscal year.

Despite these drops, our agricultural trade surplus totaled an impressive $18.4 billion in fiscal year 1983. Agriculture's positive contribution to our trade position stands in sharp contrast to our overall trade deficit, which some analysts project may reach $100 billion this year.

The urgency of addressing this deficit cannot be understated. The wisdom of taking whatever measures necessary to support the competitive efforts of our farmers and ranchers cannot be disputed.

For this reason, I oppose all amendments designed to strike or modify the contract sanctity provision as written into S. 979. Singling out agriculture in the contract sanctity provision was done to correct misguided policies that have led to such harmful results as the 1980 embargo on agricultural products exports to Russia.

This embargo, as a recent ITC report concluded, "was a major factor influencing the decline in the U.S. share of the Soviet wheat and coarse grain market in 1980."

An umbrella contract sanctity provision is not enough. Agriculture must be featured because food security is a top priority of all nations. Our trading partners must be convinced they can rely on us as a supplier of vital food products.

As we review the Export Administration Act, we must be mindful of the Supreme Court decision last summer holding all legislative vetoes unconstitutional. We must not yield power to the President by passing a bill containing language that may be struck down later as unconstitutional. For this reason, I have cosponsored an amendment affirming congressional authority to allow the President to impose an embargo of agricultural products for foreign policy reasons for a period of 60 days, unless Congress, by joint resolution, votes to extend the embargo for a period of up to 6 months. If this requires more work on our part, so be it. The Supreme Court has spoken, and our ability to respond constructively will determine the role we play in guaranteeing that the letter and spirit of this act are carried out.

Mr. President, all Members should have listened to the statement of the Senator from Washington. It was a very cogent statement as to where we are in the bill and some of the problems with the pending amendment.

I very much understand the reasons why the amendment is here. I understand the reasons why the Senator from Connecticut offered the amendment. He has stated them very well. He has articulated them very well. He has done a good job in making those points.

Mr. President, it is my view that those arguments are simply incorrect. As well stated as they are, they do not stand up. We need to maintain the present provisions of this bill. I want to associate myself with the remarks of the Senator from Washington.

NEED FOR CONTRACT SANCTITY

Mr. GRASSLEY. Mr. President, I rise today in opposition to the amendment which my colleague is offering which is similar to the Berman language on the House side.

I want to make it perfectly clear however, that my opposition is not based on my feeling that some portions of the amendment do not have merit, but rather, that I feel the language in S. 979 should more appropriately meet the goals we all share.

I have been active since coming to the U.S. Senate in human rights endeavors and will continue to do so in the future. However, we have seen with the last grain embargo and the pipeline sanctions that they simply do not work, nor achieve the goals for which they are intended when we act alone rather than in concert.

So that there is no misunderstanding let me state that I have, and will continue as long as I am in the U.S. Senate to deplore international terrorism, gross violations of internationally recognized human rights and other goals which the Senator is trying to address with his amendment.

If there is any question as to my commitment to human rights, you only have to look at my activities in the Soviet Union, my establishment of the International Parliamentary Group for Human Rights in the Soviet Union, the circulation today of Senator DECONCINI's and my dear colleague in support of Anatoly Shcharansky and the list goes on.

The facts are that abrogation of contracts have not been effective in the areas where they have been attempted. Should an occasion arise where events warrant a contract termination, I am confident that Congress will perform its duty, and goods will not be shipped. For it will only be when we restore the respect we have lost in the world community that we can be more effective in the areas which my colleague is trying to achieve.

● Mr. LEVIN. Mr. President, I intend to vote against tabling the Dodd amendment. This amendment grants the President the authority necessary to act expeditiously in response to acts such as terrorism. I agree that it may have to be fine tuned. We should make clear that the President could not exercise the authority granted to him by this amendment to abrogate existing contracts which affect only selected sectors of the economy, such as agriculture. However, tabling this amendment would cut off the opportunity for such fine tuning.●

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to lay the amendment of the Senator from Connecticut on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. BYRD. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from California (Mr. CRANSTON), the Senator from Kentucky (Mr. FORD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New York (Mr. MOYNIHAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 65, nays 21—as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—65

Abdnor
Andrews
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bumpers
Burdick
Byrd
Cochran
D'Amato
Danforth
Dixon
Dole
Domenici
Durenberger
Eagleton
East
Evans
Exon
Garn
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hecht
Heflin
Heinz
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Long
Lugar
Mathias
Mattingly
McClure
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Quayle
Randolph
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Wilson
Zorinsky

NAYS—21

Armstrong
Chiles
Cohen
DeConcini
Denton
Dodd
Inouye
Kasten
Kennedy
Lautenberg
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Pell
Proxmire
Riegle
Sarbanes
Sasser
Tsongas

NOT VOTING—14

Baker
Bradley
Chafee
Cranston
Ford
Glenn
Goldwater
Hart
Hollings
Huddleston
Moynihan
Percy
Stennis
Weicker

So the motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. GARN. Mr. President, may we have order? I think the Senate will be interested in what I have to propose.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. GARN. Mr. President, as far as we know, there is one more rollcall vote. I have conferred with the distinguished minority leader, and he is in accord with seeking a unanimous-consent agreement to confine it to a 10-minute rollcall vote.

So I do ask unanimous consent that on the Boren sense-of-the-Senate resolution, there be 2 minutes, equally divided, followed by a 10-minute rollcall vote.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none, and it is so ordered.

Mr. **GARN**. Mr. President, I know of no other requests for a rollcall vote on final passage. So I inquire of the Senate at this time if there are any requests for a rollcall vote on final passage. If not, the vote on the Boren amendment would be the last one this evening.

I thank the Chair. I hear no requests.

The **PRESIDING OFFICER**. The question recurs on the amendments of the Senator from Oklahoma.

AMENDMENT NO. 2775 (AS MODIFIED)

Mr. **BOREN**. Mr. President, there is a modification of the amendment at the desk.

The **PRESIDING OFFICER**. The amendment, as modified, will be stated.

Mr. **BOREN**. Mr. President, I ask unanimous consent that reading of the modification be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment, as modified is as follows:

In lieu of the language proposed to be inserted by amendment No. 2774, insert the following:

It is the sense of the Senate that the following should be enacted by the Congress:

TITLE II—WHEAT

SEC. 201. This title may be cited as the "Wheat Improvement Act of 1984".

TARGET PRICES

SEC. 202. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out "$4.45 per bushel for the 1984 crop, and $4.65 per bushel for the 1985 crop" and inserting in lieu thereof "$4.38 per bushel for the 1984, crop, and $4.38 per bushel for the 1985 crop".

1984 AND 1985 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 203. Section 107B(e) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence of paragraph (1)(A) "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B), (C), and (D)";

(2) adding at the end of paragraph (1) the following new subparagraphs:

"(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 30 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing. The closing date for signup in such programs shall not be earlier than March 30, 1984.

"(D) For the 1985 crop of wheat, the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of not less than 30 per centum, consisting of a reduction of not more than 20 per centum under the acreage limitation program and a reduction of not less than 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1985 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing.";

(3) adding at the end of paragraph (4) the following: "For the 1984 and 1985 crops of wheat, in making the determination specified in the preceding sentence the Secretary shall treat land that has been farmed under summer fallow practices in the same manner as such land was treated by the Secretary for purposes of making such determination for the 1983 crop of wheat."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1984 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1984 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than $3 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1984 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1984 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield. Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1985 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to not less than 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than $3.00 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1985 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1985 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield.

ADVANCE PAYMENTS

SEC. 204. Section 107C of the Agricultural Act of 1949 is amended by—

(1) inserting in subsection (b)(1)(B) "(except that for the 1984 crop of wheat, the Secretary shall make available)" after "may make available", and

(2) striking out in subsection (c)(4) "1983 crops of wheat," and inserting in lieu thereof "1983, 1984, and 1985 crops of wheat, and the 1983 crops of".

It is further the sense of the Senate that a program for drought assistance should be enacted by the Congress.

The **PRESIDING OFFICER**. Without objection, the amendment is so modified.

The Senate will please be in order.

Mr. **BOREN**. Mr. President, what we now have with the modification is simply a sense-of-the-Senate resolution in terms of what the wheat program should be. We have already had a full discussion of this issue on the floor, so I will not take further time of Members of the Senate at this time.

I ask unanimous consent that the name of the Senator from Kansas (Mr. Dole) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further discussion on the amendment?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I thank the Senator from Oklahoma for changing it to a sense-of-the-Senate resolution. Obviously, we may not get every comma and every little detail, but at least it will help us in our negotiations on Monday.

If we cannot work it out, we can come back and offer the same proposal as an amendment.

Mr. BYRD. Mr. President, I cannot hear what the distinguished Senator is saying.

Mr. DOLE. I did not say much.

[Laughter.]

Mr. BYRD. Will the Senator repeat it?

Mr. DOLE. I just want to thank the Senator from Oklahoma for changing it to a sense-of-the-Senate resolution.

As I have indicated, we may not be able to get everything in the resolution, but it does give us some help when we sit down with the Secretary of Agriculture and the Director of OMB.

Mr. BYRD. I thank the Senator. I am sorry I imposed on him. I could hardly hear him.

Mr. BOREN. Mr. President, have the yeas and nays been ordered on the amendment?

The PRESIDING OFFICER. They have not.

Mr. BOREN. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is time yielded back?

Mr. GARN. I yield back the time on our side.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Rhode Island (Mr. Chafee), the Senator from Arizona (Mr. Goldwater), the Senator from Illinois (Mr. Percy), the Senator from Vermont (Mr. Stafford), and the Senator from Connecticut (Mr. Weicker), are necessarily absent.

Mr. BYRD. I announce that the Senator from New Jersey (Mr. Bradley), the Senator from California (Mr. Cranston), the Senator from Kentucky (Mr. Ford), the Senator from Ohio (Mr. Glenn), the Senator from Colorado (Mr. Hart), the Senator from South Carolina (Mr. Hollings), the Senator from Kentucky (Mr. Huddleston), the Senator from New York (Mr. Moynihan), the Senator from Rhode Island (Mr. Pell), and the Senator from Mississippi (Mr. Stennis), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 22, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—62

Abdnor
Andrews
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bumpers
Burdick
Byrd
Chiles
Cohen
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
Durenberger
Eagleton
East
Evans
Gorton
Grassley
Hatfield
Hecht
Heflin
Heinz
Helms
Inouye
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Long
Matsunaga
McClure
Melcher
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pressler
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Simpson
Specter
Thurmond
Tower
Tsongas
Wallop
Wilson

NAYS—22

Armstrong
Cochran
D'Amato
Dodd
Exon
Garn
Hatch
Hawkins
Humphrey
Lautenberg
Lugar
Mathias
Mattingly
Metzenbaum
Quayle
Roth
Rudman
Stevens
Symms
Trible
Warner
Zorinsky

NOT VOTING—16

Baker
Bradley
Chafee
Cranston
Ford
Glenn
Goldwater
Hart
Hollings
Huddleston
Moynihan
Pell
Percy
Stafford
Stennis
Weicker

So Mr. Boren's amendment (No. 2775), as modified, was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, parliamentary inquiry. I understand that the yeas and nays have been ordered on the underlying Boren amendment. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HEINZ. Before we go any further, I ask unanimous consent—and I understand this is the wish of the Senator from Oklahoma—to vitiate those yeas and nays.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the underlying amendment, as amended.

The amendment (No. 2774), as amended, was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2777

(Purpose: To provide that the Export Administration Act of 1979 shall not be construed to affect the provisions of the last sentence of section 812 of the Agricultural Act of 1970)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota (Mr. Boschwitz), for himself, Mr. Bentsen, Mr. Boren, Mr. Abdnor, Mr. Melcher, Mr. Durenberger, Mr. Baucus, Mr. Sasser, Mr. Huddleston, Mr. Zorinsky, Mr. Pryor, Mr. Ford, Mr. Helms, and Mr. Jepsen, proposes an amendment numbered 2777.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

EFFECT ON OTHER ACTS

Sec. . Section 17 of the Export Administration Act of 1979 is amended by adding at the end thereof the following new subsection:

"(e) Agricultural Act of 1970.—Nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of the last sentence of section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3).".

Mr. BOSCHWITZ. Mr. President, contract sanctity for agricultural exports is one of the most important issues facing U.S. agriculture. This country's history of imposing agricultural embargoes makes it imperative that we defend the integrity of our export contracts in order to enhance our image as a reliable supplier.

The Futures Trading Act of 1982 (H.R. 5447) contains the contract-sanctity provision for which farmers worked so long and so hard. I am offering an amendment (No. 2427) which clarifies and reaffirms that provision. Joining me as cosponsors are Senators Bentsen, Boren, Abdnor, Melcher, Durenberger, Baucus, Sasser, Huddleston, Zorinsky, Pryor, Ford, and Helms.

The amendment is technical and noncontroversial. It is needed because some people in the agricultural community have raised questions as to whether certain provisions in S. 979 might lead the courts to decide that the Congress had intended to supersede the contract sanctity provisions of H.R. 5447. Clearly, the Congress does not want to abandon its commitment to contract sanctity for agricultural exports. Adoption of this amendment will prevent any possible misinterpretation of congressional intent.

The House of Representatives has already adopted a similar amendment offered by Mr. STENHOLM. That amendment received broad support. I expect that same type of support to be forthcoming in the Senate. I urge all my colleagues who are interested in agricultural trade to join me in passing this amendment.

AGRICULTURAL EXPORTS AND FOREIGN POLICY

Mr. HELMS. Mr. President, I commend the distinguished Senator from Minnesota for his leadership and initiative in offering this amendment. The amendment will reaffirm the important agricultural contract sanctity provision of the Futures Trading Act of 1982, and I urge my colleagues to support it.

On October 1, 1982, the agricultural contract sanctity amendment was offered by Senator DURENBERGER to legislation reported from the Agriculture Committee. As I stated on that day:

> The intent of this amendment is to regain the image of a reliable supplier of agricultural commodities in foreign markets for the United States, but in a manner that does not impinge upon the President's authority to conduct foreign policy.

The amendment was adopted by the full Senate with bipartisan support.

When the Agriculture Committees met in conference on the Futures Trading Act, the House accepted the Senate version of contract sanctity. President Reagan signed the legislation into law on January 11, 1983.

The Senate should reaffirm this provision by adopting the Boschwitz amendment today. Such action is a necessary step to rebuild our trade relationships after the damage done by the Carter-Mondale grain embargo of 1980.

American farmers are still feeling the impact of that embargo, along with the other economic problems caused by global surpluses, weak economies, and increased foreign competition. We can help our farmers get back on track in world markets by adopting this amendment today.

At this point I would like to discuss the role of agricultural exports in foreign policy, highlight two provisions of my legislation, and make clear President Reagan's record on agricultural trade.

FOREIGN POLICY AND FARM EXPORTS

Mr. President, American farmers need unfettered access to world markets, and America needs a strong foreign policy. Some people who want to use agricultural embargoes as a foreign policy tool may see an innate contradiction between these two objectives, but it does not have to be that way.

A strong America with a firm foreign policy needs a healthy and prosperous agriculture as its foundation. We can build a strong America and protect our future by promoting exports of U.S. agricultural products and assuring the sanctity of agricultural contracts, while controlling shipments of militarily sensitive, high technology items.

Mr. President, we need a foreign policy that is meaningful and effective. History suggests that unilateral, agricultural export embargoes on fungible commodities simply do not work. Other countries have millions of acres of untilled land which can come into crop production to fill the gap if the United States withdraws from world markets through an embargo. Therefore, we should maximize our comparative advantage in agricultural trade and at the same time focus export control legislation on other sectors of our economy.

This is not a contradictory position. Rather, it is a policy that will work for America.

The failed Carter grain embargo of 1980 illustrates the case. It was simply not an effective means of implementing U.S. foreign policy. Many countries can produce wheat, for example, and while the embargo had a disastrous impact on U.S. farm prices, not all grain-exporting countries cooperated with it. The Soviets ultimately got much of the grain they needed from other sources, and it hurt U.S. farmers much more than the Soviet leadership.

The same is not true for high-technology products. In these cases, the United States can and should control such exports. I have sought to focus our efforts on high-technology products, which should lead to a more meaningful and effective foreign policy.

IMPORTANT PROVISIONS FOR AGRICULTURE

Last week I introduced S. 2342 to amend the Export Administration Act. Two provisions of my version of the Export Administration Act are especially important to agriculture. One would provide an exclusion for agricultural commodities from export controls imposed for national security purposes. The second, similar to the pending amendment, would reaffirm the agricultural contract sanctity provision adopted by the Congress in 1982.

First, the agricultural exclusion makes clear that, except in time of war or national emergency, this legislation does not authorize export controls on agricultural commodities for national security purposes. As I discussed earlier, this will shift the focus of export controls away from fungible agricultural products to those items where export controls are more workable.

Second, my legislation included a provision similar to the pending Boschwitz amendment. These will reaffirm the vital contract sanctity provisions already adopted for agriculture which provide that, except for a war or national emergency, existing export contracts for agricultural commodities and products would be assured of delivery for up to 270 days after a trade suspension is imposed.

This provision is very important because it does not impinge on the President's prerogatives to impose controls, yet it provides the private sector with reasonable ground rules. Agricultural contract sanctity helps farm exports by assuring foreign customers that the United States will be a reliable supplier.

This amendment reaffirms the existing, permanent contract sanctity law and makes clear that none of these new provisions will change or adversely affect it.

I have received letters from a number of farm organizations urging that the Senate preserve the contract sanctity protections for agriculture already adopted in the Futures Trading Act of 1982. One letter stated:

> As you know, this is absolutely vital to the United States if we are to regain our reputation as a reliable supplier of farm products for export, which has been so badly damaged by abrupt and unwise embargo actions in past years.

The farm organizations supporting this view are the American Farm Bureau Federation, American Soybean Association, Millers' National Federation, National Association of Wheat Growers, National Broiler Council, National Corn Growers Association, National Council of Farmer Cooperatives, National Farmers Organization, National Farmers Union, National Grain Trade Council, National Grange, National Soybean Processors' Association, and Poultry and Egg Institute of America.

PRESIDENT REAGAN'S RECORD

Under President Reagan's leadership, American farmers have received stronger protections from embargoes than ever before. I urge my colleagues to look at the record.

On January 4, 1980, President Jimmy Carter imposed his ill-fated embargo on U.S. grain and poultry products. The result was turmoil in our export markets and on American's farms.

The commodity futures markets were ordered closed because of the uncertainty. No trading was allowed.

Several days later, the markets were allowed to reopen. Immediately, prices fell the entire allowable limit. Day after day, prices fell the limit and farmers felt the shock.

It has been more than 4 years since that time, but some analysts believe that the long-term damage of the embargo was even greater than the short term. These analysts point out that the U.S. embargo provided a windfall for other grain exporters, which sharply boosted grain shipments to the U.S.S.R.

Other exporting countries geared up production to fill the void left by the United States. Argentina is an example.

From 1980 when the embargo was imposed to 1984, Argentine field crop acreage increased from 14.7 million hectares to 18.7 million hectares, a 26.9-percent increase. Wheat, one of the commodities embargoed by the United States, increased even more rapidly. Argentine wheat acreage from 1980 to 1983 increased from 4.78 million hectares to 7.3 million hectares, an increase of 52.9 percent. USDA estimates that an additional 3.7 million acres remains untilled in Argentina, and that land can still come into production to fill the gap if the United States should withdraw from world markets through an embargo.

Once developed, this production capacity stays on stream in competition with the United States. Meanwhile, our foreign customers buy from a number of other countries so as to avoid dependence on U.S. agriculture.

President Reagan fulfilled his pledge to American farmers and lifted the ill-conceived Carter-Mondale embargo. Twice he allowed for 1-year extensions of the long-term agreement with the Soviet Union, which would otherwise have expired in 1981.

In 1983, the United States successfully negotiated a new, expanded long-term agreement with the Soviet Union. That amendment increased by half the minimum amount of U.S. commodities which the U.S.S.R. agreed to buy. It also encouraged value-added exports in the form of soybean products.

As I previously mentioned, President Reagan signed the Futures Trading Act of 1982 which contained contract sanctity for agriculture. He also signed the Agriculture and Food Act of 1981 which contained an Agricultural Embargo Protection Plan. That provision, authored by Senators BOSCHWITZ and JEPSEN, would provide substantial compensation to producers in the event of an embargo.

Early in his administration, the President stated a three-part policy referred to as the "Reagan Doctrine" on agricultural trade.

First, the President promised that no restrictions will be imposed on the exportation of farm products because of rising domestic prices. This commitment by the President to America's farmers—and to our customers worldwide—marks an end to the artificial cheap food policies of earlier days. It is a commitment that farmers will not be restricted from earning profits when farm prices do go up in the future.

Second, the President pledged that restrictions on commercial agricultural exports would not be imposed for foreign policy purposes except in the most extreme situations, and even then agriculture will not be singled out.

Third, the President made clear that trade barriers and unfair practices of our trading partners must not be continued if farmers are to receive the prices they deserve in the marketplace.

In short, American farmers can be glad that President Reagan and Secretary Block have made such a commitment to agricultural exports.

Mr. BENTSEN. Mr. President, I am pleased to join with my distinguished colleagues in offering this amendment to S. 979, the Export Administration Act, to preserve the agricultural contract sanctity protection of current law.

This amendment was offered in the House by Congressman STENHOLM of Texas and was approved by voice vote. My distinguished colleague from Texas is a member of the House Agriculture Committee and is a leading spokesman for the farmers and ranchers of this country. His foresight in providing this needed protection from the capricious embargoes of the current and former administrations is most commendable. As an original proponent of the agricultural contract sanctity now in law, I was pleased to agree to his request to carry this legislation in the Senate for him.

Mr. President, throughout the last decade agricultural embargoes have done immense damage to the American farmer. These embargoes have badly tarnished our reputation as a reliable supplier of food—a reputation without which we cannot expect to be a major long-term presence in the international export market.

We have taken steps to protect and refurbish that image. I was pleased to sponsor a contract sanctity provision that was enacted into law as part of the Futures Trading Act of 1982 (Public Law 97-444). Agricultural export contracts are now protected from the effects of any embargo for a period of 270 days. This amendment would simply preserve the agricultural contract sanctity provision in existing law.

The subject of contract sanctity is once again an issue in the Export Administration Act, S. 979. The House version of this bill contains language that is significantly different from the language in S. 979 as reported.

The adoption of this amendment to S. 979 will avoid any possible problems with the conference on this bill. Such action will assure that, whatever happens with regard to other contract sanctity provisions, the agricultural contract sanctity in existing law will not be imperiled. This is because this amendment is exactly the same as the House language, and thus will not be an item of conference.

This amendment is not intended to in any way modify or undercut the other contract sanctity provisions of S. 979. It is my understanding that S. 979 is not intended to repeal or modify the existing contract sanctity law for agricultural products. If that is the case, then there should be no objection to spelling that intent out with this amendment.

This amendment is needed even if the other contract sanctity language in S. 979 is adopted as reported by the Committee. While the contract sanctity language in S. 979 as reported may appear to be even broader than existing contract sanctity law, there are actually significant shortcomings.

First is the fact that the language in S. 979 would not apply to short-supply embargoes. Anyone in the soybean business knows well the problem with that loophole—the Nixon and Ford soybean embargoes were short-supply embargoes brought about by domestic pressure. These embargoes caused the Japanese, who were then totally dependent on the United States for their soybean food supplies, to go to Brazil and there finance the creation of a major soybean industry. Brazil is now a fierce competitor in a world market that was exclusively ours until those short-supply embargoes.

Second, the agricultural contract sanctity provision in current law is permanent. If it were replaced by a provision in the Export Administration Act, which expires periodically, then foreign buyers would run the risk of losing this protection every time the law came up for renewal. Witness the fact that the Export Administration Act authority is now expired.

One of the major problems that we have with our agricultural exports is our image as an unreliable supplier. We cannot hope to overcome that if we cannot offer consistent and reliable protection from the capricious embargoes that have been carried out by all of the last four administrations, three of them Republican and one Democratic.

These embargoes have been bipartisan. The solutions for our farmers must also be bipartisan, and this amendment is an important part of that solution. We cannot be a reliable supplier of food to the world market if we allow embargoes whenever our supplies get a little tight. We cannot expect foreign buyers to rely on our legal guarantees of access to the U.S. market if we let those legal protections lapse periodically because we are deadlocked over the renewal of the Export Administration Act.

This amendment is a simple but necessary safety precaution for American farmers, and I urge my colleagues to join in supporting it.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Minnesota (Mr. BOSCHWITZ).

The amendment (No. 2777) was agreed to.

AMENDMENT NO. 2778

(Purpose: To require a study on the delegation of licensing authority)

Mr. **BOREN.** Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma (Mr. BOREN), for himself and Mr. BUMPERS proposes an amendment numbered 2778.

Mr. **BOREN.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 21, after line 23, insert the following:

"(g) Study on the Delegation of Licensing Authority.—The Secretary of Commerce shall conduct a study to determine the feasibility of permitting international Trade Administration district offices to review and issue validated export license applications for those categories of goods and technology identified by the Secretary as nonsensitive which are to be exported for use in any COCOM country, Australia or New Zealand. The Secretary shall report the results of the study by November 1, 1984, to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Foreign Affairs.".

Mr. **BOREN.** Mr. President, this amendment is offered on behalf of myself and the Senator from Arkansas (Mr. BUMPERS).

Mr. President, the Commerce Department estimates that there are at least 20,000 small firms in this country that have the potential to export, but because of a variety of disincentives, are not doing so. One of the most frequently mentioned disincentives for these exporters is the complicated export licensing process and the time required.

My amendment is aimed at simplifying this process, by directing the Secretary of Commerce, to conduct a study of the feasibility of authorizing International Trade Administration district offices to review and issue a limited category of validated export licenses. Such applications would be those identified by the Secretary as sufficiently nonsensitive and would be those for export and use only in any Cocom country, Australia and New Zealand. I believe that this study is warranted in view of the fact that in 1979, the Office of Export Administration processed a total of 72,287 license applications, of which some 22,377 or 31 percent were for the Cocom countries, Australia and New Zealand. Not one of these 22,377 applications was denied. The program could be written to eliminate any risk of diverting sensitive technology to our adversaries.

There is obviously much room for refinement of this approach, and I believe that an extensive examination of this idea would be worth our while. We must take all possible positive steps to improve our trade balance in ways that would not pose any security conflict. I urge my colleagues to support this study aimed at strengthening America's export efforts.

Mr. President, I have discussed this amendment calling for this study with the managers of the bill and I believe that this amendment is acceptable to them.

Mr. **HEINZ.** Mr. President, this is a study amendment regarding the possibility of the granting of licenses by regional offices of the Commerce Department. I think it is a good thing to study and we are prepared to accept the amendment.

The **PRESIDING OFFICER.** Is there further discussion? If not, the question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BOREN).

The amendment (No. 2778) was agreed to.

Mr. **BOREN.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **HEINZ.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **HEINZ.** Mr. President, I know of no more statements or amendments. I think we are prepared to go to third reading.

Mr. **MATTINGLY.** Mr. President, as a member of the Banking Committee, which had jurisdiction for legislation to renew the Export Administration Act of 1979, and as one who is sincerely concerned about the flow of goods and technology to our adversaries, I am very interested in the issue of export controls, particularly those maintained for purposes of national security.

We cannot allow militarily critical goods and technology to flow to the Soviet Union and the East bloc. Events within the last year have reminded us that the Free World stands challenged by forces of communism and faces the aggression of the Soviet Union in all corners of the globe.

Increasing Soviet presence in all continents threatens our national security as our defenses are spread thinner. In other words, with increasing Soviet presence in South America, in the Far East, in the Middle East, and in areas closer to home, like the Caribbean, it becomes essential not to aid or abet the growth of communism by providing them with the means for growth. In fact, with the Soviet threat, we need to keep our sensitive goods and technology within our own borders and those of other Western nations. The strength of our national security is too important to risk the export of goods or technology which, if diverted to our adversaries, could pose a threat to our vital national interest.

With these concerns in mind, I originally cosponsored S. 434, introduced by the distinguished chairman of the Banking Committee, Senator GARN, which provided for the creation of an Office of Strategic Trade (OST). An OST would have the exclusive responsibility within the U.S. Government for administering our export controls. I believe that an OST would lead to better coordination and unification of export regulation and would improve the efficiency and strategic effectiveness of export control. Most importantly the creation of an OST would enhance the focus and increase the importance placed on our export control policymaking, implementation, and enforcement.

I have not yet been convinced that the approach embodied by S. 434 is not the appropriate one. However, in an effort to reach a compromise bill on the renewal of the Export Administration Act of 1979, the Banking Committee decided to delay action on S. 434 until after reviewing information from the administration concerning how such an Office could be established. Therefore, S. 979 contains a provision requiring the President to submit a plan for establishing such an Office. Since I continue to believe that the OST approach to export administration would be the most effective, I am anxious to review such a detailed plan.

Our attention is now focused on S. 979, a bill designed to meet the needs of our exporters and to enhance the effectiveness of our export controls, especially those imposed in the interest of our national security. I commend those Senators who were instrumental in developing S. 979.

I sincerely believe this bill strikes an acceptable balance between controlling military critical technology and goods, on the one hand, and on the other, maintaining the competitive position of American exports and the international reputation that the United States is a reliable supplier.

One way we can insure better protection against the illegal outflow of goods and technology to the Soviet Union and the East bloc is through improved enforcement. The recent last minute diversions of computer hardware about to fall into the hands of S. 979 would provide for better enforcement of U.S. export controls by statutorily giving the U.S. customs service responsibility for enforcement, while retaining the licensing and administration responsibilities at the Commerce Department. I wholeheartily support this action for a number of reasons.

Customs is one of the traditional law enforcement agencies of the Government and has substantial resources and traditional law enforcement experience. The customs service developed an effective export enforcement program known as operation Exodus. This program is designed to halt the flow of illegal, militarily significant Western technology and other high technology from the United States and other Western countries to the Soviet Union and other Soviet bloc countries. Customs currently has a designated Exodus staff of approximately 292 specialists and investigators who constitute the Government's primary enforcement work force both in the United States and in foreign nations. The Exodus staff is supplemented by the approximately 750 customs agents and inspectors who work at the major ports of entry to prevent the export of high technology hardware and software that is being illegally shipped to Soviet bloc countries or the Soviet Union itself.

The most recent positive development in regard to Commerce's law enforcement efforts is an agreement signed by the Commerce and Treasury Departments on January 17 concerning the conduct of foreign investigations which relate to violations of the Export Administration Act. Among other provisions, it acknowledges that the customs service has foreign counterparts with whom the service can work, except in certain countries where the Commerce counterpart is responsible for enforcement.

Furthermore, S. 979 adds a new provision permitting officers of the customs service to conduct border searches in connection with suspected exports of goods or technology. The purpose of the amendment is to make it clear that searches of exports may be conducted on the same basis as searches governing imports.

The Commerce Department, on the other hand, has little of the law enforcement experience which is necessary to safeguard our Nation from the illegal export of technology. Commerce investigations are powerless to make arrests, serve search warrants, conduct warrantless searches at our Nation's borders, take sworn statements under oath, or carry firearms. Additionally, Commerce has neither the trained manpower nor the facilities available at our strategic ports to safeguard U.S. technology and stop its movement. The Commerce Department has a limited staff of approximately 35 criminal investigators located in four cities and five export inspectors, stationed only in New York.

Further efforts to give enforcement responsibilities to Commerce would be duplicative and costly since a major increase in administrative staff with experience in law enforcement would be needed.

Mr. President, it is clear: To stem the flow of critical technology and goods to adversary nations, it is essential that the customs service be given statutory authority for enforcement as S. 979 provides. The Commerce Department would retain responsibility for licensing and administration.

I realize there are opponents to the idea of placing enforcement in customs. When Operation Exodus was established in October 1981, its operation was initially cumbersome and caused long delays. Many businesses charged that their goods were held up for long periods at the ports because of the inexperience of customs in dealing with export controls. There have been complaints of delays and loss of reputation for timely delivery. I recognize these complaints. Yet, my response to them is that some form of enforcement is better than no enforcement at all.

Furthermore, customs export enforcement role, emphasizing traditional criminal investigative techniques, is being enhanced through innovative programs and increased foreign and domestic cooperation. The export inspection program of Operation Exodus is becoming less onerous to the American exporting industry due to customs selective targeting of the acquisition priorities of the Soviet bloc and by the streamlining of outbound, documentation clearance and release procedures. Customs is building a computer data base of technical information and has begun enhanced training for inspectors. Customs is also planning continued involvement with the U.S. exporting community in furtherance of these goals.

In fact, the Congress already has endorsed customs efforts to enforce controls by appropriating $30 million for this purpose in the 1984 continuing resolution.

In the Senate Appropriation Committee's report on the 1984 Treasury appropriation bill, it stated that the funding recommended by the committee, and I quote:

> Will help to further the effectiveness of the program—Operation Exodus—by enhancing selectivity and reducing the time expended in conducting fruitless examinations and effective counterproductive detentions.

The improvements to Operation Exodus made possible by its new appropriation should help to change initial criticisms of exodus.

It is my intention, Mr. President, to express my interest to the managers of S. 979 that the statutory authority for enforcement be transferred to the customs service as S. 979 provides. I say this because I understand that the House opposes such statutory changes and would prefer to see enforcement remain at Commerce. I think such a move would be a mistake and could prove threatening to the national security of this Nation.

Mr. President, I would like to ask the manager of this bill, Senator GARN, for his assurance that he and the other Senate conferees of S. 979 will do everything possible to see that the provisions of the bill concerning enforcement are retained.

Mr. GARN. I agree with my good friend from Georgia and can assure him that I will support this provision of S. 979 and will do everything I can to see it remains in the conference bill.

Mr. MATTINGLY. I thank my good friend from Utah and commend him on his fine job on developing this complex and essential piece of legislation. Thank, you, Mr. President.

HOUSE-PASSED RESTRICTIONS ON SOUTH AFRICA

Mr. LEVIN. Mr. President, the restrictions contained in the House-passed version of the Export Administration Act Amendments of 1983 will impose modest but tangible costs on the South African economy. The political impact of the restrictions will be substantial.

The bill adds a new title III to the act, the U.S. Policy Towards South Africa Act of 1983, and consists of the following:

Establishes a set of legally enforceable fair employment standards for U.S. firms operating in South Africa with more than 20 employees; prescribes penalties for noncompliance; and authorizes the Secretary of State to implement the provisions;

Prohibits U.S. bank loans to the South African Government, except for loans made for educational, housing, and health facilities which are available on a totally nondiscriminatory basis in areas open to all population groups; and

Prohibits the importation into the United States of Krugerands or any other gold coin minted or offered for sale by the South African Government; prescribes penalties for noncompliance; and authorizes the Secretary of State to implement these provisions.

Mr. President, the implementation of these restrictions will demonstrate to South African blacks that the United States is prepared to exert new pressures for their political enfranchisement. These restrictions will indicate to the world that the United States does not have a double standard for human rights by race and that it is prepared to adopt sanctions against South African as well as Poland and the Soviet Union.

Opponents of these restrictions have argued that the provisions would antagonize blacks by depriving them of employment. But the employment effects, according to the House Subcommittee on Africa, would be minimal because the actual economic impact of the restrictions is modest. Furthermore, black leaders have indicated that blacks would be prepared to suffer in the short-run for long-run purpose. As the late Steve Biko said:

> The argument is often made that the loss of foreign investment would hurt blacks the most. It would undoubtedly hurt blacks in the short run, because many of them would stand to lose their jobs. But it should be understood in Europe and North America that foreign investment supports the present economic system of political injustice. . . . If Washington is really interested in contributing to the development of a just society in South Africa, it would discourage investment in South Africa. We Blacks are perfectly willing to suffer the consequences! We are accustomed to suffering.

Mr. President, Stanley Greenberg, who is the associate director of Yale University's Southern Africa research program, has rebutted this argument that foreign investment and economic growth by themselves will improve the plight of blacks in South Africa. He testified before the House Subcommittee on Africa September of last year:

> This easy association between economic growth and political reform lacks a historic foundation in South Africa; more than a century of industrial development has been accompanied by more, not less, racial discrimination. The pressures for change and reform are rooted not in this economic logic, but in the political struggles that have accompanied it—protests, civil disorders, strikes, and organization, internal and external. Businessmen in South Africa have demanded or proved receptive to racial reform only when black political opposition compelled it. If the United States hopes to encourage reform in South Africa, it must align our country, not simply with abstract economic forces and the state, but the political initiatives of the black majority.

Mr. President, the House-passed restrictions will significantly enhance U.S. political credibility among black South Africans.

I urge my colleagues who will be Senate conferees on this most vital legislation to accede to the House and accept title III of the act, the U.S. Policy Towards South Africa Act of 1983.

Mr. NUNN. Mr. President, I want to recommend passage of S. 979, legislation reported out of the Banking, Housing, and Urban Affairs Committee to amend and reauthorize the Export Administration Act.

The legislation reflects the diligence and good judgment of Senator GARN, chairman of the Banking Committee; Senator HEINZ, chairman of the International Finance and Monetary Policy Subcommittee; Senator PROXMIRE, the ranking minority member of the committee, and other members of the committee. These Senators are to be commended for having presented us with a bill that, if enacted, can give our Nation a realistic and fair strategy for combating the increasing assault on American high technology. At the same time, the measure will enable U.S. businesses to export with few restraints.

The committee's balanced and carefully constructed bill comes at a time when the United States is going through the difficult process of reevaluating and reforming our system of export controls. Our objective should be to fashion an export control policy that is responsive to the interests of American business and, at the same time, accommodates national security considerations. This bill achieves that dual objective.

This legislation recognizes the necessity of the United States to promote the foreign sale of its high technology products. In most areas, the United States still enjoys a position of preeminence in technology. There is great demand in the world for America's high technology products and Government policy should be to sell those products wherever appropriate. In the overwhelming majority of cases, the unfettered export of these goods and know-how is beneficial to the American economy and has absolutely no detrimental effect on national security.

However, in some important instances, certain advanced technological products should not be exported because, in the hands of an adversary, they can have military applications that conceivably could be used against us, our friends and allies. It is with regard to those few high technology products that U.S. policy should be clear and readily enforceable.

These products, and the technologies from which they were created, should be identified properly as being controlled and Federal authorities should have the resources to promulgate their controlled status to manufacturers. When information is developed indicating that controlled items are being shipped abroad without license or under fake certification, U.S. authorities should have the ability to investigate promptly and, if the law is found to have been broken, bring the violators to justice. That is the way an effective export control system would be managed. Unfortunately, in too many instances that has not been the way American export controls have been administered or enforced.

In May 1982, after a preliminary inquiry of nearly 2 years, the Senate Permanent Subcommittee on Investigations held 5 days of public hearings during which this Nation's export control policies and procedures were held up to close scrutiny.

As the ranking minority member of the subcommittee, and as its chairman in 1980 when the preliminary investigation was begun, I had the opportunity to see firsthand the frequently disappointing revelations that surfaced about our system of export controls during the inquiry and hearings. In that regard, I believe I speak for subcommittee Chairman ROTH, Senators RUDMAN, CHILES, COHEN, and other members when I say that our hearings showed that the executive branch, under both Democratic and Republican adminstrations, had not dealt effectively with the export control issue.

Adm. Bobby Inman, who at the time was the Deputy Director of the Central Intelligence Agency and is one of the foremost experts on Soviet designs on U.S. technology, acknowledged in testimony before the subcommittee that the American intelligence and defense communities had not devoted sufficient resources to the issue of technology diversion. Other witnesses from defense and intelligence backgrounds also acknowledged past U.S. failures to prevent technology diversions and the need to improve export controls. And, to be fair, Congress itself has been remiss at times in the sense that all too often we have accepted without critical evaluation the assurances of Government spokesmen who claimed that things were in good order with respect to export controls. However, under close examination, the Investigations Subcommittee concluded that, when it came to export controls, things were not in very good order at all.

As a result of the evidence produced before the subcommittee, Senator CHILES and I introduced legislation designed to remedy proven shortcomings in our system of export control: S. 407, the Export Administration Enforcement Act of 1983; S. 408, the Technology Security Enforcement Act of 1983; and S. 409, the Citizens Information Act of 1983. These bills address the specific problem of technology transfer to the Soviets as demonstrated at the subcommittee's hearing. I am most pleased that S. 979, the bill before us today, incorporates several of the same proposals which Senator CHILES and I offered in that earlier legislative package.

Briefly, and calling upon information from the Investigations Subcommittee's work in this field, I would like to recount the principal areas of the Export Administration Act where improvements are needed. Then, in each of these areas where reforms are called for, I will cite appropriate remedies provided for in S. 979.

First. Enforcement of the statute was found to be carried out inadequately by the Commerce Department. S. 979 strengthens the ability of the Government to enforce export controls by transferring the enforcement function from the Commerce Department to the U.S. Customs Service. In the last year, the Commerce Department has taken steps to improve its enforcement capability. However, Commerce is not a traditional law enforcement agency. It does not arm its agents with traditional police powers. It has dubious law enforcement jurisdiction in foreign countries where American agents must operate with the sanction of, and in close harmony with, the host nations.

Conversely, the U.S. Customs Service is an official Federal law enforcement entity with trained agents and unequivocal law enforcement authority. Customs has bureaus throughout the United States and in many foreign nations. Its agents operate abroad according to treaties, international agreements and bilateral compacts. Customs is the logical place for the export enforcement function to reside. Senator CHILES and I had hoped to effect the transfer of the enforcement function to Customs with legislation we introduced, S. 407. I am, of course, gratified that the Banking Committee has included the transfer in its own Export Administration Act amendments.

Second. The Investigations Subcommittee cited the need to improve the Western nations' joint and cooperative efforts regarding export control. S. 979 directs that U.S. policy shall be to upgrade to treaty status the organization known as Cocom, the Multilateral Coordinating Committee of Western countries that maintains a list of controlled items. In addition, S. 979 would authorize U.S. officials to deny importation rights to companies that violate American export control laws or Cocom standards.

Third. The United States was not making timely and accurate foreign availability determinations. As a result, U.S. manufacturers were being prohibited from exporting high technology products that were readily available for sale in markets elsewhere in the world. The foreign availability issue, a source of frustration in the American business community, is dealt with by S. 979. The measure acknowledges that American manufacturers have every right to protest when they are stopped from exporting products that are manufactured and sold overseas by their competition. In some cases, national security considerations may require that the United States version of the product remain embargoed. But in many other instances, national security is not at stake. S. 979 makes foreign availability determination a requirement in the licensing process. For the first time, manufacturers themselves will have a meaningful say in the foreign availability determination.

Fourth. The Investigations Subcommittee recommended that the Senate Banking Committee review the Export Administration Act in terms of the possible need for enlarging the role of the Defense Department in assessing export license applications. The Banking Committee made that review and concluded the Defense Department should have more authority in this regard. Under current interpretation of Federal law, the Defense Department generally reviews only licenses for exports shipped to Eastern Europe. S. 979 provides for Defense, in coordination with and with the concurrence of the Commerce Department, to review license applications where there is clear risk of diversion of military critical items. It is my belief that such a procedure reflects the original intent of Congress in enacting the current provisions of the Export Administration Act. The precise wording in S. 979 will go a long way toward clearing up any confusion as to the vital part which Congress wishes the Department to play in export controls and the licensing process.

Fifth. A major finding of the Investigations Subcommittee was that the Commerce and Defense Departments and other affected agencies should make every effort to reduce the number of items this Nation seeks to control. With improved intelligence as to what specific technologies the Soviets are most in need of, U.S. officials should be able to shorten the list significantly. Instead of doing an inadequate job controlling too many products, American policy should be revised by seeking to control only those products which, from a national defense point of view, are likely to pose the greatest threat to us should they fall into the hands of an adversary. Along with a shortened list, the subcommittee also advocated steps to speed up the licensing process itself. S. 979 addresses the problems of a bloated controlled product list and long delays in licensing by reducing the licensing burdens on exporters and cutting the licensing time.

Sixth. The Investigations Subcommittee recommended that the Export Administration Act be amended so that Customs agents would be empowered to make arrests of persons who possess or are attempting to possess restricted products with the intent to export such products unlawfully. Currently, the statute provides for arrest only when the suspect actually departs the country or causes the controlled item to be exported. S. 979 incorporates language enabling authorities to make an arrest when there is reasonable cause to believe he intends to export.

In addition, the subcommittee found that Customs agents, in the course of enforcing the Export Administration Act, should be authorized to make warrantless arrests and search and seize containers when there is reasonable cause to believe the export statute is being violated. That proposed expanded authority also would be given to Customs by S. 979. Both recommendations were embodied in legislation introduced by Senator CHILES and myself.

Again, I want to express my compliments to the members of the Banking Committee for their efforts to improve our Nation's system of export controls. We are indebted to them for S. 979. It is a bill that addresses forthrightly a pressing national problem. I recommend passage of this measure and am pleased to be a cosponsor.

AMERICAN EXPORT CONTROL POLICY

● Mr. LAUTENBERG. Mr. President, I rise in support of S. 979, the Export Administration Act Amendments of 1983. The bill, as reported by the Banking Committee, represents a painstaking effort to achieve a responsible balance between two important—but often conflicting—objectives: Improving U.S. trade performance versus advancing national foreign policy and security interests.

As a member of the Banking Committee, I have a keen appreciation for the tensions between these goals. I also know how much time and hard work has been spent trying to resolve them.

Clearly we need to remove unnecessary obstacles to American export competitiveness. The recent decline in our trade position is nothing short of alarming. The U.S. merchandise trade deficit in 1983 was a record $69 billion and is projected to exceed $100 billion in the current year. To pay for this shortfall we are borrowing abroad at a rate that will make the United States a net debtor nation sometime next year.

S. 979 seeks to assure that American industries are not handicapped by irrelevant, arbitrary, and ineffective export controls. Too often in the past, export controls have operated to deny our companies access to markets that are then supplied by our allies and trading partners. In some cases, selective and even retroactive embargoes have been imposed for symbolic reasons with little regard for their impact on our export community. More generally, the uncertainty that has surrounded U.S. export policy has itself been a major problem for American companies seeking to do business abroad. As a former businessman myself, I know how critical customer goodwill and confidence are—especially in international business. It takes years to build up the kind of relationships on which effective marketing depends. A firm's most valuable asset, in many cases, is its reputation for reliability and a capacity to back up its initial sales with dependable service and replacement parts. That kind of credibility is the first casualty of retroactive export controls that nullify existing contracts. A policy that relies on such measures is a policy of continued retreat from a leading role in the world economy.

S. 979 contains a number of provisions designed to provide for a more effective, better targeted, and more predictable export control policy. The bill would, among other things:

Require the administration to determine whether a product is available from foreign sources before placing it on the militarily critical technologies list or the export control list for national security reasons.

Require that the President undertake such negotiations as are necessary to eliminate foreign availability within the first 6 months after imposition of foreign policy controls. At the end of that time, foreign availability would have to be taken into account in determining whether to continue export restrictions.

Impose tougher standards for the imposition of foreign policy controls, including for instance: First, compatibility with other foreign policy objectives; second, the likely effectiveness of such controls in achieving stated objectives; and third, the cost of such controls to U.S. export performance.

Provide for contract sanctity, that its foreign policy controls could not be used to vitiate contracts in effect except in the most extreme circumstances.

Simplify and expedite licensing procedures and reduce licensing time by one-third.

At the same time, the bill addresses legitimate national security concerns. It would:

Upgrade Cocom (the multilateral Committee on Export Controls of the Western Nations) to treaty status and mandate negotiations aimed at strengthening its administrative capabilities.

Authorize the use of import controls against foreign companies that violate our export control laws or Cocom rules.

Upgrade our own agreement and enforcement capabilities by transferring enforcement to the Customs Service, vesting responsibility for management in a new Under Secretary of Commerce for Export Administration, and requiring the President to submit a proposal for an Office of Strategic Trade to centralize and coordinate security licensing.

Clarify the role of the Defense Department in the licensing process by explicitly authorizing DOD review, with the concurrence of Commerce, where there is reliable evidence that a risk of diversion of militarily critical technology exists.

In closing, Mr. President, the committee bill may not be perfect in every respect. Products of the legislative process seldom are. But it is a sensible and realistic compromise among the competing goals at issue. It deserves the approval of the Senate.●

Mr. **BENTSEN**. Mr. President, I support the extension of the Export Administration Act. I believe that it is absolutely vital to the national security of this country that we have in place an effective system of export controls to prevent the wholesale theft of this Nation's technological secrets. Superior technology and the effective use of that technology is a key part of this Nation's defense strategy. We cannot maintain technological leadership if we give away our technology—we only save our enemies the immense cost of the basic research that went into these discoveries.

However, I must also point out that export policies which are too restrictive can also do immense damage to this country's defense effort by damaging the economic health of key industries. Technological leadership is bought at a very high price. Millions of dollars are invested in research and development to bring new products into being. The only way to maintain the funds necessary for R&D is to sell some of the products which result from that R&D. The only way to have a high-tech industry, or any other industry, is to sell products of that industry.

This, then, is the basic conflict that must be dealt with in the Export Administration Act—the need to restrict the outflow of strategic technology to our enemies versus the need to sell products of that technology to fund further R&D.

I agree that we must seek to control the undesired outflow of technology, but I also realize that we have friendly competitors for our technological leadership. If U.S. companies are to remain the world's leaders, then they must have the same access to foreign markets that our competitors have.

The question of foreign availability is of particular concern. Many U.S. companies, including a number of Texas companies, were severely damaged by the embargo imposed by President Reagan in an ill-fated attempt to stop the Russian natural gas pipeline to Western Europe. These companies were forbidden to sell goods that were readily available overseas. The result was that U.S. companies needlessly lost sales to foreign competitors. A classic example is the fact that pipelaying equipment that was to have been bought by Russia from Caterpillar, a U.S. company, was instead bought from Komatsu, a Japanese company.

Even more damaging, all U.S. companies are now subjected to suspicions of being unreliable suppliers. In cutthroat foreign competition for sales, our competitors can tell customers that U.S. companies might not be able to deliver on those contracts. Additionally, the U.S. licensing process is much slower than in many other countries, resulting in lost sales when orders have pressing deadlines.

Mr. President, it is vital that the Export Administration Act recognize and properly balance these competing interests. If we close our doors to markets that are open to our competitors, then we will erode our economic base and with it our technological lead. We could even lose our industrial capacity in those areas. We cannot take for granted our international lead in any area of technology. If we try to sit on a lead in this race we will lose it. We must work to keep that critical edge.

Similarly, we cannot pass this bill and consider the problem solved. Russia and her Communist block surrogates are working very hard to buy or steal technological information in the Western World. Technology is moving so fast that lists of sensitive items must be continually updated. We must maintain close communications with our allies to see that our export control policies are uniform and effective. The Congress must exercise continual oversight to see that this law is working as intended, to provide adequate export controls without imposing one-sided restrictions on U.S. exporters.

The security of our Nation and the health of critical parts of our economy are dependent on the passage of a balanced bill and on the proper administration of the resulting law. I realize that there are many differences between the House and Senate bills at this time. Both have good points and bad points. I believe we must move forward on this legislation and work out those differences, and I urge passage of the Senate bill in order to get that process moving.

The **PRESIDING OFFICER**. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. **BYRD**. Mr. President, before we proceed with the final vote, I would like to ask the distinguished assistant Republican leader what he sees in prospect for tomorrow by the way of rollcall votes and/or action by the Senate otherwise.

Mr. **STEVENS**. It is the intention of the leadership to go to H.R. 3398, the reciprocity bill, following routine morning business tomorrow. We had anticipated that there would be few controversial amendments to that because we had been informed that most of the problems had been worked out. There is an indication now there may be some substantial amendments. It is my understanding that the majority leader would like to proceed to dispose of that bill if it is at all possible tomorrow.

If there are substantive amendments, we would anticipate votes tomorrow.

Mr. **BYRD**. Mr. President, I thank the distinguished assistant majority leader. He does not say yes and he does not say no, and he cannot say yes and he cannot say no. I understand that. I believe there is something on this side of the aisle by way of an amendment or two. I do not know. I am a lot like the assistant majority leader. I cannot say yes and I cannot say no. But I hope the Senator will do the best he can.

Mr. STEVENS. I might say to my good friend that earlier in the day I did conduct some negotiations, and yesterday, too, to see what we could do about this bill. It was my understanding that the real controversial amendment we had anticipated will not be offered. I understand under those circumstances we had hoped we would have a bill which would be fairly free of controversy which we could proceed to dispose of on a voice vote tomorrow.

If that can be worked out, there will be no votes. Of course, any Member can raise an amendment that we do not know about, so we cannot guarantee there will be no votes.

Mr. BYRD. Mr. President, I am advised that at least the thinking is at this moment that there will be an amendment which could be controversial. In that event, does the distinguished assistant majority leader feel that if there is an amendment, or if there are amendments, and rollcall votes are ordered thereon, that those rollcall votes would occur tomorrow? Would there be a likelihood that they will be put over?

Mr. STEVENS. That was my understanding of the majority leader's intention. We would certainly do our best to work out the problems if they develop, but it is my understanding that he does wish to dispose of that bill tomorrow, if it is possible.

He has told the staff he would not at this time agree to an order to have the votes go over until Monday.

Mr. BYRD. Mr. President, I thank the distinguished assistant majority leader.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is: Shall the bill pass?

So the bill (S. 979), as amended, was passed, as follows:

S. 979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Export Administration Act Amendments of 1984".

FINDINGS

Sec. 2. Section 2 of the Export Administration Act of 1979 is amended—

(1) by striking paragraph (6) and inserting in lieu thereof the following:

"(6) Uncertainty of export control policy can inhibit the efforts of American business and work to the detriment of the overall attempt to improve the trade balance of the United States."; and

(2) by adding at the end of the section the following new paragraphs:

"(10) The transfer of national security sensitive technology and goods to the Soviet Union and other countries where actions or policies are adverse to the national security interests of the United States, has led to the significant enhancement of Soviet bloc military-industrial capabilities, thereby creating a greater threat to the security of the United States, its allies, and other friendly nations, and increasing the defense budget of the United States;

"(11) Availability from foreign sources of goods and technology to destinations proscribed for national security purposes by the United States is a fundamental concern of the United States and should be eliminated whenever possible;

"(12) Imports that contribute to the excessive dependence of the United States, its allies, or countries sharing common strategic objectives, on energy resources, and other critical resources from potential adversaries can be harmful to those countries' mutual and individual security;

"(13) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of goods and technology which could make a contribution to the military or economic potential of any country or combination of countries which would be detrimental to the national security of the United States.".

DECLARATION OF POLICY

Sec. 3. Section 3 of the Export Administration Act of 1979 is amended—

(1) in paragraph (3), by striking out the period after "commitments" and inserting in lieu thereof "or common strategic objectives.";

(2) in paragraph (7), by striking "every reasonable effort" in the second sentence and inserting in lieu thereof "reasonable and prompt efforts", and by striking "resorting to the imposition of controls on exports from the United States" in the second sentence and inserting in lieu thereof "imposing export controls";

(3) in paragraph (8), by striking "every reasonable effort" in the second sentence and inserting in lieu thereof, "reasonable and prompt efforts", and by striking "resorting to the imposition of export controls." at the end of the paragraph and inserting in lieu thereof "imposing export controls.";

(4) in paragraph (9), by inserting "or common strategic objectives" after "commitments" each time it appears; and

(5) by adding after paragraph (11) the following:

"(12) It is the policy of the United States to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States.

"(13) It is the policy of the United States to sustain vigorous scientific enterprise. To do so involves sustaining the ability of scientists and other scholars freely to communicate their nonsensitive research findings by means of publication, teaching, conferences, and other forms of scholarly exchange.

"(14) It is the policy of the United States to encourage countries who are allies of the United States to minimize their dependence on imports of energy resources and other critical resources from potential adversaries. Multilateral controls on exports of critical energy equipment and technology and promotion of other appropriate measures such as the development of alternative supplies can play an important role in the achievement of this objective. It is further the policy of the United States to minimize strategic threats posed by excessive hard currency earnings derived from such energy and critical resource exports by countries with policies adverse to the security interests of the United States.

"(15) It is the policy of the United States, particularly in light of the Soviet massacre of innocent men, women, and children aboard KAL flight 7, to maintain the policy instituted after the Soviet invasion of Afghanistan of disallowing United States exceptions to the COCOM list for the Union of Soviet Socialist Republics.".

GENERAL PROVISIONS

Sec. 4. Section 4 of the Export Administration Act of 1979 is amended—

(1) in subsection (a) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) Validated licenses authorizing multiple exports, issued pursuant to an application by the exporter, in lieu of an individual validated license for each such export, including, but not limited to the following:

"(A) A distribution license, authorizing exports of goods to approved distributors or users of the goods in countries other than countries to which exports are controlled pursuant to section 5(b) of this Act. The Secretary shall grant the distribution license primarily on the basis of the reliability of the applicant and foreign consignees with respect to the prevention of diversion of goods to proscribed destinations, and in doing so shall have the responsibility of determining, with the assistance of all appropriate agencies, the reliability of applicants and their immediate consignees. Such determination shall be based on appropriate investigations of each applicant and periodic reviews of licensees and their compliance with the terms of licenses. Factors such as the applicant's products or volume of business, or the consignees' geographic location, sales distribution area or degree of foreign ownership, which may be relevant with respect to individual cases, shall not be determinative in creating categories or general criteria for the denial of applications or withdrawal of licenses;

"(B) A comprehensive operations license, authorizing exports and reexports of technology and related goods, including items on the list of militarily critical technologies developed pursuant to section 5(d) of this Act, from a domestic concern to and among its subsidiaries, affiliates, or other approved consignees that have long-term, contractually defined relations with the exporter. The Secretary shall grant the license to manufacturing, laboratory, or related operations on the basis of approval of the exporter's system of control, including internal proprietary controls, applicable to the technology and related goods to be exported rather than approval of individual export transactions. The Commissioner of Customs, in cooperation with the Secretary periodically, but not less frequently than annually, shall perform audits of these licensing procedures to assure their integrity and effectiveness.";

(2) by adding at the end of subsection (a) the following: "In no case may a distribution license or a comprehensive operations license be used in connection with exports to proscribed destinations.";

(3) in subsection (b), by striking "commodity" each time it appears, and by striking "consisting of any goods or technology subject to export controls under this Act." and inserting in lieu thereof "stating license requirements for exports of goods and technologies to all destinations to which such exports are controlled under this Act.";

(4) in subsection (c), by striking "significant" and inserting in lieu thereof "comparable", and by inserting after "those produced in the United States," the following: "so as to render the controls ineffective in achieving their purposes,";

(5) by adding at the end of subsection (c) the following: "In complying with the provisions of this subsection the President shall give strong emphasis to bilateral or multilateral negotiations to eliminate foreign availability. The Secretary and the Secretary of Defense shall cooperate in the gathering and assessment of information relating to foreign availability, including the establishment and maintenance of a jointly operated computer system."; and

(6) by striking subsection (f) and inserting in lieu thereof the following:

"(f) NOTIFICATION OF THE PUBLIC: CONSULTATION WITH BUSINESS.—(1) The Secretary shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or impacted by export controls, on the United States export control policy and the foreign availability of goods and technology.

"(2) In carrying out the provisions of this Act, the Secretary shall consult on a continuing basis with the advisory committees established under section 135 of the Trade Act of 1974.

"(g) STUDY ON THE DELEGATION OF LICENSING AUTHORITY.—The Secretary of Commerce shall conduct a study to determine the feasibility of permitting International Trade Administration district offices to review and issue validated export license applications for those categories of goods and technology identified by the Secretary as nonsensitive which are to be exported for use in any COCOM country, Australia, or New Zealand. The Secretary shall report the results of the study by November 1, 1984, to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Foreign Affairs.".

NATIONAL SECURITY CONTROLS

SEC. 5. Section 5 of the Export Administration Act of 1979 is amended—

(1) by inserting after the first sentence of subsection (a)(1) the following: "This authority includes the power to prohibit or curtail reexports of such goods and technologies and the transfer of goods or technologies within the United States to embassies and affiliates of countries to which exports of these goods or technologies are controlled.";

(2) in subsection (a)(2), by striking "(A)", and by striking paragraph (B) in its entirety;

(3) in subsection (a)(3), by striking the last sentence;

(4) in subsection (b) by inserting after "as", the following: "whether its policies are adverse to the national security interests of the United States,";

(5) in subsection (c), by striking "commodity" in paragraph (1) and by striking paragraph (3) and inserting in lieu thereof the following:

"(3) The Secretary shall review the list established pursuant to this subsection at least once each year in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and shall promptly make such revisions of the list as may be necessary after each such review. The Secretary shall publish notice of each annual review in the Federal Register before he begins such review, provide opportunity for comment and submission of data, with or without oral presentation, by interested Government agencies and other affected or potentially affected parties during such review, and publish any revisions in the list, with an explanation of the reasons therefor, in the Federal Register. The Secretary shall further assess, as part of such review, the availability from sources outside the United States, or any of its territories or possessions, of goods and technology comparable to those controlled under this section.";

(6) in subsection (d)(2), by striking "and" at the end of subparagraph (B), by adding "and" at the end of subparagraph (C), and by inserting after subparagraph (C) a new subparagraph (D), as follows:

"(D) goods (i) which would extend, complete, maintain, or modernize a process line employed in the application of a militarily critical technology, or (ii) the analysis of which would reveal or give insight into a United States military system and would thereby facilitate either the design and manufacture of that system or the development of countermeasures against that system,";

(7) in paragraph (2) of subsection (d), by inserting after "possessed by" the following: "or available in fact from sources outside the United States to";

(8) in paragraph (4) of subsection (d), by striking "October 1, 1980" and inserting in lieu thereof "January 1, 1985";

(9) in paragraph (5), by striking "The" and inserting in lieu thereof "Items on the"; by striking "commodity", and by inserting "and subsection (f)" after "subsection (c)".

(10) in paragraph (6) of subsection (d) by striking "subsection" and inserting in lieu thereof "section";

(11) by adding at the end of subsection (d) a new paragraph (7) as follows:

"(7) The establishment of adequate export controls for militarily critical technology and keystone equipment shall be accompanied by suitable reductions in the controls over the products of that technology and equipment.";

(12) in paragraph (1) of subsection (e), by striking "a qualified general license" and inserting in lieu thereof "the multiple validated export licenses described in section 4(a)(2) of this Act; and in the same paragraph by striking "a" after "in lieu of" and inserting in lieu thereof "an individual";

(13) by striking paragraphs (3) and (4) of subsection (e) and inserting in lieu thereof the following:

"(3) The Secretary shall require only a general license in lieu of a multiple or individual validated license under this section for the export of goods or technology to countries party to a multilateral agreement, formal or informal, to which the United States is a party, or to countries party to a comparable bilateral agreement with the United States, if the export of such goods or technology is restricted pursuant to such multilateral or bilateral agreement, unless the goods or technology are included on the list of military critical technologies developed pursuant to subsection (d) and included on the control list as provided for under subsection (d)(5) of this section, in which case the Secretary may require a multiple or individual validated license.

"(4) The Secretary, subject to the provisions of subsection (l), shall not require an individual validated export license for replacement parts which are exported to replace on a one-for-one basis parts that were in a commodity that has been lawfully exported from the United States.

"(5) The Secretary shall periodically review the various special licensing procedures, taking appropriate action to increase their utilization by reducing qualification requirements or lowering minimum thresholds, to combine procedures which overlap, and to eliminate those procedures which appear to be of marginal utility.";

(14) in paragraph (1) of subsection (f), by inserting after "The Secretary, in consultation with" the following: "the Secretary of Defense and other";

(15) in paragraphs (1) and (2) of subsection (f), by striking "sufficient" each time it appears and inserting in lieu thereof "comparable";

(16) in subsection (f), by striking paragraph (3) and inserting in liue thereof the following:

"(3) The Secretary shall make a foreign availability determination under paragraph (1) or (2) on his own initiative or upon receipt of an allegation that such availability exists from an export license applicant. The Secretary shall accept the applicant's representations made in writing and supported by evidence, unless such representations are contradicted by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. Determination of foreign availability by the Secretary may include but not be limited to consideration of the following factors: cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, technical data packages, backup packages, durability, quality of end products produced by the item proposed for export, and scale of production.";

(17) in subsection (f), by adding a new paragraph (7) as follows:

"(7) The Secretary shall make a foreign availability determination under paragraph (1) upon request of the appropriate technical advisory committee established by subsection (h)(1) of this section. The Secretary shall treat the representations of the technical advisory committee in the manner provided in paragraph (3).";

(18) in paragraph (4) of subsection (f), by striking "take steps to initiate" and inserting in lieu thereof, "actively pursue";

(19) by striking subsection (g) and inserting in lieu thereof the following:

"(g) INDEXING.—In order to ensure that requirements for validated licenses and multiple export licenses are periodically removed as goods or technology subject to such requirements becomes obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. The regulations issued by the Secretary shall establish as one criterion for the removal of goods or technology the anticipated needs of the military of countries to which exports are controlled for national security purposes. Any such goods or technology which no longer meets the performance levels established by the regulations shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other department or agency of the United States objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list. The Secretary shall also consider, where appropriate, removing site visitation requirements for goods and technology which are removed from the list unless objections described in this subsection are raised.";

(20) in paragraph (1) of subsection (h), by adding after "Departments of Commerce, Defense, and State" the following: ", the intelligence community,";

(21) in paragraph (2) of subsection (h), by striking "and" at the end of paragraph (C), by striking the period at the end of subparagraph (D) and inserting in lieu thereof a comma and the following: "and (E) any other questions relating to actions designed to carry out the policy set forth in section 3(2)(A) of this Act.";

(22) by striking paragraph (6) of subsection (h);

(23) in subsection (i), by striking paragraph (3);

(24) in subsection (i)(4), by striking "(4)" and inserting in lieu thereof "(3)", and by striking "pursuant to paragraph (3)" and inserting in lieu thereof "by the members of the Committee.";

(25) in subsection (i), by adding new paragraphs (4), (5), and (6) as follows:

"(4) Agreement to accord the current multilateral agreement treaty status.

"(5) Agreement to improve the International Control List and minimize the approval of exceptions to that list, strengthen enforcement and cooperation in enforcement efforts, provide sufficient funding for COCOM, and improve the structure and functions of the COCOM Secretariat by upgrading professional staff, translation services, data base maintenance, communications and facilities.

"(6) Agreement to strengthen COCOM so that it functions effectively in controlling export trade in a manner that better protects the national security of each participant to the mutual benefit of all.";

(26) by striking subsection (j) and inserting in lieu thereof the following:

"(j) Commercial Agreements With Certain Countries.—(1) Any United States firm, enterprise, or other nongovernmental entity which enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which calls for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report the agreement with such agency with sufficient detail to the Secretary.

"(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions, except where the unpublished technical data involve a technology identified by the Secretary of Defense as a militarily critical technology.

(27) in subsection (k), by adding after "with other countries" the following: ", including those countries not participating in the group known as the Coordinating Committee,", and by adding at the end thereof the following: "In cases where such negotiations produce agreement on export restrictions comparable in practice to those maintained by the Coordinating Committee, the Secretary shall treat exports to countries party to such agreements in the same manner as exports to members of the Coordinating Committee are treated.";

(28) by striking subsection (l) and inserting in lieu thereof the following:

"(l) Diversion to Military Use of Controlled Goods or Technology.—Whenever there is reliable evidence, as determined by the Secretary, that goods or technology which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes have been diverted to an unauthorized use or consignee in violation of the conditions of an export license, the Secretary for as long as that diversion continues—

"(A) shall deny all further exports to or by the party or parties who divert or conspire to divert any goods or technology subject to national security controls under this section to an unauthorized use or consignee regardless of whether such goods or technology are available to that country from sources outside the United States; and

"(B) may take such additional steps under this Act with respect to the party or parties referred to in subparagraph (A) as he determines are appropriate in the circumstances to deter the further unauthorized use of the previously exported goods or technology.

"(2) As used in this subsection, the term 'diversion to an unauthorized use or consignee' means the use of United States goods or technology to design or produce or maintain or contribute to the design, production, or maintenance of any item on the United States Munitions List, or the transfer of United States goods or technology to any consignee or end user engaged in or contributing to such design, production, or maintenance, or the military use of any item on the COCOM list."; and

(29) by adding the following new subsections:

"(m) Security Measures.—The Commissioner of Customs, in consultation with the Secretary and the Director of the Federal Bureau of Investigation, shall provide advice and technical assistance to persons engaged in the manufacture or handling of goods or technology subject to controls under this section to develop security systems to prevent violations or evasion of controls imposed under this section.

"(n) Recordkeeping.—The Secretary, the Secretary of Defense, and any other department or agency consulted in connection with a license application or revision of a list of controlled commodities, goods, or technologies, shall make and keep records of their respective advice, recommendations, or decisions, including the factual and analytical basis of the advice, recommendations, or decisions.

"(o) National Security Control Agency.—To assist in carrying out the policy and other authorities and responsibilities of the Secretary of Defense under this section, there shall be established within the office of the Under Secretary of Defense for Policy a National Security Control Agency. The Secretary of Defense may delegate such of those authorities and responsibilities, together with such ancillary functions, as he may deem appropriate to the Agency.

"(p) Exclusion for Agricultural Commodities.—This section does not authorize export controls on agricultural commodities, including fats and oils or animal hides and skins.

"(q) Controls on Exports to Certain Nuclear Power.—(1) Notwithstanding any other provision of this section, the President shall require an individual validated license for export of United States goods or technology, or by persons subject to United States jurisdiction, the ultimate destination of which is a country possessing nuclear weapons, unless such country is a member of the North Atlantic Treaty Organization or Israel or has ratified and is in full compliance with the requirements of the Nuclear Non-Proliferation Treaty.

"(2) The President may waive this requirement with regard to specific exports or classes of exports to such country if he certifies to Congress in writing that—

"(A) such country, or any of its agents or representatives, for the preceding twelve-month period has not obtained or endeavored to obtain United States goods or technology, or exports directly or indirectly from persons subject to United States jurisdiction, in violation of this Act, the Arms Export Control Act of 1976, or the Atomic Energy Act of 1954, or any rules and regulations issued pursuant to any of these Acts;

"(B) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of, nuclear weapons or the real or potential delivery systems of such weapons;

"(C) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential antisubmarine warfare systems;

"(D) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential electronic warfare systems;

"(E) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential intelligence gathering systems; and

"(F) it is in the national security and foreign policy interests of the United States that this requirement be waived, particularly that such waiver will not be detrimental to the security of our allies.

Any waiver of this paragraph shall remain in effect for not more than one year from the date of the President's certification to the Congress as provided for by this subsection and may be renewed for subsequent one-year periods should the President at the time of such renewal make the certification to the Congress as required by this subsection. The President may rescind such waiver at any time.

"(3) The provisions of this subsection shall apply only to exports to such countries which are also controlled by validated licenses pursuant to this section for export to group Y countries as defined by the Export Administration regulations.".

FOREIGN POLICY CONTROLS

Sec. 6. Section 6 of the Export Administration Act of 1979 is amended—

(1) by inserting after the first sentence of paragraph (1) of subsection (a) the following: "Whenever the authority conferred by this section is exercised with respect to a country, the President is also authorized to impose controls on imports from that country to the United States if he determines and reports to the Congress, in advance of imposition of such controls, that such controls are consistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.";

(2) by adding at the end of paragraph (1) of subsection (a) the following new sentence: "The President may not, under this section, prohibit or curtail the export or reexport of goods, technology, or other information in performance of a contract or agreement entered into before the date on which the President notifies Congress of his intention to impose controls pursuant to subsection (e) of this section on the export or reexport of such goods, technology, or other information to the intended destination or under any validated license or other authorization issued under this Act.";

(3) in paragraph (2) of subsection (a) by striking "one year" each place it appears and inserting in lieu thereof, "6 months";

(4) by striking subsection (b) and inserting in lieu thereof the following:

"(b) Criteria.—The President may impose, expand, or extend export controls under this section only if he determines that—

"(1) such controls are likely to achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

"(2) such controls are compatible with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

"(3) the reaction of other countries to the imposition or expansion of such export controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or counterproductive to United States foreign policy interests;

"(4) such controls will not have an extraterritorial effect on countries friendly to the United States adverse to overall United States foreign policy interests;

"(5) the cost of such controls to the export performance of the United States, to the competitive position of the United States in the international economy, to the international reputation of the United States as a supplier of goods and technology, and to individual United States companies and their employees and communities, taking into account the effects of the controls on existing contracts, does not exceed the benefit to United States foreign policy objectives; and

"(6) the United States has the ability to enforce the proposed controls effectively.";

(5) by amending subsection (c) to read as follows:

"(c) Consultation With Industry.—The Secretary in every possible instance shall consult with and seek advice from affected United States industries and appropriate advisory committees established under section 135 of the Trade Act of 1974 before imposing any control under this section. Such consultation and advice shall be with respect to the criteria set forth in paragraphs (1) through (6) of subsection (b) and such other matters as the Secretary considers appropriate.";

(6) by striking subsection (e) and inserting in lieu thereof the following:

"(e) Consultation With Congress.—(1) The President in every possible instance shall consult with the Congress before imposing any export control under this section. Except as provided in section 7(g)(3) of this Act, the President shall not impose, expand, or extend such controls until he has transmitted to the Congress a report specifying—

"(A) the purpose of the controls;

"(B) the determinations of the President with respect to each of the criteria set forth in subsection (b) and the bases for such determinations;

"(C) the nature and results of any alternative means attempted under subsection (d), or the reasons for imposing, extending, or expanding the control without attempting any such alternative means; and

"(D) whether the President is also exercising the authority to control imports as authorized by subsection (a), and if the President is not exercising such authority, an explanation of the reasons therefor.

"(2) Such report shall also indicate how such controls will further significantly the foreign policy of the United States or will further its declared international obligations. To the extent necessary to further the effectiveness of such export control, portions of such report may be submitted on a classified basis, and shall be subject to the provisions of section 12(c) of this Act. Such report shall at the same time it is submitted to the Congress also be submitted to the General Accounting Office for the purpose of assessing the report's full compliance with the intent of this subsection.

"(3) In the case of an extension of controls occurring at a 12-month interval after the initial imposition or expansion of controls, such report shall be submitted in writing. In the case of an extension of controls at a 6-month interval following the submission of a written report, such report need not be in writing but shall be presented by the Secretary in testimony before the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Foreign Affairs.";

(7) in subsection (f), by striking the period at the end of the first sentence and inserting in lieu thereof a comma and "or on donations of items intended to meet basic human needs such as food, educational materials, seeds and hand tools, medicines and medical supplies, water resources equipment, clothing and shelter materials, and basic household supplies.", and by striking the last sentence and inserting in lieu thereof the following: "This subsection shall not apply to any export control on medicine or medical supplies or food, except for donations of such items as those listed in the first sentence of this subsection, which is in effect on the date of enactment of the Export Administration Act Amendments of 1984.";

(8) in subsection (g), by inserting "(1)" after "Foreign Availability.—", and by adding at the end of the subsection the following new paragraphs:

"(2) Prior to any extension of controls pursuant to paragraph (2) of subsection (a), the President shall evaluate the results of his actions under paragraph (1) of this subsection and shall include the results of that evaluation in his notification to Congress pursuant to subsection (e).

"(3) In the event that the President's efforts under paragraph (1) are not successful in securing such cooperation during a 6-month period when controls imposed under this section are in effect, in the subsequent 6-month period, if such controls are extended, the Secretary shall take into account the foreign availability of goods or technology subject to controls. If the Secretary affirmatively determines that a good or technology is available in comparable quantity and comparable quality from sources outside the United States to countries subject to such controls so that denial of the license would be ineffective in achieving the purposes of the controls, then the Secretary shall issue a license for the export of such goods or technology during the period of such foreign availability. The Secretary shall remove such goods or technology from the list established pursuant to subsection (k) if he determines such action is appropriate.

"(4) In making a determination of foreign availability under paragraph (3) of this subsection the Secretary shall follow the procedures specified in section 5(f)(3) of this Act."; and

(9) by striking "commodity" in the first sentence, and by striking the second sentence of subsection (k) and inserting in lieu thereof "The Secretary shall clearly identify on the control list which goods and technical data and countries or destinations are subject to which types of controls under this section.".

SHORT SUPPLY CONTROLS

Sec. 7. Section 7 of the Export Administration Act of 1979 is amended—

(1) in subsection (d)(2)(B) by striking out "concurrent" and inserting in lieu thereof "joint";

(2) by striking subsection (j);

(3) by striking in the second sentence of paragraph (1) of subsection (e) "5" and insert in lieu thereof "10";

(4) in paragraph (1) of subsection (i), by striking "validated" in the first sentence and inserting in lieu thereof "export";

(5) by redesignating paragraphs (2), (3) and (4) as paragraphs (3), (4) and (5), respectively, and inserting the following new paragraph:

"(2) To the maximum extent practicable, the Secretary shall utilize the multiple validated export licenses described in section 4(a)(2) of the Act in lieu of a validated license for exports under this subsection.";

(6) in paragraph (4) of subsection (i) by striking paragraph (A) and inserting in lieu thereof the following:

"(A) lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better;";

(7) by striking subsection (j) and inserting in lieu thereof the following:

"(j) Effect of Controls on Existing Contracts.—Any export controls imposed under this section shall not affect any contract to export entered into before the date on which controls are imposed, including any contract to harvest unprocessed western red cedar (as defined in subsection (i)(4) of this section) from state lands, the performance of which contract would make red cedar available for export. For purposes of this subsection, the term 'contract for export' includes, but is not limited to, an export sales agreement and an agreement to invest in an enterprise which involves the export of goods or technology."; and

(8) the amendment made by subsection (7) shall apply to export controls in effect on

the date of the enactment of this Act and export controls imposed after such date.

PROCEDURES FOR PROCESSING EXPORT LICENSE APPLICATIONS

SEC. 8. Section 10 of the Export Administration Act of 1979 is amended—

(1) by striking out "60" each place it appears and inserting in lieu thereof "40";

(2) by striking out "90" each place it appears and inserting in lieu thereof "60";

(3) by striking out "30" each place it appears and inserting in lieu thereof "20";

(4) by inserting in paragraph (3) of subsection (f) after "the policies set forth in section 3 of this Act which would be furthered by denial," the following: "what if any modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls imposed under this Act, and which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for considerations with regard to such modifications or restrictions, if appropriate,";

(5) by striking paragraph (1) of subsection (g) and inserting in lieu thereof the following:

"(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology, whether by single or by multiple license, to any country to which exports are controlled for national security purposes, or where the Secretary of Defense, in consultation with the Secretary, determines on the basis of reliable evidence that goods or technology controlled pursuant to section 5 of this Act are likely to be diverted to proscribed destinations. Whenever the Secretary of Defense determines that the export of any such goods or technology will prove detrimental to the national security of the United States by making a significant contribution to the military potential of any such country the Secretary of Defense shall recommend to the President that such export be disapproved.";

(6) in paragraph (2) of subsection (g), in the second sentence, by striking the following: "to any country to which exports are controlled for national security purposes";

(7) in paragraph (2) of subsection (g) by inserting after the first sentence the following: "If the Secretary and the Secretary of Defense are unable to concur on the types and categories of transactions or on any proposed export of goods or technology which should be referred to the Secretary of Defense for review, the matter shall be referred to the President for resolution."; and

(8) by adding at the end thereof the following:

"(k)(1) Beginning 180 days after the date of enactment of this subsection and every 6 months thereafter, the Secretary shall submit to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report listing in 2 sections—

"(A) all applications the processing of which was completed during the preceding 6 months and which required a period longer than the period permitted by this section before notification of a decision was sent to the applicant, and

"(B) all applications which have been in process for a period longer than the period permitted by this section and upon which final action has not been taken.

"(2) Each listing shall identify—

"(A) the application case number;

"(B) the value of goods covered by the application;

"(C) the country of destination;

"(D) the date the application was received by the department;

"(E) the date on which the Secretary granted or denied the application;

"(F) the date the notification was sent to the applicant; and

"(G) the total number of days which elapsed between receipt of the application in acceptable form and the cut-off date of the report, or the date that notification of decision was sent, whichever is earlier.

"(3) For an application which was referred to other agencies, the listing shall also include—

"(A) the agencies to which referral was made;

"(B) the date or dates of referral; and

"(C) the date or dates recommendations were received from these agencies.

"(4) For an application referred to any other agency which has taken a period longer than the period permitted by this section to provide its recommendations, the listing shall also include—

"(A) the office responsible for processing the application and the position of the officer responsible for the office; and

"(B) the period required for processing by the office.

"(5) The report shall also provide an introduction which contains (A) a summary of the number and value of applications listed by length of process delay beyond the period permitted by this section (0-15 days; 16-30 days; 31-45 days; 46-60 days; more than 60 days delay), and (B) a summary by country of destination of the number and value of applications requiring more than 60 days to process.".

VIOLATIONS

SEC. 9. Section 11 of the Export Administration Act of 1979 is amended—

(1) by inserting in subsection (a) after "violates" the following: "or conspires to or attempts to violate";

(2) by striking in paragraph (1) of subsection (b) "exports anything contrary to" and inserting in lieu thereof "violates or conspires to or attempts to violate";

(3) by inserting in paragraph (1) of subsection (b) after "benefit of" the following: "or that the destination or intended destination of the goods or technology involved is", and by striking "restricted" and inserting in lieu thereof "controlled";

(4) by adding at the end of paragraph (1) of subsection (b) the following new sentence: "For purposes of this subsection, a country to which exports are controlled for national security purposes is one identified pursuant to the determinations made in accordance with section 5(b) of this Act.";

(5) by inserting after paragraph (2) of subsection (b) the following new paragraphs:

"(3) Whoever possesses any goods or technology with the intent to export them contrary to this Act or any regulation, order, or license issued thereunder shall be subject to the penalties as provided in subsection 11(a), except for a national security violation which would be subject to the penalties as provided in section 11(b)(1).

"(4) Nothing in this subsection or subsection (a) shall limit the power of the Secretary to define by regulations violations under this Act.";

(6) in subsection (c), by striking out "head and all that follows through "thereof" and inserting in lieu thereof "Commissioner of the United States Customs Service of the Department of the Treasury (and officers or employees of the Service specifically designated by the Commissioner)";

(7) by adding at the end of subsection (c) the following new paragraphs:

"(3) In addition to any other authority under this Act, the Secretary may revoke or suspend the authority to export of any person convicted of a violation of any other provision of Federal law arising out of the export of goods or technology prohibited by or under this Act.

"(4)(A) Any person who violates any national security control imposed under section 5 of this Act, or any regulations, order, or license issued pursuant thereto may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe.

"(B) Except as otherwise provided by law, any person who violates any regulation issued pursuant to a multilateral agreement, formal or informal, to control exports for national security purposes, to which the United States is a party, may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe only if—

"(i) negotiations with the government or governments, party to the multilateral agreement, with jurisdiction over the violation have been conducted and been unsuccessful in restoring compliance with the regulations of the multilateral agreement;

"(ii) the President, subsequent to the failure of such negotiations, has notified such government or governments and the other parties to the multilateral agreement of any proposal to subject the person violating the regulations to specific controls on the importing of goods or technology into the United States upon the conclusion of 60 days from the date of such notification; and

"(iii) a majority of the parties to the multilateral agreement (excluding the United States) prior to the expiration of such 60 day period, have expressed to the President concurrence in the import controls or have abstained from stating a position with respect to the proposed controls.

"(5) The President may provide by regulation standards for establishing levels of civil penalty as provided in this subsection based upon the seriousness of the violation, the culpability of the violator, and the violator's record of cooperation with the government in disclosing the violation.";

(8) by inserting in subsection (e) after "subsection (c)" the words "or any amounts realized from the forfeiture of property interest or proceeds forfeited pursuant to subsection (g)", and by inserting after "refund any such penalty" the words "imposed pursuant to subsection (c)";

(9) by striking out the second sentence of subsection (f) and inserting in lieu thereof "In any such action with respect to enforcement of section 8, the court shall determine de novo all issues necessary to the establishment of liability;

(10) by redesignating subsection (g) as subsection (i) and inserting the following new subsections:

"(g) FORFEITURE OF PROPERTY INTEREST AND PROCEEDS.—(1) Whoever has been convicted of a national security export control violation under subsection (a) or (b) shall, in addition to any other penalty, forfeit to the United States—

"(A) any of his interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation;

"(B) any of his interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation; and

"(C) any of his property constituting, or derived from, any proceeds obtained directly or indirectly as a result of such violations.

"(2) The procedures in any criminal forfeiture under this section, and the duties and authority of the courts of the United States and the Attorney General with respect to any criminal forfeiture action under this section or with respect to any property that may be subject to forfeiture under this section, are to be governed by the provisions of section 1963 of title 18, United States Code.

"(h) PRIOR CONVICTIONS.—No person convicted of a violation of section 793, 794, or 798 of title 18, United States Code, section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778), shall be eligible at the discretion of the Secretary, to apply for or use any export license for a period for up to ten years from the date of conviction. Any outstanding export license in which such person has an interest may be revoked at the discretion of the Secretary at the time of conviction."; and

(11) by striking "or" after "(d)," in subsection (i) as redesignated, and inserting after "(f)" the following: ", (g), or (h)".

ENFORCEMENT

SEC. 10. Section 12 of the Export Administration Act of 1979 is amended—

(1) in subsection (a), by inserting "(1)" after "GENERAL AUTHORITY.—";

(2) in subsection (a), by striking "the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and", and inserting in lieu thereof "a district court of the United States,";

(3) in subsection (a), by striking out "head" and all that follows through "thereof)" and inserting in lieu thereof "Commissioner of the United States Customs Service of the Department of the Treasury (and officers or employees of the Service specifically designated by the Commissioner), except with respect to section 8, and the Secretary of Commerce only with respect to section 8";

(4) by adding at the end of subsection (a) the following new paragraphs:

"(2) An officer of the United States Customs Service of the Department of the Treasury or other person authorized to board or search vessels who has reasonable cause to suspect that any goods or technology have been or will be exported from the United States in violation of any Act governing exports may—

"(A) stop, search, and examine, within or without his district, a vehicle, vessel, aircraft, or person, on which or whom he has reasonable cause to suspect there are any such goods or technology, whether by the person in possession or charge or by, in, or upon such vehicle, vessel, aircraft, or otherwise;

"(B) search, wherever found, any package or container in which he has reasonable cause to suspect there are any such goods or technology;

"(C) seize and secure for trial any such goods or technology on or about vehicle, vessel, aircraft, or person, or in such package or container.

"(3)(A) An officer of the United States Customs Service of the Department of the Treasury or other person authorized to board or search vessels may, while in the performance of, and in connection with, official duties, make arrests without warrant in the enforcement of the provisions of any Act governing exports. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws.

"(B) If such officer or person has reasonable cause to suspect that any goods or technology have or would have been exported from the United States in violation of any Act governing exports, the officer or person shall refer such matter to the Secretary of the Treasury, or his designee, or the Attorney General for civil or criminal action, respectively, in accordance with this section.";

(5) in the first sentence of paragraph (3) of subsection (c), by striking out "department or agency with enforcement responsibilities under this Act" and inserting in lieu thereof "United States Customs Service of the Department of the Treasury (and officers or employees of the Service specifically designated by the Commissioner)"; and

(6) by inserting in subsection (c)(3): ", including information pertaining to subjects of ongoing investigations," after "enforcement of this Act" in the first sentence; and by adding at the end thereof, the following: "The Secretary shall consult on a continuing basis with the Attorney General, the Commissioner of Customs, and the heads of other departments and agencies which obtain information subject to this paragraph to facilitate the sharing of such information.".

ANNUAL REPORT

SEC. 11. Section 14 of the Export Administration Act of 1979 is amended—

(1) by inserting "AND QUARTERLY" after "ANNUAL" in the section heading; and

(2) by adding at the end thereof the following:

"(d) FOREIGN AVAILABILITY REPORT.—The Secretary and the Secretary of Defense shall jointly prepare and transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives quarterly reports on the operation and improvement of the Government's ability to assess foreign availability, including but not limited to training of personnel, use of computers, and utilization of Foreign Commercial Service Officers, and on the operation and improvement of the Government's efforts to eliminate foreign availability, including but not limited to bilateral and multilateral negotiations.

"(e) REPORT ON EXPORT TO PROSCRIBED COUNTRIES.—The President shall include in each annual report a detailed report which lists every license during the year approved under the provisions of this Act for exports to countries to which exports are controlled by multilateral agreement, formal or informal, to which the United States is a party. Such report shall specify to whom such license was granted, the type of good or technology exported, and the country receiving such good or technology.

"(f) REPORT ON DOMESTIC ECONOMIC IMPACT OF EXPORTS TO PROSCRIBED COUNTRIES.—The President shall include in each annual report a detailed description of the extent of injury of United States' industry and the extent of job displacement caused by United States' exports of goods and technology to controlled countries to which exports are controlled by multilateral agreement, formal or informal, to which the United States is a party. This report shall also include a full analysis of the consequences of exports of turnkey plants and manufacturing facilities to such countries which are used by such countries to produce goods for export to the United States or to compete with United States products in export markets.".

UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION

SEC. 12. (a) Section 15 of the Export Administration Act of 1979 is amended—

(1) by inserting "ADMINISTRATIVE AND" before "REGULATORY" in the caption;

(2) by designating the matter following "SEC. 15." as subsection (b);

(3) by inserting after "SEC. 15." the following:

"(a) The President shall appoint, by and with the advice and consent of the Senate, an Under Secretary of Commerce for Export Administration who shall carry out all functions of the Secretary of Commerce under this Act which were delegated to the office of the Assistant Secretary of Commerce for Trade Administration prior to the effective date of the Export Administration Act Amendments of 1984 and such other functions as the Secretary may prescribe. The Secretary of Commerce shall designate three Assistant Secretaries of Commerce to assist the Under Secretary in carrying out such functions."; and

(4) by adding after subsection (b) as redesignated the following new subsection:

"(c) If the Secretary proposes to alter regulations issued pursuant to this Act he shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives on the intent and rationale of such alterations. Such report shall evaluate the cost and burden to United States exporters of the proposed regulations relative to any enhancement of licensing objectives. The technical advisory committees authorized under paragraph (h) of section 5 of this Act shall be consulted in the development of or alterations to regulations issued under this subsection. The concepts and procedures defined by regulations in existence as of June 29, 1983, with respect to sections 4 and 5 of this Act, shall remain in effect unless the Secretary determines, on the basis of a body of reliable evidence, that specific change is necessary to enhance the system's ability to prevent diversions endangering the national security or to streamline the licensing and paperwork burden on exporters and their distributors.".

(b) Section 5314 of title 5, United States Code, is amended by inserting "Under Secretary of Commerce for Export Administration," before "and Under".

(c) Section 5315 of such title is amended by striking out "Assistant Secretaries of Commerce (8)." and inserting in lieu thereof "Assistant Secretaries of Commerce (10).".

REVIEW AND COMMENT BY THE SECRETARY OF DEFENSE AND THE SECRETARY OF STATE

SEC. 13. Section 15 of the Export Administration Act of 1979 is amended by adding the following new sentence at the end thereof: "Any such regulations issued to carry out the provisions of section 5, or of section 4(a) for the purpose of administering the provisions of section 5, may be issued only following submission for review and comment to the Secretary of Defense, the Secretary of State, and such other departments and agencies as the Secretary considers appropriate.".

DEFINITIONS

SEC. 14. Section 16 of the Export Administration Act of 1979 is amended—

(1) by striking paragraph (4) and inserting in lieu thereof the following:

"(4) the term 'technology' means technological or technical data, and shall include information or know-how of any kind that can be used or adapted for use in the design, production, manufacture, repair, overhaul, processing, engineering, development, operation, maintenance, or restoration of goods or commodities, including computer software. Information or know-how may take tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or take an intangible form, such as training or technical services;";

(2) in paragraph (3), by inserting after "article," "natural or manmade substance,"; and

(3) by redesignating paragraph (5) as paragraph (8), and by inserting the following new paragraphs:

"(5) the term 'export of goods' means—

"(A) an actual shipment or transmission of goods out of the United States, or

"(B) an actual shipment or transmission of goods, or portions thereof, originally exported from the United States to any destination other than that indicated to the appropriate United States authority as the initial destination of the goods at the time of the original export from the United States;";

"(6) the term 'export of technology' means—

"(A) an actual shipment or transmission of technology out of the United States;

"(B) any release of technology of United States origin in a foreign country; or

"(C) any release of technology in the United States with the knowledge or intent that it will be shipped or transmitted to a foreign country;"; and

"(7) the term 'United States' means the States of the United States, its commonwealths, territories, dependencies, possessions, and the District of Columbia, including foreign trade zones and the Outer Continental shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act;".

OFFICE OF STRATEGIC TRADE

Sec. 15. The Export Administration Act of 1979 is amended by adding at the end thereof the following new section:

"OFFICE OF STRATEGIC TRADE

"Sec. 25. The President shall submit to the Congress, not later than March 15, 1985, a proposal to create an Office of Strategic Trade. In developing his proposal, the President shall take into account, among other things, the need for better coordination of export licensing responsibilities and procedures, improved enforcement of this Act and other laws that provide authority to impose controls on exports, strengthening traditional representation of the United States in the Coordinating Committee for Multilateral Export Controls (COCOM), thorough monitoring and analysis of data relating to technology and technological transfer, evaluation of technological changes that are relevant to the export licensing process, and more effective liaison with the business community and others affected by the export licensing process.".

SMALL BUSINESS ASSISTANCE

Sec. 16. Section 10 of the Export Administration Act of 1979 is amended by adding at the end thereof the following new section:

"(k) Small Business Assistance.—Not later than 120 days after enactment of this subsection, the Secretary of Commerce shall develop and transmit to the Congress a plan to assist small businesses in the export licensing application process. The plan shall include, among other things, arrangements for counseling small businesses on filing applications and identifying goods or technology on the control list, proposals for seminars and conferences to educate small businesses on export controls and licensing procedures, and the preparation of informational brochures.".

AMENDMENT TO INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

Sec. 17. Section 203(a)(1) of the International Emergency Economic Powers Act (50 U.S.C. 1202) is amended—

(1) by striking out "and" at the end of paragraph (A);

(2) by inserting "and" at the end of paragraph (B); and

(3) by adding the following new paragraph:

"(C) impose controls on exports of goods or technology from United States companies, or their subsidiaries or licensees operating outside the United States;".

AUTHORIZATION

Sec. 18. Section 18 of the Export Administration Act of 1979 is amended by striking paragraph (1) of subsection (b) and inserting in lieu thereof:

"(1) $11,610,000 for each of the fiscal years 1984 and 1985, and".

TERMINATION DATE

Sec. 19. Section 20 of the Export Administration Act of 1979 is amended by striking out "March 30, 1984", and inserting in lieu thereof "September 30, 1989".

AMENDMENT TO MAGNUSON ACT

Sec. 20. Clause (viii) of section 201(e)(1)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(e)(1)(E)) is amended by inserting "fishery" before "matters".

TERRORISM

Sec. 21. Section 6 (i) of the Export Administration Act of 1979 is amended to read as follows:

"(i)(1) Countries Supporting International Terrorism.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

"(A) Such country has repreatedly provided support for acts of international terrorism.

"(B) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

"(2) Any such determination which has been made with respect to a country under paragraph (1) of this subsection may not be rescinded unless the President, at least 30 days before the proposed rescission would take effect, submits to the Congress a report justifying the rescission and certifying that—

"(A) the country concerned has not provided support for international terrorism, including support or sanctuary for any major terrorist or terrorist group in its territory, during the preceding six-month period; and

"(B) the country concerned has made explicit assurances that it will not support acts of international terrorism in the future.

"(3) A determination under paragraph (1) of this subsection with respect to any country which was made prior to January 1, 1982, and which was no longer in effect on the date of enactment of this paragraph, shall be reinstated upon the expiration of 90 days after the date of enactment of this subsection unless the President submits a report containing the certification described in paragraph (2) with respect to that country within such 90-day period.".

ADMINISTRATIVE PROCEDURE

Sec. 22. Section 13 of the Export Administration Act of 1979 is amended by adding at the end thereof the following:

"(c) Procedures Relating to Civil Penalties and Sanctions.—(1) In any case where a civil penalty or other civil sanction (other than a temporary denial order or a penalty or sanction for a violation of section 8) is sought under section 11 of this Act, the charged party is entitled to receive a formal complaint specifying the charges and, at his request, to contest the charges in a hearing before an administrative law judge. Prior to such hearing the charged party may submit a response to the complaint, including briefs and other supporting materials. The charged party and the Government may present and cross-examine relevant witnesses. With the approval of the administrative law judge, the Government may present evidence in camera in the presence of the charged party or his representative. The charged party may agrue orally his case in recorded proceedings before the administrative law judge who shall then make his findings of fact and conclusions of law in a written decision which shall be referred to the Secretary. The Secretary shall, in a written order, affirm, modify, or vacate the decision of the administrative law judge within 30 days after receiving it. All material submitted to the administrative law judge and the Secretary and all the recorded proceedings constitute the administrative record for purposes of review by the courts.

"(2) The proceedings described in paragraph (1) shall be concluded within a period of 1 year after the complaint is submitted unless the administrative law judge extends such period for good cause shown.

"(3) The order of the Secretary shall be final, except that the charged party may file an appeal within 15 days in the United States Court of Appeals for the District of Columbia and such court may stay an order of the Secretary under which a civil penalty or other sanction would be imposed. In an appeal filed under this paragraph, the court shall set aside any finding of fact for which the court finds there is not substantial evidence in the record and any conclusion of law which the court finds to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, except that such court shall not have authority under this paragraph to review any action, finding, or determination pursuant to section 3, 4(c), 4(d), 4(f), 5(b), 5(d), 5(e), 5(f), 5(g), 5(h)(6), 5(k), 5(n), 6(b), 6(c), 6(d), 6(f), 6(g), 6(h), 6(j), 7(d), 7(e), 7(g) (1) and (2), 7(h), 7(i)(2), 9(b), 9(c), 10(f)(4), 10(g), 10(h), 10(i), or 12(c) of this Act.

"(d) Appeals From the Imposition of Temporary Denial Orders.—(1) In any case where necessary in the public interest to prevent an imminent violation of this Act or any rule or regulation thereunder, the Secretary may issue a temporary denial order without a hearing and such order may be effective no longer than 60 days unless renewed in writing by the Secretary for additional 60-day periods in order to prevent an imminent violation. A renewal may be granted only after notice and an opportunity for a hearing is provided.

"(2) A temporary denial order shall define the imminent violation and state why the order was granted without a hearing. The person or persons subject to the issuance or renewal of such an order may file an appeal with an administrative law judge who shall, within 10 working days after the appeal is filed, recommend that it be affirmed, modified, or vacated. Parties may submit briefs and other material to such judge. The administrative law judge's recommendation shall be made to the Secretary who shall either accept, reject, or modify it by written order within 5 working days after he receives it. The temporary denial order shall be affirmed only if it is reasonable to believe that the order is required in the public interest to prevent an imminent violation of this Act or any rule or regulation thereunder. All materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the Courts.

"(3) An order of the Secretary affirming, in whole or in part, the issuance of a temporary denial order may be appealed within 15 days to the United States Court of Appeals for the District of Columbia. Such court shall have jurisdiction to issue an order vacating the Secretary's order if it finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, except that such court shall not have authority under this paragraph to review any action, finding, or determination pursuant to section 3, 4(c), 4(d), 4(f), 5(b), 5(d), 5(e), 5(f), 5(g), 5(h)(6), 5(k), 5(n), 6(b), 6(c), 6(d), 6(f), 6(g), 6(h), 6(j), 7(d), 7(e), 7(g) (1) and (2), 7(h), 7(i)(2), 9(b), 9(c), 10(f)(4), 10(g), 10(h), 10(i), or 12(c) of this Act.

"(e) Appeals From License Denials.—A determination by the Secretary to deny a license pursuant to section 10(f) of this Act may be appealed by the applicant to an administrative law judge who shall have the authority in a proceeding under this paragraph to determine only whether the item sought to be exported is in fact on the control list. Such proceedings shall be conducted within 90 days. Any determination by an administrative law judge under this subsection and all materials filed before him in the informal proceeding shall be reviewed by the Secretary who shall either affirm or vacate it in a written decision within 30 days. The Secretary's written decision under this subsection shall be final and is not subject to judicial review. Subject to the limitations provided in section 12(c) of this Act, the Secretary's decision shall be published in the Federal Register.

"(f) Appointment of Administrative Law Judges.—Any person who, for at least two of the ten years immediately preceding the effective date of this section has served as a hearing commissioner of the Department of Commerce, shall be considered as qualified for selection and appointment as an administrative law judge with the same status as if such appointment had been made under section 3105 of title 5, United States Code.

"(g) Definition.—For the purpose of subsections (c), (d), and (e), the term 'Secretary' means the Secretary of Commerce or the Secretary of the Treasury, as appropriate.".

AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961

Sec. 23. Section 502B of the Foreign Assistance Act of 1961 is amended (1) by striking the word "Committee" the first place it appears in paragraph (2) and inserting in lieu thereof "Committees"; and (2) by inserting after the words "Foreign Relations" the first place it appears the phrase "and Banking, Housing, and Urban Affairs (when licenses are to be issued pursuant to the Export Administration Act of 1979)".

EXPORT OF HORSES

Sec. 24. The Act of March 3, 1891 (46 U.S.C. 466a and 466b) is amended by adding at the end thereof the following:

"Sec. 3. (a) Notwithstanding any other provision of law, no horse may be exported by sea from the United States, or any of its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under subsection (b).

"(b) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue regulations providing for the granting of waivers, permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

"(c)(1) Whosoever knowingly violates this section or any regulation, order, or license issued hereunder shall be fined not more than five times the value of the consignment of horses involved or $50,000, whichever is greater, or imprisoned not more than 5 years, or both.

"(2) The Secretary of Commerce, after notice and opportunity for an agency hearing on the record, may impose a civil penalty not to exceed $10,000 for each violation of this section or any regulation, order, or license issued hereunder, either in addition to or in lieu of any other liability or penalty which may be imposed.".

RESTRICTIONS ON THE EXPORT OR RETRANSFER OF CERTAIN NUCLEAR COMPONENTS

Sec. 25. Notwithstanding any other provision of law, the United States Nuclear Regulatory Commission shall not license for export, and the Secretary of Energy shall not approve the retransfer of, any nuclear component, item, or substance which the Commission has determined, under section 109 of the Atomic Energy Act of 1954, to be especially relevant from the standpoint of export control because of its significance for nuclear explosive purposes if such export or retransfer is to any non-nuclear-weapon state, within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow on July 1, 1968), unless such state maintains International Atomic Energy Agency safeguards on all of its nuclear facilities and such export or retransfer is under the terms of an agreement for cooperation arranged pursuant to section 123 of such Act, except that—

(1) the prohibition contained in this section shall not apply beginning on a date 60 days after the President—

(A) determines and so states in an Executive order that withholding the export or retransfer of such component, item, or substance would be seriously prejudicial to the national security of the United States; and

(B) submits to the Congress a report setting forth such determination, together with his reasons therefor; and

(2) nothing in this section shall preclude the licensing for export or the approval of retransfer of graphite contained in fabricated non-nuclear commercial products or up to 25 kilograms of heavy water per year to any country for medical or non-nuclear end-uses.

RESTRICTIONS ON THE EXPORT OF NUCLEAR TECHNOLOGY

Sec. 26. Notwithstanding any other provision of law, the Secretary of Energy shall give no authorization under section 57 b. of the Atomic Energy Act of 1954 to engage, directly or indirectly, in the production of any special nuclear material in any non-nuclear-weapon state, within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow on July 1, 1968), unless such state maintains International Atomic Energy Agency safeguards on all of its nuclear facilities and such production is under the terms of an agreement for cooperation arranged pursuant to section 123 of such Act, except that the prohibition contained in this section shall not apply beginning on a date 60 days after the President—

(a) determines and so states in an Executive order that withholding the authorization of such production would be seriously prejudicial to the national security of the United States; and

(b) submits to the Congress a report setting forth such determination, together with his reasons therefor.

AUTHORIZATION OF CERTAIN AGREEMENTS FOR COOPERATION

Sec. 27. (a) Section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is amended—

(1) in subsection b., by inserting ", except as provided in subsection d.," after "approved and"; and

(2) by amending subsection d. to read as follows:

"d. the proposed agreement for cooperation (if arranged pursuant to subsection 91 c., 144 b., or 144 c., or if entailing implementation of section 53, 54 a., 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President and together with a Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency, when required by subsection 123 a., and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective unless authorized by law.".

(b) Section 130 a. of such Act (42 U.S.C. 2159(a)) is amended—

(1) in the first sentence—

(A) by striking out "123 d."; and

(B) by striking out ", and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate,"; and

(2) in the proviso thereto, by striking out "and if, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution".

(c) The amendment made by subsection (a) shall apply to any agreement of cooperation which is described by such amendment and which was entered into after the date of enactment of this Act.

CONTROLS ON AGRICULTURAL COMMODITIES

SEC. 28. (a) Section 6 of the Export Administration Act of 1979 is amended—

(1) by adding at the end of subsection (a)(1) the following: "The President may impose or propose to extend export controls under this section on agricultural commodities, other than in connection with the prohibition or curtailment of all exports, in accordance with the procedures set forth in subsection (1) and the other requirements of this section"; and

(2) by adding at the end thereof the following:

"(1) AGRICULTURAL COMMODITIES.—(1) If the President imposes export controls or proposes to extend export controls which have been imposed, on any agricultural commodity to carry out the policy set forth in subparagraph (B) or subparagraph (C) of paragraph (2) or paragraph (7) or (8) of section 3 of this Act, the President shall immediately transmit a report on such action to the Congress, setting forth the reasons therefor in detail and specifying the length of time the controls are proposed to be in effect which may not exceed 6 months.

"(2) In the case of export controls imposed by the President—

"(A) if the Congress, within 60 days after the date of its receipt of the report under paragraph (1), adopts a joint resolution pursuant to paragraph (4) approving the imposition of export controls, then such controls shall remain in effect for the period specified in the report, for 6 months after the close of the 60-day period, or until terminated by the President, whichever occurs first; or

"(B) if the Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of such 60-day period.

"(3) In the case of export controls proposed to be extended—

"(A) if the Congress adopts a joint resolution approving a proposed extension of export controls prior to the expiration of the applicable period described in paragraph (2)(A) or this subparagraph, then such controls shall be extended for the period specified in the report, for 6 months after the date of enactment of the joint resolution of approval, or until terminated by the President, whichever occurs first; or

"(B) if the Congress fails to adopt a joint resolution approving a proposed extension of controls prior to the expiration of the applicable period described in paragraph (2)(A) or subparagraph (A) of this paragraph, then such controls shall cease to be effective upon the expiration of the applicable period.

"(4)(A) For purposes of this paragraph, the term 'resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 6(1) of the Export Administration Act of 1979, the President may impose, expand, or extend export controls as specified in the report to the Congress on .'., with the blank space being filled with the appropriate date.

"(B) On the day on which a report is submitted to the House of Representatives and the Senate under paragraph (1), a resolution with respect to such report shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a report is submitted, the resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(C) All resolutions introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs and all resolutions introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

"(D) If the committee of either House to which a resolution has been referred has not reported it at the end of 30 days after its introduction the committee shall be discharged from further consideration of the resolution or of any other resolution introduced with respect to the same matter.

"(E)(i) A motion in the House of Representatives to proceed to the consideration of a resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the House of Representatives on a resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a resolution is agreed to or disagreed to.

"(iii) Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business shall be decided without debate.

"(iv) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a resolution shall be decided without debate.

"(v) Except to the extent specifically provided in the preceding provisions of this subparagraph, consideration of a resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

"(F)(i) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours, to be equally divided between and controlled by, the majority leader and the minority leader or their designees.

"(iii) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(iv) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

"(G) In the case of a resolution described in subparagraph (A), if prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.".

(b) Section 7(a)(1) of such Act is amended by adding at the end thereof the following: "The President may impose, expand, or extend export controls under this section with respect to agricultural commodities only as provided in section 6(1).".

AUTHORIZATION FOR CUSTOMS SERVICE

SEC. 29. (a) There are authorized to be appropriated to the United States Customs Service, Department of the Treasury, to carry out the purposes of the Export Administration Act of 1979, $12,000,000 for each of the fiscal years 1984 and 1985.

(b) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 90 days prior to taking any action which would—

(1) result in a significant reduction in force of employees other than by means of attrition,

(2) eliminate or relocate any office of the United States Customs Service,

(3) eliminate any port of entry,

(4) reduce the number of employees assigned to any office of the United States Customs Service or any port of entry, or

(5) reclassify or reassign employees of the United States Customs Service from traditional commercial functions.

STUDY BY THE SECRETARY OF AGRICULTURE

SEC. 30. The Secretary of Agriculture is directed to submit to Congress a report on the status of Federal programs relating to the barter or exchange of commodities owned by the Commodity Credit Corporation for materials and products produced in foreign countries. This report shall include details of any changes necessary in existing law to allow the United States Department of Agriculture to fully implement any barter program and shall be submitted within 90 days of enactment of this Act.

POLICY ON NUCLEAR NONPROLIFERATION

SEC. 31. It is the sense of the Congress that the President should take immediate action to—

(1) confer on an urgent basis with other nuclear suppliers, as a first step toward achieving a new worldwide consensus on nuclear transfers, regarding tightening restrictions on dangerous nuclear trade through measures which include—

(A) establishing, while discussions on a new regime for nuclear trade proceed, a temporary worldwide moratorium on transfers of enrichment and reprocessing equipment and technology, even at the experimental level, to sensitive areas, including the Middle East and South Asia;

(B) limiting the size of all research reactors transferred, eliminating the use of high enriched uranium in such reactors, and obtaining the return of spent research reactor fuel to the country of origin;

(C) extending the list of sensitive nuclear equipment, including components and dual use items, whose export the suppliers only permit under safeguards, with public recording of all sales of such items;

(D) making nuclear transfers only to nations which have accepted full-scope safeguards; and

(E) imposing established sanctions in the event of violation of safeguards;

(2) develop with other members of the International Atomic Energy Agency (hereafter in this section referred to as the "IAEA") a strong and effective program for the improvement of the IAEA safeguards regime, specifically considering the practicality of—

(A) extending the concept of full-scope safeguards to mean safeguards on all nuclear materials, equipment, and facilities within a nonnuclear-weapon state whether or not such materials, equipment, and facilities have been formally declared to the IAEA;

(B) increasing the quality and quantity of IAEA inspections;

(C) publishing inspection reports; and

(D) extending and upgrading surveillance and containment measures;

(3) formulate a clear United States policy on enhanced international retrictions on dangerous nuclear trade and on improving the international safeguards regime, and use all feasible leverage to induce others to adopt similar policies;

(4) call for a prompt reevaluation of world nuclear energy policy, culminating in a conference in order to agree upon ways both to reduce security concerns and to strengthen the nonproliferation regime; and

(5) reaffirm United States policy to cooperate with other countries, particularly in the developing world, to assist them in meeting their energy needs, with nonnuclear energy alternatives considered on an equal basis with nuclear energy in providing such cooperative assistance.

MEMBERSHIP OF THE FEDERAL RESERVE BOARD OF GOVERNORS

SEC. 32. Since, small business, by Small Business Administration standards of measurement, accounts for 98 per centum of all United States businesses, and

Since, 60 per centum of all new jobs are created by firms with 500 or fewer employees, and

Since, small business bankruptcies in 1982 totaled nearly 66,000, due in large part to high interest rates, and many other firms closed down without filing for bankruptcy, and

Since, our agricultural industry, including 3,000,000 farmers, is heavily dependent upon credit, and

Since, neither of these sectors has direct representation on the Federal Reserve Board, which establishes our national monetary policy, and

Since, the growth of our national economy depends on the health of the small business and agricultural sectors; Now, therefore, be it

Stated that it is the sense of the Senate that the President should nominate to the next vacancy on the Federal Reserve Board of Governors a person of demonstrable experience in small business or agriculture.

CRUDE OIL COMMISSION

SEC. 32. (a)(1) There is established a Presidential Advisory Commission to Study the Export of Crude Oil (hereinafter referred to as the "Commission") composed of seven members appointed by the President. No person shall be appointed who has, or is a member of a company or organization which has, any direct monetary interest in domestic or foreign oil exploration, production, transportation, importation or exportation.

(2) The President shall designate from among the members a Chairman and Vice Chairman. Vacancies in the membership of the Commission shall not affect the power of the remaining members to execute the functions of the Commission and shall be filled in the same manner as the original appointments.

(3) Members of the Commission shall be appointed not later than 60 days after the date of the enactment of this Act and shall serve for the life of the Commission. Members appointed to the Commission shall take office upon the date of their appointment.

(b) The Commission shall—

(1) undertake a comprehensive review of the issues and related data concerning exports of crude oil, particularly Alaska North Slope crude oil, at free market levels, under current prohibitions, and at levels of 50,000 barrels per day, 200,000 barrels per day, and 500,000 barrels per day, including, but not limited to—

(A) the effect of such exports on the energy and national security of the United States and its allies;

(B) the role of such exports in United States foreign policymaking, including international energy policymaking;

(C) the impact of such exports on employment levels in the maritime industry, the oil industry, and other industries;

(D) the impact of such exports on the average consumer;

(E) the impact of such exports on Federal Government revenues and expenditures;

(F) the effect of such exports on incentives for oil and gas exploration and development in the United States; and

(G) the legal impediments to such exports, particularly section 7(d) of the Export Administration Act of 1979;

(2) develop, after consulting with appropriate State and Federal officials and other persons at the discretion of the Commission, findings, options, and recommendations regarding the export of oil, particularly Alaska North Slope crude oil, which shall be made to the President not later than January 1, 1985; and

(3) undertake additional related tasks and make interim reports of its activities and recommendations as the President may determine necessary.

(c)(1) The Commission may make appropriate rules respecting its organization and procedures, except that no recommendation shall be reported from the Commission unless a majority of the Commission assents.

(2) The Chairman of the Commission may appoint and compensate staff personnel, without regard to the provisions of title 5, United States Code, government appointments in the competitive services, and the provisions of chapter 51 and subchapter 111 of chapter 53 of such title, relating to classifications and the General Schedule pay rates.

(3)(A) Subject to paragraph (B), the members of the Commission may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission.

(B) Any member may decline the reimbursement of expenses.

(4) the Commission is authorized to—

(A) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code; and

(B) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission to the extent or in such amounts as are provided in appropriation Acts.

(5) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(d)(1) The Commission shall submit a final report to the President not later than January 1, 1985, concerning the findings, options, and recommendations it develops with respect to the matters described in subsection (b).

(2) The Commission shall terminate within 30 days following the submission of the final report.

(e) In response to the Commission's report, the President shall develop recommendations on the export of crude oil, particularly on the advisability of retaining section 7(d) of the Export Administration Act. He shall submit the Commission's report and his recommendations to Congress not later than March 1, 1985.

(f) There are authorized to be appropriated in any fiscal year such sums as may be necessary to carry out the provisions of this section.

(g) Except where inconsistent with this section, the provisions of the Federal Advisory Committee Act shall apply to the Commission.

WHEAT IMPROVEMENT ACT OF 1984

SEC. 33. It is the sense of the Senate that the following should be enacted by the Congress:

"TITLE II—WHEAT

"SEC. 201. This title may be cited as the 'Wheat Improvement Act of 1984'.

"TARGET PRICES

"SEC. 202. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out '$4.45 per bushel for the 1984 crop, and

$4.65 per bushel for the 1985 crop' and inserting in lieu thereof '$4.38 per bushel for the 1984 crop, and $4.38 per bushel for the 1985 crop'.

"1984 AND 1985 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

"SEC. 203. Section 107B(e) of the Agricultural Act of 1949 is amended by—

"(1) striking out in the first sentence of paragraph (1)(A) 'subparagraph (B)' and inserting in lieu thereof 'subparagraphs (B), (C) and (D)';

"(2) adding at the end of paragraph (1) the following new subparagraphs:

"'(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 30 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing. The closing date for signup in such programs shall not be earlier than March 30, 1984.

"'(D) For the 1985 crop of wheat, the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of not less than 30 per centum, consisting of a reduction of not more than 20 per centum under the acreage limitation program and a reduction of not less than 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1985 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing.';

"(3) adding at the end of paragraph (4) the following: 'For the 1984 and 1985 crops of wheat, in making the determination specified in the preceding sentence the Secretary shall treat land that has been farmed under summer fallow practices in the same manner as such land was treated by the Secretary for purposes of making such determination for the 1983 crop of wheat.'; and

"(4) inserting at the end of paragraph (5) the following: 'Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1984 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1984 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than $3 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1984 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producers shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1984 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield. Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1985 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to not less than 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than $3.00 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1985 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1985 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield.'.

"ADVANCE PAYMENTS

"SEC. 204. Section 107C of the Agricultural Act of 1949 is amended by—

"(1) inserting in subsection (b)(1)(B) '(except that for the 1984 crop of wheat, the Secretary shall make available)' after 'may make available', and

"(2) striking out in subsection (c)(4) '1983 crops of wheat,' and inserting in lieu thereof '1983, 1984, and 1985 crops of wheat, and the 1983 crops of'.".

DROUGHT ASSISTANCE

SEC. 34. It is further the sense of the Senate that a program for drought assistance should be enacted by the Congress.

EFFECT ON OTHER ACTS

SEC. 35. Section 17 of the Export Administration Act of 1979 is amended by adding at the end thereof the following new subsection:

"(e) AGRICULTURAL ACT OF 1970.—Nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of the last sentence of section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3).".

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that moton on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, this has been a marathon, to get this bill. The hour is late. I just want to express first my deep debt of gratitude to the chairman of our committee, Senator GARN, who I thank for having given me the opportunity to manage this bill. I hope after having taken 4 days to manage it he does not feel he has misplaced his trust, but I am nonetheless grateful to him for having bestowed that trust upon me.

I thank my distinguished comanager of the bill, Senator PROXMIRE, the ranking minority member. As always, he is always a great pleasure to work with, a man always of his word.

I thank most of all our colleagues, Mr. President, who have finally allowed us to get this bill to this point, namely off the floor, at 11:04 at night. I am deeply grateful.

I only wish that my colleagues would understand that just because the Finance Committee and the Agriculture Committee and all the other committees seemed a little reluctant to bring their legislation to the floor, it does not mean that just because the Banking Committee is well organized that they should penalize us for bringing our legislation to the floor by offering all their amendments. But we managed to get through them somehow, and I thank all our colleagues for their understanding and their cooperation. Indeed, we had a lot of both, and I am deeply grateful.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, having the Senator manage the bill has confirmed the good judgment I have, as I saw him struggling for 4 days with an unexpected avalanche of nongermane amendments. My sympathies went out to him but my joy in judgment in not having to be in his place confirmed that I had made a correct decision. It allowed me to conduct hearings before the Banking Committee and to do other things.

Seriously, I would like to thank the distinguished Senator from Pennsylvania for the excellent job he has done in managing this bill. As I said, after working on it, Senator Proxmire, Senator Heinz, and I, for literally months, to get it in shape, to bring it to the floor, and to work on all the germane amendments that we anticipated, and feeling that we could finish this bill in no longer than 2 days, we certainly did not anticipate what the Senator from Pennsylvania said, that every other committee, because they do not have any authorizing bills out here, would use our vehicle as a Christmas tree.

I said earlier in the day, it is the first Christmas tree of 1984. I would hope it is the last. I am not naive enough to think that it will be. But under some difficult circumstances, Senator Heinz did an excellent job in managing the bill, and I wish to compliment him for his patience and for his great knowledge of this subject, and also thank the distinguished ranking minority Member, Senator Proxmire, for equally being patient in 4 days of long suffering, and for the excellent job he has done.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the true mark of a great executive is his ability to delegate authority. Senator Garn was a remarkable mayor of Salt Lake City. He is a fine chairman of our committee. He knows how to delegate authority. He knows how to pick people who have great ability and understanding and competence. He did so with Senator Heinz. Senator Heinz, I think, has done a remarkable job on as tough a bill as I have seen in a long, long time.

We had some battles on this bill. Senator Heinz won almost every one, unfortunately in some cases, but he did a great job. It is a real privilege for this Senator to work with these two fine Senators. I am looking forward to the conference.

Mr. HEINZ. Mr. President, I do not think anybody else wants to speak. I will say one last word of thanks to Senator Garn and Senator Proxmire for their kind words.

I just want to say that because of the team effort on this legislation, I think we have the most significant rewrite of the Export Administration Act that has ever come before the Congress. I think this is an extraordinary bill. I think it is an extraordinarily good bill. It makes a number of changes. To my mind, it is the most comprehensive piece of work where the Export Administration Act is concerned that we have ever been privileged to bring to the floor, and largely to get off the floor in the same shape as it came to the floor. I thank our colleagues.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I now ask unanimous consent that there be a period for the transaction of routine morning business, during which Senators may speak therein for not to exceed 5 minutes, with the time to expire not later than the hour of 11:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARMLAND PURCHASES BY EMPLOYEES OF FARMERS HOME ADMINISTRATION

Mr. DIXON. Mr. President, we all know that even the appearance of a conflict of interest on the part of a public official erodes confidence in a public agency.

The Decatur Herald and Review, a major newspaper in my State of Illinois, has reported, in its February 24, 1984, edition, serious abuses by Illinois Farmers Home Administration officials that may well result in an erosion of public confidence in that vital agency.

The paper revealed that some Farmers Home Administration employees have purchased farmland, after first acting in their official capacity for the agency and turning down loan requests from farmers who intended to purchase the same land.

Mr. President, Farmers Home Administration is the lender of last resort for many farmers. FmHA's decision oftentimes determines the financial future of farmers—that is, whether they continue productive lives or face bankruptcy. This kind of activity by agency employees destroys the American farmer's confidence in an agency that has already been under increasing fire from the agricultural community for some of its other policies.

The National Director of the Farmers Home Administration has indicated that he takes this issue seriously, and has called for an Inspector General's investigation. I support this request.

Mr. President, I will be offering legislation in the near future to make certain that this type of activity does not occur in the future. My legislation will not ban FmHA employees from owning farms or engaging in farming, but it will prevent abuses of this type from taking place.

The last thing that the American farmer needs at this time is to lose confidence in public agencies that were established to serve the critical problems in American agriculture.

Mr. President, I ask unanimous consent to have printed in the Congressional Record the Decatur Herald and Review article of February 24, 1984.

There being no objection, the article was order to be printed in the Record, as follows:

Probe Finds FmHA Abuses

(By Jim Ludwick)

Illinois Farmers Home Administration officials have enriched themselves by playing a dual role: building up their own land holdings while supposedly helping other farmers compete for available property.

The FmHA provides loans to financially troubled farmers and operates a variety of programs for rural borrowers.

In some cases, however, FmHA bureaucrats have ended up owning farmland after prospective buyers have been denied FmHA loans.

The problem has infested parts of Southern and Central Illinois, the backyard of FmHA's national chief executive. That man is Charles W. Shuman, who grew up on a family farm in Moultrie County.

Most Downstate officials of FmHA have not been making significant farmland acquisitions, according to a spot-check of records in 36 counties in Illinois and Indiana.

But there are some who have done so.

One such man is Clyde Fife, the FmHA district manager of a 10-county region based in Flora.

Property tax records indicate he owns 41 parcels in Wayne County, where the U.S. Agricultural Stabilization & Conservation Service says he has farmed nearly 2,000 acres.

Fife has purchased part of that property through Indian Prairie Farms Inc., a firm he incorporated in Wilmington, Del., on July 6, 1972.

An example is a 160-acre tract along U.S. 45, just east of Cisne. Indian Prairie Farms bought that land in 1978, shortly after FmHA rejected Robert Pearce of Rinard for a loan to buy the property.

Pearce, who was 22 at the time, had talked with the owner and then had contacted the FmHA county office in Wayne County.

"They turned me down," Pearce says. "A couple weeks later, Fife owned it."

John Lawless, FmHA county supervisor in Crawford and Lawrence counties, owns 21 parcels of land in the two counties, totaling more than 500 acres, according to property tax records.

That does not include farmland he has bought and later sold, such as 149 acres in Lawrence County that he bought in 1980 for $76,000 and sold seven weeks later for $149,000.

Another parcel that has passed through the hands of Lawless is an 80-acre farm in Lawrence County.

Eleven years ago, a young farmer named James L. Brian was approached by a friend who wanted to sell those 80 acres.

Brian says he went to Lawless for an FmHA mortgage and was rebuffed. Brian learned a month later that Lawless had bought the land.

Mortgage records and deeds indicate Lawless bought the property by arranging a $27,000 mortgage at a bank in Edwards County, 40 miles from his Lawrenceville office. He sold the land three years later for $55,000.

Both Lawless and Fife refused to talk to the Herald & Review about their activities.

However, three years ago Lawless did discuss some of those affairs with an investigator who was probing charges of employee misconduct.

On March 26, 1981, Lawless gave a sworn statement to a special agent for the Office of the Inspector General of the U.S. Department of Agriculture.

The office was investigating a spate of complaints about Lawless, but discontinued the probe when it was unable to find evidence to support the complaints.

The special agent told Lawless of an allegation that Lawless had turned down a farmer for a farm ownership loan and then bought the farm himself.

Responding under oath, Lawless called the claim "totally false" and said that he had "no knowledge of any factual basis" for the charge.

That statement was made five years after he had sold the 80-acre farm that Brian claims to have tried to finance through Lawless.

STATE OF AMERICAN AGRICULTURE AND THE NEED FOR ACTION BY THE SENATE

Mr. HUDDLESTON. Mr. President, our Nation's farmers face a multitude of problems.

We have an overabundance of some farm products that, coupled with weak demand in international markets, has led to unstable or depressed prices for commodities. Net cash farm income will, most likely, decline substantially in 1984.

Farmers also have to cope with interest rates that remain at persistently high levels, increased production costs, and Federal commodity programs that offer little incentive for participation.

Of course, these difficulties are not insurmountable. I am convinced that, with the help of a sound farm policy, our farmers can meet the challenge presented by the current situation.

Mr. President, I believe that the rejuvenation of farm policy should be one of the highest priorities for the Senate in 1984.

Complicating our job will be the policy restraints caused by the current and projected budget deficits. In fact, much of the discussion over the past year concerning farm policy has focused on the current costs of the farm programs.

We must continue to be mindful of the cost—certainly no one will argue that the high cost of the farm programs in 1983 was acceptable. However, I believe that much of the rising cost of farm programs is due to poor management by bureaucrats in the Office of Management and Budget and the Department of Agriculture. Steps must be taken to make USDA operations more efficient so that the Nation does not lose faith in historic programs that are of such great value to farmers and consumers alike.

THE CURRENT SITUATION

The Department of Agriculture estimates that net cash income for farmers in 1984 will decline by 15 to 20 percent from the 1983 level. After adjusting for inflation, net cash income to farmers in 1984 could be down by more than 25 percent.

This alarming decline in farm income will mark the fourth consecutive year that farm income has stagnated. In no year of the current administration has cash income, measured in constant dollars, exceeded the 1980 level.

Further, estimates are that in 1984—for the second consecutive year—our farmers will receive nearly one quarter of their net income from Government payments, in cash or commodities.

I find it ironic that an administration that promised to get the Government off the backs of farmers has, instead, made farmers more dependent on Government assistance than ever before.

The decline in farm income is largely due to the disturbing weakness in U.S. agricultural export markets.

In fiscal year 1983, for the second consecutive year, the value and volume of U.S. agricultural exports declined. During fiscal year 1983, the value of agricultural exports declined 11 percent, to $34.8 billion—about $9 billion below the fiscal year 1981 peak of $43.8 billion.

Agricultural export volume declined 8 percent in fiscal year 1983, to about 145 million tons. This export volume was 19 million tons less than the peak volume of 164 million tons in 1980.

Unfortunately, the Department of Agriculture forecasts that U.S. agricultural exports in fiscal year 1984 will decline another 5 million tons, although value may increase a little if hoped-for higher prices for most commodities are realized.

Contributing to the reduced volume of shipments has been the continued strength of the U.S. dollar, slow economic recovery in countries that are our traditional customers, as well as increased—and sometimes unfair—competition from other agricultural exporters.

The high foreign exchange value of the dollar is, perhaps, the major negative influence on export sales. Between 1980 and 1983, the value of the dollar in terms of foreign currency increased by as much as 50 percent. Therefore, despite the lower market prices of U.S. agricultural commodities until recently, foreign purchasers did not have any price incentive for buying American farm goods.

The high value of the dollar reflects the high interest rates that prevail in the United States. While nominal interest rates have declined from the record high levels of a few years ago, real interest rates remain very high.

Many maintain that U.S. interest rates will remain high because of the large Federal budget deficit—which is now projected to be $190 billion in fiscal year 1984 and as much as $195 billion in fiscal year 1985 under the administration's proposed budget—and the Federal Reserve policy of slow growth of the money supply. These forces will contribute to maintaining the foreign currency value of the dollar at a high level and depress the prospects for foreign purchases of U.S. agricultural products.

Persistently high interest rates hurt farmers in another way. The high cost of money and increased production costs make credit and financing increasingly difficult for U.S. farmers.

As a result of the credit conditions and the current administration's disastrous farm policy, over 15,000 farmers with Farmers Home Administration farm loans have been forced out of business during the last 2 years for financial reasons.

In overseeing record numbers of farm liquidations in 1983, the Farmers Home Administration has taken possession of 1,683 farms—bringing the number of farms in the FmHA inventory to 1,891. Prior to the Reagan administration, the number of farms held by the Farmers Home Administration had never exceeded 260.

The farms held by FmHA consist of about 418,000 acres having a value of over $435 million. It is a measure of the failed policies of the current administration that the Farmers Home Administration holds all this land.

Although the farm credit situation has been deteriorating for several years, the administration has refused to take timely measures to improve conditions. Each day the administration allows to pass without applying some remedy, it becomes that much more difficult to reverse the trend. The prospects for significant improvements in 1984 are not good.

The drought of 1983, after 2 consecutive years of low-net farm income in 1981 and 1982, wiped out the financial reserves of many farmers. These farmers simply will not be able to cope with another year of credit-related problems.

Evidence of the severity of the farm credit crisis was provided in a survey conducted by the Independent Bankers Association of America last November. The survey showed that bankers expect over 17 percent of their existing farm loan borrowers will be unable to service their debt in 1984. Also, the farm credit system has reported that combined production credit association loan losses over the last four years exceed the combined losses for the preceding 47 years, and that 1984 will be a more difficult year than 1983.

Further, we have seen a big jump, in recent years, in the number of lawsuits against the Farmers Home Administration filed by farm operators who are experiencing temporary financial hardship through no fault of their own. Several courts have issued orders to require the Farmers Home Administration to consider alternatives to foreclosure.

In addition, the District Court for the District of Columbia, late last year, held that the administration acted improperly by not implementing the economic emergency loan program during 1982 and ordered the Farmers Home Administration to implement that program during the current fiscal year.

Acting under the court's order, the administration announced in December that $600 million in economic emergency loan funds would be made available through the Farmers Home Administration, to assist farmers facing severe economic conditions. On the basis of that announcement and with the encouragement of administration officials, thousands of Farmers applied to FmHA for economic emergency loans. However, the administration, in January, decided to alter its earlier announcement by severely limiting the availability of FmHA direct loans under the program.

At the direction of the Office of Management and Budget, FmHA stated that, in place of direct loans, it would rely, for the most part, on Federal guarantees of bank financing, if such financing could be obtained by the hard-pressed farmers eligible for assistance under the court order. The OMB plan is to make only $57 million available for economic emergency loans and provide up to $543 million in guarantees for bank loans. The economic emergency loan program, if implemented under the OMB plan, will be of no benefit to many farmers and not fulfill the intent of Congress in authorizing the 1982 program.

I believe this belated policy decision is a classic attempt, by misguided bureaucrats in the Office of Management and Budget, to circumvent the court order and have so advised the court. I understand that the court has reopened the case, and it is my hope the administration will be instructed to reverse its policy decision and implement a significant direct loan program that will provide the substantive assistance that should have been available to our Nation's farmers during fiscal year 1982.

While I am heartened that the courts are attempting to assist farmers in obtaining needed assistance from the Farmers Home Administration, Congress also has a responsibility to make sure that assistance is provided by the Farmers Home Administration and that the taxpayers' interests are protected by requiring proper loan servicing and sound farm management practices.

THE CHALLENGE

The needs of U.S. agriculture demand immediate action. Congress, this year, should take steps to stabilize and expand our agricultural export markets and ensure the availability of credit, at reasonable rates and terms, to farmers and ranchers.

At the same time, we will need to address the other facets of food and farm policy. There is important nutrition, rural development, and other farm and related legislation that should be acted on by Congress this year.

I cannot emphasize too strongly my belief that farm and food policy must be a high priority for Congress in 1984. We must enact legislation that corrects the deficiencies in our farm and food programs and mandates better management of existing programs.

In that connection, I still have hope that Congress will be able to enact shortly legislation making improvements in the 1984 wheat program. The wheat program announced by the Department of Agriculture has drawn little participation by producers, and—without participation—we will have a continuing buildup in stocks which can only serve to depress farm prices. Likewise, it is my hope that we will be able to enact whatever changes are necessary to make the 1984 programs for feed grains, upland cotton, and rice effective and cost-efficient.

EXPORTS

With our export markets so vital to the farm economy, the Senate should develop legislation to counteract the adverse effects of the strong dollar, slow economic recovery worldwide, and the intense competition from other exporters.

Certainly, agricultural export credit programs can be enhanced by making adequate amounts of credit available to existing and potential foreign purchasers.

Action by Congress in this area is especially necessary because the administration is not doing enough under current authorities. For example, the administration's delay in providing additional export credit guarantees—which do not normally involve any Federal outlays—has needlessly cost us sales of grain and soybean products to nations that must have the credit guarantees to secure commercial financing for purchases.

In addition, the administration proposes further cutbacks in export credit guarantees for fiscal year 1985.

Also, we need to be mindful of the terms of agricultural export credit. In the past few years, we have directed our attention to the interest rate, but the length of the payback period is also important. For example, the repayment period for blended credit sales is typically less than 3 years. We may need to explore ways to extend that time period.

Too, the food for peace, (Public Law 480) program—which celebrates its 30th birthday in 1984—may be in need of some revitalization. Both the concessional sales program under title I and the donations program under title II of Public Law 480 can be used to benefit farmers while combating world hunger. As has been said recently, in an age when people are starving, we should be putting food in stomachs instead of in storage.

Another area in which agricultural export interests must be protected in 1984 is that of agricultural export contract sanctity.

The Senate is considering legislation to reauthorize the Export Administration Act of 1979. Some of the debate may concern the relation between the Export Administration Act and the contract sanctity provision of the Futures Trading Act of 1982.

The contract sanctity provision was added to the Futures Trading Act to furnish a clear statement of this Government's policy with respect to agricultural export sales. Under the law, if there is a suspension of export trade with another country, the President is prohibited from nullifying contracts that provide for delivery of agricultural products to foreign customers within 270 days after the announcement of the trade suspension. The prohibition does not apply during periods of declared war or national emergency.

An amendment may be offered to the Export Administration Act legislation (S. 979) to repeal the contract sanctity guarantees. Such an amendment—if adopted—would undo the efforts of Congress to assure the world that the United States will be a reliable supplier of agricultural products. The amendment would do severe damage to our ability to compete effectively in world markets and should be rejected.

Further, to insure that agriculture's stake in export markets is protected, I joined Senator ALAN DIXON and others in offering an amendment yesterday, during the floor debate on S. 979, to strengthen contract sanctity.

The amendment, which was adopted by the Senate, prohibits extended restrictions on the export of agricultural products to any country for foreign policy reasons, unless the agricultural embargo is in conjunction with an across-the-board ban on all trade with the other country, or unless Congress adopts a joint resolution approving the agricultural trade restrictions. The amendment does not restrict the President's ability to manage foreign policy. Under the amendment, the President could impose foreign policy limits on agricultural exports for up to 60 days, but Congress must determine whether to extend such limits.

CREDIT

Temporary emergency measures are needed to provide credit assistance to our Nation's farmers. Adequate assistance today will provide a foundation for a healthy agricultural economy in the future.

I have introduced the Emergency Agricultural Credit Act of 1983, S. 24, and the Drought Relief Act of 1983, S. 1949, to provide that assistance. Extensive hearings have been held on both S. 24 and S. 1949; and S. 24 was reported favorably by the Senate Agriculture Committee last spring. The House has already passed similar legislation—H.R. 1190.

Under current economic conditions, many of our Nation's farmers do not have the ability to withstand further delays in the Senate's consideration of this legislation. I urge the Republican leadership to schedule timely action by the Senate on these important credit and disaster assistance proposals.

Also, I believe there must be a better understanding of the scope and underlying causes of current agricultural credit problems so that Federal policies on farm credit can be made more effective. To expedite action in this area, Senator THAD COCHRAN and I introduced Senate Resolution 287 last November. This resolution calls for the establishment of a Presidential task force to study agricultural credit problems and Federal farm credit policies.

Further, Senator COCHRAN and I have written to the President urging him not to wait for further congressional action on the resolution but to act expeditiously to create the task force in accordance with the provisions of the resolution. I anticipate that the task force will be structured like the special task force on social security, and its recommendations should be of great value to Congress as we work to improve Federal credit programs.

The resolution itself has strong, bipartisan support, and it is my hope that the Agriculture Committee can act promptly and report the resolution to the Senate.

FOOD PROGRAMS

Proposals have been made to improve the operation of the food stamp program so that needy families and the long-term unemployed do not go hungry. I believe that the Senate should take action on these proposals as soon as possible.

Authorizations for several child nutrition programs and the special supplemental food program for women, infants, and children (WIC) expire September 30, 1984. Congress must act to reauthorize these programs.

Further, I intend to seek Senate action on S. 1913, a bill that I introduced, making needed improvements in the school lunch and other child nutrition programs while staying within the budget established under the first concurrent budget resolution for fiscal year 1984.

The House companion bill, H.R. 4091, was approved by the House of Representatives last October by a vote of 306 to 114.

S. 1913—which has 53 Senators as sponsors—is designed to respond to what I believe is a deplorable situation, that is, the high dropout rate of students participating in the reduced-price school lunch and breakfast program since cuts were made in the program in 1981. Approximately 400,000 children who once were receiving reduced-price meals are no longer in the lunch and breakfast programs.

In addition, children have been forced from the free category to the reduced-price category because the income eligibility levels were changed for free meals. This has meant that, for many families struggling desperately to make ends meet, the cost of their children's school lunches went from no cost to 40 cents.

In my view, S. 1913 and the House companion bill, H.R. 4091, have been subject to unfair criticism that they would restore benefits to nonneedy children.

Let me address this issue. The beneficiaries of my bill are not wealthy children as some would lead you to believe. These are children from families that do not qualify for free meals because their income is over the free meal eligibility level, but whose income may be as low as $12,871 for a family of four. I would not for a moment assume that a family of four with an annual income of $12,871, before taxes, should be classed in the same category as the rich who have benefited from the administration's tax breaks.

RURAL DEVELOPMENT

Last year, I introduced two major rural development bills, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983, S. 1300, and the Rural Water and Waste Disposal Program Improvement Act of 1983, S. 1789.

S. 1300 is needed to strengthen the rural electrification and telephone revolving fund administered by the Rural Electrification Administration and make other program improvements. The revolving fund is the only source of credit for many rural electric cooperatives and small rural telephone companies.

I am pleased with the broad support this legislation has received. There are currently 40 Senators sponsoring S. 1300, including a majority of the Senate Agriculture Committee. Also, the American Farm Bureau, at its national convention, approved a resolution supporting the thrust of S. 1300. I ask unanimous consent that the resolution be printed in the RECORD at the end of my remarks.

The Subcommittee on Agricultural Credit of the Agriculture Committee—which is chaired by the distinguished Senator from Florida (Mrs. HAWKINS)—will be holding a hearing on S. 1300 on March 20, and I intend to seek a committee markup and Senate debate on S. 1300 as soon as possible following the hearing.

The Rural Water and Waste Disposal Program Improvement Act of 1983 will assist many rural communities overcome problems with unsanitary and unsafe water and waste disposal systems.

Studies have shown that almost two-thirds of rural households consume water that fails to meet one or more of the health standards set under the Safe Drinking Water Act. For many rural communities without expertise or the resources to provide safe and sanitary water and waste disposal systems, the Farmers Home Administration administers a program that could be of great assistance. However, because of administrative changes, the program has become unworkable for many rural communities.

The House of Representatives has already passed legislation (H.R. 1190) to resolve this problem. I intend to seek Senate action as soon as practicable on S. 1789.

SOIL CONSERVATION

Last year, the administration submitted its plan, as required by the Soil and Water Resources Conservation Act of 1977, for dealing with our Nation's soil and water natural resource problems. Apparently, the bureaucrats at the Office of Management and Budget failed to read the plan because a budget proposal for fiscal year 1984 was later submitted that was $100 million below what the administration's own plan said was the lowest acceptable level of funding for soil and water conservation programs.

We must closely monitor the administration's efforts this year to implement its plan for conservation of soil and water. We must also carefully review the administration's fiscal year 1985 budget proposal, which appears wholly inadequate. Congress may find it necessary to send the administration back to the drawing board to develop a more realistic budget proposal and plan for addressing our Nation's soil and water resource problems.

RELATED ISSUES

There is other important legislation now pending in the Senate that needs attention this year. These bills include legislation that affects the marketing of agricultural products (S. 2190), the pesticide regulation program, our national forests, research and extension, and agricultural commodity user fees.

Of course, during 1984, we who serve in the Senate will be mindful of the upcoming 1985 farm bill. The farm bill reauthorization process continues to receive a great deal of attention in the media and by farm organizations.

The Senate Agriculture Committee has already taken steps to prepare for the drafting of the 1985 farm bill. As in the past, the committee has requested study papers from many farm experts and government officials. The papers, which should be available shortly, will be useful in promoting discussion about farm policy issues. They will present a variety of perspectives on needed changes.

Furthermore, many of the issues that will be dealt with in the debate on the 1985 farm bill are relevant in 1984—expanding and developing export markets, holding down government costs, and other broad policy matters.

I believe it would be a mistake, however, to focus so much attention on 1985 legislation that we overlook current problems facing farmers. Much needs to be done this year to help revitalize American agriculture, and these immediate needs deserve priority.

CONCLUSION

In the coming months, the Senate must act on remedial legislation to stabilize the farm economy.

To be sure, the executive branch can do much under existing law, if it chooses, to make Federal farm programs work more effectively.

I have encouraged the President and the Secretary of Agriculture to make full use of all existing authorities to help revitalize the farm economy, and will do everything I can to support any such efforts.

There may be some in the administration who will argue that Congress should wait until 1985, and the farm bill reauthorization process, before taking significant legislative action to address farm problems.

However, after 3 years of this administration's disastrous farm policy, Congress has the responsibility to take the lead in bringing about a sustained recovery in American agriculture. Further delays will be costly for our Nation's farmers.

Because agriculture is the keystone of the Nation's economy, agricultural legislation is important to Senators from predominantly urban States, just as it is to those from farm States, and it should not be made a partisan political issue. I urge my colleagues to make a bipartisan effort this year to provide our Nation a sound and effective farm and food policy.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

FARM BUREAU POLICIES FOR 1984

We support rural electric cooperatives organized and operated in accordance with accepted cooperative principles and practices. We oppose any plan or effort to convert rural electric cooperatives into a public power system.

We urge efforts on the part of both the private companies and rural electric cooperatives to reach agreements that will be in the best long-term interest of all concerned. Duplication of services is not in the public interest.

If satisfactory agreements cannot be reached for the necessary amounts of energy for farm use at competitive rates, we support the use of Rural Electrification Administration (REA) loan funds to finance the generation and transmission facilities farmers need. We oppose any efforts to change the present law which makes this possible. Rural electric cooperatives and the Tennessee Valley Authority should not participate in financing programs and activities other than those for which they were organized.

We urge the members of the Rural Electric Cooperative to continue to support the National Rural Utility Cooperative Finance Corporation (CFC) as a means to supplement the shortage of Federal funds.

We believe that a properly designed Federal revolving fund can and should be an integral part of the means to provide the rural electric cooperatives adequate credit to maintain and strengthen their systems. Such a revolving fund should include an adequate rate of interest to keep the fund solvent and be used in conjunction with private capital to finance the system. In order to assure an adequate capital base, we support making funds used for REA lending prior to 1973 as a permanent capital investment in the revolving fund.

We support the present REA criteria used to determine on an individual basis the interest rate a borrower can afford.

We oppose invalidation of existing contracts by Federal and state governments for natural gas to generate electricity.

THE EMIGRATION OF YULI KOSHAROVSKY

Mr. LONG. Mr. President, I would like to submit the following letter that I wrote to Konstantin U. Chernenko and earlier to Yuri Andropov on behalf of Yuli Kosharovsky and his family, who have been denied permission to emigrate to Israel since 1971.

The Kosharovskys, like so many other Jews in the Soviet Union, have attempted to emigrate many times but have continually been denied the opportunity. Mr. Kosharovsky was once a prominent radio electronics engineer and Hebrew teacher. Since Mr. Kosharovsky expressed his desire to emigrate in 1971, he has only been able to work at odd jobs in order to support his family.

I ask my colleagues to join with me in encouraging the Soviet Government to honor its commitments to the Helsinki accords and to basic human rights by securing the release of Yuli Kosharovsky and favorably considering his application for an exit visa to Israel.

The letter follows:

U.S. SENATE,
Washington, D.C., February 28, 1984.

Mr. KONSTANTIN U. CHERNENKO,
Secretary General, C.P.S.U., The Kremlin, Moscow—RSFSR, U.S.S.R.

DEAR MR. SECRETARY: I am writing to request your Government to act favorably in allowing Yuli Kosharovsky and his family of Moscow to emigrate to Israel.

Yuli Kosharovsky is a 42 year old radio electronics engineer. He first applied to emigrate from the Soviet Union in April, 1971, but his application was refused one month later on the grounds of the "secrecy" of his previous work. In May, 1980, Kosharovsky was advised that his period of "secrecy" had expired, but that he would not be permitted to emigrate because he did not have any close relatives in Israel.

Mr. Kosharovsky and his family have endured more than a decade of suffering and hardship due to his desire to emigrate to Israel and for his teaching of the Jewish language, Hebrew.

Because of Mr. Kosharovsky's long-standing desire to emigrate, I personally ask that you aid in the emigration to Israel of he and his family.

Thank you for your personal attention to this matter.

With every good wish, I am
Sincerely yours,
RUSSELL LONG.

MAJOR CRIME PROPOSALS THAT HAVE PASSED THE SENATE

Mr. THURMOND. Mr. President, I want to take this opportunity to commend my colleagues in the Senate on the actions taken over the past month on a host of important crime measures.

I wish to express my deep appreciation to the able majority leader, Senator HOWARD BAKER of Tennessee, who rendered invaluable service to the passage of these bills. His outstanding leadership was extremely important in getting these bills taken up for consideration. His strong support for this legislation was tremendously helpful at every stage of the process. Also, I wish to again express my appreciation to the able minority leader, Senator ROBERT C. BYRD of West Virginia, for his assistance. Again, I wish to thank the able ranking minority member of the committee, Senator JOSEPH R. BIDEN of Delaware, and the chairman of the Subcommittee on Criminal Law, Senator PAUL LAXALT of Nevada, for the part each played in improving, refining, and processing this important legislation, as well as the parts they played in connection with the passage of these important measures on this floor.

It is only appropriate that recognition be given to the able Senator from Wyoming, ALAN K. SIMPSON, the able Senator from Utah, ORRIN G. HATCH, the able Senator from Iowa, CHUCK GRASSLEY, as well as the able Senator from Pennsylvania, ARLEN SPECTER, for the strong support they gave to me on the Senate floor.

Likewise, I also would like to thank the capable Senator from Arizona, DENNIS DECONCINI, with particular reference to his management of the capital punishment bill, the capable Senator from Massachusetts, TED KENNEDY, who assisted in a number of ways, most notably in the area of sentencing. My thanks also are extended to the distinguished Senator from Alabama, HOWELL HEFLIN, who is not only well versed but most helpful in matters involving criminal law. Also, the strong support of the Senator from Georgia, SAM NUNN, and the Senator from Florida, LAWTON CHILES, is greatly appreciated. I would like to specifically thank the distinguished chairman of the Select Committee on Intelligence, Mr. GOLDWATER, for his outstanding help in defeating the Bumpers-Metzenbaum amendment to S. 1762, dealing with the tape recording of telephone conversations by a party to the conversation without the consent of other parties.

Mr. President, this all could not have been accomplished without excellent staff support and extraordinary cooperation from everyone involved. I would like to recognize some who have been especially helpful. On my own staff, Mr. Vinton D. Lide, chief counsel and staff director of the Committee on the Judiciary, and Paul C. Summitt, special counsel for criminal law, have had the primary staff responsibility for processing these bills and assisting me in committee and on the floor of the Senate. On the Subcommittee on Criminal Law, Jock Nash, chief counsel, and Bill Miller, general counsel, played a central role during the consideration of these measures at each step. Important contributions were also made at various times by Steve Metalitz with Senator MATHIAS; Steve Markman and Randy Rader with Senator HATCH; Pete Velde and Doug Comer with Senator DOLE; Betsy Greenwood with Senator SIMPSON; Tom Bovard with Senator EAST; Lynda Nersesian and Terry Campo with Senator GRASSLEY; March Bell and Rick Holcomb with Senator DENTON; and Bill Bowman with Senator SPECTER.

Mr. President, we have also had excellent assistance from the minority staff in dealing with these bills. Mark Gitenstein, minority chief counsel, Kathryn Zebrowski, minority counsel on the Criminal Law Subcommittee, and Carolyn Osolinik with Senator KENNEDY, played particularly important roles in helping move this legislation. They were ably assisted by Chip Reid and Scott Green also on the minority professional staff. Others who helped facilitate consideration of these measures were Mike Epstein with Senator BYRD; Ellen Broadman with Senator METZENBAUM; Bob Feidler and Ed Baxter with Senator DECONCINI; John Podesta with Senator LEAHY; Mary Troland and William Shook with Senator BAUCUS; Art Briskman with Senator HEFLIN; and Pat Dunn with Senator CHILES.

I would also like to thank Victoria Toensing, chief counsel of the Select Committee on Intelligence, for her help and assistance on the Bumpers-Metzenbaum amendment.

Mr. President, I would venture the observation that the work of the Senate for this period is of historic proportions, constituting the most concentrated passage of significant anticrime proposals in the history of the Senate. This is no small feat since it must be measured against such monumental legislative achievements as the Omnibus Crime Control and Safe Streets Act of 1968 and the Organized Crime Control Act of 1970. I might also point out that the Senate has now acted upon virtually all of President Reagan's legislative crime program introduced as S. 829 on March 16, 1983. To give an idea of the scope of this effort, I ask unanimous consent to have a brief summary of some of the more significant points of the administration's proposals in S. 1762, S. 1763, S. 1764, and S. 1765, as well as Senator SPECTER's armed career criminal bill, S. 52, be inserted into the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1762—COMPREHENSIVE CRIME PACKAGE

(As approved by the Senate—91 to 1—on February 2, 1984)

Title I—Bail Reform would amend the Bail Reform Act of 1966 to:

Permit courts to consider danger to the community in setting bail conditions and to deny bail altogether where a defendant poses a grave danger to others;

Tighten the criteria for post-conviction release pending sentencing and appeal;

Provide for revocation of release and increased penalties for crimes committee while on release; and

Increase penalties for bail jumping.

Title II—Sentencing Reform would revise the sentencing system to:

Establishing a *determinate* sentencing system with no parole and limited "good time" credits;

Promote more uniform sentencing by establishing a commission to set a narrow sentencing range for each federal criminal offense;

Require courts to explain in writing any departure from sentencing guidelines; and

Authorize defendants to appeal sentences harsher, and the Government to appeal sentences more lenient, than the sentencing commission guidelines.

Title III—Forfeiture Reform would strengthen and clarify criminal and civil forfeiture laws by providing for:

Forfeiture of profits and proceeds of organized crime (RICO) offenses;

Criminal forfeiture in all narcotics trafficking cases;

Expanded procedures for "freezing" forfeitable property pending judicial proceedings;

Forfeiture of substitute assets where assets originally subject to forfeiture have been removed from the reach of the Government;

Forfeiture of land used to grow, store and manufacture dangerous drugs; and

Expanded use of efficient administrative forfeiture procedures in noncontested cases.

Title IV—Insanity Defense Reform would narrow the insanity defense currently available in the federal system to:

Limit the defense to those who are unable to appreciate the nature or wrongfulness of their acts;

Place the burden on the defendant to establish the defense by clear and convincing evidence;

Prevent expert testimony on the ultimate legal issue of whether the defendant, in fact, is unable to appreciate the nature or wrongfulness of his acts;

Establish procedures for federal civil commitment of persons found not guilty by reason of insanity if no State will commit him; and

Modernize procedures for dealing with incompetent defendants and mentally ill convicted persons in the Federal criminal justice system.

Title IV—Drug Enforcement Amendments would:

Strengthen federal penalties applicable to narcotics offenses;

Reduce the regulatory burden on law-abiding manufacturers and distributors of legitimate controlled substances; and

Strengthen the ability of the Drug Enforcement Administration to prevent diversion of legitimate controlled substances to illegal uses.

Title VI—Justice Assistance Act would:

Authorize a modest program of financial assistance to State local law enforcement to help finance anti-crime programs of proven effectiveness; and

Streamline the components of the Department of Justice responsible for statistical, research and other assistance to State and local law enforcement.

Title VII—Surplus Property Amendments would facilitate donation of surplus federal property to State and local governments for urgently needed prison space.

Title VIII—Labor Racketeering Amendments would strengthen federal laws with respect to labor-related racketeering activity by:

Raising from five to ten years the period of time that a corrupt official can be debarred from union or trust fund positions; and

Making debarment effective upon the date of conviction rather than the date all appeals are exhausted.

Title IX—Foreign Currency Transaction Amendments would improve federal laws designed to prevent international "money laundering" by:

Adding an "attempt" provision to existing laws prohibiting transportation of currency out of the United States in violation of reporting requirements;

Strengthening penalties for currency violations and authorizing payment of rewards for information leading to the conviction of money launderers; and

Clarifying the authority of U.S. Customs agents to conduct border searches related to currency offenses.

Title X—Miscellaneous Violent Crime Amendments.

Part A. Establish federal jurisdiction over murder-for-hire and crimes in aid of racketeering.

Part B. Establish federal jurisdiction over solicitation to commit a crime of violence.

Part C. Expand the felony-murder rule (18 U.S.C. 1111) to include "escape, murder, kidnapping, treason, espionage and sabotage."

Part D. Establish a minimum-mandatory 5-year sentence for use of a firearm in a federal crime of violence.

Part E. Establish an additional minimum-mandatory 5-year sentence for use of armor-piercing bullets in a federal crime of violence.

Part F. Expand 18 U.S.C. 1201 to include kidnapping of federal officials.

Part G. Establish a new federal offense for crimes against family members of federal officials.

Part H. Expand the Major Crimes Act, which sets out offenses in Indian country, to include maiming and involuntary sodomy.

Part I. Expand 18 U.S.C. 31 to cover destruction of trucks.

Part J. Establish federal sanctions for causing serious damage to an energy facility.

Part K. Expand 18 U.S.C. 1114 to include attempted assaults and assaults upon U.S. intelligence officers, and to allow the AG to designate other persons for coverage.

Part L. Create federal penalties for escape from custody resulting from civil commitment.

Part M. Amend 18 U.S.C. 844 to clarify present law to ensure that tougher penalties for arson are applicable where firemen suffer personal injury. (Congressionally initiated proposal.)

Part N. Establish federal jurisdiction over robberies and burglaries directed at pharmacies and others registered to dispense, manufacture or distribute controlled substances. (Congressionally initiated proposal.)

Part O. Include obscenity offenses as predicate crimes triggering application of the RICO (racketeering) statute. (Congressionally initiated proposal.)

Title XI—Serious Non-Violent Offenses.

Part A. Amend child pornography laws to delete commerciality and obscenity requirements.

Part B. Amend 18 U.S.C. 2232 to cover warning the subject of a search.

Part C. Establish federal sanctions for theft or bribery involving federal program funds.

Part D. Establish federal sanctions for counterfeiting of State and corporate securities and a misdemeanor penalty for forged endorsements on U.S. securities.

Part E. Amend 18 U.S.C. 2113 to cover receipt of stolen bank property.

Part F. Add a new § 215 to title 18 to cover bank-related bribery.

Part G. Add a new § 1344 to title 18 to cover bank fraud including check kiting.

Part H. Improve penalties for trafficking in drugs, weapons or other contraband in federal prisons.

Part I. Establish federal penalties for fraud of $10,000 or more involving livestock. (Congressionally initiated proposal.)

Part J. Amend the current ban against federal officiers' or employees' acting as agents of foreign powers to clarify that the prohibition applies to Members of Congress. (Congressionally initiated proposal.)

Title XII—Procedural Amendments.

Part A. Lower from 16 to 15 the age at which a juvenile may be prosecuted as an adult for serious crimes of violence and drug trafficking offenses.

Part B. Amend wiretap laws to permit emergency wiretaps in life-endangering situations and expand the range of predicate offenses to include child pornography, illegal currency transactions and crimes against victims and witnesses.

Part C. Revise 18 U.S.C. 3237 to permit procecution of threat offenses in any district from, to or through which the threat travels.

Part D. Authorize civil injunctions against fraud pending criminal prosecution.

Part E. Authorize government appeal of new trial orders.

Part F. Improve the Witness Security Program through codification of case law and other changes.

Part G. Amend tax venue statute to avoid unnecessary splintering of criminal tax prosecutions.

Part H. Amend Foreign Agent Registration Act to shift powers now held by Secretary of State to the AG. (Congressionally initiated proposal.)

Part I. Provide for federal jurisdiction over crimes by or against U.S. nationals in a place outside the jurisdiction of any nation (e.g. Antarctica or the moon). (Congressionally initiated proposal.)

Part J. Direct the Attorney General to report to the Congress concerning use by criminal defendants of internal DOJ guidelines as the basis for challenging criminal prosecutions. (Congressionally initiated proposal.)

Part K. Require notice on social security checks and envelopes that forgery of government checks is a federal offense. (Congressionally initiated proposal.)

Part L. Facilitate acquisition and admissibility of foreign evidence in connection with criminal proceedings. (Congressionally initiated proposal.)

S. 1763—HABEAS CORPUS

(As approved by the Senate—67 to 9—
February 6, 1984)

Reform of Federal Intervention in State Proceedings would reduce federal court interference in State adjudications by:

Precluding Federal habeas corpus relief with respect to matters that have been fully and fairly adjudicated in State proceedings;

Generally barring consideration of claims not properly raised in State proceedings, if the State afforded the petitioner an appropriate opportunity to raise the claim;

Limiting the time within which State adjudications may be challenged in Federal court;

Making other improvements in Federal habeas corpus laws.

S. 1764—EXCLUSIONARY RULE

(As approved by the Senate—63 to 24—
February 7, 1984)

Exclusionary Rule Reform would create an exception to the application of the Exclusionary Rule to prevent suppression of evidence where it can be shown that officers were proceeding in a good faith and objectively reasonable belief that they were acting in compliance with the law.

S. 1765—CAPITAL PUNISHMENT

(As approved by the Senate—63 to 32—
February 22, 1984)

Reinstitutional of Capital Punishment would establish constitutionally permissible procedures for imposition of the death penalty for treason, espionage, certain Federal homicide cases, and attempts to kill a President of the United States.

S. 52—ARMED CAREER CRIMINAL

(As approved by the Senate—92 to 0—
February 23, 1984)

Armed Career Criminal would create a Federal offense punishable by imprisonment of not less than fifteen years and not more than life to carry a firearm during the commission of a robbery or burglary that is otherwise subject to Federal prosecution where the defendant has previously been twice convicted of a Federal or State robbery or burglary.

Mr. BAKER. Mr. President, it is a new month, and I see a full plate in front of the Senate. We begin March by concluding the reauthorization of the Export Administration Act and beginning debate on a proposed constitutional amendment providing prayer in our public schools. The balance of the month will focus on economic related legislation, reauthorizations, and nominations. As I have just suggested, it will be a full and busy month for the Senate.

But before we get started Mr. President, I would like to take a moment to survey our accomplishments during the month of February. They are, in my opinion, substantial. We have passed major legislation dealing with criminal code reform, a subject which poll after poll indicates is of major concern to the American public. Bills relating to the institution of a death penalty for certain Federal crimes, bail and sentencing reform, repeat offender provisions, modification of the evidentiary exclusionary rule, and habeas corpus reform are just a sampling of the crime related items which the Senate acted on last month.

Not one of those bills would have had any opportunity for floor consideration, Mr. President, were it not for the outstanding guidance of the distinguished chairman of the Judiciary Committee, Senator STROM THURMOND. His work was, as always, commendable, but it was noteworthy for another reason as well. During my entire tenure in the Senate, no Senator has been as constant, as vigilant, as unyielding in his efforts to combat crime in our society. Senator THURMOND has always provided a firm foundation from which the Senate could direct its attentions to the subject of crime in America, but especially during his time as chairman of the committee, the Senate has made a significant dent in the armor of the criminal element in our country. Our work during the past month regarding crime may represent the capstone of his achievements on the subject, but only temporarily. I am firmly convinced that so long as STROM THURMOND serves in the Senate, his battle against crime will continue. He is truly the chief crimefighter.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:03 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4957. An act to apportion certain funds for construction of the National System of Interstate and Defense Highways for fiscal year 1985 and to increase the amount authorized to be expended for emergency relief under title 23, United States Code, and for other purposes.

ENROLLED JOINT RESOLUTIONS SIGNED

At 11:45 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 161. Joint resolution to designate the month of April 1984, as "National Child Abuse Prevention Month;"

S.J. Res. 184. Joint resolution to designate the week of March 4, 1984, through March 10, 1984, as "National Beta Club Week;" and

S.J. Res. 193. Joint resolution designating March 6, 1984, as "Frozen Food Day."

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. Thurmond).

At 1:12 p.m., a message from the House of Representatives was delivered by Mr. Berry, one of its reading clerks, announced that the House had passed the following joint resolutions in which it requests the concurrence of the Senate:

H.J. Res. 443. A joint resolution designating the month of June 1984 as "Student Awareness of Drunk Driving Month."

H.J. Res. 454. A joint resolution honoring the contribution of blacks to American independence.

The message also announced that pursuant to Public Law 301 of the 78th Congress, the chairman of the Committee on Merchant Marine and Fisheries has appointed the following members on the part of the House to serve as members of the Board of Visitors to the U.S. Coast Guard Academy for the year 1984: Mr. Studds, Mr. Hughes, Mr. Young of Alaska, and Mr. Jones of North Carolina, ex officio.

At 4:38 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2335. An act to provide a temporary extension of the credit card surcharge prohibition.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 478. Joint resolution designating the week of April 29 through May 5, 1984, as "National Week of the Ocean."

MEASURES REFERRED

The following joint resolutions were read the first and second times by unanimous consent and referred as indicated:

H.J. Res. 443. Joint resolution designating the month of June 1984 as "Student Awareness of Drunk Driving Month;" to the Committee on the Judiciary.

H.J. Res. 454. Joint resolution honoring the contribution of blacks to American independence; to the Committee on the Judiciary.

H.J. Res. 478. Joint resolution designating the week of April 29 through May 5, 1984, as "National Week of the Ocean;" to the Committee on the Judiciary.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4957. An act to apportion certain funds for construction of the National System of Interstate and Defense Highways for fiscal year 1985 and to increase the amount authorized to be expended for emergency relief under title 23, United States Code, and for other purposes.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary reported that on today, March 1, 1984, he had presented to the President of the United States the following joint resolutions:

S.J. Res. 161. Joint resolution to designate the month of April 1984, as "National Child Abuse Prevention Month;"

S.J. Res. 184. Joint resolution to designate the week of March 4, 1984, through March 10, 1984, as "National Beta Club Week;" and

S.J. Res. 193. Joint resolution designating March 6, 1984, as "Frozen Food Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2648. A communication from U.S. Bankruptcy Court Judge Johnson, District of Oregon, transmitting, pursuant to law, notice of his acceptance of appointment; to the Committee on the Judiciary.

EC-2649. A communication from the Freedom of Information Act Officer, Occupational Safety and Health Review Commission transmitting, pursuant to law, the Commission's 1983 Freedom of Information Report; to the Committee on the Judiciary.

EC-2650. A communication from the Freedom of Information/Privacy Officer, Interstate Commerce Commission, transmitting, pursuant to law, the 1983 Freedom of Information Report; to the Committee on the Judiciary.

EC-2651. A communication from the Executive Secretary of the National Mediation Board transmitting, pursuant to law, the Board's 1983 Freedom of Information Report; to the Committee on the Judiciary.

EC-2652. A communication from the Director of Administration, Department of Energy, transmitting, pursuant to law, the Department's 1983 Freedom of Information Report; to the Committee on the Judiciary.

EC-2653. A communication from the Assistant Secretary of Defense for Public Affairs, transmitting, pursuant to law, the Department's 1983 Freedom of Information Report; to the Committee on the Judiciary.

EC-2654. A communication from the Director of the Office of Bilingual Education and Minority Language Affairs, Department of Education, transmitting, pursuant to law, notice that a report on bilingual education due on February 1, 1984 is still in preparation; to the Committee on Labor and Human Resources.

EC-2655. A communication from the Secretary of Education, transmitting a draft of proposed legislation to authorize the establishment of an endowment fund at Howard University, and for other purposes; to the Committee on Labor and Human Resources.

EC-2656. A communication from the Executive Director of the U.S. Holocaust Memorial Council, transmitting a draft of proposed legislation authorizing appropriations to the Executive Director of the U.S. Holocaust Memorial Council for services necessary to perform the functions of the U.S. Holocaust Memorial Council; to the Committee on the Judiciary.

EC-2657. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on production of surplus crops on irrigated land served by the U.S. Bureau of Reclamation; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2658. A communication from the Deputy Assistant Secretary of the Interior (Water and Science), transmitting, pursuant to law, an application by the East Bench Irrigation District, Madison County, Mont., for a loan under the Small Reclamation Projects Act; to the Committee on Energy and Natural Resources.

EC-2659. A communication from the Secretary of the Interior, transmitting, pursuant to law, notice that a study continues in setting fair market value on coal deposits within the Cranberry Wilderness past the 1-year statutory date; to the Committee on Energy and Natural Resources.

EC-2660. A communication from the Governor of American Samoa, transmitting, pursuant to law, a copy of the official revised Constitution of American Samoa, adopted on February 16, 1984 by the delegates to the constitutional convention; to the Committee on Energy and Natural Resources.

EC-2661. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the annual report of the Chief of Engineers on local agreements and the status of their performance; to the Committee on Environment and Public Works.

EC-2662. A communication from the President of the African Development Foundation, transmitting a draft of proposed legislation to extend the authority of the African Development Foundation; to the Committee on Foreign Relations.

EC-2663. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to February 22, 1984; to the Committee on Foreign Relations.

EC-2664. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of the Overseas Private Investment Corporation's Financial Statements for the Years Ended September 30, 1982 and 1983"; to the Committee on Foreign Relations.

EC-2665. A communication from the Executive Director of the Board for International Broadcasting, transmitting, pursuant to law, the annual report of the Board under the Government in the Sunshine Act for calendar year 1983; to the Committee on Governmental Affairs.

EC-2666. A communication from the Federal Inspector of the Alaska Natural Gas Transportation System, transmitting, pursuant to law, the annual report of the system on operations under the Freedom of Information Act for calendar year 1983; to the Committee on the Judiciary.

EC-2667. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Annual Report on Advisory Neighborhood Commissions"; to the Committee on Governmental Affairs.

EC-2668. A communication from Judge Mund, of the central district of California, transmitting, pursuant to law, her acceptance of an appointment as a judge of the bankruptcy court; to the Committee on the Judiciary.

EC-2669. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the annual report on the activities of the Commission under the Freedom of Information Act for calendar year 1983; to the Committee on the Judiciary.

EC-2670. A communication from the Director of the Administrative Office of the United States Courts transmitting, pursuant to law, the 1983 Annual Report of the Courts; to the Committee on the Judiciary.

EC-2671. A communication from the Secretary of Education transmitting a draft of proposed legislation to amend the impact aid program statute; to the Committee on Labor and Human Resources.

EC-2672. A communication from the Director of the Office of Personnel Management transmitting a draft of proposed legislation to amend the veterans readjustment program in the Federal Government; to the Committee on Veterans Affairs.

EC-2673. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on 9 rescissions and 13 new deferrals of budget authority and revisions to 5 previously reported deferrals; jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, Agriculture, Nutrition, and Forestry, Armed Services, Banking, Housing, and Urban Affairs, Energy and Natural Resources, and Labor and Human Resources.

EC-2674. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to provide authority for the Armed Forces to recover and examine certain remains; to the Committee on Armed Services.

EC-2675. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations for the National Telecommunications and Information Administration for fiscal years 1985 and 1986; to the Committee on Commerce, Science, and Transportation.

EC-2676. A communication from the Secretary of Energy, transmitting, pursuant to law, notice of the first meeting of an independent group appointed to study the licensing and operation of nuclear facilities; to the Committee on Energy and Natural Resources.

EC-2677. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, proposed prospectuses on certain construction projects; to the Committee on Environment and Public Works.

EC-2678. A communication from the Secretary to the Railroad Retirement Board, transmitting, pursuant to law, the annual report of the Board on operations under the Freedom of Information Act during calendar year 1983; to the Committee on the Judiciary.

EC-2679. A communication from Judge Heitman, of the western district of Michigan, transmitting, pursuant to law, acceptance of his appointment as a judge of the bankruptcy court; to the Committee on the Judiciary.

EC-2680. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission on the administration of the Freedom of Information Act during calendar year 1983; to the Committee on the Judiciary.

EC-2681. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report of the Corporation on the administration of the Freedom of Information Act for calendar year 1983; to the Committee on the Judiciary.

EC-2682. A communication from the Secretary to the Railroad Retirement Board, transmitting, pursuant to law, a report on the solvency of the Board and its ability to pay benefits for the next 5 years; to the Committee on Labor and Human Resources.

EC-2683. A communication from the President of the United States, transmitting, pursuant to law, a report on the activities of countries within the United Nations and its specialized agencies; to the Committee on Foreign Relations.

EC-2684. A communication from the Under Secretary of the Navy, transmitting a draft of proposed legislation to amend chapter 13 of title 37, United States Code, to standardize, update, and simplify the law governing the assignment and allotment of pay of members of the Navy and Marine Corps; to the Committee on Armed Services.

EC-2685. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Deep Seabed Hard Mineral Resources Act to authorize appropriations to carry out the provisions of such act for fiscal years 1985 and 1986; to the Committee on Commerce, Science, and Transportation.

EC-2686. A communication from the Secretary of Energy, transmitting a draft of proposed legislation to provide for distribution to the States of certain amounts resulting from enforcement of the Emergency Petroleum Allocation Act of 1973, and for other purposes; to the Committee on Energy and Natural Resources.

EC-2687. A communication from the Secretary of Energy, transmitting, pursuant to law, the second annual revised program management plan for Ocean Thermal Energy Conservation Systems, updating the plan submitted in April 1982; to the Committee on Energy and Natural Resources.

EC-2688. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, texts of certain instruments adopted by the International Labor Organization; to the Committee on Foreign Relations.

EC-2689. A communication from the Director of Selective Service, transmitting, pursuant to law, a report on certain computer matching programs of the Selective Service System; to the Committee on Governmental Affairs.

EC-2690. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-112, adopted by the Council on January 31, 1984; to the Committee on Governmental Affairs.

EC-2691. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to establish the Mental Health Corporation, and for other purposes; to the Committee on Labor and Human Resources.

EC-2692. A communication from the Chairman of the Commodity Futures Trading Corporation, transmitting, pursuant to law, the annual report of the Corporation on the administration of the Freedom of Information Act during calendar year 1983; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-548. A resolution adopted by the Senate of the State of West Virginia; to the Committee on Finance.

"SENATE RESOLUTION NO. 13

"Whereas, The American steel industry has engaged in extraordinary self-help efforts including the commitment of millions of dollars to modernization and the reduction of employment cost; and

"Whereas, Foreign steel imports now account for approximately twenty percent of the steel consumed in the United States; and

"Whereas, The American steel and coal industries, and those particularly in West Virginia, are suffering from painfully high levels of unemployment which result in large measure from foreign steel imports; and

"Whereas, Most steel entering the United States is unfairly traded because it is dumped, subsidized or is the beneficiary of targeted foreign government development assistance; and

"Whereas, United States trade laws have been ineffective in stemming the tide of unfairly traded foreign steel; and

"Whereas, Unfair trade in steel is the single most serious threat to the survival of a healthy industry in West Virginia and in the United States; and

"Whereas, The American steel industry produces industrial material which is essential to the United States economy and necessary to our national defense; and

"Whereas, The steel industry is an important part of this state's economy, providing employment for thousands of the state residents; and

"Whereas, The American steel industry and West Virginia's coal mining industry are linked by an important and mutually beneficial customer-supplier relationship; therefore, be it

"Resolved by the Senate:

"That the Congress of the United States is hereby urged to support the Fair Trade In Steel Act of 1983 (H.R. 4352) which limits imports of foreign steel to not more than fifteen percent of American steel consumption for a period of at least five years; and, be it

"*Resolved further,* That a copy of this resolution be sent to each member of the West Virginia Congressional Delegation, each member of the Congressional Steel Caucus, the presiding officers of each House of Congress, and the President of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEPSEN, from the Joint Economic Committee:

Special Report on the February 1984 Economic Report of the President (with additional views) (Rept. No. 98-362).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources: Bessie Boehm Moore, of Arkansas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1988.

(The above nomination was reported from the Committee on Labor and Human Resources with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JEPSEN (for himself and Mr. Grassley):

S. 2379. A bill to amend the Consolidated Farm and Rural Development Act to prescribe the period for accepting applications for emergency loan assistance under such act, to modify the criteria used in determining the value of collateral used to secure emergency loans made under such act, to modify the criterial used in determining the amount of the emergency loans made under such act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HEINZ (for himself, Mr. Hatch, Mr. Heflin, Mr. Randolph, Mr. Ford, Mr. Specter, Mr. Byrd, Mr. Huddleston, Mr. Boschwitz, Mr. Durenberger, and Mr. Denton):

S. 2380. A bill to reduce unfair practices and provide for orderly trade in certain carbon, alloy, and stainless steel mill products, to reduce unemployment, and for other purposes; to the Committee on Finance.

By Mr. SASSER (for himself and Mr. Pryor):

S. 2381. A bill to amend the Inspector General Act of 1978 to transfer to the Office of the Inspector General of the Department of Defense the functions of the Defense Contract Audit Agency, and for other purposes; to the Committee on Governmental Affairs.

By Mr. McCLURE (by request):

S. 2382. A bill to establish a working capital fund in the Bureau of Reclamation, Department of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER:

S. 2383. A bill to amend the Clean Air Act with respect to mobile source emissions control; to the Committee on Environment and Public Works.

By Mr. BRADLEY:

S. 2384. A bill to require rapid fill of the strategic petroleum reserve, to authorize early use of the strategic petroleum reserve, to authorize emergency block grants to assist low-income Americans during an oil supply disruption, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ARMSTRONG:

S.J. Res. 251. A joint resolution providing for the convening, whenever the legislatures of two additional States pass a resolution to hold such a convention, of a constitutional convention for the purpose of proposing an amendment relating to the balancing of the Federal budget; to the Committee on the Judiciary.

By Mrs. HAWKINS (for herself, Mr. Warner, Mr. Specter, Mr. Stafford, Mr. Jepsen, Mr. Mattingly, Mr. Burdick, Mr. Heinz, Mr. Symms, Mr. Gorton, Mr. Hollings, Mr. Cochran, Mr. Stevens, Mr. Randolph, Mr. Abdnor, Mr. Dole, Mr. Boren, Mr. D'Amato, Mr. Domenici, Mr. Roth, Mr. Denton, Mr. Chafee, Mr. Riegle, Mr. Huddleston, Mr. Dixon, Mr. Lugar, Mr. DeConcini, Mr. Durenberger, Mr. Bradley, Mr. Kasten, Mr. Inouye, and Mr. Long):

S.J. Res. 252. A joint resolution to designate May 25, 1984, as "Missing Children Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEPSEN (for himself and Mr. Grassley):

S. 2379. A bill to amend the Consolidated Farm and Rural Development Act to prescribe the period for accepting applications for emergency loan assistance under such act, to modify the criteria used in determining the value of collateral used to secure emergency loans made under such act, to modify the criteria used in determining the amount of the emergency loans made under such act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DROUGHT ASSISTANCE EQUITY ACT

Mr. JEPSEN. Mr. President, on behalf of Senator Grassley and myself, I rise to introduce the Drought Assistance Equity Act.

For many farmers across the Nation, especially those in drought-stricken counties of Iowa, more help is needed in order to lessen the financial burden these farmers have suffered. For example, southern Iowa suffered its worst drought in 50 years. This part of Iowa is known for its rolling terrain where livestock feeding is the livelihood for many farmers. It has become increasingly clear that more must be done to alleviate the immense hardship being suffered by many farmers and their families due to the drought of 1983.

I spent a considerable amount of time during the August recess examining the effects of the drought. The devastation and financial crisis caused by this natural calamity will take years to overcome. The southern-tier counties of Iowa have suffered varying degrees of natural disaster in the past 3 years, culminating in this past summer's drought. This has resulted in an unprecedented demand for agricultural credit.

The key provisions of this bill are as follows:

First, a 60-day extension to the March 9 sign-up deadline for applying for Farmer's Home Administration disaster assistance loans.

Second, amends current law by allowing for two options in appraising real estate for collateral purposes. The bill states that the Secretary of Agriculture shall value the farm based on the higher of either the value of the farm on the day before the date the Governor of the State in which the farm is located declared the disaster in any county of such State, or the value of the farm 1 year before the day referred to above. This change is desperately needed because FmHA is undercutting loan applicants by determining the value of their real estate and other secured collateral at depressed, post-drought prices.

Mr. President, I would also like permission to insert in the Record a copy of a statement by Judy Doerscher, a member of the Drought '83 Committee from Bloomfield, Iowa. Judy gave this statement before the Iowa Senate agriculture committee during a hearing on the impact of the drought. She shared the findings of her research aimed at determining the extent that land values are tumbling.

I hope my colleagues will take the opportunity to read her testimony. It reveals a startling drop in land prices in Iowa ranging from 10 to 60 percent. This underscores the need for the Drought Assistance Equity Act, which should help curtail plummeting land prices and thereby help all farmers.

Third, under current FmHA regulations, a farmer's losses are being calculated on a formula based on 80 percent of the depressed 1982 average monthly corn price of $2.29 per bushel. This is considerably less than either production costs or current market value of corn. To remedy this situation, this bill directs use of either the higher of the average monthly price in effect for the previous year, or the average monthly price in effect for the 3-

month period beginning on the date the disaster began—as determined by the Secretary.

Credit is the most important life-support system for many of Iowa's drought-stricken farmers. Because of the credit needed by those involved in livestock farming in southern Iowa, the lack of credit in the area will have agricultural as well as social impact. Should we not be able to help solve the credit crunch in this part of the country, a change in farming practices in the region could result, much to the detriment of our Nation's long-term conservation efforts. A practice that has started could avalanche—putting more row crops on land better suited for cattle grazing.

In sum, by bill changes the formula by which grain is valued for disaster loan assistance and by which farmland is valued for collateral purposes. This bill would calculate grain losses according to the higher of either the average national monthly price in effect for the previous year or the average monthly price in effect for the 3-month period beginning on the date the disaster began.

Mr. President, I ask unanimous consent that an article entitled "Financial Collapse Still a Worry for Many Iowa Farmers" from the Des Moines Register be printed in the RECORD.

This legislation will add an element of flexibility into the disaster assistance loan statutes.

While I cited Iowa as an example to underscore the need for this legislation, there are farmers in other States in similar straits.

Mr. President, I ask unanimous consent that the full text of the bill be included at the end of my remarks.

There being no objection, the bill, article, and testimony were ordered to be printed in the RECORD, as follows:

S. 2379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Drought Assistance Equity Act".

APPLICATIONS FOR EMERGENCY LOANS

SEC. 2. Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by adding at the end thereof the following new sentence: "The Secretary shall accept applications for assistance under this subtitle at any time during the eight month period beginning on the date on which the natural disaster began (as determined by the Secretary) or on the date the major disaster or emergency was declared by the President, as the case may be.".

VALUE OF COLLATERAL USED TO SECURE EMERGENCY LOANS

SEC. 3. Section 324 (d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964 (d) is amended by adding at the end thereof the following new sentence: "If a farm (including land, livestock, and equipment) is used as collateral to secure a loan made under this subtitle, the Secretary shall value the farm based on the higher of (A) the value of the farm on the day before the date the governor of the State in which the farm is located first declared the disaster in any county of such State, or (B) the value of the farm one year before the day referred to in subclause (A).".

AMOUNT OF EMERGENCY LOANS BASED ON PRODUCTION LOSSES

SEC. 4. The second sentence of section 329 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1970) is amended—

(1) by inserting "(1)" after "based upon"; and

(2) by striking out the period at the end of such sentence and inserting in lieu thereof a comma and the following: "and (2) the higher of (A) the average monthly price in effect throughout the United States during the one year period ending on first day of the first month occurring after the date on which the natural disaster began (as determined by the Secretary) or on the date the major disaster or emergency was declared by the President, as the case may be, or (B) the average monthly price in effect throughout the United States during the three-month period beginning on the day referred to in subclause (A).".

EFFECTIVE DATE

SEC. 5. The amendments made by this Act shall become effective as of May 31, 1983.

[From the Des Moines (Iowa) Register, Feb. 12, 1984]

FINANCIAL COLLAPSE STILL A WORRY FOR MANY IOWA FARMERS

(By Jerry Perkins)

The sound heard echoing across the Iowa countryside this spring is a credit crunch.

Despite the costliest farm program in history last year and predictions that farmers would again be whole after several years of losses, spring planting is approaching amid signs that many more Iowa farmers will go out of business this year because their lenders don't think they can turn a profit.

Statistics compiled on loan turn downs, refinancing arrangements or other indications of credit problems faced by Iowa farmers are hard to come by. But interviews with farmers, lenders, lawyers and others close to the farm scene reveal signs that some farmers—particularly those in southern Iowa hard-hit by the drought last summer and two previous years of wet weather—are having trouble getting operating loan money for this year's crop.

For example:

In southern Iowa where last summer's drought plus two years of wet weather have compounded farmers' problems, auctioneers say they've never been busier, selling land and farm equipment for farmers who are throwing in the towel or selling off some assets to stay in farming.

Donald Wilkinson, governor of the Farm Credit Administration, told a U.S. House subcommittee recently that the farm credit system probably will "face more difficulty in 1984 than in 1983," as loan repayment and refinancing problems worsen, according to Commodity News Service.

The Federal Reserve Bank of Chicago's fall survey of 575 agricultural banks in Iowa and other Midwestern states showed "weak farm loan demand, sluggish repayment rates and a high level of refinancings."

An analysis of recent government statistics by Rural America, a national rural advocacy organization, showed an average of 27 Iowa FmHA borrowers were "forced out of farming" every month during 1983, an 80 percent increase over the average for the previous 15 months.

Council Bluffs lawyer C. R. Hannan, who has represented several farmers in financial trouble, says payment-in-kind proceeds were used to reduce debt but won't help most farmers' income picture this year.

Iowa farmers desperate for credits have lost $4 million a year for the last three years to "loan scams," according to the head of the Iowa Attorney General's farm division.

Although bankers say they have plenty of money to loan, fewer and fewer farmers are seen as being credit-worthy because of shrinking equity in their land and machinery and poor income statements in the previous years.

Al Maser, president the Iowa Bankers Association and president and chairman of the First National Bank in Le Mars, said land values in northwest Iowa have dropped 30 to 40 percent in recent years, which reduces a farmer's net work and curtails his borrowing ability.

Also, Maser said prospects for 1984 farm prices are not bright because it appears farmers will plant fence row to fence row in the wake of PIK and last year's short crop.

"When those two factors are combined, you have a tight credit situation," Maser said.

Steve Stahly, president of the Webster City Production Credit Association and chairman of the PCAs of Iowa organization, said PCAs in Iowa are actively looking for farmers to lend money to.

"The problem," Stahly said, "is that there aren't a lot of people who qualify for credit. They've got to show they can make money to pay the loans back."

Stahly said there are some farmers who are making more money than ever before. However, those who are in debt after paying as much as $2,000 an acre for land are in trouble, Stahly said.

The credit crunch may be most acute in southern Iowa where many farmers say they're being forced off the land as the lenders' purse strings are pulled tighter.

Leland Shelton of Charlton is one of those busy southern Iowa auctioneers. On a day last month when farmers and neighbors huddled together against the raw north wind, Shelton sold the farm equipment and most of the household goods for Al and Karen Cox of rural Woodburn.

"There are lots of people with no money to operate next year because they owe so much and they can't sell their land to clear their debts," Shelton said.

Also, the cash rent market for land is dead, he said, because few farmers in southern Iowa have any cash to spare after last summer's drought and the wet weather of the previous two summers.

Some landowners are even accepting deals in which they receive a certain number of bushels from the farmers who work their land in lieu of cash, Shelton said.

There is so much land on the market for rent, he said, he's holding a rare "cash rent auction" next week for over 1,000 acres in Clarke and Lucas counties to clear up the backlog.

Al and Karen Cox won't be bidding on the land. They're quitting farming after three years on their 125-acre farm near Woodburn.

"They said we've had the worst three years ever here and we picked 'em good," said Karen Cox after the sale.

The Coxes had a fire in their farrowing house and too much rain during their first two years of farming. Then, last spring's muddy weather killed 12 of their 58 cows, only to be followed by the drought. The Coxes had no crop insurance.

The Farmers Home Administration, which had loaned the Coxes $50,000 for a down payment on their land in 1981 and $87,000 for 1981 and 1982 operating loans, refused to extend further credit last year when they became delinquent on their payments for more than $170,000 interest and principal.

So with $10,000 borrowed from his brother, Homer, Cox planted his 1983 crop. But he only harvested 200 bushels of corn and 67 bushels of soybeans once the drought ravaged his own cropland as well as the 200 acres he had rented.

Since the farm's corn base was relatively small, Cox's 50 percent PIK participation didn't help much.

The FmHA termed the January sale a "voluntary liquidation," but Cox disagreed.

"They're not giving me any money for spring planting," said Cox, leaving him no option but to sell out.

The auction brought $7,000 for their used equipment and some household goods, plus $2.50 each for 11 geese and 5 ducks.

But a $14,000 land payment is due April 1, and another $10,000 is due for last year's loan from Cox's brother.

Al Cox said his next move will be to file a Chapter 7 bankruptcy liquidation.

Karen Cox has bitter words for the FmHA.

"When they come out to make their 'inventories,' they're smiling like everything is hunky dory. and then they go back to the office, and you should read what they write—just the opposite of what they say. It becomes character evaluations then.

"It's like there's a cold, psychological war going on and they're tearing people down a little bit by little bit until you're eroded. Then depression sets in after they've pulled the gound out from under you." she said.

"It's a way of life that's abruptly coming to an end," she added.

Jim Boltinghouse, a farmer and auctioneer from Lenox, said lenders in his area aren't being very cooperative with farmers seeking credit for this year's crop. And when farmers can borrow money, Boltinghouse said, the interest rate is too high.

Adding to farmers' credit woes is the change by many bankers from lending money based on a farmer's equity in land or machinery to one of "cash flow"—the farmer's ability to pay the loan back from the proceeds of his cash sales of grain and livestock.

Poor farm economic conditions have made it hard for farmers to show their operations will produce the necessary "cash flow," said Boltinghouse.

Boltinghouse says farmers need credit to buy the things they need to produce grain or fatten livestock.

Some lenders have mailed letters to livestock and grain buyers, listing farmers who have liens on their crops or livestock and directing the buyers to make any checks payable to both the farmer and the lender when crops or livestock are sold.

The lists, farmers say, force them to make end runs around the lending institutions, in search of buyers who aren't aware of the lists.

Ron Tuttle, a Chariton farmer who says his name is on one list from the National Bank & Trust in Chariton, said the list "makes crooks out of us. You start playing a game of hide and seek and sell."

Hannan, the Council Bluffs lawyer who represents a number of farmers in poor financial shape, said the lists' effect "is to foreclose on the farmers' security interest in the crops or livestock without a judicial hearing."

John Romoser, assistant vice president of the National Bank & Trust in Chariton, said the list from his bank was written at the request of area livestock and grain buyers who wanted to know which farmers' livestock and grain had bank liens lodged against them.

"We were advised by our lawyers to provide them a list for their protection," Romoser said.

Hannan also has harsh words for lenders who request that land or other real property be sold off, saying it serves to drive down prices on already saturated real estate and farm machinery markets.

Now, the most pressing problem facing farmers is finding financing for the spring planting, and that pressure is making some farmers to turn to non-traditional sources.

Even though many farmers received cash and corn for participating in PIK, Hannan said most of that was used up paying off old debts.

"PIK was really no help at all," Hannan said.

Meanwhile, the government's "lender of last resort," the Farmers Home Administration, is mired in red-tape for new loans or refinancing, Hannan said, and Production Credit Associations aren't interested in extending credit to farmers who have already been turned away by a bank.

So some farmers are turning to what Hannan calls "the secondary [loan] market" of loan consolidators—lenders like Thorp Commercial and the Associates.

"They're stepping in because the traditional credit sources of farmers are being squeezed off," Hannan said.

Roger Nansel, commercial loan officer for Thorp's northeastern Iowa office, said the company's lending to farmers has increased 25 percent in the last year.

Thorp specializes in second mortgages for debt consolidations to farmers who have cash flow problems and eroded equity tied to the poor farm economy of the past several years.

Thorp pays off the farmer's creditors and consolidates the debts into one loan at 16 to 18 percent interest, Nansel said. That is usually a higher rate of interest than the farmer was paying before.

But, Nansel said the consolidation loans usually carry longer pay back periods than the farmers' original loans so payments can be lower.

Hannan said the "secondary" lenders "are as far as an honest farmer ought to go." But there are growing reports of questionable loan schemes.

Tam Ormiston, head of the farm division of the Iowa Attorney General's office, said "farmers are especially vulnerable now because of the poor farm economy. They're the kind of people who look for answers. That's what's made them so successful."

Sometimes, however, that search for answers leads farmers to seek credit from loan scam operators. Iowa farmers have lost $4 million a year since 1981 to phony loan schemes, he said.

Ormiston recently has been looking into a loan offer being made by the National Agricultural Press Association, a Colorado-based group that has been active in several Midwestern states.

Ormiston said the group's representative, whom he identified as Jim Stolze of Muscatine, has been holding meetings in drought-stricken southern Iowa.

The farmers were told they could qualify for low interest loans if they joined the group for $30, Ormiston said.

Ormiston met with Stolze and predicts an agreement will be reached soon on the use of the money paid by 85 Iowans who joined the association in search of loans.

TESTIMONY OF JUDY DOERACHER BEFORE THE SENATE, AGRICULTURE COMMITTEE, FEBRUARY 15, 1984

Mr. Chairman, thank you for this opportunity to testify today regarding current developments in the farm real estate market. I use the term, market, loosely because, in reality, there is very little market. You must have both a willing seller and a buyer to have a market. We are seeing great numbers of distressed farms being offered for sale, but, very few buyers. Most Realtors agree that the buyers feel certain that the bottom has not been reached, and the longer they refrain from buying, the lower land values will go. This situation is feeding on itself and escalating rapidly. As the land values drop, more and more farmers find themselves in a position of little or no equity to secure further financing and must, themselves, put a property on the market.

As a real estate broker and farm wife in Davis County, I am well aware of what is happening in our area. I did consult with an agriculture lender and another broker tho, to verify my conclusions. Davis County has 25,000 plus acres for sale, with more coming on the market soon. We have a high rate of investor held land, so this figure is probably only doubled up from 1979, as investors tend to keep their holdings on the market.

Attached to my testimony is a map with several counties shaded in red showing that those are the ones I have researched.

Dennis Stolk of Assoc. Counselors Inc., LeClaire, states that Scott County currently has about 3,443 acres in 21 farms for sale with 8 of these being distressed. In 1979 there were 5-10 farms for sale. Clinton County has 59 farms consisting of 7,875 acres on the market with more coming in the next few weeks.

According to Lloyd Harmson of Harmson Realty, Dewitt, the escalation in farm listings began about 2 weeks ago and he feels they're doubled up over 1979 in Clinton and Jackson Counties.

Bill Bayles of Kennedy Realty, Maquoketa, feels that it is becoming very serious in Jackson City. He cites an example of a young farmer with 141 acres of bottom ground that produced 180 bu. per acre last year despite the drought. This man also won the State yield contest 2 years ago with 200 plus yield. This farm is for sale today. The reason—this farmer is tired of fighting high interest, rising operating costs and low returns.

In Cedar County, Dick Meade of Iowa Land Corp., Coralville, says they are also doubled up on listings. Land values have dropped by 30 percent—10 percent of this since Christmas. He voices his concern as follows: "Washington doesn't seem to care, but, it's a lot worse than anybody knows."

Roger Long of Algona Realty, Algona told me to "Stress in your testimony the number of distress farms and how badly the farmers need help. We weren't even in the drought area." He says they are nearly tripled up on farm listings over 1979 when prices were at their highest. Their agencies have 18 or 19 distress farms. He feels values are down at least 30 percent. Algona Realty operates thruout Kossuth, Palo Alto, and Hancock

Counties, some of the highest fertility ground in the State.

Lowell Yeager of Sandage Realty, Ames says there is a phenomenal amount of land on the market. His agency has 70 listings while normally they would have 15-20. They are finding land values have slid 40 percent and everyone is bargain hunting. The investor market is virtually shut out because of cash situations. Because of pricing, they are turning down a lot of listings and still can't keep up with the calls, and he stressed that for the most part they are only working north of I80. He said "I hope you can do a good job of letting Washington know what's going on out here in the Real World."

Working in Hardin and Marshall counties is Ron Engle of Mid-Iowa Real Estate. He states that they are not experiencing "a big rush, but, it is picking up" and there is "more coming on due to distress." He also says "there is a downward pressure on prices here."

In the south-central part of the State, I talked with Pat Corcoron of Iowa Realty. His agency covers several counties spanning four tiers. Land values in the northern part are down 30-35 percent and those to the south down as much as 50-60 percent. He agreed that land for sale was probably tripled up but "Actually, you could probably buy just about any farm in the southern two tiers of Iowa." He says they are turning down an awful lot of listings because the debt loads are beyond what the farm could sell for. He further stated "What's really sad, is when you pull on the yard and the place is neat and clean; you have a good operator who is 55-60 years old, and he's broke."

In summary, I have found that we are facing a major upheaval in the agricultural community. We have been losing family farms at a rate of 2-3 percent a year. Overinflated land values have been covering up the problem of ever growing debt loads for several years. Now, we must face the fact that farmers are unable to cash flow their operations and cannot refinance their land because the high inflated values are no longer there. Instead of 2-3 percent loss this year, we could be seeing 25 percent or more by the spring of 1985.

● Mr. GRASSLEY. Mr. President, during this past summer, the State of Iowa, along with a large number of other agricultural States throughout the country, was hit by a severe drought. Based upon damages and losses to crops caused by the drought lasting from June through September, a total of 90 Iowa counties have received disaster declarations which makes available Farmers Home Administration emergency loan assistance to farmers who can show that they sustained a 30-percent or greater loss. In response to a request from Senator JEPSEN, myself, and others, President Reagan reduced the interest rate on these loans from 8 percent down to 5 percent. He also ordered the Farmers Home Administration to hire additional personnel, and to reassign others, in order that the local FmHA offices would be able to accommodate the increased number of loan applications. Iowa brought on an additional 65 loan officers.

Unfortunately, notwithstanding these and other steps taken to help assist our drought victims, it has not been enough. Congress needs to pass legislation providing additional assistance, and it needs to be passed immediately. Our drought victims cannot wait any longer.

Therefore, I am joining my distinguished colleague from Iowa in introducing S. 2379, the Drought Assistance Equity Act. By no means is this a cure-all. And frankly, I recognize that many, including Senator JEPSEN and I, might like to see something more. But it is time to face reality and to move forward as quickly as possible with something that has a good chance of passing. Let us face it, we had a dairy bill, but no significant drought amendments. Then there was an attempt to pass a wheat bill, but no amendments were allowed.

What this says to me, is that too many Members of Congress are not convinced that the farm sector is hurting from the drought. They must think the PIK program took care of everyone. PIK helped some, but many did not benefit from it.

Perhaps the reason drought amendments were not allowed to the dairy or wheat bills is because to a great number of my colleagues, passage of these bills would be jeopardized by the inclusion of drought amendments. This is an unfortunate attitude. What these people are implying is that our drought victims are second-class citizens somewhere behind other farmers.

Finally, there is the possibility that there was insufficient support among my colleagues in Congress for drought assistance because of interest in or fear of the political implications. Some may have wanted to reserve this issue for a little political football. The name of that game is load up a bill with a huge price tag in order to force other Members of Congress to oppose it and to force the President to veto it.

It is time to put our political differences aside. It is time to join together in a bipartisan effort to pass drought assistance that can help and that we know will pass Congress and that can be enacted into law. Promising the world to our downtrodden may be politically appealing, but when you know full well that you cannot deliver, you are doing a far greater disservice to your constituents, than failing to say anything. Put bluntly, playing political football with our drought victims is a cruel, calloused hoax.

I firmly believe that everyone, Republicans, Democrats, Members of the House and the Senate, as well as the administration, can support S. 2379, the Drought Assistance Equity Act. The main reason I say this is that it was created and promoted, not by a Democrat or Republican, but by a committee of small business men and women and farmers from Davis County, Iowa—one of the worst hit counties in the country. This committee is named the "Drought '83 Committee," and has worked hard and unselfishly for months now gathering information, formulating solutions and keeping elected and appointed Government officials apprised of their findings and recommendations. This committee has acted in a highly professional and responsible manner, and has gained respect and admiration nationwide.

The Drought '83 Committee has asked Senator JEPSEN and I to introduce S. 2379 to the Senate and has asked the rest of the Iowa delegation, both Democrats and Republicans, to do all they can to effect the passage of this legislation immediately. The Drought '83 Committee is asking not only for support from both parties in the House and Senate, they are also asking for restraint. They want us to avoid a big price tag item, because they realize the more expensive it is, the less likely it can be passed quickly through Congress and enacted into law.

As I mentioned at the outset, they recognize many Members of Congress may prefer to add expensive amendments. The committee itself might prefer additional relief. But they also realize the S. 2379, has the best chance of passage and can offer a tremendous amount of relief for many more farmers. In short, as my colleague from Iowa explained, this bill is aimed at accomplishing three major objectives: First, opening the door to more farmers drought assistance economic emergency loans; second, increasing the size of the loan that the farmer can borrow from Farmers Home; and third, help curtail the rapidly deteriorating value of farm equity.

If this bill can accomplish any one of these objectives, it deserves your support and cooperation in passage.

Before closing, one final point needs to be understood by my colleagues. The easiest politically attractive option is to find a whipping boy for the present dilemma facing our drought victims. It is easy to point a finger at the Farmers Home Administration, to attack the administration or a Member of the other party. But what good is that going to do our farmers caught in the drought? Believe me, our farmers are wise to these self-serving antics.

On the same note, the dilemma caused by the drought is too broad to be addressed only by the efforts of the Federal Government. We all need to pull together. This means that State and local governments must provide help. It means that other lending institutions, including private banks, PCA's and Federal land banks need to do everything in their power to extend credit to their drought impacted customers. I recognize the desire of lenders to keep their own financial house in order, but as they push their customers out the door, land values will continue to tumble, jeopardizing the balance sheets of every farmer. Lenders must go that extra mile. Bank examiners must also exhibit necessary flexibility in order that the lenders can extend the necessary assistance.

In short, we are all in this together and we all need to work together to get through these troubles. Pointing fingers or passing the buck will not help. We can start working together, today, by joining in support of the Drought Assistance Equity Act.●

By Mr. HEINZ (for himself, Mr. HATCH, Mr. HEFLIN, Mr. RANDOLPH, Mr. FORD, Mr. SPECTER, Mr. BYRD, Mr. HUDDLESTON, Mr. BOSCHWITZ, Mr. DURENBERGER, and Mr. DENTON):

S. 2380. A bill to reduce unfair practices and provide for orderly trade in certain carbon, alloy, and stainless steel mill products, to reduce unemployment, and for other purposes; to the Committee on Finance.

FAIR TRADE IN STEEL ACT OF 1984

Mr. HEINZ. Mr. President, the steel industry is in a crisis—as deep and as severe as any it has known in our history. Without prompt action the shape of the industry will inevitably be transformed in ways that cannot be predicted but which will surely have long term implications for our entire manufacturing economy.

As we contemplate what action to take, we must begin by addressing the question of what kind of domestic steel industry we have to have for the foreseeable future. From my perspective, that question is easily answered. Despite shifts to plastics, ceramics, and lighter weight metals, steel remains an indispensable commodity—in construction, in transportation, in power generation, and in countless pieces of manufacturing equipment and consumer products. This demand cannot be met solely by the nonintegrated minimills but rather will continue to require a healthy basic steel industry of large integrated plants. No doubt there will be fewer of them, and those will be more coherently assembled through the process of mergers, acquisitions and closings now underway. But they will continue to be critical to the foundation of our economy, and will serve as a basis for our industrial strength.

Having begun at that point, another conclusion is equally clear: the industry is not now in a position to adjust by itself. Obviously, mergers and plant rationalizations can occur, but the present and continuing pressure from imports will offset those improvements and negate the benefits that would otherwise flow from them. There is simply too much price pressure from imports from producers determined to sell at any cost.

Clearly the import situation is not improving; 1983 started with some grounds for optimism, an agreement having just been concluded with the European Community, and the Japanese demonstrating their willingness to exercise self-restraint. Indeed, by the end of June 1983, imports were running 23.5 percent lower than 1982 levels and were accounting for 18.5 percent of the market compared to 22.6 percent a year earlier.

By the end of the year, however, other producers had rushed to more than fill the gap. Imports for the entire year 1983 exceeded 1982 levels by 2.4 percent, at the same time that imports from the EC were down 26.5 percent and from Japan were down 18.3 percent for the year, and it is getting worse. January imports were 2.1 million tons—26 percent of the market.

The industry is beginning to fight back against these new importers the same way it did against the EC—by identifying and prosecuting unfair trade practices by foreign producers and importers. Cases are currently pending against Brazil, Argentina, Korea, South Africa, Poland, Czechoslovakia, and Mexico, and subsidies are being found—more than 25 percent in the case of Brazil. While the outcome of all of them cannot be predicted, it is fair to note that the steel industry has a record of winning these cases unmatched by any other industry in recent years. Indeed, there would have been no agreement with the EC had the industry not effectively used the leverage created by winning its unfair trade practice complaints against European Community nations.

Given these precedents, and in view of the affirmative preliminary findings in the new cases that have progressed that far, it is probable that additional affirmative findings will be made and duties imposed. Even so, the global problem will continue as still other producers, not yet subject to antidumping or countervailing duty complaints, fill the new gaps. The steel industry has been plugging the holes in the dike of fair trade through our existing laws. Yet, every time we resolve one unfair foreign trade case, another stream of steel imports shoots through a new hole. It has become apparent that we have run out of fingers, and need to build a new dike. The sad fact is that as long as we maintain this piecemeal approach to the problem, there will be no effective solutions. World excess capacity is too great, and the temptation to construct even more export capacity too compelling to expect otherwise. To many developing countries a steel plant is synonomous with autarky—a symbol of national economic independence and arrival among the community of industrialized states. In such countries, however, new capacity will inevitably exceed local demand, so these plants are designed for exports from their inception. And they will sell at literally any price to maintain production and employment incurring huge losses in the process. For example:

> Brazil's steel exports this year should be twice the 2.4 million tons exported in 1982 while output should rise by 12 percent to 14.5 million tons—first half results of the state-owned companies were still being calculated—but first quarter losses totalled some 38 times greater than in the same period of 1982. Metal Bulletin, September 6, 1983.
>
> The French Government made the provision of additional financial assistance to the country's steel industry dependent on a return to profitability. The two state-owned groups, Usinor and Sacilor, both expect their losses to continue from an expected combined total this year of between $1 billion and $1.2 billion. Financial Times, November 24, 1983.
>
> Now with such nations as Mexico and Brazil groaning under a total foreign debt of about $175 billion, most of this to banks in those industrialized nations, the 'gloves are off' when it comes to pushing Latin American steel products overseas. . . . Miguel Alessio Robles, Director General of Mexico's Sidernex (state-owned steel producers) estimated here that his own firms' exports this year could triple to no less than 600,000 tons against only 200,000 tons in 1982. American Metal Market, August 31, 1983.
>
> The steel industry has dominated headlines in Spain during the past year. The general public awoke to the fact that the steel crisis was a major national structural problem. The state-owned integrated steel plant of Altos Hornos del Mediterrano (AHM) which lost close to Pta 9bn in 1982 on Pta 26 bn turnover, will continue to lose colossal sums right through next year. Financial Times, December 9, 1983.
>
> The Government's confidence about privatising the British Steel Corporation has seemed to wane in the past few months. As long as BSC continues to suffer huge losses—$500 million last year pre-tax and $225 million the year before—then the government will have to bail it out as well as provide capital for new investment. Financial Times, October 28, 1983.
>
> Executives at state-owned Sidor are attempting to triple the tonnage of steel mill products sold overseas this year compared to 1982 . . . Sidor is expected to lose twice as much money as initially expected this year. American Metal Market, October 24, 1983.

Since many of these plants are government-owned, they can continue these practices indefinitely. For example: In Europe, steel companies in France, Italy, and the United Kingdom are 100 percent government-owned, as is also the case in Austria and Sweden. In Belgium, Finland, and Spain, government ownership is over 70 percent.

Among developing countries, 100 percent government ownership is the case in Mexico, Venezuela, Argentina, South Korea, and Taiwan. Other figures are: Brazil, 77 percent, and South Africa, 89 percent.

The result is a world market out of control, characterized by subsidies and massive dumping as producers in economic difficulty attempt to shift the burden of their problems to other countries through unfairly priced imports. And the chief victim is the American industry, since we have the most open market for these products in the world.

Solving that problem demands a multifront strategy that will affect tax policy, regulatory policy, antitrust policy and trade policy. Indeed, antitrust policy issues have already been raised with the proposed LTV-Republic merger and United States Steel's proposed acquisition of National Intergroup's National Steel subsidiary. However, even if these merger proposals are ultimately approved in some form by the Justice Department, the pressures from imports will prevent the consolidations from being utilized to full advantage. Clearly imports have to be controlled as well.

As I have already pointed out, the piecemeal filing of individual cases against specific countries and specific products is not a viable long-term strategy, even though the cases are clearly winnable. Instead, a comprehensive global approach is indicated, and the Fair Trade in Steel Act is an example of such an approach. It is direct, simple, equitable, and paradoxically, more of a free trade solution than the current process. I say that because the legislation, which provides for a 15-percent global quota, empowers the Secretary of Commerce to allocate shares of the quota to different nations' producers. This procedure makes it likely that even the worst violators of our subsidy laws, such as Brazil, will obtain a share of our market—a more beneficial result for those countries than having the domestic industry win its unfair trade practice complaints with subsidy and dumping margins so large as to drive the offending countries out of the market completely.

Unfortunately, the recent Justice Department decision to oppose the first of those proposals could be a knockout punch to domestic steel modernization. As I indicated in my remarks on the Senate floor last week this decision is both wrong on its merits and a dramatic illustration of our failure to look at the industry comprehensively. In the fairy tale, the Emperor has no clothes. In the real world, the Government has no steel policy. The result will be a renewed focus on imports.

Equally important, the Fair Trade in Steel Act is also a solution that promotes adjustment in the domestic steel industry. Section 5 of the bill, entitled "Steel Industry Investment," requires the industry to plow back substantially all its steel cash flow into steel operations, and it authorizes the Secretary of Commerce to suspend the quotas if this section is not being adhered to. This is a tougher provision than that appearing in H.R. 4352, the House counterpart bill. It will insure that the domestic industry maintains its commitment to steel and utilizes its income to revitalize its facilities and restore them to competitiveness. Tying the quotas to a plowback concept also guarantees that the full benefits of the import protection being provided will flow to the industry as a whole and ultimately to the domestic economy, including consumers, in the form of more productive and efficient steelmaking. All too often in the past the temptation to use the benefits of protection to provide extra dividends for stockholders, huge wage increases for workers, or purchases of unrelated enterprises has been too great to resist. Making sure that increased earnings go directly into steel modernization is an integral part of this bill, as it also is of my other, general adjustment proposal, S. 849, the Industrial Revitalization Act.

The key to such reinvestment, of course, is prices—prices that reflect the operation of a market mechanism. As I pointed out, one of the consequences of subsidies and Government ownership is severely depressed price levels, as foreign governments and producers attempt to maintain production and employment for domestic political reasons. In order to survive at all, our producers have had to offer substantial discounts, to the point where even if sales are made, money is lost because of price cutting.

While this may be to consumers' advantage in the short run, in the long run it is disastrous, as companies fail, unemployment rises along with the consequent social and economic costs, and ultimately the Nation finds itself without an adequate integrated steel industry.

This trend poses a tough decision for our society and our Government, because stopping it requires us to take actions that have been historically unpopular with economists, like protection from imports. But it is imperative that we all understand that we are not talking about imports at the margin that cause minor injury. We are talking about massive imports that threaten the vitality of the entire industry, and, because of steel's importance, the health of our entire economy.

We can continue on as before, adhering to outdated economic ideas of free trade, but the result will be the destruction of our steel industry. And, despite the rhetoric, it is a fact that we have not had free trade in steel for years. Very little steel in the entire world is sold consistent with any market principles. Most of it is dumped or subsidized and sold at whatever price will get rid of it, and we simply cannot deal with market chaos by ignoring it and pretending we are back in the 1950's. The most significant thing about the Fair Trade in Steel Act is that it is realistic and effective. It is a realistic response to the situation in which we find ourselves, and it will be an effective means of revitalizing the industry.

Finally, it is only fair to point out, Mr. President, that there is another means of achieving the necessary global solution to the steel import crisis. That is through the section 201 escape clause case that Bethlehem Steel, along with the United Steelworkers, has filed. If the International Trade Commission makes an affirmative finding in this case, the President will then also have an opportunity to impose global relief, although such a decision would not normally be made until late September. This case provides the industry with an opportunity to test the strength of its cause in the forum created for that purpose—the International Trade Commission—and I have little doubt it will be successful. Thus, these two approaches complement each other, rather than compete against each other, and they increase the certainty that an equitable solution to the steel import problem will be found.

In conclusion, Mr. President, let me say that I do not introduce this bill lightly. Despite the numerous trade problems virtually every industry in Pennsylvania has had, I have tried to encourage them to work within the framework of our existing laws to achieve the relief they are entitled to. In the case of steel, however, we have reached a point where that course of action is no longer sufficient. The steel industry has used existing law extensively and effectively—more effectively than any other industry, which demonstrates the strength of its case—but those laws are not structured to provide a global solution to what is obviously a global problem. At this point such a comprehensive solution is the only answer, and it is for this reason that I am introducing quota legislation. In doing so, however, I have joined Lynn Williams, president of the United Steelworkers in insisting on a strong reinvestment provision to insure that the benefits this bill provides the industry will be used for the direct benefit of steel production and steel jobs. My legislation insures that the economic benefits from quotas flow back into productive investment in the domestic industry. If this bill passes we will not see another Marathon Oil purchase with steel earnings. Instead we will see growth and modernization in the domestic steel industry—modernization that is desperately needed if this vital industry is to maintain its competitiveness.

Enacting this bill, Mr. President, may be something of an uphill struggle, since some Senators instinctively react against quota legislation. It is my hope, however, that when they examine the actual provisions of the bill, including the reinvestment section, and when they analyze the global steel situation they will understand the need for this approach and will support the bill. The domestic industry can be competitive with modernization of existing facilities, but not so long as foreign imports tear away a larger and larger share of our domestic market.

Mr. President, I want to make just a few points about this legislation. This legislation will set a global quota on steel imports at 15 percent of the U.S. domestic market. That is a historical percentage that imports have traditionally enjoyed into U.S. markets, and it is a level that most industry observers believe will, on the one hand, allow a return to reasonable price levels without inconveniencing consumers or permitting exorbitant price increases.

It is important to recognize that this legislation is principally directed ultimately at those countries that are subsidizing and, as a result, selling their steel here both below cost and in contravention of the countervailing duty laws we have on the books and the General Agreement on Tariffs and Trade. Those countries are almost universal in having their steel companies 100 percent government owned.

There are a number of countries that do not dump or subsidize. Canada does not; Japan currently does not. The European Community is now under an agreement that assures us of fair treatment from their imports. But that leaves the rest of the world. It would be anticipated that this legislation, when enacted, would be implemented in such a way that we would take into account the nature of our existing trading relationships and their fairness with the European Community, with Japan, with Canada, and focus the quantitative restrictions in this legislation on the real problem countries, which are, at this point, all the others.

The second element of this bill which makes it unusual—indeed, I think it makes it unprecedented—is that the bill requires substantially all of the cash flow from steel operations during the period quotas would be in effect, 5 years, be reinvested only in steel operations.

That is a very tough provision. What it means is that steel companies would not be able to take the profits arising out of this legislation and go out and buy an oil company. It means that the shareholders would not be able during the 5 years these quotas will be in effect to take these profits from steel operations—at least that portion of the operating cash flow covered by the phrase "substantially all," which is pretty much what it sounds to be—and get large increases in dividends.

It means that in fact substantially all the cash flow derived from steel operations is going into one and only one purpose, namely, modernizing, strengthening, and making more competitive this industry that we all know we need.

That is an unusual provision, but it is not totally unprecedented. We have one precedent that in fact required much the same thing and was quite successful. I am referring to the Chrysler Corp. loan guarantee wherein Congress decided that if we were going to give $1.5 billion to one big corporation in one industry—and this Senator did not support it because he does not like the idea of welfare for the rich and free enterprise for the poor, but notwithstanding that we required that there be some forced reinvestment in Chrysler. Labor had to take pay cuts. Management had to take salary cuts. Shareholders could not get any dividends. Creditors, banks, had to not just stay with Chrysler, they had to put up more money. Chrysler's dealers had to buy preferred stock, put up more money. Chrysler's suppliers, which happened to include businesses large and small from steel to little parts suppliers, had to continue their expanded credit terms. It was a tough piece of legislation.

But more to the point, Mr. President, those reinvestment requirements were successful. Chrysler is having its best year in the last 20 or 30 years. It is a tremendous success story. Lee Iacocca has become a folk hero for turning Chrysler around. Every so often maybe we in Congress should take some of the credit, if we voted for it. I am not going to try to take any of the credit because I did not. But in any event, the requirement that the constituents of that corporate organization not be allowed to take the benefits of that particular instance of Government support insured that Chrysler, indeed, would be strengthened by investment, not weakened by greed from individual constituent groups, and it has worked.

What we have in this legislation, which is supported not just, as one might expect, by the steel companies and the American Iron and Steel Institute, is the support of the United Steel Workers of America.

Now, I have to tell Senators it is not often, coming as I do from Pittsburgh, Pa., that you see the United Steel Workers of America and management of the various steel companies in agreement. Normally, they seem to be at each other's throat. But because of the reinvestment provision, because the steelworkers understand that there are only going to be jobs for their membership if there is a strong and competitive steel industry, not just today but down the road 5 years from now when these quotas end, and because steel management recognizes they cannot possibly come to Congress with quota legislation without making some binding commitments to do something intelligent, creative, necessary, and productive with the benefits of that protection, we have before us a unique approach to solving the problems of a critical industry.

Mr. President, I am very pleased that the Senator from Missouri, the chairman of the Trade Subcommittee, has agreed to hold hearings on this legislation in the future. We have before us what I think is a very unique, different, and responsible approach to getting a critical industry on its feet in a way that will benefit all Americans, not just the industry, not just its workers, not just its shareholders but our country as a whole.

Mr. President, I send the bill to the desk and ask for its appropriate referral.

The **PRESIDING OFFICER.** The Chair will receive the bill and it will be appropriately referred.

Mr. **HEINZ.** Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Trade in Steel Act of 1984".

SEC. 2. FINDINGS, PURPOSES, AND POLICY.

(a) The Congress acknowledges that the steel industry of the United States is critical to the national defense and the maintenance of a strong industrial economy, which employs millions of workers and sustains the Nation's prosperity. The Congress finds that international trade in steel over the past two decades has been plagued by unfair trade practices such as dumping, subsidization, industrial targeting, discriminatory bilateral agreements, selling below cost, and other predatory practices. The result has been substantial injury to the domestic steel industry as manifested by a reduction in employment of over two hundred thousand workers since 1977, a drop in steelmaking capability of thirteen million tons in the same period, the permanent closure of one hundred and seventy-six plants or individual facilities since 1977, and the temporary or indefinite shutdown of scores of additional facilities.

(b) The Congress notes that the well-recognized problem of excessive worldwide steelmaking capacity has been seriously exacerbated by the addition of massive new steelmaking facilities in the developing nations with capacity well in excess of their domestic requirements. Many of these facilities were built with the assistance of subsidized international financing, and as a result significant levels of steel exports from these countries are required to service the massive government or government-guaranteed international debt obligations incurred. Thus, the primary motives for export sales are to generate foreign exchange and to maintain domestic employment.

(c) The Congress finds that since 1980 steel producers in the United States have made a substantial commitment to the future of the American steel industry by announcing capital investment projects in excess of $7,700,000,000. The massive losses experienced in 1982 and the continuing unsatisfactory financial performance of the industry in 1983 has necessitated costly deferrals of many of these vital projects, and some projects have been canceled. The Congress finds that the necessary reinvestment in the American steel industry is seriously jeopardized by the failure of existing trade statutes of the United States to deal effectively with unfairly traded steel imports and that a five-year stabilization of steel imports is needed to permit such reinvestment to be made. To ensure that this Act facilitates such reinvestment, the Secretary of Commerce is directed in section 5 to monitor capital investment by the domestic steel industry and report to the Congress if a specified level is not maintained.

(d) The Congress notes that, within the past year, the Department of Commerce and the United States International Trade Commission made the requisite findings for the imposition of countervailing duties and antidumping duties with respect to steel imports from Brazil, Romania, South Korea, South Africa, France, Belgium, Luxembourg, Netherlands, West Germany, United Kingdom, Italy, Spain, and Japan; and that the United States Trade Representative found that Japan and the European Coal and Steel Community entered into a bilateral agreement to restrain steel exports from Japan to the Community in contravention of article XI of the General Agreement on Tariffs and Trade. Despite these administrative findings, the domestic steel industry has not been afforded adequate and appropriate relief; therefore, the Congress concludes that—

(1) the litigation process is inadequate to address unfair trade practices where, as in steel, such practices are widespread, involve numerous foreign governments, and relate to a fungible product; and

(2) in the absence of a viable remedy, legislative relief is essential.

(e) It is the intent of Congress in enacting this Act to promote and expand the economic viability of the United States steel industry and the jobs of its workers, and to prevent further decline of this important domestic industry. It is further the desire of Congress to temper the economic hardships resulting from unemployment in communities whose economies are significantly dependent on steel industry employment by encouraging reinvestment in existing steelmaking facilities. It is therefore declared to be the policy of Congress that access to the United States market for foreign-produced carbon, alloy, and specialty steel mill products should be on an equitable basis to safeguard the national security, insure orderly trade in steel mill products, reduce unfair trade in steel mill products and alleviate United States balance-of-payments problems. In order to accomplish this policy, it is deemed necessary and appropriate to limit imports of steel mill products to approximately 15 per centum of apparent domestic supply for at least a five-year period.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "apparent domestic supply" means domestic shipments plus imports less exports;

(2) The term "cash flow from the steel sector means, in accordance with generally accepted accounting principles, all cash provided and all cash used (including the cost of capital) within the steel sector as reported in statements of profit and loss, balance sheet and changes in financial position prepared in accordance with generally accepted accounting principles for the steel sector of the companies in the domestic iron and steel industry taken as a whole;

(3) the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States;

(4) the term "Secretary" means the Secretary of Commerce;

(5) the term "steel mill product category" means the following categories for carbon, alloy, and specialty steel mill products, identified by reference to the following seven-digit item numbers of the Tariff Schedules of the United States (annotated), as in effect on November 1, 1983:

(I) ARTICLES OF CARBON AND ALLOY STEEL

(A) 606.6700, 606.6940 (semifinished products).

(B) 607.1400, 607.1700, 607.2200, 607.2300 (carbon wire rods).

(C) 607.4100, 607.5900 (alloy wire rods).

(D) 609.8015, 609.8035, 609.8041, 609.8045, 609.8200 (structurals).

(E) 609.8005, 609.9600, 609.9800 (piling).

(F) 607.6615, 607.9400, 608.0710, 608.1100, 607.7800, 607.9100, 608.1420 (plate).

(G) 610.2010, 610.2020, 610.2100 (rails).

(H) 610.2500, 610.2600, 646.3020 (rail and track accessories).

(I) 690.2500, 690.3000 (wheels and axles).

(J) 606.8310, 606.8330, 606.8350, 606.8600, 607.0500, 607.0700 (carbon hot rolled bar).

(K) 606.9700, 607.0900 (alloy hot rolled bar).

(L) 609.8050, 609.8070, 609.8090 (barshapes under 3 inches).

(M) 606.7900, 606.8100 (re-bars).

(N) 606.8805, 606.8809, 606.8815 (carbon cold finished bars).

(O) 606.9900 (alloy cold finished bars).

(P) 610.3231, 610.3232, 610.3241 (90%), 610.3244 (85%), 610.3247 (55%), 610.3251 (5%), 610.3751 (5%) 610.4951, 610.4948 (15%), 610.4961 (40%), 610.4965 (35%), 610.4970 (30%) (standard pipe).

(Q) 610.3216, 610.3219, 610.3247 (10%), 610.3721, 610.3722, 610.3751 (5%), 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4960 (95%), 610.4965 (45%), 610.4970 (65%), 610.5221, 610.5222, 610.5226, 610.5234 (20%), 610.5241 (85%), 610.5246 (65%), 610.5247 (30%) (oil country tubular goods).

(R) 610.3208, 610.3209, 610.3211, 610.3247 (10%), 610.3251 (80%), 610.3711, 610.3712, 610.3713, 610.3751 (75%), 610.4931, 610.4933, 610.4936, 610.4961 (10%), 610.4965 (20%), 610.5211, 610.5214, 610.5216 (line pipe).

(S) 610.3221, 610.3227 (80%), 610.3244 (15%), 610.3728, 610.3732, 610.4500, 610.4600, 610.4948 (85%), 610.4961 (30%), 610.4975 (5%), 610.5229 (25%), 610.5246 (15%), 610.5247 (60%) (mechanical tubing).

(T) 610.3000, 610.3100, 610.3205, 610.3500, 610.3600, 610.3704, 610.3751 (15%), 610.4920, 610.4960 (5%), 610.4961 (5%), 610.4970 (5%), 610.5206, 610.5208, 610.5229 (25%), 610.5241 (15%), 610.5246 (20%), 610.5247 (10%) (pressure tubing).

(U) 610.4800, 610.5130, 610.5160 (other pipe and tubing, hollow bars).

(V) 610.3227 (20%), 610.3241 (10%), 610.3247 (25%), 610.3251 (15%), 610.3945, 610.3955, 610.4045, 610.4055, 610.4245, 610.4255, 610.4345, 610.4355, 610.4961 (15%), 610.4952, 610.4975 (95%) (structural pipe and tubing).

(W) 609.4010, 609.4040, 609.4055, 609.4065, 609.4125, 609.4165, 609.4315, 609.4365, 609.4530, 609.4560, 609.7000, 609.7200, 609.7500, 609.7600, 642.9600, 642.9700, 609.2000, 609.2100, 609.2200, 609.2500, 609.2800, 609.3040, 609.3340, 609.3500, 609.3600, 609.3700 (round and flat wire).

(X) 646.2500, 646.2622, 646.2624, 646.2626, 646.2628, 646.2642, 646.2644, 646.2646, 646.2648 (wire nails).

(Y) 642.0200 (barbed wire).

(Z) 642.3510, 642.3530, 642.3570 (galvanized wire fencing).

(AA) 609.4120, 642.9000, 642.9100 (bale ties).

(BB) 607.6200, 607.6400 (black plate).

(CC) 607.9600, 607.9700, 607.9900 (tin plate).

(DD) 609.1710, 609.1790 (tin free steel).

(EE) 607.6610, 607.6710, 607.6720, 607.6730, 607.6740, 607.8342, 608.1920, 608.2120, 608.2320, 607.8100 608.3820, 608.5520, 608.6720 (hot rolled sheet and strip).

(FF) 607.8350, 607.8355, 607.8360, 607.8320, 607.9320 (cold rolled sheet).

(GG) 608.0100, 608.0730, 608.1310, 608.1320, 608.1330, 608.1340, 608.1350, 608.1440 (coated sheet including terne plate).

(HH) 607.9205, 607.9210, 608.3900 (electrical sheet and strip).

(II) 608.1940, 608.2140, 608.2340 (cold rolled strip).

(II) ARTICLES OF SPECIALTY STEEL

(A) 606.6920 (semifinished, stainless).

(B) 607.2600, 607.4300 (wire rods).

(C) 607.7605, 607.9005 (plates).

(D) 606.9005, 606.9010 (bars).

(E) 606.9200, 606.9400, 606.9505, 606.9510, 606.9520, 606.9525, 606.9535, 606.9540, 607.2800, 607.3405, 607.3420, 607.4600, 607.5405, 607.5420, 607.7205, 607.7220, 607.8605, 607.8820, 608.3405, 608.3420, 608.4905, 608.4920, 608.6405, 608.6420, 609.4520, 609.4550 (tool steel, all forms).

(F) 610.3701, 610.3727, 610.3731, 610.3741, 610.3742, 610.5205, 610.5229 (50%), 610.5230, 610.5231, 610.5234 (80%), 610.5236 (stainless pipe and tubing).

(G) 609.4510, 609.4540, 609.3020, 609.3320 (drawn wire).

(H) 607.7610, 607.9010, 607.9020, 608.2600, 608.2900, 608.4300, 608.5700 (sheet and strip).

(6) the term "ton" means two thousand pounds;

(7) The term "steel sector" means facilities for the production of coke, iron and steel, and steel mill products and shall include facilities for the production and lake transportation of associated raw materials dedicated to steel operations.

SEC. 4. QUANTITATIVE RESTRICTIONS.

(a) In order to equitably restrict imports of steel mill products to approximately 15 per centum of apparent domestic supply, annual imports of each steel mill product category shall be limited to the following percentages of apparent domestic supply, which are based on adjusted average import penetration levels for each such product category for the years 1979, 1980 and 1981:

Category (referenced by description to corresponding steel mill product category in section 3(4))	Quota percent
Carbon and alloy steel articles:	
Semifinished products	15.8
Carbon wire rod	20.1
Alloy wire rod	85.0
Structurals	24.6
Steel piling (sheet and H)	26.3
Plate	15.0
Rails	16.0
Rail and track accessories	8.0
Wheels and axles	20.1
Rebars	1.6
Barshapes under 3 inches	10.6
Hot rolled bars—carbon	7.3
Hot rolled bars—alloy	5.0
Cold finished bars—carbon	6.9
Cold finished bars—alloy	13.1
Standard pipe	33.0
Structural pipe and tubing	39.9
Line pipe	31.4
Oil country tubular goods	31.7
Mechanical tubing	8.9
Pressure tubing	37.6
Other pipe and tubing	88.8
Round and flat wire	17.8
Bale ties	0.3
Galvanized wire fence	7.4
Wire nails	55.9
Barbed wire	21.1
Black plate	15.7
Tin free steel	5.1
Tinplate	6.6
Hot rolled sheet and strip	12.1
Cold rolled sheet	9.8
Coated sheet (including terne plate)	17.5
Cold rolled strip	5.1
Electric sheet and strip	4.3
Specialty Steel Products:	
Stainless sheet and strip	5.9
Stainless plate	2.7
Stainless bar	13.6
Stainless rod	23.8
Tool steel (all forms)	16.7
Stainless pipe and tubing	41.5
Semifinished stainless	4.9
Stainless round wire under 0.060-inch diameter (provided for in section 3 (4)(II)(G))	20.0
Stainless round wire greater than 0.060-inch diameter (provided for in section 3 (4)(II) (G))	7.1

(b) The aggregate quantity of articles in any steel mill product category that may be entered during any calendar year after 1983 may not exceed a number of tons determined by multiplying the percentage for such steel mill product category specified in subsection (a) by the estimated apparent domestic supply for such steel mill product category for such calendar year.

(c) The Secretary shall allocate global product limitations among foreign countries, groups of countries or areas and in doing so shall be guided by—

(1) relevant provisions of the United States-European Community Arrangement dated October 21, 1982;

(2) findings of unfair trade practices with respect to steel mill products; and

(3) such other considerations as the Secretary deems appropriate.

(d) Within sixty days after the effective date of this Act, and on each October 1 thereafter, the Secretary shall determine, on the basis of the best available information including his own or independent forecasts, the expected apparent domestic supply in each steel mill product category for, in the case of the initial determination, the remainder of the current year, and in the case of each October 1 thereafter, the next succeeding calendar year. On each such date the Secretary shall determine and publish in the Federal Register the allocation for the next succeeding calendar year of permissible imports in each steel mill product category by country, group of countries or area as required by this section.

(e) On each January 1, April 1, and July 1 the Secretary shall revise the determinations of expected apparent domestic supply made under subsection (d) for the current calendar year on the basis of the best information then available and shall make such adjustments in the tonnage of each steel mill product category permitted to be imported under this section and the allocation of such tonnage by country, group of countries, or area as are indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

(f) If the revised determination of expected apparent domestic supply published in the Federal Register under subsection (e) on July 1 in any calendar year for any steel mill product category varies from the actual apparent domestic supply for such category for such year, the Secretary shall publish in the Federal Register on April 1 of such succeeding calendar year a revision to the determination for such category for such calendar year made under subsection (d) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such April 1 under subsection (e) of this section.

(g) It is a goal of this Act to ensure that the entry of articles in each steel mill product category be equalized, to the extent practicable, taking into account historical seasonal variations, on a quarterly basis throughout each calendar year. If the Secretary determines that the aggregate quantity of articles in any steel mill product category supplied by any country, group of countries or area exceeds, in any period of two consecutive quarters within a calendar year, by 10 per centum or more an amount equal to one-half of the aggregate quantity of such articles allocated to such country, group of countries or area for the year concerned, the Secretary shall thereafter determine such additional quantitative restrictions (which may include, but are not limited to, a temporary embargo of such articles) as may be necessary to achieve such equalization.

(h) Nothing in this Act is intended to result in material changes in historical patterns with respect to—

(1) the regional distribution of imports of steel mill imports into the United States;

(2) the proportion of imports of any category of steel mill products (except specialty steel products) represented by carbon or alloy grades; or

(3) in the case of pipe and tube products, the proportion of imports represented by seamless or welded product. The Secretary shall monitor each of these factors. If the Secretary determines that the objectives of this Act are impaired by material regional imbalances or diversion of imports from carbon to alloy grades, he shall impose such additional restrictions as he deems appropriate.

(i) The Secretary of the Treasury shall take such action as may be required to enforce the provisions of this Act.

SEC. 5. STEEL INVESTMENT.

Within 90 days of enactment, the Secretary shall determine whether the companies in the steel industry taken as a whole have plans to utilize substantially all the cash flow from the steel sector for reinvestment in, and modernization of, the steel sector during the term of this Act. If the Secretary determines that such plans do not exist, the quantitative restrictions shall be suspended until the Secretary makes an affirmative determination. The Secretary shall publish his determination, including the aggregate amount of planned capital expenditures for plant and equipment in the steel sector, in the Federal Register.

Thereafter, the Secretary shall monitor steel sector investments made and announced by the steel industry and shall, from time to time, consult with representatives of the industry and its employees in that regard. The Secretary shall be provided by the companies in the steel industry the information necessary to make the steel sector determinations required by this section.

On each anniversary of the Secretary's initial determination under this section, the Secretary shall determine whether the companies in the steel industry taken as a whole have utilized substantially all the cash flow from the steel sector for reinvestment in, and modernization of, the steel sector. If, after such further consultation and other review as he deems appropriate, the Secretary determines that *substantially less than all* the cash flow from the steel sector is being utilized for reinvestment in, and modernization of, the steel sector and that such level of investment is not demonstrably justified by adverse financial conditions within the industry, he shall modify or suspend relevant quantitative limitations contained in this Act until such time as he shall determine that such cash flow is being so utilized. The Secretary shall publish the annual determination made pursuant to this section, including the aggregate amount of cash flow from the steel sector and the aggregate amount utilized for reinvestment in, and modernization of, the steel sector and the basis for his determination, in the Federal Register. In addition to such other matters as may be required by this section, the Secretary's annual determination shall contain an evaluation of the steel industry's progress toward fulfillment of the reinvestment and modernization plans referred to herein, including but not limited to, an analysis of capital expenditures for plant and equipment by type and function such as steelmaking, continuous casting, rolling, finishing or such other categories or subcategories as the Secretary may deem appropriate.

The provisions of 5 USC 552 shall not apply to individual company data, other than individual companies' total capital expenditures for plant and equipment in the steel sector, submitted under this section.

SEC. 6. SHORT SUPPLY.

In connection with the quarterly revisions of expected apparent domestic supply pursuant to section 4(e), the Secretary, if requested by affected steel consumers who assert that domestic producers are unable to supply domestic demand for articles in any steel mill product category in any calendar year, shall examine the supply and demand situation in the United States for such product category. If the Secretary determines, after consultation with domestic producers, that domestic producers will be unable to meet domestic demand for such articles, an additional tonnage of such articles, equal to the estimated shortfall in domestic supply as determined by the Secretary, shall be added to the amount that would otherwise be permitted to be entered in such calendar year. Criteria for determining short supply shall include—

(1) overall domestic steel industry operating rate;

(2) current level of domestic shipments for the articles in question;

(3) lead times for domestic deliveries of such articles in weeks as recognized by independent industry authorities; and

(4) other appropriate factors.

Additional tonnage authorized under this section must be used within one hundred and eighty days after the authorization is made and in any event not later than the end of the then current calendar year.

SEC. 7. FABRICATED STEEL MILL PRODUCTS; DIVERSION.

(a) The Secretary shall monitor the importation of fabricated steel mill products, and whenever the Secretary has reason to believe that articles of fabricated steel mill products are being, or are likely to be, imported into the United States under such conditions and in such quantities as to render, or tend to render, ineffective, or to materially interfere with, the objectives of this Act, he shall so advise the President, and the President shall request the United States International Trade Commission to initiate an investigation to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties and shall be completed within ninety days. If on the basis of such investigation, the Commission makes an affirmative determination as to the existence of such facts, the President is authorized to impose such import surcharge or such quantitative limitations on any articles of fabricated steel mill products as he finds to be necessary in order that the entry of such articles will not render or tend to render ineffective, or materially interfere with, the objectives of this Act.

(b) As used in this section, the term "fabricated steel mill product" means articles represented by product categories 37 through 51, as established by the American Iron and Steel Institute.

SEC. 8. QUANTITATIVE RESTRICTIONS ON IRON ORE IMPORTS.

(a) Subject to paragraph (d) hereof, the aggregate quantity of iron ore that may be entered from all sources during any calendar year after enactment of this Act shall not exceed a number of tons determined by multiplying 0.25 by the expected apparent domestic supply of iron ore for such calendar year.

(b) The Secretary annually shall allocate global iron ore limitations among foreign countries, groups of countries or areas and in doing so shall be guided by—

(1) findings of unfair trade practices with respect to iron ore;

(2) the historical pattern of iron ore imports over the years 1979, 1980, and 1981 for individual steel mills which have been traditionally dependent on ocean sourced foreign iron ore; and

(3) such other considerations as the Secretary deems appropriate, including the historical pattern of iron ore trade over the years 1979, 1980, and 1981, and contractual obligations incurred prior to January 1, 1984, with respect to iron ore imports.

(c) The Secretary annually shall make forecasts of expected apparent domestic supply of iron ore, shall revise such forecasts, shall revise allocation in the light of such revisions, and shall publish in the Federal Register such forecasts and such revisions, all in a manner similar to and on the dates specified in section 4 (d), (e), and (f). In making such forecasts, the Secretary shall take into consideration information provided by the American Iron Ore Association.

(d) In making the allocations provided for in paragraph (b) hereof, the Secretary shall first attempt to accommodate the requirements of individual steel mills which have been traditionally dependent on ocean sourced foreign iron ore and the requirements of contractual obligations incurred prior to January 1, 1984. However, if this is not practicable, the Secretary may, after consultation with interested parties, waive the provisions of paragraph (a) hereof for an aggregate amount of iron ore which is not in excess of the difference between the amount specified in paragraph (a) and the average amount (as a percentage of domestic receipts) which entered in the years 1979-81, if the waiver is necessary to meet the needs of individual steel mills which have been traditionally dependent on ocean sourced foreign iron ore or to honor contractual obligations incurred prior to January 1, 1984.

SEC. 9. ENFORCEMENT AND IMPLEMENTATION.

The Secretary and the Secretary of the Treasury shall take all such actions within their respective departments as may be necessary or appropriate to enforce the provisions of this Act, including, without limitation, the issuance of orders to customs officers to bar entry to merchandise the entry of which would cause the limitations established under this Act to be exceeded. The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations as may be necessary or appropriate to effect the purposes of this Act and to enforce its provisions; except that before issuing any such regulation, the Secretary or the Secretary of the Treasury, as the case may be, should consult with domestic steel producers and steel service centers; shall afford an opportunity for comments from such parties to be provided with respect to proposed regulations; and shall consider all such comments before promulgating final regulations.

SEC. 10. TERMINATION.

This Act shall cease to have effect at the end of the calendar quarter in which falls the fifth anniversary of the effective date of this Act, unless the President, before such date, determines that this Act should be extended for three more years, in which case this Act shall cease to have effect at such extended termination date.

FAIR TRADE IN STEEL ACT OF 1984—SECTION-BY-SECTION ANALYSIS

SECTION 2—FINDINGS, PURPOSES AND POLICY

Acknowledges that:

The steel industry is critical to the national defense and the industrial base of the United States;

Substantial quantities of unfairly traded steel imports have injured the domestic steel industry and have reduced employment;

The litigation process is inadequate to deal with unfair trade practices.

The bill establishes quantitative restrictions of approximately 15% of apparent domestic supply for 5 years.

SECTION 3—DEFINITIONS

Defines the various steel categories and certain other terms, including "cash flow from the steel sector" (as used in Section 5).

SECTION 4—QUANTITATIVE RESTRICTIONS

Limits annual imports of steel mill products based on percentages of adjusted average import levels for the years 1979, 1980 and 1981, establishes procedures for forecasting and revising apparent domestic supply figures.

Provides that the Secretary will allocate the global product quotas among foreign countries, groups of countries or areas.

SECTION 5—STEEL INVESTMENT

Requires the Secretary to determine within 90 days of enactment that plans are in place to utilize substantially all of the cash flow from the steel sector for reinvestment in, and modernization of the steel sector, including investment in new facilities, steel sector working capital and payments on debt and capital invested in the steel business.

If the Secretary's determination is negative the quotas are suspended until the Secretary makes an affirmative determination. Thereafter the Secretary is directed to monitor steel sector investments and to make an annual determination whether the steel industry has utilized substantially all the cash flow from the steel sector for reinvestment in, and modernization of, the steel sector. If that annual determination is negative, the Secretary is directed to modify or suspend relevant quantitative limitations until such time as he determines that cash flow is being so utilized.

The Secretary is directed to publish the annual determination with appropriate supporting rationale and an analysis of the industry's progress toward fulfillment of its modernization plan in the Federal Register.

SECTION 6—SHORT SUPPLY

Establishes a "short supply" provision which allows for increases in specified quotas under strictly defined conditions.

SECTION 7—FABRICATED STEEL MILL PRODUCTS

Requires the Administration to monitor imports of fabricated steel mill products to determine allegations of diversion. In the event of diversion, the Administration is authorized to negotiate or impose quotas after consultations with the affected industries.

SECTION 8—IRON ORE IMPORTS

Limits annual imports of iron ore from all foreign sources to approximately 25 percent of apparent domestic supply. The Secretary allocates the global quota among countries taking into account the historical pattern of iron ore trade during 1979-81, the historical pattern of iron ore imports during 1979-81 for individual steel mills traditionally dependent on ocean sourced foreign iron ore, unfair trade practices with respect to iron ore and pre-1984 contractual obligations.

The Secretary is given discretionary authority to increase the quota to approximately 29 percent under certain limited circumstances.

SECTION 9—ENFORCEMENT AND IMPLEMENTATION

Authorizes the Secretaries of Commerce and Treasury to utilize all actions within their departments to enforce the provisions of the Act including the issuance of orders to Customs Officers to bar entry to merchandise which exceed the limitations under this Act.

Also authorizes the issuance of such implementing regulations as are necessary to the Act and its enforcement.

SECTION 10—TERMINATION

Provides that the bill will terminate in five years from the date of enactment unless the President determines that an extension is required. That extension would be for a period of three additional years.

Mr. SPECTER. Mr. President, I congratulate my colleague, Senator HEINZ, for his leadership on steel industry issues generally and on the current legislation proposal.

Some Members of this body may not be fully aware of the extent to which the steel industry was ravaged, first by unfair foreign competition and then by the recession. Utilization of steel facilities dropped below 30 percent, a level even lower than that during the Great Depression.

This industry, still reeling from the dislocations brought about by the recession, has suffered a second blow in that it has not significantly benefited from the recovery. Utilization of steel facilities is still holding at barely above 50 percent capacity. Unemployment levels reached 150,000 workers and have improved only slightly. The industry has continued to be plagued by the unfair, and often illegal, predatory practices of foreign competitors.

Our domestic steel manufacturers are desparately in need of relief from predatory foreign imports in order to modernize their facilities and, in some cases, to avert bankruptcy. Without such relief, our steel industry will soon be decimated and a significant danger posed to our national security.

Last March, Senator HEINZ and I visited Midland, Pa., a community which was in the process of witnessing the closing of its only company, a steel mill. Since then, I have held numerous open houses in Pittsburgh, the Mon Valley, Beaver Valley, Johnstown, Bethlehem and other steel centers throughout Pennsylvania. I can testify to the human suffering and demoralization suffered by so many of these communities.

The recent merger attempts by our major domestic producers are symptomatic of the problems confronting this ailing industry. Denial of these merger requests may result in the eventual bankruptcy of certain companies or in their purchase by foreign companies, according to some of the leaders within the industry to whom I have spoken.

The critical problem confronting the American steel industry today is that it is forced to compete unfairly with heavily subsidized foreign imports. In many cases, foreign governments are building modern plants for their steel industries, subsidizing actual steel production, and exporting goods at cutrate prices to the American market, the only major open market in the entire world.

In most of these cases, these governments impose strict quotas, tariffs, and other barriers on the importation of steel into their countries. There is no way that the steel industry, or any industry for that matter, can compete with such subsidized imports coupled with these trade barriers.

The preferable way to deal with this problem is the Unfair Foreign Competition Act which I introduced in the 97th Congress and reintroduced in the 98th Congress as S. 418. That bill would allow victimized parties to go to Federal district courts to enjoin unfair imports and get compensatory relief. If this measure had been enacted, I believe we would not be at the crucial juncture we are today.

In the absence of such legislation or other ways to stop unfair, predatory, subsidized foreign imports, I believe this proposal is necessary. I believe that in the long run steel firms can get the most effective remedy through our Federal court system. The steel industry is in desperate straits because of unfair competition by foreign governments and businesses. Free trade means fair trade. The current situation in the steel industry certainly is not free trade.

Accordingly, I join as a cosponsor in the hope that this bill will, at the very least, stimulate the administration to reexamining our national policy to do justice to the American steel industry.

Mr. BYRD. Mr. President, I am pleased to join Senator HEINZ as an original cosponsor of this important legislation to give our steel industry a fair chance to compete. We have seen the recent preliminary findings by the Commerce Department that Argentina, Brazil, and Mexico are engaged in unlawful subsidies of their imports to this country. This is part of a broader problem that has permitted foreign steel producers to corner more than 21 percent of the U.S. market with steel, some of which is subsidized by their governments and priced at artificially low rates.

In West Virginia last year, employment in primary metals and fabricated metals continue at record low levels. Primary metals' employment held at the 14,300 job level of December 1982. Fabricated metal jobs repeated the same dismal 1982 level, holding at some 6,200 jobs. West Virginia metals industries saw a combined drop in jobs of around 20 percent in 1982, and they have not yet recovered. Total industrial employment in my State is at its lowest point since records began to be kept in 1939. In the steel industry nationwide, employment has fallen by 46 percent in the last 5 years, and steel-related employment has been reduced by nearly half a million jobs.

Last month, the President assured us that America is back. But in my recent meeting with United States Steel's chairman, David Roderick, and representatives of other steel companies I was told that the American steel industry is flat on its back, having lost $6 billion in 2 years' time. It is an industry facing the greatest crisis in its history, and the challenge of fundamental adustment to changed market conditions. As Mr. Roderick said, there is no doubt that some of these problems are of the industry's own making. But the problem we all face now is how to assure that America's steelmaking capabilities survive and adapt, and that steelworker's jobs are not lost to foreign competitors operating with unfair advantages.

This legislation is an important step in meeting that challenge. In providing for import quotas for 5 years, this bill offers a foundation of restraint and stability upon which the industry can build and modernize. By requiring that the industry commit itself to investment and modernization, we assure that government is not assisting the decline of American steel production and the export of jobs. On the contrary, we are sending a message to the industry that it must become more competitive, more productive. Unions and management must work in partnership during the life of this legislation, to assure a healthy domestic steel industry that can hold its own in a fair international market.

This is not a punitive measure. Our trading partners should understand that this bill provides for a limited period of adjustment, not a blank check for protectionism. I have spoken with officials from other steel producing nations, and they are quite candid in acknowledging that their governments intervene to keep their steel industries healthy. Certainly we have a responsibility to permit our domestic steel industry to adjust to a changing market.

In the report of the Senate Democratic Task Force on Jobs for the Future, my colleagues and I put forward proposals to encourage innovation and adjustment. I believe this legislation is consistent with those proposals and represents an appropriate response to the challenge the industry now faces.

The West Virginia Senate has emphasized the importance of steel production to the economy of our State in a recent resolution which calls upon the Congress to support the Fair Trade in Steel Act. Mr. President, I ask that the record show this resolution as having been presented in accordance with the provisions of paragraph 1, rule VII, of the Standing Rules of the Senate.

Once again, I commend Senator HEINZ and thank him for including me as an original cosponsor of this important bill.

FAIR TRADE IN STEEL ACT OF 1984

● Mr. RANDOLPH. Mr. President, today, I am privileged to join my able colleague, the chairman of the Senate Steel Caucus, Senator John Heinz, in introducing the Fair Trade in Steel Act.

I believe this bill is a positive approach for addressing the international trade problems facing our domestic steel industry and its workers. The difficulties in international competition facing this essential industry are associated with unfair trade in steel by foreign governments which subsidize, dump, or engage in other unfair trade practices. The result is an increased flood of illegally imported steel coming into the U.S. market.

Our legislation would combat these unfair trade practices by limiting imports of steel to a ceiling averaging 15 percent annually of apparent domestic consumption for the next 5 years. At the same time, the bill provides authority to the Secretary of Commerce to determine the import allocations by individual countries, so that existing agreements will not be disturbed. The 5 years of relief that would be provided to the domestic steel industry under the terms of this bill will require that the industry continue modernization of existing steel facilities.

Mr. President, I believe in international trade which allows fair competition with our trading partners, and which provides relief from unfairly traded imports. I also believe that the basic steel industry in this country continues to be vital to our economic and strategic well being. Further, we cannot afford to continue allowing illegal imports to destroy our industrial base and terminate additional American jobs.

In my State of West Virginia, a rural State, but also an industrial State, the impact of the recession continues. We still suffer from a 15.7-percent unemployment rate, and the competitive world market has a tremendous effect on steel and coal production, and jobs in these and related vital industries. The West Virginia State Senate adopted a resolution February 9, 1984, urging the Congress of the United States to take appropriate action to limit foreign steel imports. I ask unanimous consent that the text of the resolution be printed at the conclusion of my remarks.

This Nation must adopt policies which are realistic and which recognize that international trade with our trading partners must be fair and not harmful to our own people and industries. I believe our legislation is a reasonable plan and urge my colleagues to give it close attention.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Senate Resolution No. 13

Whereas, the American steel industry has engaged in extraordinary self-help efforts including the commitment of millions of dollars to modernization and the reduction of employment cost; and

Whereas, foreign steel imports now account for approximately twenty percent of the steel consumed in the United States; and

Whereas, the American steel and coal industries, and those particularly in West Virginia, are suffering from painfully high levels of unemployment which result in large measure from foreign steel imports; and

Whereas, most steel entering the United States is unfairly traded because it is dumped, subsidized or is the beneficiary of targeted foreign government development assistance; and

Whereas, United States trade laws have been ineffective in stemming the tide of unfairly traded foreign steel; and

Whereas, unfair trade in steel is the single most serious threat to the survival of a healthy industry in West Virginia and in the United States; and

Whereas, the American steel industry produces industrial material which is essential to the United States economy and necessary to our national defense; and

Whereas, the steel industry is an important part of this state's economy, providing employment for thousands of the state residents; and

Whereas, the American steel industry and West Virginia's coal mining industry are linked by an important and mutually beneficial customer-supplier relationship; therefore, be it

Resolved by the Senate: That the Congress of the United States is hereby urged to support the Fair Trade In Steel Act of 1983 (HR 4352) which limits imports of foreign steel to not more than fifteen percent of American steel consumption for a period of at least five years; and, be it

Resolved further, That a copy of this resolution be sent to each member of the West Virginia Congressional Delegation, each member of the Congressional Steel Caucus, the Presiding Officers of each House of Congress, and the President of the United States.●

Mr. BOSCHWITZ. Mr. President, I am speaking today as an original cosponsor of the Fair Trade in Steel Act because of my concern for the future of our domestic steel industry.

This act will set temporary quotas on the import of foreign iron ore and steel products, and is necessary to give the steel industry breathing room to modernize.

Today, imported steel, much of which is dumped on the U.S. market and subsidized by foreign governments, accounts for almost 1 ton in 4 sold in this country. The trend is that in 3 years, imports will make up 1 ton in 3. In addition, steel imports are 25 percent of the Nation's foreign merchandise trade deficit.

The United States believes in and supports the notion of free trade, but fairness is the essence of free trade. We are not seeing such fairness in the existing trade picture.

America is the largest and most free market in the world. Foreign steel, and to an important degree, foreign iron ore mining, is largely owned, directed or subsidized by foreign governments as instruments of social and economic policy. Foreign markets, however, are protected against competitive steel products.

Temporary quota legislation does not violate the spirit of free trade because it responds directly to the trading practices of others. America's steel industry is forced to compete with foreign governments and their vast resources. In other words, it is American companies against foreign countries.

The ultimate cost to our country from this unfair competition is staggering. We are hurt in many ways: jobs, tax revenue, reduced capability to meet national security requirements, and large increases in the bill for welfare and support payments to unemployed workers.

The situation in Minnesota's Iron Range vividly illustrates the effects of our current trade policy. In 1981, 49 million long tons of taconite pellets were produced. Last year, about 25 million long tons—25,285,000, to be exact—were produced.

Employment in the Iron Range was 15,000 5 years ago. Today it is in the range of 6,500 to 7,000.

Total Minnesota iron ore payroll in 1981 was more than $400 million. In 1983, it was $204 million.

The Lake Superior Industrial Bureau, in Duluth, Minn., estimates that the 1981 payroll of more than $400 million meant more than $900 million in purchases in Iron Range country. Last year's payroll—$204 million –was worth $450 million in purchases in the local economy.

This economic damage to Minnesota can be linked to the steel trade practices of foreign nations. For example, European countries have been found to be selling steel in this country at 26 percent below fair value; preliminary findings indicate sales of up to 41 percent below fair value. Brazil has been selling at 80 percent below fair value, and the evidence indicates that Brazil, Argentina and Mexico are subsidizing their steel by 35 to 80 percent.

The Fair Trade in Steel Act gives us a change to improve the situation. This act will, for 5 years, cut steel imports by a third; imports make up about 23 percent of the U.S. market, and the act will reduce that to about 15 percent.

In addition, the act will put few restrictions on imports of iron ore. Such imports are now about 30 percent of the American market, and the act sets a quota of about 25 percent. The Secretary of Commerce will have the authority to raise the quota to 29 percent to accommodate steel mills traditionally dependent on ocean-sourced foreign ore and contractual obligations incurred before January 1, 1984.

Thus, the limit on imports of steel will increase the production of domestic steel, which will require more use of ore. However, restrictions on imported ore will insure that the ore will be mined in the United States, and not imported. The jobs of many Minnesotans and residents of other States will be protected.

A key provision of the act is that the Secretary of Commerce will have the authority to suspend the quotas if he determines that the industry does not have plans to utilize substantially all the cash flow from steel operations for reinvestment in and modernization of the steel sector.

The Fair Trade in Steel Act gives the American steel industry a chance to modernize and become more efficient and competitive in the international economy. The future of iron ore mining operations and employment is linked with this effort.

Without this legislation, we generously forfeit our jobs and our future to those who have abandoned the spirit of free trade.

By Mr. SASSER (for himself and Mr. Pryor):

S. 2381. An act to amend the Inspector General Act of 1978 to transfer to the Office of the Inspector General of the Department of Defense the functions of the Defense Contract Audit Agency, and for other purposes; to the Committee on Governmental Affairs.

DEFENSE CONTRACT AUDIT AGENCY ABOLITION ACT OF 1984

● Mr. SASSER. Mr. President, I am today introducing the Defense Contract Audit Agency Abolition Act of 1984. This bill will statutorily terminate the Defense Department directive which established the Defense Contract Audit Agency (DCAA) and it will transfer all of this audit agency's duties and responsibilities to the Office of the Inspector General.

I do not take such action lightly. I do it because a serious question has been raised during the course of hearings conducted by the Senate Governmental Affairs Committee over the past 2 years: That is, is the DCAA institutionally incapable of doing the job it is supposed to to? Is it making sure that the Department of Defense has spent or contracted its money—or is about to spend or contract—its money for work done efficiently, fairly, and economically? The record suggests that it is not doing its job.

Prominent among the episodes involving this agency is, of course, the case of George Spanton. Consider just a thumbnail sketch of that case. Here we have an auditor reporting to his superiors questionable charges of over $100 million.

At first blush, one would expect him to receive a cash award for disclosing waste that could lead to savings for the Government. What really happened? According to one newspaper article:

> The Pentagon sent criminal investigators to check out the auditor, kept mum about his findings, lowered his job performance ratings, attempted to transfer him, then pressured him to quit.[1]

Some reward.

In another account on this case, a special investigator for the Defense Departments Inspector General's Office testified that "high officials of the Pentagon's audit arm 'ignored or covered up' evidence of crimes while trying to fire whistleblowing auditor George Spanton."[2]

Only 6 weeks ago, it came out in the hearing involving Mr. Spanton and his superiors that he had pushed for a wider audit of salaries for which the Government reimburses contractors, contending that billions of dollars could be saved. What was the Agency's response?

> DCAA was largely uninterested, evidence showed, even though top levels of Defense had pointed to contractor labor rates as an area of potentially large waste. DCAA did not attempt a wider audit on its own. . . .[3]

It became apparent to this committee, however, that the Spanton case was symptomatic, not unique.

It became clear today—in the words of Ernest Fitzgerald, who is with us here today, that the DCAA regarded military contractors as "clients," that

> The Defense Contract Audit Agency has come to specialize . . . in finding no evidence of violations by contractors . . . It is what they do best.[4]

Earlier an investigator told the Permanent Subcommittee on Investigations about another episode involving DCAA:

> DCAA's complacency (in following up critical audits) is all the more troubling in view of how easily its auditors can be hoodwinked.[5]

That was 10 months ago. My colleague, Senator Roth, who chairs the Governmental Affairs Committee and who also chairs the Permanent Subcommittee on Investigations, was prompted to tell the chairman of the DCAA at that time:

> Frankly, I'm concerned about the lack of aggressiveness of your organization.[6]

Another colleague, Senator D'Amato, asked of the agency several months later:

> Is there too close a relationship between the watchdog and the people he is supposed to be watching? . . . I am concerned that the watchdog's teeth may have been pulled.[7]

And yet another colleague, Senator Grassley, in speaking of the "harrassment and intimidation of Mr. Spanton and those who supported Mr. Spanton by giving truthful testimony," said "There is something sinister about a system which penalizes public servants who faithfully serve their society, while rewarding those who contributed to corruption."[8]

Well, I agree with Chairman Roth, and with my colleagues, Senator Grassley and Senator D'Amato.

The problem has its roots not in the personalities involved in the Spanton case. The problem is rooted in the institutional relationships in which this audit agency finds itself. The institutional reflex to a critical or potentially controversial finding seems to be: avoid, wait, or amend.

Into this setting, comes the Senate Governmental Affairs Committee—under the leadership of its chairman, Senator Roth, and its ranking minority member, Senator Thomas Eagleton, of Missouri—doing its job of oversight. Some critics feel that they have been through all of this before. And they are right. Over a generation ago, another Senator from Missouri chaired the Senate Committee to Investigate the National Defense Program. Some 20 years later that Senator, Harry S. Truman, said:

> It's a crime and a disgrace. I'll bet you billions of dollars are being wasted over there at the Pentagon * * * It's not right.

He said,

> To have all those people in one building without a single watchdog.[9]

That is our job. The chairman of this committee has done this job well. And so has the ranking minority member. It was Senator Eagleton, more than anyone else, who led the fight 6 years ago to establish the Office of Inspector General—the framework for my legislative initiative today.

The work of Senators Roth and Eagleton makes my legislation plausible, possible, and, I hope, probable. But I want to emphasize that the abolition of the Defense Contract Audit Agency, and the restructuring of investigative and audit functions at the Defense Department, will not end this inquiry into the way DOD—or any Federal agency—manages and spends its money. This is our job. It will always be our job. And I, for one, do not shrink from that responsibility; I welcome it.

Mr. President, I ask unanimous consent that the text of DCAA Abolition Act, along with a section-by-section analysis of the legislation be printed in the Record.

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[1] The Washington Post, Dec. 19, 1983.

[2] John Batson, quoted by the Washington Times, Dec. 12, 1983.

[3] Federal Times, Jan. 23, 1984.

[4] Quoted by New York Times, Nov. 15, 1983.

[5] Rod Smith, quoted by Associated Press, May 3, 1983.

[6] Quoted by Associated Press, May 4, 1983.

[7] Quoted by Associated Press, Aug. 5, 1983.

[8] Quoted by Washington Times, Dec. 1, 1983.

[9] Quoted in "Plain Speaking: An Oral Biography of Harry S. Truman" (paperback) Merle Miller (New York: Berkley Publishing, 1973), p. 180.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Contract Audit Agency Abolition Act of 1984".

SEC. 2. (a) Subsection (c) of section 8 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by striking out "and" at the end of clause (8);

(2) by striking out the period at the end of clause (9) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new clause:

"(10) in connection with the negotiation, administration, and settlement of contracts by the Department of Defense and subcontracts under such contracts, perform all necessary audits of contracts for the Department and furnish accounting and financial advisor services regarding contracts and subcontracts to all components of the Department that are responsible for procurement and the administration of contracts.".

(b) Such section is further amended—

(1) by redesignating subsections (d), (e), (f), and (g) as subsections (f), (g), (h), and (i) respectively; and

(2) by inserting after subsection (c) the following new subsections (d) and (e):

"(d) In carrying out the duties and responsibilities provided in subsection (c)(10), the Inspector General shall—

"(1) when appropriate, furnish financial information and advice on proposed or existing contracts and on contractors to Department of Defense personnel who are responsible for procurement and contract administration;

"(2) examine reimbursement vouchers the Department receives from contractors under cost type contracts, determine whether such vouchers should be approved, transmit each voucher approved for payment to the appropriate disbursing officer of the Department, and issue to the persons concerned an appropriate notice with respect to costs claimed but not considered allowable;

"(3) furnish to procurement and contract administration personnel of the Department advice and recommendations relating to—

"(A) the acceptability of costs incurred under redeterminable, incentive, and similar type contracts;

"(B) the acceptability of costs which are incurred or are estimated to be incurred in connection with the award, negotiation, modification, change, administration, termination, or settlement of any contract of the Department;

"(C) the adequacy of the financial or accounting aspects of contract provisions; and

"(D) the adequacy of contractors' accounting and financial management systems, estimating procedures, and property controls;

"(4) assist procurement and contract administration personnel of the Department in surveys of the purchasing and procurement systems of major contractors of the Department;

"(5) direct audit reports to the officers or employees of the Government who have the authority and responsibility to take action on the audit findings and recommendations;

"(6) cooperate with appropriate components of the Department on reviews, audits, analyses, or inquiries involving contractors' financial position or financial and accounting policies, procedures, or practices;

"(7) designate and assign personnel to be liaison auditors at appropriate major procuring and contract administration offices of the Department;

"(8) review—

"(A) reports of the General Accounting Office involving significant activities under any contract of the Department of Defense or activities of any contractor with the Department; and

"(B) the proposed responses of the Department to such reports,

for the purpose of assuring the validity of the material facts contained in such reports and responses;

"(9) when appropriate, attend meetings, including contract negotiations, in which contract cost matters, audit reports, or related financial matters are under consideration and furnish advice to Department of Defense personnel on such matters;

"(10) provide assistance, when requested, in the development of policies and regulations relating to procurement by the Department of Defense;

"(11) audit, examine, or review contractors' and subcontractors'—

"(A) accounts, documents, and other records;

"(B) systems of internal control; and

"(C) accounting, costing, and general business practices and procedures;

whenever appropriate in performing a duty provided in this subsection; and

"(12) perform such other functions as were assinged to the Defense Contract Audit Agency on the effective date of the Defense Contract Audit Agency Abolition Act of 1984.

"(e)(1) The military departments and other components of the Department of Defense shall furnish to the Inspector General of the Department such support as the Inspector General considers necessary to carry out the duties and responsibilities set out in subsections (c) and (d).

"(2) Procurement and contract administration activities of each component of the Department of Defense shall utilize the audit services of the Inspector General of the Department in connection with the negotiation, administration, and settlement of contract payments and prices involving incurred or estimated costs or cost analysis.".

SEC. 3. Section 9(a)(1)(C) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting ", 'Defense Contract Audit Agency' ," after "Defense Audit Service".

SEC. 4. The Defense Contract Audit Agency established under Department of Defense Directive 5105.36, dated June 8, 1978, is terminated.

SEC. 5. This Act and the amemdments made by this Act shall take effect October 1, 1985.

THE DEFENSE CONTRACT AUDIT AGENCY ABOLITION ACT OF 1984—SECTION-BY-SECTION ANALYSIS

PURPOSE

This bill would amend the Inspector General Act of 1978 (Public Law 95-452), as amended, to transfer to the Office of the Inspector General of the Department of Defense (DOD) the functions of the Defense Contract Audit Agency (DCAA), and for other purposes.

SECTION ONE, TITLE

The bill is called the Defense Contract Audit Agency Abolition Act of 1984.

SECTION TWO, DUTIES AND RESPONSIBILITIES

As a consequence of amending the Inspector General Act of 1978 through the transfer of DCAA duties and responsibilities, the DOD Inspector General's Office will: perform all necessary audits of contracts for DOD; furnish accounting and financial advisory services regarding contracts and subcontacts to DOD agencies and divisions which are responsible for the administration of contracts.

When and where appropriate, the DOD Inspector General will furnish financial information and advice on proposed or existing contracts and on contractors to DOD personnel responsible for procurement and contract administration; examine reimbursement vouchers DOD receives from contractors under cost type contracts, determine whether such vouchers should be approved, transmit each voucher approved for payment to the appropriate disbursing officer in DOD, and issue to the persons concerned an appropriate notice with respect to costs claimed but not allowable; furnish to procurement and contract employees advice and recommendations relating to costs incurred through different kinds of contracts; assist procurement and contract personnel in surveys of purchasing and procurement systems of the major contractors of DOD; direct audit reports to the officers or employees of the U.S. Government who have the authority to take action on the audit findings and recommendations; cooperate with appropriate components of DOD on reviews, audits analyses on inquiries involving the financial position or financial and accounting policies, procedures and practices of contractors; and audit, and examine or review contractors' and subcontractors' accounts, documents, systems of internal control and other records, as well as accounting, costing and general business practices and procedures whenever appropriate.

Most of the preceding duties and responsibilities stem from the statutory mandates devolving from the Truth in Negotiation Act (Public Law 87-653) or reflect standard audit and investigative duties for an Office of Inspector General. This bill further incorporates duties and responsibilities contained in DOD Directive 5105.36 (which replaced the cancelled 9 June 1965 DOD Directive 5105.36) of June 8, 1978, establishing the DCAA. These duties and responsibilities go beyond standard audit and investigative duties by calling upon the DOD Inspector General's office to play a greater role in procurement policy.

Thus, the DOD Inspector General is directed to: designate and assign personnel to be liaison auditors at appropriate major procuring and contract administration offices of DOD; review General Accounting Office (GAO) reports on DOD and any proposed DOD responses to these reports in order to ensure the validity of the material facts in the reports and responses; when and where appropriate, attend meetings, including contract negotiations, in which contract cost matters, audit reports, or related financial matters are under consideration and furnish advice to DOD personnel on such matters; and provide assistance, when requested, in the development of policies and regulations relating to DOD procurement.

The DOD Inspector General is also called upon to perform such other functions as were assigned to the DCAA on the effective date of this legislation.

SECTION THREE, AMENDING PUBLIC LAW 98-482

The DCAA is incorporated into the list of agencies whose responsibilities and duties were assumed by the DOD Inspector General's Office when the Inspector General Act of 1978 was amended by Public Law 97-252, the Fiscal Year 1982 DOD authorization bill.

SECTION FOUR, TERMINATION OF DCAA

The DCAA, established by DOD Directive 5105.36, June 8, 1978, is terminated.

EFFECTIVE DATE

This Act and the amendments made by the Defense Contract Audit Agency Abolition Act of 1984 shall take effect on October 1, 1985.●

By Mr. McCLURE (by request):

S. 2382. A bill to establish a working capital fund in the Bureau of Reclamation, Department of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

WORKING CAPITAL FUND IN THE BUREAU OF RECLAMATION

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to establish a working capital fund in the Bureau of Reclamation, Department of the Interior, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill, and the executive communication which accompanied the proposal from the Deputy Assistant Secretary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is established in the Treasury of the United States a working capital fund to assist in the management of certain support activities of the Bureau of Reclamation (hereafter referred to as the "Bureau"), Department of the Interior. The fund shall be available without fiscal year limitation for expenses necessary for furnishing materials, supplies, equipment, work and services in support of Bureau programs and to agencies to the Federal Government and others. Such expenses may include but are not limited to the acquisition, replacement, and operation of a central computer and related automatic data processing equipment; engineering services; payroll and other management services; acquisition and replacement of equipment and facilities, including the purchase, lease, or rent of motor vehicles and aircraft within any limitations set forth in appropriations made to carry out the functions of the Bureau.

SEC. 2. FUND CAPITALIZATION.—The fund shall be credited with appropriations made for the purpose of providing or increasing capital. There are authorized to be transferred to the fund (at fair and reasonable value at the time of transfer) the inventories, equipment, receivables, and other assets, less the liabilities, related to the functions to be financed by the fund as determined by the Secretary of the Interior.

SEC. 3. COLLECTIONS OF THE FUND.—The fund shall be credited with payments from appropriations and other funds of the Bureau, and payments from other agencies of the Department of the Interior, other Federal agencies, and other sources, for providing materials, supplies, equipment, work and services as authorized by law. Such payments may be made in advance or upon performance.

SEC. 4. CHARGES TO USERS.—Charges to users will be at rates approximately equal to the cost (including such items as depreciation of equipment and accrued annual leave) of furnishing the materials, supplies, equipment, facilities and services.

SEC. 5. APPROPRIATIONS AUTHORIZED.—There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

SEC. 6. RETURNS TO TREASURY.—Funds that are not necessary to carry out the activities to be financed by the fund, as determined by the Secretary, shall be covered into miscellaneous receipts of the Treasury.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 2, 1984.

Hon. GEORGE BUSH,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft bill "To establish a working capital fund in the Bureau of Reclamation, Department of the Interior, and for other purposes."

We recommend that the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

The draft bill would provide for more efficient financing and financial management of expenses necessary for furnishing supplies, equipment, and services in support of Bureau programs and for work performed for others. Prior to acquiring equipment costing over $700,000 or equipment to be used for other than replacement purposes, we will discuss the proposed purchase with the Office of Management and Budget.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

HAROLD W. FURMAN II,
Deputy Assistant Secretary.●

By Mr. DURENBERGER:

S. 2383. A bill to amend the Clean Air Act with respect to mobile source emissions control; to the Committee on Environment and Public Works.

MOBILE SOURCE EMISSIONS CONTROL

● Mr. DURENBERGER. Mr. President, today I am introducing a comprehensive set of amendments to the Clean Air Act designed to solve the problem of vehicle misfueling and emissions control tampering by individuals.

Habitual misfueling by individuals has thwarted the Environmental Protection Agency's efforts to achieve national ambient air quality standards. Motor vehicle emissions in urbanized areas account for nearly 90 percent of the total carbon monoxide and airborne lead, over one-half of the hydrocarbons and nearly 40 percent of the nitrogen oxides emitted into the atmosphere.

The need to control the harmful substances contained in automobile emissions was first recognized in the 1963 Clean Air Act. While the 1963 act focused on research, subsequent amendments required modifications of automobile engineering and established lead standards.

The automobile industry responded by developing pollution control devices and catalytic converters to remove or convert toxic emissions into less harmful substances. As a result, 1975 and later year models are designed to run on unleaded fuel.

The Environmental Protection Agency developed and put in place regulations to reduce the amount of lead used in unleaded gasoline. The oil industry developed new refining techniques to meet these standards and to achieve the octane levels formerly met with lead. New industries were created to develop additives to replace lead as an octane enhancer.

While the Environmental Protection Agency has made great progress toward their goal of reducing the amount of hydrocarbons, lead, nitrogen oxides, and carbon monoxide emitted into the atmosphere, greater reductions are hindered by those individuals who misfuel or tamper with their pollution control devices.

Although the 1977 amendments prohibit service station owners or attendants from misfueling, this does not stop individuals from putting the wrong fuel in their tanks at self-service pumps.

It is also illegal under the Clean Air Act for auto dealers or service and repair stations to disconnect or modify pollution control devices. But it is not illegal for the self-styled home mechanic to do so.

According to the Environmental Protection Agency's most recent survey, misfueling occurs at an average rate of 13 percent. Lead introduced into the catalytic converter causes a steady contamination of the catalyst material resulting in lower and lower efficiency. Just three consecutive tankfuls of leaded fuel will render the catalyst inoperative even if the vehicle owner resumes the use of unleaded fuel.

Rendering the catalyst inoperative through habitually misfueling is, in effect, the same as removing the catalytic converter. This is tampering. Tampering, whether removing the fuel inlet restricter in order to refuel with leaded or the complete removal of the catalytic converter, occurs at a rate of 17 percent.

Although the amendments being introduced today address the problem of tampering, they more specifically focus on misfueling. When proposing solutions to the misfueling problem it is important to look beyond the problem to examine the motivation behind the habit.

It is generally agreed that there are two principal reasons for misfueling. Price is the first and primary reason why people put the wrong fuel into their tanks. Leaded gasoline is priced 5 to 9 cents a gallon less than unleaded.

Performance is the second reason. Leaded gas has higher octane levels than low-grade unleaded and enjoys a price of 20 to 25 cents a gallon less when compared to premium unleaded.

There is, however, a way to regain the performance once achieved with lead as an octane enhancer. Fuel ethanol—alcohol distilled from domestic grain—has a proven performance record as an environmentally sound replacement for lead. Manufacturers accept ethanol as an alternative demonstrated by the fact that they extend their warranty to cover a 10-percent ethanol/gasoline blended fuel.

The adults who misfuel may be adversely affected by the resulting air pollution. But it is children who are most sensitive to airborne pollutants, particularly lead. And automobile emissions are the greatest source of airborne lead. Today's urban lead levels are 4,000 to 5,000 times greater than their natural concentration.

It has always been known that at high levels, lead is toxic. But there is increasing evidence that at even low levels, lead has more harmful effects than previously believed. Children exposed to high levels can suffer severe and irrepairable brain damage. A followup study of 425 lead-poisoned children showed that 82 percent of those who had suffered brain damage had continued motor disturbances, mental retardation, or recurrent seizures.

Low levels of lead are harder to detect but studies have shown that children with higher lead blood levels do poorly on intelligence tests, have a higher incidence of speech impairment, fail more frequently academically, and require more psychiatric referrals.

Enough is known about lead and what it does to the human body to warrant measures which lower the air's lead content. The Environmental Protection Agency recognizes this and now has in place final lead phase-down regulations which will reduce the amount of lead in unleaded gasoline by 115 billion grams per day by 1990. However, the success of this program has been limited, largely due to misfueling.

Both the Environmental Protection Agency and the Department of Energy have done studies to establish without a doubt that misfueling continues at a significant rate. Despite their shelves of statistical studies, they have not taken sufficient action to protect public health. How much longer must they study the problem before we can expect solutions? Airborne lead is a problem and its chief source is auto emissions.

A list of some of the proposals offered in the past include: regulation of the price differential by the Department of Energy; ban the sale of leaded gasoline at self-service stations, where most of the violations take place; levy a State tax on leaded gasoline in order to equalize its price with unleaded; hold gas station operators responsible for any misfueling conducted on their premises; ban the sale of leaded gasoline altogether; make it a Federal crime for individuals who misfuel or tamper with their cars; and develop a major campaign to educate the public.

The set of amendments I am introducing today includes parts of that list and adds some new ones.

The bill first addresses individuals who misfuel or tamper by making it illegal for them to do so. Violators will be subject to a fine of $2,500. Although these stricter penalties will deter many and a few may actually get caught, those catalytic converters already destroyed by leaded fuel will not be affected. To give this prohibition teeth then, the bill further requires tighter inspection/maintenance programs for areas already required by the EPA to have such programs in place in order to meet air quality standards. Under the new program, a functioning catalytic converter as well as the fuel inlet restricter must be in place in order to pass inspection.

A third section of the bill addresses the performance problem by providing $400,000 for the EPA to conduct a study on the relationship between octane levels and the performance of motor vehicles and motor vehicle engines. This report would also include recommendations on methods to assure adequate engine performance with the use of lower octane levels in unleaded gasoline and/or recommendations to increase the octane levels in unleaded gasoline.

A fourth provision is aimed at assisting the EPA with vapor recovery research. The fumes, or vapor, emitted into the air as a car is being refueled contain substances like benzene, lead, and EDB which are known to be hazardous to human health. It makes sense that while in the process of developing a technology to eliminate these fumes we ought to go one step further and develp a technology which is tamper resistant and will discourage misfueling. Section 4 provides $4 million for EPA R&D.

Removing the price differential between leaded and unleaded gasoline is the fifth, and perhaps most important part of this bill, for price is the chief reason people misfuel in the first place.

The bill being introduced today will eliminate this incentive by requiring that the unit price of regular gasoline be no less than the unit price of the lowest grade of unleaded by all sellers of gasoline. This includes the retailer, the distributor and the refiner. The intent of the bill is for sellers of gasoline to average their price for leaded and unleaded and sell both at the same price. This gives them the freedom to determine the price while removing the incentive for motorists to violate the law.

Finally, this bill would ban the sale of leaded gasoline for use as a fuel for highway vehicles by 1990.

This comprehensive package of amendments to the Clean Air Act is aimed at solving the problem of misfueling. It is not my intention in offering it that all its parts become law, rather, it contains the minimum as well as the maximum of what we must do to get the lead out of our air. It attacks the problem as well as the motivation. It provides money for EPA to conduct a study including recommendations on the performance question. In short, it provides the EPA with the authority necessary to control and stop the serious ongoing problem of misfueling.

I welcome the comments of my colleagues on these proposals as well as your support in solving the problems this legislation addresses.

Mr. President, I ask unanimous consent that a copy of the bill and article from the Washington Post of February 29, 1984, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TAMPERING WITH POLLUTION CONTROL DEVICES AND USE OF LEADED GASOLINE BY INDIVIDUALS

SECTION 1. (a) Section 203(a)(3)(B) of the Clean Air Act is amended by striking out "engaged in the business of repairing, servicing, selling, leasing, or trading motor vehicles or motor vehicle engines, or who operates a fleet of motor vehicles," and inserting in lieu of thereof "other than a manufacturer or dealer".

(b) Section 203 (a) of such Act is amended by adding at the end thereof the following new sentence: "The use of any fuel or fuel additive which has been controlled or prohibited under section 211(c)(1)(B) because it impairs the performance of an emission control device or system, or the alteration or removal of a device designed to preclude the use of such fuel in a motor vehicle or motor vehicle engine, shall, in the case of a motor vehicle or motor vehicle engine which contains such an emission control device or system, constitute a violation of paragraph (3).".

(c) The amendments made by this section shall become effective 90 days after the date of the enactment of this Act.

INSPECTION AND MAINTENANCE PROGRAM REQUIREMENTS

SEC. 2. (a) Section 172(b)(11)(B) of the Clean Air Act is amended by inserting before the semicolon the following: ", which includes requirements that all motor vehicles which are or were equipped with an emission control device or element of design in compliance with regulations under title II of this Act shall have such device or element in good working order in order to pass such inspection".

(b) The amendment made by this section shall become effective on January 1, 1985.

RESEARCH AND DEVELOPMENT OF VAPOR RECOVERY AND USE OF LEADED GASOLINE

SEC. 3. In addition to any amount authorized under the Clean Air Act, there are authorized to be appropriated $4,000,000 for the fiscal year 1985 to the Environmental Protection Agency for the purpose of conducting research on the development of technology which could be used in gasoline vapor recovery and which could also reduce the possibility of the prohibited use of leaded fuel in motor vehicles and motor vehicle engines.

REPORT ON OCTANE AND ENGINE PERFORMANCE

SEC. 4. In addition to any amounts authorized in the Clean Air Act, there are authorized to be appropriated $4,000,000 for the fiscal year 1985 to the Environmental Protection Agency for the purpose of conducting a study on the relationship between gasoline octane levels and the performance of motor vehicles and motor vehicle engines. Such study shall include recommendations for methods to assure adequate engine performance with the use of lower octane levels in unleaded gasoline and/or recommendations to increase the octane levels in unleaded gasoline.

PRICE OF UNLEADED GASOLINE

SEC. 5. (a) Section 211 of the Clean Air Act is amended by adding at the end of thereof the following new subsection:

"(h)(1) It shall be unlawful for any retailer to sell any leaded gasoline at a price per unit which is less than the lowest price per unit at which such retailer offers unleaded gasoline for sale at the same time at the same retail outlet (if he offers any unleaded gasoline for sale).

"(2) It shall be unlawful for any refiner, distributor, or reseller to sell any leaded gasoline at a price per unit which is less than the lowest price per unit (for the same quantity) at which such refiner, distributor, or reseller offers unleaded gasoline for sale at the same time under the same conditions of sale (if he offers any unleaded gasoline for sale).

"(3) For purposes of this subsection:

"(A) The terms 'leaded gasoline' and 'unleaded gasoline' shall be defined by the Administrator.

"(B) The term 'retail outlet' means any establishment at which gasoline is sold for use in motor vehicles.

"(C) The term 'retailer' means any person who owns, leases, operates, controls, or supervises a retail outlet.

"(D) The term 'refiner' means any person who owns, leases, operates, controls or supervises a refinery at which gasoline is produced.

"(E) The term 'distributor' means any person (other than a retailer) who transports or stores, or causes the transportation or storage of, gasoline at any point between a gasoline refinery and a retail outlet or ultimate consumer.

"(F) The term 'reseller' means any person (other than a retailer) who purchases gasoline from a refiner or distributor, and resells or transfers that gasoline to any retailer or ultimate consumer.".

(b) Section 211(d) of such Act is amended by striking out "who violates subsection (a) or (f)" and inserting in lieu thereof "who violates subsection (a), (f), or (h),".

(c) The amendments made by subsections (a) and (b) shall be effective with respect to sales made on or after 90 days after the date of the enactment of this Act.

BAN ON SALE OF LEADED GASOLINE

SEC. 6. (a) Section 211(h) of the Clean Air Act (as added by section 5 of this Act) is amended by adding at the end thereof the following new paragraph:

"(4) Effective January 1, 1988, it shall be unlawful for any person to sell, offer for sale, or introduce into commerce, leaded gasoline for use as a fuel for any highway vehicle.".

EPA IS CONSIDERING BAN ON LEADED GASOLINE, RUCKELSHAUS SAYS

(By Cass Peterson)

The Environmental Protection Agency is considering a ban on leaded gasoline in light of mounting evidence of its danger and recent surveys showing that nearly one-fifth of U.S. motorists improperly fuel their cars with leaded gas.

EPA Administrator William D. Ruckelshaus said yesterday that the agency had built "a very strong case" that the benefits of banning lead would outweigh the economic effects of such a rule.

"We know more about lead than we did early on," Ruckelshaus told reporters and editors at The Washington Post.

"We always knew it was bad at high levels. We now know it builds up in children, primarily inner-city children" living where heavy traffic contributes to lead in the air.

"What it does is affect the IQ. It really lowers IQ," he said.

About 120 million pounds of lead are discharged annually into the air nationwide, most of it from vehicle exhaust. Although that level is down sharply from the 450 million pounds a year discharged in 1971, agency officials said yesterday that the EPA has "really solid numbers" demonstrating that lead continues to pose a severe health threat.

Ruckelshaus said the agency would attempt to justify a ban "on the basis of both health problems and the economic benefits accruing to the automobile owners themselves as a result of lower maintenance costs."

The EPA tightened its lead standards less than two years ago, after an initial proposal to loosen them brought a storm of denunciations from environmental and public health groups.

The rule governing lead is intended to phase out nearly all leaded gasoline by 1990.

Less than half of the nation's gasoline now is leaded. The agency assumed that demand would decrease sharply by the end of the decade as older cars gave way to new ones, virtually all of which are designed to use unleaded gasoline.

But agency officials have been alarmed by recent surveys showing that as many as 17 percent of American motorists are pumping leaded gasoline into their unleaded-only cars in an effort to take advantage of lower pump prices and in the mistaken belief that leaded gas will improve engine performance or fuel economy.

The EPA's Air Division has launched a campaign against the practice, recently fining the Philadelphia police force $300,000 for disconnecting emissions-control equipment on its squad cars and filling them up with leaded gas.

The agency also is trying to get out the word that fuel switching will cost motorists more in tuneups and oil changes than it will save in lower gasoline bills.

No federal law prevents private motorists from fuel-switching, however, and the 40 states that do have such laws have found them virtually impossible to enforce.

"It's a hard thing to get at," Ruckelshaus said yesterday. "Actually, the easiest way to deal with it is to get lead out of gasoline."

According to Ruckelshaus and other EPA officials, the agency's new proposal would likely take the form of a faster phase-out of lead.

Joseph A. Cannon, head of the agency's air division, said the studies justifying the proposal are under review in the EPA's policy office, but some technical problems remain and the formal proposal "might be some weeks away."

"Some motors actually require lead, such as [those in] lawn mowers and some farm implements," Cannon said. "But the amounts are really inconsequential—less than a tenth of what's in leaded gasoline now."

Environmental groups have long pressed the agency to ban leaded gasoline, and their demands have become more vocal in recent weeks as a result of the controversy over ethylene dibromide (EDB).

EDB, a potent animal carcinogen widely used as a pesticide, has been banned for most agricultural uses. But more than 90 million pounds a year of EDB are used as an additive in leaded gasoline, to help prevent lead from accumulating in engine parts. If leaded gasoline were banned, that market for EDB would dry up.

EPA officials said yesterday that the agency's lead proposal was not motivated by attempts to restrict exposure to EDB. But one conceded, "It's true that's a benefit."

An EPA official said the agency had not calculated the impact a ban on leaded gasoline would have on refiners. "But they should be planning themselves to be phased out of leaded gasoline production by the 1990s anyway," he said. "We're only considering speeding that up."●

By Mr. BRADLEY:

S. 2384. A bill to require rapid fill of the strategic oil reserve, to authorize early use of the strategic petroleum reserve, to authorize emergency block grants to assist low-income Americans during an oil supply disruption, and for other purposes; to the Committee on Energy and Natural Resources.

EMERGENCY PREPAREDNESS ACT OF 1984

● Mr. BRADLEY. Mr. President, the world may be nearing a crisis and the United States is woefully unprepared. The reports from the Middle East are confused but ominous. The Iraqis say they attacked the Iranian oil export facility at Kharg Island and sank several oil tankers. The Iranians deny it. The Iraqis say that Iranian oil will not be permitted to move. However, oil markets, while anxious, have not yet reflected any such significant reduction in supply.

In spite of these threats to, and the confusion surrounding, the world's oil supplies, the United States is not filling its strategic petroleum reserve as fast as it could and our emergency procedures are grossly inadequate.

As one step toward resolving these glaring shortcomings, I am today introducing the Emergency Preparedness Act of 1984.

This bill is straightforward. It mandates rapid fill of the strategic petroleum reserve. The Senate has constantly pushed the administration—and the last administration—to speed up the fill of the SPR. As recently as last fall the Senate passed an amendment of mine raising the SPR fill rate from the 145,000 barrels per day, as requested by the administration, to 220,000 barrels per day. The administration later compromised in conference at 186,000 barrels per day.

But the recently submitted fiscal year 1985 budget again attempts to reduce the fill rate down to 145,000 barrels per day. Is this preparedness? Is this commonsense? Is this consistent with congressional intent?

I argue that it is not. We should fill the reserve as fast as salt dome capacity is constructed, and certainly no less than 186,000 barrels per day. Now is not the time to slow the fill rate of our most potent defense against the threats of an oil supply disruption.

Mr. President, while I am concerned that we are not filling the SPR as fast as we should, I must compliment the administration for filling the reserve faster than the previous administration. Due to congressional pressure, the SPR is now a potent weapon with which to deal with supply disruptions. We will soon have 400 million barrels in the reserve. But I remain concerned, Mr. President, that we will not use it when the time comes. There will always be pressure on DOE officials to delay the drawdown in the face of less than perfect information. We will always fear that the crisis may get worse and therefore delay using the oil in the SPR.

One innovative way to deal with this problem is the use of an SPR futures options. This idea is not complicated and would use private sector market forces to get at least a limited quantity of SPR oil on the market before the prices begin to rise steeply. A person who wanted to buy insurance against sky-high crude oil prices—a refiner for example—is likely to be very interested in SPR futures markets. This insurance is not now available. The futures options idea is a way to avoid panic during the period of uncertainty, preceding an actual oil supply disruption. The futures options program could work like this:

During periods of calm, the Government would sell the right to buy a barrel of oil at a specified price at a specific date in the future. In today's market where prices are about $30 per barrel, a refiner might pay a premium to purchase the right to buy SPR oil at a specified price above the current price, say, $40 per barrel 3 months from today. If the market stays calm for those 3 months and the price of oil stays at $30 per barrel, a refiner owning the right to buy oil at $40 per barrel would obviously decide not to exercise his option and the option would expire unused. In this case the refiner would not have gotten anything for the price he paid for the insurance. But neither was he harmed by higher oil prices.

On the other hand, if oil markets are disrupted during the 3-month period after the refiner bought the option, the spot price of oil could easily rise to $50 per barrel. In this case the refiner's right to buy SPR oil at $40 would look very attractive and the refiner would exercise his option. The refiner's decision to buy insurance would seem to have been a good one. Oil would begin to be withdrawn from the reserve, pressures on the oil market would have been reduced, panic in oil markets would have been avoided. My bill would give the President the power to design this kind of a program.

Mr. President, the current plan to use the SPR requires the President to first declare an energy emergency. Can you imagine anything more likely to spark panic in world oil markets? I cannot.

SPR futures options—designed to get oil out into the market early—would supplement the current policy of SPR auctions—designed to get the oil out into the market in volume during the supply disruption. Of course, if our use of the SPR is coordinated with similar actions by Japan, Germany, and France—each of which have large oil reserves as well—the oil consuming world could avoid the large price increases that would otherwise accompany an oil supply disruption.

Mr. President, the second part of the Emergency Preparedness Act of 1984 addresses the concern that we all share concerning an oil supply disruption: The effect of higher oil prices on low-income Americans. The Government now has no plans to assist those people who are unable to adjust quickly to suddenly higher prices.

Everyone will be hurt by an oil supply disruption. Some people, however, will be more severely affected than others, most particulary the poor. While most businesses will be able to pass through the higher oil prices in the price of their products, people who are now barely making it would not be able to endure a sudden rise in the prices of gasoline, heating oil, food, and other essentials. I believe that the Government has a social obligation to assist these people.

This bill would require the President to set up a program to provide emergency financial assistance to low-income people in every State. The emergency aid could be provided as emergency block grants to State Governors, funded by an emergency supplemental appropriation. Subject to some guidance and minimum standards, each Governor could decide how and to whom the emergency assistance would be provided. I would expect the Governor of New Jersey to have somewhat different priorities that the Governor of Oklahoma, for example. One might be very concerned about the effect of higher home heating oil prices on low-income fuel oil users whereas the other might be very concerned about the effect of higher tractor fuel prices on low-income farmers. This bill recognizes those differences and allows great flexibility in implementing this program.

Mr. President, the current turmoil in the Middle East and the intense fighting between Iran and Iraq only underlines what we have known for a decade: The world's oil supplies can be disrupted at any moment. We are not prepared now. To increase our ability to withstand the oil supply disruption that is coming—it may be tomorrow, it may be next year, but it is coming—we must do several things, we must fill the strategic petroleum reserve at the fastest practical rate; we must put plans in place to use the reserve early in a supply disruption using market forces rather than a Presidential declaration to start the drawdown; and, Mr. President, we must assure those in our society least able to respond to oil price shocks that the price increases that will almost inevitably accompany an oil supply disruption will not threaten their very lives.

I ask unanimous consent that the text of the Emergency Preparedness Act of 1984 be printed in the RECORD following my remarks.

I urge my colleagues to examine and support this bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Emergency Preparedness Act of 1984."

(b) TABLE OF CONTENTS.—

Section 1. Short title; table of contents
Section 2. Statement of findings and purposes
Section 3. Definitions

TITLE I—STRATEGIC PETROLEUM RESERVE

Section 101—SPR fill rate
Section 102—SPR futures options

TITLE II—EMERGENCY FINANCIAL RESPONSE

Section 201—Authority to provide emergency assistance

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. (a) Congress finds and declares that—

(1) disruptions in the supply of imported oil are likely during the next decade;

(2) such emergencies will disrupt normal petroleum market operations; the Strategic Petroleum Reserve should be used, and used early, to mitigate the potential for market turmoil;

(3) if oil stockpiles are unavailable or insufficient to fully offset the reduction in oil available to the world oil market, oil prices will rise, possibly rapidly and to high levels;

(4) without compensating action, such high prices will create severe economic dislocations and individual hardships;

(5) severe oil supply disruptions constitute a threat to public health, safety and welfare which can most effectively, efficiently, and equitably be dealt with through early use of the Strategic Petroleum Reserve and prompt fiscal action by the executive branch of Government; and

(6) no emergency program will be able to avoid entirely the market disruptions and personal hardships that will accompany a petroleum supply disruption; however, prompt fiscal action by the executive branch of Government will reduce individual hardships and economic dislocations more effectively than other mechanisms used in the past.

(b) The purpose of this Act is to require rapid fill of the Strategic Petroleum Reserve, and to grant the President of the United States authority to sell in advance of a supply disruption options to purchase SPR oil and to provide financial assistance to low-income Americans during an oil supply disruption.

(1) "United States" means the several States, the Commonwealth of Puerto Rico, the District of Columbia, and the Trusts and Territories of the United States.

(2) "State" means the 50 states, the Commonwealth of Puerto Rico, the District of Columbia, or the Trusts and Territories of the United States.

TITLE I—STRATEGIC PETROLEUM RESERVE

SPR FILL RATE

Sec. 101. Amend Section 160(c)(2) of the Energy Policy and Conservation Act as amended by adding the following at the end thereof: In no event shall the President permit the level of petroleum products acquisition, transportation, and injection activities for the SPR to fall: (a) below 186,000 b/d on average in FY 1985, and (b) thereafter, below that sufficient to fill in each fiscal year all permanent and temporary capacity available in SPR facilities.

SPR FUTURES OPTIONS

Sec. 102. The President may by rule establish programs which provide in advance of an oil supply disruption for the sale, notwithstanding section 161(d) of EPCA, of oil from the Strategic Petroleum Reserve. The programs established by such rule shall only permit the sale of such volumns of SPR oil as the President determines is consistent with national security interests and international obligations.

TITLE II—EMERGENCY FINANCIAL RESPONSE

AUTHORITY TO PROVIDE EMERGENCY ASSISTANCE

Sec. 201. a) The President shall by rule establish a standby plan to be implemented during a petroleum supply disruption and to be funded by an emergency appropriation to provide emergency financial assistance to state governors and residents of the United States.

(b) The proposed standby plan under subsection (a), to the maximum extent practicable, shall provide for—

(1) economic efficiency in all sectors of the economy

(2) the mitigation of extreme personal hardship caused by the petroleum supply disruption;

(3) essential public services; and

(4) the protection of public safety, health and welfare

(c) The proposed standby plan under subsection (2) shall include guidelines and minimum standards for state governors and provisions for submittal of state plans to ensure the objectives listed in (b) are met. Reasonable accounting and auditing procedures shall be established. The proposed standby plan shall be developed in consultation with State Governors and with the benefit of public participation.

(d) The emergency distribution of funds to each state Governor shall enable each Governor, to the maximum extent practicable, to mitigate the effects of higher oil prices on low-income or otherwise disadvantaged people; public health, safety and welfare activities in the state; essential public services in the state; economic efficiency; people experiencing extreme personal hardship; and other priority activities in the state as determined by the Governor.

(e) Within 90 days of enactment of this Act the President shall issue a notice of proposed rulemaking for the standby plan under this section.●

By Mr. ARMSTRONG:

S.J. Res. 251. Joint resolution providing for the convening, whenever the legislatures of two additional States pass a resolution to hold such a convention, of a constitutional convention for the purpose of proposing an amendment relating to the balancing of the Federal budget; to the Committee on the Judiciary.

BALANCED BUDGET CONSTITUTIONAL CONVENTION CONVENING RESOLUTION

● Mr. ARMSTRONG. Mr. President, for many years the people have recognized that a menace has been growing in Washington D.C., that threatens the fiscal stability of the Government and the economic well-being of every family in the Nation. The danger arises from massive spending programs that Congress has built into our State and Federal systems over the past 50 years which are now increasing at a faster rate than our economic growth and outpacing the people's ability to pay for them.

Despite the imminent danger of huge and mounting deficits, it is not the Congress that is leading the fight to reform the profligate spending programs that are now embedded in the fabric of American law, it is the people themselves. Just last year while we in the Congress fiddled and once again failed to control runaway Federal spending, Missouri became the 32d State to petition Congress to either initiate a Federal balanced budget amendment or to call a constitutional convention for that purpose.

This grassroots effort is mounting because of the economic instability we have experienced over the last decade and a growing conviction that many of our economic ills stem from skyrocketing Federal deficits. Certainly we have made progress in the last 3 years in important areas—inflation is down, unemployment is down, interest rates are down. However, evergrowing Federal deficits threaten to undermine our recovery, sapping the new vitality that we've worked so hard to attain.

While Congress has been vacillating, citizens across the country have been organizing a drive to call a constitutional covnention to develop and pass a balanced budget amendment. In the last 9 years, 32 States have passed petitions calling for a convention and 11 States have passed them twice. It is becoming a reasonable expectation that the State legislatures will be forced by the failures of Congress to call for a constitutional convention to consider a balanced budget amendment and thereby project the United States into an unprecedented situation.

To put this into perspective, article V of the Constitution sets forth two methods of proposing amendments. One method allows two-thirds of both Houses of Congress to propose a constitutional amendment. Our Founding Fathers provided another means that could be used in the event that Congress fails to respond to serious national problems. The Constitution allows two-thirds of the State legislatures to petition for the calling of a constitutional convention. Historically, Congress has taken the lead in proposing amendments to the Constitution to be later ratified by State legislatures or by a State convention called for that purpose. However, for the first time since the adoption of our Constitution in 1778, it appears that a constitutional convention will be called before Congress passes an amendment to the Constitution.

Because Congress has an overriding obligation to preserve the integrity of the Constitution, it has now become imperative that Congress map out a procedure with necessary safeguards to guarantee that the Constitution is not weakened or destabilized by a constitutional convention. There has been considerable concern and debate about the likelihood of limiting the debate to a single purpose. However, there is a reasonable basis for believing that a constitutional convention can be limited to the consideration of the balanced budget amendment and that reasonable procedures can be established for calling the convention, selecting delegates and setting up guidelines that can remove much of the doubt and uncertainty that surrounds the calling of such a convention.

A 1973 American Bar Association study of the convention method of amending the Constitution concluded:

> Congress has the power to establish procedures limiting a convention to the subject

matter which is stated in the applications received from the state legislatures.

Former Senator Sam Ervin, a well-respected advocate of a balanced budget once stated:

> Fear of a runaway convention is just a nonexistent constitutional ghost conjured up by people who are opposed to balancing the budget, because they want to be able to promise special groups something for nothing out of an empty pocketbook.

In addition, there are a number of safeguards in place to prevent a constitutional crisis from developing . For example: First, Congress can advance its own amendment making the calling of a convention unnecessary—even though to date it has not done so; second, it can refuse to submit nonconforming amendments to the States for ratification; third, since the results of the convention must be ratified by three-fourths of the States, only 13 States can block the action of the convention; fourth, and finally, Congress can set up the procedures on how the convention conducts itself.

I would prefer to see Congress pass a balanced budget amendment before the final two States pass petitions. However, the immediacy of the situation requires that Congress address the legitimate concerns of how a constitutional convention should be organized and conductd in an orderly manner. Our $200 billion deficit has placed the fiscal stability of the U.S. Government in sufficient immediate jeopardy that we now do not have the luxury of time for drawn-out court proceedings on questions such as the validity of the petitions recieved and limiting the convention's activity to a single issue.

Today, I am introducing a balanced budget Constitutional Convention convening resolution to set forth the procedures of such a convention. An identical measure is being introduced in the House by Congressman Ken Kramer, who has done the primary work on this proposal and deserves great credit for pulling it together. This measure is a historic first from this standpoint. This is the first time legislation has been introduced to carry out a single-purpose convention. It is also the first bill to specifically establish a timetable for the call of a convention.

This legislation would:

Declare the 32 State petitions already received to be valid and contemporaneous under the terms established in article V of the Constitution.

Establish an automatic mechanism for determining the validity of any new petitions.

Clearly limit the scope of the convention so it could only deal with the subject of drafting a balanced budget amendment.

Call for the balanced budget convention to be convened in Philadelphia within 180 days after the 34th application is determined valid.

Provide for selection and compensation of convention delegates, and describe their duties.

Limit the duration of the convention to 120 days.

Provide for ratification by State legislatures.

I do not personally favor a Constitutional Convention. But Congress cannot continue to neglect the concerns of the American people over the growing deficit and the future of our economy. This measure is designed to force Congress to approve a balanced budget amendment by in effect giving Congress an ultimatum—either act now or have a Constitutional Convention automatically convened if two more State petitions are received for a Constitutional Convention.

This is a time for the same quality of leadership and vision that was displayed by our Founding Fathers when they drafted the Constitution itself. There are uncertainties now, but nothing compared to the atmosphere in which those early visionaries completed their historic acheivement. Now it is our turn to measure up to the demands of history.

I ask unanimous consent that a section-by-section summary be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

A Section-by-Section Summary

A joint resolution providing for the convening, whenever the legislatures of two additional states pass a resolution to hold such a convention, of a constitutional convention for the purpose of proposing an amendment relating to the balancing of the Federal Budget

SECTION 1. SHORT TITLE

The short title of the resolution is the "Balanced Budget Constitutional Convention Convening Resolution."

SECTION 2. ADDITIONAL APPLICATIONS OF STATE LEGISLATURES

(a) Congress finds the following 32 state applications for a balanced budget convention to be contemporaneous and valid: Alabama, Alaska, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Idaho, Iowa, Indiana, Kansas, Louisiana, Maryland, Mississippi, Missouri, Nebraska, New Hampshire, New Mexico, Nevada, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming.

(b) Requires the Vice President, in his capacity as President of the Senate, to determine the validity of new petitions through established criteria and requires him to publish such determination in the Congressional Record.

SECTION 3. CONVENING OF CONVENTION AND DELEGATES

(a) Requires the Vice President to convene the convention in Philadelphia, Pa., not later than 180 days following publication in the Record of the second determination of validity.

(b) Requires the legislature of each state, in a manner of their own choosing, to appoint delegates to the convention in a number equal to the number of Representatives and Senators they are entitled to in the U.S. Congress. Requires the Secretary of State of each state (or similar person) to certify the names of each delegate. Provides compensation, equal to the daily equivalent of GS-12, for the delegates attending the convention to writing only balanced budget amendments, and provides that each delegate have one vote.

SECTION 4. PROCEEDINGS OF CONVENTION, ADOPTION OF AMENDMENTS, AND TERMINATION

(a) Requires the Vice President to convene the convention, administer the oaths and preside until the delegates elect a presiding officer. The Vice President has no vote. Requires the convention to keep daily verbatim records.

(b) Provides that further proceedings of the convention shall be conducted in accordance with such rules as the convention may adopt.

(c) Requires the Administrator of General Services, and every other part of the federal government to provide information and assistance upon written request of the presiding officer.

(d) Limits amendments to the balanced budget issue, and provides that no proposed amendments can be considered more than 120 days after the convening of the convention.

(e) Mandates termination of the convention after 120 days following its convening. Provides for transmission by the Administrator of General Services of Proposed amendments relating to the balanced budget issue to the legislatures of the states for ratification 30 days after receipt from the presiding officer of the convention, unless both houses of Congress disapprove of transmission within that time because the proposed amendments do not relate to the balanced budget issue. Requires the presiding officer to transmit to the Archivist all records of official proceedings.●

By Mrs. Hawkins (for herself, Mr. Warner, Mr. Specter, Mr. Stafford, Mr. Jepsen, Mr. Mattingly, Mr. Burdick, Mr. Heinz, Mr. Symms, Mr. Gorton, Mr. Hollings, Mr. Cochran, Mr. Stevens, Mr. Randolph, Mr. Abdnor, Mr. Dole, Mr. Boren, Mr. D'Amato, Mr. Domenici, Mr. Roth, Mr. Denton, Mr. Chafee, Mr. Riegle, Mr. Huddleston, Mr. Dixon, Mr. Lugar, Mr. DeConcini, Mr. Durenberger, Mr. Bradley, Mr. Kasten, Mr. Inouye, and Mr. Long):

S.J. Res. 252. Joint resolution to designate May 25, 1984, as "Missing Children Day"; to the Committee on the Judiciary.

MISSING CHILDREN DAY

Mrs. HAWKINS. Mr. President, today I am introducing a joint resolution to authorize the President to declare May 25, 1984, as Missing Children Day. Over the last 3 years we have been working to bring the tragic problem of missing children to the forefront of national attention. This resolution will expand awareness of the problem and will help the many groups and individuals working to locate missing children. Since the Senate Committee on Labor and Human Resources first explored this issue, supporters of the missing children movement have taken constructive steps to solve the problem. First, we passed the Missing Children Act. Now, for the first time there is a central clearinghouse in the Federal Bureau of Investigation for information needed to locate and identify missing children.

In addition to the Missing Children Act, there are several new measures now pending before the Senate that address the issue of missing children. Senator SPECTER and I are cosponsors of S. 2014, the Missing Children Assistance Act, which creates a National Center on Missing and Exploited Children within the Department of Justice. The center will serve as a coordinating office for information collection and dissemination on missing children. It will set up a national toll-free telephone number to provide assistance and technical information to persons and organizations interested in helping solve this tragic problem. We have also introduced S. 2118 to establish a National Commission on Missing Children. The Commission will convene a national symposium on the problem of missing and exploited children. This symposium will give us a chance to bring leaders in the field of children's rights together to discuss appropriate action by the local, State, and Federal Government, the law enforcement community, and volunteer and community service organizations.

Mr. President, we are encouraging wider involvement by the private sector and volunteer service organizations in the fight to protect our children from the risk of abduction and to help locate the children already missing. In October 1983 the first meeting of the National Working Group on Missing Children was convened. The initial working group included ACTION: the National Volunteer Agency; the General Federation of Women's Clubs; the American Association of Retired Persons; the International Association of Chiefs of Police; the International Association of Fire Chiefs; representatives from the Department of Justice Office of Juvenile Justice and Delinquency Prevention; the Boy Scouts of America; the National Fraternal Order of Police; the Girl Scouts of America; the National Sheriffs Association; the National Crime Prevention Council; the Advertising Council; Boys Clubs of America; and the American Bar Association's National Resource Center for Child Advocacy. The group also includes the Adam Walsh Resource Center and Child Keepers of Florida. Each of these organizations has provided assistance and support in developing a national program to focus attention on the issue of missing children.

The American Association of Retired Persons is encouraging its State and local chapters to participate in local community child safety programs. The General Federation of Women's Clubs is considering the development of a major program to address the issue of missing children. The National Fraternal Order of Police is pursuing its existing child identification program, which has helped significantly in the development of a national child safety drive. Boy Scouts of America has appointed an official liaison with the working group, and its explorer division is actively participating in child safety programs. Boys Clubs of America has encouraged a series of educational events in its local clubs. The National Crime Prevention Council has developed extensive educational materials on safety prevention and has provided technical support to the development of the working group's first project, National Child Safety Day.

To lay the groundwork for this nationwide child safety drive, ACTION and the Department of Justice have sponsored, with the support of the National Working Group, six pilot projects across the Nation. These pilot projects are community-based child safety day programs that provide an educational forum for parents and children, local civic leaders, and businesses.

A typical safety fair is conducted at the local town hall or public site such as the school, the local armory, or a shopping center. Parents bring their children to be photographed and fingerprinted and to have dental charts made. Then they receive safety information and instruction on how both parents and children can reduce the risk of child abduction.

Mr. President, I want to stress the point that all the records are kept only by the parents of the children who participate. There is no Orwellian "Big Brother" lurking behind this program. The program is locally based, involving the local business leaders, voluntary organizations, civic service groups, and government agencies interested in providing a solution to the tragic situation of our Nation's missing children.

Mr. President, our public awareness program emphasizes education and increasing community awareness of the issue. Second, it highlights the importance of communication between the parent and the child as the basis for preventing abductions. Third, it stresses that fingerprints, photographs, and dental charts will not prevent abductions; they are merely the investigative tools to be used by law enforcement agencies once tragedy strikes.

The corporate community has also indicated its interest in improving the safety of our children. To date, Pepsi Cola Corp., Polaroid Corp., and the Outdoor Advertisers Association have expressed serious interest in developing and funding campaigns to increase public awareness and to conduct abduction prevention programs.

Mr. President, May 25 has been declared Missing Children Day by the Senate for the last 2 years and has been enthusiastically supported by President Reagan. The joint resolution I am introducing today has 30 original cosponsors. The most important purpose of this resolution is to register the Nation's support for groups all over the country who search for missing children, counsel grieving parents, and track the legal maze of parental custody laws. Groups such as Child Find, the Adam Walsh Resource Center, Find the Children, Child Keepers of Florida, and Children's Rights of Florida are faced with the arduous task of raising funds to sustain their operations. These citizen action groups are on the front line in the fight to prevent abductions, find children, and enact better laws to deal with this situation. Missing Children Day will be very important to their cause and the cause of our Nation's children.

Mr. President, it is clear that momentum is building across the country, and concern about the issue of missing children is greater than ever before. This resolution provides a perfect opportunity to salute the enthusiasm and dedication of the many individual citizens, small groups, and organizations that are working to solve the problem and assure a safe and healthy future for our children. Mr. President, I ask unanimous consent that the text of this joint resolution and the text of an article on the Missing Children Act printed in the FBI Law Enforcement Bulletin for January 1984 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 252

Whereas on May 25, 1979, six-year-old Etan Patz disappeared from his home in New York City and is still missing;

Whereas over one million eight hundred thousand children disappear from home annually;

Whereas children who are missing from home and are not living in a family environment are frequently the victims of sexual and physical exploitation;

Whereas an estimated 60 per centum of missing children are sexually abused while away from home;

Whereas the search for missing children is frequently a low priority investigation in many law enforcement agencies;

Whereas efforts between Federal and local law enforcement agencies in child abduction cases are usually uncoordinated, haphazard, and ineffective; and

Whereas the problem of the missing child has been plagued by misinformation and there is a need to increase public understanding and awareness of this problem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 25, 1984, is designated as "Missing Children Day", and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the day with appropriate ceremonies, programs, and activities.

[From FBI Enforcement Bulletin, January 1984]

On October 12, 1982, the President of the United States signed into law the Missing Children Act, which requires the Attorney General to "acquire, collect and preserve any information which would assist in the location of any missing person (including children, unemancipated persons as defined by the laws of the place of residence) and provide confirmation as to any entry [into FBI records] for such a person to the parent, legal guardian or next of kin. . . ." In essence, the enactment of the Missing Children Act gives parents, legal guardians, or next of kin access to the information in the FBI National Crime Information Center's (NCIC) Missing Person File.

The Missing Person File has been part of the FBI's National Crime Information Center since October 1, 1975. Law enforcement agencies can enter missing person information into the NCIC computer and query the file to determine whether a person might be missing. The file has four categories of records, one of which is for missing juveniles. For entry into this category, the missing person must be unemancipated as defined by the laws of his or her State of residence. A record entered into this category will be retained in the file until the person is no longer considered a juvenile as defined by the statutes of that person's State.[1] Any law enforcement agency can make inquiries into the Missing Person File and are, in fact, encouraged to do so when they encounter someone who might be missing, e.g., juvenile seen on the street during school hours. An inquiry may be made using only physical descriptors, i.e., approximate age, sex, race, height, weight, eye and hair color, if a child does not know his/her name or date of birth or both.

One aspect of the Missing Children Act authorized the collection and dissemination of data on unidentified deceased persons. This resulted in the creation of the Unidentified Person File in NCIC, which became operational on June 30, 1983. Unlike other NCIC person files containing unique numerical identifiers for searching purposes, records in the Unidentified Person File will use such descriptive data as blood type, dental characteristics, broken bones, etc. The Missing Person File has been expanded to include these identifiers for comparison purposes.

As a means to assist agencies in gathering dental, medical, and optical information for entry in missing and unidentified person records, the NCIC is in the process of preparing forms designed to supplement standard police missing person reports. This will allow the officer taking a report to give a copy to the parent, legal guardian, or next of kin in order that complete medical data on the missing person can be obtained from medical personnel. The completed form is then returned to the same police agency for entry of data in the existing missing person record.

The Missing Children Act requires the FBI, when properly requested by a parent, legal guardian, or next of kin, to check to see if data on a missing child has been entered in the Missing Person File. The individual making the request is notified of the results of the check, and if a record has not been entered, he is instructed to contact local law enforcement authorities to determine whether the disappearance of the missing person meets the criteria for entry into the NCIC computer. If a case should arise where data has not been entered and local police decline to enter the missing person record, the FBI is authorized to enter the record. However, before this is done, the appropriate FBI field office will confirm the action of the local agency. If this is substantiated, the FBI field office will enter the missing person record, notifying the requester of this action and stressing the importance and necessity for being promptly advised of the individual's return. In such cases, the FBI field office becomes the originating agency of the record and received any "hit" confirmations. The field office will then attempt to notify the parent, legal guardian, or next of kin and/or the investigating agency of the missing person's location and advise them to contact the inquiring agency immediately. The FBI does not have the authorization to detain the individual and is not responsible for returning the individual to the parent, legal guardian, or next of kin.

In response to national concern over the plight of missing children, police departments and civic organizations across the Nation have started fingerprinting children as part of a voluntary program to identify children who may, at some later date, become lost or missing. The FBI recommends that the child's parent or legal guardian retain the card until such time as the child is reported missing.

On March 18, 1983, the FBI initiated a new service as a result of the Missing Children Act. The FBI's identification Division will not accept from criminal justice agencies fingerprint cards relating to missing children and other missing persons meeting the criteria for entry into the NCIC Missing Person File.

When the fingerprint card of a missing person is received at the FBI, the card is searched against those cards already on file. If the fingerprints submitted match an already existing record, the criminal justice agency submitting the card will be furnished with a copy of that record and all other pertinent information. If a later fingerprint card submission is matched to the missing person's fingerprint card, the contributor of the current submission and the contributor of the missing person's fingerprint card will be promptly notified. As with records in the NCIC Missing Person File, fingerprint cards of missing children are removed from the Identification Division files when the individual reaches the age of emancipation.[2]

Unfortunately, since the passage of the act, several misconceptions as to the FBI's responsibility in missing children cases have arisen. The act did not confer upon the FBI any new investigative jurisdiction, that is, the act does not empower the FBI to investigate every missing child case in America. The FBI can initiate a preliminary inquiry in such cases only when there is an indication that a crime has been committed which falls within its jurisdiction, such as kidnaping. Even so, the Federal Kidnaping Statute specifically excludes the kidnaping of a minor by a parent thereof. Cases of this nature are more appropriately handled by State and local authorities. However, under certain circumstances, the FBI can enter parental kidnaping cases through the Fugitive Felony Act. The following conditions must be present for the FBI to enter such a case:

(1) A State arrest warrant must be issued charging the parent with a felony violation;

(2) There must be evidence of interstate flight;

(3) A specific request for FBI assistance must be made by State authorities who must agree to extradite and prosecute on the charge for which the parent is being sought; and

(4) The appropriate U.S. attorney must authorize issuance of an unlawful flight warrant.

If circumstances indicate an abduction, the FBI field office receiving the report notifies FBI Headquarters immediately, providing specific details of circumstances. The field office is required to conduct a preliminary inquiry in order to determine the need for a full investigation. No ransom demand or evidence of interstate travel is required for the FBI to conduct a preliminary inquiry. There must be reasonable indication that an abduction has occurred before the FBI will initiate a full-scale kidnaping investigation, or under the Federal Kidnaping Statute, if an abducted victim is not released within 24 hours, a presumption is created that the victim has been transported in interstate or foreign commerce.

SUMMARY

Missing children cases, as all missing person cases, almost always fall within the jurisdiction of local and State authorities. Yet, there are ways in which the FBI can be of assistance during such investigations.

Besides offering access to information in the FBI's NCIC Missing Person File and adding fingerprints of missing or abducted children to the repository of fingerprint cards maintained by the FBI's identification Division, the FBI maintains liaison with local authorities to ensure the FBI is notified should information develop that a kidnaping has occurred. Also Special Agents are instructed to offer any type of assistance necessary, in compliance with Federal statutes. They will handle out-of-state leads when asked to do so by local authorities, locate and transmit records, or verify an individual's location should local authorities wish to interview him.

The goal of the FBI is the same as that of the parents of missing or abducted children—to seek the safe return of the child to ensure that any criminal involved is brought to justice.

Mr. WARNER. Mr. President, more than 1 million children disappear from their homes each year. This is a national tragedy requiring immediate congressional attention.

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[1] For more detailed information on the Missing Person File, see Domory R. Bishop and Timothy J. Schuosslor, "The National Crime Information Center's Missing Person File," *FBI Law Enforcement Bulletin*, vol. 51, No. 8, August 1982, pp. 20-24.

[2] For more detailed information on the policy of the FBI's Identification Division, add Division's "Letter to All Fingerprint Contributors," dated 3/18/83. If a copy is not available at your department, one can be obtained by writing: FBI Identification Division, Washington, D.C. 20537, Attention: Recording Section.

This year, thousands of children reported missing will never be found by their families. Many of them will become victims of sexual and physical abuse and exploitation.

Responsibility for finding these children falls first on local law enforcement, but their efforts alone will not prove successful because the abducted children are often moved long distances.

Parents and local law enforcement have neither the resources nor the expertise to mount widespread searches or to collect critical information on missing children cases.

For these reasons, I have joined with Senators ARLEN SPECTER and PAULA HAWKINS in sponsoring two bills that direct national resources to help solve this difficult problem.

The first, S. 2014, the Missing Children's Assistance Act of 1983, establishes and maintains a national toll-free telephone number where individuals may report information regarding the location of missing children. The measure establishes a national resource center and clearinghouse to provide technical assistance to State and local governments, agencies and individuals in locating and recovering missing children; to coordinate public and private efforts to locate and recover missing children; and to disseminate national information on innovative missing children's programs, services and legislation.

Finally, the legislation authorizes the adminstrator of the Office of Juvenile Justice and Delinquency Prevention to fund other programs designed to prevent child abductions or to assist in the recovery of abducted children.

The second measure I am supporting, S. 2218, the National Symposium on Missing Children Act of 1983, establishes a Commission which would hold a national conference bringing together all interested groups to conduct an indepth inquiry on solutions to prevent the disappearance of chidren and safely return missing children to their homes.

The Commission will disseminate the proceedings of the conference and make recommendations to the President and Congress regarding changes in public law and regulations which may be needed.

The Commission would be comprised of 15 members appointed by the President and recommended by the Speaker of the House and the Senate majority and minority leaders. Representatives of the U.S. Attorney General's office, the Department of Health and Human Services, and the Department of Education also would participate in the Commission.

Within 18 months from the date of enactment, the Commission would submit to the President and Congress a comprehensive report incorporating specific recommendations.

The children of our Nation need help. Millions of children are at risk, vulnerable to abduction, abuse, and murder. If missing children are to be brought safely home—better, to be protected from abduction in the first place—it is imperative that a greater effort be mounted nationally. The Nation's children have a right to expect nothing less.

Mr. SPECTER. Mr. President, I am pleased to join Senator HAWKINS and my other colleagues in the Senate and House of Representatives to designate May 25 as Missing Children Day again this year. The proposed joint resolution would serve to focus national attention on the tragedy of our estimated 1.8 million children who are reported missing each year in this country. Such national recognition of the plight of our Nation's missing children would be directed toward the ongoing efforts of both the public and private sector to locate missing children and prevent their disappearance, through such activities as fingerprinting campaigns, media events, and community awareness programs.

The remarkable success of these efforts in finding missing children may be best illustrated by the widespread national response to the NBC broadcast of the movie "Adam" which portrayed the true story of 6-year-old Adam Walsh's kidnaping and brutal murder and his parents' subsequent efforts on behalf of other missing children. Of the 38 million viewers, thousands contacted the toll-free hotline provided at the end of the film. Within several weeks after the movie was aired last October, 13 of the 55 missing children pictured in the epilog to the film (plus a brother and a sister of two of the children) were recovered.

The passage of the Missing Children Act in 1982, which provides for the inclusion of data on missing children in the FBI's computerized criminal information network, represented a significant achievement toward enhancing our available means to locate and recover missing children. Our national commitment to address the problem of missing children is more recently demonstrated by the strong bipartisan support the Missing Children's Assistance Act of 1983 (S. 2014) has received. This bill which I introduced on October 27, 1983, along with Senators HAWKINS and WARNER and 21 of our distinguished colleagues in the Senate, now has 48 cosponsors. The Missing Children's Assistance Act establishes and maintains a national toll-free telephone line for individuals to report information on missing children and a national resource center and clearinghouse to provide technical assistance and aid in the coordination of public and private efforts to locate and recover missing children. The Senate Subcommittee on Juvenile Justice, which I chair, held hearings on this bill on February 7 and 21 and is working toward speedy passage of the legislation.

In light of the urgent need to direct national attention to the all-too-frequent incidence of child disappearances in this country, I urge my colleagues in the Senate to agree to designate May 25 of this year as Missing Children Day, with the hope that such an action will no longer be needed in the near future.

Mr. DENTON. Mr. President, I am deeply concerned about the plight of the thousands of children who disappear from their homes each year and I believe that we, as legislator, must do more to bring attention to the problem of those missing children. I therefore commend my colleague from Florida, Senator PAULA HAWKINS, for introducing the resolution designating May 25 as Missing Children Day. Because I share her concern about our Nation's young people, I have joined as an original cosponsor of the resolution.

Mr. President, missing children represent a growing national tragedy. The U.S. Department of Health and Human Services has estimated that each year approximately 1.8 million children are missing from their homes for varying periods of time. Approximately 90 percent run away for a few days and return home, but at least 100,000 children are abducted by one of their parents, and as many as 50,000 young Americans are reported as having been abducted by strangers.

Thousands of children and thousands of parents are victimized every year. The children disappear into the unknown. The parents live in an agony of searching for their children with little hope of success. There is no possible way that we, as outsiders, can even begin to understand the devastating grief that is so present and real in families that must deal with the trauma of a missing child. We may not be able to understand the grief, but we can certainly act to help deal with it by drawing national attention to the problem.

The term "missing child" often carries the connotation of abduction by a stranger. Although that is a real problem, we too often ignore parental kidnaping as a major cause of disappearing children. The number of child abductions by parents has increased alarmingly. The mounting rate of divorce and the increasing number of broken families have resulted in prolonged consideration before child custody cases are decided. As a result, there has been an immense increase in parental kidnaping. I ask unanimous consent that an article about the horrible phenomenon of parental kidnaping, entitled "When Parents Kidnap

Their Own Children," from the fall 1983 issue of Barrister magazine be printed in full in the RECORD immediately following my remarks.

Whether children have been taken by a parent, abducted by strangers, or run away from their homes, locating them can be an extreme hardship. Our mobile society has caused immense frustrations for local new enforcement agencies in tracking missing young people. Local law enforcement officials are the first to have responsibility for the recovery of missing children. It is very difficult, however, to solve the widespread problem solely on a local level. The lack of resources and expertise by parents and local law enforcement officials makes practically impossible the necessary widespread search and collection of necessary information about an abducted child.

Several communities around the country have started programs to aid police in their search for missing children. The Young Volunteers in ACTION, a program under the ACTION agency, developed a series of demonstration projects to be held in six cities around the country to educate and inform parents and children about the prevention of crimes involving children.

I am pleased to report that, on January 21 of this year, the first of the six projects was held in Tuskegee, Ala. The director of the project was J. B. Walker, the Tuskegee, chief of police. I commend Chief Walker, along with the members of local organizations, ACTION, the Tuskegee School Board, and private area industries who worked to develop and fund the day long event. It was designed to inform parents and children about how to assist in the prevention of child abduction and child exploitation.

The goal was to fingerprint and photograph 1,500 to 2,000 children under the age of 18, as well as to compile biological statistics of the children for the permanent records of the parents. The program was a great success. Twenty-five percent of the children under 18 years of age were fingerprinted and photographed.

That kind of community involvement is excellent, but in order to protect our Nation's youth to the fullest we must provide for more active Federal, State, and private involvement.

Federal involvement has taken the form of the passage of the Missing Children Act of 1982. The act extended the FBI's authority to collect and record data about missing children. It requires the FBI to list missing children in a national computer accessible to most police departments throughout the country.

The next phase of Federal involvement, complementing the first, is S. 2014, the Missing Children's Assistance Act of 1983. The purpose of that legislation is to obtain greater national commitment and a nationwide effort to solve the disappearance of so many of our children every year.

The act guarantees coordinated and comprehensive programs at the Federal level to assist local and State authorities in the search for missing children. It extends the authorization of the Juvenile Justice and Delinquency Prevention Act through 1988. It provides for the establishment and maintenance of a toll-free telephone line for the reporting of information about the location of missing children, as well as the establishment of a national resource center and clearinghouse to provide technical assistance to law enforcement officials. I consider that provision to be a particularly effective weapon in the battle against criminals who target our young Americans.

Mr. President, I ask unanimous consent that a list of organizations with information about missing children, prepared by Majorie Washington of the Congressional Research Service appear in the RECORD following my statement.

To insure effectiveness, however, it is critical that State and private involvement complement that of the Federal Government, and that State and local officials pay an active role in the process of returning missing children safely to their homes. By directing attention to the nationwide tragedy, the resolution offered today will provide the necessary Federal, State and private involvement.

Mr. President, I will continue to support every reasonable effort to assist parents in protecting their children and in finding them if they are missing. I strongly support the resolution on Missing Children Day, and I urge my colleagues to join Senator HAWKINS and me to act favorably upon it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A CHILD IS MISSING

(By Herbert A. Glieberman)[1]

Three years ago Congress was confronted with the evidence that from 25,000 to 100,000 children a year were victims of parental kidnappings, as cited in Proposed Federal Parental Kidnapping Prevention Act: Hearings on S. 105 Before the Subcommittee on Child and Human Development of the Senate Comm. on Labor and Human Resources, 96th Cong., 2d Sess. 5. (1980). Only a small percentage of most children were ever reunited with their searching parents. To deter child-snatching and to locate abducting parents and missing children, Congress passed the Parental Kidnapping Prevention Act of 1980. Despite Congress's good intentions, according to many attorneys across the country, most of the act as enacted and enforced has proven to be of little value to the victimized custodial parent.

The PKPA basically provides for FBI assistance in states where child-snatching is a felony, a computerized "Parental Locator Service" to provide information regarding the location of abducting parents and missing children, and interstate enforcement of child custody judgments. The act represents Congress's first attempt at involvement in interstate child custody disputes of this nature. Such matters had previously been left to the states.

The only section of the PKPA that provides for active assistance in locating abducting parents and missing children involves the use of the FBI, the investigative arm of the Justice Department. The FBI was previously authorized, under the Fugitive Felon Act, to investigate and apprehend fugitives crossing state lines to avoid prosecution of a state felony. The PKPA extended the Fugitive Felon Act to make FBI assistance available if the abducting parent took the child across state lines to avoid prosecution for a state felony (i.e., child-snatching). This is cited in 18 U.S.C. § 1073 note (Supp. 1983) see P. Hoff, J. Schulman, & A. Volenik, Interstate Custody Disputes and Parental Kidnapping: Policy, Practice and Law, 8-24 (1982). By making FBI assistance available, the PKPA helps the state official who might otherwise be at a disadvantage in pursuing the abducting parent out of his own state. In addition to having access to resources unavailable to most people, the FBI also gives a parent who is without financial resources to hire a private detective a potentially very potent means by which he may be able to find a concealed child.

The process to obtain FBI assistance must be commenced by the state or local prosecutor. FBI intervention cannot be obtained by a parent or the parent's attorney. The state or local prosecutor must apply to a U.S. Attorney for a federal fugitive felon warrant. Pursuant to Justice Department policy, the prosecutor must show that the state is committed to prosecute and extradite the fugitive and that the present location of the kidnappers is unknown. The U.S. Attorney, at least in the past, has had to obtain approval from the Justice Department in Washington before he could issue a warrant.

After the warrant is issued, the FBI investigation begins. If the abductor is located and apprehended, he will be turned over to the local authorities in the state of arrest and the federal charges will be dismissed. He will either waive extradition or stand for extradition to the demanding state for prosecution by the state or local prosecutor on the state felony charge.

The major weakness in this section of the act is that the assistance of the FBI is only available if the child is abducted from a state where child-snatching is a felony (or if another felony has been committed). If the parent abducts the child from a state that treats the offense as a misdemeanor, there is not authorization for FBI intervention. Similarly, if the abducting parent takes the child to a state where child-snatching is a misdemeanor, the officials in that state may not be inclined to grant requests for extradition.

Currently, 18 states make child-snatching a felony; 13 states make it a misdemeanor; and 16 states have statutes that combine the two (i.e., a felony if the parent leaves the state, a misdemeanor if he remains in the state). A few states have no provision at all for child-snatching. If enforcement must depend on how a state classifies the offense, then each non-felony state should elevate the offense to a felony. Otherwise, FBI assistance under the PKPA will be unavailable to a distressed parent if a non-felony state is involved.

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[1] Attorney author of "Closed Marriage" and "Confessions of a Divorce Attorney." Research associate Laura J. Jones.

Most state felony statutes provide that the abductor must have violated a custody order to be charged with the offense. If there has been no custody determination, then the abductor has not committed a felony and the FBI will not be available to locate the abducting parent. Because a significant percentage of all parental kidnappings occur prior to the entry of a custody decree, relatively few people will be able to qualify for FBI assistance. Some states have recognized this problem, however, and have adopted statutes which require less than the violation of a custody order for the maintenance of a child-snatching charge.

IS THE ABDUCTED CHILD IN PHYSICAL DANGER?

In addition to these problems, the Justice Department has failed to enforce the PKPA, at least until recent changes in policy. There is no question that Congress intended for the Justice Department to take an active role in child-snatching cases. The Justice Department has been fully aware of Congress's intent that it give interstate parental kidnappers the same treatment it gives other felons fleeing across the state lines.

The Justice Department, however, has in the past refused to pursue parental kidnappers as it pursues other felons under the Fugitive Felon Act. After the passage of the PKPA, the Justice Department decided that it would refuse to issue a warrant in a child-snatching case unless there was independent credible information that the abducted child was in physical danger or then in a condition of abuse or neglect. In all other cases FBI involvement is automatic and a federal warrant is unconditionally issued once the fugitive crosses the state line. Attempting to justify the disparate treatment and the obvious burden now placed on the victimized parent, the Justice Department has maintained that child-snatching cases involve "family" matters that do not warrant the attention and resources that other, more serious offenses under the Fugitive Felon Act do.

Congressional opposition to the Justice Department's stance has had some effect. After Congress became aware of the Justice Department's continuing disregard for the PKPA and its refusal to substantively change its policy, it conducted investigations and held testimonial hearings. Two bills, in addition, were introduced to further manifest Congress's intent and directions to the Justice Department.

On October 12, 1982, Public Law 97-292 (H.R. 6976) went into effect and became known as the "Missing Children Act." The act was designed to assist the federal government and the states, as well as to "acquire, collect, classify, and preserve any information which would assist in the identification of any deceased individual who has not been identified, after the discovery of such deceased individual" and "to acquire, collect, classify and preserve any information which would assist in the location of any missing person (including an unemancipated person as defined by the laws of the place of residence of such person) and to provide confirmation as to any entry for such a person to the parent, legal guardian, or next of kin of that person (the attorney general may acquire, collect, classify, and preserve such information from such parent, guardian, or next of kin)," all in an effort to assist in tracking down missing children.

Section (4) of the act permits the federal government to "exchange such records and information with, and for the official use of, authorized officials of the federal government, the states, cities, and penal and other institutions." With this new act in place and taken together with other legislation, it is hoped that the federal government will play a larger part in helping to locate and return missing children to their proper parents.

Recently, the Justice Department gave some indication that its position had changed somewhat. FBI Director William Webster ordered FBI agents to intensify and improve their handling of child-kidnapping cases. In a memo to the agents, Webster ordered the review of all cases involving the possibility of child-kidnapping regardless of whether a ransom was demanded or evidence of interstate transportation was presented. The agents in the future will have to justify, with complete documentation, why they decided to conduct a full investigation or why they decided to refrain from one. Lie detector tests, according to the memo, are to be used "selectively as an investigative aid and not routinely applied to the missing child's relatives."

Senator Paula Hawkins of Florida, who initiated the most recent investigation into the Justice Department's inactions, called Webster's memo "a tremendous step forward," and said that the FBI's action "demonstrates a real commitment to the investigation of child kidnappings." The FBI's response may indicate the Justice Department's long awaited submission to congressional pressure in this matter. Whether the Justice Department is willing to raise child-snatching to the level intended by the PKPA is not discernable by Webster's memo, however, and remains to be seen.

The Justice Department, one might note, is not alone in exhibiting a reluctance to become involved in parental kidnappings. According to divorce attorneys across the country, local prosecutors do not always enforce state criminal child-snatching statutes and sometimes charge an abductor with a felony only as an accommodation to the victimized parent with no intention of prosecuting the abductor. Local police departments, moreover, are reported by many attorneys to give child-snatching cases low priority.

Because of the apparent inadequacy of state criminal legislation and because of the refusal of some federal and state officials to enforce parental kidnapping laws, some congressional support has been garnered to make child-snatching a federal criminal offense. [It is currently not a federal criminal violation to kidnap one's own child. 18 U.S.C. § 1201 (Supp., 1982).] Two bills have been introduced to this effect: H.R. 1440, 97th Cong., 1st Sess. (1981) and H.R. 5018, 97th Cong., 1st Sess. (1981). Both are currently pending before the House Judiciary Committee. Advocates say that child-snatching should be a federal crime to alleviate the problems associated with states that have various classifications for the offense. Abducting parents, moreover, might be less likely to kidnap their children if they knew that they would be committing a federal crime.

The PKPA also provides assistance in locating the abducting parent by use of the computerized Parental Locator Service. The PLS will provide the last address of the abducting parent and his place of employment, if known, if this information will be used to enforce a state or federal law with respect to the unlawful taking or restraint of a child, or to make or enforce a child custody determination. Previously available to locate parents delinquent in their child support obligations, the service does not offer any assistance in actively attempting to locate the missing parents.

Although the PLS does offer some useful information in locating missing parents, there are limitations. Furthermore, many abducting parents will remain underground. The PLS, consequently, would not be helpful if the abductor changed his name or used a false social security number. The state, in addition, may charge the parents a small fee for processing costs, and there may be a delay in receiving the information due to administration and procedure.

The third section of the PKPA requires that state courts enforce the custody determinations made by other states, consistent with federal jurisdictional standards. In the past an abducting parent would often take a child to another state after he was denied custody in his home state. He would then petition the court in the second state for custody and allege that a "change of circumstances" warranted a modification of the earlier judgment or that the earlier judgment deserved no recognition at all.

Because custody judgments are not considered "final" and because it was not hard to show changed circumstances, especially in the absence of a distant, nonpossessing parent, the court in the second state would often modify the prior judgment, or not recognize it, and award custody to the abductor. Many times the other parent would then abduct the child and the whole process would be repeated. Had the first custody determination been granted full faith and credit, there would have been less incentive to kidnap and take the child to a more favorable forum and relitigate the issue. Also, there would be little possibility of conflicting judgments from two states.

Many of the problems associated with non-final custody determinations have been alleviated by the PKPA. Under the PKPA courts of a second state shall enforce child custody orders, except under certain circumstances, made by another state exercising jurisdiction consistent with specific, enumerated standards. In an effort to alleviate the problems discussed above, Congress, in effect, imposed judicial restraint where little previously existed.

With regard to the other major provisions affecting the enforcement of judgments, the PKPA also creates a duty to defer to the continuing jurisdiction of a state that made a custody determination consistent with various provisions of the act so long as that state has jurisdiction under its own law and remains the residence of the child or any contestant. *See* P. Hoff, J. Schulman & A. Volenik, Interstate Custody Disputes and Parental Kidnapping: Policy, Practice and Law, 3-33. In addition, it creates a duty to refrain from exercising jurisdiction during the pendency of an action in a court which is exercising jurisdiction consistently with the act. The PKPA further provides that before a custody determination is made, reasonable notice and an opportunity to be heard shall be given to the parties.

A previous attempt to provide for interstate recognition of child custody determinations had been made with the enactment of the Uniform Child Custody Jurisdiction Act. That act similarly provided for the enforcement of the judgments of sister states, but each state was not required to adopt the act. At the time the PKPA was passed, requiring all UCCJA and non-UCCJA states to enforce the judgments of sister states, 43 states had adopted the UCCJA. In passing the PKPA, Congress apparently realized that the incentive for child-snatching would be ever-present unless no state would provide an opportunity to relitigate custody.

Except for interstate enforcement of child custody determinations, the PKPA does not offer as much assistance as it should to the victims of parental kidnappings. Although Congress may have meant well, the provisions of the PKPA as drafted will hardly accomplish the goal of helping distressed parents locate abducting parents and missing children through either FBI assistance or the PLS. Also, if the Justice Department does not in fact reverse its previous policy with regard to child-snatching cases, enforcement of the Criminal Provisions of the act will remain the same: nonexistent.

Organizations With Information About Missing Children

Child Custody Project, American Bar Association, 1800 M St., NW., Washington, D.C. 20036, (202) 331-2250.

Child Find, Inc., P.O. Box 277, New Paltz, N.Y. 12561, (914) 255-1848, (800) 431-5005 (toll-free number for searching children and those identifying them only; hot line open 8 a.m.-8 p.m., seven days a week).

Children's Rights of Florida, P.O. Box 173, Pinellas Park, Fla. 33565.

Children's Rights of New York, Inc., 19 Maple Ave., Stonybrook, N.Y. 11790, (516) 751-7840.

Dee Scofield Awareness Program, Inc., 4418 Bay Court Ave., Tampa, Fla. 33611.

Family and Friends of Missing Persons, P.O. Box 21444, Seattle, Wash. 98111, (206) 782-8306.

Find Me Inc., P.O. Box 1612, LaGrange, Ga. 30241.

Mothers Without Custody, Inc., P.O. Box 76, Sudbury, Mass. 01776.

National Coalition for Children's Justice, 1214 Evergreen Rd., Yardley, Pa. 19067.

National Fund for Runaway Children, 2001 S St., NW., Washington, D.C. 20007, (202) 783-6417.

National Missing Children's Locate Center, 201 Yamhill Law Center, 1123 SW Yamhill Street, Portland, Oreg. 97205.

National Runaway Switchboard, (800) 621-4001 (toll-free), (800) 972-6004 (toll-free in Illinois—service is called Illinois Youth Switchboard).

National Youth Work Alliance, 1346 Connecticut Ave., N.W., Washington, D.C. 20036, (202) 785-0764.

Parents Against Child-Snatching, 5311A Williams Road, Norcross, Ga. 30093.

Parents Helping Parents—Child Abductions, Route 1, Box 406D, Myakka City, Fla. 33551, (813) 322-2082.

The Roberta Joe Society, P.O. Box 124, Circleville, Ohio 43113, (614) 474-5020.

Runaway Hotline: (800) 231-6946 or (800) 392-3352 in Texas.

Search, 560 Sylvan Ave., Englewood Cliffs, N.J. 07832, (800) 526-4603 (toll-free), (201) 567-4040 (in New Jersey).

Stolen Children Information Exchange, 210 ½ Main St., Suite 1, Huntington Beach, Calif. 92648, (714) 847-2676.

United Parents Against Child Stealing, Inc. (UPACS), P.O. Box 35428, Tucson, Ariz. 85740, (602) 749-9303 (24-hour service).

(Marjorie Washington, Reference Librarian, Congressional Reference Division, November 3, 1983.)

Mr. RIEGLE. Mr. President, I am pleased to be an original cosponsor of Senator Hawkins' joint resolution designating May 25, 1984, as "Missing Children Day." Each year, thousands of children reported missing are never found, and it is virtually impossible to fully understand the pain and the anguish caused by the uncertainty when a child is missing or abducted.

When Congress passed the Missing Children's Act of 1982, it took the first step in addressing the problem of missing and abducted children. It is my firm belief that we must continue to make every effort to increase public understanding and awareness of missing children in order to solve this national tragedy. A coordinated national effort and a heightened public awareness can work to assist in locating and identifying missing children and to reduce their numbers.

I strongly encourage my colleagues to support this resolution and to help insure the safety and protection of America's most valuable resource, our children.

ADDITIONAL COSPONSORS

S. 120

At the request of Mr. Dole, the name of the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of S. 120, a bill to extend for 2 years the allowance of the deduction for eliminating architectural and transportation barriers to the handicapped and elderly.

S. 581

At the request of Mr. Bumpers, the name of the Senator from Ohio (Mr. Metzenbaum) was added as a cosponsor of S. 581, a bill to establish competitive oil and gas leasing and modify leasing procedures for onshore Federal lands.

S. 958

At the request of Mr. Roth, his name was added as a cosponsor of S. 958, a bill to amend chapter 54 to title 5, United States Code, to reform the merit pay system

S. 1059

At the request of Mr. Denton, the name of the Senator from Idaho (Mr. McClure) was added as a cosponsor of S. 1059, a bill to provide that it shall be unlawful to deny equal access to students in public schools and public colleges who wish to meet voluntarily for religious purposes and to provide district courts with jurisdiction over violations of this act.

S. 1504

At the request of Mr. Bentsen, the names of the Senator from Vermont (Mr. Stafford), the Senator from Hawaii (Mr. Inouye), the Senator from Alaska (Mr. Stevens), and the Senator from Maryland (Mr. Mathias) were added as cosponsors of S. 1504, a bill to provide for protection of historic shipwrecks, structures, and artifacts located on a seabed or in the subsoil of the lands beneath waters of the United States.

S. 1756

At the request of Mr. Durenberger, the name of the Senator from Arkansas (Mr. Bumpers) was added as a cosponsor of S. 1756, a bill to provide for assistance to State and local governments and private interests for conservation of certain rivers, and for other purposes.

S. 1857

At the request of Mr. Durenberger, the name of the Senator from Michigan (Mr. Levin) was added as a cosponsor of S. 1857, a bill to amend the Internal Revenue Code of 1954 to remove certain impediments to the effective philanthropy of private foundations.

S. 1992

At the request of Mr. Bentsen, the names of the Senator from Tennessee (Mr. Sasser), and the Senator from Nevada (Mr. Laxalt) were added as cosponsors of S. 1992, a bill to amend the Internal Revenue Code of 1954 to simplify and improve the income tax treatment of life insurance companies and their products

S. 2014

At the request of Mr. Specter, the names of the Senator from Missouri (Mr. Danforth), and the Senator from Louisiana (Mr. Johnston) were added as cosponsors of S. 2014, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide for assistance in locating missing children.

S. 2115

At the request of Mr. Thurmond, the names of the Senator from Nevada (Mr. Laxalt), the Senator from Utah (Mr. Hatch), the Senator from Nevada (Mr. Hecht), and the Senator from Kansas (Mr. Dole) were added as cosponsors of S. 2115, a bill to amend provisions regarding the executive exchange program.

S. 2130

At the request of Mr. Wilson, the names of the Senator from California (Mr. Cranston), the Senator from Florida (Mrs. Hawkins), and the Senator from Michigan (Mr. Riegle) were added as cosponsors of S. 2130, a bill to provide home buyers equitable access to the national secondary mortgage market.

S. 2182

At the request of Mr. Bumpers, his name was withdrawn as a cosponsor of S. 2182, a bill to harmonize, reduce, and eliminate barriers to trade in wine on a basis which assures substantially equivalent competitive opportunities for all wine moving in international trade.

S. 2185

At the request of Mr. Moynihan, the name of the Senator from Illinois (Mr.

DIXON) was added as a cosponsor of S. 2185, a bill to amend the Internal Revenue Code of 1954 to extend the targeted jobs tax credit.

S. 2193

At the request of Mr. GARN, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2193, a bill to authorize the Comptroller of the Currency to consider reciprocity among other factors in acting on an application by a foreign bank to establish a Federal branch or agency, and for other purposes.

S. 2205

At the request of Mr. BUMPERS, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2205, a bill to amend section 2511 of title 18, United States Code.

S. 2258

At the request of Mr. MOYNIHAN, the names of the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Colorado (Mr. HART), and the Senator from Utah (Mr. GARN) were added as cosponsors of S. 2258, a bill to grant a Federal charter to the 369th Veterans' Association.

S. 2304

At the request of Mr. BOSCHWITZ, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 2304, a bill to enhance United States food aid, restore the competitive position of the United States in agricultural export markets, and for other purposes.

S. 2307

At the request of Mr. BOSCHWITZ, the names of the Senator from New York (Mr. D'AMATO), the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of S. 2307, a bill making a supplemental appropriation to carry out title II of Public Law 480.

S. 2329

At the request of Mr. NICKLES, the name of the Senator from Indiana (Mr. QUAYLE) was added as a cosponsor of S. 2329, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans and to remove unnecessary barriers to employer participation in those plans by modifying the rules relating to employer withdrawal liability, asset sales, and funding, and for other purposes.

S. 2378

At the request of Mr. ABDNOR, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. LEVIN), the Senator from Alabama (Mr. HEFLIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Rhode Island (Mr. PELL), the Senator from New York (Mr. MOYNIHAN), the Senator from Idaho (Mr. SYMMS), the Senator from Mississippi (Mr. STENNIS), the Senator from Maryland (Mr. SARBANES), the Senator from Virginia (Mr. WARNER), the Senator from Oklahoma (Mr. BOREN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New York (Mr. D'AMATO), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Idaho (Mr. MCCLURE), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Montana (Mr. MELCHER), the Senator from Mississippi (Mr. COCHRAN), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Virginia (Mr. TRIBLE) were added as cosponsors of S. 2378, a bill to provide authorizations of appropriations for the impact aid program under Public Law 874 of the 81st Congress, and for other purposes.

SENATE JOINT RESOLUTION 204

At the request of Mr. HATCH, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of Senate Joint Resolution 204, a joint resolution to designate "Women's History Week."

SENATE JOINT RESOLUTION 217

At the request of Mr. HEINZ, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Joint Resolution 217, a joint resolution to authorize and request the President to designate the week of May 6, 1984 through May 12, 1984, as "Senior Center Week."

SENATE JOINT RESOLUTION 241

At the request of Mr. D'AMATO, the name of the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of Senate Joint Resolution 241, a joint resolution to authorize and request the President to issue a proclamation designating May 6 through May 13, 1984, as "Jewish Heritage Week."

SENATE JOINT RESOLUTION 245

At the request of Mr. GORTON, the names of the Senator from Washington (Mr. EVANS), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of Senate Joint Resolution 245, a joint resolution to designate the week of April 15 through April 21, 1984, as "National Recreational Sports Week."

SENATE JOINT RESOLUTION 246

At the request of Mr. EXON, the names of the Senator from Ohio (Mr. GLENN), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of Senate Joint Resolution 246, a joint resolution strongly urging the President to secure a full accounting of Americans captured or missing-in-action in Southeast Asia, and for other purposes.

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. MATTINGLY, the name of the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution to direct the Commissioner of Social Security and the Secretary of Health and Human Services to develop a plan outlining the steps which might be taken to correct the social security benefit disparity known as the notch problem.

SENATE RESOLUTION 74

At the request of Mr. PELL, the name of the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of Senate Resolution 74, a resolution expressing the sense of the Senate concerning the future of the people of Taiwan.

SENATE RESOLUTION 122

At the request of Mr. MOYNIHAN, the name of the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of Senate Resolution 122, a resolution expressing the sense of the Senate that the President should reduce imports of apparel so that imported apparel comprises no more than 25 percent of the American apparel market.

SENATE RESOLUTION 130

At the request of Mr. GORTON, the names of the Senator from Louisiana (Mr. JOHNSTON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of Senate Resolution 130, a resolution expressing the sense of the Senate that the President should award the Presidential Medal of Freedom to Barney Clark, to be presented to his family in his memory.

AMENDMENT NO. 2750

At the request of Mr. MATHIAS, the names of the Senator from Arkansas (Mr. BUMPERS), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. PERCY), the Senator from Nebraska (Mr. ZORINSKY) the Senator from Pennsylvania (Mr. HEINZ), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Virginia (Mr. WARNER), and the Senator from New Hampshire (Mr. HUMPHREY) were added as cosponsors of Amendment No. 2750 proposed to S. 979, a bill to amend and reauthorize the Export Administration Act of 1979.

AMENDMENTS SUBMITTED

EXPORT ADMINISTRATION ACT

JEPSEN AMENDMENT NO. 2761

Mr. JEPSEN proposed an amendment to the bill (S. 979) to amend and reauthorize the Export Administration Act of 1979, as follows:

On page 53, after line 9, add the following new section:

CARGO PREFERENCE REQUIREMENTS

SEC. 19 (a) The Senate finds that—

(1) the United States balance of merchandise trade in 1982 was a negative $31,800,000,000;

(2) the United States share of world exports has declined from 15.4 percent in 1970 to 13 percent in 1982;

(3) one out of every eight United States manufacturing jobs is for export production and 20 percent of our industrial production is exported;

(4) agriculture is the largest employer in the Nation providing for almost twenty-three million jobs, one million three hundred thousand of these being export related;

(5) the value of agricultural exports has dropped 18.9 percent since 1981 and United States agricultural market share has dropped precipitously for such commodities as coarse grains, wheat, cotton, soybean meal and oil, rice, and poultry;

(6) increased ocean shipping costs will negate numerous United States efforts to promote exports;

(7) current world market conditions translate increased export prices into reduced income for domestic producers and lost United States sales abroad for such goods as agricultural products, coal, forest products, fertilizers, chemicals, ores and metals, and pulp and paper products;

(8) increased import costs for such goods as petroleum and other bulk materials will increase energy costs and production costs for the agricultural, fertilizer, iron and steel, rubber, textile, chemical, nonferrous refining, and paper industries;

(9) trade barriers have proven harmful to United States industry, labor, and consumers in the past;

(10) world bulk shipping capacity is currently in excess and is expected to remain so for at least the next decade;

(11) the United States merchant marine is uncompetitive in the world market with United States-flag bulk shipping costs as much as 300 percent higher than the world average; and

(12) ocean shipping costs comprise a significant portion of import and export costs and these costs will be increased by expansion of cargo preference requirements.

(b) It is the sense of the Senate that further expansion of cargo preference requirements imposed under section 901 of the Merchant Marine Act, 1936 (46 U.S.C. 1241), and the Joint Resolution of March 26, 1934 (48 Stat. 500, chapter 90; 46 U.S.C. 1241-1), whether for commercial or other trade, is not in the interest of the United States and should not be imposed.

BYRD AMENDMENT NO. 2762

Mr. BYRD proposed an amendment to the bill S. 979, supra; as follows:

At the appropriate place in the bill, add the following new section:

"SEC. . Section 15 of the Export Administration Act of 1979 is amended by adding the following new sentence at the end thereof:

"Any such regulations issued to carry out the provisions of section 5, or of section 4(a) for the purpose of administering the provisions of section 5, may be issued only following submission for review and comment to the Secretary of Defense, the Secretary of State, and such other departments and agencies as the Secretary considers appropriate.".

MELCHER (AND OTHERS) AMENDMENT NO. 2763

Mr. MELCHER (for himself, Mr. ANDREWS, Mr. PRESSLER, Mr. EXON, and Mr. BAUCUS) proposed an amendment to the bill S. 979, supra; as follows:

On page 53, after line 9, insert the following new title II:

"TITLE II—WHEAT PROGRAM IMPROVEMENT ACT OF 1984

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Wheat Program Improvement Act of 1984'.

"TARGET PRICES

"SEC. 202. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out '$4.45 per bushel for the 1984 crop, and $4.65 per bushel for the 1985 crop' and inserting in lieu thereof '$4.40 per bushel for the 1984 crop, and $4.50 for the 1985 crop'.

"1984 WHEAT ACREAGE LIMITATION PROGRAM

"SEC. 203. Section 107B(e) of the Agricultural Act of 1949 is amended by—

"(1) striking out 'subparagraph (B)' in the first sentence of paragraph (1)(A) and inserting in lieu thereof 'subparagraphs (B) and (C)';

"(2) adding at the end of paragraph (1) the following new subparagraph:

" '(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for an acreage limitation program as described under paragraph (2) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by 20 per centum. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and conditions of the acreage limitation program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program to be devoted to hay and grazing. The closing date for signup in the program shall not be earlier than March 30, 1984.';

"(3) adding at the end of paragraph (4) the following: 'For the 1984 crop of wheat, in making the determination specified in the preceding sentence the Secretary shall treat land that has been farmed under summer fallow practices in the same manner as such land was treated by the Secretary for purposes of making such determination for the 1983 crop of wheat.'; and

"(4) inserting at the end of paragraph (5) the following: 'In carrying out a payment-in-kind acreage diversion program for the 1984 crop of wheat in addition to the acreage limitation program required under paragraph (1)(C) of this subsection, the Secretary shall make available to producers on a farm compensation in kind at a rate equal to not less than 75 per centum of the farm program payment yield for the 1984 crop of wheat.'.".

MELCHER (AND OTHERS) AMENDMENT NO. 2764

Mr. MELCHER (for himself, Mr. ANDREWS, Mr. PRESSLER, and Mr. EXON) proposed an amendment to the bill S. 979, supra, as follows:

Strike out the text of the matter to be inserted and insert in lieu thereof the following:

"TITLE II—FARM PROGRAM IMPROVEMENT ACT OF 1984

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Farm Program Improvement Act of 1984'.

"TARGET PRICES

"SEC. 202. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out '$4.45 per bushel for the 1984 crop, and $4.65 per bushel for the 1985 crop' and inserting in lieu thereof '$4.40 per bushel for the 1984 crop, and $4.50 for the 1985 crop'.

"1984 WHEAT ACREAGE LIMITATION PROGRAM

"SEC. 203. Section 107B(e) of the Agricultural Act of 1949 is amended by—

"(1) striking our 'subparagraph (B)' in the first sentence of paragraph (1)(A) and inserting in lieu thereof 'subparagraphs (B) and (C)';

"(2) adding at the end of paragraph (1) the following new subparagraph:

"(c) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for an acreage limitation program as described under paragraph (2) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by 20 per centum. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and conditions of the acreage limitation program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program to be devoted to hay and grazing. The closing date for signup in the program shall not be earlier than March 30, 1984.';

"(3) adding at the end of paragraph (4) the following: 'For the 1984 crop of wheat, in making the determination specified in the preceding sentence the Secretary shall treat land that has been farmed under summer fallow practices in the same manner as such land was treated by the Secretary for purposes of making such determination for the 1983 crop of wheat.'; and

"(4) inserting at the end of paragraph (5) the following: 'In carrying out a payment-in-kind acreage diversion program for the 1984 crop of wheat in addition to the acreage limitation program required under paragraph (1)(C) of this subsection, the Secretary shall make available to producers on a farm compensation in kind at a rate equal to not less than 75 per centum of the farm program payment yield for the 1984 crop of wheat.'.

"AGRICULTURAL CONSERVATION PROGRAM

"SEC. 204. It is the sense of Congress that conservation cost-sharing assistance to landowners under the agricultural conservation program authorized under the Soil Conservation and Domestic Allotment Act be provided in fiscal year 1985 at a level not less than the level of such assistance provided in fiscal year 1984.".

HEINZ (FOR PERCY) AMENDMENT NO. 2765

Mr. HEINZ (for Mr. PERCY) proposed an amendment to the bill S. 979, supra, as follows:

On page 51, line 20, immediately following the comma, insert the following: "strengthening traditional".

MURKOWSKI AMENDMENT NO. 2766

Mr. MURKOWSKI proposed an amendment to the bill S. 979, supra, as follows:

On page 39, line 13, after the period insert the following: Section 7 of the Export Administration Act of 1979 is also amended by inserting in the second sentence of paragraph (1) of subsection (E) the word "working" between "5" and "days".

MURKOWSKI AMENDMENT NO. 2767

Mr. MURKOWSKI proposed an amendment to amendment 2766 to the bill S. 979, supra, as follows:

On line 5 after the period insert the following: Section 7 of such Act is further amended—

(1) by striking out "transported by pipeline" and all that follows through "reenters the United States)" in paragraph (1) of subsection (d);

(2) by striking out ", including exchanges" in paragraph (2)(A) of subsection (d);

(3) by striking out "or exchanges" in paragraph (2)(A)(ii) of subsection (d);

(4) by inserting "or refined petroleum products" after "oil" each place it appears in subsection (d);

(5) by striking out paragraph (3) of subsection (e); and

(6) by inserting "and subsection (d)" after "this subsection" in paragraph (4).

TARIFF TREATMENT OF CERTAIN ARTICLES

ANDREWS AMENDMENT NO. 2768

(Ordered to lie on the table.)

Mr. ANDREWS submitted an amendment intended to be proposed by him to the bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes; as follows:

On page 45, after line 3, insert the following new section:

SEC. 216. DUTY-FREE ENTRY FOR RESEARCH EQUIPMENT FOR NORTH DAKOTA STATE UNIVERSITY, FARGO, NORTH DAKOTA.

The research equipment that was imported for the use of North Dakota State University, Fargo, North Dakota, and entered on September 15, 1983, under entry number 3-116431-9, at Seattle, Washington, shall be considered to have been admitted free of duty as of the date of such entry. If the liquidation of such entry has become final, the Secretary of the Treasury shall reliquidate such entry and make the appropriate refund of any duty paid on such equipment.

EXPORT ADMINISTRATION ACT

MURKOWSKI AMENDMENT 2769

Mr. MURKOWSKI proposed an amendment to the bill S. 979, supra; as follows:

On page 39, line 13, after the period insert the following: Section 7 of the Export Administration Act of 1979 is also amended by striking in the second sentence of paragraph (1) of subsection (E) the word "5" and inserting in lieu thereof the word "10".

MURKOWSKI AMENDMENT 2770

Mr. MURKOWSKI proposed an amendment to amendment No. 2769 proposed by him to the bill S. 979, supra; as follows:

On line 6 of Amd. No. 2769, after the period insert the following:

Section 7 of such Act is further amended—

(1) in paragraph (1)(A) of subsection (d), by striking out "as described in paragraph (2)(A)(ii) of this subsection";

(2) by striking out paragraph (2) of subsection (d) and inserting in lieu thereof the following:

"(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported at a rate not to exceed 200,000 barrels per day but only if the President makes and publishes express findings that exports of such crude oil, including exchanges—

"(A) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

"(B) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

"(C) are in accordance with the provisions of this Act;

"(D) will occur on vessels built and documented in the United States, with all maintenance and major repairs on such vessels occurring in United States repair facilities;

"(E) will not impair the ability of the United States maritime fleet to transport or be able to transport the amount of crude oil necessary to meet national security and military needs;

"(F) will provide substantial increases in Federal revenues;

"(G) will be made only on or after January 1, 1985;

"(H) will be made only to countries which have made substantial progress in removing trade barriers to United States imports;

"(I) will encourage increased domestic oil exploration and development; and

"(J) will enhance the international trading position of the United States."

MURKOWSKI AMENDMENT NO. 2771

Mr. MURKOWSKI proposed an amendment to amendment No. 2669 proposed by him to the bill S. 979, supra; as follows:

On line 6 after the period insert the following: Section 7 of such Act is further amended—

TITLE II—CRUDE OIL COMMISSION

ESTABLISHMENT OF THE COMMISSION

SEC. 201. (a) There is established a Presidential Advisory Commission to Study the Export of Crude Oil (hereinafter referred to as the "Commission") composed of seven members appointed by the President. No person shall be appointed who has, or is a member of a company or organization which has, any direct monetary interest in domestic or foreign oil exploration, production, transportation, importation or exportation.

(b) The President shall designate from among the members a Chairman and Vice Chairman. Vacancies in the membership of the Commission shall not affect the power of the remaining members to execute the functions of the Commission and shall be filled in the same manner as the original appointments.

(c) Members of the Commission shall be appointed not later than sixty days after the date of the enactment of this Act and shall serve for the life of the Commission. Members appointed to the Commission shall take office upon the date of their appointment.

PURPOSE AND FUNCTIONS OF THE COMMISSION

SEC. 202. The Commission shall—

(1) undertake a comprehensive review of the issues and related data concerning exports of crude oil, particularly Alaska North Slope crude oil, at free market levels, under current prohibitions, and at levels of 50,000 barrels per day, 200,000 barrels per day, and 500,000 barrels per day, including, but not limited to—

(A) the effect of such exports on the energy and national security of the United States and its allies;

(B) the role of such exports in United States foreign policymaking, including international energy policymaking,

(C) the impact of such exports on employment levels in the maritime industry, the oil industry, and other industries;

(D) the impact of such exports on the average consumer;

(E) the impact of such exports on Federal Government revenues and expenditures;

(F) the effect of such exports on incentives for oil and gas exploration and development in the United States; and

(G) the legal impediments to such exports, particularly section 7(d) of the Export Administration Act of 1979;

(2) develop, after consulting with appropriate State and Federal officials and other persons at the discretion of the Commission, findings, options, and recommendations regarding the export of oil, particularly Alaska North Slope crude oil, which shall be made to the President no later than January 1, 1985; and

(3) undertake additional related tasks and make interim reports of its activities and recommendations as the President may determine necessary.

ADMINISTRATION AND POWERS

SEC. 203. (a) The Commission may make appropriate rules respecting its organization and procedures, except that no recommendation shall be reported from the Commission unless a majority of the Commission assents.

(b) The Chairman of the Commission may appoint and compensate staff personnel, without regard to the provisions of title 5, United States Code, government appointments in the competitive services, and the provisions of chapter 51 and subchapter 111 of chapter 53 of such title, relating to classifications and the General Schedule pay rates.

(c)(1) Subject to paragraph (2), the members of the Commission may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission.

(2) Any member may decline the reimbursement of expenses.

(d) the Commission is authorized to—

(1) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code; and

(2) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission to the extent or in such amounts as are provided in appropriation Acts.

(e) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

(f) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

REPORT TERMINATION

SEC. 204. (a) The Commission shall submit a final report to the President not later than January 1, 1985, concerning the findings, options, and recommendations it develops with respect to the matters described in section 202.

(b The Commission shall terminate within thirty days following the submission of the final report.

SUBMISSION OF THE REPORT AND PRESIDENTIAL RECOMMENDATIONS TO CONGRESS

SEC. 205. In response to the Commission's report, the President shall develop recommendations on the export of crude oil, particularly on the advisability of retaining section 7 (d) of the Export Administration Act. He shall submit the Commission's report and his recommendations to Congress not later than March 1, 1985.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 206. There are authorized to be appropriated in any fiscal year such sums as may be necessary to carry out the provisions of this title.

FEDERAL ADVISORY COMMITTEE ACT

SEC. 207. Except where inconsistent with this title, the provisions of the Federal Advisory Committee Act shall apply to the Commission.

HEINZ AMENDMENT NO. 2772

Mr. HEINZ proposed an amendment to the bill S. 979, supra; as follows:

On page 53, strike lines 2 through 4 and insert in lieu thereof the following:

"SEC. 17. (1) Section 20 of the Export Administration Act of 1979 is amended by striking out "March 30, 1984" and inserting in lieu thereof "September 30, 1989".".

On page 39, strike lines 12 and 13 and insert in lieu thereof the following:

"SEC. 7. Section 7 of the Export Administration Act of 1979 is amended—

"(1) in subsection (d)(2)(B) by striking out "concurrent" and inserting in lieu thereof "joint"; and

"(2) by striking subsection (j).".

PRYOR (AND OTHERS) AMENDMENT NO. 2773

Mr. PRYOR (for himself, Mr. PRESSLER, Mr. EXON, Mr. PELL, Mr. BUMPERS, Mr. BAUCUS, Mr. MELCHER, Mr. BURDICK, Mr. HUDDLESTON, Mr. DIXON, Mr. BOREN, Mr. RANDOLPH, Mr. JEPSEN, Mr. ZORINSKY, Mr. GRASSLEY, and Mr. HEFLIN) proposed an amendment to the bill S. 979, supra; as follows:

At the end of the bill insert the following:

Since, small business, by Small Business Administration standards of measurement, accounts for 98 percent of all U.S. businesses, and

Since, 60 percent of all new jobs are created by firms with 500 or fewer employees, and

Since, small business bankruptcies in 1982 totalled nearly 66,000 due in large part to high interest rates, and many other firms closed down without filing for bankruptcy, and

Since, our agricultural industry, including three million farmers, is heavily dependent upon credit, and

Since, neither of these sectors had direct representation on the Federal Reserve Board, which establishes our national monetary policy, and

Since, the growth or our national economy depends on the health of the small business and agricultural sectors,

Now, therefore, be it stated that it is the sense of the Senate that the President should nominate to the next vacancy on the Federal Reserve Board of Governors a person of demonstrable experience in small business or agriculture.

BOREN (AND OTHERS) AMENDMENT NO. 2774

Mr. BOREN (for himself, Mr. BAUCUS, Mr. BURDICK, Mr. HART, Mr. MELCHER, Mr. PRESSLER, and Mr. BOSCHWITZ) proposed an amendment to the bill S. 979, supra; as follows:

On page 53, after line 9, insert the following new title:

TITLE II—WHEAT

SEC 201 This title may be cited as the "Wheat Improvement Act of 1984".

TARGET PRICES

SEC. 202. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out "$4.45 per bushel for the 1984 crop, and $4.65 per bushel for the 1985 crop" and inserting in lieu thereof" $4.38 per bushel for the 1984 crop, and $4.38 per bushel for the 1985 crop".

1984 AND 1985 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 203. Section 107B(e) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence of paragraph (1)(A) "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B), (C), and (D)";

(2) adding at the end of paragraph (1) the following new subparagraphs:

"(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 30 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing. The closing date for signup in such programs shall not be earlier than March 30, 1984.

"(D) For the 1985 crop of wheat, the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of not less than 30 per centum, consisting of a reduction of not more than 20 per centum under the acreage limitation program and a reduction of not less than 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1985 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing. The closing date for signup in such programs shall not be earlier than March 30, 1985.";

(3) adding at the end of paragraph (4) the following: "For the 1984 and 1985 crops of wheat, in making the determination specified in the preceding sentence the Secretary shall treat land that has been farmed under summer fallow practices in the same manner as such land was treated by the Secretary for purposes of making such determination for the 1983 crop of wheat."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1984 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1984 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than $3 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1984 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Not-

withstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1984 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield. Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diverse program for the 1985 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to not less than 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than $3.00 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1985 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1985 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield.

ADVANCE PAYMENTS

Sec. 204. Section 107C of the Agricultural Act of 1949 is amended by—

(1) inserting in subsection (b)(1)(B) "(except that for the 1984 crop of wheat, the Secretary shall make available)" after 'may make available", and

(2) striking out in subsection (c)(4) "1983 crops of wheat," and inserting in lieu thereof "1983, 1984, and 1985 crops of wheat, and the 1983 crops of".

BOREN (AND OTHERS) AMENDMENT NO. 2775

Mr. BOREN (for himself, Mr. Baucus, Mr. Burdick, Mr. Hart, Mr. Boschwitz, Mr. Melcher, Mr. Pressler, Mr. Bentsen, Mr. Nickles, and Mr. Dole) proposed an amendment to amendment No. 2774 proposed by Mr. Boren (and others) to the bill S. 979, supra; as follows:

On page 1, line 2, strike all after "title" and insert the following:

may be cited as the "Wheat Improvement Act of 1984."

TARGET PRICES

Sec. 202. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out "$4.45 per bushel for the 1984 crop, and $4.65 per bushel for the 1985 crop" and inserting in lieu thereof "$4.38 per bushel for the 1984 crop, and $4.38 per bushel for the 1985 crop."

1984 AND 1985 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

Sec. 203. Section 107B(e) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence of paragraph (1)(A) "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B), (C), and (D)";

(2) adding at the end of paragraph (1) the following new subparagraphs:

"(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 30 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing. The closing date for signup in such programs shall not be earlier than March 30, 1984.

"(D) For the 1985 crop of wheat, the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of not less than 30 per centum, consisting of a reduction of not more than 20 per centum under the acreage limitation program and a reduction of not less than 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1985 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing.";

(3) adding at the end of paragraph (4) the following: "For the 1984 and 1985 crops of wheat, in making the determination specified in the preceding sentence the Secretary shall treat land that has been farmed under summer fallow practices in the same manner as such land was treated by the Secretary for purposes of making such determination for the 1983 crop of wheat."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1984 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1984 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses and acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than $3 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1984 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in kind acreage diversion program for the 1984 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield. Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1985 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to not less than 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses and acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than $3.00 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1985 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producer shall repay the advance immediately and, in accordance with regula-

tions issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1985 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield.

ADVANCE PAYMENTS

SEC. 204. Section 107C of the Agricultural Act of 1949 is amended by—

(1) inserting in subsection (b)(1)(B) "(except that for the 1984 crop of wheat, the Secretary shall make available)" after "may make available", and

(2) striking out in subsection (c)(4) "1983 crops of wheat," and inserting in lieu thereof "1983, 1984, and 1985 crops of wheat, and the 1983 crops of".

DODD (AND ARMSTRONG) AMENDMENT NO. 2776

Mr. DODD (for himself and Mr. ARMSTRONG) proposed an amendment to the bill S. 979, supra; as follows:

On page 33, line 24, after the period, insert the following: "The preceding sentence shall not apply in a case in which the export controls imposed relate directly, immediately, and significantly to actual or imminent acts of aggression or of international terrorism, to actual or imminent gross violations of internationally recognized human rights, or to actual or imminent nuclear weapons tests, in which case the President shall promptly notify the Congress of the circumstances to which the export controls relate and of the contracts, agreements, or licenses affected by the controls. Any export controls described in the preceding sentence shall affect existing contracts, agreements, and licenses only so long as the acts of aggression or terrorsim, violations of human rights, or nuclear weapons tests continue or remain imminent.".

BOSCHWITZ (AND OTHERS) AMENDMENT NO. 2777

Mr. BOSCHWITZ (for himself, Mr. BENTSEN, Mr. BOREN, Mr. ABDNOR, Mr. MELCHER, Mr. DURENBERGER, Mr. BAUCUS, Mr. SASSER, Mr. HUDDLESTON, Mr. ZORINSKY, Mr. PRYOR, Mr. FORD, Mr. HELMS, and Mr. JEPSEN) proposed an amendment to the bill S. 979, supra; as follows:

At the end of the bill, add the following new section:

EFFECT ON OTHER ACTS

SEC.   . Section 17 of the Export Administration Act of 1979 is amended by adding at the end thereof the following new subsection:

"(e) AGRICULTURAL ACT OF 1970.—Nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of the last sentence of section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3)".

BOREN (AND BUMPERS) AMENDMENT NO. 2778

Mr. BOREN (for himself and Mr. BUMPERS) proposed an amendment to the bill S. 979, supra; as follows:

On page 21, after line 23, insert the following:

"(g) STUDY ON THE DELEGATIONS OF LICENSING AUTHORITY.—The Secretary of Commerce shall conduct a study to determine the feasibility of permitting International Trade Administration district offices to review and issue validated export license applications for those categories of goods and technology identified by the Secretary as nonsensitive which are to be exported for use in any Cocom country, Australia, or New Zealand. The Secretary shall report the results of the study by November 1, 1984, to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Foreign Affairs.".

MERIT PAY SYSTEM REFORM

STEVENS AMENDMENT NO. 2779

Mr. STEVENS proposed an amendment to the bill (S. 958) to amend chapter 54 of title 5, United States Code, to reform the merit pay system; as follows:

On page 24, beginning with line 8, strike out all through page 25, line 2, and insert in lieu thereof the following:

"(d)(1) Subject to paragraph (3) of this subsection, under regulations issued by the Office of Personnel Management, the rate of basic pay of an employee who is covered by this chapter and whose rate of basic pay is less than the maximum rate of basic pay provided for the grade of the position of such employee under section 5332 of this title shall be increased each year as provided in paragraph (2) of this subsection, effective on the first day of the first applicable pay period commencing on after October 1 of such year.

"(2)(A) For the purposes of this paragraph, the term 'reference amount', when used with respect to the rate of basic pay of an employee covered by this chapter, means the amount equal to the sum of—

"(i) the minimum rate of basic pay provided under section 5332 of this title for the grade of the position of the employee; and

"(ii) one-third of the difference between the maximum rate of basic pay provided for such grade under such section and such minimum rate of basic pay.

"(B) If the rate of basic pay of an employee to whom paragraph (1) of this subsection applies does not exceed the reference amount on the day before the effective date described in such paragraph and the performance of the employee is rated at the fully successful level or higher under the provisions of chapter 43 of this title or an equivalent rating system for the latest period ending before such effective date, the rate of basic pay of the employee shall be increased by an amount equivalent to a periodic step-increase provided under section 5332 of this title.

"(C) If the rate of basic pay of an employee to whom paragraph (1) of this subsection applies exceeds the reference amount on the day before the effective date described in such paragraph and the performance of the employee is rated under the provisions of chapter 43 of this title or an equivalent rating system for the latest rating period ending before such effective date—

"(i) at the level two levels above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to a periodic step-increase provided under section 5332 of this title;

"(ii) at the level one level above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-half of a periodic step-increase provided under such section; or

"(iii) at the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-third of a periodic step-increase provided under such section.

"(3) The amount of an increase in the rate of basic pay of an employee under paragraph (1) of this subsection is limited to the amount equal to the difference between the maximum rate of basic pay provided for the grade of the position of such employee under section 5332 of this title and the rate of basic pay of the employee as in effect before the increase."

On page 26, line 5, strike out "1 percent" and insert in lieu thereof "three-fourths of one percent".

On page 26, line 8, beginning with "The", strike out all through line 11.

On page 26, between lines 11 and 12, insert the following:

"(D) During the first fiscal year beginning on or after the effective date of the amendments made by section 101 of the Civil Service Amendments of 1984 and during each of the next four fiscal years thereafter, the head of each agency of the Government employing employees to whom this section applies should, to the extent determined practicable by the head of such agency, pay performance awards under such section 5403(e) in amounts totaling at least one and one-half percent of the aggregate amount of basic pay which is payable to such employees during such fiscal year."

On page 26, line 22, strike out "under" and insert in lieu thereof "Under".

On page 30, strike out lines 17 through 23, and insert in lieu thereof the following:

"(a) For the purposes of this section, the term 'system termination date' means the date which is five years after the date of enactment of the Civil Service Amendments of 1984.

"(b) The provisions of this chapter other than section 5404 of this title shall not be effective after the system termination date. Notwithstanding the preceding sentence, the term 'employee covered by the performance management and recognition system', as used in such section, shall refer to any individual described in section 5402(a) of this title as in effect on the day before the system termination date.".

On page 31, strike out lines 4 through 15.

On page 31, line 17, strike out "103." and insert in lieu thereof "102.".

On page 34, strike out lines 12 through 25 and insert in lieu thereof the following:

"(C) may be reviewed by an officer or employee of the agency in accordance with the procedures established by the Office of Personnel Management;

"(D) shall, on request of the employee whose performance is appraised, be reconsidered by an officer or employee of the agency in accordance with procedures established by the Office of Personnel Management; and

"(E) may not be appealed outside the agency.

"(2) A reconsideration of an appraisal under paragraph (1)(D) of this subsection may be made only by an officer or employee who is in a higher position in the agency than each officer or employee who made, reviewed, or approved the appraisal.

On page 35, line 12, strike out "104." and insert in lieu thereof "103.".

On page 37, line 1, insert "(1)" after "(e)".

On page 37, between lines 14 and 15, insert the following new paragraph:

(2) Subsection (c) of such section is amended to read as follows:

"(c) A career appointee is entitled to appeal to the Merit System Protection Board under section 7701of this title whether the reduction in force complies with the competitive procedures required under subsection (a) of this section.".

On page 37, line 16, beginning with "adding", strike out all through "§ 3597." on line 18, and insert in lieu thereof the following: "inserting before section 3596 of such title the following new section: "'§ 3595a.".

On page 38, line 6, insert end quotation marks and a period after "title.".

On page 38, strike out lines 7 through 13.

On page 38, strike out the matter between lines 16 and 17 and insert in lieu thereof the following: "3595a. Furlough in the Senior Executive Service.".

On page 38, line 19, strike out "3" and insert in lieu thereof "5".

On page 39, strike out lines 1 and 2, and insert in lieu thereof the following: "exceed the following—

"((A) the amount equal to 3 percent of the sum of the annual rates of basic pay payable to the career appointees in such agency during such fiscal year; or

"((B) the amount equal to 15 percent of the average of the annual rates of basic pay payable to such career appointees during such fiscal year.)".

On page 39, line 3, strike out "(k)" and insert in lieu thereof "(h)".

On page 39, line 4, strike out "(h)" and insert in lieu thereof "(i)".

On page 39, line 8, beginning with "(i)", strike out all through "hearing." on line 9, and insert in lieu thereof "(j) The Office of Personnel Management shall, pursuant to the provisions of subchapter II of chapter 5 of title 5, United States Code.".

On page 39, line 12, strike out "(j)" Subsection (d) of section 8335", and insert in lieu thereof "(k) Subsection (d) of section 8336".

On page 39, line 13, strike out "paragraph (1)" and insert in lieu thereof "the first sentence".

On page 39, line 15, insert "to a position outside the commuting area of the employee concerned" after "reassignment".

On page 39, line 16, insert "moved outside such area" after "position".

On page 39, between lines 18 and 19, insert the following:

(l)(1) Subsection (a) of section 3395 of such title is amended—

(A) in paragraph (2), by striking out "(2) A career" and inserting in lieu thereof "(2) (A) Except as provided in subparagraph (B) of this paragraph, a career"; and

(B) by inserting after paragraph (2)(A) (as amended by subparagraph (A) of this paragraph) the following new subparagraph:

"(B) A career appointee may be reassigned or transferred under this subsection or any other provision of law to a Senior Executive Service position outside the career appointee's commuting area only if the career appointee receives advance written notice of the reassignment not less than 30 days before the effective date of such reassignment. The notice shall include a statement setting forth specific reasons for the reassignment outside such area.".

(2) Section 3397 of such title is amended by adding at the end thereof the following new sentence: "Such regulations shall include provisions to carry out section 3395 (a) (2)(B) of this title.".

On page 39, line 20, strike out "105." and insert in lieu thereof "104.".

On page 40, line 15, strike out "SAVINGS" and insert in lieu thereof "TRANSITION".

On page 40, line 19, strike out "105" and insert in lieu thereof "104".

On page 40, strike out line 22 and all that follows through page 41, line 18, and insert in lieu thereof the following:

TRANSITION PROVISION

SEC. 202. Effective on the effective date of the amendments made by section 101, the rate of basic pay of each employee of the Government who was covered by the merit pay system under chapter 54 of title 5, United States Code, on the day before such effective date shall be the rate of basic pay of such employee as in effect on such day.

PROXMIRE AMENDMENT NO. 2780

Mr. PROXMIRE proposed an amendment to the bill S. 958, supra; as follows:

At the appropriate place in the committee substitute, insert the following new section:

SEC. . (a) For the purposes of this section, "executive dining room" means any dining room which is located in an office building used by any agency in the executive branch and where breakfast, lunch, or dinner—

(1) is available only to an officer or employee of the Government serving in a position in the executive branch in grade GS-15 or above Executive Level V or above, or colonel or above, or their guests; or

(2) was available only to such officers or employees or their guests before the date of enactment of this Act.

(b) Each person receiving a meal in an executive dining room or a Senate dining facility shall be charged for such meal a price in an amount which is not less than an amount sufficient to defray the cost of providing such meal considering the cost of the food, labor, and utilities, and the depreciation of equipment used in providing such meal.

(c) Sums collected pursuant to subsection (b) shall be deposited in the Treasury of the United States as miscellaneous receipts.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, March 1, to receive testimony concerning the confirmation of Edwin Meese III, to be Attorney General for the U.S. Department of Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE BUDGET

Mr. BAKER. Mr. President, I ask unanimous consent that the Budget Subcommittee of the Select Committee on Intelligence, be authorized to meet in closed session during the session of the Senate on Thrusday, March 1, at 1 p.m., to hold a hearing to consider the fiscal year 1985 intelligence budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, March 1, at 9:30 a.m., to hold a hearing on the review of management and operations of the Defense Contract Audit Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, March 1, to hold a hearing on ground water contamination from underground storage tanks.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, March 2, to receive testimony concerning the confirmation of Edwin Meese III to be Attorney General for the U.S. Department of Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COSPONSORING LEGISLATION TO ENHANCE THE SECONDARY MARKET FOR SBA GUARANTEED LOANS

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation introduced by my good friend, the distinguished chairman of the Senate Small Business Committee. This legislation would facilitate the further development of a secondary market in SBA guaranteed loans. This secondary market would tremendously enlarge the pool of capital available for small business loans.

Currently, there is a shortage of capital for financing small business capital projects. Together, the SBA loan guarantee program and the secondary market for these loans can overcome this problem. Through the sale of SBA-guaranteed loans in the secondary market, funds can be raised from investors such as insurance companies, pension funds, and money market funds to finance the expansion of small firms. Lenders would be able to reinvest funds raised in the secondary market in small businesses. These loans would be used to fill the void in the long-term fixed rate market for loans to smaller firms.

Today, many small businesses have a pressing need for long-term debt capital. Investment in long-term assets such as buildings and equipment clearly requires long-term financing on a fixed rate basis. Currently, banks hesitate to make long-term fixed rate loans because bank deposits are short term in nature. A bank does not want to create a long-term asset at a fixed rate funded with a short-term liability at a floating rate. However, by participating in the secondary market for SBA guaranteed loans, banks would be able to provide long-term fixed rate financing to small businesses. This would allow small business borrowers to better manage their cash flow.

This vital legislation would benefit both lenders and small businesses. For this reason, I am pleased to add my name as an original cosponsor of the bill introduced today by Senator WEICKER.●

RON ANSIN

● Mr. COHEN. Mr. President, I wish to commend one of the top footwear businessmen in the country—Ron Ansin. As chairman of the Senate Footwear Caucus, I have watched the success of the Anwelt Corp. in Fitchburg, Mass., and the two branches in Maine with great interest. As the head of a $30 million footwear business, Mr. Ansin is determined to keep the American shoe industry prosperous and competitive.

Many businessmen would be content with the success of their own corporation. But Mr. Ansin has sought to improve his entire industry as well. He has helped to form an export committee for the American Footwear Industries Association (AFIA), which he now chairs. He planned three trade missions to Europe, to show U.S. produced shoes and seek buyers and inquiries.

Mr. Ansin has also extended himself in the community. He has helped a local bank triple its assets in 10 years. He has gained enough prominence in Government affairs to be recently appointed commissioner of the Massachusetts Department of Commerce. For these achievements, I pay tribute to Mr. Ansin, and ask that an article about his successes be printed in the RECORD.

The article follows:

[From the Footwear News, December 1983]

ANSIN WARMS UP THE BUSINESS CLIMATE

(By Diane Fournaris)

Setting up an interview with Ron Ansin, chairman of Anwelt Corp., Fitchburg, Mass., is quite an experience. First of all, he is not an easy man to reach. That is understandable, when one learns that he runs a $30 million footwear business, is chairman of a local bank, holds a high post in State government, and has four children.

After nearly two months of phone calls and messages, when hope of ever meeting with the man is waning, he calls. Ansin is upbeat, his conversation often punctuated by chuckles and comments to his office staff. Displaying the "infinite curiosity" that he later says is his driving force, Ansin fires off a series of questions: "When can you come out? How about tomorrow? You have another appointment? Then how about next week sometime? Would you like me to send you some background information?"

When Ansin learns that this reporter likes to bone up on a subject first, he follows through immediately; in less than 24 hours, a package appears chock full of clippings and biographical data.

On the day of the interview, Ansin arrives late. As he sails through the lobby, he offers a strong handshake and a charming smile, but no excuses.

One has to walk quickly to keep pace with Ansin; as he breezes into his modest office, whose walls are covered with placques and awards, he gathers up a number of waiting messages. "I'll take care of these first, then we can talk," he says.

First things first—for Ansin, that means business. But one is not made to feel like an intruder. On the contrary, Ansin appears to enjoy the spotlight, unlike some executives who view interviews as intrusions to be endured, not enjoyed.

When the initial flurry of activity is over, Ansin begins to talk about his life. He is a darkly handsome man, with lively brown eyes, and deep dimples which crease his face when he smiles, which is often. Although he is talkative, he chooses his words carefully.

It is evident that Ansin is a pro at giving interviews—he is prepared with names and dates, never says, "I'll check on that and get back to you," or "I'm not sure." He anticipates many of the more obvious questions, and is well-prepared to answer them. He is a difficult man to catch off-guard.

Beneath his poised exterior, the 47-year-old Ansin is a man of many contrasts: A powerful mover and shaker who, in addition to running Anwelt, has produced an award-winning documentary on the Watergate tape transcripts, helped a local bank triple its assets in 10 years, and gained enough prominence in Government affairs to be recently appointed Commissioner of the Massachusetts Department of Commerce. Yet he also has a Little League field named after him in Fitchburg, and says his most notable achievement is "teaching my four children how to swim."

Ansin's business career began shortly after his graduation from Yale Law School in 1958. At the time, Ansin was not sure his father's business, producing footwear for the work and farm shoe markets, was right for him. "I felt Anwelt was my father's business, and I wanted to do something on my own."

The elder Ansin, who had already sold five of his six factories, suggested that his son visit the Fitchburg factory with the intention of selling it. But instead of selling the factory, Ansin says he became "fascinated" by it.

By 1960, he was running the show, shifting emphasis away from the shrinking work shoe market toward the growing men's casual footwear market. Critics might charge that Ansin had it easy, sliding into a top position with a family firm, but he doesn't see it that way. "Nepotism is an easy way to get a job, but it is especially tough to convince everyone that you know how to do it."

Today, most industry observers are convinced. Ansin has weathered many storms in the domestic shoe industry, including the pinch of imports. When their impact really began to be felt in the mid 1970's, Anwelt countered with a vigorous export program. "We started making hiking boots in the mid-70's, and found prices to be competitive with Italy. They have heavy fringe benefits, and we weren't that far apart. So we started exporting our boots there." In 1983, Ansin received the President's "E" award for excellence in that endeavor.

Armed with this experience, Ansin helped to form an export committee for the American Footwear Industries Association (AFIA), with himself as chairman. He planned three trade missions to Europe, to show U.S. produced shoes and seek buyers and inquiries. "Up until 1977, we were not involved in the export issue. I didn't think we should run to the Government for protection. I still feel that way, as long as there is fair and free trade with countries that are not grossly subsidized and have labor rates close to ours. But that is not the way it is."

Despite some positive business deals, Ansin says these are not enough to insure success. He sees people as the key—people who are properly motivated, rewarded for their efforts and treated with respect. "The competitive difference is people—people, people, people, are the big three."

To stay in touch with this vital resource, Ansin has an open door policy—with a door that swings both ways. "I don't wait for people to come in. I go out," he says. A walk through the factory with Ansin attests to the fact that he is not viewed as the unapproachable, unseen man upstairs. He greets a woman who has just returned to work after a serious operation. "Welcome back! You look fantastic!" he shouts, clasping the woman's hand warmly. She beams. "It's really good to be back," she says. "I didn't know if I would ever see the day." "Well, take it slow and easy for a while, we don't want to lose you again," Ansin responds.

Walking past the cutters and stitchers, the buffers and trimmers, the mood is cordial. They inquire about Ansin's family, and he about theirs. The men talk about the factory, but the women, especially the older ones, flirt. "Ronny!" exclaims one woman with blue-tinted hair. "What have you been up to lately? You haven't been out here to see me for a while," she scolds, shaking a finger at him. Ansin gives her a boyish grin, and carries on the banter.

Ansin, however, is not all friendly talk and no action. One very hot day a couple of years ago, a voice came over the Anwelt intecom system at 11:45 a.m., and announced: "The plant will be closed for the rest of the day because of the heat. All employes and their families are invited to Hampton Beach (N.H.) courtesy of Anwelt." A cheer went up, several buses were chartered, and off they went. Everyone (with the exception of nearby employers, who complained the event caused a lot of grumpiness among their personnel) was thrilled.

Of course, working at Anwelt is not always a day at the beach. As at any large company, there are restrictions and standards. Ansin's philosophy is to expect the best from people—and he usually gets it. "We don't reward mediocrity," he says. "But sometimes we have the tendency to control people, and it's unnecessary."

Anwelt and its subsidiaries are enough to keep most people busy, but for Ansin the company is only one of many involvements. "I enjoy a good life, but I want to put into society more than I take out," he says. He claims an "infinite curiosity" about a wide variety of subjects—art, medicine, government, media—drives him to want to do it all.

One notable result of Ansin's driving curiosity is "The Secret White House Tapes: Watergate Behind Closed Doors," the 1974 docudrama of which he was executive producer. Ansin, who became involved in the project through a friend at the First National Bank of Boston, explains his interest: "I was becoming increasingly concerned that the public would never learn the true lesson of Watergate. It seemed that the focus was only on the guilt or innocence of Nixon. The real issue was that we were supposed to have a Government that could not be corrupted by any individual. The system of checks and balances had to be readdressed."

The 90-minute docudrama was distilled from 40 hours worth of tapes, following a sort of "fly on the wall of the Oval Office" approach, according to Ansin. The various characters were portrayed by actors, reading verbatim from the transcript. Because the tapes were so long, and the material so controversial, the editing process was difficult. When something in the tapes could be construed in a number of ways, "We studied the script to make it most favorable to the Administration," Ansin admits. "The words were so unbelievable, we didn't want to be accused of adding anything."

At the moment, Ansin conducts business from his office in the Saltonstall Building, a high-rise located in Boston's Government Center. As Commissioner of the Department of Commerce and Development, he is responsible for promoting a healthy climate in Massachusetts. Although still chairman of Anwelt, Ansin resigned from positions with the Footwear Industries of America for the duration of his tenure.

Prior to the Commerce Dept. appointment, Ansin has been involved in many State and national advisory groups, including stints as footwear industry advisor to the Office of the President, co-chairman of the Governor's Advisory Committee on Mature Industries, and chairman of the Governor's Council on Co-Generation. Many of his activities center on the Fitchburg area, the working-class factory town where Anwelt is located.

Ansin, who lives in nearby Harvard, Mass., has put a lot of time and effort into bettering this small corner of north-central Massachusetts. Consider his involvement with Fitchburg's Merchants National Ban. When he became chairman in 1969, the bank's assets were about $8 million, and it was in danger of being acquired by a Worcester bank. That would have left Fitchburg with no local bank of its own. Largely due to Ansin's efforts, takeover was averted. Today the bank's assets are around $64 million.

Ansin also has served as president of Leominster Hospital, trustee of the Fitchburg Art Museum, president of the Boston Repertory Theater, and on a host of school boards, and commissions.

What little leisure time is left is often spent on recreational water sports—swimming, water skiing, scuba diving. Ansin, a single father, enjoys the role of teacher and mentor. "I taught all my neighbors' and friends' kids to swim. All my kids are good swimmers, divers, scuba divers and water skiers," he says, proudly. And that accomplishment, says the dynamic businessman/politician, is his finest.●

RULES OF PROCEDURE—COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. HATCH. Mr. President, Senate rule XXVI requires that by March 1, standing committees of the Senate publish their rules in the CONGRESSIONAL RECORD.

The rules of the Committee on Labor and Human Resources, of which I am chairman, have not changed since their publication last year. They remain quite similar to those under which the committee has operated productively and, in general, harmoniously for several years.

Mr President, for myself and Senator KENNEDY, I ask that the current rules of the Committee on Labor and Human Resources, be included in the RECORD at an appropriate point.

The rules follow:

RULES OF PROCEDURE OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES

Rule 1.—Subject to the provisions of Rule XXVI, paragraph 5,of the Standing Rules of the Senate, regular meetings of the Committee shall be held on the second and fourth Wednesday of each month, at 10:00 a.m., in room SD 430, Dirksen Senate Office Building. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2.—The Chairman of the Committee or of a subcommittee, or if the Chairman is not present, the ranking Majority member present, shall preside at all meetings.

Rule 3.—Meetings of the Committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of Rule 26.5 of the Standing Rules of the Senate.

Rule 4.—(*a*) Subject to paragraph (b), one-third of the membership of the Committee, actually present, shall constitute a quorum for the purpose of transacting business. Any quorum of the Committee which is composed of less than a majority of the members of the Committee shall include at least one member of the Majority and one member of the Minority.

(*b*) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the Minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a Minority member, the measure or matter shall lay over for a day. If the presence of a member of the Minority is not then obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(*c*) No measure or matter shall be ordered reported from the Committee or a subcommittee unless a majority of the Committee or subcommittee is actually present at the time such action is taken.

Rule 5.—With the approval of the Chairman of the Committee or subcommittee, one member thereof may conduct public hearings other than taking sworn testimony.

Rule 6.—Proxy voting shall be allowed on all measures and matters before the Committee or a subcommittee if the absent member has been informed on the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the Committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

The Committee may poll any matters of Committee business as a matter of unanimous consent; provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

Rule 7.—There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each Committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of Rule 26.5 of the Standing Rules of the Senate, unless a majority of said members vote to forgo such a record. Such records shall contain the vote cast by each member of the Committee or subcommittee on any question on which a "yea and nay" vote is demanded, and shall be available for inspection by any Committee member. The Clerk of the Committee, or the Clerk's designee, shall have the responsibility to make appropriate arrangements to implement this Rule.

Rule 8.—The Committee and each subcommittee shall undertake, consistent with the provisions of Rule XXVI, paragraph 4, of the Standing Rules of the Senate, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9.—The Committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the Chairman and the ranking Minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee or a subcommittee. The Committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10.—Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition.

Rule 11.—No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12.—It shall be the duty of the Chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or caused to be reported to the Senate, any measure or recommendation approved by the Committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13.—Whenever a meeting of the Committee or subcommittee is closed pursuant to the provisions of subsection (b) or (d) of Rule 26.5 of the Standing Rules of the Senate, no person other than members of the Committee, members of the staff of the Committee, and designated assistants to members of the Committee shall be permitted to attend such closed session, except by special dispensation of the Committee or subcommittee or the Chairman thereof.

Rule 14.—The Chairman of the Committee or a subcommittee shall be empowered to adjourn any meeting of the Committee or a subcommittee if a quorum is not present within fifteen minutes of the time scheduled for such meeting.

Rule 15.—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or a subcommittee for final consideration, the Clerk shall place before each member of the Committee or subcommittee a print of the statute or the part or section thereof to be amended or replaced showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added.

Rule 16.—An appropriate opportunity shall be given the Minority to examine the proposed text of Committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

Rule 17.—*(a)* The Committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the Committee.

(b) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the Committee or subcommittee shall constitute a quorum: provided, with the concurrence of the Chairman and ranking minority member of the Committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(c) The Committee may, by a majority vote, delegate the authority to issue subpoenas to the Chairman of the Committee or a subcommittee, or to any member designated by such Chairman. Prior to the issuance of each subpoena, the ranking minority member of the Committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the Chairman of the Committee or subcommittee, in consulation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the Committee requesting same, or to any assistant to a member of the Committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the Rules of the Senate. Such information, to the extent that it is relevant to the investigation shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the Chairman of the Committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

(d) Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(e) No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the Committee or subcommittee.

Rule 18.—Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, on a form approved by the Committee which shall be sworn to as to its completeness and accuracy. The Committee form shall be in two parts—

(I) information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, and which is to be made public; and,

(II) information relating to financial and other background of the nominee, to be made public when the Committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Information relating to backgound and financial interests (Part I and II) shall not be required of (a) candidates for appointment and promotion in the Public Health Service Corps; and (b) nominees for less than full-time appointments to councils, commissions or boards when the Committee determines that some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests (Part II) shall not be required of any nominee when the Committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the Chairman, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19.—Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended or suspended at any time; provided, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20.—In addition to the foregoing, the proceedings of the Committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.●

STEPHEN L. GRISWOLD

● Mr. COHEN. Mr. President, I wish to pay tribute to one of Maine's most successful entrepreneurs—Stephen L. Griswold. Mr. Griswold heads his own real estate and management corporation, the Shelter Group of Lewiston, Maine. Within 14 years of its formation, his corporation has developed over $50 million worth of holdings in Maine.

Mr. Griswold gained the experience necessary to head his own corporation from his years as executive director of Lewiston's Alliance for Better Housing (ABH). Unlike other real estate companies, Shelter Group combines the development, construction and management of real estate into one business. The company favors a mixed development; its projects include 800 apartments statewide, nursing homes, commercial office buildings and a finance center.

Mr. Griswold has proved that hard work can pave the road to success. I would like to request that an article from Maine Today detailing the achievement of Stephen Griswold be included in the RECORD at this point.

The article follows:

SHELTER GROUP: EMPLOYING A RANGE OF SOLUTIONS

(By Denis Ledoux)

"What makes Shelter Group unique," says Stephen Griswold, president of the Lewiston-based real estate and management corporation, "is that we have assembled a group of individuals with a variety of competencies. We can bring a range of solutions to bear on a problem. We don't just develop, or construct, or manage. We do all three and we do all three well. Not many Maine corporations can do that."

Learning to do his job well has kept Griswold busy for the last 14 years.

After his junior year at Bates College, Stephen Griswold was selected to participate in a student summer seminar with the New England Life Insurance Company in Boston. Researching the effectiveness of the model-cities program in Boston, he gathered data that would enable New England Life to evaluate its participation through investments. That summer, Griswold began to get a feel for the way deals are effected in this country. For the first time, he realized what was to become very important to him: money can be made by creating a real estate deal.

Fourteen years later, Griswold is sitting at the head of a management and development corporation that has developed over $50 million worth of holdings in Maine. His company, Shelter Group, manages over 800 apartments statewide and is responsible for not only housing projects but nursing homes, mixed-use building (retail, office, and housing), and a financial center.

Between his 1969 Boston summer and the start of Shelter Group in 1977, Griswold served an apprenticeship which was inauguarated at Lewiston's model-city program. After graduating from Bates in 1970 (B.A. in history), Griswold was hired, on the strength of his Boston internship, as housing coordinator. During the next years, he was to learn how government promotes real estate—both directly and indirectly.

Later, as executive director of Lewiston's Alliance for Better Housing, he was necessarily involved in entrepreneurial aspects of developing housing. It was then that he began to acquire the skills which he was to bring *en masse* to Shelter Group in 1977.

During his time at the ABH, he witnessed the creation of capital occurring all about him.

The ABH was (and still is) a real estate development corporation with low-rent housing as its goal. Griswold took projects from conception to occupancy. Along the way, he developed a staff with multiple talents. Later, this staff was to form the core of Shelter Group.

Lewiston gave him his start, Griswold readily admits, and he feels that, as the city's second largest taxpayer, he has amply paid the city back for the push it gave him.

"By the mid-seventies, I was eager to expand into other development projects other than just housing and into projects outside of Lewiston. The ABH was run by a board and the board and I were evolving increasingly varying agendas for ourselves. We parted amicably—in fact, Shelter Group and the ABH still participates in a yearly get-together—but I needed more freedom than I could get as a director of a non-profit group."

With money he had earned through his own development projects between '74 and '77, Griswold invested in an Old Town housing project. It was the first of many Shelter Group undertakings.

"From the start, I worked with Terry Nadeau, who's v.p. for finances at Shelter Group. The company couldn't have done what it has without him. Terry has a sense for what can and cannot work financially. I might not want to be in real estate without him."

Continuing to work in Maine was attractive for Griswold because he had been here a long time certainly, but there was more. "Maine did not seem to have a progression of years of restrictive zoning laws. Regulations surrounding real estate were more modern, more sensible, than in many other places," says Griswold, who lives in Freeport where he coaches basketball.

Ideally, the formation of Shelter Group required a series of competencies if the corporation was to compete successfully with developers in and out-of-state. These early competencies were to be found to a large extent in his colleagues at the model-city program and the ABH.

"Being in Maine was an advantage," says Griswold. "In this state, we have a whole lot of single-guy development. The here-today-gone-tomorrow type of thing. From the beginning, those of us at Shelter Group felt we had to impart a sense of stability. We knew we had to get away from the image of real estate deals being conducted in smoke-filled rooms. The corporate structure would assure investors that we were larger than the energies of one man. And it's worked. Shelter Group has survived two cycles of competitors."

Griswold feels strongly that, "when you create an organization, you also create responsibility." Entrepreneurs, he underlines, are not necessarily managers. To compensate, or rather, to guarantee, that management does not suffer, Shelter Group emphasizes its structural and organizational stability as assurances of its responsibility.

During the years with the Alliance for Better Housing, Griswold developed a working relationship with banks and investor groups. His professionalism attracted confidence in the projects he was undertaking at ABH. This trust and confidence carried over to the newly-formed Shelter Group. In 1977, Griswold was now no longer at the head of a non-profit corporation run by amateurs but the head of a for-profit corporation run by professionals. Once the Shelter Group's first project, the Old Town housing, was completed, money became available for operations.

As mentioned, Shelter Group's $50 million in projects in Maine are sunk in nursing homes, commercial office buildings, and mix-use development. "That makes us special. Maine developers tend to be straight-laced rather than mixed development. They simply do not have the multi-disciplined teams we have."

The challenge of real development in Maine lies in finding risk-reducing features. "Our per-square-foot expenses are not substantially less than they would be in Boston, yet we can't get the rentals they can down there. We have to meet market conditions by plugging into subsidization programs offered through H.U.D. or U.D.A.G. There's a lot of subsidy money in Maine because of the low incomes generally. Specialist at Shelter Group keep on top of the various subsidies and, in a sense, the availability of these subsidies make development easier here."

Griswold feels that a person launching a business effort can enhance the possibilities of success by keeping certain things in mind. It is important, first of all, to center one's efforts. Rather than undertake a plethora of projects and do none well, it is better to center on one or two or three. How many projects is a matter particular to each organization, but once a project is decided upon, Griswold insists, there must be a "commitment to decision."

Second, and individual should establish a responsible organization to assume risk. The organization should contain the variety of talents necessary to operate successfully.

Establishing a way of dealing with a situation is a third important factor. Griswold believes strongly in determining how much time is available and, operating within that limit, learning as much as possible about the problem. This includes learning how to minimize risk. And when the time comes to decide on how to deal with a situation, "follow your gut feeling. Decide this is what you're going to do and go for it."

"An important part of your story," says Griswold, "has to be that there is room in Maine for for corporate real estate development. Without the whole corporate team of committed people, I doubt we could have grown as large as we have in so short a time. I've has a real break being surrounded by these competent professionals."●

HEROS IN NEW JERSEY

● Mr. **BRADLEY.** Mr. President, I would like to take this opportunity to pay tribute to the life-saving actions of the bravest dog in America. Yesterday, Villa, a black Newfoundland owned by Mrs. Lynda Veit of Villas, N.J., was named the Ken-L-Ration Dog Hero of the Year for 1983 for her selfless courage in rescuing a young girl lost in a blizzard last February. Barbara Bush, wife of Vice President George Bush, bestowed the award upon Villa in a unique ceremony at the Vice President's mansion.

More than 300 dogs entered the competition, which marks the 30th anniversary of this annual recognition of "man's best friend." To qualify, a dog must have demonstrated outstanding bravery, loyalty, and intelligence by performing acts leading to the saving of life or property.

Villa's rescue of her 11-year-old neighbor, Andrea Anderson, last February undoubtedly fits those criteria.

During a severe blizzard, 60-mile-per-hour winds drove Andrea into a large snowdrift. Disoriented, blinded by the blowing snow and unable to pull herself out, she desperately began to scream for help.

Hearing Andrea's cries, the 1-year-old Villa leaped over the 5-foot fence surrounding her run. Villa ran to the snowbound girl, licked her face reassuringly and circled Andrea to clear the snow entrapping her. The dog positioned herself so that Andrea could grasp her and be pulled out of the snowbank.

Once Andrea was free, Villa continued to clear a path for the girl through the blinding snow. A short while later, Andrea's mother found her daughter holding onto the dog's neck outside the front door of the home.

Villa joins the ranks of 29 other courageous canines who have been awarded the title "Dog Hero of the Year" since the program was initiated in 1954. Together these dogs represent 19 States and are credited with saving the lives of more than 600 people and animals. Their heroic feats have averted almost every type of tragedy.

I think it is appropriate that Congress recognize the courage and devotion of Villa and her colleagues. Their brave actions prove that, despite enormous societal changes during the past 30 years, the special relationship between humans and dogs remains untouched.

Therefore, in appreciation of Villa and the countless other dogs who have exhibited true loyalty and devotion by risking their own lives to save others, I ask you to join me in extending warmest congratulations to Villa and her owner, Lynda Veit.●

DOROTHY KELLEY

● Mr. **COHEN.** Mr. President, I should like to draw my colleagues' attention to one of Maine's leading citizens in the field of agriculture—Dorothy Kelley. As executive vice president of the Maine Potato Council, Mrs. Kelley has worked relentlessly over the years to insure the survival and prosperity of the Maine potato industry. This has often meant persistently fighting against the Maine potato industry's greatest nemesis—Canadian potatoes. Mrs. Kelley has spent countless hours testifying before the Department of Commerce and the International Trade Commission (ITC) about the detrimental effect of Canadian potato imports on the potato industry.

Her efforts have aided potato producers throughout the country. Through her association with the National Potato Council, she has helped organize other potato-producing States to petition the Department of Commerce and the ITC for duties on imported Canadian round white potatoes.

Mrs. Kelley has attained nationwide prominence for her commitment to the U.S. potato industry. Robert Porter, Washington representative of the National Potato Council has said, "She is a most effective spokesperson for the Maine potato industry."

I commend Mrs. Kelley for both her work on behalf of the potato industry in Maine and nationwide and ask to have an article from the New England Farmer in the RECORD at this point.

The article follows.

WOMAN SPEAKS FOR MAINE IN WASHINGTON

ARTICULATE, DETERMINED, AND PERSISTENT, POTATO SPOKESPERSON HAS LEARNED WASHINGTON "ROPES"

(By Kathryn Olmstead Swanson)

Eight years ago, Dorothy Kelley told her family she was going to resign her position as secretary of the Maine Potato Council, a job she had held for six years.

The family was gathered around the kitchen table ready for a celebration when she got home from the Council meeting. She announced instead that she had just accepted a position as executive vice president.

"There wasn't much of a celebration," she recalled, yet since that decision to become the organization's chief executive, Kelley has attained prominence in the state and national potato industry. Most notable is her ability to win the attention and respect of people in Washington, D.C., who influence decisions affecting the Maine potato industry.

A Washington lobbyist and an administrator in the U.S. Department of Agriculture both mention her skill at "cultivating" contacts on Capitol Hill and within federal agencies.

"She speaks for Maine in Washington and deals with a diverse group of potato farmers in Maine," said Robert Porter, Washington attorney and representative of the National Potato Council. "She is a most effective spokesperson for the Maine potato industry," he said, praising her ability to interpret what is needed in Washington and convey the message to potato growers in Maine. "She is articulate, determined and she doesn't give up."

"She has done a lot through her ability to speak precisely on a subject," said Edward Hews, deputy administrator of the Federal Crop Insurance Corporation. "She is effective in getting to the right people," he said, noting her technique of "hitting at the second level" to present her case for key congressional and agency staff members who advise the decision makers.

"It is much more important to talk to a legislative aide of a senator or representative in Washington than it is to talk to the senator personally," according to Kelley.

"I know many people feel that if you don't get in to see the representative or senator that you haven't really boosted the cause," Kelley said. "I feel that many times it is much more important to get to the legislative aide. He's the one who will inform his boss of the problem because he will investigate it thoroughly and it is more important coming from him than from an individual, particularly if you're not a constituent."

The key to developing effective contacts, she says, is the people you take with you to appointments. Senators and representatives from other states listen to you if you come to them with a representative of their constituency. Bureaucrats in federal agencies listen if you are accompanied by a congressional staff member.

"I have learned one thing about going into agencies with requests or seeking information. If you have the senators' aides with you, you get a lot better information than you do if you go by yourself. The agencies have a little fear of the Hill. The agencies depend on the rules and regulations that come down from the Hill."

Kelley recalled a meeting with Customs officials at which reception was cool until the congressional staff members were identified. "I can't imagine why anyone would want to live up in the sticks in Maine in the first place," was one official's first remark, Kelley said.

"Then we all sat down and introduced ourselves. The minute the two senate staff members introduced themselves, the entire atmosphere of the meeting changed—they were very cooperative."

She said people from the state employed in federal agencies have been very helpful in arranging appointments. "It's almost impossible to call the director of Farmers Home Administration and tell him you want to come in for a visit, but if someone who is in the USDA is from Maine, they can call and get the appointment for you and go to the appointment with you."

When Kelley needs support from other potato producing regions, she calls on the senators and representatives from those regions, but has learned that she needs to take a constituent with her. A meeting she had scheduled with Senator Rudy Boschwitz of Minnesota dramatized the lesson.

"I managed to call and get an appointment with Senator Boschwitz, but I didn't have any backup from the people in Minnesota," Kelley recalled. "When I got to his office, an aide informed me that the senator was not able to see me, but that he had recommended I talk to this particular aide.

"We went into a back room which was the mail room. We sat down and I started explaining the problem to him and my reason for being there and my reason for hoping Senator Boschwitz would support Senators Mitchell and Cohen on the bill.

"There was a mail clerk sitting there in a plaid shirt, and he turned around and asked me a question. I answered the question, but at the same time I asked myself, 'What business is this of his?' I continued my conversation with the aide and pretty soon the mail clerk again asked a question. I answered it, but all the time I was thinking, 'Is it necessary for me to answer this question?' But I did answer it.

"Before my conversation and visit with the aide was over, the mail clerk introduced himself and he was Senator Boschwitz. He had done this because he wanted to hear what I had to say, but I was not one of his constituents and therefore he didn't see that it was necessary for him to take the time to talk to me. And yet he was very interested in the subject and he felt that I might speak more freely to an aide than I would to him.

"I have never forgotten that senator whatsoever. I just felt it was great when it was over and I really enjoyed it. After he introduced himself we had a good visit and he realized that I was speaking for all potato producers and not just for the State of Maine. I can write Senator Boschwitz in regard to anything and I usually get an answer.

"What's really important if you want to get in to see a senator from another state is that you do need a representative of that state with you. I have learned that."

Kelley said she has been able to use her association with the National Potato Council to connect with people from other states and arrange meetings with members of their congressional delegations. She has learned who she can call on for information and for help in getting appointments. "That means a lot."

During the past five years, most of Kelley's trips to Washington have involved efforts by the Maine Potato Council to petition the Department of Commerce and the International Trade Commission for duties on imported Canadian round white potatoes. Canadian imports increased dramatically after the General Agreement of Tariffs and Trade (GATT) went into effect in 1979, providing for a gradual reduction of duties that eventually will eliminate all quotas on imported Canadian potatoes. An exchange on the dollar that favored Canada and federal support of the Canadian potato producers contributed to international trade problems felt first by Maine, where large volumes of potatoes crossed the border on their way to East Coast markets. Other states subsequently felt the effects of the increased imports.

The International Trade Commission is due to decide in December whether to impose duties representing the difference between the fair market value for Canadian potatoes sold in the United States and the amount that was actually received. The anti-dumping petition for these duties was filed Feb. 9, 1983, after arduous research, hearings, investigations and surveys that continued throughout the year.

Kelley traced her knowledge of the Canadian import problem to a single phone call she received in 1975. U.S. Trade Representative Robert Strauss called her for information on Canadian potatoes that he could use as a participant in the Tokyo Round of the GATT talks.

"That really started my battle with Canadian potatoes," Kelley said. "A lot of people have forgotten, but at that time I was saying that the situation might be the undoing of the Maine potato industry. The Canadians had a proposal to increase their production of potatoes in the Maritime provinces. They had a five-year plan and it was aimed at exporting potatoes."

"It seemed to me, even in 1975, that Maine and the Eastern seaboard were going to develop a very serious problem of oversupply of potatoes."

Kelley recalled that, even at the national level, "growers did not believe it was going to be a problem." The Canadian plans were discussed at the National Potato Council and people just couldn't feel it."

"For some reason, you don't get any action (on a problem) until it touches someone."

It touched Maine growers in 1978 and 1979 and, by 1980, frustration was so intense that Maine growers filled the ports of entry between Canada and Maine with the potatoes they said they could not sell because of the influx of imports in East Coast markets.

Seeking an administrative solution to the problem, Kelley filed the first petition for the Maine Potato Council in 1979 and it was denied. Unable to obtain assistance from local attorneys or the state attorney general's office, she worked up a draft of a countervailing duty petition that would request duties to offset the advantages enjoyed by foreign countries exporting to the U.S.

She delivered the petition to the Department of Commerce and was informed that she should file an antidumping petition, aimed at preventing a foreign country from flooding U.S. markets with excesses of products that cause reductions of prices. After four months of compiling information for the anti-dumping petition, she forwarded it to Washington—"all 30 copies."

"I put it in the mail one day and the next day about 100 growers decided to block the border. This brought an Administration task force to Aroostook County. They held a meeting in Fort Kent. I was not invited to attend the meeting and the only result of that meeting was that the Maine Potato Council should file a countervailing duty petition.

"The next day I received a phone call from Washington that they had received my anti-dumping petition and, since they had determined that we should file countervailing duty instead, they would deny the petition, would not publish it in the Federal Register and advised me to file countervailing duty."

Ultimately, it was an anti-dumping petition that the Maine Potato Council was advised to pursue, with the help of a Washington-based law firm. She obtained assistance from the International Trade Commission and the Department of Commerce as she gradually became acquainted with people in those departments.

"The Commerce and ITC people were very helpful to me," she said. "They gave me petitions that had been filed and that gave me a kind of outline to go by to try to come up with the same figures and documentation as had been used by others."

"It is very difficult to prove injury—to document it. You can feel it, you can see your people disappearing and losing money, but when it comes to the documentation it is very difficult."

Kelly needed financial data from Maine growers, shippers and buyers as well as information from Canada that was nearly impossible to obtain. Investigations by the International Trade Commission produced data on Canadian cost of production that the Maine Potato Council could not have acquired. Council directors conducted a vigorous campaign to encourage growers to complete the forms the ITC needed to document that they actually had lost money as a result of Canadian potato imports. Gradually, figures documenting the volume of imports and the difference between price and value came together.

In 1979, when Kelly filed her first petition for trade relief, she reported that Maine had experienced injury of two percent. "Two percent doesn't amount to much, according to Commerce."

This year, the Department of Commerce has determined that Canadian potatoes have sold at prices averaging 36.1 percent less than their fair market value in the United States. Kelley hopes that figure will indicate to the ITC that the injury experienced by Maine growers is greater than two percent.

When Kelley reviews her eight years as executive vice president of the Maine Potato Council she recalls that "it was difficult at first.

"There were not too many ladies involved in trade associations and many people felt a gentleman would have more access and more knowledge of the industry."

In describing her current activities, she recognizes that she has not only access, but also an advantage. She says her membership on the National Potato Council legislative committee "allows me to go into many of the various agencies representing the national along with other producers from other areas and I have one advantage. It is not difficult for them to remember my name since I am the only woman involved. And that is an advantage."

"She's dynamite," says Porter. "We could use someone like her in every potato-producing state."●

EAST-WEST TRADE AND TECHNOLOGY TRANSFERS

● Mr. BRADLEY. Mr. President, East-West trade and technology transfers represent an important area of international economic relations, and these transactions also raise significant policy issues affecting our national security. At a time when the Export Administration Act is being considered, it is useful to take into account expert statements from many perspectives. To that end, I ask that a statement on this topic by Dr. Heinz Schimmelbusch, member of the board of management, Metallgesellschaft AG, be printed in the Record. Dr. Schimmelbusch has long experience in international financial and management programs, and his position at Metallgesellschaft affords him a distinctive view of East-West trade. This statement was presented at the International Herald Tribune/Trade Net Panel on Economic Interdependence and the Future of World Trade, January 20, 1984, Washington, D.C.

The statement follows:

East-West Trade and Technology Transfer

(Statement of Dr. Heinz Schimmelbusch)

1. EAST-WEST TRADE IS ONLY OF MINOR IMPORTANCE FOR THE WEST

[Charts mentioned not reproducible in the Record]

Let me first illustrate the quantitative importance of East-West trade for the Western countries.

In fact, in the past exports from OECD countries to COMECON states and also their imports from those countries did not represent more than 3 to 5 percent of the entire foreign trade volume. The generally increasing trade volume has left these relationships virtually unchanged. This fact is illustrated for exports and imports in the first chart of my paper. The importance of East-West trade varies quite substantially between individual OECD-countries. West Germany's exports and imports to and from the Eastern Bloc account for no more than 5 percent of the total foreign trade volume even though West Germany, because of its geographical situation as a neighboring state to the Eastern Bloc should be in the forefront of considering COMECON countries as its trading partners.

2. THE RELATIVE ROLE OF EAST-WEST TRADE FOR COMECON COUNTRIES IS CRUCIAL

The picture is quite different seen from the point of view of the COMECON countries. The OECD countries play a relatively important part in the foreign trade of the Eastern Bloc. After all, about one third of the total foreign trade volume of the Soviet Union and also of smaller Eastern Bloc countries is transacted with Western countries. In general, therefore, the Eastern Bloc's dependence on foreign trade with the West is of relative greater importance than the trading relationships with the Eastern Bloc for Western countries.

3. TECHNOLOGY TRANSFER BY EXPORTING FROM THE WEST TO THE EAST IS INSIGNIFICANT

In commenting on East-West trade one should be aware of the kind of goods exchanged in this trade. In exports to the Eastern Bloc, machinery, equipment and motor vehicles are predominant. Exports of agricultural products have caught up substantially during the last few years—as a consequence of grain exports—so that the proportion of those goods is now almost equivalent to the aforementioned technical goods. Other important export goods are chemicals and products of the steel industry which include, of course, the well-known embargoed pipeline supplies. As regards exports of industrial products, conventional technology continues to be in a leading position.

The quantitative importance of the export of high technology products is extremely low, at about 3.5 percent of total export to the Eastern Bloc, especially in comparison with the share of those products in total OECD trade. Furthermore with the products he buys, the customer usually obtains only a very limited amount of transferable know-how. The know-how is much more integrated in production processes and in the understanding of its use. In other words, transferable know-how is more easily conveyed through software rather than by hardware.

By far the most important route for technology transfer is not linked to trade in industrial products but passes via patents, licenses, scientific publications and other ways. I do not want to mention the words "espionage" and "cover organizations," because a good old German manager does not get mixed up in that sort of activity.

If one tried to categorize routes of technology transfer the conclusion would be that the trade of raw materials and manufactured products does not lead to significant transfer and that the transfer potential rises exponentially as we pass from the tangible area of physical goods to the more intangible field of software, from manufactured products, machinery and equipment via complete plants and systems to patents, licenses, scientific publications and to the "dark channels."

The company I represent, the Metallgesellschaft group is an engineering and trading organization only engaged in fields where technology transfer is limited. Our business with the Eastern Bloc comprises raw materials for the chemical and metal industries, nonferrous metals and large scale industrial plants.

4. FOR THE WEST THERE IS NO CRITICAL DEPENDENCE ON IMPORTS FROM EASTERN BLOC

As regards the imports from Eastern Bloc countries, there is a clear predominance of raw materials, especially fuels which are supplied from the Soviet Union. As a result of the exploding energy prices during the seventies the proportion of energy raw material supplied to Western countries rises considerably during that period. However, the frequently quoted dependence of Europe on the energy raw materials supplies of the Soviet Union is far less important than one could think.

This situation will not change when the natural gas agreement with the Soviet Union becomes effective. The Soviet Union's share of the energy supplies of individual West European countries is not more than 7-8 percent. In view of this relatively low share and considering the natural gas stocks along with the possibilities of substitution by other energy sources and supplies of energy from other countries, the dependence on the USSR is not dangerous. On the contrary, it constitutes a convenient additional energy option for West European customers.

5. FAILURE OF EMBARGO POLICY

West Germany has had a rather sad experience with the "embargo" as an instrument of trade policy. The first steel pipeline embargo was imposed on the Soviet Union as long ago as 1963. It mainly affected our country as the main supplier of pipe; nonetheless we complied with the embargo. As a result, German supplies declined from 255,400 tons of steel pipe in 1962 to zero in 1966. What is more, the embargo had virtually no effect since on the one hand the Soviet Union found an alternative technical solution and on the other they found substitute suppliers in the West. You can well imagine that after this experience the new embargo affecting the natural gas pipeline contract was met with great skepticism in our country. As a German politician rightly observed the only real impact of the pipeline embargo by the U.S. was that the Soviet Union has put the pipeline construction as a Number One priority.

Another aspect of the natural gas pipeline contract has been the target of American criticism, too. Thus, it was alleged that as part of this unpopular bargain the loan interest had been subsidized to below market levels. But one thing should be made quite clear in this context: West Germany does not grant any public interest subsidies.

There is a credit insurance, for which, however a market rate has to be paid. The interest subsidies in connection with the natural gas pipeline contract were paid by the private exporters who had, of course, made the corresponding allowance in their price calculations. The low interest rates were seen by the Soviet Union as a point of prestige.

6. REGULATORY RESTRICTIONS ON EAST-WEST TRADE ARE ULTIMATELY INEFFECTIVE

Every nation obviously has the right to restrict exports of militarily relevant products to potential enemies. The question is how to define military relevance. My argument goes for a restrictive definition. Ultimately also the export of grain is militarily relevant, since it enables the receiving countries to save investments in the agricultural sector, freeing funds for other, including military, uses. A definition like this, if enforced efficiently, would eliminate East-West trade and increase dramatically the probability of a military confrontation. The so-called "Cocom List" has to be oriented towards items directly usable for weapon systems. Items within the "dual use" range should be searched for how realistic a military application really is.

In general, it is very difficult to make any regulations effective when they are applied to market economies and free societies. We have to accept the fact that in a way we have to choose between our basic belief in the principles and the economic efficiency of an international free market society and its attractiveness on the one hand and a vast and sprawling application of bureaucratic efforts and restricted economies on the other.

The complex interrelationship of the various parties on both sides is so sensitive, that political sanctions will inevitably hurt one's own cause. The direct and indirect economic costs of embargoes have never been thoroughly analyzed. I still believe that the high ranking Soviet official was serious when pointing out, that the credit facilities worked out with the German banks for the pipeline deal helped the Russians to buy grain from American farmers.

7. EAST-WEST TRADE SUPPORTS PEACE

After all, in connection with foreign trade we should be aware that trade is always in the mutual interest, otherwise it wouldn't take place.

I am a firm believer in the stabilizing effects of interbloc economic cooperation. The more managers of industrial complexes at various levels on both sides of the Iron Curtain are in business contact the more the relative importance of military people is reduced and thereby political tensions decrease.

The German/French example: From the mid-18th century to World War II Germany and French fought a total of 13 wars. If 10 years after World War I somebody had had the courage to state that there would be no more wars between France and Germany, he would have been called a dreamer. If somebody made the same prediction today, it would be considered as a self-explicatory observation. The reconciliation between Germany and France, which makes any new outbreak of hostilities so unlikely has been also caused by a dramatic increase in trade between both countries. From 1950 to 1982 the total volume of trade between these two countries increased eighty times, from 1.3 billion to 103.0 billion Deutschmarks.

Of course, this is to the same extent not achievable between countries of different political ideologies. It will for the foreseeable future not be possible to induce the Soviet Union to become an ally of the West, just for economic reasons. It was General de Gaulle who coolly observed that states tend to have interests—not friends.

But I believe that the mutual economic networking and the resulting interdependence of economies disentangles military confrontation and constitutes a valuable contribution to peaceful co-existence, maybe the only material counterbalance of the technicians to military build up.

For instance, my company is involved in building a large Methanol Plant in a COMECON country whereby the Methanol not used for captive purposes is exported under a compensation finance scheme. The building of such a plant takes years and the long-term purchase contract thereafter involving the logistics of large quantities of a liquid bulk commodity ensures that for a long period the parties involved have to cooperate in many ways. I could not think of a more durable system of ties than that provided by such ventures.

In a world where the influence of the military is increasing in both blocs the businessmen should act as a countervailing force maintaining the communication links between East and West and establishing interdependence which—by its very economic results—has a strong tendency to be repetitive and widening. One might note that by forcing the COMECON countries to become self-sufficient within their system nobody would benefit at all.●

RULES OF PROCEDURE FOR THE SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. ANDREWS. Mr. President, I submit for the Record the rules of procedure for the Select Committee on Indian Affairs.

The rules follow:

RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

COMMITTEE RULES

Rule 1. The Standing Rules of the Senate, Senate Resolution 4, and the provisions of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, to the extent the provisions of such Acts are applicable to the Select Committee on Indian Affairs and as supplemented by these rules, are adopted as the rules of the Committee.

MEETINGS OF THE COMMITTEE

Rule 2. The Committee shall meet on the first Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

OPEN HEARINGS AND MEETINGS

Rule 3. Hearings and business meetings of the Committee shall be open to the public except when the Committee by majority vote orders a closed hearing or meeting.

HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee at least one week in advance of such hearing unless the Chairman of the Committee determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee involved concurs. In no case shall a hearing be conducted with less than 24 hours notice.

(b) Each witness who is to appear before the Committee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee prescribes.

(c) Each Member shall be limited to 5 minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness unless the Committee shall decide otherwise.

(d) The Chairman and ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure or subject shall be included in the agenda of the next following business meeting of the Committee if a written request for such inclusion has been filed with the Chairman of the Committee at least 1 week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee to include legislative measures or subjects on the Committee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee shall be provided to each Member and made available to the public at least 3 days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee. The Clerk shall promptly notify absent Members of any action taken by the Committee on matters not included in the published agenda.

QUORUMS

Rule 6. (a) Except as provided in subsecs. (b) and (c), three Members shall consitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless three Members of the Committee are actually present at the time such action is taken.

(c) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure before the Committee.

VOTING

Rule 7. (a) A rollcall of the Members shall be taken upon the request of any member.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 8. Witnesses in Committee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee, and at the request of any member, any other witness shall be under oath. Every nominee shall submit a financial statement, on forms to be perfected by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. All such statements shall be made public by the Committee unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule. Members of the Committee are urged to make public a complete disclosure of their financial interests on forms to be perfected by the Committee in the manner required in the case of Presidential nominees.

CONFIDENTIAL TESTIMONY

Rule 9. No confidential testimony taken by or confidential material presented to the Committee or any report of the proceedings of a closed Committee hearing or business meeting shall be made public, in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 10. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 11. Any meeting or hearing by the Committee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dias or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 12. These rules may be amended only by a vote of a majority of all the Members of the Committee in a business meeting of the Committee: *Provided*, That no vote may be taken on any proposed amendment unless such amemdment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting. Such proposed amendment shall be mailed to each Member of the Committee at least seven (7) calendar days in advance of the meeting.●

DONALD C. ALEXANDER

● **Mr. HELMS.** Mr. President, I have at hand several pieces of correspondence from the Honorable Donald C. Alexander, former Commissioner of Internal Revenue, relative to a statement attributed to him which he emphatically denies having ever made.

While my relationship with Mr. Alexander has been limited, I have always regarded as him a gentleman, and I have no doubt about his good faith. And since the purported statement has been quoted so often by so many people, I believe Mr. Alexander is entitled to have his position published so that it will be a matter of record. I should mention that I myself referred to the purported statement on February 1 when I introduced S. 2243, "The Taxpayers' Bill of Rights Act."

In the interest of fairness to Mr. Alexander, I ask that two letters from him to me bearing date of February 29 be printed in the RECORD at the conclusion of my remarks, along with three other letters related to the subject.

The letters follow:

WASHINGTON, D.C., *February 29, 1984.*

Re CONGRESSIONAL RECORD of February 1, 1984, your statement introducing S. 2243.

Hon. JESSE A. HELMS,
Member of Senate,
Senate Dirksen Office Building,
Washington, D.C.

DEAR SENATOR HELMS: Enclosed is a letter which I earnestly request you to place in the CONGRESSIONAL RECORD.

Unfortunately, your statement introducing S. 2243 contained a quotation attributed to me, which quotation is false and libelous. The authors and publisher of this falsehood know it to be a lie, but they have refused to correct it. They know that under the *Sullivan* case, I would be classified as a "public figure" and public figures have little redress, under current court decisions, against libel.

Enclosed are copies of letters that I wrote to the publisher and the purported author of the tawdry book entitled *"All You Need to Know About the IRS"* which contains the false quotation (p. 7).

Let me make it absolutely clear that there was no way for you or your staff to realize the falsity of this quotation until I called the matter to your attention. I am not trying to blame anyone. However, I am saying that (1) the quotation is false, (2) it is seriously damaging to me as a tax professional, and (3) I am sure that you will wish to set things straight.

With best wishes,
Sincerely,
DONALD C. ALEXANDER.

WASHINGTON, D.C., *February 29, 1984.*

Re S. 2243.

Hon. JESSE A. HELMS,
Member of Senate,
Senate Dirksen Office Building,
Washington, D.C.

DEAR SENATOR HELMS: In your statement introducing S. 2243, the "Taxpayers' Bill of Rights Act" in the CONGRESSIONAL RECORD of February 1, 1984, I am quoted as having testified before Congress, when I was with the Internal Revenue Service, that the only way the Service could keep taxpayers honest and paying their taxes was to keep them afraid.

Although there was no reason for you or your staff to know, I never made any such statement.

The quoted statement was conjured up, without foundation, by the authors of one of the many "inside story" books about the IRS. Secure in the knowledge that present law provides me little remedy, the authors and publisher have ignored my demand to eliminate this untrue quotation. Therefore, you and your staff would not have been aware of the fact that I never said these words.

The quotation falsely attributed to me is seriously damaging to me. Therefore, I would appreciate your placing this response in the CONGRESSIONAL RECORD. In view of your deep concern for what is fair and what is right, I am confident that you will grant this request.

With best wishes,
Sincerely yours,
DONALD C. ALEXANDER.

February 25, 1980.

Re All You Need to Know About the IRS.
Paul N. Strassels,
Centreville, Va.

Dear Mr. Strassels: On pages 6 and 7 of your book, you describe a "hearing" before the House Ways and Means Committee at an unmentioned date "shortly" after you left the IRS. You quote an unnamed congressman in precise detail and then you quote me, equally precisely, that "the only way we can keep them honest and paying their taxes is to keep them afraid".

I did not make this statement.

This statement, which you apparently made up out of thin air, is being attributed to me by reviewers such as John McKelway in the Washington Star of February 10.

I call on you to correct this matter immediately.

Very truly yours,

Donald C. Alexander.

March 19, 1980.

Re All You Need to Know About the IRS.
Paul N. Strassels,
6148 Gothwaite Drive,
Centreville, Va.

Dear Mr. Strassels: This letter is written so that there can be no confusion or misunderstanding about our telephone discussion last night.

You contended that I made the statement which you attribute to me on page 7 of your book at a hearing before the Ways and Means Committee in the fall of 1976.

I repeat that I did not make this statement.

Last night I gave you thirty days—which I consider to be overly long—to do one of two things:

Find the statement that you attribute to me; or retract the statement.

As you know, transcripts of Ways and Means hearings, like all other Congressional hearings, are readily available. Leon Levine (566-4744), Assistant Director of the IRS Public Affairs Division, has all these transcripts and I am sure that he will make them available to you if you should have any difficulty obtaining them.

I expect to hear from you—one way or the other—by or before April 17.

Very truly yours,

Donald C. Alexander.

January 11, 1982.

Re All You Need to Know About the IRS.
Random House, Inc.,
201 East 50th Street,
New York, N.Y.
Attention: President.

Dear Sir: Enclosed are two self-explanatory letters to Mr. Strassels, the primary author of the above book. Mr. Strassels never replied to my letter of March 19, 1980.

That Mr. Strassels did not reply is no surprise, in view of the fact that he and Mr. Wool made up the quotation attributed to me, and they cannot be unaware of its falsity.

The quotation in question is being repeated in publications and by speakers, and it is seriously damaging to me and my reputation.

I demand that you (1) retract the statement attributed to me, and (2) cease publishing such statement.

Very truly yours,

Donald C. Alexander.●

MERIT PAY REFORM

● Mr. ROTH. Mr. President, I rise in support of S. 958, Senator Trible's merit pay reform bill and I want to commend him for his hard work on this legislation. I believe it represents a positive step forward for efficient management of the Government.

Yet, there is one element of the bill which deserves further comment. Under the terms of the Civil Service Reform Act, Congress enabled up to 50 percent of executives to receive bonuses. When the first two agencies paid bonuses to exactly one-half of their executives, it was considered excessive by the Congress. In response, the Senate legislated controls on the number of bonuses for executives in order to prevent what it considered abuse.

This bill would provide a similar pool for performance awards for Federal managers. I believe that it is the intent of this legislation to provide broad regulatory authority to the executive branch to prevent any similar abuses in the future under the system created by this bill.●

RULES OF PROCEDURE OF THE COMMITTEE ON FINANCE

● Mr. DOLE. Mr. President, I hereby submit to the Senate the rules governing the Committee on Finance for publication in the Record as required by rule XXVI, paragraph (2) of the Standing Rules of the Senate.

The rules follow:

Committee on Finance

I. RULES OF PROCEDURE

(Adopted Mar. 1, 1984)

Rule 1. *Regular Meeting Days.*—The regular meeting day of the committee shall be the second and fourth Tuesday of each month, except that if there be no business before the committee the regular meeting shall be omitted.

Rule 2. *Committee Meetings.*—(a) Except as provided by paragraph 3 of Rule XXVI of the Standing Rules of the Senate (relating to special meetings called by a majority of the committee) and subsection (b) of this rule, committee meetings, for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the chairman. Members will be notified of committee meetings at least 48 hours in advance, unless the chairman determines that an emergency situation requires a meeting on shorter notice. The notification will include a written agenda together with materials prepared by the staff relating to that agenda. After the agenda for a committee meeting is published and distributed, no nongermane items may be brought up during that meeting unless at least two-thirds of the members present agree to consider those items.

(b) In the absence of the chairman, meetings of the committee may be called by the ranking majority member of the committee who is present, provided authority to call meetings has been delegated to such member by the chairman.

Rule 3. *Presiding Officer.*—(a) The chairman shall preside at all meetings and hearings of the committee except that in his absence the ranking majority member who is present at the meeting shall preside.

(b) Notwithstanding the rule prescribed by subsection (a) any member of the committee may preside over the conduct of a hearing.

Rule 4. *Quorums.*—(a) Except as provided in subsections (b) and (c) seven members, including not less than one member of the majority party and one member of the minority party, shall constitute a quorum for the conduct of business.

(b) Notwithstanding the rule prescribed by subsection (a), one member shall constitute a quorum for the purpose of conducting a hearing.

(c) Once a quorum as prescribed by subsection (a) has been established for the conduct of business in executive session, the committee may continue to conduct business so long as five or more members are present, including not less than one member of the majority party and one member of the minority party.

Rule 5. *Reporting of Measures or Recommendations.*—No measure or recommendation shall be reported from the committee unless a majority of the committee is actually present and a majority of those present concur.

Rule 6. *Proxy Voting; Polling.*—(a) Except as provided by paragraph 7(a)(3) of Rule XXVI of the Standing Rules of the Senate (relating to limitation on use of proxy voting to report a measure or matter), members who are unable to be present may have their vote recorded by proxy.

(b) At the discretion of the committee, members who are unable to be present and whose vote has not been cast by proxy may be polled for the purpose of recording their vote on any rollcall taken by the committee.

Rule 7. *Order of Motions.*—When several motions are before the committee dealing with related or overlapping matters, the chairman may specify the order in which the motions shall be voted upon.

Rule 8. *Bringing a Matter to a Vote.*—If the chairman determines that a motion or amendment has been adequately debated, he may call for a vote on such motion or amemdment, and the vote shall then be taken, unless the committee votes to continue debate on such motion or amendment, as the case may be. The vote on a motion to continue debate on any motion or amendment shall be taken without debate.

Rule 9. *Public Announcement of Committee Votes.*—Pursuant to paragraph 7(b) of Rule XXVI of the Standing Rules of the Senate (relating to public announcement of votes), the results of rollcall votes taken by the committee on any measure (or amendment thereto) or matter shall be announced publicly not later than the day on which such measure or matter is ordered reported from the committee.

Rule 10. *Subpoenas.*—Subpoenas for attendance of witnesses and the production of memoranda, documents, and records shall be issued by the chairman, or by any other member of the committee designated by him.

Rule 11. *Open Committee Hearings.*—To the extent required by paragraph 5 of Rule XXVI of the Standing Rules of the Senate (relating to limitations on open hearings), each hearing conducted by the committee shall be open to the public.

Rule 12. *Announcement of Hearings.*—The committee shall undertake consistent with the provisions of paragraph 4(a) of Rule XXVI of the Standing Rules of the Senate (relating to public notice of committee hearings) to issue public announcements of hearings it intends to hold at least one week prior to the commencement of such hearings.

Rule 13. *Witnesses at Hearings.*—(a) Each witness who is scheduled to testify at any hearing must submit his written testimony to the staff director not later than noon of the last business day preceding the day on which he is scheduled to appear. Such written testimony shall be accompanied by a brief summary of the principal points covered in the written testimony. Having submitted his written testimony, the witness shall be allowed not more than ten minutes for oral presentation of his statement.

(b) Witnesses may not read their entire written testimony, but must confine their oral presentation to a summarization of their arguments.

(c) Witnesses shall observe proper standards of dignity, decorum and propriety while presenting their views to the committee. Any witness who violates this rule shall be dismissed, and his testimony (both oral and written) shall not appear in the record of the hearing.

(d) In scheduling witnesses for hearings, the staff shall attempt to schedule witnesses so as to attain a balance of views early in the hearings. Every member of the committee may designate witnesses who will appear before the committee to testify. To the extent that a witness designated by a member can not be scheduled to testify during the time set aside for the hearing, a special time will be set aside for that witness to testify if the member designating that witness is available at that time to chair the hearing.

Rule 14. *Audiences.*—Persons admitted into the audience for open hearings of the committee shall conduct themselves with the dignity, decorum, courtesy and propriety traditionally observed by the Senate. Demonstrations of approval or disapproval of any statement or act by any member or witness are not allowed. Persons creating confusion or distractions or otherwise disrupting the orderly proceeding of the hearing shall be expelled from the hearing.

Rule 15. *Broadcasting of Hearings.*—(a) Broadcasting of open hearings by television or radio coverage shall be allowed upon approval by the chairman of a request filed with the staff director not later than noon of the day before the day on which such coverage is desired.

(b) If such approval is granted, broadcasting coverage of the hearing shall be conducted unobtrusively and in accordance with the standards of dignity, propriety, courtesy and decorum traditionally observed by the Senate.

(c) Equipment necessary for coverage by television and radio media shall not be installed in, or removed from, the hearing room while the committee is in session.

(d) Additional lighting may be installed in the hearing room by the media in order to raise the ambient lighting level to the lowest level necessary to provide adequate television coverage of the hearing at the then current state of the art of television coverage.

(e) The additional lighting authorized by subsection (d) of this rule shall not be directed into the eyes of any members of the committee or of any witness, and at the request of any such member or witness, offending lighting shall be extinguished.

(f) No witness shall be required to be photographed at any hearing or to give testimony while the broadcasting (or coverage) of that hearing is being conducted. At the request of any such witness who does not wish to be subjected to radio or television coverage, all equipment used for coverage shall be turned off.

Rule 16. *Subcommittees.*—(a) The chairman, subject to the approval of the committee, shall appoint legislative subcommittees. All legislation shall be kept on the full committee calendar unless a majority of the members present and voting agree to refer specific legislation to an appropriate subcommittee.

(b) The chairman may limit the period during which House-passed legislation referred to a subcommittee under paragraph (a) will remain in that subcommittee. At the end of that period, the legislation will be restored to the full committee calendar. The period referred to in the preceding sentences should be 6 weeks, but may be extended in the event that adjournment or a long recess is imminent.

(c) All decisions of the chairman are subject to approval or modification by a majority vote of the committee.

(d) The full committee may at any time by majority vote of those members present discharge a subcommittee from further consideration of a specific piece of legislation.

(e) Because the Senate is constitutionally prohibited from passing revenue legislation originating in the Senate, subcommittees may mark up legislation originating in the Senate and referred to them under Rule 16(a) to develop specific proposals for full committee consideration but may not report such legislation to the full committee. The preceding sentence does not apply to nonrevenue legislation originating in the Senate.

(f) The chairman and ranking minority members shall serve as nonvoting *ex officio* members of the subcommittees on which they do not serve as voting members.

(g) Any member of the committee may attend hearings held by any subcommittee and question witness testifying before that subcommittee.

(h) Subcommittee meeting times shall be coordinated by the staff director to insure that—

(1) no subcommittee meeting will be held when the committee is in executive session, except by unanimous consent;

(2) no more than one subcommittee will meet when the full committee is holding hearings; and

(3) not more than two subcommittees will meet at the same time.

Notwithstanding paragraphs (2) and (3), a subcommittee may meet when the full committee is holding hearings and two subcommittees may meet at the same time only upon the approval of the chairman and the ranking minority member of the committee and subcommittees involved.

(i) All nominations shall be considered by the full committee.

(j) The chairman will attempt to schedule reasonably frequent meetings of the full committee to permit consideration of legislation reported favorably to the committee by the subcommittees.

Rule 17. *Transcripts of Committee Meetings.*—An accurate record shall be kept of all markups of the committee, whether they be open or closed to the public. This record, marked as "uncorrected," shall be available for inspection by Members of the Senate, or members of the committee together with their staffs, at any time. This record shall not be published or made public in any way except:

(a) By majority vote of the committee after all members of the committee have had a reasonable opportunity to correct their remarks for grammatical errors or to accurately reflect statements made.

(b) Any member may release his own remarks made in any markup of the committee provided that every member or witness whose remarks are contained in the released portion is given a reasonable opportunity before release to correct their remarks.

Notwithstanding the above, in the case of the record of an executive session of the committee that is closed to the public pursuant to Rule XXVI of the Standing Rules of the Senate, the record shall not be published or made public in any way except by majority vote of the committee after all members of the committee have had a reasonable opportunity to correct their remarks for grammatical errors or to accurately reflect statements made.

Rule 18. *Amendment of Rules.*—The foregoing rules may be added to, modified, amended or suspended at any time.

II. EXCERPTS FROM THE STANDING RULES OF THE SENATE RELATING TO STANDING COMMITTEES

RULE XXV

STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(i) Committee on Finance, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Bonded debt of the United States, except as provided in the Congressional Budget Act of 1974.

2. Customs, collection districts, and ports of entry and delivery.

3. Deposit of public moneys.

4. General revenue sharing.

5. Health programs under the Social Security Act and health programs financed by a specific tax or trust fund.

6. National social security.

7. Reciprocal trade agreements.

8. Revenue measures generally, except as provided in the Congressional Budget Act of 1974.

9. Revenue measures relating to the insular possessions.

10. Tariffs and import quotas, and matters related thereto.

11. Transportation of dutiable goods.

* * * * *

RULE XXVI

COMMITTEE PROCEDURE

2. Each committee shall adopt rules (not inconsistent with the Rules of the Senate) governing the procedure of such committee. The rules of each committee shall be published in the Congressional Record not later than March 1 of each year, except that if any such committee is established on or after February 1 of a year, the rules of that committee during the year of establishment shall be published in the Congressional Record not later than sixty days after such establishment. An amendment to the rules of any such committee shall be published in the Congressional Record not later than thirty days after the adoption of such

amendment. If the Congressional Record is not published on the last day of any period referred to above, such period shall be extended until the first day thereafter on which it is published.

* * * * *

5. (a) Notwithstanding any other provision of the rules, when the Senate is in session, no committee of the Senate or any subcommittee thereof may meet, without special leave, after the conclusion of the first two hours after the meeting of the Senate commenced and in no case after two o'clock postmeridian unless consent therefor has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leaders, from his designee). The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget. The majority leader or his designee shall announce to the Senate whenever consent has been given under this subparagraph and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

(b) Each meeting of a committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1) through (6) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session of order.

(e) Each committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting or conference whether or not such meeting or any part thereof is closed under this paragraph, unless a majority of its members vote to forgo such a record.●

REGULATION OF UNDERGROUND STORAGE TANKS FOR PETROLEUM PRODUCTS

● Mr. **LAUTENBERG.** Mr. President, I am pleased to join Senators Durenberger and Moynihan in submitting amendment No. 2758, intended to be proposed to S. 757, in order to establish a system for regulating and monitoring underground storage tanks of petroleum products. Leaks from underground gasoline and other storage tanks threaten our environment and the purity of our ground water.

This amendment would accomplish three general goals. First, it would help prevent leaks at the outset, by setting performance standards on the design, construction, and installation of underground storage tanks. Second, the amendment would help us detect leaks when they do occur, by setting up a national inventory of tanks, and by requiring owners and operators to strictly monitor their supplies, in part by maintaining accurate records and by utilizing effective measuring devices. Third, the amendment would help us clean up and repair the damage, by empowering the EPA to take corrective action.

Mr. President, there are over 20,000 underground storage tanks in New Jersey utilized by some 7,000 fuel dispensing facilities. I am afraid that some of those tanks, at this very moment, are leaking and contaminating our environment undetected. My State's Department of Environmental Protection reports that just last year there were 117 cases in which underground fuel tank leaks contaminated ground water. Just by way of example, in Little Silver Borough, in Monmouth County, leakage from underground fuel tanks reportedly caused extensive ground water damage. In Branchville, in Sussex County, an underground storage tank failure resulted in the discharge of gasoline that seeped into the basement of a nearby building and caused a fire. In Warren Township, in Somerset County, some 30 private wells have been affected by leaks from underground tanks and lines.

We face a problem that must be addressed. I trust that responsible owners and operators of underground tanks will join us in this effort to fashion a scheme that is fair and effective in preventing, detecting, and curing the environmental damage caused by faulty underground storage tanks. The full Committee on Environment and Public Works today conducted a hearing on ground water contaminated from underground storage tanks in an effort to gather comment and make any appropriate improvements in this provision.

I urge my colleagues to support this amendment when offered.●

"HALFTIME" OF SENATE BANKING COMMITTEE HEARINGS, MARCH 1, 1984

● Mr. **GARN.** Mr. President, the conclusion of yesterday's hearing marked the halfway point of 8 days of hearings in the Senate Banking Committee on legislative proposals to establish a national policy response to our changing financial system.

This respite in the hearings, and yesterday's announcement by Congressman St Germain that the House Banking Committee will conduct hearings to review the changing financial landscape, offers an opportunity to reflect on where we are and where Congress is headed.

During the past year, the Senate Banking Committee has held 13 days of oversight hearings on the financial services industry and, counting these recent four hearings, 7 days of hearings on several different legislative proposals dealing with, among other things, moratoriums on nonbank banks and powers of banking and other financial services organizations. It has been clear throughout this process that the financial system is a transitional stage and that there is a need for a congressional policy response. The response is necessary to assure everyone affected by the financial system that there is a national policy and not just regulatory, judicial, and State policies under which our financial system operates. Thus, I am encouraged that the House Banking Committee will be looking at these issues also and look forward to working with Chairman St Germain, ranking minority member Congressman Wylie, and other members of that committee to develop a congressional answer to the questions raised within the financial system.

The Senate Banking Committee hearings have been excellent so far. Last fall, when I introduced my bill, S. 2181, I indicated that the purpose of the legislation was not to direct the course of events among financial institutions, but to focus the attention of committee members on all of the issues, in order that the committee could consider an appropriate legislative policy with a more complete understanding of what has, and is, happening in our financial system. The bill, therefore, is comprehensive and is lengthy and includes many subjects, such as powers of bank holding companies, limitations on affiliations between large financial organizations, civil penalties for the fraudulent use of credit cards, affirmation of State actions permitting regional banking, and disclosure standards on the check holding policies of banks. So far, the committee has heard from banking, thrift, credit union, consumer, and State regulator organizations, as well as having had the benefit of testimony on January 16 in Salt Lake City from local and regional witnesses.

It is obvious that the dialog has begun, with many witnesses voicing support for further congressional actions to promote competition among financial organizations and others expressing caution at the speed and effects of the changes already set in place.

The committee's hearings reconvene next week with representatives of insurance, securities, realtors, homebuilders, small businesses, labor, and consumer groups testifying. Some of these are the groups which have been the leaders in offering new innovative financial products, such as money market mutual funds and cash management accounts.

Removing statutory barriers within the financial system has been accomplished cautiously by Congress. In 1980, Congress agreed with the overwhelming majority of its constituents and mandated phaseout of deposit rate controls. It did this because deposit rate controls became a device which money market mutal funds, which were not subject to such controls, used very effectively to obtain funds from individuals and institutions desirous of a better return on their money than 5½ percent. Moreover, many older citizens, suffering from high interest rates, demanded that they, as savers, no longer be required to subsidize this country's borrowers. Congress decision, therefore, was to not subject money market funds to rate control type regulation, but to direct banks to compete for funds at market rates.

What we are experiencing today is a further evolution in the efforts of all types of financial organizations to meet their customer's needs in an efficient and cost-effective manner. It is this evolution—in fact, revolution—that must be addressed. And, I am confident that it can be now that both Banking Committees are taking a closer look at the issues involved.

The basis for consideration must continue to be the maintenance of a safe, sound, and diverse financial system. Whether the result is to accommodate changes, as Congress did in 1980 and in 1982, and whether the result will be based on my bill or some other proposal, my goal will continue to be: First, a consensus among the groups who have and will testify before the Senate Banking Committee and who are affected by changes within the financial system; and second, a prompt congressional response, consistent with the principles mentioned above, after the hearing process.●

PRATT & WHITNEY RECEIVES LARGEST COMMERCIAL ENGINE ORDER EVER

● Mr. DODD. Mr. President, the ripples from the recent Air Force decision to divide future fighter engine contracts between Pratt & Whitney Aircraft and the General Electric Co. have not subsided yet. A decision of this magnitude has to be carefully reviewed by Congress and I, together with many of my colleagues, still have to be convinced about its fairness and long-term cost-effectiveness. If, however, evidence will show that the decision was arrived at after fair consideration of the competing engines and bids, and the consequences will not include increased costs, the Air Force will have to be commended for a wise decision, clearly in the national interest.

Either way, the decision was clearly a setback for Pratt & Whitney most of whose employees are my constituents. A strong consolation in the disappointment was provided by the Air Force's assertion that both competing engines proved to be of superb quality. As long as Pratt & Whitney's experienced workforce will turn out engines of this quality, they will be able to reenter this competition with increased strength and remain a crucial element of our defense production structure.

Yesterday, Pratt & Whitney announced another encouraging news item. American Airlines plans to order 67 McDonnell Douglas MD-80 twin-engine airliners with options for another 100 planes. These aircraft will be powered by the PW JT8D-200 series engines, and the older with spare engines may thus involve 382 engine units, the largest single engine order by a commercial airline.

The JT8D-200 series engines are the latest and most powerful versions of the JT8D family, the most widely used commercial jet engines in the world. The new units provide increased thrust, their fuel consumption is sharply reduced as is their emission level, and they lower airport noise by as much as 80 percent. With the present order 29 customers around the world will have ordered or is already operating MD-80 aircraft with P&W JT8D-200 engines.

Beyond the reassurance this order provides for Pratt & Whitney workers and management and for Connecticut industry in general, I hope it indicates a strong recovery in the airline industry after the painful slump of the past few years.

Mr. President, I wanted to share this piece of news with my colleagues to indicate that in spite of last month's temporary setback, Pratt & Whitney is and will remain the most experienced aircraft engine builder in the world. From its skilled workforce to top management they are determined to continue to provide our country with superior commercial and military aircraft engines.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notifications which have been received. The classified annexes referred to in several of the covering letters are available to Senators in the office of the Foreign Relations Committee, room SD-423.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., February 29, 1984.

In reply refer to I-00073/84.
Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 84-31 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $141 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL No. 84-31

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$86
Other	55
Total	141

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: A quantity of 400 basic Stinger air defense guided missile systems with 400 missiles, 800 additional missiles, support and training equipment, spare parts, and technical support.

(iv) Military department: Army (VFT).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending December 31, 1983.

(viii) Date report delivered to Congress: February 29, 1984.

POLICY JUSTIFICATION

SAUDI ARABIA—STINGER SYSTEMS AND MISSILE ROUNDS

The Government of Saudi Arabia has requested the purchase of a quantity of 400 basic Stinger air defense guided missile systems with 400 missiles, 800 additional missiles, support and training equipment, spare parts, and technical support at an estimated cost of $141 million.

This sale is consistent with the U.S. policy of assisting other nations to provide for their own security and self-defense by allowing the transfer of reasonable amounts of defense articles and services. Saudi Arabia's strategic location on the Arabian Peninsula and its role as a major oil producer require a modern defense force capable of ensuring the nation's security. The sale will demostrate the continuing willingness of the United States to support the Saudi Arabian effort to improve the security of the country while acting as a force for moderation in the region.

The Stinger systems and missile rounds will be used in the ongoing modernization program of the Saudi Arabian Land Forces (SALF) by enhancing their low level air defense capability. The SALF will have no difficulty in absorbing these items.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Pomona Division of the General Dynamics Corporation of Pomona, California.

Implementation of this sale will most probably require the assignment of additional U.S. Government personnel and contractor representatives to Saudi Arabia; however, the number of individuals and the duration of stay have not been determined at this time.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 1, 1984.

In reply refer to I-00999/84ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 84-32 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Jordan for defense articles and services estimated to cost $133 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

[TRANSMITTAL No. 84-32]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Jordan.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$121
Other	12
Total	33

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: A quantity of 315 basic STINGER air defense guided missile systems with 315 missiles, 1,298 additional missiles, associated training and support equipment, spare, parts, support, and training.

(iv) Military department: Army (VGX and OBL).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid:

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Case not included in Section 28 report.

(viii) Date report delivered to Congress: March 1, 1984.

POLICY JUSTIFICATION

JORDAN—STINGER AIR DEFENSE GUIDED MISSILE SYSTEMS AND MISSILES

The Government of Jordan (GOJ) has requested the purchase of a quantity of 315 basic Stinger air defense guided missile systems with 315 missiles, 1,298 additional missiles, associated training and support equipment, spare parts, support, and training at an estimated cost of $133 million.

This proposed sale will further U.S. foreign policy objectives by assisting a friendly country to deter aggression and defend itself in a region where it is vital to U.S. interests to reduce the probability of conflict and to promote peace and stability. Jordanian support for the peace process is considered essential in order to produce a just and lasting solution of the Arab-Israeli conflict. The sale will assist Jordan in meeting its legitimate defense requirements and reaffirm to the Jordanian military and political leadership that the United States is responsive to the priority modernization objectives of the Jordanian Armed Forces. This modernization effort is consistent with U.S. views of Jordanian security needs.

This proposed sale is the increment of Jordan's air defense modernization program in which the Stinger systems will replace the Jordanian Armed Forces' aging Redeye systems as the low altitude air defense component. The systems will be delivered to Jordan in approximately the next three years and the missiles will be delivered over the next three to six years. The Jordanian Armed Forces will require training and logistical support but can readily absorb these weapon systems.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Pomona Division of the General Dynamics Corporation of Pomona, California.

Implementation of this sale will require the assignment of two additional U.S. Government personnel to Jordan for 15 days.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

SWIMMING UPSTREAM

● Mr. HEINZ. Mr. President, I would like to bring to the attention of my colleagues a speech given by Richard P. Simmons of Allegheny Ludlum Steel Corp., before the Econonic Club in early January. Allegheny Ludlum Steel is America's largest freestanding specialty steel corporation and is one of the industry's most productive, efficient, and technologically advanced. Despite problems due to foreign subsidized imports, rising electricity costs, and falling prices for key products during the last 3 years, Allegheny has been profitable and has achieved a return on capital which exceeds that of most manufacturing companies in the United States. The Allegheny Ludlum Steel experience is a glimmer of hope in an industry that is presently experiencing many difficulties.

Mr. Simmons' remarks offer a great deal of insight into the ingredients necessary for success in today's domestic, as well as increasingly competitive, international marketplace. For this reason, I ask that his remarks be included at this point in the RECORD.

The remarks follow:

SWIMMING UPSTREAM—A BOLD AND CHALLENGING COURSE

(By Richard P. Simmons)

I'm not here to talk about imports today—this doesn't mean that my company and my industry are not still being injured by subsidized and dumped foreign specialty steel. We are, in fact, this week we will file another dumping case aganist the Spanish who have doubled their exports to the United States last year at dumping margins of more than 40 percent. Import levels for our products are, in total, increasing.

But I'm no here to talk about imports.

Nor am I here today to discuss the plight of the carbon steel industry, notwithstanding the tragedy facing the thousands of steelworkers and communities affected. Let me say only that those experts, economists, and analysts who attribute the closing of steel plants this past year solely to the wages of steelworkers miss the point. The closings which have occurred and which sadly will continue to occur reflect a structural change in our economy. The U.S. economy no longer needs 25 million tons of capacity that is in place and the least efficient plants are being closed. To attribute the problem solely or even primarily to employment costs is a bad rap. It is a factor. Our employment costs are very high—and such costs reduce our ability to invest in new modern facilities, but if the economy does not need and will not need a significant amount of existing capacity over the long term—then wages become irrelevant. Even imports if reduced to the level called for in legislation proposed by the industry (15 percent) would not prevent most of these plants from closing. They are the oldest and the least able to compete. If wages are to be identified as the culprit, let's throw in government policy over two decades as well as less than adequate management which did not invest, which negotiated contracts allowing benefits to skyrocket. Surely, there is enough blame for all to share.

But I'm not here to talk about the carbon steel industry.

I'm here to discuss a spill over effect caused by the plight of the carbon steel industry and its effects on another segment of the steel industry—the high technology segment—the specialty steel industry. I'm here today to address the question, "Would you recommend the steel industry as a career to your son or daughter."

If you believe as strongly as I do that our future—our success or lack of it—our ability to prosper will inevitably be determined by the talents, the skills, the motivation, the commitment of our people; and if because of the general perception—if because of the general despair—if indeed the nation has given up on steel—and more important to me—given up on specialty steel as well—then we will not be able to continue to attract the bright, the talented, the creative, and the innovative people we continue to need so desperately if we are to continue to succeed.

Peter Drucker in a Wall Street Journal article (December 30) said and I quote.

"The most important requirement is to maintain and indeed to improve the quality of the human resource and especially the professional and managerial groups. Once a company or an industry ceases to attract and to hold competent people, dry rot has set in; and the resulting long-term decline is exceedingly difficult to reverse."

To that statement by Peter Drucker, a respected observer of business—I say, Amen—and that is what I would like to address today.

Three years and two weeks ago, a group of investors and senior managers at Allegheny Ludlum Steel set out on a bold and challenging course. We bought a specialty steel company. Those who have embraced the concept of conglomeration by whatever name, might well and some did describe our course as "foolish" not "bold" and "naive" not "challenging." The Boston Consultants would have described our company as a "cash cow" at best and a "dog" at worst in their simplistic way of examining and designating businesses. In effect, such consultants say that the success of any venture is not determined, by the skill, the strategies, the dedication and the commitment of the management and the employees. Instead they believe that success is dictated by some higher power, by the luck of the draw—by the very nature of the markets served, the prospective growth of those markets and the share of those markets one has. The Boston consultants would not have viewed our future with optimism. We were in the wrong industry at the wrong time. No amount of skill could surmount the immutable laws they promote.

Nevertheless, we embarked on our bold and challenging course, dedicating ourselves to specialty steel—no other business and with the belief that if we could be the very best at what we do, we could succeed; that we could provide secure employment to our employees; that we could continue to be the major employer in the communities where our plants are located; that we could offer challenging and rewarding careers to the over 600 college graduates who have cast their lot with us; and finally, that the investment would produce a fair return for the risk incurred.

We have come through the worst economic period since the Great Depression. The economic news for many steel companies remains bleak. Tens of thousands of hourly and salaried workers have lost their jobs permanently. And so for this reason, I think it appropriate that we at Allegheny Ludlum Steel report to our communities, to our employees and to our interested friends how we have fared during the past 3 years—if for no other reason than to provide hope where there appears to be nothing but despair.

Understandably, the fate of Allegheny Ludlum Steel is of far less significance to you than it is to 5,500 employees it supports. At $675 million in sales, $400 million in assets and $235 million in wages and benefits, we are tiny when compared to U.S. Steel. Our message, however, has greater significance than the parochial experience of a single company in this macroworld of economics and business. I believe there are lessons here which have far greater importance than the mere fact of our survival—and our success. And it is appropriate that we report after a period of economic difficulty difficult to match in modern business history. How do we look after the 3 toughest years in the history of our industry?

At Allegheny Ludlum we too have been faced with the ongoing injury of subsidized imports which have sapped the energy of many specialty steel companies for over 15 years. At our company we have been faced with the collapse of our markets related to electric power consumption which in 1983, compared to peak years cost Allegheny Ludlum nearly $200 million in sales of our most profitable product lines. We have had to cope, like other producers, with the decline of the economy—and we too have been faced with structural changes in the economy which have resulted in wrenching changes to our industry and to the markets we serve. We are even forced to compete with one U.S. specialty steel company which has more than a $5 an hour labor advantage. In other words, we, like others and more than most have been faced with all the ingredients for disaster.

In spite of all of this, I am pleased to report that we have achieved all the goals we set out to achieve 3 years ago and more even than we dared hope. Our sales in 1983 increased by nearly $100 million to $675 million nearly erasing the decline of 1982. We have remained profitable during the entire 3-year period.

We have reinvested our earnings in increased research at a rate four or five times the rate of most of our competition. We have reinvested in new and more efficient facilities. We have continued to recruit talented scientists, engineers, and other college graduates with our continuing commitment to the future. And I am pleased to report that all but approximately 100 hourly employees are back at work.

We have improved productivity by nearly 35 percent since 1978. We have reduced unit labor costs—the factor which measures productivity—by 25 percent even though prices for key products fell during the past 3 years.

We have reduced debt as a percent of total capital from 65 percent to under 40 percent today. And if overall financial performance is measured by return on capital employed, at over 15 percent we have exceeded most manufacturing companies during this period including so called diversified corporations, even though we continue to be injured by subsidized imports. Certainly we have exceeded the performance of nearly all—if not all—steel companies which report their results including the so-called minimills and our foreign competitors. In spite of the fact that prices for standard grades of stainless are lower than they were 3 years ago.

In other words, we believe we are a success story when conventional wisdom predicted we would fail. And I should add that there are other specialty steel companies in the United States which are also successful; successful when even Japanese specialty steel competitors are reporting losses and our European competitors are, effectively, bankrupt.

Why should a private company like Allegheny Ludlum reveal any of its financial results? Isn't that one of the advantages of being private? Are we attempting, simply, to brag? The answer is equally simple. As the largest free standing specialty steel company in the United States, we are deeply troubled to read continually of our industry's inability to compete—of the perceived technological obsolescence; of perceived inefficiency. We are troubled by the statements of those who claim to be experts in our field who relegate us to the dustbin of economic past; an industry whose time has come and gone in the grand sweep of macroeconomics and post industrial economies. We are troubled as we perceive a nation which has given up on us. Indeed, we are troubled by some in our industry who appear to have given up on themselves.

We are troubled when we are bombarded by every form of media anxious to witness and report our demise. We are deeply troubled when we consider the question, "Would you recommend specialty steel as a career to your son or daughter."

For the benefit of those who have written us off let me say loud and clear that in specialty steel, the U.S. industry in general and Allegheny Ludlum Steel in particular is productive, efficient, technologically advanced, and the past 3 years proves we can compete with any industry in the world if—and this a big if—our competition must meet a discipline of profit and capital formation.

But why we are successful is the more important story. This is the second reason for speaking out—even though we are a private company. It is time for someone to challenge the popular business beliefs that thus far have gone unchallenged. In examining the question "why" there may be some lessons with a broader significance.

In this my 13th year in business I find it puzzling when I reflect on the conventional wisdom which has been promoted and generally accepted over the past two decades. I have witnessed and interfaced with many new and seductively attractive business fads.

I have witnessed the fad of strategic planning in the sixties and seventies which, decreed 15 percent compounded earning growth and kept computers humming as they compounded, division by division ad infinitum and ad waste of time. I have witnessed in two decades three waves of conglomeration—now called diversification—followed by deconglomeration now euphemistically referred to as focused diversification.

I have witnessed the delegation syndrome which said that senior management should have a clean desk and not involve itself in the day-to-day workings of the business lest it divert itself from its main purpose—that of planning for the future—as though deep involvement in the daily affairs of one's business by senior management and strategic planning are mutually exclusive.

I have witnessed the era of one function or another as being most important—the era to technology, marketing, finance, or production each having its turn, as though function is more important than talent. I have witnessed the quick fix era of recent years when many companies believed that a single individual, in a matter of months could wrench dramatic and lasting changes reversing the course of years, perhaps decades of poor management and poor strategies.

And I could go on but I hope you hear what I am attempting to say. Business, in my opinion, is no more or less than a reflection of the society in which it exists. Sadly and all too frequently in past years, business has adopted the worst, the most artificial values of that society.

At Allegheny Ludlum, our success, if you will accept 15 percent return on capital employed as reasonable evidence that we have achieved some small measure of success in these difficult times, did not result from pursuing popular business fads. It is not what we have done for the past 3 years that has produced this measure of success. Rather it is what we have been doing for over 10 years. And we have not done anything unique. Perhaps for that reason alone this report has significance.

Most important, at Allegheny Ludlum we are all—every one of us—deeply involved in our business. We have pursued excellence, efficiency and change with a vengeance—and we are not satisfied with the results even though the results are noteworthy. It was the early 1970's when we began to consolidate staff by combining plants—a violation of conventional wisdom. We relocated staff from corporate to division locations eliminating the traditional hierarchical triangles which popular wisdom, the Harvard Business School and every consulting company in the country said we had to have. We put people where the action was, eliminating the unnecessary. We eliminated nearly forty percent of our salaried staff but we took 12 years to do it. We designed them and we increased creative staff to help increase our velocity of change.

We said, over 10 years ago, that our business tremendously complex, unlike tonnage steel, with over 20,000 process and grade combinations, had to be decentralized—and so we set up profitability groups with the tactical responsibility for each product we produce. Today such interfunctional concepts are referred to popularly as matrix management.

In order to provide the necessary product cost information to these tactical groups we worked for 5 years with great patience to develop the most comprehensive cost system in the world permitting us to product cost every individual item we produce, by grade, by customer, and by product. We gave our operating management weekly not monthly cost reports for every production unit in each department and provided variances to standard for productivity for spending and for yields of metal and for quality losses. Today all these systems are given new and exciting names by the business press.

We developed "windows" within product lines identifying the most desirable products within a given product line and among product lines. Today such concepts are referred to as "market segmentation."

We manage at the margin level and we delegate at the margin level and we have for 10 years. We allocate assets to each profitability group and charge them for the controllable assets utilized in their product business. In this way, even in a monolithic type business, we develop broad management skills at several management levels below the top. We involve and include as many people as possible in running our company.

We began a major capital program in 1975 to install state of the art technologies. We began productivity improvement programs at the same time to reduce the effect of hourly employment costs which increased so greatly over the past decade. That's another way of saying we began to manage better—and we improved productivity by nearly 35 percent.

(And) let me digress for a moment and comment on the popular wisdom from most industry "experts"—and that term is used with sarcasm—if you missed the inflection. I have never understood those who claim that hourly employment costs are the only reason that U.S. producers cannot compete with foriegn producers. Our employment costs are indeed high, higher than most—I wish they were lower. But the real issue is unit labor costs which factors productivity into the equation. And productivity is a management responsibility. At our company we believe, if we have productivity problems, we have management problems—not worker problems. And in our product lines most impacted by imports, interesting to me at least, labor is one of the smaller components of total cost not insignificant, but smaller. For stainless steel sheet, efficiently produced, unit labor costs only represent approximately ten percent of the sales dollar. If labor costs gave our foreign competitors such an edge as "experts" allege, why do our foreign competitors concentrate so often on low labor intensive products instead of many other high labor intensive Specialty Steel products.

Labor as an element of cost is one of roughly 25 factors which affect profitability. While very important, there are others equally important. I must admit we would be severely handicapped if forced to compete over time if other domestic companies have significantly lower employment costs—as at least one does. But the tendency of some to blame our problems solely and exclusively on labor costs is simply not true. It is an excuse for poor management.

One of the most insidious aspects of imports is the growth of our markets lost to imports. This loss of growth eliminates new employment opportunities to replace those eliminated through new technologies and efficiency improvements. Who amongst this audience would be anxious to help us improve productivity if their own job was at stake. Thus, imports have made our efforts at improving productivity and efficiency far more difficult. Yet at Allegheny Ludlum, our employees have cooperated—on balance—remarkably well. We are pleased to report that we have begun, starting January 1st, to restore the concessions made by both hourly and salaried workers last year.

We develop an annual business plan both from the bottom up and the top down. To support the business plan, we develop goals, and identify hundreds of critical issues which will impact goal achievement, assigned to individuals at all levels of management including senior management. We all get together quarterly to measure achievement. We believe that to manage we must measure. This is called accountability and responsibility in today's world of "catch words and slogans."

Yet nothing we do is very novel or very unique. There is nothing we have done which would allow us to claim superiority over anyone else or any other organization—and we do not. And, frankly, we are not satisfied with our performance. We know how much better we can be. We know how much better we must be.

Mostly we have persevered over a long period of time with continuity of management, with patience to wait for systems to be developed and implemented; with ongoing dedication to simple goals and purposes.

We have always believed that if we pursued the goal of being a low cost producer; of understanding our business; of developing the systems to permit us to measure our performance on a current basis; of nurturing innovation; of seeking the best people we can find—that we would survive and prosper. (And) while we may not be as prosperous as we intend to become, the past three years confirm, to our satisfaction, that we are on the right track.

What we try to do and try to practice is fundamental blocking and tackling. It is execution of tactics and strategies that are, hopefully, well thought out. But it is also creativity and innovation after the fundamentals are mastered. And if you were to visit our plants or our Research Center, you would see what I have described. You would see us continuously casting specialty steels not being cast anyplace else in the world. You would see us computer modeling our processes to improve them even further. You would see our scientists and engineers and production managers interrelating with a common objective—doing better. You would be hard pressed to convince them they are in a dying industry . . . a dying company.

Frequently I am asked whether we manage differently now that we are not part of a large diversified corporation. Those that ask, I know, would like to hear me say how much better we manage now that we are free of the parent. But that just isn't true. We manage exactly as we have in the past. The systems are systems we developed while part of the larger corporation. The results of the past three years were built on the foundations we developed over ten years.

Yes, there is an intangible but significant difference now that we are free standing. We no longer think of ourselves as a "Cash Cow" or a "dog" in Boston Consulting lingo. The entire organization has a much higher opinion of itself now that we do not have a parent which had given up on the specialty steel business. I don't know how to place a value on that—but value it has.

There is a common value we share, a common culture, a common ethic. This common commitment and sacrifice had a material effect on our 1983 profits. We have matched that sacrifice at all levels in the company over the past two years and have fulfilled the commitment we made, in return, by reinvesting more than all of the savings achieved in new facilities, in increased research and development and in improving the financial strength of the company to insure that we survive and prosper.

We have our own language at Allegheny Ludlum. We talk about Velocity of change (or V of C). To us it is not enough to get better. We have to get better faster than our domestic and our world competitors. We need only remind ourselves that Crucible Steel was our largest single stainless steel competitor five years ago . . . and was more efficient than Allegheny Ludlum. We don't just talk about profit. We talk about margins, product velocity, return on direct cost (RODC), return on controllable assets-by product . . . and these aren't just slogans to be used and forgotten. They are an intrinsic part of the business process with timely reports to support and measure the execution of each concept.

There is a final reason for "going public" today. It is to permit me to salute the 5,500 employees who are responsible for our success and to salute the management which has nurtured and supported the development of the simple management style I have described. They have accomplished a great deal in a difficult environment and they have every reason to be proud of what they have accomplished. I have told them and I say to you and to anyone who will listen, I am proud of them and for them in a world that seems to think that the American steel industry is dead or dying.

(And) as we look ahead never before have we seen so many opportunities. We are displacing other metals on autos—contrary to the predictions of "experts"—and we are doing so because the relative price of stainless steel has increased at one fifth the rate of increase of aluminum and carbon steel over a fifteen year period. In real terms prices of commodity grades of stainless steel sheet have declined by forty percent in eight years. We are finding new and meaningful applications for our products as durability and long life once again become virtues in this society. We are working on new technologies to produce our products which are close to fruition . . . techlnologies as exciting as anything else we have ever seen. Record sales in 1984 is a very real possibility. I have never been so optimistic about the future.

Nevertheless, we recognize clearly that success is fragile. We recognize also that luck is a vital ingredient in any company's success. We know that external events may occur which are difficult or impossible to overcome. But we believe with equal clarity that if we continue to pursue simple disciplines if we continue to share common goals; that we will survive and prosper if anyone does.

If I have a single fear it is from those companies outside the U.S. playing by rules so different that it matters not how efficient we are, how technologically advance, how well we manage or how much our employees cooperate. Knowing we can be driven out of business, not by more efficient companies, but by less efficient companies, not constrained by our disciplines is not a comforting thought. The playing field is clearly nolt level in competition with most of the world.

But this problem is a "given" in this world of unfair trade. So we continue to dedicate our company, once again for our customers to hear, our communities to see and our employees to witness. We are dedicated to Specialty Steel—no other business. We will continue to strive to be the best at what we do. We have no interest in diversifying away from what we know. We have no plans to bet on all the horses in each race in order to be sure there is at least one winner. We reject the latest fad that says diversification is the wave of the future. Perhaps it may be for others. But it is not for us. We have the discipline and the confidence to bet all the chips on a single horse, nurturing it, feeding it, and racing it—with the knowledge that it has carried us well thus far.

Yes, we have been swimming upstream against the popular and conventional wisdom that said we could not succeed. Yet, we and others in Specialty Steel have proven that wisdom wrong—and we intend to continue to prove it wrong. Our slogan, "We are dedicated to quality Specialty Steel and we are proud of it." says it all . . . says what we are all about.

And I hope that if you are asked if you would recommend Specialty Steel as a career that you are able to say—I know one company I would.●

STUDENT AWARENESS OF DRUNK DRIVING MONTH

● Mr. D'AMATO. Mr. President, I rise today to add my name to those of my distinguished colleagues as a cosponsor of S.J. Res. 222, which would designate the month of June 1984 as "Student Awareness of Drunk Driving Month."

It is a tragic fact that each year thousands of this Nation's young people are killed in automobile accidents involving drunk drivers. The magnitude of this loss is inestimable in its personal effect on our families and friends and is incalculable in terms of lost talent and potential for America's future.

America has long had a love affair with the automobile, but we are beginning to realize that the same vehicles which enable us to commute to work, attend to our daily chores, and enjoy the vast and diverse beauty of our landscape are also instrumentalities of death and maiming injury when used while under the influence of alcohol. It is crucial that we reeducate ourselves about drinking and driving and also make a special effort to instill in young people a proper respect for the power of alcohol to deteriorate driving skills. I believe that Congress can help secure this goal by drawing national attention to the problem during a legislatively recognized period. It is my hope, therefore, that the beneficial results of "Student Awareness of Drunk Driving Month" will extend well beyond the month of June 1984.●

REMOVAL OF INJUNCTION OF SECRECY—CONVENTION WITH FRANCE ON THE TRANSFER OF SENTENCED PERSONS, TREATY DOCUMENT NO. 98-15

Mr. STEVENS. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention with France on the Transfer of Sentenced Persons (Treaty Document No. 98-15), transmitted to the Senate today by the President of the United States.

I also ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention Between the United States of America and France on the Transfer of Sentenced Persons, which was signed at Washington on January 25, 1983.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the treaty.

The Convention would permit citizens of either nation who had been convicted in the courts of the other country to serve their sentences in their home country; in each case the consent of the offender as well as the approval of the authorities of the two Governments would be required.

This Convention is significant because it represents an attempt to resolve a situation which has inflicted substantial hardships on a number of citizens of each country and has caused concern to both Governments. The treaty is similar to those currently in force with Bolivia, Canada, Mexico, Panama, Peru and Turkey. I recommend that the Senate give favorable consideration to this Convention at an early date.

RONALD REAGAN.

THE WHITE HOUSE, *March 1, 1984.*

BILL PLACED ON CALENDAR—H.R. 4957

Mr. STEVENS. Mr. President, I ask unanimous consent that H.R. 4957, a bill to apportion certain funds for construction of the National System of Interstate and Defense Highways for fiscal year 1985 and to increase the amount authorized to be expended for emergency relief under title 23, United States Code, and for other purposes, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

WOMEN'S HISTORY WEEK

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate turn to consideration of House Joint Resolution 422, Women's History Week.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The joint resolution will be stated by title.

The legislative clerk read as follows:

A House Joint Resolution (H.J. Res. 422) designating the week beginning March 4, 1984, as Women's History Week.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the first and second times by title.

Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 422) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIVIL SERVICE AMENDMENTS OF 1984

Mr. STEVENS. I ask unanimous consent that the Chair lay before the Senate Calendar Order No. 646, S. 958.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill.

The legislative clerk read as follows:

A bill (S. 958) to amend chapter 54 of title 5, United States Code, to reform the merit pay system.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs with an amendment to strike all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Service Amendments of 1984".

TITLE I—PAY FOR PERFORMANCE; SENIOR EXECUTIVE SERVICE MANAGEMENT

PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

SEC. 101. (a) Chapter 54 of title 5, United States Code, is amended to read as follows:

"CHAPTER 54—PERFORMANCE RECOGNITION

"Sec.
"5401. Purpose.
"5402. Coverage.
"5403. Performance management and recognition system.
"5404. Cash award program.
"5405. Report.
"5406. Regulations.
"5407. Termination.

"§ 5401. Purpose

"It is the purpose of this chapter to provide for a performance management and recognition system which shall—

"(1) use performance appraisals as the basis for determining basic pay and performance awards;

"(2) within available funds, recognize and reward quality performance by varying levels of performance awards;

"(3) within available funds, provide for training to improve accuracy and fairness in the evaluation of performance;

"(4) regulate the costs of performance awards by establishing funding level restrictions; and

"(5) provide the means to reduce or withhold pay increases for less than fully successful performance.

"§ 5402. Coverage

"(a) Except as provided in subsections (b) and (c), this chapter shall apply to any supervisor or management official (as defined in paragraphs (10) and (11) of section 7103 of this title, respectively) who is in a position which is in GS-13, GS-14, or GS-15 of the General Schedule described in section 5104 of this title.

"(b)(1) Upon request filed under paragraph (3) of this subsection, the President may, in writing, exclude an agency, any unit of an agency, or any class of employees within any such unit from the application of this chapter if the President considers such exclusion to be required as a result of conditions arising from—

"(A) the recent establishment of the agency, unit, or class, or the implementation of a new program,

"(B) an emergency situation; or

"(C) any other situation or circumstance.

"(2) Any exclusion under this subsection shall not take effect earlier than 30 calendar days after the President transmits to each House of the Congress a report describing the agency, unit, or class to be excluded and the reasons therefor.

"(3) A request for exclusion of an agency, any unit of an agency, or any class of employees within any such unit under this subsection shall be filed by the head of the agency with the Office of Personnel Management, and shall set forth reasons why the agency, unit, or class should be excluded from the application of this chapter. The Office of Personnel Management shall review the request and reasons therefor, undertake such other review as it considers appropriate to determine whether the agency, unit, or class should be excluded from the application of this chapter, and upon completion of its review, recommend to the President whether the agency, unit, or class should be so excluded.

"(4) Any agency, unit, or class which is excluded pursuant to this subsection shall, insofar as practicable, make a sustained effort to eliminate the conditions on which the exclusion is based.

"(5) The Office of Personnel Management shall periodically review any exclusion from coverage and may at any time recommend to the President that an exclusion under this subsection be revoked. The President may at any time revoke, in writing, any exclusion under this subsection.

"(c) This chapter shall not apply to individuals employed under the Office of the Architect of the Capitol, the Library of Congress, the Botanic Garden, or the Administrative Office of the Courts.

"§ 5403. Performance management and recognition system

"(a) In accordance with the purpose set forth in section 5401 of this title, the Office of Personnel Management shall establish a performance management and recognition system which shall provide for—

"(1) a range of basic pay for each grade to which the system applies, which range shall be limited by the minimum and maximum rates of basic pay payable for each grade under section 5332 of this title, except as otherwise provided in this section;

"(2) pay increases within such range, consisting of—

"(A) comparability pay increases (under section 5305 of this title) to the extent provided in subsection (c); and

"(B) periodic step-increases, as provided under subsection (d),

based on performance; and

"(3) performance awards based on performance, as provided under subsection (e).

"(b) Under regulations prescribed by the Office of Personnel Management, the head of each agency shall provide for increases within the range of basic pay for each employee covered by the performance management and recognition system.

"(c)(1) For the purposes of this subsection, the pay adjustment period applicable to an employee in any fiscal year shall be the period beginning on the first day of the first pay period applicable to the employee commencing on or after the first day of the month in which an adjustment would take effect under section 5305 of this title without regard to this section and ending at the close of the day preceding the beginning of the following pay adjustment period.

"(2) Determinations to provide comparability pay increases under subsection (a)(2) shall, for any pay adjustment period, be made based on the level of performance of the employee involved, as most recently determined under chapter 43 of this title. If the employee's performance is rated at—

"(A) either of the 2 levels below the fully successful level, the basic pay for the employee shall not be increased for such pay adjustment period except as provided in paragraph (3); or

"(B) the fully successful level or either of the 2 levels above fully successful, the basic pay of the employee shall be increased by the full comparability increase for such pay adjustment period.

"(3) If the basic pay of an employee is not increased for a pay adjustment period by reason of a performance rating at the first level below the fully successful level, the performance of such employee shall be rated again under chapter 43 of this title only for the purposes of this subsection 6 months after the date on which such pay adjustment period begins. If the performance of such employee during such period of 6 months is rated at the fully successful level or either of the 2 levels above the fully successful level, the basic pay of such employee shall be increased for the remainder of such pay adjustment period effective on the date of the performance rating required by the first sentence of this paragraph.

"(4)(A) The comparability increase, for purposes of paragraph (2) or (3) of this subsection, shall be an amount equal to the basic pay of the employee involved multiplied by the percentage increase applicable to the grade of the position of such employee under section 5305 of this title at the beginning of the pay adjustment period.

"(B) For the purposes of determining the comparability increase applicable to an employee under subparagraph (A), such employee's rate of basic pay on the day immediately preceding the pay adjustment period involved shall be used.

"(d) An employee covered by this chapter shall receive periodic step-increases upon the completion of—

"(1) each period of 52 calendar weeks of service in pay rates 1, 2, and 3 if the per-

formance of such service is rated under chapter 43 of this title for such period at not less than the fully successful level; and

"(2)(A) each period of 52 calendar weeks of service in pay rates 4 through 9 if the performance of such service is rated under such chapter 2 levels above the fully successful level;

"(B) each period of 104 consecutive calendar weeks of service in pay rates 4 through 9 if the performance of such service is rated under such chapter at not less than 1 level above the fully successful level for the entire period; or

"(C) each period of 156 consecutive calendar weeks of service in pay rates 4 through 9 if the performance of such service is rated under such chapter at not less than the fully successful level for the entire period.

"(e)(1)(A) If an employee's performance is rated 2 levels above the fully successful level, the employee shall be paid a performance award in accordance with the provisions of this subsection.

"(B) If an employee's performance is rated 1 level above the fully successful level, the employee may be paid a performance award in accordance with the provisions of this subsection.

"(C) Any award paid under this paragraph shall be in addition to any increase in basic pay provided under subsection (c) or (d).

"(2) A performance award under this subsection may be made to an employee in such amount as the head of the agency considers appropriate, except that any such award may not exceed an amount equal to 20 percent of the rate of basic pay payable to such employee.

"(3)(A) For any fiscal year, the head of any agency may exercise authority under this subsection only to the extent of the funds available for the purposes of this subsection.

"(B) Performance awards under this subsection shall be paid from funds or appropriations available to the agency for pay of employees.

"(C) Subject to the limitation on the maximum amount which may be paid as a performance award set forth in paragraph (2) of this subsection, in each fiscal year an agency shall pay performance awards under this subsection in a total amount equal to not less than 1 percent of the aggregate amount of basic pay which is payable to the employees of the agency who are covered by the performance management and recognition system for such fiscal year. The aggregate amount of performance awards payable under this subsection in any fiscal year shall be determined by the Office of Personnel Management before the beginning of such fiscal year.

"(4) A failure to pay a performance award authorized by paragraph (1)(B) of this subsection may not be appealed.

"(f) Except as provided in subsection (g) of this section, any employee whose position is brought under the performance management and recognition system shall, for as long as the employee continues to occupy the position, be entitled to receive basic pay at a rate of basic pay not less than the rate the employee was receiving when the position was brought under the performance management and recognition system.

"(g) under this section, an employee may be paid less than the minimum rate of basic pay of the grade of the employee's position to the extent that payment of the lesser amount is the result of a performance evaluation of less than fully successful.

"(h) Under regulations prescribed by the Office of Personnel Management, the benefit of advancement through the range of basic pay for a grade shall be preserved for any employee who is covered by the performance management and recognition system and whose continuous service is interrupted in the public interest by service in the Armed Forces, or by service in essential non-Government civilian employment during a period of war or national emergency.

"(i) For the purpose of section 5941 of this title, rates of basic pay of employees covered by the performance management and recognition system shall be considered rates of basic pay fixed by statute.

"§5404. Cash award program

"(a) The head of any agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the performance management and recognition system who—

"(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs a special act or service in the public interest in connection with or related to the employee's Federal employment.

"(b) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the performance management and recognition system who—

"(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to the employee's Federal employment.

A Presidential cash award may be in addition to an agency cash award under subsection (a) of this section.

"(c) A cash award to any employee under this section is in addition to the basic pay of the employee under section 5403 of this title. Acceptance of a cash award under this section constitutes an agreement that the use by the Government of any idea, method, or device for which the award is made does not form the basis of any claim of any nature against the Government by the employee accepting the award, or the employee's heirs or assigns.

"(d) A cash award to, and expenses for the honorary recognition of, any employee covered by the performance management and recognition system may be paid from the fund or appropriation available to the activity primarily benefiting, or the various activities benefiting, from the suggestion, invention, superior accomplishment, or other meritorious effort of the employee. The head of the agency concerned shall determine the amount to be contributed by each activity to any agency cash award under subsection (a) of this section. The President shall determine the amount to be contributed by each activity to a Presidential award under subsection (b) of this section.

"(e)(1) Except as provided in paragraph (2) of this subsection, a cash award under this section may not exceed $10,000.

"(2) If the head of any agency certifies to the Office of Personnel Management that the suggestion, invention, superior accomplishment or other meritorious effort of an employee for which a cash award is proposed is highly exceptional and unusually outstanding, a cash award in excess of $10,000 but not in excess of $25,000 may be awarded to the employee on the approval of the Office.

"(f) The President or the head of an agency may pay a cash award under this section notwithstanding the death or separation from the service of an employee, if the suggestion, invention, superior acomplishment, or other meritorious effort of the employee for which the award is proposed was made or performed while the employee was covered by the performance management and recognition system.

"§ 5405. Report

"The Office of Personnel Management shall submit an annual report to the President and each House of Congress evaluating the effectiveness of the performance management and recognition system. Each such report shall be prepared after consultation with the respective heads of a sufficient range of agencies so as to permit an adequate basis for making a meaningful evaluation.

"§ 5406. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.

"§ 5407. Termination.

"The performance management and recognition system established pursuant to section 5403 of this title and the requirement of section 5405 of this title (relating to the annual report of the Office of Personnel Management on such system) shall not be effective after the date which is 5 years after the date of enactment of the Merit Pay Reform Act of 1983.".

(b) The table of chapters at the beginning of part III of such title is amended by striking out the item relating to chapter 54 and inserting in lieu thereof the following:

"54. Performance Recognition .... 5401".

PERIODIC STEP INCREASES

SEC. 102. Section 5335 of title 5, United States Code, is amended by striking out subsection (e) and inserting in lieu thereof the following:

"(e) This section does not apply to the pay of an individual appointed by the President, by and with the advice and consent of the Senate.

"(f) Notwithstanding clauses (1), (2), and (3) of subsection (a) of this section, employees covered by the performance management and recognition system under chapter 54 of this title shall be advanced in pay only as provided in section 5403(d) of this title.".

PERFORMANCE APPRAISAL SYSTEM

SEC. 103. (a) Chapter 43 of title 5, United States Code, relating to performance appraisals, is amended by inserting after section 4302 the following new section:

"§ 4302a. Establishment of performance appraisal systems for performance management and recognition system employees

"(a) Each agency shall develop a performance appraisal system for employees covered by the performance management and recognition system established under section 5403 of this title which—

"(1) provides for periodic appraisals of job performance;

"(2) requires that the supervising official consult with the employee before establishing performance standards; and

"(3) is suitable for use in setting the basic pay and performance awards for an employee in accordance with section 5403 of this title.

"(b) Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system under this section shall—

"(1) provide for 5 levels of performance ratings as follows:

"(A) 2 levels which are below fully successful;

"(B) a fully successful level; and

"(C) 2 levels which are above fully successful;

"(2) provide for establishing performance standards and critical elements which will, to the maximum extent feasible, permit the accurate evaluation of job performance;

"(3) require each supervisor of an employee covered by the performance management and recognition system to discuss with each such employee, before the beginning of each appraisal period, the performance standards and critical elements applicable to the employee's position during such appraisal period;

"(4) provide for evaluating each such employee on the basis of such standards during the appraisal period;

"(5) provide for assisting such employees in improving less than fully successful performance;

"(6) provide for reducing in grade or removing any such employee who continually performs at the level which is 2 levels below the fully successful level, after providing an opportunity to perform at the fully successful level; and

"(7) provide for making decisions to increase a rate of basic pay or to make a performance award based on annual performance appraisals made under this section.

"(c)(1) Appraisals of performance under this section—

"(A) shall take into account—

"(i) individual performance;

"(ii) any improvement in efficiency, productivity, and quality of work or service, including any significant reduction in paperwork;

"(iii) cost efficiency;

"(iv) timeliness of performance; and

"(v) other indications of the effectiveness, productivity, and quality of performance of the appraised employee or other employees for whom the appraised employee is responsible;

"(B) may take into account organizational accomplishment; and

"(C) except as provided in paragraph (2) of this subsection, shall be subject to review only within the agency of the employee and only in accordance with and to the extent provided by procedures established by the Office of Personnel Management and may not be appealed outside the agency.

"(2) An employee whose performance is rated below the fully successful level is entitled to appeal the rating to the Merit Systems Protection Board.

"(3) If a review under paragraph (1)(C) of this subsection or an appeal under paragraph (2) of this subsection results in a higher performance rating, such rating supersedes the earlier rating and is deemed to have been made as of the date of the earlier rating.

"(d) In carrying out this section, the Office of Personnel Management and the agency may not prescribe a distribution of levels of performance ratings for employees covered by chapter 54 of this title.

"(e) The Office of Personnel Management may not prescribe or require agencies to prescribe any specific performance standard or element for the purposes of this section.".

(b) The table of sections for chapter 43 of such title is amended by inserting after the item relating to section 4302 the following new item:

"4302a. Establishment of performance appraisal systems for performance management and recognition system employees.".

SENIOR EXECUTIVE SERVICE AMENDMENTS

SEC. 104. (a) Section 3135(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of clause (8);

(2) by redesignating clause (9) as clause (10); and

(3) by inserting before clause (10) (as redesignated by clause (2) of this subsection) the following:

"(9) the number of career appointees who have been placed in a position outside the Senior Executive Service under section 3594 of this title as a result of a removal under section 3595 of this title; and".

(b) Section 3592(a) of such title is amended—

(1) by striking out "or" at the end of clause (1); and

(2) by inserting after clause (2) the following:

"(3) as a result of a reduction in force under section 3595 of this title,".

(c) Section 3593 of such title is amended by striking out subsection (c).

(d)(1) Subsection (b) of section 3594 of such title is amended to read as follows:

"(b) A career appointee who has completed the probationary period under section 3393(d) of this title and who—

"(1) is removed from the Senior Executive Service for less than fully successful executive performance as determined under subchapter II of chapter 43 of this title; or

"(2) is removed from the Senior Executive Service as a result of a reduction in force under section 3595 of this title,

shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.".

(2) Subsection (c)(1)(B) of such section is amended by striking out "subsection (a) or (b) of this section" the first place it appears and inserting in lieu thereof "subsection (a) of this section, other than by reason of unacceptable performance, or under subsection (b)(2) of this section".

(e) Subsection (b) of section 3595 of such title is amended by striking out paragraphs (2), (3), (4), and (5) and inserting in lieu thereof the following:

"(2) A career appointee may be removed from the Senior Executive Service due to a reduction in force within an agency only if the appointee is not assigned to a Senior Executive Service position under paragraph (3) of this subsection.

"(3) A career appointee who, but for this paragraph, would be removed from the Senior Executive Service due to a reduction in force within an agency is entitled to be assigned by the head of that agency to a vacant Senior Executive Service position for which the career appointee is qualified.".

(f)(1) Subchapter V of chapter 35 of such title is amended by adding at the end thereof the following new sections:

"§ 3597. Furlough in the Senior Executive Service

"(a) For the purposes of this section, the term 'furlough' means the placement of a senior executive in a temporary status in which the senior executive has no duties and is not paid when the placement in such status is by reason of insufficient work or funds or for other nondisciplinary reasons.

"(b) An agency may furlough a career appointee only pursuant to regulations issued by the Office of Personnel Management.

"(c) A career appointee who is furloughed is entitled to appeal his status to the Merit Systems Protection Board under section 7701 of this title.

"§ Reassignment notice

"The head of an agency reassigning any career appointee outside the career appointee's commuting area under this chapter shall transmit to the career appointee reasonable advance notice of the reassignment. The notice shall include a statement setting forth valid management reasons for the reassignment.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3596 the following new items:

"3597. Furlough in the Senior Executive Service.
"3598. Reassignment notice.".

(g)(1) Subsection (b)(2) of section 5384 of such title is amended by striking out "exceed" and inserting in lieu thereof "be less than 3 percent nor more than".

(2) Subsection (b)(3) of such section is amended to read as follows:

"(3) The total amount of performance awards paid during a fiscal year by an agency under this section may not exceed 3 percent of the aggregate payroll for career appointees in the agency.".

(h) Section 5383(b) of this title is repealed.

(i) Section 7543(a) of such title is amended by striking out "or malfeasance" and inserting in lieu thereof "malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function".

(j) The Office of Personnel Management shall, after notice and hearing, prescribe regulations to carry out section 3595 of such title (as amended by subsection (e) of this section).

(k) Subsection (d) of section 8335 of such title is amended by inserting after paragraph (1) the following: "For the purposes of paragraph (1) of this subsection, separation for failure to accept a directed reassignment or to accompany a position in a transfer of function shall not be considered to be a removal for cause on charges of misconduct or delinquency.".

MISCELLANEOUS CONFORMING AMENDMENTS

SEC. 105. (a) Title 5, United States Code, is further amended—

(1) in sections 4501(2)(A), 5332(a), 5334(f), 5335(e), and 5336(c), by striking out "the merit pay system established under section 5402" each place it appears and inserting in lieu thereof "the performance management and recognition system established under section 5403";

(2) in section 5361(5), by striking out "merit pay system" and inserting in lieu thereof "performance management and recognition system"; and

(3) in section 5948(g)(1)(C), by striking out "Merit Pay System" and inserting "performance management and recognition system".

(b) Section 1602 of title 10, United States Code, is amended by striking out "5401(a)" and inserting in lieu thereof "5401".

(c) Section 731(b) of title 31, United States Code, is amended by striking out "5401(a)" and inserting in lieu thereof "5401".

TITLE II—EFFECTIVE DATE; SAVINGS PROVISIONS

EFFECTIVE DATE

SEC. 201. The amendments made by sections 101 and 105 of this Act shall take effect *on the first day of the first applicable pay period commencing after the first September 30 following the date of the enactment of this Act.*

SAVINGS PROVISIONS

Sec. 202. (a) An employee whose position was covered by the merit pay system (under chapter 54 of title 5, United States Code, as in effect on the day before the effective date of the amendments made by title I) immediately before the effective date of the amendments made by sections 101 and 105, but is determined not to be covered by the performance management and recognition system (under such chapter as in effect on the effective date of such amendments) as a result of this Act shall be converted on such effective date to the General Schedule in accordance with regulations issued by the Office of Personnel Management pursuant to section 5334(a) of this title.

(b) The rate of basic pay for any employee whose position was covered by the merit pay system referred to in subsection (a) immediately before the effective date of the amendments made by sections 101 and 105 and is determined to be under the performance management and recognition system referred to in subsection (a) as a result of such amendments shall be at least equal to the rate of basic pay payable for the position held by such employee immediately before the effective date of such amendments.

AMENDMENT NO. 2779

(Purpose: To make technical and clarifying amendments)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens) proposes an amendment numbered 2779.

Mr. STEVENS. I ask unanimous consent that further reading be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 24, beginning with line 8, strike out all through page 25, line 2, and insert in lieu thereof the following:

"(d)(1) Subject to paragraph (3) of this subsection, under regulations issued by the Office of Personnel Management, the rate of basic pay of an employee who is covered by this chapter and whose rate of basic pay is less than the maximum rate of basic pay provided for the grade of the positon of such employee under section 5332 of this title shall be increased each year as provided in paragraph (2) of this subsection, effective on the first day of the first applicable pay period commencing on or after October 1 of such year.

"(2)(A) For the purposes of this paragraph, the term 'reference amount', when used with respect to the rate of basic pay of an employee covered by this chapter, means the amount equal to the sum of—

"(i) the minimum rate of basic pay provided under section 5332 of this title for the grade of the position of the employee; and

"(ii) one-third of the difference between the maximum rate of basic pay provided for such grade under such section and such minimum rate of basic pay.

"(B) If the rate of basic pay of an employee to whom paragraph (1) of this subsection applies does not exceed the reference amount on the day before the effective date described in such paragraph and the performance of the employee is rated at the fully successful level or higher under the provisions of chapter 43 of this title or an equivalent rating system for the latest period ending before such effective date, the rate of basic pay of the employee shall be increased by an amount equivalent to a periodic step-increase provided under section 5332 of this title.

"(C) If the rate of basic pay of an employee to whom paragraph (1) of this subsection applies exceeds the reference amount on the day before the effective date described in such paragraph and the performance of the employee is rated under the provisions of chapter 43 of this title or an equivalent rating system for the latest rating period ending before such effective date—

"(i) at the level two levels above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to a periodic step-increase provided under section 5332 of this title;

"(ii) at the level one level above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-half of a periodic step-increase provided under such section; or

"(iii) at the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-third of a periodic step-increase provided under such section.

"(3) The amount of an increase in the rate of basic pay of an employee under paragraph (1) of this subsection is limited to the amount equal to the difference between the maximum rate of basic pay provided for the grade of the position of such employee under section 5332 of this title and the rate of basic pay of the employee as in effect before the increase.

On page 26, line 5, strike out "1 percent" and insert in lieu thereof "three-fourths of one percent".

On page 26, line 8, beginning with "The", strike out all through line 11.

On page 26, between lines 11 and 12, insert the following:

"(D) During the first fiscal year beginning on or after the effective date of the amendments made by section 101 of the Civil Service Amendments of 1984 and during each of the next four fiscal years thereafter, the head of each agency of the Government employing employees to whom this section applies should, to the extent determined practicable by the head of such agency, pay performance awards under such section 5403(e) in amounts totalling at least one and one-half percent of the aggregate amount of basic pay which is payable to such employees during such fiscal year.".

On page 26, line 22, strike out "under" and insert in lieu thereof "Under".

On page 39, strike out lines 17 through 23, and insert in lieu thereof the following:

"(a) For the purposes of this section, the term 'system termination date' means the date which is five years after the date of enactment of the Civil Service Amendments of 1984.

"(b) The provisions of this chapter other than section 5404 of this title shall not be effective after the system termination date. Notwithstanding the preceding sentence, the term 'employee covered by the performance management and recognition system', as used in such section, shall refer to any individual described in section 5402(a) of this title as in effect on the day before the system termination date.".

On page 31, strike out lines 4 through 15.

On page 31, line 17 strike out "103." and insert in lieu thereof "102.".

On page 34, strike out lines 12 through 25 and insert in lieu thereof the following:

"(C) may be reviewed by an officer or employee of the agency in accordance with the procedures established by the Office of Personnel Management;

"(D) shall, on request of the employee whose performance is appraised, be reconsidered by an officer or employee of the agency in accordance with procedures established by the Office of Personnel Management; and

"(E) may not be appealed outside the agency.

"(2) A reconsideration of an appraisal under paragraph (1) (D) of this subsection may be made only by an officer or employee who is in a higher position in the agency than each officer or employee who made, reviewed, or approved the appraisal.

On page 35, line 12, strike out "104." and insert in lieu thereof "103.".

On page 37, line 1, insert "(1)" after "(e)".

On page 37, between lines 14 and 15, insert the following new paragraph:

(2) Subsection (c) of such section is amended to read as follows:

"(c) A career appointee is entitled to appeal to the Merit System Protection Board under section 7701 of this title whether the reduction in force complies with the competitive procedures required under subsection (a) of this section.".

On page 37, line 16, beginning with "adding", strike out all through "§ 3597." on line 18, and insert in lieu thereof the following: "inserting before section 3596 of such title the following new section:

"'§ 3595a.".

On page 38, line 6, insert end quotation marks and a period after "title.".

On page 38, strike out lines 7 through 13.

On page 38, strike out the matter between lines 16 and 17 and insert in lieu thereof the following:

"3595a. Furlough in the Senior Executive Service.".

On page 38, line 19, strike out "3" and insert in lieu thereof "5".

On page 39, strike out lines 1 and 2, and insert in lieu thereof the following: "exceed the greater of—

"'(A) the amount equal to 3 percent of the sum of the annual rates of basic pay payable to the career appointees in such agency during such fiscal year; or

"'(B) the amount equal to 15 percent of the average of the annual rates of basic pay payable to such career appointees during such fiscal year.'."

On page 39, line 3, strike out "(k)" and insert in lieu thereof "(h)".

On page 39, line 4, strike out "(h)" and interest in lieu thereof "(i)".

On page 39, line 8, beginning with "(i)", strike out all through "hearing," on line 9, and insert in lieu thereof "(j) The Office of Personel Management shall, pursuant to the provisions of subchapter II of chapter 5 of title 5, United States Code,".

On page 39, line 12, strike out "(j) Subsection (d) of section 8335", and insert in lieu thereof "(k) Subsection (d) of section 8336".

On page 39, line 13, strike out "paragraph (1)" and insert in lieu thereof "the first sentence".

On page 39, line 15, insert "to a position outside the commuting area of the employee concerned" after "reassignment".

On page 39, line 16, insert "moved outside such area" after "position".

On page 39, between lines 18 and 19, insert the following:

(l)(1) Subsection (a) of section 3395 of such title is amended—

(A) in paragraph (2), by striking out "(2) A career" and inserting in lieu thereof "(2)(A) Except as provided in subparagraph (B) of this paragraph, a career"; and

(B) by inserting after paragraph (2)(A) (as amended by subparagraph (A) of this paragraph) the following new subparagraph:

"(B) A career appointee may be reassigned or transferred under this subsection or any other provision of law to a Senior Executive Service position outside the career appointee's commuting area only if the career appointee receives advance written notice of the reassignment not less than 30 days before the effective date of such reassignment. The notice shall include a statement setting forth specific reasons for the reassignment outside such area.".

(2) Section 3397 of such title is amended by adding at the end thereof the following new sentence: "Such regulations shall include provisions to carry out section 3395 (a)(2)(B) of this title.".

On page 39, line 20, strike out "105." and insert in lieu thereof "104.".

On page 40, line 15, strike out "SAVINGS" and insert in lieu thereof "TRANSITION".

On page 40, line 19, strike out "105" and insert in lieu thereof "104".

On page 40, strike out line 22 and all that follows through page 41, line 18, and insert in lieu thereof the following:

TRANSITION PROVISION

Sec. 202. Effective on the effective date of the amendments made by section 101, the rate of basic pay of each employee of the Government who was covered by the merit pay system under chapter 54 of title 5, United States Code, on the day before such effective date shall be the rate of basic pay of such employee as in effect on such day.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment (No. 2779) was agreed to.

AMENDMENT NO. 2780

(Purpose: To require a charge for meals furnished to certain high-level Government officers and employees in the executive branch and for meals furnished in Senate dining facilities)

Mr. **PROXMIRE.** Mr. President, I call up an amendment No. 2780, which is at the desk, and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. Proxmire) proposes an amendment numbered 2780.

Mr. **PROXMIRE.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the committee substitute, insert the following new section:

Sec. . (a) For the purposes of this section, "executive dining room" means any dining room which is located in an office building used by any agency in the executive branch and where breakfast, lunch, or dinner—

(1) is available only to an officer or employee of the Government serving in a postion in the executive branch in grade GS-15 or above, executive Level V or above, or colonel or above, or their guests; or

(2) was available only to such officers or employees or their guests before the date of enactment of this Act.

(b) Each person receiving a meal in an executive dining room or a Senate dining facility shall be charged for such meal a price in an amount which is not less than an amount sufficent to defray the cost of providing such meal considering the cost of the food, labor, and utilities, and the depreciation of equipment used in providing such meal.

(c) Sums collected pursuant to subsection (b) shall be deposited in the Treasury of the United States as miscellaneous receipts.

THE NO FREE LUNCH AMENDMENT

Mr. **PROXMIRE.** Mr. President, this amendment puts executive dining rooms and those operated for the Senate on a pay-as-you-go basis. It eliminates a glaring inequity—a taxpayer subsidy to high-level government officials who eat in exclusive dining rooms. I believe these subsidies are just, plain wrong.

They are not a nickle and dime matter. In 1981, executive agencies operated 22 exclusive dining rooms, not counting the White House mess. This amendment would apply to this dining room, as well, bringing the total to 23.

The taxpayer paid about $2,400,000 to operate these dining rooms while those who ate in them paid about $500,000. If the subsidy to the White House mess—no pun intended—is included, the total taxpayer subsidy would likely exceed $3,000,000. In other words, the taxpayer is paying 82 cents out of every dollar spent to operate these restaurants.

The revenues earned usually cover the cost of the food but nothing else. The taxpayer pays for the costs of the cooks and waiters, for the stoves and refrigerators, and for the utilities. Imagine being able to operate a restaurant in the private sector and having a rich uncle pay for these costs.

In October 1982, the New York Times published an article about these restaurants. Let us see what the Times has to say about these dining rooms in the Pentagon:

> In one—The Pentagon operates six—a General eats a chopped sirloin steak, served "on gold-rimmed china on top of pale blue linen." Not bad, not bad at all—for the General.
>
> The prices, well, the prices are rock-bottom: "A Blue Room hamburger platter costs $1.50. Broiled halibut steaks with au gratin potatoes cost $2.95. A tossed green salad is 65 cents, an ice cream sundae 90 cents." By camparison, a hamburger, not a hamburger platter served on gold-rimmed china, costs $1.35 in the Senate carry-out restaurant. A hamburger platter, in one of the private restaurants near the Capitol, costs around $4.00.

To see if these prices still hold, I acquired menus from some of the executive dining rooms for Tuesday, February 28, 1984. Here are some of the prices.

In the Secretary of Defense's dining room, patrons could order:

A chopped steak platter with french fries and salad or fruit or cottage cheese for the bargain basement price of $2.25.

Or they could have the special and eat sweet and sour pork, served on a bed of rice, and pay $3.25.

The traditionalists could have that all-time favorite, a cheeseburger platter with french fries or fruit, and pay only $2.60.

Those who have a sweet tooth can order a delicious chocolate sundae for $1.25 and perhaps head for the gym after lunch.

Mr. President, I have never eaten in one of these exclusive restaurants and, after offering this amendment, I suspect that I never will. But those who have tell me they are very, very nice—posh, even. What we have here are hashhouse prices but a haut cuisine atmosphere.

Who pays for that atmosphere? Well, the general or Assistant Secretary of Defense who orders that chopped steak receives a $12 subsidy at the taxpayers' expense. What a contrast? The average food stamp recipient makes about one-sixth the salary of these officials and receives a subsidy of less than 50 cents for his meals.

This topsy-turvey arrangement reminds me of something Tolstoi once said:

> I sit on a man's back, choking him and making him carry me, and yet assure myself and others that I am very sorry for him and wish to lighten his load by all possible means—except by getting off his back.

The Defense Department is not the only agency to operate these dining rooms. At the Department of Health and Human Services, the senior staff could dine on Chicken Delmonico with rice, green peas with pearl onions, a carrot and raisin salad, and a desert of almond cookies for the price of $3.90. Another good deal.

The amendment requires that the price of the meals served be set at a level sufficient to cover the costs of food, direct labor charges, utilities, and depreciation of equipment. It still leaves these Government restaurants with two breaks: rent and overhead costs are excluded. I excluded these costs because Government restaurants serve either no or limited amounts of alcoholic drinks—an appropriate policy. Most private restaurants, however, derive a large proportion of their profits from selling drinks. I do not want to give Government executives a reason to join the three-martini lunch brigade, and these exclusions are a rough trade-off—little or no alcohol served, no direct payment for rent or overhead.

Mr. President, those fortunate enough to eat in these restaurants can afford to pay for their meals. They are used by those in the upper reaches of this Government. Indeed, admittance is closely controlled and only those who have made it are so honored. These Washington grandees normally make over $55,000 a year. They are not below the poverty line by any standard.

The Congress has already cut the cost of food programs which do benefit the poor. According to the Congressional Budget Office, we will have saved nearly $12.5 billion between fiscal year 1982 and 1985 by cutting food stamps, the women, infants, and children (WIC) program, and other child nutrition programs.

Should we not apply the same standard to the high and mighty as we do to the down and out when we try to cut spending? I believe the answer to that question is a resounding "yes."

This institution cannot avoid facing the same question. Senate restaurants are a $5 million a year proposition, and last year made a profit of $500. That $5 million in revenue covers the cost of food and direct labor. It does not cover the cost of power or equipment depreciation.

Utility costs are now allocated by building and it is my intent that the cost of power be reasonably prorated to the restaurants. That approach makes more sense than installing costly meters to determine these costs. Given that equipment depreciation is not a major cost, I believe that the Senate could put its dining rooms on a pay-as-you-go basis without raising prices more than 10 percent. And if we watch our costs, as a private restaurant must, we should be able to reduce that estimate.

Mr. President, this amendment will lead to improved efficiency, at a time when we badly need to improve the Government's efficiency. It will save money, when we face $200 billion deficits. And it is fair, that is the most important point of all. I urge my colleagues to support this amendment.

Mr. BYRD. Mr. President, may I say for the Record, what is this amendment going to do?

Mr. PROXMIRE. It is the no free lunch amendment. What it does is put the executive dining rooms in the Government on a pay-as-you-go basis. The fact is that the Senate dining room is on pretty much a pay-as-you-go basis now. There may be a little bit of a loss, but it is relatively insignificant. But there are some dining rooms in the executive branch, particularly in the Pentagon and elsewhere, which get an enormous subsidy. In some cases, the subsidy is at about 80 percent of the cost. In this amendment, they make an adjustment in that and charge people who eat in these dining rooms at full cost.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2780) was agreed to.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may submit a technical amendment. There is a typographical error in the last section of the amendment. I do not have that now, but I shall discuss it with the manager of the bill on the majority side at a later time, if that is possible.

Mr. STEVENS. Mr. President, I think the Senator first has reference to subsection (b) in subsection (c), the last subsection of the bill. If there is anything further, I shall be happy to confer with him, but there is a technical amendment that must be made to the amendment.

Mr. PROXMIRE. The Senator is correct.

The PRESIDING OFFICER. Is the Senator suggesting that that change be made now?

Mr. PROXMIRE. Unfortunately—does the Senator have the correction?

Mr. STEVENS. I sent the correction to the desk, as I understand it.

Mr. PROXMIRE. Very good.

Mr. STEVENS. The amendment was modified.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. The Chair advises Senators that the amendment is in the appropriate form and was correct as it was initally sent to the desk.

Mr. PROXMIRE. I thank the Chair.

The PRESIDING OFFICER. Is there further amendment?

Mr. STEVENS. Has the Proxmire amendment been adopted?

The PRESIDING OFFICER. The amendment has been agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there any further amendment?

Mr. STEVENS. Mr. President, I move the adoption of the committee substitute, as amended.

The motion was agreed to.

Mr. STEVENS. Mr. President, I wish to commend the Sponsors of S. 958, Senator Trible, and Senator Warner, for their active involvement in introducing and moving this legislation. S. 958 reforms the merit pay system currently in use for Federal midlevel managers graded 13, 14, and 15. The bill will also provide improvements to the senior executive service.

In 1978, the Civil Service underwent its most significant reform since its establishment in 1883. The reform known as the Civil Service Reform Act was intended to enhance the efficiency of the Government through creation of systems like the merit pay system and the senior executive service. Although implementation of merit pay was well intended, we now have almost unanimous agreement that it is not working. The provisions of this bill are needed to correct the deficiencies. The administration, the Federal Managers Association, the Professional Managers Association and numerous others support this bill.

The bill eliminates the pay inequity problem in the merit pay system by moving merit pay managers to a performance based step system similar to the general schedule. At the same time a mandatory cash awards pool will be established by agencies to provide additional recognition for outstanding performance. The performance appraisal system will also be strengthened by establishing a uniform five level rating system for all Federal midlevel managers.

For the senior executive service, the bill replaces the current 50 percent restriction on the number of senior executive eligible for a bonus with a new restriction on the amount of money available for a bonus. The new limitation increases the amounts granted for such bonuses by one-third. The bill also repeals the muddled and cumbersome restrictions on senior executive reduction-in-force actions and replaces it with fallback rights to a position not less than GS-15.

Mr. President, I also have a series of changes recently worked out with the Office of Personnel Management, Senator Trible, and other interested parties which are incorporated into an amendment. I ask unanimous consent that the amendment be adopted, that a sectional analysis of the amendment be printed in the Record following the amendment, as well as a letter from the Director of the Office of Personnel Management supporting this bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Office of Personnel Management,
Washington, D.C., March 1, 1984.

Hon. Ted Stevens,
U.S. Senate,
Washington, D.C.

Dear Senator Stevens: The purpose of this letter is to communicate my views on S. 958 and proposed amendments to the law governing federal managers and members of the Senior Executive Service. I have carefully reviewed S. 958 and I believe that the bill, with the proposed amendments, contains positive features that will improve the compensation of merit pay managers, as well as the Senior Executive Service.

The Administration is strongly committed to providing incentives to federal employees who serve the public efficiently and effectively. The crucial element in service to the public is the day-to-day performance of our federal employees. They should be rewarded for the good work that they do. This principle was embodied in the Civil Service Reform Act of 1978, and clearly expressed through the establishment of the mandatory performance appraisal for federal employees. One of the chief features of S. 958 is the requirement of a standard five-level performance appraisal system for Merit Pay managers.

S. 958 also establishes a comprehensive performance management system for managerial employees and relates pay increases of these employees more directly to their performance. *Full comparability* pay increases are granted to all affected employees rated "fully successful" or above; it thus establishes in law the principle of performance at the "fully successful" level for pay comparability. Beyond comparability, federal managers rated "outstanding" are guaranteed a cash award, though cash awards may not, under the terms of the legislation, exceed an amount equal to 20 percent of basic pay.

As you know, I have expressed concerns with several aspects of previous versions of the bill. I believe that this bill—*with* the proposed amendments discussed by our staffs, however, makes much needed changes and eliminates certain serious problems with earlier versions of the legislation.

I support the proposed amendment that addresses the conversion of Federal managers from the merit pay system into the performance management system. The amendment will provide for *annual* pay adjustments equivalent to *within-grade* increases. The direct and immediate benefits of an equivalent of a within-grade increase each year are clear. It will strengthen employee morale and improve Federal management. "Outstanding" performers would receive a full step equivalent increase annually, "exceeds fully successful" performers would receive one half of a step increase annually, while "fully successful" employees would receive one-third of a step increase annually. This would be the best solution for most managers, since it continues the practice of a performance-based pay raise each year. The use of such annual within-grade adjustments would also decrease the tremendous pressure to inflate performance ratings, a pressure resulting from the ineligibility of employees for within-grade raises for as long as three years (as envisioned in language of the current bill) This amendment is thus a critical improvement over the language of the current bill, which provides for excessively long waiting for pay increases for affected employees and which entails unnecessary and unacceptable costs of conversion to the old General Schedule step system.

I am concerned about the bill's language on cash awards which mandates that the agencies pay a total amount equal to one percent to the agencies payroll for covered employees. This would too-quickly increase the present government-wide payments of approximately one-half of one percent of payroll. A proposed amendment would decrease this to three-fourths of one percent the first year. We support that amendment. An additional amendment states that "the head of each agency . . . should, to the extent determine practicable . . . , pay performance awards . . . in amounts totalling at least one and one-half percent of the aggregate amount of basic pay. . . .". Since Section 5406 of the bill reserves to OPM broad regulatory authority to insure that the cash award program is not abused and its limits applied with discretion, I do not object to this amendment.

I have one major concern that this bill still does not address. The bill does not extend coverage beyond the existing coverage of GS-13 through 15 supervisors and management officials. Experience has shown that maintaining a system of dual treatment of employees creates an atmosphere of mistrust and invidious comparisons, and fosters perceptions of unfairness and inequity. S. 958 will not relieve the problems that agencies are already experiencing in this regard, for it will continue the dichotomy between employees in the same grade and pay level. I believe that coverage of all employees, or at least all employees in grades GS-13 through 15, would eliminate most of the existing problems. Expansion of coverage has the support of a majority of employees as indicated by the recent 1983 Federal Employee Attitude Survey. Survey results indicate that employees favor extension of the Merit Pay concept beyond its present limits by a ratio of 2 to 1 over those favoring maintenance of the status quo. And the relevant association of managers have supported extension of the performance management system.

Concerning the Senior Executive Service, I am strongly supportive of the Bill's provisions to eliminate the cap on the aggegate of SES pay and SES bonuses. Executives too, must be paid more for efficient performance. The pooling of funds for SES bonuses will allow more flexibility in the awarding of bonuses, and make more executives eligible for awards. We had concern with the orignial bill language on management's rights and responsibilities governing SES reassignments, RIF and furlough provisions. Your proposed amendments, however, now clarify certain critical provisions of the legislation and make them acceptable to the Administration.

While I do retain concern over the limited coverage of the legislation, I think the bill, with these additional amendments, does make a firm commitment to performance-based management and will make improvements in the law governing performance awards to our federal managers and executives. Therefore, with the addition of these proposed amendments, I support passage of the Bill.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's programs.

Sincerely,

DONALD J. DEVINE, *Director.*

SECTION-BY-SECTION ANALYSIS

The amendment to pages 24 through 26 of the bill amends the bill to provide merit pay employees GM 13, 14 and 15 with equivalent increases to periodic step increases. The equivalent increase is to be effective on the first day of the first pay period starting on or after October 1 of each year.

Subsection (2)(A) provides employees positioned in the lower third of the pay range and who receive a fully successful or higher rating with the full equivalent of a periodic step-increase.

Subsection (2)(C) provides employees positioned in the upper two-thirds of the pay range with the highest rating with the full equivalent of a periodic step-increase. These increases are limited by the maximum rate of pay within each grade. Those employees with the second highest rating will receive one-half of an equivalent of a periodic step-increase. Employees with the fully successful rating receive one third of an equivalent of a period step-increase.

Section (3)(C) amends the bill to provide that a minimum cash awards pool of .75 of a percent of an agency's merit pay employees aggregate salaries will be paid out to employees deemed eligible for performance awards. Agencies should strive, however, to use 1½ percent of total salaries for performance awards. 1½ percent of salaries should be used as a target for agency performance awards. Only in exceptional cases should agencies ever use more than 1½ percent of salaries for awards and then only with approval of the Office of Personnel Management.

The amendments to page 30 of the bill clarify that the performance management and recognition system with the exception of the cash awards section is sunsetted 5 years after the date of enactment.

The amendments to page 31 of the bill eliminates a redundant provision dealing with periodic step increases.

The amendments to page 34 of the bill replaces the appeal right of a performance rating to the Merit Systems Protection Board with a right to a second level of review within an agency.

The amendments to page 37 of the bill limit appeals for Senior Executives subject to a reduction-in-force to whether the reduction-in-force complies with competitive procedures. The bill removes the requirement that the Office of Personnel Management place displaced Senior Executives throughout the government. It is hoped, however, that they will maintain a voluntary placement service.

The amendment to page 39, line 19 of the bill replaces the 3 percent minimum on the amount of a senior executive bonus with a 5 percent minimum.

The amendment to page 39, lines 1 and 2 of the bill provides flexibility for agencies with very few senior executives to provide bonuses in excess of 3 percent of the Senior Executive Service payroll with a new limitation of 15 percent of the average Senior Executive Salary.

The amendment to page 39, line 8 of the bill clarifies that the Office of Personnel Management must issue rules regarding Senior Executive Service reductions-in-force pursuant to the Administrative Procedures Act.

The amendment to page 39, line 15 of the bill clarifies for purposes of receiving discontinued retirement benefits that failure to accept a directed reassignment must be one outside of an employee's commuting area to not be considered misconduct or delinquency.

The amendment to page 39, between lines 18 and 19, a new section is added to the reassignment provisions of title 5 which is a substitute for a provision in the reduction-in-force section of the bill. The bill required that a senior executive by given reasonable advance notice of a reassignment outside of the commuting area. The amendment instead substitutes at least 30 days notice for such a reassignment. It is intended that in certain hardship cases the agency may grant additional time. It is also intended that where an employee and the agency agree that 30 days notice for a reassignment outside of the commuting area or 15 days for a reassignment in the area is not necessary that arrangements can be made to reduce the notice period.

In addition, the bill requires that vaild management reasons be communicated in writing to the employee for the reassignment. The amendment deletes valid management reasons and substitutes the requirement that specific reasons be given to the employee for the reassignment. The communication should clearly state exactly why the employee is being reassigned and why the agency feels that the effected employee is the best person for the particular position.

The amendment to pages 40 and 41 of the bill replace the conversion of employees from the merit pay system to the performance management system with a new provision which simply states that the employees so converted will initially receive the same basic pay in the new system.

Mr. WARNER. Mr. President, I commend my colleague from Virginia, Senator TRIBLE, for the considerable effort he has made in bringing this important legislation before the Senate. When I joined Senator TRIBLE in introducing S. 958 on March 24, 1983, it was with great hopes that a true measure of merit pay reform would be the end result, and the measure now before us more than meets that goal. In addition, I would particularly like to thank the distinguished chairman of the Civil Service Subcommittee, Senator STEVENS, for the strong leadership he has exhibited in guiding this legislation.

S. 958, the Civil Service Amendments Act of 1983, was reported on February 3, 1984, with the unanimous approval of Chairman ROTH, Ranking Minority Member EAGLETON and their colleagues serving on the Senate Committee on Governmental Affairs. Since that time, the Office of Personnel Management and Federal management representatives expressed their further interest in the bill, and refinements have been made which are embodied in Senator STEVENS' amendment. We now have a bill upon which all can agree.

A 5-year trial period is proposed during which the present merit pay program would be replaced with a new performance management and recognition system designed to accommodate many of the grievances of current merit pay Federal managers and supervisors. The existing lack of specific pay structure would be met by providing full pay comparability adjustments and annualized within-grade increases for those receiving fully successful ratings; that is, the middle range of the five levels of performance used in this system. For those receiving the highest performance ratings, qualification would then follow for additional merit cash awards. With these proposals, the merit pay program can become what it should have been all along, a definitive pay-performance process with an identifiable structure that all can use to measure and evaluate their service.

The Governmental Affairs Committee has added another section to S. 958 of which I fully approve—needed reforms in the Senior Executive Service, including fallback rights in reduction-in-force cases, expanded and more uniform cash bonus procedures, and clarification of reassignment obligations. All are noteworthy and meant to enhance the working environment of our top level Government managers.

Mr. President, in closing, I would simply like to say that I believe we have a real opportunity for constructive change with this important legislation. All parties concerned have endorsed the Civil Service Amendments Act, and it is my sincere wish that the Senate will give this measure overwhelming approval.

Mr. TRIBLE. Mr. President, today the Senate is considering S. 958, the Civil Service Amendments of 1984. This legislation reforms the merit pay system and revises provisions of the Senior Executive Service. S. 958 has been the subject of extensive hearings and discussions, and as a result, this measure is a sound one—legislation which has been carefully developed and is supported by those who would be affected by it.

Mr. President, I thank the distinguished Senator from Alaska (Mr. STEVENS) for his fine work on this matter. His insight in the area of Federal personnel policy has been invaluable throughout the development of this legislation.

Merit pay affects managers and supervisors in general schedule grades 13-15. The Senior Executive Service grades 16-18 and certain positions in executive levels IV and V. Both systems are performance based and were implemented by the Civil Service Reform Act of 1978. The concepts embodied in the Reform Act are sound, but, in practice, neither the merit pay system nor the SES has worked well.

As many of my colleagues know, the intent of merit pay is to improve Federal job efficiency, productivity and quality of key level managers and supervisors. The system was to encourage quality performance by awarding merit pay adjustments of varying amounts and cash awards for superior accomplishment, rather than rewarding mere length of service.

Unfortunately, the merit pay system has been beset by problems since its inception. It has created friction among coworkers, lowered morale in management ranks, caused unnecessary losses in retirement and impaired recruiting.

S. 958 replaces the current merit pay system with a 5-year experimental performance management and recognition system, and eliminates the problems which undermined the merit pay system. Moreover, this measure advances the concept of merit based pay systems in the Federal work force.

The existing inconsistencies and arbitrariness inherent in the current performance appraisal system are addressed by S. 958 in two very important ways. First, a single, standardized five-point performance management and recognition system will be used Governmentwide. This system ranges from unsuccessful, and minimally successful, to fully successful, exceeds fully successful, and outstanding. Through the use of one standard system, the considerable inconsistencies among the various appraisal systems will be eliminated.

Second, under the provisions of this legislation, critical elements and standards—job description responsibilities—will be established by the supervisors of employees covered by this system and the employees at the beginning of each performance appraisal period. This is a necessary step toward the elimination of the arbitrariness which has plagued the current system.

Under the current merit pay system, employees are guaranteed only one-half of the annual comparability adjustment automatically granted to general schedule employees. S. 958 restores full comparability, but links this pay increase to performance. Employees rated at the fully successful level or better will receive full comparability adjustments.

Employees rated one level below fully successful, or minimally successful, will not receive a comparability adjustment at the same time as those employees rated fully successful or better.

Instead, these employees will be rated again 6 months later. If the employee's performance for the 6-month period is rated fully successful or better, the employee will receive the comparability adjustment at that time. Employees receiving unsuccessful ratings do not receive comparability adjustments. This new method of providing comparability adjustments is an important step in insuring a highly motivated work force.

Periodic step increases, or within-grade increases, are reestablished and linked to performance rather than length of service. The size of the increase will be established for each performance rating—the higher the rating is, the larger the pay increase will be. Employees rated fully successful or better will receive these increases annually. Employees rated below fully successful do not receive these within-grade increases.

Again, pay increases will be directly linked to performance so there will be an additional incentive for employees, and the current inconsistencies in payouts for employees receiving similar ratings will be eliminated.

All employees performing at levels above the fully successful level will also qualify to receive performance awards. These cash awards are guaranteed for employees rated at the top level, or outstanding. Employees rated exceeds fully successful will be eligible for an award. Receipt of a cash award which exceeds a fully successful rating will be a management decision, in part based on the availability of funds. These performance awards are made in a "lump sum fashion" and do not affect the employee's rate of basic pay. I believe that this type of award will motivate employees to perform well each and every year.

S. 958 places increased emphasis on performance awards as an effective management tool. The legislation calls for a mandatory minimum funding level for performance awards. A target level of funding for cash awards is established and agencies are encouraged to reach this figure in 5 years. Cash awards are limited to no more than 20 percent of the employee's base pay.

Mr. President, in developing this legislation, personnel managers and merit pay employees were consulted and their experience and recommendations substantially contributed to this final product.

S. 958 has been endorsed by the Federal Managers' Association, Professional Managers Association, Organization of Professional Employees at the Department of Agriculture, Federal Executive and Professional Association, and International Personnel Management Association.

Furthermore, the General Accounting Office has stated that the provisions of this measure will eliminate inequities between pay for managers and supervisors in GS 13-15 and general schedule pay. GAO also indicated that pay for like performers across the government would tend to be more consistent under the provisions of this measure.

Mr. President, I believe that S. 958 will lead to marked and measurable improvements. However, few systems are perfect and for this reason, the performance management and recognition system is established as a 5-year experiment. This approach will allow us to reevaluate this system and to make modifications as may be necessary.

The second part of S. 958 amends certain provisions of the Senior Executive Service. Currently, 50 percent of the SES is authorized to be eligible for a bonus. However, limitations contained in appropriations bills in the past have restricted the availability of bonuses to 20 percent of the SES and approximately 2 percent of the SES payroll has been utilized for bonuses in the past. S. 958 repeals this bonus arrangement. In its place, the legislation authorizes 3 percent of the SES payroll or 15 percent of the average salary of SES employees in an agency, whichever is greater, to be used for bonuses. In addition, a minimum award of 5 percent of an employee's salary is established. No limits would be placed on the number of people eligible for a bonus: rather, the limitation is on the availability of funds.

Current restrictions on SES reduction-in-force procedures have unduly limited flexibility. S. 958 authorizes the removal of an SES employee from the SES to another civil service position as a result of a RIF. This legislation entitles an SES employee who is removed from the SES as a result of a RIF, to be placed in a civil service position in any agency at a grade no lower than a GS-15.

In addition, this legislation makes changes in the reassignment rights of SES employees. Currently, SES employees must receive 15 days advance notice for any reassignment outside of the employee's commuting area. This bill requires that employees receive a 30-day notice as well as specific reasons for reassignment.

I commend and thank the distinguished Senator from Alaska, Mr. STEVENS, chairman of the Subcommittee on Civil Service. This legislation has benefited immensely from his deep understanding of Federal employee issues and his sensitivity to the needs of those in the Federal work force. His appreciation of the problems of the current merit pay system made this legislation possible. Senator BINGAMAN, the ranking minority members of the subcommittee also contributed substantially to this legislation.

Congressman FRANK WOLF first identified the necessity of restructuring the merit pay system and he has worked tirelessly to achieve this goal. This bill merely builds on the impressive foundation he laid.

Finally, I want to acknowledge the efforts of Lori Beth Feld of my staff, whose hard work was a key element in bringing this bill to fruition.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Service Amendments of 1984".

TITLE I—PAY FOR PERFORMANCE; SENIOR EXECUTIVE SERVICE MANAGEMENT

PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM

SEC. 101. (a) Chapter 54 of title 5, United States Code, is amended to read as follows:

"CHAPTER 54—PERFORMANCE RECOGNITION

"Sec.
"5401. Purpose.
"5402. Coverage.
"5403. Performance management and recognition system.
"5404. Cash award program.
"5405. Report.
"5406. Regulations.
"5407. Termination.

"§5401. Purpose

"It is the purpose of this chapter to provide for a performance management and recognition system which shall—

"(1) use performance appraisals as the basis for determining basic pay and performance awards;

"(2) within available funds, recognize and reward quality performance by varying levels of performance awards;

"(3) within available funds, provide for training to improve accuracy and fairness in the evaluation of performance;

"(4) regulate the costs of performance awards by establishing funding level restrictions; and

"(5) provide the means to reduce or withhold pay increases for less than fully successful performance.

"§5402. Coverage

"(a) Except as provided in subsections (b) and (c), this chapter shall apply to any supervisor or management official (as defined in paragraphs (10) and (11) of section 7103 of this title, respectively) who is in a position which is in GS-13, GS-14, or GS-15 of the General Schedule described in section 5104 of this title.

"(b)(1) Upon request filed under paragraph (3) of this subsection, the President may, in writing, exclude an agency, any unit of an agency, or any class of employees within any such unit from the application of this chapter if the President considers such exclusion to be required as a result of conditions arising from—

"(A) the recent establishment of the agency, unit, or class, or the implementation of a new program,

"(B) an emergency situation; or

"(C) any other situation or circumstance.

"(2) Any exclusion under this subsection shall not take effect earlier than 30 calendar days after the President transmits to each House of the Congress a report describing the agency, unit, or class to be excluded and the reasons therefor.

"(3) A request for exclusion of an agency, any unit of an agency, or any class of employees within any such unit under this subsection shall be filed by the head of the agency with the Office of Personnel Management, and shall set forth reasons why the agency, unit, or class should be excluded from the application of this chapter. The Office of Personnel Management shall review the request and reasons therefor, undertake such other review as it considers appropriate to determine whether the agency, unit, or class should be excluded from the application of this chapter, and upon completion of its review, recommend to the President whether the agency, unit, or class should be so excluded.

"(4) Any agency, unit, or class which is excluded pursuant to this subsection shall, insofar as practicable, make a sustained effort to eliminate the conditions on which the exclusion is based.

"(5) The Office of Personnel Management shall periodically review any exclusion from coverage and may at any time recommend to the President that an exclusion under this subsection be revoked. The President may at any time revoke, in writing, any exclusion under this subsection.

"(c) This chapter shall not apply to individuals employed under the Office of the

Architect of the Capitol, the Library of Congress, the Botanic Garden, or the Administrative Office of the Courts.

"§ 5403. Performance management and recognition system

"(a) In accordance with the purpose set forth in section 5401 of this title, the Office of Personnel Management shall establish a performance management and recognition system which shall provide for—

"(1) a range of basic pay for each grade to which the system applies, which range shall be limited by the minimum and maximum rates of basic pay payable for each grade under section 5332 of this title, except as otherwise provided in this section;

"(2) pay increases within such range, consisting of—

"(A) comparability pay increases (under section 5305 of this title) to the extent provided in subsection (c); and

"(B) periodic step-increases, as provided under subsection (d),

based on performance; and

"(3) performance awards based on performance, as provided under subsection (e).

"(b) Under regulations prescribed by the Office of Personnel Management, the head of each agency shall provide for increases within the range of basic pay for each employee covered by the performance management and recognition system.

"(c)(1) For the purposes of this subsection, the pay adjustment period applicable to an employee in any fiscal year shall be the period beginning on the first day of the first pay period applicable to the employee commencing on or after the first day of the month in which an adjustment would take effect under section 5305 of this title without regard to this section and ending at the close of the day preceding the beginning of the following pay adjustment period.

"(2) Determinations to provide comparability pay increases under subsection (a)(2) shall, for any pay adjustment period, be made based on the level of performance of the employee involved, as most recently determined under chapter 43 of this title. If the employee's performance is rated at—

"(A) either of the 2 levels below the fully successful level, the basic pay for the employee shall not be increased for such pay adjustment period except as provided in paragraph (3); or

"(B) the fully successful level or either of the 2 levels above fully successful, the basic pay of the employee shall be increased by the full comparability increase for such pay adjustment period.

"(3) If the basic pay of an employee is not increased for a pay adjustment period by reason of a performance rating at the first level below the fully successful level, the performance of such employees shall be rated again under chapter 43 of this title only for the purposes of this subsection 6 months after the date on which such pay adjustment period begins. If the performance of such employee during such period of 6 months is rated at the fully successful level or either of the 2 levels above the fully successful level, the basic pay of such employee shall be increased for the remainder of such pay adjustment period effective on the date of the performance rating required by the first sentence of this paragraph.

"(4)(A) The comparability increase, for purposes of paragraph (2) or (3) of this subsection, shall be an amount equal to the basic pay of the employee involved multiplied by the percentage increase applicable to the grade of the position of such employee under section 5305 of this title at the beginning of the pay adjustment period.

"(B) For the purposes of determining the comparability increase applicable to an employee under subparagraph (A), such employee's rate of basic pay on the day immediately preceding the pay adjustment period involved shall be used.

"(d)(1) Subject to paragraph (3) of this subsection, under regulations issued by the Office of Personnel Management, the rate of basic pay of an employee who is covered by this chapter and whose rate of basic pay is less than the maximum rate of basic pay provided for the grade of the position of such employee under section 5332 of this title shall be increased each year as provided in paragraph (2) of this subsection, effective on the first day of the first applicable pay period commencing on or after October 1 of such year.

"(2)(A) For the purposes of this paragraph, the term 'reference amount', when used with respect to the rate of basic pay of an employee covered by this chapter, means the amount equal to the sum of—

"(i) the minimum rate of basic pay provided under section 5332 of this title for the grade of the position of the employee; and

"(ii) one-third of the difference between the maximum rate of basic pay provided for such grade under such section and such minimum rate of basic pay.

"(B) If the rate of basic pay of an employee to whom paragraph (1) of this subsection applies exceeds the reference amount on the day before the effective date described in such paragraph and the performance of the employee is rated at the fully successful level or higher under the provisions of chapter 43 of this title or an equivalent rating system for the latest period ending before such effective date, the rate of basic pay of the employee shall be increased by an amount equivalent to a periodic step-increase provided under section 5332 of this title.

"(C) If the rate of basic pay of an employee to whom paragraph (1) of this subsection applies exceeds the reference amount on the day before the effective date described in such paragraph and the performance of the employee is rated under the provisions of chapter 43 of this title or an equivalent rating system for the latest rating period ending before such effective date—

"(i) at the level two levels above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to a periodic step-increase provided under section 5332 of this title;

"(ii) at the level one level above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-half of a periodic step-increase provided under such section; or

"(iii) at the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-third of a periodic step-increase provided under such section.

"(3) The amount of an increase in the rate of basic pay of an employee under paragraph (1) of this subsection is limited to the amount equal to the difference between the maximum rate of basic pay provided for the grade of the position of such employee under section 5332 of this title and the rate of basic pay of the employee as in effect before the increase.

"(e)(1)(A) If an employee's performance is rated 2 levels above the fully successful level, the employee shall be paid a performance award in accordance with the provisions of this subsection.

"(B) If an employee's performance is rated 1 level above the fully successful level, the employee may be paid a performance award in accordance with the provisions of this subsection.

"(C) Any award paid under this paragraph shall be in addition to any increase in basic pay provided under subsection (c) or (d).

"(2) A performance award under this subsection may be made to an employee in such amount as the head of the agency considers appropriate, except that any such award may not exceed an amount equal to 20 percent of the rate of basic pay payable to such employee.

"(3)(A) For any fiscal year, the head of any agency may exercise authority under this subsection only to the extent of the funds available for the purposes of this subsection.

"(B) Performance awards under this subsection shall be paid from funds or appropriations available to the agency for pay of employees.

"(C) Subject to the limitation on the maximum amount which may be paid as a performance award set forth in paragraph (2) of this subsection, in each fiscal year an agency shall pay performance awards under this subsection in a total amount equal to not less than three-fourths of 1 percent of the aggregate amount of basic pay which is payable to the employees of the agency who are covered by the performance management and recognition system for such fiscal year.

"(D) During the first fiscal year beginning on or after the effective date of the amendments made by section 101 of the Civil Service Amendments of 1984 and during each of the next four years thereafter, the head of each agency of the government employing employees to whom this section applies should, to the extent determined practicable by the head of such agency, pay performance awards under such section 5403(e) in amounts totalling at least one and one-half percent of the aggregate amount of basic pay which is payable to such employees during such fiscal year.

"(4) A failure to pay a performance award authorized by paragraph (1)(B) of this subsection may not be appealed.

"(f) Except as provided in subsection (g) of this section, any employee whose position is brought under the performance management and recognition system shall, for as long as the employee continues to occupy the position, be entitled to receive basic pay at a rate of basic pay not less than the rate the employee was receiving when the position was brought under the performance management and recognition system.

"(g) Under this section, an employee may be paid less than the minimum rate of basic pay of the grade of the employee's position to the extent that payment of the lesser amount is the result of a performance evaluation of less than fully successful.

"(h) Under regulations prescribed by the Office of Personnel Management, the benefit of advancement through the range of basic pay for a grade shall be preserved for any employee who is covered by the performance management and recognition system and whose continuous service is interrupted in the public interest by service in the Armed Forces, or by service in essential non-Government civilian employment during a period of war or national emergency.

"(i) For the purpose of section 5941 of this title, rates of basic pay of employees covered by the performance management and recognition system shall be considered rates of basic pay fixed by statute.

"§ 5404. Cash award program

"(a) The head of any agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the performance management and recognition system who—

"(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs a special act or service in the public interest in connection with or related to the employee's Federal employment.

"(b) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the performance management and recognition system who—

"(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

"(2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to the employee's Federal employment.

A Presidential cash award may be in addition to any agency cash award under subsection (a) of this section.

"(c) A cash award to any employee under this section is in addition to the basic pay of the employee under section 5403 of this title. Acceptance of a cash award under this section constitutes an agreement that the use by the Government of any idea, method, or device for which the award is made does not form the basis of any claim of any nature against the Government by the employee accepting the award, or the employee's heirs or assigns.

"(d) A cash award to, and expenses for the honorary recognition of, any employee covered by the performance management and recognition system may be paid from the fund or appropriation available to the activity primarily benefiting, or the various activities benefiting, from the suggestion, invention, superior accomplishment, or other meritorious effort of the employee. The head of the agency concerned shall determine the amount to be contributed by each activity to any agency cash award under subsection (a) of this section. The President shall determine the amount to be contributed by each activity to a Presidential award under subsection (b) of this section.

"(e)(1) Except as provided in paragraph (2) of this subsection, a cash award under this section may not exceed $10,000.

"(2) If the head of any agency certifies to the Office of Personnel Management that the suggestion, invention, superior accomplishment or other meritorious effort of an employee for which a cash award is proposed is highly exceptional and unusually outstanding, a cash award in excess of $10,000 but not in excess of $25,000 may be awarded to the employee on the approval of the Office.

"(f) The President or the head of an agency may pay a cash award under this section notwithstanding the death or separation from the service of an employee, if the suggestion, invention, superior accomplishment, or other meritorious effort of the employee for which the award is proposed was made or performed while the employee was covered by the performance management and recognition system.

"§ 5405. Report

"The Office of Personnel Management shall submit an annual report to the President and each House of Congress evaluating the effectiveness of the performance management and recognition system. Each such report shall be prepared after consultation with the respective heads of a sufficient range of agencies so as to permit an adequate basis for making a meaningful evaluation.

"§ 5406. Regulations

"The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.

"§ 5407. Termination

"(a) For the purposes of this section, the term 'system termination date' means the date which is five years after the date of enactment of the Civil Service Amendments of 1984.

"(b) The provisions of this chapter other than section 5404 of this title shall not be effective after the system termination date. Notwithstanding the preceding sentence, the term 'employee covered by the performance management and recognition system', as used in such section, shall refer to any individual described in section 5402(a) of this title as in effect on the day before the system termination data.".

(b) The table of chapters at the beginning of part III of such title is amended by striking out the item relating to chapter 54 and inserting in lieu thereof the following:

"54. Performance Recognition............ 5401".

PERFORMANCE APPRAISAL SYSTEM

SEC. 102. (a) Chapter 43 of title 5, United States Code, relating to performance appraisals, is amended by inserting after section 4302 the following new section:

"§ 4302a. Establishment of performance appraisal systems for performance management and recognition system employees

"(a) Each agency shall develop a performance appraisal system for employees covered by the performance management and recognition system established under section 5403 of this title which—

"(1) provides for periodic appraisals of job performance;

"(2) requires that the supervising official consult with the employee before establishing performance standards; and

"(3) is suitable for use in setting the basic pay and performance awards for an employee in accordance with section 5403 of this title.

"(b) Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system under this section shall—

"(1) provide for 5 levels of performance ratings as follows:

"(A) 2 levels which are below fully successful;

"(B) a fully successful level; and

"(C) 2 levels which are above fully successful;

"(2) provide for establishing performance standards and critical elements which will, to the maximum extent feasible, permit the accurate evaluation of job performance;

"(3) require each supervisor of an employee covered by the performance management and recognition system to discuss with each such employee, before the beginning of each appraisal period, the performance standards and critical elements applicable to the employee's position during such appraisal period;

"(4) provide for evaluating each such employee on the basis of such standards during the appraisal period;

"(5) provide for assisting such employees in improving less than fully successful performance;

"(6) provide for reducing in grade or removing any such employee who continually performs at the level which is 2 levels below the fully successful level, after providing an opportunity to perform at the fully successful level; and

"(7) provide for making decisions to increase a rate of basic pay or to make a performance award based on annual performance appraisals made under this section.

"(c)(1) Appraisals of performance under this section—

"(A) shall take into account—

"(i) individual performance;

"(ii) any improvement in efficiency, productivity, and quality of work or service, including any significant reduction in paperwork;

"(iii) cost efficiency;

"(iv) timeliness of performance; and

"(v) other indications of the effectiveness, productivity, and quality of performance of the appraised employee or other employees for whom the appraised employee is responsible;

"(B) may take into account organizational accomplishment; and

"(C) may be reviewed by an officer or employee of the agency in accordance with the procedures established by the Office of Personnel Management;

"(D) shall, on request of the employee whose performance is appraised, be reconsidered by an officer or employee of the agency in accordance with procedures established by the Office of Personnel Management; and

"(E) may not be appealed outside the agency.

"(2) A reconsideration of an appraisal under paragraph (1) (D) of this subsection may be made only by an officer or employee who is in a higher position in the agency than each officer or employee who made, reviewed, or approved the appraisal.

"(d) In carrying out this section, the Office of Personnel Management and the agency may not prescribe a distribution of levels of performance ratings for employees covered by chapter 54 of this title.

"(e) The Office of Personnel Management may not prescribe or require agencies to prescribe any specific performance standard or element for the purposes of this section.".

(b) The table of sections for chapter 43 of such title is amended by inserting after the item relating to section 4302 the following new item:

"4302a. Establishment of performance appraisal systems for performance management and recognition system employees.".

SENIOR EXECUTIVE SERVICE AMENDMENTS

SEC. 103. (a) Section 3135(a) of title 5, United States Code, is amended—

"(1) by striking out "and" at the end of clause (8);

"(2) by redesignating clause (9) as clause (10); and

"(3) by inserting before clause (10) (as redesignated by clause (2) of this subsection) the following:

"(9) the number of career appointees who have been placed in a position outside the

Senior Executive Service under section 3594 of this title as a result of a removal under section 3595 of this title; and".

(b) Section 3592(a) of such title is amended—

(1) by striking out "or" at the end of clause (1); and

(2) by inserting after clause (2) the following:

"(3) as a result of a reduction in force under section 3595 of this title,".

(c) Section 3593 of such title is amended by striking out subsection (c).

(d)(1) Subsection (b) of section 3594 of such title is amended to read as follows:

"(b) A career appointee who has completed the probationary period under section 3393(d) of this title and who—

"(1) is removed from the Senior Executive Service for less than fully successful executive performance as determined under subchapter II of chapter 43 of this title; or

"(2) is removed from the Senior Executive Service as a result of a reduction in force under section 3595 of this title,

shall be entitled to be placed in a civil service position (other than a Senior Executive Service position) in any agency.".

(2) Subsection (c)(1)(B) of such section is amended by striking out "subsection (a) or (b) of this section" the first place it appears and inserting in lieu thereof "subsection (a) of this section, other than by reason of unacceptable performance, or under subsection (b)(2) of this section".

(e)(1) Subsection (b) of section 3595 of such title is amended by striking out paragraphs (2), (3), (4), and (5) and inserting in lieu thereof the following:

"(2) A career appointee may be removed from the Senior Executive Service due to a reduction in force within an agency only if the appointee is not assigned to a Senior Executive Service position under paragraph (3) of this subsection.

"(3) A career appointee who, but for this paragraph, would be removed from the Senior Executive Service due to a reduction in force within an agency is entitled to be assigned by the head of that agency to a vacant Senior Executive Service position for which the career appointee is qualified.".

(2) Subsection (c) of such section is amended to read as follows:

"(c) A career appointee is entitled to appeal to the Merit System Protection Board under section 7701 of this title whether the reduction in force complies with the competitive procedures required under subsection (a) of this section.".

(f)(1) Subchapter V of chapter 35 of such title is amended by inserting before section 3596 of such title the following new section:

"§3595a. Furlough in the Senior Executive Service

"(a) For the purposes of this section, the term 'furlough' means the placement of a senior executive in a temporary status in which the senior executive has no duties and is not paid when the placement in such status is by reason of insufficient work or funds or for other nondisciplinary reasons.

"(b) An agency may furlough a career appointee only pursuant to regulations issued by the Office of Personnel Management.

"(c) A career appointee who is furloughed is entitled to appeal his status to the Merit Systems Protection Board under section 7701 of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3596 the following new items:

"3595a. Furlough in the Senior Executive Service.".

(g)(1) Subsection (b)(2) of section 5384 of such title is amended by striking out "exceed" and inserting in lieu thereof "be less than 5 percent nor more than".

(2) Subsection (b)(3) of such section is amended to read as follows:

"(3) The total amount of performance awards paid during a fiscal year by an agency under this section may not exceed the greater of—

"(A) the amount equal to 3 percent of the sum of the annual rates of basic pay payable to the career appointees in such agency during such fiscal year; or

"(B) the amount equal to 15 percent of the average of the annual rates of basic pay payable to such career appointees during such fiscal year.".

(h) Section 5383(b) of this title is repealed.

(i) Section 7543(a) of such title is amended by striking out "or malfeasance" and inserting in lieu thereof "malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function".

(j) The Office of Personnel Management shall, pursuant to the provisions of subchapter II of chapter 5 of title 5, United States Code, prescribe regulations to carry out section 3595 of such title (as amended by subsection (e) of this section).

(k) Subsection (d) of section 8336 of such title is amended by inserting after the first sentence the following: "For the purposes of paragraph (1) of this subsection, separation for failure to accept a directed reassignment to a position outside the commuting area of the employee concerned or to accompany a position moved outside such area in a transfer of function shall not be considered to be a removal for cause on charges of misconduct or delinquency.".

(l)(1) Subsection (a) of section 3395 of such title is amended—

(A) in paragraph (2), by striking out "(2) A career" and inserting in lieu thereof "(2)(A) Except as provided in subparagraph (B) of this paragraph, a career"; and

(B) by inserting after paragraph (2)(A) (as amended by subparagraph (A) of this paragraph) the following new subparagraph:

"(B) A career appointee may be reassigned or transferred under this subsection or any other provision of law to a Senior Executive Service position outside the career appointee's commuting area only if the career appointee receives advance written notice of the reassignment not less than 30 days before the effective date of such reassignment. The notice shall include a statement setting forth specific reasons for the reassignment outside such area.".

(2) Section 3397 of such title is amended by adding at the end thereof the following new sentence: "Such regulations shall include provisions to carry out section 3395(a)(2)(B) of this title.".

MISCELLANEOUS CONFORMING AMENDMENTS

SEC. 105. (a) Title 5, United States Code, is further amended—

(1) in section 4501(2)(A), 5332(a), 5334(f), 5335(e), and 5336(c), by striking out "the merit pay system established under section 5402" each place it appears and inserting in lieu thereof "the performance management and recognition system established under section 5403";

(2) in section 5361(5), by striking out "merit pay system" and inserting in lieu thereof "performance management and recognition system"; and

(3) in section 5948(g)(1)(C), by striking out "Merit Pay System" and inserting "performance management and recognition system".

(b) Section 1602 of title 10, United States Code, is amended by striking out "5401(a)" and inserting in lieu thereof "5401".

(c) Section 731(b) of title 31, United States Code, is amended by striking out "5401(a)" and inserting in lieu thereof "5401".

TITLE II—EFFECTIVE DATE; TRANSITION PROVISIONS

EFFECTIVE DATE

SEC. 201. The amendment made by sections 101 and 104 of this Act shall take effect on the first day of the first applicable pay period commencing after the first September 30 following the date of the enactment of this Act.

TRANSITION PROVISION

SEC. 202. Effective on the effective date of the amendments made by section 101, the rate of basic pay of each employee of the Government who was covered by the merit pay system under chapter 54 of title 5, United States Code on the day before such effective date shall be the rate of basic pay of such employee as in effect on such day.

TITLE III—GOVERNMENT DINING FACILITIES

SEC. 301. (a) For the purposes of this section, "executive dining room" means any dining room which is located in an office building used by any agency in the executive branch and where breakfast, lunch, or dinner—

(1) is available only to an officer or employee of the Government serving in a position in the executive branch in grade GS-15 or above, Executive Level V or above, or colonel or above, or their guests; or

(2) was available only to such officers or employees of their guests before the date of enactment of this Act.

(b) Each person receiving a meal in an executive dining room or a Senate dining facility shall be charged for such meal a price in an amount which is not less than an amount sufficient to defray the cost of providing such meal considering the cost of the food, labor, and utilities, and the depreciation of equipment used in providing such meal.

(c) Sums collected pursuant to subsection (b) shall be deposited in the Treasury of the United States as miscellaneous receipts.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read "A bill to amend title 5, United States Code, to reform the merit pay system by providing for a performance management and recognition system for certain Federal employees, to require the establishment of performance appraisal systems for employees covered by the performance management and recognition system, and to increase flexibility in the management of senior executives; and for other purposes."

RELIEF OF APOLONIO P. TUMAMAO

Mr. STEVENS. Mr. President, I ask the Chair lay before the Senate Calendar Order No. 652, H.R. 1750.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection on this side, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 1750) for the relief of Apolonio P. Tumamao, and others.

The PRESIDING OFFICER. If there be no objection, the bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1750) was ordered to a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL 11 A.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE

Mr. STEVENS. Mr. President, following the time of the two leaders under the standing order, I ask unanimous consent that there be a special order for the Senator from Wisconsin (Mr. PROXMIRE) for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, following the time for the two leaders and the special order, I ask unanimous consent that there be a period for the transaction of routine morning business on tomorrow to extend not later than 11:30 a.m., during which Senators may speak therein for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 3398

Mr. STEVENS. Mr. President, I announce that it is the intention of the leadership to go to H.R 3398, the reciprocity bill, following the period for the transaction of routine morning business tomorrow.

RECESS UNTIL 11 A.M. TOMORROW

Mr. STEVENS. Mr. President, I inquire of my dear friend from West Virginia if he has any further business to come before the Senate?

Mr. BYRD. Mr. President, I thank the distinguished assistant majority leader for his characteristic courtesy. There is nothing that I can think of that would stand a chance of passing right now.

Mr. STEVENS. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess in accordance with the order previously entered.

The motion was agreed to, and at 11:19 p.m., the Senate recessed until Friday, March 2, 1984, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 1, 1984:

DEPARTMENT OF STATE

Harry W. Shlaudeman, of California, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador at Large.

DEPARTMENT OF THE TREASURY

Fred T. Goldberg, Jr., of Maryland, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service), vice Kenneth W. Gideon, resigned.

THE JUDICIARY

NEAL B. BIGGERS, of Mississippi, to be U.S. district judge for the northern district of Mississippi, vice William C, Keady, retired.

IN THE ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code.

To be lieutenant general

Lt. Gen. Donald E. Rosenblum, 089-22-1106, (age 54), U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designted by the President under title 10, United States Code, section 601.

To be lieutenant general

Maj. Gen. Charles D. Franklin, 492-34-2422, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, tobe reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Robet L. Wetzel, 519-44-2999, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Paul W. Williams, Jr., 231-30-5124, U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Sinclair L. Melner, 530-01-9074 (age 55), U.S. Army.

The following-named officer under the provisions of title 10, United States Code section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Thomas D. Ayes, 420-24-5190, U.S. Army.

The following-named officer for promotion to the grade indicated under the provisions of article II, section 2, clause 2 of the Constitution of the United States of America:

IN THE ARMY

To be colonel

Lt. Col. Robert L. Stewart, 427-90-0242.

EXTENSIONS OF REMARKS

NEW PRESIDENT OF MOUNT SINAI MEDICAL CENTER SPEAKS ON HEALTH MANPOWER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. RANGEL. Mr. Speaker, on December 8, 1983, Dr. James F. Glenn was inaugurated as the fourth president of the Mount Sinai Medical Center, which is in my congressional district.

He served most recently as dean of the medical school at Emory University in Atlanta. Prior to his deanship, Mr. Glenn was chief of the division of urologic surgery at Duke University Medical Center, one of the largest and most prestigious urological residency programs in the country. His book, "Urologic Surgery," is considered the standard reference text in the field, and he is the author of more than 200 scientific papers.

Dr. Glenn spoke considerably, in his speech, about the problems facing us with regard to medical manpower. He included his concerns about Federal policy in this area.

As you know, health manpower legislation comes up for reauthorization in 1984. I am sure Dr. Glenn's remarks will be very useful to the members and staff of those committees dealing with the matter. I have excerpted from the speech portions dealing with medical manpower. I urge my colleagues to read and carefully consider his remarks.

President of Mount Sinai Medical Center Discusses Health Manpower

I would like to address the medical manpower issue as the principal theme of my discussion with you today. I am not alone in my concern with regard to this thorny issue. Good and thoughtful men, dedicated public servants, representatives of many aspects of public and private life have given serious consideration to the medical manpower problem. It is a problem which centers in medicine and involves all of society. The deans of our medical schools, the accreditation authorities for medical education at the various levels, the federally and locally sponsored agencies which regulate medical care, the licensing organizations, the health agencies, private foundations, economists and concerned individuals in many other areas have given thoughtful consideration to the medical manpower problem, each perhaps with a different perspective and a different agenda. I can tell you that I have shared my own views with the deans of the twelve medical schools in the State of New York who represent 10 percent of the nation's medical educational capability. I have discovered that there is at least unanimity in the opinion that a plan of approach to the manpower problem must now be enunciated by the concerned parties. I have also spoken with the Commissioner of Health, Dr. Axelrod, who agreed that the issue is of paramount importance because it bears upon the publicly sustained cost of medical care. I have had a frank and amicable discussion of points of agreement and disagreement with the Chancellor of the Board of Regents of New York State, Mr. Genrich, a fine and dedicated gentleman who is genuinely devoted to the public interest. It is my sincere hope that what I say here this afternoon will provoke a tripartite discussion of the medical manpower problem between the three elements most concerned: our medical schools (the educators), the responsible public authority (the Commissioner of Health and his colleagues), and the licensing and credentials authority for physicians (our Board of Regents).

First, to summarize, let us acknowledge certain facts relative to medical manpower in the 30 years from 1950 to 1980. Our capacity to educate physicians has almost tripled, from approximately 5,500 graduates 30 years ago to some 16,000 graduates this past spring. Medical schools have increased from about 80 in number to 127 accredited schools at this time. In 1982, there were nearly 483,000 licensed physicians in the United States, an increase of 3 percent over 1981. If we continue at this pace, we will see a doubling of the number of physicians in the nation over the next two decades.

In 1970, there were 168 physicians for every 100,000 people in the United States; today, there are nearly 200 physicians per 100,000 population, and by 1990, the ratio will be 250 doctors for every 100,000, considering the trainees who are now in the educational pipeline.

This past year, there was a small decrease in the number of students entering medical schools, triggered by budget cuts, spiraling tuition costs, and cuts in federal aid. This reduction reflects the current state of the economy, as opposed to policy planning. It therefore may not prove to be a long-term trend and it should not be relied upon to solve the medical manpower problem.

At the highwater mark in 1974, over 42,000 people applied to medical schools in this country, but in 1983 there were under 36,000. Just over 30,000 of last year's 36,000 were first time applicants. The remainder were repeat applicants who had been rejected on prior occasions. Since there were over 17,000 students admitted to accredited medical schools in the United States, the chances of admission for a first time applicant were better than 50 percent—one student admitted to medical school for every two who applied.

What happens to the remaining applicants? Well, some are carried over to subsequent years when they reapply. Still, others abandon the thought of a medical career and enter other fields. A gratifying number select paramedical careers, where we generally have a shortage of personnel.

Unfortunately, however, a large number of rejected medical school applicants seek refuge in non-accredited medical schools of questionable credibility and capability. It is estimated that there may be approximately 12,000 to 18,000 United States citizens enrolled in 56 foreign medical schools. Ten of these schools are in the Caribbean Islands and 16 in Mexico. United States authorities have not seen fit to accredit any of these institutions. Nonetheless, a significant number of these students—certainly as many as several thousand United States citizens each year—will find their way back into the licensed practice of medicine in the United States by one mechanism or another. Whether they are capable or competent is not in the central issue. The issue is that they add to an already inflated pool of physicians who bear the ultimate responsibility for expenditure of the health-care dollars in this nation.

The high cost of medical education in the United States reflects the problem of providing adequate laboratory and bench space, lecture hall accommodations, and faculty resources for students. Here at Mount Sinai, a facility of over 1,200 beds with more than 100 basic science full-time faculty, more than 200 full-time clinical faculty and a host of outstanding voluntary physicians, we still strain our resources to provide an appropriate educational experience each year for 100 students who are in the first two years of school, 130 students per year who are in the last two years of medical education. In contrast, the offshore schools accept vast numbers of students. At last report, there were 9,000 students in Monterrey. Recent press reports say that St. George's Medical School in Grenada admits 384 students annually, compared to our own class of 100. Virtually every study of medical manpower has indicated that we are in a posture which will produce an overabundance or glut of physicians.

In 1980, the Graduate Medical Education National Advisory Committee (GMENAC), sponsored by the Department of Health and Human Services, projected a rather massive surplus of physicians by 1990. This oversupply primarily involves the medical specialties, the surgical specialties, radiology and even some of the primary care specialties. The only projected potential shortages were in the fields of adult and child psychiatry, rehabilitation medicine, and emergency medicine.

Without quibbling, it can be stated that there will be an excess number of physicians available in this country very soon. The Department of Health and Human Services has even recommended that the entering class size in U.S. medical schools be reduced by 17 percent and that the inflow of foreign trained physicians be severely restricted.

Why is this so important? What difference does it make if we have too many physicians? Will not the laws of supply and demand work to lower the cost of medical care if we have more physicians than we need? Unfortunately, the answers are not simple. The societal costs of training a physician are almost incalculable. It begins with preparatory schooling, it continues through four expensive years of college education, it is maintained through four years of medical education (now at a level of over $43,000 per student per year here at Mt. Sinai) and it extends into a period of post-graduate training that ranges from 3 to 8 years depending on the specialty. Society bears the cost of this long and expensive educational process. Indeed, the student may pay tuition—which is in many instances extremely high—but

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

society incurs a debt as well, because public agencies and public dollars underwrite the educational process in many ways.

But even the costs borne by the individual medical student are staggering. Virtually every one of them has some type of debt by the time he or she completes the four years of medical education. The debt can be as much as $100,000. This financial burden discourages some talented students from applying to medical school in the first place. The cost makes a career in research and academic medicine undesirable since the rewards will not be as great. It causes many physicians to seek specialties with the highest possible fee structure in order to pay their debts. In the long run the price of education results in greater costs of medical care to the public in general. We must modulate the number of physicians we train—but would it not also be intelligent to subsidize medical education here within the State of New York, in order to prevent the unfortunate consequences of these terrible debts?

Upon completion of training, the physician enters the pool where he or she controls the expenditure of health care dollars for modern technology and treatment. It has been estimated that every physician accounts for the expenditure of over $300,000 per year in public funds. Our patients do not know and cannot be expected to know what technologies should be employed, what studies should be ordered, what tests should be done, or when hospitalization is required. The physician must make the judgments and decisions which are the basis for the financial impact of any illness or disability. Indeed, the three parameters of medical costs seem to be available technology, public utilization, and physician availability. The laws of supply and demand work in reverse.

The medical schools of the State of New York, operating in a high-cost environment, meet the expenses of educating their students largely through their own abilities to generate practice income and to attract grants and contracts. Nonetheless, most schools operate on the razor's edge of financial survival. At the same time, nearly $1.7 million a year of New York State public funds are paid in subsidies to out-of-state medical schools. There are now 228 residents of New York State studying in institutions outside of the State. Many of these students are minorities whom we would desperately like to keep here in New York for the educational process, because the educational locus of the student is the most certain determinant of his or her future selection of practice site. Clearly, we must address this issue of New York State funding of out-of-state medical education for it is intimately connected with the overall manpower question.

We are in trouble. We cannot afford the luxury of ignoring the medical manpower problem any longer. We have reached this point—despite the studies I have cited which have warned us of the problem—because of our individual dedication to our own points of view. Physicians have long maintained that the practice of medicine is none of the government's business, but, indeed, it is government's largest business with the exception of national defense. The scientific community has been bent upon ever-increasing expenditure for costly and, fortunately, productive research. Economists have warned that medical care consumes too much of our gross national product, but have not offered viable alternatives. Students of the social scene argue that medicine must be organized and regulated, but at the same time they deplore the fact that medical teaching may not be sufficiently innovative. Our patients want more "old-fashioned doctors" but they simultaneously demand the ultimate technology and expect the universally perfect result. Our political leadership takes the position that more doctors will mean better distribution and happier voters, but we also know that 80 percent of our citizens live within ten miles driving distance of a physician, 98 percent within 25 miles, and the remaining 2 percent of our population lives in areas which are so sparsely populated that they could not possibly attract or sustain a physician. In short, our legitimate concerns and special interests have led to confusion and misconception.

I take a positive view. I believe that there are both challenges and opportunities in the current situation. I believe that a tripartite dialog in New York State involving our medical schools, the Department of Health and the Department of Education can result in solutions to our problems. I believe that we can plan for quality medical care at reasonable cost through rational decision-making about medical education, controlling numbers of students, numbers of schools, and numbers of specialists. I believe that we can develop a coordinated and cooperative system of primary, secondary, and tertiary care which will be based upon accurately perceived medical manpower needs. I believe that we can involve the public by making everyone aware of medical costs and by providing incentives through participation in the decision process by our patients. I believe that we can modulate medical manpower in a positive and effective fashion, insuring the highest quality of medical care through providing the best trained physicians to the public. I believe that men of goodwill in the public and private sectors, in medical education and medical care delivery, in government and in industry, can join together in a comprehensive and constructive planning effort. I pledge that my tenure at The Mount Sinai Medical Center will be dedicated to that effort.●

EUROPEAN COMMUNITY RETALIATION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. FRENZEL. Mr. Speaker, today the European Community will increase tariffs on methanol, vinyl acetate, and burglar and fire alarms imported from the United States at an average increase of 6.5 percent, a revenue increase of about $3.7 million. Further, it will establish quotas on styrene, polyethylene, sporting guns and rifles, gymnastic and athletic equipment, and snow skis from the United States, at an estimated $30 million loss to U.S. exporters.

Those actions were taken, under GATT, to retaliate against U.S. quotas on specialty steel products imposed last July.

There seems to be an attitude by many in this House that we can pass trade restrictions, or by the administration that we can bargain for trade restrictions in lieu of remedy under our usual trade laws, without fear of foreign retaliation. The industries pursuing the trade curbs have little concern regarding retaliation either. If there is retaliation, chances are it will occur in another sector. As the House passed its domestic content bill last year, its sponsors promised, there will be no retaliation.

Thats what was said when we restricted steel, too. The trouble is we got retaliation and we may get more. In the specialty steel case, the Europeans were entitled to compensation under the GATT for that import relief action taken by the United States. It is true that countries do not always request compensation or retaliate against such actions, but the Europeans did, mostly due to what they see as an increasing number of import restrictions by the United States, with the likelihood that they will increase in an election year.

The specialty steel people got what they wanted. But those in many other industries will be losers.

I hope this example of retaliation will remind my colleagues that we should look at the possible consequences before we take trade-restrictive measures of our own. And how can we eliminate trade barriers in other nations when we have so many existing and pending barriers of our own?●

A PROGRESS REPORT ON THE UNIVERSITY OF TEXAS SCIENCE PARK

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. PICKLE. Mr. Speaker, the University of Texas Science Park, located in the 10th Congressional District of central Texas, was authorized by the 62d Texas Legislature in 1971. The science park is a component of the University Texas System Cancer Center, headquartered in Houston, which also includes the U.T. M. D. Anderson Hospital and Tumor Institute.

The Research Division of the U.T. Science Park, located on 717 acres of land near Smithville, is a major center for the study of environmental causes of cancer.

The Veterinary Resources Division of the U.T. Science Park, which sits on 430 acres about 20 miles away near the town of Bastrop, produces a wide variety of animals for research at educational and scientific institutions throughout Texas.

U.T. SCIENCE PARK—RESEARCH DIVISION

If one event was the turning point in the development of the research division, it was receipt of a $1.25 million construction grant from the U.S. Economic Development Adminstration. Until that grant was awarded in 1974, little progress had been made toward building the scientific laboratories needed for the sophisticated basic science research that goes on today.

Funds from the EDA grant were matched by funds from the University of Texas System. With philanthropic support from Houston Endowment, Inc., and other foundations and individuals, construction of a state-of-the-art scientific center was assured. Research division facilities now total 55,000 square feet.

Scientific investigation began at the research division in September 1977, with a staff of 3 scientists and 22 employees. Today, the division includes a staff of 29 scientists and 76 employees, all focusing their energies on unraveling the mysteries surrounding how environmental influences may contribute to the development of cancer.

The research effort is led by Dr. Thomas J. Slaga, who became director of the division in January 1983. Dr. Slaga was recruited by the U.T. Cancer Center from his former post as head of the carcinogenesis research program at the Oak Ridge National Laboratory in Tennessee.

Under Dr. Slaga's leadership, groups of scientists are addressing the problem of carcinogenesis from three directions. One group is examining the ways in which cells repair or reverse the damage that may be done by external influences, such as chemicals, X-rays or ultraviolet light. A second group focuses its research on how cells are changed or modified in response to damage. The third group is concerned with how these altered cells may spread or proliferate. These processes—cell damage, modification, and proliferation—are all part of the disease process of cancer.

Research conducted at the division has produced new scientific information in the form of 113 articles published in professional journals since 1977—67 of these articles in the last 2 years alone. Currently, research is supported by more than $2,100,000 in grants, and the staff has prepared and submitted proposals for an additional $1,680,000 in support.

Future plans at the research division call for expansion of the research effort into chemical modification of the steps of carcinogenesis and identification of the genetic information responsible for the malignant state. The division also plans to increase training opportunities for graduate students and begin a series of conferences on cellular, molecular, and tumor biology, as well as on other pertinent topics.

U.T. SCIENCE PARK—VETERINARY RESOURCES DIVISION

Throughout the history of science, laboratory animals have played a crucial part in advancing medicine through research. Knowledge gained in research is ultimately applied to improving human health and welfare. The veterinary resources division was established in 1976 to provide specialized animals for research at both the U.T. Cancer Center and other institutions in Texas and the Southwest.

Today, the veterinary division includes a staff of five veterinarian-scientists and 59 other employees involved in the supply and production of animals, research in animal disease and ecology, and the training of veterinary medical students. The division is directed by Dr. Michale E. Keeling and is an integral part of the U.T. Cancer Center's Houston-based Department of Veterinary Medicine and Surgery, which is headed by Dr. John H. Jardine.

The division's rural location allows the production of a wide range of animal populations on a large scale under controlled conditions, a task that would be impossible in the environment of urban research centers. Veterinary division facilities now total more than 104,000 square feet.

The current population exceeds 6,900 animals—ranging from specialized strains of rodents to cattle and swine—that are sold to investigators on a cost-recovery basis. During the last fiscal year, high-quality animal models for comparative research were sold to 34 institutions. In addition, the division markets 20 varieties of quality-controlled biologics. Biologics are blood, blood components and other animal products required for laboratory tests and procedures.

The veterinary resources division also includes one of the Nation's largest centers for chimpanzee breeding, maintenance, and rehabilitation. The program is designed to help sustain the existence of this endangered species and provide the animals for use in nonsacrificing medical research. Because the chimpanzee's immune system most closely resembles that of humans, it is critically important for research in human diseases such as hepatitis. Since the program began in 1977 under a contract from the National Institutes of Health Division of Research Services, a total of 95 chimpanzees have been secured and 26 have been born at the center.

Veterinary scientists here also conduct a number of research endeavors in laboratory animal medicine, cancers in animals, and animal ecology. Research is supported by more than $2,340,000 in grants and contracts, with proposals for an additional $2,900,000 in awards submitted to funding agencies.

The division also provides training opportunities for undergraduate, graduate, and veterinary medical students from several universities, and maintains a close working relationship with the College of Veterinary Medicine at Texas A&M University.●

TRIBUTE TO THE MEMORY OF IRA DRAYTON PRUITT, SR.

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. SHELBY. Mr. Speaker, Sumter County, in Alabama's Seventh Congressional District, suffered a great loss recently with the death of Ira Drayton Pruitt, Sr., 79, of Livingston, Ala. It is my privilege today to offer a tribute to the memory of this wonderful man.

Not many people achieve the measure of admiration and respect that Ira Drayton Pruitt, Sr., enjoyed. He earned that admiration and respect because he genuinely cared about the people and about the welfare of his community.

He was a rarity—a man who had the vitality and know-how to be extremely effective in getting things done, yet warmth and sensitivity that made him a beloved leader.

Following is an article about this great man that appeared in the Home Record, written by Howard Turner, Jr., that I would like to share with my colleagues in the House:

> It is unfortunately the general rule that you can live your entire life in a small community and know someone all of that time, yet, not realize the true magnitude of their good works and the fruit of their total dedication to a better life and world.
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> Such a man has lived in my lifetime, Mr. Ira Drayton Pruitt, Sr. He was just this type of person.
>
> Plain spoken and unpretentious, he had the air of being straight forward and the look of dignity and dedication to his goals in life.
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> Mr. Ira, a long time resident of Livington, was a native of Pine Hill in Wilcox County. He was born there on March 4, 1904.
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> The reason for Mr. Ira's zeal for education was that his father died when he was fifteen years old, leaving him with four sisters to help raise and educate. He was determined to see that they received their formal education, while postponing his own.
>
> This indelibly imprinted upon his mind that everyone's educational needs should be met.
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> He was graduated from Marion Institute and then went on to the University of Alabama.
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> In 1934, Mr. Ira was graduated from the University of Alabama Law School and became a member of the Alabama Bar Association.
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> That same year he moved to Livington and started his law practice, which he continued until his retirement in 1979.

This original practice has now culminated into the law firm of Pruitt, Pruitt, Watkins and Robinson. His son, Ira Drayton Pruitt, Jr., now carries on the family tradition of the law practice.

In 1944, Mr. Ira threw his hat into the local political arena and served as our state representative until 1974.

This thirty year tenure in office could in itself serve as a tribute to his memory as a political feat in itself.

Not only was Mr. Ira's stay in office lengthy, it was very active and productive for the area in which we live and the state itself.

During the turmoil of the sixties, he single handedly prevented the legislature from cutting off funding to Tuskegee Institute.

On another occasion, President Frank Rose of the University of Alabama while speaking at Livingston University, stated that "when Ira Pruitt digs a trench you can stand up in it."

While in the Legislature, Mr. Ira played the major role in not only saving Livingston University from being closed or forgotten, but he transformed Livingston State Teachers College into a full fledged University.

Legislature sponsored by Mr. Ira established Livingston University as a free standing University with its own Board of Trustees, thus ending the operation of the school under the State Board of Education.

Mr. Ira's unselfish work through the Legislature for Livingston University and its betterment is almost too numerous to mention, but we will do our best not to leave out too much.

The University as it stands today is a testament in itself to one man's determination and well set goals.

Mr. Ira was a Charter Member of the Livingston University Board of Trustees from 1967 to 1980. He was also the Chairman of the Board of Trustees from 1972 to 1980.

He also led the movement to establish the Ira D. Pruitt School of Nursing at Livingston University. It became a reality and was named for him on June 3, 1974, perhaps this was his proudest moment.

It was a much needed and most beneficial addition to the University and the area in which we live.

On May 29, 1982, Livingston University chose to pay tribute to him with an honorary doctorate degree. A befitting gift in return for all that he'd done for the University.

Mr. Ira also had a personal side that was as kind and as generous as his public one. There are many stories of his helping college students at LU and students at Sumter Academy who were in need.

Mysteriously, tuition payments were met and power bills simply vanished.

As one of his grand children stated "He would give them help when they needed it."

The true mark of those noble deeds were that the beneficiaries never really knew who it was that was helping them.

This thought was still fresh in my mind while attending Mr. Ira's funeral at Roy Chapel.

While standing there I met two distinguished gentlemen who were there not only as friends of the man, but as representatives of the University of Alabama's School of Law.

In our small crowd standing outside the door of the Chapel, due to the fact that standing room only had turned to no more room at all for late comers, these two gentlemen spoke of Mr. Ira in kind admiring terms.

They told us of his many contributions and hard work that he had done for the Law School while serving in the State Legislature.

They spoke of Mr. Ira's sponsorship of Legislature for the Law School that not only helped to build the new facility at Tuscaloosa, but his assistance in acquiring additional permanent funded that aided the Law School immeasurably.

Mr. Ira's concern for better education and the availability of it to young people went far beyond the boundaries of Sumter County.

Livingston University now plays a vital role in our community and offers a better future to many young people as it follows in his well laid foot steps.

Locally, Mr. Ira served as a member of the Livingston City Council for many years and as a member and as Chairman of the Sumter County Board of Education.

He also served as County Solicitor (District Attorney) for a lengthy tenure.

While in the Legislature he served on the Rules, Ways and Means Committee and the Banking Committee among others. He was also Speaker Pro-tem of the House for four years.

Livingston University President, Asa N. Green stated that " his (Mr. Ira's) support through the years has encouraged all of us and his pride in this University challenges all of us to give it our best efforts."

President Green further stated, "Livingston University and its students will benefit from his efforts for all the years to come and from Mr. Ira's great service. For all of these reasons, but most of all because we have lost a friend. I know that I speak for all of us here—students, trustees, faculty and staff—in conveying our sympathy to Mrs. Pruitt and other members of the family."

Even with such an active law practice and political career he found time to rear a fine family and to be renowned as a doting grandfather.

Mr. Ira's hobbies included deep sea fishing, reading and flowers. He was especially known for his love of orchids.

Most people would call him a true Renaissance Man, an old dear friend of his simply stated that

Mr. Ira was a true Southern Gentleman. That is about the highest compliment I know of around here.

At the age of seventy nine, after a full and long life, Mr. Ira died on February 6th at Rush Memorial Hospital in Meridian, Mississippi.

This past Thursday of the same week, the complete Alabama House of Representatives co-sponsored a resolution mourning the death of former Rep. Ira Drayton Pruitt, Sr. and recognizing the invaluable service he had provided his state in several different areas

In particular of these areas were the judiciary aspect and the field of education.

Mr. Ira, himself, has gone on to better things, leaving all of us with the job of seeing that his good works are continued, to better not only our own lives, but those of everyone else.

Dr. Ira Drayton Pruitt, Sr. indeed left an excellent role model for the young to aspire to.

Surviving are his wife, Elise C. Pruitt of Livingston; a son, Ira Drayton Pruitt, Jr., of Livingston; three sisters, Bernice P. Banks and Jewel Pruitt, both of Pensacola, Fla.; and Mary P. McGraw of Andalusia.

Ira Drayton Pruitt, Sr.'s life should serve as a memorial to him for all time in Livingston, Sumter County, and the State of Alabama, for he truly devoted it to serving the people that he loved and cared for. He left many fond memories and I am sure that this fine outstanding gentleman will never be forgotten.

Mr. Speaker, it is indeed an honor for me to share this tribute with my colleagues in the House of Representatives. He will be missed by me and all others who were touched by his wonderful life.●

"EQUAL ACCESS" LEGISLATION—THE RELIGIOUS SPEECH PROTECTION ACT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. BONKER. Mr. Speaker, the issue of religion in public schools is particularly sensitive because it often places the constitutionally protected rights of free speech and the free exercise of religion in conflict with the establishment clause. Currently, the Senate is bogged down in a heated debate over the controversial school prayer amendments. I have introduced equal access legislation which provides a constitutionally sound means of protecting religious speech in public high schools without running afoul of the first amendment's establishment clause.

This legislation is based on the notion that when a school opens its facilities to student groups during noninstructional periods, it should not be allowed to discriminate against student groups who wish to meet voluntarily for religious purposes. In other words, the bill would insure that student religious groups would have the same right to meet on campus as other student groups.

This is the position the U.S. Supreme Court took when it applied the equal access principle to student meetings at a State university. In *Widmar* v. *Vincent,* 102 S.Ct 296 (1981), the Court held that, absent a compelling purpose, a public university may not deny the use of its facilities to student groups which wish to meet and speak on religious subjects if the university makes its facilities generally available to student groups for nonreligious subjects.

The Court based this holding not on the free exercise of religion clause but on the freedom of speech clause of the first amendment as made applicable to the States through the 14th amendment. The Court explained that once the university "created a forum generally open for use by student groups," the university could not "discriminate against student groups and speakers based on their desire to * * * engage in religious worship and discussion." I wholeheartedly agree with this holding and believe it should be applied to public secondary schools by enactment of equal access legislation.

The legislation which I am reintroducing today is limited to public secondary schools and includes a number of safeguards to prevent school or Government involvement in the student-initiated religious meetings. A companion measure in the Senate enjoys broad bipartisan support.

It is inequitable to prevent high school students from meeting voluntarily for religious purposes during noninstructional periods when the school permits student meetings for virtually any other legitimate purpose. Such a double standard is inconsistent with the principles of free speech and Government neutrality toward religion.

Mr. Speaker, I urge my colleagues to support this legislation, the text of which follows:

H.R. 4996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Religious Speech Protection Act".

Sec. 2. No funds appropriated to the Department of Education to provide financial assistance to State or local educational agencies may be obligated or expended to any State or local educational agency, if the State or local educational agency, or any public secondary school for which the State or local educational agency is responsible, violates the prohibition described in section 3.

Sec. 3. It shall be a policy subject to the penalties in section 2 for a public secondary school receiving Federal financial assistance, which generally allows non-school-sponsored groups of students to meet, to discriminate on the basis of the religious content of the speech at such meetings, if—

(1) the meeting is voluntary and student initiated,

(2) there is no sponsorship of the meeting by the school, government, or its agents or employees, and

(3) no activity which is in and of itself unlawful is permitted.

Sec. 4. Nothing in this Act shall be construed to permit the United States or any State or political subdivision thereof to—

(1) influence the form or content of any prayer or other religious activity,

(2) require any person to participate in prayer or other religious activity, or

(3) expend public funds beyond the cost of providing the meeting space for student initiated meetings.

Sec. 5. The provisions of this Act shall supersede all other provisions of Federal law that are inconsistent with the provisions of this Act.

Sec. 6. As used in this Act the term "secondary school" means a public school which provides secondary education, as determined under state law, except that it does not include any education provided beyond grade 12.●

CITIES INCREASING TAXES AS FEDERAL AID DECLINES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. FLORIO. Mr. Speaker, I would like to add the following recent article from the Associated Press to the Congressional Record. The article offers further testimony of the stark reality imposed by the disguised savings to the American taxpayer which are so often lauded by the current administration.

The drastic reductions in aid to municipalities by Federal and State governments have caused local property taxes to increase and given rise to a host of miscellaneous charges and taxes. Clearly, what we are seeing is not a savings to the taxpayer but in fact a transfer of the tax burden to the already strained local and municipal governments.

Cities Tapping Other Incomes as Taxes, Federal Aid Decline

Washington, D.C.—City governments are turning to special fees and charges to raise money as federal aid declines and property tax income grows slowly, according to a Census Bureau study released yesterday.

And spending on police continues to close in on education as the biggest cost for municipalities, the study shows.

For each resident, cities currently spend $72.14 for education and $70.12 for police protection annually, according to the report "City Government Finances in 1981-82."

Miscellaneous revenue was the fastest growing portion of city income between 1981 and 1982, jumping 17.8 percent to $22.7 billion, the study showed.

At the same time, property taxes, long the largest local source of income for municipalities, climbed 6.7 percent to $19.5 billion. And over the past decade, the share of city income provided by property taxes has dropped from 31 percent to 21 percent, the study showed.

For 1982, the report said, miscellaneous charges brought nearly one fourth of all the money received by the cities, while property taxes brought in about 21 percent.

PUBLIC AID ON DECLINE

As recently as 1979-1980 property taxes had been the largest source of city funds, but since then they have been outstripped by miscellaneous charges.

Meanwhile, federal aid to cities dropped 2.5 percent to $10.9 billion in 1982, and state assistance was off 6.8 percent to $18.9 billion, the report showed.

While details of income and spending vary from city to city, the growth in miscellaneous charges has been a general trend in recent years, explained Larry MacDonald of the Census Bureau's government's division.

Property taxes can only be increased so much, said MacDonald, and in effect have held about steady in recent years, while state and federal aid has dropped off.

As a result, he said, cities have sought other sources of income. The miscellaneous charges include such things as interest earnings on city money, fees for trash collection, parks, and recreation use, sewers, sanitation, hospitals, and parking in city lots.

On the spending side, education remains the biggest expense for cities, but police protection continues to close in and could easily become the top item within a couple of years.

Cities spent $9.9 billion on police in 1982, up 10.4 percent from the year before, while education climbed only 2.6 percent to $10.2 billion, the report shows. Police accounted for 8.8 percent of city spending in 1982, and education 9.0 percent, the report states.●

TUITION TAX CREDITS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. GREEN. Mr. Speaker, I am pleased to introduce legislation today which will provide a tax credit for the amount of tuition expenses incurred by an individual for the primary and secondary education of his or her dependents. This tuition tax credit bill will provide individual taxpayers with up to a $100 tax credit in 1984, a $200 credit in 1985, and a $300 credit in 1986 for each dependent enrolled in a privately operated, full-time elementary or secondary school which meets the tax-exempt requirements described in sections 501(a) and 501(c)(3) of the Internal Revenue Code, including any church-operated school to which subsections (a) and (b) of section 508 do not apply.

This credit will be available in full to those taxpayers whose adjusted gross income is less than $50,000—$25,000 in the case of a married taxpayer filing a separate return—and will be phased out gradually for those taxpayers who claim an adjusted gross income of greater than $50,000 and less than $75,000—$37,500 for a married taxpayer filing a separate return. The credit, then, will be available only in part to those taxpayers earning between $50,000 a year and $75,000 a year, and it will not be available to those taxpayers reporting an adjusted gross income of over $75,000 a year.

Also, this credit will be made refundable; that is, to the extent that an individual has a tax liability less than the amount of tuition tax credit available to him or her, he or she can be refunded the amount of the credit minus the taxpayer's liability. In addition, this tuition tax credit will not be treated as Federal assistance of any kind with respect to the taxpayer who is allowed the credit or to the educational institution in which the dependent is enrolled.

It seems clear, Mr. Speaker, that the implementation of a tuition tax credit system would indirectly benefit both private and public school systems. This credit is merely a limited form of aid for those parents who pay for both public schools and their private schools. By instituting this system, parents will not pay a smaller amount of money to support local public schools than the amount they contribute now; rather, they will simply receive a worthwhile credit should they decide to support both a private school as well as their local public school system.

It has been argued that a credit would subsidize the wealthy at the risk of segregating our children by family income. As the sponsor of this proposal, I resent this suggestion. In order for this to be the case, one must assume that only the wealthy use private schools. Yet, as of 1982, 51.4 percent of students attending nonpublic schools are from families earning less than $15,000 per year; 71 percent were from families earning less than $25,000. At the beginning of the current school year, minority students in New York City Archdiocese's school system outnumbered white students by more than a 2 to 1 margin. Currently, 87 percent of the elementary school students in more than 60 Manhattan schools are black, Hispanic, or Asian.

In addition, my bill insures that no taxpayer who claims an adjusted gross income of over $50,000 a year can claim the entire credit; indeed, no taxpayer who claims over $75,000 a year can use any part of the credit. This phaseout, combined with the fact that this credit is refundable despite one's income—given that the taxpayer qualifies for the credit—orients this bill toward those taxpayers in the low- and middle-income brackets.

Also, a recent report in the New York Times (August 21, 1983) illustrates just how far off the mark the allegation that only the wealthy use private schools really is: In the "Summer Survey on Education," Gene I. Maeroff reports that of the 90,000 students in the Roman Catholic Diocese of Brooklyn—which includes Brooklyn and Queens—almost 40,000 of the students are recent arrivals to the United States. This figure includes 18,000 from Latin America, 10,000 from Italy, 7,000 from Haiti, 1,000 from Hong Kong, and almost 1,000 from South Korea. Very few of these children's families can be classified as wealthy.

And, as a matter of fact, many of these young students are great scholars. For example, Mary Wei, a Vietnamese immigrant who was unable to speak English when she arrived in the United States, recently graduated as the valedictorian of St. Frances Cabrini School. Also, in 4 of the 11 schools which comprise the diocese, the winners of last year's spelling bees were recent Asian immigrants. It is plain to see that America's religious-sponsored schools are continuing their historic function of bringing children of immigrant families into the mainstream of American life.

Finally, a tuition tax credit would combat the decline of middle-class populations in our urban centers. In many cases, families move in order for their children to attend what the parents perceive to be better schools. Allowing these families a tax credit would give them an incentive to remain in the cities and to continue to contribute to the local tax base, which would benefit all public institutions, including the local public schools. Also, private schools in New York and in other cities perform a function which is much broader in scope than just providing an education. These schools are part of a community and are highly involved in neighborhood activities, whether they are raising funds for projects or participating in anticrime programs.

In conclusion, Mr. Speaker, it is clearly in our best interest to enact this important proposal. It would benefit both those families who make use of private schools and those whose children attend public schools. It would contribute to the economic base of our cities. Clearly, it is justifiable to support those families who seek alternative learning environments for their children through this tuition tax credit system because parents will continue to pay taxes to support the public school system.

I urge my colleagues to cosponsor this proposal and to work hard to insure its passage.●

NEWARK CIVIC ASSOCIATION PAYS TRIBUTE TO EIGHT

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. RODINO. Mr. Speaker, last Sunday I had the privilege of attending the fifth annual brotherhood award breakfast sponsored by the Kenneth A. Gibson Civic Association.

The highlight of this event was the recognition given to eight outstanding individuals, the recipients of the 1984 brotherhood awards. Each of these people has, in his or her own way, made a difference in the community and in the lives of those around them. For their contributions to the city of Newark—and their dedication to the ideals embodied in the brotherhood awards—I offer my most sincere congratulations to: The Honorable Pearl Beatty, who was the first woman ever elected to the Board of Chosen Freeholders of Essex County; Dr. Elayne Brodie, an influential advocate on education issues; Luz Miriam Hernandez de Sanchez, who for 3 years has headed the Puerto Rican statewide parade of New Jersey; Jesse Jones, a community activist who has played a major role in numerous civic organizations; Father John P. Nickas, pastor of St. Rocco's Church; Jean Palumbo, a dedicated public servent with the office of planning and grantsmanship who is involved with many human rights causes; Brenda Joyce Veltri, personnel director for the city of Newark and former president of Municipal Career Women of Newark; and A. Irene Patterson Yearwood, who has, through her volunteer work and civic activities, worked tirelessly to improve conditions for the youth of Newark.

All of these very special people have helped to make the community they live in a better place, and I am very proud to know them all.

The program was opened by Eleanor Newman, chairperson of the Civic Association, and the master of ceremonies was president of the association, Elton Hill. In addition to delightful music provided by Prof. Albert Lewis, Brenda Watts, Lisa Banks, and Glenis Oatman, the program was graced with the eloquent speech of the mayor of Philadelphia, Wilson Goode. The brotherhood award breakfast gave us all the opportunity to recommit ourselves to the principles of humanity and compassion. I commend all of the people involved with this special event, particularly the honorees and, of course, the guiding force behind the Civic Association, Mayor Ken Gibson.●

GREAT LAKES CONSUMPTIVE USE STUDY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. LIPINSKI. Mr. Speaker, today I am introducing legislation, along with Representative Henry Nowak of New York, which would authorize the Federal Environmental Protection Agency, in cooperation with other Federal agencies and the Great Lakes States, to undertake a comprehensive study of all possible control measures which can be implemented to reduce the quantities of Great Lakes water consumed.

One of the objectives of the Clean Water Act was to provide for the protection and propagation of fish, shellfish, and wildlife and to provide for recreation in and on the waters of the Nation. Those of us who live in the northeast and midwest regions of the country have traditionally enjoyed plentiful supplies of fresh water from the Great Lakes that surround our borders. We want to insure that we will always have this resource readily available.

During the past two decades there have been dramatic populations shifts taking place in this country. Many regions are experiencing rapid growth and development that far outstrips their capacity and resources to handle this increase. One of the most basic necessities essential for life is that of water. The southwest and western regions of this country in the very near future will face a severe water shortage as their growth and development continue. The Great Lakes of Michigan, Huron, Superior, Erie, and Ontario comprise the largest body of fresh water in the world. Up to now the Great Lakes region has not had to worry about its water supply. We must take steps to prepare for the future generations' needs and to insure that their quality of life will be protected and enhanced.

Recent studies by the International Joint Commission have indicated that future consumptive uses will put a serious strain on the ability of the Great Lakes system to maintain those water levels and flows necessary to maintain ecological productivity and to avoid serious losses to important Great Lakes interests such as hydropower production and navigation. The Commission has projected a fivefold increase in the amount of Great Lakes water that will be consumed over the next 50 years. Most of the increase in water consumption will be due to growth in the manufacturing and thermal power generation industries. In 1975, the consumptive use of Great Lakes water was estimated at 3.2 billion gallons per day. By the year 2035, it has been estimated that consumptive uses will increase to over 16.4 billion gallons per day. There will be a corresponding drop of 9 inches in water level on the lakes with this increased usage. The economic losses and direct costs to navigation and hydropower interests alone are projected to exceed $200 million annually by the year 2035.

These findings clearly show that there is an urgent need for further studies on the consumptive uses of Great Lakes water. We must begin to develop rational, environmentally and economically sound management policies to protect this most precious resource.

The idea of a study of Great Lakes consumptive uses was endorsed by the Council of Great Lakes Governors at a conference last November. It is vital that our region develop a unified position on the use of our water. As this precious resource becomes more valuable, we must be prepared to effectively stop any other region from diverting any of our water. In addition, we must determine for ourselves, as a region, what our future water-supply needs will be and how best to distribute them. This study will take into account the past and future water requirements and uses that will have to be met, to insure our region's ability to remain economically viable. I urge my colleagues to join with me in cosponsoring this important legislation that will chart the course for further growth and prosperity in our country.●

IN PRAISE OF TWO SOVIET REFUSENIKS: BORIS CHERNOBILSKY AND SIMON SHNIRMAN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. SOLARZ. Mr. Speaker, as I stand before my colleagues today, during the 1984 Congressional Call to Conscience Vigil for Soviet Jewry, the words of Albert Camus come to mind. He once said that:

> The nobility of our calling will always be rooted in two commitments difficult to observe: Refusal to lie about what we know, and resistance to oppression. By this yardstick, refuseniks, Soviet Jews who apply for an emigration visa and are refused, represent just that kind of commitment.

Despite an ever-increasing amount of Soviet sponsored anti-Semitism, these brave Jews refuse to lie about their faith by assimilating, by denying their belief in God, or by refusing to repress their convictions.

Soviet Jews are, in general, oppressed. Traditional Russian/Soviet anti-Semitism has become increasingly vicious in recent months; recent articles in Pravda, the Communist Party's official daily paper, have stepped up their attacks on Israel and have tried to link Zionism with nazism. By applying for an emigration visa, Jews become the targets of increased oppression. Yet by going ahead and applying, knowing that they are courting more oppression than if they did not apply, these Jews are simultaneously demonstrating their resistance to oppression.

Two refuseniks whom I have adopted, Boris Chernobilsky and Simon Shnirman, have demonstrated their commitments to Camus' notion of nobility.

Boris Chernobilsky and his family first applied for an emigration visa in 1975. After his request was denied in 1976, Boris lost his job. Instead of losing all hope in the face of the Soviet system of repression, Boris took part in a peaceful protest demonstration in October 1976. This effort landed Boris in prison for 15 days. Upon his release, he worked at a number of odd jobs to support his family and his wife Elena continued to teach Hebrew, which is in itself a perilious pursuit in the anti-semitic Soviet Union. Participation in an activists gathering in the Opalikha woods outside of Moscow in May 1981 resulted in Boris' being accused of "beating a policeman." Chernobilsky, maintaining the charges against him were false, refused to appear in court, but submitted the following statement to then Soviet President Leonid I. Brezhnev:

> The trials of Jewish activists conducted during the last years have shown that we cannot count on the objectiveness and fairness of the Soviet court. It is obvious that false charges are being fabricated in order to intimidate the Jews wishing to emigrate to Israel and trials are turned into acts of reprisal.
>
> There cannot be any doubt as to the outcome of my forthcoming trial although there are dozens of witnesses who could testify that the charge that has been presented against me does not in any way correspond with reality. Having no wish of becoming another KGB victim and having no other way of protecting myself against this reprisal, I decalre my refusal to appear of my own free will at the performance called a trial.

Not surprisingly, Boris was convicted and sentenced to 1 year in a labor camp. In early 1983 Boris was released from prison and he has returned to Moscow. It is also not surprising that Boris and Elena Chernobilsky have continued their efforts to obtain an exit visa.

Simon Shnirman has been a refusenik since 1959, when his father, David, applied for exit visas for his family. Finally, in 1976 David was granted a visa, but it was for him alone. With assurances from the Soviet officials that his wife and two children would be allowed to follow in 2 years, David set off for Israel. In 1978, wife Faina and daughter Emma were told that they could leave—the day before Simon was to stand trial for "draft evasion." Although the decision was difficult, Emma decided to go and Faina stayed with her son. That was 8 years ago.

Since that time, Simon served his sentence, married, and fathered a child. Incredibly, Simon was again arrested in February of last year and charged for the second time with draft evasion, the prohibitions against double jeopardy in the Fundamentals of Criminal Procedure of the U.S.S.R. and Union Republics (article 1, paragraph 1, items 9 and 10) notwithstanding. Simon, knowing that entrance in the army and exposure to "state secrets" would further prolong his ordeal once his military obligation was fulfilled, refused to enter the army.

Earlier this year, David Shnirman passed away. If Simon is allowed to leave the U.S.S.R. he will never realize his dream of joining his father in Israel.

Both of these cases are quite tragic, and even more tragic is the probability that the lives of Soviet refuseniks will not improve in the near future. The activities of the "anti-Zionist Committee," the nondelivery of mail to refuseniks, the harsh treatment of Prisoners of Conscience, and the increased harassment of long-term refuseniks further illustrate that the Soviet regime seeks to eliminate any vestige of Jewish culture within its borders. In light of this Soviet campaign of intimidation, the actions of Boris Chernobilsky and Simon Shnirman are all the more admirable. If these refuseniks, and countless others like them, have the courage to continue their resistance to oppression, the least that we in the West can do is continue our campaign to gain freedom for Soviet Jews.

I strongly believe that the issues of emigration and human rights should remain high on the agenda in all relevant forums, including the Conference on Security and Cooperation in Europe's followup meetings and the United Nations Commission on Human Rights. The rapidly deteriorating situation, however, indicates that new avenues must be explored to ameliorate the plight of Jews in the Soviet Union. We must encourage further participation of our Western allies and neutral and nonalined nations in this effort.

America has long been a symbol of freedom for the oppressed peoples of the world. It is important that we reaffirm our commitment to this basic principle at this critical time for Soviet Jews. With the recent change in power in the U.S.S.R., now would be a timely opportunity to renew our efforts.●

A TRIBUTE TO CARL WIDEN ON HIS 100TH BIRTHDAY

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. PICKLE. Mr. Speaker, Thursday, March 8 will be a red letter day in the history of Austin, Tex., as the Downtown Founders Lion's Club honors one of our own, Mr. Carl Widen. Carl Widen is celebrating his 100th birthday on that day, and I want to pay special tribute to this gentleman who has contributed so much to our city.

Carl Widen's list of accomplishments in community service are immense. He earned his living as a banker and part owner of an Austin department store. But even in his early college days, you could tell he was going to eventually become a civic leader.

Mr. Widen is the oldest living graduate of the University of Texas at Austin. His life-long interest in music was cultivated by joining the Longhorn Band as one of its original members. During the university's centennial celebration last year, Mr. Widen was honored as the only surviving member of the original band on campus.

Several years after joining the Longhorn Band, Mr. Widen's musical talents struck a responsive chord again when he helped found the Austin Symphony Orchestra in 1911. He played the cello in the very first concert and still faithfully keeps up with the symphony today.

Austin is an education-oriented city, and Carl Widen shares that respect for education. He served on the Austin Independent School Board from 1933-45 and helped to increase the emphasis on music education in the schools. Besides his connection to the University of Texas, Carl Widen has long been active as a member of the development board of Texas Lutheran College in nearby Seguin. His love of history and knowledge of the early Swedish communities in central Texas are admirable.

Carl Widen is an exciting character. Ten years ago, he joined the Lion's Club, in response to a membership drive to "bring in some younger people!" Imagine a 90-year-old freshman.

Today, Carl Widen still walks with a cane. He attends the Lions Club functions every week, goes to the symphony and even took the time on a recent cold December evening to attend a reception in my honor. I assure you I was immensely proud to see Carl Widen there—smiling and greeting friends by the hundreds. He adds a special sparkle and excitement to any gathering.

Carl Widen has led a harmonious life for a full century. His smile, enthusiasm, and zest bring music to all our lives. All Austin and the University of Texas salute our most enduring and endearing citizen—Centurian Carl Widen.●

CHEMICAL EXPERT DOUBTS SOVIETS USE YELLOW RAIN

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. NEAL. Mr. Speaker, several months ago I commented here about growing claims that the Soviet Union was using chemical weapons against Southeast Asians and Afghans. At that time, I cited damning evidence that had been reported in a Parade magazine article of June 26, 1983, and urged that we seek answers to some profoundly disturbing questions.

Those questions have not been answered, of course. For one thing, our access to credible information is limited to accounts filtering out of the affected areas. We are still examining all the evidence that is available to us, but, quite frankly, it is hardly sufficient to say for sure that all the charges of "yellow rain" are true.

For instance, a chemical warfare expert, Saul Hormats, added to the debate February 26 in an article in the Washington Post entitled, "A Chemical Warfare Expert Who Doubts the Soviets Used Yellow Rain." Mr. Hormats, who until his retirement from Edgewood Arsenal in 1973 directed the development of chemical warfare munitions for the U.S. Army, makes some impressive, if not altogether persuasive, arguments.

Believing that we should always examine both sides of the coin, I would like to enter Mr. Hormat's article in the RECORD and commend it to the attention of my colleagues.

A CHEMICAL WARFARE EXPERT WHO DOUBTS THE SOVIETS USED YELLOW RAIN

(By Saul Hormats)

There has been considerable evidence put forward to support the Reagan administration's assertion that the Soviet Union violated arms control agreements in using chemical weapons such as "yellow rain" in Southeast Asia and Afghanistan. The evidence has been sufficient to persuade the U.S. Senate, which earlier this month passed a resolution condemning the Soviets for their conduct, with not a single dissenting vote.

Thus far, the debate over yellow rain has focused less on whether the Soviets are using chemical weapons than on how they are doing it. Unfortunately, most of the testimony in the controversy has come from diplomats, politicians, analytical chemists and scientists with academic backgrounds. Almost completely lacking has been an assessment based on a military appreciation of chemical warfare agents, the munitions used to deliver such agents, and the logistics involved.

Such a military assessment raises grave questions about whether the Soviets have, in fact, engaged in the chemical warfare activities with which they have been charged.

In its report to Congress, the administration declared flatly that the Soviets had broken international agreements. It charged Moscow with "repeated violations" of the 1925 Geneva Protocol and of the 1972 Biological and Toxin Weapons Convention. Chemical weapons were reported to have been used against the anti-Soviet guerrillas in Afghanistan, but primarily against Hmong villages in Laos. The chemical warfare agent is said to be a mold, fusarium (popularly called "yellow rain"), found naturally in infected crops and poorly stored grain.

The evidence supporing these allegations consists of a large number of interviews by State Department officials with Hmong refugees, and "solid evidence" in the form of blood samples, twigs and leaves, rock scrapings and a contaminated Soviet gas mask purchased in Kabul, Afghanistan.

But the evidence seems less than solid to one who has worked in the chemical weapons field for 37 years.

To begin with, why would the Soviets or their allies have chosen chemical attack? Hmong villages are very small; 15 to 20 houses cover the equivalent of a city block. There are many conventional munitions (such as the antipersonnel shells used in Vietnam and Beirut) easily capable of destroying all the villagers. White phosphorus shells of the kind used in Beirut would not only destroy the villagers but the village itself. The Soviets must certainly have large quantities of these in their arsenal. Why, then, would they risk world condemnation by using chemical weapons?

Let us assume that the Soviets wanted to escape responsibility for attacking a village. They might then use a weapon that would not leave evidence of its use. This would rule out nerve agents and similar devices that leave unmistakable effects. As a result, they might choose a device whose effect could be construed as resulting from naturally occurring food poisoning. Yellow rain would be one choice—but not a very probable one. Whether evading responsibility was the attacker's intent—or whether the intent was overt terror—there are cheaper and more effective techniques at hand.

There are many substances, well-known and available to weapons designers, that fill this bill. For example, an aerosol container the size of the smallest found on a supermarket shelf, slightly strengthened and modified and containing a solution of botulinal toxin type A, would kill everyone in a village if the poison was released in or near it. Deaths would appear to have been caused by botulism food poisoning. The weight of such a munition might be less than half a pound.

Should the Soviets wish to incapacitate rather than kill Hmong villagers, an effective agent might well be staphylococcal enterotoxin. A munition quite similar in size and appearance to a paint spray can could cause a number of villagers to become extremely ill for a day or two, presumably from common "staph" food poisoning. Three or four of these devices would likely affect most of the villagers.

The above are chemical agents. Should the Soviets decide to engage in biological warfare, the agent might well be the microorganism coxiella Burnetti, which causes Q-fever and is found in most parts of the world. The agent is easy to produce. Chills, fever, fatigue and weight loss can last for a month or longer and would be attributed to inadequate pasturizations of milk or milk products. Domesticated livestock and poultry would also be infected. The munition to do all this might weigh as little as two ounces.

Compared to these agents, yellow rain presents tremendous logistical problems. Yellow rain itself has been reported by the State Department to contain only very small percentages of the supposed toxic ingredient, called T-2. Since one part yellow rain is reported to contain only one ten-thousandth part or less of T-2, and T-2 is only one-fiftieth as toxic as our present lethal chemical agents, it would take some 500,000 times as much fusarium mold to attack a given target than if a standard lethal chemical agent were used. At a minimum, about 3,000 *tons* of yellow rain would be required to attack a village. To place this quantity on the target would require 20,000 to 30,000 shells—some two hours of fire from a full Soviet artillery division—or a minimum of 8,000 tons of bombs dropped from the air.

It is true the Soviets believe in massive air attack and artillery fire, but would they adopt this tactic in a remote mountain village of 15 to 20 families? A six-gun, 122 mm howitzer battery of the kind attached to a Soviet infantry regiment, firing one salvo of conventional shells weighing in all about 1,000 pounds, would leave little of the village.

Since none of the State Department reports of yellow rain incidents give any indication of such physical destruction, one might assume that the agent was delivered as a cloud from large transport or cargo planes. However, fusarium is a solid and not a gas or volatile liquid. To be effective, it would have to be dropped from an aircraft as very finely divided particles and then inhaled by the people in the village. But if the necessary 3,000 tons was dropped in this way over a village, very little of the light, fluffy material would reach the target. Most of it would be carried away by the wind.

Evidence of chemical or biological attack is unmistakable to an experienced observer. The level of casualties decreases with the distance from the point at which the munitions are released, as does the severity of symptoms. Indeed, an experienced observer can come close to describing the munition and probably the agent used just from a description of the attack. However, the descriptions provided by State Department interrogators give no patterns whatsoever fitting any known type of chemical or biological attack.

Initially, the department's allegations dealt with clouds of a yellow granular substance delivered by shell or bombs. However, a careful examination of the incidents described in State Department publications indicate a wide variety of other agents and munitions.

For example, the Laotian village of Long Tienne was reported to have been attacked by aircraft dropping rectangular boxes releasing clouds of green and yellow gas. Victims were said to have suffered from dizziness, tension and dysentery.

A gas attack on Houi Xang was reported to have involved rockets emitting red and green clouds and tanks spraying large yellow drops, causing the people in the target area to suffer convulsions, vomiting and blisters in the upper torso.

Phu nam was said to have been attacked with artillery and bombs emitting yellow smoke and dust. The victims suffered bleeding from their nostrils and mouths.

Pxu-Txoent was subjected to an attack in which small plastic bags broke in the air releasing a wet yellow substance that caused coughing, vomiting and yellowing skin and eyes among those exposed to it.

These are but four of hundreds of reported incidents. Taking these all together, a very large number of different munitions would have to have been employed. Agents giving very different symptoms and effects are described. The colors of the toxins are not just yellow, but almost the entire spectrum. Delivery is by a variety of means, including plastic bags opened above the target, spray tanks, shells, bombs, grenades and rockets. The clouds of agents are composed of large granules, liquid drops, and very fine and at times invisible clouds.

Taking the State Department evidence at face value, several hundred combinations of agents and delivery systems seem to have been used. But it is unlikely that the Soviet Union has such a large number. Judging by U.S. experience, it takes 10 years or longer to search for a new agent, research its toxicity and methods for dissemination, and develop, test and produce it. Given the number of munitions and agents that the Soviets are said to have employed, they must have devoted several thousand years to the development and production of them! This would seem more than a little improbable.

A very important part of a weapons development program is assuring reliability in combat. This involves extensive and prolonged tests to assure the ability of the munitions to withstand the rigors of storage, transport and delivery to the combat line. These are long time-consuming programs that cannot be significantly speeded up without seriously degrading the munitions' combat reliability. Even under the best conditions, there are always a certain amount of malfunctions and duds. If the State Department allegations are accepted and the Soviet program had indeed been speeded up, it would be most surprising if their dud and malfuntion rates were less than perhaps 5 to 10 percent.

Judging from the very large number of incidents that have been reported, there should be a very large number of duds and malfunctions that could serve as indisputable proof of Soviet chemical weapons activities. Yet the best evidence put forward for the use of these weapons are moldy twigs, leaves and rock scrapings.

State Department officials say the lack of more substantive evidence is due to the danger of entering the combat zone to collect it. The danger is real. However, the Central Intelligence Agency has many techniques for information gathering of this kind.

There are grave doubts, to say the least, about the validity of the allegations on which the administration's report and the Senate resolution rests. Certainly, individuals at the Defense Department and CIA also must have expressed their doubts. So it is difficult to understand why the secretary of defense and the director of the CIA persist in their positions given the absence of acceptable evidence suggesting the Soviets have been or are engaged in chemical warfare. The State Department's allegations appear to be based on imaginative responses to naive and gullible interrogators.

Our country would be better served if the Senate reconsidered its resolution condemning the Soviets and turned its attention to another question: Has Congress been misled, and, if so, by whom?●

VETERAN CORRESPONDENT COMMENTS ON REPRESENTATIVE BARBER CONABLE'S RETIREMENT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. LENT. Mr. Speaker, I know we were all shocked by the announcement that our highly respected colleague and good friend, BARBER CONABLE, was going to retire at the end of his present term. Seldom has the Congress experienced such widespread expressions of regret at the loss of such an able servant—expressions of regret from both sides of the aisle.

Nor, Mr. Speaker, were those genuine expressions of regret confined to the Members of this body. A number of reporters, commentators, and columnists noted Mr. CONABLE's announcement with a similar reaction. I was particularly struck, however, by the comment of one of the most distinguished reporters ever to cover the Congress. I refer to your good friend, and mine, Joseph F. McCaffrey. Throughout his 40-year career as a reporter, correspondent, and commentator on Capitol Hill, Joe McCaffrey won wide respect for his astute, penetrating, and informed reports on the

Congress. Although retired from his Capitol Hill post, Joe McCaffrey still is in the news business as editor and publisher of the highly respected Culpeper News in Culpeper, Va., Joe's retirement home.

In a recent column in the Culpeper News, Joe McCaffrey expresses in his usual succinct, but penetrating fashion what the loss of Barber Conable means to him. I ask that it be printed at this point in the Congressional Record so that my colleagues may have the benefit of the view of a veteran of 40 years reporting on Capitol Hill.

A personal note. I was saddened this week to learn that Barber Conable, New York Republican, was retiring at the end of his present term in the House of Representatives.

Several years ago we talked about his packing it in, but then he decided to run again. Once that happened, I guess I thought he'd be there forever.

Barber Conable is, without doubt, not just one of the most outstanding members of the current Congress, he is one of the best I have known in my 40 years experience.

There is nothing wrong with the U.S. Congress that a few dozen more Barber Conables would not cure. Unfortunately, there aren't any others and now we lose the original.

His leaving is a loss not just for his upstate New York district, but for every American citizen.●

OLYMPICS WORTH $1 FROM EACH OF US: CONGRESS PONDERS OLYMPIC HELP

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. FIELDS. Mr. Speaker, I am today submitting for the Record an editorial by Ken Denlinger which appeared in yesterday's Washington Post.

In this editorial, Mr. Denlinger joined a growing list of reporters and newspapers throughout this country who have endorsed the Olympic Checkoff Act.

Mr. Denlinger's editorial was particularly timely because our distinguished winter Olympic team was in Washington yesterday to meet with the President and to lobby Congress for passage of this critical legislation.

Mr. Speaker, I urge my colleagues to review this editorial and to join with me in solving the financing problems of the U.S. Olympic Committee by enacting the Olympic Checkoff Act, H.R. 1984.

The passage of this bill is as good as gold.

The text of the editorial follows:

Olympics Worth $1 From Each of Us: Congress Ponders Olympic Help

(By Ken Denlinger)

When President Reagan greets the U.S. Olympic team this afternoon, he ought to save a special squeeze for the hockey players. The country had at least a small hand in their Sarajevo swoon. It also owes every young athlete in the land, Olympian or novice, some serious thought before the summer Games begin in Los Angeles.

Lack of money had nothing to do with the Americans faring so badly, a couple of Washington Capitals from the U.S. team were saying yesterday. Equipment and facilities were first rate; the $1,500 per month was more than generous. Lack of money has a lot to do with our overall fitness, Olympic and otherwise, and the sooner Congress gets cracking with that tax checkoff bill the better.

For years, Americans have been searching for ways to underwrite our Olympians—and their sports—without the government being directly involved. So many financial angels hopped onto the ice after Lake Placid that such as Gary Sampson and Bob Mason experienced few hard times before those ego bruises against Canada and the Czechs three weeks ago.

His most affectionate memory, Sampson was saying after a Capitals' game day skate-around yesterday, was how hard the Soviets played *off* the ice. This was during the pre-Games games, the series in the States last year when Communist Hornungs could be seen in early-morning merriment after escaping bed check.

"Wish I'd done more socializing with athletes from other countries (in Yugoslavia)," he said, adding: "the attitude when we got back was not as bad as I expected. There was a banquet for us (he and Mason are from International Falls, Minn.), and most everybody said: "That's okay. Nobody disowned us or anything."

Still, most poke-checked them with questions.

"There was a point in the game against Canada," Mason said, "when a shot hit the post with us behind, 3-2. They came right back and scored. In '80, a shot like that went in against Sweden (in the final seconds) and we got a (2-2) tie. The '80 team took off from that (critical) shot; we couldn't seem to do anything right after ours. Didn't play our style, took a lot of penalties."

When they honor the U.S. team, White House and congressional thinkers might question the American style of sport, whether we have subsidized professional athletic entertainment too much and cared too little for participatory activities that happen to be included in the Olympics.

Specifically, how come H.R. 1984 and S. 591 have been ignored for so long? Those are the bills that would allow Americans to direct a buck or two from their refunds toward the Olympic movement. Judging from a poll USA Today conducted in early January, most of us have thought about the issue—and approve.

The poll asked: "should the United States government allow taxpayers to donate $1 of their refunds ($2 if filing jointly) to support the American Olympic teams simply by marking their tax returns?"

Seventy percent answered yes.

"If it passes," said Mike Harrigan, president of a sports consulting firm in Alexandria and former executive director of a presidential commission that helped restructure amateur athletics in the late-'70s, "the funding problem for Olympic sports is over."

He estimates the checkoff would generate $20 to $40 million each year; it has caused longer debate than why the hockey gang played so well in exhibitions against Canada and the Soviets and so uninspired once the torch was lit. Off and on, somebody, including Reagan's buddy Paul Laxalt, has sponsored such legislation; usually, it has been beaten back.

It seems straightforward enough. Anyone who cares for such as Sampson, Mason and hundreds of jumpers, throwers and skiers simply does so with money coming to him. Administrative costs would be deducted before the money is given to the U.S. Olympic Committee.

The government is out nothing, Harrigan said.

"There are 59 cosponsors in the Senate," he added, "and 262 in the House."

Hearings in one committee, the House Judiciary, are expected within a week; the bill is stalled in Ways and Means, presumably by the immediate and very reasonable hurdle known as "floodgates."

Or, if the U.S. Olympic Committee gets such a favor, why shouldn't every other charity? The United Way, The American Cancer Society and others who certainly benefit Americans more often and more dramatically than Gary Sampson and Bob Mason.

Besides, isn't there enough tax-exempt money already flowing to the USOC? One can scarcely flick on the television without being pitched by an "official sponsor of the U.S. Olympic team." If Hilton and Snickers want to boost Olympians, why not let them?

Because, Harrigan insists, much of that corporate support will end after the L.A. Games. Funding that eventually trickles down to casual joggers ought to be more consistent.

"The USOC also has been an instrument of American foreign policy," he said, alluding to the 1980 boycott of the Moscow Games, "so why shouldn't the American people be given a chance to support its effort? There are special-interest considerations all over the tax code."

Sampson and Mason know that while hockey does not necessarily need the money the checkoff would bring, most other summer and winter Olympic sports do. Put me down for $1 too; earmark it for team handball.●

"NEO-PACIFISM" IS ANTI-PEACE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. BENNETT. Mr. Speaker, I wish to call to the attention of you and my other colleagues in the House a thoughtful and scholarly article which appeared in the January issue of Army magazine. This article entitled "Neo-Pacifism is Anti-Peace" was written by Robert H. Spiro, Jr., a former Under Secretary of the Army and chairman of the advisory board for the Center for International Security. He has also been a consultant in higher education and national defense matters. Robert Spiro, one of my constituents, holds views which are of particular interest at this time as he becomes the new executive director of the Reserve Officers Association on March 1. He is a rear admiral in the Naval Reserve, having achieved an outstanding record in combat and returning in postwar years to hold high positions at Mercer University in Georgia and the presidency of Jacksonville University of Florida.

The article follows:

"Neo-Pacifism" Is Anti-Peace

(By Robert H. Spiro, Jr.)

The operational deployment of cruise and Pershing II missiles is under way, despite frantic Soviet resistance. Its opposition ranges from ominous threats of counter deployment in Warsaw Pact countries to waging a massive propaganda campaign in Western Europe to persuade parliaments and populations that U.S. deployment is war-mongering, provocative and irresponsible. Yet, the Soviet buildup of SS 20 missiles deployed against the West since 1979 has almost trebled—from 126 to 360.

Regrettably, a sizable minority among people in NATO countries has, for a variety of reasons, fallen for the Soviet line and drifted into a modern version of traditional pacifism, which may properly be styled "neo-pacifism." By dictionary definition, pacifism is "the principle or policy of establishing and maintaining universal peace or such relations among all nations that all differences may be adjusted without recourse to war."

President Reagan and British Prime Minister Margaret Thatcher are among the foremost political spokesman for world peace. They are classical pacifists whose goal is world peace and security, a world without war. With true world peace they could abolish expensive armies and armaments, and thus provide infinitely more social services for all citizens, save lives, reduce taxes, win the everlasting gratitude of their constituents and all mankind, win elections and bask in undimmed glory.

Most human beings, it seems to me, are pacifists by the above definition. We do not want war, because it causes indescribable suffering and harm. It results in terrible destruction, interrupts education and careers, separates families, and inevitably causes crime, fear, hate and death.

I am a senior Naval Reserve officer, and know personally most of the senior generals and admirals of the uniformed services, plus many others of varying ranks and rates. I do not know even one military officer who wants war, who wishes for military conflict. Better than most they know the pain, devastation and death of war, and the nagging hurt of long separation.

By definition, they are pacifists; yet, they know that this is a world in which a minority of humanity in 25 or 30 nations maintain democratic societies while the vast majority, living in 130 nation-states, are held in thralldom by force. Their governments are repressive and totalitarian regimes of the left or right, violating all basic civil and human rights.

Domestic tranquillity cannot be maintained by reducing or abolishing police or milita. Such a course of action can only lead to increased criminal activity in society. Only when justice, goodness and equity prevail on earth can the vision of Isaish be fulfilled: beating swords into plowshares and spears into pruning hooks, and permitting the lion and the lamb to lie down together.

Unfortunately, unilateral disarmament and a nuclear freeze by the democratic nations contribute not to peace but to war. Such actions only convince communist and fascist dictatorships that the democracies are weak, irresolute and vapid. Many thoughtful historians are convinced that the Western democracies in the 1930s, by their disunity, hesitancy and vacillation combined with a growing domestic pacifism, actually encouraged Adolf Hitler and Benito Mussolini to embark on aggressive adventures in Africa and Europe, and the Japanese to do the same in the Far East.

Perhaps that is why today the French are the least infected by the virus of pseudo-pacifism. They recall vividly that French weakness in the late 1930s led to their total collapse in 1940. Thus, even the Socialist French president, Francois Mitterand, said in Belgium in October, "Pacifism is in the West and Euro-missiles are in the East."

Neo-pacifism in Europe today is more than an unfortunate and transitory phenomenon. It is a recurring virus that waxes and wanes, often induced and encouraged by subversive elements whose loyalties transcend frontiers, and whose aims are the weakening of the state and its ultimate subservience to another.

European neo-pacifism is at its zenith now, largely stimulated by the deployment issue. The movement is undoubtedly pluralistic in composition and motive. Some neo-pacifists support NATO, others oppose it; some, particularly horrified by the thought of nuclear war, oppose nuclear weapons but support heavy deployment of conventional forces; some support their governments, others call for radical political change; some advocate a phased and balanced freeze or drawdown, others advocate immediate and unilateral disarmament; many neopacifists are violently anti-American, others are both anti-American and anti-Soviet. Many are simply honest people, fed up with frequent wars and lashing out at military preparedness which they deem conducive to war.

Many, it seems, use the cause of neopacifism to oppose governments in power. Some seek to confuse and put their governments in disarray. And not a few, it appears, wish to weaken and discredit democratic governments and capitalistic societies and to promote the Soviet Union and the cause of communism. Thus, the cry by a motley body of neo-pacifists in Europe today: "Stop deployment by the United States and NATO!"

The movement is strongest in the Netherlands and Sweden, strong also in Norway, Belgium and Iceland. It is weaker in Denmark. In general, labor parties—the Social Democrats—and many church groups oppose deployment. Even the Dutch Army's trade unions have taken a stand against deployment.

In West Germany, it is said that some 1,000 groups, from a wide spectrum of society, actively oppose depolyment of new American missiles. These include a rainbow of activists ranging from Greens to Reds; some church groups, especially Protestants; many women and students and labor groups. The Social Democratic Party very recently voted overwhelmingly against deployment, with Chancellor Helmut Schmidt eloquently favoring it and Willy Brandt opposing. German communists, or course, form a solid group with the neo-pacifists.

A minority in the Federal Republic of Germany advocate violent, direct action for "peace." On 22 November the Bundestag, after animated debate, voted 286 to 226 to approve deployment.

In Great Britain, the campaign for nuclear disarmament is strong. A group styling itself the European Nuclear Disarmanent (END) group is supported by some churches, unions, professors, women and youth. The Trade Union Congress, strongly left-wing, favors unilateral disarmament, as do the majority in the Labour Party now dominated by the left.

In France, as noted, neo-pacifism is less popular and vocal. France is not scheduled to deploy U.S. cruise and Pershing II missiles, but has its own Force de Frappe. The French communist and radical parties support the neo-pacifist movement.

In southern Europe, the movement is weaker, almost nonexistent in Turkey, stronger in Italy (especially as deployment near Comiso is imminent), small but growing in Spain and Portugal. The PASOK government in Greece is strongly anti-American, having campaigned on disengagement and the elimination of U.S. bases. The growing crisis in Cyprus presents the Greek government with a confusing problem in this context.

Neo-pacifism in Europe is a significant issue, although most of the democratic regimes of Western Europe are solidly committed to the policy of deterrence following heated election contests in which the issues were fully explored, including the deployment of nuclear weapons. Neo-pacifism presents a negative image, a left-wing and anti-establishment image, aligned with the political left. Many honest neo-pacifists are troubled that in the face of Soviet imperialism and violent threats they have no viable alternatives to support. The greatest problem faced by the neo-pacifists is that their strongest ally, now almost hysterical about deployment, is the Soviet Union, openly committed to a campaign of manipulation and disinformation.

Also staunchly allied with them are the communist parties of Western Europe. If their cause is just and humane, why the support of an unjust and inhumane Soviet Union?

Two British women are in the vanguard of a rational alternative to neo-pacifism. Lady Olga Maitland, a London journalist, viewed 12,000 women forming a human fence, a nine-mile perimeter around Greenham Common Air Base. Noting their emotional conduct, she wrote: "After talking to them, I could see that they had been completely manipulated by the Committee for Nuclear Disarmament. They were truly, completely sincere in their fears, but I felt they had been whipped up into a frenzy about nuclear weapons based on deliberate misinformation, and they were being preyed upon by their ignorance."

Lady Maitland has formed "Women and Families for Defence," which now numbers more than 5,000. She seeks to establish chapters in the 15 NATO countries and in the United States.

Prime Minister Thatcher told the Conservative Party conference on 14 October: "The so-called peace movement may claim to be campaigning for peace, but it is NATO and the Western Alliance which have been delivering peace in Europe for more than 30 years. . . . We were elected to secure the defense of the realm. We have made clear through word and deed, to friend and foe alike, our resolve to keep Britain strong and free. . . . The first duty of government is to make our future and our way of life secure."

Neo-pacifism is sadly misinformed, misguided and confused. At best, some adherents are honest yet naive; some are muddleheaded and irrational, having little understanding of the outspoken communist threat and the danger it poses to civilization; and still others are simply wrongheaded and blind to danger.

At worst, some neo-pacifists are violently anti-American, unaware or forgetful that it was the United States that twice in this century has come to the aid of Western Europe, contributing mightily to its survival, sacrificing blood and treasure for its salvation. Then, by means of the Marshall Plan and other programs, America helped rebuild and restore all of Western Europe, including the Nazi and Fascist states.

And also at worst, there are the communist parties and allies who favor Soviet totalitarian government and are willing to see their homelands enslaved.

Let the West pursue tenaciously a balanced and verifiable nuclear arms agreement. Let us support the NATO 1979 twin-track decision on intermediate-range nuclear forces. Let us understand that since the NATO 1979 decision the Soviet Union has almost trebled the number of SS 20 missiles it has deployed. We know that Soviet communism cannot be disinvented.

But, in the words of Mrs. Thatcher, "We have to live together on the same planet and that is why, when the circumstances are right, we must be ready to talk to the Soviet leadership. That is why we should grasp every genuine opportunity for dialogue and keep that dialogue going in the interests of East and West alike."

The foremost hope for peace in our time remains the resolution of the free peoples to take those steps necessary for their defense, while seeking with equal resolution the attainment of an equitable and verifiable nuclear arms agreement.●

FLYNN'S PEOPLE

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. SHUMWAY. Mr. Speaker, I would like to share with my colleagues a touching example of American voluntarism at work, as well as a fine demonstration of the wonderful interaction between senior citizens and children.

In Stockton, Calif., a class of fifth graders began collecting money to contribute to the repair of the Statue of Liberty in response to President Reagan's appeal for voluntary donations. Mrs. Alice Harness, who is 81, read about the children's effort in the Stockton Record. Touched by their example, she sent them a contribution of her own, along with a very moving letter. The text of her letter and the rest of the story are well worth our attention. As the beginning of the story makes clear: "Connections * * * that's what life is all about."

FLYNN'S PEOPLE

(Compiled by staff for Helen Flynn, who is recovering from a fall)

Connections, that's what newspapering, that's what life is all about.

A story in the Record has connected 81-year-old Alice G. Harness with a bunch of fifth graders at Madison School. The story told of a connection the students had made with another elderly lady—the 97-year-old Statue of Liberty.

The students began collecting money to help pay for repairs to the statue after their teacher, Marilyn Segarini, told them about the need for reconditioning work on the statue that has become the nation's symbol of freedom, and of President Reagan's belief that Americans as individuals ought to finance the restoration instead of the federal government.

Touched by their response, Harness sent a contribution to them, along with the following letter:

"Congratulations to Marilyn Segarini and students. I was so happy to see the picture and the story of your project in the Stockton Record. Although I do not personally know any of you, I am very proud of you for what you are doing.

"I, too, am proud to be an American. Several of my ancestors fought in the Revolutionary War and the Civil War. One of my nephews and my oldest son, Bill, gave their lives in World War II, and my other son was in the Navy in the South Pacific. Fortunately he came home, but with psychological scars which will never be completely healed.

"All these men fought to help to keep our country free. As long as we have our country we must remain strong and willing to defend our ideals with our lives if need arises.

"I have never had the good fortune to see the Statue of Liberty. I had always hoped I might see her some day but I am now 81 years of age so I may never see her. The donation I am sending is of necessity small but it is sent with my blessing and a very great love.

"May God keep our country safe and a good place for girls and boys to grow up. Remember, she will only be as strong as we help to make her by our own ideals and our own conduct. Let us keep our minds and our thoughts and actions clean and honorable that we may carry our end of the load.

"I wish we had more teachers like yours, and we do have many. In this busy world there seems to be a tendency to overlook the small but vitally important things that go into the making of a fine upstanding American.

"I reared two boys and two girls, have seven grandchildren, an even dozen great-grandchildren and two great-great step-grandchildren.

"Love and blessing to you all."

The letter from Harness touched not only Segarini and her students, but Madison principal Barbara J. Chan, who paid a visit to Harness, snapped the snapshot shown here, and came away warmed by her school's connection with the caring octogenarian.

The reaction of Harness to the fifth grade project (the kids hope to collect $600 by the end of this year) will not surprise those who remember her as the founder of the halfway house that bore her name. This was largely a one-woman effort to bridge the gap between prison and society for ex-convicts.●

RAILROAD RETIREMENT EQUITY

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. WALGREN. Mr. Speaker, today I am introducing a bill that will improve on the current railroad retirement law passed by Congress last year. My bill is modeled after S. 1934 introduced by my Pennsylvania colleagues in the Senate, Senators HEINZ and SPECTER.

Last year, with the imminent threat of benefit cuts for nearly 1 million railroad retirees looming, Congress fast-tracked legislation to avert drastic cuts. Although this legislation was recommended by both rail labor and management, one particular provision of that legislation has had a harmful effect which we should correct.

In developing a proposal, labor and management decided that the employees, the employer, and retirees would have to make some sacrifices in both revenues coming into the system and benefits going out. For retirees, the bill included a provision that would take the next 5 percent of tier 1—social security—cost-of-living increases, and reduce the tier 2—railroad retirement—benefits by that amount. Since the social security cost-of-living increase on Janaury 1, 1984 was only 3.5 percent, another 1.5 percent remains to be offset and that 1.5 percent will have to be cut from the tier 2 benefits in 1985, according to the law.

The problem with this provision is that people may have to make sacrifices that are not necessary for the solvency of the system because the employment estimates used last year were too low. Employment levels in the industry have not dropped as much as was assumed. After dropping to a low point of 388,000 in March 1983, employment climbed to 405,000 in June 1983. This level is well above the assumptions used in developing the bill last year. Unfortunately, the bill, and now current law, does not allow for any relief from the social security offset in the event railroad employment strengthens. Retirees will still face this 1.5-percent cut in their tier II benefits. Certainly we should only take away social security cost-of-living adjustments and use them to reduce a private pension under the most extreme circumstances unless absolutely necessary.

The bill I am introducing, like the Senate bill, would stop the 1985 COLA offset from taking place unless the reserves available for the payment of railroad retirement benefits fall below a reasonable amount—less than 30 percent of the 1985 benefit payments and administrative costs needed to pay annuities. Under the actuaries' best present estimates, reserves should be above the 30-percent level in December 1984. In that event, we should be able to protect both retirees and the pension system as well.

I urge the Members of the House to join me in pressing for enactment of this bill in order to restore these benefits to the Nation's 1 million railroad retirees if the reserves are adaquate to support them.●

THE REPUBLIC OF TEXAS WAS BORN ON MARCH 2, 1836

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. FROST. Mr. Speaker, March 2 marks a significant date in the history of this country—the date in 1836 that Texas declared its independence from Mexico. March 2, 1836, witnessed the birth of an independent Texas Republic.

In a scholarly essay titled "Texas Declaration of Independence," Dr. Rupert N. Richardson, who is widely regarded as the dean of Texas historians, captured that momentous event in these words, which I would like to read into the RECORD.

> The men selected (for the constitutional convention) were mainly from the old South: twelve of the 59 natives of Virginia; ten natives of North Carolina; and nine of Tennessee. Most of them were young men in their thirties . . .
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> The new town of Washington, some fifty miles up the Brazos (from San Felipe) (was) the official meeting place for the Convention . . . The building had not been finished; windows had not been inserted, and cotton cloth nailed over the openings only helped a little to keep out the wind when the group convened with the mercury at thirty-three degrees. A visitor described the setting thus: "A long rough table extended from near the front door to near the rear wall, and was equadistant from the side walls. On this table the public documents and the papers of the Convention were laid and the delegates seated around it . . . Spectators entered the chamber at will, but they walked gently so as not to annoy the delegates."
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> But in spite of the unpromising setting, the men who assembled in Washington-on-the-Brazos that cold March morning in 1836 had determination and a pronounced sense of urgency. Indeed they had cause to have, for they knew that a hundred and fifty miles to the west Santa Anna's legions were closing on Travis' little band in the Alamo and they must have conjectured that a contingent of cavalry could leave San Antonio, reach Washington in three or four days, and make the last one of them prisoners. There were frequent rumors and reports of such a Mexican advance, and before they finished their work they had many alarms and excursions.
>
> Their accomplishments were stupendous. Probably no deliberative body in history every did more in so short a period—seventeen days. Ahead of them was the task of deciding the question of independence, framing a Constitution to be ratified by the voters after the enemy had been beaten and a semblance of order restored, and of establishing a strong government ad interim for the emergency . . .
>
> This they accomplished. The men in the Convention at Washington-on-the-Brazos did not secure Texas independence, but they declared it effectively and made possible its realization. Amidst terrifying reports of destruction and death wrought to the slender Texas arms and with their own lives in peril, these champions of freedom stayed at their task until they had assured the Revolution more stamina, had strengthened the cause of Texas abroad, and under sturdy President David G. Burnet had set up a government ad interim that could prevent anarchy.

Mr. Speaker, Dr. Richardson's account well captures the desperate spirit of those fateful days in March and April of 1836.

In 1986, Texas celebrates the sesquicentennial of that independence, won by force of arms on the battlefield of San Jacinto.

As Dr. Richardson closes his account:

> When at San Jacinto, on April 21, 1836, Houston attacked and destroyed the spearhead of Santa Anna's armies, the dream of independence, so dear to the men at Washington-on-the-Brazos, became a reality.●

INTRODUCTION OF BALANCED BUDGET CONSTITUTIONAL CONVENTION CONVENING RESOLUTION IN U.S. HOUSE OF REPRESENTATIVES

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. KRAMER. Mr. Speaker, this week, along with Senator WILLIAM L. ARMSTRONG, I introduced the balanced budget constitutional convention convening resolution.

This measure, unique in that it marks the first time a resolution has been introduced in Congress calling for the convening of a constitutional convention for a specific purpose, is designed to force Congress to approve a balanced budget amendment to the U.S. Constitution. In effect, it gives Congress an ultimatum—either act now or have a constitutional convention automatically convened if two or more State petitions are received for a constitutional convention.

Throughout our history, few issues have been as urgent or as important to the survival of our great Nation as this one. This is so because, although we have laid a good foundation for economic recovery, continued huge deficits will make impossible our chances for long-term prosperity.

In recent years, the national debt has exploded. At the beginning of 1968, the total debt from our Nation's first 192 years of existence was $350 billion. By 1978, the year I first campaigned for Congress, the debt had doubled. Since then, it has doubled again, this time in only 5 years. And, given current deficit projections, the national debt will top $2 trillion during fiscal year 1986 and could exceed $3 trillion as early as 1990.

The message is clear: Unless we act—and act soon—to halt this exponential growth, we will see a return to days of high inflation, high interest rates and high unemployment—and worse. No matter how much people in elected office might will it otherwise, huge deficits mean the Government either must print or borrow money, which in turn causes inflation or high interest rates, or both, which in turn ultimately means high unemployment. Yet, Congress has shown time and time again that it is incapable of bringing runaway spending under control.

President Reagan alluded to the serious problem of high deficits in his fiscal year 1985 budget message to Congress when he stated:

> All signs point to continued strong economic growth, vigorous investment, and rising productivity, without renewed inflation—*all but one* [emphasis added]. Only the threat of indefinitely prolonged high budget deficits threatens the continuation of sustained noninflationary growth and prosperity.

To solve this serious problem, the President called for a balanced budget amendment to the Constitution. In doing so, it is important to note that he looked not to Congress, but to the American people, to bring this about, saying, "I encourage our citizens to keep working for this at the grassroots. If you want to make it happen, it will happen."

Last year, Missouri became the 32d State since 1975 to petition Congress to call a national constitutional convention for the purpose of drafting a constitutional amendment mandating a balanced budget. This is just two shy of the number of States required under article V of the Constitution in order for a constitutional convention to be convened. Moreover, the National Taxpayers Union, which has spearheaded the grassroots drive for a balanced budget amendment, reports that strong efforts are underway in seven additional States—Kentucky, Vermont, Michigan, California, Montana, Ohio, and Washington.

Let me emphasize that I would prefer to see Congress act before that happens. In fact, the chief purpose of the balanced budget constitutional convention convening resolution is to force Congress to adopt a balanced budget amendment by eliminating any doubt about the validity of the 32 petitions already received and setting up an automatic mechanism that would expedite the convening of a constitutional convention upon receipt of petitions from two additional States. Briefly, this measure would:

Declare the 32 State petitions already received to be valid and contemporaneous under the terms established in article V of the Constitution;

Establish an automatic mechanism for determining the validity of any new petitions;

Clearly limit the scope of the convention so it could only deal with the subject of drafting a balanced budget amendment;

Call for the balanced budget convention to be convened in Philadelphia within 180 days after the 34th application is determined valid;

Provide for selection and compensation of convention delegates, and describe their duties;

Limit the duration of the convention to 120 days; and

Provide for ratification by State legislatures.

Mr. Speaker, as you know we have not had a constitutional convention since the Founding Fathers drafted the Constitution in Philadelphia in 1787. Article V, which spells out how the Constitution can be amended, stipulates that an amendment can be proposed by either of two methods—a two-thirds vote of both Houses of Congress or a national constitutional convention called at the request of two-thirds of the State legislatures. Yet, to date, all amendments which have ever been proposed have been so by the first method.

Thus, the convening of a constitutional convention admittedly would be a bold step. However, I would argue that, given the prospect of continued out-of-control Federal spending and Congress paralysis in dealing with the situation, bold action is not only justified but demanded if Congress continues to ignore the best interests of our Nation and fails to propose an amendment on its own.

In No. 43 of the Federalist Papers, James Madison, widely regarded as the Father of our Constitution, gave these reasons for article V:

> That useful alterations [in the Constitution] will be suggested by experience, could not but be foreseen. It was requisite therefore that a mode for introducing them should be provided. The mode preferred by the Convention [in 1787] seems to be stamped with every mark of propriety. It guards equally against that extreme facility which would render the Constitution too mutable; and that extreme difficulty which might perpetuate its discovered faults. It moreover equally enables the general and State governments to originate the amendment of errors as they may be pointed out by the experience on one side or on the other.

Indeed, in 1787 who could have predicted budget deficits of the magnitude that we are experiencing today?

During the 60-year period between 1789 and 1849, the Federal Government ran a budget surplus of $70 million. In fact, the general rule of thumb until about 1930 had always been to balance the budget except in times of emergency, such as war. For example, after piling up $22.9 billion in deficits during World War I, the Federal Government ran a budget surplus in each of the next 10 years. In 1930, the total Federal debt from the first 140 years of our Nation's existence stood at $16.2 billion, nearly all of which was attributable to World War I. In 1945, at the end of World War II, the total national debt had risen to $259 billion. However, it was not until the Great Society programs of the 1960's, combined with the cost of financing the Vietnam war, that the debt began to increase by geometric progression. The last time we had a budget surplus was in 1969.

As our former colleague from Illinois, the late Senator Everett Dirksen, was fond of saying, "A few billion dollars here and a few billion dollars there and soon we're talking about real money." Although this statement facetiously illustrates what many perceive to be the prevalent attitude in Washington, it is also true that the numbers have become so big that they are difficult for the average American to comprehend.

Therefore, let me offer the following examples which help explain the gravity of our deficit problem:

Currently, the Federal Government spends $1.5 million dollars every minute, every hour, 24 hours a day, 365 days a year. For every $7 the Federal Government takes in, it spends an additional $2 which contributes to the deficit, a practice that would soon bankrupt the average family or small business;

Last December, the Senate Finance Committee held 3 days of hearings on the deficit. By the time the witnesses had finished testifying, the deficit had increased by another $1 billion;

Based on the current national debt of $1.4 trillion, the resulting liability figures to approximately $6,000 for every man, woman, and child in the United States. For the average family of four, the debt comes to nearly $25,000; and

If a small business were formed at the time Jesus was born, and spent money at the rate of $1 every minute throughout history, the total would be approximately $1 billion, which would be enough to run our current Federal budget less than one-half of 1 day.

On numerous occasions the last couple of decades, both Congress and Presidents have sought to restrain spending and limit deficit spending—each time without success. Most notable of these were: (1) Five separate proposals to limit Federal spending which Congress approved between 1966 and 1973, (2) the impoundment battles initiated by President Nixon; (3) congressional adoption of the 1974 Budget Act, which proponents argued would give Congress the necessary tools to put its financial house in order; (4) the series of spending vetoes by President Ford; and (5) passage of the Byrd amendment of 1978, which statutorially provided that outlays shall not exceed receipts, beginning in 1981.

Although perhaps it can be argued that the first four of these examples may have prevented the deficit problem from becoming even worse, there is no doubt that Congress blatantly ignored the Byrd amendment. The deficit for 1981, despite the statutorial requirement that the budget be balanced, was $57.9 billion, making it the third largest deficit at that point in our Nation's history.

Clearly, there is a spending bias inherent in the legislative practice, which has been accentuated by built-in increases in the budget of the last couple of decades. Members of Congress win praise, and often votes, for "bringing home the bacon" in terms of projects for their districts and programs which benefit their constituents. Conversely, those who try to hold the line on expenditures, much less cut major spending programs, often incur the wrath of this group of voters or that. As author Allen Schick, who has analyzed the Federal budget process in some detail, observed, "The process of budgeting comes to be 'whose ox is to be fattened,' a much more agreeable task than deciding 'whose ox is to be gored.' "

Given these facts, it becomes apparent that a constitutional amendment is the only feasible way of achieving a balanced budget. This fact was underscored by Senator STROM THURMOND, chairman of the Senate Judiciary Committee, when he stated during debate over a balanced budget amendment 2 years ago:

> Congress has violated its own laws in recent years in enacting Federal budgets that are not balanced. * * * A constitutional amendment is the only way. Congress must obey the Constitution.

Without doubt, public opinion is far ahead of Congress on this issue. Since 1979, a number of polls have been conducted by highly respected research organizations such as Gallup, the Harris Survey, the Roper Organization, New York Times-CBS News and the Associated Press-NBC News. All have consistently shown strong support for a constitutional amendment to balance the budget, with support ranging from approximately 2 to 1 to better than 3 to 1, depending when the particular poll was taken.

I would also point out that 15 States, including my home State of Colorado, have a balanced budget requirement written into their State constitution. By and large, these have been highly successful in forcing legislators to set spending priorities based on incoming revenues, just as every American household must do.

Grassroots lobbying finally forced Congress to take up a balanced budget amendment in 1982. However, even though the Senate approved a balanced budget amendment on August 4, 1982, by a vote of 69 to 31, the House Judiciary Committee successfully kept the issue bottled up in committee until the last day of the 97th Congress. Although supporters were successful in using a discharge petition to force it out of committee, the measure was brought to the floor with only a couple hours notice. Even though a majority of the House—236 to 187—voted in favor of the amendment, it fell short of the two-thirds vote necessary to send the amendment on to the States for ratification.

The combination of this congressional inaction and deficits that continue to soar has led many people to wonder if anyone in Washington is minding the store. As a result, the time is fast approaching when the American people will take the issue out of our hands.

Were that to happen, a number of questions arise on what would happen upon receipt of the 34th State application for a convention since article V is not specific on these details. Anticipating this, the American Bar Association did a thorough analysis several years ago to resolve some of this uncertainty surrounding a constitutional convention. Although I would commend the ABA's report to anyone seriously interested in this issue, space here does not permit me to reproduce this report in its entirety. Therefore, let me summarize the report's most important conclusions:

Citing the constitutional convention debate history over article V as well as the Federalist Papers, the ABA concluded that a national constitutional convention can be limited to a single subject;

Congress does have the power to establish procedures governing the calling of such a convention consistent with this single purpose, but any standards requiring that State applications be identical in wording would be improper; and

Congress duty to call a convention whenever two-thirds of the State legislatures have concurred on the subject matter of the convention is mandatory.

Thus, as former Senator Sam Ervin, a widely recognized constitutional expert on this subject, stated:

> * * * the fear of a runaway convention is just a nonexistent constitutional ghost conjured up by people who are opposed to balancing the budget, because they want to be able to promise special groups something for nothing out of an empty pocket.

Mr. Speaker, the time to enact a balanced budget amendment is now. I would urge that we do so without further delay.

In closing, let me recall the wisdom of Justice Joseph Story, who wrote in 1826:

> A government which * * * provides no means of change * * * will either degenerate into a despotism or, by the pressure of its inequities, bring on a revolution.●

SNUBBING SYRIA DIDN'T WORK

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. RAHALL. Mr. Speaker, as we witnessed the withdrawal of our marines from Beirut last weekend, I pondered the circumstances which led to the failure of the President's policy in Lebanon. I have always advocated that in order to bring about a just settlement in the Middle East, we must deal with all countries and factions who are parties to the dispute. I feel strongly that we committed a major diplomatic blunder by not consulting Syria during the negotiation of the May 17, 1983 Israeli-Lebanese agreement.

I would like to insert into the RECORD an article which appeared in this past Sunday's Washington Post by Jonathan C. Randal. I believe that the reasons we should have included Syria in the negotiations is spelled out quite clearly and eloquently and I feel that this should be brought to the attention of my colleagues, our Secretary of State, and the American people.

The article follows:

SNUBBING SYRIA DIDN'T WORK

(By Jonathan C. Randal)

DAMASCUS.—So confused and tortured has been the Reagan administration's Lebanon policy that even its collapse failed to get Washington's desired message across to the intended party, Syria.

"Do you really think the Marines are going to leave?" asked a worried official in Syria's presidential palace the other day. His question reflected the Syrians' often dumb-founded sense of wonder at the spectacle of the world's greatest power floundering in a whirlpool of its own contradictory statements and actions.

The sudden collapse of the American-trained Lebanese army—the bulwark of the Reagan administration policy of support for President Amin Gemayel—surprised even the Syrians. But if Assad has positioned himself ingeniously to dominate his American, Israeli and Lebanese Christian adversaries, he has yet to achieve his main objective. That is to eliminate totally every trace of political or military advantage that Israel gained with its invasion of Lebanon in June 1982.

That objective brought Assad into conflict with the United States, because in Syrian eyes, the Americans adopted Israeli goals when they decided to follow Ariel Sharon's lead and try to rebuild a Lebanese central government based on Christian Phalangist power. In Syrian eyes, that policy amounted to rewarding Israel for its aggression against Lebanon.

The Syrians have always been concerned that Israeli and American machinations would leave them entirely isolated in the region, facing clearly superior Israeli military power with no Arab allies in the neighborhood. A successful Israeli-Lebanese rapprochement would have been another step along this path, so Assad was determined to prevent it. The May agreement negotiated by George Shultz calling for mutual Syrian and Israeli withdrawal from Lebanon naturally became Assad's first target. With his considerable capacity for brutal direct action, what happened next should not have been a surprise.

When Secretary of State Shultz first went to Damascus to present the May 17 deal, the Syrians were taken aback. After all, the same George Shultz had said publicly that the United States should not pay too much attention to the Middle East for fear of neglecting the world's other—and by inference more important—problems.

But when faced with President Reagan's displeasure at the slow pace of Israeli-Lebanese negotiations, Shultz had rushed to the Middle East and conducted a Kissinger-like shuttle which his closest advisers had discouraged as unnecessary.

According to palace insiders here, when he come to Damascus Shultz seem unfamiliar with the details of the agreement he was selling. Shultz's own advisors had to correct him on major and minor points, these Syrian sources said.

When Assad rejected the agreement, Shultz decided not to take his decision seriously. Thus was born perhaps the most disastrous cross-cultural misunderstanding in recent U.S.-Mideast relations, a breakdown in communication that could bedevil American interests for years to come.

Yet American diplomats throughout the Middle East had warned Shultz that Syria would never accept a deal negotiated by others, much less one seeking to reduce Syrian influence in Lebanon.

But Shultz and the successive American special negotiators who have dealt with Syria never seemed really to accept that if for only geographic and historical reasons, Syria has special interests in the country next door. Instead, they disregarded the diplomats and remained adamant, apparently reflecting the Washington view that a debt-ridden nation of 9 million people dependent on handouts from Saudi Arabia and the other pro-Western Arab oil states could be pressured into giving way.

Neither Shultz, nor National Security Adviser Robert McFarlane, nor especially Donald Rumsfeld, the present special envoy, seemed to believe that a small determined state, convinced its back was to the wall, could stand up to a superpower. It was as if the lessons of Vietnam had been forgotten.

At the State Department, Shultz came to share the same passionate dislike of the Syrians which in 1981 had led his predecessor, Alexander Haig, to snub Assad by avoiding a Damascus stopover during a Mideast familiarization tour. Reagan's two secretaries of state apparently forgot the dictum of their predecessor, Henry Kissinger, that no war was possible in the Middle East without Egypt, and no peace possible without Syria.

Assad must have realized that he could sit tight last spring, when—despite the coming of the dry season in the Bekaa Valley—the Israeli army made no forays into Syrian-held territory. Once he saw that Israel had lost its stomach for its Lebanese adventure, Assad knew he had little to worry about.

The United States ceased to be a threat when, along with the other nations contributing troops to the multinational force, Washington refused to protect its soldiers by committing many more men to securing the first ridge line above Beirut.

Without credible assets, McFarlane and Rumsfeld nonetheless tried to bluff the Syrians. The guns of the Sixth Fleet fired from September on. But despite American claims that the Syrians got the message and began behaving, the most visible result of these artillery barrages was the conversion of great segments of the Lebanese Moslem community to a strongly anti-American orientation. The big guns also attracted great numbers of Shiite Moslems to the radical, pro-Iranian camp.

Some people in this part of the world claim that this first premeditated use of American firepower against Arabs in this century helped provoke the Oct. 12 kamikaze raids in which neary 300 American and French troops were killed.

Last month the battleship *New Jersey* fired almost 300 one-ton rounds in a barrage so apparently mindless that Defense Secretary Caspar Weinberger decried the whole affair and his department refused to evaluate its effectiveness publicily. In Damascus the Syrians wondered out loud about what kind of a government had a defense minister who by his own admission didn't know what, precisely, his warships were doing.

No strangers to random shelling themselves, the Syrians issued denounciations and basked in the reflected glory of once again playing Arab heroes persecuted by the frustrated superpower. Playing that role is what earns Syria millions in petrodollar largesse from its sister Arab states.

The Syrians insist that they have bent over backwards to avoid humiliating the United States, ceaselessly spelling out their minimum acceptable conditions to anyone willing to come to Damascus. But they express exasperation at the fact that the Americans repeatedly withdrew their special envoy and brought in a new one just as the Syrians thought they were getting their message across.

Last month, the Syrians followed up their release of Navy flier Robert Goodman by suggesting a possible honorable exit for the administration. They seemed to accept the idea of a United Nations force to replace the western contingents in Beirut. The Syrians reasoned that the sooner the Marines left the better for Reagan, who in any case looked like a second term shoo-in.

"The Syrians figured Reagan would be around for five more years and didn't want to insult the future" a western diplomat said. "Trouble was, Washington showed no such understanding of Assad's durability."●

TONY AND LUPITA RAMIREZ DAY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. ORTIZ. Mr. Speaker, today, when so many people are worrying only about themselves and their ability to make ends meet, it is heartening and refreshing to learn of the efforts of many to share what little they have to help others in need. Often operating on only a shoestring budget, and counting on the good intentions and support of others like themselves, these volunteers organize the citizenry to offer whatever help they can. Their efforts are particularly important today because Government funds for many social assistance programs have been cut. The volunteer spirit is, I am glad to say, more alive than ever.

Whenever people are challenged to help those affected by unemployment and natural disaster, there are always a few generous people who can be counted on to do what needs to be done, without expecting any credit. They offer their talents and whatever resources they have because of their fundamental commitment to their fellow man. Just knowing that they have helped others is sufficient reward for them.

I am pleased to have two of the most generous volunteers in America living in my congressional district. In fact, their efforts are so appreciated by the many they have helped that the Cameron County Commissioners Court in south Texas has declared March 1, "Tony and Lupita Ramirez Day." This honor is public recognition for their many thousands of hours of work during the last 15 years to help the poor of the Rio Grande Valley.

Tony, a former truck driver and county employee, and Lupita have been married for 30 years and have five wonderful daughters. They had no personal wealth to share, but had the most important gift of all to share, the gift of themselves, which has made their efforts through the years all the more meaningful.

The Ramirezes began their community service in 1969 by opening up their home and offering their automobile to help transport the poor to medical appointments. They galvanized their friends and neighbors into helping, and before long had a fleet of 20 cars and drivers willing to help those without transportation. They did not have any Federal grants or a huge expense account. Rather, they used Tony and Lupita's house and telephone and gave of their own time.

Not content to merely serve their fellow man in this limited way, the Ramirzes founded a family medical clinic offering services to low-income people. Knowing that the elderly, too, had special needs, Mr. Ramirez helped found Amigos del Valle—"Friends of the Valley"—a valleywide, nonprofit, umbrella organization that provides social services to the elderly, including housing, transportation, hot meals, and recreation.

As the organization and efforts of the Ramirezes grew, and as more and more people sought their assistance, they organized the "Harlingen Community Committee and Concerned Citizens" and expanded their efforts to include vocational education classes. Mr. Ramirez, who obtained his GED from the Texas State Technical Institute, recognized the importance of language and job training classes to the Mexican-American community in the valley.

As appreciation of and recognition for his efforts grew, Mr. Ramirez successfully convinced the city of Harlingen to provide a new facility for his operation. An unused firehouse was donated and renovated by the city and is now the hub for the Harlingen Information and Social Services Organization, Inc.

Most recently, the Ramirezes provided urgently needed relief for the victims of the December freeze which devastated the agricultural crops in the valley and cause enormous hardship for many migrant farmworkers. The Ramirezes galvanized the people of Harlingen into donating enormous amounts of clothing, household goods, and food. Local businesses, already familiar with the efforts of the Ramirezes and their organization, responded enthusiastically and cooperated fully. Some 1,500 families received assistance to tide them over until Federal and State disaster assistance could reach them.

Tony and Lupita are a living testament to the fine efforts of countless, nameless volunteers throughout the Nation. So many give of their time with no expectation of praise or public recognition. However, when individuals are honored, as Tony and Lupita are today, all volunteers are really being recognized.

This Nation has a strong tradition of helping others—a tradition which I am glad to see alive and well today. While it would be easy to step aside and wait for the Federal Government to meet the needs of the poor, volunteers know that their ability to respond quickly means that their efforts are at least as effective as those of Government. They do not need to wait for countless forms to be filled out and filed with the appropriate Government agencies. When disaster strikes, as it did at Christmastime in south Texas, the people were willing and ready to help. It just takes someone like Tony and Lupita to organize the efforts of volunteers. The community was responding to the freeze disaster before the ink was even dry on the State's request for Federal aid.

Volunteers will continue to exemplify speed and simplicity in meeting the needs of those less fortunate. Their contributions to this Nation and to our individual communities are immeasurable, but each one of us who has been touched by their activities is richer for their efforts. The people of south Texas are fortunate to have had people like Tony and Lupita Ramirez care enough to give of their time and efforts for more than 15 years.●

COMPUTER CRIME

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. NELSON of Florida. Mr. Speaker, I am delighted to bring to your attention, an editorial by the influential Washington Post on the subject of computer-assisted crime legislation.

H.R. 1092, the Federal Computer Systems Protection Act, to which the Post refers, makes crime by computer a specific Federal offense. It provides our prosecutors with adequate tools to convict this new sophisticated criminal—who is stealing upward of $100 million to $300 million each year with the use of computers.

The bill has received the generous support of trade associations in the industry, including the American Society for Industrial Security, Computer and Business Equipment Manufacturers' Association, Data Processing Management Association, American Bankers' Association, Association of Federal Investigators, Electronic Data Processing (EDP) Auditors, and others. We have 118 cosponsors and a resumption of hearings held in November is expected early next year before Chairman DON EDWARDS' Subcommittee on Civil and Constitutional Rights.

I invite my colleagues to join me in the effort to combat burgeoning criminal activity by computer. At this point in the RECORD, I respectfully request insertion of the December 2, 1983, Washington Post editorial, "Computer Crime":

The article follows:

COMPUTER CRIME

The computer hotdoggers, whose invasions of remote data bases arouse both admiration and concern, have drawn attention to a serious and growing problem. Among the many things that computers have made easier are the stealing and destruction of other people's property. And current law is not well-suited either to deter or to prosecute such offenses.

Many existing federal or state statutes could be involved in the prosecution of specific offenses, depending upon their circumstances. But since none of these laws deals specifically with the types of unauthorized access made possible by computer networks, law enforcement agents and prosecutors must try to stretch these statutes to cover situations never envisioned by their drafters. Because courts tend—properly—to interpret any ambiguity in the law to favor a defendant, it is only too possible that a person who has, for example, stolen valuable trade secrets or willfully destroyed irreplaceable records might escape conviction because of gaps in the law.

To remedy this situation, Rep. Bill Nelson has introduced a bill that would make it a federal crime to use computers for fraudulent purposes where these computers were federally owned or used by organizations involved in interstate commerce. The measure—patterned after successfully used statutes in Florida and California—has won the endorsement of numerous trade associations.

The Justice Department has also supported the bill with minor qualifications and the added suggestion that simple unauthorized access to a computer be made a misdemeanor. That seems a useful addition. Computer "hackers" may mean no harm, but amusements that can result in the destruction of, say, irreplaceable medical records ought to be firmly discouraged.

There is, of course, a strong presumption against littering the federal criminal code unnecessarily. But both the private sector and the federal government have come, belatedly, to realize that computer crime is now a multi-million-dollar enterprise operating within their borders. Better built-in security measures for computer systems are obviously the surest protection, but passage of a strong federal law would have an important deterrent effect. Although several states have enacted computer-crime statutes, their coverage is uneven, and a uniform federal law would be a far more effective way of dealing with a type of offense that is, by its very nature, no respecter of state boundaries.

Computer virtuosity is surely to be admired. But tampering with information, whether done for gain or amusement, can deprive other people of property far more valuable than the contents of a Brinks armored truck. The law that seeks to deter and punish such thievery should be firm and unambiguous.●

REVERSING THE NUCLEAR ARMS RACE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. CONYERS. Mr. Speaker, today the United States and the Soviet Union together possess more than 55,000 nuclear warheads, enough to destroy each other and the entire world many times over. The Reagan administration is committed to producing thousands of more nuclear weapons. No doubt, the Soviet Union will simply match this nuclear expansion as they have in the past.

Further escalation in the nuclear arms race can only produce greater global tension, deeper instability, and a heightened danger of nuclear weapons accidents.

Steps should be taken immediately to build contacts between the United States and the Soviet Union in an effort to negotiate a nuclear weapons reduction. The leaders of both nations should declare that a first use of nuclear weapons is repugnant to both. Bilateral arms control negotiations should be resumed. Both nations must find a way to freeze their existing nuclear weapons stockpiles and halt further production, while serious negotiations can be conducted.

Two years ago I offered during debate on the Federal budget an amendment to freeze further testing, production, and deployment of new nuclear warheads and weapons. That was a first effort in bringing together the idea of a nuclear freeze and the attempt to cut off further funding of nuclear weapons production. While that effort did not succeed, I am convinced that further congressional action this year along similar lines can prove effective.

In order to better understand the nuclear arms race, I am including in the CONGRESSIONAL RECORD at this point three articles published by The Center For Defense Information in Washington, D.C. These articles provide the most concrete picture of the dangers posed by a stepped up nuclear arms race.

The articles follow:

[The Defense Monitor, 1982]

DEFENSE MONITOR IN BRIEF

President Reagan and his advisors appear to be preparing the United States for nuclear war with the Soviet Union.

President Reagan plans to spend $222 billion in the next six years in an effort to achieve the capacity to fight and win a nuclear war.

The U.S. has about 30,000 nuclear weapons today. The U.S. plans to build 17,000 new nuclear weapons in the next decade.

Technological advances in the U.S. and U.S.S.R. and changes in nuclear war planning are major factors in the weapons buildup and make nuclear war more likely.

Development of new U.S. nuclear weapons like the MX missile create the impression in the U.S., Europe, and the Soviet Union that the U.S. is building a nuclear force to destroy the Soviet nuclear arsenal in a preemptive attack.

Some of the U.S. weapons being developed may require the abrogation of existing arms control treaties such as the ABM Treaty and Outer Space Treaty, and make any future agreements to restrain the growth of nuclear weapons more difficult to achieve.

Nuclear "superiority" loses its meaning when the U.S. and the U.S.S.R. both possess far more nuclear weapons than the number required to destroy one another in all circumstances.

This Monitor features a status report on all U.S. nuclear weapons programs, an inventory of the U.S. nuclear stockpile, and information on locations of nuclear weapons in the U.S.

President Reagan has announced his hopes for reaching agreements with the Soviet Union on limiting nuclear weapons in Europe and in newly revived negotiations on strategic weapons (START talks). Both the United States and the Soviet Union have recently stepped up their propaganda campaigns to sway public opinion. Whether any practical achievements will flow from the war of words remains to be seen. What is already clear is that President Reagan has approved the most ambitious build-up of nuclear weaponry in U.S. history. The danger of nuclear war is increasing, despite attempts to revive confidence in negotiations.

President Reagan and his advisors appear to have psychologically declared war on the Soviet Union. Some officials believe the U.S. is in a "pre-war" situation and that there is a good chance of nuclear war with the Soviets. They want to prepare our country to fight and win this approaching nuclear war.

This dramatic, if not apocalyptic, presumption is what underlies the new nuclear weapons program of the Reagan Administration. It is an attempt to acquire a full-fledged nuclear war-fighting capability. As Frank Carlucci, Deputy Secretary of Defense, has admitted, "that is a very large order." It is a very expensive and very dangerous order as well.

The Reagan Administration is planning a major expansion of U.S. nuclear forces over the next six years. The programs involve land, sea and air-based missiles, new bombers, space weaponry and missile defense systems, among others. The implied purpose of this $222 Billion effort is to gain nuclear "superiority" over the Soviet Union. The new nuclear weapons program, coupled with programs already funded and under development, will result in 17,000 new nuclear weapons over the next decade.

Contributing to the dangers of deploying thousands of new nuclear weapons is an unsettling change of emphasis in U.S. strategic doctrine that may make nuclear war more probable in the coming decades. These changes in doctrine gained much public attention when an outline of Presidential Directive 59 was first leaked to the press in August 1980. PD-59 codified the strategic doctrine known as "countervailing strategy" which evolved during the 1970's. In effect, it expands the capabilities required or demanded of U.S. nuclear forces in a nuclear war and attempts to give the President a wider range of choices.

Emphasis has shifted from conceiving of nuclear weapons as deterrents to how they can be used as war-fighting weapons.

The Reagan Administration appears to be carrying the countervailing strategy one step further. It plans to incorporate both the "limited nuclear options" of the Carter strategy and its own ill-conceived notions of nuclear superiority into the nuclear weapons build-up.

No one in the Administration has bothered to produce a realistic definition of nuclear superiority in an age when both the U.S. and the U.S.S.R. have thousands of nuclear weapons and the ability to effectively destroy one another. However, it appears that a major component of such a drive for superiority will be the ability to wage "limited" nuclear war. Through tremendous expenditures for both new nuclear weapons and the systems to deliver them, the Administration intends to build the capacity to fight nuclear wars that range from limited use through a protracted conflict to an all-out attack.

These recent developments in strategy and doctrine also have serious implications for attempts at arms control. So long as our leaders emphasized concepts such as assured destruction or sufficiency, fixed criteria could be arrived at for determining the size and characteristics of U.S. nuclear forces. But war-fighting concepts remove all constraints on the number, variety and complexity of new nuclear weapons and their delivery systems.

This new phase of the arms race is being pushed along by technological advances, which when added to war-fighting doctrine and vast numbers of new nuclear weapons, make their use more plausible. Advances in the technical sophistication of this new generation of weapons support war-fighting concepts that are becoming part of the strategies of the U.S. and the U.S.S.R.

For example, through advances in propulsion, guidance, and engineering, our intercontinental ballistic missiles (ICBM's) and other nuclear delivery systems are developing the accuracy to destroy small hardened targets such as missile silos and command bunkers. This accuracy, when incorporated into all our delivery systems (cruise missiles, SLBM's, ICBM's, etc.) will give the U.S. a counterforce capability that could soon threaten Soviet nuclear forces.

Our leadership, both civilian and military, have consistently emphasized that we seek only a nuclear force capable of deterring our opponents. Yet, when first strike capabilities and threats are weighed what really matters is how the other side views our intentions.

U.S. nuclear forces long ago surpassed the criteria of "minimum deterrence" or "assured destruction." The U.S. public is being mistakenly led to believe that the continued expansion of our nuclear forces enhances deterrence. In fact, if it contributes to Soviet insecurities about the safety of their own nuclear retaliatory forces it may be doing just the opposite.

Several other features of the Reagan nuclear weapons programs are particularly troubling. The exemption of strategic programs from budgetary restraint will cause an imbalance in our armed forces, depriving much needed funds from conventional forces. Second, there is no evidence that the Reagan Administration has seriously incorporated a role for arms control into its national security plans.

In October 1980, candidate Ronald Reagan stated that there was, indeed, an ongoing nuclear arms race, but that only the Soviet Union was participating. This is simply not true. The U.S. is not now nor ever has been "strategically inferior" to the Soviet Union. As the survey below of U.S. nuclear weapons programs demonstrates, the enhancement and enlargement of U.S. nuclear forces has continued unabated throughout the 1970's and will be accelerated in the 1980's.

The Reagan Administration's effort to prepare to fight a nuclear war is a dangerous and futile objective that must be reconsidered. The record of the arms race shows that each advance will be met by the other side, probably sooner than later, and that neither nation can gain a significant advantage.

Nuclear weapons should serve only one purpose, to deter war. The only true test for the sufficiency of our nuclear forces is that they be able to meet any Soviet attack in a way that denies the Soviets an advantage for having made the attack. Our present capability to deliver over 12,000 nuclear weapons on the Soviet Union more than meets this test of sufficiency.

UNITED STATES–U.S.S.R. STRATEGIC NUCLEAR FORCES

[September 1983]

	United States	U.S.S.R.
Total weapons:		
On ICBM's	[1] 2,145	[4] 5,578
On SLBM's	[2] 5,152	[5] 1,874
On long-range bombers	[3] 2,876	[6] (200) 290
Total	10,173	(7,942) 7,742
Total launchers:		
ICBM's	[1] 1,045	[4] 1,398
SLBM's	[2] 568	[5] 944
Long-range bombers	[3] 334	[6] [7] 145
Total	1,947	(2,487) 2,487

[1] U.S. ICBM levels include 45 Titan II, 450 Minuteman II and 1,650 (550 × 3 MIRV) Minuteman III weapons. Titan retirements began in October 1982 and will continue at a rate of one every 30–45 days until September 1987.

[2] There are 34 submarines which carry ballistic missiles: 19 carry 16 Poseidon C–3 missiles each with an average of 10 weapons per missile; 12 carry 16 Trident I C–4 missiles each with an average of 8 weapons per missile; and three Trident submarines carry 24 Trident I C–4 missiles each with an average of 8 weapons per missile. Five Polaris submarines (80 missiles) are excluded as they are designated as attack submarines. Five of the Polaris submarines have been or are in the process of being dismantled.

[3] U.S. bomber levels include 298 B–52 and 63 FB–111 bombers in the active inventory, of which 274 B–52's and 60 FB–111's are operational. Three squadrons of B–52D's (44 aircraft) were retired in 1982 and the remaining 35 will be retired by October 1, 1983. There are approximately 2,636 nuclear weapons for the B–52's (1,232 gravity bombs, 1,020 SRAM's and 384 ALCM's). The first B–52G squadron carrying 12 external ALCM's on each of 16 planes went on alert in December 1982 at Griffiss AFB in Rome, New York. The second squadron at Wurtsmith AFB, Oscoda, Michigan was ready in the spring of 1983. Each FB–111 average weapon loading is two SRAM's and two gravity bombs for a total of 240 weapons. U.S. strategic weapons ready for immediate launch against the U.S.S.R. number approximately 5,900. These include all those on ICBM's, 55 percent of those on Lafayette-class and 65 percent of those on *Ohio*-class submarines and 30 percent of those on bombers.

[4] Some estimates range as high as 5,900–6,000 which assumes full MIRVing. An approximate weapons loading for ICBM's would be:

[5] Soviet SLBM levels include 25 operational Yankee-class and 36 Delta-class modern submarines as well as 1 Golf-class (with 6 missiles) and 5 Hotel-class (with 18 missiles). One Typhoon submarine is now in service. A second is undergoing sea trials. An approximate loading would be:

[6] Soviet bomber levels include 100 TU–95 "Bear" type, 45 M-type "Bison" and 100 "Backfire" aircraft deployed with Long Range Aviation. Assumes two weapons per aircraft, either bombs or air-to-surface missiles.

[7] 100 Backfire.

	Missiles	Nuclear weapons
SS–11 (X 1)	550	550
SS–13 (X 1)	60	60
SS–17 (X 1)	20	20
SS–17 (X 4 MIRV)	130	520
SS–18 (X 1)	28	28
SS–18 (X 8 MIRV)	115	920
SS–18 (X 10 MIRV)	165	1,650
SS–19 (X 1)	30	30
SS–19 (X 6 MIRV)	300	1,800
Total	1,398	5,578

	Missiles	Nuclear weapons
SS–N–5 (X 1)	12	12
SS–N–6 (X 1)	384	384
SS–N–8 (X 1)	292	292
SS–N–17 (X 1)	12	12
SS–N–18 (X 3 MIRV)	100	300
SS–N–18 (X 7 MIRV)	100	700
SS–N–18 (X 1)	24	24
SS–N–20 (X 6–9 MIRV)	20	150
Total	944	1,874

Defense Monitor in Brief

Nuclear weapons and preparations for nuclear war are very expensive.

Under present plans, the Reagan Administration will spend $450 Billion in the next six years preparing for nuclear war. This is approximately 22 percent of all military spending and considerably higher than the 10 to 15 percent usually cited by Administration officials.

In the next decade the U.S. will build about 17,000 new nuclear weapons.

The costs merely to develop and buy fifteen major nuclear weapon systems now in production or being planned for the 1980's and early 1990's are $335–$400 Billion. Operating costs will add to the total.

Spending on nuclear weapons has more than doubled since Ronald Reagan became president.

Spending on nuclear weapons is going up much faster than overall military spending. Between fiscal 1983 and fiscal 1984 funding for nuclear weapons will increase 25 percent.

If it is the national policy of the U.S. to prepare to fight and win a nuclear war, the Reagan military budget is appropriate. If the American people support arms reductions instead of a nuclear buildup, hundreds of Billions of dollars are being wasted.

After its initial years in office the Reagan Administration has realized that its talk about fighting and prevailing in a nuclear war has frightened the American and European people and mobilized resistance to U.S. policies. The Administration is now retreating from inflammatory warfighting talk to more soothing language. This new rhetorical approach comes through in Department of Defense (DOD) reports and speeches and in appearances before Congressional committees.

This shift in rhetoric would be more reassuring if there were corresponding changes in the budget for nuclear weapons. Nothing has changed and ever larger amounts are proposed. Over the next ten years the composition of the U.S. nuclear arsenal will undergo dramatic quantitative and qualitative changes. Approximately 17,000 new nuclear weapons will be fabricated for use by U.S. land, sea, and air forces. During this same period plans call for the retirement of 6,000 older weapons. If our NATO allies agree to accept new 8-inch and 155mm neutron artillery shells an additional 5,000 could also be retired. Many of the weapons being sought and the reasons given for their necessity fit a nuclear war-fighting strategy.

Secretary of Defense Caspar Weinberger has minimized the nuclear buildup by pointing to its relatively modest cost when compared to the cost for non-nuclear forces. Mr. Weinberger says that 85 percent of the military budget pays for non-nuclear forces, claiming only 15 percent or less goes for nuclear forces. The Department of Defense regularly understates both the real and relative costs of nuclear forces and obscures the increases.

What percentage of military spending goes for nuclear forces? Some research and purchase costs for certain weapons are well known. For instance, one B-1B bomber will cost between $300 and $400 million. Less well known but significant are associated expenses—about $5 million a year per plane for maintenance, training and other costs. These other costs must be computed for our present forces as well. For example, it costs as much as $7,500 an hour to operate a B-52 bomber; annual operating cost for the entire B-52 force is $1.9 Billion.

For Fiscal Year 1984 U.S. costs for preparations for nuclear war will be approximately $65 Billion. For the six year period fiscal year 1983-88 the cost will be over $450 Billion. This is approximately 22 to 23 percent of the military budget (see chart p. 3). The costs merely to develop and buy fifteen major nuclear weapons systems now in production or being planned for the 1980's and early 1990's are $335-$400 Billion (see chart p. 9). The costs for fiscal year 1984 are $29 Billion. Operating costs will add to the total. The increases for nuclear war preparations are dramatic, rising over 200 percent from 1980 to 1988.

As we debate the best allocation of our national resources, we should have a solid understanding of the total costs of our nuclear forces. This issue of The Defense Monitor helps bring these costs into perspective, evaluates the scope of the nuclear buildup, and assesses the need for certain programs.

THE MILITARY BUDGET

The military budget is a complicated document. Concealing from the Congress and the public almost as much as it reveals, it intimidates the casual reader and by its size alone almost defies understanding.

The $280.5 Billion in military funding Mr. Reagan wants this year is nearly double the $146 Billion Mr. Carter requested in 1980. No nation in the world, save the Soviet Union, has an entire governmental budget larger than the Pentagon's. The U.S. Army's budget alone is approximately the same as the whole budget of Italy. The U.S. Navy's budget is larger than the governmental budgets of all twelve South American nations combined. The U.S. Air Force budget exceeds that of all forty-six African governments combined.

It will be difficult to spend wisely the $280.5 Billion Mr. Reagan has requested this year. If approved by Congress the Pentagon will be required to spend $786 million a day, $32 million an hour, $533,000 a minute.

Using Mr. Reagan's own projections, by 1986 the Pentagon will be spending nearly $1 Billion a day, $41 million an hour, $700,000 a minute. A Billion dollars would represent a stack of one dollar bills 67 miles high. By fiscal year 1989 Mr. Reagan's projections soar to $1.3 Billion a day. Prior to the Reagan buildup the Pentagon spent at an average rate of $257 million a day during the 1970's, $156 million a day during the 1960's, and $106 million a day during the 1950's. Over the coming year the Pentagon will spend more than it did at any time during the Vietnam War (in constant dollars).

The budget conceals by obscuring how much is spent on nuclear forces, directly and indirectly. More specifically what is lacking is a true accounting of the scope and cost of the Reagan nuclear buildup. When Reagan announced the "strategic" part of his buildup in October 1981 he stated the six year costs would be $180 Billion. While this is a sizable sum it is by no means the total figure. Translated into current dollars the figure was actually $222 Billion. Excluded were six years of Department of Energy (DOE) costs to produce the warheads and bombs, as well as the Federal Emergency Management Agency's (FEMA) civil defense and federal preparedness programs. Also excluded were the majority of costs for such weapons as the "stealth" bomber and Trident II missile which are to be bought later in the decade.

To get a better grasp of what is spent on nuclear forces, we must understand the federal budget in general and the military budget in particular. The federal budget is divided into 13 categories, overseen by various congressional committees which produce 13 separate appropriation bills each year. Monies from five bills have military purposes, and when combined by the Office of Management and Budget as the National Defense Budget, add up to the total dollars to be spent on the military. Four of the bills have monies in them that directly or indirectly support nuclear forces. These bills are those for the Department of Defense, Military Construction, Energy and Water Development (DOE), and Housing and Urban Development (FEMA). Minor amounts—about $75 million—are included in the Treasury, Postal Service and the General Government Appropriation Bill for maintaining a reserve of special metals and other items. Following is a breakdown of the spending in each bill for nuclear forces.

DEPARTMENT OF DEFENSE AND MILITARY CONSTRUCTION

Generally, the Department of Defense and the Military Construction bills combined are considered the Pentagon's budget. When presented to Congress the military requests are broken down in two basic ways. The most common is by eight appropriation titles (Procurement, Research and Development, Operations and Maintenance, Personnel, etc.). The second way is by ten Major or Mission Programs (Strategic Forces, General Purpose Forces, Intelligence and Communications, etc.). The best estimate is that 100 percent of the Strategic Forces category, 5 percent of the General Purpose, 40 percent of the Intelligence and Communication, 30 percent of the Research and Development and 10 percent of all other mission programs are devoted to nuclear weapons. The DOD share of the military budget for nuclear forces is $58 Billion for fiscal year 1984 and $414 Billion for six years (see chart above). Of course, any across the board breakdown has its problems. Dual-use aircraft such as the F-16 carry conventional and nuclear bombs. Reconnaissance satellites observe Red Army Troops as well as ICBM silos. Communication systems could transmit orders to tank commanders or for the firing of nuclear weapons.●

TAX DEDUCTIONS FOR CONTRIBUTIONS TO THE UNITED NATIONS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. SEIBERLING. Mr. Speaker, I am again reintroducing legislation to authorize tax-deductible contributions to the United Nations and other specialized agencies of which the United States is a member.

The United Nations has recurring problems in its efforts to stay financially solvent—efforts which would be substantially alleviated if American foundations and individual taxpayers were permitted to make tax deductible contributions to the United Nations and its agencies. At the present time, deductions for contributions of this sort are not permitted under the Internal Revenue Code.

Even the Reagan administration recognizes the continuing need for the United Nations as a world forum for the peaceful resolution of international problems. While the U.N. does indeed need some basic reforms, it is nevertheless performing many important and some indispensible functions. These include not only many crucial international functions but providing a forum for defusing the wider tensions between the East and West.

One way of retaining the good will of the developing nations of the world, and of impressing upon them the sincerity of our commitment toward the peaceful resolution of global problems, is to permit American foundations and citizens to make tax-deductible contributions to the U.N. As a practical matter, most of the contributions are likely to come from foundations, which are already tax-exempt, so the revenue impact of my bill would be negligible. The potential benefits would, in my judgment, far outweight the minor costs associated with my bill.

The text of the bill and a list of agencies which would be eligible for tax-deductible contributions follow:

I. U.N. AGENCIES

U.N. Headquarters.

U.N. Office at Geneva.

Economic Commission for Europe (ECE).

Economic and Social Commission for Asia and the Pacific (ESCAP).

Economic Commission for Latin America (ECLA).

United Nations Conference on Trade and Development (UNCTAD).

United Nations Environment Programme (UNEP).

World Food Council (WFC).

United Nations Children's Fund (UNICEF).

United Nations Development Program (UNDP).

Office of the United Nations High Commissioner for Refugees (UNHCR).

United Nations Institute for Training and Research (UNITAR).

United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

United Nations Research Institute for Social Development (UNRISD).

II. SPECIALIZED AGENCIES

United Nations Development Organization (UNIDO).

International Labour Organization (ILO).

Food and Agriculture Organization of the United Nations (FAO).

United Nations Educational, Scientific and Cultural Organization (UNESCO).

World Health Organization (WHO).

International Bank for Reconstruction and Development (IBRD).

International Finance Corporation (IFC).

International Development Association (IDA).

International Monetary Fund (IMF).

International Civil Aviation Organization (ICAO).

Universal Postal Union (UPU).

International Telecommunication Union (ITU).

World Meterological Organization (WMO).

Inter-Governmental Maritime Consultative Organization (IMCO).

World Intellectual Property Organization (WIPO).

International Atomic Energy Agency (IAEA). (This was established "under the aegis of the United Nations"; it reports annually to the general assembly.)

H.R. ——

(A bill to amend the Internal Revenue Code of 1954 to allow a deduction for any contribution, bequest, or gift to the United Nations)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of section 170 of the Internal Revenue Code of 1954 (defining charitable contribution) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The United Nations or an instrumentality or agency thereof of which the United States is a member, but only if the contribution or gift is to be used exclusively for the purposes for which such organization is established."

(b) Section 170(b)(1)(A) of such Code (relating to percentage limitations for individuals) is amended by striking out "or" at the end of clause (vii), by inserting "or" at the end of clause (viii), and by inserting after clause (viii) the following new clause:

"(ix) an organization referred to in subsection (c)(6),".

SEC. 2. (a) Section 2055(a) of the Internal Revenue Code of 1954 (relating to transfers for public, charitable, and religious uses) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by inserting after paragraph (4) the following new paragraph:

"(5) to or for the use of the United Nations or an instrumentality or agency thereof of which the United States is a member, but only if the contribution or gift is to be used exclusively for the purposes for which such organization is established."

(b) Section 2006(a)(2)(A) of such code (relating to transfers for public, charitable, and religious uses) is amended by striking out "or" at the end of the clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof "; or", and by inserting after clause (iii) the following new clause:

"(iv) to or for the use of the United Nations or an instrumentality or agency thereof of which the United States is a member, but only if the contribution or gift is to be used exclusively for the purpose for which such organization is established."

SEC. 3. (a) Subsection (a) of section 2522 of the Internal Revenue Code of 1954 (relating to charitable and similar gifts) is amended by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by inserting after paragraph (4) the following new paragraph:

"(5) the United Nations or an instrumentality or agency thereof of which the United States is a member, but only if the contribution or gift is to be used exclusively for the purposes for which such organization is established."

(b) Subsection (b) of such section 2522 is amended by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and by inserting after paragraph (5) the following new paragraph:

"(6) The United Nations or an instrumentality or agency thereof of which the United States is a member, but only if the contribution or gift is to be used exclusively for the purposes for which such organization is established."

SEC. 4. The amendments made by the first section of this Act shall apply with respect to any gift or contribution payment of which is made after the date of the enactment of this Act, in taxable years ending after such date. The amendments made by section 2 of this Act shall apply with respect to the estates of decedents dying after such date. The amendments made by section 2 of this Act shall apply with respect to gifts and transfers made after such date.●

BUDGET COMMITTEE STAFF REPORT ON FISCAL YEAR 1985 BUDGET

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. STENHOLM. Mr. Speaker, I would like to make a few comments on a recent statement by one of our colleagues, the gentleman from New York, Mr. KEMP.

Mr. KEMP's statement in the CONGRESSIONAL RECORD on February 29, 1984, was a very curious one. He seemed to question the ethics of the House Budget Committee in printing a staff document which criticized President Reagan's 1985 budget because of its large deficits.

Some conservatives have started saying they no longer "worship at the shrine of a balanced budget." Well, as a fellow conservative, I must confess that I still find the oldtime religion good enough for me. So does Chairman JIM JONES of the Budget Committee. JIM has been against big deficit not only during this administration but during previous ones as well.

If JACK KEMP disagrees with JIM JONES on this subject, that is certainly his privilege. But Mr. KEMP should be aware that he is also disagreeing with quite a few people who are not on the House Budget Committee payroll—people like David Stockman, Director of OMB; Dr. Martin Feldstein, Chairman of the Council of Economic Advisers, and Paul Volcker, Chairman of the Federal Reserve Board. These men have said, and said loudly, that deficits are dangerous.

Mr. KEMP complains that the staff analysis does not make clear his disagreement with it. But this document has been prepared annually since the Carter administration, and the notices and disclaimers have remained the same. Mr. KEMP has been on the Budget Committee 3 years, and has not seemed to have a complaint until now.

Chaiman JONES sent a letter inviting Mr. KEMP to identify substantive errors, or discuss the matter with him. Maybe that would have been a better way to handle things than putting a protest in the CONGRESSIONAL RECORD.

Anyone is free to agree or disagree with the specifics of the Budget Committee analysis. But the central problem of deficits is something that worries liberals and conservatives alike. It is not a problem that lends itself to partisan solution. All of us will have to go beyond traditional partisan politics if we are going to reduce the Federal deficit. That is the only way we will get Government to start living within its means again.●

NATIONAL DAY OF THE SEAL

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. JEFFORDS. Mr. Speaker, March 1 has come to be recognized as National Day of the Seal. This commemorative day was first established to celebrate the birth of the harp seal off the coast of Newfoundland and in the Gulf of St. Lawrence, and to bring attention to the annual killing of these animals for their pelts within the first 2 months of their lives. Today is again a day of celebration, not only for the birth of this year's pups but also for their survival. At this time last year the European Economic Community, through the efforts of many House Members and citizens around the world, imposed a 2-year ban on the importation of products from baby harp seals. As a result, the estimated harvest of harp seals this year is expected to be only one-third the historical average.

This year's observance of National Day of the Seal is especially fitting as the United States will soon be joining its partners in the Interim Convention on the Conservation of the North Pacific Fur Seal to renegotiate the terms of their treaty on the harvest of fur seals in Alaska. The North Pacific fur seal in recent years has experienced an 8 percent yearly decline in population. The causes of this decline are not fully known but it has been found that as many as 50,000 fur seals are lost each year to entanglement in discarded fishing nets and other ocean debris.

Once again, we are seeing the effects of our sometimes careless use of the ocean on innocent sea animals.

The recent decline in the fur seal population and evidence that shows an increasing number of other marine mammals, sea birds, sea turtles, and noncommercial fish being killed due to entanglement, underlines the fact that we cannot disregard the ocean environment in the pursuit of our endeavors. From commerical fishing to offshore oil and gas exploration, we can coexist with the ocean's inhabitants but it requires careful and responsible regard to the ocean ecosystem.

In this year of renegotiation of the Interim Convention on the North Pacific Fur Seal and reauthorization of the Marine Mammal Protection Act, which will come before the House, it is only right that we celebrate National Day of the Seal. This is a day to recognize not only the seals, but all marine animals.●

VILLA—DOG HERO OF YEAR

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. HUGHES. Mr. Speaker, I would like to take this opportunity to pay tribute to the life-saving actions of the bravest dog in America. Yesterday, Villa, a black Newfoundland owned by Mrs. Lynda Veit of Villas, N.J., was named the Ken-L-Ration Dog Hero of the Year for 1982 for her selfless courage in rescuing a young girl lost in a blizzard last February. Barbara Bush, wife of Vice President GEORGE BUSH, bestowed the award upon Villa in a unique ceremony at the Vice President's mansion.

More than 300 dogs entered the competition, which marks the 30th anniversary of this annual recognition of man's best friend. To qualify, a dog must have demonstrated outstanding bravery, loyalty, and intelligence by performing acts leading to the saving of life or property.

Villa's rescue of her 11-year-old neighbor, Andrea Anderson, last February undoubtedly fits those criteria. During a severe blizzard, 60-mile per-hour winds drove Andrea into a large snowdrift. Disoriented, blinded by the blowing snow, and unable to pull herself out, she desperately began to scream for help.

Hearing Andrea's cries, the 1-year-old Villa leaped over the 5-foot fence surrounding her run. Villa ran to the snowbound girl, licked her face reassuringly and circled Andrea to clear the snow entrapping her. The dog positioned herself so that Andrea could grasp her and be pulled out of the snowbank.

Once Andrea was free, Villa continued to clear a path for the girl through the blinding snow. A short while later, Andrea's mother found her daughter holding onto the dog's neck outside the front door of the home.

Villa joins the ranks of 29 other courageous canines who have been awarded the title "Dog Hero of the Year" since the program was initiated in 1954. Together these dogs represent 19 States and are credited with saving the lives of more than 600 people and animals. Their heroic feats have averted almost every type of tragedy.

I think it is appropriate that Congress recognize the courage and devotion of Villa and her colleagues. Their brave actions prove that, despite enormous societal changes during the past 30 years, the special relationship between humans and dogs remains untouched.

Therefore, in appreciation of Villa and the countless other dogs who have exhibited true loyalty and devotion by risking their own lives to save others, I ask you to join me in extending warmest congratulations to Villa and her owner, Lynda Veit.●

THE PERSECUTION OF THE BAHA'IS IN IRAN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. PORTER. Mr. Speaker, I would like to call my colleagues attention to a recent editorial which appeared in the New York Times.

As the editorial points out, the Baha'is in Iran are innocent victims of the terrorism of the Khomeini regime. Historically the Baha'i community in Iran has suffered constant persecution and harassment. Following a decree issued last spring by the Iranian attorney general, all Baha'i religious activity was effectively banned. This edict provides the legal foundation on which all members of the Baha'i faith could be charged with crimes. In fact, over 550 Baha'is are currently languishing in Iranian prisons.

I urge my colleagues to raise their voices in protest against the unjustified persecution of the Baha'is and to add their names as cosponsors to House Joint Resolution 226 which declares that Congress holds the Government of Iran responsible for upholding the rights of all its citizens, including the Baha'is and requests President Reagan to continue his efforts on behalf of the Baha'is.

THE DARKNESS CALLED IRAN

Some of our most poignant letters are from Wilmette, Ill., headquarters of the Bahai faith. They bear the names of men, women and children killed in Iran for "crimes against God." They recount a campaign to eliminate Iran's largest religious minority, 350,000 Bahais, whose nonviolent faith had its origins in Islam a century ago. They beg for concern, especially at the United Nations.

But the U.N. has no time for Iran's crimes. A few months ago, an Iranian exile gave delegates a list of 7,746 names, most of them leftists slain by the Ayatollah's firing squads. No one would sponsor a resolution. Third-world nations won't turn on a nonaligned partner; Europeans, West and East, find it expedient to avoid quarrels with Iran.

President Reagan has done the minimum by speaking out for the Bahais. Congress has passed a resolution. What speaks louder is the silence among so many who used to denounce the Shah as a tyrant and pleaded for patience when Ayatollah Khomeini replaced him five years ago.

At that time, an article on the opposite page castigated the press for depicting the Ayatollah as a fanatic. Princeton's Prof. Richard Falk wrote that this "seems certainly and happily false." Indeed, the Ayatollah "may yet provide us with a desperately needed model of humane governance for a third-world country."

Iran is a dark place. Its economy is a shambles, its youth die in a holy war against Iraq. Its executioners are overworked, its despotic mullahs are ignorant of the world. But not too loud, please. Voices that might sway Iran—on the left and among the nonaligned—need to become audible.●

REAFFIRMING THE BROAD STRENGTH OF TITLE IX

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Ms. SNOWE. Mr. Speaker, Tuesday's Supreme Court decision in Grove City against Bell was a grave setback for the equal educational opportunity for girls and women. In spite of Congress' attempts to clarify to the Supreme Court and to the Nation last November that title IX was meant to outlaw sex discrimination in any educational institution receiving taxpayer support, the Supreme Court turned a deaf ear. Unless we act again to clarify the broad scope of title IX, which we reaffirmed last November by a vote of

414 to 8, we can expect no uniformity in our efforts to insure equal educational opportunity in America.

Moreover, we must not think of Tuesday's decision as one which is merely a setback confined to our schools. By denying equal educational opportunity to our children, we are limiting their future as adults. In short, equal educational opportunity is the necessary precedent for equal opportunity in the labor market. Without it, women can look at Sally Ride's historic trip to the new frontier as just a one-time shot.

My honorable colleague, CLAUDINE SCHNEIDER, has introduced legislation today to insure that title IX will continue to be the effective guarantee of equal educational opportunity that we have always intended. I am pleased to cosponsor this legislation, and I urge each of you to join me in support of this bill.●

PENTAGON VETOES SENATE TESTIMONY ON DEFENSE SPENDING

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. MINISH. Mr. Speaker, there was an incredible development which occurred this morning during hearings before the U.S. Senate Committee on Government Affairs. I believe all of the Members of this Chamber should take note of the significance of this event.

Senator ROTH convened hearings today as part of an ongoing series of hearings he has held to investigate problems in the Pentagon's defense procurement procedures. At this session, the Senate committee was to have received testimony from various witnesses on the subject of defense contracting regarding the inability of the current systems at the Pentagon and the Defense Contract Audit Agency to prevent overcharging by defense contractors.

The leadoff witness to the committee was supposed to be Mr. A. Ernest Fitzgerald, Deputy of Management Systems with the Air Force. Mr. Fitzgerald is a Pentagon employee who has, during his career, blown the whistle on waste and abuse in defense contracting.

Just this past September, Mr. Fitzgerald provided my Subcommittee on Oversight and Renegotiation a very insightful presentation on defense procurement which included an explanation of why the current system is not sufficient to prevent contractors from reaping huge and excess profits at the expense of the taxpayers. Today, however, Mr. Fitzgerald was prevented by his superiors at the Pentagon from giving similar testimony to the Senate committee.

This decision not only is surprising but would seem inconsistent with recent efforts by the President to eradicate waste and abuse in Government spending. For this reason, I find today's development particularly disturbing and worthy of consideration by the members of this body.

Three months ago, after months of arduous work, the President's private sector survey on cost control, better known as the Grace commission, released its voluminous report of proposals to reduce wasteful expenditures at every level of the Federal structure. Twelve task forces under the Commission examined national defense programs and made 112 recommendations that could potentially save taxpayer's $94 billion over a 3-year period in the defense area alone.

Today, however, in a committee which is chaired by a very dedicated Senator from the President's own party, the Secretary of Defense apparently felt that the committee was not entitled to current information about procurement procedures. Without explanation, the Pentagon prevented the Senate from benefiting from Mr. Fitzgerald's experience.

The President's statements regarding the curtailment of waste and abuse in Federal spending, combined with the Grace Commission recommendations indicates, that this administration is serious about reducing needless spending. Yet Pentagon officials do not appear to have gotten the message. Today, they gagged a very valuable source of information on this subject. The inconsistency is perplexing, but the ramifications are far more disturbing.

Congress is responsible for the manner in which the taxpayers' dollars are spent. Yet, wasteful spending cannot be eliminated unless information concerning current procurement procedures is available for examination. Nowhere is this more true than in the area of defense contracting, where evidence indicates that profits are at alltime highs, and the Pentagon is getting less for the dollars they spend.

I commend Senator ROTH for his efforts. He has said he will press forward, and will subpena the Pentagon to come forth with information, if necessary.

This session, in the Oversight and Renegotiation Subcommittee, I will continue to look into wasteful defense spending that only benefits defense contractors. At the end of these hearings, I will produce legislation to give the American people an effective accounting procedure over defense spending and a recapture mechanism to correct the instances of profiteering.●

NATIONAL DAY OF THE SEAL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. LANTOS. Mr. Speaker, today we celebrate the birthday of thousands of baby harp seals on ice floes of the Atlantic in observing March 1 as the National Day of the Seal. As someone who has fought to protect this precious and vulnerable creature from the unnecessary brutal slaughter to which it is often subjected, I am pround to take part in commemorating this important day.

I must note that it is not only the harp seal which has inspired so much public concern that needs the help of humane and conservationist policy makers. The North Pacific fur seal has been hunted using U.S. taxpayers' dollars for decades. This year an estimated 20,000 fur seals will die under the hunter's club in Alaska, in spite of a disturbing decline in their population. This flies in the face of the widespread public support for protection of marine mammals. I sincerely hope that all efforts can be made within the administration to minimize and finally eliminate this unfortunate practice which is so inconsistent with U.S. sentiment and economic good sense.

I want to take this opportunity to laud the efforts of the many environmental and animal welfare organizations fighting to protect seals—of whatever species. I fully support continued work to restore this valuable part of the marine ecosystem to its rightful place.●

THE 106TH ANNIVERSARY OF BULGARIAN INDEPENDENCE DAY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. ANDERSON. Mr. Speaker, Saturday, March 3 marks the 106th anniversary of Bulgarian independence. I want to take this time to recognize the bravery and strength of the Bulgarian people in their steadfast pursuit of freedom and independence.

On this historic occasion in 1878, after five centuries of domination by the Ottoman Empire, and following the tragic failure of the 1876 revolt that cost the lives of 15,000 of their people, the Bulgarians succeeded in gaining autonomy from the Turks. For the next 66 years, the Bulgarians enjoyed a period of great hope and confidence, as they were able to freely develop their own culture and heritage.

These years of independence and liberty, however, were to come to an abrupt halt at the end of World War II. In September 1944, the Soviet Union invaded this small Balkan State and made her a part of the Soviet sphere. This brutal action was particularly reprehensible as well as incomprehensible to the Bulgarian people, for they were the only Axis Power to refuse to participate in the invasion of Russia. In addition, Bulgaria was the only East European country to prevent the Nazis from exterminating its sizable Jewish population. The invasion was followed by mass arrests and the imposition of a totalitarian government in a pattern that had become all too familiar in Eastern Europe.

The Bulgarians, nevertheless, have refused to abandon their pursuit of freedom and independence. I want to join with the Bulgarian National Front, which will gather in New York this weekend, and with Bulgarians around the world, to pay special recognition to the patriots who have lost their lives in the last 40 years in their struggle for freedom from Communist control. By remembering this important day, I want the Bulgarian people to know that they do not stand alone in their daily struggle for individual and national dignity and freedom.●

TRIBUTE TO HARRY DIEHL

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. APPLEGATE. Mr. Speaker, I would like to bring to my colleagues' attention the outstanding accomplishments and dedication of one of my constituents—Harry Diehl. His contributions to the education of the young people of Ohio are, without a doubt, commendable.

Over the years, Harry has been a football coach, basketball coach, athletic director, teacher, and bus driver. To the people of my congressional district, however, Harry will be remembered more for his success has a track and field coach during the past 20 years.

In 1964, Harry came to the Ohio Valley and built a track and field squad from scratch. His boys were known throughout the Ohio Valley and the entire State of Ohio as a power to reckoned with. In 20 years, Harry's teams were undefeated in dual track meets 9 consecutive years—1967-76—and 11 years in all.

His teams won an outstanding 68 dual meets in a row. Overall, Harry's career is one to be admired by any sports fan. In his career, his dual track meet record was 111 wins and 19 losses. In 20 years, Harry's record was 129 wins and only 19 losses. In addition, he also sent 66 young men to participate in the Ohio State track meet.

For some, these accomplishments may have been enough—but not for Harry Diehl. His dedication started early. During his college days, Harry was a top-notch athlete at West Virginia University. After leaving college, he joined the U.S. Air Force and became a navigator.

Over the years, Harry has been mayor of Irondale, Ohio, and active in the community. The most important thing about this man is his strong commitment to our youth and his family. Harry turned down many prestigious coaching positions so that his family would not have to be uprooted. This, to me, represents the true spirit of an American.

At the end of the 1983 track season, Harry retired. But I am sure he will continue to play an active role in and around his community. On April 7, Harry will be honored by his friends, family, and community. I am very honored to have Harry Diehl as one of my constituents. His achievements and contributions to his community, State, and Nation are to be commended. I, most certainly, wish him the best and thank him for his service.●

REA BILL IS BAD ECONOMIC POLICY

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. MARKEY. Mr. Speaker, I oppose H.R. 3050 as currently written. This bill, which amounts to a bail-out of the Rural Electrification Administration, will add an estimated $20 billion to the Federal deficit. At a time when America's economic future is threatened by the onerous deficits created by President Reagan's misguided, undisciplined budget programs, we can ill afford to be giving such massive handouts to cooperatives which have made irresponsible investments of public money, or to encourage these cooperatives to make similar unwise investments in the future. I will unfortunately be absent from today's vote on the REA bill, but if present, I would support the Bethune amendment, and oppose final passage of the bill unless so amended.●

A TRIBUTE TO HANS FREY

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. LEHMAN of California. Mr. Speaker, I rise today to pay tribute to an American success story, one of my constituents, Mr. Hans H. Frey. Hans is the owner of Frey Beer Distributing of Stockton, Calif., where he is a pillar of the community. He has now sold his distributorship and I would like to honor this community leader upon his retirement.

Hans Frey was born in Karlsruhe, Germany, in 1928. In 1950, Hans received a Fulbright scholarship through the State Department under the Institute of International Education. He attended Washington University in St. Louis where he majored in economics and took on a summer job with Anheuser-Busch in St. Louis where he worked for 23 years.

In 1974, Anheuser-Busch held 11 company-owned distributorships, the smallest being in Stockton, Calif. Anheuser-Busch was not interested in keeping the Stockton operation so Hans applied to purchase it and was successful.

When Hans Frey took over in 1974, the company was located in a small warehouse. With three trucks, one panel van and three salesmen, Frey Distributing sold 150,000 cases of beer in 1974.

Ten years and 16 route trucks later, Frey Distributing sells in excess of 2 million cases of beer a year. Three tractors and nine trailers handle the delicate job of hauling the six California-brewed Anheuser-Busch beers to Frey Distributing from the Fairfield brewery.

Sixteen driver/salespeople, four area supervisors, two draught men and two sales managers make up the core of the Frey Distributing sales team. Office and data processing staff, warehouse personnel, along with special projects and community involvement people round out the 50-member sales team. Working together, that team has seen Budweiser become San Joaquin County's No. 1 beer.

Hans Frey and Frey Distributing have taken an active role in supporting charitable organizations like the Muscular Dystrophy Association, the American Cancer Society, Mother's Against Drunk Driving, the annual Bacon Bash Charity Football Game and many more. That active role means more than just monetary contributions, it includes hours of volunteer work done by Hans and many of the employees of Frey Distributing.

One of the many organizations Frey Distributing has been associated with is the League of United Latin American Citizens (LULAC). Since 1981, Frey has provided a $1,000 college scholarship for young LULAC scholars.

"I came over to this country on a scholarship," Hans said recently. "It changed my life entirely. I have always felt that if I would ever be in a position to reciprocate by offering scholarships to others, that would be one of my greatest ambitions. Stockton and its people have been good to me and I want to give something back," Frey said.

Hans Frey has given a great deal back to both the community of Stockton and to his country. I am proud to be associated with him and to consider him one of my personal friends. I wish him the best of times in his retirement.●

HAPPY BIRTHDAY, DR. SEUSS

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. BOLAND. Mr. Speaker, tomorrow marks the 80th birthday of Theodor Seuss Geisel. While few might recognize that name, there are millions of people throughout the world who know Mr. Geisel by his nom de plume, Dr. Seuss.

I doubt that there is anyone who has been in the presence of children for any length of time who is unaware of the work of Dr. Seuss. As an author and illustrator extraordinaire, Dr. Seuss has taught several generations of children that reading can be fun—and a number of important lessons about life as well. By creating the Grinch, Horton the Elephant, and the Cat in the Hat, Dr. Seuss has established a comic menagerie that has introduced countless children to the joy that can be found between the covers of a book. With his works now translated into almost 20 languages, Dr. Seuss enjoys an international audience and is, I suspect, one of the most widely read authors of all time.

Mr. Speaker, Ted Geisel was raised in my hometown of Springfield, Mass. The people of Springfield have been honored to have some of the areas of their city depicted in certain of the Dr. Seuss stories, and they like to think that the sketches he made of animals at the Forest Park Zoo may have been the genesis of characters like the Lorax and Thidwick the Big-Hearted Moose. We have been proud of his success, thankful for the hours of delight he has brought to children of all ages, and pleased that he came from our midst. I believe that I speak for all the citizens of Springfield in wishing Dr. Seuss a happy birthday and many years of good health and happiness to come.●

WHAT THE PRESIDENT DOES NOT PUBLICIZE

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. KOLTER. Mr. Speaker, in his folksy Oval Office talks to the Nation, the President, is fond of reading letters from various citizens, letters attesting to the good works of his administration, the compassion, the personal sensitivity. As do our colleagues, I receive a lot of mail also, much of it much different from that publicized by the White House.

Recently, I received a letter from a constituent and enclosed was a clipping from the letters to the editor column of a Pennsylvania newspaper. I have since found out that the writer of the letter to the editor sent a copy to the President. It was unanswered. I suspect he never saw it. I could send it to him, but I do not think he would see mine, either.

Perhaps some of our colleagues with better connections to the Oval Office will recognize the importance of the President's being aware of how representative this message is of too much of our Nation, the millions of Americans far removed from the comfortable seclusion of Camp David and the Santa Barbara ranch, far from the gaiety of entertainment celebrities, far from the Presidentially admired captains of industry and lieutenants of government. It represents too much of every congressional district.

Mr. Speaker, with the hope that this message will reach the President, I would like to enter the following letter in the Record. As requested, I have omitted the person's names.

The letter follows:

Cold Statistics

> When President Reagan reads the unemployment figures, what does he see? A number? A statistic? Let me tell him about one man—one part of that cold statistic—my son * * *
>
> Four years ago, when Reagan took office, my son loved life, loved his country, was proud of himself and the work that he did. He served his country during the Vietnam war and received many commendations. He was a handsome man—handsome enough to consider modeling as a career. He had many friends, a good job and hope for his future.
>
> A week ago, * * * took his life.
>
> I should say what was left of his life because 2½ years ago he lost his job. In that 2½ years, he applied for many, many jobs. Each time he was turned down, a little piece of him died. Slowly, day by day, he lost his pride, his self-respect, and finally his will to live.
>
> There is something desperately wrong with a country that can spend billions to buy weapons of destruction all over the world, yet cannot provide jobs for its own people. This country turned its back on my son and millions like him.
>
> The next time you see a statistic, remember my son * * * a proud man, a human being, who took his life needlessly because his country didn't give a damn.●

1984 CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS—THE PLIGHT OF ILYA KATZ

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. DAUB. Mr. Speaker, I am pleased to participate, once again, in the congressional call to conscience vigil for Soviet Jews, yet I deeply regret that the continuing disparaging situation for Soviet Jews makes yet another year of the vigil necessary, and even more crucial than before.

I take this opportunity to share with my colleagues the story of Ilya Katz and his family. Mr. Katz, his wife, two daughters, and his grandson first applied to emigrate to Israel in 1979, but were refused permission on grounds of insufficient kinship.

A lawyer, Ilya Katz has been unable to practice law for the past 5 years, and thus denied the ability to support his family. Both daughters, Marina and Irina, have been trained in the medical profession but are likewise unable to work in their fields due to their desire to emigrate.

Life for the Katz family, like that of thousands of Soviet refusniks, has been difficult. They live with the threat of persecution, without the means to adequately support themselves.

As we usher in new Soviet leadership, let us attack this problem with renewed zest. Let us implore Soviet President Chernenko to look anew at the plight of Soviet Jews and the value of respecting human rights. We must show the Soviet leadership that we will not forget the plight of the Katz family and others like them.●

THE UNITED STATES IS THE ARMS MERCHANT OF THE WORLD

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. SYNAR. Mr. Speaker, the Reagan administration is once again renewing its futile—even dangerous—policy of keeping all sides armed in the Middle East. The President has not yet learned that an ally is an ally only as long as we maintain our end of the bargain.

The administration's intent to sell Stinger antiaircraft missiles and launchers to Jordan and Saudi Arabia flies in the face of our spoken commitment to the security of Israel. These missiles could easily be used against American-made Israel planes in the event of another Arab confrontation with Israel. In addition, the small size of the Stinger makes it an ideal terrorist weapon—not an unlikely scenario given the Palestinian presence in the Jordanian Army.

A recent conversation I had in Israel with an Israel pilot presented in dramatic terms the foolishness of playing to all sides in the Middle East. While walking through an Israel air hangar, I talked with the pilot about his American-made F-14 plane. He spoke about the capabilities of the plane and the various improvements the Israelis make to it which vastly improve its performance in combat. I asked him if the American military heeds their suggestions and modifies the aircraft accordingly. Much to my surprise, he said the Israel improvements are kept secret. "We used to tell you about the performance of the plane and how to improve it," he said, "but not any more. Now we know that you very well might turn around and sell a better plane to one of our enemies."

We need to develop a more consistent policy in the Middle East. Our current policy of appeasement to all parties is producing a region of well-armed countries, none of whom trust us as a reliable ally.●

NATIONAL VOCATIONAL TEACHER OF THE YEAR

HON. WAYNE DOWDY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. DOWDY of Mississippi. Mr. Speaker, I'd like to call to the attention of my colleagues the accomplishments of one of my constituents, Michael Hataway, an outstanding commercial design teacher and chairman of the graphics communications department at Hinds Junior College district in Raymond, Miss.

Mr. Hataway was recently selected as National Vocational Teacher of the Year by the American Vocational Association. This award is given to an outstanding vocation education teacher who has developed exceptional classroom programs in his/her curriculum. The award was announced by the American Vocational Association (AVA), the 50,000 member professional association of vocational teachers, directors, supervisors, guidance counselors, and others at the AVA convention in Anaheim, Calif., on December 2.

A teacher for 15 years, Mr. Hataway has prepared students to enter graphic arts and art-related careers. He is actively involved as an adviser and helped organize the Hinds Junior College chapter of the Vocational Industrial Club of America (VICA).

Mr. Hataway's efforts have made it possible for students to receive advanced training from local industry. Scholarships for students are also awarded by the greater Jackson Ad Club and the Mississippi Association of Advertising Agencies. They also have work place experience through cooperative programs and design and production work for local community organizations.

Actively involved in community organizations in Jackson, Miss., Mr. Hataway has received recognition for his service. In 1982, the commercial design and advertising program that he directs was selected as the outstanding postsecondary program of the year by the Mississippi Association of Educators.

He has given so much of his time and energy to others and I believe he should be commended for his outstanding contributions to his profession. I know that he will be successful in whatever he undertakes, and I wish him the very best in all his future endeavors.●

BULGARIAN INDEPENDENCE DAY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. ADDABBO. Mr. Speaker, today marks the 106th anniversary of Bulgaria's independence, achieved after five centuries under Turkish rule. Today, much to the displeasure of all free men, Bulgaria is not a free country. It is occupied against the will of the majority of its citizens by the Soviet Union. In Bulgaria, as in many other Eastern bloc countries, the Soviets continue to deny individuals the right of free speech and liberties afforded by a democracy.

But the voices of Bulgarian nationalists continue to be heard. For the past four decades, thousands of men and women have died fighting the Communists repressive government. Many have disappeared in the middle of the night never to be seen again. The Soviet Union has also imprisoned political activists in the very same style employed by the Nazis during World War II. To speak out against the government is to risk suicide, or worse, endanger ones family and friends. These Bulgarian patriots have tasted freedom and carry its message into battle with them.

In the United States, the Bulgarian National Front reports on the abuses which take place on a daily basis in Bulgaria. Members of this organization, Bulgarian emigrants who have escaped Soviet oppression, advance the hopes that democracy will return to their homeland.

I would like to commend Dr. Ivan Docheff, the honorary president of the central executive board of the Bulgarian National Front, and Dr. George Paprikoff, president of the central executive board of the New York chapter, as freedom fighters dedicated to organizing Bulgarians all over the world in speaking out for human rights which the Soviet Union has proved to place as a low priority in Bulgaria and other countries as well.

Mr. Speaker, Bulgaria is not unlike Poland, Hungary, or Romania where a large percentage of people living under puppet Soviet Governments reject the principles of communism. As Dr. Docheff said, 40 years of Soviet occupation has not worn thin the spirit of the people and their hopes at restoring a democracy. We must take heart in the goals of these men and speak out against such nations that seek to deny human beings their basic rights of freedom.●

NORMA ERVIN, CONSERVATIONIST, PASSES AWAY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. DOWNEY of New York. Mr. Speaker, I am deeply saddened by the loss of a close friend and devoted conservationist, Norma Ervin, who passed away recently at the age of 67. For over 30 years, Norma devoted her life to the protection and preservation of Fire Island, one of this Nation's great natural treasures.

Stretching 32 miles long, Fire Island lies precariously between the south shore of Long Island and the Atlantic Ocean, offering protection to the waters of the Great South Bay and the mainland. Much of this narrow strip of sand and scrub pine makes up Fire Island National Seashore, although 17 thriving communities dot the beach. In spite of our best efforts, though, Fire Island stands in constant danger of misuse through careless planning and devastating erosion by North Atlantic winds and surf.

Through the work of Norma Ervin, Fire Island is better prepared to stand the test of time. For over 30 years, this remarkable woman devoted countless hours to protect the beach she loved. Active in the government of her village, Saltaire, Norma held a variety of official positions, including mayor. She also played an important role in the codification of local zoning ordinances which are vital to the maintenance of the beach's integrity.

I knew Norma, though, mostly through her work as president of the Fire Island Association. Her commitment to the preservation and protection of the beach and its villages and parks was more than inspirational. As head of the Fire Island Association, Norma led the fight for intelligent and sensitive land-use policies for Fire Island. She brought expertise to countless other issues affecting Fire Island, including mosquito control, tax assessment, and shoreline erosion. Her leadership and wisdom will be missed by all who knew her.

The legacy Norma leaves behind is the beach itself. I know on the next visit I make to Fire Island, I will stop and admire the golden stretch of sand opening before me and turn to the sparkling Atlantic and thank Norma Ervin for the work she did to help keep Fire Island so beautiful.●

MADE IN AMERICA SYMBOL

HON. BOBBI FIEDLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Ms. FIEDLER. Mr. Speaker, I would like to share with my colleagues an innovative idea two businessmen in Los Angeles pursued.

Last July, Murray Garrett, president of Diener Industries of Chatsworth, and Sheldon Kirshner, president of Anes Auto Security Systems of Marina del Rey, launched a nationwide competition seeking a universal "Made in America" symbol that could be affixed to U.S.-made products.

This campaign was motivated by the belief that employees and manufacturers should have a new sense of pride in the term "Made in America" and should promote it visually with a symbol that consumers see at a glance.

More than 500 entries were submitted from design students at more than 50 universities and art institutes. The winner, Joan Nielsen, is a 22-year-old student at the Art Institute of Seattle. Her simple design which won the $2,000 first place prize is the silhouette of a hand, with the index finger and thumb touching to form the "OK" gesture. Instead of the usual circle, the fingers form a star.

The symbol will be used on Mr. Garrett's and Mr. Kirshner's products and they are offering the symbol to all other producers of American-made products for the cost of a photostatic copy.

With imports rising at an alarming rate, I gratefully commend their efforts.●

TRIBUTE TO MORTON SILBERMAN

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. McCOLLUM. Mr. Speaker, today I would like to pay tribute to a man whose leadership will long be remembered by those who were privileged to know him as the president of the American Israel Public Affairs Committee and as an outstanding citizen from my home State of Florida.

I am speaking of Morton Silberman, who passed away February 28, 1984, here in Washington, D.C.

Mr. Silberman leaves behind him a long record of involvement in Jewish communal affairs. From 1976 to 1978, he served as president of the Greater Miami Jewish Federation. From 1970 to 1976, he was vice president, and during this time he was the chairman of the Federation's Planning and Budget Committee in 1973, 1975, and 1976, and general chairman of the Combined Jewish Appeal-Israel Emergency Fund Campaign in 1974.

Mr. Silberman was also the founding chairman of the Federation's Community Relations Committee and the founding president of the Jewish Federation of Palm Beach. He was on the board of directors of the Council of Jewish Federations, regional chairman of the United Jewish Appeal and the recipient of the Human Relations Award from the American Jewish Committee.

From 1979 to 1981, Mr. Silberman was vice president of the American Israel Public Affairs Committee and, in May of 1982, he was elected president.

Morton Silberman's dedication to fostering a strong United States-Israeli friendship and his achievements will not be forgotten.●

MR. WORTLEY SALUTES THE THURSDAY MORNING ROUNDTABLE'S 20TH ANNIVERSARY

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. WORTLEY. Mr. Speaker, 170 years ago, in 1814, Thomas Jefferson wrote "Let us freely hear both sides."

The give and take in this Chamber on the merits and disadvantages of proposed legislation and the dialog on issues and policies affecting our Nation, would, I am convinced, please our third President. Nowhere in the world do the representatives of the people have a better forum.

My constituents in the 27th Congressional District of New York State are similarly fortunate as the result of regularly held, public service forums sponsored by the University College at Syracuse University.

Known as the Thursday Morning Roundtable and skillfully managed by Dean Lee Smith of University College, these forums have become a tradition in the city of Syracuse and the other communities I am privileged to represent.

The roundtable hosts prominent national, State, and local speakers who inform our civic leaders and citizens. Participants exchange views on timely issues and other matters. As a result, the knowledge of guests, attendees and the central New York public is enriched.

On March 29, the roundtable will observe its 20th year of public service programs. The two decades will be commemorated at a dinner dance at the Hotel Syracuse and by appropriate ceremonies.

Mr. Speaker, it is my pleasure to share this event with my colleagues.

To Dean Smith and the others who make the roundtable possible, I say "Thanks and well done."●

A RARE AWARD FOR A RARE HUMAN BEING

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 1984

● Mr. O'BRIEN. Mr. Speaker, on March 3, a constituent of mine, Bob Atwater, will be honored for his efforts in rescuing two people from a burning car. Atwater, of New Lenox, Ill., will receive the Boy Scouts' rarest award, the Honor Medal for Lifesaving. This medal, Mr. Speaker, was 1 of only 28 such medals awarded by the Boy Scouts last year.

Atwater was on his way home from church last September 18, when three cars ahead of him collided in a violent accident. Two of the vehicles immediately burst into flames. Atwater stopped his car, ran to a burning station wagon, and pulled the injured driver free of the flames. He then crawled into the same car and tried, at first unsuccessfully, to free the passenger, who was pinned against the dashboard.

Despite the explosion of the vehicle in front of the station wagon, Atwater and two other passersby unloaded the rear of the wagon, forced the front seat back, and were then able to remove the injured young man.

Mr. Speaker, the bravery and courage displayed by Bob Atwater on that September day is truly remarkable. As his Congressman, I am exceedingly proud of him and wish to congratulate him for receiving this most esteemed award.●

SENATE—*Friday, March 2, 1984*

(Legislative day of Monday, February 27, 1984)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

The steps of a good man are ordered by the Lord: and He delighteth in His way.—Psalm 37: 23.

Father in Heaven, politicians know that losing is part of their business, and they know how to lose gracefully. They do all in their power to win and they accept the alternative. But, dear Lord, politicians are human, with hearts and egos that can be hurt deeply, even though it may not appear on the surface.

We pray this morning for the Senators who have withdrawn from the race for nomination. Be real to them in their lonely, questioning hours. Minister to whatever need they experience within. Especially do we pray for their wives, who probably suffer more than their husbands. If there be a sense of rejection, encourage them and lead them, with the Senators, in the continuing significant public service which Thou hast planned for them. We pray in the name of Him whose love and service were unconditional and impartial, yet who suffered total rejection on a cross. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

RETURN OF THE CAMPAIGNERS

Mr. STEVENS. Mr. President, let me thank our good friend, the Chaplain of the Senate, for welcoming home our departed brothers who have been out on the trail. In a spirit of bipartisanship, we want to welcome them back and tell them that all is forgiven. We look forward to their being involved on the floor in the same feisty manner they have been involved in the campaign trail for the last few months.

I do think it is very appropriate that the Chaplain has noted their return.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, following the time for the two leaders and the special order, it will be the intention of the leadership to proceed to the consideration, as I announced last night, of Calendar No. 559, H.R. 3398, the so-called reciprocity legislation.

We urge all Senators to exercise restraint, if possible, to let that bill be considered on an up and down vote and be handled today, so that we can move to the school prayer issue on Monday, as has been indicated for a period of days.

We also have a couple of minor items. One we do not expect to vote on is the highway bill, which is on the calendar by virtue of a unanimous-consent request last night. We also have the committee funding resolution, which we hope to call up. It is Calendar No. 681, Senate Resolution 354. We believe that should be noncontroversial, but I have been around here too long to predict that for certain.

I must say that I recall the fight when one Senator or another has required a rollcall vote on the funding measure for the committees.

So Senators should be on notice that we will call up that noncontroversial housekeeping measure, which should be disposed of promptly, and we will wait and see.

I reserve the remainder of the majority leader's time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. WALLOP). Under the previous order, the Democratic leader is recognized.

U.S. POLICY IN LEBANON

Mr. BYRD. Mr. President, the Secretary of State, Mr. George Shultz, did some vocal calisthenics on yesterday that ought to be responded to.

I see in today's Washington Post the following headline: "Shultz Says Hill Partly to Blame in Mideast Failure." I will read the first two paragraphs:

> Secretary of State George P. Shultz charged yesterday that a doubting Congress—

He did not just limit that to Democrats. He talks about both parties when he talks of Congress—

> was partly to blame for the failure of U.S. policy in Lebanon, and warned that the United States may have to "check out" of other situations abroad if congressional restraint on the use of military force is not eased.
>
> Shultz, reflecting a bitterness that many in the administration feel over the collapse in Lebanon, said the congressional debate over the deployment of U.S. Marines in Lebanon "just totally took the rug out from under U.S. interests" thereby leading the Syrians to doubt U.S. resolve.

Mr. President, I personally do not dislike our Secretary of State. I voted for the confirmation of his nomination and, by way of obiter dictum, I voted against his predecessor. But the Secretary of State, I would say, indulged in an exercise of self-deception and delusion over American policy in Lebanon which was nothing short of astounding.

This is just another example of this administration's attempt to rewrite history, to find a scapegoat for a failed policy. To argue that congressional debate over the wisdom of our marine deployment in Lebanon "just totally took the rug out from under U.S. interests" there, exhibits a distaste for the democratic system which is not worthy of a Secretary of State. How fragile that policy must have been, in reality, if simply debating it would somehow destroy it.

Congress authorized the President to continue the U.S. participation in the multinational force for 18 months, although I did not vote for the 18-month authorization.

If I may make a personal reference to the majority leader of the Senate, he did not personally agree with that policy from the very beginning, if I am not incorrect in recalling news reports and conversations—and even statements on the floor, I believe—in which he so said. He, however, as majority leader, understandably loyally supported the President in this matter, but he did not personally favor putting the marines in there to begin with.

I call attention to this because I am referring to the distinguished leader of the Secretary of State's own party in the Senate. I think it is to Mr. BAKER's credit. He was wiser, much wiser, than some other people in Washington.

The American participation failed because the assumption upon which our policy was grounded proved unworkable. Neither the leadership of President Gemayel nor the viability of the Lebanese Armed Forces was up to the task of building a strong leading coalition in Lebanon.

We were continually being told that "progress is being made," "progress is being made."

The fractured political and military conflict which has engulfed Lebanon did not occur because the U.S. Congress debated American policy there.

I would suggest that petty and vindictive exercises in sour grapes on the part of the Secretary of State will only bear bitter and unproductive fruit.

The Secretary of State would be far better off reassessing the fundamental reasons why exercises in military power as a fulcrum of American foreign policy are not adequate for this great Nation. Any policy which cannot withstand the scrutiny and the examination of the highest representative body of this land—and the body which under the Constitution is the only body that can declare war—is not going to stand the test of time, but will, by definition, be basically flawed and will fail.

LEBANON AND THE BAY OF PIGS

Mr. BYRD. Mr. President, there is an old saying that one cannot make a silk purse out of a sow's ear or a violin out of a cigar box, although I have seen a violin made out of a cigar box, but it would not compare with a Stradivarius.

Yet, that is exactly what this administration is attempting to do in explaining away what has been this Nation's worst foreign policy disaster in a decade; namely, Lebanon.

On February 27, 1984, Columnist William Safire wrote in the New York Times:

> Now that U.S. Marines have departed Lebanon, mission unaccomplished, let us examine the series of iisconceptions and blunders that brought about Mr. Reagan's Bay of Pigs.

Mr. Safire sweeps away the smokescreen put up by the administration which is attempting to delude the American people into believing that we accomplished our goals in Lebanon and that the cost of that involvement has been minimal. The administration has attempted to create the illusion of a silk purse in Lebanon, but all I see is the reality of a sow's ear.

A foreign policy failure of this dimension is harmful enough to U.S. interests around the globe. The human cost associated with this debacle magnifies this failure even more. As Mr. Safire pointed out:

> The U.S. servicemen who were sacrificed, and those who pulled out today, were sent to Lebanon by mistake. The Syrians and their Lebanese fifth column were saved from humiliation by our intervention—and paid their debt by humiliating us.

I underscore this point by Mr. Safire. U.S. servicemen were sacrificed needlessly because this administration blundered and could never correct itself. Serious mistakes were made as a result of a stubborn adherence to a failed policy. And 264 American servicemen lost their lives.

Mr. Safire's column is a ringing indictment of this administration's failed policy in Lebanon. I ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Reagan's Bay of Pigs

(By William Safire)

Washington, February 26.—Now that U.S. Marines have departed Lebanon, mission unaccomplished, let us examine the series of misconceptions and blunders that brought about Mr. Reagan's Bay of Pigs:

Weinberger-Haig-Habib Misconception No. 1: that the Soviet-backed Syrian and P.L.O. takeover of Lebanon could be rolled back in 1982 by U.S. diplomacy.

After a year's fruitless pleading by our Ambassador Habib, Syria refused to remove its Soviet missiles from occupied Lebanon. After a year's indirect dickering with the U.S. from its West Beirut sanctuary, the P.L.O. escalated its terrorism by shooting an Israeli diplomat. So much for hopes of talking Syria out of Lebanon and the P.L.O. out of terror.

Clark-Weinberger-Bush Blunder No. 1: reacting to Israel's strike against the Syrian-P.L.O. occupation of Lebanon as if America's ally Israel, and not Russia's ally Syria, were Lebanon's problem.

Secretary of State Haig saw clearly in June of 1982 that Israel's military response to the Soviet missiles and the murders ordered from P.L.O. headquarters in Beirut was in the Western interest. He recommended that we merely dissociate ourselves from the Israeli move, letting them take the brunt of public complaints from Arab "moderates."

But Secretary Weinberger and William Clark, the inexperienced national security adviser, turned Western strategy on its head and joined the general condemnation of Israel. With help from Vice President Bush, they prevailed on President Reagan, who was still miffed at Israel for objecting to our sale of AWACS to Saudi Arabia, to fire Mr. Haig; as a result, Arabists gained complete control of U.S. Mideast policy.

Weinberger-Clark-Shultz Misconception No. 2: that if we saved the radical Arab forces from defeat, they would seek compromise rather than total victory in Lebanon.

Israel was surprised to discover that the P.L.O. could not fight in open terrain and that Syria was a paper tiger. After sweeping the area on their northern border that had been used to launch rocket attacks against them, the Israelis saw an opportunity to finish off the P.L.O. for good. By throwing the Syrians and the P.L.O. out of Lebanon, Israel could make peace with the pro-Western Lebanese Bashir Gemayel, a Christian leader strong enough to permit greater Moslem participation.

But Mr. Reagan was panicked by condemnatory U.S. media coverage of Israeli attacks on the P.L.O., which had taken West Beirut hostage; commentators denounced "imperial Israel," TV assignment editors demanded antiwar footage, and Mr. Reagan's Arabists made their fatal move:

Weinberger-Shultz-Clark Blunder No. 2: U.S. forces were sent to Lebanon to prevent the final defeat of the Soviet-supported radical Arabs.

We negotiated a cease-fire to "save" Beirut. After our troops departed, the Syrian-equipped terrorists murdered Bashir Gemayel and his top Christian leadership; then maddened Christian Phalangists slaughtered innocents at the Palestinian camps, and Arab leaders who rarely complained of civilian casualties during years of Lebanon's civil war suddenly called down a firestorm of condemnation on Israel. The Israelis owned up to their own tragic error of not adequately defending the Palestinians against the Christians infuriated by the murder of Bashir.

President Reagan sent in U.S. Marines again as a symbol of American strength and determination to uphold the Government of Bashir's weak brother, Amin Gemayel—but we made success impossible by trusting our enemies and savaging our friends.

Habib-Weinberger-Shultz Misconception No. 3: that if we pressured Israel to withdraw, the Saudis would arrange for the Syrians to leave Lebanon also.

Our dean of diplomats, Mr. Habib, was double-crossed; after Israel signed the withdrawal pact that Mr. Shultz negotiated, the Syrians got the Saudis to tell Mr. Gemayel to abrogate it.

Weinberger-Reagan Blunder No. 3: pointedly avoiding cooperation with Israeli forces in the area, and blindly trusting the judgment of commanders untrained in terrorist war.

The U.S. servicemen who were sacrificed, and those who pulled out today, were sent to Lebanon by mistake. The Syrians and their Lebanese fifth column were saved from humiliation by our intervention—and paid their debt by humiliating us.

In the end, we were lobbing shells at Syrian-backed guerrillas shooting at us from behind civilians, which was what horrified our media when the Israelis had to do it in the beginning.

The Secretary of State has learned from this farrago of blunder to trust an ally and to deal harshly with a murderous enemy. The Secretary of Defense seems to have learned nothing by saving Lebanon's enemies and undermining our ally in 1982. President Reagan snatched defeat from the jaws of victory.

Mr. BYRD. Mr. President, I have nothing further.

I yield the floor, and if I have any time remaining, I am glad to yield it to my friend, the majority leader.

Mr. BAKER. Mr. President, I thank the minority leader.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I believe there is a special order today for the Senator from Wisconsin (Mr. Proxmire), is there not?

The PRESIDING OFFICER. There is.

Mr. BAKER. Mr. President, I ask unanimous consent that he may claim that order when he arrives.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I also inquire, is there an order for the transaction of routine morning business today?

The PRESIDING OFFICER. There is.

Mr. BAKER. Until the hour of 11:30 a.m.?

The **PRESIDING OFFICER.** The Senator is correct, with statements limited to 5 minutes each.

ROUTINE MORNING BUSINESS

Mr. **BAKER.** Mr. President, I put the request this way:

Mr. President, I ask unanimous consent, if the minority leader is agreeable, that morning business begin now and that during the period for the transaction of routine morning business the Senator from Wisconsin may claim his special order time.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BAKER.** What was the time for speeches in morning business?

The **PRESIDING OFFICER.** Five minutes each.

SENATE SCHEDULE

Mr. **BAKER.** Mr. President, sometime shortly after morning business expires, it would be the hope of the leadership on this side that we could reach the reciprocity bill, which is H.R. 3398. I think it is unlikely that we can finish that measure. It may not be possible to reach that measure, but I have indicated to the Senate on a number of previous occasions that after we finish the Export Administration that would be the next order of business. I wish to stay with that.

Notwithstanding, Mr. President, it would be the intention of the leadership on this side to ask the Senate to turn to the prayer amendment at the close of business today.

I do not anticipate any action on that today, assuming that we can reach it, not even opening statements, but it would be the pending business when we return on Monday.

Mr. President, there is also the highway bill, the ICE bill, which is on the calendar today as Calendar Order 687, H.R. 4957.

I know that is a matter of concern to many Members because it affects interstate highway funds I believe for maybe every State, certainly many States. If we can clear that today, the leadership on this side would like to proceed to that and I think it will only take a brief time.

There is also a committee funding resolution from the Rules Committee which is on the calendar as Order No. 681, Senate Resolution 354. I do not believe that will take very long, but there is a possibility of a rollcall as there have been requests for a rollcall on previous funding resolutions for committees.

I am not going to ask for one, but I say that only to let Senators know that on previous occasions there have been requests for rollcall votes on funding resolutions for several committees of the Senate.

But in any event, Mr. President, the leadership on this side would like to do what it hopes will be a fairly routine matter and briefly, the highway bill, the committee funding resolution, and then turn to the reciprocity bill if possible with the understanding that whether we finish it or not before we go out today the leadership on this side would like to try to lay before the Senate the prayer amendment resolution and make it pending for our return on Monday.

I believe that is all I have at the moment, Mr. President, while I confer with the minority leader on these clearances, and we await Senator PROXMIRE, unless the minority leader has something.

Mr. **BYRD.** Mr. President, if the majority leader will yield, I would like to make just a brief comment on the legislative schedule for his benefit, as well as for the benefit of others.

I have a feeling, on the measure concerning committee funding, that we can probably get to that without much difficulty.

On the highway matter, I have a feeling that that will not be much of a problem but, we have to touch some bases on this side.

On the reciprocity legislation, I find that there is some considerable concern on this side. I do not know that the motion to proceed would be debated at any length. At this point, I would have to object to unanimous consent to go to that measure. The majority leader could, of course, move. I am not personally inclined to debate the motion to proceed, but, inasmuch as some of the people who are most interested in this measure are in committees right at this point, I am not in a position to agree to unanimous consent and only by virtue of that fact.

Mr. **BAKER.** Mr. President, I thank the Senator. It may sound strange to say that the leadership on this side would like to go to that measure since I am also saying we are not going to be on it Monday, but, as the minority leader before me did, I place a high value on trying to stick with the schedule that I announced, and the schedule I announced was after Export Administration we would try to reach the reciprocity bill. So I will make every effort to cooperate with the minority leader. I understand his problems and I am sympathetic. But I also have a commitment made here on the Senate floor and to Senators in private to try to reach reciprocity, so I hope we can work something out on that, too. I will confer with the minority leader on that a little further. I will certainly not try to do that until he is on the floor and we have had a chance to talk about it.

Mr. **BYRD.** I thank the majority leader. He is indeed right in everything that he has just said.

May I ask the majority leader which of the prayer measures on the calendar he intends to try to lay down?

Mr. **BAKER.** Mr. President, the one that I expect to take up or ask the Senate to go to is Senate Joint Resolution 73, which is a constitutional amendment.

May I say, parenthetically, that, of course, that resolution will be open to amendment, and I will not be surprised to see amendments offered. But that is the choice of the leadership on this side as the vehicle to carry this debate. And that is Calendar Order No. 642.

Mr. **BYRD.** Will the majority leader yield?

Mr. **BAKER.** Yes.

Mr. **BYRD.** He has previously informed me concerning this matter, but I felt I should ask the question for the record.

Mr. **BAKER.** I thank the minority leader.

Mr. **BYRD.** In the meantime, may I say while we are having morning business, we will continue on this side to see what we can find out that would be of interest and help to the majority leader anent the three measures: committee funding, highway, and reciprocity.

Mr. **BAKER.** I thank the minority leader.

Mr. President, I see the Senator from Wisconsin here. He should be apprised of the fact that by unanimous consent he may claim his special order notwithstanding the fact that we are in morning business. I yield the floor.

Mr. **PROXMIRE.** I thank the leader.

RECOGNITION OF SENATOR PROXMIRE

The **PRESIDING OFFICER.** The Senator from Wisconsin.

Mr. **PROXMIRE.** Mr. President, what is the time of the present morning business?

The **PRESIDING OFFICER.** The Senator has 15 minutes.

Mr. **PROXMIRE.** I thank the Presiding Officer. I will not take the full time.

CHANGES NEEDED IN THE DEFENSE OFFICER PERSONNEL ACT FOR FEMALE ADMIRALS

Mr. **PROXMIRE.** Mr. President, I send a bill to the desk and ask for its appropriate referral.

The purpose of this bill is to amend the Defense Personnel Management Act (DOPMA) providing for the reappointment of female flag officers to permanent rank. This legislation is required as a result of unintended results from the Defense Personnel Management Act repeal of the provision of law under which women were promoted to flag rank prior to that act. The effect of this oversight has been the inability to reassign women appointed to flag rank.

The Navy has sought relief from this restriction and supports this legislation. At present, Rear Adm. Pauline Hartington is a flag officer caught in this situation and cannot be reassigned to another position without downgrading her rank to captain.

Mr. President, I urge the Armed Services Committee to include this much-needed change in the law in its fiscal year 1985 Department of Defense authorization bill.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 611 of the Defense Officer Personnel Management Act (94 Stat. 2945) is amended by—

(1) striking out the semicolon at the end of subsection (b)(1) and inserting ", except an officer reappointed under subsection (d);" in lieu thereof; and

(2) adding at the end thereof the following new subsection:

"(d) Any female officer appointed to the temporary grade of rear admiral under section 5767(c) of title 10, United States Code, on or before September 14, 1981, may be given a permanent appointment in the grade in which she is serving. An officer so reappointed shall have the date of rank of that officer's temporary appointment to the grade of rear admiral."

CONCLUDING SPEECH ON POLICIES TO PREVENT NUCLEAR WAR

Mr. PROXMIRE. Mr. President, I have previously on the floor of the Senate set forth a series of positive steps this country should follow to prevent a nuclear war. Today I will propose a negative agenda, a list of policies we should avoid if we are to have anything like a reasonable chance of peace in this increasingly dangerous nuclear world.

First, we should not continue the level of hostile rhetoric toward the Soviet Union. We know the Soviet Union is a Marxist dictatorship. We know it tolerates no dissent. We know it has thousands of political prisoners. We know it denies freedom of the press, freedom of speech, freedom of religion. We know it preaches world revolution by force and violence if necessary. We know it has bullied and suppressed its neighbors in Poland, Hungary, Afghanistan, and elsewhere. We know it dominates the other Warsaw Pact nations by sheer military intimidation. We know it takes advantage of poverty and exploitation throughout the world to push its own foreign policy. We know this Soviet agenda included undermining free institutions and installing puppet Communist states with strings pulled in Moscow.

Now this is quite an indictment. We have every reason to make this indictment. It is true. But it is also true that we have lived in peace with this revolutionary nuclear superpower, ever since it became a nuclear superpower about 30 years ago. It has a very paranoid, but also a very cautious government. It understands that a war with the United States would mean the end for both countries. It understands this as a matter of logic and commonsense.

But the leaders of the Soviet Union are also human beings with all the emotions of fear and hatred and hostility that most of us human beings suffer. If the President of the United States attacks the Soviet Union as an evil empire, it is the equivalent of insulting a stranger armed with a .45 revolver and standing at a bar; asking him to step outside. The stranger may have the good sense to ignore the insult and the invitation, but our hostile rhetoric directed against the pistol-packing stranger may be just the provocation that pushes him away from commonsense and logic to a to-hell-with-it, forget logic and fall back on emotion. So we should cool the nasty rhetoric.

Second, we should not stop the arms race unilaterally. Yes, we must stop it. But we must stop it mutually with the Soviet Union. This Senator, of course, enthusiastically supports a nuclear freeze, but it has to be mutual and verifiable, not unilateral. This is a very hard concept to accept—that peace hangs by the thread of deterrence. After all deterrence is based on building Stealth bombers and D-5 hard target kill missiles and more Trident submarines and more accurate and reliable nuclear weapons. Is that any way to peace? The answer is yes. Certainly it does not get us all the way to peace. That will require a comprehensive stop to the nuclear arms race. But again that has to be mutual and verifiable. Meanwhile, deterrence prevents either superpower from initiating a strike because deterrence makes the strike suicidal.

Third, we should not stall negotiations with the Soviet Union. Every year, in fact, every month the nuclear arms race continues, brings the danger of nuclear war nearer. The technological race will, if continued, certainly produce cheaper and more portable nuclear arms and proliferation will follow as day follows night. When that happens, nuclear war will be certain. Successful superpower negotiations are a quintessential necessity to stop the basis for the most dangerous kind of nuclear proliferation. To date we have not tried to win Soviet agreement for a comprehensive freeze on nuclear testing, production or deployment. We should go for it—right now.

Fourth, we should not build hair-trigger, use-'em-or-lose-'em weapons like the MX or other vulnerable MIRV'd missiles at any time. We do not need them for deterrence. They are useless as bargaining chips, because they are precisely the kind of vulnerable weapons the Soviets can take out with a pre-emptive strike. So why should they give up anything to eliminate nuclear weapons we have that they could so easily destroy?

Fifth, we should not permit the sale of any nuclear materials or equipment of any sort to any nation that refused to sign the nonproliferation treaty. Here is by far the most dangerous and likely cause of a nuclear war. The tiny gain in jobs and profits we might secure by winning nuclear contracts is insignificant compared to the terrible danger that the spread of nuclear weapons represents. The fact that nations refused to sign the nonproliferation treaty means that they refuse to permit international inspections to determine whether they have diverted this nuclear material or equipment to military purposes. Why do they refuse inspection? Is it not obvious? They refuse inspection because they intend to divert the nuclear materials and equipment to military purposes. This Senator cannot think of a more dangerous or outrageous act than selling nuclear materials to such a country.

Finally, we should not build weapons that violate our ABM treaty or the treaty that prohibits the military use of space. These treaties have been successful. There have been no confirmed indications of violations. They are essential to arms control. Arms control today is based overwhelmingly on satellite surveillance. Without the assurance that our satellites can function without challenge, we would have no basis for verifying arms control agreements. Even more important, hawks and doves alike agree that deterrence has played a central role in preventing a superpower nuclear war in the past 30 years. Either superpower could destroy deterrence by perfecting an antimissile system.

LET'S FOLLOW THE EXAMPLE OF THE EUROPEAN PARLIAMENT

Mr. PROXMIRE. Mr. President, ELTA Information Service recently wrote me about the depressing and continuing religious persecution by Soviet authorities, directed in particular against the Catholic Church in Lithuania. The life of Antanas Terleckas, a "prisoner of conscience," and a heroic figure of freedom for his oppressed countrymen, is but a paragraph out of a book-volume of atrocities beset upon the Lithuanian people by the Soviet Government.

Antanas Terleckas is now in grave danger after a lifetime spent in a struggle for basic human rights and the national identity for the persecuted people of Lithuania. After serving 3 years in strict regime camps, Terleckas is now in exile, serving a 5-year term in one of the most remote and harshest regions of the Soviet Union.

I could go on to tell you of the disturbing and tormenting existence of Terleckas, but suffice it to say that his physical and mental health is deteriorating rapidly. It is up to us in the free world to speak out in his behalf—if he is to have a chance to survive.

The European Parliament has made a resolution on religious persecution in Lithuania, expressing its European solidarity to the Lithuanian nation and its oppressed religious communities which have been exposed to severe trials. The Europeans, moreover, condemn "in strongest terms" the incessant persecution of the Lithuanians by the Soviet authorities.

I salute the European Parliament, and I ask that we follow their honorable example by ratifying the Genocide Convention. Let us join our European friends, and put down in writing our solidarity to the cause of self-determination and self-fulfillment of the Lithuanian people. Let us not allow the exemplary and heroic life of Antanas Terleckas, and countless others like him, pass by in vain.

What does the Genocide Convention actually do? It assures criminals—guilty of the most heinous crime known to man: the attempt to eliminate in whole or in part a nation, ethnic, racial or religious group—will be tried and punished. The ratification of this treaty would put us in a better position to bring moral influence to bear in specific cases where genocide is alleged. We cannot attempt to stop genocide and be effective if we refuse to ratify this treaty.

Our Nation is a champion of human rights in the eyes of all the oppressed people worldwide. As a nation committed to the human rights of people around the world, we are obligated to make a firm statement to the governments of the world which are persecuting their national groups. We can make this statement by ratifying the Genocide Convention.

DEPARTURE OF MARY FRANCES DE LA PAVA

Mr. PROXMIRE. Mr. President, I wish to bring to the attention of my colleagues the departure of one of our staff who has served with great dedication. I refer to Mary Frances de la Pava who has had a distinguished career here in the Senate. Mary Frances came to the Senate after service in the Department of State where she was stationed in Bogota, Colombia. She then worked in the Presidential campaign of John F. Kennedy. Following that successful election effort, Mary Frances joined the staff of the great Senator from Minnesota, Hubert H. Humphrey. And several years later she transferred to the staff of another giant of this body, Senator Paul Douglas of Illinois.

When Paul Douglas left this body, I was lucky enough to convince Ms. de la Pava to join my personal staff. After a period of time she became the chief clerk of the Senate Committee on Banking, Housing, and Urban Affairs, when I was chairman of that committee. And most recently she has specialized in banking and housing matters for me.

It would be hard to duplicate this service to the Senate. For her part I am sure that she greatly values her years with such interesting and compelling figures as Hubert Humphrey and Paul Douglas and were they here today I know they would join me in thanking Mary Frances not only for her substantial contributions but her cheerful personality and pursuit of excellence.

I am pleased to report that Ms. de la Pava has decided to lend her considerable talents to the private sector where I am sure she will be every much the success she was here.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended to not later than 12 o'clock under the same terms.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INSURANCE INDUSTRY COMBATS ARSON

Mr. PERCY. Mr. President, it has become almost an immediate reaction for us to turn to the Government for solutions when we face a serious problem. I am pleased to report that one problem—arson for profit—is being combated successfully by the insurance industry working hand in hand with law enforcement officials. The industry has taken the lead in mounting an attack on arson, a crime responsible for as many as 1,000 deaths and $6 billion in property damages each year.

Clearly, their efforts are paying off. In the Chicago area, for example, arson losses are down nearly 50 percent over the past 2 years, from $22 million in 1980 to $11 million in 1982.

In the mid-1970's, the insurance industry established the Property Insurance Loss Register (PILR) to help curb the spread of arson. Equipped with a computerized data bank and supported by over 400 insurance companies, the PILR keeps track of more than 95 percent of the Nation's fire insurance premiums. Once a fire occurs causing at least $1,000 in damages, this information is made part of the data system. This system has enabled the industry to spot duplicate insurance claims or cases of previous fires. This information has helped detect fraudulent claims and identify arsonists.

The insurers also established the Insurance Committee for Arson Control in 1978 to strengthen State legislation dealing with arson, increase public awareness of this problem, improve the collection of information regarding arson, and other activities aimed at combating arson.

In addition, working through the National Committee on Property Insurance, the industry has developed special underwriting and claims procedures to address the particular problems encountered with respect to arson in high-risk urban areas.

Mr. President, there is a need for Federal legislation reclassifying arson as a part I crime, and I strongly endorse the Anti-Arson Act of 1982. However, this legislation would be meaningless without the tremendous contributions being made by the insurance industry.

The problem of arson continues to be a serious problem in many of our urban areas. However, we are now making great strides in combating this problem because of the efforts of the insurance industry. I can think of no other example where industry has played such a crucial role in reducing crime. I commend the insurance industry for its initiative in fighting arson.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, I ask the Chair to inquire if there is further morning business.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

THE CALENDAR

Mr. BAKER. Mr. President, as I indicated earlier in the colloquy with the minority leader and as I have announced from time to time during this week, it is the intention of the leadership on this side to try to reach H.R. 3398, Calendar Order No. 559, the miscellaneous tariff, trade, and customs bill. May I say that I do not anticipate any action on this bill today except opening statements, perhaps amendments that are agreed to on both sides. In order to redeem another commitment that I have made on the floor, publicly—that is, that I would attempt to lay down the prayer amendment before we go out today but with no action; I would rather have it pending when we come back on Monday—when we have exhausted debate and general action on this bill as it might be agreed to on both sides, it will be the intention of the leadership on this side to take this back to the calendar.

MISCELLANEOUS TARIFF, TRADE, AND CUSTOMS MATTERS

Mr. **BAKER**. Mr. President, I wish now to ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 559, H.R. 3398.

The **PRESIDING OFFICER**. Is there objection?

Mr. **BYRD**. Mr. President, reserving the right to object, I will not object. In view of the statement that has just been made by the distinguished majority leader and in view of the fact that the distinguished Senator from Louisiana (Mr. LONG) is on the floor and has no objection, I certainly do not interpose any objection.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3398) to change the tariff treatment with respect to miscellaneous articles, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike out all after the enacting clause, and insert the following:

H.R. 3398

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, headnote or other provision, the reference shall be considered to be made to a schedule, item, headnote or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

Subtitle B—Permanent Changes in Tariff Treatment

SEC. 111. COATED TEXTILE FABRICS.

(a) Headnote 5 of schedule 3 is amended to read as follows:

"5. (a) Except as otherwise provided in subsection (b) of this headnote, for the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except subpart A), 4, and 12 of schedule 7, in determining the classification of any article which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in part 4C of this schedule), the fabric shall be regarded not as a textile material but as being wholly of rubber or plastics to the extent that (as used in the article) the nontransparent rubber or plastics forms either the outer surface of such article or the only exposed surface of such fabric.

"(b) Any fabric described in part 4C of this schedule shall be classified under part 4C whether or not also described elsewhere in the schedules.".

(b) The headnotes to subpart C of part 4 of schedule 3 are amended—

(1) by striking out clause (vii) in headnote 1; and

(2) by inserting "or value" after "quantities" in headnote 2(c).

(c) Part 12 of schedule 7 is amended by inserting immediately after headnote 1 of part 12 headnote the following new headnote:

"2. This part does not cover fabrics, coated or filled, or laminated, with rubber or plastics provided for in part 4C of schedule 3.".

SEC. 112. WARP KNITTING MACHINES.

(a) Subpart E of part 4 of schedule 6 is amended by striking out item 670.20 and inserting in lieu thereof the following new items with article descriptions at the same indentation level as the article description in item 670.19:

(b) Item 912.14 of the Appendix is repealed.

(c)(1) The rate of duty in column numbered 1 for item 670.21 (as added by subsection (a)) shall be subject to all staged rate reductions for item 670.20 that were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 670.21 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 113. CERTAIN GLOVES.

Subpart C of part 1 of schedule 7 is amended—

(1) by amending headnote 1—

(A) by striking out "and" at the end of paragraph (a),

(B) by striking out the period at the end of paragraph (b) and inserting "; and", and

(C) by adding at the end thereof the following new paragraph:

"(c) the term 'with fourchettes' includes only gloves which, at a minimum, have fourchettes extending from fingertip to fingertip between each of the four fingers."; and

(2) by amending item 705.85 by striking out "textile fabric" and "or sidewalls".

SEC. 114. PET TOYS.

Subpart A of part 13 of schedule 7 is amended by inserting immediately after item 790.55 the following new item:

"790.57	Toys for pets, of textile materials	8.5% ad val.	80% ad val.".

SEC. 115. WATER CHESTNUTS AND BAMBOO SHOOTS.

(a) Items 903.45, 903.50, and 903.55 are repealed.

(b) Subpart A of part 8 of schedule 1 is amended as follows:

(1) Item 137.84 is amended by striking out "25% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 138.40 is amended by striking out "17.5% ad val." in column 1 and inserting in lieu thereof "Free".

(c) Subpart C of part 8 of schedule 1 is amended as follows:

(1) Item 141.70 is amended by striking out "7% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 141.78 is amended by striking out "9% ad val." in column 1 and inserting in lieu thereof "Free".

SEC. 116. GUT FOR USE IN MANUFACTURE OF STERILE SURGICAL SUTURES.

(a) Subpart C of part 13 of schedule 7 is amended by striking out item 792.22 and inserting in lieu thereof the following new items with the article description at the same indentation level as the article description in item 792.20:

"792.24	If imported for use in the manufacture of sterile surgical sutures	6.0% ad val.	3.5% ad val.	40% ad val.
792.26	Other	12.4% ad val.	7.7% ad val.	40% ad val.".

(b)(1) The rate of duty in column numbered 1 for item 792.24 (as added by subsection (a)) shall be subject to any staged rate reductions for item 495.10 which are proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 792.24 is reduced to the same level as the corresponding rate of duty specified in the "LDDC" column for such item, the rate of duty in the "LDDC" column shall be deleted.

(c) The rate of duty in column numbered 1 for item 792.26 (as added by subsection (a)) shall be subject to the same staged rate reductions that were proclaimed by the President before the date of the enactment of this Act for item 792.20.

SEC. 117. ORANGE JUICE PRODUCTS.

Subpart A of part 12 of schedule 1 is amended—

(1) by inserting after item 165.25 the following new items and the superior heading thereto, with such superior heading at the same indentation level as the article description "Lime" in item 165.25:

165.27	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degrees)	20¢ per gal.	70¢ per gal.
165.29	Other	35¢ per gal.	70¢ per gal.".

(2) by redesignating items 165.30 and 165.35 as items 165.32 and 165.36, respectively.

SEC. 118. REIMPORTATION OF CERTAIN ARTICLES ORIGINALLY IMPORTED DUTY FREE.

Item 801.00 is amended by inserting "or which were previously entered free of duty pursuant to the Caribbean Basin Economic Recovery Act or title V of the Trade Act of 1974" after "previous importation".

Subtitle C—Temporary Changes in Tariff Treatment

SEC. 121. CRUDE FEATHERS AND DOWN.

Items 903.70 and 903.80 of the Appendix are each amended by striking out "On or before 6/30/84" and inserting in lieu thereof "On or before 6/30/87."

SEC. 122. CANNED CORNED BEEF.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"903.15	Corned beef in airtight containers (provided for in item 107.48, part 2B, schedule 1)	3% ad val.	No change	On or before 10/29/89".

SEC. 123. HOVERCRAFT SKIRTS.

Item 905.40 of the Appendix is amended—

(1) by striking out "manmade" and inserting in lieu thereof "man-made", and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

SEC. 124. MXDA.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.03	(m-Xylenediamine (MXDA) (provided for in item 404.88, part 1B, schedule 4)	Free	No change	On or before 6/30/85
907.04	(1,3-Bis(a-minomethyl)cyclohexane (1,3-BAC) provided for in item 407.05, part 1B, schedule 4)	Free	No change	On or before 6/30/86".

SEC. 125. 4,4'-BIS (α,α-DIMETHYLBENZYL) DIPHENYLAMINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"907.06	(4,4'-Bis (α,α-dimethylbenzyl) diphenylamine (provided for in item 404.88, part 1B, schedule 4)	Free	No change	On or before 6/30/86".

SEC. 126. FLECAINIDE ACETATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.21	Flecainide acetate (provided for in item 412.12, part 1C, schedule 4)	Free	No change	On or before 6/30/86".

SEC. 127. CAFFEINE.

Item 907.22 of the Appendix is amended—

(1) by striking out "6% ad val." and inserting in lieu thereof "4.1% ad val."; and

(2) by striking out "12/31/83" and inserting in lieu thereof "12/31/85".

SEC. 128. WATCH CRYSTALS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"909.40	Watch glasses other than round watch glasses (provided for in item 547.13, part 3C, schedule 5)	6.2% ad val.	4.9% ad val.	No change.	On or before 12/31/86".

(b) Effective with respect to articles provided for in item 909.40 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date:	Rate of duty:
January 1, 1984	5.9% ad val.
January 1, 1985	5.6% ad val.
January 1, 1986	5.2% ad val.

SEC. 129. UNWROUGHT LEAD.

(a) Item 911.50 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

(b) Section 114 of Public Law 96-609 is amended by striking out "July 1, 1983" in subsection (b) and inserting in lieu thereof "July 1, 1988".

SEC. 130. FLAT KNITTING MACHINES.

Item 912.13 of the Appendix is amended—

(1) by striking out "(provided for in item 670.19 or 670.20," and inserting in lieu thereof ", and parts thereof (provided for in items 670.19, 670.20, and 670.74,"; and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

SEC. 131. CERTAIN MENTHOL FEEDSTOCKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.13	Mixtures containing not less than 90 percent by weight of stereoisomers of 2-iso-propyl-5-methylcyclohexanol, but containing not more than 30 percent by weight of any one such stereoisomer (provided for in item 407.16, part 1B, schedule 4)	Free	No change	On or before 6/30/86"

SEC. 132. 2-METHYL, 4-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.11	2-Methyl, 4-chlorophenol (provided for in item 403.56, part 1B, schedule 4)	Free	No change	On or before 9/30/86"

SEC. 133. UNWROUGHT ALLOYS OF COBALT.

Item 911.90 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

SEC. 134. CERTAIN INTERMEDIATES FOR THE PRODUCTION OF DYES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.03	6-amino-1-naphthol-3-sulfonic acid (provided for in item 405.00, part 1B, schedule 4)	Free	No change	On or before 12/31/85
907.06	β-napthol (provided for in item 403.28, part 1B, schedule 4)	Free	No change	On or before 12/31/86
907.09	2-(4-aminophenyl)-6-methylbenzo-thiazole-7-sulfonic acid (provided for in item 406.40, part 1B, schedule 4)	Free	No change	On or before 12/31/85".

SEC. 135. CERTAIN SULFA COMPOUNDS.

(a) Item 907.19 of the Appendix is amended—

(1) by striking out "13.3% ad val." and inserting in lieu thereof "Free";

(2) by striking out "7 per lb. + 80% ad val." and inserting in lieu thereof "Free"; and

(3) by striking out "12/31/83" and inserting in lieu thereof "12/31/86".

(b) Subpart B of part I of the Appendix is amended by inserting in numerical sequence the following new items:

"907.24	Sulfamethazine (provided for in item 411.24, part 1C, schedule 4)	Free	Free	On or before 12/31/86
907.26	Sulfamguanidine (provided for in item 411.27, part 1C, schedule 4)	Free	Free	On or before 12/31/86
907.28	Sulfaquinoxaline (provided for in item 411.81, part 1C, schedule 4)	Free	Free	On or before 12/31/86
907.29	Sulfanilamide (provided for in item 411.81, part 1C, schedule 4)	Free	Free	On or before 12/31/86"

SEC. 136. CERTAIN PARTS FOR SPINDLE MOTORS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"912.03	Parts designed for use exclusively in permanent magnet, brushless, electronically commutated, direct current, computer memory disk drive spindle motors of less than 1/10 horsepower (provided for in items 682.55, 682.60, and 685.90, part 5, schedule 6)	Free	No change	On or before 12/31/84"

SEC. 137. MELAMINE.

(a) Subpart A of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"901.25	Melamine (provided for in item 425.10, part 2D, schedule 4)	5.1% ad val	Free	On or before 12/31/85".

(b) Effective with respect to articles provided for in item 901.25 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after January 1, 1985, column 1 for such item is amended by striking out "5.1% ad val." and inserting in lieu thereof "5.3% ad val.".

SEC. 138. 4-CHLORO-3-METHYLPHENOL.

Item 907.08 of subpart B of part 1 of the Appendix is amended by striking out "6/30/84" and inserting in lieu thereof "6/30/87".

SEC. 139. CERTAIN CLOCK RADIOS.

Item 911.95 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "9/30/85".

SEC. 140. EQUIPMENT, ETC. FOR XXIII OLYMPIAD DELEGATIONS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"915.00	Personal effects of aliens who are participants in or officials of the XXIII Olympiad, or who are accredited members of delegations thereto, or who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with the games; and other related articles as prescribed in regulations issued by the Secretary of the Treasury	Free	Free	On or before 9/30/84"

Subtitle D—Effective Dates

SEC. 151. EFFECTIVE DATES.

(a) As used in this section, the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(b) Except as provided in subsections (c) and (d), the amendments made by subtitles B and C shall apply with respect to articles entered on or after the fifteenth day after the date of the enactment of this Act.

(c)(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, the application of the amendments made by this Act to the entry of any article described in paragraph (2) shall be treated as provided in such paragraph.

(2) In the case of the application of the amendment made by section 112, 115, 118, 123, 129, 130, and 133 to any entry—

(A) which was made after the applicable date and before the fifteenth day after the date of the enactment of this Act; and

(B) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the fifteenth day after the date of the enactment of this Act.

(3) For purposes of paragraph (2), the term "applicable date" means—

(A) in the case of sections, 112, 115, 123, 129, 130, and 133, June 30, 1983; and

(B) in the case of section 118, June 1, 1982.

(d)(1) The amendments made by section 117 of this Act shall apply to articles entered after March 31, 1985.

(2) The amendment made by section 122 of this Act shall apply with respect to articles entered on or after October 30, 1983.

(3) The amendments made by sections 127 and 137 shall apply with respect to articles entered after December 31, 1983.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

SEC. 201. PACKAGING MATERIALS FOR MERCHANDISE ENTITLED TO SAME CONDITION DRAWBACK.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended by adding at the end thereof the following new paragraph:

"(3) Packaging material that is imported for use in packaging or repackaging imported merchandise to which paragraph (1) applies shall be eligible under the same conditions provided in such paragraph for refund, as drawback, of 99 per centum of any duty, tax, or fee imposed under Federal law on the importation of such material.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 202. PUBLIC DISCLOSURE OF CERTAIN MANIFEST INFORMATION.

(a) Section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) is amended—

(1) by striking out the period at the end of the paragraph designated as "Third" in subsection (a) and inserting in lieu thereof "; and the names of the shippers of such merchandise."; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in subparagraph (2), the following information, when contained in such manifest, shall be available for public disclosure:

"(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

"(B) The general character of the cargo.

"(C) The number of packages and gross weight.

"(D) The name of the vessel or carrier.

"(E) The port of loading.

"(F) The port of discharge.

"(G) The country or origin of the shipment.

"(2) The information listed in paragraph (1) shall not be available for public disclosure if—

"(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

"(B) the information is exempt under the provisions of section 552(b)(1) of title 5 of the United States Code.

"(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.".

(b) The amendments made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 203. VIRGIN ISLANDS EXCURSION VESSELS.

(a) Section 441(3) of the Tariff Act of 1930 (19 U.S.C. 1441(3)) is amended to read as follows:

"(3) Vessels carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, and licensed yachts or undocumented American pleasure vessels not engaged in trade: Provided, That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: Provided further, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.".

(b) The amendment made by subsection (a) shall apply with respect to vessels returning from the British Virgin Islands on or after the fifteenth day after the date of the enactment of this Act.

SEC. 204. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES.

(a) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES; INSPECTIONS.

"(a)(1) Whoever knowingly imports, exports, or attempts to import or export—

"(A) Any stolen self-propelled vehicle, vessel, aircraft, or part of a self-propelled vehicle, vessel, or aircraft; or

"(B) any self-propelled vehicle or part of self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered;

shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed $10,000 for each violation.

"(2) Any violation of this subsection shall make such self-propelled vehicle, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

"(b) A person attempting to export a used self-propelled vehicle shall present, pursuant to regulations prescribed by the Secretary, to the appropriate customs officer both the vehicle and a document describing such vehicle which includes the vehicle identification number, before lading if the vehicle is to be transported by vessel or aircraft, or before export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations of the Secretary shall subject such person to a civil penalty of not more than $500 for each violation.

"(c) For purposes of this section—

"(1) the term 'self-propelled vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) the term 'aircraft' has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

"(3) the term 'used' refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser; and

"(4) the term 'ultimate purchaser' means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.

"(d) Customs officers may cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either before exportation or after exportation or importation, with such Federal, State, local, and foreign law enforcement or governmental authorities, and with such organizations engaged in theft prevention activities, as may be designated by the Secretary.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 205. INCREASE IN AMOUNT FOR INFORMAL ENTRY OF GOODS.

(a) Paragraph (1) of section 498 of the Tariff Act of 1930 (19 U.S.C. 1498) is amended—

(1) by striking out "$250" and inserting in lieu thereof "$1,000"; and

(2) by inserting before the semicolon at the end thereof: ", except that this paragraph does not apply to articles valued in excess of $250 classified in—

"(A) schedule 3,

"(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

"(C) parts 2 and 3 of the Appendix,

of the Tariff Schedules of the United States, or to any other article for which formal entry is required without regard to value".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of the enactment of this Act.

SEC. 206. CERTAIN COUNTRY OF ORIGIN MARKING REQUIREMENTS.

(a) Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (h), respectively;

(2) by inserting immediately after subsection (b) the following new subsections:

"(c) MARKING OF CERTAIN PIPE AND FITTINGS.—No exception may be made under subsection (a)(3) with respect to pipes of iron, steel, or stainless steel, to pipe fittings of steel, stainless steel, chrome-moly steel, or cast and malleable iron, or to manhole rings or frames, covers, and assemblies thereof, each of which shall be marked with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving.

"(d) MARKING OF COMPRESSED GAS CYLINDERS.—No exception may be made under subsection (a)(3) with respect to compressed gas cylinders designed to be used for the transport and storage of compressed gases whether or not certified prior to exportation to have been made in accordance with the safety requirements of sections 178.36 through 178.68 of title 49, Code of Federal Regulations, each of which shall be marked with the English name of the country of origin by means of die stamping, molding, etching, raised lettering, or an equally permanent method of marking.

"(e) MARKING OF CERTAIN MANHOLE RINGS OR FRAMES, COVERS, AND ASSEMBLIES THEREOF.—Imported manhole rings or frames, covers, and assemblies thereof shall be marked on the top surface with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving."; and

(3) by striking out "subsection (c)" in subsection (g) (as so redesignated) and inserting in lieu thereof "subsection (f)".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of the enactment of this Act; except for such of those articles that, on or before such fifteenth day, had been taken onboard for transit to the customs territory of the United States.

SEC. 207. EQUIPMENTS AND REPAIRS OF CERTAIN VESSELS EXEMPT FROM DUTIES.

(a) Section 466(e) of the Tariff Act of 1930 (19 U.S.C. 1466(e)) is amended to read as follows:

"(e)(1) In the case of any vessel referred to in subsection (a) that arrives in a port of the United States two years or more after its last departure from a port in the United States, the duties imposed by this section shall apply only with respect to—

"(A) fish nets and netting, and

"(B) other equipments and parts thereof, repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States.

"(2) If such vessel is designed and used primarily for transporting passengers or property, paragraph (1) shall not apply if the vessel departed from the United States for the sole purpose of obtaining such equipments, parts, materials, or repairs.".

(b)(1) The amendment made by subsection (a) shall apply with respect to entries made in connection with arrivals of vessels on or after the fifteenth day after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

(A) made before the fifteenth day after the date of the enactment of this Act but not liquidated as of January 1, 1983, or

(B) made before the fifteenth day after the date of the enactment of this Act but which is the subject of an action in a court of competent jurisdiction on September 19, 1983, and

(C) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on the fifteenth day after the date of the enactment of this Act.

Subtitle B—Miscellaneous Provisions

SEC. 211. DUTY-FREE ENTRY FOR PIPE ORGAN FOR THE CRYSTAL CATHEDRAL, GARDEN GROVE, CALIFORNIA.

The pipe organ that was imported for the use of the Crystal Cathedral of Garden Grove, California, and entered in six shipments between April 30, 1981, and April 8, 1982, at Los Angeles, California, shall be considered to have been admitted free of duty as of the date of each such entry. If the liquidation of any such entry has become final, the Secretary of the Treasury shall reliquidate each such entry and make the appropriate refund of any duty paid on such organ.

SEC. 212. DUTY-FREE ENTRY FOR SCIENTIFIC EQUIPMENT FOR THE ELLIS FISCHEL STATE CANCER HOSPITAL, COLUMBIA, MISSOURI.

Notwithstanding any provision of the Tariff Act of 1930 or any other provisions of the law to the contrary, the Secretary of the Treasury shall reliquidate, as duty free, the entries numbered 220286 (dated November 7, 1975) and 235380 (dated January 23, 1976) made at Chicago, Illinois, and covering scientific equipment for the use of the Ellis Fischel Cancer Hospital, Columbia, Missouri, in accordance with the decision of the Department of Commerce in docket numbered 76-00199-33-00530.

SEC. 213. ENFORCEMENT ARRANGEMENT ON EUROPEAN COMMUNITY EXPORT OF PIPES AND TUBES.

(a) The Secretary of Commerce is directed to enter into consultations immediately, if such consultations have not already been initiated, with the European Communities pursuant to the Arrangement on European Communities Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982, between representatives of the United States and the Commission of the European Communities. The Secretary shall promptly report the results of the consultations to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(b) If after a period of sixty days after such consultations begin, consultations undertaken pursuant to subsection (a) have not resulted in an agreement the Secretary of Commerce determines will result in—

(1) an annual level of exports of pipes and tubes to the United States from the European Communities not exceeding the 1979-1981 average share of annual United States apparent consumption, and

(2) a pattern of United States-European Communities trade within the pipe and tube sector that is not distorted,

the Secretary is authorized to request the Secretary of the Treasury to take action pursuant to subsection (c). For purposes of this subsection, the Secretary of Commerce shall determine whether distortion is occurring in the pipe and tube sector by reference to product categories developed by the Secretary and by the average share of annual United States apparent consumption accounted for by European Communities articles within each category during the historical period specified in paragraph (1) of this subsection. Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more specific categories of pipe and tube products with respect to which action under subsection (c) is requested.

(c) At the request of the Secretary of Commerce pursuant to subsection (b), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of Commerce in such request that are entered into the United States during the remainder of the term of the Arrangement, are in accordance with the terms of the Arrangement. The Secretary of the Treasury is authorized to promulgate regulations establishing the terms and conditions under which European Communities articles may be denied entry into the United States pursuant to this subsection.

SEC. 214. NO STATE OR LOCAL TAX ON INVENTORY LOCATED IN FOREIGN TRADE ZONES.

(a) Section 15 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act (19 U.S.C. (81o)) is amended by adding at the end thereof the following new subsection:

"(e) Tangible personal property imported from outside the United States and held in a zone for the purpose of storage, sale, exhibition, repackaging, assembly, distribution, sorting, grading, cleaning, mixing, display, manufacturing, or processing, and tangible personal property produced in the United States and held in a zone for exportation, either in its original form or as altered by any of the above processes, shall be exempt from State and local ad valorem taxation.".

(b) The amendment made by subsection (a) shall take effect on January 1, 1983.

SEC. 215. DENIAL OF DEDUCTION FOR CERTAIN FOREIGN ADVERTISING EXPENSES.

(a) Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) CERTAIN FOREIGN ADVERTISING EXPENSES.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expenses of an advertisement carried by a foreign broadcast undertaking and directed primarily to a market in the United States. This paragraph shall apply only to foreign broadcast undertakings located in a country which denies a similar deduction for the cost of advertising directed primarily to a market in the foreign country when placed with a United States broadcast undertaking.

"(2) BROADCAST UNDERTAKING.—For purposes of paragraph (1), the term 'broadcast undertaking' includes (but is not limited to) radio and television stations.".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE III—TRADE ACT OF 1974 AMENDMENTS

SEC. 301. SHORT TITLE; AMENDMENT OF TRADE ACT OF 1974.

(a) This Act may be cited as the "International Trade and Investment Act".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Trade Act of 1974.

SEC. 302. STATEMENT OF PURPOSES.

The purposes of this title are—

(1) to foster the economic growth of, and full employment in, the United States by expanding competitive United States exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States;

(2) to improve the ability of the President—

(A) to identify and to analyze barriers to (and restrictions on) United States trade and investment, and

(B) to achieve the elimination of such barriers and restrictions;

(3) to encourage the expansion of international trade in services through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers to international trade in services; and

(4) to enhance the free flow of foreign direct investment through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate the trade distortive effects of certain investment-related measures.

SEC. 303. ANALYSIS OF FOREIGN TRADE BARRIERS.

(a) Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.

"(a) National Trade Estimates.—

"(1) In general.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962:

"(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortions of—

"(i) United States exports of goods (including agricultural commodities) or services, and

"(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

"(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

"(2) Certain factors taken into account in making analysis and estimate.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

"(A) the relative impact of the act, policy, or practice on United States commerce;

"(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

"(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

"(D) any advice given through appropriate committees established pursuant to section 135.

"(3) Annual revisions and updates.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

"(b) Report to Congress.—

"(1) In general.—On or before the date which is one year after the date of the enactment of the International Trade and Investment Act, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

"(2) Reports to include information with respect to action being taken.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken (or the reasons for no action taken) to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

"(A) any action under section 301, or

"(B) negotiations or consultations with foreign governments.

"(3) Consultation with Congress on trade policy priorities.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

"(c) Assistance of Other Agencies.—

"(1) Furnishing of information.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

"(2) Restrictions on release or use of information.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

"(3) Personnel and services.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.".

(b) The table of contents for title I is amended by adding at the end thereof the following:

"Chapter 8—Barriers to Market Access

"Sec. 181. Actions concerning barriers to market access.".

SEC. 304. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

"(a) Determinations Requiring Action.—

"(1) In general.—If the President determines that action by the United States is appropriate—

"(A) to enforce the rights of the United States under any trade agreement; or

"(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

"(i) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) Scope of action.—The President may exercise his authority under this section with respect to any goods or sector—

"(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

"(B) without regard to whether or not such goods or sector were involved in the act, policy, or practice identified under paragraph (1).".

(b) Section 301(b) (19 U.S.C. 2411(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting "notwithstanding any other provision of law," before "impose";

(B) by striking out "products" and inserting in lieu thereof "goods"; and

(C) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(3) propose legislation where necessary and appropriate to carry out the objectives of subsection (a).

Any legislation proposed under paragraph (3) shall be treated as an implementing bill pursuant to the provisions of section 151, except that, for purposes of section 151(c)(1), no trade agreement shall be required and the day on which the implementing bill is submitted shall be treated as the day on which the trade agreement is submitted. The President shall notify Congress, and publish notice in the Federal Register, of his intention to propose legislation under paragraph (3) at least ninety days before the implementing bill is submitted.".

(c)(1) Section 302 (19 U.S.C. 2412) is amended to read as follows:

"SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) Filing of Petition.—

"(1) In general.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request.

"(2) Review of allegations.—The Trade Representative shall review the allegations in the petition and, not later than forty-five days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) Determinations Regarding Petitions.—

"(1) Negative determination.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(2) Affirmative determination.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the thirty-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner.

"(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

"(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

"(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.".

(2)(A) Section 141(d) is amended—

(i) by striking out "and" at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(iii) by adding at the end thereof the following new paragraph:

"(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made."

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out "with respect to a petition";

(ii) by inserting "or the determination of the Trade Representative under section 302(c)(1)" after "in the petition"; and

(iii) by inserting "(if any)" after "petitioner".

(C) Section 304 (19 U.S.C. 2414) is amended by striking out "issues raised in the petition" and inserting in lieu thereof "matters under investigation" in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

"Sec. 302. Initiation of investigations by United States Trade Representative.".

(d) Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting "(a) IN GENERAL.—" before "On"; and

(2) by adding at the end thereof the following new subsection:

"(b) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) NOTICE AND REPORT.—The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required by section 306.".

(e)(1) Paragraph (1) of section 301(d) (19 U.S.C. 301(d)) is amended to read as follows:

"(1) DEFINITION OF COMMERCE.—The term 'commerce' includes, but is not limited to—

"(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.".

(2) Section 301(d) (19 U.S.C. 2411(d)) is amended by adding at the end thereof the following new paragraphs:

"(3) DEFINITION OF UNREASONABLE.—The term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate protection of intellectual property rights.

"(4) DEFINITION OF UNJUSTIFIABLE.—

"(A) IN GENERAL.—The term 'unjustifiable' means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) CERTAIN ACTIONS INCLUDED.—The term 'unjustifiable' includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

"(5) DEFINITION OF DISCRIMINATORY.—The term 'discriminatory' includes where appropriate any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.".

(3) Section 301(d) (19 U.S.C. 2411(d)) is amended by striking out the heading and inserting in lieu thereof:

"(d) DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.—For purposes of this section—".

(f) Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) USE OF INFORMATION.—The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.".

SEC. 305. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICES AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.

(a)(1) Chapter 1 of title I is amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES, FOREIGN DIRECT INVESTMENT, AND HIGH TECHNOLOGY PRODUCTS.

"(a) TRADE IN SERVICES.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United States service sector trade in foreign markets), including barriers that deny national treatment and the rights of establishment and operation in such markets; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) are consistent with the commercial policies of the United States, and

"(B) will reduce or eliminate such barriers or distortions and help ensure open international trade in services.

"(b) FOREIGN DIRECT INVESTMENT.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) will help ensure a free flow of foreign direct investment, and

"(B) will reduce or eliminate the trade distortive effects of certain investment related measures.

"(c) HIGH TECHNOLOGY PRODUCTS.—Principal United States negotiating objectives shall be—

"(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

"(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of, foreign government acts, policies, or practices identified in section 181, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

"(A) foreign industrial policies which distort international trade or investment;

"(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

"(C) measures which impair access to domestic markets for key commodity products; and

"(D) measures which facilitate or encourage anticompetitive market practices or structures;

"(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

"(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

"(5) to obtain commitments to foster national treatment;

"(6) to obtain commitments to—

"(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial participation and technical and personnel exchanges, and

"(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

"(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

"(d) DEFINITION OF BARRIERS AND OTHER DISTORTIONS.—For purposes of subsection (a), the term 'barriers to, or other distortions of, international trade in services' includes, but is not limited to—

"(1) barriers to the right of establishment in foreign markets, and

"(2) restrictions on the operation of enterprises in foreign markets, including—

"(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.".

(2) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products.".

SEC. 306. PROVISIONS RELATING TO INTERNATIONAL TRADE IN SERVICES.

(a)(1) The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(2) In order to encourage effective development and coordination of United States policies on trade in services, each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(A) the treatment afforded United States service sector interests in foreign markets, or

(B) allegations of unfair practices by foreign governments or companies in a service sector.

(3) Nothing in this section shall be construed to alter any existing authority or responsibility with respect to any specific service sector.

(b)(1) The Secretary of Commerce is authorized to establish a service industries development program. Such program shall be designed to—

(A) promote the competitiveness of United States service firms and American employees through appropriate economic policies;

(B) promote actively the use and sale of United States services abroad and develop trade opportunities for United States service firms;

(C) develop a data base for policymaking pertaining to services;

(D) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) United States regulation of service industries;

(ii) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(iii) antitrust policies as such policies affect the competitiveness of United States firms;

(iv) treatment of services in international agreements of the United States; and

(v) adequacy of current United States export promotion activities in the service sector. For purposes of the collection and analysis required by this subsection, and for the purpose of any reporting the Department of Commerce makes to the Congress of the United States, such collection and reporting shall distinguish between income from investment and income from noninvestment services;

(E) provide, together with other appropriate agencies, staff support for negotiations on service-related issues by the United States Trade Representative and the domestic implementation of service-related agreements;

(F) collect such statistical information on the domestic service sector as may be necessary for the development of governmental policies toward the service sector;

(G) conduct sectoral studies of domestic service industries;

(H) collect comparative international information on service industries and policies of foreign governments toward services;

(I) develop policies to strengthen the export competitiveness of domestic service industries;

(J) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies; and

(K) provide statistical, analytical, and policy information to State and local governments and service industries.

(2) The Secretary of Commerce shall carry out the program under this subsection from funds otherwise made available to him which may be used for such purposes.

(c)(1) It is the policy of Congress that the President shall, as he deems appropriate—

(A) consult with State governments on issues of trade policy affecting the regulatory authority of non-Federal governments, or their procurement of goods and services; and

(B) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in subparagraph (A).

(2) Section 135 (19 U.S.C. 2155) is amended—

(A) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(B) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under paragraph (2) representatives of non-Federal governmental interests where he finds such inclusion appropriate after consultation by the Trade Representative with such representatives.";

(C) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(D) by inserting "government," before "labor" in subsection (j); and

(E) by adding at the end thereof the following new subsection:

"(m) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1)."; and

(F) by inserting "or Public" after "Private" in the heading thereof.

(3)(A) Section 104(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(B) Sections 303 (19 U.S.C. 2413) and 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(C) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

SEC. 307. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.

Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) the term 'international trade' includes—

"(A) trade in both goods and services, and

"(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.".

SEC. 308. NEGOTIATION OF AGREEMENTS CONCERNING HIGH TECHNOLOGY INDUSTRIES.

(a) The President may enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the objectives of this section and the negotiating objectives under section 104A(c) of the Trade Act of 1974.

(b)(1) Chapter 2 of title I is amended by inserting at the end thereof the following new section:

"SEC. 128. MODIFICATION AND CONTINUANCE OF TREATMENT WITH RESPECT TO DUTIES ON HIGH TECHNOLOGY PRODUCTS.

"(a) In order to carry out any agreement concluded as a result of the negotiating objectives under section 104A(c), the President may proclaim, subject to the provisions of chapter 3—

"(1) such modification, elimination, or continuance of any existing duty, duty-free, or excise treatment, or

"(2) such additional duties,

as he deems appropriate.

"(b) The President shall exercise his authority under subsection (a) only with respect to the following items listed in the Tariff Schedules of the United States (19 U.S.C. 1202):

"(1) Transistors (provided for in item 687.70, part 5, schedule 6).

"(2) Diodes and rectifiers (provided for in item 687.72, part 5, schedule 6).

"(3) Monolithic integrated circuits (provided for in item 687.74, part 5, schedule 6).

"(4) Other integrated circuits (provided for in item 687.77, part 5, schedule 6).

"(5) Other components (provided for in item 687.81, part 5, schedule 6).

"(6) Parts of semiconductors (provided for in item 687.85, part 5, schedule 6).

"(7) Parts of automatic data-processing machines and units thereof (provided for in item 676.52, part 4G, schedule 6) other than parts incorporating a cathode ray tube.

"(c) TERMINATION.—The President may exercise his authority under this section only during the 5-year period beginning on the date of the enactment of the International Trade and Investment Act.".

(2) CONFORMING AMENDMENT.—The table of contents of chapter 1 of title I is amended by adding at the end thereof the following new item:

"Sec. 128. Modification and continuance of treatment with respect to duties on high technology products.".

SEC. 309. STUDY ON HONEY IMPORTS.

(a) The Congress finds that—

(1) in 1976 the International Trade Commission found that honey imports threatened serious injury to the domestic honey industry and recommended action to control honey imports,

(2) the domestic honey industry is essential for production of many agricultural crops,

(3) a significant part of our total diet is dependent directly or indirectly on insect pollination,

(4) it is imperative that the domestic honey bee industry be maintained at a level sufficient to provide crop pollination.

(b) It is the sense of the Congress that the Secretary of Agriculture should promptly request the President to call for an International Trade Commission investigation of honey imports, under section 22 of the Agriculture Adjustment Act.

Mr. DOLE. Mr. President, I am pleased that the Senate is now turning to consideration of H.R. 3398, an omnibus bill containing miscellaneous tariff, trade, and customs matters, as approved by the committee.

The bill contains three titles. The first contains 29 permanent and temporary changes to the tariff schedules of the United States most of which the House previously approved. Title II contains 12 miscellaneous customs and trade matters. Finally, title III contains the substance of S. 144, the International Trade and Investment Act, that the Senate twice before has approved.

The many tariff items in H.R. 3398 represent for the most part product-specific tariff changes designed to improve the competitive position of various U.S. companies and industries. Many are mere continuations of duty suspensions long in effect. Others are new, reflecting changing economic conditions that are not accounted for in the tariff schedules, which establish rates modified only rarely. Indeed, the large number of tariff items in H.R. 3398 clearly points to the need for the Congress to renew the President's authority to negotiate tariff changes as the need arises, rather than await the infrequent attention the Congress gives to these matters.

Like title I's tariff amendments, title II contains a number of meritorious customs and trade matters that are not controversial. These include the border broadcasting bill, S. 1940, on which the committee has delayed action for 2 years now in the hope that the United States and Canada could reach an accommodation on the Canadian law that has in effect deprived U.S. broadcasting stations of millions of dollars in advertising revenues, by discouraging Canadian advertisers from using their broadcasts. This bill, incorporated into section 215 of H.R. 3398, represents the only time a petition alleging unfair trade practices has been brought under section 301 of the Trade Act of 1974 and pursued to the conclusion of recommending congressional action to respond to the practice. It is thus important for the Congress to approve this section in order to show its determination that section 301, like the other trade laws, must be vigorously enforced.

Title III of the bill needs little elucidation. It contains the substance of S. 144, the Danforth-Bentsen International Trade and Investment Act. The Senate twice has voted its approval of this important trade measure, but each time the House of Representatives was not ready to act upon it. The Ways and Means Committee has now approved a comparable measure, and I understand that committee has nearly reached a common position on the bill with the other House committees interested in it. I am therefore hopeful that the House will be willing to accept title III for consideration in conference, and for enactment into law. The enhanced authority that it would provide the President to enforce our trade agreements is long overdue.

In conclusion, Mr. President, let me emphasize the committee's effort to construct an omnibus package of tariff measures that represents a consensus among the private sector interests affected by them. I do not believe that any part of this package should be of serious concern to any Member; indeed, the interests of a great many Senators are represented in the bill. I thus urge my colleagues to refrain from offering controversial items that will delay the bill's consideration, so that we might complete action on H.R. 3398 and conclude a conference before the recess results in a substantial delay in the enactment of these matters which, although insignificant by themselves, are so important to numerous businesses around the country.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, this bill consists of about 40 miscellaneous tariff measures and changes in customs law. Most, if not all, of them are noncontroversial and most, if not all, of them are extremely important to Senators who have sponsored them and to their constituents.

In addition to the miscellaneous tariff bills, this bill includes the provisions of what was S. 144, the International Trade and Investment Act. That act has twice been passed by the Senate, without very much controversy at all. That act also has been the subject of numerous hearings in the Senate Committee on Finance and, in fact, has been reported out of the Committee on Finance on five different occasions. It is my hope that the Senate, in fairly short order, can pass the bill, although as Senator BAKER indicated, no final action is going to be taken on it today.

Specifically, Mr. President, today the Senate is considering H.R. 3398, a bill that contains not only the International Trade and Investment Act (formerly S. 144), but also a myriad of changes in U.S. tariffs, provisions of customs law, and other matters designed to promote U.S. trade interests.

Taken together, H.R. 3398 contains measures of interest to at least 56 Members of the U.S. Senate on both sides of the aisle. Of these Members, 44 are cosponsors of the reciprocity trade bill (title III) and, allowing for overlaps, 34 are sponsors or cosponsors of provisions contained in titles I and II of this legislation.

Mr. President, following is a list of all Members with provisions in H.R. 3398 so that it may be in the RECORD.

SENATE SPONSORS/COSPONSORS OF BILLS ON H.R. 3398 (56)

Senators Danforth, Andrews, Chafee, Cohen, D'Amato, Dole, Grassley, Heinz, Kassebaum, Kasten, Mattingly, Percy, Pressler, Roth, Simpson, Symms, Cochran, Specter, Helms, Thurmond, Domenici, Gorton, Wilson, Durenberger, Evans, Hawkins, Tower, Wallop, Bentsen, Boren, Bradley, Chiles, Cranston, DeConcini, Glenn, Hart, Hollings, Inouye, Melcher, Mitchell, Moynihan, Proxmire, Randolph, Riegle, Tsongas, Ford, Exon, Heflin, Levin, Baucus, Dodd, Pell, Johnston, Long, Matsunaga, and Dixon.

Mr. President, title III of H.R. 3398, the International Trade and Investment Act, has a long history, and I shall say more about it later. It has received Finance Committee approval on five occasions and has passed the Senate twice.

Title I of the legislation contains 28 miscellaneous tariff measures. These include at least 11 provisions which require expeditious action in that they involve tariff suspensions and reductions in force which either expired in 1983 or will expire in 1984.

Among the miscellaneous tariff provisions in title I are a number of particular concerns to industries, workers, and institutions in my State and others. They include:

Section 111, which provides for the tariff reclassification of certain laminated fabrics to prevent the circumvention of U.S. textile duties;

Section 113, which closes a loophole in the tariff schedule that has hurt domestic producers of work gloves; and

Section 129, which extends the current duty reduction on unwrought lead, and is supported by domestic producers and importers alike.

Title II of H.R. 3398 contains 12 miscellaneous changes in U.S. customs law.

I know, for example, that section 213 is of particular interest to Senators **BENTSEN** and **TOWER** as it involves U.S. imports of steel pipes and tube.

Section 212 is of interest to my State of Missouri, as it provides for the duty-free reliquidation of certain entries of scientific equipment for use of the Ellis Fischel Cancer Hospital in Columbia, Mo.

Title II also contains a provision involving the Canadian border broadcasting dispute which is of interest to a great many of my colleagues.

CANADIAN BORDER BROADCASTING

Mr. President, one of the most important provisions contained in H.R. 3398 is section 215, involving the border broadcasting dispute with Canada. This provision was introduced as S. 2051 in 1982 and S. 1940 in October 1983 and was cosponsored by Senators **MITCHELL**, **EVANS**, **BENTSEN**, **GORTON**, **MOYNIHAN**, **COHEN**, **HEINZ**, **WALLOP**, **SYMMS**, and **BAUCUS**. It is the product of two Presidential recommendations in response to a complaint filed by 14 U.S. broadcasters in 1978 pursuant to section 301 of the Trade Act of 1974.

At issue is a Canadian practice that discriminates against American border television and radio stations through the denial of a tax deduction to Canadian advertisers who wish to use their services. By one estimate, the Canadian practice is costing U.S. broadcasters $20 million annually in lost revenues.

Viewed in trade policy terms, the border broadcasting case is simple: A restrictive foreign trade practice has adversely affected the export of a U.S. service. The Canadian practice is a clear distortion of the principle of free trade. Imposition of an offseting barrier for the purpose of convincing the Canadians to eliminate their restrictive trade practice is now appropriate.

In the face of our growing balance of trade deficit, it is crucial that Congress stand behind American export interests. The communications industry is an important service industry and the service sector is becoming an increasingly important growth factor on our export ledger. Thus, it is vitally important that we reenforce one of the few legal mechanisms which U.S. service exporters can invoke to gain relief from foreign trade barriers.

The border broadcast case is the first case involving services filed under section 301 of the Trade Act to receive a Presidential recommendation for a reciprocal response. This case has, therefore, assumed symbolic importance for our service industry exporters. Moreover, failure to vigorously implement the findings in this case would threaten to undermine the credibility of section 301.

The Finance Committee, Mr. President, held full hearings on this measure in both 1982 and 1983. No committee member expressed opposition. In 1982, the witness from the Department of Treasury expressed complete support and urged prompt approval in order to send "a clear message to Canada that the United States finds the policies of the Canadian Government in this regard to be totally unacceptable." However, the 97th Congress took no action on the mirror bill in the hope that a resolution was near.

By midsummer of 1983, it was clear that the Canadians had no serious intention to negotiate a solution to the broadcasters' complaint. The administration resubmitted the mirror proposal on August 3.

The administration wants this legislation passed quickly. It enjoys bipartisan support. We must show the Canadians that the U.S. Government is serious about ending this grossly unfair trade practice. The only way is to pass the mirror bill.

The administration and the Congress have been threatening to retaliate against Canadian bill C-58 for more than 4 years. The border broadcast industry has waited long enough. The industry has used the section 301 process which Congress provided for them. They have patiently waited for us to pass this mirror legislation. Now is the time to act.

In view of the bipartisan support, the administration's recommendations, and the thorough hearings held in both Houses on the identical bill, I am pleased that today the Senate is moving to its passage.

Mr. President, I ask unanimous consent that both the administration's message on the Canadian border broadcasting case and Ambassador Brock's followup letter of October 1983 be printed in the **RECORD**.

There being no objection, the letters were ordered to be printed in the **RECORD**, as follows:

U.S. TRADE REPRESENTATIVE,
Washington, August 3, 1983.

Hon. GEORGE BUSH,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On November 17, 1981, the President recommended legislation concerning tax deductions for expenses for advertising placed with a foreign broadcast station and directed primarily at the U.S. market. The President's transmitted was as follows:

"To the Congress of the United States:

"On September 9, 1980, President Carter sent a message to the Congress concerning the Canadian tax law which denies a deduction for Canadian income tax purposes for the cost of advertising placed with a foreign broadcast undertaking and directed primarily at the Canadian market. President Carter determined that this provision within Canadian law is an unreasonable practice which burdens U.S. commerce within the meaning of section 301(a)(2)(B) of the Trade Act of 1974, as amended (19 U.S.C. 2411(a)(2)(B)). President Carter furtner determined that the Canadian practice resulted in the loss of access by U.S. broadcasters to more than $20 million in advertising revenues annually.

"President Carter, under provisions of the Trade Act of 1974, proposed legislation which would amend the Internal Revenue Code to deny a deduction, otherwise allowable under the Code, for expenses of an advertisement placed with a foreign broadcast undertaking and directed primarily to a market in the United States. This restriction would apply only if a similar deduction is denied to advertisers in the country in which such station is located for the cost of advertising directed primarily to a market in that country when placed with a U.S. broadcast undertaking. It would, therefore, be applicable with Canada.

"Section 301 of the Trade Act of 1974 requires that if the President determines that action by the United States is appropriate to respond to any act, policy or practice of a foreign country that is unjustifiable, unreasonable or discriminatory and burdens or restricts United States commerce, he shall take all appropriate and feasible action within his power to obtain the elimination of such act, policy or practice. The intent of section 301 is to resolve disputes and thereby eliminate the unjustifiable, unreasonable or discriminatory trade practices which burden or restrict United States commerce. The Canadian tax law is the subject of one such dispute. Notwithstanding a good faith effort on the part of the United States Trade Representative to resolve the dispute and have the offending practice eliminated, this dispute has not been resolved. Therefore, I am acting under the authority of section 301 to recommend legislation similar to the amendment proposed by President Carter. This amendment to the Internal Revenue code would mirror the Canadian law as it applies to broadcast undertakings, i.e., it would deny a tax deduction for expenses of advertisements placed with a foreign broadcast undertaking and directed primarily to a market in the U.S. This restriction would apply only if the laws of the country in which such foreign broadcast undertaking is located deny a similar deduction to advertisers in that country. Thus, the legislation will establish a disincentive to the transfer of U.S. advertising revenues to foreign broadcast undertakings only if the laws of the country in which such broadcast undertakings are located create a similar disincentive vis-a-vis U.S. broadcast undertakings. Thus, if Canada should repeal its law, the amendment will cease to apply to Canada. It would be effective with respect to deductions attributable to transactions entered into on or after the date of introduction of this bill.

"At this time, the mirror image legislation is an appropriate response to the Canadian practice. The intent of such legislation is not to erect new barriers to trade, but rather to encourage the Canadians to eliminate their unreasonable and restrictive practice. I recognize, however, that this amendment by itself may not cause the Canadians to resolve this dispute. Therefore, I note that I retain the right to take further action, if appropriate to obtain the elimination of the practice on my own motion under the authority of section 301(c)(1). Hopefully, this will not be necessary.

"This legislative proposal is being submitted at this time because I believe it is imperative that the Government of Canada be made to realize the importance the U.S. Government attaches to the resolution of this issue. I urge its early passage.

"Ronald Reagan.

"The White House, *November 17, 1981.*"

In the intervening time the problem has not been satisfactorily resolved. I therefore renew the President's request for the early enactment of the legislation described in the enclosed proposal.

There is no objection from the standpoint of the Administration's program to the presentation of this legislative proposal to the Congress and its enactment would be in accord with the program of the President.

Very truly yours,

William E. Brock.

U.S. Trade Representative,
Washington, October 21, 1983.

Hon. Robert Dole,
U.S. Senate, Washington, D.C.

Dear Bob: I am writing to express my appreciation for the expeditious request for comments on S. 1940, the "mirror" bill, and to urge equally expeditious passage.

The "mirror" bill was proposed by the Administration in response to the Canadian practice of denying a tax deduction for costs associated with placing advertisements with U.S. broadcasters. The Canadian practice was the subject of an investigation under Section 301 of the 1974 Trade Act which resulted in a Presidential determination that Canada's practice was an unreasonable burden on U.S. commerce. During the seven years this issue has been pending, the United States has repeatedly, but unsuccessfully, sought to negotiate a solution with Canada.

Indeed, this legislation has been before the Senate Finance Committee on two previous occasions. Each time, however, the Administration refrained from urging quick action in the hope that a compromise could be reached with Canada. Early this year, we delayed resubmission of the legislative proposal because we believed the Canadians were willing to negotiate. We tabled a compromise proposal in March; however, to date we have had no reply.

Immediate action is necessary to demonstrate both to U.S. interests and our trading partners the determination of this Administration to respond to unfair trade practices. I therefore urge you to take all necessary steps to ensure that the "mirror" proposal is enacted into law before the end of this Session of Congress.

Thank you for your consideration of this request.

Very truly yours,

William E. Brock.

Mr. DANFORTH. Mr. President, today within H.R. 3398, we are once again considering the International Trade and Investment Act, legislation introduced by Senator Bentsen and myself and cosponsored by 42 of our colleagues from both sides of the aisle. As S. 144 and as a provision of H.R. 2973, this legislation was approved by the U.S. Senate in April and June of last year, respectively.

The legislation is the product of extensive consultations within the Congress and discussions with the administration, labor, and the private sector. Although based on the original language and concepts contained in S. 2094, introduced in February 1982, the legislation contains major provisions based on bills introduced in the 97th Congress by Senators Bentsen, Roth, Chafee, Bradley, Heinz, Hart, and Inouye.

Although some of these bills employed the term and the concept of reciprocity more emphatically than others, they shared a common denominator, namely, that the United States must do more to expand its access opportunities in markets overseas. I believe the sponsors of the legislation under consideration share a conviction that the United States must seek nothing more, and nothing less, than the opportunity to compete on an equal footing in world markets. In its current form, the reciprocity trade bill was twice approved and reported out of the Finance Committee in the 97th Congress. On three occasions last year, the bill received the unanimous approval of the Committee on Finance.

The result is legislation that should serve to further the objectives we all share, namely, the maintenance and expansion of market opportunities abroad for U.S. exports of goods and services, and for foreign investment of the United States. The legislation builds on the broad concept of reciprocity of market access that is fundamental to U.S. trade policy. It strengthens enforcement of the legal rights of the United States under existing trade agreements and it sets the stage for the expansion of those international rights through the negotiation of agreements in the service and investment areas. Finally, the bill addresses itself to the problems encountered by high technology industries as a result of government intervention that distorts international trade in such high growth sectors.

Overall, the bill is designed to liberalize international trade and to curb protectionist pressures in the United States by demonstrating that we will enforce our rights under international agreements. The idea is to close the credibility gap created when we consistenly refuse to take protectionist action in spite of the widespread perception that we are the only country practicing what everyone else preaches; namely, free trade.

Specifically, the bill provides for:

First. A systematic procedure whereby the administration would identify and analyze key barriers to U.S. trade in products, services, and investment.

The required annual report to Congress would include major foreign barriers and distortions to U.S. exports of products, including agricultural commodities, services, and investment, including estimates of their impact on the U.S. economy and efforts to achieve their elimination.

It is my expectation, and that of others involved in the evolution of this bill, that these national trade estimates will be used by this and subsequent administrations to identify the most onerous barriers to U.S. trade and investment and thereby set comprehensive market enchancement priorities for U.S. trade policy.

In this regard, we would expect the administration to go beyond its current role as recipient of petitions under section 301 of the Trade Act and to make use of the provisions for self-initiated 301 cases, as well as the bill's negotiating authority to broaden the scope of existing international agreements.

Second. Section 301 of the Trade Act of 1974 would be amended to broaden its scope and to clarify and enhance Presidential authority to retaliate against foreign unfair trade practices.

In this regard, unfair trade practices for which relief is available under U.S. law would be broadened to cover performance requirements and other trade-distorting barriers to investment, as well as violations of intellectual property rights.

Foreign barriers not removed through negotiation or enforcement of the General Agreement on Tariffs and Trade (GATT) could be offset by the United States through withdrawal of prior U.S. concessions, imposition of duties and other restrictions available under present law as clarified by this legislation. Of particular interest is the clarification of the President's authority to impose fees and restrictions on foreign services or suppliers of those services. While the role of regulatory agencies is recognized with respect to trade in services, I am firmly convinced that the Congress never intended regulatory agencies to make trade policy.

Finally, where U.S. retaliatory options are not currently available to the President, he would be given new authority to propose legislation which would enjoy accelerated consideration by the Congress.

Third. Finally, the legislation provides for major negotiations to achieve international agreements that encourage fair and open trade in services, investment flows, and high technology.

Knowing that other Senators may wish to speak in some detail regarding negotiations in the services and high-technology sectors, I would like to address the investment portion of the legislation. In fact, barriers to foreign direct investment have major implications for international trade in both products and services.

In developed and developing countries alike, restrictions on foreign investment are being put into place which severely distort access opportunities. The impact on international trade has never been measured and should be of immense concern in the development of U.S. trade policy. The United States has always maintained a liberal investment policy, to the benefit of our economy as well as to those of foreign investors. The administration must be prepared to move forward with all due speed to reach bilateral and multilateral agreements with our trading partners—designed to reduce, eliminate, or prevent restrictions on the flow of investment throughout the world.

Mr. President, taken as a whole, the International Trade and Investment Act is designed to increase American exports and export-related jobs through stronger enforcement and expansion of domestic and international rules dealing with foreign unfair trade practices. It is intended to move us beyond the largely rhetorical approach that now characterizes our efforts to achieve greater market access abroad—into a straightforward mechanism for sorting through and dealing with these foreign actions.

SUPPORT AND COSPONSORSHIP

Since its introduction in January 1983, S. 144 gained the cosponsorship of almost half of the U.S. Senate. In addition to Senator Bentsen and myself, the following Senators are supporters or cosponsors of S. 144: Andrews, Bradley, Chafee, Chiles, Cochran, Cranston, D'Amato, DeConcini, Dixon, Dole, Domenici, Exon, Ford, Glenn, Gorton, Grassley, Hart, Heflin, Heinz, Helms, Hollings, Inouye, Kassebaum, Kasten, Levin, Mattingly, Melcher, Mitchell, Moynihan, Percy, Pressler, Proxmire, Randolph, Riegle, Roth, Simpson, Specter, Symms, Thurmond, Tsongas, and Wilson.

The dedication and diversity of this bipartisan coalition of Senators, alone, indicates the depth of feeling in the Congress that international trade must be conducted on a fair basis.

In addition, the International Trade and Investment Act enjoys the support of the administration and of a diverse group of business and agricultural organizations. The following companies and associations have been particularly active in support of S. 144:

Aerospace Industries Association of America.
American Council of Life Insurance.
American Electronics Association (AEA).
American Express Company.
American Farm Bureau (AFB).
American Trucking Associations (ATA).
Asia-Pacific Council of American Chambers of Commerce (APCAC).
Business Round Table.
California Almond Growers.
California-Arizona Citrus League.
Caterpillar Tractor Company.
Chamber of Commerce.
Chemical Manufacturers Association (CMA).
Cling Peach Advisory Board.
Coalition of Service Industries.
Computer and Business Equipment Manufacturers Association (CBEMA).
Data General Corporation.
DuPont Company.
Electronic Industries Association (Communications Division).
Emergency Committee for American Trade (ECAT).
FMC Corporation.
Grain Sorghum Producers' Association.
International Anti-Counterfeiting Coalition.
International Business Machines (IBM).
McGraw Hill.
Millers National Federation.
Monsanto Company.
Motion Picture Association of America.
Motorola Inc.
National Agricultural Chemical Association (NACA).
National Association of Manufacturers (NAM).
National Association of Wheat Growers.
National Cattlemen's Association (NCA).
National Corn Growers Association.
National Council of Farmer Cooperatives (NCFC).
National Federation of Independent Business (NFIB).
National Foreign Trade Council (NFTC).
The National Grange.
National Turkey Federation.
Poultry and Egg Institute.
R. J. Reynolds.
Scientific Apparatus Makers Association (SAMA).
Semiconductor Industry Association (SIA).
Sporting Goods Manufacturers Association (SGMA).
Sun-Diamond Growers of California.
Tanners' Council of America (TCA).
TRW Inc.
U.S. Council for International Business.
United Technologies Corporation.
Warner Communications Inc.

THE NEED FOR RECIPROCITY LEGISLATION

Mr. President, the International Trade and Investment Act is a sensible, timely piece of legislation that should be enacted into law.

Since the last round of multilateral trade negotiations and the passage of the Trade Agreements Act of 1979, American policy has largely consisted of reacting to a flood of imports. I do not denigrate the importance of this effort, yet, in the process, attempts to expand market access for America-produced goods have proceeded in an ad hoc manner at best.

It is time for us to embark on a comprehensive effort to assure fair treatment for American exports in foreign markets. The International Trade and Investment Act is designed to do just that.

The U.S. balance of trade in merchandise went into deficit in 1971 for the first time in more than three-quarters of a century. Last year that deficit reached close to $70 billion, including significant bilateral deficits with a number of our major trading partners. This year we can expect a merchandise trade deficit well above $100 billion.

These deficits, in and of themselves, are not so much the problem as the extent to which they result from inequitable market access between the United States and its trading partners rather than the market forces of comparative advantage and exchange rates.

Through the GATT system, the industrialized world has benefited from over 30 years of relative peace in international trade, along with the gradual reduction of traditional tariff and nontariff barriers to imports. The two fundamental principles of the GATT—the mutual extension of national and most-favored-nation treatment—remain essential elements in the GATT's formula for success.

The United States has, since the inception of the GATT, taken the leadership role in lowering international barriers to trade. Pushing and cajoling our trading partners into accepting each new liberalizing guideline, America has taken pains to employ the GATT's dispute settlement provisions. We have been in the forefront of any negotiations aimed at the reduction of tariff and nontariff barriers.

This leadership role has promoted the United States to set domestic policies relating to trade that are in conformity with GATT and to hope for similar action from our trading partners. The result is an American market with comparatively few import barriers while foreign markets are protected by a wide variety of restrictions. This has put us in a weak position to bargain for mutual concessions by other countries, for there are few American import restrictions left to "trade away" for market access abroad.

Of our major developed trading partners, Japan retains the most severe barriers to competitive American exports. Protection of the Japanese market is maintained in a variety of ways—some clearly illegal, some not. But regardless of whether these impediments are formal or informal, legal or illegal, the fact is they work. Moreover, it is clear even to the casual observer of American driving, viewing, and listening habits that Japan has ample access to our market in areas where Japanese firms are competitive.

Our largest single trading partner, Canada, continues to focus its attention on the investment and service areas for its "Canadianization" efforts. Although not traditionally considered under the general GATT framework, these barriers are not only harmful in and of themselves, but also have a significant impact on trade in goods. Investment restrictions imposed by the Foreign Investment Review Agency (FIRA), discriminatory tax practices, and similar Government policies have already begun to impede our access to their market.

Finally, the European Community gives one the impression that they are ever on the lookout for new ways of closing their markets. These efforts have been directed at Japan for some time and may well affect our exports in the future. Meanwhile, we are still groping for the means to deal with the impact of EC agricultural export subsidies on competitive U.S. exports to third market countries.

The problems we face with respect to market access abroad are equal, if not more, severe in the case of developing nations. Many of these nations continue to benefit from developed country MFN concessions in the past 30 years without being accountable in GATT for reducing their own barriers. Of particular concern are barriers to trade and investment maintained by the newly industrialized countries (NIC's) such as Mexico—not even a GATT member—and Taiwan, Korea, and Brazil, which have no desire to "graduate" from their LDC status in GATT terms. In the case of the latter three countries, market access problems are compounded by the inability of American companies to obtain, exercise and enforce intellectual property rights.

It cannot be surprising then that many believe the GATT, however essential it is, is not alone sufficient to provide the basis of truly free international trade. It has become clear that national and MFN treatment are inadequate in some circumstances to provide the benefits of the system to the United States, when our market access is so disproportionately greater than others.

Further, while the GATT may work well to combat many traditional barriers to merchandise trade, it still fails to address some of the more sophisticated impediments found in the world today.

For example, the GATT offers no guidance whatever with regard to the free flow of investment and services—an integral part of international trade in today's world. Barriers in these sectors, such as performance requirements, continue to grow abroad in the absence of any firm international guidelines.

Therefore, while the GATT may be necessary to maintain equilibrium in the international trading system, it is by no means sufficient to achieve equitable access for U.S. trade and investment.

Mr. President, the bill under consideration today is designed to set the course for American trade policy that will accomplish our market access objectives by building upon and expanding the international trading system as we know it.

To achieve this goal, the United States must be prepared to force the issue. The International Trade and Investment Act is a clear mandate for the administration to seek equitable market access abroad for competitive American products, services, and investment, backed up by a credible threat to redress restrictions on American exports through the imposition of offsetting measures.

I shall be the first to admit that this act is not a panacea for all of our economic woes. It does, however, fill a gap in our trade policy. If enacted, it will focus our Government's attention on those "generic" barriers to U.S. trade and investment that place limits on our full export potential. The bill strengthens the administration's hand without forcing it and offers an opportunity for us to move forward in the search for innovative solutions to expand markets for U.S. exports. Moreover, it not only reaffirms but also seeks to extend existing rules governing international trade.

To sum up, then, Mr. President, the International Trade and Investment Act, first, requires the administration to file annual reports with Congress setting forth a listing of significant barriers that exist to U.S. exports. It further requires that the administration attempt to quantify the effect of those barriers on international trade. It also requires the administration to report to Congress what action it is taking in order to remove those barriers to U.S. exports.

Mr. President, we have heard much about the fact that other countries do not play by the same trade rules that we play by in the United States; that our markets are far more open than the markets of other countries. What this bill does is provide a systematic review of the barriers that do exist abroad. The bill raises the visibility of those barriers so that, instead of the present situation where we all kind of know that we have a problem and occasionally the squeaky wheel is heard with respect to unfair trade pracitices against the United States, this bill provides for a systematic listing and quantitative indication of what those barriers are and greatly increased visibility within the United States of unfair trade practices that exist.

Furthermore, the bill significantly strengthens section 301 of the Trade Act of 1974. Section 301 of the Trade Act is that provision in the law which provides our Government with the ability to retaliate against unfair trade practices against U.S. exports.

Section 301 is strengthened by this bill, first, by adding two new causes of action under section 301. Violation of intellectual property rights would be added as a cause of action under section 301 and restrictions on U.S. investment which impact on trade would also be a violation under section 301. Let me describe both of those two new causes of action briefly.

The situation with respect to intellectual property rights is one which is of growing concern to American business. This is the so-called commercial counterfeiting problem. American business, using its resources know-how and its innovative ability, creates new products and those products are pirated abroad, copied, and sold on the international market. For example, my State happens to be the home of Monsanto, a major chemical company. Monsanto produces, among other products, herbicides. It has been very successful in the herbicide business. It has found that other countries have stolen its patented product, produced an identical product, and sold that product on the international market. The same thing has happened to Apple computers, the same thing has happened to cassette tapes and a host of other products.

Right now, those violations of international property rights do not necessarily provide a cause of action under section 301 of the Trade Act; under the bill now before the Senate, that would be a cause of action and those violations could be redressed.

Restrictions on U.S. investment abroad also would be a cause of action under section 301 if this bill were to become the law. There are many such restrictions on investment.

For example, Americans who want to do business abroad and sell things abroad can sometimes most easily do that by acquiring a distribution network which is already in existence, a network which understands the practices and the language in foreign countries. Some of those countries limit our ability to acquire such distribution networks. Such limitations would be, after this bill is passed, actionable under section 301. They are not actionable today.

Other countries, and there are numerous examples of this, have provided subsidies for American factories to locate in their countries; then they have provided restrictions on what the factories can do, which restrictions are injurious to American interests.

For example, Canada has provided subsidies for the location of auto plants in Canada and then put in place domestic content limitations, which means that the factories which are built in Canada are supposed to use a certain percentage of Canadian products, whereas they could otherwise use American components. The same kind of provisions have been used in, for example, Mexico and Brazil to the injury of our auto industry.

Another form of investment restriction is the provision in the laws of other countries that American investment in those countries is conditioned on the fact that the products that are produced are produced largely for export.

That really is the taking of American jobs. So where those restrictions on investments impact adversely on American interests and take American jobs, the bill now before the Senate would provide that there is a cause of action under section 301 and the United States could retaliate.

The bill further strengthens section 301 by clarifying the President's powers to retaliate against foreign services. Trade in services is the growth area in international trade, increasingly important to the United States and one of the few areas in which we are doing well. Right now, there is a question about our ability to retaliate against certain restrictions on U.S. services.

For example, the situation with respect to trucking between the United States and Canada is well known. Under the present set of circumstances, Canadian trucking companies which want to do business in the United States can apply for licenses from the ICC and get those licenses, whereas many American truckers who have tried to get licensed by Canada cannot get licenses in various Canadian provinces. That is a ridiculous situation. The result is that across the border, truck transportation is increasingly being taken over by Canadian truckers to the detriment of our trucking industry. This bill would provide the ability of our administration to deny licenses for Canadian truckers.

The bill would provide for fast-track retaliation against barriers to U.S. exports where such retaliation is not provided for in U.S. law. An example of that would be the Canadian broadcasting situation where Canada has denied deduction for tax purposes for their businesses which broadcast on U.S. radio and TV stations. In other words, a Canadian business which wants to advertise can deduct for tax purposes in Canada the cost of advertising over Canadian TV and radio stations but not the cost of advertising over U.S. TV and radio stations. We have been trying since 1980 to redress that situation. It requires a tax bill. We are now trying to handle that in this legislation specifically, but if that situation were to arise again, the President would be able to submit legislation, fast-track legislation, to the Congress which would be handled in the same manner as the Trade Agreements Act of 1979.

Mr. LEAHY. Will the Senator yield for one moment on that?

Mr. DANFORTH. Yes, I yield.

Mr. LEAHY. The Senator may know I have been extremely concerned about that issue. I have raised it at meetings of the American-Canadian Interparliamentary Group. If things work out next week so we would have the time to meet with the American-Canadian Interparliamentary Group, I will raise it yet again. We have had this issue raised before the Judiciary Committee. Senator MATHIAS was good enough to have a special hearing on this at my request. It is a major concern. What looks like a simple issue gets tied up with a lot of other issues ranging from nationalism to profit motives.

I think the longer it goes unresolved, the more some of those feelings become exacerbated, the more people will get wedged in more deeply.

I express my appreciation to the Senator from Missouri for raising that issue, for commenting on it, for showing the concern, and lending his own expertise to that issue because it is one of those which sometimes gets overlooked as you move away from the border. But, believe me, if you are a border State, it is of great concern. But I think in the long run, it is even of more concern as one of those things that exacerbates the relationships between two great nations, a relationship which should be for historical and geographic and ethnic reasons among the best of any two nations in the world.

I thank the Senator for raising the issue.

Mr. DANFORTH. I very much thank the Sentor from Vermont. The bill goes, as a matter of fact, expressly to the Canadian broadcasting situation. It also provides for much greater flexibility on the part of our Government in dealing with similar situations in the future.

Also with respect to section 301, the bill gives the U.S. Trade Representative express authority to self-initiate 301 cases. The existence of that authority is probably in the law now, but it is just not used. This bill would clarify the existence of the authority to self-initiate cases. Working in conjunction with the listing of significant barriers provided for in the law, we would have a very good mechanism in place for redressing the grievances which we have.

In addition to the reporting provisions and the strengthening of section 301, the bill also sets forth negotiating authority and a statement of congressional objectives for further negotiations on services investment and high technology trade, and specifically provides for the mutual reduction of tariffs between the United States and Japan on semiconductors.

Now, this is something which is very much sought by the U.S. semiconductor industry. The reason is that semiconductors is one area where the United States still has the upper hand. The problem is that presently the United States has a 4.2-percent tariff on most semiconductors items and Japan also has a 4.2-percent tariff on the import of semiconductors. The result of those two tariffs is that as far as trade is concerned it is a wash, but as far as the semiconductor industry and the computer industry is concerned it amounts to a tax on the semiconductor business. The semiconductor industry, which is highly supportive of this bill, estimates that the yearly cost of these tariffs to the industry is $75 million. They further estimate that of the $75 million which would be saved by this mutual tariff cut, 80 percent of it would go to research and development and 20 percent would go to reduced prices.

So, Mr. President, we talk a lot about high technology, we talk a lot about what we can do to restore our cutting edge in the United States and gain advantage in areas where we do have the know-how and where we are doing well in international trade, and we describe ourselves as Atari Democrats or high tech Republicans. This is our chance to do more than talk. This is our chance to take effective action and improve the situation of our semiconductor industry.

I conclude my opening comments, Mr. President, by simply addressing the question: How important is this bill?

In this connection, so far as I know, this bill, the successor of S. 144, the International Trade and Investment Act, is supported by every major American business group and by every major agricultural group in this country. It is also supported very strongly by the administration.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD two letters, one received from Ambassador Brock, our U.S. Trade Representative, and one received from the Secretary of Commerce, Secretary Baldrige. Both letters have gone to all Members of the Senate, and both letters state the strong support of the administration for the bill.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE U.S. TRADE REPRESENTATIVE,
Washington, D.C., February 22, 1984.

Hon. JOHN C. DANFORTH,
U.S. Senate, Washington, D.C.

DEAR JACK: I am writing to urge your full support for H.R. 3398, a legislative package of important trade measures. In particular, this bill contains the original S. 144, the Danforth-Bentsen International Trade and Investment Act, which has passed the full Senate on two previous occasions. There is strong bipartisan support for S. 144 as shown by the 43 cosponsors on both sides of the aisle.

S. 144, as included in the larger trade package, is a critical piece of trade legislation. This measure will require the Administration to seek "reciprocal" or substantially equivalent commercial opportunities in foreign markets, to take action to enforce U.S. trading rights, and to eliminate foreign unfair trading practices.

Further, this legislation would encourage growth of U.S. services trade through the negotiation of international agreements designed to protect and help promote U.S. service exporters. Currently, there are no international rules governing trade in services, and the United States, with its favorable balance of trade in this area, is especially vulnerable to foreign barriers.

Also, the bill would promote greater free flow of direct investment through internationally negotiated agreements. This is important to the United States for two reasons: such agreements will encourage more foreign investment and job creation in the United States and will enhance U.S. investment in foreign nations in such sectors as banking, insurance, and transportation. In turn, these investments can provide new bases for United States exporters in selling their goods and services abroad.

Another important aspect of this legislation is the authority to negotiate tariff reductions on certain specified semi-conductor products. These reductions have been sought by the U.S. semi-conductor industry in exchange for similiar reductions on the same products by the Government of Japan. This mutual reduction of duties on high technology products will greatly assist our telecommunications and computer companies to be more productive and competitive.

Also included in H.R. 3398 is legislation that would require the United States to "mirror image" the discriminatory Canadian practice of denying tax deductions to U.S. advertisers. This legislation was proposed by the President in response to a complaint under Section 301 of the Trade Act of 1974. This so-called "border broadcasting" issue has been a long-standing problem for the United States. This legislation would demonstrate to the Canadian government that the United States intends to take strong action against unfair trade practices and to seek reciprocal treatment.

H.R. 3398 contains provisions which will provide the necessary tools for the Administration to take action against foreign unfair trade practices, in any area or sector (including services and investment), and in whatever form they take. These are new, tougher tools, and there is a need for the U.S. government to use them.

Your vote on H.R. 3398 will be a vote on whether the United States intends to enforce its trade rights, and on whether the United States intends to create more jobs, not lose jobs to unfair foreign competition. In my view, enactment of these measures will help us immeasurably in dealing with our trading partners in negotiating trade concessions. This is the single most important piece of trade legislation that Congress will consider in 1984.

There are several provisions included in H.R. 3398 which the Administration cannot support. However, on balance the positive provisions far outweigh the few minor negatives. For this reason, the Administration urges passage of this package of important legislation without amendments that change the substance of the bill, while reserving the right to suggest alterations in some of the tariff proposals.

I urge your support for H.R. 3398, and for the principles of fair trade which this bill mandates.

Very truly yours,

William E. Brock.

The Secretary of Commerce,
Washington, D.C., February 29, 1984.
Hon. John C. Danforth,
U.S. Senate, Washington, D.C.

Dear Jack: I understand that the Senate will soon consider passage of the Miscellaneous Tariff Bill, H.R. 3398. I am writing to urge your support for passage of the bill and to underscore the importance of two sections which would allow the United States to eliminate barriers to overseas opportunities for American business and to expand its semiconductor market in Japan.

Title III of the bill, the International Trade and Investment Act, provides the Administration with important tools to pursue greater opportunities for U.S. exporters. It would be an important addition in our strategy to eliminate foreign barriers, including trade related investment restrictions, which hurt the competitive position of our industries.

U.S. investment is an important factor in stimulating demand for U.S. products overseas. Based on our most recent analysis, over 30 percent of U.S. merchandise exports involved sales to foreign affiliates of U.S. firms.

Title III correctly emphasizes the need to reduce foreign barriers rather than raise our own. Our efforts in the services and investment areas have been hampered by the lack of effective international disciplines to invoke when dealing with other countries. The negotiating mandates in both of these areas contained in Title III will provide important support to our efforts bilaterally as well as in the GATT and the OECD.

At the same time, Title III provides an important new domestic statutory tool for the President to protect our interests against unfair foreign investment practices. For the first time certain foreign trade related investment practices would be clearly identified as unfair under Section 301 of the Trade Act of 1974. Through this amendment the President would be in a position to respond effectively to these and other practices which impede the performance of our firms internationally.

I also urge you to approve the authority to negotiated tariff suspensions for semiconductors contained in Section 308(b) of H.R. 3398, as reported by the Senate Finance Committee. The measure has the clear support of the U.S. industry as well as the Administration.

For more than a year, the Administration's U.S. Japan Work Group for High Technology Industries has negotiated with the Government of Japan on ways to increase U.S. access to the Japanese market. A set of recommendations covering semiconductors was agreed to in November 1983. These recommendations establish conditions under which the U.S. semiconductor industry can compete effectively in the Japanese market. Full implementation should lead to increased purchases of U.S. products by Japanese companies.

One of the key recommendations endorsed by both governments was the mutual suspension of semiconductor tariffs. The Japanese government has already taken steps to implement such a duty suspension when the United States does. Passage of Section 308(b) will allow the United States to meet its commitment in the process.

The semiconductor industry is one of the most successful industries in the U.S. economy. Over the past decade employment in this sector has more than doubled and is expected to grow at a faster rate than the economy as a whole for the next decade. Your support for this provision is essential to the continued economic vitality of the industry.

Sincerely,

Malcolm Baldrige,
Secretary of Commerce.

Mr. DANFORTH. Mr. President, I will conclude by simply reading one paragraph from Ambassador Brock's letter to Members of the Senate.

Your vote on H.R. 3398 will be a vote on whether the United States intends to enforce its trade rights, and on whether the United States intends to create more jobs, not lose jobs to unfair foreign competition. In my view, enactment of these measures will help us immeasurably in dealing with our trading partners in negotiating trade concessions. This is the single most important piece of trade legislation that Congress will consider in 1984.

The PRESIDING OFFICER (Mr. Grassley). The Senator from Texas.

Mr. BENTSEN. Mr. President, I am very pleased to join the Senator from Missouri as original cosponsor of this bill. What it represents is a substantial amount of work he has done and, in turn, I have done, as well as the contributions by staff.

Mr. President, Ambassador Brock has described the International Trade and Investment Act as the most essential piece of trade legislation pending in this Congress. I agree with Ambassador Brock's analysis, and I am pleased to be an original cosponsor, along with Senator Danforth, of this important legislation.

H.R. 3398 serves our national interests in several ways. It provides for a series of improvements to section 301 of the Trade Act of 1974. It gives us a framework for international discussion of issues that will become increasingly important in the world of trade. There is a tendency, Mr. President, to focus our attention on America's $500 billion trade in goods. However, it is also important to remember that our trade includes 200 billion dollars' worth of services exports and imports as well as very substantial and significant investment flows.

Virtually all this nongoods trade takes place beyond the scope of any international agreement. Today many countries are moving to place restrictions on our exports of such services. At a time when our current account could be $80 billion in deficit, it is obviously important for us to be prepared to discuss nongoods trade with our trading partners. Services and investment flows will become increasingly important to our competitiveness.

I want to emphasize, however, that all authority contained in this bill to conduct international discussions of these new issues is subject to congressional approval and implementation. There are no give-aways here; no favors for anyone. There is only authority to discuss the trade issues of the future.

The section 301 and nongoods provisions of this legislation are important, Mr. President, but the real significance of this bill is that it begins the process of building a U.S. trade strategy.

A TRADE STRATEGY FOR AMERICA

For the past 35 years, the United States has taken the lead in building support for an open international trading system. The rest of the world, unfortunately, has not reciprocated. Our partners in trade have been quick to take advantage of our open markets while often managing to keep theirs closed or protected. There was a time during the immediate postwar period when the United States could afford unilateral generosity, when we could afford to use trade as a form of aid. That day, however, has long since passed.

Today major trading nations target our basic industries and subsidize their exports while we tie ourselves in legal knots. The trade that has helped generate great wealth and create a rising international tide that lifted so many boats now puts our very economic future at risk.

The concept of free trade is a powerful analytic tool, Mr. President, but it is not a self-fulfilling prophesy. We cannot attain free trade and fair trade merely by reciting the term like a catechism. During these difficult economic times moving toward free trade demands skillful macroeconomic management. Above all, it will require a coherent strategy to convince other governments that it is in their own best interest to open their markets—to grant, as well as accept trade concessions.

Obviously a coherent strategy for trade does not mean throwing the odd protectionist grenade at our trading partners whenever it suits our political needs. Certainly, we can take occasional dramatic action, such as the 1,000 percent increase in duties on imported motorcycles proclaimed in 1982. Justified as that action may have been under the circumstances, random retaliation tends to be ineffective in the long run.

If we continue to lurch from one trade problem to another—led by the tactical losers of our market rather than by the strategic interests of our economy—other countries will simply disregard the international rules, and we will be forced to do so as well. Already, 90 percent of the trade protection in the world is established outside GATT rules. The Reagan administration, which is so enamored with the rhetoric of free trade, has discovered to its chagrin that a lack of trade strategy translates into increased protection, not just in motorcycles but in steel, textiles, and other areas.

It goes without saying that an absence of strategy does little to improve our exports, balance our trade or our international payments, or put more Americans to work. Lack of a coherent, comprehensive, tough-minded trade strategy is a basic reason why we are failing the test of trade. It has become obvious to me that the Reagan administration will never come up with such a strategy unless we in Congress force the President to move trade from the bottom of his agenda.

Title III of the bill addresses this lack of strategy, Mr. President. It reaches into the musty closet of underused trade laws and shines up one of the most powerful instruments at our disposal—section 301 of the Trade Act of 1974. Put simply, section 301 currently provides that whenever the President determines that a foreign country or instrumentality is trading on a basis that is unjustifiable, unreasonable, discriminatory, or otherwise unfair, he may suspend any trade agreement obligation of the United States and impose duties or other import restrictions on imports by way of retaliation.

When the 1974 act was first enacted, other countries cried bloody murder, fearing this provision would be used to thwart their abrogations of international trade rules. Well, as I say, section 301 has become rusty from disuse. Most administrations, including the current one, have preferred to wait for an industry to complain rather than self-initiating action under law.

Mr. President, here is a New York Times article that I wish to have printed in the Record at this point, speaking of "Canada Found to Violate World Trade Rules," and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, July 14, 1983]

Canada Found To Violate World Trade Rules

(By Douglas Martin)

Ottawa, July 13.—An international panel had found that Canada, by far the largest trading partner of the United States, is violating principles of international trade by putting too many restrictions on foreign investors.

In a judgment that appears to validate sharp complaints from the Reagan Administration, a committee of the General Agreement on Tariffs and Trade ruled that Canada is wrong in requiring foreign companies to buy Canadian raw materials for their manufacturing processes.

If the ruling is ratified by other nations, it could permit the United States to take reciprocal actions against Canada such as limiting imports from Canada through tariff restrictions. The global trade agreements established after World War II normally seek to minimize obstacles to free trade.

The GATT ruling, described by Canadian experts as "complex," has been disclosed to the two Governments, but neither of them has announced it to the public. American and Canadian officals would discuss it with reporters only in broad terms.

The ruling strikes at the heart of the nationalistic economic policies of the Liberal administration of Prime Minister Pierre Elliott Trudeau. Canadian officials said they were studying the judgment but that it was premature for them to comment.

An American official called the verdict "very important for the future of the international economic system," largely because companies are penalized economically when they do not have the freedom to choose products for processing.

Last year American trade with Canada total $80.8 billion, twice the amount of trade with Japan and equal to that with all of Europe. About 70 percent of Canada's trade is with the United States, and 19 percent of American trade is with Canada.

American assets in Canada at the the end of 1981, the latest date for which figures are available, were $104.7 billion. American assets in all foreign countries total $717.4 billion.

The GATT panel's finding follows longstanding complaints from Washington that Canada's 10-year-old Foreign Investment Review Agency discriminates against United States businesses that want to invest in Canada by subjecting them to time-consuming, capricious reviews. As a result of these reviews, companies often must adhere to such conditions as buying certain volumes or proportions of Canada goods.

Canada had invited the United States to submit its complaints to GATT. The panel's report represents the first stage of this process.

Next, the two countries may work out their differences together. If they do not, the ruling will be submitted to all 89 GATT members on Oct. 3. Usually a panel's recommendation is accepted.

SECOND COMPLAINT REJECTED

If that happens, Canada would be subjected to "a lot of collective finger-pointing and moral pressure," according to one Canadian official.

And failure to comply with official GATT pronouncements can result in an offended country's being allowed to discriminate against the party judged to have discriminated against it. This has happened only once. In 1953 the Netherlands won a complaint against the United States and was allowed by GATT to limit imports of flour from the United States.

In the Canadian case, although the United States won on the domestic purchase issue, Washington's second complaint, about export requirements, failed to convince the GATT panel. Under those rules, foreign companies operating in Canada are made to export a certain amount or proportion of their production. The purpose is to dissuade companies from building smaller, less efficient facilities geared only to the relatively small Canadian market.

"It was a split decision," an American official said. As an issue of principle, however, American experts suggested that their victory overshadowed their loss. The financial consequences have not yet been calculated.

The ruling was made by three individuals from GATT member nations that are not a party to the dispute. To protect them from pressure, their names and nationalities have not been revealed.

The ruling comes at a time when American complaints about Canadian economic policies have greatly subsided, reflecting a gradual weakening of their nationalistic thrust.

From Washington's perspective, the panel's ruling simply furthers a process that had already started.

COMMENT FROM AMBASSADOR

"The Government has changed direction to some degree in a manner conducive to United States-Canadian relations." Paul Robinson, the American Ambassador to Canada, said today.

Analysts suggest that almost since the Liberal Party returned to power in Ottawa in 1980, Canada's foreign investment policies have fallen short of the nationalistic campaign oratory.

After announcing a tough new plan to "Canadianize" the oil and gas industry in 1980, largely by forcing foreign companies to sell their interests, the Canadian Government has beat a retreat on several fronts. One of the earliest changes was to remove in 1981 the same sort of "buy Canada" mandate from energy legislation that the GATT panel criticized in its report.

Some analysts suggest that these moves simply represent a Canadian awareness of changes in the world's economy. Although the United States dollar is strong, American economic dominance seems less of a threat to other nations nowadays than in the 1980's when tariff walls were higher.

Mr. BENTSEN. In 1981, however, at my request, Ambassador Bill Brock, our able Trade Representative, used the 1974 act to attack Canadian investment rules that were putting a crimp in our sales to Canada. He went to the GATT on his own motion to make the case against Canada, and the GATT ruled in favor of the United States. On February 8, 1984, Ambassador Brock announced with well-justified satisfaction that Canada has agreed to accept the GATT ruling. Now Canada is even making offers of trade with the United States to Ambassador Brock. The implications for trade strategy are obvious.

Sections 303 and 304 of this bill require the Executive annually to identify our most critical trade problems and then to develop a strategy for doing something about them.

It may be astonishing to Senators that our rambling trade bureaucracy does not already do this, but, in fact, our trade policy for the last 30 years has been to use our trade laws as passive instruments. While affirmative Federal action was always permitted under these laws, it has never been required. American businesses were expected to complain if they had a problem. Thus, much of trade policy is led by losers, and there are few incentives for a U.S. trade strategy.

But conditions in foreign trade today are vastly different than they were 30 years ago. Trade can no longer be considered a luxury or a sideline, it amounts to about 15 percent of our gross national product and affects all of us. Moreover, our most important trade problems are often in exports, not imports. Exporters seem to have fewer incentives to spend the time and money necessary to prove to the Government that they have a problem. In some cases, they are afraid of punitive retaliation by foreign governments if they complain about their exporting problems to the U.S. authorities, or they cannot get the information they need to make out a case. In many cases, they would rather just move on to some other venture. In 10 years, section 301 has only been invoked by private industry 42 times. I do not think that means we are having only occasional export problems; I think it means our Government has not focused in a comprehensive way on increasing our exports.

But can strategic actions increase exports? I know they can. I have already mentioned the case of Canadian investment policies. Most Senators are familiar with our subsidized sale of wheat to Egypt last year, which coaxed the European communities to the agricultural bargaining table in record time. These episodes show that the tools are there to improve our trade position, if only we use them strategically.

The bill provides that the Trade Representative, as chairman of our existing interagency trade organization, will make a national trade estimate each year of major trade problems and report these to Congress. The report must also contain a statement of action proposed to be taken on these major problems.

Examples of major trade problems would be Japanese protectionism, controlling the impact of European agricultural policies on U.S. exports, and developing healthy markets in developing countries. If legislative action were necessary, fast-track procedures similar to those used for the Trade Agreements Act of 1979 would be available under the bill. But I would anticipate that the President would act on his own motion, after consulting with the private sector advisory committees on trade negotiation, on many of these problems.

As a member of the Finance Committee, I would like to see the review of the annual national trade estimate be the focus for our national discussion of trade strategy. A major hearing of the estimate could be held each year. We would have concrete problems and concrete approaches before us.

Mr. President, we cannot afford much more aimless drift in our trade policy. Recently I heard that the Government of Japan has decided not to buy our communications space satellites because they have an industrial policy to build one of their own by 1990. That is a preposterous position for Japan, a country that depends on exports for its livelihood. But do we have any idea what we are going to do about that Japanese satellite decision other than rant and rave? I am afraid not. That is an example of why we need this bill.

Mr. President, I retain such time as I may have at this point.

The PRESIDING OFFICER. Does the Senator from Missouri wish to be recognized?

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2781

(Purpose: To amend the Tariff Act of 1930 regarding same condition drawbacks and same kind and quality drawbacks, and for other purposes; to amend the Internal Revenue Code of 1954 regarding the importation of certain firearms; to suspend for a 3-year period the duty on a certain chemical intermediate; to permit until December 31, 1986, the duty-free entry of magnetron tubes used in certain cooking appliances; to amend the Tariff Act of 1930 to allow drawbacks if imported bulk articles are exchanged for domestic articles that are used in the manufacture or production of exports; to make a technical print type correction; to temporarily suspend until September 30, 1988, the duty on tetra amino biphenyl; and to provide for the duty-free entry of articles required for the installation and operation of a telescope in Arizona)

Mr. DANFORTH. Mr. President, I send eight amendments to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes amendments en bloc numbered 2781.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

Redesignate section 201 of the bill as section 201(a) and insert immediately before Section 201(a) as redesignated, the following section:

SEC. 201. FUNGIBLE MERCHANDISE ENTITLED SAME CONDITION DRAWBACK.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

"(2) If merchandise which is fungible to imported merchandise on which was paid any duty, tax, or fee because of its importation, or an aggregate of such imported merchandise and fungible merchandise (either of which has been imported by a person prior to the subsequent exportation by the same person of such commercially indentical merchandise) is—

"(A) before the close of a three-year period beginning on the date of importation—

"(i) exported from the United States; or

"(ii) destroyed under Customs supervision; and

"(B) not used within the United States before such exportation or destruction;

then upon such exportation or destruction 99 per centum of the amount of each such duty, tax or fee so paid shall be refunded as drawback, notwithstanding the fact that none of the imported merchandise may actually have been exported or destroyed under customs supervision.

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of enactment of this Act.

At the appropriate place add the following:

SEC. . Section 5845(g) of the Internal Revenue Code of 1954 (26 U.S.C. 5845(g)) is amended by striking out "1898" each place it appears and inserting in lieu thereof "1909".

SEC. . Section 5852(e) of the Internal Revenue Code of 1954 (26 U.S.C. 5852(e)) is amended by striking out "or ornament" and inserting in lieu thereof "relic, or item of substantial value to collectors".

SEC. . Section 923(b) of title 18, United States Code, is amended by striking out "or relic" and inserting in lieu thereof "relic, or item of substantial value to collectors".

SEC. . Section 925(d) of title 18, United States Code, is amended by—

(1) striking out "may" the first place it appears and inserting in lieu thereof "shall";

(2) striking out "or museum piece" and inserting in lieu thereof "relic, or item of substantial value to collectors";

(3) redesignating paragraphs (3) and (4) as paragraphs (4) and (5) respectively; and

(4) inserting after subsection (2) the following:

"(3) is or has been classified by the Secretary as a curio, relic, or item of substantial value to collectors;".

At the end of subtitle C of title I of the bill, insert the following new section:

SEC. . CERTAIN CHEMICAL INTERMEDIATE

Subpart B of part I of the Appendix is amended by inserting in numerical sequence the following new item:

	(6R,7R)-7-[(R)-2-Amino-2-phenyl-acetamido]-3-methyl-8-oxo-5-thia-1-azabicyclo [4.2.0] oct-2-ene-2-charboxylic acid disolvate (provided for in item 406.42, part 1B, schedule 4)	Free	No change	On or before 12/31/86"

On page 28, after the table following line 15, insert the following new section:

SEC. 141. CERTAIN MAGNETRON TUBES.

Subpart B of part I of the Appendix is amended by inserting in numerical sequence the following new item:

"	Magnetron tubes used in cooking appliances with an operating frequency of 2.450 GHZ and a minimum power of at least 300 watts and a maximum power not greater than 2,000 watts (provided for in item 684.28, part 5, schedule 6)	Free	No change	On or before 12/31/86"

At the end of the matter proposed to be inserted add the following:

SEC. . (a) Section 313 of the Tariff Act of 1938 (19 U.S.C. 1313) is amended—

(1) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and

(2) by inserting after subsection (j) the following new subsection:

"(k) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treated as the use of such imported merchandise if no certificate of delivery is issued with respect to such imported merchandise.".

(b) The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act.

On page 19, strike out the table following line 19 and insert in lieu thereof the following new table:

"670.20	Warp knitting machines	Free		40% ad val
670.21	Other	5.9% ad val	4.7% ad val	40% ad val"

On page 28, after the table following line 15, insert the following new section:

SEC. 141. TETRA AMINO BIPHENYL.

Subpart B of Part I of the Appendix is amended by inserting in numerical sequence the following new item:

"907.32	Tetra amino biphenyl (provided for in item 404.90, subpart 1C, schedule 4)	Free	No change	On or before 9/30/88"

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

At the appropriate place, add the following new section:

"SEC. . (a) The Secretary of the Treasury is authorized and directed to admit free of duty any article which the Vice President for Research, University of Arizona, certifies as being required for the construction, installation, or operation of a sub—mm telescope in the State of Arizona which is the subject of a joint astronomical project undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for Radioastronomy of the Federal Republic of Germany.

(b) The provisions of subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption before November 1, 1993.

Mr. DANFORTH. Mr. President, I now turn to a number of noncontroversial amendments to H.R. 3398. I will briefly describe what these eight amendments contain.

Mr. President, the first amendment is an amendment of Senator DURENBERGER. It would amend the same-condition drawback provisions of the Customs laws to allow for co-mingling of imported and inventoried products. Under current law, 99 percent of duties may be refunded on imported products exported in the same condition if they are not used.

This amendment would allow substitution of co-mingled, like products for the imported product entitled to drawback.

SAME-CONDITION DRAWBACK AMENDMENT

Mr. DURENBERGER. Mr. President, my noncontroversial amendment relates to same-condition-duty drawbacks.

This bill would allow substitution under same-condition drawback law. This law allows companies to obtain reimbursement of 99 percent of duty already paid on materials previously imported if they are drawn back to be exported. The materials must be exported in the same condition or if incidental operations such as packaging, testing, or adjusting, are performed on the materials.

Substitution allows a company to comingle its inventory. This simplifies accounting and allows a variety of cost efficiencies. Allowing substitution promotes the United States as a distribution point for foreign goods and as a testing center for a variety of sophisticated products. This means more jobs for Americans.

This bill clarifies the minor questions that arose concerning H.R. 3157 which Congressman FRENZEL introduced earlier this year. This bill makes some changes to narrow the definition of what could be substituted. This bill also requires import and export of an item under drawback to be made by the same person.

I believe this amendment is an appropriate addition to the Finance Committee package of noncontroversial miscellaneous tariff bills.

Mr. DANFORTH. Mr. President, the second amendment is an amendment of Senator DOLE. It would allow imports of antique and collector item guns that are currently barred under provisions of the Internal Revenue Code and the U.S. Criminal Code.

COLLECTORS' AMENDMENT

Mr. DOLE. Mr. President, my amendment has to do with the importation and sale of firearms classified as curios and relics. It would amend sections of the Internal Revenue Code and U.S. Criminal Code on this subject that were added by the Gun Control Act of 1968. You may recall, Mr. President, that on December 18, 1982, the Senate unanimously adopted this amendment along with another amendment I sponsored as part of its consideration of the continuing resolution. I am happy to report that the amendment relating to .22 caliber rimfire ammunition not only passed the Senate but was enacted into law. However, the second amendment, which I now reoffer, was dropped by the conferees.

The rationale for the amendment is just as sound today as it was in December 1982 when it was approved by the Senate. Simply stated, the amendment authorizes the Secretary of the Treasury to allow limited importation of firearms, otherwise not importable, into this country if there is a finding

that the firearms have "substantial value" to collectors. I will not dwell on the amendment at this time, but ask unanimous consent, Mr. President, that the colloquy appearing on pages S32278, S32279, and S32280 of the daily edition of the Congressional Record for December 18, 1982, be inserted in the Record. I also ask unanimous consent to include a statement made to me by the Ohio Gun Collectors Association.

There being no objection, the material was ordered to be printed in the Record, as follows:

UP AMENDMENT NO. 1554

(Purpose: To amend the Gun Control Act of 1968 to exclude record keeping for .22 caliber rimfire ammunition)

UP AMENDMENT NO. 1555

(Purpose: To clarify the importation of curios and relics as classified by the Secretary of the Treasury)

Mr. Dole. Mr. President, I send two amendments to the desk and ask that they be considered en bloc.

The Presiding Officer. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. Dole), for himself, Mr. Symms, Mr. Heflin, Mr. Sasser, Mr. Zorinsky, Mr. Abdnor, Mr. Grassley, Mr. Hatch, and Mr. McClure, proposes unprinted amendment numbered 1554 and unprinted amendment numbered 1555.

Mr. Dole. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The Presiding Officer. Without objection, it is so ordered.

The amendments are as follows:

Insert at the appropriate place at the end of the bill:

(1) 18 U.S.C. § 922(b)(5) is amended by adding the words "except .22 caliber rimfire ammunition" after the words "or ammunition".

(2) 18 U.S.C. § 923(9) is amended by adding the words "except .22 caliber rimfire ammunition" after the words "and ammunition" the first time they appear.

Insert at the appropriate place at the end of the bill:

18 U.S.C. § 925(d) is amended—

(1) by deleting the word "may" the first time it appears and inserting in lieu thereof "shall".

(2) by inserting, following subsection (2), a new subsection as follows:

"(3) is or has been classified by the Secretary as a curio, relic, or item of substantial value to collectors."

(3) by renumbering subsections (3) and (4) as (4) and (5), respectively.

Mr. Dole. Mr. President, I rise to offer two amendments to House Joint Resolution 631, the continuing resolution.

Mr. President, I have discussed these amendments in detail with the distinguished Senator from Massachusetts (Mr. Kennedy) and both these amendments are cosponsored by the distinguished Senator from Idaho (Mr. Symms), the Senator from Alabama (Mr. Heflin), the Senator from Tennessee (Mr. Sasser), the Senator from Nebraska (Mr. Zorinsky), the Senator from South Dakota (Mr. Abdnor), the Senator from Iowa (Mr. Grassley), the Senator from Utah (Mr. Hatch), and the Senator from Idaho (Mr. McClure).

Mr. President, let me state very quickly what these amendments do. Then, Senator Kennedy wanted me to respond to a question or two.

Mr. President, the provisions of these amendments have been cosponsored by over 60 Members of this body on both sides of the aisle over the past 2 years, as they are included in S. 1030, the Federal Firearms Owners' Protection Act. Thorough hearings have been conducted by the Senate Judiciary Committee on this legislation. The Committee on the Judiciary, by an overwhelming margin of 13 to 1, reported S. 1030 to the Senate nearly 8 months ago. It is currently pending in the Senate. Since we do not wish to take the valuable time of the Senate at this late date to debate and pass S. 1030, we have agreed not to press the leadership for floor time to discuss the greater and more important provisions included in S. 1030.

In addition, a Senate appropriations subcommittee has conducted several days of hearings on these amendments. At both the Senate Judiciary Committee and Appropriations Committee hearings the Department of the Treasury testified that they had no opposition to these amendments, which they state, under current law, have little or no law enforcement value. At the same time, however, Treasury has stated these provisions have cost the Department and, in turn, the taxpayers, untold hours of expense and redtape, with no effect on the criminal element but only on the law-abiding citizen. Yet to date, it is still the law-abiding citizen who pays the piper and not the criminal.

Mr. President, we must get our priorities straight and reverse these expensive, inefficient, and ineffective law enforcement tools.

I have been informed as recently as yesterday, that the Department of the Treasury is in complete agreement with the scope and breadth of these amendments.

Unprinted Amendment No. 1554 permits the importation of curios, relics, and other items having substantial value to collectors if the Secretary of the Treasury has first classified them under the provisions of 18 U.S.C. 925(b).

The 1968 Gun Control Act broadly bans gun imports, with a few limited exceptions. The only two of relevance here are an exception for curios and relics and for arms suitable for sporting purposes. Since suitability for sport is defined by regulation in terms of modern standards—adjustable sights, special safeties, et cetera—few curios and relics can pass this latter test under the current law. The amendment would replace the current law test and substitute a more realistic and meaningful test: Does the item in question have substantial value to collectors? Therefore, the amendment would allow the importation of items such as the 1920 commercial Lugar in 7.65 caliber.

The arguments for this amendment may be summarized as follows:

First. This provision is aimed at allowing collectors to import fine works of art and other valuable weapons.

Second. This provision would allow the importation of certain military surplus firearms that are classified as curios and relics by regulations of the Secretary of the Treasury.

Third. In order for an individual or firm to import a curio or relic they must first be put on a list by petitioning the Secretary of the Treasury. The Secretary must find the firearm's primary value is that of being a collectors item.

Fourth. The only reason a person would purchase these firearms is because of its peculiar collectors status. And in fact, it must be a special firearm and classified as such in order to import.

Fifth. Treasury Department has stated that it has no objection to this amendment.

Mr. President, the second amendment would remove .22 caliber rimfire ammunition from coverage of the Gun Control Act of 1968: Currently, every box of this widely used target round must be recorded by the dealer in his books when a sale is made. Literally billions of rounds are sold annually. This amounts to a mountain of red-tape which is virtually no use to enforcement authorities. Indeed, according to Treasury Department officials not a single prosecution has been brought for violation of this requirement in the 14 years it has been on the Federal law books. No high powered ammunition such as the .223 caliber round for the M-16 military rifle or the .243 caliber round for hunting rifles is included within the scope of this amendment. Only those rounds are covered which are commonly used for plinking and similar recreational purposes. In prior years the Senate has taken similar action. I urge that it do so again.

Mr. President, I summarize the reasons for the amendment:

First. It places a tremendous burden on the dealers to keep and store these records.

Second. There has never been a case solved by use of ammunition recordkeeping information in 14 years.

Third. Number of rounds of ammunition sold per year, 3 to 10 billion.

Fourth. Dealers have to keep records on each box sold, we are talking about millions of records per year.

Fifth. Overall, no good has ever come of this provision.

Sixth. This provision has been in the Volkmer/McClure firearms bills for years. Never once has anyone objected to it in committee hearings, committee reports, or other fact-sheets.

Seventh. If this provision were not in the law, more stores in rural areas would stock .22 caliber ammunition as convenience for its customers.

Eighth. This ammunition is sold in boxes and the cartridges do not have any serial numbers—so they are virtually useless as a law enforcement tracing device.

Ninth. Treasury has testified that this provision in the 1968 Gun Control Act has no law enforcement value.

I hope there is no objection to this amendment. I am prepared to yield to the Senator from Massachusetts for any questions he may have.

Mr. Kennedy. Mr. President, I have no objection to these amendments, and I hope the Senate will adopt them.

However, I hope that next year we will be able to consider these types of amendments as part of a more comprehensive approach to gun control—to provide some reasonable deregulation of rifles, long guns, and shotguns and still maintain the protection for the American people against handguns, the so-called Saturday night specials and snubbies and also with regard to the KTW bullets.

Mr. President, in indicating my support for the amendments offered by the Senator from Kansas (Mr. Dole), I want to note that they are along the lines of the compromise amendment I offered last May during the Judiciary Committee's consideration of S. 1030, the McClure/Volkmer bill.

My amendment, and the thrust of my efforts during the committee's consideration of that bill, was to join in the effort to ease unnecessary controls and regulations on the sale and transfer of sporting weapons—rifles and long guns—but to keep and strengthen controls on handguns, which are the preferred instruments of criminals.

I am still committed to trying to work with my colleagues to reach a reasonable compromise on this issue—and I am supporting these amendments in that spirit.

I hope we can carry this spirit of cooperation forward next year. I hope we can achieve some reasonable reforms of the 1968 Gun Control Act, which will serve the legitimate interests of the sportsmen and women of our country, yet not make it easier for the criminals and psychopaths to obtain handguns which have no purpose but to kill and maime human beings.

I voted against, and I will continue to oppose, the McClure/Volkmer bill, because it drastically weakens the already weak controls our Nation has on the sale and transfer of handguns, which are the weapons involved in the majority of the violence and crime in our society.

But I share the basic goal of the sponsor of these amendments to relieve unnecessary regulatory burdens on the legitimate purchase of firearms and ammunition by law-abiding citizens.

So, while I would have preferred that we would be dealing with something that would have provided a greater decontrol, if you want to use that word, or deregulation, if you want to use that word, on the sale of long guns, yet maintain some degree of protection for the American people with regards to proliferation of handguns.

Again, I hope in the next year I will be able to work with the Senator from Kansas and others who have been, I think, very constructive and positive on this issue, to achieve these reforms. That certainly would be my hope for next year.

As the Senator from Kansas has described this legislation, it deals with guns that are curios, relics, antiques, and it also eliminates some of the regulatory burdens on the sale of certain types of ammunition.

I wish to ask my colleagues so this record will be very clear: It is my understanding that the Senator's amendment does not relate at all to KTW bullets, so-called cop killer bullets or with other destructive ammunition; is that correct?

Mr. DOLE. It does not.

Mr. KENNEDY. And I know that the Senator from Kansas has been very interested in trying to develop a responsible position on those particular items, and I gather that he is going to be willing to try and help those of us who are also concerned, as I know he is, to have a positive and responsible position. Hopefully, it will be recommended by the Judiciary Committee in the next Congress.

Mr. DOLE. Let me say to the distinguished Senator from Massachusetts, as he knows we have been trying to figure the best way to develop a sound amendment. I certainly have no intention of withdrawing from that effort. In fact I think it should be pursued. But these are two rather minor situations where we had agreement. Of course, the Senate Appropriations Committee also has oversight over BATF. That is how it came to be involved.

As the Senator said, one was in a bill he introduced and the other, as far as I know, is not objectionable.

I look forward to working with the Senator from Massachusetts late next year.

Mr. KENNEDY. I thank the Senator and I hope that we could move ahead and adopt the amendments.

Mr. PROXMIRE. Mr. President, will the Senator from Kansas yield for a question?

Mr. DOLE. I am happy to yield.

Mr. PROXMIRE. What committee has jurisdiction in the field that these amendments cover?

Mr. DOLE. The Judiciary Committee has jurisdiction over the Gun Control Act, although they were also before the Senate Appropriations Subcommittee because of oversight jurisdiction over the BATF. Hearings were also held on these amendments in the Appropriations Committee.

Mr. PROXMIRE. So there is no revenue effect.

Mr. DOLE. There is no revenue effect.

Mr. PROXMIRE. Is there an emergency?

Mr. DOLE. Mr. President, there may not be an emergency, but there could well be a revenue effect. We pick up revenues if we can pass these two amendments as far as recordkeeping is concerned and as far as work of the Treasury is concerned. At least we are advised by Treasury and they have no objection.

Mr. PROXMIRE. I wonder if there is an emergency reason, why these should go on this bill at this time during this session.

Mr. DOLE. There is no emergency, but I stood here and watched several other nonemergencies. I do not know there is any emergency to pass what the committee did.

The answer is a truthful no. But I think we could indicate a willingness of the Senate to address these two very minor items where the impact would be a savings for the taxpayer, and a savings for the very small business person. I know of no objection to the amendments.

Mr. PROXMIRE. Is there any opposition from the administration at all?

Mr. DOLE. No. Senator, I can report that they support the amendments.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (UP No. 1554 and 1555) were agreed to en bloc.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OHIO GUN COLLECTORS ASSOCIATION

As the largest association of gun collectors in the world, the 15,000 member Ohio Gun Collectors Association wishes to go on record in full support of the amendment offered by Senator Robert Dole to allow the importation of curios and relics which will remove the ban in the 1968 Gun Control Act.

For over fifteen years, gun collectors have attempted to upgrade their collections with their hands tied. With the passage of this amendment, we will have available to us more novel and rare antiques to enhance our collections.

We know that these firearms are not used in crime. It would be impossible to locate a case where a robbery or other violent crime has been committed with a $5,000 artillery model Lugar, or any other firearm on the curios and relics list. These are not crime guns—these are probably the most crime free guns known. This amendment would in no way infringe on the law enforcement efforts in this country.

Senator Dole's amendment to the Gun Control Act would simply ensure that these firearms, which are virtually never used in crime and have been singled out as deriving their value from relic status, could be imported. The Ohio Gun Collectors Association urges its swift passage.

EDWARD B. MANNING,
President.

Mr. DANFORTH. Mr. President, the third amendment is an amendment of Senator GRASSLEY that would suspend for 3 years the duty on a chemical intermediate used for manufacturing a semisynthetic antibiotic.

Mr. GRASSLEY. Mr. President, this amendment is noncontroversial, has no objection from the private sector or the administration, and would not infringe on any other U.S. manufacturer.

The purpose of this legislation is to suspend the duty for a temporary 3-year period on high technology organic chemical intermediate used in the manufacture of the semisynthetic antibiotic, in order to maintain the competitiveness of the sole U.S. manufacturer in exports of such antibiotic from the United States to Japan and other foreign markets.

The importance of those exports can be measured by the fact that the export value of 12 kilograms of the bulk antibiotic to Japan equals approximately the same import value of one small Japanese car imported into the United States.

Mr. DANFORTH. Mr. President, the fourth amendment is an amendment of Senator GRASSLEY. It would suspend for 3 years the duty on imported magnetron tubes used in microwave ovens.

Mr. GRASSLEY. Mr. President, this amendment is noncontroversial and has no objection from the private sector or the administration. The legislation merely provides for a 3-year suspension of the rate of duty on imported magnetron tubes, which are vital components of microwave cooking appliances.

It is important to note that during the last round of multilateral trade negotiations it was agreed that the rate of duty applicable to component parts of cooking appliances would be phased out by January 1, 1987. This legislation merely advances the date upon which the duty applicable to magnetron tubes will be eliminated. It is equally important to note that there is no domestic manufacturer of this highly specialized product.

Hopefully removal of this tariff burden will be beneficial to the American consumer who ultimately pay for such tariffs in the form of higher prices. It is estimated that removal of this duty would result in a saving to the industry of nearly $1 million annually.

Mr. DANFORTH. Mr. President, the fifth amendment is an amendment of Senator ROTH. It would amend the duty drawback provisions to allow tradeoffs of commingled domestic and imported merchandise without losing entitlement to drawback.

DUTY DRAWBACK

Mr. ROTH. Mr. President, this amendment relates to title II, subtitle B of H.R. 3398 concerning duty drawback. This is a noncontroversial amendment. The amendment would add a provision to the Tariff Act of 1930 allowing for tradeoffs of imported and domestic merchandise between different companies while retaining the benefit of drawback for the importer.

Currently, when an importer swaps his imported merchandise with another company for domestic merchandise of the same kind and quality, the importer loses his right to duty drawback. Swaps are sometime desirable because they save time and transportation costs and provide companies more flexibility for accounting and storage arrangements. On the other hand, the loss of duty drawback to the importer affects the price competitiveness of his exports.

Section 22.5(e) of the Customs Regulations of the United States, title 19, chapter I, allows an importer of crude petroleum to trade off his imported crude petroleum for domestic crude petroleum and still claim drawback provided no certificate of delivery is furnished to the party receiving the imported crude petroleum. This allows the importer to claim drawback on that quality which he traded off, when he exports the final product.

My amendment would provide this same drawback right to other industries that is now available only to the petroleum industry. It is a refinement of the drawback substitution rules. Now provide that drawback is retained when domestic products are substituted for imported products within a company. This amendment would extend this substitution provision to tradeoffs between different companies.

This amendment is strongly supported by the National Committee on International Trade Documentation.

TECHNICAL AMENDMENT TO SECTION 112

Mr. DANFORTH. Mr. President, it has come to my attention that on page 19 of H.R. 3398, in section 112, there is a printing error that must be corrected in order for this section to have meaning.

As printed, the bill contains a provision relating to Warp knitting machines with the proposed language crossed out. Of course, this marking indicates that the matter through which the lines are struck should be deleted. The opposite is what the committee intended when it approved section 112.

Mr. President, the seventh amendment is an amendment of Senator THURMOND. It is a temporary duty suspension on the chemical known as "TAB."

Mr. THURMOND. Mr. President, this amendment to H.R. 3398 will temporarily suspend the duty on the chemical tetra amino biphenyl. This chemical, which is commonly referred to as "TAB," is imported into the United States from West Germany. TAB is an essential raw material used for the production of a high performance fiber called "PBI."

PBI is a unique, heat-and-chemical-resistant fiber that can be used as a suitable replacement for asbestos. PBI has a wide range of thermal protective applications, such as flight suits and garments for firefighters, boiler tenders, and refinery workers.

Mr. President, toward the end of the 97th Congress, I introduced similar legislation applying duty/free treatment to TAB. However, after I offered that bill, a domestic chemical company announced intentions to produce TAB here in the United States. For that reason, a decision was made not to further pursue the duty suspension legislation at that time.

Unfortunately, after a year's investigation into the production of TAB, the American chemical company that had shown interest in this matter has decided not to produce the chemical. Therefore, there is still no domestic producer of TAB. Thus, the temporary suspension of duty on this chemical as called for in my amendment will not cause injury to any U.S. manufacturer of the product.

Mr. President, as I stated before, TAB is used in the production of the fiber PBI. There are a large number of jobs that are directly related to production of PBI, as well as additional positions resulting from the research, development, and marketing of this product. These jobs hinge on the ability of the domestic manufacturer of PBI to produce this product efficiently and at a competitive price for the available markets. Temporary removal of this import duty on this principal raw material will lower the production cost for PBI fiber and enable the domestic manufacturer to establish a competitive market for products containing PBI.

Mr. President, it is extremely important that we do everything in our power to prevent the exportation of American jobs. This is an excellent opportunity to help keep some American jobs at home.

Mr. DANFORTH. Mr. President, the eighth amendment is a DeConcini amendment. It would allow for duty-free entry of articles for the operation of the submillimeter telescope in the State of Arizona undertaken by the University of Arizona.

These amendments have all been cleared, Mr. President.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. As the ranking minority member on the subcommittee, we have checked with the Members on this side and find no objection to the amendments. This Senator has checked with the minority leader and finds no objection. We are prepared to accept the amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2781) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I have an exchange of letters between myself and former Senator Muskie. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NOVEMBER 15, 1983.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, D.C.

DEAR JACK: I am writing with regard to S. 144, the International Trade and Investment Act, introduced by you and twice passed by the Senate and now pending on the Senate calendar as a part of H.R. 3398.

According to the Committee report, this bill would amend Titles I and III of the Trade Act of 1974 by mandating new specific sector negotiating objectives with respect to trade in services, high technology products, and restrictions on foreign direct investment. It also would clarify the President's authority to retaliate with respect to any goods or any sector and gives the President authority to propose "fast track" legislation. Finally, the bill would define the term "commerce" to include foreign direct investment with implications for trade in goods and services, thereby permitting the President to retaliate against restrictions on such investment.

I have certain questions regarding the impact of these trade amendments on the business of life insurance being conducted in the United States by foreign companies. Specifically, my questions relate to this measure's impact on the investment opportunities in the United States of a foreign insurance company regulated by state authority and required by such authority to establish investment trusts for the benefit of U.S. policyholders and creditors. For illustrative purposes, I have enclosed a copy of the Michigan law which touches on this subject.

Specifically, would this measure authorize retaliation against such state regulated investments? It should be pointed out that these investments by so-called "alien" insurance companies, although initially generated by foreign concerns, actually provide a substantial safeguard to U.S. citizens and facilitate U.S. consumers in their business dealings with those companies.

I appreciate your cooperation in this matter.

Yours very truly,

EDMUND S. MUSKIE.

ALIEN LIFE INSURERS AND STATE REGULATED INVESTMENT TRUSTS FOR THE BENEFIT OF U.S. POLICYHOLDERS

State regulation of the business of life insurance has generally preempted federal authority. All alien life insurance companies seeking to do business within the United States must select a state of entry in which to register and are then subject to the same state administered regulatory processes as the domestic life companies. those requirements invariably include the establishment of an investment program held in trust which is designed exclusively to safeguard and benefit the interests of U.S. policyholders for whom the company writes insurance. Also, this investment program must demonstrate that its portfolio is sufficient to meet that particular company's full liability exposure to its U.S. policyholders.

The State of Michigan is preeminent among states encouraging entry to alien insurers an its laws regulating the industry are typical. On the issue of an investment trust for U.S. policyholders, the State law provides as follows:

"MICHIGAN COMPILED LAWS ANNOTATED

"SEC. 500.411(4) To qualify for authority to transact insurance in this state an alien insurer shall maintain deposits * * * with the state treasurer, with officers of states other than this state or with trustees resident in the United States or with any combination of such persons, under trust indentures approved by the commissioner. The insurer shall cause the persons holding the deposits to make to the insurance regulatory authority of the state through which the insurer entered to transact insurance in the United States, a report, under oath on or before March 1 of each year, of the insurer's deposits as of December 31 of the preceding year. The deposits shall be in cash or in securities of the kinds defined by section 910 to 947, shall not include any securities issued by the insurer or of a person affiliated with the insurer and shall satisfy the following conditions:

"(a) The deposits shall be not less than the amount of liabilities with respect to the insurer's business in the United States,

"(b) The deposits, if the insurer is a life insurer shall be held for the benefit of the policyholders who were residents of the United States on the date of issuance of the policy and for the benefit of creditors of the insurer within the United States;

"(c) The deposits, if the insurer is not a life insurer, shall be held for the benefit of policyholders and creditors within the United States."

Sections 910-947 of the Michigan Code define a variety of investments which, upon approval of the Michigan Insurance Commission meet the requirements of the U.S. policyholder security trust. They include:

Cash, certificates of deposit and depository receipts;

Public obligations of the U.S., state, city or foreign governments;

Federal guaranteed interest bonds;

Federal financing agency stock; equity positions in solvent institutions including mortgage loans or equipment trust certificates on rolling stock;

Investments in stocks, bonds and other evidence of corporate indebtedness of solvent companies;

Real estate loans secured by a first lien and investments in office branches and buildings and in income producing real estate.

It should be emphasized that the investments must at least equal company liability to U.S. policyholders and that state insurance commissions or bureaus must (1) approve each investment and (2) audit the investment portfolios on a yearly basis.

U.S. SENATE,
Washington, D.C., November 15, 1983.

Hon. EDMUND S. MUSKIE,
Chadbourne, Parke, Whiteside & Wolff,
Washington, D.C.

DEAR ED: Thank you for your letter of November 15, regarding the impact of the International Trade and Investment Act on investment trusts created by foreign insurance companies to comply with state law.

Your question is: If, under state law, the foreign insurance company must establish an investment trust for the benefit of its U.S. policyholders and creditors, would this measure permit retaliation against these forms of investment?

In answer, I would say that this legislative proposal would define the term "commerce" to include foreign direct investment with implications for trade in both goods and services and thereby would permit the President to retaliate against restrictions on such investment. However, when retaliation pursuant to this measure is aimed at investments in the U.S. by foreign interests, the President or the USTR must first seek legislative authority. That, as you know, has always been the case under the Trade Act. Under this bill, the "fast track" procedure would be available to achieve any new legislative authorities requested. What is clear is that unless specifically approved by Congress in subsequent and separate legislation, investments required by state insurance authority for the benefit of U.S. policyholders and creditors will continue beyond the reach of Trade Act retaliatory authorities, even after enactment of the pending proposal. Finally, I would refer you also to the requirements of this measure regarding consultation between the USTR and state and local authorities.

I trust this serves to clarify for you the impact of these proposed amendments to the Trade Act of 1974.

Sincerely,

JOHN C. DANFORTH.

Mr. DANFORTH. Mr. President, as far as I know, that is all of the amendments which have been cleared on both sides. I think we have pretty well completed the business that we can do on this bill today. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered.

Mr. BAKER. Mr. President, as I indicated earlier today, after the preliminaries on the reciprocity bill were taken care of, it was the intention of the leadership to place that matter back on the calendar. There are a few other things we can do.

I ask unanimous consent that the reciprocity bill be returned to the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE HIGHWAY CONSTRUCTION

Mr. BAKER. Mr. President, there is another matter that is cleared for action. The minority leader has indicated his clearance to go forward with it at this time.

Mr. BENTSEN. I have discussed this with the minority leader, and he advised me to go ahead and to state that he has done so.

Mr. BAKER. I thank the Senator from Texas.

Therefore, Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calandar No. 687, H.R. 4957.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4957) to apportion certain funds for construction of the National System of Interstate and Defense Highways for fiscal year 1985 and to increase the amount authorized to be expended for emergency relief under title 23, United States Code, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I am told that this matter is cleared, but just for the sake of having something available, I inquire of the two managers if they would be willing to consider a unanimous consent agreement that would provide for a total time of 5 minutes for debate on this matter, and that no amendments would be in order.

Mr. STAFFORD. That would be agreeable to the majority.

Mr. BENTSEN. I will take the liberty of speaking for the minority leader, and the answer to that is "Yes."

Mr. BAKER. I thank the Senator from Texas.

Mr. President, I make that request, with the addition that time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, for several months the leadership of the Committee on Environment and Public Works has been working to pass a highway bill which would: One, provide an additional $150 million in emergency relief authorizations; and two, approve both the interstate cost estimate (ICE) and the interstate substitute cost estimate (ISCE) for 2 years, thereby allowing the release of $5.4 billion in funding to the States in fiscal 1984. The bill before us today, H.R. 4957, approves the ICE and ISCE for a 6-month period and provides the additional emergency relief funds.

As all my colleagues will recall, major transportation legislation was passed at the end of the 97th Congress. An enormous effort went into winning passage of the Surface Transportation Assistance Act of 1982 (STAA). However, it was well worth it as we realized that States would now be assured of the increased and long-term funding so essential if we were to begin to address the serious infrastructure problems on our Nation's roads and bridges.

Some months before passage of the STAA, Wilfred Owen of the Brookings Institution commented:

> . . . We need . . . to view transportation much more in terms of our national goals.
>
> . . . We should assure that transportation funding will help agriculture and industry and the new service industries to gain a better foothold in the world market. After all, the economic system that gave us the prosperity that we have enjoyed in this century was derived largely from our mobility.
>
> The fact that we worry about how we are going to maintain the Interstate System seems incongruous. We are the richest country in the world. [Do we] not have the wisdom to increase the fuel tax to maintain 40,000 miles of key transportation facilities. . . .

Fortunately, with the STAA and the nickel-a-gallon tax increase, funding for the Federal-aid highway program became available at last. We were finally able to begin to meet the critical rehabilitation and construction needs on our highway system. It was heartening to see the Federal Highway Administration move quickly in apportioning funds to the States and in implementing the new provisions of the STAA. It was also gratifying to see the States' response in successfully obligating those funds. In fiscal year 1982, the obligation rate for the highway program was $8 billion, but by 1983, virtually every dollar made available under the STAA—$13.2 billion—had been put to work by the States.

Unfortunately, beginning in fiscal year 1984, this momentum has been lost. The interstate construction, interstate transfer, and minimum allocation funds and should have been available to the States beginning October 1, 1983, have not been released, because Congress has yet to approve the two interstate estimates. The president of the American Association of State Highway and Transportation Officials, Bill Ordway of Arizona, testified recently before the Transportation Subcommittee on the gravity of the situation:

> The lack of an approved ICE-ISCE thus far in FY 1984 has already delayed some 170 highway projects nationwide, involving about $787 million that should have been at work providing safer roads, supporting business recovery and creating jobs. If the delay in approving an ICE-ISCE continues to March 1, some 475 projects will have been delayed, with a value of $1.24 billion.

Mr. President, I am disappointed that the legislation before us today provides only a 6-month ICE-ISCE approval. I can testify that members of this committee, particularly the Transportation Subcommittee chairman, Senator SYMMS, as well as Senator RANDOLPH and Senator BENTSEN, have made every effort to secure a 2-year approval so that the worrisome delays in funding and disruptions to the highway program, such as we are now facing, could be avoided. We tried with H.R. 3103. We tried again with Senate Joint Resolution 195. We tried everything conceivable, but the stalemate continued month after month.

It has become apparent in repeated discussions with our colleagues in the House and the Senate that, for now, a 6-month approval of the interstate estimates is the best we can do. I wish to assure my fellow Senators, however, that the Environment and Public Works Committee will immediately begin work on new highway legislation which will include approval of the remaining 18 months' worth of additional funding. We do not want to see a repeat of the ICE-ISCE problem.

This past Wednesday the House passed H.R. 4957. That legislation is before us today. It is an interim effort, a compromise, and it is urgently needed. I would like to urge my colleagues to pass this bill as is, because I sincerely believe that it represents our last hope at resolving a very difficult and increasingly critical problem.

The bill contains, as I have stated, a 6-month approval of the ICE and ISCE and $150 million for disaster relief. In addition, H.R. 4957 removes the $30 million per disaster cap and makes projects in the vicinity of Carencro, La., and in San Mateo County, Calif., eligible for ER funding. It clarifies the eligibility of an Illinois bridge for bridge funds. It provides for additional program flexibility for the State of Maryland, at no additional cost, and allows States further flexibility on section 139 (a) and (b) routes. Last of all, it excludes cement from existing Buy America requirements.

I want to commend Senator SYMMS, the Transportation Subcommittee chairman, for his determined efforts to resolve this long-standing impasse. I wish to thank as well the distinguished ranking minority member of the subcommittee, Senator BENTSEN, and the beloved former chairman and ranking minority member, Senator RANDOLPH.

Mr. President, I urge that we act now so that this critically needed highway funding can be released to the States without any further delay.

Mr. SYMMS. Mr. President, let me first deeply thank the distinguished chairman of the committee, Senator STAFFORD, for his relentless efforts to resolve the conflicts involved in passing the ICE-ISCE and emergency relief bill. Further, I appreciate the leadership of both Senator BENTSEN and Senator RANDOLPH. Let me also say that I can understand the concerns and desires of the Senator from Massachusetts as they relate to this bill. I recognize the Boston area has major traffic problems which need to be addressed.

Nevertheless, as chairman of the Transportation Subcommittee, I must respectfully disagree with some of the remarks concerning the eligibility of the depression of the central artery. I do not believe Congress passed the 1981 interstate cost estimate and included funds for the depression of the central portion of the central artery in Boston. The 1981 cost estimate, as submitted to the Department of Transportation by the Commonwealth of Massachusetts, indicated that $389 million was available for the central artery. However, the depression of the central artery was not decided. And I do not believe this issue should be decided in H.R. 4957. This issue remains to be resolved by Congress or the courts.

Mr. BOSCHWITZ. Mr. President, today the Senate is finally able to pass the interstate cost estimate legislation that has been held up for over 6 months.

By passing this legislation, $5.5 billion of withheld Federal aid to highway funds are released to the States, allowing them to begin the bidding process necessary for this summer's construction work. My State of Minnesota will receive $76 million, equating to over 3,000 jobs. And the rest of the Nation's crumbling bridges and highways will once again be attended to.

Unfortunately, due to continued squabbling about particular highway projects, this ICE is only a 6-month ICE, taking us only to April 1, 1984. This, of course, means we could once again be facing delayed or canceled highway projects—only 1 month from today.

However, I am very pleased that we were able to "thaw the ICE" and get the moneys back to the States where it belongs. And I am also pleased to see that the threat posed by Senator SYMMS and my legislation seemed to have hit the mark. Our bill, S. 2355, called for the elimination of the nickel increase in the gas tax, and the increases in the heavy vehicle use tax—unless the ICE deadlock was broken. Well, we have half-solved the problem. And I hope the continued threat of our legislation will keep the key players' feet to the fire, so we can have the April to October ICE.

Credit must also certainly go to the Good Roads folks, Minnesota Good Roads was out here in Washington this week on their annual fly-in, but they were joined by many of their counterparts from the rest of the country. Their grassroots work deserves much praise.

Mr. President, many people concerned with the rebuilding of this Nation's highway network are heaving a collective sigh of relief at the passage of this bill. I feel the same way. But we cannot let up now; we must move rapidly to pass the second 6-month ICE and not let our States get caught short of funds again. I urge my colleagues to keep the pressure on in order to avoid a repeat performance.

Mr. WARNER. Mr. President, I had intended to offer an amendment to this legislation that would authorize the extension of tolls on the Richmond-Petersburg Turnpike in Virginia. This amendment has already passed both Houses and would have no fiscal impact on the Treasury of the United States. It is, however, extremely important to my constituents that this provision be passed quickly as possible.

The distinguished manager of this legislation, the Senator from Vermont, and I have discussed this matter on several occasions last year, and most recently this afternoon.

I can appreciate the advice the Senator is providing me and other Senators with amendments. We all want to see the interstate cost estimate passed and the bill will only be acceptable by the House without Senate amendments. Virginia's interests in this legislation exceed $70 million. Therefore, I will not introduce my amendment at this time. I am hopeful, however, that this matter can be taken care of at the earliest possible opportunity.

Mr. STAFFORD. I thank the Senator from Virginia for his understanding of this situation. I have seen his amendment and I will assure him that I intend to offer other highway legislation during this session of Congress and that his amendment will be a part of that legislation and have my support.

Mr. WARNER. I thank the Senator. Based on those assurances, I will not offer my amendment at this time, and I look forward to working with the chairman on this matter so important to the Commonwealth of Virginia.

Mr. CHAFEE. Mr. President, as the author of the original Senate version of section 11 of H.R. 3103, I wish to discuss the effect of the revised language which is presently before the Senate as section 10 of H.R. 4957. My colleagues will recall that when I last addressed this matter during consideration of this bill on October 25, 1983, I pointed out that the language reflected a unanimous vote of the Committee on Environment and Public Works. My colleagues agreed that the language endorsed by the committee was consistent with the Senate's understanding of the conference agreement reached with the House during consideration of the Surface Transportation Assistance Act of 1982.

Essentially, the understanding of the Senate in 1982 was that insofar as highway projects were concerned, the reach of the Buy America provision continued to extend only to steel. Indeed, prior to the congressional action of 1982, the Federal regulations which implemented the law consistently reflected the congressional intent that with the exception of steel, all products used in highway projects were deemed exempt from the coverage.

As a result of the December 1982 congressional action, however, the Federal Highway Administration issued a final rule that noted "section 165 of the STAA of 1982 reinforced congressional intent that Buy America should be applied to steel products. Section 165, however, also specifically cites cement products as covered for the first time." Other than these two products, the FHWA determined that Congress did not specifically direct a change in policy.

In October of last year, the Senate agreed by a vote of 55 to 35 to support the committee-approved "Buy America" language in H.R. 3103.

Since then, there has been extended discussion with the House in an effort to resolve the Buy America issue. The present language reflects a renewed understanding on the part of both bodies of the scope of coverage of the law. The revised language specifically removes cement from the products that are covered by the Buy America provision of the STAA of 1982. Additionally, the section would preclude States from including cement in State-imposed Buy America restrictions or otherwise adopting requirements that would be in conflict with the exceptions specified in section 165(b) of the STAA of 1982. Do my colleagues agree?

Mr. STAFFORD. The Senator is correct, and I thank the Senator for his efforts to restore the law to the original agreement as understood by the Senate conferees.

Mr. RANDOLPH. The Senator has correctly stated the effect of section 10 of H.R. 4957.

Mr. SYMMS. The Senator is correct that this provision removes cement from the Buy America requirements of the Surface Transportation Assistance Act of 1982.

Mr. MOYNIHAN. The Senator's explanation is correct.

Mr. CHAFEE. We are now entering the most active period of the highway construction season. It is extremely important for the Department of Transportation to move quickly to issue regulations which take into account the change in the Buy America provision embodied in this legislation, namely, the removal of cement from the Buy America requirements. Do my colleagues agree?

Mr. STAFFORD. I share the Senator's view that the Department of Transportation should act quickly to insure that its rulemaking reflects the adjustment we are approving today by exempting cement from the "Buy America" requirements.

Mr. SYMMS. I believe the Senator has raised an excellent point, and I certainly hope that the Department will move expeditiously to amend its "Buy America" regulation.

Mr. CHAFEE. The 1978 "Buy America" statute included an exemption from domestic content requirements for Federal highway projects costing less than $500,000. When the provision was amended in 1982, it was the understanding of Senate conferees that the $500,000 project threshold would be maintained. However, the law as passed does not include the provision. In October 1983, the Senate agreed to language in an amendment to H.R. 3103 which restores this threshold provision.

In order for the Surface Transportation Assistance Act of 1982 to conform more fully to the Senate conferees' understanding of the 1982 conference agreement and to the correction approved in H.R. 3103, the $500,000 project threshold should be reinstated. This provision can help to reduce administrative burdens and eliminate delays in carrying out important highway and transit projects and is particulary significant to small project grantees which traditionally make small purchases.

At the earliest opportunity, it is my intention to offer legislation to further amend the STAA of 1982 to reinstate the threshold provision to exempt small projects from the "Buy America" requirements. Do my colleagues agree that this adjustment is advisable?

Mr. STAFFORD. The Senator is correct, and I look forward to joining him in an effort to restore the threshold provision. It was the understanding of the Senate that the conference agreement to the Surface Transportation Assistance Act of 1982 retained this provision, which can help to facilitate procurements and reduce delays in undertaking important highway and transit projects.

Mr. RANDOLPH. I share the Senator's view that the Surface Transportation Assistance Act of 1982 does not reflect the understanding of conferees with respect to the threshold provision. A primary purpose of this legislation was to assist the States in pressing forward with highway and transit projects. Since an exemption from the "Buy America" requirements for small project grantees could assist States in accomplishing their transportation objectives, I believe this issue warrants additional attention by the Congress.

Mr. SYMMS. I totally support the efforts of Senator CHAFEE in his attempts to correct the language contained in the Surface Transportation Assistance Act regarding the "Buy America" provisions.

Mr. CHAFEE. I thank my colleagues.

Mr. TSONGAS. Mr. President, I would like to take this opportunity to engage in a discussion with my colleagues on the Environment and Public Works Committee to clarify an important issue related to the pending interstate cost estimate for the National System of Interstate and Defense Highways for fiscal year 1985.

Mr. President, I would like to ask the distinguished chairman if funds are included in the table we are approving for the depression and widening of the Central Artery (I-93) in Boston.

Mr. STAFFORD. Mr. President, would the Senator yield? I would like to respond to the Senator's question and say that we are adopting the figures in the 1981 interstate cost estimate which assumed a cost of $389 million for the depression of the central portion of the Central Artery. The 1981 cost estimate, as submitted to the Department of Transportation by the Commonwealth of Massachusetts and as approved by Congress indicated that funds were in the cost estimate for this concept. We are approving $389 million for the central portion of the Central Artery in the cost estimate. I would also say to the Senator that if necessary, I will do everything I can to remove any doubt about the eligibility of this project concept in the next highway bill which the committee intends to bring up in the next few weeks.

Mr. TSONGAS. Mr. President, in a letter to Massachusetts transportation officials, dated February 14, 1984, FHWA Administrator Ray Barnhart indicated that alternative design proposals—specifically the widening and depression of the Central Artery—are not and never have been eligible for Federal interstate funding. Based on your earlier response, could the chairman comment on this development.

Mr. STAFFORD. Mr. President, I understand the Senator's concerns and I would like to say to my distinguished colleague that when the Environmental Impact Statement is approved for the depression concept of the Central Artery project I will work with you and the Federal Highway Administration to allow the State to go forward with preliminary engineering and design work.

Mr. RANDOLPH. Mr. President, I would like to state my agreement with the chairman on this matter and confirm my intentions to support efforts to clarify this issue in the next bill.

Mr. BENTSEN. Mr. President, I would also like to state my agreement with the chairman on this matter and confirm my intentions to support efforts to clarify this issue in the next bill.

Mr. TSONGAS. Mr. President, I appreciate having these assurances from the distinguished Senators and I thank them for their attention and support.

Mr. GRASSLEY. Mr. President, I thank the members of the House and Senate Public Works Committees for resolving the impasse and allowing passage of the ICE-ISCE, which will allow the continued construction of our Interstate Highway System.

Nationwide, this bill will allow hundreds of highway projects throughout the Nation, worth over $4.8 billion to get underway and helps create jobs for more than 300,000 workers. In Iowa this bill will preserve approximately 3,000 jobs and insures the continued flow of funds to I-380, a vital link to Waterloo, one of Iowa's larger communities and will allow many other projects in Iowa to continue. Iowa has only a 5-month construction period. A further hold up would have caused a 5 percent increase in the cost of several projects amounting to an additional $2.5 million. Even though this bill allows for only a 6-month extension until October of this year, it does allow this year's highway construction to continue. It is my hope that both Houses of Congress will work together to avoid any further delays of ICE-ISCE in the upcoming congressional deliberations. I hope Members of Congress will refrain from insisting on special projects on this legislation and instead focus these efforts on regular authorizing or appropriating legislation.

Mr. SYMMS. Mr. President, earlier this week I introduced legislation to repeal the revenue provisions of the Surface Transportation Assistance Act of 1982 (STAA). As one of the strongest supporters of the STAA, I found that a difficult step to take. However, for almost a year now, highway users have paid an additional nickel-a-gallon in fuel taxes. Instead of those revenues being put to work rehabilitating and constructing our highway system, they have been accumulating unused in the highway trust fund.

My bill to reduce highway taxes represents both my firm belief that taxpayers are entitled to recieve the services for which they pay and my very deep distress at the Congress' inability to approve the interstate cost estimate (ICE) and the interstate substitute cost estimate (ISCE). The delay in making these basic approvals has tied up over $4 billion in interstate construction funds, close to $1 billion in interstate transfer funds, and all of the 85 percent minimum allocation money. It is ironic that that $5 billion sum equals nearly all the fiscal year 1984 money that Congress authorized for the Federal-aid highway program under the STAA.

Earlier this week Deputy Secretary of Transportation Burnley and Federal Highway Administrator Barnhart appeared before the Transportation Subcommittee. The good news, according to DOT, is that 72 percent of the Department's budget in fiscal year 1985 will be financed by user fees. The Federal-aid highway program has long been a model of user-fee financing, and the STAA represents a substantial contribution in keeping with that tradition.

The bad news, however—and it is becoming increasingly worse news for the States and for our Nation's highway system—is the failure to win the ICE-ISCE approval. The Highway Users Federation has described the problem extremely well:

> * * * Today, because of failure to approve an Interstate Cost Estimate, contracting for new Interstate construction may not proceed in 32 states. The only money now available for new contracting is $1.03 billion in leftover prior year authorizations. These funds are concentrated in a few states, leaving insufficient money in other states to begin any new programs.
>
> The long-term federal highway program has been sidetracked. . . . By this time, the states should have obligated over $4.2 billion. Actual obligations at the end of January totaled $2.8 billion.
>
> It is hard for highway users to understand how we can have had a nickel-a-gallon tax increase and end up with a smaller program. Revenues from increased user fees the motoring public began paying last April continue to pile up in the Federal Highway Trust Fund. Contracts for work to upgrade the safety and efficiency of the highway plant are not being let. The promise of STAA '82 is no longer being fulfilled.

The bill before us today—H.R. 4957—contains a 6-month ICE-ISCE approval. Members of the Environment and Public Works Committee have labored since last summer to pass a 2-year approval. The highway program works most effectively when States have the ability to do steady, long-range project planning. However, because of the difficulty in reaching agreement on a number of issues, it appears that a 6-month approval—or release of 50 percent of the money—is the maximum that we can achieve at this time. I offer my assurance that the Transportation Subcommittee will continue to work on a new highway bill containing at least an 18-month approval of the ICE-ISCE.

We have reached the point where the remaining costs of completing the Interstate System are pretty well fixed. I believe the time has come to enable the Federal Highway Administration to release the interstate funds each year administratively after making the necessary adjustments to the ICE. If Congress wishes to make any changes, it can do so at any time. While those decisions are made, however, States should be able to continue on with their programs without the kind of severe disruptions they are experiencing now.

I am also disappointed that this bill does not contain language for a Federal-State match on emergency relief funding, as previously passed in the Senate version of H.R. 3103. I will push for this provision in the next highway bill. Further, I know there are many other Senators with highway concerns which the subcommittee will attempt to address in our next bill.

During a speech in October of last year, I mentioned my fears concerning the future of the highway trust fund. Those fears come closer to reality every day. Currently, there exist 5.5 billion taxpayer dollars in the U.S. Treasury designated for the highway-aid program which have not been allocated to the States. If we in the Congress levy a burden on highway users based upon the promise that funds so raised will be spent in a timely manner in maintaining and repairing our roads and highways, then the funds should be so spent according to the approved method. Today, we run the risk of turning the highway program into a variety of pork barrel projects with no sound policy or program for allocating Federal aid funds. Special Federal funding becomes based strictly on the ability of politically powerful Members being able to ram big ticket projects in their State or congressional district through Congress at the expense, not only of other Members, but our national highway program. Even though H.R. 4957 is far from what the Senate or I would like, I believe it is an acceptable, temporary response to a national highway crisis.

Finally, Mr. President, I would like to thank the chairman of the Environment and Public Works Committee, Senator Stafford, for his untiring efforts on behalf of an ICE-ISCE approval, and also to thank the distinguished ranking minority member of the committee, Senator Randolph. I would like to express my thanks to my colleague on the Transportation Subcommittee, Senator Bentsen, for his continuing support and assistance as we have tried to proceed with this important legislation.

Mr. STAFFORD. Mr. President, I yield to my distinguished colleague from Texas, Senator Bentsen.

Mr. BENTSEN. Mr. President, I thank the distinguished chairman. I congratulate him on the job he has done in negotiating what I think is a good compromise.

Mr. President, the passage of this legislation, which approves the release of one-half of the sums authorized to be appropriated for this year's interstate cost estimate, will be enthusiastically welcomed by all Americans who benefit in any way from our Interstate Highway System.

This bill is the culmination of countless hours of negotiation and discussion as Members of Congress attempted to reach an agreement on what items should be included in the bill. Although this process is not uncommon for any legislation considered by Congress, the level of frustration and concern was heightened by the fact that billions of dollars were being withheld from our highway system which had an effect on every State in the Nation.

Although the bill is not perfect and another bill will be required this year to address some key issues, such as approval of the interstate cost estimate for an additional 18 months, I am pleased that it gets some money to the States immediately.

One of the concerns in getting this legislation accepted related to the apparent inability of the Federal Highway Department to release one-half of the minimum allocation which guarantees that States which contribute more to the highway trust fund in gas tax receipts than they receive in apportionment get at least 85 percent of its relative contribution.

I take this opportunity, Mr. President, to express my thanks to the Secretary of Transportation, Elizabeth Dole, and Ray Barnhart, Federal Highway Administrator, for working with me to find a way to make this possible. I urge my colleagues to join me in quickly passing this bill.

MINIMUM ALLOCATION

Mr. President, will the distinguished chairman of the Environment and Public Works Committee yield for a question?

Mr. STAFFORD. Yes; I yield to the Senator from Texas, the ranking member of the Subcommittee on Transportation.

Mr. BENTSEN. During consideration of the Surface Transportation Assistance Act of 1982, I offered an amendment to guarantee that States which contribute more to the highway trust fund in gas tax receipts than they receive in apportionments get at least 85 percent of its relative contribution. This provision was included in the final version of the STAA as the minimum allocation, a permanent section of the law.

The moneys authorized to fund this guarantee are determined by the amount apportioned to each State under the major categories of the Federal-aid highway program. Since the Congress by adopting this 6-month interstate cost estimate will not be releasing all funds for apportionment, there has been some confusion regarding the release of minimum allocation funds. Passage of this 6-month interstate funding bill does absolutely nothing to alter the minimum allocation section of the STAA; it continues to be a permanent section of the law. However, there is some question about the full allocation of the minimum funds.

I requested a clear indication from the Department of Transportation on this matter. I have now received a response from Secretary Dole which I ask unanimous consent to have printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Secretary of Transportation,
Washington, D.C., March 1, 1984.

Hon. Lloyd Bentsen,
U.S. Senate, Washington, D.C.

Dear Lloyd: In connection with the possible approval of a six-month Interstate Cost Estimate (ICE), I have asked my General Counsel to consider whether the Department would have the authority to allocate the minimum allocation of 85 percent pursuant to the Surface Transportation Assistance Act of 1982.

I have been advised that, upon approval of the six-month ICE, the Department would have the authority to make available one half of the 85 percent minimum allocations. Such availability, however, would be conditioned upon the possible recomputation of overall entitlement based upon subsequent congressional approval of an ICE for the second six months. If, after computing a State's entitlement under the first and second ICE's, the State has received more than its proper entitlement, the State would be required to offset that amount from the appropriate Federal-aid account.

I hope that this information is helpful.

Sincerely,

Elizabeth Hanford Dole.

Mr. BENTSEN. Mr. President, this letter clearly states that the Department of Transportation has determined that it has the authority to allocate one-half of the 85-percent minimum allocation upon approval of the 6-month ICE. Secretary Dole also raises the point that availability of these funds would be conditioned on possible recomputation of the overall entitlement based on subsequent congressional approval of the second 6-month ICE. This is understandable and will need to be considered then.

Is this representation of the Department's authority consistent with the Senator's understanding of the law?

Mr. STAFFORD. The Senator has correctly stated the situation with respect to this important category of funding. By passage of this 6-month interstate funding bill absolutely nothing is done to alter the guarantee provision. However, a full allocation of the minimum funds is not possible.

The Federal Highway Administrator can and should release one-half of the funds under the minimum allocation. The Administrator can compare the funds apportioned on October 1, 1983, and those apportioned based on the action on this bill and release one-half of the funds available to the minimum allocation States.

Action on the bill which will be coming later will be necessary to release the remaining funds for this category and guarantee each participating State its 85 percent guaranteed return.

Mr. BENTSEN. Mr. President, I thank the floor manager for his statement and his commitment with respect to the minimum allocation.

Mr. RANDOLPH. Mr. President, I concur with Chairman STAFFORD's views on release of the funds for minimum allocation. This is indeed an important provision and those States entitled to such funding should receive at least one-half of the year's allocation based on our action today.

Mr. SYMMS. Mr. President, I concur fully with the statements of the chairman and ranking minority member of the Environment and Public Works Committee. I worked with the Senator from Texas on enactment of minimum allocation and assure him of my continued support and interest.

Mr. PROXMIRE. Mr. President, I would inquire of the manager if the committee intends to place the funds for minimum allocation outside of the obligation ceiling for the highway program for fiscal year 1985.

Mr. BENTSEN. Mr. President, this is an important question. I would emphasize that the amendment I authored in the STAA of 1982 clearly places the minimum allocation funds outside of the obligation ceiling. I am equally concerned about this matter.

Mr. STAFFORD. Mr. President, I assure the Senator from Wisconsin and the Senator from Texas that the committee in adopting the 1982 STAA placed the minimum allocation funds outside of the obligation ceiling through all fiscal years through 1986, and it is our intention to recommend and we will do so in our report to the Budget Committee, that fiscal year 1985 funding for the minimum allocation not be within the obligation ceiling allocated among the States.

Mr. President, at my direction the Federal Highway Administration has prepared a table of 50 percent of the allocation for the 85-percent minimum guarantee. I ask unanimous consent that the table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Estimated minimum allocation apportionment based on Oct. 1, 1983, apportionments and one-half of interstate apportionment made under 1983 interstate cost estimate

	Thousands
California	$60,743
Florida	39,862
Indiana	31,046
Michigan	34,193
North Carolina	6,390
Ohio	45,779
Oklahoma	11,074
Texas	165,569
Wisconsin	2,079

Mr. BENTSEN. Mr. President, I yield to my distinguished friend, the former chairman of the committee and the ranking member on our side of the aisle, a man who has fathered this act and done as much as or more than any other Member of the Senate to help build a modern highway system in this country.

Mr. RANDOLPH. Mr. President, I am very gratified that we are bringing this highly important legislation into the Senate for action at this time.

This is a very crucial period in the transportation history of America. What has been said by the able chairman of our committee and by the constructive Senator from Texas (Mr. BENTSEN) can be said by all the members particularly the chairman of the Transportation Subcommittee (Mr. SYMMS) of our Committee on Environment and Public Works. This is the committee that is charged with the responsibility for not only the process of careful hearings, but also to arrive at legislated commitments which are in no wise Democratic or Republican, or Republican or Democratic. They are the viewpoints of the Senate and of Congress, in providing the necessary moneys to carry forward those arteries over which the products of the mines, the factory, and the field move to the consuming public of this country.

The PRESIDING OFFICER. The time of the minority has expired.

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the minority be extended for however long.

Mr. RANDOLPH. Three minutes.

Mr. BAKER. Five minutes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. I am very grateful. I was not aware of the time limitation, and I am given to speaking too long. I remember Mrs. Randolph and I once discussed while we were on a campaign tour. I said, "Mary, how did I do tonight?" and she said, "Very well except you missed several excellent opportunities to sit down." So I just want to remember always the time limitations.

Mr. President, for over 5 months the States have been without the authority to expend interstate construction funds because the cost estimate required to apportion funds on October 1, 1983, has not been approved. Because of the inaction of the Congress, $5.4 billion in very necessary construction moneys have been unavailable to the States.

A number of factors have led to this inaction by the Congress. Finally, the House has passed the measure to make available to the States one-half of the interstate construction funds and one-half of the interstate substitution funds. The Senate is now asked to concur in the action of the House.

While I would have preferred a 1-year approval of the cost estimate and a full apportionment, I recognize that the problems which have led to this impasse make this impossible. I fully support the action of releasing one-half of the interstate apportionment. While all States cannot expend these funds because they are not sufficient for the projects which they anticipated beginning, it is at least a start for most States for fiscal 1984 interstate construction.

It is important to note that by this action we are recommending to the administration the release of a proportional amount of the minimum allocation funds to the States. While we cannot release all funds because the entire fiscal year 1984 interstate apportionment has not been made, those States which receive minimum allocation funding will receive something.

Another major concern among States has been with respect to how the remaining interstate funds for fiscal year 1984 will be made available. I assure the States which are concerned about this matter that the committee when it is enacting the next highway bill will carefully look at the equity issue as it affects those States which did get a full 50 percent of what they could have gotten under the 1983 cost estimate if it had been approved.

The committee is concerned about equity, and I assure my colleagues that every effort will be made to work this out in a reasonable and equitable manner.

Mr. President, I urge my colleagues to pass this legislation and send it to the President. It is essential that interstate construction funds be available to the States and the spring letting season not be lost, particularly by our northern tier States.

Mr. SASSER. Mr. President, will the distinguished ranking member of the Environment and Public Works Committee yield for the purpose of an inquiry?

Mr. RANDOLPH. I would be happy to yield to my friend the junior Senator from Tennessee.

Mr. SASSER. Is it the intention of the managers of the bill to pass a clean interstate cost estimate bill?

Mr. RANDOLPH. Yes; the Senator is correct.

Mr. SASSER. I understand the need to get on with this matter. I share everyone's concern that we get these ICE allotments out and to work.

However, I would like to take just a few minutes to bring to the attention of the Senate a related matter of concern to Tennessee.

Interstate Highway 26 stretches from South Carolina to North Carolina just up to Asheville. Directly north of I-26 is U.S. Highway 23 which extends from Virginia to Erwin, Tenn. There is a gap of about 70 miles between Erwin, Tenn., to Asheville, N.C.

Mr. RANDOLPH. If I might briefly interrupt the Senator from Tennessee. What kind of highway are we talking about in Tennessee.

Mr. SASSER. U.S. Highway 23 is interstate quality highway. More importantly, the completion of the 70-mile gap between Erwin and Asheville would be important to the Southeastern region. The connection of U.S. 23 to I-26 would provide a major transportation link. This would be an important stretch of interstate linking four States—Tennessee, North Carolina, Virgina, and South Carolina.

Mr. RANDOLPH. I appreciate the interest and concerns of my friends from Tennessee. However, the Federal-Aid Highway Act precludes additions to the Interstate System until the present system is completed.

Mr. SASSER. I am aware of the provisions of Public Law 95-599 which my friend, the able senior Senator from West Virginia cites. I wish to point out to my colleagues the merits of the I-26 project. It is my hope that at some point the Public Works Committee will find an appropriate vehicle to discuss projects like the I-26 project.

As I stated from the outset, it is not this Senator's desire to hold up the Senate's consideration of the interstate cost estimate bill.

Again, I thank my friend the ranking member on the Public Works Committee.

Mr. RANDOLPH. I thank my friend from Tennessee, and I feel that my colleagues on the Public Works Committee will take this into consideration at the appropriate time.

Again I commend the chairman of our committee and also the Senator from Texas.

WALDRON ROAD IN FORT SMITH, ARK.

Mr. BUMPERS. Mr. President, I had planned to offer an amendment to this bill, H.R. 4957, that would authorize $8.5 million for widening and improving signalization on Waldron Road in Fort Smith, Ark. This is a very important project to the citizens of Fort Smith. The segment in question, about 2.03 miles long, is a very narrow two-lane road that is 30 years old. It has become a well-traveled thoroughfare—roughly 45,000 vehicles a day travel it—to the Westark Community College and the new Central Mall. It is frequently congested, and desperately needs widening and improved traffic signalization.

I understand, however, that the leadership would not bring this bill up if any amendments were to be offered, fearing that even one amendment would be a "break in the dam" that would open the measure up to countless other amendments from Senators who wished to authorize important projects for their States. I certainly appreciate the leadership's concerns, but want to make sure before I agree to withhold the offering of my amendment for this important project, that in the near future a bill will be considered by the committee and reported to the floor that will be subject to amendment.

Mr. RANDOLPH. I want to assure the Senator that there will be such a bill. The Environment and Public Works Committee will hold hearings this month, and the Senator from Arkansas is certainly welcome to appear before the committee and testify in favor of this project that is so important to him. I extend to him that invitation.

Mr. BUMPERS. I thank the Senator for the invitation, and I will certainly accept. Is the Senator from West Virginia familiar with the Waldron Road project, and does he believe that the committee would look favorably on it?

Mr. RANDOLPH. We are certainly familiar with it, and I am sure that the Senator from Arkansas will make a persuasive case for it in committee. We will give it every consideration.

Mr. BUMPERS. I thank the Senator from West Virginia. This bill is an important one. It contains the interstate cost estimate that the States desperately need, and, by the way, it also contains the authority for the State of Arkansas, and other States, to use the so-called 4-R moneys for primary highways designated to become part of the Interstate System under section 139(b) of title 23, United States Code. This would allow Arkansas to improve Highway 71, also an important project. So this is a bill that we should pass quickly. I have no desire to delay the Senate's consideration of this measure, but just wanted to point out to the Senate the importance of the Waldron Road project, give the committee advance notice of my abiding interest in it, get some assurance that the committee will consider the matter, and secure a commitment that another highway bill that would be appropriate for amendment will come before the Senate in the near future.

Mr. RANDOLPH. I assure the Senator that another highway bill will be forthcoming in the near future.

Mr. BUMPERS. I thank the Senator, and based on that understanding I will withhold the offering of this amendment.

Mr. DIXON. Mr. President, I am extremely pleased to see this compromise highway legislation before us today. It is not a perfect bill. It does not resolve all the outstanding highway controversies, but it does represent a real step forward. I hope the progress we are making here today will help move us toward a final resolution of all outstanding issues in the near future.

Included in the bill before us today is a 6-month interstate cost estimate and interstate transfer program cost estimate. Our failure to approve these estimates by October 1, 1983, has caused severe problems for State highway programs, endangering perhaps as much as $5 billion worth of construction nationwide. Further delay could lead to the loss of the whole construction season in States like Illinois, where the climate does not permit year-round construction.

This bill will permit Illinois, and other States around the Nation, to begin to move forward with their planned highway programs. It will lead to the release of between $16 and $25 million in interstate funds for Illinois, between $42 and $45 million in interstate substitution-highway funds, and about $34 million in interstate substitution-transit funds.

Another provision in this measure clarifies that the Valley City bridge is eligible for Federal funding under the discretionary bridge program. I will not take the time of the Senate again to list all the reasons I believe this provision is so needed. I have done so at great length on previous occasions.

Let me simply say that this new bridge is supported by the Illinois Department of Transportation, the Federal Highway Administration, and the local governments in the area concerned.

Congress has taken similar actions clarifying the funding eligibility of other bridges in the past, so this action is not at all unprecedented. Further, let me state that this action does not in any way attempt to deal with the question of precisely where the bridge should be located.

Before I conclude, let me thank the leadership on both sides of the aisle, Senator BAKER and Senator BYRD, for their efforts to clear this measure and bring it before the Senate. I would also like to thank the leadership of the Senate Committee on Environment and Public Works, with special thanks to Senator STAFFORD, the chairman of the committee; Senator RANDOLPH, the ranking member; Senator SYMMS, the chairman of the Transportation Subcommittee, and Senator BENTSEN, the ranking member of the Transportation Subcommittee. Their hard work and dedication make it possible for the Senate to act on this measure today. I greatly appreciate all their efforts, and their help and support for matters of special interest to Illinois.

Finally, I want to thank all the distinguished members of the Illinois congressional delegation who worked so hard on this bill and its predecessors. Special thanks goes to my distinguished senior colleague from Illinois, Senator PERCY, Congressman DURBIN, in whose district the new bridge will be located, and Congressman MICHEL. Again, I thank all those involved for their help and support. I urge the Senate to promptly enact this badly needed and long overdue highway bill.

Mr. DECONCINI. Mr. President, I understand the many difficulties the managers of this bill have encountered in attempting to negotiate a measure extending the approval of the interstate cost estimate and raising the authorization ceiling for emergency relief work. I know it is particularly difficult to formulate a "clean" measure that does not get bogged down with new authorizations for each State's favorite project. I must say that I am relieved that we are finally taking action that will allow States like my own which have high priority gap closing interstate projects under construction to receive the necessary Federal assistance so that construction may continue. The 5 months without any interstate apportionment has certainly hurt my State; however, if the Congress acts now and the bill is signed immediately by the President, we can hopefully forestall any further delays in the construction schedules and get our interstate projects back on track.

Mr. President, at the same time I believe there is an urgent need to pass this highway measure, I have some very strong concerns about the impact the 1981 interstate apportionment formula will have on my State of Arizona and others who have been receiving a higher share of the interstate funds under the 1983 formula. The figures speak for themselves.

For example, under the measure before us, Arizona would receive a 6-month apportionment totaling $28.8 million; under the 1983 formula for a full year, Arizona would be receiving $69.5 million—half of that comes out to $34.7 for a 6-month period. Mr. President, you know as I, $28.8 million is not nearly enough to sustain significant construction work and assure continued progress on an interstate project which has been labeled as a high priority by this Congress as well as the administration. It seems to me that we must do everything we can this year to enact further legislation extending the interstate cost estimate for a full-year and thereby, making available a full-year interstate apportionment at the 1983 formula levels to States like mine who will be shortchanged by this bill.

Mr. President, I expect the managers of this measure to continue their work on a highway measure to keep interstate construction nationwide on track. I further congratulate my distinguished colleagues, Mr. STAFFORD, Mr. SYMMS, Mr. RANDOLPH, and Mr. BENTSEN for coming to a final agreement on this important transportation issue.

Mr. TSONGAS. Mr. President I want to commend the distinguished chairman of the committee, Senator STAFFORD and the ranking minority member Senator RANDOLPH, for their extraordinary efforts to resolve the issues delaying final passage of the interstate cost estimate. I am especially grateful with regard to their support in resolving the dispute over eligibility of the depression of the Central Artery. It is my hope at this point that the Federal Highway Administration will recognize the clear intent of Congress on the matter of the projects eligibility under the 1981 cost estimates and process their review accordingly.

Mr. PERCY. Mr. President, I strongly support this 6-month extension of the interstate cost estimate. Few bills we consider during this session of Congress will be as important as this one, or have as much of an effect on the national quality of life and our economy.

I know we all feel relieved that the interstate cost estimate has finally come to a vote. It has been over 5 months since the ICE was to be approved in what should have been a routine process. Instead, this vital legislation has been delayed, and in the meantime interstate highway construction has slowed or even stopped in many States.

The interstate cost estimate is absolutely essential to my own State of Illinois. Since last October, when the ICE was supposed to pass, over $147 million in interstate funding for Illinois has been held up. This amounts to 33 percent of Illinois total Federal highway aid for fiscal year 1984.

The consequences of this delay go beyond the inconvenience caused to travelers on Illinois highways. It means that Illinois contractors who work on our Interstate System are losing millions of dollars, slowing the economic recovery and contributing to unemployment. It means that the Illinois companies which produce limestone and crushed stone—the resources which go into our roads—have been left with depressed sales. Illinois construction machinery firms, which make many of the machines used to build the Interstate Highway System nationwide, have also seen their income drop with the ICE holdup. In this sector as well, millions of dollars in sales have been lost and, again, the brightening job picture in this industry has been somewhat dimmed.

I met this week with members of the Illinois Roadbuilders and the Association of General Contractors. Members of these two fine groups brought home to me how important prompt passage of the ICE is to Illinois. My State, unlike many States in the warmer parts of our country, has a very short construction season. If we do not approve the ICE right now, as spring is upon us, valuable construction time in Illinois will be lost, setting our interstate schedule back significantly.

Mr. President, the people of Illinois—particularly those from the western part—have another interest in the interstate cost estimate legislation. Attached to this bill is an amendment authorizing the use of Federal bridge replacement funds for the construction of a new span across the Illinois River near Valley City in Pike County.

I cannot stress how important the passage of this amendment is to the people of western Illinois. The Valley City bridge is a vital part of the Central Illinois Expressway. The completion of this expressway has been a top priority for me for a number of years. Last October, I spoke to my colleagues about the necessity to fund this bridge. Federal bridge replacement funds were approved back in 1980, but a U.S. judge in Chicago blocked the use of these moneys. The court ruled that, because the Valley City bridge would not technically replace an outmoded bridge over the Illinois River about 5 miles away, Federal bridge replacement funds could not be used. The amendment sponsored by myself and Senator DIXON simply clarifies that the Valley City bridge is indeed eligible for Federal bridge replacement funds. Again, I wish to stress that this amendment will not lead to the expenditure of any new Federal money; it will simply release funds which have already been approved by the administration.

This bridge is essential to the completion of the Central Illinois Expressway and, by connection, to the economy of western Illinois. This area of our State has sometimes been referred to as "Forgotonia" because of its inaccessibility to other parts of Illinois. I know Senator DIXON and myself are strongly committed to seeing the Valley City bridge authorized and the Central Illinois Expressway completed. The passage of this amendment will bring us a long way toward the achievement of this goal.

Mr. President, I would be remiss if I did not acknowledge and thank some important Members of the Congress who were instrumental in getting this amendment to the Senate floor today. The distinguished chairman of the Senate Environment and Public Works Committee, Senator STAFFORD, has been extraordinarily committed to the passage of the Valley City bridge authorization. The Senator from Vermont has always grasped the importance of the Valley City bridge to the people of Illinois. In February, a few weeks ago, when the passage of the bridge amendment was held up along with the ICE, Chairman STAFFORD sent me a personal note assuring me that he would do all he could to find a resolution to our problem. As usual, he has indeed done all he was able to do, and on behalf of myself, Senator DIXON, and the people of Illinois, I pay him tribute. We are all profoundly grateful to him for his help and counsel.

I also wish to thank the chairman of the Subcommittee on Transportation, Senator SYMMS, who also went out of his way to help us move the CIE bridge authorization. The distinguished Senator from Idaho has been with us all the way. I appreciate his personal commitment to work with us on this matter. When I called him a few weeks ago from Quincy, Ill., it was very early on a Sunday morning—6 a.m. to be exact—Senator SYMMS, ever gracious, received my call and reassured me that he would press for passage of the Valley City bridge amendment.

As always, Senator DIXON has been my thoughtful and capable partner in getting this authorization passed, and I thank him for all his work with the members of the committee on his side. His transportation assistant, Bill Mattea, is also to be commended.

I know we both also wish to extend our recognition and thanks to the very distinguished minority leader of the House, Congressman MICHEL of Illinois, without whose assistance this amendment would never have reached the floor of the Senate. Congressman MICHEL has always held a deep commitment to the Central Illinois Expressway and he was indispensable in moving the CIE bridge in the House. I look forward to working with him in the future as we complete this long-delayed project.

Mr. QUAYLE. Mr. President, I am pleased that my distinguished colleagues on the Senate Environment and Public Works Committee, including Chairman STAFFORD, Senator SYMMS, and Senator BENTSEN, have received assurances from the Federal Highway Administration about one crucial aspect of this Interstate cost estimate bill; namely, that the 85 percent minimum allocation States will receive their full apportionments of the ICE funds, along with the other States, even though this bill only releases funds for the first 6 months of fiscal year 1984.

I understand that there was some discussion in the House concerning this matter, which was not adequately resolved prior to final passage, and I am pleased that members of the committee, as well as myself, have confirmed with the Federal Highway Administrator, Mr. Barnhart, that the 85 percent minimum allocations can and will be made. Since the bill we are discussing today only applies to a 6-month period, I understand that Mr. Barnhart has agreed to release one-half of the 85 percent money for fiscal year 1984.

My own State of Indiana, like approximately 10 other States, is guaranteed under the provisions of the Surface Transportation Assistance Act to receive an 85 percent minimum return on its payments into the highway trust fund. Those of us who recall those marathon sessions in December 1982 also recall our efforts to seek this assurance of equitable treatment for all States. If not for this 85 percent minimum guarantee, I, and a number of my colleagues could not have supported passage of the Surface Transportation Assistance Act.

Now we are addressing another simple question of equity: We must have the commitment of the Federal Highway Administration that the 85 percent minimum States will be treated the same as all other States after the passage of this ICE bill. If we did not have this commitment, the ICE allocation to Indiana for the applicable 6-month period would decline by almost 75 percent.

In fiscal year 1984, which began almost exactly 5 months ago, Indiana was to have received $91.3 million for Interstate highway projects under ICE. I need not remind any of my colleagues about the consequences of our delay. Indiana and many other States are almost to the point of writing off their construction programs this year because of congressional inaction. This is particularly true in a number of States which are faced with a short construction season.

Another important point I would like to emphasize to my colleagues is the number of jobs we have affected in the highway construction industries, and the number of potential job opportunities which will never be realized because of the failure to pass the ICE bill before this time. Over 3,000 jobs in the State of Indiana are directly affected by the allocation of the 85 percent money under ICE.

Again, I thank the distinguished members of the Environment and Public Works Committee, and particularly their efforts to seek an understanding on the question of dispersing funds to the 85 percent minimum States. I join my colleagues in urging prompt passage of this important legislation.

Mr. D'AMATO. Mr. President, I rise to express my support for this legislation, which approves a 6-month extension of the interstate cost estimate and the substitute Interstate cost estimate. This long-awaited approval will enable many States which have exhausted or severely depleted their Federal-aid highway funds to carry on with essential work. I applaud the fine work of the committee members and the diligent efforts of their competent staffs in reaching an agreement with the House on many difficult issues.

I am particularly pleased that the Senate and House have approved a provision which will insure States the flexibility to use their interstate 4-R funds on roadways designated under section 139 (a) and (b) of "Chapter 1—Federal-Aid Highways," title 23, United States Code. This provision will permit the State of New York to use its Federal 4-R funds on the much-traveled Long Island Expressway. It will also afford many other States the same flexibility for roads that are nonchargeable additions to the Interstate System.

The Long Island Expressway (LIE) is designated as a nonchargeable interstate segment under section 139(a) because it measures up to the construction safety standards demanded of interstate highways and is a logical, legitimate addition to the Interstate System. Nearly 700 miles of highways throughout this country have been included in the nonchargeable interstate mileage in this manner.

The LIE carries heavier traffic volumes than most other sections of the Interstate System. It has an average daily traffic volume of 150,000 vehicles at the New York City/Nassau County line and 120,000 vehicles at the Nassau/Suffolk County line. These volumes are three times higher than the urban interstate nationwide average. It is a critical link which connects 2.6 million Nassau and Suffolk County residents with all other States, yet these two counties are the two largest counties in the United States which do not have direct access to the chargeable Interstate System.

Ninety percent of all raw material brought to Long Island manufacturers and more than 90 percent of all finished goods sent from Long Island are distributed by truck. Most trucks, of course, use the LIE.

A principal purpose in establishing the entire Interstate System was to meet the defense needs of the Nation. Two of the largest defense contractors in the Nation—Grumman and Republic—are located on Long Island, as is Fairchild. The existence of these critical defense contractors is another reason why the LIE is so logically an appropriate part of the Federal Interstate program.

Over $7 billion has been authorized by Congress in the Gas Tax Act to be appropriated over 3 years for Interstate 4-R funding. Interstate 4-R funds may be spent on projects for resurfacing, restoring, rehabilitating, and reconstructing segments of the Interstate System. New York State expects to obligate $110 million in Interstate 4-R funds in fiscal year 1984 and $120 million in fiscal year 1985.

H.R. 4957 will enable New York State and other States to avail themselves of the necessary flexibility to adapt and adjust their highway programs to more closely fit their priority activities. I believe this is a large step in the right direction concerning congressional treatment of important segments of our interstate highway program.

Again, I commend my colleagues who have worked together to pass a bill which will avoid an impending crisis in the highway construction, material supply, and related industries, while enacting a measure containing a provision of great benefit for the future safety and soundness of more than 700 miles of important highway throughout America.

THE NEED TO APPROVE THE INTERSTATE COST ESTIMATE

Mr. BAUCUS. Mr. President, there is an urgent need for the Senate to approve the interstate cost estimate, that is commonly referred to as ICE. The differences between the Senate and the House are well known. But we must work out those differences and approve the distribution of over $5 billion in Federal-aid highway funds to the States.

I have heard from the director of the Montana Highway Department and a number of constituents, who are concerned that if the funds are not released soon, we will lose valuable time in beginning work on critical highway projects in Montana.

Almost every State is now being denied funding for their Interstate Highway projects. In addition, highway and bridge repairs are being delayed until the funds are released.

I am particularly concerned over the completion of Interstate 15 in Montana. This Interstate connects the State capitol of Helena and the major population centers to the south and north of Butte and Great Falls, respectively. The completion of Interstate 15 is vital for the economy of the area.

Let me mention a couple of the concerned groups in Montana that I have heard from on this issue. The Montana Wood Products Association Executive Director Bob Helding writes, "The lifeblood of commerce in Montana, as well as most Western States, depends on a healthy and well engineered and maintained highway system."

Mons Teigen, the executive vice president of the Montana Stockgrowers Association, writes:

> A healthy, viable highway infrastructure is critical to U.S. agribusiness. In the cattle industry, we are dependent upon the highway system not only to transport live cattle and feedstuffs but also for the end product of our labor—beef—destined for consumers. We are sure you can appreciate our concern that construction funds for the Interstate System be released so that work can proceed.

Mr. President, it is important that the Senate act today to approve the Interstate cost estimate. We need to turn our attention toward reaching an agreement with the House so that these vital highway funds can be allocated to the States.

Mr. WILSON. Mr. President, I rise to speak in support of H.R. 4957 which will provide urgently needed emergency relief funding for our Nation's damaged highways. This legislation has traveled a long and bumpy road, but at last it seems that the journey has come to a happy conclusion. I would like to comment on three aspects of this important bill.

The current balance in the emergency relief (ER) fund is not sufficient to meet the outstanding emergency highway repair needs in just three States—California, Utah, and Arizona—much less any additional ER needs which may arise in the rest of the Nation during 1984. My own State of California estimates its unfunded highway repair needs $125 million at a minimum. Utah, another battered State, will need at least $15 million in additional funding to repair its highways. Because of those facts, I was pleased to cosponsor with Senator CRANSTON, S. 1354 to increase ER authorizations by $150 million to provide for these unmet and future ER needs. I am happy to say that this provision is a key part of H.R. 4957.

This bill addresses another problem faced by these States. Because of a cap on ER funding of $30 million per disaster, California, Utah, and Arizona will be unable to get any further ER funds though all three have sustained more than $30 million in highway damage. Because of this situation, FWHA has indicated a waiver of the ceiling per disaster is necessary and acceptable to accommodate California's, Utah's, and Arizona's needs. Therefore this measure includes a waiver of the $30 million cap for these three States.

The final provision I will mention includes language to qualify a severely damaged portion of U.S. Highway 1 for ER funds. The Devil's Slide area is one of the areas most severely affected by the harsh winter storms California sustained last winter. A 300-foot segment of Pacific Coast Highway was destroyed by a combination of rain, wave action, and mudslides, cutting off the only direct access between the cities of Half Moon Bay and Pacifica. The community of Half Moon Bay was totally isolated from emergency, fire, and medical services by the closure of its emergency evacuation route along Highway 1. This is an area, Mr. President, prone to earthquakes, where thousands of residents were literally trapped on the coast with no exit to inland safety. Commuting time for local residents to jobs in San Francisco was tripled to 1½ hours one way. Revenues to local businesses, restaurants, and grocery stores dropped by as much as 90 percent because of the isolation the storm damage created.

Though conditions have somewhat improved, due to emergency repairs by the California Department of Transportation, these communities are still hard to reach and residents are still greatly inconvenienced by long and treacherous commutes. The provision would simply make Highway 1 eligible for emergency repair funds. It would not earmark any specific amounts of funds for the project. It would simply enable the State to be reimbursed for the emergency repair and restoration work it must do to assure local residents a safe and dependable road link between the coastal cities of Pacifica and Half Moon Bay.

These provisions, along with the cost estimates for interstate construction and substitution projects are major parts of H.R. 4957 which I am especially pleased with.

Mr. President, finally I want to extend my congratulations to the distinguished chairman, Senator STAFFORD, as well as to the esteemed subcommittee chairman, Senator SYMMS. I am very thankful to them for their perseverance in trying to gain passage of this legislation.

Mr. STAFFORD. Mr. President, in the remaining seconds for the majority, I simply wish to express my deep appreciation to Senator RANDOLPH, Senator BENTSEN, Senator SYMMS, and the others who worked so hard so long on this often frustrating job of getting this bill taken care of, and I express my particular appreciation to the staff on both sides of the committee for the hours and hours they have worked to put together the final compromise that allowed us to reach this point.

Mr. President, I am prepared to yield back whatever time I have, if I have any.

Mr. BENTSEN. Mr. President, if the minority has any remaining time, we yield it back.

The PRESIDING OFFICER. All time has expired or has been yielded back.

If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4957) was ordered to a third reading, was read the third time, and passed.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I thank both Senators for very good work today and especially thank the former chairman of this committee, my good friend, Senator RANDOLPH, who has done this so many times dealing with the interstate highway program that he probably has contributed more to this program than anyone else in the whole United States.

I am pleased to be in the Chamber with him today for this particular purpose.

Of course, my congratulations to the chairman who has again shown his ability to move with dispatch and efficiency, and to the Senator from Texas, who is most efficient in all endeavors.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I see the distinguished chairman of the Rules Committee is here and the ranking minority member.

Could I inquire of them if they are prepared to speak for themselves and for the minority leader on the clearance to go forward with the resolution authorizing expenditures for the committees of the Senate?

Mr. MATHIAS. We are prepared to go forward.

Mr. FORD. I say to the majority leader I just checked, and there seems to be no objection on this side, and it is clear to move forward, and the minority leader is being notified. If he cares to come to the floor, fine; if not, we will proceed under limited time agreement.

Mr. BAKER. While waiting for a response from the minority leader, could I inquire about time? Would 10 minutes equally divided be adequate?

Mr. FORD. I have to clear that, and we are ready to go.

Mr. BAKER. I thank the Senator from Kentucky.

Mr. MATHIAS. That is perfectly agreeable to me.

Mr. BAKER. Will 10 minutes be agreeable, equally divided?

Mr. FORD. Yes.

Mr. MATHIAS. Yes.

OMNIBUS COMMITTEE FUNDING RESOLUTION OF 1984

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 681, Senate Resolution 354, and I further ask unanimous consent that there be a time limitation of 10 minutes of debate on this matter to be equally divided, and that no amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated.

The assistant legislative clerk read as follows:

> A Senate resolution (S. Res. 354) authorizing expenditures by committees of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MATHIAS. Mr. President, this resolution addresses the essential function of providing for the needs of Senate committees for the coming year.

The Senate committees made a request to the Rules Committee for a total of $48,376,728. The requests were an increase of 7.31 percent over 1983.

There is just one anomaly here which I would note, and that is that because the authorization for the Indian Affairs Committee extends only to the first of July, there was only a 4-month budget request. Had there been a full year's budget request, the aggregate increase would be 8.56 percent.

There is a situation with which we are faced and over which there is very little control, and that is the fact that as a result of mandated increases, there would be a necessity for budgets to rise by the amount of 7 percent under any circumstances. This is not an even figure for all committees. The range of mandated increases runs from a low of 4.33 percent for the Small Business Committee to a high of 9.28 percent for the Labor Committee.

These are increases determined by projecting each committee's 1983 funding authorization plus the mandated increases of the 3.5-percent January 1984 cost-of-living increase and by staff participation in either the civil service retirement system or the social security system and budgeting for a proposed 4-percent cost-of-living increase which may or may not take place but which we had to anticipate for October 1984.

The recommendation of the committee in which I am joined by the distinguished Senator from Kentucky, the ranking minority member, is to reduce the request by the sum of $326,048 and to authorize an aggregate total of $48,050,680, which would be an increase of 6.58 percent over the 1983 authorization.

Although I would note again, Mr. President, that if the Indian Affairs Committee is extended for the full year, the aggregate would presumably then rise to 7.83 percent or a fractional point above the absolute necessity of the mandated increase.

That is the strong recommendation of the Rules Committee. I would just like to take this opportunity to thank all of the committee chairmen and the ranking minority members for promptly submitting their budget requests to the committee, and thank them for their appearance in the Rules Committee and for accepting the judgment of the Rules Committee with repsect to these levels. We are sorry that we could not meet every request but we have done the best we could.

I am grateful to the staff of the Rules Committee which bears the major part of the burden for sifting through these statistics and figures. They have done an excellent job. I would particularly note and thank our staff director, Mr. John Childers; the auditor, M. Dennis Doherty; Chris Shunk, Ron Hicks, W. A. Dowless, and Carole Blessington on the majority side, and Gerry Siegle and Bill Cochran on the minority staff for the extraordinarily fine work that they have contributed.

Finally, Mr. President, I would like to thank the Senator from Kentucky for the strong support and the coordination and the cooperation and the assistance without which the Rules Committee could not function. I yield to the Senator from Kentucky.

Mr. FORD. I thank my distinguished colleague from Maryland. I will try as best I can to find words to express my admiration and my appreciation to him for his fine work and determination.

Mr. President, I also want to give accolades to the staff of the minority and the majority of the Rules Committee for their cooperation and work together. It is one of those things that makes our work tolerable, even though our job is not the easiest one in the world and we sometimes do not make everyone happy, at least we are able to work together in the best interest of this institution.

Most of the committees this year submitted funding requests with only modest increases. In many cases the increase requested was no more than needed to cover cost of living salary and the new mandatory retirement cost increases.

In fact, five committees asked for amounts less than appear needed to maintain the 1983 spending level with adjustments for cost-of-living and mandatory retirement costs. Several committees, however, requested staff increases and other expense allowances larger than provided in 1983. The Rules Committee decided to try to hold aggregate committee spending to the 1983 level, and this required a few selective reductions in submitted requests. We do not believe any of the reductions that the committee has made and that we recommend today will impair the ability of the affected committees to discharge their responsibilities. If we prove to be wrong, the path of a supplemental correction during the year is always open.

One important fact should be noted. In 1980 the Senate authorized $46.3 million for the committee expenditures. Under the leadership and strong determination of our chairman, and with the support of the Senate leaders, Senators BAKER and BYRD, the committee expenditures were sharply reduced in 1981. We held the line in 1982 and authorized spending in both of those years was kept under $42 million.

The pressure of inflation required us to increase the allowance for 1983 to $45 million, and primarily because of cost-of-living salary adjustments, and of increased retirement fund contributions due to mandatory coverage for all employees, the amount reported for 1984 is $48 million. However, if we convert the 1984 proposed authorization to 1980 dollars, we discover that the 1984 authorization amounts only to approximately $40 million, or about 13.5 percent less than was authorized in 1980.

We hear a lot today about deficits and reduced expenditures. I am very pleased that the Rules Committee and the leadership of the Senate have come forth with this tight-fisted effort. And I am very pleased to be a part of it to show that we are 13.5 percent less in 1980 dollars in this year's authorization.

I think this is a remarkable achievement. I congratulate all of our committees but most of all I congratulate our chairman, Senator MATHIAS, whose relentless determination has made these substantial savings possible.

Mr. President, I urge the Senate to approve Senate Resolution 354.

Mr. President, I am ready to yield back the balance of my time.

Mr. MATHIAS. Mr. President, I thank the Senator from Kentucky for his generosity, which extends almost to the extent of charity, but I accept it with gratitude. He well knows that his own efforts were a major part of the savings that have been made.

I have nothing further to say, so I yield back any time that is remaining.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the resolution.

The resolution (S. Res. 354) was agreed to, as follows:

Resolved, That this resolution may be cited as the "Omnibus Committee Funding Resolution of 1984".

AGGREGATE AUTHORIZATION

SEC. 2. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, and under the appropriate authorizing resolutions of the Senate, there is authorized in the aggregate $48,050,680, in accordance with the provisions of this resolution, for all standing committees of the Senate, the Special Committee on Aging, the Select Committee on Intelligence, and the Select Committee on Indian Affairs

(b) Each committee referred to in subsection (a) shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than July 1, 1984, in the case of the Select Committee on Indian Affairs, and not later than February 28, 1985, in the case of any other such committee.

(c) Any expenses of a committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees of the committee who are paid at an annual rate.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 3. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,390,885, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON APPROPRIATIONS

SEC. 4. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on Appropriations is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $4,317,500, of which amount (1) not to exceed $95,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) and (2) not to exceed $8,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act.)

COMMITTEE ON ARMED SERVICES

SEC. 5. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,239,919, of which amount (1) not to exceed $15,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $6,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

SEC. 6. In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Development is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,806,300, of which amount (1) not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON THE BUDGET

SEC. 7. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $3,197,971, of which amount not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

SEC. 8. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigation as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $3,648,174, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $16,960 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SEC. 9. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,524,777, of which amount (1) not to exceed $35,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $7,000 may be expended for the training of the professional staff of such committee (under procedures specified bv section 202(j) of such Act).

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 10. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,550,000, of which (1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expanded for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON FINANCE

SEC. 11. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,379,000, of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

COMMITTEE ON FOREIGN RELATIONS

SEC. 12. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,732,275, of which amount (1) not to exceed $18,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $700 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON GOVERNMENTAL AFFAIRS

SEC. 13. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Government Affairs is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $4,964,523, of which amount (1) not to exceed $189,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,750 may be extended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c)(1) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in, in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents;

(iii) the adequacy of present intergovernmental realationships between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of the Government with particular reference to the operations and management of Federal regulatory policies and programs:

Provided, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(2) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(3) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1984, through February 28, 1985, is authorized, in its, his, or their discretion (A) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (B) to hold hearings, (C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (D) to administer oaths, and (E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Permanent Subcommittee on Investigations specifically authorized by the chairman, by deposition.

(4) All subpenas and related legal processes of the committee and its subcommittees authorized under S. Res. 76 of the Ninety-eighth Congress, first session, are authorized to continue.

COMMITTEE ON THE JUDICIARY

SEC. 14. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $4,670,827, of which amount (1) not to exceed $36,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON LABOR AND HUMAN RESOURCES

SEC. 15. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Labor and Human Resources is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $4,852,500, of which amount not to exceed $80,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

COMMITTEE ON RULES AND ADMINISTRATION

SEC. 16. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,340,195, of which amount (1) not to exceed $15,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

COMMITTEE ON SMALL BUSINESS

SEC. 17. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,001,678.

COMMITTEE ON VETERANS' AFFAIRS

SEC. 18. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $935,357.

SPECIAL COMMITTEE ON AGING

SEC. 19. (a) In carrying out the duties and functions imposed by section 104 of S. Res. 4, Ninety-fifth Congress, agreed to February 4, 1977, and in exercising the authority conferred on it by such section, the Special Committee on Aging is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,159,720, of which amount (1) not to exceed $35,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SELECT COMMITTEE ON INTELLIGENCE

SEC. 20. (a) In carrying out its powers, duties, and functions under S. Res. 400, agreed to May 19, 1976, in accordance with its jurisdiction under section 3(a) of such resolution, including holding hearings, reporting such hearings, and making investigations as authorized by section 5 of such resolution, the Select Committee on Intelligence is authorized from March 1, 1984, through February 28, 1985, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,064,000, of which amount not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SELECT COMMITTEE ON INDIAN AFFAIRS

SEC. 21. (a) In carrying out the duties and functions imposed on it by section 105 of S. Res. 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, as amended, and under a unanimous-consent agreement of November 18, 1983, and in exercising the authority conferred on it by such authority, the Select Committee on Indian Affairs is authorized from March 1, 1984, through July 1, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $275,079, of which amount not to exceed $667 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BAKER. Mr. President, there is a companion measure also from this committee. May I inquire of the chairman and ranking member if they are prepared to go to Senate Resolution 309, which relates, I believe, to the Labor Committee.

Mr. MATHIAS. Mr. President, I can respond to the majority leader that on our side we are agreeable.

Mr. FORD. We are agreeable, with no amendments.

Mr. BAKER. I thank the Senators.

Mr. President, I ask unanimous consent that the Senate now turn to consideration of Calendar Order No. 679, Senate Resolution 309, that there be a time limit of 1 minute, and that no amendments be in order, except as reported with the resolution.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 309) to amend Senate Resolution 76 of the 98th Congress.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the resolution (S. Res. 309), which has been reported from the Committee on Rules and Administration with amendments on page 1, line 1, strike "That" and insert:

"That section 2(a) of S. Res. 76, Ninety-eighth Congress, agreed to March 2, 1983, is amended by striking out "$45,059,643" and inserting in lieu thereof "$45,081,943; and that"

On page 1, line 4, strike "the".

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. BAKER. Mr. President, may I inquire of the two managers if they have any need to debate this or are they prepared for the Chair to put the question.

Mr. MATHIAS. Mr. President, I am prepared for the Chair to put the question.

Mr. FORD. Mr. President, I agree and I yield back what time has been assigned to me.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution, as amended, was agreed to as follows:

Resolved, That section 2(a) of S. Res. 76, Ninety-eighth Congress, agreed to March 2, 1983, is amended by striking out "$45,059,643" and inserting in lieu thereof "$45,081,943; and that" section 15, subsection (b), of S. Res. 76, Ninety-eighth Congress, agreed to March 2, 1983, is amended by striking out "$4,346,000" and inserting in lieu thereof "$4,368,300".

The title was amended so as to read:

"Resolution authorizing supplemental expenditures by the Committee on Labor and Human Resources.".

Mr. FORD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I wish to thank the chairman of the Rules Committee and the ranking minority member, Senator MATHIAS and Senator FORD. They have done their usual excellent job and they have done it together in the best spirit of bipartisan cooperation. The Senate is grateful.

Mr. FORD. Mr. President, I thank the majority leader for those kind words and look forward to more.

Mr. BAKER. Mr. President, for fear I might find out more than I want to know, I will not ask what the Senator from Kentucky had in mind when he made that remark.

Mr. President, I am next prepared to do two things.

Mr. MATHIAS. Mr. President, before the majority leader does those two things, I am wondering if he would yield to me just for a moment.

Mr. BAKER. Yes, I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, the Senator from Kentucky called to mind that the budget that the Senate has just adopted for committees in real dollars is substantially below any previous figure. I believe that makes the U.S. Senate perhaps the only institution in the city of Washington which is actually reducing its expenditures. As the Senator from Kentucky, with his usual generosity and eloquence noted, that reflects well on the entire Senate membership but particularly on the majority leader and the minority leader who have led in the direction of economy and efficiency.

I think the majority leader ought to take his full share of that credit.

Mr. BAKER. Mr. President, I am sure I speak for the minority leader when I say that we do not deserve credit, we instead wish to pay our respects and express our appreciation to the two managers of these measures, the chairman and ranking member of the committee. Indeed, they have set a standard that the entire Government would do well to emulate.

VOLUNTARY SCHOOL PRAYER

Mr. BAKER. Mr. President, I am advised by the minority leader, and I have discussed this with him previously, that he is prepared not to lay down, but only lay down, the prayer amendment, which is Senate Joint Resolution 73, which is cleared on both sides. It should be understood that as soon as that is done I intend to ask the Senate to go into a period for the transaction of routine morning business so that there will be no action taken on that measure but it will be pending when we come back on Monday. As I say, that has been cleared by the minority leader, I am advised.

Mr. President, in view of that, I ask unanimous consent that the Senate now turn to the consideration of Senate Joint Resolution 73, Calendar Order No. 642.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 73) proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

The Senate proceeded to consider the joint resolution which had been reported from the Committee on the Judiciary with an amendment:

On page 2, line 9, strike "prayer."." and insert "prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools."."

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE —

"Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools.".

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 3 p.m. in which Senators may speak for not more than 10 minutes each, with the exception of the minority leader against whom no limitation of time will apply.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:15 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that pursuant to Public Law 453 of the 96th Congress, as amended, the chairman of the Committee on Merchant Marine and Fisheries has appointed the following Members to serve, on the part of the House, as members of the Board of Visitors to the U.S. Merchant Marine Academy for the year 1984: Mr. BIAGGI, Mr. DYSON, Mr. SNYDER, and Mr. JONES of North Carolina, ex officio.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 422. Joint resolution designating the week beginning March 4, 1984, as "Women's History Week."

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2693. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on a foreign military assistance sale to Saudi Arabia; to the Committee on Armed Services.

EC-2694. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision to conduct a study of various duties and functions at military installations with a view toward conversion to performance under contract; to the Committee on Armed Services.

EC-2695. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision made to convert the administrative telephone service, Mid-Atlantic Region, U.S. Army Communications Command, Fort Huachuca, Ariz., to performance under contract; to the Committee on Armed Services.

EC-2696. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision to convert the maintenance facility services for Fort Indiantown Gap, Pa., to performance under contract; to the Committee on Armed Services.

EC-2697. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision to convert the organizational maintenance and dispatch services, Fort Sill, Okla., to performance under contract; to the Committee on Armed Services.

EC-2698. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision to convert the administrative telephone service, Southwest Region, U.S. Army Communications Command, Fort Huachuca, Ariz., to performance under contract; to the Committee on Armed Services.

EC-2699. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision to convert the transportation services at Fort Ritchie, Md., to performance under contractt; to the Committee on Armed Services.

EC-2700. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision to convert the industrial operations functions at the U.S. Army Communications Command, Fort Huachuca, Ariz., to performance under contract; to the Committee on Armed Services.

EC-2701. A communication from the Acting Assistant Secretary of the Army transmitting, pursuant to law, a report on a decision to convert the drafting and technical support function, U.S. Army Communications-Electronics Engineering Installation Agency, Fort Huachuca, Ariz., to performance under contract; to the Committee on Armed Services.

EC-2702. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision to convert the transportation motor pool services, Fort Devens, Mass., to performance under contract; to the Committee on Armed Services.

EC-2703. A communication from the Deputy Assistant Secretary of Defense for Administration transmitting, pursuant to law, a report on the financial condition and operating results of working capital funds of the Department of Defense for fiscal year 1983; to the Committee on Armed Services.

EC-2704. A communication from the Chairman of the Federal Communications Commission transmitting, pursuant to law, the Commission's annual reports on goals, objectives, and priorities for fiscal years 1984, 1985, and 1986, and accomplishments for fiscal year 1983; to the Committee on Armed Services.

EC-2705. A communication from the Deputy Associate Director for Royalty Management Operations, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on refunds of offshore lease revenues; to the committee on Energy and Natural Resources.

EC-2706. A communication from the Secretary of Energy transmitting, pursuant to law, the quarterly report on the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-2707. A communication from the Secretary of Energy transmitting, pursuant to law, the Annual Report on the strategic petroleum reserve; to the Committee on Energy and Natural Resources.

EC-2708. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on aid to families with dependent children; to the Committee on Finance.

EC-2709. A communication from the Chairman of the Commission on Security and Cooperation in Europe transmitting, pursuant to law, the Annual Report of the

Commission for 1983; to the Committee on Foreign Relations.

EC-2710. A communication from the Assistant Secretary of State for Legislative and Intergovernmental Affairs transmitting, pursuant to law, the 1983 report on UNESCO; to the Committee on Foreign Relations.

EC-2711. A communication from the Comptroller General of the United States transmitting, pursuant to law, the GAO 1983 Annual Report; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE:

S. 2385. A bill providing for the reappointment of female admirals to permanent rank; to the Committee on Armed Services.

By Mr. COHEN:

S. 2386. A bill to amend the Internal Revenue Code of 1954 to deny the deduction for amounts paid or incurred for certain advertisements carried by certain foreign broadcast undertakings and newspapers; to the Committee on Finance.

By Mr. PRESSLER:

S.J. Res. 253. A joint resolution to authorize and request the President to designate September 16, 1984, as "Ethnic American Day;" to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE:

S. 2385. A bill providing for the reappointment of female admirals to permanent rank; to the Committee on Armed Services.

(The remarks of Mr. PROXMIRE on this legislation appear earlier in today's RECORD.)

By Mr. COHEN:

S. 2386. A bill to amend the Internal Revenue Code of 1954 to deny the deduction for amounts paid or incurred for certain advertisements carried by certain foreign broadcast undertakings and newspapers; to the Committee on Finance.

FOREIGN ADVERTISING EXPENSES

● Mr. COHEN. Mr. President, today I am introducing legislation to remedy a problem that has for many years plagued U.S. broadcasters and newspapers located near the Canadian border: discriminatory tax treatment of Canadian businesses that advertise on U.S. television and radio stations or in U.S. newspapers.

In attempting to promote its own film, broadcasting, and advertising industries, Canada has adopted a policy of prohibiting tax deductions for advertisements placed in the U.S. broadcasting or print media that are directed at the Canadian market. This policy is more than simply a tax or cultural decision of the Canadian Government with which the United States should not interfere. Rather, it is an unfair trade practice that is aimed squarely at U.S. services and which has resulted in lost sales of $20 million annually to U.S. television and radio stations.

In my own State of Maine, for example, the television stations WABI, WVII, and WLBZ in Bangor, and WAGM in Presque Isle and the radio station WQDY in Calais have been hurt. These stations provide quality information and entertainment services to the Canadian people and are available to Canadian advertisers. Because of the Canadian tax policy, however, a 100-percent tariff has been effectively placed on the services of these broadcasters to Canadian customers. Nationwide, there are approximately 60 border broadcasters who must suffer the same effect due to the Canadian policy.

This Canadian policy also affects many newspapers that are located near the Canadian border. In Maine, for example, the Calais Advertiser serves the communities of Calais, Maine, and St. Stephens, New Brunswick. Commercially and geographically, these two communities are virtually one city. Because of the discriminatory Canadian law, however, this newspaper, like several others across the United States-Canadian border, is precluded from gaining access to the Canadian advertising market.

The Canadian practice raises a serious issue of whether the United States should allow a restrictive nontariff barrier to severely curtail the export of a U.S. service. I, as well as many of my colleagues in the Congress, view this practice as an action by the Canadian Government that must be redressed immediately.

Unfortunately, as many of the industries in my State have painfully learned, obtaining relief under our trade laws can be a costly, time-consuming process. In 1978, 15 affected border broadcasting stations filed a complaint under section 301 of the U.S. Trade Act of 1978 regarding the Canadian law. In 1980, President Carter determined that the Canadian policy was, in fact, unreasonably and unnecessarily burdening U.S. commerce, and recommended that the Congress pass legislation mirroring the Canadian law. On November 17, 1981, President Reagan reiterated this recommendation that relief should be granted. Today, almost 6 years after the original 301 petition was filed, this problem has still not been fully redressed.

Today, the Senate is beginning its consideration of H.R. 3398, miscellaneous tariff and customs matters, which contains provisions to mirror the Canadian practice as it affects broadcasters. This legislation is, in my opinion, long overdue and should be passed. The legislation does not, however, remedy the Canadian practice affecting the print media. To allow this trade barrier to continue for this segment of the media industry would be unfair. Thus, today I am introducing legislation extending the mirror provisions contained in H.R. 3398 to the newspaper media.

Under this proposal, the Internal Revenue Code would be amended to deny a deduction for any expenses of an advertisement placed with a foreign newspaper and directed primarily to a market in the United States. This restriction would apply only if the laws of the country in which the foreign newspaper is located denies a similar deduction to advertisers in that country. In effect, if Canada should repeal its discriminatory law, this legislation would no longer apply to Canada.

I believe that this legislation is a reasonable, fair response to the Canadian policy. By mirroring the Canadian law, we will demonstrate that the U.S. Government is serious about ending this unfair trade practice against U.S. services.●

By Mr. PRESSLER:

S.J. Res. 253. Joint resolution to authorize and request the President to designate September 16, 1984, as "Ethnic American Day"; to the Committee on the Judiciary.

ETHNIC AMERICAN DAY

● Mr. PRESSLER. Mr. President, today I am introducing a resolution to designate September 16, 1984, as "Ethnic American Day." The designation of this day is intended to recognize the valuable contributions ethnic Americans have made to American life.

Throughout the long and distinguished history of our country, we have been shaped by the millions of immigrants who have reached our shores. They chose the United States of America. They chose to live in this land of freedom and opportunity. The United States today has a population with more than 100 ancestry groups. Their distinct heritages and cultures have all been important in the development of American society.

Our ethnic Americans have all contributed valuable ideas, patriotic devotion, and diligent effort to the development of their country. Their accomplishments are readily apparent in the arts, sciences, medicine, agriculture, business, labor, and government. Without them, America as we know it could not exist.

The 1980 census identifies the foreign ancestry of more than 188 million Americans. This is approximately 83 percent of our population. These statistics verify that our Nation is, indeed, a melting pot of people from all parts of the world. A day in tribute to this great body of people, focusing on their rich ethnic heritage and love of America, can accomplish numerous goals. It would:

First, promote understanding between people of diverse ethnic backgrounds;

Second, foster an awareness and appreciation of the historical background of ethnic Americans;

Third, make Americans more aware of the significant contributions made to their country by the multitude of ethnic groups;

Fourth, promote a sense of pride among ethnic and natural-born Americans; and

Fifth, emphasize the uniqueness of America and her people—a land which people from all parts of the world love to call their home.

We have before us the opportunity to simultaneously honor ethnic Americans and the country they have helped build. The immense contributions of these brave people stand as proof of the wisdom of our democratic system—a system that strives for equality, fraternity, human dignity, freedom, and the pursuit of happiness for all. Let us join together to establish, recognize, and celebrate an "Ethnic American Day" on the third Sunday this September.

Mr. President, I ask unanimous consent that the text of my resolution and a table showing U.S. ancestry be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 253

Whereas the United States of America is a haven for victims of religious and political persecution and for those who seek freedom and opportunity;

Whereas the United States of America has welcomed oppressed and deprived persons and granted them refuge and citizenship;

Whereas ethnic Americans love the United States of America and have shed their blood in defense of America and its freedoms;

Whereas ethnic Americans have made outstanding contributions in the fields of agriculture, labor, arts, science, medicine, business and government, and to the quality of life in these United States; and

Whereas designation of an "Ethnic American Day" would contribute to a greater appreciation of the rich ethnic heritage of this Nation and to the unity of all its people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate September 16, 1984 as "Ethnic American Day" and to call upon the people of the United States to acknowledge and advance mutual understanding and friendship among all Americans regardless of their ethnicity.

TABLE 3.—PERSONS WHO REPORTED AT LEAST ONE SPECIFIC ANCESTRY GROUP FOR REGIONS, DIVISIONS, AND STATES: 1980

Ancestry group (European, excluding Spaniard)	United States	Regions				Divisions				
		Northeast	North Central	South	West	New England	Middle Atlantic	East North-Central	West North-Central	South Atlantic
Total	188,302,438	42,988,195	50,120,013	57,656,592	37,537,638	10,837,261	32,150,934	35,348,019	14,771,994	28,500,553
Albanian	38,658	24,123	8,436	3,152	2,947	10,963	13,160	7,460	976	2,271
Alsatian	42,390	10,349	6,138	13,625	12,278	1,878	8,471	4,423	1,715	5,770
Austrian	948,558	412,653	211,265	140,666	183,974	50,875	361,778	162,014	49,251	102,174
Basque	43,140	2,863	5,499	3,699	31,079	720	2,143	1,711	3,788	2,077
Basque, French	11,920	538	4,466	1,212	5,704	100	438	1,058	3,408	707
Basque, Spanish	8,534	844	259	843	6,588	188	656	178	81	590
Basque, n.e.c	22,686	1,481	774	1,644	18,787	432	1,049	475	299	780
Belgian	360,277	47,425	217,021	39,944	55,887	12,973	34,452	178,993	38,028	21,963
Belorussian	7,381	3,146	1,840	858	1,537	586	2,560	1,601	239	600
Bulgarian	42,504	7,754	22,036	4,332	8,382	1,248	6,506	19,576	2,460	2,588
Croatian	252,970	68,373	143,004	15,747	25,846	2,290	66,083	121,226	21,778	11,169
Cypriot	6,053	2,498	1,052	1,431	1,072	387	2,111	822	230	996
Cypriot, Greek	2,230	1,243	471	282	234	281	962	431	40	199
Cypriot, Turk	1,756	239	306	777	434	55	184	167	139	557
Cypriot, n.e.c	2,067	1,016	275	372	404	51	965	224	51	240
Czech	1,892,456	336,994	931,233	348,110	276,119	49,914	287,080	554,544	376,689	125,449
Danish	1,518,273	142,160	571,292	147,029	657,792	47,084	95,076	246,305	324,987	81,233
Dutch	6,304,499	1,133,936	2,235,006	1,651,125	1,284,432	132,709	1,001,227	1,569,840	665,166	791,314
Eastern European	62,404	33,733	8,067	9,763	10,841	7,535	26,198	6,298	1,769	7,750
English	49,598,035	8,174,976	11,538,184	19,618,370	10,266,505	2,935,128	5,239,848	8,177,892	3,360,292	9,855,607
Estonian	25,994	10,808	4,494	3,914	6,778	2,138	8,670	3,603	891	3,062
European	175,461	32,533	33,181	40,074	69,673	6,570	25,963	21,361	11,820	24,836
Finnish	615,872	96,929	304,319	53,603	161,021	57,035	39,894	189,268	115,051	35,964
French	12,892,246	3,377,762	3,488,677	3,532,674	2,493,133	1,991,366	1,386,396	2,413,767	1,074,910	1,274,337
German	49,224,146	9,359,415	20,244,888	10,742,903	8,876,940	1,094,006	8,265,409	13,386,769	6,858,119	5,645,556
Greek	959,856	388,120	233,474	167,926	170,336	121,832	266,288	202,617	30,857	118,451
Gypsy, Rom	6,322	1,493	1,066	1,434	2,329	394	1,099	887	179	960
Hungarian	1,776,902	700,947	587,175	239,786	248,994	84,490	616,457	532,129	55,046	180,273
Icelander	32,586	3,235	9,833	4,135	15,383	1,001	2,234	3,014	6,819	2,711
Irish	40,165,702	9,753,664	10,572,753	12,709,872	7,129,413	2,882,728	6,870,936	7,246,836	3,325,917	5,984,557
Italian	12,183,692	6,929,876	1,995,424	1,555,340	1,073,052	1,596,510	5,333,366	1,710,057	285,367	1,017,019
Latvian	92,141	33,150	27,541	13,710	17,740	9,294	23,856	21,795	5,746	10,493
Lithuanian	742,776	350,308	222,638	88,915	80,915	123,014	227,294	203,178	19,460	71,083
Luxembourger	49,994	2,557	37,176	3,283	6,978	754	1,803	20,384	16,792	1,998
Maltese	31,645	9,831	12,843	2,529	6,442	452	9,379	12,471	372	1,638
Manx	9,220	784	3,571	2,856	2,009	220	564	2,942	629	735
Northern Irelander	16,418	4,036	4,848	4,946	2,588	1,488	2,548	3,228	1,620	2,553
Norwegian	3,453,839	226,477	1,899,306	253,799	1,074,257	64,250	162,227	680,864	1,218,442	135,373
Polish	8,228,037	3,342,944	3,153,476	943,536	788,081	731,858	2,611,086	2,738,163	415,313	661,137
Portuguese	1,024,351	512,768	30,971	60,768	419,844	409,329	103,439	22,280	8,691	41,288
Azorean	12,689	5,347	2,309	2,069	2,964	2,598	2,749	1,429	880	1,515
Maderan	5,126	2,518	836	1,020	752	251	2,267	602	234	749
Portuguese, n.e.c	1,006,536	504,903	27,826	57,679	416,128	406,480	98,423	20,249	7,577	39,024
Rumanian	315,258	124,569	86,010	45,657	59,022	12,786	111,783	75,729	10,281	37,426
Russian, n.e.c	2,781,432	1,333,813	474,573	441,287	531,759	231,879	1,101,934	358,496	116,077	361,877
Ruthenian	8,485	5,762	1,824	569	330	380	5,382	1,620	204	487
Scandinavian	475,007	36,578	176,035	53,595	208,799	12,965	23,613	61,166	114,869	29,852
Scottish	10,048,816	1,873,429	2,307,293	3,492,252	2,375,842	665,826	1,207,603	1,582,379	724,914	1,882,574
Serbian	100,941	25,449	54,715	7,606	13,171	679	24,770	48,212	6,503	5,528
Slavic	172,696	68,351	53,474	19,726	31,145	5,776	62,575	44,039	9,435	14,401
Slovak	776,806	388,964	303,041	50,051	34,750	35,332	353,632	286,271	16,770	38,576
Slovene	126,463	21,749	89,055	5,024	10,635	1,091	20,658	80,509	8,546	3,428
Swedish	4,345,392	659,486	1,847,564	511,426	1,326,916	284,780	374,706	887,277	960,287	278,068
Swiss	981,543	177,080	381,596	143,636	279,231	28,986	148,094	270,330	111,266	78,663
Ukrainian	730,056	402,054	169,080	79,231	79,691	49,763	352,291	147,360	21,720	61,728
Welsh	1,664,598	411,161	445,719	360,272	447,446	58,654	352,507	322,991	122,728	215,763
Yugoslavian	360,174	87,209	121,421	35,051	116,493	7,568	79,641	98,087	23,334	21,087
Other European, n.e.c	77,762	11,055	13,211	28,201	25,295	3,066	7,989	7,981	5,230	22,220

Source: U.S. Department of Commerce, Bureau of the Census, "Ancestry of the Population by State: 1980."●

ADDITIONAL COSPONSORS

S. 1201

At the request of Mr. MATHIAS, the names of the Senator from Alabama (Mr. DENTON) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1201, a bill to amend title 17 of the United States Code to protect semiconductor chips and masks against unauthorized duplication, and for other purposes.

S. 1980

At the request of Mr. MURKOWSKI, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1980, a bill to recognize the organization known as the Polish Legion of American Veterans, U.S.A.

S. 2165

At the request of Mr. DANFORTH, the name of the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 2165, a bill to amend the Internal Revenue Code of 1954 to increase research activities to foster university research and scientific training and to encourage the contribution of scientific equipment to institutions of higher education.

S. 2237

At the request of Mr. SASSER, the name of the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 2237, a bill to strengthen the Asbestos School Hazard Detection and Control Act of 1980.

S. 2374

At the request of Mr. STAFFORD, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 2374, a bill to extend the authorization for 5 years for the low-income home energy assistance program, for the community services block grant, and for the Head Start program, and for other purposes.

SENATE JOINT RESOLUTION 138

At the request of Mr. ZORINSKY, the name of the Senator from Virginia (Mr. TRIBLE) was added as a cosponsor of Senate Joint Resolution 138, a joint resolution to establish a Commission on Teacher Education.

SENATE JOINT RESOLUTION 206

At the request of Mr. TSONGAS, the names of the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of Senate Joint Resolution 206, a joint resolution designating the first Sunday of every August as "National Day of Peace."

SENATE JOINT RESOLUTION 247

At the request of Mr. HUMPHREY, the names of the Senator from Virginia (Mr. TRIBLE), the Senator from Indiana (Mr. LUGAR), the Senator from Nebraska (Mr. EXON), the Senator from Kansas (Mr. DOLE), and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of Senate Joint Resolution 247, a joint resolution to designate March 25, 1984, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE RESOLUTION 127

At the request of Mr. ANDREWS, the name of the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of Senate Resolution 127, a resolution to make the Select Committee on Indian Affairs a permanent committee of the Senate.

AMENDMENTS SUBMITTED

TARIFF TREATMENT OF CERTAIN ARTICLES

DANFORTH AMENDMENT NO. 2781

Mr. DANFORTH proposed an amendment—eight amendments considered en bloc—to the bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes; as follows:

Redesignate section 201 of the bill as section 201(a) and insert immediately before Section 201(a) as redesignated, the following section:

SEC. 201. FUNGIBLE MERCHANDISE ENTITLED SAME CONDITION DRAWBACK.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

"(2) If merchandise which is fungible to imported merchandise on which was paid any duty, tax, or fee because of its importation, or an aggregate of such imported merchandise and fungible merchandise (either of which has been imported by a person prior to the subsequent exportation by the same person of such commercially identical merchandise) is—

"(A) before the close of a three-year period beginning on the date of importation—

"(i) exported from the United States; or

"(ii) destroyed under Customs supervision; and

"(B) not used within the United States before such exportation or "destruction;

then upon such exportation or destruction 99 per centum of the amount of each such duty, tax or fee so paid shall be refunded as drawback, notwithstanding the fact that none of the imported merchandise may actually have been exported or destroyed under Customs supervision.

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of enactment of this Act.

At the appropriate place add the following:

SEC. . Section 5845(g) of the Internal Revenue Code of 1954 (26 U.S.C. 5845(g)) is amended by striking out "1898" each place it appears and inserting in lieu thereof "1929".

SEC. . Section 5852(e) of the Internal Revenue Code of 1954 (26 U.S.C. 5852(e)) is amended by striking out "or ornament" and inserting in lieu thereof "relic, or item of substantial value to collectors".

SEC. . Section 923(b) of title 18, United States Code, is amended by striking out "or relic" and inserting in lieu thereof "relic, or item of substantial value to collectors".

SEC. . Section 925(d) of title 18, United States Code, is amended by—

(1) striking out "may" the first place it appears and inserting in lieu thereof "shall";

(2) striking out "or museum piece" and inserting in lieu thereof "relic, or item of substantial value to collectors";

(3) redesignating paragraphs (3) and (4) as paragraphs (4) and (5) respectively; and

(4) inserting after subsection (2) the following:

"(3) is or has been classified by the Secretary as a curio, relic, or item of substantial value to collectors;".

At the end of subtitle C of title I of the bill, insert the following new section:

SEC. . CERTAIN CHEMICAL INTERMEDIATE.

Subpart H of part I of the Appendix is amended by inserting in numerical sequence the following new item:

"	(6R,7R)-7-[(R)-2-Amino-2-phenylacetamido]-3-methyl-8-oxo-5-thia-1-azabicyclo[4.2.0] oct-2-ene-2-carboxylic acid dissolvate (provided for in item 406.42, part 1B, schedule 4)	Free	No change	On or before 12/31/86"

On page 28, after the table following line 15, insert the following new section:

SEC. 141. CERTAIN MAGNETRON TUBES.

Subpart B of part I of the Appendix is amended by inserting in numerical sequence the following new item:

"	Magnetron tubes used in cooking appliances with an operating frequency of 2.450 GHz and a minimum power of at least 300 watts and a maximum power not greater than 2,000 watts (provided for in item 684.28, part 5, Schedule 6)	Free	No change	On or before 12/31/86"

At the end of the matter proposed to be inserted add the following:

SEC. . (a) Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended)—

(1) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and

(2) by inserting after subsection (j) the following new subsection:

"(k) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treated as the use of such imported merchandise if no certificate of delivery is issued with respect to such imported merchandise.".

(b) The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act.

On page 19, strike out the table following line 19 and insert in lieu thereof the following new table:

"670.20	Warp knitting machines	Free		40% ad val.
670.21	Other	5.9% ad val.	4.7% ad val.	40% ad val."

On page 28, after the table following line 15, insert the following new section:

SEC. 141. TETRA AMINO BIPHENYL.

Subpart B of Part I of the Appendix is amended by inserting in numerical sequence the following new item:

"907.32	Tetra amino biphenyl (provided for in item 404.90, subpart 1C, schedule 4)	Free	No change	On or before 9/30/88"

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

At the appropriate place, add the following new section:

"SEC.   . (a) the Secretary of the Treasury is authorized and directed to admit free of duty any article which the Vice President for Research, University of Arizona, certifies as being required for the construction, installation, or operation of a sub-mm telescope in the State of Arizona which is the subject of a joint astronomical project undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for Radioastronomy of the Federal Republic of Germany.

(b) the provisions of subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption before November 1, 1993.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will be holding the following hearings:

On March 15, 1984, beginning at 10 a.m., in Senate Dirksen 538, a hearing on S. 1979, to confirm the boundaries of the Southern Ute Indian Reservation in the State of Colorado and to define jurisdiction within such reservation; and H.R. 3376, to declare that the United States holds certain lands in trust for the Makah Indian Tribe of Washington. Those wishing additional information should contact Peter Taylor of the committee at 224-2251.

In the afternoon of March 15, 1984, beginning at 2 p.m., in Senate Dirksen 538, a hearing on S. 2184, to amend the Native American Programs Act of 1974 to impose certain limitations with respect to the administration of such act and to authorize appropriations under such act for fiscal years 1985, 1986, and 1987, and for other purposes. Those wishing additional information should contact Mike Mahsetky of the committee at 224-2251.

SUBCOMMITTEE ON INFORMATION MANAGEMENT AND REGULATORY AFFAIRS

Mr. DANFORTH. Mr. President, I would like to announce for the information of the Senate and the public that the public hearing on reauthorization of the Paperwork Reduction Act of 1980, previously scheduled for March 6, has been postponed. The rescheduled hearing before the Subcommittee on Information Management and Regulatory Affairs will be held on Wednesday, April 4, 1984, at 9:30 a.m., in room SD-342 of the Dirksen Senate Office Building.

The hearing will focus on what steps are needed to strengthen the act and improve its implementation. Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Information Management and Regulatory Affairs, Committee on Governmental Affairs, room SD-326, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. Reid Detchon, staff director, or Ms. Helen Hobart, chief clerk, at 202-224-0211.

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will hold a hearing at 10 a.m. on the first concurrent budget resolution for fiscal year 1985 on Tuesday, March 6, 1984. The hearing will be held in room 608 of the Dirksen Senate Office Building. Senator JOHN TOWER of Texas, chairman of the Armed Services Committee, and Senator ARLEN SPECTER of Pennsylvania are scheduled to testify.

Mr. President, the previously announced meeting of the Senate Committee on the Budget for Wednesday, March 7, 1984, at 1:30 p.m. has been canceled.

Mr. President, the Senate Committee on the Budget will hold a hearing on the first concurrent budget resolution on Thursday, March 8, 1984, at 9:30 a.m. The hearing will be held in room 608 of the Dirksen Senate Office Building. The Honorable John R. Block, Secretary of Agriculture, is scheduled to testify.

SUBCOMMITTEE ON LABOR

Mr. NICKLES. Mr. President, the Subcommittee on Labor will hold a hearing on March 20, 1984, to review various issues under the Employee Retirement Income Security Act of 1974 as they relate to the reversion of assets to employers who terminate their defined benefit pension plans. The hearing will begin at 9:30 a.m. in room 430 of the Dirksen Senate Office Building. Persons wishing to testify should submit a written request to Chairman DON NICKLES, Subcommittee on Labor, 428 Dirksen Senate Office Building, Washington, D.C. 20510 by March 9, 1984. If you have any questions concerning the hearing, please contact Rick Lawson, on the subcommittee staff, at 202-224-5546.

ADDTIONAL STATEMENTS

MARYLAND HEALTH FAIR '84

● Mr. MATHIAS. Mr. President, I would like to call to the attention of my colleagues and heartily recommend to those of them fortunate enough to make their second home in Maryland, "Health Fair '84" to be held across the State at over 50 sites from March 30 through April 14. Preventive health education is the emphasis for the health fair program and it is made possible through the support of various community agencies.

The Maryland project has been held for the past 5 years. During that time, 75,000 Maryland citizens have been screened and over 25,000 health problems have been detected. These include detection for high blood pressure, obesity, glaucoma, foot ailments, anemia, and vision. The only charge is a nominal fee for optional blood tests.

All screenings contain an understandable explanation of the results, and the participant is consulted at the end of the fair by a health professional.

Each year, more and more Marylanders are taking advantage of this statewide health promotion campaign. Mr. President, thanks to the Maryland health fair programs, citizens of the "Old Line" State have an opportunity to apply Samuel Johnson's wisdom:

> To preserve health is a moral and religious duty, for health is the basis of all social virtues.●

LITA DE GRAZIE VIETOR

● Mr. WILSON. Mr. President, I honor today and for posterity, the memory of an extraordinary woman, Lita de Grazie Vietor, whose life was lived to enrich the people of her State of California and her community of San Francisco.

All of us who knew and admired this remarkable woman will remember her as San Francisco's deputy chief of protocol whose sparkle lit up a city and whose effervescence transcended community lines and encompassed an entire State.

Lita's priceless contributions to the arts and humanities will be long remembered, as will her charitable works marking her Italian heritage.

California has lost a treasured friend. We will miss her active presence.●

THE FEDERAL BANKRUPTCY COURTS SYSTEM

● Mr. PRESSLER. Mr. President, I rise today to bring attention to a problem we all are struggling with—the disruption of the Federal bankruptcy courts system. As we all know, time is running out. April 1, 1984, will soon be upon us. We must act now.

All of us are gravely concerned about the chaos which could result from continued inaction on the part of the House of Representatives. On April 28, 1983, the Senate passed S. 1013, the Bankruptcy Court and Federal Judgeship Act of 1983. This bill repealed the jurisdictional provisions of the 1978 Bankruptcy Reform Act which were struck down as unconstitutional by the Supreme Court in its June 1982 Marathon decision.

As we all know, in Northern Pipeline Construction Co. against Marathon Pipe Line Co., the Supreme Court ruled that it was unconstitutional for Congress to have assigned the power to decide certain bankruptcy cases grounded in State law to Federal bankruptcy judges who did not have life tenure and the guarantee against reductions in salary, as provided in article III of the Constitution. With the passage of S. 1013, the Senate provided an answer to this dilemma. S. 1013 would allow article I bankruptcy judges to decide core bankruptcy cases, while Marathon-type State law cases would be decided by them only upon consent of the parties.

It is most important for Congress to act to resolve the uncertainties surrounding bankruptcy case administration. Many of my constituents have grave concerns about the flaws which exist in our bankruptcy laws. Bankruptcy inequities are becoming a common part of our everday conversation in South Dakota. As difficult as these problems are, an even more difficult situation will face us all if congressional action is not taken before April 1, 1984.

It is time to put our partisan views aside and take our responsibility seriously. I have written Chairman RODINO of the House Judiciary Committee urging his committee to put partisan views aside and fight for speedy floor action on the bankruptcy issue. I urge all of my colleagues in this distinguished body and the distinguished Members of the House of Representatives to work for a speedy resolution of a situation which could cause great harm to the rights of both debtors and creditors. We cannot allow chaos to reign in our Nation's court system. It is clear that our overworked court system cannot be further burdened because of our inaction.

I am working with Senator THURMOND, Senator DOLE, and other distinguished members of the Senate Judiciary Committee and this body as a whole to request bipartisan action on behalf of the House of Representatives. None of us can rest until the bankruptcy battle is won.●

S. 2363—REAFFIRM CONGRESS INTENT TO PROHIBIT SEX DISCRIMINATION IN EDUCATIONAL INSTITUTIONS

● Mr. RIEGLE. Mr. President, I rise to consponsor S. 2363, a bill introduced by Senator PACKWOOD to reaffirm Congress intent to prohibit discrimination on the basis of sex in educational institutions that receive Federal financial assistance. This legislation has become necessary in light of Tuesday's Supreme Court decision in Grove City College against Bell. That decision narrowed the application of the antisex discrimination provisions of title IX of the Education Amendments of 1972. Since I believe that the decision will result in the denial of equal educational opportunity for women, I strongly support Senator PACKWOOD's bill.

Mr. President, title IX exists to prohibit sex discrimination against students and employees of education programs and activities receiving Federal funds. It states that "no person * * * shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Congress enacted title IX in 1972 after extensive evidence of sex discrimination in educational institutions had been presented to it. Studies and investigations revealed the existence of sex discrimination in admissions policies, athletic programs, employment policies, financial aid programs, vocational education programs, and other programs. Congress recognized that this form of invidious discrimination denied women not only equality of opportunity, but also impeded their ability to advance in society. Consequently, it determined that Federal resources would be unavailable for those institutions that sought to engage in these discriminatory practices. Patterning its language after that found in title VI, which prohibits discrimination on the basis of race or ethnicity in educational institutions, Congress enacted title IX with the intent of prohibiting sex discrimination in an educational institution if any education program or activity in that institution received Federal financial assistance.

The Department of Health, Education, and Welfare understood this congressional intent when it enforced the title IX provisions. That agency, under both Democratic and Republican administrations, took the view that the receipt of Federal financial assistance triggered title IX's provisions on an institution-wide basis. That interpretation changed only when the Reagan administration assumed office in 1981. Furthermore, attempts in Congress to limit title IX's provisions to the specific program receiving assistance failed. Lamentably, the Supreme Court has chosen to ignore this policy underlying title IX and has relied on the program-specific language of the statute in reaching its decision.

This narrow interpretation can only encourage those discriminatory practices that Congress sought to prohibit. As Justice Brennan suggests in dissent, the decision sanctions practices that Congress clearly could not have intended. Surely Congress did not intend to prohibit sex discrimination in an institution's financial aid program, only to permit that institution to engage in discriminatory admissions or athletic practices. Senator PACKWOOD's bill will insure that this form of sex discrimination will not reoccur. His bill amends the relevant section of title IX to make absolutely clear Congress intent to trigger title IX's sex discrimination provisions whenever any educational program, acitivity, or institution receives Federal funds. This interpretation reflects the original intent of Congress and reflects the views of all administrations, except for the present one, that have enforced title IX. I wish to commend my friend from Oregon for his efforts to remedy this setback for women's equal educational opportunity. As my colleagues know, Senator PACKWOOD has proven himself to be an active protector of women's rights in our society and deserves our hearty congratulations.

In conclusion, I note that the program-specific language of title IX interpreted by the Court also appears in title VI of the 1964 Civil Rights Act and section 504 of the 1973 Rehabilitation Act. These laws prohibit discrimination by institutions receiving Federal financial assistance on the basis of race and handicap respectively. I also note that in the Grove City decision, the Court accepted the interpretation of this language advocated by the Reagan administration. Mr. President, I have grave fears that this administration will use this decision to restrict the prohibitions against race and handicap discrimination that exist in title VI and section 504. To those of us who have spoken out against the Reagan administration's assault on the civil rights of women and minorities, this possibility appears all too real. Indeed, William Bradford Reynolds, chief of the Justice Department's Civil Rights Division, has stated that the Court's decision "certainly points in that direction." We must insure that this unfair erosion of individuals' rights does not proceed any further. I look forward to working with my colleagues to insure that the antidiscrimination provisions of title IX, as well as title VI and section 504, will be triggered on an institution-wide basis when any program in that institution receives Federal funds.●

JUDICIAL LOBBYING

● Mr. DENTON. Mr. President, I have become concerned that members of the Federal judiciary may be violating statutory prohibitions on the use of Federal funds to lobby the Congress. The possible violations were brought to my attention by a November 4, 1983, Los Angeles Times article by Jim Mann, entitled "U.S. Judges Now Court Legislators." I ask that the Times article be printed in full in the RECORD immediately following my remarks.

Mr. President, as my colleagues are aware, section 1913 of title 18, United

States Code, prohibits the use of Federal funds to lobby Congress "* * * in the absence of express authorization by the Congress." The only exception that is provided by the law is that Federal officers and employees may communicate with Congress "on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business."

Yet the Times article describes two general kinds of judicial lobbying activities: First, lobbying by or on behalf of the Judicial Conference of the United States; and second, lobbying by or on behalf of the Federal Judges Association (FJA). The Judicial Conference of the United States stands as the only group that arguably has "express authorization by the Congress" for lobbying "through the proper official channels." That is because, unlike the FJA, the Judicial Conference is an official governmental body. The FJA is a purely private group, formed in 1981, which asks its approximately 300 dues-paying members "to contact their 'friends' in Congress to seek 'such friends' support' for legislation benefiting the judges." I ask that a June 13, 1981, Washington Post article entitled "Judges Act To Organize for Salaries, Benefits," which describes the purpose of the FJA, be printed in full in the Record following my remarks.

Mr. President, under 28 U.S.C. 331, the Chief Justice of the U.S. Supreme Court, as the statutory head of the Judicial Conference, is authorized and directed to "submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation." It can, therefore, be said that the statutory language expressly authorizes only the Chief Justice to recommend legislation. No other Federal judge is expressly authorized to do so, and not even the Chief Justice can be said to be expressly authorized to go beyond recommending legislation to lobbying for its passage.

The Times article, however, discusses lobbying activities by the Chief Justice and by other Federal judges who hold positions within the committee structure of the Judicial Conference. In addition, the Times article discusses how the Judicial Conference has retained two former Senate Judiciary Committee staff members to advise it about influencing the Congress. That kind of activity may violate 18 U.S.C. 1913, and therefore justifies an inquiry by the U.S. General Accounting Office.

Although Federal judges obviously enjoy a constitutional freedom of association that allows them to form a private organization such as the FJA, any "contact" with "friends" in the Congress that involves the use of federally funded support staff, telephones, office equipment, and the like, almost surely would violate section 1913. The Times article raises suspicions in that regard that are sufficient to warrant a GAO inquiry.

As a result of my interest in maintaining the proper and responsible use of Federal funds, Senators East, Symms, and I have today, by letter to Hon. Charles A. Bowsher, Comptroller General of the United States, General Accounting Office, requested that the GAO investigate whether the activities described in the Times article violate the statutory prohibition on the use of Federal funds to lobby the Congress. I ask that a copy of the March 2, 1984, letter to Mr. Bowsher be printed in full in the Record following my remarks.

Mr. President, once the GAO has completed its investigation into the matter, I will report its findings to this body.

The material follows:

[From the Los Angeles Times, Nov. 4, 1983]

U.S. Judges Now Court Legislators

(By Jim Mann)

Washington.—The federal judiciary, long accustomed to deciding questions of public policy on the bench, is becoming more deeply involved than ever before in trying to set or influence public policy off the bench as well.

Over the last few years, the nation's 684 life-tenured federal judges gradually have begun shedding traditional inhibitions about participating in the political process. Now, they are calling congressmen, forming trade associations, conducting grass-roots campaigns, hiring legislative representatives and even filing lawsuits in an effort to alter the course of various disputes, in the legislative and executive branches of government.

ANOTHER SPECIAL-INTEREST GROUP

Through these endeavors, the federal judiciary—which in the past has adopted a posture of Olympian detachment from the day-to-day affairs of the other branches of government—is now beginning to act like the many other special-interest groups in American society. On issues ranging from budget and tax legislation to the requirements for bail or the minimum length of a jail sentence, the judges have become a constituency seeking to be heard.

Indeed, earlier this year, after a group of federal judges hosted a Capitol Hill reception for important legislators, including Senate Judiciary Committee Chairman Strom Thurmond (R-S.C.), U.S. Circuit Judge Abner J. Mikva—himself a former congressman—confessed that the event had seemed "like a traditional lobbying activity, sort of like the realtors and the used-car dealers."

SUCCESSFUL IN KILLING BILL

The judges' efforts are beginning to pay off. During a lame-duck session of Congress late last year, the federal judiciary succeeded in killing a bill that would have given life tenure, the federal judges' most treasured perquisite, to the judges who handle bankruptcy cases, who currently are appointed for fixed terms. One key step in heading off the legislation was a phone call from U.S. District Judge Harold Barefoot Sanders, Jr. of Dallas to his old friend and political ally, House Majority Leader Jim Wright (D-Tex.).

"I've found that with Congress, you're most effective with the people you know," explained the judge, who once worked as a legislative aide to President Lyndon B. Johnson.

The judges' unprecedented off-the-bench activism is to some extent a reflection of their concern about getting the salary increases and other benefits they believe are necessary to maintain their standard of living. (Federal district or trial judges are now paid $73,100 a year, while federal appeals court judges receive $77,300.)

In addition, the judges, like many others in America, have discovered that virtually every aspect of their lives—their taxes and pensions, their working conditions and life insurance—may be affected by the laws Congress passes.

"We know which judges are friendly with which congressmen," said U.S. District Judge Spencer M. Williams of San Francisco. "When there's a problem, the judges can contact the congressmen in their home districts and talk to them. . . . The judges are merely exercising their rights. Every other group in this country has an organization to talk to Congress."

ETHICAL QUESTIONS

Yet a number of scholars and lawyers—and a few dissenting judges—say they are disturbed by the judges' new activities. Some believe it is harmful to the judges' dignified image and could jeopardize their special status in American society to be seen as seeking aid and favors from the other branches of government.

"The position of being an authority figure and being a supplicant are inconsistent. I think the judges are compromising their role a little bit," Yale Law School professor Geoffrey C. Hazard, Jr. said.

Others go further. They say the judges' behavior raises troublesome questions about the possibilities for ethical conflict between the judges' strong stands off the bench and their need to remain impartial and dispassionate in the courtroom. Critics also point out that, unlike Congress and the executive branch, federal judges have life tenure and are therefore accountable to no one for their actions in the political or legislative domain.

"It's unseemly and inappropriate," Hofstra University law professor Monroe H. Freedman said of the judges' attempts to influence the other branches of government.

OFF-THE-BENCH OPINIONS

In some instances, the judges have taken positions in Congress on issues or legislation whose constitutionality may be tested in the federal courts. In addition, an examination of the judges' activities by The Times turned up several examples of judges' giving off-the-bench opinions about how a decision should be interpreted or whether a particular bill might be constitutional—matters that could later come before them on the bench.

Generally, federal judges are not supposed to give off-the-bench "advisory" opinions concerning constitutional questions that might arise in court. But when it comes to legislation affecting the judiciary, judges frequently have volunteered out-of-court opinions to Congress about what might pass constitutional muster.

Three years ago, for example, when Sen. Dennis DeConcini (D-Ariz.) proposed legislation that would have required the Judicial Conference of the United States, the judiciary's official policy-making board, to open its meetings to the public, U.S. Circuit Judge Irving R. Kaufman of New York bluntly informed DeConcini in writing that his bill would be "an unconstitutional violation of the separation of powers." And last year, when the Supreme Court struck down the legislation setting up the nation's bankruptcy courts, the Judicial Conference sent Congress a written report explaining how it felt the high court's decision should be interpreted.

Often, the judges' off-the-bench activities are devoted to ordinary pocketbook issues.

They regularly press for higher salaries for themselves and better life insurance and annuities for their survivors. They have also begun to seek exemptions from Social Security taxes and more favorable treatment on federal income taxes. Several years ago, the judges tried quietly, without success, to win an exclusion from the law requiring high-ranking federal officials to file public statements disclosing their income, assets and liabilities.

But The Times' study found many other instances in which the federal judiciary has attempted to exert its influence over other issues with broader implications for social policy and criminal law.

On several occasions over the last five years, the judges have registered their opposition in Congress to bills requiring that the proceedings of the federal courts of Puerto Rico be conducted in Spanish. (The bills have never passed, and as a result, federal law still requires that the court proceedings generally be conducted in English.) The judges complained that this legislation would have "an adverse effect upon the administration of justice" and noted that it would make it more difficult for judges from the U.S. mainland to help reduce the court backlog in Puerto Rico.

The federal judiciary has also worked quietly for the defeat of proposals, supported both by civil libertarians and by the American Bar Assn., to permit individuals to bring lawyers with them when they are called to testify before a grand jury. The judges told Congress these proposals would "turn a grand jury proceeding into an adversary one."

The judges have formally asked Congress to amend the federal bail laws to make it clear that judges may consider "the safety of any other person or the community" in deciding whether or under what conditions to release a defendant on bail. They have also sought revisions of federal law to make it clear that persons found not guilty by reason of insanity may afterward be confined to mental hospitals in civil proceedings.

BURGER SET EXAMPLE

In taking such positions, the federal judiciary is following the example of Chief Justice Warren E. Burger, who has devoted more time to off-the-bench activities than any of his predecessors since Chief Justice William Howard Taft six decades ago. In a 1978 speech, Burger said he believes that "participation in legislative and executive decisions that affect the judicial system is an absolute obligation of judges just as it is of lawyers."

The number of lawyers and staff aides assigned to represent federal judges in Congress and elsewhere in Washington has increased markedly over the past few years.

The Judicial Conference had no full-time staff member assigned to keep track of legislation until 1976. Now, a three-person legislative affairs office keeps track of developments in Congress, regularly contacting important committee members to let them know what the judges want.

LOBBYING LAW CITED

In addition, last spring one committee of the Judicial Conference hired two well-connected Washington lawyer-lobbyists to work on what it called "congressional strategies designed to improve the personal financial security of federal judges." One of the attorneys, Kenneth R. Feinberg, had served as a counsel to the Senate Judiciary Committee when it was headed by Sen. Edward M. Kennedy (D-Mass.); the other, Emory M. Sneeden, had served as counsel for the committee under Thurmond, the current chairman.

The two men will work for the judiciary on a *pro bono* basis—that is, without pay. Asked about his work for the judges, Feinberg said recently: "Everybody in America is entitled to a lawyer."

The federal lobbying law makes it a crime to use public money for the purpose of attempting to influence members of Congress. Like virtually every other agency of the federal government, the Judicial Conference maintains that its activities on Capitol Hill are not lobbying, but merely an effort to respond to congressional requests. Five years ago, in a fit of pique after a bankruptcy bill was passed over his opposition, Burger remarked privately, "If I'm a lobbyist, I'm just about the lousiest lobbbyist there could ever be."

Many judges, indeed, complain that the efforts of the Judicial Conference do not go far enough.

Two years ago, some of these judges formed a separate private group, the Federal Judges Assn., with the aim of getting a better deal from Congress on such matters as salaries, pensions and other benefits. At the time, Burger strenuously opposed formation of the new organization, saying it would "obstruct, rather than advance, accomplishment of those things needed by the judiciary."

JUDGES' GROUP THRIVES

But the Federal Judges Assn. now is thriving. Nearly half, or about 300, of the life-tenured federal judges have joined, with each of them contributing dues of $200 per year.

In August, these judges hired former Republican Rep. Charles Wiggins of California, who once served on the House Judiciary Committee, to be their "federal coordinator." Wiggins says he will merely "monitor" legislation in Congress for the association.

"It's not my function to lobby for the judges," he said. "They'll make contact on their own with people in the Senate and the House."

The Federal Judges Assn. is headed by Williams, who sometimes refers to the Judicial Conference—which is led by the chief justice and the chief judges of the nation's federal appeals courts—as "the Establishment." The judges' association, he said, is not only a private organization but a "grass-roots movement."

MORE REPRESENTATION

He and other judges say the association was modeled after the California Judges Assn., a group of state judges that has had considerable success with the California Legislature over the last decade. In addition to the judges' association, some federal judges have formed private organizations of judges within their own states or regions.

Members of the association say that they believe their official leadership in Washington has been unable to win much help or sympathy from Congress and the executive branch. "The chief justice is our nominal spokesman, but his time is too fragmented," said U.S. District Judge Laughlin E. Waters of Los Angeles. "There's no way he can cover 500 members of Congress. I don't think the official structure representing the courts (the Judicial Conference) is at all adequate. It just can't move fast enough on these things."

The organization of the judges' association has touched off a quiet debate within the judiciary. Although many federal judges have joined, some dissenters say they are uncomfortable with the idea of judges forming a trade group.

"There is some concern in my mind that we may look like any other group of organized professionals or organized workers that is speaking for its own personal interests rather than the interests of the country as a whole," said Circuit Judge Levin H. Campbell, chief judge of the U.S. 1st Circuit Court of Appeals in Boston. "Possibly we're stronger in the long run if we're content just to do our job."

DISSENTING JUDGES

Campbell acknowledged that his view might be an "outmoded" one. "Pressure groups have become more common in the past 20 years," he said.

Another federal judge, who spoke only on the condition that he not be identified, reported that although others in his courthouse had joined the judges' association, he had decided not to sign up. "I sometimes feel like out of a spirit of camaraderie, I ought to join, too," the judge said. Asked whether he was being pressured to do so, he asserted, "of course, if I didn't eat with them (the other judges), I wouldn't have any pressure at all."

Others are even more critical. "When the judges go around to congressmen asking for something, they give what amounts to an IOU," said U.S. Bankruptcy Judge Richard L. Merrick, former president of the National Conference of Bankruptcy Judges. "You know how congressmen work. When they do something for you, they expect you'll do something for them. Some congressman might have a constituent who wants to have a sentence modified. Some might have an arrangement with a law firm that practices in the federal courts."

Those in the federal judiciary who have joined the Federal Judges Assn. say they see nothing wrong with forming a trade group.

"When it comes to issues that affected the judiciary directly—their salaries, protection for their widows and dependents, preservation of the independence of the judiciary—the judges have both a right and a duty to speak up and deal with Congress," U.S. District Judge Irving Hill of Los Angeles said, "because if they don't, nobody will."

Wiggins, the former congressman now representing the federal judges, contended that the judiciary needs special help because judges are viewed "with some hostility" in the legislative branch. "The guys on the (Capitol) Hill, who have to stand for reelection every two years, have a feeling of animosity toward people who are appointed for life," he explained.

Nevertheless, some scholars say they believe judges should speak only from the bench and should avoid attempting to influence the other branches of government.

"I've always felt that judges should maintain to the greatest extent possible the appearance of impartiality," said Arthur S.

Miller, professor emeritus of law at George Washington University. "These activities sully that appearance. Judges are funny things. They want it both ways. They want to be considered above the fray, and yet they want to engage in political activity when it suits them."

Hazard, the Yale law professor, said he believes it is unfair that federal judges are getting paid "what kids are getting paid in the larger law firms." Nevertheless, he termed the judges' off-the-bench activities "deplorable."

"If they (the judges) have to do this in order to preserve the job they want, then maybe they ought to quit, the job," he said. "because they're transforming the judiciary by their very efforts to preserve it."

[From the Washington Post, June 13, 1981]

Judges Act To Organize for Salaries, Benefits

(By Fred Barbash)

A group of federal judges, much to the dismay of Chief Justice Warren E. Burger, has proposed organizing the federal judiciary into a Federal Judges Association to lobby for higher salaries and fringe benefits.

The judges are not calling their proposed organization a union. Nevertheless, the effort is controversial because it represents the first time judges have gone outside their officially sanctioned organizational structure, the Judicial Conference.

Burger has expressed his "strong disapproval" of the organizing effort and has asked the judges to stop it. One of the organizers said yesterday, however, that they would continue the movement.

The call to organize was made in a letter May 29 to all federal judges from two U.S. District Court judges in California, Samuel Conti and Spencer Williams. Eight other judges from around the country are part of the organizing group.

The Williams-Conti letter called for creation of the Federal Judges Association, complete with $200 dues and a possible "Washington coordinator." Judges would be asked to contact their "friends" in Congress to seek "such friends' support" for legislation benefiting the judges.

The letter said judges appreciate the work of the chief justice and others to improve salaries. But it said that not enough has been achieved and that judges now must pursue "their own solution."

A spokesman for Burger said yesterday that the chief justice had received the letter and responded by communicating "his strong disapproval" of the proposed program.

"The chief justice emphasized that the Judicial Conference of the United States is the statutory body authorized to express the views of the federal judiciary," a statement from Burger said. "Ad hoc programs of the kind which is here proposed are neither appropriate nor useful."

U.S. District Court judges are paid $67,100 annually, and appeals court judges receive $70,900.

The judges have argued for several years that their pay levels have not kept pace with inflation and are far below amounts they could be earning in private law practice, where pay in prestigious firms can soar into six figures. Several judges have resigned from the bench, citing salary and fringe benefit levels.

Current salaries are lower than those recommended last year by a federal pay commission that reviews all U.S. salaries. But they would have been lower if the Supreme Court had not held last December that previous congressional actions withholding raises for the judges were unconstitutional. The suit that led to the decision was brought by Illinois Federal Judge Hubert L. Will, who is part of the organizing committee.

The Williams-Conti letter said that the decision gave Congress a "road map on how to frustrate future pay increases. We cannot reasonably hope that such action, if taken [in the future] will not be vulnerable to judicial review."

The letter followed a survery of all 753 federal judges distributed by Conti. Of the 332 responses, the letter said, 299 judges favored a "self-help" program for the bench.

Williams said yesterday that he considered the repsonse "very enthusiastic." Asked if the program would continue despite Burger's objections, he said:

"Sure. We're trying to be helpful. We're not fighting with the chief."

Burger's spokesman said the chief justice was "well aware that the purchasing power of federal judges is one-third less than in 1969 and that the frustration of judges is understandable."

The judges say they hope to pattern their organization on the California Judges Association, a group of state judges that participates in lobbying and public relations, and hold meetings and conventions for judges.

They hope to include a district or appeals judge from each of the country's judicial circuits as members of a board.

The Washington coordinator, the letter said, "would keep us informed of the progress of various bills in which we are interested, determining who are the key congressmen involved, matching these congressmen with the indicated judges and, where necessary, having the matched judges brought to Washington at the appropriate time (and at the organizations expense) to discuss the bill with their congressmen."

U.S. Senate,
Committee on the Judiciary,
Washington, D.C., March 2, 1984.

Hon. Charles A. Bowsher,
Comptroller General, U.S. General Accounting Office, Washington, D.C.

Dear Mr. Bowsher: We are concerned that members of the Federal Judiciary are improperly using Federal funds to lobby Congress. A major reason for our concern can be found in a November 4, 1983, Los Angeles Times article by Jim Mann entitled "U.S. Judges Now Court Legislators." (A copy of the article is enclosed).

As you know, under 18 U.S.C. section 1913, no Federal funds may be used to lobby Congress ". . . in the absence of express authorization by the Congress." The only exception that is provided by the law is that Federal officers and employees may communicate with Congress "on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business."

The two groups mentioned in the article are the Judicial Conference of the United States and the Federal Judges Association. The Judicial Conference of the United States is the only one of the two groups that arguably has "express authorization by the Congress" for lobbying "through the proper official channels." That is because, unlike the Federal Judges Association (FJA), the Judicial Conference is an official governmental body. The FJA is a purely private group, formed in 1981, which asks its approximately 300 dues paying members "to contact their 'friends' in Congress to seek 'such friends' support for legislation benefitting the judges." (A copy of a June 13, 1981, Washington Post article entitled "Judges Act to Organize for Salaries, Benefits," which decribes the purpose of the FJA is enclosed.)

Under 28 U.S.C. section 331, the Chief Justice, as the statutory head of the Judicial Conference, is authorized and directed to "submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation." It can therefore be said that the statutory language expressly authorizes only the Chief Justice to recommend legislation. No other Federal judge is expressly authorized to do so, and not even the Chief Justice can be said to be expressly authorized to go beyond recommending legislation to lobbying for its passage.

The Times article, however, discusses lobbying activity by the Chief Justice and by other Federal judges who hold positions within the committee structure of the Judicial Conference. In addition, the Times article discusses how the Judicial Conference has retained two former Senate Judiciary Committee staff members to advise it on influencing the Congress. That kind of activity may violate 18 U.S.C. section 1913, and therefore justifics a GAO inquiry.

Although Federal judges obviously enjoy a constitutional freedom of association that allows them to form a private organization such as the FJA, any "contact" with "friends" in the Congress that involves the use of Federal funded support staff, telephones, office equipment, and the like almost surely would violate section 1913. The Times article raises suspicions in that regard that are sufficient to warrant a GAO inquiry.

Because of our interest in the proper and responsible use of Federal funds, we request that the GAO investigate whether the activities described in the Times article violate the statutory prohibition on the use of Federal funds to lobby the Congress.

Sincerely,

John P. East,
Jeremiah Denton,
Steven D. Symms,
U.S. Senators.●

CAPITOL POLICE CHIEF JAMES M. POWELL

● **Mr. SASSER.** Mr. President, I congratulate one of Tennessee's native sons—Capitol Hill Police Chief James M. Powell—on his 20 years with the Capitol Police Force. That tenure ends this spring when Chief Powell retires.

I have appreciated his unfailing courtesy and cooperation with me and my staff whenever we needed assistance with security arrangements. I know that every office on the Hill has had the same good working relationship.

We all appreciate, too, the professional way that Chief Powell and his force guard our safety on Capitol Hill.

It is with a sense of pride that I note that Chief Powell is a native of Chapel Hill, Tenn. So, I wish my fellow Tennessee (Volunteer) well in the future and in his new ventures.

Mr. President, I ask that an article from the Washington Post be printed in the RECORD.

The article follows:

JAMES POWELL GOING HOME FROM THE HILL AFTER NEARLY TWO DECADES AS POLICE CHIEF

(By Alfred E. Lewis)

He helped capture Puerto Rican nationalist Oscar Collazo after his 1950 assassination attempt on President Harry Truman, once arranged a "discreet" introduction to Egyptian leader Anwar Sadat for actress Bette Davis and posed for photographs with newly sworn President Gerald Ford, at Ford's request.

Such are the memories that James Powell will take with him from the Hill when he retires this spring after nearly 20 years as chief of the Capitol Police, and twice that long as a law enforcement officer.

Powell, who created the first permanent U.S. Capitol Police force, said in a recent interview that he leaves the job with some concern that radical security measures are needed if the legislative seat is to remain safe.

"The Capitol used to have an iron fence around the square [which] . . . had been transferred to the Congressional Cemetery . . . in 1873," Powell pointed out.

He said that he recently recommended to congressional officials that "we immediately restore the fence around the square where the Capitol is and that tourists be met by a guide at the gate and taken through and then deposited back out on the street.

"Of course," he said, "that didn't fly because [having a Capitol accessible to the public] is a way of life that our elected officials don't like to depart from.

"They don't like to create the international image that our democratic way of life has been changed. And they just aren't ready yet to concede that it's necessary."

Powell, 69, joined the District's Metropolitan Police Department in 1940.

He advanced from officer to detective lieutenant before being appointed in 1958 to serve as a plainclothes Capitol Police captain assigned to the Senate side of the Capitol Building. He became chief of the Capitol Police in 1965.

The Capitol Police force began as a group of untrained security guards who were appointed by members of Congress, Powell recalled.

Whenever professionally trained help was needed on the Hill, the D.C. police department would dispatch officers to the scene.

About 1965, in the midst of national unrest, Powell said, it became increasingly difficult to dispatch D.C. police to the Hill on short notice.

When he became chief, Powell said, Hill security was becoming more important.

"We hadn't any bombings yet. We had the Puerto Rican incident and then we were beginning, though, to have the demonstrations and the marches on Washington and the potential for riotous conditions.

"It became obvious that the metropolitan police didn't have the personnel to send at such sudden notice and also it became apparent that we needed a more better-trained force here to deal with the problems on a regular daily basis."

Powell said the Capitol Hill Police force now consists of about 1,220 officers and officials, several of whom have been trained by the FBI he said.

Several years ago, Powell said, he visited the British Parliament with a group of police chiefs "and I wrote back to the then sergeant-of-arms of the Senate and I was teasing him a little bit, but I told him I had found the answer to our problems."

Among other practices, Powell thought the United States should imitate an Oliver Cromwell-era detention room that he saw in the basement of the British Parliament building.

". . . So if anybody disrupts either House of Parliament, the officer presiding in the chamber is the judge and they are sentenced right then, and he bangs a gavel and sentences such a person to the room of detention . . . usually one night on bread and water. They will sign a pledge to never repeat it again, see. But anyway I wrote all this back to Bob Dunfey and suggested that we erect a room of detention in the basement level of the Capitol somewhere."

Before his appointment as chief, Powell was involved in several historic police-related events. During World War II, as a detective, he investigated and dismantled a gas ration stamp racket. Later, he was the first investigator on the scene after two men attempted to assassinate President Truman as he came out of Blair House, Powell and another officer quickly apprehended one of the suspects, who was later sentenced to life in prison.

Powell said that as police chief on Capitol Hill he has been responsible for crowd control during large demonstrations, responding quickly to emergencies such as bombings, and overseeing criminal investigations. But when things are quiet, a chief becomes an aggrandized chaperone or escort, he said.

Between the tension and the danger inherent in the job, much time is spent practicing the art of protocol and making sure that the wishes of dignitaries and celebrities are met.

Once, he recalled, actress Bette Davis was visiting the Hill while Sadat was appearing before the House Foreign Affairs Committee. Davis, said Powell, "sent for me and I went in and met her for the first time and she said that she didn't want to impose, but she had met Sadat before and that she looked upon him as such a nice person and that she would like to meet him again if I could arrange it discreetly. And I told her that I would check it out . . .

"I checked with his security people and we set it up," Powell said. "So then when he was about to depart, he came out in the hallway and we had notified her and so she came out and then after that she was so pleased she posed with me for a picture and she autographed it and sent it back to me and she thanked me for arranging for her to meet Sadat."

Powell, who said his close friend House Speaker Thomas P. (Tip) O'Neill, Jr. (D-Mass.) recently asked him to wait until he was ready to retire so they could go out together, actually expected to retire 18 years ago.

"I never intended to be the chief of police, not that there's anything against it, but I just never had actually aspired to that," he said.●

GROVE CITY

● Mr. PACKWOOD. I ask that the text of the editorial "Grove City" from today's Washington Post appear in the CONGRESSIONAL RECORD in support of my bill, S. 2363, the Sex Discrimination in Education Reform Act of 1984.

The editorial follows:

[From the Washington Post, Mar. 2, 1984]

GROVE CITY

First, the bad news: the Supreme Court has decided that Congress intended important sex discrimination legislation to apply only to those specific programs in an educational institution that receive federal assistance and not to the institution as a whole. This puzzling interpretation, urged on the court by the Department of Justice, appears to allow a college to accept aid for students as long as the aid program is administered without bias, then turn around and bar women from the physics courses, segregate classroom seating and abolish female sports programs. Does such a result make any sense in terms of solving a problem the law was meant to address?

The better news is this: Congress can quickly and easily act to clarify its intentions. The court's decision in Grove City v. Bell interprets a statute, not the Constitution. That statute can and should be changed, and it shouldn't take much time to do so. The law in question, Title IX of the Education Amendments of 1972, uses the same language as Title VI of the Civil Rights Act of 1964, which prohibits racial discrimination in federally funded programs. The legislative history of the 1972 law indicates that Congress expected the same broad interpretation as had been given to the earlier statute. Regulations implementing Title IX specifically stated that all activities of an educational institution would be covered if the institution received any federal money. These regulations were submitted to Congress for review, were the subject of extensive hearings in the House and were not disapproved. Nor were amendments narrowing the interpretation of the regulations given serious consideration. Surely this history ought to have been given some weight by the court's majority. It was persuasive to Justice Brennan, who wrote the dissent with detailed reference to congressional deliberations and who laments the fact that "[a]fter today's Court decision, it will take another reaffirmation of congressional intent, in the form of a clarifying amendment to Title IX, to ensure that the original legislative will is no longer frustrated.'

This law, in its broadest interpretation, is actually no longer highly controversial. Twelve years ago, school systems and colleges routinely provided far less support for women's athletic programs than for men's. Today the benefits of challenging physical education programs for girls in elementary and secondary schools are acknowledged; the accomplishments of collegiate women's teams—not just in basketball and tennis, but in ice hockey, crew and other sports—are widely praised. If it was ever believed women deserved inferior academic training, dormitory facilities or job opportunities, that day has long passed. There should be no hesitation on Congress' part in reaffirming its intent: sex discrimination has no place in schools and colleges using federal money.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there will be no further rollcall votes today.

There will be no other executive or legislative business to be transacted today. The remainder of the day will be devoted to the transaction of routine morning business.

ORDER OF PROCEDURE ON MONDAY, MARCH 5, 1984

Mr. BAKER. Mr. President, I have first a request in respect to the adjournment of the Senate today. I believe the minority leader has a copy of this request, so let me state it now for his consideration.

I ask unanimous consent that when the Senate convenes on Monday, March 5, 1984, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with, and following the recognition of the two leaders under the standing order, there be a special order in favor of the Senator from Wisconsin (Mr. PROXMIRE), for not to exceed 15 minutes, to be followed by a period for the transaction of routine morning business not to exceed the hour of 2:30, with Senators permitted to speak therein for not more than 10 minutes each; and provided further that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have three other small matters that I believe also have been cleared. Let me state for the minority leader first that I would propose to do the House message on H.R. 3655, and I would propose to discharge the Environment Committee of further consideration of S. 1827 and the Judiciary Committee of H.R. 2175.

If those are generally acceptable to the minority leader, I will proceed with them now.

Mr. BYRD. Mr. President, I have previously been informed by my able staff that the majority leader would be interested in moving with these matters and there is no objection on this side.

Mr. BAKER. I thank the minority leader.

RETIREMENT AGE OF JUDGES OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3655.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3655) entitled "An Act to raise the retirement age for judges of the Superior Court of the District of Columbia and judges of the District of Columbia Court of Appeals", with the following amendment:

Page 1, after line 4, insert:

SEC. 3. Notwithstanding the time limitations of section 434(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, the District of Columbia Judicial Nomination Commission shall submit lists, pursuant to such section, for initial nominations and appointments to judicial positions created under this Act, within ninety days after the date of enactment of this Act.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REFERRAL OF COMMITTEE—S. 1827

Mr. BAKER. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of S. 1827, and that that measure be referred to the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON THE CALENDAR—H.R. 2175

Mr. BAKER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 2175, the Justice Assistance Act of 1983, and that that item be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, in a moment, I am going to put a unanimous-consent request in the similar form to that which the Senate has granted from time to time. It will provide that the minority leader will have an opportunity to finish his presentation on the history of the Senate and that at the end of that time, the Senate will resume consideration of the unfinished business, which is Senate Joint Resolution 73, and that after the reporting of that measure, the Chair will automatically place the Senate in adjournment until Monday.

Having described it, let me put it together.

ORDER FOR ADJOURNMENT UNTIL MONDAY, MARCH 5, 1984, AT 1:30 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment, pursuant to the order previously entered, until the hour of 1:30 p.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR PROXMIRE AND DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. BAKER. Mr. President, I further ask unanimous consent that, after the recognition of the two leaders under the standing order, there be a special order not to exceed 15 minutes in favor of the distinguished Senator from Wisconsin (Mr. PROXMIRE), followed in turn by a period for the transaction of routine morning business not to exceed the hour of 2:30 p.m., with statements limited therein to 10 minutes each.

Mr. President, I put that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF THE TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business today be extended until not past the hour of 4 p.m., with no restriction applying to the distinguished minority leader as to the length of time he may speak during that period.

The PRESIDING OFFICER. Without objection it is so ordered.

ORDER TO RESUME CONSIDERATION OF SENATE JOINT RESOLUTION 73

Mr. BAKER. Mr. President, I ask unanimous consent that when the minority leader completes his presentation, the Chair once more lay before the Senate Joint Resolution 73, and then, pursuant to the order previously entered, the Chair place the Senate in adjournment until the hour of 1:30 p.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAPPY 80TH BIRTHDAY, DR. SEUSS

Mr. MOYNIHAN.

Mr. President, Mr. President,
I rise to set a precedent.
With glee and with joy,
Like a five-year-old boy,
I rise to relate
Some news which is great.
Dr. Seuss turns eighty
On this second March day.
His life's work is weighty,
I am happy to say.

There is one thing we share,
Both me and you there,
Which few can deny

Without shame in the eye.
It is Dr. Seuss, we all read avidly,
Read with a son or daughter on knee.
(Their laughter and mine still sits fondly with me.)
Known to us grownups as Theodor Seuss Geisel,
He has done children's literature and many things well.
From army films to ads, his talents never quit.
From Gerald McBoing-Boing to "Quick, Henry! The Flit!"
Yet it is for children he writes most of the time
Indeed, he does so with much mirth and great rhyme.
Yertle the Turtle, the Cat in the Hat
Are his creations and never fall flat.
They stand quite real,
Like all he has done,
They teach with zeal,
And also with fun.
And now comes the war between Yooks and Zooks
Battles resulting from their many flukes.
Each side builds tools to make their foes twitch.
Ghastly weapons like Snick-Berry Switch.
There is a great lesson for us here to heed,
A lesson to learn, a lesson we need.
So hats off to you, good Doctor, I say.
May you have many a long happy day.
You gave us so much, this few would doubt.
We owe you much more, now this I will shout!

I thank the Chair. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. WILSON). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. **BYRD**. Mr. President, the distinguished majority leader will be here shortly. He is being temporarily delayed and as soon as he enters the Chamber I will give way so that he can proceed to take care of some business here. Until he comes I will proceed with the 65th speech that I have made on the subject of the U.S. Senate.

Mr. President, I ask unanimous consent that when I do yield the floor such yielding will not show in the RECORD as an interruption of my statement.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BYRD**. I thank the Chair.

THE UNITED STATES SENATE

DIRECT ELECTION OF SENATORS

Mr. **BYRD**. Mr. President, in my last address on the Senate's history, I discussed the Senate from 1901 to 1912 during the Progressive Era. Today, I wish to focus on one of the progressive reformers' greatest objectives, the direct election of United States Senators. Now, it may come as a surprise to many that Senators were ever chosen through a method other than popular election, but until 1913, with the ratification of the Constitution's Seventeenth Amendment, Senators were elected by state legislatures.

When the fifty-five delegates to the Constitutional convention met in Philadelphia during the momentous spring and summer of 1787, they quickly rejected a proposal from James Wilson to have the white male voters who made up the electorate in each state make the selection. In speaking against this proposition, Roger Sherman said, "The people immediately should have as little to do as may be about the government. They lack information and are constantly liable to be misled." Elbridge Gerry echoed Sherman's views, adding, "The evils we experience flow from an excess of democracy. The people do not lack virtue, but are the dupes of pretended patriots." These same delegates were also opposed to popular election of House members.

The delegates also discarded a plan to have Senators elected by the House of Representatives based on nominations from the respective state legislatures. A majority of the framers correctly believed this would make the Senate dependent on the House at a time when some of the delegates, to ensure the Senate's independence, were considering measures such as lifetime appointments, or at least longer terms, greater salaries, and higher minimum wages. Of course, the framers, in their wisdom, abandoned the idea of a lifetime appointment for Senators. They also found the salary issue too hot to handle, and simply left it for the First Congress to resolve.[1]

After brief deliberation, the Constitutional Convention decided to entrust selection of Senators to state legislatures. Many believed that this would provide desired insulation from popular pressure, allowing the Senate to resist the passions of the moment that might be evident in the handiwork of the popularly elected House of Representatives. It is not surprising that they decided on this method, for it was the means by which the delegates themselves had been selected. State legislatures had also appointed members to the Continental Congresses and the Congresses under the Articles of Confederation, as well as governors and the judiciaries of at least half the states.[2] A more immediate and practical reason for favoring election by the state legislators was that it provided the only formal tie between the national and state governments and increased the likelihood that the Constitution would be ratified when submitted to the state ratifying conventions.

As adopted, Article I, Section 3 of the Constitution provided, in part, that the Senate of the United States shall be composed of two Senators from each state, chosen by the legislature thereof, for six years.

Section 4 of the same Article further provided that the time, places, and manner of holding elections for Senators and representatives shall be prescribed by each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

Section 4 offered two safeguards. It prohibited congressional harassment of state legislatures by allowing those bodies to set the place of election for senators, presumably in their chambers, rather than in a place Congress might deem more appropriate—or more troublesome. Second, by allowing Congress to override state decisions as to the time and manner of elections, it protected the national government from the possibility that states might try to dissolve the Union by failing to elect members of Congress.[3]

Mr. President, as far as I can determine no serious discussion of this method of election was made in any of the state ratifying conventions. In Number 62 of the *Federalist Papers*, James Madison wrote, "It is equally unnecessary to dilate on the appointment of senators by state legislatures. Among the various modes which might have been devised for constituting this branch of the Government, that which has been proposed by the convention is probably the most congenial with public opinion."[4]

For the first half century of our Nation's existence under the Constitution, Congress had no occasion to concern itself about the manner of senatorial selection, although a resolution calling for popular election of senators was introduced in the House in 1826. In the earliest years, each house within a state legislature, as a rule, met separately to select a candidate by majority vote, just as it would deal with any legislative measure. This accorded with the framers' belief that the upper chamber should serve as a check on the actions of the lower house. This restraint would be nullified if, as began to happen in several states, the legislatures met jointly to

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Footnotes at end of article.

reach their decision. However, the practice of deliberating separately began to prove troublesome as the years passed in the first half of the nineteenth century. Particularly in those states where the two houses were controlled by different parties, deadlocks occurred with the result that those states were deprived of their full representation in the Senate.

In the mid 1850's a major stalemate occurred in Indiana that led to a basic reform of the election process. By February 1857, one of Indiana's seats in the Senate had been vacant for two years as a result of turmoil between the newly emerging Republican party from the State's northern counties and the majority Democrats from the southern regions. During that month, the hostilities between the parties came to a rowdy climax as boisterous and reportedly armed Republicans milled about in the halls and on the floor of the state senate, disrupting efforts by the Democratic lieutenant governor to call the roll. All realized that the stakes were particularly great as the legislature had to fill not only the existing vacancy, but also the term that was about to expire. Failing to achieve order in their chamber, the senate's Democrats proceeded to the house chamber. There, in joint session, they elected Democrats Jesse Bright, the incumbent, and Graham Fitch for the remainder of the vacant term. When Bright and Fitch arrived in Washington, they presented their credentials and were sworn in. Back in Indiana, Republican legislators charged that the two senators were not legally entitled to their seats as the joint session in which they were chosen had not been legally summoned and that under state law, the individual houses were to act concurrently rather than jointly.

A year later the Republicans took control of both houses of the Indiana legislature and promptly concluded that Fitch and Bright had been improperly elected, so two vacancies existed. They then proceeded to elect Republicans William McCarty and Harry Lane. Both men traveled to Washington and presented their credentials. After appropriate deliberation, the Senate's Democratic majority decided to reject the credentials of these Indiana Republicans. They reasoned that the Senate had already voted to seat Fitch and Bright and they considered the Indiana legislature's second election to be a challenge to the Senate's constitutional responsibility to judge the qualifications of its own members.[5]

Within days of final action on this heated issue, a bill was introduced in the Senate, under the provisions of Article I, Section 4 of the Constitution, to "prescribe the time and manner of electing senators and the form of their credentials." This measure and others like it died in committee and no action was taken until after the Civil War.

Late in 1865, the issue of how legislatures were to conduct senatorial elections was finally engaged in a dispute over the validity of the election of New Jersey Democrat John Stockton. Stockton's credentials for the term to begin March 4, 1865 were presented on December 4, 1865, along with a memorial from a portion of the New Jersey legislature protesting the process of the election. Opponents in the New Jersey legislature deemed Stockton's election invalid because he won by a plurality vote of the joint session rather than a majority vote. Despite the protest, the Senate seated Stockton and sent his credentials to the Judiciary Committee.

On January 30, 1866 the Judiciary Committee, chaired by Lyman Trumbull (R-IL), returned a report favorable to Stockton. The committee found that the New Jersey statute provided only that United States senators should be appointed by a joint meeting of the senate and the general assembly. The law did not set forth regulations for the management of the joint meeting, nor establish the manner of the election. Historically, the joint meeting of the New Jersey legislature adopted and implemented different rules annually, a system the Judiciary Committee found to be in accord with the state constitution.

Stockton, responding to his opponents on the Senate floor, touched on a point that was becoming more and more apparent to the Senate. He said, "Senators are not always elected in New Jersey or in any state, I presume, in precisely the same way." The patrician Senator grumbled on, "Since I have been in Washington, the position I have occupied has been very unexpected. It is a very unpleasant thing to have any one believe that a gentleman would claim a seat to which he was not clearly entitled." Although he repeatedly expressed his amazement at the election protest and insisted he felt totally unprepared to defend himself, Stockton delineated, with great accuracy, New Jersey election cases dating back 1794 to support his claim.[6]

Though the structure of senatorial debate in this case centered on complex legalistic arguments, the smoldering animosities of post-Civil War factionalism surfaced again and again. Maryland Senator Reverdy Johnson responded to William Fessenden's comment that the Senate could not tell legislatures whom they should elect with an emphatic, "Yes, we can. Why cannot Congress prescribe that electing Senators should be by nomination before balloting." Daniel Clark (R-NH), a leader of the opposition to Stockton, took umbrage at Johnson's remarks and huffily reminded his Maryland colleague that it did not interfere with the constitutionality of the states for a senator to exercise his right of inquiry. At one point Fessenden responded to Illinois Senator Lyman Trumbull, sneering, "Oh, the senator is never as stupid as he sometimes appears to be."[7]

A vote on March 23, affirming the Judiciary Committee's recommendation, failed to end the controversy. On March 24, Senator Charles Sumner declared that the vote of 22 to 21 taken the previous day, and including Stockton's name, served as a record in the *Senate Journal* that the members had permitted a senator to act as a judge in his own case. Sumner thought this action such an unsavory reflection on the character of the Senate that he wanted the *Journal* amended. His appeal unleashed another round of heated debate until John Sherman described the entire contest as a device "to gain party power and no man is so blind as to wink his eyes against the truth of that proposition."[8]

The wrangling continued as Stockton suggestion that no votes should be taken until his New Jersey colleague, Democratic Senator William Wright, could recover his health sufficiently to come to Washington. As charges and counter charges of procrastination and duplicity swirled about, Sumner's appeal succeeded. With the Senate in a second uproar over the Stockton election, the Massachusetts Republican withdrew his resolution to amend the *Journal* in return for a reconsideration of the March 23 vote. On March 27, the Senate, with Stockton excluded from the voting, resolved that the New Jersey Senator was not entitled to his seat.

In an effort to convince the Senate that a change in New Jersey election procedures did not violate the State constitution, Stockton presented to the Members a State-by-State analysis of senatorial election processes. Though his presentation did not win for him the right to continue as a New Jersey Senator, Stockton's report established beyond question that senatorial election procedures in the United States represented a snarl of inconsistencies and mismanagement.[9]

Confronted by the weight of this evidence and burdened with a multiplication of election challenges, the genesis in which could be found the most flagrant misconduct and corruption at the State level, Congress responded in July 1866. The passage of a statute to regulate the time and procedure for electing United States Senators marked the first step toward elimination of the original selection process devised by the Constitution's framers. The law provided that on the first Tuesday after the meeting and organization of a legislature, during a year when a Senator was to be elected, the two houses would meet separately, and by voice vote, name a Senator. On the following day, both Houses would meet jointly to announce their individual selections. If a single candidate received the majority vote in both Houses, that candidate would be declared elected. If not, the law provided that "the joint assembly shall meet at twelve o'clock meridian, on each succeeding day of the legislature, and take at least one vote until a Senator shall be elected." The measure's supporters believed that forcing the two Houses of a legislature to meet jointly would bring an end to deadlocks in which the Houses had simply ignored each other.[10]

Several Senators objected to the provision for an open vote, arguing that the absence of a secret ballot would compel legislators to vote under the lash of party discipline rather than their personal convictions. Others protested the initial vote by the separate chambers. They observed that it would be a meaningless exercise as action by the joint assembly would be necessary to elect. This procedure would merely alert a potentially obstructive minority of opportunities to block or control closely contested elections. Several Senators feared that such a minority might also take advantage of a provision in an earlier version of the bill that "the joint assembly shall continue to vote for Senator, without interruption by other business, until a Senator is elected." This would have the effect of indefinitely blocking essential State legislation. Although the authors of that provision contended that electing Senators was a matter of national importance overriding individual State concerns, they agreed to modify the language to require only a single vote each day until election was achieved.[11]

Despite the best intentions of its sponsors, this law failed to end election deadlocks. In fact, the number of deadlocks actually increased in the decades following its passage. In the post-Civil War period, State legislatures became increasingly subject to intimidation and bribery in the selection of Senators. While only one case of bribery came before the Senate prior to 1866, nine cases were presented between 1866 and 1906.[12] George H. Haynes, the leading expert on the subject of senatorial elections, concluded that the 1866 law contained two fatal deficiencies. It required that successful candidates receive a majority of all votes cast, rather than a plurality. This provision made it possible for small factions to withhold their support from major candidates until their various demands had been met. These factions, under the law's requirement for a preliminary vote in each chamber, were given plenty of advance notice of those contests that were likely to be close so that they could barter their influence to the candidate most willing to sacrifice principles for votes.[13]

During the fifteen years between 1891 and 1905, forty-five deadlocks occurred in twenty States. The most notable example of this frustrating situation took place in Delaware in 1895, where the legislature in joint session took 217 ballots over a period of 114 days and still failed to elect a Senator. Nearly two years passed before the legislature elected Richard Kenney. Delaware continued to be plagued with such impasses in the years to follow. In 1899, 113 votes over sixty-four days produced no winner, leaving that seat vacant for *four* full years! Again in 1901 and 1905, Delaware went without full Senate representation for periods of up to two years.[14]

Certainly, Delaware was not alone in this predicament, although it was unique in the number of occasions in which no election occurred. Other States endured lengthy delays, but these were often the result of disputes within party caucuses. George Haynes reported, for example, that in the 1890 Kentucky contest, "the votes of the Democratic members were by prior and explicit arrangement 'scattered' until a nomination by caucus solidified them." A year later in Florida, the contest dragged on for thirty-five days under an agreement within the Democratic caucus to divide the vote to prevent an election until the caucus made its selection.[15]

The scattering of votes took on dramatic proportions in North Carolina during the 1903 election when eighty-five candidates received votes on the first ballot. A week later, and after sixty votes within the Democratic caucus, seventy-eight persons drew votes in the official joint floor balloting. Finally, the caucus decided on Lee Overman and the joint assembly quickly elected him by a vote of 138 to 21.[16] With these contests extending over weeks and months, the scattering of votes reflected the uncertainty of the process and the optimism of the many men who hoped that their "dark horse" candidacies might succeed.

With the deadlocks came elevated passions that certainly would have surprised Alexander Hamilton who had predicted in 1787 that the State legislatures, themselves "select bodies of men," would choose senators with "peculiar care and judgment."[17] George Haynes provides us with a colorful account of the turmoil surrounding the deliberations of the Missouri legislature in 1905.

He says the following:

> Lest the hour of adjournment should come before the election was secured, an attempt was made to stop the clock upon the wall of the assembly chamber. Democrats tried to prevent its being tampered with; and when certain Republicans brought forward a ladder, it was seized and thrown out of the window. A fist-fight followed, in which many were involved. Desks were torn from the floor and a fusillade of books began. The glass of the clockfront was broken, but the pendulum still persisted in swinging until, in the midst of a yelling mob, one member began throwing ink bottles at the clock, and finally succeeded in breaking the pendulum. On a motion to adjourn arose the wildest disorder. The presiding officers of both houses mounted the speaker's desk, and, by shouting and waving their arms tried to quiet the mob. Finally, they succeeded in securing some semblance of order.[18]

Several years earlier, Democrats in the Colorado legislature called on the Denver police to help maintain order, while that body's Republicans turned to the Governor for troops as their partisan disputes over Senate candidates nearly erupted in bloodshed. Fortunately, cooler heads prevailed and Senator Henry Moore Teller was returned to the Senate for a fourth term.[19]

By the end of the Nineteenth Century, Congress came under increasing pressure to pass a constitutional amendment that would scrap this burdensome process in favor of direct popular election. As early as the 1870's, citizens began petitioning the House of Representatives to this end. In the decade from 1893 to 1902, the House passed the appropriate joint resolutions by overwhelming margins, but they had few supporters in the Senate and, accordingly, went nowhere. In fact, the first reference to the topic on the Senate floor did not come until 1887 when Nebraska Senator Charles Van Wyck attacked the system. He had been defeated for reelection in his state legislature after winning a nonbinding popular preference election by a ten to one margin.[20]

The State of Oregon led the way in devising a series of popular referenda that became virtually binding on its Legislature. Shortly after the Democratic party added a call for direct election to its national platform in 1900, Oregon enacted a law allowing voters to express their choice for Senator. When the legislature then met to choose a Senator, that law required that the returns of the popular election be laid before them. The law then provided that "it shall be the duty of each house to count the votes and announce the candidate having the highest number, and *thereupon* the houses shall proceed to the election of a Senator." When the Oregon Legislature first tried this procedure, it failed miserably. In the House, the candidate who had secured a plurality of popular votes obtained support from only a small minority, as other legislators split their votes among fourteen candidates. It then took the legislature five weeks and forty-two joint ballots to elect veteran former Senator John H. Mitchell, who had not received a single vote in the popular election.[21]

The failure of this strategy reinforced the determination of those who believed that only a constitutional amendment would solve these perennial difficulties. Nonetheless, the citizens of Oregon were determined to make their legislators heed the results of the popular election mandate. In June, 1904, Oregonians succeeded, by resort to the device of a popular initiative petition, in establishing a "direct primary nominating elections law." Under this new statute, those wishing to become candidates for Senate election were required to submit a duly signed petition along with a one hundred-word statement of their position on major issues. They also were permitted to prepare a twelve-word statement to be printed with their names on the nominating ballot.

For their part, individuals running for the Oregon State Legislature were encouraged to declare their adherence to "Statement Number 1" or "Statement Number 2." Those who subscribed to the first statement pledged to vote "for that candidate for United States Senator in Congress who has received the highest number of the people's votes for that position at the general election next preceding the election of a Senator in Congress, without regard to my individual preference." Statement Number 2, on the contrary, offered the brave prospective legislator the opportunity to declare to the voters that he would "consider the vote of the people for United States Senator as nothing more than a recommendation, which I shall be at liberty to wholly disregard if a reason for so doing seems to me to be sufficient." [22]

To ensure that this strengthened system achieved its desired effect, the citizens of Oregon went a step further by circulating a pledge in which voters swore that they would not support any candidates who failed to subscribe to Statement Number 1. This system was first put to the test in an election to fill two vacancies in 1907. It worked perfectly. This legislature, long accustomed to major and time consuming deadlocks, on the first ballot elected two senators in twenty minutes, as one observer noted, "without boodle, booze, or even a cigar!" [23]

A more severe test for Oregon came two years later when a solidly Republican legislature confronted a popular mandate that had produced a Democratic candidate. One by one the Republican members, faithful to their pledges, set aside their own preferences and cast their ballots for the Democrat.

Other states followed Oregon's lead. Nebraska even went so far as to require a statement on the ballot for candidates to the Legislature that read either "Promises to vote for the people's choice for United States Senator" or "Will not promise to vote for the people's choice for United States Senator." [24]

Mr. President, the campaign for direct election of Senators took a large step forward after February, 1899, when publisher William Randolph Hearst decided to make the objective one of the major editorial policies of his chain of newspapers. Late in 1902, as Hearst accepted the New York State Democratic party's nomination for a seat in the House, he declared war on the growing influence of large corporations on the selection and conduct of senators. After being elected to the House, he introduced a direct election constitutional amendment and continued to speak out on the subject. Early in 1905, Hearst added *Cosmopolitan*, a respectable family magazine, to his publishing empire. Under Hearst's control, *Cosmopolitan* quickly became one of the Nation's more sensationalized muckraking journals and a vehicle for Hearst's views on the direct election.[25]

Later that year, Charles Edward Russell, one of Hearst's editors, approached him with a plan for a series of articles on the Senate. The idea had come to him one day as he sat in the Senate press gallery and observed, as he put it, "a number of well-fed and portly gentlemen" whom he believed represented not the people, but an array of predatory interests. He told Hearst that the articles should focus "on the fact that strictly speaking we had no Senate, only a chamber of butlers for industrialists and financiers." [26]

To undertake the task, Hearst selected popular novelist David Graham Phillips. Phillips had grown up in a small town in southern Indiana in the years immediately following the Civil War. When he went off to Asbury College, he developed a life-long friendship with fellow student Albert Beveridge, who would go on to become a prominent United States Senator from Indiana. Phillips transferred to Princeton and upon graduation went to work for Charles A. Dana's *New York Sun*, then considered one of the nation's best newspapers. Dana insisted that his reporters pursue their stories with unbridled determination and that they write with clarity and precision. In 1893, Phillips left the *Sun* for a position on Joseph Pulitzer's *World*, New York City's largest and most energetic newspaper. During the ten years that Phillips worked for the *World* the nation underwent an era of wrenching social and economic disruption. Bloody strikes, financial panic, increasing concentration of corporate wealth, drought, urban squalor, and a war with Spain set the stage for the movement of political and social reform known as the Progressive Era.

At the turn of the twentieth century, Phillips moved from newspaper reporting to writing magazine articles and novels. From 1902 to 1905, he prepared fifty articles for the *Saturday Evening Post*. In 1905 he published two novels of scandal and corruption that earned him a place as one of the nation's leading writers of muckraking fiction. His *The Social Secretary* depicted the growing power of the rich and the resulting deterioration of the national government. *The Plum Tree* chronicled the rise to power of an unscrupulous United States senator who bore a resemblence to Senators Marcus Hanna and Boies Penrose. As Professor George Mowry has noted, Phillips' writing set forth a plea for "a return to the old moral standards, for the hard-headed integrity of the frontier farmer, for the revival of democratic methods of selecting public officials in place of the boss-ridden, money-dominated political practices of his day." [27]

After some initial reluctance, Phillips agreed to Hearst's offer to do the series for *Cosmopolitan*. He began to compile background material, with the aid of two research assistants, and then set out for Washington to interview congressmen and newspaper reporters who provided him with leads and inside information that he could work into his articles. As Professor Mowry noted, "He then returned to New York and, white-hot with enthusiasm, indignation, and prejudice, began to turn out copy at his usual (rapid) pace." [28]

Phillips directed his fire at twenty-one current Senators. Eighteen of them were Republicans, half were committee chairmen, and most were from states east of the Mississippi and north of the Potomac. All were very wealthy. In the months prior to the appearance of his series, the Senate had come into particular public disrepute as a result of two senators who had been convicted on charges of fraud and corruption. One of them, Oregon's John Mitchell, had been found guilty of receiving fees for expediting land claims before the United States Land Claims Commission. As the Senate prepared to take action against him, however, he died. The other, Joseph Burton of Kansas, was awaiting the results of an appeal of his conviction for taking fees for interceding with postal authorities in a mail fraud case against a St. Louis grain company. Burton expressed both his innocence and also the prevailing sentiment of some of his colleagues in saying "other senators and representatives had build up large private practies during their terms of office and I, in a small way, desired to emulate them." Other Senators told Burton that they would not move to expel him until all his appeals had been exhausted and provided that he remained away from the Senate floor. In May 1906, amidst the publicity fanned by the Phillips series, the Supreme Court upheld Burton's conviction and he resigned shortly thereafter to begin serving a six-month prison sentence.[29]

The nine articles that comprised the "Treason of the Senate" series appeared from March through November 1906. By May, *Cosmopolitan's* circulation had doubled and the articles were being reprinted widely in other papers across the country. Phillips' success with the series was due largely to his ability to take information already well known and to recast it in a light that made a senator's public success seem to be directly related to his willingness to serve the interests of large corporations at the expense of the general public. Phillips was a master of what one journalistic colleague termed "adroit insinuation." Most of his specific charges were severely overdrawn or patently false, as were his broad characterizations of the Senate as "stealty," "treacherous," made up of "perjurers," "bribers," and "changepocket thieves." However, Phillips, at the beginning of his series, enjoyed a large measure of public credibility as a widely respected writer in the employ of a previously reputable magazine owned by a member of Congress.[30]

When Phillips launched the series with an attack on New York Senator Chauncey Depew, President Theodore Roosevelt exploded in anger at the unfairness of the journalist's accusations. Realizing that the series represented a successful effort by Hearst, a political enemy, to discredit his administration, the president wrote a friend that "hysteria and sensationalism never do any permanent good, and in addition I firmly believe that to the public, as well as to the private individuals, the liar is, in the long run, as noxious as the thief." [31]

Several days later, the president came to Capitol Hill to lay the cornerstone for what we now know as the Cannon House Office Building. There, for the first time in public, in a clear reference to Phillips, he attacked "the man with the muckrake" as the man who ignores the lofty ideal and "fixes his eyes with solemn intentness only on that which is vile and debasing." He continued, "There is filth on the floor, and it must be scraped up with the muckrake; and there are times and places where this service is the most needed. But the man who never does anything else, who never thinks or speaks or writes save of his feats with the muckrake, speedily becomes not a help to society, not an incitement to good, but one of the most potent forces of evil." [32]

Very few Senators responded publicly to Phillips' sensationalism. One exception was Joseph Weldon Bailey. Rising in full indignation, the forthright Texas Democrat thundered, "I despise those public men who think they must remain poor in order to be considered honest. I am not one of them. If my constituents want a man who is willing to go to the poorhouse in his old age in order to stay in the Senate during his middle age, they will have to find another senator. I intend to make every dollar that I can honestly make without interfering with my public duty." [33]

The Nation's press generally reacted unfavorably to Phillips. One editor summed up this sentiment, noting that "those who seek to undermine that confidence and destroy respect are playing with matches in dangerous proximity to a powder magazine." Editors of other muckraking magazines feared that the series, filled with exaggerated claims and intemperate language, would discredit their own efforts to bring reform. Throughout the course of the series, Phillips received a great deal of criticism. The charge that bothered him most came from the editor of *Colliers*, who in November 1906 wrote:

> "The Treason of the Senate" has come to a close. These articles make reform odious. They represented sensational and money-making preying on the vogue of the literature of exposure, which had been built up by truthful and conscientious work. Mr. Phillips' articles were one shriek of accusation based on the distortion of such facts as were printed, and on the suppression of facts which were essential.[34]

After completing the series, Phillips gratefully returned to his career as a novelist. Tragically, that career was cut short six years later in January 1911, when at the age of forty-three, he was gunned down near New York City's Gramercy Park. His assailant was Fitzhugh Goldsborough, a member of a prominent Washington family who mistakenly believed that he and his sister had been slandered in Phillips' novel *The Fashionable Adventures of Joshua Craig*. As the writer lay dying, he murmured, "I could have won out against two bullets, but it is pretty hard against six." Although Phillips did not live to see the passage of the direct election amendment, there is no doubt that his series played a significant role in stimulating existing popular sentiment to that end.[35]

Between 1893 and 1902 the House of Representatives had, on five occasions, passed a direct election resolution. After 1902, the House stopped trying, for nineteen resolutions submitted over three decades had quietly submerged in the still waters of the Senate Committee on Privileges and Elections. The Phillips series and the increasingly militant attitude of state legislatures, some of whom were talking of calling a constitutional convention if necessary to get action on the amendment, began to have an impact on senatorial indifference. Certainly the most significant determinant of a more receptive climate in the Senate was the fact that an increasing number of Senators owed their seats to some form of popular referendum, along the lines of the Oregon model. Obviously, members elected in this manner would find it difficult to oppose a direct election resolution. As Idaho's Senator William Borah, whose own election had been based on a popular preference vote, noted, "I should not be here if it had not been practiced, and I have great affection for the bridge which carried me over." [36]

Chances for a break in this stalemate increased on December 13, 1909, when a resolution proposed by Senator Joseph Bristow was sent to the Judiciary Committee instead of the more hostile Committee on Privileges and Elections. After more than six months passed without committee action, Senator Bristow filed a discharge petition in June 1910, noting that the legislatures of thirty-three states had declared their support for direct election. Finally, committee chairman Senator Clarence Clark of Wyoming told Bristow that he was going to set up a special subcommittee and asked him if he would like to name a member. Bristow recommended William Borah, who turned out to be the resolution's only supporter on the subcommittee. In January 1911 when the resolution finally emerged onto the Senate floor, however, it contained a major and potentially fatal committee amendment.[37]

Article I, Section 4 of the Constitution provides that state legislatures may prescribe the "time, places, and manner" of holding senatorial elections, but that Congress may at any time alter regulations pertaining to the time and manner of these elections. This was the basis of the 1866 statute that fixed the time when legislators were to elect Senators. The committee's amendment, engineered by Southern Democrats, provided that Section 4 be modified to remove Congress' power over Senate elections. The southern Senators, in spite of their support for direct election, feared that the states would lose control of those elections once they were removed from the legislatures. To ensure that this did not happen, they wanted an explicit guarantee that states would be able to regulate senatorial elections without interference from Congress. Otherwise, they envisioned a return to Reconstruction era-style federal intervention in southern elections in order to allow blacks to vote.[38]

Senator George Sutherland (R-UT) immediately offered an amendment to restore the original direct election intent of the resolution. He and other supporters of Bristow's original resolution pointed out that the committee's amendment proposed, in effect, not one, but two constitutional changes. It would expressly transfer to the states exclusive power to regulate Senate elections, while leaving to Congress jurisdiction over elections of the president and members of the House of Representatives.[39]

Debate over the Sutherland Amendment to leave federal elections in control of Congress generated far more controversy than the basic proposal for direct elections. Borah had supported the committee's amendment as the price of getting the direct election resolution to the Senate floor. To diminish that amendment's impact, he rationalized that Article I, Section 5 of the Constitution, providing that each house shall be the judge of its members' election, offered the Senate all the guarantees it needed for control over the selection of its members. He charged that supporters of Sutherland's proposal lacked sincerity and wished to kill the direct election proposal by drawing the race question into it. In a speech that received broad national coverage, Borah said:

> We have used the Negro as a political football about as long as our own sense of decency or the Negro's developing intelligence will permit. If we have a constitutional power which may be used to his advantage, we ought to use it whenever and wherever he is being wronged. If we have not such power, we ought to cease to mislead him and have the courage to state to him the truth. We ought at least to cease surfeiting the Negro on these soporific applications of rhetoric, these tender and moving protestations embalmed from year to year in the *Congressional Record*. . . .
>
> Let me say to the Negro from my place in the Senate—although I know my voice will not be heeded nor carry weight with others, but I wait for time to make good—after the exigencies of this debate are over, after this resolution has again been killed, if they should succeed, you will never again hear anything about the virtues or the power of section 4 of the Constitution. No measure will be offered here, no bill passed under it for the substantial advantage or benefit of the Negro. Let me say to the black man of the South and to his black brother in the North, do not permit the anxious and restless and hopeful spirit to call you from the path you are pursuing of working out your own salvation.[40]

After six weeks of intense discussion, the Senate approved the Sutherland Amendment by a 50-37 margin.[41] At least half of those in the majority, however, turned out, as Borah had predicted, to be no friends of direct election. Their strategy was to pass that amendment, so obnoxious to many southern senators who otherwise favored direct election, so that those members would vote against the resolution itself. And that is exactly what happened four days later as the resolution fell five votes short of the necessary two-thirds majority.[42]

At that point, time ran out on the 61st Congress. Under normal circumstances the 62nd Congress would not have convened until the following December, but President Taft called both houses back early in April 1911 to deal with a controversial Canadian reciprocal trade agreement. The House moved quickly, introducing a resolution identical to the one that the Senate Judiciary Committee had reported in the previous session. As in the Senate, an amendment identical to Sutherland's was debated in the House, but on this occasion, it was solidly defeated. Then the House went on to pass the resolution, 296-16, with the provision for state control of Senate elections firmly in place.[43]

In the Senate, the House resolution was first referred to the Committee on Privileges and Elections. On reconsideration, the measure was pulled out of that burial ground for such proposals and sent to the Judiciary Committee. Within a half hour of the resolution's referral, Senator Borah reported it back to the Senate, favorably and without amendment. On May 8, 1911, Borah succeeded, on a vote of 66-5, in having the House resolution made the unfinished business.[44] On the following day, Borah made it clear that he intended to press for continuous consideration of the resolution until it was disposed of. The Idaho Senator retained control of the Senate's time until he was able, on May 24, to obtain a unanimous consent agreement that the Senate would take up the resolution on June 12 and vote on all amendments as well as the bill itself before the close of that legislative day.[45]

The most important amendment was offered by Kansas Senator Joseph Bristow. It was identical to the Sutherland Amendment of the previous Congress. When debate opened on June 12, 1911, it again focused on the issue of federal control of Senate elections rather than on direct election itself. A dramatic vote on the Bristow amendment ended in a tie. Accordingly, Vice President James Schoolcraft Sherman cast a tie-breaking vote in the affirmative. The Senate then proceeded to vote on the resolution and adopted it by a margin of 64-24. Among those in opposition were eight southern senators as well as every Republican senator from the New England states, New York, and Pennsylvania.[46]

Immediately following the final Senate vote, Senator Augustus Bacon of Georgia raised a point of order to the effect that the Senate had been sitting as a committee of the whole when it acted on the resolution. When the chair sustained his point of order, Bacon introduced an amendment, qualifying the Bristow amendment, that would prohibit federal supervision unless state legislatures failed or refused to act. He lost his amendment by the narrow tally of 43-46.[47]

On the following day, Bacon renewed his campaign to reverse the Senate's action, by challenging the vice president's authority to give a tie-breaking vote on a constitutional amendment. Bacon argued that the vice president's role extended only to normal legislative business that required presidential action. Senator Weldon Heyburn of Idaho effectively countered Bacon's argument that the vice president can vote only on legislative business, by referring to an 1850 precedent in which Vice President Millard Fillmore cast the decisive vote in a deadlock over the selection of a Senate chaplain and to an 1832 precedent when Vice President John C. Calhoun gave the casting vote on the nomination of Martin Van Buren to be ambassador to England. The Senate turned aside Bacon's challenge and its action stands today as a specific precedent underscoring the vice president's authority to "break a tie on the adoption of an amendment to a proposed amendment to the Constitution."[48]

When the Senate's amended resolution was put to a vote in the House, it was defeated by a sizeable margin of 111 in favor and 171 in opposition. The Senate subsequently voted to insist on its amendment and both bodies appointed conferees. The result was further frustrating stalemate. The first session of the 62nd Congress ended in August 1911 and the second session convened in December without action. After sixteen meetings, the conferees reported to the Senate in April 1912 that they were unable to reach agreement. The Senate again voted to insist on its amendment. Finally, on May 13, 1912, opponents in the House gave way to increasing popular pressure. On the eve of the Democratic National Convention, at which House Speaker Champ Clark figured to be a leading contender for his party's nomination, the Speaker and other party leaders decided to take what they could get, rather than sacrificing the entire direct election movement.

By a vote of 238-39, with 110 not voting, the House cleared the way for the direct election amendment to go to the state legislatures for ratification. A campaign that had begun eighty-six years earlier, in 1826 with the introduction of the first resolution in the House, had come to a victorious conclusion.[49]

The amendment reached the various state legislatures shortly after the House action. Less than a year later, on April 8, 1913 the legislature of Connecticut ratified the amendment, providing the necessary three-quarters of the states in agreement. On May 31, 1913 Secretary of State William Jennings Bryan, placed his signature on the Seventeenth Amendment.

The new amendment read as follows:

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifi-

> cations requisite for electors of the most numerous branch of the State legislatures.
>
> When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.
>
> This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.[80]

Mr. President, the direct election amendment passed the Senate at a time when the chamber's membership was undergoing a dramatic change in compositon. The turnover of members and the resulting lower seniority base was particularly striking. In 1913, 73 percent of the Senate's members were serving in their first six year term. That percentage has never been attained since. Today, 44 percent have served less than 6 years. The longest serving member in 1913, Jacob Gallinger, had served only twenty-three years, whereas two decades earlier there were many thirty-year veterans. Today, we have nine members who have served longer than twenty-three years. Clearly, informal election mechanisms, modeled on Oregon's, had made their impact long before the passage of the Seventeenth Amendment. I should note at this point that the last Senator elected under the old system was Joseph Robinson, Democrat of Arkansas—he at one time occupied my desk and was majority leader—and the first under direct election was Blair Lee, Democrat of Maryland.[81]

Mr. President, at the beginning of the twentieth century, the campaign for direct election of Senators attracted the attention of a young professor of government at Worcester Polytechnic Institute in Massachusetts named George Henry Haynes. I have referred to Haynes often in my remarks on the Senate's history. Several years earlier, Haynes had completed his Ph.D. at Johns Hopkins University on the subject of representation and suffrage in seventeenth century Massachusetts. By 1900 he had broadened his interest as evidenced in his publication, *Representation in State Legislatures*. Research for that study had led Haynes to an investigation of the role of state legislatures in selecting United States Senators. He came to realize that this one function conferred by the Constitution on those bodies was sapping their vitality and keeping them from addressing issues of more direct importance to their constituencies.[82]

As a result of his research, Haynes produced a thorough book on the subject entitled, *Election of Senators*. His volume was published in 1906 just as David Graham Phillips' "Treason of the Senate" series was making its appearance in *Cosmopolitan*. The two, one scholarly and the other sensationalized, had a great combined impact on public opinion. Of the two, Haynes' book certainly provided the most balanced treatment. Haynes realized that the Senate was far more responsive to the popular will than the most passionate proponents of direct election were willing to acknowledge. Yet, he knew that in the long run, the formal mechanism of senatorial election was important. As he explained, "Whether the Senate be regarded as the sheet anchor of the Republic in the troubled seas of democracy, or as the stronghold of corporate interests—as the country's only safeguard, or as its chief menace—the question becomes one of paramount importance: how do men come to their membership in this overpowering body?"[83]

He continued on a cautionary note, making an observation that is as true today as it was when he wrote it in 1906, or in 1913 in the wake of the Seventeenth Amendment's ratification. Haynes warned that—

> . . . electoral forms and methods are of slight import, except as they affect the spirit of the choice, and that neither the continuance of the present system (of legislative election), nor the resort to popular election, can long secure the Senate which the best interests of the country demand, unless back of the method there can be found the vigilance, the intelligence, and the conscience of the individual voters.[84]

Within several months of the Seventeenth Amendment's ratification, Haynes provided an assessment of its likely impact on the Senate. I wish to quote his remarks at length.

> Are there indications that popular election may impair the Senate's high tradition and prestige? It seems evident that, with the growing directness of responsibility to the people, the type of Senator is undergoing change. While it may prove to be a passing phase, due to blurred party lines, nevertheless Senatorial service is now obviously growing shorter. This involves a loss in experienced statecraft, which in the past has given to the country some of its ablest leaders. The Senators of the present day are younger than their predecessors; they have come to their membership in the foremost legislative body of the world with less of lawmaking experience than their predecessors had had. Moreover, there seems to be a distinct and psychologically explicable tendency to turn from men wise in council—who have made the reputation of the Senate in the past—to men of the more dramatic executive qualities. An aptitude for gettings things done makes a stronger appeal to the voter than a capacity for deliberate—perhaps too deliberate—study of what it is wise to do. Many a Senator, whose work has been most serviceable, has had few gifts that would make him a successful vote-catcher. For the future it is going to be harder for a Senator of manly independence to hold to a course which does not square with the opinion of the day; for his chance of re-election will be largely determined not by whether his acts have been wise, but by whether they have been popular. In our exultation over the prophesied banishment from the Senate of the reactionaries, the 'representatives of predatory wealth,' and other belated survivals, we have reason for some concern lest our upper chamber is losing something of the distinction of manner, the type of mind, the poise of judgment, which have characterized our foremost Senator-statemen. In our haste to be rid of the conservative, is there no danger that we shall at the same time turn out the conservator?[85]

Mr. President, his study of Senate election practices taught George Henry Haynes a great deal about the Senate's procedures and traditions. Building upon his earlier experience, he published in 1938 a magnificent two-volume work entitled, simply, *The Senate of the United States*. I am fortunate to have had given to me serveral years ago the two volumes by George Henry Haynes. In its preface he noted that although there existed a great number of highly focused and specialized studies on the Senate, "no book has appeared that has dealt with the Senate with the comprehensiveness that has been accorded to the presidency, the Supreme Court or the House of Representatives." The reason for this gap, Haynes explained, was that "each of the other great branches of our governmental organization has a certain unity of scope. But the Senate's tremendous powers are not merely legislative, but executive, judicial, and investigative as well. To organize such diverse material in a coordinated survey," he continued, "cannot fail to be a task forbidding in propect and difficult in process."[86]

I am pleased to report that Mr. Haynes succeeded in that task. Although his book is marred by minor errors and the inevitable changes that nearly a half century have wrought, it remains an invaluable resource that has yet to be equalled. Surprisingly, Haynes had great difficulty in finding a publisher. For nearly a decade he negotiated with the company that finally accepted his work. That firm tried, however, to get him to reduce the text to a single volume and they asked him to raise the $5,000 necessary to purchase the printing plates. About to retire on half salary after a half century of teaching, Haynes sought in vain to raise the funds. Only the coincidence of the forthcoming 150th anniversary of the Senate finally convinced the publisher to issue the entire work as Haynes had prepared it. I truly hope that the approaching 200th anniversary of the Senate in 1989 will stimulate publication of scholarship equal in scope and detail to George Haynes' efforts.[87]

FOOTNOTES TO "DIRECT ELECTION OF SENATORS"

[1] George H. Haynes, *The Election of Senators* (New York: Henry Holt and Company, 1906), pp. 3-14; James Madison, *The Debates in the Federal Convention of 1787* (Washington, DC: Carnegie Endowment for International Peace, 1920), pp. 33-34, 70-74; Max Farrand, *The Framing of the Constitution of the United States* (New Haven: Yale University Press, 1913), pp. 111-12; George H. Haynes, *The Senate of the United States* (Boston: Houghton Mifflin, 1938), pp. 10-14.

[2] Haynes, *Senate*, pp. 10-14; Farrand, pp. 14-41.

[3] Haynes, *Election*, pp. 10-14.

[4] Jacob E. Cooke, ed., *The Federalist* (Middletown, CT: Wesleyan University Press, 1961).

[5] Haynes, *Election*, pp. 21-22.

[6] Ibid., p. 23; U.S. Senate, *Senate Selection, Expulsion and Censure Cases, 1973-1972*, Senate Document 92-7 (1972), pp. 40-41 (This volume is currently being extensively revised by the Senate Historical Office.)

[7] James G. Blaine, *Twenty Years in Congress: From Lincoln to Garfield* (Norwich, CT: Henry Bill Publishing Company, 1886), II, pp. 154-55.

[8] Ibid., pp. 155-57.

[9] Ibid., pp. 157-60.

[10] Haynes, *Election*, pp. 23-24.

[11] Ibid., pp. 25-29; Haynes, *Senate*, pp. 83-85.

[12] Haynes, *Senate*, pp. 86-91.

[13] Ibid., p. 87.

[14] Haynes, *Election*, pp. 59-63.

[15] Ibid., pp. 36-41.

[16] Ibid., pp. 42-43.

[17] *Federalist*, #27.

[18] Haynes, *Election*, pp. 47-50.

[19] Ibid., pp. 49-50.

[20] Haynes, *Senate*, pp. 97-99.

[21] Ibid., 100-103.

[22] Ibid.

[23] Ibid., p. 102.

[24] Ibid., pp. 103-104.

[25] George Mowry and Judson Grenier, eds., *The Treason of the Senate* (Chicago: Quadrangle, 1964), pp. 18-21.

[26] Ibid., p. 20.

[27] Ibid., p. 17.

[28] Ibid., p. 22.

[29] "John Hipple Mitchell," *Dictionary of American Biography*, Vol. 13, pp. 53-54; *Senate Election, Expulsion, and Censure Cases*, p. 100.

[30] Mowry and Grenier, p. 29.

[31] Quoted in Ibid., p. 33.

[32] Ibid., p. 34, 216-25. The speech appeared in the *New York Tribune*, April 15, 1906.

[33] *Congressional Record*, June 27, 1906, pp. 9375-76.

[34] Mowry and Grenier, p. 35.

[35] *New York Times*, January 24, 1911 and January 25, 1911.

[36] *Congressional Record*, February 16, 1911, p. 2647.

[37] Joseph L. Bristow, *Resolution for the Direct Election of Senators*, Senate Document 62-666 (1912), pp. 5-8.

[38] *Congressional Record*, January 13, 1911, p. 851.

[39] Ibid., January 20, 1911, pp. 1162, 1166-69.

[40] Ibid., February 16, 1911, pp. 2645-47.

[41] Ibid., February 24, 1911, pp. 3307; For a sampling of the extensive contemporary periodical literature on the subject see U.S. Library of Congress, *Additional References Relating to Popular Election of Senators* (Washington, DC: Government Printing Office, 1911).

[42] *Congressional Record*, February 28, 1911, p. 3639.

[43] Ibid., April 13, 1911, pp. 203-243; Haynes, *Senate*, pp. 112-13.

[44] Haynes, *Senate*, p. 113.

[45] Ibid.

[46] Ibid., p. 114; *Congressional Record*, June 12, 1911, pp. 1923-24.

[47] *Congressional Record*, June 12, 1911, p. 1924.

[48] Ibid., June 13, 1911, pp. 1949-58; Henry H. Gilfry, comp., *Precedents: Decisions on Points of Order With Phraseology in the United States Senate*, Senate Document 61-129 (1909), p. 451; Floyd M. Riddick, *Senate Procedure*, Senate Document 97-2 (1981), p. 1125.

[49] *Congressional Record*, May 13, 1912, p. 6367; *New York Times*, May 14, 1912.

[50] *Senate Manual*, Section 787.

[51] Ibid., Sections 806 and 838.

[52] George H. Haynes, "The Changing Senate," *North American Review* 200 (August 1914), p. 223; see also George H. Haynes, "The Senate New Style," *Atlantic Monthly* 134 (August 1924), pp. 252-63.

[53] Haynes, *Election*, p. vii-viii.

[54] Ibid., p. ix.

[55] Haynes, "The Changing Senate," pp. 232-33; For a more recent assessment, see Byron W. Daynes. "The Impact of the Direct Election of Senators on the Political System," Ph.D. dissertation, University of Chicago, 1972.

[56] Haynes, *Senate*, p. vii.

[57] Ira Rich Kent to George Haynes, February 18 and 23, 1926; George Haynes to J. Franklin Jameson, December 26, 1936, February 9, 1937, May 28, 1937, and June 29, 1937, folders 730 and 731, J. Franklin Jameson Papers, Library of Congress, Washington, DC; "George Henry Haynes," *National Cyclopedia of American Biography*, Vol. 38, pp. 273-74.

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER**. Morning business is closed.

VOLUNTARY SCHOOL PRAYER

The **PRESIDING OFFICER** (Mr. ANDREWS). Under the previous order, the clerk will report the pending business.

The legislative clerk read as follows:

A Senate joint resolution (S.J. Res. 73) proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

The Senate resumed consideration of the joint resolution.

ADJOURNMENT UNTIL MONDAY, MARCH 5, 1984, AT 1:30 P.M.

The **PRESIDING OFFICER**. Under the previous order, the Senate will stand in adjournment until 1:30 p.m. on Monday next.

Thereupon, the Senate, at 3:35 p.m., adjourned until Monday, March 5, 1984, at 1:30 p.m.

NOMINATIONS

Executive nominations received by the Senate March 2, 1984:

THE JUDICIARY

Robert R. Beezer, of Washington, to be U.S. circuit judge for the ninth circuit vice Eugene A. Wright, retired.

U.S. POSTAL SERVICE

Frieda Waldman, of California, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1992, vice Robert L. Hardesty, term expired, to which position she was appointed during the recess of the Senate from November 18, 1983, until January 23, 1984.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Richard L. Prillaman, 236-38-0074 (age 55), U.S. Army.